



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

April 5, 2006

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Ontario Plan Amendment
DLCD File Number 004-04



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 21, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

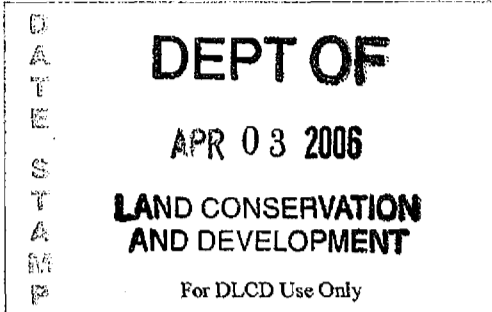
Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative
Eric Jacobson, DLCD Transportation Planner
Grant Young, City of Ontario

<paa> yal



2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: City of Ontario Local file number: 2004-10-19ZCPAMD

Date of Adoption: 5/2/2005 Date Mailed: 3/24/2006

Date original Notice of Proposed Amendment was mailed to DLCD: _____

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Creation of a new Zone within the City of Ontario Urban Growth Area. Action includes Comprehensive Plan Map Amendment, Zoning Map Amendment and amendment of the Zoning regulations to include a new zone and the regulations therein.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".
N/A ?? (Although involvement of DLCD Staff is noted in the record, I can find no copy of a Notice of Proposed Amendment sent to DLCD)

Plan Map Changed from: UGA Res. & Industrial to: UGA-Employment (Comrcal)

Zone Map Changed from: Same as above to: Same as above

Location: City of Ontario UGA; NW sector of City Acres Involved: 103

Specify Density: Previous: <10,000 sq ft lots New: 2 and 5 Acre Minimum

Applicable Statewide Planning Goals: 9, 12, 13

Was and Exception Adopted? YES NO

DLCD File No.: 004-04
(13983)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing? Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

Malheur County; ODOT; Ontario Rural Fire and Road Districts; DLCD

Local Contact: **Grant Young** Phone: **(541) 881-3222** Extension: _____
Address: **444 SW 4th Avenue** City: **Ontario**
Zip Code + 4: **97914-** Email Address: _____

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

Recording, return to:
Recorder
of Ontario
SW 4th Street
Ontario OR 97914

ORDINANCE NO. 2548-2004

INSTRUMENT NO. 2005 - 3616
Page 1 of 10 Pages

AN ORDINANCE AMENDING THE CITY OF ONTARIO MUNICIPAL CODE (TITLE 10 AND 10-A) AND ZONE MAP TO INCLUDE NEW UGA E-2 AND UGA E-5 ZONES; AND ZONE APPROXIMATELY 103 ACRES OF URBAN GROWTH AREA RESIDENTIAL (UGA-R) AND LIGHT INDUSTRIAL (UGA I-1) TO UGA E-2 AND UGA E-5 ZONES;

WHEREAS, The City of Ontario's Comprehensive Plan was amended in 1999 by Ordinance No. 2417, designating approximately 103 acres in the Urban Growth Area (UGA) southwest of the North Ontario Interchange as commercial; and

WHEREAS, Per Ordinance No. 2417, formal rezoning to commercial was to take place "as soon as feasible" (p. 8, Exhibit A Findings of Fact, Ordinance No. 2417); and

WHEREAS, With the completion of Ontario Water and Sewer Master Plans and the completion of the North Ontario Interchange Area Master Plan, the formal zone change is now feasible; and

WHEREAS, This action implements the 1999 Comprehensive Plan action by zoning this area for employment uses; and

WHEREAS, The City worked closely with the Oregon Department of Transportation in the planning for the now constructed Yturri Beltline (OR-201) that bisects the area proposed for UGA E-2 and UGA E-5 zoning; and

WHEREAS, City Staff, elected officials, and appointed officials continue to work closely with the Oregon Department of Transportation in planning for future improvements to the I-84 Interchange directly northeast of the subject area, through participation on the Project Management Team and Stakeholder Advisory Committee for the North Ontario Interchange Bridge project and the development of an Interchange Area Management Plan for the vicinity, of which this 103 acres is a part; and

WHEREAS, The Oregon Department of Transportation and City Staff agreed that completing a zoning action for this area within the vicinity of the North Ontario Interchange was an important step in planning for the area and should be funded as a part of the bridge replacement project; and

WHEREAS, The Ontario City Council and Planning Commission held a joint work session April 12, 2004 to consider the goals set forth in the 1999 ordinance for this 103 acres and gave general approval to a set of "guiding principles," based on the ordinance findings, on which to formulate a new commercial zone; and

WHEREAS, The Ontario City Council, Planning Commission, and City Staff determined at the

April 12 work session that a "hybrid" zone comprised of uses currently allowed in the Heavy General Commercial Zone and some of the more restrictive uses allowed in the Light Industrial Zone would best implement the UGA E zones; and

WHEREAS, The future transportation impacts of the proposed UGA Employment Zones have been addressed in a technical memorandum developed for the North Ontario Interchange Bridge project (technical Memorandum 10.1, Preferred OR 201 Alignment & Interchange Form, June 21, 2004), considered by the Project Management Team and Stakeholder Advisory Committee for this project, and included as part of the findings for the proposed Employment Zone action; and

WHEREAS, The City has held public hearings on the proposed zone change on December 13, 2004, December 20, 2004, March 7, 2005 and April 18, 2005;

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

1. Based upon the Findings of Fact, the Ontario Municipal Code (Title 10) is amended to include a new Urban Growth Area - Employment 5 Zone (abbreviated as "UGA E-5") and a new Urban Growth Area - Employment 2 Zone (abbreviated as "UGA E-2").
2. The Ontario Zoning Map is amended to show that approximately 103 acres currently zoned as Urban Growth Area - Residential Zone and Urban Growth Area - Industrial I-1 Zone are changed to Urban Growth Area - Employment 5 Zone or Urban Growth Area - Employment 2 Zone, as follows:

Urban Growth Area - Employment 2 Zone:

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Section 33: All of that portion of the SW $\frac{1}{4}$ lying south of NW 18th Avenue right of way and lying northwesterly of the Tony Yturri Memorial Beltline right of way.

Urban Growth Area - Employment 5 Zone:

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Section 33: All of that portion of the SW $\frac{1}{4}$ lying south of NW 18th Avenue right of way and lying southeasterly of the Tony Yturri Memorial Beltline right of way, and all that portion of Block 31 of the Corrected Plat of Oregon Western Colonization Co Sub Second Addition.

3. The following sections will be added to Title 10A and Title 10 of the Ontario Municipal Code:

To Title 10A, add the following definition:

10A-03-49.5 DWELLING, MULTI-FAMILY MIXED-USE. A residential dwelling that is part of a mixed use commercial or employment development for or occupied by more than two (2) families living independently of each other. Such a dwelling is characterized by having living units that share common walls and/or floors and/or ceilings. Additionally, multi-family mixed-use dwellings are intended to be integrated into, and be supportive of, employment areas and are part of commercial or office developments and are not allowed on the ground floor.

To Title 10, add the following code sections 10-14-11 and 10-14-12

10-14-11 URBAN GROWTH AREA - EMPLOYMENT ZONE 2 (UGA E-2)

(A) Purpose

The purpose of the UGA E-2 district is to encourage the development of small to medium tracts of land in a manner that promotes the City of Ontario as a regional retail and employment center.

The UGA E-2 zone allows for uses that will not jeopardize the ability of the state and local transportation system to safely and effectively move freight and travelers through, to and from the city. Light industrial and manufacturing uses permitted in this district must not adversely affect adjacent businesses or residential areas, being by nature substantially clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare, and whose few potentially objectionable features will be eliminated by design, complete enclosure or other appropriate measures.

This mixed-use "hybrid zone," incorporating both heavy commercial and light industrial uses, is appropriate along major highways (interstate) and their interchanges.

(B) Principal Uses

The following principal uses and their accessory uses are permitted outright in the UGA E-2 zone:

1. Shopping Centers
2. Retail Business
3. Hotel/Motels
4. Automotive Service Stations
5. Gasoline Service/Service Stations
6. Wholesale Stores (less than 3,000 sq. ft. storage)
7. Truck Stops with Motel (Truck Terminals)
8. Professional and Administrative Offices (not on ground floor)
9. Health Professional Office/Clinic (not on ground floor)

10. Contractor or Building Material Businesses
11. Horticulture/Nurseries
12. Printing and Publishing
13. Restaurants and Fast Food Restaurants
14. Grocery Stores
15. Research and development laboratories
16. Small truck/Trailer rental
17. Farm and Garden Store

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(C) Conditional Uses

The following uses and their accessory uses are permitted conditionally in the UGA E-2 zone:

1. Commercial Recreation Facilities or RV Park
2. Schools & Colleges
3. Churches
4. Bars, Taverns, Cocktail Lounges
5. Dry Cleaning, Laundry
6. Bed & Breakfast
7. Dwelling, Multi-family Mixed Use [when accessory to a commercial development]
8. Public Buildings, Facilities and Services
9. Mini-warehouses
10. Distribution Centers
11. Amusement Center
12. Light Manufacturing

(D) Expressly Prohibited Uses

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

1. Residential dwellings on ground floor
2. Dance & Music Studios
3. Private Clubhouses
4. Residential Care Facilities
5. Museums, Concert Halls, Auditoriums
6. Adult Foster Care
7. Mortuaries, Funeral Homes
8. Auction House
9. Nursing Home
10. Kennel
11. Veterinarian
12. Body, Fender and Paint
13. Automotive Dismantling (auto salvage)

14. Petroleum Bulk Plant
15. Animal slaughtering, stockyards or holding pens
16. Processing of carcasses and organ meat into product for human consumption

(E) Site Standards

1. Minimum Lot Size: 2 acres¹
2. Maximum Height: 50 ft
3. Yard Space Requirements:
 - a. Front Yard: None
 - b. Rear Yard: 5 ft²
 - c. Side Yard: None³
4. Maximum Lot Coverage: 90%

Note:

All minimum dimensions are subject to adequate provision for other space-using requirements of this title.

¹Lots smaller than 2 acres and existing prior to application of this zone are developable, provided such lots meet all other requirements of this Title.

²Where the rear side yard abuts a residential zone, the abutting rear yard shall be one foot for each foot by which the building height exceeds 14 feet.

³Where the side yard abuts a residential zone, the abutting side yard shall be a minimum of 15 feet plus one foot for each two feet by which the building height exceeds 28 feet.

5. General Provisions: The provisions of City of Ontario Code, Chapter 10A-57, Miscellaneous Provisions, apply to the UGA E-2 Zone.

(F) Master Plan

No Master Plan is required in this zone.

10-14-12 URBAN GROWTH AREA - EMPLOYMENT ZONE 5 (UGA E-5)

(A) Purpose

The purpose of the UGA E-5 district is to encourage the development of large tracts of land in a manner that promotes the City of Ontario as a regional retail and employment center.

The UGA E-5 zone allows for uses that will not jeopardize the ability of the state and

local transportation system to safely and effectively move freight and travelers through, to and from the city. Light industrial and manufacturing uses permitted in this district must not adversely affect adjacent businesses or residential areas, being by nature substantially clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare, and whose few potentially objectionable features will be eliminated by design, complete enclosure or other appropriate measures.

This mixed-use "hybrid zone," incorporating both heavy commercial and light industrial uses, is appropriate along major highways (interstate) and their interchanges.

(B) Principal Uses

The following principal uses and their accessory uses are permitted outright in the UGA E-5 zone:

1. Shopping Centers
2. Retail Business
3. Hotel/Motels
4. Automotive Service Stations
5. Gasoline Service/Service Stations
6. Wholesale Stores (less than 3,000 sq. ft. storage)
7. Truck Stops with Motel (Truck Terminals)
8. Professional and Administrative Offices (not on ground floor)
9. Health Professional Office/Clinic (not on ground floor)
10. Contractor or Building Material Businesses
11. Horticulture/Nurseries
12. Printing and Publishing
13. Restaurants and Fast Food Restaurants
14. Grocery Stores
15. Research and development laboratories
16. Small truck/Trailer rental
17. Farm and Garden Store

(C) Conditional Uses

The following uses and their accessory uses are permitted conditionally in the UGA E-5 zone:

1. Commercial Recreation Facilities or RV Park
2. Schools & Colleges
3. Churches
4. Bars, Taverns, Cocktail Lounges
5. Dry Cleaning, Laundry
6. Bed & Breakfast
7. Dwelling, Multi-family Mixed Use [when accessory to a commercial development]

8. Public Buildings, Facilities and Services
9. Mini-warehouses
10. Distribution Centers
11. Amusement Center
12. Light Manufacturing

(D) Expressly Prohibited Uses

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

1. Residential dwellings on ground floor
2. Dance & Music Studios
3. Private Clubhouses
4. Residential Care Facilities
5. Museums, Concert Halls, Auditoriums
6. Adult Foster Care
7. Mortuaries, Funeral Homes
8. Auction House
9. Nursing Home
10. Kennel
11. Veterinarian
12. Body, Fender and Paint
13. Automotive Dismantling (auto salvage)
14. Petroleum Bulk Plant
15. Animal slaughtering, stockyards or holding pens
16. Processing of carcasses and organ meat into product for human consumption

(E) Site Standards

1. Minimum Lot Size: 5 acres¹
2. Maximum Height: 50 ft
3. Yard Space Requirements:
 - a. Front Yard: None
 - b. Rear Yard: 5 ft²
 - c. Side Yard: None³
4. Maximum Lot Coverage: 90%

Note:

All minimum dimensions are subject to adequate provision for other space-using requirements of this title.

¹Lots smaller than 5 acres and existing prior to application of this zone are developable, provided such lots meet all other requirements of this Title.

²Where the rear side yard abuts a residential zone, the abutting rear yard shall be one foot for each foot by which the building height exceeds 14 feet.

³Where the side yard abuts a residential zone, the abutting side yard shall be a minimum of 15 feet plus one foot for each two feet by which the building height exceeds 28 feet.

5. General Provisions: The provisions of City of Ontario Code, Chapter 10A-57, Miscellaneous Provisions, apply to the UGA E-5 Zone.

(F) Master Plan

For any proposed development where a Master Plan has not yet been created, a Master Plan encompassing at least 5 acres of surrounding applicable (UGA E-5 zoned, undeveloped or minimally-developed, non-Master Planned) property shall be prepared prior to development. If surrounding applicable property totals less than 5 acres, then all of the surrounding applicable property shall be Master Planned.

The Master Plan shall present the following information:

- Proposed Land Uses by type;
- Proposed Traffic Circulation patterns;
- Proposed Access Locations;
- Location of Vehicle Parking Areas;
- Location of Public Facilities and Utilities;
- Location of Open Space; and
- Proposed Phasing of Land Uses and Public Facilities.

The Ontario Planning Commission shall consider and accept the Master Plan prior to allowing development to proceed. The Master Plan shall be approved for a development at the time of land division. The intent of the Master Plan is to broadly determine the future development patterns and public facility needs in each area. Future development will need to demonstrate how it implements the concepts in the Master Plan that covers the area where development is proposed.

PASSED AND ADOPTED by the Common Council of the City of Ontario this 2nd day of May, 2005 by the following vote:

AYES: Cummings, Allen, Gaskill, Cammack, Mosier, Jacobs

NAYS: None

ABSENT: Cheatham

APPROVED by the Mayor this 2nd day of May, 2005.

LeRoy Cammack
LeRoy Cammack, Mayor

ATTEST:

Tori Ankrum
Tori Ankrum, City Recorder

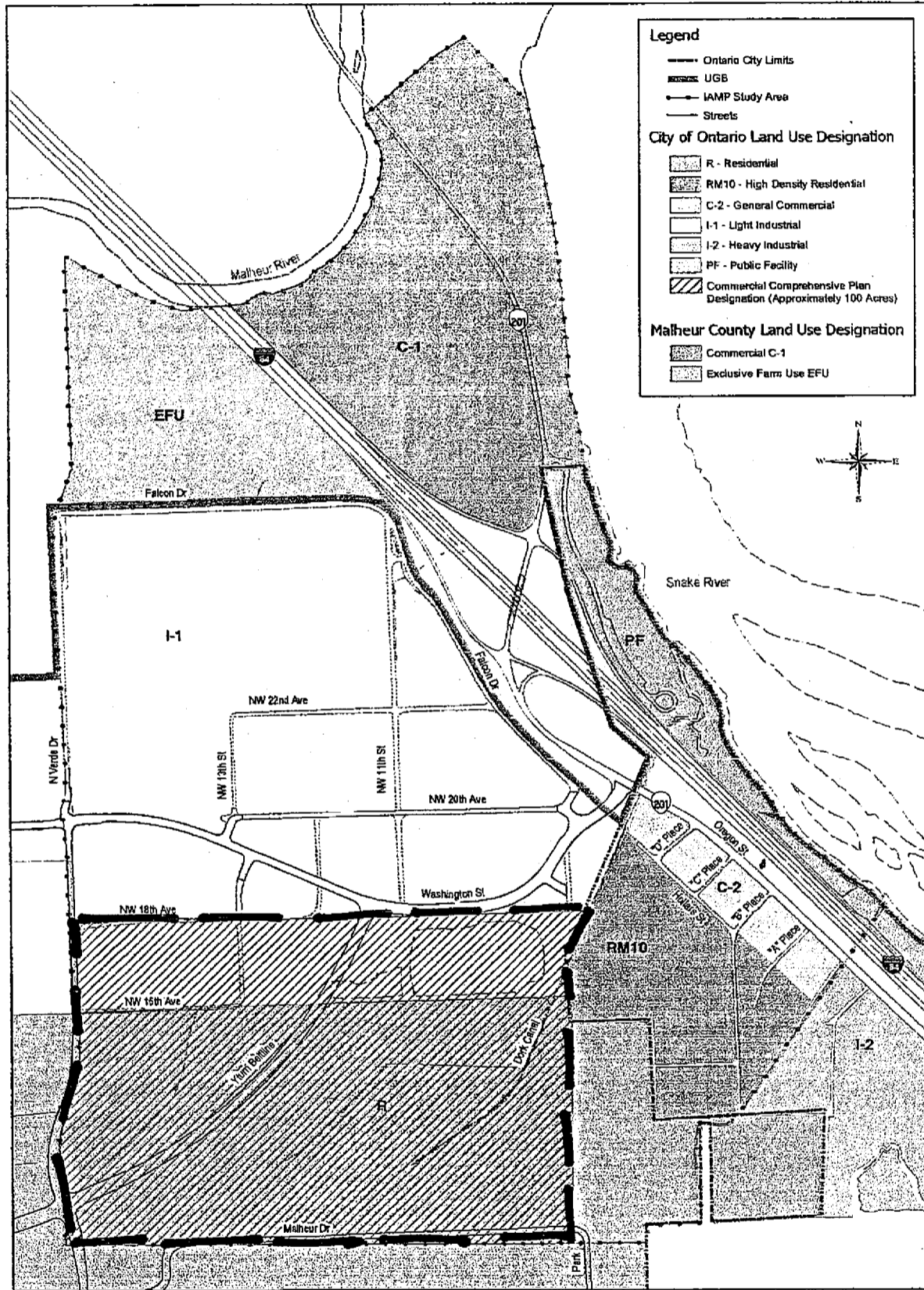
inst. No. 2005-3616
I certify that the within Instrument of
writing was received for record on
the 18 day of May, 20 05
at 9:57 O'clock A.M. FEE 0
STATE OF OREGON, County of Malheur
DEBORAH R. DeLONG
County Clerk

By: Jeff Johnson Deputy

property.

- W. Before considering new lands to expand the urban growth area, the city first evaluated land within the current boundary. The city came to the conclusion that four parcels, c(103), c(20), r(39), and i(56), would better serve the community if they were re-zoned. This is discussed in more detail on page 24 of this findings document. More efficient zoning of these parcels also reduces the total need for new lands to be brought into the urban growth area. The city intends to make those zoning changes as soon as feasible. Moreover, many of the calculations and conclusions in this document were made with those necessary changes in mind.

North Ontario Interchange Area Management Plan



Study Area and Zoning Classifications

Figure 6.1-3

103 acres RETAIL

11-22-04

I. PROPOSAL SUMMARY INFORMATION
citizens notification

File No:

Request:

- Amend City of Ontario Municipal Code (Title 10-A) and
- Zone Map to Include a New "EMP, Employment Zone"; Zone Approximately 103 Acres of Urban Growth Area-Commercial (UGA-C) to EMP, Employment; Amend City of Ontario Transportation System Plan to Include Improvements Necessary to Support Zoning Action.

Location:

Southwest of North Ontario I-84 Interchange

Legal Description:

17S 47 33C 3600	17S 47 33C 4600	17S 47 33C 5600	17S 47 33C 6300
17S 47 33C 3700	17S 47 33C 4700	17S 47 33C 5700	17S 47 33C 6500
17S 47 33C 3900	17S 47 33C 4800	17S 47 33C 5800	17S 47 33C 6600
17S 47 33C 4000	17S 47 33C 5100	17S 47 33C 5900	17S 47 33C 6700
17S 47 33C 4100	17S 47 33C 5300	17S 47 33C 5901	17S 47 33C 6800
17S 47 33C 4200	17S 47 33C 5500	17S 47 33C 6000	17S 47 33C 6900
17S 47 33C 4300	17S 47 33C 3901	17S 47 33C 6100	17S 47 33C 6901
17S 47 33C 4400	17S 47 33C 3701	17S 47 33C 6200	*

Zoning:

~~R-24 (Residential, 24 units per acre)~~

Plan Designation:

UGA-Commercial

Current Zoning:

R, Residential and I-1, Light Industrial

Proposed Zoning

EMP, Employment Zone

(can we rename? ... a more "user friendly" name!)

* *Add the following address*

* *NORMAN & JOLICE WHITTET (property owners)
1003 N. PARK BLVD*

AGENDA REPORT
Monday, March 7, 2005

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Dan Stieneke, Interim Planner

SUBJECT: LANGUAGE OF THE PROPOSED UGA-E (EMPLOYMENT) ZONE

DATE: Friday, February 25, 2005

SUMMARY:

Attached are the following documents:

- Tax Map encompassing c(103) area
- Tax Map 184710, for reference (poorly divided property)
- Proposed language for the EMP zone
- Draft findings document for creation & application of EMP zone

In 1999 the City of Ontario adopted Ordinance #2417, expanding the City's Urban Growth Area. In preparation for the expansion, the City identified several parcels of property which should be rezoned. One of those properties, referred to as c(103) in the findings document supporting Ordinance #2417, was identified as a candidate for rezoning to commercial. DLCD, in approving the expansion document, approved the Comprehensive Plan Map change, but asked that the city defer the zone map change until either infrastructure was in place to support the change or policies & procedures were adopted to prevent inappropriate development.

In the past few years the public works department has developed new master plans for water, sewer, and stormwater systems, all of which address the property in question. With ODOT rebuilding the North Ontario Interchange and the concurrent adoption of the "North Ontario Interchange Area Management Plan" (IAMP), we finally have all of the necessary pieces in place to move forward with rezoning, and hopefully development, of the property.

The planning consulting team working with the city on the IAMP was asked to evaluate current zoning code to determine if the best commercial zone for the property would be an existing commercial zone, an existing commercial zone with an overlay, or a new zone developed specifically to take advantage of the areas high traffic capacity. The team developed the following purpose statement to evaluate the alternatives:

The rezoning of 103 acres of UGA Commercial should enable commercial development that promotes the City of Ontario as a regional commercial hub and support inter- and intra-state commerce. At the same time, uses permitted through the rezoning should not jeopardize the

ability of the State transportation improvements to safely and effectively move freight and travelers through, and to, the City.

Using this purpose statement as a guide, staff & and the consulting team determined that a new zone would be more effective than an existing zone or an overlay on top of an existing zone. Rationale for the decision included "uses such as dance studios, public buildings, and veterinarians, currently allowed in C-2 and C-2-H zones, arguably do not enhance a commercial district's regional draw or provide services that truck drivers or other travelers would need," and the fact that an overlay district could restrict undesirable uses, but wouldn't be useful in "giving back" other appropriate uses not allowed in the base zone.

The suggested zone, as drafted by the previous planner and the consulting team, pulled in a number of uses from the C-1, C-2, and C-2-H zone that were consistent with the development objective, and expressly prohibited uses that would neither increase the regional draw nor service travelers or truck drivers. After a few iterations with the Planning Commission and City Council, light industrial uses such as "Light Manufacturing" and "Research and Development Laboratories" were added to the principally permitted use list to bolster the "Employment" aspect of the zone.

At the February 14, 2005 Planning Commission meeting, the Commission was tasked by the City Council to remove some of the restrictions from the zone to make it more open. The Planning Commission made three major changes for the Council to consider:

PERMITTED, PROHIBITED, AND CONDITIONAL USES:

The final decision on uses by the Planning Commission was to remove all but the four most noxious uses from the "Prohibited Uses" list, and to make conditional any use not explicitly listed as "Principally Permitted" or "Expressly Prohibited." While this did meet the City Council concern about the zone being too restrictive, it raised a number of other concerns. The planning consultant immediately asked staff to check with the City Attorney about the legality of such an action, and indicated that from a planning perspective, it would not be in our best interest. The local DLCD representative is concerned that doing so may be illegal, because it allows any and all commercial & residential uses and nearly all industrial uses in one zone, in violation of our comprehensive plan and possibly some state regulations. The City Attorney sees two major problems in that the City Council, which is charged with legislative authority to determine what uses are allowed in what zones, will have relinquished control to the Planning Commission or even the Hearings Officer to make all such decisions in a quasi-judicial setting, which leads to his second concern that this could be construed as a system for spot zoning. The City Attorney has indicated that he will prepare a report for the council on this issue in time for the March 7, 2005 meeting.

From a planning perspective, conditionally allowing any & all uses defeats the stated purpose of the new zone, which is to increase Ontario's presence as a regional commercial hub and to provide travel services. The parcel in question presents a great opportunity for the local economy. It is the only place in Ontario near the interstate with very large tracts of vacant commercial land under single ownership. With the restrictions placed on municipalities by DLCD, we are unlikely to see a similar opportunity for a very long time. If the city expects in the next several decades to

attract another major big-box retailer or major employer requiring a large parcel of commercial land, this is where it will happen. How can we expect a developer to bring in a large retailer when a tire recycling plant could go in next door? Even otherwise innocuous uses such as "Kennel," "Nursing Home," and "Private Clubhouses" are not appropriate neighbors – a Costco, for instance, wants to multiply their commercial draw by locating next to an Office Max, or Home Depot, or a trendy restaurant. A mortuary next door is a detriment, not an asset. Removing all restrictions from a piece of land is attractive if you own it, but for the neighbors, it is the removal of all protections.

From a practical standpoint, aside from the potential flurry of paperwork that could be generated, making all unlisted uses conditional could easily give the appearance of, and even the opportunity for, impropriety at the staff level. Generally speaking, staff does substantial work evaluating conditional use applications to ensure that the proposed use is compatible with the surrounding area and with city code. Because of this, the Hearings Officer & Planning Commission often give considerable weight to the opinion of staff. It would be easy for the public to begin to view the Planning Director as the real decision-maker, and not a far leap from there to think that development in the zone was arbitrary and capricious, or run on the "good old boy" system, or depended on who could provide the best kickbacks. This places staff into a very difficult position.

MASTER PLANNING:

A master plan requirement gives the City Council a great deal of flexibility to achieve the goals of the zone. The consultant team originally suggested a master plan be created for the entire property before development could start, or, optionally, a master plan could be developed for the northwest side of the beltway and a separate master plan could be developed for the southeast side of the beltway. At some point in the discussion, the idea of a master plan for the northwest side of the beltway was dropped, because the land is already cut up into many small pieces, and with the exception of a single lot of 8 or 9 acres, the largest lot is just a little over 2 acres. In contrast, the property on the southeast side is owned almost entirely by one family in a handful of large lots (see the "c(103) Tax Map").

This is an important distinction because future development would be forced to follow (or amend in a public hearing) the previously adopted master plan. It's one thing to ask an owner of a large parcel and the buyer of a small portion of that parcel to agree on a master plan impacting the remainder of the large parcel; it's quite another to ask a dozen neighbors to agree on a plan for all of their property.

The scope of the master plan was scaled down from the consulting team's original idea to the version examined by the Planning Commission on February 14. Originally, it called for details such as "orientation of building." If the intent of the City is only to determine that any individual development would not harm the ability of the larger piece to be developed, other items, such as "architectural styles or features" could also be removed.

It is important to remember that the intent of the Master Plan is not to force another layer of paperwork onto a developer, but to force a developer to think beyond himself to ensure that the work being proposed doesn't hamper future development. As you can see from the attached

portion of Tax Map 184710, you cannot rely on free market forces alone to develop land into useful parcels. A master plan does not have to require much to prevent this type of misdevelopment.

MINIMUM LOT SIZE:

As proposed by the consultant and previous planner, space limitations in the new zone would mirror the minimum lot size for the city C-2 zone, including a 3,000 square foot minimum lot size. Discussion at the Planning Commission meeting came down to a set of contradictory decisions, stated far enough apart in time that nobody noticed the discrepancy during the meeting:

- 1) Minimum lot size is to be 5 acres.
- 2) All development requires a master plan.
- 3) Developments with a master plan can be subdivided into lots of less than 5 acres.

These three items, taken together, effectively eliminate a minimum lot size. It is important to note that this is an Urban Growth Area zone - developments will use well & septic, not city water & sewer services. Brian Wickert of the Malheur County Environment Health Department has stated that there is no minimum lot size required to allow installation of a well and septic system, but that given current requirements it is generally difficult to place a well and septic system on a lot smaller than one acre. He also noted that in western Oregon several jurisdictions were moving to five-acre minimum lot sizes for installation of a new well & septic system.

Also, the main reason DLCD suggested that the City leave the property in UGA-R while we were preparing the infrastructure was because UGA-R has a five-acre minimum lot size requirement. DLCD's goal in that suggestion was to ensure dense development. The thinking was that small lots on well & septic would be too dense (expensive) to later redevelop in an economical way, but not as dense as would be possible if they had developed on city services in the first place. If the City wants dense commercial development, a five-acre minimum lot size does make sense *in the UGA*.

Large minimum lot sizes can be controversial because they can be difficult for a small businessman to develop, and the Council has clearly and consistently stated that they want to encourage development of businesses of all types and sizes. However, Ontario is full of empty storefronts and small parcels of undeveloped commercial land downtown, along SW 4th Avenue, and around the developing area in east Ontario. There are even 20 acres of annexable commercial land on either side of the Yturri Beltline just north of SW 4th Avenue. There are numerous places for a small businessman to locate. However, the only place that a very large commercial business can locate is in c(103). If the City is honestly going to encourage business of all sizes, it must protect c(103) from being parceled out and developed in a way that precludes the entrance of a large business.

BALLOT MEASURE 56 & 37 IMPLICATIONS:

Because of Ballot Measure 37, it is expedient for the City Council to err on the side of caution in uses lists, lot sizes, and master planning. In moving the property from residential to commercial, even somewhat restrictive commercial, we are (in my non-professional-appraisers opinion)

unlikely decreasing the property value. If in a few years the Council finds that the zoning is too restrictive, it can be "loosened up" relatively easily. If, however, the Council passes a "free for all" zone, and in a few years decides that restrictions need to be in place, the City would at the very least be required to send expensive Ballot Measure 56 notice and could open up the City to Measure 37 lawsuits.

On that note, the City Attorney has also suggested that "light manufacturing" be moved from "Principally Permitted Uses" to "Conditional Uses." The zone explanation states that "The light industrial components of this district will encourage developments that will not adversely affect adjacent businesses or residential areas and neighborhoods by permitting industrial and manufacturing establishments which are clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke or glare, and whose potentially objectionable features will be eliminated by design, complete enclosure or other appropriate measures." Placing light manufacturing uses in the conditional category will allow the Planning Commission to apply conditions to ensure those objectives are met.

MINOR POINTS:

The zone as drafted by the previous planner has the "look and feel" of Title 10-A, the zoning code regulating the City. However, as it is a UGA zone, and not a city zone, I have restructured it to look more like existing UGA zones. This *does not* affect the substance of the zone.

PREVIOUS ACTIONS:

SEVERAL MEETINGS HAVE been held to discuss the objectives and implementation of the zone, both at the City Council and the Planning Commission.

FINDINGS OF FACT:

Findings of fact (minus hundreds of pages of attachments) supporting creation of the zone and the application of it to c(103) are attached for reference only. To extract the "creation" findings from the "application" findings would require a great deal of staff time. Findings will be presented for acceptance when the zone is officially created and applied by ordinance.

COMPREHENSIVE PLAN IMPLICATIONS:

The findings of fact referenced above show that the creation of the new zone is consistent with the Comprehensive Plan.

RECOMMENDATION:

The Planning Commission recommends adoption of the UGA-E (Employment) zone as presented.

Staff recommends that the City Council carefully consider the list of permitted, prohibited, and conditional uses; the master planning requirement; and minimum lot size requirements. Staff very strongly recommends a change be made to the contradictory minimum lot size language.

PROPOSED MOTIONS:

Any changes to the zone language must be made by motion. Once changes are made, one of the following motions would be appropriate:

To have suggestions made by Council reviewed by the Planning Commission:

I move that the City Council refer the language of the EMP zone, as amended, back to the Planning Commission for its April 11, 2005 meeting.

To have staff incorporate suggested changes and bring them back directly to the Council:

I move that the City Council direct staff to incorporate all proposed amendments into the language of the EMP zone and bring it an Ordinance adopting the EMP zone before the Council for its April 4, 2005 meeting.

MISSION STATEMENT - TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE
AGENDA - MEETING OF THE COMMON COUNCIL CITY OF ONTARIO, OREGON
Monday, March 7, 2005, 7:00 p.m., M.T.

1) **Call to order:**

A) Roll Call: Lewie Allen _____ Earl Cheatham _____ Dan Cummings _____
John Gaskill _____ Audrey Jacobs _____ Jim Mosier _____ Mayor LeRoy Cammack _____

2) **Pledge of Allegiance:**

A work session was held March 4, 2005, and this agenda was published March 6, 2005. Copies of the agenda are available at City Hall upon publication.

3) **Motion to adopt the entire agenda:**

4) **Consent Agenda: Motion action approving Consent Agenda Items A through D**

A) Approval of Minutes of Regular Meeting of 02/22/05 1-3
B) Appointment to V&C Board 4
C) Proclamation: School District 8-C Support Staff Appreciation Week (Hand-Out)
D) Approval of the Bills

5) **New Business:**

A) Business Loan Fund Approval (Hand-Out)
B) Review / Action on Change of Golf Course Fees 5
C) Interpretation of I-1 Zone to Clarify "Contractors" 6-7
D) Ordinance #2557-2005: Amend OMC - Rescind Title 4, Chapter 6 (1st Reading) 8-10

6) **7:30 p.m. Public Hearing**

A) Ordinance #2554-2005: Adopt IAMP for Ontario North Interchange (1st Reading) 11-32
B) Language of the Proposed UGA-E (Employment) Zone 33-70

7) **Correspondence, Comments, and Ex-Officio Reports:**

8) **Adjourn**

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CITY OF ONTARIO 444 SW 4TH STREET ONTARIO OREGON 97914

There being no Proponent testimony, and no further Opponent testimony, the Mayor closed the public hearing, and opened the issue for Council discussion.

Councilor stated in reference to Mr. Hicks, he was on the stakeholders committee, which was one of the groups that took this through its embryonic stages and several of them within that group were disappointed when it came to eliminating that underpass. The feelings were that the more connections under that interchange, well, that would have been a great thing.

Scott Trainor stated those were the same feelings expressed in the project planning and management meeting. He remembered in the discussions the elimination of Falcon, and that they would have to have a connection curve on Washington and Oregon.

Audrey Jacobs moved, seconded by Dan Cummings to adopt the Findings of Fact as presented. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

Lewie Allen moved, seconded by Earl Cheatham, that the Council adopt Ordinance #2554-2005, AN ORDINANCE AMENDING THE CITY OF ONTARIO TRANSPORTATION SYSTEM PLAN TO INCLUDE THE NORTH ONTARIO INTERCHANGE AREA MANAGEMENT PLAN ENABLING THE CONSTRUCTION OF A NEW INTERCHANGE AND BRIDGE STRUCTURE AND ASSOCIATED LOCAL TRANSPORTATION SYSTEM IMPROVEMENTS, on First Reading by Title Only. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

LANGUAGE OF THE PROPOSED UGA-E (EMPLOYMENT) ZONE

It being the hour and date advertised for public hearing on the matter of the Language of the Proposed UGA-E (Employment) Zone, the Mayor declared the hearing open. There were no objections to the City's jurisdiction to hear the action, no abstentions, and no ex-parte contact declared.

Dan Stieneke, Interim Planner, presented a staff report to the Council. He stated in 1999 the City of Ontario adopted Ordinance #2417, expanding the City's Urban Growth Area. In preparation for the expansion, the City identified several parcels of property that should be rezoned. One of the properties, referred to as c(103) in the findings document supporting Ordinance #2417, was identified as a candidate for rezoning to commercial. The consultant team, working with the City on the IAMP, was asked to evaluate current zoning codes to determine if the best commercial zone for the property would be an existing commercial zone, and existing commercial zone with an overlay, or a new zone developed specifically to take advantage of the area's high traffic capacity. Staff and the consulting team determined that a new zone would be more effective than an existing zone or an overlay on top of an existing zone. The final decision on uses by the Planning Commission was to remove all but the four most noxious uses from the "Prohibited Uses" list and make conditional any use not explicitly listed as "Principally Permitted" or "Expressly Prohibited". This action raised some red flags so the planning consultant asked staff to check with the City Attorney about the legality of such an action. The City Attorney saw two major problems in that the City Council, which was charged with legislative authority to determine what uses were allowed in what zones, which lead to the second concern that this could be construed as a system for spot zoning. The City Attorney indicated that he would prepare a report for the Council on the issue. From the planning perspective, conditionally allowing any and all uses defeated the stated purpose of the new zone, which was to increase Ontario's presence as a regional commercial hub to provide travel services. The consultant team suggested a master plan be created for the entire property before development could start. The scope of the master plan was scaled down from the consulting teams original idea to the version examined by the Planning Commission. If the intent of the City was to only determine that any individual development would not harm the ability of the larger piece to be developed, other items, such as "architectural styles or features" could also be removed. As proposed by the consultant and previous planner, space limitations in the new zone would mirror the minimum lot size for the City's C-2 zone, including a 3,000 square foot minimum lot size. Large minimum lot sizes could be controversial because they could be difficult for a small businessman to develop, and the Council had clearly and consistently stated that they wanted to encourage development of businesses of all types and sizes. Because of Ballot Measure 37, it was expedient for the City Council to err on the side of caution in uses lists, lot sizes, and master planning. If in the next few years the Council found that the zoning was too restrictive, it could be loosened up. However, if the Council passed a "free for all" zone, and in a few years decided that restrictions needed to be in place, the City would be at least required to send expensive Ballot Measure 56 notices and could open up in lawsuits. The recommendation by the Planning Commission would be to adopt the UGA-E (Employment) zone as presented. Staff was recommending the City Council carefully consider the list of permitted, prohibited, and conditional uses; the master planning requirement; and minimum lot size requirements. Staff very strongly recommended a change be made to the contradictory minimum lot size language.

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Mayor Cammack opened the hearing up for public testimony.

PROPOSERS:

Doug Whittet, Ontario, stated "My name is Doug Whittet and thank you for allowing me to speak. Again I am representing the Brewer/Whittets who have part of the land that Dan was talking about. One thing the Gian Paulo had mentioned before, there was a chunk of our property that on the North West side of the Yturri Beltline that was not included in the master plan that Mr. Stieneke mentioned would be in the master plan. This might be something to have a point of contact on. If we are limited to 5 acres, when selling that off it would put a crimp on potential buyers. I understand the idea of the master plan especially on that South East side. We are obviously proponents, but we would like to hear more details.

Mr. Stieneke stated the consultant team came up with the idea of not applying the master plan to the North East side. At the last Planning Commission meeting, it was determined to apply this to all property.

OPPOSERS:

None.

There being no further Proponent testimony, and no Opponent testimony, the Mayor closed the public hearing, and opened the issue for Council discussion.

Councilor Cummings stated he did not see a need for a master plan on the North West side.

Councilor Gaskill stated he did not see a need for the 5-acre minimum.

Mr. Stieneke stated the 5-acre minimum extends into the UGA but once they annex, everything changes.

Mayor Cammack asked if anyone on the Council wanted to have a master plan for the North West parcel of land?

All councilors were in agreement they did not.

Mayor Cammack stated they needed to address the "uses" lists (Conditional, Prohibited, and Permitted). They had already discussed moving #15, the "light manufacturing" category from "Permitted" to "Conditional" uses. He asked if that was all the changes for section one?

Councilor Cummings stated they had also questioned the difference between Automotive Services and Gas Stations.

Mayor Cammack read the definition of Automotive services: A store, shop or service facility engaged in the sale, rental storage, towing service or major automobile repair as defined herein of vehicles including automobiles, trucks, farm equipment, buses, trailers, recreational vehicles, boats, motorcycles, vehicle parts and accessories, mobile homes, and modular buildings.

Councilor Gaskill asked if in affect that changed #4 under "Principal Use" to Automotive Service Establishment?

Mayor Cammack stated that would change the name to Automotive Service Establishment instead of Automotive Service Stations.

All Councilors were in agreement on "Principal Uses".

Mayor Cammack moved on to "Conditional Uses". They started out with eleven and eliminated them all and found out they could get in trouble for doing so, so they were back. One change would be #15 moving from the above list to "Conditional Uses", another combining #4 Public Buildings with #9 Public Facilities and services, and adding one for Amusement Centers. Their idea of an Amusement Center would be a facility such as a water park (Boondocks), not meaning a penny arcade.

Councilors were all in agreement on "Conditional Uses".

Mayor Cammack addressed "Expressly Prohibited Uses". He stated they needed to decide on which ones they would like to add back. He asked if they agreed they would be adding back #1 Residential Dwellings? He also stated they would not add back in #6 Rooming Houses, or #12 Amusement Arcade. To sum it up, the "Expressly Prohibited" uses would be all 19 on the list with the exception of #6 and #12.

CITY OF ONTARIO 444 SW 4TH STREET ONTARIO OREGON 97914

Councilors were all in agreement on "Expressly Prohibited Uses".

Mayor Cammack agreed the lot size of 5-acres that had been recommended by the Planning Commission was the right way to go.

All Councilors agreed because of water and septic issues, they should break up the properties into two sizes: 2 acres and 5 acres parcels.

Councilor consensus to give the section back to Mr. Stieneke for rewriting.

Dan Cummings moved, seconded by John Gaskill, that Council direct staff to incorporate all proposed amendments into the language of the EMP zone and bring it as an ordinance adopting the EMP zone before the Council for its April 4, 2005 meeting. Roll call vote - Allen-absent; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

Jim Mosier stated the V & C met and approved funds for the fair. There were some exciting and new things going on. He also stated there was some discussion by the downtown merchants to look at planning development and upgrading of the downtown area.

Mayor Cammack stated on the 1st and 3rd Saturday of each month, from 10 a.m. until noon, there would be a few Councilors available to listen to the public. They had done this several times with no one showing yet.

John Gaskill stated the Ontario High School girl's basketball team would be heading to Corvallis this week for a State Tournament. The boy's basketball team had a great season but would not be going to the finals. He also stated eight wrestlers participated in the state tournament and brought back some placings.

Lewie Allen read a letter from the Community Advocates for Traffic Safety: *Speeding on residential streets is one of the most common complaints we receive. Our CATS Program (Community Advocates for Traffic Safety) encourages neighborhood residents to become involved in addressing this problem in their own neighborhoods. The CATS Program allows citizens to monitor the speed of vehicles in their neighborhood and report to the Ontario Police Department the description of vehicles traveling at excessive speeds. The Ontario Police Department will notify the registered owners of these vehicles by mail, concerning the infraction. Often drivers are not aware of their actions. Hopefully our letters will encourage drivers to be more attentive to their driving habits. Neighborhood Speed Watch is an educational tool, designed to create public awareness about traffic safety. Registered owners are not fined and no violation is listed on their driving record. The CATS Program started in March of 2004 after receiving a Countywide grant to purchase radars to be used for the program. Volunteers run the program as another tool for speed related complaints. The program exists within the Ontario Police Department, the Malheur County Sheriff's Office and the Nyssa Police Department. In 2004, the Ontario City Police Department sent 441 letters to drivers regarding excessive speed. The CATS Program also garnered the 2004 Oregon Leadership in Traffic Safety Award presented by the Oregon Department of Transportation. Mike Jones, an Ontario Police Volunteer, is a key part of the program. Mike spends a lot of his time helping the Department with the CATS Program. It is because of his time and dedication that the CATS Program is successful.*

ADJOURN

Dan Cummings moved, seconded by Earl Cheatham, that the meeting be adjourned. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

LeRoy Cammack, Mayor

ATTEST:

Tori Ankrum, CMC, City Recorder

AGENDA REPORT
Monday, April 18, 2005

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Dan Stieneke, Interim Planner

**SUBJECT: LANGUAGE AND IMPLEMENTATION OF THE PROPOSED UGA-E (EMPLOYMENT)
ZONE; ORDINANCE 2548-2004**

DATE: Tuesday, April 12, 2005

SUMMARY:

Attached are the following documents:

- Proposed ordinance 2548-2004, creating and applying the EMP zones
- Draft findings document for creation & application of EMP zones
- Tax Map encompassing c(103) area

In 1999 the City of Ontario adopted Ordinance #2417, expanding the City's Urban Growth Area. In preparation for the expansion, the City identified several parcels of property which should be rezoned. One of those properties, referred to as c(103) in the findings document supporting Ordinance #2417, was identified as a candidate for rezoning to commercial. DLCD, in approving the expansion document, approved the Comprehensive Plan Map change, but asked that the city defer the zone map change until either infrastructure was in place to support the change or policies & procedures were adopted to prevent inappropriate development.

In the past few years the public works department has developed new master plans for water, sewer, and stormwater systems, all of which address the property in question. With ODOT rebuilding the North Ontario Interchange and the concurrent adoption of the "North Ontario Interchange Area Management Plan" (IAMP), we finally have all of the necessary pieces in place to move forward with rezoning, and hopefully development, of the property.

The planning consulting team working with the city on the IAMP was asked to evaluate current zoning code to determine if the best commercial zone for the property would be an existing commercial zone, an existing commercial zone with an overlay, or a new zone developed specifically to take advantage of the areas high traffic capacity. The team developed the following purpose statement to evaluate the alternatives:

The rezoning of 103 acres of UGA Commercial should enable commercial development that promotes the City of Ontario as a regional commercial hub and support inter- and intra-state commerce. At the same time, uses permitted through the rezoning should not jeopardize the

ability of the State transportation improvements to safely and effectively move freight and travelers through, and to, the City.

Using this purpose statement as a guide, staff & the consulting team determined that a new zone would be more effective than an existing zone or an overlay on top of an existing zone. Rationale for the decision included “uses such as dance studios, public buildings, and veterinarians, currently allowed in C-2 and C-2-H zones, arguably do not enhance a commercial district’s regional draw or provide services that truck drivers or other travelers would need,” and the fact that an overlay district could restrict undesirable uses, but wouldn’t be useful in “giving back” other appropriate uses not allowed in the base zone.

The suggested zone, as drafted by the previous planner and the consulting team, pulled in a number of uses from the C-1, C-2, and C-2-H zone that were consistent with the development objective, and expressly prohibited uses that would neither increase the regional draw nor service travelers or truck drivers. After a few iterations with the Planning Commission and City Council, light industrial uses such as “Light Manufacturing” and “Research and Development Laboratories” were added to the principally permitted use list to bolster the “Employment” aspect of the zone.

At the February 14, 2005 Planning Commission meeting, the Commission was tasked by the City Council to remove some of the restrictions from the zone to make it more open. The Planning Commission made three major changes for the Council to consider at the March 7, 2005 City Council meeting: making conditional all uses not explicitly listed as permitted or prohibited; requiring a master plan for all development; and no conclusive minimum lot size. The City Council reviewed these changes and decided to create an explicitly listed set of conditional uses, remove the master plan requirement north of the bypass, and set minimum lot size to 5 acres south of the bypass and to 2 acres north of the bypass.

PREVIOUS ACTIONS:

Several meetings have been held to discuss the objectives and implementation of the zone, both at the City Council and the Planning Commission.

FINDINGS OF FACT:

Findings of fact supporting creation of the zone and the application of it to c(103) are attached. References to attachments, most of which simply repeat the zoning language in the ordinance or the North Ontario IAMP, have been removed and replaced with references to the appropriate original document in the interest of saving several hundred of pages of printouts.

COMPREHENSIVE PLAN IMPLICATIONS:

The findings of fact referenced above show that the creation of the new zone and application to the subject property is consistent with the Comprehensive Plan.

RECOMMENDATION:

Staff recommends that the City Council adopt the zoning language substantially as presented; however, staff asks that the Council consider removing “Home Occupations” as a prohibited use

in the EMP zones, and to consider changes suggested by DLCD which were not available at the time of the writing of this staff report.

PROPOSED MOTIONS:

Findings of fact:

I move that the City Council adopt the findings of fact as presented (or amended).

Adoption of ordinance:

I move that the City Council adopt ORDINANCE NO. 2548-2004, AN ORDINANCE AMENDING THE CITY OF ONTARIO MUNICIPAL CODE (TITLE 10 AND 10-A) AND ZONE MAP TO INCLUDE NEW UGA E-2 AND UGA E-5 ZONES; AND ZONE APPROXIMATELY 103 ACRES OF URBAN GROWTH AREA RESIDENTIAL (UGA-R) AND LIGHT INDUSTRIAL (UGA I-1) TO UGA E-2 AND UGA E-5 ZONES, on first reading by title only.

MISSION STATEMENT - TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE
AGENDA - MEETING OF THE COMMON COUNCIL CITY OF ONTARIO, OREGON
Monday, April 18, 2005, 7:00 p.m., M.T.

1) **Call to order**

- A) Roll Call: Lewie Allen _____ Earl Cheatham _____ Dan Cummings _____
John Gaskill _____ Audrey Jacobs _____ Jim Mosier _____ Mayor LeRoy Cammack _____

2) **Pledge of Allegiance**

A work session was held April 15, 2005, and this agenda was published April 17, 2005. Copies of the agenda are available at the City Hall Customer Service Counter, on the City's website at www.ontariooregon.org and at the Malheur County Library.

3) **Motion to adopt the entire agenda**

4) **Consent Agenda: Motion action approving Consent Agenda Items**

- A) Approval of Minutes of Regular Meeting of 04/04/05 1-5
B) Appointment to Library Board: Donnaclaire Blankinship 6-7
C) Declaration of Surplus Property 8-11
D) Approval of the Bills

5) **New Business**

- A) Resolution #2005-112: Fees for Transient Merchants & Exemption for Christmas Tree & Fireworks Merchants 12-14
B) Resolution #2005-113: Reallocation of Police Department Funds 15-17

6) **7:30 p.m. Public Hearing:**

- A) Ordinance #2548-2004: Language & Implementation of the UGA-E (Employment) Zone (1st Reading) 18-43
B) Ordinance #2558-2005: Create OMC 8-16 Establishing Alternate Procedures for Selling Real City Property (1st Reading) 44-50

7) **Correspondence, Comments, and Ex-Officio Reports**

8) **Adjourn**

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the same safety margin for local consumers. The proposed new fees would be going up from \$10 to \$100 for the Administrative Processing Fee; Daily Permit Fee from \$10 increased to \$500; Monthly Permit Fee from \$200 increased to \$1000; Six Month Permit Fee from \$500 increased to \$1000. Relative to Christmas tree and fireworks sales, those were typically consumable goods that were purchased and used during that season, so they would be exempt from the new resolution fees.

Councilor Allen stated his disagreement with the increase in fees being so large, as he believed it would send the lower income families, and new families, to other towns to purchase items.

Councilor Cheatham stated he was in full agreement with the increases because the transient merchants were taking money away from the local merchants, so those businesses should have to pay a high price to do business here.

Earl Cheatham moved, seconded by Audrey Jacobs, to adopt Resolution #2005-112, A RESOLUTION REVISING FEES FOR TRANSIENT MERCHANTS, AS DEFINED BY OMC 3-8-1, AND PROVIDING EXEMPTION FOR FIREWORKS AND CHRISTMAS TREE MERCHANTS. Roll call vote - Allen-no; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 6/1/0.

RESOLUTION #2005-113: REALLOCATION OF POLICE DEPARTMENT FUNDS

Mike Kee, Police Chief, presented a staff report to the Council. He stated for the past several years Project DOVE received a grant to fund a Law Enforcement Victims Advocate position at the Malheur County Sheriff's Office. On April 1, 2005 the grant ran out and the county employee filling that position was laid off. The advocate was a partner with law enforcement who would respond to domestic violence crime scenes whenever an arrest was made. The advocate would contact the victim of domestic violence, make them aware of resources available, provide transportation if needed, and make them aware of what was going to happen as the case worked its way through the criminal justice process. Project DOVE, as well as OPD, were working on grants to get that funding back. In the meantime, the Ontario Police Department currently has a \$7400 part-time employee line item and they would like to transfer out about \$3500 to contract services to employ the individual who had been laid off. That amount would carry the person through June 30, 2005. As of June 30, 2005 if neither grant came through, the District Attorney, Dan Norris, made a commitment to hire this person through his office for one year.

John Gaskill moved, seconded by Jim Mosier, that the police department transfer \$3,500 from the General Fund, Part-Time Employees, to the General Fund, Contract Services, in order to fund the Law Enforcement Victims Advocate through June 30, 2005. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

✓ Joe Dominick, Ontario, asked when and where would the ordinance language for the UGA-E Employment Zone be available?

Mr. Trainor stated they had been available at the County Library for about a month.

Mr. Dominick asked when this item was published because it was the first he has heard about it?

Mr. Trainor stated the sale of real property was published on Sunday, and the UGA would have been advertised several times.

Carl Judy stated it had been published at least three (3) times since last December.

- ✓ Jim Mosier stated he met with the city's motel owners and managers to talk about the 2% TOT that was currently going to the Four Rivers Cultural Center. The current agreement terminated in June so the question was if there was a better way to use the 2% to better enhance the business of hotel/motels. Consensus at the meeting to continue the contract with the Cultural Center.

7:30 P.M. PUBLIC HEARING

ORDINANCE #2548-2004: LANGUAGE AND IMPLEMENTATION OF THE UGA-E (EMPLOYMENT) ZONE (1ST READING)

It being the hour of 7:30 p.m., the hour and date advertised for public hearing on the matter of Ordinance #2548-2004, Language and Implementation of the Proposed UGA-E (Employment) Zone, the Mayor declared the hearing open. There were no objections to the City's jurisdiction to hear the action, no abstentions, and no ex-parte contact declared.

Scott Trainor, City Manager, presented a staff report to the Council. He stated this was somewhat the same ordinance the Planning Commission first reviewed, forwarded to the Council, who kicked it back to the Planning Commission again for additional review. There had been discussion with the Planning Commission regarding some changes, and the ordinance was now back before Council for additional input. Dan Stieneke, Interim Planner, made changes as directed by Council following the previous meeting. The only outstanding issue was the discrepancy from the language in 1999 and he was unsure if that has been resolved yet.

Mayor Cammack opened the hearing up for public testimony.

PROPONENTS:

Carl Judy, Ontario, stated he was glad to see this being designated and used, but he had some questions on clarification. On "multi-family dwelling mixed use", what was the definition of mixed-use?

Mr. Trainor stated, as indicated next to it, "When it is accessory to a commercial building."

Mr. Judy asked for clarification on #8, "Public buildings, facilities and services", and then in Expressly Prohibited Uses, it had museums, concert halls and auditoriums. Were those not public buildings?

Mr. Trainor stated that those *might* be public buildings. The Council decided they wanted to prohibit that classification of use.

Mr. Judy asked for clarification for restaurants and fast-food restaurants because he would like to see more restaurants out there.

Mr. Trainor stated it was his understanding that both would be allowable uses. That section would be corrected to read as such.

Ralph Poole, Ontario, wanted to verify that the proposed zone went to Washington Avenue on the north over to the Yturri Beltline? Also, did the City plan on adopting this into its City ordinances?

Mr. Trainor stated that yes to both questions.

OPPONENTS:

None.

QUESTION:

Gary Halcom, Ontario, stated he was neither Proponent nor Opponent, but simply wanted to have some information clarified. Was the discussion on 16th and 18th going to be an issue resolved at a later date?

Mr. Trainor stated that it would have to be resolved at some point.

There being no further Proponent testimony, and no Opponent testimony, the Mayor closed the public hearing, and opened the issue for Council discussion.

Mr. Gaskill asked if the issue with 16th and 18th needed to be addressed that evening?

Mr. Trainor stated that it did.

Mr. Gaskill asked if Mr. Stieneke might have some answers on the issue?

Mayor Cammack stated they should approve this without adding 16th and 18th and make that change later.

Joe Dominick, Ontario, stated there had been a number of comments made and he was concerned. Unless those items were clear when a law or ordinance was written, unless the actual intent was on record, he believed the intent could not be followed up on. He was concerned the entire City Council had not nailed down what the intent truly was.

Audrey Jacobs moved, seconded by Earl Cheatham, to adopt the Findings of Fact as presented. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

Lewie Allen moved, seconded by John Gaskill, to adopt Ordinance #2548-2004, AN ORDINANCE AMENDING THE CITY OF ONTARIO MUNICIPAL CODE (TITLE 10 AND 10-A) AND ZONE MAP TO INCLUDE NEW UGA E-2 AND UGA E-5 ZONES; AND ZONE APPROXIMATELY 103 ACRES OF URBAN GROWTH AREA RESIDENTIAL (UGA-R) AND LIGHT INDUSTRIAL (UGA-I-1) TO UGA E-2 AND UGA E-5 ZONES, on First Reading by Title Only. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

ORDINANCE #2558-2005: CREATE OMC 8-16 ESTABLISHING ALTERNATE PROCEDURES FOR SELLING REAL CITY PROPERTY (1ST READING)

It being the hour of 7:30 p.m., the hour and date advertised for public hearing on the matter of Ordinance #2558-2005, Establishing an Alternate Procedure for the Sale of Real City Property, the Mayor declared the hearing open. There were no objections to the City's jurisdiction to hear the action, no abstentions, and no ex-parte contact declared.

Scott Trainor, City Manager, presented a staff report to the Council. He stated the city has several parcels of land they would like to dispose of. ORS 221.727 provided that the Council could adopt, after public notice and hearing, a procedure for the sale of individual parcels of a class of City-owned real properties. The property was broken down into 5 classifications:

1. **Substandard Undeveloped Property (Class 1):** These were real property parcels with no structures located upon the real property parcel and which were not of minimum buildable size for the land use zone.
2. **Standard Undeveloped Property (Class 2):** Real property parcels with no structures located upon the real property parcels and which were at least of minimum or buildable lot size for the land use zone.
3. **Developed Property (Class 3):** Real Property parcels referred to in section B, which had structures located on them.

Findings of fact – General:

1. The City of Ontario designated approximately 103 acres in the Urban Growth Area (UGA), southwest of the North Ontario Interchange, UGA Commercial by adopting Ordinance No. 2417 and amending the City's Comprehensive Plan;
2. The City of Ontario's Comprehensive Plan was amended per the 1999 ordinance to reflect the change from residential to commercial, the formal rezoning to commercial was to take place "as soon as feasible (p. 8, Exhibit A Findings of Fact, Ordinance No. 2417)."
3. This action implements the 1999 Comprehensive Plan action by zoning this area for employment uses;
4. The City worked closely with the Oregon Department of Transportation in the planning for the now constructed Yturri Beltline (OR-201) that bisects the area subject proposed for EMP zoning.
5. The City Staff, elected, and appointed officials continue to work closely with the Oregon Department of Transportation in planning for future improvements to the I-84 Interchange directly northeast of the subject area, through participation on the Project Management Team and Stakeholder Advisory Committee for the North Ontario Interchange Bridge project and the development of an Interchange Area Management Plan for the vicinity, of which this 103 acres is a part;
6. The Oregon Department of Transportation and City Staff agreed that completing a zoning action for this area within the vicinity of the North Ontario Interchange was an important step in planning for the area and should be funded as a part of the bridge replacement project;
7. The Ontario City Council and Planning Commission held a joint work session April 12, 2004 to consider the goals set forth in the 1999 ordinance for this 103 acres and gave general approval to a set of "guiding principles," based on the ordinance findings, on which to formulate a new commercial zone;
8. The Ontario City Council, Planning Commission, and City Staff determined at the April 12 work session that a "hybrid" zone comprised of uses currently allowed in the Heavy General Commercial Zone and some of the more restrictive uses allowed in the Light Industrial Zone would best implement the current intended use of the UGA-C;

Findings of fact - Rezone

1. **Explain how the proposed zoning map amendment is in conformance with the statewide planning goals and guidelines.**
As demonstrated in the following section, *Conformance with Statewide Planning Goals*, the zoning map amendment of the approximately 103 acres in the UGA is in conformance with statewide planning goals and guidelines

CONFORMANCE WITH STATEWIDE PLANNING GOALS

Per City Code Chapter 10B-20 Quasi-Judicial Zoning Map Amendment, a zoning map amendment application must address LCDC's Statewide Planning Goals to ensure consistency with those goals. The following provides findings that demonstrate that this rezoning request is consistent with LCDC's Goals.

Goal 1: Citizen Involvement

Response: Public notice for the hearing on this application will be provided through the City of Ontario's notification procedures, per Code section 10B-20-15 Hearing Date, Notice. The public will have an opportunity to review the application and staff report in advance of the public hearing and provide testimony at the hearing. In addition, the public has had opportunities to consider land uses for the 103

acres of UGA-Commercial as part of the North Ontario Interchange Bridge project through a series of open houses.

Goal 2: Land Use Planning

Response: The rezoning application has prepared a thorough factual base that this proposed rezoning is consistent with recent actions by the City (Ordinance No. 2417) to designate the subject area for urban, commercial uses. The application also demonstrates how the amendment complies with the acknowledged City of Ontario Comprehensive Plan criteria.

Goal 3: Agricultural Lands

Response: This Goal is not applicable. The subject area is within the City of Ontario's Urban Growth Boundary and is designated Urban Growth Area Commercial with the intent that the area will serve the City's future commercial needs.

Goal 4: Forest Lands

Response: This Goal is not applicable as there is no designated forest lands within the Ontario's Urban Growth Area.

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

Response: There are no identified historic designated landmarks in the subject area per Section 10C-50-55 Designate Landmarks Historic Resource Sites of the City Code.

As a part of this preliminary cultural resource assessment for the North Ontario Bridge Replacement project, Goal 5 historic resources identified by the City of Ontario Planning Department, Malheur County Planning Department, and the Oregon Department of Transportation were assessed to determine their proximity to the project area, and their National Register eligibility status. No Goal 5 resources are located in the proposed rezoning area; Table 11 lists historic resources for the Ontario area, their locations, and NRHP eligibility statuses are provided in Table 11 of the Final Technical Memorandum, Task 7.1.8, Environmental Constraints Study for the North Ontario Bridge, Ontario Oregon, January 2004 (p. 52).

An assessment of scenic and natural resources was made and included as part of the comprehensive plan amendment designating this area UGA-Commercial. Findings under Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources (p.15 in Ord. No. 2417) found land within the UGA to be "basically flat" with "no outstanding flora, fauna, or topographical features." This area was not found to be unique or outstanding and the findings concluded that future development would not have a noticeable adverse impact on the amount of open space available. Goal 5 resources must be address as part of any future land development application per City Code Title 10C, Substantive Regulations for Land Development.

Goal 5 inventories for the area were conducted for the first phase of the North Ontario Interchange Bridge project's Interchange Area Management Plan (Final Technical Memorandum, Task 7.1.8, Environmental Constraints Study for the North Ontario Bridge, Ontario Oregon, January 2004). The south side of I-84 was surveyed for wetlands, focusing along Dork Canal. In the subject area, Dork Canal did not appear to have any native wetland vegetation along its banks. The conclusion was that this irrigation canal is unlikely to be considered a jurisdictional wetland, but that water quality standards will need to be maintained in order to meet EPA certification standards (Final Technical Memorandum, Task 7.1.8, Environmental Constraints Study for the North Ontario Bridge, Ontario Oregon, January 2004, p. 24). The City is currently in Periodic Review with the State's Land Conservation and Development Department. One of the work tasks in the City's Periodic Review Work Program is amending the comprehensive plan and zoning ordinance to implement the Goal 5 Rule.

Goal 6: Air, Water, and Land Resources Quality

Response: This Goal is not applicable, as the zone map and code amendment will not affect the air, water, and land resources of the State.

Goal 7: Areas Subject to Natural Disasters and Hazards *To protect people and property from natural hazards.*

Response: The only area identified as subject to natural disasters or hazards is south of Dork Canal, which is in an area of 100-year flood per the FEMA Flood Insurance Rate Map. This proposed new zoning classification implements the UGA-Commercial designation; the adopted 1999 Ordinance did not include any identified natural hazard areas in the State Goal 5 findings. Ordinance No. 2417 findings concluded that the City's current policies and procedures in place to mitigate the potential problems from flood and steep slopes were sufficient to protect life and property on the lands affected by the proposed (comprehensive plan) amendment. Flood Hazard Overlay Zone (FHO) regulations can be found in Code section 10A-47; development applications within this overlay would have to comply with these regulations prior to approval.

Goal 8: Recreational Needs

Response: This Goal is not applicable, as the rezoning and associated code amendments do not directly pertain to recreational needs. A future determination will be necessary regarding the recreational needs of Ontario citizens as this area is annexed and becomes urbanized. Ordinance No. 2417 identified a projected need for additional park land, based on future population projections and an acreage per person formula. To meet the projected need, adoption of this ordinance included the designation of parcels that would be developed for future park and recreation needs. The properties subject to the proposed Employment Zone were determined to be better suited for commercial uses and were not identified as suitable for recreation purposes.

Goal 9: Economic Development *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

Response: This proposed code and map amendment implements the City's economic development goals. Ordinance No. 2417 established the need to change the designation of the subject area from residential (UGA-R) to commercial (UGA-C). This action was supported by a 1997 buildable lands inventory that identified a deficit of commercial land within the City's UGB. In addition, the ordinance highlights the locational advantages of this area for commercial and service-oriented uses. The findings supporting the commercial designations in the UGA state the City's strategy to "ensure that high-quality commercial land is available for development or redevelopment in adequate quantities" (#3, p. 20, Ordinance No. 2417).

Goal 10: Housing

Response: The current plan designation of UGA C allows "dwellings" conditionally. The proposed EMP, Employment Zone is consistent with the plan designation by allowing multi-family mixed use as a conditional use, when accessory to a commercial development. Ordinance No. 2417 includes findings supporting the City's identified need for additional commercial land and the suitability of the parcels in question to fulfill this need. This code amendment implements the policy set in the adopted 1999 Ordinance.

Goal 11: Public Facilities and Services

Response: This proposed zone change implements the long-range land use decision that was made in 1999 changing this area to UGA-Commercial on the City's Plan/Zone Map. Planned public facilities and services were determined to be adequate for the future urbanization of this area. Since that time, the City has updated the Water Master Plan and Sanitary Sewer Master Plan to guide decision-making in future public facility expansions. In addition, future development decisions will be required to meet the provisions in Title 10C, Substantive Improvements for Land Development, ensuring that public facilities are adequate.

Goal 12: Transportation

Response: The proposed plan amendment will not affect the planned transportation system capacity in the area, as demonstrated by transportation analysis conducted as part of the North Ontario Interchange Area Management Plan. As noted in the North Ontario Interchange Area Management Plan, the proposed commercial uses will result in greater trip generation than would occur with development under the former residential plan designation, but does not change the need for a five-lane bridge structure at the I-84/OR-201 Interchange. The proposed plan amendment will not "significantly affect" the transportation system as defined in the Transportation Planning Rule.

Goal 13: Energy Conservation
Response: Not applicable.

Goal 14: Urbanization
Response: Not applicable.

2. **Explain how the proposed zoning map amendment is in conformance with the Acknowledged Comprehensive Plan.**
Per City Code Chapter 10B-20 Quasi-Judicial Zoning Map Amendment, a zoning map amendment application must be in conformance with the adopted City Comprehensive Plan.
The EMP Zone implements the comprehensive plan, as amended by Ordinance No. 2417.

The attached narrative addresses the applicable Comprehensive Plan Amendment Criteria to amend Title 10A, Ontario City Code Substantive Zoning Regulations.

10D-10-05 GOAL 1. CITIZEN INVOLVEMENT

To promote and maintain the maximum feasible level of citizens involvement in land use planning and in the formation of the comprehensive plan for the city; to develop a process to facilitate citizen participation.

10D-10-05.1 GOAL 1-A. INTERAGENCY COORDINATION

To promote interagency coordination with other agencies representing citizens including; Malheur County; the State of Oregon (and the State of Idaho if appropriate); regional agencies; semi-public organizations; Federal agencies, and local special purpose districts.

10D-10-15 POLICIES

POLICIES: CITIZEN PARTICIPATION, AGENCY COORDINATION

10D-10-15-05 The residents of Ontario shall be encouraged and given the opportunity to be involved at all stages of the planning processes and in all types of planning decisions.

Response: Per Code section 10B-20-15 Hearing Date, Notice, the Planning Director is required to schedule a public hearing before the Commission and give public notice. Background information that preceded this rezoning request was generated and reviewed as part of the North Ontario Interchange Bridge project. This two-phased project has been advised by a Project Planning Management Team ("PPMT"), consisting of technical advisors from the jurisdictions and agencies involved with the project, and a Stakeholder Advisory Committee ("SAC") comprised of local officials and representatives of public agencies. Earlier explorations of land use issues, including the future growth of the UGA-Commercial area, have been considered in the PPMT and SAC meetings, and was part of background material for two public open houses held in Ontario.

10D-10-15-10 Plans, planning reports and ordinances shall be prepared in a style that is clear and easily understood by interested citizens. Whenever possible, technical material should be accompanied by a summary for the non-expert.

Response: The proposed code language has been developed to match the existing City of Ontario Municipal Code in style and format and its content concisely conveys the intent and requirements of the new E Zone. The Traffic Operations Analysis of the North Ontario Interchange Area Management Plan provides a clear summary of the land use assumptions and traffic impacts of rezoning the UGA-Commercial area.

10D-10-15-15 Wherever appropriate, possible courses of action shall include an evaluation in terms of its implications for the general public.

Response: The rezoning action will implement the 1999 Ordinance designating the subject area UGA- Commercial. This action will establish an urban zone, with associated regulations that will guide future development, in the UGA previously established for commercial growth. The rezoning request includes documentation regarding transportation infrastructure impacts (North Ontario Interchange Area Management Plan), and associated transportation improvements that are necessary to support future growth allowed by this land use decision. Adopting EMP zoning will provide certainty for landowners, future developers, and city staff regarding how this area will be developed.

10D-10-15-20 Public comment shall be actively sought on all planning related decisions of the commission and the council. However, these bodies are responsible for considering the welfare of the entire community and the legal rights of immediately effected residents and should not be compelled solely by the number of citizens presenting testimony on either side of an issue.

Response: Public comment regarding the proposed amendments to the zone map, Title 10 of the Municipal Code, and the City's Transportation System Plan will be solicited as part of the quasi-judicial hearing process, as detailed in Chapter 10B-20 of Title 10. Because this proposal intends to implement Ordinance 2417, the Planning Commission and Council can also rely on the past documentation and findings that supported the Comprehensive Plan Amendment that designated this area UGA-Commercial.

10D-20-05 GOAL 2. LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.

10D-20-15 POLICIES

POLICIES: LAND USE PLANNING, GENERAL

10D-20-15-20 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.

Response: These proposed code and map amendments implement the UGA-Commercial comprehensive plan designation and will ensure that there will be an adequate supply of commercial land available to accommodate future growth in Ontario. The determination of need for additional commercial land was adopted by the City of Ontario (Ordinance 2417) and acknowledged by the State.

10D-20-15-25 Land use planning decisions, particularly quasi-judicial actions shall be in harmony with the policies adopted in this document.

Response: The responses included in this section of the application will demonstrate that this quasi-judicial code and map amendment is consistent with the City of Ontario's adopted Comprehensive Plan policies.

POLICIES: VISUAL IMAGE, DEVELOPMENT PATTERN

10D-20-15-35 Particular attention shall be given in land use decisions to the impression people get when entering the city. Land uses shall foster an impression of a "desirable place to do business".

This policy means the elimination and prevention of ugliness on the approach highways, the appearance of prosperity, success and excitement with free, safe, pleasant and speedy access to the customer's destinations.

Response: The intent expressed in the 1999 ordinance designating the subject area UGA-Commercial was to expand the City's retail opportunities by taking advantage of the travel and commerce that uses the I-84 North Ontario Interchange. The Employment Zone will create opportunity for uses that

foster a strong commercial and employment presence in the area, consistent with Ordinance 2417. While this proposal is not a land use development application, and will not address the built or aesthetic features of any future development in the area, the North Ontario Interchange Area Management Plan process has identified improvements to the interchange and local street network that will help achieve the “free, safe, pleasant and speedy access” to future businesses.

POLICIES: RESIDENTIAL LAND USE

Response: Housing policies are not applicable, as the subject area was designated commercial by Ordinance 2417. The implementing EMP Zone is a commercial zone, intended for predominantly commercial, office and some light-industrial uses. Multi-family residential is allowed as a conditional use, but only when it is a component of a commercial, mixed-use development.

POLICIES: COMMERCIAL LAND USE

10D-20-15-90 New commercial development shall be concentrated in and around existing commercial areas as much as possible.

Response: While this is not a development proposal, the E Zone will allow for the expansion of existing and future businesses in an area that was clearly intended for economic development, per the 1999 Ordinance. This area will be a new commercial area, serving the needs of the freight industry and travelers using and accessing the I-84 interchange, as well as current and future residents and industries in the northern part of the city.

10D-20-15-95 Additional strip commercial development shall be discouraged and existing commercial areas shall be kept sufficiently deep so as to promote commercial concentration, allow for landscaping and for sufficient Off-street parking and loading.

Response: Currently, much of the UGA-Commercial area is undeveloped or underdeveloped. The incorporation of a master planning requirement for part of the area zoned EMP, Employment will ensure that future development in this area will occur in an efficient manner. Currently, the area is immediately adjacent to the City limits; adopting E Zone zoning will provide certainty for land owners, future developers, and city staff. The E Zone will allow the City to both attract and regulate employment uses as this area urbanizes.

10D-20-15-100 Commercial uses generating large volumes of traffic shall be located close to major traffic routes and shall have carefully engineered accesses to such routes.

Response: The Traffic Operations Analysis (North Ontario Interchange Area Management Plan) takes into account the vehicle trips expected from the build-out land of the Employment Zone and indicates what infrastructure improvements will be necessary for the safe and efficient movement of traffic into the area.

10D-20-15-115 The amount of land allocated in the land use plan for retail and service facilities shall be ample for the needs of healthy competition, but gross over-zoning shall be avoided to reduce the waste of land and blighting influence on surrounding property.

Response: The comprehensive plan amendment that designated this area UGA-Commercial is based on a buildable lands analysis and findings that conclude that the 103 acres fulfills the expected future shortage of commercial lands within the City.

POLICIES: INDUSTRIAL LAND USE

Response: While the City did identify some limited industrial uses (uses currently identified in the City’s I-1 zone) the policies in this section are not applicable to this rezoning proposal. The EMP Zone is a new zoning category that identifies uses that will promote employment, regardless of the fact that these uses have been classified under different land use designations. The EMP Zone implements the commercial policies applicable to this area, as identified in Ordinance No. 2417.

10D-30-05 GOAL 3. AGRICULTURAL LANDS

To protect productive agricultural land on the periphery of the city from premature or scattered urban development.

Response: This goal is not applicable; the proposed code and map amendments are in the City's urban growth boundary and are not designated agricultural lands.

10D-40-05 GOAL 4. OPEN SPACES, HISTORIC AND NATURAL RESOURCES

To conserve open space and protect natural and scenic resources.

POLICIES: SCENIC AND NATURAL RESOURCES

10D-40-15-15 The city shall encourage the conservation and protection of open spaces.

Response: An assessment of scenic and natural resources was made and included as part of the comprehensive plan amendment designating this area UGA-Commercial. Findings under Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources (p.15 in Ord. No. 2417) found land within the UGA to be "basically flat" with "no outstanding flora, fauna, or topographical features." With an abundance of similar land surrounding Ontario, this area was not found to be unique or outstanding and the findings concluded that future development would not have a noticeable adverse impact on the amount of open space available. In addition, Goal 5 resources must be addressed as part of a land development application per City Code Title 10C, Substantive Regulations for Land Development.

10D-40-15-40 The city shall encourage the conservation and protection of fish and wildlife resources. This is not likely to inhibit any urban development within the urban growth boundary because of the location of most such habitat beyond the boundary.

Response: The properties subject to the change in zoning are all within the UGB, and as such are slated for urban development. Findings supporting the adoption of the 1999 Comprehensive Plan amendments did include staff comments from the Oregon Department of Fish and Wildlife. While no federally listed threatened and endangered species were dependent on properties in this area for survival, there was concern for Northern Leopard Frogs that may live in Dork canal (in the southeast quadrant of the subject area) and associated areas of seasonal flooding. The conclusion, however, was that there was sufficient federal, state and local regulations concerning the disruption and development of wetlands and flooded areas to prevent removal of wetland habitat. This was not a species considered by the Environmental Constraints Summary compiled for the North Ontario Bridge Replacement Project, although the Columbia spotted frog was identified as possibly occurring in suitable habitat in Malheur County. The conclusion, however, was that the irrigation canal is unlikely to be used by Columbia spotted frogs for breeding or escape habitat as they are much more likely to be associated with the Snake River (Final Technical Memorandum, Task 7.1.8, Environmental Constraints Study for the North Ontario Bridge, Ontario Oregon, January 2004, p. 23). The City's Goal 5 work being conducted for Periodic Review with the State will further inventory natural resource areas and define protections for fish and wildlife habitat.

10D-50-05 GOAL 5. AIR, WATER AND LAND RESOURCES QUALITY

To maintain and improve the quality of air, water and land resources of the community.

Response: Policies under this goal predominantly pertain to development; the proposed zone change and associated code amendments are not inconsistent with this goal.

10D-60-05 GOAL 6. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

To protect life and property from natural disasters and hazards.

Response: This proposed new zoning classification implements the UGA-Commercial designation; the adopted 1999 Ordinance did not include any identified natural hazard areas in the State Goal 5 findings. The Environmental Constraints Study for the North Ontario Bridge shows that the part of the 103 acres subject to the proposed rezoning south of Dork Canal lies within Zone A on the Federal Emergency

Management Agency's (FEMA) Flood Insurance Rate Map. Zone A is described as areas of 100-year flood where base flood elevations and flood hazard factors have not been determined. Dork Canal is in the subject area and does experience seasonal flooding. Ordinance No. 2417 findings concluded that the City's current policies and procedures in place to mitigate the potential problems from flood and steep slopes were sufficient to protect life and property on the lands affected by the proposed (comprehensive plan) amendment. Flood Hazard Overlay Zone (FHO) regulations can be found in Code section 10A-47; development applications within this overlay would have to comply prior to approval.

10D-70-05 GOAL 7. RECREATIONAL NEEDS

To satisfy the recreational needs of the community's citizens and its visitors.

POLICIES: GENERAL RECREATION LAND

10D-70-15-05 Sufficient recreation land shall be planned to satisfy the needs of the present and anticipated future population.

10D-70-15-10 Park and playground areas shall be distributed around the city in areas of planned demand.

Response: Ordinance No. 2417 identified a projected need for additional park land, based on future population projections and an acreage per person formula. To meet the projected need, adoption of this ordinance included the designation of parcels that would be developed for future park and recreation needs. The properties subject to the propose Employment Zone were determined to be better suited for commercial uses and were not identified as suitable for recreation purposes.

10D-80-05 GOAL 8. THE ECONOMY

To diversify and improve the economy of the community.

10D-80-15 POLICIES

POLICIES: ECONOMIC DEVELOPMENT

10D-80-15-05 The city shall give emphasis to the attraction and development of industries and activities that employ and raise the income level and economic security of the local residents. Particular attention shall be given to the employment of the area's unemployed and underemployed.

10D-80-15-10 Special emphasis in attracting and developing industries shall be given to those for which the local region has an economic advantage.

Response: The City's intention that this 103 acres to the southwest of the north I-84 interchange be available for future commercial development is detailed in the 1999 ordinance's supporting findings. The findings supporting the commercial designations in the UGA state the City's intent to "exploit its current position as the commercial center for the western Treasure Valley" and to take advantage of the growth in the area, presumably by servicing nearby smaller communities (p. 26, Exhibit A Findings of Fact). Finding 3 in the Goal 9 Economic Development findings echoes these intentions:

"The Idaho communities in the Treasure Valley to the east of Ontario have been experiencing strong economic growth for several years. While most of the growth has been in Ada and Canyon counties, the effect of continued economic improvement has begun to make its way west. The city must take a pro-active stance to both entice existing retail business to expand and to attract even more new businesses than in the past to capitalize on its historic position as a commercial hub for the western Treasure Valley. To that end, part of the city's strategy is to ensure that high-quality commercial land is available for development or redevelopment in adequate quantities so as not to artificially inflate the price (#3, p. 20, Ordinance No. 2417)."

Response: This code and map amendment implements the City's adopted economic development goals.

10D-90-05 GOAL 9. HOUSING

To provide for the housing of all of the citizens of the Community.

10D-90-15 POLICIES

POLICIES: HOUSING

10D-90-15-05 Land use regulation shall be signed to help keep housing costs down, to promote a variety of choices for all income levels, and to maintain and develop quality residential environments.

Response: The proposed Employment Zone is consistent with this objective by allowing multi-family mixed use as a conditional use, when accessory to a commercial development. As part of the City's urban growth planning in the late 1990s, the City undertook a buildable lands analysis to determine future land use needs. Ordinance No. 2417 amended the urban growth boundary and redesigned land uses within the UGB to fulfill the City's identified need for additional commercial land, industrial and residential land. While this code amendment implements the commercial portion of the plan amendment, housing is allowed as a conditional use.

10D-100-05 GOAL 10. PUBLIC FACILITIES AND SERVICES

To plan and develop the timely, orderly and efficient provision of public facilities and services to support urban development.

10D-100-15 POLICIES

POLICIES: PUBLIC FACILITIES, GENERAL

10D-100-15-05 Policies and other decisions of the city relating to the provision of public facilities and services shall be supportive of the various elements of this Title.

Response: As the subject area is in the Urban Growth Boundary, earlier decisions by the City have determined that this area will be designated for future commercial growth. The long-range land use decision was made in 1999 when this area was changed to UGA-Commercial on the City's Plan/Zone Map. Findings related to the availability and adequacy of services, including sanitary sewer, storm drainage, and water, can be found in Ordinance 2417.

10D-100-15-10 The policies and land use map of the comprehensive plan shall be a principal basis for decisions regarding the location and level of facility extensions.

Response: Amendments to the City's Plan/Zone Map in 1999 were supported by findings indicating the need for land to accommodate future commercial growth. The adequacy of services was thoroughly addressed in State Goal 14 (Urbanization) findings in Ord. 2417, primarily in response to proposed UGB expansion areas. There were no identified deficiencies included in the findings that indicated any future service problems if the subject 103 acres were designated commercial.

10D-100-15-25 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.

10D-100-15-65 The capital improvement program shall give careful attention to the urban growth area and uses intended within that area. These development patterns shall guide the extension and improvement of water and sewer facilities. The city shall work with the county and effected special service districts to plan for timely and orderly facility extension in harmony with residential densities.

Response: The long-range land use decision was made in 1999 when this area was changed to UGA-Commercial on the City's Plan/Zone Map. Findings made for this decision included an assessment of the sufficiency of services to serve the Urban Growth Area (Ordinance 2417, p. 27). Sanitary sewer, storm drainage, and water service were determined to be adequate; the City's Waster Master Plan and Sanitary Sewer Master Plan have since been updated to address service in this area. Water Supply. The

City of Ontario installed two new water mains for future business and residential development in anticipation of the work associated with the Yturri Beltline and the connection with the proposed North Ontario Interchange. These water mains were placed south of the existing interchange, in the vicinity of the subject area. The City does not anticipate installing any new water supply, sewer lines, or other infrastructure improvements in the UGA until new development requires such improvements (Final Technical Memorandum, Task 7.1.8, Environmental Constraints Study for the North Ontario Bridge, Ontario Oregon, January 2004). Future development decisions will be required to meet the provisions in Title 10C, Substantive Improvements for Land Development. Improvements pertaining to public facilities are required to be installed at the time of subdivision (10C-20-15).

10D-110-05 GOAL 11. TRANSPORTATION

To provide and encourage a safe, convenient and economical transportation system.

10D-110-15 POLICIES

POLICIES: TRANSPORTATION, STREETS

10D-110-15-05 The transportation system shall be developed so as to adequately service urbanizing areas and areas where development is being intensified.

Response: The North Ontario Interchange Bridge project has identified a preferred alternative for the design of an interchange design. This facility will be planned to accommodate future expected growth in the area and to effectively and efficiently move traffic on and off I-84 from the newly constructed OR-201 (Yturri Beltline). The North Ontario Interchange Area Management Plan, Traffic Operations Analysis, details the local improvements necessary to support future commercial growth in the 103 acres subject to this zone amendment.

10D-110-15-20 Ontario shall continue to work with Malheur County and the State of Oregon to insure that there is adequate right of way for and proper alignment of streets in the urban growth area.

10D-110-15-40 The city shall maintain continuous contact with the Oregon Department of Transportation to assure coordination of the city's transportation actions with those of ODOT.

Response: This requirement has been met through the involvement of ODOT and Malheur County in the land use and transportation planning through the North Ontario Interchange Bridge project. ODOT has funded the planning and public participation process to prepare documentation for, and the design of, an interchange replacement on I-84 that will result in an IAMP. The project is currently being advised by a Project Planning Management Team ("PPMT"), consisting of technical advisors from the City, Malheur County, and other agencies involved with the project, and a Stakeholder Advisory Committee ("SAC") comprised of local officials and representatives of public agencies. Earlier explorations of land use and transportation issues and, including future growth in the UGA-Commercial area, have been considered in the PPMT and SAC meetings. The transportation improvements necessary to support future commercial growth in the subject area are included in the North Ontario Interchange Area Management Plan. The IAMP will ultimately include the alignment of a collector system to serve the Urban Growth Area; the Transportation System Plan update, currently being undertaken by the City as part of Periodic Review, will include a future local street network for the area.

10D-110-15-60 Zoning decisions shall promote land use patterns, densities, and other standards to reduce the need for automobile trips and shorten travel distances. Relatively intense land uses shall be located adjacent to collector or major streets so as to provide efficient traffic flow and reduce traffic on local streets.

Response: This intent of this policy has been met, as the EMP zoning implements the City's desire to locate commercial uses in the vicinity of OR-201, as documented in Ordinance No. 2417.

10D-120-05 GOAL 12. ENERGY CONSERVATION

10D-120-15 POLICIES

POLICIES: ENERGY CONSERVATION

10D-120-15-10 The city shall plan land uses so as to minimize the need to travel within the city by motorized vehicle. The city shall encourage alternative modes of travel such as walking, bicycling or car pooling wherever feasible and appropriate.

Response: The proposed Employment Zone is bordered on three sides by residential zoning, making it convenient to serve local commercial needs, while at the same time being in close proximity to future employees and providing them with shorter commutes. Similarly, future employees in the industrial area north of the EMP Zone will be able to easily access goods and services in this part of town. More detailed circulation patterns will be determined for the area of the EMP that requires a Master Plan. The City's current efforts to update the Transportation System Plan will also yield information regarding vehicular and non-vehicular circulation patterns for the whole EMP Zone, as well as the UGA.

10D-130-05 GOAL 13. URBANIZATION

To provide for the orderly and efficient transition of land uses from rural to urban.

10D-130-15 POLICIES

POLICIES: URBANIZATION

10D-130-15-05 Ontario desires to expand its population and therefore its land needs at a moderate rate and intends that this will occur as a result of economic growth and diversification both within the city and within its trade territory.

Response: The 1999 ordinance that revised the Urban Growth Boundary and amended the Comprehensive Plan for this area in the Urban Growth Area (UGA) in order to accommodate a projected deficit in future available land for commercial uses. The buildable lands analysis projected population and employment needs and subsequent changes to the City's Comprehensive Plan reflected the City's policy regarding the "UGA-C." This proposed zoning action implements the Comprehensive Plan and will provide opportunities for economic growth within Ontario's UGB.

10D-130-15-15 Physical expansion of the city shall occur so as to develop land uses and public facilities efficiently. The city shall attempt to minimize the consumption of the best agricultural land.

Response: The long-range land use decision was made in 1999 when this area was changed to UGA-Commercial on the City's Plan/Zone Map. Findings made for this decision included an assessment of the sufficiency of services to serve the Urban Growth Area (Ordinance 2417, p. 27). Future development decisions will be required to meet the provisions in Title 10C, Substantive Improvements for Land Development. Improvements pertaining to public facilities are required to be installed at the time of subdivision (10C-20-15).

10D-130-15-20 The city shall maintain continuous communication with the county regarding land use and other planning issues affecting the city's area of influence and urban growth area.

Response: The Urban Growth Area Joint Management Agreement (Title 10) details the City's and Malheur County's responsibilities regarding the planning of the UGA. The County participated in the planning process that culminated in the adoption of Ordinance No. 2417 and has been an active participant in the North Ontario Bridge Replacement Project. The proposal to rezone the subject area to EMP, Employment, will need to be adopted by the County, per the UGA Joint Management Agreement.

10D-13-15-35 The city intends to annex and supply services to the land within the urban growth boundary, but such development shall, when possible, be in compact and contiguous form.

Response: The location of the EMP is directly to the west of the existing city limits, and south of the newly completed alignment of OR-201 (Ytrurri Beltline). The allowed employment-related uses in this zone will enable the City to grow efficiently and will allow this area to become a service center for both travelers and future residential (to the south) and industrial (to the north) users.

3. **How has there been a mistake or error in the original zone designation or a change in physical, social or market conditions generally affecting the area which makes this proposed zone change appropriate?**

The 1999 Ordinance demonstrated the need to designate this area commercial to satisfy a projected deficit of this type of land use. The EMP zoning designation implements this policy; this proposal documents the supporting findings necessary for the adoption of the new zone. The original zoning designation was not incorrect, but it was inadequate.

City representatives determined that creating a new zoning classification for the UGA Commercial area would best achieve the unique development objectives that are intended for the 103 acres. City staff prepared the framework for a draft "hybrid" zone that would include uses currently allowed in the C-2-H, Heavy General Commercial Zone, as well as the more restrictive uses allowed in the I-1, Light Industrial Zone. A number of alternative approaches to future zoning for the 103 acres were discussed at the April 12th work session. After those in attendance considered the options, direction to staff and the consulting team was given to create the "hybrid" zone. The allowed uses and land use regulations associated with this new zone, entitled the "EMP, Employment Zone," can be found in ordinance 2548-2004. This proposal is to amend the City's zoning code and map to implement the new EMP, Employment Zone.

4. **As applicant you must explain how this zone change at this location is a public need and is not the granting of a special privilege for a single property owner or small group of properties.**

The City made the long-range decision that this area was appropriate to fulfill the future commercial needs of the projected population of Ontario by adopting Ordinance No. 2417. The City is generating the proposal to change the zoning in the subject area to Employment to implement the Comprehensive Plan; the proposal is not the granting of a special privilege for a single property or small group of properties.

In 1999 the Ontario City Council adopted an ordinance that revised the Urban Growth Boundary and amended the Comprehensive Plan on land in the Urban Growth Area (UGA) in order to accommodate a projected deficit in land available for residential, commercial and public facilities. The buildable lands analysis and subsequent changes to the City's Comprehensive Plan were prescribed by the City's Periodic Review work program with the State. As part of this action 103 acres south of, but in proximity to, the North Ontario Interchange previously designated residential were reclassified as commercial. While the City of Ontario's Comprehensive Plan was amended per the 1999 ordinance to reflect this change, the formal rezoning to commercial was to take place "as soon as feasible (p. 8, Exhibit A Findings of Fact, Ordinance No. 2417)." To date, the zoning on the 103 acres has not been changed to commercial. While the approved Comprehensive Plan designation for the 103 acres is UGA Commercial, the underlying zoning remains UGA Residential.

The new zoning classification as UGA the "EMP, Employment Zone," would best achieve the unique development objectives that are intended for the 103 acres. The City of Ontario prepared the framework for a draft "hybrid" zone that would include uses currently allowed in the C-2-H, Heavy General Commercial Zone, as well as the more restrictive uses allowed in the I-1, Light Industrial Zone. The allowed uses and land use regulations associated with this new zone, entitled the "EMP, Employment Zone," apply to all the 103 acres, as to benefit not only all the property's owners, but the City of Ontario at large, (as this new classification will be established throughout the City limits as needed by future developments) and cannot therefore be seen as the granting of a special privilege for a single property owner or small group of properties.

5. **Explain how 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.**

Proposed finding

The approximately 103 acres affected by this change in zoning is adequate in size, and in an appropriate location to promote, for the efficient growth of employment-related uses.

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 proposal is the implementation of the commercial designation adopted through an earlier comprehensive plan amendment (Ordinance No. 2417). The proposal is consistent with planned public facilities, specifically the transportation system.

The property is currently surrounded by and served by streets and other public facilities. One of the primary purposes of the State's investment in the realignment of OR-201 and the ultimate connection of the Yturri Beltline to I-84 via new interchange freeway ramps was to facilitate the movement of freight to and through Ontario. Property access along the Yturri Beltline was minimized through the construction of the facility and the access management will help ensure safe and efficient traffic flow. Future development in this area should not compromise the ability of freight movement on the Yturri Beltline and, if possible, new land uses in the area should support or compliment this industry. Furthermore the network of traffic pattern and the size of its facilities have been studied to adequately meet the demands of the uses allowed in the new zone

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

The proposed zoning map change will not directly result in disturbance to existing residents and businesses from development or construction activities. Much of the 103 acres subject to this proposal is undeveloped or underdeveloped. Property in the area would have to be annexed prior to any urban development.

Use of the property will not change with the requested zone change. If anything, the newly proposed classification will better integrate the existing uses with the proposed ones and offers more flexibility to owners and developers.

Findings of fact – creation of zone

1. The City of Ontario established a new UGA-E, Employment Zone in the Urban Growth Area (UGA), by adopting such change and amending the City's Comprehensive Plan a need arises for a similar district within the City's limit, so not to create disturbance of allowable uses at the time of annexation.
2. City representatives determined that creating a new zoning classification within the City's limit similar to that established in the newly created UGA-E would best achieve the unique development objectives that are intended for the newly rezoned 103 acres when these were to be annexed within the City's limits. City staff prepared the framework for a draft "hybrid" zone that would include uses currently allowed in the C-2-H, Heavy General Commercial Zone, as well as the more restrictive uses allowed in the I-1, Light Industrial Zone. The need arises for a similar district within the City's limit, so not to create disturbance of allowable uses at the time of annexation.

AGENDA REPORT
Monday, May 2, 2005

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Dan Stieneke, Interim Planner

**SUBJECT: LANGUAGE AND IMPLEMENTATION OF THE PROPOSED UGA-E (EMPLOYMENT)
ZONE; ORDINANCE 2548-2004 – SECOND READING**

DATE: Monday, April 25, 2005

SUMMARY:

Attached document(s):

- Ordinance 2548-2004, creating and applying the UGA E zones (with changes directed by City Council concerning restaurants and home occupations).

Typically, second readings of ordinances are done by consent agenda; this is being brought back before the Council for cause.

Mark Radabaugh of DLCD has some valid concerns with the text of the UGA-E zones. He didn't have any problem with the intent of the zone, which was to create a commercial zone that allowed manufacturing provided it maintained the "look and feel" of typical retail / office space. His main point was that conditional use #12, which was simply listed as "Light Manufacturing," didn't give the City enough leverage to ensure that only clean manufacturing was allowed in the area. Less importantly, he was concerned that there were no architectural standards whatsoever – the City would have few if any grounds to object to a giant square tin industrial-looking building.

I've spoken to Mr. Radabaugh, who has agreed not to contest the UGA E zones as passed provided that the corresponding city zones include some protection against Light Manufacturing that doesn't "look and feel" like retail / office space. Mr. Radabaugh & I discussed some possibilities, and settled on the following solution:

- 1) Insert a list of principally allowed industrial uses in addition to principally allowed commercial uses. This provides some benefit to the developer, as no conditional use permit will be required for listed uses. The numbered uses below come from the city's existing BP (Business Park) zone. They are a good place to start, although there is some overlap with commercial allowed uses which needs to be edited, and other uses which should be added (call centers, computer programming / software manufacture)
 1. Administrative offices of commercial or industrial firms;
 2. Scientific research, development, or experimental laboratories;

3. Manufacture, assembly, testing and repair of components, devices, such as, but not limited to: coils, tubes, transistors, capacitors, and similar components; communication, navigation, transmission, control and guidance equipment and systems; data processing equipment and systems; metering instruments and equipment; phonographs and other audio units; radar and sonar equipment; and television and radio equipment;
 4. Manufacture, assembly, testing and repair of optical, medical, dental, drafting, time, musical and photographic equipment except film;
 5. Manufacture, assembly and repair of testing equipment;
 6. Research and development facilities for the creation of prototypes;
 7. Printing, engraving, lithographing, blueprinting and photocopying film processing;
 8. Business service establishments such as electronic computer servicing, and addressing services;
 9. Studio or office for industrial designing, drafting, model making, engineering, architecture, sculpture, or painting;
- 2) Insert a "catch-all" conditional use: "Any use which is demonstrated to the Commission to be of similar character and impact to that of the listed Principal Commercial Uses or Principal Light Industrial Uses."
 - 3) Insert a basic architectural standard to try to prevent industrial-looking "steel boxes." This is loosely based on existing BP - Business Park code: "Building Materials. All structure faces visible from a public street (except signs, trim, and minor architectural features) shall be constructed of masonry, ceramics, concrete, wood frames and stucco, metal frame and stucco, or other substantial construction materials; or with veneer made to resemble masonry, ceramics, concrete, or stucco. Typical residential siding such as wood or vinyl and typical industrial siding such as galvanized or painted metal are allowed only by conditional use and only when the applicant can demonstrate to the Commission that use of such materials will be mitigated so as not to visually detract from the area. Mitigation measures may include but are not limited to additional landscaping, canopies, awnings, porticos, additional glazing, or other similar decorative architectural features. Placement of other structures which completely or substantially block all view of the face in question will also be treated by the Commission as mitigation.

Mr. Radabaugh said that taking these steps would solve the problems he sees with the zone, and he suggested that the City Council give specific direction to staff so that 1) he would know where the Council is headed with the corresponding city employment zones and 2) the direction would be on the record and less likely to "slip through the cracks" with the hiring of a new planner or unexpected increase in workload. A proposed motion is supplied for the Council to direct staff to begin work on the city Employment zone(s) with the changes suggested above.

Area to be rezoned:

An error was made on the 1999 UGB expansion map, causing industrially-zoned land between 16th Ave and 18th Ave in the subject area to be inadvertently included in the comprehensive plan change in addition to the intended residentially-zoned land. Mr. Radabaugh stated that the area would be treated as "errors and omissions," and he would not contest the rezone of the area.

PREVIOUS ACTIONS:

Several meetings have been held to discuss the objectives and implementation of the zone, both at the City Council and the Planning Commission.

RECOMMENDATION:

Staff recommends that the City Council adopt ordinance 2548-2004 on second and final reading.

Staff recommends that the Council specifically direct staff to begin work on City Employment Zones, so that the direction is on the record.

PROPOSED MOTIONS:

Ordinance:

I move that the City Council adopt ORDINANCE NO. 2548-2004, AN ORDINANCE AMENDING THE CITY OF ONTARIO MUNICIPAL CODE (TITLE 10 AND 10-A) AND ZONE MAP TO INCLUDE NEW UGA E-2 AND UGA E-5 ZONES; AND ZONE APPROXIMATELY 103 ACRES OF URBAN GROWTH AREA RESIDENTIAL (UGA-R) AND LIGHT INDUSTRIAL (UGA I-1) TO UGA E-2 AND UGA E-5 ZONES, on second and final reading.

City Zone:

I move that the City Council direct staff to begin preparing one or more city Employment Zones corresponding to the UGA Employment Zones, but with conditional use #12 "Light Manufacturing" removed, and including an explicit list of allowed industrial uses and basic architectural standards.

MISSION STATEMENT - TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE
AGENDA - MEETING OF THE COMMON COUNCIL CITY OF ONTARIO, OREGON
Monday, May 2, 2005, 7:00 p.m., M.T.

1) Call to order

- A) Roll Call: Lewie Allen _____ Earl Cheatham _____ Dan Cummings _____
John Gaskill _____ Audrey Jacobs _____ Jim Mosier _____ Mayor LeRoy Cammack _____

2) Pledge of Allegiance

A work session was held April 29, 2005, and this agenda was published May 1, 2005. Copies of the agenda are available at the City Hall Customer Service Counter, on the City's website at www.ontariooregon.org and at the Malheur County Library.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion action approving Consent Agenda Items

- A) Approval of Minutes of Regular Meeting of 04/18/05 1-5
B) Declaration of Compensation Committee Vacancy 6
C) Appointment of Youth Advisory Committee Member: Chad Haidle 7-10
D) Approval of Treasure Valley Paramedics Dispatch Services Agreement 11-15
E) Ordinance #2558-2005: Create OMC 8-16 Establishing Alternate Procedures for Selling Real City Property (Final) ... 16-21
F) Approval of the Bills

5) Old Business

- A) Ordinance #2548-2004: Language & Implementation of the UGA-E (Employment) Zone (Final) 22-33

6) New Business

- A) Resolution #2005-114: Hazardous/Unsafe Building Abatement 34-36
B) Ordinance #2559-2005: Create OMC Title 6, Chapter 8 - False Alarm Management Program (1st Reading) 37-60

7) Correspondence, Comments, and Ex-Officio Reports

8) Executive Session

- A) ORS 192.660(2)(e): Real Property 61

9) Adjourn

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CITY OF ONTARIO 444 SW 4TH STREET ONTARIO OREGON 97914

COUNCIL MEETING MINUTES
May 2, 2005

The regular meeting of the Ontario City Council was called to order by Mayor LeRoy Cammack at 7:00 p.m. in the Council Chambers of City Hall. Council members present were Lewie Allen, Earl Cheatham, Dan Cummings, John Gaskill, Audrey Jacobs and Jim Mosier and LeRoy Cammack.

Members of staff present were City Manager Scott Trainor, City Recorder Tori Ankrum, Police Chief Mike Kee, and Camera Operator Michael Hughes.

The meeting was recorded on tape and the tape is on file at City Hall.

Ontario Police Department Explorer Post 444 led everyone in the Pledge of Allegiance.

A Council work session was held Friday, April 29, 2005. The agenda for this meeting was published May 1, 2005, and copies of the Agenda are available at the City Hall customer service counter, the Malheur County Library, and the City's website www.ontariooregon.org.

Jim Mosier moved, seconded by Audrey Jacobs, to adopt the entire Agenda. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

CONSENT AGENDA

Audrey Jacobs moved, seconded by Lewie Allen, to approve Consent Agenda Item A - Approval of Minutes of 04/18/05; Item B - Declaration of Compensation Committee Vacancy; Item C - Appointment of Youth Advisory Committee Member: Chad Haidle; Item D - Approval of Treasure Valley Paramedics Dispatch Services Agreement; Item E - Ordinance #2558-2005: Create OMC 8-16 Establishing Alternate Procedures for Selling Real City Property (Final Reading); and Item F - Approval of Bills. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

OLD BUSINESS:

ORDINANCE #2548-2004: LANGUAGE & IMPLEMENTATION OF THE UGA-E (EMPLOYMENT) ZONE (FINAL READING)

Dan Stieneke, Interim Planner, provided the Council an update on the ordinance. He stated the representative from DLCD had some concerns with the text of the UGA-E zones. Conditional use #12, which was simply listed as "Light Manufacturing" didn't give the city enough leverage to ensure that only clean manufacturing was allowed in that area. He was also concerned that there were no architectural standards, so the city would have few grounds to object to a giant tin industrial looking building.

Dan Cummings moved, seconded by John Gaskill, to adopt Ordinance #2548-2004, AN ORDINANCE AMENDING THE CITY OF ONTARIO MUNICIPAL CODE (TITLE 10 AND 10-A) AND ZONE MAP TO INCLUDE NEW UGA E-2 AND UGA E-5 ZONES; AND ZONE APPROXIMATELY 103 ACRES OF URBAN GROWTH AREA RESIDENTIAL (UGA-R) AND LIGHT INDUSTRIAL (UGA-I-1) TO UGA-E-2 AND UGA E-5 ZONES, on Second and Final Reading. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

John Gaskill moved, seconded by Lewie Allen, that the City Council direct staff to begin preparing one or more city Employment Zones corresponding to the UGA Employment Zones, but with conditional use #12 "Light Manufacturing" removed, and including an explicit list of allowed industrial uses and basic architectural standards. Roll call vote - Allen-yes; Cheatham-yes; Cummings-yes; Gaskill-yes; Jacobs-yes; Mosier-yes; Cammack-yes. Motion carried 7/0/0.

NEW BUSINESS:

RESOLUTION #2005-114: HAZARDOUS/UNSAFE BUILDING ABATEMENT

Jack Abernathy, Building Official, presented a staff report to the Council. He stated the gas station located at 268 SW 4th Street had been a source of hazard. He contacted the owners on several occasions and received no response. He was now proposing the city find the funding to put up a cyclone fence to isolate the property from public use and to apply a lien on the property to recover the costs involved.