



## CITY COUNCIL MEETING MINUTES September 26, 2023

The scheduled meeting of the Ontario City Council was called to order by Mayor Deborah Folden at 6:00 p.m. on Tuesday, September 26, 2023, in the Council Chambers of City Hall. Council members present were Penny Bakefelt, Susann Mills, John Kirby, and Deborah Folden. Eddie Melendrez arrived at 6:08. Ken Hart and Sam Baker were excused.

Members of staff present were Dan Cummings, Corinna Hysell, Clint Benson, Kari Ott, Casey Mordhorst, Michael Iwai, and Andy Woods.

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

### AGENDA

This Agenda was posted September 22, 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).

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

### CONSENT AGENDA

MILLS moved, BAKEFELT seconded, **TO ADOPT THE CONSENT AGENDA, WHICH CONSISTED OF APPROVAL OF COUNCIL MEETING MINUTES OF SEPTEMBER 12, 2023; AND HOUSING INCENTIVE PROGRAM: NUNO HOMES, LLC, (55-2023)**. Roll call vote: Mills-yes; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-out; Folden-yes. Motion carried 4/0/3.

### PUBLIC HEARING

**Ordinance #2823-2023: An Ordinance for a Comprehensive Plan Map/Zoning Map Amendment and Rezone of a Parcel of Land Being Located at the SW Corner of NW Washington Avenue and SW 9<sup>th</sup> Street. Owner is KZ Investments, LLC**

It being the date advertised for public hearing on the matter of Ordinance #2823-2023, the Hearing was declared open. There were no objections to the city's jurisdiction to hear the action. Councilor Susann Mills recused herself from the proceeding as she was related to an involved party. No further abstentions, ex-parte contact, and declarations of conflict of interest were stated.

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

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, would 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 was proposing to develop the site into mini-warehousing (mini-storage) and recreational vehicle/trailer storage.

This request for Comprehensive Plan and Map amendment and rezone needed a recommendation for approval or rejection from the Planning Commission to the City Council. The Ontario Municipal Code (OMC) designated 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 might be affected by this action.

On August 17, 2023, Community Development Director Dan Cummings received a letter 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. Their concerns were 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 a TEAMS meeting and discussed concerns and solutions to ensure that any use of the property that, by the city's current Transportation System Plan (TSP), would require that 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 (condition number 4) to include the requirement agreed upon, which included putting this condition (attachment 6) into a DIA Agreement approved by the City of Ontario, and recorded in the deed records of the Malheur County Recorder's Office.

On September 11, 2023, the Planning Commission held a Public Hearing on the rezone request, and a favorable recommendation was sent to the City Council to approve the rezone with conditions.

**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 would result in the rezoning of 9.25 acres of land from City High Density Residential to the City Light Industrial (I-1) Zone. The applicant is Amanda Philp, Winterbrook Planning, and the property owners are KZ Investments, LLC, Zach Mills member, along with the adjacent right of way of NW Washinton Avenue on the North, NW 9th Street on the East, NW Park Boulevard on the West, and NW 16th Avenue on the South. Property established as Assessor's Map #17S47E33D; Tax Lot #2900.

The applicant and owners discussed the plan with Community Development Director Dan Cummings (Director) and all requirements were discussed for meeting the requested changes. The Director reviewed the application and the Findings of Facts within the Application for completeness. Meeting the requirements, the Director was supportive of these Findings of Facts and applicant's request and, therefore, forwarded this action with a favorable recommendation to the City Planning Commission for a Public Hearing and Planning Commission decision.

The proposed development had to 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 was found to be consistent with the Zoning Ordinance, it is considered to be consistent with the Comprehensive Plan.

The Applicant submitted a detailed Narrative (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. standards as stated in the attached narrative. The proposed rezone was consistent with all applicable criteria and standards as stated in the narrative.

**Conditions of Approval:** The owner would sign a lien causing any unpaid utility bill to be a lien against the property once connected to city sewer and water. The owners would make all the improvements to the site and public utility infrastructure as per city code or sign a Deferred Improvement Agreement (DIA) approved by city staff based on development of the site. The owner would abide by all the conditions of the City of Ontario Municipal Code.



To ensure that there would 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- 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 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 was 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. If the cumulative development on the 9.25-acre site exceeded this trip cap based on the most recent edition of the ITE Manual, a transportation impact analysis (TIA) would 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. 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 would not consider the development application to be complete and would not process the development application without the required TIA.

This action was consistent with the City Council Strategic Plan by providing desirable industrial lands allowing new growth to the City of Ontario. Development of the property would benefit the City by increasing tax revenue, as well as provide needed industrial land to promote new jobs. This rezoning was the first step in the process of being able to develop the property and, therefore, there was a need to move forward as soon as possible to bring the needed development to the city. The quasi-judicial Comprehensive Plan Map and Zoning Map Amendment procedures were 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 was: 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 provided only a recommendation to the Council are amendments of the comprehensive plan and zoning ordinances or Zoning Map.

The Hearing was opened for public testimony.

Opponents: None. Proponents: None. There being no Proponent and no Opponent testimony, the Hearing was closed.

**KIRBY moved, MELENDREZ seconded, 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. Roll call vote: Mills-abstain; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-yes. Motion carried 4/0/2/1.**

**KIRBY moved, MELENDREZ seconded, IN ACCORDANCE WITH SECTION 8.2(2) OF THE CITY CHARTER, 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. Roll call vote: Mills-abstain; Baker-out; Kirby-yes; Hart-out; Bakefelt-yes; Melendrez-yes; Folden-yes. Motion carried 4/0/2/1.**

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#### DEPARTMENT HEAD UPDATES

##### Ontario Fire & Rescue: Quarterly Report

Clint Benson, Fire Chief, presented.

##### Finance: Monthly Report

Kari Ott, Finance Director, presented.

#### HAND-OUTS

##### Minutes:

Planning Commission: 09-11-2023

##### Check Register

August 2023

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

- Councilor Mills stated she was not a fan of the bulb outs downtown, but she liked the metal animals that had been placed there. It added so much down there. Job well done – very nice.
- Dan Cummings stated about a year ago, September, 2022, staff approached the Council seeking support for pursuing a grant opportunity to do planning, titled The Vision Zero Policy, to be able to go after a planning grant that staff felt was needed to have in place to seek other funding, to help make the city safer. The Council approved that resolution, and there had a been a very short time to get the actual application submitted. He worked with Chief Iwai, Lt. Cooper, staff from Jacobs, and Merchant McIntyre, who submitted the grant on behalf of the city. The city was notified we had received the grant. During the budget process, they had budgeted \$80K for matching funds for grants, and this matching grant was 20%. The feds would put up the \$280K, and the city needed to match with \$70K, for a total of \$350K to produce the plan that would aid the city in future attempts at obtaining grants to upgrade the city's system, including traffic signals, but there were several other things in the grant request that needed to be installed to ensure the safety of the pedestrians. It needed to be accepted, signed off, and sent back before the end of September. Basically, it was a planning grant to put a plan together to use to go after bigger federal funds to improve the city's infrastructure and to make the streets safer.

Councilor Kirby asked if the public safety grant the Police Chief applied for, did that go through M&M or was that done by city staff?

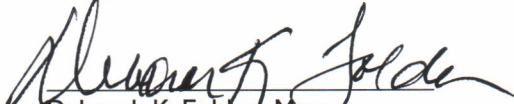
Chief Iwai stated if he was referring to the Eastern Oregon Border Board Grant, that was still pending. That was not done through M&M.

- Councilor Melendrez read a statement: *We would like to recognize the National Hispanic Heritage Month by saying the city staff of Ontario recognize and invite all citizens of Ontario to help participate in the annual celebration from September 15th to October 15th for recognizing the contributions and influences of Hispanic Americans to the history, culture, and achievements in the United States. National Hispanic Heritage Week was established by legislation and signed into law by President Lyndon Johnson in 1968, and taking place on the week including both September 15th and 16th. In 1988, the commemorative week was expanded to a month, September 15th to October 15th, by legislation and signed into law by President Ronald Reagan. September 15th was chosen as the starting point because it is the anniversary of the Cry of Dolores, early morning, September 16, 1810, which marked the start of the Mexican War of Independence, and this resulted, in 1821, in independence for the New Spain Colony, now Mexico and the Central American nations of Guatemala, El Salvador, Costa Rica, Honduras, and Nicaragua, which became the Federal Republic of Central America. In doing so, we recognize all our Hispanic American staff and citizens of Ontario.*


**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-yes. Motion carried 4/0/3.

ACCEPTED:

  
Deborah K. Folden, Mayor

ATTEST

  
Tori Barnett, MMC, City Recorder