

**FINDINGS OF FACT  
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT  
Exhibit "A"**

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**Public Hearing Date:** August 25, 2020 (originally scheduled for July 14<sup>th</sup> and continued per the applicant's request to August 25<sup>th</sup>)

**Date of Report:** August 18, 2020 (originally published July 7<sup>th</sup> and revised and republished August 18<sup>th</sup>)

**Planner:** Hailey Sheldon

**Application:** PC 20 15 CUP 04 – Conditional Use Permit with Design Review

**I. PROPOSAL DESCRIPTION**

**Proposal:** Operation of a "La Mota" recreational marijuana dispensary in an existing structure, most recently permitted for retail sales use.

**Applicant:** Rosa Cazares  
7435 SE 52<sup>nd</sup> Ave  
Portland, OR 97206

**Property Owner:** Aaron Mitchell

**Location:** 470 Hwy 101, Florence  
Map # 18-12-27-44, Tax Lot 11800

**Site Characteristics:**

|              | Use(s)  | Streets / TSP Classification   | Zoning       | Comp. Plan Designation |
|--------------|---|--|--------------|------------------------|
| <b>Site</b>  | Retail Sales in Shopping Center on Southeast Corner of Rhododendron Drive and Hwy 101 | N/A  | Mainstreet A | Downtown               |
| <b>North</b> | Retail Sales & residential units in Shopping Center & Rhododendron Drive              | Rhododendron Drive / east of Hwy 101--Local west of Hwy 101--Collector |              |                        |

|              |                          |                                       |              |  |
|--------------|--------------------------|---------------------------------------|--------------|--|
| <b>South</b> | Commercial Building-Bank | Nopal Street / Local                  |              |  |
| <b>East</b>  | Vacant Undeveloped Land  | City owned property used as alley ROW | Mainstreet B |  |
| <b>West</b>  | Hwy 101                  | Hwy 101 / Major Arterial              | Mainstreet A |  |

## II. NARRATIVE

The applicant is proposing to open a “La Mota” recreational marijuana dispensary in an existing building near the corner of Hwy 101 and Rhododendron Ave.

The building is in a strip mall. The 5-6 buildings comprising the “mall” are (a) physically connected, (b) individually owned, and (c) situated on individual lots.

The applicant is not proposing either (a) a change of occupancy,<sup>1</sup> or (b) structural changes / alterations to the external building footprint.

However, the applicant’s request constitutes a change of use, from a permitted retail use to a conditionally permitted retail use (the Florence City Code lists marijuana retail as a conditional use, regardless of zone). As a result, certain chapters of the Florence Code which the applicant cannot meet, due to the existing development layout and lot size and orientation of the property, apply to this application (the parking requirement, for example – there isn’t enough space on the lot to meet the off-street parking requirement).

This staff report lists the standards applicable to the applicant’s proposal, findings regarding the proposals’ adherence to those standards; where they don’t meet, it is indicated in the findings in this report.

## III. NOTICES & REFERRALS

**Notice:** On June 24, 2020, notice was mailed to surrounding property owners within 300 feet of the property, and posted on site.

At the time of this report, the City had received public comment in opposition of the proposal from:

1. Chantelle Meyer, 494 Highway 101 (Residential Tenant): Exhibit H
2. Tim and Pat Sapp, 498 Hwy 101 (Owner): Exhibit I
3. Cindy Wobbe, 498 Hwy 101 (Commercial Tenant): Exhibit J

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<sup>1</sup> No change of occupancy is proposed (as defined in the 2014 Oregon Structural Specialty Code and enforced by Building Codes). The structure was previously used for retail sales and is proposed to again be used for retail sales.

See attached exhibits. The respondents comments are regarding: (1) lack of parking in the mall complex and the applicant's inability to meet the parking requirements of FCC 10-3 Parking, (2) congestion in and around the mall (FCC 10-35 Access and Circulation), and (3) the use of the space for marijuana retail (clientele, proximity to residential uses, character of the downtown corridor).

At the time of this report, the City had received public comment in support of the proposal from:

4. Mike Ault, Owner of Purple Pelican Antique Mall: Exhibit K
5. Russell Luker, Current Property Owner of Subject Property: Exhibit L

**Referrals:** Referrals were not sent for this proposal.

At the time of this report, the City had received referral comments on the proposal from the following:

1. Dave Mortier, Building Inspector, Northwest Code Professionals: Exhibit F

Mr. Mortier notes that the applicant's proposal does not constitute a change of occupancy / change of use as it relates to Oregon Structural Specialty Code, specifically ADA.

2. Doug Baumgartner, Development Review Coordinator, ODOT: Exhibit G

Mr. Baumgartner notes that the *Access Management Plan for Highway 101 in Downtown Florence* is inconsistent with what is constructed on this block. There is one mid-block approach planned for the east side of 101, between 4<sup>th</sup> and Rhododendron. That approach is designated entrance only in the Access Management Plan. But the bank is currently using it as an exit (it is painted with exit only arrows).

To meet the Access Management Plan would require the Bank re-routing the circulation in their parking lot, and repainting their lot. However, the Bank received land use approval for their development and are not subject to compliance with the AMP under this approval. Their participation would be voluntary and executed in coordination with the applicant. Enforcing the Access Management Plan is the role of the City.

#### IV. **APPLICABLE REVIEW CRITERIA**

##### **Florence City Code:**

##### **Title 10: Zoning Regulations**

Chapter 1: Zoning Administration, Sections 1-6-3,

Chapter 3: Off-Street Parking and Loading, Sections 2 through 5 and 8 through 10

Chapter 4: Conditional Uses, Sections 3 through 11 and 12-1

Chapter 27: Mainstreet District, Sections 3 through 5

Chapter 34: Landscaping

## V. INFORMATIONALS

1. All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable.
2. The zone-specific parking provisions listed in 10-27-5-L allow front on-street parking (Hwy 101, in this case), parking in interior shared parking lots within the block where the applicant's lot is located, or parking in a shared lot in another block to be counted towards the minimum number of spaces requirement.
3. Any off-site parking serving the proposed site must be signed and striped according to FCC 10-3 Parking & Loading, and meet any other applicable Florence City Codes (for example: lighting, access and circulation).
4. The sidewalks, curbs, gutters, and driveway accesses and aprons adjacent to Subject Property, along both Rhododendron Ave and Hwy 101, were re-constructed in the Spring of 2020 as part of the ReVision Florence project.

## VI. FINDINGS

Code criterion are listed in **bold**, with findings beneath. Only applicable criteria have been listed.

|                           |
|---------------------------|
| <b>FLORENCE CITY CODE</b> |
|---------------------------|

|   |
|---|
| <b>TITLE 10: CHAPTER 1: ZONING ADMINISTRATION</b> |
|---|

**10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:**

**A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:**

**7. Conditional Use Permits**

The applicant's proposed use (marijuana retailer) is listed as a conditional use in the Mainstreet District, per FCC 10-27-3: Buildings and Uses Permitted Conditionally [Mainstreet District]. This application is for a Conditional Use Permit, subject to the Type III review procedure.

**B. Notification of Hearing:**

1. **At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property**

**within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.**

- a. **Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.**
  - b. **For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.**
  - c. **For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).**
  - d. **Notice shall be mailed to any person who submits a written request to receive notice.**
  - e. **For appeals, the appellant and all persons who provided testimony in the original decision.**
2. **Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.**

Notice of the public hearing was posted on the subject property on June 24, 2020 and mailed to all property owners within 300 feet of the property. Notice was also published within the Siuslaw News one time on July 8, 2020. These criteria are met.

**C. Notice Mailed to Surrounding Property Owners - Information provided:**

1. **The notice shall:**
  - a. **Explain the nature of the application and the proposed use or uses which could be authorized;**
  - b. **List the applicable criteria from the ordinance and the plan that apply to the application at issue;**
  - c. **Set forth the street address or other easily understood geographical reference to the subject property;**

- d. **State the date, time and location of the hearing;**
- e. **State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;**
- f. **State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
- g. **State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;**
- h. **Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.**
- i. **Include the name of a local government representative to contact and the telephone number where additional information may be obtained.**

The provided notice contained all of the information listed in FCC 10-1-1-6-3-C. These criteria are met.

**D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.**

**E. Action by the Planning Commission:**

- 1. **At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
- 2. **Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
- 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.**
- 4. **There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

The applicant's proposal was on the Planning Commission agenda at their July 14, 2020 hearing. The applicant requested a continuance. The Planning Commission approved a

continuance to July 28<sup>th</sup> at their July 14<sup>th</sup> meeting and a second continuance to August 25<sup>th</sup> at their July 28<sup>th</sup> meeting.

The Planning Commission heard this application in a public hearing on August 25<sup>th</sup>, which met the standards of FCC 2-3 and FCC 2-10. These criteria are met.

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**TITLE 10: CHAPTER 4: CONDITIONAL USES**

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[...]

**10-4-10: GENERAL CRITERIA: A conditional use permit may be granted only if the proposal conforms to all the following general criteria: (Ord. 669, 5-17-82)**

- A. Conformity with the Florence Comprehensive Plan.**
- B. Compliance with special conditions established by the Planning Commission to carry out the purpose of this Chapter.**
- C. Findings that adequate land is available for uses which are permitted outright in the district where the conditional use is proposed. Available land can be either vacant land or land which could be converted from another use within the applicable zoning district. Land needs for permitted uses may be determined through projections contained in the Florence Comprehensive Plan or other special studies.**
- D. Conditional uses are subject to design review under the provisions of Chapter 6 of this Title, except single family and duplex residential use. (Ord. 625, 6-30-80) See Code Section 10-6-3 for Design Review requirements.**
- E. Adequacy of public facilities, public services and utilities to service the proposed development.**
- F. Adequacy of vehicle and pedestrian access to the site, including access by fire, police and other vehicles necessary to protect public health and safety. (Ord. 669, 5-17-82).**

The findings in this report list detail the conformity with the Florence City Code, Comprehensive Plan, and other relevant criteria, as well as adequacy of public facilities, services, utilities, and vehicle/pedestrian access.

Conditions of approval are listed in the Resolution, and throughout the findings.

Findings regarding the applicable design review criteria (parking, access, and lighting) are outlined in this report under their related chapter titles: FCC 10-3, 10-35, and 10-37.

**10-4-11: GENERAL CONDITIONS: The Planning Commission may require any of the following conditions it deems necessary to secure the purpose of this Chapter. Where a proposed conditional use is permitted in another district, the Planning Commission may apply the relevant development standards from the other district. In addition, conditions may be required by the Planning Commission. Such conditions may include:**

- A. Regulation of uses, special yard setbacks, coverage and height.
- B. Requiring fences, walls, screens and landscaping plus their maintenance.
- C. Regulation and control of points of vehicular ingress and egress.
- D. Regulation of noise, vibration, odors, and sightliness.
- E. Requiring surfacing of parking areas.
- F. Requiring rehabilitation plans.
- G. Regulation of hours of operation and duration of use or operation.
- H. Requiring a time period within which the proposed use shall be developed.
- I. Requiring bonds to insure performance of special conditions.
- J. Regulation of tree and vegetation removal to maintain soil stability, preserve natural habitat, protect riparian vegetation, buffer conflicting uses, and maintain scenic qualities.
- K. Such other conditions as will make possible the development of the City in an orderly and efficient manner and in conformity with the intent and purpose of the Florence Comprehensive Plan.

**10-4-12: ADDITIONAL CONDITIONS:** Some land uses by the nature of the activity associated with them require separate and intense consideration by the Planning Commission prior to their establishment. Such uses and additional conditions are as follows:

[...]

- I. **All Medical and Recreational Marijuana Uses requiring licensing or registration by the Oregon Liquor Control Commission or the Oregon Health Authority.**
  - 1. **Medical marijuana dispensaries, recreational marijuana retailers, medical and recreational marijuana processing sites, recreational producers, and marijuana wholesalers are permitted conditionally except as specifically provided for in the Pacific View Business Park District and Limited Industrial District and where permitted as a home occupation. Where a licensed marijuana use is not listed among the uses permitted conditionally or outright in a particular zoning district, the marijuana use is not permitted in that zoning district.**

Recreational marijuana retailers are permitted conditionally in the Mainstreet "A" zone.

- 2. **Prior to submitting an application for a medical marijuana or recreational marijuana conditionally permitted use, the applicant shall attend a pre-development meeting with Community Development staff. In addition, prior to submitting the conditional**

use permit, the applicant shall submit a zone verification request for the development site to determine whether the proposed development site complies with the necessary separation requirements for a medical marijuana or recreational use.

3. **Medical marijuana dispensaries and marijuana retailers must be separated from the following by a minimum of the listed distance:**
  - a. **175 feet from residential zones**
  - b. **200 feet from public libraries.**
  - c. **200 feet from public parks, except Miller Park which shall be 400 feet.**
  - d. **200 feet from child care facilities licensed by the Oregon Department of Education (registered family child care homes, certified family child care homes, and certified child care centers).**
  - e. **1,000 feet from:**
    1. **Public elementary or secondary school for which attendance is compulsory under ORS 339.020.**
    2. **Private or parochial elementary or secondary school, teaching children as described in ORS 339.030.**

**School buffers listed in “3.e.” above shall be measured as follows: a straight line measurement in a radius extending for 1,000 feet or less in any direction from the closest point anywhere on the boundary line of the real property comprising a school to the closest point of the premises of a retailer or dispensary. For all other buffers, distance is measured in a straight line measurement in a radius extending for the buffered distance in every direction from any point on the boundary line of the real property comprising the buffered use to the nearest primary or accessory structure used for marijuana facility use. The distance limitations are based upon the uses surrounding the proposed marijuana facility location at the time the conditional use application is deemed complete.**

The applicant’s proposal complies with separation requirements; Subject Property is located outside the radiuses described above.

4. **All medical marijuana and recreational marijuana uses shall:**
  - a. **Not be a home occupation, except Medical Marijuana Production and Processing and Recreational Marijuana Producers and Processors in a permanent building as discussed in ‘c’ below.**

No home occupation is proposed.

- b. Not locate in a building that also contains a dwelling or caretaker facility.**

No location in a building that also contains a dwelling or caretaker facility is proposed.

- c. Only locate in a permanent building and shall not locate in a temporary or movable structure, such as a high tunnel, greenhouse, trailer, cargo container or motor vehicle, except as provided in 'i'. Medical and Recreational Production not in a residential zone and not a home occupation may conduct outdoor grow operations, excepting in the Highway District.**

No location in a temporary or movable structure is proposed.

- d. Not have a drive-up window or walk-up window.**

No drive-up window or walk-up window is proposed.

- e. Provide exterior lighting after sunset during business hours to light the public entrance to the facility. The lighting shall be positioned so as to not negatively impact the picture quality of any video surveillance system used by the facility.**
- f. Provide overhead lighting after sunset during business hours for any on-site parking area.**

See the findings in this report related to FCC 10-37 Lighting for a detailed discussion of lighting.

- g. Have only one public entrance and the single public entrance shall face a public street.**

The applicant's proposal meets this requirement. See Exhibit D, Floor Plan. The business will have a single public entrance, facing Hwy 101.

- h. Not share an air circulation system with another use.**

Condition 4: the applicant shall submit to the City Community Development Department documentation showing the air circulation system in the building is not connected to any other building in the mall prior to commencing business.

- i. Not locate in greenhouses or high tunnels, except for producers and production sites that are not home occupations may use those structures in non-residential districts where the business use is permitted.**

No on-site growing, greenhouses or high tunnels are proposed.

- j. Provide effective odor control system such as by carbon filtration.**

Condition 5: the applicant shall submit to the City Community Development Department documentation showing an effective odor control system in the building prior to commencing business.

- k. Not use artificial lighting after sunset and before sunrise with outdoor grow sites and production or those operating in greenhouses or high-tunnels.**

No on-site growing, greenhouses or high tunnels are proposed.

- l. Position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.**

Condition 6: the applicant shall install and position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.

- 5. All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable and must have a current City business license.**

Informational 1: All medical marijuana and recreational marijuana uses must have a current and active registration and/or license to conduct business as a facility from the Oregon Health Authority and from the Oregon Liquor Control Commission, as applicable.

Condition 7: The applicant shall obtain a City of Florence business license prior to commencing business.

- 6. All medical marijuana grow sites and recreational producers must provide the city a 'will serve' letter or equivalent from Florence Public Works, Central Lincoln PUD and Heceta Water PUD (as applicable) prior to submission of a land use permit application or business license, whichever application is made first.**

No on-site marijuana production (growing) is proposed.

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## **TITLE 10: CHAPTER 27: MAINSTREET DISTRICT**

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**10-27-1: Purpose.** The Mainstreet District is intended to provide an area for small and medium sized commercial uses that are appropriate in a traditional, historic downtown. It is also intended to encourage revitalization of the downtown area, and to maintain adequate traffic flows on Highway 101, while providing a pedestrian friendly environment.

[...]

**10-27-3: 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:

### **m. Marijuana Retailers**

[...]

#### **10-27-4: Lot and Yard Dimensions**

- A. Minimum Lot dimensions: The minimum lot width shall be 25’.**
- B. Minimum Lot Area: The minimum lot area shall be 2500 square feet.**
- C. Lot coverage: Up to a maximum of 90% lot coverage by buildings and other impervious surfaces.**
- D. Yard Regulations: Area “A”:**
  - 1. Front yards: Front yards may vary from 0’ to 10’ from back of property line. Ten percent of the frontage, or a minimum of 6’, may be utilized for pedestrian walkways connecting to interior parking lots. Upper story windows, balconies, benches and tables and awnings may encroach into the sidewalk area as long as a minimum 8’ wide pedestrian way is maintained within the sidewalk area.**
  - 2. Side and rear yards: Buildings may be zero lot line, provided that all Building Code requirements are met. In each block, there will be at least one opening for public access to interior parking lots. Where a commercial use abuts a residential district, a fifteen foot (15’) buffer may be required.**

[...]

Subject Property meets the lot dimensions, lot area, and yard regulations of 10-27-4, above.

Subject Property does not meet the lot coverage standard; nearly 100% of the lot is impervious surface.

#### **10-27-5: Site and Development Provisions**

##### **A. Building or Structural Height Limitations**

###### **Area “A”:**

**Buildings shall be a minimum of 20’ in height. This measurement may include a building façade as opposed to a total building height of 20’. If a façade is used, it must be designed so that it is not readily apparent that it is only a façade. The maximum height shall be 38’ for a building or structure without an approved fire extinguishing system unless otherwise approved by the Planning Commission. The Planning Commission may allow heights up to 50 feet/four stories provided that:**

[...]

The structure(s) on Subject Property meet this height requirement.

- B. Fences, Hedges, Walls and Landscaping: Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:**

**Area “A” as shown on the following page:**

**A minimum of 10% landscaping is required. The calculation of the required minimum may include street trees installed and maintained by the applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the 10% calculation must be installed and maintained by the applicant or his/her successors.**

[...]

**Where a commercial use abuts a residential district, see FCC 10-34-3-7-D.**

See the findings in this report related 10-34 Landscaping.

- C. Access and Circulation. Refer to Section 10-35 Access and Circulation of this Title for Requirements.**

- 1. Access Management Plan: All access points to Highway 101 shall be governed by the Access Management Plan for Highway 101 in Downtown Florence.**

See Exhibit G for referral comments from ODOT regarding the Access Management Plan. Mr. Baumgartner notes that the *Access Management Plan for Highway 101 in Downtown Florence* is inconsistent with what is constructed on this block. There is one mid-block approach planned for the east side of 101, between 4<sup>th</sup> and Rhododendron. That approach is designated entrance only in the Access Management Plan. But the bank is currently it as an exit (it is painted with exit only arrows).

To meet the Access Management Plan would require the Bank re-routing the circulation in their parking lot, and repainting their lot. However, the Bank received land use approval for their development and is not subject to complying with the AMP at this time. At the time of writing the applicant was seeking participation with the bank for modifying parking and access to comply.

Enforcing the Access Management Plan is the role of the City. Implementation of the AMP is most successful at the time of construction or reconstruction of a site. This proposal plans to use the existing building as a retail use as done previously since the 1980's when it changed from a car repair use. No changes to the building or site are proposed. The change in use itself is not creating the need to comply with the AMP, rather the change in circulation of the access aisle along the western side of the northern properties reduced to one-way with the Revision Florence project. As such the applicant either needs to restripe the parking to angle for ingress from Rhody or restripe the bank parking to change access at Hwy 101 to ingress only.

- 2. Sidewalks abutting buildings on Highway 101, Highway 126, and local streets within the Mainstreet District shall be at least 8' in width, except collector streets within the Mainstreet District without on-**

**street parking as described below. Sidewalk area beyond the standard 6' sidewalk width may be surfaced with pavers, brick or other similar materials. Maintenance and repair of pavers, brick, etc. are the responsibility of the business/property owner.**

- a. Sidewalks on collector streets within the Mainstreet District may be reduced to 6' in width with 6' of clear walkway if there is no on-street parking on that side of the street.**

The sidewalks abutting Subject Property are along Hwy 101. These sidewalks were reconstructed via ReVision Florence in the Spring of 2020, and meet these standards.

**3. Access to all floors of all commercial buildings and structures shall meet ADA requirements.**

Oregon Building Codes does not consider the applicant's proposed use to be a "Change of Occupancy," triggering ADA upgrades (see Exhibit F for referral comments from Dave Mortiers of Northwest Code Pro). However, the ADA requirements in the Florence Code related to parking and access and circulation apply, and are discussed below.

See the findings in this report related to 10-35 Access and Circulation.

**D. Parking and Loading Spaces**

**Area "A":**

**Parking spaces may be located on-street in front of the front yard of the lot (if approved by ODOT on Highways 101/126) and/or may be in interior shared parking lots within the block where the applicant's lot is located, or in a shared lot in another block. Business/property owners are strongly encouraged to cooperate in proposing joint parking agreement areas as part of development or redevelopment proposals. Parking will not be permitted in front yards. The Planning Commission may grant parking under a temporary arrangement if an interior or off-site shared parking lot is planned and approved, but not yet constructed, and/or may require the applicant or owner to sign a non-remonstrance agreement for parking improvements. Parking standards in Chapter 3 of this Title shall be used as a guideline for determining parking need.**

**Bicycle racks shall be provided either in the interior parking lot, or by an entrance if located outside the required minimum 6' pedestrian walkway.**

[...]

See the findings in this report related to 10-3 Parking.

**E. Vision Clearance.**

**Refer to Section 10-2-13 and 10-35-2-14 of this Title for definitions and requirements.**

**F. Signs.**

**Shall be in accordance with Title 4 Chapter 7 of this Code. (Ord. 4, 2011)**

Condition 8: Any sign placed on Subject Property shall meet the requirements of Title 4 Chapter 7.

**G. Lighting.**

**Street lighting, building lighting and lighting of parking lots and walkways shall conform to the following lighting standards:**

- 1. Light fixtures shall conform to the lighting styles in the Architectural Guidelines.**
- 2. Lighting shall be pedestrian scaled.**
- 3. Refer to Section 10-37 of this Title for additional requirements.**
- 4. Wiring for historic fixtures shall be underground. Other overhead wiring shall be placed underground, where possible.**

See the findings in this report related to 10-37 Lighting.

**H. Design Review.**

**All uses except single family and residential duplex units shall be subject to Design Review criteria contained within FCC 10-6 to insure compatibility and integration with the Mainstreet character, and to encourage revitalization. Architectural design shall be reviewed against the Architectural Design code contained within FCC 10-6-6 to determine compatibility, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516.**

No changes to the footprint of Subject Property or to the exterior of the building are proposed.

The applicant's proposal is undergoing Design Review as part of the review of this application.

**I. Trash Enclosures.**

**All trash enclosures shall be located in side or rear yards, and shall be screened from street or pedestrian courtyard view with a permanent solid fence or wall at least 6' high. Service shall be from an abutting alley or interior parking lot where possible. Gates opening to non-street faces may be slatted chain link.**

No new trash enclosures are proposed. The site does not presently have any trash containers stored outside.

Condition 9: Should the applicant provide outdoor trash or recycling containers they shall be screened in accordance with FCC 10-27-5-l.

**J. General Provisions.**

- 1. Outdoor storage of materials and display of merchandise for sale shall be subject to approval by the Planning Commission.**

2. **Where there is manufacturing, compounding, processing or treatment of products for wholesale, the front twenty-five (25) feet of the building's ground floor facing the principal commercial street shall be used for commercial sales, business or professional offices.**
3. **Any use allowed must not cause unreasonable odor, dust, smoke, noise, vibration or appearance.**

**K. Public Facilities: Refer to Section 10-36 of this Title for requirements.**

The existing lot and structure meet the requirements of 10-27-4 Lot and Yard Dimensions and 10-27-5 Site and Development Provisions, with the exception of the following pre-existing, non-conforming items: lot coverage, landscaping, ADA access, number of vehicular parking spaces, bicycle parking, lighting design, and building architectural design.

The site design requirements which apply to this application include parking, access/circulation, landscaping, and lighting. See the findings in this report related to FCC 10-3 Off Street Parking and Loading, FCC 10-35 Access and Circulation, FCC 10-34 Landscaping and FCC 10-37 for a discussion of those items.

As noted above: no changes to the exterior footprint, occupancy (as defined in the 2014 Oregon Structural Specialty Code), screening, landscaping, access, circulation, parking, or trash enclosures are proposed. No outdoor storage of materials, display of merchandise for sale, manufacturing, compounding, processing or treatment of products for wholesale are proposed.

See Conditions 4 and 5, in the findings related to FCC 10-4-12 Conditional Uses All Medical and Recreational Marijuana Uses, for conditions intended to mitigate any potential source of unreasonable odor.

No potential source of dust, smoke, noise, vibration or unsightly appearance is proposed.

The requisite public facilities are pre-existing at a capacity suitable for the proposed use.

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**TITLE 10: CHAPTER 3: OFF-STREET PARKING AND LOADING**

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**10-3-2: GENERAL PROVISIONS:**

- A. **The provision for and maintenance of off-street parking and loading spaces are continuing obligations of the property owners. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space.**
- B. **At the time of new construction or enlargement or change in use of an existing structure within any district in the City, off-street parking spaces shall be provided as outlined in this Chapter, unless requirements are**

otherwise established by special review or City Council action. Additional parking spaces shall meet current code.

- C. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is required by this Chapter.
- D. Required parking spaces shall be available for the parking of passenger automobiles of residents, customers, patrons and employees, and shall not be used for storage of materials of any type.
- E. Ingress and egress for parking and loading shall not endanger or impede the flow of traffic.
- F. The required off-street parking for nonresidential uses shall not be used for loading and unloading operations during regular business hours.
- G. Parking and Loading standards that are listed under specific zoning districts supersede the general requirements of this chapter.
- H. Provisions of this Chapter shall not apply to any parking located in an organized parking district.
- I. The provisions of this Chapter shall be in addition to the provisions for parking design and construction in FCC Title 9 Chapter 5 and, where there are conflicts, Title 9 Chapter 5 shall prevail.

**10-3-3: MINIMUM STANDARDS BY USE:** The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10-3-1. Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described below:

- C. Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, and shared parking. Parking in driveways does not count toward required minimum parking. For single family dwellings, duets and duplexes, one parking space per unit may be provided on a driveway if the criteria in FCC 10-3-8 are met.
- C. For non-residential uses where parking is available on-street, this parking shall count towards the minimum number of required parking spaces along all street frontages of the building where parking is available. Only useable spaces (i.e. those not blocking fire hydrants, mailboxes, etc.) shall count towards the minimum required number of parking spaces.
- C. The minimum number of parking spaces may also be determined through a parking demand analysis prepared by the applicant and approved by the Planning Commission. This parking demand analysis may include an acceptable proposal for alternate modes of transportation, including a description of existing and proposed facilities and assurances that the use

of the alternate modes of transportation will continue to reduce the need for on-site parking on an on-going basis. Examples of alternate modes include but are not limited to:

1. **Transit-related parking reduction.** The number of minimum parking spaces may be reduced by up to 10% if:
  - a. The proposal is located within a ¼ mile of an existing or planned transit route, and;
  - b. Transit-related amenities such as transit stops, pull-outs, shelters, park-and-ride lots, transit-oriented development, and transit service on an adjacent street are present or will be provided by the applicant.

**10-3-4: MINIMUM REQUIRED PARKING BY USE:** During the largest shift at peak season, fractional space requirements shall be counted as the next lower whole space (rounded down). Square footages will be taken from the gross floor area (measurements taken from exterior of building). Applicants may ask the Planning Commission for a reduction for parking spaces as part of their land use application. The applicant will have to provide the burden of evidence to justify the reduction proposed. The Planning Commission and/or staff may require the information be prepared by a registered traffic engineer. Table 10-3-1 lists the minimum parking spaces required by use, with a minimum no less than two (2) spaces for non-residential uses, plus additional space(s) as needed to meet the minimum accessible parking requirement.

**Table 10-3-1, Minimum Required Parking By Use:**

**C. Commercial and Retail Trade Types**

|   |  |
|---|--|
| <p><b>Retail Sales and Service (See also Drive-Up Uses)</b></p> | <p><b>Retail:</b> 1 spaces per 333 sq. ft., except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 500 sq. ft.</p> <p><b>Restaurants and Bars:</b> 1 spaces per 125 sq. ft. floor area</p> <p><b>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys):</b> 1 space per 333 sq. ft.</p> |
|---|--|

**10-3-5: VEHICLE PARKING - MINIMUM ACCESSIBLE PARKING:**

- A. Accessible parking shall be provided for all uses in accordance the standards in Table 10-3-2; parking spaces used to meet the standards in Table 10-3-2 shall be counted toward meeting off-street parking requirements in Table 10-3-1;

- B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;**
- C. Accessible spaces shall be grouped in pairs where possible;**
- D. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;**
- E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.**

| <b>Table 10-3-2 - Minimum Number of Accessible Parking Spaces</b> |  |  |  |
|---|--|--|--|
| <b>Source: ADA Standards for Accessible Design 4.1.2(5)</b>       |  |  |  |
| <b>Total Number of Parking Spaces Provided (per lot)</b>          | <b>Total Minimum Number of Accessible Parking Spaces (with 60” access aisle, or 96” aisle for vans*)</b> | <b>Van Accessible Parking Spaces with min. 96” wide access aisle</b> | <b>Accessible Parking Spaces with min. 60” wide access aisle</b> |
| <b>1 to 25</b>  | <b>1</b>   | <b>1</b>   | <b>0</b>   |

[...]

The existing parking does not meet the requirements of FCC 10-3 Off-Street Parking and Loading.

Per Table 10-3-1- Minimum Required Parking by Use, the applicant is required to have 1 space per 333 square feet building space (exterior footprint). The existing building pad, as shown in Exhibit C Site Plan, is approximately 5,355 square feet, requiring 16 spaces (one of which must be ADA, per Table 10-3-2 below). The lot currently has 3 spaces, none of which are ADA-marked.

Informational 2: The zone-specific parking provisions listed in 10-27-5-L, below, allow front on-street parking (Hwy 101, in this case), parking in interior shared parking lots within the block where the applicant’s lot is located, or parking in a shared lot in another block to be counted towards the minimum number of spaces requirement.

**10-27-5: Site and Development Provisions**

[...]

**L. Parking and Loading Spaces**

**Area “A”:**

**Parking spaces may be located on-street in front of the front yard of the lot (if approved by ODOT on Highways 101/126) and/or may be in interior shared parking lots within the block where the applicant's lot is located, or in a shared lot in another block. Business/property owners are strongly encouraged to cooperate in proposing joint parking agreement areas as part of development or redevelopment proposals. Parking will not be permitted in front yards. The Planning Commission may grant parking under a temporary arrangement if an interior or off-site shared parking lot is planned and approved, but not yet constructed, and/or may require the applicant or owner to sign a non-remonstrance agreement for parking improvements. Parking standards in Chapter 3 of this Title shall be used as a guideline for determining parking need.**

**Bicycle racks shall be provided either in the interior parking lot, or by an entrance if located outside the required minimum 6' pedestrian walkway.**

[...]

Condition 10: The applicant shall submit a parking plan, meeting the standards of FCC 10-3 Parking & Loading, including but not limited to providing 8 parking spaces one of which shall be an ADA space, sized and striped in accordance with code, and bicycle parking.

Informational 3: Any off-site parking serving the proposed site must be signed and striped according to FCC 10-3 Parking & Loading, and meet any other applicable Florence City Codes (for example: lighting, access and circulation).

**10-3-8: PARKING AREA IMPROVEMENT STANDARDS: All public or private parking areas, loading areas and outdoor vehicle sales areas shall be improved according to the following: All required parking areas shall have a durable, dust free surfacing of asphaltic concrete, cement concrete, porous concrete, porous asphalt, permeable pavers such as turf, concrete, brick pavers or other materials approved by the City. Driveways aprons shall be paved for the first fifty feet (50') from the street.**

[...]

**C. All parking areas except those required in conjunction with a single-family, duet or duplex dwelling shall be graded so as not to drain storm water over public sidewalks. Parking lot surfacing shall not encroach upon a public right of way except where it abuts a concrete public sidewalk, or has been otherwise approved by the City.**

**D. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses.**

The existing parking area is surfaced, graded and screened in accordance with the standards of FCC 10-3-8, above.

- E. Except for parking areas required in conjunction with a single-family attached or detached, duet, duplex dwelling; or tri-plex, quad-plex, or cluster housing development that provides off-street parking through a carport or garage, all parking areas shall provide:**
- 1. A curb of not less than six inches (6") in height near abutting streets and interior lot lines. This curb shall be placed to prevent a motor vehicle from encroaching on adjacent private property, public walkways or sidewalks or the minimum landscaped area required in paragraph E2 of this subsection.**
  - 2. Except for places of ingress and egress, a five foot (5') wide landscaped area wherever it abuts street right-of-way. In areas of extensive pedestrian traffic or when design of an existing parking lot makes the requirements of this paragraph unfeasible, the Planning Commission may approve other landscaped areas on the property in lieu of the required five foot (5') landscaped area. See also FCC 10-34-3-6 and -7 for parking lot landscaping standards.**

Installing curbs along the interior (northern and southern) lot lines adjacent to the parking area is not feasible; the curbs would extend into the mall parking area and the apron of the bank's driveway entrance, inhibiting circulation and blocking access to Subject Property from the mall entrance off Rhododendron. See Exhibit E Site Photos.

Western property line: the ReVision Florence streetscape project re-built the curb, gutter, and sidewalk between Subject Property and both Hwy 101 and Rhododendron Drive.

Eastern property line: no additional curbing is necessary to prevent thru traffic. The curbing on the bank's eastern property line extends east-west to meet the corner of the building on Subject Property, preventing traffic from exiting the bank's lot, into the alley to the west.

- F. No parking area shall extend into the public way except by agreement with the City.**
- G. Except for parking in connection with dwellings, parking and loading areas adjacent to a dwelling shall be designed to minimize disturbance by the placement of a sight obscuring fence or evergreen hedge of not less than three feet (3') nor more than six feet (6') in height, except where vision clearance is required. Any fence, or evergreen hedge must be well kept and maintained.**
- H. Lighting: Refer to Section 10-37 of this Title for requirements.**
- I. Except for single-family, duet and duplex dwellings, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right of way other than an alley.**

- J. Unless otherwise provided, required parking and loading spaces shall not be located in a required front or side yard.**

The proposed parking and loading area does not extend in to the public way, is located so as not to require backing movements or other maneuvering within right of way, and is not located inside the required setbacks. Regarding lighting, see the findings in this report related to FCC 10-37.

[...]

**10-3-9: PARKING STALL DESIGN AND MINIMUM DIMENSIONS: All off-street parking spaces (except those provided for a single-family; duet, duplex dwelling; or tri-plex, quad-plex, or cluster housing development that provides off-street parking through a carport or garage) shall be improved to conform to City standards for surfacing, stormwater management, and striping and where provisions conflict, the provisions of FCC Title 9 Chapter 5 shall prevail. Standard parking spaces shall conform to minimum dimensions specified in the following standards and Figures 10-3(1) and Table 10-3-3:**

- A. Motor vehicle parking spaces shall measure nine (9) feet and six (6) inches wide by nineteen (19) feet long.**
- B. Each space shall have double line striping with two feet (2') wide on center.**
- C. The width of any striping line used in an approved parking area shall be a minimum of 4" wide.**
- D. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;**
- E. Parking area layout shall conform to the dimensions in Figure 10-3(1), and Table 10-3-3, below;**
- F. Parking areas shall conform to Americans With Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines.**

|                          | Parking Angle <° | Stall Depth |            | Aisle Width |             | Stall width (B) | Curb Length (F) |
|--------------------------|------------------|-------------|------------|-------------|-------------|-----------------|-----------------|
|                          |                  | Single (C)  | Double (E) | One Way (D) | Two Way (D) |                 |                 |
| Space Dimensions in feet | 30°              | 15.6        | 26.7       | 12          | 18          | 9.5             | 19.0            |
|                          | 45°              | 18.4        | 33.4       | 13          | 18          | 9.5             | 13.4            |
|                          | 60°              | 20          | 38.8       | 17          | 18          | 9.5             | 11.0            |
|                          | 70°              | 20.3        | 40.6       | 18          | 19          | 9.5             | 10.1            |

|  |     |    |      |    |    |     |     |
|--|-----|----|------|----|----|-----|-----|
|  | 80° | 20 | 41.2 | 22 | 22 | 9.5 | 9.6 |
|  | 90° | 19 | 40.5 | 23 | 23 | 9.5 | 9.5 |

The existing 3 parking stalls meet the dimensional requirements of 10-3-9, above, for a one-way drive aisle. (The three spaces are oriented at a 60-degree angle, and are 9'5" by 18.5". See Exhibit C Site Plan.)

Note that this finding is based on a one-way drive aisle. The aisle is signed one-way at its exit on 101, but is not currently signed one-way on its entrance off Rhododendron. This is discussed in detail in the findings in this report related to 10-35 Access and Circulation.

The striping on the stalls has faded, and is no longer visible in places.

Condition 11: The parking stalls on Subject Property shall be re-striped, and meet the requirements of 10-3-9 Parking Stall Design and Minimum Dimensions.

See also Informational 3, above: Any off-site parking serving the proposed site must be signed and striped according to FCC 10-3 Parking & Loading, and meet any other applicable Florence City Codes (for example: lighting, access and circulation).

[...]

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## TITLE 10: CHAPTER 35: ACCESS AND CIRCULATION

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### 10-35-2: VEHICULAR ACCESS AND CIRCULATION:

[...]

**10-35-2-2: Applicability: Section 10-35-2 applies to vehicle access and on-site circulation facilities in the City of Florence. This Section applies to any type of land use or development permit. Access to a designated state or county highway is subject to the provisions of this Section in addition to the requirements of the applicable roadway authority. Where regulations of the City conflict with those of the roadway authority the more restrictive requirements apply.**

[...]

**10-35-2-4: State and County Access Permits: ODOT has responsibility and authority in managing access to State Highways and Lane County has responsibility and authority in managing access to County roads within the City. Projects with direct access onto a State Highway or County Road shall be required to obtain a State or County access permit. A State or County complete access permit application must be submitted as part of all land use permits. Conditions placed by the State or County upon these access permits shall be considered conditions of approval for all applicable land use and development approvals. When a transportation improvement is proposed along Highway 101 between the Siuslaw River Bridge and Highway 126, improvements shall be constructed in accordance with the standards specified in the "Highway 101**

**Access Management Plan.” County roads are governed by the Lane County Transportation System Plan and Lane Code Chapter 15.**

[...]

**10-35-2-6: Conditions of Approval: The roadway authority may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting a land use or development approval or access permit, to ensure the safe and efficient operation of the street and highway system.**

[...]

**10-35-2-9: Site Circulation: New developments shall be required to provide a circulation system that accommodates expected traffic on the site. Pedestrian and bicycle connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, trails or paths, must conform to the provisions in Section 10-35-3.**

FCC 10-35 Access and Circulation applies to any type of land use or development permit, including this application.

There are two access points to Subject Property: the northern access off of Rhododendron and the southern access off of Hwy 101.

The Hwy 101 access: is on to Umpqua Bank’s property, and has been painted with two “exit only” arrows, by Umpqua Bank. The Bank’s traffic circulation plan was approved by the City of Florence when the bank was constructed prior to 1970. The Florence Access and Management Plan adopted in 2002 has this access planned as “entrance only”.

The Rhododendron access: is on to the northern most unit in the Mall’s property. It is not signed (one or two way).

In practice, traffic has been using both access points.

There is not enough space between the buildings in the mall and the sidewalk (which was widened as part of ReVision Florence) to accommodate both the required parking stall depth and the required width for a two-way drive aisle.

There are a few solutions to this conflict, including but not limited to:

- 1) Allow for a variance to the two-way drive aisle width and require Umpqua Bank to designate their Hwy 101 current-exit-only as two-way.
- 2) Require the applicant to sign the Rhododendron access point entry-only.
- 3) Develop the alleyway behind Subject Property, and incorporate that somehow.

Regardless of the route the applicant chooses, it will need to meet the requirements of 10-35 Access and Circulation, or the applicant must apply for a Variance.

Condition 12: The applicant shall submit a site circulation plan, meeting the requirements of 10-35 Access and Circulation.

**10-35-2-10: Joint and Cross Access – Requirement: When necessary for traffic safety and access management purposes, the City may require joint access and/or shared driveways in the following situations:**

- A. For shared parking areas;**
- B. For adjacent developments, where access onto an arterial street is limited and access spacing standards can not otherwise be met;**
- C. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:**
  - 1. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority’s access management classification system and standards;**
  - 2. Driveway stubs to property lines (for future extension) and other design features to demonstrate that the abutting properties may be required with future development to connect to the cross-access driveway;**
  - 3. Fire Code Official-approved turnaround for service drives or driveways over 150 feet long.**

[...]

**10-35-2-11: Joint and Cross Access – Easement and Use and Maintenance Agreement: Pursuant to this Section, the following documents shall be recorded with the deed for each parcel:**

- A. An easement allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;**
- B. An agreement that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;**
- C. A joint maintenance agreement defining maintenance responsibilities of property owners.**

At present, no easements between the adjacent mall properties and/or the bank have been found or submitted.

Condition 13: The applicant shall either (a) record with the deed to Subject Property and easement, allowing access to Subject Property from Rhododendron Ave, across lots 12200, 12201, 12100, 12000, 11900 (the mall), and 11700 (the bank), or (b) submit to the City a ruling stating Subject Property has a right to access through those lots.

**10-35-2-12: Driveway Design: All openings onto a public right-of-way and driveways shall conform to the following:**

- A. Driveway Approaches.** Driveway approaches, including private alleys, shall be approved by the Public Work Director and designed and located with preference given to the lowest functional classification street. Consideration shall also be given to the characteristics of the property, including location, size and orientation of structures on site, number of driveways needed to accommodate anticipated traffic, location and spacing of adjacent or opposite driveways.
- B. Driveways.** Driveways shall meet the following standards, subject to review and approval by the Public Works Director:
- 2. Driveways shall have a minimum width of ten (10) feet, except where a driveway serves as a fire apparatus lane, in which case city-approved driveway surface of 12 feet minimum width shall be provided within an unrestricted, twenty (20) foot aisle, or as approved by the Fire Code Official.**
  - 3. Where a driveway is to provide two-way traffic, the minimum width shall be 18 feet.**
  - 5. The maximum allowable driveway grade is fifteen (15) percent, except that driveway grades exceeding fifteen (15) percent may be allowed, subject to review and approval by the Public Works Director and Fire Code Official, provided that the applicant has provided an engineered plan for the driveway. The plan shall be stamped by a registered geotechnical engineer or civil engineer, and approved by the Public Works Director.**
- C. Driveway Apron Construction.** Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 10-35(2). Driveway aprons shall conform to ADA requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than three (3) feet in width, with a cross slope not exceeding two (2) percent, and providing for landing areas and ramps at intersections. Driveways are subject to review by the Public Works Director.
- D. Fire access lanes with turnarounds shall be provided in conformance with the Fire code. Except as waived in writing by the Fire Code Official, a fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive. The drive shall contain unobstructed aisle width of 20 feet and turn-around area for emergency vehicles. The fire lanes shall be marked as “No Stopping/No Parking.” See figure 10-35(3) for examples of fire lane turn-rounds. For requirements related to cul-de-sacs or dead-end streets, refer to FCC 10-36.**

The existing driveway / aisle meets the above requirements, except for two-way traffic.

As noted above, the driveway approach and apron were recently re-built as part of the ReVision Florence project, and meet the standards of this chapter.

**10-35-2-13: Vertical Clearances: Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.**

**10-35-2-14: Vision Clearance: No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) shall block the area between two and one-half feet (2 ½') and eight (8) feet in height in "vision clearance areas" on streets, driveways, alleys, mid-block lanes, or multi-use paths where no traffic control stop sign or signal is provided, as shown in Figure 10-35(4). The following requirements shall apply in all zoning districts:**

- A. At the intersection of two (2) streets, minimum vision clearance shall be twenty feet (20').**
- B. At the intersection of an alley or driveway and a street, the minimum vision clearance shall be ten feet(10').**
- C. At the intersection of internal driveways, the minimum vision clearance shall be ten feet (10').**

The sides of the minimum vision clearance triangle are the curb line or, where no curb exists, the edge of pavement. Vision clearance requirements may be modified by the Public Works Director upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, trees trunks and similar objects. Refer to Section 10-2-13 of this Title for definition.

No obstructions to vertical clearance or vision clearance are proposed.

**10-35-3: PEDESTRIAN ACCESS AND CIRCULATION: All new development shall be required to install sidewalks along the street frontage, unless the City has a planned street improvement, which would require a non-remonstrance agreement.**

The sidewalks along Hwy 101 and Rhododendron Ave, adjacent to Subject Property, were also recently rebuilt as part of ReVision Florence, and meet the requirements for pedestrian access and circulation.

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## **TITLE 10: CHAPTER 34: LANDSCAPING**

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### **10-34-3: LANDSCAPING**

**10-34-3-1: Applicability. Except for single-family and duplex dwelling uses, this Section shall apply to all new development as well as changes of use and expansions as described below, and shall apply in all districts except where superseded by specific zoning district requirements. These provisions shall be in addition to the provisions of FCC Title 9 Chapter 5 and where there are conflicts, the provisions of Title 9 Chapter 5 shall prevail.**

- A. For new developments, all landscaping shall meet current code requirements. (Ord. 4, 2011)
- B. For modifications or additions to existing development, landscaping shall be brought up to current code requirements in the same proportion as the increase in use and/or building size. (Ord. 4, 2011)

The standards of 10-34 Landscaping apply to this application, because the applicant is proposing a change of use. In addition, this modification to that standard, found in the code for the underlying zone (Mainstreet “A”), below, also applies:

**10-27-5: Site and Development Provisions**

[...]

- M. **Fences, Hedges, Walls and Landscaping:** Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

**Area “A” as shown on the following page:**

**A minimum of 10% landscaping is required. The calculation of the required minimum may include street trees installed and maintained by the applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the 10% calculation must be installed and maintained by the applicant or his/her successors.**

[...]

**Where a commercial use abuts a residential district, see FCC 10-34-3-7-D.**

Subject Property does not abut a residential district.

Condition 14: The applicant shall submit a landscaping plan, demonstrating compliance with FCC 10-34 Landscaping and 10-27-5: Site and Development Provisions, L. Fences, Hedges, Walls and Landscaping. This plan shall include a minimum of 10% landscaping on Subject Property. This may include the street trees planted along the sidewalk, installed via ReVision Florence, planter boxes, trellises, and courtyard areas.

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**TITLE 10: CHAPTER 37: LIGHTING**

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[...]

**10-37-3: LIGHTING PLANS REQUIRED:** All applications for building permits and land use planning review which include installation of exterior lighting fixtures, not exempted, shall include the number of luminaires, the number of lamps in each luminaire, a photometric report for each type of luminaire and a site plan with the photometric plan of the lumen output.

**The City shall have the authority to request additional information in order to achieve the purposes of this Ordinance.**

#### **10-37-4: LIGHTING STANDARDS:**

- A. All exterior lighting fixtures subject to this code section must be designed as a full cut-off fixture or have a shielding method to direct light emissions downward below the horizontal plane onto the site and does not shine illumination or glare skyward or onto adjacent or nearby property.**
- B. Parking areas shall have lighting to provide at least two (2) foot-candles of illumination at any point in the entire lot with a maximum of five (5) foot-candles over parking spaces and walkways. The Design Review Board may decrease the minimum if the applicant can provide documentation that the overall parking lot has adequate lighting. The Design Review Board may increase the maximum on a case-by-case basis, with no greater than 7 foot-candles measured directly under the light fixture.**
- C. Lighting in or adjacent to residential zones or residential uses shall not exceed twenty feet in height as measured from the adjacent grade to the top of the light fixture. Heights in other zoning districts shall not exceed 25 feet unless the Design Review Board adopts findings that the higher light fixtures are necessary to achieve proper illumination levels.**
- D. Main exterior lights for commercial, institutional, and industrial buildings, landscaping and parking lots shall be extinguished at end of business hours with a minimum lighting remaining for personal and building security and safety after hours.**
- E. A thirty-day review period beginning with the first day in business using the new lighting system shall be required to evaluate and adjust illumination levels of lighting. The City may ask for lighting to be adjusted in this time period based on public comments or staff inspections.**
- F. All externally lit commercial signs should shine from the top and point down toward the ground. Signs with uplighting must be shielded so that illumination is restricted to the sign face and glare is eliminated.**
- G. Lighting for roadway signs and pedestrian ways must be designed or have an opaque shielding method to direct light emissions downward and below the horizontal plane of the fixture in the permanently installed position.**

The applicant proposes to use only the existing 3 exterior lights, which are located under an awning.

The existing lighting does not meet the requirements of 10-37 Lighting.

Condition 15: the applicant shall submit a lighting plan, meeting the requirements of FCC 10-37 Lighting.

#### **VII. CONDITIONS OF APPROVAL**

The application as presented meets or can meet applicable City codes and requirements, provided that the conditions of approval are met, as supported by the following record:

| Exhibits |                                      |
|----------|--------------------------------------|
| "A"      | Findings of Fact                     |
| "B"      | Application                          |
| "C"      | Site Plan                            |
| "D"      | Floor Plan                           |
| "E"      | Site Photos                          |
| "F"      | Referral Comment: Northwest Code Pro |
| "G"      | Referral Comment: ODOT               |
| "H"      | Testimony: Meyer                     |
| "I"      | Testimony: Sapp                      |
| "J"      | Testimony: Wobbe                     |
| "K"      | Testimony: Ault                      |
| "L"      | Testimony: Luker                     |

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision.

1. Any modifications to the approved plans or changes of use, except those changes relating to the structural integrity or ADA access, which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.
2. Regardless of the content of material presented for this approval, including application text and exhibits, staff reports, testimony and/or discussions, the property owner/applicant agree to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal action as documented by the records of this decision and/or the associated Conditions of Approval. The property owner and applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of building permits.
3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.
4. The applicant shall submit to the City Community Development Department documentation showing the air circulation system in the building is not connected to any other building in the mall prior to commencing business.

5. The applicant shall submit to the City Community Development Department documentation showing an effective odor control system in the building prior to commencing business.
6. The applicant shall install and position security cameras in such a way as to only show the licensee's property and surrounding public right-of-way.
7. The applicant shall obtain a City of Florence business license prior to commencing business.
8. Any sign placed on Subject Property shall meet the requirements of Title 4 Chapter 7.
9. Should the applicant provide outdoor trash or recycling containers, they shall be screened in accordance with FCC 10-27-5-I.
10. The applicant shall submit a parking plan, meeting the standards of FCC 10-3 Parking & Loading, including but not limited to providing 8 parking spaces one of which shall be an ADA space, sized and striped in accordance with code, and bicycle parking.
11. The parking stalls on Subject Property shall be re-striped, and meet the requirements of 10-3-9 Parking Stall Design and Minimum Dimensions.
12. The applicant shall submit a site circulation plan, meeting the requirements of 10-35 Access and Circulation.
13. The applicant shall either (a) record with the deed to Subject Property and easement, allowing access to Subject Property from Rhododendron Ave, across lots 12200, 12201, 12100, 12000, 11900 (the mall), and 11700 (the bank), or (b) submit to the City a ruling stating Subject Property has a right to access through those lots.
14. The applicant shall submit a landscaping plan, demonstrating compliance with FCC 10-34 Landscaping and 10-27-5: Site and Development Provisions, L. Fences, Hedges, Walls and Landscaping. This plan shall include a minimum of 10% landscaping on Subject Property. This may include the street trees planted along the sidewalk, installed via ReVision Florence, planter boxes, trellises, and courtyard areas.
15. The applicant shall submit a lighting plan, meeting the requirements of FCC 10-37 Lighting.

## VIII. EXHIBITS

|     |                  |
|-----|------------------|
| "A" | Findings of Fact |
| "B" | Application      |
| "C" | Site Plan        |
| "D" | Floor Plan       |
| "E" | Site Photos      |

|     |                                      |
|-----|--------------------------------------|
| "F" | Referral Comment: Northwest Code Pro |
| "G" | Referral Comment: ODOT               |
| "H" | Testimony: Meyer                     |
| "I" | Testimony: Sapp                      |
| "J" | Testimony: Wobbe                     |
| "K" | Testimony: Ault                      |
| "L" | Testimony: Luker                     |



*City of Florence*  
Community Development Department  
250 Highway 101  
Florence, OR 97439  
Phone: (541) 997 - 8237  
Fax: (541) 997 - 4109  
[www.ci.florence.or.us](http://www.ci.florence.or.us)

### Type of Request

#### THIS SECTION FOR OFFICE USE ONLY

Type I    Type II    Type III    Type IV

Proposal: \_\_\_\_\_

### Applicant Information

Name: Rosa Cazares Phone 1: 503-901-6284  
E-mail Address: lamotareports@gmail.com Phone 2: \_\_\_\_\_  
Address: 7435 SE 52nd Ave, Portland OR 97206  
Signature: Rosa Cazares Digitally signed by Rosa Cazares  
Date: 2020.04.24 10:16:35 -07'00' Date: 4.24.2020  
Applicant's Representative (if any): \_\_\_\_\_

### Property Owner Information

Name: Aaron Mitchell Phone 1: 503-901-6559  
E-mail Address: aaron.com@aol.com Phone 2: \_\_\_\_\_  
Address: 7435 SE 52nd Ave, Portland OR 97206  
Signature: Aaron Mitchell Digitally signed by Aaron Mitchell  
Date: 2020.04.24 10:20:50 -07'00' Date: 4.24.2020  
Applicant's Representative (if any): \_\_\_\_\_

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

### For Office Use Only:

Received

Approved

Exhibit

**Exhibit B**

**Property Description**

Site Address: 470 hwy 101, Florence OR 97439

General Description: Proposed to open Marijuana Retail Dispensary

Assessor's Map No.: - 18122744 - - - Tax lot(s): 11800

Zoning District: MAINSTREET AREA A

Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map

(FCC 10-1-1-4-B-3): RETAIL AND A BANK WITHIN 300 FEET. ALSO A VACANT LOT <300' TO THE SOUTH

**Project Description**

Square feet of new: building is 3174, lot 4792 Square feet of existing: building is 3174, lot 4792

Hours of operation: 8AM - 10PM Existing parking spaces: street parking

Is any project phasing anticipated? (Check One): Yes  No

Timetable of proposed improvements: IN THE NEXT 6-10 MONTHS

Will there be impacts such as noise, dust, or outdoor storage? Yes  No

If yes, please describe: \_\_\_\_\_

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

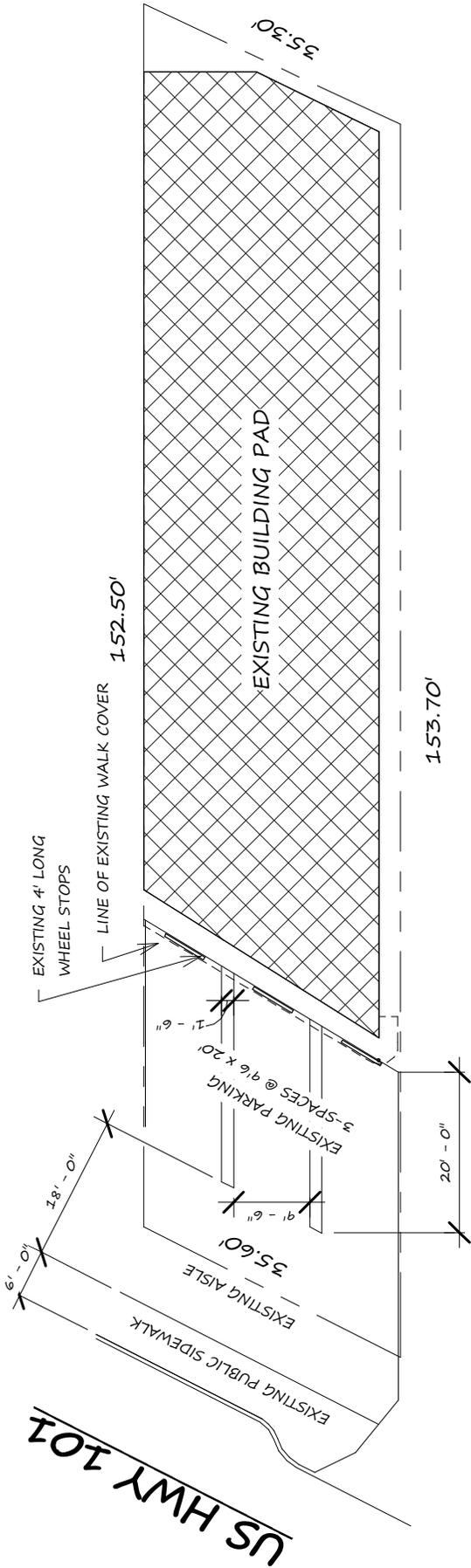
TURNING THE CURRENT ESTABLISHMENT INTO A MARIJUANA DISPENSARY. UPDATING ANYTHING NECESSARY TO BE COMPLIANT WITH OLCC RULES. NEW FLOORING, PAINTING WALLS, UPDATING ANY BUILDING STRUCTURE THAT NEEDS TO BE UPDATED CLEARING A SPACE FOR A SECURE SAFE ROOM, SETTING UP CAMERAS AND A SECURITY SYSTEM. NO MAJOR CONSTRUCTION, DEMOLITION OR CHANGES TO THE INTEGRITY OF THE BUILDING UPDATE OUTDOOR SIGNAGE, ALL LIGHTING AND SIGNAGE WILL COMPLY WITH LIGHTING GUIDELINES

**For Office Use Only:**

Date Submitted: \_\_\_\_\_ Fee: \_\_\_\_\_

Received by: \_\_\_\_\_

Paid



A PROPOSAL FOR :

**LaMota**

**LOT COVERAGE :**

LOT AREA: 4899 S.F.  
 BUILDING PAD: 3174 S.F.  
 COVERED WALL: 120 S.F.  
 TOTAL COVERAGE: 3294 S.F.  
 PERCENTAGE: 67.2 %

**SITE PLAN**

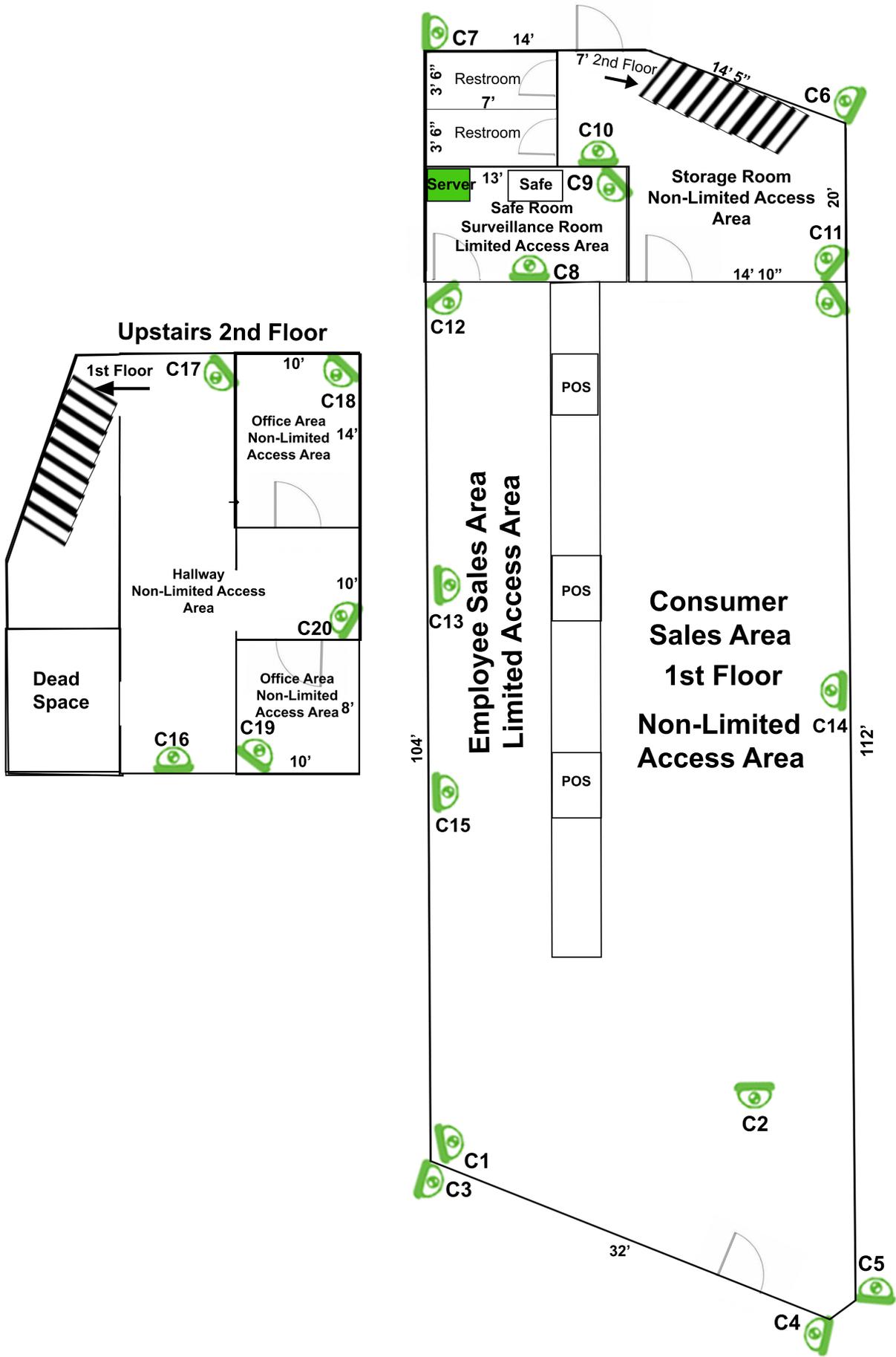
SCALE : 1" = 20'-0"

470 US HWY 101

TAX LOT 1812274411800

CITY OF FLORENCE, OREGON

**Exhibit C**



-  IP Dome Camera
-  Surveillance Server

**Exhibit D**



**Exhibit E**

USED FURNITURE

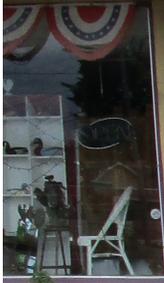
ANTIQUE MALL

470

20



**USED  
FURNITURE**













**From:** Wendy Farley-Campbell wendy.farleycampbell@ci.florence.or.us   
**Subject:** RE: Questions re PC 20 15 CUP 04  
**Date:** July 2, 2020 at 9:57 AM  
**To:** Dave Mortier DaveM@nwcodepros.com, Hailey Sheldon hailey@sheldonplanning.com  
**Cc:** Eric Rines eric.rines@ci.florence.or.us, Dylan Huber-Heidorn Dylan.HH@ci.florence.or.us

WF

Thank you Dave!

Happy 4th!

w

---

**From:** Dave Mortier <DaveM@nwcodepros.com>  
**Sent:** Thursday, July 2, 2020 9:11 AM  
**To:** Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>; Hailey Sheldon <hailey@sheldonplanning.com>  
**Cc:** Eric Rines <eric.rines@ci.florence.or.us>; Dylan Huber-Heidorn <Dylan.HH@ci.florence.or.us>  
**Subject:** RE: Questions re PC 20 15 CUP 04

Hi All,

There is no occupancy change so the building ADA requirements do not kick in.

Happy 4<sup>th</sup>,



**Dave Mortier, CBO**

*Building Official*

**NORTHWEST CODE PROFESSIONALS**

144 E 14<sup>th</sup> Ave

Eugene, OR 97401

O: 541.484.9043 #216 C:541.729.8156

OIC 007

*This message is intended solely for the use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable state and federal laws. If you are not the addressee, or are not authorized to receive for the intended addressee, you are hereby notified that you may not use, copy, distribute, or disclose to anyone this message or the information contained herein. If you have received this message in error, immediately advise the sender by reply email and destroy this message. All documents required to be public record documents may be made accessible to the public where required by State or Federal Statutes.*

**Exhibit F**



# Oregon

Kate Brown, Governor

## Department of Transportation

Region 2 Headquarters  
455 Airport Road SE, Bldg. B  
Salem, Oregon 97301  
(503) 986.2600  
FAX (503) 986.2630

July 9, 2020

ODOT #11727

## ODOT Response

|  |  |
|--|--|
| <b>Project Name:</b> Marijuana Dispensary            | <b>Applicant:</b> Rosa Cazares                                     |
| <b>Jurisdiction:</b> City of Florence                | <b>Jurisdiction Case #:</b> PC 20 06 /CUP 02                       |
| <b>Site Address:</b> 430 Hwy 101, Florence, OR 97439 | <b>Legal Description:</b> 18S 12W 2744<br><b>Tax Lot(s):</b> 11800 |
| <b>State Highway:</b> US 101                         | <b>Mileposts:</b> 190.57   |

The site of this proposed land use action is adjacent to US101, Oregon Coast Highway. ODOT has permitting authority for this facility and an interest in ensuring that this proposed land use is compatible with its safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

### COMMENTS/FINDINGS

Tax lot 11800 does not have an access to US101 along the property frontage and instead takes access from an approach on the property to the south and from side streets through adjacent properties with separate ownership. *The Access Management Plan for Highway 101 in Downtown Florence* has one midblock approach for the east side of the highway which would be limited to entrance only. The approach in front of the property to the south appears to be located where the plan shows the midblock approach but it is not clear whether the property and development in this land use notice has the legal authority to make the changes to the approach along the frontage of the property to the south. ODOT does not have any further comments and only a reminder that an ODOT Miscellaneous Permit must be obtained for any work that is to be performed in the highway right of way.

**Please send a copy of the Notice of Decision including conditions of approval to:**

ODOT Region 2 Planning  
Development Review  
455 Airport Road SE, Bldg. B  
Salem, Oregon 97301

[ODOTR2PLANMGR@odot.state.or.us](mailto:ODOTR2PLANMGR@odot.state.or.us)

|   |  |
|---|--|
| Development Review Coordinator: Douglas Baumgartner, P.E. | Douglas.G.BAUMGARTNER@odot.state.or.us |
| District 5 Contact: April Jones                           | 541-726-2577                           |

**Exhibit G**

## Dylan Huber-Heidorn

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**From:** Chantelle Meyer <chantelle.dl.meyer@gmail.com>  
**Sent:** Monday, June 29, 2020 5:31 PM  
**To:** planningdepartment  
**Subject:** Concerning RESOLUTION PC 20 15 CUP 04 – 470 Hwy 101 Recreational Marijuana CUP

To Whom It May Concern in the Florence Planning Department and on the Florence Planning Commission,

I am a resident of the 400 block of Highway 101 and live in an apartment on the second story. The front of my residence faces the highway and the back of my residence overlooks the back alley.

I am not in favor of "Resolution PC 20 15 CUP 04 – 470 Hwy 101 Recreational Marijuana CUP." There are several reasons for this.

Firstly, just off the alley behind the row of buildings in the 400 block is an existing cannabis site, Buds4U, located at 1480 Rhododendron Dr. In my opinion, one marijuana facility in roughly the same city block is enough.

Although Buds4U began as a medical marijuana facility, it also provides recreational products. It is also open longer hours than neighboring businesses: 9 a.m. to 9 p.m. Monday to Saturday and 9 a.m. to 8 p.m. on Sunday.

Due to the nature of this business, pedestrians, itinerants and unusual vehicles frequent the area at all times of the day or night. People often dig through the dumpsters and recycle bins stored along the alley, leave their trash near the locked cans, and leave cigarette butts and other paraphernalia on the gravel and in the grass.

(I acknowledge that Buds4U staff and a majority of its clients are pleasant people who respect social distancing requirements, keep noise at a minimum and do not bring concern to the neighborhood).

Secondly, mostly due to the presence of a busy highway and a high-traffic alley, the 400 block of Highway 101 already has its share of trouble. The building at the end of the row recently had to replace a large plate glass window. While it is unclear if the cause of the shattering was due to vandalism, rocks from the highway or even just the building shifting, residents down the whole block have been on high alert about future costly breakages. In the last five years, I have called 9-1-1 several times about suspicious vehicles and behavior.

Thirdly, the 400 block of Highway 101 lost the use of a full parking spot due to the ReVision Florence Streetscaping Project. While there is some street parking, it is hard to direct people to park there if they are already within a cramped parking lot that runs the length of the row of buildings. In addition, the parking lot outlet onto Rhododendron Drive requires vehicles turning toward the highway to maneuver (sometimes requiring reversing) to position their vehicles behind the crosswalk and within the lane of traffic. Additional signs would need to be posted ensuring that people enter the driveway from the correct direction.

Fourthly, as a resident of the 400 block of Highway 101, I did not get an alert about this mailed or emailed to me. It is possible that you are notifying land owners, but as a renter who will be affected day-to-day with the neighborhood's clientele, this alert should have been communicated to each address down the block. My landlords live in Mapleton, so I don't know if they would be able to directly contact their two tenants.

Finally, the 400 block of Highway 101 is in the Florence Antiques District within the Mainstreet District of the Florence Urban Renewal Area. It is one of the gateways to Historic Old Town Florence. While the corner of Highway 101 and Nopal Street is not planned to get an official Gateway monument, it is still the way many people access Old Town and the Port of Siuslaw. While "Medical Marijuana Dispensaries," "Marijuana Retailers" and "Marijuana testing facilities licensed by the Oregon Liquor Control Commission or accredited by Oregon Health Authority" are conditional uses that may be permitted, I do not feel that adding another such facility in the Mainstreet District is appropriate. There are literally dozens of other permitted uses included in "TITLE 10 CHAPTER 27 MAINSTREET DISTRICT" of the Florence City Code, any of which would be preferable and a better fit with the rest of the shops in the Florence Antiques District.

Please do not allow this use of 470 Highway 101.

Sincerely,  
Chantelle Meyer  
494 Highway 101/PO Box 3123  
Florence OR 97439  
541-729-2678  
[chantelle.dl.meyer@gmail.com](mailto:chantelle.dl.meyer@gmail.com)



City of Florence

We wish to address the request for variance of use for the south end of the building at 470 Highway 101. Having received the notice and having discussed the issue with our renters, we object to using that designated space for a marijuana dispensary. Our reasons center on the parking and congestion problems that would be exacerbated with a change from antiques to the more traffic-intense marijuana enterprise.

There is currently one such business behind the building that experiences quite a bit of traffic and utilizes much of the available parking space on that side of the building. Because of the merging on the south end of departing bank customers and mall area customers, the added confusion of this kind of business (pot shop) would be a safety hazard in an already complicated egress location.

Our hope is that the building would continue to add to the family-friendly, tourist-appealing attraction that is needed on 101, continuing the beautifying progress from Old Town. We feel that a dispensary would not be the right mix for that.

Thank you for considering our opinion as property owners. We know that the City will consider the best use for everyone involved.



Tim and Pat Sapp

P.O. box 1776

Florence, OR 97439

541-999-8230

**Exhibit I**

## Dylan Huber-Heidorn

---

**From:** Cindy Wobbe <cindywobbe@msn.com>  
**Sent:** Tuesday, July 7, 2020 3:21 PM  
**To:** planningdepartment  
**Subject:** Written Testimony - Notice of Public Hearing

**Categories:** Testimony

Date: July 7, 2020

To: Florence Planning Commission

Re: Resolution PC 20 06 CUP 02 – 470 Hwy. 101 Recreational Marijuana

I am submitting the following written testimony with regard to the proposed Recreational Marijuana retail facility at 470 Hwy. 101, a building that has previously been a retail outlet for an antique shop in the Florence Antique District since 1999.

I have owned and operated a retail business in the 400 complex since 1998; the first 15 years as a retail/restaurant establish, the last 7 years solely as a retail business. The complex is comprised of six individual tax lots, with each building sharing a dividing wall to give the visual appearance of one long commercial complex. In addition to six separate commercial storefronts, there are also 2<sup>nd</sup> floor apartments over each building with the exception of 470. To my knowledge, there are a total of eight 1-2 bedroom apartments currently rented on the second level.

A “shared” parking lot in front of the strip provides the only designated parking for the commercial tenants, their employees, their customers, **and** the residential tenants. There are a total of 16 spaces available to SIX businesses and EIGHT families. Additional off-street parking is available on Hwy. 101 and can reasonably accommodate 4 vehicles, less if they are a motorhome or pulling a trailer. **The existing parking is woefully inadequate for the 400 buildings’ current uses.**

There are 3 parking places in front of 470 Hwy. 101.

The business directly adjacent to the proposed site is the Purple Pelican Antique Mall, at 478 Hwy. 101. It has four spaces in front of it. Those four spaces are inadequate to meet the needs of their working staff, multiple vendors, and customers; visitors to that business daily overflow into the parking in front of 470, fill the on-street Hwy. 101 parking, and also take up parking spaces next door at Umpqua Bank.

The business at 494 Hwy. 101 is a busy hair/nail/tanning salon and has four parking places in front of it; it cannot adequately accommodate its own operators and customers and regularly overfills the lot all the way down to in front of my building. Some operators park behind the building in the back alley on privately owned land.

The commercial space at 496 Hwy. 101 is currently vacant; an avant-garde retail/gallery is planned for opening in the next few months. It has two spaces in front. At present, one of those are occupied nearly full time (day and night) by the upstairs residential tenant.

My location at 498 Hwy. 101 has three spaces; I lost one, as well as an additional space at the side of my building, to the Revision Florence project. In addition to myself, I have 5 staff members who work in my building six days a week. There are two apartments above my building. On a good day, I am lucky to be able to park my personal vehicle in front of my shop for at least a few hours. Most days, my staff and I must park on the side street parking (Rhododendron/5<sup>th</sup>

Street) or on the vacant graveled lot next door. Off-street parking availability on Rhododendron Drive is often limited because of another high-use occupant in the vicinity.

Directly behind my place of business is an existing recreational marijuana retail business, Buds 4 You. In the time that they have occupied their current location, the available street parking has diminished significantly and the drive-by/drive-through traffic has increased substantially. At any given time, cars can be seen idling in the Old School parking lot as well as the vacant graveled lot across the street, while passengers run into Buds 4 You to make a purchase. Traffic to and from that business is heavy and high, from 7am to 10pm in the evening. Because Rhododendron runs into the Old School lot, drivers frequently use the “dead end” area to turn around to exit. It can frequently become highly congested, making drive through traffic challenging. There is regularly a line up of cars at the intersection signal of Hwy. 101 and Rhododendron waiting for the signal to change, making it difficult to exit the parking lot of my business strip and make a left hand turn onto the highway. Exiting the 400 complex has become additionally tricky as a result of the ReVision Florence project unwisely relocating the exit opening closer to Hwy. 101, reducing the clearance for turning left onto the highway. Vehicles leaving the existing businesses create congestion at the exit cut-away, and backing up from a parking space to exit is often dicey.

During peak season, the turn lane on Hwy. 101 into the 400 complex is always congested. Cars turning into the complex must often wait through two signal changes for a break in the traffic. With traffic exiting Old Town via Maple Street onto Highway 101, things can often bottleneck and impact ingress/egress to businesses and streets for an additional block. The situation is further compounded by the fact that the “entrance” into the 400 complex is actually a designated **EXIT** for Umpqua bank. Bright yellow arrows indicating that is an exit onto the highway further complicate and confuse drivers. In short, it creates an unsafe situation for drivers coming and going.

It has been my experience, having conducted business within less than 100 feet of an existing recreational marijuana retail facility for over four years, that this type of business attracts a high volume of come and go traffic. That traffic count noticeably increases on and around standard paycheck days and social security payment days. Allowing a SECOND business of this nature to butt-end this commercial and residential complex would most assuredly create an untenable parking shortage and unsafe driving conditions for building tenants and visiting customers. Simply stated, this little pocket of retail activity cannot handle the additional traffic a recreational marijuana retail facility generates.

With regard to Florence City Code Title 10, Chapter 3 of Florence’s Comprehensive Plan, this proposed business does not meet the recommended requirements specific to minimum accessible parking identified in 10-3-3, 10-3-4, 10-3-5, 10-3-6, 10-3-8, or 10-3-9 and cannot meet or assure compliance to those codes which protect residential and commercial area from the intrusion of incompatible uses; it does not allow for the efficient operation in mutually beneficial relations to the other commercial and residential tenants. There are existing traffic problems, poor roadway and access alignment, and significant capacity deficiencies which clearly impact the existing complex residents. Allowing a business of this nature to occupy this location will increase the projected level of service on the roadways system in the immediate vicinity and exceed minimum standards, creating hardships and safety issues for drivers, bicyclists, and pedestrians.

A cursory review of Chapter 35, sections 2-12 through 14 and section 3 would indicate that the proposed location does not provide for adequate access and circulation. Further, there is no existing ADA parking in the entire parking lot.

One last consideration that, as a parent and grandparent, I feel merits consideration; a medical marijuana dispensary/retailer must be separated by a minimum 175 feet from a residential zone. As I mentioned previously, there are eight known residential apartments in the 400 complex, at least six of them within the 175 feet of the front doors of 470 Hwy. 101. At any given time over the last 22 years that I have conducted business on this strip, there has been at least one and sometimes three residential tenants with young, school aged children living here.

The selling of recreational marijuana is a legal and legitimate business endeavor in the State of Oregon and the City of Florence. I have no doubt that the applicant for this conditional use permit is an upstanding and responsible

business owner and has every intention of making valued contributions to the continued economic growth of this community. There are a multitude of locations within the business district that could easily accommodate its space and parking requirements, but 470 Hwy 101 isn't it.

I respectfully ask that you deny the conditional use permit of Rosa Casares to operate a recreational marijuana retail outlet at the requested location.

**Cindy Brent Wobbe**

Ring 541.999.0126

[www.CindyWobbeEstates.com](http://www.CindyWobbeEstates.com)

[www.TobyandMax.com](http://www.TobyandMax.com)

[www.CindyWobbe.com](http://www.CindyWobbe.com)

The Good Deed Project 501c3

*"... and still I am learning." -Michaelangelo*

**From:** [antiques@peak.org](mailto:antiques@peak.org)  
**To:** [planningdepartment](#)  
**Subject:** regarding: PC 20 15 CUP 04 – Conditional Use Permit with Design Review  
**Date:** Tuesday, July 14, 2020 3:10:43 PM

---

Greetings,

My name is Mike Ault, owner of the Purple Pelican Antique Mall, directly next door (north) to the proposed business.

I wish to comment, testify if you will, on this issue. I can find no rational reason to oppose this business.

Thank you,  
Mike Ault

**Exhibit K**

July 13, 2020

Florence Planning Department,



My name is Russell Luker and I am the property owner of 470 Hwy 101, Florence. I have owned this building along with 478 Hwy 101 for 18 years.

I am selling these buildings and have a Accepted offer on the 470 Hwy 101 building to be used as a Marijuana Retail store.

As all who are involved, know these buildings have been used for Retail businesses since they were built. What an ideal location for ANY retail store to be seen and successful.

Times are really changing & it seems as though the Marijuana business has much to offer and so many different uses for hurting and ill people. Marijuana has many useful medical miracles and is used by some very prominent folks. It seems to be a booming business and a way of the future.

With all the Rules & Regulations that a Marijuana Retail Business has to comply with, the City of Florence knows that it will be a safe, structured and a well organized business.

Florence is a beautiful City and has lots of growth potential.

Please consider this as a added benefit to the City of Florence and the Revenue it will generate for our town will be significant.

I hope you consider this Business as a win win situation.

Sincerely,

Russell Luker  
541-579-0431

**Exhibit L**