



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/5/2009

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Ontario Plan Amendment  
DLCD File Number 004-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, November 27, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: David Richey, City of Ontario  
Gloria Gardiner, DLCD Urban Planning Specialist  
Grant Young, DLCD Regional Representative

<paa> YA

FORM 2

# DLCD

## Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Ontario** Local file number: **2009-07-08 AZ**  
 Date of Adoption: **Oct 19, 2009 2<sup>nd</sup> & final reading** Date Mailed: **Oct 27, 2009**  
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **July 20, 2009**  
 Comprehensive Plan Text Amendment  Comprehensive Plan Map Amendment  
 Land Use Regulation Amendment  Zoning Map Amendment  
 New Land Use Regulation  Other: Annexation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".  
**ANNEXATION REQUIRES REZONE**

Does the Adoption differ from proposal? **No**. If so, it would be in the form of selection of specific options.

Plan Map Changed from: **No Change** to: **No Change**  
 Zone Map Changed from: **UGA Res.** to: **RS-50 Single Family Res**  
 Location: **606 NW 16<sup>th</sup> St.** Acres Involved: **.39**  
 Specify Density: Previous: **1 du / ac** New: **8 du / ac**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?  Yes  No  
 If no, do the statewide planning goals apply?  Yes  No  
 If no, did Emergency Circumstances require immediate adoption?  Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts: **ODOT**

Local Contact: **David Richey Planning Official (P/T)** Phone: **(541) 881-3222** Extension:  
 Address: **City Hall, 444 SW 4<sup>th</sup> St.** Fax Number: **541-881-3251**  
 City: **Ontario, OR** Zip: **97914** E-mail Address: **david.richey@ontariooregon.org**

## PLANNING COMMISSION AGENDA REPORT

Planning Commission Meeting , Monday, Sep 14, 2009  
City Council Meeting Monday, Sep 21, 2009

### I. GENERAL INFORMATION:

**TO:** Planning Commission

**FROM:** David Richey, Planning and Zoning Administrator

**THROUGH:** Henry Lawrence, City Manager

**SUBJECT:** **ACTION 2009-07-08 AZ:** A request for **Annexation & Rezone** of property located at 606 NW 16<sup>th</sup> St. The two parts of this action will result in annexation and reclassifying 0.39 acres changing both the Comprehensive Plan and Zoning map designation from Urban Growth Area Residential to the City classification, Single Family Residential, RS-50.

**LEGAL DESCRIPTION:** Assessor's Map #18S 47E 05; Tax Lot 600

**APPLICANT/  
PROPERTY OWNER:** Charles & Sherrie Smith  
606 NW 16<sup>th</sup> St.  
Ontario, OR 97914

---

### II. SUMMARY & BACKGROUND

The applicants, Charles & Sherri Smith must connect to the City sewer system because their septic drain field crossed into a neighboring property and is now not functioning properly. The subject property is a single family residence. The City has a sewer line in NW 16<sup>th</sup>.

Surrounding properties have single family dwellings and are zoned accordingly.

The request for annexation initiates a process requiring a recommendation from the Planning Commission to the City Council regarding the City zone to be applied. State Law requires that the City Council upon annexation of a site, then adopt the appropriate zone by formal ordinance. A Comprehensive Plan map amendment and Rezone is a legislative act, and may therefore be contested before the Land Conservation and Development Commission.

The Oregon Statutes pertaining to municipalities does not require Planning Commission participation if it were not for the need to attach a City zone to the property. Ontario has not made the Urban Growth Area land use classifications identical with the City incorporated land use classifications, hence the Planning Commission public hearing.

### **III. PREVIOUS PLANNING COMMISSION ACTION**

NONE

### **IV. FINDINGS OF FACT**

Whereas: The proposal complies with applicable provisions of the Ontario Comprehensive Plan, Title 10 and its zone and administrative sections 10A and 10B.

Where As: The subject site is within the City of Ontario Urban Growth Area and thus approved under the rules and regulations of the State of Oregon for annexation to the City;

Where As: The subject Urban Growth Area is classified as Residential and the proposed zone is RM-50 Single Family Residential which is consistent with the UGA classification;

Where As: The property owner has formally requested that the subject site be annexed, the primary purpose of the annexation is to connect to the City sewer line;

Where As: The subject site is immediately adjacent to the City boundary;

Where As: City emergency services are available to this site in a manner similar to other land in the City;

Where As: Appropriate notices have been given for this proposal and the public hearings it requires.

#### **Conclusion:**

The proposed rezone is consistent with all applicable criteria and standards. It is therefore concluded that there are no procedural or legal obstacles to the proposed annexation and rezone of this proposal.

### **V. RECOMMENDATION**

Staff proposes that the City of Ontario Planning Commission recommend to City Council, and that the Ontario City Council accept and act favorably upon annexation and rezoning to RS-50, of the property at 606 NW 16<sup>th</sup> St., Assessor's

Map #18S 47E 05; Tax Lot 600 (The formal deed description is in the Planning Dept file.)

**VI. SUGGESTED MOTIONS FOR APPROVAL/DENIAL**

A. Planning Commission Action:

- 1) I move that the Planning Commission accept the above Findings of Fact.
- 2) I move that the request for annexation and rezone of the subject property from UGA-Residential to City RS-50 Single Family Residential as contained in Planning File 2009-07-08 AZ Smith, be recommended to the City Council for **APPROVAL**.

**VII. Exhibits**

- Exhibit "A" Consent form
- Exhibit "B" Legal Property Description
- Exhibit "C" Comprehensive Plan/Zoning Map
- Exhibit "D" Aerial photo
- Exhibit "E" Vicinity Map

# CONSENT TO ANNEX - SMITH

City of Ontario Planning and Zoning Application Form  
 444 SW 4<sup>th</sup> Street, Ontario, OR 97914  
 Permit Center Annex: 458 SW 3rd Street  
 Voice (541) 881-3224 / (541) 881-3222  
 Fax (541) 881-3251



## CONSENT TO ANNEXATION

FILE # 2009-07-08 AZ

Date Received 7/9/09

Fee: \$330.00 + 2 cents per square foot  
~~\$330~~ + ~~\$337.50~~ = 667.50

Accepted as Complete \_\_\_\_\_

Know all men by these presents, that we, the undersigned, being owners, contract purchasers, mortgagees, or security holders upon a portion of land described below and which is proposed to be annexed to the City of Ontario, do hereby give our irrevocable consent that such land be annexed to the City of Ontario, and that our consent may be filed with the City Council of Ontario Oregon and that no election shall be held in said territory or notices posted therein. This consent is given pursuant to ORS Section 222.170.

Name Charles Smith  
 Name Sherrin Smith  
 Name 800-8321  
 Name 235-0062  
 Name \_\_\_\_\_  
 Name \_\_\_\_\_

Signature Charles Smith  
 Signature Sherrin Smith  
 Signature \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Signature \_\_\_\_\_

The above signatures on the original consents were filed in the office of the City Recorder in accordance with State Statute. The above parties are all the property owners within the territory to be annexed.

Talked to Mrs Smith Aug 12, 2009 requesting deed description AKR

City Recorder

**Property information:**

Address 606 NW 16th St. ONTARIO OR 97914  
 Tax Map # 18 54705 AD Tax Lot #(s) 600  
 Tax Map # \_\_\_\_\_ Tax Lot #(s) \_\_\_\_\_  
 Lot size .39 16875 sq ft. Zoning \_\_\_\_\_  
 Existing use Residential  
 Proposed City zone \_\_\_\_\_

**Please provide a legal description on a separate sheet.**

**OFFICE USE ONLY**

|                              |                      |                       |
|------------------------------|----------------------|-----------------------|
| 120 day time limit           | Accepted as complete | Final decision by     |
| DL CD 45-day notice required | Y/N Date mailed      | Date of first hearing |
| Notice of PC Hearing         | Date mailed          | Posted on site        |
| Notice to media              | Publication date     | Emailed               |
| Hearing dates                | PC                   | CC                    |
| Notice of Decision           | Date mailed          | Appeal deadline       |
| Legal description to DOR     |                      |                       |
| Associated applications      |                      |                       |

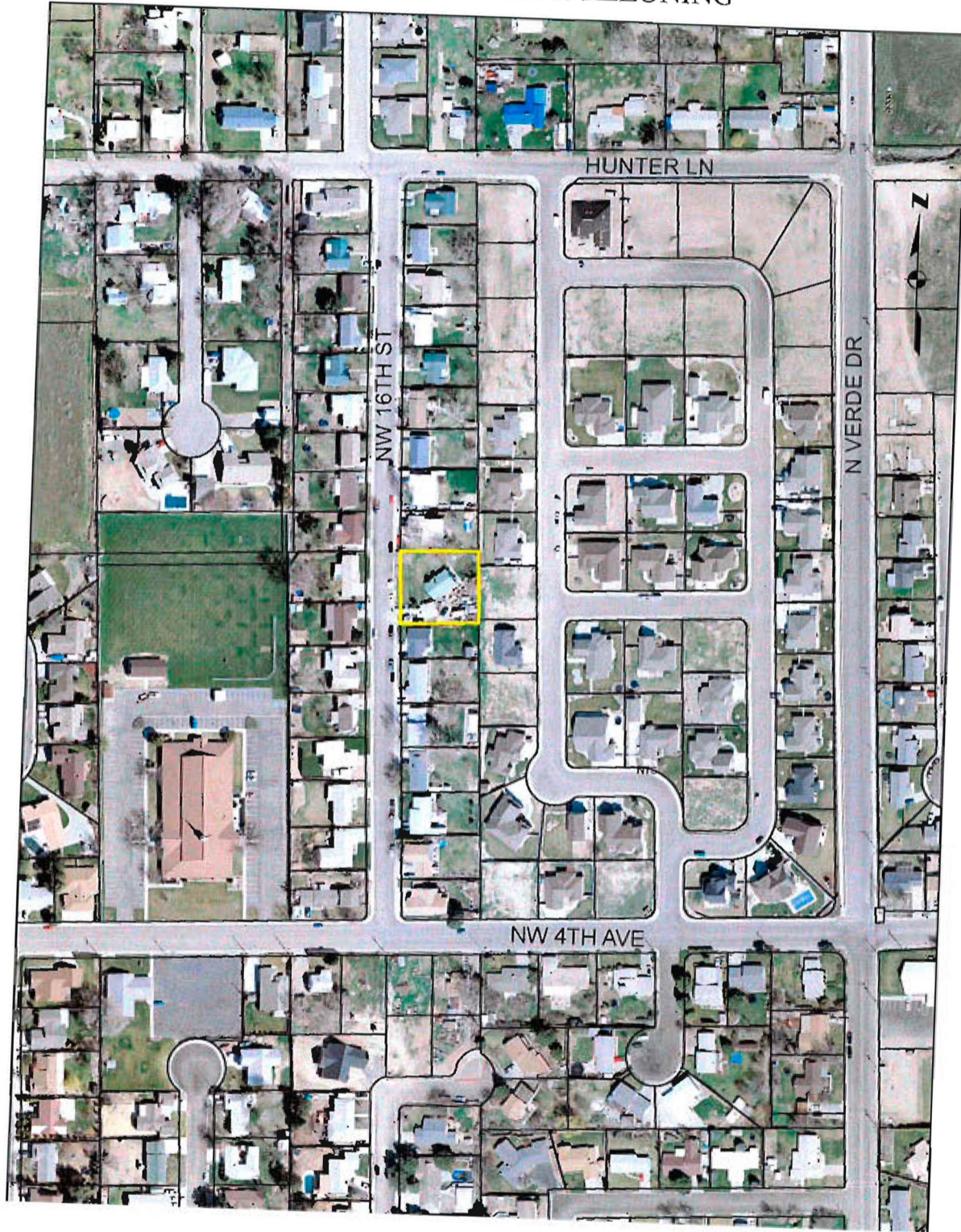
PROPERTY DESCRIPTION - SMITH

|  |  |
|--|--|
| INSTRUMENT NO. <u>2780</u> RECORDING DATE <u>MAR 13 1975</u>   |  |
| <b>MAR 13 1975 WARRANTY DEED</b>   |  |
| KAREN C. REES, a single person,  |  |
| called grantor(s) herein, hereby convey(s) to CHARLES E. SMITH and SKERRIE L. SMITH, husband and wife, whose address is 880 North Oregon, Spacs 22, Ontario, Oregon 97914 the following described real property:   |  |
| Land in Malheur county, Oregon, as follows:<br>In Twp. 18 S., R. 47 E., W.M.:<br>Sec. 5: A parcel of land in the E4SW4SE4NE4 more particularly described as follows: Beginning at the Northeast corner of said E4SW4SE4NE4; thence West 135 feet; thence South 125 feet; thence East 135 feet; thence North 125 feet to the point of beginning.  |  |
| SUBJECT TO:<br>1. AGREEMENT concerning alteration of right of way, including the terms and provisions thereof, between Ralph W. Byrne and Sandra J. Byrne, husband and wife, first parties, and Ellwood W. Flock and Bethel N. Flock, husband and wife, second parties, dated July 1, 1965, recorded July 8, 1965, Instrument No. 66064, Leases and Agreements, as to the existing road right of way to the Flock property and proposed future substitution of another right of way when the Byrne property is subdivided. |  |
| and covenant(s) that grantor(s) is/are the owner(s) of the above described property free of all encumbrances (except) as above stated,   |  |
| and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.   |  |
| The consideration for this transfer is: \$26,500.00.   |  |
| Dated: March <u>14</u> , 1975.   |  |
| <u>Karen C. Rees</u><br>Karen C. Rees  |  |
| STATE OF OREGON, County of Malheur 441<br>March <u>14</u> , 1975.<br>Personally appeared, the above named KAREN C. REES<br>and acknowledged the foregoing instrument to be her voluntary act. Before me:<br><u>[Signature]</u><br>Notary Public for Oregon<br>My Commission expires <u>8-25-75</u>   | (FOR RECORDERS USE)<br>STATE OF OREGON )<br>County of Malheur )<br><u>2780</u><br><u>March 25</u><br><u>1975</u><br><u>[Signature]</u> |
| PREPARED BY  | Charles E. Smith return to<br>1507 NW 4th Ave<br>Ontario, Ore.   |





AERIAL MAP - SMITH ANNEXATION & REZONING



VICINITY MAP - SMITH ANNEXATION & REZONING



Primary Dept  
of Dentistry  
SW 3rd St.  
Salem, OR 97914

Attention: Plan Amendment Specialist  
DLCD  
635 Capitol St. NE Suite 158  
Salem, OR. 979301-2546

