

PASSED

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1150

) IN THE MATTER OF AMENDING THE CITY OF
) FLORENCE COMPREHENSIVE PLAN TO
) REDESIGNATE LAND FROM "RESIDENTIAL" TO
) "COMMERCIAL", REZONE THAT LAND FROM
) "RA/SUBURBAN RESIDENTIAL" TO "CT/SR"
) ("TOURIST COMMERCIAL with SITE REVIEW");
) AND ADOPTING SAVINGS AND
) SEVERABILITY CLAUSES (FILE PA 99-6090;
) Driftwood Shores)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinances 859 and 875, has adopted policies and provisions of the City of Florence Comprehensive Plan as an element of the Comprehensive Plan for Lane County; and

WHEREAS, lands within the Florence Urban Growth Boundary but outside the City limits are within the political jurisdiction of Lane County, and are subject to County-adopted application of City Plan designations and County zoning provisions as set forth in Chapter 10, Lane Code; and

WHEREAS, on August 2, 1999, by means of City Ordinance No. 13, the City of Florence amended the City Comprehensive Plan for tax lots 3800 and 3900, map 18-12-04.1.3 (property located outside the City limits but within the City Urban Growth Boundary) to change its designation from "Residential" to "Commercial"; and

WHEREAS, Lane Code Chapter 12 sets forth procedures and criteria for amendment of the comprehensive plan for Lane County, and Lane Code Chapter 10.315 sets forth procedures for rezoning lands within the jurisdiction of the comprehensive plan for Lane County; and

WHEREAS, in July 1999, application no. PA 99-6090 was made for a minor amendment to redesignate tax lots 3800 and 3900 of map 18-12-04.1.3, from "Residential" to "Commercial" and rezone the property from "RA/Suburban Residential" to "CT/SR" ("Tourist Commercial with Site Review"); and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of January 11, 2000, and on that date recommended approval of the proposed amendment and rezoning; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapters 12 and 10, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The City of Florence Comprehensive Plan is amended by the redesignation of tax lots 3800 and 3900 of map 18-12-04.1.3, from a City Plan designation of "Residential" to a City Plan designation of "Commercial", such territory depicted on and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lots 3800 and 3900 of map 18-12-04.1.3, are rezoned from "RA/Suburban Residential" (Lane Code 10.135) to "CT/SR" ("Tourist Commercial with Site Review") (Lane Code 10.166), such territory depicted on and further identified as Exhibit "B" attached and incorporated herein. The Site Review is to be used as a process to insure that the following conditions, requested by the City of Florence, are implemented in addition to the other Site Review criteria:

1. Any application for structures, other than single story storage sheds, shall be referred to the City for review and comment.
2. At such time as the first development request requiring special approval as defined in B-3, page 31 of the City's Comprehensive Plan, is submitted to the County, Driftwood Shores agrees to sign a consensual annexation agreement.
3. The parking lot will be designed to preclude backing into traffic. Storm drainage will be collected and filtered to remove pollutants.
4. Native vegetation shall be retained to provide screening from existing residential uses.
5. The bank between the parking lot and tax lot 3700 be stabilized as appropriate.

In addition, Site Review is to be used as a mechanism to assure compliance with Goal 12 and the Transportation Planning Rule by limiting any proposed land uses on the subject property to those which are consistent with the planned function, capacity and level of service of the transportation facilities utilized by the site.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "C" attached, in support of this action.

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

ENACTED this 8th day of JUNE, 2000.



Chair, Lane County Board of County Commissioners



Recording Secretary for this Meeting of the Board

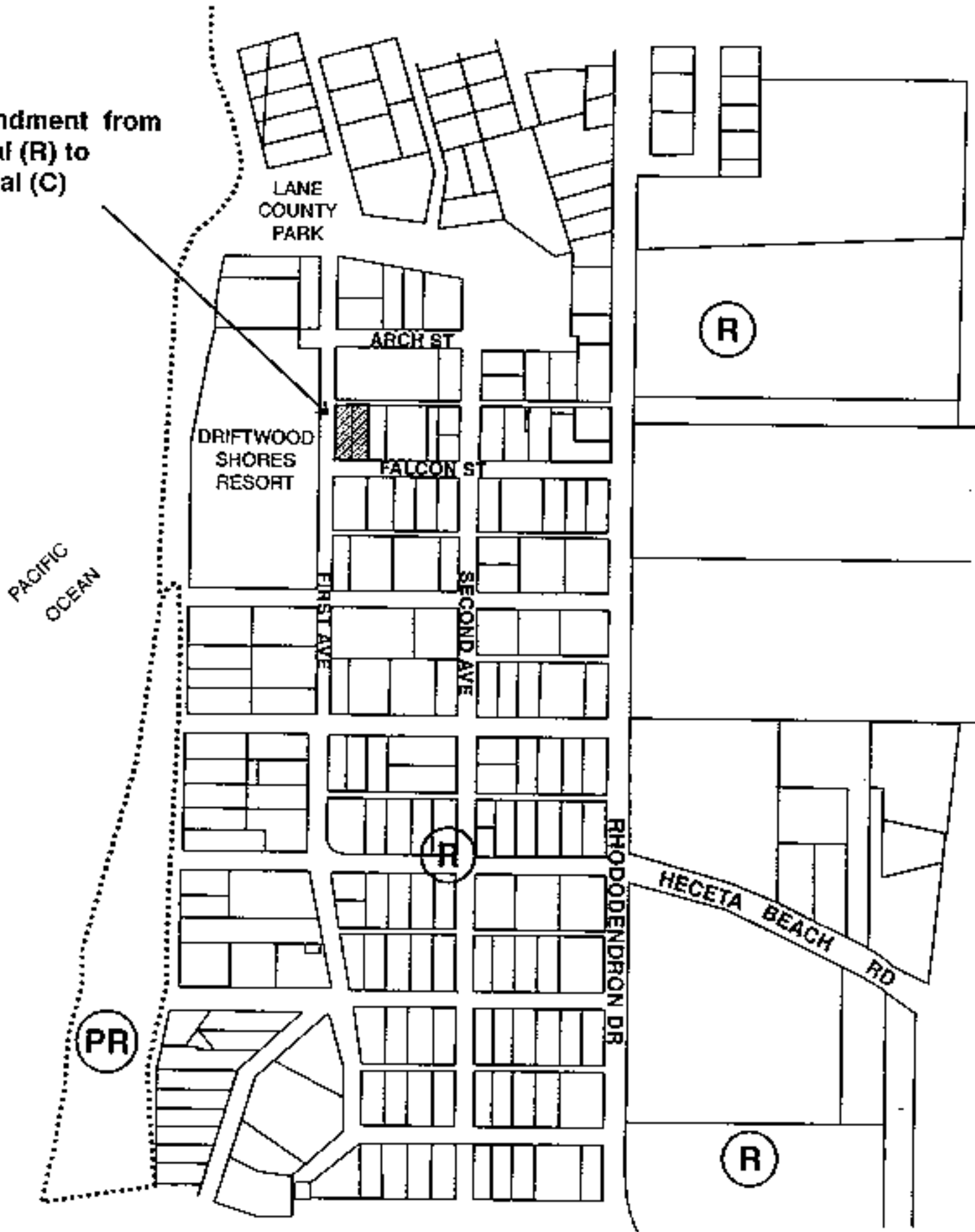
APPROVED AS TO FORM

Date 6-14-2000 Lane County



OFFICE OF LEGAL COUNSEL

Plan Amendment from Residential (R) to Commercial (C)



lane county

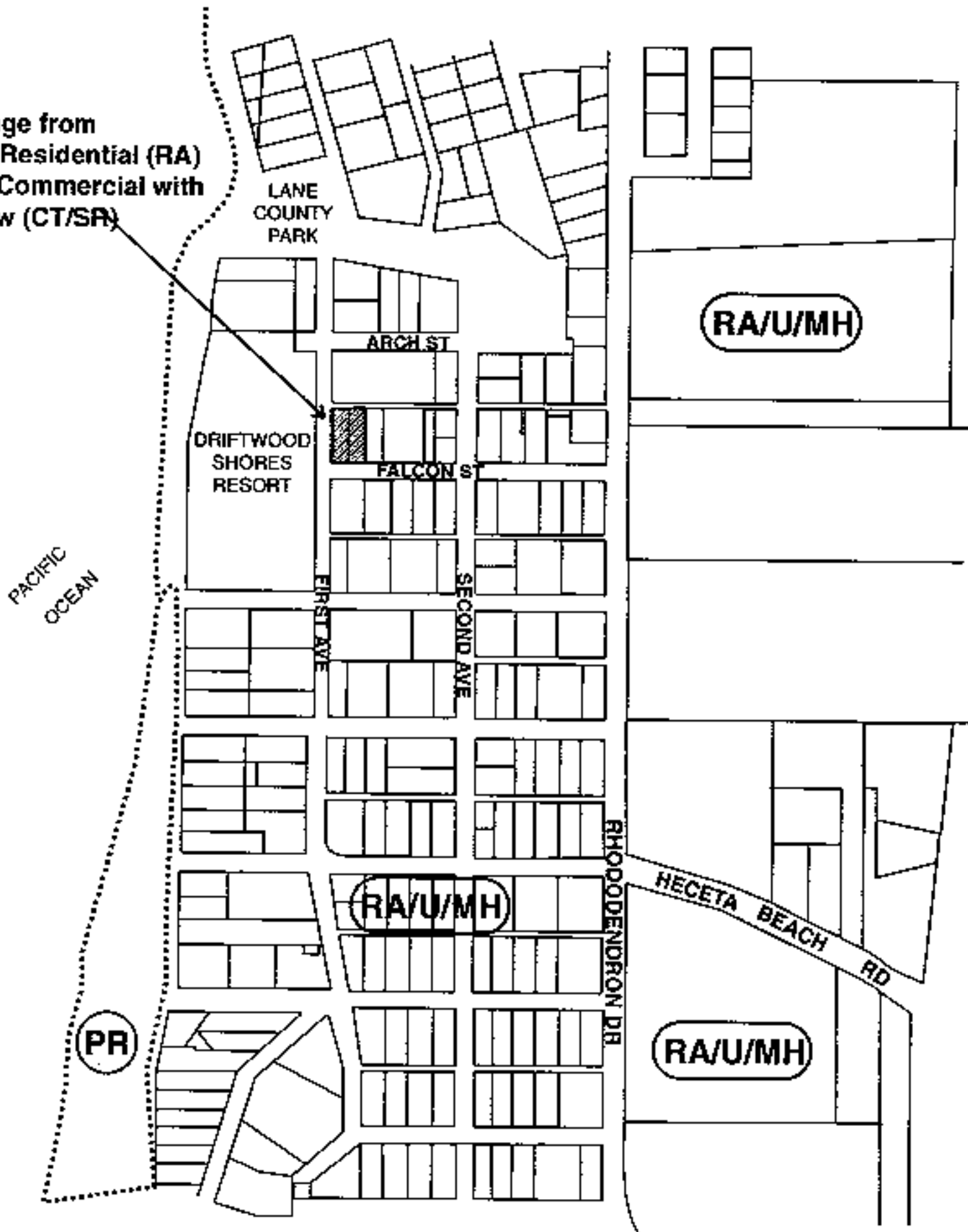



PLAN MAP

Florence UGB

Twnshp Range Section
18 12 04 1 3

Zone change from
Suburban Residential (RA)
to Tourist Commercial with
Site Review (CT/SR)



	<h1>ZONING MAP</h1>	<h2>Florence UGB</h2>
<p>Township Range Section 18 12 04 1 3</p>		

Findings in Support of Ordinance Adoption**FEB 23 2000****General Findings**

- Finding 1** The subject property is located within the Urban Growth Boundary but outside the city limits of the City of Florence.
- Finding 2** The subject property is shown on the Comprehensive Plan Map for the City but is subject to the Lane County zoning code (Chapter 10, Lane Code). The City Comprehensive Plan acknowledges that it may be necessary to amend the Plan within the Urban Growth Boundary and states that such amendments shall be adopted by both the City and the County.
- Finding 3** The subject property is owned by and across First Avenue from the Driftwood Shores recreational resort development, an existing commercial lodging facility of long standing.
- Finding 4** Driftwood Shores periodically needs space for additional off-street overflow parking.
- Finding 5** The City of Florence Planning Commission held a hearing on May 11, 1999 regarding the proposed amendment to the Florence Comprehensive Plan. At this hearing the Planning Commission adopted Resolution 99-5-11-32 which recommended changing the plan designation from Residential to Commercial.
- Finding 6** On August 2, 1999 the Florence City Council conducted a public hearing on the Planning Commission recommendation to change the plan designation as requested by Driftwood Shores. At the close of the hearing the Council adopted Ordinance No.13, Series 1999, changing the designation.
- Finding 7** The Ordinance adopted by the Florence City Council contained a number of conditions of approval which in part addressed concerns expressed by neighboring property owners at the public hearings of the Planning Commission and Council.
- Finding 8** As stated in the City of Florence adopted findings of fact, the City is unable to annex the subject property until improvements to the City's wastewater plant are substantially completed, which is estimated to be summer of 2000. Because of these limitations, the City does not support approval of habitable structures on the subject lots.
- Finding 9** A condition of approval adopted by the City will preserve the potential for urban density on the subject property by requiring a consensual agreement to annexation

for any development requiring special approval as that term is defined by Policy B-3, page 31 of the Florence Comprehensive Plan.

Finding 10 The subject property is to be zoned CT, Tourist Commercial District (CT) with a Beaches and Dunes Overlay B/D. In the Purpose section of the zone (10.166-05), there is a stated requirement that all development to be constructed in the zone be approved through the site review procedures found in LC 10.335-15.

Finding 11 The subject property is also within the Beaches and Dunes Combining District, which means any proposed development will be subject to a "Preliminary Investigation" per LC 10.270-45.

Finding 12 The Lane County Planning Commission held a public hearing on the plan amendment and zone change on January 11, 2000 and made a recommendation of approval to the Lane County Board of Commissioners.

Findings Relating to Plan Amendment and Zone Change Criteria

Plan amendment Criteria - Lane Code 12.050.

This Lane Code provision reads as follows:

- (1) The adoption of the Comprehensive Plan or amendment to such plan shall be by an ordinance.
- (2) The Board may amend or supplement the comprehensive plan upon a finding of:
 - (A) an error in the plan; or
 - (B) changed circumstances affecting or pertaining to the plan; or
 - (C) change in public policy; or
 - (D) a change in public need based on a reevaluation of factors affecting the plan; provided the amendment or supplement does not impair the purpose of the plan as established by LC 12.005.

LC 12.005 reads as follows:

Purpose. The Board shall adopt a comprehensive plan. The general purpose of the comprehensive plan is the guiding of social, economic and physical development of the county to best promote public health, safety, order, convenience, prosperity and general welfare.

Finding 13 Co-adoption of this amendment will be by ordinance.

Finding 14 The amendment reflects a change in the public need. The Driftwood Shores resort complex services the tourist industry in Lane County and is a significant employer in the Florence area. An increase in the county population base as well as tourism

originating locally and from without the area has taxed the existing facilities at Driftwood Shores. Adoption of this amendment will help alleviate this situation, while promoting the prosperity and general welfare of Western Lane County.

Zone Change Criteria - Lane Code 10.315

Procedures for Zoning, Rezoning, and Amendments to Requirements. This criterion requires that a rezoning comply with the criteria as outlined below.

The rezoning must achieve the purpose of LC Chapter 10 and not be contrary to the public interest.

Finding 15 The purpose section of Chapter 10 is specified in Lane Code 10.015 which is actually a list of nine broadly worded goals and policy statements. The only purpose statements which appear relevant to this matter is that this proposal encourages the most appropriate use of land in the vicinity of the subject property, one that is in harmony with existing and proposed neighboring use of land. The land uses in the subject area are both commercial and residential, the proposal is for extension of the commercial area adjacent to an existing commercial area, not a "spot zoning".

The rezoning must be consistent with specific purposes of the zone proposed.

Finding 16 The CT Zone, LC 10.166-05 contains the purpose statements which are relevant to this rezone; to provide services and facilities for tourists and travelers, and the motoring public. The proposal will open up more parking and lessen congestion as well as lessen the need for Driftwood Shores patrons to utilize parking in the county park located on the north end of First Avenue.

The rezoning must be consistent with the applicable RCP elements and components.

Finding 17 Goal 1, Citizen Involvement, is satisfied by Lane County's use of quasi-judicial hearing procedures that have previously been acknowledged.

Finding 18 Goal 2, Land Use Planning, is addressed in part by the fact the subject property is within a non-resource area and within the UGB of the City of Florence which has been acknowledged by LCDC.

Finding 19 Because the land is not zoned for resource use, Goal 3, Agricultural Land, and Goal 4, Forest Land, are not applicable.

Finding 20 The site has not been inventoried for any Goal 5 resource and therefore Goal 5 is not applicable.

- Finding 21 Goal 6, Air water and Land Resources, does not appear relevant due to the small (.27A) size of the subject property.
- Finding 22 Goal 7 is not applicable because there are no natural hazards that apply to the subject property.
- Finding 23 Goal 8 is applicable. The proposal will be for a commercial use in support of and enhancement to an existing commercial development that is Driftwood Shores.
- Finding 24 Goal 9 applies as the proposal is for enhancement of an existing commercial development which in turn promotes economic diversification and supports the local economy.
- Finding 25 Goal 10, Housing, is not applicable. Goal 11, Public Facilities and Services, would be met because the property will be required to be annexed to the City of Florence. Available at the property is public water, on-site sewage disposal subject to DEQ approval, Siuslaw School District #97J, and Lane County Sheriff and State Police services.

Goal 12, Transportation, is applicable. As a part of this goal, there is a State Administrative Rule (OAR 660-012-060) which states that “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 level of service of the facility.” What this appears to mean is that assurances have to be given that this change will not change the function or capacity or level of service of First Avenue at Heceta Beach. The form of analysis normally required by Lane County is called a Level of Service Analysis, performed by an Oregon licensed traffic engineer. In this instance, it is found that Goal 12 is satisfied and that a Level of Service Analysis is not required at this time for the following reasons and facts.

- Finding 26 The subject proposal is for construction of a parking lot and/or maintenance building in direct support of the adjoining resort development. No unrelated land uses are proposed at this time. A level of Service Analysis if performed at this time would need to make unsupported assumptions about future land uses in order to be of value.
- Finding 27 The CT zone does permit a number of land uses which if taken in isolation could result in significant traffic generation. These very intensive uses, such as hotels and motels, could not realistically be expected to locate on the subject property because it is only .27 acre in size.
- Finding 28 The City of Florence, as a condition of approval, requires that the proposed development be “non-structural” until the property can be annexed to the city. The city also requires that it be accorded an opportunity to review and comment

on specific development plans as may be required by the county site review process.

Finding 29 The purpose section of the CT zone mandates that all development occurring in the zone be subject to the site review procedures. The site review procedures require that any development must anticipate the traffic it will generate and thence provide additional right of way or road improvements as needed. [LC 10.335-20(6)].

Finding 30 The provisions of OAR 660-012-0060 and Goal 12 can be met by a combination of the above factors. Specifically, OAR 660-012-0060 provides that its requirements can be met by "limiting allowed land uses to be consistent with the planned function, capacity, and level of service of the transportation facility." This limiting is achieved by the conditions imposed by the City of Florence and by the requirements of the site review process.

Finding 31 If a future use that is likely to generate traffic is proposed for the subject property, a Level of Service Analysis would be required to satisfy the site review criteria.

Finding 32 Goal 13, Energy Conservation, would be met at the time of compliance with the Uniform Building Code and the energy conservation measures within.

Finding 33 Goal 14, Urbanization, is satisfied as the property is inside the Florence Urban Growth Boundary. Development of the property at an Urban level of density is not precluded by adoption of this proposal but may occur when the property is annexed.

Finding 34 Goals 15, 16, 17 and 19 are not applicable because of the geographical location of the subject property.

Finding 35 Goal 18, Beaches and Dunes, will be met by the Preliminary Investigation required by the combining district.