

**CITY OF FLORENCE
ORDINANCE NO. 14 SERIES 2021**

**AN ORDINANCE APPROVING THE ANNEXATION OF ASSESSOR'S MAP
18-12-10-40, TAX LOT 101, INCLUDING PORTIONS OF HECETA BEACH ROAD AND U.S.
HIGHWAY 101 AS PART OF A PROPOSED ANNEXATION**

RECITALS:

1. The City of Florence was petitioned by the property owner, Viktor Nazartchouk, on June 4, 2021, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The signed petition to annex was received constituting more than half of the owners of land in the territory consenting in writing to the annexation, with the sole owner consenting to annex more than half of the land in the contiguous territory, and the owner 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) through concurrent annexation of portions of Heceta Beach Road and U.S. Highway 101.
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 adopted findings of fact in support of the annexation.
5. The City Council met in a public hearing on August 16, 2021, 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 August 16, 2021, 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. 15, Series 2021 zoning the annexed property as Low Density Residential, and portions of Heceta Beach Road and U.S. Highway 101 as described in Exhibits A and B, 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 Assessor's Map 18-12-10-40, Tax Lot 101, and territory owned by the petitioner into the City of Florence containing approximately 6.76 acres as described in Exhibit A.
2. The City of Florence approves the annexation of a section of Heceta Beach Road of widths varying from 60 to 75 feet, approximately 1,900 feet in length and westward from the intersection of U.S. Highway 101 to a most western point of property located on Assessor's Map 18-12-10-40, and a section of Highway 101 with a width of approximately 100 feet, more or less, from the most northern current City limits to the most northern line of the intersection of Highway 101 and Heceta Beach Road, measuring approximately 600 feet, more or less, into the City of Florence as described in Exhibit A.
3. This annexation is based on the Findings of Fact in Exhibit B and evidence in the record.
4. 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).
5. 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 16th day of August, 2021.

Second Reading on the 16th day of August, 2021.

This Ordinance is passed and adopted on the 16th day of August, 2021.

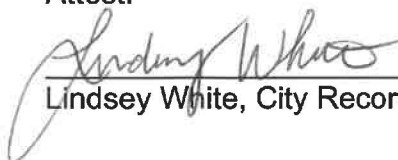
Councilors: Wantz, Woodbury, Meyer, Wisniewski, Mayor Henry

AYES	5
NAYS	0
ABSTAIN	0
ABSENT	0



Joe Henry, Mayor

Attest:



Lindsey White, City Recorder

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Lane, State of Oregon, described as follows:

Beginning at the East 1/4 corner of Section 10, Township 18 South, Range 12 West, Willamette Meridian; thence North 87° 31' 28" West 618.71 feet along the East-West 1/4 Section line of said Section 10; thence South 47° 00' 33" West 457.40 feet to the Northeasterly right of way line of Heceta Beach Road; thence South 45° 29' 02" East 33.24 feet along said right of way line; thence along a 984.93 foot radius curve to the right (the long chord of which bears South 44° 30' 34" East 33.48 feet) along said right of way line; thence South 85° 40' 51" East 14.81 feet along said right of way line; thence South 39° 27' 19" East 30.00 feet along said right of way line; thence North 47° 28' 00" East 36.69 feet; thence South 87° 31' 28" East 830.48 feet to the East line of the Southeast 1/4 of said Section 10; thence North 2° 19' 42" East 368.00 feet to the point of beginning, in Lane County, Oregon.

NOTE: This legal description was created prior to January 1, 2008.

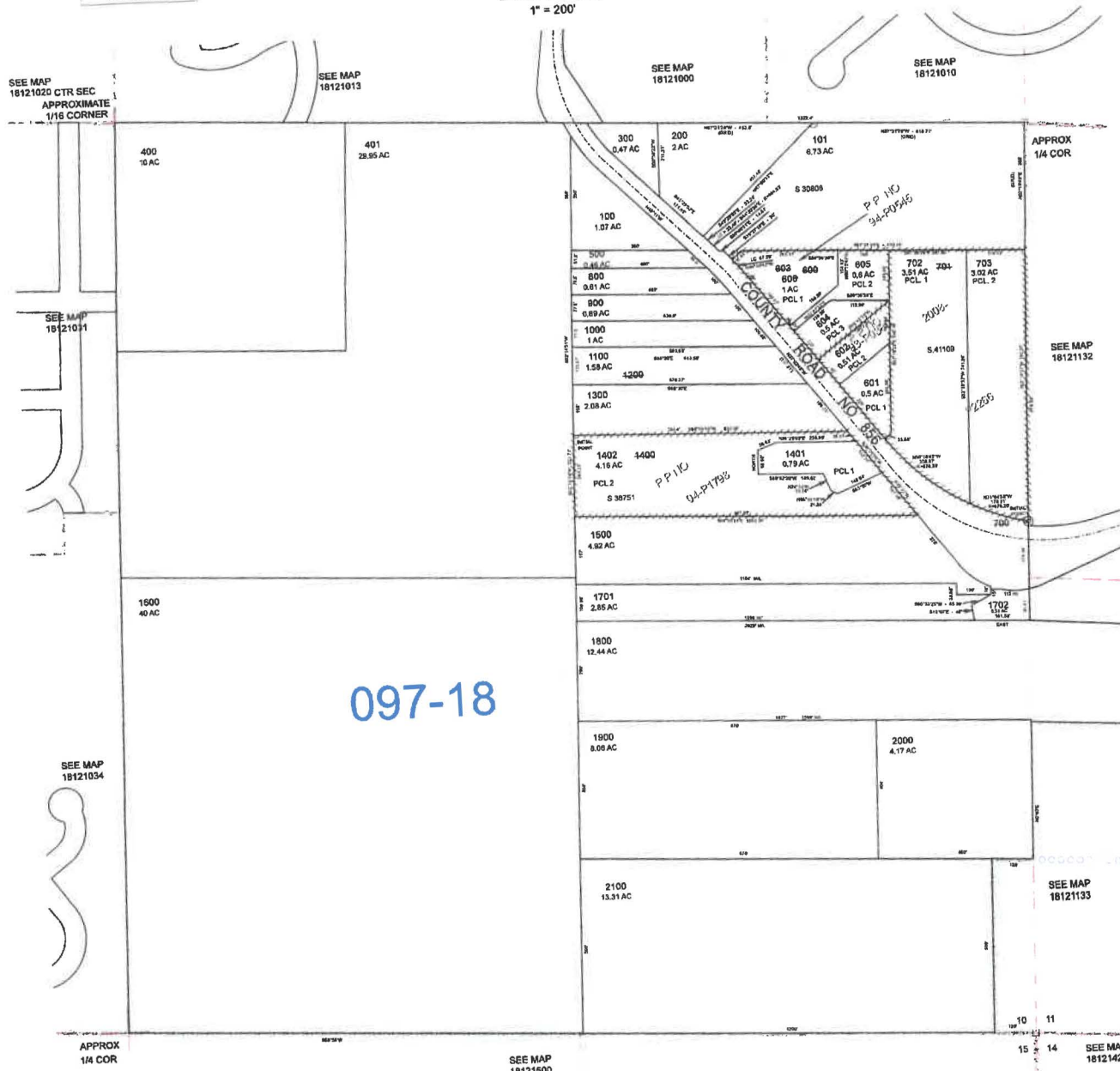
18121040
FLORENCE

LCATJCS - 2021-04-28 12:05

CANCELLED
1200
1400
600
603
700
701

FOR ASSESSMENT AND
TAXATION ONLY

S.E.1/4 SEC. 10 T.18S. R.12W. W.M.
Lane County
1" = 200'



097-18

PLAT 2004-P178
CONVERT MAP TO GIS
2004-P178 - CONVEY TO THE PUBLIC
2004-P178 - CONVEY TO THE PUBLIC
2004-P178 - CONVEY TO THE PUBLIC

FLORENCE
18121040

Exhibit A

Lane County Clerk
Lane County Deeds & Records

2020-065209

11/09/2020 11:55:22 AM

RPR-DEED Cnt=1 Stn=8 CASHIER 04 3pages
\$15.00 \$11.00 \$10.00 \$61.00

\$97.00



After recording return to:

Pear Blossom LLC



File No.: 7193-3596922 (SP)
Date: October 15, 2020

STATUTORY WARRANTY DEED

Martha Joyce Roosevelt, Trustee of The Martha Joyce Roosevelt Living Trust, Grantor, conveys and warrants to Pear Blossom LLC, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

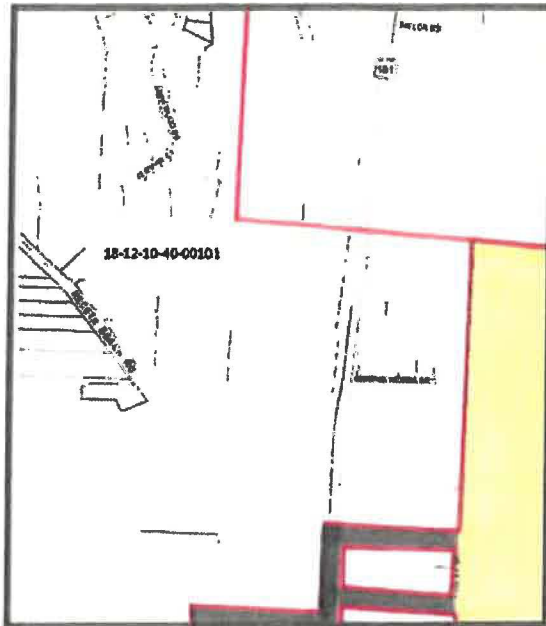
- 1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$185,000.00**. (Here comply with requirements of ORS 93.030)

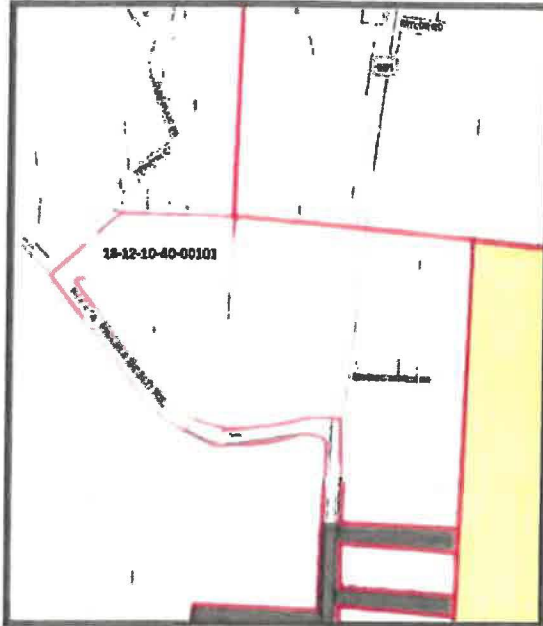
**City of Florence Current & Proposed Annexation
PC 21 17 ANN 06**

**Pear Blossom Heceta Beach Rd. & Sections of Heceta Beach Rd. & Hwy 101
Assessors Map 18-12-10-40, Tax Lot 101**

Before Proposed Annexation



After Proposed Annexation



FINDINGS OF FACT
Ordinance No. 14, 2021: Exhibit B
Ordinance No. 15, 2021: Exhibit B

Public Hearing Date: August 16, 2021
Date of Report: August 9, 2021

I. PROPOSAL DESCRIPTION

Proposal: Annexation

A request from a property owner on June 4, 2021, for the City of Florence to annex their property containing 6.76 acres and portions of Heceta Beach Rd from Lane County into the City and Portions of U.S. Highway 101 from the State of Oregon into the City.

Zone Assignment

Upon annexation, the property and associated roads require zoning assignments. The corresponding zoning district matching the property's plan designation is Low Density Residential District. Associated rights-of-way would be zoned a combination of Low Density Residential, Neighborhood Commercial, and Service Industrial, in conformity with their respective Comprehensive Plan designation.

Petitioners/Applicants: Viktor Nazartchouk

General Property and Right-of-Way Description (Annexation boundary described in respective Exhibit A; Zoning areas described in respective Exhibit A):

Assessor's Map Reference (MR) Map # 18-12-10-40, Tax Lot (TL) 00101

A section of Heceta Beach Road of widths varying from 60 to 75 feet, approximately 1,900 feet in length and westward from the intersection of U.S. Highway 101.

A section of Highway 101 with a width of approximately 100 feet, more or less, to the most northern line of the intersection of Highway 101 and Heceta Beach Road, measuring approximately 600 feet, more or less.

Comprehensive Plan Map Designations: Low Density Residential, Neighborhood Commercial Gateway, and Service Industrial.

Surrounding Land Use | Current Zoning:

Site: Vacant | TL 101: Suburban Residential/ with Interim Urban Combining District Overlay (county zone)

North: Low density single-family residences (The Reserve at Heceta Lake) | Suburban Residential/ with Interim Urban Combining District Overlay (county zone)

- South:** Residences, vacant land | Suburban Residential/ with Interim Urban Combining District Overlay and Prime Wildlife Shorelands (county zone)
- East:** Vacant land | Suburban Residential/ with Interim Urban Combining District Overlay (county zone)
- West:** Residence | Suburban Residential/ with Interim Urban Combining District Overlay and Prime Wildlife Shorelands (county zone)
- Streets | Classification:** Heceta Beach Road | paved Urban Collector under Lane County jurisdiction
 U.S. Highway 101 | Highway, paved Major Arterial, under Oregon Department of Transportation jurisdiction

II. NARRATIVE

The applicant petitioned for annexation of Tax Lot 00101 (“the Property”) from Lane County jurisdiction to City of Florence jurisdiction on June 4, 2021. Additionally, and in order to access the property, provide city ROW for utilities and allow contiguity of City boundaries and services, the applicant requested annexation of a portion of Heceta Beach Road and a section of Highway 101 extending from its intersection of Heceta Beach Road to the current city limit line in Highway 101 south of the intersection. (Exhibit C). All of these locales are situated within the City’s Urban Growth Boundary.

The undeveloped subject property contains 6.76 acres and is heavily vegetated with portions of a significant wetland area located in the southeastern portion of the property. This significant wetland is further discussed in these findings under the City of Florence Realization 2020 Comprehensive Plan, Goal 5.

The petition requesting annexation and zoning assignment was received on June 4, 2021, and deemed complete as of June 6, 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 the sole property owner and will 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. As discussed above, the annexation and zoning assignment procedure applies to the Property as well as the rights-of-way of Heceta Beach and Highway 101, as illustrated in Exhibit A of either of the Resolutions. In accordance with 10-1-1-5-B, the two actions will be processed through consolidated proceedings.

The Property is designated in the Florence Realization 2020 Comprehensive Plan as being Low Density Residential. The affected streets are designated in the Plan according to whichever future zoning districts they abut because, upon annexation, streets typically assume the zoning designations of their surrounds. There is no inherent benefit to the street zoning – the street continues to function as such and any future development or re-development (such as street-widening projects) would be in conformance with the City’s Transportation System Plan. With this request, the portion of Heceta Beach Road adjacent to the subject property is also proposed to be zoned Low Density Residential. Further east, there are several properties immediately south of Heceta Beach Road that are planned,

according to our Comprehensive Plan, to be zoned Service Industrial. Because these properties abut an area of Heceta Beach Road which is curved, the zoning is to meet the center of Heceta Beach Road. The property north of those properties and abutting Heceta Beach Road is projected to be zoned Neighborhood Commercial in the future. Thus, this zoning will be applied to the north side of Heceta Beach Road from the center line, upon annexation. The tract of Highway 101 southward from the Heceta Beach intersection to the most northern property located at 87687 Highway 101, which is the current City limit line is included in this request, (Exhibit A, Zoning & Zoning Map).

An important note is that zoning roads does not impose City taxes on County residents (non-annexed properties) nor cause county residents to become annexed.

The Property currently contains a meter served by Heceta Water PUD, so any development on the Property will be served by this provider. No City sanitary sewer mains are located near the Property. Sewer is discussed in Section IV of these Findings. After annexation, the Property will be eligible for City services such as police protection and sewer. The Property is within the Siuslaw Rural Fire Protection and Western Lane Ambulance Districts. The Property will continue to be served by all districts presently providing public services.

On July 27, 2021, the Florence Planning Commission approved Resolutions PC 21 17 ANN 06 and PC 21 18 ZC 06. These resolutions recommend approval of the annexation as described in Exhibit A of Ord. No. 14 and zoning assignment as described in Exhibit A of Ord. No. 15.

III. PUBLIC NOTICE

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on June 21, 2021, not less than 35 days prior to the proposed first evidentiary hearing of July 27, 2021, as required by State law and the Florence City Code.
27

Notice of the City Council's public hearing was mailed on July 27, 2021, to owners of property within 300' of the Property and the affected rights-of-way. Notice was posted on the property on July 27, 2021, and published in the Siuslaw News on July 31st and August 7th. On July 27, 2021, notices were posted at Florence City Hall. Notices were posted to the Florence Post Office, Florence Justice Center, Siuslaw Public Library on July 28, 2021.

Public Comments:

At the time of this report, the City received one written public comment in opposition by Bruce Hadley. Hadley's main objections pertain to annexation and responsibility of street maintenance of Heceta Beach Road and other roadways in general. Hadley contends that the City should assume responsibility for costs to maintain annexed roadways instead of relying on County financial assistance.

Where the testimony impacts the findings related to approval criteria, those points have been incorporated in the findings of fact.

Staff response:

1. Heceta Beach residents take advantage of streets maintained by Florence taxpayers more often than City residents take advantage of County-maintained streets. Transfer of street maintenance responsibility must be reviewed and approved by the Lane County Commission. Those transfers are likely to happen in large chunks as part of well-developed strategies and agreements between the City and the County; not in a piecemeal approach. The City and County refer to their respective transportation plans (their long-range plans) when considering annexation requests. Furthermore, Lane County, in Exhibit F, lays out the topic of jurisdictional maintenance and their support of this annexation request.

IV. REFERRALS

On July 8, 2021, referrals were sent to the Florence Public Works, Building, Utility Billing, and Police Departments; Lane County Transportation and Land Management Divisions; Charter Communications; Century Link; Central Lincoln PUD; Heceta Water PUD; CTCLUSI; ODOT; DLCD; US Postal Service; OregonFast.net; Western Lane Ambulance; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City received the following comments (Exhibit F):

- Lane County Transportation Planning:

“The subject property (‘property’) is located within the City of Florence’s Urban Growth Boundary. The property takes access off Heceta Beach Road, as shown in the figure below. Heceta Beach Road is a Lane County road functionally classified as an Urban Major Collector.”



*Lane County Transportation Planning would support an inclusion of Heceta Beach Road as part of the annexation request to provide an opportunity for future jurisdictional transfer, if and when such jurisdictional transfer is desired. We request the annexation include all land within the right-of-way boundary shown above, which includes Lane County property that hasn't formally been dedicated as right-of-way. This includes Heceta Beach Road elbow that's classified as a Rural Local Road. Unless and until jurisdictional transfer of Heceta Beach Road occurs, its current status as an Urban Major Collector requires that any redevelopment or new development of the property demonstrate compliance with Lane County's requires for roads as applicable. Such requirements are at Lane Code (LC) Chapter 15 and include: **LC 15.070: Building Setback Requirements for Local Access Roads, Public Roads, County Roads, and State Roads or Highways; LC 15.105: Dedication and improvement Requirements LC 15.135: General Access Requirements; LC 15.137: Access Management Requirements; and LC 15.704: Urban Local Street Standards. A full copy of LC Chapter 15 is available for review at:***
Lane Code - Lane County

Improvement Requirements

At the time of development, Lane County may require half-street improvements pursuant to LC 15.105 (1).

Stormwater

Stormwater runoff from private property must not be directed to the Lane County road right-of-way or into any Lane County drainage facility, including roadside ditches. Ditches adjacent to County roads are designed solely to accommodate stormwater runoff generated by the roadways themselves) Lane Manual Chapter 15.515)."

Staff response.

For the annexation and zoning assignment of Heceta Beach Road, at this time, the City is not proposing that the entire 'elbow' containing the Local Rural Road be included. For future annexation and zoning assignments of the lots that front this street, it is most likely that the Local Rural Road located in the lower part of the 'elbow' will be included. Annexation and concurrent zoning of the upper part of Heceta Beach Road in the 'elbow' will not affect access to the properties fronting the local road.

Another point of discussion is that the City would not consider annexing property that has not been dedicated to a governmental entity.

- Mike Miller, Florence Public Works Department Director:

Sanitary Sewer

"The nearest City sanitary sewer facilities are located on the east side of US 101 (Hwy 101) south of Heceta each Road and on the west side of US1-1 approximately 986 feet south of the intersection of Heceta Beach Road and US101. The subject property is a total of 2,897 lineal feet from the closest gravity sewer facility located on the west side of US101. The gravity sewer located on the east side of US101 is closer at 1,352

lineal feet, however it would require a directional bore under the State roadway in order to gain access. At this time, although sanitary sewer capacity is available, it may not be economically feasible to extend sanitary sewer from its current terminus's.

For the record, currently the total sanitary sewer capacity of the treatment plant is 1.3 million gallons per day (MGD) dry weather flow. Our current average dry weather flow is 0.745 (this is pre-COVID-19, the flows are currently less due to COVID-19) which equates to 0.555 mgd of excess capacity at the treatment plant.

It is the policy of the city of Florence to provide sanitary sewer service to any property within the City's wastewater service area. However, the property owners are to pay for sewer main extension, manholes, pump stations, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project. Again, this is for this particularly property, due to the great distance from existing City sanitary sewer infrastructure, further engineering examination needs to be completed to determine costs and feasibility of such extension of improvements.

Streets

Heceta Beach Road is a two lane urban collector roadway under Lane County maintenance. Upon annexation. This Heceta Beach Road will remain under Lane County maintenance jurisdiction and the City at this time will not seek jurisdictional transfer of this roadway. Additionally, between County milepost (MP) 0.06 and MP 0.15 there is a small frontage road within the 'Heceta Beach Road' right-of-way that serves as a frontage road to five residential properties. This small frontage road is designated by the County as a rural local road (by definition rural local roads are roads located outside of an urban growth boundary per Lane Code 15.030 – this particular section of road should actually be designated as an urban local road). This small frontage road will also remain under County maintenance until such time that jurisdictional transfer is requested and accepted by the County.

Stormwater

Stormwater management will need to be considered as development occurs on the property. Stormwater from the site cannot be conveyed into the stormwater facilities located within the Heceta Beach right-of-way.

Water

The property is currently within Heceta Water People's Utility District (HWPUD) service territory and will remain a HWPUD customer. Please contact HWPUD for specific fire flow and domestic capacities for this area."

V. APPLICABLE REVIEW CRITERIA

Annexation:

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; 222.170; 373.270

Florence Realization 2020 Comprehensive Plan, Chapters

1: Citizen Involvement, Policy 4

- 2: Land Use, Policy 6; Residential Policies 2, 7, 8 & 10; and Section on Residential Plan Designations
5. Open Spaces and Scenic, Historic and Natural Resources, Policies 1 thru 6
- 14: Urbanization; Annexation section, Policies 1 through 7

Florence City Code (FCC), Chapters

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

Proposed Zone Assignment—Medium Density Residential District, Open Space District, Commercial District:

Florence Realization 2020 Comprehensive Plan

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 6; Residential Policies 2, 7, 8 & 10; and Section on Residential Plan Designations

Florence City Code (FCC), Chapters

- 1: Zoning Regulations; Sections 10-1-1-6-4, 10-1-2-3, and 10-1-3
- 10: Residential Districts; Section 1

Oregon Land Use Planning Goals

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

VI. FINDINGS OF FACT

The following findings support the ordinances and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, State Statutes, and State Administrative Rules.

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

FLORENCE REALIZATION COMPREHENSIVE PLAN

Chapter 1: Citizen Involvement

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 approve 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 Planning Commission public hearing was conducted both in-person and virtually, both options allowed more opportunities for public participation as are those attending the City Council hearing on this matter. The City Council hearing is to be held in-person and include remote participation options. Those attending this latter meeting in person will need to sign up via the City's calendar site to speak (Submit a speaker's card). Those who wish to speak virtually will be able to provide verbal testimony during the public hearing via the internet or via telephone. Those wishing to simply view the hearing may do so through the GoToWebinar platform, or watch the hearing live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunities for written participation are also available up to August 9, 2021 to be included in these findings, and up to two hours prior to the hearing on August 16, 2021 to be included in the record. In the event pre-recorded messages are provided as public testimony, these will be made available to the decision body prior to the decision being made or their comments relayed to the decision body to the satisfaction of the testifier.

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."**

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. At this time, however, no sewer services are available in the Property area as discussed above. Public Works testimony from recent annexations indicate that using the analysis from the documentation within these recent study results confirm that the City has the capacity to serve the annexation area at a later time 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.

- Policy 2. The City shall initiate an evaluation of its residential ordinances following adoption and acknowledgment of this Plan with respect to increasing residential densities through the use of smaller lot sizes, encouraging**

cluster developments, and providing developers with density bonus options based on public benefit criteria.

In December 2019, the City adopted new housing codes that increased the density of residential districts through the use of small lots. The revised Low Density Residential District (formerly Restricted Residential) implements this policy and provides the framework for the future development of this property.

Policy 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.

Currently, this land is zoned Suburban Residential with an Interim Urban Combining District Overlay within Lane County and is undeveloped. The implementing zone for this area is Low Density Residential. The City has established policy in the Comprehensive Plan and City code regulating development in these land use classifications. Residential development on the Property would not constitute a threat to the public health or welfare or create excessive public expense any more than the development that is typical to the area, and development regulations are in place to abate any potential issues.

A southeastern area of the Property is shown to be located both within the Local Wetlands Inventory- Index Map (Map 6, 28 PFO4 C) and on the Significant Wetland Areas Map Florence Realization 2020 Comprehensive Significant Wetlands, (Exhibit E). The Property soils contain Netarts fine sand, Yaquina loamy fine sand and Waldport fine sand. As such, future development will require a Phase 1 Site Investigation Report (SIR). In accordance with Title 10 Chapter 7, these are performed in conjunction with development or platting to identify areas of hazard and ensure the development is proposed in a manner to eliminate the risk associated with the hazard.

The adjacent street infrastructure is functionally designated as a 'Minor Arterial' street in the City's 2012 Transportation Systems Plan):

"Arterials are intended to serve high volumes of traffic, particularly through traffic, at relatively high speeds. They also serve truck movements and typically emphasize traffic movement over local land access," (p. 28).

The surrounding area is characterized primarily by vegetated seasonal wetlands and low-density residential uses and away from uses that produce noise, odor, and glare. The posted speed along Heceta Beach Road near the Property is 40 mph. Any proposed development on the Property will be subject to City code in relation to special development requirements (for soils and wetland mitigation), possible traffic impact studies, resulting improvements, and also subject to nuisance code and land use codes including special development requirements for soils, stormwater, and wetlands protection to name a few.

Policy 8. Existing residential uses in residential zoning districts and proposed residential areas shall be protected from encroachment of land uses with characteristics that are distinctly incompatible with a residential environment. Existing residential uses in commercial and industrial zones shall be given the maximum practicable protection within the overall purposes and standards of those districts.

Policy 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.

There is no existing use on the proposed annexation site. Any future development will be in accordance with the implementing zoning district, Low Density Residential. The properties surrounding this Property have County zoning consistent with the City's Low Density Residential district. No area lots are a minimum of 7,500 square feet, which is the minimum lot size for Low Density Residential zoning.

Low 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 for the majority of developable land remaining in the City, as well as urbanizable lands east of Highway 101. The corresponding zoning district is Single Family Residential. Single family homes and manufactured homes meeting certain minimum standards are allowed. Duplexes are a conditional use.

The applicant has proposed the annexation and zone assignment of Low Density Residential. Residential development on the Property would meet the requirements of this zone, such as minimum lot size and width outlined in Title 10 Chapter 10.

Chapter 5: Open Spaces and Scenic, Historic and Natural Resources

Goal

To conserve natural resources such as wetlands, riparian areas, groundwater supplies, air and water, and fish and wildlife habitat in recognition of their important environmental, social, cultural, historic and economic value to the Florence area and the central Oregon Coast.

Wetlands and Riparian Areas

Objectives

- 1. To maintain an accurate inventory of wetlands for use in land use planning and development review.**

2. To protect significant wetlands for their critical value in maintaining surface and groundwater quality and quantity, providing wildlife habitat, performing flood control, and enhancing the visual character of the Florence community.

Policies

1. For the purpose of land planning and initial wetland and riparian identification within the Florence Urban Growth Boundary (UGB), the City and Lane County shall rely on the 2013 Florence Local Wetland and Riparian Area Inventory (2013 Inventory), approved by the Oregon Division of State Lands, and as amended hereafter. The 2013 Inventory within the Florence UGB, as amended, is adopted as part of this Comprehensive Plan and is physically located in Appendix 5.
2. Disturbance of significant¹ wetlands for land development activities shall be permitted within the Florence UGB only as determined by the permitted provisions of permits issued by the Department of State Lands and/or the Army Corps of Engineers.
3. In accordance with ORS 215.418, the City and County shall notify DSL when wetlands are present on a property that is subject to a local land use or building permit approval. The City shall notify DSL when riparian areas are present on a property that is subject to a local land use or building permit approval.
4. The City and County shall consider formal wetland delineation reports approved by the Oregon Department of State lands as a valid source of wetland information specific to a land use action or limited land use action. Such reports, if approved by DSL, will be incorporated by reference into the City's 2013 Florence Area Local Wetlands and Riparian Inventory.
5. No significant wetland or riparian corridor as defined by the 2013 Florence Area Local Wetlands and Riparian Area Inventory shall be drained by re-routing of natural drainage ways.
6. The City shall protect the functions and values of significant Goal 5 riparian corridors and wetlands for flood control, water quality, and fish and wildlife habitat through Code provisions that protect these resources from development in accordance with Statewide Planning Goal 5 administrative rules (OAR 660 Division 23) and the Economic, Social, Environmental, and Energy (ESEE) Analysis and Limited Protection Program.

The ESEE Analysis is included and significant wetlands and riparian corridors are listed and mapped, in the³ "2013 City of Florence Significant Wetlands and Riparian Corridors Plan" adopted by reference into this Comprehensive Plan. The Program exempts public infrastructure, as defined in the ESEE Analysis, from local wetland protection measures, [...]

This proposal is consistent with the intentions of State Goal 5. The City has inventoried significant wetlands and acknowledges them in the Florence Realization 2020

Comprehensive Plan which mirrors the State's Goal 5, which directs local governments to conduct inventories of resources such as wildlife habits and wetlands in order to plan for and protect these areas. An ESEE analysis was performed for Goal 5 wetlands and protections placed in city code Chapter 7 of Title 10 protecting these resources. Any future development of the subject property will be in line with protecting the existing wetlands (described below) located on the property.

Recommendations

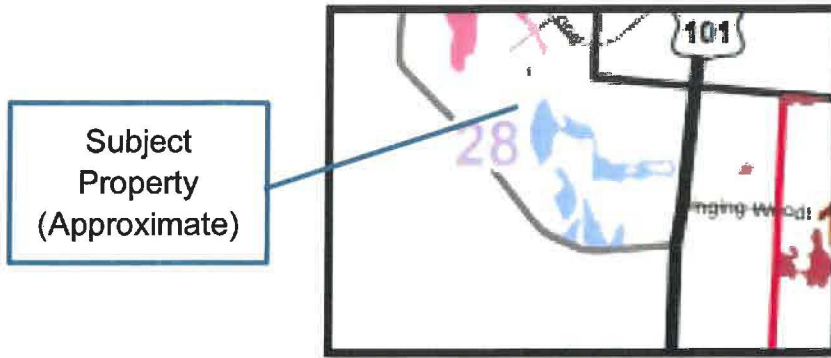
- 1. The City should consider restoring and protecting City-owned wetlands and riparian areas, using the preliminary assessment in the 2013 City of Florence Significant Wetlands and Riparian Corridors Plan in the Comprehensive Plan Appendix 5.**

Background

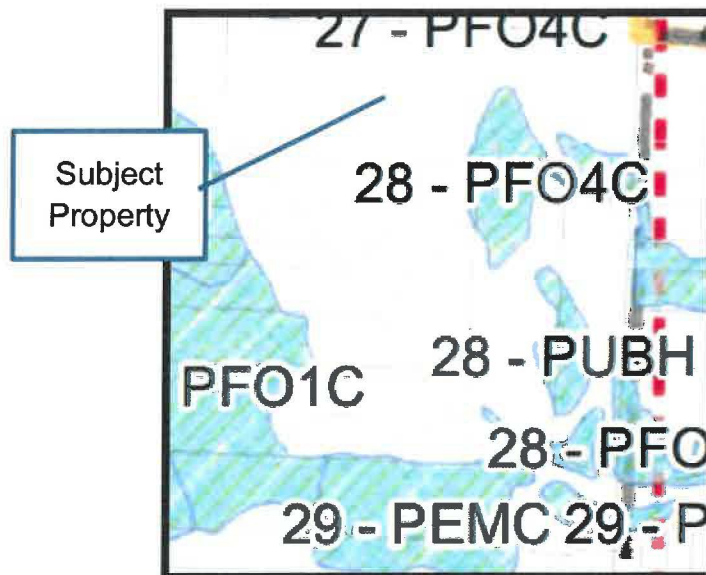
[...]

The 2013 Local Wetlands and Riparian Inventory updated the "City of Florence Local Wetlands and Riparian Area Inventory," prepared on December 30, 1996 by Pacific Habitat Services, Inc. and approved by DSL in 1997 (1997 Inventory). That inventory used the Oregon Freshwater Wetland Assessment Methodology (OFWAM). For the 2013 Inventory, an alternative wetland assessment, the Oregon Rapid Wetland Assessment Protocol (ORWAP; 2009), was used. The ORWAP provides much more detailed data on wetland functions, values, and condition. The 1997 Inventory identified 270 wetlands, totaling 572 acres, and about 315 acres of riparian area. In the 2013 Plan, all of the 16 wetlands that are not subject to Goal 17 within the UGB were considered "significant" under Goal 5. The improved inventories and assessment information in the 2013 Inventory assist the City in complying with Statewide Land Use Planning Goal 5 and will help the City and the County to make more informed land use decisions within the city and unincorporated lands within the study area. On September 1, 1996, the Land Conservation and Development Commission adopted a revised Statewide Planning Goal 5. The Goal requires local jurisdictions to inventory the natural resources covered under the Goal, determine the significance of these resources, and develop plans to achieve the Goal. In other words, local jurisdictions must adopt land use ordinances regulating development in and around significant resource areas.

A southeastern portion of the subject property contains wetlands identified as "Wetlands 28" within the 2013 Local Wetlands and Riparian Inventory and is not subject to Goal 17 as described above but rather Goal 5. Future development of the subject property will entail fulfilling state and federal requirements necessary to delineate and protect these wetlands. The specific Wetland Summary Sheet for Wetland 28 and taken from the 2013 Local Wetland and Riparian Inventory appendices is located in Exhibit E. Below is a map excerpt taken from the 2013 Significant Wetlands Map illustrating Significant Wetlands 28 (Exhibit E contains the full map). Please note that the northern portions of these wetlands are located on the subject property:



Yet another map excerpt which better illustrates property boundary lines and taken from a 2013 Local Wetlands Inventory document entitled “*Florence Area Local Wetlands and Riparian Inventory*” (Exhibit E also contains the full map), is provided below:



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 will be contiguous to existing City limits via annexation of public right-of-way, and the proposal meets the applicable city code and Comprehensive Plan policies; 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. There are no sewer mains adjacent to the subject property and service will need to be extended to the property. When sewer is extended to the Property, all connections to the sewer line at that time 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.
- Furthermore, the provision of future sewer service will allow the adjacent property owners to eliminate the need for septic systems and their maintenance and repair in this high ground water area should their systems fail and are unable to be replaced with similar systems.

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 has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

For this proposed annexation, the City of Florence has utilized 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. The City has received a signed petition from the property owners. This criterion is met.

- 2. For properties within the North Florence Dunal Aquifer that are also within the Urban Growth Boundary, no land divisions shall be allowed prior to annexation to the City. The North Florence Dunal Aquifer boundary is delineated by the EPA Resource Document “For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer,” EPA 910/9-87-167, September 29, 1987, Comprehensive Plan Appendix 5.**

The property is located within the UGB and the North Florence Dunal Aquifer and thus not eligible for land division until annexed.

- 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 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the properties 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: Comments submitted by Mike Miller, Public Works Director, are discussed under the referral section of these Findings. Miller does state that *'it is the policy of the City of Florence to provide sanitary sewer service to any property within the City's wastewater service area. Normally, property owners are to pay for sewer main extension, manholes, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for their project. Title 10 Chapter 36 and Title 11 Chapters 2 and 3 both require the applicant to install sewer service in conjunction with development and platting, respectively.'* With this request, the Property is not currently within the City's wastewater service area, so a septic system or systems would be the feasible alternative.

Water: The property is currently undeveloped but does contain a meter owned by the Heceta Water People's Utility District services. This service provider will continue to provide service.

Stormwater: There will be no change in the requirements of handling of stormwater upon annexation. Upon development, the property will be expected to meet City Code, retaining all pre-development stormwater flows on-site. The associated policies reduce the risk of public impacts, including impacts on local natural resources.

Streets: The Property abuts the public rights-of-way of Heceta Beach Road, which is under Lane County jurisdiction. This road is listed as a Major Collector Road within the County's 2017 Transportation System Plan (Volume 1), and has historically served to connect traffic to residences and the beach in the Driftwood Shores area. The existing usage and any future usage (vehicular trips) made possible by annexation and zone assignment can be accommodated by the surrounding platted and non-platted street availability. Improvements to the adjacent street will be accomplished as needed in conjunction with driveway improvements to the property, when access would be proposed and reviewed with a development proposal. No vehicular trips are proposed with this application, and no improvements to Heceta Beach Road is required with this application.

The City is not requesting maintenance transfer from Lane County of Heceta Beach Road at this time as discussed above in these findings.

FCC 10-1-4-E-2 requires performance of a Traffic Impact Study upon, "A change in zoning or plan amendment designation where there is an increase in traffic or a change in peak-hour traffic impact." The County zoning district currently permits lot sizes similar to the minimum required by the Low Density District. A TIS is not required for this application. It is for these same reasons that the Transportation Planning Rule does not apply—density is not changing, zoning is not impacted, development may impact the street network and will be evaluated via a TIA/TIS in the event an impact is proposed, but it is unlikely given the significant wetlands

that will restrict development density that the property will trigger the warrants for a TIA. An existing public street network is available to serve this 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.

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 properties.

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

Communications: Lumen (formerly 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 because the Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCDD) 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.

Referrals requests were sent to Lane County. This entity will be informed of all proposed developments occurring on the property in the future until jurisdictional transfer of the Property and right-of-way is complete. The Oregon Department of Transportation was notified of the proposal as well, but will not be providing the City with a jurisdictional transfer at a later date.

5. The City will send a referral requesting comments on annexations to the Heceta Water District, for annexations within the District's service boundary. 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.

The Water District was provided notice. As of this report writing no testimony had been received. Any comments received will become part of the public record for later public hearings.

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

The applicant will be required to pay the costs to extend sewer services where they do not currently exist. Future development of the properties will necessitate payment of applicable systems development charges. Any undeveloped properties and expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems. At this time, however, the Property is located outside of the City sewer service area.

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, with the exception of maintenance and access from streets adjacent to the property, which are maintained by Lane County.

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 Property proposed for annexation area is located within the Urban Growth Boundary of the City of Florence. Upon annexation, the Property would be contiguous to the City boundaries through the concurrent annexation of Heceta Beach Road and Highway 101, where this latter roadway meets current City limits.

(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.

The annexation petition of the Property was initiated by the owner of the real property in the territory to be annexed. Pursuant to established practices, the County has consented to the annexation of public rights-of-way. At this time, there are no plans for the City to assume maintenance jurisdiction over Heceta Beach Road. Furthermore, the City will not assume maintenance jurisdiction over U.S. Highway 101

(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. The 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, 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. 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.

There are no electors within the Property to be annexed. The City received written petition from the owners of the Property within the annexation area, as allowed in ORS 222.170; therefore, an election is not required.

ORS 222.120 Procedure for annexation without election; 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. 10, 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. 10, Series 2010, Section 2 specifically 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 and instead hold a public hearing. Public hearings on this annexation and zoning assignment proposal were held before both the Planning Commission and City Council (the legislative body) allowing City electors to be heard on the proposed annexation.

(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.

Notice of the City Council public hearing was published in the Siuslaw News on July 31 and August 7, 2021. Notice was posted on July 28th to Florence City Hall, the Florence Post Office, Siuslaw Public Library, and the Florence Justice Center.

(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 will be contiguous to the City limits through the extension of City boundaries of Heceta Beach Road and its connection to Highway 101 as it would connect to existing northern city limits within the highway's right-of-way. Subsection "b" above is met. The City Council will be the final decision-making body possibly adopting Ordinance Nos. 14 and 15, Series 2021 after reviewing the Planning Commission's recommendation.

(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.

No properties will 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 passed by City Council is 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 consent from the property owner was received by the City on a petition requesting annexation to the City, (Exhibit C).

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 or ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute.

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

(1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and 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 area under consideration consists of the applicant's Property and portions of the rights-of-way of Heceta Beach Road and U.S. Highway to current City limits. Written consent from the property owner was signed and provided with the petition for annexation received by the City on June 2, 2021. The applicant owns property representing 100% of the assessed value of real property under consideration. This criterion is met.

(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 are no electors within the proposed annexation area. The written consent from the property owners was signed and provided with the petition for annexation received by the City on June 4, 2021.

(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 systems development charges. Systems development charges will be paid upon connection to City utilities and upon further development on the property.

ORS 373.270 Transferring jurisdiction over county roads within cities

(1) Jurisdiction over a county road within a city may be transferred under this section whenever:

(a) The county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and

(b) The governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city.

Jurisdictional transfer of public rights-of-way is not being pursued as part of this annexation request. This criterion and the other criteria of ORS 373.270 would be followed in the event of jurisdictional transfer.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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.

Subsection 1c as it relates to ORS 227.186 is applicable as staff has followed noticing requirements in conformance with this statute. Noticing for ORS 227.175(8) is not applicable with this annexation and zoning assignment proposal because it pertains to noticing guidelines for all or part of a mobile home/manufactured home park. Additionally, Subsection 1e is not applicable with these Findings as a decision has not yet been rendered. Notice was, however, provided as required in subsections 1a, 1b, part of 1c, 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).**

The applicant has proposed annexation of their property. The Planning Commission held one public hearing as part of this process (on July 27, 2021), and the second public hearing is to be held by the City Council on August 10, 2021..

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 Low Density Residential. The zoning districts corresponding to the subject rights of ways' Comprehensive Plan designation includes Low Density Residential, Neighborhood

Commercial Gateway, and Service Industrial, respectively. The stated zoning districts will be assigned upon approval of the request from the City Council and finalization of the annexation process with the county and state. Review of the applicable code (Residential) and Comprehensive Plan objectives and policies are contained within these findings.

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 July 27, 2021, 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.

TITLE 10: CHAPTER 10: RESIDENTIAL DISTRICTS

10-10-1: RESIDENTIAL ZONES AND PURPOSE:

A. 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 vacant Property and a portion of the affected Heceta Beach right-of-way are proposed to be zoned Low Density Residential District. This residential zoning is appropriate, as it corresponds to Comp. Plan designation (Low Density), which was reviewed and approved by the State. The approximately 6.76-acre Property consists of one parcel which meets the minimum lot size of the district (7,500 sq. ft.). No specific policies are applicable under this annexation or zoning proposal since no development is proposed or approved under this application; however, important to note are the existing significant wetlands on the Property. Low Density Residential zoning could be more compatible with respect to wetland protection – and in line with Goal 5 - than a zoning assignment that would allow even more density. Low density residential would continue to allow development of Accessory Dwelling Units with associated single-family primary detached housing and support Goal 10, as discussed below.

Oregon Administrative Rules – 660-015-0000

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 Residential 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's residential areas. While residential uses are permitted or conditionally permitted in areas with non-residential designations, the BLI only inventories acreage within residential zoning districts (see Housing Needs Analysis Appendix I).

The zoning assignment for this annexation request does relate to the opportunity to provide additional residential uses. The addition of land to the city limits impacts the City's residential inventory in the City's BLI in a positive way by adding more buildable land to the inventory to support additional housing.

The Housing Needs Analysis 2017, Exhibit IV.6, identifies a forecasted need under Scenario A of 858 single family dwelling units with an estimated land need of 164 acres. The proposed zoning assignment to Medium Density Residential for the .27 acres creates a positive impact on the supply of residential land base.

B. IMPLEMENTATION

5. Additional methods and devices for achieving this goal should, after consideration of the impact on lower income households, include, but not be limited to: (1) tax incentives and disincentives; (2) building and construction code revision; (3) zoning and land use controls; (4) subsidies and loans; (5) fee and less-than-fee acquisition techniques; (6) enforcement of local health and safety codes; and (7) coordination of the development of urban facilities and services to disperse low income housing throughout the planning area.

Finding: The proposals are consistent with this rule because it includes proposed zoning that supports implementation of the adopted HNA, including needed housing types such as single

family residential and accessory dwelling units, providing the opportunity for housing units as identified above.

VII. CONCLUSION

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