

Motion by Commissioner Warner to recommend denial of the Overlay Zone finding that the citizens in the area are opposed to the development. Seconded by Commissioner Cannon.

Motion by Commissioner Nichols to amend the motion by adding to the findings that the area is currently zoned for single family homes.

Commission Warner agrees with the amended motion. Commissioner Cannon seconded the amendment. Voting for: Commissioners Cannon, Warner, Cowan, Frisby, Nichols. Voting against: Commissioner Van Nosedol. Motion carries.

**REVIEW AND POTENTIAL RECOMMENDATION REGARDING THE WIGNALL ANNEXATION CONSISTING OF ONE HUNDRED THREE (103) ACRES LOCATED EAST OF THE EXISTING MUNICIPAL BOUNDARIES, NORTH OF SR 198 AT APPROXIMATELY 1200 EAST (2400 WEST, UTAH COUNTY COORDINATE SYSTEM).**

Planner Spencer presented information from the following staff report.

**Background**

The Wignall Annexation is located east of the existing municipal boundaries generally between State Route 198 and 400 North, and between 1200 East and 1600 East (approximately 2400 West and 2000 West, Utah County coordinate system). The proposed annexation contains ten (10) parcels and includes approximately one hundred three (103) acres with a majority of the property used for agriculture and other farming activities. There are other uses in the annexation area, including four (4) single family dwellings, an intermediate care facility, and multiple agricultural buildings.

The annexation was accepted for further review by the City Council on November 7, 2007. The original petition was signed by all the owners of property; however, since that time, there have been changes in parcel ownership and some property owners have requested their signature be removed from the petition. Staff has noted these changes in the annexation file and has verified the petition still satisfies the minimum requirements of Utah Code as it relates to petition qualification (signatures and valuation).

The primary reason for the delay in processing the application was an effort by the annexation sponsor, Dean Wignall, to obtain support to change the land use designation of the existing structure on Utah County Parcel #30-030-0042 from an *agricultural building* classification to a facility that could accommodate business storage. This structure is currently classified by Utah County as an agricultural building and was constructed under the regulations of an agricultural building. Staff would recommend the building continue to be classified as an agricultural building following annexation.

Due to the lack of utility services in the area, it is unlikely that much development will occur in the annexation area immediately following annexation. However, if the annexation is approved, Wasatch Mental Health intends to improve a portion of their property to accommodate an office building. Wasatch Mental Health representatives have expressed support of the annexation and would like the annexation process completed soon so the new facility can be constructed by 2016. Staff is proposing the parcels in the annexation area, with the exception of the Wasatch Mental Health parcel, be zoned A-5-H, Annexation Holding Zone until a specific plan is prepared for the area. It is proposed that the portion of the property proposed for the Wasatch Mental Health facility be zoned PO-1, Professional Office Zone which is a district which would allow the facility as a permitted use.

Over the years, staff has met with several of the landowners to discuss existing uses, future development, and general opportunities and limitations that are involved with annexation. Although some land owners have requested special considerations upon annexation, proceeding without special considerations will simplify the annexation process. In an effort to finalize the annexation process, staff would suggest that all site specific needs be addressed following annexation. However, it should be noted that following annexation the allowable uses must be consistent with the designated zoning district, except in those instances where the property owner can demonstrate that a specific use was permitted by Utah County prior

to annexation. In all such instances, it is the responsibility of the applicant, or property owner, as the case may be, to demonstrate the use was authorized by Utah County prior to annexation.

### **Analysis**

Annexation is a complex and extremely important issue for any municipality. Extension of the municipal boundaries should only be completed when it can be clearly shown that including the property in the City will be a benefit to the community. These benefits are measured in many ways including fiscal considerations, ensuring consistency of land use goals and realization of the General Plan, and many other factors.

Recognizing that a majority of the annexation area will continue to be used for agricultural purposes for some time following annexation, it is unnecessary to complete a comprehensive review of the property at this time. The scope and timing of the land use and infrastructure studies will be addressed in the annexation agreement for the proposed Wignall Annexation. Additional studies will need to be conducted prior to future development within the annexation area. It should be noted that no requirements of annexation are being waived, but rather delayed until the future development pattern of the property has been identified.

For the purposes of this petition, staff has determined that it would be appropriate for the Planning Commission to formulate a recommendation based on a review of any qualified protests, existing land uses, and determination of the appropriate zoning designation with all other annexation requirements addressed prior to development approval for any portion of the property in the proposed annexation. The outstanding items will be included in an annexation agreement which will clarify the delayed items and clarify the responsibilities of the property owners and the City in relation to the annexation. In relation to this annexation petition, staff is primarily concerned about traffic circulation, the provision of wastewater service and other municipal infrastructure systems.

### *Qualified Protests*

Utah Code Annotated (UCA) provides a thirty (30) day protest period for affected entities as defined in UCA §10-2-407. The protest period concluded some time ago and the Payson City Recorder has verified that no qualified protests were submitted to either Payson City or Utah County. For informational purposes, if a qualified protest were submitted, the applicant would have been required to complete additional fiscal analyses to determine if the annexation would result in a fiscal hardship on any qualifying entity (generally Utah County, adjoining cities, and special districts).

### *Zoning Designation*

In accordance with Section 19.12.2 of Title 19, Zoning Ordinance, all annexation petitions should be consistent with the Payson City General Plan. As currently adopted, the Payson City General Plan indicates a low residential density (.2 – 1 dwelling unit per acre) land use designation with a section of commercial designation along the frontage of SR 198. Staff is proposing an A-5-H, Annexation Holding Zone designation for all parcels, except for the parcel owned by Wasatch Mental Health which is proposed to be zoned a PO-1, Professional Office. The proposed zoning would provide the flexibility for all landowners in the annexation area to utilize their property, whether for agricultural purposes or development purposes. Preparation of the required land use and infrastructure analyses would be required before additional development occurred on the property.

### *Annexation Agreement*

Typically, annexation petitions are accompanied by an annexation agreement which clarifies the responsibilities of the annexation sponsor/petitioners and the City in relation to the proposed annexation. In this instance, the annexation agreement will include existing land uses and zoning designation along with the outstanding requirements of annexation that must be completed prior to development approval for any portion of the property included in the proposed annexation. At the request of the owners of property in the

proposed annexation, the agreement will protect existing agricultural operations and indicate how the newly annexed property will receive utility services.

Although the Planning Commission is not required to review or forward a recommendation on the annexation agreement, staff would suggest the recommendation of the Planning Commission include any items the Commission deems necessary to ensure the property in the proposed annexation will further the land use and economic development goals of Payson City.

Placing the complex details of annexation aside, the recommendation of the Planning Commission and the decision of the City Council is rather simple; will the proposed annexation benefit Payson City? Because annexation is such an important issue, the Planning Commission and City Council may require additional information to make a well informed decision. Because annexation is a purely legislative act, the requests for information need not be included in the development ordinances of the City. At the annexation stage, the members of the Planning Commission and City Council may request information about any reasonable issue and include conditions to address any reasonable concern.

### **Recommendation**

The Planning Commission will need to complete a review of the proposed Wignall Annexation. The Planning Commission is not required to hold a public hearing and thus any public comment will be accepted at the discretion of the Planning Commission. Following deliberation, if the Planning Commission chooses to recommend approval of the proposed annexation, the Commission will need to recommend and the City Council will need to designate the appropriate zoning district for the property. The Planning Commission should include findings that indicate reasonable conclusions for their recommendation to the City Council.

Annexations are legislative matters and the City Council is not obligated to approve any petition for annexation, regardless of location, even if the proponent of an annexation is prepared to comply with all provisions required for annexation. At any time during the annexation process, the City Council may deny the proposed annexation following written notice to the applicant. If the City Council takes action to deny a petition for annexation, there will be no appeal process. If a petition for annexation is denied by the City Council, the proponent of the annexation will be required to submit a new application and pay all associated fees in order to have the petition reviewed again by the Planning Commission, City Council and staff.

Chairman Cowan asked if there have been any discussions with Utah County regarding the building requirements for the agricultural building within the annexation boundaries.

Planner Spencer stated that there have been conversations with Utah County and stated that the agricultural building located on the Wignall property currently does not meet the building requirements for business storage. Additional improvements would need to be completed for the property owner to use the building for that use. The proposed use also does not fit in with the general plan for that area.

Commissioner Warner asked about sewer service within the annexation and if the island could be included in the annexation petition.

Planner Spencer stated that a lift station is need on this east side along with a master plan. She stated that Utah State code allows for a reduction the size of a pending annexation but not an expansion. An expansion would require file a new petition for annexation.

Commissioner Frisby asked if the approval of the annexation approved the use of building.

Planner Spencer stated that approval of the annexation does not approve the possible business use. The owner would be allowed to still use the building for agricultural use.

Mike Hone stated that when he purchased the property he knew that it would be part of the city at some point in the future. He is opposed to the annexation at this time because he does not see how it is an advantage to the city. He questioned how the city could provide the services that a city provides. He stated that there needs to be a plan in place prior to annexation. He is concerned with the end result and how the city is going to handle the growth in this area.

Todd Phillips, CFO with Wasatch Mental Health, stated that they have purchased a property with the intention of future expansion and desires to build a new office building that would house their own offices as well as services such as DCFS. He believes that they are prepared to install a lift station for the building if needed and would be welcome to tying into a new system if available.

Tony Mlinaric stated that at one point there was an agreement to install a smaller lift station that would be able to service the entire area. He stated that there needs to be a plan associated with the area prior to it being annexed into the City.

Chairman Cowan stated that discussion have occurred regarding a master plan to address the utilities on the east side of the City. He stated that Payson City does not have the money to install a regional lift station without help from developers.

Council Member Hancock stated that the suggested zone is A-5-H which has different requirements for development. It places some responsibility on developers to determine a plan prior to development.

Planner Spencer stated that the A-5-H zone provides time to develop a master plan for a specific area. She stated that the A-5-H also limits what can be done. Property owners that want to develop immediately will need to wait until a master plan is completed for the area.

Cowan stated that the area on the east side of the city has many development difficulties due to the terrain and the lack of existing utilities.

Val Morris asked what is Wasatch Mental Health's time line and is concerned with that they may have issues with the agricultural operation that they have next door.

Todd Phillips stated they would be ready to move in at the end of 2016 and they are not concerned at all with the agricultural uses that are next door.

Tony Mlinaric asked what the traffic impact of Wasatch Mental Health's new building would be.

Todd Phillips stated that they would only have office space and an outpatient clinic only.

Tony Mlinaric stated that there needs to be a master plan to provide the needed services for the entire area.

Chairman Cowan stated that there needs to be a lot more information needed before any decisions can be made regarding the services and buildings. The discussion and purpose tonight is to determine if this is the time to annex these properties.

Planner Spencer stated that a master plan is needed and the master plan will be done at the time of development and not annexation. Any further development would be delayed until after a master plan is created.

Commissioner Frisby asked if the annexed property would need to connect to city utilities immediately or if they could remain as they are.

Spencer stated that the A-5-H zone is similar to Utah County however there are some restrictions that the county does not have. An example would be the amount of development that could occur on the properties in the annexation.

Motion by Commissioner Cannon recommend approval of the annexation to the city council. Seconded by Commissioner Frisby. Motion carried.

#### COMMISSION AND STAFF REPORTS