

**CITY OF FLORENCE
ORDINANCE NO. 21, SERIES 2021**

**AN ORDINANCE ESTABLISHING ASSIGNMENT OF MEDIUM DENSITY RESIDENTIAL ZONING
AS PART OF A PROPOSED ANNEXATION TO PROPERTY IDENTIFIED AS 88385 1ST AVENUE,
ASSESSOR'S MAP 18-12-04-42 TAX LOT 01301**

RECITALS:

1. Florence City Code (FCC) Title 10, Chapter 1, Section 2-3 provides that Council may establish zoning and land use regulations that become effective on the date of annexation.
1. The City of Florence was petitioned by the property owner, Laurel Anderson, on June 21, 2021, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The Planning Commission met on September 14, 2021, at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
3. The Planning Commission determined on September 14, 2021, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with the City's acknowledged Realization 2020 Comprehensive Plan and adopted findings of fact in support of the annexation and zoning assignment.
4. The City Council met in a public hearing on October 11, 2021, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
5. The City Council deliberated on October 11, 2021, and found that the subject property is plan designated Medium Density Residential in the Realization 2020 Plan, and the City Council supported the establishment of zoning as Medium Density Residential consistent with Florence Comprehensive Plan and Zoning Code objectives.
6. The City Council adopted Ordinance No. 20, Series 2021, annexing the property as described in the Ordinance title above.

Based on these findings,

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

1. The City of Florence approves the zoning of the property as Medium Density Residential as shown on the attached map Exhibit A to Assessor's Map 18-12-04-42 TAX LOT 01301, containing approximately .59 acres.
2. This zoning is based on the Findings of Fact in Exhibit B and evidence in the record.

3. The City shall produce an updated Zoning Map that is filed with the City Recorder and bears the signature of the Planning Commission chairperson as required by FCC 10-1-2-2.
4. The City Recorder is hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office and the Lane Council of Governments.
5. Pursuant to FCC 10-1-2-3, the zoning established by this Ordinance will take effect on the effective date of the annexation approved in Ordinance No. 20, Series 2021.

ADOPTION:

First Reading on the 11th day of October, 2021
Second Reading on the 11th day of October, 2021
This Ordinance is passed and adopted on the 11th day of October, 2021.

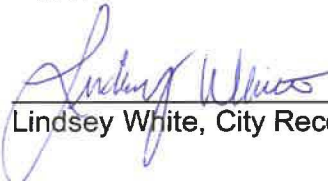
Councilors: Wantz, Woodbury, Meyer, Wisniewski, Mayor Henry

AYES	4
NAYS	1
ABSTAIN	0
ABSENT	0



Joe Henry, Mayor

Attest:



Lindsey White, City Recorder

Exhibit A
Ordinance No. 21, Series 21
88385 1st Ave. - Anderson






Before Proposed Rezoning



After Proposed Rezoning



Assessor's Map# 18-12-04-42 Tax Lot 01301

	Medium Density Residential		City Limits
	Commercial		Tax Lot Boundaries
	Open Space		Unincorporated

FINDINGS OF FACT
Ordinance No. 20, 2021: Exhibit B
Ordinance No. 21, 2021: Exhibit B

Public Hearing Date: October 11, 2021
Date of Report: October 4, 2021

I. PROPOSAL DESCRIPTION

Proposal: Annexation

A request from a property owner for the City of Florence to annex their property from Lane County to the City

Zone Assignment

Upon annexation, the property requires zoning assignment by the Florence City Council. The corresponding zoning district matching the property's plan designation is Medium Density Residential District.

Petitioners/Applicants: Laurel Anderson

General Property Description (Annexation boundary described in respective Exhibit A; Zoning areas described in respective Exhibit A):

88385 1st Avenue
Assessor's Map Reference (MR) 18-12-04-42, Tax Lot (TL) 01301

Comprehensive Plan Map Designation: Medium Density Residential

Surrounding Land Use | Current Zoning:

Site: Single-family residence | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)
North: Residences | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)
South: Residences | Medium Density Residential (City)
East: Residences | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)
West: Residence | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)

Streets | Classification: North: (Unimproved) Meares St - Local.; South: None; East: None; West: 1st Ave. – Local

II. NARRATIVE

The applicant petitioned for annexation of Tax Lot 01301 ("the property") from Lane County jurisdiction to City of Florence jurisdiction. The petitioner is the sole owner of the property. If the property is annexed, the City of Florence City Council may use its authority to assign a

City zoning designation. To this end, City staff initiate a zoning assignment application to process concurrently with the annexation request.

The property includes an existing single-family residence. It abuts 1st Avenue to the west, and property immediately to the south, both of which are within the City of Florence limits. Although unimproved and unincorporated, Meares St. abuts the property to the north, and no annexation of public right-of-way (ROW) is required for this annexation. Access to the property is from 1st Ave.

Sewer infrastructure is available in 1st Avenue. The property owner will bear any costs associated with accessing the pressure wastewater lines. The property already accesses water from Heceta Water People's Utility District.

The petition requesting annexation and zoning assignment was received on June 21, 2021, and deemed complete as of June 22, 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). Although the sole property owner submitted the petition, there are no electors residing within the proposed annexation area. Furthermore, this means that the petitioner represents a majority of assessed value within the "affected territory" to be annexed, which demonstrates that the Triple Majority method is met per ORS 222.170(1)).

Procedurally, Florence City Code, Title 10, Chapter 1 calls for processing the annexation as a Type IV application. The zoning assignment procedure applies to the property as illustrated in Exhibit A of the zoning assignment Resolution. In accordance with FCC 10-1-5-B, the two actions will be processed through consolidated proceedings.

The Property is designated in the Florence Realization 2020 Comprehensive Plan as Medium Density Residential, and it would be zoned Medium Density Residential upon annexation.

The property would continue to be served by Heceta Water PUD, which maintains water infrastructure directly adjacent to the property. After annexation, the Property will be provided City services such as sewer and police protection. 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 September 14, 2021, the Florence Planning Commission approved Resolutions PC 21 26 ANN 07 and PC 21 21 ZC 07. These resolutions recommend approval of the annexation as described in Exhibit A of Ord. No. 20, 2021 and zoning assignment as described in Exhibit A of Ord. No. 21, Series 2021.

III. PUBLIC NOTICE

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on August 10, 2021, not less than 35 days prior to the proposed first evidentiary hearing of September 14, 2021, as required by State law and the Florence City Code.

Notice of the City Council's public hearing was mailed on September 20, 2021, to owners of property within 300' of the Property. Notice was published in the Siuslaw News on September 18, 2021, and October 2, 2021.

Public Comments:

At the time of this report, the City received public testimony from Charlie Rouse, who voiced opposition due to concerns of "degradation of ground" and "storm water damage," "damage to real property and pollution," and who observed a high water table in the area. He concludes his opposition letter by stating that "(A)nnexation and development of the lots without a comprehensive plan will cause damage to the real property of the residents in this area."

Staff Comment

The petitioner of the properties indicated the desire to disconnect from the existing septic system and connect a 900 sq. ft. home to the City's sewer system, (Exhibit C). Currently, no development proposal has been submitted. However, should new development be proposed in the future, stormwater is regulated through City code and the property would undergo close review in order to ensure that stormwater drainage is properly addressed and that no additional post-development stormwater leave the site. Additionally, given the property's topography and soil composition (Waldport Fine Sand) and Mr. Rouse's legitimate concerns about area drainage as the properties lie within a Significant Riparian Reach (RHB-A) as shown in Exhibit D, staff will ensure development adheres to the requirements of related codes such as FCC Title 10, Chapter 7 (Special Development Standards) and ensure mitigation is done.

IV. REFERRALS

On August 27, 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; US Postal Service; OregonFast.net; Western Lane Ambulance; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City had received comments from the following agencies as shown in Exhibit E:

Florence Public Works Department

Public Works commented on the City's available sewer capacity, streets, stormwater, and water provision (see Exhibit E). Their comments have been incorporated into these findings where appropriate.

Lane County Planning

Lane County was sent a referral notice and replied that they had no comments on the proposal.

Lane County Transportation Planning

This division of Lane County provided their standard recommendation of supporting the annexation proposal in addition to advising not to allow stormwater from the property to be conveyed onto street ROWs. They also stated that they would support the annexing of Meares St.

Staff Reply: At this time, Meares St. situated immediately north of the subject property is not a subject of annexation in this petition request.

V. APPLICABLE REVIEW CRITERIA

Annexation:

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; 222.170

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
- 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:

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 resolutions 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.

At the City Council hearing on October 11, 2021, unfortunately due to Covid-19 restrictions, online participation and other remote options were only available for the public to attend the meeting and provide verbal testimony. Those wishing to view the hearing remotely could do so through the GoToWebinar platform, or they could watch the hearing live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunities for written participation were also available up to October 4, 2021, to be included in these findings and up to two hours prior to the hearing to be included in the record.

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. Public Works testimony using analysis from the documentation within these recent study results 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.

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 Medium Density Residential District (formerly Single-family 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/Mobile Home with an Interim Urban Combining District Overlay within Lane County and is undeveloped. The implementing zone for this area is Medium Density. 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.

The property includes soils (Waldport fine sand, 12 to 30 percent slopes) that require a Phase 1 Site Investigation Report (SIR) prior to development or clearing. 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. At this time, the property contains a residence and no new development is being proposed aside from attaching to the City sanitary sewer system after annexation.

The adjacent street infrastructure is designated either Local, serving local residences as well as public beach access points, Driftwood Shores resort, and other destinations. The surrounding area includes residential properties. Existing and proposed development on this Property will be subject to City code related to traffic impact studies and resulting improvements and also be subject to nuisance code and land use codes.

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.

The property includes an existing single-family residence. Any additional development on the property would be in accordance with the implementing zoning district, Medium Density Residential. The properties surrounding this Property have County zoning consistent with the City's Medium Density Residential 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 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.

Upon annexation, the City Council may assign City of Florence zoning to the property. Zone assignment of Medium Density Residential would match the property's underlying Comprehensive Plan Designation. Residential development on the Property would meet the requirements of this zone, as detailed in FCC 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, 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. The annexation will allow the provision of City sewer to the property. 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.

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 owners 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: 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 potential Medium Density Residential uses without negatively affecting existing customers. Per the Public Works Department's referral comments (Exhibit E), the City has a pressure sewer line located on the east side 1st Avenue as well as a regional sewer pumping facility on 1st Avenue across from 88466 1st Avenue (Surfside Restaurant). Gravity sewer is currently unavailable at this location; however pressure sewer is available and the existing pressure sewer line has excess capacity. In order

to connect to the pressure sewer line, there is a \$12,000 connection fee that includes the actual connection and tapping of the pressure sewer main line and extension of the small diameter pressure line to the property. This does not include wastewater System Development Charges (SDC's) which are separate and are due prior to connection to the City pressure sewer line since this is an existing home.

Water:

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

Stormwater: There will be no change in the requirements of handling stormwater upon annexation. Future development on the property will be expected to meet City Code, maintaining post-development stormwater flows from the property at pre-development levels. The associated policies reduce the risk of public impacts, including impacts on local natural resources.

Streets:

Currently, this portion of 1st Avenue has already been annexed to the City, however the street continues to be under Lane County for maintenance. The City does not plan on seeking jurisdictional transfer of maintenance of this road at this time.

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 Medium 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 may be evaluated via a TIA/TIS when an impact is proposed. 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 property.

Power: Central Lincoln People's Utility District currently provides electricity to the property 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 (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.**

Referrals requests were sent to Lane County. Staff received a reply from two County departments/divisions: Lane County Planning, who replied that they have no comments regarding this proposal, and Lane County Transportation Planning, who provided standard comments supporting the annexation and provided links to their codes and advised that no on-site stormwater should be conveyed to the rights-of way. They also requested that Meares St. be included in the annexation. Staff advised them that proposing annexation of Meares was within the scope of this petition. Even so, Lane County will be informed of all proposed developments occurring on the property in the future until jurisdictional transfer of the Property and rights-of-way is complete.

- 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.**

Connecting the existing residence to City infrastructure will necessitate payment of applicable systems development charges, and future development may necessitate additional charges commensurate with impacts on the relevant infrastructure 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, with the exception of maintenance and access from the abutting 1st Ave, which is under jurisdictional maintenance by Lane County.

The same would apply to the unimproved Meares St, if at some point this street would be annexed and used for access until a point in time when the City assumes jurisdictional maintenance of Meares St.

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. The Property is directly contiguous to the City boundaries.

(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.

(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.

Upon annexation, the owner of the annexed property will pay property taxes at the same rate as other property owners 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. A public hearing on this annexation and zoning assignment proposal will be 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 September 18 and October 2, 2021. Notice was posted on September 20, 2021 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 is contiguous to the City limits on both its western and southern property lines. Subsection "b" above is met. The City Council may make these declarations through passage of Ordinance Numbers. 20 and 21, Series 2021.

(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 owners was received by the City on a petition requesting annexation to the City.

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. Written consent from the property owner was signed and provided with the petition for annexation received by the City on June 21, 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.”

Although no elector resides within the property petitioned to be annexed and because the sole owner has provided consent for the proceedings, the public hearing may be held by Council under ORS 222.120. The criterion is met.

(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.

Subsections 1c and 1e are not applicable. Notice was provided as required in subsections 1a, 1b, 1d, and 2. These criteria are met.

10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)**D. Notice of Hearing:**

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

The applicants have proposed annexation of 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. This zoning district 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 September 14, 2021, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The Commission approved Resolutions PC 21 26 ANN 07 and PC 21 21 ZC 07, finding that the request is consistent with and promotes the objectives of the Florence Comprehensive Plan and Zoning Ordinance and is not contrary to the public interest. 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 Property is proposed to be zoned Medium Density Residential District. This zone is appropriate, as it corresponds to Comp. Plan designation (Medium Density). The approximately .59-acre Property consists of one tax lot, which meets the minimum lot size of the district (5,000 sq. ft.). No specific policies are applicable under this annexation or zoning proposal since no development is proposed or approved under this application.

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 .59 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 proposal is consistent with this rule because it includes proposed zoning that supports implementation of the adopted HNA, including opportunity for needed housing units and types such as attached housing and accessory dwelling units.

VII. CONCLUSION

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