

**CITY OF FLORENCE
PLANNING COMMISSION**

RESOLUTION PC 16 20 ZC 03

A RESOLUTION RECOMMENDING APPROVAL OF ASSIGNING COMMERCIAL DISTRICT TO MAP # 18-12-26-42 Tax Lot 00800 NORTH OF AND ABUTTING HWY 126 AND SINGLE FAMILY RESIDENTIAL DISTRICT TO XYLO ST. AND WILLOW ST. AND ALLEY WITHIN BLOCK 69 OF GALLAGHER PLAT AND MAP # 18-12-26-42 TAX LOTS 01000 AND 01202, MAP # 18-12-26-13 TAX LOT 02400, MAP# 18-12-26-24, TAX LOT 01700 AND MAP # 18-12-26-31 TAX LOT 00100 TO THE FLORENCE CITY COUNCIL.

WHEREAS, property owners submitted petition for annexation of their properties and assignment of applicable city zoning of the property as required by FCC 10-1-1-4 and 10-1-2-3; and

WHEREAS, the Planning Commission met in a public hearing on November 22, 2016 after giving the required notice per FCC 10-1-1-5 to consider the proposal, evidence in the record and testimony received; and

WHEREAS, the Planning Commission determined, after review of the proposal, testimony and evidence in the record, that the proposal was consistent with Realization 2020, the city's acknowledged Comprehensive Plan and adopted findings of fact in support of the zoning assignments;

NOW THEREFORE BE IT RESOLVED that the Planning Commission recommends assigning zoning Commercial District to Map # 18-12-26-42 Tax Lot 00800 north of and abutting Hwy 126 and Single Family Residential District to Xylo St. and Willow St. and alley within block 69 of Gallagher plat and Map # 18-12-26-42 Tax Lots 01000 and 01202, Map # 18-12-26-13 Tax Lot 02400, Map# 18-12-26-24, Tax Lot 01700 and Map # 18-12-26-31 Tax Lot 00100 as illustrated in Exhibit A based on the Findings of Fact in Exhibit B.

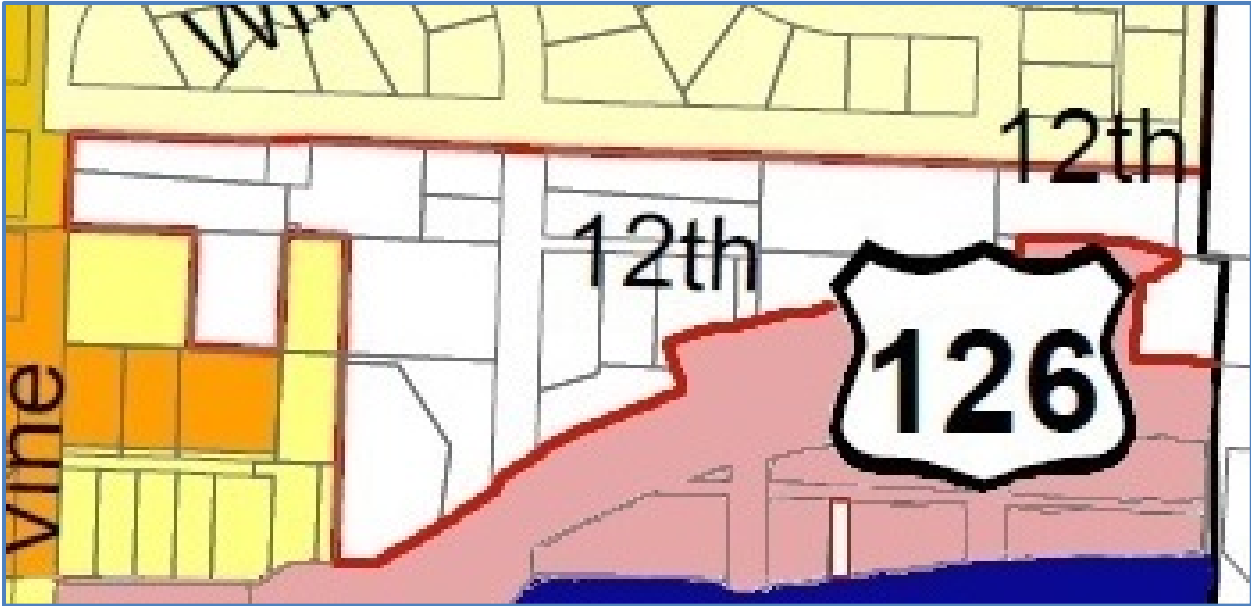
APPROVED BY THE FLORENCE PLANNING COMMISSION this 22nd day of November, 2016.

John Murphey, Vice Chairperson
Florence Planning Commission

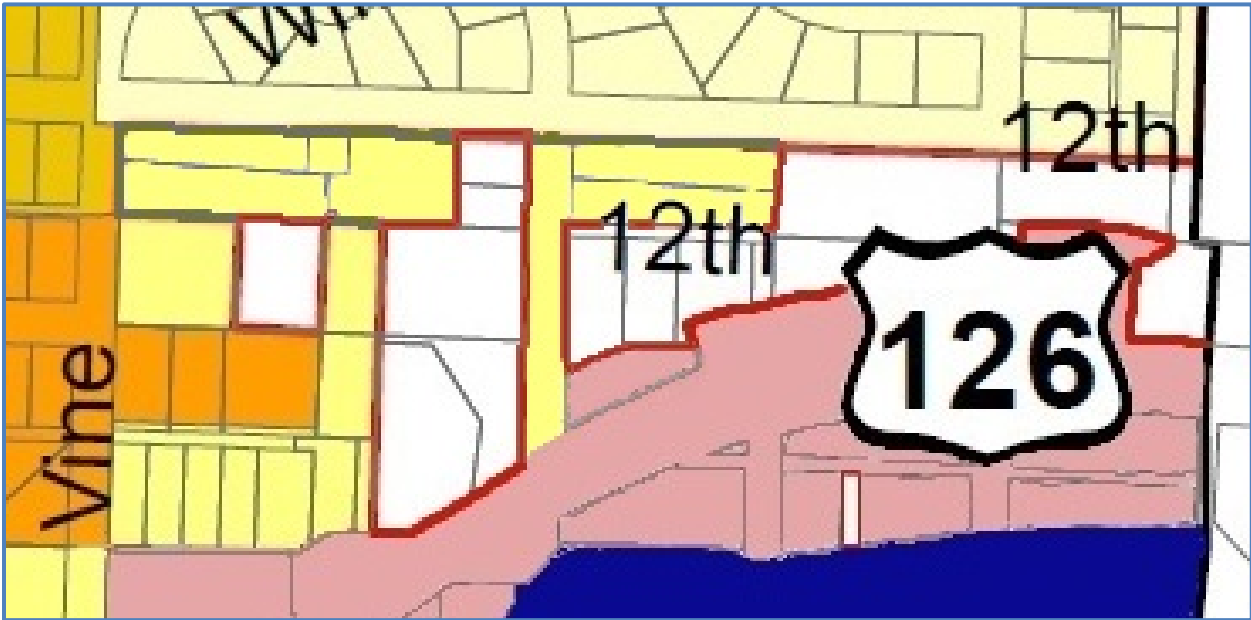
Current & Proposed Zoning Map

Resolution 16 20 ZC 03—Exhibit A

Current – County Neighborhood Commercial & Suburban Residential



Proposed – City of Florence Single Family Residential & Commercial



**STAFF REPORT & FINDINGS
FLORENCE COMMUNITY DEVELOPMENT DEPARTMENT
Planning Commission
PC 16-19 Exhibit "C" & PC 16 20 Exhibit "B"**

Public Hearing Date: November 22, 2016 **Planner:** Wendy FarleyCampbell
Date of Report: November 15, 2016

Application: PC 16 19 ANN 03 Highway 126 North Annexation
 PC 16 20 ZC 03 Highway 126 North Zone Change

I. PROPOSAL DESCRIPTION

Proposal: Annexation
 A request to annex property from Lane County to the City of Florence

Rezoning
 Upon annexation, the properties will be rezoned with city zoning. The corresponding zoning districts matching the included properties plan designation are Commercial District and Single Family District

Property Owners/Petitioners & Associated Properties (described in Exhibit B of Resolution 16 19 ANN 03):

Robert and Sarah Gage, Lon and Robin Beale, Mark & Laurie Hamilton, and David Williams within the listed tax lots

Land east of Xylo St.:

Map Reference 18-12-26-42 Tax Lot 0800 (Beale)
Map Reference 18-12-26-42 Tax Lot 1000 (Gage)
Map Reference 18-12-26-13 Tax Lot 2400 (Gage)

Land west of Xylo St.:

Map Reference 18-12-26-42 Tax Lot 01202 (Hamilton)
Map Reference 18-12-26-24 Tax Lot 01700 (Williams)
Map Reference 18-12-26-31 Tax Lot 00100 (Williams)

Other land to be annexed:

Rights-of-way: Xylo St. north of Hwy 126, Willow St. South of 12th St., east west running alley within Block 69. The last two may be vacated. As of the writing of this report County records (plats & assessment maps) are inconsistent on their status.

Comprehensive Plan Map Designation: Single Family Residential Commercial

Land Use / Zoning:
Land east of Xylo St.:

Map Reference 18-12-26-42 Tax Lot 00800 (Beale): C2 (Neighborhood Commercial District), Overlays BD & AS (Beaches & Dunes and Airport Safety Combining Zone)

Map Reference 18-12-26-42 Tax Lots 1000 & 2400 (Gage): County RA (Suburban Residential), Overlays BD & AS (Beaches & Dunes and Airport Safety Combining Zone)

Land west of Xylo St.: County RA (Suburban Residential), Overlays BD & AS (Beaches & Dunes and Airport Safety Combining Zone)

Map Reference 18-12-26-42 Taxlot 0202 (Hamilton)

Map Reference 18-12-26-24 Taxlot 01700 (Williams)

Map Reference 18-12-26-31 Taxlot 00100 (Williams)

North: Single Family Residences / City RS (Single Family Residential)
South: Highway 126 / City (Commercial)
East: Single Family Residences / County RA (Suburban Residential)
West: Single Family Residences / City RS (Single Family Residential)

Streets / Classification: Hwy 126 / Major Arterial; Willow St. / Local Street (undeveloped) Xylo St. / Local (Developed) and east-west running alley of Block 69 (undeveloped)

II. NARRATIVE

There are six vacant tax lots under consideration for annexation as well as the following rights-of-way Willow St. (short stub), Xylo St, and east-west running alleys of Block 69 south of undeveloped 12th St.

Robert and Sarah Gage initiated the petition for annexation on August 30, 2016. Their application was deemed complete as of September 19, 2016. A letter was sent on October 14, 2016 to surrounding property owners offering them the opportunity to annex. Subsequently, three additional sets of property owners provided petitions to annex. As of the date of writing the proposal is reviewed under both the "Double Majority" annexation (ORS 222.125) and "Triple Majority" methodologies since there are no electors. The annexation and zoning assignments will be processed as a quasi-judicial zone amendment with a hearing.

The properties are within the Siuslaw Rural Fire Protection District. The properties will continue to be served by SVFR.

Any property abutting Highway 126 Oregon Department of Transportation right-of-ways must apply for access permits from ODOT.

III. PUBLIC NOTICE

Notice of the Planning Commission's public hearing was mailed on November 2, 2016 to property owners within 300 feet of the proposed annexation areas. Notice was published in the Siuslaw News on November 9th and 16th. On November 2, 2016 notices were posted at City Hall, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Public Comments:

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

IV. REFERRALS

On November 15, 2016, referrals were sent to Florence Public Works and Police; Lane County Transportation, Surveyor, Land Management and Environmental Health; Oregon Department of Transportation; DLCD; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Central Coast Disposal; Country Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City had received comments from Daniel Ingram, Lane County Transportation.

Daniel Ingram, Senior Engineering Associate at Lane County Public Works, requested that Xylo St. and the alley east of Xylo St. be included in the annexation so that city development standards apply to future development. He also requested the stub of Willow St. south of 12th St. be included as well whether it is vacated or not. (Exhibit D)

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170 (2)

Florence Realization 2020 Comprehensive Plan

Chapter 1: Citizen Involvement, Policy 4

Chapter 14: Urbanization, Policies 1 and 3 through 7

Rezoning

Florence Realization 2020 Comprehensive Plan

Chapter 2: Land Use, Policies 1 & 8, Section on Commercial Designations & Section on Residential Designation

Florence City Code (FCC)

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

Chapter 11: Single Family Residential
Chapter 15: Commercial

VI. FINDINGS OF FACT

The following findings support Resolution Nos. PC 16 19 ANN 03 & PC 16 20 ZC 03 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code and State Statutes.

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

FLORENCE REALIZATION 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.”

Policies

4. “Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.”

This proposal is consistent with this citizen involvement goal and Policy 4 because the process used by the City to approve Resolution PC 16 19 ANN 03 & PC 16 20 ZC 03 recommending approval of this annexation and zone assignment request was consistent with the City’s applicable citizen involvement program, which ensured that citizens were provided an opportunity to be involved in this land use action. Specifically, official City meetings on this action were publicized and held at regular times and provided the opportunity for citizen comment.

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

The proposal is the subject of public hearings before both the Planning Commission and the City Council. This annexation proposal was considered by the Florence Planning Commission on November 22, 2016. The public hearing was noticed in accordance with Florence City Code 10-1-1-5 as a quasi-judicial land use decision before the Planning Commission. The City notified property owners within 300 feet of the sites 21 days prior to the Planning Commission public hearing. The City also

published the required notice of the Planning Commission's public hearing two times in the Siuslaw News on November 9th and 16th. Finally, the City posted notice at four public places within the City on November 2nd: City Hall, Justice Center, Siuslaw Public Library, and Post Office.

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

Chapter 2: Land Use

Policies

- 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. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

Commercial

Goal

To utilize appropriately designated land for the development of commercial businesses and establishments in a manner that provides for the needs and desires of the Florence resident, tourist, and regional marketplace while enhancing the attractive nature of this coastal community.

- Policy 8. Any northward expansion of commercially designated lands along Highway 101 and eastward along Highway 126 shall be consistent with the land use element of the Comprehensive Plan.**

Currently, these lands are zoned either Suburban Residential or Neighborhood Commercial, by Lane County. None of the properties under consideration for annexation feature a commercial component and rather are vacant undeveloped land. At the time of report writing one property (Beale) will be zoned Commercial

when annexed into the City. While the lot has an excessive slope restricting reasonable development consistent with its zoning the rezone will allow development of the property with uses consistent with other development westward along Highway 126, which is already within the city limits. Those properties are zoned Highway and are seeing development in line with what is permitted within that district.

Commercial Plan Designation Categories and Background

Commercial

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

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

Commercially designated lands under consideration for annexation will be rezoned to their corresponding zoning of Commercial. These areas will add nominally to the commercial lands inventory within the Florence city limits.

Chapter 14: Urbanization

Goal

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

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

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via properties to the west and north; 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 water and sewer to the properties being annexed. All connections to the sewer line will be funded through system development charges, connection fees, and the sewer and water funds in the 2016-17 City of Florence Budget. This financing method allows for cost-effective service delivery to all users of the system.

- The provision of sewer service will allow the property owners to avoid additional construction of septic systems and inefficient use of open space contained within the lots to be annexed for the drain field.

Annexation Policies

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

The proposed annexation has been initiated by the property owners in order to receive City services, but has not been initiated in order to abate a health hazard. ORS 222.840 is not applicable to this specific proposal.

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The City has received a petition from the property owners with signature of all listed property owners and electors. This policy criterion is met.

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

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

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

The proposed annexation is consistent with Policy 3a. because the annexation area will be served through an orderly, economic provision of public facilities and services, including sewer, water, storm drainage, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the properties within the proposed annexation and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other development level utility details.

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

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

Stormwater: There will be no change in the handling of stormwater upon annexation. The properties will develop stormwater treatment systems consistent with code when site improvements are made.

Streets: The properties are accessed via Xylo St. or 11th St. both local streets. 11th St. is undeveloped and Xylo St. does not meet city standards for development. Xylo meets the minimum width standard for fire access but no turnaround is available. The increased usage (vehicular trips) made available by annexation and zone change can be accommodated by Xylo and 11th St. with improvements made in tandem with development.

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

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

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

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

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

This proposal is consistent with this policy because the Florence Realization 2020 Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) and is the acknowledged Plan for the City of Florence. As demonstrated in these findings of fact, the annexation proposal is in conformance with this acknowledged Plan.

c) consistency with state law.

The annexation proposal is consistent with this policy because the proposal is consistent with state law, as presented below in the review of Oregon Revised Statutes.

4. The City will send a referral requesting comments on annexations to Lane County. The Comments submitted will be considered in any action taken on the annexation request and will become part of the public record of the proceeding.

Staff sent referral requests to Lane County on November 15, 2016. Lane County Transportation has responded. The referral comments are included above within the Referrals section and attached as Exhibit D.

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

Staff did not send a referral to Heceta Water Public Utility District as these properties are outside their service boundaries.

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

At the time of writing all properties petitioned for annexation are undeveloped. As such the applicant and petitioners of the properties will be required to pay water, sewer, street and stormwater systems development charges. Future development of the properties will necessitate payment of applicable systems development charges. Any developed properties and expansions to properties added to this application will be charged systems development charges commensurate with their impacts on the systems. 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.

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

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for redevelopment of the properties, with the exception of maintenance and access off Xylo St., which will continue to be maintained by Lane County.

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, all within Lane County. The annexation is contiguous to the City from the west on the north side of Hwy 126 and from the north for properties on the south side of 12th St. It is bordered by Highway 126 to the south.

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

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

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

The annexed properties will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. This proposal for annexation did not include a tax differential schedule as allowed in this statutory section.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

The annexation area is within the Siuslaw Valley Fire and Rescue District, which is a rural fire protection district named in ORS 222.510, but not named in ORS 222.465. The annexation area will not be withdrawn from the Fire District and thus will remain within the Siuslaw Valley Fire and Rescue District.

(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under

ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

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

The City received written consents from 100% of the owners within the proposed annexation area and there are no electors, 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, Services 2010 expresses the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

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

Resolution No. 28, Series 2010 expresses the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations will be held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council will hold a duly advertised public hearing on December 5, 2016, after receiving a recommendation from the Planning Commission. The electors of the City may appear and be heard on the question of annexation at that public hearing.

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

The Planning Commission public hearing was noticed as required. Notice of the public hearing was published in the Siuslaw News on November 9th and 16th, 2016. Public noticing for the City Council public hearing, the City legislative body, will be published in the

Siuslaw News November 23rd and 30th, 2016. Notices were posted in four public places in the City at City Hall, Justice Center, Siuslaw Public Library, and Post Office on November 2nd, 2016.

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

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

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

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

The City Council will hold a public hearing on the annexation request on December 5, 2016. If approved, an Ordinance will be passed, as required under (b) showing that the electors and landowners consented in writing to the annexation consistent with ORS 222.170.

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

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

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

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

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

territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”

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

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

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

The City historically has used ORS 222.120 and never included this section of the statute in the criteria nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required. For these reasons the annexation portion of this application does not include a hearing but will include a recommendation to the City Council.

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.

There are two owners of the property in the proposed annexation area. The City received written consents from both property owners of the properties who own 100% of the land in

the contiguous area to be annexed representing 100% of the assessed value of real property in the contiguous territory to be annexed prior to the public hearing dates.

(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 in the proposed annexation area. The City has received written consents from all property owners of the properties within the area proposed to be annexed prior to a public hearing before the legislative body of the City of Florence. The written consents were all signed prior to November 22, 2016 and received before the City Council held the required public hearing required by ORS 222.120.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-5-E-3

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

The applicants requested annexation of their property within the UGB. This process includes the assignment of the zoning district corresponding to their properties' Commercial and Medium Density comprehensive plan designations. The property upon annexation will be rezoned from its current county zone to the City's Commercial District zone and Single Family Residential District. The rezone is necessary to finalize annexation. The public need and good of annexation has been reviewed elsewhere in this report. The selected zoning is appropriate and corresponds to the Commercial and Medium Density Comprehensive Plan designations.

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

and land use regulations in accordance with the conditions and procedures of Chapter 1 of this Title. (Amd. by Ord. 30, Series 1990).

The zoning districts corresponding to the subject properties' Comprehensive Plan designation are Commercial and Medium Density. The Commercial and Single Family Residential Districts will be assigned upon approval of the request from Council and finalization of the annexation process with the county.

The developable properties either meet the minimum lot frontage dimensions and lot sizes for the Florence City Code Title 10, Chapter 15: Commercial District and Chapter 11 Single Family Residential District or are pre-existing non-conforming. The latter is notably so with the multitude of street and alley vacations performed by the county over the last four decades. Upon annexation, the county approved properties isolated due to vacations would be considered pre-existing non-conforming.

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 November 22, 2016, the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing and were reviewed against the applicable city and state policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the city's urbanization policies. These have been reviewed earlier with supporting findings.

VII. OPTIONS FOR PLANNING COMMISSION

The Planning Commission may:

1. Recommend approval of the annexation and rezoning by approving Resolutions PC 16 19 ANN 03 and PC 16 20 ZC 03 as presented or with modifications.
2. Recommend denial of the annexation based on the Commission's findings to support denial of the annexation.
3. Recommend approval of the annexation but recommend a different zoning district for the rezoning.

4. Continue the public hearing of leave the record open for more information.
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VII. CONCLUSIONS AND RECOMMENDATION

The evidence in the record demonstrated that the proposed annexation and zone assignments are consistent with the policies set forth in state statues, Florence City Code, and the Florence Realization 2020 Comprehensive Plan, based on the findings. Staff recommends that Planning Commission recommend approval of the annexation and zoning assignment to the Florence City Council.

VIII. ATTACHMENTS

Resolution PC 16 19 ANN 03

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

Resolution PC 16 20 ZC 03

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

Other Attachments

- Attachment 1 Petitions for Annexation