

**CITY OF FLORENCE  
(Proposed) ORDINANCE NO. 2 SERIES 2022**

**AN ORDINANCE APPROVING ANNEXATION OF 1.98 ACRES, ASSESSOR'S MAP  
REFERENCE 18-12-11-33, TAX LOT 01300**

**RECITALS:**

1. The City of Florence was petitioned by the property owner, Lofy Properties, LLC, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The signed petitions to annex were received constituting more than half of the owners of land in the territory consenting in writing to the annexation, the owners consenting to annex own more than half of the land in the contiguous territory, and the owners consenting to annex representing more than half of the assessed value of property in the territory in accordance with ORS 222.170(1);
3. The territory proposed to be annexed is within the Florence Urban Growth Boundary of the Florence Realization 2020 Comprehensive Plan and is contiguous to the City limits as required by ORS 222.111 (1).
4. The Planning Commission determined, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with Realization 2020—the City's acknowledged Comprehensive Plan—and they adopted findings of fact in support of the annexation.
5. The City Council met in a public hearing on February 7, 2022, after giving the required notice per FCC 10-1-1-6 and ORS 222.120 to consider the proposal, evidence in the record, and testimony received.
6. The City Council, on February 7, 2022, found that the request met the applicable criteria and that the property could adequately be served.
7. Per FCC 10-1-2-3, the City Council may establish zoning and land use regulations that become effective on the date of the annexation, and the City Council adopted Ordinance No. 3, Series 2022 zoning the annexed property as Service Industrial, consistent with the Florence Realization 2020 Comprehensive Plan text and map and the Florence Zoning Code.

Based on these findings,

**THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:**

1. The City of Florence approves the annexation of 1.98 acres, Assessor's Map Reference 18-12-11-33 Tax Lot 01300 being territory owned by the petitioner into the City of Florence as described in Exhibit A.
2. This annexation is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City Recorder is hereby directed to file certified copies of this Ordinance with the Oregon Secretary of State's Office consistent with the requirements of that office 90 days prior to the general election in order for the annexation to be effective upon filing pursuant to ORS 222.040(1) and 222.180(1).
4. The City Recorder is also hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office, Lane County Chief Deputy Clerk and Oregon Department of Revenue pursuant to state law.
5. Pursuant to FCC 10-1-1-6-4-E, this annexation shall be final on the day passed and adopted by the City Council and shall be effective as provided in the City Charter.

**ADOPTION:**

First Reading on the 7th day of February, 2022.

Second Reading on the 7th day of February, 2022.

This Ordinance is passed and adopted on the 7th day of February, 2022.

Councilors:

AYES

NAYS

ABSTAIN

ABSENT

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Joe Henry, Mayor

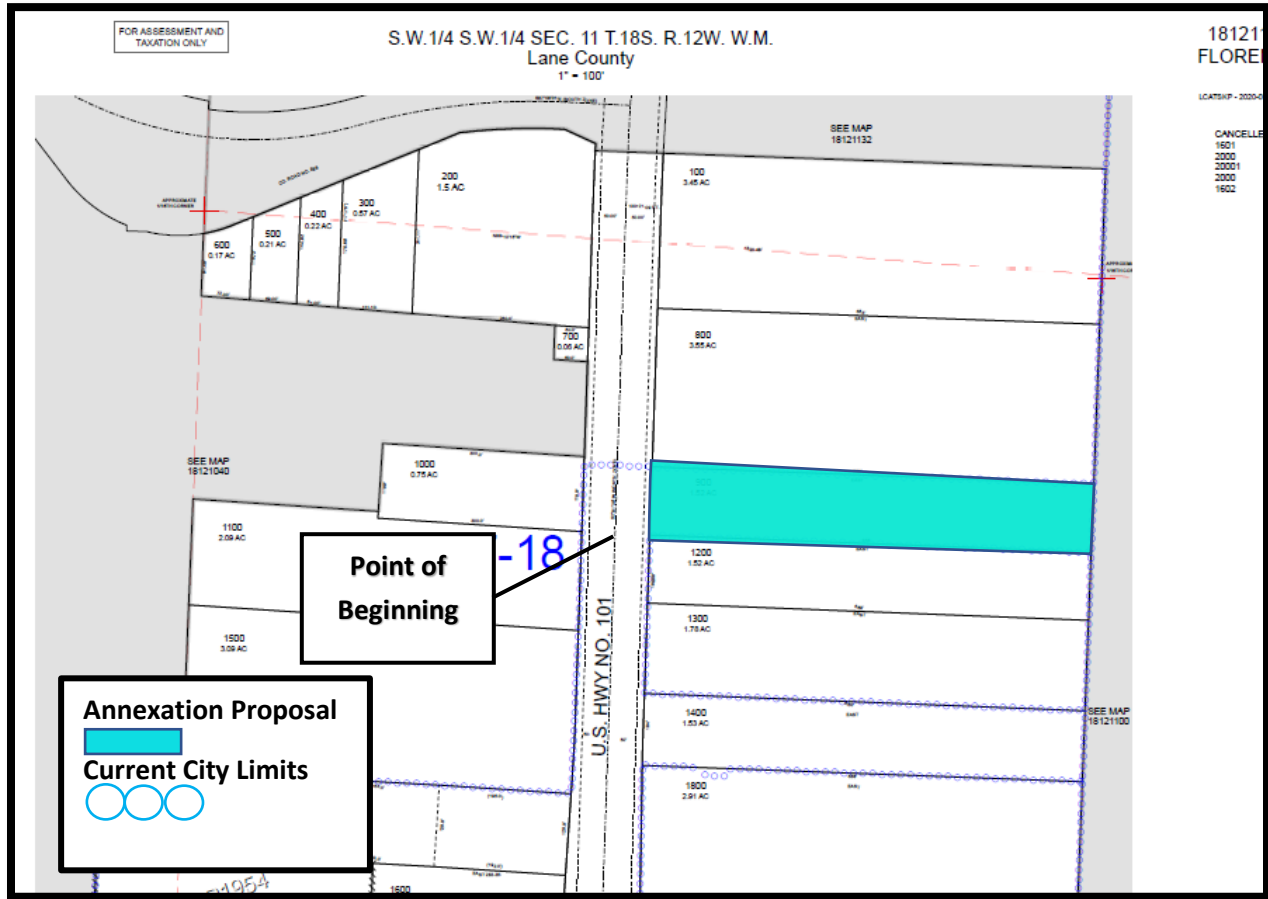
Attest:

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Lindsey White, City Recorder

**Ordinance No. 2, Series 2022 – Exhibit A**

Lofy Properties, LLC Highway 101  
 Assessor's Map 18-12-11-33, Tax Lot 01300



**Legal Description**

All that part of the following which lies within the bounds of the Southwest quarter of Section 11, Township 18, South, Range 12 West, Willamette Meridian, 50-wit: Beginning at a point being located on the center line of the U.S. Highway #101, a distance of 654 feet North of a point on said center line of said Highway where the section line between Sections 11 and 14, Township 18 South of Range 12 West, Willamette Meridian, intersects with said center line of said Highway; thence East, a distance of 710 feet; thence North, a distance of 118 feet; thence West, a distance of approximately 708 feet to the center line of said Highway #101; thence South along said center line to the point of beginning, in Lane County, Oregon.

EXEPTING THEREFROM: That portion to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded February 28, 1985, Reel 1338, Reception No. 85-06862, Lane County Official Records, in Lane County, Oregon.

**FINDINGS OF FACT**  
**Ordinance No. 2, Series 2022: Exhibit B**  
**Ordinance No. 3, Series 2022: Exhibit B**

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**Public Hearing Date:** February 7, 2022  
**Application:** CC 21 21 ANN 09 Annexation – Lofy Properties, LLC.  
CC 21 22 ZC 09 Zoning – Lofy Properties, LLC.

**I. PROPOSAL DESCRIPTION**

**Proposal:** Annexation

A request for the City of Florence to annex property from Lane County into the City.

Rezoning

Upon annexation, a request for the property to be zoned with a city zoning district. The corresponding zoning district matching the property’s comprehensive plan designation is Service Industrial

**Petitioner/Property Owner:** Lofy Properties, LLC

**Associated Properties:** Assessor’s Map 18-12-11-33 Tax Lot 01300

**Comprehensive Plan Map Designation:** Service Industrial

**Surrounding Land Use / Zoning:**

**Site:** Single-family residences | Suburban Residential; (Interim Urban Combining District Overlay)

**North:** Single-family residence | C2; (Neighborhood Commercial)

**South:** Single-family residence & concrete batch plant | Service Industrial

**East:** Vacant | Medium Density Residential

**West:** Heceta Self Storage; Hwy 101 | M1; Limited Industrial; Service Industrial

**Streets / Classification:** West – U.S. Hwy 101 / Highway/Major Arterial.; South – None; East – Spruce St, Collector undeveloped, improvement terminates near SE corner of TL 1900; North – None

**II. NARRATIVE**

The applicants petitioned for the annexation of a 1.98-acre lot from Lane County jurisdiction to City of Florence jurisdiction. The petitioner’s request for the zoning assignment of Service Industrial upon annexation was received on November. 23, 2021. This property contains pre-existing non-conforming residential uses. Upon annexation, no new residential development would be allowed on the property with the Service Industrial District zoning. The property abut tracts of properties to the south and east which have been previously annexed into the City and zoned. Additionally, Highway 101, which provides access to the subject property, has also been annexed and zoned.

The petitions for annexation and a legal property description were received in November 9, 2021. State law requires signatures from at least 50% of the property owners and electors of the property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City received a signed petition from all of the property owners and six electors residing on site and will also process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). Florence City Code Title 10 Chapter 1 calls for processing the annexation as a Type IV application which means that the Planning Commission is to make a recommendation to the City Council and the City Council will make the final decision in this legislative matter. The Planning Commission held a public hearing on January 11, 2022 and made the recommendation to City Council that the property be assigned a zoning of Service Industrial upon annexation.

The zoning assignment procedure applies to the 1.98- acres of property only, as the Highway 101, although under ODOT jurisdiction, is already annexed into City limits and zoned. In accordance with 10-1-1-5 B the two actions (the annexation and zoning designation) will be processed through consolidated proceedings.

The property is served by Heceta Water PUD and is currently served by Siuslaw Valley Fire Rescue District. The property will continue to be served by all districts by which it is currently served. After annexation, the property will be able to have access to City sewer services and begin receiving police protection.

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### **III. PUBLIC NOTICE**

Notice of the Planning Commission’s public hearing was mailed on December 22, 2021, and for City Council’s public hearing on January 18, 2022 to property owners within 300 feet of the proposed annexation area. On December 22, 2021 and January 18, 2022, notices were posted at Florence City Hall, the Florence Post Office, Florence Justice Center, and the Siuslaw Public Library and signage posted on the property site. Notice for the Planning Commission hearing was published in the Siuslaw News on December 18, 2021 and for the City Council hearing, January 15<sup>th</sup> and January 29, 2022.

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on November 23, 2021, not less than 35 days prior to the proposed first evidentiary hearing of January 11, 2022, as required by State law and the Florence City Code.

#### **Public Comments:**

At the time of this report, the City had received no public comments on these applications.

### **IV. REFERRALS**

On December 19, 2021, referrals were sent to Florence Public Works (Utilities and Airport), Building, and Police Departments; Lane County Transportation and Land Management Divisions, Charter Communications; Century Link; Central Lincoln PUD; and Heceta Water PUD. No comments have been submitted by these parties

## V. APPLICABLE REVIEW CRITERIA

### Annexation

#### **Oregon Revised Statutes (ORS)**

222.050, 222.111; 222.120; and 222.170

#### **Oregon Administrative Rules (OAR)**

OAR: 660-015-0000, 660-012-0060

#### **Florence Realization 2020 Comprehensive Plan, Chapters**

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 6
- 14: Urbanization, Policies 1 and 3 through 7

#### **Florence City Code (FCC), Chapters**

- 1: Zoning Regulations; Sections 10-1-1-4; 10-1-1-5; 10-1-1-6-3 & 4, 10-1-2-3 & 10-1-3
- 7: Development Hazards and Constraints, Policies 1,2,3 & 4

### Zoning Assignment

#### **Florence Realization 2020 Comprehensive Plan, Chapters**

- 1: Citizen Involvement, Policies 1 & 4
- 2: Land Use, Policy 1; Industrial Policy 4; and Section on Industrial Plan Designations
- 12: Transportation, Policy 8

#### **Florence City Code (FCC), Chapters**

Title 10: Zoning Regulations

- 1: Zoning Regulations, Sections 10-1-1-4; 10-1-1-5; 10-1-1-6-3 & 4, 10-1-2-3 & 10-1-3 & 4
- 31: Service Industrial District, Section 1
- 12: Transportation: Policy 8

#### **Oregon Land Use Planning Goals**

- Goal 10 Housing: OAR 660-015-0000 (Goal 10)

## VI. FINDINGS OF FACT

The following Findings support the petition and application for rezone and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, State Administrative Rules, and State Statutes.

Applicable criteria and policies are shown in **bold text**, followed by findings of consistency in plain text.

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## FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

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### Chapter 1: Citizen Involvement

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#### Policies

**4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.**

This proposal is consistent with this policy because the process used by the City to review the resolutions recommending approval of this annexation and zone assignment request is consistent with the City's applicable citizen involvement program which ensures that citizens will be provided an opportunity to be involved in this land use action. Specifically, official City meetings in this action were well publicized and held at regular times and provide the opportunity for citizen comment. The public process used meets all of the requirements of Florence City Code pertaining to zone assignment and annexation with their respective land use processes.

While the public hearings will be conducted virtually with no opportunity for in-person attendance, the public could attend the meeting virtually and provide verbal testimony during the public hearings via the internet or via a landline phone. Those wishing to simply attend the hearing could do so through the Go-to-Webinar platform application, or they could watch the hearing live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunities for written participation to be included in these Findings was available up to January 4, 2022 and again up to January 28, 2022. All public comments received both before and after those dates were posted online and distributed to the decision bodies up to 4:00 PM on the hearing dates.

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**Chapter 2: Land Use**

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**Policies**

- 1. Designation and location of land uses shall be made based on an analysis of documented need for land uses of various types, physical suitability of the lands for the uses proposed, adequacy of existing or planned public facilities and the existing or planned transportation network to serve the proposed land use, and potential impacts on environmental, economic, social and energy factors.**  
*(Ordinance No. 2 Series 2021)*

The designation of this property as Service Industrial was adopted in 2002 as part of Periodic Review following a 1997 Industrial and Commercial Lands Inventory which was updated in 2018 via a Buildable Lands Inventory and Economic Opportunities Plan. Plan designating this private land for heavy industrial use near a major transportation corridor is the most physically suitable option to be placed away from dense commercial and residential centers and natural resource, education and pedestrian oriented areas.

Soils: The Natural Resources Conservation Service Soils Map, Map C, of Appendix 7 to the Florence Realization 2020 Comprehensive Plan illustrates the property includes soils Yaquina loamy fine sand. The map's legend states the soils are unsuitable or conditionally suitable for development. Much of Florence consists of soils with this designation. So, consistent with the soils map designation a Phase 1 Site Investigation Report (SIR) is required in conjunction with a development proposal and land division to identify areas of hazard. Findings of a hazard will require Phase 2 SIR performed by an engineer. Accepted

engineering practices shall determine the extent of development allowed. This site is not dissimilar from other properties within the City with similar zoning and soils which require analysis prior to development and land division. The result of the analysis will determine suitability for construction and mitigating measures such as large lot sizes.

6. **“The City shall conduct an internal review at least once every three years to assess the capacity of sewer, water and stormwater systems including three-year projections of additional consumption using a three percent growth rate.”**

The annexation proposal is consistent with this policy because the provision of City utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Most recently the City updated its Stormwater Management Plan and Public Facilities Master Plan. Public Works testimony using analysis from the documentation within these recent study results confirm that the City has the capacity (actually, with regard to the City’s sewer system, in excess) to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

7. **“The City shall determine estimated additional usage and the impacts of proposed development upon maximum capability for sewer, water and stormwater systems. This information is to be included in subdivision and design review staff reports.”**

Throughout findings of fact of several annexation requires within the past six years, Public Works testified using analysis from the documentation within recent study results and confirm that the City has the capacity (actually, with regard to the City’s sewer system, in excess) to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy. Public Works testimony also provided information on water service and how city service is available if Heceta Water is unable to serve them.

## **Industrial**

### **Goal**

**To develop industrially planned and zoned lands within the Florence area for suitable research and development, manufacturing, processing, assembly, storage and distribution, construction and development-related uses, and airport-related uses.**

- Policy 4**     **The City shall maintain lands planned and zoned for industrial uses within Industrial zones free from the encroachment of incompatible land uses such as residential, public or private schools and day care centers, active parks, or retail use as a principal use.**



Currently, this developed property is zoned Suburban Residential/Mobile Home District by Lane County. The implementing City zoning for this area is Service Industrial. As such, the proposed Service Industrial zoning is consistent with the City of Florence Realization 202 Comprehensive Plan. Properties to the immediate south are similarly zoned and developed at least in part with industrial uses and pre-existing non-conforming residential uses. This criterion is met.

## **Service Industrial**

**In the UGB, industrially planned lands are designated Service Industrial in the area located between the North Commercial Node and the Heceta Beach Neighborhood Cluster along Highway 101. The purpose of the Service Industrial designation is to provide lands for construction and development service businesses and related uses, while continuing the North Gateway theme begun in the Neighborhood Commercial Gateway designation. There are no other appropriate or available lands within the City or the UGB for these uses. Heavy vegetation and berms will be used to separate the business/office structures along Highway 101 from the processing, storage, maintenance, and other more industrial functions to be located at the rear of the berms. Access to these sites shall be by shared driveways onto Highway 101 in the short term, and via Oak and Spruce Streets in the long term after these streets are developed.**

No development is proposed as it is an application for annexation and zone assignment. Title 10 Chapter 31 of the Florence City Code provides the implementing criteria for future development of the property, which will require additional Land Use Application reviews in concert with Florence City Codes.

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## **Chapter 12: Transportation**

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**8. The City shall protect the function of existing and planned transportation systems as identified in the TSP through application of appropriate land use and access management techniques.**

- Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.**

***OAR: 660-012-0060***

***Plan and Land Use Regulation Amendments***

***(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:***

**(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**

**(b) Change standards implementing a functional classification system; or**

**(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.**

...

**(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:**

**(a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;**

The functional classification of Highway 101 and Spruce Streets will not change with the annexation of these properties and eventual development of the property.

The zoning is changing from Suburban Residential (a Lane County designation permitting 6,000 sq. ft. lots) to Service Industrial. The new zone allows development and uses that occupy large parcels of land for warehousing, yards, storage etc. The zone change to large lot uses does not significantly affect trip counts on either Highway 101 or future Spruce St. Nevertheless, 3a of OAR 660-012-0060 offers relief of the requirement if the roadways were not adequate to achieve consistency by the end of the planning period in the adopted TSP, which is 2037. Spruce Street is undeveloped. Without a developer to upgrade it if the nexus existed, this street would stay undeveloped through the planning period of 2037. This criterion is met.

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## **Chapter 14: Urbanization**

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### **Goal**

**To provide for an orderly and efficient transition from County/rural land uses to City/urban land uses.**

This proposal is consistent with this Urbanization goal, because the proposed annexation provides for an orderly and efficient transition from County/rural land uses to City/urban land uses, as follows:

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City as all rights-of-way and surrounding property are in the city limits. It is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area.
- All connections and future connections to the sewer line have and will be funded through system development charges, connection fees, and property owner investment. This financing method allows for cost-effective service delivery to all users of the system.

### **Annexation Policies**

- 1. The procedures of ORS 222.840 et. Seq. (Health Hazard Abatement) shall be initiated if needed to remove dangers to public health. In the absence of a need for health hazard abatement annexation procedures, any annexation of county territory to the City of Florence shall utilize an annexation method allowable by state law that requires a majority of consents, and shall not utilize the “island annexation” procedures set forth by ORS 222.750.**

The proposed annexation has been initiated by the property owner. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits. This policy criterion is met.

- 3. Conversion of lands within the UGB outside City limits shall be based on consideration of:**
  - a) Orderly, economic provision for public facilities and services:**

The proposed annexation is consistent with Policy 3(a). because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, storm drainage, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the property within the proposed annexation, and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

Sewer: With a 2020 annexation of the property immediately to the south of the subject property, the Florence Public Works Department evaluated the impact of the possible future industrial development and concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing and allowed uses without negatively affecting existing customers. Therefore, the Waste Water Treatment Plant, which has an excess capacity of .55 million gallons daily continues to be more than adequate for existing and any future needs of the subject property without negatively affecting existing customers.

Water: The property will be served by Heceta Water People's Utility District services within Highway 101 unless capacity is unavailable at which the city does have service in Highway 101 and can serve the property.

Stormwater: There will be no change in the handling of stormwater upon annexation. Upon any development, the property will be expected to meet City Code, retaining all stormwater on-site.

Streets: The property is currently accessed by Highway 101 and may also be accessed via Spruce St. once available. Therefore, any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding street availability. Vehicular and pedestrian improvements to the adjacent streets will be accomplished in conjunction with improvements to the property.

Fire and Life Safety: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. Hydrant availability is discussed under the "Water" section above. Western Lane Ambulance District provides emergency medical support and transportation services to the annexation area.

Police: Once annexed, the City will provide public safety services. The Florence Police Department will expand their current emergency response service to patrol and respond to calls for the subject property.

Power: Central Lincoln People's Utility District currently provides electricity to the annexation area and will continue to do so following the annexation.

Communications: CenturyLink currently provides phone service to the area and will continue to do so following the annexation. Other utility companies such as Charter provide communications services and will continue to do so following the annexation. In addition, there are a number of cellular phone companies that provide service in the area.

**b) conformance with the acknowledged City of Florence Comprehensive Plan;**

This proposal is consistent with this policy. The Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) and is the acknowledged Plan for the City of Florence. As demonstrated in these findings of fact, the annexation proposal is in conformance with this acknowledged Plan.

**c) consistency with state law.**

The annexation proposal is consistent with this policy because the proposal is consistent with state law, as presented below in the review of Oregon Revised Statutes.

**4. The City will send a referral requesting comments on annexations to Lane County. The Comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.**

Staff sent referral requests to Lane County on December 29, 2021. No comments have been received by County staff.

**6. Annexed properties shall pay systems development charges as required by City Code.**

Water is available to the property and will continue to be provided by Heceta Water People's Utility District, who will continue to serve the area unless capacity is unavailable, at which point the City does have service in Highway 101 and can serve the property. Any undeveloped property will be charged systems development charges commensurate with their impacts on the systems.

**7. As a matter of public policy, Lane County and the City of Florence share a substantial interest in development within the Urban Growth Boundary. In order to receive a full range of urban services provided by the City of Florence, development within the Urban Growth Boundary shall require annexation. However, it is also recognized that until annexation Lane County will retain primary permitting responsibility for those lands.**

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for future development of the property.

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**OREGON REVISED STATUTES**

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**ORS 222.111 Authority and procedure for annexation.**

**(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.**

The proposed annexation area is located within the Urban Growth Boundary of the City of Florence. The proposed annexation is contiguous to the City on three sides. The property and surrounding area lie wholly within Lane County.

**(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.**

This proposal for annexation of the subject property was initiated by petition to the legislative body of the City by the owners of real property in the territory to be annexed. This criterion is met.

**(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a**

specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

The annexed property will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. This proposal for annexation did not include a tax differential schedule as allowed in this statutory section.

**(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The annexation area is within the Heceta Water PUD and Siuslaw Valley Fire and Rescue District, which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District as well as Heceta Water PUD.

**(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.**

Resolution No. 28, Series 2010, adopted by the City Council, the legislative body of the City, on July 6, 2010, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consent from all of the owners within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

**ORS 222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.**

**(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.**

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 28, Series 2010 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

**(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.**

Resolution No. 28, Series 2010 expressed the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council held a duly advertised public hearing after receiving a recommendation from the Planning Commission during their public hearing. The electors of the City could appear and be heard on the question of annexation and zone change assignment at each public hearing.

**(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.**

The public hearings were noticed as required by Florence City Code. Notice of the public hearings were published in the Siuslaw News on December 18, 2021 and again January 15<sup>th</sup> and 29<sup>th</sup>, 2022. Notices were posted in four public places: Florence City Hall, Justice Center, Siuslaw Public Library, and Post Office on December 18, 2021 and January 18, 2022.

**(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:**

**(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;**

**(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section;**  
or

**(c) Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.**

The City received signed petitions requesting annexation from all of the property owners and six electors residing on-site in accordance with ORS 222.125. This criterion is met. The

proposed annexation is contiguous to the City limits on three sides. Subsection “b” above is met. No finding related to this application was issued by the Department of Human Services.

**(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.**

The property will not be withdrawn from the Siuslaw Valley Fire and Rescue as discussed above.

**(6) The ordinance referred to in subsection (4) of this section is subject to referendum.**

The Ordinance that would be passed by City Council will be subject to referendum per ORS 222.170 (1) and 222.170 (2).

**(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”**

The written consents to annexation were received from the two property owners making up Lofy Properties. They constitute 100% of the ownership. This criterion is met.

**222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation.**

**The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.**

The City received signed petitions requesting annexation from all of the property owners and six electors residing on-site. This criterion is met.

**ORS 222.170 Effect of consent to annexation by territory; proclamation with and without city election.**



**(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:**

**(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or**

**(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.”**

The City received signed petitions requesting annexation from all of the property owners (100%) and six electors residing on-site. The written consents were received prior to the Planning Commission hearing of January 11, 2022, and received before the City Council held the public hearing required by ORS 222.120.

**(3) “Annexed properties shall pay system development charges as required by City Code.”**

The proposed annexation is consistent with Policy 3 because Florence City Code Title 9 Chapter 1 Section 4-A requires properties annexed to pay system development charges. Systems development charges will be paid upon connection to City utilities and upon development of the property.

**ORS 222.840 (Short title) to 222.915 Health Hazard Abatement Law**

**ORS 222.840 (Short title) to 222. 915 (Application of ORS 222.840 to 222.915) shall be known and may be city as the Health Hazard Abatement Law**

The proposed annexation is being voluntarily pursued by the applicant and property owner as described. The processes of this ORS do not apply.

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## **FLORENCE CITY CODE**

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### **TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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#### **10-1-1-6: TYPES OF REVIEW PROCEDURES:**

##### **10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:**

###### **B. Notification of Hearing:**

**1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and**

**Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.**

**a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.**

**b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.**

**c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).**

**d. Notice shall be mailed to any person who submits a written request to receive notice.**

**e. For appeals, the appellant and all persons who provided testimony in the original decision.**

**2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.**

This application includes a quasi-judicial zone assignment for the property. Subsections 1c and 1e are not applicable. Notice was provided as required in subsections 1a, 1b, 1d and 2. These criteria are met.

#### **10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)**

##### **D. Notice of Hearing:**

- 1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and comprehensive plan amendments).**

Petitioner has proposed annexation of their property. There will be at least two public hearings as part of this process and as required.

**10-1-2-3: ZONING OF ANNEXED AREAS: The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).**

The zoning district corresponding to the subject property's Comprehensive Plan designation is Service Industrial. The Service Industrial zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county and state.

### **10-1-3: AMENDMENTS AND CHANGES**

#### **B. Quasi-Judicial Changes:**

- 4. Planning Commission Review: The Planning Commission shall review the application for quasi-judicial changes and shall receive pertinent evidence and testimony as to why or how the proposed change is consistent or inconsistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is or is not contrary to the public interest. The applicant shall demonstrate that the requested change is consistent with the Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest.**

On January 11, 2022, the Planning Commission and on February 7, 2022, the City Council held public hearings on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearings and were reviewed against the applicable City and State policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the City's urbanization policies. These have been reviewed earlier with supporting findings.

Several factors are in place demonstrating that both an annexation and a zoning assignment of Service Industrial (upon annexation) is not contrary to and is therefore in the best interest of the public. The request is a prime example of orderly infill development, which is desirable considering the costly additions to infrastructure when expanding away from public infrastructure. This annexation request, for example, has the full support of the owners and residents and would serve to partially fill in an area surrounded by annexed properties on three of its sides. An annexation here would serve to partially eliminate an unannexed 'hole'. Such a hole could be confusing to residents who are unsure if they are within City limits (what codes and regulations to follow), and also know exactly who to contact in an emergency (City or County). Filling in the area with an annexation would positively affect the first responders in terms of continuity of services. Additionally, infrastructure opportunities and access are already available to the property, which include wastewater connections, Heceta Water and transportation (Highway 101), as the area has already been planned for expansion into the City. In terms of Service Industrial zoning, residents would continue to be allowed to live on the property with the application of Service Industrial upon annexation and the owner would be able to develop the property with uses allowed in that zoning (such as Accessory Dwelling Unit development) while following City regulations and codes.

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## **TITLE 10: CHAPTER 31: SERVICE INDUSTRIAL**

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**10-31-1: Purpose: The purpose of this District is to provide an area within the City for large-lot industrial uses, particularly those associated with construction and**

**development, while providing a visually pleasing north entrance into Florence, and maintaining through traffic flow on Highway 101.**

The subject property's defining use is residential at this time and will be legally non-conforming upon annexation. The proposed Service Industrial zoning is appropriate as it corresponds to the existing surrounding development pattern and comprehensive plan designation assigned properties in this area. No specific code criteria are applicable under this chapter for the annexation or zoning proposal.

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**Oregon Administrative Rules – 660-015-0000**

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**OAR 660-015-0000 (Goal 10):**

**To provide for the housing needs of citizens of the state.**

**Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.**

[...]

**Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.**

[...]

**Finding:** The population of the City of Florence exceeds 2,500 people, so the requirement for various housing types applies.

The City's Buildable Lands Inventory was updated in late 2018. In compliance with Goal 10 and applicable administrative rules implementing Goal 10, the inventory looks at acreage available for development within the City.

The zoning assignment for this annexation request will be Service Industrial. Aside from current residential uses, which will be legally non-conforming upon annexation and zoning assignment, only caretaker housing opportunities will be available upon future development. Presently under County jurisdiction the property may be built with one single family residence as no land divisions are permitted with the City of Florence UGB. The addition of land to the city limits will not impact the City's residential inventory in the City's BLI in a negative or positive way as little opportunity exists presently or by annexing.

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**VII. CONCLUSION**

The evidence in the record demonstrates that the proposed annexation and zone assignment is consistent with the policies set forth in state statutes, Florence City Code, and the Florence Realization 2020 Comprehensive Plan, based on the findings.

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## VIII. ATTACHMENTS

### Ordinance No. 2, Series 2022

- Exhibit A Annexation Map & Legal Description
- Exhibit B Findings of Fact
- Exhibit C Petition for Annexation

### Ordinance No.3, Series 2022

- Exhibit A Rezoning Map
- Exhibit B Findings of Fact

PROPOSED