

**FINDINGS OF FACT
FLORENCE PLANNING COMMISSION
Exhibit "A"**

Public Hearing Dates: January 14, 2025 and March 4, 2025
Application : PC 24 41 TA 02

I. PROPOSAL DESCRIPTION

Proposal: An application requesting amendment of zoning text in FCC Title 10 Chapter 17 Old Town District Area A to add multi-unit, single unit attached and detached, duplex, tri-plex, and four-plex development as permitted uses without requirement for a collocating commercial use for properties within a specific distance from residential zoning or having a Residential Shoreland MU overlay.

Applicant: Chris Leturno for A & D Bay Street

II. NARRATIVE:

Proposal: The application requests amendment of FCC Title 10 Chapter 17 Old Town District Area A to add multi-unit, single unit attached and detached, duplex, tri-plex, and four-plex development as permitted uses without requirement for collocated commercial. The request provides two options for applying this text: one--to properties within a specific distance from residential zoning or two—to those properties with a Residential Shoreland MU overlay. Both options apply to a very limited number of properties and in the latter option would apply to only the applicant's and Bay St. Condos to the west. For this reason, the request, even though a text amendment, is being processed as a quasi-judicial code amendment.

"Old Town District Area A, FCC 10-17A-2-A Permitted Uses" permits residential units as part of a mixed-use development, see below.

- *Residential: above ground floor commercial*
- *Residential Units: provided that any building facing a street (or streets if a corner lot) shall include a first story commercial use that occupies the first twenty-five feet (25') of the building(s) that face(s) a street. If pedestrian access to the dwelling(s) is from the street, it shall be a separate entrance and not more than ten feet (10') wide. Residential uses shall be reviewed through a Type II Site Review as defined in Section 10-1-1-6. (Ord. 7, 2019)*

"Old Town District Area A, FCC 10-17A-2-C Prohibited Uses" prohibits residential uses without a collocated commercial use, see below.

- *Residential, single unit (unless part of mixed uses as listed in permitted or conditional uses)*
- *Residential: multi-unit, single unit attached, duplexes, tri-plexes, four-plexes (unless part of mixed use development as listed in permitted or conditional uses).*

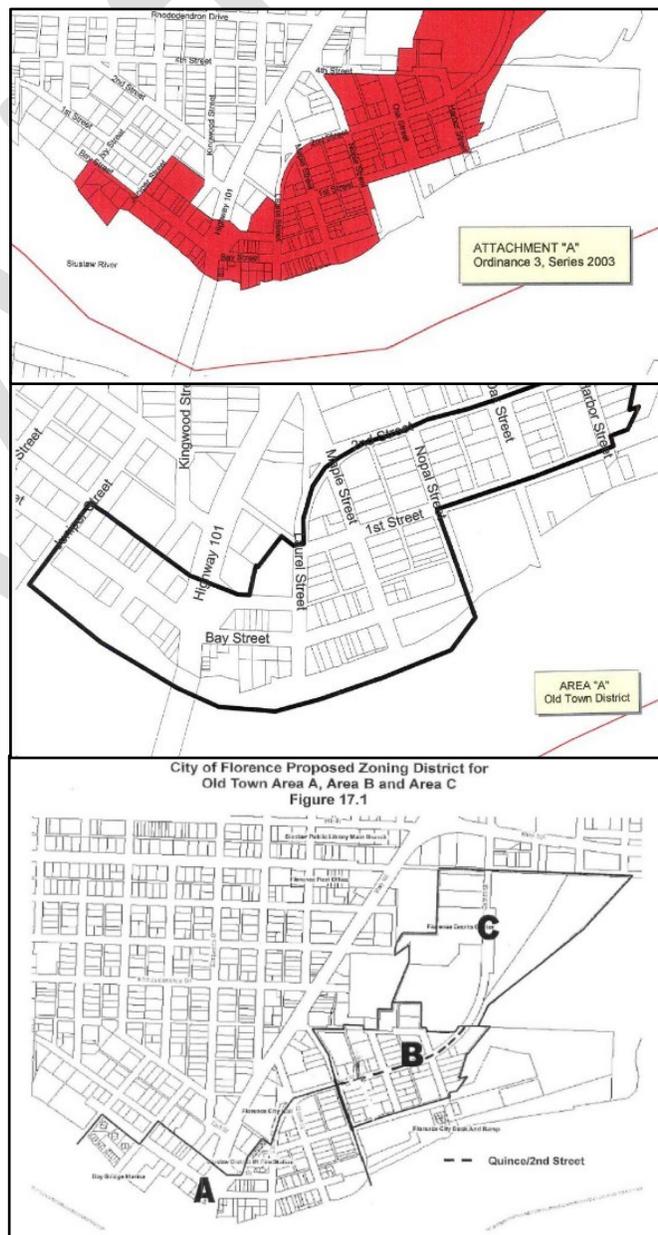
Zoning Background:

The applicant is requesting a change in the text of the Old Town District, Area A. The application contends that there was an error in the zoning assignment of their properties and those in the immediate area. Their reasoning is that the shoreland overlay for these properties is “Residential” instead of “Mixed Development” and so the Old Town District subarea zoning should have considered this and permitted residential uses on their properties. To evaluate this assumption the city archives were researched to identify the management units, zoning and corresponding development timelines and the applicable criteria during those times.

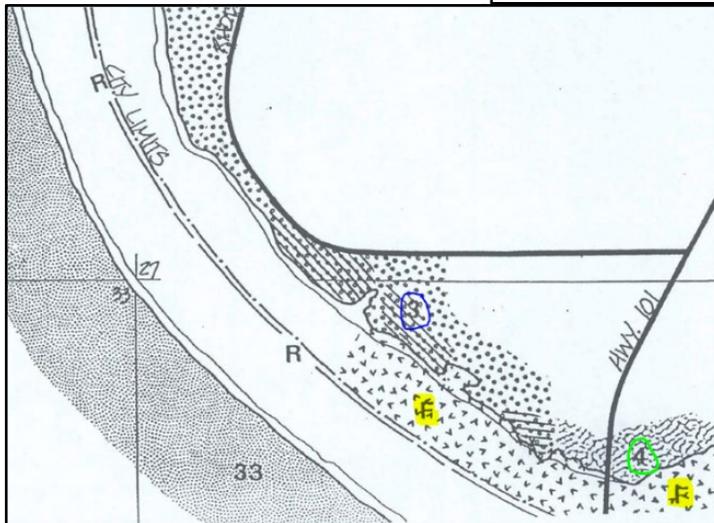
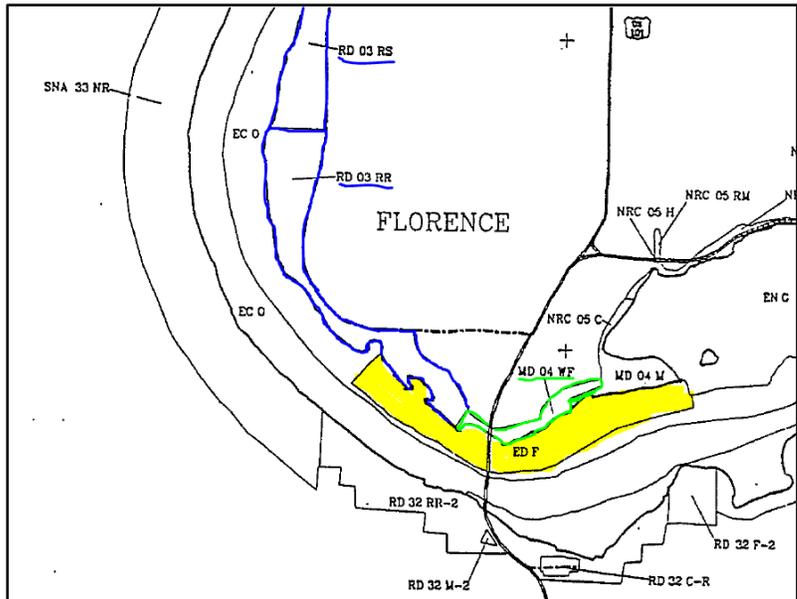
Present: The properties the applicant is seeking to develop and for which these requested amendments would apply to are zoned Development Estuary District and Old Town District Area A. The properties have two overlay zones that apply, the Shoreland Residential Management Unit Overlay (2009) and Tsunami Hazard Overlay Zone (2018). In June 2020 the Flood Insurance Rate Maps were revised increasing the amount of the subject property located within the special flood hazard area.

Old Town District: In 2003, Ordinance 3, Series 2003 Florence City Code Title 10 Chapter 17, Old Town District (OT) was adopted (right red/top image), rewriting the Waterfront District. The southern portion of the OT District was designated as Area A (right middle image). With the exception of the Bay St. Condominiums west of Juniper St. the properties within the OT District west of the bridge on Bay St. were included in Area A. In 2008, Ordinance 1, was adopted rewriting FCC 10-17 designating three geographical locations--Areas A, B and C (right bottom image). During the 2008 action the applicant’s represented properties remained in Area A, Bay Bridge Condominiums were added to Area A and three properties in the north half block east of Juniper were rezoned Restricted Residential (Low Density).

Estuary & Shorelands: In 2009 Ordinance 10 was adopted rewriting Comprehensive Plan Chapters 16 and 17 and Florence City Code Title 10 Chapter 19 as part of completing Periodic Review for Goals 16, 17 and 18. Specifically, the estuary and shoreland management units identified in the comprehensive plan were established as districts (estuarine) and overlays (shorelands) in Florence City Code Chapter 19. However, the city comp plan and zoning language existing prior to 2009 adopted the

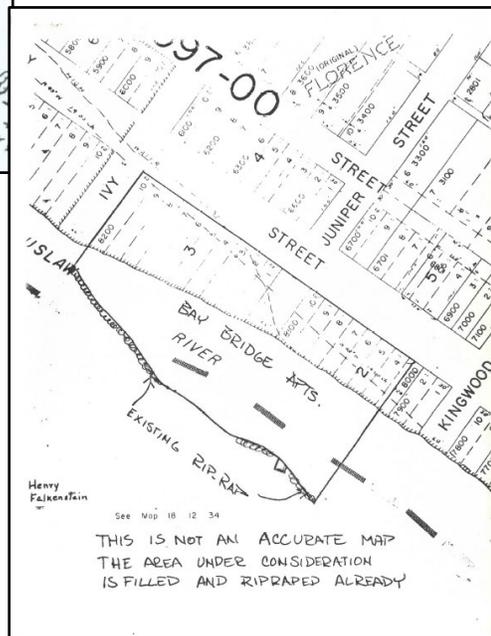


1982 version of the Lane County Coastal Resources Management Plan (CRMP) (image excerpt top right). The CRMP was established in 1978 and the city adopted Estuary and Shoreland policies into its comp plan in 1980. It acknowledged in 1980 that a private marina was in the estuarine management unit (Yellow-E-6) and that the shoreland management unit (Blue-S6) included a condominium development under construction and mostly single family dwellings. The 2009 comp plan amendment adopted the 1991 CRMP map (image excerpt bottom left) and the naming conventions, which for this area were/are Development Estuary (F) and Residential Development (3.2). The cross hatching indicates the location of dredge fill spoils. The 1978 land use file discussed next confirms the fill's presence.



The Bay Bridge Condominium development approved in 1978 included the area of tax lots 8000, 8100, and 8200 (see below). The project was identified as Management Unit #4 and included the Bay Bridge Marina which was the element that made the condominium use "Water Related" under the City Council's decision in February 1978. DLCD made a

determination in February and again in June of 1978 that the decision was made in error, especially since the owners were not required to have a boat and rent a slip, but no correction appears to have been requested. Tax Lots 8000 and 8100 which included the gangway and Bay Bridge Marina were sold for construction of the restaurant building and hotel. The restaurant received a conditional use permit in 1987 and design review approvals in 1987 and again in 1988 when the building was shifted south to locate over the water. Like the condominium project the restaurant was found to be water related with the presence of the marina. The Bay Bridge Condominiums and Restaurant each become non-conforming in turn with



the loss of their marina through sale and dock removal respectively. It is unknown how parking or other land use application approval criteria were affected for Bay Bridge Condominiums by the sale and development of the restaurant building.

Of the two properties, Map Reference 18-12-34-12 Tax Lots 8000 and 8100, the eastern one is developed with a parking lot and a commercial building (formerly a restaurant) built on a perimeter foundation and bulkhead where it extends south and east over the river approximately 25 feet into the Development Estuary District. The restaurant development when approved in 1987, had a shoreland overlay of Natural Resources Combining District because the Residential shoreland overlay was regulated under the NRC (it did not have its own regulatory section).

Process and Review: The zoning text amendment affects a limited number of properties and is being classified as a quasi-judicial zone change, which follows a Type 3 land use procedure requiring two hearings, property owner noticing within 300 feet as well as media noticing. The applicable criteria are listed below.

III. NOTICES & REFERRALS:

Noticing: On December 24, 2024, signage was posted on the subject properties and notice was mailed to surrounding property owners within 301 feet of the property. The public hearing notice was published in the January 1, 2025 edition of the Siuslaw News. Notice was made to DLCD 35 days prior to the first Planning Commission hearing in accordance with city policy and ORS 197.610.

Testimony was received and are included as attachments to the staff report.

Referrals: Referrals were sent to U.S. Army Corps of Engineers, Department of Land Conservation and Development, Division of State Lands, Oregon Department of Fish and Wildlife, Port of Siuslaw, and the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 10: Zoning Regulations, Chapters

Chapter 1, Zoning Administration: Sections 1-4-E & G, 1-5, 1-6-3, 1-6-4, 1-8-C, 2-2, and 3

Chapter 2, General Zoning Provisions, Section 2, 6, 7, 13

Chapter 7, Special Development standards, Sections, 2, 3, 5, 6-A-2 & 6-D-1 & 6, 7

Chapter 8, Nonconforming Lots and Uses, Sections 1, 5, 6

Chapter 17, Old Town District, Sections 1, 2, Figure 17-1, 17-A

Chapter 19, Estuary, Shorelands, and Beaches and Dunes, Sections 1, 4, 5, 6

Chapter 35, Access and Circulation, Section 2-5

Realization 2020 Florence Comprehensive Plan

Plan Adoption, Amendments, Review and Implementation

Chapter 1, Citizen Involvement:

Chapter 2, Land Use: Policies 1, 4, 7, Commercial: Policy 10, Other Plan Designations Policy 1
Downtown Section

Chapter 5: Open Spaces and Scenic, Historic, and Natural Resources, RTESS, Scenic Resources
and Visual Quality, Policy 1, 5H1,

Chapter 7: Development Hazards and Constraints, Policies 1, 4, Earthquake & Tsunami, Reducing Dev. Risk Policies 1 - 6 & Appendix 7: DOGAMI Local and Distant Source Tsunami Inundation Maps (TIMs), Hazards Map,
Chapter 11: Utilities and Facilities
Chapter 12: Transportation, Policy 14,
Chapter 16: Siuslaw River Estuarine Resources, Policies 1, 2 and 18
Chapter 17: Coastal Shorelands: Ocean, Estuary, and Lake Shorelands, Policies 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 15, 16, Map 17-1,
Lane County Coastal Resource Inventory, 1978; Coastal Resource Management Plan and its amendments

Oregon Revised Statutes (ORS): 197.175, 197.250, 197.253, 197.610, 197.615, 197.763, and 227.175

Oregon Statewide Planning Goals | Oregon Administrative Rules (OAR 660-011, 660.015, 660-18-0005)
Goal 1, Citizen Involvement; Goal 2: Land Use Planning; Goal 5: Natural Resources, Goal 7: Areas Subject to Natural Hazards, Goal 11, Public Facility Planning; Goal 12 Transportation, Goal 16: Estuarine Resources, and Goal 17: Coastal Shorelands

V. FINDINGS

Code criteria are listed in **bold**, with responses beneath. Only applicable criteria have been listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-4: APPLICATION:

- A. **Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City and include the information requested on the application form.**
- B. **Applicability of Review Procedures: All land use and development permit applications, petitions, and approvals shall be decided by using the procedures contained in this chapter. The procedure type assigned to each application governs the decision-making process for that permit or approval. There are four types of approval procedures as described in subsections 1-4 below. Table 10-1-1 lists some of the City's land use and development approvals and corresponding review procedures. Others are listed within their corresponding procedure sections.**

[...]

- 3. **Type III (Quasi-Judicial) Procedure (Public Hearing). Quasi-Judicial decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council; or in the case of a Quasi-Judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan), a Quasi-Judicial decision is made by**

the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve discretion but implement established policy.

The application was submitted on a City of Florence land use form. The zoning text amendment affects a limited number of properties and is being classified as a quasi-judicial zone change, which follows a Type 3 land use procedure requiring two hearings, property owner noticing within 300 feet as well as media noticing. The notification procedures meet the requirements of FCC 10-1-1-5.

[...]

E. Traffic Impact Studies:

- 1. Purpose of Traffic Impact Study: The purpose of a Traffic Impact Study is to determine:**
 - a. The capacity and safety impact a particular development will have on the City's transportation system;**
 - b. Whether the development will meet the City's minimum transportation standards for roadway capacity and safety;**
 - c. Mitigating measures necessary to alleviate the capacity and safety impact so that minimum transportation standards are met; and**
 - d. To implement section 660-012-0045(2)(e) of the State Transportation Planning Rule.**
- 2. Criteria for Warranting a Traffic Impact Study: All traffic impact studies shall be prepared by a professional engineer in accordance with the requirements of the road authority. The City shall require a Traffic Impact Study (TIS) as part of an application for development; a proposed amendment to the Comprehensive Plan, zoning map, or zoning regulations; a change in use; or a change in access, if any of the following conditions are met:**
 - a. A change in zoning or plan amendment designation where there is an increase in traffic or a change in peak-hour traffic impact.**
 - b. Any proposed development or land use action that may have operational or safety concerns along its facility(s), as determined by the Planning Director in written findings.**
 - c. The addition of twenty-five (25) or more single-family dwellings, or an intensification or change in land use that is estimated to increase traffic volume by 250 Average Daily Trips (ADT) or more, per the ITE Trip Generation Manual.**
 - d. [...]**
 - e. [...]**
- 3. Traffic Study Requirements: In the event the City determines a TIS is necessary, the information contained shall be in conformance with FCC 10-35-2-5, Traffic Study Requirements.**

The proposal includes a change in zoning text which may affect traffic demands and thus requires a traffic study in accordance with the Transportation Planning Rule. The application includes a traffic impact study completed by Sandow Engineering that identified an increase in traffic and change in peak hour traffic impact. This criterion regarding submission of a TIS has been met.

G. Changes in the law: Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

After receiving additional information on November 4, 12, and 27, 2024, the application was deemed complete on November 27, 2024. That date shall be used for assessing compliance with all laws.

10-1-1-5: GENERAL PROVISIONS

A. 120-Day Rule: The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – plan and code amendments – without an applicant under ORS 227.178.)

...

B. Consolidation of proceedings: When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

1. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Planning Official or designee.
2. When proceedings are consolidated:
 - a. The notice shall identify each application to be decided.
 - b. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions.
 - c. When appropriate, separate findings shall be prepared for each application. Separate decisions shall be made on each application.

These are procedural criteria required of the city and have been met.

C. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

1. **Acceptance.** When an application is received by the City, the City Planning Official or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant.
 - a. The required forms.
 - b. The required, non-refundable fee.

- c. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

2. Completeness.

- a. **Review and notification.** After the application is accepted, the City Planning Official or designee shall review the application for completeness. If the application is incomplete, the City Planning Official or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days from the date that the application was submitted to submit the missing information. Applications which have been deemed incomplete and for which the applicant has not submitted required information or formally refused to submit additional information shall be deemed void on the 181st day after original submittal.
- b. **Application deemed complete for review.** In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete upon the receipt by the City Planning Official or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Planning Official or designee in section 10-1-1-5-C-2-a, above.
- c. **Standards and criteria that apply to the application.** Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.
- d. **Coordinated review.** The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.

These are procedural criteria required of the city and have been met.

D. City Planning Official's Duties. The City Planning Official (Director) or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions.
2. Accept all development applications that comply with the requirements of this Chapter.
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report and findings may also provide a recommended decision of: approval, denial; or approval with specific conditions that ensure conformance with the approval criteria.
4. Prepare a notice of the proposal decision:

- a. In the case of an application subject to a Type I or II review process, the City Planning Official or designee shall make the staff report and all case-file materials available at the time that the notice of decision is issued.
- b. In the case of an application subject to a hearing (Type III or IV process), the City Planning Official or designee shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 10-1-1-6-1 (Type I), 10-1-1-6-2 (Type II), 10-1-1-6-3 (Type III), or 10-1-1-6-4 (Type IV).

These are procedural criteria required of the city and have been met.

10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:

- A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:
- B. Notification of Hearing:
 - 1. At least twenty (20) days prior to a Type III (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.
 - 2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
- 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.**

D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.

These are procedural criteria required of the city and have been met. They also meet the noticing criteria established by the state under ORS 197.797 (formerly 763).

E. Action by the Planning Commission:

- 1. At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
- 2. Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
- 3. There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

F. Notice of Decision by the Planning Commission: A notice of the action or decision of the Planning Commission, and right of appeal shall be given in writing to the applicant. Any party who testified either in writing or verbally at the hearing must provide a mailing address in order to be noticed. The notice may be served personally, or sent by mail. The notice shall be deemed served at the time it is deposited in the United States mail.

The request for a change to zoning text requires Planning Commission review with a public hearing. They have held a public hearing and received testimony and evidence from the applicant. These findings include a review of the facts and their analyses with city policies and criteria. The Planning Commissions decision will be a recommendation to the City Council. Their decision will be served in accordance with the city code with appeal available before the Land Use Board of Appeals.

10-1-1-8: ENFORCEMENT:

C. Final Action on Permits: Final action on permit applications and zone changes shall take place within 120 days of filing a complete application, except where the applicant requests a longer time, in compliance with ORS 227.178. (Amd. by Ord. No. 30, Series 1990).

The applicant at their public hearing on January 14th provided a waiver to the 120-day processing timeline.

10-1-3: AMENDMENTS AND CHANGES:

A. Purpose: As the Comprehensive Plan for the City is periodically reviewed and revised, there will be a need for changes of the zoning district boundaries and the various regulations of this Title. Such changes or amendments shall be made in accordance with the procedures in this Section.

B. Type III (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.

2. Application Fees: When proceedings are initiated by a property owner, filing fees shall be collected. The schedule of application fees shall be established by the City Council by resolution. The fee charged shall be no more than the average cost of providing service.

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 10-1-1-6.

4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.

The proposal for the requested actions is consistent with the criteria in FCC 10-1-3-B, subsections #1 through #3 because the rezone proposal is a quasi-judicial zoning change that affects a discreet number of properties in a small, defined area, were initiated by a property owner whom paid fees, and noticing was provided in accordance with section 1-6.

CHAPTER 2 GENERAL ZONING PROVISIONS

10-2-2: SIMILAR USES: When the term "other uses similar to the above" is mentioned, it shall be deemed to mean other uses which, in the judgment of the Planning Commission, are similar to and not more objectionable to the general welfare than the uses listed in the same section.

10-2-6: WHO MAY APPLY: In general, only the owner of a subject property may apply for action by the Planning Commission under the provisions of this Title. Others may also apply for action as long as the

owner has indicated consent with the application by either signing the application or by submitting a letter or lease to that effect. An individual who has entered into an earnest money agreement to buy a property is considered to have an ownership interest for the purposes of this Title.

10-2-7: CONTRACT PURCHASERS DEEMED OWNERS: A person or persons purchasing property under contract, for the purpose of this Title, shall be deemed to be the owner or owners of the property covered by the contract. The City may require satisfactory evidence of such contract of purchase.

The applicant is under contract to purchase the properties from the owners A & D Bay Street.

10-2-13: For the purpose of this Title, certain words, terms and phrases are defined below. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this Title" is used herewith it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted. Definition contained in the Florence Comprehensive Plan shall also be used to define terms used in this Title of the Florence City Code, and, where conflicts exist, the terms used in this Code shall apply to the respective Code requirements. Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

The applicant is proposing changes to zoning text which include terms listed within this section. Additionally, FCC 10-5 related to the Tsunami Hazard Overlay references this section for terms related to its subsection. This section is included for reference. All terms include only the words as included herein with their associated meaning assigned.

CHAPTER 7 SPECIAL DEVELOPMENT STANDARDS

10-7-1: PURPOSE: The purpose of this Chapter is to apply additional development standards to areas with wetlands or riparian areas and potential problem areas, such as natural hazards or soils which are particularly subject to erosion, landslide or seasonal surface water. Compliance with these standards is required in order to obtain a permit. The standards are intended to eliminate the danger to the health, safety or property of those who would live in potential problem areas and the general public and to protect areas of critical environmental concern; areas having scenic, scientific, cultural, or biological importance; and significant fish and wildlife habitat as identified through Goal 5: Open Spaces and Scenic, Historic, and Natural Resources, and Goal 17: Coastal Shorelands. (Amended Ord. No. 10, Series 2009)

10-7-2: IDENTIFICATION OF WETLANDS AND RIPARIAN AREAS AND POTENTIAL PROBLEM

AREAS: At minimum, the following maps shall be used to identify wetlands and riparian areas and potential problem areas:

- A.** "Hazards Map", Florence Comprehensive Plan Appendix 7.
- B.** "Soils Map", Florence Comprehensive Plan Appendix 7.
- C.** "Beaches and Dunes Overlay Zone." See Chapter 19 for overlay zone requirements. Where conflicts exist between that chapter and this one, the more restrictive requirements shall

apply.

- D. **2013 City of Florence Significant Wetlands Map and 2013 City of Florence Significant Riparian Reaches Map in Appendix A of the 2013 Florence Area Wetlands and Riparian Inventory (2013 Inventory) and in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan (2013 Plan), in Comprehensive Plan Appendix 5.**
- E. **Other information contained in the plan or adopted by reference into the plan, or more detailed inventory data made available after adoption of the plan may also be used to identify potential problem areas. (Amended Ord. No. 10, Series 2009)**

10-7-3: DEVELOPMENT STANDARDS FOR POTENTIAL PROBLEM AREAS: The following standards shall be applied to development in potential problem areas unless an approved Phase I Site Investigation Report or an on-site examination shows that the condition which was identified in the Comprehensive Plan or Overlay Zoning Map does not in fact exist on the subject property. These standards shall be applied in addition to any standards required in the Zoning Districts, Comprehensive Plan, and to any requirements shown to be necessary as a result of site investigation. Where conflicts or inconsistencies exist between these Development Standards, City Code, and the Comprehensive Plan, the strictest provisions shall apply unless stated otherwise.

[...]

- A. **Special Flood Hazard Area: All uses proposed in the flood area shall conform to the provisions of the National Flood Insurance Programs.**
- D. **Ocean Flooding, Tidal Flooding, Tsunami: (See subsection A above, Special Flood Hazard Area).**

[...]

As shown in the applicant's materials and the City's Tsunami Inundation Maps (TIMs) and FIRM the properties lie within the Special Flood Hazard Area (SFHA), and are subject to Ocean and Tidal Flooding as well as high Tsunami inundation risk. The applicant notes in their narrative that the city has policies in code to address both problem/hazard areas. This is accurate. The Tsunami Hazard Overlay limits types of uses permitted and their allowable intensity. All properties that the text amendment would be applied to are within the Tsunami Hazard Overlay zone and most have either all or at least a portion of their property within the SFHA.

It is noted for the record that the applicant provided a flood plain permit application with the land use application materials by November 27, 2024. They also provided building permits for conversion of the restaurant building to residential on the same date. FEMA's Pre-Implementation Compliance Measures took place on December 1st. Submittal of permitting prior to the date makes the codes and laws in effect at the time of application applicable to the properties.

10-7-5: DEVELOPMENT STANDARDS FOR TSUNAMI HAZARD OVERLAY AREAS

The purpose of the TO District is stated to limit, direct and encourage the development of land uses within areas subject to tsunami hazards in a manner that will...reduce loss of life and damage to private ... property. The intention is to limit or eliminate the exposure to public emergency facilities and services and also limit the number of people temporarily and permanently residing within the overlay as shown in the criteria below that limit residential density, the number of hotel rooms and assisted

living units.

The application proposes to add language to Old Town District Sub-Area A (FCC 10-17A-2-C Prohibited Uses) changing the requirement for residential units (attached and detached) to be part of a mixed-use development to permitting them as exclusive uses if they are within the Shoreland Residential Overlay District or within a certain distance of a residential district. Presently, existing single detached residential units are grandfathered in Old Town Area A. There are no developed single unit detached residential units within the Residential Shoreland Overlay District that would benefit from this change.

The tsunami overlay criteria limit the allowable density of residential units to 10 units per acre. As it relates to the applicant's properties (.9 and .7 acres (1.6 acres)) the 10 unit per acre density limit would permit 9 units on one lot and 7 on the another, 16 total. Since the properties are not already zoned to permit housing outside of a mixed-use development, it is understood that the land area previously required for commercial uses could then be used for housing if approved. Since the building height is limited to two stories this increases the opportunity to place more units in the tsunami hazard zone than would have otherwise been available.

Additionally, the tsunami overlay offers exemption criteria whereby a development could receive a density exception per the Section "F" below. The state has passed legislation offering mandatory modifications or exemptions that offer the opportunity to increase density further. While exemptions are not available related to natural hazard criteria, it is unclear how the state would interpret a density waiver added to an exemption granted via the overlay procedures. The other waivers could create additional sq. ft. available for more residential units. Modifications used such as building height and reductions in parking, open space, landscaping, and stormwater retention then further the available density to an amount much greater than that gained by simply being able to not have to construct mixed use. The inherent tsunami hazard risk could then be exacerbated as more people are inhabiting in the tsunami overlay area which purposefully restricts the numbers of people.

A. Purpose. The purpose of the Tsunami Hazard Overlay Zone is to increase the resilience of the community to a local source (Cascadia Subduction Zone) tsunami by establishing standards, requirements, incentives, and other measures to be applied in the review and authorization of land use and development activities in areas subject to tsunami hazards. The standards established by this section are intended to limit, direct and encourage the development of land uses within areas subject to tsunami hazards in a manner that will:

- 1. Reduce loss of life;**
- 2. Reduce damage to private and public property;**
- 3. Reduce social, emotional, and economic disruptions; and**
- 4. Increase the ability of the community to respond and recover.**

Significant public and private investment has been made in development in areas which are now known to be subject to tsunami hazards. It is not the intent or purpose of this section to require the relocation of or otherwise regulate existing development within the Tsunami Hazard Overlay Zone. However, it is the intent of this section to control, direct and encourage new development and redevelopment such that, over time, the community's exposure to tsunami risk will be reduced.

The change in zoning text creates a special privilege inconsistent with the limitations on other properties classified in the Old Town District Area A and within the tsunami inundation. While the design of any future development will involve a land use application that will evaluate the criteria within this subsection to identify and abate any effect on public safety and welfare, changing the text

to permit residential without need for commercial sets a false expectation on the intensity of use allowed in the area proposed for change. The community's exposure to tsunami risk would be increased by this text change rather than reduced due to the possible increase in the number of residential occupants in the area that would be present during hours of both commercial usage on the property and after hours when those businesses were closed. Additionally, residential uses are presently permitted above commercial in a location with reduced risk. Removing the commercial use requirement places the residential uses at ground level.

B. Definitions. Terms used in this subsection are defined within FCC 10-2-13.

C. Applicability of Tsunami Hazard Overlay Zone. All lands identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the applicable Tsunami Inundation Map(s) (TIM) published by the Oregon Department of Geology and Mineral Industries (DOGAMI) are subject to the requirements of this section.

All properties that the text amendment would be applied to are located within the Medium and XXL Tsunami Inundation areas and thus are in the Tsunami Hazard Overlay (THO). The entirety of the THO section is included below for the purpose of consideration of the requested zone text amendment.

D. Uses. In the Tsunami Hazard Overlay Zone, except for the prohibited uses set forth in FCC 10- 5-E, all uses permitted pursuant to the provisions of the underlying zone may be permitted, subject to the additional requirements and limitations of this section.

E. Prohibited Uses. Unless authorized in accordance with FCC 10-7-5-G, the following uses are prohibited in the specified portions of the Tsunami Hazard Overlay Zone:

1. In areas identified as subject to inundation from the Extra Extra Large (XXL) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:

- a. Hospitals and other medical facilities having surgery and emergency treatment areas.**
- b. Fire and police stations.**
- c. Structures and equipment in government communication centers and other facilities required for emergency response.**
- d. Buildings with a capacity greater than 250 individuals for every public, private, or parochial school through secondary level or child care centers.**
- e. Buildings for colleges or adult educations schools with a capacity of greater than 500 persons.**
- f. Jail and detention facilities.**

The proposed text does not include language related to these prohibited uses in the XXL event area.

2. In areas identified as subject to inundation from the Medium (M) magnitude local source tsunami event as set forth on the Tsunami Inundation Map (TIM), the following uses are prohibited:

- a. Tanks or other structures containing, housing or supporting water or fire suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures.**

- b. Emergency vehicle shelters and garages.
- c. Structures and equipment in emergency preparedness centers.
- d. Standby power generating equipment for essential facilities.
- e. Covered structures whose primary occupancy is public assembly with a capacity of greater than 300 persons.
- f. Medical facilities with 50 or more resident, incapacitated patients.
- g. Residential uses, including manufactured home parks, of a density exceeding 10 units per acre.
- h. Hotels or motels with more than 50 units.

The proposed text includes “residential uses”. The types of structures proposed (triplexes, quadplexes, etc.) are typically constructed to achieve higher densities.

3. Notwithstanding the provisions of FCC 10-8, the requirements of this subsection shall not have the effect of rendering any lawfully established use or structure nonconforming.

- F. Use Exceptions. A use listed in FCC 10-7-5-E may be permitted upon authorization of a Use Exception in accordance with the following requirements:**
- 1. Public schools may be permitted upon findings that there is a need for the school to be within the boundaries of a school district and fulfilling that need cannot otherwise be accomplished.
 - 2. Fire or police stations may be permitted upon findings that there is a need for a strategic location.
 - 3. Other uses prohibited by FCC 10-7-5-E may be permitted upon the following findings:
 - a. There are no reasonable, lower-risk alternative sites available for the proposed use;
 - b. Adequate evacuation measures will be provided such that life safety risk to building occupants is minimized; and
 - c. The buildings will be designed and constructed in a manner to minimize the risk of structural failure during the design earthquake and tsunami event.
 - 4. Applications, review, decisions and appeals for Use Exceptions authorized by this subsection shall be in accordance with the requirements for a Type III procedure as set forth in FCC 10-1-1-6-3.

G. Evacuation Route Improvement Requirements. Except single family dwellings on existing lots and parcels, all new development, substantial improvements and land divisions in the Tsunami Hazard Overlay Zone shall incorporate evacuation measures and improvements, including necessary vegetation management, which are consistent with and conform to the adopted Evacuation Route Plan. Such measures shall include:

- 1. On-site improvements:
 - a. Improvements necessary to ensure adequate pedestrian access from the development site to evacuation routes designated in the Evacuation Route Plan in all weather and lighting conditions.
 - b. Frontage improvements to designated evacuation routes that are located on or contiguous to the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

c. Where identified in the Evacuation Route Plan as the only practicable means of evacuation, tsunami evacuation structure(s) of sufficient capacity to accommodate the evacuation needs of the proposed development.

2. Off-site improvements: Improvements to portions of designated evacuation routes that are needed to serve, but are not contiguous to, the proposed development site, where such improvements are identified in the Evacuation Route Plan. Such improvements shall be proportional to the evacuation needs created by the proposed development.

3. Evacuation route signage consistent with the standards set forth in the Evacuation Route Plan. Such signage shall be adequate to provide necessary evacuation information consistent with the proposed use of the site.

4. Evacuation route improvements and measures required by this subsection shall include, at a minimum, the following:

a. Improved streets and/or all-weather surface paths of sufficient width and grade to ensure pedestrian access to designated evacuation routes in all lighting conditions;

b. Improved streets and paths shall provide and maintain horizontal clearances sufficient to prevent the obstruction of such paths from downed trees and structure failures likely to occur during a Cascadia earthquake; and

c. Such other improvements and measures identified in the Evacuation Route Plan.

5. When it is determined that improvements required by this subsection cannot be practicably accomplished at the time of development approval, payment in lieu of identified improvements shall be in accordance with FCC 8-5-1.

H. Tsunami Evacuation Structures.

1. All tsunami evacuation structures shall be of sufficient height to place evacuees above the level of inundation for the XXL local source tsunami event.

2. Tsunami evacuation structures are not subject to the building height limitations of this chapter.

I. Flexible Development Option.

1. The purpose of the Flexible Development Option is to provide incentives for, and to encourage and promote, site planning and development within the Tsunami Hazard Overlay Zone that results in lower risk exposure to tsunami hazard that would otherwise be achieved through the conventional application of the requirements of this chapter. The Flexible Development Option is intended to:

a. Allow for and encourage development designs that incorporate enhanced evacuation measures, appropriate building siting and design, and other features that reduce the risks to life and property from tsunami hazard; and

b. Permit greater flexibility in the siting of buildings and other physical improvements and in the creation of new lots and parcels in order to allow the full realization of permitted development while reducing risks to life and property from tsunami hazard.

2. The Flexible Development Option may be applied to the development of any lot, parcel, or tract of land that is wholly or partially within the Tsunami Hazard Overlay Zone.

3. The Flexible Development Option may include any uses permitted outright or conditionally in any zone, except for those uses prohibited pursuant to FCC 10- 7-5-D.

4. Overall residential density shall be as set forth in the underlying zone or zones. Density shall be computed based on total gross land area of the subject property, excluding street right-of-

way.

FCC TITLE 10, CHAPTER 17: OLD TOWN DISTRICT AREA A

10-17A-1 PURPOSE FOR AREA A: Old Town Area A is intended as the primary tourist destination, which provides for shopping, entertainment and water-related activities for visitors and residents of Florence

The requirement for residential when developed to be part of a mixed-use development directly supports the purpose of Subarea A by increasing the amount of property available for activities like shopping, entertainment and water-related activities for visitors and residents of Florence.

The application proposes to add language to Old Town District Sub-Area A (FCC 10-17A-2-C Prohibited Uses) changing the requirement for residential units (attached and detached) to be part of a mixed-use development to permitting them as exclusive uses if they are within the Shoreland Residential Overlay District. Presently, existing exclusive single detached residential units are grandfathered in Old Town Area A. There are no developed single unit detached residential units within the Residential Shoreland Overlay District that would benefit from this change. The requirement for residential when developed to be part of a mixed-use development directly supports the purpose of Subarea A by increasing the amount of property available for activities like shopping, entertainment and water-related activities for visitors and residents of Florence. Reducing the land available for these uses by permitting exclusive housing in an economic district does not support the purpose of the district and policies of the Comprehensive Plan. The Old Town District is discussed in both the residential and “other” categories of the comprehensive plan. These properties are two of five un/underdeveloped properties in the Old Town Sub Area A District. Also, one of the properties is one of two vacant properties in the Old Town District with an abutting Development Estuary Overlay. The comprehensive plan includes policies to support preservation of property in sufficient quantities to ensure land available for those uses.

Old Town Area B is stated to be an area of mixed use residential intended to provide a transition between the waterfront visitor attractions (of Old Town Area A) and the Events Center campus, with Quince/2nd Street (Old Town Area C) as the pedestrian-friendly link between these key areas. Area B permits residential units attached and detached as primary uses on a lot. Area B has only 7 or so properties within the Shoreland overlays and flood zone rather than 30 like OTA.

FCC TITLE 10, CHAPTER 19: ESTUARY, SHORELANDS, AND BEACHES AND DUNES

10-19-5: COASTAL SHORELANDS OVERLAY DISTRICT ADMINISTRATION

The applicant’s existing development (building and parking lot) received approval in 1988 when it was assigned Natural Resource Conservation Overlay policies noting that it was a Residential District. In 2009 the shoreland overlay was changed to Shoreland Residential to align with the Lane County Coastal Resource Inventory, 1978 and most recent Coastal Resource Management Plan. No specific land use development is proposed or approved with or for this application. A text amendment are not actions that trigger specific requirements under the criteria. Any future development within the Development Estuary District or Shoreland Residential Overlay will require completion of assessments as applicable. The purpose statements of use sections of these sections are included below to provide context for and analyses of the text amendment request.

10-19-4: DEVELOPMENT ESTUARY DISTRICT (DE):

A. Purpose and Extent: The primary purpose of the Development Estuary District (DE) is to provide for navigational needs and public, commercial and industrial water-dependent uses which require an estuarine location. Uses which are not water dependent which do not damage the overall integrity or estuarine resources and values should be considered, provided they do not conflict with the primary purpose of the District. The DE District is designed to apply to navigation channels, sub-tidal areas for in-water disposal of dredged material, major navigational appurtenances, deep-water areas adjacent to the shoreline and areas of minimal biological significance needed for uses requiring alteration of the estuary. These are as defined on the City Zoning Map as specified by this Title.

The subject properties are not located within the areas designated as “Areas Managed for Water Dependent Activities”

10-19-6: SHORELAND RESIDENTIAL OVERLAY DISTRICT /SR

A. Purpose: The Shoreland Residential Overlay District (/SR) is applied to residential development management units in the Comprehensive Plan along the Siuslaw River Estuary and Munsel Lake (a Coastal Lake). It is the purpose of the /SR Overlay District to encourage long-term human use of these coastal resources in a manner which protects the qualities of coastal water bodies and respects the natural systems. Activities which protect or enhance renewable resources are encouraged, as are recreation and public access to coastal water. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

The /SR District is specifically designed to carry out the following purposes:

- 1. Protection of such natural resources as soil and such natural systems as drainage courses and waterways.**
- 2. Enhancement of renewable resources such as the coastal fisheries.**
- 3. Allow for recreation and public access to coastal water.**

The area under consideration is adjacent to the Development Estuary District and are within the Shoreland Residential Overlay District. The properties have limited natural resources due to decades-long existence of dredge spoils fill, shoreline hardening, and an absence of native vegetation. The applicant’s property has been committed to commercial uses since the 1950’s with the placement of an RV park, bait and convenience store, marina, and later a restaurant. The Bay Bridge Condominium Development has been committed to residential uses since its land use approval in 1978. As previously mentioned, the development previously had planned to include most of the property between Juniper and Kingwood Sts. The applicant’s properties also at one point in the 1970’s had a mobile home park with around 20 units along Bay St. north of the bait shop.

In contrast two of the subject properties are the remaining vacancies as discussed under the Buildable Land Inventory section in the Old Town District with an abutting Development Estuary Overlay. The

comprehensive plan includes policies to support preservation of property in sufficient quantities to ensure land available for those uses. However, consistently through the various updates of the Lane County Coastal Resource Management Plan, Florence Comprehensive Plan and City Code the description of the land under consideration has stated the land is mostly committed and is expected to remain residential.

Ordinance No. 10 Series 2009 adopted changes as part of periodic review work task for coastal goals. It resulted in updating the historic Natural Resource Conservation Overlay to its present designation Shoreland Residential. The process found that the assignments of many of the shorelands and estuary districts to be erroneous or outdated. Thus, many map and code changes were made that had the effect of a complete review of Chapter 19 and Chapters 16 and 17 of the comprehensive plan. A text excerpt from those findings is inserted below to the left that explains why the change was made. The change to the current Shorelands Residential Overlay was made during the last periodic review and no new development has happened in the area since the more lenient overlay was assigned. The NRC was more restrictive. The current development patterns, existing development were all considered when making the Residential assignment. Also, of note is that the analysis for this 2009 amendment occurred a year after a rewrite of Old Town District FCC 10-17 which was adopted as Ordinance 1, Series 2008. The shoreland overlay revisions were presumed to be considered by the CD Staff, Planning Commission and City Council in succession with the permitted uses and designation of the subareas in the Old Town District. However, the below text excerpt on the right is from the findings for the Old Town District 2008 rewrite. They incorrectly identified the Mixed Development overlay as being the only overlay applying to properties in what would be Area A. It was apparently missed that Bay Bridge Condominiums, the applicant's properties, and the eastern tax lot 7900 were properties with a residential overlay that were being regulated under the NRC criteria effectively from the 1988 Comprehensive Plan. It wasn't until 2009 that the overlay names changed.

Residential Development and Natural Resources Conservation MUs

These MUs, as currently set out in the CRMP and City overlay districts, do not match the land use characteristics or development patterns in the city limits or the UGB. The CRMP and City Code, as currently adopted, recognize this inconsistency and, to address this problem, specify that the Natural Resource Conservation Overlay Zoning would apply to Residential Development MUs in the Florence city limits. This is confusing, at a minimum, and inaccurate. The Proposal in Exhibits B and C is for areas in the City with the Residential Development MU classification in the Comprehensive Plan to carry a "Shorelands Residential" Overlay Zoning District classification. This merely renames the overlay zoning for these properties that is now in place (i.e., "Natural Resources Conservation") to a title that is consistent with the MU and the purpose of the MU; and is therefore also consistent with the intent of the policy. It is also intuitive and thus easier to administer.

**Chapter 16
ESTUARINE RESOURCES SIUSLAW ESTUARY AND SHORELANDS**

Policy

- The Lane County Coastal Management Plan, and amendments shall serve as the definitive document for actions related to Goal 16 Estuarine Resources. (pg. 193)**

The shorelands management unit for areas of Old Town adjacent to the Siuslaw Estuary is the Shorelands Mixed Development Combining District. The allowable uses within this management unit are water-related, and the standards of this district (see FCC 10-19-5) apply to any new development, in addition to the regulations of the Old Town zone.

As previously mentioned, in 2002 when the Old Town District was created from the former Waterfront District the Bay Bridge Condominiums were not included in the Area A zone within Old Town. The Old Town District properties outside Area A permitted all other residential uses except single family dwellings. Area A permitted residential dwellings only with mixed uses. It is likely that because the restaurant building and by that time commercial marina development existed on the applicant's lots it was included in Area A because the property was already committed to commercial water dependent and related uses. In 2002 the restaurant had only been vacant a year or so, still had the marina and an operational fish receiving area for commercial fishers.

Given that the western property, tax lot 8100, adjacent to Juniper St. is identified in the Mixed Use Buildable Lands Inventory as vacant it could be appropriate for it and Bay Bridge Condominiums to be zoned and rezoned, respectively, to permit residential uses without need for a mixed use development. Tax Lot 7900 is very small with limited commercial use capacity due to the development requirements for on-site parking and stormwater retention. It could however be suitable for small scale residential.

D. Conditional Uses: In addition to Conditional Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted, subject to approval by the Planning Commission. The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, when consistent with all of the requirements of the adjacent Estuary District and applicable site development requirements listed in subsections E and F and upon satisfaction of the following applicable criteria.

- 1. All buildings and uses allowed conditionally or by special permit in the base zoning district, except where expressly prohibited by this Section, subject to the following criteria:**
 - a. All applicable criteria provided within the base district are met.**
 - b. Surface, subsurface and aquifer waters are protected from pollution and sedimentation.**

Any residential use on the subject lots would require a conditional use permit under the FCC 10-19-6 criteria with the receipt of applicable land use permit and a design meeting subsections E and F.

TITLE 10: CHAPTER 35: ACCESS AND CIRCULATION

10-35-2-5: Traffic Study Requirements: The City may require a traffic study prepared by an Oregon registered professional engineer with transportation expertise to determine access, circulation, and other transportation requirements in conformance with FCC 10-1-1-4-E, Traffic Impact Studies.

A. The Traffic Impact Study shall:

- 1. Evaluate all streets where direct access is proposed, including proposed access points, nearby intersections, and impacted intersections with the state highway system.**
- 2. Utilize the analysis procedures of the Highway Capacity Manual, latest edition.**
- 3. Document compliance with Florence City Code, the goals and policies of the Transportation System Plan, and any other applicable standards.**
- 4. Be coordinated with other affected jurisdictions and agencies such as Lane County, the Port of Siuslaw, and the Oregon Department of Transportation.**
- 5. Identify mitigation measures that resolve the identified traffic safety problems, address the anticipated impacts from the proposed land use, and meet the city's adopted Level-of-Service standards. The study shall also propose funding for the proposed mitigation measures.**

The application includes a Traffic Impact Analysis (TIA) performed by Sandow Engineering. This firm concluded no traffic controls were warranted. The TIA was peer reviewed by Southern Oregon Transportation Engineering, LLC, whose conclusions are included in the exhibits to the findings. There were four comments that included the need for providing calculations for Table 2 in the appendix, providing crash severity, using HCM 7th edition, and provision of background information for the reasonable worst case trip generation. Additionally, it was found that the TIA did not include a Figure #5,

rather Figure #6 is inserted twice. Additionally, PM Peak (4pm – 5pm) is used which is typical. However, for the marina use this is less likely the peak time for that use as recreational fishing is the predominate use of the marinas where mornings are busiest. The limitations of the tsunami zone will restrict the residential trip generation to 16 dwelling units rather than the 30 in the worst-case scenario. The resulting findings of the TIA (even with the missing information) illustrate that the existing system can support the proposed change to add more intense residential uses to meet the requirements of the Transportation Planning Rule and City code requirements. Future development will require updating the TIS using the HCM 7th edition and adding the missing data to evaluate the nexus for improvements to the area transportation system so that a proportionality of the improvements can be evaluated and assigned. (Condition)

REALIZATION 2020 FLORENCE COMPREHENSIVE PLAN

ORS 197.175: Cities' And Counties' Planning Responsibilities; Rules on Incorporations; Compliance with Goals.

(2) Pursuant to ORS Chapters 195, 196, 197 and 197A, each city and county in this state shall: (b) Enact land use regulations to implement their comprehensive plans;

The proposal is consistent with ORS 197.175 because this staff report contains findings to conclude that the proposed comprehensive plan revision is in compliance with the goals approved by the commission. Statewide Planning Goals 1, 2, 5, 7, 10, 11, 12, 16, and 17 apply to this proposal. A finding of "Not Applicable to this Proposal" is incorporated into these findings for all other Statewide Planning Goals not specifically cited below. Additionally, the Comprehensive Plan Chapter numbers included in the criteria coincide with the Statewide Planning Goals and are considered referenced therein.

197.610 Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development; rules. (1) Before a local government adopts a change, including additions and deletions, to an acknowledged comprehensive plan or a land use regulation, the local government shall submit the proposed change to the Director of the Department of Land Conservation and Development. The Land Conservation and Development Commission shall specify, by rule, the deadline for submitting proposed changes, but in all cases the proposed change must be submitted at least 20 days before the local government holds the first evidentiary hearing on adoption of the proposed change. The commission may not require a local government to submit the proposed change more than 35 days before the first evidentiary hearing.

The proposal for the rezoning is consistent with ORS 197.610 because notice to DLCD was received on December 10, 2024 and renoticed on February 5, 2025, at least 35 days prior to the January 14, 2025 (first) Planning Commission public hearing and the notice contained the information in this statute. The 2nd notice included adding a revised notice with additional criterion and more specificity to the proposal description.

Chapter 2: Land Use

Goal

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for those decisions and actions.

Policies

1. Designation and location of land uses shall be made based on an analysis of documented need for land uses of various types, physical suitability of the lands for the uses proposed, adequacy of existing or planned public facilities and the existing or planned transportation network to serve the proposed land use, and potential impacts on environmental, economic, social and energy factors.

The Economic Opportunities Analysis adopted in 2018 developed policies included in Chapter 9 of the Comprehensive Plan that encourage the growth and diversification of the Florence economy. The existing mixed-use zoning satisfies the need for housing and additional commercial lands supporting the Florence economy and tourism base.

The City's Buildable Lands Inventory was adopted in 2018 as an appendix to the 2017 Housing Needs Analysis and Economic Opportunity Analysis. In compliance with Goal 10 and applicable administrative rules implementing Goal 10, the inventory looks at acreage available for development within the City's residential areas. While residential uses are permitted or conditionally permitted in areas with non-residential designations, the BLI typically only inventories acreage within residential zoning districts. However, the 2017 study did include analyses of employment and mixed-use land available for redevelopment or development. The property adjacent to/east of Juniper St. and south of Bay St. was included on the vacant mixed use land inventory.

The zoning text amendment request relates to the opportunity to provide residential uses without the need for commercial. The addition of land available for residential uses outside of mixed-use developments impacts the City's residential inventory positively by supporting additional housing.

Scenario A Projected Employment and Land Need Table (below) found that 30.9 acres of land are needed for service and retail uses. The Buildable Lands Inventory identified 378.3 acres of commercial and mixed use land available. The property adjacent to Juniper is just under an acre and is one of 9 vacant mixed use properties less than an acre. Analyses found the Housing Needs Analysis 2017, Exhibit IV.6, *identifies a forecasted 20-year need, under Scenario A, of 1,218 net new dwellings for permanent residents. If the City maintains the current level of seasonal housing (includes second homes and short term rentals) and vacant inventory at 18% of total inventory, there would be demand for approximately 502 multifamily and plex units for permanent residents with a need for 37 acres to fulfill the demand. The residential land inventory in the table below indicates there are 606 parcels consisting of 332 acres that are zoned for residential use and are vacant or redevelopable. Nineteen of the parcels are between 1 and 5 acres in size totaling 23.9 acres.* The inventory indicates there is sufficient land available zoned for mixed use and residential to meet the demand for both employment and residential needs. Provided the subject property is used for permanent resident housing the zone text amendment would make a positive impact on the supply of residential land base.



Projected Employment & Land Need
Scenario A: Baseline 20-year Employment Land Need, Florence UGB

Job/Use Type	20-Year Job Growth Forecast ¹	Avg. FAR	Jobs Per Acre ²	Building Floor Area Per Job ²	20-Year Building Need (floor area SF)	Refill/ Redevelopment Share Capture	Refill/ Redevelopment Floor Area	20-Year Land Need (buildable acres) ³
Private Employment								
Industrial	77	0.15	10	1,500	115,000	5%	5,750	8.4
Services	883							
Lodging	37	0.25		1000	37,000	10%	3,700	3.5
Food Services	148	0.30		400	59,000	10%	5,900	4.7
Education Services	44	0.20		500	22,000	10%	2,200	2.6
Office/Other Services	654	0.30		300	196,000	10%	19,600	15.5
Retail	115	0.30		500	58,000	10%	5,800	4.6
Private Subtotal	1,076				487,000		42,950	39.3
Local Government ⁴	7	0.30		500	3,000	100%	3,000	-
Total	1,082				490,000	9%	45,950	39.3

Buildable Land Inventory within City of Florence, 2017

Residential Zones	Parcels				Subtotal	Acres				Subtotal
	< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres		< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres	
Category					Parcels					Acres
Vacant, Private*	436	8	3	9	456	74.3	11.0	18.3	161.9	265.6
Vacant, Public/Semi Public*	37	2	0	0	39	7.7	1.8	0.0	0.0	9.5
Part Vacant, Private	11	6	0	0	17	3.4	3.6	0.0	0.0	7.0
Part Vacant, Public/Semi-Public	0	1	1	1	3	0.0	2.8	6.0	11.3	20.2
Redevelopable	88	2	1	0	91	25.6	4.6	0.0	0.0	30.2
Total	572	19	5	10	606	111.1	23.9	24.3	173.2	332.5

Employment Zones	Parcels				Subtotal	Acres				Subtotal
	< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres		< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres	
Category					Parcels					Acres
Vacant, Private*	234	14	1	1	250	51.1	23.4	7.0	13.3	94.8
Vacant, Public/Semi Public*	74	21	0	1	96	23.2	35.5	0.0	32.5	91.1
Part Vacant, Private	0	4	0	0	4	0.0	7.5	0.0	0.0	7.5
Part Vacant, Public/Semi-Public	0	0	0	2	2	0.0	0.0	0.0	53.8	53.8
Redevelopable	5	0	1	0	6	49.3	50.5	12.7	0.0	112.5
Total	313	39	2	4	358	123.7	116.8	19.7	99.6	359.8

Mixed Use Zones	Parcels				Subtotal	Acres				Subtotal
	< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres		< 1 acre	1 to 5 acres	5 to 10 acres	> 10 acres	
Category					Parcels					Acres
Vacant, Private*	9	1	1	0	11	1.9	2.8	5.1	0.0	9.8
Vacant, Public/Semi Public*	1	1	0	0	2	0.2	0.9	0.0	0.0	1.2
Part Vacant, Private	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0
Part Vacant, Public/Semi-Public	0	0	0	0	0	0.0	0.0	0.0	0.0	0.0
Redevelopable	5	0	1	0	6	2.1	0.0	5.4	0.0	7.6
Total	15	2	2	0	19	4.3	3.7	10.6	0.0	18.5

Additionally, the Florence Urban Renewal Agency Investment Strategy, May 2016 identified barriers to new investment within the Urban Renewal District and created an investment and implementation strategy to create economic momentum for redevelopment and revitalization. The “Lotus Site” was identified at one of the four catalyst site receiving analysis. Specifically, the plan says, “The long-vacant Lotus Restaurant building was identified by many stakeholders as the single most important site to be redeveloped given its prominence on the waterfront. Coupled with vacant parcels on either side of it and its overall size, redevelopment here has the potential to reenergize the west end of Bay Street and serve as a new anchor to downtown.” Barriers identified include: low height restrictions, parking requirements, and an obligatory commercial element which restrict development on the site specifically the size of

potential projects which hinders cash flow from rentable spaces, and prevents development feasibility. "Allowing taller buildings, fewer parking spaces, and making commercial spaces voluntary, instead of mandatory, would greatly increase development viability." Additional comments include: "The Lotus site is the most conspicuous opportunity site in Old Town. The Lotus Building is easily visible as one travels to Florence on Highway 101. The site provides an unparalleled opportunity for anchoring the west end of Bay Street with a significant retail destination. The Lotus Building itself is in the works to be transformed into a brewery and restaurant. The rest of the site provides room for additional retail and residential development." The planned improvements and the pro-forma analyses exclusively speak developing mixed uses. Any redevelopment of the site should consider the opportunity the site has for the overall improvements to the west side of Old Town and the Urban Renewal District as a whole.

7. The City shall determine estimated additional usage and the impacts of proposed development upon maximum capability for sewer, water and stormwater systems. This information is to be included in subdivision and design review staff reports.

Sanitary Sewer: Currently, the total sanitary sewer capacity of the treatment plant is 1.3 million gallons per day (mgd) dry weather flow. The current average dry weather flow is 0.745 which equates to 0.555 mgd of excess capacity at the treatment plant. The plant and the conveyance system have the capacity for the increase in intensity of a zone change to Old Town Area A. Stormwater management will need to be considered as development occurs on the property and is required to be treated on-site.

Residential

Policy 7: Residential development shall be discouraged in areas where such development would constitute a threat to the public health and welfare, or create excessive public expense. The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.

The proposed text amendment reflects uses already allowed in Old Town Area B. The city has created mitigating criteria related to residential use to address Goal 7 hazards specifically, the Tsunami Inundation Overlay and Special Flood Hazard Area. When those criteria were adopted, the city chose to not exclude lands from the residential and commercial buildable land supplies. To be included in those inventories, these lands must be available for residential and/or commercial development. Further, the city designated and zoned those areas for mixed use development, which includes residential uses. These city policies, plans and provisions will apply to development on the subject property, just as they do to adjacent residential and commercial developments.

Commercial

10. Within the Old Town area, commercial redevelopment or infill shall encourage compatibility with the character of the surrounding area, including architectural characteristics, the unique physical nature of the Old Town area, and views of the Siuslaw River, and shall not adversely impact the development potential of adjoining properties.

Within the Design Review policies in Title 10 Chapter 6 there is a requirement for residential development within the Old Town area to meet the architectural criteria of the Old Town and Main Street areas. Additionally, the Vision Management Plan governs the development of the project and will be reviewed

upon any land use proposals. Additionally, there is a 50-foot setback required for all new development and redevelopment with the Residential Shoreland Overlay. A change in text amendment will be required to continue to meet this policy.

Other Plan Designations

1. The City should recognize unique land uses, sites, and/or ownership patterns and should provide for flexibility in the land use system to address unique situations while remaining consistent with City goals and policies.

The properties subject to this proposed text amendment have been evidenced in earlier analyses within this report to have a history of unique ownership and land use development with regard to the timing of the implementation of Oregon's land use goals and specifically the designation of the Estuary and Shoreland management units and implementing policies. Due to the multiple overlapping changes between Lane County's and the City's CRMP and Comp Plan respectively, up until 2013 the city was in a constant state of not being caught up policy wise. Starting in 1977 through the 1990's development was occurring inconsistent or partially so with state law. This request for a text amendment is proposed to apply to a limited set of properties which are already committed to residential uses or were in the past either actually or for redevelopment. The Shoreland Residential Overlay permits conditionally those uses permitted outright or conditionally in the Old Town District. A text amendment as proposed for the plexes and multifamily would not be inconsistent with City goals or policies. Single family detached dwellings are addressed in multiple policies as either being protected from commercial encroachment or being excluded from commercial areas. Single family detached units would not be appropriate for this area under consideration.

Downtown Section

There are multiple objectives related to mixed use development, residents living in Downtown, and accessibility and infrastructure provision. The proposed text amendment would provide the opportunity to deviate from a mixed use development but would not be inconsistent with the other objectives.

Chapter 5: Land Use

1. Important scenic views of the river, dunes, ocean and jetty area shall be identified and protected. Key scenic resources were identified by the Florence Visual Management Plan, and are shown on Map 5-H1. During pre-application conferences, and review by the Planning Commission/Design Review Board, strong consideration shall be given to designing of proposed development to maintain view corridors to identified scenic resources. This is particularly important in Old Town and along the river shoreline. The use of scenic easements shall be researched, and implemented, if appropriate. Development on the Siuslaw Estuary shall be in conformance with the Lane County Coastal Resources Management Plan.

Development resulting out of a text amendment for residential uses would be subject to the same criteria as a mixed use. This property is subject to the coastal goals which are governed by the conditional use permit process and the location is also within the Tsunami Overlay District and the area of consideration on Map 5-H1. Residential development is typically subject to the opportunity for Type 2's in most other districts, therefore any text amendment for this area for residential uses would be best suited as a conditionally permitted use permit with the Old Town District to ensure the comp plan implementing policies and various Planning Commission decisions are addressed since they are not handled via a staff

review process.

Chapter 7: Development Hazards and Constraints

Goal

To protect life and property from natural disasters and hazards.

Policy 1: The City shall restrict or prohibit development in known areas of natural hazard or disaster in order to minimize risk to citizens, reduce the hazard of loss of life and economic investments, the costs of expensive protection works, and public and private expenditures for disaster relief.

The city has adopted policies in FCC 10 Chapter 7 to address the threat of tsunami inundation and flooding. This property is in the special flood hazard zone and the tsunami overlay zone and is subject to the policies contained therein. These hazards have been addressed earlier.

Statewide Planning Goals

Goal 1: Citizen Involvement [OAR 660-015-0000(1)]

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 proposal is consistent with Statewide Planning Goal 1. The proposal was published in the Siuslaw News; notice was mailed to owners within 301 feet of the applicant's property lines, and to all those who participated in the first public hearing; and citizens were given the opportunity to comment on the proposal in writing or in person at a public hearing before the Planning Commission.

The Planning Commission held public a hearing, and heard public testimony; the Planning Commission will deliberate and make a recommendation to the City Council who will hold a second public hearing.

In accordance with ORS 197.253 those participating orally or in writing in the public hearings have standing for appeal with the Land Conservation and Development Commission. All those testifying and providing a mailing address will receive a Notice of Decision that includes the associated ORS related to appeal procedures.

Goal 2: Land Use [OAR 660-015-0000(2)]

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 proposal is consistent with Goal 2 because the proposed revisions to the Florence City Code would be adopted by the Florence City Council 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 any future City adopted Periodic Review Work Program. Opportunities were provided for review and comment by citizens and affected governmental unit.

Goal 7: Areas Subject to Natural Hazards [OAR 660-015-0000(7)]

To protect people and property from natural hazards. Local governments shall adopt comprehensive plans (inventories, policies and implementing measures) to reduce risk to people and property from natural hazards. 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 proposed text amendment has been reviewed against the implementing Goal 7 policies earlier in the report.

Goal 10: Housing [OAR 660-015-0000(10)]

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 proposed text amendment was reviewed earlier in the report against Goal 10 and was found to be consistent with State law. The amendment affects the development potential making more land available for a variety of residential uses.

GOAL 11: Public Facilities and Services [OAR 660-015-0000(11)]

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 level of water and sewer facilities within the adjacent right of way and available treatment plants are suitable to accept the additional development available through a mixed-use commercial zone and the increased densities and types of land uses.

Goal 12: Transportation [OAR 660-015-0000(12)]; OAR 660-012-0060; and Policy 14, Ch. 12 FRCP 2020

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

OAR 660-012-0060**Plan and Land Use Regulation Amendments**

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. 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) Result in any of the effects listed in paragraphs (A) through (C) of this subsection. If a local government is evaluating a performance standard based on projected levels of motor vehicle traffic, then the results must be based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

And,

REALIZATION 2020 FLORENCE COMPREHENSIVE PLAN

Florence Comprehensive Plan, Chapter 12:

14. Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.

A Traffic Impact Analysis was performed by Sandow and peer reviewed by Southern Transportation LLC. These findings are reviewed in more detail earlier in this report. Neither the TIA nor peer review found that the change in zoning text would elevate transportation facility trip counts to the point of changing the functional classification or degrading the performance standards of any transportation facility in the area.

Goal 16: Estuarine Resources [OAR 660-015-0000(16)]

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

The goal is applicable because the property abuts the Development Estuary District which has an improved economic value for certain types of water dependent or related uses. The existing improvements at the time of development approval were found to be a value to the downtown area capitalizing on the environmental and societal value of the Siuslaw Estuary. A change in text amendment would have an

impact on the future availability of land availability for uses that need river access. However, the Comp Plan Chapter 17 indicates that the district is largely committed to residential uses in the area and that any commercial or industrial water dependent or related use would be inconsistent with the character of the overlay and existing low density development, excepting the Bay Bridge Condominium development.

Goal 17: Coastal Shorelands [OAR 660-015-0010(17)]

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, cultural 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, the adverse effects upon water quality, and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

The change in text does not release a developer from compliance with policies implementing Goal 17. Earlier it is stated that any change in text is appropriately addressed through a conditional use permitting process both with the Old Town District and within the Shoreland Residential Overlay. Development and redevelopment of the properties will prompt a review of the criteria in FCC 10-19 and the policies listed in Chapter 17 of the Comprehensive Plan.

16. In Residential Development Management Units, the following additional policies shall apply:

This section is codified in FCC 10-19 where the applicable policies were covered above.

VII. CONCLUSION

Planning Commission will identify a conclusion based on the record, findings of fact and policies therein. Five options have been identified for their consideration and are included within the staff report.