



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

September 26, 2008



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Lane County Plan Amendment  
DLCD File Number 009-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 9, 2008**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Thomas Hogue, DLCD Policy Analyst  
Deanna Harris, Lane County

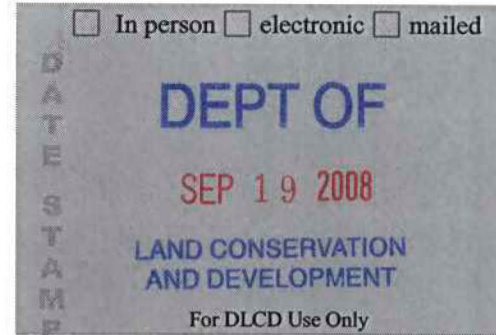
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FORM 2

# DLCD

## Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Lane County**

Local file number: **PA 08-6001 & PA 08-6002**

Date of Adoption: **9/9/2008**

Date Mailed: **9/17/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/1/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Site Review**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

(1) Rezone 3.09 acres of land within the City of Florence UGB from (C-3) Commercial District to (M-1) Limited Industrial District.

(2) Site Review application for the proposal of a Self Storage Facility.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **Commercial District (C-3)** to: **Limited Industrial (M-1)**

Location: **18-12-11-33 TL 1500**

Acres Involved: **3.09**

Specify Density: Previous:

New:

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

*DLCD # 009-08 (16994)*

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

ODOT, City of Florence Community Development Dept., Heceta Water District, Siuslaw School District

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Local Contact: **Deanna Harris**

Phone: **(541) 682-4082** Extension:

Address: **125 E. 8<sup>th</sup> Ave.**

Fax Number: - -

City: **Eugene**

Zip:

E-mail Address: **Deanna.Harris@co.lane.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.
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<http://www.lcd.state.or.us/LCD/forms.shtml>

Updated November 27, 2006

**LANE COUNTY HEARINGS OFFICIAL**

**REQUEST BY LANE COUNTY PLANNING DIRECTOR FOR HEARINGS  
OFFICIAL RECONSIDERATION OF DECISION REGARDING A ZONING  
CHANGE AND SITE REVIEW TO CONSTRUCT A SELF STORAGE FACILITY  
WITHIN THE CITY OF FLORENCE URBAN GROWTH BOUNDARY**

**Land Management Division Files Nos.  
PA08-6001  
PA08-6002**

**Subject Property**

The subject property is located at 87632 Highway 101, north of the City of Florence. It is designated as Assessor's Map 18-12-11-33, Tax Lot 1500. The parcel currently is occupied by a lumber yard, and comprises approximately 3.09 acres.

**Application Summary**

On August 12, 2008, a Decision and Order was issued by the undersigned Hearings Official on an application for rezoning and site review of the subject property referenced above. That Decision and Order granted the rezoning the site review application. Some of the conditions requested by County staff to be attached to the rezoning and site review were accepted by the Hearings Officer and included in the Order. Other requested conditions were denied and were not included in the Order

On August 22, 2008, the Lane County Planning Director filed a Request for Reconsideration, as detailed below. This request was made pursuant to Lane Code 14.535. The City of Florence joins with the County in this Request. They argue that:

1. The Hearings Official erred by not requiring a consensual agreement of the applicant for annexation of the subject property as a condition of the zone change and site review.
2. The Hearings Official erred by not requiring that the applicant receive from the Oregon Department of Transportation (ODOT) an approved road approach permit prior to the issuance of a certificate of occupancy for the developed property.
3. The Hearings Official made some errors needing correction regarding conditions relating to recorded agreements and landscaping and disability access and parking.

**Parties of Record**

Heceta Self Storage Corp.  
A & P Development Corp.  
Larry & Crystal Farnsworth  
Paul Hoffman  
Lane County Land Management Division  
City of Florence

**Application History**

Application Filed:	June 30, 2008
Hearing Date:	July 24, 2008
Decision date:	August 12, 2008
Request for Reconsideration:	August 22, 2008
Decision on Reconsideration:	August 26, 2008

**Appeal Deadline**

An appeal must be filed within 10 days of the issuance of this decision, using the form provided by the Lane County Land Management Division. The appeal will be considered by the Lane County Board of Commissioners.

**Statement of Criteria**

Lane Code Chapters 10.315-20, LC 10.015, and LC 10.170

**LC 10.315-20**

Zonings, rezonings and changes in the requirements of this chapter shall be enacted to achieve the general purpose of this chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the Zone District classification proposed, applicable Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by LCDC. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.

**LC 10.015 Purpose**

The Purpose of this chapter is to provide procedures for dividing the unincorporated portions of Lane County into districts and to provide requirements pertaining to such districts in accordance with a comprehensive plan, and is adopted to protect and promote the public health, safety, and welfare, and to promote the implementation of the

Comprehensive Plan for Lane County. Such procedures and requirements are intended to achieve the following objectives:

- (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, roads, and highways.
- (8) To provide an environment of character in harmony with existing and proposed neighboring use of land.

LC 10.170-10 Permitted Buildings and Uses.

In the M-1 District, the following types of buildings and uses are permitted as hereinafter specifically provided for by this section, subject to the general provisions and exceptions set forth in this chapter:

- .....
- (9) Storage buildings for household or consumer goods.

#### FINDINGS AND DISCUSSION

1. On reconsideration, I find that, because this application was based solely on the provisions of the City of Florence 1988 Comprehensive Plan, it was improper for me to consider the 2002 City/County Joint Management Agreement, which arguably may have eliminated the requirement for a consensual agreement of the applicant for annexation. Accordingly, this request will be granted.

2. I am confused by the request to order, as a condition, that no certificate of occupancy be issued until ODOT has granted an approved road approach permit.

But that is precisely what I stated in my Decision, Paragraph 31:  
“If ODOT, which governs access to Highway 101, ultimately determines that the existing access rights are insufficient for this development, it may require a new application to be made. In such a case, a final occupancy permit might not be issued by the County.”

My Order, (Paragraph 5) simply permitted the issuance of a building permit and allowed the applicant to proceed in the development, at its own risk since it might not be able to get a final certificate of occupancy. However, to satisfy the County and the City, I have incorporated more detailed language into my order.

3. The City asks for a recorded agreement, that runs with the land, which commits the land owner to install a 15 foot landscaping buffer along the west boundary of the property if Oak Street is extended to the rear of the property.

My Order, Paragraph 7, provided:

“However, a covenant will be recorded by the owner that encumbers the property for the benefit of the city, which covenant will run with the land. That covenant will provide that if Oak Street is extended and its alignment abuts the western boundary of the property, then the owner of the property shall be required to modify the building, drives, and related improvements to create a 15 foot landscape buffer along that portion of the westerly boundary of the property that abuts extended Oak Street.

Apparently, that was not sufficient to the County and the City. In negotiations with the applicant, more detailed and explicit wording has been agreed to by all parties, and by their stipulation, it will be included in my Revised Order.

The City and County also requested that I require an agreement to be reached regarding the interaction of its landscaping requirements and the ADA access ramp and ADA parking spaces. In their negotiations, the parties have also negotiated more detailed and explicit language regarding this issue which, by their stipulation, will be included in my Revised Order.

#### **Revised Order**

1. The subject property shall be rezoned from C-3 to M-1, to permit the development of a self storage facility on the property in accordance with the City of Florence’s permitted uses in its commercial zones.
2. The zoning requested change be conditioned on the applicants recording an agreement with the County, in a format approved by the City, consenting to the annexation of the subject property.
3. Such zoning change shall contain a limitation that the land use be restricted to the proposed use of a self storage facility.
4. The permit for development shall conform to the plans submitted in this application. Any substantial deviation will result in a modification of conditions and require a new application.
5. Prior to the issuance of a building permit, the applicant shall obtain a wetlands determination letter from a qualified professional. If wetlands exist on the property and are proposed to be altered by more than 50 cubic yards of material, then an application for removal shall be approved by the Department of State Lands prior to the issuance of the building permit.

6. Prior to Lane County's issuance of an occupancy permit, the applicant shall have obtained from the Oregon Department of Transportation a final access approach permit for the two driveways that provide access to Highway 101.
7. As a condition of the issuance of a building permit, the applicant shall submit to the City of Florence a Stormwater Management Plan which satisfies the criteria outlined in Florence City Code, Title 9, Chapter 5.
8. Approval of the site review shall be conditioned on an agreement being reached between the applicant and the City regarding the interaction of its landscaping requirements and the ADA access ramp and ADA parking spaces
9. Prior to the issuance of a building permit, a covenant with the text of the agreement reached between the applicant and the City as specified in paragraph 8, above shall be recorded. The covenant described in this condition shall provide that it runs with the land, that it is binding on the declarant property owner and such owner's successors and assigns, that it is for the benefit of the City of Florence, Oregon (the "City"), and that it may be revoked or amended only with the consent of the City.

The covenant shall be recorded with the County Clerk, and a copy provided to both the City and County Planning Departments. It shall include the following text:

"There shall be a 15 foot wide irrigated landscape buffer along the easterly boundary of the property which abuts Highway 101, except as modified by any agreement between the applicant and the City to allow for driveways, ADA parking spaces, and the ADA access ramp, provided that for each square foot of encroachment into the 15-foot wide landscape buffer by the ADA parking space and the ADA access ramp, one square foot of landscaping shall be added to the landscape buffer in the areas shown on the revised site plan attached to this letter as Exhibit A (the "Make-Up Landscaping"). Under no circumstances shall the Make-Up Landscaping consist of a narrow strip along either or both of the northerly or southerly boundaries of the property."

The covenant shall further provide:

"The fence shown on the site plan shall be located between the 15-foot irrigated landscape buffer and the storage units (and not between the landscape buffer and the highway)."

No landscape buffer will be required along the northerly or southerly boundaries.

No landscape buffer will be required along the westerly boundary. However, a covenant will be recorded by the owner that encumbers the property for the benefit of the city, which covenant will run with the land. That covenant will

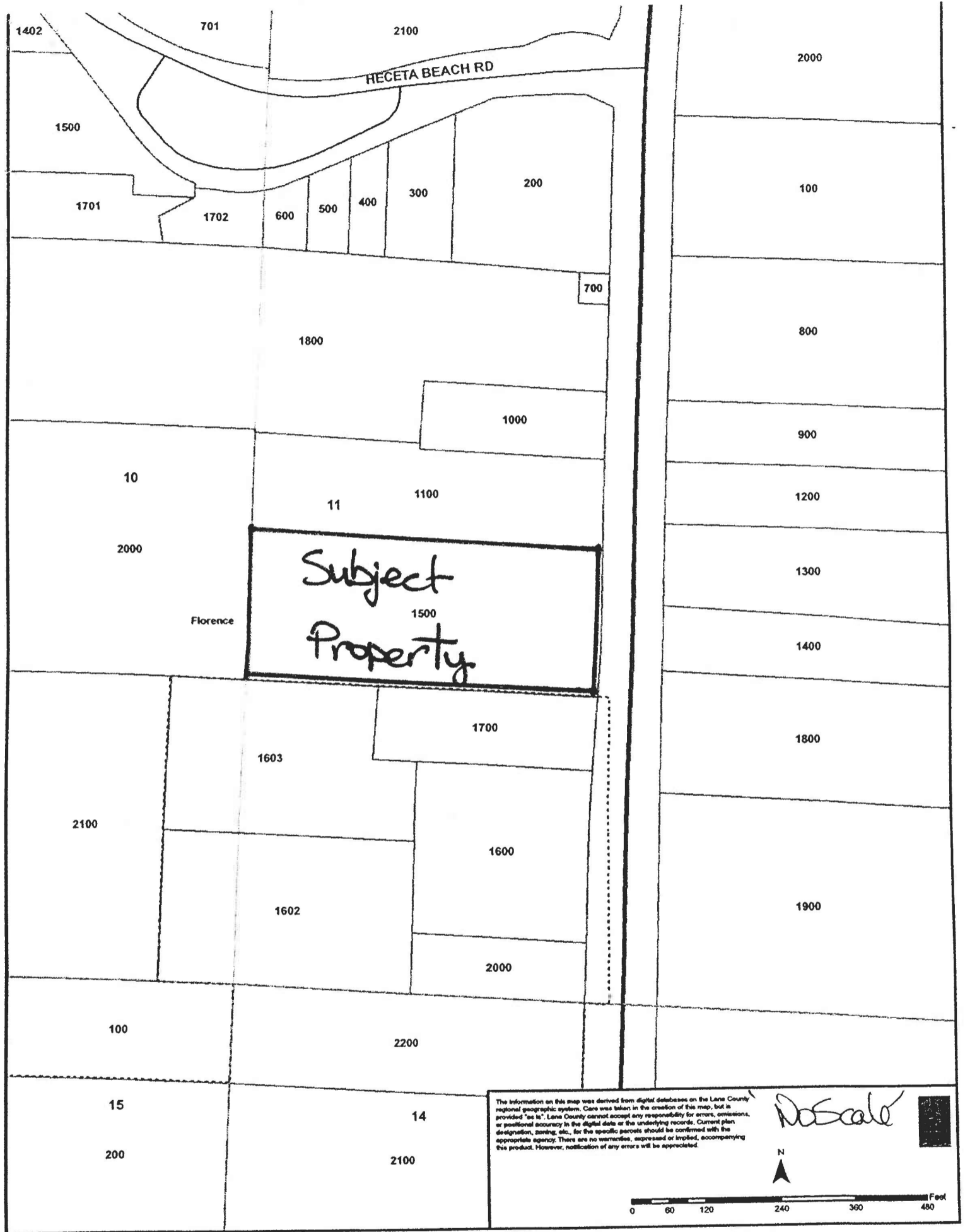
provide that if Oak Street is extended and its alignment abuts the western boundary of the property, then the owner of the property shall be required to modify the building, drives, and related improvements to create a 15 foot landscape buffer along that portion of the westerly boundary of the property that abuts extended Oak Street.

Dated August 29, 2008



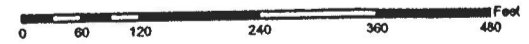
Martin Henner, Lane County Hearings Official





The information on this map was derived from digital databases on the Lane County regional geographic system. Care was taken in the creation of this map, but it is provided "as is". Lane County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for the specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

*NoScale*



VICINITY MAP