

**CITY OF FLORENCE
ORDINANCE NO. 7, SERIES 2024**

**AN ORDINANCE ESTABLISHING MEDIUM DENSITY RESIDENTIAL AS A PART OF
ANNEXATION OF .20 ACRES OF PROPERTY WITHIN THE UGB, IDENTIFIED AS 4751
S. HARBOR VISTA DR. AND ASSESSOR'S MAP 18-12-10-33 TAX LOT 00800.**

RECITALS:

1. Florence City Code (FCC) Title 10, Chapter 1, Section 2-3 provides that Council may establish zoning and land use regulations that become effective on the date of annexation.
1. The City of Florence was petitioned by the property owners, Jeffery Morrison and Tina Gardner, on April 30, 2024, as required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
2. The Planning Commission met on June 25, 2024, at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
3. The Planning Commission determined on June 25, 2024, after review of the proposal, testimony, and evidence in the record, that the proposal was consistent with the City's acknowledged Realization 2020 Comprehensive Plan and adopted findings of fact in support of the annexation and zoning assignment and recommended City Council approval.
4. The City Council met in a public hearing on July 15, 2024, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
5. The City Council deliberated on July 15, 2024, and found that the subject property is plan designated Medium Density Residential in the Realization 2020 Plan, and the City Council supported the establishment of zoning as Medium Density consistent with Florence Comprehensive Plan and Zoning Code objectives.
6. The City Council adopted Ordinance No. 6, Series 2024, annexing the property as described in the Ordinance title above.

Based on these findings,

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

1. The City of Florence approves the zoning of the property as Medium Density Residential as shown on the attached map Exhibit A to 4751 S Harbor Vista Dr., containing approximately .20 acres.
2. This zoning is based on the Findings of Fact in Exhibit B and evidence in the record.

3. The City shall produce an updated Zoning Map that is filed with the City Recorder and bears the signature of the Planning Commission chairperson as required by FCC 10-1-2-2.
4. The City Recorder is hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office and the Lane Council of Governments.
5. Pursuant to FCC 10-1-2-3, the zoning established by this Ordinance will take effect on the effective date of the annexation approved in Ordinance No. 6, Series 2024.

ADOPTION:

First Reading on the 15th day of July, 2024

Second Reading on the 15th day of July, 2024

This Ordinance is passed and adopted on the 15th day of July, 2024.

Councilors: Wantz, Meyer, Carp, Beaudreau and Mayor

Ward

AYES 5

NAYS 0

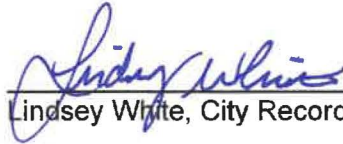
ABSTAIN 0

ABSENT 0



Rob Ward, Mayor

Attest:



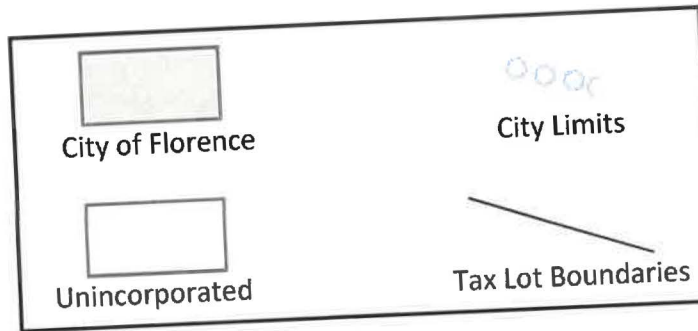
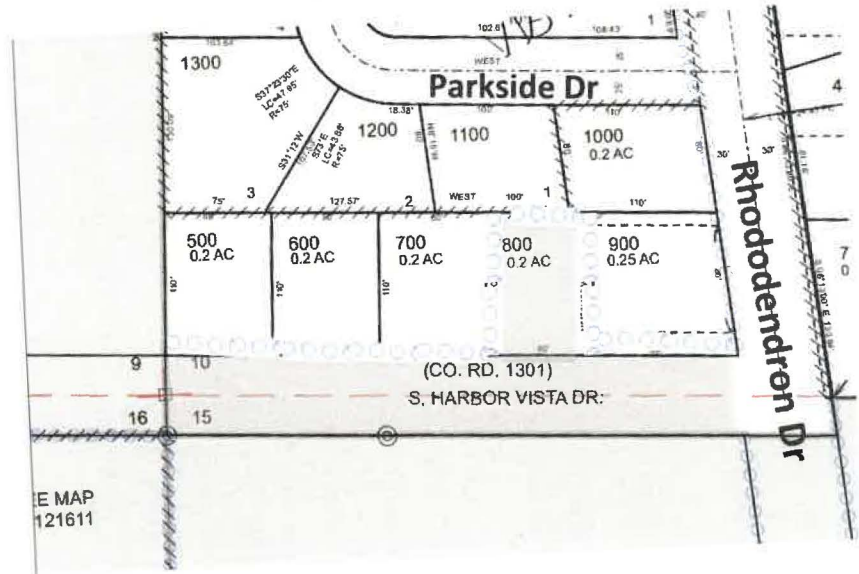
Lindsey White, City Recorder

Exhibit A
Ordinance No. 6, Series 2024
 4571 S Harbor Vista Dr.- Morrison & Gardner

Before Proposed Annexation



After Proposed Annexation



**CITY OF FLORENCE
FINDINGS OF FACT
Ordinance No. 6, Series 2024, Exhibit B
Ordinance No. 7, Series 2024, Exhibit B**

City Council Public Hearing Date: July 15, 2024
Date of Report: July 8, 2024

I. PROPOSAL DESCRIPTION

Proposal: Annexation – Ordinance No. 6, Series 2024
A request from the property owners to annex the property from Lane County into the City of Florence.

Zone Assignment – Ordinance No. 7, 2024
Upon annexation, the property requires zoning assignment by the Florence City Council. The corresponding zoning district matching the property's plan designation is Medium Density Residential District.

Petitioners/Applicants: Jeff Morrison and Tina Gardner

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

4751 S Harbor Vista Dr.
Assessor's Map Reference (MR) 18-12-10-33, Tax Lot (TL) 00800

Comprehensive Plan Map Designation: Medium Density Residential

Surrounding Land Use | Current Zoning:

Site: Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)

North: Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)

South: Detached single-unit dwelling | Medium Density Residential (City)

East: Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)

West: Detached single-unit dwelling | Suburban Residential/Mobile Home District with Interim Urban Combining District Overlay (County)

Streets | Classification: North: none; South: S Harbor Vista - Local; East: Rhododendron Dr. – Minor Arterial; West: None

II. NARRATIVE

The applicant petitioned for annexation of Tax Lot 800 from Lane County jurisdiction to City of Florence jurisdiction. The property is owned by Jeff Morrison and Tina Gardner. If the property is annexed, the City of Florence City Council may use its authority to assign a City zoning designation. City staff initiated a zoning assignment application to process concurrently with the annexation request.

The property includes an existing single-unit dwelling and South Harbor Vista abuts to the south. South Harbor Vista was annexed into the City of Florence in 2017 and currently has City gravity sanitary sewer lines. The surrounding and abutting properties are within the City of Florence Urban Growth Boundary (UGB) but are outside the City Limits. The exceptions to this are 4744 and 4750 S Harbor Vista Dr which are located south of the property under consideration and have both been annexed into Florence City Limits.

The petition requesting annexation and zoning assignment was received on April 30, 2024, and deemed complete as of April 30, 2024. State law requires signatures from at least 50% of the property owners and electors of the Property to petition for annexation without an election. This type of annexation is known as a "Double Majority" annexation (ORS 222.125). The owners constitute 100% of owners and no electors reside on the property.

Procedurally, Florence City Code, Title 10, Chapter 1 calls for processing the annexation as a Type IV application and the zone assignment as at Type III. The zoning assignment procedure applies to the property as illustrated in Exhibit A of the zoning assignment Resolution. In accordance with FCC 10-1-5-B, the two actions will be processed through consolidated proceedings.

The property is designated in the Florence Realization 2020 Comprehensive Plan as Medium Density Residential, and it would be zoned Medium Density Residential upon annexation.

The property would continue to be served by Heceta Water PUD, which maintains water infrastructure directly adjacent to the property. After annexation, the Property will be provided City services such as sewer and police protection. The property is within the Siuslaw Rural Fire Protection and Western Lane Ambulance Districts. The property will continue to be served by all districts presently providing public services.

III. PUBLIC NOTICE

Notice of the proposed zone change was sent to the Department of Land, Conservation and Development (DLCD) on May 21, 2024, not less than 35 days prior to the proposed first evidentiary hearing of June 25, 2024, as required by State law and the Florence City Code.

Notice of the City Council's public hearing was mailed on June 26th, 2024, to owners of property within 300' of the Property. Notice was published in the Siuslaw News on June 26 and July 3 2024.

Public Comments:

At the time of this report, the City Has not received public comments.

IV. REFERRALS

On June 13, 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 Florence Public Works and Siuslaw Valley Fire and Rescue.

Florence Public Works Department

As of the writing of these Findings, no comments were received from Public Works. No referral comments were deemed necessary due to previous communication with Public Works regarding location and types of sanitary.

An email dated November 30, 2023 states that the sanitary sewer line located in the S Harbor Vista Dr. ROW is a gravity sewer line and that the connection point is at the property line.

The septic tank will need to be properly abandoned.

Siuslaw Valley Fire and Rescue

Siuslaw Valley Fire and Rescue responded that they had no concerns with this property being annexed into the City and will continue to provide services to the address.

V. APPLICABLE REVIEW CRITERIA

Annexation:

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; 222.170

Oregon Administrative Rule (ORS)

660-015-000, Goal 10 Housing

660-012-0060, Transportation

Florence Realization 2020 Comprehensive Plan, Chapters

1: Citizen Involvement, Policy 4

2: Land Use, Policy 6; Residential Policy 10; and Residential Plan Designations

12: Transportation: 8

14: Urbanization; Annexation section, Policies 1 through 7

Florence City Code (FCC), Chapters

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

Proposed Zone Assignment—Medium Density Residential District:

Florence Realization 2020 Comprehensive Plan

1: Citizen Involvement, Policy 4

2: Land Use, Policy 6; Residential Policies 2, 7, 8 & 10; and Section on Residential Plan Designations

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

10: Residential Districts; Section 1

Oregon Land Use Planning Goals

- Goal 10 Housing (OAR 660-015-0000)

VI. 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.

FLORENCE REALIZATION COMPREHENSIVE PLAN

Chapter 1: Citizen Involvement

Policies

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

Consistency with this policy is met regarding City meetings being well publicized and at regular times. Noticing was previously discussed in these Findings and meets Code criteria in accordance with FCC 10-1-1-6-4-D. These public hearing proceedings are being held at a regular time, place, and day for City Council meetings. Citizens were provided the opportunity to submit both verbal and written comments as described on the meeting agenda, 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.

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.”**

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.

Residential

Goal

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

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

In December 2019, the City adopted new housing codes that increased the density of residential districts through the use of small lots. The revised Medium Density Residential District (formerly Single-family Residential) implements this policy and provides the framework for the future development of this property. The City adopted housing codes July 2023 and January 2024 that went into effect August 2023 and February 2024 respectively. The January 2024 housing codes included a reduction in minimum lot size from 5,000 sq. ft. to 4,000 sq. ft. and decreased minimum lot width from 50 to 35 for new subdivision plats of five or more units. The subject lot meets minimum lot dimensions of 50 ft. wide and 5,000 sq. ft.

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

The subject property is zoned Suburban Residential/Mobile Home with an Interim Urban Combining District Overlay within Lane County and is developed. The implementing City zone for this area is Medium Density Residential. The City has established policy in the Comprehensive Plan and City Code regulating development in these land use classifications. Residential development on the property would not constitute a threat to the public health or welfare or create excessive public expense any more than the development that is typical to the area, and development regulations are in place to abate any potential issues.

According to RLID, 100 percent of the property includes soils (Netarts fine sand, 3 to 12 percent slopes) that are identified as *“old stabilized dunes... Where slopes are less than 12% there are few development restrictions.”* At this time, the property contains a detached single unit residence, and no new development is being proposed aside from attaching to the City sanitary sewer system after annexation.

The adjacent improved street infrastructure is designated local, serving local residences. S. Harbor Vista Dr. connects with the campground to the west, but has a gated access. The surrounding area includes residential properties. Existing and proposed development on this property will be subject to City code related to public infrastructure and resulting improvements and be subject to nuisance code and land use codes. Any future proposed development on the property shall be subject to both City zoning regulations and State building codes as applicable.

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

This proposed annexation site represents a residential use. All abutting properties to the subject site are residentially developed. Harbor Vista Campground is located approximately 240 feet to the west and is zoned Open Space. Harbor Vista Campground was annexed into the City of Florence in 2020. The campground is classified as a recreational use and not as a commercial or industrial use or zoning. This criterion is met.

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

The property includes an existing detached single-unit residence. Any additional development on the property would be in accordance with the implementing zoning district, Medium Density Residential. The properties surrounding this property to the north, west, and east have County zoning consistent with the City's Medium Density Residential (MDR) District. The properties to the south, located on the south side of S Harbor Vista Dr. have been annexed into the City and have been zone designated MDR.

Medium Density Residential

The Medium Density Residential designation is intended for areas where existing lot sizes are in the neighborhood of 5,000 – 6,500 square feet, and for the majority of developable land remaining in the City, as well as urbanizable lands east of Highway 101. The corresponding zoning district is Single Family Residential. Single family homes and manufactured homes meeting certain minimum standards are allowed. Duplexes are a conditional use.

Upon annexation, the City Council may assign City of Florence zoning to the property. Zone assignment of Medium Density Residential would match the property's underlying Comprehensive Plan Designation. Residential development on the Property would meet the requirements of this zone, as detailed in FCC Title 10 Chapter 10.

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 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 owners 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. 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 until annexed. However, no land division 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 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: An email dated November 30, 2023 states that the sanitary sewer line located in the S Harbor Vista Dr. ROW is a gravity sewer line and that the connection point is at the property line. A 'lift' pump may be required onsite that would be the property owners' responsibility.

The septic tank will need to be properly abandoned.

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, this portion of S. Harbor Vista Dr. has already been annexed to the City and is under City maintenance responsibility.

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 County zoning district currently permits lot sizes similar to the minimum required by the Medium Density District. 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 2012 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 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.**

Referrals requests were sent to Lane County. No comments were received as of the writing of these findings. However, the abutting street is currently under City of Florence jurisdiction and maintenance responsibility.

- 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. As of the writing of this report no testimony has been received. Any comments received will become part of the public record for later public hearings.

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

Connecting the existing residence to City infrastructure 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. S Harbor Vista Dr. has previously been annexed into the City and is under City maintenance responsibility.

OREGON REVISED STATUTES

ORS 222.111 Authority and procedure for annexation.

(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is

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

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

(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 property owners of the real property in the territory to be annexed. The property ownership is under Jeffery Morrison and Tina Gardner.

(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.

Upon annexation, owners of the annexed property will pay property taxes at the same rate as other properties within the City consistent with Oregon laws governing taxation. The 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, 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 property owner's 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 June 19, 2023. The Florence City Council, as the legislative body making the final decision on the request for annexation, held a public hearing fully noticed as listed in this criterion. Notice of the public hearing was published in the SNEWS on June 26 and July 3, 2024. A notice of hearing was mailed to property owners within 300 feet of the subject property on June 25, 2024. The requirement for public noticing has been met. 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 both its southern property lines. Subsection "b" above is met. The Florence Planning Commission is not the City legislative body and will not be making 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 applicants' property. Written consent from the property owners was signed and provided with the petition for annexation received by the City on April 30, 2024. The applicants own 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.”

There are no electors residing within the property to be annexed and the dwelling is currently vacant. The property owners have provided consent for the proceedings, the public hearing may be held by Council under ORS 222.120. 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. The S Harbor Vista Dr. ROW has previously been annexed into City limits and is under City maintenance responsibility.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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 has proposed annexation of the property located at 4571 S Harbor Vista Dr. in Florence, OR. There will be at least two public hearings as part of this process.

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

The zoning district corresponding to the subject property's Comprehensive Plan designation is Medium Density Residential (MDR) as regulated by FCC Title 10, Chapter 10. 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 June 25, 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.

TITLE 10: CHAPTER 10: RESIDENTIAL DISTRICTS

10-10-1: RESIDENTIAL ZONES AND PURPOSE:

A. Medium Density Residential (MDR): The Medium Density Residential District is intended to provide a quality environment for medium density, urban residential uses and other compatible land uses determined to be necessary and/or desirable.

The property has previously been developed with a detached single unit dwelling and associated developments (i.e., parking facilities and utilities), is proposed to be zoned Medium Density Residential District. This zone is appropriate, as it corresponds to Comp. Plan designation (Medium Density). The approximately .20-acre Property consists of one tax lot, which meets the minimum lot size of the district (5,000 sq. ft.). No specific policies are applicable under this annexation or zoning proposal since no development is proposed or approved under this application.

Oregon Administrative Rules – 660-015-0000

OAR 660-015-0000 (Goal 10):

To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

[...]

Needed Housing Units -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing units" also includes government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, "needed housing units" also includes (but is not limited to) attached and detached single-family housing, multiple-family housing, and manufactured homes, whether occupied by owners or renters.

[...]

Finding: The population of the City of Florence exceeds 2,500 people, so the requirement for various housing types applies.

The City's Residential Buildable Lands Inventory was adopted in 2018. In compliance with Goal

10 and applicable administrative rules implementing Goal 10, the inventory looks at acreage available for development within the City's residential areas. While residential uses are permitted or conditionally permitted in areas with non-residential designations, the BLI only inventories acreage within residential zoning districts (see Housing Needs Analysis Appendix I).

The zoning assignment for this annexation request does relate to the opportunity to provide additional residential uses. The addition of land to the city limits impacts the City's residential inventory in the City's BLI in a positive way by adding more buildable land to the inventory to support additional housing.

The Housing Needs Analysis 2017, Exhibit IV.6, identifies a forecasted need under Scenario A of 858 single family dwelling units, with an estimated land need of 164 acres. The proposed zoning assignment to Medium Density Residential for the .20 acres creates a positive impact on the supply of residential land base.

B. IMPLEMENTATION

5. Additional methods and devices for achieving this goal should, after consideration of the impact on lower income households, include, but not be limited to: (1) tax incentives and disincentives; (2) building and construction code revision; (3) zoning and land use controls; (4) subsidies and loans; (5) fee and less-than-fee acquisition techniques; (6) enforcement of local health and safety codes; and (7) coordination of the development of urban facilities and services to disperse low income housing throughout the planning area.

Finding: The proposal is consistent with this rule because it includes proposed zoning that supports implementation of the adopted HNA, including opportunity for needed housing units and types such as additional detached or new attached housing and accessory dwelling units.

VII. 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.

VIII. EXHIBITS

Exhibits A: Ord. No. 6: Map of Annexation Area / Ord. No. 7: Map of Zoning Area
Exhibit B: Findings of Fact
Exhibit C: Petition for Annexation and Application
Exhibit D: Referral Comments