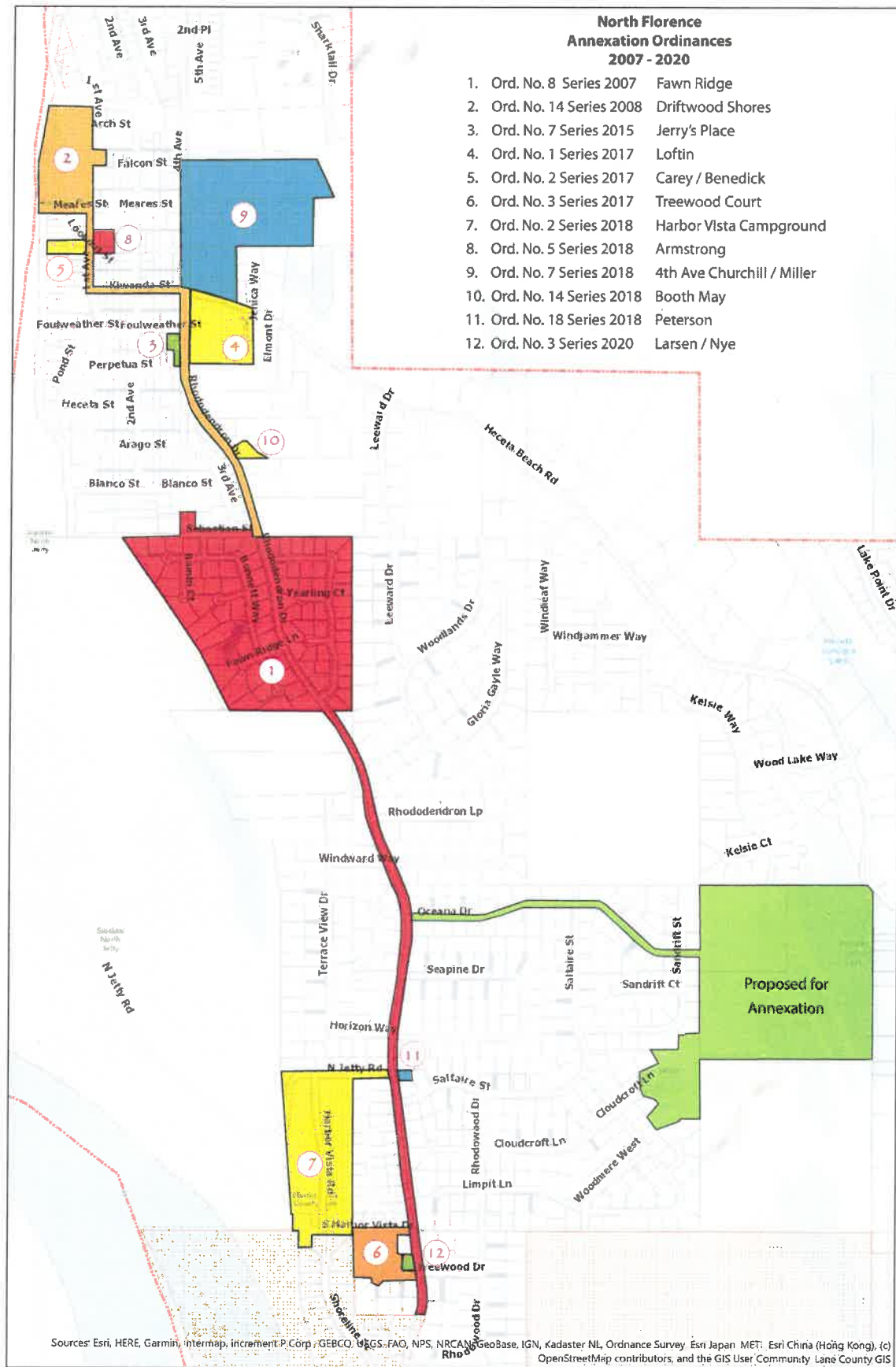


North Florence Annexation Ordinances 2007 - 2020

1. Ord. No. 8 Series 2007 Fawn Ridge
2. Ord. No. 14 Series 2008 Driftwood Shores
3. Ord. No. 7 Series 2015 Jerry's Place
4. Ord. No. 1 Series 2017 Loftin
5. Ord. No. 2 Series 2017 Carey / Benedick
6. Ord. No. 3 Series 2017 Treewood Court
7. Ord. No. 2 Series 2018 Harbor Vista Campground
8. Ord. No. 5 Series 2018 Armstrong
9. Ord. No. 7 Series 2018 4th Ave Churchill / Miller
10. Ord. No. 14 Series 2018 Booth May
11. Ord. No. 18 Series 2018 Peterson
12. Ord. No. 3 Series 2020 Larsen / Nye



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community Lane County GIS

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0 250 500 1,000
Feet



North Florence Annexations
2007-2020

Lane County, Oregon

NORTH FLORENCE ANNEXATIONS
(2008 – Present)

DRIFTWOOD SHORES (August 4, 2008)

ORD. 14 (Annexation), SER. 2008
ORD. 15 (Zoning), SER. 2008

JERRY'S PLACE (May 4, 2015)

ORD. 7 (Annexation), SER 2015
ORD. 8 (Zoning), SER 2015

COMBINED ANNEXATION/ZONE CHANGE PETITIONS (February 6, 2017)

ORD. 1 (Heceta Beach), SER. 2017
ORD. 2 (Lookout Street), SER 2017
ORD. 3 (Harbor Vista Drive/Treewood) SER. 2017
ORD. 4 (Zoning for Annexed Properties)

HARBOR VISTA ROAD (April 16, 2018)

ORD. 2 (Annexation), SER. 2018
ORD. 3 (Zoning), SER. 2018

AMRSTRONG LOOKOUT (May 21, 2018)

ORD. 5 (Annexation), SER. 2018
ORD. 6 (Zoning), SER. 2018

4TH AVENUE (May 21, 2018)

ORD. 7 (Annexation), SER. 2018
ORD. 8 (Zoning), SER. 2018

BOOTH-MAY (October 22, 2018)

ORD. 14 (Annexation), SER. 2018
ORD. 15 (Zoning), SER. 2018

PETERSON (December 10, 2018)

ORD. 18 (Annexation), SER. 2018
ORD. 19 (Zoning), SER. 2018

TREEWOOD COURT (April 20, 2020)

ORD. 3 (Annexation), SER. 2020
ORD. 4 (Zoning), SER. 2020

Exhibit A to Ordinance No. 14, Series 2008
Driftwood Shores Annexation Area
(Legal Description Attached)



Driftwood Shores
Annexation Area

UGB

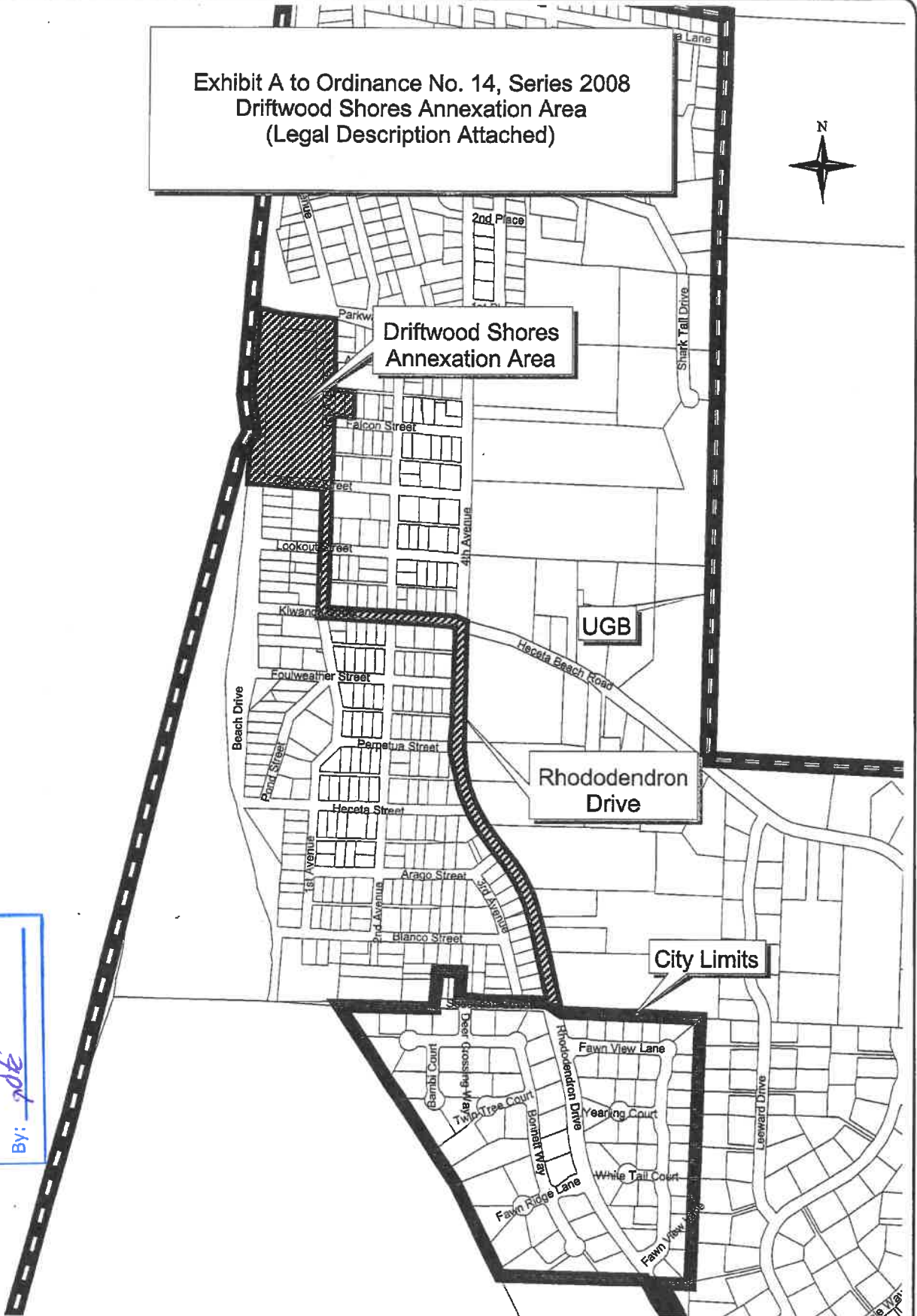
Rhododendron
Drive

City Limits

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City of Florence

JUL 30 2020

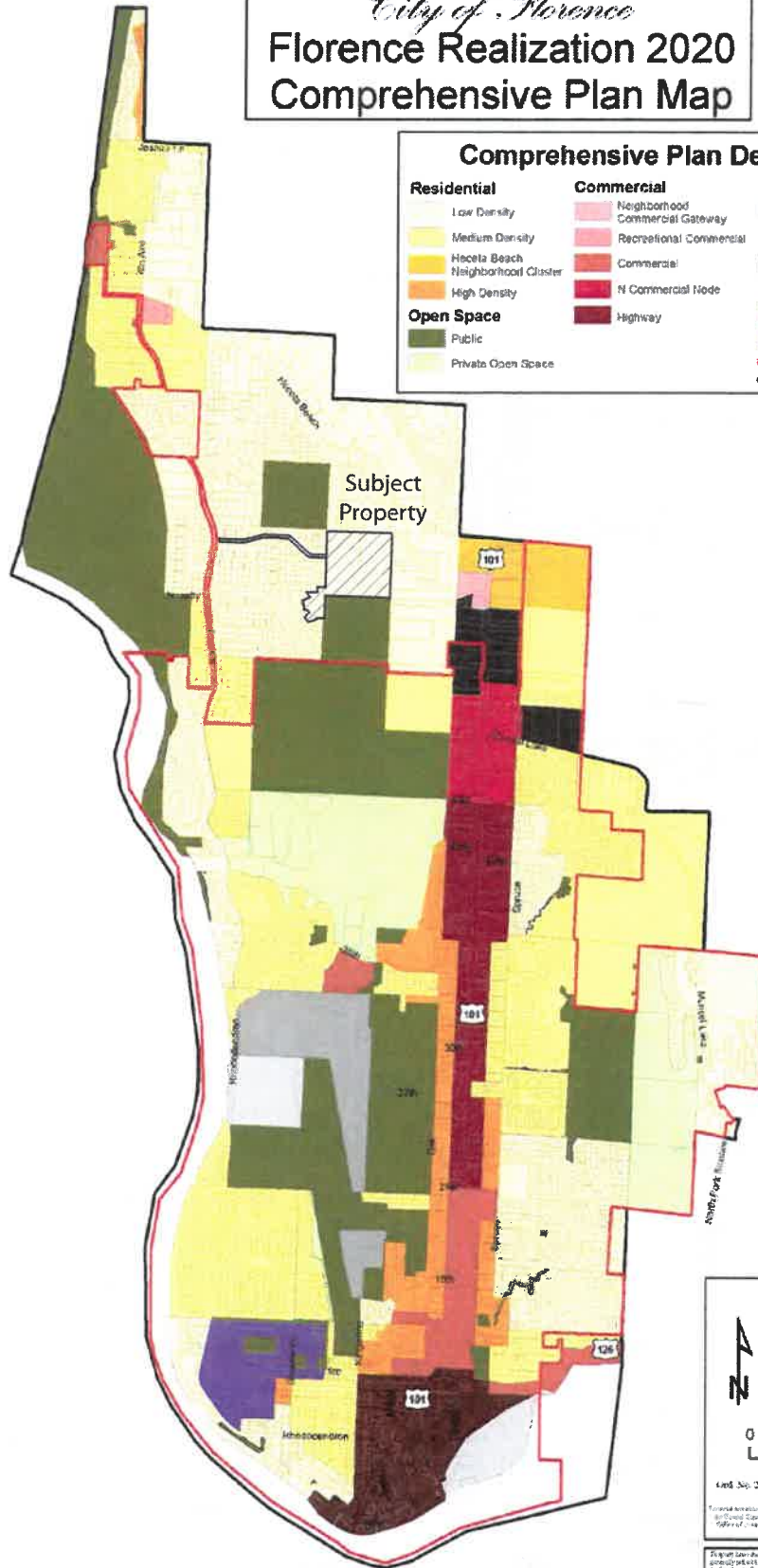
By: *pde*



City of Florence **Florence Realization 2020 Comprehensive Plan Map**

Comprehensive Plan Designations

Residential	Commercial	Industrial
Low Density	Neighborhood	Marine
Medium Density	Commercial Gateway	Business/Industrial Park
Neceia Beach Neighborhood Cluster	Recreational Commercial	Service Industrial
High Density	Commercial	
	N Commercial Node	Other
Open Space	Highway	Downtown
Public		W 5th Street Area
Private Open Space		City Limits
		UGB



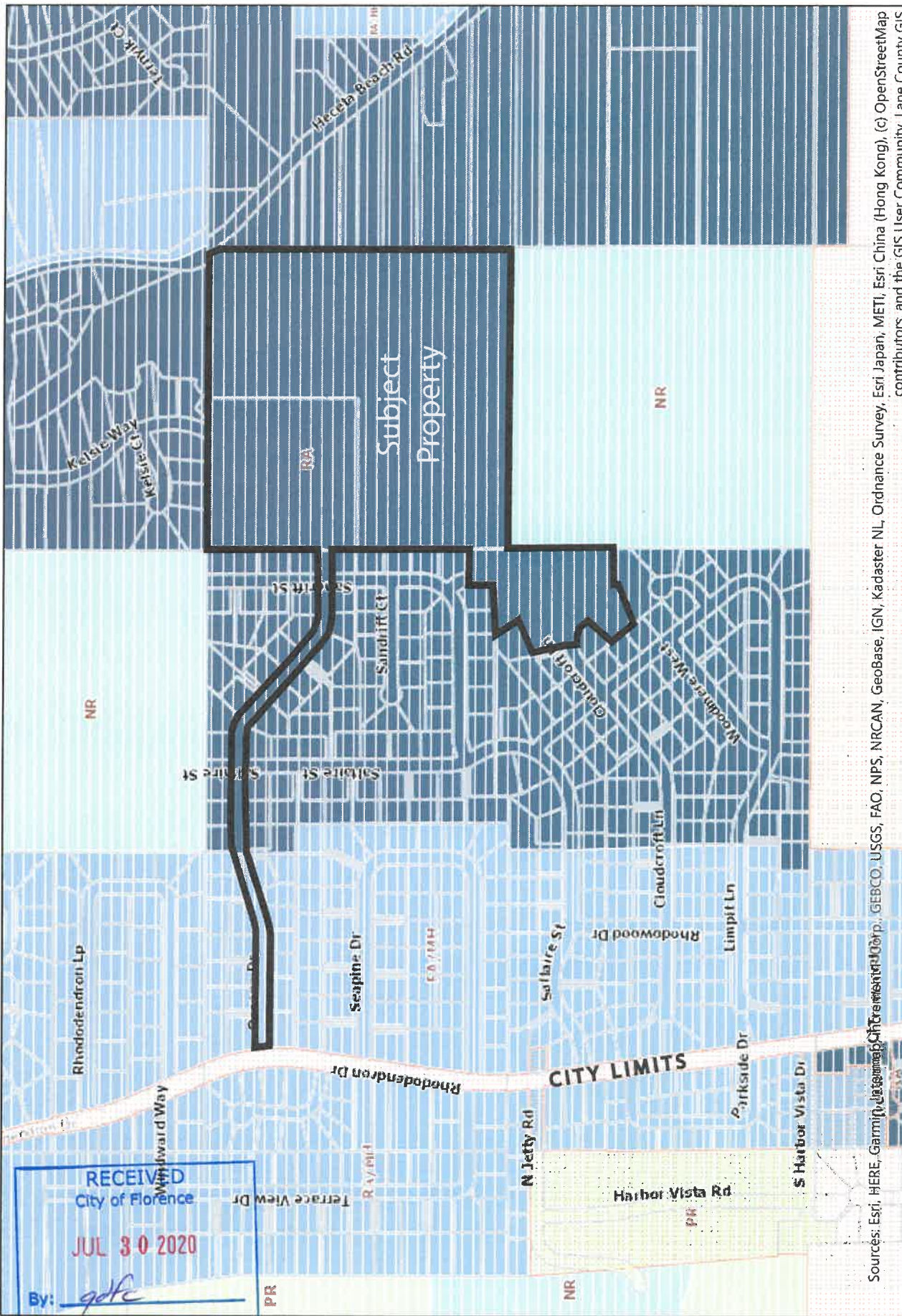
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 City of Florence
 JUL 30 2020
 By: *gdc*

City of Florence
 Community Development Department
 250 Hwy. 101 N.
 Florence, SC 29502
 (843) 666-5237
 March 11, 2011

Miles
 0 0.25 0.5

Ord. No. 2, Series 2011 - Passed February 9, 2011
 Effective March 11, 2011

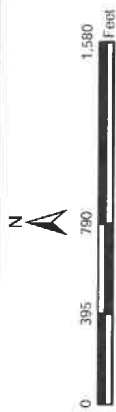
General location for this map with the exception of the location of the subject property. The map is not intended to be used for any other purpose. The City of Florence is not responsible for any errors or omissions. The City of Florence is not responsible for any damages or losses resulting from the use of this map.



RECEIVED
City of Florence
JUL 30 2020
By: *gdfc*

Sources: Esri, HERE, DeLorme, Mapbox, OpenStreetMap, (c) OpenStreetMap contributors, and the GIS User Community, Lane County GIS

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By: yaf



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Lane County, Oregon

2017 Aerial Photo

Exhibit "G"

Michael E. Farthing

Attorney at Law

[REDACTED]
Eugene, Oregon 97401

Office: [REDACTED]

[REDACTED]
Eugene, Oregon 97440

email: [REDACTED]

July 27, 2020

Mailed: Certified Mail Return Receipt

via email: planningdepartment@ci.florence.or.usvia email: wendy.farleycampbell@ci.florence.or.us

Mayor Henry and City Council
c/o Wendy Farley-Campbell, Planning Director
City of Florence
250 Highway 101
Florence, OR 97439

Re: Petition to Annex Property and Zone Application (LDR/PW)
18-12-10-34, Tax Lot 801
18-12-10-40, Tax Lots 400 and 401
Owner/Petitioner: Benedick Holdings, LLC

Mayor Henry and Councilors:

This firm together with Clint Beecroft, a licensed engineer with EGR & Associates, and Thom Lanfear, former Senior Planner with Lane County and now a private land use consultant, represent Benedick Holdings, LLC and its Members Sharla Whitten and Gene Benedick, in their desire to annex real property into the City of Florence for eventual subdivision and residential development. *See Exhibit "A"* (Proposed Annexation Area and Legal Description ("the Property")). Attached with this letter are the City's general land use application and zoning checklist forms that have been completed for the Property together with an executed owner Authorization. Also enclosed is a check for \$1750 which we understand is the fee for the initial hearing process. Following that is the Petition for Annexation together with draft findings in the form of our Applicant's Statement. At the end of the Petition and findings are all the map exhibits referenced in this letter, the Petition and the draft findings.

Before getting into the details of our Petition for annexation and zone change application, I want to thank City staff and especially Ms. Farley-Campbell and Mr. Miller for their suggestions and guidance in preparation of this request. The other thing I would note in the introduction is that the City has, over the last

decade and longer, considered and approved several annexation requests in the North Florence area, particularly several recent approvals during the last three years. *See Exhibit “B”* (List of North Florence Annexations and Map).

We believe these more recent annexations were substantially influenced by the two earlier annexations that took place in 2007 and in 2008. The 2007 annexation, included the Fawn Ridge Subdivision together with a third property (Ures) and is located on both sides of Rhododendron. The Fawn Ridge annexation was large and included platted subdivisions that had been approved but plan policy required annexation for sewer service. The area annexed is depicted on the annexation map (Property 1, **Exhibit “B”** (List of North Florence annexations and Map)). It is a cherry stem shaped configuration as was the annexation that followed in 2008.

The Driftwood Shores annexation, the following year, also involved a lengthy portion of Rhododendron Drive extending north to and including the Driftwood Shores Properties (“the Driftwood Shores Annexation”). (*See* Property 2, **Exhibit “B”** (List of North Florence annexations and Map)) *See also Exhibit “C”* (Map of Driftwood Shores Annexation). At the time, 2008, it involved another significant extension by the City of sewer service to the northern and northwest edge of Florence’s urban growth boundary.

Both annexations occurred at the same approximate time that the City and County were making planning policy changes that now provide the criteria by which this petition for annexation and concurrent zone change request will be evaluated. One of the primary changes was to make clear two points: (1) Sewer service from the City was required for all future development, and (2) sewer service was only available from the City and then only after annexation to the City was completed.

The City’s approval of these two annexation requests in 2007 and 2008 was significant because it provided City sewer service to the North Florence area. Coupled with the change in policy requiring annexation to the City to obtain sewer service, there followed, after a pause for the Country’s recession, a number of North Florence annexations that were approved beginning with the Jerry’s Place annexation in 2015 (Property 3, **Exhibit “B”** (List of North Florence annexations and Map)) followed by a combination of three separate annexation and zone change requests that were approved simultaneously on February 6, 2017. (Ordinance Nos. 1, 2, 3, and 4, Series 2017). This was followed by several more

annexation approvals in 2018 for nearby properties including one that is planned for a 20 plus lot residential subdivision. See Property 9, **Exhibit “B”** (List of North Florence annexations and Map). These sites are identified on a map attached as **Exhibit “B”**, (List of North Florence annexations and Map).

Including the Fawn Ridge and Driftwood Shores annexation, a diverse assortment of properties have been annexed in the North Florence area by the City since 2007. All of the annexed properties have or will be provided sewer service from the City as a direct result of the Fawn Ridge and Driftwood Shores annexation approvals that extended a primary sewer line within the Rhododendron right-of-way to the northern edge of the City’s UGB. As discussed later, the City’s approval of the Driftwood Shores annexation was appealed to LUBA who affirmed in its entirety, the City’s annexation approval.

The Driftwood Shores Annexation approval by the Florence City Council on February 6, 2008 was very important for the City’s future growth, and in particular, that approval was also very important for our clients and their present annexation petition for at least two reasons. First, and as described previously, the City’s approval of both the 2007 and 2008 annexations together allowed the extension of a main line sewer north to Driftwood Shores, thereby making it accessible to the Property from Rhododendron east within the platted right-of-way of Oceana Drive. See **Exhibit “A”** (Proposed Annexation Area and Legal Description (“the Property”)). The first IDYLEWOOD plat was recorded in 1981 by the Benedick family and they are now requesting annexation of the final part of their Idylewood property. See **Exhibit “A”** (Proposed Annexation Area and Legal Description (“the Property”)) Map.

The second reason why both the Fawn Ridge and Driftwood Shores annexations are particularly important for the present annexation petition is their scope, magnitude and geographical shape which was in the form of a cherry stem. See **Exhibit “B”** (List of North Florence annexations and Map). This term describes annexation of a street, i.e. the stem being Rhododendron Drive that then connects to the larger, developable property, i.e. the cherry, which was the Driftwood Shores property in 2008 and is Oceana Drive as it extends to our client’s property for this proposed annexation. The reason for annexing the street is to establish contiguity with the existing municipal boundaries. Since the Fawn Ridge annexation in 2007 and the Driftwood Shores annexation in 2008, many more annexations have been approved in the North Florence UGB and all in some form or another, were annexing to receive City sewer service from the main line in

Rhododendron. See **Exhibit “B”** (List of North Florence annexations and Map).

After the City’s approval of the Driftwood Shores annexation (**Exhibit “C”**) (Driftwood Shores Annexation), that final decision was appealed to the Land Use Board of Appeal (LUBA) by two different petitioners. In its decision, (*Link v City of Florence*, LUBA Nos. 2008-145, 2008-146 and 2008-147, decided 02-13-09), LUBA issued a lengthy opinion that responded to and denied all of the various assignment of errors asserted by the opponents and affirmed the City’s annexation approval. This case serves as strong precedent for how the City can and should address the various State and City criteria that all annexations must satisfy including the present petition.

One of the most important parts of LUBA’s decision was its affirmation of the lengthy extension of the City boundaries within the Rhododendron right-of-way. LUBA found such a cherry-stem extension of the City’s boundaries and services was reasonable given the benefits that occurred for both the City and the North Florence property owners from having municipal sewer service readily available. I urge you to review the decision especially as it analyzes and affirms the City’s findings addressing the 2020 Realization Comprehensive Plan which, with some changes, is still the City’s acknowledged comprehensive plan. The annexations that have been approved since Fawn Ridge and Driftwood Shores have all been found to be consistent with the 2020 Plan.

Please excuse all the paperwork, maps and other documents that comprise our annexation petition and the accompanying zone change application which address much of the same criteria. Annexations are more involved than most land use applications because of the State statutes that are directly applicable. The statutes are primarily directed at providing residents, whether they be “electors” or “owners”, with certain participatory rights in the annexation process. For the present annexation proposal, the statutes are not particularly relevant because there is only one “owner”, that being our client, Benedick Holdings, LLC., and no “electors”.

With State statutes not being a factor for this particular application, the primary focus is on the Florence Realization, 2020 Comprehensive Plan and, in particular, the “Annexation Policies” set forth in Chapter 14, “Urbanization”. Those policies are addressed in more detail in the draft findings that are attached to our annexation petition. Of the seven policies listed, Policy 3 requires the most direct look at the property proposed to be annexed with respect to three

“considerations”:

- “(a) orderly, economic provision of public facilities and services;
- (b) conformance with the acknowledged City of Florence Comprehensive Plan;
- (c) consistency with State Law.”

Based on the Property’s location, the availability of public services and facilities, and particularly sewer service, as well as its designation as suitable for low density residential development, as planned for in the City’s 2020 Plan, we believe this proposal satisfies and is consistent with all of the City’s Annexation Policies.

Moreover, we believe this annexation follows a series of annexations that have occurred in the North Florence area that were a direct result of the annexation of Fawn Ridge in 2007 and Driftwood Shores in 2008 together with the concurrent extension of the City’s main line sewer within the right-of-way for Rhododendron Drive. The present annexation is made possible by the presence of that sewer line and is supported by the recent annexations in the general area. This is what is supposed to occur when there is an acknowledged comprehensive plan that provides the standards for when properties should be annexed and what zoning should be applied.

With that, we are ready and willing to respond to any questions and direction you might offer. We are prepared to adjust to new procedural requirements as will be required by the COVID-19 crisis. Please let us know how to proceed.

Sincerely,



Michael E. Farthing

Enclosures:

Application Fee check \$1,750.00
Authorization Form
City of Florence Type of Request Form

City of Florence Zoning Checklist Form
Petition for Annexation
Applicant's Statement in Support of Petition

Exhibits:

- "A" Proposed Annexation Area and Legal Description ("the Property")
- "B" List of North Florence Annexations and Map
- "C" Driftwood Shores Annexation
- "D" Vicinity Map
- "E" Florence Realization 2020 Comprehensive Plan Map
- "F" Zoning Map
- "G" 2017 Aerial Photo
- "H" Estuary & Coastal Shorelands Management Units Map

c: Benedick Holdings, LLC (via email)
Clint Beecroft (via email)
Thom Lanfear (via email)

AUTHORIZATION

I authorize Michael Farthing, Clint Beecroft and Thom Lanfear to represent Benedick Holdings, LLC and its members with regard to all matters pertaining to a Petition for Annexation and concurrent Zone Change that the aforementioned is concurrently filing with the City of Florence.

BENEDICK HOLDINGS, LLC

Sharla A Whitten

Sharla Whitten, Manager

7/27/20

Date



City of Florence
Community Development Department
250 Highway 101
Florence, OR 97439
Phone: (541) 997-8237
Fax: (541) 997-4109
www.ci.florence.or.us

Type of Request

THIS SECTION FOR OFFICE USE ONLY

☐ Type I ☐ Type II ☐ Type III ☐ Type IV

Proposal: Annex a 46 acre parcel and Oceana Drive to the City and concurrently rezone it Low Density Residential/Prime Wildlife (LDR/PW)

Applicant Information

Name: Michael Farthing, attorney for property owner

Phone 1: [REDACTED]

E-mail Address: [REDACTED]

Phone 2: [REDACTED]

Address: [REDACTED]

Signature: *Michael Farthing*

Date: 07-27-20

Applicant's Representative (if any): n/a

Property Owner Information

Name: Benedick Holdings, LLC, an Oregon Limited Liability Company

Phone 1: [REDACTED]

E-mail Address: [REDACTED]

Phone 2: [REDACTED]

Address: [REDACTED]

Signature: *Shara A. Whitten*
Shara Whitten, Managing Member

Date: 7/27/20

Applicant's Representative (if any): [REDACTED]

NOTE: If applicant and property owner are not the same individual, a signed letter of authorization from the property owner which allows the applicant to act as the agent for the property owner must be submitted to the City along with this application. The property owner agrees to allow the Planning Staff and the Planning Commission onto the property. Please inform Planning Staff if prior notification or special arrangements are necessary.

For Office Use Only:



Approved

Exhibit

Property Description

Site Address: none

General Description: vacant 46+ acre parcel with Coastal Shorelands on eastern portion

Assessor's Map No.: 18 12 - 10 - 40 Tax lot(s): 400 and 401

Assessor's Map No: 18-12- 10- 34 Tax Lot: 801

Zoning District: Suburban Residential/Urbanizing/Prime Wildlife

Conditions & land uses within 300 feet of the proposed site that is one-acre or larger and within 100 feet of the site that is less than an acre OR add this information to the off-site conditions map

(FCC 10-1-1-4-B-3): The western and northern boundaries are developed with single family residential subdivisions. Coastal shorelands are on the eastern and southern borders.

Project Description

Square feet of new: n/a Square feet of existing: n/a

Hours of operation: _____ Existing parking spaces: _____

Is any project phasing anticipated? (Check One): Yes ☐ No ☐

Timetable of proposed improvements: _____

Will there be impacts such as noise, dust, or outdoor storage? Yes ☐ No ☐

If yes, please describe: _____

Proposal: (Describe the project in detail, what is being proposed, size, objectives, and what is desired by the project. Attach additional sheets as necessary)

No development is authorized by approval of either the annexation or the change of zone.

For Office Use Only:

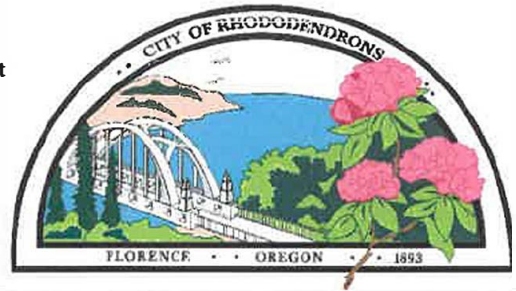
Date Submitted: 7-30-20 Fee: \$1750

Received by: gdfc



gdfc

250 Highway 101
Florence, OR 97439
Phone: (541) 997-8237
Fax: (541) 997-4109
www.ci.florence.or.us



Approved: Yes / No | By: / Notes:

PETITION FOR ANNEXATION

to

City of Florence, Oregon

The undersigned hereby petitions for and gives its consent for the area described below to be the sole subject of this petition for annexation to the City of Florence, Oregon. With this signature, I am verifying that I have the authority to consent to annexation as the property owner on behalf of our limited liability company.

The property to be annexed is as follows:

Three parcels consisting of 46.06 acres together with a portion of Oceana Drive and more particularly depicted and described on attached **Exhibit "A"** (Proposed Annexation Area and Legal Description ("the Property")).

Assessor's Map References and Tax Lots:


Map No. 18-12-10-34 Tax Lot 801, Map No. 18-12-10-40 Tax Lots 400 and 401 (Proposed Annexation Area and Legal Description ("the Property")).
See **Exhibit "D"**, (Vicinity Map).

Property Address : N/A

Property Owner/Elector's Name(s):

Benedick Holdings, LLC
Sharla Whitten, Managing Member

Signature:



Sharla Whitten, Managing Member

Date:

7/27/20

Michael E. Farthing

Attorney at Law

462 Kodiak Street
Eugene, Oregon 97401

Office: 541-683-1950

PO Box 10126
Eugene, Oregon 97440

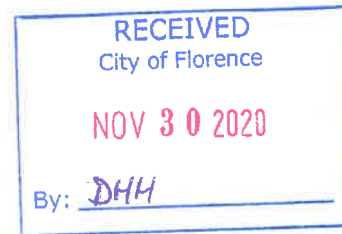
email: mefarthing@yahoo.com

November 24, 2020

Mailed: Certified Mail Return Receipt

via email: planningdepartment@ci.florence.or.us

via email: wendy.farleycampbell@ci.florence.or.us



Florence Planning Commission
c/o Wendy Farley-Campbell, Planning Director
City of Florence
250 Highway 101
Florence, OR 97439

Re: Petition to Annex Property and Zone Application (LDR/PW)

PC 20 22 Ann 01

PC 20 23 ZC 02

18-12-10-34, Tax Lot 801

18-12-10-40, Tax Lots 400 and 401

Owner/Petitioner: Benedick Holdings, LLC

Chair Murphey and Commissioners:

This letter responds to the large number of letters and other evidence that was submitted in opposition to our petition for annexation and accompanying zone change applications, but in particular to Mr. Mittge's November 10, 2020, 27-page letter that was submitted on behalf of the Heceta South Homeowners Association, Inc. ("Heceta South"). I did "attend" your November 10 meeting for our annexation request but I had technical difficulties that prevented me from testifying at the hearing. My remarks would have been brief and have not changed since I was able to review Mr. Mittge's letters.

The fundamental problem with almost all of the opposition's comments, and that includes Mr. Mittge, is that they do not address the annexation and zone change criteria set forth in State law and the Florence Code. Instead, the opponents, with Heceta South being a primary example, assume that our applications are proposing some kind of residential subdivision that involves the creation of single-family residential lots, like the rest of Idylewood. That is not

Exhibit I-2

true and it distorts what we are seeking with these applications.

There is no development proposed at this time. We are simply moving municipal boundary lines on a map pursuant to established agreements in the form of the Florence Realization 2020 Comprehensive Plan (the “2020 Plan”) and numerous other planning documents that have been adopted as part of the 2020 Plan. These planning efforts, included reaching agreement with Lane County, confirm that future urban development in the North Florence Duval Aquifer, which includes the subject property, will be required to have municipal sewer service from the City of Florence. Annexation Policy 2 states that “no land divisions shall be allowed prior to annexation to the City”. This means that properties that are presently undeveloped or need sewer service in the North Florence Duval Aquifer area, must first be annexed to the City of order to receive that service and also to apply for development of their property in accordance with the appropriate City zoning.

This distinctive characteristic of the annexation process as not being an act of development was recognized in *Link v City of Florence*, ____ Or LUBA ____ (LUBA Nos. 2008-145, 2008-146 and 2008-147, decided 02-13-09) (LUBA decision that affirmed the City’s annexation of the Driftwood Shores development and 3000 plus feet of Rhododendron Drive right-of-way for contiguity and sewer extension). Specifically, the *Link* opponents argued that the annexation would violate certain comprehensive plan urban service area policies (environmental protection, transportation, water/fire services) even though the site was already developed. In rejecting that argument, LUBA cited favorably to the City’s findings, about annexation not being a “development” of a property:

“... Webster’s defines the term ‘develop’, in relevant part, to mean ‘to convert (as in rawland) into an area suitable for residential or business purposes. . . to alter raw land into (an area suitable for building).’ *Webster’s Third New International Dictionary, Unabridged* 618 (2002). This definition fits with the Council’s conclusion that the annexation proposal here is not an action that converts or alters, or proposes to convert or alter, the annexation territory. First, the proposal simply incorporates the territory into the City. Second, the

annexation territory is already built-up and occupied by a commercial development or set aside as open space. As a result, the annexation proposal is not one that proposes to develop the annexation territory.”

Link at 26 fn10. While the annexed properties are quite different, the conclusion is the same: “. . . the annexation proposal here is not an action that converts or alters, or proposes to convert or alter, the annexation territory.” Annexation is the condition precedent to development which, by itself, is not development of any sort.

This does not mean that issues pertaining to protection of natural areas, stormwater, traffic, sewer service, neighborhood impacts and all the other issues that have been raised by the opponents are not important. Rather, for the most part, these are the issues that will take center stage when a “development” is proposed which will most likely be a land division application of some sort. That is the point when it is our burden to demonstrate that our proposed “development”, whatever it might be, can and will be closely scrutinized by staff, neighbors, government agencies and other interested parties during that development process. We will address Florence Code and other relevant standards and criteria. There will be a specific development proposal for everyone to review and comment upon.

There were a few issues that were raised by Mr. Mittge that warrant specific comment. They include the “reasonableness” of the annexation, if approved, its cherry-stem configuration and the City’s decision to forego elections for annexations.

Annexation is Reasonable

Mr. Mittge (p 3-4) argues the cherry-stem shape of the proposed annexation is not “reasonable”. He cites to *Portland General Electric Co. V. City of Estacada*, 194 Or 145 (1952) (“*PGE*”) in which the Oregon Supreme Court voided a cherry-stem annexation of PGE’s facilities to the City of Estacada as being unreasonable. Although Mr. Mittge quotes the *PGE* case at length, its effectiveness and relevance has been significantly reduced due to intervening circumstances, legislation and case law which has effectively established a

measurement of the reasonableness of an annexation request as being the extent to which the annexed territory is consistent with the acknowledged comprehensive plan and implementing zoning ordinance.

This reasonableness measurement, based on compatibility with the acknowledged comprehensive plan, was first articulated in a 1995 case (forty-two years after *PGE*) in which approval of annexation of a property at the end of a 1500-foot road was found to be reasonable despite the irregular shape. *Department of Land Conservation & Development v. City of St. Helens*, 138 Or App 222, 227-228 (1995). In doing so, the Court found that annexations are now largely “controlled by specific legislative and regulatory criteria”. *City of St. Helens*, 138 Or App at 227-228. This standard was subsequently confirmed in *Morsman v. City of Madras*, 191 Or App 149 (2203). In that case, the Court remanded the annexation approval back to the city to determine whether the annexation met statutory land use criteria because as the Court concluded, compliance with local land use laws is the “largely controlling” component of the reasonableness test. *Morsman*, 191 Or App at 155.

Mr. Mittge made a similar argument (annexation is not reasonable) in his appeal of the cherry-stem shape of the Driftwood Shores annexation and it was also rejected by LUBA in *Link v. City of Florence*, __ Or LUBA ___, Sl Op 31-32, LUBA No. 2008-147, decided 02-13-09. After affirming the *City of St. Helens* holding that the “reasonableness” test is “implied in the current statutory criteria, LUBA went on to reject Mr. Mittge’s claim that the extended sewer line in Rhododendron somehow made the annexation unreasonable. LUBA found that the challenged sewer extension would benefit both the City and the annexed property. *Link* at 32.

This is exactly what the City staff has concluded for the present annexation. The subject property is inside the UGB. It is designated for Low Density Residential by the 2020 Plan. Upon annexation, it will be zoned Low Density Residential. Everything that is being proposed by these annexation and zone change applications is consistent with decades of planning by the City.

Annexation Resolutions

Mr. Mittge challenges the City’s reliance on “Resolution No. 8, Series

2008" which expressed the Council's desire to dispense with all annexation elections. Mr. Mittge is correct that Resolution No. 8, Series 2008 was repealed but what he didn't mention is that it was replaced soon after by Resolution No. 28, Series 2010, on July 6, 2010. I believe staff will provide a more complete response.

The point is that Mr. Mittge's challenge has no merit. The Council has elected "to dispense with any and all elections both in the City and the annexed territory whenever permitted to do so . . .". No election is required for this annexation.

Annexation Policies

The seven Annexation Policies set forth in Goal 14 of the 2020 Plan serve as the fundamental criteria for all petitions for annexation to the City of Florence. In the draft findings, the staff's initial response to Goal 14, Urbanization, ("orderly and efficient transition") provides a summary of the basic reasons supporting this particular annexation requests:

"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 public right-of-way, Oceana Drive to the west; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City sewer to the properties being annexed. All connections to the sewer line 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.

- The provision of sewer service will allow the property owners to eliminate the need for septic systems and their maintenance and repair.
- Additionally, bringing sewer into the initial Idylewood development, the oldest of the plats, will provide the opportunity for additional sewer connections from adjoining developed properties.”

This annexation benefits the City and our client. It fully implements the comprehensive plan. In looking at a map of the North Florence area, there really is no other way for this property to be developed in accordance with the Low Density Residential zoning and plan designation other than extending a sewer line from Rhododendron within public street right-of-way to the property. This is the “orderly and efficient” transition to urban uses as explained in more detail in the draft findings for each annexation standard.

In contrast, Mr. Mittge provides a one page list (Mittge at 25) of all the alleged failures of this particular annexation petition. Without exception, each of Mr. Mittge’s alleged shortcomings presumes some hypothetical “development” is being proposed. For example, item e. states the annexation application “fails to provide ‘decent, safe and sanitary’ housing” despite the fact that no housing is being proposed. His allegation of a failure to provide decent housing is based on a phantom development, whether it be one house or multiple lots. He and his clients know that whatever is eventually proposed, it won’t be “decent, safe and sanitary.”

Such an allegation, like the others in his summary of “failures”, is ridiculous on its face. This annexation is not providing housing, it is not increasing traffic on Oceana and it is not extending sewers. This request is to primarily verify that the City, pursuant to consideration of their seven Annexation Policies in Goal 14 of the 2020 Plan, can and is ready to accept jurisdiction for the future development of the property. That’s exactly what the 2020 Plan envisions and expects will occur over time.

Referrals

Mr. Mittge and others claim we and the City have failed to provide “an adequate factual base” for approval of the annexation and zone change applications. To the contrary the staff’s draft findings, especially with regard to the “orderly, economic provision of public facilities and services”, rely on referral comments from both City staff as well as outside providers of various services and facilities. There is no need to review each response because they universally indicate that the service they provide, whether it be sewer (the City) or water (Heceta Water PUD) is presently available to serve the property. That’s the fundamental factual statement that supports the annexation. How those services are provided is one of the primary issues that must be addressed when a “development” application is submitted which will occur only after annexation is approved.

In that regard, we know there is significant interest in certain facilities (stormwater and traffic) that could be affected when this property is developed. Mr. Miller in his referral from City’s Public Works Department noted some of the issues that will likely be addressed when a site plan or subdivision application is submitted. We know we have to address City Code as well as other applicable standards with our future application in addition to those past, unresolved circumstances. There will be a full airing of these matters in the context of the City’s Code requirements and a specific development application.

For now, it is important to note that the most relevant evidence, i.e. responses from service providers, is uncontradicted by Mr. Mittge and the other opponents. Instead, they make up development proposals in order to argue that the annexation should be denied because of the deleterious effect of the phantom development proposed. Staff’s findings are thorough and supported by substantial evidence.

Conclusion

Despite all the opposition, including Mr. Mittge’s tome, most of it was misdirected, speculative and lacked evidence. This annexation request is supported by the 2020 Plan and its predecessor plan, the 1988 City of Florence Comprehensive Plan. This is what is supposed to happen in 2020. Property

Chair Murphey and Commissioners

November 24, 2020

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cannot be divided without annexation. Sewer service is required. We are doing what the 2020 Plan directs and we ask that you recommend approval of both applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Farthing". The signature is written in a cursive, flowing style.

Michael E. Farthing

cc: Benedick Holdings, LLC (via email)
Clint Beecroft (via email)
Thom Lanfear (via email)
Zack Mittge (via email)



**APPLICANT'S STATEMENT IN SUPPORT OF
PETITION FOR ANNEXATION AND
CONCURRENT ZONE CHANGE**

I. PROPOSAL DESCRIPTION

Proposal: Annexation

Request for the City of Florence ("the City") to annex the Property and a portion of Oceana Drive (**Exhibit "A"**) (Proposed Annexation Area and Legal Description ("the Property")) into the City of Florence's municipal boundaries.

Rezoning

Upon annexation, the corresponding City zoning district matching the Property's comprehensive plan designation is Low Density Residential with a Prime Wildlife Overlay Zone.

Applicant Representatives: Michael Farthing, Clint Beecroft and Thom Lanfear

Petitioner/Applicant: Benedick Holdings, LLC, an Oregon limited liability company

General Property Description (legal description and map set forth in Exhibit "A") (Proposed Annexation Area and Legal Description ("the Property")):

Assessor's Map No. 18-12-10-40 Tax Lots 400 and 401

Assessor's Map No. 18-12-10-34 Tax Lot 801

Oceana Drive

Comprehensive Plan Map Designation: Low Density Residential/
Coastal Shorelands. *See*
Exhibit "E", (Florence

Realization 2020
Comprehensive Plan Map)

Surrounding Land Use/Zoning: *See Exhibit “F”, (Existing Zoning)*

Sites: Low Density Residential subdivided lots on western and northern edge and no development on remaining boundaries. *See Exhibit “D” (Vicinity Map)*

North: Single family residences *See Exhibit “G”, (2017 Vicinity Aerial)*

South: Coastal Shorelands (Lane County) *See Exhibit “G”, (2017 Vicinity Aerial)*

East: Coastal Shorelands *See Exhibit “G”, (2017 Vicinity Aerial)*

West: Single family residences *See Exhibit “G”, (2017 Vicinity Aerial)*

Streets/Classification: local

II. NARRATIVE

The Applicant petitions for annexation of its property (“the Property”) from Lane County jurisdiction to City of Florence jurisdiction for the eventual purpose of subdividing it into single-family lots with connection to City sewer service. There are no electors residing on the Property. The petition also requests annexation of Oceana Drive, a local access road in the County, as it extends west from the Property to Rhododendron Drive which is Florence’s municipal boundary. *See Exhibit “A” (“the Property”).*

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 signed petition from the single property owner, Benedick Holdings, LLC, allows the City to process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). The annexation and zoning assignment will be processed as a Type

IV legislative zone change with a hearing before both the Planning Commission and City Council.

The Property is not currently served by Heceta Water PUD, but those services are available. After annexation, the Property will be provided City services such as sewer and police protection. The Property is within the Siuslaw Rural Fire Protection District. The Property will continue to be served by all service districts that presently provide public services.

III. PUBLIC NOTICE

Notice of the Planning Commission's public hearing will be mailed to property owners within 300 feet of the proposed annexation area. Notice will be published in the *Siuslaw News*.

IV. REFERRALS

Referrals will be sent to the City's Public Works, Building, and Police Departments; Lane County Transportation, Surveyor, Land Management and Environmental Health Departments; Department of Land Conservation and Development; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; County Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170(2)

Florence Realization 2020 Comprehensive Plan

Chapter 1: Citizen Involvement, Policy 4

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

Chapter 10: Housing Opportunities

Chapter 11: Utilities, Facilities and Services Public Utility Plan

Chapter 14: Urbanization, Annexation Policies 1 through 7

Chapter 17: Coastal Shorelands: Ocean, Estuary and Lake Shorelands,
Policies 11 and 17

Zone Assignment

Low Density Residential/Prime Wildlife Overlay

Florence City Code (FCC)

Title 10: Zoning Regulations

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

Chapter 10: Low Density Residential District

Chapter 19: Estuary, Shorelands and Beaches and Dunes, Sections 10-19-5
and 10-19-9

VI. PROPOSED FINDINGS OF FACT

The following findings support the petition 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 proposed findings of consistency in plain text.

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 Property proposed for annexation is located within the acknowledged urban growth boundary of the City. *See Exhibit “E”* (Florence Realization 2020 Comprehensive Plan Map). The Property is contiguous to the City boundaries through the concurrent annexation of Oceana Drive as proposed by the petition. *See Exhibit “A”* (“the Property”).

(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 legislature body of the city by the owners of real property in the territory to be annexed.

This petition for annexation of the Property was initiated by the sole owner of the real property in the territory to be annexed. Pursuant to established practices, the County will consent to the annexation of Oceana Drive.

(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 Property within the City consistent with Oregon laws governing taxation. This proposal for annexation does 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 and be provided fire protection service by the 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, 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. There are no electors in the area to be considered. Because the City received a petition and consent from the sole owner of the Property within the proposed annexation area, as allowed in ORS 222.170, therefore, an election is not required.

ORS 222.120 Procedure for annexation without election; 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, Series 2008 expressed the City’s intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

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

Resolution No. 8, Series 2008 expressed the City Council’s intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing to consider this annexation and rezoning proposal will be held before both the Planning Commission and City Council allowing City electors to be heard on the proposed annexation and zone change.

(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.

Legal notices will be provided as required by Code and State Statutes.

(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 western property line through the extension of City boundaries over Oceana Drive. *See Exhibit “A” (“the Property”).*

(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 property will be withdrawn from the Siuslaw Valley Fire and Rescue District as discussed above.

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

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

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

The written consent from the sole property owner was received by the City

on a petition requesting annexation to the City.

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

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

The City historically has used ORS 222.120 and never included this section of the statute in the criteria or ever used the reduced process it outlines even though past applications have met the criteria. Regardless, this application meets the criteria of this statute.

ORS 222.170 Annexation by consent before public hearing or order for election; proclamation of annexation.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

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

(b) The city legislative body orders the annexation election in the

city under ORS 222.111, if the city legislative body submits the question to the electors of the city.”

There are no electors within the proposed annexation area. The written consent from the single property owner was signed and provided with this petition for annexation.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

Chapter 1: Citizen Involvement

Goal

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Policy

- 4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comments.**

This proposal is consistent with the citizen involvement goal and Policy 4 because the process used by the City to approve the Resolution 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 on this action will be publicized and held at regular times and provide the opportunity for citizen comment.

The public process used will meet all of the requirements stated in Florence City Code pertaining to the rezoning of properties.

Chapter 2: Land Use

- Policy 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 the City to conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including the annexed Property. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Documentation of recent study results cited in recent annexation approvals in the general area confirm that the City has capacity to serve the annexation area without affecting service to existing City residents, consistent with the direction in this policy.

Residential

Goal: To create residential living environments that satisfy a wide variety of local and regional population needs and desires and add long-term community value.

Policy 2. The City shall initiate an evaluation of its residential ordinances following adoption and acknowledgment of this Plan with respect to increasing residential densities through the use of smaller lot sizes, encouraging cluster developments, and providing developers with density bonus options based on public benefit criteria.

The City recently conducted an evaluation of its residential zones and made changes that address this policy's identified goals for future residential development, i.e. increasing densities with smaller lots, encouraging cluster development and density bonuses based on public benefit criteria. The new Low Density Residential zoning district implements these goals and provides options for the eventual development of the Property.

Policy 7. Residential development shall be discouraged in areas where such development would constitute a threat to the public health and welfare, or create excessive public expense. The City continues to support mixed use development when care is taken such that residential living areas are located, to the greatest extent possible, away from areas subject to high concentrations of vehicular traffic, noise, odors, glare, or natural hazards.

Currently, this land is zoned Suburban Residential/Urbanizing/Prime Wildlife Overlay by Lane County and is undeveloped. *See Exhibit “F”*, (Existing Zoning). The City’s implementing zone for this area is the recently-adopted Low Density Residential zone together with the Prime Wildlife Overlay district by reason of the Property’s location in the Heceta Junction Seasonal Lakes Shorelands management unit. *See Exhibit “H”*, (Estuary & Coastal Shorelands Management Units Map). Development of the Property in accordance with standards and requirements of these City zones will not threaten public health or welfare and will not create excessive public expense.

Policy 8. Existing residential uses in residential zoning districts and proposed residential areas shall be protected from encroachment of land uses with characteristics that are distinctly incompatible with a residential environment. Existing residential uses in commercial and industrial zones shall be given the maximum practicable protection within the overall purposes and standards of those districts.

Policy 10. Single family residential uses (including manufactured homes) shall be located in low and medium density residential areas, and shall be discouraged from high density residential areas to protect that land for the intended uses.

There are no existing uses presently on the Property. Any future development will be in accordance with the implementing zoning district, Low Density Residential and the Prime Wildlife Overlay district. Such development will be entirely consistent with the existing Idylewood development located on the western edge of the Property. *See Exhibit “G”*, (Vicinity Aerial).

Low Density Residential

This zoning district was established by the recent Housing Code Update and is intended to provide a quality environment for low density, urban residential uses and other Planned Unit Development as determined to be necessary and/or desirable. It replaces the Restricted Residential district.

The Applicant has proposed the Low Density Residential zone, which was recently adopted by the City to replace the Restricted Residential zoning district. This proposal meets all the requirements of this new zone such as minimum lot

size and width outlined in Title 10 Chapter 10.

Chapter 10: Housing Opportunities

Goal: To provide opportunities and conditions to accommodate provision of varying housing types that are affordable, decent, safe and sanitary for people of all economic segments of the community.

While this goal and adopted policies are primarily directed toward the City and its council, it is fair to say that annexation of the Property will provide additional housing opportunities that will, in turn, maintain a competitive supply of housing sites, locations and opportunities. Further, the extension of sewer service could stimulate interest in the existing developed community for that urban service. *See Exhibit “A” (“the Property”).*

Chapter 11: Utilities, Facilities and Services

Goal: To help assure that urban development in the urban growth boundary is guided and supported by types and levels of public facilities appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly, and efficient arrangement, as required by Statewide Planning Goal 11, Public Facilities and Services.

Although no policies or recommendations are directly applicable to this petition for annexation, it should be noted that the Background statement declares:

“The *Public Facilities Plan* finds that almost all areas within the city limits are served or can be served in the short-term (0-5 years) with water, wastewater, and stormwater. * * * Service to all areas within city limits are either in a capital improvement plan or can be extended with development. With the improvements specified in the *Public Facilities Plan* project lists, all urbanizable areas within the UGB can be served with water, wastewater, and stormwater service at the time those areas are developed.”

The Property can be served with a full range of public services including sewer service by the City. There are some services, most notably water and fire protection, that will be provided by authorized and operating service districts, specifically the Heceta Water PUD and Siuslaw Valley Fire and Rescue. These service providers function within the City boundaries pursuant to existing intergovernmental agreements.

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 public right-of-way, Oceana Drive, which travels through a developed, single-family neighborhood to the west; it is, therefore, an orderly transition from rural to urban land uses. *See Exhibits “A” (“the Property”) and “D” (Vicinity Map).*
- 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 Property being annexed through an extension that will be located in the existing public right-of-way (Oceana Drive). All connections to the sewer line 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.
- The provision of sewer service will eliminate the need to maintain and repair septic drain fields.
- The additional benefit that is provided by the City’s extension of sewer service to the Property is that it might stimulate additional connections from adjoining developed properties.

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 a single property owner in order to receive City and public services and has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized this proposed annexation method allowable by State law that requires a majority of consents and will not utilize an “island annexation.” The City has received a signed petition from single the property owner. This criterion is met.

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

- 2. For properties within the North Florence Dunal Aquifer that are also within the Urban Growth Boundary, no land divisions shall be allowed prior to annexation to the City. The North Florence Dunal Aquifer boundary is delineated by the EPA Resource Document “For Consideration of the North Florence Dunal Aquifer as a Sole Source Aquifer,” EPA 910/9-87-167, September 29, 1987, Comprehensive Plan Appendix 5.**

The Property is located within the boundaries of the North Florence Dunal Aquifer and therefore no subdivision of the Property can occur until annexation is completed.

- 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 existing utility and service providers 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: Based on recent annexation decisions in the area of the Property there is sufficient capacity in the City's wastewater treatment facilities to serve the proposed low density residential uses without negatively affecting existing customers. Currently the Waste Water Treatment Plant has an excess capacity.

Water: The Property is currently undeveloped. The Property will eventually be served by a connection to Heceta Water People's Utility District.

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

Streets: The Property is principally accessed by Oceana Drive although other public streets abut the western edge of this Property. As local streets, they will be expected to serve traffic to residences and parks within the area. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding platted street availability. 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.

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 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 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 comprehensive 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 in the previous review of Oregon Revised Statutes (ORS).

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.

The City expects that any future development proposals for the Property will need to remain consistent with the development requirements of Lane Code Chapter 15 until jurisdictional transfer of the Property and right-of-way occurs. After that, Lane County will be informed of all proposed developments occurring on the Property in the future. Lane County will receive notice of this request for annexation.

5. The City will send a referral requesting comments on annexations to

the Heceta Water District, for annexation 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.

The water district will be provided notice and time to comment on the proposed annexation.

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

The Applicant will be required to pay the project costs to extend sewer services where they do not currently exist. Future development of the Property will necessitate payment of applicable systems development charges. Any undeveloped Property and expansions to developed Property will be charged systems development charges commensurate with their impacts on the systems.

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

Lane County provides services and administers jurisdiction to all property 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 development of the Property, with the exception of maintenance and access off of streets adjacent to the Property, which will still be maintained by Lane County.

Chapter 17: Coastal Shorelands: Ocean, Estuary and Lake Shorelands

Goals:

- 1. To conserve, protect, where appropriate, develop and, where appropriate, restore the resources and benefits of coastal shorelands, recognizing their value for protection and maintenance**

of water quality, fish and wildlife habitat, water-dependent uses, economic resources, cultural resources, and recreation and aesthetics.

- 2. To reduce the hazard to human life and property, the adverse effects on water quality, and the adverse effects on fish and wildlife habitat, resulting from the use and enjoyment of Florence’s coastal shorelands.**

There are Coastal Shorelands located on the eastern side of the Property. They have been mapped and inventoried as the “Heceta Junction Seasonal Lakes”. *See* Policy 11. General priorities for overall use of Coastal Shorelands are listed in Policy 12. *See* **Exhibit “H”**, (Estuary & Coastal Shorelands Management Units Map).

The Coastal Shorelands located on the Property is further inventoried as a “Prime Wildlife Management Unit” that is described and regulated by Policy 17. This includes a minimum 100 foot horizontal buffer zone from the edge of the coastal lake. All of this ensures that no development or land disturbance of any kind will be allowed in this management area.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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

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

D. Notice of Hearing:

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

The Applicant has proposed an annexation and zoning assignment for its Property and therefore Type IV procedures are applicable. There will be at least two public hearings as part of this process.

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

The zoning district corresponding to the Property's Comprehensive Plan designation is Low Density Residential. The Low Density Residential zone will be assigned upon approval of the request from Council and finalization of the annexation process with the County and State. Also applied to the Property will be the Prime Wildlife Overlay district because of its location in the Heceta Junction Seasonal Lakes management unit.

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.

The Planning Commission will hold a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact will be available in advance of the hearing. Annexation of the Property within the UGB is permitted if the request meets the applicable ORS and the City's urbanization policies.

TITLE 10: CHAPTER 10: RESIDENTIAL DISTRICTS

10-10-1: RESIDENTIAL ZONES AND PURPOSE:

- A. Low Density Residential (LDR): The Low Density Residential District is intended to provide a quality environment for low density, urban single-family residential use and other single or multifamily Planned Unit Development as determined to be necessary and/or desirable.**

The vacant Property and a portion of Oceana Drive are proposed to be zoned Low Density Residential District. This zone is appropriate as it corresponds to the comprehensive plan designation (Low Density) assigned to property served by this local road. No specific policies are applicable under this annexation or zoning proposal since no development is applied for with this application.

10-19-9: Prime Wildlife Overlay District (/PW)

This overlay district will be applied to the areas so designated in the Comprehensive Plan.

VII. CONCLUSION

The evidence in the record demonstrates and based on the findings herein, 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.

Exhibits:

- “A” Proposed Annexation Area and Legal Description (“the Property”)
- “B” List of North Florence Annexations and Map
- “C” Driftwood Shores Annexation
- “D” Vicinity Map
- “E” Florence Realization 2020 Comprehensive Plan Map
- “F” Zoning Map
- “G” 2017 Aerial Photo
- “H” Estuary & Coastal Shorelands Management Units Map