

**PLANNING COMMISSION MEETING MINUTES**

**Monday  
November 6, 2017**

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

City Staff present were Dan Cummings, Community Development Director and Marcy Siriwardene, Planning and Zoning Technician. Adam Brown, the City Manager, was present as well.

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 October 30, 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 Craig Smith, to adopt the amended Agenda. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-yes; Poole-out. Motion carried 5/2/0.

**NOMINATION OF PLANNING COMMISSION VICE-CHAIRMAN**

Craig Smith moved, seconded by John Hall, to nominate Max Twombly as Vice-Chairman. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-yes; Poole-out. Motion carried 5/2/0.

**ADOPTION OF MINUTES**

John Hall moved, seconded by Richard Newman, to adopt the minutes of July 10, 2017. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-yes; Poole-out. Motion carried 5/2/0.

**Presentation by Adam Brown, City of Ontario City Manager.**

Adam Brown gave an update on the new program for the housing incentive program. The City of Ontario's new residential construction amounts are much lower than across the river and the City Council wanted to give an incentive to new home builders (owners or builders) to build their home in Ontario. The program would use the City's Business Revolving Loan Fund to offer a \$10,000 cash incentive. An agreement would be made upfront and when a Certificate of Occupancy was issued, the person would receive \$10,000. Mr. Brown welcomed comments and suggestions from the Planning Commissioners.

Commissioner Hall asked if the funds would benefit the homeowner or the builder.

Mr. Smith answered that it was more of an incentive to get builders over.

Mr. Cummings added that he would assume that the incentive would be offered to the home owner if he were building his own home as well.

Mr. Hall commented that either way it would benefit both the homeowner and builder.

Mr. Twombly asked if there were buildable lots for the program. There were.

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Mr. Cummings said that there were some buildable lots around town including Sage Ridge Place Subdivision but not a lot of buildable lots in the city.

Mr. Brown commented that there was around \$460,000 in the Revolving Loan Fund.

Mr. Twombly asked about the time limit for the program.

Mr. Brown answered that there had not been an ending date discussed although it may be reevaluated after a certain amount of years.

**PUBLIC HEARING 2017-08-16AZ-A REQUEST FOR ANNEXATION AND REZONE OF A PARCEL OF LAND BEING LOCATED AT 510 SE 13<sup>TH</sup> STREET. IF APPROVED, THIS ACTION WILL RESULT IN THE ANNEXATION OF 0.39 ACRES OF LAND INTO THE CITY OF ONTARIO; AND, THE REZONING OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA GENERAL COMMERCIAL (UGA C-2) TO THE CITY GENERAL HEAVY COMMERCIAL (C-2H) ZONE. THE APPLICANT IS CHARLES OAKES, ORGANIZER AND PROPERTY OWNER IS E.O. INVESTMENTS LLC.**

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.

Mr. Cummings presented the following staff report:.

**II. SUMMARY & BACKGROUND:**

The applicants own lots in the Ridgeview subdivision, known as 18S4711BC, tax lot 800. The applicants wish to annex and rezone the property into the City for future development. This application, if approved, will result in the annexation of 0.39 plus the right of way for SE 5<sup>th</sup> Avenue and SE 13<sup>th</sup> Street of land into the City and a rezone of the property from Urban Growth Area General Commercial (UGA C-2) to City General Heavy Commercial (C-2H).

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 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.
- b. The subject properties are currently zoned UGA C-2 (General Commercial) and the request is to rezone to the companion City C-2H (General Heavy Commercial) 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.
- e. The subject property is adequate in size and shape for the proposed use to be rezoned from UGA Commercial to City C-2H General Heavy Commercial.
- f. The property owner of tax lot 800 proposes future development and is requesting annexation and rezoning for timely redevelopment of the property in the near future. City Water and Sewer is available adjacent to the property on the west in SE 13<sup>th</sup> Street and City water is available adjacent to the property on the north in SE 5<sup>th</sup> Avenue. City fire and police services will be available upon annexation for the property.  
Additional right of way for SE 5<sup>th</sup> Avenue and SE 13<sup>th</sup> Street will be a requirement of this annexation process and will be granted to the City prior to final approval of the Annexation order. City streets, including curb, gutter, sidewalks and public utilities will be deferred under a Deferred Improvement Agreement (DIA) being recorded prior to or concurrent with final approval of this action.
- 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 commercial 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 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 Commercial use in the Urban Growth Area; the requested zone, City General Heavy Commercial (C-2H), 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 commercial 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 C-2 General Commercial to C-2H City General Heavy Commercial, as set forth in **ACTION 2017-08-16AZ** 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 C-2 General Commercial to City C-2H General Heavy Commercial, as set forth in **ACTION 2017-08-16AZ** be

recommended for **DENIAL** to the City Council, based on the information, findings and conclusions stated below:

**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 owner of the property dedicated to the City of Ontario the required additional 5 feet of right of way along SE 5<sup>th</sup> Avenue for 35 feet of right of way adjacent on the north of this property and an additional 10 feet of right of way along SE 13<sup>th</sup> Street for 30 feet of right of way adjacent to the west of this property as both are measured from the sectional line/centerline of the street.
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.

Mr. Cummings explained that the applicants wanted to defer the street improvements of SE 5<sup>th</sup> Avenue and SE 13<sup>th</sup> Street until further development in the area. He said that the Deferred Improvement Agreement would be written as part of the Ordinance.

Mr. Hall asked what would trigger the street improvements.

Mr. Cummings answered that there were several triggers: the development of that parcel that would necessitate the street improvements due to increased traffic. Also, if an LID were formed, and development of the surrounding properties would also trigger the street improvements. The City would determine when the street improvements would need to happen.

Mr. Smith asked if both streets had to be developed at the same time.

Mr. Cummings said that they could be done at separate times, depending on the development. Also, some property would have to be dedicated for the remainder of the right of way.

**Testimony by Proponents: The applicant (Mr. Oakes) stated that the annexation and rezone was straight forward and that he would be available for questions.**

**Testimony by Opponents: There were no opponents.**

**ADOPTION OF ANNEXATION**

John Hall moved, seconded by Richard Newman, to annex the subject property into the City of Ontario, and the request for Rezone of the subject properties from UGA C-2 General Commercial to City C-2H General Heavy Commercial as set forth in Action 2017-08-16AZ. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-yes; Briedenbach-out; Newman-yes; Poole-out. Motion carried 5/2/0.

**REPORTS**

Mr. Cummings presented the quarterly City of Ontario Community Development Report. This included the building permit activity for the City of Ontario. He also explained that he had recently done a comparison of development permits and new residential home costs of several different jurisdictions.

Options were being discussed for the vacant airport property.

Mr. Brown commented that an option would be to use it for an aviation compatible industrial park. He had met with Business Oregon recently to go over possibilities. One possibility would include TVCC programs. ADA bathrooms and interior remodeling were being discussed.

Mr. Cummings gave an update on the ongoing development of the West Park Plaza and the Sprinter Shuttle service.

**ADJOURN**

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

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Max Twombly  
Vice-Chairman

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Attest: Marcy Siriwardene  
Planning & Zoning Technician

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