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**City of Florence
City Council and Planning Commission Meeting
Florence Events Center
715 Quince Street, Florence, Oregon
Final Action Minutes
December 14, 2015**

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Meeting called to order at 7:00 p.m.

Councilors Present: Mayor Henry, Councilors Joshua Greene, Ron Preisler, Susy Lacer and George Lyddon

Councilors Absent: None

Comm. Present: Chairperson Curt Muilenburg, Commissioners John Murphey, Ron Miller, Robert Bare, and Clarence Lysdale

Comm. Absent: Commissioner Charles Hammon

Staff Present: City Manager Erin Reynolds, Planning Director Wendy FarleyCampbell, City Recorder / Economic Development Coordinator Kelli Weese, Chief of Police Tom Turner, Public Works Director Mike Miller, Assistant to the City Manager / Public Information Officer Megan Messmer, Florence Events Center Director Kevin Rhodes, Assistant Planner Glen Southerland and Planning Administrative Assistant Vevie McPherrren.

1. APPROVAL OF AGENDA

Start Time: 7:01 p.m.
Action: Approve agenda as shown.
Vote: Unanimous

2. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Council's attention any item not otherwise listed on the Agenda. Comments will be limited to three (3) minutes per person, with a maximum time of 15 minutes for all items. Speakers may not yield their time to others.

Start Time: 7:02 p.m.
Comments: None

COMBINED COUNCIL – PLANNING COMMISSION PUBLIC HEARING & ACTIONS

3. FLORENCE MARIJUANA REGULATIONS

A. PUBLIC HEARING

Hear and consider written or oral testimony on the proposed amendments to establish locational, site design, and operational criteria related to marijuana businesses within the City of Florence.

- Overview of Topic by Staff
- Questions of Staff by Councilors and Planning Commissioners
- Conduct of Public Hearing (*3 minutes per person*)
- Decision to close public hearing subject matter

Start Time: 7:07 p.m.
Introduction: Mayor Henry gave an introduction to the agenda item
Script: City Recorder Weese read the land use script, Attachment 1
Conflicts: No conflicts declared by Planning Commission or City Council

Public Hearing: Opened at 7:09 p.m. and closed at 9:15 p.m.

Staff Report: CM Reynolds presented an overview of marijuana legislation thus far – Attachment 2
PD FarleyCampbell presented a PowerPoint presentation and maps related to proposed amendments – Attachment 3

Handouts: Additional Testimony – Post Card Responses – Attachment 4;
Written Testimony, Exhibits P-U – Attachment 5

Discussion: The Council and Planning Commission discussed...

- Potential buffers for churches
- How buffers along property lines are proposed to be determined
- Grow for personal use
- Potential for outdoor grow sites in the City

Comments: Commissioners Muilenburg, Murphy and Lysdale

- Commenter 1: Morrison William – No address given
- Exemption of pre-existing medical grow sites
- Comments: PD FarleyCampbell
- Commenter 2: Milton Pepitone – 1365 20th Street
- Opposition to growth and sales of Marijuana based on experience in California
 - Concern about the Police Department’s ability to enforce the regulations
 - Ease of access of Marijuana for adolescents
- Commenter 3: Robert Forsythe – 71 Shoreline Drive
- Appreciation for the work of the City Council, Planning Commission and staff
- Commenter 4: Theresa Jeche – 842 Munsel Creek Loop
- Concerns for Oregon’s legalization of marijuana in comparison to Colorado’s results
 - Potential increases in law enforcement and how regulations will be enforced
 - How odor will be evaluated and addressed
- Commenter 5: Tom Payne – 1070 Bay Street
- How new regulations will affect condominiums owners
 - Considerations for the character of the community
- Commenter 6: Devin Smith – 84479 Green Gate Road
- Positive results of use of marijuana for medical purposes in his family
- Commenter 7: SK Lindsey – 83975 Clear Lake Road
- Sales representative for cannabis industry
 - Lack of association of marijuana use with violent crimes
 - Quite a few strains of marijuana which help people in the community, particularly elderly people who are not able to take traditional medications
- Commenter 8: Sharon Pepitone – 1365 20th Street
- Social worker in Mendocino County and saw instances of the nuisances of marijuana and meth
 - Property value decreases and increases in crime due to marijuana

- Commenter 9: Kathleen Garcia – 85779 Glenada Road
- Appreciated presentation and the work gone into the regulations thus far
- Commenter 10: Dave Peck – 742 Skookum Drive
- How federal law would interact with the state law
- Commenter 11: Cindy Wobbe – 88008 Windjammer South
- Owns two businesses adjacent to licensed dispensary
 - Subtle changes to her business area related to parking, littering and loitering
 - Career in addiction medicine and appreciation for the thought that went into the regulations as proposed
- Commenter 12: Dustin Foskett – 940 D. Street, Springfield Oregon
- Owner of medical marijuana dispensary in town
 - Crime is not a concern of marijuana in general
 - Legalization of marijuana promotes regulation of growers helping to keep the product out of minor's hands
 - Benefits of marijuana legalization for the economy of Colorado
 - His business works hard to be neighborly and to uphold the standards and codes of the city
 - More than 75% of their customers are over 60 years old
 - Clarification of the proposed buffers related to schools and child care
- Commenter 13: Raphael Garcia – 2018 Glenada Road
- Appreciation for the work put into the proposed regulations
 - Hope that those that use marijuana will respect one another and use it properly
- Commenter 14: Diana Taylor – 821 Wecoma Loop
- How home occupation growth will be regulated
 - How driving under the influence will be enforced
 - Concern about the lowering of her property values
 - Concern for transient populations
 - Concern for odor of the product

- Staff Response: CM Reynolds, Chief Turner and PD FarleyCampbell provided a response to questions from the public.
- Handout: Federal Guidance – Attachment 6
- Discussion: The Council and Planning Commission discussed...
 - Clarification on requirements for indoor grows for home occupations
 - Requirement for property owners to sign off on use of the property prior to either land use or business license application
Comments: Commissioner Muilenburg and Councilor Greene
- Commenter 2: Milton Pepitone – 1365 20th Street
 - Concerns for enforcement of the code
 - Overview of the enforcement of Marijuana in Mendocino County
Comments: Chief Turner, Councilor Greene and Mayor Henry

The City Council and Planning Commission took a break from 9:15 – 9:26 p.m.

B. PLANNING COMMISSION DECISION

Consider approval of Resolution PC 15 19 TA 01, a proposal to recommend the City Council approve Ordinance No. 12, Series 2015.

- Start Time: 9:27 p.m.
- Discussion: The Planning Commission discussed...
 - Regulations regarding outdoor grow sites
 - Potential elimination of the Highway district from outdoor grow sites
Comments: All Commissioners present
- Action: Approval of Resolution No. PC 15 19 TA 01 with the amendment to not allow outdoor growth of marijuana in the Highway District
- Motion: Commissioner Murphey
- Second: Commissioner Miller
- Roll Call Vote: Chairperson Muilenburg - Aye
Vice-Chairperson Murphey - Aye
Commissioner Miller - Aye
Commissioner Bare - Aye
Commissioner Lysdale - Aye
Commissioner Hammon was absent
Motion carried 5-0

C. CITY COUNCIL DECISION

Consider approval of Ordinance No. 12, Series 2015, an ordinance amending Florence City Code Chapters 1, 3, 4, 15, 16, 17, 20, 21, 25, 27, 28, 30, and 31 of Title 10 concerning marijuana related businesses; and declaring an emergency.

- Start Time: 9:36 p.m.
Handout: Ordinance No. 12, Series 2015 Amendments – Attachment 7
Discussion: The City Council discussed...
 - Planning Commission’s recommended amendments and the specific requirements for outdoor grow locations within the CityComments: All Councilors present
- Action: First reading of Ordinance No. 12, Series 2015, with the amendments to Exhibit B, FCC 10-4-12-4-c, to state,
“Only locate in a permanent building and shall not locate in a temporary of moveable structure, such as a high tunnel, greenhouse, trailer, cargo container or motor vehicle, except as provided in below in ‘i’. Medical and Recreational Production not in a residential zone and not a home occupation may conduct outdoor grow operations, excepting in the Highway District.”
- Vote: Unanimous
- Action: Second Reading of Ordinance No. 12, Series 2015 as amended
Motion: Councilor Greene
Second: Councilor Lyddon
Roll Call Vote: Councilor Greene – Aye
Councilor Preisler – Aye
Councilor Lacer – Aye
Councilor Lyddon - Aye
Mayor Henry – Aye
Ordinance Passed 5-0

4. OLD TOWN AREA A MANUFACTURING & WHOLESALE

A. PUBLIC HEARING

Hear and consider written or oral testimony on the proposed amendments to establish the permitted use provisions for the manufacture and wholesaling of food and beverage items accompanied by a retail and/or restaurant where those items are sold within Old Town Area A.

- Overview of Topic by Staff
- Questions of Staff by Councilors and Planning Commissioners
- Conduct of Public Hearing (*3 minutes per person*)
- Decision to close public hearing subject matter

Start Time: 9:50 p.m.

Script: City Recorder Weese read the land use script, Attachment 1.

Conflicts: Commissioner Murphey declared a potential conflict of interest based on his business providing insurance services for one of the applicants of the proposed code amendment. Commissioner Murphey felt he could make a decision in an impartial manner. No rebuttals were heard.

Staff Report: AP Southerland presented a PowerPoint presentation – Attachment 8

Handout: Amendments to Agenda Item Summary and proposed code changes – Attachment 9

Discussion: The Council and Planning Commission discussed...

- Particular location of the applicant's proposal
- Discussion of loading and unloading of product and how that would take place and the quantity of such that would occur in the district

Comments: Commissioners Lysdale, Bare, Murphy and Mulienburg
Councilor Greene and Mayor Henry

Public Hearing: Opened at 10:13 p.m. and closed at 10:21 p.m.

Handout: Additional Testimony Written Testimony, Exhibit D – Attachment 10

Commenter 1: Theresa Jeche – 842 Munsel Creek Loop

- How the brewery would be maintained inside a building and potentials to smells from the brewing
- Number of alcohol establishments already existing in Old Town

Commenter 2: SK Lindsey – 83975 Clear Lake Road

- Would cause a major increase in traffic on the streets off of Maple Street
- Would be a great tourism opportunity

Commenter 3: Applicant - Scott Waiss – 1355 Bay Street

- Brewery was designed to be small
- All of the brewing would be located inside the building
- Potential schedules for loading and unloading

Staff Response: None

B. PLANNING COMMISSION DECISION

Consider approval of Resolution PC 15 21 TA 03, a proposal to recommend the City Council approve Ordinance No. 13, Series 2015

Start Time: 9:27 p.m.

Discussion: None

Action: Approval of Resolution No. PC 15 21 TA 03

Motion: Commissioner Miller

Second: Commissioner Lysdale

Roll Call Vote: Chairperson Muilenburg - Aye
Vice-Chairperson Murphey - Aye

Commissioner Miller - Aye

Commissioner Bare - Aye

Commissioner Lysdale - Aye

Commissioner Hammon was absent

Motion carried 5-0

C. CITY COUNCIL DECISION

Consider approval of Ordinance No. 13, Series 2015, an ordinance amending Florence City Code Chapter 17 of Title 10 concerning certain wholesale businesses within the Old Town Area 'A' zoning district.

Start Time: 9:36 p.m.

Discussion: The City Council discussed...

- Good addition to Old Town and important for the City's Economic Development Efforts
- Applicants were already long standing members of the community

Comments: All Councilors present

Action: First reading of Ordinance No. 13, Series 2015
Vote: Unanimous

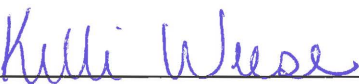
Action: Second Reading of Ordinance No. 13, Series 2015
Motion: Councilor Greene
Second: Councilor Lyddon
Roll Call Vote: Councilor Greene – Aye
Councilor Preisler – Aye
Councilor Lacer – Aye
Councilor Lyddon - Aye
Mayor Henry – Aye
Ordinance Passed 5-0

Meeting adjourned at 10:26 p.m.

ATTEST:



Joe Henry, Mayor



Kelli Weese, City Recorder

Script for Legislative Land Use Public Hearing
(MARIJUANA REGULATIONS)

Mayor: We will now begin the agenda item concerning Florence's Marijuana Regulations. This agenda item will be an opportunity to hear and consider written or oral testimony on the proposed amendments to establish locational, site design, and operational criteria related to marijuana businesses within the City of Florence.

I will now turn it over to our City Recorder Kelli Weese to review the items required for a land use public hearing and officiate the public hearing procedures.

City Recorder: Thank you Mayor Henry. This is a joint meeting of the Planning Commission and the City Council. The Planning Commission will make a recommendation to the City Council based on the complete record, including the testimony received at tonight's public hearing. The City Council will then have the option of making a final decision on the ordinance based upon the recommendation of the Planning Commission, the complete record, and the testimony received at tonight's public hearing.

These proceedings will be recorded.

These hearings will be held in accordance with the land use procedures required by the City and the State of Oregon. This is a legislative land use action involving proposed changes to the City's zoning regulations under Title 10 of the Florence City Code.

At the beginning of the public hearing tonight, staff will identify the applicable substantive criteria from the City's Zoning Regulations, Florence Comprehensive Plan, and State Law. These criteria have also been listed in the staff report.

The hearing will proceed with the staff report, followed by an allowance for questions of staff.

For anyone wishing to speak, we are asking you to use the sign-up sheet that has been provided. Public comments will begin with those who signed the sign-up sheets that were on the tables as you entered the meeting room, and will allow for additional comments from those who seek to speak after that list is completed.

When coming up to speak, please sit down at the table in the middle of the room and state your name for the public record. It is very important that you please sit at the table provided for public speakers so that the microphone is able to pick up your comments for the record. We ask for your address on the sign-up sheet so that we may provide you notice on the City's eventual decision in this matter. It is very important that all parties address their comments to the Planning Commission and City Council, not to audience members.

Given the number of people present, we ask that each speaker limit themselves to no more than three minutes. All presentations will be timed beginning from the moment a speaker begins to speak. Presentations will use timed using the lighted timer (*gesture to it*). A green light means your time has started, a yellow light means you have thirty seconds left, and a red light and buzz will sound when the three minute period is up. All speakers exceeding the time limit will be asked by the Mayor to immediately conclude their remarks.

City Recorder: If you do not finish your presentation, be sure to provide a copy of your statement to the staff. Written testimony may also be offered and will be considered and made part of the record. To do that, either before or after you speak, please leave the material with me, the City Recorder. I will then make sure your evidence is identified and placed in the record.

All questions that are asked by the parties during their public comments will be responded to after all speakers have had an opportunity to speak. After each speaker, the Council and Planning Commission will be provided with an opportunity to ask clarifying questions of the speaker.

In order to minimize repetitive testimony, organizations are encouraged to have only one person speak for the group, with other members of the organization standing to show their support after the speaker has completed their presentation. Each person may testify only once, unless called back to the podium at the request of the Mayor to respond to a question.

Thank you for your cooperation.

City Recorder: With those instructions about the public hearing out of the way, I will ask if any Councilor or Planning Commissioner wishes to disclose an actual or a potential conflict of interest in this matter.

Councilors: Makes Declarations *(if any)*

[If Declarations are Made]

City Recorder: Councilor _____, do you believe that you can make a decision on this issue in an impartial manner?

Councilors: *(Councilor replies, if yes continue; if no, Councilor may recuse him/herself)*

City Recorder: Any person, during his or her testimony, has the right to rebut the substance of the ex-parte communications just disclosed.

Does any member of the public wish to challenge a Councilor's impartiality?

(If none, move on; if some, Councilor has the opportunity to rebut statement and makes a decision whether or not to continue or to recuse him/herself)

[actual conflict of interest – Councilor must announce the conflict and step down]

[potential conflict of interest - Councilor must announce the conflict & state whether (s)he is able to be impartial. If so, Councilor may participate; if not, decision-maker must step down]

[ex parte contacts - Councilor must announce the substance and context of the communication, then may participate.]

[Return to Script]

City Recorder: I now open the public hearing for Ordinance No. 12, Series 2015, it is _____ o'clock.

[Staff Report]

City Recorder: May we please have the staff report.

Planning Staff: Presents staff report [*Staff introduces the topic, staff report, and presents background information, and states list of criteria for approval.*]

City Recorder: Does any Planning Commissioner have questions of the staff? [*Planning Commission Questions of Staff – No Deliberations*]

City Recorder: Does any Councilor have questions of the staff? [*Council Questions of Staff – No Deliberations*]

[PUBLIC HEARING PROCEDURE]

City Recorder: Hearing no further questions from the Planning Commission & City Council of the staff, we will begin the taking public testimony. Copies of the written comments received prior to the hearing this evening have been distributed to the Planning Commission and the City Council.

City Recorder: Public Comments will begin with persons who signed the sign-in sheets prior to the meeting, and will allow for additional comments after those parties are concluded.

In order to avoid repetitive testimony, we ask that if you agree with the comments from a prior testimony, you simply come up to the table and state your name for the record, sign in if you have not already done so, and state that you agree with the prior testimony.

(City Recorder Calls Each individual name)

Party: Gives Testimony [if any]

City Recorder: City Councilors or Planning Commissioners, do you have any questions of the Mr. / Ms. _____?

Commissioners: Ask Questions [if any]

ADDITIONAL TESTIMONY

City Recorder: Now is the opportunity for other members of the audience who did not have an opportunity to sign in prior to the start of the meeting, to speak. Is there anyone else in the audience who wishes to speak to this issue?

Please sign in when you come to the table to speak.

Party: Gives Testimony [if any]

City Recorder: City Councilors or Planning Commissioners, do you have any questions of the Mr. / Ms. _____?

Commissioners: Ask Questions [if any]

[Staff Rebuttal]

City Recorder: Does the staff wish to respond to any of the testimony received?

Staff: Offers response [if chooses]

City Recorder: [if staff responds] – Councilors, do you have any questions of the staff?

[DECISION TO CLOSE OR LEAVE OPEN PUBLIC HEARING SUBJECT MATTER]

City Recorder: Now is the opportunity to discuss closing the public hearing. Does the Planning Commission, City Council or staff see any reason to continue the public hearing or hold record open to allow for additional arguments?

Hearing none, I now close the public hearing it is _____ o'clock.

[If Public Hearing is left open or hearing is continued]

Mayor: The City Council will continue discussions on Ordinance No. 12, Series 2015 at the December 21, 2015 City Council meeting. – [DONE WITH AGENDA ITEM - MOVE ON TO NEXT ITEM ON AGENDA]

[If Public Hearing is Closed –

Planning Commission Deliberations / Decision]

City Recorder: Now is the time for the Planning Commission to consider the record and the testimony heard tonight and deliberate on its recommendation to the City Council.

City Recorder: Chairperson Muilenburg, will you please facilitate deliberation on this agenda item with the Planning Commission, making sure to allow each Commissioner an opportunity to speak.

(Planning Commission Deliberates)

City Recorder: Hearing no additional deliberations, Chairperson Muilenburg, will you please facilitate the Planning Commission's decision on Resolution No. PC 18 19 TA 01 via motion, we can then proceed to a roll call vote.

(Planning Commission Decides)

[City Council Deliberations / Decision]

City Recorder: Now that the Planning Commission has provided you with their recommendation, Mayor Henry, will you please facilitate the deliberation on this agenda item, making sure to allow each Councilor an opportunity to speak.

(Council Deliberates)

City Recorder: Hearing no further deliberations, Mayor Henry, will you please facilitate the City Council's decision on Ordinance No. 12, Series 2015.

(MOVE TO ORDINANCE PROCEDURES)

Script for Quasi-Judicial Land Use Public Hearing
(OLD TOWN AREA A MANUFACTURING)

Mayor: We will now begin the agenda item concerning the manufacturing and wholesaling provisions in Old Town Area A. This agenda item will be an opportunity to hear and consider written or oral testimony on the proposed amendments to establish locational, site design, and operational criteria related to marijuana businesses within the City of Florence.

I will now turn it over to our City Recorder Kelli Weese to review the items required for a land use public hearing and officiate the public hearing procedures.

City Recorder: Thank you Mayor Henry. This is a joint meeting of the Planning Commission and the City Council. The Planning Commission will make a recommendation to the City Council based on the complete record, including the testimony received at tonight's public hearing. The City Council will then have the option of making a final decision on the ordinance based upon the recommendation of the Planning Commission, the complete record, and the testimony received at tonight's public hearing.

These proceedings will be recorded.

These hearings will be held in accordance with the land use procedures required by the City and the State of Oregon. This is a legislative land use action involving proposed changes to the City's zoning regulations under Title 10 of the Florence City Code.

At the beginning of the public hearing tonight, staff will identify the applicable substantive criteria from the City's Zoning Regulations, Florence Comprehensive Plan, and State Law. These criteria have also been listed in the staff report.

The hearing will proceed with the staff report, followed by an allowance for questions of staff. For anyone wishing to speak, we are asking you to use the sign-up sheet that has been provided.

When coming up to speak, please sit down at the table in the middle of the room and state your name for the public record. It is very important that you please sit at the table provided for public speakers so that the microphone is able to pick up your comments for the record. We ask for your address on the sign-up sheet so that we may provide you notice on the City's eventual decision in this matter. It is very important that all parties address their comments to the Planning Commission and City Council, not to audience members.

We ask that each speaker limit themselves to no more than three minutes. All presentations will be timed beginning from the moment a speaker begins to speak. Presentations will use timed using the lighted timer (*gesture to it*). A green light means your time has started, a yellow light means you have thirty seconds left, and a red light and buzz will sound when the three minute period is up. All speakers exceeding the time limit will be asked by the Mayor to immediately conclude their remarks.

If you do not finish your presentation, be sure to provide a copy of your statement to the staff. Written testimony may also be offered and will be considered and made part of the record. To do that, either before or after you speak, please leave the material with me, the City Recorder. I will then make sure your evidence is identified and placed in the record.

City Recorder: All questions that are asked by the parties during their public comments will be responded to after all speakers have had an opportunity to speak. After each speaker, the Council and Planning Commission will be provided with an opportunity to ask clarifying questions of the speaker. Each person may testify only once, unless called back to the podium at the request of the Mayor to respond to a question.

Thank you for your cooperation.

City Recorder: With those instructions about the public hearing out of the way, I will ask if any Councilor or Planning Commissioner wishes to disclose an actual or a potential conflict of interest in this matter.

Councilors: Makes Declarations *(if any)*

[If Declarations are Made]

City Recorder: Councilor _____, do you believe that you can make a decision on this issue in an impartial manner?

Councilors: *(Councilor replies, if yes continue; if no, Councilor may recuse him/herself)*

City Recorder: Any person, during his or her testimony, has the right to rebut the substance of the ex-parte communications just disclosed.

Does any member of the public wish to challenge a Councilor's impartiality?

(If none, move on; If some, Councilor has the opportunity to rebut statement and makes a decision whether or not to continue or to recuse him/herself)

[actual conflict of interest – Councilor must announce the conflict and step down]

[potential conflict of interest - Councilor must announce the conflict & state whether (s)he is able to be impartial. If so, Councilor may participate; if not, decision-maker must step down]

[ex parte contacts - Councilor must announce the substance and context of the communication, then may participate.]

[Return to Script]

City Recorder: I now open the public hearing for Ordinance No. 13, Series 2015, it is _____ o'clock.

[Staff Report]

City Recorder: May we please have the staff report.

Planning Staff: Presents staff report *[Staff introduces the topic, staff report, and presents background information, and states list of criteria for approval.]*

City Recorder: Does any Planning Commissioner have questions of the staff? *[Planning Commission Questions of Staff – No Deliberations]*

City Recorder: Does any Councilor have questions of the staff? *[Council Questions of Staff – No Deliberations]*

[PUBLIC HEARING PROCEDURE]

City Recorder: Hearing no further questions from the Planning Commission & City Council of the staff, we will begin the taking public testimony. Copies of the written comments received prior to the hearing this evening have been distributed to the Planning Commission and the City Council.

City Recorder: Now is the opportunity for other members of the audience to speak. Is there anyone in the audience who wishes to speak to this issue?

Please sign in when you come to the table to speak.

Party: Gives Testimony [if any]

City Recorder: City Councilors or Planning Commissioners, do you have any questions of the Mr. / Ms. _____?

Commissioners: Ask Questions [if any]

[Staff Rebuttal]

City Recorder: Does the staff wish to respond to any of the testimony received?

Staff: Offers response [if chooses]

City Recorder: [if staff responds] – Councilors, do you have any questions of the staff?

[DECISION TO CLOSE OR LEAVE OPEN PUBLIC HEARING SUBJECT MATTER]

City Recorder: Now is the opportunity to discuss closing the public hearing. Does the Planning Commission, City Council or staff see any reason to continue the public hearing or hold record open to allow for additional arguments?

Hearing none, I now close the public hearing it is _____ o'clock.

[If Public Hearing is left open or hearing is continued]

Mayor: The City Council will continue discussions on Ordinance No. 13, Series 2015 at the December 21, 2015 City Council meeting. – [DONE WITH AGENDA ITEM - MOVE ON TO NEXT ITEM ON AGENDA]

[If Public Hearing is Closed –

Planning Commission Deliberations / Decision]

City Recorder: Now is the time for the Planning Commission to consider the record and the testimony heard tonight and deliberate on its recommendation to the City Council.

City Recorder: Chairperson Muilenburg, will you please facilitate deliberation on this agenda item with the Planning Commission, making sure to allow each Commissioner an opportunity to speak.

(Planning Commission Deliberates)

City Recorder: Hearing no additional deliberations, Chairperson Muilenburg, will you please facilitate the Planning Commission's decision on Resolution No. PC 15 21 TA 03 via motion, we can then proceed to a roll call vote.

(Planning Commission Decides)

[City Council Deliberations / Decision]

City Recorder: Now that the Planning Commission has provided you with their recommendation, Mayor Henry, will you please facilitate the deliberation on this agenda item, making sure to allow each Councilor an opportunity to speak.

(Council Deliberates)

City Recorder: Hearing no further deliberations, Mayor Henry, will you please facilitate the City Council's decision on Ordinance No. 13, Series 2015.

(MOVE TO ORDINANCE PROCEDURES)

Attachment 2

Good evening Mayor, Council Members and Planning Commissioners,

Tonight you are here to hear staff report, public testimony and deliberate on land use regulations on the time, place and manner of operation of marijuana facilities. Before getting into Planning Director's staff report on the details of the proposed code, I thought it would be helpful to do a quick review of the events that have led you here to tonight's session.

In November 2014 the voters of Oregon voted on Measure 91. The measure passed state wide, in Lane County by 61%; WLC 56% and in Florence 52%. The measure legalized the growing, distribution and possession and use of MJ for non-medical "recreational use". Even though the measure passed, you may have heard some cities/counties still banning rec MJ. Cities located in counties that voted against M91 by 55% or more can ban by council ordinance (Lane County wasn't one of these Counties). There is another alternative to banning which would require another vote in the 2016 general election. Banning any of the license types makes the City ineligible for the state MJ tax revenues. The City Council considered this option and have chosen to proceed without another vote. Instead the CC thought it would be more productive to accept the results of the 2014 election and focus their efforts on creating local regulations that address the concerns of our community.

As you know MJ has been legal since 1998 in the state of Oregon for medical use. Just recently, the Legislature created a system for Medical MJ Dispensaries during 2014. The City of Florence Council and PC went through a land use process in 2014 to regulate Med MJ Dispensaries, now called facilities. At the time the CC/PC were going through that process, they were cognizant that Measure 91 was on the ballot and that they'd be back going through the same process for recreational MJ.

Effective July 1st, 2015, recreational PERSONAL use was legal, with no legal means to obtain the product. During the 2015 Summer Legislative session the state enacted a "quick fix" SB460 to allow medical dispensaries to sell limited amounts of recreational MJ until the State creates a system for COMMERCIAL scale operations. This window of time expires 12/31/2016.

State gave the Oregon Liquor Control Commission (OLCC) authority to create a licensing system in which people have an avenue to purchase MJ in compliance with state law. Measure 91 effectively decriminalized personal use, possession and purchase of certain amounts of marijuana items in the state. HB3400 Legislation passed in June 2015 that revised much of M91, and set the scope of the OLCC's authority and responsibility to regulate the recreational marijuana market. OLCC adopted temp rules effect 1/1 thru 6/28/2016

OLCC responsibilities: •Licensing of recreational marijuana licensees (growers, processors, wholesalers, retailers and laboratories) •Ensuring licensee compliance with state laws and rules governing recreational marijuana.

Not responsible for: •Personal possession, personal use, home grow, or medical marijuana •Local land use decisions and municipal ordinances

Compliance Philosophy of OLCC: Provide applicants and licensees the tools and knowledge to operate responsibly, successfully, and in compliance with the laws of the State of Oregon and the rules of the Oregon Liquor Control Commission •We seek to achieve this goal by communicating the laws, rules, policies, and standards regarding recreational marijuana in the State of Oregon and by building a

collaborative regulatory structure that is non-punitive in nature but provides the enforcement mechanisms necessary to properly address compliance deficiencies

State Agency Coordination

- Oregon Health Authority (OHA): Responsible for overseeing all medical marijuana activities and businesses, as well as setting testing standards, labeling and serving size in both the medical and recreational markets
- Oregon Department of Revenue (DOR): Responsible for tax collection on recreational marijuana sales
- Oregon Department of Agriculture (DOA): Responsible for licensing food establishments, weights and measures and pesticide use
- Many others as well, including local law enforcement and governing bodies. The Business Readiness Guide is a helpful tool in navigating oversight agencies responsibilities

As has been mentioned OLCC is in charge of the licensing process and compliance with State laws, it is up to the local jurisdiction, the City, to put into place land use laws to regulate in addition to the state laws. In order to have the Inter-Agency coordination, the OLCC has created a Land Use Compatibility Statements (LUCS)

Local jurisdictions are NOT required to process Land Use Compatibility Statements (LUCS) until January 4th, but can start sooner; they have 21 days to process the LUCS •In order for an applicant to be considered for a license the land use compatibility statements must show the proposed premise is located in a properly zoned area, as determined by the local jurisdiction

Hence why the CC has expedited the land use process, so that Florence has land use laws in place at the time that we may be asked to fill out a LUCS on 1/4/2016.

Supply chain – remember focus is to protect consumer and the minor

Must have a legal supply chain to consume a legal product. THEREFORE, OLCC will begin to process in supply chain order licenses: Lab, Grow; Produce; Wholesale; Retail. They do not expect to begin processing retail licenses until October 2016. In order for a license to be issued it must have a LUCS form successfully completed for the jurisdiction it will operate in. The land use code being considered tonight will be what the Planning staff refers to when filling out a LUCS.

Parting thoughts –

M91 is a statute, NOT a constitutional amendment. OLCC already has a list of things both policy issues and technical fixes for the legislative short session in February 2016 and a list of more complex things for the State Legislatures to consider in 2017. OLCC is learning from the WA/CO experience, listening to Law Enforcement; land use and the cannabis industry experts. The law with regard to MJ is complex because it involves the interplay of state, federal and local laws – all of which are continuing to evolve. One thing we all can expect is time will tell and things will change. For further in depth information please look at the OLCC website.

Marijuana Business Land Use Regulations

PC 15 19 TA 01

CC 15 04 TA 01



Criteria

Florence City Code, Title 10:

Chapter 1: Zoning Administration, Section 3-C

Chapter 4: Conditional Uses, Section 12: Additional Conditions

Realization 2020 Florence Comprehensive Plan:

Chapter 1: Citizen Involvement, Policies 4, 5, and 6

Chapter 2: Land Use: • Chapter 2: Land Use, Policies 1, and 3, Industrial, Policy 4

Chapter 9: Economic Development, Policy 1

Oregon Revised Statutes:

197.610: Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

227.186: Notice to property owners of hearing on certain zone change

Statewide Planning Goals (OAR 660-015-0000):

1. Citizen Involvement
2. Land Use Planning
9. Economy of the State

Introduction

- **September 9, 2015** – Joint PC/CC Introductory Worksession
- **November 4, 2015** – Joint PC/CC Worksession - 1st Draft of proposed code amendments
- **November 18, 2015** – Joint PC/CC Worksession - 1st Draft of proposed code amendments
- **November 23, 2015** – Notice mailed to all property owners in zoning districts with proposed code amendments.
- **December 2nd and 9th** – Notice published in the Siuslaw News

Areas Affected by Proposed Changes



Existing Code

B. Conditional Uses: Uses which are administratively determined to have an impact similar to or less than Conditional uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

Residential units, provided that any building facing a street (or streets if a corner lot) shall include a first story commercial use that occupies the first twenty-five feet (25') of the building(s) that face(s) a street. If pedestrian access to the dwelling(s) is from the street, it shall be a separate entrance and not more than six feet (6') wide.

Lodging, motels and hotels

Bed and Breakfast inns

Entertainment and recreational facilities (indoor)

Manufacturing and production of retail items sold on the premises (< 5000 s.f. w/retail)

Taxi stands

Commercial & public parking lots (ground level)

Public safety facilities (police and fire stations)

Accessory uses and structures, except activities that are permitted as a basic use and for required on-site parking

Proposed Code

10-17A-2 LAND USES FOR AREA A: The following establishes permitted, conditional, and prohibited uses for the Old Town District Area A:

B. Conditional Uses: Uses which are administratively determined to have an impact similar to or less than Conditional uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

Manufacturing and production of retail items sold on the premises (< 5,000 s.f. w/retail)

Wholesale sales of food and beverage items, provided those items are also sold on the premises within a retail space or restaurant (45,000 s.f. without retail or restaurant) and loading of materials to be sold takes place on private property

C. Prohibited Uses: Uses that are administratively determined to have impact similar to or greater than a Prohibited use listed below are prohibited in this Area. The following uses are specifically Prohibited:

Wholesale sales, except as allowed above as a Conditional Use

Warehousing, except as allowed above as a Conditional Use

Testimony

No Referral Comments Received

Testimony Received

Exhibit "D" – Noble & Henderson

Voiced concerns of livability with breweries, did not want large manufacturing in Old Town. Did support allowing the wholesale of products from restaurants.

Staff Response

- Manufacturing currently allowed
- Staff has proposed limiting to food & beverage
- Staff agrees that wholesaling of goods produced on-site under sq. footage requirements should be allowed.
- Staff proposes that small-scale brewing kept under the limit in place for manufacturing would be an attractive addition
- Staff would like to keep large-scale manufacturing and industry in the Business Park

Staff Recommendation

Staff finds that the proposed code amendments meet the requirements of City Code, the Florence Realization 2020 Comprehensive Plan and Oregon Revised Statutes and recommends approval of both Resolution PC 15 21 TA 03 and Ordinance No. 13, Series 2015.

Alternatives

1. **Approve the application based on the findings of compliance with City regulations;** or
2. Modify the findings or proposed code, and approve the request as modified; or
3. Deny the application based on the Commission's/Council's findings, or
4. Keep the written record open and continue the Public Hearing to a date certain if more information is needed; or
5. Close the public hearing and continue deliberations to a date certain, if needed.

Questions?



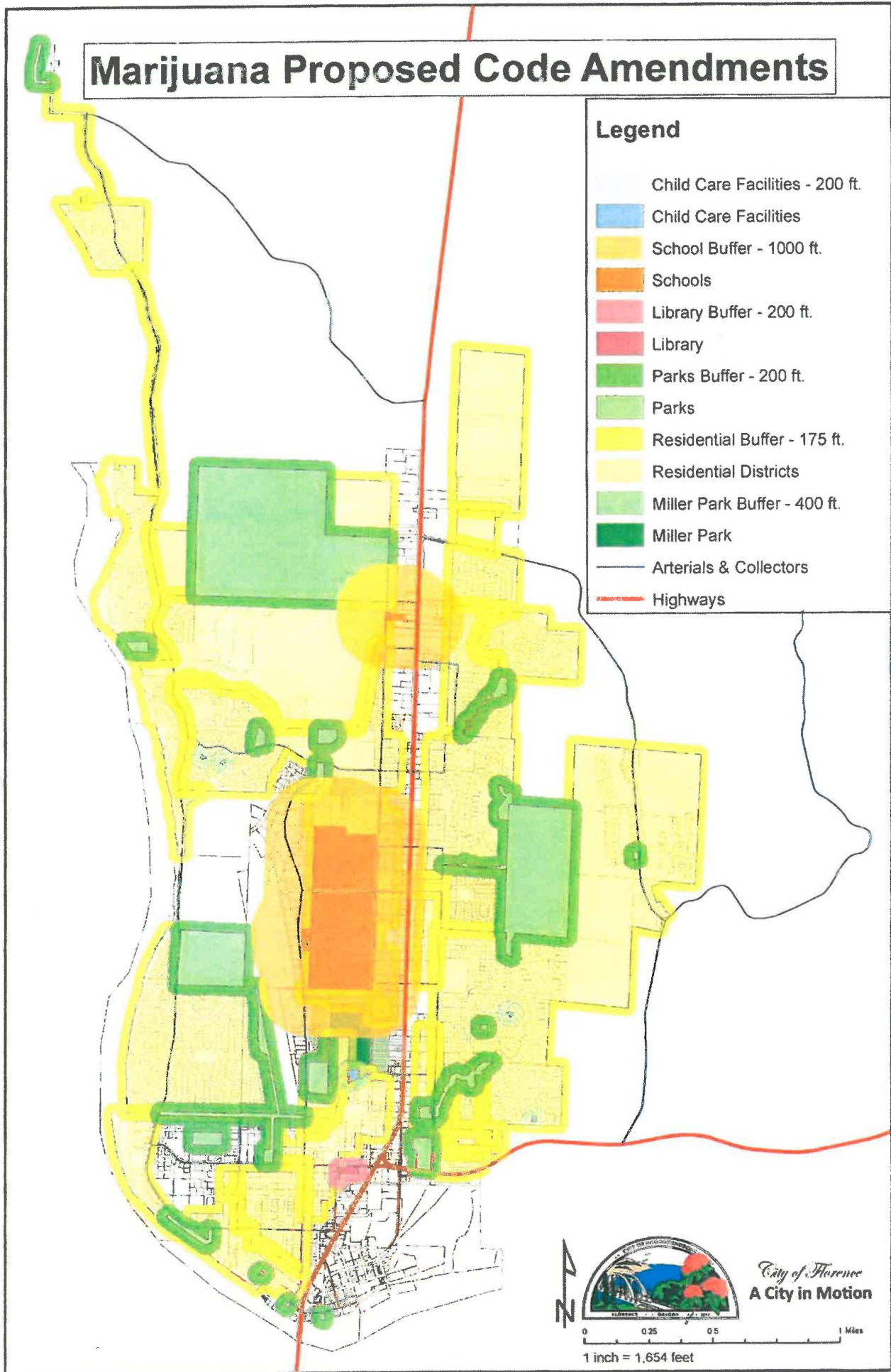
• Marijuana Businesses

12/14/2015 • 11

Marijuana Proposed Code Amendments

Legend

- Child Care Facilities - 200 ft.
- Child Care Facilities
- School Buffer - 1000 ft.
- Schools
- Library Buffer - 200 ft.
- Library
- Parks Buffer - 200 ft.
- Parks
- Residential Buffer - 175 ft.
- Residential Districts
- Miller Park Buffer - 400 ft.
- Miller Park
- Arterials & Collectors
- Highways

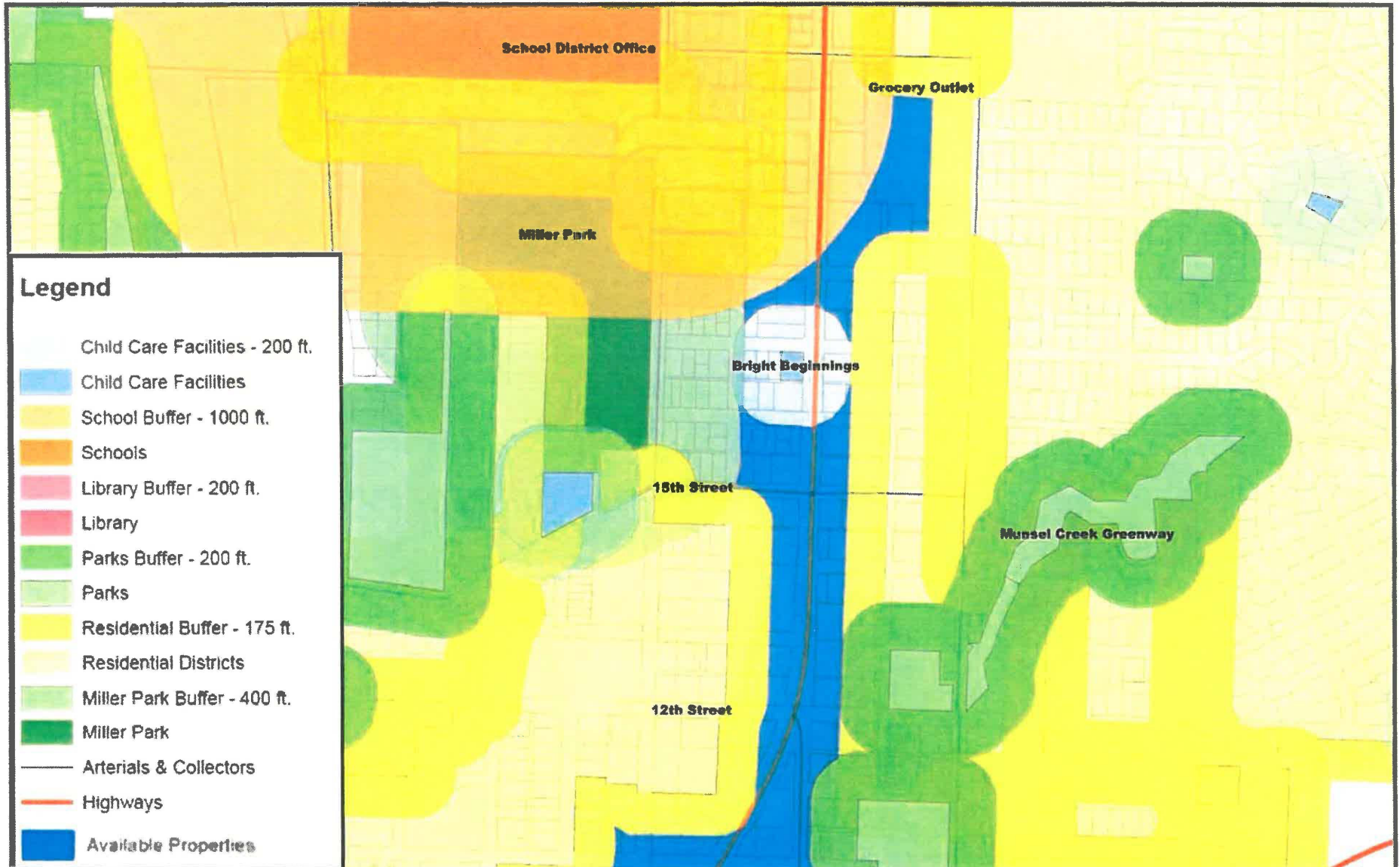


City of Florence
A City in Motion

0 0.25 0.5 1 Miles
1 inch = 1,654 feet

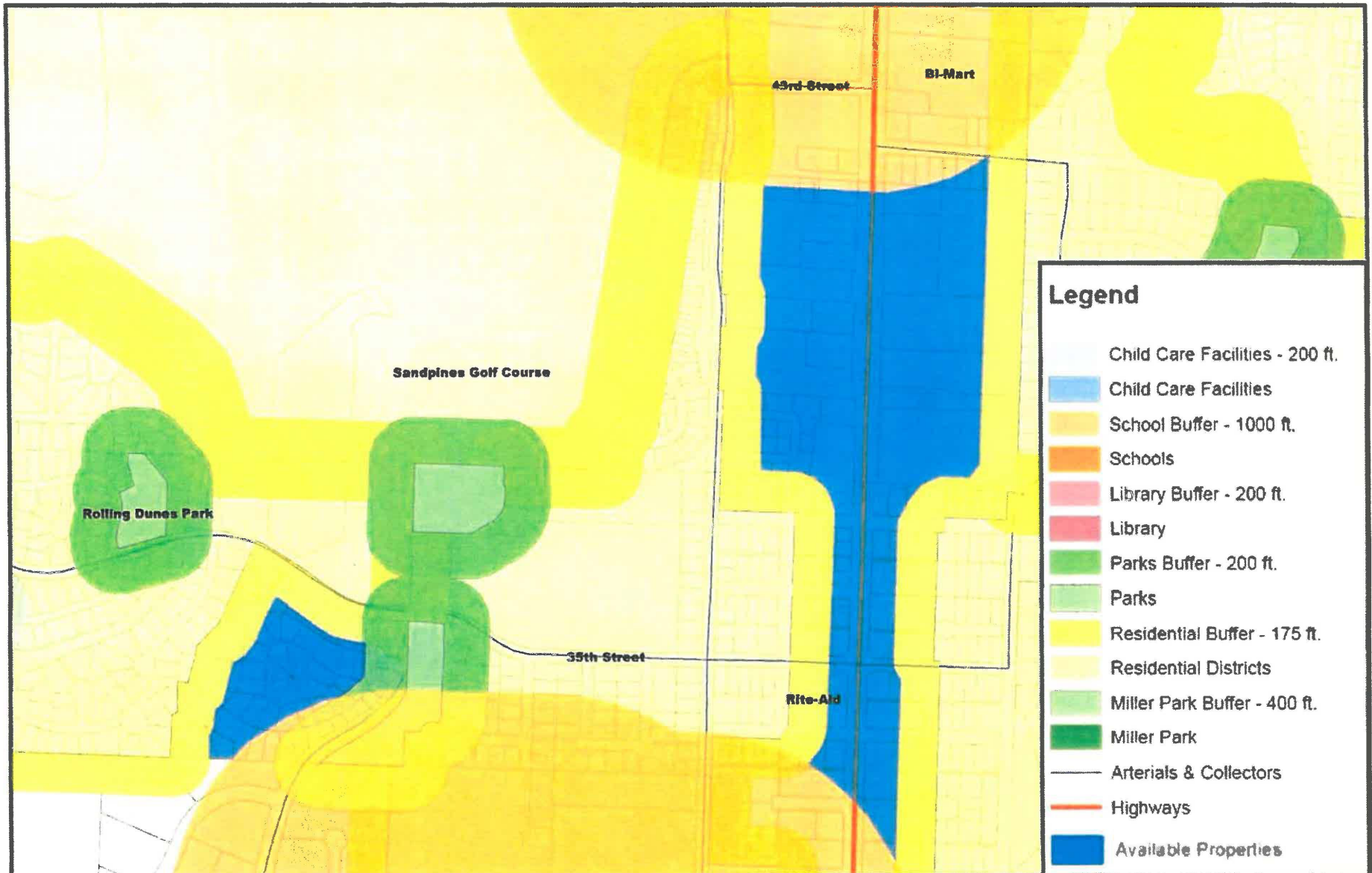
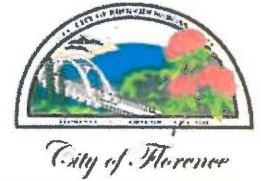
Commercial District Available Properties

Proposed Marijuana Code Amendment Buffers
Applies to Retail Marijuana and Medical Marijuana Stores



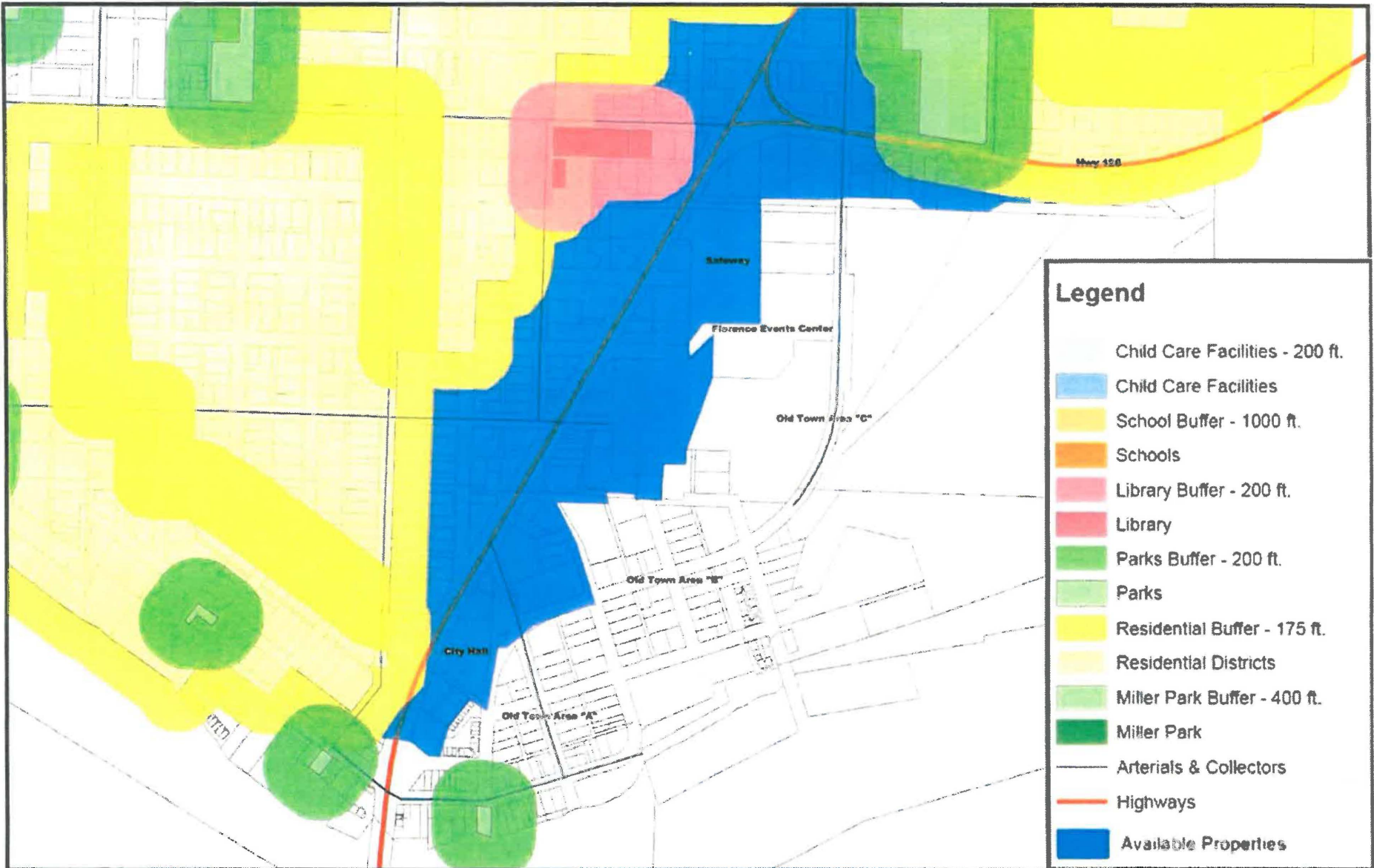
Highway District Available Properties (incl. Sandpines Comm. Zone)

Proposed Marijuana Code Amendment Buffers
Applies to Retail Marijuana and Medical Marijuana Stores



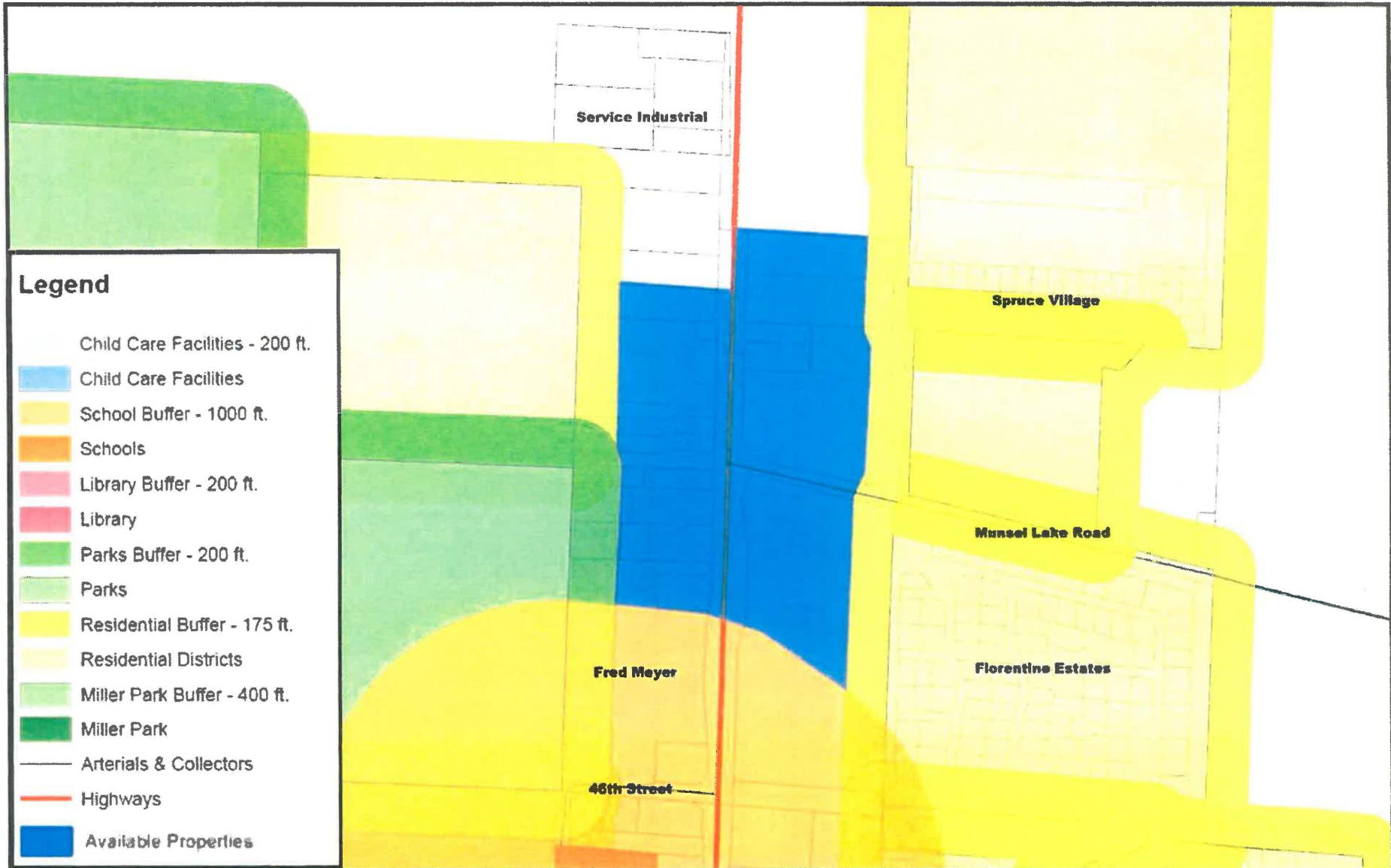
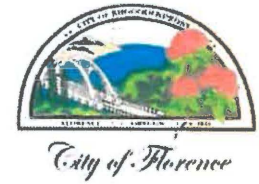
Mainstreet District Available Properties

Proposed Marijuana Code Amendment Buffers
Applies to Retail Marijuana and Medical Marijuana Stores



North Commercial District Available Properties

Proposed Marijuana Code Amendment Buffers
Applies to Retail Marijuana and Medical Marijuana Stores



Professional Office Institutional District Available Properties

Proposed Marijuana Code Amendment Buffers
Applies to Retail Marijuana and Medical Marijuana Stores



Recreational Marijuana Proposed Text Amendments - Post Card Responses

NEIGHBOR	LOCATION	CONTACT #	RESPONSE
Janette Long	Munsel Lake Rd	209-298-9011	Confused - Very Concerned (small children)
Alisa Dale	426 Ivy Street		Confused - Concerned
Mr. Pendinton	Old Town		Confused - Concerned
Bill Mason			Extremely Concerned - Angry (Got Him by the Short Hairs)
Joseph	679 Siana Loop		Concerned
John O'Malley	Yew Street		Concerned
Robert Olsen	Florentine		Extremely Concerned - Angry (Hung Up)
Bill Craven	Driftwood Shores		Very Unhappy
Mr. & Mrs. Orr	Willow Loop		Curious - Worried
Kevin Sponhern	Maple Street		Curious - Unhappy (Moving Away)
Carol Campbell			Concerned
Sylvia	Tomasino		Very Concerned (Nurse)
Jean Perry	Florentine		Concerned
Chuck Norris	Green Trees #59	541-997-8517	Very Concerned (Have Opened Up the Door)
Tom Payne	Bay Street		Curious
Dianna	off of 35th		Very Unhappy
Jason Nelson	Florentine - General Manager		Curious (wanted information for the residents)
Tom Fritz	Laurel Crossing #19	702-306-6872	Curious - Concerned
Merrel Ecker			"Thank You!" - (Hung Up)
Robert Middlebrook	20th		Confused - Concerned
Ron Goerzen	Sandpines West	541-902-9213	Curious - Concerned
Dave	35th Skookum	541-590-3557	Confused - Concerned

Raymond & Suzanne Neisley	436 Lelo Ct	541-997-3027	Very Concerned
Elizabeth	O.D. Golf Course		Concerned
Ursula Lovins	Florentine		Curious
Sherrie Boyce	Sebastian		Concerned
Andrew Vangor	Florentine	541-997-1323	Extremely Concerned
Richard Lewis	Shelter Cove		Curious - Concerned
Annette Metzler	2124 41st		Extremely Concerned (cried all night)
David Rude	Florentine		Curious - Concerned
Audrey Lerman	Florentine	541-997-7611	Very Concerned
Patricia Duncan	Florentine	541-997-5051	Concerned
Norm	owns property on 32nd		concerned about his property value
Joe Cole	owns #22 & #23 in Shelter Cove	760-739-8120	concerned about his property value
Robert Childers	owns property on 16th		concerned about his property value
Edna Wilmeth	owns property- Munsel Lake Rd	from Roseburg	concerned about his property value
Mark Paulson	owns condo- Drifwood Shores	From Reno, NV 775- 771-7290	concerned about his property value
Milt Peppitone	20th Street	541-902-0156	Greatly Apposed
Crystal & Husband	Green Trees		Concerned
Leah Essa	Willow Ridge Court	541-997-4056	Very Concerned
David Dukes	owns property- 22nd & Spruce	541-520-2215	concerned about his property value
Marilyn Medler	owns property- Airport Rd		concerned about her property value
Gene Shotwell	owns property- Coast Village	916-674-1231	concerned about property value
Gerald & Audrey Parker	owns property- Florentine	P.O. Box 4121 Anahiem, CA 92803	worried about marijuana in the city and concerned about property value
Dorothy Procopenko	owns property- Wild Winds	360-922-7607	concerned about property value

Glen Siefert	lives and owns property in town	541-999-6450	is apposed to it
Robin	owner- Silver Sand Dollar	541-999-0880	worried about it being in Old Town
Clark Binns		541-556-7096	concerned about property value
Jay Kosman			adamantly apposed

December 10, 2015

Florence Planning Department

This is in regard to Ordinance 12, Series 2015, the proposal to "add and modify definitions and establish the permitted building and use provisions for marijuana production, processing, wholesaling, and sales facilities"

My wife and I live at 430 Myrna Loop, Florence Oregon, 97439. Our mailing address is 2006 Highway 101 #230, Florence Oregon 97439.

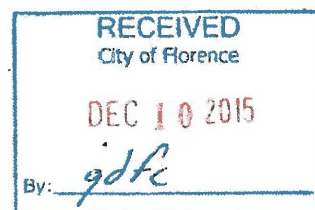
My wife and I strongly object to drugs in any form in the residential area we live in!!

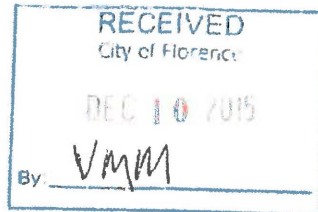
From reading the postcard you sent it seems to us this is a commercial endeavor and if approved should be done in a commercial area NOT A RESIDENTIAL AREA!!

Sincerely

Marvin Strickland
MARVIN STRICKLAND

Diana Strickland
DIANA STRICKLAND





2261 Marie Lane
Eugene, OR 97408
December 8, 2015

Florence City Council & Planning Commission

Subject Ordinance 12, 13 section 2015

We own a building in Old Town on the corner of Bay St & Maple. We built it in 1983, moved Wind Draft Bakery at that time. Wind Draft had been across from the Kyle Bldg.

We do not want marijuana to be grown, processed or sold in Old Town. At the present time we had "pot" smokers smoking behind our building. It's difficult getting them off of our property.

Various people have told us of the stink processing marijuana creates. "Worse than a skunk" Would any of you enjoy living or working next to that?

Allowing the above would be a huge mistake! It would give the wrong impression to tourists and others. If some people avoid the area, business will slow, employees could be laid off. Remember one dollar goes around town five times. If property values fall, less money will go to the city of Florence.

Old Town is certainly not perfect. It never was. I remember in the 70's we drove our kids to the movies in Old Town and picked them up. So many guys getting drunk, getting into fights etc. Think of all the people of Florence, not those out for a quick buck.

Sincerely yours
Lonna Burke
Bay St. Properties LLC

10 December 2015

Kelli Weese, City Recorder
Florence City Council
City Hall
250 Highway 101
Florence OR 97439



Re: Ordinance No. 12, Series 2015


I will not be able to attend public hearings on this measure, but I wish to have my views considered, thus this letter. I'm retire and my wife and I moved here in 2000. Florence is a wonderful little town that has gained national recognition (at least twice) as one of the most desirable spots in the US to retire.

First, Let my say that I am not and never have been a marijuana user, but I have no problem with those who do use the drug, either medicinally or recreationally. Also, I voted for legalization of marijuana, because I believed (and still do) that is was the best solution to a bad problem.

Having said that, my problem with Ordinance 12 is that it is of absolutely no benefit to the Florence community. It only benefits those involved in marijuana "production, processing, wholesaling and sales." Sales is currently done in town. My biggest concern is 'production and processing' - Greenhouses? In town? Where would processing take place?

We have no wineries, breweries or distilleries (who produce compounds used recreationally like marijuana), so why have marijuana processors?

The proposed ordinance makes no sense for citizens of Florence and in fact would, if passed, be to the detriment of our community.


John Weatherwax
1990 Willow Loop
Florence, OR 97439

Re: City of Florence Ordinance 12, Series 2015 & Resolution PC 15 19 TA 01

The City Council of Florence and
Planning Commission Members

In regard to allowing recreational Marijuana manufacture and sale in Florence:

We question the City's promotion of an activity that is expressly prohibited under Federal Law. 1) As citizens, we are not willing to have our sparse tax dollars spent on thorny legal issues with the government, or lawsuits in the public sphere. 2) And aside from the illegality of manufacturing and selling recreational marijuana, it sets a very questionable precedent for the community's growth.

It's a matter of direction rather than economics. Our City has the responsibility of promoting growth that is attractive to present and future families. We believe any growth of the marijuana 'industry' here would be unsavory in the long term.

In the early 1970's, Florence had the dubious distinction, nationwide, of having the highest per capita rate of alcoholism and suicide in the nation. (Time and Life) Old Town and the City have worked hard to change that image and become a wholesome destination for tourists, retirees, and hopefully in the future, more young families. We are opposed to any movement toward making drugs *and alcohol* our *raison d'être* in the business community, and ostensibly the "only way we can make money". We have proven so far to be more creative than that, and as a result, successful.

Surely we should be thinking in terms of livability for the entire community, rather than the "bottom line" of a few individuals.

Stuart and Joann Henderson
The Kyle Building
1297 Bay Street
Florence, Or

Stuart Henderson
Joann Henderson

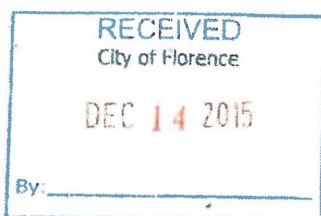


Exhibit S

Dec. 11, 2015

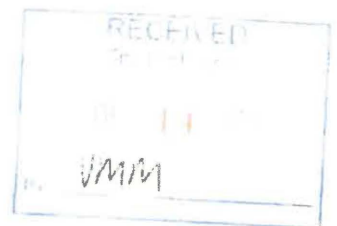
NOTE:

From Gerald E. / Audrey B. Parker

Pursuant to conversation with Vevie,
the city employee, regarding Growing Marijuana
in Florence.

We did not want Marijuana to come
to Florence or even Oregon state.

Audrey B. Parker - 2
Gerald E. Parker





Gerald E & Audrey B. Parker
PO Box 4121
Anaheim, CA 92803



46¢
USA

SEATTLE, WA 98104 CA 92803

11 DEC 2015 PM 10 L

city of Florence
250 Highway 101
Florence, OR 97439

97439762850



City of Florence Public Hearing 12/14/15

In reference to Ordinance No.12 Series 2015

This letter serves as our voice in the matter due to myself,(Sue Sophan) and Meuy Sophan cannot attend tonight's meeting for work related reasons. We live on Wecoma Loop off 35th street with the dunes Golf Course property directly behind our home. We do not condone the use of marijuana and feel it should never have been made legal. Therefore we do not want it grown,harvested or sold anywhere near our home and neighborhood. We have a child in our home and we do not want marijuana anywhere near our son. There are plenty of properties North or South of town where a structure can be built for this purpose. I am sure I speak for most of my neighbors who are elderly. We have lived in our home 19 years and enjoy the quiet of our cul-de-sac which we share with another family. Our children play out on the cul-de-sac and we do not want the road to go through,nor do we want any danger or uncertainties near our children and homes. Thank you for your time.

Sue Sophan and Meuy Sophan

764 Wecoma Loop,Florence



Federal Guidance

Cole Memo directs states to prevent:

- Distribution of marijuana to minors
- Revenue from the sale of marijuana from going to criminal enterprises, gangs and cartels
- Diversion of marijuana from where it is legal under state law to other states
- State-authorized activity from being used as a cover for illegal activity
- Violence and the use of firearms in the cultivation and distribution of marijuana
- Drugged driving and other adverse public health consequences associated with marijuana use
- Growing of marijuana on public lands
- Marijuana use on public property

Attachment 6

**CITY OF FLORENCE
ORDINANCE NO. 12, SERIES 2015**

An Ordinance amending Florence City Code Chapters 1, 3, 4, 15, 16, 17, 20, 21, 25, 27, 28, 30, and 31 of Title 10 concerning marijuana related businesses; and declaring an emergency

RECITALS:

1. The Florence City Council initiated amendments to implement marijuana related business standards via their 2015 Work Plan by motion on February 17, 2015.
2. On November 9, 2015 notice of the proposed code amendments was sent to the Department of Land, Conservation and Development, not less than 35 days prior to the first evidentiary hearing.
3. On November 23, 2015, the City sent notice to affected property owners pursuant to ORS 227.186 notifying them of the joint Planning Commission and City Council public hearing, as well as posted the proposed code amendments on the web site.
4. On November 24, 2015, the City sent notice to Referral Agencies about the proposed amendments and the public hearing.
5. On December 1, 2015 and December 9, 2015, notice of hearing was published in the Siuslaw News, prior to the joint Planning Commission and City Council hearings of December 14, 2015.
6. City Council and Planning Commission held joint work sessions on November 4 and 18, 2015.
7. Planning Commission opened their public hearing December 14, 2015 and then closed it and deliberated to a decision for a recommendation to the City Council on December 14, 2015.
8. City Council conducted a public hearing on December 14, 2015 and found the amendments consistent with applicable criteria in Florence City Code, Realization 2020 Florence Comprehensive Plan, Oregon Administrative Rules and Oregon Revised Statutes.
9. The City Council has deemed that the Ordinance shall be passed via emergency in order to meet the permitting timelines established by the Oregon Liquor Control Commission (OLCC), which will begin to accept licenses for Marijuana businesses on January 4, 2016, and will subsequently require local agencies to complete a Land Use Compatibility Statement (LUCS).

Based on these findings,

THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The Florence City Code Chapters 1, 3, 4, 15, 16, 17, 20, 21, 25, 27, 28, 30, and 31 of Title 10: Zoning Regulations, are amended as shown in Exhibit B.
2. The Council declares an emergency and as such this ordinance shall take effect at a date earlier than the thirtieth day after its enactment as set out in the Florence City Charter Section 31. This ordinance shall become effective January 1, 2015.
3. The City Recorder is authorized to administratively correct any reference errors contained herein or in other provisions of the Florence City Code to the provisions added, amended, or repealed herein.

ADOPTION:

First Reading on the 14th day of December, 2015.

Second Reading on the 14th day of December, 2015

This Ordinance is passed and adopted on the 14th day of December, 2015.

AYES - 5 Councilors Greene, Preisler, Lacer, Lyddon and Mayor Henry

NAYS - 0

ABSTAIN -0

ABSENT -0

Joe Henry, Mayor

Attest:

Kelli Weese, City Recorder

TITLE 10
CHAPTER 1

ZONING ADMINISTRATION

SECTION:

10-1-4: Definitions

10-1-4: DEFINITIONS: For the purpose of this Title, certain words, terms and phrases are defined below. Words used in the present tense include the future; the singular number includes the plural; and the word "shall" is mandatory and not directory. Whenever the term "this Title" is used herewith it shall be deemed to include all amendments thereto as may hereafter from time to time be adopted. Definition contained in the Florence Comprehensive Plan shall also be used to define terms used in this Title of the Florence City Code, and, where conflicts exist, the terms used in this Code shall apply to the respective Code requirements. Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

MARIJUANA PROCESSING SITE A location for compounding or converting of marijuana into medical products, concentrates, or extracts under the authority of the Oregon Health Authority.

MARIJUANA PROCESSOR The compounding or converting of marijuana into products, concentrates, or extracts under the authority of the Oregon Liquor Control Commission.

MARIJUANA PRODUCER The manufacture, planting, cultivation, growing and harvesting of marijuana under the authority of the Oregon Liquor Control Commission.

MARIJUANA RETAILER A retail business licensed by the Oregon Liquor Control Commission to sell marijuana items to consumers in this state.

MARIJUANA WHOLESALER The purchase of marijuana items in this state for resale to a person, other than a consumer, under the authority of the Oregon Liquor Control Commission.

MEDICAL MARIJUANA FACILITY DISPENSARY A location to transfer marijuana registered with the Oregon Health Authority. Formerly or also known as a Medical Marijuana Facility, ~~medical marijuana dispensary business required to register with the Oregon Health Authority under ORS 475.314.~~

MEDICAL MARIJUANA PRODUCTION The manufacture, planting, cultivation, growing and harvesting of marijuana at a specific location registered by the Oregon Health Authority to produce marijuana for medical use by a specific patient. Also defined by the OHA as a "grow site."

HOME OCCUPATION Any use customarily conducted entirely within a dwelling or accessory building and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the structure for dwelling purposes and which does not change the character thereof or does not adversely affect the uses permitted in

the district of which it is a part. Home occupations are permitted by this Title, provided they conform with the following criteria:

- A. No employment of help other than the members of the resident family.
- B. No use of material or mechanical equipment that is inconsistent with the residential character of the neighborhood.
- C. No sales of products or services not produced on the premises.
- D. The use shall not generate pedestrian or vehicular traffic beyond that normal to the district in which it is located.
- E. It shall not involve the use of commercial vehicles for delivery of materials to or from the premises.
- F. No storage of materials/supplies outdoors.
- G. It shall not involve the use of signs and/or structures other than those permitted in the district of which it is a part.
- H. The use shall be conducted entirely within a building.
- I. Medical and recreational marijuana producers and processors shall also comply with the criteria outlined in FCC 10-4-12-1.

Section 10-1-4 amended by Ord. No. 12, Series 2015 (effective 00/00/00)

Attachment 8

Old Town Wholesaling Code Amendments

PC 15 21 TA 03

CC 15 07 TA 03



Criteria

Florence City Code, Title 10:

Chapter 1: Zoning Administration, Section 3-C

Chapter 17: Old Town District, Section 1, A-2-B, and A-2-C

Realization 2020 Florence Comprehensive Plan:

Chapter 1: Citizen Involvement, Policies 4, 5, and 6

Chapter 2: Land Use: Other Plan Designations, Policy 1, Downtown Planning Area

Chapter 9: Economic Development, Policy 1

Oregon Revised Statutes:

197.610: Submission of proposed comprehensive plan or land use regulation changes to Department of Land Conservation and Development

227.186: Notice to property owners of hearing on certain zone change

Statewide Planning Goals (OAR 660-015-0000):

1. Citizen Involvement
2. Land Use Planning
9. Economy of the State

Introduction

- **October 29, 2015** – Applicant applied for code amendment
- **November 23, 2015** – Application deemed complete
- **November 23, 2015** – Notice mailed to all property owners in Old Town Area "A" and Waterfront/Marine zoning districts
- **December 2nd and 9th** – Notice published in the Siuslaw News

© Old Town Wholesaling

12/14/2015 ●3

Areas Affected by Proposed Changes



© Old Town Wholesaling

12/14/2015 ●4

Existing Code

B. Conditional Uses: Uses which are administratively determined to have an impact similar to or less than Conditional uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

Residential units: provided that any building facing a street (or streets if a corner lot) shall include a first story commercial use that occupies the first twenty-five feet (25') of the building(s) that face(s) a street. If pedestrian access to the dwelling(s) is from the street, it shall be a separate entrance and not more than six feet (6') wide.

Lodging, motels and hotels

Bed and Breakfast inns

Entertainment and recreational facilities (indoor)

Manufacturing and production of retail items sold on the premises (< 5000 s.f. w/retail)

Taxi stands

Commercial & public parking lots (ground level)

Public safety facilities (police and fire stations)

Accessory uses and structures, except activities that are permitted as a basic use and for required on-site parking

Proposed Code

Staff has proposed a modification of the code previously submitted. Staff recommends the following changes to the proposed code for FCC 10-17A-2-B:

Manufacturing and production of food and beverage items sold on- and off-premises, when accompanied by a retail space and/or restaurant on-premises where those items are sold (≤5,000 square feet not including retail/restaurant area) and loading of materials to be sold off-site takes place on private property.

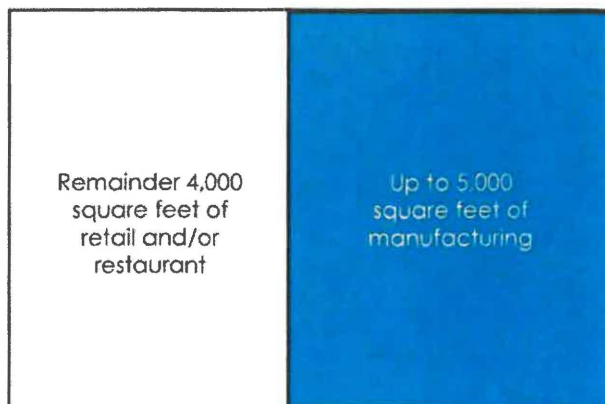
Proposed Code

In addition, staff recommends the following change to proposed code for FCC 10-17A-2-C:

Wholesale sales, except as allowed above as an accessory to a Conditional Use

Warehousing, except as allowed above as an accessory to a Conditional Use

What does this look like?



9,000 square foot building

Testimony

No Referral Comments Received

Testimony Received

Exhibit "D" – Noble & Henderson

Voiced concerns of livability with breweries, did not want large manufacturing in Old Town. Did support allowing the wholesale of products from restaurants.

Staff Response

- Manufacturing currently allowed
- Staff has proposed limiting to food & beverage
- Staff agrees that wholesaling of goods produced on-site under sq. footage requirements should be allowed.
- Staff proposes that small-scale brewing kept under the limit in place for manufacturing would be an attractive addition
- Staff would like to keep large-scale manufacturing and industry in the Business Park

Staff Recommendation

Staff finds that the proposed code amendments meet the requirements of City Code, the Florence Realization 2020 Comprehensive Plan and Oregon Revised Statutes and recommends approval of both Resolution PC 15 21 TA 03 and Ordinance No. 13, Series 2015.

Alternatives

1. Approve the application based on the findings of compliance with City regulations; or
- 2. Modify the findings or proposed code, and approve the request as modified; or**
3. Deny the application based on the Commission's/Council's findings, or
4. Keep the written record open and continue the Public Hearing to a date certain if more information is needed; or
5. Close the public hearing and continue deliberations to a date certain, if needed.

Questions?



• Cold Town Wholesaling

12/14/2015 • 13

AGENDA ITEM SUMMARY (UPDATED)
FLORENCE CITY COUNCIL

ITEM NO: 4
Meeting Date: Dec. 14, 2015
Department: Planning

ITEM TITLE: Ordinance No. 13, Series 2015 / Resolution PC 15 21 TA 03: Old Town Wholesaling – Legislative Code Amendments to Title 10

DISCUSSION/ISSUE:

Discussion

As part of the discussion regarding this proposed code with Ross Williamson, City Attorney, staff discussed several options which may resolve some outstanding issues with the currently proposed code, including clarity, intent, structure, and wording. Staff would like to propose the reworking of the proposed code as follows:

Manufacturing and production of food and beverage items sold on- and off-premises, when accompanied by a retail space and/or restaurant on-premises where those items are sold (≤5,000 square feet not including retail/restaurant area) and loading of materials to be sold off-site takes place on private property.

The City Attorney and Staff recommend this revised code in order to eliminate wholesaling as its own use and include wholesaling (an off-premises sale) as an accessory use to the manufacture of food and beverage goods. The revised code also eliminates “without” from the statement about area, clarifying that manufacturing should take place with a retail/restaurant area in all cases.

In addition, the City Attorney recommended that the list of Prohibited Uses (FCC 10-17A-2-C) should address wholesaling as an accessory use which would be covered by the above clause, and should address warehousing as such:

Wholesale sales, except as allowed above as an accessory to a Conditional Use
Warehousing, except as allowed above as an accessory to a Conditional Use

Additional Testimony

Attached to this AIS as Exhibit “D” is additional testimony from Sue Noble and Joanne Henderson.

FISCAL IMPACT:

There would be no known direct financial impact to the City.

RELEVANCE TO ADOPTED COUNCIL GOALS:

The approval of Ordinance No. 13, Series 2015 will diversify the types of businesses allowed within the Old Town Area "A" zoning district, meeting the 2015 Council goal of "Expand and diversify the Florence economy (Goal 2)."

ALTERNATIVES:

1. Approve the application based on the findings of compliance with City regulations; or
2. Modify the findings or proposed code, and approve the request as modified; or
3. Deny the application based on the Commission's/Council's findings; or
4. Continue the Public Hearing to a date certain if more information is needed; or
5. Close the public hearing and continue deliberations to a date certain, if needed.

RECOMMENDATION:

Staff finds that the proposed application meets the requirements of City Code, the Florence Realization 2020 Comprehensive Plan, and the Oregon Revised Statutes and recommends the approval of Resolution PC 15 21 TA 03/Ordinance No. 13, Series 2015.

AIS PREPARED BY: Glen Southerland, Assistant Planner

CITY MANAGER'S RECOMMENDATION: Approve Disapprove Other
Comments:

ITEMS ATTACHED: B. Proposed Code Amendments (Revised)
D. Noble & Henderson Testimony

**TITLE 10
CHAPTER 17**

OLD TOWN DISTRICT

SECTION

10-17A-2 Land Uses for Area A

OLD TOWN DISTRICT AREA A

10-17A-2 LAND USES FOR AREA A: The following establishes permitted, conditional, and prohibited uses for the Old Town District Area A:

- B. Conditional Uses:** Uses which are administratively determined to have an impact similar to or less than Conditional uses listed below. The Planning Commission, subject to the procedures and conditions set forth in Chapter 4 of this Title, may grant a conditional use permit for the following:

Manufacturing and production of food and beverage items sold on- and off-premises, when accompanied by a retail space and /or restaurant items sold on-on-the premises where those items are sold (<= 5,000 s.f. w/retailquare feet not including retail/restaurant area) and loading of materials to be sold off-site takes place on private property

- C. Prohibited Uses:** Uses that are administratively determined to have impact similar to or greater than a Prohibited use listed below are prohibited in this Area. The following uses are specifically Prohibited:

Wholesale sales, except as allowed above as an accessory to a Conditional Use
Warehousing, except as allowed above as an accessory to a Conditional Use

Established by Ord. No 1, Series 2008 – effective Feb. 4, 2008

Sections 10-17A-2, 10-17B-2, 10-17C-2,10-17A-4, 10-17B-4 and 10-17C-4 Amended by Ord. No. 9, Series 2009

Sections 10-17B-3-E and 10-17C-3-E, Amended by Ord. No. 2, Series 2011 – effective March 11, 2011

Sections 10-17-A-4-G, 10-17-B-4-G, and 10-17-C-4-G amended by Ord. No. 4, Series 2011 – effective April 22, 2011

Sections 10-17A-2, 10-17A-4, 10-17B2, 10-17B-4, 10-17C-2, and 10-17C-4 amended by Ord. No. 3, Series 2013, see Exhibit B (effective 7-31-13)

Section 10-17A-4-E amended by Ordinance No. 4, Series 2014 – effective October 15, 2014

Section 10-17-A-4-I-5, 10-17-B-4-I-5, and 10-17-C-4-I-4 amended by Ord. No. 12, Series 2014 – effective December 31, 2014

Section 10-17A-2-B amended by Ordinance No. 13, Series 2015 – effective January 12, 2016

Submitted Dec.14, 2015

In reference to Ordinance No. 13, Series 2015

Public Hearing - December 14, 2015

Since the applicant makes no mention of establishing a restaurant at the site proposed as a brewery we must assume that the brewery is either connected to an existing bar/restaurant or will primarily wholesale or will have a tasting room/bar/retail outlet on-site, but none of these require that the brewery, as a manufacturing plant, be located in congested Old Town .

Issues of odor control, noise, parking and traffic congestion are serious livability issues for residents, as well as visitors trying to enjoy the ambiance of Old Town which has flourished in its current form without factories and manufacturing.

It is somewhat ingenious of applicants to equate commercially brewing beer with the wholesaling of prepared food products from an existing restaurant kitchen . It would *be* perfectly reasonable for an ordinance change so that restaurants in old town using their own kitchens have the right to wholesale products if they do not have the right to do so, but that has nothing to do with establishing a commercial brewery.

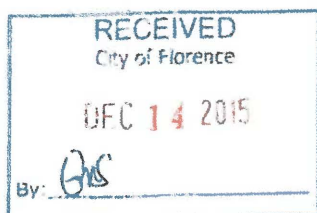
This ordinance, if passed, opens up a possibility that the entirety of Old Town, and the area as shown on the map attached to the notice of public hearing, will be opened to manufacturing industry with unknown, or few limitations.

Applicants have already mentioned a future need to expand the brewery - but surely not at that location with such limited square footage. If neighboring or adjacent land were purchased it would enlarge the industrial footprint. This is the type of industry that would be better served in our underused industrial park area. Thought should be put into developing the Kingwood area as a mixed-use neighbor and a brewery could be the catalyst for other small businesses and manufacturers.

Respectfully yours:

Susan Noble
1336 Bay St.
P.O. box 87, Florence, OR.

Joanne Henderson
1297 Bay St.
P.O. Box 1762, Florence, OR.



Joanne Henderson