

Memo

DATE: 10/7/2020
TO: Planning Commissioners
FROM: Derek Severson, Senior Planner
RE: Findings Adoption for Grand Terrace Annexation

In discussing the findings for the Grand Terrace Annexation at 1511 Highway 99N last month, the Commission had looked at removing all conditions relative to specific utility or transportation improvements because the annexation request does not include a concurrent development proposal, and those details will need to be reviewed and approved in conjunction with a future Site Design Review for a specific development proposal.

In making these changes, staff has some concern that without some requirement to complete the frontage improvements and utility extensions to at least the level described in the application as a condition of annexation, a future developer could argue that these improvements – *including 0.63 miles of new sidewalk, which is well beyond what would typically be required at Site Review* - were not required with annexation and are not proportional to the development proposed for a property within the city, and could rely on state needed housing statutes to support such an argument.

As such, staff would recommend that the Commission consider including a condition similar to the following in their recommendation to the City Council: *“That to address the annexation approval criteria and standards that adequate transportation and city facilities be provided, at a minimum any future development of the property shall require completion of the street frontage improvements, including but not limited to sidewalks and a bus stop, and the extension of utility infrastructure as described in 2.3 above at the owner’s expense, in addition to any improvements necessary to serve the future development of the property.”*



- B.** *The proposed zoning for the annexed area is in conformance with the designation indicated on the Comprehensive Plan Map, and the project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*
- C.** *The land is currently contiguous with the present city limits.*
- D.** *Adequate City facilities for the provision of water to the site as determined by the Public Works Department; the transport of sewage from the site to the waste water treatment plant as determined by the Public Works Department; the provision of electricity to the site as determined by the Electric Department; urban storm drainage as determined by the Public Works Department can and will be provided to and through the subject property. Unless the City has declared a moratorium based upon a shortage of water, sewer, or electricity, it is recognized that adequate capacity exists system-wide for these facilities.*
- E.** *Adequate transportation can and will be provided to and through the subject property. For the purposes of this section "adequate transportation" for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*
 - 1.** *For vehicular transportation a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.*
 - 2.** *For bicycle transportation safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.*
 - 3.** *For pedestrian transportation safe and accessible pedestrian facilities exist or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.*

4. *For transit transportation, should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.*
- F.** *For all residential annexations, a plan shall be provided demonstrating that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The owner or owners of the property shall sign an agreement, to be recorded with the county clerk after approval of the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan. For purposes of computing maximum density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent, shall not be included.*
- G.** *Except as provided in 18.5.8.050.G.7, below, annexations with a density or potential density of four residential units or greater and involving residential zoned lands, or commercial, employment or industrial lands with a Residential Overlay (R-Overlay) shall meet the following requirements.*
1. *The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein.*
 - a. *Ownership units restricted to households earning at or below 120 percent the area median income shall have an equivalency value of 0.75 unit.*
 - b. *Ownership units restricted to households earning at or below 100 percent the area median income shall have an equivalency value of 1.0 unit.*
 - c. *Ownership units restricted to households earning at or below 80 percent the area median income shall have an equivalency value of 1.25 unit.*
 - d. *Ownership or rental units restricted to households earning at or below 60 percent the area median income shall have an equivalency value of 1.5 unit.*
 2. *As alternative to providing affordable units per section 18.5.8.050.G.1, above, the applicant may provide title to a sufficient amount of buildable land for development complying with subsection 18.5.8.050.G.1.b, above, through transfer to a non-profit (IRC 501(3)(c) affordable housing developer or public corporation created under ORS 456.055 to 456.235.*

- a. *The land to be transferred shall be located within the project meeting the standards set forth in 18.5.8.050.G, subsections 4 - 6.*
 - b. *All needed public facilities shall be extended to the area or areas proposed for transfer.*
 - c. *Prior to commencement of the project, title to the land shall be transferred to the City, an affordable housing developer which must either be a unit of government, a non-profit 501(C)(3) organization, or public corporation created under ORS 456.055 to 456.235.*
 - d. *The land to be transferred shall be deed restricted to comply with Ashland's affordable housing program requirements.*
3. *The affordable units shall be comparable in bedroom mix and housing type with the market rate units in the development.*
- a. *The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate units. The minimum square footage of each affordable unit shall comply with the minimum required floor based as set forth in Table 18.5.8.050.G.3.*

Table 18.5.8.050.G.3

| <i>Unit Type</i> | <i>Minimum Required Unit Floor Area (Square Feet)</i> |
|------------------|---|
| <i>Studio</i> | <i>350</i> |
| <i>1 Bedroom</i> | <i>500</i> |
| <i>2 Bedroom</i> | <i>800</i> |
| <i>3 Bedroom</i> | <i>1,000</i> |
| <i>4 Bedroom</i> | <i>1,250</i> |

- b. *The required on-site affordable units shall be comprised of the different unit types in the same proportion as the market dwelling units within the development.*

4. *A development schedule shall be provided that demonstrates that that the affordable housing units per subsection 18.5.8.050.G shall be developed, and made available for occupancy, as follows.*
 - a. *That 50 percent of the affordable units shall have been issued building permits prior to issuance of a certificate of occupancy for the last of the first 50 percent of the market rate units.*
 - b. *Prior to issuance of a building permit for the final ten percent of the market rate units, the final 50 percent of the affordable units shall have been issued certificates of occupancy.*
5. *That affordable housing units shall be distributed throughout the project*
6. *That affordable housing units shall be constructed using comparable building materials and include equivalent amenities as the market rate units.*
 - a. *The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units*
 - b. *Affordable units may differ from market-rate units with regard to interior finishes and materials provided that the affordable housing units are provided with comparable features to the market rate units, and shall have generally comparable improvements related to energy efficiency, including plumbing, insulation, windows, appliances, and heating and cooling systems.*
7. *Exceptions to the requirements of 18.5.8.050, subsections G.2 – G.5, above, may be approved by the City Council upon consideration of one or more of the following.*
 - a. *That an alternative land dedication as proposed would accomplish additional benefits for the City, consistent with the purposes of this chapter, than would development meeting the on-site dedication requirement of subsection 18.5.8.050.G.2.*
 - b. *That an alternative mix of housing types not meeting the requirements of subsection 18.5.8.050.G.3.b would accomplish additional benefits to the City consistent with this chapter, than would the development providing a proportional mix of unit types.*

- c. *That the alternative phasing proposal not meeting subsection 18.5.8.050.G.4 provided by the applicant provides adequate assurance that the affordable housing units will be provided in a timely fashion.*
 - d. *That the distribution of affordable units within the development not meeting subsection 18.5.8.050.G.5 is necessary for development of an affordable housing project that provides onsite staff with supportive services.*
 - e. *That the distribution of affordable units within the development as proposed would accomplish additional benefits for the city, consistent with the purposes of this chapter, than would development meeting the distribution requirement of subsection 18.5.8.050.G.5.*
 - f. *That the materials and amenities applied to the affordable units within the development, that are not equivalent to the market rate units per subsection 18.5.8.050.G.6, are necessary due to local, State, or Federal Affordable Housing standards or financing limitations.*
8. *The total number of affordable units described in this section 18.5.8.050.G shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction or similar legal instrument shall be used to guarantee compliance with affordable criteria for a period of not less than 60 years. Properties providing affordable units as part of the annexation process shall qualify for a maximum density bonus of 25 percent.*

H. *One or more of the following standards are met.*

- 1. *The proposed area for annexation is to be residentially zoned, and there is less than a five-year supply of vacant and redevelopable land in the proposed land use classification within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the Housing Element of the Comprehensive Plan.*
- 2. *The proposed lot or lots will be zoned CM, E-1, or C-1 under the Comprehensive Plan, and that the applicant will obtain Site Design Review approval for an outright permitted use, or special permitted use concurrent with the annexation request.*
- 3. *A current or probable public health hazard exists due to lack of full City sanitary sewer or water services.*
- 4. *Existing development in the proposed annexation has inadequate water or sanitary sewer service, or the service will become inadequate within one year.*

5. *The area proposed for annexation has existing City water or sanitary sewer service extended, connected, and in use, and a signed consent to annexation agreement has been filed and accepted by the City.*
6. *The lot or lots proposed for annexation are an island completely surrounded by lands within the city limits.*

4) The Planning Commission, following proper public notice, held a public hearing on November 12, 2019 and electronic hearings on June 23, 2020 and July 28, 2020 at which time testimony was received and exhibits were presented. Subsequent to the closing of the hearing, the Planning Commission recommended that the City Council approve the Annexation request subject to a number of conditions, and that the Council direct staff to work with the Oregon Department of Transportation to initiate a speed study and advocate for a reduction in the speed limit on the adjacent state highway corridor.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

SECTION 2. FINDINGS & CONCLUSIONS

2.1 The Planning Commission finds that it has received all information necessary to make a recommendation to the City Council based on the staff report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the proposal for Annexation meets the applicable criteria in AMC 18.5.8.050 with two exceptions. First, as discussed in 2.3 below, with regard to affordability requirements in AMC 18.5.8.050.G, the calculations provided exclude constrained lands from the initial calculation. The application argues that both state and city regulations do not consider these to be buildable lands, and that similar exclusions have been allowed in past applications. The exclusion of constrained lands is allowed in the code when calculating minimum density, but there is no similar provision with regard to affordability calculations. To comply with the Annexation criteria in the ordinance as presently written, the number of affordable units would need to be increased to account for the full area of the subject properties

in the calculation. The Planning Commission recognizes that the Council will soon be considering legislation which would address this issue, and could opt to consider the action in light of the new regulations.

Second, while the annexation criteria require that *“All streets located within annexed areas shall be fully improved to City standards”* the improvements outlined in the proposal do not comply with City street standards. Along the property’s immediate frontage, the application proposes city standard improvements except where the sidewalk must be pushed to curbside to accommodate the installation of a bus pull-out lane associated with a new southbound bus stop, and while the application proposes approximately 0.63 miles of new sidewalk to connect to existing sidewalks to the north and south, due to physical constraints in the form of roadside ditches and limited right-of-way, standard parkrow planting strips with street trees cannot be installed. The application includes arguments in support of an Exception to the Street Standards. The Planning Commission finds that while an Exception may be merited here, such a request cannot be considered independently from a Site Design Review proposal as the Annexation criteria by themselves make no allowance for exceptions. Absent a concurrent development proposal, the Council could exercise its legislative discretion to accept the improvements as proposed.

2.3 The Planning Commission notes that the approval standards for an Annexation require that the subject property be located within the City's Urban Growth Boundary, that the proposed zoning for the annexed area be in conformance with the Comprehensive Plan Map designation, and that the land be currently contiguous with the present city limits. In this instance, the subject property is located within the city’s Urban Growth Boundary, and the requested R-2 zoning is consistent with the site’s Comprehensive Plan designation of “Multi-Family Residential.” While Site Design Review approval is not currently requested for development of the site, a conceptual multi-family development plan is provided to demonstrate how the property could be developed to the required minimum density in keeping with applicable standards.

The two subject parcels are separated from the current city limits by the railroad property, however AMC 18.5.8.060 provides that *“When an annexation is initiated by a private individual, the Staff Advisor may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City. The Staff Advisor, in a report to the Planning Commission and City Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Commission and Council to make annexations extending the City’s boundaries more logical and orderly.”* The Staff Advisor has accordingly included both the adjacent railroad property and the Oregon Department of Transportation (ODOT) right-of-way for Highway 99N as allowed in AMC 18.5.8.060 to provide a more logical and orderly boundary, noting that if the railroad property were to remain as a barrier, all of the property within the Urban Growth Boundary (UGB) to the north of the current city limits could not be annexed, and the inclusion of the ODOT highway right-of-way enables the necessary extension of urban services.

The Commission notes that the most recent public notices have included these properties, and notices were sent to their owners. Subsequent to receiving notice, ODOT has expressed agreement with the inclusion of their property while representatives of the railroad have indicated they do not wish to be

annexed. The Commission finds that as provided in state law (ORS 222.170), an annexation may be approved by consent through a public hearing, without requiring an election, when: more than one-half of the owners with land in the area to be annexed consent to the annexation; owners of more than one-half the land in the area to be annexed consent to the annexation; and that land represents more than one-half of the total assessed value in the area to be annexed. The Planning Commission finds that with the consent of the applicant and ODOT, the proposal to annex the subject properties, adjacent state highway right-of-way and railroad property recommended by the Staff Advisor to achieve contiguity satisfies the requirements for annexation under state law and can be approved despite the Railroad's objection.

Public Facilities

The Commission further notes that annexation requests must demonstrate that adequate public facilities can and will be provided to and through the subject property. With regard to specific public facilities:

- **Water:** The Water Department has noted that the property is not currently served by a water main, and a new main will need to be installed to connect to the existing city water system. The nearest point of connection is the intersection of North Main Street and Highway 99 North. The application notes that water lines to service the property are proposed to be extended, and indicates that these will be adequately sized to provide water pressure for residential service and fire suppression systems. The Water Department has indicated that with extension of a new main, there will be adequate supply of potable water available to the site subject to the following:
 - Extension of the existing 12-inch main line at a location uphill and south of the site, between Fox & Schofield Streets, to a location north of the railroad trestle at the site's northernmost driveway.
 - Given high water pressures (160+ psi) at the low-end of the city system, a pressure reducing valve (PRV) will be necessary at the point of connection. PRV's may be necessary for individual buildings with subsequent development as well.
 - Water meter placement must be within the public right-of-way and within the city limits, and as such the proposed annexation needs to extend at least to centerline of the adjacent ODOT right-of-way.
 - The applicant will need to work with the Bureau of Reclamation (BOR) on any necessary modifications to proposed site improvements and associated permitting to address the "Billings Siphon" irrigation easement and associated federal requirements.
 - The Water Department comments are limited to determining that adequate capacity can and will be extended to the subject properties to enable annexation, with on-site utilities to be considered with subsequent Site Review.
- **Sanitary Sewer & Storm Drainage:** City code requirements typically necessitate that all utilities transition to city services with Annexation, however in this instance the property is well outside and downhill of the city's sanitary and storm sewer systems, and a significant extension of new services would be needed and all sewage and stormwater would need to be pumped. There is a "Cooperative Agreement/Urban Services Agreement" in place between the City of Ashland, Jackson County and the Bear Creek Valley Sanitary Authority - now Rogue Valley Sewer Service (RVSS) - which dates to November 8, 1995 and which provides that with Annexation, the sewer district shall continue to provide an urban level of sanitary sewer and/or storm water services that it has historically provided

to territory within the district's existing limits and that the City and the sewer district may agree to joint provision of service to areas within the City or its UGB by contract, mutual agreement or other method. As proposed, RVSS will continue to provide these services to the subject properties per the 1995 agreement. Public Works has indicated that RVSS continuing to serve the property as allowed under the 1995 agreement is the most appropriate option and is acceptable here, and RVSS has confirmed that their sanitary sewer system has adequate capacity for the proposed development, and that there is an eight-inch main in the right-of-way due north of the project site.

On-site storm water drains to a roadside ditch that is within the state highway right-of-way and maintained by the Oregon Department of Transportation (ODOT). The application indicates that the future development of the property is required to be compliant with the regionally-adopted Rogue Valley Stormwater Design Manual, and further notes that the project Civil Engineers have performed preliminary stormwater generation calculations based on the maximum coverage areas in the zone and have proposed potential surface detention, and recognize that below-grade collection, detention and treatment will be necessary with the future development of the site. With the 1995 agreement, the existing sanitary and storm sewer services to the property would continue, but may need to be formalized with an intergovernmental agreement between the City, RVSS and ODOT to finalize the logistics of RVSS providing sewer and storm water service to the properties once they are annexed to the City.

- **Electric:** The application explains that the property is currently served by Pacific Power, but that with the development the property will be served by the City of Ashland Electric Department with the installation of new electrical infrastructure by the applicant. The application explains that there is presently low-voltage city electric service in place to power street and landscape lighting in and around the central median at the railroad trestle overpass. With the proposal, electric lines are to be provided in or adjacent to the highway right-of-way to provide adequate infrastructure to the proposed development and future development in the vicinity. The Electric Department has indicated that they have preliminarily approved the applicant's service plan which would provide the necessary capacity to serve anticipated future development of the property. They have further noted that this preliminary service plan does not consider how development would be served on site, and is limited to bringing necessary capacity to the property.

The Planning Commission finds that with the extension of city water and electrical infrastructure and utilization of Rogue Valley Sewer Services for storm water and sanitary sewer, adequate capacity of public facilities can and will be provided, with the understanding that the necessary infrastructure to serve future development of the property will be considered with Site Design Review.

Adequate Transportation

The Planning Commission notes that the annexation criteria include that, "*Adequate transportation can and will be provided to and through the subject property. For the purposes of this section 'adequate transportation' for annexations consists of vehicular, bicycle, pedestrian, and transit transportation meeting the following standards.*"

Vehicular Transportation

For vehicular transportation, the criterion requires that “...a 20-foot wide paved access exists, or can and will be constructed, along the full frontage of the project site to the nearest fully improved collector or arterial street. All streets adjacent to the annexed area shall be improved, at a minimum, to a half-street standard with a minimum 20-foot wide driving surface. The City may, after assessing the impact of the development, require the full improvement of streets adjacent to the annexed area. All streets located within annexed areas shall be fully improved to City standards. Where future street dedications are indicated on the Street Dedication Map or required by the City, provisions shall be made for the dedication and improvement of these streets and included with the application for annexation.”

The subject properties here front on Highway 99 North, sometimes referred to as the Rogue Valley Highway, which is a state highway under the jurisdiction of the Oregon Department of Transportation. Highway 99 North becomes North Main Street within the city limits south of the site. North Main Street is a boulevard or arterial as classified in the Transportation System Plan (TSP). City street standards for a boulevard or arterial street generally call for 11-foot motor vehicle travel lanes, a 12-foot median/center turn lane, six-foot bike lanes on each side, eight- to nine-foot parking lanes where on-street parking is appropriate, a six-inch curb, a seven- to eight-foot parkrow planting strip with irrigated street trees, and six-foot sidewalks. As it currently exists under the recent lane reduction, sometimes referred to as “The Road Diet”, Highway 99N has one motor vehicle travel lane in each direction separated by a single, shared center turn lane, and variable width bicycle lanes on the shoulder. There are currently no curbs, park rows or sidewalks in place along the property frontage, and roadside ditches are present in some locations. On the opposite side of the roadway, a guardrail is in place at the outside edge of the bike lane.

Transportation Impact Analysis (TIA)

The applicant’s traffic engineer, Kelly Sandow, P.E., has submitted a TIA and a supplementary technical memorandum which evaluates the transportation impacts of the proposal. Key findings of the TIA include:

- The TIA shows all studied intersections (Hwy 99N at South Valley View, Highway 99N at Jackson Road, North Main Street at Jackson Road, North Main Street at Maple Street, and Hwy 99N at the project access points) will meet the mobility standards through the Year 2034 with the addition of the traffic associated with anticipated development of the subject property.
- The addition of development traffic will not substantially increase queuing conditions over the background conditions. The TIA technical memo further explains that the recent reduction in through lanes with the road diet has resulted in increased queuing lengths when disruptions to traffic such as garbage trucks, stopped buses or cars stopping for pedestrians create back-up’s. No mitigation is recommended to address these queue lengths.
- All site driveways are projected to operate safely and efficiently.
- The TIA recommends that Highway 99N be restriped to include a left-turn lane for vehicles entering the site.

The TIA concludes that the Transportation Planning Rule (TPR) has been demonstrated to be met. After review of the TIA and the subsequent supplementary technical memo, the Oregon Department of Transportation (ODOT) which has jurisdiction over the roadway has accepted the TIA.

Access Easement

The Planning Commission notes that the one of the two access points to the property is to be provided via a 30-foot wide access easement and notes that there are no reservations or limitations noted upon this easement. The application further explains that there is a 25-foot wide right of access to the highway from the easement, and includes a survey noting the easement area along with the easement language. The Planning Commission finds that while the adjacent property owners have raised questions as to the original intent underlying the granting of the easement, it is not the Commissioners' role to analyze this historical intent but rather to determine if a legitimate easement is now in place to support a finding that adequate transportation can and will be provided.

The Planning Commission finds that while city standards generally seek a gridded, interconnected street system within and through the development that provides for broader connectivity, the presence of the railroad tracks along one boundary of the subject properties combined with site topography prevents connection to the adjacent street system. In this instance, multi-family zoned property is not required to provide a dedicated public street with development (AMC 18.4.6.040.C.1) and no dedications are identified through the subject properties on the current Street Dedication Map, however AMC 18.4.3.080.C.3.d does require that two driveway access points be provided if a multi-family development will generate over 250 trips per day as is the case here. The Planning Commission finds that the intent of this standard is to provide options for the orderly flow of traffic into and out of the site, and here, two driveways are proposed, and the supplementary technical memo to the Traffic Impact Analysis (TIA) indicates that ODOT will be permitting unrestricted turning movements at both driveways – allowing both right-in/right-out and left-in/left-out movements. With development of the site, a future application will need to respond to the approval criteria and associated standards dealing with parking, access and circulation including vehicle area design and pedestrian access and circulation standards.

The Planning Commission finds that Highway 99N is the only street within or adjacent to the proposed annexation, and while the annexation criteria require that “*All streets located within annexed areas shall be fully improved to City standards,*” the Highway 99N improvements described in the application do not comply with City street standards. Along the property's immediate frontage, the application proposes city standard improvements except where the sidewalk must be pushed to curbside to accommodate the installation of a bus pull-out lane associated with a new southbound bus stop, and while the application proposes approximately 0.63 miles of new sidewalks to connect to existing sidewalks to the north and south, due to physical constraints in the form of roadside ditches and limited right-of-way standard parkrow planting strips with street trees cannot be installed with those connections. The application includes findings in support of an Exception to the Street Standards. The Commission finds that while an Exception may be merited, such a request would not be considered independent from a Site Design Review proposal as the annexation criteria do not provide for exceptions, however the Council could exercise its legislative discretion to accept the improvements as proposed.

Bicycle Transportation

For bicycle transportation, the approval criterion is that, “...safe and accessible bicycle facilities exist, or can and will be constructed. Should the annexation be adjacent to an arterial street, bike lanes shall be provided on or adjacent to the arterial street. Likely bicycle destinations from the project site shall be determined and safe and accessible bicycle facilities serving those destinations shall be indicated.” The Planning Commission finds that Highway 99N is classified as a boulevard or arterial street in the Transportation System Plan, and that there are existing bike lanes in place which are to be retained with the proposal.

Pedestrian Transportation

The pedestrian transportation criterion is that, “... safe and accessible pedestrian facilities exist or can and will be constructed. Full sidewalk improvements shall be provided on one side adjacent to the annexation for all streets adjacent to the proposed annexed area. Sidewalks shall be provided as required by ordinance on all streets within the annexed area. Where the project site is within a quarter of a mile of an existing sidewalk system, the sidewalks from the project site shall be constructed to extend and connect to the existing system. Likely pedestrian destinations from the project site shall be determined and the safe and accessible pedestrian facilities serving those destinations shall be indicated.”

Frontage Improvements

The Planning Commission notes that the application details frontage improvements which mix city-standard treatments with a parkrow planting strip between the curb and sidewalk, and curbside sidewalk installations to connect the existing sidewalks from the north of the site in the county to the south within the city. The sidewalk installation proposed equates to approximately 0.63 miles. A city standard sidewalk and parkrow configuration is proposed along the subject properties’ frontage, except where the installation of a proposes bus pull-out lane and bus shelter necessitate an eight-foot curbside sidewalk. Beyond the frontages, curbside sidewalks are proposed where the right-of-way is constrained by right-of-way width, slopes, or existing improvements. The application proposes to place either an ODOT-standard cobra-head style street light or a City-standard pedestrian-scaled streetlight near the improved driveway apron, and a total of five additional street lights are proposed to be installed along the property frontage. The application includes Exception findings to address those areas of sidewalk that aren’t designed to city street standards, but as noted above the Annexation criteria do not provide for exceptions and as such they cannot be approved independently of a development proposal. The application details specific sidewalk sections in terms of the station numbers on the civil drawings.

- **Stations 1-16 (North of Land of Paws):** An 8-foot curbside sidewalk is proposed. The application explains that there is a large roadside ditch and private property belonging to Anderson Autobody which prevent standard parkrow installation, and further notes that this curbside sidewalk will connect to the curbside sidewalk to the north of the subject properties.
- **Stations 16-23:** A 3-foot bike buffer, 6-foot bike lane, 7-½ foot parkrow, and 6-foot sidewalk are proposed along this section of the property frontage.

- **Stations 23-27:** A bus turn-out lane, bus stop and 8-foot curbside sidewalk are proposed along this section of the property frontage. The parkrow here has been displaced by the proposed bus turn-out lane.
- **Station 27-34:** A 3-foot bike buffer, 6-foot bike lane, and curbside sidewalk are proposed. The application explains that this section is physically constrained by a steep roadside embankment and by the existing railroad trestle, and submittal materials have shown the sidewalk at varying widths in this area, however ODOT has indicated that for a state facility, a 6-foot sidewalk is the minimum acceptable width under the railroad trestle.
- **Station 34 – Schofield/North Main:** A 6-foot bike lane, 7½ -foot parkrow and 6-foot sidewalk are proposed in this section.

Speed reduction

The Planning Commission notes that the application suggests that with a change in roadside culture through annexation and the introduction of higher density residential development, driving habits on the corridor may change. They further suggest that after improvements are made, a formal speed study to seek a reduction in highway speeds could be undertaken and if speeds are ultimately reduced and pedestrian volumes increase, marked crossings could potentially be approved by the Oregon Department of Transportation (ODOT).

The Planning Commission notes that ODOT has indicated that the TIA is satisfactory, that the bus lane is satisfactory with a slight adjustment to its taper, and that they support a median cut to provide a pedestrian refuge at North Main Street and pedestrian crossing signage. ODOT has further indicated that they are satisfied with bicycle and pedestrian facilities as proposed, emphasizing the need for at least a six-foot sidewalk under the trestle; and that ODOT permits will be required to complete improvements. ODOT has also noted that they will need to review and approve final storm-drainage engineering at Site Review since storm drainage is to outflow into a ditch in the ODOT right-of-way.

The Planning Commission recognizes that ODOT has jurisdiction on this state highway with regard to issues including highway markings for pedestrian crossings and speed limits, and that a request to initiate a speed study will ultimately need to be made by the City to ODOT. Planning and Engineering staff have indicated that preliminary discussions with ODOT staff have begun and that ODOT is open to conducting a speed study, which has not been done for this corridor since the lane reconfiguration (“The Road Diet”) completed a few years ago. The Planning Commission recommends that with any Annexation approval here, the City Council direct staff to work with ODOT to initiate a speed study and that the city strongly advocate for a speed reduction to make the corridor a more pedestrian, bicycle and transit friendly facility.

Transit Transportation

For transit transportation, the criterion is that, “... should transit service be available to the site, or be likely to be extended to the site in the future based on information from the local public transit provider, provisions shall be made for the construction of adequate transit facilities, such as bus shelters and bus turn-out lanes. All required transportation improvements shall be constructed and installed prior to the issuance of a certificate of occupancy for any new structures on the annexed property.”

Southbound RVTB Bus Stop

The Planning Commission finds that the applicant has worked with Rogue Valley Transportation District (RVTB), the RVTB Bus Stop Committee and the Oregon Department of Transportation (ODOT) to provide design details for a new southbound RVTB bus stop on the subject property's frontage to include a bus turn-out lane, bus shelter with lighting, sidewalk, accessible loading pad and accessible route to the site, any necessary retaining, and a merge lane for the bus to re-enter the travel lane at an appropriate speed. Exhibit C.4 of the application illustrates the proposed bus turn-out lane, shelter and street light placement, and a proposed walkway connecting from the shelter onto the project site.

Northbound RVTB Bus Stops

The Planning Commission finds that there are two existing northbound RVTB "flag stops" within 1,800-2,000 feet of the property, with one near the intersection of North Main Street and Highway 99N and the other near Valley View and Highway 99N. The application indicates that the potential for enhancing crossings in these locations has been explored, but further notes that ODOT has determined that new striping, rectangular rapid flash beacons (RRFB's) or similar treatments are not appropriate given the observed traffic speeds, traffic volumes, sight and stopping distances when weighed against the anticipated number of pedestrians. The application further indicates that ODOT does support a median refuge at the intersection of North Main and Highway 99N along with "Pedestrian Crossing" signage.

The Planning Commission concludes that the subject property is within a Transit Supportive Area in the RVTB 2040 Transit Master Plan as the property is within the "quarter-mile walkshed" of transit stops, which typically equates to a five-minute walk at a normal pace, and that a new southbound stop along their property's frontage will be provided to support transit use by future residents of the property.

Transportation Conclusions

In considering Annexations, the approval criteria call for all streets within the annexed area to be fully improved to city street standards, and all adjacent streets to be improved to at least a half-street standard. The criteria make no provision for Exceptions. The application as proposed does not meet these street standards. In the area to be annexed, the property's immediate frontage is proposed with city standard improvements except where the sidewalk must be pushed to curbside to accommodate the installation of a bus pull-out lane associated with a new southbound bus stop. On Highway 99N adjacent to the area to be annexed, the application proposes approximately 0.63 miles of new sidewalk to connect to existing sidewalks to the north and south, but due to physical constraints in the form of roadside ditches and limited right-of-way, city standard park row planting strips with street trees cannot be installed. The application includes findings to support an Exception to the Street Standards, and while an Exception may be merited it is not an option under the Annexation criteria and cannot be considered independently of a formal development proposal for the site.

The proposal includes the installation of roughly 3,340 linear feet – or 0.63 miles - of sidewalk connecting from the existing sidewalk terminus near El Tapatio restaurant south into the city limits to the existing sidewalk at Schofield Street; the installation of a new bus stop with pull-out and merging lane; and improvements to the crossing from North Main Street across Highway 99N to the northbound RVTB flag stop to include an improved median refuge and pedestrian crossing signage. In considering the adequacy of the proposed transportation facilities, the Planning Commission notes that the Transportation

Commission had expressed concerns with pedestrians headed to the northbound bus route and cyclists turning north on the highway without additional crossing improvements or a speed reduction. In the Planning Commission's site visit to the property, Commissioners raised similar concerns. For the Planning Commission, the application illustrates what can currently be done to provide adequate transportation within the existing constraints of the state highway. Staff has indicated that ODOT is open to a speed study to determine whether a reduction in the posted speed limit is feasible, and in the Commission's view, such a study should be initiated by the city with annexation in conjunction with strong advocacy for a speed reduction from Valley View to the existing city limits to yield an environment that is better suited to bicyclists, pedestrians and transit users.

Minimum Density

The Planning Commission notes that for all residential annexations, a plan is required to be provided to demonstrate that the development of the entire property will ultimately occur at a minimum density of 90 percent of the base density for the zone, unless reductions in the total number of units is necessary to accommodate significant natural features, topography, access limitations, or similar physical constraints. The code further provides that for purposes of computing density, portions of the annexed area containing undevelopable areas such as wetlands, floodplain corridor lands, or slopes greater than 35 percent, shall not be included. To ensure compliance with this requirement, the code also requires that the owner sign an agreement for recording with the annexation, ensuring that future development will occur in accord with the minimum density indicated in the development plan.

The Planning Commission finds that after excluding undevelopable areas due to significant natural features and physical constraints posed by slopes exceeding 35 percent, the riparian drainage area, and the wetland area and its buffer zone, the developable area of the property is 13.75 acres. For the proposed R-2 zoning, the base density for 13.75 acres is 185.625 dwelling units and the minimum density is 167 dwelling units (13.75 acres x 13.5 dwelling units/acre = 185.625 dwelling units x 0.90 minimum density = 167.0625 dwelling units). The application notes that the property owner will sign an agreement with annexation that future development will occur in accord with this minimum density, and includes a conceptual development plan with building designs, site lay-out and findings to demonstrate how this could be achieved on site.

Affordability Requirement

The Planning Commission notes that annexations are required to demonstrate that they will meet the affordability requirements set forth in AMC 18.5.8.050.G., which generally requires that the total number of units shall equal or exceed 25 percent of the base density of the subject property. The application explains that the project is proposed as rental units and that the affordable rental units will be restricted to 60 percent of the area median income (AMI) as provided in AMC 18.5.8.080.G.1. At this level, each rental unit provided counts as 1.5 units for the purposes of meeting the standard, and the application explains that these type units will be provided with the future Site Design Review for multi-family development of the property. The affordable units are to be evenly dispersed through the development and will be of a comparable bedroom mix to the market rate units, and it is anticipated that 12 of the future buildings would contain two units each while two of the future buildings would contain three units each for a total of 30 affordable units. The application notes that they envision the future development to consist of 28 two bedroom units and 168 one bedroom units of around 500 square feet in area.

The Planning Commission further notes that AMC 18.5.8.050.G.1 requires that, “*The total number of affordable units provided to qualifying buyers, or to qualifying renters, shall be equal to or exceed 25 percent of the base density as calculated using the unit equivalency values set forth herein.*” The application excludes lands constrained by hillside slopes, water resource protection zones for streams or wetlands, and lands with significant natural features from the initial base density calculation, arguing that both state and city regulations do not consider these to be buildable lands, and that similar exclusions have been allowed in past applications. The Planning Commission finds that while there is a provision which allows for the exclusion of constrained lands (*hillsides, water resource protection zones for streams and wetlands, and lands with significant natural features*) when calculating the minimum density of a property, the ordinance currently has no similar provision to exclude these lands from the base density when calculating the required number of affordable units for annexation.

The Planning Commission recognizes that the Council is considering legislation which would resolve this issue, but the Commission finds that to comply with the ordinance as presently written, the number of affordable units required with annexation of the property would need to be increased to account for the full base density of the subject properties. The R-2 subject properties here have a base density of 13.5 dwelling units per acre, which for this 16.87 acre property equates to a 227.75 dwelling unit base density and would require 56 affordable dwelling units, or 37 units offered at 60 percent of area median income (AMI), rather than the 30 affordable units at 60 percent AMI proposed in the application.

Five-Year Supply

The Planning Commission notes that the final annexation criterion is that one or more of the standards in AMC 18.5.8.050.H. are met. Of these, the applicable standard addressed with the current proposal is a demonstration that there is less than a five-year supply of vacant and re-developable land in the proposed land use classification within the current city limits. The application provides detail based on city data which notes there is a 4.8-year supply of available Multi-Family Residential land combined between the R-2 and R-3 zones. The Planning Commission finds that the area is envisioned and proposed for annexation as Multi-Family Residential, and based on city data in the Housing Element and Buildable Lands Inventory there is less than a five-year supply of available Multi-Family Residential zoned land.

2.4 The Planning Commission notes that the application submittal includes written findings responding to AMC 18.5.9.020 to address a Zoning Map Amendment for the zone change from the current County zoning of RR-5 (Rural Residential) to the City’s R-2 (Low Density, Multi-Family Residential) zoning, which is consistent with the properties’ Comprehensive Plan designation. The Planning Commission finds that annexation of the property into the city with zoning corresponding to the Comprehensive Plan designation does not necessitate a Zoning Map Amendment and is necessary for Annexation to occur.

2.5 The Planning Commission finds that while neither Outline Plan subdivision nor Site Design Review approvals for development of the property are requested here, the application includes conceptual details for the future phased development of 196 apartments (One- and Two-Bedrooms, ranging from 480-701 square feet) in 14 two-story buildings with building placement and site and building designs to address Site Review criteria to address the requirement that the application include a plan demonstrating that with annexation, the property will develop to at least 90 percent of the base density. A deed restriction will be

recorded on the property to require that it be developed to the minimum density.

The Planning Commission finds that the site plan details presented for future development here are conceptual, and that Site Review approval for development of the property is not being considered at this time. Outline Plan subdivision, Site Design Review and any other necessary land use approvals will need to be obtained subsequent to Annexation approval before the site can be developed,

2.6 The Planning Commission finds that while the site has a generally consistent grade and is moderately sloped with an approximate ten- to 15-percent slope from southeast to northwest, the western half of Tax Lot #1700, west of the existing residence, consists of large terraces with areas of steep slopes between and a substantial amount of this lot has slopes in excess of 35 percent which, by city codes, would be considered “severe constraints” lands which are unbuildable.

The Planning Commission further finds that there is a riparian land drainage identified as a tributary of Bear Creek at the north end of Tax Lot #1700, and that two wetlands have been identified on the subject properties in the draft wetland delineation. provided. One is only 60-square feet and is located at the base of a small depression northwest of the existing single family residence on Tax Lot #1700. The other is larger at approximately 4,606 square feet in area and located on Tax Lot #1702.

The Planning Commission has included recommended conditions below which would require that evidence of concurrence from the Oregon Department of State Lands (DSL) with the wetland delineation be provided prior to a development application for the site, and that the properties be included in the Wildfire Lands, Physical & Environmental Constraints Hillside Lands and Severe Constraints, and Water Resource Protection Zones maps and associated overlays in order to fully incorporate land-use based protection of the subject properties’ natural features with annexation and subsequent development.

SECTION 3. DECISION

3.1 The application includes a request for the annexation of two parcels totaling 16.87 acres with a current zoning of Jackson County RR-5 (Rural Residential) and a proposed zoning of City of Ashland R-2 (Low Density, Multi-Family Residential) for the properties located at 1511 Highway 99 North. The annexation is to include adjacent railroad property and state highway right-of-way added by the Staff Advisor for a more orderly and logical boundary. The application includes *conceptual* details for the future phased development of 196 apartments in 14 two-story buildings. Outline Plan subdivision and Site Design Review development approvals are not requested at this time, but would be applied for subsequent to annexation approval. The application includes a request for an Exception to Street Standards to deviate from city standard parkrow and sidewalk improvements in response to constraints of right-of-way width and existing encroachments, however such Exceptions are not considered independent of a development proposal.

The subject properties pose a number of challenges to development: there are significant road cuts, large areas of unimproved right-of-way along the frontage, and established commercial uses between the highway and the subject properties, all of which pose barriers for access and improvements; there are

limited utility or transportation facilities currently in place; and railroad right-of-way restricts connectivity between the property and contiguous areas of the city. Site topography, wetlands, a stream corridor and steeply sloped, forested areas pose further challenges, and the “Billings Siphon,” critical infrastructure for the valley’s irrigation system, bisects the property with a 100-foot wide easement. However, for the Commission, the key challenge here is in safely accommodating the multi-modal transportation needs of future residents along a state highway where the posted speeds, traffic and pedestrian volumes, and limited sight distances complicate multi-modal improvements such as marked or signalized crossings, particularly for those needing to cross the highway by bicycle heading north or on foot to access the northbound bus route.

The Planning Commission concludes that after the applicant’s efforts in working with the City, Rogue Valley Sewer Services, Rogue Valley Transportation District, Oregon Department of Transportation, Talent Irrigation District and the Bureau of Reclamation to address these challenges in extending utilities and installing 0.63 miles of new sidewalks and a new bus stop with pull-out lane to provide much needed rental housing along a transit route, the proposal merits approval, however with that recommendation the Commission also strongly recommends that the city work with the Oregon Department of Transportation to conduct a speed study and advocate for a reduction in speeds on Highway 99N from Valley View south the existing city limits.

Therefore, based on our overall conclusions, the Planning Commission recommends that the City Council approve the requested annexation subject to each of the conditions below.

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein, with the understanding that the conceptual development proposal is conceptual only and not approved here. The current approval is limited to the Annexation request, with required land use approvals including but not limited to Outline Plan subdivision and Site Design Review approvals, as applicable, as well as any necessary federal or state approvals necessary, for development of the property to be obtained subsequently.
- 2) That prior to final approval and annexation of the property, the applicant shall provide:
 - a. A final revised boundary description and map of the properties to be included in the annexation prepared by a registered land surveyor in accordance with ORS 308.255, to include the adjacent Highway 99N right-of-way and the adjacent railroad property. The boundary shall be surveyed and monumented as required by statute subsequent to City Council approval of the proposed annexation.
 - b. A final, signed irrevocable consent to annexation as required in AMC 18.5.8.020.A.
 - c. A final signed agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510 as required in AMC 18.5.8.020.B.
 - d. A deed restriction agreement ensuring that any future development will occur in accord with the minimum required 90 percent of the subject properties’ base density as required in AMC 18.5.8.050.F.

- e. A deed restriction agreement that development of the property shall comply with the affordability requirements of AMC 18.5.8.050.G, and that future development of the site shall address these affordability requirements at Site Design Review, including but not limited to the affordability levels, number of affordable units, and how the applicant will qualify potential renters and provide annual reporting to the city to verify compliance with these requirements.
- 3) That prior to the submittal of the Outline Plan subdivision or Site Design Review applications, the applicant shall obtain and provide evidence of concurrence from the Division of State Lands (DSL) for a wetland delineation.
- 4) That with annexation, the Wildfire Lands, Physical & Environmental Constraints - Hillside Lands and Severe Constraints, and Water Resource Protection Zones maps and associated overlays shall be revised to fully incorporate the subject properties' natural features. Any future development of the property shall be subject to regulation under these overlays.
- 5) That to address the annexation approval criteria and standards that adequate transportation and city facilities be provided, at a minimum any future development of the property shall require completion of the street frontage improvements, including but not limited to sidewalks and a bus stop, and the extension of utility infrastructure as described in 2.3 above at the owner's expense, in addition to any improvements necessary to serve the future development of the property.

Planning Commission Approval

October 13, 2020
Date
