

**PLANNING COMMISSION STAFF REPORT
TYPE IV LAND USE PROPOSAL**

DATE: September 21, 2020

FILE NO.: 20-025 ANN

PROJECT NAME: OAOR Annexation

OWNER/APPLICANT: Oregon Ariyamagga Okasati Refuge (OAOR)

LEGAL DESCRIPTION: 24E24BA, Tax Lot 1100

The above-referenced proposal was reviewed as a Type IV Annexation. The following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submittals:

- A. Land Use Application
- B. Project Narrative
- C. Annexation Area Sketch
- D. Site Plan
- E. Site Survey

Agency Comments:

- F. Fire District No. 72 Fire Marshall

Public Comments:

- G. Stephen Chellis (September 18, 2020)
- H. David Snider (September 21, 2020)

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittal received on June 9, 2020. The application was deemed complete on July 6, 2020.
2. This report is based upon the Exhibits listed above, as well as agency comments and public testimony.

3. The subject site is approximately 5.73 acres. The site is located at 38370 Highway 211.
4. The parcel has a Comprehensive Plan Map designation of Village and conceptual zoning map designations of Low Density Residential, R-1, and Medium Density Residential, R-2. The property has a County zoning designation of RRFF-5 (Rural Residential Farm Forest, 5 acre). Additionally, it is designated as Rural by the county Comprehensive Plan.
5. The applicant, Oregon Ariyamagga Okasati Refuge (OAOR), is requesting approval to annex the subject site into the City of Sandy. The applicant has made this annexation application in accordance with the Annexation Agreement/Waiver of Remonstrance to Annexation dated March 27, 2017, between the City of Sandy and Thomas Moon, Trustee, the previous owner of the subject property. This agreement was executed by Mr. Moon to allow him to connect the property to municipal water service provided by the City of Sandy. Per the provisions of this agreement, the City of Sandy Public Works Director recently requested OAOR submit an application to annex the property into city limits.
6. The subject site is located within an unincorporated island of land in Clackamas County jurisdiction and is surrounded by but is not contiguous to an already incorporated property. Because of this, the applicant is also requesting that an adjacent section of the Highway 211 right-of-way be annexed into the City in order to ensure that the annexed property is contiguous with city limits.
7. Notification of the proposed application was mailed to affected agencies on September 4, 2020 and to surrounding property owners within 500 feet of the subject property on September 3, 2020.
8. A legal notice was printed in the Sandy Post on September 16, 2020.
9. According to the Fire District No. 72 Fire Marshal, **any future development will require the installation of an approved public fire hydrant capable of supplying the required fire flow.**
10. As of publication of this staff report, Two public comment has been received. One comment is from Stephen Chellis, a neighboring property owner. His concerns include the following:
 1. Discrepancy between the annexation survey and parcel survey from county planning document.
 2. Land use inconsistent with application.
 3. Concern about potential future development.
 4. Traffic safety hazards
 5. Neighbor safety
11. The second public comment is from David Snider, who is in favor of the annexation.

12. Staff was made aware of a land use code violation currently pending with Clackamas County. **The property owner must resolve this violation before being annexed into the city.**

17.26 – Zoning District Amendments

13. In association with this annexation request, the applicant requests the Low Density Residential and Medium Density Residential zoning designations be applied to the property. Additionally, the applicant requests that the Village Comprehensive Plan designation be applied to the property. The conceptual zoning designation for the subject property was assigned in 1997 with the adoption of the 2040 plan.

14. Currently, there is a single manufactured home and associated outbuildings on the property. OAOR does not have plans to develop the lot further. Staff did not confirm setbacks or other code regulations for existing property improvements. **Prior to any future development on the property the applicant shall submit a site plan with all buildings and their associated setbacks.**

17.60 – Flood & Slope Hazard (FSH) Overlay District

15. A portion of the property is affected by the FSH Overlay associated with a perennial stream that is piped under Highway 211 in the vicinity of the property. The property owner does not dispute the location of the FSH Overlay mapping with this application.

17.78 – Annexation

16. The subject annexation application was submitted by the applicant on June 9, 2020 ahead of the annexation code adoption that was effective on August 5, 2020. In accordance with state statute the City of Sandy is required to apply the municipal code that was effective at time of application submittal. Therefore, this annexation application is being reviewed under the annexation code effective on June 9, 2020.

17. Section 17.78.15 explains the types of annexation. This proposal qualifies as a Type A annexation, which is annexation in conformance with conceptual zoning designations.

18. Section 17.78.20 details conditions for annexation. Subsection (C) explains that the site must be contiguous to the city or separated from it only by a public right-of-way. While the subject property itself is not contiguous with city limits, the applicant is proposing to annex a portion of the Highway 211 right-of-way in order to make the requested annexation area contiguous with city limits. Therefore, this condition is met.

19. Section 17.78.25 outlines requirements for tree retention and prohibits certain properties from being annexed if their respective property owners removed a certain number of trees within five years of the application. Staff has not identified any significant tree removal from the subject property within the last five (5) years. **Prior to any future tree removal on the subject property the applicant shall apply and receive approval for a tree removal**

permit in compliance with Chapter 17.102. Removal of trees without a permit after annexation shall be enforced in compliance with Chapter 17.06.

20. Section 17.78.30 explains that all lands within the urban growth boundary have been classified according to the appropriate city land use designations as noted on the Comprehensive Plan map. The applicant requests that the current Comprehensive Plan map of Village and the conceptual zoning designations of Low Density Residential (R-1) and Medium Density Residential (R-2) be applied to the property.
21. Section 17.78.50 details annexation criteria. An annexation request need only meet one criterion. Section 17.78.50(B) allows for annexation as a needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems. The subject property was previously connected to municipal water and sanitary sewer service provided by the City due to insufficient water supply and a failing on-site septic system. Additionally, Section 17.78.50(C) allows for annexation of land that meets a logical growth pattern of the city. Currently, the subject property is within an unincorporated island. That means that it is not within city limits but is surrounded by city limits. Generally, it is good planning practice to annex land within unincorporated islands.

RECOMMENDATION

Staff recommends the Planning Commission **forward a recommendation of approval** to City Council for the Type IV Annexation request subject to the conditions of approval below.

CONDITIONS OF APPROVAL

1. The zoning map designations for this property shall be Low Density Residential (R-1) and Medium Density Residential (R-2) as identified on the zoning map.
2. The comprehensive plan map designation for this property shall be Village.
3. The property owner must resolve the land use code violation on file with Clackamas County before being annexed into the city.
4. Any future development must meet the Sandy Municipal Code requirements.
5. Stormwater treatment and detention conforming to Chapters 13.18 and 13.20 of the Sandy Municipal Code shall be required upon further development of the property.
6. Half-street improvements on the Highway 211 frontage will be required upon further development of the property.
7. Future development may trigger the driveway, maneuvering areas, and parking areas to be paved with concrete or asphalt per Chapter 17.98.
8. Prior to any future development on the property the applicant shall submit a site plan with all buildings and their associated setbacks.
9. Prior to any future tree removal on the subject property the applicant shall apply and receive approval for a tree removal permit in compliance with Chapter 17.102. Removal of trees without a permit after annexation shall be enforced in compliance with Chapter 17.06.

10. Any future development will require the installation of an approved public fire hydrant capable of supplying the required fire flow.