

**CITY OF FLORENCE
ORDINANCE NO. 3, SERIES 2018**

AN ORDINANCE ESTABLISHING OPEN SPACE ZONING WITH A NATURAL RESOURCE CONSERVATION OVERLAY TO 87658 HARBOR VISTA RD., ASSESSOR'S MAP 18-12-09-00: TAX LOTS 00300 & 00400, HARBOR VISTA RD., SOUTH HARBOR VISTA DR., & ABUTTING NORTH JETTY RD. (FORMER COUNTY RD. 1301) AND SINGLE FAMILY RESIDENTIAL ZONING TO ASSESSOR'S MAP 18-12-10-33: NORTH JETTY RD. (FORMER COUNTY RD. 1301)

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.
2. The City of Florence was petitioned by property owner, Steve Mokrohisky, County Administrator on behalf of the Lane County Board of Commissioners for Lane County, on January 2, 2018, for annexation of their properties required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
3. The Planning Commission met on March 27, 2018 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
4. The Planning Commission determined on March 27, 2018, 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 April 16, 2018, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
6. The City Council deliberated on April 16, 2018 and found that the subject properties are plan designated either Medium Density or Public in the Realization 2020 Plan and the City Council supported the establishment of city-zoning as Single Family Residential and Open Space Districts consistent with Florence Comprehensive Plan and Zoning Code objectives.
7. The City Council adopted Ordinance No. 2, Series 2018 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 petitioner and the abutting streets previously identified as Open Space with a Natural Resource Conservation Overlay 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 No. 2, Series 2018.

ADOPTION:

First Reading on the 16th day of April, 2018

Second Reading on the 16th day of April, 2018


This Ordinance is passed and adopted on the 16th day of April, 2018.

AYES	4	Councilors Greene, Preisler, Lacer and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	1	Councilor Woodbury



Joe Henry, Mayor

Attest:

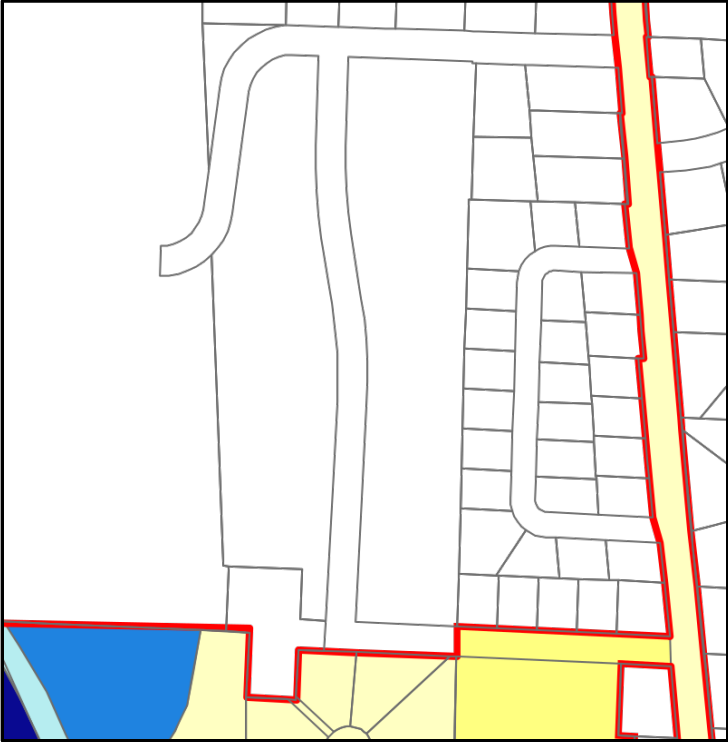


Kelli Weese, City Recorder

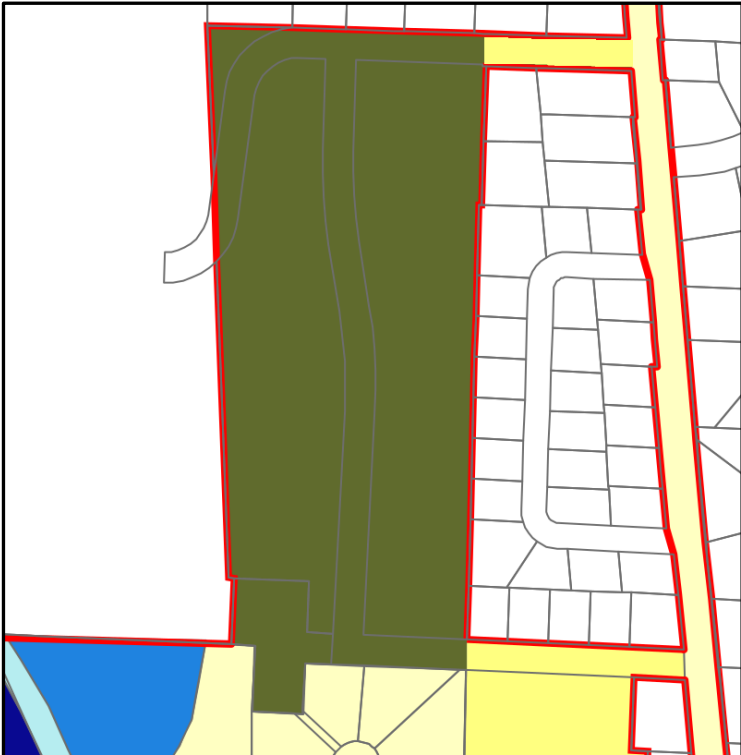
Ordinance 3, Series 2018—Proposed Zoning Map

Exhibit A

Current



Proposed



FINDINGS OF FACT
Ordinances 2 & 3 Series 2018 Exhibit “B”

Public Hearing Date: April 16, 2018

I. PROPOSAL DESCRIPTION

Proposal: Annexation

A request from Lane County to annex property 87658 Harbor Vista Rd. and abutting S. Harbor Vista Dr. and all of North Jetty Rd. and Harbor Vista Rd. (all formerly County Rd. 1301) from Lane County into the City of Florence.

Rezoning

Upon annexation, the property requires zoning assignment. The corresponding zoning district matching the campground property and Harbor Vista Road, S. Harbor Vista Drive and a portion of North Jetty Road to Open Space District with a Natural Resource Conservation Management Unit Overlay corresponding to the Public comprehensive plan designation. North Jetty Road east of the park is proposed to be zoned Single Family Residential to correspond with the Medium Density comprehensive plan designation.

Applicant: Lane County (Designees: Keir Miller, Planning Supervisor; Charlie Conrad, Interim Park Dir.)

Property Owner/Petitioner & Associated Property (described in Exhibits A1 & 2):

Petitioner: Steve Makrohisky, County Administer on behalf of the Lane County Board of Commissioners for Lane County
Map Reference 18-12-09-00: Tax Lots 00300 & 00400 (87658 Harbor Vista Road), Harbor Vista Rd., South Harbor Vista Dr., & abutting North Jetty Rd. (former County Rd. 1301);
Map Reference 18-12-10-33: North Jetty Rd. (former County Rd. 1301)

Comprehensive Plan Map Designation: Medium Density (18-12-10-33: N. Jetty Rd.), Public (18-12-09-00: Tax Lots 00300 & 00400 (87658 Harbor Vista Rd.), Harbor Vista Rd., South Harbor Vista Dr., & abutting North Jetty Rd. (former County Rd. 1301))

Surrounding Land Use / Zoning:

Sites: 87658 Harbor Vista Road / Park and Recreation (PR) (Natural Resources Conservation District Overlay (NRC))
North: Single-family residences / Suburban Residential / Mobile Home District (RA) (Interim Urban Combining District (U) & NRC)
East: Single-family residences / RA / U
West: North Jetty park land / PR / Beaches & Dunes (BD) & NRC Overlays

South: Single-family residences / Restricted Residential (City jurisdiction)

Streets / Classification: West & North – North Jetty Rd. / Local; South – S. Harbor Vista / Local & Shoreline Dr. / Local (private) East Parkside Dr. / Local

II. NARRATIVE

The applicant has petitioned for the annexation of the Harbor Vista Campground and surrounding street network from Lane County jurisdiction to City of Florence jurisdiction. The County Administrator on behalf of the Lane County Commissioners signed the petition for annexation. There are no electors residing on the property. The petition was received on January 2, 2018. After receiving the legal property description on January 26, 2018 the application was deemed complete effective January 26, 2018.

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. The City received a signed petition from County Administrator Steve Makrohisky representative for Lane County. There are no electors. The annexation and zoning assignment will be processed as a quasi-judicial zone amendment with a hearing.

The property is currently served by Heceta Water People's Utility District. Water services will continue to be served by Heceta PUD. After annexation the property will be served with City sewer service from the east via South Harbor Vista Drive. The property is and will remain within the Siuslaw Rural Fire Protection District.

III. PUBLIC NOTICE

Notice of the Planning Commission's public hearing was mailed on March 6, 2018 to property owners within 300 feet of the proposed annexation and rezone areas and posted on the site. Notice was published in the Siuslaw News on March 14 and 21, 2018. On March 6, 2018 notices were posted at Public Works, Florence Post Office, Florence Justice Center, and the Siuslaw Public Library.

Notice of the City Council's public hearing was published in the Siuslaw News on April 4 and 11, 2018. On April 4, 2018 notices were posted at the site and at Public Works, Florence Post Office, Florence Justice Center, and the Siuslaw Public Library.

Public Comments:

At the date of publishing this report, the City had received the following comments:

Leah Patten, dated March 27, 2018. Ms. Patten provided verbal testimony on March 27, 2018 at the Planning Commission hearing concerning the following topics: no policy has been set by Resolution or Ordinance supporting "no forced annexation", Florence' comprehensive plan supports dredging wetlands and placing a marina at the base of the campground in the Estuary, poor maintenance of roads to be

annexed, and inconsistent “property” line illustrating the western extent of the annexation boundary on the exhibits.

Staff Comment: The application includes only property for which a petition for annexation was received. The area west of the campground is zoned Natural Estuary and is not proposed for annexation at this time. Lane County proposes to keep jurisdiction of the annexed roads at this time and thus will continue maintenance. Florence is in the process of transferring jurisdiction of South Harbor Vista Dr. to the City under a separate process. The western extent of the annexation is the meander line of the Pacific Ocean as it abuts the properties petitioned for annexation. Due to differences in technology with creating the various exhibits the line can appear differently. The metes and bounds property description is the instrument representing the actual location of the annexation boundaries.

Michael Allen, dated April 5, 2018. Mr. Allen requests the sewer lines presently be installed be extended to serve the ADA camping spaces or that other site pads planned to receive sewer services be converted to ADA spaces.

Annexation considers the city’s capacity to provide sewer service to properties petitioned for annexation. Capacity is available. Connection to those services from a site and distribution throughout the site is a development issue subject to the provisions of the Oregon Building Codes (plumbing) and possibly those of the Department of Justice related to Americans with Disabilities Act.

IV. REFERRALS

On March 8, 2018, referrals were sent to the Florence Public Works, and Police Departments; Lane County Transportation, Surveyor, Land Management and Environmental Health Departments; DLCDC; 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 date of publishing this report, the City had received the following comments:

Tom Turner, Chief of Florence Police Dept. dated March 20, 2018

“The Florence Police Department has the capacity to provide police response to the Harbor Vista Park if incorporated into the City of Florence. We provide 24 hour a day/365 day(s) a year full police coverage for the Community of Florence. Currently FPD responds to the surrounding areas, outside our jurisdiction (as part of a mutual aid agreement) at this time to provide emergency police response if needed for Lane County Sheriff’s Office or the Oregon State Police. We have been operating in this capacity for many years. Incorporating this new area would not be extending our services or capacity as we already respond to many of the surrounding properties, both in and out of the City of Florence, as a normal course of our business.”

Mike Miller, Public Works Department, dated March 20, 2018

“Harbor Vista Campground is located within the city of Florence wastewater treatment service area. Community sanitary sewer treatment in regulatory compliance can serve the site. We have estimated that the campground will have an average daily flow of 10,080 gallons and a peak hour flow of 1,500 gallons.

Total sewer system capacity is currently 1.3 million gallons per day (mgd) dry weather flow. Our current average dry weather flow is 0.745 mgd, which equates to 0.555 mgd of excess flow capacity. The campground will only utilize 0.01 mgd of the current excess capacity.

Regarding providing sanitary sewer service to Harbor Vista Campground, staff believes that the proposed project will provide opportunities for other surrounding homeowners that desire sanitary sewer service from the City. The Harbor Vista Campground sewer collection system project that is currently under construction will provide a gravity collection system with a regional sewer pump station to connect to the City’s existing pressure sewer system within Rhododendron Drive. As mentioned, the regional sewer pumping facility within Harbor Vista Campground has been sized to accommodate a much larger drainage basin than just the campground itself. The approximate limits of the drainage basin extends from Limpit Lane to the east, Treewood Street to the south and Saltaire to the north. Providing easy access to sanitary sewer will simulate economic opportunities such as these new dwellings.

When looking at the ‘drainage basin’ for this area, the system has been designed to handle an average daily flow rate of 38,880 gallons per day with a peak hourly demand of 5,760 gallons. Again, the City currently has excess capacity to accommodate the sewer needs of this area.

Without going into great detail, it is the policy of the city of Florence to provide sanitary sewer service to any property within the City’s wastewater service area. However, the property owner(s) are to pay for sewer main extension, manholes, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project.”

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 14: Urbanization, Policies 1, and 3 through 7

Zone Assignment

Florence Realization 2020 Comprehensive Plan

Chapter 17: Coastal Shorelands; Ocean, Estuary, and Lake Shorelands; Policies 10 & 14, and References to Management Unit #50

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 11: Single Family Residential

Chapter 19: Estuary, Shorelands, and Beaches and Dunes; Section 10

Chapter 22: Open Space District; Sections 2 & 3

VI. FINDINGS OF FACT

The following findings support Ordinances 2 & 3, Series 2018 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 14: Urbanization

Goal

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

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 is not surrounded by the corporate boundaries of the city but rather contiguous with the Florence city limits on the south and a part of the east sides. Additionally, all properties to be annexed were petitioned by the owner.

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

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

The proposed annexation is consistent with Policy 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, streets, fire and police protection, power, and communications. The 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 east and south; it is, therefore, an orderly transition from rural to urban land uses. 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 Director, Mike Miller has evaluated the impact of the existing 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. Service will be provided via a new line in S. Harbor Vista Dr. connecting to the existing line in Rhododendron Dr. Detailed capacity is outlined in the referral testimony exhibit.

Water: The developed property is currently served and will continue to be served by Heceta Water Public Utility District.

Stormwater: There will be no change in the handling of stormwater upon annexation.

Streets: The properties are accessed via North Jetty Road and S. Harbor Vista Dr. and served by Harbor Vista Road all of which are under Lane County jurisdiction. All are local streets serving local traffic, which it currently does to the pre-existing annexing area. 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.

The City is not requesting maintenance transfer of North Jetty Road or Harbor Vista Road at this time. South Harbor Vista Dr. is currently in process for transfer to City maintenance jurisdiction.

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. Chief Turner Florence Chief of Police responded to the referral that the Florence Police Department has the capacity to serve the annexed area and will patrol and respond to calls for the subject property. More detailed capacity is outlined in the referral testimony exhibit.

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 March 9, 2017. No comments were received.

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 referral requests to Heceta Water Public Utility District on March 9, 2017. No comments were received.

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 and storm 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 systems is pre-existing; therefore, no other systems development charges will be required at this time. Any undeveloped property and expansions to developed property 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 Jetty Road and Harbor Vista Road, which will continue to be maintained by Lane County.

CHAPTER 17: COASTAL SHORELANDS OCEAN AND LAKE SHORELANDS

POLICIES

- 10. Existing visual and physical access points in the UGB shall be retained (see Table 17.1). The City, in coordination with the Parks and Recreation Division, shall develop and implement a program to provide increased public access to Coastal Shorelands. Existing public ownerships, rights of way, and similar public easements in Coastal Shorelands which provide access to or along coastal water shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.**

Table 17.1 Excerpt:

Access Points Within the UGB Currently Outside City Limits:

- A. Harbor Vista Park (West of Rhododendron Street) Access to river, scenic view**
- B. North Jetty Access to river and ocean beach**

- 14. In Natural Resources Conservation Management Units, the following additional policies shall apply:**

- a. For Shorelands in the Natural Resources Conservation MU within the Florence UGB, implementation requirements in Lane Code Chapter 10 Overlay Zoning Districts shall apply outside city limits, and the Natural Resource Conservation Overlay Zoning District in Florence City Code Title 10 Chapter 19 shall apply inside city limits.**

Management Unit #50 consists of property owned by the U.S. Army Corps of Engineers, Harbor Vista County Park, and State-owned property that extends north from the north jetty and includes the deflation plain.

Harbor Vista Campground will have the Natural Resource Conservation Overlay applied once annexed in accordance with Policy 14 and supported by the rationale in Management Unit #50. The campground is pre-existing. Future development will require review under the policies listed in Title 10 Chapter 19 Natural Resources Conservation Management Unit Overlay. Lane County is the owner of the campground and maintenance agency for North Jetty Rd., Harbor Vista Rd. and S. Harbor Vista Dr. Lane County has indicated no plans to sell or remove visual or physical access points protected under Policy 10 and listed in Table 17.1 noted above. The proposal as submitted meets policies 10 & 14 of Chapter 17 of the Comprehensive Plan.

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 is being conducted in the manner provided by City Charter. All the property proposed for annexation is located within the urban growth boundary of the City of Florence. The Harbor Vista Campground and Harbor Vista Rd. are contiguous to the City from the south (Shelter Cove subdivision) S. Harbor Vista Dr. is contiguous to the City via previously annexed South Harbor Vista Dr., North Jetty Rd. is contiguous to the City via previously annexed Rhododendron Dr. This criterion is met.

(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 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 properties are county owned and are not subject to property taxes. This criterion does not apply.

(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 (SVFR), which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will continue to be served by the SVFR, will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District. This criterion is met.

(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, 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 consents from 100% of the owners of the proposed annexation area, as allowed in ORS 222.170; and there are no electors. Therefore, the criterion to not require an election is met.

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.

(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 expressed the City Council's intent to dispense with annexation elections whenever permitted by ORS Chapter 222. Public hearings on all annexations were held allowing City electors to be heard on the annexation. Consistent with the resolution, the City Council held a duly advertised public hearing on April 16, 2018, after receiving a recommendation from the Planning Commission following their public hearing on March 27, 2018. The electors of the City could appear and be heard on the question of annexation at those public hearings. This criterion is met.

(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 March 14 and 21, 2018. Public noticing for the City Council public hearing, the City legislative body, was published in the Siuslaw News April 4 and 11, 2018. Notices were posted on the property and in four public places in the City at Public Works, Justice Center, Siuslaw Public Library, and Post Office on March 6, 2018 and again on April 4, 2018.

(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 as follows: south abutting Shelter Cove subdivision, S. Harbor Vista Dr. via previously annexed S. Harbor Vista Dr., North Jetty Rd. via previously annexed Rhododendron Dr. The City Council held a public hearing on the annexation request on April 16, 2018. The Ordinance passed and states as required

under (b) showing that the landowners consented in writing to the annexation consistent with ORS 222.170. This criterion 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.

No properties will be withdrawn from the Siuslaw Valley Fire and Rescue as discussed above.

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

The Ordinance passed by City Council is subject to referendum per ORS 222.170 (1) and 222.170 (2).

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

Written consent was received by the City on a petition for annexation of real property owned by Lane County. This criterion was met.

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 222.170 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 are no electors within the proposed annexation area. The written consent/petition was signed and received before the City Council held the required public hearing required by ORS 222.120. This criterion is met.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.

Lane County owned property is the only property under consideration for annexation. They have petitioned for annexation of the property and roads. Therefore the exclusion language offered by this criterion does not apply.

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 districts corresponding to the subject property's Comprehensive Plan (Public and Medium Density Residential) designation are Open Space and Single Family Residential. The properties zoned Open Space will also have the Natural Resource Conservation Management Unit Overlay. These zones 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 March 27, 2018, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. On April 16, 2018 the City Council held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearings 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 11: SINGLE FAMILY RESIDENTIAL DISTRICT

10-11-1: PURPOSE: The Single-Family Residential District is intended to provide a quality environment for medium density, urban, single-family residential uses and other compatible land uses determined to be desirable and/or necessary.

North Jetty Road is proposed to be zoned Single Family Residential District for the most eastern portion connecting to Rhododendron Dr. This zone is appropriate as it corresponds to the southerly abutting comprehensive plan designation (Medium Density) assigned to the single family residences served by this local road. No specific policies are applicable under this annexation or zoning proposal related to a street with no development proposal.

TITLE 10: CHAPTER 19: ESTUARY, SHORELANDS, AND BEACHES AND DUNES

10-19-10: Natural Resource Conservation Overlay District (/NRC)

As discussed under Chapter 17 of the Florence Comprehensive Plan policies the property will be located in the NRC management unit overlay. Future development and expansion will be subject to the policies and regulations in this overlay. The existing campground facilities (High-Intensity Recreation, FCC 10-2) and any future expansion would require a conditional use permit under NRC overlay application. No specific policies are applicable under this annexation or zoning proposal.

TITLE 10: CHAPTER 22: OPEN SPACE DISTRICT

10-22-1: PURPOSE: The Open Space District is intended to protect urban open space buffers, park and recreation lands, natural resource lands and lands reserved for later development. This District is intended to be used in conjunction with the Comprehensive Plan. Where, for example, the Plan designates an area for urban development, the application of this District would be interim; when the land became available for development, a rezoning could be considered. Where this Open Space District is consistent with the Plan's land use designation, it is intended that this District would preserve such land permanently in open space use.

The campground and streets serving the campground and the North Jetty Park are plan designated "Public". One of the zone assignments for Public is Open Space. This district is most appropriate for this proposal due to its development as a park and the corresponding NRC zoning protecting the natural resource lands. The existing campground use is a park with developed facilities and thus would require a conditional use permit under this code. Normal expansions are permitted under the conditional use criteria. No specific policies are applicable under this annexation or zoning proposal.

VII. CONCLUSION

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