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PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE**



PLANNING COMMISSION MEETING AGENDA
CITY OF ONTARIO OREGON
MONDAY, APRIL 13, 2020, 6:00 PM, MT

1) CALL TO ORDER

Commissioner Craig Smith _____ Commissioner Cindy McLeran _____ Commissioner Max Twombly _____
Commissioner John Hall _____ Commissioner John Briedenbach _____ Commissioner Richard Newman _____
Chairman Ralph Poole _____

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

2) PLEDGE OF ALLEGIANCE

3) MOTION TO ADOPT THE AGENDA

This Agenda was posted on April 6, 2020. 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

A) Minutes of February 10, 2020

6) OLD BUSINESS

7) NEW BUSINESS

8) PUBLIC HEARING

A) ACTION 2020-03-11ZCA: A request by the Oregon State Historic Preservation Office (SHPO) and the National Park Service (NPS) to amend the city zoning and development code, Title 10C-60-30 Ontario Municipal Code to amend the appropriate standards to meet the SHPO and NPS regulations.

9) HAND-OUTS/DISCUSSION ITEMS

10) COMMENTS FROM COMMISSIONERS

11) ADJOURN

PLANNING COMMISSION MEETING MINUTES

**Monday
February 10, 2020**

The Ontario Planning Commission was called to order at 6:00 pm in the Council Chambers of City Hall. Commission members present were Craig Smith, Cindy McLeran, Max Twombly, John Briedenbach, and Chairman Ralph Poole. John Hall and Blu Fortner were excused.

City Staff present were; Dan Cummings, Community Development Director; and Marcy Siriwardene. Adam Brown, Ex-Officio, was present as well. City Council Ex-Officio Ramon Palomo was absent.

The meeting was recorded on tape and the tape is on file at the City Community Development Center. The Agenda for this meeting was emailed on or before February 3, 2020. Copies of the Agenda were available at the City Community Development Center.

Ralph Poole led everyone in the Pledge of Allegiance.

ADOPTION OF AGENDA

Craig Smith moved, seconded by Cindy McLeran, to adopt the Agenda as presented. Roll call vote: Smith-yes; McCleran-yes; Twombly-out; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 4/3/0.

Max Twombly arrived at 6:05pm.

ADOPTION OF MINUTES

John Briedenbach moved, seconded by Craig Smith, to adopt the minutes of January 13, 2020. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 5/2/0.

There were no unscheduled public appearances.

There were no objections to Planning Commission jurisdiction and no abstentions or ex-parte contact.

There were no Old Business Discussion Items.

Commissioner Smith disclosed that he had some interaction with the applicant, Chelsey Warrington, but that it would not affect his decision and he did not feel that he had a conflict.

PUBLIC HEARING FOR LAND USE ACTION 2020-01-04V: A REQUEST FOR VARIANCE FROM THE REQUIREMENT OF 10c-20-55 WHICH REQUIRES PIPING OF IRRIGATION AND DRAINAGE DITCHES

Dan Cummings, Community Development Director, presented that staff report.

I. GENERAL INFORMATION:

TO: Ontario Planning Commission Members

FROM: Dan K. Cummings, Community Development Director

SUBJECT: ACTION 2020-01-04V: A request for **Variance from the requirement of 10C-20-55 which requires piping of irrigation or drainage ditches** on property located at 715 Sunset Drive:

PROPOSAL: A request for a variance from City Code 10C-20-55 IRRIGATION AND DRAINAGE DITCHES: This code section requires irrigation and drainage ditches on or abutting the property be placed under ground. The proponent is requesting a variance from this requirement and protecting the property from the ditch by fencing off the ditch separating the property. The applicant is proposing a Housing Subdivision on the property.

LEGAL DESCRIPTION: Assessor's Map #18S 47E 08 D1; Tax Lot 1500; 715 Sunset Dr.

APPLICANTS: Chelsey & Andrea Warrington, P.O. Box 910, Ontario, OR

II. SUMMARY & BACKGROUND

The applicants are proposing a 10-lot residential subdivision on the above described property which is bordered on the West by an Irrigation/Drainage Dich managed by the Old Owyhee Ditch Company.

City Code Title 10C Chapter 20 STANDARDS AND PROCEDURES FOR IMPROVEMENTS establishes the guild lines for development of land within the City of Ontario, 10C-20-55 reads as follows:

10C-20-55 - IRRIGATION AND DRAINAGE DITCHES.

All the irrigation and drainage ditches on or abutting the property shall be placed underground. The size and design of the underground conveyance shall be approved by the irrigation or drainage agency with jurisdiction over the facility.

The applicants are requesting that a variance is granted to the requirements of piping the ditch as no other adjacent property owner in the area have been required to pipe the ditch. They state that they only own to the center of the dich. They further state that if required by the City of Ontario or the Old Owyhee Ditch Company to have to pipe the ditch that the owners of the developed trailer park be required to pay for their half of the ditch improvements.

The applicants are proposing that they protect their subdivision from the ditch by a border fence along the ditch bank.

The applicants will be at the meeting to provide testimony for this action.

III. PREVIOUS PLANNING COMMISSION ACTION

The Planning Commission under Planning Action 2019-04-34AZ on July 19, 2019 sent a recommendation to the Ontario City Council to approve the Annexation and Rezoning of the property which was approved under City Ordinance #2756-2019.

IV. FINDINGS OF FACT

The Planning Commission acting as the Hearings officer shall establish the findings of facts for approval or denial based on the following Criteria:

10B-30-30 - CRITERIA FOR APPROVAL OF VARIANCES. No variance may be granted by the Hearing Officer unless, on the basis of the application, investigation, and evidence submitted:

A) Both findings "1" and "2" below are made:

1. That a strict or literal interpretation and enforcement of the specified requirement
 - a) would result in unnecessary physical hardship and would be inconsistent with the objectives of these standards.
 - b) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply to other properties in the same zoning district; or
 - c) That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges legally enjoyed by the owners of other properties classified in the same zoning district;
2. That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the near vicinity.

Conclusion:

The planning commission shall state their conclusion and conditional of approval if any, based on their finding of facts above.

V. RECOMMENDATION

Staff has no recommendation as they have sent this action forward to the Planning Commission for a Public Hearing and testimony.

VI. SUGGESTED MOTIONS FOR APPROVAL/DENIAL

Planning Commission Approval/Denial:

- 1) I move that the Planning Commission accept the above Findings of Fact as stated above.
- 2) I move that the Planning Commission acting as Hearings Office Approve the requested variance to the requirements of 10C-20-55 based on the Findings of Facts and Conditions of approval stated in this action.
- 3). I move the Planning Commission acting as Hearings Office Deni the requested variance to the requirements of 10C-20-55 based on the Findings of Fact stated in this action.

Mr. Cummings stated that a man had called him from Adrian to tell him that he thought it wasn't a good idea not to pipe the ditch. Dan thought he had possibly worked for an irrigation ditch company but didn't catch his name.

Mr. Cummings also received a call from Elizabeth Glenn. She lived on Winegar Drive and was concerned about the subdivision. She didn't come in to talk about the ditch. Dan gave her a map of the preliminary subdivision.

Mr. Cummings also explained that at 3:55pm that afternoon, a letter was dropped off by Michael Blackaby and was included in the PC's packet that night. Dan read it into the record.

Mr. Cummings commented about the grease and sand trap and how the City made agreement concerning the subdivision if the drainage district allowed them to add water to their system

which would improve the system. If the drainage district said no, then the City would not install the grease and sand trap.

Chairman Poole asked if the drainage district would allow them to hook into system.

Mr. Cummings answered that the drainage district would need to be contacted. The City had an agreement in the past with the district to allow city drainage water to drain into the ditch. The Warringtons were told to contact the drainage district. A fence was there presently.

Commissioner Briedenbach asked where the current water and sewer was and if there was a water line on 7th. Mr. Cummings showed on the map where the lines were and where they would be tapped from. This would be another application.

Adam Brown, City Manager, asked if there was a Deferred Imp Agreement with the neighbors across the street. Dan answered that there was unfortunately not.

Chairman Poole asked about DIAs down the street to the North of the property. There was not that Dan could recollect.

PROPONENTS

There was one proponent- Chelsey Warrington, owner of Warrington Construction.

"I'm Chelsey Warrington, I'm owner of Warrington Construction. My wife and I bought this property here and it was designed to be for some cost efficient housing lots to go in Ontario. We're trying to keep the cost down on this so and make these lots affordable for some affordable housing. Well we come upon the situation of piping this ditch so originally when I first talked to the irrigation district they really didn't want it piped because there's no way for them to maintain it. Well, then when they found out the City ordinance said you had to pipe it or we had to pipe it, well, they're all in for piping it now so. So, our whole concern is we only own halfway to the ditch. We have the trailer park to the other side. I mean, if the thing, I guess right now looks like the ditch, we'd just assume not pipe it. If we're gonna have to pipe it, then why are we paying for the burden of the cost? I mean, can the City go on the trailer park and file something on their water bill to make them pay for the half of piping this thing? I mean, we're just wanting something that's fair. Once the thing get's piped, the irrigation district doesn't have to do anything to this ditch so they'd have no maintenance on the ditch. All the maintenance is gonna be required by the city then. The City's gonna have to accept this ditch so the city's gonna be doing all the cleaning on it. The irrigation district doesn't have to do anything to it so the irrigation district is benefitting from us piping this ditch I mean over the long run so maybe they can throw in a little money to help pipe this ditch so we just don't want to take the burden of everything for this ditch is what we're trying to do right now. We don't have the pipe to bring the fence right up to it. The easement, we found the easement on it, there's only a 35 foot easement, not a 50 foot easement. We went to the county courthouse. There's 20 foot the center of the ditch from our property and there's 15' from the center of the ditch from the trailer side our property There isn't a lot of easement out there. So essentially, that's where we're at. We're between a rock and a hard place and we want to work with the City. W'ere trying to do this affordable housing so, you know, we're asking for a little help here and maybe a little help with the irrigation district. We would like to dump our water into that ditch right now. RThia property has irrigation reights on it through the irrigation district. Right now all the flood water goes on this property, goes through this property, and drains back into the ditch, so, with no filter, no nothing on it. We're gonna maintain no water that goes into the ditch other than the 200 foot of street and by allowing us to put our water back in the ditch we're gonna treat the city's water and our water, make it better on everybody, make a sand and grease trap in so our water, all the water coming off Sunset, which is the

City's water can go through a sand and grease trap which will go back into the Owyhee irrigation ditch, which will be clean that way if there's an oil spill or something, everybody's protected. You know I think we're trying to do the good steward thing and make things better for everybody we shouldn't hold the whole burden of the cost. If the city can help us in any way by making the trailer park, you know, it is a deal that was established and for some reason they didn't have to do it but we feel that they are just as involved with it as ours. They've got an open ditch, they don't even have their open ditch fenced you know going up towards the highway theres commercial development, the cemetery which is the city, their not even fenced so you're going to have one section open, a pipe ditch down on the end then an open ditch right there so the kids can fall in it anywhere you know, kids are gonna be kids, so, I'm kinda between a rock and a hard place here. If we can find a way for everybody to shoulder a little bit of this, I think it'd be a good thing".

Chairman Poole asked Mr. Warrington about his conversation with the City pertaining to his development. He was curious if Mr. Warrington had worked with the City on it.

Mr. Warrington answered that he had worked with the city concerning the water and that originally they had wanted to develop the property to make it affordable housing.

Chairman Poole asked what the cost was to pipe it.

Mr. Warrington stated that it would cost around \$40,000, or for 10 houses, \$4k per lot, \$60,000 would include the sand and grease trap and other improvements.

Commissioner Briedenbach asked what kind of fence would be proposed.

Mr. Warrington said it would probably be vinyl. The fence would be put up whether it's piped or not piped.

OPPONENTS

There was one opponent-Mike Blackaby, Ontario Oregon, Secretary of the old Owyhee ditch since 1974. "I'm Mike Blackaby, secretary of the old Owyhee Ditch Company in Ontario Oregon. I want to add some information. I've been secretary of old Owyhee Ditch since 1974 and I've been secretary for Malheur Drainage which is the Loveridge subdivision since 1989 and I'm glad he brought that up because what's happening to us I don't recall if it was approved or if it came to us but whoever put in the subdivision people bought the lot, built the home and whoever they sold it to then came to Malheur Drainage and said 'we don't want that open ditch' and so part of the problem with that ditch, it's really referred to as the Steward Carter Ditch and Roy Ruerr was the president of the Steward Carter Ditch. Part of their difficulty and everything, their documents all burned up in a fire in the 50's so the right of way of the Steward Carter Ditch in the Loveridge Subdivision was the same as the old Owyhee. So you have that concern. Now back to the other subdivision is the Malheur Drainage it's not the old Owyhee Drainage Ditch all that are heavy with that and the contractor came to the Malehru Draingage, a pipe was installed, the pipe has now failed and so we have that concern. Back to the property here, the Warringtons did meet with the board. Maudie is our main employee who maintains our ditch. We did ask for the cost and we did I think in November but they never came back to talk to us any more so. My point there is we never did say we didn't want a pipe. I mean, we didn't change our minds, the board has always wanted a pipe so that's not changed. The main issue, and I've got to add this: so the attorney for the city is also the attorney for the Old Owyhee, Mr. Sullivan. The attorney for Malheur Drainage is Mike Thorton and he went to a meeting in April, I think, with information about the DEQ becoming very very strict and we may have to not accept any water, from the city, from anybody, because of the responsibility and one for standards but they're getting stricter and stricter. I'm saying we've done things a way in the past but because of requirements we were, were gonna have to perhaps based on this ordinance not accept any water. Based on to not accept any water in the Malheur Drainage Ditch but we feel should be the same

way should apply to future development for the Old Owyhee because we think they'll be more homes built to the south and then if I could the property that Dan mentioned was owned by the Yaguchis. I think they gave it to the college and they sold it for development. Now the problem with that is they kept about an acre so in the past year the owner of the restaurant on the west side of the ditch purchased that for a dollar from the Yaguchis and he's come to us and his plan is to pipe it. The main reason is we need parking, but that hasn't happened. But that's kind of a history of development, since 1974".

Mr. Poole asked if the ditch company would consider helping with piping, they could ask. The board could consider it.

Mr. Warrington asked about DEQ standards with the sand and grease trap.

Mr. Blackaby commented that the Malheur Drainage said that the standards are higher now.

Commissioner Smith got clarification about the sand and grease trap.

There was a discussion about how long it had been since it had been irrigated. It had been several years.

Mr. Warrington showed where the sand and grease trap would be located and that both his water from the subdivision and the city's water would be cleaned by the trap.

Mr. Cummings asked about if they had the document showing how wide the ditch was.

A gentleman in the audience commented about the width of the ditch being 35 feet and it's easement. He did not give his name.

Mr. Cummings said that he would need the documentation showing that.

Mr. Blackaby stated that the Sewer-Carter ditch was an extension of the old Owyhee ditch, declaration with the County court from 1960.

Mr. Cummings said that the Warringtons would want that document because that would affect the size and shape of their lots.

Chairman Poole closed the Public Hearing.

Commissioner Smith commented that it was creating a substantial hardship, in his opinion. He didn't understand why the manufactured home property to the west was not made to do their part.

Mr. Cummings gave some history and had some information in his staff report concerning that property. It appeared that the requirement was around 1978 from what he could see and that the manufactured home park was developed prior to that code. It would be an attorney question as to getting the park to pay for their share now. Any development or redevelopment (the new subdivision) was what was triggering it now.

Chairman Briedenbach asked if the City's Sunset Cemetery would be required to pipe it as well.

Mr. Cummings answered that the code only affects property that is being developed or redeveloped and nothing was being done with the cemetery. An attorney would have to clarify what would trigger that.

Commissioner Briendenbach stated that the City of Ontario desperately needed and wanted affordable housing units and subdivisions.

Mr. Cummings stated that if you don't make them pipe it now, how would you come back on each individual property owner in the future if DEQ required piping? Also, everyone needed to be aware that if the ditch was piped, there would be a direct flow of sediments and everything going right to the river where the open ditch would filter some of the impurities out. The DEQ had changed their position several times concerning whether water should be taken or not.

Chairman Poole asked where the storm water went from the trailer park.

Mr. Blackaby explained that the runoff went to the south first in a field then under Gentry Ford and to the North.

Chairman Poole commented that there was a pipe to Dorian that was open that had never been worked on from what he could see.

Mr. Blackaby spoke about the history of the area.

Mr. Cummings commented that there was no public storm drainage in the mobile home park.

Commissioner Smith asked if the City was responsible to maintain the ditch.

Mr. Blackaby explained the history on the pump on the corner of NW 4th.

Mr. Cummings added that the city had to maintain the pump to provide water to several properties.

Mr. Blackaby stated that sometimes pipes failed and had to be maintained at some point.

Chairman Poole asked about it from a safety standpoint. He asked how costly it would be at a later date, DIA, LID, after fenced. He asked how costly it would be to address the issue at a later day. He added that an inventory would be beneficial and try to come up with a solution for the open ditches with the DEQ, ditch companies, and landowners for all of the open ditches.

Mr. Warrington (Brook) commented that city code only required commercial ditches to be fenced, with residential ditches being required to be piped.

Mr. Cummings clarified that the code referred to all development, not commercial or residential. It hadn't been consistently applied through the years.

Mr. Cummings asked Mr. Blackaby if the ditch were piped, who would have to maintain or replace it?

Mr. Blackaby answered that he thought that the Old Owyhee Ditch would.

Mr. Cummings had the understanding that if the City forced it to be piped, then the City would have to be responsible for the maintenance for that section of pipe. The City didn't have the funds for that.

Commissioner Briedenbach asked if applied to only Commercial lots or residential as well.

Mr. Cummings answered that it applied to any development.

Commissioner Briedenbach asked if the city would continue to run into the same problem.

Mr. Cummings agreed that this would keep coming up.

There was discussion and a consensus to grant the variance since the City had not enforced piping all ditches in the past.

Commissioner Twombly asked how large the ditch was.

Someone in the audience said that it was fairly large but various size depending on the location.

Chairman Poole stated that it appeared like the DEQ was telling the City and drainage companies different things. He stated that he was personally in favor of the variance.

The Hearing was closed.

APPROVAL OF PLANNING ACTION 2020-01-04V FINDING OF FACTS

Craig Smith moved, seconded by Cindy McLeran, to accept the finding of facts as presented by the Warringtons. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 5/2/0.

APPROVAL OF PLANNING ACTION 2020-01-04V

John Briedenbach moved, seconded by Cindy McLeran, acting as the Hearing's Officer, to approve the request for variance. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 5/2/0.

PUBLIC HEARING FOR LAND USE ACTION 2020-01-05ZCA: A REQUEST BY THE CITY OF ONTARIO TO AMEND TITLE 10A-52-245, 10A-59-10 AND 10A-59-15 TO AMEND STANDARDS AND LOCATIONS FOR THE ESTABLISHMENT OF MARIJUANA OPERATIONS AND ACTIVITIES.

Dan Cummings, Community Development Director, presented that staff report.

I. GENERAL INFORMATION:

TO: Planning Commission

FROM: Dan K. Cummings, Community Development Director

SUBJECT: **ACTION 2020-01-05ZCA:** A request by the City of Ontario to amend the city zoning and development code, Title 10A-52-245, 10A-59-10 and 10A-59-15 Ontario Municipal Code to amend the appropriate standards and locations for the establishment of marijuana operations and activities.

APPLICANT: City of Ontario

II. SUMMARY & BACKGROUND

CITY OF ONTARIO, 444 SW 4TH STREET, ONTARIO OREGON 97914

The City Council on October 23, 2018 Approved and Adopted Ordinance #2748-2018 an Ordinance amending the City code 10A to allow certain Marijuana related operations and activities. It was later found that a current city zone E-5 was inadvertently not listed in the amendment and an error was discovered in listing of a school in the proper restricted location Section of the code. It was the intent of the Planning Commission and City Council to include all city zones and provide for the protection of certain schools within the City of Ontario and therefore these code amendments are required to fulfill the requirements as intended.

As proposed, the amendments would:

- Amend Title 10A-52-245 UGA E-5 Conditional Uses to include the allowed Marijuana Facilities to match the same uses as the E-2 zone which is basically the same allowed uses as the E-5 except for being a 2-acre size development instead of the 5-acre development.
- Amend Chapter 10A-59-10 by adding the E-5 zone text in two places, one in the title the other in the first paragraph.
- Amend Title 10A-59-15 by adding the E-5 zone text in two places, one in the title the other in the first paragraph and by moving from 10A-59-15 (A) (1) (e) Malheur Education Service District (ESD) and placing it as 10A-59-15 (A) (2) (f).

The text of the specific amendments are as follows:

Section 1. Section 10A-52-205 is hereby amended by adding that portion that is underlined:

10A-52-245 - CONDITIONAL USES.

The following uses are permitted conditionally in the UGA E-5 Zone:

1. Commercial recreation facilities or RV Park;
2. Schools and college;
3. Churches;
4. Bars, taverns, cocktail lounges;
5. Dry cleaning, laundry;
6. Bed and breakfast;
7. Dwelling, multi-family mixed use [when accessory to a commercial development];
8. Public buildings, facilities and services;
9. Distribution centers;
10. Amusement center;
11. Marijuana Retailer as provided in Chapter 10A-59;
12. Marijuana Laboratory as provided in Chapter 10A-59;
13. Marijuana Wholesaler as provided in Chapter 10A-59;
14. Marijuana Processor Non-Flammable as provided in Chapter 10A-59; and
15. Marijuana Grow Site Medical as provided by State regulations and as provided in Chapter 10A-59.

Section 2. Section 10A-59-10 is hereby amended by adding that portion that is underlined:

10A-59-10 MARIJUANA RELATED OPERATIONS AND ACTIVITIES AS CONDITIONAL USE IN C-1, C-2 AND C-3, C-2H, E-2, E-5, I-1, and I-2 ZONES

Unless lawfully prohibited by Section 3-23-1 and any amendments thereto imposing a ban on marijuana within the jurisdiction of the City of Ontario, the following uses if listed under being allowed by a conditional use, are conditional uses in the C-1, C-2, C-3, C-2H, E-2, E-5, I-1 and I-2 zones, as provided

CITY OF ONTARIO, 444 SW 4TH STREET, ONTARIO OREGON 97914

in Chapters 27, 29 and 33 of Title 10A: Marijuana Businesses defined in Section 10A-03-134.1.1; Marijuana Grow Sites Medical defined in Section 10A-03-134.1.2; Marijuana processing sites defined in Section 10A-03-134.1.4; Marijuana Processor Flammable defined in Section 10A-03-134.1.5; Marijuana Processors Non-Flammable defined in Section 10A-03-134.1.6; a Marijuana Producer Recreational defined in Section 10A-03-134.1.7; Marijuana Recreational Facility defined in Section 10A-03-134.1.8; Marijuana Retailers defined in Section 10A-03-134.1.9; Marijuana Testing Laboratory defined in Section 10A-03-134.1.10; Marijuana Wholesalers defined in Section 10A-03-134.1.11; and Medical Marijuana Facilities defined in Section 10A-03-134.5.

Section 3. Section 10A-59-10 is hereby amended by adding that portion that is underlined and deleting the portion lined out:

10A-59-15 MARIJUANA RELATED OPERATIONS AND ACTIVITIES GENERAL AND SPECIAL CONDITIONS IN THE C-1, C-2, C-3, C-2H, E-2, E-5, I-1 AND I-2 ZONES.

All marijuana operations and activities located in the C-1, C-2, C-3, C-2H, E-2, E-5, I-1 and I-2 zones are subject to Chapter 10B-25 ("Conditional Use Permits") of Title 10B, and to the conditions generally imposed upon conditional uses in these zones and to the application fee set by most recent fee resolution. The following special conditions shall also apply to all marijuana operations and activities:

(A) Location Restrictions. Marijuana operations and activities are prohibited in the following locations, with distances measured from the closest points of the respective lot lines:

1. within 1,000 feet of a public or private elementary or secondary school, or a career school attended primarily by minors, including but not limited to:
 - a) All Ontario 8C Schools
 - b) St. Peter Catholic School
 - c) Treasure Valley Christian School
 - d) Four River Community School;
 - e) ~~Malheur Education Service District (ESD);~~
2. within 1,000 feet of a non-commercial facility used primarily for the care, education or recreation of minors existing at the time of this ordinance which are:
 - a) Ontario Head Start Center
 - b) Oregon Child Development Coalition (OCDC)
 - c) Malheur County Child Development Center
 - d) Treasure Valley Relief Nursery
 - e) Ontario Boys and Girls Club
 - f) Malheur Education Service District (ESD);

III. PREVIOUS PLANNING COMMISSION ACTION

On Monday October 8, 2018 the Commission acted on planning action 2018-08-15 ZCA on the creation of Chapter 10A-59 entitled "Marijuana Facilities" and amended city codes dealing with Conditional Uses and set a recommendation to the City Council who held Public Hearings on Ordinance #2748-2018 on October 16, 2018 and October 23, 2018 adopting the City codes on Marijuana Facilities.

IV. FINDINGS OF FACT

1. The City of Ontario substantive zoning regulations and administrative requirements are contained Titles 10A, 10B and 10C of the Ontario City Code.
2. Amendments to Title 10A has been initiated by the City Council in accordance with Section 10B-15, Ontario City Code.

3. Amendment actions are first referred to the Ontario Planning Commission for a public hearing and recommendation to the City Council.
4. The appropriate legal notice has been provided for this hearing.
5. The code amendments are required to fulfil the intent and requirements of the Ontario Planning Commission and City Council for Marijuana Facilities.

Conclusion:

The proposed code amendments are needed to insure compliance with the Citizens of Ontario during the original public hearing an established by the Planning Commission's recommendations and City Council Public hearings for Ordinance #2748-2018.

V. RECOMMENDATION

Staff recommends that the City of Ontario Planning Commission recommend to the City Council, the adoption of the proposed amendments within this staff report.

VI. SUGGESTED MOTIONS FOR APPROVAL

A. Planning Commission Action (refer to Exhibit 1 for sections):

- 1) I move that the Planning Commission accept and approve the above Findings of Fact, as stated in this report.
- 2) I move that the Planning Commission recommend to the City Council, the approval and adoption of the proposed amendments Exhibit 1 to the Ontario Zoning Codes as Outlined in this report and in the Draft Ordinance attached as Exhibit 2 to the report.

Chairman Poole wanted clarification that the properties were still bound by all the other restrictions regarding distances from residential zones including the ESD building.

Mr. Cummings agreed that the properties were still bound by all other restrictions. The ESD building was a moving target. Wherever they moved, the zones would follow them. It was considered a school, but not a K-12 school.

Commissioner Smith asked if the legal counsel gave his opinion.

Mr. Cummings answered that legal counsel agreed.

There were no proponents or opponents.

The hearing was closed.

APPROVAL OF PLANNING ACTION 2020-01-05ZCA FINDING OF FACTS

Cindy McLeran moved, seconded by Craig Smith, to accept the finding of facts as presented. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 5/2/0.

APPROVAL OF PLANNING ACTION 2020-01-05ZCA

John Briedenbach moved, seconded by Max Twombly, to approve the recommendation to City Council. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-yes; Poole-yes. Motion carried 5/2/0.

MOTION TO ADJOURN

Cindy McLeran moved, seconded by Craig Smith, to adjourn. Roll call vote: Smith-yes; McCleran-yes; Twombly-yes; Hall-out; Briedenbach-yes; Fortner-out; Poole-yes. Motion carried 5/2/0.

Ralph Poole
Chairman

Attest: Marcy Siriwardene
Planning & Zoning Technician



**AGENDA REPORT
PUBLIC HEARING
April 13, 2020**

To: Planning Commission

FROM: Dan Cummings, Community Development Director

SUBJECT: **ACTION 2020-03-11ZCA: A REQUEST BY THE OREGON STATE HISTORIC PRESERVATION OFFICE (SHPO) AND THE NATIONAL PARK SERVICE (NPS) TO AMEND THE CITY ZONING AND DEVELOPMENT CODE, TITLE 10C-60-30 ONTARIO MUNICIPAL CODE TO AMEND THE APPROPRIATE STANDARDS TO MEET THE SHPO AND NPS REGULATIONS.**

DATE: March 9, 2020

PROPOSED MOTION:

A. PLANNING COMMISSION ACTION (REFER TO ATTACHMENT 1 (EXHIBIT 1) FOR SECTIONS):

1) I MOVE THAT THE PLANNING COMMISSION ACCEPT AND APPROVE THE FINDINGS OF FACT, AS STATED IN THIS REPORT.

2) I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE CITY COUNCIL, THE APPROVAL AND ADOPTION OF THE PROPOSED AMENDMENTS AS ATTACHMENT 1 (EXHIBIT 1) TO THE ONTARIO ZONING CODES AS OUTLINED IN THIS REPORT AND IN THE ORDINANCE ATTACHED AS ATTACHMENT 2 TO THE REPORT.

SUMMARY:

The City Council on July 12, 2018 Approved and Adopted Ordinance #2739-2018 an Ordinance amending the City code 10C by appealing Title 10C-50 and replacing it with Title 10C-60 Historical Preservation Landmarks. The City work closely with Oregon State Historic Preservation Office (SHPO) during the amendment process, but it was after the Ordinance 2739-2018 was adopted that the City was notified by SHPO that the National Park Service (NPS) had changes to the code to meet their standards and requirements. Changes again by NPS attorney on 4-10-2020 report updated.

BACKGROUND:

The Planning Commission meet on the original adoption of Ordinance 2739-2018 under

planning action 2018-04-09ZCA and sent a recommendation to approve the New Code 10A-60 Designated Landmarks Register.

On July 12, 2018 the City Council Approved and Adopted Ordinance #2739-2018 an Ordinance amending the City code 10C by appealing Title 10C-50 and replacing it with Title 10C-60 Historical Preservation Landmarks.

CURRENT SITUATION:

As proposed, the amendments would:

- Amend Title 10C-60-30 DESIGNATED LANDMARKS REGISTER by changing the title to LOCAL LANDMARK REGISTER and amending sections of the 10C-60-30 to meet SHPO and NPS requirements as follows:

The text of the specific amendments are as follows:

Section 1. Section 10C-60-30 is hereby amended by adding that portion that are underlined and removing that portion that are struck out:

10C-60-30 - ~~DESIGNATED~~ LOCAL LANDMARKS REGISTER. The Commission may recommend to the Planning Commission that a historic resource be designated to the Local Landmark Register as a means of providing recognition of its significance and providing incentives and guidelines for their preservation. The Local Landmark Register is maintained by the Historic Preservation Officer and shall be available to the public

A. Inventory and Evaluation.

1. The Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources.
2. Before commencing inventory studies or updates, the Commission shall provide public notice describing the inventory, its purposes, and invite public participation.
3. Unless the Commission finds "extraordinary historic importance," only properties over 50 years of age shall be considered for inclusion in the inventory of historic resources.
4. The Commission shall develop or adopt a system, based on historic integrity and significance, for evaluating historic resources. The system shall rank surveyed historic resources as Eligible/Significant (ES), Eligible/Contributing (EC), Non-Contributing (NC), or Not in Period (NP). Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the document "Guidelines for Historic Resource Surveys in Oregon, 2010" or most recent guidance for such efforts published by the State Historical Preservation Office (SHPO) and be supplied to the agency within six months of the completion of the study.
5. ~~The Designated Landmarks Register shall be maintained as public record with the exception-~~

of archaeological sites, which is prohibited by state law.

65. The ~~Designated Local~~ Landmarks Register shall be established and updated by resolution.

B. Criteria for Designation.

1. Any building, structure, object, or site may be eligible for designation ~~designated~~ to the ~~Designated Local~~ Landmarks Register if it meets all the criteria below:

- a. The property is located within the boundaries of the City of Ontario.
- b. The property is over 50 years of age or of extraordinary historic importance.
- c. The property possesses sufficient historic integrity, in that there are no major alterations or additions that have obscured or destroyed the historic features.
- d. The property has historic significance as demonstrated by meeting at least one of the following criteria:
 - i. Association with events that have made a significant contribution to the broad patterns of our history;
 - ii. Association with the lives or persons significant in our past;
 - iii. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or
 - iv. Have yielded, or may be likely to yield, information important in prehistory or history.

2. ~~Properties listed on the National Register of Historic Places are eligible for automatic listing on the Designated Landmarks Register.~~

C. Nomination Procedure.

1. Any person, group, or government agency may nominate a property for listing in the ~~Designated~~ Local Landmarks Register. The Historic Preservation Officer shall establish standards for a complete application.

2. The burden of proof lies with the applicant.

3. No property shall be so designated without the written consent of the owner, or, in the case of multiple ownership, all of the owners.

4. The City of Ontario may not object to the listing of a historic resource in City ownership.

5. Upon acceptance of a complete application the Historic Preservation Officer shall schedule a public hearing pursuant to the applicable state laws and provisions of the City of Ontario

Developmental Code.

6. The Commission shall review the application and approve, deny, or table the application pending further testimony, or to allow for the petitioner to provide additional information as requested by the Commission. The Commission shall develop written findings to support its decisions.

7. Applications approved by the Commission shall be added to the Designated Landmarks Register with all accompanying documentation.

D. Results of listing in the ~~Designated~~ Local Landmarks Register.

1. All existing uses and restrictions established shall remain in effect unless changed through due process.

2. Landmarks are protected under the provisions of 10C-60-35.

3. City staff shall consider granting zoning variances and/or conditional use permits in order to encourage the productive use and preservation of landmarks.

4. The local Building Official shall consider waiving certain code requirements in accordance with existing state building code.

5. Property owners of landmarks may seek technical or financial assistance from the Commission in applying for grants or tax incentives for rehabilitating their properties as resources or funds are available.

6. Property owners of landmarks are eligible to receive City funded grants and loans to assist with the preservation of their buildings as resources and funds are available.

PREVIOUS PLANNING COMMISSION ACTION

The Planning Commission meet on the original adoption of Ordinance 2739-2018 but has had no action on the proposed current action 2020-03-11ZCA.

FINDINGS OF FACT

1. The City of Ontario substantive zoning regulations and administrative requirements are contained Titles 10A, 10B and 10C of the Ontario City Code.
2. Amendments to Title 10C has been initiated by the City Council in accordance with Section 10B-15, Ontario City Code.
3. Amendment actions are first referred to the Ontario Planning Commission for a public hearing and recommendation to the City Council.
4. The appropriate legal notice has been provided for this hearing.
5. The code amendments are required to fulfill the intent and requirements of the

Ontario Planning Commission and City Council for the Historical Preservation of Landmarks as well as the creation of the Certified Local Government to allow for receiving State Historical grants and National Park Services grants.

ANALYSIS:

- A. **STRATEGIC PLAN** This action is in steep with the City Council Strategic plan by maintaining the City code to insure the Desirability and Lifestyle of the Citizens as well as the Beautification of the Community.
- B. **FINANCIAL** There is no direct cost to the City at this time, but will allow for the City and the citizens of Ontario to receive grants that may not otherwise be available to the community.
- C. **TIMING** The Community is in the process of applying for certain grants and these coded need to be fixed prior to the grants being awarded.
- D. **POLICY/LEGAL** This action is Governed by Title 10 Chapter 10B-01-05 (1) Legislative Actions for Title changes.

ALTERNATIVES:

The Planning Commission could choose to not make a recommendation and let the City Council make the final decision.

RECOMMENDATION:

Staff recommends that the Planning Commission adopts the Finding of Facts as stated in this report and any modifications thereto and recommends the City Council approve the amendments as outlined in this report and in the draft Ordinance attached hereto as Attachments #2.

ATTACHMENTS:

- 1. Exhibit 1 Proposed Amendments_2020-03-11ZCA
- 2. ORDINANCE 2772-2020_Amending Portions of Title 10C-60-30

Exhibit 1
Proposed Zoning Amendments

Section 1. Section 10C-60-30 is hereby amended by adding that portion that is underlined:

10C-60-30 - ~~DESIGNATED~~ LOCAL LANDMARKS REGISTER. The Commission may recommend to the Planning Commission that a historic resource be designated to the Local Landmark Register as a means of providing recognition of its significance and providing incentives and guidelines for their preservation. The Local Landmark Register is maintained by the Historic Preservation Officer and shall be available to the public

A. Inventory and Evaluation.

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3. Unless the Commission finds "extraordinary historic importance," only properties over 50 years of age shall be considered for inclusion in the inventory of historic resources.
4. The Commission shall develop or adopt a system, based on historic integrity and significance, for evaluating historic resources. The system shall rank surveyed historic resources as Eligible/Significant (ES), Eligible/Contributing (EC), Non-Contributing (NC), or Not in Period (NP). Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the document "Guidelines for Historic Resource Surveys in Oregon, 2010" or most recent guidance for such efforts published by the State Historical Preservation Office (SHPO) and be supplied to the agency within six months of the completion of the study.
- ~~5. The Designated Landmarks Register shall be maintained as public record with the exception of archaeological sites, which is prohibited by state law.~~
- ~~65.~~ The ~~Designated~~ Local Landmarks Register shall be established and updated by resolution.

B. Criteria for Designation.

- ~~1.~~ Any building, structure, object, or site may be eligible for designation ~~designated~~ to the ~~Designated~~ Local Landmarks Register if it meets all the criteria below:
 - a. The property is located within the boundaries of the City of Ontario.
 - b. The property is over 50 years of age or of extraordinary historic importance.
 - c. The property possesses sufficient historic integrity, in that there are no major alterations or additions that have obscured or destroyed the historic features.
 - d. The property has historic significance as demonstrated by meeting at least one of the following criteria:
 - i. Association with events that have made a significant contribution to the broad patterns of our history;
 - ii. Association with the lives or persons significant in our past;
 - iii. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or

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2. ~~Properties listed on the National Register of Historic Places are eligible for automatic listing on the Designated Landmarks Register.~~

C. Nomination Procedure.

1. Any person, group, or government agency may nominate a property for listing in the ~~Designated~~ Local Landmarks Register. The Historic Preservation Officer shall establish standards for a complete application.
2. The burden of proof lies with the applicant.
3. No property shall be so designated without the written consent of the owner, or, in the case of multiple ownership, all of the owners.
4. The City of Ontario may not object to the listing of a historic resource in City ownership.
5. Upon acceptance of a complete application the Historic Preservation Officer shall schedule a public hearing pursuant to the applicable state laws and provisions of the City of Ontario Developmental Code.
6. The Commission shall review the application and approve, deny, or table the application pending further testimony, or to allow for the petitioner to provide additional information as requested by the Commission. The Commission shall develop written findings to support its decisions.
7. Applications approved by the Commission shall be added to the Designated Landmarks Register with all accompanying documentation.

D. Results of listing in the ~~Designated~~ Local Landmark Register.

1. All existing uses and restrictions established shall remain in effect unless changed through due process.
2. Landmarks are protected under the provisions of [Section] 10C-60-35.
3. City staff shall consider granting zoning variances and/or conditional use permits in order to encourage the productive use and preservation of landmarks.
4. The local Building Official shall consider waiving certain code requirements in accordance with existing state building code.
5. Property owners of landmarks may seek technical or financial assistance from the Commission in applying for grants or tax incentives for rehabilitating their properties as resources or funds are available.
6. Property owners of landmarks are eligible to receive City funded grants and loans to assist with the preservation of their buildings as resources and funds are available.



ORDINANCE NO. 2772-2020

AN ORDINANCE AMENDING TITLE 10C-60-30 DESIGNATED LANDMARKS REGISTER.

WHEREAS, The City Council on July 12, 2018 Approved and Adopted Ordinance #2739-2018 an Ordinance amending the City code 10C by Repealing 10C-50 and adopting 10C-60; and

WHEREAS, It was later found that sections of the code did not meet the requirements of the National Park Service regulations; and

WHEREAS, The amendments are required before the NPS will allow Park Service Grants; and

WHEREAS, The City staff has made the required amendments as noted herein.

NOW THEREFORE, The Common Council or The City of Ontario Ordains as Follows:

Section 1. Section 10C-60-30 is hereby amended by adding those portions that are underlined and removing those portions that are stuck out:

10C-60-30 - ~~DESIGNATED~~ LOCAL LANDMARKS REGISTER. The Commission may recommend to the Planning Commission that a historic resource be designated to the Local Landmark Register as a means of providing recognition of its significance and providing incentives and guidelines for their preservation. The Local Landmark Register is maintained by the Historic Preservation Officer and shall be available to the public.

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Section 2. Severability. The sections, subsections, paragraphs, and clauses of this Ordinance are severable. The invalidity of one section, subsection, paragraph, or clause does not affect the validity of the remaining sections, subsections, paragraphs, and clauses.

PASSED AND ADOPTED by the Common Council of the City of Ontario this 21st day of April 2020, by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this 21st day of April 2020.

ATTEST:

Riley J. Hill, Mayor

Tori Barnett, MMC, City Recorder