

**CITY OF FLORENCE
ORDINANCE NO. 4, SERIES 2021**

**AN ORDINANCE ESTABLISHING MEDIUM DENSITY RESIDENTIAL ZONING DISTRICT TO
4627 SEBASTIAN STREET, BEING LOT 2, BLOCK 1, EAST HECETA BEACH PLAT
ASSESSOR'S MAP REFERENCE (MR) 18-12-04-44, TAX LOT 02200; AS PART OF A
PROPOSED ANNEXATION OF APPROXIMATELY 0.19 ACRE.**

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, Diana Lee Heacock on December 21, 2020, 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 February 23, 2020, at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
3. The Planning Commission determined on February 23, 2020, 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 May 3, 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 May 3, 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. 3, 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 4627 Sebastian Street, in Lot 2, Block 1 of the East Heceta Beach Subdivision and to Assessor's Map Reference (MR) 18-12-04-44, tax lot 02200, containing approximately 0.19 acre.
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 bear 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. 3, Series 2021.

ADOPTION:

First Reading on the 3rd day of May, 2021

Second Reading on the 3rd day of May, 2021

This Ordinance is passed and adopted on the 3rd day of May, 2021.

AYES	4	Councilors: Wantz, Woodbury, Meyer, Wisniewski, Mayor Henry
NAYS	1	
ABSTAIN	0	
ABSENT	0	



Joe Henry, Mayor

Attest:

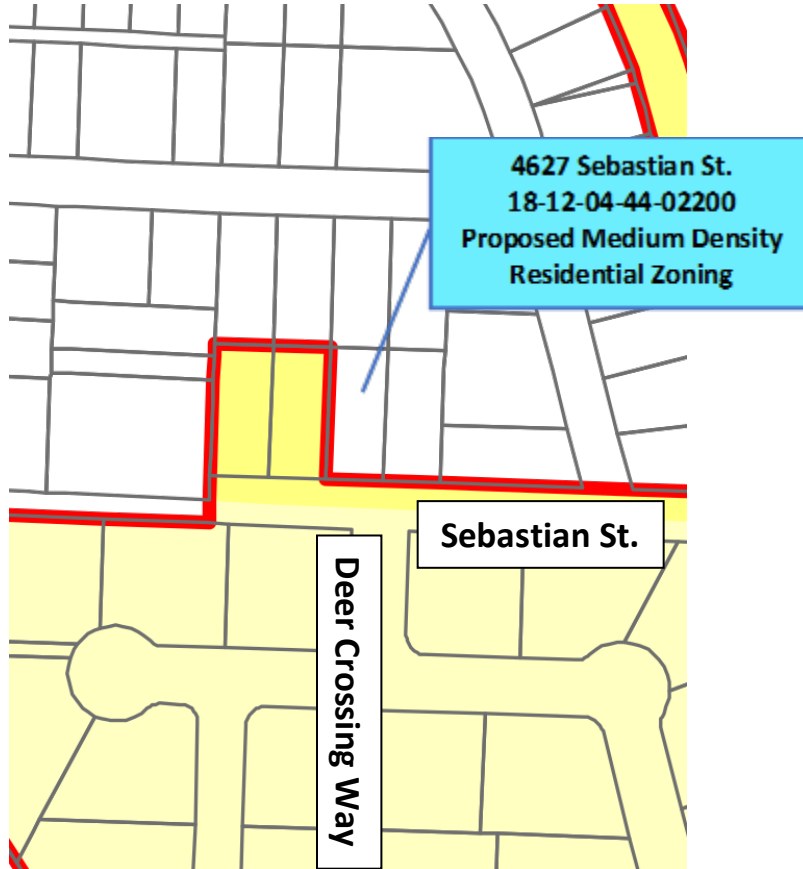


Kelli Weese, City Recorder

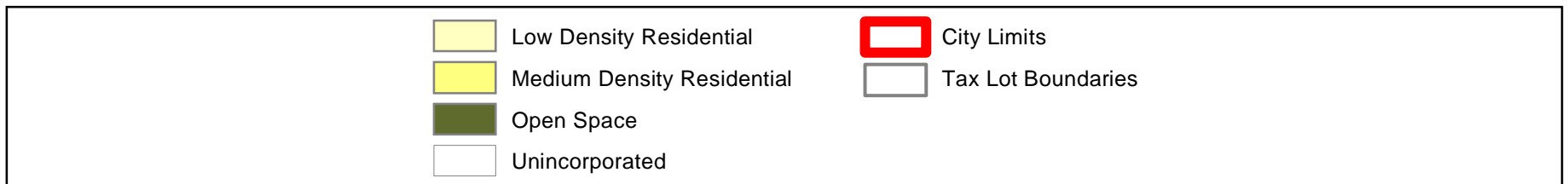
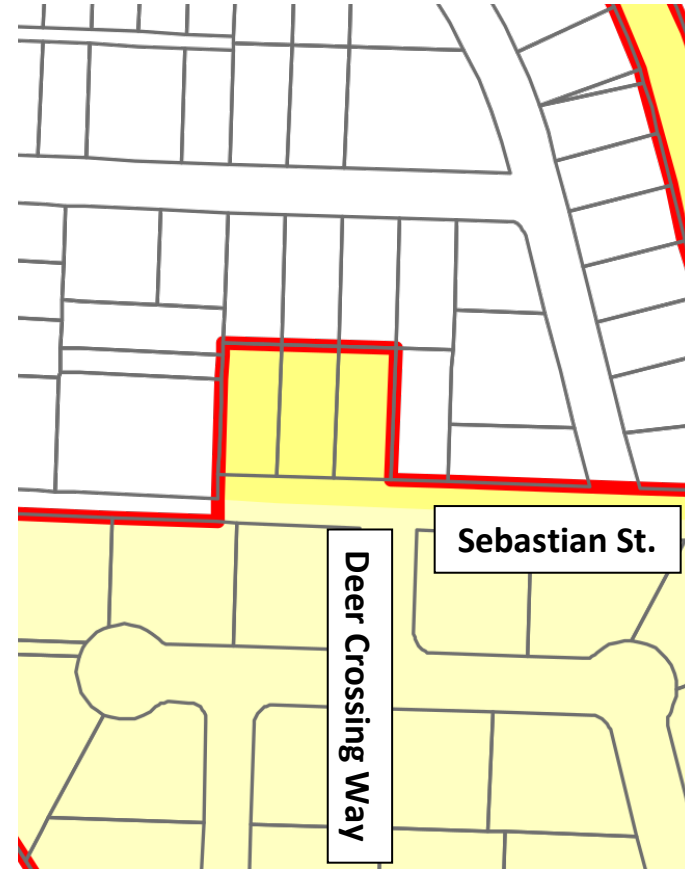
Exhibit A

City of Florence Current and Proposed Zoning 4627 Sebastian St. Zone Assignment Ordinance 4, Series 2021

Before Proposed Rezoning



After Proposed Rezoning



CITY OF FLORENCE
Ordinance Nos. 3 & 4, Series 2021
FINDINGS OF FACT
Exhibit B
May 3 2021

Public Hearing Date: May 3, 2021
File Nos: CC21 03 ANN 02 & CC 21 04 ZC 02

I. PROPOSAL DESCRIPTION

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

Rezoning
Upon annexation, a request for the property to be zoned with a City zoning district. The corresponding zoning district matching the property's comprehensive plan designation is Medium Density Residential.

Petitioner/Property Owner: Diana Heacock

Associated Property: Assessor's Map 18-12-04-44 Tax lot 02200
4627 Sebastian St., being Lot 2, Block 1, East Heceta Beach plat

Comprehensive Plan Map Designation: Medium Density Residential

Surrounding Land Use / Zoning:

Site: Single-family residence | Suburban Residential District (Interim Urban Combining District Overlay)

North: Single-family residence | Suburban Residential District (Interim Urban Combining District Overlay)

South: Single-family residences and vacant properties | Low Density Residential

East: Single-family residence | Suburban Residential / Mobile Home District (Interim Urban Combining District Overlay)

West: Single-family residences | Medium Density Residential District

Streets / Classification: West – none; South – Sebastian St / Local; East – 3rd Ave/ Local and Rhododendron Dr. / Minor Arterial; North – None

II. NARRATIVE

Upon closing a public hearing held on February 23, 2021, the Planning Commission voted unanimously (7-0) to approve recommendation to the City Council of both the annexation and the requested zoning to the subject property discussed in these Findings of Fact. In December 2020, the applicant petitioned for the annexation and zoning assignment to

Medium Density Residential for a .19-acre residential property in order to remove the property from Lane County jurisdiction and place it under jurisdiction of the City of Florence. The property is residentially developed and occupied by the applicant in a predominantly residential area whereupon homes are located inside and outside of the City limits.

The property abuts City limits along its most western boundary and along Sebastian Street to the south. Due to a recent septic tank failure, the property was expeditiously connected to the City sewer system at the owner's expense. A petition for annexation and a legal property description and map conforming to the requirements of ORS 308.225 were received with the application on December 21, 2020; the same date the application was deemed complete.

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 which means that the Planning Commission will make a recommendation to the City Council and the City Council will make the final decision in this legislative matter.

The zoning assignment procedure applies to the 0.19-acre property only, as Sebastian Street is already within City limits and zoned. In accordance with 10-1-1-5 B the two actions (the annexation and zoning designation) will be processed through consolidated proceedings.

The property is currently served by Heceta Water PUD and lies within the Siuslaw Rural Fire Protection District. The property will continue to be served by all districts by which it is currently served. After annexation, the property will continue to receive City sewer services and begin receiving police protection.

On April 12, 2021, the applicant submitted a written waiver for the requirement outlined in ORS. 22.178 to take action on an application for a limited land use decision or zone change after the application was deemed complete because the 120-day period was to expire April 20, 2021.

III. PUBLIC NOTICE

Notice of the City Council public hearing was mailed on April 12 2021 to property owners within 300 feet of the proposed annexation/zone assignment areas and posted on the property. Notice was published in the Siuslaw News on April 24, 2021 & April 27, 2021. On April 12, 2021, notices were posted at the Florence Post Office, and due to COVID facility closures on the outside glass of City Hall, the Florence Justice Center, and the Siuslaw Public Library

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on January 19, 2021, not less than 35 days prior to the proposed first evidentiary hearing of February 23, 2021, as required by State law and the Florence City Code.

Public Comments:

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

IV. REFERRALS

On February 3, 2021, referrals were sent to Florence Public Works (Utilities and Airport), Building, and Police Departments; Lane County Transportation and Land Management Divisions, Charter Communications; Century Link; Central Lincoln PUD; Heceta Water PUD; Western Lane Ambulance and Siuslaw Valley Fire and Rescue.

Referral Comments:

On February 16, 2021, Mike Miller, Public Works Director, submitted the following content within a Memo:

“The subject property located at 4627 Sebastian (Assessors Map 18-12-04-44 TL 2200) had a failed septic system. The property owner after applying to the City for annexation, paying their fees association with the petition to annex and all necessary sewer connection fees, Public Works extended a sewer lateral from the existing sewer main line within Sebastian Street. This sewer main originates from Bonnett Way in Fawn Ridge West which was extended along Deer Crossing Way to Sebastian Street in 2011.

We City has excess capacity to service the property. The City currently has 0.55 mgd (million gallons per day) of excess capacity at the wastewater treatment plant and excess capacity at the Bonnett Way sewer pump station and the sewer collection system in the area.

Again, due to the nature of the failed septic system for 4627 Sebastian Street (the system was a complete failure and there is not enough land for a new drain field) and the homeowner was without septic service, the City allowed the property to connect to the City system while they go through the land use process for annexation and zoning assignment change.”

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170 (2)

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, Policies 1 and 3 through 7

Zoning Assignment

Florence Realization 2020 Comprehensive Plan

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

Florence City Code (FCC)

Title 10: Zoning Regulations

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

Chapter 10: Residential Districts, Section 1

Oregon Land Use Planning Goals

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

VI. FINDINGS OF FACT

The following Findings support the draft Resolution Nos. PC 20 32 ANN 02 & PC 20 33 ZC 03 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, and State Statutes.

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

FLORENCE REALIZATION 2020 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 review the resolutions recommending approval of this annexation and zone assignment request is consistent with the City's applicable citizen involvement program which ensures that citizens will be provided an opportunity to be involved in this land use action. Specifically, official City meetings in this action were well publicized and held at regular times and provide the opportunity for citizen comment. The public process used meets all of the requirements of Florence City Code pertaining to zone assignment and annexation with their respective land use processes.

While the public hearings will be conducted virtually with no opportunity for in-person attendance, the public could attend the meeting virtually and provide verbal testimony during the public hearing via the internet or via a landline phone. Those wishing to simply attend the hearing could do so through the Go-to-Webinar platform application, or they could watch the hearing live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunities for written participation to be included in these Findings for the City Council was available up to April 26, 2021. All public comments received both before and after that date by the City Council will posted online and distributed to the City Council up to 4:00 PM May 3, 2021.

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.

The property is currently developed amid a residential area and poses no threat to the public health and welfare as outlined in the above Policy 7 of the Residential Goal within the Florence Realization 2020 Comprehensive Plan. The adjacent street infrastructure is designated either Urban Local or Local Access Roads serving just the properties along this street.

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.

Currently, this land is zoned Suburban Residential by Lane County, is within the Urban Growth Boundary, and has been developed with a single-family home. The Florence Realization 2020 Comprehensive Plan projected zoning for this property is Medium Density Residential. Any future development will be in accordance with the approved zoning district.

Medium Density Residential

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

The applicant has proposed the annexation and zone assignment of Medium Density Residential and in concert with the Florence Realization 2020 Comprehensive Plan. The property contains .19-acre, which is the equivalent to 8276.4 square feet. This property meets the requirements of this zoning such as minimum lot size and width, therefore allowing for single-family, detached, and duet, as outlined in FCC Title 10 Chapter 10. Although not proposed with this application, one accessory dwelling unit could also be allowable per FCC Title 10-10-6.

Chapter 14: Urbanization

Goal

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

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

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via right-of-way to the south (Sebastian St.) and previously annexed private property to the west; it is, therefore, an orderly transition from rural to urban land uses. The Fawn Ridge West Subdivision is located immediately south of Sebastian St., which was annexed with Sebastian St. in 2007.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area.
- The recent provision of City sewer service allowed the property owner to utilize this service due to a non-replaceable septic system failure. All connections to the sewer line have been 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.
- Sebastian Street was platted in 1960 with a width of 50' via the East Heceta Beach plat. This annexation and zone change will not trigger a widening of Sebastian Street to what is now the current standard width of 60' per FCC 10-36-2 as there is no nexus for widening.

Annexation Policies

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

The proposed annexation has been initiated by the property owner in order to receive City services and voluntarily abate issues stemming from a failing septic drain field. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” This policy criterion is met.

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

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

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

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

Water: The property is served by a connection to Heceta Water People's Utility District services within the Rhododendron Dr. right-of-way. A hydrant is available approximately 400 feet from the property at the NW corner of the intersection of Sebastian St. and Rhododendron Dr., but its capabilities are not known.

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

Streets: The property will be accessed via Sebastian Street, which is under City of Florence jurisdiction and maintenance responsibility. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding platted street availability. Vehicular and pedestrian improvements to the adjacent streets will be accomplished in conjunction with improvements to the property.

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

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

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

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

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

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

c) consistency with state law.

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

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

Staff sent referral requests to Lane County on February 10, 2021. At the time of writing no comments had been received in return.

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

The applicant paid the project costs and applicable systems development charges to extend sewer services where it did not currently exist. Water is already provided to the property by Heceta Water People's Utility District and will continue to be served by Heceta. Any undeveloped property and expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems.

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

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

OREGON REVISED STATUTES

ORS 222.111 Authority and procedure for annexation.

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

The proposed annexation area is located within the Urban Growth Boundary of the City of Florence. The proposed annexation is contiguous to the City from the north Sebastian Street right-of-way, and to annexed property to the west. The property and surrounding area lie wholly within Lane County.

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

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

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

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

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

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

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such

proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

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

The City received written consent from the sole owner and elector within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

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

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

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

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

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

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

The Planning Commission public hearing was noticed as required by Florence City Code. Notice of the public hearing was published in the Siuslaw News on February 13, 2021. Notices were posted in four public places: Florence City Hall, Justice Center, Siuslaw Public Library, and Post Office on February 3, 2021. Noticing for the City Council public hearing—the City

legislative body—will also be published in the Siuslaw News on April 24, 2021 and April 28, 2021; two dates prior to the hearing.

(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 the western side property line and front property line to the south where the property adjoins the Sebastian Street right-of-way. Subsection “b” above is met.

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

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

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

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

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

The written consent from the sole property owner was received by the City on a petition requesting annexation to the City, (Exhibit D).

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.

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

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

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

There is one elector within the proposed annexation area, who is also the sole property owner. The written consent from the property owner was signed on December 21, 2020, prior to the Planning Commission hearing of February 23, 2021, and received before the City Council held the public hearing required by ORS 222.120, (Exhibit D).

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

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

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

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

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

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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

10-1-1-6-3: 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 applicant has proposed an annexation of their property. There will be at least two public hearings as part of this process and as required.

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

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

10-1-3: AMENDMENTS AND CHANGES

B. Quasi-Judicial Changes:

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

On February 23, 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:

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

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

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 .19-acre property creates a positive impact on the supply of residential land base as the density can be increased by allowing for conversion to a duplex, lot splitting to allow for a duet or townhome or simply offering the opportunity to add an accessory dwelling unit.

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 support implementation of the adopted HNA, including needed housing types such as single family residential, duplex, duet, townhome and accessory dwelling units providing the opportunity for housing units as identified above.

VII. CONCLUSIONS AND RECOMMENDATION

The evidence in the record demonstrated that the proposed annexation and zone assignment is consistent with the policies set forth in state statues, Florence City Code, and the Florence Realization 2020 Comprehensive Plan based on the findings. The Planning Commission unanimously recommended approval of the annexation and zoning assignment to the Florence City Council on February 23, 2021.

VIII. EXHIBITS

To the approval:

Ordinance 3, Series 2021: Exhibit A - Annexation Maps and Legal Description

Ordinance 4, Series 2021: Exhibit A - Zoning Map

Exhibit B - Findings of Fact

To the record:

Exhibit C - Vicinity Map

Exhibit D - Petition for Annexation