

**City of Florence
Planning Commission Meeting
250 Hwy 101, Florence, OR 97439
July 13, 2021**

CALL TO ORDER - ROLL CALL - PLEDGE OF ALLEGIANCE

Chairperson Phil Tarvin called the meeting to order at 5:30 PM.

Commissioners Present: (via videoconference) Chairperson Phil Tarvin, Vice Chairperson Sandi Young, Commissioner John Murphey, Commissioner Eric Hauptman, Commissioner Andrew Miller.

Commissioners Absent: Commissioner Ron Miller (excused)

Staff Present: (via videoconference) Planning Director Wendy FarleyCampbell, Senior Planner Roxanne Johnston, Assistant Planner Dylan Huber-Heidorn, and Planning Technician Sharon Barker

At 5:30 PM, Chair Tarvin opened the meeting and Barker did a Roll call. Chair Person Tarvin led the salute to the Flag.

1. APPROVAL OF THE AGENDA

Start Time: 5:32PM

Action: Approved

Motion: Comm. Murphey

Second: Vice Chair Young

Vote: 5-0

There was no discussion on the agenda and it was approved unanimously.

2. APPROVAL OF THE MINUTES OF June 22, 2021

Start Time: 5:33

Action: Approved, with no changes proposed

Motion: Commissioner A. Miller

Second: Commissioner Hauptman

Vote: 5-0

3. PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

No Speaker's cards were received nor public comments made. Chairperson Tarvin asked if any member wished to disclose a conflict of interest. No conflict of interest, ex-parte contacts nor biases were declared by any of the Commissioners. No ex-parte conflicts nor potential biases were provided.

There were no biases disclosed or exparte'contacts disclosed

Start Time: 5:36 PM

End Time: 5:38

4. **Resolutions PC 21 09 ANN 03 & PC 21 10 ZC 03 – Bob Rannow Annexation and Zone Change:** A petition from Bob Rannow to annex approximately .27 acres of property and apply a City of Florence zoning designation to annexed lands. The Applicant's proposal consists of annexing property described as Assessors Map No. 18-12-04-13, tax lots 03103 and 03104. Public rights-of-way would also be annexed, including portions of Falcon Street, Arch Street, and 2nd Avenue. The property is located in Block 26, Lots 7 and 8, of the Heceta Beach subdivision, at the southeast corner of the intersection of Arch St. and 2nd Avenue. The property and right-of-way are proposed to be zoned Medium Density Residential (MDR), with a portion of Falcon St. to be zoned commercial and a portion of Arch St. to be zoned Open Space.

Public hearing for Item #4 opened at 5:40 PM.

Dylan Huber-Heidorn provided the AIS overview and that on March 15, 2021, Bob and Katherine Rannow submitted a petition for annexation and with Katherine's signature added on May 24, 2101, to attain consent from 100% of the property owners. The hearing was originally scheduled for May 25th, 2021, and we provided public notice which went out to property owners within 300', then we realized within a couple days that we needed to notice the property owners with 300' of the rights of way. We did not have enough time for noticing, so we asked to postpone. It was then scheduled for June 22nd. Public testimony identified issues with language in the Notice of Hearing, the public notice was revised and the hearing dated was postponed until July 13, 2021. The vicinity Map is for Arch Street, Falcon Street, 1st Avenue, 2nd Avenue; the two properties to be annexed are at the top of 2nd Ave. and has interesting topography. 2nd Ave. is a gravel drive; the reason for this shape of right of way is for infrastructure, and this is most efficient way. Sewer to sewer infrastructure go through Arch Street, Arch Street will also be annexed. Dylan displayed 6 site visit photos. A picture of 2nd Avenue a gravel drive, a picture of Falcon Street & Second Ave., a photo of down Falcon Street towards Driftwood Shores. Falcon Street is improved. Streets in this area are not the same as other local streets. We would require swales for storm water drainage. Falcon St has slopes. Arch Street from 1st Avenue. Arch street dead ends into the brush. Annexation map was displayed. Comprehensive Plan map designates Medium Density Residential. There are a handful of properties out there including the properties where we have testimony from the owners here tonight, their testimonies are in the packets. They have signed up to speak tonight. Arch St. disappears into the brush. Slide 15 show the change of the City limits after the annexation. Slide 16 the city zoning added to annexed properties will be dependent on the Comprehensive Plan designation Medium Density Residential, there are a couple exceptions at the corner of Falcon St & First Ave there is a property owned by Driftwood Shores that houses their maintenance building. Rights of Way take on a portion of their zoning designation, so ½ of north side of Falcon Street will be Commercial. Zoning of rights of way doesn't matter for much; it is street standards that are decided by the transportation plan. The other exception to medium density residential zoning is the intersection of 2nd Ave & Arch Street, which is designated Open Space. Slide 17 shows zoning map before and after annexation. We received referral comments from Public Works Dept, CTCLUSI, and Lumen (formerly Century link). Public Works provided information on whether or not they can provide sewer and how that can be done. CTCUUSI tribes requested comments that if any cultural resources are found that they will need to be notified. Lumen pointed out that they have telecommunication facilities in that area in the right of way and connected the power lines as well. They pointed out if development in that area necessitates the moving of the infrastructure that the costs would be borne by property owner, developer. Lane County Transportation provide comments that these streets are currently under their jurisdiction and they provided some back ground information on Arch Street. It is classified as an urban local road. Lane Co. Supports the annexation as it provides opportunity for future jurisdictional transfer. Until jurisdictional transfer occurs development must comply with Lane County Road requirements and that stormwater must not be directed to Lane County roads or drainage

facilities. The property will connect to Heceta Water. Access is via Falcon St. At some point they may have to think of a turnaround, such as maybe a hammer head. Sewer provision is the driving question on this one. In order for sewer to be provided to those two lots, it will run up 2th Ave. and then west on Arch Street to the existing facilities on 1st Ave. The most central way for that to happen is for those lines to connect to gravity lines that go from Driftwood Shores development to the pump station. There shouldn't be any new pressure infrastructure involved. It doesn't create a need for a private pump station or anything like that to get access to the pressure sewer mains. Arch Street provides the shortest available distance to get the property to sewer for the City and the property owner. Both the double & triple majority methods of consent are met for this property. There are no electors residing on the property. We received a great deal of public testimony. I received a few calls but none of them provided any testimony the full testimony is in the packet that you received. Points I isolated are Arch St. is not intended for development, and clearing for sewer and street annexation would harm adjacent properties. Wetlands and Dunal aquifer would be harmed by street development. Dylan made two points. 1. That the dead end of Arch St was not intended for development that is needed for sewer would harm the adjacent property and the idea that there are wetlands that would be harmed by development, rights of way and the N. Dunal aquifer would be harmed as well. This property would require site investigation report before the city would consider development. There aren't any wetlands in that area listed on the City's wetland inventories map.

Staff did not suggest any conditions of approval.

Alternatives

- recommendation of approval of Annexation and Zone Change to City Council.
- Recommend denial of Annexation based on Commission's findings.
- Recommend approval of Annexation but recommend a different annexation area.
- Recommend approval of annexation but recommend different zoning district.
- Continue the public hearing to a date certain if more info is needed.

Staff finds that the application meets requirements of City Code with conditions of approval as presented. Staff recommends approving recommendation and sending on to City Council supporting annex & zoning assignment of MDR with rights of way.

Chair Tarvin asked each of the commissioners if they had any questions of staff or Public Works.

Commissioner Andrew Miller: does the applicant bear all the responsibility for all improvements?

Dylan: The plan that I have seen for Public Works caps costs at a certain amount for sewer extension on Arch St., and 2nd Avenue would eventually be used by other properties.

Commission Hauptman: asked about Road improvements for Falcon & 2nd Ave is that additional liability or is City taking care of it.

Dylan: for streets it would be on the applicant, it was for the sewer that Public Works would establish cost sharing; as currently proposed the applicant would have to improve 2nd Ave from Falcon to the Northern extent of the property.

Applicant Bob Rannow: our goal here would be to build a house that we would live in, we like the area, and like the concept of annexation and wastewater situation is more palatable to us and we look forward to that possibility.

There were no questions for the applicant

Applicant was asked if he has read the staff report and the finding of facts and do you understand the conditions of approval as proposed. Applicant Bob Rannow: I believe so, yes.

Chair Tarvin read rules of giving testimony.

Speaker Gregory Stober, Arch St property owner, opposes annexation: We are at our third meeting & planning staff has not prepared a comprehensive staff report that has been available for the public review in a timely manner, before the meeting for reviewing the materials that were available for us for this meeting it was all proposals (7:14 voice became garbled) the language was subject to further investigation to determine other facts regarding construction & slope, which the property owner seems very vague about, also the fact that the plan was not a plan it was a set of proposals which could in fact be proved as proposals subject to change at a later date with no opportunity for public input. My primary concern is that the lack of proper notification and availability of the public for the proposal presented this evening, it had not been made available to the public for review or comment in preparation for this meeting. The information that we read, was prepared by staff was stamped throughout the pages as "proposal." We would like to see a comprehensive staff report, including input from Public Works including specific language regarding the cost of the sewer. While Public Works is willing to share a percentage of that cost, we as property owners would like to know how much the City is going to be paying and how much the property owner is going to be paying, when in fact the property owners on Arch Street, longtime residents have functioning septic systems and have no need for desire or interest for access to this utility.

Next speaker, Arda Stober: Thank you for hearing our concerns over the proposed annexation. We are owners on Arch Street of several properties, all 4 property owners on Arch St in its entirety of Arch St. none of which are interested in sewer or developing any our said lands in the future, so given that alone, we are opposed to having the sewer come up our street. The other concerns I have is largely, the end of the County Maintenance for Arch St. ends before our home and it has been said that if the proposed annexation goes through any of the improvement or the extension would still fall on Lane Co for maintenance. Lane county maintenance ends before our driveway so we see this as a potential problem, if that area is extended through for the utility and/or extending Arch St., that is a very large concern of ours. In our letters we submitted pictures to show the end of County maintenance sign, where it ends and it ends far sooner than what you would see on the plot map for Lane Co so it is a little deceiving, Arch Street does not extend nearly as it appears on the Lane Co maps & Comprehensive Plan map, along with the fact that the public open space is right parallel with our property is also a sloping lay of the land that slopes downward to the lake that is behind our house, so we definitely are interested in any kind of study that the City would do to the environment around that area. I think that concludes my concerns over the proposed annexation, again we and the other property owners on Arch St. are all opposed to having that Street annexed.

Third speaker: Mr. Zack Mittge of Hutchinson & Cox

Mr Mittge: We have provided 3 written statements to the City of Florence in advance of the hearing this evening including a letter on March 19th for the first scheduled meeting, on May 25th, and an additional statement on June 14th for the rescheduled hearing last month. These letters detailed a variety of issues with the application and I would encourage you to review them carefully. This evening I would like to touch on just a few salient points in the few minutes I have, involving the proposed annexation & zone change. The application that you have consists of entirely of the one-page petition for annexation 'Exhibit F', that's it, one piece of paper signed by Mr. Rannow for annexation of his two tax lots there is no application for a zone change and no request for the annexation of Falcon St or Arch St or 2nd Ave. Just a petition requesting lot 3303 & 3304 be annexed to the City of Florence, yet from this one page we end up with 22 pages of findings. Findings that seem to justify the annexation of both properties the adjacent street rights of way including a portion of County Park a rezoning of the entire property. There are at least two problems with this approach. First the applicant did not petition to annex the streets rights of way and neither has the City under ORS 222.111, the only way to initiate the annexation is for the City Council to do it or for owners of the real property to do it, since neither the Council or the owner has requested the annexation of roads rights of way, they are not before the Planning Commission this evening. Moreover, since the City Council has not initiated or considered this annexation it has not also

voted to dispense with the election with regard to this annexation which is required by ORS 222.120. Public hearing process is subjectively to procedurally invalid. The other issue is that the one-page petition is an even bigger problem for the zone change because there is literally no application pending before the Planning Commission for a zone change at this point in time and even if there were, the proposed zone change to Medium Density Residential is not consistent with County zoning or the designation of the Rannow property for single family residential use in the City Comprehensive plan. The City's single family residential use is not consistent with MDR zone. It is also not supported by the required traffic impact analysis and does not provide demonstrable public benefit, although as Mr. Rannow alluded to a short time ago, they would prefer it for the private sewerage. As the one-page petition in the record does not include either annexation of the rights of way of the surrounding streets, the Council has not voted to dispense with the election for the proposed annexation and conduct this public hearing, and there is no pending application for a zone change before the Planning Commission, we respectfully request the Planning Commission deny the annexation and Zone Change referred to in the notice. I am available for any questions if the Commission has any.

Commissioners were asked if they had any questions, related to the testimony?

Commissioner Hauptman: I would like to ask staff about what Mr. & Mrs. Stober brought up as well as Mr. Mittge.

Dylan H-H: I would be happy to jump in, working backwards. Mr. Mittge's comments do not reflect how a zoning assignment is done by the Florence City Code. City Council has the authority to assign zoning. It is a distinctive process in the distinctive code for a zone change application a zone change application is not required for a zone change like this. As far as the compatibility of the Lane County residential zones in this area, they have similar enough lot sizes & everything else. For there to be a clean go between in annexation of these lands & going from a County's residential zone to the City Residential zone, MDR is established so that changes don't trigger any transportation impact process. As they currently sit as County lots, the potential is in line for what it will be after assigning of City Zoning. To address the comments made by the Stobers, the proposed finding of facts is not final; only the Planning Commission can approve them. I wrote those findings, so they are merely a proposal to the Planning Commission. The Planning Commission may choose to adopt them as they have been written, or they can call for changes. They are the ones that make the call. I do not have the authority to make them final; the Planning Commission does. You also mentioned the wetlands and the issues out there. The City has processes for policing wetlands and the unstable slopes and all that, and we have codes that protect wetlands, but they simply do not apply to the land until it is annexed. That is why the annexation is focused on a narrow set of criteria. It in no way grants a permit to the property owner to develop the property. In order to do that, they would have to do a site investigation report and other related work to investigate the presence of wetlands and to ensure that the slopes can be stabilized. All that comes once the City has jurisdiction of that property in order for us to enforce our codes. In response to the comments that the staff reports were not made available to the public, they have been available. Specifically, for this hearing, the staff report was available 7 days in advance. Mr. Mittge requested a copy at 10:38 am last Wednesday, and by 2:05 I saw the email and sent him a copy. Anybody that asked during that time got one. It is our practice to have those for any interested parties. I mentioned to the Stobers that if they want those materials 7 days in advance, they could request them. They haven't asked. As far as sewer versus septic goes, it is well known that there are plenty of functioning, not that old, septic systems out there and they can certainly be repaired and kept going for a good amt of time but eventually that system will fail, Public Works Depart knows how frequently their warnings to not let dogs drink out of the stream of water that runs from those neighborhoods to the ocean, and a lot that is because the issue of failing septic tanks. That concludes my comments.

The commissioners were asked if they had any questions for staff

Erick Hauptman: I think what I got from the Stobers is that their concern that they are going to bear any of the financial responsibility of bringing in the sewer to the applicant's property. Are there any costs that they are going to be involved with or is it just when they decide to tap into the sewer?

Mike Miller: we would have this as a cost share between the City and the Rannows and we do not know what those exact costs are yet. We treat it very much like any other project where we extend sewer, just like we did up highway 101, actually that was a reimbursement district but we would probably do the same type of process having it a reimbursement district rather than a that a versus a local improvement district. A reimbursement district is when you only have to pay when you hookup. Whereas a local improvement district, the properties would all have a cost share whether they connect or not, so we would treat this as a reimbursement area potentially, we would have to go and look at what we have done, what we have done is fairly high level 30,000 ft elevation look to see how sewer can be provided in this area. Look at Lidar imagery with and looking at the most cost-effective way of providing sewer service, to this residence rather than a total basin approach, so there are a couple different methods we would cost share and if people are interested, we could discuss those numbers with them, but if their septic is working fine, they don't have any issues than there is no need for them to connect we can't force that upon anybody. If there are any questions, I would be happy to answer.

Vice Chair Young: I think my question is to Dylan. It's about the election process; I thought that we couldn't require elections for annexations any more. I know a lot of cities were requiring it, but I thought there was a LUBA case or something that said that we could not do elections anymore.

Dylan, I'm not aware of a LUBA case preventing it, what I am aware of is a City Council Ordinance from years past that dispensed with all elections, the City Council moved all annexation processes of individual properties like this, moved from an election base frame work to this hearing based frame work, and in so doing for as long as ordinances are in place, we don't follow an election procedural but follow the process that we have gone through with all the annexations we have done

Staff reminded the Commission that regardless of their vote, the City Council vote is the final decision. One change to the finding I'd like to add is to recommend at the top of the page it has TBD for the City Council, we did send out notice for the City Council meeting for 8/2 City Council date. That went out today as of now there is actually a date anticipated for City Council hearing of August 2nd.

The applicant did not wish to rebut.

There were no further questions for the applicant.

Staff recommended that the proposed application meets the requirements of City Code. Staff's recommendation is that the Planning Commission approves a resolution recommendation of approval of the annexation and zone assignment to City Council to support assignment of zone assignment to MDR with right of ways zoned according to the realization 2020 Comprehensive Plan.

Public Hearing closed at 6:39 pm

the applicant was asked if he wanted to waive the submission of a written argument: Applicant Bob Rannow: waived the submission of a final written argument.

Commission Andrew Mill moved to approve recommendation
Second by John Murphey.
Staff polled the commission motion passed 5-0

Start Time: 5:38 PM
Closed hearing: 6:39
Motion: Commissioner Andrew Miller
Second: Commissioner John Murphey
Vote: 5-0
Action: Motion Carried

5. **WORKPLAN RECOMMENDATION -Recommendation to Council for Planning Commission's 2021-2021 City of Florence Workplan, Year 1 Project Proposal. Review DRAFT of work plan and Prior Year**

Wendy FarleyCampbell presented year one of work plan that will be presented to the City Council.
There was no discussion.

Vote Workplan Recommendation present to the City Council on August 2, 2021.

Motion: Commissioner
Second: Commissioner
Vote: 5-0
Staff polled the Commission: vote 5-0

Action: Motion Carried

7. **Report ant Discussion items:**

Planning Director Wendy FarleyCampbell explained that the work plan priorities would be brought to the City Council in August so that committees would have time to prioritize their year one items. She said that staff is currently working through 21 applications and touched on what those are and what applications could be upcoming. Information was provided regarding the resignation of Commissioner Brian Jagoe. Vice Chair Young said she would like a card sent to Commissioner Jagoe thanking him for all the work that he has done on the Planning Commission. Chair Tarvin asked Vice Chair Young to draft a note; she said she would. FarleyCampbell said that she will provide Commissioner Jagoe's contact information.

8. **Planning Commission Calendar:**

FarleyCampbell relayed future meeting items. On July 27, FarleyCampbell explained, the Driftwood Shores variance and Cannery Station extension request and plat could be reviewed.

Johnston commented that City Hall is now open to the public. The City is not having open meetings yet but City Hall is now open.

The meeting adjourned at 7:11 PM.

ATTEST:

Sharon Barker, Planning Technician

Phil Tarvin, Chairperson