

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



**COUNCIL MEETING AGENDA  
CITY COUNCIL – CITY OF ONTARIO OREGON  
TUESDAY, SEPTEMBER 26, 2023, 6:00 PM, MT**  
[Zoom Link](#)

Pursuant to the Public Meetings Laws and Rules within the Oregon Revised Statutes, the City Council has the authority, ability, and standing to take action on any items on the Agenda, or add items to the Agenda, during the Study Session or Regular Meeting, as long as all public meeting notice requirements have been met.

**1) CALL TO ORDER**

Roll Call: Susann Mills \_\_\_\_\_ Sam Baker \_\_\_\_\_ John Kirby \_\_\_\_\_ Ken Hart \_\_\_\_\_  
Penny Bakefelt \_\_\_\_\_ Eddie Melendrez \_\_\_\_\_ Mayor Deborah Folden \_\_\_\_\_

**2) PLEDGE OF ALLEGIANCE**

This Agenda was posted on September 22, 2023. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website at [www.ontariooregon.org](http://www.ontariooregon.org).

**3) MOTION TO ADOPT THE AGENDA**

**4) CONSENT AGENDA**

- A) Adoption of Council Meeting Minutes: September 12, 2023
- B) Housing Incentive Program: Nuno Homes LLC (55-2023)

**5) PUBLIC COMMENTS** Citizens may address the Council; however, Council may not be able to provide an immediate answer or response. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

**6) PUBLIC HEARING**

- A) Ordinance #2823-2023 an Ordinance for a Comprehensive Plan Map / 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) DEPARTMENT HEAD UPDATE**

- A) Fire: Quarterly Report
- B) Finance: Monthly Report

**8) HAND-OUTS**

- A) Minutes: Planning Commission 9-11-23
- B) Check Register: August 2023

**9) CORRESPONDENCE, COMMENTS AND EX-OFFICIO REPORTS**

**10) ADJOURN**



## CITY COUNCIL MEETING MINUTES September 12, 2023

The scheduled meeting of the Ontario City Council was called to order by Council President John Kirby at 6:00 p.m. on Tuesday, September 12, 2023, in the Council Chambers of City Hall. Council members present were Penny Bakefelt, Susann Mills, John Kirby, and Eddie Melendrez. Deborah Folden, Ken Hart, and Sam Baker were excused.

Members of staff present were Dan Cummings, Tori Barnett, Corinna Hysell, Clint Benson, Kari Ott, Casey Mordhorst and James Swank. Also in attendance were firefighters Mark Saito, Trevor Gammage, Kyle Ervin, Brett Leavitt, Luis Gutierrez, Jonathan Rico, and Kevin Smith.

The meeting was recorded, and copies are available at City Hall.

### AGENDA

This Agenda was posted September 8, 2023. Copies of the Agenda are available from the City Hall Customer Service Counter and on the city's website [www.ontariooregon.org](http://www.ontariooregon.org).

MILLS moved, BAKEFELT seconded, **TO ADOPT THE AGENDA AS PRESENTED**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

### PUBLIC COMMENT

Marie Nizich, Boise, stated: *I have been working with Coldwell Banker Bayne as a realtor for 20 years. I have an MBA in non-profit management, and I'm hoping to pose a question to the Council on behalf of some local residents that I represent, Mr. and Mrs. Lewis. So my question is: whether there is any potential change or discussion about what's occurring in the northwest corridor. So, I have been working on behalf of the Lewis' for over two years, to be able to sell quite a number of currently zoned Commercial and Industrial properties. Now, I'm sure some of you in the room know that that corridor has seen a lot of crime and has met with some pretty significant challenges, which is why I'm bringing the question to the Council today, and, of course, to Mr. Cummings, because we have worked very diligently to be able to sell quite a few number of acres within that corridor. So, there currently are three, I'll say again, improved sites. So, Mr. and Mrs. Lewis own 11 pieces of property here in Ontario, and seven of them are all within that northwest corridor, just west of Highway 201. We met with pretty significant difficulty with what we'll say are the inhabitants of that corridor, so, my question is, can we potentially open up the conversation for what we may be able to market the current properties for a zoning conversation.*

Councilor Kirby stated the Council could not answer that at the meeting, but did recommend she speak with Dan Cummings, who was also the Community Development Director. If there was a proposal from that, it could be brought before Council.

### CONSENT AGENDA

MILLS moved, BAKEFELT seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF APPROVAL OF COUNCIL MEETING MINUTES OF JULY 25, 2023, AND AUGUST 22, 2023, AND A LIQUOR LICENSE APPLICATION FOR THE BAR AT ONTARIO ACE, INC.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.



## PRESENTATIONS

### **Recognition of Firefighters: Frank Grimaldo, Jr., Mike McLean, and Jordan Watts – Life Saving Award**

Fire Chief Clint Benson, read a statement: *On August 12, 2023, Ontario Fire and Rescue members Lt. Frank Grimaldo, Firefighter Mike McLean, and Firefighter Jordan Watts, responded to a report of smoke in a residence in Ontario, Oregon. Upon their arrival, the crew found smoke pouring out of the residence and immediately entered the building to find active fire in the kitchen area. Upon searching the residence, the crew found a disoriented victim still located in a bedroom. The crew moved the resident outside to safety. Additionally, five dogs and one bird were rescued during the incident. These members exemplified readiness, action, skill, and self-sacrifice in performing their duties and service to the City of Ontario. On September 12, 2023, each member was presented with a lifesaving award before the Ontario City Council.*

Chief Benson presented each Firefighter with a commemorative plaque and a lifesaving ribbon to wear on their uniforms.

## OLD BUSINESS

### **Ordinance #2822-2023: Amend OMC 2-14 – Diversity Advisory Committee**

Dan Cummings, City Manager, presented.

The Ontario City Council approved Resolution #2017-117 supporting community diversity and thereafter approved Ordinance #2728-2017 establishing a Diversity Advisory Committee under Title 2, Chapter 14 of the Ontario Municipal Code. The Ontario Diversity Advisory Committee determined that some of the wording within Title 2, Chapter 14, of the Ontario Municipal Code was outdated and changes were needed to amend the existing ordinance. Proposed amendments were brought to the City Council at both their July 7, 2023, and July 25, 2023, meetings. The action was tabled and sent back to the Diversity Committee to work on other suggested corrections. The committee met and formulated revisions based on the comments they received from the City Council and have agreed upon the changes in the version of Ordinance #2822-2023, attached to this report.

MILLS moved, BAKEFELT seconded, **IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, THE CITY COUNCIL APPROVE ORDINANCE #2822-2023, AN ORDINANCE AMENDING ORDINANCE #2728-2017, AMENDING TITLE 2, CHAPTER 14 OF THE ONTARIO MUNICIPAL CODE BY REMOVING THE WORDS LINED THROUGH AND ADDING THE WORDS THAT ARE UNDERLINED IN THE ATTACHED ORDINANCE #2822-2023, AT A SINGLE MEETING BY TITLE ONLY.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

MILLS moved, BAKEFELT seconded, **IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, THE CITY COUNCIL APPROVE ORDINANCE #2822-2023, AN ORDINANCE AMENDING ORDINANCE #2728-2017, AMENDING TITLE 2, CHAPTER 14 OF THE ONTARIO MUNICIPAL CODE BY REMOVING THE WORDS LINED THROUGH AND ADDING THE WORDS THAT ARE UNDERLINED IN THE ATTACHED ORDINANCE #2822-2023, AT A SINGLE MEETING BY TITLE ONLY.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

### **Resolution #2023-115: Purchase Moore Park Property**

Dan Cummings, City Manager, presented.

Riley Hill was the current owner of a parcel of real property on a tax lot in downtown Ontario, identified as Tax Lot 5901 on Assessor Map No. 18S4703CC, located at 151 South Oregon Street at the SW corner of South Oregon Street and SW 1st Avenue. Tax lot 5901 consisted of 21,375 square feet according to the Malheur County Assessor's Office. The City of Ontario leased the property from Mr. Hill for the past 15 years and has determined it would be in the best interest of the citizens to purchase the property before utilizing any further city funds on the property towards developing and improving the park.



The city had an appraisal performed on the property, and said appraisal fair market value was determined to be \$270,000.00. Therefore, the city has determined that Mr. Hill's price of \$250,000.00 was a fair offer. The Council authorized the City Manager to finalize the negotiations with the owner and to sign a real property sales agreement.

Mr. Hill agreed to sell the property to the city for \$250,000.00, asking the Council and citizens to recognize that he was donating the \$20,000 difference. The sales agreement was approved by both parties outlining the terms of the sales and Resolution #2023-115 was before the Council to proceed with the purchase of the property. The purchase of this property was budgeted for in the FY 2023-2024 Budget. This purchase needed to be completed so the city could move forward on the required work this fall to prepare the adjacent land for planting grass.

Councilor Mills wanted to remind the community the city had already purchased the adjoining property behind the park from Looks Nu Car Wash, which would increase the overall size of the park. Several people that were working during Saturday Market had also expressed they were in favor of the purchase. When would the city take possession?

Mr. Cummings stated he would get the documents to the title company, and ask for a title report and the quickest possible closing date. The plan was to remove the top gravel, bring in topsoil, install the sprinkler system, and try to seed this fall so it had a chance to have grass growing by next spring. During next year's Farmer's Market, they wouldn't be allowed to put the market on the new area, but they would be able to place some food trucks. It should be ready for full use by the 2025 season if the seed was done this fall.

Councilor Bakefelt stated it was a great asset for the community, and she was in full support of the purchase.

Councilor Kirby asked for verification that an environmental study had been done on the property.

Mr. Cummings stated that was correct. The Phase One study confirmed that all the rubble from the previously existing hotel had been removed, and the hole that remained after the hotel cleanup was later filled with concrete and such. If the city was to build a new building on the part over that specific area, they would need an engineering study completed to ensure the compacted area would support a building. However, the city has no plans to construct a building in the area where the basement of the hotel was located. There was really not a big problem with the property, environmentally.

Councilor Bakefelt stated she had been contacted by some downtown merchants regarding the transient situation in that area. She also heard that a sign had been posted. Was that correct?

Casey Mordhorst, Public Works Director, stated yes, a sign had been posted.

Mr. Cummings stated based on the calls he received, he contact OPD and sent some officers to the area to assist in moving the unhoused, and to inform them of the new regulations that if they wanted to use the gazebo, just like any other citizen, they would have to complete the same process. The ordinance currently read that anyone who wanted to use a pavilion for more than two hours, were required to obtain a permit. That had been in place for many years. If anyone, including the unhoused, wanted to use any of the pavilions or the gazebo, for any extended period, they had to pull a permit. Without that, anyone could utilize the gazebo indefinitely, making it unusable by anyone else. For example, the Farmer's Market. They pulled a permit for their Saturday usage, which include the gazebo. The city was taking baby steps by posting signs and beginning the education process of explaining to the unhoused what the rules were. So, in response to the calls received that morning, he sent officers to the park, and the officers had no issues with the unhoused leaving. Most were already leaving. Public Works posted their signs, which explained the park rules, and when he returned later, there were only two possibly unhoused, who were packing their belongings and appeared to be moving on.



Councilor Melendrez stated he was grateful the project was getting completed. Over the past two years, he had been concerned about having any planning or investments being done to Moore Park prior to the city owning it. He wanted the citizens to know the city was going to invest a lot of money in the park. He was grateful they were moving forward with the purchase, and it would become the city's to keep and invest in.

MILLS moved, MELENDREZ seconded, **THE CITY COUNCIL APPROVE RESOLUTION #2023-115, A RESOLUTION APPROVING THE PURCHASE OF THE PROPERTY KNOWN AS MOORE PARK FOR THE AMOUNT OF \$250,000.00 AND AUTHORIZE THE CITY MANAGER TO SIGN ALL DOCUMENTS REQUIRED TO COMPLETE THE PURCHASE.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

### NEW BUSINESS

#### Ontario Sanitary Service: Request for Rate Adjustment

Mark Fulwiler, District Manager, Ontario Sanitary Service, stated he worked closely with Nathan Wilson, who was also in attendance. As the letter had indicated, he was there to request a rate increase of 8%. He was there to explain or answer any questions in regard to that request. In the contract with the city, it stated a mandatory rate increase yearly, based on a CPI formula, but they had not been before Council asking for a rate increase in over three years. In doing the math, that equated to about 15% if they went back three years. They felt 8% was fair. As written in the letter, the company had done a lot of improvements since the acquisition of Ontario Sanitary Service by Waste Connections. Over \$1M in trucks and equipment to provide the city with a safer and more efficient way to collect the trash and recycling. They were asking for the rate increase to become effective October 1, 2023.

Councilor Kirby stated it had been addressed to him the inability of citizens to get dumpsters, and it had become a sore subject, one which he, himself, had to deal with while moving residences. He had been told that the company's equipment was inadequate, and that it wouldn't meet the law for transporting the dumpsters. It had not been resolved as of two weeks ago, which was when he had requested it. In the document being extended for the rate increase, it stated that the company had to provide services, and if not, the company was to go out at their own expense to find and provide an alternative. Did Mr. Fulwiler have a response?

Mr. Fulwiler stated not specifically, other than they had, he believed, invested at least \$50-60K in lock boxes that were being delivered daily. They had delivered a dozen over the last week, eight this week so far, so they were trying to catch up. There were other sister companies in Idaho that were bringing things over.

Councilor Kirby stated he was speaking specifically about dumpsters that would be used for construction debris, yard waste, or someone moving who needed to discard their excess.

Mr. Fulwiler stated they called them lock boxes, 20 yard, 30 yard, 40 yard, containers, and they were currently stocking up on those. Specifically to Councilor Kirby, if he needed a roll off box at his home, he would make sure something happened sooner than what he had been waiting for.

Councilor Kirby stated he had something that had to be done, so he dealt with a friend with a 12 yard trailer, which he had been able to access and use. This had been a concern of the citizenry, and he believed the City Manager had also received questions concerning the same issue.

Mr. Cummings stated yes, in the past, and Nate was aware. They were having trouble getting the boxes, so it had been an ongoing issue for a while. It had been discussed, and he hoped it would be improved. The city was still receiving complaints that people could not get a drop box in a timely manner right now.

Mr. Fulwiler assured the Council they would be addressing the issue. The boxes were literally being made and delivered daily.

Councilor Melendrez thanked Mr. Fulwiler for his presentation, and asked what the 8% rate increase would equate to on a monthly service?



Mr. Fulwiler stated the most frequently utilized service was the 95-gallon receptacle, and it would increase \$1.77 per month.

Councilor Bakefelt stated her appreciation to them for supplying dumpsters for Nation Night Out, as well as dumpsters for the annual city clean up project.

MILLS moved, BAKEFELT seconded, **THE CITY COUNCIL APPROVE THE REQUEST OF ONTARIO SANITARY SERVICE UNDER SECTION 16.2 OF THE CURRENT CONTRACT FOR A RATE ADJUSTMENT OF 8%, WHICH ADJUSTMENT EQUATES TO AN ADDITIONAL \$1.77 PER MONTH FOR THE MOST FREQUENTLY UTILIZED SERVICE LEVEL, EFFECTIVE OCTOBER 1, 2023.** Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

#### DEPARTMENT HEAD UPDATES

##### Community Development: Quarterly Report

Dan Cummings, City Manager/Economic Development Director, presented.

Marie Nizich asked if there was any consideration in lifting the 55 and older rule at Mayberry Subdivision?

Mr. Cummings stated the developer asked for that. This was a planned unit development, so that was a set requirement, and it was put in during the land use action. In Oregon, it was really tight within land use actions, rules, and regulations. The only way that restriction could be lifted was that they would have to go through the same land use public hearings, etc., again, to get that changed because it was set during the planning and zoning stage of the development. So no, there was no easy way to change it. The owner would have to bring it back through the whole process, open it up to all the neighbors to discuss it and have say so in the change.

#### DISCUSSION ITEM

##### City Hall Security

Dan Cummings, City Manager, stated as most Council was aware, the city had an incident at City Hall a few weeks back where an individual damaged seven police vehicles, which put three-quarters of the fleet out of service. Luckily, a local business immediately stepped up. Police Lt. Cooper contacted the business on Sunday, the day of the incident, and the business jumped in and was able to order or find enough glass to have on site by Monday. They put all staff on hand and got all but one of the vehicles back in service. That company was to be applauded.

Councilor Kirby confirmed it was Coley's Glass Company.

Mr. Cummings stated yes. He had asked Lt. Cooper to prepare a plaque to present to them. Coley's didn't want anything, but they were told staff wanted to recognize a community business that really stepped up and helped out the city in a very difficult time.

Mr. Cummings continued that in that process, for many years, usually with a change of Police Chief, it was brought forward that City Hall needed a secure parking area, mainly for the police. As everyone was aware, the police were usually the main target; however, all city employees were targets because of being government employees. Many people didn't care for government employees, but that was compounded when City Hall also housed the higher targeted police department. Everyone was at a higher risk than a normal business. In doing the research, if the police station was stand alone, there would be no problem. Across America, most police stations were highly secured areas for that reason – to protect their officers. But, this being City Hall, which was a portal to all the citizenry, he personally did not like the idea of a compound look for City Hall. He looked into fencing off the entire parking lot area, which would be expensive. The gating system was a problem with security fencing. The gates installed were expensive to maintain and malfunctioned a lot. His concern was having an emergency, the police needed to respond, and the gate wouldn't open! And once it had been opened manually, they wouldn't take the time to get out and close it, so security would be breached.



Mr. Cummings continued with vehicles could be replaced. His main concern was the police officers and employees of the city. He just did not see a safe way of protecting everyone. He then looked at fencing just the back parking lot, and moving all police vehicles into the section. He was only providing options. The number one option was the need to upgrade all the camera system. Some of the new cameras already purchased were very clear. The older ones, after reviewing them, and while the police probably recognized the person, if he had to select the lady on the street based on the camera shot, he wouldn't be able to do that. Unless the Council directed otherwise, and he was not seeking funding or options that evening, but he would like to have staff look into the number one option: the cost to upgrade the security cameras around all of City Hall. That would protect both employees and vehicles. He wished the 9-1-1 center was still here because those monitors would be watched 24/7/365. This attack happened on a Sunday morning, and 10 minutes prior to the attack, the last officer in the building responded to a call and 10 minutes later, this lady came into the lot and did all the damage. There was no one in City Hall to see it happen. It was a citizen who recorded it and posted it on Facebook. He thought that same person was the person who called 9-1-1, but in reality the person who did the damage called 9-1-1 and turned herself in. Something needed to be done, but the question was what. The city did not have a lot of money, and it would be quite a bit of money to install fencing around the area. His request that night was for the Council to direct staff to continue researching the project, obtain some costs, and look for any security grants. If the city wanted to truly build a fenced off system, determine the best option, and present that information to the Council. Number one for him would be trying to put together the costs of upgrading the camera system, and then possibly getting a cost to have an outside business monitoring the system, similar to an alarm company.

Councilor Kirby stated with this property, there was the parking lot used by the police, which was along 4<sup>th</sup> Avenue and the former apartment building, and then the partial parking and green lawn that was along the other side of the apartment building. There was also the public parking lot, and additional parking over at Community Development. In looking at this, they could plan for the present or plan for the future, so maybe they should look at both.

Mr. Cummings stated he had been looking towards the future. One reason the city purchased the property across the street, (Community Development office area) was because it's adjacent to City Hall, and they all knew that over time, City Hall would have to grow. He had a vision that someday, with a big bond, they'd build an entirely new complex for Administration on the property across the street, an overhead connection with an underground parking garage that would be secured, and the remodel of the existing building. They'd connect the two buildings together, utilizing the land the city already owned, and installing security options at that point. That, however, was way down the road. It had happened before. City Hall used to be a skinny two-story building down on main street, and the citizens finally approved a bond to construct the current City Hall. Ultimately that was the main goal they should be looking towards. He didn't want to spend a lot of money on something that would just be torn out.

With the back parking lot, that was one option he'd discussed with Lt. Cooper, Lt. Swank, and Chief Iwai. There was the possibility of cutting the cost down, as they could remove the grass area and trees, and then move all the police cars into that area, and fence off that area, which would also secure the evidence building and the police vehicles. Officers would still have to walk from the back door to get into the gated area, but it would at least be a secure area. If they wanted to fence off an area, that was probably one of the better options. It would have less of an impact on the public parking area and back parking where they were parking now. The problem with securing it all. The Fire Department had no choice – when it was hot, they opened up the bay doors to cool it down, and most of the time the guys were not down there. There were a lot of pros and cons, with no easy solution.

Councilor Kirby asked if administration wanted to handle this, or was he looking to establish an ad hoc committee to help out.

Mr. Cummings stated that was a decision for the Council.

Councilor Kirby stated maybe let Mr. Cummings and his team flesh out something to see whether it needed to have citizens and Councilor on an ad hoc committee. He'd like to leave it with Mr. Cummings for now.



Councilor Bakefelt asked if there were any similar incidents like the most recent one?

Mr. Cummings stated it was his understanding that this was only the second incident in the past 40 years, and the other incident was when the apartment buildings were being rented out by the owner of the property at that time, and there was a disgruntled tenant that threw something out the back window, which landed on a police car. However, just today a window had been broken out at the Community Development Center. Someone threw a rock threw a window. Unfortunately, all the security cameras were on the front and sides, so there was no video of who threw the rock. That made it a third incident. It happened last night sometime between the Planning Commission meeting and opening up this morning.

Councilor Bakefelt asked what the cost was to replace all the windows in the police vehicles.

Ms. Ott stated it was about \$3,500.

Councilor Bakefelt stated the police were at their most vulnerable when arriving at work or leaving for home, so she supported looking into making that area more secure.

Councilor Melendrez agreed. They needed to support security.

Mr. Cummings thanked them, and indicated staff would continue looking into options to present to Council.

#### HAND-OUTS

#### Minutes:

County Court: 08-16-2023; 08-23-2023; 08-30-2023

#### Department Stats – August, 2023:

Fire& Rescue, Public Works, Code Enforcement, Police

#### Packet:

Visitors & Convention Bureau 09-07-2023

#### CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Councilor Mills stated on August 30<sup>th</sup>, she joined the Chamber of Commerce Leadership group on their tour of Snake River Correctional Institute. It was an all day event, and she thanked John Breidenbach for including her. It was very informative. The superintendent of the prison and his staff did an excellent job.
- Councilor Melendrez thanked Chief Benson for the tour of the Fire Department he'd gone on that day. He appreciated that the Chief was interested in what the Diversity Advisory Committee was doing, and how to get more involved.

#### ADJOURN

MILLS moved, BAKEFELT seconded, **THAT THE MEETING BE ADJOURNED**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-out. Motion carried 4/0/3.

**ACCEPTED:**

**ATTEST**

\_\_\_\_\_  
Deborah K. Folden, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder





**AGENDA REPORT  
CONSENT AGENDA  
September 26, 2023**

To: Mayor and City Council  
FROM: Kari Ott, Finance Director  
THROUGH: Danny K. Cummings, City Manager  
**SUBJECT: HOUSING INCENTIVE PROGRAM: NUNO HOMES LLC (55-2023)**  
DATE: September 22, 2023

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**PROPOSED MOTION:**

**I MOVE THE CITY COUNCIL APPROVE THE APPLICATION BY NUNO HOMES LLC AT 790 SE 6TH STREET FOR THE ONTARIO HOUSING INCENTIVE PROGRAM IN THE AMOUNT OF \$10,000.**

**SUMMARY:**

Nuno Homes, LLC, submitted an application for \$10,000 from the Housing Incentive Program.

The property is located at 790 SE 6th Street.

The Business Loan Committee is the reviewing and recommending authority for the City of Ontario Business Loan Fund and, as such, the Committee is tasked with reviewing and providing a recommendation to the City Council on all applications submitted for loan requests and Housing Incentive payments. The City Council is the final authority for approval of the applications. The City Manager, Finance Director, and Community Development Director are responsible for insuring all requirements are met prior to payment of the approved application.

**BACKGROUND:**

The City Council, under Resolution #2018-111, updated the City of Ontario Business Loan Fund codes under Section 11a Housing Incentive Program to promote new housing development with the city limits of Ontario.

**CURRENT SITUATION:**

NUNO HOMES LLC. is requesting approval of their application for the \$10,000.00 Incentive on a new home to be located at 790 se 6TH St. being Tax Lot 2505, Map # 18547 10 A>. The proposed Dwelling will be 1351 Square feet with two bath (2) bathrooms and two (2) car garage. The application was deemed to be complete by the Community Development Director and meeting or exceeding the minimum requirements of Section 11 of the Business Loan Fund code and was forwarded to the Committee for their review and recommendation. The Business Loan Fund Committee recommended the loan for approval by the Council on August 30, 2023.

**ANALYSIS:**

- A. **STRATEGIC PLAN** The Housing Incentive Program promotes growth and desirability goals of the Ontario Strategic Plan. It specifically addresses the activities to build a variety of housing options and add fill-in housing.
- B. **FINANCIAL** If approved, the city would pay the funds from the Business Loan Fund. The \$10,000.00 would be paid back to the fund through the city portion of the property taxes collected on the property and dwelling approved under this application.
- C. **TIMING** Time is of the essence on this application as the applicant wants to pull a building permit and start construction as soon as they receive their approval.
- D. **POLICY/LEGAL** The Business Loan Fund Committee makes recommendations to the City Council. If the City Council approves the action, the City Manager will have the Agreement signed by all parties authorizing the Building Department to issue a permit under this Agreement.

**ALTERNATIVES:**

Table the Action: The City Council could table the request and request further information from the Applicant.

Deny the Action: The \$10,000 payment would not be made.

**RECOMMENDATION:**

Staff reviewed the application for completeness and find it meeting or exceeding the minimum requirements. The Business Loan Fund Committee sent a favorable recommendation to the City Council. Therefore, staff recommends that the City Council approve the application by Nuno Homes, LLC., for the amount of \$10,000.00.

**ATTACHMENTS:**

1. 2023-54 Nuno Homes Housing Incentive



RECEIVED  
7/13/23

### City of Ontario, Oregon Housing Incentive Program Checklist

Applicant: NUNO homes LLC Date: 7-13-2023

Site Address or Tax Lot: 2505 790 SE 6th St.

Application Number: 2023-54 (City Use Only)

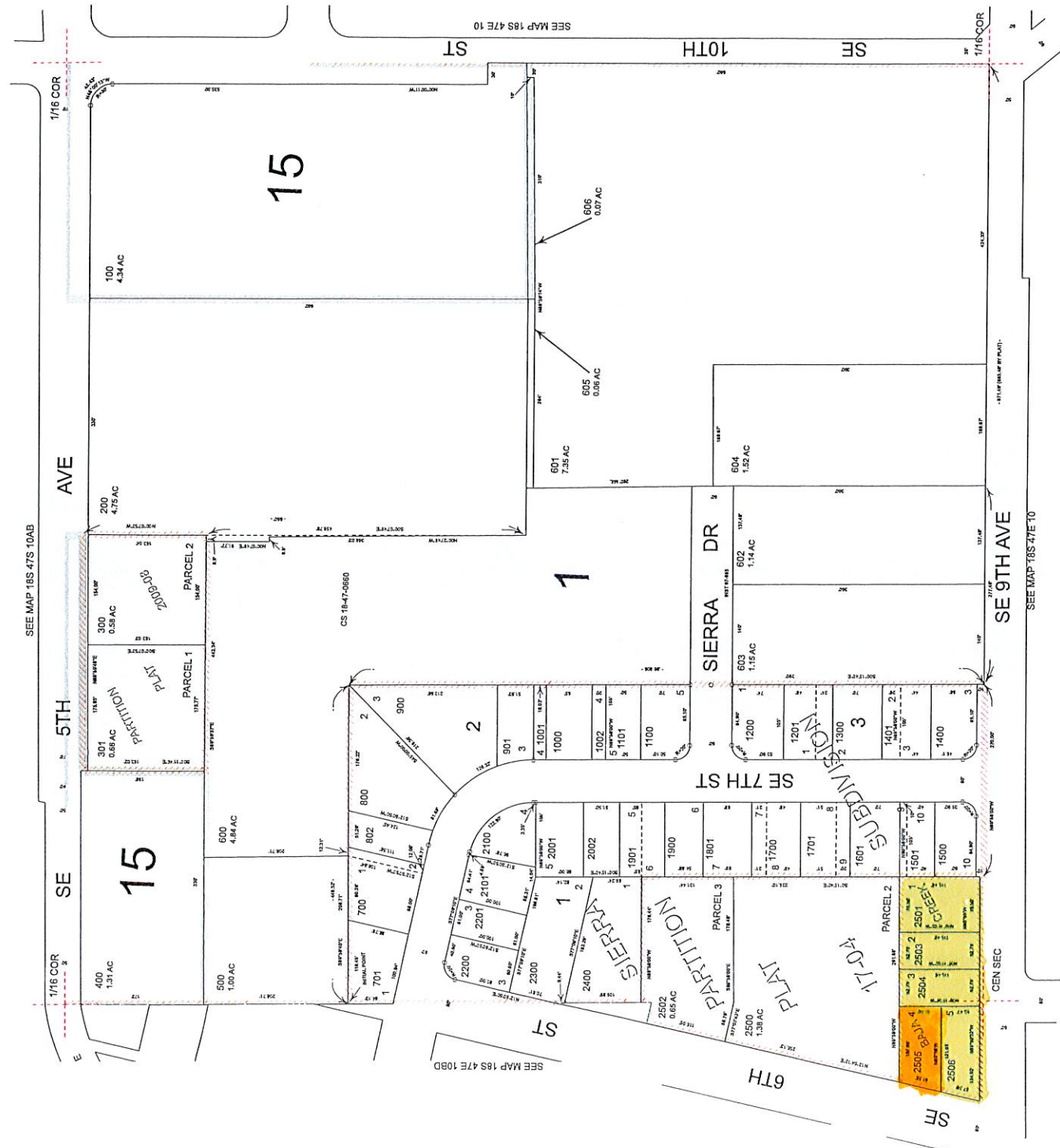
#### Application Information: (Applicant or Staff)

- Completed Application Signed & Dated: 7/13/23
- Documentation showing funding: N/A
- Within City Limits
- In Urban Growth Boundary Annexation Application filed: N/A
- Floor Plan or description describing minimum square footage:
  1. House Square footage: 1350.79 (1351-plans)
  2. Number of Baths: 2
  3. Size of Garage: 2 car garage 516 SF
- Description of Property of Home:
  1. Tax Lot map & Number: Tax lot 2505, map # 18547 LOAC.
  2. Copy of Deed: \_\_\_\_\_
  3. Or written description: \_\_\_\_\_
- Completed W-9 Taxpayer Form.

#### Process Completed: (Staff Use Only below)

- PDAC (if Required) date Completed: N/A
- Community Development Director approval date: 7/18/23
- Forwarded to Business Loan Fund Committee: \_\_\_\_\_
- BLF Committee forwards recommendation to City Manager: \_\_\_\_\_
- City Council Approval or Denial: \_\_\_\_\_
- City Manager signs application signifying Council **Approval**: \_\_\_\_\_
- Application submitted to Finance for tracking: \_\_\_\_\_
- Certificate of Occupancy issued (within 2 yrs. of Council approval): \_\_\_\_\_
- Proof of Owner Occupancy (must be within 1 yr. of C of O): \_\_\_\_\_
- Payment made to Owner: \_\_\_\_\_

- Cancelled
- 801
- 1301
- 1302
- 1800
- 1801
- 1802
- 2000



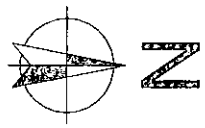
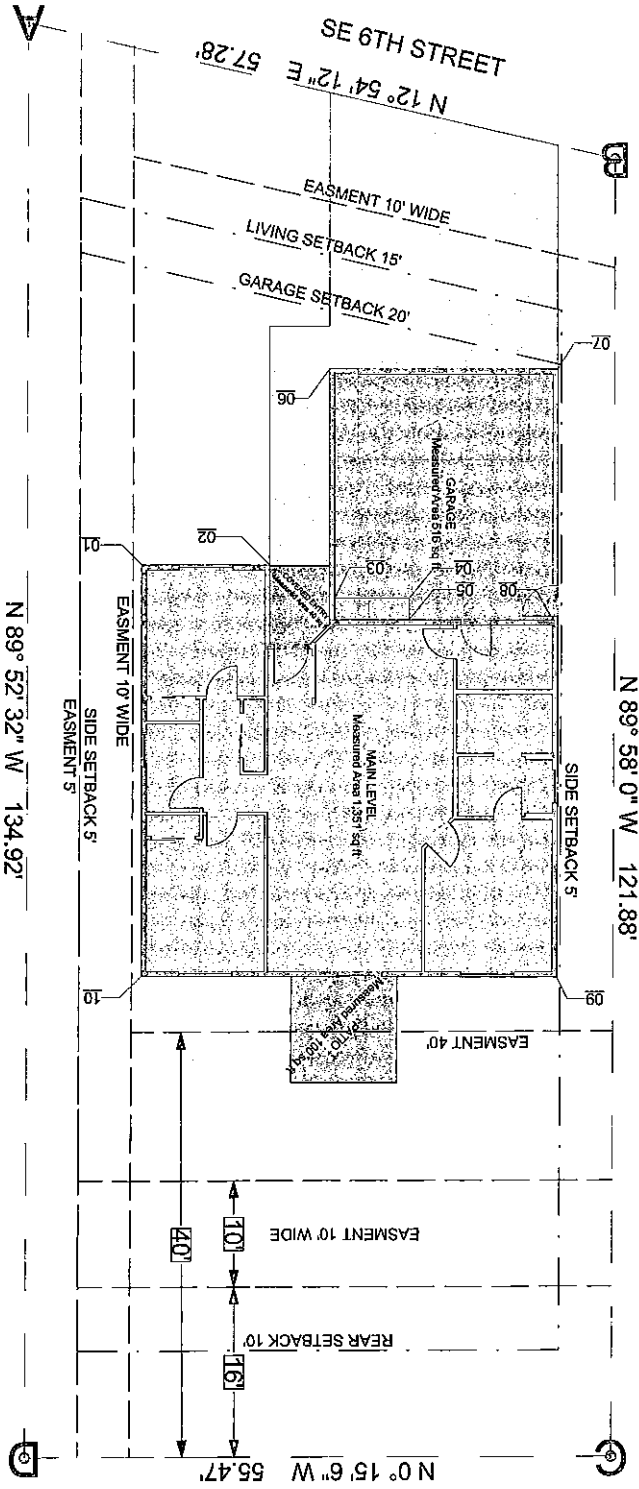
Revised: MA  
08/25/2022

ONTARIO  
18S47E10AC

Nuno Homes / #12520



| PLAT CORNER TABLE | ACT # | LENGTH  |
|-------------------|-------|---------|
| A                 | 01    | 52.34'  |
| A                 | 02    | 52.34'  |
| A                 | 03    | 61.34'  |
| A                 | 04    | 64.31'  |
| A                 | 05    | 66.72'  |
| A                 | 06    | 43.24'  |
| A                 | 07    | 59.77'  |
| A                 | 08    | 72.84'  |
| A                 | 09    | 102.60' |
| B                 | 10    | 59.24'  |
| B                 | 01    | 56.8'   |
| B                 | 02    | 59.2'   |
| B                 | 03    | 49'     |
| B                 | 04    | 45.27'  |
| B                 | 05    | 47.25'  |
| B                 | 06    | 33.24'  |
| B                 | 07    | 20.8'   |
| B                 | 08    | 42.8'   |
| B                 | 09    | 76.11'  |
| B                 | 10    | 82.8'   |
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| C                 | 02    | 82.8'   |
| C                 | 03    | 82.8'   |
| C                 | 04    | 82.8'   |
| C                 | 05    | 82.8'   |
| C                 | 06    | 82.8'   |
| C                 | 07    | 82.8'   |
| C                 | 08    | 82.8'   |
| C                 | 09    | 82.8'   |
| C                 | 10    | 82.8'   |
| D                 | 01    | 82.8'   |
| D                 | 02    | 82.8'   |
| D                 | 03    | 82.8'   |
| D                 | 04    | 82.8'   |
| D                 | 05    | 82.8'   |
| D                 | 06    | 82.8'   |
| D                 | 07    | 82.8'   |
| D                 | 08    | 82.8'   |
| D                 | 09    | 82.8'   |
| D                 | 10    | 82.8'   |



1 SITE PLAN



**JLAND HOMES**  
 5008 F. Central Ave. Irving, Texas 75017  
 (972) 251-1111  
 www.jlandhomes.com

**Shirley D. Duffield & Design**  
 Chief Designer  
 5008 F. Central Ave. Irving, Texas 75017  
 (972) 251-1111  
 www.shirleyduffield.com

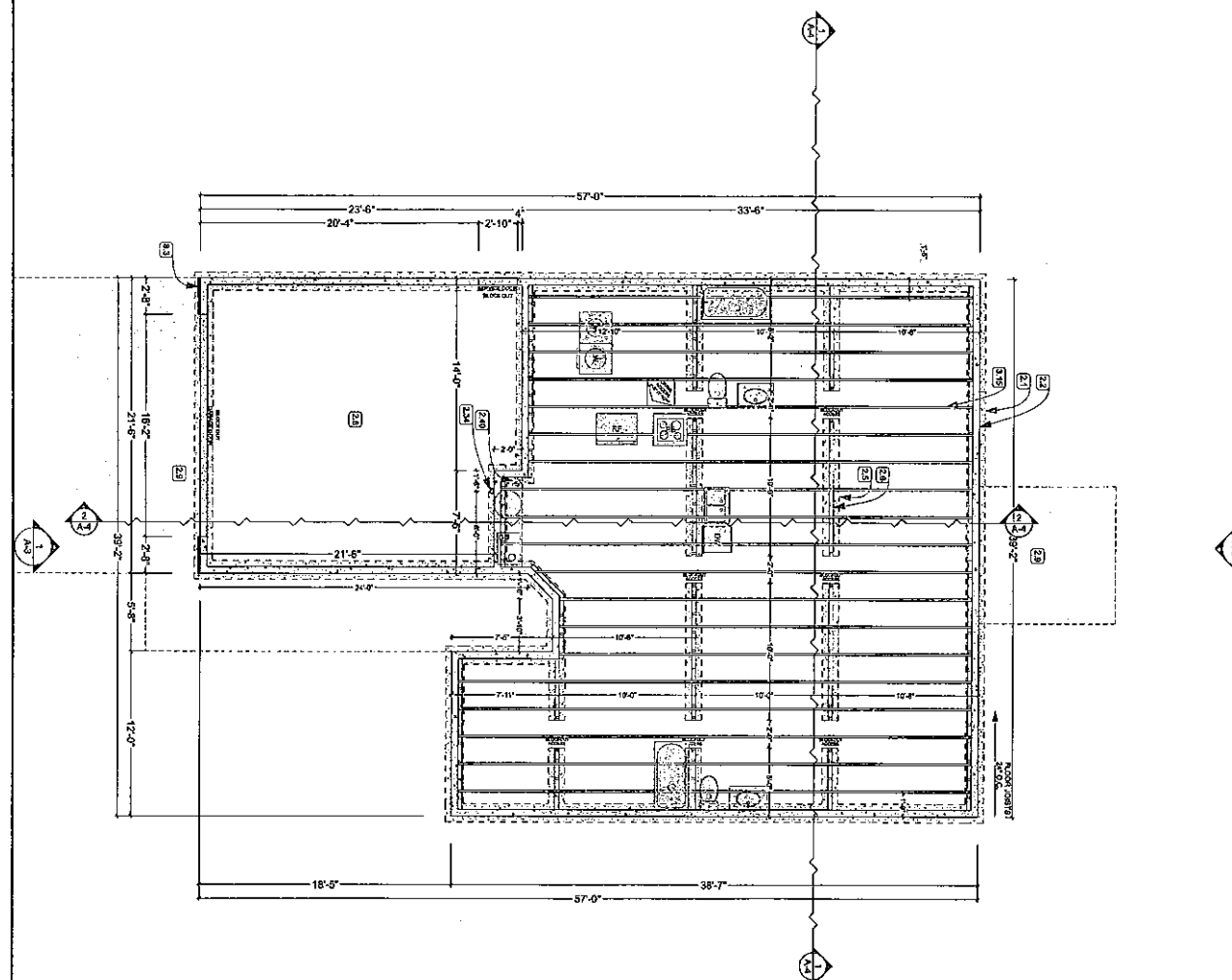
**THE CLEMENTINE**  
 LOT: 5 BLOCK: 1  
 SUB: BAJA CREEK

**C-1**  
 PERMIT

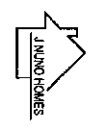
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|-----|-----------------------------------|
| 1   | PERMIT                            |
| 2   | FOUNDATION & FOOTING              |
| 3   | FRAMING                           |
| 4   | MECHANICAL, ELECTRICAL & PLUMBING |
| 5   | LANDSCAPE                         |
| 6   | SEWER & WATER                     |
| 7   | WALL BRACKET & ELECTRICAL         |
| 8   | FINISH PLAN                       |

**NOTES**

- 1.1. FOUNDATION SYSTEMS  
 1.1.1. FOUNDATION SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.2. STEEL WALL  
 1.2.1. STEEL WALL TO BE 4" THICK X 12' HIGH  
 1.2.2. STEEL WALL TO BE 4" THICK X 12' HIGH  
 1.2.3. STEEL WALL TO BE 4" THICK X 12' HIGH  
 1.2.4. STEEL WALL TO BE 4" THICK X 12' HIGH
- 1.3. ROOFING SYSTEMS  
 1.3.1. ROOFING SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.4. FLOORING SYSTEMS  
 1.4.1. FLOORING SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.5. INTERIOR FINISHES  
 1.5.1. INTERIOR FINISHES SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.6. EXTERIOR FINISHES  
 1.6.1. EXTERIOR FINISHES SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.7. PAINTS  
 1.7.1. PAINTS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.8. MECHANICAL SYSTEMS  
 1.8.1. MECHANICAL SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.9. ELECTRICAL SYSTEMS  
 1.9.1. ELECTRICAL SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.10. PLUMBING SYSTEMS  
 1.10.1. PLUMBING SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.11. CONCRETE SYSTEMS  
 1.11.1. CONCRETE SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.12. MASONRY SYSTEMS  
 1.12.1. MASONRY SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.13. METAL SYSTEMS  
 1.13.1. METAL SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.14. GLASS SYSTEMS  
 1.14.1. GLASS SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.15. WOOD SYSTEMS  
 1.15.1. WOOD SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.
- 1.16. OTHER SYSTEMS  
 1.16.1. OTHER SYSTEMS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED.



**Standard Drafting & Design**  
 Architect  
 5009 E. Ontario Ave. Suite 100, Littleton, CO 80120  
 (303) 733-1111  
 www.standarddrafting.com



John H. Hines  
 Owner/Designer  
 jhines@iandhomes.com

**THE CLEMENTINE**  
 LOT: 5 BLOCK: 1  
 SUB: BAJA CREEK

**HOUSE PLANS**  
**FOUNDATION & FRAMING**  
 A-1  
 PERMIT

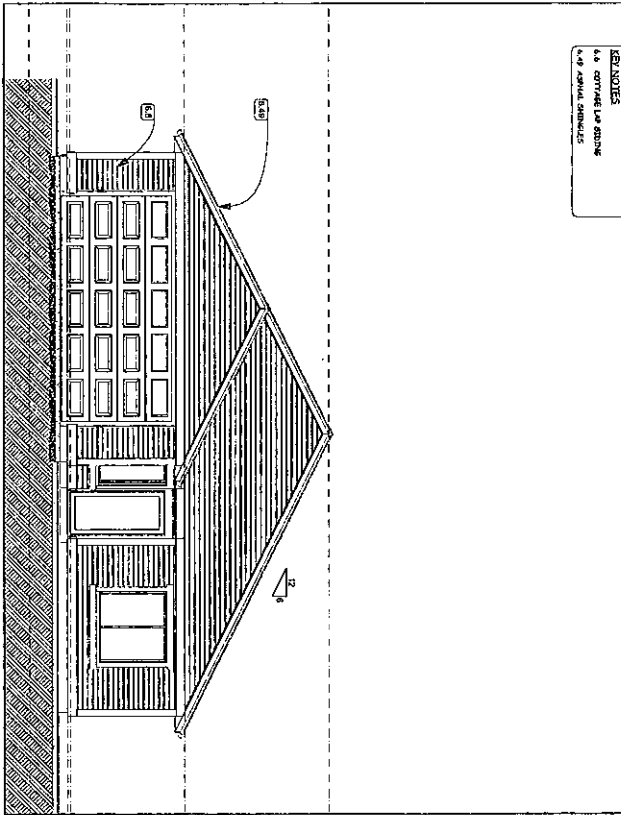
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|-------------|----------------------|
| 1           | COVER SHEET          |
| 2           | FOUNDATION & FRAMING |
| 3           | MECHANICAL           |
| 4           | ELECTRICAL           |
| 5           | PLUMBING             |
| 6           | PAINTS               |
| 7           | ROOF PLAN            |

THESE PLANS WERE PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF THEY COMPLY WITH ALL CITY, COUNTY AND STATE REQUIREMENTS. I AM A LICENSED ARCHITECT IN THE STATE OF COLORADO. I AM NOT PROVIDING CONTRACT ADMINISTRATION SERVICES.

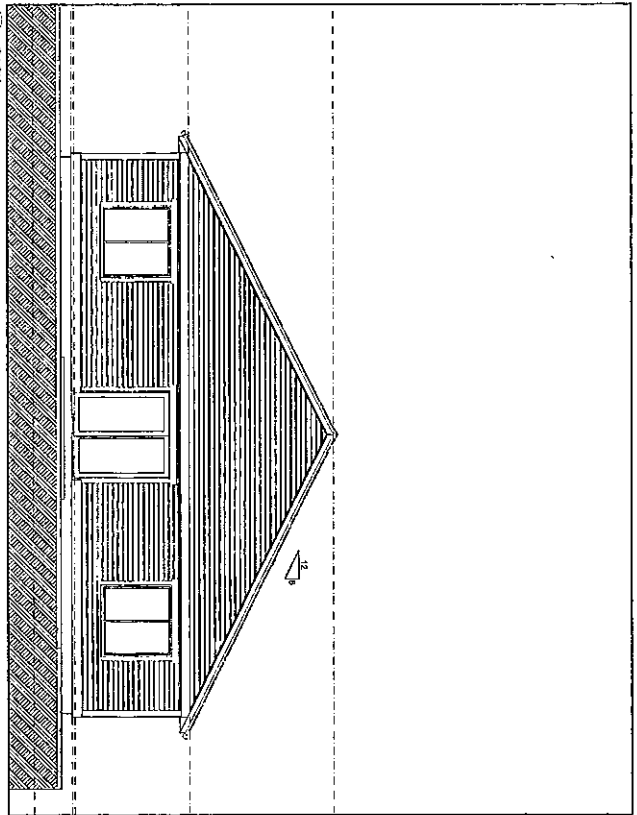
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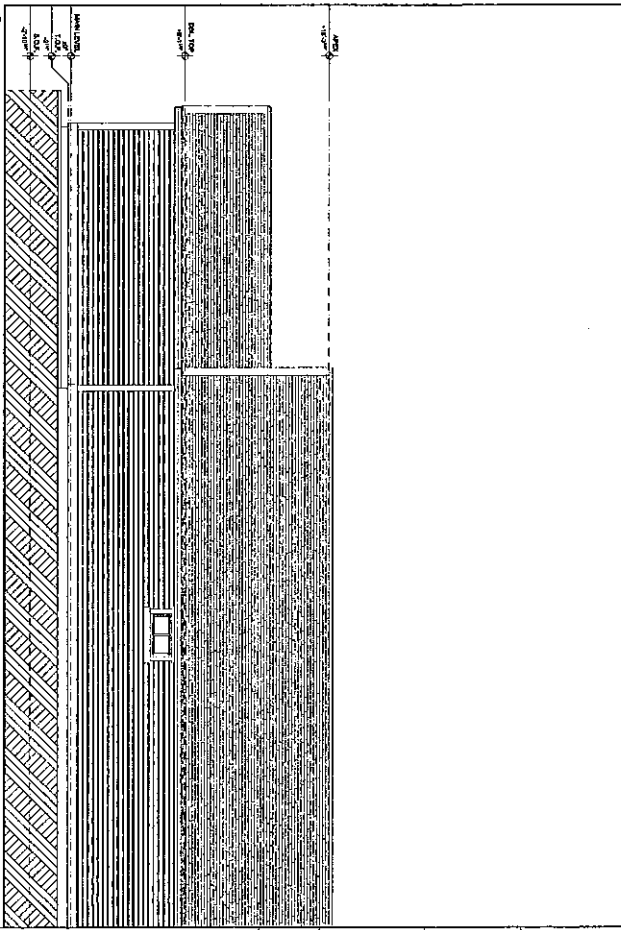
REVISED  
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 1.1 1/2" CONTING LUMBER



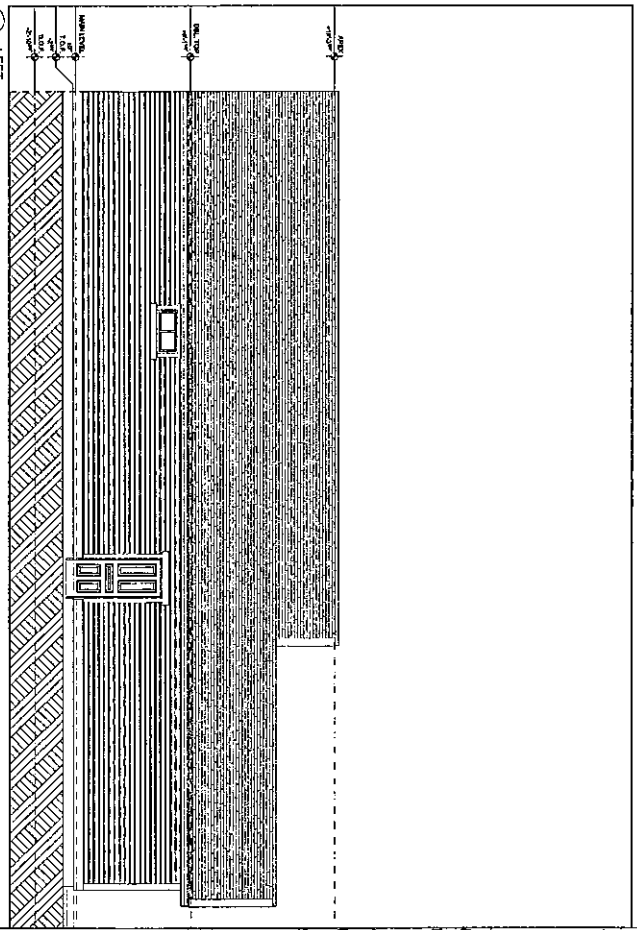
1 FRONT  
 SCALE 1/8" = 1'-0"



3 BACK  
 SCALE 1/8" = 1'-0"



2 RIGHT  
 SCALE 1/8" = 1'-0"



4 LEFT  
 SCALE 1/8" = 1'-0"



Shardiana Durling & Dutton  
 Richard Sheridan  
 Chief Designer  
 2008 E. Central Ave., Suite 1000  
 Albuquerque, NM 87102  
 505.263.1111  
 rsheridan@shardiana.com

James Niles  
 Chief Designer  
 10000 E. Central Ave., Suite 1000  
 Albuquerque, NM 87102  
 505.263.1111  
 jniles@shardiana.com

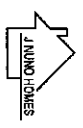
THE CLEMENTINE  
 LOT: 5 BLOCK: 1  
 SUB: BALJA CREEK

HOUSE PLANS  
 ELEVATIONS  
 A-3  
 PERMIT

| SHEET INDEX |                       |
|-------------|-----------------------|
| 01          | FOUNDATION & FINISHES |
| 02          | FRONT ELEVATION       |
| 03          | BACK ELEVATION        |
| 04          | LEFT ELEVATION        |
| 05          | RIGHT ELEVATION       |
| 06          | ROOF PLAN             |



**Starbucke Drafting & Design**  
 Project Supervisor  
 4009 E. Orchard Ave. Ste. 100, Tulsa, Oklahoma 74112  
 Phone: 918.438.0000  
 Fax: 918.438.0001  
 www.starbuckedrafting.com



John H. Hines  
 Owner/Contractor  
 javindhomes@gmail.com

**THE CLEMENTINE**  
 LOT: 5 BLOCK: 1  
 SUB: BAJA CREEK

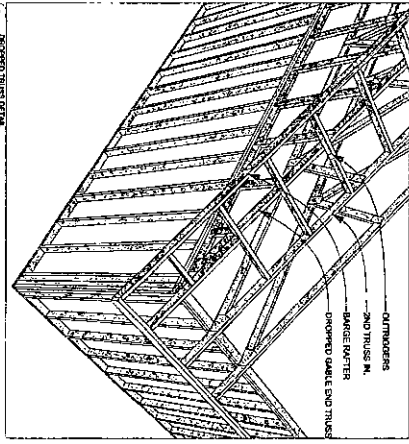
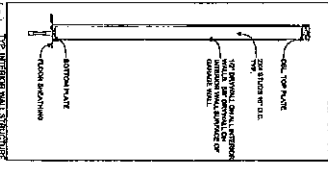
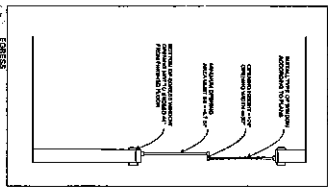
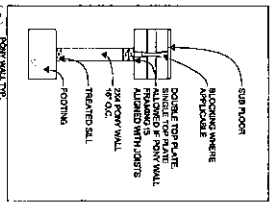
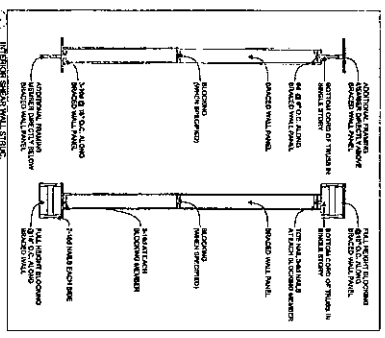
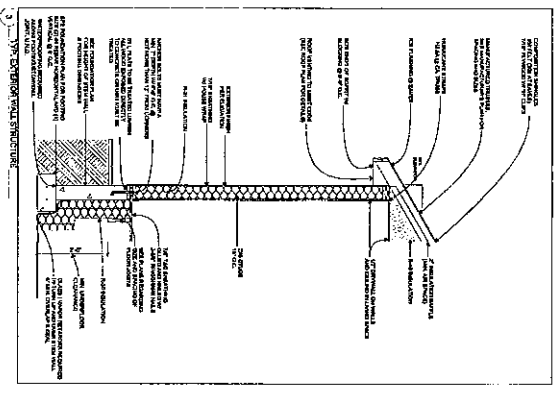
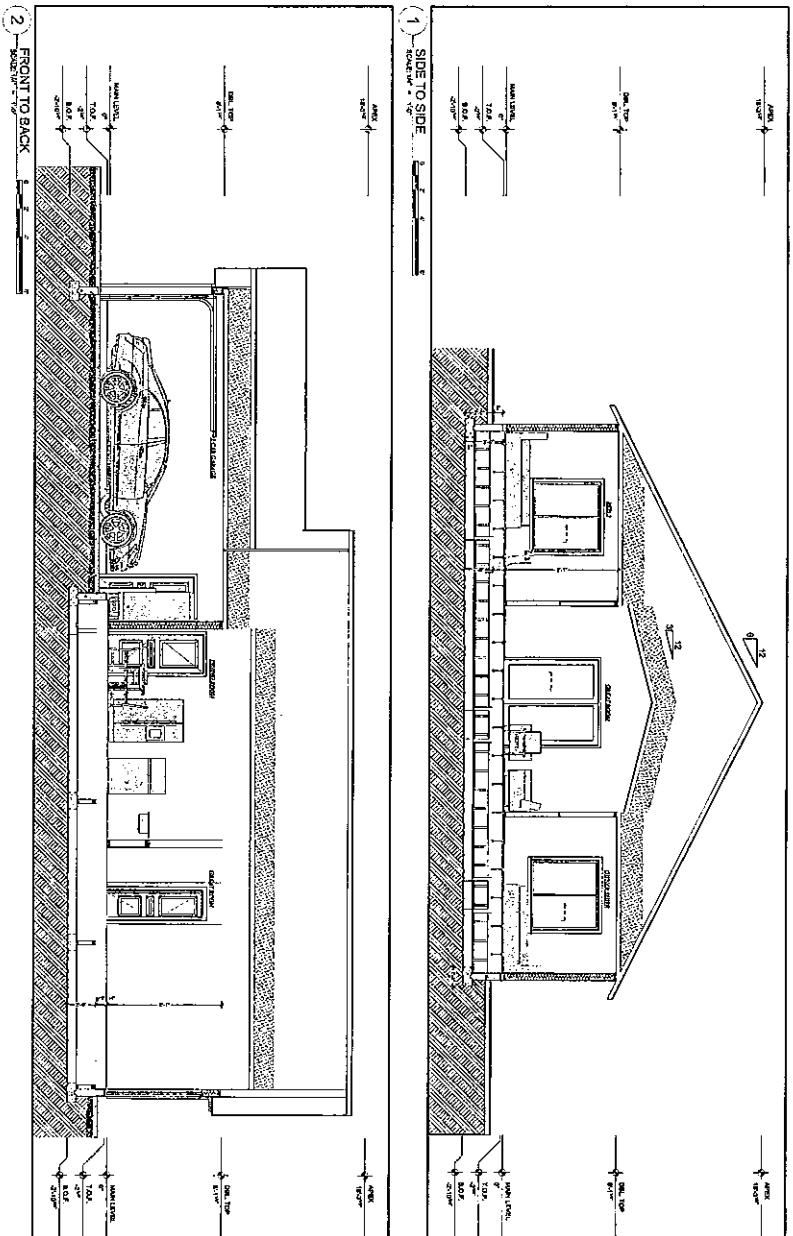
**HOUSE PLANS**  
 SECTIONS &  
 DETAILS

Permitted July 14, 2011

**A-4**  
 RESIDENTIAL PERMIT

**SHEET INDEX**

|    |                      |
|----|----------------------|
| 01 | COVER                |
| 02 | FOUNDATION & FINISH  |
| 03 | FRONT ELEVATION      |
| 04 | REAR ELEVATION       |
| 05 | LEFT SIDE ELEVATION  |
| 06 | RIGHT SIDE ELEVATION |
| 07 | ROOF PLAN            |









**AGENDA REPORT  
PUBLIC HEARING  
September 26, 2023**

To: Mayor and City Council  
FROM: Dan Cummings, City Manager  
THROUGH: Danny K. Cummings, City Manager  
SUBJECT: **ORDINANCE #2823-2023 AN ORDINANCE FOR A COMPREHENSIVE PLAN MAP / 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: September 20, 2023

---

**PROPOSED MOTION:**

**A. APPROVAL:**

- 1. I MOVE THAT THE CITY COUNCIL TAKE THE RECOMMENDATION OF THE PLANNING COMMISSION AND 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. IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, I MOVE THAT THE CITY COUNCIL APPROVE ORDINANCE #2823-2023 AN ORDINANCE FOR THE COMPREHENSIVE PLAN MAP AND ZONING 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 AT A SINGLE MEETING BY TITLE ONLY.**

**IF UNANIMOUS VOTE:**

- 3. IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, I MOVE THAT THE CITY COUNCIL APPROVE ORDINANCE #2823-2023 AN ORDINANCE FOR THE COMPREHENSIVE PLAN MAP AND ZONING 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 AT A SINGLE MEETING BY TITLE ONLY.**

**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 DENIED, 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 Records Office.

On September 11, 2023 the Planning Commission held a Public Hearing on the rezone request

and a favourable recommendation was sent to the City Council to approve the rezone with conditions.

**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 Philip, 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 Philip  
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/LLEGAL** 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. With Legal reasons stated.

**RECOMMENDATION:**

Staff recommends the City Council approve the action.

**ATTACHMENTS:**

1. Ord #2823-2023 Comp Plan Amend & Rezone\_9-26-23
2. DIA-KZ Investments LLC-17S47E33D\_TL 2900- 09-21-23
3. Mills Zone Change Narrative
4. 2023-07-10CPAMD Application
5. Attachment 3 Zoning Before
6. Attachment 4 Zoning After
7. State Letter-City File #2023-07-10-CPAMD-State
8. Proposed Zone Change Conditions\_8.18.23
9. ODOT Letter\_9-5-23\_agree to conditions

After Recording Return to:  
City of Ontario  
Attn. Tori Barnett,  
444 SW 4<sup>th</sup> Street  
Ontario, OR 97914



## **ORDINANCE #2823-2023**

### **AN ORDINANCE FOR A COMPREHENSIVE PLAN MAP AND ZONING MAP AMENDMENT AND REZONE OF A PARCEL OF LAND FROM HIGH DENSITY RESIDENTIAL (RM-10) TO LIGHT INDUSTRIAL (I-1) AS SET FORTH IN PLANNING ACTION 2023-07-10 CPAMD.**

- WHEREAS,** It has been decided that it is in the best interest to the surrounding public that this parcel be rezoned to a more compatible zone in harmony with the surrounding developments in the area, as well as allow for the best use of the property; and
- WHEREAS,** After giving the notice required by law, the Ontario Planning Commission held a public hearing on Planning Action 2023-07-10 CPAMD (Comprehensive Plan Amendment), being a request for a zone change, on September 11, 2023. After the Planning Commission heard testimony from staff and the public, they made a motion to approve the findings of facts and sent a recommendation to the City Council to approve the rezoning of the property; and
- WHEREAS,** After giving the notice required by law, the Ontario City Council held a public hearing on the zone change request on September 26, 2023, and having reviewed all evidence and testimony submitted therein, makes the following findings of fact and conclusions of law with respect to the subject property:
- A. The City of Ontario Municipal Code 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. The applicant has demonstrated in their application that this request is consistent with Statewide Planning Goals.
  - B. The findings show that the request is within the goals and conformance of the acknowledged Comprehensive Plan with the requested amendment and rezone. Therefore, this proposal has demonstrated to be consistent with the Comprehensive Plan.
  - C. The City Council accepts the findings of facts as approved by the Planning Commission as stated in the staff reports and minutes of the Planning Commission meeting of September 11, 2023.
  - D. The subject property size is more than adequate to demonstrate consistency with this criterion and allows all the owner's property to be developed under the zone change.
  - E. The properties are properly related to streets and public facilities within the public streets and utility easements and the existing uses and services demonstrate that uses allowed in the proposed zone can be provided.
  - F. The findings show that the conditions of the neighborhood are such that the subject property and surrounding area are zoned for Industrial, mixed Commercial & Industrial uses and Residential zones.

For the proposed use, 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 any issues. The proposed use is related to low volume traffic with the condition agreed to in Section H below and uses which do not lend themselves to the creation of significant amounts of noise or other discharges of dust or odor into the air uncommon in Industrial and Commercial zones.

- G. That the City Council accept the recommendation of the Planning Commission to rezone the property to Light Industrial (I-1) zone with the following conditions:
1. The owner agrees that any unpaid utility bill will 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 the 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.
- H. That the owner enters into a Deferred Improvement agreement (DIA) with the city documenting the condition of approval as outlined in Section G above and shall cause the DIA to be recorded with the Malheur County Deed records prior to the recording of Ordinance #2823-2023.

**NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:**

1. Comprehensive Plan Map Amendment. Based on the Planning Commission findings and recommendation in Planning Action 2023-07-10 CPAMD, the lands as shown and described in the attached Exhibits "A" and "B" the Comprehensive Plan Map be amended to reflect the land from RESIDENTIAL TO INDUSTRIAL.

2. Rezoning. Based on the Planning Commission findings and recommendation in Planning Action 2023-07-10 CPAMD, the lands as shown and described in the attached Exhibits “A” and “B” are hereby be rezoned from HIGH DENSITY RESIDENTIAL (RM-10) TO LIGHT INDUSTRIAL (I-1) and the Zoning Map amended to reflect this change.
3. Recording of Conditions of Approval. Prior to the recording of this Ordinance, the owner of the property shall enter into a Deferred Improvement Agreement (DIA) with the City, outline the conditions of approval as well as any deferred improvements to the property and shall cause the DIA to be recorded with the Malheur County Clerk in the deed records at the expense of the owner.
4. Record. The City Clerk shall cause the recording of Ordinance #2823-2023 with the Malheur County Clerks deed records.

**PASSED AND ADOPTED** by the Common Council of the City of Ontario this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by the following vote:

AYES:

NAYS:

ABSENT:

**APPROVED** by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**ATTEST:**

\_\_\_\_\_  
Deborah Folden, Mayor

\_\_\_\_\_  
Tori Barnett, MMC, City Recorder

**Exhibit “A”**  
**Property Description for Rezone**  
**City Action No. 2023-07-10 CPAMD**

Land in the Corrected Plat of Oregon and Western Colonization Subdivision to the City of Ontario, according to the Official Plat thereof, within the NW1/4SW1/4 of Section 33, Township 17 South, Range 47 East, W.M., Malheur County Oregon as follows:

**In Block 6:** all that portion of Lots 2 and 3 and adjoining Right of Ways, described as follows:

**Beginning** at the Intersection of the Centerline of North Park Boulevard and the Centerline of NW 16<sup>th</sup> Avenue;

Thence North coincident with said Centerline of North Park Boulevard to its Intersection with the Centerline of the Dork Canal;

Thence NE coincident with said Centerline of the Dork Canal to its Intersection with the Centerline of NW Washington Avenue;

Thence SE coincident with said Centerline of NW Washington Avenue to its Intersection with the Centerline of Hollars Street;

Thence SE coincident with said Centerline of Hollars Street to its Intersection with the Centerline of NW 9<sup>th</sup> Street;

Thence South coincident with the said Centerline of NW 9<sup>th</sup> Street to its Intersection with the Centerline of NW 16<sup>th</sup> Avenue;

Thence West coincident with said Centerline of NW 16<sup>th</sup> Street to the **Point of Beginning**.

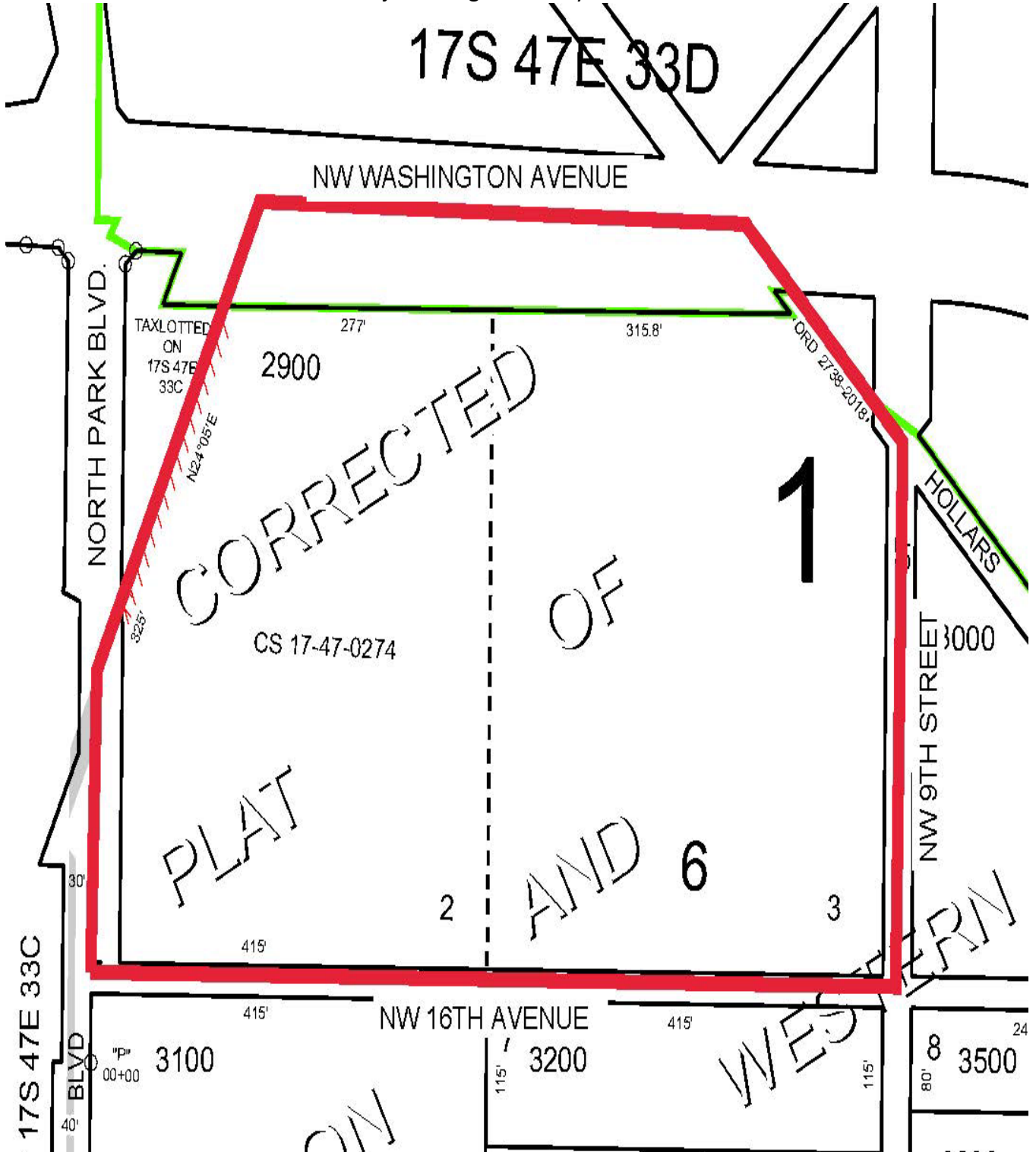
Account No. 26, Code 1, Map 17S47E33D, Tax Lot No. 2900.

**- End of Description -**

# Exhibit "B"

Subject property

MAP 17S47E33D Tax Lot 2900 & Adjacent Rights of Ways.



After Recording Return To:

City of Ontario  
City Recorder  
Attn. Tori Barnett  
444 SW 4<sup>th</sup> Ave  
Ontario, OR 97914

**RESTRICTIVE COVENANT  
REZONE CONDITIONS AND DEFERRED IMPROVEMENT AGREEMENT**

This agreement is between the CITY OF ONTARIO, 444 SW 4<sup>th</sup> St, Ontario Oregon, 97914, hereinafter referred to as "City", and KZ INVESTMENTS, LLC, AN Oregon Limited Liability Company whose current mailing address is 40 NE 6<sup>th</sup> Avenue, Ontario, Oregon 97914, hereinafter referred to as "Owner".

WHEREAS, Owner is the legal owner of the following described real property, see attachment "A" ("Property"):

Map No.: 17S 47E 33D      Tax Lot No.: 2900  
Property Address:      40 NE 6<sup>th</sup> Avenue  
Ontario, OR 97914  
SEE Attachments "A" & "B"

WHEREAS, Owner has petitioned for City to rezone the Owner's Property into City; and

WHEREAS, under the City Code, City has the right to require Owner to make certain improvements and conditions to the Property in order to be eligible for Development and/or Rezone, which improvements conditions are more particularly described as: right of way improvements to NW Washington Avenue on the north, NW 9<sup>th</sup> Street on the East, NW 16<sup>th</sup> Avenue on the South and N. Prak Boulevard on the West, including but not limited to granting of Right of Way, construction of curb and gutter, sidewalk, drainage swales and street improvements ("the Improvements"). The City also has the right to require Owner to pay the proportionate cost of the Improvements to the extent the Property is benefited by them. As well as Conditions of rezone as stated in Ordinance #2823-2023 and Section 7 of this agreement.

WHEREAS, City is willing to allow the construction of the Improvements to be deferred upon the terms and conditions in this Agreement and rezone the property under certain condition.

NOW THEREFORE, it is agreed as follows:

- 1. Deferral of Improvements. City and Owner agree that the Improvements set out above may be

deferred as provided for in this Agreement. Owner agrees Owner has a current obligation to construct the Improvements described in the Recitals above. Owner and City have elected the obligation to defer construction of the Improvements during the time of development of the property (owner is allowed to phase the development of the property) under the terms of this Agreement.

2. Binding on Successors in Interest. This Agreement is an instrument affecting the title and possession of the Property described above. All the terms and conditions herein imposed shall run with the land and shall be binding upon and inure to the benefit of the successors in interest of Owner. Upon any sale or division of the Property described above, the terms of this Agreement shall apply separately to each parcel and the Owner of each parcel shall succeed to the obligations imposed on Owner by this Agreement.

3. Nature of Obligation.

3.1 City and Owner agree that the Improvements set forth in the Recitals above may be deferred because immediate installation of such Improvements is not deemed practical at this time due to the project's incremental relationship to the intended holistic design function of said Improvements.

3.2 Owner agrees to construct the Improvements described above at the time the city determines it is no longer beneficial to the public to continue the deferment or adjacent owners are ready to install their portions of the road system, in the manner set forth in this Agreement and in compliance with all requirements of the Land Development Code as applicable to new development requiring development permit approval under city code 10A-60-20.

3.3 When the City determines that the reason(s) for the deferment no longer exist(s), the City shall notify Owner or the Owner's successor in interest, in writing, of terms for performance of the work. The notice shall be mailed to the current owner or owners of the land as shown on the latest adopted County Assessment Roll. All or any portion of said Improvement may be required by City at any time. Each Owner shall participate on a pro rata basis of the cost of installation of the Improvements.

4. Election by City; Owner's Performance of the Work. The City shall have the right to elect whether the work to construct the Improvements is to be performed by Owner or whether the Improvements are constructed as part of a Local Improvement District (LID). If the City elects to have Owner construct the Improvements, Owner agrees to perform as follows:

4.1 Owner is responsible for performance of the work to construct the Improvements and obtain contractors, therefore. Owner shall cause satisfactory plans and specifications for the Improvements to be prepared and to submit said plans and specifications to the City Manager, or his designate, for approval prior to commencement of the work to be done. Such work shall be done in accordance with City standards in effect at the time the Improvement plans are submitted for approval. Owner agrees to make payments required by the City including, but not limited to engineering, deposits, permit fees and inspection fees. Owner shall notify the City Manager, or his designate, at least 48 hours prior to the start of work.

4.2 Prior to approval of Improvement plans by the City, Owner may be required to execute and deliver to the City, a performance bond in an amount and form acceptable to the City, to be released by the City in whole or in part upon the City's final acceptance of the work performed.

4.3 If Owner disagrees with the requirements set forth for installation of Improvements as provided in this Section, Owner shall, within 30 days of the date the notice from the City was mailed, request a review of the requirements by the City Council. The decision of the Council shall be final and binding upon both the City and the Owner.

4.4 Owner shall complete construction within one year of the date of City's notice demanding Owner construct the Improvements.

4.5 Owner agrees to hold harmless, indemnify and defend City from and against any and all claims, costs, expenses (including attorney fees), losses, damages, fines, charges, actions, or liabilities of any description arising out of or in any way connected with (1) any matter arising out of or associated with the deferred Improvements addressed in this Agreement; and (2) Owner's conduct with respect to the Property; and (3) Any condition of the Property related to the Improvements deferred herein. In the event of any litigation or proceeding brought against City arising out of or in any way connected with any of the above events or claims, Owner shall provide City with legal counsel reasonably satisfactory to City.

4.6 In the event Owner fails to complete the work described in this Agreement within the time period provided above, the City shall be entitled to enforce Owner's obligation by all means available under Ontario City Code, or as otherwise provided by law or equity, including a suit in equity for specific performance.

5. Construction as Local Improvement to be Assessed Against Property. As an alternative to having the Owner construct the improvements pursuant to paragraph 5, if the City elects to construct the Improvements through a Local Improvement District, Owner's signature hereon shall be equivalent to a petition for establishment of an LID. Or, if the City elects to have Owner perform the work under paragraph 5, and Owner does not complete the Improvements in compliance with this Agreement, the City may do the work as an LID project following the procedures established by the City Code for such projects and assess the cost against the Property specially benefited. Permission to enter onto the Property of the Owner is granted to the City or its contractor as may be necessary to construct such Improvements.

5.1 In the event and at such time as the City initiates the formation of an LID for the funding and construction of the Improvements designated above, Owner hereby waives any and all right to remonstrate against formation of an LID by the City for the purpose of improving the above stated Streets and/or Avenues and Public Utilities, as per the City of Ontario Municipal Code Chapter 10C-25 Transportation Standards; and assessing the proportionate cost to benefited properties pursuant to the City's right-of-way improvement regulations in effect at the time of such improvement.

5.2 The phrase "right to remonstrate against the formation of an LID" refers solely to a property owner's right under the City Code to be counted as part of an extraordinary majority of property owners that can, in certain circumstances, suspend proceedings on formation of an LID for six months. The waiver of this right does not limit or otherwise restrict the ability of a property owner bound by this covenant to appear at any of the required public hearings and testify regarding formation of the LID, whether the boundaries include all benefited property, the equity of the assessment formula, the scope and nature of the project or of the final assessment, or any other issue regarding the LID.

5.3 City agrees that a LID assessment levied against Owner's Property shall not exceed the benefit conferred upon the Property.

6. Temporary Facilities. Owner agrees to allow any necessary temporary facilities, access road or other required improvements determined by City to be appropriate pending final construction of the Improvements described in the Recitals. Further, City agrees to assume responsibility for the proper functioning of temporary facilities, to submit plans to the appropriate City agency for review if required, and to maintain said improvements and facilities in a manner which will preclude any hazard to life or health or damage to adjoining property.

7. Conditions of Approval for Rezoning.

7.1 The owner agrees that any unpaid utility bill will be a lien against the property once connected to city sewer and water.

7.2 The owners will make all the improvements to the site and public utility infrastructure as per the city code or sign a Deferred Improvement Agreement approved by City Staff based on development of the site.

7.3 The owners shall abide by all the conditions of the City of Ontario Municipal Code.

7.4 The owner 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 here by agrees to the following:

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.

8. Miscellaneous Provisions.

8.1 Nothing contained in this Agreement shall be construed to be a waiver of any applicable Federal, State or local building statutes, rules, regulations, ordinances, codes or standards or a waiver of any zoning restrictions or required improvements as set forth in the

Ontario Municipal Code.

8.2 Should it become necessary for either party to institute action to enforce the terms and provisions of this Agreement, the prevailing party shall pay the other party reasonable costs, including attorney fees incurred in the preparation and prosecution of any judicial proceeding or in any appeal therefrom.

8.3 Upon completion and acceptance of all improvements under this Agreement, the Owner shall request the City to execute a release of this Agreement and cause the release to be recorded in the Malheur County Deed records. All recording fees associated with the release shall be paid by the Owner at time of recording.

8.4 Any required notices under the terms and conditions of this Agreement shall be delivered by addressing said notice and placing it in the United States mail, postage paid, to the following addresses:

**City:** City Manager  
City of Ontario  
444 SW 4<sup>th</sup> Street  
Ontario, OR 97914

**Owners:** KZ INVESTMENTS, LLC  
Zach Mills  
40 NE 6<sup>th</sup> Avenue  
Ontario, OR 97914

Such notice, if mailed within the State of Oregon, shall be deemed delivered on the date postmarked. If mailed from or to a point outside the State of Oregon, such notice shall be deemed delivered upon the fifth day following the date postmarked.

8.5 This Agreement contains the entire agreement of the parties and supercedes all prior oral or written agreements.

8.6 If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality or unenforceability shall not effect any other provision of this Agreement, and such other provisions shall be construed as if the invalid, illegal or unenforceable provision had never been contained in this Agreement.

8.7 The City Manager under Title 2, Chapter 2 Section 3 is authorized to enter into Deferred Development Agreements with property developers to defer certain public and/or private improvements when doing so would not harm the public's interest.

IN WITNESS WHEREOF, this Agreement has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF ONTARIO:**

\_\_\_\_\_  
Signature  
By: Dan K. Cummings  
Title: City Manager

Date: \_\_\_\_\_

State of Oregon        )  
                                  )ss.  
County of Malheur     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Dan K. Cummings, in his capacity as City Manager of the City of Ontario.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

**OWNERS:**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Zach Mills  
Title: Managing Member

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title:

State of Oregon        )  
                                  ) ss.  
County of Malheur     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Zach Mills, Managing Member.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: \_\_\_\_\_

**ATTACHMENT "A"**

Map 17S4733D Tax Lot 2900

Land in the Corrected Plat of Oregon and Western Colonization Subdivision to the City of Ontario, according to the Official Plat thereof, within the NW1/4SW1/4 of Section 33, Township 17 South, Range 47 East, W.M., Malheur County Oregon as follows:

**In Block 6:** all that portion of Lots 2 and 3 and adjoining Right of Ways, described as follows:

**Beginning** at the Intersection of the Centerline of North Park Boulevard and the Centerline of NW 16<sup>th</sup> Avenue;

Thence North coincident with said Centerline of North Park Boulevard to its Intersection with the Centerline of the Dork Canal;

Thence NE coincident with said Centerline of the Dork Canal to its Intersection with the Centerline of NW Washington Avenue;

Thence SE coincident with said Centerline of NW Washington Avenue to its Intersection with the Centerline of Hollars Street;

Thence SE coincident with said Centerline of Hollars Street to its Intersection with the Centerline of NW 9<sup>th</sup> Street;

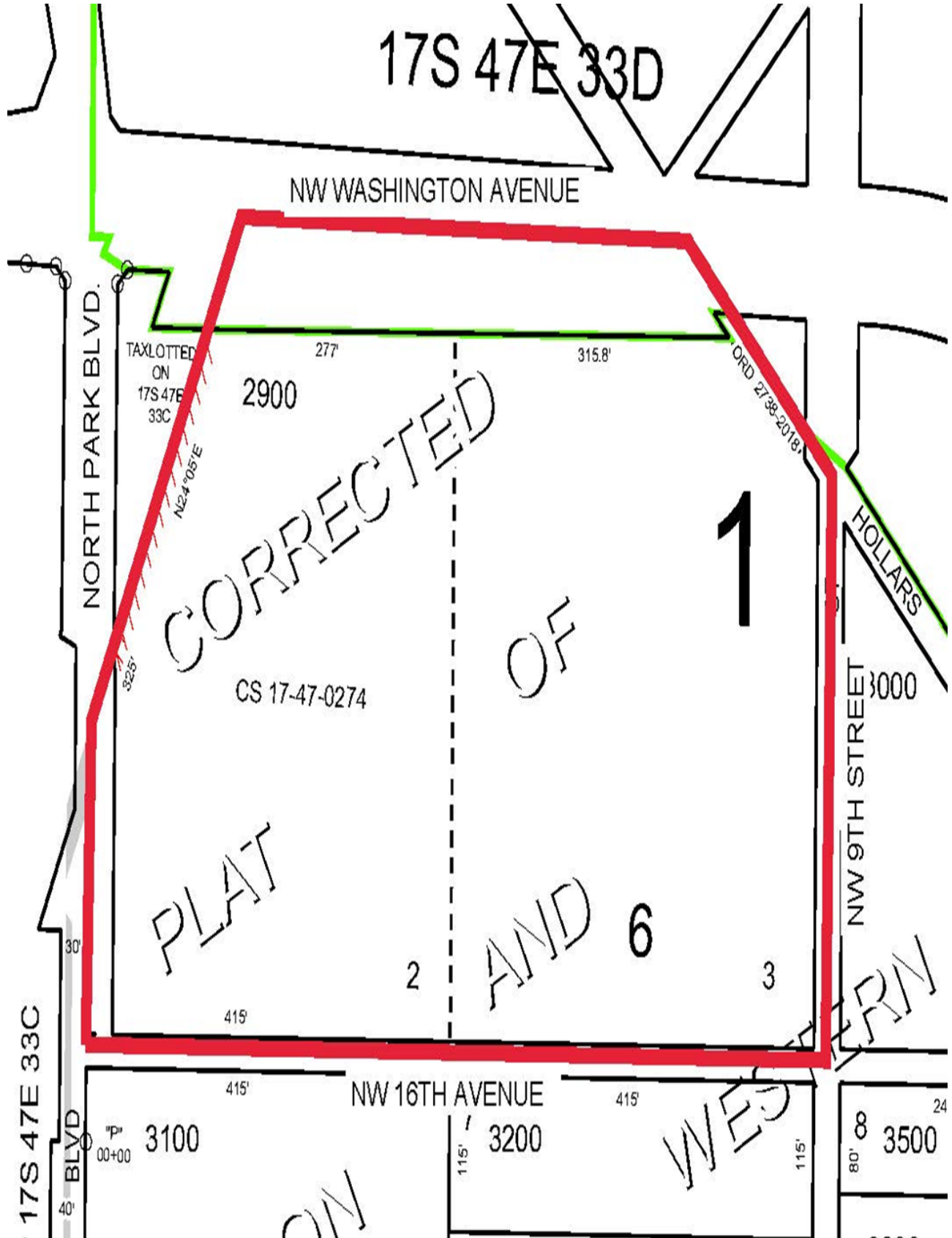
Thence South coincident with the said Centerline of NW 9<sup>th</sup> Street to its Intersection with the Centerline of NW 16<sup>th</sup> Avenue;

Thence West coincident with said Centerline of NW 16<sup>th</sup> Street to the **Point of Beginning**.

Account No. 26, Code 1, Map 17S47E33D, Tax Lot No. 2900.

**- End of Description -**

ATTACHMENT "B"



# Mills Zone Change Application Narrative

Prepared by Winterbrook Planning

July 3, 2023

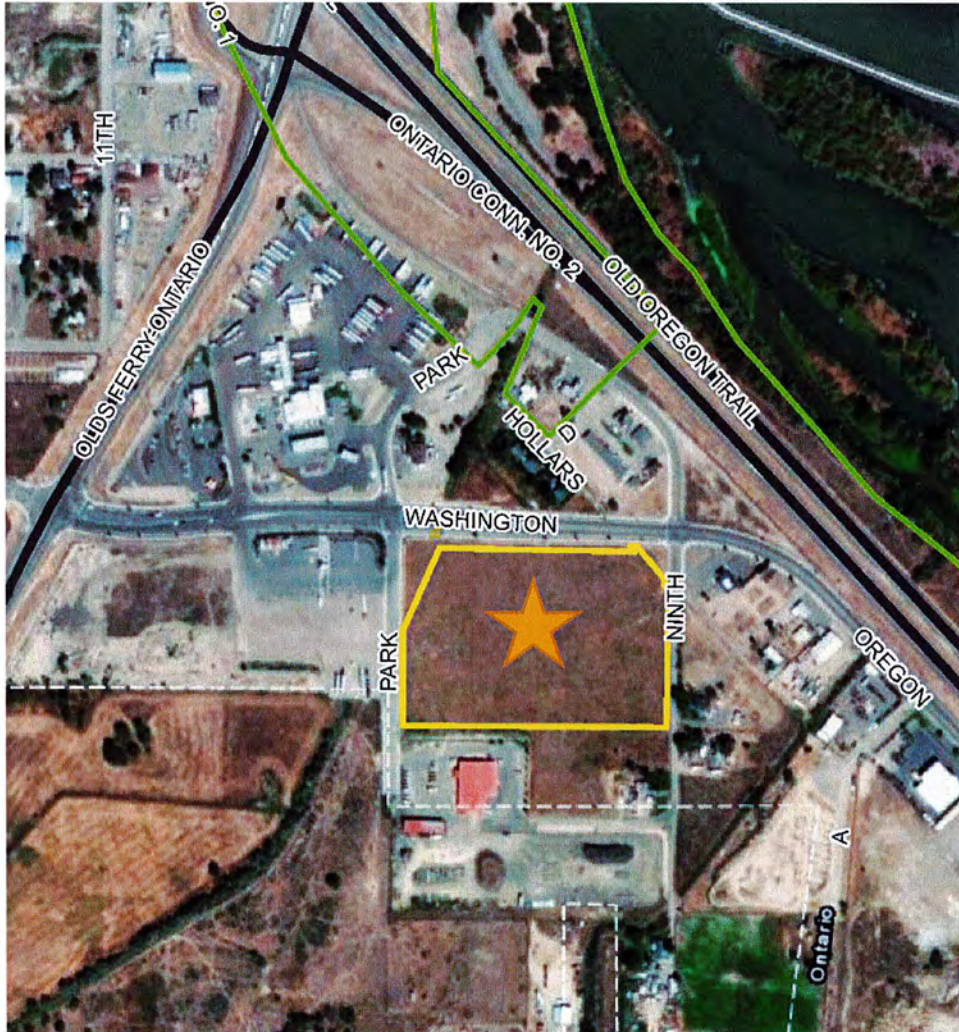


Figure 1: Property Proposed for Zone Change

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        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. .... 21  
        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. .... 21  
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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 6<sup>th</sup> 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

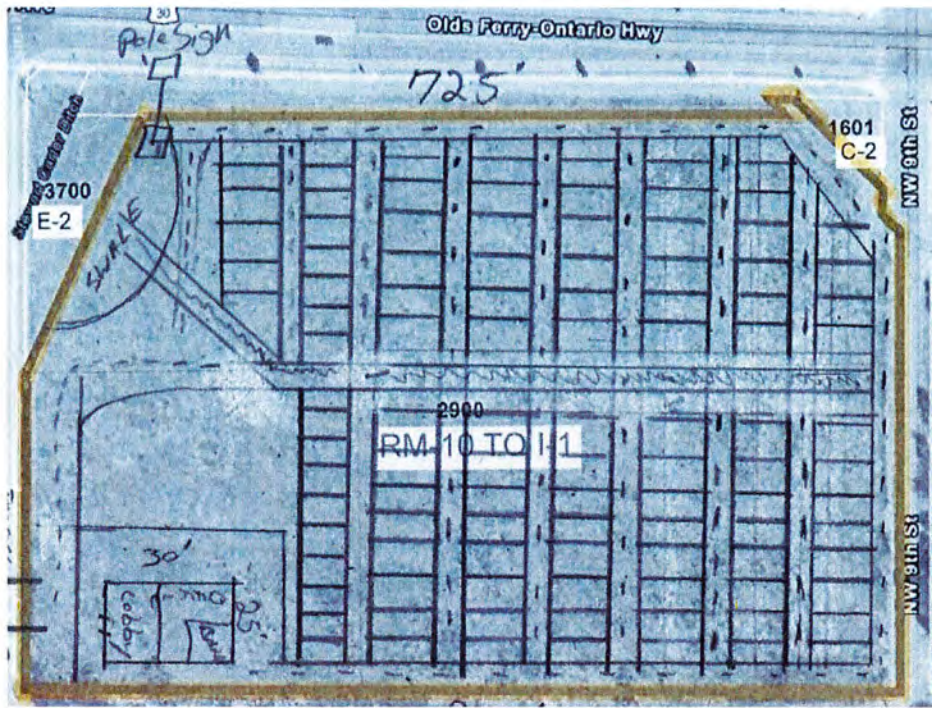


Figure 3: Rough Site Plan for Proposed Indoor Storage Units

**II. SUMMARY & BACKGROUND INFORMATION:**

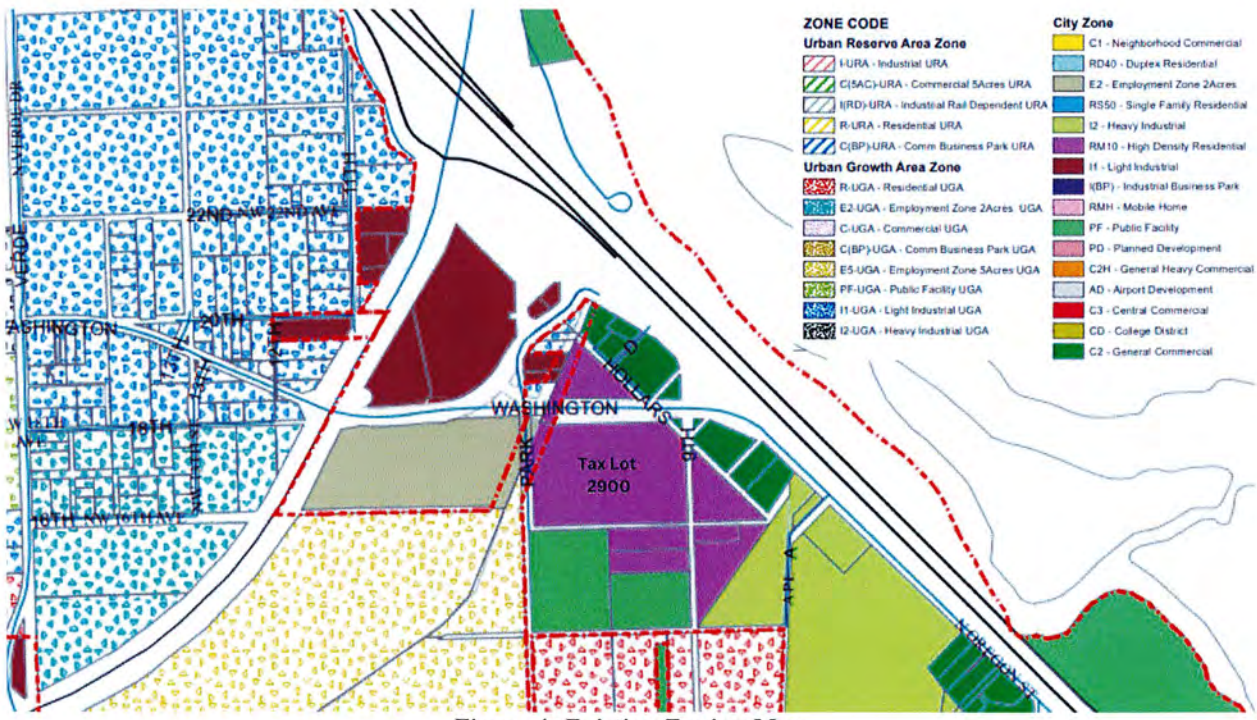


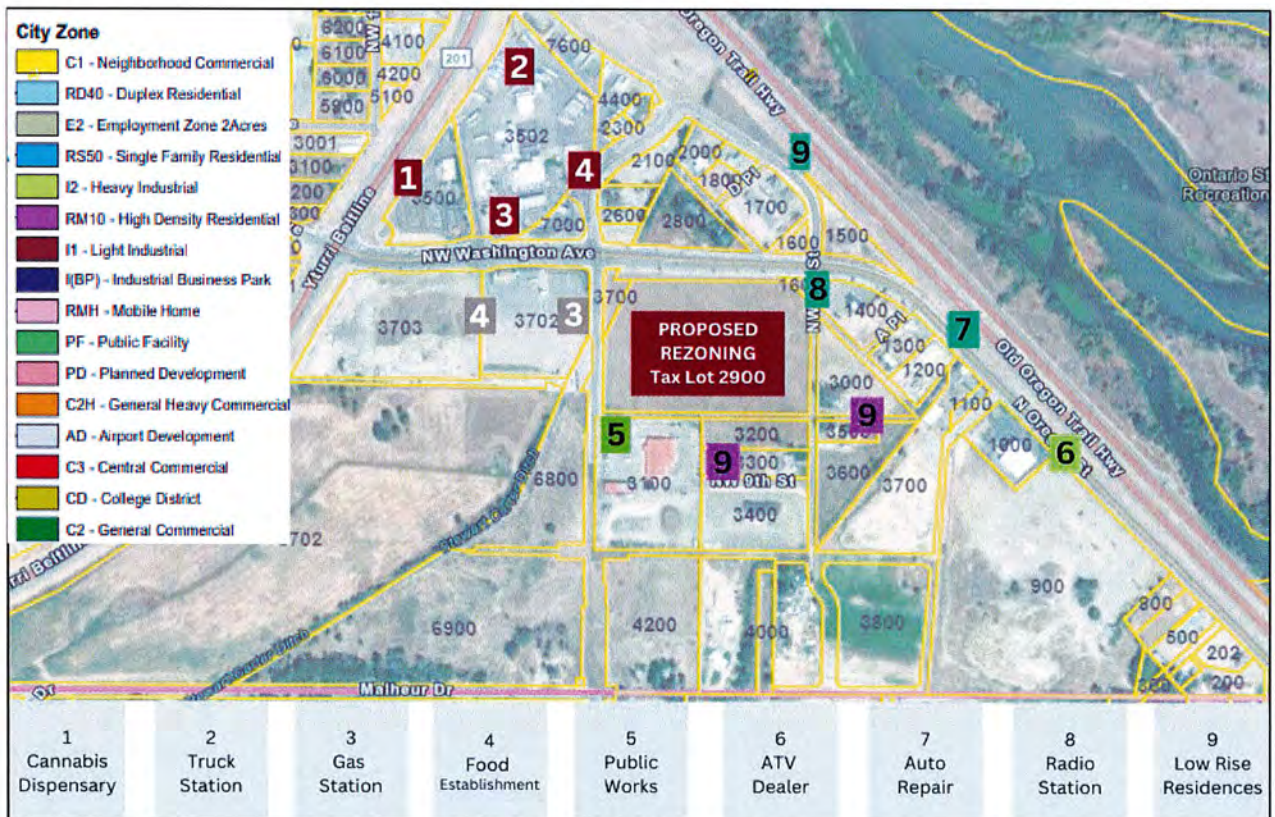
Figure 4: Existing Zoning Map

## 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 9<sup>th</sup> 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 UGA<sup>1</sup>
  - 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

---

<sup>1</sup> 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.<sup>2</sup> 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).

---

<sup>2</sup> 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.

| <b>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)</b> |  |   |  |
|--|--|---|--|
| <b>Generalized Land Use</b>  | <b>Buildable Acres</b>                           | <b>Need 2006-2026</b>                     | <b>Surplus (Deficit) 2006-2026</b>   |
| 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)   |
| <b>TOTAL</b>   | <b>1,088.6</b>                                   | <b>1,195.4</b>                            | <b>(106.8)</b>   |
| <b>Residential Need</b>  | <b>Buildable Acres Supply within City Limits</b> | <b>Need 2020-2040</b>                     | <b>Surplus (Deficit) 2020-2040</b>   |
| Low Density Residential  | 126  | PRC Need: 2.3<br>Aspirational Need: 174.2 | PRC Surplus (Deficit): 123.7<br>Aspirational Surplus (Deficit): (48.2)                                     |
| Medium Density Residential   | 11   | PRC Need: 0.38<br>Aspirational Need: 18.7 | PRC Surplus (Deficit): 10.62<br>Aspirational Surplus (Deficit): (7.6)                                      |
| High Density Residential   | 40   | PRC Need: 0.33<br>Aspirational Need: 0.33 | PRC Surplus (Deficit): 39.67<br>Aspirational Surplus (Deficit): 15.1                                       |
| City Residential SUBTOTAL  | 177  | PRC Need: 3.0<br>Aspirational Need: 177   | PRC Surplus (Deficit): 174 within City Limits<br>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   |
| <b>TOTAL</b>                   | <b>3.0 acres</b>                                   | <b>177</b>                                     | <b>174</b>                                      |

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 PRC<sup>3</sup> 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.

<sup>3</sup> 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.

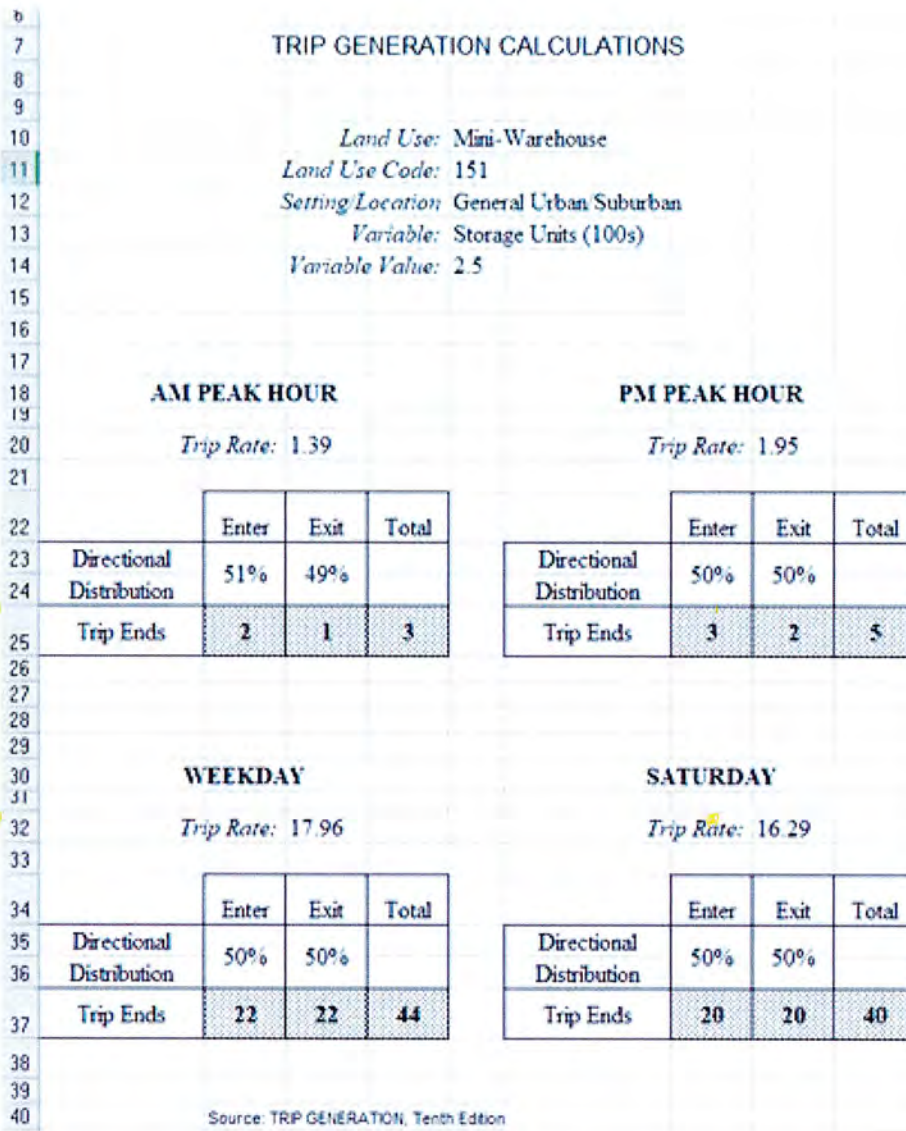


**Figure 9: Transportation Facilities**

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).



**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 uses<sup>4</sup>

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.

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<sup>4</sup> 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 polices 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 9<sup>th</sup> 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**<sup>6</sup> as well as Oregon Department of Environmental Quality environmental standards.

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<sup>6</sup> **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

Property Owner(s) - attach additional sheets as necessary

Zach Mills, KZ Investments LLC

Address 610 SW Alder Street Suite 810

40 NE 6th Avenue

Portland, Oregon 97205

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.


**COMPREHENSIVE PLAN AMENDMENT**      **FILE #** \_\_\_\_\_

**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

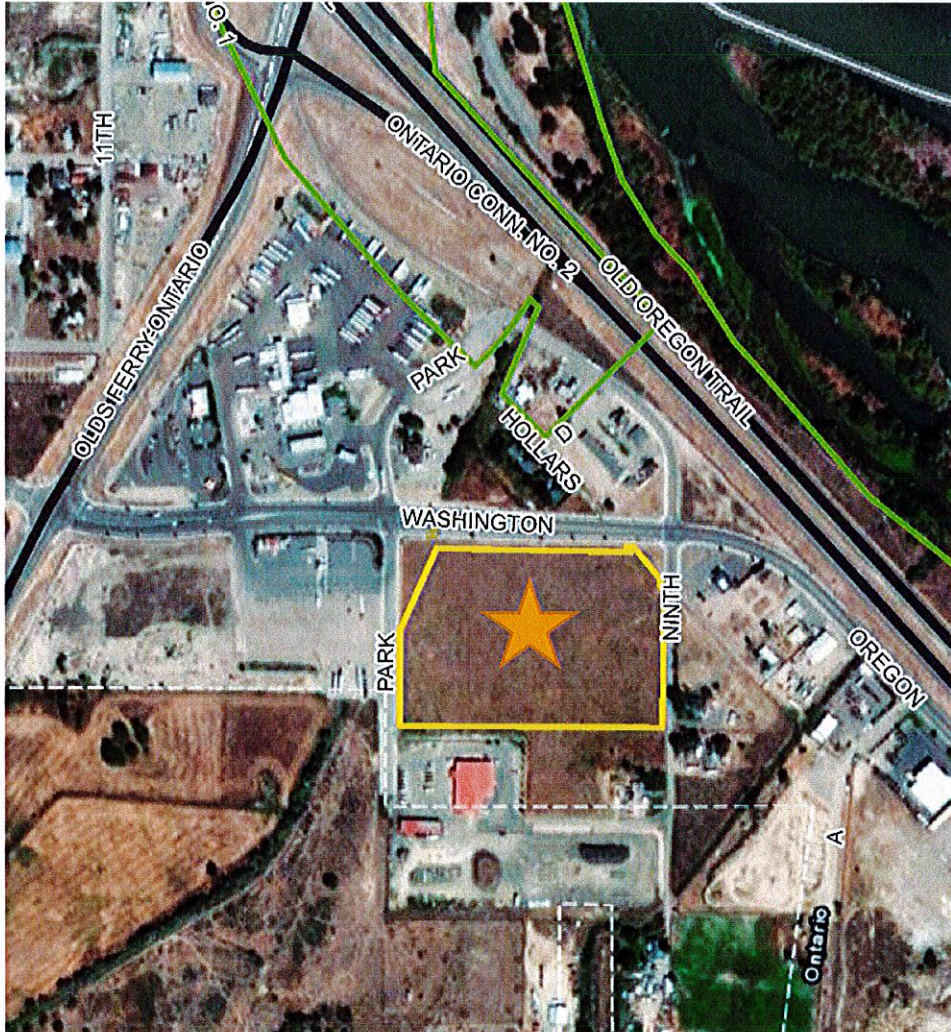


Figure 1: Property Proposed for Zone Change

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Figure 12: Larger Development Pattern Around Proposed Zone Change Site..... 20

**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 6<sup>th</sup> 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

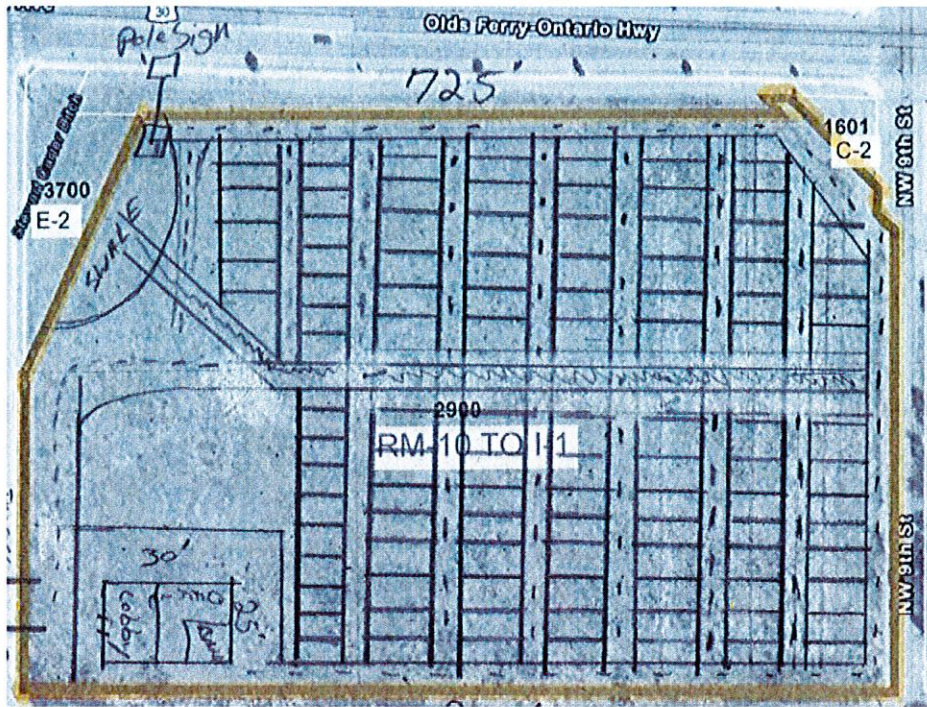


Figure 3: Rough Site Plan for Proposed Indoor Storage Units

**II. SUMMARY & BACKGROUND INFORMATION:**



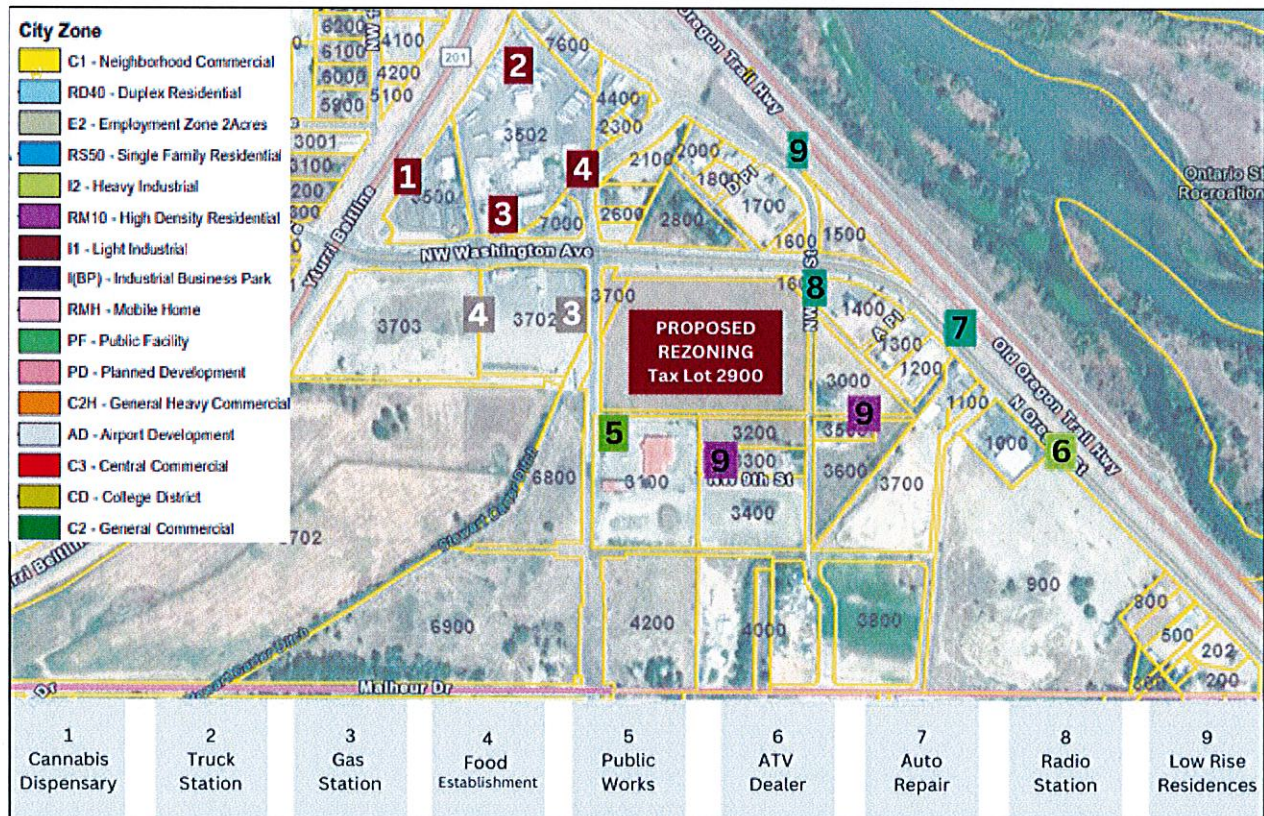
Figure 4: Existing Zoning Map

## 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 9<sup>th</sup> 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 UGA<sup>1</sup>
  - 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

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<sup>1</sup> 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.<sup>2</sup> 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).

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<sup>2</sup> 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.

| <b>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)</b> |  |   |  |
|--|--|---|--|
| <b>Generalized Land Use</b>  | <b>Buildable Acres</b>                           | <b>Need 2006-2026</b>                     | <b>Surplus (Deficit) 2006-2026</b>   |
| 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)   |
| <b>TOTAL</b>   | <b>1,088.6</b>                                   | <b>1,195.4</b>                            | <b>(106.8)</b>   |
| <b>Residential Need</b>  | <b>Buildable Acres Supply within City Limits</b> | <b>Need 2020-2040</b>                     | <b>Surplus (Deficit) 2020-2040</b>   |
| Low Density Residential  | 126  | PRC Need: 2.3<br>Aspirational Need: 174.2 | PRC Surplus (Deficit): 123.7<br>Aspirational Surplus (Deficit): (48.2)                                     |
| Medium Density Residential   | 11   | PRC Need: 0.38<br>Aspirational Need: 18.7 | PRC Surplus (Deficit): 10.62<br>Aspirational Surplus (Deficit): (7.6)                                      |
| High Density Residential   | 40   | PRC Need: 0.33<br>Aspirational Need: 0.33 | PRC Surplus (Deficit): 39.67<br>Aspirational Surplus (Deficit): 15.1                                       |
| City Residential SUBTOTAL  | 177  | PRC Need: 3.0<br>Aspirational Need: 177   | PRC Surplus (Deficit): 174 within City Limits<br>Aspirational Surplus (Deficit): (40.7) within City Limits |
| <b>TOTAL Need from Residential UGA</b>   | <b>414</b>                                       | <b>Aspirational Deficit in City: 40.7</b> | <b>Remaining UGA Surplus (Deficit): 373.3</b>  |

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   |
| <b>TOTAL</b>                   | <b>3.0 acres</b>                                   | <b>177</b>                                     | <b>174</b>                                      |

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 PRC<sup>3</sup> 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.

<sup>3</sup> 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 I2 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.

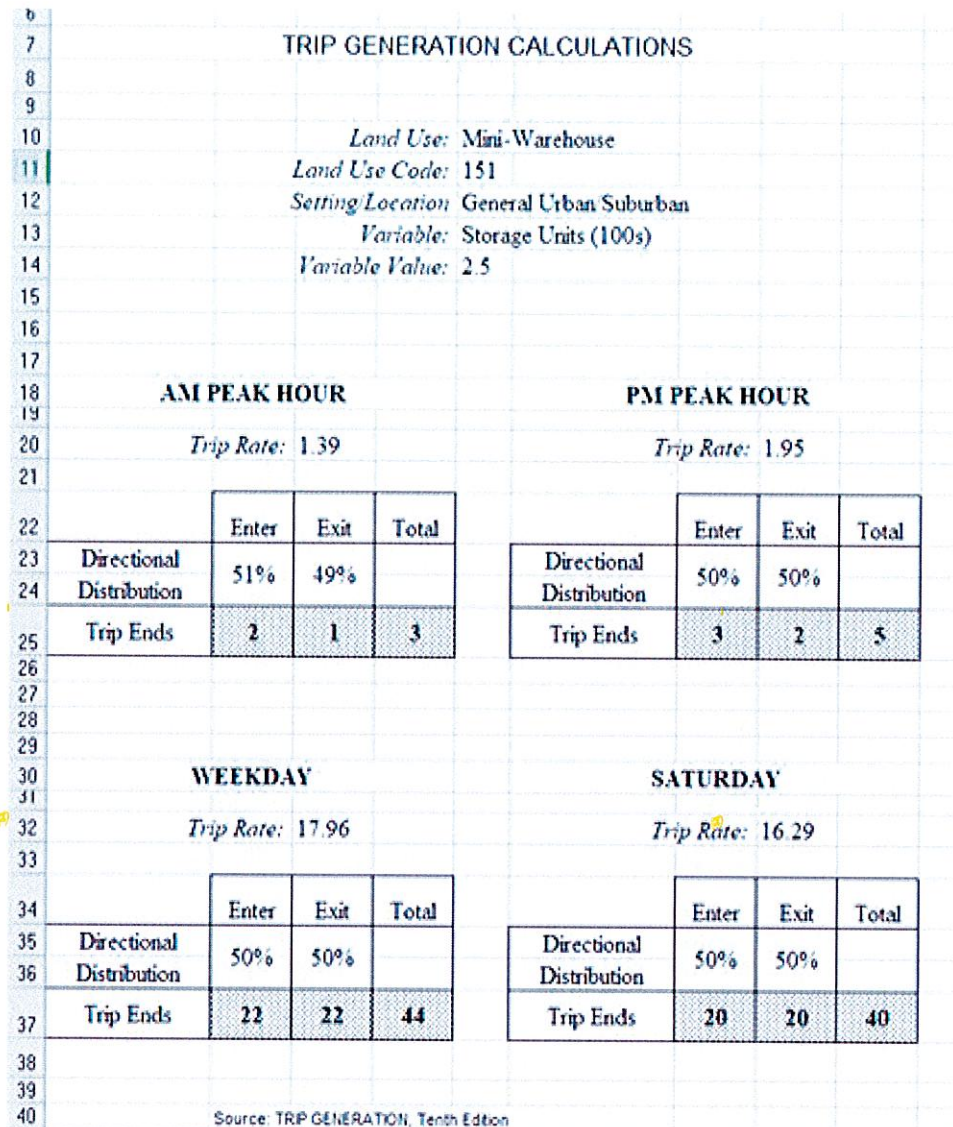


**Figure 9: Transportation Facilities**

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).



**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 uses<sup>4</sup>

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.

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<sup>4</sup> 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 polices 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 9<sup>th</sup> 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.

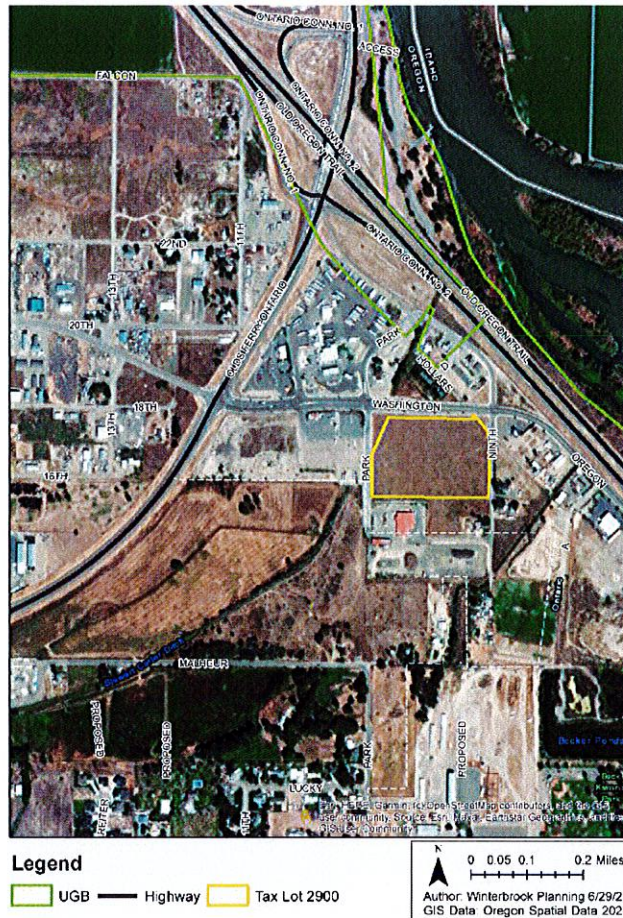


Figure 12: Larger Development Pattern Around Proposed Zone Change Site

***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**<sup>6</sup> as well as Oregon Department of Environmental Quality environmental standards.

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**<sup>6</sup> 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.**

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*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 4<sup>th</sup> 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<sub>MD</sub>

**Date Received** \_\_\_\_\_

~~Fee \$330.00 + \$220 = \$550.00~~

**Time Received** \_\_\_\_\_

(Mailing & Advertising \$220.00)

**Accepted as Complete** \_\_\_\_\_

**Applicant(s)** – attach additional sheets as necessary

**Property Owner(s)** – attach additional sheets as necessary

Name Amanda Philip Winterbrook Planning

Zach Mills, KZ Investments LLC

Address 610 SW Alder Street Suite 810  
Portland, Oregon 97205

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 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.

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

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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.

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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.

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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.

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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.

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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.

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### **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
- 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.

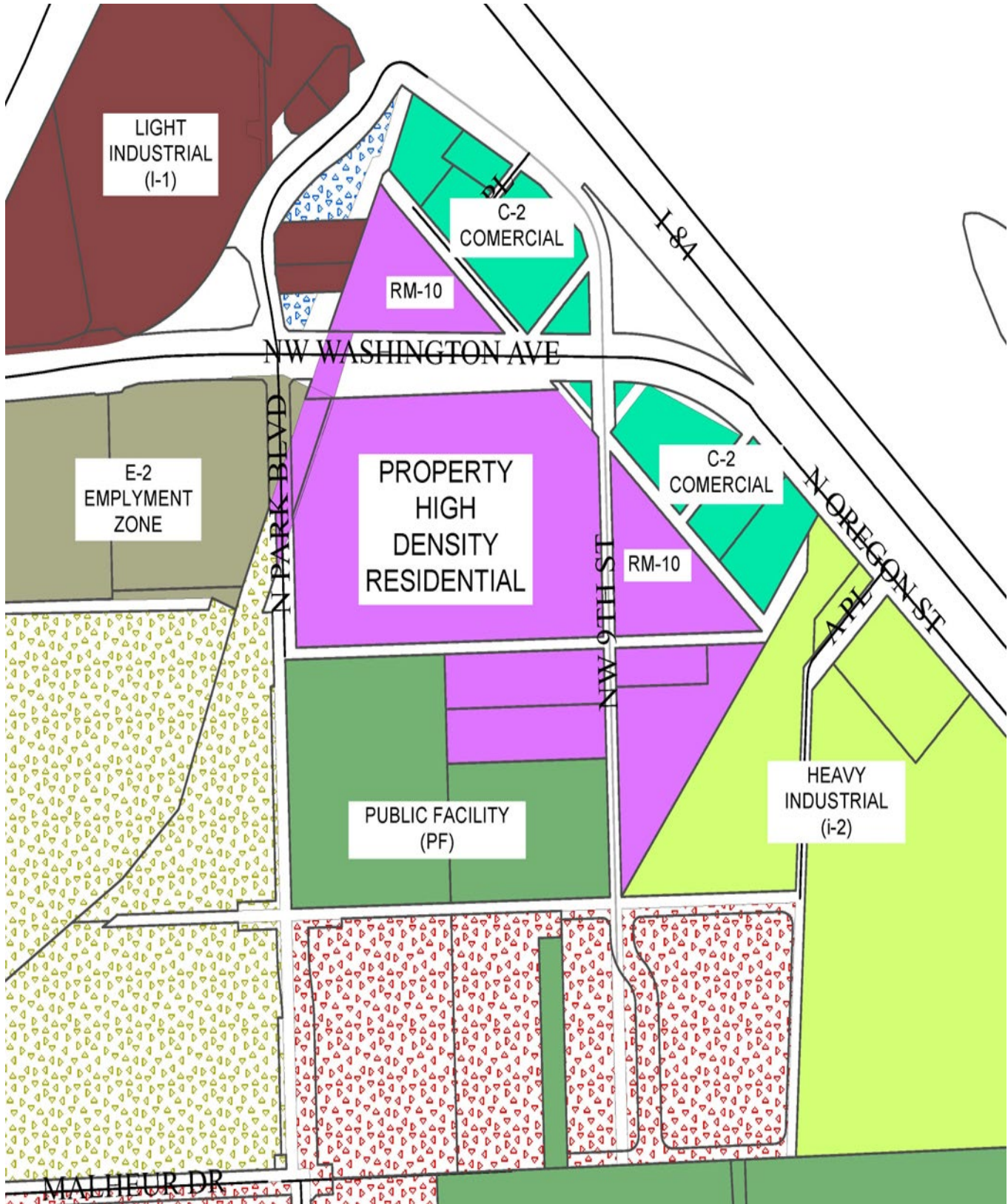
**If the applicant is not the property owner, the Planning Official may require documentation of consent to represent the owner including:**

- 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.**

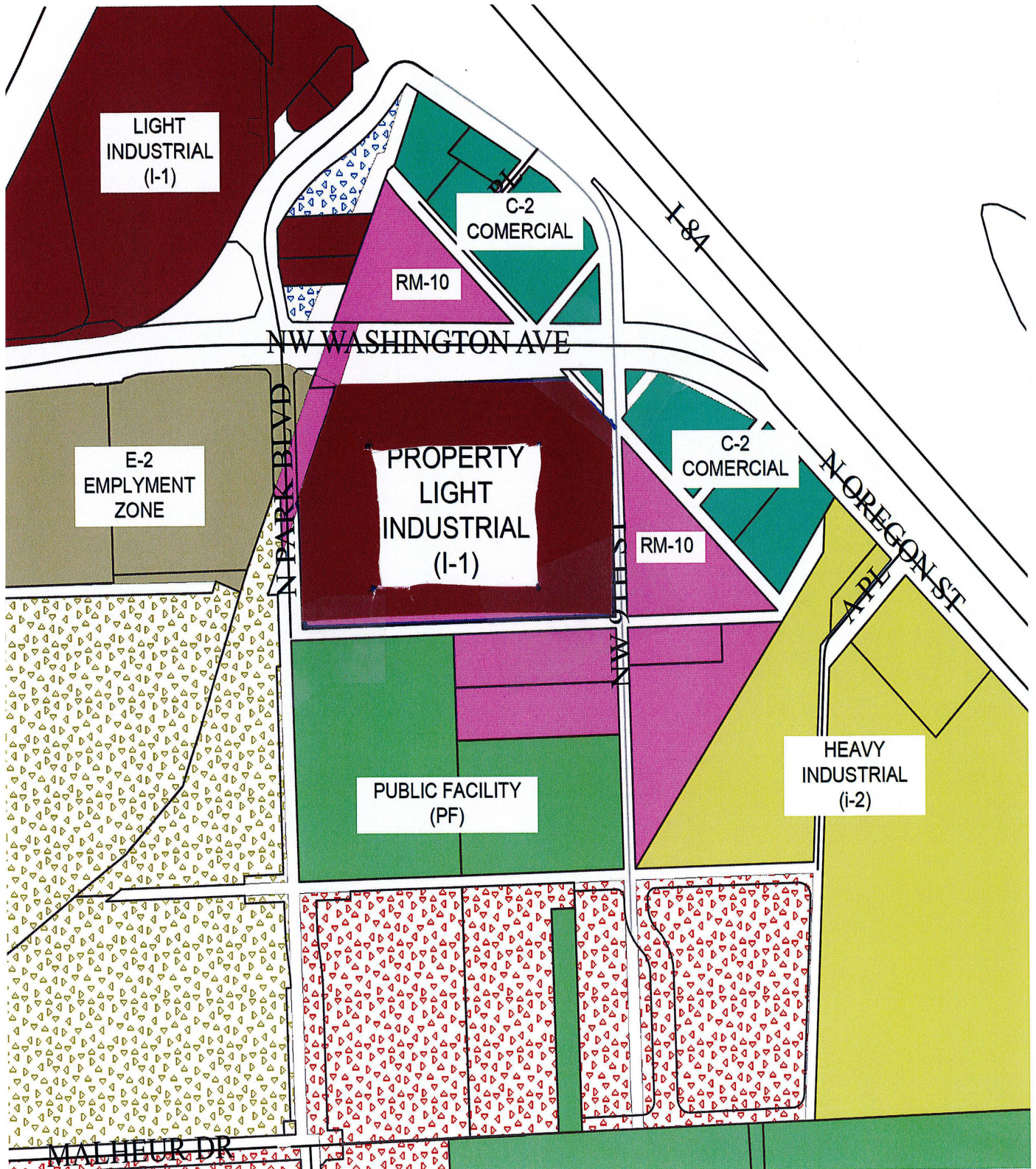
**Electronic copies of all written materials are appreciated if available.**

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)



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



# Oregon

Tina Kotek, Governor

Department of Transportation

Region 5, District 14

1390 SE 1<sup>st</sup> 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 4<sup>th</sup> 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 1<sup>st</sup> 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



## 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 |               |               |             |            | A Tr |
|---------------------|---|----------------------|--------------|----------------|------------|--------------|--------------|------------|-----------|-------------|---------------|---------------|-------------|------------|------|
|                     |   |                      |              |                | 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       | 1    |
| Proposed Use Totals |   |                      |              |                |            |              |              |            |           | 3410        | 318           | 450           | 10322       | 1916       | 1    |

- Notes:
- A Trip generation data from ITE Trip Generation, 10th Edition
  - B Peak hour rates correspond to peak of generator (if data available)
  - C If peak of generator data not available, peak of adjacent street traffic is used

| 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   |

## **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.



# Oregon

Tina Kotek, Governor

Department of Transportation  
Highway Maintenance District 14  
1390 SE 1<sup>st</sup> Ave.  
Ontario, OR 97914  
Phone: (541) 889-9115  
Fax: (541) 889-6600

August 24, 2023

VIA EMAIL: dan.cummings@ontariooregon.org  
Dan Cummings, City Manager  
City of Ontario  
444 SW 4<sup>th</sup> 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 – Conditions of Approval

The Oregon Department of Transportation (ODOT) provided comments earlier identifying concerns with the proposed change in zoning of 9.25 acres from RM-10 to I-1. See attached ODOT August 17, 2023 letter.

Based on the August 24, 2023 discussion with City of Ontario (City), Applicant and ODOT staff, the City will limit trip generation of the 9.25-acre property to ensure there will be no significant effect on the transportation system associated with the rezone. This would equate to a maximum of 1,040 vehicle daily trips, or what would be allowed under the existing RM-10 zoning. See attached City/Applicant Conditions of Zone Change Approval.

ODOT supports the trip cap of 1,040 trips along with the monitoring as proposed by City and Applicant. As such, a formal traffic impact analysis will not be required for the proposed rezone with a trip cap of 1,040 trips and associated Conditions of Zone Change Approval.

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  
John Eden, District 14 Permits  
Zach Mills, Applicant  
Greg Winterowd, Winterbrook Planning

Attachments: ODOT August 17, 2023 Comment Letter  
City Ontario Action 2023-07-10 CPAMD Conditions of Zone Change Approval

## **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.



# FOURTH QUARTER REPORT

April – June 2023



# MEDICAL & FIRE CALL STATS

## Medical Responses

- City medical responses = 470
- Rural medical responses = 53
- Total medical responses = 523
- Total Generals (Call Backs) = 8

## Fire Responses

- City fire responses = 46
- Rural fire responses = 28
- Total fire responses = 74
- Total mutual aid fires = 7
- Hazmat Calls = 2

Total Emergency Responses = 599

Total City Responses = 518 (86%)

Total Rural Responses = 81 (14%)

Quarterly Overdose Calls = 14

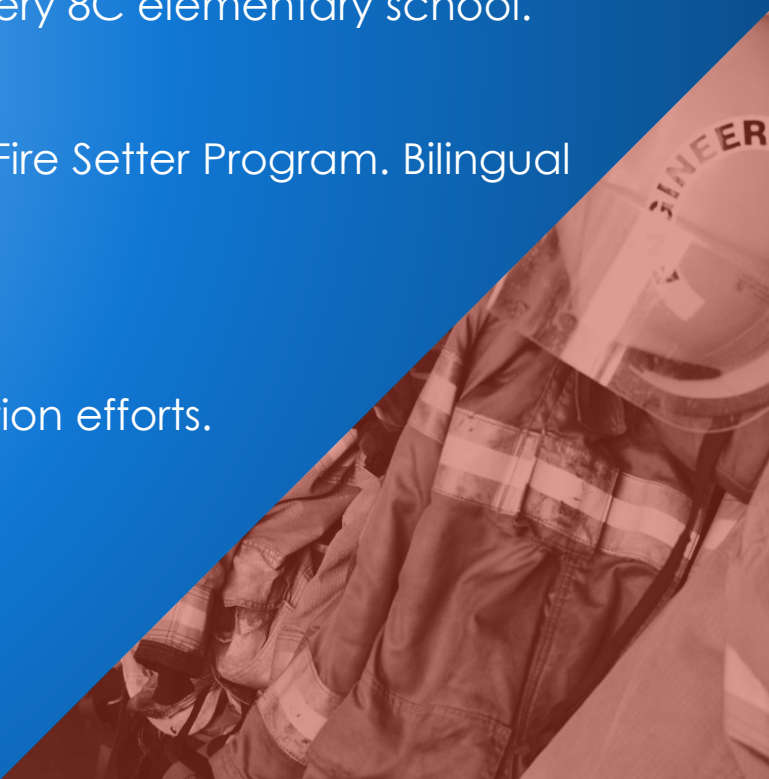


# Comparison between 2014/2023 Calls (4th Quarter)

|                           | 2014 | 2023                      | % Change |
|---------------------------|------|---------------------------|----------|
| Medical Responses         | 423  | 523                       | + 24%    |
| Fire Responses            | 75   | 76<br>(Includes 2 Hazmat) | + 1%     |
| Total Emergency Responses | 498  | 599                       | + 20%    |

# FIRE PREVENTION

- Construction plans review, inspections, public education, and pre-incident planning.
- Pizza Hut, Veteran's Village, Nazarene Church, River Bend Apartments, Dorian Place, Wellsprings, Cowboy's Restaurant and Bar, Chipotle, St. Paul's Lutheran Church, Ontario Middle and High Schools, Valley Family Health, Brookdale, Simplot, Ontario Community Library, Red Eye Dispensary, Guerrero's Market, Americold.
- Fireworks permits and burn permits.
- Partnered with the BLM to provide in-school fire prevention presentations to every 8C elementary school. More than 200 2<sup>nd</sup> grade students received fire safety education.
- Partnering with OSFM and Malheur County Juvenile Department for our Youth Fire Setter Program. Bilingual staff is a huge plus for this program.
- Pre-Incident Planning – Focus on multi-family residential occupancies.
- The Ontario Building Department is a huge asset and partner in our fire prevention efforts.



# FLEET

- New-to-us ladder truck, Tower 199 has been delivered to Star Fire Maintenance Division. Dusty Ballantyne has found a few things that were not done according to our agreement. He will complete the items and bill the broker. We expect delivery to Ontario in the next few weeks.
- Lt. Gammage traveled to Wisconsin and Florida to inspect the two new hazmat apparatus that will replace 14A and 14B.
- Our new drone purchased with funds from the OVFA's benefit dance has assisted in two search and rescue efforts in Malheur County.
- New Rescue 1 is in service and working well.
- Old Rescue 1 is currently for sale for \$95,000 on several national websites.



# COMMUNITY INVOLVEMENT

- First ever push in ceremony for New Rescue 1.
- Coffee with our Veterans.
- Events: Ontario Recreation District Party in the Park, Ontario High School Tigers Matter Wellness Day, Red Eye Concert.
- Fire Station Tours: Four Rivers Community School, Nyssa Migrant School, Chamber of Commerce Leadership Class, Members of the Diversity Committee.
- National Night Out Committee, Snake River Fire Chief's Association, Chamber of Commerce, Malheur County LEPC, OSFM Fire Defense Board, Oregon Incident Reporting Advisory Commission.



# TRAINING

- Weekly Tuesday Night Drills: heat emergencies, ventilation, engine operations, hazardous materials, airway management, search and rescue, rural water supply.
- Career staff accompanies Chief on most construction inspections.
- Career staff helps grant staff daily with engine operations and other disciplines.
- Several staff have achieved or are close to achieving NFPA Fire Officer 1 certifications.



# STRATEGIC PLANNING

- Operational planning team made up of veteran career and part-time firefighters; monthly meetings to plan for current and future department needs; just wrapped up FY 23-24; next will start on planning for next FY and beyond.
- Completed a medical call tiering plan. Rescue 1 responds to emergency medical calls; no longer responding to non-emergency medical calls. The plan decreases wear and tear on apparatus, increases health and safety of personnel, decreases fuel usage, increases availability to our citizens for fire and multiple medical call situations, decreases overtime costs.
- Revenue: Exploring potential sources of revenue to offset costs to our taxpayers. Example: Fire Recovery USA in Ontario Rural Fire Protection District.




# THANK YOU!

Ontario Fire and Rescue is grateful for the support of the community, City staff, the Mayor and City Council.

**CITY OF ONTARIO  
GENERAL FUND - DEPARTMENT REVENUE  
FOR THE PERIOD ENDED  
AUGUST 31, 2023**

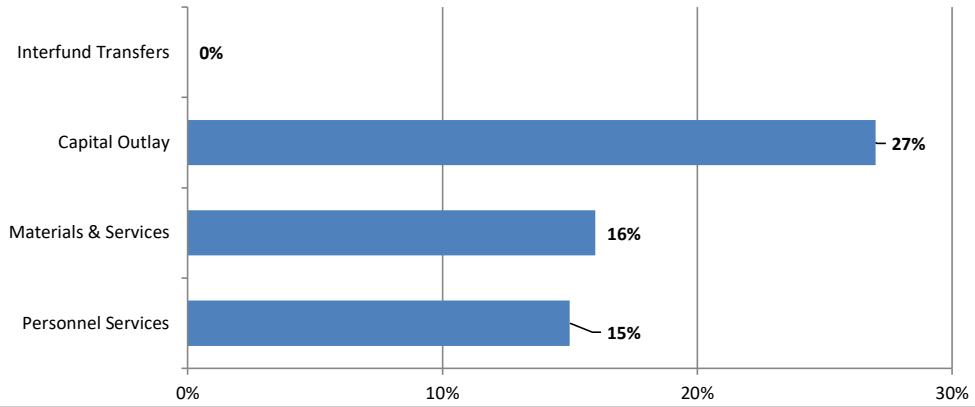
| DEPARTMENT                                 | BUDGET               | ACTUAL                | %<br>REALIZED | COMMENTS      |
|--|----------------------|-----------------------|---------------|---------------|
| <i>GENERAL FUND BEGINNING FUND BALANCE</i> | 3,375,600            | -                     | 0.0%          |               |
| Parks                                      | 102,000              | 17,810                | 17.5%         |               |
| <b>Parks &amp; Recreation</b>              | 102,000              | 17,810                | 17.5%         |               |
| Fire                                       | 306,313              | 5                     | 0.0%          |               |
| Code Enforcement                           | 25,300               | 1,287                 | 5.1%          |               |
| Police                                     | 421,175              | 51,866                | 12.3%         |               |
| Dispensary Business License                | 130,200              | 6,200                 | 4.8%          |               |
| <b>Public Safety Total</b>                 | 882,988              | 59,358                | 6.7%          |               |
| Interest                                   | 49,000               | 33,527                | 68.4%         |               |
| State Revenue Sharing                      | -                    | 37,536                | #DIV/0!       |               |
| Administrative Services                    | 497,148              | 82,858                | 16.7%         |               |
| Other General Revenues                     | 8,480                | 948                   | 11.2%         |               |
| Donations                                  | -                    | -                     | #DIV/0!       |               |
| Property Taxes                             | 4,263,346            | 19,764                | 0.5%          |               |
| Alcohol Bvg License & Fee                  | 231,095              | 11,628                | 5.0%          |               |
| Cigarette tax                              | 8,474                | -                     | 0.0%          |               |
| Marijuana tax                              | 2,500,000            | -                     | 0.0%          |               |
| Franchise Fees                             | 1,611,689            | -                     | 0.0%          |               |
| Cemetery                                   | 45,000               | 3,700                 | 8.2%          |               |
| <b>General Government Total</b>            | 9,214,232            | 189,961               | 2.1%          |               |
| Planning & Zoning                          | 4,000                | 2,410                 | 60.3%         |               |
| <b>Community development</b>               | 4,000                | 2,410                 | 60.3%         |               |
| <b>GENERAL FUND REVENUE TOTALS</b>         | <b>\$ 10,203,220</b> | <b>\$ 269,540</b>     | <b>2.6%</b>   |               |
| <b>YTD CURRENT YEAR PROFIT(LOSS)</b>       |                      | <b>\$ (1,541,670)</b> |               |               |
| <b>YTD BUDGET BENCHMARK</b>                |                      |                       | <b>16.7%</b>  | <b>-14.0%</b> |

**CITY OF ONTARIO  
GENERAL FUND - DEPARTMENT EXPENDITURES  
FOR THE PERIOD ENDED  
AUGUST 31, 2023**

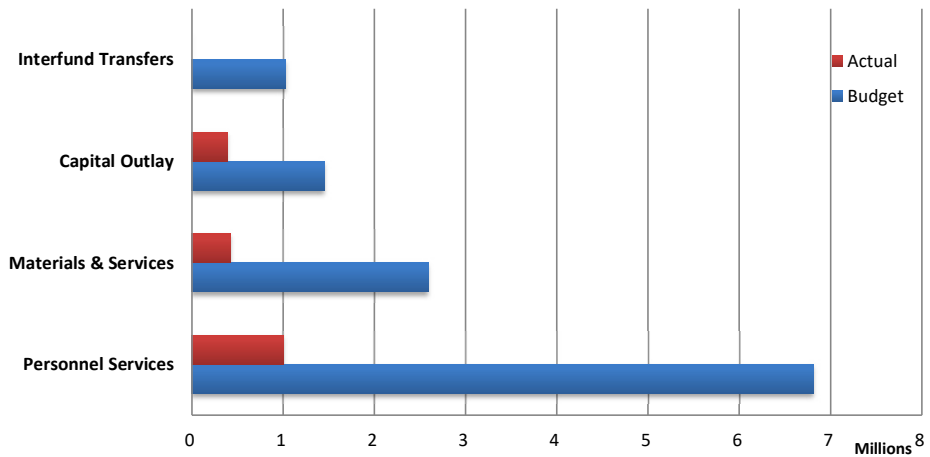
| DEPARTMENT                      | BUDGET               | ACTUAL              | %<br>EXPENDED | COMMENTS   |
|---------------------------------|----------------------|---------------------|---------------|--|
| Parks                           | 173,760              | 34,446              | 19.8%         |  |
| <b>Parks &amp; Recreation</b>   | <b>173,760</b>       | <b>34,446</b>       | <b>19.8%</b>  |  |
| Fire                            | 2,602,376            | 613,096             | 23.6%         |  |
| Code Enforcement                | 154,109              | 13,170              | 8.5%          |  |
| Police                          | 5,135,639            | 678,194             | 13.2%         |  |
| Police reserves                 | 3,430                | -                   | 0.0%          |  |
| <b>Public Safety Total</b>      | <b>7,895,554</b>     | <b>1,304,461</b>    | <b>16.5%</b>  |  |
| Administration                  | 524,452              | 80,595              | 15.4%         |  |
| City Council                    | 38,936               | 2,500               | 6.4%          |  |
| Business Registration           | 1,100                | 4                   | 0.3%          |  |
| Cemetery                        | 157,468              | 69,491              | 44.1%         |  |
| Finance                         | 262,826              | 20,027              | 7.6%          |  |
| Technology                      | 274,727              | 87,213              | 31.7%         |  |
|                                 | -                    | -                   | -             |  |
| <b>General Government Total</b> | <b>1,259,509</b>     | <b>259,829</b>      | <b>20.6%</b>  |  |
| Community development           | 253,375              | 15,315              | 6.0%          |  |
| <b>Community Development</b>    | <b>253,375</b>       | <b>15,315</b>       | <b>6.0%</b>   |  |
| Administrative Overhead         | 910,747              | 193,265             | 21.2%         |  |
| Non-Departmental Contributions  | 386,500              | 3,893               | 1.0%          |  |
| <b>Other Total</b>              | <b>1,297,247</b>     | <b>197,158</b>      | <b>15.2%</b>  |  |
| Operating Transfers Out         | 992,772              | -                   | 0.0%          |  |
| <b>GENERAL FUND TOTALS</b>      | <b>\$ 11,872,217</b> | <b>\$ 1,811,209</b> | <b>15.3%</b>  |  |
| <b>YTD BUDGET BENCHMARK</b>     |                      |                     | <b>16.7%</b>  |  <b>1.4%</b> |

**CITY OF ONTARIO  
GENERAL FUND - DEPARTMENT EXPENDITURES  
FOR THE PERIOD ENDED  
AUGUST 31, 2023**

**% Expended by Category**



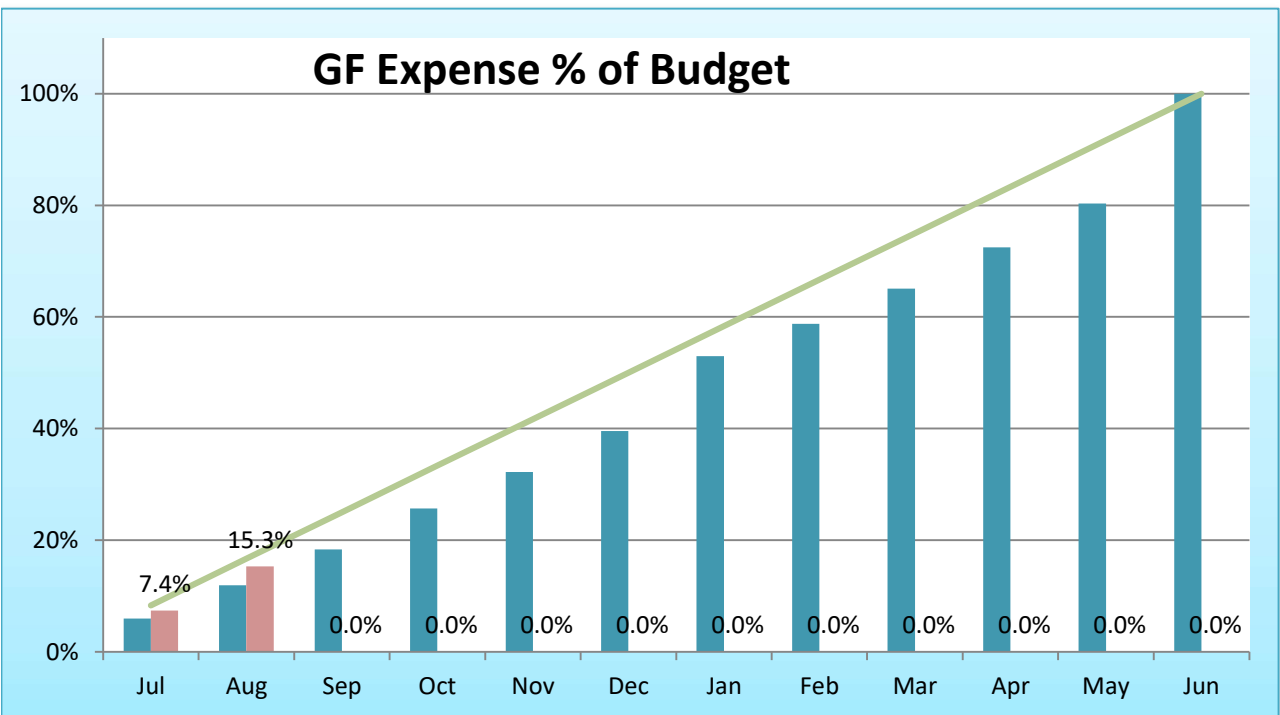
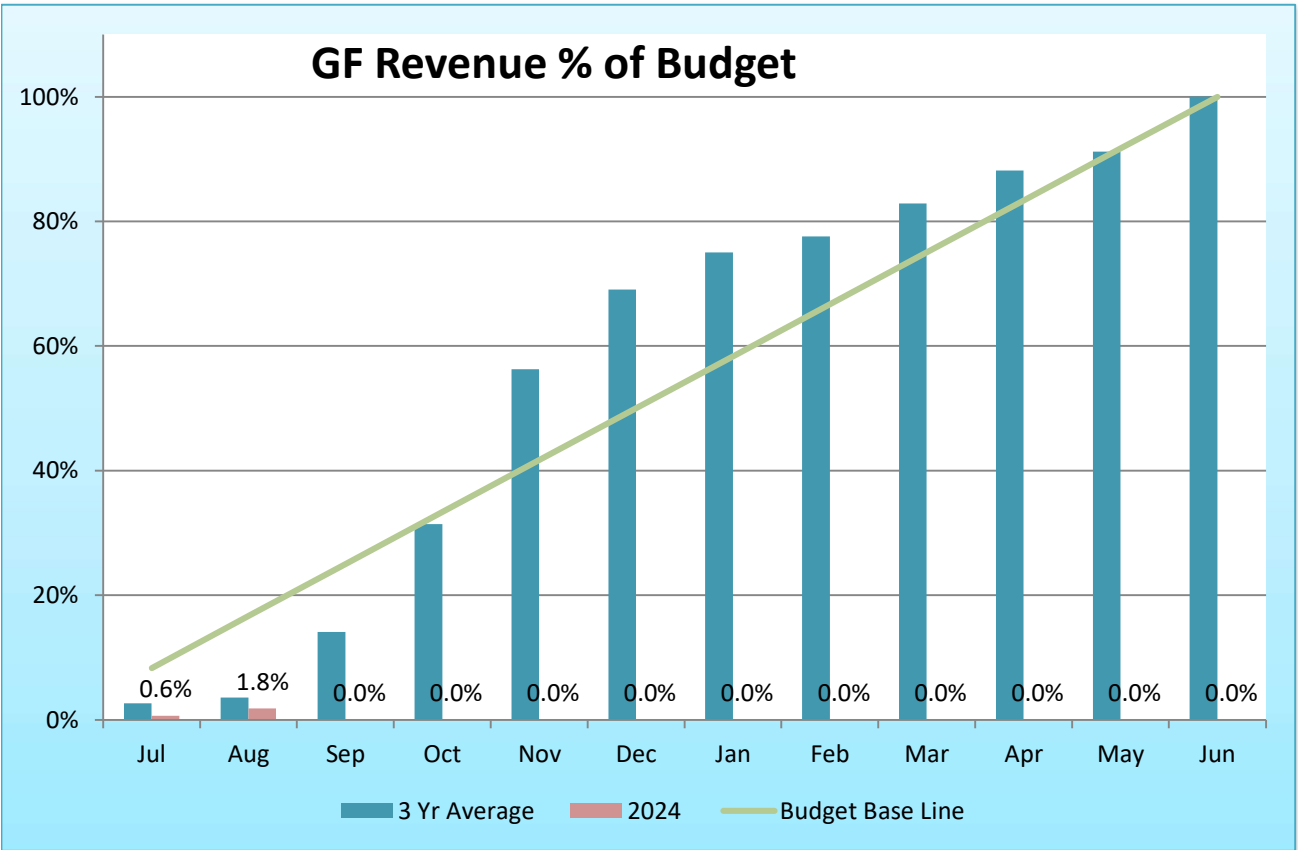
**Budget to Actual by Category**



**CITY OF ONTARIO  
GENERAL FUND - LEGAL SERVICES  
AS OF AUGUST 31, 2023**

|                       |                                   |                  |
|-----------------------|-----------------------------------|------------------|
| <b>LEGAL EXPENSES</b> |                                   |                  |
| JULY                  |                                   | \$ 5,575         |
| AUGUST                |                                   | 4,863            |
| SEPTEMBER             |                                   | -                |
| OCTOBER               |                                   | -                |
| NOVEMBER              |                                   | -                |
| DECEMBER              |                                   | -                |
| JANUARY               |                                   | -                |
| FEBRUARY              |                                   | -                |
| MARCH                 |                                   | -                |
| APRIL                 |                                   | -                |
| MAY                   |                                   | -                |
| JUNE                  |                                   | -                |
|                       | <b>TOTAL</b>                      | <b>\$ 10,438</b> |
|                       | <b>BUDGETED AMOUNT</b>            | \$ 150,000       |
|                       | <b>(OVER) UNDER BUDGET AMOUNT</b> | \$ 139,563       |
|                       | <b>Budget remaining</b>           | <b>93.0%</b>     |

**CITY OF ONTARIO  
GENERAL FUND  
FOR THE PERIOD ENDED  
AUGUST 31, 2023**



**CITY OF ONTARIO  
OTHER FUNDS - EXPENDITURES  
FOR THE PERIOD ENDED  
JULY 31, 2023**

| DEPARTMENT/FUND                | REVENUES  |         |            |  | EXPENDITURES |         |            |
|--------------------------------|-----------|---------|------------|--|--------------|---------|------------|
|                                | BUDGET    | ACTUAL  | % REALIZED |  | BUDGET       | ACTUAL  | % EXPENDED |
| 002 Marijuana Enforcement Fund | 25,600    | -       | 0.0%       |  | 25,600       | -       | 0.0%       |
| 010 Grant Fund                 | 350,856   | 288,000 | 82.1%      |  | 350,856      | 274,398 | 78.2%      |
| 027 Building Fund              | 714,134   | 101,969 | 14.3%      |  | 267,215      | 35,887  | 13.4%      |
| 030 Capital Projects Fund      | 5,867,065 | 119,079 | 2.0%       |  | 3,589,164    | 7,718   | 0.2%       |
| 031 SDC Fund                   | 854,147   | 40,734  | 4.8%       |  | 854,147      | -       | 0.0%       |
| 035 Debt Service Fund          | 0         | -       | #DIV/0!    |  | -            | -       | #DIV/0!    |
| 045 Street Fund                | 5,055,420 | 235,532 | 4.7%       |  | 5,055,420    | 459,676 | 9.1%       |
| 050 Trust Funds                | 1,069,826 | 86,154  | 8.1%       |  | 873,957      | 70,491  | 8.1%       |
| 055 Reserve Funds              | 4,250,095 | 67,571  | 1.6%       |  | 3,053,904    | 56,646  | 1.9%       |
| 060 Revolving Loan Fund        | 345,750   | -       | 0.0%       |  | 345,750      | 20,000  | 5.8%       |
| 065 Aquatic Donation Fund      | -         | -       | #DIV/0!    |  | -            | -       | #DIV/0!    |
| 105 Water Fund                 | 5,405,026 | 777,657 | 14.4%      |  | 4,550,090    | 712,113 | 15.7%      |
| 110 Sewer Fund                 | 6,178,131 | 629,627 | 10.2%      |  | 4,783,003    | 748,001 | 15.6%      |
| 115 Storm Sewer Fund           | 464,381   | 23,327  | 5.0%       |  | 165,665      | 29,331  | 17.7%      |
| 120 Airport Fund               | 414,329   | 51,780  | 12.5%      |  | 414,329      | 23,982  | 5.8%       |
| 125 Aquatic Fund               | -         | -       | #DIV/0!    |  | -            | -       | #DIV/0!    |

Comments:

**YTD BUDGET BENCHMARK**

**16.7%**



**PLANNING COMMISSION MEETING MINUTES**

**Monday  
September 11, 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, Mike Allen, Antonio Sunseri, John Breidenbach, and Max Twombly and Chairman Ralph Poole. James Grissett was 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 present.

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 September 4, 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**

Mike Allen moved, seconded by John Briedenbach, to adopt the Agenda as presented. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

**ADOPTION OF MINUTES FROM NOVEMBER 22, 2022 MEETING**

Blu Fortner moved, seconded by Max Twombly, to adopt the minutes from November 22, 2022 as presented. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

**ADOPTION OF MINUTES FROM JUNE 12, 2023 MEETING**

John Briedenbach moved, seconded by Max Twombly, to adopt the minutes from June 12, 2023 as presented. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

There were no unscheduled public appearances.

**ACTION 2023-07-10CPAMD: 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 9<sup>TH</sup> STREET. THE OWNER IS KZ INVESTMENTS, LLC.**

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.

Chairman Poole said that he spoke Mr. and Mrs. Mills about the property, as he was the owner of adjacent property but that it would not have any impact on his voting.

There were no Old Business Discussion Items.

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

Commissioner Breidenbach asked if any opponents had contacted Mr. Cummings by phone before the meeting.

Mr. Cummings said he was only contacted by ODOT as an opponent and that their concern was strictly the traffic issue. He had received a few calls from people asking for information but had no other proponent or opponent statements by phone or in person.

Chairman Poole stated that one of his companies owned Tax Lot 3700, which was adjacent to the proponent's Tax Lot 2900. He asked if his tax lot was zoned differently than Tax Lot 2900, and what zoning possibilities were available for Tax Lot 3700 once Tax Lot 2900 was rezoned.

Mr. Cummings said he thought Mr. Poole's property was zoned E-2.

Chairman Poole asked if his tax lot should be rezoned after Tax Lot 2900 was rezoned.

Mr. Cummings advised waiting until he was sure of the intended use for his tax lot. He said that if the property were to be rezoned, there would likely be the same requirements from ODOT as the adjoining property. He stated that if Mr. Poole sold the property to the adjoining owner that they may want to rezone at that point, that decision would be up to the owners.

Commissioner Breidenbach asked how many units would be built on the property.

Zach Mills, KZ Investments, LLC, stated that they would start with a small office and 100 units and then continue to build in phases, depending on the success of the first 100 units. He said that 80-100 units could be built on each acre and there was a total of 9.25 acres. Storage units would be fenced with plenty of lighting.

Chairman Poole asked for comments from the proponents.

Mr. Mills reiterated that they intended to build 100 units in the first phase and continue the project if the first units were successful, with the goal of filling the entire property with storage units. The agreement they had with ODOT as well as the impact to traffic would be revisited if the use of the property changed.

Commissioner Breidenbach asked if there would be open bays for boat and RV storage.

Mr. Mills said they wanted to have both enclosed storage units and boat and RV storage.

Commissioner Breidenbach commented that there was a need in the community for that type of storage.

The public hearing was closed.

**APPROVAL OF PLANNING ACTION 2023-07-10CPAMD FINDINGS OF FACT**

John Briedenbach moved, seconded by Max Twombly, to approve the Finding of Facts as presented. Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

**APPROVAL OF PLANNING ACTION 2023-07-10CPAMD – COMPREHENSIVE PLAN AMENDMENT AND REZONE**

Blu Fortner moved, seconded by John Briedenbach, to approve the CPAMD and Rezone. Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

Mr. Cummings told the Planning Commission that this action would go to the City Council at their September 26, 2023 meeting. He also told the Commission he did not expect to hold an October Planning Commission meeting.

**MOTION TO ADJOURN**

Blu Fortner moved, seconded by John Briedenbach, to adjourn. Roll call vote: Fortner-yes; Allen-yes; Grissett-out; Sunseri-yes; Briedenbach-yes; Twombly-yes; Poole-yes. Motion carried 6/1/0.

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Ralph Poole  
Chairman

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Attest: Marcy Siriwardene  
Planning & Zoning Technician

# Accounts Payable

## Checks by Date - Summary by Check Date

User: kari.ott  
 Printed: 9/22/2023 12:10 PM



| Check No            | Vendor No | Vendor Name                                | Check Date | Check Amount |
|---------------------|-----------|--|------------|--------------|
| 130626              | 269295    | Edge Performance Sports                    | 08/02/2023 | 13,499.97    |
| Total for 8/2/2023: |           |  |            | 13,499.97    |
| ACH 878915          |           | Jacobs Engineering Group, Inc.             | 08/03/2023 | 41,841.86    |
| 130627              | 412500    | Keller Associates, Inc.                    | 08/03/2023 | 23,413.50    |
| 130628              | 823500    | Vale Electric, Inc.                        | 08/03/2023 | 2,902.33     |
| 130629              | 033300    | Argus Observer                             | 08/03/2023 | 249.16       |
| 130630              | 130624    | B & W Car Wash                             | 08/03/2023 | 18.00        |
| 130631              | UB*12129  | BK CONSTRUCTION                            | 08/03/2023 | 211.90       |
| 130632              | UB*12131  | CHRISTINE COLVILL                          | 08/03/2023 | 56.86        |
| 130633              | UB*12127  | JONATHAN GARRITSON                         | 08/03/2023 | 89.99        |
| 130634              | 451600    | Malheur County Administration Office       | 08/03/2023 | 200.00       |
| 130635              | 879464    | Merchant McIntyre Associates, LLC          | 08/03/2023 | 6,500.00     |
| 130636              | UB*12130  | ALFREDO ORTEGA JR                          | 08/03/2023 | 53.09        |
| 130637              | 879551    | Painter Holdings & Business Ventures, Inc. | 08/03/2023 | 7.00         |
| 130638              | 879782    | Prim Country, LLC                          | 08/03/2023 | 2,025.00     |
| 130639              | UB*12126  | RYWEST HOMES INC                           | 08/03/2023 | 57.78        |
| 130640              | 879626    | Silverhawk Properties Oregon, LLC          | 08/03/2023 | 425.00       |
| 130641              | 879553    | Training & Employment Consortium           | 08/03/2023 | 270.00       |
| 130642              | UB*12128  | WELL SPRINGS ALF                           | 08/03/2023 | 290.13       |
| 130643              | 879635    | Western Building Maintenance, Inc.         | 08/03/2023 | 4,657.08     |
| Total for 8/3/2023: |           |  |            | 83,268.68    |
| ACH 878915          |           | Jacobs Engineering Group, Inc.             | 08/04/2023 | 509,935.71   |
| ACH 878915          |           | Jacobs Engineering Group, Inc.             | 08/04/2023 | 5,857.68     |
| 130644              | 037600    | AT&T                                       | 08/04/2023 | 23.90        |
| 130645              | BENSON    | Clint Benson                               | 08/04/2023 | 159.80       |
| 130646              | 637828    | Century Link Communications, LLC           | 08/04/2023 | 57.13        |
| 130647              | 376000    | Idaho Power                                | 08/04/2023 | 3,067.23     |
| 130648              | 392000    | Interstate Electric Supply                 | 08/04/2023 | 82.55        |
| 130649              | 879612    | Michael Iwai                               | 08/04/2023 | 155.50       |
| 130650              | 879363    | Danielle Llamas                            | 08/04/2023 | 352.00       |
| 130651              | 774300    | T-N-T Signs & Graphics                     | 08/04/2023 | 210.00       |
| 130652              | 879311    | Treasure Valley Community College          | 08/04/2023 | 2,000.00     |
| Total for 8/4/2023: |           |  |            | 521,901.50   |
| 130655              | 22427     | Consor North America, Inc.                 | 08/10/2023 | 11,633.00    |
| 130656              | 879240    | Advanced Control Systems, LLC              | 08/10/2023 | 19,067.64    |
| 130657              | 879637    | Bryant Lovlien & Jarvis PC Attorneys at La | 08/10/2023 | 7,780.00     |
| 130658              | 626400    | Campo & Poole Distributing, LLC            | 08/10/2023 | 10,263.82    |
| 130659              | 480000    | 911 Supply                                 | 08/10/2023 | 115.65       |
| 130660              | 21409     | Big Sky Sportswear                         | 08/10/2023 | 121.57       |
| 130661              | 879494    | Bruneel, LLC                               | 08/10/2023 | 1,106.20     |
| 130662              | 637830    | Century Link                               | 08/10/2023 | 526.69       |

| Check No             | Vendor No | Vendor Name                                | Check Date | Check Amount |
|----------------------|-----------|--|------------|--------------|
| 130663               | 336725    | Core & Main                                | 08/10/2023 | 7,718.40     |
| 130664               | 284000    | Farmers Supply Co-Op                       | 08/10/2023 | 5,426.79     |
| 130665               | 879191    | Kristy Lynn Janti                          | 08/10/2023 | 32.00        |
| 130666               | 879163    | McCurry Ontario Motors, LLC                | 08/10/2023 | 910.71       |
| 130667               | 461607    | MicroTechnology Systems, Inc.              | 08/10/2023 | 5,845.47     |
| 130668               | 879301    | Net Assets Corporation                     | 08/10/2023 | 270.00       |
| 130669               | 582200    | Oregon Association Chiefs of Police        | 08/10/2023 | 87.48        |
| 130670               | 242083    | State of Oregon Department of Transportati | 08/10/2023 | 14.15        |
| 130671               | 642080    | Petty Cash                                 | 08/10/2023 | 5.46         |
| 130672               | 642093    | Red's Automotive Repair, Inc.              | 08/10/2023 | 554.34       |
| 130673               | 879406    | Rywest Homes, Inc.                         | 08/10/2023 | 10,000.00    |
| 130674               | 130950    | Sparklight Business                        | 08/10/2023 | 109.20       |
| 130675               | 702008    | Staples Business Credit                    | 08/10/2023 | 158.28       |
| 130676               | 729500    | Storage On Site                            | 08/10/2023 | 85.00        |
| 130677               | 738002    | Symbol Arts, LLC                           | 08/10/2023 | 327.50       |
| 130678               | 879733    | Waste Connections of Oregon, Inc.          | 08/10/2023 | 313.06       |
| 130679               | 879151    | Waste-Pro                                  | 08/10/2023 | 40.05        |
| 130680               | 879007    | Weidner Fire                               | 08/10/2023 | 98.00        |
| 130681               | 878992    | Wolfcom Enterprises                        | 08/10/2023 | 414.96       |
| Total for 8/10/2023: |           |  |            | 83,025.42    |
| 130682               | 547100    | Ontario High School Athletics              | 08/11/2023 | 250.00       |
| Total for 8/11/2023: |           |  |            | 250.00       |
| 130683               | 180798    | CIS Trust                                  | 08/17/2023 | 6,135.00     |
| 130684               | 262000    | Eastside Florist                           | 08/17/2023 | 34.00        |
| 130685               | 879745    | AT&T Mobility, LLC                         | 08/17/2023 | 841.86       |
| 130686               | 879189    | Retired Chief Terry Leighton               | 08/17/2023 | 87.39        |
| 130687               | 879742    | Trinity Health Epic - PP                   | 08/17/2023 | 200.00       |
| 130688               | 114239    | Chris Bolyard                              | 08/17/2023 | 165.00       |
| 130689               | 879494    | Bruneel, LLC                               | 08/17/2023 | 1,941.32     |
| 130690               | 879637    | Bryant Lovlien & Jarvis PC Attorneys at La | 08/17/2023 | 400.00       |
| 130691               | 144000    | Cascade Natural Gas Corporation            | 08/17/2023 | 77.34        |
| 130692               | 879749    | Stephanie Cummings                         | 08/17/2023 | 160.00       |
| 130693               | ELIZT     | Tomas Elizondo                             | 08/17/2023 | 165.00       |
| 130694               | 879788    | Jeffery D. Field                           | 08/17/2023 | 500.00       |
| 130696               | 879641    | Garrett's Dry Cleaning, LLC                | 08/17/2023 | 51.19        |
| 130697               | 879789    | Gary Wayne Hampton                         | 08/17/2023 | 3,392.50     |
| 130698               | HYSELLCO  | CORINNA HYSELL                             | 08/17/2023 | 197.50       |
| 130699               | 879612    | Michael Iwai                               | 08/17/2023 | 206.50       |
| 130700               | 879191    | Kristy Lynn Janti                          | 08/17/2023 | 66.00        |
| 130701               | 21847     | Vernon L. Keffer                           | 08/17/2023 | 10,000.00    |
| 130702               | 879244    | Jon Laurenson                              | 08/17/2023 | 108.50       |
| 130703               | 879363    | Danielle Llamas                            | 08/17/2023 | 44.25        |
| 130704               | 441140    | Looks Nu, Inc.                             | 08/17/2023 | 352.00       |
| 130705               | &509      | Matsy's Restaurant & Catering              | 08/17/2023 | 45.00        |
| 130706               | 879163    | McCurry Ontario Motors, LLC                | 08/17/2023 | 236.68       |
| 130707               | 878978    | National Hose Testing, Specialties, Inc.   | 08/17/2023 | 3,565.00     |
| 130708               | 879751    | Charlotte New                              | 08/17/2023 | 197.50       |
| 130709               | 516494    | State of Oregon Department of Transportati | 08/17/2023 | 749.92       |
| 130710               | 879792    | Pacific Northwest Emergency Equipment      | 08/17/2023 | 160.65       |
| 130711               | 642093    | Red's Automotive Repair, Inc.              | 08/17/2023 | 163.09       |
| 130712               | 879791    | Laura Reyes                                | 08/17/2023 | 197.50       |
| 130713               | 602114    | Veronica Riojas                            | 08/17/2023 | 241.50       |
| 130714               | 879406    | Rywest Homes, Inc.                         | 08/17/2023 | 10,000.00    |

| Check No             | Vendor No | Vendor Name                               | Check Date | Check Amount |
|----------------------|-----------|---|------------|--------------|
| 130715               | 879469    | SBRK Finance Holdings, Inc.               | 08/17/2023 | 1,520.00     |
| 130716               | 545001    | William J Snyder                          | 08/17/2023 | 148.35       |
| 130717               | 698800    | Stan's Heating, Inc.                      | 08/17/2023 | 274.00       |
| 130718               | 702008    | Staples Business Credit                   | 08/17/2023 | 284.97       |
| 130719               | 738560    | Tailored Solutions Corporation            | 08/17/2023 | 705.00       |
| 130720               | 879680    | US Bank Equipment Finance                 | 08/17/2023 | 1,497.00     |
| 130721               | 842030    | Warrington Construction Corporation of Or | 08/17/2023 | 7,577.20     |
| Total for 8/17/2023: |           |   |            | 52,688.71    |
| ACH                  | 879763    | Firetrucks Unlimited, LLC                 | 08/25/2023 | 315,000.00   |
| 130722               | 879268    | CivicPlus, LLC                            | 08/25/2023 | 1,202.62     |
| 130723               | 718000    | State of Oregon Employment Department     | 08/25/2023 | 8,212.54     |
| 130724               | 863995    | White Cloud Communications-Boise, Inc.    | 08/25/2023 | 32,563.00    |
| 130725               | 879328    | Malheur County GIS                        | 08/25/2023 | 120.00       |
| 130726               | 033300    | Argus Observer                            | 08/25/2023 | 79.51        |
| 130727               | BENSON    | Clint Benson                              | 08/25/2023 | 35.00        |
| 130728               | 626400    | Campo & Poole Distributing, LLC           | 08/25/2023 | 931.10       |
| 130729               | 183201    | CK3, LLC                                  | 08/25/2023 | 1,152.50     |
| 130730               | 879573    | Chad and Carrie Costello                  | 08/25/2023 | 1,500.00     |
| 130731               | 216000    | D & B Supply Company                      | 08/25/2023 | 23.98        |
| 130732               | 879736    | Desert Sage Event Center                  | 08/25/2023 | 4,396.23     |
| 130733               | &260      | Four Rivers Cultural Center               | 08/25/2023 | 34,941.59    |
| 130734               | UB*12132  | ARTURO GARCIA                             | 08/25/2023 | 110.65       |
| 130735               | 362280    | Christine D. Hood                         | 08/25/2023 | 500.00       |
| 130736               | 879785    | Idaho Artistic Concrete, LLC              | 08/25/2023 | 9,968.75     |
| 130737               | 376000    | Idaho Power                               | 08/25/2023 | 4,036.12     |
| 130738               | 428200    | League of Oregon Cities                   | 08/25/2023 | 118.00       |
| 130739               | 456402    | Malheur County Clerk                      | 08/25/2023 | 127.00       |
| 130740               | 461607    | MicroTechnology Systems, Inc.             | 08/25/2023 | 9,115.00     |
| 130741               | 468350    | Motion Industries, Inc.                   | 08/25/2023 | 97,042.95    |
| 130742               | 539200    | Ontario Area Chamber of Commerce          | 08/25/2023 | 29,152.94    |
| 130743               | 583450    | State of Oregon Dept of Corrections       | 08/25/2023 | 4,140.00     |
| 130744               | 362285    | Oregon Trail Motel                        | 08/25/2023 | 5.56         |
| 130745               | 528405    | Oster Professional Group, CPA's PC        | 08/25/2023 | 26,702.83    |
| 130746               | 879226    | PortaPros                                 | 08/25/2023 | 1,104.00     |
| 130747               | 642093    | Red's Automotive Repair, Inc.             | 08/25/2023 | 126.39       |
| 130748               | 344001    | Right Now, Inc.                           | 08/25/2023 | 252.00       |
| 130749               | 879145    | Silver Signet, LLC                        | 08/25/2023 | 28.80        |
| 130750               | UB*12123  | SHAWN SIPES                               | 08/25/2023 | 391.22       |
| 130751               | 774300    | T-N-T Signs & Graphics                    | 08/25/2023 | 140.00       |
| 130752               | 879553    | Training & Employment Consortium          | 08/25/2023 | 220.00       |
| 130753               | 879793    | Trinity Development Alliance, Inc.        | 08/25/2023 | 270,000.00   |
| 130754               | 288897    | Verizon                                   | 08/25/2023 | 1,340.39     |
| 130755               | 879007    | Weidner Fire                              | 08/25/2023 | 230.00       |
| Total for 8/25/2023: |           |   |            | 855,010.67   |
| 130756               | 618100    | Physicians Primary Care Center, Inc.      | 08/31/2023 | 468.00       |
| 130757               | 879247    | Idaho Communications, LLC                 | 08/31/2023 | 9,134.00     |
| 130758               | 634040    | Priest Electric                           | 08/31/2023 | 26,167.29    |
| 130759               | 879138    | Stantec Consulting Services, Inc.         | 08/31/2023 | 1,485.00     |
| Total for 8/31/2023: |           |   |            | 37,254.29    |

| <b>Check No</b> | <b>Vendor No</b> | <b>Vendor Name</b> | <b>Check Date</b>          | <b>Check Amount</b> |
|-----------------|------------------|--------------------|----------------------------|---------------------|
|                 |                  |                    | Report Total (135 checks): | 1,646,899.24        |