

**CITY OF FLORENCE
ORDINANCE NO. 4, SERIES 2017**

AN ORDINANCE ESTABLISHING NEIGHBORHOOD COMMERCIAL DISTRICT TO 4636 HECETA BEACH ROAD AND THE SOUTHERN HALF OF ADJOINING HECETA BEACH RD. AND SINGLE FAMILY RESIDENTIAL DISTRICT TO NORTHERN HALF OF ADJOINING HECETA BEACH RD AND SINGLE FAMILY RESIDENTIAL DISTRICT TO 4513 AND 4523 LOOKOUT ST. AND ALL OF ADJOINING LOOKOUT ST. AND SINGLE FAMILY RESIDENTIAL AND RESIDENTIAL DEVELOPMENT SHORELAND MANAGEMENT UNIT OVERLAY TO 05300 SOUTH HARBOR VISTA DR. AND ALL OF TREETWOOD COURT WEST OF RHODODENDRON DR. AND SINGLE FAMILY RESIDENTIAL TO SOUTH HARBOR VISTA DR. FROM THE WESTERN EDGE OF THE ANNEXING PROPERTY TO WESTERN EDGE OF RHODODENDRON DR.

RECITALS:

1. Florence City Code (FCC) Title 10, Chapter 1, Section 3-B-1 provides that a quasi-judicial zone change may be initiated by a property owner within the affected area.
2. The City of Florence was petitioned by property owners, Daniel & Sheryll Loftin, Dennis & Jayne Carey, Julius & Justine Benedict, and Gary Bacon, Cliff Gillette, Jon and Janet deRyk, between October 28th and November 7th, 2016, for annexation of their properties and assignment of applicable City zoning of the property currently zoned by Lane County as required by FCC 10-1-3-B-1 and FCC 10-1-1-4.
3. The Planning Commission met on January 24, 2017 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
4. The Planning Commission determined on January 24, 2017, 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.
5. The City Council met in a public hearing on February 6, 2017, after giving the required notice per FCC 10-1-1-5, to consider the proposal, evidence in the record, and testimony received.
6. The City Council deliberated on February 6, 2017 and found that the subject properties are designated either Medium Density or Recreational Commercial in the Realization 2020 Plan and the City Council supported the establishment of city-zoning as Single Family Residential and Neighborhood Commercial Districts consistent with Florence Comprehensive Plan and Zoning Code objectives.

7. The City Council adopted Ordinance Nos. 1, 2 & 3, Series 2017 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 properties owned by the petitioners as Neighborhood Commercial District or Single Family Residential as shown on the attached map as Exhibit A.
2. This annexation 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 Nos. 1, 2 & 3, Series 2017.

ADOPTION:

First Reading on the 6th day of February, 2017

Second Reading on the 6th day of February, 2017

This Ordinance is passed and adopted on the 6th day of February, 2017.

AYES Councilors
NAYS
ABSTAIN
ABSENT

Joe Henry, Mayor

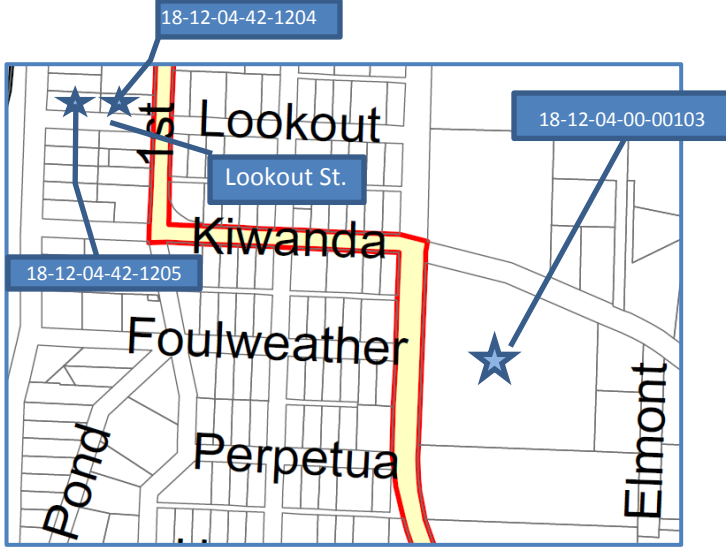
Attest:

Kelli Weese, City Recorder

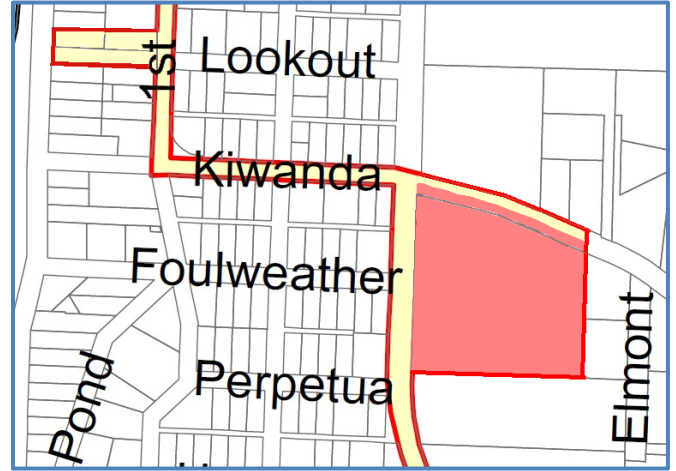
**Ordinance 4, Series 2017—Proposed Zoning Map
Exhibit A**

Zoning Assignment: Properties 1, 2, & 3 and ROW 1 & 2

Current

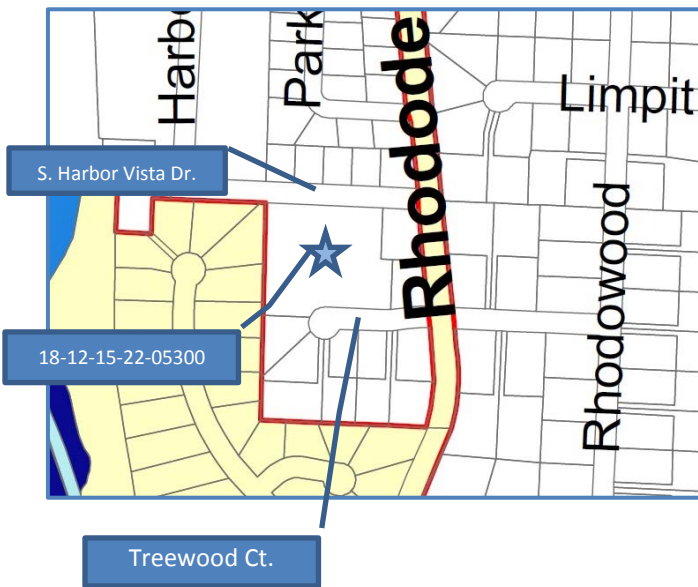


Proposed

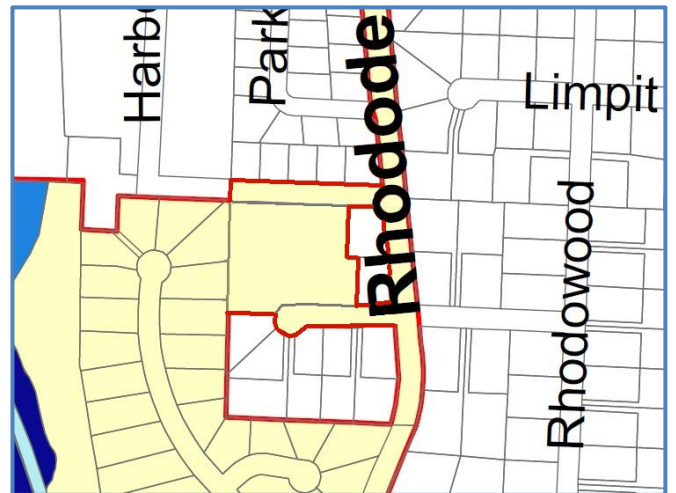


Zoning Assignment: Property 4 and ROW 3 & 4

Current



Proposed



FINDINGS OF FACT
Ordinances 1, 2 & 3 Series 2017: Exhibit "C"
Ordinance 4, Series 2017: Exhibit "B"

Public Hearing Date: February 6, 2017 **Planner:** Wendy FarleyCampbell

Application: PC 16 29 ANN 04 Harbor Vista / Heceta / Lookout Annexation
 PC 16 30 ZC 04 Harbor Vista / Heceta / Lookout Zone Change

I. PROPOSAL DESCRIPTION

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

Rezoning
 Upon annexation, the properties will be rezoned with city zoning. The corresponding zoning districts matching the included properties plan designation are Neighborhood Commercial and Single Family Residential. Property 4 and ROW 4 will also have Residential Development Shorelands Management Unit Overlay assigned.

Property Owners/Petitioners & Associated Properties (described in Exhibit B of Resolution 16 29 ANN 04):

Property 1--SE Corner of Rhododendron Drive & Heceta Beach Rd, 4636 Heceta Beach Rd. as well as Right-of-way (ROW) 1: adjoining portion of Heceta Beach Road

Map Reference 18-12-04-00 Tax Lot 00103 (Daniel & Sheryll Loftin)

Properties 2 & 3--Land west of 1st Ave. & South of Driftwood Shores, 04513 & 04523 Lookout St. as well as ROW 2: adjoining Lookout St.:

Map Reference 18-12-04-42 Tax Lot 01204 (Dennis & Jayne Carey)
Map Reference 18-12-04-42 Tax Lot 01205 (Julius & Justine Benedict)

Property 4--Land between Treewood Court and S. Harbor Vista Dr., 04744 S. Harbor Vista Dr., as well as ROW 3 & 4: adjoining S. Harbor Vista Dr. and Treewood Court.:

Map Reference 18-12-15-22 Tax Lot 05300 (Gary Bacon, Cliff Gillette, Jon and Janet deRyk)

Comprehensive Plan Map Designation: Recreational Commercial & Medium Density

Current Land Use / Zoning:

Property 1 & ROW 1: County RA/MH (Suburban Residential / Mobile Home Dist.), Overlays BD & U (Beaches & Dunes and Interim Urban Combining District)

Map Reference 18-12-04-00 Tax Lot 00103 (Daniel & Sheryll Loftin):

Properties 2 & 3 & ROW 2: County RA/MH (Suburban Residential / Mobile Home Dist.), Overlays BD & U (Beaches & Dunes and Interim Urban Combining District)

Map Reference 18-12-04-42 Tax Lot 01204 (Dennis & Jayne Carey)

Map Reference 18-12-04-42 Tax Lot 01205 (Julius & Justine Benedict)

Property 4 & ROW 3 & 4: County RA/MH (Suburban Residential / Mobile Home Dist.), Overlays NRC, BD & U (Natural Resources Conservation, Beaches & Dunes and Interim Urban Combining District)

Map Reference 18-12-15-22 Tax Lot 05300 (Gary Bacon, Cliff Gillette, Jon and Janet deRyk):

Streets / Classification: Heceta Beach Road / Major Arterial; Lookout, S. Harbor Vista Dr. & Treewood Court / Local

II. NARRATIVE

There are four developed properties under consideration for annexation as well as the following abutting rights-of-way: Heceta Beach Rd., Lookout St., South Harbor Vista Dr. and Treewood Court.

Three property owners in three areas initiated petitions for annexation separately around the same time for various reasons to include need for sewer service due to septic failure and interest in redevelopment. Due to the close proximity (along Rhododendron Drive) of all of the petitioners they were combined into one application and process. These petitions were received on October 28th, November 3rd, and November 7th. On December 19th invitations to annex were sent to other property owners within the immediate area of Lookout St. and Treewood Ct. Subsequently, one additional property owner, Benedict, on Lookout St. petitioned to annex on December 29th. As of the date of writing the proposal is reviewed under the “Double Majority” annexation (ORS 222.125) methodologies. The annexation and zoning assignments will be processed as quasi-judicial applications with a hearing.

The properties are within the Heceta Water PUD and Siuslaw Rural Fire Protection District. The properties will continue to be served by Heceta Water PUD and SVFR.

Any properties abutting the Lane County right-of-ways and wishing to have access or install utilities within the right-of-way must apply for permits from Lane County as the streets while in Florence jurisdiction will remain the maintenance responsibility of Lane County. However the county does not maintain streets designated “Local” and

III. PUBLIC NOTICE

Notice of the Planning Commission's public hearing was mailed on January 4, 2017 to property owners within 300 feet of the proposed annexation areas. Notice was published in the Siuslaw News on January 11th and 18th and January 25th and February 1st. On January 4th and January 25th notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Public Comments:

At the time of this report, the City had received no written comments. There were several verbal inquiries.

IV. REFERRALS

On January 4th and 25th referrals were sent to Florence Public Works and Police; Lane County Transportation, Surveyor, Land Management and Environmental Health; Oregon Department of Transportation; DLCD; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Central Coast Disposal; Country Transfer and Recycling; Siuslaw Valley Fire and Rescue and Heceta Water PUD.

Referral Comments:

At the time of this report, the City had received comments from Lane County Transportation concurring with the annexation of the streets and clarifying that stormwater from abutting properties is not permitted to be placed within the rights-of-way due to insufficient width for both street and property stormwater runoff.

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170 (2)

Florence Realization 2020 Comprehensive Plan

Chapter 1: Citizen Involvement, Policy 4

Chapter 14: Urbanization, Policies 1 and 3 through 7

Rezoning

Florence Realization 2020 Comprehensive Plan

Chapter 2: Land Use, Policy 6, Section on Commercial Designations

Florence City Code (FCC)

Title 10, Chapter 1: Zoning Regulations, Sections 10-1-1-5-E-3, 10-1-2-3, and 10-1-3-B-4

Chapter 11: Single Family Residential District

Chapter 14: Neighborhood Commercial District

Chapter 19: Estuary Shorelands Beaches and Dunes

VI. FINDINGS OF FACT

The following findings support Ordinances 1, 2, 3 & 4 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code and State Statutes.

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

FLORENCE REALIZATION COMPREHENSIVE PLAN

Chapter 1: Citizen Involvement

“Goal

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

Policy

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 citizen involvement goal and Policy 4 because the process used by the City to approve the Resolutions recommending approval of this annexation and zone assignment request was consistent with the City’s applicable citizen involvement program, which ensured that citizens were provided an opportunity to be involved in this land use action. Specifically, official City meetings on this action were publicized and held at regular times and provided the opportunity for citizen comment.

The public process used met all of the requirements stated in Florence City Code pertaining to the rezoning of properties.

The proposal is the subject of public hearings before both the Planning Commission and the City Council. This annexation proposal was considered by the Florence Planning Commission on January 24, 2017 and by City Council on February 6, 2017. The public hearing was noticed in accordance with Florence City Code 10-1-1-5 as a quasi-judicial land use decision before the Planning Commission and City Council. The City notified property owners within 300 feet of the sites 21 days prior to the Planning Commission public hearing. The City also published the required notice of the Planning Commission’s public hearing two times in the Siuslaw News on January 11th and 18th and prior to the City Council public hearing on January 25th and February 1st. Finally, the City posted notice at four public places within the City on January 4th and revised notice on January 25th: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

The Planning Commission and City Council agenda packets were posted on the City's website prior to the public hearing. The staff reports were available seven days prior to the public hearings. Therefore, this proposal was reviewed in accordance with the City's acknowledged plan and was consistent with the plan policies for Citizen Involvement.

Chapter 2: Land Use

Policy

- 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. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

Commercial

Commercial Plan Designation Categories and Background

Recreational Commercial

The Recreational Commercial Plan designation was applied to one property in the UGB when the Realization 2020 Comprehensive Plan was adopted. This property, located in the southeast corner of Heceta Beach Road and Rhododendron Drive, was developed as a campground/recreational vehicle park and a small store at the time of Plan adoption. No other Plan designation fit this combination of land uses, and thus the Recreational Commercial designation was created in the legend of the Comprehensive Plan Map. This property is currently zoned by Lane County because it lies outside city limits. A City zoning classification of Neighborhood Commercial District will be applied to this property at such time as it is annexed to the city.

Property 1 and ROW 1 are proposed to be zoned Neighborhood Commercial, consistent with their Recreational Commercial plan designation. They are developed as mentioned above.

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 Rhododendron Dr. or 1st. Ave. to the west and/or east; 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 water and sewer to the properties being annexed. All connections to the sewer line will be funded through system development charges, connection fees, and the sewer and water funds in the 2016-17 City of Florence Budget. This financing method allows for cost-effective service delivery to all users of the system.
- The provision of sewer service will allow the property owners to avoid additional construction of septic systems and inefficient use of open space contained within the lots to be annexed for the drain field.

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

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

3. Conversion of lands within the UGB outside City limits shall be based on consideration of:

a) Orderly, economic provision for public facilities and services:

The proposed annexation is consistent with Policy 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer and police protection. 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 existing and possible future commercial development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing uses without negatively affecting existing customers.

Water: The properties will remain customers of Heceta Water PUD.

Stormwater: There will be no change in the handling of stormwater upon annexation. The properties will develop stormwater treatment systems consistent with code when site improvements are made.

Streets: The properties are accessed via Lookout St., Heceta Beach Rd., Rhododendron Dr. and Treewood Dr. Lookout is classified as a local street and developed as a narrow driveway. Treewood and South Harbor Vista are developed but not to city standards for development. The increased usage (vehicular trips) made available by annexation and zone change can be accommodated by the streets with improvements made in tandem with development.

Fire: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. The City eliminated contractual agreements with Siuslaw Valley Fire and Rescue that previously provided protection services to city residents.

Police: Once annexed, the City will provide public safety services. The Florence Police Department will patrol and respond to calls for the subject properties.

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

c) consistency with state law.

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

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

Staff sent referral requests to Lane County on January 4 and 25th, 2017. There have been no responses as of writing this report.

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.

Staff sent a referral to Heceta Water Public Utility District and has not received a response.

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

At the time of writing all properties petitioned for annexation are developed. As such the applicant and petitioners of the properties will be required to pay sewer systems development charges upon connecting to the sewer. Future infill development of the properties will necessitate payment of applicable systems development charges. Any developed properties and expansions to properties added to this application will be charged systems development charges commensurate with their impacts on the systems. 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.

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 redevelopment of the properties, with the exception of maintenance and access off Lookout, Treewood and South Harbor Vista Dr., which will continue to be the maintenance responsibility of Lane County.

OREGON REVISED STATUTES

ORS 222.111 Authority and procedure for annexation.

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

The proposed annexation area is located within the urban growth boundary of the City of Florence, all within Lane County. The annexation is contiguous to the City from the west on the east side of Rhododendron Dr. and from the east on the west side of Rhododendron Dr. and from the east on the west side of 1st Ave.

(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 properties was initiated by petition to the legislative body of the City by owners of 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.

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

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

The annexation area is within the Siuslaw Valley Fire and Rescue District, 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, expresses the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consents from 100% of the owners within the proposed annexation area whom are also the electors, 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, Services 2010 expresses 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 expresses the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council held a duly advertised public hearing on February 6, 2017, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

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

The Planning Commission and City Council public hearings were noticed as required. Notice of the public hearing was published in the Siuslaw News on January 11th and 18th and January 25th and February 1st, 2017. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on January 4th and 25th, 2017.

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

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

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

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

The City Council will held a public hearing on the annexation request on February 6, 2017. Passing an ordinance as required under (b) showing that the electors and landowners consented in writing to the annexation consistent with ORS 222.170.

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

effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

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

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

The written consents from property owners were received by the City on petitions requesting annexation to the City. The City received written consents from all property owners of the properties requesting annexation.

ORS 222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

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

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required. For these reasons the annexation portion of this application does not include a hearing but will include a recommendation to the City Council.

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.

There are eight owners of the property in the proposed annexation area. The City received written consents from both property owners of the properties who own 100% of the land in the contiguous area to be annexed representing 100% of the assessed value of real property in the contiguous territory to be annexed prior to the public hearing dates.

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

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

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

There are no electors in the proposed annexation area. The City has received written consents from all property owners of the properties within the area proposed to be annexed prior to a public hearing before the legislative body of the City of Florence. The written consents were all signed prior to January 24, 2017 and received before the City Council held the required public hearing required by ORS 222.120.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-5-E-3

3. **In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.**

The applicants requested annexation of their property within the UGB. This process includes the assignment of the zoning district corresponding to their properties' Recreational Commercial and Medium Density comprehensive plan designations. The properties upon annexation will be rezoned from their current county zones to either the City's Neighborhood Commercial District zone or Single Family Residential District. Property 4 and ROW 4 will also have a Residential Development Shoreland Management Unit Overlay assigned. The rezone is necessary to finalize annexation. The public need and good of annexation has been reviewed elsewhere in this report. The selected zoning is appropriate and corresponds to the Recreational Commercial and Medium Density Comprehensive Plan designations.

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 districts corresponding to the subject properties' Comprehensive Plan designation are Neighborhood Commercial and Single Family Residential. The Neighborhood Commercial or Single Family Residential Districts will be assigned upon approval of the request from Council and finalization of the annexation process with the county. Property 4 and ROW 4 will also have a Residential Development Shoreland Management Unit Overlay assigned.

The existing properties either meet the minimum lot frontage dimensions and lot sizes for the Florence City Code Title 10, Chapter 14: Neighborhood Commercial District and Chapter 11 Single Family Residential District or are pre-existing non-conforming.

10-1-3: AMENDMENTS AND CHANGES

B. Quasi-Judicial Changes:

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

On January 24, 2017, 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.

VI. CONCLUSION

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