

**PLANNING COMMISSION MEETING MINUTES**  
**Monday**  
**July 10, 2017**

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, John Briedenbach and Richard Newman. Craig Smith was excused.

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 and/or hand delivered on or before July 3, 2017. Copies of the Agenda were available at the City Community Development Center.

Commissioner Twombly led everyone in the Pledge of Allegiance.

**MOTION TO ADOPT AGENDA**

John Hall moved, seconded by Richard Newman, to adopt the Agenda. Roll call vote: Smith-out; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/1/0.

**ADOPTION OF MINUTES**

John Hall moved, seconded by Cindy McLeran, to adopt the minutes of April 3, 2017. Roll call vote: Smith-out; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/1/0.

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 2017-04-04AZ-Jesus Arizmendi and Carol Trevino**

**ACTION 2017-04-04AZ:** A request for **Annexation and Rezone** of two parcels of land one being located at 1939 Thomas Circle and the other at 1936 Brady Circle in the Ridgeview subdivision. If approved, this action will result in the Annexation of 0.60 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 Duplex Residential (RD-40) Zone. The applicant and property owners are Jesus S. Arizmendi, Deisy A. Sanchez-Estrada and Carol Trevino. The subject property is designated as Assessor's Map #18S4705AC; Tax Lots #8900 and 9600.

Dan Cummings, Community Development Director, presented the annexation and rezone.

## **II. SUMMARY & BACKGROUND:**

The applicants own lots in the Ridgeview subdivision, known as 18S4705AC, tax lots #8900 and 9600. The applicants wish to connect to city water and sewer. In order to connect to City water and sewer, annexation into the City is necessary. This application, if approved, will result in the annexation of 16,816 square feet plus the right of way for Brady Circle of land into the City and a rezone of the property from Urban Growth Area Residential (UGA R) to City Residential (RD-40).

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.*
  - 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 affecting 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:**

- 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.
- b. The subject properties are currently zoned UGA R and the request is to rezone to the companion City Duplex Residential (RD-40) Zone that is the same zone as adjacent and nearby property. 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.
- e. The subject property is adequate in size and shape for the proposed use to be rezoned from UGA Residential to City Duplex Residential RD-40.
- f. The property owner of tax lot 9600 proposes development at this time into a single-family dwelling and has presented a plot plan showing adequate room for structures, parking, landscaping, etc. City Water and Sewer are available near the

boundary of the property. City fire and police services will be available upon annexation for both properties.

City streets, right-of-ways, including curb, gutter and sidewalks are in place and have been developed to city standards.

- 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. Requirements in the OMC applicable to uses in the residential zone will ensure that impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land are minimized.

**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:**

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 and Subdivision Plat was approved and recorded in 1998..
3. The property is currently zoned for Residential use in the Urban Growth Area; the requested zone, City Residential RD-40, 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 potentially developable residential land.

**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 R to City Duplex Residential RD-40, as set forth in **ACTION 2017-04-04AZ** 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 R to City Residential RD-40, as set forth in **ACTION 2017-04-04AZ** be recommended for **DENIAL** to the City Council, based on the information, findings and conclusions set forth in Sections I through IV above.

## **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.

Chairman Poole asked if there had been any communication regarding the action.

Mr. Cummings answered that a couple people had come in to ask about the rezoning of the property. The applicants were asking for an RD-40 zone because of the reduction of side yard setbacks from 7' to 5', not because they wanted to build duplexes on the property.

Commissioner Briedenbach asked how many homes in the subdivision were vacant.

A gentleman in the audience commented that there was one home for sale with a couple vacant lots that had been sitting vacant for over 16 years.

Chairman Poole asked what the setbacks were for that area.

Mr. Cummings commented that he that there was a seven foot setback but would have to check with the County UGA requirements and research if a variance had been granted in the past.

Commissioner Newman wanted clarification about which homes were already in the city. Mr. Cummings pointed those out.

Commissioner Twombly asked if all the homes were on city services.

Mr. Cummings answered that they were all on city services. He explained that the agreement had been made with the city a long time ago.

Commissioner McLeran commented that the city could make a new code for the residential single family zone.

Mr. Cummings commented that there were two options for the property: either single-family or duplex zone.

**Testimony by Proponents:**

Jesus Arizmendi, Ontario, was one the two applicants and proponents of the action. He was planning on moving a double wide manufactured home onto the vacant lot on Brady Circle. He wanted to annex into the city to have a reduced water bill and requested the RD-40 zone so that he could have less setbacks to abide to since he wanted to build a garage in the future.

**Testimony by Opponents:**

Mr. Bennett, Ontario, was an opponent. His only objection concerned the rezoning of the property of duplex zone instead of single family zone.

Ina Matteson, was an opponent of the action. She objected to the duplex zone and stated that most duplex zones were for corner lots and not suitable for cul-de-sacs and felt that the duplex zone was inappropriate to the area.

Chairman Poole asked about off street parking in the cul-de-sac.

Mr. Cummings said that RS-50 zone required two off street parking spaces while the duplex zone required 1.5 spaces per unit of off street parking spaces.

Mr. Cummings commented on the costs of annexing into the city. It was \$440 for the application, mailing and legal fees and notices and \$.02 per square feet. The annexation costs could be split among several property owners if the action was done at the same time. The difference between the Ontario tax base and the County's tax base it was \$1.30 per thousand, but the sewer and water fees would be reduced. New homes would require a \$1,288 Transportation System Development Charge.

Ralph Astelle, Ontario, explained that he came to the meeting for understanding and his questions had been answered. He did not think that there was space for a duplex and not enough space for parking.

Commissioner Twombly suggested a two feet setback for variance instead of adopting a duplex zone and apply the single family zoning instead.

Mr. Cummings commented that a variance could not be self-created. It would be hard to find the justification to adopt the variance.

Chairman Poole wanted to establish the findings of fact and close the public hearing on that motion and open it up to discussion.

Chairman Poole said it would be very difficult to put a duplex on the property as the lots were too small. He recommended that everyone in the subdivision annex into the city.

Mr. Cummings said it was a non-conforming use. 1907 looks like it's right on the property line. County UGA had a 10 foot side yard.

Commissioner McLeran commented that no one wanted a duplex zone in that area.

Mr. Cummings said that the single family, RS-50 zone would work in that area.

Commissioner Newman agreed.

Commissioner Briedenbach wanted the Planning Commission to recommend the single family zone with a variance to the City Council.

Adam Brown, Ontario City Manager, wanted to make sure that Mr. Arizmendi would agree with asking for a single-family zone.

Mr. Arizmendi, applicant, commented that an attached garage would give him more space.

Mr. Cummings suggested that a variance be granted that night to approve the 5' setback, applicable to both lots.

Chairman Poole opened the public hearing. No one objected.

Approval changed from RD-40 to RS-50 single family establishing a side yard setback of 5'.

Cindy McLeran moved, seconded by Richard Newman, that the request for annexation on the subject properties into the City of Ontario and the request for rezone of the subject parties from UGA-Residential to City Single Family (RS-50) as set forth in action 2017-04-04AZ be recommended for approval to the City Council based on the information, findings, and conclusions set forth in sections 1-4 above, subject to the conditions of approval as set forth in section 7 of the report. A 5' setback to issue a variance was recommended without prejudice granting on a case by case basis and grant a variance of a 5' side yard setback for both lots, Jesus Arizmendi and Carol Trevino. Roll call vote: Smith-out; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/1/0.

### **PUBLIC HEARING 2017-05-08RZ-Sprintor Shuttle-Alex Pienaar**

There were no objections to Planning Commission jurisdiction. Commissioner Briedenbach wanted to abstain in the voting as the business was a chamber member.

Dan Cummings, Community Development Director, discussed #2017-05-08RZ, a land use action to rezone from City RS-50 to RM-10 High Density Residential.

### **II. SUMMARY & BACKGROUND:**

The applicants/owners owns a parcel, known as Tax Map18S4709BA, tax lot #3900, which property is currently zoned in the City under Single Family Residential (RS-50), and is requesting that this property be rezoned to High Density Residential (RM-10) to allow for better use and development of the properties.

This requests for rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council, who will be the decision maker for this request. This action specifically seeks approval for rezone from RS-50 to RM-10 for a parcel of land within the City Limits of the City of Ontario.

### **III. PREVIOUS PLANNING COMMISSION ACTION:**

There has been no Planning Commission actions on this property in the past 20 plus years that could be found in the planning records.

### **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.*
  - 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 affecting 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 affected 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 affected 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:**

- a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; generally, 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 applicant feels that the proposed re-zone will not result in a substantial change to the City's comprehensive planning and zoning map. The re-zone application proposes a change in zoning of a single parcel of land from a Single Family Residential Zone (RS-50) to a High Density Residential Zone (RM-10). While the proposed re-zone would allow for expanded permitted uses of the property, there would be no substantial change to the official Planning and Zoning Map of Ontario which is already in compliance with the statewide planning goals and guidelines
- b. The applicant states the proposed rezone will conform to the Comprehensive Plan of the City of Ontario. Below, each policy section is addressed.

1) **Citizen Involvement**

**Response:**

Submitting this Land Use Application ensures citizen involvement through public notification of the Planning Department and related hearings.

2) **Land Use Planning**

**Response:**

The City's consideration of the Zone Change Application is consistent with these policies. The City has established a Land Use Planning Process and Policy framework forming the basis of all decisions. The City's consideration of this application will ensure this goal is satisfied.

3) **Agricultural Lands**

**Response:**

The subject property is not agricultural land and the re-zone request does not propose using the property as such; therefore, this policy does not apply.

4) **Open Spaces, Scenic and Historic Areas and Natural Resources**

**Response:**

The subject property is not mineral or aggregate resource land and the re-zone request does not propose using the property as such. The subject property is not listed as a bird habitat, fish and wildlife area or big game range area. To the applicant's knowledge and belief, the property is not within any historic site or is any building on the registered list of historic resource sites within the City's Comprehensive Plan. The property is connected to the public water and sewer, and the proposed re-zone does not include degrading any water resources. The property is not listed as a dam site. Lastly, the re-zone will not impact any scenic resources and no redevelopment is included under this proposal. To the extent the City deems the open spaces and scenic resources potentially impacted by the re-zone, any future development projects on the property would need to comply with the policies of this section. For the reasons stated here, these policies do not apply to the re-zone proposed.

5) **Air, Water and Land Resources Quality**

**Response:**

The re-zone request would not impact this goal; therefore, these policy sections do not apply.

6) **Areas Subject to Natural Disasters and Hazards** Response:

The subject property is not located in the floodplain of the Snake or Malheur Rivers. Furthermore, the proposed re-zone would not increase or exacerbate the potential impact of natural disaster; therefore, this policy section does not apply.

7) **Recreational Needs**

**Response:**

The re-zone request would not impact this policy; therefore, this policy section does not apply.

8) **Economic Development**

**Response:**

The applicant's existing use of the property is currently of an economic nature. The applicant employs a number of personnel providing support services to the transportation business it operates at the subject property. The proposed re-zone would bring applicant's existing use of the property into conformance and further the goals of the City in expanding and furthering economic development in the area. In addition, the re-zone would open the property up for future uses consistent on an either permitted or conditional use basis which would also further the City's objective promoting economic development through the employment opportunities and the additional financial benefits to the community created through the use of the property in these ways. The proposed application would not harm or detract from the City's economic development as it would add a single parcel of property with the ability to be used for limited commercial purposes without changing the overall nature of the neighborhood in which the subject property lies.

**9) Housing**

**Response:**

The City of Ontario's Comprehensive Plan provides that it will be the City's goals to provide sufficient land area to accommodate the housing needs of its residents. The proposed re-zone of the subject property will not result in exclusion of residential development. Furthermore, approval of the proposed re-zone would not have a significant impact on any existing housing shortages affecting the City. As indicated in this application, applicant is currently using the property to support a business operation. Approval of this re-zone application would bring the applicant's existing use of the subject property into conformance with the City's zoning code. The RM-10 zone sought by applicant in this application allows for the use of the property for residential uses as single family homes or multi-family dwellings. Therefore, the re-zone of the subject property will not decrease the availability of adequate buildable lands for housing or impact the City's ability to expand its urban growth area to make room for additional developable lands for housing needs.

**10) Public Facilities and Services**

**Response:**

The subject property is connected to public sewer and public water and does not propose an extension of these services; therefore, this policy section does not apply.

**11) Transportation**

**Response:**

The Traffic Study dated July 31, 2014 (Exhibit A) related for the SW 4th Avenue re-zone provides sufficient information to evaluate the impacts on Ontario's Transportation System by the proposed re-zone. While the subject property is not located within the study area identified in the Traffic Study attached as Exhibit A, the subject property's approximate location to SW 4th Avenue and the properties which were the subject of the SW 4th Avenue re-zone makes the Traffic Study

relevant to Applicant's request. Furthermore, the proposed re-zone from RS-50 to RM-IO of the subject property, while allowing for additional expanded commercial uses of the subject property would not result in any significant traffic in the area over and above what is already in existence. At this time, the applicant is not proposing any re-development of the subject property which would increase traffic or transportation in the area over and above what already exists. Providing further instruction is the fact that multiple parcels located within three (3) lots of the subject property are currently zoned as RM-IO and are being utilized as dental or other medical businesses. Applicant's proposed use of the property under the RM-IO designation does not create additional traffic as applicant does not have customers or patients which visit the property for treatment or services. This re-zone request does not conflict with any of the transportation objectives identified in the City's Comprehensive Plan.

**12) Energy Conservation**

**Response:**

The re-zone request would not impact this policy; therefore, this policy section does not apply.

**13) Urbanization**

**Response:**

This re-zone request does not propose to change the City's Urban Growth Boundary; therefore, this policy section does not apply.

- c. The applicant states that the zone change requested in this application seeks to change the zoning applicable to the subject property from a Single-Family Residential to a High Density Residential. Applicant does not contend that there has been a mistake or error in the original zone designation; however, due to the development of the properties adjacent to SW 4th Avenue in Ontario and the related need to provide office space to businesses providing support services to business in the area such as the hospital or other medical care providers makes the proposed zone change in this case appropriate. Because the proposed zone change would not make the subject property unable to be used for residential purposes in the future, the impact to the City's overall Comprehensive Plan is minimal.
- d. The applicant states that the public is benefited by the proposed rezone of the subject property because the applicant's proposed use of the property provides a public need regarding the transportation of non-ambulatory medical patients to medical providers. It supports services provided to medical providers and to patients in the area benefitting the public at large and the proposed re-zone would bring the applicant's existing use of the property in this manner into conformance with the City Zoning Code.

**CITY OF ONTARIO, 444 SW 4<sup>TH</sup> STREET, ONTARIO OREGON 97914**

- e. The subject property is a corner lot providing street frontage sufficient to accommodate the minimal additional parking related to the applicant's use and proposed use of the subject property. The size and shape of the property will allow for appropriate setbacks which would accommodate a larger building to be located on the property. As indicated in this application, applicant does not propose any redevelopment or construction on the property at this time which would change any zoning requirements applicable to the property. Any future development of the property would require compliance with zoning rules applicable to the property; however, the size and shape of the property should be sufficient to accommodate all reasonably feasible uses in the proposed zone.
  
- f. As indicated in this application, the subject property is located one block South of the SW 4th Avenue, a major arterial roadway serving Ontario. The subject property sits at the corner of SW 11th Street and SW 5th Avenue and is connected to City water and sewer services. Under the principal permitted listed under the proposed RM-10 Zone, and in addition to the principal permitted uses allowed in the existing zone of RS-50 are mortuaries or funeral homes, rooming houses, hotels, bed and breakfasts, museum, concert halls, auditoriums and similar cultural facilities, nursing homes, and medical/dental or other health professional offices or clinics for humans. While these additional permitted uses do have the potential to utilize additional public facilities, utilities and general assets of the City of Ontario, any such increase would be minimal. As indicated in the application, applicant intends to continue to utilize the subject property for an office space supporting its medical transportation business. The proposed existing use of the property would not increase or place any additional strain on the City's utilities or utilize additional public assets in the area. Furthermore, other RM-10 Zone lots are located within the vicinity of the subject property. Any future development of the property would require conformance and identification of how the change in use would place additional stresses upon the resources available.
  
- g. The change proposed in this application would not result in any adverse effects upon surrounding properties. As currently situated, the property is located within one (1) block of SW 4th Avenue. The proposed and permitted use of the property in the proposed zone is permitted and would not result in any additional significant increase in noise or other items over and above what already exists given the subject property and the surrounding properties' proximity to SW 4th Avenue. In addition, the principal permitted uses allowed in the RM-10 Zone do not lend themselves to significant increase in these areas of concern. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air, water or surrounding lands. The principal permitted uses are related to the type which would blend well into a predominantly residential area. This fact coupled with the subject property's proximity to SW 4th Avenue makes the application for re-zone as it allows the property to be used for residential purposes as well as for limited economic and commercial purposes which are consistent with surrounding residential areas allowed by the current zone are basically the same type of use that will be used under the rezone with the exception of a few properties that will be able to add a few newer type businesses but will not be detrimental to adjoining properties.

**Summary Conclusions:** Based on the findings above:

- a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; generally, 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. As this proposal meets the criteria in the above section, this proposal is consistent with Statewide Planning Goals.  
**CRITERION IS MET**
- b. The findings show that the request is within goals and conformance of the Acknowledged Comprehensive plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan. **CRITERION IS MET**
- c. The applicant states that due to the development of the properties adjacent to SW 4th Avenue in Ontario and the related need to provide office space to businesses providing support services to business in the area such as the hospital or other medical care providers makes the proposed zone change in this case appropriate. Because the proposed zone change would not make the subject property unable to be used for residential purposes in the future, the impact to the City's overall Comprehensive Plan is minimal. Therefore there is a change in social condition, and demonstrates that this criterion is met. **CRITERION IS MET**
- d. The applicant states that the public is benefited by the proposed rezone of the subject property because the applicant's proposed use of the property provides a public need regarding the transportation of non-ambulatory medical patients to medical providers. It supports services provided to medical providers and to patients in the area benefitting the public at large and the proposed re-zone would bring the applicant's existing use of the property in this manner into conformance with the City Zoning Code. Rezoning to a zone to match the surrounding properties within the same block to the west, would not be considered as the granting of a special privilege for a single property or group of property owners. **CRITERION IS MET**
- e. As noted in the findings above, the subject properties sizes are more than adequate to demonstrate consistency with this criterion and the existing business will be required to meet all off street parking and landscape requirements under the new zone. **CRITERION IS MET**
- f. As noted in the findings above, the properties are properly related to streets and public facilities and the existing uses and services demonstrate that uses allowed in the proposed zone can be provided. **CRITERION IS MET**
- g. As noted in the findings above, uses of the property in the proposed zone is permitted and would not result in any additional significant increase in noise or other items over and above what already exists given the subject property and the surrounding properties' proximity to SW 4th Avenue. In addition, the principal permitted uses allowed in the RM-10 Zone do not lend themselves to significant increase in these areas of concern. The permitted uses are related to low volume

traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air, water or surrounding lands are minimized. **CRITERION IS MET**

**Final Conclusion: ALL CRITERIA ARE MET**

## **V. SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION**

A request a 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 Rezone of the subject property from RS-50 to RM-10, as set forth in **ACTION 2017-05-08RZ** be recommended for **APPROVAL** to the City Council, based on the information, findings and conclusions set forth in Sections I through IV above.

### B. Denial:

1. I move that the request for Rezone of the subject property from RS-50 to RM-10, as set forth in **ACTION 2017-05-08RZ** be recommended for **DENIAL** to the City Council, based on the information, findings and conclusions set forth in Sections I through IV above.

## **Testimony by Proponents:**

Brian Defonzo, Ontario, Yturri Rose attorney for Sheba Holdings, LLC, the owner of the property and applicant. He stated that the property was near a busy Avenue, SW 4<sup>th</sup> Avenue, which lent itself well to being rezoned with the mix of both commercial and residential zones. The business was used for medical transportation.

Chairman Poole asked if there was walk in traffic going to the location.

Mr. Defonzo answered that the business was mainly used for medical transportation of patients.

Commissioner Hall asked how many vehicles were associated with the business.

Mr. Defonzo stated that 10 vehicles were parked in back of property at night.

Commissioner Twombly asked about speed of growth of the business and if more parked vehicles were expected.



Mr. Defonzo commented that business would more than likely grow and that his clients would be working on creating more off-street parking.

Chairman Poole asked about the limit of off street parking.

Mr. Cummings stated that all businesses were required to provide off street parking. The proponent would have to provide a site plan that included employee parking. The site would restrict how large the parking lot could be.

Commissioner Twombly asked if the whole lot could be paved.

Mr. Cummings answered that the City requirement would be 6% landscaping of total lot area, 65% green and growing. The applicant would still need to meet the landscaping requirement.

**Testimony by Opponents:**

Bill Thompson, Ontario, wanted to let the Planning Commission know that he was in opposition. He felt that the business was non-conforming with the surrounding areas being residential.

Kathyn Alvarado, Ontario, was opposed to the action. She is the owner and rents the property next to the shuttle service and was concerned for the safety of her tenant's children.

Chairman Poole read a couple letters into the record of opponents (one from Bill Thompson's daughter).

Cindy McLeran asked Mr. Alvarado about cars on road.

Mr. Cummings said that Ms. Alvarado came in his office 2 or 3 times. He explained that the shuttle service had recently worked hard to keep the cars off the city streets. The applicant had applied for a permit.

Ms. Alvarado asked to see a parking plan for the shuttle service.

Mrs. Pienaar, co-owner, spoke as a proponent of the business. She stated that their drivers worked hard to keep the neighborhood safe and had special training and background checks to ensure it. Since 2008 when the business began, there had been three calls complaining about the drivers.

Chairman Poole closed the hearing.

Commissioner Hall asked Mr. Cummings that if the action were approved, would the proponent have to add sidewalks on both sides and would both streets have ingress and egress.

Mr. Cummings would check to see if parking lot development would trigger those requirements. This may also include an ADA ramp. He added that no one should park within 20' from the corner radius by current regulations.

Chairman Poole asked about yellow striping.

Mr. Cummings commented that there were certain areas in the city designated as no parking areas and that area was not one of them.

Mr. Cummings also stated that a residential zone of RM-10 would limit the businesses use more than rezoning to a commercial zone.

Mr. Thompson had a question about parking within 20' of the corner.

Mr. Cummings answered that it would be code enforcement problem.

Commissioner Twombly commented that it was a commercial operation surrounded by residential.

Mr. Cummings showed the area and spoke of drainage, curb, gutter, sidewalk, System Development Charges, extensive site plan, ADA ramp, etc. would be required.

**Commissioner Hall moved that action be tabled until the Planning Commission was provided with a plot plan.**

A lady in the audience commented about the traffic accidents at those intersections.

Mr. Cummings suggested a deadline be set.

Commissioner Hall amended the motion to allow 180 days to come up with an engineered site plan showing all of the required components.

Mrs. Pienaar commented that the crossings near her were not as dangerous as other crossings in the City of Ontario.

John Hall moved, seconded by Cindy McLeran, to table the motion until the additional requested information was received within a 180 day deadline. Roll call vote: Smith-out; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/1/0.

## **REPORTS**

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

## **ADJOURN**

Cindy McCleran moved, seconded by Max Twombly, to adopt the Agenda. Roll call vote: Smith-out; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-yes; Newman-yes; Poole-yes. Motion carried 6/1/0.

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Ralph Poole  
Chairman

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Attest: Marcy Siriwardene  
Planning & Zoning Technician