

**CITY OF FLORENCE  
ORDINANCE NO.3, SERIES 2024**

**AN ORDINANCE APPROVING ANNEXATION OF APPROXIMATELY 2.88 ACRES OF  
PARK WAY AND BEACH DR. RIGHTS OF WAY OF THE HECETA BEACH PLAT INTO  
THE CITY OF FLORENCE**

**RECITALS:**

1. The City of Florence was petitioned by the property's representative, Rebecca Shepard, on February 21, 2024 as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The signed petition to annex was received constituting more than half of the owners of land in the territory consenting in writing to the annexation, with the sole owner consenting to annex more than half of the land in the contiguous territory, and the owner consenting to annex representing more than half of the assessed value of property in the territory in accordance with ORS 222.170(1);
3. The territory proposed to be annexed is within the Florence Urban Growth Boundary of the Florence Realization 2020 Comprehensive Plan and is contiguous to the City limits as required by ORS 222.111 (1).
4. 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 annexation and recommended City Council approval.
5. The City Council met in a public hearing on June 10, 2024, after giving the required notice per FCC 10-1-1-6 and ORS 222.120 to consider the proposal, evidence in the record, and testimony received.
6. The City Council on June 10, 2024, found that the request met the applicable criteria and that the property could adequately be served.
7. Per FCC 10-1-2-3, the City Council may establish zoning and land use regulations that become effective on the date of the annexation, and the City Council adopted Ordinance No. 4, Series 2024 zoning the annexed property as Open Space, as described in Exhibits A and B, consistent with the Florence Realization 2020 Comprehensive Plan text and map and the Florence Zoning Code.

Based on these findings,

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

1. The City of Florence approves the annexation of Park Way and Beach Dr. ROWs, and territory owned by the petitioner into the City of Florence containing approximately 2.88-acre as described in Exhibit A.
2. This annexation is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City Recorder is hereby directed to file certified copies of this Ordinance with the Oregon Secretary of State's Office consistent with the requirements of that office 90 days prior to the general election in order for the annexation to be effective upon filing pursuant to ORS 222.040(1) and 222.180(1).
4. The City Recorder is also hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office, Lane County Chief Deputy Clerk and Oregon Department of Revenue pursuant to state law.

ADOPTION:

First Reading on the 10<sup>th</sup> day of June, 2024.

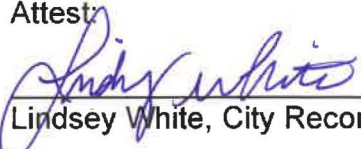
Second Reading on the 10<sup>th</sup> day of June, 2024.

This Ordinance is passed and adopted on the 10<sup>th</sup> day of June, 2024.

AYES	5	Councilors: Wantz, Meyer, Beaudreau, Carp and Mayor Ward
NAYS	0	
ABSTAIN	0	
ABSENT	0	

  
\_\_\_\_\_  
Rob Ward, Mayor

Attest:

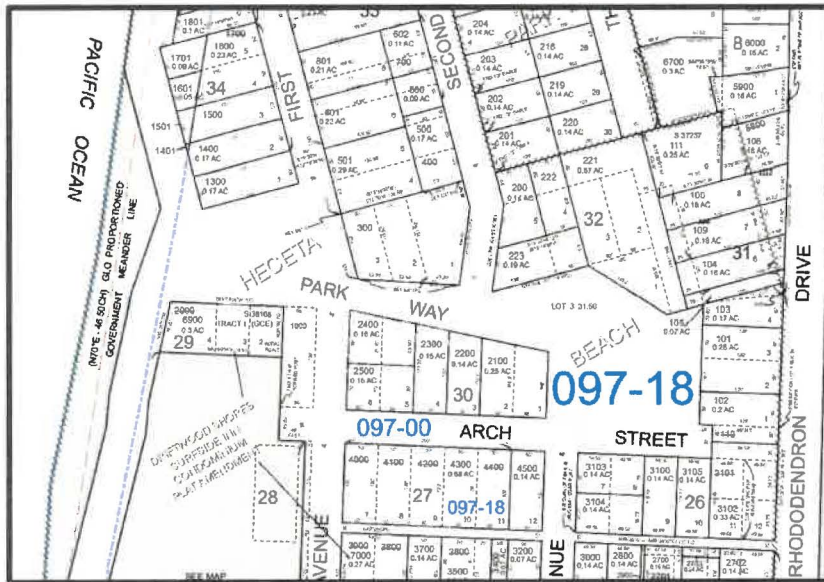
  
\_\_\_\_\_  
Lindsey White, City Recorder

# Exhibit A

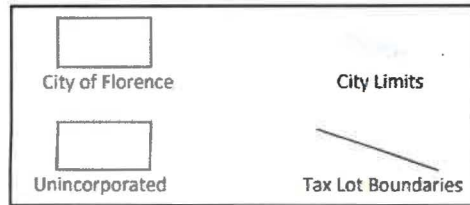
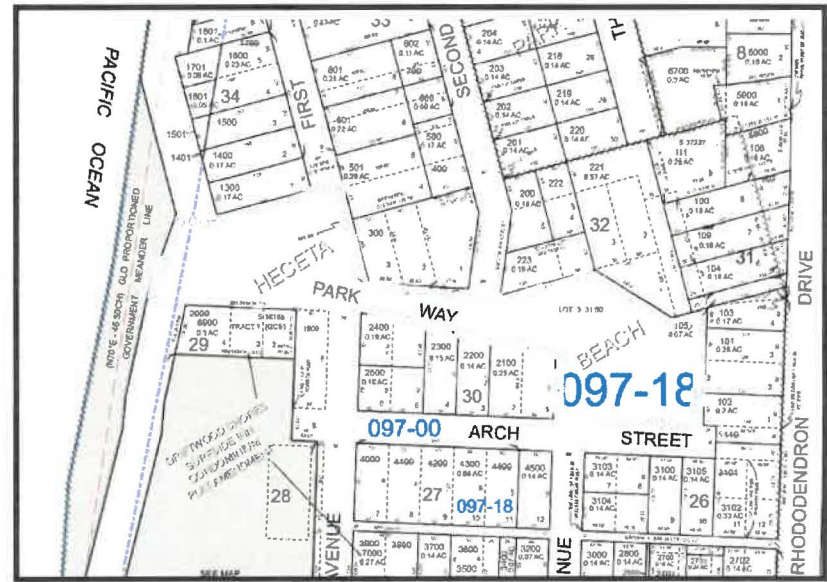
## Ordinance No. 3, Series 2024

### Park Way & Beach Dr. 2.88 Acres – Heceta County Park, Lane County

Before Proposed Annexation



After Proposed Annexation









## **HECETA BEACH PARK**

### **Legal Description for Annexation**

**April 26, 2024**

Beginning at the northwest corner of Lot 4, Block 29, HECETA BEACH, as platted and recorded in Book 7, Page 25, of the Lane County Oregon Plat Records; thence North  $89^{\circ} 34'$  East along the north line of Block 29, 270 feet to the northwest corner of Lot 6, Block 30; thence Southeasterly along the north line of Block 30, 304.5 feet to the northeast corner of Lot 1, Block 30; thence South  $0^{\circ} 26'$  East along the east line of Block 30, 100 feet to the southeast corner of Lot 1, Block 30, which is on the north line of Arch Street, per the plat of HECETA BEACH; thence North  $89^{\circ} 34'$  East parallel with the south line of Arch Street, 230 feet to the southwest corner of Lot 1, Block 31; thence North  $0^{\circ} 26'$  West along the west line of Block 31, 182.6 feet to the northwest corner of Lot 4, Block 31; thence Southwesterly 50 feet, more or less, to the most southerly corner of Lot 1, Block 32; thence Northwesterly along the most southerly line of Lot 1, Block 32, 145.2 feet to the southeast corner of Lot 4, Block 32; thence South  $73^{\circ} 30'$  West along the south line of Block 32, 150 feet to the southwest corner of Lot 5, Block 32; thence Northwesterly 50 feet, more or less, to the southeast corner of Lot 1, Block 33; thence continuing Northwesterly along the south line of Block 33, 164 feet to the southwest corner of Lot 3, Block 33; thence North  $16^{\circ} 30'$  West along the west line of Block 33, 150 feet to the northwest corner of Lot 4, Block 33; thence South  $73^{\circ} 30'$  West 200 feet to the southwest corner of Lot 1, Block 34; thence continuing South  $73^{\circ} 30'$  West to the west line of Beach Drive as depicted in the plat of HECETA BEACH; thence Southwesterly along said west line of Beach Drive to a point that is South  $89^{\circ} 34'$  West of the northwest corner of Lot 4, Block 29; thence North  $89^{\circ} 34'$  East to the Point of Beginning, containing 2.888 acres, more or less, all in Lane County, Oregon.

Bearings and distances used in this description are taken directly from the plat of HECETA BEACH.

**CITY OF FLORENCE  
FINDINGS OF FACT  
Ordinance No. 3, Exhibit B  
Ordinance No. 4, Exhibit B**

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**City Council Public Hearing Date:** June 10, 2024  
**Date of Report:** June 3, 2024

**I. PROPOSAL DESCRIPTION**

**Proposal:** Annexation—Ordinance No. 3, Series 2024  
A request from Rebecca Shepard on behalf of the Lane County Government to annex Park Way and a portion of Beach Drive right-of-way used as Heceta Beach County Park.

Zone Assignment—Ordinance No. 4, Series 2024  
Upon annexation, the property requires zoning assignment by the Florence City Council. The corresponding zoning district matching the property’s plan designation is Open Space District.

**Petitioners/Applicants:** Rebecca Shepard for Lane County Government

**General Property Description (Annexation boundary described in respective Exhibit A; Zoning areas described in respective Exhibit A):**

Assessor’s Map Reference (MR): None.  
Property consists of Park Way and Beach Drive only and no real property

**Comprehensive Plan Map Designation:** Public Open Space

**Surrounding Land Use | Current Zoning:**

- Site:** County Park | Parks and Recreations (County)  
Overlays: Beaches & Dunes and Natural Resource Conservation
- North:** Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)
- South:** Tourism & Lodging (Driftwood Shores Resort) | Commercial
- East:** Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)
- West:** Undeveloped Public Open Space | Parks and Recreations (County)  
Overlays: Beaches & Dunes and Natural Resource Conservation

**Streets | Classification:** North: (underdeveloped) 1<sup>st</sup> Ave - Local.; South: 1<sup>st</sup> Ave - Local;  
East: None; West: None

## II. NARRATIVE

An application was received on February 21, 2024 and was deemed complete for processing on April 9, 2024. This application is a request for annexation from the urban growth boundary into the City of Florence and the associated zone change. The property being annexed into the City is the Heceta Beach Park which is a Lane County Park that includes parking facilities, restrooms, and beach access just north of the Driftwood Shores Resort located on 1<sup>st</sup> Ave.

The proposed land to be annexed into the City contains platted rights of way (ROW) Beach Drive. and Park Ave. which intersect with 1<sup>st</sup> Avenue, 2<sup>nd</sup> Avenue, and Arch St. This annexation is unique in that it is made entirely of ROW as it relates to land use and property. ORS 307.010 Definitions of "land and "real property" for state property tax laws includes "All buildings, structures, improvements, machinery, equipment or fixtures erected upon, above or affixed to the land" in the definition of "real property" for tax purposes. This definition is included in this narrative as an explanation that the land is not considered "real property" in regards to platted lots, but the improvements to the land may be considered real property for taxation purposes

This annexation, as proposed, is not anticipated to change transportation facilities in the area or to adjacent properties. This application is a request for annexation into the City of Florence. This is not an application for development. At the time of this annexation request there is no nexus to upgrade streets in the immediate area that may not meet current City standards or develop currently undeveloped street ROWs. Any future development on site shall go through development review process consistent with the Comprehensive Plan, applicable Florence City Code, and State laws.

The existing use of the Heceta Beach County Park is conditionally permitted in the proposed zone change of Open Space. As such, any future improvements, modifications, or expansions to the use will be subject to the requirements of both FCC 10-4; Conditional Uses and FCC 10-22; Open Space.

The requested annexation is to allow for connection to City sanitary sewer services to allow for future upgrades to the park facilities from vault toilets to restrooms with flush toilets. The site is currently served by and would continue to be served by Heceta Water District.

## III. PUBLIC NOTICE

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on April 9, 2024, not less than 35 days prior to the proposed first evidentiary hearing of May 14, 2024, as required by State law and the Florence City Code.

Notice of the Planning Commission's public hearing was mailed on April 24, 2024, to owners of property within 300' of the Property. Notice was published in the Siuslaw News on May 1, 2024.

### **Public Comments:**

May 14, 2028. Harlen Springer: A speaker's card received prior to the Planning Commission [Exhibit F]



Mr. Springer was a neutral party with concerns regarding possible future connection of 2<sup>nd</sup> Ave through the park property and concerns of access being limited to 1<sup>st</sup> Ave to the North.

Response: During the public hearing these concerns were addressed.

No part of this annexation proposes ROW improvements or alterations to 1<sup>st</sup> or 2<sup>nd</sup> Ave. Properties on 1<sup>st</sup> Ave to the north of the annexation will continue to have access through the Heceta Beach County Park via Park Way.

No proposed changes to 2<sup>nd</sup> Ave are proposed or included in the 2023 Transportation System Plan. However, at a date in the future 2<sup>nd</sup> Ave may be required to connect through Park Way for orderly and efficient development of the City.

## REFERRALS

On April 25, 2024, referrals were sent to the Florence Public Works, Building, Utility Billing, Police Departments, Lane County Management Divisions, Heceta Water PUD, Western Lane Ambulance, and Siuslaw Valley Fire and Rescue.

### Referral Comments:

At the time of this report, the City had received comments from Lane County Management Division and Heceta Water District

#### Heceta Water District

Heceta Water District responded on April 26, 2024 and did not have any concerns or issues.

#### Lane County Public Works and Lane County Transportation Department

Responded on April 26, 2024 stating they would work to review the application materials.

A second response was received May 22, 2024 that stated [Exhibit E]:

*“Thank you for providing the opportunity to comment on this application. Lane County Transportation Planning supports the annexation. In order to support future urban development Lane County Transportation Planning would also like to encourage future annexations of 1<sup>st</sup> Avenue to the north of this proposed annexation. Beyond this we have no further comments.”*

Response: The City of Florence does not intend to annex 1<sup>st</sup> Ave to the north beyond the borders of this annexation as part of Ordinance No. 3 & 4, Series 2024. Future annexations of property to the north are anticipated to annex portions of 1<sup>st</sup> Ave ROW necessary for vehicular access to those sites. This is current standard process for the annexation and zone change process.

## IV. APPLICABLE REVIEW CRITERIA

### Annexation:

**Oregon Revised Statutes (ORS)**  
222.111; 222.120; 222.125; 222.170

### **Florence Realization 2020 Comprehensive Plan, Chapters**

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 6; Other Plan Designations, Policy 1 8: Parks, Recreation and Open Space, Policy 3
- 14: Urbanization; Annexation section, Policies 1 through 7

Lane County Heceta Beach Park Annexation and Zone Change  
Ordinance 3 & 4, Series 2024

- 17: Coastal Shorelands; Ocean, Estuary, and lake Shorelands; Policies 10 & 11

**Florence City Code (FCC), Chapters**

- 1: Zoning Regulations; Sections 10-1-1-4, 10-1-1-5, 10-1-1-6-3 & 4, 10-1-2-3, and 10-1-3
- 19: Estuary, Shorelands, and Beaches and Dunes; Section 10
- 22: Open Space District; Sections 1 and 3

Proposed Zone Assignment—Open Space:

**Florence Realization 2020 Comprehensive Plan**

- 1: Citizen Involvement, Policy 4
- 2: Land Use, Policy 6; Other Plan Designations, Policy 1 8: Parks, Recreation and Open Space, Policy 3
- 17: Coastal Shorelands; Ocean, Estuary, and lake Shorelands; Policies 10 & 11

**Florence City Code (FCC), Chapters**

- 1: Zoning Regulations; Sections 10-1-1-4, 10-1-1-5, 10-1-1-6-3 & 4, 10-1-2-3, & 10-1-3
- 19: Estuary, Shorelands, and Beaches and Dunes; Section 10
- 22: Open Space District; Sections 1 and 3

**V. FINDINGS OF FACT**

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

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

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**FLORENCE REALIZATION COMPREHENSIVE PLAN**

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**Chapter 1: Citizen Involvement**

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**Policies**

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

Policy 4 of Chapter 1: Citizen Involvement is being met through these proceedings. The public City meetings were publicized in accordance with applicable Florence City Code (FCC) and held at regular times and days. Noticing was previously discussed in these Findings and meets Code criteria in accordance with FCC 10-1-1-6-4-D.

Citizens were provided the opportunity to submit both verbal and written comments as described on the meeting agendas, notice of hearing, and the media notice published in the Siuslaw Newspaper. The option to provide public comment included both in-person and virtual options. Beyond meeting this Comp. Plan policy, Oregon State meeting laws under Executive Order No. 20-16 have also been met. These policies are met.

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**Chapter 2: Land Use**

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**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.”**

Consistent with this policy, the provision of City utility services to the proposed annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Most recently the City updated its Stormwater Management Plan and Public Facilities Master Plan. Public Works testimony using analysis from the documentation within these recent study results confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents, consistent with the direction in this policy.

### **Other Plan Designations**

#### **Goal**

**To recognize that there are a number of land use types that do not fit into the Residential, Commercial, or Industrial Comprehensive Plan designations.**

**Policy 1. The City should recognize unique land uses, sites, and/or ownership patterns and should provide for flexibility in the land use system to address unique situations while remaining consistent with City goals and policies.**

This annexation request and zone change is consistent with this policy. The existing use is consistent with current goals and policies for the proposed underlying zone of Open Space as regulated by FCC 10-22. The annexation as proposed will provide opportunities for improved public amenities to serve the site and will serve to improve this community asset. This Policy is met.

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## **Chapter 8: Parks, Recreation and Open Space**

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### **Parks, Recreation and Open Space**

**Policy 3: Within the Florence urban growth boundary, the City and Lane County shall designate lands for possible park development purposes. Lands so designated shall be reserved for future park system expansion upon annexation.**

Consistent with this Comprehensive Plan Policy and development standards in FCC 10-22 the land proposed for annexation shall be reserved for future park system use and expansion. This land has previously been designated on the 2020 Florence Realization Comprehensive Plan as Public Open Space. This Policy is met.

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## **Chapter 14: Urbanization**

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#### **Goal**

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



This proposal is consistent with this Urbanization goal as 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, and the proposal meets the applicable City code and Comprehensive Plan policies; 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 property. 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.

#### **Annexation Policies**

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

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

For this proposed annexation, the City of Florence has utilized a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.” The proposed annexation is not an island annexation because the territory to be annexed is contiguous with the Florence City limits. The City has received a signed petition from the property owner. The property does not have electors. This criterion is met.

- 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 UGB and the North Florence Dunal Aquifer and thus not eligible for land division (or replat) until annexed. However, no land division or replat is proposed with this application for annexation.

- 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, streets, fire and police protection, power, and communications. The utility services have the capacity to serve the property within the proposed annexation, and the services and facilities can be provided in an orderly and economic manner, as described in detail below. The annexation request is not intended to address details about placement of individual utility lines or other

development-level utility details.

Sewer: The Florence Public Works Department has not responded to the referral request as of the writing of these Findings. The property immediately south, Driftwood Shores Resort, has access to sanitary sewer. The Properties to the north of the subject site are within the Florence UGB. Therefore, it is anticipated that there will be access to the existing City pressure sanitary sewer line that is available in 1<sup>st</sup> Ave.

Water:

The property is currently within Heceta Water People's Utility District (HWPUD) service territory and will remain an HWPUD customer. Public Works recommends that the petitioner contact HWPUD for specific fire flow and domestic capacities for this area.

Stormwater: There will be no change in the requirements of handling stormwater upon annexation. Future development on the property will be expected to meet City Code, maintaining post-development stormwater flows from the property at pre-development levels. The associated policies reduce the risk of public impacts, including impacts on local natural resources.

Streets:

Currently, a portion of 1<sup>st</sup> Avenue has already been annexed to the City, however the street continues to be under Lane County for maintenance. The City does not plan on seeking jurisdictional transfer of maintenance of this road at this time.

FCC 10-1-4-E-2 requires performance of a Traffic Impact Study upon, "A change in zoning or plan amendment designation where there is an increase in traffic or a change in peak-hour traffic impact." The zone change from County Parks and Recreation to the City zone designation of Public Open Space is not anticipated to trigger an increase in peak hour vehicle trips.

A TIS is not warranted for this application. It is for these same reasons that the Transportation Planning Rule does not apply—density is not changing, zoning is not impacted, development may impact the street network and may be evaluated via a TIA/TIS when an impact is proposed. Adjacent transportation facilities have not been identified in the 2023 TSP as deficient facilities. An existing public street network is available to serve this 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 subject property.

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

Communications: Lumen (formerly CenturyLink) currently provides phone service to the area and will continue to do so following the annexation. Other utility companies such as Charter 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 as the Florence Realization 2020 Comprehensive Plan Lane County Heceta Beach Park Annexation and Zone Change Ordinance 3 & 4, Series 2024

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 as 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.**

Lane County was provided notice on April 25, 2026. A response was received April 26, 2024 that stated the application would be reviewed. No further comments were received as of the writing of these Findings.

- 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.**

The Water District was provided notice on April 25, 2026. A response was received April 26, 2024 that did not address any concerns or issues with continuing to serve the subject site.

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

At such a time when Heceta Beach County Park is connected to City infrastructure, this will necessitate payment of applicable systems development charges, and future development may necessitate additional charges commensurate with impacts on the relevant infrastructure systems.

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

Lane County provides services and administers jurisdiction to all properties outside of the City of Florence and within the Urban Growth Boundary. After the completion of annexation, the City of Florence will be the responsible jurisdiction for development of the property, with the exception of maintenance and access from the abutting 1<sup>st</sup> Ave, which is under jurisdictional maintenance by Lane County.

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## **Chapter 17: Coastal Shorelands**

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### **Ocean, Estuary, and Lake Shorelands**

#### **Goals**



1. **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.**

**Policy 10: Existing visual and physical access points in the UGB shall be retained (see Table 17.1). The City, in coordination with the Parks and Recreation Division, shall develop and implement a program to provide increased public access to Coastal Shorelands. Existing public ownerships, rights of way, and similar public easements in Coastal Shorelands which provide access to or along coastal water shall be retained or replaced if sold, exchanged or transferred. Rights of way may be vacated to permit redevelopment of shoreland areas provided public access across the affected site is retained.**

The existing visual and physical access points to the ocean and beach are not proposed to be altered with this annexation or zone change. In conformance with the comprehensive plan policy and applicable Florence City Code, existing access points shall be retained following this annexation and with future proposed site development.

**Policy 11: Coastal Shorelands in the Florence UGB shall be all lands contiguous with the ocean, the Siuslaw Estuary, and four lake areas: Munsel Lake, Heceta Junction Lake, South Heceta Junction Seasonal lakes, and North Jetty Lake. The following Management Unit designations, as described in this Chapter of the Comprehensive Plan, shall apply to Shorelands within the Florence UGB: Shoreland Dredged Material Disposal Sites, Natural Resources Conservation, Mixed Development, Residential Development, and Prime Wildlife Area. Application of these MUs to specific areas is shown on “Map 17-1: Estuary and Coastal Shoreland Management Units in the Florence UGB,” in this chapter of this Comprehensive Plan.**

**Implementation requirements in Lane Code Chapter 10 Overlay Zoning Districts shall apply to these MUs within the Florence UGB, outside city limits, and Florence City Code Title 10, Chapter 19, shall apply within Florence city limits.**

The Lane County Property requesting annexation provides access to the Ocean and Beach and is contiguous with the natural resource conservation management unit to the west. The NRC area to the west is where the access from the subject site to the beach area is located. This policy is applicable to this annexation, zone change, and future site development or modifications.

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**OREGON REVISED STATUTES**

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

**(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to**

**222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.**

The property proposed for the annexation is located within the urban growth boundary of the City of Florence. The property is directly contiguous to City boundaries 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.**

The annexation petition of the property was initiated by the Lane County Government. Lane County is the property owner of this property. This property to be annexed into the City is a series of platted ROWs and is not real property. However, the annexation was initiated by the property owner and is consistent with City Comprehensive Plan goals and policies as discussed throughout these Findings.

**(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.**

This annexation does not include taxable property.

**(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, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written petition from the owner's representative, Rebecca Shepard, of the property within the 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. 28, Series 2010 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

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

Resolution No. 28, Series 2010, Section 2 specifically 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 and instead hold a public hearing. A public hearing on this annexation and zoning assignment proposal will be held before both the Planning Commission and City Council (the legislative body) allowing City electors to be heard on the proposed annexation.

**(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 a Type III quasi-judicial land use proceeding, with notice of the public hearing published in the Siuslaw News on May 8, 2024. The Florence City Council, as the legislative body making the final decision on the request for annexation, will hold a public hearing fully noticed as listed in this criterion. At that time, this criterion will be addressed. This annexation is a Type IV review process, but is noticed as a Type III process as regulated by FCC 10-1-1-6-3-B.

**(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 majority of its southern property lines. Subsection "b" above is met. The Florence Planning Commission is not the City legislative body and did not make these declarations.

**(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 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 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. This application meets the criteria of this statute.

**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.**

The area under consideration consists of the Lane County Government's property. Written consent from the property owner was signed and provided with the petition for annexation received by the City on February 21, 2023. The applicant owns property representing 100% of the assessed value of real property under consideration. This criterion is met.

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

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

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

The sole property owner, Lane County Government, has consented to this annexation. There is no residential dwelling present on the site and no electors that are required to submit consent in writing. The criterion is met.

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

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

**ORS 373.270 Transferring jurisdiction over county roads within cities**

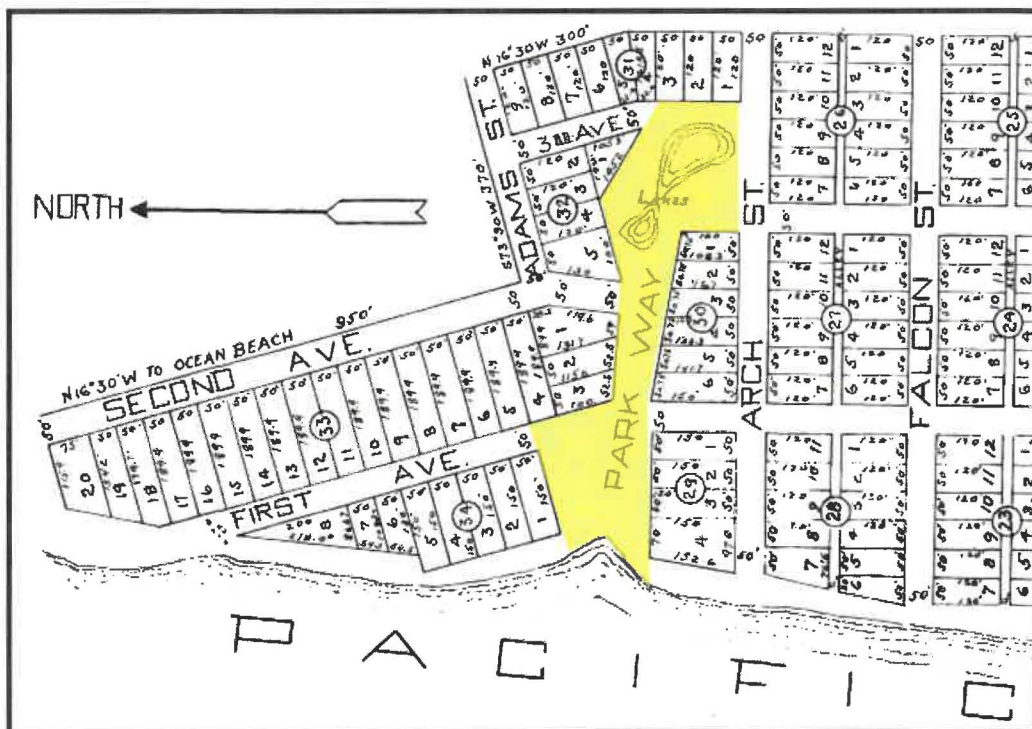
**(1) Jurisdiction over a county road within a city may be transferred under this section whenever:**

**(a) The county governing body deems it necessary, expedient or for the best interest of the county to surrender jurisdiction over any county road or portion thereof within the corporate limits of any city; and**

**(b) The governing body of the city deems it necessary or expedient and for the best interests of the city to acquire jurisdiction over the county road or part thereof to the same extent as it has over other public streets and alleys of the city.**

Jurisdictional transfer of public rights-of-way is not being pursued as part of this annexation request. This criterion and the other criteria of ORS 373.270 would be followed in the event of jurisdictional transfer.

As mentioned in the Narrative section, the land requested to be annexed consists entirely of land originally platted to be ROWs as seen on the Heceta Beach Platt, Book 7, page 25 and signed on April 27, 1915 (see image below). This area was not developed as a ROW and was instead developed as a County Park. The Property shall surrender jurisdiction upon annexation. As the park will still be under Lane County management, maintenance will continue to be under Lane County's responsibility.



\* It should be noted the "Lakes" identified on the eastern portion of this plat are not indicated on City adopted wetlands and riparian reach maps.

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**FLORENCE CITY CODE**

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

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**10-1-1-6: TYPES OF REVIEW PROCEDURES:****10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:****B. Notification of Hearing:**

1. **At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.**
  - a. **Notice shall also be provided to the airport as required by ORS 227.175 and FCC 10-21-2-4 and any governmental agency that is entitled to notice under an intergovernmental agreement with the City or that is potentially affected by the proposal. For proposals located adjacent to a state roadway or where proposals are expected to have an impact on a state transportation facility, notice of the hearing shall be sent to the Oregon Department of Transportation.**
  - b. **For a zone change application with two or more evidentiary hearings, notice of hearing shall be mailed no less than ten (10) days prior to the date of the Planning Commission hearing and no less than ten (10) days prior to the date of the City Council hearing.**
  - c. **For an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and ORS 227.175(8).**
  - d. **Notice shall be mailed to any person who submits a written request to receive notice.**
  - e. **For appeals, the appellant and all persons who provided testimony in the original decision.**
2. **Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.**

Subsections 1c and 1e are not applicable. Notice was provided as required in subsections 1a, 1b, 1d, and 2. These criteria are met.

**10-1-1-6-4: TYPE IV PROCEDURE (LEGISLATIVE)****D. Notice of Hearing:**



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

The applicant, on behalf of Lane County, proposed annexation of Park Way and a portion of Beach Drive as seen on the Heceta Beach Plat, 1915. There were 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 subject property's Comprehensive Plan designation is Open Space as regulated by FCC Title 10, Chapter 22. This zoning district will be assigned upon approval of the request from the City Council and finalization of the annexation process with the county and state. Review of the applicable code and Comprehensive Plan objectives and policies are contained within these findings.

#### **10-1-3: AMENDMENTS AND CHANGES**

##### **B. Quasi-Judicial Changes:**

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

On May 14, 2024 the Planning Commission held a public hearing on this annexation request and quasi-judicial zone assignment. The findings of fact were available in advance of the hearing and were reviewed against the applicable city and state policies. Annexation of properties within the UGB is permitted if the request meets the applicable ORS and the City's urbanization policies. These have been reviewed earlier with supporting findings.

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## **TITLE 10: CHAPTER 19: ESTUARY, SHORELANDS, AND BEACHES AND DUENS**

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### **10-19-10: Natural Resource Conservation Overlay District (/NRC)**

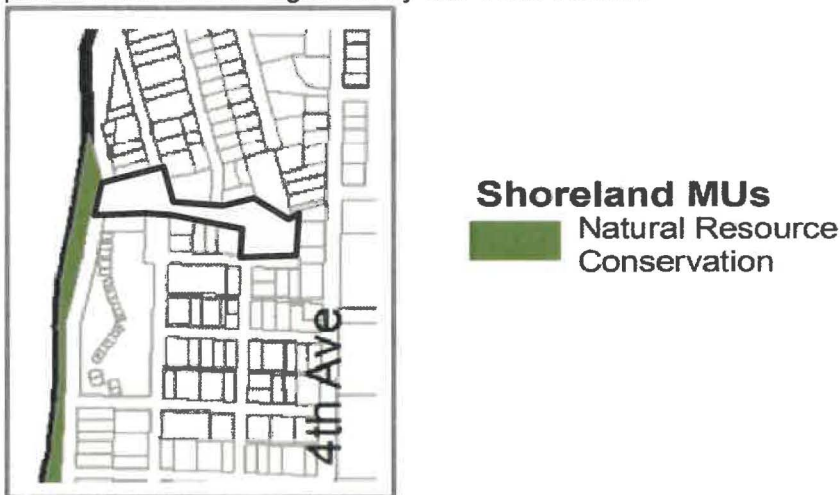
- A. Purpose:** The Natural Resource Conservation Overlay District (/NRC) is applied to those coastal shorelands identified in inventory information and designated generally in the Lane County Coastal Resources Management Plan as possessing a combination of unique physical social or biological characteristics requiring protection from intensive human disturbance. Those areas serve multiple



purposes, among which are education, preservation of habitat diversity, water quality maintenance and provision of intangible aesthetic benefits. The /NRC District is applied to prominent aesthetic features such as coastal headlands and open sand expanses in proximity to coastal waters, sensitive municipal watersheds and significant freshwater marsh areas. If the shorelands are adjacent to the estuary, refer to the adjacent Estuary District for additional allowed uses and criteria. The requirements of any adjacent Estuary District shall supersede the requirements of this Section of the Code. Shoreland uses and buffer zones shall not prohibit land-side components of activities and uses as otherwise permitted in the adjacent estuary.

**Intent.** The requirements imposed by the /NRC District shall be in addition to those imposed by the base zoning district. Where the requirements of the /NRC District conflict with the requirements of the base zoning district the more restrictive requirements shall apply. The requirements of the adjacent Estuary District shall supersede the requirements of this Section of the Code.

The snip below is from the [City of Florence Map 17-1: Estuary & Coastal Shorelands Management Units in the Florence UGB](#) Map as adopted in the 2020 Florence Realization Comp Plan. As seen in the map, the area requested for annexation does not appear to be included in the NRC district, but abuts the district to its east. The actual location of the shoreland MU will be identified by the location of tidelands. Also, public beach access from the existing site facilities crosses through the NRC district to the west. As such any future development will identify the actual location of the management unit and shall consider development standards as regulated by this Code section.



- B. Permitted Uses:** In addition to the uses specifically allowed in the adjacent Estuary District, the following structures and uses and no others are permitted outright as specifically provided for by this section subject to the general provisions and exceptions set forth in this section. The maintenance of riparian vegetation shall be enforced to provide shading and filtration and protect wildlife habitat at those sites indicated in the Lane County Coastal Resources Inventory as "riparian vegetation" or "significant wildlife habitat." These areas will be specially evaluated prior to approval of plans to ensure the habitat has been adequately considered. The following uses are allowed if consistent with the applicable requirements of the adjacent Estuary District.

1. **Harvesting of wild crops.**
2. **Low intensity recreation.**
3. **In or adjacent to lakes: maintenance and repair of existing, functional public and private docks and piers, provided that the activity minimizes adverse impacts on lake resources and does not alter the size, shape, or design of the existing structure. This use as it pertains to the estuary is regulated by the applicable Estuary District.**
4. **In or adjacent to lakes: maintenance of riprap or other erosion control structures installed in or adjacent to lakes to protect existing uses and uses allowed by the Florence City Code, unique natural resources, historical and archaeological values, and public facilities, provided the activity does not increase the size, shape or scope of the structure or otherwise affect the natural resources, as provided in the Conditional Use requirements in section D. Otherwise, a Conditional Use Permit is required. For these uses in or adjacent to the estuary, refer to the applicable Estuary District requirements.**
5. **In or adjacent to lakes: mooring buoys and other moorage facilities not permanently anchored to the lake floor. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.**

**C. Special Uses Approved by Type II Review: In addition to the Special Uses specifically allowed in the adjacent Estuary District, the following specified uses and no others are permitted only with a Special Use Permit. A Special Use Permit may be approved according to the procedures set forth in Chapter 1 of this Title upon satisfaction of the applicable criteria set forth in 10-19-10 F, G, & H, except as expressly exempted below and except as expressly prohibited by 10-19-10-E, and provided they are consistent with the requirements of the adjacent Estuary District.**

1. **Single family homes, mobile homes, and such accessory buildings as allowed in the base zoning district.**
2. **Single family dwelling units and mobile homes as allowed in the base zoning district where existing parcel size is insufficient for the development to meet the development, setback and area requirements set forth in 10-19-10-F, G, & H, provided the following criteria are met:**
  - a. **The said parcel existed prior to July 24, 1980.**
  - b. **The structures shall not occupy more than 30% of the lot area.**
  - a. **All applicable height restrictions are observed.**
  - b. **The parcel is of sufficient size to meet all applicable standards for subsurface sewage disposal.**

- f. **Clearance of vegetation on the remainder of the lot area, including that portion in the setback area otherwise permitted for vegetation clearance, is minimized.**
    - g. **All otherwise applicable requirements of this section are met.**
  - 3. **All buildings and uses allowed as permitted uses in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following additional criteria:**
    - a. **The use will not adversely affect the aesthetic and biological characteristics of the site, as identified in the Comprehensive Plan.**
    - b. **Surface, subsurface and aquifer waters are protected from pollution and sedimentation.**
  - 4. **Dredged material disposal when the /NRC District is used in conjunction with the /DMS Overlay District, subject to the requirements of the /DMS Overlay District.**
- D. **Conditional Uses: In addition to the Conditional Uses specifically allowed in the adjacent Estuary District, the Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a Conditional Use Permit (Type III review) for the following uses, upon satisfaction of the applicable criteria, provided all applicable requirements set forth in 10-19-10-F, G, & H are met and they are found to be consistent with the requirements of the adjacent Estuary District.**
  - 1. **All buildings and uses permitted conditionally or by Special Use Permit in the base zoning district, except as expressly prohibited by 10-19-10-E, and subject to the following criteria:**
    - a. **All applicable criteria provided within the base district are met.**
    - b. **The use will not adversely affect the aesthetic and biological characteristics of the site as identified in the Comprehensive Plan.**
    - c. **Surface, subsurface and aquifer waters are protected from pollution and sedimentation.**
  - 2. **In Coastal Lakes: public and private docks and piers, provided the following criteria are met and the use does not conflict with other requirements of this Code. For this use in or adjacent to the estuary, the requirements of the Estuary Districts shall apply.**
    - a. **The size and shape shall be limited to that required for the intended use.**
    - b. **The applicant attests in writing (and provides analysis to support that conclusion) that alternatives to docks and piers, such as**

mooring buoys, dryland storage, and launching ramps, have been investigated and considered and no alternatives are feasible.

- c. **For private, individual, single-purpose docks and piers, the applicant shall attest in writing (and provide the documentation to support that conclusion) that it is not possible to use an existing public pier or dock or to work with other property owners to establish or use a joint-use facility.**
  - d. **The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:**
    - 1) **The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed use by a person or team of persons qualified by education and experience to conduct such studies.**
    - 2) **Impacts on water quality and fish and wildlife habitat must be minimized.**
    - 3) **The benefits of the proposed use shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.**
- 3. Fill in coastal lakes adjacent to the /NRC District is generally prohibited, except in those limited circumstances where fill is needed to support a water-dependent use and only where it will not adversely impact fish and wildlife habitat/species and will minimize sedimentation; and it must meet the following additional criteria.**
- a. **The applicant must submit an analysis of the physical and biological impacts of the proposed fill to be conducted by a person or team of persons qualified by education and experience to conduct such studies.**
  - b. **Cumulative and direct impacts on water quality and fish and wildlife must be minimized.**
  - c. **The benefits of the proposed fill shall outweigh the negative impacts on water quality and fish and wildlife and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.**
- 4. In Coastal Lakes, riprap and other erosion control structures, provided the following additional criteria are met. For these uses in or adjacent to the estuary, the applicable Estuary District requirements shall apply.**

- a. The stabilization is necessary to protect uses allowed in the base zoning district.
- b. They are necessary because land use management practices and non-structural solutions cannot be used.
- c. The use will not adversely impact fish and wildlife habitat/species and will minimize sedimentation. The following additional criteria apply:
  - 1) The applicant must submit an analysis of the physical and biological impacts (geomorphic/hydrogeomorphic/hydrologic) of the proposed structure to be conducted by a person or team of persons qualified by education and experience to conduct such studies.
  - 2) Impacts on water quality and fish and wildlife habitat must be minimized.
  - 3) The benefits of the proposed structure shall outweigh the negative impacts on water quality and fish and wildlife habitat and shall ensure the protection of resources and values identified in the Coastal Resources Inventory.

**E. Prohibited Uses: The following uses are specifically prohibited:**

- 1. Fill in freshwater marsh areas.

**F. Site and Development Requirements. The following specified development requirements shall be in addition to those provided by the base zoning district. See also Chapter 7 for additional requirements that may apply.**

- 1. For existing lots which are too small to accommodate the combined required setback in the base zoning district and the buffer zone, development will be allowed within the setback required in Section G only with approval of a variance issued under Chapter 5 of this code. In addition it must be shown that clearance of vegetation on the remainder of the lot is kept to an absolute minimum, stormwater is directed away from the bank or as mitigated through the standards in Title 9 Chapter 5, engineered plans protect life, property, and the coastal water (that is no erosion hazards, slide potential, or flood damage are likely to occur).
- 2. No more of a parcel's existing vegetation shall be cleared than is necessary for the permitted use, accessory buildings, necessary access, and fire safety requirements.
- 3. To the maximum degree possible, building sites shall be located on portions of the site which exhibit the least vegetative cover.



4. **Construction activities occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that area required for the facilities indicated in 10-19-10-F, where vegetation removal beyond that allowed above cannot be avoided, the site shall be replanted during the next replanting season to avoid sedimentation of coastal waters. The vegetation shall be of native species in order to maintain the natural character of the area.**
  5. **The requirements for parking and vision clearance shall be as provided by the respective base zoning district.**
  6. **No topographic modification is permitted within the 50 foot buffer zone specified by 10-19- 10-G.**
  7. **The area within the 50' buffer zone shall be left in existing native vegetation. Non-native plants may be removed if re-vegetated with native plants. Within the 50' of native vegetation, the following kinds of modifications are allowable:**
    - a) **Foot paths**
    - b) **Removal of hazardous vegetation, such as unstable stream bank trees or trees otherwise vulnerable to blow-down, may be allowed in unusual circumstances following review by the City and the Oregon Department of Fish and Wildlife. Stream bank trees, snags, and shorefront brush are necessary for wildlife habitat.**
    - c) **Replanting of the area or other areas which have been previously cleared.**
  8. **All mature trees must be retained within the setback area specified by 10-19-G, except where removal is subject to requirements of the Oregon Forest Practices Act.**
  9. **Structures shall be sited and/or screened with native vegetation so as not to impair the aesthetic quality of the site.**
  10. **The exterior building materials shall blend in color, hue and texture to the maximum amount feasible with the surrounding vegetation and landscape.**
- G. Additional Setback Requirements: Setbacks shall be as required in the base zoning district plus the additional below specified setback requirements.**
1. **In addition to the yard setbacks required in the base zoning district, a 50 foot buffer zone shall be required. The buffer zone is measured from the mean high tide for the ocean and estuary and from the average high water for coastal lakes. Use of this 50 foot buffer zone shall be as specified in 10-19-10-F.**
  2. **Building setbacks on ocean front parcels are determined in accord with the rate of erosion in the area to provide reasonable protection to the site**

through the expected lifetime of the structure. Setback shall be determined by doubling the estimated average annual erosion rate and multiplying that by the expected life of the structure. At a minimum, structures must be set back from the mean higher high tide at least 100 feet measured horizontally.

H. **Special Land Division Requirements:** The following criteria shall be met for land divisions on property within the /NRC District. These criteria are in addition to minimum area requirements of any base zoning district.

1. **Land divisions must be consistent with shoreland values as identified in the Comprehensive Plan, not adversely impact water quality, and not increase hazard to life or property.**

The existing high intensity recreational use is conditionally permitted in the underlying Open Space District Zone as regulated by FCC 10-22. Any future development, remodel, expansion, or modification of that use shall be reviewed using the above-mentioned Code section.

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## TITLE 10: CHAPTER 22: OPEN SPACE DISTRICT

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**10-22-1: PURPOSE:** The Open Space District is intended to protect urban open space buffers, park and recreation lands, natural resource lands and lands reserved for later development. This District is intended to be used in conjunction with the Comprehensive Plan. Where, for example, the Plan designates an area for urban development, the application of this District would be interim; when the land became available for development, a rezoning could be considered. Where this Open Space District is consistent with the Plan's land use designation, it is intended that this District would preserve such land permanently in open space use.

The Open Space zoning designation is consistent with both the 2020 Florence Realization and this Code section. As such the land shall be permanently preserved for open space use.

**10-22-3: BUILDINGS AND USES PERMITTED CONDITIONALLY:** The Planning Commission, subject to the procedures and conditions set forth in Chapters 1 and 4 of this Title, may grant a conditional use permit for the following:

**Parks with intensely developed facilities.**

[...]

FCC 10-2-13: Definitions define the existing use as High-Intensity Recreation.

*Recreation: High-Intensity Recreation Uses specially built facilities, or occurs in such density or form that it requires or results in a modification of the area or resources. Campgrounds, golf courses, public beaches, and marinas are examples of high-intensity recreation.*

The current use is as a public beach access area and is therefore classified a high intensity recreational facility as defined by Florence City Code. As this use is preexisting, no additional conditional use permit is required as a result of this request for annexation and zone change. In

accordance with FCC 10-4, which regulates conditional uses, a remodel or expansion of up to 25% of the floor area are allowed without a new CUP provided the expansion is consistent with the original approval. A future expansion or remodel of greater than 25% will require a new CUP.

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## **VI. CONCLUSION**

The evidence in the record demonstrates, and based on findings herein, that the proposed annexation and zone assignment is consistent with the policies set forth in state statutes and rules, Florence City Code, and the Florence Realization 2020 Comprehensive Plan.

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