

## Aleia Bailey

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**From:** Mary McCarthy <avomaria46@gmail.com>  
**Sent:** Monday, October 05, 2020 1:40 PM  
**To:** planningdepartment  
**Subject:** October 13 Planning Commission Hearing

TO: Wendy Farley-Cambell, Director Of Planning/City of Florence, OR

As a seven year resident of Heceta South (HS) and the current President of the Heceta South Homeowners Association (HSHOA) Board of Directors (BOD), I am submitting a formal complaint regarding the Benedick, LLC proposed annexation of the property lots identified as tax lots 400, 401 and 801 and currently under review by the City of Florence (COF) Planning Committee (PC). This proposal is of particular interest to me because a portion of this land is adjacent to the Heceta South development.

In a previously contested (2016) attempt at development of the above land, the HSHOA attorney was able to block a Benedick proposal made to Lane County. The lack of documentation for studies showing protection of the dunes and wildlife therein brought that attempt to a halt. In an interesting turn of events, the Benedick attorney now seeks annexation of the property with the approval of the COF. Should this proposal pass the City Council what happens to the dunes? What will become of the animals who have occupied this habitat for eons? Shall we bid farewell to eagles and hawks that now soar above our homes? I suppose the bear, deer, coyote and raccoons will just have to move on for the bulldozers. **I object to the proposal for its impact on a treasured wildlife sanctuary.**

Several areas within HS are considered wetlands and are unsuitable for development and meant to be undisturbed. It would seem to me that there are other similar areas within the 48.82 acres in question. Parcel 1 (tax lot 400) is adjacent to a Kelsie Court lot that has already sustained serious flooding. Disturbing the adjacent land for development clearly raises the potential for exacerbation of an existing problem. **I object to the proposal because of the potential for increased flooding in Heceta South.**

As homeowners in the Heceta South Homeowners Association, residents here are responsible for the care and maintenance of the roads within the development. It would make sense that any new development would wish to join to adjacent developments for ease of access to public transportation or emergency vehicular traffic, not to mention everyday "short cuts". Who will pay for the usage and damage done to the PRIVATELY MAINTAINED roads? **I object to this proposal because increased traffic, noise and security issues will be caused by conjoining the developments.**

It is my belief that the Benedick proposal will follow what just happened at the corner of 35th and Rhododendron. Over vociferous objection from the local residents, the COFPC chose to approve the proposed project there, thus sending it on to City Council for their vote. I await that judgement as it will likely foretell what HS residents can expect from a battle with Benedick, LLC if it has the COF on its side.

With the support of the HSHOA BOD, the aforementioned attorney is submitting an official letter to the COFPC on behalf of the HSHOA. Hopefully he can present sufficient legal criteria that will satisfy the Commission's demands. Taking on the task of writing such a letter has not only been burdensome but also very depressing for me. As I age, I clearly see less and less service from 'Public Servants' and more and more roadblocks and legal jargon at every step attempting to stop those with legitimate Quality of Life concerns. In the end, it's most often only the state of the Treasury that matters and only a lawyer who can present a case that will be heard. So sad.

Mary McCarthy  
87950 Kelsie Way  
541-997-1767

October 5, 2020

City of Florence Planning Department  
Attn: Wendy Farley-Campbell and Staff  
250 Hwy 101  
Florence, OR 97439

Re: PC 20 22 ANN 01 & PC 20 23 ZC 02  
Benedick Holdings, LLC Annexation and Zone Change  
e-mail: [planningdepartment@ci.florence.or.us](mailto:planningdepartment@ci.florence.or.us)  
and via: hand delivery to Florence Planning Dept. 10/5/2020  
Letter in Objection to Annexation/Zoning/Development

To: Wendy Farley-Campbell, Planning Director and the Members of the Florence Planning Commission

I am writing regarding the Petition for Annexation and Concurrent Zone Change filed by Attorney Michael Farthing on behalf of Benedick Holdings, LLC regarding subject property and Oceana Drive.

I vehemently oppose this annexation request by Benedick to the City of Florence (COF). My letter of objection in opposition to the annexation of said property will include reasons why this annexation should not be approved. In addition, objections will be made in opposition to the zone change. And further, I will present objections and reasons that the proposed development of said property should not be approved and should never happen. I am well aware that there is a specific criteria, however I am demanding my entire letter and objections be admitted into the staff report and will also include a link that I am adamantly requesting be a part of the staff report as well.

Lane County is currently the government entity that controls Oceana Drive and the subject property, and is therefore part and parcel to this process as the legal government entity having present jurisdiction over Oceana Drive and the subject property. Annexation has NOT taken place and Lane County therefore shall continue to be legally responsible and shall remain a party and shall be included herein in regard to my objections to this annexation process. I am therefore demanding that the documents in the link I will set forth below, and which consists of the Lane County Benedick file going back years, be included, without limitations and in its entirety, in the staff report and be made available for review by the entire Planning Commission, as the decision making delegates. I am also delivering a hard copy of the Lane County Benedick file to be included with this letter and to be placed in the Staff Report.

<http://apps.lanecounty.org/LMDPro/Default.aspx?ParcelNum=1812104000400>

**Exhibit K77**

Annexation should not be approved for Benedick Holdings, for many reasons which I will set forth below.

Speaking ethically, this contractor/developer has a history of not building to code. Lane County has still not signed off on Benedick's development of Idlewood from 25-30 years ago. Benedick never built to code for the storm water overflow, and the water drainage system. During the winter of 1999, Idlewood residents needed to use boats to get in and out of their property. They were inundated. In one instance, FEMA was brought in because of the horrendous damage that was done to just one of the homes where an elderly couple lived. They were found in such horrible dangerous conditions. And to date, many have sump pumps installed in their homes, at the ready, and as a result and as a necessary precaution, and are utilized to date, during the rainy months.

Earlier, in February 1996, there was a significant flood event. The good citizens of Idlewood experienced a dangerous flooding event and the damage was immeasurable. There was over two feet of water and it covered a four acre area improved with dwellings, sanitation fields, and roads. This significant flood event caused dangerous flooding. The area was covered with "brown water" and the homeowners in Idlewood dealt with health issues due to the flooding and the aftermath.

The Idlewood area has historically experienced flooding and this will continue to occur in the years to come, and for many years. If the area that is being annexed, specifically the property that has already been zoned by Lane County as Beaches and Dunes, is approved, it will be an astronomical error by the COF. It is just a matter of time when it floods again and this will cause a catastrophe of proportions off the map!!! Based on historic mapping of the area, the COF must be prolific in their findings and make the right decision. The COF must NOT approve this annexation to allow Benedick, and his dishonest dealings, to go forward with the development of said property.

Moreover, Benedick has proven to be less than honest and forthright as has been shown by past practice, i.e., the clear cutting on the subject property some years ago which was done illegally and resulted in a "stop" notice from Lane County. The results of the Benedick illegal actions can be seen simply by physically visiting the property where pilings of very dry timber sit (for years now and to this date) untouched after Benedick was halted in this action. No cleanup resulted. Pilings exist today (fire hazard). Nothing was done to Benedick by way of a fine or other legal action. The County has stated (on record) that they simply did not have the resources at the time to take further action other than to halt his actions. Benedick simply "got away with it".

Flooding in the rainy season currently remains a problem in the existing Idlewood subdivision(s) and especially and specifically in the areas of Oceana Drive nearest to Saltaire and Sandrift streets. The proposed annexation and proposed development will directly impact the safety of structures, infrastructure, and citizens/residents. Disturbance of the property, due to the soil

type and sloping nature of the property, and the fact that it is a wetlands, will result in additional flooding, dangerous flooding at that, and will only worsen in years to come.

The property, which includes the Heceta Junction Seasonal Lake Shorelands, is an area with native vegetation and is a prime wildlife area. It has been deemed a Beaches & Dunes land area. Annexation and zone change (and of course the proposed development) of this property will result in extreme harmful effects which cannot be mitigated or eliminated if this significant wildlife habitat has been disturbed and developed. In this special situation, the area will be greatly reduced in size if annexation and zone change (and proposed development) is approved. I call this a "special situation" because the wildlife come from the 40 acres adjacent to Heceta South subdivision to get water and food (native vegetation, i.e., berries, etc.) from this subject property, and especially the water from the Heceta Junction Seasonal Lake. Should annexation and zone change be approved, this will be just the beginning of the end for wildlife that have lived in these areas for many years. Displacement of the wildlife in this area would be imminent.

The proposed destabilization of the shoreline surrounding the Heceta Junction Seasonal Lake is an issue. The area is in excess of 25% slope. This area has been deemed Beaches & Dunes and is a prime wildlife area. The property is within the urban growth boundary (UGB). This land is therefore subject to the urban land use standards and the zoning requirements of the Suburban Residential Zone and the Beaches and Dunes overlay zone.

This is a very dry year as you know, but in years past, water has been standing in the Heceta Junction Seasonal Lake even during the warmer summer months and is the only source for miles for the wildlife to get water. And due to the extremely dry year we have had, when the rains do come, and they will come, the hard dry and clay-like ground in the "lake", where water once stood, will not be able to absorb the water as readily and so more of the area will be impacted as water needs to find a place to go. The ground area of the "lake" will be widened as the rains arrive, and so more of the area will be covered by water. This may, and most likely will, happen for many years to come. As dryer seasons are upon us, flooding will occur because of the dry hard ground as the rains come. As wet rainy seasons are upon us, flooding will occur, because this area will then become a "lake", as historically occurs and the ground will become saturated, hence wetlands. Some years ago, and during an especially rainy season, Heceta Beach road was under water and was not passable. The flooding was evident, and has been evident for many years also behind the homes in the Heceta South subdivision as well, during some of the rainiest seasons. And this is an area that, if Benedick is allowed to develop, will definitely be a danger to all, including the residents in Heceta South.

In addition to the danger to the wildlife who roam on the subject property, the dangers will be two-fold to the citizens who already reside with their houses backed right up to the said property. These houses along Sandrift, along with other streets as well, have flooded many times and with the disturbance of the property behind their homes, there will be increased flooding, no doubt. Just a matter of time. There are legitimate concerns of residents and homeowners and include already evidenced issues of flooding. This annexation and zone

change (and proposed development) will, again, result in groundwater and storm water run off with no place to go!!! This has already been proven with Benedick's actions, and lack thereof, when developing the existing Idlewood subdivision(s).

The annexation and zone change being requested by Benedick would also include all of Oceana Drive. Oceana Drive is a narrow roadway with houses close in proximity to the road and to each other. The annexation would result in this narrow road having the sewerage system installed and therefore would include an easement which would be destructive to the properties of the good citizens who already reside in the area and have already been displaced and inconvenienced, not to mention the dangerous conditions, by years of flooding caused by the aforementioned inactions of Benedick, when he developed the Idlewood subdivision(s) without any regard to the code requirements regarding groundwater and storm water runoff.

The majority of the homeowners along Oceana Drive are senior citizens. The higher taxes that will result in this annexation will adversely affect the majority of residents in this area. The senior citizens are generally on fixed incomes and social security, and will not be able to afford higher taxes. The higher taxes will be a detriment to the majority of the citizens and homeowners and their well-being and will adversely affect their way of life.

When the Idlewood subdivision(s) was developed Benedick "promised" that the land (the subject property) was to be left as a "park". Many residents may write to you and in their letter they will relay this to you as I've heard it many times from those on Saltaire and at the end of Oceana. Some residents have owned their homes for 20 plus years and have relayed horrid stories of flooding experienced because of, and due directly to, Benedick and his code violations in regard to the rainwater and storm water run off and the inadequate water drainage system that Benedick was directly responsible for when he developed Idlewood. The many broken promises of Benedick should be taken into consideration.

In Lane County's own by-laws in their Comprehensive Plan, the following objectives are listed in their criteria. (LC 10.315-20).

- 1) To encourage the most appropriate use of land and resources throughout the county.
- 2) To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements.
- 3) To avoid undue concentration of population.
- 4) To secure safety from fire, panic, flood, and other dangers.
- 5) To prevent the overcrowding of land.
- 6) To provide adequate light and air.
- 7) To lessen congestion in the streets.
- 8) To provide an environment of character in harmony with existing and proposed neighboring use of land.
- 9) To preserve and enhance the quality of Lane County's environment.

Because Benedick's many attempts via Lane County re developing subject property occurred again and again, and were dealt with resulting in failures, Benedick has now sought the "path of

least resistance”. And now before the COF is the Petition for Annexation. Lane County’s by-laws as set forth above list many of the reasons that annexation with the COF should NOT happen—and furthermore sets forth some of the reasons development has not occurred to date. And it is so apparent that once annexation takes place, the next step is to develop. Of course the COF wants the revenue. But there are other ways to get that revenue, and still keep the good citizens of Idlewood safe, keep the wildlife safe and not displaced, keep the land from being disturbed to allow further flooding.

If the COF is interested, as the COF should be, in keeping peace and safety and quality of life for the good citizens who reside along Oceana Drive, then the COF should consider approving a portion of the annexation petition, namely the subject property owned by Benedick, and omit the Oceana Drive from the annexation request. With that said, the COF should further consider deeming the subject property as Open Space. Or, in the alternative, the COF could use another process.

#### Transfer of Development Rights:

This method has been used in many special circumstances such as this one at hand. It would protect the wildlife, control flooding, ground water runoff, and keep the Heceta Junction Seasonal Lake intact, as needs to be to keep all citizens safe. The variation of the method is the purchase of development rights. It would include an appraisal to establish the value of the development rights, which are then purchased from the landowner, leaving the land undeveloped.

#### Development Hazards and Constraints:

Due to the flooding that occurs on Oceana, Saltaire and Sandrift and also behind Kelsie Ct. and Kelsie Way in Heceta South, the subject property should be deemed to be a development hazard area. Further flooding is imminent and will be disastrous to those residents who live in said area.

#### Tsunami:

Should a warning occur, even without merit, panic and excessive traffic congestion along Oceana Drive and Saltaire and also including Rhododendron will occur. The evacuation route will be impacted greatly. The COF shall encourage Open Space, public and private recreation and other minimally developed uses within the tsunami zone area.

One may not immediately see the connection of the subject property to the issue of earthquakes/tsunamis but it does have a distinct and special connection. If an earthquake should occur, and a tsunami warning be issued, the area of Oceana Drive and Saltaire (the roads accessing Rhododendron) will result in residents leaving the area en masse and panic will certainly ensue. And the many adjoining spur roads in Idylwood will experience residents trying to access Oceana and/or Saltaire so as to evacuate the area. Additional subdivision(s) development behind Saltaire and Sandrift streets will only exacerbate the panic and confusion and congestion. This will happen (panic) even if a tsunami does not occur and the warning is eventually called off. Most residents are over 65 years of age and some are quite elderly and

many are disabled. If a tsunami warning should occur, these seniors and the elderly, many who have special circumstances, i.e., wheelchair, walker, etc., will surely experience difficulty in their attempts to safely evacuate the area in a timely manner. This area is already busy and over crowded and with a narrow road for the evacuation route and additional development in this area would only cause further congestion and dangerous situations.

The social consequences are in play here with this application for annexation. The tangible or intangible effects set upon the good citizens, especially along Oceana Drive, that would occur would disastrously interfere with their relationships with the community in which they live, play, walk, drive, exist, including but not limited to, dangerous traffic increases, road hazards, emergency exit problems, emergency vehicle response time and accessibility, flooding, higher taxes, noise, way of life interrupted, etc. in regard to this particular action by Benedick and his annexation request due to the fact that in order to subdivide his property, his annexation must include Oceana Drive!!! Take heed COF Planning Commission members. These good people live here already and they don't want their nice quiet narrow rural road to be disturbed, and they don't want to be disturbed either. The traffic situation "alone" would be a huge reason to NOT approve this annexation as it is set forth with the COF.

A suggestion: Re-zone the property as one of the following: Public Open Space, Open Space, Natural Area, Parkland, Significant Habitat Area, Wetlands, or Unbuildable. There are ways to do this. The COF can appraise the property, pay Benedick, and keep the property in its condition as it stands, and zone it as one of the suggested choices listed above. This would keep the good citizens safe, or safer, along Oceana Drive and others along the immediate adjacent streets at the end of Oceana who experience flooding year after year at present. It would also help to protect the significant wildlife habitat on this property as, historically, it has been their place to go for food (natural vegetation, i.e., berries) and water (Heceta Junction Seasonal Lake).

Benedick needs to answer for his former illegal dealings with the County. He has not done so. If he is "allowed" to continue his attempts to develop this property, after he has already made such a disreputable reputation in the community of Oceana Drive by his own actions, and all adjoining streets which flood, this will be a travesty of justice. This dishonest and untrustworthy developer needs to be stopped. If Benedick goes forward, then all his promises to the COF, as he goes even further forward with his development plans, will continue to be empty promises!!! It is based on how he has maintained his business practices for many years!

**IMPORTANT:** In the City's own Residential Plan Designation it is noted that lands that were developed prior to 1995 have experienced infrastructure problems, stormwater deficiencies, slope failures, flooding due to high groundwater tables and invasive weed infestations. An objective of the COF's plan is to avoid these problems of the past and to insure a more consistent application of development standards to future residential developments to avoid these problems of the past. The subject property is a prime example of the type, structure, kind, etc., and is of the EXACT type of land example that the COF, in its own Residential Plan Designation, does NOT want to see developed so as not to repeat problems from the past.

Private Open Space: The subject property should be zoned as Private Open Space. The special features of this property include: drainage ways, wetlands, groundwater drainage, wildlife habitat, seasonal run-off, flooding in area.

#### Open Space:

Within the Florence Urban Growth Boundary (UGB), the COF and Lane County shall designate lands for possible park development purposes. Lands so designated shall be reserved for future park system expansions upon annexation.

#### Significant Wetlands:

The subject property should be deemed Significant Wetlands.

It is the City's objective:

- 1) To maintain an accurate inventory of wetlands for use in land use planning and development review.
- 2) To protect significant wetlands for their critical value in maintaining surfaces and groundwater quality and quantity, providing wildlife habitat, performing flood control, and enhancing the visual character of the Florence community.

The COF and County shall consider formal wetland delineation reports approved by the Oregon Department of State Lands as a valid source of wetland information specific to a land use action. Such reports should be incorporated herein. The report will show that the subject property is a significant wetland area and has been prone to flood in past years, including involving storm drainage water crossing Heceta Beach road and causing danger on the roadway. This occurred in 2012.

The COF shall protect the functions and values of significant wetlands for flood control, water quality, fish and wildlife habitat, through code provisions that protect these resources from development. The subject property land area is an essential wildlife habitat land area and should be protected.

If you are not physically familiar with this area, look on the map and you will see the 40 acres "Ocean Woods" that is in the northeast corner of the subject Benedick property and see it is a protected wildlife area, where no water is provided per se....so the wildlife come across from "Ocean Woods" to the Heceta Junction Seasonal Lake for their water (and berries). It is a true pathway that is known to this day, by citizens on all corners and sides of said property, and especially traveled by bears traveling back and forth in these specific areas, both the 40 acres and into and out of the Heceta Junction Seasonal Lake area.

In addition, the subject property (open land area) has been enjoyed by the good citizens of Idlewood subdivisions I, II and III since the time of their inception. Benedick, the developer, made known to those who bought his lots that the open land property in question was to be a "park". Therefore, ever since, and to this day, the subject property has been enjoyed as an absolute "park" by the citizens and residents and homeowners, and guests and visitors, as an



area to be used every day to exercise, hike, walk their dogs, enjoy their daily activities with their children, view the wildlife, take pictures, etc. This has occurred for a majority of the residents and guests in all of the Idlewood subdivisions (I, II and III) for well in excess of 15 years. The subject property was promised to all residents and homeowners to be “kept for their use as a park” since the time the 255 lots were being offered by Benedick for sale, and has been used as a park “parkland” ever since the inception of the first Idlewood subdivision was offered for sale.

In the Florence City Code Title 10, 10-1-1-6-3 E.3 Pg. 14:

It states:

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

The petition at hand is requesting annexation, and rezoning. The rezoning request is to change from Beach and Dunes. I object vehemently to this zone change. This area is a wetland, and a significant wildlife area, and has been known to flood. To change this zone, and to a residential area, even low, will put in danger many humans, and also wildlife. I have watched the wildlife in the area, looking for their water, and searching for berries from the natural vegetation. And I have also talked to many residents who were removed from their homes because of the flooding; some very sad tales of devastation. These lands have historically flooded, and have historically held water for the wildlife, These happenings occur hand in hand. It will be an unconscionable act for the COF to let any developer, let alone a developer with such an irreparable reputation as has Benedick, to come in and change the zoning, and for what? His own benefit? And at the detriment of the good citizens whom he has already damaged at his hands by his antics regarding the non-compliance of the codes required when he first started the Idlewood I subdivision, and the flooding that happened at his own hand! This annexation and rezoning should not happen!

The good citizens of Florence who have residences located in Lane County have sent their own letters objecting to all of the parameters of this annexation/zone change petition. And, in the petition and the documents submitted therein by BH LLC, the word “development” is specifically mentioned many times throughout. And, therefore, I am demanding that the letters will be accepted and considered. I am demanding that all letters received by the City of Florence that have been responded to by the “form letter” from the City of Florence be accepted as absolute objection to the annexation/zone change and the development placed forth in BH petition. For the City of Florence to initially respond to the good citizens in their good faithful attempt to fight for their rights, and to be put in a position whereby they have no say-so is an unconscionable effort by the City of Florence to try to control these proceedings, to their benefit, and to the detriment of the good citizens of the Idlewood subdivisions. These citizens and homeowners have experienced so many problems that have occurred in their neighborhood at the hands of Benedick from Day One!

This developer, Benedick, has a history, very well documented, as has been shown herein, and is shown also in the Benedick Lane County file, of underhanded dealings, dishonesty, lack of transparency, i.e., code violations, substandard contracting, illegal timber cutting and clearing, etc, et al. The list goes on and on. The reputation this developer, Benedick, has earned, by his own actions, is something that is shared by every single one of those homeowners in all of the over 200 lots he has sold and developed heretofore.

The City of Florence, and the Planning Commission, will suffer, also, a reputation of irreparable consequences with the association of dealings with Benedick. It will only be a matter of time. In the best interests of all, this matter should be put to rest. The annexation should be denied. This developer needs to be stopped from any further development in the subject property.

And for BH LLC to add Oceana Drive to his petition for annexation is also truly unconscionable. The residents of Idlewood I, II and III have already experienced enough heartache, property damage, economic loss, loss of livability, hardship, etc.

With all that I have set forth above, I vehemently object to the annexation, the zone change, and the proposed development of the Benedick request.

Respectfully submitted,

Cher Thatcher  
5033 Kelsie Ct.  
Florence, Oregon

Cc: [wendy.farleycampbell@ci.florence.or.us](mailto:wendy.farleycampbell@ci.florence.or.us)  
[Amber.bell@lanecountyor.gov](mailto:Amber.bell@lanecountyor.gov)  
[Sasha.vartarian@lanecountyor.gov](mailto:Sasha.vartarian@lanecountyor.gov)  
[Lindsey.eichner@lanecounty.gov](mailto:Lindsey.eichner@lanecounty.gov)  
[cameron@oregoncoastalliance.org](mailto:cameron@oregoncoastalliance.org)  
[kelli.weese@ci.florence.or.us](mailto:kelli.weese@ci.florence.or.us)  
[joe.henry@ci.florence.or.us](mailto:joe.henry@ci.florence.or.us)  
[Joshua.greene@ci.florence.or.us](mailto:Joshua.greene@ci.florence.or.us)  
[Woody.woodbury@ci.florence.or.us](mailto:Woody.woodbury@ci.florence.or.us)  
[Ron.preisler@ci.florence.or.us](mailto:Ron.preisler@ci.florence.or.us)