MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

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

1) CALL TO ORDER

Commissioner Blu Fortner _____ Commissioner Cindy McLeran _____ Commissioner Max Twombly _____
Commissioner John Hall _____ Commissioner John Briedenbach _____ Commissioner Cydney Cooke _____
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 July 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) PUBLIC HEARING

A) ACTION 2020-03-17RZ: A request by Roger Allen for a Rezone of property from Neighborhood Commercial (C-1) to General Commercial (C-2)

6) HAND-OUTS/DISCUSSION ITEMS

7) COMMENTS FROM COMMISSIONERS

8) ADJOURN

The City of Ontario does not discriminate in providing access to its programs, services and activities on the basis of race, color, religion, ancestry, national origin, political affiliation, sex, age, marital status, physical or mental disability, or any other inappropriate reason prohibited by law or policy of the state or federal government. Should a person need special accommodations or interpretation services, contact the City at (541) 889-7684 at least one working day prior to the need for services and every reasonable effort to accommodate the need will be made.

AGENDA REPORT
PUBLIC HEARING
July 13, 2020

TO: Planning Commission

FROM: Dan Cummings, Community Development Director

SUBJECT: ACTION 2020-03-17RZ: A REQUEST BY ROGER ALLEN FOR A REZONE OF PROPERTY FROM NEIGHBORHOOD COMMERCIAL (C-1) TO GENERAL COMMERCIAL (C-2)

DATE: June 1, 2020

PROPOSED MOTION:

A. APPROVAL:

1. **I MOVE THAT THE PLANNING COMMISSION APPROVE THE FINDING OF FACTS FOR THE REZONE OF THE SUBJECT PROPERTY FROM C-1 TO C-2, AS SET FORTH IN ACTION 2020-03-17RZ BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV ABOVE.**

2. **I MOVE THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTY FROM C-1 TO C-2, AS SET FORTH IN ACTION 2020-03-17RZ BE RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV ABOVE**

B. DENIAL:

1. **I MOVE THAT THE REQUEST FOR REZONE OF THE SUBJECT PROPERTY FROM C-1 TO C-2, AS SET FORTH IN ACTION 2020-03-17RZ BE RECOMMENDED FOR DENIAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN SECTIONS I THROUGH IV ABOVE. (NEED TO CHANGE STAFF FINDINGS).**

SUMMARY:

The applicants/owner owns a parcel, known as Tax Map 18S4704CD, tax lot 10401, which property is currently zoned in the City under Neighborhood Commercial (C-1), and is requesting that this property be rezoned to General Commercial (C-2) to allow for better use and development of the properties and make proposed and existing uses more compatible due to additional right of way being taken during the widening of SW 4th Avenue in the 1980's under Final Judgement filed February 17, 1984, Action No. 18,542-L that limits the use of the

property.

BACKGROUND:

Applicants comments: The property has an existing Professional Office and will continue to be use as a Professional Office. Due to additional right of way being taken during the widening of SW 4th Avenue by the Oregon Department of Transportation the existing building does not conform to the current zoning setbacks. The rezone will allow for future use of the property to protect the property value due to the taking.

This requests for rezone need a recommendation for approval or rejection from the Planning Commission to the City Council, who will be the decision maker for this request. This action specifically seeks approval for rezone from C-1 to C-2 for the parcel of land and adjacent street right of way, within the City Limits of the City of Ontario.

There have been no recent Planning Commission actions on this property in the past 20 plus years that could be found in the planning records other than a City-wide Comprehensive Plan update in 2007.

CURRENT SITUATION:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Rezone

1. Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi- judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required finding clearly does not apply to the current action:

a. The zoning map amendment is in conformance with statewide planning goals and guidelines.

b. The zoning map amendment is in conformity with the acknowledged comprehensive plan.

c. The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.

d. A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.

e. The property affected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.

f. The property affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.

g. The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.

Applicant's submitted Findings:

1. **Explain how the proposed zoning map amendment is in conformance with statewide planning goals and guidelines.**

   The rezoning is in conformance with the statewide planning goals and the City Comprehensive plan as the rezone is still for a commercial use it just brings the property into more compliance for the type of use of the existing structure.

2. **Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive P l a n .**

   The rezone is in conformance with the acknowledged plan as the property is a commercial zone and the proposed rezone is a commercial zone so there is no change to the acreage of commercial zoning.

3. **As applicant, you must explain how there has been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area, which makes this proposed zone change appropriate.**

   The current use of the existing structure does not meet the setback requirements of the current zone due to the taking of additional right of way by the State of Oregon during the widening of SW 4th Avenue, making the structure a non-conforming use at no fault of the owner. The rezone will help correct this issue for future development.

4. **As applicant, you must show a public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small**

group of properties.

There is a need for this rezone to be able to protect the property value that was other property owner enjoy in the same vicinity and is not granting a special privilege but allowing the same privilege as other adjacent property owner to protect their investment. The taken of right of way was not at the owner request.

5. **Explain how the property affected by the change, if approved, is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.**

   With the change of the zone it will allow for the structure to be reconstructed in the future if the current building was to be destroyed by allow the setbacks to be met with the building moved to the east side of the property to also meet the corner vision clearance issue.

6. **Explain how the property affected by the proposed change of zone is properly related to streets and other public facilities and with services adequate to meet the demands of the uses allowed in the new zone. This shall explain how this proposal will not absorb a disproportionate share of public facilities, utilities and general assets.**

   The property is currently developed and is serviced by City streets and Public utilities and there are no changes required with the rezone.

7. **Explain how the proposed change in zoning will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.**

   There will be no change in use of the property therefore there will be no adverse effects upon the surrounding properties.

Summary Conclusions: Based on the findings above:

a. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; generally, if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this proposal meets the criteria in the above section, this proposal is consistent with Statewide Planning Goals.

CRITERION IS MET

b. The finding 2 above, show that the request is within goals and conformance of the Acknowledged Comprehensive plan. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan. **CRITERION IS MET**

c. The applicant states in finding 3, that there has been a change in the property setbacks due to additional right of way being taken which makes the structure a non-conforming use. The impact to the City's overall Comprehensive Plan is minimal due to the requested C-2 commercial zone allows for the same type of use but allows for meeting setback requirements as allowed in adjacent zoning. Therefore, there is a change in a physical condition, and demonstrates that this criterion is met. **CRITERION IS MET**

d. The proposed re-zone would bring the applicant's existing use of the property in this manner into conformance with the City Zoning Code that were changed at no fault by the property owners. Rezoning to a zone to match the adjacent properties to the south would not be considered as the granting of a special privilege for a single property or group of property owners. **CRITERION IS MET**

e. As noted in the findings 5, the subject properties sizes are more than adequate to demonstrate consistency with this criterion and the existing business will be required to meet all off-street parking and landscape requirements in future development under the new zone, as well as allow for a building to be constructed to the east to improve the street corner vision clearance. **CRITERION IS MET**

f. As noted in the finding 6 above, the properties are properly related to streets and public facilities within the public streets and the existing uses and services demonstrate that uses allowed in the proposed zone can be provided. **CRITERION IS MET**

g. The applicant states in the finding 7 above, that while the impact on surrounding properties will be low, with the proposed change in zoning, compliance with present City of Ontario ordinances will be essential in eliminating these issue. The permitted uses are related to low volume traffic and uses which do not lend themselves to the creation to significant amounts of noise or other discharges of dust or odor into the air is uncommon in a commercial zone. **CRITERION IS MET**

Final Conclusion: ALL CRITERIA ARE MET

SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

A request a rezone of property may be recommended for approval or denial by the Planning Commission to the City Council if all applicable decision criteria and standards are found met, or able to be met through appropriate conditions of approval. In this case, findings must be made by the Planning Commission that the specific criteria are either met, able to be met through conditions of approval, or not met; options and discussion are provided under "**Findings:"** and "**Conclusion:"** for each criterion. **All** of the criteria and standards must be met in order for the request to be recommended for approval.

ANALYSIS:

A. **STRATEGIC PLAN** This action is in alignment with the City Council Strategic Plan for desirability of the property to be used as a commercial use as well as allowing for future development of the city meeting it potential for future growth of the community.

B. **FINANCIAL** This is no financial impact to the city at this time.

C. **TIMING** There is no major impact in timing to this action unless the existing structure was damaged and then the structure may not be able to be rebuilt in a timely manner until the action was approved.

D. **POLICY/LEGAL** The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

   A rezone must be done by an Ordinance and the City Council is the Final Authority for approving a City Ordinance.

ALTERNATIVES:

The Planning Commission could table the action until a time certain if more information is needed to make a decision.

RECOMMENDATION:

Staff recommends that the Planning Commission approve and adopt the findings of facts and sens a recommendation to the City Council to approve the rezone from C-1 to C-2 of the subject property.

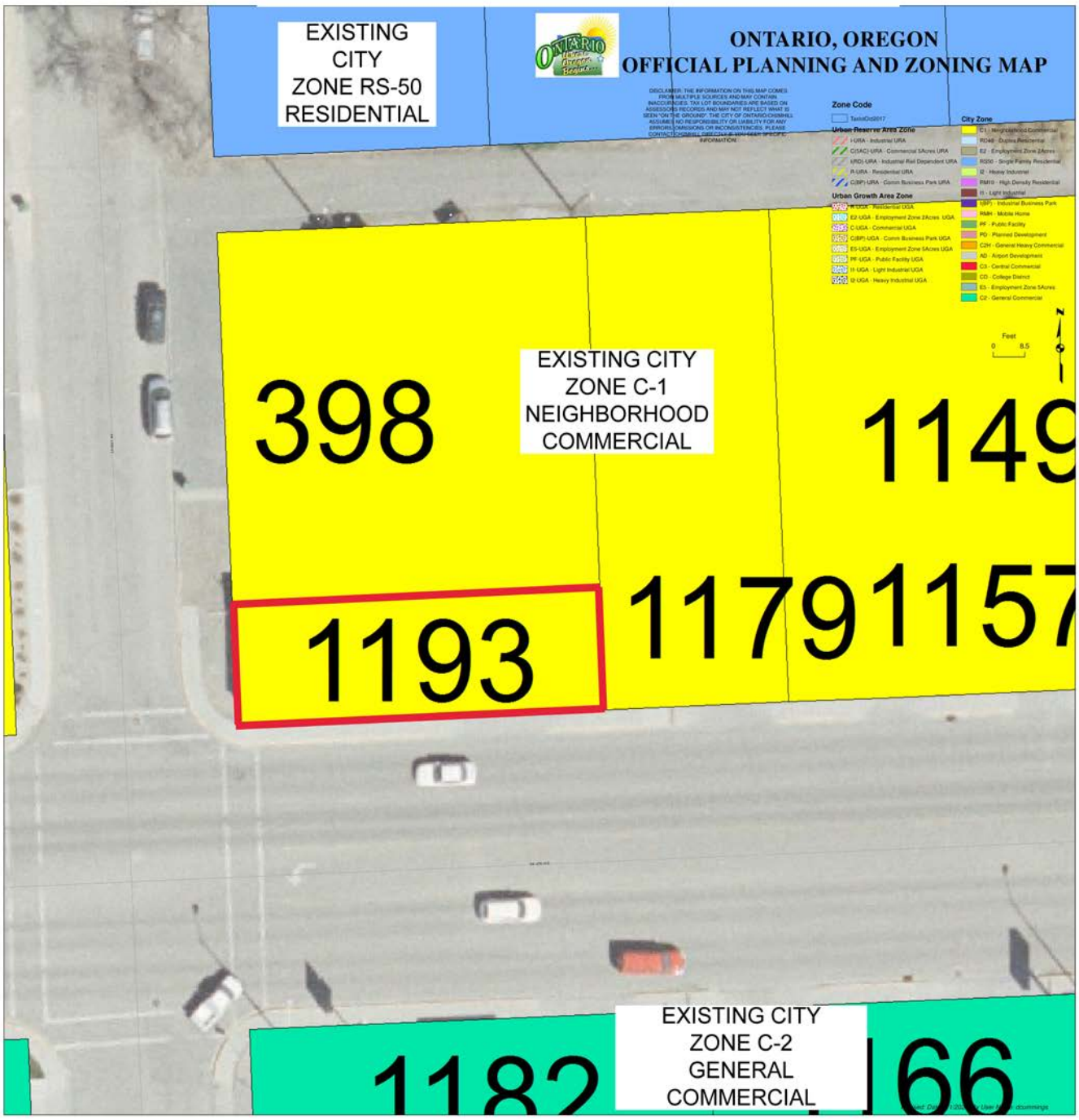
ATTACHMENTS:

1. Attachment 1

2. Attachment 2
3. Attachment 3
4. Attachment 4

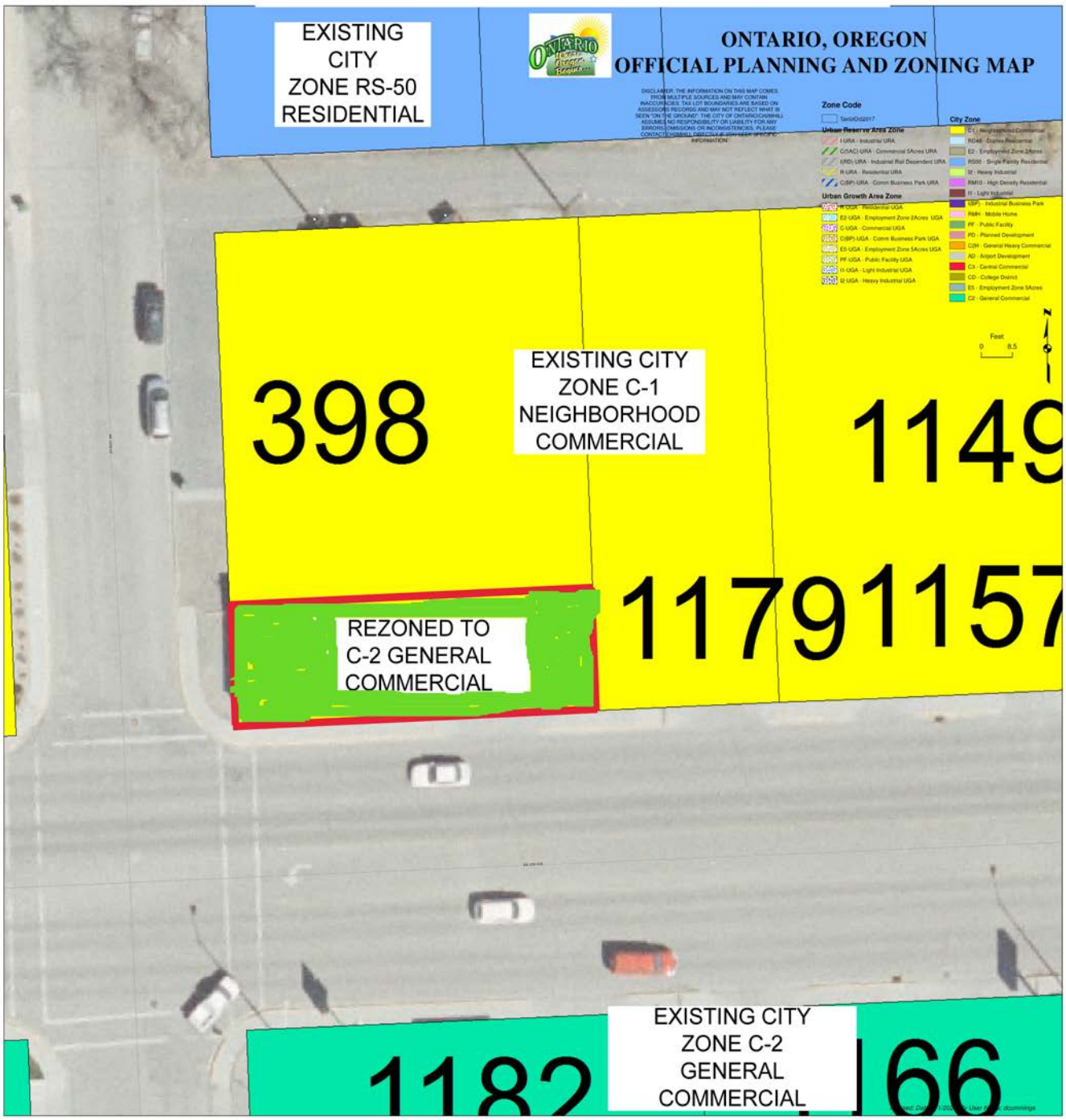
Attachment “1”

ONTARIO ZONING MAP
APPLICATION 2020-03-17RZ
BEFORE C-1

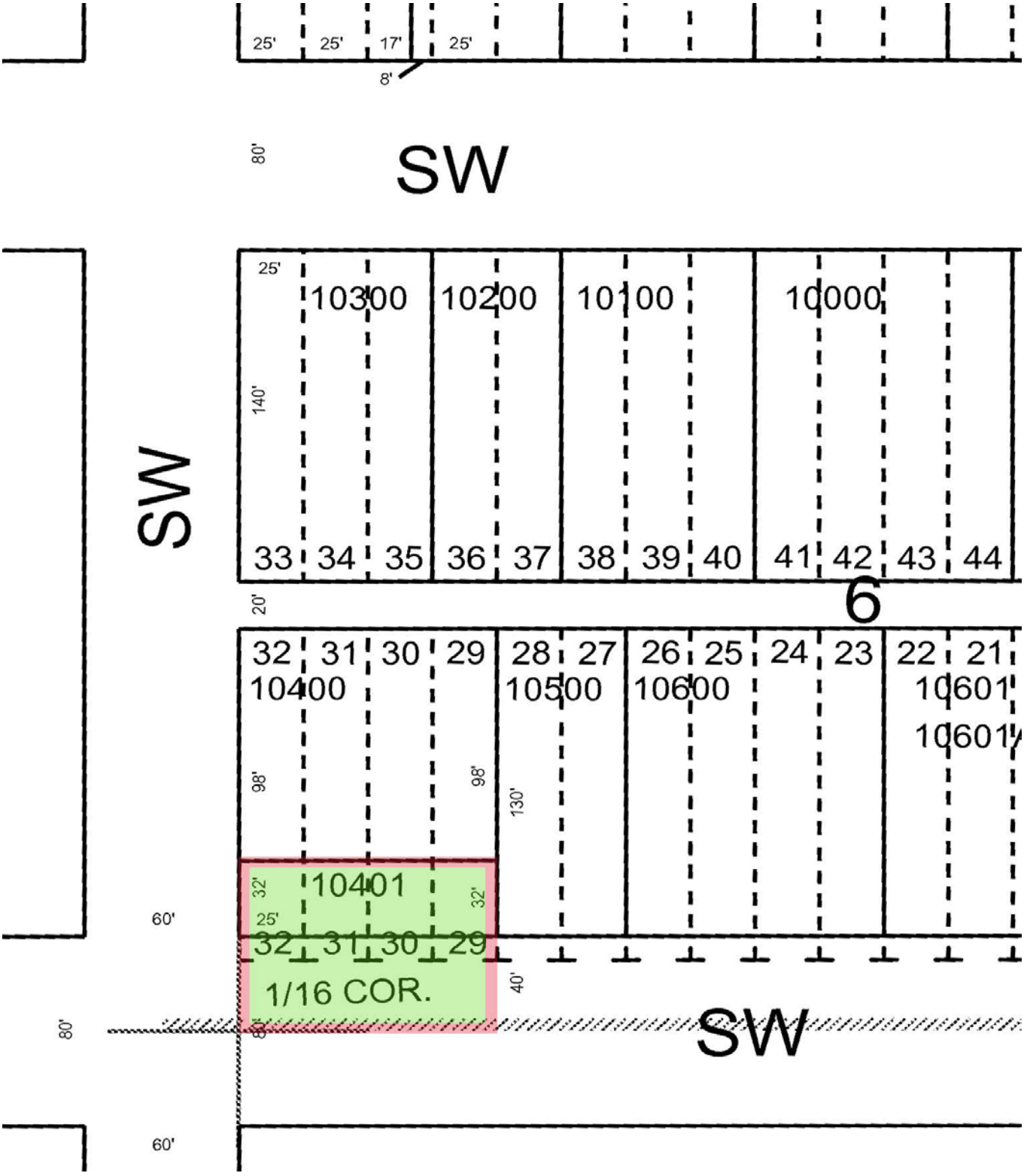


Attachment “2”

ONTARIO ZONING MAP
APPLICATION 2020-03-17RZ
AFTER C-2



Attachment “3”



Attachment "4"

Zoning regulations for C-1 and C-2

EXISTING ZONE:

CHAPTER 10A-27 - C-1, NEIGHBORHOOD COMMERCIAL ZONE

10A-27-01 - PURPOSE.

To provide for areas of limited impact retail and office establishments, and similar uses, in neighborhoods that are primarily residential without harming the residential character of those neighborhoods.

10A-27-05 - PRINCIPAL PERMITTED USES.

The following principal uses are permitted as of right in the C-1 Zone:

1. Dwellings when constructed according to the space limits of RM-10 Zone;
2. Home occupations meeting standards herein;
3. Retail shopping establishments as defined herein;
4. Consumer service establishments as defined herein;
5. Dance and music studios;
6. Churches;
7. Schools and colleges, public or private, including commercial business or vocational schools or colleges;
8. Park and recreation facilities, public;
9. Private clubs and clubhouses as defined herein;
10. Residential care facilities housing not more than eight clients;
11. Roominghouse as defined herein;
12. Hotel, bed and breakfast, as defined herein;
13. Museums, concert halls, auditoriums and similar cultural facilities;
14. Horticulture and the growing of field crops or hay.
15. Public buildings, none of which may be of industrial character.
16. Business offices and general office buildings.
17. The manufacture of small items such as jewelry, fishing tackle and the like, or the repackaging of bulk small items with fewer than ten employees. Fabrication of art or crafts objects, bakery goods, or ice cream for on premises sale or as custom orders for delivery.
18. Recreational vehicle park.
19. Medical, dental or other health professional office or clinic for humans.
20. Adult foster care for not more than five patrons.
21. Family day care provider as defined herein;
22. Day care center as defined herein;

(Ord. No. 2630-2009, § 1, 7-2-2009)

10A-27-07 - SPECIAL USE LIMITATIONS.

The following limitations or conditions shall apply in addition to any conditions or limitations applying to all zones, to all uses permitted or permissible in the C-1 Zone:

1. All operations shall be conducted within a completely enclosed building, except for nursery stock consisting of green plants and shrubs, for the temporary outdoor display of merchandise located within five feet of principal building, patio or sidewalk restaurant service, railroad operations, and play yards of day care centers.
2. All products produced, kept, handled or offered for sale shall be sold only at retail on the premises.
3. No nonresidential use shall continue normal operations past the hour of 11:00 p.m. or earlier than 7:00 a.m. except pursuant to a conditional use permit.
4. Not more than two delivery or service vehicles shall be used in the operation of any business.
5. No permitted or permissible separate business establishment shall occupy a floor area greater than 5,000 square feet to conduct its operations and to store its wares, products, inventory and materials, except that grocery stores may occupy a floor area of 15,000 square feet.
6. Screening shall be provided along all lot lines abutting residentially zoned or developed property, sufficient to block substantially any view of the nonresidential use and its operation, stored materials and equipment from all points located on or not more than eight feet above the lowest elevation of such residential property, in the event such screening is not sufficient to block totally any view of stored waste or waste receptacles. In no event shall this Section be deemed to require more than full enclosure (including roof) of stored waste including waste receptacles and an opaque fence not more than seven feet in height extending the full length of not more than three sides of the subject property. The required front yard shall be landscaped to the standards set forth under the miscellaneous provisions of this Title.
7. No use shall be established by the conversion of a building or premises originally designed for use as a gasoline service station or drive-in establishment unless the paved area on the lot in question shall have been reduced, by the addition of natural landscaping, to an area not greater than two hundred percent of the area required by this Title for off-street parking, loading and access thereto.
8. No nonresidential use shall be established in any structure or premises originally designed for a residential use unless the existing residential character or the building shall be retained. Any design or structural change, additions or extensions shall be consistent with the architectural character of the original building.
9. No building designed and intended for a business use shall be constructed or established on a development site occupied by a residential building.
10. No permitted or permissible use shall be conducted in any manner which would render it noxious or offensive by reason of dust, refuse matter, odor, smoke, gas, fumes, noise, vibration or glare.
11. Space lighting shall be shielded so as to prevent the direct glare of beams onto any adjacent residentially zoned or used property.
12. Signs may project into any required front or rear yard as set forth in table 6-B of the Uniform Sign Code as adopted in this Title. Signs may project into a required side yard not more than 18 inches. One pole sign for each development site or building shall be allowed in each required front or rear yard.

10A-27-09 - EXPRESSLY PROHIBITED USES.

The following uses are listed here as expressly prohibited so as to facilitate interpretation of the list of principle permitted uses:

1. Automobile service establishment as defined herein;
2. Gasoline service stations;
3. Rental of large tools or construction equipment, trucks or trailers or other equipment requiring outdoor storage.
4. Warehousing, storage and distributing establishments or mini-warehouses;
5. Wholesale establishments with stock on the premises.
6. Bars, taverns, cocktail lounges and other establishments which sell beer or intoxicating liquor for the consumption on the premises, except for restaurants where such beverages are served incidental to meals.
7. Auction house;
8. Manufactured or mobile home parks or subdivisions.
9. Uses not specifically enumerated as permitted uses in the C-1 Zone, but listed as permitted in another zone or as a conditional use in the C-1 or other Zone.

10A-27-10 - CONDITIONAL USES.

The following uses are permitted conditionally in the C-1 Zone:

1. Dry-cleaning and laundry establishments which do not exceed 2,000 square feet in floor area and have no more than two delivery vehicles operating form the location;
2. Any permitted or permissible non-residential use that operates later than 11:00 p.m. or earlier than 7:00 a.m.;
3. Mortuaries or funeral homes;
4. Nursing home;
5. Residential care facility housing more than eight clients; and
6. Utility facilities, other than distribution lines, at specific location necessary for the functioning of that utility;
7. Marijuana retailer as provided in Chapter 10A-59;
8. Marijuana laboratory as provided in Chapter 10A-59;
9. Marijuana wholesaler as provided in Chapter 10A-59;
10. Marijuana processor non-flammable as provided in Chapter 10A-59; and
11. Marijuana grow site medical as provided by State regulations and as provided in Chapter 10A-59.

(Ord. No. 2748-2018, § 2, 10-23-2018)

10A-27-15 - ACCESSORY USES.

Accessory uses and structures common to all zones as listed in Chapter 10A-53 are allowed in the C-1 Zone.

10A-27-20 - SPACE LIMITS.

The building, zoning lot, open space and yard dimensions applicable to the C-1 Zone are found on the Commercial Space Limits Table, Chapter 10A-35. 10A-27-25 - GENERAL PROVISIONS.

The provisions of Chapter 10A-57, Miscellaneous Provisions, apply to the C-1 Zone, except that signs may project into any required front or rear yard as set forth in Table No. 6-B (projection of signs) of the Uniform Sign Code. Signs may project into a required side yard not more than 18 inches. One pole sign for each lot or building shall be allowed in any required front or rear yard.

PROPOSED ZONE:

CHAPTER 10A-29 - C-2, GENERAL COMMERCIAL ZONE

10A-29-01 - PURPOSE.

The C-2 Zone is intended to provide business locations for retail and service uses serving a region-wide clientele. The zone is intended to be located in areas characterized by good accessibility, including those areas which are exposed to heavy automobile traffic.

10A-29-05 - PRINCIPAL PERMITTED USES.

The following principal uses are permitted as of right in the C-2 Zone:

1. All principal uses allowed in the C-1, Neighborhood Commercial Zone shall be allowed in the C-2 Zone except that dwellings shall be constructed to the space limits of the RM-10, Multi-Family Residence Zone, and only Multi-Family Dwelling developments of 10 or more dwelling units are allowed;
2. Automobile service establishments as defined herein when all repairs or another work are performed within a building, where all refuse and scrap parts are stored in closed containers when possible and screened from view at all points on any public or private property or street and when all extended storage of wrecked vehicles or other equipment is screened from view from adjacent property and public streets;
3. Gasoline service stations, truck stops, minor automotive repair as defined herein;
4. Bars, taverns, cocktail lounges and other establishments which sell beer or intoxicating liquor;
5. Mortuaries or funeral homes;
6. Dry cleaning and laundry establishments which do not exceed 2,000 square feet in floor area and have no more than two delivery vehicles operating from the location;
7. Hotel, motel;
8. The manufacture of small items such as jewelry, fishing tackle and the like, or the repackaging of bulk small items;
9. Outdoor advertising sign;
10. Residential care facility not limited as to number of clients;
11. Commercial recreation facilities or recreation vehicle park;
12. Rental of small trucks and small trailers only when accessory to a gasoline service station or automobile service establishment;
13. Farm and garden store;
14. Wholesalers with stock involving less than 3,000 square feet of storage space;

15. Auction house;
16. Nursing home;
17. Amusement arcade;
18. Kennel; or
19. Veterinarian.

(Ord. No. 2630-2009, § 1, 7-2-2009)

10A-29-09 - EXPRESSLY PROHIBITED USES.

The following uses are listed here as expressly prohibited so as to facilitate interpretation of the list of principal permitted uses:

1. Warehouses;
2. Wholesalers with stock involving over 3,000 square feet of storage space;
3. Mobile home or manufactured home parks or subdivisions; or
4. Rental of large tools or construction equipment, trucks or other equipment requiring outdoor storage.

10A-29-10 - CONDITIONAL USES.

The following uses are permitted conditionally in the C-2 Zone:

1. Utility facilities, other than distribution lines, at a specific location necessary for the functioning of that utility;
2. Fair, rodeo, stadium, race track or similar facility on a site of more than three acres;
3. Mini-warehouses;
4. Congregate housing facility;
5. Marijuana retailer as provided in Chapter 10A-59;
6. Marijuana laboratory as provided in Chapter 10A-59;
7. Marijuana wholesaler as provided in Chapter 10A-59;
8. Marijuana processor non-flammable as provided in Chapter 10A-59; and
9. Marijuana grow site medical as provided by State regulations and as provided in Chapter 10A-59.

(Ord. No. 2748-2018, § 3, 10-23-2018)

10A-29-15 - ACCESSORY USES.

Accessory uses and structures common to all zones as listed in Chapter 10A-53 are allowed in the C-2 Zone.

10A-29-20 - SPACE LIMITS.

The building, development site, open space and yard dimensions applicable to the C-2 Zone are found on the Commercial Space Limits Table, Chapter 10A-35. 10A-29-25 - GENERAL PROVISIONS.

The provisions of Chapter 10A-57, Miscellaneous Provisions, apply to the C-2 Zone.