



**OFFICIAL NOTICE OF A PLANNING COMMISSION RECOMMENDATION
ON A LAND USE APPLICATION**

PLANNING COMMISSION ORDER OF APPROVAL

REQUEST: This is an application to annex an approximately 39,005 square foot (0.71-acre) property located in the City of Sweet Home's Urban Growth Boundary into the City limits of Sweet Home. The application also requests to change the zoning of the property from Linn County's Urban Growth Area-Rural Residential-1 Acre Minimum (UGA-RR-1) Zone to the City of Sweet Home's Low Density Residential (R-1) Zone. The Planning Commission held a public hearing on July 6, 2020 and made a recommendation to the City Council. The City Council will hold a public hearing on July 28, 2020 and decide on this application.

**APPLICANT/
PROPERTY OWNER:**

Cindy Sieg

FILE NUMBERS:

AX20-01 & ZC20-01

PROPERTY LOCATION:

789 Alder Street, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 14S01E06B Tax Lot 800.

**REVIEW AND
DECISION CRITERIA:**

Sweet Home Municipal Code Section(s): 17.104.010 and 17.12.025; ORS 222.111

STAFF CONTACT:

Angela Clegg, Associate Planner
Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov

- I. **PUBLIC HEARING:** The Sweet Home Planning Commission held a public hearing on July 6, 2020. At the hearing the Planning Commission reviewed application AX ZC 20-01. The Planning Commission received testimony and deliberated on this matter at their July 6, 2020 meeting and passed a motion to recommend approval of the application to City Council. That motion of approval specified a 12-day appeal period from the date the decision motion is mailed. No specific conditions of approval were required.
- II. **FINDINGS OF FACT:** The Planning Commission provided an opportunity for testimony at the July 6, 2020 public hearing. The Planning Commission considered the information in the record, testimony at the public hearing, and the Findings of Fact listed in the Staff Report presented to the Planning Commission prior to the July 6, 2020 public hearing. The Planning Commission adopted the Findings of Fact listed in Section III of the Staff Report, and those are included as Exhibit A to this Order
- III. **DECISION: Approved** the motion to recommend the application to City Council on June 6, 2020. Based on the findings referenced in Exhibit A of this order, the Planning Commission found that the proposal described in AX20-01 & ZC20-01 complies with the applicable sections of the Sweet Home Municipal Code. The Sweet Home Planning

Commission hereby approves application AX20-01 & ZC20-01 and recommends approval by the City Council.

PLANNING COMMISSION DECISION: July 6, 2020
APPEAL DEADLINE: July 24, 2020 at 5:00 PM
CITY COUNCIL MEETING: July 28, 2020 at 6:30 PM



Jeffery Parker, Planning Commission Chair

7/13/2020
Date



Blair Larsen, Community and Economic Development Director

7/13/2020
Date

APPEAL: This decision can be appealed. The decision made by the Planning Commission is final unless written appeal from an aggrieved party is received by the City of Sweet Home no later than the appeal deadline listed above (12 days from the mailing of this decision). All appeals must be filed with the appropriate fee and documentation and submitted to: City of Sweet Home Community and Economic Development Department, 3225 Main Street, Sweet Home, OR 97386. The City Council will hold a public hearing on the request upon appeal. If you would like any information concerning filing of an appeal, please contact the Planning Office at (541) 367-8113.

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the Staff Report and all documentation included in the record for the file are available for inspection at no cost and a copy will be provided at reasonable cost at the City of Sweet Home Community and Economic Development Department, 3225 Main Street, Sweet Home, OR 97386; (541) 367-8113.

Exhibit A to Order of Approval for AX20-01 & ZC20-01

The review and decision criteria for a conditional use permit are listed below in bold. Staff findings and analysis are provided under each review and decision criterion.

Criteria for Annexation Request: AX 20-01

- A. Upon receiving any petition for annexation of territory to the city, or before initiating any such action on its own motion, the Council shall refer the proposal for annexation to the Planning Commission for its consideration and recommendation. [SHMC 17.104.010(A)]**

Staff Findings: The subject property is located within the City's UGB, and annexation would bring the subject property into the City limits. The Planning Commission will consider this matter on July 6, 2020.

- B. The Planning Commission shall review the proposal for annexation, hold such hearings as it deems proper, make such finding of facts as it deems proper and make recommendations to the Council. [SHMC 17.104.010(B)]**
- C. ORS 222.120. Procedure for annexation without election; hearing; ordinance subject to referendum. [Relevant Sections]**
- a. Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection. [ORS 222.120(1)]**
 - b. When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation. [ORS 222.120(2)]**
 - c. The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period. [ORS 222.120(3)]**
 - d. After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question: [ORS 222.120(4)]**
 - i. Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; [ORS 222.120(4)(b)]**

Staff Findings: The provisions of SHMC 17.104.010 do not require that this annexation proposal be submitted to the electors of the City for their approval or rejection. The Planning Commission will hold a public hearing on July 6, 2020 and will make a recommendation to the City Council. The City Council will hold a hearing on this matter on July 28, 2020 at 6:30 PM.

Notice of both public hearings will be published in the New Era Newspaper on June 17, 2020 and June 24, 2020. Notice of the public hearing was posted in four city locations: City Hall, City Library, Post Office, and the community bulletin board at the northeast corner of 18th Ave and Long Street.

If this annexation is approved, the City will follow the procedures for adopting an ordinance and providing notification to affected parties as describes in the SHMC and ORS 222.

- D. In the event that the Council finds that immediate action is necessary to initiate proceedings for annexation, either before the proposal is referred to the Planning Commission, or before recommendations are received from the Planning**

Commission, the Council may proceed, but the Planning Commission shall be promptly advised, so that it may have an opportunity to make recommendations to the Council during the Council proceedings. [SHMC 17.104.010(C)]

Staff Findings: The Planning Commission will review this application and make a recommendation to City Council. The applicant did not request that immediate action be taken under this section. Staff recommends that the Planning Commission make a recommendation on this matter at their July 6, 2020 meeting so that the City Council may consider the recommendation at their July 28, 2020 hearing.

- E. When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies. [ORS 222.111(1)]**
- F. A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. [ORS 222.111(2)]**
- G. A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [OAR 660-014-0060]**

Staff Findings: The subject property is contiguous to the city limits of Sweet Home to the east and the property to the south. The north property line borders Alder street, which is within the jurisdiction of Linn County; however, the property across the right-of-way is located within city limits. This is considered contiguous under ORS 222.111(1).

The SHMC does not provide specific criteria for annexations; however, as discussed below, the City of Sweet Home Comprehensive Plan requires that upon annexation that the zoning of the subject property be changed to a City zoning classification that is consistent with the Sweet Home Comprehensive Plan Map. This application for an annexation is therefore linked to the application for a zone change. For this reason, staff recommends that these applications be either both approved or both denied. This annexation proceeding was initiated at the request of the property owner.

The Engineering Department provided comments to this application, which are included in Section II of this Staff Report. Engineering comments bring attention to the issue of the jurisdiction of Alder Street. The applicant's property does not include Alder Street; however, the extension of City sewer services would most efficiently be provided by extending the existing sewer line in Alder street that is currently located to the east of the property. The sewer line would need to be extended along the full length of the subject property's frontage along Alder Street (SHMC 13.08.070). As the annexation is proposed, sewer extension would require work within the Linn County portion of Alder Street, and the applicant would need to obtain a work in the right-of-way permit from Linn County. The Engineering Department recommends annexing the portion of Alder Street that would be affected by the extension.

This annexation decision will be made in conformance with the City's acknowledged comprehensive plan; and therefore, would comply with the Oregon Statewide Planning Goals pursuant to OAR 660-014-0060.

Criteria for Zone Change Request: ZC 20-01

H. An amendment to the official zoning or comprehensive plan map may be authorized provided that the proposal satisfied all relevant requirements of this title and also provided that the applicant demonstrates the following:

a. The proposed amendment is consistent with the goals and policies of the comprehensive plan; [SHMC 17.12.025(A)]

- i. Upon annexation, all lands shall be zoned consistently with the Comprehensive Plan and its designations and should be based on public need, special studies or other information which will serve as the factual basis to support the change. [SHCP Chapter 2; Land Use Element, Policy 16]**
- ii. Table 1. Summary of Comprehensive Plan Land Use Designations**

Land Use Designation	Purpose
Low Density Residential	To provide appropriate lands for low density, single-family homes. This category has the lowest density of the residential designations, providing larger lots for single-family homes.

The Zoning Code implements the Comprehensive Plan by providing specific development guidelines for each Land Use Designation. The general nature of each Comprehensive Plan Land Use Designation will guide the uses and standards for the corresponding zone in the Zoning Code. [SHCP Chapter 2; Land Use Element, Portion of Table 1: Summary of Comprehensive Plan Land Use Designations]

Staff Findings: The Comprehensive Plan Map Designation of the subject property is Low Density Residential. See Attachment B. The goals and polices of the Comprehensive Plan are implemented through the application of zoning that implements the Comprehensive Plan Map designation of the property. The Low Density Residential (R-1) Zone implements the Low Density Residential Comprehensive Plan Map designation.

Based on a review of the Sweet Home Local Wetlands Inventory Map and the National Wetlands Inventory Map, the subject property does not contained inventoried wetlands. As a result, it would not be appropriate to apply the Natural Resources Zone to the property. The subject property is located outside of the 100-year floodplain.

Based on the above findings, the application of the R-1 Zone to the subject property would be consistent with the goals and policies of the Comprehensive Plan. The application complies with this criterion.

b. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment; [SHMC 17.12.025(B)]

Staff Findings: The subject property is located within the City's Urban Growth Boundary, which has been identified as the planned location for urban development in the City. Tax Lots 400 and 500, to the east, were annexed to the City in 2010 and Tax Lot 700 was annexed to the City in 2017 under similar circumstances: they sought connection to the City's sewer system. The subject property is contiguous to the Sweet Home City Limits. For these reasons, staff finds that the application complies with this criterion.

- c. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and [SHMC 17.12.025(C)]**

Staff Findings: The Engineering Department provided comments to this annexation and zone change proposal which are included in Section II of this Staff Report. The subject property is currently served by City water. The applicant is seeking connection to City sewer. If the applicant seeks connection to the sewer service on Alder Street, they would need to obtain a work in the right-of-way permit from Linn County; until such time as the portion of connecting right-of-way is annexed into the City. Costs associated with the extension of sewer and other services would be the responsibility of the property owner.

The subject property contains approximately 0.71-acre; and if approved, it would be possible to divide the property into lots as small as 8,000 square feet through a future subdivision or partition application process. The applicant has not requested a subdivision or partition at this time. If the applicant seeks to divide the property in the future, approval of those applications may require sidewalk or road improvements as required under the Sweet Home Municipal Code. A host of other development permits may also be required upon future development of the property; however, no specific development has been proposed at this time.

The subject property contains one single-family dwelling; and based on the comments submitted by the Engineering Division; utilities and services could be efficiently provided to the subject property.

- d. The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals. [SHMC 17.12.025(D)]**

Staff Findings: This criterion does not apply to a zone change, because the proposal does not require an amendment to the City's Comprehensive Plan Map. The Comprehensive Plan Map designates the subject property as Low Density Residential, and the applicant is proposing to apply the corresponding Low Density Residential (R-1) zone. The proposed zoning is consistent with the City's Comprehensive Plan; which has been acknowledged to be consistent with the Statewide Planning Goals.