



City of Stevenson

Planning Department

(509)427-5970

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

TO: Planning Commission
FROM: Ben Shumaker
DATE: October 10th, 2022
SUBJECT: Guide Meridian Annexation (ANX2022-01) Zoning

Introduction

This memo presents a predicament for the Planning Commission related to the City's zoning for an active annexation area. Direction is sought on the most desirable resolution of the predicament.

Annexation and Zoning

Statutes controlling the annexation by cities establish decision timelines which are shorter than the statutory decision timelines for zoning decisions. Please read Attachment 1 from the Municipal Research and Service Center, a statewide resource for communities implementing state laws. Communities reconcile this situation by:

1. Leaving unzoned.
2. Applying an existing City zoning designation.
3. Retaining County zoning.
4. Allowing time to apply a City zoning designation through application of a previously adopted holding zone.
5. Applying a "prezoned" designation.

The first 3 are problematic for differing reasons. The final 2 are not possible based on the City's currently adopted documents/regulations.

Past Practice

In past annexations, the City has chosen option 2, above. When the elevation of annexed areas are high up within the City's water system's pressure zone, the SR Suburban Residential designation is often applied. More often though, the City has chosen to match the R1 abbreviation of the City and County zoning designations. A problematic aspect of this practice involves the County's allowance of 4 dwelling units on property within their R-1 designation. This problem manifested after the 2007 annexation which brought in a handful of properties north of Gropper Road. Two of these properties were used for multi-family purposes. When a fire damaged dwellings on one of the properties, City zoning prevented its reconstruction. The problem was resolved by changing the property's zoning to R3 Multi-Family Residential and extensions of and connection to the City water and sewer systems were required of the properties.

Comprehensive Plan

No annexations have occurred since the City adopted the *2013 Stevenson Comprehensive Plan* and its Future Land Use Map. This effort narrows down the list of zones that could be applied to those which fit under the broad umbrella of the Future Land Use Map designations. In this case, the umbrella embraces any zone which could produce residential lots 15,000 or smaller or allow multi-family development. While this does not rule out any of the possible City zones, the Urban Reserve designation does provide guidance to discourage development until public services (sewer) are available. Still, recommendation of an appropriate zoning designation is difficult

because the best fit from a land use perspective differs from that from a density perspective. See also the attached report prepared for the City Council.

Note*: Not included in the City Council memo is a comparison to the draft change to the R2 designation considered in 2021. Adoption of some version of that could provide a middle way for zoning fringe areas.

Guidance Sought

Staff struggles to provide a recommendation for resolving this issue. The question may be simplified however by choosing either the status quo of applying an existing (likely R1) designation or retaining the County zoning designation until a change can be better considered in the future. If the second option is taken, the City should be clear on how near the future consideration of zoning in the area should occur.

Prepared by,

Ben Shumaker
Community Development Director

Attachments-

- 1- MRSC Annexation Handbook (Excerpt)
- 2- City Council Memo on Zoning

Preliminary Matters

STATE ENVIRONMENTAL POLICY ACT (SEPA)

City/town annexations are not subject to review under the SEPA ([RCW 43.21C.222](#)). Nevertheless, planning and zoning decisions made in conjunction with an annexation are subject to SEPA review.

COMPREHENSIVE PLANNING/ZONING

Different considerations are involved for a city with respect to planning and zoning for areas to be annexed or potentially annexed depending upon whether or not the city is required to plan under the Growth Management Act (GMA) ([chapter 36.70A RCW](#)).

Cities Subject to the GMA: Comprehensive Planning for Annexation Areas

GMA counties must designate urban growth areas (UGAs) that, among other things, define the territorial extent of annexation by cities within the counties. Since the GMA contemplates that cities will generally be the providers of urban-type services and that urban-type services will be provided within urban growth areas in conjunction with urban growth, GMA cities must include within their comprehensive planning process areas of potential annexation, i.e. their UGAs. However, since the UGAs will consist of unincorporated territory, the counties still retain jurisdiction. Consequently, the GMA requires that counties adopt, in cooperation with the cities in the counties, county-wide planning policies that must include, among other things, “policies for joint county and city planning within urban growth areas” ([RCW 36.70A.210\(3\)\(f\)](#)).

The comprehensive planning process under the GMA should provide for the coordination of a city’s planning and annexation policies and a framework for a city’s annexation efforts.



Practice Tip: GMA cities that have UGAs established outside their boundaries may find increasing need and use for “preannexation agreements” with property owners within UGAs to whom the city extends utility services. These agreements require, as a condition of the city extending utility services, that the property owner agree to sign a petition or other document concerning annexation of the property to the city when it is proposed. The state supreme court upheld the validity of preannexation agreements in [Fire Protection District v. Yakima](#), 122 Wn.2d 371 (1993).

Cities Not Subject to the GMA: Comprehensive Planning for Annexation Areas

Cities are authorized under [RCW 35.13.177](#) and [35.13.178](#) ([RCW 35A.14.330](#) and [35A.14.340](#) for code cities) to prepare a comprehensive land use plan and/or zoning regulation for areas that the city might reasonably expect to annex at any future time. Preparation of the comprehensive plan or zoning regulations for future annexations is essential in a city that will want to adopt meaningful zoning measures for its new territory simultaneously with annexation. If appropriate zoning provisions are not adopted at the time of annexation, it is possible that uses of land may become established in a newly annexed territory that are incompatible with neighboring uses and with sound land use management in the city.

Although the statutes speak of adopting a comprehensive plan for areas that may be annexed in the future, the comprehensive planning for future annexations should be integrated with the existing city comprehensive plan. The statutes ([RCW 35.13.177](#) and [35A.14.330](#)) do provide a list of matters (not included here) that may be included within a comprehensive plan or, for code cities, a zoning regulation for future annexation areas. However, these do not differ appreciably from those matters identified in the planning enabling acts ([chapters 35.63](#) and [35A.63 RCW](#)), and they should not be interpreted as imposing any different comprehensive planning or zoning requirements for future annexations.

However, the statutes authorizing planning and zoning in future annexation areas allow cities to provide in the plan or regulations for a time interval following an annexation during which the ordinance or resolution adopting the plan or regulations must remain in effect before they may be amended, supplemented, or modified.

Procedure for Adoption of Comprehensive Plans and/or Zoning Regulations for Future Annexation Areas – All Cities

The annexation statutes establish specific procedures for adoption of comprehensive plans and/or zoning regulation for areas to be annexed in the future. These requirements supersede those that apply generally to adoption of plans or regulations that are identified in the planning statutes, but they actually differ only with respect to the number of hearings and to filing requirements. (The statutes governing first and second class cities and towns are identical to those governing code cities, except for two words. The former refer to preparation of a “comprehensive plan,” while the latter refers to a “zoning regulation.” Whether the difference in terminology has any substantive effect is an open question; they are both identically described in terms of possible included elements. It is thought that the change in terminology was made in the more recent code city statutes to better reflect the actual nature of the regulation.)

- **Hearings** ([RCW 35.13.178](#), [35A.14.340](#)). After a proposed comprehensive plan or zoning regulation is prepared, the legislative body of the city must hold at least two public hearings on it. These hearings must be held at least 30 days apart.
- **Notice** ([RCW 35.13.178](#), [35A.14.340](#)). Notice of each hearing must be published in a newspaper of general circulation in the annexing city and in the area to be annexed. The notice must give the time and place of hearing.
- **Filing, Certification, and Recording** ([RCW 35.13.178](#), [35A.14.340](#), [35.63.100](#), [35A.63.072](#)). A copy of the ordinance or resolution adopting the proposed plan, any part of the proposed plan, or any amendment, together with any map referred to or adopted by the ordinance or resolution, must be filed with the county auditor and the city clerk (or, in code cities, other “appropriate official”).

The ordinance, resolution, and map must be duly certified as a true copy by the clerk of the annexing city.

The county auditor is to record the ordinance or resolution and keep the map on file.

Coordination of Adoption Procedures with Other Annexation Procedures

Questions frequently arise as to how the foregoing procedure may be coordinated with other sections of the annexation laws. These questions arise in situations where an annexation is proposed and the city involved has not previously provided for comprehensive planning and zoning regulations to apply to the proposed annexation area. While each situation must be individually analyzed, there is a time, fairly soon after an annexation is initiated, when the annexation procedures are too far advanced to allow for a “time-out” during which a comprehensive plan/zoning regulation for the area proposed for annexation can be prepared. For

example, if the petition method is used for an annexation (which is the case in a large majority of annexations), the statutes require the legislative body to set a date, not later than 60 days after the filing of the initial 10 percent notice of intent to commence annexation procedures, for a meeting with the parties initiating the annexation ([RCW 35.13.125](#) and [35A.14.120](#)). The governing body at this meeting makes a preliminary decision as to whether it is interested in the proposed annexation and, if so, whether it will require the simultaneous adoption of a comprehensive plan/zoning regulation if one has been previously prepared and filed. Thus, under a strict interpretation of the statutes, the preplanning/prezoning must have been completed prior to the first meeting between the initiators of the annexation and the legislative body.

However, as noted above, prezoning statutes require at least two public hearings, at least 30 days apart, with proper notice of the hearing published in a newspaper before the hearings are held. If a comprehensive plan/zoning regulation has not been prepared and filed before the annexation is initiated, the city must take immediate action after receipt of the annexation notice of intent to prepare the plan/zoning proposal, schedule and give notice of the first hearing, hold the hearing, schedule and give notice of the second hearing, hold the hearing (at least 30 days after the first hearing), adopt the comprehensive plan/zoning regulation, and file it. This is all to be done before the legislative body meets with the initiators of the annexation, which is to be within 60 days after the filing of their notice of intent. It is highly unlikely that a city could comply with this timeline.

Cities can avoid this problem by preplanning and prezoning for all areas surrounding their boundaries that are logical growth directions of the city. The statutes on preplanning and prezoning permit the utilization of the procedures outlined above for “any area which might reasonably be expected to be annexed by the city or town at any future time” ([RCW 35.13.177](#), [35A.14.330](#)). There is no requirement that an annexation proposal be imminent before consideration is given to planning and zoning. The most satisfactory use of the prezoning authority permits completing orderly planning and zoning before specific annexation proposals are presented.

Zoning for Annexation in Areas Not “Prezoned”

The foregoing procedures are directed at having proper zoning prepared prior to annexation, to be in place simultaneously with annexation. However, frequently the procedure outlined is not utilized, since the time requirements of the various statutes may be impossible to reconcile in individual cases. What happens in these cases? Cities now take several approaches to zoning newly annexed areas that have not been preplanned and prezoned.

Some cities provide, by ordinance, that all newly annexed territory that is not otherwise zoned shall be automatically zoned into the city’s least dense residential zone, or into a general “holding” zone. This approach avoids having property being annexed into a city with no zoning designation. (An example of this approach is [Gig Harbor Municipal Code Sec. 17.88.010](#).) An approach like this has the advantage of avoiding a time period in which no zoning is applicable to a newly annexed area. Moreover, it requires the city to take action soon after annexation to properly commence the zoning process.

However, automatic designation of a temporary zone may also have significant drawbacks. Any one zone may be entirely inappropriate to a particular tract, although that fact may not present a problem if the city acts quickly after annexation to change the zone to one more appropriate. Another drawback is that the automatic change from previous county zoning effectively constitutes a rezone, subject to specific legal, procedural requirements. The guidance of the city attorney is important in dealing with these issues.

Another approach to the question of temporary zoning following annexation is to provide, by ordinance, that the zoning regulations of the county shall remain applicable pending further review and rezoning in due course by the city. Again, a time limitation on the duration of the county zoning carryover is desirable, since it requires

the city to take action almost immediately to bring the annexed area under its own zoning ordinance. This approach avoids rezoning at the time of annexation.

Nevertheless, there are also potential legal problems with this approach. First, it is not specifically authorized by state law. Second, if the county's zoning regulation is to become part of the city's ordinance and is to be enforced by city personnel, even temporarily, it may be argued that the actual zoning provisions of the county code should be incorporated into the city ordinances. This can be done by adopting the applicable county zoning provisions pursuant to the adoption by reference statutes ([RCW 35A.12.140](#), [35A.13.180](#) and [35.21.180](#)). In any event, an ordinance adopting prior county zoning should stress the temporary, and perhaps emergency nature of the regulation. The city attorney's advice and assistance should be obtained.

Another approach to zoning newly annexed territory that has not been planned and zoned prior to annexation is to automatically zone newly annexed territory into the city or town zone which is most similar to the prior county zone (see, for example, [Edmonds Municipal Code Sec. 17.00.020.E](#)). While this technique may result in a more appropriate temporary designation, it may still be challenged on grounds similar to those mentioned above.

Pending statutory or judicial guidance, any of the foregoing temporary methods may be more desirable than the complete absence of a zoning provision when territory is annexed to a city. However, all of these temporary measures still require appropriate zoning to be provided soon after annexation. The inadequacies of each of these methods of zoning newly annexed territory make a strong case for utilizing the procedures outlined above for appropriate planning and zoning of an area *prior* to annexation.

ASSUMPTION OF INDEBTEDNESS

The annexation statutes authorize the city council to require property in an area being annexed to assume, as a condition of annexation, a pro rata share of the annexing city's then outstanding indebtedness that had been approved by the voters, contracted, or incurred prior to, or existing at, the date of annexation.

In each city there will be different factors that should be considered in deciding whether to require debt assumption. Some of the issues a city should examine in reaching a decision on this question are:

- Was the outstanding indebtedness incurred to finance an improvement or facility that will benefit the newly annexed area?
- Will assumption of a proportionate share of the city's outstanding indebtedness place an excessive financial burden on annexed property in light of other indebtedness previously placed on the property through the county or special districts, which will remain on the property after annexation?
- Will the property to be annexed be forming an expensive LID for special improvements, such that requiring assumption of the outstanding indebtedness would not be equitable?
- To what extent does the annexing city desire to encourage (or subsidize) the annexation?

Most cities do require the assumption of indebtedness as a condition of annexation, unless in a particular circumstance this would not be equitable. This issue may be addressed in a city's annexation goals and policies, so that the city is consistent in its requirements, and all potential annexation areas are aware of them.



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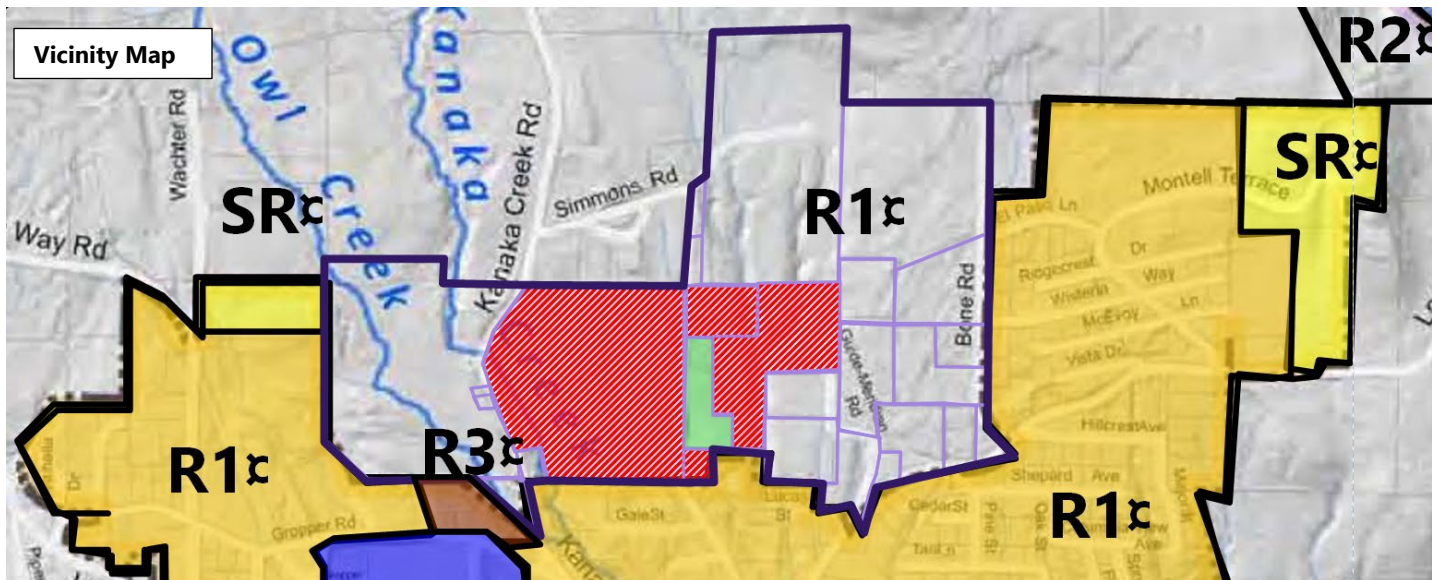
7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

TO: City Council
FROM: Ben Shumaker
DATE: September 15th, 2022
SUBJECT: Goodman Annexation Request (ANX2022-01) – Land Use Analysis

Introduction

This memo provides baseline data for consideration of a Notice of Intent to Annex submitted by John F. and Julie B. Goodman. The notice of intent relates to a single parcel fronting on Frank Johns Road. To more fully understand the context of the proposal as it relates to the vicinity, this memo analyzes all properties containing, or located downhill (south) of, the Williams gas pipeline, and 2 additional properties fronting Frank Johns Road.

Again, only one parcel was included in the notice of intent. Submittal requirements of the notice require communication with adjacent properties regarding their desire to annex. In this case, each of the 4 adjacent properties within County jurisdiction suggest they are uninterested in annexation. To date, none of the other parcels analyzed herein have been involved in this annexation proposal.



Property Characteristics	Requesting Property	Adjacent Properties	Additional Properties	TOTAL
Number of Tax Parcels	1 (03-07-36-1-0-1000-00)	4	21	26
Acreage	2.17 acres	28.79 acres	81.96 Acres	112.92 acres
Number of Legal Lots	1	4	22 (Suspected)	27
Lots per Acre	.46	.33	.47	.44
Number Lots Developed	0	4	16	20
Number of Dwellings	0	6 (Suspected)	11 (Suspected)	17
Lots per Acre	0	.50	.24	.28
Estimated Population	0	12	29	41
Population Density	0	1.00	.62	.67
Assessed Value	\$ 100,000	\$2,054,300	\$4,337,400	\$6,491,700
Annexation Interest	Requesting (Green)	Uninterested (Red Hash)	Unknown (No Shading)	

Zoning Analysis

All properties evaluated carry Skamania County’s Residential 1 zoning designation. The County abbreviates this as R1. Adjacent territory in the City carries the SR Suburban Residential, R1 Single-Family Residential, and R3 Multi-Family Residential zoning designations. Despite the similar abbreviation, the County’s R1 is different than the City’s R1 Single-Family Residential zoning. An important difference is in the County’s allowance of up to 4 dwellings on a lot, where the City only allows 2 dwellings—if one of those is occupied by the property owner.

Impacts of this difference were felt as a result of the 2007 DeGroote annexation, which brought 5 parcels into the City with the R1 Single Family Residential designation. Three of the properties were used for single family uses, 2 were used for multi-family uses. A fire in one of the multi-family uses compelled conformity with the City’s single-family use requirements. A request to rezone followed and was granted subject to the extension of City water and sewer services to the area. With this section of the report, the Planning Department seeks to empower more informed decision making by the City Council.

Comprehensive Plan Future Land Use Map

The entire area analyzed carries the UR- High Density Residential designation. The UR, Urban Reserve designation contemplates extension of municipal services and discouraging further development until such services are provided. The High Density Residential designation envisions a range of residential densities from apartment-style densities to single-family housing on lots smaller than 15,000 square feet. The following table provides the range of possible minimum lot sizes in the Zoning Code. Shaded cells indicate a lack of alignment with the Comprehensive Plan for this area.

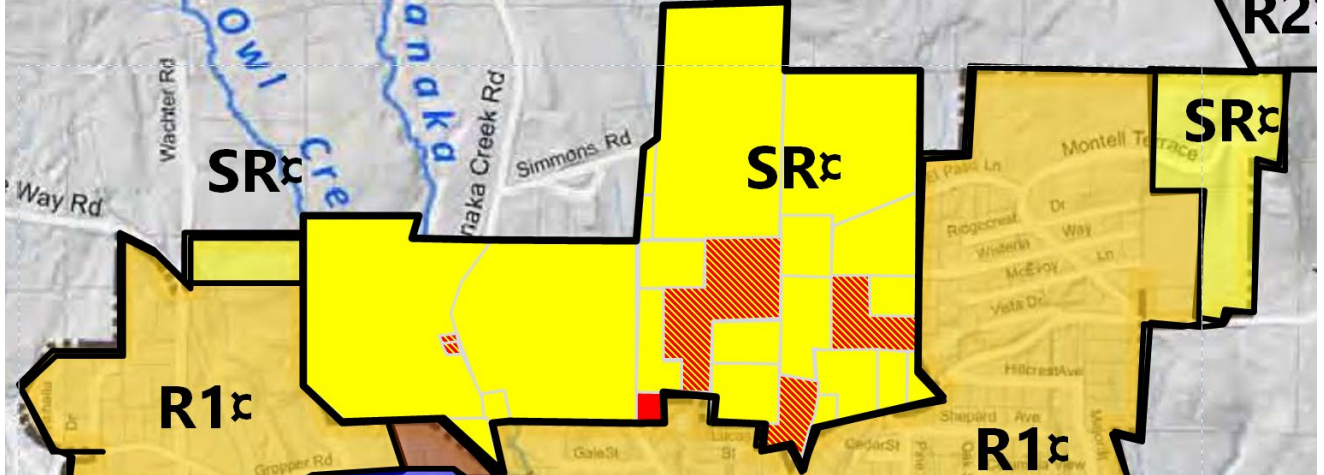
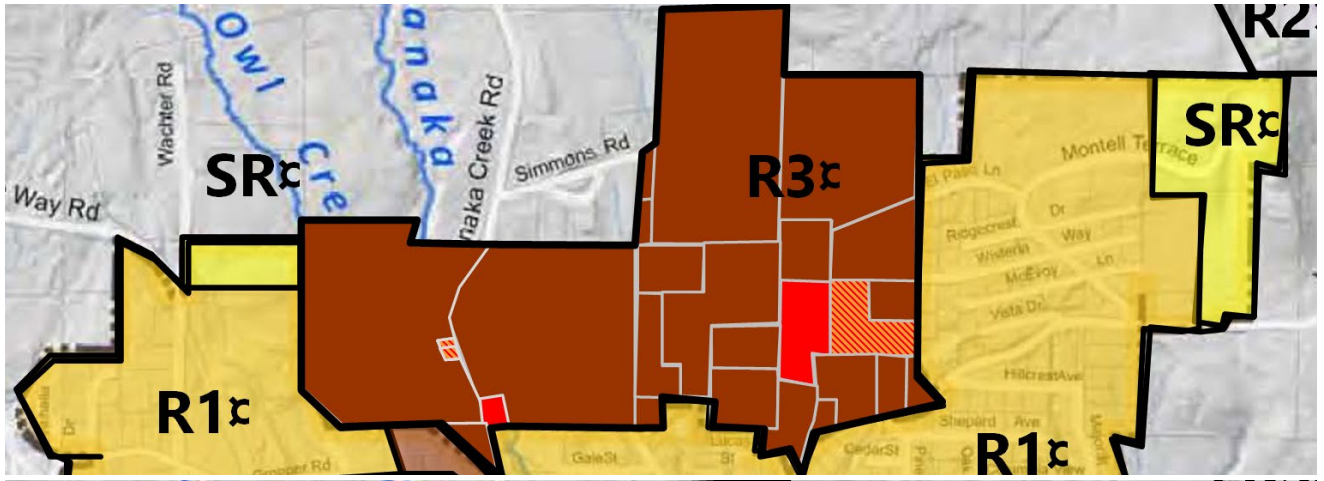
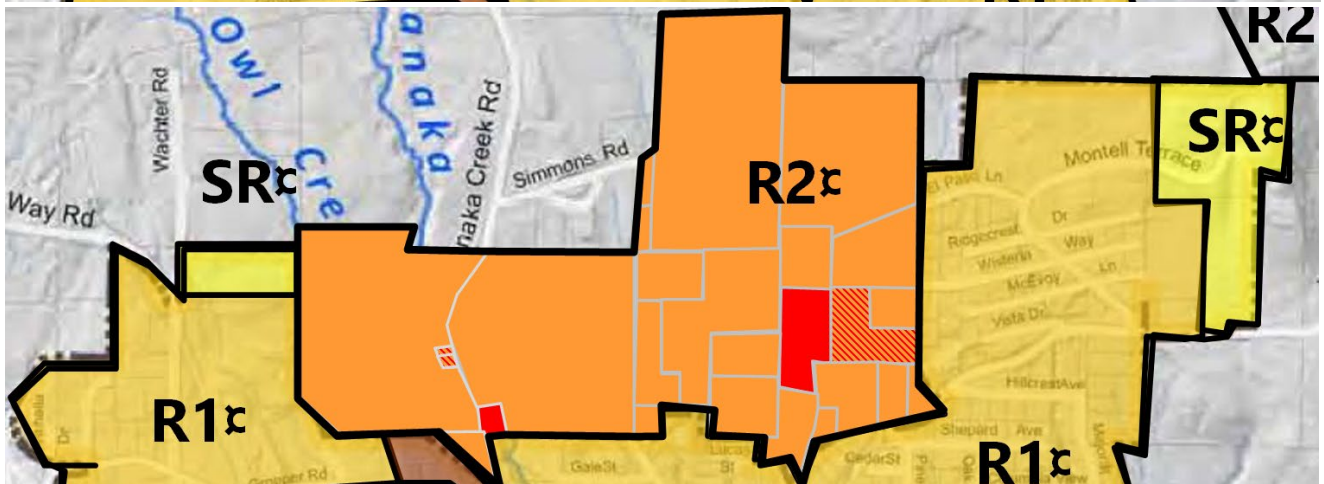
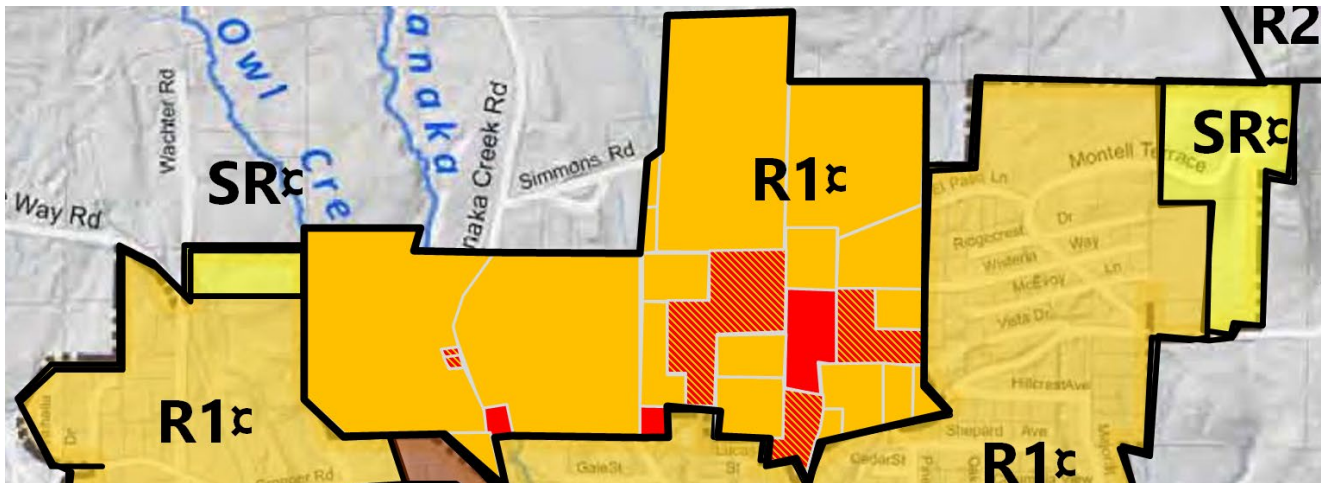
Zone	Services Present	Minimum Lot Area
R1	Water, Sewer	6,000 sf
	Water, Septic	15,000 sf
	Well, Septic	1 acre
R2	Water, Sewer	5,000sf + 2,000 sf per unit over 1
	Water, Septic	15,000 sf
R3	Water, Sewer	2,000 sf per unit
MHR	Water, Sewer	5 ac + 5,000 sf per unit over 40
	Water, Septic	5 ac + 2 acres per unit over 2
	Well, Sewer	5 ac + 2 acres per unit over 2
	Well, Septic	5 ac + 2 acres per unit over 2
SR	Water, Septic	15,000 sf
	Water, Septic	20,000 sf
	Well, Septic	1 acre
*aligned only if actual use involves 2 dwellings		

Implementation of the Comprehensive Plan, will involve designating property in this area as either R1, R2, R3, MHR, or SR. Barring any changes to zoning standards, new utility extension policies, or specific annexation area requirements, full implementation of the Comprehensive Plan can only be guaranteed if the territory is zoned R3 Multi-Family Residential.

Existing Property Usage

The single property proposed for annexation is undeveloped. In the entire area of analysis, 20 of the 26 parcels are developed in some way. Staff assumptions set these uses as including, multi-family dwellings, single-family detached dwellings, residential outbuildings, and utility & communication facilities. Applying existing City zoning to this development will result in nonconforming uses and/or use violations.

The number of nonconformities/violations depends on the zoning designation applied as shown in this series of maps. The maps are ordered based on the table above. The MHR Mobile Home Residential zone is not presented as a map. Solid red indicates a known nonconformity/violation. Hashing indicates one which is suspected.



The least conflicts would arise in the area of analysis if the R2 or R3 zoning designation were applied (5 each). Six conflicts would arise if the SR zoning designation were applied. Application of the R1 designation would result in the most known or suspected conflicts (8) between existing uses and the Zoning Code.

Existing Development Density

The mean parcel size for all 26 parcels analyzed is 4.34 acres. The mean size for parcels developed with residential uses is 5.54 acres. Both are well above the 15,000 sf maximum envisioned by the City.

No parcel is currently served by City sewer. Ten of the parcels are served by City water. These development patterns best align with the City's SR Suburban Residential District. The City's R3 Multi-Family Residential District least aligns with the existing development pattern.

Projected Development Patterns

Barring any changes to zoning standards, new utility extension policies, or specific annexation area requirements, staff expects development of the area analyzed to continue in an uncoordinated fashion with very low density (parcels larger than 2 acres) a strong likelihood and pockets of low density (parcels between 15,000 square feet and 2 acres). Staff guesses a 20 year buildout of the area would increase the number of parcels from 26 to 83 (mean size of 1.36 acres). This projection would not achieve the densities envisioned in the Comprehensive Plan.

Zoning Synthesis

Planning Staff struggles to recommend an appropriate zoning designation for the area analyzed, with R2 and SR being the easiest to rationally justify.

- No existing City zoning designation could be applied which would eliminate known or suspected nonconforming uses or use violations.
- Existing City zoning designations which best align with uses in the analysis area provide the least alignment with the density of existing and projected development in the annexation area.
- The Comprehensive Plan's direction to discourage development of this area until sewer is available.
- The development density envisioned by the City necessitates connection to City sewer.
- The R2 Two-Family designation aligns well with existing uses and Comprehensive Plan densities, but poor alignment with existing densities and the uncontrolled development pattern projected by staff.
- The SR Suburban Residential designation aligns well with existing densities and uncontrolled projects, fairly with existing uses, and poorly with the Comprehensive Plan.

Staff suggests the City Council grapple with what their tolerance for discouraging development, their tolerance for causing neighborhood change, and the ways their preferences would relate to the owners in/adjacent to the annexation area.

A sewer connection requirement may be a way to achieve both ends. This issue is likely better informed by the Public Works Department memo and plan for service in the area.

Annexation Area

While this analysis was conducted using the most rational boundary possible, the Planning Department staff is not recommending using that area in the petition for annexation. A smaller area is advisable.

Prepared by,

Ben Shumaker