

**CITY OF FLORENCE
ORDINANCE NO. 3, SERIES 2020**

**AN ORDINANCE APPROVING THE ANNEXATION OF 4781 TREEWOOD COURT,
ASSESSOR'S MAP 18-12-15-22 TAX LOT 05500**

RECITALS:

1. The City of Florence was petitioned by the property owner, Cathy Lacy, on March 17, 2020, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The City Council of the City of Florence is authorized by Oregon Revised Statutes (ORS) Chapter 222 to accept, process, and act on annexations to the City.
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. ORS 222.170 (2) requires that annexations be initiated by owners of more than half the land and the consent of the majority of electors residing on the affected properties.
5. A signed petition to annex was received constituting 100% of the property owners and electors of the lots included in the petition for annexation.
6. The City of Florence is not including additional lands to be annexed inside the city limits as provided under triple majority annexation, though the three conditions for a triple majority annexation have been met: more than half of the owners of land in the territory consent 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 represent more than half of the assessed value of property in the territory.
7. The Planning Commission met in a public hearing on March 24, 2020, after giving the required notice per FCC 10-1-1-6 to consider the proposal, evidence in the record, and testimony received.
8. 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.
9. The City Council met on April 20, 2020, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
10. The City Council on April 20, 2020, found that the request met the applicable criteria and that the property could adequately be served.

11. 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. 4, Series 2020 zoning the annexed property as Medium Density Residential, 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 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.

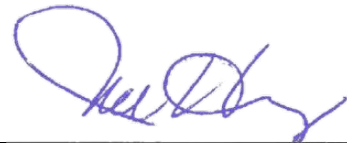
ADOPTION:

First Reading on the 20th day of April, 2020.

Second Reading on the 20th day of April, 2020.

This Ordinance is passed and adopted on the 20th day of April, 2020.

AYES	5	Councilors:	Woodbury, Preisler, Lucio, Greene and Mayor Henry
NAYS	0		
ABSTAIN	0		
ABSENT	0		

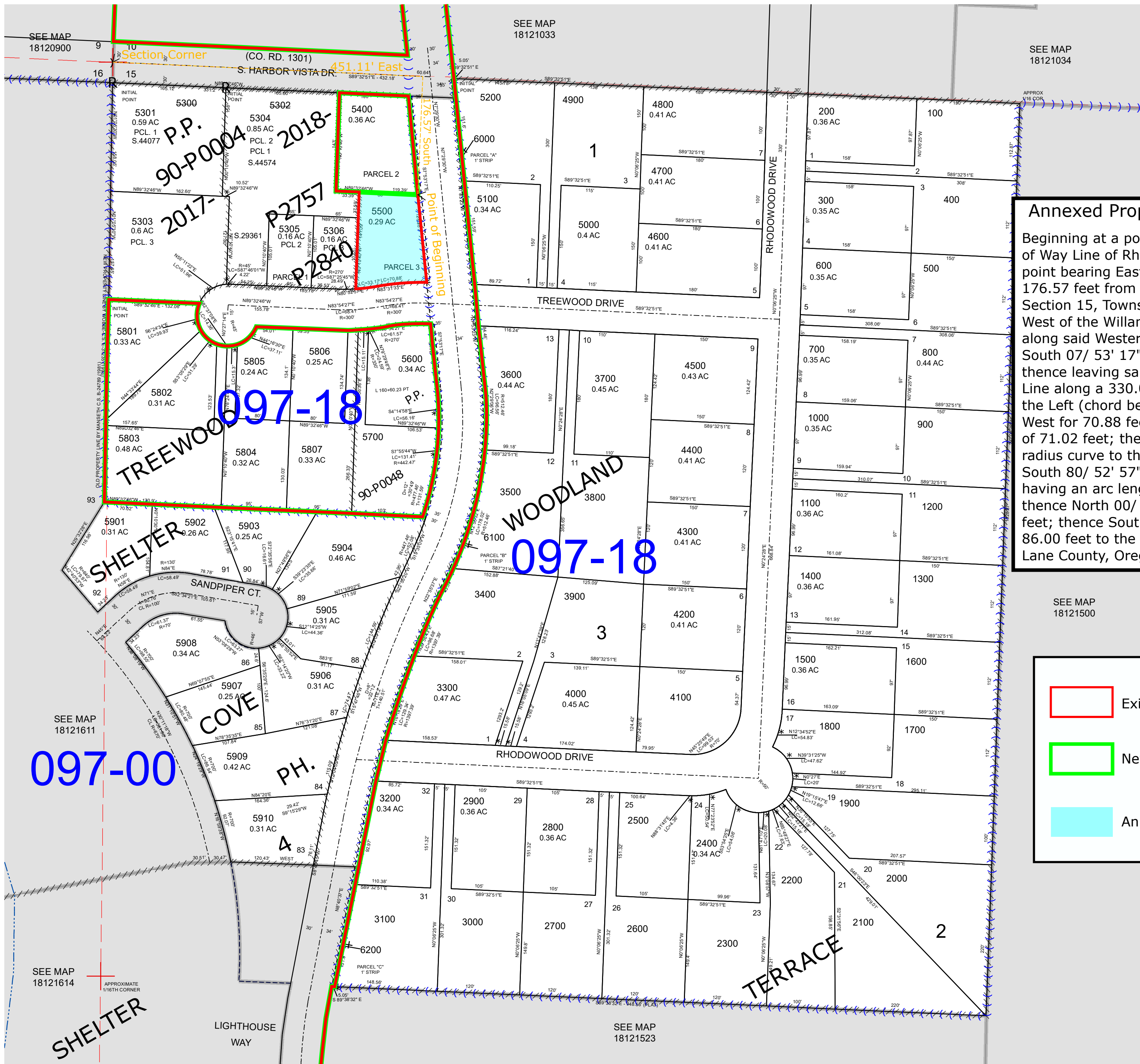


Joe Henry, Mayor

Attest:



Kelli Weese, City Recorder



Annexed Property Description:
 Beginning at a point on the Western Right of Way Line of Rhododendron Drive, said point bearing East 451.11 feet and South 176.57 feet from the Northwest corner of Section 15, Township 18 South, Range 12 West of the Willamette Meridian ; thence along said Western Right of Way Line South 07/ 53' 17" East for 128.38 feet ; thence leaving said Western Right of Way Line along a 330.00 foot radius curve to the Left (chord bears South 83/ 31' 33" West for 70.88 feet) having an arc length of 71.02 feet; thence along a 270.00 foot radius curve to the Right (chord bears South 80/ 52' 57" West for 33.17 feet) having an arc length of 33.19 feet ; thence North 00/ 10' 40" West for 141.09 feet; thence South 89/ 32' 46" East for 86.00 feet to the Point of Beginning, in Lane County, Oregon.

SEE MAP 18121500

- Existing City Boundary
- New City Boundary
- Annexed Property

REVISIONS
 11/20/2006 - LCAT 142 - CONVERT MAP TO GIS
 08/12/2011 - LCAT 174 - CANCEL TL 5300 INTO 2017-P2757
 01/17/2019 - LCAT 148 - CANCEL TL 5302 INTO 2018-P2840

FINDINGS OF FACT

Ordinance 3, 2020: Exhibit “B”

Ordinance 4, 2020: Exhibit “B”

Public Hearing Date: April 20, 2020

Date of Report: April 14, 2020

Application: CC 19 04 ANN 01 Annexation – 4781 Treewood Ct.
CC 19 05 ZC 01 Zoning – 4781 Treewood Ct.

I. PROPOSAL DESCRIPTION

Proposal: Annexation

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

Rezoning

A request, upon annexation, for the property to be zoned with a city zoning district. The corresponding zoning district matching the property’s comprehensive plan designation is Medium Density Residential.

Petitioners/Applicant: Lucy Cathy Larsen (owner at time of this report)
Kristy L. Nye (owner of record at time of application)
Andy Johnson (applicant)

Applicant Representatives & Associated Property:

Andy Johnson (owner’s representative)
Assessor’s Map 18-12-15-22 Tax lot 05500
Parcel 3 of Land Partition Plat 90-P0004, filed May 14, 1990, in Lane County, Oregon

Comprehensive Plan Map Designation: Medium Density Residential

Surrounding Land Use / Zoning:

Site: Single-family residence | Suburban Residential District (Interim Urban Combining District Overlay, Residential Development Shorelands Overlay)
North: Single-family residence | Suburban Residential District (Interim Urban Combining District Overlay, Residential Development Shorelands Overlay)
South: Single-family residences | Suburban Residential District (Interim Urban Combining District Overlay, Residential Development Shorelands Overlay)
East: Single-family residence | Suburban Residential / Mobile Home District (Interim Urban Combining District Overlay)
West: Vacant | Medium Density Residential District

Streets / Classification: West – none; South – Treewood Ct. / Local; East – Rhododendron Dr. / Minor Arterial; North – None

II. NARRATIVE

The applicant has petitioned for the annexation of a .29-acre residential property from Lane County jurisdiction to City of Florence jurisdiction. The property is in a predominantly residential area of the city which has seen several annexations in recent years.

The property was sold to a new owner during the time between the initial application and the date of this report. A petition for annexation was received from the prior owners at the time of application, December 19, 2019. A revised petition from the new owner—who is also the only elector residing on the property—was received on March 17, 2020. The application was deemed complete as of December 19, 2019.

State law requires written authorization from all owners of a property and from at least 50% of electors residing on the property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). Once the City has received a signed petition from the property owner, staff will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). The annexation and zoning assignment will be processed as a quasi-judicial hearing to determine the Planning Commission’s recommendations to the Florence City Council.

The property is currently served by Heceta Water PUD. After annexation, the property will be provided City services such as sewer and police protection from adjacent Rhododendron Drive. The property is within the Siuslaw Rural Fire Protection District. The property will continue to be served by all districts by which it is currently served.

The property’s wastewater septic system is failing. The home on the property would be connected to the City of Florence’s sewer system via a new gravity sewer line in Treewood Court. This gravity line would flow north in the Rhododendron Drive right-of-way to the pump system in S. Harbor Vista Drive, which connects to the pressure sewer system in Rhododendron Drive.

On March 24, 2020, the Florence Planning Commission unanimously approved Resolutions PC 19 27 ANN 01 and PC 19 28 ZC 01, thereby recommending approval of the annexation request and zone assignment to the Florence City Council. The only condition of approval included in the Resolutions pertained to the provision of a legal property description. The applicant has since provided such a description, and the condition of approval is no longer needed.

III. PUBLIC NOTICE

Notice of the City Council’s public hearing was mailed on March 31, 2020, to property owners within 300 feet of the proposed annexation area. Notice was published in the Siuslaw News on April 4 and April 8, 2020. On April 8, 2020, notices were posted at Florence City Hall, the Florence Post Office, Florence Public Works, and the Florence Event Center.

Public Comments:

At the time of this report, the City had received one public comments on this application. Ronald McCrary appeared at the Planning Commission public hearing on March 24, 2020, to

testify on the proposal. Mr. McCrary's stated that he owns property on Treewood Drive, and that he hopes city sewer infrastructure can be extended to properties like his at a reasonable cost.

IV. REFERRALS

On March 31, 2020, referrals were sent to the Florence Public Works, Building, and Police Departments; Lane County Transportation, Surveyor, Tax Assessor, Land Management, and Environmental Health Departments; the U.S. Post Office; OregonFast.net; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; County Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City had received referral comments from Lane County Transportation, Lane County Land Management Division, and CenturyLink indicating that none of the organizations had substantive comments or perceived conflicts with the proposal.

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170 (2)

Florence Realization 2020 Comprehensive Plan

Chapter 14: Urbanization, Policies 1 and 3 through 7

Zone Assignment

Florence Realization 2020 Comprehensive Plan

Chapter 2: Land Use, Policy 5; Residential Policies 7, 8 & 10; and Section on Residential Plan Designations

Florence City Code (FCC)

Title 10: Zoning Regulations

Chapter 1: Zoning Regulations, Sections 10-1-1-6-4, 10-1-2-3, and 10-1-3

Chapter 10: Residential Districts, Section 1

VI. FINDINGS OF FACT

The following findings support Ordinances 3 and 4, Series 2020, and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, and State Statutes.

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

FLORENCE REALIZATION COMPREHENSIVE PLAN

Chapter 2: Land Use

Policies

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.”**

As stewards of public funds, the City of Florence assesses its infrastructure using population growth projections consistent with annual estimates provided by The Population Research Center of the College of Urban and Public Affairs at Portland State University. Recent projects, such as the most recent utility plan update, have been undertaken with a projected growth rate of less than 1%.

The annexation proposal is consistent with the intent of this policy. 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 >1% 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 property. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents, consistent with the direction in this policy.

Residential

Goal

To create residential living environments that satisfy a wide variety of local and regional population needs and desires and add long-term community value.

Policies

7. **Residential development shall be discouraged in areas where such development would constitute a threat to the public health and welfare, or create excessive public expense. The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.**
10. **Single family residential uses (including manufactured homes) shall be located in low and medium density residential areas, and shall be discouraged from high density residential areas to protect that land for the intended uses.**

Currently, this land is zoned Suburban Residential by Lane County and has been developed with a single-family home. The implementing zone for this area is Medium Density Residential. Any future development will be in accordance with the implementing zoning district.

Medium Density Residential

The Medium Density Residential designation is intended for areas where existing lot sizes are in the neighborhood of 5,000 – 6,500 square feet, and 10,000-3,000 square feet, depending on the development type (Quadplex and single family attached, respectively), for the majority of developable land remaining in the City, as well as urbanizable lands east of Highway 101. The corresponding zoning district is Medium Density. Single family homes, manufactured homes meeting certain minimum standards, and duplexes are allowed. Tri and quad-plexes, and cluster housing are allowed with a conditional use.

The applicant has proposed the annexation and zone assignment of Medium Density Residential. This proposal meets all the requirements of this zone such as minimum lot size and width outlined in Title 10 Chapter 10.

Chapter 14: Urbanization

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 limits via right-of-way to the south and east and previously annexed private property to the west; 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. The annexation will allow the provision of City sewer to the property being annexed. All connections to the sewer line 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.
- The provision of sewer service will allow the property owners to avoid future septic drain field repairs and inefficient use of open space for drain fields on the lot.

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 in order to receive City services and voluntarily abate issues stemming from a failing septic drain field. 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.” This policy criterion is met.

The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits.

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: The Florence Public Works Department has evaluated the impact of the possible future residential development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the proposed uses without negatively affecting existing customers. Currently the Waste Water Treatment Plant has an excess capacity of .55 million gallons daily.

Water: The property is served by a connection to Heceta Water People's Utility District services within the Rhododendron Dr. right-of-way. A hydrant is available on Rhododendron Dr., directly adjacent to the subject property, but its capabilities are not known.

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

Streets: The property will be accessed via Treewood Court, which is under City of Florence jurisdiction and maintenance responsibility. City maintenance responsibility ends at Rhododendron's intersection with Sebastian Street. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by

the surrounding platted 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 and OregonFAST.net provide other 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 March 16 and March 31, 2020.

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

The applicant will be required to pay the project costs to extend sewer services where they do not currently exist. The addition of the existing single-family home to the city’s sewer services will necessitate payment of applicable systems development charges. Any undeveloped property and expansions to developed properties 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 development of the property.

OREGON REVISED STATUTES

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 from the west, south, and east, and the area is 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 Siuslaw Valley Fire and Rescue District, Heceta Water PUD, 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.

(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. 8, Series 2008, adopted by the City Council, the legislative body of the City, on April 21, 2008, 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 consents from 100% of the owners and electors 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. 8, Series 2008 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. 8, Series 2008 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 will hold a duly advertised public hearing on April 20, 2020, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that 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 City Council public hearing was noticed as required by Florence City Code. Notice of the public hearing was published in the Siuslaw News on April 4 and April 8, 2020. Notices were posted in four public places: Florence City Hall, Public Works, Florence Event Center, and Post Office on April 8, 2020.

(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 proposed annexation is contiguous to the City limits as described. At the time of this report, procedures for public hearings and other meetings have been revised in light of the ongoing COVID-19 pandemic, but adequate provisions are in place to allow the function of the legislative body and a decision on this proposal. If approved, an Ordinance containing a legal description will be passed, as required under **(b)**, showing that the landowners consented in writing to the annexation consistent with ORS 222.170.

(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.”

As of the date of initial application for annexation, written consent from the property owner was received by the City on a petition requesting annexation to the City. The current owner acquired the property with knowledge of the application. The property is not under multiple ownership, nor is it owned by a corporation.

ORS 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. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires a state process that calls for obtaining majority consent.

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.”

There is one elector within the proposed annexation area, who is also the sole property owner. The written consent from the property owner was signed prior to April 20, 2020, 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 further development on 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.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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

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).**

The applicant has proposed an annexation and zoning assignment for their property. There will be at least two public hearings as part of this process.

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 Medium Density Residential. The Medium Density Residential 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 March 24, 2020, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing 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. The Planning Commission voted unanimously in favor of Resolutions PC 19 27 ANN 01 and PC 19 28 ZC 01, thereby recommending to the City Council that the proposed annexation and zone assignment be approved.

TITLE 10: CHAPTER 10: RESIDENTIAL DISTRICTS

10-10-1: RESIDENTIAL ZONES AND PURPOSE:

- B. Medium Density Residential (MDR):** The Medium Density Residential District is intended to provide a quality environment for medium density, urban residential uses and other compatible land uses determined to be necessary and/or desirable.

The subject property's defining use is as a single-family residence. The proposed Medium Density Residential zoning is appropriate as it corresponds to the existing surrounding development pattern and comprehensive plan designation (Medium Density) assigned to the single-family residences in this area. No specific code criteria are applicable under this chapter for the annexation or zoning proposal.

VII. CONCLUSIONS

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