



Where Life is Sweet

Mayor and Members of the City Council

STAFF REPORT

For the Meeting of July 22, 2024

Title/Subject

Annexation & Comprehensive Plan Map Amendment - Reyes 4N2812C Tax Lot 308 1088 E Newport Ave

Summary and Background

Mayra and Felipe Reyes have submitted an application to amend the comprehensive plan map designation for approximately two acres of land located at 1088 E Newport Ave. The land is located at the southwest corner of E Newport Ave and SE 11th Street. The applicants propose to annex the land to the City of Hermiston in order to sell it for residential development. The land is proposed for annexation as Medium-High Density Residential (R-3). The comprehensive plan map amendment proposes to change the existing Future Residential designation to Medium Density Residential. Maps illustrating the existing and proposed comprehensive plan map designations are attached to this report.

The land is currently vacant and sits at the southwest corner of SE 11th St and E Newport Ave. E Newport Ave, SE 11th St, and E Tamarack Ave provide three boundaries for the parcel. The western boundary is adjacent to an existing two-acre homesite. The property sits adjacent to the existing city limits line in E Newport Ave and land to the north is developed with low density single-family housing. Lands to the south, east, and west are also developed with rural single-family and low-density single-family housing. However, there is significant undeveloped land to the east. Many of the lots to the south are urban sized based on historic development patterns despite the fact that they are outside the city limits and not serviced by municipal services. Highland Hills Elementary School lies approximately 350 feet to the west.

The property sits within the urbanizable portion of the urban growth boundary. The city's comprehensive plan map designates it as Future Residential (FR). The county's zoning map designates the property as FU-10. The FU-10 is a residential urbanizable zone intended to preserve large lots within the UGB to facilitate future urban level development. Since this land is within the UGB and designated as Future Residential, amending the comprehensive plan designation to Medium Density Residential is an implementation of the existing comprehensive plan designation and assigns an urban density level to land that is already accounted for within the city's housing needs analysis and residential land inventory. Thus, there is no change to the city's housing capacity as a result of the amendment. The change is a fulfillment of the residential plan.

The housing needs analysis demonstrates that the city has adequate acreage within the residential inventory to accommodate 18,000 housing units over a twenty-year planning horizon. The housing needs analysis assumes a portion of the future residential land will develop with Medium Density Residential designation, providing approximately 735 dwelling units or 6% of capacity. The proposed R-3 designation provides capacity of approximately 10 of those 735 units. Additionally, all lots may also be developed with two-family dwellings, thereby doubling the capacity to 20 units. Additionally, should the property develop with a multi-family use permitted in the R-3 zone, the maximum capacity of the site is 45 units.

The applicants propose to annex the property with Medium-High Density Residential (R-3) zoning. This designation allows single and two-family dwellings, as well as multi-family units, on lots with a minimum lot size of 5,000 square feet and 7,500 square feet for multi-family units. Other uses permitted in the R-3 zone are listed in §157.027 of the Hermiston Code of Ordinances.

When considering an amendment to the comprehensive plan map, the city must apply the criteria contained in the Hermiston Code of Ordinances, the comprehensive plan itself, the Hermiston Planning Area Joint Management Agreement, and state law. The City must consider the state's Transportation Planning Rule (TPR) in OAR 660-012-0060. In order to comply with the TPR, the applicants commissioned a transportation impact analysis (TIA) from PBS Engineering. The TIA considers potential development on the site and analyzes the impacts of that development within the planning horizon for the city's Transportation System Plan. City staff reviewed the PBS TIA and determined the development will not have a significant effect on the studied intersections nor change the classification of any adjacent street. All adjacent streets are local residential streets.

As noted above, the property is adjacent to three streets. E Newport Ave is a city street forming the north property line of half the site. E Newport Ave is approximately 40 feet in width at this point. In order to provide for future connectivity of E Newport Ave, the city will require dedication of 10 feet of right of way at the time of development on the site. The remaining E Newport Ave right of way will be dedicated by property to the north at the time that property develops. Roughly half of E Newport Ave is already in place in the Highland Summit subdivision and no further dedication is required through that development.

SE 11th Street forms the east boundary of the site and is a county road. E Tamarack Ave forms the south boundary of the site and is also a county road. SE 11th Street is entirely unimproved at this time and has a right of way width of 35 feet. Additional right of way dedication is required to bring this road up to standard width. However, the necessary right of way is already dedicated for the western half of the road. The additional 15 feet of width will be required from the east side of the road in the future. If additional right of way were dedicated from the subject property, it would cause a misalignment at the SE 11th St/E Newport Ave intersection. E Tamarack Ave is also entirely unimproved adjacent to this property and has a right of way width of 60 feet. No additional right of way is needed for E Tamarack Ave in the future.

At the time development is proposed for the property, improvements proportionate to the impact of the development scope will be required for the three street frontages. For example, construction of a single single-family residence on the entire site may require frontage improvement to only the street providing access and non-remonstrance agreements for the remaining frontages. Construction of high-density housing may require full improvement of all three frontages and off-site improvement of E Tamarack Ave to the point of connection to SE 10th Street. Amendment of the city's comprehensive plan map and annexation to the city are

not land use actions that in and of themselves trigger improvement. However, it is important to note that improvements are required at the time the property develops within the city limits.

The site is served by a 12-inch water line and an 8-inch sewer line. Both lines terminate at the intersection of SE 11th Street and E Newport Ave. There is adequate capacity in the municipal services to accommodate any level of development on the site. However, as a condition of development, when connection is made to each line, the city will require extension of these lines south in SE 11th Street to the intersection with E Tamarack Ave. §157.164 of the Hermiston Code of Ordinances requires extension of public facilities to be readily available for connection by the next adjacent development.

The planning commission held a public hearing on July 10 to review the proposal. Following the conclusion of the hearing, the planning commission recommended that the city council deny the application for comprehensive plan map amendment and subsequently deny the annexation as well. The recommendation was based on testimony received at the hearing from neighboring property owners who raised several issues relating to the property and adequacy of services. The planning commission found that there was not an adequate evidentiary basis for the proposed R-3 zoning designation and Medium Density Residential comprehensive plan map designations.

Testimony at the hearing raised several issues. The bulleted list below is not comprehensive and the full testimony summary is included from the draft minutes of the meeting as an exhibit to this report.

- Property owners expressed concern that annexation in this area will result in the extension of sewer lines. State law requires a property within 300 feet of a sewer line to connect to sewer service rather than replace a failed septic system. This requirement will lead to annexation of their property in the future if development extends sewer lines.
- Property owners raised the issue of E Tamarack Avenue and increased traffic on the road after development. E Tamarack Ave is presently entirely undeveloped and exists only as a rough dirt road along the property's southern border. Children play in E Tamarack Avenue now because it has no traffic.
- Property owners testified that annexation and development of this property would be an intrusion of city development into an area they had lived in and expected to remain a country like setting.
- Additional testimony discussed the existing traffic issues on SE 10th Street during Highland Hills Elementary School's pickup and drop off times. Congestion is high and additional development will contribute more vehicles to the existing issue.
- Development of the property will open up SE 11th Street and E Tamarack Avenue. These street connections will create additional exit and entrance routes to the Highland Summit subdivision. Even if the road improvements installed by this development adequately address the development's impacts, they will not adequately account for additional traffic using new alternate routes.

The applicant did not attend the hearing and did not provide rebuttal testimony to the issues raised.

Several of the issues raised relate directly to existing city policies. As clarification, staff may provide additional information. The property proposed for annexation and all of the property owners submitting testimony all reside within the city's urban growth boundary. The UGB is the area outside the city limits containing the land the city will grow into over the next twenty years.

The UGB is a state mandated area set aside for the city to grow into. The UGB extends in this area from NE 10th Street to Ott Road. All of this area is designated as Future Residential land and is planned to be incorporated into the city limits at a future date. In order to adequately prepare for urban development, the city plans for timely extension of water and sewer services as discussed. The city has an obligation to prepare the proper due diligence in utility planning and §167.164(E) states that, “...*In addition, any extension of the facilities shall be continued and extended in a logical fashion to the extent of the development site so as to be readily available for adjacent development.*” Property owners who purchase land within the UGB expect that their land will be eligible for annexation at a future date as city limits extend and the city should consider both the expectation that land is eligible for annexation and that not all property owners may wish to annex. The city council has long held a policy that forced annexation is not the city’s policy, but those wishing to annex may exercise that right.

With regard to E Tamarack Avenue, the city council found in *Northport Neighborhood Association v. City of Hermiston* in 1998 that streets exist primarily for the safe movement of traffic and that use of streets for recreation is an ancillary use only. Therefore, use of streets for recreation is not the highest and best use of public property.

Issues relating to increased traffic are addressed through the implementation of the city’s transportation system plan and public works standards. All roads adjacent to the property are classified as local residential streets in the city’s TSP. None of the streets are currently improved to local residential standard and are therefore currently deficient. Development of the property triggers improvement to the street network concurrent with development and proportional to the impact of the development in accordance with *Nolan* and *Dolan* rulings by the US Supreme Court. At its simplest, proportional impact can be illustrated as a city cannot require installation of a traffic light as a condition of development for a single-family dwelling. Since no actual development is proposed as part of this application, the city has not conditioned a specific street improvement since it is yet to be determined if off-site improvements bridging the area between the property and NE 10th Street will be required. Thus, the recommended condition of approval states, “*Improvements for E Tamarack Ave and SE 11th Street shall be determined at the time of development on the site and shall be proportional to the impact of the proposed development.*” Development of the property requires a separate land use action, be it a preliminary subdivision plat, zoning review for multi-family development, conditional use permit, or other action. All of these land use reviews are subject to a new review, public notice, and differing development standards.

§150.05 of the Hermiston Code of Ordinances provides the requirements for annexations. The requirements for annexation are as follows:

1. The proposal is in conformance with all applicable state annexation requirements.
2. The property is contained within the urban portion of the urban growth boundary as identified on the comprehensive plan.
3. The proposed zoning is consistent with the underlying comprehensive plan designation.
4. Findings of fact are developed in support or denial of the annexation.
5. All city services can be readily extended, and the property owner is willing to bear costs associated with sewer, water, and roads.

Chapter 156 of the Hermiston Code of Ordinances provides the procedures for amendments to the comprehensive plan. Specific criteria are not detailed within the code, but all amendments to the comprehensive plan and implementing ordinances are required to demonstrate compliance with the statewide planning goals and the Hermiston Comprehensive Plan policies.

Public notice requirements have been satisfied through the following actions:

1. Notice was provided by direct mail to all property owners within 300 feet on June 18, 2024.
2. Notice was published in the East Oregonian on June 18 & 25 and July 3 & 10, 2024.
3. A sign displaying a notice of public hearing was placed on the property on June 18, 2024

As noted above, the planning commission has recommended that the city council deny the proposed amendment to the comprehensive plan map to Medium Density Residential and to the zoning map to Medium-High Density Residential (R-3). If no amendment to the comprehensive plan map is adopted, the property is not eligible for annexation as it would not be within the urban portion of the urban growth boundary as required by §150.05(B).

The city council has several potential actions to consider regarding the comprehensive plan map amendment and annexation.

1. Accept the planning commission recommendation, leave the property as-is, and remain in the urban growth boundary with a Future Residential designation.
2. Reject the planning commission recommendation, amend the comprehensive plan map and zoning map as requested, and annex the property into the city limits as R-3.
3. Confer with the applicant during the hearing and determine if a lower density comprehensive plan map and zoning map designation is acceptable and adopt a Low Density Residential comprehensive plan map designation and R-1 or R-2 zoning map designation. The property would then be annexed with a lower density zoning.

All three options before the council will necessitate extensive revision to the findings of fact supporting the council's decision. Therefore, staff is recommending only that the city council hold the public hearing and make a tentative decision at this meeting. Staff will prepare findings and any ordinances necessary for adoption by the council for the next meeting.

Tie-In to Council Goals

Although not specifically implemented through this application, Goal 1.6: Attract market-rate rental housing developments to increase middle housing inventory is affected through the addition of additional residential land to the city's land bank.

Fiscal Information

There is no fiscal impact resulting from amendments to the comprehensive plan. However, annexation will add the land to the city's property tax base. The property has an assessed value of \$133,480.

Alternatives and Recommendation

Alternatives

The city council may choose to:

1. Accept the planning commission recommendation, leave the property as-is, and remain in the urban growth boundary with a Future Residential designation.
2. Reject the planning commission recommendation, amend the comprehensive plan map and zoning map as requested, and annex the property into the city limits as R-3.

3. Confer with the applicant during the hearing and determine if a lower density comprehensive plan map and zoning map designation is acceptable and adopt a Low Density Residential comprehensive plan map designation and R-1 or R-2 zoning map designation. The property would then be annexed with a lower density zoning.

Recommended Action/Motion

Staff recommends that the city council confer with the applicant and determine if an alternative zoning designation is acceptable. If a lower density zoning is acceptable, the city council should determine the appropriate zoning (staff recommends R-2) and direct staff to prepare the appropriate documents for adoption at the next meeting.

If no alternative zoning designation is acceptable, staff recommends the city council accept the planning commission recommendation and deny the applications.

Submitted By:

Clinton Spencer, Planning Director