

PLANNING COMMISSION MEETING MINUTES

**Monday
March 5, 2018**

The Ontario Planning Commission was called to order at 7:00 pm in the Council Chambers of City Hall. Commission members present were Chairman Ralph Poole, Cindy McLeran, Max Twombly, John Hall, and Craig Smith. John Briedenbach was excused. Richard Newman resigned.

City Staff present were Dan Cummings, Community Development Director and Marcy Siriwardene, Planning and Zoning Technician. Betty Carter, City Council Ex-Officio, and Adam Brown, City Manager, were both present.

The meeting was recorded on tape and the tape is on file at the City Community Development Center. The Agenda for this meeting was emailed on or before February 26, 2018. Copies of the Agenda were available at the City Community Development Center.

Commissioner Hall led everyone in the Pledge of Allegiance.

ADOPTION OF MINUTES

John Hall moved, seconded by Craig Smith, to adopt the minutes of November 6, 2017. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

There were no unscheduled public appearances.

There were no objections to Planning Commission jurisdiction and no abstentions or ex-parte contact.

There were no Old Business Discussion Items.

PUBLIC HEARING 2017-12-21AZ A REQUEST FOR ANNEXATION AND REZONE FOR THE PROPERTY ADDRESSED 2601 NW 4TH AVENUE:

I. GENERAL INFORMATION:

SUBJECT: **ACTION 2017-12-21AZ:** A request for **Annexation and Rezone** of a parcel of land being located at 2601 NW 4th Avenue. If approved, this action will result in the Annexation of 0.41 acres of land into the City of Ontario; and, the rezoning of the subject property from Urban Growth Area Residential (UGA-R) to the City Single Family Residential (RS-50) Zone. The applicant is Lindsay Roulston.

LEGAL DESCRIPTION: The subject property is designated as Assessor's Map #18S4705BD; Tax Lot #3500.

PROPERTY OWNER: Ryan and Lindsey (Mayer) Roulston
2601 NW 4th Avenue
Ontario, OR 97914

II. SUMMARY & BACKGROUND:

The applicant owns a parcel of land, known as 18S4705BD, tax lot 3500. The applicants wish to annex and rezone the property into the City to connect to City Sanitary Sewer due to a failed septic system. The subject property is within 300 feet of the City Sanitary Sewer system and therefore under State regulations they are not allowed to repair their Septic system and therefore must annex to connect to City services. This application, if approved, will result in the annexation of 0.41 acres, plus the right of way for NW 4th Avenue, adjacent to the lands, into the City and a rezone of the property from Urban Growth Area Residential (UGA-R) to City Single Family Residential (RS-50).

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision making body for a request for annexation, without Planning Commission participation. State Law requires an Ordinance be adopted by the local governing body to accomplish a rezone. The City's governing body is the City Council, and they are the only body that may adopt an Ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with State law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

III. PREVIOUS PLANNING COMMISSION ACTION:

Nothing on this request.

IV. Applicable Ordinance & Comprehensive Plan Criteria and Standards:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. *Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:*
 - a. *The zoning map amendment is in conformance with statewide planning goals and guidelines.*
 - b. *The zoning map amendment is in conformity with the acknowledged comprehensive plan.*

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- c. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally effecting the area which make the proposed change appropriate.*
- d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
- e. The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*
- f. The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
- g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings of fact based on the answers and information given in the application made a part hereof:

- a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The existing property is zoned UGA Residential and is proposed to be rezoned to City RS-50 Single Family Residential.
- b. The subject properties are currently zoned UGA Residential and the request is to rezone to the companion City RS-50(Single Family Residential) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.
- c. The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.
- d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is residentially designated under the Comprehensive Plan so a residential zone is the most appropriate for the property.
- e. The property exceeds the size requirements for residential property, and is rectangular in shape. The property is already residentially developed and meets setback and other size requirements.
- f. The property owner is requesting annexation and rezoning to connect to City Sanitary Sewer due to failure of their septic system, which said city system is available in NW 4th Avenue. The owner is extending the City main line from the east side of their property to the west boundary of the property and is asking to defer the extension of the City water line and city street to city standards. City fire and police services will be available upon annexation for the property.

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City streets, including curb, gutter, sidewalks and remaining public utilities will be deferred under a Deferred Improvement Agreement (DIA) being recorded prior to or concurrent with final approval of this action or connection to the Sanitary Sewer line.

- g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Allowed uses under city residential zone designations are no more likely to produce dust, noise, ect. Than those under the UGA residential zone.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

1. *10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.*
2. *Oregon Revised Statute 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.*

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. The property is currently zoned for Residential use in the Urban Growth Area; the requested zone, City Single Family Residential (RS-50), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.

5. Annexation would benefit the city by increasing tax revenue, and, by providing more residential lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

V. SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

A request for annexation and rezone of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under “**Findings:**” and “**Conclusion:**” for each criterion. All of the criteria and standards must be met in order for the request to be recommended for approval.

VI. SUGGESTED MOTIONS FOR APPROVAL/DENIAL

A. Approval:

1. I move that the request for Annexation of the subject properties into the City of Ontario, and the request for Rezone of the subject properties from UGA Residential to City RS-50 Single Family Residential, as set forth in **ACTION 2017-12-21AZ** be recommended for **APPROVAL** to the City Council, based on the information, findings and conclusions set forth in Sections I through IV above, subject to the conditions of approval as set forth in Section VII of this report.

B. Denial:

1. I move that the request for Annexation of the subject properties into the City of Ontario, and the request for Rezone of the subject properties from UGA Residential to City RS-50 Single Family Residential, as set forth in **ACTION 2017-12-21AZ** be recommended for **DENIAL** to the City Council, based on the information, findings and conclusions stated below:
State Reasons:

VII. CONDITIONS OF APPROVAL:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.
2. The property will not be removed from the Rural Road Assessment District No. 3 until NW 4th Avenue is constructed to City Standards.

3. The owner shall sign a Deferred Improvement Agreement (DIA) and cause it to be recorded prior to the final recording of the Ordinance authorizing the Annexation and rezoning.
4. The owner will sign a lien causing any unpaid Utility bill to be a lien against the property.

DISCUSSION

Chairman Poole asked how deep the sewer was at that location.

Dan Cummings, Community Development Director, answered that it was fairly deep.

Chairman Poole asked if it would go all the way over to Yturri Beltline.

Mr. Cummings said that it would eventually. In the Master Plan, it showed that the sewer would go under the Yturri Beltline and then further down the hill.

Commissioner Hall asked where the City boundary line was, Mr. Cummings showed him.

Chairman Poole asked if Mr. and Mrs. Roulston were willing to pay to extend the sewer.

Mr. Cummings said that they would need bids to see what they could afford. They would have to hook up to sewer but not water. They would have to pull it all the way across their property.

Commissioner Twombly asked if both water and sewer services could be in one trench, the answer was no.

Commissioner Smith noted that there would still be some cost savings if both were installed at the same time.

Chairman Poole commented that if the owners paid for the sewer, possibly the City should pay for the water since the City would need both services for growth in the future.

Mr. Cummings commented that the water and sewer stopped at the same spot.

Adam Brown, City Manager, commented that another issue for the City Public Works department was inflow infiltration. Arsenic levels were possibly higher due to private well inflows.

Mr. Cummings wanted to bring the infiltration topic up to the City Council. State rules did not want the City to be too harsh to force owners to do everything on their own.

Commissioner Poole asked if they would construct their sidewalk, curb, gutter, and maybe put a lien on the property.

Mr. Cummings said that if the City were to extend both the service lines, it would be executed under an Advance Finance District. Each property owner would be assessed back the cost of the services, like an LID. When it only involves sewer and water it was called an Advance Finance District. If streets and such were included, it would be an LID and $\frac{3}{4}$ of the property owners would have to consent. The Advance Finance District would allow the city to assess the cost back to the property owners and they would have the option of making the payments right away or be assessed interest. There were several ways of doing it.

Commissioner Poole commented that the property owners to the East of the property would eventually want to hook up to services.

Mr. Cummings noted that the proponents could do a recapture ordinance to recapture monies from the surrounding owners as each one hooked up to services.

Commissioner Smith asked if the setbacks and the street right of way were good or would they need to be adjusted.

Mr. Cummings answered that the full width was already dedicated.

Mr. Brown asked if the sidewalks would be under a Deferred Improvement. Mr. Cummings said that anything requirements that hadn't been met would be under a Deferred Improvement Agreement. The City would have to purchase any extra right of way from the owners if not already dedicated.

Commissioner Twombly stated that incoming property owners from annexations shouldn't have to pay for other peoples faults. They should only have to pay for their own portion, not others.

Commissioner Hall commented that if it was all done, the person should only have to pay for half of the length of their property.

Chairman Poole asked if there was any further discussion.

Mr. Brown added that he wouldn't have a problem recommending that the City help to pay for the water line to the City Council.

APPROVAL OF LAND USE ACTION#2017-12-21AZ A REQUEST FOR ANNEXATION AND REZONE FOR THE PROPERTY ADDRESSED 2601 NW 4TH AVENUE

John Hall moved, seconded by Max Twombly, to accept the Findings of Fact as presented. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

Cindy McLeran moved, seconded by Craig Smith, to recommend approving the Annexation and Rezone request subject to the conditions of approval listed in the Planning Staff Report to the City Council. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

Chairman Poole wanted the City Council to require sewer and water hookups at a minimum, regardless of the location in the city and would like to have them do curb, gutter and sidewalks, but possibly in a Deferred Improvement Agreement.

Commissioner Smith asked if there was a possibility of getting the adjoining property owner to pay for his portion.

Mr. Cummings said that the City would have a better chance collecting from the adjoining property owner then the applicants themselves. There were several issues that the City Council needed to address. The City's ordinance did not currently require the owner to hook up to city water, only city sewer. How it got hooked up to city sewer was up to the city.

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Chairman Poole asked if the ordinance would be amended.

Mr. Cummings commented that he was going to take a look at it and present it to the Council in the future.

Commissioner Smith noted that there were additional fees with bringing water to the owner, fees and the water meter, around \$3,500.

Mr. Cummings thought it sounded high. Even if the city carried the bulk of the water service line, there would still be considerable costs to the property owners. If the city helped with half the sewer line, it may be possible for them financially.

Commissioner McLeran understood that it could be cost prohibitive and may need to be looked at on a case by case basis.

Chairman Poole asked if it would be easier to put a lien on the owner's property that would have to be paid upon sale of the property.

Mr. Cummings commented that it would be easy to do if it were part of the agreement to start with. It would be hard to put a lien on the adjoining owner's property without that kind of agreement at the start.

Commissioner Twombly commented that it would be a lien for when the property owner wants to connect to services, not for when it sells.

Mr. Cummings said that the City had several issues that needed to be addressed concerning the neighboring property as the sewer line was extended. He thought it would be a good idea for the Planning Commission make a recommendation to the City Council.

Commissioner Twombly asked how much cost they were looking at to get the sewer down to the property.

Mr. Cummings stated that it may be as much as \$25,000 for the full sewer extension, not just their half. If the property is within 300' of city sewer they have to hook up. If the annexation was denied, the property would be condemned.

Commissioner McLeran asked if the property owners would pay half of the \$25,000 of city service costs and if water would be double that.

Mr. Cummings explained it according to 136' feet of water and sewer services, \$50 a foot each totaling \$13,600 instead of the \$25,000 just for the sewer. That would be their half of the costs. It would just be their frontage footage.

Mr. Brown stated that the city would be better poised for things that happened down the road to extend both the water and sewer services.

John Hall moved, seconded by Max Twombly, to recommend to the City Council that the City extend the water and sewer services to the end of 2601 NW 4th Avenue and charging that property owner half the cost. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

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Craig Smith moved, seconded by John Hall, to recommend to staff to bring back an ordinance addressing those issues to the Planning Commission first and then to the City Council. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

DISCUSSION ITEMS

A) Housing Incentive Program

Mr. Cummings gave an update of the Housing Incentive Program. The City Council decided to reduce the Housing Incentive Program required house size from a minimum of 1600 square feet to a minimum size of 1350 square feet. A two car garage would be required as well as two bathrooms. This would facilitate for more affordable housing. Adam Smith had looked at a 1350 square foot spec home with a two car garage.

Mr. Smith commented that it was a nice home and was a home that the City of Ontario would like in their community. He took pictures of the home and sent them to the City Council members.

Mr. Cummings said that they had received the first Housing Incentive Program application for a home being built in Sage Ridge Subdivision that was greater than 1700 square feet. It was approved.

B) Report from the Community Development Director: Quarterly Presentation

Mr. Cummings gave the 4th Quarter Presentation that had been previously given to the City Council.

C) Discussion on PC Meeting Days

The Planning Commission discussed and decided they would rather meet on the second Monday of every month.

Craig Smith moved, seconded by Max Twombly, to move the Planning Commission meetings to the second Monday of the month. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

D) Recent Building Permit Activity

Mr. Cummings presented building permit activity for the City of Ontario.

E) Resignation of Richard Newman

Marcy received an email from Richard Newman stating that he was resigning from the Planning Commission effective immediately. The Planning Commission wanted a card of appreciation to be sent to him.

ADJOURN

Cindy McLeran moved, seconded by John Hall, to adjourn. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-out; Poole-yes. Motion carried 5/2/0.

Ralph Poole
Chairman

Attest: Marcy Siriwardene
Planning & Zoning Technician