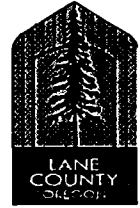


W.10C and d.

SUPPLEMENTAL MEMORANDUM



Memo Date: March 24, 2009

Fourth Reading Ordinance No. PA1249: Meeting Date: April 8, 2009

Third Reading Ordinance No. 7-08: Meeting Date: April 8, 2009

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division, Planning Department

PRESENTED BY: Stephanie Schulz, Metro and Small City Planner

AGENDA ITEM TITLES: **Ordinance No. PA 1249** / In The Matter Of Co-Adopting The Florence Realization 2020 Comprehensive Plan and Associated Refinement Plans To Complete Periodic Review Tasks As Applicable Within The Urban Growth Boundary Outside Florence City Limits And Adopting Savings and Severability Clauses (File No. PA 08-5363, Florence) (Stephanie Schulz)(1st Reading 11/5/08, 2nd Reading/Hearing 11/25/08, 3rd Reading 12/10/08)

Ordinance No. 7-08 / In The Matter Of Amending Chapter 10 of Lane Code To Revise And Add Provisions For The Interim Urbanizing Combining District (/U) Applicable Within The Florence Urban Growth Boundary (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122-31) (Stephanie Schulz) (1st Reading 11/05/08; 2nd Reading/Hearing 11/18/08)

I. AGENDA ITEM SUMMARY

Board co-adoption of the Florence Comprehensive Plan 'Realization 2020', including but not limited to the Transportation System Plan, Wastewater Facilities Plan, Water Facilities Plan, Stormwater Management Report and Stormwater Design Report for the North Spruce Street LID. These are the refinement plans that have application within the urbanizable area of Florence that lies outside the city limits and within the Florence urban growth boundary (UGB).

Ordinance No. 7-08 would amend Lane Code Chapter 10 by adding implementation measures to reflect policy amendments in the Comp Plan. Chapter 10 of Lane Code provides the land use regulations that are applicable within the small city urbanizable lands outside city limits and within the UGB's.

II. BACKGROUND

Board Action and Other History

City of Florence began periodic review around 1995. As part of that process, the city conducted a public involvement effort and referral process, extensively revised the 1988 Florence Comprehensive Plan and in 2002 adopted an updated Plan, 'Realization 2020' under the DLCD approved periodic review work program. The city has subsequently adopted amendments to that Plan, both periodic review work tasks and post acknowledgement plan amendments (PAPA's), and is currently updating the Coastal Resources Management Plan Chapters 16, 17, 18, and 19 of the Realization 2020 Plan.

Lane County adopted the 1988 Florence Comprehensive Plan, and continues to follow the policies in that version of the plan, because they are the ones that are applicable for Lane County within the Florence UGB for Lane County jurisdiction actions. This effectively complicates development for property owners within the UGB by having two plans that apply in the same general geographic area.

The city submitted the Realization 2020 Plan for co-adoption in 2008. In response to public testimony and a recommendation from the Lane County Planning Commission, the Florence City Council further amended policies and developed implementing language for inclusion in Lane Code to clarify the instances when property owners would trigger annexation through development. A committee of city and county staff, Mayor of Florence, and the Lane County West Lane Commissioner initiated the policy amendments contained in Ordinance No. PA 1249 and the development of Ordinance No. 7-08.

City Council refinement of exemption criteria to allow property owners to install septic systems and other urbanization strategies that could be triggered by identified contamination continues. The attached memo from City of Florence to the Lane County Planning Commission further describes the amended policy for Realization 2020 and the updated city response to public comments regarding wastewater treatment and annexation triggers within the UGB. See Attachment 1. The city's goal is to maintain and protect a sustainable drinking water resource, and the updated response for the area within the UGB takes an approach that uses public education combined with a proposed groundwater study to determine actual impacts instead of regulation. The revised policy amendments describe Lane County and the Heceta Water District as potential partners in the proposed study, transportation amendments proposed by county staff, and the annexation policies. The regulatory framework for Chapter 10 amendments is reduced to a single clause that prohibits further lot divisions within the UGB. There are no additional regulator annexation triggers. The city memo also provides maps that show the analysis of the tax lots affected by the annexation policy amendments and the groundwater study framework.

The Lane County Planning Commission reopened their public record upon deliberation on February 17, 2009, until such time the City of Florence completes action to adopt final policy and recommend implementation measures and/or development regulations for the urbanizable area. See Attachment 2 for the minutes of LCPC proceedings. The Planning Commission would complete deliberation and provide the Board with a recommendation upon completion of the city process. See Attachment 3 for a joint city/county timeline for co-adoption of Realization 2020, which proposes the Board also reopen the record to allow for additional testimony to be submitted from all parties before any final consideration for adoption.

The city has initiated a study, and applied for funding from the Environmental Protection Agency (EPA) to supplement an effort that could involve city/county/Heceta Water District cooperation to further study the aquifer and groundwater to determine if there is any contamination occurring at this time. The Board has endorsed the application for funding. See Attachment 4 for letter of support sent to EPA. City and County staff continue to discuss development of an intergovernmental agreement to further develop the details of a joint study and the Board would have final decision on the level of involvement. For now, County staff is primarily looking to the EPA funds for reimbursement of county involvement costs.

Timing

Co-adoption of the Florence Comprehensive Plan by the Board will ensure consistency in land use planning for the Florence community throughout the urbanizable area surrounding the city, consistent with Statewide Planning Goals and the Rural Comprehensive Plan.

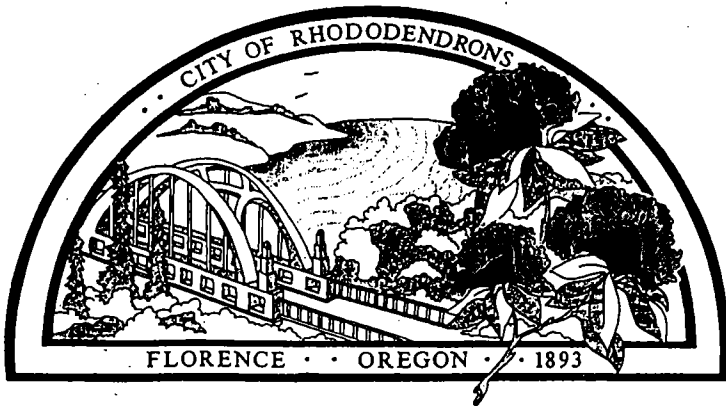
Motion

Move to reopen the public record for Ordinance No. PA 1249 and Ordinance No. 7-08 to provide more opportunity for testimony and submittal of information on the further study, process and actions of the City of Florence and other interested parties until June 30, 2009.

Further move setting a fifth reading of Ordinance No. PA 1249 and a fourth reading of Ordinance No. 7-08 for July 22, 2009.

IV. ATTACHMENTS

1. City of Florence Memo to LCPC and Exhibits
 - Policy Discussion Draft for Council showing amendments to the Florence Realization 2020 Policies
 - Map 1 – Tax lots affected by annexation policy amendments
 - Map 2 – Tax lots affected by annexation policy amendments within 300 ft. of Municipal Sewer
 - Map 3 – Tax lots affected by annexation policy amendments that are NOT within 300 ft of Sewer
 - Technical Memo for Groundwater Study by GSI Water Solutions, Inc.
 - Revised Lane Code Chapter 10 amendments to implement Realization 2020 policies
2. Planning Commission Minutes
 - November 4, 2008
 - November 18, 2008
 - February 17, 2009
3. County co-Adoption timeline showing both city and county process flow
4. Letter of Endorsement from BCC for EPA grant



REC'D FEB 09 2009

City of Florence

Community Development Department
Planning, Building Inspection and Economic Development

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MEMORANDUM

TO: Lane County Planning Commission

FROM: Sandra Belson, Community Development Director

DATE: February 6, 2009

RE: Co-adoption of the Florence Realization 2020 Comprehensive Plan and Amendments to Lane Code Chapter 10 to implement the Plan Policies

BACKGROUND: Last year, the City submitted the Florence Realization 2020 Comprehensive Plan to Lane County for co-adoption. In response to public testimony and a recommendation from the Lane County Planning Commission, the Florence City Council initiated amendments to the Comprehensive Plan on September 28, 2008. The Florence Planning Commission and City Council held a joint public hearing on October 27, 2008 to gather citizen comments on the proposed plan amendments. At a meeting on November 17, the Council generally agreed with the following proposed policy, but wanted to have staff focus on criteria for exemptions that would allow property owners to install septic systems.

For properties within the North Florence Dunal Aquifer that are also within the Urban Growth Boundary, no land divisions shall be allowed prior to annexation to the City. Within that area, installation of a new septic system, replacement septic system, or expansion of an existing septic system is not allowed unless an exception is made by the Florence City Council. The City Council will take into account the following factors when evaluating the merits of an exception: the potential environmental impacts of development on a septic system, the cost burden to the property owner(s) to connect to the sanitary sewer system, the potential of other sanitary sewer connections in the area, and the ability to meet state annexation requirements. In the event that an exception were to be granted the new septic systems would require the use of alternate treatment technologies to help mitigate groundwater contamination. This policy does not preclude development of the property or prevent economic use of the property. The North Florence Dunal Aquifer boundary is delineated in the EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September 29, 1987, Comprehensive Plan Appendix 5.



Council wanted to see specific code language before taking action on the Comprehensive Plan policy language. The City then presented this proposed policy to the Lane County Planning Commission at your public hearing on November 18, 2008. The Lane County Planning Commission left the record open until February 6, 2009 in order to gather more information from the City before making a recommendation to the Board of County Commissioners.

UPDATE: The City Council met on January 26, 2009 to again discuss potential amendments to Chapters 6 and 14 of the Florence Realization 2020 Comprehensive Plan. At that meeting, staff recommended a different approach to protection of the North Florence Dunal Aquifer. This change in approach resulted from comments made by the general public, the Lane County Planning Commission, and the Board of County Commissioners. Rather than set out an exception process that would allow development on septic systems, there would be no policy change that would limit septic system installation. Rather, the focus would be on developing a joint testing and monitoring program. Given the recent concerns of contamination at Heceta Beach, the testing and monitoring program would include the aquifer as well as surface water that drains toward the beach.

We identified what properties within the urbanizable area (area within the Urban Growth Boundary that is outside the city limits) are undeveloped. By mapping these properties, we are able to quantify the number of undeveloped tax lots and look at their general location. There are limitations in the data and methodology for producing these maps – so they are useful at a general planning level but will not answer conclusively whether a particular tax lot is currently buildable under county code requirements.

In creating these maps, we excluded Kla-ha-nee as that area has its own sanitation system. We also only included tax lots that have a Residential Plan Designation in the Realization 2020 Comprehensive Plan. To determine whether or not a property was developed, we only included tax lots with an improvement value of \$0 based on Tax Assessor Records. This methodology thus would not show lots with low improvement value that may reflect a shed, RV hook-ups, or a septic system. As you can see on Map #1, the vacant lots are highlighted in yellow, orange, or red, depending on the size of the tax lot. Lots between 0 and 4000 square feet are not likely to be big enough to be developed with a house and septic system. Lots over 18,000 square feet would have the potential of being divided if annexed into the city (minimum lot size in the Restricted Residential zone is 9,000 square feet). There are 43,560 square feet in an acre.

Oregon Administrative Rules prohibit installation of a new septic system for a single-family house if there is a sanitary sewer system available within 300 feet of the property. Map #2 shows the tax lots that are within 300 feet of the centerline of Rhododendron Drive, Kiwanda Street, and 1st Avenue; streets with sanitary sewer lines. Again, this map is useful for general planning purposes, but not for determining conclusively if a property owner would be required to connect to sanitary sewer if building a new house as the sanitary sewer line is not located in the middle of the road right-of-way. Map #3 is the result of subtracting the lots shown in Map #2 from the lots shown in Map #1. In other words, Map #3 shows the tax lots with no improvement value that are designated residential and that are more than 300 feet from sanitary sewer. If we exclude the lots under 4,000 square feet, we can determine that there is generally the potential for

281 new septic systems. Rounding off that number to account for planning level analysis rather than a property specific analysis, we could generally say that at this time, **there is potential for around 300 septic systems to be added within the urbanizable area without further land divisions.**

REVISED APPROACH TO POLICY AMENDMENTS: Rather than trying to focus on specific criteria by which the Council would grant exceptions for these 300 pre-existing lots to the general requirement of requiring annexation and connection to sanitary sewer for new development, Council is instead focusing on getting testing requirements in place and set up a regular monitoring program. Staff is proposing policies that would allow septic systems on these 300 lots (which includes the undeveloped lots in the Reserve subdivision) unless a problem is identified through the testing program.

To guide you as you read the enclosed Policy Discussion Draft for the January 26, 2009 City Council Meeting, these bulleted points show what has changed compared with what you reviewed on November 18:

- Change the Proposed Policy #12 in Chapter 6 and add a new policy, Policy #13, with regards to the testing program and incorporating concerns of contamination of Heceta Beach from failing septic systems.
- We have simplified the Proposed Annexation Policies #1 and #2 in Chapter 14.
- In order to allow for more flexibility in the future, staff has deleted what was Proposed in Annexation Policy #3 which read, "The City will not provide sewer service outside the City limits. To obtain sewer service, the property must first annex to the city." The remaining annexation policies are then renumbered.
- We have also deleted the some sentences in the Background Section of Chapter 14 which read, "It is acknowledged by both the City of Florence and Lane County that the North Florence Dunal Aquifer is not currently evidencing any contamination from septic systems, but the policies embodied in this Comprehensive Plan are meant to be proactive and prescriptive to future possible contamination."

DISCUSSION OF CITY'S APPROACH TO URBANIZABLE AREA: This section is an attempt to answer some common questions of how the city's proposed Comprehensive Plan policies (as presented to Council on Jan. 26, 2009) would or would not affect development in the urbanizable area.

1. What is the city's policy on annexation?

The city would NOT use the island annexation method because that method would not give the affected property owners and electors a vote in the annexation. Other than in situations of a health hazard, the city will only use annexation methods that require a majority of property owners and/or voters within the annexation area to be in favor of the annexation.

2. How would the city's policies affect the development potential of a property?

The city's proposed policies would have NO impact on development of single lots except as covered by question #3 (below). Any development of a single lot that the County would allow today would still be allowed if the proposed Comprehensive Plan

amendments are adopted. If someone is currently allowed to install, expand or replace a septic system, s/he will still be allowed to do the same after these policies are adopted. The only new limitations would be that a property owner could not divide land without annexation.

3. *What happens if the testing of the aquifer or a surface watercourse shows that the groundwater or surface water is contaminated?*

Once a problem is identified, the City and County would conduct further tests to attempt to identify the cause of the contamination. The City and County would then determine the appropriate "fix" to the problem. In order not to exacerbate the problem, until the fix is identified, the County would put a hold on the issuance of any septic permits within the Florence UGB.

4. *What is the City trying to achieve with these policies?*

The proposed policies, in the context of the Comprehensive Plan, attempt to achieve three objectives:

- a. Limit sprawl and premature expansion of the UGB caused by inefficient development at low densities.
- b. Ensure that the City will be able to provide city services in an orderly, economic manner.
- c. Protect the City's current and future water supplies and ocean beach.

TESTING PROGRAM: It is the City's goal to maintain and protect a sustainable drinking water resource, from water quality and water quantity perspectives. The City is interested in protecting its current drinking water supply and protecting future water supplies within all portions of the North Florence Dunal Aquifer. The key elements of a groundwater protection program are:

- Identification of, or refinement of, the source water protection area(s)
- Identification of potential sources of groundwater contamination
- Implementation of control strategies (land use planning, zoning, ordinances) to help prevent releases that could degrade groundwater quality
- Periodic groundwater monitoring to characterize natural conditions and ensure that unacceptable contaminants are not affecting the use of the water for drinking

The City also has concerns about surface water contamination, particularly as it affects Heceta Beach. Thus, the testing program would also include testing of drainages that may indicate areas of septic tank failures. As outlined in a technical memorandum from GSI Water Solutions, up to 19 groundwater locations and six surface locations would be tested for chemical constituents in order to achieve a comprehensive groundwater monitoring program.

- All wells would be analyzed for the common ions, pH, temperature, oxidation reduction potential, conductivity, total organic carbon, and coliform bacteria.
- Wells in the City's commercial areas also would be tested annually for organic chemicals (volatiles and pesticides) for which there are established drinking water standards. The frequency of testing could be reduced if the results are favorable.
- Wells in the northern residential area should be tested once for organic chemicals (fuels, solvents and pesticides) to confirm their absence in the residential area.

- All wells in the residential area would be monitored quarterly for nitrate and coliform bacteria.
- Surface water sources will be tested for water quality parameters, including, coliform bacteria, pH, conductivity, common ions, total organic carbon, and oxidation state.

If contamination is identified the likely next steps would include:

- Identify the aerial extent of the problem.
- Identify the probable source(s) of the contamination and implement source control actions, if necessary, to mitigate or eliminate the source(s).
- Notifying appropriate regulatory agencies that will determine whether the impacted water poses a health hazard and take necessary steps to protect public health and safety.

If the County is in agreement with this type of testing program, we would put these program elements into an intergovernmental agreement to be signed by the City and Lane County, and potentially the Heceta Water District.

ADDITIONAL HOUSEKEEPING AMENDMENTS: As we have continued to work with the updated Comprehensive Plan and Transportation System Plan (TSP), City staff have identified additional housekeeping amendments that we could incorporate into this adoption process.

These proposed changes are as follows:

- Amend sections of the Comprehensive Plan discussing the West 9th Street planning area, because the industrially zoned property north of 12 Street has been redesignated for residential use and developed with the Park Village subdivision. Additionally, 12th Street is not planned for vehicle transportation and is planned as a multi-use path. (*within city limits*)
- Delete a sentence that was added in the March 2008 housekeeping amendments to the Comprehensive Plan, which mistakenly referred to plan recommendations as City Policy. (*within city limits*)
- Amend all references in the TSP to the date of the Rhododendron Drive Integrated Transportation Plan (RDITP), from June 2007 to January 2008, because the RDITP was adopted by the City Council in January 2008 and all changes were incorporated into a the final adopted version, on January 2008. (*within city limits*)
- Lastly, delete roadway cross-section references and diagrams from the TSP, and replace it with a reference to the American Association of State Highway and Transportation Officials (AASHTO) standards. (*applies to entire UGB*)

RESULTING LANE CODE AMENDMENTS: The proposed policies result in fewer code amendments. There are no changes needed to the types of uses allowed by Lane Code. The only amendment still necessary is the one that relates to lot size. See the Proposed Amendments to Chapter 10 of the Lane Code.

EXHIBITS

Policy Discussion Draft for January 26, 2009 City Council Meeting showing Amendments to the Florence Realization 2020 Comprehensive Plan

Map 1 – Taxlots Affected by Annexation Policy Amendments

Map 2 – Taxlots Affected by Annexation Policy Amendments within 300 ft of Sanitary Sewer

Map 3 – Taxlots Affected by Annexation Policy Amendments not including lots within 300 ft of
Sanitary Sewer
Technical Memorandum from GSI Water Solutions, Inc. dated Jan. 20, 2009
Proposed Amendments to Chapter 10 of the Lane Code to Implement Florence Realization 2020
Comprehensive Plan Policy

P:\Community Development\Comp Plan\County Co-adoption 2008\Annexation Policy Amendments\LCPC public
hearing\February comments to LCPC.doc

AMENDMENTS TO THE FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN ("COMPREHENSIVE PLAN") TO COMPLETE LANE COUNTY CO-ADOPTION OF THE COMPREHENSIVE PLAN AND FLORENCE PERIODIC REVIEW WORK TASK 8, BY ADOPTING: AMENDMENTS TO COMPREHENSIVE PLAN CHAPTER SIX (6) AIR, WATER AND LAND QUALITY AND CHAPTER FOURTEEN (14) URBANIZATION, AND TO ADOPT HOUSEKEEPING AMENDMENTS TO THE FLORENCE TRANSPORTATION SYSTEM PLAN

Additions to the Realization 2020 Comprehensive Plan are shown in double-underline and deletions in strike-out. Items in italics have been added or changed since November 17, 2008 for this discussion draft.

A. Amendments to Florence Realization 2020 Comprehensive Plan Chapter 6: Air, Water and Land Quality

- Add a new Policy 12:

12. *Lane County and the City of Florence shall develop and jointly pay for scientifically-based standards and a regular testing program to determine if sewage or chemicals from septic tanks is entering the North Florence Dunal Aquifer in a location that could potentially impact Clear Lake, our current water supply or future water supplies, or impact the beach along the ocean (the "Area of Concern"). A system to spot isolated problems and correct them as soon as possible will be put in place. Such a system may assure safe drinking water and prevent the need for health related annexations and ensure a safe, positive experience for beach recreation.*

13. *If a problem is identified in the "Area of Concern" and immediate correction is not feasible, the county shall not allow the installation of any new septic system, replacement septic system, or expansion of an existing septic system until the county and city mutually agree on appropriate measures to stop the contamination.*

- Add a new Recommendation 8:

8. *Lane County and the City of Florence will request that the Heceta Water District participate in the testing program of water supplies (Policy 12) in order to ensure monitoring of both Clear Lake and the sole source aquifer which are hydraulically connected.*

- Add to background section to describe the problem and the basis for the policy.

Based on scientific evidence at this time (2009), septic systems, whether failing or not, pose a threat to the North Florence Dunal Aquifer, the sole source of drinking water in the UGB. The threat to the groundwater and the surface water from septic systems is documented in the North Florence Dunal Aquifer Study and the EPA Resource Document: For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer, both in Appendix 5 of this Plan. The policies in this Chapter are intended to be proactive and prevent possible future contamination.

It is acknowledged by both the City of Florence and Lane County that Florence's dunal aquifer is unique in Oregon, and thus, highly susceptible to future contamination due to the nature of septic systems in this sensitive aquifer.

It is also acknowledged that inherent in the 19 goals (specifically Goals 1 and 2) established by the Department of Land Conservation and Development, that cities are the logical provider of municipal services, and as such, all areas within Florence's UGB shall ultimately be served by city sanitary sewer.

B. Amendments to Florence Realization 2020 Comprehensive Plan Chapter 14: Urbanization, "Policies:"

- Add a section title "Annexation Policies;" add new policies 1, 2, and 3, and 4:

Annexation Policies

1. The city will not use the "island annexation" provisions allowed by state law.
2. For properties within the North Florence Dunal Aquifer that are also within the Urban Growth Boundary, no land divisions shall be allowed prior to annexation to the City. The North Florence Dunal Aquifer boundary is delineated in the EPA Resource Document "For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer," EPA 910/9-87-167, September 29, 1987, Comprehensive Plan Appendix 5.

- Re-number and amend Policy #1 as follows:

- ~~Conversion~~Annexation of lands within the UGB outside City limits shall be based on consideration of:
 - orderly, economic provision for public facilities and services;
 - ~~availability of sufficient land for the various uses to insure choices in the~~ market place;

~~e.b.~~ conformance with the acknowledged Florence Comprehensive Plan;
~~and~~
~~d.~~ encouragement of development within urban areas before conversion of
~~urbanizable areas; and~~
~~e.c.~~ consistency with state law.

- Add new policies #4 and #5, as follows:

4. The City will send a referral requesting comments on annexations to Lane County. The comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.

5. The City will send a referral requesting comments on annexations to the Heceta Water District, for annexations within the District's service boundary. The comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.

- Renumber policy #3, as follows:

36. Annexed properties shall pay systems development charges as required by City Code.

- Add a new policy #7, as follows:

7. As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. Development within the Urban Growth Boundary shall require annexation in order to receive a full range of urban services provided by the City of Florence. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.

- Add a new section heading "UGB Policy," and re-number and amend policy #2, as follows:

UGB Policy

21. Establishment and change of the UGB shall be a cooperative process between the City and the County. Boundary changes shall be considered only on an annual basis. Applications for boundary changes shall include documentation that the following criteria are met:

- a. The proposed change provides for a demonstrated need to accommodate long-range urban population growth requirements consis-

tent with applicable LCDC goals and administrative rules. UGB expansions to accommodate the need for residential land shall be based on any coordinated population allocations adopted in accordance with state law, including applicable state statutes and administrative rules pertaining to coordinated population allocations.

- b. The proposed change is based on a demonstrated need for housing, employment opportunities and/or livability.
- c. The proposed change is necessary for, and/or will not hinder, orderly and economic provision for public facilities and services and will take into consideration water availability.
- d. Maximum efficiency of land uses within and on the fringe of the existing urban area has already been provided for, and the boundary change will continue to provide maximum efficiency of land use, as prescribed in state law and administrative rules.
- e. An environmental, energy, economic and social consequences analysis has been performed showing that the land is suitable for urbanization at City land uses and densities and that the ultimate annexation of the UGB expansion area will be cost-effective for the City.

- *Add the following statements to the Background section of Chapter 14*

Oregon Statewide Planning Goals identify land within the UGB outside city limits as "urbanizable lands", that will eventually be annexed to cities and provided with municipal services following annexation, in accordance with City annexation and public facility extension policies and standards and state law.

C. *Amendments to Florence Realization 2020 Comprehensive Plan Chapter 2: Land Use:*

- *Amend sections discussing the West 9th Street planning area, because the industrially zoned property north of 12 Street has been rezoned to residential use and developed with the Park Village subdivision. Additionally, 12th Street is not planned for vehicle transportation and is planned as a multi-use path. The following sections are proposed for amendment:*

Page II-20: West 9th Street Area

12th Street, from Rhododendron Drive east to Kingwood Street ~~the creek~~, should not be opened except for a bicycle trail. ~~12th Street, east of the creek, should be opened to Kingwood Street to provide the industrially planned and zoned property to the north suitable heavy vehicle access. This~~ Any street connection will require FAA approval, as it ~~that~~ crosses airport property and the airport glide path, will require FAA approval.

Page II-26: West 9th Street Subarea Recommendations

Subarea 1: ~~A suitable buffer should be maintained between this and the industrially planned and zoned property to the north opposite 12th Street.~~

- *Delete a sentence addressing the West 9th Street planning area, because recommendations regarding this planning area are not “policy,” and it is misleading to refer to recommendations in a plan as City Policy. The text is proposed to be amended as follows:*

Page II-25: West 9th Street Planning Area

The West 9th Street Planning Area of Florence is shown as a Plan designation on the Comprehensive Plan Map. ~~The policies guiding development of this area are described in this section and in the Plan designation section of this chapter.~~

This sentence was added in the March, 2008 housekeeping amendments to the Comprehensive Plan, and it is proposed to be deleted in order to avoid confusion between actual plan policies vs. background information and recommendations pertaining to this planning area.

D. Amendments to Comprehensive Plan Appendix 12: Transportation System Plan

Amend the Florence Transportation System Plan, as follows:

1. Throughout the document, change the term “Scenic Drive” so that it is not defined as a functional class.
2. Make “Access Management” a stand-alone section in the Plan and include it as a separate category of surface transportation management.
3. Change the text in Policy 3, second row on page 17, to insert the word “Code.”
4. Page 59-60, Table 12-5-B2: In the 4th column, remove the “C” in the heading, for “Lane County,” and delete the “C” from the five projects where it is listed as a funding source.
5. Include the following statement in the financing section of the TSP:

“Lane County SRS funding expired in 2006 and the Capital Projects Partnership Program has been eliminated. A one-time congressional reauthorization occurred in 2007 and 2008. Beyond 2008, it is almost certain that this funding source will disappear.”





6. Amend the tables on the pages after page 60 to include a preamble that states, "The following Tables Show Information about Transportation Project Funding through FY 2005."
7. Page 65: Amend the text on this page to refer to County funding in the past tense.
8. *Amend all references to the date of the Rhododendron Drive Integrated Transportation Plan (RDITP), from June 2007 to January 2008, because the RDITP was adopted by the City Council in January 2008 and all changes were incorporated into a the final adopted version, dated January 2008. References appear in the TSP on the Table of Contents page for Appendices P, as well as on pages 8, 34, 37, 40, 49 and 51 of the TSP.*
9. *Delete roadway cross-section diagrams from pages 111 through 113 of the TSP, and amend references to these cross-section diagrams by replacing them with a reference to American Association of State Highway and Transportation Officials (AASHTO) standards as follows:*

~~Page 50: Generic cross-sections for two types of local streets have been provided, Type A and Type B (both with parking). Type A for local streets serving very few adjacent lane uses, due to their discontinuous nature or short length; Type B for local streets that serve a higher role in terms of neighborhood circulation.~~

~~Page 51: Figure 12-R-1 illustrates typical roadway sections for each of the functional classifications above. Each functional classification has design options to meet the needs of the adjacent land uses and the access demand along a given roadway. The City's standards for roadway section for each of the functional classifications are based on the American Association of State Highway and Transportation Officials (AASHTO) standards. For facilities on Rhododendron Drive, see the Rhododendron Drive Integrated Transportation Plan (RDITP), June 2007.~~
January 2008.

Map #1 Taxlots Affected by Annexation Policy Amendments

Affected Taxlots

-  0 - 4,000 sq. ft Lot Size = 49 Lots
-  4,000 - 18,000 sq. ft. Lot Size = 202 Lots
-  18,000 - 43,560 sq. ft. Lot Size = 96 Lots
-  43,560+ sq. ft. Lot Size = 54 Lots

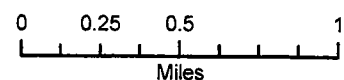
401 TOTAL LOTS

— City Limits — Urban Growth Boundary
Affected Taxlots include those within the UGB but not within the city, have zero improvement value, have a Residential Comprehensive Plan Designation, are not within the Kla-ha-nee subdivision, and do not contain a city well.

The City of Florence infrastructure records, drawings, and other documents have been gathered from various sources using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information provided in our records.







City of Florence
Community Development Department
250 Hwy 101 N.
Florence, OR 97439
(541) 997-8237
January 21, 2009
Map # 1 Series 2009-1



Map #2 Taxlots Affected by Annexation Policy Amendments within 300 ft of Sanitary Sewer

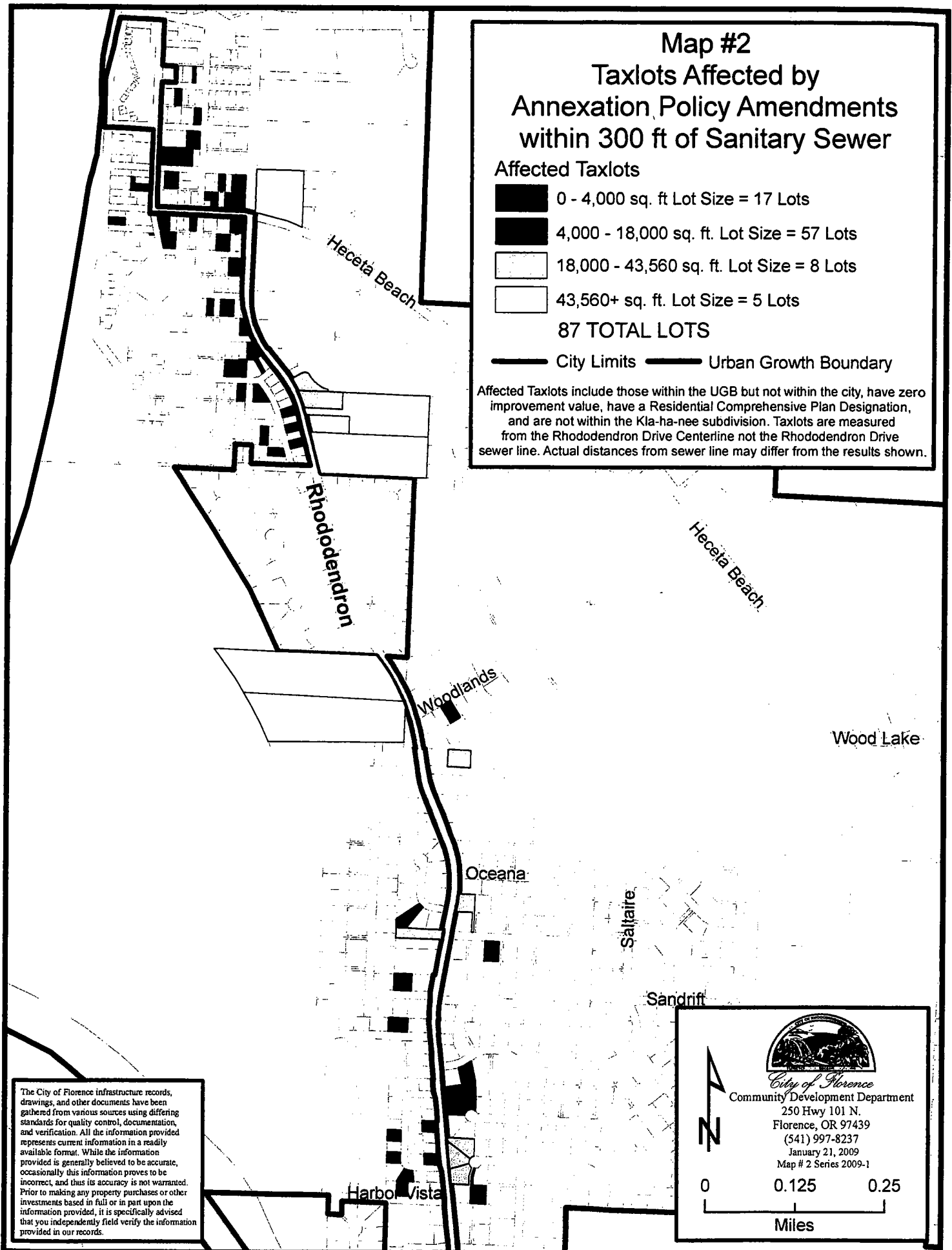
Affected Taxlots

-  0 - 4,000 sq. ft Lot Size = 17 Lots
-  4,000 - 18,000 sq. ft. Lot Size = 57 Lots
-  18,000 - 43,560 sq. ft. Lot Size = 8 Lots
-  43,560+ sq. ft. Lot Size = 5 Lots

87 TOTAL LOTS

— City Limits — Urban Growth Boundary

Affected Taxlots include those within the UGB but not within the city, have zero improvement value, have a Residential Comprehensive Plan Designation, and are not within the Kla-ha-nee subdivision. Taxlots are measured from the Rhododendron Drive Centerline not the Rhododendron Drive sewer line. Actual distances from sewer line may differ from the results shown.



The City of Florence infrastructure records, drawings, and other documents have been gathered from various sources using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information provided in our records.







City of Florence
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Florence, OR 97439
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January 21, 2009
Map # 2 Series 2009-1

0 0.125 0.25
Miles

Map #3 Taxlots Affected by Annexation Policy Amendments not including lots within 300 ft of Sanitary Sewer

Affected Taxlots

-  0 - 4,000 sq. ft Lot Size = 32 Lots
-  4,000 - 18,000 sq. ft. Lot Size = 145 Lots
-  18,000 - 43,560 sq. ft. Lot Size = 88 Lots
-  43,560+ sq. ft. Lot Size = 48 Lots

313 TOTAL LOTS

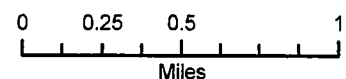
— City Limits — Urban Growth Boundary

Affected Taxlots include those within the UGB but not within the city, have zero improvement value, have a Residential Comprehensive Plan Designation, are not within the Kila-ha-nee subdivision, and do not contain a city well. Taxlots with these values were measured from the Rhododendron Drive Centerline and those within 300 ft were excluded. Taxlots were not measured from the Rhododendron Drive sewer line. Actual distances from the sewer line may differ from the results shown.

The City of Florence infrastructure records, drawings, and other documents have been gathered from various sources using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information provided in our records.



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Community Development Department
250 Hwy 101 N.
Florence, OR 97439
(541) 997-8237
January 21, 2009
Map # 3 Series 2009-1





Technical Memorandum

To: Mike Miller, City of Florence
From: Dennis Nelson, RG
Dave Livesay, RG
Date: January 20, 2009
Re: Florence Groundwater Protection Program

The City of Florence (City) derives its drinking water from a single wellfield, comprising eight permanent wells and four seasonal wells. The source of this water is the U.S. Environmental Protection Agency (EPA)-designated Sole Source Florence Dunal Aquifer (Dunal Aquifer). The Dunal Aquifer has this federal designation in part because the aquifer is highly sensitive and vulnerable to potential contaminant sources at the surface. The boundaries of this designation extend to the north and east well beyond the immediate vicinity of the existing wellfield to help protect all portions of the aquifer that may supply water to the City in the future.

The City's existing wellfield is capable of supplying its current drinking water needs, but during times of high usage, the wells are operating near full capacity to meet demand. Realizing that a future increase in water demand soon would surpass the existing wellfield capacity, the City may need to pump water from other areas of the aquifer to meet future long-term drinking water requirements.

It is the City's goal to maintain a sustainable drinking water resource, from water quality and water quantity perspectives. The City is interested in protecting its current drinking water supply and protecting future water supplies within all portions of the Dunal Aquifer. The key elements of a groundwater protection program are:

- Identification of, or refinement of, the source water protection area(s)
- Identification of potential sources of groundwater contamination
- Implementation of control strategies (land use planning, zoning, ordinances) to help prevent releases that could degrade groundwater quality

- Periodic groundwater monitoring to characterize natural conditions and ensure that unacceptable contaminants are not affecting the use of the water for drinking

Project Approach

Source Water Assessment

The original Source Water Assessment conducted by the Oregon Health Division in 2002 did not develop a potential contaminant inventory for any part of the Dunal Aquifer outside the capture zones for the currently operating wellfield. To meet the needs of an aquifer-wide program, the Source Water Assessment would need to be expanded. The existing groundwater flow model would have to be expanded, and the potential contaminant survey refined. The survey would be accomplished by searching the various Oregon Department of Environmental Quality (DEQ) databases, conducting an "on the ground" survey, and gathering available information regarding current and past activities within the boundaries of the Dunal Aquifer. The eventual identification of monitoring well locations would be based in part on this expanded Source Water Assessment to target specific locations and unique land uses that may be potential threats to groundwater quality.

Groundwater Monitoring

The overall goal of a monitoring program is to provide an early warning system to identify and help prevent contamination of groundwater in the Florence aquifer, which the City views as a potential source of municipal drinking water in the future. The monitoring program should be implemented after the expanded Source Water Assessment is complete. A groundwater monitoring network consisting of approximately 10 to 20 monitoring wells would be required for both water quality and static water level monitoring. The attached map shows a distribution of 19 wells. The number of wells could be scaled down to meet budget constraints, and to target only the areas demonstrating the highest potential for water quality problems, rather than the aquifer-wide approach shown on the map. The number of wells directly impacts the analytical costs which is a significant component of the project budget.

The monitoring well network could consist of either existing or newly installed wells, depending on the availability, construction, and access to the wells. The monitoring well network would be strategically located to monitor groundwater quality based on results the expanded Source Water Assessment as described above. These monitoring wells would be located so that they provide water level elevation data that can be used to assess current flow directions and to refine the existing groundwater flow model as needed. Both the water quality and water level data would provide useful baseline information for future permitting of the North Florence Wellfield, if the City decides to pursue that water supply option.

The frequency of monitoring and type of testing are variable and subject to best professional judgment. Listed below is a groundwater monitoring approach that is fairly typical of an aquifer protection program. As described below, the monitoring frequency is reduced after the initial year to help keep the laboratory costs down. Additionally, the sampling could be conducted by City staff if this option is possible.

Water Level Monitoring. The wells would be monitored for static water levels quarterly for 2 years, dropping back to semiannually for future years.

Chemical Monitoring. During the first year of the program, chemical monitoring should be conducted on a quarterly basis at all wells to identify the seasonal trends and variability which will establish baseline conditions for future comparison. After the first year, monitoring frequency can be reduced to semi-annual or once a year depending upon the results of the first year. The following chemical constituents are typically monitored as part of a comprehensive groundwater monitoring program:

- All wells would be analyzed for the common ions, pH, temperature, oxidation reduction potential, conductivity, total organic carbon, and coliform bacteria.
- Wells in the City's commercial areas also would be tested annually for organic chemicals (volatiles and pesticides) for which there are established drinking water standards. The frequency of testing could be reduced if the results are favorable.
- Wells in the northern residential area should be tested once for organic chemicals (fuels, solvents and pesticides) to confirm their absence in the residential area.
- All wells in the residential area would be monitored quarterly for nitrate and coliform bacteria.
- Surface water sources will be tested for water quality parameters, including, coliform bacteria, pH, conductivity, common ions, total organic carbon, and oxidation state.

Detailed descriptions of the analytes, sampling frequencies and costs are provided in the accompanying spreadsheet.

Surface Water Monitoring

Because of the shallow groundwater table in the Florence area, there is hydraulic interconnection between groundwater and surface water features such as local streams, lakes and wetlands. To assess whether groundwater discharges impact surface waters, the monitoring program should include periodic surface water sampling coincident with the groundwater sampling events.

For the purposes of this scope and budget, it is assumed that surface water samples will be collected at six locations which will be identified in the future. Detailed descriptions of the analytes, sampling frequencies and costs are provided in the accompanying spreadsheet. The number of samples could be scaled up or down to meet specific objectives, but this scope provides a basis for the cost estimates. The approach assumes that samples will be collected quarterly during the first year and semi-annually in subsequent years. The constituents that are

monitored are similar to the groundwater chemicals except the organic chemicals (volatiles and pesticides) which will not be conducted for surface water.

Response Actions

Water quality data collected during routine monitoring will be evaluated by trend analysis and by comparing the results to established water quality criteria. As stated above the primary objective of the monitoring program is to provide an early warning system to identify potential water quality problems. If contamination is identified the likely next steps would include:

- Identify the aerial extent of the problem.
- Identify the probable source(s) of the contamination and implement source control actions, if necessary, to mitigate or eliminate the source(s).
- Notifying appropriate regulatory agencies that will determine whether the impacted water poses a health hazard and take necessary steps to protect public health and safety.

An aquifer protection program, designed to identify and mitigate potential risks to water quality, requires a protocol for identifying risks and taking appropriate action. Establishing water quality 'trigger levels' is an important task for the City's Drinking Water Advisory Committee to complete. Additionally, it is important that the City establish policies and protocol to for response actions and management approaches to address the risks associated with contamination.

Trigger concentrations do not necessarily represent a health threat, but rather are indicators of human impact to water quality. The actual trigger concentrations will vary from one contaminant to another based on risk to human health and natural background levels in the aquifer. Some typical trigger values are given below:

Contaminant	Trigger Concentration	Health Concern
E. coli	Presence	Acute response possible
Nitrate	1.0 mg/L*	Acute response possible
Fuels, solvents, etc.	Detection level	Chronic contaminant
Pesticides	Detection level	Chronic contaminant

*Typical background concentration in non-impacted groundwater

Contaminants are considered "acute" if a risk to human health may occur with only a single exposure. Chronic contaminants are those that may produce a health concern after prolonged exposure. Importantly, the first detection of a contaminant does not necessarily represent the full impact, as the concentrations of may increase with time, and there may be associated chemicals present that are not part of the analytical test procedure, e.g., pharmaceuticals.

The responses to reaching these trigger values will vary widely depending upon the location and extent. The initial action may include additional sampling to confirm the detection. If

confirmed, follow-up actions would likely include notification of the appropriate regulatory agencies. In Florence this would include Lane County for E.coli, and the Oregon Department of Environmental Quality for organic contamination. Additionally, the City may wish to pursue additional investigation of the areal extent and probable sources of the contamination and make a response decision based on these findings. Responses could vary from posting warnings regarding exposures to surface water, notifying residents in the area regarding compromised water quality, developing and implementing ordinances regarding minimum lot size, etc.

Agency Participation

To build a credible program and identify possible funding sources, it is important to involve state agencies that oversee the groundwater protection process (i.e., DEQ, Oregon Department of Human Services [DHS], and Oregon Water Resources Department). We recommend that the City consult early and often with these agencies to ensure that the development of the aquifer protection plan will be consistent with established agency policies.

The Dunal Aquifer includes U.S. Bureau of Land Management land, which may be the location of future municipal well sites. The preliminary wellhead protection delineations for these proposed well sites completed by DHS extend into land under the jurisdictional control of the U.S. Forest Service (Siuslaw National Forest). Consequently, it may be necessary to work with the two federal agencies, as appropriate, to ensure that future well development and establishment of protective land use practices are in compliance with the Federal Land Policy and Management Act and other federal regulations.

Public and Stakeholder Participation

The development and implementation of effective drinking water protection strategies typically involve a stakeholders' group to help identify and prioritize the existing and potential land use practices that may pose risks to water quality. The stakeholders' group also helps select appropriate management strategies that can be implemented to effectively reduce those risks.

Estimated Project Cost:

The cost estimate is based on the assumptions and approaches presented in this memo. The approach presented is a thorough and comprehensive and would provide Florence a sound aquifer protection program. However, as stated previously the program can be scaled and adjusted to meet resource constraints or to address source-specific monitoring goals.

Source Water Assessment. We estimate that an expanded source water assessment document can be completed for \$15,000 to \$20,000. This is mostly GSI labor costs plus miscellaneous expenses.

Water Quality Monitoring. A detailed breakdown of analytical costs associated with surface water and groundwater sampling is attached. A summary of the analytical costs are presented below:

- Year 1 (quarterly sampling events): \$16,150.
- Year 2 and subsequent years (semi-annual sampling events): \$7,150.

These analytical costs do not include well installations which will be approximately \$1000/well, or labor costs to collect samples and manage the results. This work may be done in part or completely by City staff.

Funding for Drinking Water Protection

History tells us that prevention of contamination is always less expensive than having to clean up contamination or to install and maintain treatment of contaminated drinking water. Estimates vary, however, and reasonable cost estimates indicate that investing in prevention is about 10 percent of the costs of having to react to a contamination problem. One estimate involving a small community in Oregon compares the cost of developing a protection plan being \$5,000, while the investigation and cleanup associated with a chemical release were in excess of \$500,000.

Communities in Oregon and elsewhere have used a variety of tools to pay for or to supplement funds used to develop and implement source water protection for their drinking water supplies. These include:

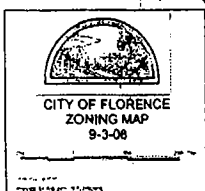
- Annual per connection fees. For example, if the City implemented a connection fee of \$1 per month per connection, more than \$40,000 per year would be available for protection.
- Plan review fees (for example, associated with building permits)
- Stormwater fees
- Recreational user fees
- Clean Water Act
 - 319 nonpoint sources grants (www.epa.gov/owow/NPS)
 - 604b water quality management planning grants (www.epa.gov/owm/finan.htm)
- Safe Drinking Water Act (<http://www.oregon.gov/DHS/ph/dwp/srlf.shtml>)
 - State Revolving Fund low-interest Source Water Protection loans: available in Oregon up to \$100,000 per community
 - State Revolving Fund Source Water Protection grants: available in Oregon up to \$20,000 per community
- Housing and Urban Development block grants (www.hud.gov/cpd/cdbgct.html)
- Pollution Prevention Grants (www.epa.gov/internet/oppts)
- Special districts
- Public and private partnerships

Periodically, EPA announces special funding sources (grants or demonstration projects) that can provide funding for drinking water protection.

item 4

CITY OF FLORENCE ZONING MAP

ZONING DISTRICTS		
RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Restricted	Neighborhood Commercial	Marine
Single-family	Commercial	Pacific View Business Park
Mobile Home/Multi-Family	Marine Area A	Industrial Park
	Marine Area B	Limited Industrial
	Highway	Service Industrial
	North Commercial	
MIXED USE	OVERLAYS (See Separate Maps)	
Old Town Area A	Public Use Airport Safety and Compatibility	
Old Town Area B	Telecommunications Facilities	
Old Town Area C	Natural Estuary	
Waterfront/Marine	Conservation Easery	
Professional Office/Institutional	Development Easery	
OTHER	Conservation District	
Open Space	Natural Resources Conservation	
Public Use Airport Zone	Shorelands Mixed Development	
CITY LIMITS	Orange Natural/Maritime Side	
USGS	Piney Woods Shorelands	
Appar. Well Location	Significant Natural Shorelands	



Monitoring Costs Estimate for City of Florence Source Water Protection Program

Land Use/No. Wells	Analyte/Parameter	Package Costs	Year 1 # Samples	Year 1 Cost	Year 2 # Samples (semi annual)	Year 2 Cost
Residential Wells (11 Wells)						
	Field Parameters (Cond/pH/C	\$15	44	660	22	330
	Common Ions	\$40	22	880	22	880
	Total Org Carbon	\$30	44	1320	22	660
	Nitrate	\$17	44	748	22	374
	Coliform	\$25	44	1100	22	550
	VOCs (benzene,TCE, etc.)	\$100	11	1100	0	0
	SOCs (pesticides)	\$145	11	1595	0	0
Total			\$	7,403.00	\$	2,794.00
Comm/Ind (8 Wells)						
	Cond/pH/ORP/T	\$15	32	480	16	240
	Common Ions	\$40	16	640	16	640
	Total Org Carbon	\$30	32	960	16	480
	Nitrate	\$17	32	544	16	272
	Coliform	\$25	32	800	16	400
	VOCs (benzene,TCE, etc.)	\$100	16	1600	8	800
	SOCs (pesticides)	\$145	8	1160	0	0
Total			\$	6,184.00	\$	2,832.00
Total for Year: Wells						
				0	0	0
				0	0	0
				0	0	0
				0	0	0
				0	0	0
				0	0	0
Surface Water Sites (6 Locations)						
	Cond/pH/ORP/T	\$15	24	360	12	180
	Common Ions	\$40	12	480	12	480
	Total Org Carbon	\$30	24	720	12	360
	Nitrate	\$17	24	408	12	204
	Coliform	\$25	24	600	12	300
Total for Year: Surface Water			\$	2,568.00	\$	1,524.00
Total Cost/Year: Wells and Surface						
Year 1			\$	16,155.00	Year 2	\$ 7,150.00

TOTAL
\$ 23,305.00

**PROPOSED AMENDMENTS TO CHAPTER 10 OF THE LANE CODE TO
IMPLEMENT FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN POLICY**

***Code Amendments to Implement Proposed Comprehensive Plan Policies as
presented to City Council on January 26, 2009***

Amendments to Lane Code are presented below with additions shown in double underline and deletions in strike out.

INTERIM URBANIZING COMBINING DISTRICT (/U)

Florence Urban Growth Boundary

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 U.S. Environmental Protection Agency in September, 1987, served by a community water supply and community sewerage system; the minimum lot area shall be the lot area established on the date this ordinance is enacted (include date)as provided by the respective district with which the /U District is combined. No land divisions within the boundaries of the Florence Dunal Aquifer shall be allowed prior to annexation to the City.

(2) For land not served by a community water system and community sewerage system, the minimum lot area shall be 10 acres, except that smaller lot areas may be permitted where:

(a) ~~Initial connection to a community sewerage system is not feasible.~~

(b) ~~The proposed parcel size, configuration and number will be consistent with the long-range sewerage plan for the area where such plans exist.~~

(c) ~~The proposed land division will be adequately served by interim sewerage disposal facilities and will not adversely affect other properties by causing water pollution.~~

(d) ~~The design and operation of the proposed land division or development will allow for later conversion to urban densities in an orderly and efficient manner and not otherwise preempt the subject property and other properties from:~~

(i) ~~Later inclusion into a community sewerage system.~~

10-354 WD I/c/00041d.Chapter10.Sec115-130/T 10.122-35 Lane
Code 10.122-40

(ii) ~~Inclusion into the City of Florence.~~

(iii) ~~The orderly provision of other community services and facilities.~~

(3) ~~For land designated Limited Service Area by the Florence Comprehensive Plan, the minimum lot or parcel size shall be 10 acres. A lot of less than 10 acres may be approved if, on the basis of findings contained in a site investigation report, the following conditions are met in addition to any other applicable criteria:~~

(a) ~~The site investigation report shall determine the carrying capacity, as defined by the Statewide Planning Goals, of the site. The report shall~~

~~demonstrate that the proposed development would be in conformance with the Florence Comprehensive Plan and the Coastal Resources Management Plan.~~

~~(b) The development will be served by a public water system and sewerage system which meets the standards of the State Department of Environmental Quality.~~

~~(c) The report shall address any development hazards inventoried in the comprehensive plan, the proposal shall be allowed only when the report demonstrates that any hazards and constraints can be mitigated or do not exist on the specific property. (Revised by Ordinance No. 10-82, Effective 7.9.82; 2-83, 4.1.83 PA 1249, Effective 09)~~

MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

November 4, 2008
5:30 p.m.

PRESENT: John Sullivan, Chair; Lisa Arkin, Vice Chair; Steve Dignam, Todd Johnston, Nancy Nichols, Robert Noble, Anthony McCown, Josef Siekiel-Zdzienicki, Howard Shapiro, members; Lane County Planning Director Kent Howe; Stephanie Schulz, Lane County Land Management; George Ehlers, Lane County Sanitarian; Assistant City Manager Jaquie Morgan, Public Works Director Mike Miller, Carol Heinkel, Sandra Belson, Florence; Dennis Nelson, GSI Water Solutions.

Mr. Sullivan convened the meeting of the Lane County Planning Commission (LCPC).

WORK SESSION

1. Adoption of Planning Commission Minutes

The commission approved the minutes of April 15, 2008, May 6, 2008, May 20, 2008, June 17, 2008, July 1, 2008, July 15, 2008, and August 5, 2008.

2. Initiation of Lane Code Chapter 10 Amendments for Implementation of Policy Amendments under Consideration by the City of Florence for Addition to the Co-Adoption of the Florence Realization 2020 Plan

Staff provided a PowerPoint presentation on the proposed amendments.

Commissioners asked questions clarifying the details of the proposed code amendments, including the details of the geographic area that was encompassed by the overlay district; how annual boundary changes would be processed; and the participation of the Heceta Water District in the inspection and maintenance program, for which there was no timeline;

Mr. Noble asked how water quality monitoring would be done, and if the County was amenable to participation. Ms. Belson indicated that detail had not yet been worked out but she understood the County was interested and its participation could help secure grant funding. Ms. Schulz added that responsibility would likely be with Land Management.

Responding to a question from Mr. Noble about what, if any, protection Florence offered to the dunal aquifer north of the urban growth boundary (UGB), Ms. Morgan said there was no monitoring program but Florence required a site investigation analysis for new development. Ms. Belson also noted the density levels applicable in the area, which were the limited densities recommended by the North Florence Dunal Aquifer Study.

Ms. Nichols asked if there was contamination in the aquifer in the area north of Florence now. Ms. Belson said no. She said the aquifer flow contours go in the direction of the City's water wells and water supplies, and those sources were regularly tested. If there was a problem further out, it would not show up in the City's wells.

Responding to a question from Mr. Dignam, Ms. Heinkel indicated that the special exemption policy was implemented in Chapter 9 of the Florence City Code and was not a land use issue. It was within the commission's purview as to how it chose to address Commissioner Bill Fleenor's comments. However, it was the City's plan to propose some amendments to that chapter to flesh out the exemption language. She suggested that while the issue might be relevant, there was a matter of timing. The City intended to go forward with an entire package of amendments, and she thought that package might address Commissioner Fleenor's underlying concerns.

Mr. Siekiel-Zdzienicki suggested that Florence staff document the annual boundary change process. Ms. Belson concurred.

Responding to a suggestion from Ms. Arkin that a date be established for the involvement of the Heceta Water District, Ms. Heinkel said that staff had removed all the dates associated with implementation in the recent housekeeping work it did related to the comprehensive plan because it was a work program-level of detail that was generally not included in a policy level document. She said that the amendments established the motivation for participation for all parties. Ms. Arkin suggested that the item be moved up on the work plan.

Mr. Siekiel-Zdzienicki suggested that the text related to development be amended with a sentence that read "Based upon results of the monitoring system, development could be stopped if the well monitoring system shows failure." Staff indicated that it was intended that the text in question be broad, with the code to define more specifically how that would work as the code was easier to change. She noted the public support for the broader text. Mr. Siekiel-Zdzienicki thought that some type of text amendment was needed to be clear to the public that development might not happen within a specific timeframe. Ms. Belson said that any development that occurred outside the city limits but within the UGB would only occur with consent to annex agreements that included consent to hook up to the sewer when it was available. She said that there was no big policy change involved because that was not significantly different than past practice. Ms. Heinkel indicated support for Mr. Siekiel-Zdzienicki's suggestion and indicated staff would look at the text when it put together the package of Title 9 amendments.

Responding to a question from Mr. Shapiro, Ms. Heinkel indicated the Heceta Water District would be notified about any urban growth boundary expansions. Ms. Belson indicated the City of Florence could not annex property outside that boundary.

Commissioners thanked Florence staff for its work on the amendments.

3. Report/Discussion—Lane County Coordination Population Forecast

Mr. Howe introduced the item, noting that in August, the Board of County Commissioners had approved the order directing staff to complete a countywide coordinated population forecast in accordance with State law. There would be two project phases, one involving the technical development of population forecasts for Lane County and Lane County cities' urban areas, followed by a second phase involving

adoption of the post-acknowledgement plan amendment to the Rural Comprehensive Plan (RCP). He emphasized that Oregon law stipulated the population forecast estimate cannot be held to an unreasonably high level of precision. The population estimates were used by cities to plan for needed housing for the estimated population within the UGB and ensure there was sufficient land to accommodate new growth. By law, the coordinating body was Lane County, which had assumed responsibility for the task from the Lane Council of Governments, which had performed the task in the past.

Mr. Howe called the commission's attention to a process chronology included in the meeting packet. He noted that the County had contracted with Portland State University (PSU) to do the forecast using grant dollars from the State. He also noted that Eugene and Springfield were also doing population forecasts as part of their implementation of House Bill 3337, and the commission would participate in a public hearing before the commissions of the three jurisdictions later that week. The ten small cities of Lane County had also requested new population forecast numbers through a post-acknowledgement plan amendment to the RCP, which would require a public hearing before the commission in December. Mr. Howe anticipated that PSU would present the results of its work to the board, the commission, and the public at a meeting on December 2. He further anticipated that the board would commence public hearings in June 2009 when it received the forecast from PSU, with adoption of the forecasts to follow.

Mr. Dignam stated for the record that he had asked Mr. Howe if he believed that Mr. Dignam had a conflict of interest because of his employment with LCOG, the former contractor, and Mr. Howe indicated there was no conflict given that LCOG was no longer involved in the process. He added Mr. Dignam had no contact at all with the process when it was under the LCOG umbrella.

Responding to questions from Mr. Sullivan, Mr. Howe said that the County would cover the costs of the coordinated population process. The cities were proceeding because they could not wait due to the requirements of HB 3337 but would be able to employ the County's numbers in the future. He said that if Lane County was unable to provide its own population forecasts, it could rely on the Safe Harbor approach. He indicated the City Attorneys of both cities would be present to answer questions at the public hearing later in the week.

Speaking to Mr. Dignam's statement, Mr. Howe clarified that the item before the commission was a non-site-specific legislative item and *ex parte* contacts were not an issue. He did not think anyone on the commission could benefit financially from the item, so conflicts of interest were also not a problem.

Mr. Dignam, noting the extensive public participation associated with the County process, asked if the anticipated projection was a projection of what was desired or a projection of what was expected. Mr. Howe believed that the process as proposed by PSU was academic and constrained with little variability. Mr. Dignam asked the reason for the extensive public process. Mr. Howe said that it was being done at the board's direction and was intended to satisfy the political interests that wish to ensure the County's numbers were sound. Mr. Dignam anticipated that the commission would need guidance from staff in how to process the public input.

Mr. Sullivan called for a brief meeting break.

4. Consideration of Lane Code Chapter 14 Amendments Regarding Appeal Procedures for Permits and Zone Changes.

Mr. Howe introduced the item, saying that Commissioner Bill Fleenor presented his proposal for changes at the board meeting of September 24. That proposal and a flow chart prepared by the commissioner were provided to the commission. He acknowledged that he was not very supportive of the proposal because he feared that it was addressing a problem that did not exist. Mr. Howe provided background on the County's existing process for processing controversial development applications, noting it had been used seven times since its inception. He did not think the process was being abused and it allowed citizens to be heard. In addition, the board provided for hearings for all cell towers and had provided for public hearings for Measure 37 claims. Mr. Howe feared that the proposed revisions could reduce flexibility.

Mr. Howe noted that the Planning Director could appeal a Hearings Official's decision and that had occurred three times in ten years for cases he considered both significant and lacking in findings sufficient to withstand a subsequent legal challenge. He briefly reviewed those cases.

Commissioners asked questions clarifying the current and proposed processes.

Mr. Dignam said he had no input to offer in the matter because it appeared Mr. Fleenor's proposal was motivated by financial considerations, and the commission had no input on financial matters. In addition, he believed that the commission was being asked to comment on whether staff was behaving properly, and he could not speak to the policy implementation aspect of that. He believed that the commission could safely say it thought public involvement and an opportunity for public testimony was a good thing, and preferred to see those opportunities continue, particularly at the earliest stages of the process.

Ms. Arkin suggested that the issue motivating the changes was the cost of the appeal for those without a financial interest in a development proposal.

Mr. Johnston thought that additional streamlining of the process was worth considering. However, he said that delay did not strike him as an issue because of the limited number of cases that were involved. It was difficult for him to understand what cost savings were actually created by the changes.

Mr. Noble asked Mr. Howe what he thought Mr. Fleenor was attempting to achieve. Mr. Howe said that he had not had a chance to meet with the board to find out. The board had asked that the commission review the proposal and make a recommendation. Mr. Noble asked if Mr. Howe had thoughts about how to reduce the complication in such applications. Mr. Howe said that the process was complicated, but only to provide flexibility in controversial cases. Otherwise, the process was fairly straightforward. He said that scheduling public hearings for controversial cases allowed the public to be heard and a decision to be made, often without an appeal because of the hearing, which occurred at no additional cost to anyone. If that decision was appealed, there was a cost to that. Mr. Fleenor's proposal took the board out of the appeal process and made the Hearings Official's decision final at the local level, with any further appeals going to the Land Use Board of Appeals.

Mr. Noble determined that Mr. Howe could support a proposal that retained the process for controversial decisions reflected at the top of the process flow chart, but removed the board from the appeal process. Mr. Howe said that many counties did just that. However, LUBA gave deference to the position of the local elected decision makers, and if the board expressed support for the decision of the Hearings Official's decision, that had an effect.

Mr. Sullivan observed that the new proposal appeared to limit participation by citizens, which he did not support. He thought that removing the elected officials from the land use process was problematic. Mr. Siekiel-Zdzienicki pointed out that the elected officials would have the option of participating.

Mr. Johnston, seconded by Ms. Arkin, moved to recommend to the Board of County Commissioners that it maintain the current Lane Code flexibility and current fees until such time the County has a) a clearer picture of the problem and b) whether the proposal would solve anything.

Ms. Nichols did not support the proposal because she did not find the existing situation to be a problem.

Mr. Sullivan restated the motion, suggesting that the proposal would remove flexibility and accountability, and suggested that if there was a fee issue involved, the board could address that separately.

Mr. Dignam observed that the commission had not heard many complaints about any problems they perceived with the current process, which argued to him that there was not a problem.

Mr. Siekiel-Zdzienicki did not support the motion because he believed the proposal should be explored further. He suggested the commission hold a public hearing.

The motion passed, 7:2; Mr. Siekiel-Zdzienicki and Mr. Shapiro voting no.

With no further business, the meeting adjourned at 7 p.m.

(Recorded by Kimberly Young)

MINUTES

Lane County Planning Commission
Board of County Commissioners Conference Room—Public Service Building
125 East 8th Avenue—Eugene, Oregon

November 18, 2008

5:30 p.m.

PRESENT: Lisa Arkin, Vice Chair; Todd Johnston, Nancy Nichols, Robert Noble, Anthony McCown, Josef Siekiel-Zdzienicki, Howard Shapiro, members; Lane County Planning Director Kent Howe; Stephanie Schulz, Lane County Land Management; George Ehlers, Lane County Sanitarian; Assistant City Manager Jackie Morgan, Public Works Director Mike Miller, Carol Heinkel, Sandra Belson, Florence; Dennis Nelson, GSI Water Solutions; Mike Lilly, Cedar Lake Joint Venture.

ABSENT: John Sullivan, Chair; Steve Dignam, commissioners.

WORK SESSION

1. Ordinance No. 7-08—Lane County Chapter 10 Amendments and Additional Policy Amendments Being Considered for Addition to the Florence Realization 2020 Comprehensive Plan Prior to Board Co-Adoption of the Updated Plan Under Florence's Periodic Review Work Program (File No. PA08-5363 and Ordinance No. PA 1249)

In the absence of Chair John Sullivan, Vice Chair Lisa Arkin called the meeting of the Lane County Planning Commission (LCPC) to order.

Ms. Arkin first asked for testimony in regard to items not on the agenda. There was no one present who wished to speak.

Those present introduced themselves.

Ms. Schulz reviewed the materials to be distributed and previewed the order of the staff presentations.

Ms. Belson first noted the testimony received by the City of Florence during its Planning Commission process, which was included in the meeting packet. She reported that the Florence Planning Commission had forwarded a recommendation to the City Council. Subsequently, staff met with Lane County Commissioner Bill Fleenor on November 13, who had e-mailed suggestions about what he preferred to see in the City's plan amendments. Staff had then taken the unusual step of preparing an alternative recommendation incorporating Commissioner Fleenor's preferences to present to the City Council. The council had considered the recommendation at its meeting the previous evening.

Ms. Schulz distributed copies of the recommendation considered by the council, entitled *Amendments to the Florence Realization 2020 Comprehensive Plan (Comprehensive Plan) to Complete Lane County Co-Adoption of the Comprehensive Plan and Florence Periodic Review Work Task 8, by Adopting: Amendments to Comprehensive Plan Chapter Six (6) Air, Water, and Land Quality and Chapter Fourteen (14) Urbanization, and to Adopt Housekeeping Amendments to the Florence Transportation System Plan*. She noted the newly proposed text, the text proposed for deletion, and the other text changes made since

rule. City staff considered whether the proposed development would increase flow to the septic system and if the existing septic system would be able to accommodate the flow. Staff looked at what was in place now in regard to the septic system as it related to the use and decided either that the system could handle the development or the development should connect to the system. He said that examination occurred on a case-by-case basis. One could not just say that adding a bedroom to a house justified the expansion. The exceptions were well-defined in the rules.

Responding to a question from Ms. Nichols, Ms. Belson referred the commission to page 3 of the handout and said that annexation applications must still meet those provisions. She confirmed that individual households might wish to annex for reasons unrelated to septic. The City needed a mechanism to know if other households also wished to annex to evaluate if that was a viable option. Staff was currently working on text to reflect that intent.

Responding to a question from Mr. Siekiel-Zdzienicki, Ms. Belson confirmed that all property owners in the urbanizable area must annex eventually, but Florence was looking at a graduated approach that allowed for connections to occur over time.

At the request of Ms. Belson, Mr. Ehlers reviewed the two-step evaluation process.

Ms. Belson indicated that staff had distinguished between a septic approval and a septic permit. If one has a permit, one could install a septic system. However, septic approval did not mean one had a septic permit. Mr. Shapiro was concerned about those people who wanted to retire and be able to use a septic system. Ms. Belson said that property owners could go ahead if they have a septic system in place. The City only connected those who annexed and only annex those who wanted to be annexed.

Mr. Johnston referred to the second paragraph on page 5 of the handout, which stated that the North Florence Dunal Aquifer was not currently evidencing any contamination from septic systems, and suggested that Florence did not really know if that was true. Ms. Belson concurred. Mr. Johnston asked if any studies demonstrating the lack of contamination existed. Ms. Belson said no. She said the quality of the aquifer was documented only at the City well site. She said that Mr. Nelson could further explain the relationship between the septic systems and aquifer. She said that Florence had no evidence of contamination but evidence that showed there was a reason to be concerned, which was why Florence proposed aquifer testing as well as proactive protection of the community's sole water source.

Mr. McCown asked how "burden of cost" for applicants was proved. Ms. Belson said staff was working on the details of that.

Mr. Noble asked what defined "reasonable." Mr. Miller said that many factors were considered, including whether the City was dealing with a single property or larger scale development. He said that "reasonableness" should be equivalent to onsite disposal with advanced treatment. He said staff was still working on the policy and code language to address the issue.

Ms. Arkin thought it would be good if Florence factored in the cost of maintaining septic systems, which was not free. Mr. Miller concurred, although he questioned how much mandated septic system maintenance was actually done. Some required built-in monitoring, which was appealing to the City.

Responding to a question from Mr. McCown, Mr. Miller said that the phrase "alternative treatment technology" was a Department of Environmental Quality (DEQ) term but the section that could be expanded to specifically refer to the DEQ.

Mr. Nelson, a consultant for the City of Florence, provided a PowerPoint presentation entitled *Septic Systems and Shallow Aquifers*. Commissioners were provided with copies of the presentation. Commissioners asked questions clarifying the information presented.

Mr. Johnston asked if the dunal aquifer was evidencing contamination. Mr. Nelson could not say that; he reiterated Ms. Belson's remarks about the city's well, which was not representative of the whole system. He said that Florence had no data that stated there was no contamination. He pointed out that the aquifer would be safer if there were no septic tanks in area.

Mr. Shapiro asked about the impact of fertilizers and insecticides. Mr. Nelson suggested that community education about such products was part of the process. Common pesticides, if applied correctly, posed little risk; problems could be created through incorrect application or an accidental release. Once the chemical was in the ground, it continued to leach.

Mr. Johnston asked how much time it would take to flush the aquifer if a problem was found. Mr. Nelson pointed out several stormwater catch basins and said that they had ten-year travel time so it would take some time to see significant improvements.

Mr. Noble asked if Florence could treat the water if it was contaminated so that it was still drinkable. Mr. Nelson said yes; one could treat about anything but the cost could be quite high.

Ms. Arkin said she attended a recent presentation on the availability of water in Lane County which indicated that the United States Geological Survey (USGS) was doing studies and finding that water availability was declining in general around the country. The USGS had done Oregon studies of finished drinking water and was finding evidenced of pesticides in treated water. Mr. Johnston asked what it would cost to find out the extent of contamination. Mr. Nelson said that one could do a reconnaissance study but it would cost more to trace specific contaminants. It could cost as little as \$6,000 to much more.

Ms. Arkin called for a brief recess.

PUBLIC HEARING

1. Ordinance No. 7-08—Lane County Chapter 10 Amendments to Revise and Add Provisions for the Interim Urbanizing Combining Districts (U) Applicable Within the Florence Urban Growth Boundary (LC 10.122-10, 10.122-13, 10.122-14, 10.122-15, 10.122-30, 10.122.31)

Ms. Arkin convened the public hearing and noted the subject of the hearing. She opened the public hearing.

Ms. Arkin called for conflicts of interest or *ex parte* contacts. There were none. She invited challenges to the commission's impartiality from the audience. There were none.

Lane County Planning Commissioners and staff introduced themselves.

Ms. Schulz provided a brief overview of the subject of the public hearing. She noted the two work sessions held by the commission. She also reviewed the notice of the hearing. Ms. Schulz reported that commission's proceedings would be added to the record for Board of County Commissioners consideration during the Florence Realization 2020 Plan co-adoption process. She noted that the Board of Commissioners entire record was being held open until December 4 to allow the inclusion of the planning commission's record.

Ms. Schulz submitted additional e-mails and written materials received by staff after the meeting packet had been mailed: Exhibit 12 (a copy of the PowerPoint presentation from the earlier work session); exhibits 13-19; and input from one of the commissioners.

Responding to a question from Ms. Arkin regarding the commission's task, Mr. Howe said the commission was being asked to consider amendments to Chapter 10 of the Lane Code. He indicated that Florence's Realization Plan 2020 was at the policy level and the City was not yet done with the plan. Once the work was done, the County would open the public record and the commission could make its final recommendations.

Ms. Belsen introduced consultants Dennis Nelson and Carol Heinkel and Florence Assistant City Manager staff Jackie Morgan and Florence Public Works Director Mike Miller. She provided background on the item and briefly reviewed Annexation Policy 1 (AP1) and Annexation Policy 2 (AP2). She reviewed the factors for determining an exception to AP1.

Mr. Nelson summarized the key points in a PowerPoint presentation entitled *Septic Systems and Shallow Aquifers*.

Mr. Miller provided information on the sole source aquifer designation. He shared a map showing the location of current and potential wellheads in Florence. Commissioners asked questions clarifying the information presented.

Ms. Arkin called for public testimony.

Daniel Stotter, 541 Willamette Street, Suite 307E, noted Florence's adoption of Resolution 8, which was a citywide policy calling for no forced annexations by Florence. That policy was supported in testimony by those testifying before the commission in regard to the 2020 plan. Subsequently, the City adopted AP1, which was a no forced annexation policy. However, Mr. Stotter maintained, Florence created a loophole in the form of AP2. The policy created a situation where almost all residents living north of Florence would be forced to annex anytime they developed or redeveloped their property, even for outright permitted uses. He acknowledged that the implementing code language was still under discussion but he was concerned about the most recent draft, which read "any development or redevelopment" because those terms were undefined. He asserted that created a hardship and an injustice to property owners by because outright permitted uses were "suddenly pulled away." He further asserted those owners would have to sell their properties because they could not afford the cost involved "with this forced annexation."

Mr. Stotter asserted that more troubling was that the City was advancing the policy on the pretext of a threat to the aquifer. There was no emergency facing the water supply north of Florence. There was no evidence of septic system failure north of Florence. If there was an environmental health concern, the City could use an existing statutory process, the health hazard annexation process, found in Oregon Revised Statutes (ORS) 431.705. Florence did not propose to use the State statute because it required real evidence of a health hazard.

Mr. Stotter argued that the policy's supporters were a "few wealthy developers" and its opponents were the environmentalists. He maintained there was a monetary aspect pushing the policy. He reiterated that if there was a real emergency, there was a statutory process. If there was a real emergency regarding the groundwater, the City could stem it by not promoting rapid growth in a sensitive area. Mr. Stotter argued that rapid development of the north dunal aquifer was a far greater concern to the aquifer. He asked the

commission to reject AP2 as well as draft Urban Growth Boundary Policy 10.20.31 because it was unfair. Mr. Stotter said the commission should stop the “fast moving train” because there was no emergency.

John Dotson, 2447 Canterbury, Eugene, criticized AP2 because it preordained that there was an issue of contamination that could not be solved in another way. He shared brochures on new wastewater collection and treatment system products approved by the State for use that had less discharge than a standard municipal wastewater system. He asserted that the wastewater system “as we know it” was “going away” due to changes in law and a desire for a cleaner environment.

Mr. Dotson reviewed the State statute related to the definition of a danger to the public health and said it was written to allow for a health hazard to be declared when certain conditions were met; the remedy was annexation to a service district. Mr. Dotson said that AP2 was an end-run around the State statute. He pointed out that development would lead to roads and infrastructure, leading to more run-off and discharge from automobiles. Mr. Dotson suggested that “something else was at work.” He believed that AP1 was sufficiently explicit and covered all that was needed.

David Bradley had no comments when called upon..

Gerald Bingham, a Eugene resident and Florence property owner, opposed the proposed revisions. He specifically referred to Florence Code sections 10.122.30 and 10.122.31. He said that “after the fact political policy changes” affected his ability to develop his property. He requested a permanent exemption to any further regulation imposed by the City of Florence or others in regard to on-site waste removal systems or any policy changes not yet codified as of the date of all existing approvals that related to the properties he owned or had an interest in. He had lots ready to build and then he had received notice of the pending legislation, which could potentially prohibit construction or reduce his buildable lot size. His review of the matter indicated that most of the information referred to in sections 10.122.30 and 10.122.31 was from the United State Environmental Protection Agency (EPA) dated September 7, 1987, which referred to the North Florence Dunal Aquifer Study done in 1982. He said the study included test wells, drilling, and an on-the-ground examination. The EPA also did a paper and an overlay map. Mr. Bingham said that snippets of information removed from that study were used as findings of fact to create an unprecedented, “fear-induced power grab” by the City of Florence to further its agenda. There was no factual evidence that developments in the general north Florence aquifer would “even remotely” affect the Clear Lake watershed and its water quality, as evidenced by the 1982 study. He noted the study’s projections of population growth for 2000 were only now being realized by Florence.

Mr. Bingham submitted his testimony in writing.

Lea Patton, 04699 North Jetty Road, Florence, expressed appreciation to the commission for its work. She indicated opposition to the amendments before the commission because too many questions remained unanswered. She thought “special exemption” needed to be defined before being imposed on the people. Residents needed to know what was practical and impractical with specific examples. She said residents needed to know what constituted development and needed specific definitions of “septic approval” by the County and how that worked. She asked if her daughter would have to annex to Florence to develop the lot that she owned next door to her house, which had test holes for septic already drilled. The amount of money it would cost land owners if forced to annex to the city was probably a minimum of \$25,000 per property. That depended on distance from the main sewer line. She was a minimum of a half-mile and would have to pay the cost. Property owners would have no control over the liens on their house.

Continuing, Ms. Patton said the issue of failing septic systems within the UGB was “a ruse by the City” and the DEQ and Lane County had no complaints about such systems, most of which were new. She said

the real sewage problems in Florence were in Old Town but nothing had been done to repair the system there. Ms. Patton said City staff was quoted in the *Siuslaw News* as saying there had been no contamination from septic systems but it was now trying to protect the dunal aquifer. If that was the case, she asked, why had the City failed to address the failed collection lines in its own system? She asked how many homes and businesses were on the City sewer collection line as overload caused problems.

Ms. Patton pointed out the City's lack of a wellhead aquifer protection plan but said the City claimed be concerned about septic systems outside the city. She opposed giving Florence control of septic systems inside the UGB when it had no up-to-date standards to apply within its own boundaries. She called for documentation of City efforts to protect water quality over past 14 to 26 years. She asked why City had several well sites in landfill areas. She asked about the chemicals being used in the aquifer.

Ms. Patton believed the City contradicted itself in the findings of fact for Ordinance 7-08 when it stated that subsurface disposal of sewage waste was the primary human-caused source of nitrate nitrogen and except for land fill, the school district, and the golf course, there were no other significant human-caused nitrate sources within the north Florence watershed. She said if residents had to annex because Florence would not them develop otherwise, her water would still continue to come from the Heceta Water District. She said that during the July-August period her water bill had been \$49.60 cents in spite of her large vegetable garden and large lot; a friend living in Florence paid \$80 for the same period for a small lot with no lawn. She said that same thing would happen to residents living north of Florence if forced to annex. Ms. Patton indicated she would submit her comments in writing.

Mike Lilly, 6600 SW 92nd Street, Suite 280, Portland, submitted a packet of letters he had submitted to the Florence City Council to be included in the record. He asked that the record be left open for all parties. Mr. Lilly represented the Heceta Lake Joint Venture, a company that owned a subdivision in the very northern part of the Florence UGB. There were 105 lots; 48 had been sold. The subdivision was fully platted and the final plat of the third stage was approved. The roads, power lines, and water lines were installed. Some houses had been built and others were under construction.

Speaking to the issues of health and safety, Mr. Lilly argued that Florence's approach was not very specific as to how it attempted to regulate those issues. He said his company's property was a relatively recent subdivision. It was developed after the 1982 North Florence Dunal Aquifer Study (NFDAS), which was important because that study set the standards for property development in the area. Mr. Lilly said the Environmental Protection Agency (EPA) standard for nitrates was 10 parts per million; the study called for densities that ensured a standard of 5 parts per million; his company's subdivision was developed at less than half that density due to the presence of wetlands on the site. Mr. Lilly used the maps used in the staff presentation to demonstrate the subterranean flows from his company's subdivision, which was away from Clear Lake and the City's wells. The flow from the subdivision was not going to impact City wells or Clear Lake, which was in a separate watershed. The subdivision was not creating a health hazard.

Mr. Lilly discussed the exception factors proposed by the City, which included an agreement to annex. He said that his company had agreed to annex, but there was no way to connect to the city sewer because of the distance from the City system and the impracticality of the connection, which would need to be located under a lake or outside the UGB. That fact was recognized by several members of the Florence City Council the previous night. The Florence council had been sufficiently uncomfortable with the proposal that it sent it back to staff for more work and agreed to take it up again in January 2009. He asked why the Lane County Planning Commission would act before that.

Mr. Lilly pointed out that in his company's agreement to annex, the City agreed to allow development to proceed with septic systems. Copies of that agreement were included in the materials provided to the commission by Mr. Lilly. He said that his company spent millions of dollars relying on that assurance. He said that the subdivision was approved after September 9, 1995, which was important because of a State statute that prohibited local government from imposing any new conditions on subdivisions approved after that date. However, his company's subdivision was being "lumped in" with others but it was illustrative of the problems with the proposed ordinance, which have the effect of prohibiting further construction.

Mr. Siekiel-Zdzienicki asked if Mr. Lilly's company had been specifically told it could not use septic systems. Mr. Lilly said the City had indicated that depended on what it worked out in terms of exceptions. He was not told what those exceptions were. He said that when he initially made contact with City staff, he was told the company could not use septic systems.

Ms. Arkin asked if Mr. Lilly interpreted the document he provided to the commission entitled *Sewage Agreement Ratification Annexation Remonstrance Waiver* to be an agreement with City. Mr. Lilly said yes, but he had been given no assurances that he would be allowed to develop with septic systems, and did not think he would receive that assurance.

Responding to a question from Ms. Arkin about the location of the subdivision, Mr. Lilly said that 11 or 12 two-acre lots of the subdivision were located outside the Florence UGB. The subdivision was approved in phases. Phase 3, which was inside the UGB, had just been approved. Responding to a follow-up question from Ms. Arkin, Mr. Lilly recalled that subdivision was initially approved in 2003. Ms. Arkin asked if the company was aware the land was urbanizable. Mr. Lilly acknowledged that the land in question was urbanizable but development would not occur at urban densities because of the presence of wetlands.

Thom Lanfear, 541 Willamette Street, Suite 401, also represented Heceta Lake Joint Venture. He noted he was a planner for Lane County at one time and had approved the subdivision to which Mr. Lilly referred. Mr. Lanfear said his concern about the proposal was related to planning for orderly development. He said that Lane County had regulations adopted in 1982 with the North Florence Dunal Aquifer Study in mind and the company had developed in accordance to the rules in place when he applied. Now sweeping changes were proposed that were not specific enough to protect the development already approved according to the rules. Mr. Lanfear said Lane County's findings for the subdivision addressed the aquifer study, with the result that the density on the site was 1.23 dwelling units per acre rather than 2.8 units per acre. That was a significant reduction that protected the aquifer, which was the goal. Mr. Lanfear said he was hearing of no new study that had discovered a new problem that required more regulations.

Mr. Lanfear believed the proposed code was not specific enough and should not merely prohibit septic systems. If there was a problem, it should be identified and targeted. Mr. Lanfear said it was "overkill" to call for all lots to go through the exceptions process. In the absence of any study showing a threat to the aquifer, he asked the justification for not allowing the development to proceed.

Mr. Lanfear said that Lane County required Heceta Lake Joint Venture to sign a non-remonstrance agreement to hook up the sewers, which was a standard agreement imposed by County on such developments since 1982. There were other subdivisions that would be affected, and Mr. Lanfear suggested that the commission might want to exempt those that addressed the North Florence Dunal Aquifer Study. He reiterated that the problem lots should be targeted, but Florence should not make sweeping changes to the code that affected those who had been following the planning process since 1982. He said there needed to

be some continuity in the City's comprehensive plan "between then and now."

Ms. Nichols asked why the County required annexation if the development could not take access to the sewer system. Mr. Lanfear said Florence had a policy and an agreement with the County that called for property undergoing land divisions in the UGB to sign an agreement to annex.

Mr. Lanfear expressed concerns about the process for granting exceptions, the fees involved, and what agency a property owner would apply to for the exception. Was there a fee at the County and at the City? How long did the City have to act? What did the County get back? He said that none of the answers to those questions were clear.

Mr. Siekiel-Zdzienicki asked if Mr. Lanfear considered the annexation agreement to represent a "prior agreement." Mr. Lanfear did not know. He pointed out that was text drafted by Florence, and he could not speak for the City. He thought a subdivision such as the one he represented should not have to go through the exception process if it had been platted in the last ten years.

Ms. Arkin asked if the septic systems in the subdivision were conventional. Mr. Lanfear said yes. The lots were sufficiently large to accommodate a drain field area and replacement drain field area. He noted that the North Florence Dunal Aquifer Study was based on the septic systems in place in 1982. Modern systems were not covered. The study addressed the installation of regular systems at a density of 2.8 units per acre. He reiterated the subdivision in question was 1.23 units per acre. Ms. Arkin suggested that the information in the North Florence Dunal Aquifer Study was relevant at the time of the study and did not encompass new information about septic systems that leached and the better technology and best management practices in place. Mr. Lanfear believed that there were more advanced septic systems now, but thought the authors of the study had a thorough working knowledge of how a standard septic system worked in 1982.

Mr. Ehlers said the approvals for the subdivision in question were all for pressurized systems and represented a higher level of treatment than the older systems that had been in place when the initial study was done.

Ms. Arkin called for a response from staff.

Ms. Belson responded to testimony. She said the proposed policies have no impact on land uses and only affect how services were provided to the land uses, e.g., sanitary or septic. Florence was required to plan for 20 years of growth and so established a UGB and comprehensive plan in a responsible manner. The low-density levels needed to protect the aquifer were not consistent with the planned densities in the current Florence comprehensive plan. Rural-level densities to protect the aquifer were inconsistent with an urban level of development within the UGB, as embodied in the Realization 2020 Plan. Ms. Belson said that Florence was trying to avoid forced annexation and therefore trying to avoid the creation of a health hazard annexation forced upon people. She said Florence was trying to avoid calling in its annexation agreements, although if it wanted to it could do so because Florence could serve much of the land inside the UGB.

Ms. Belson noted that the City's Drinking Water Protection Plan was adopted in 2001 and Florence was looking at other approaches other than the proposal before the commission to protect its water source.

Responding to testimony related to development in the north end of the UGB, Ms. Belson said Florence recognized it needed more detail and that was why it was taking longer to develop code provisions, a process, and criteria. She did not think the subdivision owned by Heceta Lake Joint Venture in question

met the criteria related to annexation due to its location and difficulty to serve, so she thought it likely the subdivision could continue to develop using septic systems. She said that the City always planned on an exception process and never made the statement that property owners could not develop if they did not annex.

Ms. Heinkel spoke to statements about the lack of evidence of a health hazard and suggesting the City should follow State law, which required annexation when there was a valid health hazard. She concurred with that statement and said there was nothing in the policies that precluded that. She said that AP2 was necessary for Florence to comply with two provisions in State law, Oregon Administrative Rule 340-71-160, pertaining to the construction, installation, and repair of septic systems for permits. The proposal was consistent with and implemented the rule. Ms. Heinkel said it was important to remember what had changed, which was that the City could provide the sewer system and sewer service, which was not the case in the past. The City could now comply with the amended rule. The second provision was Statewide Planning Goal 14, Urbanization, which stated that land within a UGB shall be considered available for urban development consistent with plans for the provision of urban facilities and services. AP2 implemented the "shall" statement.

Ms. Heinkel spoke to the subject of documented evidence related to protection of the aquifer. She said there were two key documents. The first was the EPA designation as sole source aquifer, which relied on data from the North Florence Dunal Aquifer Study, which contained considerable information about the threat to the aquifer. Florence could have cited the study extensively in the findings for the ordinance. However, the document was included in the record, so there was no need to do so.

Ms. Heinkel said the proposed actions were proactive and intended to protect Florence citizens and residents inside the UGB. She acknowledged that the 1982 study recommended a density level as testified to by Mr. Lanfear, but she reminded the commission that was only tool available in 1982. The wastewater system was now available, and if that system had been available at that time, she was confident that use of the system would have been the recommendation.

Responding to a question from Mr. Noble about when the sewer system would be available to the northern area of the UGB, Mr. Miller indicated the system "backbone" interceptor was in place and basin planning was underway. He said that other conveyance mechanisms and pumping facilities were needed to serve the area in question. Mr. Noble asked if there would be areas that were not practical for Florence to serve. Mr. Miller said most of the area within the UGB could be served now.

Mr. Shapiro asked when problems downtown would be addressed. Mr. Miller said there were some undersized lines in Old Town that would be replaced with urban renewal dollars. Florence had replaced a large segment of undersized failed line in 2007.

Mr. Nelson noted his use of the term "set aside" during the earlier presentation and clarified that the City had no intent to limit uses already allowed in those areas. He said the density tool mentioned earlier was still a useful tool to address nitrate concentration but the impact of septic systems as they related to other possible contaminants was not recognized at that time.

Mr. Siekiel-Zdzienicki asked if staff foresaw future restrictions on herbicide and pesticide use in the aquifer. Mr. Nelson said that in most cases, best management practices reduced the risk, which was the goal of the policies. He did not know if there would be any State or federal restrictions. Mr. Siekiel-Zdzienicki asked how sensitive the aquifer was. Mr. Nelson believed it was one of the five most sensitive aquifers in the state.

Ms. Arkin concluded the public testimony portion of the meeting.

Mr. Siekiel-Zdzienicki, seconded by Mr. Shapiro, moved to close the public hearing on February 17, 2009, and to hold the next public hearing in Florence.

The commission then had an extensive process discussion of the appropriate next steps.

The motion failed, 4:3; Mr. McCown, Mr. Shapiro, and Mr. Siekiel-Zdzienicki voting yes.

Mr. McCown, seconded by Mr. Noble, moved to close public hearing and to leave the record open until February 6, 2009. The motion passed unanimously.

Ms. Arkin adjourned the meeting at 8:55 p.m.

(Recorded by Kimberly Young)

MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

February 17, 2009
5:30 p.m.

PRESENT: Lisa Arkin, Chair; Steve Dignam, Todd Johnston, Tony McCown, Nancy Nichols, Howard Shapiro, Jozef Siekiel-Zdzienicki, John Sullivan, Lane County Planning Commissioners; Kent Howe, Stephanie Schulz, Jerry Kendall, Lane County Land Management Division;

ABSENT: Robert Noble, Vice Chair, Lane County Planning Commissioner.

Ms. Arkin convened the work session of the Lane County Planning Commission (LCPC) at 5:35 p.m. Staff and Commissioners introduced themselves.

Public Comment—There was no public comment offered.

WORK SESSION

1. **Ordinance No. 7-08—DELIBERATION: Lane Code Chapter 10 Amendments and Additional Policy Amendments to the Florence Realization 2020 Comprehensive Plan Prior to Board Adoption of the Plan Under Florence's Periodic Review Work Program. File No. PA 08-5363 and Ordinance No. PA 1249 (Previous Planning Commission Hearing June 17, 2008, Previous Board of County Commissioners Hearing December 10, 2008).**

Ms. Arkin said Sandra Belson had come from the City of Florence to address the Commission and provide the Commission an opportunity to ask questions prior to deliberations.

Mr. Sullivan stated he had not listened to the recording of the previous Planning Commission discussion on this agenda item. Since it was a legislative matter, he would participate in the discussion if the Planning Commission agreed. He would defer to Planning Commission regarding whether or not he should vote on the matter.

No opposition to his participation was expressed.

Ms. Belson reviewed the project highlights identified in her February 6, 2009 staff memorandum included in the agenda packet for tonight's meeting.

Mr. McCown arrived at 5:40 p.m.

Ms. Belson said the Florence City Council most recently met on January 26, 2009 to discuss potential amendments to Chapters 6 and 14 of the Florence Realization 2020 Comprehensive Plan. Staff recommended a different approach to protection of the North Florence Dual Aquifer at that meeting. The change was a result of comments from the public, the Lane County Planning Commission, and the Board of County Commissioners (BCC). There would be no policy change limiting septic system installation, but rather the focus would be on developing a joint testing and monitoring program. With recent concerns raised by contamination at Neceta Beach, the testing and monitoring program would include the groundwater aquifer as well as surface water that drained toward the beach. Staff had identified those undeveloped properties within the urbanizable area (that area within the urban growth boundary [UGB] that was outside the city limits), and was able to quantify the number of undeveloped tax lots and their general locations. Maps showing these tax lots were provided to the LCPC.

Ms. Belson said Oregon Administrative Rules (OARs) prohibited installation of new septic systems for single-family homes if there was a sanitary sewer system available within 300 feet of the property. There was the potential for approximately an additional 300 new septic systems within the urbanizable area without further land divisions. The City Council was focusing on getting testing requirements in place and setting up a monitoring system. Staff proposed policies that would allow septic systems on the 300 lots unless a problem was identified through the testing system.

Mr. Shapiro noted there had been problems with the Kla-ha-nee development, and asked why it had not been included.

Ms. Belson responded Kla-ha-nee had not been included in the mapping because they were not allowed to install new septic systems, and construction would not be allowed on most of the lots until they hooked up to city sewer. She added Driftwood Shores hooked up to the city sewer because they were concerned and had conducted tests.

Ms. Belson reviewed the City's approach to the urbanizable area, the testing program and housekeeping amendments as outlined in the staff memorandum. The proposed policies would result in fewer code amendments. On January 26, 2008, the City Council directed staff to develop an intergovernmental agreement (IGA) with Lane County Administration and funding of the testing and monitoring program. When the agreement was in place, the City Council would hold a public hearing on the amendments. She recommended that the Planning Commission recommend the Comprehensive Plan Amendments and corresponding Lane Code changes to the BCC. She further recommended that the BCC not make a final decision until the IGA was in place.

Ms. Arkin opened the floor to questions from Commissioners.

Ms. Nichols said caffeine had originally been included in the revised language as a surrogate for prescription drugs, but noted it had been dropped and asked why that had happened.

Ms. Belson agreed to research the issue.

Mr. Johnston opined specific substances would be identified in the IGA.

Responding to a question from Mr. Johnston, Ms. Nichols asked that caffeine specifically be cited in the adopted language as requiring testing.

Ms. Arkin asked what the relationship of the technical memorandum in the LCPC packet was to the policy amendments and to the IGA. She asked if it was merely informative.

Ms. Belson responded the technical memorandum was a recommendation from GSI, consultant to the City Council, as a starting point of the development of the IGA. Although it was intended to be informative, it was not required. She added the City of Florence welcomed suggestions from Lane County on what should be tested for.

Responding to a question from Mr. Dignam regarding the adoption process for the Comprehensive Plan, Ms. Schulz said the public records at both the Lane County Planning Commission and elected officials' levels were closed. The Planning Commission record was held open until February 6, 2009, in order for the City of Florence to complete its work that was now the study proposal that the City Council wanted to implement. Back in December 2008, the BCC held the written record open until March 4, 2009, and scheduled a third reading/fourth reading and deliberations for April 8, 2009. No additional hearings were scheduled. She added the Planning Commission could recommend additional time for a public hearing.

Mr. Dignam asked if Lane County staff felt the requirements for a public hearing had been met, considering the City of Florence's proposed changes.

Ms. Schulz opined the requirements had been met, because although no additional public hearings were scheduled, the LCPC record had been held open for additional time.

Responding to a question from Mr. Siekiel-Zdzienicki, Ms. Belson said the City Council intended to hold another public hearing regarding the monitoring program and study approach.

Mr. Siekiel-Zdzienicki expressed concern that the water flowing west and south through the aquifer by Clear Lake would contaminate the aquifer. Thus, it was important that the water be tested at the source.

Ms. Belson said Clear Lake was outside the UGB, adding if a site was outside of the UGB it was outside the scope of the Florence Comprehensive Plan. However, the City was developing an application to the federal Environmental Protection Agency (EPA) for a grant that would fund more test wells than were shown on the map. Heceta Water District was a partner in the application and had identified other test well locations in addition to seeking testing of Clear Lake. It was likely Lane County would also be a partner to the grant application. The EPA grant application included \$50,000 to pay for Lane County staff involvement in the testing and monitoring, with no match from the County.

Responding to a question from Mr. Siekiel-Zdzienicki regarding a sewer line on the recently annexed section of Rhododendron Drive, Ms. Belson said there were two pump stations to serve Fawn Ridge. The sewer line continues to Driftwood Shores although a pump station had not yet been built, so Driftwood Shores is not yet connected to Florence's sewer system.

In response to Mr. Siekiel-Zdzienicki, Ms. Belson stated Policy 5 was in response to concerns of the Heceta Water District to ensure they would be included in a review and comment process, and their comments would be considered part of the public record. Policy 4 was in the 1988 Comprehensive Plan and brought forward to the current proposed plan. The two policies said the City would send referrals to Lane County and Heceta Water District on any annexation applications.

Ms. Arkin said Policy 12 addressed sewage and chemicals, and asked why no testing for water level was included in the testing process.

Ms. Belson stated water level had a greater impact on septic systems, noting that when water levels were high, septic systems could not drain. Water level did not impact water quantity available. It was important to know how high the water level was because it affected how quickly contaminants were getting into the aquifer.

Ms. Arkin said the issue of up to approximately 300 septic systems being added to the area, and whether there should be stipulations about the type of septic systems allowed in the aquifer had been discussed by the Planning Commission previously. She asked if the City could stipulate what type of drain fields would be allowed.

Ms. Belson said the City and the County could have those stipulations. Based upon the public comments, some of the alternative systems did a better job and were more expensive. The City had decided to back off from requiring improved on-site treatment or required connections and instead put in place a testing program that could ultimately require alternative septic systems.

Responding to a question from Mr. Shapiro, Ms. Belson said the City of Florence did not currently regulate septic systems.

Responding to a question from Mr. McCown regarding unfunded mandates, Mr. Howe said Lane County staff involvement in the testing and monitoring would occur only if the EPA grant was awarded and provided \$50,000 for Lane County staff participation.

Ms. Belson added the City of Florence would not take on the whole testing and monitoring burden if EPA did not provide grant funding.

Ms. Schulz stated the EPA grant application was to be considered by the BCC this week.

Mr. Dignam, seconded by Ms. Nichols, moved to reopen the record until one week after the Florence City Council met to discuss. Mr. Dignam accepted Ms. Arkin's friendly amendment to reopen the record until one week after the Florence City Council took action on the Comprehensive Plan. The motion passed unanimously, 8:0.

Ms. Arkin asked for closing comments from Commissioners.

Ms. Nichols was happy with the progress and hoped there would be testing that would address caffeine or some other marker for septic tanks.

Mr. McCown was also happy with the progress. He saw policy as a long lasting document, and it was important to have the value of the testing and the practical side of funding mesh.

Mr. Shapiro thought the City was moving in the right direction. Once the IGA was signed, he wanted to see more testing at the source of the aquifer and financed by the City of Florence, Lane County and the Heceta Water District.

Mr. Siekiel-Zdzienicki was glad to see the City of Florence responding to the public and the LCPC. He expressed his appreciation to Ms. Belson for her hard work. He wanted to ensure that the Heceta Water District was of enough importance in the IGA.

Ms. Belson stated the City of Florence had no authority to require the Heceta Water District to enter into the IGA, but hoped they would. The Chair of the Water District's Board of Directors had testified in support of the Comprehensive Plan and the Water District agreed unanimously to participate in the EPA grant application.

Mr. Sullivan supported the work that was submitted for the February 26, 2009 City Council meeting. He hesitated on the other work because he was not present when Mr. Nelson testified with the technical memorandum. He was concerned about surface water monitoring and response actions, and had not realized the City of Florence had E. coli in its water. It was no longer a problem of the future, but was a problem of the present.

Mr. Johnston echoed comments from other Commissioners. He noted progress had been significant and said he appreciated the patience of Florence staff with the various groups they had to work with. It was worthy that Policies 12 and 13 be as specific as possible without compromising flexibility down the road. Getting specific list items for testing as recommended by GSI as well as including caffeine and other chemicals would be useful. It would be worth reaching out to local water watch groups.

Mr. Dignam supported the ordinance as it was presented. The issue had generated a significant amount of public comment and testimony. He echoed Mr. Sullivan's concerns that members of the public did not want to hook up to a sewage system. However, he viewed water quality as a more important issue than the public concern and he was concerned that the LCPC had paid too much attention to the public concerns on this matter. He did not want to see the water quality in one area of the County deteriorate. The system established for testing provided the flexibility to step in if needed. He did not believe reviewing the draft IGA was a role for the LCPC and he had no interest in seeing it.

Ms. Arkin expressed her appreciation for the responsiveness of the staff. She was glad to see the testing program and an IGA that would provide specific language on the criteria and protocols for running the testing program being developed. She agreed with Mr. Dignam's comments regarding the importance of water quality to maintain quality of life and the ability to be healthy. She echoed Mr. Shapiro's comments and recommended to the City of Florence and Lane County that Lane County should require monitoring on county lands that were part of the general aquifer. She also wanted to see testing for pharmaceuticals in the water. She recommended that the City look at the building code and consider requiring a certain quality of septic system for new systems in the area despite the concern that people may consider it an economic burden. There were many things

in the building code that could be considered burdensome but were considered accepted as necessary for safety.

Ms. Arkin closed the work session at 6:50 p.m.

**Timeline for County Co-Adoption of the Florence Realization 2020
Comp Plan Policies and Lane Code Chapter 10 Implementation Measures**

Date	Florence	Lane County
October 27, 2008	Joint Council and PC Public Hearing on Comp Plan amendments.	Packet for LCPC Worksession – LC10 and R2020 amendments.
November 18, 2008		LCPC hearing LC 10 & R2020 Comp Plan amendments. Record held open until 2-6-09.
November 25, 2008		Board 2 nd Reading / Public Hearing LC10 amendments.
December 5, 2008		Ordinance No. PA 1249 Record Closed.
December 10, 2008		Board 3 rd Reading / Deliberation Ord. No. PA 1249. Record open until 3-4-08, 4 th Reading /deliberations scheduled for April 8, 2009.
December 29, 2008	City Council discussion, title 9 exception language for municipal sewer hookup in UGB.	
January 26, 2009	City Council discussion, approach to use title 9 exception language for municipal sewer hookup in UGB revised to a solution of education/ study of the North Dunal Aquifer.	
February 6, 2009		Planning Commission Record Closed for Ordinance No. 7-08, LC Chapter 10 amendments.
February 17, 2009		LCPC deliberations & discussion on revised strategy and remaining clause for LC Chapter 10 amendments under Ordinance No.7-08. LCPC reopened the planning commission record for both the policy ordinance no. PA 1249 and the code amendment ordinance 7-08 until one week after the Florence city council final action. (schedule deliberations on the next available LCPC meeting date)
February 23, 2009	City Council discussion of study to determine if groundwater impacts	



Lane County Board of Commissioners

Bill Dwyer
Bill Fleenor
Bobby Green, Sr.
Peter Sorenson
Faye Hills Stewart

February 18, 2009

Mr. Robert Willoughby, City Manager
City of Florence
250 Highway 101
Florence, Oregon 97439-7628

Dear Mr. Willoughby:

The Lane County Board of Commissioners fully supports the City of Florence's application to EPA for a West Coast Estuaries Initiative for Coastal Watersheds grant: *Siuslaw River Estuary Partnership: An Integrated, Multiple Objective Approach to Watershed Protection and Restoration*. Lane County will participate in, and be a sub-awardee on this project.

The Board is excited about the enormous potential for watershed protection and enhancement this grant project presents. Florence is the Siuslaw River Watershed's only major urban center and its entire UGB drains primarily to the estuary or the Pacific Ocean. Rapid infiltration rates into the sand cover, combined with a shallow water table, make the North Florence Dunal Aquifer, and the hydrologically-connected wetlands, riparian, and estuarine system, highly susceptible to contamination from surface activity. These conditions, combined with the high habitat value of the area, and projected growth, make this "Integrated, Multiple Objective Approach to Watershed Protection and Restoration Project" a high priority project for the watershed.

This project is needed to prevent development impacts which will accelerate through use of septic systems, pesticides and fertilizers, increased impervious surface, fill and alteration of drainage patterns and destruction of wetlands and floodplain functions. Cumulative effects of actions that destabilize fluvial systems are harmful to salmon. Growth and survival can be impaired when access to estuarine floodplains is blocked by dikes and levees, or these areas are filled for development. This project will also bring the Florence Comprehensive Plan and implementing land use codes into compliance with Statewide Planning Goal 5, Natural Resources. The assessment and monitoring program will create scientific-based standards, base line data, and processes that will ensure on-going evaluation of the effects of restoration and protection measures. The monitoring program will also signal early detection and trigger remedial action to minimize the effects of future contamination threats. This is of grave importance to the City and the County, especially given that the North Florence Sole Source Dunal Aquifer is an EPA-designated sole source aquifer, and is, in fact, the only aquifer so designated in the State of Oregon.

This project will serve as a model for other related projects the County is engaged in or is about to embark on. The work proposed for funding in this Florence grant is not required under a storm water discharge permit because the stormwater BMPs that will be developed and the stormwater demonstration project will apply within the Florence city limits and the City does not meet the size threshold for federal TMDL or NPDES requirements. The information and the process will be helpful to the County when it begins work on meeting its federal requirements for these programs in the future.

Lane County staff will serve on the Inter-disciplinary Team and review and comment on all products and programs related to the area between the City limits and urban growth boundary (UGB) and outside the UGB within the boundary of the North Florence Dunal Aquifer. County staff will be involved in the water quality monitoring program, participating in the development of and agreement with, the monitoring protocol, the standards and criteria, and evaluation of the baseline standards. If there is any contamination of the aquifer within the County's jurisdiction, the County will help to ascertain the source of the contamination and help to problem-solve solutions. The County will be reimbursed for these services in an amount not to exceed \$50,000, to be paid from the grant award, over the three-year grant period.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pete Sorenson', written over the word 'Sincerely,'.

Pete Sorenson
Chair, Lane County Board of Commissioners