

URBAN AREA PLANNING COMMISSION
Meeting Minutes – July 27, 2022, at 6:00 p.m.
Council Chambers

COMMISSIONERS:

Eric Heesacker (Chair)
Mark Collier (Vice Chair)
Loree Arthur
Jennifer Aviles
Susan Tokarz-Krauss
L. Ward Nelson
Clint Scherf
Jim Coulter

City/Staff/Council Liaisons:

Bradley Clark (Director)
Jason Maki (Associate Planner)
Donna Rupp (Associate Planner)
Ryan Nolan (Contract Principal Planner)
Gabby Sinagra (Assistant Planner)

Guests:

Nathan Emerson, CSA Planning
Greg McOwen, RCC

1. Public Hearing: a. 401-00102-22/403-00101-22 ~ RCC Zone Map Amendment and Annexation
~ PC Staff Report

Hearing was continued from our last meeting. There's no need to open it, but I do need to read the procedures. At this time, the public hearing will continue. We will begin the hearing with the Staff Report followed by public comment, and then the manner will be discussed and acted upon by the Commission. Objections to jurisdiction, is there anyone present who wishes to challenge the authority of the Commission to consider this matter? Nobody so signifies. Abstentions, conflicts of interest, do any Commissioners wish to abstain from participating in this hearing or declare a potential conflict of interest? Nobody's doing so. In this hearing, the decision of the Commission will be based upon specific criteria. All testimony and evidence must be directed towards those criteria. The criteria which apply in this case are noted in the Staff Report. It is important to remember if you fail to raise an issue with enough detail to afford the Commission and the parties an opportunity to respond to the issue, you will not be able to appeal the Land Use Board of Appeals based on the issue. We will now keep this hearing going with the Staff Report.

Good evening, Commissioners, just ensure I'm sharing my screen here. I might be having a little bit of an issue with the sharing of the screen. But tonight's project is Rogue Community College Zone Map Amendment and Annexation. My name is Jason. I'm an associate planner with the Community Development Department. And for the record, the project numbers are 401-00102-22 and 403-00101-22.

The proposal that the applicant is requesting approval of a zone map amendment and annexation into the city limits. The applicant proposes to change the subject parcels underlying zone map designation from R-4-2 to R-4-1. And just a note, the UAPC does not make recommendation to City Council for annexation applications and will make a recommendation only on the zone map amendment. We do have two concurrent applications, but for tonight's hearing, the Commission will just be making a recommendation for the zone map amendment application.

So little background. The current comprehensive plan designation for the subject parcels is high density residential, which allows for the R-4-1, R-4-2, and R-5 zone map designations. So, the proposal does not require a comprehensive plan amendment, just only a zone map amendment. The primary reason for this request is the existing zoning district of the subject parcels, which are R-4-2 does not allow for schools as a primary use, which is the existing development and

future development of the parcels. The proposed zoning district of R-4 1 does allow for schools as a primary use and would be a more appropriate zoning district for the existing use and development.

There's seven lots total, which you can see in the picture on the left, kind of highlighted in blue. Again, the current base zoning is R-4-2, and the proposed base zoning is R-4-1.

Just a little bit of insight into the existing utilities. The existing development is served by water through private laterals, through a private offsite pump station. And sewer is provided through a 10-inch sewer main. There is no direct connection to city storm drain main. And access is provided from the north by Redwood Highway and from the south, a privately maintained street. Zone map amendments are approved under the criterion found in section 4.033 of the Grants Pass Development Code. Staff did find that the proposal meets all seven criteria found in that section. Staff would like to highlight two specific criteria, which are as follows: criterion one, the proposed use, if any, is consistent with the proposed zoning district. The existing use of the subject parcels is categorized under the school's land use type found in schedule 12-2 of the Grants Pass Development Code. As per the Development Code schedule 12-2 school uses are permitted as primary use in the R-4-1 zoning district, which is the zone being requested. So again, going back to one of the earlier slides, the proposed zone is a more appropriate zone for the existing land use. And criterion four, it's specific to transportation, but it really applies to all utilities. The criterion reads, "Demonstration that the proposed amendment is consistent with the functions, capacities and performance standards of transportation facilities identified in the Master Transportation Plan." Staff did find that the criteria was satisfied.

The proposed zone change is not expected to increase the potential intensity of uses or demands on urban services. RCC is expected to continue to occupy and to be the primary land use on the site. Thus, the expected demands on functions, capacities, and performance standards of the transportation facilities are found to be similar before and after the zone change. And any future development approved through a site plan review will be required to meet the applicable standards of the Development Code at the time of review, including traffic impact analysis that may be required. So, in the future, if expansion occurs, those proposals will be reviewed and approved under the code standard at the time. Ending, any questions for me? That's staff's presentation.

Any questions of staff? There are none in house. Any of you Commissioners online? Any questions of staff?

No.

No.

I'm going to turn it over to the applicant. Come on up to the microphone please. Introduce yourself and go right ahead.

My name is Nathan Emerson. I'm a-

Push the button on the base of your microphone.

Oh, okay.

It lights up red. Now you should be lit. No. Staff will assist.

There we go.

How about now? I got to move it up. Got it. You think for somebody who does public speaking once in a while, that I'd figure it out. My name is Nathan Emerson. I'm a planner at CSA Planning, which is located at 4497 Brown Ridge Terrace in Medford, Oregon. I'm here on behalf of Rogue Community College tonight, along with Greg McOwen also of RCC. I don't have a whole lot to add to the Staff Report. I think that represents the application. I guess the only thing, I would add a little bit of context, perhaps. In our initial application or pre-application for the annexation, we weren't proposing a zone change at that time. Staff then pointed out that if we were next under the current zoning, that primary use of school use would not be allowed. And they recommended that we move forward with the zone change in conjunction with the annexation. We agreed, that's a good idea. We don't want to come into the city as a nonconform use or in violation of the zoning code. And so that's why we're here, those particular items tonight.

So, with that, we respectfully request that you recommend approval of the zone change to City Council. And I'm happy to answer any questions. Thanks.

Any questions to this gentleman? Online people? Any questions?

No.

No.

No.

Sir, did you want to add anything?

I don't.

All right. It sounds like we're all good. Unless there's any objections I'm going to go ahead and close the public hearing. Public hearing is closed. Do we have a motion?

Yes, we do. It seems pretty straightforward. So, I'm going to recommend approval of the RCC zone map amendment and annexation. Do you need me to read the numbers?

No, you don't need to read numbers, but you do need to clarify that we are recommending forwarding approval.

Boarding approval.

To Council.

To Council.

Just the zone map amendment.

Correct.

So, we've made a joint motion Collier and Heesaker. Do we have a second?

I'm scared to second.

With Commissioner Nelson seconding. Any discussion?

Would you repeat the motion? Was that just for the annexation?

I will repeat the motion. We can't recommend anything for the annexation. So, we're recommending forwarding approval to Council of the zone map amendment. That's the motion.

And there's no discussion on this motion. It's been seconded. All those in favor, say aye.

Aye.

Anyone opposed? Anybody abstaining? Motion carries, unanimous decision.

MOTION/VOTE

Chair Heesacker and Vice Chair Collier moved, and Commissioner Nelson seconded the motion to recommend forwarding approval to Council of the RCC Zone Map Amendment.

The vote resulted as follows: "AYES": Chair Heesacker, Vice Chair Collier, Commissioners Arthur, Aviles Coulter, Tokarz-Krauss, Scherf, and Nelson. "NAYS": None. Abstain: None. Absent: None.

The motion passed.

Thank you, gentlemen, very much for showing up. Commissioner Tokarz-Krauss, we don't need you for anything else tonight. You may proceed on your way and thank you so much for calling in.

Absolutely. Thank you.

Until next time.

Bye-bye.

Bye. Item 7A, Matters from Commission Members and Staff. Staff you want to talk to us about-

Susan Tokarz-Krauss is now exiting.

You want to tell us something about land use application site visit.

Just really quickly. Mark, I should say Commissioner Collier and I attended a training session a couple weeks ago online. This was hosted by the Oregon American Planning Association Chapter. One of the speakers there was a land use attorney, I can't remember her name right now. But one of the pieces of information that she shared during her training, I thought might just be helpful to bring up here. And it has to do with site visits. And this is a topic that we haven't really talked a lot about here. And in part, because it hasn't really been an issue, but I thought it was timely.

So basically, if you have a quasi-judicial hearing, which is anything that is specific to a land use item on a specific piece of property. So, we're not talking about legislative hearings, which are code amendments, actually tonight's zone map amendments are not. But any pretty much anything else you do, variances, subdivisions, any kind of other special permits that are on a particular piece of property, those are quasi-judicial. So, in a quasi-judicial hearing, you are highly recommended not to do site visits on your own. Now, this is a kind of a weird, she was a little bit wishy-washy. I don't know how you felt Vice Chair Collier, but I don't know, I thought there's some little bit of interpretation. I did talk to our city attorney and he more or less agreed.

It's not a good idea for you as an individual Commissioner to go to a site on your own and check it out.

If you do, be sure that you disclose that at the front end of the hearing. And if you drive by it on your way into work, or you go by there all the time on your way to doing whatever you're doing, we're not talking about that. We're not talking about just sort of passing by it as a course of business. We're talking about if you affirmatively go to a site for the purpose of checking it out in order to prepare yourself for a hearing, that's generally a no-no under Oregon Revised Statute. So, like I say, I don't think that's been happening, and I haven't heard any complaints, but I just thought it was a timely thing to bring up. Now, if you happen to see something coming across the docket and you think it's particularly interesting, I mean, it might be controversial or something, and staff will try to do a better job at informing you if we're getting just a ton of complaints or opposition, you can, as a Commission, do a site visit together, but we would have to notice that, because you'd presumably have a quorum.

So again, doesn't usually come up. We try to do as good a job as we can to give you aerials, to give you the information in the Staff Report. But sometimes it really does help you to see it on the ground and make a decision. And like I say, it's not that we can't accommodate you, we can, we can do that, but we do need to notice it. And it's just one of those things. So, I just thought I'd bring that up. There was a lot of interesting pieces to that training, but I wanted to point that one out.

I don't like that, but I'm not going to debate that here and waste everybody's time. You and I can discuss it at some point.

Well, yeah. Yeah. I didn't make the rule.

Understood. This won't be a beat down. It'll be a discussion. Anybody else have anything they want to bring forward? Commissioner Nelson.

A clarification. You have to notice, but I don't believe you have to be a quorum. In other words, if you are two Commissioners that have specific things you want to go over or look at, then it must be noticed, I believe. That would definitely have to happen as well.

Just to clarify, are you saying that if two Commissioners decided you wanted to go together to do a site visit-

That would have to be noticed and I would recommend it.

Well, then tomorrow morning, we have to notice our 9:30 meeting with Commissioner Councilor Lovelace.

That's unlegislated.

I think, so now we're stepping off the discussion.

Yeah. Yeah. I think whether you're one person, two persons, three persons, the point of this training was that you shouldn't be going to the site to do that. Whether there's multiple of you or not. And if you do and you have a quorum, then we would notice it. Yeah.

Would we need to be escorted by staff?

We would because we would have to probably somehow record it. Some kind of a handheld device or whatever, and we would actually have to do minutes too.

Understood.

Yep.

Other comments on that?

Commissioner Aviles.

Go right ahead.

So just to make sure I'm hearing right, I'm going to run through a recent example. Is that okay?

Sure.

It was the five-unit development off of Carnahan. I live near there. And I remember during our session, I shared that I walked by, I knew the area, blah, blah, blah. I don't think that was a quasi-judicial item. I believe that was legislative because it might have had to do with a lot. But I guess you'd have to know if it was a... I'm sorry, I'm thinking out loud as I'm speaking, I guess we would have to remember whether or not that property was legislative or quasi-judicial to know if what I did then is what you're referring to. But what I'm hearing is this more of like an ex parte issue, showing up is something that would be considered ex parte and that's why it needs to be disclosed.

Yes. Yes, exactly. And I do remember the one you're talking about, Commissioner, and that was quasi-judicial. And again, if it happens, it happens. But I think the real intent behind this would be that if you happen to get onto the site and maybe a neighbor comes by and you just say, "Hey, what are you doing?" "Oh, we got a land use hearing coming up." And you start talking to them about this and that. And then the owner shows up and you want to talk to them about this then that, that's where it starts to get a little bit more messy. And granted, what's the likelihood of that? Pretty small. But the point of the law, and this is not an unusual law, I know that Washington and Idaho have the same thing, is to try to prevent that ex parte, as Commissioner Aviles just said, communication. It's different than a conflict of interest. We're not talking about conflict of interest here. We're talking about trying to prevent ex parte communication.

Thank you. Second question. Are there any materials from that training that can be shared with the Commission and/or the public?

Yes. I think there are some PowerPoint slides that we have, so we can certainly send those out.

Thank you.

Send that to all the Commission members, that'd be great. Thank you very much. Commissioner Aviles, nothing else?

No, sir.

Commissioner Arthur.

I don't have anything. Nothing.

Nobody in house has anything. This meeting is adjourned.

I'm sorry. I did have one more step up.

Ah.

I'm sorry.

I take back the adjourn-

I didn't know you were going to move that quick.

I retract. Go ahead, Director Clark.

So, I think it was about three meetings ago, you, Chair, refreshed the Commission on the Middle Housing Code. So, you made a recommendation to the City Council to approve the Middle Housing Code. The City Council had their hearing. They had about 20 developers show up at their meeting. They chose to remand that item back to you. There was a lot of discussion about the zoning transition overlay and a lot of confusion and conflating the two. I think we talked about that.

Yes, we did.

And you, Chair, made the announcement, basically, that it could be coming back. Where we're at now, is trying to determine where to go with that application. Because as you may recall, we're currently working under the State Model Code for middle housing. And we would, I think all of us collectively, Council, Commissioners, staff, want to get to a local code and not use the State Model Code. So, we're trying to get a resolution on this. So, I guess the question tonight, we'd just like clarity if this Commission in fact wants to see the middle housing back or if you're okay if the City Council picks it back up again where they left off.

So, for purposes of consensus, we've made our recommendation. I don't see a point in us dragging through that whole thing again. That's my vote. Okay. Nelson and Collier agree. Commissioner Aviles, Commissioner Arthur, how would you feel about taking a second look at the Middle Housing Code?

What exactly did they want to find out by sending it back to us?

I don't think we know that, but I'll let Director Clark speak to that.

No, that's correct. We don't. Their motion to remand was fairly unexplicit and ambiguous. Not in the sense of remanding it, but in terms of why. I think that if you go back and listen to that meeting, it's pretty clear that all of the public testimony really related to the zoning transition overlay and not the Middle Housing Code. And I think it just really caused some misunderstanding about the purpose of that hearing. And so, we're trying to separate those two topics out and move forward with just the middle housing. So, we actually don't have any specific direction from the Council as to why they would send just the middle housing back to the Zoning Commission or the Planning Commission.

Commissioner Arthur, that answer your question?


Yes. I did watch that, and I was puzzled at what was going on too.

Thank you. We'll take that back. You probably won't be seeing it again.

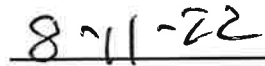
All right. Thanks for that. I was going to ask you about that. Thank you for remembering. This meeting is... Director Clark, what else do you have for us?

No.

This meeting is adjourned. Thank you, ladies.

 ERIC HEESACKER

Eric Heesacker, Chair
Urban Area Planning Commissioner



Date