



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

April 11, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Florence Plan Amendment
DLCD File Number 001-06

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: April 25, 2006

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
Gloria Gardiner, DLCD Urban Planning Specialist
Dave Perry, DLCD Regional Representative
Linda Sarnoff, City of Florence

<paa> ya/email

FORM 2 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

DATE STAMP
DEPT OF
APR 05 2006
LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: City of Florence Local file number: CPA 05 02

Date of Adoption: 4/3/2006 Date Mailed: 4/4/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 12/06/05 and 1/13/06

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: Land Use Goal 11 Exception

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

An amendment to the Florence Comprehensive Plan Part 1, "Goals, Objectives, Policies, Recommendations and Background," and Chapter 11, "Utilities and Facilities," permitting an extension of wastewater services to a Sovereign Nation contiguous to the City of Florence city limits and urban growth boundary and to adopt an exception to Goal 11 for extension of wastewater services outside of city limits and urban growth boundary.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

The adopted amendment is the "SAME". Notice was sent to DLCD on December 6, 2006 and again on January 13, 2006.

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

Zone Map Changed from: N/A to: N/A

Location: 18-12-26-100 Acres Involved: 91.324 see map & legal description attached to Comprehensive Plan Amendment

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: Goal 11

*DLCD # 001-06
(14932)*

Was and Exception Adopted? YES NO

DLCD File No.: _____

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Siuslaw Rural Fire Protection District, Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, Bureau of Indian Affairs, Department of Environmental Quality.

Local Contact: **Linda Sarnoff** Phone: **(541) 997-8237** Extension: _____

Address: **250 N. Highway 101** City: **Florence, OR**

Zip Code + 4: **97439-** Email Address: **Linda.Sarnoff@ci.florence.or.us**

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 (2) Copies 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. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

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.

**CITY OF FLORENCE
ORDINANCE NO. 2, SERIES 2006**

**AN ORDINANCE AMENDING THE INTRODUCTION AND CHAPTER
11 OF THE FLORENCE 2000/2020 COMPREHENSIVE PLAN AND
TAKING AN EXCEPTION TO STATEWIDE PLANNING GOAL 11 TO
ALLOW EXTENSION OF WASTEWATER TREATMENT SERVICES
OUTSIDE OF THE URBAN GROWTH BOUNDARY.**

The City Council of the City of Florence finds that:

A. In November 2005 Florence citizens by majority vote of the electorate, approved the extension of wastewater treatment services to the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians ("Tribes").

B. The Tribes' land is located immediately east of, and adjacent to, the Florence City limits and Urban Growth Boundary.

C. Oregon Statewide Planning Goal 11 "Public Facilities and Services," generally prohibits local governments from extending sewer systems outside urban growth boundaries to serve land outside those boundaries unless the local government adopts comprehensive plan provisions that justify an exception to Statewide Planning Goal 11.

D. The City of Florence has made findings that justify an exception to Statewide Planning Goal 11.

E. The Florence Planning Commission held a public hearing to consider the proposed comprehensive plan amendments on January 24, 2006 and recommended approval to the City Council.

F. The City of Florence has adequate and available capacity in its wastewater treatment plant to serve the anticipated needs within its urban growth boundary and anticipated development on the Tribes' land.

G. The Tribes have agreed to construct an extension to the City's sanitary sewer collector system subject to engineering approval by the City.

H. The City and the Tribes have made arrangements by separate agreement related to payment for wastewater treatment services and other payments to the City of Florence.

I. Notice was duly and regularly given of the public hearings before the Florence Planning Commission and the City Council.

NOW, THEREFORE, THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

Section 1. The City of Florence 2000/2020 Comprehensive Plan is amended as set forth in Exhibit A-1 hereto, which is incorporated herein by reference, including the addition of Appendix CPA-05-02 to that Plan.

Section 2. The above findings, and the findings set forth in Exhibit B-1 hereto are hereby adopted in support of this Ordinance.

PASSED BY THE CITY COUNCIL this 3rd day of April, 2006.

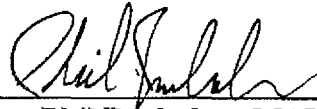
APPROVED BY THE MAYOR this 4th day of April, 2006.

AYES: 4 – Councilors Braley, Holman Xavier and Mayor Brubaker

NAYS: 1 - Councilor Osbon

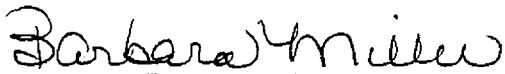
ABSENT: 0

ABSTENTION: 0



Phil Brubaker, MAYOR

ATTEST:



Barbara Miller, CITY RECORDER

Exhibit A-1
Florence 2000/2020 Comprehensive Plan Amendments

The following underlined text is added to the Florence Comprehensive Plan:

--Introduction, Page 5

COORDINATION WITH AGENCIES

It is the intent of the City of Florence to:

1. Coordinate land use planning actions with affected public agencies and jurisdictions.
2. Work with affected local, County, State and Federal agencies and the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians when the Comprehensive Plan is revised and when actions are carried out under the Plan.
3. Assure that the growth and development occurring under actions of those agencies are consistent with the Florence Comprehensive Plan.
4. Cooperate with Lane County on changes to the City's Urban Growth Boundary, and to the greater Area of Interest Boundary, and on management of activities in the unincorporated lands within those boundaries.

The City will participate in regional efforts surrounding such issues as telecommunications, transportation, coastal issues, energy, economic development, provision of services, and any other issues which are of benefit to the City as well as the region.

--Chapter 11, Utilities and Facilities, Pages 83-84

A. WASTEWATER COLLECTION AND TREATMENT

Goal To provide cost effective collection and treatment of wastewater consistent with projected population growth and development needs.

Policies

1. The City shall upgrade and maintain the wastewater treatment plant and collection system to a standard that prevents untreated sewage overflows into the Siuslaw River.
2. The City shall implement funding mechanisms sufficient to ensure systematic upgrades

to the WWTP and collection system so that the City remains in compliance with its DEQ permits.

3. The City shall complete the proposed stages of an improved collection system in advance of need in order that the wastewater system maintains adequate capacity for proposed development.
4. **The City shall provide wastewater collection and treatment services to the properties adjacent to the Florence City limits controlled by the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians as depicted and described in Appendix CPA 05 02 to this Plan.**

Recommendations

1. The City should continue to hire qualified personnel to operate the wastewater system. Training will be provided as necessary or required to ensure that all operating personnel are fully qualified.
2. The City should evaluate the operation of the wastewater system on an annual basis, and make any adjustments necessary in budgets, staffing and capital expenditures to ensure that the system is operated in compliance with DEQ permits.
3. Every five years, the City should evaluate the existing capacity of the wastewater treatment facility (WWTF), in order to plan for timely additions to the WWTF.
4. The City should digitize the wastewater treatment collection system into its GIS system, so that landowners, developers, City staff and private utility companies know the location, size and capacity of the various components of the system.
5. Inflow should be completely eliminated from the collection system.
6. A program for annual inspection and scheduled maintenance of the collection system should be developed and adopted to reduce infiltration of stormwater into the system, and to prevent spillage of raw sewage from the collection system.
7. The City should pursue other options for disposal of biosolids, since land application in western Lane County is made difficult by land uses, topography and amount of rainfall.
8. The City should prepare a schedule, together with associated costs, for the anticipated construction of the sewer main serving the North Florence area, of the Munsel Lake Road trunk, and of any other anticipated construction or major upgrade of sewer mains. This schedule will be updated as development occurs in order that construction can proceed in a timely manner.
9. **The City should pursue, as agreed upon by the Intergovernmental Agreement, the**

coordination of wastewater collection and treatment services with the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians.

Background

In January 1996, DEQ issued a Notice of Noncompliance notifying the City of violations of the City's NPDES Permit. In April 1996, a Mutual Order and Agreement (MOA) was signed by the City and DEQ. The MOA set forth conditions for notification procedures for sewage overflows, and provided a schedule for preparation of a draft facilities plan for upgrading the existing plant. Brown and Caldwell began preparation of an upgrade plan in August 1996, and the plan was completed in October 1997. Construction began on plant upgrades in June 1999, with substantial completion planned by October 2000. The plant is being upgraded in phases, with the current phase sized to serve a population of approximately 12,500. The later phases, which can be constructed in carefully reserved sites at the existing plant, will serve a population of up to 25,000.

Once the Wastewater Treatment Facility is completed, then improvements to the collection system will occur. The most major of these is a trunk line to be constructed to serve the north Florence area and portions of the UGB, upon annexation. The routing of that trunk line has not been finally determined, but the goal is to site the line on public property to the extent possible.

The Wastewater Facilities Plan, October 1997, prepared by Brown and Caldwell, contains detailed information about the planned wastewater facilities. It is included in this Comprehensive Plan as Appendix 11.

Goal 11 Exception

In November 2005, Florence citizens by majority vote of the electorate approved the extension of wastewater treatment services to land immediately east of Florence and held in trust by the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians ("the Tribes"). The property to be served is depicted and described in Appendix CPA 05 02 ("the Tribal Properties"). Extension of the wastewater treatment services will allow effluent generated on the Tribal Properties to be directed to the City's collection system and treated at the City's wastewater treatment plant.

Policy 4, directing the City to provide wastewater collection and treatment services to the Tribal Properties, requires that the City justify an exception to Statewide Planning Goal 11. ORS 197.732(1)(c), Statewide Planning Goal 2 and OAR 660-004-0018, 660-004-0020(2) and 660-004-0022 allow such an exception if the proposed action is consistent with the standards printed in italic below.

(a) Reasons justify why the state policy embodied in the applicable goals should not apply.

Finding: The state policy embodied in Goal 11 is that urban levels of public facilities belong inside UGBs. That policy should not apply with respect to the provision of wastewater services to a site directly adjacent to a UGB and under the jurisdiction of a sovereign nation. As a sovereign nation, the Tribes have significant authority to develop the site to meet their needs without compliance with state or local land use regulations. The Tribes have developed, and intend to intensify, urban-level uses on the Tribal Properties. This makes the Tribal Properties much different from other lands outside of the UGB to which Goal 11 is intended to be applied. Due to the Tribal Properties' close proximity to the City, ensuring that sewage is treated properly is a critical concern to the residents of the City of Florence. Improperly treated sewage would potentially be a health hazard to the community as well as have the effect of degrading water quality of the area.

One way the Tribes could avoid this would be to construct their own wastewater treatment facility. From a practical point of view this is expensive and would be a duplication of services that the City already provides. Avoiding duplication of services would be beneficial to both the Tribes and the City. In addition to fiscal considerations, the extension of the existing City of Florence wastewater facilities to the Tribal Properties will benefit both entities because it will significantly decrease the possibility of a public health hazard. Two major sewerage systems in relatively close proximity serving the same area would double the potential for a system failure to occur in a treatment system. These reasons justify the extension of wastewater facilities outside for the Florence UGB.

1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Planning Goals 3 to 19.

Finding: The proposed extension of wastewater services to the Tribal Properties is necessary based on the requirements of Statewide Planning Goal 6 – Air, Water, and Land Quality. The Tribal Properties while within Lane County and immediately adjacent to the City of Florence are unique in that they are considered a sovereign nation. They have been developed in accordance with their own development needs and planning practices, outside of the Oregon land use system. The Tribes' development has not been subject to local or state land use processes that require urban level services for urban level developments.

The Tribal Properties, to date, have developed in an independent manner that has not been reliant upon municipal services. The Tribal Properties have developed with an on-site wastewater treatment system that was designed to meet short term needs consisting of advanced treatment with a sequencing batch reactor (SBR)/ filtration process, followed by disposal through indirect groundwater injection using rapid bed infiltration. This system has a capacity of approximately 14,000 gallons per day (gpd).

The Tribes' on-site wastewater system is not capable of meeting the needs of their planned expansion. The anticipated future development will include an expanded casino with 625 slot machines, a 100 room hotel, two restaurants, 5,000 sq. ft. of commercial/retail space and a 10,000 sq. ft. conference center. The existing on-site system has had minor problems to date relating to the disposal through indirect groundwater injection using rapid bed infiltration. This has resulted in effluent needing to be transported off site due to inability to complete the treatment process on-site. As the demand increases to treat higher volumes, the existing and potential effluent disposal will be increasingly difficult to manage, resulting in a higher risk of not meeting discharge requirements. This is a risk that both the Tribes and the City are unwilling to accept as it would negatively impact land and water resources. Prior to requesting the Goal 11 exception, the Tribes reviewed other options for providing wastewater treatment rather other than obtaining wastewater services from the City. Specifically they reviewed expanding their existing on-site Sequencing Batch Reactor system as well as reviewed a relatively new technology called Membrane Bioreactor Technology (MBR). Each technology had advantages and disadvantages. These are:

<u>Sequencing Batch Reactor</u>	<u>Membrane Bioreactor</u>
<u>Lower capital cost</u>	<u>Higher capital cost</u>
<u>Higher maintenance cost</u>	<u>Highly automated, less operator attention</u>
<u>Requires manned operation</u>	<u>Lower maintenance cost</u>
<u>Higher risk of not meeting discharge requirements</u>	<u>Less space</u>
<u>Must be covered to eliminate risk of odors</u>	<u>Less odor</u>
<u>Ease of expansion</u>	<u>No issues with degradation of groundwater</u>
<u>Higher electrical usage</u>	<u>Chemically intensive</u>
	<u>Smaller footprint</u>

Despite these advantages and disadvantages they both had the major disadvantage of not being designed as a permanent facility and as such they do not meet the same reliability/redundancy requirements that would be required of a permanent system. (For additional details, see the letter from Cascade Design Professionals, Inc, February 20, 2006.) The Tribes have therefore requested the extension of the City's municipal service that already exists immediately west of the Tribal Properties to serve that land. While approval of the Tribes' request requires an exception to Statewide Planning Goal 11, to be consistent with Statewide Planning Goal 6, the City must approve the request.

Approval of the proposed extension is necessary to be consistent with Goal 6 in order to ensure the protection of the land and water resources of the City of Florence. The City of Florence lacks the jurisdiction to limit or condition the Tribes' intensification of uses on their land. Development could occur with the continued use of the existing on-site system that is not adequate to handle the increased flows from expanded development and wait until problems develop. From the City's perspective, and consistent with the policies of Statewide Planning Goal 6, the City must take this opportunity to ensure that future development occurs in a manner that is safe and healthful to the water and land quality, rather than putting up roadblocks that force continuation or expansion of a system that was not designed to handle the anticipated wastewater flows. By extending City

wastewater services to the Tribal Properties, the City can be assured that wastewater will be managed in a manner similar to that provided for the developed portion of the City of Florence. This standard meets and/or exceeds all measures established by the State Department of Environmental Quality. By extending City sewer service to the Tribal Properties, future development will not rely on the existing on-site system. This system does not have the capacity, redundancy or reliability to provide adequate treatment to the proposed future development. Allowing this system to continue could negatively impact the quality of the land, water and groundwater of the surrounding area. Denial of the Tribes' request for expansion would violate Statewide Planning Goal 6.

2. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Finding: The proposed use or activity is the extension of the City's wastewater facilities to Tribal Properties that are currently developed with urban-level uses which will be intensified. This proposed extension is very different from a request to serve non-Tribal land outside the City's UGB. The Tribal Properties have the special quality of being recognized as "Tribal Lands." Because the Federal government has recognized the Properties' status as being held in trust by the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, this site no longer functions like other properties outside of the City of Florence's Urban Growth Boundary. Its special status bestows upon it special privileges and rights that allow it to develop in a different fashion than other sites outside of the UGB. These rights and privileges necessitate special handling to ensure that adequate services are made available to support the special allowed uses on the site. The special status of "Tribal Lands" necessitates the Tribal Properties exception be granted to allow appropriate wastewater service to ensure that the environmental protection and general health, safety, and welfare of all residents of the area are accommodated and protected.

(b) Areas which do not require a new exception cannot reasonably accommodate the use.

Finding: Inherent in the proposal to extend the City's wastewater services to the Tribal Properties is the extension beyond the Florence UGB. Therefore, the only way to accommodate the proposed extension is to show that an exception to Goal 11 is justified.

1. The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified.

Finding: The Tribal Properties to be served by the City's wastewater facilities are identified in Appendix CPA 05 02. The City's wastewater system shall not be extended beyond the site boundaries shown. There are no possible alternative areas that would not require a new exception. The Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties.

2. To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed.

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

Finding: As explained, the Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties. The wastewater extension does not cross over any “nonresource land” or “resource land” as those terms pertain to other land outside the UGB. The wastewater facilities will go directly from the City limits onto the Tribal Properties. The Tribal Properties have been developed and that development will intensify. In this way, the Tribal Lands are similar to lands irrevocably committed to nonresource uses. For the reasons set out above, the specific area depicted and described in Appendix CPA 05 02 is the only area that should be considered for this wastewater service extension.

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

Finding: The Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties.

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

Finding: As explained above, the “proposed use” is the extraterritorial extension of public wastewater facilities. Therefore, this question becomes circuitous. By its very nature, approval of the proposed use means that public facilities will be provided outside the UGB.

(c) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not

significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

Finding: The “use” for which an exception is needed is the extension of wastewater services from within the Florence UGB specifically to the Tribal Properties. Even if there were other properties that could accommodate the use, no other area requiring a Goal exception would be less adverse in terms of the long term environmental, economic, social and energy consequences resulting from the extension. The location of the Tribal Properties, adjacent to both the City limits and the UGB, means that the City can extend wastewater service without crossing any rural land. This minimizes the potential for environmental, economic, social adverse and energy consequences of the extension.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Finding: The extension of wastewater services to the Tribal Properties will make those properties more compatible with other adjacent uses which are either currently served by the City’s wastewater system or which are rural uses. The extension of the existing City of Florence sanitary sewer line will significantly decrease the possibility of a public health hazard to the extent that two major sewerage systems in relatively close proximity serving the same area doubles the potential for a system failure to occur in a treatment system. The extension does not cross over any private land and will not interfere with adjacent uses.

(e) Plan and zone changes must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

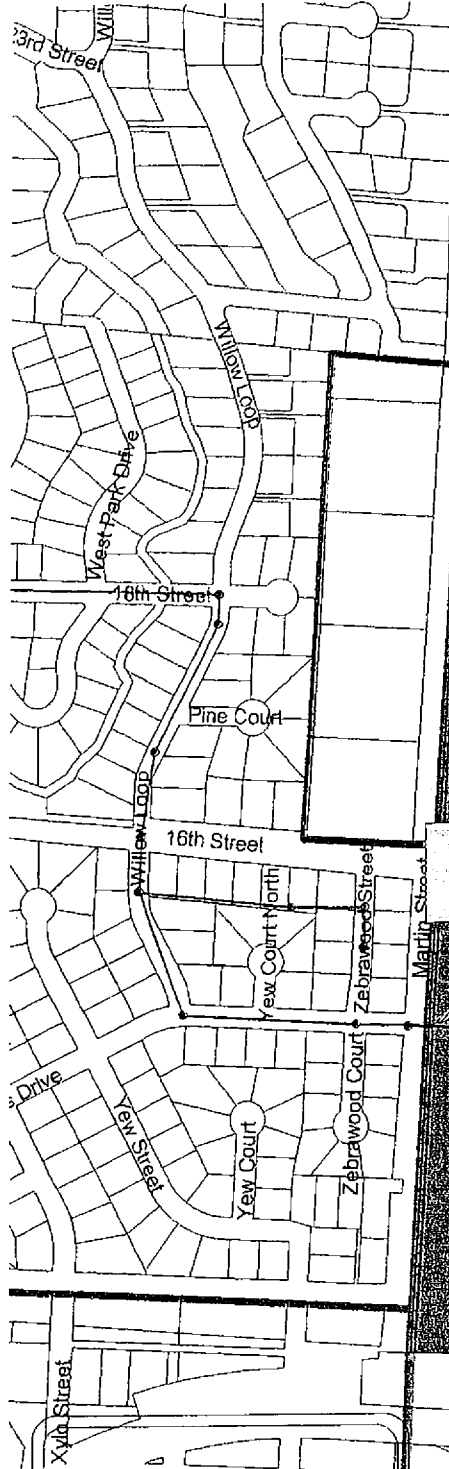
Finding: The City’s planning regulations such as Comprehensive Plan designations and/or zoning districts do not apply to the Tribal Properties. As such, the City cannot directly limit the uses, density, private facilities and services or activities on the Tribal Properties. However, the City has limited the uses that it will serve with its wastewater facilities. The agreement between the Tribes and the City provide that the City will serve only residential and commercial development. No industrial use of the City’s wastewater system may be commenced by the Tribes unless the existing agreement is amended. In addition, the proposal to extend the City’s wastewater facilities to the Tribal Properties does allow the City to assert some control over the environmental impacts the Tribes’ development may have on the surrounding City land and, given the circumstances, is consistent with the overall policy basis for the Statewide Planning Goals.

CITY OF FLORENCE
PROPOSED SEWER CONNECTION
TO HATCH TRACT



HATCH TRACT

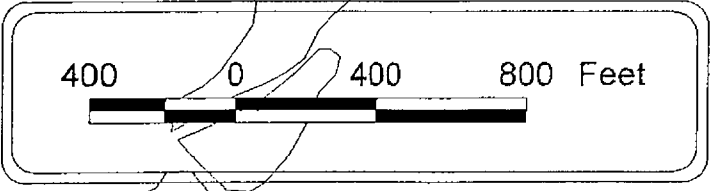
PROPOSED SEWER CONNECTION
TO CITY SERVICES



North Fork Road

Highway 126

- Streets
- Plots
- Proposed Connection
- Cleanout
- Manhole
- 8" Sewer Line
- City Limits
- Urban Growth Boundry
- Hatch Tract



Property Description
For
Confederated Tribes of Coos, Lower Umpqua and Siuslaw
Indians

Parcel A

91.324 Acres more or less

Beginning at the northeast section corner of Section 26, Township 18 South, Range 12 West, Willamette Meridian, Lane County, Oregon, said northeast section corner being the True Point of Beginning; thence along the north boundary of said Section 26, North $86^{\circ}10'36''$ West, 1301.33' to the northwest corner of the east one-half of the northeast one-quarter of said Section 26; thence South $00^{\circ}25'30''$ West, 2665.34 feet along the west boundary of said east one-half of the northeast one-quarter of said Section 26; thence leaving said west boundary of said east one-half of the northeast one-quarter of said Section 26, North $89^{\circ}29'23''$ East, 338.79 feet; thence South $00^{\circ}30'37''$ East, 8.60 feet; thence South $88^{\circ}51'28''$ East, 89.66 feet; thence South $00^{\circ}27'44''$ East, 149.95 feet to a point on the northerly right-of-way margin of Hwy 126, said point also being at engineer's station 992+10; thence following said northerly right-of-way margin of Hwy 126, South $88^{\circ}51'28''$ East, 10.00 feet to engineer's station 992+00; thence North $69^{\circ}51'34''$ East, 104.53 feet to engineer's station 991+00; thence South $87^{\circ}43'46''$ East, 401.83 feet to engineer's station 986+98.17 PT; thence along a 200 foot spiral curve to the left, $S=3^{\circ}00'$, $a=1.5$ (chord bears South $89^{\circ}43'46''$ East, 193.69 feet) to engineer's station 984+98.17; thence along an 1819.86 foot radius curve to the left (chord bears North $86^{\circ}47'24''$ East, 94.04 feet) 94.05 feet; thence leaving said northerly right-of-way margin of Hwy 126, and following westerly right-of-way margin of the North Fork Siuslaw County road North $44^{\circ}13'54''$ East, 173.72 feet to engineer's station 2+37.11; thence North $24^{\circ}43'59''$ East, 506.49 feet to engineer's station "F"7+59.97 PC; thence North $46^{\circ}14'45''$ East, 72.14 feet to engineer's station "F"8+15.0 POC; thence along a 542.96 foot radius curve to the left (chord bears North $12^{\circ}16'30''$ East, 182.30 feet), 183.16 feet to engineer's station L9+98.67 POT AH; thence North $2^{\circ}36'03''$ East, 612.03 feet to engineer's station L16+11.19 PC; thence along a 3789.72 foot radius curve to the left (chord bears North $2^{\circ}08'48''$ East, 57.20 feet) 57.20 feet; thence leaving said westerly right-of-way margin North $89^{\circ}03'03''$ West, 380.98 feet to a point on the east boundary of said Section 26; thence following said east boundary of Section 26, North $0^{\circ}51'27''$ East, 861.38 feet; thence leaving said east boundary of Section 26, South $89^{\circ}40'32''$ East, 214.41 feet; thence North $0^{\circ}51'27''$ East, 354.50 feet to a point on the north boundary of Section 25, of Township 18 South, Range 12 West, Willamette Meridian; thence following said north boundary of section 25, North $87^{\circ}25'03''$

Weat, 214.50 feet to the True Point of Beginning, all in Lane County, Oregon,
containing 91.298 acres more or less.

PLS Expiration Date: 6/30/98

Exhibit B-1 Findings

The City makes the following findings to comply with ORS 197.175(2)(a), which requires that the comprehensive plan amendment be consistent with the Statewide Planning Goals and to ensure that the amendment does not cause an internal inconsistency in the comprehensive plan. Neither the City's code nor its comprehensive plan set out additional criteria that must be applied to a comprehensive plan amendment.

Consistency with the Statewide Planning Goals

Goal 1 Citizen Involvement: *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

The City has acknowledged provisions for citizen involvement that ensure the opportunity for citizens to be involved in all phases of the planning process and sets out requirements for such involvement. The action taken to adopt this ordinance did not amend the citizen involvement program.

Goal 1, "Citizen Involvement", requires that the City has mechanisms in place for citizen involvement in all phases of the planning process. The City of Florence ensures that a cross-section of Florence citizens is involved in the planning process, primarily through their appointments to the Planning Commission, Design Review Board, Citizen Advisory Committee and other special committees. The City of Florence publicizes official city meetings that are held at regular times and provides the opportunity for citizen comment. Planning documents and background data are available to interested citizens.

The process for adopting this ordinance complies with Goal 1 since it complies with the requirements of the State's citizen involvement provisions.

Goal 2 - Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City's comprehensive plan (Realization 2020) is the policy tool that provides a basis for decision-making in this area. The Goal 2 element of the Plan was acknowledged by the State in 2002 to be in compliance with statewide planning goals. These findings and record show that there is an adequate factual base for decisions to be made concerning the proposed ordinance.

Goal 2 requires that plans be coordinated with the plans of affected governmental units and that opportunities be provided for review and comment by affected governmental units. The Goal 2 coordination requirement is met when the City engages in an exchange, or invites such an exchange, between the City and any affected governmental unity and when the City uses the information obtained in the exchange to balance the needs of the citizens.

In January 2002 the City of Florence adopted a new Comprehensive Plan, referred to as "Florence Realization 2020." As part of addressing statewide planning Goal 14-Urbanization, the City was considering including a portion of the Confederated Tribes' land (referred to as the Hatch Tract) in the urban growth boundary (UGB). In December 2001, the U.S. Department of Interior issued a Memorandum regarding the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians vs. Babbit. It was found that the Hatch Tract site fell within the requirements for a restored lands exemption to the prohibition of gaming on lands acquired after October 17, 1988. This finding meant that the Confederated Tribes could develop the site with a casino in addition to any other commercial or residential development the Confederated Tribes would plan. Given this commitment to an urban level of development, the City thought it appropriate to include the site within the UGB. However, after further discussion with the Confederated Tribes, the decision was made to not include the site in the UGB. As lands under the jurisdiction of a sovereign nation, it did not make sense to include the lands within a city's UGB.

The City began conversations with the Department of Land Conservation and Development (DLCD) on how best to address the issue of coordinating City services with lands of a sovereign nation adjacent to the UGB. After much consideration it was determined that the City should employ the Statewide Planning Goal exceptions process to provide sanitary sewer service to the Confederated Tribe's land.

An Intergovernmental Agreement between the Confederated Tribes and the City of Florence was entered into and on November 8, 2005 the City of Florence voted in favor of extending the City sewer services to land under the jurisdiction of the Confederated Tribes adjacent to the Urban Growth Boundary. In accordance with the Intergovernmental Agreement (section 5.3) between the Confederated Tribes and the City of Florence, the City will pursue expeditious land use approvals to allow an extra-territorial extension of service. The Intergovernmental Agreement requires that the Tribes and the City shall cooperate in order to connect the project to the City's sanitary sewer system.

The City has provided notice to the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, Oregon Department of Land Conservation and Development, Lane County, Department of Environmental Quality and others to comment upon the proposal. In accordance with the Joint Agreement for Planning and Coordination between Lane County and the City of Florence, adopted in 2002, the City has provided Lane County with the opportunity to review and comment on the proposed extra-territorial extension.

In accordance with state law, the City must justify an exception to any Statewide Planning Goal. Statewide Planning Goal 2 allows such an exception if the proposed action is consistent with the following standards (printed in *italic*):

Goal 11 Exception

In November 2005, Florence citizens by majority vote of the electorate approved the extension of wastewater treatment services to land immediately east of Florence and held in

trust by the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (“the Tribes”). The property to be served is depicted and described in Appendix CPA 05 02 to the Comprehensive Plan (“the Tribal Properties”). Extension of the wastewater treatment services will allow effluent generated on the Tribal Properties to be directed to the City’s collection system and treated at the City’s wastewater treatment plant.

Policy 4, directing the City to provide wastewater collection and treatment services to the Tribal Properties, requires that the City justify an exception to Statewide Planning Goal 11. ORS 197.732(1)(c), Statewide Planning Goal 2 and OAR 660-004-0018, 660-004-0020(2) and 660-004-0022 allow such an exception if the proposed action is consistent with the standards printed in *italic* below.

(a) Reasons justify why the state policy embodied in the applicable goals should not apply.

Finding: The state policy embodied in Goal 11 is that urban levels of public facilities belong inside UGBs. That policy should not apply with respect to the provision of wastewater services to a site directly adjacent to a UGB and under the jurisdiction of a sovereign nation. As a sovereign nation, the Tribes have significant authority to develop the site to meet their needs without compliance with state or local land use regulations. The Tribes have developed, and intend to intensify, urban-level uses on the Tribal Properties. This makes the Tribal Properties much different from other lands outside of the UGB to which Goal 11 is intended to be applied. Due to the Tribal Properties’ close proximity to the City, ensuring that sewage is treated properly is a critical concern to the residents of the City of Florence. Improperly treated sewage would potentially be a health hazard to the community as well as have the effect of degrading water quality of the area.

One way the Tribes could avoid this would be to construct their own wastewater treatment facility. From a practical point of view this is expensive and would be a duplication of services that the City already provides. Avoiding duplication of services would be beneficial to both the Tribes and the City. In addition to fiscal considerations, the extension of the existing City of Florence wastewater facilities to the Tribal Properties will benefit both entities because it will significantly decrease the possibility of a public health hazard. Two major sewerage systems in relatively close proximity serving the same area would double the potential for a system failure to occur in a treatment system. These reasons justify the extension of wastewater facilities outside for the Florence UGB.

1. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Planning Goals 3 to 19.

Finding: The proposed extension of wastewater services to the Tribal Properties is necessary based on the requirements of Statewide Planning Goal 6 – Air, Water, and Land Quality. The Tribal Properties while within Lane County and immediately adjacent to the City of Florence are unique in that they are considered a sovereign nation. They have been developed in accordance with their own development needs and planning practices, outside of the Oregon land use system. The Tribes’ development has not been subject to local or state land use processes that require urban level services for urban level developments.

The Tribal Properties, to date, have developed in an independent manner that has not been reliant upon municipal services. The Tribal Properties have developed with an on-site wastewater treatment system that was designed to meet short term needs consisting of advanced treatment with a sequencing batch reactor (SBR)/ filtration process, followed by disposal through indirect groundwater injection using rapid bed infiltration. This system has a capacity of approximately 14,000 gallons per day (gpd).

The Tribes' on-site wastewater system is not capable of meeting the needs of their planned expansion. The anticipated future development will include an expanded casino with 625 slot machines, a 100 room hotel, two restaurants, 5,000 sq. ft. of commercial/retail space and a 10,000 sq. ft. conference center. The existing on-site system has had minor problems to date relating to the disposal through indirect groundwater injection using rapid bed infiltration. This has resulted in effluent needing to be transported off site due to inability to complete the treatment process on-site. As the demand increases to treat higher volumes, the existing and potential effluent disposal will be increasingly difficult to manage, resulting in a higher risk of not meeting discharge requirements. This is a risk that both the Tribes and the City are unwilling to accept as it would negatively impact land and water resources. Prior to requesting the Goal 11 exception, the Tribes reviewed other options for providing wastewater treatment rather other than obtaining wastewater services from the City. Specifically they reviewed expanding their existing on-site Sequencing Batch Reactor system as well as reviewed a relatively new technology called Membrane Bioreactor Technology (MBR). Each technology had advantages and disadvantages. These are:

Sequencing Batch Reactor	Membrane Bioreactor
Lower capital cost	Higher capital cost
Higher maintenance cost	Highly automated, less operator attention
Requires manned operation	Lower maintenance cost
Higher risk of not meeting discharge requirements	Less space
Must be covered to eliminate risk of odors	Less odor
Ease of expansion	No issues with degradation of groundwater
Higher electrical usage	Chemically intensive
	Smaller footprint

Despite these advantages and disadvantages they both had the major disadvantage of not being designed as a permanent facility and as such they do not meet the same reliability/ redundancy requirements that would be required of a permanent system. (For additional details, see the letter from Cascade Design Professionals, Inc, February 20, 2006.) The Tribes have therefore requested the extension of the City's municipal service that already exists immediately west of the Tribal Properties to serve that land. While approval of the Tribes' request requires an exception to Statewide Planning Goal 11, to be consistent with Statewide Planning Goal 6, the City must approve the request.

Approval of the proposed extension is necessary to be consistent with Goal 6 in order to ensure the protection of the land and water resources of the City of Florence. The City of Florence lacks the jurisdiction to limit or condition the Tribes' intensification of uses on their land.

Development could occur with the continued use of the existing on-site system that is not adequate to handle the increased flows from expanded development and wait until problems develop. From the City's perspective, and consistent with the policies of Statewide Planning Goal 6, the City must take this opportunity to ensure that future development occurs in a manner that is safe and healthful to the water and land quality, rather than putting up roadblocks that force continuation or expansion of a system that was not designed to handle the anticipated wastewater flows. By extending City wastewater services to the Tribal Properties, the City can be assured that wastewater will be managed in a manner similar to that provided for the developed portion of the City of Florence. This standard meets and/or exceeds all measures established by the State Department of Environmental Quality. By extending City sewer service to the Tribal Properties, future development will not rely on the existing on-site system. This system does not have the capacity, redundancy or reliability to provide adequate treatment to the proposed future development. Allowing this system to continue could negatively impact the quality of the land, water and groundwater of the surrounding area. Denial of the Tribes' request for expansion would violate Statewide Planning Goal 6.

2. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Finding: The proposed use or activity is the extension of the City's wastewater facilities to Tribal Properties that are currently developed with urban-level uses which will be intensified. This proposed extension is very different from a request to serve non-Tribal land outside the City's UGB. The Tribal Properties have the special quality of being recognized as "Tribal Lands." Because the Federal government has recognized the Properties' status as being held in trust by the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, this site no longer functions like other properties outside of the City of Florence's Urban Growth Boundary. Its special status bestows upon it special privileges and rights that allow it to develop in a different fashion than other sites outside of the UGB. These rights and privileges necessitate special handling to ensure that adequate services are made available to support the special allowed uses on the site. The special status of "Tribal Lands" necessitates the Tribal Properties exception be granted to allow appropriate wastewater service to ensure that the environmental protection and general health, safety, and welfare of all residents of the area are accommodated and protected.

(b) Areas which do not require a new exception cannot reasonably accommodate the use.

Finding: Inherent in the proposal to extend the City's wastewater services to the Tribal Properties is the extension beyond the Florence UGB. Therefore, the only way to accommodate the proposed extension is to show that an exception to Goal 11 is justified.

1. The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified.

Finding: The Tribal Properties to be served by the City's wastewater facilities are identified in CPA 05 02 to the Comprehensive Plan. The City's wastewater system shall not be extended beyond the site boundaries shown. There are no possible alternative

areas that would not require a new exception. The Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties.

2. To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed.

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

Finding: As explained, the Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties. The wastewater extension does not cross over any “nonresource land” or “resource land” as those terms pertain to other land outside the UGB. The wastewater facilities will go directly from the City limits onto the Tribal Properties. The Tribal Properties have been developed and that development will intensify. In this way, the Tribal Lands are similar to lands irrevocably committed to nonresource uses. For the reasons set out above, the specific area depicted and described in Appendix CPA 05 02 to the Comprehensive Plan is the only area that should be considered for this wastewater service extension.

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

Finding: The Tribal Properties happen to be located outside of the UGB. The location of the Tribal Properties will not change. The location of the proposed extension is inextricably tied to the location of the Tribal Properties.

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

Finding: As explained above, the “proposed use” is the extraterritorial extension of public wastewater facilities. Therefore, this question becomes circuitous. By its very nature, approval of the proposed use means that public facilities will be provided outside the UGB.

(c) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

Finding: The “use” for which an exception is needed is the extension of wastewater services from within the Florence UGB specifically to the Tribal Properties. Even if there were other properties that could accommodate the use, no other area requiring a Goal exception would be less adverse in terms of the long term environmental, economic, social and energy consequences resulting from the extension. The location of the Tribal Properties, adjacent to both the City limits and the UGB, means that the City can extend wastewater service without crossing any rural land. This minimizes the potential for environmental, economic, social adverse and energy consequences of the extension.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Finding: The extension of wastewater services to the Tribal Properties will make those properties more compatible with other adjacent uses which are either currently served by the City’s wastewater system or which are rural uses. The extension of the existing City of Florence sanitary sewer line will significantly decrease the possibility of a public health hazard to the extent that two major sewerage systems in relatively close proximity serving the same area doubles the potential for a system failure to occur in a treatment system. The extension does not cross over any private land and will not interfere with adjacent uses.

(e) Plan and zone changes must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Finding: The City’s planning regulations such as Comprehensive Plan designations and/or zoning districts do not apply to the Tribal Properties. As such, the City cannot directly limit the uses, density, private facilities and services or activities on the Tribal Properties. However, the City has limited the uses that it will serve with its wastewater facilities. The agreement between the Tribes and the City provide that the City will serve only residential and commercial development. No industrial use of the City’s wastewater system may be commenced by the Tribes unless the existing agreement is amended. In addition, the proposal to extend the City’s wastewater facilities to the Tribal Properties does allow the City to assert some control over the environmental impacts the Tribes’ development may have on the surrounding City land and, given the circumstances, is consistent with the overall policy basis for the Statewide Planning Goals.

Goal 3 - Agricultural Land: *To preserve and maintain agricultural lands.*

Goal 3 is not applicable to this ordinance as the amendment does not affect any agricultural land designation. Therefore, Goal 3 is not relevant and the ordinance does not affect the area’s compliance with Statewide Planning Goal 3.

Goal 4 - Forest Land: *To conserve forest lands.*

Goal 4 is not applicable to this ordinance as the ordinance does not affect any forest plan designation. Therefore, Goal 4 is not relevant and the ordinance does not affect the area's compliance with Statewide Planning Goal 4.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

The adoption of this ordinance does not create or amend the City's list of Goal 5 resources, does not amend a code provision adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5, does not allow new uses that could be conflicting with a Goal 5 resource and does not amend the acknowledged UGB. Therefore, Goal 5 does not apply.

Goal 6 - Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water, and land resources of the state.*

Goal 6 addresses waste and process discharges from development, and is aimed at protecting air, water and land from impacts from those discharges. Adoption of this ordinance does not affect the City's compliance with Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters and hazards.*

Goal 7 requires that local government planning programs include provisions to protect people and property from natural hazards such as land slides. This ordinance does not affect the City's restrictions on development in areas subject to natural disasters and hazards. Further, this ordinance does not allow for new development that could result in a natural hazards. Therefore, Goal 7 does not apply.

Goal 8 - Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Goal 8 ensures provision of recreation facilities to Oregon citizens and is primarily concerned with the provision of those facilities in non-urban areas of the state. This ordinance does not directly pertain to a Goal 8 recreational facility, though it does improve the facilities of the Tribes' casino and planned expansion of uses on the site. Adoption of this ordinance is consistent with Goal 8.

Goal 9 - Economic Development: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The ordinance does not have a direct impact on economic activities. It does not change the zoning, designation or allowed uses on any properties. Though the ordinance does not directly impact economic activities, as explained in response to applicable comprehensive plan policies, the agreement to extend wastewater service to the Tribes' properties includes numerous provisions that will stimulate the local economy. The ordinance is consistent with Goal 9.

Goal 10 - Housing: *To provide for the housing needs of the citizens of the state.*

The ordinance does not have a direct impact on residential development opportunities. It does not change the zoning, designation or allowed uses on any properties. Therefore, the ordinance is consistent with Goal 10.

Goal 11 - Public Facilities and Services: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

As discussed under Goal 2, above, this ordinance requires the City justify an exception to Statewide Planning Goal 11. The findings providing such justification are located under Goal 2, above, and are incorporated here by reference.

In addition to the above findings, the Florence Wastewater Treatment Plant currently serves the City of Florence population with wastewater treatment services. The current population is approximately 7,800 and the average daily flow is approximately 1.3 million gallons per day (mgd), or less than 25 percent of the available capacity. The Casino development is projected to include a fifty to one hundred room hotel, a restaurant, and additional commercial space for limited retail as well as the casino itself.

As noted above the existing capacity of the Florence Wastewater Treatment plans is 1.3 million gallons per day (mgd) at dry weather flow, and the winter peak capacity is 2.7 mgd. The daily maximum wet weather peak flow is 6.9 mgd. It is anticipated that serving the Tribal property will generate approximately 92,000 to 120,000 gpd. This will not compromise the city's wastewater treatment facility nor its ability to serve the city and UGB as annexations occur.

Additionally, the facility has been designed so that it can expand in phases to meet future needs. All new developments currently pay systems development charges to provide a funding source for future expansions when they are needed. This will ensure that when the facility needs to expand, there will be funds to pay for future expansion.

Connection of wastewater services will be via an existing 8" line in 16th Street. This line will be extended directly into the tribal lands. Additional upgrade of the Creekside pump station will be required to handle the additional flows. Extension of sewer lines, upgrade of the pump station, and any other improvements needed to provide wastewater collection services to the Tribal lands will be the financial responsibility of the developer (the Casino). The Casino will pay

connection fees and system development charges consistent with established City policies and in accordance with the adopted rate structure.

Goal 12 - Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

Goal 12 is implemented through the Transportation Planning Rule (TPR). The TPR (OAR 660-012-0060) states that land use changes that significantly affect a transportation facility shall require mitigation measures to address the anticipated impacts. The rule states that:

- (1) *Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ration etc.) of the facility. This shall be accomplished by either:*
 - (a) *Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;*
 - (b) *Amending the TSP to provide transportation facilities to support the proposed land uses consistent with the requirements of this division;*
 - (c) *Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes;*
or
 - (d) *Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian-friendly development where multi modal travel choices are provided.*

- (2) *A plan or land use regulation amendment significantly affects a transportation facility if it:*
 - (a) *Changes the functional classification of an existing or planned transportation facility;*
 - (b) *Changes standards implementing a functional classification system;*
 - (c) *Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
 - (d) *Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.*

Adoption of the ordinance will not change the functional classification of an existing or planned transportation facility. Nor will it change standards implementing a functional classification system. Further, it will not allow types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility or reduce the performance standards of any facility. Therefore, Goal 12 is not implicated by this ordinance.

Goal 13 - Energy Conservation: *To conserve energy.*

This ordinance does not concern energy conservation. Therefore, Goal 13 does not apply.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

Goal 14 in many ways does not apply to the City's adoption of this ordinance as it does not change the location of the UGB or permit or enable a transition from rural to urban land. This ordinance is consistent with Goal 14.

However, in this unique case, urban uses are already located outside of the urban growth boundary under the authority of the Tribes' sovereign nation status and the Tribes have the authority to intensify those uses. Whether wastewater service is provided by the City or by the Tribes, such service will be expanded on the Tribes' property. The Tribes will expand their use and as such impact urbanization on their lands. These lands are adjacent to the Florence City Limits and the UGB.

Goal 15 - Willamette River Greenway: *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

This ordinance does not implicate Goal 15.

Goal 16 through 19 (Estuarine Resources, Coastal Shorelands, Beaches and Dunes, and Ocean Resources):

There are no coastal, ocean, estuarine, or beach and dune resources related to the property effected by this ordinance. Therefore, these goals are not relevant and the ordinance will not affect compliance with Goals 16 through 19.

Consistency with Other Provisions of the Comprehensive Plan

Chapter 6, page 69, Policy No. 5: *Solid, liquid, gaseous and industrial waste discharges and/or disposal from septic tanks and/or sewers shall not contaminate land, air, and water resources.*

The extension of the City's wastewater system to the Tribes' land is consistent with this policy. In the absence of the City providing this service to the Tribes, the Tribes could, and most likely would, construct their own on-site wastewater system. In that situation, the risks of failing systems in the area would be increased as the presence of another system increases the possibility of a failure. This, in turn, increases the risks of sewage contaminating the land and nearby Siuslaw River. Connecting to the City's system decreases the risk of such contamination.

Chapter 9, page 75, Policy No. 3: *The City shall work with appropriate parties to increase tourism revenues.*

Chapter 9, page 75, Policy No. 4: *The City shall work to improve networks of all kinds within the county, the region, and the state in support of economic and business development.*

With the wastewater extension, the City is working with the Tribes to increase tourism and to improve support of economic development. The extension facilitates a new/expanded casino facility, including a hotel contemplated by the Tribes, that will attract tourism to the area. As additional tourists come, they will spend money not only at the casino and associated hotel, but will also spend money in and about the Florence area on food, recreation and retail items.

In addition, one portion of the voter-approved City-Tribes agreement is a provision for the creation of a community marketing fund into which the Tribes agree to pay \$54,000 annually. The first payment to this fund is due not later than six months after any hotel on the Tribes' property is opened. Thus, creation of the fund and the payment to promote and market the Florence community will not occur unless wastewater service is extended to the Tribes' property. Marketing the Florence community will help support and improve economic and business development networks in the Florence area.

Chapter 11, page 83, A. Wastewater Collection and Treatment, Policy No. 3: *The City shall complete the proposed stages of an improved collection system in advance of need in order that the wastewater system maintains adequate capacity for proposed development.*

Extension of wastewater services to the Tribes' land is consistent with this policy. In exchange for the extension, the Tribes are contractually required to increase collection system capacity, and to pay systems development charges that are used to pay for current and future system capacity, as set forth above.