

Regular Meeting Minutes September 11, 2024

Vice-Chairman Caplinger called the regular meeting to order at 7:00PM. Present were Commissioners Doherty, Hamm, Misner, Saylor, Guerrero, and Collins. Chairman Fialka and Commissioner Kirkpatrick were excused. Staff in attendance included Planning Director C.F. Spencer, City Attorney Richard Tovey, and Planning Assistant Heather La Beau.

Minutes

Commissioner Hamm moved, and Commissioner Collins seconded to approve the minutes of the August 14, 2024, regular meeting as written. Motion passed.

Hearing-Annexation Zamudio 4N2802BC Tax Lot 1500 – 309 E Theater Lane

There were no conflicts of interest or ex parte contact declared. Vice-Chairman Caplinger opened the hearing at 7:02PM and read the following hearing guidelines.

The Planning Commission is holding a hearing to consider a request for annexation to the City of Hermiston. The Planning Commission will consider the request and make a recommendation based on criteria established in 157.05 of the Hermiston Code of Ordinances. The applicant wishes to annex an approximately 1.5 acre parcel located at 309 E Theater Lane. The applicant is Melinda Zamudio. The applicable substantive criteria relied upon by the City in rendering the decision to recommend approval of annexation are contained in §150.05 of the Hermiston Code of Ordinances.

The following guidelines apply to both of tonight's hearings.

Testimony and evidence must be directed toward the criteria described above or other criteria in the comprehensive plan or land use regulations which the person believes apply to the decision.

Failure to raise an issue by the close of the record at or following the hearing, in person or by letter, precludes appeal to the Land Use Board of Appeals (LUBA) or the city council based on that issue.

Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to that issue precludes appeal to LUBA or the city council based on that issue.

Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The planning commission shall grant such a request by continuing the public hearing pursuant to ORS 197.797(6)(B) or leaving the record open for additional written evidence, arguments or testimony pursuant to ORS 197.797(6)(C).

For this hearing, the process begins with the staff report, followed by testimony from the applicants and any other supporters of the application. This will be followed by opponents to the application. Finally, a rebuttal by the applicant will be allowed. The public hearing portion of the procedure will then be closed, and the planning commission will consider the information and testimony received, adopt findings of fact, and make a recommendation to the city council on annexation.

Planning Director Spencer presented the staff report (PowerPoint attached). The planning commission approved a partition of the property in July of this year, creating three lots. Annexation is required to connect proposed dwellings to city services.

There was no testimony and Vice-Chairman Caplinger closed the hearing at 7:08PM.



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Findings of Fact

- 1. The City has received consent to annexation from the property owner for approximately 1.5 acres of land.
- 2. Notice of public hearing was published in the local newspaper for two consecutive weeks prior to the planning commission hearing on August 21 and 28, 2024. Notices were also posted in four public places in the city for a like period. Comments or remonstrances received have been incorporated into the record.
- 3. Notice of public hearing was physically posted on the property on August 21, 2024.
- 4. Affected agencies were notified.
- 5. A public hearing of the planning commission was held on September 11, 2024. Comments received at the hearing are incorporated into the planning commission record.
- 6. Notice of public hearing of the city council was published in the local newspaper for two consecutive weeks prior to the city council hearing on August 28 and September 4, 2024. Notices were also posted in four public places in the city for a like period. Comments or remonstrances received have been incorporated into the record.
- 7. A public hearing of the city council was held on September 23, 2024. Comments received at the hearing are incorporated into the record.
- 8. The proposal is consistent with all applicable state annexation requirements in ORS 222.
 - a. The city has received consent from the property owners within the affected area
 - b. An election has been deemed not necessary since consent from more than half the owners has been received
 - c. The property is contiguous with the existing city limits
 - d. All statutorily required notices have been published and posted
- 9. Since the property is contiguous to the existing city limits, the annexation is in accord with Comprehensive Plan Policy 4 which promotes compact urban development within and adjacent to existing urban areas to ensure efficient utilization of land resources and facilitates economic provision of urban facilities and services.
- 10. The annexation is consistent with the requirements of Comprehensive Plan Policy 5 relating to annexation.
- 11. The property is located within the urban portion of the urban growth boundary (UGB) as identified on the comprehensive plan map.
- 12. Sewer is available to service this property in E Theater Lane. At the time of connection, the applicant is responsible for all connection fees.
- 13. Water is available to service this property in E Theater Lane. At the time of connection, the applicant is responsible for all connection fees.

Findings on Zoning Designation

- 1. The property lies within the urban portion of the urban growth boundary and has a comprehensive plan map designation of Medium Density Residential (M).
- 2. The proposed Medium-High Density Residential (R-3) zoning designation corresponds with the underlying comprehensive plan map designation.

Conditions of Approval



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- 1. The property lies within an area subject to potential groundwater pollution hazards due to excessively well-drained soils. Therefore, the outdoor storage of hazardous chemicals and the underground storage of gasoline and diesel fuels are prohibited per §157.101(B) of the Hermiston Code of Ordinances. Per §157.101(D) of the Hermiston Code of Ordinances, a developer may receive an exemption from this requirement upon submission of evidence from a registered engineer that the storage will not contribute to groundwater pollution.
- 2. At such time that construction occurs on a parcel which triggers the development standards of 157.163 of the Hermiston Code of Ordinances, street improvements are required along that parcel's frontage on E Theater Lane. Street improvements shall be consistent with minor collector improvements in ST-10 of the public works standards.

After some discussion, Commissioner Doherty moved and Commissioner Collins seconded to make the project file a part of the record. Motion passed. Commissioner Hamm moved and Commissioner Misner seconded to adopt the findings of fact. Motion passed. Commissioner Saylor moved and Commissioner Guerrero seconded to impose the conditions of approval. Motion passed. Commissioner Hamm moved and Commissioner Collins seconded to recommend approval of the annexation to the city council. Motion passed.

Hearing- Major Variance Lines 4N2811CDTax Lot 4502 - 620 & 640 SE 5th St

There were no conflicts of interest or ex parte contact declared. Vice-Chairman Caplinger opened the hearing at 7:10PM and read the following.

The Hermiston Planning Commission is holding a public hearing to consider a request for a major variance for property located at 620 & 640 SE 5th St and described as 4N2811CD Tax Lot 4502. The property is zoned Medium-High Density Residential (R-3) and is owned by Jason Lines. The applicant is requesting a variance from 157.027(C)(3) of the Hermiston Code of Ordinances which establishes a minimum lot width of 60°. The applicant requests approval to allow two 47° wide lots. The applicable substantive criteria relied upon by the City in rendering the decision to recommend approval of the variance are contained in §157.225 of the Hermiston Code of Ordinances.

The hearing guidelines previously read apply to this hearing as well.

Planning Director Spencer presented the staff report. The property owner wishes to create a separate lot for each dwelling and seeks approval of the reduction in lot width prior to paying a surveyor for the partition.

Testimony

Jason Lines 32136 W Walls Rd- Mr. Lines has owned the property for just over two years. To improve his financial situation, he proposes to sell one of the homes at an affordable price and retain one home for his future in-town residence. Mr. Lines stated due to the state's rent control, the appraisal for the property was not high enough to allow for an equity loan.

Vice-Chairman Caplinger closed the hearing at 7:18PM.

Commissioners discussed whether this met the definition of "exceptional or extraordinary conditions". The property can be sold with two dwellings and is considered a conforming use. The history of the property is unknown; however, when built in 1942, it does not appear the intent was that of an accessory dwelling.

Findings of Fact



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Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size, shape, topography or other circumstances over which the applicant has no control.

- 1. The property lies within the Medium-High Density Residential Zone.
- 2. The property contains two existing single-family dwellings which cannot be sold separately as constructed.
- 3. Hermiston zoning permits one- and two-family dwellings on individual lots, as well as accessory dwelling units. The existing lot is not considered a legal non-conforming lot under present zoning.
- 4. A partition is necessary to place each dwelling on a separate lot to enable future sale.
- 5. The lot is a pre-existing lot of 94 feet in width but has two dwellings constructed in 1942 prior to any zoning standards. It is not possible to sell each lot individually without a lot width variance from the 60-foot minimum.

The variance is necessary for the preservation of a property right of the applicant that is substantially the same as is possessed by owners of other property in the same zone or vicinity.

- 6. The variance is necessary to partition the property enabling separate sale of the dwellings.
- 7. Property adjacent to the north of this site at 610 SE 5th Street contains a single-family dwelling on a lot of 40 feet in width.
- 8. Within 500 feet of the site, there are existing single-family residential properties with widths ranging from 45 to 50 feet on E Newport Ave and SE 4th Street.
- 9. The neighborhood character has varied lot sizes and uses. The neighborhood has seen many infill flag lots with 25-foot access to SE 5th Street and multi-family development.

The authorization of the variance shall not be materially detrimental to the purposes of the zoning ordinance, be injurious to property in the zone or vicinity in which the property is located or be otherwise detrimental to the objectives of any development pattern or policy.

- 10. No physical development is proposed as a result of variance approval. The land will be partitioned for future sale.
- 11. The mixed density character of the neighborhood, as well as many existing lots with non-conforming or substandard lot widths gives credence to granting of a variance. The neighborhood contains a mix of housing types and of various ages. Granting of a variance will not result in development out of character with the existing pattern of development.
- 12. Granting of a variance provides due process for ad hoc variations to the established development standards. Granting of a variance does not establish a precedent for blanket adjustment to the standards within the ordinance.

It is impossible to maintain the zoning ordinance requirements and at the same time build, erect or use the structure.

- 13. The property contains two single-family dwellings on one lot. It is impossible to create a new lot for each dwelling and maintain a 60-foot lot width.
- 14. The lot width is 94 feet, and it is impossible to create two 60-foot lots from one 94-foot-wide lot.



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The variance requested is the minimum variance from the provisions and standards of the zoning ordinance which will alleviate the hardship.

- 15. The proposed variance is the minimum lot width which will allow the creation of two lots.
- 16. The two 47-foot lots resulting from the variance will comply with the standards for minimum lot size, lot coverage, and side yard setback.

Conditions of Approval

- 1. The applicant shall sign a street improvement agreement agreeing to participate in a future improvement district or other improvement process for future improvements to SE 5th Street.
- 2. Granting of a variance does not create two lots on this site. A separate land use action is required for partitioning of the lots as approved.

Commissioner Collins moved and Commissioner Misner seconded to make the project file a part of the record. Motion passed. Commissioner Hamm moved and Commissioner Collins seconded to adopt the findings of fact as amended (added new #5 and renumbered). Motion passed. Commissioner Doherty moved and Commissioner Saylor seconded to adopt the conditions of approval. Motion passed. Commissioner Hamm moved and Commissioner Misner seconded to approve the variance as requested. Motion passed.

Replat- Diamond Housing LLC 4N2812BB Tax Lots 488 & 489 - 1028 & 1034 NE Emerald Drive

Planning Director Spencer presented the staff report. This replat is proposed to combine two lots that were created through the middle housing replat in 2022. An investor wishes to purchase the property as one lot with a duplex, instead of two lots with attached single-family housing. The attached single-family housing is currently under construction on the lot. The existing conditions of approval from 2020 and 2022 land use approvals remain in effect on the site.

Testimony

Anthony Potts 1773 Milan Lane Richland WA 99352- Mr. Potts is representing Diamond Housing, the property owner. He stated with current lending and more difficult financing with higher interest rates, some owners want to buy a duplex so they may live in half. He is unsure if that is the case with this property.

Findings of Fact

Design Standards

§154.15 Relation to Adjoining Street System.

The property is bordered by NE Emerald Drive. The proposed lot has a total of 76 feet of frontage on NE Emerald Drive.

§154.16 Street and Alley Width.

No new streets or alleys are proposed as part of the partition. The property is serviced by NE Emerald Drive which has a right-of-way width of 50 feet.

§154.17 Easements.

The existing 10 foot utility easement along the NE Emerald Drive is properly reflected on the plat.

§154.18 Blocks.



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No additional block access is required.

§154.19 Lots.

Lot 1 is 6,800 square feet and is 76 feet wide and 89 feet deep. The minimum lot size in the R-3 zone is 5,000 square feet. The minimum required width is 60 feet and the minimum required depth is 80 feet.

§154.20 Character of Development.

Lot 1 is currently being developed with attached housing. Uses permitted in the R-3 zone are listed in 157.028 of the Hermiston Code of Ordinances.

§154.21 Parks, School Sites and the Like.

The comprehensive plan and parks master plan do not indicate a need for any additional parks or schools in the vicinity of the proposed partition. A multi-use pedestrian trail has been constructed approximately 150 feet to the west along NE 10th Street.

Minimum Improvements Required

§154.60 Permanent Markers

Permanent markers shall be set as shown on the final plat in accordance with ORS 92.050 through 92.080.

§154.61 General Improvements

The portion of NE Emerald Ave adjacent to the site is a paved city street with curb and gutter installed. As part of the current construction on Lot 1, sidewalk is being installed along Lot 1's frontage.

§154.62 Water Lines

Lot 1 is connected to a municipal water line in NE Emerald Drive.

§154.63 Sanitary Sewer System.

Lot 1 is connected to a municipal sewer line in NE Emerald Drive.

Final Plat

Per §154.46 of the Hermiston Code of Ordinances, the final plat shall show:

- (A) The boundary lines of the area being subdivided, with accurate distances and bearings. **Shown** as required
- (B) The lines of all proposed streets and alleys with their width and names. Shown as required
- (C) The accurate outline of any portions of the property intended to be dedicated or granted for public use. **Shown as required**
- (D) The line of departure of one street from another. **Shown as required**
- (E) The lines of all adjoining property and the lines of adjoining streets and alleys with their widths and names. **Shown as required**
- (F) All lot lines together with an identification system for all lots and blocks. Shown as required
- (G) The location of all building lines and easements provided for public use, services or utilities. **Shown as required**



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- (H) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and other areas for public or private use. Linear dimensions are to be given to the nearest 1/10 of a foot. **Shown as required**
- (I) All necessary curve data. Shown as required
- (J) The location of all survey monuments and benchmarks together with their descriptions. **Shown** as required
- (K) The name of the subdivision, the scale of the plat, points of the compass, and the name of the owners or subdivider. **Shown as required**
- (L) The certificate of the surveyor attesting to the accuracy of the survey and the correct location of all monuments shown. **Shown as required.**
- (M) Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat. No restrictions are proposed and none are referenced on the plat
- (N) Acknowledgment of the owner or owners to the plat and restrictions, including dedication to public use of all streets, alleys, parks or other open spaces shown thereon, and the granting of easements required. **Shown as required.**
- (O) Certificates of approval for endorsement by the city council and certificate indicating its submission to the planning commission, together with approval for endorsement by other local, county and/or state authority as required by Oregon statutes. **Shown as required.**

Finding: All items required for the final plat are shown on the final plat.

Chapter 157: Zoning

§157.028 Medium-High Density Residential (R-3)

The proposed lot exceeds the minimum lot size of 5,000 square feet. Uses permitted in the R-3 zone are listed in 157.027 of the Hermiston Code of Ordinances.

§157.101 Development Hazard Overlay

Comprehensive Plan Figure 12 identifies portions of this subdivision as subject to groundwater pollution hazards due to excessively well-drained soils. In accord with 157.101 of the Hermiston Code of Ordinances, the City will prohibit the outdoor storage of hazardous chemicals and underground storage of gasoline and diesel fuels. Any additional requirements or prohibitions necessary to mitigate groundwater pollution problems must be developed in conjunction with the Departments of Environmental Quality and Water Resources. At the discretion of the planning commission, the applicant may obtain an exemption to the above requirements if a registered engineer presents documentation which demonstrates that the proposed development will not contribute to potential groundwater pollution.

Commissioner Saylor moved and Commissioner Hamm seconded to make the project file a part of the record. Motion passed. Commissioner Collins moved and Commissioner Saylor seconded to approve the findings of fact. Motion passed. Commissioner Misner moved and Commissioner Hamm seconded to approve the final plat. Motion passed.



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Minor Partition- City of Hermiston 4N2823 Tax Lot 210 - 902 E Penney Ave

Planning Director Spencer presented the staff report. The City owns the parcel and proposes to partition ten acres to sell for general industrial development and create a small parcel on E Feedville Road for city industrial wastewater facilities. The city will continue to market the remaining 33 acres of industrial land. The conditions of approval from 2023 land use approval remain in effect on the site.

Findings of Fact

Design Standards

§154.15 Relation to Adjoining Street System.

The property is bordered by E Penney Ave, SE 9th Street and E Feedville Road. No new streets are proposed as part of this partition. The lots have adequate frontage on all public streets, exceeding 90 feet for each lot.

§154.16 Street and Alley Width.

No new streets or alleys are proposed as part of the partition. The property is serviced by E Penney Ave, SE 9th Street, and E Feedville Road. E Penney Ave, SE 9th Street, and E Feedville Road each have a right-of-way width of 66 feet.

§154.17 Easements.

The existing electric transmission easements on E Feedville Road are properly reflected on the plat.

§154.18 Blocks.

No additional block access is required.

§154.19 Lots.

Lot 1 is 10 acres and is 585 feet wide and 735 feet deep. Parcel 2 is 33.9 acres and is 2028 feet wide and 740 feet deep. Parcel 3 is 25,176 square feet (0.58 acres) and is 95 feet wide and 265 feet deep. There are no minimum parcel sizes or lot dimensions in the C-2/M-2 zone.

§154.20 Character of Development.

All lots are currently vacant. Parcel 3 is proposed for use for public utility infrastructure. Uses permitted in the C-2/M-2 zone are listed in 157.041 and 157.056 of the Hermiston Code of Ordinances. It is staff's understanding that industrial development will occur on Parcel 1.

§154.21 Parks, School Sites and the Like.

The comprehensive plan and parks master plan do not indicate a need for any additional parks or schools in the vicinity of the proposed partition.

Minimum Improvements Required

§154.60 Permanent Markers

Permanent markers shall be set as shown on the final plat in accordance with ORS 92.050 through 92.080.

§154.61 General Improvements

A. E Penney Avenue is classified as an urban minor collector. As a condition of approval of a permit to develop Parcel 1, the owner of Parcel 1 shall improve the E Penney Avenue frontage of the Development Site to minor collector status using city standards ST10 in the standard



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specifications.

- B. E Feedville Road is classified as an urban major collector and is a county road. All points of access to E Feedville Road will require an access permit from the Umatilla County Road Department. As a condition of approval of a permit to develop Parcel 2 or Parcel 3, the owner of the lot being developed shall enter a street improvement agreement agreeing to participate in future improvements to E Feedville Road frontage of the Development Site to urban major collector status. Such agreement shall run with the land.
- C. SE 9th Street is classified as an urban minor collector. As a condition of approval of a permit to develop Parcel 1 or 2, the owner of the lot being developed shall improve the SE 9th Street frontage of the respective Development Site to minor collector status using city standard ST10 in the standard specifications.

§154.62 Water Lines

Water service is available in E Penney Ave and SE 9th Street to service the development.

§154.63 Sanitary Sewer System.

Sanitary sewer service is available in E Penney Ave and SE 9th Street to service the development.

Final Plat

Per §154.46 of the Hermiston Code of Ordinances, the final plat shall show:

- (A) The boundary lines of the area being subdivided, with accurate distances and bearings. **Shown** as required
- (B) The lines of all proposed streets and alleys with their width and names. Shown as required
- (C) The accurate outline of any portions of the property intended to be dedicated or granted for public use. **Shown as required**
- (D) The line of departure of one street from another. Shown as required
- (E) The lines of all adjoining property and the lines of adjoining streets and alleys with their widths and names. **Shown as required**
- (F) All lot lines together with an identification system for all lots and blocks. Shown as required
- (G) The location of all building lines and easements provided for public use, services or utilities.

 Shown as required
- (H) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements, and other areas for public or private use. Linear dimensions are to be given to the nearest 1/10 of a foot. **Shown as required**
- (I) All necessary curve data. Shown as required
- (J) The location of all survey monuments and benchmarks together with their descriptions. **Shown** as required
- (K) The name of the subdivision, the scale of the plat, points of the compass, and the name of the owners or subdivider. **Shown as required**



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- (L) The certificate of the surveyor attesting to the accuracy of the survey and the correct location of all monuments shown. **Shown as required.**
- (M) Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat. No restrictions are proposed and none are referenced on the plat
- (N) Acknowledgment of the owner or owners to the plat and restrictions, including dedication to public use of all streets, alleys, parks or other open spaces shown thereon, and the granting of easements required. **Shown as required.**
- (O) Certificates of approval for endorsement by the city council and certificate indicating its submission to the planning commission, together with approval for endorsement by other local, county and/or state authority as required by Oregon statutes. **Shown as required.**

Finding: All items required for the final plat are shown on the final plat.

Chapter 157: Zoning

§157.041/157.056 Outlying Commercial/Heavy Industrial Zone (C-2/M-2)

There are no minimum lot sizes, lot width minimums, or lot depth minimums in the C-2/M-2 zone. Uses permitted in the C-2/M-2 zone are listed in 157.041 and 157.056 of the Hermiston Code of Ordinances.

§157.101 Development Hazard Overlay

Comprehensive Plan Figure 12 identifies portions of this subdivision as subject to groundwater pollution hazards due to excessively well-drained soils. In accord with 157.101 of the Hermiston Code of Ordinances, the City will prohibit the outdoor storage of hazardous chemicals and underground storage of gasoline and diesel fuels. Any additional requirements or prohibitions necessary to mitigate groundwater pollution problems must be developed in conjunction with the Departments of Environmental Quality and Water Resources. At the discretion of the planning commission, the applicant may obtain an exemption to the above requirements if a registered engineer presents documentation which demonstrates that the proposed development will not contribute to potential groundwater pollution.

City Attorney Tovey stated that the property is city-owned so it can be actively marketed for development.

After some discussion, Commissioner Hamm moved and Commissioner Collins seconded to make the project file a part of the record. Motion passed. Commissioner Hamm moved and Commissioner Guerrero seconded to approve the findings of fact. Motion passed. Commissioner Saylor moved and Commissioner Misner seconded to approve the final plat. Motion passed.

Planner Comments and Unscheduled Communication

Planning Director Spencer thanked the commissioners for their commitment to the city and expressed his appreciation for them and the work they do.

The Economic Opportunities Analysis update was adopted by the council at their September 9th meeting. The city received positive testimony from Business Oregon and DLCD. The UGB expansion work can begin in earnest now for the next 12 to 16 months. Approval is required from the City, Umatilla County, and the Land Conservation and Development Commission.



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The process of code enforcement citing nuisance violations was discussed. The city's code addresses items that are a threat to public safety. Some neighborhoods have more specific CC&Rs that are not enforceable by the city.

Survey work has begun for the intersection of NE North Street and the future Aspen Drive as part of the North Hermiston Urban Renewal project.

<u>Adjournment</u>

Vice-Chairman Caplinger adjourned the meeting at 8:07PM.









Annexation—309 E Theater Lane Zamudio





Annexation—309 E Theater Lane Zamudio



Street View

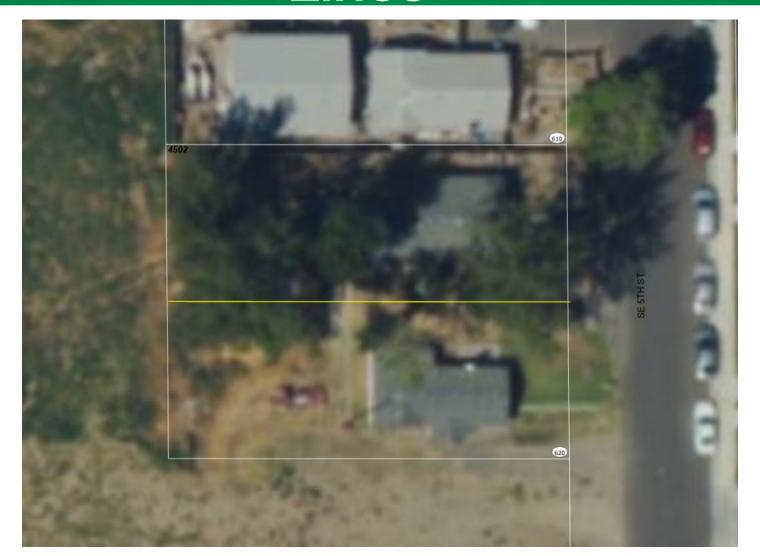


Variance 620 and 640 SEth5St Lines





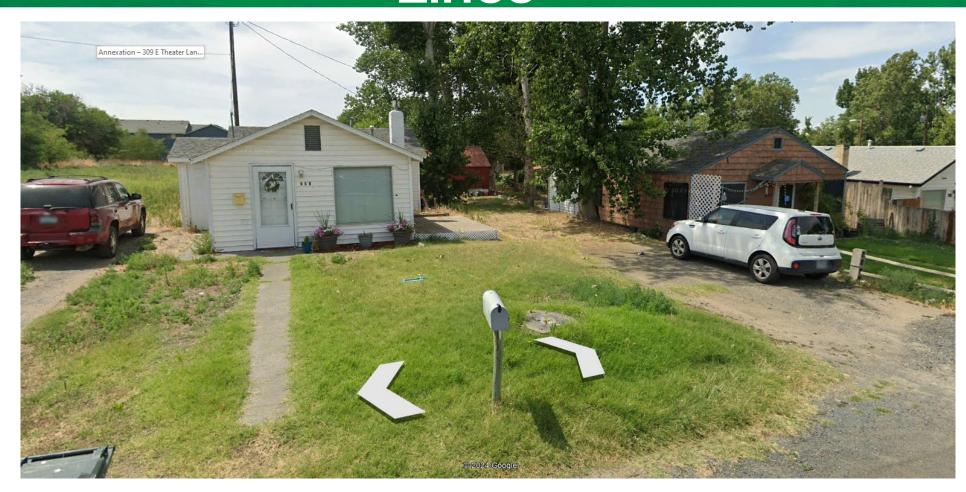
Variance 620 and 640 SEth5St Lines



Potential Property Line



Variance 620 and 640 SEth5St Lines



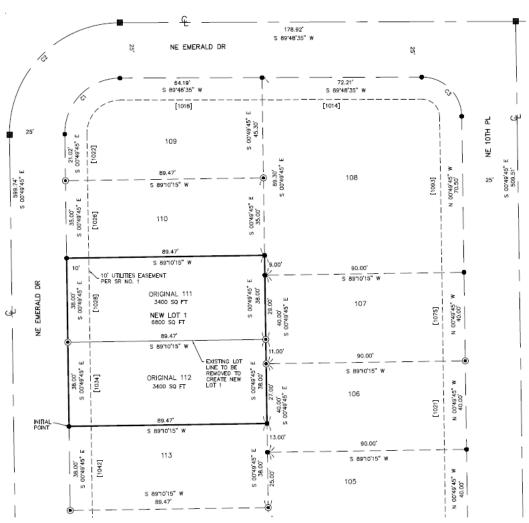
Street View



Replat 1028 and 1034 NE Emerald Drive Diamond Housing LLC



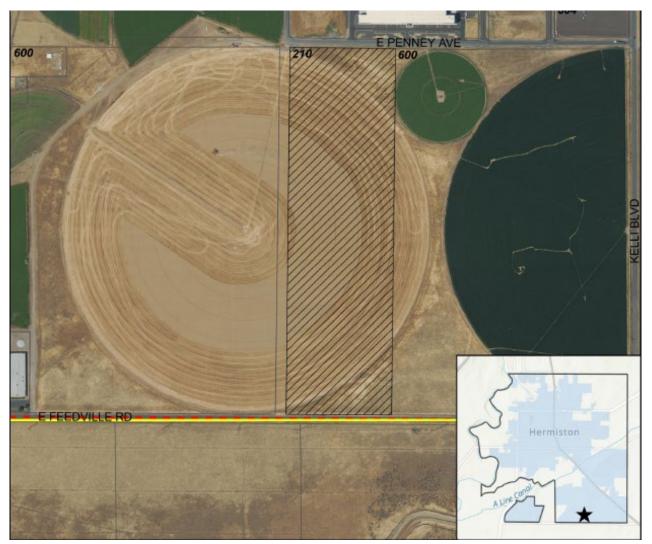
Replat 1028 and 1034 NE Emerald Drive Diamond Housing LLC



Proposed Plat



Minor Partition 902 E Penney Ave City of Hermiston





Minor Partition 902 E Penney Ave City of Hermiston

Proposed Plat

