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BY ENGAGING COMMUNITY MEMBERS TO DEVELOP AN ENRICHED QUALITY OF LIFE.**



**PLANNING COMMISSION MEETING AGENDA
CITY OF ONTARIO OREGON
MONDAY, SEPTEMBER 13, 2021, 6:00 PM, MT
[Zoom Link](#)**

1) CALL TO ORDER

Commissioner Cydney Cooke _____ Commissioner Blu Fortner _____ Commissioner Max Twombly _____
Commissioner John Hall _____ Commissioner John Breidenbach _____ Commissioner James Grissett _____
Chairman Ralph Poole _____

City Council Ex-Officio _____ City Manager _____
Economic Development Director _____ Building Official _____ Planning & Zoning Technician _____

2) PLEDGE OF ALLEGIANCE

3) MOTION TO ADOPT THE AGENDA

This Agenda was posted on . Copies of the Agenda are available at the Community Development Center and on the city's website at www.ontariooregon.org.

4) PUBLIC COMMENTS Citizens may address the Planning Commission; however, the Planning Commission may not be able to provide an immediate answer or response. Out of respect to the Commissioners and others in attendance, please limit your comment to three minutes. Please state your name and city of residence for the record.

5) APPROVAL OF MINUTES Minutes of July 12, 2021

A) Minutes of July 12, 2021

6) PUBLIC HEARING

A) ACTION 2021-04-15AZ: A REQUEST BY KATHRYN M. BLACKMON FOR THE ANNEXATION AND REZONE OF PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50) TO ALLOW CONNECTION TO CITY SERVICES. AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302.

7) HAND-OUTS/DISCUSSION ITEMS

8) COMMENTS FROM COMMISSIONERS

9) ADJOURN



PLANNING COMMISSION MEETING MINUTES

Monday, July 12, 2021

CALL TO ORDER

The Ontario Planning Commission was called to order at 6:00pm in the Council Chambers of City Hall. Commission members present were Chairman Ralph Poole, Cydney Cooke, John Hall, John Breidenbach, James Grissett. Max Twombly was excused and Blu Fortner was absent.

City Staff present were Dan Cummings, Community Development Director; Marcy Siriwardene, Building Official; and Marc Berg, Planning Tech. Adam Brown, City Manager, and Ex-Officio Eddie Melendrez were present.

The meeting was recorded and is on file at the City Community Development Center. The agenda for this meeting was emailed on or before July 2nd, 2021. Copies of the Agenda were available at the City Community Development Center.

Chairman Ralph Poole led everyone in the Pledge of Allegiance.

ADOPTION OF AGENDA

John Hall moved, seconded by Cydney Cooke, to adopt the agenda as presented. Roll call vote: Cooke-yes; Fortner-out; Twombly-out; Hall-yes; Breidenbach-yes; Grissett-yes; Poole-yes. Motion carried 5/0/2.

PUBLIC COMMENTS

Chairman Poole addressed the audience and summarized the previous Planning Commission meeting. He asked for any public comments from the audience, anything not related to action 2021-03-11RZ. There were none.

ADOPTION OF MINUTES

John Breidenbach moved, seconded by John Hall, to approve the adopt the June 14, 2021 minutes as presented. Roll call vote: Cooke-yes; Fortner-out; Twombly-out; Hall-yes; Breidenbach-yes; Grissett-yes; Poole-yes. Motion carried 5/0/2.

PUBLIC COMMENTS

Chairman Poole described the continuation of action 2021-03-11RZ.

Chairman Poole asked about ex-parte contact.

Mr. Adam Brown, City Manager, notified the commission that he had spoken to one of the affected property owners neighboring this development.

Chairman Poole asked if anyone had objections to the Ontario Planning Commission's jurisdiction in handling this issue, or to make a ruling.

There were no objections to the Planning Commission's jurisdiction.

Chairman Poole asked if there were any abstentions. No abstentions made from members present.

PUBLIC HEARING: CONTINUATION OF ACTION 2021-03-11RZ: A REQUEST BY CINDY M BRYANT FOR A REZONE OF PROPERTY FROM SINGLE FAMILY RESIDENTIAL (RM-50) TO PLANNED DEVELOPMENT (PD) RESIDENTIAL FOR AFFORDABLE HOUSING

Mr. Dan Cummings, Community Development Director, presented an update on the project.

- An updated map was shown to reflect the concerns from the last meeting.
- The State of Oregon requires that duplexes be allowed on any lots zoned for residential. A duplex would require two lots.
- The developer will redesign the one-way street, to widen the road and shorten the lots.
- Emergency vehicle access will remain at northeast corner of the development.
- Staff recommended that, if approved, it would include Conditions of Approval.

DISCUSSION

Chairman Poole asked if the restriction of 55 and older was for the owner, or the resident living in the home.

Mr. Cummings said anyone can buy a lot, but the restriction would be for the resident living there.

Commissioner Hall asked about the street width.

Commissioner Breidenbach asked about the on-street parking.

Mr. Cummings reminded the commission there are two letters sent, to be read into the record.

Commissioner Cooke asked about the individual lots.

Mr. Cummings replied that someone could buy a lot, rent a lot, or let the developer build the house and rent it to someone 55 and older. They will provide as many options as possible.

Commissioner Cooke asked about an owner who wants to will the property to descendants.

Mr. Cummings clarified that anyone could inherit a home, but that owner must follow the same rules.

Chairman Poole asked if there were any additional comments or questions.

Chairman Poole asked if the developer would address the Planning Commission.

Public Testimony – Those signed up to speak during the public hearing:

- Ms. Krista Frahm, Ontario resident (opponent)
- Ms. Annah Tubbs, Ontario resident (proponent)
- Mr. Kenny King, Ontario resident (opponent)
- Mr. Craig DeBoer, Ontario resident (opponent)
- Mr. Derrick McKrola, Vale, OR resident (proponent)
- Mr. Michael and Ms. Diahann Derrick, Ontario residents (proponent)
- Mr. Jesse Christensen, Nampa, ID resident (proponent)
- Ms. Cindy Bryant, Bonney Lake, WA resident (proponent)

PROPONENTS

Ms. Cindy Bryant, resident of Bonney Lake, WA, explained the details of her project.

Ms. Bryant answered questions from the Planning Commission.

Mr. Jesse Christensen, resident of Nampa, ID, asked if anyone had questions for him. He is the engineer on the development. He brought up snow storage and drainage.

Mr. Cummings answered the city can no longer put any stormwater into irrigation ditches.

Mr. Derrick McKrola, resident of Vale, OR, addressed the commission.

Chairman Poole read the two letters supporting the development.

To: The Ontario Planning Commission,

Letter of support for 2021-03-11RZ: A REQUEST BY CINDY M BRYANT FOR A REZONE OF PROPERTY FROM SINGLE FAMILY RESIDENTIAL (RM-50) TO PLANNED DEVELOPMENT (PD) RESIDENTIAL FOR AFFORDABLE HOUSING.

The Malheur United For Housing Task Force believes that all people in Malheur County should be able to access safe, attainable housing options and supportive services suitable to their needs. To that end the Task Force commits to supporting attainable, sustainable, and inclusive housing options for the wellbeing of all community members.

As housing and costs of other goods and services continue to rise in the county and across the nation; seniors, veterans, and others on fixed incomes struggle to maintain their housing and remain in the communities where they want to live.

Cindy Bryant's proposal to create modestly sized, owner-occupied homes in a neighborhood catering to those 55 and older would strike directly at these housing struggles. Helping those on fixed incomes to obtain a great home that is in keeping with their needs at a new stage in life, at an affordable price is exactly what this community needs.

The undersigned members of the Malheur United for Housing Task Force support the developer's request for an upzoning of the property that this subdivision is proposed to be built on to allow for greater density of housing. The ability to place more homes on this property will not only ensure that prices remain affordable for those who need this housing but will also help create a proof of concept for this type of subdivision to be replicated across Eastern Oregon.

As people across the state are struggling with homelessness, housing instability, and the lack of safe and affordable homes; this development would help ensure that some of Ontario's most important residents will be able to have a place to call their own as they enter the next phases of their lives.

Sincerely,

Lindsay Grosvenor, RD – Coordinator Nutrition Oregon Campaign Ontario HUB

Tom Greco, Pastor - Ontario Community Church

Clayton Crowhurst, Housing Developer - Northwest Housing Alternatives

Military Order of the Purple Heart

257 Grand Island Dr, Eagle, ID 83616

Dear Cindy,

I am the Commander of the Department of the Idaho Military Order of the Purple Heart of the USA. The MOPH and Chief Joseph Chapter 509 would support projects that will help seniors and veterans that are on a fixed income.

We understand that lots would be small to provide a low monthly overhead and that would divide the total cost of the infrastructure (utilities and streets) for there to be as many lots as possible on the property keeping most sized at about 50x80.

The MOPH is greatly in favor to creating affordable homes for Seniors and Veterans in a small safe environment in a rural community like Ontario. By giving Seniors and Veterans a choice, the following benefits would be achieved.

- Giving local inhabitants a choice that will provide this type of living.*
- A private subdivision so the streets can be monitored and controlled by the residents.*
- Small affordable square footage homes.*
- Homes focused on energy efficiency.*
- A very small yard to care for.*
- Keeping fixed incomes in mind.*
- There will be minimal CC&R's controlled by the residents.*

Ned M. Barker - Commander

OPPONENTS

Chairman Poole asked if those were in the record. He asked if there were any questions on the letters.

Ms. Krista Frahm, resident of Ontario, shared some concerns. *"One of my concerns...just a question that I had is that this letter we are now hearing is saying 'owner-occupied' and we are hearing possibly 'owner, rented out.' So, it sounds like there are a lot of things that are not decided upon. I understand that these things will be fluid, they need to be fluid. But, it doesn't sound like this has been fully thought out with the limitations that there are. I heard him say that the duplexes in here are required. But I looked at the law and it says that it is not required, but that it is allowed (for the duplexes). We were told that it is required when the law says no, it's allowed. One thing that I'm concerned about is that a lot of this stuff has been done on the fly. We have an engineer who is not licensed in the state of Oregon. But it will be signed off by an engineer who is licensed in the state of Oregon. I don't know if that was made aware to anybody. I am this household (points to map) right up here. I have four children, yet we're going to have people who may or may not like children and the ruckus that they have. This household over here (points to map) has five children. Our houses back up to these homes. I like older people. I help my neighbors a lot. But, sometimes these areas don't work out as well, especially when the other half have people who own homes but don't live in them, not taking care of them, acquiring fees, or other problems from the city. Because they own it but they don't live in there and aren't taking care of them. So, these are my concerns. This area right here (points to map) where the road goes in. They were not able to put this in because this property belonged to someone. They needed 1,300 sq ft of this property. This owner was only offered \$1,300, to lose their driveway, which would devalue her property. There were other people who were also offered a very minimal amount. For a lot this small, it's \$45,000. I don't understand how with this price in this market and the price of goods, that these are going to be reasonably priced. Am I the only one who is thinking this? \$45,000 for a lot of that size. They would have to add on their HOA fees and landscaping fees. If they are old people, they cannot do it themselves. What is going to be the average cost of this home, that a person can afford? I couldn't afford a home when the lot is \$45,000 to \$50,000. I could not afford that, because then I would have to pay for the house. We bought this house (pointing to the map) we live here in 2004, at*

2004 prices. I cannot afford to buy something in here. So, I don't know how elderly people, seniors living on a fixed income. Because how quickly will it become (from an affordable place) to low-income? There are still too many things that aren't tacked down."

Chairman Poole mentioned that this is conceptual at this point, that the City Council has the final say.

Ms. Frahm, *"So, we are going to approve something that is set this way, but can be changed?"*

Chairman Poole replied as long as it meets city code.

Ms. Frahm, *"So, right now, we are being told that this is what it is, and you guys may or may not approve it. The developer and the owner of the property can still change it from affordable housing, maybe to low-income housing, or whatever they want, after this is approved?"*

Ms. Frahm gave her name and property location. "So, we are here to discuss this plan as it is. Yet, it is not tacked down and made permanent, as is. Because I also received two other plans for this. When the person dropped this off at my house with the second plan, they said 'you don't need to worry about this. It doesn't concern you.' Frankly, I was furious. How does it not concern me? Because if it didn't concern me, I would not have gotten a paper. When someone is telling me that it does not concern me. A lot of these things just seem sketchy, possibly unethical, and just dishonest."

Mr. Cummings answered that, as it is currently zoned, the developer could go in and build a subdivision as is. But she is asking for a higher density (through a rezone) to put in smaller homes, to make it more affordable. No one is required at this stage to do a final design. The Planning Commission is reviewing the conceptual plan and stipulate some specific requirements of the development. Legally, they cannot limit ownership.

Ms. Frahm, *"So, I heard 'affordable' again. What is considered affordable? If you are looking at the median income of Ontario, a \$45 to \$55 thousand lot will not be affordable."*

Mr. Cummings answered that even as is (RS-50 zoning), reduced down to ten individual lots, the construction and infrastructure costs would then increase the cost per lots considerably.

Ms. Frahm, *"But it doesn't put the constraint on the 'low-income' or affordable housing. It could just be regular housing. But you are having to cram all those houses in there, to get the price down, to claim it to be affordable."*

Mr. Cummings answered that affordable housing is an issue across the entire state. No one know the true answer to what constitutes affordable. The \$40,000 cost per lot is a true estimate. Reducing the number of houses in the development only spreads the construction costs around to fewer lots.

Ms. Frahm, *"One of my main concerns is how do we make sure that these are done well. We have a lot of homes that are not owner-occupied. They become problem homes very, very quickly, even by a lot of people we know in this town. We have problems all over the place."*

Mr. Cummings reminded them that it is Oregon law that states any residential lot, must allow a duplex as an option. City codes were just updated to reflect that requirement. Getting more houses into this area, will allow the developer to keep these homes affordable. There are developers out there, who want to put large houses in this development. State law was changed years ago, with zoning for single family and owner-occupied, to avoid discrimination. A homeowner has the right to rent out their property.

Chairman Poole reminded the audience that we still live in a free enterprise society, that a builder or developer has the right to do so. A city does not have the right to tell them how much to spend. The Planning Commission is only going to set the parameters of what can be built.

Mr. Craig DeBoer, resident of Ontario, addressed the commission. *"A couple concerns with those lots like that (points to map). I know we have the access on 12th Street for fire. But, putting those homes that close, what is the fire protection going to be? What do you have there?"*

Chairman Poole stated that the city fire chief has already signed off on the project. He also asked staff about the backyard setback.

Someone in the audience asked about the distance between property lines.

Mr. Cummings described the setbacks. Backyards are 10 feet, side yards are 7 feet, front yards are 15 feet.

Chairman Poole stated that any subdivision would have to follow the minimum setbacks (in RS-50 zoning).

Mr. Cummings added that in RD-40 zoning, Backyards are 10 feet, side yards are 5 feet.

Mr. DeBoer, *"Then, like, were these all...who is going to be in charge of the fences or, take care of the fences? Is...they going to build new existing fences? Or put new fences in with new city water and sewer? How's that all going to tie together in there, without disrupting pretty much anybody or kind of tie into the whole program?"*

Mr. Cummings answered, regarding the exterior fencing, that property owners can get together and decide. The city does not regulate fencing in residential areas. That is between private ownerships.

Mr. DeBoer, *"Because, like last week, the last month at our meeting, this gentleman, they built a new fence, on your approval, that 'oh, nothing will ever happen, we'll never develop it.' Well, they*

developed it and now they are out their expense, because you let them or you basically said 'Ah, nothing will ever happen' that they will never get developed. It will never get straightened, it will never go through."

Mr. Cummings, "No. That statement is not true." He clarified that the property owners built (the fence in question) out into the right-of-way on their own accord, without a permit and without city approval.

Mr. DeBoer, "You know what, you commented on that."

Mr. Cummings answered *"Yes, and what I told them, when I notified them, that their fence was encroaching into the city (property). I said 'we are not going to make you move it, now, until such time that the city needs the right-of way. You are misquoting what was told to them. They didn't even build the fence. I did not tell them that they could build the fence out into the city right-of-way. It was already built out there when they came to me and I told them that, at that point in time, I was not going to make them move it. But, when the city needed the right-of-way, they will. That is the true statement of what was told to them."*

Mr. DeBoer, *"Um, how does adding two different lots, tax lots, how does that come about? How can you take the original three point or whatever acreage and take her another house and her father's house and now add them to one piece to make it? How does that work? I don't understand that."*

Chairman Poole explained the legality of merging multiple lots into one.

Mr. Cummings explained, as long as all of the lots are under the same ownership, they have a right to do with them what they want. Consolidating or subdividing it is what this planning action will do. This would only be an issue if it was property under two different owners. A tax lot is only for tax purposes. The city looks at how those lots were legally created.

Mr. DeBoer, *"It just seems like there's a lot of unanswered questions in this thing. That's, that just, I, I...hats off to her for trying and to make it work. But there's just a lot of unanswered questions that, I think, need to be a little better addressed as far as what goes about. I mean, like you said, the cost is the same whether you build five houses or 36 houses. Um, but it's I think there's a different way to go about it, whether the investors she has the money, who has the money, blah, blah, blah. Makes no matter to me. It just, I'm concerned about my property values and, uh, what it looks like out of my back door, you know. Uh, so, it, uh, just, just think about it being out your guy's back door, if, if they were building at yours. Um, putting 36 tiny box homes outside your door with one-way streets, um, possibly. Krista said seniors that don't like kids. They've got PTSD live, that doesn't go well. Who's going to maintain that? Because the police aren't going to be able to go on it. So, and if she doesn't even live in town. So she's not going to be here to regulate it. She might have to hire somebody that, whose, how many. How long is that going to go before somebody just says 'screw you. We'll do what we want to do.' You know? And then, we're back to square one. So, um, I'll...it just is a tough program. So, but, hats off to her for trying."*

Mr. King, "So, I don't need to talk into the speaker the whole time (goes up to the map on the screen). During the last hearing last month, there is Dorian Drive. The fact that the homeowner was applying for an RS-50. They had to do a sidewalk in front. Was there no deferment for this property before it was RS-50? Is that in the requirements to do a sidewalk straight up on Alameda?"

Mr. Cummings replied yes, they would have to develop their portion of Alameda Drive. Any development would have to do the same, no matter the zoning.

Mr. King, "And then, how about the rest of the street? Was there a same plan to zone, like Dorian did, where the whole neighborhood should have to upgrade this street?"

Mr. Cummings described an LID and how the street could be developed. A similar option will be made to the homeowners here. The city cannot force them to do so.

Mr. King, "I'd just assumed that would already have been addressed, since it became city property, once they move from county to RS-50."

Mr. Cummings said normally, the city does not make anyone build their own streets, unless they are developing it.

Mr. King, "And then, also last month at the meeting, Dorian Drive was specifically said that street water couldn't go into the irrigation ditch any longer on Dorian? And, so, I believe that's the same case on this ditch water. This ditch drainage."

Mr. Cummings said a development cannot dump into any drainage ditch. The piping going out of a development will need to be part of the city storm system, if design work shows it can handle it.

Mr. King, "Very good. And then in the previous meeting, for everybody that wasn't here, I did point out the fact that (walks up to the map) at this point right here, this is my property here. I've got a fence right across here. It's tight quarters here to get a 20-foot road. Because, between my fence and this fence it's 16 feet. And I believe that it's a violation of the fifth amendment of our constitutional right, to steal property from this property or my property for city right-of-way. Because it's...this development is being proposed for private development. Once it's planned development, the city has no control over it. And so, this becomes a private drive and this little road here, is being stolen from me or the neighbors to be developed into a private driveway. And Oregon Code doesn't allow that. They allow city to use their right-of-way for city use, not for private use. And then my other concern is the engineer. I'm surprised that you're not familiar with the grade of the property. Like you said, that the storm runoff, if you have a pool for it to evaporate from, would be in the west end of the property. Because it all grades to the east. That's just how water works. And then that brings me to my last point: I believe all these SS's are sewer lines. It comes out this road. This one house goes down underneath. And then all these other houses, including the current residences, will come to this subdivision's sewer. There's a manhole right about here, right on the side of the street. Then, there's one back here at Pennington. So it kind of runs at an angle. Not quite straight through the street. And then there's electrical, natural gas, and water lines in there also. This line shows it going right here and then up there. And plumbing had to buy in the plumbing. The fact that they have a drain, it's got to...not even a perpendicular intersection to the front end. I just see a poor design. You know, I believe in

my...the more I've thought about this the whole time that Cindy came to me and asked me for part of my property. She said, 'If you give me street easement into my property, I'll buy you a fence.' And I thought 'Huh, she'll buy me a fence if I let her have some of my property.' And then she's going to make millions of dollars off of this subdivision. And then, with Kelly, this property to the south of her property, she offered \$1,300 is the number I heard tonight. That's pretty ridiculous investment. \$1,300 for a really nice driveway into your property. So, I...it just seems like unless this gets changed into planned development, that her investment or investments, her investors aren't going to invest money in this property. And anyone of us can buy a ticket to a formal dinner and go to it. If you're sitting next to someone that shows up with a Hawaiian shirt on, at the formal dinner, you're not going to want to sit next to them. And I feel this subdivision is a similar analogy to that. That none of these houses fit into the current community. And, who is to say that, once she gets it developed into a planned development, she can sell it. And then the new owners of the property can do...they can build a four-story apartment complex there. More than likely, with Oregon laws, they can do anything they want with it, after it's planned development. Because it becomes private land and private development to do whatever they want. That's the way Dan Cummings has described it. But the future is not locked in, if it's planned development. If it stays RS-50, the city has a chance to control what goes on there. And I think it should stay RS-50. Thank you."

Chairman Poole stated that is the end of those who signed up as opponents. One more proponent had signed in to address the Planning Commission.

Ms. Annah Tubbs, resident of Ontario, introduced herself. She is in a low-income development, but people can keep their property up. If an HOA is involved, properties do not devalue. There is a combination of elderly and youth in her neighborhood. It helps bring people together. Older people care about the community and care about how their houses look. It's nice of the developer to offer assistance, like built a fence. It's good to give them a chance to own something.

Chairman Poole closed the public comment portion of the meeting.

FINDINGS OF FACTS

Mr. Cummings explained drainage and irrigation water requirements.

Chairman Poole listed off a number of requirements that the commission should agree or ratify, as Conditions of Approval (COAs) as part of the findings of facts:

- Maximum number of units total to be approved in this development.
- Street and sidewalk width
- Parking on the street
- Age requirements for residents (not for ownership)
- Duplex allowance (Oregon code changes)

Chairman Poole asked that the commission discuss each item and come to a decision before a motion is heard. He also stated that the Planning Commission will then make these recommendations to the City Council.

Mr. Cummings said in the developer can build fewer homes than allowed. But they would need approval if more units were going to be constructed. The city cannot take an owners' rights away, but

an age restriction on who resides in a gated community can be set. He said the city has no requirements for snow, but a developer does not do final design prior to a preliminary approval.

Chairman Poole asked if duplexes would fit on these lots, or would need two lots, and where restrictions would be.

Mr. Cummings explained the Oregon state changes for multi-family housing codes. "The size of the lot would regulate the size of the duplex. That is how any subdivision works."

Chairman Poole asked each commission member to suggest modifications for the bullet points.

Commissioner Cooke asked about the number of houses on this development.

Commissioner Grissett asked if this design was based on the maximum density of houses.

Mr. Cummings stated the final number of lots and houses will be finalized by the engineers and designers of the development, to meet all city codes.

Commissioner Breidenbach asked if the commission (and council) determine a maximum number of houses, the engineer would not return with a high number of houses in the final design.

Chairman Poole discussed snow removal, parking, and perimeter lots.

Mr. Cummings described how, originally, a picnic area was going to be utilized, but the final design will not happen until after approval. "Any preliminary plat, every subdivision starts at this stage; of getting the concept approved before going in to heavy, final design."

Commissioner Grissett asked about the drainage, which will most likely go in on the east side of the development, where an existing storm drain is located.

Chairman Poole mentioned that the staff presentations were helpful. The commission is concerned and does not want to set anything beyond their authority. Can they request for a "gathering location" for residents?

Mr. Cummings replied that the commission has the right to set parameters as they see fit. The developer can then take the commissioners requests and work to meet the COAs.

Commissioner Cooke suggested a lower number of houses (25 max).

Commissioner Grissett suggested going with the staff recommendation (36 max).

Chairman Poole mentioned the higher density may be appropriate for this development. The next option discussed: minimum of 30-foot-wide street with a 5-foot sidewalk, making 35 feet total.

Commissioner Hall asked if the two examples in town (of private road) were 28 feet in width.

Mr. Cummings said they have sidewalks on both sides. Our city fire chief went out and measured the two examples: Both measured at 28 feet.

Commissioner Hall asked if an emergency vehicle could drive on the sidewalk if necessary.

Mr. Cummings stated, "They are not wanting parking on the streets. They want to control that area." Commissioner Breidenbach concurred.

The next option discussed: CC&Rs and age limits.

Chairman Poole wanted to encourage the developer to include in the CC&Rs a section on property upkeep and maintenance of lots. "A good HOA makes sense."

The next option discussed: Duplexes

Chairman Poole asked about restrictions.

Mr. Cummings, "Any residential lot, where you allow single family residences, you must also allow duplexes." They also have to meet zoning regulations and code requirements.

Chairman Poole asked about stick built as a requirement, or landscaping (percentage per lot).

Commissioner Grissett asked about building height restrictions.

Mr. Cummings explained that anything not stipulated by the Planning Commission or City Council will default to city code requirements.

Commissioner Breidenbach asked that a "single-story" restriction should be recommended to the City Council.

Commissioner Grissett asked the developer their thoughts on height restrictions.

Mr. Cummings explained the lawsuit considerations. He explained that connectivity is required for access between subdivisions. "At this point, the city has the right-of-way, which allows them to require access." He explained the setback (from the emergency access) is seven feet from the property line.

Chairman Poole summarized the COAs. He asked if the Planning Commission had the legal right to demand a community or gathering area.

Mr. Cummings said the commission has the authority to request things of the developer, and the developer has the legal right to appeal those requests.

Commissioner Grissett asked about a structure to be added as a gathering area or community structure, to double as a storage area or multi-purpose area.

Mr. Cummings clarified that a structure to be used by the public would then have to meet certain regulations and building code requirements (e.g., bathrooms). If you request that from a developer, it should include size and purpose.

Commissioner Hall said he likes the idea, but it is bigger than what the developer would want to do. Some lots do not sell because of the cost of sidewalks. It would raise the cost and HOA dues.

Commissioner Breidenbach suggested they make a recommendation, but not a requirement, for a rec hall. It would also serve as a meeting place for residents.

Commissioner Cooke concurred with him.

Chairman Poole summarized the COAs for the Finding of Facts. He said he would support a motion to accept the findings with the six conditions of approval.

APPROVAL OF PLANNING ACTION 2021-03-11RZ FINDING OF FACTS

The following six points were finalized as Conditions of Approval:

1. Recommending a maximum of 36 units at this development.
2. A minimum of 30-foot-wide street sections with 5-foot sidewalk on the side for a total of 35-foot street and sidewalk.
3. No on street parking on either side.
4. CC&Rs to protect the homes to 55 years and older as residents.
5. Lots will allow duplexes.
6. Limiting all buildings to single-story.

James Grissett moved, seconded by John Hall ***THAT THE PLANNING COMMISSION APPROVE THE FINDING OF FACTS FOR THE REZONE OF THE SUBJECT PROPERTY FROM RS-50 TO PD AS SET FORTH IN ACTION 2021-03-11RZ BASED ON THE INFORMATION, FINDINGS AND***

CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT. Roll call vote: Cooke-yes; Fortner-out; Twombly-out; Hall-yes; Breidenbach-yes; Grissett-yes; Poole-yes. Motion carried 5/0/2.

Chairman Poole asked if there were any other concerns over the development, before being passed on to the City Council.

Commissioner Breidenbach said "I have too many concerns, just with the whole layout and the long-term plan of it. But I'm not going to make a denial... I just have my concerns."

Chairman Poole asked if the commission would discuss the approval of the motion. He asked if the approval of final design would come back to the Planning Commission.

Mr. Cummings explained the steps of development approval. Tonight's meeting would be a recommendation to go to the City Council. If they approve it, developers will go into final design. The only reason it would come back to the Planning Commission would be if developers needed to change any of the recommended COAs made here tonight. Due to time constraints, he asked that this action be addressed by City Council on Aug 10th.

Chairman Poole wanted to reassure those in the audience tonight that this development needs to meet all city codes, plus the Conditions of Approval.

Mr. Cummings responded, the city will protect the property owners, to keep developments built as they were agreed upon. The neighbors, the HOA, they all have a right to come to the city if development does not meet COAs. Tonight's approval would only be for rezoning. Final design can be appealed through city staff, the Planning Commission, and City Council, if it does not meet requirements. "The due process still happens. It is not going to be automatic."

Chairman Poole asked if there was any other discussion. He addressed the audience that he knew it was a touchy subject. But the commission recognizes the need for senior housing. There are examples of successful, similar developments in town.

Commissioner Cooke asked for clarification on the motion to read.

Chairman Poole asked staff if they were to approve, the commission would first need to vote on the rezoning of the property.

Mr. Cummings replied that was the correct order.

APPROVAL OF PLANNING ACTION 2021-03-11RZ A REQUEST BY CINDY M BRYANT FOR A REZONE OF PROPERTY FROM SINGLE FAMILY RESIDENTIAL (RS-50) TO PLANNED DEVELOPMENT (PD) RESIDENTIAL FOR AFFORDABLE HOUSING.

Cydney Cooke moved, seconded by James Grissett, ***THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTY FROM RS-50 TO PD, AS SET FORTH IN ACTION 2021-03-11RZ BE RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT.***

Roll call vote: Cooke-yes; Fortner-out; Twombly-out; Hall-yes; Breidenbach-no; Grissett-yes; Poole-yes. Motion carried 4/1/2.

HAND-OUTS/DISCUSSION ITEMS

Commissioner Cooke stated, "I really like the idea of what you are doing. I do hope that whoever obtains the property, does understand (cares to understand) the concerns of the neighbors and that you would make sure they would be a good fit for the community in which you are planning on building. In respect to what some of the community members said about children, being tolerant to address their neighbors. Thank you so much."

Marcy Siriwardene, Building Official, asked for clarification. She reminded the Planning Commission to recognize that Adam Brown, City Manager, and Ex-Officio Eddie Melendrez were present at the meeting tonight. Also, city staff who attended the meeting included Community Development Director Dan Cummings, Building Official Marcy Siriwardene, and Planning & Zoning Technician Marc Berg.

Mr. Cummings reminded the Commission that there will be an upcoming City Council meeting, but this planning action will be scheduled for the following meeting in August.

Chairman Poole set the City Council meeting for this planning action to be addressed as Tuesday, August 10th, 2021. He invited all in the audience at this meeting to attend.

Commissioner Breidenbach stated that every city meeting will have a public agenda notice. The city's website will have more information on the different meetings being held. He again thanked those who attended the meeting for taking time to come.

MOTION TO ADJOURN

John Breidenbach moved, seconded by James Grissett, to adjourn. Roll call vote: Cooke-yes; Fortner-out; Twombly-out; Hall-yes; Breidenbach-yes; Grissett-yes; Poole-yes. Motion carried 5/0/2.

Ralph Poole
Commission Chairman

Attest: Marc Berg
Planning & Zoning Technician



**AGENDA REPORT
PUBLIC HEARING
September 13, 2021**

To: Planning Commission

FROM: Dan Cummings, Community Development Director

SUBJECT: **ACTION 2021-04-15AZ: A REQUEST BY KATHRYN M. BLACKMON FOR THE ANNEXATION AND REZONE OF PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50) TO ALLOW CONNECTION TO CITY SERVICES. AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302.**

DATE: September 8, 2021

PROPOSED MOTION:

A. APPROVAL:

1. I MOVE THAT THE PLANNING COMMISSION APPROVE THE FINDING OF FACTS FOR THE ANNEXATION AND REZONE OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50) , AS SET FORTH IN ACTION 2021-04-15AZ BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT.

2. I MOVE THAT THE REQUEST FOR ANNEXATION AND REZONE OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), AS SET FORTH IN ACTION 2021-04-15AZ BE RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT.

B. DENIAL:

1. I MOVE THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTY FROM URBAN GROWTH AREA RESIDENTIAL (UGA-R) TO CITY SINGLE FAMILY RESIDENTIAL (RS-50), AS SET FORTH IN ACTION 2021-04-15AZ BE RECOMMENDED FOR DENIAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV OF THIS REPORT. (NEED TO CHANGE STAFF FINDINGS).

SUMMARY:

The applicant owns a parcel of land, known as 18S4704BD, tax lot 5600. The applicants wish to annex and rezone the property into the City to connect to City Sanitary Sewer and water due to a failed septic system. The subject property is within 300 feet

of the City Sanitary Sewer system and therefore under State regulations they are not allowed to repair their Septic system and therefore must annex to connect to City services. This application, if approved, will result in the annexation of 2.31 acres, plus the right of way for North Park Boulevard, adjacent to the lands, into the City and a rezone of the property from Urban Growth Area Residential (UGA-R) to City Single Family Residential (RS-50).

BACKGROUND:

This request for annexation and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the Planning Commission as the decision-making body for a request for rezone, without City Council participation. The OMC designates the City Council as the decision-making body for a request for annexation, without Planning Commission participation. State Law requires an Ordinance be adopted by the local governing body to accomplish a rezone. The City's governing body is the City Council, and they are the only body that may adopt an Ordinance; therefore, a request for rezone should go before the Council for a final decision. Staff feels that the best procedure is consistency with State law; therefore, this matter needs a recommendation from the Planning Commission, and then will be forwarded to the City Council for their decision.

There have been no recent Planning Commission actions on this property in the past 20 plus years that could be found in the planning records other than a City-wide Comprehensive Plan update in 2007.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required finding clearly does not apply to the current action:

- a. The zoning map amendment is in conformance with statewide planning goals and guidelines.
- b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.
- c. The applicant has demonstrated a mistake or error in the original zone designation, or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.
- d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.
- e. The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

f. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.

g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Findings of fact based on the answers and information given in the application made a part hereof:

1. Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.

The rezoning is in conformance with the statewide planning goals and the City Comprehensive plan as the existing property is zoned UGA Residential and the proposed zoning is Residential in conformance to the City Comprehensive plan and no changes are being requested.

The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. The existing property is zoned UGA Residential and is proposed to be rezoned to City RS-50 Single Family Residential.

2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.

The rezone is in conformance with the acknowledged plan as the requested rezone is the same as the acknowledge Comprehensive plan, no change is requested.

The subject properties are currently zoned UGA Residential and the request is to rezone to the companion City RS-50(Single Family Residential) Zone that is the same zone as adjacent and nearby properties. The requested zone allows basically the same use as the UGA zone and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan

3. As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.

There is no mistake made, the requested zone is required due to annexation into City Limits and matches the planned zoning as per Comprehensive Plan.

The applicants have requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.

4. As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

This is not a granting of special privilege as the requested rezone is the same as the Comprehensive Plan and is requested of

the annexation of the property into city limits.

This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is residentially designated under the Comprehensive Plan so a residential zone is the most appropriate for the property.

5. Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

The minimum parcel size in the requested RS-50 zone is 5,000 square feet, the property is 100,624 square feet, more or less. The property exceeds the minimum parcel size and can easily be development into smaller parcels.

6. Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.

The property fronts onto the city/county street North Verde Drive and city water is available within the right of way for North Park Boulevard, the Sewer main in North Park Boulevard will need to be extended to the north property line of the applicant and then services can be extended into the property for connection of the existing home and future development of the property.

7. Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

The zone change will not adversely affect the surrounding area as the current use is the same use as the proposed zone change which is a single-family dwelling.

Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone. Allowed uses under city residential zone designations are no more likely to produce dust, noise, etc., than those under the UGA residential zone.

Summary Conclusions: Based on the findings above:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; generally, if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this proposal meets the criteria in the above section, this proposal is consistent with Statewide Planning Goals. CRITERION IS MET

b. The finding 2 above, show that the request is within goals and conformance of the Acknowledged Comprehensive plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan. CRITERION IS MET

c. The applicant states in finding 3, that no mistake was made, that the requested zone is required due to annexation into City Limits and matches the planned zoning as per Comprehensive Plan. Therefore, there is no mistake made the findings demonstrates that this criterion is met. CRITERION IS MET

d. The applicant states in finding 4, that request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated. The property is residentially designated under the Comprehensive Plan so a residential zone is the most appropriate for the property. CRITERION IS MET

e. As noted in the findings 5, the subject property exceeds the minimum parcel size of the requested zoning and is of adequate size for future development. CRITERION IS MET

f. As noted in the finding 6 above, the property is properly related to streets and public facilities within the public streets and the existing uses and services demonstrate that uses allowed in the proposed zone are provided. CRITERION IS MET

g. The applicant states in the finding 7 above, the zone change will not adversely affect the surrounding area as the current use is the same use as the proposed zone change which is single family dwelling. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air is uncommon in a residential zone. CRITERION IS MET

Conclusion Rezone: ALL CRITERIA ARE MET

B. Annexation:

1. 10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.

2. Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings based on the answers and information given in the application made a part hereof:

1. The applicants have paid the fees and provided the proper application with signatures.

2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.

3. The property is currently zoned for Residential use in the Urban Growth Area; the requested zone, City Single Family Residential (RS-50), is consistent with contiguous property.

4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan

map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.

5. Annexation would benefit the city by increasing tax revenue, and, by providing more residential lands in a highly developable area.

Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

A request a rezone of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "Findings:" and "Conclusion:" for each criterion. All the criteria and standards must be met in order for the request to be recommended for approval.

ANALYSIS:

- A. **STRATEGIC PLAN** This action is in alignment with the City Council Strategic Plan for desirability of the property to be used for residential use as well as allowing for future development of the city meeting its potential for future growth of the community.
- B. **FINANCIAL** This is no financial impact to the city currently.
- C. **TIMING** This action is needed as soon as possible so that the lands can be developed and connected to city services.
- D. **POLICY/LEGAL** The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is consistent with the Comprehensive Plan.

An annexation and rezone must be done by an Ordinance and the City Council is the Final Authority for approving a City Ordinance.

ALTERNATIVES:

The Planning Commission could table the action until a time certain if more information is needed to make a decision.

RECOMMENDATION:

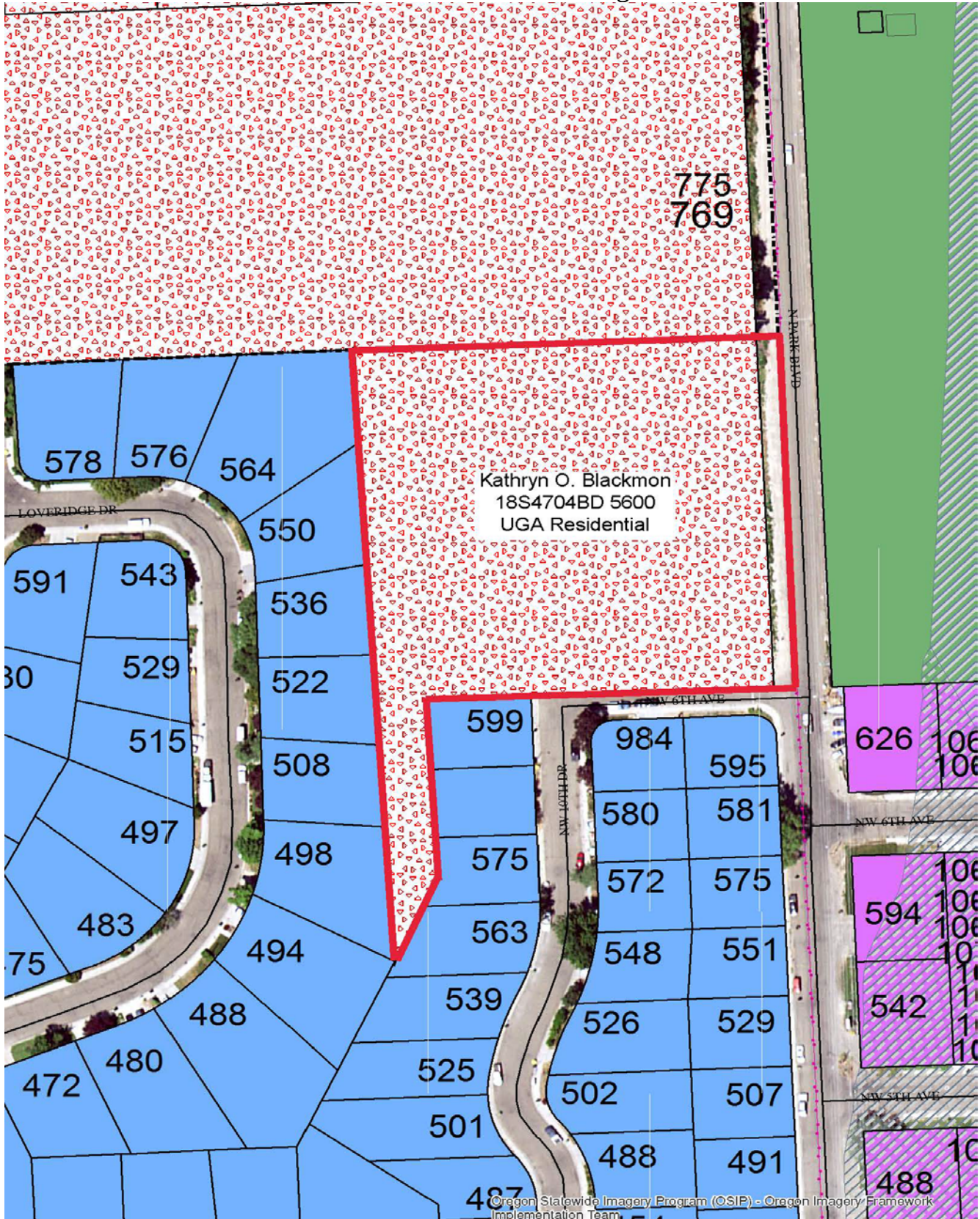
Staff recommends that the Planning Commission approve and adopt the findings of facts and send a recommendation to the City Council to approve the annexation and rezone from UGA-Residential to City Single Family Residential (RS-50) of the subject property.

ATTACHMENTS:

1. Attachment 1_Zoning Before
2. Attachment 2_Zoning After
3. Attachment 3_Area Map
4. Attachment 4_Rezone Description
5. Attachment 5_Rezone Tax Map

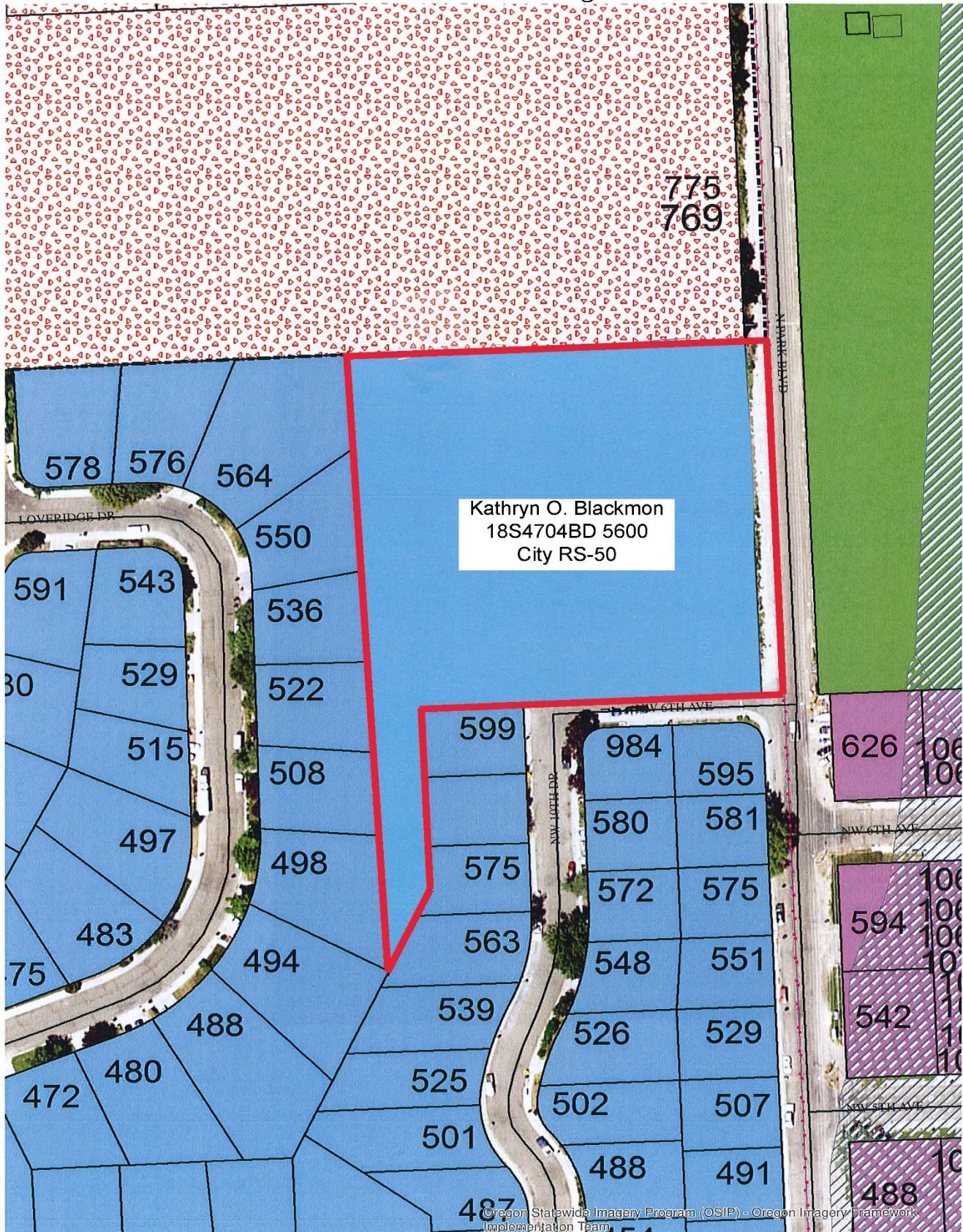
Attachment "1"

Parcel Before Rezoning

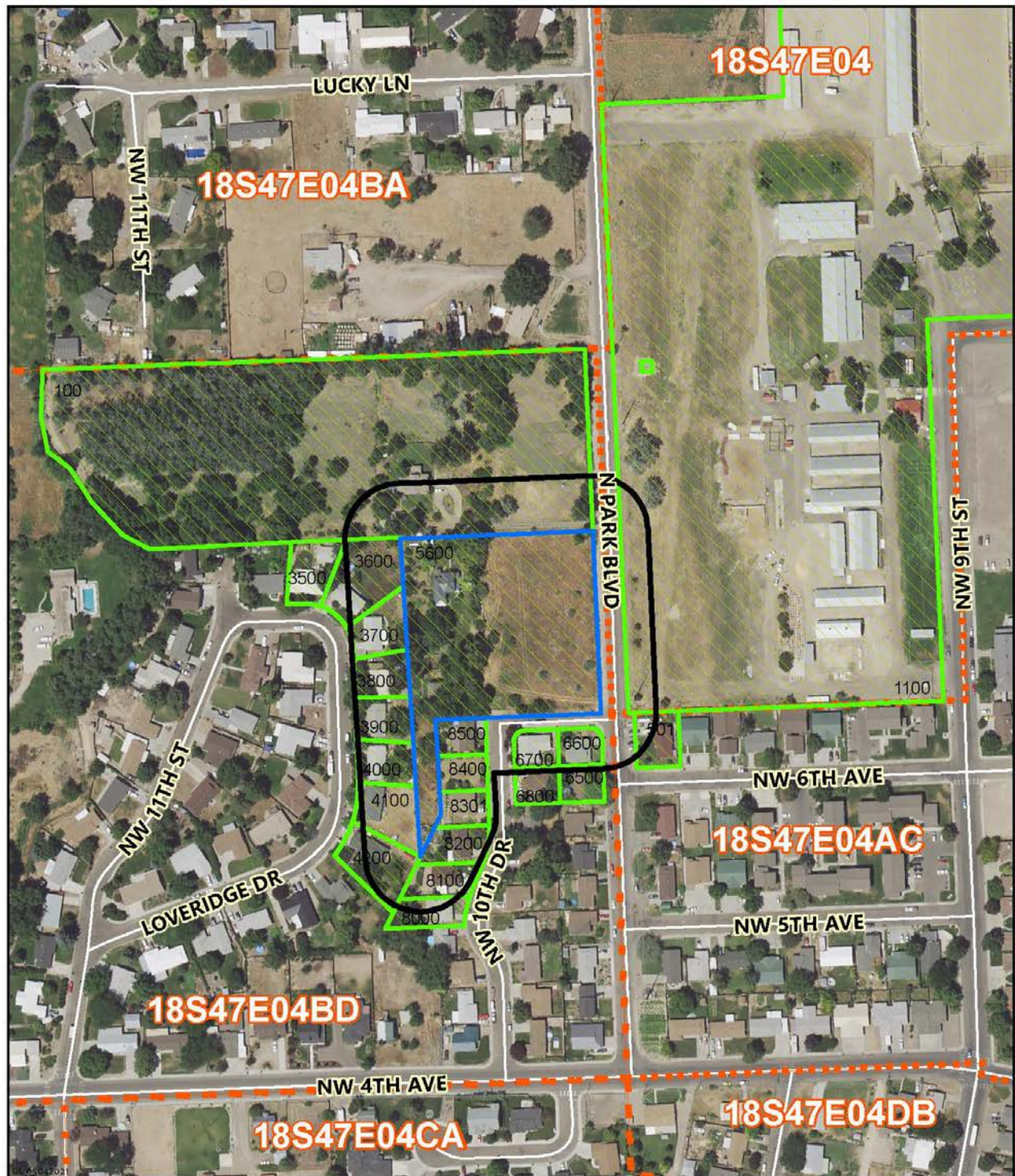


Attachment "2"

Parcel After Rezoning



Attachment "3"



- Legend**
- 100 ft radius
 - Map Index
 - Blackmon_R801
 - TL wn 100' rad fr BlackmonKathryn

100 Feet Radius Map

BlackmonKathryn_R801

0 200
Feet

*Map is prepared for
assessment purposes only*

Attachment "4"

Rezone Parcel Description

EXHIBIT A

INSTRUMENT NO. 2010 - 2884
Page 3 of 3 Pages

Parcel I:

Land lying partially within the City of Ontario, Malheur County, Oregon, as follows:

In Township 18 South, Range 47 East of the Willamette Meridian:

Section 4: A parcel of land in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ more particularly described as follows:

Commencing at the Southeast corner of the said SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence North 0°08'54" West, along the East boundary thereof, 660.83 feet;

Thence North 89°58'19" West, along the South boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, 25 feet to the TRUE POINT OF BEGINNING;

Thence North 89°58'19" West, along said South boundary, 294.30 feet;

Thence South 0°56' East, 176.28 feet;

Thence South 28°32' West, 81.30 feet to the intersection with the East boundary of Loveridge's Addition to the City of Ontario, Oregon;

Thence North 0°56' West, along the said East boundary, 578.28 feet to the North boundary of the S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;

Thence South 89°57'28" East, along the said North boundary, 338.83 feet;

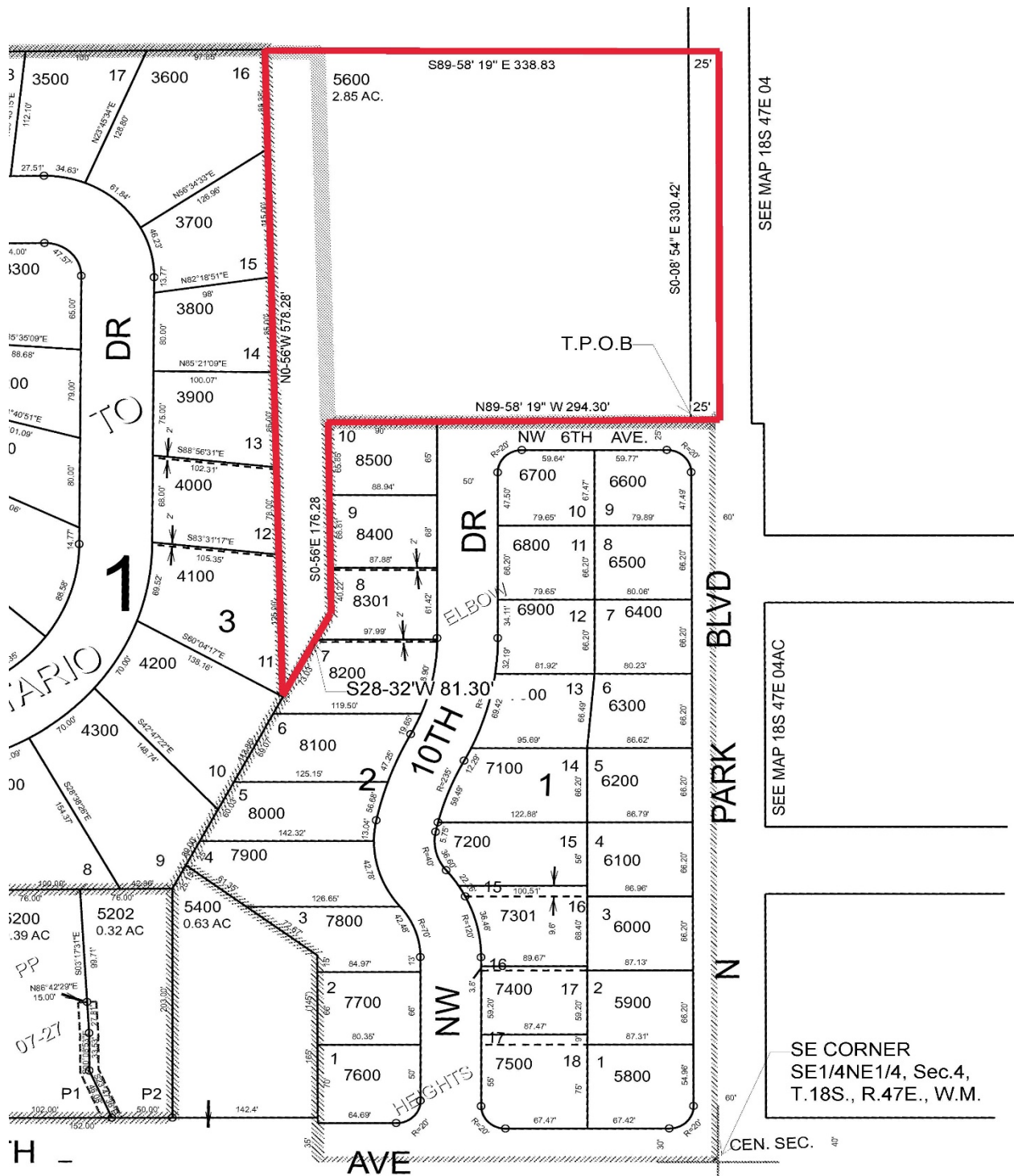
Thence South 0°08'54" East, parallel with the East boundary of the SE $\frac{1}{4}$ NW $\frac{1}{4}$, 330.42 feet to the Point of Beginning.

TOGETHERWITH the West 25.00 feet of the Right of Way of North Park Boulevard adjacent to the above described parcel of land.

End of Description.

Attachment "5"

Rezoned Parcel Tax Map



SEE MAP 18S 47E 04

SEE MAP 18S 47E 04AC

SE CORNER
SE1/4NE1/4, Sec.4,
T.18S., R.47E., W.M.

CEN. SEC. 40'

Revised MA
10/13/2008

ONTARIO
18S47E04BD