

**CITY OF FLORENCE
ORDINANCE NO. 10, SERIES 2017**

AN ORDINANCE APPROVING ANNEXATION OF PROPERTY WITHIN THE UGB: 05518, 05516, AND 05516-1 NORTH FORK SIUSLAW ROAD AS WELL AS A PORTION OF NORTH FORK SIUSLAW ROAD ADJACENT TO THE PROPERTY; ASSESSOR'S MAP 18-12-24-32-02100.

RECITALS:

1. The City of Florence was petitioned by the property owner, Merle Tipler, on June 20, 2017 as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The City Council of the City of Florence is authorized by Oregon Revised Statutes (ORS) Chapter 222 to accept, process, and act on annexations to the City.
3. The territory proposed to be annexed is within the Florence Urban Growth Boundary of the Florence Realization 2020 Comprehensive Plan and is contiguous to the City limits as required by ORS 222.111 (1).
4. ORS 222.170 (2) requires that annexations be initiated by owners of more than half the land and the consent of the majority of electors residing on the affected properties.
5. A signed petition to annex was received from 100% of property owners of the lots included in the petition for annexation and there are no electors other than the petitioner.
6. The City of Florence is not including additional lands to be annexed inside the city limits as provided under triple majority annexation, though the three conditions for a triple majority annexation have been met: more than half of the owners of land in the territory consent in writing to the annexation, the owners consenting to annex own more than half of the land in the contiguous territory, and the owners consenting to annex represent more than half of the assessed value of property in the territory. Only the lands described as part of Exhibit A will be annexed into the City of Florence.
7. The Planning Commission met in a public hearing on July 25, 2017 after giving the required notice per FCC 10-1-1-6-4 to consider the proposal, evidence in the record and testimony received.
8. The Planning Commission determined, after review of the proposal, testimony and evidence in the record, that the proposal was consistent with Realization 2020, the city's acknowledged Comprehensive Plan and adopted findings of fact in support of the annexation.
9. The City Council met on August 28, 2017 after giving the required notice per FCC 10-1-1-6-4, to consider the proposal, evidence in the record, and testimony received.
10. The City Council deliberated on August 28, 2017 and found that the request met the

applicable criteria and that the property could adequately be served.

11. Per FCC 10-1-2-3, the City Council may establish zoning and land use regulations that become effective on the date of the annexation and the City Council adopted Ordinance No. 11, Series 2017 zoning the annexed property to Restricted Residential District consistent with the Florence Realization 2020 Comprehensive Plan text and map and the Florence Zoning Code.

Based on these findings,

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

1. The City of Florence approves the annexation of territory owned by the petitioner into the City of Florence as described in Exhibit A.
2. This annexation is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City Recorder is hereby directed to file certified copies of this Ordinance with the Oregon Secretary of State's Office consistent with the requirements of that office 90 days prior to the general election in order for the annexation to be effective upon filing pursuant to ORS 222.040(1) and 222.180(1).
4. The City Recorder is also hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office. Lane County Chief Deputy Clerk and Oregon Department of Revenue pursuant to state law.


ADOPTION:

First Reading on the 28th day of August, 2017.

Second Reading on the 28th day of August, 2017.


This Ordinance is passed and adopted on the 28th day of August, 2017.

AYES	5	Councilors Greene, Preisler, Lacer, Lyddon, and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	



Joe Henry, Mayor

Attest:



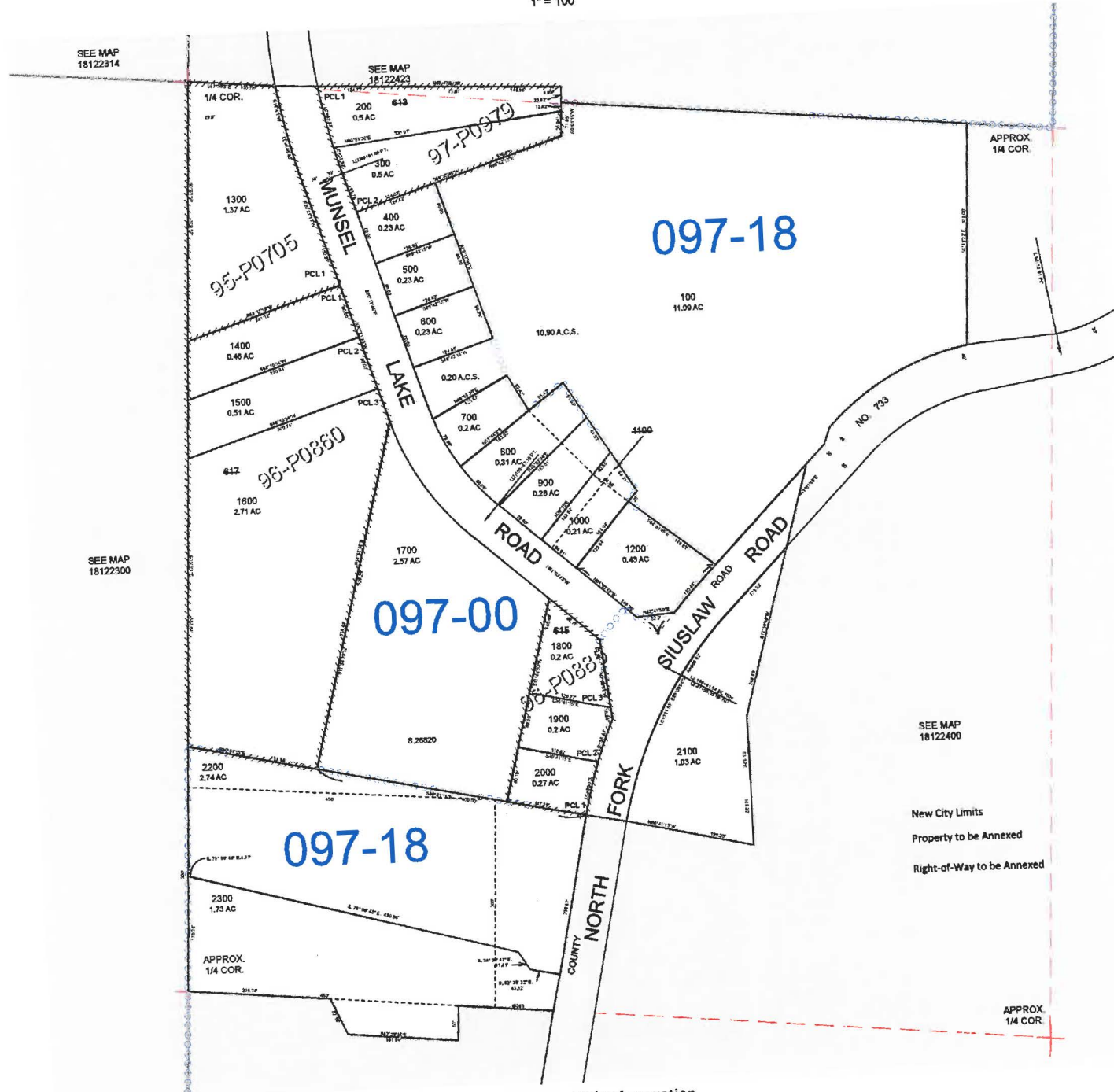
Megan Messmer,
Acting in capacity of City Recorder

FOR ASSESSMENT AND TAXATION ONLY

N.W.1/4 S.W.1/4 SEC. 24 T.18S. R.12W. W.M.
Lane County
1" = 100'

18122432
FLORENCE

LCATJCG - 2017-03-22 09:49



CANCELLED
613
615
617
1100

SEE MAP
18122400

New City Limits
Property to be Annexed
Right-of-Way to be Annexed

REVISED
02/06/2017 - LCAT 100 - LIA BETWEEN TL 2200 & 2300
03/03/2017 - LCAT 142 - CONVERT MAP TO GIS
02/17/2009 - LCAT 142 - LIA BETWEEN 2300 & 18122400-1200

APPROX.
1/4 COR.

**FINDINGS OF FACT
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT
City Council
Exhibit "B"**

Public Hearing Date: August 28, 2017 **Planner:** Glen Southerland
Date of Report: August 16, 2017

Application: **Ord. No. 10, Series 2017**
CC 17 03 ANN 01 Tipler Annexation
Ord. No. 11, Series 2017
CC 17 04 ZC 01 Tipler Zone Assignment

I. PROPOSAL DESCRIPTION

Proposal: Annexation
A request for the City of Florence to annex a property and a portion of North Fork Siuslaw Road from Lane County into the city.

Rezoning
Upon annexation, the property needs to be zoned with a city zoning district. The corresponding zoning district matching the included property's plan designation is Restricted Residential.

Applicant: Merle Tipler (also only elector)

Property Owner/Petitioner & Associated Property (described in Exhibit B):

05518 North Fork Siuslaw Road, Map and Taxlot 18-12-24-32-02100
Merle Tipler, Property Owner/Applicant

Other addresses: 5516 & 5516-1 North Fork Siuslaw Road (Undeveloped)

Comprehensive Plan Map Designation: Low Density Residential

Surrounding Land Use / Zoning:

Sites: **05518 NF Siuslaw Road:** Impacted Forest F2 (Beaches & Dunes, Airport Safety Combining Zone, and Natural Resources Conservation District Overlays)

North: Single-family residences / Restricted Residential | Impacted Forest F2 (B&D & Airport Safety Combining Zones)

South: Residence / County Natural Estuary Zone (NE & Airport Safety Combining Zones)

East: Estuary / County Natural Estuary Zone (NE & Airport Safety Combining Zones)

West: Single-family residences/Church / Restricted Residential

Streets / Classification: West – Munsel Lake Road / Minor Arterial; South – None; East – None; North – North Fork Siuslaw Road / Urban Minor Collector (Lane County TSP – No current Florence TSP designation)

II. NARRATIVE

The applicant has petitioned for the annexation of their lot from Lane County jurisdiction to City of Florence jurisdiction for the eventual purpose of partitioning into smaller lots for single-family residences. The property owner is the only elector residing on the property. That petition was received on June 20, 2017. The application was deemed complete on July 3, 2017.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City has received a signed petition from the property owners and only elector and will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). There is only one elector on the property with standing and the City has obtained their signatures prior to the Planning Commission public hearing. At this time, the annexation and zoning assignment will be processed as a quasi-judicial zone amendment with a hearing.

The property is not currently served by a water district, but will, after annexation, be included in City services such as water and sewer from the west side of North Fork Siuslaw Road. The properties are within the Siuslaw Rural Fire Protection District. The property will continue to be served by both districts.

The Planning Commission held a public hearing on July 25, 2017. Resolutions PC 17 15 ANN 01 and PC 17 16 ZC 01, recommending both annexation and zone assignment of Restricted Residential to the City Council, were approved at the same public hearing.

III. PUBLIC NOTICE

Notice of the Planning Commission’s public hearing was mailed on July 5, 2017 to property owners within 300 feet of the proposed annexation areas. Notice was published in the Siuslaw News on July 12 and July 19, 2017. On July 13, 2017 notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Notice of the City Council’s public hearing was posted on the property on July 31, 2017. Notice was posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library on August 1, 2017. Notice was published in the Siuslaw News on August 16 and August 23, 2017.

Public Comments:

At the time of this report, the City had received no comments.

IV. REFERRALS

On July 6, 2017, referrals were sent to the Florence Public Works, Building, and Police Departments; Lane County Transportation, Surveyor, Land Management and Environmental Health; Oregon Department of Transportation; DLCDC; the Department of State Lands; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; Country Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City had received comments from the following:

Fire Marshal Sean Barrett stated that there were no concerns with the project.

Lane County Transportation Planning Engineering Associate Monica Witzig stated that Lane County had no concerns with the project, but that future development, until jurisdiction for the right-of-way was assumed by the City, would need to meet Lane County standards for access management, driveway and road approach spacing, and permitting. Lane County requested to be notified of future proposals on the site.

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.050 Sec. 3, 8, 5, and 9; 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

Zone Assignment

Florence Realization 2020 Comprehensive Plan

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

Florence City Code (FCC)

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

VI. FINDINGS OF FACT

The following findings support Ordinance Nos. 10 (Annexation) and 11 (Zone Assignment), Series 2017 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.”

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 citizen involvement goal and Policy 4 because the process used by the City to approve the 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 July 25, 2017. The public hearing was noticed in accordance with Florence City Code 10-1-1-6-4 as a legislative land use decision before the Planning Commission. The City also notified property owners within 300 feet of the sites 21 days prior to the Planning Commission public hearing. The City published the required notice of the Planning Commission’s public hearing two times in the Siuslaw News. Finally, the City posted notice at four public places within the City: Florence City Hall, Florence Justice Center, Siuslaw Public Library, and the Florence Post Office.

This annexation proposal was considered by the Florence City Council on August 28, 2017. The public hearing was noticed in accordance with Florence City Code 10-1-1-6-4 as a legislative land use decision before the City Council. The City published the required notice of the City Council’s public hearing two times in the Siuslaw News on August 16 and August 23. Finally, the City posted notice at four public places within the City on August 1st – Florence 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 report was available seven days prior to the public hearing. 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

Policies

5. **“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.

Service in this area was recently improved through the installation of 654 linear feet of 8-inch water mains, a fire hydrant, ten water services and connections. Also part of this project was 585 feet of 8-inch sewer main, a manhole, cleanout, and six service laterals. There was previously no service to this area prior to this project, but all properties within this area of the UGB will now have appropriate and adequate service.

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 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 Impacted Forest by Lane County and features only a single-family residence. The implementing zone for this area is Restricted Residential.

- 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 pre-existing use on the site is a single-family residence. According to the proposed zoning, Restricted Residential, this would be an outright permitted use within this Low Density Residential area.

Low Density Residential

The Low Density Residential designation is intended for areas where existing lot sizes are in the neighborhood of 9,000 square feet or larger, and for areas where environmental constraints preclude smaller lots. The corresponding zoning district is Restricted Residential. This designation provides primarily for single family homes and for manufactured homes meeting certain minimum standards.

The applicant has proposed the annexation and zone assignment of a single-family home on a 45,738 square foot lot to the zoning of Restricted Residential. This proposal meets all the requirements of this zone.

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 properties and right-of-way to the west; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City water and sewer to the properties being annexed. All connections to the sewer line will be funded through system development charges, connection fees, and a utility reimbursement district. This financing method allows for cost-effective service delivery to all users of the system.

- The provision of sewer service will allow the property owners to avoid future septic drain field repairs and inefficient use of open space 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 and 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 City has received a petition from the property owners with signature of all listed property owners and electors. 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 3a. 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 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 residential 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 developed properties are currently served by private wells. The properties will eventually be served by a connection to City water, however, the applicant has requested that while services are available, the option remain open to connect for the

foreseeable future. The Public Works Department has reviewed the proposal and is aware of the intent of the property owner to partition the property. Water system capacity will be sufficient to service the properties in the future.

Water and sewer service is available across North Fork Siuslaw Road. A hydrant is located at the southwest corner of North Fork Siuslaw Road and Munsel Lake Road.

Stormwater: There will be no change in the handling of stormwater upon annexation. The properties are located within an area with predicted groundwater flooding according to the Stormwater Management Plan.

Streets: The properties are accessed via North Fork Siuslaw Road and Munsel Lake Road, which are both under Lane County jurisdiction. As a minor arterial, Munsel Lake Road is intended to serve high volumes of regional traffic, which it currently does to the pre-existing annexing area. This section of North Fork Siuslaw Road is designated as an Urban/Rural Major Collector by Lane County. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding streets.

Improvements to the adjacent street will be accomplished in conjunction with improvements to the property. These improvements will be made to City standards for pedestrian and vehicular access. Permitting will be obtained from Lane County until such time that jurisdiction and maintenance responsibilities for the road are transferred.

The City is not requesting maintenance transfer of Munsel Lake Road or North Fork Siuslaw Road at this time.

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. Hydrant availability is discussed under the "Water" section above.

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 (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 July 6, 2017. Lane County Transportation Planning Engineering Associate Monica Witzig sent a referral response on July 19, 2017.

The response stated that any future development proposals for the property will need to remain consistent with the development requirements of Lane Code Chapter 15 until jurisdictional transfer of the subject property and right-of-way occurred. Lane County requested to be informed of all proposed developments occurring on the property in the future until that transfer was completed. The comments are attached as Exhibit C.

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

The applicant of the developed property will be required to pay a sewer systems development charge and a share of project costs to extend services where they do not currently exist. On the developed property, the impact to the supporting street and storm systems is pre-existing, therefore, no other systems development charges will be required at this time. Future development of the properties will necessitate payment of applicable systems development charges. Any undeveloped properties and expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems.

- 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 property, with the exception of maintenance and access off North Fork Siuslaw Road adjacent to the property, which is maintained by Lane County.

OREGON REVISED STATUTES

ORS 222.050 Certain consolidations and mergers; additional question concerning taxes authorized; requirements for approval.

Annexation of Contiguous Territory

(Temporary provisions relating to annexation of certain industrial lands)

Note: Sections 3 and 10, chapter 737, Oregon Laws 1987, provide:

Sec. 3.

(1) Notwithstanding any other provision of law, when property:

- (a) Is property on which no electors reside;**
- (b) Is zoned for industrial uses;**
- (c) Has sewer and water lines paid for and installed by the property owner; and**
- (d) Has an assessed valuation, including improvements, of more than \$7 million that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.**

(2) Property described in subsection (1) of this section shall not be included with other territory as part of an annexation, or annexed under ORS 222.750, unless the owner of the property consents to the annexation in the form of a petition for annexation.

(3) This section applies to property that, on September 27, 1987, was within the jurisdiction of a local government boundary commission.

Sec. 3 applies only to industrial properties which meet all of the criteria listed. The property owner has petitioned for annexation of their residentially-zoned property. The City has also obtained the consent of the property owner (and only elector) involved, per ORS requirements and City policy.

Note: Sections 7, 8 and 11, chapter 539, Oregon Laws 2005, provide:

Sec. 7. Section 8 of this 2005 Act is added to and made a part of ORS 222.111 to 222.180. [2005 c.539 §7]

Sec. 8.

(1) A lot, parcel or tract may not be included in territory proposed to be annexed unless the owner of the lot, parcel or tract gives written consent to the annexation, if the lot, parcel or tract:

- (a) Is zoned for industrial use or designated for industrial use zoning in an acknowledged comprehensive plan;
- (b) Is land on which no electors reside, unless one or more electors living on-site are employed or engaged to provide security services for the industrial user of the land;
- (c) Has an assessed value of more than \$2 million, including improvements; and
- (d) Is in unincorporated Jackson County, either:
 - (A) Within the urban unincorporated community of White City, west of Oregon Route 62; or
 - (B) Within the urban growth boundary of the City of Medford, west of Oregon Route 99.

(2) After annexation of a lot, parcel or tract described in subsection (1) of this section, the development rights that apply to the lot, parcel or tract under the industrial zoning classification applicable to the lot, parcel or tract when it is annexed are retained and run with the lot, parcel or tract.

(3) As used in this section, “urban unincorporated community” means an unincorporated community that:

- (a) Includes at least 150 permanent residential dwelling units;
- (b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;
- (c) Includes areas served by a community sewer system; and
- (d) Includes areas served by a community water system. [2005 c.539 §8]

Section 8 and its subsections (1), (2), and (3) are not applicable to this petition for annexation.

Sec. 5.

(1) Notwithstanding any provision of ORS 195.205 to 195.225, 199.410 to 199.534, 222.111 to 222.180, 222.750 and 222.840 to 222.915, property described in subsection (2) or (3) of this section may not be annexed by or to a city unless the city receives consent to the annexation from the owner of the property in the form of a petition for annexation.

The City has received a petition for annexation from the property owner involved.

(2) Property for which annexation is limited by subsection (1) of this section is property:

- (a) That is composed of one or more lots, parcels or tracts that:
 - (A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;

- (B) Are contiguous or are separated from each other only by a public right of way, a stream, a bay, a lake or another body of water; and
- (C) Together comprise at least 150 acres;
- (b) On which no electors reside;
- (c) That was zoned for industrial, employment or transit-oriented employment uses on December 31, 2004;
- (d) That has private, on-premises security services; and
- (e) That has an assessed valuation, including improvements, of more than \$12 million.

The City has obtained the approval of the owner of the property proposed to be annexed. The property does not fit any criteria listed by section (a) above. The property is currently zoned Impacted Forest through Lane County. In addition, the property owner is the elector residing on the properties and the area proposed for annexation does not have private, on-premises security services or an assessed valuation of more than \$12 million.

(3) Subsection (1) of this section applies to a lot, parcel or tract that is owned by the same individual or entity, including an affiliate or a subsidiary of the entity, that owns the property described in subsection (2)(a) of this section if the lot, parcel or tract:

- (a) Is within two miles of the property described in subsection (2)(a) of this section; and
- (b) Contains 10 or more acres that are contiguous or separated from each other only by a public right of way, a stream, a bay, a lake or another body of water.

This section of ORS does not apply.

(4) A city may not obtain approval of an owner for annexation under this section by requiring or requesting that the owner waive remonstrance or agree to annexation in order to receive utility service or other city services located in the city right of way at the same price the city charges an owner of similar property that is within the city. [2005 c.844 §5]

This section of ORS does not apply.

Sec. 9.

(2) Sections 5, 6 and 7 of this 2005 Act apply to an annexation of territory approved on or after March 1, 2005, and to an annexation of territory proposed on or after the effective date of this 2005 Act. [2005 c.844 §9(2)]

The sections listed above are for an annexation taking place on or after March 1, 2005, but the sections do not apply to this particular annexation.

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 annexation is contiguous to the City from the west for all proposed areas of annexation.

(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 the owner of real property in the territory to be annexed. Written consent was received from the property owner of the lot 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. 8, Series 2008, adopted by the City Council, the legislative body of the City, on April 21, 2008, 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 and electors within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

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

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

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 8, Services 2008 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. 8, Series 2008 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 August 28, 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 public hearing was noticed as required. Notice of the public hearing was published in the Siuslaw News on July 12 and 19, 2017. Public noticing for the City Council public hearing, the City legislative body, was published in the Siuslaw News August 16 and 23, 2017. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on July 13, 2017 and again with updated information regarding the date of the City Council hearing on August 1, 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 proposed annexation is contiguous to the City limits on the eastern property line through the North Fork Siuslaw Road right-of-way which is also being annexed. The City Council held a public hearing on the annexation request on August 28, 2017. If approved, an Ordinance will be passed, 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 consent from the property owner 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 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. ORS 222.120(2) outlines the process undertaken by the City to approve owner-consented annexations.

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 only one elector within the proposed annexation area, the property owner. The written consents was signed prior to June 20, 2017, and received before the City Council held the required public hearing required by ORS 222.120.

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

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

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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

10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)

D. Notice of Hearing:

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

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

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

conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

The zoning district corresponding to the subject property's Comprehensive Plan designation is Low Density Residential. The Restricted 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 July 25, 2017, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The City Council held a public hearing on this annexation request and quasi-judicial zone assignment on August 28, 2017. 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.

VII. CONCLUSIONS

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

VIII. ATTACHMENTS

Ordinance No. 10, Series 2017

- Exhibit A** Map of Annexation Area & Legal Description
- Exhibit B** Findings of Fact
- Exhibit C** Referral Comments Received

Ordinance No. 11, Series 2017

- Exhibit A** Map of Rezoning Area

Exhibit B Findings of Fact

Other Attachments

Attachment 1

Petition for Annexation