
AGENDA ITEM SUMMARY
FLORENCE CITY COUNCIL

ITEM NO:
Meeting Date: August 17, 2020
Department: Planning

ITEM TITLE: Ordinance 9, Series 2020 - Commercial & Mixed-Use Districts Code Amendments

DISCUSSION/ISSUE:

The City updated the Florence City Code Title 10 in November 2019. Those updates included changes to the allowable building height and definitions of building height and multi-family dwellings. These changes among many others were made to support development of needed housing.

The changes made to the building height and multi-family definitions resulted in inconsistencies in meaning and application between the same uses in different zones, with residential being more permissive than commercial zones. Typically, residential are more conservative. The commercial districts now have both a lesser building height allowance than residential districts and have a lesser height allowance than previously allowed in the districts as a result of the building height definition change. Additionally, the change to the definition of multi-family dwellings increased the number of units from “3 or more” to “5 or more”. The change created the situation where 3 and 4-unit dwellings were no longer permitted in the Highway District where they were previously allowed under the multi-family definition.

Proposal: The proposed code amendments include increases the numerical allowance for building height in Chapters 15, 16, 25 and 30 to match or exceed those in the residential districts and the addition of triplexes and quadplexes in the Chapter 16 where they were previously permitted. In Chapter 15 and 16 where single family dwellings are permitted conditionally, duplexes and duets are proposed to be added to close the gap on residential building types permitted in those districts. Chapter 30 includes changes to residential district names to incorporate the changes made in December. Included in your packet are the resolution, findings of fact and draft proposed code amendments to Title 10. The draft code amendments are shown with new text underlined and removed text with a ~~line through~~ it. The code changes are sequentially numbered starting at Title 10 Chapter 15 and continuing through Chapter 30.

Process: The Florence City Council initiated these legislative changes concurrent with the 2019-2021 Work Plan adoption. Notice was filed on June 23, 2020 with the Department of Land Conservation and Development 35 days prior to the first scheduled evidentiary public hearing on July 28, 2020 held by the Planning Commission. Planning Commission held their public hearing and made a recommendation to City Council via Resolution PC 20 20 TA 02. City Council is to hold the final evidentiary public hearing on the proposal August 17, 2020 to consider amendments proposed under Ordinance 9, Series 2020. The changes become effective 30 days after Council decision.

FISCAL IMPACT:

Amendment costs include staff time: preparing and publishing DLCD and public newspaper notices, drafting findings of fact and proposed code amendments and meeting minutes; attending public hearings and answering inquiries from the public.

RELEVANCE TO ADOPTED CITY WORK PLAN:

2019/2021 City of Florence Work Plan--Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCD Technical Assistance program scope or funding availability.

ALTERNATIVES:

1. Approve code amendments as presented in Ordinance No. 9, Series 2020; or
2. Modify the findings and/or code language, and adopt the proposed amendments as modified; or
3. Deny the amendment through resolution with reasons for the denial; or
4. Continue the public hearing to a date certain or leave the written record open.

RECOMMENDATION:

Planning Commission: On July 28, 2020, the Planning Commission unanimously recommended approval of the Zoning Code Updates.

Staff: Staff concurs but has amended the Findings of Fact in response to testimony received commenting on inadequate findings relating to State Land Use Goal 10 – Housing. PC knew of this pending change.

AIS PREPARED BY: Wendy FarleyCampbell, Planning Director

CITY MANAGER'S RECOMMENDATION: Approve Disapprove Other
Comments:

ITEM'S ATTACHED: *List of items attached:*

- Attachment 1** – Ordinance No. 9, Series 2020
- **Exhibit A:** Proposed Code Updates

-
- **Exhibit B:** Findings of Fact

Attachment 2 – Letter from FHA of Oregon & Housing Land Advocates

Items Available for Reference:

- July 28, 2020 Planning Commission Meeting Materials
 - <https://www.ci.florence.or.us/bc-pc/planning-commission-hearing-7>
-

**CITY OF FLORENCE
ORDINANCE NO. 9, SERIES 2020**

AN ORDINANCE ADOPTING LEGISLATIVE AMENDMENTS TO FLORENCE CITY CODE TITLE 10, CHAPTERS 15, 16, 25, AND 30 TO REVISE BUILDING HEIGHT STANDARDS AND RESIDENTIAL USES

RECITALS:

1. City Council via their 2019/2021 City of Florence Work Plan, "Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCDC Technical Assistance program scope or funding availability" directed changes to the governing documents related to residential land uses.
2. Notice of the proposed amendments was sent on June 23, 2020 to the Department of Land Conservation and Development, 35 days prior to the first evidentiary hearing.
3. On July 18, 2020 and August 1, 2020, notice of hearings were published in the Siuslaw News prior to the Planning Commission and City Council hearings of July 28th and August 17th.
4. Planning Commission opened their public hearing July 28, 2020 and deliberated to a decision for a recommendation to the City Council.
5. City Council conducted a public hearing on August 17, 2020 and found the amendments consistent with applicable criteria in Florence City Code, Realization 2020 Florence Comprehensive Plan, Oregon Administrative Rules and Oregon Revised Statutes.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. Florence Title 10 Chapters 15, 16, 25 and 30 are amended as shown in Exhibit A and explained in Exhibit B and initiated via the City Council.
2. This ordinance shall become effective thirty days following adoption. (September 15, 2020).
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 17th day of August 2020.

Second Reading on the XX day of XXXXXX 2020.

This Ordinance is passed and adopted on the XX day of XXXXXXXX 2020.

AYES	0
NAYS	0
ABSTAIN	0
ABSENT	0

Joe Henry, Mayor

Attest:

Kelli Weese, City Recorder

Exhibit A
City of Florence
File Nos. PC 20 20 TA 02 & CC 20 05 TA 02
Ordinance 9 Series 2020

Only those sections proposed for amendment are listed

TITLE 10 CHAPTER 15
COMMERCIAL DISTRICT (C)

10-15-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

Single-family, duet, and duplex dwellings.

10-15-5: SITE AND DEVELOPMENT PROVISIONS:

A. Building or Structural Height Limitations: The maximum building or structural height shall be ~~twenty-eight feet (28')~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

J. Residential and mixed-use development ~~refer to must meet the provisions Section 10-6-5-2 of this title for requirements. for Multi-Family Dwellings listed in FCC 10-10-9.~~ However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

TITLE 10 CHAPTER 16
HIGHWAY DISTRICT (H)

10-16-2: PERMITTED BUILDINGS AND USES:

A. All uses permitted outright or conditionally in the Commercial District, except single-family dwellings, duets and duplex dwellings, public buildings and facilities, medical marijuana dispensaries, marijuana retailers, marijuana testing facilities, and single-family residential PUD's.

B. Multiple-family residential, tri-plex and four-plex.

10-16-3: BUILDINGS AND USES PERMITTED CONDITIONALLY: The following uses shall be permitted only upon affirmative findings by the Planning Commission that the proposed use meets the general criteria in Section 10-16-4 herein, with conditions to be required by the Planning Commission through the provisions of Chapters 1 and 4 of this Title.

C. Single-family detached, duet, and duplex residences.

10-16-7: DESIGN SPECIFICATIONS:

A. Highway Setback (Minimum Allowed Without a Variance; Measured from the Center Line of the Highway Right of Way):

2. ~~Multiple~~ Residential: One hundred feet (100').

C. Visual Barrier: A fence, wall, hedge, natural vegetation or landscape planting may be required by the City. Such a barrier must include a vision clearance area for driveways to promote vehicle safety. Guidelines (not intended to limit optional solutions) for such a visual barrier are listed below:

2. ~~Multiple~~ Residential: At least twenty feet (20') deep and six feet (6') tall along entire highway frontage. All vehicles and at least two-thirds (2/3) of the buildings should be obscured from highway view.

K. Height Limitations: The maximum building or structural height shall be ~~twenty-eight feet (28')~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

P. Residential and mixed-use development refer to Section 10-6-5-2 of this title for requirements. However, a conditionally approved use may require application of the relevant development standards from a district where the use is permitted outright to include but not limited to setbacks and lot coverage. The more restrictive standards would apply.

TITLE 10 CHAPTER 25
PROFESSIONAL OFFICE/INSTITUTIONAL ZONING DISTRICT

10-25-4: DEVELOPMENT STANDARDS:

E. Height limitations: The maximum building or structure height shall be ~~twenty-eight (28) feet~~ thirty-five feet (35'). Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for requirements.

TITLE 10 CHAPTER 30
NORTH COMMERCIAL DISTRICT

10-30-5: DEVELOPMENT STANDARDS:

C. Setback from Abutting Property: No setback is required except where property abuts a residential district, in which case, the following setback provisions shall apply:

1. When the abutting district is zoned ~~Restricted-Low Density~~ Residential, ~~Single-Family Medium Density~~ Residential or Mobile/Manufactured Home Residential, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation may be located within the 35' setback.

2. When the abutting district is zoned ~~Multiple-Family-High Density~~ Residential, a 35' building setback shall be provided. Non-vertical elements such as parking or circulation facilities may be located within the 35' setback.

D. Landscaping and Visual Buffers shall comply with Section 10-34 of this Title.

3. When the abutting district is zoned ~~Restricted-Low Density~~ Residential, ~~Single-Family Medium Density~~ Residential or Mobile/Manufactured Home Residential District, an 8' solid fence shall be constructed for the entire length of the abutting residential district, excepting that Department of State Lands Removal/Fill permit conditions will be honored in location of fence or wall within or abutting a delineated wetland.

I. Height Limitations: The maximum building or structural height shall be ~~3840'~~, except that the maximum height for structures immediately abutting any ~~Restricted-Residential-Low Density Residential~~ District, ~~Single-Family-Medium Density Residential~~ District or Mobile/Manufactured Home Residential District Residential District shall be ~~2835'~~. Residential dwellings and their associated structures refer to Section 10-10-5 of this Title for building height and structural standards.

**CITY OF FLORENCE
ORDINANCE 9, SERIES 2020
FINDINGS OF FACT
Exhibit B**

Public Hearing Date: August 17, 2020

File: PC 20 20 TA 02 & CC 20 05 TA 02

I. PROPOSAL DESCRIPTION

The proposal amends the Florence City Code (FCC) by revising standards related to building height and housing types to support further housing development in line with the City's needs and goals, by expanding residential development opportunities and removing barriers to development. The code amendments generally expand permitted residential uses in the commercial zones to expand the mix of housing, and brings the commercial and mixed-use districts allowable building height in line with amendments made in 2019 to the residential districts.

The proposed changes to Florence City Code Title 10 are summarized as follows:

- 1. Expand the allowed housing types in commercial zones.** New housing types and replacing types excluded in the 2019 residential change in the Commercial and Highway Districts in FCC 10-15 and 10-16.
- 2. Align building height standards with residential districts.** Proposed increases from 28' to 35' for commercial uses and increases for residential uses consistent with residential standards in FCC 10-10 in the Commercial, Highway and Professional Office and Institutional Districts in FCC 10-15, 10-16, and 10-25.
- 3. Align North Commercial District code language to use current residential district naming conventions.**

II. NOTICE AND REFERRALS

1. Notice:

The notice of Planning Commission's public hearing was published in the Siuslaw News on July 18 and the City Council's public hearing was published in the Siuslaw News on August 1st, as required by state law and the Florence City Code.

Notice of the proposed City Code Amendments was sent to the Department of Land, Conservation and Development (DLCD) on June 23, 2020, not less than 35 days prior to the proposed first evidentiary hearing of July 28, 2020, as required by State law and the Florence City Code.

III. APPLICABLE CRITERIA

- 1. Florence City Code (FCC) Title 10: Zoning Regulations**
 - Chapter 1: Zoning Administration, Section 10-1-3 Amendments and Changes, Section C Legislative Changes
 - Chapter 1: Zoning Administration, Section 10-1-1-6-4 Type IV Procedure (Legislative)

- 2. Florence Realization 2020 Comprehensive Plan**
 - Plan Adoption, Amendments, Review and Implementation
 - Chapter 1 Citizen Involvement
 - Chapter 2 Land Use
 - Chapter 10 Housing Opportunities
 - Chapter 12 Transportation

- 3. Oregon Land Use Planning Goals**
 - Goal 10 Housing

- 4. Oregon Revised Statutes (ORS)**
 - ORS 197.303
 - ORS 197.307
 - ORS 197.610(1) – (4)

- 5. Oregon Administrative Rules (OAR)**
 - OAR 660-008-0015
 - OAR 660-012-0060
 - OAR 660-018-0020
 - OAR 660-015-000

IV. FINDINGS

Florence City Code (FCC)

Title 10 Zoning Regulations, Chapter 1 Zoning Administration

FCC 10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)

A. A legislative change in zoning district boundaries, in the text of this Title, (Title 10), Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.

Finding: Application for this legislative change was made by request of the City Council via their 2019/2021 City of Florence Work Plan, "*Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCD Technical Assistance program scope or funding availability*".

D. Notice of Hearing:

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).

2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:

b. At least 10 days before the scheduled Planning Commission hearing date, and 14 days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.

Finding: Notification of the Planning Commission public hearing was published in the Siuslaw News on July 18, 2020 and on August 1, 2020 for the City Council hearing. The notification procedures meet the requirements of Florence City Code, the policies of the Florence Realization 2020 Comprehensive Plan, and state law.

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and zoning code amendments at least 35 days before the first evidentiary hearing.

Finding: Notice of the proposed City Code Amendments was sent to the Department of Land, Conservation and Development (DLCD) on June 23, 2020, not less than 35 days prior to the proposed first evidentiary hearing of July 28, 2020, as required by State law and the Florence City Code.

3. Content of notices. The mailed and published notices shall include the following information:

Finding: Notice provided to the Siuslaw News for publication included the cited in-

formation

FCC 10-1-3 Amendments and Changes,

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

Section C Legislative Changes

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

Finding: Application for this legislative change was made by request of the City Council via their 2019/2021 City of Florence Work Plan, *“Priority 1, Objective 2: Update Florence City Code Titles 10 and 11 to address deficiencies outside of the DLCD Technical Assistance program scope or funding availability.”*

- 2. Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect.**

Finding: Notification of the Planning Commission public hearing was published in the Siuslaw News on July 18, 2020 and on August 1, 2020 for the City Council hearing. The notification procedures meet the requirements of Florence City Code, the policies of the Florence Realization 2020 Comprehensive Plan, and state law.

Realization 2020, Florence Comprehensive Plan

Plan Adoption, Amendments, Review and Implementation

Adoption of the Plan represents a commitment by the City to attempt the achievement of what the Plan proposes and is considered by other governmental units, the courts and the public to be a statement of policy. City ordinances covering development and land use must be consistent with the intent of the Plan. Federal, State, County and Special District land use actions must also be consistent with the Plan. (pp. 2-3)

Finding: The proposed amendments to the City development code support residential development consistent with the Plan and the adopted Housing Needs Analysis (2018). The proposed code amendments are internally consistent. The applicable Plan policies for the proposed amendments are addressed in the policies that follow. These findings are incorporated herein.

Chapter 1: Citizen Involvement

Citizen Involvement Goal: To develop a citizen involvement program that in-

ures the opportunity for citizens to be involved in all phases of the planning process.

Policies

- 2. A Citizen Advisory Committee, appointed by the City Council, shall serve in an advisory capacity to the Florence Planning Commission to assure the broadest input during periodic review and post acknowledgment Plan and zoning amendments.** SEP(pg. I-1)

Finding: This policy is met. The City Council appointed the Housing and Economic Advisory Committee to advise on development of the previous Comprehensive Plan amendment in 2018, including a revised Housing Needs Analysis, and they directed the Community & Economic Development Committee (CEDC) work on the proposed Plan and zoning amendments proposed herein. The CEDC met three times during the development of the adopted residential amendments. This proposal ensures consistency with those new housing code criteria, related to building height and types of housing.

- 3. The City Council shall ensure that a cross-section of Florence citizens is involved in the planning process, primarily through their appointments to the Planning Commission, Design Review Board, Citizen Advisory Committee and other special committees.** SEP(pg. I-1)

Finding: This policy is met. The City Council appointed a cross-section of Florence citizens to serve on the CEDC, including representatives of the banking, development, education, utility provider, health, young adult, and retirement communities. The City Council also appointed a cross-section of Florence citizens to serve on the PC, including representatives of the insurance, development, realtor, utility provider, and retirement communities.

- 4. Official City meeting shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.** (pg. I-1)

Finding: This policy is met. The proposed code amendments are consistent with this policy because the notice of the public hearings were noticed in the Siuslaw News prior to public hearings before the Planning Commission and City Council, as required by state law on July 18, 2020 and August 1, 2020 respectively. Staff also updated the City's website to state when City meetings are scheduled. Materials for Planning Commission and City Council meetings are posted on the website prior to the meeting. The agendas are also posted at City Hall.

- 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public.** (pg. I-1)

Finding: The proposal for these actions is consistent with this policy because minutes of all meetings are kept at City Hall, posted on the City's website, and made available on request to the public.

6. **Planning documents and background data shall be available to interested citizens.** (pg. I-1)

Finding: The proposal for these actions is consistent with this policy because the Resolution, Ordinance, Findings of Fact, staff report and proposed amendments were available prior to the public hearings. The documents were available to view online on the City's website or by request via email.

Chapter 2: Land Use Policies

3. **The quality of residential, commercial and industrial areas within the City shall be assured through the enforcement of City zoning, design review, applicable conditions of development approval, parking and sign ordinances, and the enforcement of building, fire, plumbing and electrical codes.** (pg. II-1)

Finding: The proposal for these actions is consistent with this policy because the proposed code standards:

- Include zoning standards addressing quality, type and availability of residential development within commercial areas.
- Continue to enforce parking standards in FCC 10-3.

Commercial

Policies

3. **The City shall promote the efficient use of available lands designated for the establishment of commercial uses.** (pg. II-9)

Finding: The proposal for these actions is consistent with this policy because it does not change the extent or location of lands designated for commercial uses. Residential uses continue to be permitted outright and conditionally in the Commercial District (FCC 10-15), Highway District (FCC-10-16), and North Commercial District (FCC 10-30). Mixed-Use development criteria include residential unit uses be setback 25 feet from the street to promote highly visible commercial uses along the primary façade.

Chapter 10, Housing Opportunities

7. **Periodically review development code regulations and the zoning map to ensure they encourage a variety of housing types, such as accessory dwelling units, tiny houses, big houses, senior housing, manufactured homes, etc.** (pg. X-2)

Finding: The proposal for these actions is consistent with this policy because the proposal was developed around the core goal of expanding residential development opportunities, including expanding the variety of housing types permitted and encouraging their construction through clear and objective standards tailored to each housing type through reference to use the existing

residential code standards. In particular, the proposal includes permitting for duets, triplexes, and quadplexes and revises existing standards for building height to implement the changes to FCC 10-10 in 2019. Proposed change increases building height from 28' to 35'.

- 10. Apply plan designations, zoning districts and regulations to implement the mix of housing indicated in the acknowledge Housing Needs Analysis.** (pg. X-2)

Finding: The proposal for these actions is consistent with this policy because the proposed added residential uses and building height increase support the mix of housing types identified in the 2017 Housing Needs Analysis (HNA). The HNA identified a need for duplexes. The proposed code amendments include that housing type in addition to triplexes, quadplexes, and duets. While there are no proposed changes to the mapped designations or zoning districts, the proposed change support greater flexibility to build more variety of units across more of the existing zones.

- 13. The City shall update codes to support and recognize workforce housing, mobile homes, manufactured housing and multifamily dwellings as an important part of the overall housing stock, if well situated.** (pg. X-2)

Finding: The proposal for these actions is consistent with this policy because it adds more housing types suitable for workforce housing including duplexes, duets, triplexes and quadplexes.

Chapter 12: Transportation

Policies

- 8. The City shall protect the function of existing and planned transportation systems as identified in the TSP through application of appropriate land use and access management techniques.**
- **Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.** (pg. XII-3)

Finding: The proposal is consistent with this policy because the amendments are not tied to any one development application and do not affect the functional classification of any street. These amendments do not change allowable uses or change regulations in ways anticipated to result in the generation of additional vehicle trips compared to estimated traffic generation in the adopted Transportation System Plan (TSP); therefore, the amendments will have no measurable impacts on the amount of traffic on the existing transportation system. Because of this, the proposed amendments do not cause a "significant effect" under OAR 660-012-0060.

Oregon Revised Statutes (ORS)

The procedures for legislative decisions and public hearings are set out in the Florence City Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State statute that relate to the proposed amendments to the City code are listed below with findings to address consistency with these State laws.

ORS 197.303: “Needed housing” defined.

(1) As used in ORS 197.307 (Effect of need for certain housing in urban growth areas), “needed housing” means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, as those terms are defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a. “Needed housing” includes the following housing types:

- (a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;**
- (b) Government assisted housing;**
- (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 (Policy) to 197.490 (Restriction on establishment of park);**
- (d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and**
- (e) Housing for farmworkers.**

Finding: The proposal is consistent with this statute because it provides for development of the needed housing types identified in the Housing Needs Analysis (2017) within the Florence UGB. The proposed amendments permit additional forms of housing including duplexes, duets, triplexes, and quadplexes, in appropriate commercial zones.

ORS 197.307: Effect of need for certain housing in urban growth areas.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

Finding: The proposal is consistent with subsection (3) of this statute because it provides for development of the needed housing types identified in the 2017 Housing Needs Analysis within the Florence UGB. The proposed amendments permit additional forms of housing including duplexes, duets, triplexes, quadplexes, in appropriate commercial zones.

(4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:

(a) May include, but are not limited to, one or more provisions regulating the density or height of a development.

(b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.

(7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

Finding: The proposal is consistent with subsections (4), (6) and (7) of this statute because it includes options for both clear and objective review standards. Development standards for residential development in all commercial zones are specified in FCC 10-10, including clear and objective standards for minimum lot dimensions, minimum lot area, lot coverage, yard regulations and setbacks, density, height, and site development. Residential uses in commercial zones are permitted outright, through a Type II site design review process, or in limited cases as a conditional use permit. Specific approval standards for particular housing types that are clear and objective are established.

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

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

(2) If a local government determines that emergency circumstances beyond the control of the local government require expedited review, the local government shall submit the proposed changes as soon as practicable, but may submit the proposed changes after the applicable deadline.

(3) Submission of the proposed change must include all of the following materials:

(a) The text of the proposed change to the comprehensive plan or land use regulation implementing the plan;

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

(c) A brief narrative summary of the proposed change and any supplemental information that the local government believes may be useful to inform the director or members of the public of the effect of the proposed change;

(d) The date set for the first evidentiary hearing;

(e) The form of notice or a draft of the notice to be provided under ORS 197.763, if applicable; and

(f) Any staff report on the proposed change or information describing when the staff report will be available, and how a copy of the staff report can be obtained.

(4) The director shall cause notice of the proposed change to the acknowledged comprehensive plan or the land use regulation to be provided to:

(a) Persons that have requested notice of changes to the acknowledged comprehensive plan of the particular local government, using electronic mail, electronic bulletin board, electronic mailing list server or similar electronic method; and

(b) Persons that are generally interested in changes to acknowledged comprehensive plans, by posting notices periodically on a public website using the Internet or a similar electronic method.

Finding: The proposal is consistent with this statute because notice to DLCD was sent on June 23, 2020 at least 35 days prior to the July 28, 2020 (first) public hearing and the notice contained the information required in this statute. The notice of proposed change was circulated widely within the city consistent with subsection (4), as detailed in response to Comprehensive Plan Goal 1.

Oregon Administrative Rules (OAR)

The procedures for legislative decisions and public hearings are set out in the Florence City Code, which has been acknowledged by DLCD and these local regulations effectively implement state law. The sections of State rules that relate to the proposed amendments to the City code are listed below with findings to address consistency with these State laws.

OAR 660-008-0015: Clear and Objective Approval Standards Required

(1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards,

conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

(2) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in section (1) of this rule, a local government may adopt and apply an optional alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:

(a) The applicant retains the option of proceeding under the approval process that meets the requirements of section (1);

(b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

(c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in section (1) of this rule.

(3) Subject to section (1), this rule does not infringe on a local government's prerogative to:

(a) Set approval standards under which a particular housing type is permitted outright;

(b) Impose special conditions upon approval of a specific development proposal; or

(c) Establish approval procedures.

Finding: The proposal is consistent with this rule as detailed in the findings for ORS 197.307(4), (6) and (7).

OAR 660-012-0060: Transportation Planning, Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Finding: The proposal is consistent with this rule as detailed in the findings for Comprehensive Plan Policy 12.8.

OAR 660-018-0020: Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation

(1) Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, unless circumstances described in OAR 660-018-0022 apply, the local government shall submit the proposed change to the department, including the information described in section (2) of this rule. The local government must submit the proposed change to the director at the department's Salem office at least 35 days before holding the first evidentiary hearing on adoption of the proposed change.

Finding: The proposal is consistent with this rule as detailed in the findings for ORS 197.610.

OAR 660-015-0000 (Goal 10):

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

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

[...]

Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.

[...]

Finding: The population of the City of Florence exceeds 2,500 people, so the requirement for various housing types applies.

The City's Residential Buildable Lands Inventory was updated in late 2018. In compliance with Goal 10 and applicable administrative rules implementing Goal 10, the

inventory looks at acreage available for development within the City's residential areas. While residential uses are permitted or conditionally permitted in areas with non-residential designations, the BLI only inventories acreage within residential zoning districts. (See Housing Needs Analysis Appendix I.)

While the City's commercial code update does relate to residential uses in certain commercial districts, there is no overlap between the zones inventoried as residential in the BLI and the City's proposed commercial code updates. As a result, the changes proposed by the City to four different commercial districts cannot impact the City's residential inventory in the City's BLI.

Regardless the proposed amendments provide for additional forms of housing including duplexes, duets, triplexes, and quadplexes identified as needed in the 2017 Housing Needs Analysis within lands designated for commercial and mixed uses. Previously duplexes were not an allowed use in the Commercial or Highway Districts. The proposed code amendment would now permit this housing type thereby increasing the available supply of residential options.

The Housing Needs Analysis, 2017 Exhibit IV.6. identifies a forecasted need under Scenario A of 248 dwelling units as townhomes/Plexes (2-4 units) and 254 multifamily dwelling units (5+ units). The proposed code amendments increase the types of residential uses allowed and increase building height which will contribute to the opportunity to meet the forecasted dwelling unit demand. The proposed code amendments create a positive impact on the supply of residential options.

B. IMPLEMENTATION

5. Additional methods and devices for achieving this goal should, after consideration of the impact on lower income households, include, but not be limited to: (1) tax incentives and disincentives; (2) building and construction code revision; (3) zoning and land use controls; (4) subsidies and loans; (5) fee and less-than-fee acquisition techniques; (6) enforcement of local health and safety codes; and (7) coordination of the development of urban facilities and services to disperse low income housing throughout the planning area.

Finding: The proposal is consistent with this rule because it includes proposed zoning and land use controls that support implementation of the adopted HNA, including needed housing types as identified above.

V. CONCLUSION

The proposed amendments to the Florence City Code Title 10 are consistent with the applicable criteria in the Florence Realization 2020 Comprehensive Plan, Florence City Code, Oregon Revised Statutes and Oregon Administrative Rules.

VI. EXHIBITS

- A. Proposed edits to FCC Title 10 Chapters 15, 16, 25, and 30
- B. Findings of Fact



July 28, 2020

City of Florence Planning Commission
Florence City Hall
250 Highway 101
Florence, OR 97439

Re: Increase building heights in Commercial, Highway, Professional Office and North Commercial Districts to be consistent with December 2019 changes to residential standards. Add missing middle housing (duplex, duets, tri & four-plexes to Commercial and Highway Districts) (PC 20 20 TA 02 & CC 20 05 TA 02)

Dear Planning Commission Members:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

We are encouraged to see the City proactively including housing options in its mixed use zones. Nonetheless, we are obligated to raise the following in relation to Goal 10. As you know, and as reflected in the staff report, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change.

The staff report for the proposed updates to the commercial and mixed-use zoning districts of Title 10 of Florence City Code recommends its approval. This recommendation is contingent on the Goal 10 findings, stating that since "additional forms of housing including duplexes, duets, triplexes, and quadplexes in appropriate commercial zones" will be allowed, the changes comply



with Goal 10. However, an increase in housing development opportunities does not result in automatic Goal 10 compliance. For example, how many potential units could be provided by this code amendment? What affordability level would these units serve? Goal 10 findings must demonstrate that the changes do not leave the City with less than adequate residential land supplies in the types, locations, and affordability ranges affected. *See Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane Cty. v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations). Further, because the proposed amendments have the potential to impact the addition of future housing units to the City, the City should reference its HNA and BLI to illustrate its expected growth, and showcase its current ability to provide for the housing needs of its citizens. Only with a complete analysis showing the City's status and plans to provide needed housing as dictated by the HNA, and compared to the BLI, can the public understand whether the City is achieving its goals through the proposed updates to Title 10.

HLA and FHCO urge the Planning Commission to defer approval of PC 20 20 TA 02 & CC 20 05 TA 02 until adequate Goal 10 findings can be made, and the proposal evaluated under the HNA and BLI. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

A handwritten signature in black ink that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

/s/ Jennifer Bragar
Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (kevin.young@state.or.us)