

**CITY OF FLORENCE  
PLANNING COMMISSION**

**RESOLUTION PC 15 01 ANN 01**

**A RESOLUTION RECOMMENDING APPROVAL OF ANNEXATION OF 88274 RHODODENDRON DRIVE – LOTS 1, 11, AND 12 OF BLOCK 13, HECETA BEACH, AS PLATTED AND RECORDED IN BOOK 7, PAGE 25 OF THE LANE COUNTY, OREGON PLAT RECORDS IN LANE COUNTY, OREGON. TOGETHER WITH THAT PORTION OF THE VACATED ALLEY ADJACENT AND INURING THERETO BY VACATION PROCEEDINGS WHICH WERE RECORDED MAY 28, 1981, RECEPTION NO. 8122799, LANE COUNTY OREGON RECORDS.**

**WHEREAS**, the owners initiated the annexation with a petition to the city by owners of more than half the property owners and by all of the electors as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4; and

**WHEREAS**, the proposed annexation is within the Florence Urban Growth Boundary and contiguous to the city at Rhododendron Drive as required by ORS 222.111 (1); and

**WHEREAS**, the Planning Commission met in a public hearing on March 24, 2015 after giving the required notice per FCC 10-1-1-5 to consider the proposal, evidence in the record and testimony received; and

**WHEREAS**, the Planning Commission determined, after review of the proposal, testimony and evidence in the record, that the proposal was consistent with Realization 2020, the city's acknowledged Comprehensive Plan and adopted findings of fact in support of the annexation; and

**NOW THEREFORE BE IT RESOLVED** that the Florence Planning Commission:

Section 1. Recommends approval of the annexation as depicted on the attached map marked Exhibit A with the boundaries described as Exhibit B.

Section 2. Bases its recommendation for approval on the findings of fact showing consistency with the Realization 2020 Comprehensive Plan (Exhibit C).

**APPROVED BY THE FLORENCE PLANNING COMMISSION** this 24<sup>th</sup> day of March, 2015.

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Curt Muilenburg, Chairperson  
Florence Planning Commission

**PC 15 01 ANN 01 – Jerry's Place Annexation  
EXHIBIT A**

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**Parcel –**

**MAP 18-12-04-42 Taxlot 6700**

Lot 1 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

**Map 18-12-04-42 Taxlot 07800**

Lot 12 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

**Map 18-12-04-42 Taxlot 07900**

Lot 11 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

**STAFF REPORT & FINDINGS**  
**FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT**  
**Planning Commission**  
**Exhibit "C"**

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<b>Public Hearing Date:</b>	March 24, 2015	<b>Planner:</b> Glen Southerland
<b>Date of Report:</b>	March 17, 2015	
<b>Application:</b>	PC 15 01 ANN 01	Jerry's Place Annexation
	PC 15 08 ZC 01	Jerry's Place Zone Change

**I. PROPOSAL DESCRIPTION**

**Proposal:** Annexation

A request for the City of Florence to annex property from Lane County into the city.

Rezoning

Upon annexation, the property needs to be zoned with a city zoning district. The corresponding zoning district matching their plan designation is Commercial.

**Applicant:** Barbara and Mike Cessnun

**Property Owners:** Barbara and Mike Cessnun

**Location:** 88274 Rhododendron Drive  
Map 18-12-04-42 TL 06700

Lot 1 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

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**Comprehensive Plan Map Designation:** Commercial

**Surrounding Land Use / Zoning:**

**Site:** Commercial / County CA (Rural Commercial District) (Beaches & Dunes Overlay)  
**North:** Single-family residences / County RA/MH (Suburban Residential / Mobile Home District) (Beaches & Dunes and Interim Urban Combining District Overlays)  
**South:** Single-family residences / County RA/MH (BD & U Overlays)  
**East:** Single-family residences / County RA/MH (BD & U Overlays)  
**West:** Single-family residences / County RA/MH (BD & U Overlays)

**Streets / Classification:**

**II. NARRATIVE**

There are three lots under consideration for annexation. The southern lot (TL 6700) is developed with the Jerry's Place Restaurant. The northeastern lot (TL 7900) is used for a parking lot & septic drain field for the Jerry's Place restaurant. The northwestern lot (TL 7800) is vacant.

The northerly lots abut Foulweather Street and the southerly lot abuts Perpetua Street. The lots include a previously vacated 15 foot-wide alley that ran east-west through Block 13 of the Heceta Beach original plat. The alley running the length of Block 13 was vacated by the County through Resolution 1138/8122744.

The applicants petitioned for annexation on January 12, 2015 and after receiving additional information their application was deemed complete as of January 12, 2015. The applicants amended their annexation request on February 16, 2015, removing the single-family residence on Lot 2 of Block 12 (TL 06700 portion) from the petition.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation. The city has received signed petitions from 100% of the property owners and can initiate the annexation. There are no electors on the properties which have standing. Historically the city has used ORS 222.120, regardless of the fact that petitioners met the opportunities afforded by ORS 222.125. Because the applicant meets the criteria in ORS 222.125 the annexation portion of this request will be processed as an action item rather than a hearing. At this time the zoning will be processed as a quasi-judicial zone amendment with a hearing although staff thinks this is also an incorrect procedure.

The property owners of the vacant lot would like to benefit from city services, in particular sanitary sewer. The applicants have stated that the drain field that Jerry's Place currently utilizes is failing and that they would like to connect to the City sewer system. The property has a current connection to Heceta Water District water utilities. The properties are within the Siuslaw Rural Fire Protection District. The properties will continue to be served by both districts.

Rhododendron Drive east of the property is within the city limits, but is maintained by Lane County. The applicant or any others accessing Lane County right-of-ways must apply for access permits from Lane County Public Works.

There are several issues with the site, but none that will be addressed at this time. At the time of redevelopment of the site, the property owner will need to address parking located in the right-of-way, a 175' wide access apron which does not meet Lane County access standards, landscaping needs, and other issues.

### **III. PUBLIC NOTICE**

Notice of the Planning Commission's public hearing was mailed on March 3, 2015 to property owners within 300 feet of the proposed annexation area. Notice was published in the Siuslaw News on March 11<sup>th</sup> and March 18<sup>th</sup>. On March 16, 2015 notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

#### **Public Comments:**

At the time of report, the following comments had been received:

Testimony from Kevin Clark and Carol Kumpula-Clark, received March 15, 2015 (Exhibits E1 and E2) stating that they oppose the annexation because they do not want expanding commercial uses in their residential area and have had issues in the past with noise from the annexing property. They cited ORS 222.111, 222.120, 222.125, and 222.170 as well as the Florence Comprehensive Plan as reasons that the annexation should not take place.

#### **Staff Response:**

Staff addresses ORS 222.111, 222.120, 222.125 and 222.170 later in this Staff Report, but finds that the petition meets the requirements of the cited Oregon Revised Statutes. Staff finds that Mr. Clark's concern that the business does not meet the current standards for a commercial zoned business abutting a residentially zoned area valid, but finds that the situation involves a pre-existing non-conforming use (existing prior to the mid-1980s). Should the property be annexed and the site re-developed in the future, these concerns can be addressed, but staff lacks the ability to address those concerns at this time. Staff would also like to note that a property annexed into the City would be subject to the City's nuisance code and policing, including the noise section (FCC 6-1-2-3). Residents of the City of Florence UGB are subject to county nuisance code and policing.

### **IV. REFERRALS**

On March 4, 2015, referrals were sent to Florence Public Works and Police; Lane County Transportation, Surveyor, Land Management and Environmental Health; and Siuslaw Valley Fire and Rescue. Referral to Heceta Water District was sent on March 17, 2015, please see Ch. 14, Policy 5 for further information.

## Referral Comments:

Sean Barrett, Siuslaw Valley Fire and Rescue, March 5, 2015

"Fire has no concerns with this referral and supports it."

Lindsey Eichner, Lane County Land Management, March 5, 2015

"Lane County Planning has no issue with the proposed annexation."

Daniel Ingram, Lane County Public Works, March 18, 2015

Daniel Ingram, Senior Engineering Associate for LCPW expressed that he had no issues with the annexation of the property into the City of Florence, but that the property owner would need to obtain a Right-of-Way permit in order to connect the sewer line to the pressurized main. He also stated that any future redevelopment of the property would require several changes to the parking lot, including changes for the parking in the right-of-way and changes to the 175-foot driveway apron.

## V. APPLICABLE REVIEW CRITERIA

### Annexation

#### **Oregon Revised Statutes (ORS)**

222.111, 222.120, 222.125 and 222.170 (2)

#### **Florence Realization 2020 Comprehensive Plan**

Chapter 1: Citizen Involvement, Policy 4

Chapter 14: Urbanization, Policies 1, and 3 through 7

### Rezoning

#### **Florence Realization 2020 Comprehensive Plan**

Chapter 2, Policy 5 and Section on Commercial Plan Designation

#### **Florence City Code (FCC)**

Title 10, Chapter 1: Zoning Regulations, Sections 10-1-1-5-E-3 and 10-1-2-3 and 10-1-3-B-4

## VI. FINDINGS OF FACT

The following findings support Resolution Nos. PC 15 01 ANN 01 & PC 15 08 ZC 01 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code and State Statutes.

Applicable criteria and policies are shown in **bold text**, followed by findings of consistency in plain text.

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## FLORENCE REALIZATION COMPREHENSIVE PLAN

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### Chapter 1: Citizen Involvement

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#### **"Goal**

**To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”**

## **Policies**

- 4. “Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.”**

This proposal is consistent with this citizen involvement goal and Policy 4 because the process used by the City to approve Resolution PC 15 01 ANN 01 & PC 15 08 ZC 01 recommending approval of this annexation and zone assignment request was consistent with the City’s applicable citizen involvement program, which ensured that citizens were provided an opportunity to be involved in this land use action. Specifically, official City meetings on this action were publicized and held at regular times and provided the opportunity for citizen comment.

The public process used met all of the requirements stated in Florence City Code pertaining to the rezoning of properties.

The proposal is the subject of public hearings before both the Planning Commission and the City Council. This annexation proposal was considered by the Florence Planning Commission on March 24, 2015. The public hearing was noticed in accordance with Florence City Code 10-1-1-5 as a quasi-judicial land use decision before the Planning Commission. The City notified property owners within 300 feet of the site 21 days prior to the Planning Commission public hearing. The City also published the required notice of the Planning Commission’s public hearing two times in the Siuslaw News. Finally, the City posted notice at four public places within the City: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

The Planning Commission agenda packet was posted on the City’s website prior to the public hearing. The staff report was available seven days prior to the public hearing. Therefore, this proposal was reviewed in accordance with the City’s acknowledged plan and was consistent with the plan policies for Citizen Involvement.

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## **Chapter 2: Land Use**

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## **Policies**

- 5. “The City shall conduct an internal review at least once every three years to assess the capacity of sewer, water and stormwater systems including three-year projections of additional consumption using a three percent growth rate.”**

The annexation proposal is consistent with this policy because the provision of city utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy



directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

## **Commercial Plan Designation Categories and Background**

### **Commercial**

Three areas are designated Commercial in the Plan Map. The Commercial designations at Driftwood Shores and the adjacent parking area and the tavern located at 88274 Rhododendron Drive are retained in this Plan. Another of these areas is between approximately Highway 126/9th Streets and 21st Street, straddling the east and west side of Highway 101 and varying in depth from one to two blocks. Retail and service commercial uses are appropriate for this area, as are professional offices and motels. Residential, in the form of second-story apartments over ground floor commercial, is also an appropriate accessory use. Commercial uses should be conducted primarily within a building, facilitate both vehicular and pedestrian access, and relate to surrounding buildings in terms of scale and street orientation. Architectural and site design guidelines are appropriate for both new development and redevelopment.

The third area designated Commercial are lands north and south of Highway 126 and east of Quince Street. These lands were designated Highway Commercial in the 1988 Comprehensive Plan Map and zoned for commercial use by Lane County. Retail and service commercial, professional offices, lodging and restaurant establishments are appropriate uses for this area. Upper story residences are encouraged where they can be protected from highway impacts.

The implementing zoning district for the Commercial Plan designation is the Commercial District.

Currently, Jerry's Place is zoned County Rural Commercial District. The land considered for annexation is specifically mentioned as the "tavern located at 88274 Rhododendron Drive" and, as stated, should be zoned according to the implementing zoning district for the Commercial Plan designation: Commercial District.

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## **Chapter 14: Urbanization**

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### **"Goal**

**To provide for an orderly and efficient transition from County/rural land uses to City/urban land uses."**

This proposal is consistent with this Urbanization goal because the proposed annexation provides for an orderly and efficient transition from County/rural land uses to City/urban land uses, as follows:

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via Rhododendron Dr.; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City sewer to the properties being annexed. All connections to the sewer line will be funded through system development charges and connection fees. This financing method allows for cost-effective service delivery to all users of the system.
- The provision of sewer service will allow the property owners to avoid costly septic drain field repairs and inefficient use of open space contained within the lots to be annexed for the drain field.

### **Annexation Policies**

- 1. The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health. In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the “island annexation” procedures set forth by ORS 222.750.**

The proposed annexation has been initiated by the property owner in order to receive City services, but has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The City has received a petition from the property owners with signature of both listed property owners. There are no other property owners or electors to be considered for this annexation, therefore this policy criterion is met.

The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits.

- 3. Conversion of lands within the UGB outside City limits shall be based on consideration of:**

#### **a) Orderly, economic provision for public facilities and services:**

The proposed annexation is consistent with Policy 1a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, storm drainage, streets, fire and police protection, power, and

communications. The utility services have the capacity to serve the properties within the proposed annexation and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

Sewer: The Florence Public Works Department has evaluated the impact of the existing tavern and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing tavern without negatively affecting existing customers.

Water: The developed property is currently served by Heceta Water District. There will be no impact to Florence residents nor residents of the Florence area served by Heceta Water District as there will be no increase in the amount of water currently provided to the property.

Stormwater: There will be no change in the handling of stormwater upon annexation. The properties have not indicated any problems with the standing water. The site is not located within in a problem flooding area in the stormwater management plan.

Streets: The site is accessed via Rhododendron Dr., which is in the City of Florence jurisdiction. Rhododendron Drive from 9<sup>th</sup> Street north to Heceta Beach Road is designated a Minor Arterial in the 2012 Transportation System Plan. As an arterial, Rhododendron Drive is intended to serve high volumes of traffic, which it currently does to the pre-existing annexing area.

Fire: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. The City eliminated contractual agreements with Siuslaw Valley Fire and Rescue that previously provided protection services to city residents.

Police: Once annexed, the City will provide public safety services. The police will patrol and respond to calls for the subject properties.

Power: Central Lincoln People's Utility District currently provides electricity to the annexation area and will continue to do so following the annexation.

Communications: Century Link currently provides phone service to the area and will continue to do so following the annexation. Other utility companies such as Charter and OregonFAST.net provide other communications services and will continue to do so following the annexation. In addition, there are a number of cell phone companies that provide service in the area.

**b) conformance with the acknowledged City of Florence Comprehensive Plan;**

This proposal is consistent with this policy because the Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) and is the acknowledged Plan for the City of Florence. As

demonstrated in these findings of fact, the annexation proposal is in conformance with this acknowledged Plan.

**c) consistency with state law.**

The annexation proposal is consistent with this policy because the proposal is consistent with state law, as presented below in the review of Oregon Revised Statutes.

**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.**

Staff sent referral requests to Lane County on March 4, 2015. Replies were received from Lane County Land Management Associate Planner Lindsey Eichner on March 5, 2015 and Lane County Public Works Senior Engineering Associate Daniel Ingram on March 18, 2015.

As stated in Section IV above, Lane County Land Management had no issues with the annexation. Lane County Public Works had some concerns, but none regarding the transfer of the jurisdiction over the property from Lane County to the City of Florence.

**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.**

Prior to December 2014, Policy 5 was not included in the City of Florence Realization 2020 Comprehensive Plan. Staff erred in not informing Heceta Water District until March 17, 2015 because of the relative newness of the Policy. Staff has sent a request for comments to Heceta Water District. Any comments received will be addressed prior to the City Council hearing adopting an Ordinance finalizing the annexation.

Staff does not foresee any issues with Heceta Water District service. Service is currently being provided to the site through Heceta Water District and will continue to be provided by the water district.

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

The applicant will be required to pay a sewer systems development charge. All other systems currently exist on-site and no other systems development charges will be required by the City of Florence. Water service is provided by Heceta Water District and exists on-site.

**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.**

**In order to receive a full range of urban services provided by the City of Florence, development within the Urban Growth Boundary shall require annexation. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.**

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for redevelopment of the property, with the exception of maintenance and access off of Rhododendron Drive adjacent to the property, which is maintained by Lane County.

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**OREGON REVISED STATUTES**

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**“ORS 222.111 Authority and procedure for annexation.**

**(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.**

The proposed annexation area is located within the urban growth boundary of the City of Florence. The annexation is contiguous to the City at Rhododendron Drive to the east.

**(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.**

This proposal for annexation of the subject properties was initiated by petition to the legislative body of the City by owners of real property in the territory to be annexed. Written consents were received from all two owners of the three lots to be annexed.

**(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.**

The annexed properties will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. This proposal for annexation did not include a tax differential schedule as allowed in this statutory section.

**(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The annexation area is within the Siuslaw Valley Fire and Rescue District, which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District the Fire District.

**(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.”**

Resolution No. 8, Series 2008, adopted by the City Council, the legislative body of the City, on April 21, 2008, expresses the City’s intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consents from 100% of the owners within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

**“ORS 222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.**

**(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.**

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City’s powers “to annex areas to the City in accordance with State law.” The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 8, Services

2008 expresses the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

**(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.**

Resolution No. 8, Series 2008 expresses the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council will hold a duly advertised public hearing on April 6, 2015, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

**(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.**

The Planning Commission public hearing was noticed as required. Notice of the public hearing was published in the Siuslaw News on March 11<sup>th</sup> and 18<sup>th</sup>, 2015. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on March 16, 2015.

**(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:**

**(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;**

**(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or**

**(c) Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.**

The proposed annexation is contiguous to the City limits at Rhododendron Drive to the east of the property. The City Council will hold a public hearing on the annexation request on April 6, 2015. If approved an Ordinance will be passed, as required under (b) showing that the electors and landowners consented in writing to the annexation consistent with ORS 222.170.

**(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

No properties will be withdrawn from the Siuslaw Valley Fire and Rescue as discussed above.

**(6) The ordinance referred to in subsection (4) of this section is subject to referendum.**

The Ordinance that would be passed by City Council will be subject to referendum.

**(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”**

The written consents from property owners were received by the City on petitions requesting annexation to the City. The City received written consents from both of the property owners of the taxlotted properties.

**“ORS 222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]**

**Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.**

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute.



There is no policy in city code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required. For these reasons the annexation portion of this application does not include a hearing but will include a recommendation to the council.

**“ORS 222.170        Effect of consent to annexation by territory; proclamation with and without city election.**

**(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:**

**(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or**

**(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.”**

There no electors in the proposed annexation area. The City received written consents from both property owners of the taxlotted properties. Therefore, the City received consents from a majority of the electors and a majority of the owners. The written consents were all signed prior to February 16, 2015, and received before the City Council held the required public hearing required by ORS 222.120.

**(3)        “Annexed properties shall pay system development charges as required by City Code.”**

The proposed annexation is consistent with Policy 3 because Florence City Code Title 9 Chapter 1 Section 4-A requires properties annexed to pay system development charges.

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## **FLORENCE CITY CODE**

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### **TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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#### **10-1-1-5-E-3**

- 3.        In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.**

The applicants requested annexation of their property within the UGB. This process includes the assignment of the zoning district corresponding to their property's Commercial comprehensive plan designation. The property upon annexation will be rezoned from its current county zone to the city's Commercial District zone. So, the rezone is necessary to finalize annexation. The public need and good of annexation has been reviewed elsewhere in this report. The selected zoning is appropriate and corresponds to the Commercial comprehensive plan designation.

**10-1-2-3: ZONING OF ANNEXED AREAS:** The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

The zoning district corresponding to the subject property's Commercial comprehensive plan designation is Commercial District. The zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county.

The properties meet the minimum lot sizes and dimensions for the Florence City Code Title 10, Chapter 15: Commercial District. The lots include a vacated alley. If annexed, the lot would be considered a pre-existing non-conforming lot. The lots have pre-existing non-conforming frontage along Rhododendron Drive and frontage along the developed Foulweather Street and undeveloped Perpetua Street, though it currently has no access off of those streets.

### **10-1-3: AMENDMENTS AND CHANGES**

#### **B. Quasi-Judicial Changes:**

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

On March 24, 2015, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing and were reviewed against the applicable city and state policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the city's urbanization policies. These have been reviewed earlier with supporting findings.

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## **VII. OPTIONS FOR PLANNING COMMISSION**

The Planning Commission may:

1. Recommend approval of the annexation and rezoning by approving Resolutions PC 15 01 ANN 01 and PC 15 08 ZC 01 as presented or with modifications.
  2. Recommend denial of the annexation based on the Commissions findings to support denial of the annexation.
  3. Recommend approval of the annexation but recommend a different zoning district for the rezoning.
  4. Continue the public hearing of leave the record open for more information.
- 

## **VII. CONCLUSIONS AND RECOMMENDATION**

The evidence in the record demonstrated that the proposed annexation and zone assignment is consistent with the policies set forth in state statues and the Florence Realization 2020 Comprehensive Plan, based on the findings. Staff recommends that Planning Commission recommend approval of the annexation and zoning assignment to the Florence City Council.

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## **VIII. ATTACHMENTS**

### **Resolution PC 15 01 ANN 01**

- |           |                                      |
|-----------|--------------------------------------|
| Exhibit A | Map of Annexation Area               |
| Exhibit B | Legal Description of Annexation Area |
| Exhibit C | Findings of Fact                     |
| Exhibit D | Referral Comments Received           |
| Exhibit E | Kevin and Carol Clark Testimony      |

### **Resolution PC 15 08 ZC 01**

- |           |                      |
|-----------|----------------------|
| Exhibit A | Map of Rezoning Area |
| Exhibit B | Findings of Fact     |

### **Other Attachments**

- |              |                          |
|--------------|--------------------------|
| Attachment 1 | Petitions for Annexation |
|--------------|--------------------------|

## Glen Southerland

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**From:** EICHNER Lindsey A <Lindsey.EICHNER@co.lane.or.us>  
**Sent:** Thursday, March 05, 2015 9:11 AM  
**To:** Glen Southerland  
**Subject:** Referral - PC 15 01 ANN 01 & PC 15 08 ZC 01 - Jerry's Place Annexation

Lane County Planning has no issue with the proposed annexation.

***Lindsey Eichner***  
Associate Planner  
Lane County Land Management  
3050 N. Delta Hwy  
Eugene, Oregon 97408  
(541)682-3998  
(541)682-3947 fax

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## Glen Southerland

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**From:** INGRAM Daniel B <Daniel.Ingram@co.lane.or.us>  
**Sent:** Wednesday, March 18, 2015 11:34 AM  
**To:** Glen Southerland  
**Cc:** MCKINNEY Lydia; TAYLOR Becky; CLARK Lynnae M  
**Subject:** PC 15 01 ANN 01 & PC 15 08 ZC 01, TP File NO. 10771, Annexation & Zone Change, Rhododendron Drive, Florence

**TP File:** 10771  
**Florence File No:** PC 15 01 ANN 01 & PC 15 08 ZC 01  
**Name:** Jerry's Place Annexation  
**Address:** 88274 Rhododendron Drive  
**Map & Tax Lots:** 18-12-04-42-07800, 18-12-04-42-07900, and 18-12-04-42-06700

request for annexation of 0.44 acres more or less, and zoning to the corresponding Comprehensive Plan designation, Commercial. The subject property located at 88274 Rhododendron Drive includes Map & Tax Lot numbers, 18-12-04-42-07800, 18-12-04-42-07900, and an easterly portion of Map & Tax Lot number 18-12-04-42-06700. The proposal does not include the westerly portion of Map & Tax Lot number 18-12-04-42-06700 which contains a manufactured home.

### Comments from Lane County Transportation Planning:

Map & Tax Lot number 18-12-04-42-07800, 18-12-04-42-07900, and 18-12-04-42-06700 are contiguous properties located within the urban growth boundary of the City of Florence. Map & Tax Lots 18-12-04-42-07800 and 18-12-04-42-07900 have frontage on Foulweather Street. Map & Tax Lots 18-12-04-42-07900 and 18-12-04-42-06700 have frontage on Rhododendron Drive. Access to the subject property is currently from Rhododendron Drive. Foulweather Street is a Local Access Road (LAR) that has a minimum right-of-way width of 50 feet for building setback purposes (Lane Code 15.070(1)(c)(ii)). Lane County does not maintain, but may regulate the use of Local Access Roads (Lane Code 15.010(35)(e)(v) & (vii)). An informational handout about Local Access Roads is attached. Rhododendron Drive is a Lane County Road located within the city limits of the City of Florence. Rhododendron Drive is functionally classified as a urban Major Collector, having a minimum right-of-way width of 70 feet for development setback purposes (LC 15.070(1)(c)(i)(cc)).

For informational purposes, because Rhododendron Drive is a Lane County road, future development on this property is subject to the applicable requirements of Lane Code Chapter 15, including, but not limited to, the following:

### LC 15.105 – Dedications and Improvements

(1) When a land division or other development is proposed, the County may require dedications of right-of-way or easements and improvements necessary to meet the applicable road design standards of LC 15.700 through LC 15.708 and other requirements of this chapter. Road dedication or improvements shall be adequate to serve traffic generated by the new development.

### LC 15.135 – General Access Requirements

(5) When an existing County Road is used to provide access to a vacant lot or parcel where development is proposed:

- a. the approach for the driveway or private access easement serving the property shall meet the access management requirements and spacing and sizing requirements of LC 15.137 through LC 15.139; and
- b. the County may require dedications of right-of-way or easements and improvements pursuant to LC 15.105; and
- c. all work within the County Road right-of-way shall comply with the facility permit requirements of LC 15.205 through LC 15.210.

### LC 15.137 – Access Management Requirements

The following requirements shall apply when access is taken from a County Road as defined in LC 15.010(35):

(1) Access decisions will be made in a manner consistent with the functional classification of the roadway.

(3) Where a right of access to a collector or arterial road exists, the maximum number of approaches to the road from land within one contiguous ownership shall be one, irrespective of whether the land may be divided into two or more lots or parcels or whether property frontage and spacing standards of LC 15.138 would allow additional access points. More than one approach may be considered if, in the judgment of the County Engineer or designee additional approaches are necessary to accommodate and service traffic to and from a property, and additional approaches will not interfere with driver expectancy and the safety of through traffic on the road.

(8) New development shall accommodate on-site traffic circulation needs on the site and not by circulating on and off the site through multiple access points using the County Road system. "Backing out" maneuvers are prohibited on all arterials and collectors.

**Lane Code 15.139 – Standards for Culverts and Private Approaches on County Roads**

The following standards apply to private access easement road approaches and driveway approaches within County Road rights-of-way.

(1) The minimum and maximum approach and culvert sizing requirements are as follows:

- c. The maximum approach width shall be 30 feet for residential use and 35 feet for other uses

Staff notes that the current approach serving the subject property is approximately 175 feet in width. Any redevelopment of the subject property is likely to require modifications to access.

**Lane Code 15.205 - Facility Permits**

In accordance with Lane Code 15.205(1), a Facility Permit shall be required for placement of facilities and development within the right-of-way of Rhododendron Drive. Facilities and development include, but are not limited to, road improvements, sidewalks, new or reconstructed driveway or road approach intersections, utility placements, excavation, clearing, grading, culvert placement or replacement, storm water facilities, or any other facility, thing, or appurtenance. For more information regarding Facility Permits, please contact Lane County Right-Of-Way Services at 541-682-6902 or visit:

<http://www.lanecounty.org/Departments/PW/Pages/rowpermits.aspx>

**Lane Manual 15.515 - Drainage**

In accordance with Lane Manual 15.515, storm water runoff from private property shall not be directed to the Lane County road right-of-way, or into any Lane County drainage facility, including roadside ditches. Ditches adjacent to County roads are designed solely to accommodate roadway storm water runoff.

Thank you for providing the opportunity to comment on this proposal.

*Daniel B. Ingram, P.E., P.L.S.*

*Senior Engineering Associate*

*Lane County Public Works*

*Phone: (541) 682-6996*

*e-mail: [Daniel.Ingram@co.lane.or.us](mailto:Daniel.Ingram@co.lane.or.us)*

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## Glen Southerland

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**From:** Sean Barrett <sean@svfr.org>  
**Sent:** Thursday, March 05, 2015 1:09 PM  
**To:** Glen Southerland  
**Subject:** RE: Referral - PC 15 01 ANN 01 & PC 15 08 ZC 01 - Jerry's Place Annexation

Fire has no concerns with this referral and supports it. Sean

Sean Barrett  
Fire Marshal  
Siuslaw Valley Fire and Rescue  
2625 Hwy 101  
Florence Oregon 97439  
Office (541) 997-3212  
Fax (541) 997-9116  
Cell (541) 999-0600

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**From:** Glen Southerland [mailto:glen.southerland@ci.florence.or.us]  
**Sent:** Wednesday, March 04, 2015 5:27 PM  
**To:** Jeffrey.Lang@co.lane.or.us; Mike Miller; Lynn Lamm; peggy.hunter@co.lane.or.us; Matt Laird (matt.laird@co.lane.or.us); Jim Langborg; Sean Barrett; Lydia.MCKINNEY@co.lane.or.us  
**Cc:** Wendy Farley-Campbell; Vevie Walker  
**Subject:** Referral - PC 15 01 ANN 01 & PC 15 08 ZC 01 - Jerry's Place Annexation

Greetings,

The purpose of this notice is to acquaint you with a proposed development, to gather information you may have about the project, and provide an opportunity to comment and express concerns related to the approval criteria, prior to the Planning Commission's decision to approve or deny the project proposal.

**Proposal:**

Request for annexation of 88274 Rhododendron Dr., MR 18-12-04-43 TL 7800, 7900, & 6700 and zoning the properties to the corresponding Comprehensive Plan designation, Commercial. The owner has not proposed to include the manufactured home on Taxlot 6700, Lot 2 of Block 13.

Please let me know if you have any questions or concerns.

Best Regards,

**Glen Southerland**

Assistant Planner  
City of Florence Planning Department  
[ci.florence.or.us](http://ci.florence.or.us)  
250 Highway 101  
Florence, OR 97439  
Phone: (541) 997-8237

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## Glen Southerland

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**From:** Kevin Clark <kevinclark94@gmail.com>  
**Sent:** Sunday, March 15, 2015 1:58 PM  
**To:** Glen Southerland  
**Subject:** Jerry's Place Annexation

I am writing to ask for the denial of Jerry's Place annexation request—ORS [222.111](#), [222.120](#), [222.125](#) and [222.170 \(2\)](#).

Currently, Jerry's Place is the only major source of noise pollution in this neighborhood.

It is not unusual to hear loud music from the business, with people talking late at night in the outdoor area and parking lot. When they start their cars, they blast their music, often rev their engines and take off quickly and loudly down the street. Some of this noise is louder because Jerry's Place is on Rhododendron Avenue which rests above the residential neighborhood to the West.

It appears that the business doesn't meet the current standards for a commercially zoned business abutting a residentially zoned area. The Florence comprehensive plan's own rules state that a fence or wall of at least six feet tall be built when commercial and residential areas abut one another. A landscape buffer of 35-feet is also acceptable. There is no fence or 35-foot landscape buffer that separates Jerry's from the whole residential neighborhood at this time.

At one time this was a neighborhood of vacation homes with some people living year-around. That is no longer the case. Currently, most of the houses are occupied throughout the year and we don't want to have any additional noise pollution.

This is a direct quote concerning commercially zones areas in the Urban Growth Boundary of Florence: "Expansion of this pre-existing commercial area is not recommended for the 20-year planning period. New commercial development is to occur within city limits where vacant lands and urban services are available." Since this area is with the UGB, I would hope that you would follow your own advice and not expand a pre-existing commercial area.

What this annexation request would do, is bring commercial zoning directly into an existing residential neighborhood. I cannot think that anyone would consider this a good idea. Not only would it take three residential lots away to make room for commercial use, it would place those commercial lots directly adjacent to existing residences. There would undoubtedly be an increase in noise and traffic on Foulweather Road, taking away the rustic feel of the neighborhood. Why would any home owner want to have their property value dropped because of an incoming commercial venture. This could be used for anything once approved, bringing untold traffic and noise directly into our neighborhood. If this was approved, what would keep the city from asking for further zone changes in the neighborhood.

One of the city of Florence's goals is to, "Provide a framework by which standards may be applied to achieve a viable and aesthetically pleasing community." Jerry's Place offers alcohol and television to watch sporting events in a building that is neither architecturally interesting or aesthetically pleasing. A bar wouldn't meet most peoples standards for an important or needed commercial enterprise.

Here are two more quotes from the Florence Comprehensive plan:

1) The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.

2) Existing residential uses in residential zoning districts and proposed residential areas shall be protected from encroachment of land uses with characteristics that are distinctly in- compatible with a residential environment. Existing residential uses in commercial and industrial zones shall be given the maximum practicable protection within the overall purposes and standards of those districts.

This neighborhood is an existing residential neighborhood that should get the "maximum practicable protection," from zoning that brings, "characteristics that are distinctly in- compatible with a residential environment."

This is specifically the type of encroachment that the city of Florence suggests to be avoided. Commercial expansion into a residential area is not only an encroachment of distinctly incompatible uses, it goes against the city of Florence's own compressive plan.

This is the type of decision that would change a neighborhood, and not for the better. If the city follows its own rules and recommendations it won't allow the Jerry's Place annexation request.

Thank you for your time.

Kevin Clark  
88260 2nd Avenue  
P.O. Box 268  
Florence, Oregon 97349

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## Glen Southerland

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**From:** kevin clark <kcreka@gmail.com>  
**Sent:** Sunday, March 15, 2015 11:28 AM  
**To:** Glen Southerland  
**Subject:** Jerry's place annexation

I say no to an annexation for Jerry's Place. Do not allow an expansion of commercial property in our residential area. We are not just a vacation home neighborhood; there are a number of permanent residents. We already hear plenty of noise from Jerry's Place: cars revving their engines, car horns, music, yelling and cackling in the parking lot and outdoor space. We want to be able to hear the ocean and birds, not traffic and commercial exchange.

Sincerely,

Carol Kumpula-Clark  
P.O. Box 268  
Florence, Oregon 97439

March 15, 2015

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