

**CITY OF FLORENCE
ORDINANCE NO. 8, SERIES 2018**

**AN ORDINANCE ESTABLISHING RESTRICTED RESIDENTIAL ZONING TO 88405
4TH AVE., ASSESSOR'S MAP 18-12-04-14, TAXLOT 02200; ASSESSOR'S MAP 18-
12-04-00 TAXLOTS 00105 & 00117; AS WELL AS THE ABUTTING PORTION OF
4TH AVENUE TO THE WEST AS PART OF A PROPOSED ANNEXATION**

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.
2. The City of Florence was petitioned by property owners, James & Sharon Churchill & William & Diane Miller, in February 2018, for annexation of their properties required by Oregon Revised Statutes (ORS) 222.111(2) and Florence City Code (FCC) 10-1-1-4.
3. The Planning Commission met on April 24, 2018 at a properly noticed public hearing to consider the proposal, evidence in the record, and testimony received.
4. The Planning Commission determined on April 24, 2018, 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.
5. The City Council met in a public hearing on May 21, 2018, after giving the required notice per FCC 10-1-1-6, to consider the proposal, evidence in the record, and testimony received.
6. The City Council deliberated on May 21, 2018 and found that the subject properties are plan designated Low Density in the Realization 2020 Plan and the City Council supported the establishment of city-zoning as Restricted Residential District consistent with Florence Comprehensive Plan and Zoning Code objectives.
7. The City Council adopted Ordinance No. 7, Series 2018 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 properties owned by the petitioner and the abutting streets previously described as Restricted Residential as shown on the attached map as Exhibit A.
2. This zoning assignment is based on the Findings of Fact in Exhibit B and evidence in the record.
3. The City shall produce an updated Zoning Map that is filed with the City Recorder and bear the signature of the Planning Commission chairperson as required by FCC 10-1-2-2.
4. The City Recorder is hereby directed to file certified copies of this Ordinance with the Lane County Assessment and Taxation Office and the Lane Council of Governments.
5. Pursuant to FCC 10-1-2-3, the zoning established by this Ordinance will take effect on the effective date of the annexation approved in Ordinance No. 7, Series 2018.

ADOPTION:

First Reading on the 21st day of May, 2018

Second Reading on the 21st day of May, 2018

This Ordinance is passed and adopted on the 21st day of May, 2018.

AYES

Councilors:

NAYS

ABSTAIN

ABSENT

Joe Henry, Mayor

Attest:

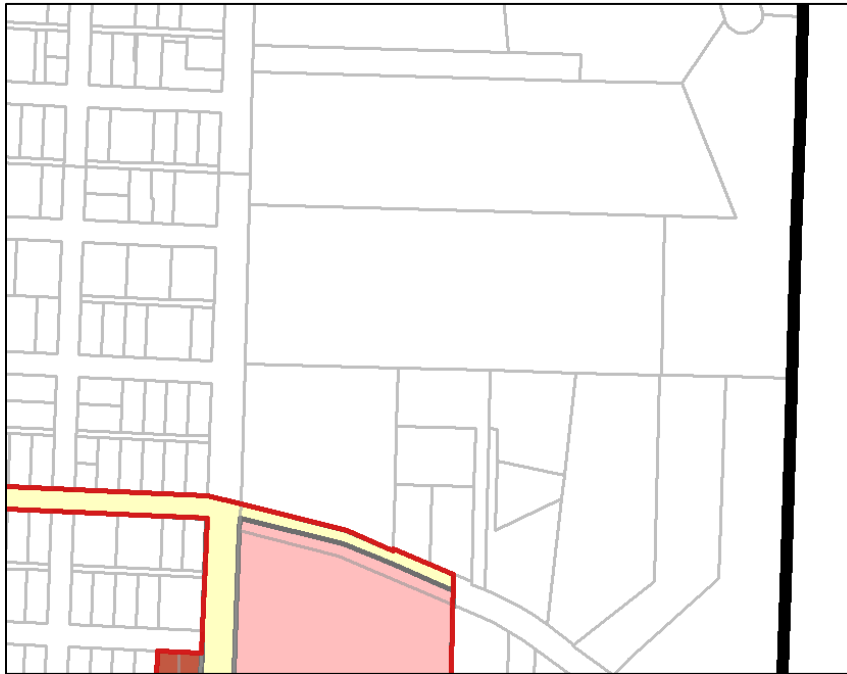
Kelli Weese, City Recorder

Current & Proposed Zoning Map/Boundary Map

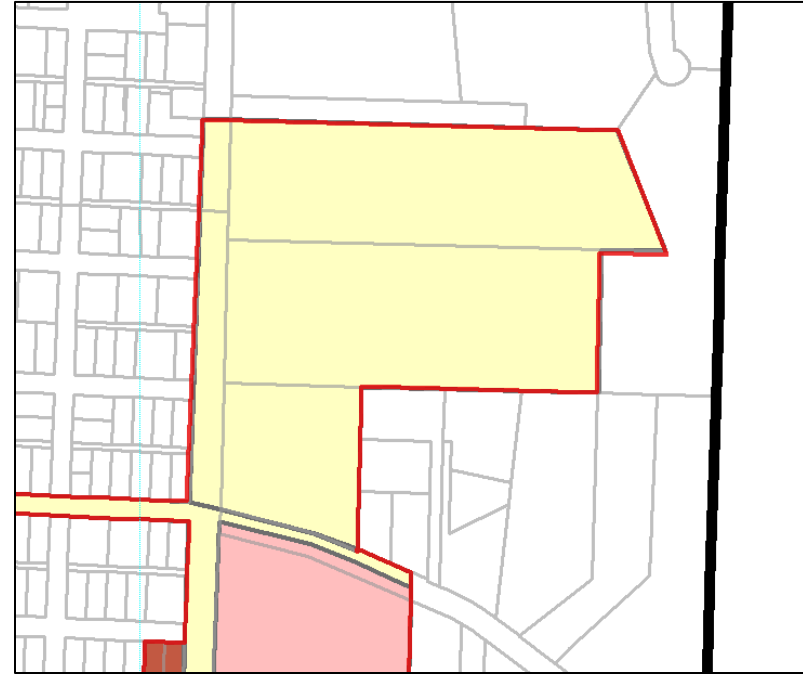
Map 18-12-04-14 Taxlot 02200 & Map 18-12-04-00 Taxlots 00117 and 00105

Zoning Assignment and Annexation

Current - None



Proposed – Restricted Residential



FINDINGS OF FACT
Ordinances 7 & 8 Series 2018 Exhibit “B”

Public Hearing Date: May 21, 2018

I. PROPOSAL DESCRIPTION

Proposal: Annexation

A request for the City of Florence to annex property and a portion of 4th Ave. from Lane County into the City.

Rezoning

Upon annexation, the property requires zoning assignment. The corresponding zoning district matching the property’s plan designation is Restricted Residential.

Applicant Representatives: Monschke & Waterbury for Property Owners

Petitioners/Applicants: James & Sharon Churchill
 William & Diane Miller

General Property Description (described in Exhibit A):

Assessor’s Map 18-12-04-14 Taxlot 2200 & 18-12-04-00 TLs 00117 & 00105
 & abutting portion of 4th Avenue to the west

Comprehensive Plan Map Designation: Low Density Residential

Surrounding Land Use / Zoning:

Sites: Vacant | Suburban Residential/Mobile Home District (Interim Urban Combining District Overlay)

North: Single-family residences / Suburban Residential/Mobile Home District (Urban Combining District Overlay)

South: Single-family residences | Suburban Residential/Mobile Home District (Urban Combining District Overlay)

East: RV Park Campground | Neighborhood Commercial (CoF)

East: Single-family residences/Vacant/Heceta Junction Lakes | Suburban Residential/Mobile Home District (Urban Combining District Overlay)

West: Single-family residences | Suburban Residential/Mobile Home District (Interim Urban Combining District Overlay)

Streets / Classification: West – 4th Avenue / Local (Lane County TSP); South – Heceta Beach Road / Minor Arterial (CoF TSP); East – None; North – None

II. NARRATIVE

The applicants have petitioned for the annexation of their property from Lane County jurisdiction to City of Florence jurisdiction for the eventual purpose of subdividing into single-family lots connected to City sewer service. There are no electors residing on the property. The petitions were received on February 12, 2018. The application was deemed complete on April 4, 2018. Planning Commission held their public hearing and made a recommendation to the City Council on April 24th.

State law requires signatures from at least 50% of the property owners and electors of the subject property to petition for annexation without an election. This type of annexation is known as a “Double Majority” annexation (ORS 222.125). The City has received a signed petition from the property owners and will process the annexation under the “Triple Majority” methodology (ORS 222.170(1)). At this time, the annexation and zoning assignment will be processed as a quasi-judicial zone amendment with a hearing.

The properties are not currently served by Heceta Water PUD, but have those services available within the 4th Avenue right-of-way. After annexation, the properties will be provided City services such as sewer and police protection from adjacent 4th Avenue. The properties are within the Siuslaw Rural Fire Protection District. The properties will continue to be served by all districts by which it is currently served.

III. PUBLIC NOTICE

Notice of the Planning Commission’s public hearing was mailed on April 4, 2018 to property owners within 300 feet of the proposed annexation areas. Notice was published in the Siuslaw News on April 11th and 18th, 2018. On April 4, 2018 notices were posted at Florence Public Works, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Notice of the City Council’s public hearing was published in the Siuslaw News on May 9 and 16th, 2018. On April 26, 2018 notices were posted at Florence Public Works, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

Public Comments:

At the time of this report, the City received the following comments on this application:

Clavel, Diana, 1972 Nand Dr., Yuba City CA, April 15, 2018: concerns for potential traffic issues, specifically increased traffic to 3rd St. and at the intersection of 4th Ave. and Heceta Beach Rd. Suggests a 4-way stop sign, new warning signs, and clearing brush to ensure clear visibility.

Leo, Terry, unknown address, April 16, 2018: concerns for rush to develop in Florence; unneeded right-of-way improvements (widening & sidewalks) on 4th, Heceta, and Rhododendron Dr., increased taxes, utility needs, trash service, and policing; excess undeveloped land presently exists.

Sturdivan, Peter, 12820 SE Geneva Way, Happy Valley, OR 97086, April 17, 2018: Concerns for a creek or spring within its boundaries that should be considered to be rezoned as an estuary or as protected watershed under another ordinance. States County may already have jurisdiction over the situation. Concern for outcome of redirecting the creek or spring and destabilization of 4th Ave. or other neighboring properties.

Anderson, Deborah and Benny, 4550 Ocean Way, Florence, OR, April 17, 2018: Concerns for increased traffic and reduced emergency response times to already congested underdeveloped streets; construction in tsunami zone; water drainage and flood control if wetlands are filled with additional development on the properties. States drainage continues under 4th Ave. from these properties and increased flow could flood properties and streets downstream. States flood control system installation should be considered with annexation and zoning of these properties. *Verbal testimony at hearing:* Agreed with previous statements about 4th Avenue's status as the only point of access for residents in his area. He also raised concerns that residents of the proposed development might live too far from the beach to walk and might park their vehicles in front of driveways or along private property.

O'Dell, Steve, P.O. Box 2057, Florence, OR, April 24, 2018: Concerns for wetlands and creek on subject property. Thinks storm/drainage system would be costly and a burden for city maintenance. Also, has not had any flooding or standing water on his property and does not want that to change with the development of the subject property.

Williamson, Bonnie, verbal testimony at Planning Commission hearing: water drainage and described drainage problems in the surrounding area, including her own property, and asked that developers be held accountable for handling drainage issues. She was also concerned that her street (Meares), which does not cut all the way through the block, would be more heavily trafficked by people walking to Heceta Beach and could become a target for vandalism and crime.

Edleman, Ron, Florence, OR, verbal testimony at Planning Commission: His ~20-acre property, which adjoins the proposed annexation, has a wild character that was the impetus for his family to purchase and build a house some years ago, and he would like to see it remain that way.

Springer, Harlen, Florence, OR, verbal testimony at Planning Commission hearing: He represented a collection of neighbors in the area north of Driftwood Shores. He pointed out that 4th Avenue is the only access road to many residents in his area at the north end of the UGB. He also asked about the number of lots that might be subdivided in the area proposed for annexation and how sewer capacity decisions would take this into account.

Gambill, Rhea, Florence, OR, verbal testimony at Planning Commission hearing: Concerns about traffic issues that could stem from the proposed annexation and development as well as how this annexation could put pressure on surrounding landowners to annex their own properties. She was also concerned with costs and how area residents might be affected.

Gambill, Rob, Florence, OR, verbal testimony at Planning Commission hearing: Cited the case of the River Road area in Eugene, OR, where residents were forced to pay for sewer service whether or not they annexed their property to that city. He was worried about the costs related to development in the northern Florence UGB and who would be paying for them.

Staff Response:

Traffic & Streets: The proposed annexation properties are located at the corner of 4th and Heceta Beach Rd. Concerns above include the following streets: **3rd St.**— This street is far north of the proposed annexation area. No connection is proposed within the Florence Transportation Systems Plan (TSP), 2012 nor does any logical connection exist. There should be no impact from future development.

4th Ave.—This road is classified in the Florence TSP as a local street. Title 10 Chapter 36 Public Facilities identifies the several development standards options for local street classifications. As per our TSP and the Comprehensive Plan future development in this area requires joint coordination between the county and the city for street and pedestrian infrastructure improvements. City standards will apply.

Heceta Beach Rd.—This street is classified as a Minor Arterial and has been identified to need additional protections for pedestrians from the higher speed traffic. Thus it is proposed to be improved with a 6' wide sidewalk on the south (city) side and 6' bike lanes on both sides, space permitting. As per our TSP and the Comprehensive Plan future development in this area requires joint coordination between the county and the city for street and pedestrian infrastructure improvements. City standards will apply. **Intersection**--No intersection improvements at 4th Ave. and Heceta Beach Rd. were proposed in the Florence TSP. Traffic devices are installed when certain warrants are met based on accident and speeding reports.

Drainage & Wetlands: The Natural Resources Conservation Service has identified that the subject properties contain Yaquina Loamy Fine Sand and Waldport Fine Sand with 12-30% slopes. Both of these soil types require a Phase 1 Site Investigation (SIR) report to be completed in conjunction with platting and development. Yaquina soils require the SIR due to their likelihood of being wet and the Waldport due to the slopes. Any concerns identified in the SIR will require additional analysis and/or mitigation. The Florence Local Wetland Inventory, 2013 indicates the properties are located within the Mercer Lake Watershed and that the two northern properties had sample plots taken (7 & 11 of Map 1) and contain wetlands just east of 4th Avenue. Partitioning or subdivided or developing these properties will require concurrence from the Department of State Lands. Depending on the size the state will require mitigation if any fill or disturbance is proposed. Additionally, all properties developing within the city limits require a grading plan and comprehensive stormwater management plan. The water flows will be required to be measured, addressed and not adversely affect neighboring properties or infrastructure. Post development stormwater flows must match pre-development stormwater flows (meaning they must keep the water that was originally on their property and not reroute it elsewhere). Many developers are accomplishing this through construction of stormwater swales and ponds or simply retaining the natural wetland system. The combination of having soils and wetlands will trigger a Phase 2

Site Investigation Report that will include provision for engineered solutions to existing circumstances with proposed development. These requirements are not triggered for petitions for annexation and associated zoning assignment. Chapter 17 of the Florence Comprehensive Plan includes the areas within the UGB to receive shoreland overlay zones related to estuary, lake or Prime Wildlife areas upon annexation. The subject properties are not included within any of the overlay designations. There may be setback requirements from resources located east of these properties but outside of the Florence UGB. Lane County will receive a referral request during application for partition or subdivision. At that time the city would welcome requests from the county for setbacks or other criteria needed to be addressed to protect natural resources they have identified within their comprehensive planning documents. Testifiers are encouraged to resubmit their concerns related to this topic during proposed partitioning or subdivision when the concerns raised would be addressed through city policy in effect and applicable.

Tsunami Zone: The 4th Ave. properties are located just inside the most eastern edge of the “Local Cascadia Earthquake and Tsunami Zone.” Properties in this zone are governed by Title 10 Chapter 7 would require a Phase 1 Site Investigation Report at the time of partitioning, subdividing or developing. State law currently restricts and/or prohibits development within this zone from certain uses such as care facilities, medical care facilities, hotels, etc. These types of state regulated uses are not presently permitted within the proposed zoning assignment of Restricted Residential. The City is presently drafting comprehensive plan policies and zoning code related to certain tsunami zone areas. These policies should be in effect at the time of development of these properties and would be applicable then. There are no policies related to changing jurisdictions on properties. And presently there is no tsunami overlay zone applicable.

Development Pressures: The properties under consideration are located within the City of Florence’ Urban Growth Boundary and have been for over 35 years. The property owners have petitioned to annex their land in order to develop it to City development standards as is their right. They will be required to meet all of the same development standards (city code) of other developers with the city limits. The properties and streets with the UGB are urbanizable meaning they will eventually be within the city limits and developed to city standards.

Vision Clearance: With the annexation of 4th Ave. the jurisdiction of its intersection with Heceta Beach Rd. will fall within the city’s control to regulate through code enforcement. Within city limits the maintenance responsibility for vision clearance areas fall onto the adjoining property owners. The city has one code enforcement officer as does Lane County. The City has more resources per capita than the county and will enforce provision of vision clearance at this intersection if annexed.

Increased Utility Demands: Development does beget additional impact on the utility systems. The City has a Systems Development Charge assessment on new development that provides revenue for constructing additional infrastructure needs. So development pays for itself. The City presently has the excess capacity (.555 million gallons a day) for the additional sewer demands the development of this land will create. Water provision will be through Heceta Water District. They have not

provided testimony that they cannot serve this property. Neither has any other utility district or utility or service provider all of whom were mailed notice.

Response to Verbal Testimony presented at Planning Commission Hearing: The City of Florence has aggressive stormwater management policies, including requirements for developers that off-site stormwater flows be no greater post-development than prior to development. Comprehensive, engineered stormwater plans will be required before any development can proceed. Wetland conservation would be addressed by the city as well as relevant state agencies at the time of development. Excess sewer capacity is available to for development in this part of the UGB. Many people who have annexed in the recent past have done so in response to failure of their septic systems. The city has not forced any annexations; all annexations have been at the request of the property owners. 4th Avenue is classified as a local road and would need to be widened if enough development occurs at the northern portion of the UGB.

IV. REFERRALS

On April 5, 2018, referrals were sent to the Florence Public Works, Building, and Police Departments; Lane County Transportation, Surveyor, Land Management and Environmental Health Departments; Department of Land Conservation and Development; the U.S. Post Office; Charter Communications; Century Link; Coastcom; Central Lincoln PUD; Heceta Water PUD; Central Coast Disposal; County Transfer and Recycling; and Siuslaw Valley Fire and Rescue.

Referral Comments:

At the time of this report, the City had received the following comments:

Tom Turner, Chief of Florence Police Dept. dated April 18, 2018

“The Florence Police Department has the capacity to provide police response to the area north of Heceta Beach Road on 4th and the area east of Driftwood Shores if incorporated into the City of Florence. We provide 24 hour a day/365 days a year full police coverage for the City of Florence. Currently F.P.D. responds to the surrounding areas, outside of our jurisdiction (as part of a mutual aid agreement) at this time to provide emergency police response if needed for the Lane County Sheriff’s Office and the Oregon State Police. We have been operating in this capacity for many years. Incorporating this new area would not be extending our services or capacity as we already respond to many of the surrounding areas and properties, both in and out of the City of Florence, as a normal course of our business.”

Mike Miller, Public Works Department, verbal summary April 17, 2018.

Total sewer system capacity is currently 1.3 million gallons per day (mgd) dry weather flow. Our current average dry weather flow is 0.745 mgd, which equates to 0.555 mgd of excess flow capacity.

Regarding providing sanitary sewer service, staff believes that the proposed project will provide opportunities for other surrounding homeowners that desire sanitary sewer service from the City.

It is the policy of the city of Florence to provide sanitary sewer service to any property within the City's wastewater service area. However, the property owners are to pay for sewer main extension, manholes, construction, connection fees, engineering fees, street opening permits and any other fees necessary for the connection to the public sewer system for the project.

V. APPLICABLE REVIEW CRITERIA

Annexation

Oregon Revised Statutes (ORS)

222.111; 222.120; 222.125; and 222.170 (2)

Florence Realization 2020 Comprehensive Plan

Chapter 14: Urbanization, Policies 1, and 3 through 7

Zone Assignment

Florence Realization 2020 Comprehensive Plan

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

Florence City Code (FCC)

Title 10: Zoning Regulations

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

Chapter 10: Restricted Residential District

VI. FINDINGS OF FACT

The following findings support Ordinances 7 & 8 and address approval criteria within the Florence Realization 2020 Comprehensive Plan, Florence City Code and State Statutes.

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

FLORENCE REALIZATION COMPREHENSIVE PLAN

Chapter 2: Land Use

Policies

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

The annexation proposal is consistent with this policy because the provision of city utility services to the annexation area is based on the most up-to-date assessment of the projected capacity of these systems, assuming a 3 percent growth rate. This policy directs that the City conduct these internal reviews on a regular basis to ensure that the City continuously has the capacity to serve existing and new development, including annexed properties. The City has actively studied the capacity of these systems and hired consultants to supplement these studies. Documentation of recent study results in the record confirm that the City has the capacity to serve the annexation area without affecting service to existing City residents; consistent with the direction in this policy.

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

Currently, this land is zoned Suburban Residential/Mobile Home by Lane County and is undeveloped. The implementing zone for this area is Restricted Residential.

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

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

There is no existing use on the proposed annexation site. Any future development will be in accordance with the implementing zoning district, Restricted Residential.

Low Density Residential

The Low Density Residential designation is intended for areas where existing lot sizes are in the neighborhood of 9,000 square feet or larger, and for areas where environmental constraints preclude smaller lots. The corresponding zoning district is

Restricted Residential. This designation provides primarily for single family homes and for manufactured homes meeting certain minimum standards.

The applicants have proposed the annexation and zone assignment of Restricted Residential. This proposal meets all the requirements of this zone such as minimum lot size and width outlined in 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 because the proposed annexation provides for an orderly and efficient transition from County/rural land uses to City/urban land uses, as follows:

- The annexation area is within the Florence urban growth boundary (UGB) and is contiguous to existing City limits via right-of-way to the south; it is, therefore, an orderly transition from rural to urban land uses.
- The existing public infrastructure is an orderly and efficient mechanism for providing urban services to this geographic area. The annexation will allow the provision of City sewer to the properties being annexed. All connections to the sewer line will be funded through system development charges, connection fees, and property owner investment. This financing method allows for cost-effective service delivery to all users of the system.
- The provision of sewer service will allow the property owners to avoid future septic drain field repairs and inefficient use of open space contained within the lots to be annexed for the drain field.

Annexation Policies

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

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

The City of Florence has utilized for this proposed annexation a method allowable by state law that requires a majority of consents and did not utilize an “island annexation.”

The City has received a petition from the property owners with signature of all listed property owners and electors. This policy criterion is met.

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

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

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

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

Sewer: The Florence Public Works Department has evaluated the impact of the possible future residential development and has concluded that there is sufficient capacity in the City's wastewater treatment facilities to serve the proposed uses without negatively affecting existing customers. Currently the Waste Water Treatment Plant has an excess capacity of .555 million gallons daily.

Water: The properties are currently undeveloped. The properties will eventually be served by a connection to Heceta Water People's Utility District services within the 4th Avenue right-of-way. It is unknown if hydrants are provided nearby.

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

Streets: The properties are accessed via 4th Avenue, which is under Lane County jurisdiction. This section of 4th Avenue is designated as Urban Local Streets by Lane County. As a local street, it will be expected to serve traffic to residences, parks, and beaches with the area. The existing and any future usage (vehicular trips) made available by annexation and zone change can be accommodated by the surrounding platted street availability. Improvements to the adjacent streets will be accomplished in conjunction with improvements to the property.

The City is not requesting maintenance transfer of 4th Avenue at this time.

Fire: Siuslaw Valley Fire and Rescue District currently provides protection services to the annexation area and will continue to do so following the annexation. The City eliminated contractual agreements with Siuslaw Valley Fire and Rescue that previously provided protection services to city residents. Hydrant availability is discussed under the "Water" section above.

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 properties.

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

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

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

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

c) consistency with state law.

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

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

Staff sent referral requests to Lane County on April 5, 2018. No response has yet been received from Lane County Transportation Planning.

The City expects that any future development proposals for the property will need to remain consistent with the development requirements of Lane Code Chapter 15 until jurisdictional transfer of the subject property and right-of-way occurred. Lane County will be informed of all proposed developments occurring on the property in the future until that transfer was completed.

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

The applicants will be required to pay the project costs to extend sewer services where they do not currently exist. Future development of the properties will necessitate payment of applicable systems development charges. Any undeveloped properties and

expansions to developed properties will be charged systems development charges commensurate with their impacts on the systems.

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

Lane County provides services and administers jurisdiction to all 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 off of streets adjacent to the property, which are maintained by Lane County.

OREGON REVISED STATUTES

ORS 222.111 Authority and procedure for annexation.

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

The proposed annexation area is located within the urban growth boundary of the City of Florence. The annexation is contiguous to the City from the south for all proposed areas of annexation.

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

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

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

applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.

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

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

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

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

Resolution No. 8, Series 2008, adopted by the City Council, the legislative body of the City, on April 21, 2008, expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

The City received written consents from 100% of the owners and electors within the proposed annexation area, as allowed in ORS 222.170; therefore, an election is not required.

ORS 222.120 Procedure without election by city electors; hearing; ordinance subject to referendum.

(1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

Chapter II Section 4 Item (2) (h) of the Charter for the City of Florence lists annexation as one of the City's powers "to annex areas to the City in accordance with State law." The Charter does not expressly require the City to submit a proposal for annexation of territory to the electors of the City for their approval or rejection. Therefore, the City will not be

holding an election on this annexation request. Resolution No. 8, Series 2008 expressed the City's intent to dispense with elections in the City and annexation area as permitted by ORS Chapter 222, when sufficient written consents are received.

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

Resolution No. 8, Series 2008 expressed the City Council's intent to dispense with any and all annexation elections both in the City and in the annexed territory whenever permitted by ORS Chapter 222. A public hearing on all annexations was held allowing City electors to be heard on the annexation. Consistent with this Resolution, the City Council held a duly advertised public hearing on May 21, 2018, after receiving a recommendation from the Planning Commission. The electors of the City could appear and be heard on the question of annexation at that public hearing.

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

The Planning Commission public hearing was noticed as required. Notice of the public hearing was published in the Siuslaw News on April 10th and 18th, 2018. Public noticing for the City Council public hearing, the City legislative body, will also be published in the Siuslaw News on two dates prior to the hearing. Notices were posted in four public places in the City at Florence Public Works, Justice Center, Siuslaw Public Library, and Post Office on April 4, 2018.

Notice of the City Council's public hearing was published in the Siuslaw News on May 9 and 16th, 2018. On April 26, 2018 notices were posted at Florence Public Works, the Florence Post Office, the Justice Center, and the Siuslaw Public Library.

(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 southern property line through the 4th Avenue right-of-way. The City Council held a public hearing on the annexation request on May 21, 2018. The Ordinance passed, as required under (b) showing that the landowners consented in writing to the annexation consistent with ORS 222.170.

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

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

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

The Ordinance 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 owners were 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 nor ever used the reduced process it outlines even though past applications have met the criteria. This application meets the criteria of this statute. There is no policy in City Code requiring a hearing for processing an annexation. Policy requires that a state process that requires a majority of consents be required. Regardless public hearings were held.

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

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

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

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

There are no electors within the proposed annexation area. The written consents from the property owners were signed prior to February 12, 2018, and received before the City Council held the required public hearing required by ORS 222.120.

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

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

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

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

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

D. Notice of Hearing:

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

The applicants have proposed an annexation and zoning assignment for their properties. 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 Low Density Residential. The Restricted Residential zone will be assigned upon approval of the request from Council and finalization of the annexation process with the county and state.

10-1-3: AMENDMENTS AND CHANGES

B. Quasi-Judicial Changes:

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

On April 24, 2018, 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: RESTRICTED RESIDENTIAL DISTRICT

10-11-1: PURPOSE: The Restricted Residential District is intended to provide a quality environment for low density, urban single-family residential use and other single or multifamily Planned Unit Development as determined to be necessary and/or desirable.

The vacant properties and 4th Avenue are proposed to be zoned Restricted Residential District. This zone is appropriate as it corresponds to plan designation (Low Density) assigned to property served by this local road. No specific policies are applicable under this annexation or zoning proposal related since no development is applied for under this application.

VII. CONCLUSION

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