

CITY OF FLORENCE PLANNING COMMISSION
September 27, 2016 ** MEETING MINUTES **

CALL TO ORDER – ROLL CALL – PLEDGE OF ALLEGIANCE

Chairperson Curt Muilenburg called the meeting to order at 7:00 p.m. Roll call: Vice Chair John Murphey, Chairperson Curt Muilenburg, Commissioner Robert Bare, Commissioner Ron Miller and Commissioner Lysdale were present. Commissioner Titmus was absent and excused. Also present: Planning Director Wendy FarleyCampbell and Admin Assistant Vevie McPherrren.

APPROVAL OF AGENDA

Commissioner Lysdale motioned to approve the Agenda. Vice Chair Murphey seconded. By voice, all ayes. The motion passed.

APPROVAL OF MINUTES

Commissioner Lysdale motioned to approve the Minutes of August 23, 2016. Commissioner Miller seconded. By voice, all ayes. The motion passed.

PUBLIC COMMENTS

*This is an opportunity for members of the audience to bring to the Planning Commission's attention any items **NOT** otherwise listed on the agenda. Comments will be limited to 3 minutes per person, with a maximum time of 15 minutes for all items.*

There were no public comments.

PUBLIC HEARING

Chairperson Muilenburg announced there was one public hearing that included two resolutions before the Planning Commission that evening. The hearing would be held in accordance with the land use procedures required by the City in Florence City Code Title 2 Chapter 10 and the State of Oregon. Prior to the hearing(s) tonight, staff will identify the applicable substantive criteria which have also been listed in the staff report. These are the criteria the Planning Commission must use in making its decision. All testimony and evidence must be directed toward these criteria or other criteria in the Plan or Land Use Regulations which you believe applies to the decision per ORS 197.763 (5). Failure to raise an issue accompanied by statements or evidence sufficient to afford the Planning Commission and parties involved an opportunity to respond to the issue may preclude an appeal of this decision based on that issue. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval without sufficient specificity to allow the Planning Commission to respond to the issue that precludes an action for damages in circuit court. Any proponent, opponent, or other party interested in a land use matter to be heard by the Planning Commission may challenge the qualifications of any Commissioner to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a Commissioner's bias, prejudgment, personal interest, or other facts from which the party has concluded that the Commissioner will not make a decision in an impartial manner.

RESOLUTION PC 16 16 ANN 02: To consider a request for annexation of 05454 HIGHWAY 126, Map# 18-12-26-31, Tax Lots 2300, 2400 & 6300 – Map# 18-12-26-42, Tax Lots 1700, 1800, 1900, 2000, 2100 & 2300, Highway 126 Right-Of-Way from Vine Street to the Urban Growth Boundary, and all Siuslaw River estuary south of these properties within the Urban Growth Boundary.

RESOLUTION PC 16 17 ZC 02: To consider a request to zone the properties to the corresponding City of Florence zoning: Commercial, Estuary Management Unit: Natural Estuary, Conservation Estuary and Shoreland Management Unit: Natural Resource Conservation Overlay.

Chairperson Muilenburg opened the public hearing at 7:03 p.m.

Chairperson Muilenburg asked if any of the Planning Commissioners wished to declare any conflicts of interest, ex parte contacts, site visits, or bias. Chairperson Muilenburg stated a letter had been submitted and provided on the dais from the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians. The Tribes owned the Casino where he was employed however, he did not feel that would cause a bias on his part. There were no challenges of Commissioners impartiality in making a decision.

Chairperson Muilenburg asked for the staff report.

Staff Report

PD FarleyCampbell began with the introduction of how the applicant had applied in order to receive City water, sewer and utilities to be able use the building along Highway 126. She pointed out the existing and proposed City limits and discussed the metes and bounds that would be drafted prior to finalizing the annexation. The aerial of the site showed the roads and estuary included in the annexation. Photographs of the current use of the site included the incomplete Commercial Retail Sales use building, the vacant commercial lot and the submerged and partially submerged lands and narrow strip of upland. PD FarleyCampbell explained the Commercial Plan Designation with corresponding implementing zone of Commercial District. She indicated there had been several verbal inquiries and one letter from the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians that had been provided on the dais. Referral Comments included Lane County Planning who stated they would close out current Building Permits, Lane County Transportation who had no concerns and Department of State Lands who stated applicant would be required to have Agency-Permits for fill and uses in the area of estuary and partially submerged lands. The CTCLUSI stated City Code required land use approval and Tribe consultation prior to site development or utility improvements to identify cultural concerns. PD FarleyCampbell stated the County approved site plan did not meet current City development code with regards to buffers, landscaping, and so forth, and the pre-existing, non-conforming issues could be addressed at the time of site redevelopment. She concluded that Staff recommended that the Planning Commission provide supporting resolutions for the annexation to the City Council and she gave the opportunity for questions.

Commissioner Lysdale questioned the linear footage from the Yamaha Shop of where the services would need to be extended and PD FarleyCampbell indicated it was approximately 300 to 400 feet. Commissioner Lysdale suggested that the ordinary high water line and DSL controlled issues be established before it was presented to the City Council and PD FarleyCampbell showed how the list in Exhibit B from the packet would be replaced or accompanied with metes and bounds of the entire area.

Chairperson Muilenburg questioned the location of ODOTs right-of-way and PD FarleyCampbell confirmed the area. Chairperson Muilenburg then asked when it was determined that the Tribes were to be notified and PD FarleyCampbell explained that it was when it involved any type of specific development.

Commissioner Lysdale questioned other property owner's interest in annexation and PD FarleyCampbell reported that there were no concerns, there were two additional property owners that were interested and one property owner had submitted a petition for annexation that would be processed under a separate application.

There were no further questions for Staff. Chairperson Muilenburg asked the applicant for their presentation.

Applicant – Don Saxon – 05719 North Fork Siuslaw Road, Florence, OR 97439

Mr. Saxon had no presentation but was ready to answer questions. There were no questions.

Chairperson Muilenburg asked for proponents, opponents, or interested neutral parties. There were none.

Chairperson Muilenburg asked for staff recommendation and PD FarleyCampbell stated that Staff recommended the Planning Commission provide approval for the annexation and zone assignment to the City Council as presented.

Chairperson Muilenburg closed the public hearing at 7:35 p.m.

There was no Commission discussion.

Commissioner Bare motioned to approve Resolution PC 16 16 ANN 02 – Saxon Annexation. Commissioner Miller seconded the motion.

By roll call vote: Commissioner Miller “yes”; Commissioner Bare “yes”; Chairperson Muilenburg “yes”; Vice Chair Murphey “yes”; Commissioner Lysdale “yes”; Commissioner Titmus was absent and excused.

Vice Chair Murphey motioned to approve Resolution PC 16 17 ZC 02 – Zone Assignment. Commissioner Bare seconded the motion.

By roll call vote: Commissioner Lysdale “yes”; Commissioner Miller “yes”; Commissioner Bare “yes”; Vice Chair Murphey “yes”; Chairperson Muilenburg “yes”; Commissioner Titmus was absent and excused.

PLANNING COMMISSION DISCUSSION ITEMS

There were no discussion items.

CALENDAR

PD FarleyCampbell explained the two resolutions to come before the Commissioners on Tuesday, October 11, 2016, the Conditional Use request from Public Works scheduled for October 25, 2016 and the petition for another annexation scheduled for November 8, 2016. She also provided details regarding four additional applications that had not been added to the calendar because of incompleteness.

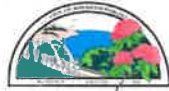
Chairperson Muilenburg adjourned the meeting at 7:40 p.m.

Chairperson, Curt Muilenburg
Florence Planning Commission

Date

Saxon - Hwy 126 Annexation

**PC 16 16 ANN 02
& PC 16 17 ZC 02**



Introduction

- Don & Norma Saxon petitioned for annexation on July 18, 2016
- Annexation proposed for properties illustrated in Exhibit A & listed in Exhibit B of Res. 16 16 ANN 01 :
 - N. Hwy 126
 - S. Hwy 126
 - Estuary

• Saxon Annexation- PC 16 16 ANN 02

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Annexation Criteria

Oregon Revised Statutes:

ORS 222.111, 222.120, 222.125, and 222.170(2)

Florence Realization 2020 Comprehensive Plan:

Chapter 1: Citizen Involvement, Policy 4
Chapter 14: Urbanization, Policies 1 and 3 through 7

• Saxon Annexation- PC 16 16 ANN 02

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Zone Assignment Criteria

Florence City Code:

Title 10, Chapter 1: Zoning Regulations, Sections 10-1-1-5-E-3 and 10-1-2-3 and 10-1-3-B-4

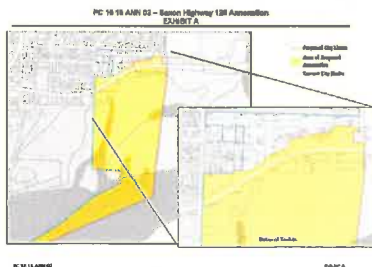
Florence Realization 2020 Comprehensive Plan:

- Chapter 2, Land Use, Policies 1 & 8, Section on Commercial Designations
- Chapter 16: Estuarine Resources, Natural Estuary Section
- Chapter 17: Coastal Shorelands: Ocean, Estuary, and Lake Shorelands, Natural Resource Conservation Section

• Saxon Annexation- PC 16 16 ANN 02

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Area of Annexation



• Saxon Annexation- PC 16 16 ANN 02

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Aerial of Site



• Saxon Annexation- PC 16 16 ANN 02

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Current Use of Site

Area 2



Area 3



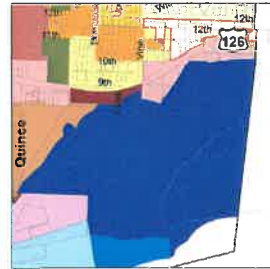
Area 1



Saron Annexation- PC 16 16 ANN 02

9/27/2016 #7

Zoning Assignment

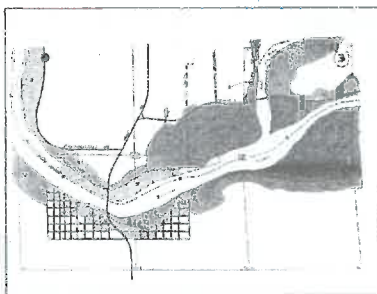


- Commercial District:
Above Mean High
Tide non-submerged
lands

Saron Annexation- PC 16 16 ANN 02

9/27/2016 #8

Zoning Assignment



- Coastal
Resource
Management
Plan

Saron Annexation- PC 16 16 ANN 02

9/27/2016 #9

Zoning Assignment



- Natural Estuary MU:
submerged and partially
submerged lands
 - G: Tide Flats at mouth of N.
Fork
- Natural Resource
Conservation Shoreland
MU: Overlay
 - #5: 50' wide strip of land
from MHT

Saron Annexation- PC 16 16 ANN 02

9/27/2016 #10

Public Comments

- No written testimony
- Several verbal inquiries

Saron Annexation- PC 16 16 ANN 02

9/27/2016 #11

Referral Comments

Exhibit D:

- Lane County Planning: Close out Building Permits
- Lane County Transportation: No concerns
- Department of State Lands: Property owner--no concerns, Agency-permits req'd for fill and uses in area of estuary and partially submerged lands
- Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians: Consultation prior to site development or utility improvements to identify cultural concerns. Land use approval req'd.

Saron Annexation- PC 16 16 ANN 02

9/27/2016 #12

Referral Comments

Staff Response:

- o Existing building shell & approved site plan are pre-existing, non-conforming with Lane County approvals. Building permit and LU permit approvals will carry over as due process was complete, albeit questionable under today's policy interpretations.
- o Land Use and Building Permits will be required to complete shell & for any new site development or fill.
- o Utility infrastructure will require a land use permit

● Saxon Annexation- PC 16 16 ANN 02

9/27/2016 ●13

Utilities & Access

- Sewer and Water utilities extend from Yamaha shop east along south side of Hwy 126 to area of applicant's western property line
- Access is available at Hwy 126, ODOT did not submit any testimony.

● Saxon Annexation- PC 16 16 ANN 02

9/27/2016 ●14

Staff Recommendation

Provide a recommendation supporting the annexation to the City Council.

● Saxon Annexation- PC 16 16 ANN 02

9/27/2016 ●15

Alternatives

1. Provide a recommendation supporting the annexation and zone assignment to the City Council, or
2. Provide a recommendation to the City Council to deny the petition for annexation and zone assignment with reasons for the denial, or
3. Modify the findings, reasons, or conditions and provide a recommendation supporting the annexation and zone assignment to the City Council, or
4. Continue the Public Hearing to a date certain if more information is needed.

● Saxon Annexation- PC 16 16 ANN 02

9/27/2016 ●16

Questions?



● Saxon Annexation- PC 16 16 ANN 02

9/27/2016 ●17



**CONFEDERATED TRIBES OF
COOS, LOWER UMPQUA AND SIUSLAW INDIANS**

1245 Fulton Ave. - Coos Bay, OR 97420

Telephone: (541) 888-9577 1-888-280-0726 Fax: (541) 888-2853

26 September 2016

Wendy Farley Campbell
Planning Director
City of Florence
250 Highway 101
Florence, OR 97439

Dear Ms. FarleyCampbell,

RE: Annexation & Zone Assignment- PC 16 16 Ann 02 & PC 16 17 ZC 02

The annexation & zone assignment for 05454 Highway 126, Map # 18-12-26-31, Tax Lot 2300, 2400, & 6300- Map# 18-12-26-42, Tax Lots 1700, 1800, 1900, 2000, 2100, & 2300, Highway 126 Right-Of-Way from Vine Street to the Urban Growth Boundary and all Siuslaw River estuary south of these properties within the Urban Growth Boundary and the assignment of Commercial, Estuary Management Unit zoning falls within the Tribes' Ancestral Territory and is in an area that is rich with cultural resources. For generations Tribal members have gathered traditional plants such as triangle sedge, sweet grass, cattail and tule and fished from within and in proximity to the proposed zone assignment area and the City of Florence Urban Growth Boundaries. There are known archaeological resources such as a village sites and fish weirs along the Siuslaw River that are listed within the Oregon State Historic Preservation Office database and protected under state and/or federal law¹. All of these invaluable resources show the connection of the tribes to this place and these resources should be managed appropriately and through consultation with the Tribe, in order to protect them for future generations.

Under the **City of Florence 2020 Comprehensive Plan, Chapter 5 Historic Resources, Policy #4** "The City shall maintain a working relationship with the Siuslaw Pioneer Museum and the Confederated Tribes of the Coos, Lower, Umpqua, and Siuslaw Indians, which are repositories of much of the pre-history and history of the Florence area". Under this policy the Tribes are requesting that prior to any development or improvements by either the land owner or the city on the annexed properties, that consultation occur with the Tribe to identify cultural resource concerns. Development or Improvements required under land use permits submitted by the landowner or through the City public works department includes but is not limited to tying in to the City water and sewage that would trigger the need for consultation with the Tribe as is required under the aforementioned Comprehensive plan, Chapter 5, Policy #4 in order to ensure cultural resources are protected and/or mitigated for including but not limited to the development of an inadvertent discovery plan and appropriate testing and monitoring plans.

Under the **City of Florence Title 10-Zoning Regulations, Chapter 2, 10-2-12: Uses And Activities Permitted in All Zones that under E. Exceptions: The following uses and activities require land use approval: #1 Reconstruction or modification of a historic building or other historic structure.** Fish Weirs as well as any preserved plank house foundations/bases present at village sites along the Siuslaw

Exhibit D

River fall under the category of "other historic structure" and as such should be protected under the City of Florence Title 10- Zoning Regulations in addition to the protection they are afforded under state and/or federal law¹.

Under the City of Florence Title 10-Zoning Regulations, Chapter 2, 10-2-12: Uses And Activities Permitted in All Zones that under E. Exceptions: The following uses and activities require land use approval: #4 Development or activities involving reconstruction or modernization in a location identified as environmentally or culturally sensitive, such as floodplains, estuarine areas, wetlands, and archeological sites. The proposed annexation areas are culturally sensitive and resource abundant areas with continued use by Tribal members for at least the last 10,000 years. Archeological sites listed on both the State Historic Preservation Office database and the Tribal Historic Office database as well as those inadvertently discovered, while protected under state and/or federal law should be zoned so as to afford the additional protection under the Cities Title 10- Zoning Regulations, 10-2-12.

Therefore, in examining the Annexation & Zone Assignment- PC 16 16 Ann 02 & PC 16 17 ZC 02, the zoning for commercial would fall under the City of Florence 2020 Comprehensive Plan as well as the Title 10-Zoning Regulations. These would require consultation with the Tribe and afford appropriate protection of cultural resources, as outlined under Goal 5 and pursuant to state law (ORS 97.745 and ORES 358.920). The Tribe appreciates the opportunity to comment on cultural resource concerns on this matter and looks forward to appropriate and meaningful consultation with the City moving forward.

Sincerely,



Stacy Scott

Cultural Resource Protection Specialist & Tribal Historic Preservation Officer

¹ 43 CFR 10 applies on tribal and federal lands, federal projects, federal agencies, as well as to federal actions and federally funded (directly or indirectly) projects. ORS 97.745 prohibits the willful removal, mutilation, defacing, injury, or destruction of any cairn, burial, human remains, funerary objects, or objects of cultural patrimony of any native Indian. ORS 358.920 prohibits excavation injury, destruction, or alteration of an archaeological site or object or removal of an archaeological object from public or private lands.