

**CITY OF FLORENCE  
ORDINANCE NO. 6, SERIES 2016**

**AN ORDINANCE APPROVING ANNEXATION OF 87545, 87637, 87663, 87667, AND 87669 HIGHWAY 101 AS WELL AS A PORTION OF HIGHWAY 101; ASSESSOR'S MAP 18-12-14-20, TAXLOT 00100 AND ASSESSOR'S MAP 18-12-11-33, TAXLOTS 01400 AND 00900.**

**RECITALS:**

1. The City of Florence was petitioned for annexation by a property owner, Patricia Mullins, represented by Sharon Gretch, on April 8, 2016 and additional petitions received from Marie Covey and Jim Hoberg on March 15, 2016 and May 3, 2016, respectively.
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 five electors to be considered on the lots included in the petition for annexation.
4. Signed petitions to annex were received from 100% of property owners of the lots included in the petition for annexation.
5. Signed petitions to annex were also received from 100% of electors residing on the lots included in the petition for annexation.
6. 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).
7. 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.
8. The Planning Commission met on May 10, 2016 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.

9. The Planning Commission determined on May 10, 2016, 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.
10. The City Council met on June 20, 2016, after giving the required notice per FCC 10-1-1-5, to consider the proposal, evidence in the record, and testimony received.
11. The City Council deliberated on June 20, 2016 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. 7, Series 2016 zoning the annexed property to Service Industrial 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 20<sup>th</sup> day of June, 2016.

Second Reading on the 20<sup>th</sup> day of June, 2016.

This Ordinance is passed and adopted on the 20<sup>th</sup> day of June, 2016.

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



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

Attest:



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Kelli Weese, City Recorder

**ORDINANCE NO. 6, SERIES 2016**  
**CC 16 01 ANN 01 – North Highway 101 East Annexation**  
**EXHIBIT A**

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Assessor's Map 18-12-14-20, Taxlot 00100; Assessor's Map 18-12-11-33, Taxlots 01400, 01200, and 00900, as described as part of EXHIBIT B

## Exhibit B

### Legal Descriptions of Areas to be Annexed

#### Parcel A:

87545 Highway 101, Florence, OR, Assessor's Map # 18-12-14-20, Taxlot 00100

Beginning at the Northeast corner of East  $\frac{1}{2}$  of the West  $\frac{1}{4}$  of the Northwest  $\frac{1}{4}$  of Section 14, Township 18 South, Range 12 West of the Willamette Meridian; thence running South on the East line of said subdivision a distance of 300.00 feet; thence West parallel with the North line of said Section, distance of 640.00 feet more or less to the Easterly line of U.S. Highway No. 101; thence North along the Easterly line of said Highway to the North line of said Section; thence East along said Section line to the point of beginning, in Lane County, Oregon.

EXCEPT that portion acquired by the State of Oregon, by and through its Department of Transportation, filed May 13, 1986, Lane County Circuit Court Case No. 16-85-05495.

#### Parcel B:

87637 Highway 101, Florence, OR, Assessor's Map # 18-12-11-33, Taxlot 01400

Beginning at a point in the center of U.S. Highway No. 101, at a point 550 feet Northerly from the intersection of said center line with the South line of Section 11 in Township 18 South, Range 12 West of the Willamette Meridian in Lane County, Oregon; and running thence East 688 feet more or less to the East line of the Southwest quarter of the Southwest quarter of said Section 11; thence North 0 degrees 17' East 104 feet on said subdivision line; thence West 688.5 feet to the center line of said highway; thence Southerly in said center line 104 feet to the place of beginning, in Lane County, Oregon.

Save and except therefrom that portion thereof conveyed to the State of Oregon by deed recorded March 7, 1985, Reel 1339, Reception No. 85-08030, Official Records of Lane County, Oregon.

**Parcel C removed from this application for annexation.**

#### Parcel D:

87663, 87667, and 87669 Highway 101, Florence, OR, Assessor's Map # 18-12-11-33, Taxlot 00900

Beginning at a point in the center line of U.S. Highway No. 101 a distance of 972 feet Northerly along the center line of said highway from its intersection with the South line of Section 11, Township 18 South, Range 12 West of the Willamette Meridian; and thence Southerly along the

center line of said highway, 100 feet; thence East 715 feet, more or less, to the East line of the Southwest quarter of the Southwest quarter of said Section; thence North 100 feet, more or less, to the Southeast corner of the tract conveyed to John Engstrom, et ux, by S. A. Gibson, in Deed recorded January 7, 1946, in Book 307, Page 126, Lane County Oregon Deed Records; and thence West along the South line of said tract 706 feet to the point of beginning, in Lane County, Oregon.

EXCEPT that portion described in deed to the State of Oregon, recorded December 19, 1984, Reception No. 84-47794, Lane County Oregon Records.

**Right-of-Way:**

All that segment of U.S. Highway 101, beginning at a point 283.77 feet south, more or less, of the intersection of the section line between Sections 11 and 14 and U.S. Highway No. 101, Township 18 South, Range 12 West of the Willamette Meridian in Lane County, Oregon, and thence north 1,155.77 feet, more or less, to a point 872 feet Northerly along said highway from its intersection with the South line of Section 11, Township 18 South, Range 12 West of the Willamette Meridian.

**STAFF REPORT & FINDINGS  
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT  
City Council  
Exhibit "C"**

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**Public Hearing Date:** June 20, 2016 **Planner:** Glen Southerland  
**Date of Report:** June 10, 2016

**Application:** CC 16 01 ANN 01 North Highway 101 East Annexation  
CC 16 02 ZC 01 North Highway 101 East Zone Change

**I. PROPOSAL DESCRIPTION**

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

Rezoning  
Upon annexation, the properties need to be zoned with a city zoning district. The corresponding zoning district matching the included properties' plan designation is Service Industrial.

**Applicant:** Sharon Gretch, representing Patricia Mullins

**Property Owners/Petitioners & Associated Properties (described in Exhibit B):**

**Parcel "A" – 87545 Highway 101**, Map and Taxlot 18-12-14-20-00100  
Patricia Mullins, Property Owner/Applicant  
Katherine Bales, Tenant/Petitioner

**Parcel "B" – 87637 Highway 101**, Map and Taxlot 18-12-11-33-01400  
Marie Covey, Property Owner/Petitioner  
Michael Steele, Tenant/Petitioner

**Parcel "C" – 87657 Highway 101**, Map and Taxlot 18-12-11-33-01200  
***Removed from this application due to lack of petition signatures.***  
Michael Rogato, Property Owner/Petitioner  
Tiffany Rogato, Property Owner/Petitioner  
Patrick Rogato, Property Owner/Petitioner  
George Rogato, Property Owner/Petitioner  
Jessica Saxon, Tenant/Petitioner  
Keith Bowen, Tenant/Petitioner

**Parcel "D" – 87663, 87667, & 87669 Highway 101**,  
Map and Taxlot 18-12-11-33-00900  
James Hoberg, Property Owner/Petitioner  
Paul Bardwell, Tenant/Petitioner  
Christiana Harris, Tenant/Petitioner

Jesse Freestone, Tenant/Petitioner

**Comprehensive Plan Map Designation:** Service Industrial

**Surrounding Land Use / Zoning:**

**Sites:** **87545:** Commercial / County RA (Suburban Residential District) (Beaches & Dunes and Interim Urban Combining District Overlays)  
**87637:** Residential / County RA (BD & U Overlays)  
**87657:** Residential/Commercial / County C2 (Neighborhood Commercial District) (BD & U Overlays)  
**87663, 87667, 87669:** Residential / County C2 (BD & U Overlays)

**North:** Mobile Home Park/Undeveloped / County RA & CT (Suburban Residential and Tourist Commercial District) (BD & U Overlays)

**South:** Undeveloped / North Commercial District

**East:** Spruce Street ROW/Single-family residences/Undeveloped / Single Family Residential District

**West:** Highway 101/Single-family residences / Service Industrial District/County RA (BD & U Overlays)

**Streets / Classification:**

**II. NARRATIVE**

There are three lots under consideration for annexation. The southernmost lot (TL 00100, 87545 Highway 101) is developed with one home. The property owner is the initiating applicant, represented by Sharon Gretch, Zoning Manager, at Md7, a company in turn working for Verizon Wireless for the placement of a cellular tower.

The applicants petitioned for annexation on March 8, 2016 and after receiving additional information their application was deemed complete as of April 1, 2016. Additional petitioners joined the application on March 15, April 28, and May 3, 2016.

The next northern lot considering annexation is Taxlot 1400, 87637 Highway 101. The property owner had recently expressed interest in annexing. The receipt of the application from the applicant provided an opportunity for the property owner, Ms. Marie Covey, and her tenant to annex as well in order to connect to City sewer. The property had been experiencing problems from a failing septic system.

The two lots north of the applicant at 87545 Highway 101 and one lot north of 87637 Highway 101 are not included with this application. Staff attempted to contact the owners of the vacant property, but received no response. No response was received from the owner of the lot north of 87637 Highway 101 as well.

After noticing for the application with the original two petitioners at 87545 and 87637 Highway 101, other property owners expressed interest. The property owners of 87657, the Rogatos, petitioned to be included with this current annexation process. Petitions were sent out for the property owners and their tenants to sign and return. One owner of this property returned their petition on April 28, 2016. No other signatures were received and the property was removed from those for



consideration. The property owner and tenants of 87663, 87667, and 87669 Highway 101 submitted petition to annex on May 3, 2016.

As a result, the surrounding properties were re-noticed to include the current information on April 30, 2016. The proposal was re-noticed once more prior to the public hearing before the “legislative body,” the Florence City Council. The Planning Commission held a public hearing on May 10, 2016, approving a resolution of recommendation to the City Council to approve the annexation of the subject properties as well as approve the City zoning assignment of Service Industrial.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City will begin processing the annexation as a “Double Majority” annexation because petitioners are still submitting consent for annexation. The City has received signed petitions from 100% of the property owners and is currently obtaining signatures from 100% of electors and will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). There are seven electors on the properties with standing and the City will be obtaining their signatures prior to the Planning Commission public hearing. At this time the annexation and zoning assignment will be processed as a quasi-judicial zone amendment with a hearing. It is not currently City policy to annex properties which have not petitioned the City to annex.

The properties have 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.

The applicant, petitioners, or any others accessing Oregon Department of Transportation right-of-ways must apply for access permits from ODOT.

### **III. PUBLIC NOTICE**

Notice of the Planning Commission’s public hearing was mailed on April 19, 2016 and April 30, 2016 to property owners within 300 feet of the proposed annexation areas. Notice of the City Council’s public hearing was mailed on May 27, 2016. Notice was published in the Siuslaw News on April 27<sup>th</sup> and May 4<sup>th</sup> prior to the Planning Commission hearing on the subject. Notice was published in the Siuslaw News once again on June 8<sup>th</sup> and 15<sup>th</sup>. On May 2, 2016 Planning Commission hearing notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library. Notice of the City Council public hearing on the subject was posted to those same locations on May 27<sup>th</sup>.

#### **Public Comments:**

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

### **IV. REFERRALS**

On April 20, 2016, referrals were sent to Florence Public Works and Police; Lane County Transportation, Surveyor, Land Management and Environmental Health; Oregon Department of Transportation; DLCD; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; Country Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

**Referral Comments:**

At the time of this report, the City had received comments from Daniel Ingram, Lane County Transportation; Steven Manning, Charter Communications; and Lindsey Eichner, Lane County Planning.

Daniel Ingram, Senior Engineering Associate at Lane County Public Works, stated that Lane County Transportation Planning had no comments on the proposal, but requested notice of future development proposals for the subject properties. (Exhibit D)

Steven Manning, Construction Coordinator at Charter Communications, stated that Joshua Lightner would be the contact person for future emails and correspondence involving the Florence area. (Exhibit D)

Lindsey Eichner, Associate Planner at Lane County Planning, stated that Lane County Planning had no comments. (Exhibit D)

Sean Barrett, Fire Marshal at Siuslaw Valley Fire and Rescue, stated that SVFR had no issues with the proposed annexation (Exhibit D)

**V. APPLICABLE REVIEW CRITERIA**

Annexation

**Oregon Revised Statutes (ORS)**

222.050 Sec. 3, 8, 5, and 9; 222.111; 222.120; 222.125; and 222.170 (2)

**Florence Realization 2020 Comprehensive Plan**

Chapter 1: Citizen Involvement, Policy 4

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

Rezoning

**Florence Realization 2020 Comprehensive Plan**

Chapter 2: Policy 5, Section on Industrial Plan Designation, Policy 4 & Recommendation Section 1.

**Florence City Code (FCC)**

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

**VI. FINDINGS OF FACT**

The following findings support Ordinance numbers 6 and 7, Series 2016, Planning file numbers CC 16 01 ANN 01 & CC 16 02 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 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.”**

This proposal is consistent with this citizen involvement goal and Policy 4 because the process used by the City to approve Resolution PC 16 04 ANN 01 & PC 16 05 ZC 01 recommending approval of this annexation and zone assignment request and Ordinances 6 and 7, Series 2016, were 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 May 10, 2016. 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 sites 21 days prior to the Planning Commission public hearing. The City also published the required notice of the Planning Commission’s public hearing two times in The Siuslaw News. Finally, the City posted notice at four public places within the City: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

The annexation proposal was considered by the City Council on June 20, 2016. The public hearing was noticed in accordance with Florence City Code 10-1-1-5 as a quasi-judicial land use decision before the City Council. The City notified property owners within 300 feet of the sites 25 days prior to the City Council public hearing.

The City also published the required notice of the City Council's public hearing two times within The Siuslaw News. Finally, the City posted notice at four public places within the City on May 27, 2016: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

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

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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.

### **Industrial**

#### **Goal**

**To develop industrially planned and zoned lands within the Florence area for suitable research and development, manufacturing, processing, assembly, storage and distribution, construction and development-related uses, and airport-related uses.**

- Policy 4. The City shall maintain lands planned and zoned for industrial uses within Industrial zones free from the encroachment of incompatible land uses such as residential, public or private schools and day care centers, active parks, or retail use as a principal use.**

Currently, these lands are zoned either Suburban Residential, Neighborhood Commercial, or Tourist Commercial by Lane County. Most of the properties

requesting annexation do not feature a commercial component and feature only single-family residences. While these properties will be zoned to Service Industrial when annexed into the City, that zoning will allow development of the properties more akin to those on the west side of Highway 101, which is already within the city limits. Those properties are zoned Service Industrial and are seeing development in line with what is permitted within that district.

The current homes on the subject properties will be considered pre-existing non-conforming until such time that the lots are developed to meet industrial needs.

#### **Recommendation 1.**

**The City should continue to support lands within City limits planned and zoned for industrial developments by providing adequate vehicle access, water, sanitary and storm sewer, and prevent the encroachment of incompatible land uses which could limit the effectiveness of such areas to attract development as planned. Developers may be required to share a portion of those costs on a pro-rated basis.**

The City continues to support land within city limits planned and zoned for industrial developments by providing adequate access, utilities, and through zoning. The City will extend this support to the proposed areas of annexation. In order to provide City services equitably, developers/property owners will be required to share a portion of costs on a pro-rated basis.

#### **Industrial Plan Designation Categories and Background**

**The Comprehensive Plan designates lands suitable for industrial land uses and development. Those lands are shown on the Plan Map east and west of Highway 101, north of the City limits, lands near the Florence Municipal Airport, on lands owned by the Port of Siuslaw and Lane County and lands owned by private owners and the City of Florence.**

**The July 1997 Commercial and Industrial Land Use Analysis concluded that there were sufficient industrially designated lands for the 20 year planning period. By 2000, it had become apparent that, while adequate industrial acreage existed, there were no designated lands for relocation/expansion of existing industrial uses requiring large land area such as concrete batch plants, excavating contractors and other primarily construction related businesses. A revised Industrial Lands Inventory (Appendix 2) was prepared, resulting in the designation of lands along Highway 101 north of the present (2000) City limits for such land extensive industrial uses.**

**Industrial designations on the Comprehensive Plan Map are: Service Industrial, Business/Industrial Park, and Marine. These designation categories are defined below.**

The properties requesting annexation were designated Service Industrial after an Industrial Lands Inventory determined that there were no designated lands for large “traditional” industrial uses such as construction related businesses, concrete batch plants, vehicle yards, etc. These areas will add to the industrial lands inventory within the Florence city limits.

### **Service Industrial**

**Service Industrial In the UGB, industrially planned lands are designated Service Industrial in the area located between the North Commercial Node and the Heceta Beach Neighborhood Cluster along Highway 101. The purpose of the Service Industrial designation is to provide lands for construction and development service businesses and related uses, while continuing the North Gateway theme begun in the Neighborhood Commercial Gateway designation. There are no other appropriate or available lands within the City or the UGB for these uses. Heavy vegetation and berms will be used to separate the business/office structures along Highway 101 from the processing, storage, maintenance, and other more industrial functions to be located at the rear of the berms. Access to these sites shall be by shared driveways onto Highway 101 in the short term, and via Oak and Spruce Streets in the long term after these streets are developed.**

**A portion of these lands includes privately owned sand dunes suitable for non-motorized sand related recreational activities. Since the ownership also has a sand mining permit, the life of the resources and associated recreational use is time-limited. Recreational use would most appropriately be included as a conditional use in the Service Industrial District, the implementing zoning district for this Plan designation. Access to Highway 101 will likely be limited by ODOT. Any plans should include provision for access via West Munsel Lake Road and Oak Street.**

The areas proposed for annexation currently obtain access to the Highway through shared driveways and existing accesses. Future development of this area will resemble the description in the above Comprehensive Plan section, with industrial uses being separated from adjacent residential uses, Highway 101, and business/office structures through heavy vegetation and berms. Spruce Street is proposed in the Transportation System Plan as extending from its current end north of 52<sup>nd</sup> Street to a junction with Heceta Beach Road.

### **Chapter 14: Urbanization**

#### **Goal**

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

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

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via properties to the east and south; 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. All connections to the sewer line will be funded through system development charges, connection fees, and a utility reimbursement district. This financing method allows for cost-effective service delivery to all users of the system.
- The provision of sewer service will allow the property owners to avoid costly septic drain field repairs and inefficient use of open space contained within the lots to be annexed for the drain field.

### **Annexation Policies**

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

The proposed annexation has been initiated by the property owners in order to receive City services, 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 all listed property owners and electors. This policy criterion is met.

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

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

The proposed annexation is consistent with Policy 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, storm drainage, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the properties within the proposed annexation and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The

annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

Sewer: The Florence Public Works Department has evaluated the impact of the existing and possible future industrial development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing uses without negatively affecting existing customers.

Water: The developed properties are currently served by 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 are located within an area with predicted groundwater flooding according to the Stormwater Management Plan. Two properties have indicated high ground water resulting in septic system issues.

Streets: The properties are accessed via Highway 101, which under ODOT jurisdiction. As a major arterial, Highway 101 is intended to serve high volumes of regional traffic, which it currently does to the pre-existing annexing area. The increased usage (vehicular trips) made available by annexation and zone change can be accommodated by Highway 101. ODOT did not provide comment regarding this application.

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

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

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

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

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

This proposal is consistent with this policy because the Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (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 April 15, May 2, and May 27, 2016. Lane County Transportation Planning has responded. Their referral comments are included above within the Referrals section and attached as Exhibit D.

- 5. The City will send a referral requesting comments on annexations to the Heceta Water District, for annexations within the District's service boundary. The comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.**

Staff sent a request for comments on April 15 and May 27, 2016 to Heceta Water Public Utility District. No replies have yet been received.

Staff does not foresee any issues with Heceta Water PUD service. Service is currently being provided to the sites 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 and petitioners of the developed properties will be required to pay a sewer systems development charge. On those developed properties, the impact to the supporting street and storm systems is pre-existing, therefore, no other systems development charges will be required at this time. Water service is provided by Heceta Water District and exists along Highway 101. Future development of the properties will necessitate payment of applicable systems development charges. Any undeveloped properties and expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems.

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

**annexation Lane County will retain primary permitting responsibility for those lands.**

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for redevelopment of the properties, with the exception of maintenance and access off of Highway 101 adjacent to the properties, which is maintained by ODOT, and any required water service maintenance and expansion from Heceta Water PUD. It is proposed, however, that in the future, Spruce Street will push north from its current northernmost limit to a point where it can intersect with Heceta Beach Road. The annexing properties may gain access off of Spruce Street at that time, with maintenance and jurisdiction of that right-of-way belonging to the City.

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## **OREGON REVISED STATUTES**

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

### **Annexation of Contiguous Territory**

**(Temporary provisions relating to annexation of certain industrial lands)**

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

#### **Sec. 3.**

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

- (a) Is property on which no electors reside;**
- (b) Is zoned for industrial uses;**
- (c) Has sewer and water lines paid for and installed by the property owner; and**
- (d) Has an assessed valuation, including improvements, of more than \$7 million**

**that property can only be annexed by or to a city after the city receives a petition requesting annexation from the owner of the property.**

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

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

The properties proposed for annexation are zoned for industrial uses, however, they also are currently the residence of electors, do not have sewer and water lines paid for and installed by the property owner, or have an assessed valuation of more than \$7 million. Sec. 3 applies only to industrial properties which meet all of the criteria

listed. The City has also obtained the consent of the property owners involved, per ORS requirements and City policy.

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

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

**Sec. 8.**

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

**(a) Is zoned for industrial use or designated for industrial use zoning in an acknowledged comprehensive plan;**

**(b) Is land on which no electors reside, unless one or more electors living on-site are employed or engaged to provide security services for the industrial user of the land;**

**(c) Has an assessed value of more than \$2 million, including improvements; and**

**(d) Is in unincorporated Jackson County, either:**

**(A) Within the urban unincorporated community of White City, west of Oregon Route 62; or**

**(B) Within the urban growth boundary of the City of Medford, west of Oregon Route 99.**

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

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

**(a) Includes at least 150 permanent residential dwelling units;**

**(b) Contains a mixture of land uses, including three or more public, commercial or industrial land uses;**

**(c) Includes areas served by a community sewer system; and**

**(d) Includes areas served by a community water system. [2005 c.539 §8]**

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

**Sec. 5.**

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

The City has received petitions for annexation from each of the property owners involved.

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

**(a) That is composed of one or more lots, parcels or tracts that:**

**(A) Are owned by the same individual or entity, including an affiliate or subsidiary of the entity;**

**(B) Are contiguous or are separated from each other only by a public right of way, a stream, a bay, a lake or another body of water; and**

**(C) Together comprise at least 150 acres;**

**(b) On which no electors reside;**

**(c) That was zoned for industrial, employment or transit-oriented employment uses on December 31, 2004;**

**(d) That has private, on-premises security services; and**

**(e) That has an assessed valuation, including improvements, of more than \$12 million.**

The City has obtained the approval of the owner of each property proposed to be annexed. None of the properties are owned by the same individual or entity or fit any other criteria listed by section (a) above. While the properties were designated by the Florence Realization 2020 Comprehensive Plan to be Service Industrial, they were not zoned for industrial, employment, or transit-oriented employment uses prior to or on December 31, 2004 by Lane County. In addition, electors reside on the properties and the areas proposed for annexation do not have private, on-premises security services or an assessed valuation of more than \$12 million.

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

**(a) Is within two miles of the property described in subsection (2)(a) of this section; and**

**(b) Contains 10 or more acres that are contiguous or separated from each other only by a public right of way, a stream, a bay, a lake or another body of water.**

This section of ORS does not apply.

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

This section of ORS does not apply.

**Sec. 9.**

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

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

**ORS 222.111 Authority and procedure for annexation.**

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

The proposed annexation area is located within the urban growth boundary of the City of Florence. The annexation is contiguous to the City from the east, west, or south for all proposed areas of annexation.

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

This proposal for annexation of the subject properties was initiated by petition to the legislative body of the City by owners of real property in the territory to be annexed. Written consent was received from all owners and will be received from at least 50% of electors of the four 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.

**(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 and has received a majority of consents from electors residing within the territory proposed for annexation, as allowed in ORS 222.170; therefore, an election is not required.

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

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

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be holding an election on this annexation request. Resolution No. 8, Services 2008 expresses the City's intent to dispense

with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

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

Resolution No. 8, Series 2008 expresses the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council held a duly advertised public hearing on June 20, 2016, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

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

The Planning Commission public hearing was noticed as required. Notice of the public hearing was published in the Siuslaw News on April 27<sup>th</sup> and May 4<sup>th</sup>, 2016. Public noticing for the City Council public hearing, the City legislative body, will be published in the Siuslaw News June 8<sup>th</sup> and June 15<sup>th</sup>, 2016. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on May 2, 2016.

The City Council public hearing was noticed similarly, with notice being published in the Siuslaw News on June 8<sup>th</sup> and June 15<sup>th</sup>, 2016. Notices were posted in four public places in the City at City Hall, the Florence Justice Center, Siuslaw Public Library, and U.S. Post Office on May 27, 2016.

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

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

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

**(c) Declare that the territory is annexed to the city where the Department of Human Services, prior to the public hearing held under subsection (1) of this**

**section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.**

The proposed annexation is contiguous to the City limits on the eastern property lines of all properties and also along the southern property line of the applicant's property (Taxlot 00100). The City Council held a public hearing on the annexation request on June 20, 2016. An Ordinance, Ordinance No. 6, Series 2016 for the annexation, 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.**

Ordinance No. 6, Series 2016, will be subject to referendum per ORS 222.170 (1) and 222.170 (2).

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

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

**ORS 222.125      Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body.**



Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

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

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required.

**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 seven electors in the proposed annexation area. The City will receive written consents from all property owners of the properties and a majority of electors within the areas proposed to be annexed prior to a public hearing before the legislative body of the City of Florence. The written consents were all signed prior to June 20, 2016, 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.

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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 properties' Service Industrial comprehensive plan designations. The property upon annexation will be rezoned from its current county zone to the City's Service Industrial District zone. 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 Service Industrial 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 properties' Comprehensive Plan designation is Service Industrial. The Service Industrial zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county.

The properties do not meet the minimum lot frontage dimensions for the Florence City Code Title 10, Chapter 31: Service Industrial District. The Service Industrial District does not currently have minimum lot sizes. It is unknown if the structures currently on the lots proposed for annexation meet the setback requirements of the Service Industrial District. If annexed, the site plans and uses on these properties and the lots themselves would be considered pre-existing non-conforming. Expansion or change of use will require the sites to meet land use regulations in proportion to the expansion or change of use.

**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 May 10, 2016, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing and were reviewed against the applicable city and state policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the city's urbanization policies. These have been reviewed earlier with supporting findings.

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## **VI. CONCLUSION**

The evidence in the record demonstrated that the proposed annexation and zone assignment is consistent with the policies set forth in state statutes, Florence City Code, and the Florence Realization 2020 Comprehensive Plan, based on the findings. City Council approves the annexation and zoning assignment of Service Industrial for the subject properties.

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