Provo City Planning Commission

Report of Action

March 08, 2023

*ITEI	M 1	Ginny Smith requests annexation of approximately 9.1 acres located at approximately 5500 N Canyon
		Rd. The subject property lies adjacent to the North Timpview Neighborhood. Brandon Larsen (801) 852-
		6408 PLANEX20230020

The following action was taken by the Planning Commission on the above-described item at its regular meeting of March 8, 2023:

RECOMMENDED APPROVAL

On a vote of 7:0, the Planning Commission recommended that the Municipal Council approve the above noted application.

Motion By: Melissa Kendall Second By: Jeff Whitlock

Votes in Favor of Motion: Lisa Jensen, Melissa Kendall, Robert Knudsen, Jeff Whitlock, Daniel Gonzales, Raleen

Wahlin, and Andrew South

Lisa Jensen was present as Chair.

Includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any
changes noted; Planning Commission determination is generally consistent with the Staff analysis and
determination.

LEGAL DESCRIPTION FOR PROPERTY TO BE ANNEXED

The property to be annexed is described in the attached Exhibit A.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations.

CITY DEPARTMENTAL ISSUES

• The Public Works Department wants an acknowledgement from, or agreement with, the Smiths essentially acknowledging they will not receive additional utility services from the city upon annexation. The Power Department wants powerline easements on future plats involving the subject property.

NEIGHBORHOOD AND PUBLIC COMMENT

- The Neighborhood District Chair was not present or did not address the Planning Commission during the hearing.
- Steve Turley expressed a desire for the city to not bring in the proposed annexation without requiring utilities. He also said there is a recorded restrictive covenant against all or some of the subject property that could be impacted through the annexation. The restrictive covenant is referred to as a Declaration of Zoning Lot, which was signed in 2004.

CONCERNS RAISED BY PUBLIC

The only comments staff received from the public are related to the comment above from Steve Turley.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

• Ginny Smith said this annexation will help them to maintain their agricultural pursuits on their property, as well as help keep their property safer with better police protection through the city.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Jensen suggested zoning, the issue with the restrictive covenant referenced by Mr. Turley, and development issues are interesting, but not relevant to their decision tonight because there is no development being proposed.
- The restrictive covenant issue can be addressed at the Council level.
- Commissioner Jensen suggested we typically do not like patch work annexations, but it is adjacent to land within the city. We are not dealing with a county island.
- Commissioner Gonzales requested the following finding be included in their motion: The property is mainly used for agricultural purposes, namely fruit growing, and the applicant intends to continue to use the property for agricultural operations.
- Commissioner Kendell recommended the Commission recommend approval of the annexation with Commissioner Gonzales's finding. The motion was seconded by Commissioner Whitlock. The motion was approved 7-0.

Planning Commission Chair

Bill Repende

Director of Development Services

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See <u>Key Land Use Policies of the Provo City General Plan</u>, applicable <u>Titles of the Provo City Code</u>, and the <u>Staff Report to the Planning Commission</u> for further detailed information. The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action.

<u>Legislative items</u> are noted with an asterisk (*) and require legislative action by the Municipal Council following a public hearing; the Planning Commission provides an advisory recommendation to the Municipal Council following a public hearing.

Administrative decisions of the Planning Commission (items not marked with an asterisk) **may be appealed** by submitting an application/notice of appeal, with the required application and noticing fees to the Development Services Department, 445 W Center Street, Provo, Utah, **within fourteen (14) calendar days of the Planning Commission's decision** (Provo City office hours are Monday through Thursday, 7:00 a.m. to 6:00 p.m.).

BUILDING PERMITS MUST BE OBTAINED BEFORE CONSTRUCTION BEGINS

EXHIBIT A

EAST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 522.61 FEET TO THE POINT OF BEGINNING.

THENCE S.40'39'08"E. A DISTANCE OF 93.56 FEET; THENCE SOUTH A DISTANCE OF 174.45 FEET; THENCE S.60"11'51"W. A DISTANCE OF 159.91 FEET; THENCE N.84"31'24"W. A DISTANCE OF 175.38 FEET; THENCE N.30"47'15"W. A DISTANCE OF 145.16 FEET, THENCE SOUTH A DISTANCE OF 29.50 FEET; THENCE S.09"48'22"E. A DISTANCE OF 123.03 FEET; THENCE S.89"59"58"W. A DISTANCE OF 254.65 FEET; THENCE NORTH A DISTANCE OF 94.51 FEET; THENCE S.81"28'58"W. A DISTANCE OF 185.37 FEET; THENCE N.03"30"59"E. A DISTANCE OF 149.75 FEET, THENCE N.00"11"17"W. A DISTANCE OF 166.04 FEET; THENCE N.75"49"35"E. A DISTANCE OF 88.06 FEET; THENCE S.73"57"14"E. A DISTANCE OF 72.58 FEET; THENCE S.58"37"51"E. A DISTANCE OF 30.01 FEET; THENCE S.11"57"06"E. A DISTANCE OF 35.01 FEET; THENCE N.89"59"56"E. A DISTANCE OF 547.07 FEET; TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 5.64 ACRES OF LAND MORE OR LESS.

WEST PARCEL

A GROUP OF PARCELS LYING IN THE SOUTH HALF OF SECTION 7, TOWNSHIP 6 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 7, THENCE S.01°06'59"E. A DISTANCE OF 1968.95 FEET; THENCE S.89°59'56"W. A DISTANCE OF 1069.68 FEET; THENCE N.11°57'06"W. A DISTANCE OF 35.01 FEET; THENCE N.58°37'51"W. A DISTANCE OF 30.01 FEET; THENCE N.73°57'14"W. A DISTANCE OF 72.58 FEET; THENCE S.75°49'35"W. A DISTANCE OF 341.80 FEET; THENCE SOUTH A DISTANCE OF 7.81 FEET; THENCE S.89°59'56"W. A DISTANCE OF 302.01 FEET TO THE POINT OF BEGINNING.

THENCE S.18'37'01"E. A DISTANCE OF 87.84 FEET; THENCE N.71'59'29"E. A DISTANCE OF 9.52 FEET; THENCE S.23'14'23"W. A DISTANCE OF 90.04 FEET; THENCE S.03'29'21"W. A DISTANCE OF 23.28 FEET, THENCE S.81'27'23"W. A DISTANCE OF 87.43 FEET; THENCE S.03'29'23"W. A DISTANCE OF 149.95 FEET; THENCE N.81'33'03"E. A DISTANCE OF 340.24 FEET; THENCE S.00'06'41"E. A DISTANCE OF 222.49 FEET, THENCE S.81'36'59"W. A DISTANCE OF 295.44 FEET; THENCE N.79'57'18"E. A DISTANCE OF 9.35 FEET; THENCE N.02'34'04"E. A DISTANCE OF 15.15 FEET; THENCE S.80'51'59"W. A DISTANCE OF 168.92 FEET; THENCE N.05'00'01"E. A DISTANCE OF 575.19 FEET; THENCE N.89'59'56"E. A DISTANCE OF 167.89 FEET TO THE POINT OF BEGINNING.

SAID AREA CONTAINING 3.46 ACRES OF LAND MORE OR LESS.