

**CITY OF FLORENCE
ORDINANCE NO. 8, SERIES 2022**

**AN ORDINANCE ESTABLISHING A SERVICE INDUSTRIAL ZONING DISTRICT TO 3.5 ACRES,
ASSESSOR'S MAP REFERENCE 18-12-11-33, TAX LOT 00800, 87675 Highway 101, AS PART
OF A PROPOSED ANNEXATION OF SAME.**

RECITALS:

1. Florence City Code (FCC) Title 10, Chapter 1, Section 2-3 provides that Council may establish zoning and land use regulations that become effective on the date of annexation.
1. The City of Florence was petitioned by the property owners and property electors residing on property, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The Planning Commission met on July 12, 2022, at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
3. The Planning Commission determined on July 12, 2022, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with the City's acknowledged Realization 2020 Comprehensive Plan and adopted findings of fact in support of the annexation and zoning assignment.
4. The City Council met in a public hearing on August 1, 2022, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
5. The City Council deliberated on August 1, 2022, and found that the subject property is plan designated Service Industrial in the Realization 2020 Plan, and the City Council supported the establishment of zoning as Service Industrial consistent with Florence Comprehensive Plan and Zoning Code objectives.
6. The City Council adopted Ordinance No. 7, Series 2022, annexing the property as described in the Ordinance title above.

Based on these findings,

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

1. The City of Florence approves the zoning of the property as Service Industrial as shown on the attached map Exhibit A as described on Assessor's Map Reference 18-12-11-33, Tax Lot 00800, containing approximately 3.5 acres.
2. This zoning is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City shall produce an updated Zoning Map that is filed with the City Recorder and bear the signature of the Planning Commission chairperson as required by FCC 10-1-2-2.

4. The City Recorder is hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office and the Lane Council of Governments.
5. Pursuant to FCC 10-1-2-3, the zoning established by this Ordinance will take effect on the effective date of the annexation approved in Ordinance No. 8, Series 2022.

ADOPTION:

First Reading on the 1st day of August, 2022

Second Reading on the 1st day of August, 2022

This Ordinance is passed and adopted on the 1st day of August, 2022.

Councilors: Ward, Meyer, Wantz, Woodbury Mayor Henry

AYES Ward, Meyer, Wantz, Woodbury Mayor Henry

NAYS 0

ABSTAIN 0

ABSENT 0



Joe Henry, Mayor

Attest:


Lindsey White, City Recorder

Rezone Map



Proposal: Rezone a 3.5-acre parcel shown on the map (above), from the Lane County “Tourist Commercial” (CT) zoning district (white lot with black star) to the City of Florence “Service Industrial” (SI) zoning district (black).

Location: 87675 Hwy 101, Florence, Oregon
Assessor Map No. 18-12-11-33 and Tax Lot 00800

Property Legal Description

BEGINNING at a point on the center line of U.S. Highway No. 101, said point being 972.0 feet North of the intersection of said Highway with the South line of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, thence East 706.0 feet, more or less, to the East line of the Southwest ¼ of the Southwest ¼ of said Section 11; thence North along said line 235.0 feet; thence West 704.0 feet, more or less, to the center line of said Highway; thence Southwesterly along said center line to the place of beginning, in Lane County, Oregon, except that portion conveyed to the Department of Transportation, Highway Division, by Deed recording June 11, 1985, Reception No. 1985-020422, Lane County Official Records, in Lane County, Oregon.

FINDINGS OF FACT (PROPOSED)
FLORENCE CITY COUNCIL
Exhibit “B”

Public Hearing Date: August 1, 2022

Application: Ord. 7, Series 2022: CC 22 02 ANN 01 Annexation – Elmer Hwy 101
Ord. 8, Series 2022: CC 22 03 ZC 01 Zoning – Elmer Hwy 101

I. PROPOSAL DESCRIPTION

Proposal: Annexation

A request for the City of Florence to annex 3.5 acres of property from Lane County into the City of Florence.

Rezoning

Upon annexation, a request for the property to be zoned with a City zoning district. The corresponding zoning district matching the property’s comprehensive plan designation is Service Industrial.

Petitioner/Property Owner: Dennis and Faith Elmer

Property Location: 87675 Hwy 101, Florence
Assessor’s Map No. 18-12-11-33, Tax lot 00800

Comprehensive Plan Map Designation: Service Industrial

Surrounding Land Use / Zoning:

Site: Heceta Village RV Park | Lane County Tourist Commercial (CT)

North: Vacant | Lane County Tourist Commercial (CT)

South: Single-family residence | Service Industrial (SI)

East: Vacant | Medium Density Residential

West: Hwy 101, Commercial Use | Lane County Commercial (C1)

Streets / Classification: West – U.S. Hwy 101 / Highway/Major Arterial;
South – None; East – Spruce St, Collector undeveloped; North – None

II. NARRATIVE

The applicant petitioned for the annexation of a 3.5-acre lot from Lane County jurisdiction to City of Florence jurisdiction. The petitioner’s request for the zoning assignment of Service Industrial upon annexation was received on May 18, 2022. This property is occupied with the Heceta Village RV Park, which is considered a pre-existing non-conforming use. Upon annexation, no new residential development would be allowed on the property with Service Industrial District zoning; however, the existing use may remain as a legal non-conforming use. The subject property abuts tracts of property that have been previously annexed into the City and zoned with City zoning, which include tracts to the south and east. The subject property fronts U.S. Highway 101 right-of-way, which is also annexed into the City.

The petition for annexation and a legal property description were received June 21, 2022. State law requires signatures from at least 50% of the property owners and electors of the property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City received a signed petition from all of the property owners and thirty-one electors residing on-site. Florence City Code Title 10 Chapter 1 calls for processing the annexation as a Type IV application which means that the Planning Commission make a recommendation to the City Council and the City Council makes the final decision in this legislative matter.

The zoning assignment procedure applies to the 3.5 acres of property only, as U.S. Highway 101, although under ODOT jurisdiction, is already annexed into City limits and zoned. In accordance with 10-1-1-5 B. The two actions (the annexation and zoning designation) will be processed through consolidated proceedings.

The property will be served by Heceta Water PUD and is currently served by Siuslaw Valley Fire Rescue District. The property will continue to be served by all districts by which it is currently served. After annexation, the property will be able to have access to City sewer services and begin receiving police protection.

III. PUBLIC NOTICE

Notice of the Planning Commission’s public hearing was mailed on June 22, 2022, to property owners within 300 feet of the proposed annexation area. On June 22, 2022, notices were posted at Florence City Hall, the Florence Post Office, Florence Justice Center, and the Siuslaw Public Library and signage posted on the property site. Notice was published in the Siuslaw News on June 18, 2022.

Notice of the City Council’s public hearing was mailed on July 12, 2022, to property owners within 300 feet of the proposed annexation area. On July 12, 2022, notices were posted at Florence City Hall, the Florence Post Office, Florence Justice Center, and the Siuslaw Public Library and signage posted on the property site. Notice was published in the Siuslaw News on July 20th and 27th, 2022.

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on June 7, 2022, not less than 35 days prior to the proposed first evidentiary hearing of July 12, 2022, as required by State law and the Florence City Code.

Public Comments:

At the time of this report, the City had received no public comments on these applications.

IV. REFERRALS

On June 21, 2022, referrals were sent to Florence Public Works (Utilities and Airport), Florence Utility Billing, ODOT, Lane County, Century Link, Oregon FAST.net, Central Lincoln PUD; and Heceta Water PUD. No comments have been submitted by these parties.

V. APPLICABLE REVIEW CRITERIA

Oregon Revised Statutes (ORS)

ORS 222.111; 222.120; 222.125, and 222.170

Oregon Administrative Rules (OAR)

OAR: 660-012-0060 Transportation

Realization 2020 Florence Comprehensive Plan, Chapters:

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 1, 6 and 7; Industrial Policy 4; and Industrial Plan Designation and Background
- 12: Transportation: Policy 8
- 14: Urbanization; Annexation section, Policies 1 through 7

Florence City Code, Title 10, Chapters:

- 1: Zoning Regulations; Sections 10-1-1-4, 10-1-1-5, 10-1-1-6-3 & 4, 10-1-2-3 and 10-1-3
- 31: Service Industrial District: Section 1
- 32: Drinking Water Protection Overlay Zone: Section 2

VI. FINDINGS OF FACT

The following Findings support and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code, State Administrative Rules, and State Statutes.

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

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

Chapter 1: Citizen Involvement

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 policy because the process used by the City to review the Ordinances and the resolutions recommending approval of this annexation and zone assignment request is consistent with the City's applicable citizen involvement program which ensures that citizens will be provided an opportunity to be involved in this land use action. Specifically, official City meetings in this action were well publicized and held at regular times and provide the opportunity for citizen comment. The public process used meet all of the requirements of Florence City Code pertaining to zone assignment and annexation with their respective land use processes.

Florence City Council and Planning Commission meetings occur in person and virtually via video conference call. The public could attend the meetings and provide verbal testimony during the public hearings in person, via the internet or via a landline phone. Those wishing to simply attend the hearings could do so in person, through the Go-to-Webinar platform application, or they could watch the hearings live and playback offered by the videographer through an internet stream and Channel 191 on Charter Cable. Opportunity for written participation to be included in these Findings was available up to July 25, 2022. All public comments received both before and after that date by the Planning Department will be posted online and distributed to the City Council up to 4:00 PM August 1, 2022.

Chapter 2: Land Use

Policies

- 1. Designation and location of land uses shall be made based on an analysis of documented need for land uses of various types, physical suitability of the lands for the uses proposed, adequacy of existing or planned public facilities and the existing or planned transportation network to serve the proposed land use, and potential impacts on environmental, economic, social and energy factors.**
(Ordinance No. 2 Series 2021)

The designation of this property as Service Industrial was adopted in 2002 as part of Periodic Review following a 1997 Industrial and Commercial Lands Inventory which was updated in 2018 via a Buildable Lands Inventory and Economic Opportunities Plan. The Plan designated this private land for industrial use because it is near a major transportation corridor and is the most physically suitable option to be placed away from dense commercial and residential centers and natural resource, education and pedestrian oriented areas.

Soils: The Natural Resources Conservation Service Soils Map, Map C, of Appendix 7 to the Florence Realization 2020 Comprehensive Plan illustrates the property includes Yaquina loamy fine sand. The map's legend states the soils are unsuitable or conditionally suitable for development. Much of Florence consists of soils with this designation. So, consistent with the soils map designation a Phase 1 Site Investigation Report (SIR) is required in conjunction with future development proposals and land division to identify areas of hazard. Findings of a hazard will require a Phase 2 SIR performed by an engineer. Accepted engineering practices shall determine the extent of development allowed. This site is not dissimilar from other properties within the City with similar zoning and soils which require analysis prior to development and land division. The result of the analysis will determine suitability for construction and mitigating measures such as large lot sizes.

- 6. “The City shall conduct an internal review at least once every three years to assess the capacity of sewer, water and stormwater systems including three-year projections of additional consumption using a three percent growth rate.”**

The annexation proposal is consistent with this policy because the provision of City utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City

conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Most recently, the City updated its Stormwater Management Plan and Public Facilities Master Plan. Public Works testimony using analysis from the documentation within these recent study results confirm that the City has the capacity (actually, with regard to the City's sewer system, in excess) to serve the annexation area without affecting service to existing City residents. The proposed annexation is consistent with the direction in this policy.

7. **“The City shall determine estimated additional usage and the impacts of proposed development upon maximum capability for sewer, water and stormwater systems. This information is to be included in subdivision and design review staff reports.”**

Throughout findings of fact of several annexation requests within the past six years, Public Works testified using analysis from the documentation within recent study results, confirmed that the City has the capacity (actually, with regard to the City's sewer system, in excess) to serve the area without affecting service to existing City residents. This is consistent with the direction in Policy 7, above. Public Works testimony also provided information on water service and how city service is available if Heceta Water is unable to serve them.

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, this developed property is zoned the Tourist Commercial (CT) district by Lane County. The implementing City zoning for this area is Service Industrial (SI). As such, the proposed Service Industrial zoning district is consistent with the City of Florence Realization 2020 Comprehensive Plan. Properties to the south are similarly zoned and developed, at least in part, with industrial uses and pre-existing non-conforming residential uses. This criterion is met.

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.

No new development is proposed as it is an application for annexation and zone assignment. Title 10 Chapter 31 of the Florence City Code provides the implementing criteria for future development of the property, which will require additional Land Use Application reviews in concert with Florence City Codes. The existing use of the property is the Heceta Village RV Park, which is considered a pre-existing non-conforming use, and it will continue to be so with the new zoning designation of Service Industrial.

Chapter 12: Transportation

- 8. The City shall protect the function of existing and planned transportation systems as identified in the TSP through application of appropriate land use and access management techniques.**

• Pursuant to the State Transportation Planning rule, any land use decisions which significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, level of service of the facility.

OAR: 660-012-0060

Plan and Land Use Regulation Amendments

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

...

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:

(a) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;

The functional classification of Highway 101 and Spruce Streets will not change with the annexation of this property or if re-development of the property is proposed in the future.

The zone is changing from the Lane County Tourist Commercial zoning district to the City of Florence Service Industrial zoning district. The new zone allows development and uses that occupy large parcels of land for warehousing, yards, storage etc. The zone change to large lot uses does not significantly affect trip counts on either Highway 101 or future Spruce St. Nevertheless, 3a of OAR 660-012-0060 offers relief of the requirement if the roadways were not adequate to achieve consistency by the end of the planning period in the adopted TSP, which is 2037. Spruce Street is undeveloped. Without a developer to upgrade it if the nexus existed, this street would stay undeveloped through the planning period of 2037. This criterion is met.

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 as all rights-of-way and surrounding property are in the city limits. 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.
- All connections and future connections to the sewer line have and will be funded through system development charges, connection fees, and property owner investment. This financing method allows for cost-effective service delivery to all users of the system.

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. ORS 222.840 is not applicable to this specific proposal.

For this proposed annexation, the City of Florence has utilized a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence city limits to the west (Highway 101 is already zoned Service Industrial as it abuts the subject property), and east. This policy criterion is met.

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

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

The proposed annexation is consistent with Policy 3(a) 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 property 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: With a previous annexation of the property immediately to the south of the subject property, the Florence Public Works Department evaluated the impact of the possible future industrial development and concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the existing and allowed uses without negatively affecting existing customers. Therefore, the Waste Water Treatment Plant, which has an excess capacity of .55 million gallons daily continues to be more than adequate for existing and any future needs of the subject property without negatively affecting existing customers.

Water: The property will be served by Heceta Water People's Utility District services within Highway 101 unless capacity is unavailable at which the city does have service in Highway 101 and can serve the property.

Stormwater: There will be no change in the handling of stormwater upon annexation. Upon any new development, the property will be expected to meet City Code, retaining all stormwater on-site.

Streets: The property is currently accessed by Highway 101 and may also be accessed via Spruce St. once it is developed. Therefore, any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding street availability.

Vehicular and pedestrian improvements to the adjacent streets will be accomplished in conjunction with improvements to the property.

Fire and Life Safety: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. Hydrant availability is discussed under the “Water” section above. Western Lane Ambulance District provides emergency medical support and transportation services to the annexation area.

Police: Once annexed, the City will provide public safety services. The Florence Police Department will expand their current emergency response service to patrol and respond to calls for the subject property.

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 provide 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. 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 referrals to Lane County on June 21, 2022. No comments have been received by city staff.

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

Water is available to the property and will continue to be provided by Heceta Water People’s Utility District, who will continue to serve the area unless capacity is unavailable at which point the City does have service in Highway 101 and can serve the property. Any undeveloped property will be charged systems development charges commensurate with their impacts on the system.

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 future development of the property.

OREGON REVISED STATUTES

ORS 222.111 Authority and procedure for annexation.

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

The proposed annexation area is located within the Urban Growth Boundary of the City of Florence. The proposed annexation is contiguous to the City to the south and east sides (and Highway 101 to the west). The property and surrounding area lie wholly within Lane County.

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

This proposal for annexation of the subject property was initiated by petition to the legislative body of the City by the owners of real property in the territory to be annexed. This criterion is met.

(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

The annexed property 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 Heceta Water PUD and 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 as well as Heceta Water PUD.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

Resolution No. 28, Series 2010, adopted by the City Council, the legislative body of the City, on July 6, 2010, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consent from all 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. 28, Series 2010 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city

shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

Resolution No. 28, Series 2010 expressed 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 after receiving a recommendation from the Planning Commission during their public hearing. The electors of the City may appear and be heard on the question of annexation and zone change assignment at each 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 by Florence City Code. Notice of the public hearings were published in the Siuslaw News on June 18, 2022 for PC and July 20, and 27, 2022 for Council. Notices were posted in four public places: Florence City Hall, Justice Center, Siuslaw Public Library, and Post Office on June 22, 2022 and July 12, 2022.

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

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

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

or

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

The City received signed petitions requesting annexation from a majority of the property owners and electors residing on-site in accordance with ORS 222.125. This criterion is met.

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

The property will not be withdrawn from the Siuslaw Valley Fire and Rescue as discussed above.

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

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

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

The written consents to annexation were received from the property owners, which constitute 100% of the ownership. This criterion is met.

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.

The City received signed petitions requesting annexation from the property owners and electors residing on-site. This criterion is met.

ORS 222.170 Effect of consent to annexation by territory; proclamation with and without city election.

(1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

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

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

(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.”

The City received signed petitions requesting annexation from all of the property owners (100%) and electors residing on-site. The written consents were received prior to the Planning Commission hearing of July 12, 2022 and received before the City Council held the public hearing required by ORS 222.120.

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

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

ORS 222.840 (Short title) to 222.915 Health Hazard Abatement Law

ORS 222.840 (Short title) to 222. 915 (Application of ORS 222.840 to 222.915) shall be known and may be city as the Health Hazard Abatement Law

The proposed annexation is being voluntarily pursued by the petitioner/ property owner as described. The processes of this ORS do not apply.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-4: APPLICATION:

A. Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City and include the information requested on the application form.

C. Except when this Code provides to the contrary, an application or petition regulated by Titles 10 and 11 of this Code:

- 1. Shall be reviewed by the Planning Director within thirty (30) days to determine if the application is complete, including required drawings, plans, forms, and statements.**
- 2. Shall identify the public facilities and access which may be needed to support the development, including but not limited to utilities and transportation infrastructure, and how they will be financed.**
- 3. Shall identify off-site conditions including property lines, utility locations and sizes, existing and future streets, land uses, significant grade changes and natural features such as streams, wetlands and sand dunes for an area not less than three hundred (300) feet from the proposed application site that is one (1) acre or larger and within 100 feet from the proposed application site that is less than one (1) acre in size. (Amd. By Ord. No. 4, Series 2011)**
- 4. Shall be accompanied by a digital copy or two hard copies of required plans of dimensions measuring 11 inches by 17 inches or less. Costs of document reduction may be passed onto the applicant.**
- 5. Shall be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Additional information may be required under the specific application requirements for each approval.**
- 6. Shall be accompanied by any other information deemed necessary by the City Planning Department.**
- 7. Shall be accompanied by the required, non-refundable fee.**

The applicant provided a petition and application on the requisite forms, via the required method with the required fee. The application was deemed complete within 30 days of the receipt of the application. These criteria are met.

10-1-1-5: GENERAL PROVISIONS

A. 120-Day Rule: The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – plan and code amendments – without an applicant under ORS 227.178.)

B. Consolidation of proceedings: When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

1. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority

having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Planning Official or designee.

2. When proceedings are consolidated: a. The notice shall identify each application to be decided

b. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions.

The application has applied for annexation with an associated zone change. These proceedings have been consolidated. The Type IV annexation must be processed first and the zone change second. The hearings process will be accomplished within the timeline specified. These criteria are met.

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

10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:

B. Notification of Hearing:

1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

a. Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.

b. For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.

c. For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).

d. Notice shall be mailed to any person who submits a written request to receive notice.

e. For appeals, the appellant and all persons who provided testimony in the original decision.

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

This application includes a quasi-judicial zone assignment for the property. Subsections 1c and 1e are not applicable. Notice was provided as required in subsections 1a, 1b, 1d and 2. These criteria are met.

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

D. Notice of Hearing:

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

Petitioner has proposed annexation of their property. There were two public hearings as part of this process, in accordance with code requirements.

10-1-2-3: ZONING OF ANNEXED AREAS: The City Council may establish zoning and land use regulations that become effective on the date of annexation. This zoning district shall be consistent with the objectives of the Florence Comprehensive Plan and Zoning Code. When zoning is not established at the time of annexation, an interim zoning classification most nearly matching the existing County zoning classification shall be automatically applied until the City Council establishes zoning and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

The zoning district corresponding to the subject property's Comprehensive Plan designation is Service Industrial. The Service Industrial (SI) zone district will be assigned upon approval of the request from Council and finalization of the annexation process with the county and state.

10-1-3: AMENDMENTS AND CHANGES

B. Quasi-Judicial Changes:

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

On July 12, 2022, 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 on July 5, 2022, and were reviewed against the applicable City and State policies.

On August 1, 2022, the City Council held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing on July 25, 2022, and were reviewed against the applicable City and State policies.

Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the City's urbanization policies. These have been reviewed earlier with supporting findings.

TITLE 10: CHAPTER 31: SERVICE INDUSTRIAL

10-31-1: Purpose: The purpose of this District is to provide an area within the City for large-lot industrial uses, particularly those associated with construction and development, while providing a visually pleasing north entrance into Florence, and maintaining through traffic flow on Highway 101.

The subject property's current use is the Heceta Village RV Park, which is considered a pre-existing non-conforming use. Upon annexation and rezone to the Service Industrial district, the existing use may remain as a legal non-conforming use. The proposed Service Industrial zoning district is appropriate for the subject property because it corresponds to the existing surrounding development pattern, and the comprehensive plan designation assigned to properties in this area. No specific code criteria are applicable under this chapter for the annexation or zoning proposal.

TITLE 10: CHAPTER 32: DRINKING WATER PROTECTION OVERLAY DISTRICT

10-32-2: APPLICABILITY: This DWP Overlay District applies to industrial and commercial land uses within the Drinking Water Protection Area (DWPA) for the proposed wellfield. As of October 5, 2013, all areas in an industrial or commercial zoning district within the specified wellhead TOTZ are automatically rezoned to add the DWP Overlay District to the underlying zoning district. The areas to which the DWP Overlay District is applied are shown on the Drinking Water Protection Overlay Map, on file in the Community Development Department and incorporated in this Section by reference.

The subject property is occupied with the Heceta Village RV Park. No new development is proposed at this time. In the future, if there is a proposal for a change of use or new development, the DWP overlay district will apply.

VII. 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.

VIII. ATTACHMENTS

Ordinance 7, Series 2022, CC 22 02 ANN 01

- Exhibit A Annexation Map & Description
- Exhibit B Findings of Fact
- Exhibit C Application and Petitions for Annexation
- Exhibit D Vicinity Map

Ordinance 8, Series 2022, CC 22 03 ZC 01

- Exhibit A Preliminary Rezoning Map & Description
- Exhibit B Findings of Fact