



**CITY OF STAYTON**  
**M E M O R A N D U M**

**TO: Mayor Henry Porter and the Stayton City Council**  
**FROM: Dan Fleishman, Director of Planning and Development**  
**DATE: October 11, 2021**  
**SUBJECT: Annexation Application, Gene Jones, 13601 Fern Ridge Rd**

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**ISSUE**

The issue before the City Council is the continuation of a public hearing on an application for the annexation for approximately 19 acres of land at 13601 Fern Ridge Rd and to determine which zoning to assign the property. The City Council commenced the public hearing on March 2, 2020 and continued the hearing to allow the applicant to submit a conceptual plan of a proposed multifamily development.

Following the public hearing, the Council will be requested to consider Ordinance 1043 that will annex the property and amend the Official Zoning Map.

**BACKGROUND INFORMATION**

The territory proposed for annexation is a 19.1-acre parcel of land made up of two tax parcels on the north side of Fern Ridge Road, between Foothills Church and the Boulders mobile home park. The property has frontage along Highway 22, but has no legal access to the highway. The property is currently vacant, with a small storage shed located on it. A March, 2020 aerial photo of the property is shown below.



The applicant originally submitted a concurrent application for a Comprehensive Plan Map amendment with the application for annexation, requesting the Comprehensive Plan Map designation be changed from Residential to Commercial. At that time, the applicant intended to develop the property as a recreational vehicle park. Following the Planning Commission's public hearing in December 2019, that application was withdrawn.

The applicant returned to the Planning Commission in January 2020 and requested that Medium Density Residential zoning be applied to the property, indicating an intention to develop a mobile home park.

At the March 2, 2020 City Council meeting the applicant appeared and informed the City Council that plans had changed again, and that now he would like High Density Residential zoning to be applied to the property in order to allow the construction of a multi-family development. On March 2, the City Council continued the hearing until April 6, 2020 to allow the applicant to submit a conceptual plan of the apartment complex. That plan was submitted on March 12, 2020 and a copy is enclosed. The ensuing COVID-19 situation and the declarations of emergency at the state and local level meant that the hearing was postponed until October 11, 2021. The large number of attendees at each of the three public hearings that were held previously resulted in staff having great concerns over the ability to hold the hearing effectively and safely.

Due to the long delay in scheduling the continued hearing, the City Council's packet includes the application for annexation as submitted in 2019, the applicant's narrative submitted with the application, the applicant's conceptual plan for a multifamily development submitted after the March 2, 2020 hearing, the Planning Commission's order from January 2020, and four pieces of correspondence received since the March 2 hearing. Finally, the packet includes a revised draft of Ordinance 1043 for consideration by the City Council.

This staff report includes an updated analysis regarding the criteria for approval for annexation, reflecting the changes in the inventory of vacant land from the annexations, rezoning, and from development activity since the March 2, 2020 staff report was prepared, and further analysis regarding the decision as to which zone to assign to the property.

## **ANALYSIS**

This report presents the Planning Staff's summary and analysis concerning this application. It was developed after seeking input from other City departments and agencies. As is routine for all land use applications, notice of the application was sent to the City of Stayton Public Works, Stayton Cooperative Telephone Company, Pacific Power, NW Natural Gas, Stayton Fire District, Marion County Public Works, Marion County Planning Division, Santiam Water Control District and the North Santiam School District. Whereas the property is adjacent to State Highway 22, the Oregon Dept of Transportation was also notified. No comments were received nor concerns raised by these agencies regarding the annexation. Some comments were received regarding future development of the property and those comments are reflected below and in the findings that are part of the revised draft Ordinance.

## **Annexation Criteria**

Section 17.12.210 of the Land Use and Development Code contains six criteria for approval of applications for annexation. The sixth criterion applies only to contract annexations and is not applicable to this application. The other five criteria are:

- a. Need exists in the community for the land proposed to be annexed.
- b. The site is or is capable of being serviced by adequate City public services including such services as may be provided subject to the terms of a contract annexation agreement between the applicant and the City.
- c. The proposed annexation is property contiguous to existing City jurisdictional limits.
- d. The proposed annexation is compatible with the character of the surrounding area and complies with the urban growth program and policies of the City of Stayton.
- e. The annexation request complies or can be made to comply with all applicable provisions of state and local law.

Criteria b, c, and e are fairly objective and leave little for interpretation. Sewer and water facilities are available in Fern Ridge Rd and on the property. The area to be annexed is contiguous to the City Limits on three sides and provisions of the state law – process and consent of landowners – have been or will be followed.

This leaves the other two criteria for more careful scrutiny and analysis – need and compatibility. The “need” for any annexation may always be debated. The application narrative merely includes a statement regarding the economic boost to the City’s economy from development of the property. Some additional information, which is reflected in the revised draft ordinance 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 114 lots comprising 106 acres of vacant land inside the City limits in the Low, Medium, and High Density Residential Zones. The projected population for the City in 2030 (at a growth rate of 1.7%) was 11,359 people, requiring an additional 1,281 dwellings. To meet that need, the City Comprehensive Plan indicates the expected need of an additional 320 acres of residential land to be annexed into the City. Since the time that analysis was conducted, the City has annexed 43 acres of residential land.

Staff maintains data on the vacant parcels within the City Limits. As of October 1, 2021, there are 83 vacant lots totaling 104 acres within the City Limits that are residentially zoned. Of these, 61 lots, totaling 85 acres are in the Low Density (LD) zone and 19 lots, totaling 8 acres, are in the Medium Density (MD) zone. There are two vacant lots in the High Density (HD) zone, with a combined area of 9 acres.

Only two subdivisions have been platted in the past 5 years. Three subdivisions have been platted in the past 10 years. The total number of lots in each and the current status are shown in the table below.

Recent Subdivisions in Stayton

Subdivision Name	Year Platted	No of Lots	Existing Homes	Vacant Lots
Phillips Estates, Phase 2	2014	26	5	21
Wildlife Meadows	2017	44	46*	0
Lambert Place	2020	51	45*	6

\* Includes homes for which a building permit has been issued but may not yet be constructed or occupied.

In addition, there is a possible third phase of the Phillips Estates subdivision, accounting for a potential of 10 lots, and the Virginia Terrace subdivision with four lots, that have received preliminary plan approval from the Planning Commission but not yet been platted with Marion County.

Though there are 83 parcels totaling 104 acres in the City and residentially zoned, staff estimates that there are only 45 parcels totaling 52 acres of vacant property within the City limits that are residentially zoned and reasonably available for development. Lack of utility availability, ownership by a governmental entity, wetlands and floodplain issues, and the inability of the owner of the Phillips Estates subdivision to provide adequate stormwater facilities constrain the ability of the remaining land to be available for development. Within the LD zone there are 25 lots reasonably available for development. In the MD zone there are 18 vacant lots. There are two vacant lots in the High Density Residential Zone. With a combined 9 acres, they have the potential capacity for 120 to 150 dwelling units.

The City’s growth rate from the 2000 Census to the 2020 Census has been at an average annual rate of about 1.0%, with a population change of 1,428 people. As reflected in the Comprehensive Plan, the Marion County Coordinated Growth projection for 2030 is 11,360, reflecting a 1.7% average annual growth rate for the next twenty years. At a 1.7% growth rate from the 2020 Census population estimate of the City, there would be the need for 445 new dwellings units over the next 10 years. At an average of 5 units per acre, there would be the need for all of the existing reasonably available vacant land in the City and about 60 acres of land beyond the reasonably available vacant land to accommodate this number of homes.

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 ordinance, 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. All design and code standards will ensure that when 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 findings within the draft ordinance, 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 requests the property be zoned High Density Residential and intends to develop the property as a multifamily development.

To a certain extent, the City Council's determination of compatibility will be dependent on the zoning district the City Council chooses to apply to the property upon annexation. The property to the east is zoned MD and the residential area to the west of the neighboring church is zoned MD.

### **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. Under the terms of Section 17.12.210.5, the specific zone assigned to the land being annexed is determined by the City Council in accordance with the proposed uses of the land and the needs identified by the buildable lands analysis in the Comprehensive Plan.

The property is designated Residential by the Comprehensive Plan Map. Chapter 17.16 of the Land Use and Development Code establishes three possible zoning classifications for residential zones and describes these zones as follows in Section 17.16.060:

- LOW DENSITY RESIDENTIAL (LD). To provide for single family dwelling units and their accessory uses and, with conditional use approval, other uses compatible with single family dwelling units. Density shall not exceed 6 units per acre. The minimum lot size in the LD zone east of Tenth Ave is 10,000 square feet with an 80-foot lot width requirement.
- MEDIUM DENSITY RESIDENTIAL (MD). To provide for single family, duplex, triplex, and mobile home parks, and other compatible uses with conditional approval. Density of development shall not exceed 12 dwelling units per acre. The minimum lot size in the MD zone is 7,000 square feet with a 70-foot lot width requirement.
- HIGH DENSITY RESIDENTIAL (HD). To provide for multifamily residential units, other compatible living units, their accessory structures and, with conditional use approval, other compatible uses. The minimum density shall be 13 units per acre. There shall be no upper limit to the maximum allowable dwelling density. The minimum lot size in the HD zone is 6,000 square feet with a 60-foot lot width requirement.

The task before the City Council is to determine which of the three zones is most appropriate for this property considering the goals and policies of the Comprehensive Plan and housing needs in the City. When the application had been forwarded to the City Council, the applicant had requested the City apply Medium Density Residential zoning to the property with the idea of a mobile home park. He has since amended his request to High Density Residential to allow for a multifamily development. The Planning Commission, following its analysis had recommended Medium Density Residential zoning, reflecting the applicant's request before them.

The March 2 staff report had included a significant discussion regarding the policies of the comprehensive plan, the urban growth framework in the Marion County Plan, and the density of recent residential subdivisions in the City. In summary, Marion County has adopted a guideline that new residential development in Stayton should have between 5 and 6 units per acre of land. Currently, the LD zone is developed at a density of 2.2 units per acre; the MD zone at 4.4 units per acre; and the HD zone at 11.3 units per acre. The overall density of the three residential zones is 3.2 units per acre.

Since 2000, there have been 18 subdivision plats recorded within the City. The average density in the newer subdivisions has been 3.0 units per acre. Two-thirds of the land in subdivisions in the past 20 years has been in the LD zone and one third has been in the MD zone.

Since 2000, there have been two developments on land zoned HD: the assisted living facility on N Third Ave in 2000 and a 4-unit apartment on Locust St in 2002.

Some additional information/analysis is presented to the City Council as a result of the discussion during the March 2, 2020 hearing and the change requested by the applicant. This information/analysis relates the types of development/permitted uses in each of the three residential zones, the distribution of the land within the three zones for land annexed into the City, and with the Comprehensive Plan's projected need for housing.

### Description of Zoning Districts

While the three bulleted paragraphs above provide a description of the three residential zones, they are not *verbatim* quotes from the permitted uses and development types permitted. The LD zone permits only single family detached dwellings, including manufactured housing units, and limits them to one dwelling per lot. While Section 16.06.060 states a density limit of no more than 6 units per acre, the minimum lot size and frontage requirement are likely to result in a maximum density of 4.2 units per acre. East of Tenth Ave, with a 10,000 sq. ft. minimum lot size, the maximum density feasible will be 3.5 units per acre.

Within the MD zone, the following housing types are permitted: single family detached (including manufactured housing units), duplex, and triplex. Mobile home parks are also permitted. Single family detached dwellings are limited to one per lot. Section 16.06.060 limits density to no more than 12 units per acre; the minimum lot size and frontage requirement for single family detached dwellings are likely to result in a maximum of 4.8 units per acre. The Code allows a duplex on a 7,000 sq. ft. lot with 70 feet of frontage, doubling the density to 9.6 units per acre. The Code requires an additional 3,500 sq. ft. of lot area for a triplex, approaching 10.4 units per acre if there were only one building per lot. The standards for a mobile home park require each home site within the park to have a minimum of 3,500 sq. ft, which will approach 12 units per acre depending on the street width in the park.

There are three housing types permitted in the HD zone: single family attached dwellings, multi-family dwellings, and mobile home parks. The minimum lot size requirement in the HD zone is 6,000 sq. ft. Section 17.16.060 requires a minimum density of 13 units per acre with no maximum. With the requirement that each site in a mobile home park contain a minimum of 3,500 sq. ft., achieving that density is not possible.

Finally, the minimum lot size and housing types permitted in each zone is somewhat irrelevant for the subject parcel. As noted in the March 2, 2020 staff report, the parcel is transected by Lucas Ditch. Lucas Ditch and its immediate riparian area are identified as a Significant Wetland by Stayton's Local Wetland Inventory, as are other wetland areas on the parcel. Therefore, Section 17.24.090.2.a *requires* that any subdivision of the parcel be done as a Master Planned Development. As such, the minimum lot size, frontage requirements, setback and height restrictions of the respective zone are all modified and the density of the development is averaged across the development, allowing the clustering of development and the preservation of open space. Additionally, housing units may be provided in any mix of attached or detached single family, duplex, triplex or multi-family structures. Under these provisions, should, for instance, the Council determine that Low Density Residential is appropriate, the property would support 83 dwelling units (19.1 acres divided by 10,000 sq. ft., being east of Tenth Ave). Medium Density Residential would support 229 units (12 units per acre) and High Density would require a minimum of 248 units. The Code allows density bonuses of up to 50% for meeting certain design standards above the minimum required.

### Annexations Since 1990

The City has annexed 131 acres of land for residential development since 1990. Of that, 89 acres is zoned LD, 37 acres is zoned MD, and 5 is zoned HD.

### Housing Needs Projection

Chapter 6 of the 2013 Comprehensive Plan includes a projection of housing needs in the City for the 20-year planning period. Based on the adopted population projections for the City through 2030, the Plan estimated how many new housing units would be required and what the mix of single family detached, single family attached and duplexes, multi-family, and mobile homes would be during that time. While the City has not experienced the overall growth that was projected, the mix of housing types included in Table 6-10 from the Comprehensive Plan could be helpful in determining the need for land in the various residential zones.

The Comprehensive Plan indicates that between 2000 and 2010, 95% of the new housing units were single family detached, comprising 63% of the existing housing units in 2010. However the plan projected that this housing type would make up 69% of the new units. Single family attached and duplexes had been 10% of the new housing units between 2000 and 2010, were estimated to comprise 12% of the existing units and were projected to be 15% of the new units. Multi-family dwellings were estimated to make up 20% of the existing units but only 14% of the new units. Finally, mobile homes were 5% of the existing units, but projected to be only 2% of the new units.

Since 2010, there has been a net increase of 174 new housing units in the City (there have been 21 single family detached homes demolished). Of these, there are four multi-family units for 2% of the new units, six are duplexes, for 3% of the new units, three are accessory dwelling units, and 161 are single family detached, for 95% of the new units, one of which was a manufactured housing unit.

While there has been minimal development of new multifamily housing in the City in the past 20 years (one 4-unit building), it should be noted that there have in the past 18 months been four proposals for new apartment complexes that, together, could add close to 300 new units to the City's housing stock, not including the applicant's. The City annexed the property at the corner of Shaff Rd and Golf Club Rd in July 2020. Five acres of this property was zoned High Density Residential and an application for a 99-unit development was submitted the first week of October. In December 2020, staff held a preapplication meeting for a potential 80-90 unit development on E Florence St. The developer is proceeding with plans for the property. In February 2021, staff held a preapplication meeting for a potential 85-unit development on the HD land on N Third Ave. That development is also proceeding with plans for the property, having received financing assistance through the Oregon Dept of Housing and Community Services. In April 2021, the Planning Commission approved a site plan for an 18-unit duplex development on E Santiam St. This project is proceeding through site engineering prior to commencing construction.



## RECOMMENDATION

The Planning Commission recommendation for approval of the application and assigning Medium Density Residential zoning to the property, with the Natural Resource Overlay zone within 100 feet of Lucas Ditch, was based on the applicant's request before them.

The staff has enclosed the draft ordinance in the packet, with a recommendation for Medium Density Residential zoning. The provisions of the master planned development process provide the flexibility for to provide a mix of housing types, including multi-family and would allow development of up to 229 units on the parcel.

The Council's decision is to determine if the property should be annexed at this time and if so, which residential zone is appropriate.

There may be testimony at the public hearing that requires the findings in the revised draft ordinance be modified to reflect that testimony.

## OPTIONS AND MOTIONS

The City Council is presented with the following options.

### **1. Approve the application for annexation, assign MD Zoning, and approve the first consideration of Ordinance 1043**

Move to approve the application of Gene Jones (Land Use File #11-07/19) for annexation, assign Medium Density Residential Zoning to the property with the Natural Resource Overlay District applying within 100 feet of Lucas Ditch by enacting the revised draft of Ordinance No 1043 as presented.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the vote is unanimous, Ordinance No. 1043 is enacted and will be presented to the Mayor for his approval.

If the vote is not unanimous, Ordinance No. 1043 will be brought before the Council for a second consideration at the October 25, 2021 meeting.

### **2. Approve the application for annexation, assign MD Zoning, and approve the first consideration of Ordinance 1043 with modifications**

Move to approve the application of Gene Jones (Land Use File #11-07/19) for annexation, assign Medium Density Residential Zoning to the property with the Natural Resource Overlay District applying within 100 feet of Lucas Ditch by enacting Ordinance No 1043 with the following changes ... and direct staff to incorporate these changes into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1043 will be brought before the Council for a second consideration at its October 25, 2021 meeting.

**3. Approve the application for annexation, assign HD zoning and the first consideration of Ordinance 1043 with modifications**

Move to approve the application of Gene Jones (Land Use File #11-07/19) for annexation, assign High Density Residential Zoning to the property with the Natural Resource Overlay District applying within 100 feet of Lucas Ditch by enacting Ordinance No 1043 changing the assigned zoning to High Density Residential and direct staff to incorporate this change into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1043 will be brought before the Council for a second consideration at its October 25, 2021 meeting.

**4. Approve the application for annexation, assign LD zoning and the first consideration of Ordinance 1043 with modifications**

Move to approve the application of Gene Jones (Land Use File #11-07/19) for annexation, assign Low Density Residential Zoning to the property with the Natural Resource Overlay District applying within 100 feet of Lucas Ditch by enacting Ordinance No 1043 changing the assigned zoning to Low Density Residential and direct staff to incorporate this change into the Ordinance before the Ordinance is presented to the City Council for a second consideration.

The City Recorder shall call the roll and the names of each Councilor present and their vote shall be recorded in the meeting minutes. If the first consideration is approved, Ordinance No. 1043 will be brought before the Council for a second consideration at its October 25, 2021 meeting.

**5. Deny the application**

Move to deny the application of application of Gene Jones (Land Use File #11-07/19) for annexation and direct staff to prepare a draft Order of Denial for consideration by the City Council.

**6. Continue the hearing until October 18, 2021.**

I move the City Council continue the public hearing on the application of Gene Jones (Land Use File #11-07/19) until October 18, 2021.

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

I move the City Council close the hearing on the application of Gene Jones (Land Use File #11-07/19) but maintain the record open to written submissions by the applicant until October 25, 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 November 8, 2021.

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

I move the City Council continue the deliberation on the application of Gene Jones (Land Use File #11-07/19) until October 18, 2020.