



# City of Stayton

*Department of Planning and Development*

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## MEMORANDUM

**TO:** Chairperson Ralph Lewis and Planning Commission Members

**FROM:** Dan Fleishman, Director of Planning and Development

**DATE:** December 9, 2019

**SUBJECT:** Applications for Annexation and Comprehensive Plan Amendment – Gene Jones

**120 DAYS ENDS:** not applicable

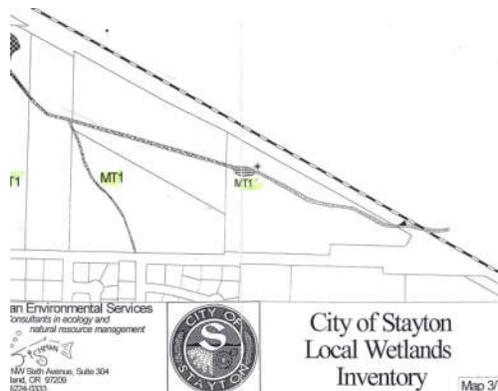
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This report presents the Planning Staff's summary and analysis concerning these applications. It was developed with the input of other City departments and agencies.

Attached are applications for annexation of an 18-acre parcel of land on Fern Ridge Rd and comprehensive plan map amendment for that property from Residential to Commercial. With the comprehensive plan map amendment, the applicant is requesting the property be zoned Interchange Development upon annexation.

The applications consist of the application forms and narratives, a conceptual site plan, and a Transportation Planning Rule analysis. Included in the packet are the applications and narratives, the TPR analysis, and the conceptual site plan.

The property is two tax parcels, Tax Map 091W02, Lots 500 and 600. Tax lot 500 has frontage on Highway 22 and Tax lot 600 has frontage on Fern Ridge Rd. The parcel is crossed by Lucas Ditch, a perennial stream flowing to the west. There is also a seasonal drainage flowing north from Fern Ridge Rd to Lucas Ditch. The City's Local Wetland Inventory shows significant wetlands along the two drainageways.



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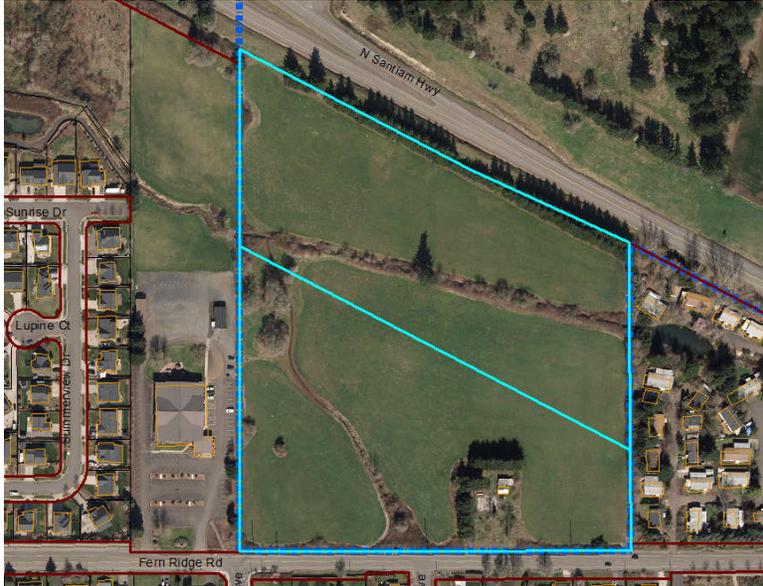
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An aerial photo from March of 2014 showing the property is shown below.



Review comments were received by from Public Works Department through the City Engineer, from the City's transportation engineering consultant, and from Marion County Public Works which are included in the packet.

Staff has the following concerns about the applications, which are noted in the findings and reflected in the recommended Order:

- As quasi-judicial applications, the applicant carries the burden of showing that the approval criteria are met. The applicant has not provided adequate information to make the necessary findings regarding many of the criteria and in some cases, the application is erroneous. Staff has provided some additional information in this memorandum in order to compile an adequate record.
- The applicant has requested the comprehensive plan amendment to allow Interchange Development zoning to be assigned. The property is not appropriate for ID zoning due to its location.
- The TPR review memo recommends that the Comprehensive Plan Map amendment be conditioned upon the development not generating more than 122 trips per day. The City's transportation planning consultant has raised concerns about this recommendation and its justification. The City's transportation planning consultant has also indicated that the Code requires submission of a Transportation Impact Analysis to accompany the application.

The Planning Commission's role in these applications is to provide a recommendation to the City Council. The Planning Commission does not have the authority to approve or deny either of the applications.

## **Annexation**

The first criterion for approval of an annexation is that there is need in the community for the land proposed to be annexed. The Code provides no guidance as to how to determine need. The application narrative merely includes a statement that "redevelopment of the underdeveloped territory will provide an economic boost to the City in terms of increased property taxes and goods and services needed during the construction phases of development. The addition of residences will

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provide new customers for businesses in the downtown core of the city.” This statement does not address the City’s need for additional territory. There are no residences proposed, as the applicant is proposing a commercial use. Some additional information, which is reflected in the draft order, is presented below.

The 2013 Stayton Comprehensive Plan update included a Buildable Lands Inventory (BLI). The 2013 BLI provides the following information on projected growth and need for additional land in the community. At that time, there were 31 lots comprising 21 acres of vacant land inside the City limits in the Commercial Retail, Commercial General, and Interchange Development Zones. The Comprehensive Plan noted that three adjacent parcels accounted for 7 acres, leaving 14 acres of land in 28 parcels and that there was a lack of medium-sized vacant parcels available for commercial uses.

There are currently 22 vacant lots totaling 29 acres within the City limits that are in the various commercial zones. Two lots, one of about 1 acre in area and the other about 8 acres in area, have been approved by the Planning Commission for development, but applications for building permits have not yet been submitted. There are two vacant lots in the Interchange Development zone. These two lots are contiguous and have a combined area exceeding three acres.

Inside the UGB and outside of the City limits there are two areas designated for commercial use in the Comprehensive Plan. The first is the northwest corner of Shaff Rd and Golf Club Rd. This is one parcel of about 10 acres in area. The other is the area on Mill Creek Road near the Golf Club Rd interchange with Highway 22. This is three parcels totaling about 9 acres. Though this area is not contiguous to the existing City Limits and is not eligible for annexation, it is near a Highway 22 interchange and, prior to 2013 was designated by the combined Comprehensive Plan/Zoning map as future Interchange Development zone.

The second criterion for approval of an annexation is that the site is or will be capable of being serviced by adequate City public services. The application narrative does not provide any information regarding the existing and planned utilities in the vicinity of the parcels to be annexed. Instead, the narrative includes a statement that the City has adopted codes regulating public facilities and development is subject to the City’s standards. The application form does indicate that there is an 8-inch water main and an 8-inch sewer main in Fern Ridge Rd. The application form also indicates that the private franchise utilities are available. Some additional information, which is reflected in the draft order, is presented below.

The City’s records indicate that there are the following publicly-owned utilities present at the property. There is a 10-inch sewer main located partially within a utility easement on the subject property and partially within the Fern Ridge Rd right of way along the entire length of the subject property. There is a 10-inch and 12-inch sewer main located in a utility easement along the west side of the subject property.

There is a 6-inch water main located on the south side of Fern Ridge Rd. The Public Works Department has commented that the Water Master Plan calls for construction of a 16-inch water main along the north side of Fern Ridge Road connecting to the existing 16-inch mains located in the street right of way to both the east and west of the subject property.

The fourth criterion for approval of an annexation is that the proposal is compatible with the character of the surrounding area and complies with the urban growth program and policies of the City. The application narrative notes that “the subject property is surrounded by a mobile home park to the east, vacant land to the northwest and commercial use to the southwest. The proposed Interchange Development Zone will allow the applicant to develop the site with an RV park that will be consistent with the surrounding uses. All design and code standards will ensure that when

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the site is developed it is consistent with the character of the neighborhood.” Staff is concerned with the accuracy of the above statements and is further concerned with relying on a future application for development for making the determination needed now regarding compatibility. Some additional information, which is reflected in the draft order, is presented below.

The surrounding area is developed with residential properties and a church. The property to the west is zoned Public/Semi-Public, and is developed as a church. The properties to the south and across Fern Ridge Rd are zoned Low Density Residential, and are developed with single family detached dwellings. The property to the east is zoned Medium Density Residential and is developed as a mobile home park. The property to the north and across State Highway 22, is zoned Exclusive Farm Use, and is farmland.

The applicant proposes amendment of the comprehensive plan designation to Commercial, assigning Interchange Development zoning to allow future development of a recreational vehicle park on the property. There are no other commercial properties in the surrounding area.

The Urban Growth Management policies of the City are incorporated into SMC Section 17.08.030. These policies state that the boundaries of the City should remain relatively unchanged until a major portion of the City’s usable land has been developed for urban purposes. There is currently only one zoning district within the City zoned Interchange Development. This district contains a total of about 8 acres of land, including about 1.5 acres of street right of way. The district is composed of four tax parcels, containing a total of 6.4 acres of land. Two of these tax parcels are vacant, undeveloped parcels, containing a total of 3.4 acres.

The application indicates that the comprehensive plan amendment and Interchange Development zoning is necessary to allow development of a recreational vehicle park. Recreational vehicle parks are also permitted uses in the Industrial Agriculture zone. There is currently one zoning district within the city zoned Industrial Agriculture. This district contains a total of about 67 acres of land, including about 2 acres of street right of way. The district is composed of 6 tax parcels, containing a total of 65 acres of land. Four of these tax parcels are vacant, undeveloped parcels, containing a total of 61 acres.

The fifth criterion for approval of an annexation is that the annexation request complies, or can be made to comply, with all applicable provisions of state and local law. The application narrative notes that “prior to development of the site, the applicant will be required to comply with all state and local laws. Along with obtain all state and local permits required for development of the site.” That statement does not address whether the annexation request itself meets all applicable provisions of state law. Therefore, some additional information, which is reflected in the draft order, is presented below.

The statutory provisions regarding annexation are found in ORS Chapter 222. These provisions apply to the adoption of an annexation ordinance, provisions for elections by residents of the territory to be annexed, and consent of property owners. Adoption of the annexation is a City Council action for which the Planning Commission’s role is advisory. The current owners of the property have consented in writing to the annexation request.

## **Comprehensive Plan and Zone Map Amendment**

When property is annexed into the City, its zoning is changed from a Marion County zone to a City of Stayton zone. Therefore, upon the advice of the then-City Attorney a few years ago, we must go through the criteria for approval for a Zone Map amendment with any annexation. The criteria for

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approval of a Zone Map amendment are very similar to the criteria for approval of a Comprehensive Plan amendment. Therefore, the comments below are combined for both.

The application asks for a Comprehensive Plan Map amendment from Residential designation to Commercial designation and requests the City assign Interchange Development zoning to the property upon finalization of the annexation.

An application for Comprehensive Plan amendment must demonstrate that the amendment is consistent with the goals and policies of the Plan and the statewide planning goals (Sect 17.12.170.6.b.1)). The applicant's narrative discusses 13 of the statewide planning goals but does not address the proposal's compliance with the goals and policies of the Stayton Comprehensive Plan. An application for a Zone Map amendment must demonstrate that the amendment is consistent with the Comprehensive Plan Map designation and be compatible with applicable provisions of the Comprehensive Plan (Sect 17.12.180.6.b.1)). The applicant's narrative does not discuss applicable provisions of the Comprehensive Plan.

Staff's review of the Comprehensive Plan has found a number of relevant policies and associated action steps which are relevant. The following information is reflected in the draft order.

The Comprehensive Plan describes the purpose of the Commercial designation as providing areas for retail, service, office and other commercial activities. The Plan indicates (action steps for Policy LU-4) that the Interchange Development zone should be for areas near the Highway 22 interchanges and shall be oriented towards commercial uses that serve the traveling public. Policy EC-4 and its action step state that the City is to discourage commercial development at Highway 22 and continue the Interchange Development Zone near the two Highway 22 interchanges. The Fern Ridge Rd intersection with Highway 22 is not an interchange. It is an intersection that allows traffic on Fern Ridge Rd to cross Highway 22. It is not an area the Comprehensive Plan indicated as future Commercial area.

An applicant for a Comprehensive Plan Map amendment must demonstrate that the current Comprehensive Plan Map does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and that the proposal is consistent with projected needs in the Comprehensive Plan (Sect 17.12.170.6.b.2)). An applicant for a Zone Map amendment must demonstrate that the purpose of the proposed zoning district satisfies the goals and policies of the Comprehensive Plan (Sect 17.12.180.6.b.4)). The applicant's narrative states that "there is a lack of appropriately designated vacant ID zoned sites within Stayton." It also posits that the proposed Plan designation is "a more appropriate designation than the current designation due to the location of the site to Highway 22 and the potential for open space areas throughout the site. The location of the site provides the ability to develop commercial services because it is at a location that is very close to and accessible to the highway and nearby commercial uses in the surrounding area."

While the applicant's narrative talks about the potential for open space areas throughout the site, the conceptual site plan does not show open space except, perhaps, along Lucas Ditch. Highway 22 is a limited access highway and the site does not have access to the highway. There are no nearby commercial uses in the surrounding area.

The following information is provided in reaction to the statements in the applicant's narrative and are reflected in the draft order.

The Comprehensive Plan indicates there were 31 lots comprising 21 acres of vacant land inside the City limits in the Commercial Retail, Commercial General, and Interchange Development Zones. Since adoption of the Comprehensive Plan, the City has created a new Commercial Zone, the Commerce Park zone. Currently, there are 22 vacant lots, comprising

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29 acres of land, in the four commercial zones. Two lots, one of about 1 acre in area and the other about 8 acres in area, have been approved by the Planning Commission for development, but applications for building permits have not yet been submitted.

Section 17.16.070 of the Land Use and Development Code allows recreational vehicle parks in the Interchange Development and the Industrial Agriculture zones. Section 17.20.250 of the Land Use and Development Code, enacted in May 2019, requires a minimum parcel size of 3 acres for a recreational vehicle park. There are two vacant adjacent parcels in the Interchange Development Zone with a combined area of 3.4 acres. There are four vacant parcels of land in the Industrial Agriculture zone, all of which are larger than 3 acres in area and which total 61 acres.

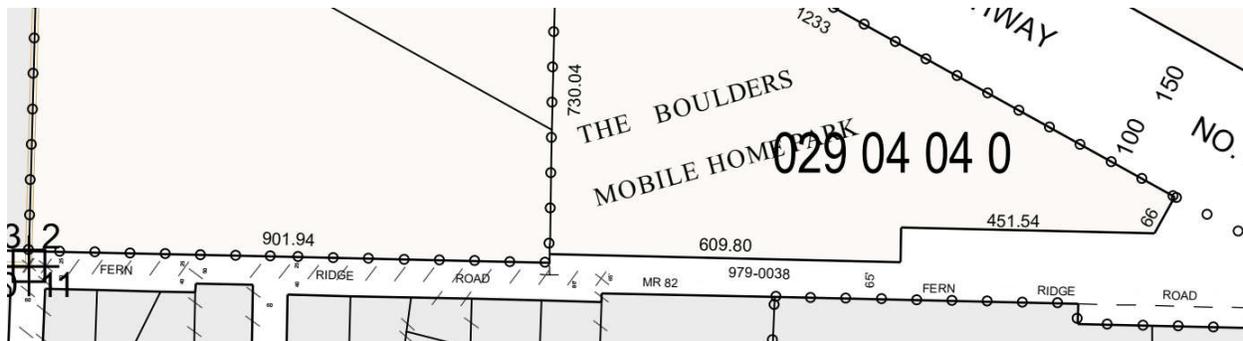
Applications for both Comprehensive Plan amendment and Zoning Map amendment must demonstrate that the existing or anticipated transportation facilities are adequate for uses permitted under the proposed designation and that there is conformity with the Oregon Transportation Planning Rule. The applicant's narrative makes reference to a proposed RV park, but does not discuss any other potential uses of the site if the ID zone is applied. The applicant submitted an analysis under the Transportation Planning Rule (TPR). The City's transportation planning consultant reviewed the analysis and provided the following comments, which are reflected in the draft order. The complete email from the City's consultant is included in the packet for the Planning Commission.

- In order to meet submittal requirements, the applicant must submit a traffic impact analysis incorporating the full range of development potential under current vs. proposed land use designations showing the effects of the reasonable worst-case proposed zoning on the surrounding transportation system in the Transportation System Plan (TSP) horizon year. The TSP made no assumptions for areas outside of the city limits including this site despite having a residential designation in the comprehensive plan therefore the comparison should be to existing County zoning. If the transportation system cannot support this zone change they may utilize a trip cap; however, a trip cap cannot be used to avoid completing the TIA.
- The submitted TPR analysis states that the TPR allows a 15% increase in estimated zone changes. We are not familiar with this. The applicant should state specific OARs. The finding of no significant impact needs to be documented in a TIA with reference to the criteria in the TPR.
- In order to satisfy the applicable TPR requirement, the developer will need to show that their development would have "no significant effect" on the surrounding transportation system. OAR describes a "significant effect" as:
  - Types or levels of travel that are inconsistent with the functional classification of an existing facility.
  - Trip generation that degrades the performance of an existing facility that is such that it would not meet or that is otherwise projected to not meet identified performance standards.
  - Per OHP, when a significant effect has occurred, a development that contributes less than 400 daily trips can be shown to have no significant degradation of the impacted facility.
- The trip cap shown in the submitted TPR analysis of 122 PM Peak Hour trips appears to be calculated by taking 106 PM peak hour trips (reasonable worst-case from existing residential zoning) and increasing by 15%. This is based on the statement that the TPR

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allows a 15% increase in estimated traffic in zone changes. However, there is no reference to this in the TPR and the comparison should be to County zoning as the existing comprehensive plan designation of residential was not included in the TSP. The 122 PM Peak Hour trip cap should not be used.

Finally, it is noted that Section 17.16.060 includes a description of each of the City's zoning classifications. The purpose of the Interchange Development zone is described as to "assure that land located within 1,500 feet of a highway entrance/exit ramp is available for uses that are oriented to providing goods and services oriented to the traveling public." The subject site is located near the intersection of Fern Ridge Rd and Highway 22. That intersection is not an interchange, as it requires through traffic on Fern Ridge Rd to cross Highway 22. It is not assigned an exit number by ODOT, as the Golf Club Rd and Cascade Highway interchanges are. While there is a right turn exit lane for eastbound traffic on Highway 22, there are not entrance ramps onto Highway 22. Even if one considers the exit lane a ramp, a majority of the subject property is located more than 1,500 feet from the ramp, as illustrated by the following excerpt from the Marion Co tax map of the area.



## RECOMMENDATION

Staff recommends that the recommendation from the Planning Commission to the City Council be to approve the application for annexation, deny the application for Comprehensive Plan amendment, and to assign Low Density Residential zoning to the property in accordance with the Residential designation of the Comprehensive Plan. This recommendation is based on the failure of the applicant to adequately carry the burden of showing that the application meets the criteria for approval of the Comprehensive Plan amendment, and a determination that Interchange Development zoning is not appropriate for this location.

A draft order is attached that reflects the staff recommendation based on the record as of December 2. There may be additional submissions by the applicant or testimony prior to or at the public hearing that requires the draft order be modified.

## OPTIONS AND SUGGESTED MOTIONS

Staff has provided the Planning Commission with a number of options, each with an appropriate motion. The Planning Department recommends the first option.

### **1. Recommend approval of the annexation and denial of the comprehensive plan map amendment, adopting the draft order as presented.**

I move the Stayton Planning Commission recommend approval of the application for annexation and denial of the application for comprehensive plan map amendment of Gene Jones (Land Use File #11-07/19) and adopt the draft order presented by Staff.

### **2. Recommend approval of the annexation and denial of the comprehensive plan map amendment, adopting modifications to the draft order.**

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I move the Stayton Planning Commission recommend approval of the application for annexation and denial of the application for comprehensive plan map amendment of Gene Jones (Land Use File #11-07/19) and adopt the draft order with the following changes...

**3. Recommend approval of the annexation and denial of the comprehensive plan map amendment, directing staff to modify the draft order.**

I move the Stayton Planning Commission recommend approval of the application for annexation and denial of the application for comprehensive plan map amendment of Gene Jones (Land Use File #11-07/19) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the January 27, 2020 meeting.

**4. Recommend denial of the applications for annexation and comprehensive plan amendment, directing Staff to develop the findings and conclusions to justify that decision.**

I move that the Stayton Planning Commission recommend denial of the applications for annexation and comprehensive plan amendment of Gene Jones (Land Use File #11-07/19) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the January 27, 2020 meeting.

**5. Recommend approval of the applications for annexation and comprehensive plan amendment, directing Staff to develop the findings and conclusions to justify that decision.**

I move that the Stayton Planning Commission recommend approval of the applications for annexation and comprehensive plan amendment of Gene Jones (Land Use File #11-07/19) and direct staff to modify the draft order to reflect the Planning Commission's discussion and bring a revised draft order for Planning Commission approval at the January 27, 2020 meeting.

**6. Continue the hearing until January 27, 2020.**

I move the Stayton Planning Commission continue the public hearing on the applications for annexation and comprehensive plan map amendment, of Gene Jones (Land Use File #11-07/19) until January 27, 2019.

**7. Close the hearing but keep the record open for submission of written testimony.**

I move the Stayton Planning Commission close the hearing on the applications for annexation and comprehensive plan amendment of Gene Jones (Land Use File #11-07/19) but maintain the record open to submissions by the applicant until December 23, allowing 7 days for review and rebuttal and then an additional 7 days for the applicant to reply, with final closure of the record on January 6, 2020.

**8. Close the hearing and record, and continue the deliberation to the next meeting.**

I move the Stayton Planning Commission continue the deliberation on the applications for annexation and comprehensive plan amendment of Gene Jones (Land Use File #11-07/19) until January 27, 2020.