

Aleia Bailey

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:39 AM
To: planningdepartment
Subject: FW: Annexation proposal

From: bnkjohnson1@verizon.net <bnkjohnson1@verizon.net>
Sent: Sunday, November 22, 2020 10:57 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Annexation proposal

I live in Heceta South and I am very much opposed to the annexation of the 48 acres that is adjacent to Heceta South.

We moved here and were mesmerized by the quiet, the trees and all the wildlife. We take walks around Heceta South at least 3 times a day. We walk with our dogs, we take power walks for exercise, and we walk with our friends and neighbors for some peaceful conversation. It is a safe place to walk since there is no traffic. On every walk we encounter wildlife. Chipmunks chasing each other, rabbits and squirrels darting across the road, and words cannot describe the special feeling when you round a corner and see a bobcat sauntering down Kelsie way! Or a coyote loping along. Even our resident bear has made appearances as he lumbers off into the woods. They all bring tears of happiness to my eyes when I see our beautiful wildlife right here! On our street and in our yards! If the annexation and development are allowed to go through? And Kelsie Way annexed as well to provide through traffic to Heceta Beach Road? The amount of noise and all the trash that will be generated? And people scoping out our homes for potential theft and crime? All of this peace, beauty, quiet, safety, and our beloved wildlife will be gone - FOREVER. Please do not let this happen!

We moved here years ago from Silicon Valley in California. Developers completely ruined the "Valley of Hearts Delight". Houses and buildings everywhere, congestion, gridlock, pollution, quality of life gone downhill, you name it. We chose to retire to Florence and Heceta South for the charm and beauty of the area. To support the FEC, the theatre, the art galleries and the one of a kind shops in Old Town. Please keep Florence - Florence. And Heceta South - Heceta South.

Kathy Johnson
(541) 991-3618
Heceta South Resident

From: bnkjohnson1@verizon.net
Sent: Monday, November 23, 2020 1:02 PM
To: planningdepartment
Subject: Fwd: Annexation Proposal

Hello. I am a resident of Heceta South and I am writing to express my deep concern over the proposed annexation of Oceana Drive, the 48 acres, and the possible annexation of Kelsie Way. This will very much have a negative impact on the quality of life in Heceta South and the community of Idlewood. We are retired and live on a fixed income, as are most of our neighbors. With an annexation, there would be a financial impact on most if not all, residents here. We love our quiet community and I am sure all the people on Oceana and all the folks in Idlewood love their peace and quiet too. We moved here years ago for Heceta South's peace and quiet and it's natural beauty. We take walks daily, rain or shine, and love the fact that we don't have to worry about traffic in our neighborhood. Neighbors in our community often leave their garage doors open during the day as they feel safe doing so. With an increase in thru traffic, that feeling of safety and security will be gone.

Another major concern I have with this annexation and development is flood control. There is a large seasonal lake on the property. What is going to happen with all the rain water if this is developed? Four winters ago we measured over NINE FEET of rain. We already have problems with flooding in Heceta South. Flooding is a major concern.

Benedick Holdings, LLC, a big developer in Eugene, and I am sure a lot of local developers and realtors, would love to get their hands on this land and make lots of money, but it's the residents of Heceta South and Idlewood who are going to pay. Pay with increased traffic, taxes, trash and crime. Pay with the loss of our peace and quiet. Pay with the loss of wildlife sanctuaries. And pay with the devaluation of our homes. Annexation is wrong for so many reasons.

Brent Johnson
(408)466-5868
Heceta South Resident

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:40 AM
To: planningdepartment
Subject: FW: Proposal by Benedick Holding LLC

From: Marilyn Krueger <marilyn.krueger@options.org>
Sent: Monday, November 23, 2020 8:30 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Re: Proposal by Benedick Holding LLC

My husband, Jeff Hollingsworth, and I submit the following concerns/objections regarding the annexation of Oceana Dr. related to the development proposal by Benedick Holding LLC:

1. The significant addition of traffic on Oceana Dr. would endanger current elderly residents and parents with young children in strollers who walk along Oceana Dr.
2. Having Oceana Dr. annexed to be the primary or only entrance and exit to the proposed development area would endanger residents related to the movement of emergency vehicles along this route.
3. Having Oceana Dr. annexed to be the primary or only entrance/exit to the proposed development area would endanger residents related to the movement of persons and vehicles during an emergency evacuation.

Sincerely,

Marilyn Krueger

CONFIDENTIALITY NOTICE: This e-mail message is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. If you are the intended recipient but do not wish to receive communications through this medium, please advise the sender immediately.

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 12:51 PM
To: planningdepartment
Subject: FW: Annexation

From: Lynne Davis <catmom351@yahoo.com>
Sent: Tuesday, November 24, 2020 12:16 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Annexation

To: City of Florence

Wendy-Farley Campbell

& City of Florence Planning Commission

250 Highway 101, Florence, OR 97439

wendy.farleycampbell@ci.florence.or.us

Dear Wendy-Farley Campbell,

Being a resident of the Heceta South Home Owners Association, I am writing to voice my **opposition** to the annexation of the property adjacent to the Heceta South HOA. My reasons are as follows:

A) Since moving here in 2009, I've always viewed this adjacent area in question, as a valuable wildlife wetlands. It supports a seasonal lake which allows many forms of

flying wildlife a respite. During the summer months bear, cougar, bobcat, coastal lynx, deer, coyote, raccoon, and other small forms of wildlife inhabit the area. Construction in this area will decimate these animals. I've seen it happen in the past. I am particularly concerned with our bear population. When complaints come in, ODFW come and destroys the animals. This treatment of our wildlife areas is unacceptable in my view.

B) Annexation of our roadways will add untold cost to the members of our HOA in the form of road maintenance, updating to city standards and codes, etc. Added to these issues will be the addition vehicular traffic which brings more foot traffic and increase the inevitable crime rate. Since this area is not supported by the City of Florence police dept., we will need to wait hours for response from the County Sheriff's office when the need arise.

C) This latest attempt at annexation of this area by Benedick Holding is yet another end run around Lane county's refusal to Annex on two other occasions. The reasons then are still valid today. The area in question is a prime and valuable wetlands area that has come into the sights of a real estate developer. They are not local and only see a monetary value in this area. They don't see or care how important this area is to the community.

Lynne J. Davis

4911 Windjammer Way

Florence, OR 97439

541-997-2437

From: Wendy Farley-Campbell
Sent: Tuesday, December 01, 2020 9:30 AM
To: planningdepartment
Subject: FW: Annexation A Bad Idea (but could be a good thing if further discussed)

From: jmackin <jmackin@protonmail.com>
Sent: Tuesday, November 24, 2020 10:48 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Annexation A Bad Idea (but could be a good thing if further discussed)

Hello Wendy,

I am a citizen of the City of Florence. I applied to the Environmental Advisory Committee this month and look forward to working in that role if I am asked to serve the municipality.

I am very concerned about the financial, environmental, and community health impacts of the proposed annexation in Haceta South area. Please table the proposal temporarily so that proper community input can be attained. There are dozens of concerned citizens that have not been able to express their concern due to the COVID-19 pandemic. Now is NOT the time to force through development without appropriate input from the community.

Thank you for your time in this matter. I hope that we can work together as a community to assure all people will be served in an equitable manner. Together we can prosper financially, maintain a healthy environment, and live in a healthy community for generations to come.

Yours Truly,
John Mackin

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:40 AM
To: planningdepartment
Subject: FW: Benedick Annexation Proposal

From: Mary McCarthy <avomaria46@gmail.com>
Sent: Monday, November 23, 2020 7:47 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Benedick Annexation Proposal

Ms. Campbell and members of the City of Florence Planning Commission:

As a resident of Heceta South, I write you again to express my unreserved opposition to the proposed annexation of property owned by Benedick Holding, LLC, going any further than the Florence Planning Commission.

One would like to think that governmental agencies actually CARE about the citizenry they serve, the very same people who voted to put our civic leaders in the offices they hold. I find it extremely interesting that COVID offers the applicant and the city a perfect way to keep the public at bay. Don't the past attempts by Benedick, that were defeated for reasons still in existence, give you any pause and if not, why not?

The Virtual Planning Commission Meeting on 11/10 was a disgrace. The requirements to challenge the proposal were Mephistophelian. It should not be so difficult for a citizen to take leaders to task that an attorney must be engaged. Audio was terrible and neither the applicant's attorney nor members of the public were able to comment.

What is the rush here? Why can't this wait until there is a NORMAL way to hold meetings of such passionate importance to the people who support the positions you hold? Many of those who will be impacted by your decision are not technically savvy. Many more might not have the skill to write a letter that adheres to your rigid template of submittal requirements. We want to BE THERE and LOOK YOU IN THE EYES and HEAR YOU CLEARLY as you discuss and make plans for us, plans that will affect us in many ways, not the least of which is financially. What really is at stake here is Quality of Life.

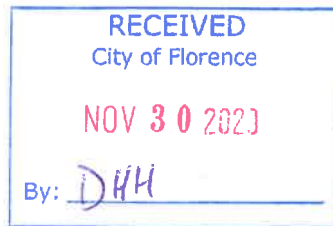
My neighbors, my husband and I fear for our safety and the disruption of the very way of life that brought us to Heceta South and Florence: peace, quiet, no traffic, no lights, no sidewalks and occasionally sighting wildlife in our backyards. Deer, coyotes, bears, eagles, cougar...who is to be the spokesperson for the disruption of their territory, Dr. Doolittle?

Surely you are aware that many people are watching and scrutinizing all the documentation and communications on this proposal as our faith in your process, your commissions and your "virtual" meetings is non-existent at the moment.

Mary McCarthy
87950 Kelsie Way
541.997.1767

--

Mary McCarthy



Attorney
ZACK P. MITTGE
zmittge@eugenelaw.com

Paralegal
GAIL C. CROSS
gcross@eugenelaw.com

November 24, 2020

VIA EMAIL (planningdepartment@ci.florence.or.us)
and FIRST-CLASS MAIL

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

RE: PC 20 22 ANN 01 & PC 20 23 ZC 02 – Benedick Holdings, LLC
Annexation and Zone Change
Our Client: Idylewood Owners, LLC
Our File No. 15184-C2107

Dear Planning Commissioners:

On behalf of our client, Idylewood Owners, LLC, we hereby submit the following comments in opposition to the proposed annexation and zone change for the property located at Assessor's Map No. 18-12-10-40 Tax Lots 400 and 401 and Assessor's Map 18-12-10-34 Tax Lot 801 during the first open-record period following the Planning Commission hearing.

Please include these comments in the record of these proceedings, and include our firm on the list of parties receiving future notices associated with this application.

1. Annexation and Zone Change Criteria

The City's annexation and zone change standards require that the City consider impacts from the proposed annexation and zone change before granting approval to either of the applications. In particular, the City's annexation policies at a minimum require that the annexation area can be served by an orderly, economic provision of public facilities and services and that the application itself demonstrate conformance with the acknowledged City of Florence Comprehensive Plan. Likewise, the City's zoning code requires that the new zone also conforms to applicable comprehensive plan provisions as well as minimum requirements in the zoning code. This is only reasonable as the City cannot approve alterations to its zoning designations that are inconsistent with its comprehensive plan. See ORS 197.835(7)(providing for reversal of land use regulation amendments that do not conform to the comprehensive plan).

As comprehensively demonstrated in the letter submitted on behalf of the Heceta South Homeowners Association (which is hereby incorporated by this reference in full), the applicant has failed to demonstrate that its proposed annexation and zone change are consistent with these minimum standards.

Nevertheless, it has been urged that the City is free to disregard these express standards on the grounds that the application for the annexation itself proposes no development. However, these comprehensive plan and zoning code requirements are applicable at the time of annexation and zone change.

Where, as here, the applicant does not propose a particular development, the City does not merely ignore the provisions of its comprehensive plan. Instead, the burden remains on the applicant to demonstrate whether a reasonable worst-case development scenario under the proposed annexation and zoning would conform to the applicable comprehensive plan provisions.

As the applicant has not provided an adequate factual basis to demonstrate that its proposed annexation and zone change will conform to these minimum standards, evaluated a reasonable worst-case scenario associated with the proposed annexation and zone change, or even addressed the relevant criteria, it has not provided the City with any basis for approval of its decision and denial of the application is appropriate.

2. Reasonable Annexation

The applicant suggests that its annexation need not be reasonable as long as it conforms to the applicable comprehensive plan provisions under *DLCD v. City of St. Helens*, 138 Or App 222, 907 P2d 259 (1995). However, as the Court of Appeals confirmed in *DLCD v. City of St. Helens*, the “reasonableness” test of Portland General Electric has not been repealed by “subsequently-enacted land use legislation.” *Id.* at 227.

And while the Court acknowledges that this determination is no longer “solely or mainly” dependent upon judicial determinations of what is reasonable, and now looks to “specific legislative and regulatory criteria” this does not assist the application in this case which, as demonstrated by the Heceta South submission, fails to demonstrate compliance with these legislative and regulatory criteria.

In fact, in *DLCD v. St. Helens*, the Court of Appeals affirmed LUBA’s denial of a cherry-stem annexation of a property which, like the property at issue in this case, was located within an urban growth boundary, and only connected to the City by a narrow and annexed street right-of-way holding that the annexation of the street does not make the property contiguous to the City. As this is same approach taken by the applicant in this case, denial of the application is also appropriate on this basis.

3. An Election is Warranted in this Case

Finally, denial of the application is appropriate as the City Council has not decided to dispense with an election in this case. The procedural requirements for an annexation come from state law, and require submission of an annexation to the

electorate except in this cases where the City Council dispenses with an election. ORS 222.120(2).

The applicant attempted to rely on a 2008 general resolution to avoid an election on this issue. However, it now concedes that that resolution was repealed over a decade ago.

As the City Council has not elected to dispense with an election in this case, an election is required on the annexation.

Conclusion

As the applicant has failed demonstrate that its proposed zone change and annexation is consistent with applicable provisions in the City's Comprehensive Plan and zoning code, failed to demonstrate that same is reasonable or that its cherry-stem annexation is contiguous to the City, and because an election is required on the annexation at issue, we respectfully request that the Planning Commission recommend denial of the annexation.

Very truly yours,

HUTCHINSON COX



Zack P. Mittge

ZPM/gcc

c: Mike Farthing (via email)

From: Wendy Farley-Campbell
Sent: Tuesday, December 01, 2020 9:35 AM
To: planningdepartment
Subject: FW: objection to Benedick development and annexation

-----Original Message-----

From: Jerry <nuleaf@efn.org>
Sent: Monday, November 23, 2020 3:47 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: objection to Benedick development and annexation

Hello Wendy-Farley Campbell and Florence Planning Commission,

My husband and I wish to register our objection to Benedick's proposal to develop and annex his property that is adjacent to Heceta South. Twice his company has attempted to get permission from Lane County to develop this piece of property and twice Lane County has denied this development and for valid reasons. As a member of Heceta South Homeowners Association I strongly oppose any plans that might include Kelsie Way as access to this property, I will encourage the Homeowner's Board to pursue any legal means to maintain the integrity of our small, quiet, private community. Furthermore, speaking from personal experience flooding can be a serious issue that will be exacerbated by additional development in this area and will impact our neighborhood.

Thank you for you time and consideration

Sincerely Jo and Jerry Mounts

Sean T. Malone
Attorney at Law

Exhibit K108

259 E. Fifth Ave.,
Suite 200-C
Eugene, OR 97401

Tel. (303) 859-0403
Fax (650) 471-7366
seanmalone8@hotmail.com

November 24, 2020

Via Email

City of Florence
250 Highway 101
Florence OR 97439

Re: Oregon Coast Alliance Open Record Testimony for PC 20 22 Ann 01 and PC 20 23
ZC 02, Benedick Holdings, LLC Annexation and Zone Change.

Dear Planning Commission of the City of Florence,

Oregon Coast Alliance (ORCA) is an Oregon nonprofit corporation whose mission is to protect coastal natural resources and work with residents to enhance community livability. ORCA hereby submits this open record testimony for the above-mentioned applications, all of which fail to satisfy the relevant standards and criteria. The applicant is Benedick Holdings, LLC, and the proposal is to annex approximately 48.82 acres of property and right-of-way and apply a City of Florence zoning designation to the annexed lands for eventual subdivision into 32 units. The proposal consists of annexing Oceana Drive and property described as Assessors Map No. 18-12-10-40, Tax Lots 400 and 401 and MR 18-12-10-34, Tax Lot 801. While not fully addressed as such in the notice, there also appears to be a proposal to annex additional rights of way, as provided in other testimony. The property is currently zoned Beaches and Dunes proposed to be zoned Low Density Residential with a Prime Wildlife shorelands management unit overlay (LDR/PW).

As such, the planning commission must recommend denial of the application for the reasons cited below, as well as for those reasons presented in other testimony. The proposed annexation area is a wooded reserve that is heavily populated with wildlife and is characterized as a natural water basin with wetlands.

ORCA shares the concerns of the many neighbors and concerned individuals that will be negatively affected by the proposals. These include traffic congestion and seasonal flooding of

the annexation area. The annexation area floods every winter with seasonal lakes. In fact, testimony in the record demonstrates that pumps have been necessary to keep water off the roads and in the ditches. Traffic is already an issue on Rhododendron Drive, where residents walk and bike. Almost 400 homes exist on Idylewood Drive and virtually all ingress and egress use just two streets.

An overarching issue here is the City's annexation policy 3, which requires that the conversion of lands outside the City limits is based on consideration of "orderly, economic provision for public facilities and services." The City must sufficiently consider the availability of public facilities and services, which include sewer, stormwater, transportation system, and so forth. Regarding sewerage, there is evidence in the record that a new "neighborhood sewer pumping station" would be required to serve development in the annexation area, yet the application is silent the need for an additional facility. The City must also "consider" and account for the fact that others along the annexation right-of-way would be required themselves to connect to a new sewer line, pursuant to OAR 340-071-0160(4)(f). The City must determine whether additional properties that are served by on-site septic tanks will be required to subsequently connect to the sewer line and whether the City can accommodate that additional increase in usage. The applicant has failed to demonstrate that it can provide orderly, economic sewer systems in the annexation area.

Stormwater is a significant concern because the annexation area is comprised of a topographical depression that is largely wetlands with a high groundwater table and experiences significant rainfall. In the past, these factors have combined to cause serious flooding and the creation of seasonal lakes. Local testimony has underscored this issue and the planning commission should be cognizant of those on-the-ground testimonials. Evidence in the record demonstrates that the 1996 rains flooded an area of approximately 4 acres. Ponds from flooding have persisted for weeks, creating significant damage to existing residences. Streets have flooded, creating ingress and egress problems for residents and emergency vehicles. It is folly to annex an area for residential development that seasonally floods. The city does not have the infrastructure or capacity to discharge more stormwater into the Siuslaw River. More housing in the area without collection and distribution will result in even greater impacts, including significant erosion. Traffic congestion in this area can also lead to significant consequences given that the area is within the tsunami-inundation zone. There is a basic failure on the part of the applicant to demonstrate that on-site stormwater retention is possible during rainfall events coupled with a high groundwater. The applicant has failed to demonstrate that it can provide orderly, economic stormwater systems in the annexation area.

The transportation network and traffic issues are also not capable of being provided in an orderly and economic manner. Aside from the basic congestion that exists and the problems that would occur by exacerbating that congestion, the seasonal flooding creates additional problems

for the unimproved streets. Oceana drive is classified as a “local road,” and it is not striped, has no paved shoulders, curbs, gutters, sidewalks or on-street parking areas. Oceana Drive is substandard to meet current County or City standards, and the applicant fails to provide for any improvements to the road infrastructure. The record also contains clear evidence that there are significant topographic and regulatory issues for Kelsie Way. The application therefore fails to demonstrate that annexation will provide an orderly and economic improvement of the street system.

The proposed annexation and zone change is also inconsistent with the City of Florence comprehensive plan. Annexation policy 3(b) requires conformance with the City’s comprehensive plan and Florene Zoning Ordinance section 4(B) requires that a proposed zone change be consistent with the Florence comprehensive plan residential land use policy 7¹, development hazards and constraints policy 1², and transportation policies³ are not satisfied here. The threat to the public health and safety and development hazard is stormwater collection and distribution and associated traffic (with and without the associated flooding of the roadways). For both the rezone and the annexation, these policies are not satisfied. Policy 7 is plainly implicated here and the City must account for why this type of development in an area of known flooding and without remedial measures to address that flooding will not constitute a threat to the public health and safety. Moreover, it is puzzling how the remedial measures – which the applicant does not voluntarily own up to – would not be an excessive expense for the City and surrounding residents. Instead of placing residential development away from these seasonal lakes, the proposal purports to place homes *within* these seasonal lakes. One would be hard-pressed to find a more inappropriate place for residential development. If the City approves this annexation and zone change in light of these well-known threats to the public health and safety, then the City would likely be opening itself up to significant liability.

Finally, the applicant has apparently ignored the fact that the South Heceta Junction Seasonal Lakes are designated as significant wetlands in the Florence Area Local Wetlands.

¹ Policy 7 provides that “[r]esidential development shall be discouraged in areas where such development would constitute a threat to the public health and welfare, or create excessive public expense. The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.”

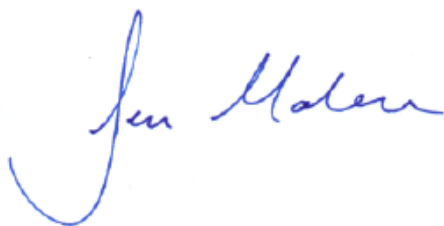
² Development Hazards and Constraints Policy 1 provides that “[t]he City shall restrict or prohibit development in known areas of natural hazard of loss of life and economic investments, the costs of expensive protection works, and public and private expenditures for disaster relief.”

³ Transportation policy 1 requires that the City “[p]rovide safe transportation all season of the year through street standards that require lane widths, curvature and grades appropriate to all weather conditions.”

Wetlands and Riparian objective 2 requires that the City “protect significant wetlands for their critical value in maintaining surface and groundwater quality and quantity, providing wildlife habitat, performing flood control, and enhancing the visual character of the Florence community.” The wetlands, by virtue of their flooding, serve the important purpose of controlling – in part – flooding in the other residential areas nearby the proposed annexation property. Numerous residents in the surrounding area have attested to the rich wildlife that are no doubt protected by the undeveloped area proposed for annexation. Finally, as significant inventoried resources, the applicant has not addressed whether the rezone will require a goal 5 ESEE analysis. These issues must be addressed before the project can move forward in any meaningful manner.

It is plainly obvious that the surrounding property owners are overwhelmingly opposed to the annexation and zone change. These concerns are rooted in serious concerns that implicate the public health and safety of not only those currently living in the surrounding area but also for those that may find themselves in the unfortunate position of purchasing a property within a seasonal lake. For these reasons, the planning commission must recommend denial of both the proposed annexation and rezone.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sean Malone". The signature is fluid and cursive, with a large initial "S" and "M".

Sean T. Malone
Attorney for Oregon Coast Alliance

Cc:
Client

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:38 AM
To: planningdepartment
Subject: FW: Benedict petition

-----Original Message-----

From: Joanne Dal Pra <dalprajoanne@gmail.com>
Sent: Saturday, November 21, 2020 10:34 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Benedict petition

As a member of the Idylewood community I would like to state my objection to this petition. Why do we feel the need to over build our Florence community!? The property in question is a protected wetland, dunes, and wildlife habitat. Are we going to let this developer take advantage of us by going through the city this time? Please submit my objection to this unwanted petition. Protect our citizens as well.

Joanne Dal Pra
87642 Rhodowood Dr
Florence

Sent from my iPad

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:42 AM
To: planningdepartment
Subject: FW: NO on Benedick Holding annexation

From: Jacquelyn Price <hjprice32@gmail.com>
Sent: Monday, November 23, 2020 4:52 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: NO on Benedick Holding annexation

I do not want adjoining Heceta South property annexation to be allowed. How many times do we have to go through this? This is protected wetland, dunes and wildlife habitat. It would result in increased traffic and flooding in our area. Please vote NO on this bad idea.

Jackie Price
Lot 77

Sent from [Mail](#) for Windows 10

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:39 AM
To: planningdepartment
Subject: FW: Benedict Holding L.L.C. development

-----Original Message-----

From: Bill Rehder <billrehder@mac.com>
Sent: Sunday, November 22, 2020 2:00 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Benedict Holding L.L.C. development

We are writing you pertaining to our objection to the proposed development of the 48 acres adjacent to Heceta South. We live at 5011 Kelsie Ct.

There would be an immediate flood threat to our property, as water flows downward to our properties from said development.

We would not approve of a annexation to Kelsie Way as Heceta South dues pay for the maintenance of said roads and has done so for years.

I also question the planning of the Florence area the Spread Approach is a negative environmental effect on both people and wildlife. There seems to be a adequate number of developments, lots, for building homes.

Thank you
William Rehder

NOV 24 2020

By: DH4

Exhibit K112

Nov 22, 2020

Re: Proposed to annex Oceana Drive
with Benedict Holdings LLC zone changes to
the City of Florence.

Dear Wendy Farley Campbell,

This is my second letter stating
that I strongly do not want my property
on Oceana Drive annexed to the City of
Florence.

Please send me an explanation of
what "Prime Wildlife Shorelands Management
unit overlay (LDR/PW) is. This is a second (2)
request.

I saw the Nov 10 meeting and found it
unsatisfactory for glossed over information
given failing to mention a sewage
substation would have to be added
plus Oceana Dr would have to be widened
to accommodate increased traffic etc.

The City Planners should be more
forthcoming to the Oceana Dr property
owners in what the "nitty-gritty" facts
and costs will actually be should the
City of Florence choose to approve the
request to accommodate Benedict Holdings
LLC.

(over)

My address is:

4794 Oceana Dr.

Florence OR 97439

phone number: 541-997-6085

Thank you for hearing my
testimony.

Sincerely yours.

Dorothy Marina Schwagermann

Telylewood Owners LLC



11/21/20

TO: Wendy Campbell-Farley, Director of Planning

FROM: Jok Simons, resident of Heceta South HOA

For: Submission to the City of Florence Planning Commission

RE: Annexation request by Benedick, LLC now under consideration

As the director of planning for the City of Florence, is there any viable choice but to recommend denial of the request to the planning commissioners? I believe the answer is NO, based on the following points and concerns.

To set the context, only one entity, Benedick, LLC (the applicant) wants the annexation to be approved.

- The land formerly owned and developed by Benedick is now known as Idylwood, a housing development that sits outside the city limits of Florence.
- The very fact that Idylwood is situated outside the city limits was and continues to be attractive to current and future owners within that subdivision.
- Idylwood is a quiet development with no through streets, which was another feature that previously and currently attracts buyers of the properties within. Traffic within Idylwood is light, slow-moving, and conducive to pedestrian use for walking and bicycling.
- The above noted points apply to the Heceta South development as well. Heceta South stands to be negatively affected by this proposed annexation and any subsequent development of that land parcel.
- The adjacent parcel of land, the current subject of the annexation request, could have been developed by Benedick when Idylwood was originally developed.
- It is very important to remember that earlier development would have provided the opportunity to properly plan for streets, storm drainage/potential flooding mitigation, and other environmental concerns arising from the protected status of the parcel.
- Earlier development, done correctly and legally, would have raised few or no concerns that are currently being raised by so many local citizens whose lives could potentially be seriously disturbed and property values diminished by development at this time.
- Earlier development would have avoided the current attempt to gerrymander the boundaries of the city limits via the so called “cherry stem” annexation concept, which is arguably illegal.
- Finally, earlier development would have precluded the land parcel from being isolated, which now, if developed, creates the need to seriously disturb and degrade surrounding streets and properties, solely in the interest of ONE ENTITY: Benedick, LLC., and solely due to poor planning.

As we all know, the volunteer members of the planning commission rely on your expertise and integrity when considering their votes on such actions.

Here is only some of the recent input to the Planning Commission:

- There is a formal letter of objection already on file from Hutchinson-Cox, the attorney of record for Heceta South HOA.
 - This letter raises a number of serious legal concerns and questions which must be formally and publicly answered and satisfied before any recommendation can be made.
 - The planning commission cannot simply disagree with the points of the letter, but must answer in kind, point by point, with legal citations, precedents and other pertinent arguments to dispute the veracity of all points made.
- There are already numerous letters and emails, submitted by the local citizens affected by this potential action, and it is abundantly clear that they vigorously oppose this action.
 - No one on Oceana Drive wants this annexation approved.
 - Other Idylwood residents do not want this annexation approved.
 - No one in Heceta South HOA wants this annexation approved.

Questions of procedure and legality:

- A number of property owners have voiced the belief that Benedick chose this particular time to start the annexation request, given that the world is in a pandemic and Oregon in particular has been very restricted about gatherings. Perhaps the company thought it would meet little or no opposition since public meetings are not possible.
 - These conditions have hampered almost every business in Florence and have prevented the City of Florence from conducting live public hearings on this matter.
 - Live public hearings are essential since many persons affected by this matter either have no computer or may not have the skills to connect to webinar formats.
 - The use of virtual hearings is basically eliminating the opportunity for a number of persons to voice their objections.
 - The City's efforts to continue via virtual hearings has been less than stellar, with the last attempt resulting in another postponement of this matter due to poorly handled technicalities of the virtual meeting.
 - Perhaps this and other matters requiring public hearings should be tabled until it is possible to hold live meetings again.
- Other persons I have spoken with are wondering if there are any members of the planning commission who should recuse themselves regarding any vote on this decision due to current or future conflicts of interest.
- In the same vein, people are wondering if any members of the planning commission are currently or previously involved in the brokering or financing of real estate?

- And finally, people are wondering if there are any members of the planning commission who could hypothetically stand to benefit from recommending approval of the annexation request? If so, in the interest of fairness, transparency and legality, they should recuse themselves from this action.

Regardless of the possibility that the annexation request is technically sound, meaning that the applicant followed all the guidelines, is approval of this request the right thing to do?

If your answer is “yes”, then why bother with public hearings? Why not just approve the request on its face? The answer to this question is that public hearings are required by law and their purpose is to hear all sides of an issue under consideration.

Further, if such hearings reveal a preponderance of opposition to a matter under consideration, it behooves the governing agency/entity to bow to legitimate concerns and objections of the majority, regardless of how properly the applicant has completed forms and submissions. This is the very reason public hearings are conducted, to hear from the public and get the opinion of the people who may have a stake in matter.

In closing, I would submit that a recommendation to NOT APPROVE this annexation request will buy the City of Florence a great deal of good will from the vast majority of those concerned. On behalf of the hundreds of persons opposing this matter, please do the right thing. Thank you.

[Type here]

November 24, 2020

City of Florence Planning Commission
Wendy Farley-Campbell, Planning Director
Wendy.farleycampbell@ci.florence.or.us
City of Florence
250 Highway 101
Florence, OR 97439

Re: Benedick Holdings LLC Annexation

To the Commission Members and Wendy Farley-Campbell,

I don't understand why people cannot see what is right, when it is right in front of them?

This annexation will adversely affect so many people and will disrupt their lives, for their entire lives – and for what? For whom?

DO NOT APPROVE this annexation petition. There are so many reasons not to approve this. The good citizens, the hundreds (yes, hundreds) of good citizens, whose lives are in the balance, are NOT ABLE TO LET THEIR VOICES BE HEARD!!!

You know full well that the hearing on this annexation request was wrought with problems, to state it lightly. The “public” hearing on November 10 was absolutely a nightmare for ALL involved. Even BH LLC's own attorney was not able to be heard. To many it was termed as a “joke”. I tuned in myself and was unable to hear much of it. What a fiasco. What a dog and pony show. What is wrong with this picture? I'll tell you what.

To start, timing. The pandemic, yes. The pandemic. What a horrible time to try to get something through to the COF that was already stopped many times by Lane County. So wrong.

[Type here]

The pandemic. We are in a state of such disrepair as a country, and as a community too. The request from BH LLC for annexation and re-zoning could not come at a more difficult time. This petition SHOULD NOT BE APPROVED !! This is a serious issue and comes at a time WHEN CITIZENS HAVE THEIR ABSOLUTE RIGHT TO SPEAK AND BE HEARD!!!! But they cannot be heard, and have not been heard. The courts will agree.

Have you read, and I mean, really read the testimonials from the citizens? There are more than a hundred by now! A few days ago they numbered in the 80's, and so by now there must be more, right? Right. Because people are in an uproar, and well they should be. Take the time to read, and I mean REALLY read them all.

You need to read not just the letters that are type written, and those from attorneys, and other entities and agencies, but read those from the elderly citizens who don't have computers. Those letters are obviously written by people who don't have anything but a pencil and paper and each and every one of them are counting on their letters to be read and considered, and their voices be heard. Shame on you if you haven't read those letters, all of them, but especially the handwritten letters. You will know them by the somewhat shakiness of the writing – and they stand out. And well, they should. Their voices should be heard first and foremost.

CONSIDER THIS: Why is this annexation being brought now? Why, during a pandemic when the citizens, the regular good citizens who live along Oceana Drive are fighting for their lives, to stay safe, to keep their families safe, to feed their families at a time when money is already tight due to unemployment and job loss? Keep this in mind when you vote. They are all, yes ALL ARE AGAINST THIS ANNEXATION!!

The letters and testimonials show what Benedick has already shown as his true colors when he developed the Idlewood I, II and III. His true colors have been shown to all those whose lives have already been disrupted with the flooding that has occurred, to date and over so many years in the past. Will this flooding continue? Yes. Because the remedy was never done. Benedick NEVER did what Lane County requested of him. (Read the Lane County file on Benedick, 969 pages). Lane County never signed off on his remedy. Nothing has been done to

[Type here]

stop flooding in this development. What a travesty of justice!!!! And now he is coming forward to try his antics again, but through the City of Florence? And during a time when the citizens cannot fight against it, again? A horrible pandemic is in place – the courts will recognize this!!! Get ready to fight!!

So, wouldn't you think that maybe Mr. Benedick would try to help those he has already harmed in his former developments? No, because this is all about money. And if the COF goes through, and approves this annexation, they are a party to the deplorable actions of this developer. Just a matter of time. Watch the good citizens get flooded time and time again. Watch Oceana Drive neighbors and friends help each other during the flooding so they don't lose their homes and property because of the flooding and then after this annexation, if it goes forward. Watch what happens. This touches at my heartstrings. Does it yours? It should.

Attorneys are involved. Other agencies are involved. They will stay involved. They will continue to fight which means the City Attorney, Ross Williamson, will continue to fight and will cost the city money. The city will continue to fight this, and the citizens will continue also. Get ready for a huge fight that will go on for years and years, lawsuit after lawsuit, and appeal after appeal. I can see the writing on the wall. Can you? I won't quit. My neighbors won't quit. We will continue to fight. This pandemic will help us win. Remember that. Unfortunate, and horrible, but true.

This annexation will open many legal doors leading to the "highest court in the land". Where have you heard that before?

This fight is not a fly by night issue. This is not to be lightly decided by a group of volunteers whose resumes consist mainly of realtors, developers and retired planning employees. This is a very serious issue involving a developer who has a horrible reputation that precedes him. People don't forget. And people will continue to fight. Our neighbors will see to it that this will not get put "under the rug" because of how our economy is at the moment, or because of how our families are fighting just to stay afloat. We will continue to fight until the very end. Benedick needs to be stopped, again. He was stopped before. It is up to the City of Florence now to make sure he is stopped again.

[Type here]

The land he is planning on re-zoning and developing (his own attorney opened that door with his own documents) is a wetland. It has always been zoned as such. Not just on paper. It has flooded in the past, and will flood again. And when it does, those living on the edge of the property will again be flooded. Benedick never fixed those problems. What makes you think things will change? What is wrong with this picture?

The COF committee and staff and director need to be acutely aware of what may occur if this annexation is approved at this juncture. We are in a pandemic. The lawsuits (injunctions) and appeals that I see in the future will not be simple, and will be expensive. But the citizens will get together and will fight tooth and nail and will stop this annexation and rezoning from happening – and if you do vote to let it go forward, the development WILL NEVER HAPPEN!!! None of them want to see this happen. It will be a battle of all battles known throughout the history of Florence. What is right is right in front of you.

Speak among yourselves and make the right decision. Do What Is Right for the time is not right for this to continue. Vote to stop it. If you don't vote to stop it... well, then, get ready for the fight of your lives. Get ready for the fight of your lives, because our lives are in the balance, and so fight we will. Yes. We will fight for our lives.

Not to sound like a broken record, but I do not understand why people cannot see what is right, when it is right in front of them.

Vote what is truly in your heart for all the many people involved who will lose so much, because it is truly the right thing to do. It is right as rain.

Respectfully submitted,

Cher Thatcher
5033 Kelsie Ct.
Florence, OR 97439
(541) 590-3899

[Type here]

November 24, 2020

City of Florence Planning Commission
Wendy Farley-Campbell, Planning Director
Wendy.farleycampbell@ci.florence.or.us
City of Florence
250 Highway 101
Florence, OR 97439

Re: Benedick Holdings LLC Annexation

To the Commission Members and Wendy Farley-Campbell,

I don't understand why people cannot see what is right, when it is right in front of them?

This annexation will adversely affect so many people and will disrupt their lives, for their entire lives – and for what? For whom?

DO NOT APPROVE this annexation petition. There are so many reasons not to approve this. The good citizens, the hundreds (yes, hundreds) of good citizens, whose lives are in the balance, are NOT ABLE TO LET THEIR VOICES BE HEARD!!!

You know full well that the hearing on this annexation request was wrought with problems, to state it lightly. The “public” hearing on November 10 was absolutely a nightmare for ALL involved. Even BH LLC's own attorney was not able to be heard. To many it was termed as a “joke”. I tuned in myself and was unable to hear much of it. What a fiasco. What a dog and pony show. What is wrong with this picture? I'll tell you what.

To start, timing. The pandemic, yes. The pandemic. What a horrible time to try to get something through to the COF that was already stopped many times by Lane County. So wrong.

[Type here]

The pandemic. We are in a state of such disrepair as a country, and as a community too. The request from BH LLC for annexation and re-zoning could not come at a more difficult time. This petition SHOULD NOT BE APPROVED !! This is a serious issue and comes at a time WHEN CITIZENS HAVE THEIR ABSOLUTE RIGHT TO SPEAK AND BE HEARD!!!! But they cannot be heard, and have not been heard. The courts will agree.

Have you read, and I mean, really read the testimonials from the citizens? There are more than a hundred by now! A few days ago they numbered in the 80's, and so by now there must be more, right? Right. Because people are in an uproar, and well they should be. Take the time to read, and I mean REALLY read them all.

You need to read not just the letters that are type written, and those from attorneys, and other entities and agencies, but read those from the elderly citizens who don't have computers. Those letters are obviously written by people who don't have anything but a pencil and paper and each and every one of them are counting on their letters to be read and considered, and their voices be heard. Shame on you if you haven't read those letters, all of them, but especially the handwritten letters. You will know them by the somewhat shakiness of the writing – and they stand out. And well, they should. Their voices should be heard first and foremost.

CONSIDER THIS: Why is this annexation being brought now? Why, during a pandemic when the citizens, the regular good citizens who live along Oceana Drive are fighting for their lives, to stay safe, to keep their families safe, to feed their families at a time when money is already tight due to unemployment and job loss? Keep this in mind when you vote. They are all, yes ALL ARE AGAINST THIS ANNEXATION!!

The letters and testimonials show what Benedick has already shown as his true colors when he developed the Idlewood I, II and III. His true colors have been shown to all those whose lives have already been disrupted with the flooding that has occurred, to date and over so many years in the past. Will this flooding continue? Yes. Because the remedy was never done. Benedick NEVER did what Lane County requested of him. (Read the Lane County file on Benedick, 969 pages). Lane County never signed off on his remedy. Nothing has been done to

[Type here]

stop flooding in this development. What a travesty of justice!!!! And now he is coming forward to try his antics again, but through the City of Florence? And during a time when the citizens cannot fight against it, again? A horrible pandemic is in place – the courts will recognize this!!! Get ready to fight!!

So, wouldn't you think that maybe Mr. Benedick would try to help those he has already harmed in his former developments? No, because this is all about money. And if the COF goes through, and approves this annexation, they are a party to the deplorable actions of this developer. Just a matter of time. Watch the good citizens get flooded time and time again. Watch Oceana Drive neighbors and friends help each other during the flooding so they don't lose their homes and property because of the flooding and then after this annexation, if it goes forward. Watch what happens. This touches at my heartstrings. Does it yours? It should.

Attorneys are involved. Other agencies are involved. They will stay involved. They will continue to fight which means the City Attorney, Ross Williamson, will continue to fight and will cost the city money. The city will continue to fight this, and the citizens will continue also. Get ready for a huge fight that will go on for years and years, lawsuit after lawsuit, and appeal after appeal. I can see the writing on the wall. Can you? I won't quit. My neighbors won't quit. We will continue to fight. This pandemic will help us win. Remember that. Unfortunate, and horrible, but true.

This annexation will open many legal doors leading to the "highest court in the land". Where have you heard that before?

This fight is not a fly by night issue. This is not to be lightly decided by a group of volunteers whose resumes consist mainly of realtors, developers and retired planning employees. This is a very serious issue involving a developer who has a horrible reputation that precedes him. People don't forget. And people will continue to fight. Our neighbors will see to it that this will not get put "under the rug" because of how our economy is at the moment, or because of how our families are fighting just to stay afloat. We will continue to fight until the very end. Benedick needs to be stopped, again. He was stopped before. It is up to the City of Florence now to make sure he is stopped again.

[Type here]

The land he is planning on re-zoning and developing (his own attorney opened that door with his own documents) is a wetland. It has always been zoned as such. Not just on paper. It has flooded in the past, and will flood again. And when it does, those living on the edge of the property will again be flooded. Benedick never fixed those problems. What makes you think things will change? What is wrong with this picture?

The COF committee and staff and director need to be acutely aware of what may occur if this annexation is approved at this juncture. We are in a pandemic. The lawsuits (injunctions) and appeals that I see in the future will not be simple, and will be expensive. But the citizens will get together and will fight tooth and nail and will stop this annexation and rezoning from happening – and if you do vote to let it go forward, the development WILL NEVER HAPPEN!!! None of them want to see this happen. It will be a battle of all battles known throughout the history of Florence. What is right is right in front of you.

Speak among yourselves and make the right decision. Do What Is Right for the time is not right for this to continue. Vote to stop it. If you don't vote to stop it... well, then, get ready for the fight of your lives. Get ready for the fight of your lives, because our lives are in the balance, and so fight we will. Yes. We will fight for our lives.

Not to sound like a broken record, but I do not understand why people cannot see what is right, when it is right in front of them.

Vote what is truly in your heart for all the many people involved who will lose so much, because it is truly the right thing to do. It is right as rain.

Respectfully submitted,

Cher Thatcher
5033 Kelsie Ct.
Florence, OR 97439
(541) 590-3899

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:40 AM
To: planningdepartment
Subject: FW: Annexation/Development

From: Ed Wilent <ewilent@gmail.com>
Sent: Sunday, November 22, 2020 7:07 PM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Annexation/Development

To: Florence City Planning Commission

Attn: Wendy-Farley Campbell

My wife and I bought property and built a house in Heceta South because of its beauty and quiet, nearly traffic free streets. People walk their dogs on all of our streets without fear of themselves or their pets having to dodge traffic. The city proposal would change all that with significant through vehicle and foot traffic. We have already endured mail theft until most of our mail boxes are now key locked, and solicitation by various individuals and groups. This would increase that activity without a doubt. The peace and quiet and privacy we sought when we invested in Heceta South property would be significantly affected. And, a corresponding reduction in our property value would likely follow.

Please do not allow our streets to become access to any prospective property development.

Charles E. and Alice L. Wilent

5051 Wood Lake Way

Florence, OR 97439

541 997-1778

From: Wendy Farley-Campbell
Sent: Tuesday, November 24, 2020 10:41 AM
To: planningdepartment
Subject: FW: Greed in the Time of Pandemic

From: V.Gail Zilai <vgzilai@hotmail.com>
Sent: Monday, November 23, 2020 9:23 AM
To: Wendy Farley-Campbell <wendy.farleycampbell@ci.florence.or.us>
Subject: Greed in the Time of Pandemic

At this time, I understand the city is considering a proposal by Benedict LLC, to annex property which was denied in earlier legal efforts.

As a citizen, I am totally dismayed that the City of Florence is even looking at this issue! The requirement for public meetings cannot be met through in-person or by virtual meetings, as evidenced by the last attempted virtual meeting. The stakeholders are unable present their opinions and to be heard on a topic that could mean total disruption to their current lives. This issue needs to be tabled immediately until the stakeholders are able to meet with the decision makers.

My one true hope is that the faith I have had in our city leadership up to this time is valid and that the greed of a few doesn't affect the lives of many.

Day to day life is challenging enough with this full blown pandemic, without adding the stress and frustration of trying to protect ones home and daily life. Where is the "fairness" in bringing this forward now?

My greatest hope is that this issue dies immediately. If that doesn't happen, I would hope that city leadership realizes-in the interest of "fairness"- this is not a good time to put this issue before the people.

Sincerely,
Virginia G. Zilai

Get [Outlook for iOS](#)