

**CITY OF FLORENCE  
ORDINANCE NO. 7, SERIES 2015**

**AN ORDINANCE APPROVING ANNEXATION OF ALL OF LOTS 1, 11, AND 12 OF  
BLOCK 13, HECETA BEACH AS PLATTED AND RECORDED IN BOOK 7, PAGE 25,  
LANE COUNTY PLAT RECORDS, LANE COUNTY, OREGON AND THE NORTH ½  
OF THE VACATED ALLEY ABUTTING LOTS 11 AND 12 AND THE SOUTH ½ OF  
THE VACATED ALLEY ABUTTING LOT 1 TO THE CITY OF FLORENCE**

RECITALS:

1. The City of Florence was petitioned by the property owners, Barbara and Mike Cessnun on January 12, 2015 and said petition amended on February 16, 2015.
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. 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. There are no electors to be considered on the lots included in the petition for annexation.
4. The annexation was initiated by petition to the City from 100% of the owners of proposed land and is therefore not required to be considered by hearing as outlined in ORS 222.125.
5. 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).
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 Exhibits A and B will be annexed into the City of Florence.
7. The Planning Commission met on March 24, 2015 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.

8. The Planning Commission determined on March 24, 2015, 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.
9. The City Council met on April 6, 2015, after giving the required notice per FCC 10-1-1-5, to consider the proposal, evidence in the record, and testimony received.
10. The City Council deliberated on April 6, 2015 and continued the hearing until May 4, 2015 at the applicant's request.
11. The City Council deliberated on May 4, 2015 and found that the request met the applicable criteria and that the property could adequately be served.
12. 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. 8, Series 2015 zoning the annexed property to Commercial 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 petitioners into the City of Florence as described in Exhibits A and B.
2. This annexation is based on the Findings of Fact in Exhibit C 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 4<sup>th</sup> day of May, 2015.

Second Reading on the 4<sup>th</sup> day of May, 2015

This Ordinance is passed and adopted on the 4<sup>th</sup> day of May, 2015.

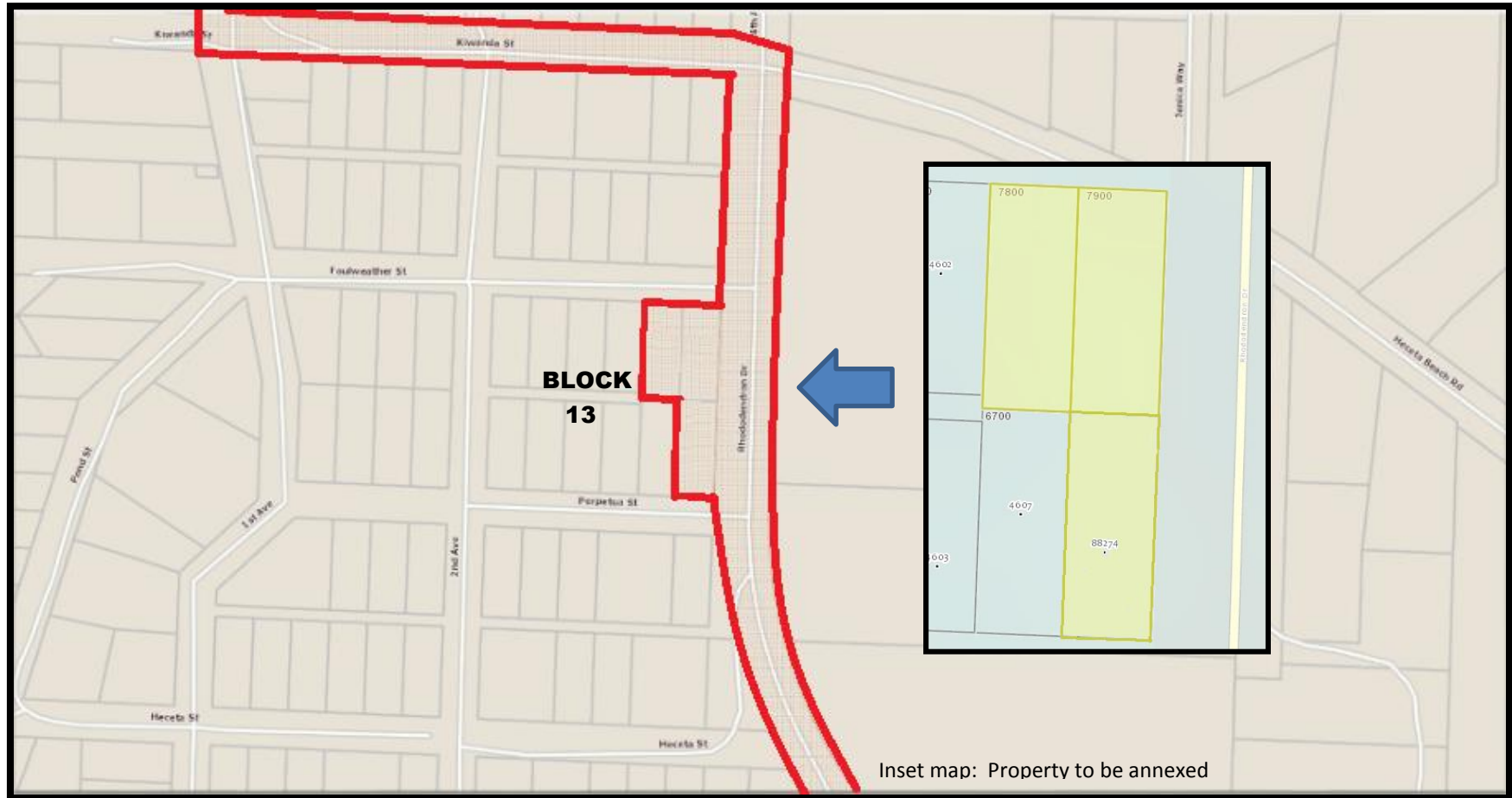
AYES	5	Councilors Greene, Preisler, Lacer, Lyddon and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	

  
\_\_\_\_\_  
Joe Henry, Mayor

Attest:

  
\_\_\_\_\_  
Kelli Weese, City Recorder

**Ordinance No. 7, Series 2015 – CC 15 02 ANN 01 – Jerry’s Place Annexation  
EXHIBIT A**



Being in the Northwest corner of the Southeast corner of Section 4, Township 18 South, Range 12 West, Willamette Meridian in Lane County, Oregon

Map 18-12-04-42; Lots 1, 11, and 12 of Block 13, Heceta Beach, as described as part of EXHIBIT B.

**Parcel –**

**MAP 18-12-04-42 Taxlot 6700**

Lot 1 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

**Map 18-12-04-42 Taxlot 07800**

Lot 12 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

**Map 18-12-04-42 Taxlot 07900**

Lot 11 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

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

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**Public Hearing Date:** April 6, 2015      **Planner:** Glen Southerland

**Application:**                      CC 15 02 ANN 01      Jerry's Place Annexation  
   CC 15 03 ZC 01      Jerry's Place Zone Change

**I. PROPOSAL DESCRIPTION**

**Proposal:**    Annexation

A request for the City of Florence to annex property 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 their plan designation is Commercial.

**Applicant:**    Barbara and Mike Cessnun

**Property Owners:**    Barbara and Mike Cessnun

**Location:**    88274 Rhododendron Drive  
   Map 18-12-04-42 TL 06700

Lot 1 of Block 13, HECETA BEACH, as platted and recorded in Book 7, Page 25 of the Lane County, Oregon Plat Records in Lane County, Oregon. TOGETHER WITH that portion of the vacated alley adjacent and inuring thereto by vacation proceedings which were recorded May 28, 1981, Reception No. 8122799, Lane County Oregon Records.

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**Comprehensive Plan Map Designation:** Commercial

**Surrounding Land Use / Zoning:**

**Site:** Commercial / County CA (Rural Commercial District) (Beaches & Dunes Overlay)  
**North:** Single-family residences / County RA/MH (Suburban Residential / Mobile Home District) (Beaches & Dunes and Interim Urban Combining District Overlays)  
**South:** Single-family residences / County RA/MH (BD & U Overlays)  
**East:** Single-family residences / County RA/MH (BD & U Overlays)  
**West:** Single-family residences / County RA/MH (BD & U Overlays)

**Streets / Classification:** North – Foulweather Street / Local, South – Perpetua Street / Local, East – Rhododendron Drive / Minor Arterial, West – 2<sup>nd</sup> Avenue / Local

**II. NARRATIVE**

There are three lots under consideration for annexation. The southern lot (TL 6700) is developed with the Jerry's Place Bar & Grill. The northeastern lot (TL 7900) is used for a parking lot & septic drain field for the Jerry's Place restaurant. The northwestern lot (TL 7800) is vacant.

The northerly lots abut Foulweather Street and the southerly lot abuts Perpetua Street. The lots include a previously vacated 15 foot-wide alley that ran east-west through Block 13 of the Heceta Beach original plat. The alley running the length of Block 13 was vacated by the County through Resolution 1138/8122744.

The applicants petitioned for annexation on January 12, 2015 and after receiving additional information their application was deemed complete as of January 12, 2015. The applicants amended their annexation request on February 16, 2015, removing the single-family residence on Lot 2 of Block 13 (TL 06700 portion) from the petition.

The Planning Commission approved resolutions recommending approval of the proposed annexation and zone assignment at their hearing on March 24, 2015.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation. The city has received signed petitions from 100% of the property owners and can initiate the annexation. There are no electors on the properties which have standing. Historically the city has used ORS 222.120, regardless of the fact that petitioners met the opportunities afforded by ORS 222.125. Because the applicant meets the criteria in ORS 222.125 the annexation portion of this request will be processed as an action item rather than a hearing. At this time the zoning will be processed as a quasi-judicial zone amendment with a hearing although staff thinks this is also an incorrect procedure.

The property owners of the vacant lot would like to benefit from city services, in particular sanitary sewer. The applicants have stated that the drain field that Jerry's

Place currently utilizes is failing and that they would like to connect to the City sewer system. The property has a current connection to Heceta Water District water utilities. The properties are within the Siuslaw Rural Fire Protection District. The properties will continue to be served by both districts.

Rhododendron Drive east of the property is within the city limits, but is maintained by Lane County. The applicant or any others accessing Lane County right-of-ways must apply for access permits from Lane County Public Works.

There are several issues with the site, but none that will be addressed at this time. At the time of redevelopment of the site, the property owner will need to address parking located in the right-of-way, a 175' wide access apron which does not meet Lane County access standards, landscaping needs, and other issues.

### **III. PUBLIC NOTICE**

Notice of the Planning Commission's public hearing was mailed on March 3, 2015 to property owners within 300 feet of the proposed annexation area. Notice was published in the Siuslaw News on March 11<sup>th</sup> and March 18<sup>th</sup>. On March 16, 2015 notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Following the Planning Commission hearing, notice regarding the City Council meeting was published in the Siuslaw News on April 1, 2015.

#### **Public Comments:**

At the time of report, the following comments had been received:

Testimony from Kevin Clark and Carol Kumpula-Clark, received March 15, 2015 (Exhibits E1 and E2) stating that they oppose the annexation because they do not want expanding commercial uses in their residential area and have had issues in the past with noise from the annexing property. They cited ORS 222.111, 222.120, 222.125, and 222.170 as well as the Florence Comprehensive Plan as reasons that the annexation should not take place.

#### **Staff Response:**

Staff addresses ORS 222.111, 222.120, 222.125 and 222.170 later in this Staff Report, but finds that the petition meets the requirements of the cited Oregon Revised Statutes. Staff finds that Mr. Clark's concern that the business does not meet the current standards for a commercial zoned business abutting a residentially zoned area valid, but finds that the situation involves a pre-existing non-conforming use (existing prior to the mid-1980s). Should the property be annexed and the site re-developed in the future, these concerns can be addressed, but the City does not have code criteria to address those concerns at this time.

No expansion of commercial uses has been proposed, nor has a conversion from residential to commercial. Staff would also like to note that a property annexed into



the City would be subject to the City's nuisance code and policing, including the noise section (FCC 6-1-2-3). Residents of the City of Florence UGB are subject to county nuisance code and policing.

#### **IV. REFERRALS**

On March 4, 2015, referrals were sent to Florence Public Works and Police; Lane County Transportation, Surveyor, Land Management and Environmental Health; and Siuslaw Valley Fire and Rescue. Referral to Heceta Water District was sent on March 17, 2015, please see Ch. 14, Policy 5 for further information.

##### **Referral Comments:**

##### Sean Barrett, Siuslaw Valley Fire and Rescue, March 5, 2015

"Fire has no concerns with this referral and supports it."

##### Lindsey Eichner, Lane County Land Management, March 5, 2015

"Lane County Planning has no issue with the proposed annexation." Lindsey Eichner later submitted comment on March 20, 2015 stating that the current setback for a septic system was 10 feet from a property line. She would like the property owner to comply with this requirement during the property line adjustment process, if needed.

Staff performed a site visit on March 27, 2015 in order to determine the status of the septic system and possible encroachment by the Jerry's Place building on the neighboring lot to the west, also owned by the applicant. Staff estimates the Jerry's Place building does not encroach upon Lot 2 nor does the drain field for the single-family residence on Lot 2 approach the lot line between the two buildings.

##### Daniel Ingram, Lane County Public Works, March 18, 2015

Daniel Ingram, Senior Engineering Associate for LCPW expressed that he had no issues with the annexation of the property into the City of Florence, but that the property owner would need to obtain a Right-of-Way permit in order to connect the sewer line to the pressurized main. He also stated that any future redevelopment of the property would require several changes to the parking lot, including changes for the parking in the right-of-way and changes to the 175-foot driveway apron.

#### **V. APPLICABLE REVIEW CRITERIA**

##### Annexation

##### **Oregon Revised Statutes (ORS)**

222.111, 222.120, 222.125 and 222.170 (2)

##### **Florence Realization 2020 Comprehensive Plan**

Chapter 1: Citizen Involvement, Policy 4

Chapter 14: Urbanization, Policies 1, and 3 through 7

##### Rezoning

##### **Florence Realization 2020 Comprehensive Plan**

Chapter 2, Policy 5 and Section on Commercial Plan Designation

**Florence City Code (FCC)**

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

**VI. FINDINGS OF FACT**

The following findings support Resolution Nos. CC 15 02 ANN 01 & CC 15 03 ZC 01 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.

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**FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN**

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**Chapter 1: Citizen Involvement**

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**“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.”**

The process used by the City to approve Planning Commission Resolutions PC 15 01 ANN 01 & PC 15 08 ZC 01 recommending approval of this annexation and zone assignment request, as well as City Council Ordinances No. 7 (CC 15 02 ANN 01) and No. 8 (CC 15 03 ZC 01), Series 2015 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 March 24, 2015. The public hearing was noticed in accordance with Florence City Code 10-1-1-5 as a quasi-judicial land use decision before the Planning Commission. The City notified property owners within 300 feet of the site 21 days prior to the Planning Commission public hearing. The City also published the required notice of the Planning Commission’s public hearing two times in the Siuslaw News. Finally, the City posted notice at four public places within the City: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

Following the Planning Commission meeting, a City Council meeting was held at April 6, 2015 to consider the annexation and zone assignment. The public hearing was noticed in the Siuslaw News April 1, 2015.

The Planning Commission agenda packet was posted on the City's website prior to the public hearing. The staff report was available seven days prior to the public hearing. The City Council agenda packet was also posted on the City's website prior to the public hearing and 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.

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## **Chapter 2: Land Use**

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### **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.

### **Commercial Plan Designation Categories and Background**

#### **Commercial**

**Three areas are designated Commercial in the Plan Map. The Commercial designations at Driftwood Shores and the adjacent parking area and the tavern located at 88274 Rhododendron Drive are retained in this Plan. Another of these areas is between approximately Highway 126/9th Streets and 21st Street, straddling the east and west side of Highway 101 and varying in depth from one to two blocks. Retail and service commercial uses are appropriate for this area, as are professional offices and motels. Residential, in the form of second-story apartments over ground floor commercial, is also an appropriate accessory use. Commercial uses should be conducted primarily within a building, facilitate both vehicular and pedestrian access, and relate to surrounding buildings in terms of scale and street orientation. Architectural**

and site design guidelines are appropriate for both new development and redevelopment.

The third area designated Commercial are lands north and south of Highway 126 and east of Quince Street. These lands were designated Highway Commercial in the 1988 Comprehensive Plan Map and zoned for commercial use by Lane County. Retail and service commercial, professional offices, lodging and restaurant establishments are appropriate uses for this area. Upper story residences are encouraged where they can be protected from highway impacts.

**The implementing zoning district for the Commercial Plan designation is the Commercial District.**

Currently, Jerry's Place is zoned County Rural Commercial District. The land considered for annexation is specifically mentioned as the "tavern located at 88274 Rhododendron Drive" and, as stated, should be zoned according to the implementing zoning district for the Commercial Plan designation: Commercial District.

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## **Chapter 14: Urbanization**

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### **"Goal**

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

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

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via Rhododendron Dr.; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City sewer to the properties being annexed. The property owner will be responsible for the payment of sewer systems development charges to the City and connection fees. 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 costly septic drain field repairs and inefficient use of vacant land 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 owner in order to receive City services, but has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The City has received a petition from the property owners with signature of both listed property owners. There are no other property owners or electors to be considered for this annexation, therefore 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 1a. 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 tavern and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing tavern without negatively affecting existing customers.

Water: The developed property is currently served by Heceta Water District. There will be no impact to Florence residents nor residents of the Florence area served by Heceta Water District as there will be no increase in the amount of water currently provided to the property.

Stormwater: There will be no change in the handling of stormwater upon annexation. The properties have not indicated any problems with the standing water. The site is located near the Northwest Region of the Stormwater Management Plan. Jerry's Place is not within a problem flood area or predicted ground water flooding area.

Streets: The site is accessed via Rhododendron Dr., which is in the City of Florence jurisdiction. Public Works has classified Jerry's Place as a High-Turnover Restaurant. The High-Turnover Restaurant has a weekday PM peak hour of 18.49 trips per 1,000 square feet with a standard deviation of 13.32. Drinking Place has a PM peak hour of 15.49 trips with a standard deviation of 8.63. The trips generated by a "Drinking Place" using the standard deviation is slightly higher than a High-Turnover Restaurant. Therefore, I believe that using the High-Turnover Restaurant trip generation for a weekday per 1,000 square feet will be fair and equitable. The average trip generation is 127.15 trips per 1,000 square feet with a standard deviation of 41.77 trips. The average trip generation for Jerry's Place would be 85.38 trips per 1,000 square feet of gross floor area.

Rhododendron Drive from 9<sup>th</sup> Street north to Heceta Beach Road is designated a Minor Arterial in the 2012 Transportation System Plan. As an arterial, Rhododendron Drive is intended to serve high volumes of traffic, which it currently does to the pre-existing annexing area.

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

Police: Once annexed, the City will provide public safety services. The police 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: Century Link 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 cell phone companies that provide service in the area.

Following annexation, all utility services will receive notice of the annexation so rates and taxes change accordingly as applicable.

**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 4, 2015. Replies were received from Lane County Land Management Associate Planner Lindsey Eichner on March 5, 2015 and Lane County Public Works Senior Engineering Associate Daniel Ingram on March 18, 2015.

As stated in Section IV above, Lane County Land Management had no issues with the annexation. Lane County Public Works had some concerns, but none regarding the transfer of the jurisdiction over the property from Lane County to the City of Florence.

- 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.**

Prior to December 2014, Policy 5 was not included in the City of Florence Realization 2020 Comprehensive Plan. Heceta Water District was given notice on March 17, 2015.

Staff does not foresee any issues with Heceta Water District service. Service is currently being provided to the site through Heceta Water District and will continue to be provided by the water district.

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

The applicant will be required to pay a sewer systems development charge. All other systems currently exist on-site and no other systems development charges will be required by the City of Florence. Water service is provided by Heceta Water District and exists on-site.

- 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 of Rhododendron Drive adjacent to the property, which is maintained by Lane County.

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**OREGON REVISED STATUTES**

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**“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 at Rhododendron Drive to the east.

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

This proposal for annexation of the subject properties was initiated by petition to the legislative body of the City by owners of real property in the territory to be annexed. Written consents were received from all two owners of the three lots 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 the Fire 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 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 will hold a duly advertised public hearing on April 6, 2015, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

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

The Planning Commission and City Council public hearings were noticed as required. Notice of the public hearings was published in the Siuslaw News on March 11<sup>th</sup> and 18<sup>th</sup>, 2015. Notice was published again on April 1<sup>st</sup>, 2015. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on March 16, 2015.

**(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 at Rhododendron Drive to the east of the property. The City Council will hold a public hearing on the annexation request on April 6, 2015. 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.

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

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

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

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

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute.

There is no policy in city code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required. For these reasons the annexation portion of this application does not include a hearing but rather an action item before Council.

**“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 no electors in the proposed annexation area. The City received written consents from both property owners of the taxlotted properties. Therefore, the City received consents from a majority of the electors and a majority of the owners. The written consents were all signed prior to February 16, 2015, 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. The property owner will pay SDCs for sewer service only because Jerry’s Place is a developed property.

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**FLORENCE CITY CODE**

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**TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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**10-1-1-5-E-3**

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

The applicants requested annexation of their property within the UGB. This process includes the assignment of the zoning district corresponding to their property's Commercial comprehensive plan designation. The property upon annexation will be rezoned from its current county zone to the city's Commercial District zone. So, the rezone is necessary to finalize annexation. The public need and good of annexation has been reviewed elsewhere in this report. The selected zoning is appropriate and corresponds to the Commercial comprehensive plan designation.

**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 Commercial comprehensive plan designation is Commercial District. The zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county.

The properties meet the minimum lot sizes and dimensions for the Florence City Code Title 10, Chapter 15: Commercial District. The lots include a vacated alley. If annexed, the lot would be considered a pre-existing non-conforming lot. The lots have pre-existing non-conforming frontage along Rhododendron Drive and frontage along the developed Foulweather Street and undeveloped Perpetua Street, though it currently has no access off of those streets.

### **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 24, 2015, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. On April 6, 2015, the City Council held a public hearing on the quasi-judicial zone assignment and decided on the annexation as an action item, in accordance with ORS 222.125.

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.

**C. Legislative Changes:**

1. **Initiation: A legislative change in zoning district boundaries, in the text of this Title, (Title 10), Title 11, or in the Comprehensive Plan may be initiated by resolution of the Planning Commission or by a request of the Council to the Planning Commission that proposes changes be considered by the Commission and its recommendation returned to the Council, or by an application for an amendment by a citizen.**
2. **Notice and Public Hearing: Such notice and hearing as prescribed by state law and the Comprehensive Plan then in effect. (Amd. by Ord. 30, Series 1990).**

The proposed annexation and zone assignment was initiated by petition by the property owner. The Planning Commission met in a public hearing held on March 24, 2015 and recommended the annexation and zone assignment of Commercial as proposed by the applicant. The City Council met in a public hearing held on April 6, 2015 to decide on the zone assignment, and decided upon the annexation of the property at the same meeting as an action item.

Noticing and public hearing were conducted in accordance with state law and the Comprehensive Plan as demonstrated above.

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**VII. OPTIONS FOR CITY COUNCIL**

The City Council may:

1. Approve Ordinances No. 7 and No. 8 for the annexation and zoning assignment.
2. Deny the annexation and zoning assignment based on the City Council's findings to support denial of the annexation through Resolution.
3. Approve the annexation but recommend a different zoning district for the zoning assignment.
4. Continue the public hearing and request more information from the applicant.

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**VII. CONCLUSIONS AND RECOMMENDATION**

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

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**VIII. ATTACHMENTS**

Ordinance No. 7, Series 2015

- Exhibit A Map of Annexation Area
- Exhibit B Legal Description of Annexation Area
- Exhibit C Findings of Fact
- Exhibit D Referral Comments Received
- Exhibit E Public Testimony Received

Ordinance No. 8, Series 2015

- Exhibit A Map of Rezoning Area
- Exhibit B Findings of Fact

Other Attachments

- Attachment 1 Petitions for Annexation