

**MISSION STATEMENT: TO CREATE A HEALTHY, SAFE, DIVERSE, AND PROSPEROUS CITY
BY ENGAGING COMMUNITY MEMBERS TO DEVELOP AN ENRICHED QUALITY OF LIFE.**



**PLANNING COMMISSION MEETING AGENDA
CITY OF ONTARIO OREGON
MONDAY, SEPTEMBER 11, 2023, 6:00 PM, MT**
[Zoom Link](#)

1) CALL TO ORDER

Commissioner Blu Fortner _____ Commissioner Mike Allen _____ Commissioner James Grissett _____
Commissioner Antonio Sunseri _____ Commissioner John Briedenbach _____ Commissioner Max Twombly _____
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 9/11/2023. 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) PC Minutes of 11/22/2022 & 06/12/2023

6) PUBLIC HEARING

A) ACTION 2023-07-10 CPAMD: A request for Comprehensive Plan / Zoning Map Amendment and Rezone of a parcel of land being located at SW corner of NW Washington Ave & SW 9th Street. The owner is KZ Investments, LLC.

7) HAND-OUTS/DISCUSSION ITEMS

A) Community Development Quarterly Report - Fourth Quarter 20-23

8) COMMENTS FROM COMMISSIONERS

9) ADJOURN



PLANNING COMMISSION MEETING MINUTES

**Wednesday
November 16, 2022**

The Ontario Planning Commission was called to order at 6:00 pm in the Council Chambers of City Hall. Commission members present were: Blu Fortner, Mike Allen, John Hall, Max Twombly and Chairman Ralph Poole. James Grissett and John Breidenbach were excused.

Mr. Day (applicant's attorney) emailed on 11/16/2022 stating that he could not attend the meeting that day. Mr. Garrett Chrostek, attorney for the City of Ontario Planning Commission attended via Zoom.

City Staff present were; Dan Cummings, Community Development Director/City Manager; Marcy Siriwardene, Planning Tech; and Justin Zysk, Airport Manager. Ken Hart, Ex-Officio was excused.

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 November 9, 2022. Copies of the Agenda were available at the City Community Development Center.

Chairman Poole led everyone in the Pledge of Allegiance.

ADOPTION OF AGENDA

John Hall moved, seconded by Blu Fortner, to adopt the Agenda as presented. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Hall-yes; Briedenbach-out; Twombly-yes; Poole-yes. Motion carried 5/2/0.

ADOPTION OF MINUTES

There were no minutes to adopt.

There were no unscheduled public appearances.

ACTION 2022-09-31A CONTINUATION OF AN APPEAL TO HEARINGS OFFICER DECISION TO PLANNING ACTION 2022-07-27CUP-Scott Matthews

Commissioner Hall said he had driven by the site prior to the meeting and was alone at the time.

Commissioner Hall and Chairman Poole were not present at the previous meeting on October 26, 2022, but felt confident to participate in the deliberations.

No party challenged the ability of the Planning Commission to participate in this matter or raised any other procedural matters.

Chairman Poole opened the meeting and asked Mr. Chrostek to outline the procedure and the scope of the deliberations.

Mr. Chrostek: "Sure, thank you Mr. Chairman. For the record, I'm Garrett Chrostek, the City's Planning Council. Out of an abundance of caution, I will be reading things tonight in light of the accusations of bias filed by the applicants with respect to Mr. Cummings, which I'll touch on later in these remarks. As previously stated, the record is closed so there will no public participation during tonight's proceedings. Rather, the purpose of this meeting is solely to conduct deliberations on the application and render a decision. I'm available to answer questions of the contents of the record, procedural issues or legal matters, but I can't answer any questions that will require the introduction of new evidence. Before beginning deliberations, I

wanted to touch on a couple of issues. First, there are the allegations of bias against Mr. Cummings. I can't say that this is a non-issue but I'm not as confident as Mr. Day that this constitutes procedural error, let alone remandable for a reversible procedural error. The cases cited by Mr. Day do not contain the same set of facts present in this situation so we are left to make our best guesses as to what very well may be the case of first impression. Mr. Day's arguments on this matter are fully contained in his submittals which the Planning Commission has had an opportunity to review but can largely be summarized as Mr. Cummings being in fact biased and biased to such a degree that he has irreversibly tainted the record in these proceedings. The Planning Commission will have to determine whether it's comfortable proceeding in the face of those allegations, but I just want you to know a couple counter points that I think LUBA would consider or some other appellate body would consider if it were to hear this matter on appeal. First, Mr. Cummings testified that he didn't receive any notice from the applicant that he shouldn't process the application when it was submitted. Second, the applicant had an opportunity to challenge the Planning Commission for bias but did not raise any objections to the impartiality of the Planning Commission as a hearings body. Third, the applicant had an opportunity through these proceedings to refute any findings or statements made by Mr. Cummings and was entitled to final argument on this matter. Fourth, as noted at the top, Mr. Cummings is not participating in deliberations as staff would ordinarily do in an abundance of caution to ensure Mr. Cummings does not make any additional statements during deliberations that the applicant is unable to refute. Second, there is the issue of the applicant's proposed condition of approval with regard to a variance. I can't say that it's a legal impossibility to impose such a condition of approval as requested by the applicant which would make any approval by the Planning Commission might issue on the application subject to receiving a future variance. However, there seems to be universal acknowledgement that such a condition of approval would be irregular. But what I want to specifically avoid tonight is any discussion of the merits of a hypothetical variance. Quite frankly, such an application has not been filed and is therefore not in front of the Planning Commission. Moreover, there are a number of scenarios where the Planning Commission could be called on in the future to hear such variance application, and I don't want any Planning Commissioner to jeopardize their ability to hear such an application because of prejudgment or bias, one way or the other, based on discussion of the merits this evening. Third, there are potential issues with the materials submitted during the open record period. Mr. Day has challenged the November 2, 2022 filing by Malheur County Prevention Coalition as being outside permitted scope of the open record period because it contains arguments that Mr. Day alleges is outside the scope because the record was only open to evidence and not argument. Because of technological issues and limited timing between receiving Mr. Day's final argument and this hearing, I was unable to review the hearing recording to confirm if in fact the Order was so limited or to review case law to determine whether the Order could even be that limiting, because both state statute and local code, when talking about an open record period, just use the statement "written evidence, argument, or testimony". Arguably, that could be construed to say that if its open to one it's open to all, or also could be potentially construed to say it's only one of those three. So, what I would suggest is that we simply exclude that evidence for the time being and only revisit that submittal if the Planning Commission determines that it can't make a decision based on the remainder of the record. Fourth, there is a submittal from Lifeways that was purported to have been submitted during the open record period but in fact wasn't received until the rebuttal period. And it didn't seem to include any rebuttal of any nature. So because of that, it wasn't even forwarded to the Planning Commission, and it has been excluded. Before we make any final decision tonight, we'll revisit these submittal issues and we'll take some formal action on whether or not they have been accepted or have been rejected, just to make the record clear on those points. So that concludes my opening remarks. Again, the task this evening is to deliberate and to make a decision on the application that is actually before the Planning Commission. Just as a reminder, the options are to approve the application as submitted, approve the application with conditions of approval as set out in the hearing officer's decision as alternative conditions of approval, approve the application with some sort of modified conditions of approval, or four, to deny the application. Are there any questions?"

(End of attorney's opening statement)

Commissioner Twombly asked if questions could be asked at a later point after some of the discussion had taken place.

Mr. Chrostek confirmed and reiterated that questions may not require him to introduce any new evidence.

Chairman Poole asked for clarification from Mr. Chrostek that the Commissioners would be discussing the final arguments of appeal.

Mr. Chrostek confirmed that the final argument that had been received at the meeting and the previously received submittals constituted the whole record and that is what needed to be discussed. He reminded the Commission that they had to make a decision based on the four options lined out in his opening statement based on what they reviewed today. He reminded the Commission they could not consider the two open record submittals previously mentioned.

Chairman Poole opened the discussion.

Commissioner Hall stated that he felt the Planning Commission was not expected to interpret a contract made between the City and the applicant. After reading the contract, he felt that the applicant would still be subject to whatever laws and ordinances were on the books when the application was made. He thought that the agreement didn't stop them from making the application, and wouldn't necessarily stop them from getting the application approved as long as it fit the current laws. He stated it was obvious that this application did not meet the setbacks that were on the books when it was submitted. He said that the rules stated that the property boundaries would be used to measure to the zones around the property, and this property didn't meet setbacks. He observed that the corner of the property was much closer to residential zones than the required 500'. Mr. Hall didn't see how the Planning Commission could have approved the application based on the setback and zoning requirements that were in place when the application was submitted.

Commissioner Fortner agreed with Commissioner Hall's comments. Commissioner Fortner added that even though there were no ordinances against in when the settlement agreement was decided, there were currently ordinances in place that it did not comply with.

Chairman Poole and Commissioner Fortner referred to the language in the settlement.

Commissioner Hall read directly from the settlement agreement: "this settlement agreement shall not preclude Scott Inc. from operating such a business in compliance with Oregon law and/or Ontario ordinances enacted hereafter."

Commissioner Allen responded by stating he agreed with the discussion by the Commission, and that the matter seemed pretty straightforward to him, based on the language in the settlement, the application could not have been approved due to the fact that the dispensary didn't comply with current City ordinance.

Chairman Poole felt that the language in the settlement didn't provide the authority to override any of the Ontario City Ordinances in place at the time the application was submitted. He said that the language in the settlement that incorporated any future City ordinances applied to the current application. The ordinances were adopted by the Planning Commission, passed by the City Council, and then put into ordinance, and everything was in place at the time the application was submitted.

Commissioner Twombly agreed and stated that Mr. Scott's application was submitted along with all the other dispensary applications and had to follow the same City ordinances as everyone else. He stated that

he did not read anything in the contract would override the current ordinances in place at the time. Because this dispensary didn't meet the buffer zone or setback requirements that all the dispensaries had to follow at the time the application was submitted, it could not be approved.

Chairman Poole felt that the hearings officer followed the set guidelines and statutes as he should.

Commissioner Twombly agreed and said he didn't see, based on City code, how the hearings officer had no other choice other than rejecting the application.

Mr. Chrostek proposed that it was a good time to resolve the submittal requirement for open record submittals. He asked if the two submittals from parties other than the application could be rejected, since it seemed that the Commission was moving towards a decision based on the findings of the hearings officer. He said that it appeared to him that the submittals weren't weighing their decision one way or the other.

Commissioner Twombly said that the decision before them didn't include the opinions on what was good for the neighborhood and/or community, as those types of submittals had been heavily discussed at the previous buffer zone and ordinance hearings. This application being discussed had to be decided according to the City code at the time of the application, which made the open submittal records irrelevant to the decision that was before the Council at present.

Mr. Chrostek suggested that the Planning Commission take actions to formally reject the submittals from Lifeways and Malheur County Prevention Coalition so that the record clearly reflected that the Council did not take either of the two submittals into consideration when making the decision on this appeal.

Commissioner Fortner asked for clarification as to how the motion should be worded. For instance, "I move that we reject the two pieces of evidence that were submitted by Lifeways and Malheur County Prevention Coalition"? Mr. Chrostek approved the language for the motion and indicated the next person could just say "so moved".

MOTION TO REJECT THE TWO PIECES OF EVIDENCE SUBMITTED BY LIFEWAYS AND MALHEUR COUNTY PREVENTION COALITION

Blu Fortner moved, seconded by Mike Hall, to reject the two evidence. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Hall-yes; Briedenbach-out; Twombly-yes; Poole-yes. Motion carried 5/2/0.

Mr. Chrostek explained that since the procedural issue was resolved, discussion of the decision on the appeal could continue a motion could be made and accepted, one way or the other.

MOTION TO DENY THE APPLICATION BASED ON THE FINDINGS SET OUT BY THE HEARING OFFICER'S DECISION, AS SUPPLEMENTED BY THE OCTOBER 12TH, 2022, AGENDA REPORT.

John Hall moved, seconded by Max Twombly, to deny the application. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Hall-yes; Briedenbach-out; Twombly-yes; Poole-yes. Motion carried 5/2/0.

MOTION ADJOURN

Blu Fortner moved, seconded by Mike Hall, to adjourn. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Hall-yes; Briedenbach-out; Twombly-yes; Poole-yes. Motion carried 5/2/0.

Ralph Poole
Chairman

Attest: Marcy Siriwardene
Planning & Zoning Technician



PLANNING COMMISSION MEETING MINUTES

Monday
June 12, 2023

The Ontario Planning Commission was called to order at 6:00 pm in the Council Chambers of City Hall. Commission members present were: Blu Fortner, Antonio Sunseri, John Breidenbach, and Max Twombly and Chairman Ralph Poole. Mike Allen and James Grissett were excused.

City Staff present were; Dan Cummings, Community Development Director/City Manager; Marcy Siriwardene, Building Dept; and Jennifer Braden, Planning Dept. Susanne Mills, Ex-Officio was excused.

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 June 5, 2023. Copies of the Agenda were available at the City Community Development Center.

Ralph Poole led everyone in the Pledge of Allegiance.

ADOPTION OF AGENDA

Blu Fortner moved, seconded by Max Twombly, to adopt the Agenda as presented. Roll call vote: Fortner-yes; Allen-out; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 5/2/0.

ADOPTION OF MINUTES FOR July 11, 2022, August 11, 2022, October 26, 2022 and March 28, 2023 Meetings

John Briedenbach moved, seconded by Blu Fortner, to adopt the minutes of 7/11/22, 8/8/22, 10/26/22, and 3/28/23 as presented. Roll call vote: Fortner-yes; Allen-out; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 5/2/0.

There were no unscheduled public appearances.

ACTION 2023-04-04AZ: A REQUEST BY BECKY YZAQUIRRE REPRESENTING THE STREY FAMILY TRUST, FOR AN ANNEXATION AND REZONE OF 38.548 ACRES OF PROPERTY FROM UGA COMMERCIAL (C-2) TO CITY C-2 GENERAL COMMERCIAL (C-2), UGA RESIDENTIAL TO CITY HIGH DENSITY RESIDENTIAL (RM-10)

Chairman Ralph Poole opened the Public Hearing.

There were no objections to Planning Commission jurisdiction, no abstentions or ex-parte contact, or conflict of interest declarations.

There were no Old Business Discussion Items.

Dan Cummings, Community Development Director and City Manager, gave the staff report.

SUMMARY:

The applicants/owner owns parcels of land, known as Tax Map 18S4708, tax lots 2800, 2900, 3000, 3100 and 3200, which said tax lots currently have two different zoning being UGA Commercial, and UGA Residential and would like to annex the parcel and rezone to City zones C-2 General Commercial and, RD-40 High Density Residential as shown in this report.

BACKGROUND:

The applicant has submitted an application for the annexation and rezone of a parcel of land known as Tax Map 18S4708, tax lots 2800, 2900, 3000, 3100 and 3200, which said tax lots currently have two different zoning being UGA Commercial, and UGA Residential and would like to annex the parcel and rezone to City zones C-2 General Commercial and, RD-40 High Density Residential, which consists of gross area of 38.548 Acres and includes the right of way Hwy 201 along the west side of the property, which was found to be complete on April 19, 2023 and provided enough information to schedule a public hearing on the matter once all the reports and exhibits were created.

The property is mixed zoned with 26.568 acres zoned UGA Commercial C-2, and 11.980 acres zoned UGA Residential (RS-50).

This request for rezone needs 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 rezoning 26.568 acres from UGA Commercial to City General Commercial (C-2), 11.980 acres zoned UGA Residential (RS-50) to City High Density Residential (RD-40) within the City Limits of the City of Ontario. The annexation and rezone include the adjacent public right of way.

The most recent planning action on the property was the 2007 comprehensive plan update.

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 and the planned development is an approved zoning under 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.

Findings:

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

The City of Ontario, Malheur County and the State of Oregon have all agreed upon the Comprehensive Plan and Map. Within that map the parcel is currently two different zoning (cross zoned) which are UGA-Commercial, and UGA- Residential. It is a natural progression per the Comprehensive Plan that this parcel be moved into City as City General Commercial, and City Residential Zone requesting as High Density designation for a transition from the commercial land to the land zones single family adjacent to the east of this property for the economic growth and development of Ontario, Malheur County, and the State of Oregon.

- 2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.**

The property is within the City of Ontario UGA and the annexation and rezoning of the property is in compliance to the acknowledged Comprehensive Plan and in fact will bring further compliance by fixing the cross zoning of the property which is not a recognized policy as well as matching the two UGA zones in the Comprehensive Plan to two city matching zones city zones.

- 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 applicants requested zone change from UGA-Zone to City Zones does not imply that there has been a mistake or an error in the original zone. In fact, this request for annexation and zone change only shows that the original zone designation of UGA zones were done with future thought of economic growth in mind. What has changed is the growth and development around the parcel and the need for more high-density residential lands to meet the need for more affordable housing. As part of the action a partition plat is being proposed which will create two different parcels that will fix the cross-zoning issue.

- 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.**

The public will benefit by annexing and re-zoning this parcel into the city limits through increased tax revenue, increased development and improving the roads, curb, gutter, etc. This will also benefit the public by attracting business and employees at this location. The rezoning of the UGA Commercial portion to City Commercial which matches the Comprehensive Plan, and the rezoning of the residential land to High Density land allows for more affordable housing as well as a transition between the commercial lands and the adjacent single family zoned lands to the east. This action and the following partition will fix the crossing zoning of the land which is usually not allowed.

- 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.**

The property consists of 38.548 acres, 26.568 acres zoned commercial and 11.980 zoned residential which are large enough to allow for development into the allowed zones.

- 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 parcels far exceed the minimum parcel size for each area and will be able to be developed into large developments as planned in the comprehensive plan. The property is adjacent to existing streets and utilities and is readily available to be extended and expanded to accommodate the planned development of the parcels. As part of the UGA, the property has been part of the City Transportation Master Plan, Water Master Plan, Wastewater Master Plan and the City Storm Water Master Plan and therefore, has been approved to provide city services to the properties.

- 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.

The property is part of the city approved zoning and has been approved for the type of zoning once brought into the City limits and is in harmony with the surrounding developed property zoned accordingly and will not result in any adverse effects to the adjacent properties zoned the same.

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 information in finding 3 is that there has been no mistake and the request follows the comprehensive plan. Therefore, there is no mistake, and the request follows the comprehensive plan and approved zoning and demonstrates that this criterion is met. CRITERION IS MET*
- d. *As noted in finding 4, rezoning from the UGA zones to City zones would not be considered as the granting of a special privilege for a single property or group of property owners as it is providing for the same zoning as the comprehensive plan and is the same zoning of the lands adjacent to these properties. CRITERION IS MET*
- e. *As noted in the findings 5, the subject property size is adequate to demonstrate consistency with this criterion. 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 are provided. CRITERION IS MET*
- g. *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 issues. 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 this type of use. CRITERION IS MET*

Final Conclusion: ALL CRITERIA ARE MET

B. Annexation:

1. 10B-45-10 INITIATION OF ACTION. When a person, authorized by statute, wishes to extend the city's boundaries, an application on forms supplied by the city shall be filed with the Planning Director and which include: annexation consent forms, by the property owners, and by tenants if required by law or court decision; request for a change in zoning map designation, or plan change if required; request for other quasi-judicial action if required; fees, and other exhibits and requirements for a quasi-judicial action as set forth in this Title. All land use actions associated with the annexation shall be consolidated, as feasible, and one fee paid.
2. Oregon Revised Statute 222.125: Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

Findings:

1. *The applicants have paid the fees and provided the proper application with signatures.*
2. *The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with the current city limits.*
3. *The property currently has two different UGA zones in the Urban Growth Area and the companion requested City zones are consistent with contiguous property.*
4. *Findings from preceding sections of this report are included in this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.*
5. *Annexation would benefit the city by increasing tax revenue, and by providing more potentially developable residential land.*

Final Conclusion: All criteria and standards applicable to a request for annexation have been met. The property may be annexed.

SUMMARY CONCLUSIONS AND PLANNING COMMISSION DECISION

*A request for 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** the criteria and standards must be met in order for the request to be recommended for approval.*

ANALYSIS:

- A. **STRATEGIC PLAN** *This project falls under the Growth goal of the City Council strategic plan: specifically allowing for annexation of land to add growth and more tax base. Allowing for the development of the property.*
- B. **FINANCIAL** *This annexation will add to the City tax base.*
- C. **TIMING** *The rezoning of this property is needed in a timely manner to allow for development.*
- 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 consistent with the Comprehensive Plan.
An annexation and 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 send a recommendation to the City Council to approve the annexation and rezone from Urban Growth Area zones to City zones of the subject property as per the report.

Becky Yzaguirre, representing the Strey Family Trust, presented the request to rezone and shared the benefits the rezoning and subsequent development would bring to the area including economic growth, quality housing, increased connectivity and act as a buffer between the industrial and residential zones.

Chairman Ralph Poole asked if there was an underground house on the property in question, and if the Sunrise Christian Church was next to the property that was going to be annexed.

Ms. Yzaguirre explained that the underground house was a part of the property, and the church was adjacent to the property (tax lot 3300). Mr. Cummings confirmed.

Commissioner Breidenbach asked if SW 6th Avenue currently tied into another street or would be tied into an existing street in the future.

Mr. Cummings said any future developers would have improve their half of SW 6th Avenue but the specifics would depend on the type of development and by the appropriate City Code. Future developments would also likely require traffic studies since the property was along the Highway 201 corridor.

Chairman Poole commented that some park or recreation area in any new development would be a great benefit to the residents in that vicinity.

There were no opponents.

The public hearing was closed.

Mr. Cummings recommended that the annexation and rezone was moved forward so that the design phase would be implemented.

Commissioner Poole asked if the marijuana overlay would affect this property.

Mr. Cummings stated that with the residential zone and two current marijuana retailers in the vicinity, the buffer zones would eliminate any new marijuana retail stores on the property in question.

APPROVAL OF PLANNING ACTION 2023-04-04AZ – FINDINGS OF FACT

John Briedenbach moved, seconded by Blu Fortner, to approve the Finding of Facts as presented. Roll call vote: Fortner-yes; Allen-out; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 5/2/0.

APPROVAL OF PLANNING ACTION 2023-04-04AZ – ANNEXATION AND REZONE

Antonio Sunseri moved, seconded by John Briedenbach, to approve the Annexation and Rezone. Roll call vote: Fortner-yes; Allen-out; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 5/2/0.

MOTION TO ADJOURN

Blu Fortner moved, seconded by Max Twombly, to adjourn. Roll call vote: Fortner-yes; Allen-out; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 5/2/0.

Ralph Poole
Chairman

Attest: Marcy Siriwardene
Planning & Zoning Technician



**AGENDA REPORT
PUBLIC HEARING**
September 11, 2023

To: Planning Commission

FROM: Dan Cummings, City Manager

SUBJECT: **ACTION 2023-07-10 CPAMD: A REQUEST FOR COMPREHENSIVE PLAN / ZONING MAP AMENDMENT AND REZONE OF A PARCEL OF LAND BEING LOCATED AT SW CORNER OF NW WASHINGTON AVE & SW 9TH STREET. THE OWNER IS KZ INVESTMENTS, LLC.**

DATE: August 4, 2023

PROPOSED MOTION:

A. APPROVAL:

1. I MOVE THAT THE PLANNING COMMISSION ACCEPT THE FINDINGS OF FACTS AS OUTLINED IN THE ATTACHMENT #1 APPLICATION NARRATIVE FOR THE COMPREHENSIVE PLAN AND MAP AMENDMENT, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM CITY HIGH DENSITY RESIDENTIAL (RM-10) TO CITY LIGHT INDUSTRIAL (I-1), AS SET FORTH IN ACTION 2023-07-10 CPAMD.

2. I MOVE THAT THE REQUEST FOR THE COMPREHENSIVE PLAN AND MAP AMENDMENT, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM CITY HIGH DENSITY RESIDENTIAL (RM-10) TO CITY LIGHT INDUSTRIAL (I-1), AS SET FORTH IN ACTION 2023-07-10 CPAMD BE RECOMMENDED FOR APPROVAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS SET FORTH IN THIS REPORT AND ATTACHED NARRATIVE, SUBJECT TO THE CONDITIONS OF APPROVAL AS SET FORTH IN THIS REPORT.

B. DENIAL:

1. I MOVE THAT THE REQUEST FOR THE COMPREHENSIVE PLAN AND MAP AMENDMENT, AND THE REQUEST FOR REZONE OF THE SUBJECT PROPERTIES FROM CITY HIGH DENSITY RESIDENTIAL (RM-10) TO CITY LIGHT INDUSTRIAL (I-1), AS SET FORTH IN ACTION 2023-07-10 CPAMD BE RECOMMENDED FOR DENIAL TO THE CITY COUNCIL, BASED ON THE INFORMATION, FINDINGS AND CONCLUSIONS STATED BELOW:

SUMMARY:

The applicant owns a parcel of land, known as 17S47E33D, tax lot 2900. The applicants wish to rezone the property for further development of the property for individual indoor stage units as they further develop the property to its fullest potential. This application, if approved, will result in the rezoning of 9.25 Acres plus the adjacent right of way, rezoning the property from

City High Density Residential (RM-10) to City Light Industrial (I-1). The rezone also requires a Comprehensive Plan and Map amendment.

The owner is proposing to develop the site into Mini-Warehousing (Mini-storage) and Recreational Vehicle/trailer storage.

BACKGROUND:

This request for Comprehensive Plan and Map amendment and rezone needs a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designates the City Council as the decision making body for Plan amendments and rezones by Ordinance. State Law requires an Ordinance to be adopted by the local governing body to accomplish a rezone. The City's governing body is the City Council, and they are the only body that may adopt an Ordinance.

The 35 day notice was posted to DLCD and public notice was sent out to affected property owners within the area required by law as well as public agencies that may be affected by this action.

On August 17, 2023 the Community Development Director, Dan Cummings, received a letter (see attachment 5) by email from the Oregon Department of Transportation (ODOT) indicating their concerns about the rezoning of the property from RM-10 High Density Residential to the I-1 Light Industrial Zone. (attached to this report and made a part hereof) and the concerns that under allowed uses in the I-1 zone some of the allowed uses would trigger the need for a traffic study to address the increase in traffic load to the City and State Road system.

On August 24, 2023 the applicants, property owner, Community Development Director and staff from ODOT met in an online virtual TEAMS meeting and discussed the concerns and the solution to ensure that any use of the property that by the city's current TSP (Transportation System Plan) would require a traffic impact study be done, the study would be done before any development occurred on the property that triggered the need for the study.

The conditions of approval have been undated (see condition number 4) to include the requirement agreed upon, which includes putting this condition (see attachment 6) into a DIA Agreement approved by the City of Ontario and recorded in the deed records of the Malheur County Recorders Office.

CURRENT SITUATION:

ACTION 2023-07-10 CPAMD: A request for Comprehensive Plan / Zoning Map Amendment and Rezone of a parcel of land being located at the SW corner of NW Washington Street and NW 9th Avenue. If approved, this action will result in the rezoning of 9.25 acres of land from City High Density Residential to the City Light Industrial (I-1) Zone. The applicant is Amanda Philp, Winterbrook Planning and the property owners are KZ Investments, LLC, Zach Mills Member, along with the adjacent right of way of NW Washinton Avenue on the North, NW 9th Street on the East, NW Park Boulevard on the Weast and NW 16th Avenue on the South.

LEGAL DESCRIPTION: The subject property is designated as Assessor's Map #17S47E33D; Tax Lot #2900.

APPLICANT/AGENT: Amanda Philips
Winterbrook Planning
610 SW Alder Street, Suite 810
Portland, OR 97209
(503)827-4422 Ext 111

PROPERTY OWNER: KZ Investments, LLC, Zach Mills, Member
40 NE 6th Avenue
Ontario, OR 97914
(208) 230-3631

The applicant and owners discussed the Plan with Community Development Director Dan Cummings and all requirements were discussed for meeting the requested changes. The Community Development Director has reviewed the application and the Findings of Facts within the Application for completeness and meeting the requirements and is supportive of these finds of facts and applicant's request and therefore has forward this action with a favorable recommendation onto the City Planning Commission for a Public Hearing and Planning Commission decision.

FOR CRITERIA AND FINDINGS OF FACTS REFER TO ATTACHMENT #1, LABELED MILLS ZONE CHANGE APPLICATION NARRATIVE MADE A PART HEREOF:

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.

Rezone:

The Applicant submitted a detailed Narrative (See attachment 1 "Mills Zone Change Application Narrative") addressing all the required findings of facts and decision criteria meeting the rezoning requirements of Title 10B-20-30 and Annexation title 10B-45-10.

Rezoning Conclusion: The proposed rezone is consistent with all applicable criteria and standards as stated in the attached narrative.

Conditions of Approval:

1. The owner will sign a lien causing any unpaid utility bill to be a lien against the property once connected to city sewer and water.
2. The owners will make all the improvements to the site and public utility infrastructure as per city code or sign a Deferred Improvement Agreement approved by City Staff based on development of the site.
3. The owner shall abide by all the conditions of the City of Ontario Municipal Code.

4. To ensure that there will be no significant effect on state facilities (in particular Highway 201 aka Yturri Beltline) from rezoning the subject 9.25-acre site from High Density Residential (RM-10) to Industrial (I-1), the following conditions of zone change approval shall be incorporated as a binding development agreement into the required Deferred Improvement Agreement (DIA). The DIA, along with the development agreement, shall be recorded. Conditions of Zone Change Approval

A. A trip cap of 1,040 vehicle trips per day shall be applied to the entire 9.25-acre site (17S47E33D, tax lot 2900). This trip cap is equal to the daily vehicle trips that would have been generated by residential development allowed under RM-10 zone development standards, assuming the reasonable worst-case scenario of 229 multi-family dwelling units.

B. If the cumulative development on the 9.25-acre site exceeds this trip cap based on the most recent edition of the ITE Manual, a transportation impact analysis (TIA) shall be required. The TIA shall address the impact of all existing and proposed development on the 9.25-acre site. The TIA shall be prepared in coordination with the Oregon Department of Transportation by a transportation engineer licensed in the state of Oregon.

C. Moreover, if any development proposal on the 9.25-acre site would result in 600 or more vehicle trips per day, a TIA shall be required pursuant to the Ontario Zoning Ordinance, Section 10C-25.06 Transportation Impact Study Requirements. This TIA shall be submitted to the city of Ontario and the Oregon Department of Transportation for review as part of the required development application. The City will not consider the development application to be complete and will not process the development application without the required TIA.

ANALYSIS:

- A. **STRATEGIC PLAN** This action is consistent with the City Council Strategic Plan by providing Desirable Industrial lands allowing new Growth to the City of Ontario.
- B. **FINANCIAL** Development of the property will benefit the City by increased tax revenue as well as provide needed industrial land to promote new jobs.
- C. **TIMING** This rezoning is the first step in the process of being able to develop the property and therefore there is a need to move forward as soon as possible to bring the needed development to the city.
- D. **POLICY/LEGAL** The quasi-judicial Comprehensive Plan Map and Zoning Map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official Zoning Map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Planning Commission shall be the final decision of the city unless an appeal is filed as authorized by this Title. (LANGUAGE IN 10B-10-05 SUPERSEDES THIS LANGUAGE) WHICH IS: The ultimate decision-making authority for legislative actions and zone changes brought under the provisions of this Title shall rest with the City Council. Certain actions of the Planning Commission are in the form of a recommendation to the City Council. The land use actions for which the Commission provides only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map

ALTERNATIVES:

1. Table and continue this item to a certain future meeting date, to obtain clarification on issues raised at this Public Hearing
2. Deny the action by determining it is not in the best interest of the public to rezone this property.

RECOMMENDATION:

Staff recommends the Planning Commission approve the action.

ATTACHMENTS:

1. Mills Zone Change Narrative
2. 2023-07-10CPAMD Application
3. Attachment 3 Zoning Before
4. Attachment 4 Zoning After
5. State Letter-City File #2023-07-10-CPAMD-State
6. Proposed Zone Change Conditions_8.18.23

Mills Zone Change Application Narrative

Prepared by Winterbrook Planning
July 3, 2023

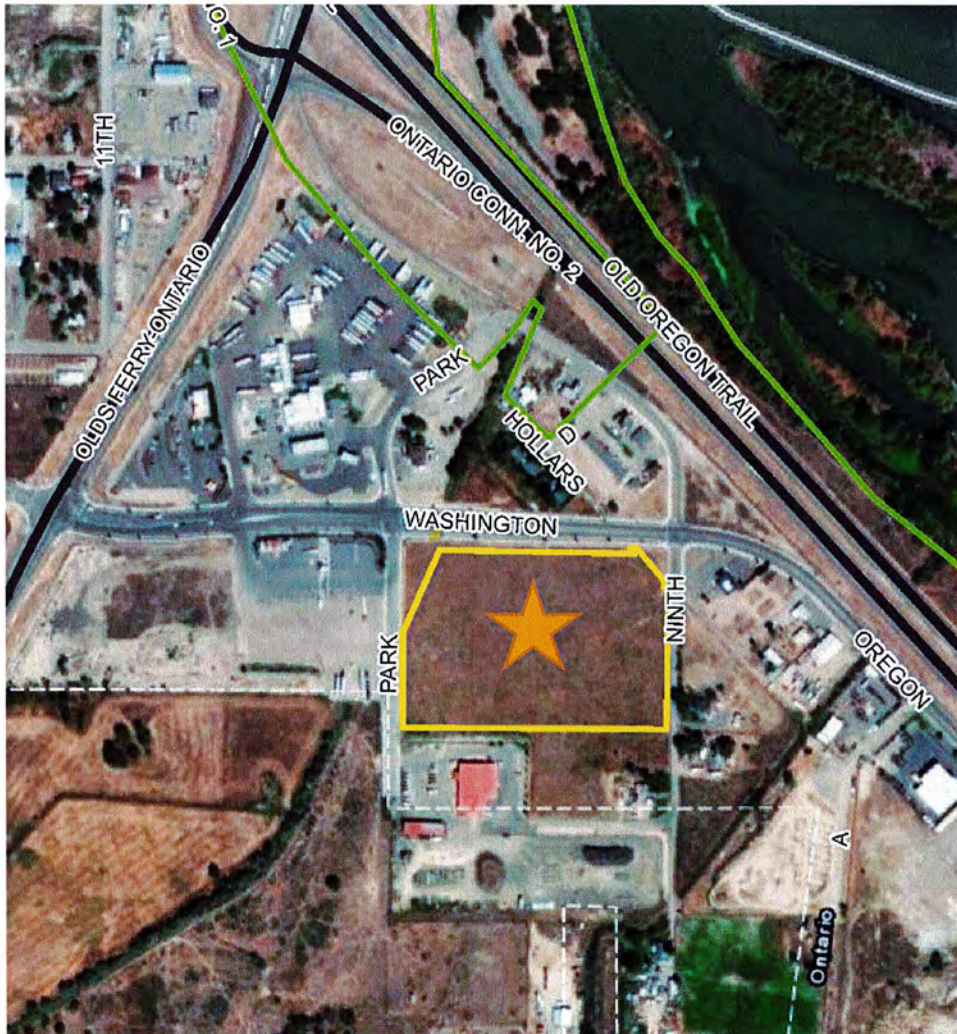


Figure 1: Property Proposed for Zone Change

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I. GENERAL INFORMATION:

- PROPOSAL:** The applicant requests City approval of a Comprehensive Plan/Zoning Map Amendment for their property from City High Density Residential (RM10) to City Light Industrial (I1) to allow for indoor storage units as shown on Figures 1-4.
- PROPERTY OWNER:** Zach Mills, on behalf of KZ Investment LLC.
40 NE 6th Avenue, Ontario, OR 97914
- REPRESENTED BY:** Amanda Philip, Assistant Planner
Greg Winterowd, Principal
Winterbrook Planning
610 SW Alder Street Suite 810, Portland, OR 97205
- SUBJECT PROPERTY:** The proposed zone change is for **Tax Lot 2900** (Map Number: 17S47E33D). Tax Lot 2900 is 9.25 acres.



Figure 2: Tax Lot Map

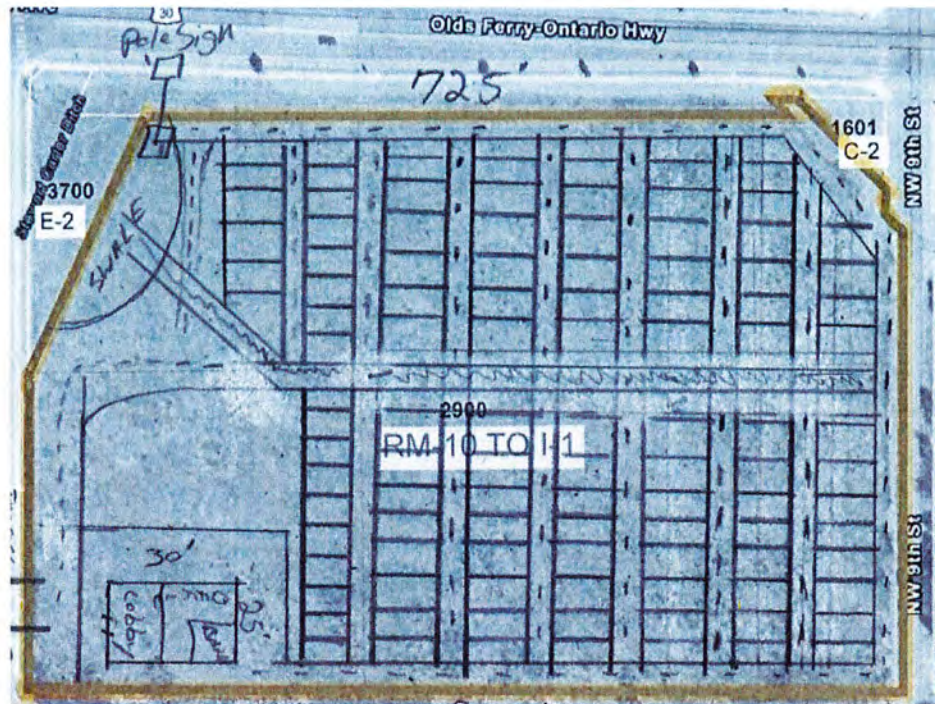


Figure 3: Rough Site Plan for Proposed Indoor Storage Units

II. SUMMARY & BACKGROUND INFORMATION:



Figure 4: Existing Zoning Map

Proposed Comprehensive / Zoning Map Amendment

As shown on **Figure 4**, Tax Lot 2900 is located near the north perimeter of Ontario City Limits shown in a red dashed line and is currently zoned RM10 High Density Residential. The site is defined by NW Washington Ave to the north, N Park Blvd to the east, and NW 9th St. to the west.

As shown on **Figures 1 - 5**:

- Tax Lot 2900 is vacant and part of a small RM10 zoned area (shown in purple) that includes several single-family homes. However, this small RM10 area surrounded by land zoned and used for industrial, commercial, employment, and public facility purposes.
- The applicant proposes to rezone the site to I1 consistent with the industrial, commercial, employment, and public facility character of the area. As discussed under Statewide Planning Goal 9 and 10, Ontario has a large surplus of residential land and a small deficit in industrial land. The zone change helps meet Ontario's identified industrial land need.



Figure 5: Surrounding Land Uses

Surrounding Land Use and Zoning

Tax Lot 2900 is one of seven tax lots zoned RM10 with no existing high-density residential development. This small area of RM10 tax lots is surrounded by:

- North:
 - Zoning: Light Industrial and General Commercial.
 - Land Use: Truck Stop, Auto Glass Shop, U-Haul Dealer, Bar, Food Establishment a few one-story Residences
- West:
 - Zoning: Employment Zone 2Acres and Employment Zone 5Acres UGA¹
 - Land Use: Food Establishment
- East:
 - Zoning: General Commercial and Heavy Industrial
 - Land Use: Radio Station, Auto Repair Shop, ATV dealer
- South:
 - Zoning: Public Facility (PF)
 - Land Use: Public Works Department

III. APPLICABLE CRITERIA AND STANDARDS:

Zone changes must meet the requirements of **Section 10-20-30** of the Ontario Zoning Ordinance (OZO), including applicable Comprehensive Plan policies, Statewide Planning Goals and Administrative Rules.

A. Zoning Map Amendment Criteria

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.***

Findings: Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 7 (Natural Hazards), 9 (Economic Development), 10 (Housing), 11 (Public Facilities and Services), and 12 (Transportation) are applicable to this zone change application.

Statewide Planning Goals 3 (Agricultural Lands), 4 (Forest Lands), 5 (Natural Resources), 6 (Air, Land and Water Resource Quality), 8 (Park and Recreational Needs), 13 (Energy Conservation), 14 (Urbanization), 15 (Willamette River Greenway), and 16-19 (Coastal Goals) are not applicable to or will have no significant impacts from the proposed zone change.

Statewide Planning Goal 1 requires that the city provide opportunities for public comment on quasi-judicial land use decisions. Public hearings before the Planning Commission are required

¹ Urban Growth Area

for zone changes. The public will be duly notified in accordance with Ontario Zoning Ordinance **Chapter 10B-03 Notice of Public Hearing**.

Notice includes:

- First class mail to individuals listed in **Chapter 10-03-10**.
- Publication in a newspaper of general local circulation at least ten days prior to the hearing.
- Sign posting that is visible from at least one adjacent public way.

Conclusion: The application will be consistent with Goal 1 (Citizen Involvement) provided that public notice is properly given and that members of the public be given the opportunity to comment on this proposal through the planning commission and city council public hearing processes.

Statewide Planning Goal 2 requires coordination among governmental agencies, an adequate factual basis for decision-making, and consistency with the Ontario Comprehensive Plan.

- Any proposed zoning map amendment shall be submitted to City department heads, Malheur County and State or Federal agencies at the discretion of the Planning Director.
- The Planning Commission will hold a public hearing with an opportunity to appeal to City Council. City Council's decision may be appealed to the Oregon Land Use Board of Appeals.
- This application narrative provides an adequate factual basis for approval of the proposed zone change.
- As documented below, the zoning map amendment is consistent with the acknowledged Ontario Comprehensive Plan.

Conclusion: The City will follow its acknowledged Comprehensive Plan policies and implementation measures to ensure Goal 2 compliance.

Statewide Planning Goal 7 requires that cities identify potential natural hazards and adopt measures to ensure public safety.

As shown on Figure 9 on page 14 of this narrative, Tax Lot 2900 is within the 100-year floodplain.² Development of land within the floodplain is subject to Ontario Zoning Ordinance **Section 10A-47-110**, which requires that non-residential development be flood-proofed or that the habitable floor of buildings be constructed at least one foot above the base flood level as determined by the Federal Emergency Management Agency (FEMA).

² Map from FEMA's National Flood Hazard Layer Viewer

Conclusion: Goal 7 (Natural Hazards) can be met because future development on land within the floodplain is subject to regulations to protect life and property within the 100-year floodplain.

Statewide Planning Goal 9 requires that cities provide sufficient suitable land for planned economic development consistent with the Ontario Comprehensive Plan.

- The Ontario Comprehensive Plan Goal 14: Urbanization, Table 14-4a (Figure 6) indicates that there is an unmet need for 21.5 acres of industrial land within the Ontario UGB.
- This meets the identified need for parcels between 5-20 acres.
- The proposal is to rezone approximately 9.7 acres of RM10 land to I1 which reduces this deficit from 21.5 acres to approximately 11.8 acres.

Conclusion: The proposed zone change is consistent with Goal 9 (Economic Development) because it will reduce the deficit of suitable industrial land within the Ontario UGA.

Table 14-4a: Ontario Employment and Public/Semi-Public Land Need and Supply 2006-2026 and Ontario Residential Land Need and Supply 2020-2040 (Revised 2013, and 2021)			
Generalized Land Use	Buildable Acres	Need 2006-2026	Surplus (Deficit) 2006-2026
Commercial	242.9	254.1	(11.2)
Industrial	485.8	507.3	(21.5)
Rail-Dependent Industrial	245.0	250.0	(5.0)
Public Facility	114.9	184.0	(69.1)
TOTAL	1,088.6	1,195.4	(106.8)
Residential Need	Buildable Acres Supply within City Limits	Need 2020-2040	Surplus (Deficit) 2020-2040
Low Density Residential	126	PRC Need: 2.3 Aspirational Need: 174.2	PRC Surplus (Deficit): 123.7 Aspirational Surplus (Deficit): (48.2)
Medium Density Residential	11	PRC Need: 0.38 Aspirational Need: 18.7	PRC Surplus (Deficit): 10.62 Aspirational Surplus (Deficit): (7.6)
High Density Residential	40	PRC Need: 0.33 Aspirational Need: 0.33	PRC Surplus (Deficit): 39.67 Aspirational Surplus (Deficit): 15.1
City Residential SUBTOTAL	177	PRC Need: 3.0 Aspirational Need: 177	PRC Surplus (Deficit): 174 within City Limits Aspirational Surplus (Deficit): (40.7) within City Limits
TOTAL Need from Residential UGA	414	Aspirational Deficit in City: 40.7	Remaining UGA Surplus (Deficit): 373.3

Figure 6: Ontario Comprehensive Plan, Goal 14 Table 14-4a

Statewide Planning Goal 10 requires that cities provide sufficient buildable residential land to meet identified housing needs. Figure 3 is also derived from Comprehensive Plan Table 14.4a.

COMPREHENSIVE PLAN DESIGNATION	PROJECTED GROSS BUILDABLE RESIDENTIAL ACREAGE NEED	GROSS BUILDABLE ACRE SUPPLY WITHIN CITY LIMITS	RESIDENTIAL BUILDABLE ACRE SURPLUS OR (DEFICIT)
Low Density Residential	2.3	126	123.7
Medium Density Residential	0.38	11	10.62
High Density Residential	0.33	40	39.67
TOTAL	3.0 acres	177	174

Figure 7: Comparison of Residential Buildable Land Need and Supply by Plan Designation, 2020 to 2040

- According to the Ontario Housing Report: Housing Needs Analysis & Residential Buildable Lands Inventory, the City of Ontario has a 39.67-acre surplus of High Density Residential buildable acres required to accommodate housing based on the PRC³ 2040 population forecast. The projected High Density Residential buildable acres need is less than an acre (0.33 acres) and the buildable land supply is 40 acres.
- The proposed rezone is for approximately 9.25 acres from RM10 to I1. Removing 9.25 acres from the 39.67 High Density Residential buildable acres *surplus* still results in 30.42 acres of surplus.
- The proposed rezone reduces the total *surplus* residential buildable land supply from 174 buildable acres to approximately 164.75 buildable acres.

Conclusion: The proposed zone change is consistent with Goal 10 (Housing) because the City will continue to have an oversupply of buildable residential land within its UGB after the zone change. The Ontario UGB has a substantial surplus of residential land in general and of RM10 land in particular.

Statewide Planning Goal 11 requires that public facilities be available and adequate to serve planned land uses.

Figure 8 shows sanitary sewer, storm sewer, and water lines available and adequate for a variety of industrial uses including the planned indoor storage use.

³ Population Research Center- PSU



Figure 8: Public Facilities that Serve Proposed Zone Change Area

Conclusion: The proposed zone change is consistent with Goal 11.

Statewide Planning Goal 12 requires that the zone change not have a significant adverse impact on transportation facilities that serve the site.

As shown on Figure 9 below, the subject property is adjacent to:

- NW Washington Ave - minor arterial
- N. Park Blvd - minor collector
- NW 9th St - local road

The following is a comparison between daily trips that will likely be generated from permitted multi-family development under the existing RM10 zone and the light industrial development (storage units) that is proposed in the I1 zone.

The existing zoning allows residential development at up to 31 dwelling units per net buildable acre. Assuming 20% of the 9.25-acre site will be devoted to streets, the reasonable worst-case scenario for residential development of this site would be 229 multi-family dwelling units. Based on the ITE Manual, at 4.4 vehicle trips per day, multi-family development would generate about

1,008 vehicle trips per day. Many of these trips would occur during the morning and evening peak hours.

The owners propose to use the site for indoor storage units. Based on the rough site plan (Figure 3), the site could reasonably accommodate about 120 individual storage units.



Figure 9: Transportation Facilities

We used the ITE Trip Generation Manual (Tenth Edition) to determine the relative impact on daily and peak-hour trips. As shown on Table 1 below, 120 storage units will generate about 22 daily trips. Most of these trips will occur outside peak hour periods.

This amounts to about 8% of the daily vehicle trips that would be generated by a multi-family with 229 units. Thus, the traffic impacts from the reasonable worst-case light industrial scenario are considerably less than the impacts that would result from apartment development on this site. For this reason, the proposed zone change will not have a significant impact on major streets or intersections serving the site.

As noted in the discussion of the Transportation element of the Ontario Comprehensive Plan below, the Ontario Zoning Ordinance does not require a transportation impact analysis (TIS) for projects that generate fewer than 600 daily trips. Thus, a TIS *would* be required for residential development of the subject properties but *would not* be required for light industrial development on this site (because many fewer trips would be generated under the reasonable worst-case scenario).

6	
7	TRIP GENERATION CALCULATIONS
8	
9	
10	Land Use: Mini-Warehouse
11	Land Use Code: 151
12	Setting/Location: General Urban Suburban
13	Variable: Storage Units (100s)
14	Variable Value: 2.5
15	
16	
17	
18	AM PEAK HOUR
19	
20	Trip Rate: 1.39
21	
22	Enter Exit Total
23	Directional 51% 49%
24	Distribution
25	Trip Ends 2 1 3
26	
27	
28	
29	
30	WEEKDAY
31	
32	Trip Rate: 17.96
33	
34	Enter Exit Total
35	Directional 50% 50%
36	Distribution
37	Trip Ends 22 22 44
38	
39	
40	Source: TRIP GENERATION, Tenth Edition

Figure 10: Trip Generation Calculations for Personal Storage Units

Conclusion: The proposed zone change will not significantly impact a state highway or major streets in Ontario; therefore, the proposal will not violate Goal 12 (Transportation).

Overall Statewide Planning Goal Conclusion: The proposed zone change is consistent with applicable statewide planning goals based on the factual evidence and analysis presented above.

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

Findings: The Ontario Comprehensive Plan includes several policies that support the proposed zone change and no policies that are directly opposed to the proposed zone change. Each relevant policy is quoted in *italic font* below followed by findings explaining how the proposal addresses the policy.

10-1-5 Policies: Citizen Participation, Agency Coordination

- 5) The Ontario City Planning Commission shall act as the committee for citizen involvement.*
- 6) The Council may of its own choice, or may upon the recommendation of the Commission, appoint such ad hoc citizen or agency committees, task forces, or other citizen or agency committees, task forces, or other advisory groups as are necessary to accomplish the planning needs of the community.*
- 7) The Planning Director shall be responsible for assuring that adequate publicity and information is available to the public and parties affected by planning related actions of the City. The Planning Director shall maintain contact with agencies that may have an interest in planning related actions.*

Findings: The Ontario Planning Commission makes recommendations to the City Council on proposed rezonings. Public hearings before both bodies are required. The Planning Director will prepare the staff report for both bodies, which must be available at least seven days before public hearings. These policies will be met.

10-2-4 Policies: Land Use Planning, General

- 4. The land use planning process shall be utilized to assure an adequate supply of land, properly serviced, for the various residential, commercial, industrial, recreational and institutional needs of the community.*
- 5. Land use planning decisions, particularly quasi-judicial actions shall be in harmony with the policies adopted in this document [...]*

Findings: The proposed zone change from RM10 to I1 redresses the existing imbalance between land need and supply within the Ontario UGB. As mentioned in Statewide Planning Goal 9 and Goal 10, there is a current surplus of residential land and a deficit of industrial land within the UGB. The remainder of this document demonstrates that the proposed zone change is in harmony with applicable comprehensive plan policies.

10-2-5 Policies: Visual Image, Development Pattern

- 3. New development shall not be scattered and disjointed so as to increase the costs of supplying services and facilities.*
- 4. Utility extension policies shall be designed and administered so as to enforce compact development. Urban type development shall be discouraged on land that cannot be efficiently supplied with municipal utilities at the time of occupancy.*

Findings: As discussed in Zoning Map Amendment Criteria (g), the proposal will concentrate industrial development in an area dominated by industrial and commercial land uses.

As documented under Statewide Planning Goal 11, storm sewer, sanitary sewer, and water lines serve the site. Thus, the site can be served efficiently when development occurs on the site.

10-2-6 Residential Policies

- 1. Residential areas shall be planned so they do not intrude into industrial areas or predominantly commercial areas.*

10-2-8 Industrial Land Use Policies

- 1. Industrial areas shall be protected from encroachment by incompatible land uses.*
- 2. The land use plan shall designate industrial sites of a variety of sizes to provide ample space for new industries, expansion of existing industries, and to provide for competition in the industrial land market.*
- 3. Industrial sites shall be functionally related to existing or proposed transportation systems. Access through residential areas shall be avoided.*
- 4. Industrial sites shall be grouped to facilitate service by utilities and public safety services.*
- 5. Industrial developments shall provide design features or buffers that protect adjacent non-industrial properties from adverse effects.*

Findings: Tax Lot 2900 is currently zoned for high density residential use. The proposed rezoning of Tax Lot 2900 is one lot of seven RM10 surrounded by the following zones: Light Industrial, General Commercial, Employment Zone 2Acres, Employment Zone 5Acres UGA, Public Facility, and Heavy Industrial. The area is partially developed as seen in Figure 5. Most of the surrounding land uses are industrial and commercial in nature, however there are three existing one-story residences in tax lots zoned RM10.

These industrial policies suggest that residential land should not be planned in predominantly industrial and employment areas. Thus, the site's existing RM10 zoning appears to be inconsistent with Residential Policy 1.

Consistent with Industrial Policy 2, Tax Lot 2900 is 9.25 acres, one of the industrial site size needs identified in the Comprehensive Plan. As mentioned in Goal 9, there is a need for industrial sites between 5-20 acres.

These industrial policies recommend that industrial zoned land be clustered in areas with highway and rail access and adequate public facilities.

- As called for in Industrial Policy 3, Tax Lot 2900 is located between Yturri Beltline (state highway) and Interstate 84.
- As called for in Industrial Policy 4, Tax Lot 2900 is in an area well served by existing utilities and public safety services.

- As called for in Industrial Policies 1 and 5, the proposed zone change would allow indoor storage which does not have adverse effects on adjacent properties or existing land uses⁴

To ensure compatibility with adjacent residentially zoned areas, any proposed development in the I1 zone will be subject to Ontario Zoning Ordinance requirements related to landscaping and buffering.

In summary, the proposed rezoning is consistent with Comprehensive Plan policies regarding industrial and residential zoned land.

10-7-4 Flooding and Steep Slope Hazard Policies

1. The City recognizes that land within the 100-year floodplain has been inappropriately designated for urban uses in the past, resulting in the loss of flood storage capacity and potential hazards to life and property. The City, therefore, is committed to working with Malheur County to avoid this mistake in the future. a. The City will not propose future UGB expansions for residential, commercial or industrial uses within the flood hazard zones (100-year floodplains) of the Snake or Malheur Rivers. b. Industrial land within the 100-year floodplain is not considered suitable for meeting the City's long-term employment needs. c. Residential land within the 100-year floodplain is not considered buildable for residential purposes. d. The City will actively pursue the creation of a flood storage and wetland mitigation bank on public land, to compensate for the loss of flood storage capacity and wetland values resulting from urban development within floodplain areas.

2. The City, in cooperation with State and Federal agencies, shall continue to collect and refine information bearing on the delineation of areas of potential flooding. 3. The City shall continue to maintain and enforce development regulations designed to protect life and property from flooding. 3. The City shall continue to maintain and enforce development regulations designed to protect life and property from flooding.

Findings: The 100-year floodplain in relation Tax Lots 2900 is shown in Figure 9 below. Development on industrial land within the floodplain may occur on a limited basis consistent with Ontario Zoning Ordinance Section 10A-47-110 – Nonresidential Construction.

Proposed I1 uses are subject to Ontario Zoning Ordinance Section 10A-47-110 – Nonresidential Construction. This section requires that non-residential development either be flood-proofed or that habitable floor areas be constructed at least one foot above the base flood elevation, as determined by a licensed engineer.

⁴ Existing land uses detailed above in the Summary and Background Information

10-11-5 Public Facilities Policies

5) Information regarding system and line capacities shall be among the considerations used in making immediate and long range land use decisions. The capital improvement program and land use policies shall assure that all facilities will be efficiently utilized.

8) Development proposals for industrial or commercial uses shall include descriptions of water and sewer requirements. Provisions for financing shall be developed in accordance with the City's ordinances and policies.

Findings: As shown on Figure 8, storm sewer, sanitary sewer and water lines are available to serve Tax Lot 2900, including:

- An 8” sanitary sewer line.
- Water lines ranging from 8” to 12”.
- Storm sewer lines that range from 12” to 24”.

Conclusion: The proposed zone change is consistent with applicable public facilities policies because storm sewer, sanitary sewer, and water lines are immediately available to serve the site.

10-12-4 Transportation Policies

Findings: Ontario transportation policies are designed to implement Statewide Planning Goal 12 Transportation and the Transportation Planning Rule. Please see discussion under Statewide Planning Goal 12.

The proposed light industrial zoning will generate substantially fewer trips than would be generated if the existing RM10 were to remain in place. Therefore, a transportation impact study should not be required.

The subject property is adjacent to NW Washington Ave, N Park Blvd, and NW 9th Street. There are sidewalk improvements along NW Washington Ave and N Park Blvd. There are no existing or proposed bike lanes for the area.

Access to the site is proposed from N Park Blvd, a minor collector street, rather than NW Washington Ave, U.S. Route 30 Business.

Urbanization – Comparison of Land Need and Supply (10-14-6)

As noted in the Statewide Planning Goal 9 and Goal 10 discussion above, the Ontario UGB has a shortage of industrial land and a large surplus of residential land. Comprehensive Plan **Table 14-4a, Figure 6**, compares land use need and supply within the Ontario UGB.

Conclusion: The proposed zoning change from Residential (which has a surplus of 174 acres) and Industrial (which has a deficit of 21.5 acres) is consistent with Goal 14 because it will result in a more balanced relationship between land need and supply as set forth in Table 14-4a.

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.

Findings: Tax Lot 2900, along with six other adjacent parcels, is zoned for high density residential and has not developed for that purpose. The property owner has no interest in developing the property for residential use and believes the highest and best use of the properties is I1.

There is less demand for residential land within the UGB – especially at this location, which is well-suited for industrial development. By rezoning the subject property from high density residential to light industrial, this tax lot is more likely to be used for employment purposes. If additional employment opportunities come to the community, residential development is likely to follow. As shown in Figures 5 and 12, much of the vicinity is vacant along with transportation-oriented amenities like truck stops, fuel stations, two food establishments, and an auto repair store.



Figure 12: Larger Development Pattern Around Proposed Zone Change Site

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.*

Findings: Public need is determined by demonstrating compliance with the publicly adopted comprehensive plan. In this narrative, the applicant has shown that there is a deficit of industrial land and a surplus of residential land based on **Table 14-4a, Figure 7**, of the comprehensive plan. See discussion in Goal 9, 10 and 14 findings for more detailed findings.

The applicant has also shown that the property is better suited for industrial use than residential use, based on Residential and Industrial Land Use Policies (10-2-6 and 10-2-8).

The proposed rezoning helps meet the need of industrial land by decreasing the surplus of residential buildable land.

Conclusion: For the above reason, there is a public need for the proposed zone change at this location.

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.

Findings: Tax Lot 2900 is 9.25 acres which satisfies the need for industrial parcels between 5-20 acres, identified in the OCP Goal 9- Economic Development (Table 9-3) section. It can accommodate a variety of industrial / storage uses.

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.

Findings: In Statewide Planning Goal 1, as shown on Figure 8, sanitary sewer (green), storm sewer (red), and water (blue) lines serve Tax Lot 2900.

The property is well-served by transportation facilities. The site is adjacent to NW Washington which connects with Yturri Beltline, a state highway, to the west. Because there will be no significant impacts on these facilities from the “worst case” development scenario for these properties, no transportation improvements are necessary to serve the site.

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.

Findings: As documented above, overall, the proposed zoning change will help meet Ontario’s industrial land need and is compatible with the existing zoning and land use pattern in the area. Although the specific light industrial use for the properties is not part of this proposal, the applicant plans to propose indoor storage which does not typically result in dust, noise, vibration, odor, heat, glare, lighting, or discharges into the environment.

However, any external impacts from the development and light industrial use of the site must meet City performance standards related to mitigation of impacts from dust, noise, vibration, odor, heat. Glare, lighting or discharges into the air, water or land, as set forth in the Ontario Zoning Ordinance, **Section 10A-39.30 Performance Standards**⁶ as well as Oregon Department of Environmental Quality environmental standards.

⁶ **10A-39-30 - PERFORMANCE STANDARDS.**

*Each structure or use permitted of right or conditionally in the I-1 Zone shall meet the following performance standards: 1. **Physical appearance.** With the exception of gasoline pumps, all operations other than pickups and deliveries shall be carried on within an enclosed building, provided that new materials or equipment in operable condition may be stored in the open, and normal daily wastes may be stored in containers not in the building when such containers are not readily visible from a public street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles, farm machinery, trailers, manufactured homes or similar equipment in operable condition when in association with a permitted use. The required front yard shall be landscaped to the standards set forth under Miscellaneous Provisions of this Title. 2. **Fire hazard.** No operation shall be established which fails to meet the fire code which is adopted into the Ontario City Code and any applicable State or Federal codes. This provision shall not be construed to prohibit the use of normal heating fuels,*

The Ontario Zoning Ordinance includes provisions for buffering of planned light industrial development and existing residential development. The large, 9.25-acre parcel has sufficient space to provide buffers between future residential and industrial development.

B. Overall Conclusion:

The proposed zone change makes sense for two primary reasons: first, it is consistent with the pattern of existing zoning and land use development in the vicinity, and second, it provides a better balance between land use need and supply, as expressed in Table 14-4a of the Ontario Comprehensive plan.

*motor fuels and welding gases when handled in accordance with applicable codes. 3. **Noise.** No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to objectionable due to intermittence, beat frequency or shrillness. 4. **Sewage and liquid waste.** All operations shall comply with Title 8, Ontario City Code and any applicable regulations of State or Federal agencies responsible for pollution control. No wastes of a chemical, organic or radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers. 5. **Smoke, particulate matter and gasses.** No use shall be established which fails to meet the air quality regulations of the Oregon Department of Environmental Quality pertaining to emissions of smoke, particulate matter, fugitive dust, gasses and other air contaminants. 6. **Odor.** The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odors. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes, are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious. 7. **Vibrations.** All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line. The use of steam or broad hammers are [is] not permitted in this zone. 8. **Glare and heat.** All glare and heat producing operations, such as welding arcs and open furnaces, shall be shielded so that they are not visible from the property line and surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line. No heat from equipment or furnaces shall raise the temperature of materials or ambient air at the property line more than three degrees Fahrenheit. 9. **Dust.** All surfaces used in the operation of the use shall be paved with a dust free surface. 10. **Interpretation.** Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments.*



City of Ontario Planning and Zoning Application Form

444 SW 4th Street, Ontario, OR 97914

Permit Center Annex: 458 SW 3rd Street

Voice (541) 881-3224 / (541) 881-3222

Fax (541) 881-3251

COMPREHENSIVE PLAN AMENDMENT

This form shall be used for any legislative code amendment application

FILE # 2023-07-10CPAMD

Date Received _____

Fee: \$510.00+ \$220.00 = \$730.00

(Mailing & Advertising: \$220.00)

Time Received _____

Accepted as Complete _____

Applicant(s) – attach additional sheets as necessary

Name Amanda Philip, Winterbrook Planning

Address 610 SW Alder Street Suite 810

Portland, Oregon 97205

Property Owner(s) – attach additional sheets as necessary

Zach Mills, KZ Investments LLC

40 NE 6th Avenue

Ontario, OR 97914

Telephone 503-8274422 Ext. 111

email amanda@winterbrookplanning.com

signature _____

Description of proposed action: The applicant requests City approval of a Comprehensive Plan/Zoning Map Amendment for their property from City High Density (RM10) to City Light Industrial (I1) to allow for indoor storage units.

If the application includes any site plans or other drawings, please submit electronic copies in pdf format

Property information:

Address _____

Tax Map # 17S47E33D

Tax Lot #(s) 2900

Lot size 9.25 acres

Zoning RM10

Existing use Vacant. No existing use.

OFFICE USE ONLY

120 day time limit

DLCD 45-day notice required

Notice of PC Hearing

Notice to media

Hearing dates

Notice of Decision

Associated applications

Accepted as complete

Y/N _____ Date mailed _____

Date mailed _____

Publication date _____

PC _____

Date mailed _____

Final decision by _____

Date of first hearing _____

Posted on site _____

Emailed _____

CC _____

Appeal deadline _____

10B-05-15 BURDEN, CRITERIA OF PROOF.

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

CHAPTER 10B-15 LEGISLATIVE AMENDMENT PROCEDURES

10B-15-05 LEGISLATIVE AMENDMENT, INITIATION OF ACTION. Amendments to Title 10A, 10B, 10C or other Titles in the development code series, or to the Comprehensive Plan may be initiated by the Council or Commission by motion, or by individuals by application as provided for in this Title. Amendment actions shall first be referred to the Planning Commission for the public hearing and recommendation. The Department of Land Conservation and Development shall be notified of the pending action at least 45 days before the final hearing date, unless a shorter time is authorized by Oregon administrative regulations for the type of action being taken.

10B-15-20 COMMISSION HEARING, DECISION. The Commission shall hold a public hearing on the action and shall recommend approval, disapproval, or modification of the proposed amendment and shall make findings as appropriate to support the recommendation. Written findings and recommendations shall be forwarded to the Council by the Planning Director.

Upon receipt of the Commission's recommendation, the Council shall set a date for a public hearing on the recommendation. If the hearing is to be the final hearing on the action, the date must be set late enough to allow the Department of Land Conservation and Development notice period to expire. The Council may approve, reverse or modify the amendment and may adopt the Commission's findings, create new findings or add to or delete from the Commission's findings. The Council may remand the action to the Commission for further consideration. A copy of the final decision shall be transmitted to the Department of Land Conservation and Development.

There are no specific approval criteria for an amendment to the Comprehensive Plan; the only requirement is that the Planning Commission shall make findings as appropriate to support a recommendation to the City Council. The applicant bears the burden of proof to show that the application has merit. This burden may include providing data to show that the City of Ontario is deficient in some area, and that the requested change will address the deficiency. The applicant is encouraged to provide as much information as possible, and will be responsible for defending the request to both the Planning Commission and City Council.

If the request involves a subsequent rezone, the applicant shall file a separate Rezone application, along with the requisite fee.

Comprehensive Plan Amendment applications go to the City Council for a final decision. However, the application must first go to the Planning Commission for a recommendation on the request. The City must mail a Notice of Proposed Amendment form to DLCD at minimum of 45 days prior to the Planning Commission hearing. Applicants should allow a minimum of 2 ½ months for an application to be processed by the City.

Applicant is:

- _____ The owner of the property
_____ The purchaser of the property under a duly executed written consent of the owner to make such application
_____ A lessee in possession of the property who has the written consent of the owner to make such authorization
X _____ The agent of any of the above, who is duly authorized in writing by the principal

AUTHORIZATION:

I hereby consent that I am authorized to make the application for a rezone and the statements within this application are true and correct to the best of my knowledge and belief. I verify that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by the City of Ontario may be revoked if it is determined that the authorization was issued on account of false statements or misrepresentation.



Signature of applicant

7/3/2023

Date



Signature of applicant

7-7-2023

Date

Signature of property owner

Date

Signature of property owner

Date

Signature of property owner

Date

Attach additional sheets if necessary

Incomplete applications, or insufficient information, may result in delay or denial of the application.

Mills Zone Change Application Narrative

Prepared by Winterbrook Planning
July 3, 2023



Figure 1: Property Proposed for Zone Change

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I. GENERAL INFORMATION:

PROPOSAL: The applicant requests City approval of a Comprehensive Plan/Zoning Map Amendment for their property from City High Density Residential (RM10) to City Light Industrial (I1) to allow for indoor storage units as shown on Figures 1-4.

PROPERTY OWNER: Zach Mills, on behalf of KZ Investment LLC.
40 NE 6th Avenue, Ontario, OR 97914

REPRESENTED BY: Amanda Philip, Assistant Planner
Greg Winterowd, Principal
Winterbrook Planning
610 SW Alder Street Suite 810, Portland, OR 97205

SUBJECT PROPERTY: The proposed zone change is for **Tax Lot 2900** (Map Number: 17S47E33D). Tax Lot 2900 is 9.25 acres.



Figure 2: Tax Lot Map

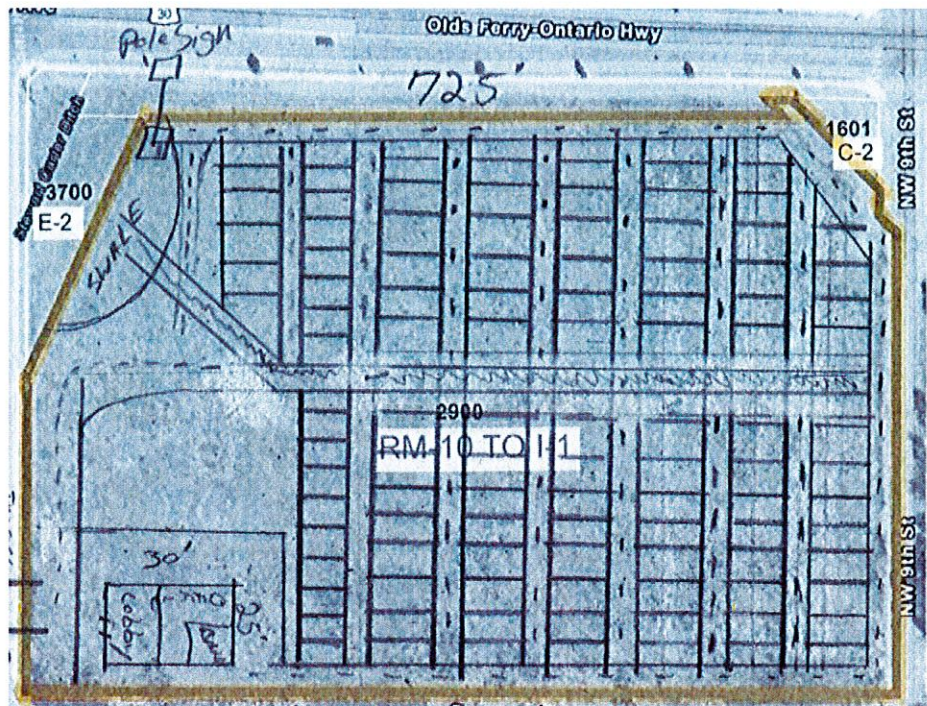


Figure 3: Rough Site Plan for Proposed Indoor Storage Units

II. SUMMARY & BACKGROUND INFORMATION:

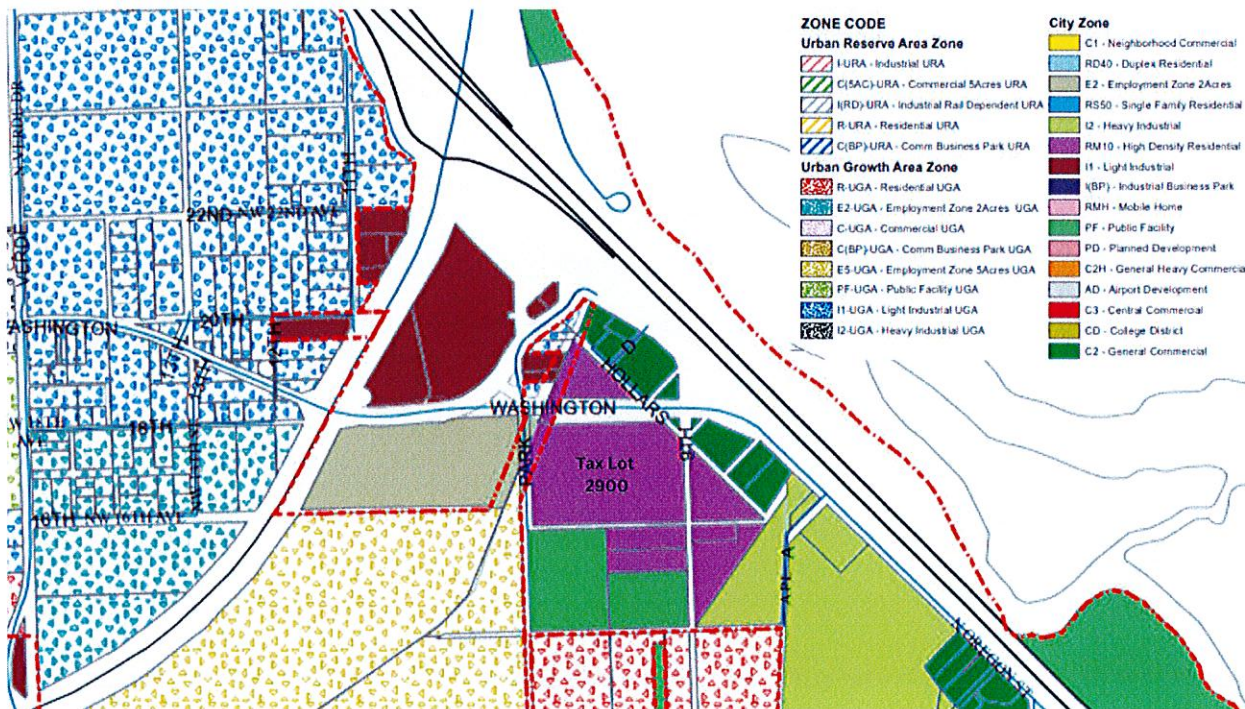


Figure 4: Existing Zoning Map

Proposed Comprehensive / Zoning Map Amendment

As shown on **Figure 4**, Tax Lot 2900 is located near the north perimeter of Ontario City Limits shown in a red dashed line and is currently zoned RM10 High Density Residential. The site is defined by NW Washington Ave to the north, N Park Blvd to the east, and NW 9th St. to the west.

As shown on **Figures 1 - 5**:

- Tax Lot 2900 is vacant and part of a small RM10 zoned area (shown in purple) that includes several single-family homes. However, this small RM10 area surrounded by land zoned and used for industrial, commercial, employment, and public facility purposes.
- The applicant proposes to rezone the site to I1 consistent with the industrial, commercial, employment, and public facility character of the area. As discussed under Statewide Planning Goal 9 and 10, Ontario has a large surplus of residential land and a small deficit in industrial land. The zone change helps meet Ontario's identified industrial land need.

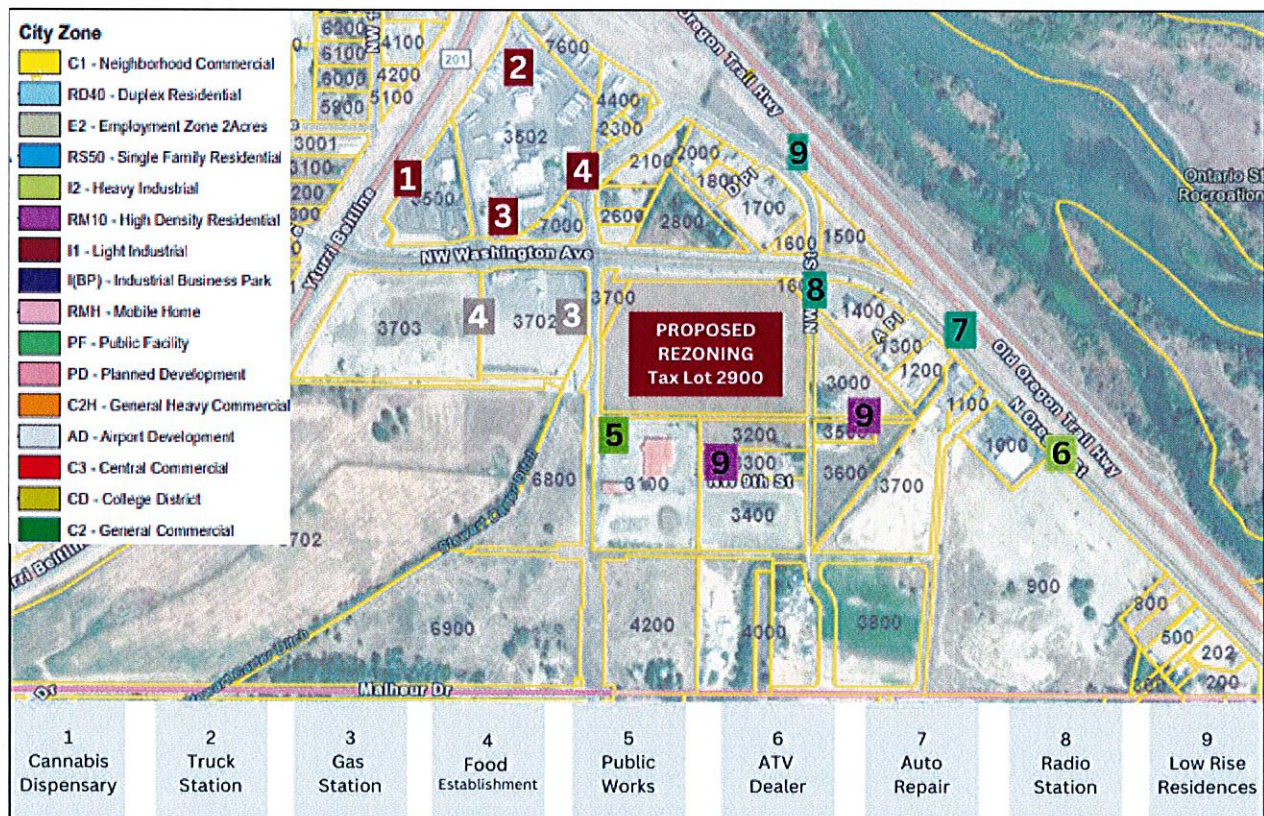


Figure 5: Surrounding Land Uses

Surrounding Land Use and Zoning

Tax Lot 2900 is one of seven tax lots zoned RM10 with no existing high-density residential development. This small area of RM10 tax lots is surrounded by:

- North:
 - Zoning: Light Industrial and General Commercial.
 - Land Use: Truck Stop, Auto Glass Shop, U-Haul Dealer, Bar, Food Establishment a few one-story Residences
- West:
 - Zoning: Employment Zone 2Acres and Employment Zone 5Acres UGA¹
 - Land Use: Food Establishment
- East:
 - Zoning: General Commercial and Heavy Industrial
 - Land Use: Radio Station, Auto Repair Shop, ATV dealer
- South:
 - Zoning: Public Facility (PF)
 - Land Use: Public Works Department

III. APPLICABLE CRITERIA AND STANDARDS:

Zone changes must meet the requirements of **Section 10-20-30** of the Ontario Zoning Ordinance (OZO), including applicable Comprehensive Plan policies, Statewide Planning Goals and Administrative Rules.

A. Zoning Map Amendment Criteria

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.***

Findings: Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 7 (Natural Hazards), 9 (Economic Development), 10 (Housing), 11 (Public Facilities and Services), and 12 (Transportation) are applicable to this zone change application.

Statewide Planning Goals 3 (Agricultural Lands), 4 (Forest Lands), 5 (Natural Resources), 6 (Air, Land and Water Resource Quality), 8 (Park and Recreational Needs), 13 (Energy Conservation), 14 (Urbanization), 15 (Willamette River Greenway), and 16-19 (Coastal Goals) are not applicable to or will have no significant impacts from the proposed zone change.

Statewide Planning Goal 1 requires that the city provide opportunities for public comment on quasi-judicial land use decisions. Public hearings before the Planning Commission are required

¹ Urban Growth Area

for zone changes. The public will be duly notified in accordance with Ontario Zoning Ordinance **Chapter 10B-03 Notice of Public Hearing**.

Notice includes:

- First class mail to individuals listed in **Chapter 10-03-10**.
- Publication in a newspaper of general local circulation at least ten days prior to the hearing.
- Sign posting that is visible from at least one adjacent public way.

Conclusion: The application will be consistent with Goal 1 (Citizen Involvement) provided that public notice is properly given and that members of the public be given the opportunity to comment on this proposal through the planning commission and city council public hearing processes.

Statewide Planning Goal 2 requires coordination among governmental agencies, an adequate factual basis for decision-making, and consistency with the Ontario Comprehensive Plan.

- Any proposed zoning map amendment shall be submitted to City department heads, Malheur County and State or Federal agencies at the discretion of the Planning Director.
- The Planning Commission will hold a public hearing with an opportunity to appeal to City Council. City Council's decision may be appealed to the Oregon Land Use Board of Appeals.
- This application narrative provides an adequate factual basis for approval of the proposed zone change.
- As documented below, the zoning map amendment is consistent with the acknowledged Ontario Comprehensive Plan.

Conclusion: The City will follow its acknowledged Comprehensive Plan policies and implementation measures to ensure Goal 2 compliance.

Statewide Planning Goal 7 requires that cities identify potential natural hazards and adopt measures to ensure public safety.

As shown on Figure 9 on page 14 of this narrative, Tax Lot 2900 is within the 100-year floodplain.² Development of land within the floodplain is subject to Ontario Zoning Ordinance **Section 10A-47-110**, which requires that non-residential development be flood-proofed or that the habitable floor of buildings be constructed at least one foot above the base flood level as determined by the Federal Emergency Management Agency (FEMA).

² Map from FEMA's National Flood Hazard Layer Viewer

Conclusion: Goal 7 (Natural Hazards) can be met because future development on land within the floodplain is subject to regulations to protect life and property within the 100-year floodplain.

Statewide Planning Goal 9 requires that cities provide sufficient suitable land for planned economic development consistent with the Ontario Comprehensive Plan.

- The Ontario Comprehensive Plan Goal 14: Urbanization, Table 14-4a (Figure 6) indicates that there is an unmet need for 21.5 acres of industrial land within the Ontario UGB.
- This meets the identified need for parcels between 5-20 acres.
- The proposal is to rezone approximately 9.7 acres of RM10 land to I1 which reduces this deficit from 21.5 acres to approximately 11.8 acres.

Conclusion: The proposed zone change is consistent with Goal 9 (Economic Development) because it will reduce the deficit of suitable industrial land within the Ontario UGA.

Table 14-4a: Ontario Employment and Public/Semi-Public Land Need and Supply 2006-2026 and Ontario Residential Land Need and Supply 2020-2040 (Revised 2013, and 2021)			
Generalized Land Use	Buildable Acres	Need 2006-2026	Surplus (Deficit) 2006-2026
Commercial	242.9	254.1	(11.2)
Industrial	485.8	507.3	(21.5)
Rail-Dependent Industrial	245.0	250.0	(5.0)
Public Facility	114.9	184.0	(69.1)
TOTAL	1,088.6	1,195.4	(106.8)
Residential Need	Buildable Acres Supply within City Limits	Need 2020-2040	Surplus (Deficit) 2020-2040
Low Density Residential	126	PRC Need: 2.3 Aspirational Need: 174.2	PRC Surplus (Deficit): 123.7 Aspirational Surplus (Deficit): (48.2)
Medium Density Residential	11	PRC Need: 0.38 Aspirational Need: 18.7	PRC Surplus (Deficit): 10.62 Aspirational Surplus (Deficit): (7.6)
High Density Residential	40	PRC Need: 0.33 Aspirational Need: 0.33	PRC Surplus (Deficit): 39.67 Aspirational Surplus (Deficit): 15.1
City Residential SUBTOTAL	177	PRC Need: 3.0 Aspirational Need: 177	PRC Surplus (Deficit): 174 within City Limits Aspirational Surplus (Deficit): (40.7) within City Limits
TOTAL Need from Residential UGA	414	Aspirational Deficit in City: 40.7	Remaining UGA Surplus (Deficit): 373.3

Figure 6: Ontario Comprehensive Plan, Goal 14 Table 14-4a

Statewide Planning Goal 10 requires that cities provide sufficient buildable residential land to meet identified housing needs. Figure 3 is also derived from Comprehensive Plan Table 14.4a.

COMPREHENSIVE PLAN DESIGNATION	PROJECTED GROSS BUILDABLE RESIDENTIAL ACREAGE NEED	GROSS BUILDABLE ACRE SUPPLY WITHIN CITY LIMITS	RESIDENTIAL BUILDABLE ACRE SURPLUS OR (DEFICIT)
Low Density Residential	2.3	126	123.7
Medium Density Residential	0.38	11	10.62
High Density Residential	0.33	40	39.67
TOTAL	3.0 acres	177	174

Figure 7: Comparison of Residential Buildable Land Need and Supply by Plan Designation, 2020 to 2040

- According to the Ontario Housing Report: Housing Needs Analysis & Residential Buildable Lands Inventory, the City of Ontario has a 39.67-acre surplus of High Density Residential buildable acres required to accommodate housing based on the PRC³ 2040 population forecast. The projected High Density Residential buildable acres need is less than an acre (0.33 acres) and the buildable land supply is 40 acres.
- The proposed rezone is for approximately 9.25 acres from RM10 to I1. Removing 9.25 acres from the 39.67 High Density Residential buildable acres *surplus* still results in 30.42 acres of surplus.
- The proposed rezone reduces the total *surplus* residential buildable land supply from 174 buildable acres to approximately 164.75 buildable acres.

Conclusion: The proposed zone change is consistent with Goal 10 (Housing) because the City will continue to have an oversupply of buildable residential land within its UGB after the zone change. The Ontario UGB has a substantial surplus of residential land in general and of RM10 land in particular.

Statewide Planning Goal 11 requires that public facilities be available and adequate to serve planned land uses.

Figure 8 shows sanitary sewer, storm sewer, and water lines available and adequate for a variety of industrial uses including the planned indoor storage use.

³ Population Research Center- PSU



Figure 8: Public Facilities that Serve Proposed Zone Change Area

Conclusion: The proposed zone change is consistent with Goal 11.

Statewide Planning Goal 12 requires that the zone change not have a significant adverse impact on transportation facilities that serve the site.

As shown on Figure 9 below, the subject property is adjacent to:

- NW Washington Ave - minor arterial
- N. Park Blvd - minor collector
- NW 9th St - local road

The following is a comparison between daily trips that will likely be generated from permitted multi-family development under the existing RM10 zone and the light industrial development (storage units) that is proposed in the I1 zone.

The existing zoning allows residential development at up to 31 dwelling units per net buildable acre. Assuming 20% of the 9.25-acre site will be devoted to streets, the reasonable worst-case scenario for residential development of this site would be 229 multi-family dwelling units. Based on the ITE Manual, at 4.4 vehicle trips per day, multi-family development would generate about

1,008 vehicle trips per day. Many of these trips would occur during the morning and evening peak hours.

The owners propose to use the site for indoor storage units. Based on the rough site plan (Figure 3), the site could reasonably accommodate about 120 individual storage units.



Figure 9: Transportation Facilities

We used the ITE Trip Generation Manual (Tenth Edition) to determine the relative impact on daily and peak-hour trips. As shown on Table 1 below, 120 storage units will generate about 22 daily trips. Most of these trips will occur outside peak hour periods.

This amounts to about 8% of the daily vehicle trips that would be generated by a multi-family with 229 units. Thus, the traffic impacts from the reasonable worst-case light industrial scenario are considerably less than the impacts that would result from apartment development on this site. For this reason, the proposed zone change will not have a significant impact on major streets or intersections serving the site.

As noted in the discussion of the Transportation element of the Ontario Comprehensive Plan below, the Ontario Zoning Ordinance does not require a transportation impact analysis (TIS) for projects that generate fewer than 600 daily trips. Thus, a TIS *would* be required for residential development of the subject properties but *would not* be required for light industrial development on this site (because many fewer trips would be generated under the reasonable worst-case scenario).

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TRIP GENERATION CALCULATIONS

Land Use: Mini-Warehouse
Land Use Code: 151
Setting/Location: General Urban Suburban
Variable: Storage Units (100s)
Variable Value: 2.5

AM PEAK HOUR

Trip Rate: 1.39

	Enter	Exit	Total
Directional Distribution	51%	49%	
Trip Ends	2	1	3

PM PEAK HOUR

Trip Rate: 1.95

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	3	2	5

WEEKDAY

Trip Rate: 17.96

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	22	22	44

SATURDAY

Trip Rate: 16.29

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	20	20	40

Source: TRIP GENERATION, Tenth Edition

Figure 10: Trip Generation Calculations for Personal Storage Units

Conclusion: The proposed zone change will not significantly impact a state highway or major streets in Ontario; therefore, the proposal will not violate Goal 12 (Transportation).

Overall Statewide Planning Goal Conclusion: The proposed zone change is consistent with applicable statewide planning goals based on the factual evidence and analysis presented above.

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

Findings: The Ontario Comprehensive Plan includes several policies that support the proposed zone change and no policies that are directly opposed to the proposed zone change. Each relevant policy is quoted in *italic font* below followed by findings explaining how the proposal addresses the policy.

10-1-5 Policies: Citizen Participation, Agency Coordination

- 5) The Ontario City Planning Commission shall act as the committee for citizen involvement.*
6) The Council may of its own choice, or may upon the recommendation of the Commission, appoint such ad hoc citizen or agency committees, task forces, or other citizen or agency committees, task forces, or other advisory groups as are necessary to accomplish the planning needs of the community.
7) The Planning Director shall be responsible for assuring that adequate publicity and information is available to the public and parties affected by planning related actions of the City. The Planning Director shall maintain contact with agencies that may have an interest in planning related actions.

Findings: The Ontario Planning Commission makes recommendations to the City Council on proposed rezonings. Public hearings before both bodies are required. The Planning Director will prepare the staff report for both bodies, which must be available at least seven days before public hearings. These policies will be met.

10-2-4 Policies: Land Use Planning, General

- 4. The land use planning process shall be utilized to assure an adequate supply of land, properly serviced, for the various residential, commercial, industrial, recreational and institutional needs of the community.*
5. Land use planning decisions, particularly quasi-judicial actions shall be in harmony with the policies adopted in this document [...]

Findings: The proposed zone change from RM10 to I1 redresses the existing imbalance between land need and supply within the Ontario UGB. As mentioned in Statewide Planning Goal 9 and Goal 10, there is a current surplus of residential land and a deficit of industrial land within the UGB. The remainder of this document demonstrates that the proposed zone change is in harmony with applicable comprehensive plan policies.

10-2-5 Policies: Visual Image, Development Pattern

- 3. New development shall not be scattered and disjointed so as to increase the costs of supplying services and facilities.*
4. Utility extension policies shall be designed and administered so as to enforce compact development. Urban type development shall be discouraged on land that cannot be efficiently supplied with municipal utilities at the time of occupancy.

Findings: As discussed in Zoning Map Amendment Criteria (g), the proposal will concentrate industrial development in an area dominated by industrial and commercial land uses.

As documented under Statewide Planning Goal 11, storm sewer, sanitary sewer, and water lines serve the site. Thus, the site can be served efficiently when development occurs on the site.

10-2-6 Residential Policies

1. Residential areas shall be planned so they do not intrude into industrial areas or predominantly commercial areas.

10-2-8 Industrial Land Use Policies

- 1. Industrial areas shall be protected from encroachment by incompatible land uses.*
- 2. The land use plan shall designate industrial sites of a variety of sizes to provide ample space for new industries, expansion of existing industries, and to provide for competition in the industrial land market.*
- 3. Industrial sites shall be functionally related to existing or proposed transportation systems. Access through residential areas shall be avoided.*
- 4. Industrial sites shall be grouped to facilitate service by utilities and public safety services.*
- 5. Industrial developments shall provide design features or buffers that protect adjacent non-industrial properties from adverse effects.*

Findings: Tax Lot 2900 is currently zoned for high density residential use. The proposed rezoning of Tax Lot 2900 is one lot of seven RM10 surrounded by the following zones: Light Industrial, General Commercial, Employment Zone 2Acres, Employment Zone 5Acres UGA, Public Facility, and Heavy Industrial. The area is partially developed as seen in Figure 5. Most of the surrounding land uses are industrial and commercial in nature, however there are three existing one-story residences in tax lots zoned RM10.

These industrial policies suggest that residential land should not be planned in predominantly industrial and employment areas. Thus, the site's existing RM10 zoning appears to be inconsistent with Residential Policy 1.

Consistent with Industrial Policy 2, Tax Lot 2900 is 9.25 acres, one of the industrial site size needs identified in the Comprehensive Plan. As mentioned in Goal 9, there is a need for industrial sites between 5-20 acres.

These industrial policies recommend that industrial zoned land be clustered in areas with highway and rail access and adequate public facilities.

- As called for in Industrial Policy 3, Tax Lot 2900 is located between Yturri Beltline (state highway) and Interstate 84.
- As called for in Industrial Policy 4, Tax Lot 2900 is in an area well served by existing utilities and public safety services.

- As called for in Industrial Policies 1 and 5, the proposed zone change would allow indoor storage which does not have adverse effects on adjacent properties or existing land uses⁴

To ensure compatibility with adjacent residentially zoned areas, any proposed development in the I1 zone will be subject to Ontario Zoning Ordinance requirements related to landscaping and buffering.

In summary, the proposed rezoning is consistent with Comprehensive Plan policies regarding industrial and residential zoned land.

10-7-4 Flooding and Steep Slope Hazard Policies

1. The City recognizes that land within the 100-year floodplain has been inappropriately designated for urban uses in the past, resulting in the loss of flood storage capacity and potential hazards to life and property. The City, therefore, is committed to working with Malheur County to avoid this mistake in the future. a. The City will not propose future UGB expansions for residential, commercial or industrial uses within the flood hazard zones (100-year floodplains) of the Snake or Malheur Rivers. b. Industrial land within the 100-year floodplain is not considered suitable for meeting the City's long-term employment needs. c. Residential land within the 100-year floodplain is not considered buildable for residential purposes. d. The City will actively pursue the creation of a flood storage and wetland mitigation bank on public land, to compensate for the loss of flood storage capacity and wetland values resulting from urban development within floodplain areas.

2. The City, in cooperation with State and Federal agencies, shall continue to collect and refine information bearing on the delineation of areas of potential flooding. 3. The City shall continue to maintain and enforce development regulations designed to protect life and property from flooding. 3. The City shall continue to maintain and enforce development regulations designed to protect life and property from flooding.

Findings: The 100-year floodplain in relation Tax Lots 2900 is shown in Figure 9 below. Development on industrial land within the floodplain may occur on a limited basis consistent with Ontario Zoning Ordinance Section 10A-47-110 – Nonresidential Construction.

Proposed I1 uses are subject to Ontario Zoning Ordinance Section 10A-47-110 – Nonresidential Construction. This section requires that non-residential development either be flood-proofed or that habitable floor areas be constructed at least one foot above the base flood elevation, as determined by a licensed engineer.

⁴ Existing land uses detailed above in the Summary and Background Information

10-11-5 Public Facilities Policies

5) Information regarding system and line capacities shall be among the considerations used in making immediate and long range land use decisions. The capital improvement program and land use policies shall assure that all facilities will be efficiently utilized.

8) Development proposals for industrial or commercial uses shall include descriptions of water and sewer requirements. Provisions for financing shall be developed in accordance with the City's ordinances and policies.

Findings: As shown on Figure 8, storm sewer, sanitary sewer and water lines are available to serve Tax Lot 2900, including:

- An 8” sanitary sewer line.
- Water lines ranging from 8” to 12”.
- Storm sewer lines that range from 12” to 24”.

Conclusion: The proposed zone change is consistent with applicable public facilities policies because storm sewer, sanitary sewer, and water lines are immediately available to serve the site.

10-12-4 Transportation Policies

Findings: Ontario transportation policies are designed to implement Statewide Planning Goal 12 Transportation and the Transportation Planning Rule. Please see discussion under Statewide Planning Goal 12.

The proposed light industrial zoning will generate substantially fewer trips than would be generated if the existing RM10 were to remain in place. Therefore, a transportation impact study should not be required.

The subject property is adjacent to NW Washington Ave, N Park Blvd, and NW 9th Street. There are sidewalk improvements along NW Washington Ave and N Park Blvd. There are no existing or proposed bike lanes for the area.

Access to the site is proposed from N Park Blvd, a minor collector street, rather than NW Washington Ave, U.S. Route 30 Business.

Urbanization – Comparison of Land Need and Supply (10-14-6)

As noted in the Statewide Planning Goal 9 and Goal 10 discussion above, the Ontario UGB has a shortage of industrial land and a large surplus of residential land. Comprehensive Plan **Table 14-4a, Figure 6**, compares land use need and supply within the Ontario UGB.

Conclusion: The proposed zoning change from Residential (which has a surplus of 174 acres) and Industrial (which has a deficit of 21.5 acres) is consistent with Goal 14 because it will result in a more balanced relationship between land need and supply as set forth in Table 14-4a.

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.

Findings: Tax Lot 2900, along with six other adjacent parcels, is zoned for high density residential and has not developed for that purpose. The property owner has no interest in developing the property for residential use and believes the highest and best use of the properties is I1.

There is less demand for residential land within the UGB – especially at this location, which is well-suited for industrial development. By rezoning the subject property from high density residential to light industrial, this tax lot is more likely to be used for employment purposes. If additional employment opportunities come to the community, residential development is likely to follow. As shown in Figures 5 and 12, much of the vicinity is vacant along with transportation-oriented amenities like truck stops, fuel stations, two food establishments, and an auto repair store.



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.

Findings: Tax Lot 2900 is 9.25 acres which satisfies the need for industrial parcels between 5-20 acres, identified in the OCP Goal 9- Economic Development (Table 9-3) section. It can accommodate a variety of industrial / storage uses.

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.

Findings: In Statewide Planning Goal 1, as shown on Figure 8, sanitary sewer (green), storm sewer (red), and water (blue) lines serve Tax Lot 2900.

The property is well-served by transportation facilities. The site is adjacent to NW Washington which connects with Yturri Beltline, a state highway, to the west. Because there will be no significant impacts on these facilities from the “worst case” development scenario for these properties, no transportation improvements are necessary to serve the site.

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.

Findings: As documented above, overall, the proposed zoning change will help meet Ontario’s industrial land need and is compatible with the existing zoning and land use pattern in the area. Although the specific light industrial use for the properties is not part of this proposal, the applicant plans to propose indoor storage which does not typically result in dust, noise, vibration, odor, heat, glare, lighting, or discharges into the environment.

However, any external impacts from the development and light industrial use of the site must meet City performance standards related to mitigation of impacts from dust, noise, vibration, odor, heat. Glare, lighting or discharges into the air, water or land, as set forth in the Ontario Zoning Ordinance, **Section 10A-39.30 Performance Standards**⁶ as well as Oregon Department of Environmental Quality environmental standards.

⁶ **10A-39-30 - PERFORMANCE STANDARDS.**

*Each structure or use permitted of right or conditionally in the I-1 Zone shall meet the following performance standards: 1. **Physical appearance.** With the exception of gasoline pumps, all operations other than pickups and deliveries shall be carried on within an enclosed building, provided that new materials or equipment in operable condition may be stored in the open, and normal daily wastes may be stored in containers not in the building when such containers are not readily visible from a public street. The provisions of this paragraph shall not be construed to prohibit the display of merchandise or vehicles, farm machinery, trailers, manufactured homes or similar equipment in operable condition when in association with a permitted use. The required front yard shall be landscaped to the standards set forth under Miscellaneous Provisions of this Title. 2. **Fire hazard.** No operation shall be established which fails to meet the fire code which is adopted into the Ontario City Code and any applicable State or Federal codes. This provision shall not be construed to prohibit the use of normal heating fuels,*

The Ontario Zoning Ordinance includes provisions for buffering of planned light industrial development and existing residential development. The large, 9.25-acre parcel has sufficient space to provide buffers between future residential and industrial development.

B. Overall Conclusion:

The proposed zone change makes sense for two primary reasons: first, it is consistent with the pattern of existing zoning and land use development in the vicinity, and second, it provides a better balance between land use need and supply, as expressed in Table 14-4a of the Ontario Comprehensive plan.

*motor fuels and welding gases when handled in accordance with applicable codes. 3. **Noise.** No operation shall be carried on which creates noise in excess of the normal traffic noise of the adjacent street at the time of daily peak hour traffic volume. Noise volume generated by the use shall be measured at any property line. The comparable traffic noise shall be measured at the property line adjacent to the street. All noises shall be muffled so as not to objectionable due to intermittence, beat frequency or shrillness. 4. **Sewage and liquid waste.** All operations shall comply with Title 8, Ontario City Code and any applicable regulations of State or Federal agencies responsible for pollution control. No wastes of a chemical, organic or radioactive nature shall be injected or buried in the ground or stored in the open on the surface except in approved containers. 5. **Smoke, particulate matter and gasses.** No use shall be established which fails to meet the air quality regulations of the Oregon Department of Environmental Quality pertaining to emissions of smoke, particulate matter, fugitive dust, gasses and other air contaminants. 6. **Odor.** The emission odors that are generally agreed to be obnoxious to any considerable number of persons is prohibited. Observations shall be made at the property line of the establishment generating the odors. As a general guide to classification of odor, it is deemed that odors of putrefaction, hydrogen sulfide, fermentation and rendering processes, are objectionable while odors associated with baking, coffee roasting or nut roasting are normally not considered obnoxious. 7. **Vibrations.** All machines shall be mounted so as to minimize vibration and in no case shall such vibration be perceptible, without the use of instruments, at the property line. The use of steam or broad hammers are [is] not permitted in this zone. 8. **Glare and heat.** All glare and heat producing operations, such as welding arcs and open furnaces, shall be shielded so that they are not visible from the property line and surfaces near the glare source shall be of a type which will minimize the reflection of such glare beyond the property line. No heat from equipment or furnaces shall raise the temperature of materials or ambient air at the property line more than three degrees Fahrenheit. 9. **Dust.** All surfaces used in the operation of the use shall be paved with a dust free surface. 10. **Interpretation.** Whenever it cannot be decided by reasonable observation that a performance standard is being met, it shall be the responsibility of the operator of the use to supply evidence or engineering data to support the contention that a standard is being met. The standards are designed, except where referring to other codes, to be judged by ordinary human senses and not by the minute detail of scientific quality instruments.*

City of Ontario Planning and Zoning Application Form

444 SW 4th Street, Ontario, OR 97914

Permit Center Annex: 458 SW 3rd Street

Voice (541) 881-3224 / (541) 881-3222

Fax (541) 881-3251



REZONE APPLICATION

FILE # With 2023-07-10 CPA MD Date Received _____

~~Fee \$330.00 + \$220 = \$550.00~~ Time Received _____

(Mailing & Advertising \$220.00)

Accepted as Complete _____

Applicant(s) – attach additional sheets as necessary

Name Amanda Philip Winterbrook Planning

Address 610 SW Alder Street Suite 810

Portland, Oregon 97205

Telephone 503-8274422 Ext. 111

email amanda@winterbrookplanning.com

signature

Property Owner(s) – attach additional sheets as necessary

Zach Mills, KZ Investments LLC

40 NE 6th Avenue

Ontario, OR 97914

Description of proposed action: The applicant requests City approval of a Comprehensive Plan/Zoning Map Amendment for their property from City High Density (RM10) to City Light Industrial (I1) to allow for indoor storage units.

If this request involves a change in the Comprehensive Plan map, please submit a Comprehensive Plan Change application form.

If the application includes any site plans or other drawings, please submit electronic copies in pdf format

OFFICE USE ONLY

120 day time limit
DLCD 45-day notice required
Notice of PC Hearing
Notice to media
Hearing dates
Notice of Decision
Associated applications

Accepted as complete _____
Y/N Date mailed _____
Date mailed _____
Publication date _____
PC _____
Date mailed _____

Final decision by _____
Date of first hearing _____
Posted on site _____
Emailed _____
CC _____
Appeal deadline _____

REZONE JUSTIFICATION

THE FOLLOWING INFORMATION MUST BE COMPLETED IN FULL. AN APPLICATION WILL NOT BE ACCEPTED FOR A ZONE CHANGE REQUEST WITHOUT THIS INFORMATION

THE CITY WILL USE THESE ANSWERS IN ITS ANALYSIS OF THE MERITS OF THE APPLICATION

PLEASE PRINT CLEARLY OR TYPE

A. DESCRIPTION OF PROPERTY:

Township 17 S Range 47 E Section 33D, Willamette Meridian

Tax Lot # 2900

Lot Size 9.25 Current Zoning RM10
(ACRES OR SQUARE FEET)

Property Address _____

Name of Subdivision _____

EXISTING RECORDED EASEMENTS:

Purpose & Description: _____

Book & Page No. _____ Inst. # _____

EXISTING DEED RESTRICTIONS:

Purpose & Description: _____

Book & Page No. _____ Inst. # _____

B. SPECIFICATION OF REQUEST

Zone Requested Light Industrial

Intended use under new zone (Explain in detail, including all operational characteristics, use extra sheets.) Indoor Storage Units

C. JUSTIFICATION

PROPOSED FINDINGS

In preparing findings of fact to support a 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 proposal.

Explain in detail, using extra sheets as needed, how the proposed zone change complies with the following required findings:

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

See Exhibit A. Zone Mills Change - Application Narrative which responds to the
seven zone change criteria.

2. Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.

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.

3. 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.

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.

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.

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.

10B-05-15 BURDEN, CRITERIA OF PROOF.

1. The proponent of proposals shall have the burden of proving the justification of the request. The greater the impact of the request on an area, the greater is the burden upon the proponent.
2. The requested proposal must be supported by proof that it conforms to all applicable standards and criteria of the OMC. The Planning Official may require that proponents submit written evidence, facts and/or written findings substantiating such conformance, as part of the application.

CHAPTER 10B-20 QUASI-JUDICIAL ZONING MAP AMENDMENT

10B-20-05 PURPOSE, AUTHORITY. The quasi-judicial zoning map amendment procedures are designed and authorized to adjust zone boundaries and create new zoning classifications on the official zoning map within areas on the land use plan indicated for the uses allowed by the map change. Such changes shall be in conformity with the land use goals of the state. The decision of the Commission shall be the final decision of the City unless an appeal is filed as authorized by this Title.

10B-20-25 HEARING DECISION. The Commission shall hold a public hearing on the action and shall approve, deny, or modify the proposed zoning map amendment and shall make findings as appropriate to support the decision. The Planning Director shall notify the applicant of the decision of the Commission and notify any person appearing at the hearing in person, if they are not present when the final decision is rendered, or if the person has appeared in writing. During the hearing, persons appearing shall be advised that they must testify in favor of or in opposition to the action to gain standing to appeal the Commission's decision to the Council. Persons testifying shall be advised that they must address one or more of the criteria or required findings set forth in this Title for quasi-judicial zoning map amendment decisions in order to establish standing to appeal the final local decision to the Oregon Land Use Board of Appeals.

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 findings clearly does not apply to the current action:

1. The zoning map amendment is in conformance with statewide planning goals and guidelines.
2. The zoning map amendment is in conformity with the acknowledged comprehensive plan.
3. 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.
4. 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.
5. 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.
6. 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.

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.

Note:

Rezone applications are decided by the City Council. However, the application must first go to the Planning Commission for a recommendation on the new zone. Applicants should allow a minimum of two months for an application to be processed by the City; additional time may be necessary if the request involves a Comprehensive Plan change.

Applicant is:

- ____ The owner of the property
- ____ The purchaser of the property under a duly executed written consent of the owner to make such application
- ____ A lessee in possession of the property who has the written consent of the owner to make such authorization
- X The agent of any of the above, who is duly authorized in writing by the principal

AUTHORIZATION:

I hereby consent that I am authorized to make the application for a rezone and the statements within this application are true and correct to the best of my knowledge and belief. I verify that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by the City of Ontario may be revoked if it is determined that the authorization was issued on account of false statements or misrepresentation.

_____
Signature of applicant

7/3/23

Date_____
Signature of applicant

7-7-2023

Date_____
Signature of property owner_____
Date_____
Signature of property owner_____
Date_____
Signature of property owner_____
Date

Incomplete applications, or insufficient information, may result in delay or denial of the application.

SUPPLEMENTAL INFORMATION TO SUBMIT WITH APPLICATIONS:

The following additional data may be required at the discretion of the Planning or Public works Official:

1. Any data required by OMC land development regulations.
2. Finished floor elevation related to curb, street, or other established grade or benchmark.
3. Drainage patterns. All lots shall show grading and drainage and finished grades or contours (clearly indicated).
4. The size and location of all existing and proposed public and private utilities, easements, or right of way.
5. The size, setback dimensions, and height of all proposed structures, and all existing structures to be retained on-site, and, the use of each structure. The locations may be indicated by construction site envelopes showing possible legal locations near the spot, building dimensions including height, and building separation.
6. Location, dimensions and names of adjacent streets and proposed internal streets, showing centerline radii and curb return radii.
7. The location and dimensions of existing and future sidewalks shall be shown.
8. The proposed layout of parking lots including the location and dimensions of parking spaces, curbed islands, internal planter strips, maneuvering aisles, and access driveways with indication of direction of travel.
9. The location of all signs, exterior lighting and fencing to be used to divide properties and to screen mechanical equipment and trash containers.
10. Existing physical features including drainage ways and structures with indication as to which are to be retained. Adjacent properties and their physical features within 50 feet of the property line shall be identified, including setback dimensions of adjacent structures.
11. The location of existing trees and scrubs and notation of which are to be retained on the property; location and dimensions of proposed landscaped areas; location and types of all proposed plant material and ground cover; location and type of irrigation systems; and, all other pertinent landscape features.
12. Location of all recreational amenities such as open play areas, swimming pools, tennis courts and recreational equipment.
13. Statement of maintenance responsibility for all improvements shown on the site plan.
14. Site data in tabular form including:
 - a. Total area of the property in square feet.
 - b. Building coverage in square feet and percent total.
 - c. Parking lot in square feet and percent total.
 - d. Landscaped area in parking lot in square feet.
 - e. All other landscaped areas in square feet.
 - f. Number of parking spaces provided.
 - g. Number of residential units if appropriate.
 - h. Existing and proposed gross floor area in square feet.

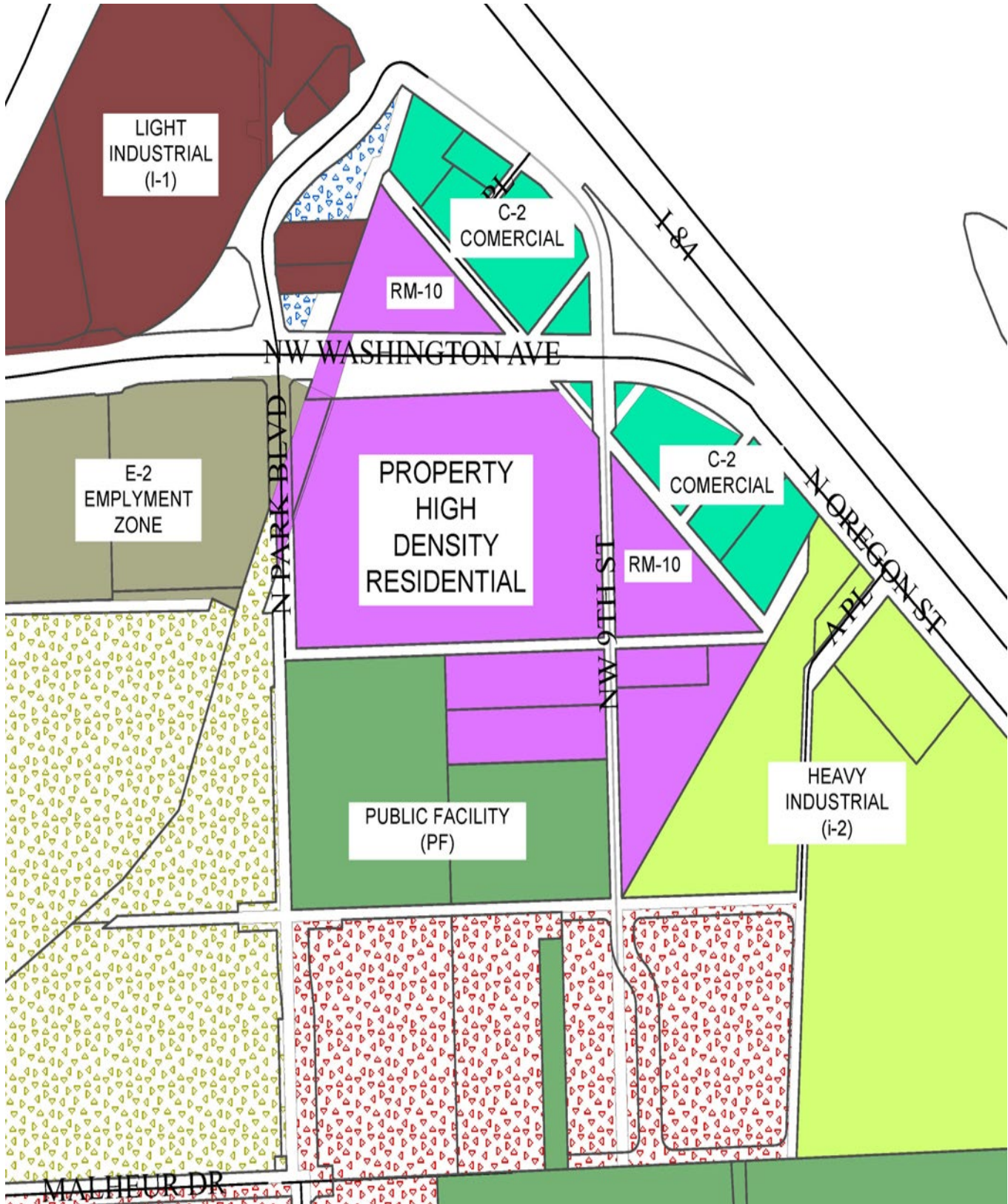
If the applicant is not the property owner, the Planning Official may require documentation of consent to represent the owner including:

- A. A description of the property and the specific action for which approval is sought
- B. Signature of owner
- C. Date of consent
- D. Party to whom consent is given
- E. Notarization of consent

If you are providing large or detailed plans, please provide electronic copies with your application, or make arrangements to email them to staff.

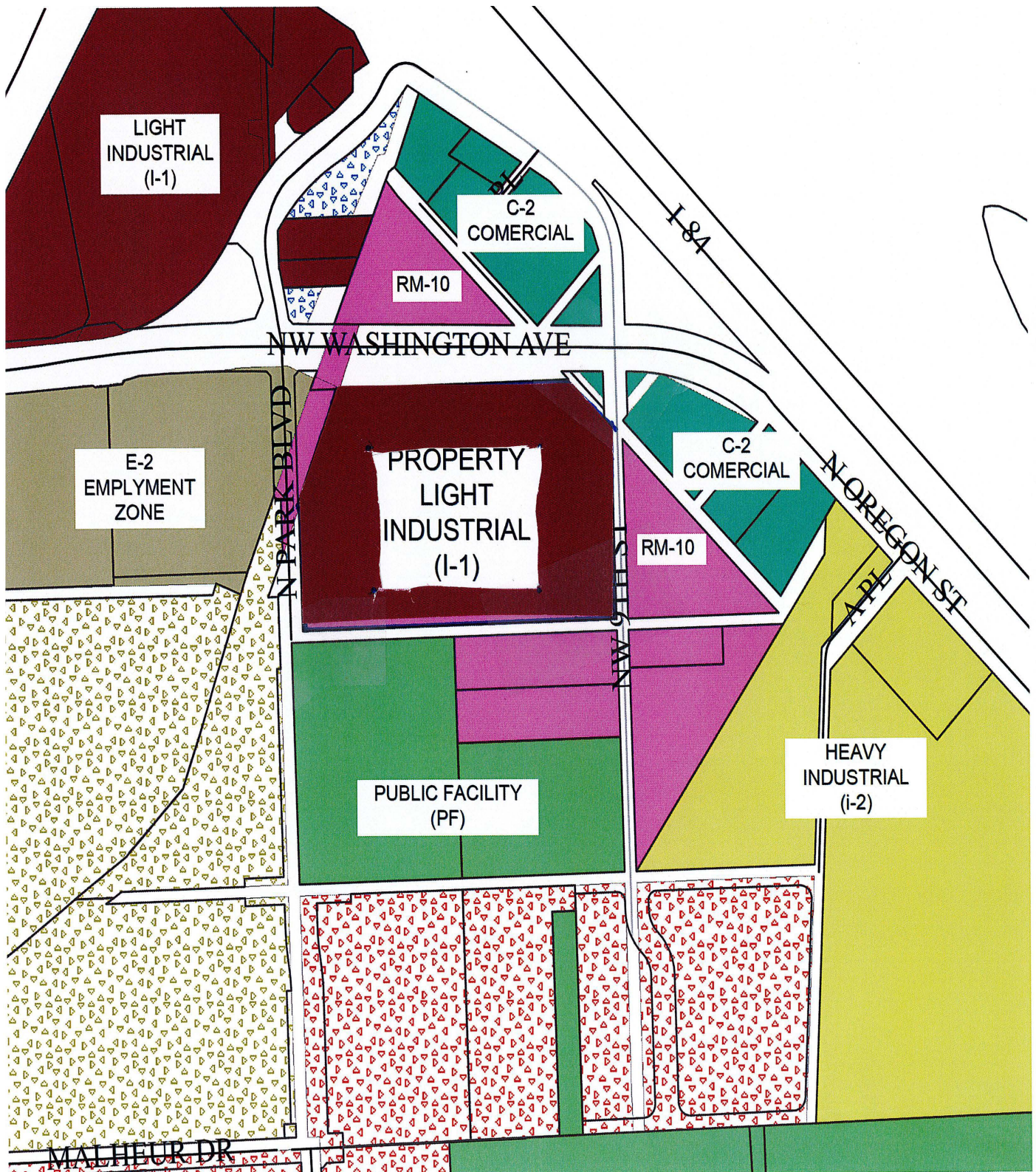
Electronic copies of all written materials are appreciated if available.

Attachment 3
ONTARIO ZONING MAP
APPLICATION 2023-07-10CPMD
BEFORE: City High Density Residential (RM-10)



Mills Rezone/City High Density Residential (RM-10) to City Light Industrial (I-1)

Attachment 4
ONTARIO ZONING MAP
APPLICATION 2023-07-10CPMD
AFTER: City Light Industrial (I-1)





Oregon

Tina Kotek, Governor

Department of Transportation

Region 5, District 14
1390 SE 1st Avenue
Ontario, OR 97914
541.889.9115

August 17, 2023

VIA EMAIL: dan.cummings@ontariooregon.org
Dan Cummings, City Manager
City of Ontario
444 SW 4th Street
Ontario, Oregon 97914

Subject: Rezone of 9.25 acres from City High Density Residential (RM-10) to City Light Industrial (I-1), NW Washington, City File #2023-07-10-CPAMD

The Oregon Department of Transportation (ODOT) has jurisdiction of OR 201 (Yuturri Beltline), including responsibility for managing access within the corridor. ODOT is committed to preserving the function of the state highway system and public infrastructure investments as the area infills and redevelops.

Ensuring the transportation system is managed effectively to support multi-modal choices in accordance with the City's Transportation System Plan is necessary to satisfy requirements of the ORS 660-012 Transportation Planning Rule.

ODOT has concerns with the preliminary Finding Report using the planned use of the property, storage units, as the worst case for Light Industrial (I-1) zone. More than likely this is not the highest and best use of the I-1 zone. Under this scenario, the City will need to consider placing a trip cap on the I-1 zone to limit trips to the Storage Units.

A search of the City's zoning code for I-1 allows, "Lumberyards and building supply establishments with associated retail display and sales space", uses which demonstrate that the Storage Units are not the highest and best use under the I-1 zone.

Assuming 20% drive and parking areas, and 30% for outside storage the development would have 50% building coverage. This would allow a 200,000 square foot building and under Institute of Traffic Engineers (ITE) Trip Generation Manual (Tenth Edition), code 812 would produce approximately 3,400 weekday trips or 10,300 weekend trips. See Trip Calculation attachment.

This would far exceed the approximate 1,000 weekday trips for the RM-10 zone by 2,400 weekday trips, thus a significant affect.

This also far exceeds the City's code requirement for projects that generate 600 Average Daily Trips (ADT) to provide a Traffic Impact Analysis (TIA).



Oregon

Tina Kotek, Governor

Department of Transportation

Region 5, District 14
1390 SE 1st Avenue
Ontario, OR 97914
541.889.9115

Dan Cummings, City Manager
Page 2
August 17, 2023

ODOT welcomes the opportunity to meet with the City and applicant regarding future development plans and the timing of a TIA. Thank you for the opportunity to comment.

Paul Woodworth, District 14 Manager

CJS

cc: Ken Patterson, ODOT Region 5 Manager
Teresa Penninger, Region 5 Planning
David Boyd, Regional Access Management Engineer

Attachment – Trip Calculation

Department of Transportation

Region 5, District 14

1390 SE 1st Avenue

Ontario, OR 97914

541.889.9115

Attachment - Trip Calculation

**Weekday/Weekend Peak Trip Generation
Trips Based on Average Rates/Equations**

Project Name	Winterbrook-KZ Investment, LLC
Project Number	2023-07-10CPAMD

ITE Code	Land Use Description	Independent Variable	No. of Units	Avg Rate or Eq	Rates					Total Trips				
					Weekday			Weekend		Weekday			Weekend	
					Daily Rate	AM Peak Rate	PM Peak Rate	Daily Rate	Peak Rate	Daily Trips	AM Peak Trips	PM Peak Trips	Daily Trips	Peak Trips
221	Multifamily Housing (Mid-Rise) Not Close to Rail Tr	Dwelling Unit(s)	229	Avg	4.54	0.37	0.39	4.57	0.39	1040	85	89	1048	89
					Existing Use Totals					1040	85	89	1048	89
812	Building Materials and Lumber Store	1,000 Sq Ft	200	Avg	17.05	1.59	2.25	51.61	9.58	3410	318	450	10322	1916
					Proposed Use Totals					3410	318	450	10322	1916

CHANGE OF USE EVALUATION			
Peak Hour Trips		Daily Trips (Weekday or Weekend)	
Existing	89	Existing	1048
Proposed	1916	Proposed	10322
Net Change in Trips	1827	Net Change in Trips	9274
Percent Change in Trips	2053%	Percent Change in Trips	885%
Triggers Change of Use?	Yes	Triggers Change of Use?	Yes

Notes:

A Trip generation data from ITE *Trip Generation, 10th Edition*

B Peak hour rates correspond to peak of generator (if data available)

If mask of generator data not available, mask of adjacent street traffic is used.

Action 2023-07-10 CPAMD: A request for Comprehensive Plan / Zoning Map Amendment and Rezone

To ensure that there will be no significant effect on state facilities (in particular Highway 201 aka Yturri Beltline) from rezoning the subject 9.25-acre site from High Density Residential (RM-10) to Industrial (I-1), the following conditions of zone change approval shall be incorporated as a binding development agreement into the required Deferred Improvement Agreement (DIA). The DIA, along with the development agreement, shall be recorded.

Conditions of Zone Change Approval

1. A trip cap of 1,040 vehicle trips per day shall be applied to the entire 9.25-acre site (17S47E33D, tax lot 2900). This trip cap is equal to the daily vehicle trips that would have been generated by residential development allowed under RM-10 zone development standards, assuming the reasonable worst-case scenario of 229 multi-family dwelling units.
2. If the cumulative development on the 9.25-acre site exceeds this trip cap based on the most recent edition of the ITE Manual, a transportation impact analysis (TIA) shall be required. The TIA shall address impacts from all existing and proposed development on the 9.25-acre site. The TIA shall be prepared in coordination with the Oregon Department of Transportation by a transportation engineer licensed in the state of Oregon.
3. Moreover, if any development proposal on the 9.25-acre site would result in 600 or more vehicle trips per day, a TIA shall be required pursuant to the Ontario Zoning Ordinance, Section 10C-25.06 Transportation Impact Study Requirements. This TIA shall be submitted to the city of Ontario and the Oregon Department of Transportation for review as part of the required development application. The City will not consider the development application to be complete and will not process the development application without the required TIA.



**AGENDA REPORT
HAND-OUTS/DISCUSSION ITEMS
September 11, 2023**

To: Planning Commission

FROM:

SUBJECT: **COMMUNITY DEVELOPMENT QUARTERLY REPORT - FOURTH QUARTER 20-23**

DATE: September 1, 2023

PROPOSED MOTION:

SUMMARY:

BACKGROUND:

CURRENT SITUATION:

ANALYSIS:

- A. **STRATEGIC PLAN**
- B. **FINANCIAL**
- C. **TIMING**
- D. **POLICY/LEGAL**

ALTERNATIVES:

RECOMMENDATION:

Staff recommends

ATTACHMENTS:

1. 09-26-23 Community Development Quarterly Report



Presentation by Dan Cummings
Tuesday, September 26, 2023

CITY OF ONTARIO COMMUNITY DEVELOPMENT

Fiscal Year 2022-23
Fourth Quarter

Building
Department

Economic
Development

Planning and Zoning

Building Department Statistics



ONTARIO
OREGON

Mechanical and Structural Permit Amounts and Fees

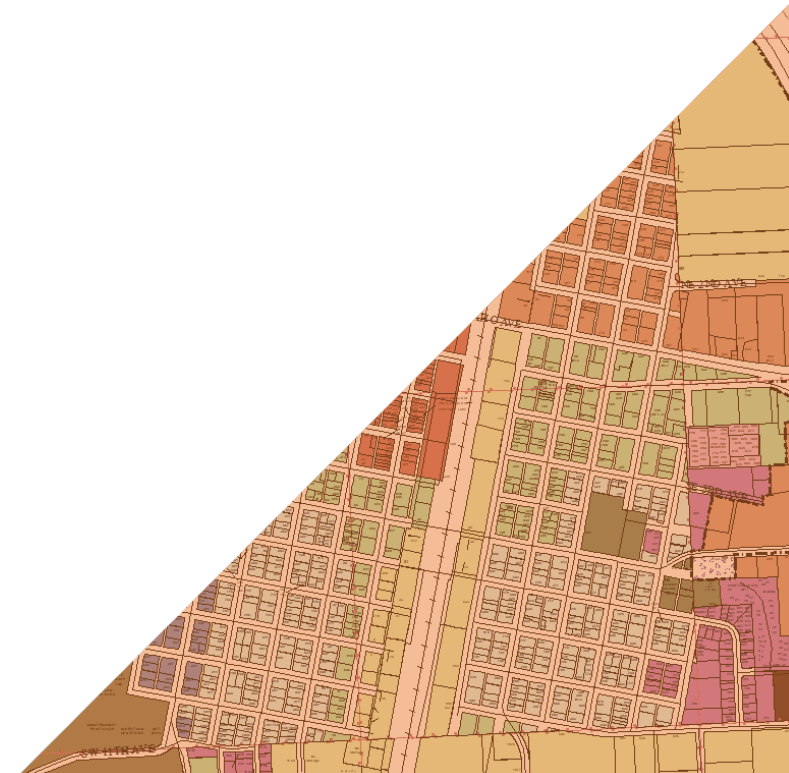
Mechanical Permits and Fees Issued

Apr – Jun 2023

- Mechanical Permits Issued 50
- Mechanical Valuation Totals \$ 789,826
- Total Mechanical Fees \$ 7,887

Structural Permits and Fees Issued

- Structural Permits Issued 26
- Structural Valuation Totals \$ 3,885,110
- Total Structural Fees \$ 44,218



Building Department Statistics



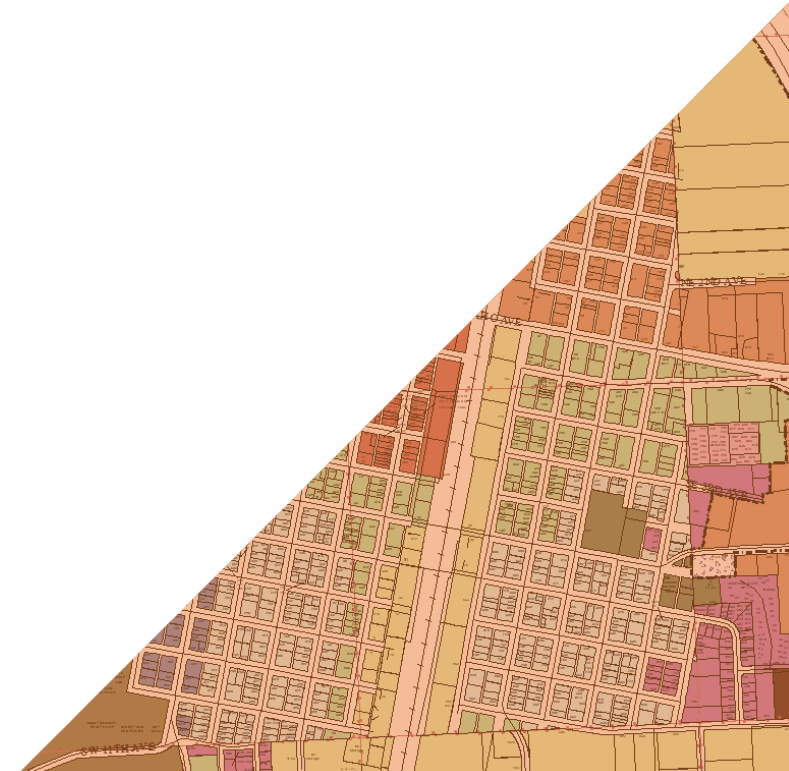
Mechanical and Structural Permit Amounts and Fees Issued in 2nd Quarter FY 22-23

Apr – Jun 2023

- Total Permits Issued **76**
- Valuation Totals **\$ 4,674,936**
- Total Permit Fees **\$ 52,105**

New Permits:

- Tenant Improvement for Chipotle at 1657 E Idaho Avenue
- Remodel at Ontario High School at 1115 W Idaho Avenue
- Remodel of Adrian Manor (was Mills Manor) for transitional housing at 949 N Oregon



Planning and Zoning Department

Apr, May, June 2023

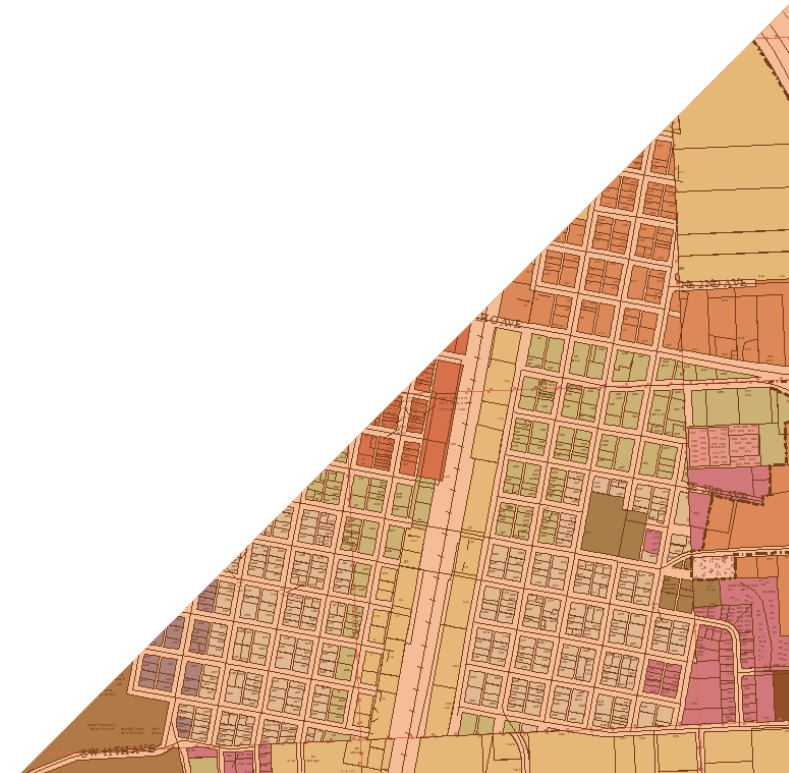


- | | |
|---------------------------------|---|
| • Easement | 1 |
| • Annexation | 1 |
| • Temporary Use Permits | 2 |
| • Site Development Applications | 2 |
| • Partition | 1 |

Total Fees for the Quarter

\$ 35,334

Total Land Use Applications	7
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Phase II Façade Grant Program

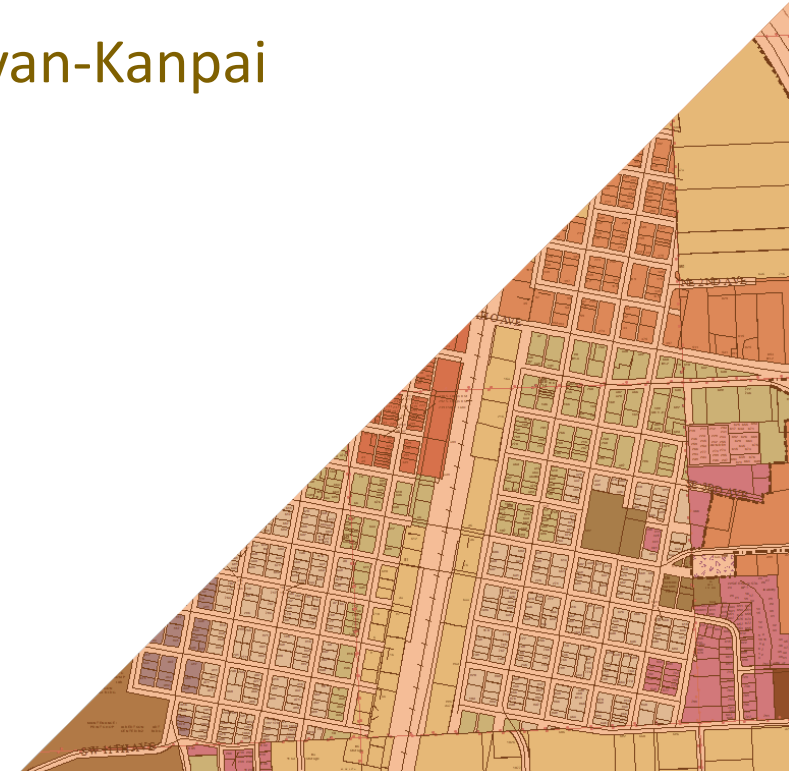


- Applications for locations along SW 4th Ave & E Idaho
- 2022 ended with a total of Two applicants, for the Phase II Grant
- \$23,255 worth of project costs for businesses
- Remaining funds for 2023 are \$16,300
- \$10,000 of matching grant money awarded
- Phase II has had a total of 7 approved grants for a total award of \$33,700 Total Improvements \$106,667

Participating Businesses

Speech Tree

Sullivan-Kanpai

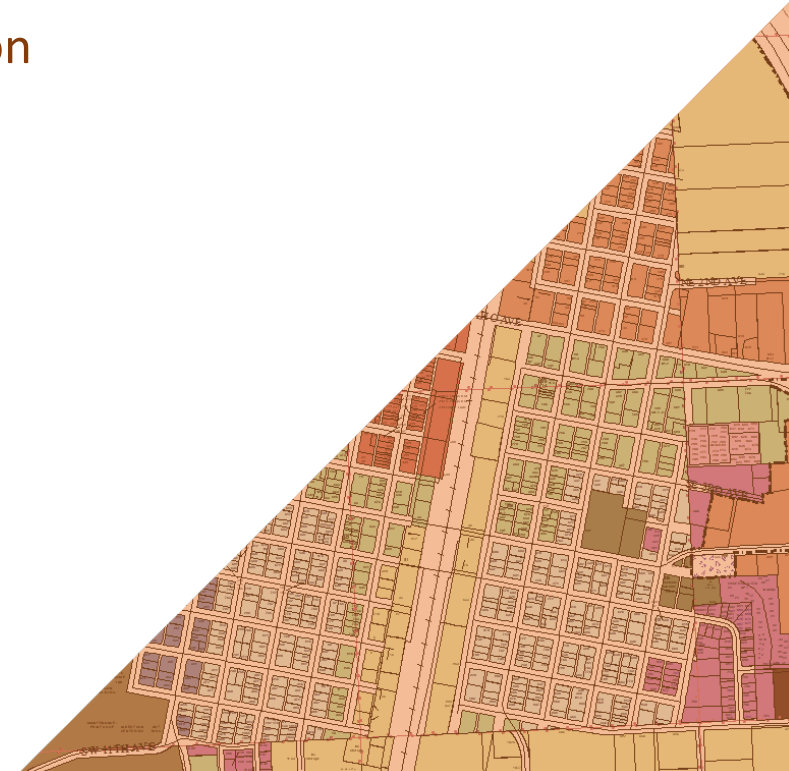


Ontario Economic Activity

Apr, May, June 2023



- Mayberry Subdivision-completed & 10 applications have been submitted
- Project Build Ontario-Housing Incentive is at #53, 2 new 2023
- Project West Park-construction to start soon
- Brownfields Grant Program
- Project Veteran Village
- Staff is working on several requests for information



Ontario Economic Activity



Continued

“Project Build Ontario”

- Single Family Residential Housing Incentive program promotes new housing within the City Limits

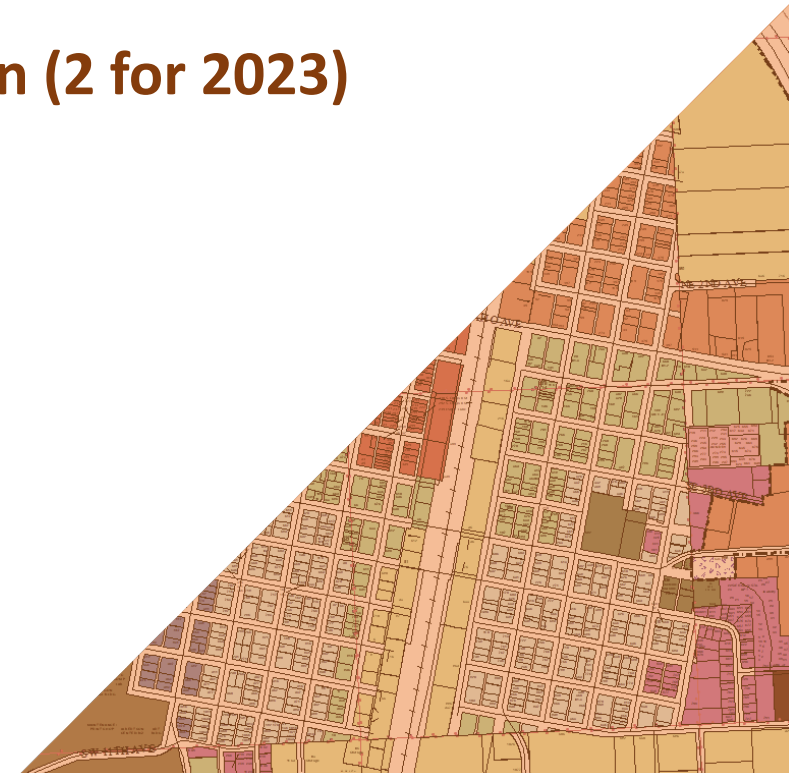
Status: 8 incentive applications submitted in 2023

53 total applications since the incentive began (2 for 2023)

“Project Westpark”

- Redevelopment of the West Park Plaza Mall
- Creation of new indoor mini storage and flex space
- Under construction-addition of a new Gym

Status: On-going



EPA Brownfield Grant Program

- Redevelopment of Brownfields within Malheur County
- Funding still available to properties in Ontario, Nyssa, Vale
- Phase I and Phase II studies ongoing

Status: EPA had approved a 1-year extension –due to end in Sept 2023

“Mayberry Subdivision”

- Affordable Mini Housing Development for Veterans and Seniors Citizens

Constructed and 10 building permits have been applied for so far

“Veterans Village”

- 15 Veteran Cottages (10) 1-Bedroom @490 sq ft & (5) 2-Bedroom @640 sq ft
- 10 Units for Transitional Housing
- Market Apartments Future, TBD



Projects



Completed:
Valley Family Fortner Clinic



Completed:
Red Eye Dispensary



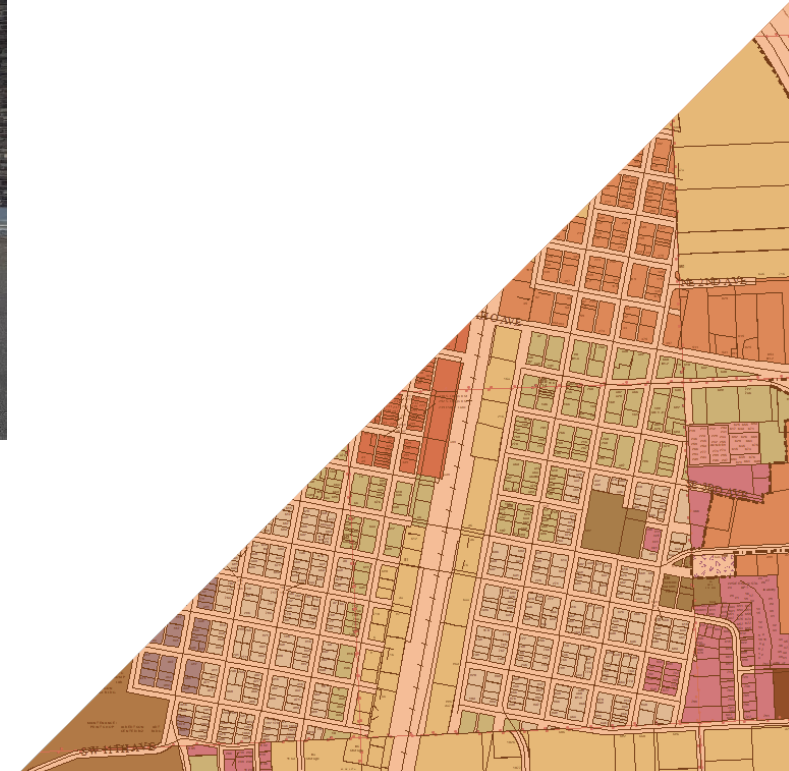
Projects



Completed:
Public Works Equipment Shed
NW 9th Street



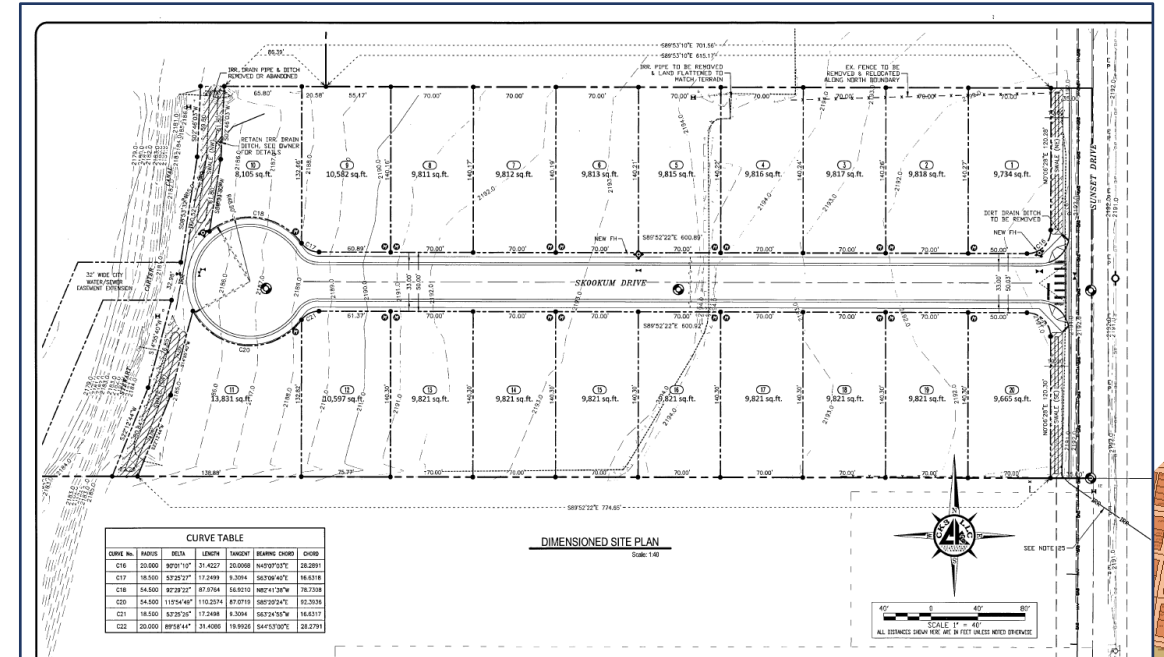
Completed:
Pizza Hut
SW Idaho Ave



Projects in Development



Harrah Heights Subdivision Under Construction



Completed:
1604 Skookum Drive

Projects



1251 and 1249 Phillips Circle



1253 Phillips Circle



Mayberry Subdivision
Under Construction



1234 Phillips Circle



Ongoing Construction



Commercial C of O's Issued:

- Pizza Hut (1636 E. Idaho Ave)
- Valley Family Health Clinic (896 Fortner)
- Red Eye Dispensary (833 SW 30th St)
- City of Ontario Public Work (1551 NW 9thSt)

Residential C of O's Issued:

- Single Family Home (1253 Phillips Circle)
- Single Family Home (1249 Phillips Circle)
- Single Family Home(1251 Phillips Circle)
- Single Family Home (1234 Phillips Circle)
- Single Family Home (1604 Skookum Drive)

Construction Complete



THANK YOU

