



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/31/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Nyssa Plan Amendment
DLCD File Number 001-10

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: Friday, February 11, 2011

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Roberta Donovan, City of Nyssa
Gloria Gardiner, DLCD Urban Planning Specialist
Grant Young, DLCD Regional Representative

<paa> YA



NR OF

2

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

JAN 24 2011

LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Nyssa**

Local file number: **Re-Zone1_2010**

Date of Adoption: **December 14, 2010**

Date Mailed: **January 20, 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: **8/9/2010**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Rezone a 6.25 acre single family housing subdivision zoned R-4 Multi-Family Mobile Home to R-1 Single Family Dwellings. This subdivision was built with infrastructure for single family dwellings and the R-4 Multi-family Mobile Home zoning code was amended at the time of approval to include R-1 Single Family dwellings.

By amending the Zone, Turning Leaf Subdivision/Stone Ridge Development, which was approved for single family dwellings, will continue to be developed as intended with infrastructure to support S-1 Single Family Dwellings and not R-4 Multi Family Mobile Homes.

Does the Adoption differ from proposal? **No**

Plan Map Changed from:

to:

Zone Map Changed from: **R-4 Multi-Family**

to: **R-1 Single Family Dwellings**

Location: **SE corner of Hwy. 201 and Chestnut (including all properties along Tupelo Drive and Redwood Court in the NW corner of Nyssa City Limits.** Acres Involved: **6.25**

Specify Density: Previous: **R-4**

New: **R-1**

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

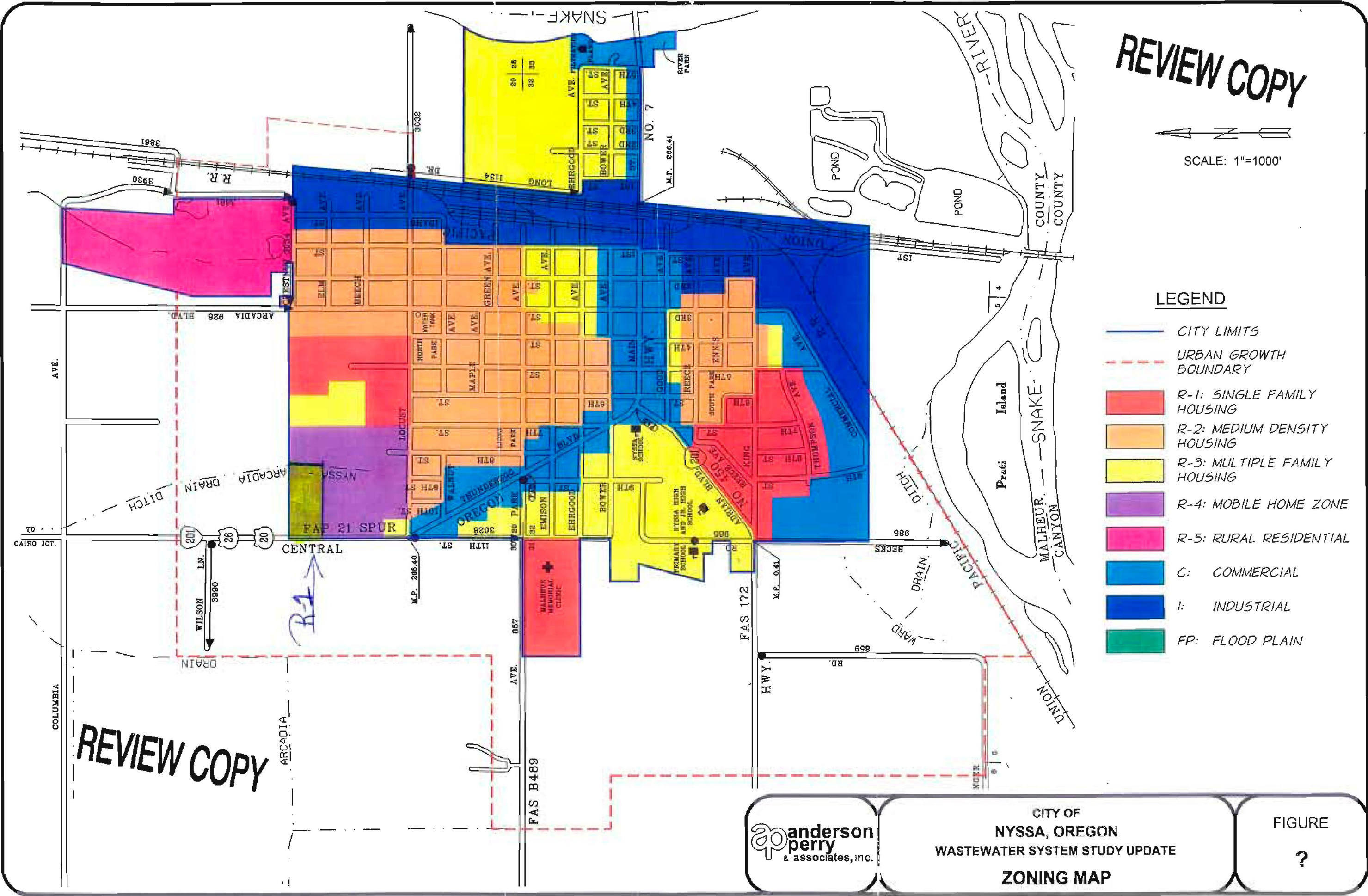
If no, do the statewide planning goals apply?

Yes No

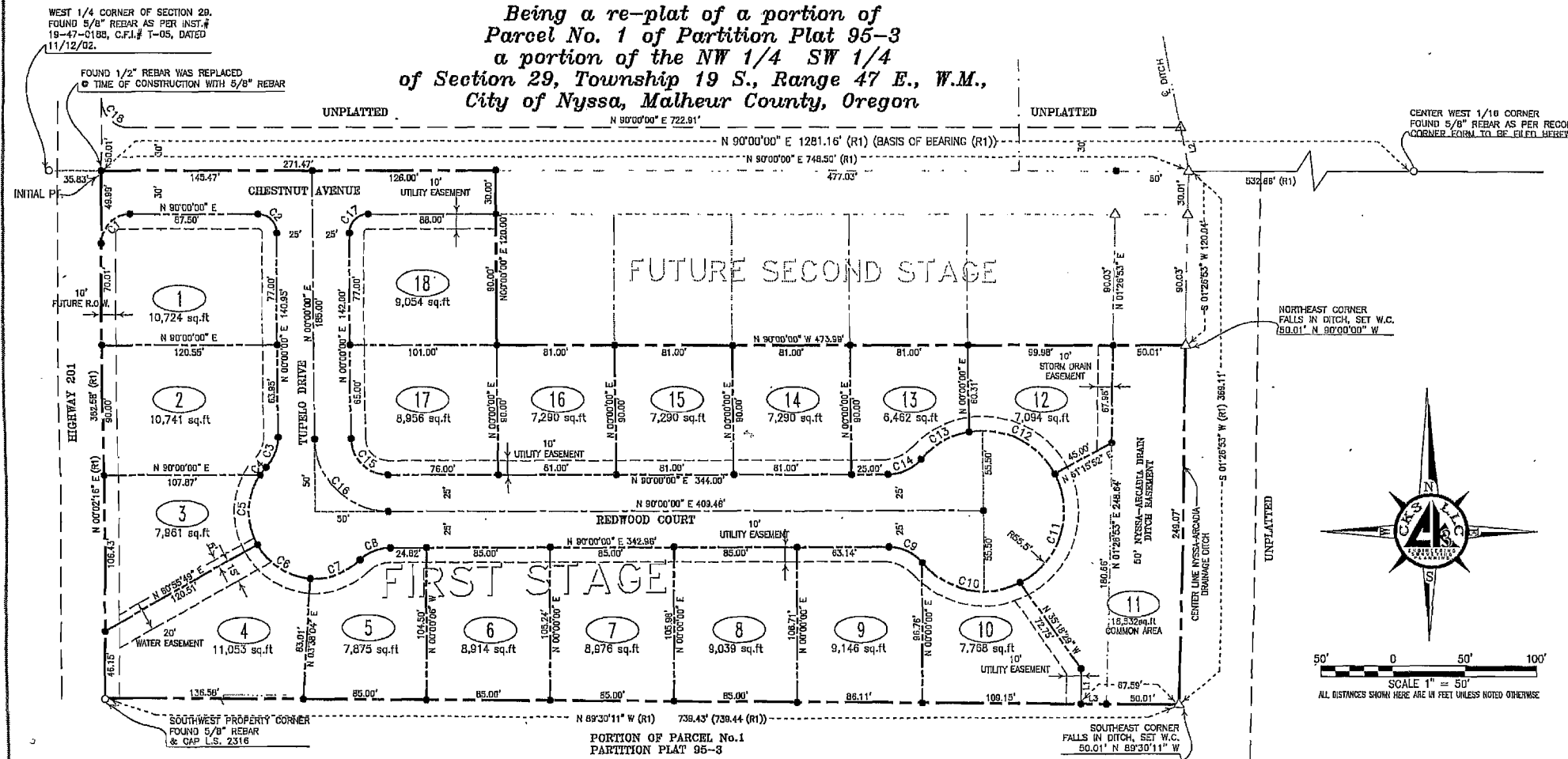
If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 001-10 (18460) [16491]



TURNING LEAF SUBDIVISION
 Being a re-plot of a portion of
 Parcel No. 1 of Partition Plat 95-3
 of Section 29, Township 19 S., Range 47 E., W.M.,
 City of Nyssa, Malheur County, Oregon



CURVE TABLE

NO.	DELTA	RADIUS	LENGTH	TANGENT	CHORD	DIRECTION	CHORD LENGTH
C1	89°57'44"	20.00'	31.40'	19.95'	N 45°01'06" E		28.27'
C2	90°00'00"	13.00'	20.42'	13.00'	N 45°00'00" W		18.38'
C3	43°57'32"	30.00'	23.02'	12.11'	S 21°58'46" W		22.46'
C4	08°38'43"	45.00'	6.79'	3.40'	S 39°38'11" W		6.78'
C5	64°23'00"	45.00'	50.57'	28.33'	N 03°07'19" E		47.95'
C6	57°17'45"	45.00'	43.00'	24.58'	N 57°43'04" W		43.15'
C7	47°35'36"	45.00'	37.38'	19.84'	N 66°50'18" E		36.31'
C8	43°57'32"	30.00'	23.02'	12.11'	S 68°01'14" W		22.46'
C9	49°27'49"	30.00'	26.16'	13.98'	S 60°01'09" E		25.34'
C10	76°31'51"	55.50'	74.13'	43.78'	S 78°18'07" E		68.74'
C11	80°40'42"	55.50'	67.84'	56.16'	N 18°05'36" E		78.95'
C12	72°33'55"	55.50'	70.29'	40.74'	N 83°31'44" W		85.69'
C13	40°09'07"	55.50'	38.89'	20.28'	S 60°08'44" W		38.10'
C14	49°57'49"	30.00'	26.16'	13.98'	N 65°01'06" E		25.34'
C15	80°00'00"	28.00'	39.27'	25.00'	N 45°00'00" W		35.36'
C16	90°00'00"	50.00'	76.54'	50.00'	N 45°00'00" W		70.71'
C17	90°00'00"	13.00'	20.42'	13.00'	S 45°00'00" W		18.38'
C18	90°02'18"	20.00'	31.43'	20.01'	N 44°58'52" W		28.29'

LEGEND

- SUBDIVISION BOUNDARY
- SUBDIVISION LOT LINE
- CENTERLINE
- RIGHT-OF-WAY
- EASEMENT LINE
- SECTIONAL LINE
- OTHER LOT LINES
- EXISTING IRRIGATION DITCH
- SUBDIVISION BOUNDARY FUTURE
- SUBDIVISION LOT LINE FUTURE
- EASEMENT FUTURE

LINE TABLE

NO.	DIRECTION	DISTANCE
L1	N 00°29'49" E	24.40'
L2	N 12°21'30" W	30.51'
L3	S 89°30'11" E	17.58'

EASEMENT NOTE:
 COMMON AREA (LOT 11): RESERVED AND DEDICATED FOR DRAINAGE, OPEN AREA, CANAL EASEMENT AND PUBLIC UTILITIES. COMMON AREA TO BE MAINTAINED BY HOMEOWNERS ASSOCIATION AS PER CCA'S FIELD ORDER INSTRUMENT No. _____

OWNER/DEVELOPER:
 STONE RIDGE DEVELOPMENT, LLC
 P.O. BOX 1108
 218 SW 14th AVENUE
 OREGON, OREGON 97114
 PREPARED BY
 CKS, LLC
 308 S.W. 8th AVENUE
 OREGON, OREGON 97114
 PH: (541) 858-4411
 FAX: (541) 858-2074

REGISTERED PROFESSIONAL LAND SURVEYOR
 L. DANNY K. CUMMINGS
 22515
 DANNY K. CUMMINGS
 22515
 RENEWAL DATE: DEC. 31, 2009

NUMBER OF AFFIDAVITS OF VENDOR, MORTGAGE OR TRUST DEED HOLDER ATTACHED: _____

SHEET 1 OF 2

ORDINANCE NO. 629-10

AN ORDINANCE AMENDING TO THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF NYSSA, AMENDING THE COMPREHENSIVE PLAN; REZONING SAID PROPERTIES; REPEALING ORDINANCE NO. 613-06, AND DECLARING AN EMERGENCY

WHEREAS, the City of Nyssa amended the Zoning Code in 2006 to allow single family dwellings as outright permitted uses in a Residential Mobile Home Zone (R-4); and

WHEREAS, in 2007, the City approved a subdivision to be placed in an R-4 zone which adhered to the standards of a R-1 zone which allowed single family homes to be built; and

WHEREAS, the City has determined that it is in the best interest of the City to discontinue allowing single family dwellings in a Residential Mobile Home Zone (R-4) and repeal Ordinance Number 613-06, and

WHEREAS, to protect the integrity of the City's Land Use Process and protect the current developed subdivision currently known as the Turning Leaf Subdivision/Stone Ridge Development, it is necessary to change the zoning, zoning maps and comprehensive plan from Residential Mobile Home Zone (R-4) to a Residential Single Family Housing (R-1) zone, and

WHEREAS, the legal description of the property is T19SR47E, Section 29 and includes a 6.25 acre parcel which includes 1 residential dwelling, 16 developed lots and 5 undeveloped platted lots in the subdivision, and

WHEREAS, lawful notices were sent to all affected property owners notifying them that the Nyssa Planning Commission would hold a hearing on October 21, 2010. Said hearing was convened at the published time and date with a public hearing conducted by the City Planning Commission, where testimony was received from staff and the general public. After holding the hearing and receiving input from staff and the general public the Planning Commission determined that there was no opposition to approving the requested change and that it was in the best interest of the City to make a recommendation to the Nyssa City Council to amend the zoning ordinance, zoning map and comprehensive plan and rezone the platted subdivision known as Turning Leaf Subdivision/Stone Ridge Development to Residential Single Family Housing (R-1); and

WHEREAS, the City of Nyssa conducted a public hearing on November 9th, 2010, to consider the recommended changes to the zoning ordinance, zoning map and comprehensive plan. The Council finding that the City has the authority to make such a change and that public testimony and staff recommendations rightfully concluded that there was adequate developable land for a R-4 type of development within the city and that by approving this request the city would not significantly

diminish opportunities for all types of affordable housing within the city. Furthermore the Council agreed with the Planning Commission and the parties to this proceeding that it was in the long-term interest of the city to maintain the approved R-1 use for the Turning Leaf Subdivision and that approving the requested zone change to R-1 would provide for the most efficient and effective way to preserve the integrity of the City Land Use process.

NOW THEREFORE, THE CITY OF NYSSA ORDAINS AS FOLLOWS:

Section 1: Description

The subject properties identified hereinafter and shown by the attached Tax Lot Maps and described by the attached Legal Descriptions are hereby rezoned from Residential Mobile Home Zone (R-4) to Single Family Housing (R-1):

"Turning Leaf Subdivision/Stone Ridge Development" Property identified as Tax Lots 20302, 20303, 20304, 20305, 20306, 20307, 20308, 20309, 20310, 20311, 20312, 20313, 20314, 20315, 20316, 20317, 20318, 20319, 19397 of Malheur County Assessor's Map Township 19S, Range 47E, Section 29 totaling 6.25± acres (See the attached Tax Lot Maps and Legal Descriptions);

Section 2: Rezoning.

The City of Nyssa hereby amends the Zoning Ordinance, Zoning Maps and Comprehensive Plan rezoned as set forth by Chapter 11.15 of the City's Code Title 11 Zoning and shall be so shown on the City's plan and zoning map.

Section 3: City Recorders Duties

The City Recorder shall submit a copy of this Ordinance, a copy of the description of the legal subdivision, and a map depicting the zone change within the City within 10 days of the effective date of ordinance to the Malheur County Assessor and Malheur County Clerk.

Section 4: Adoption of Findings and Conclusions.

The findings of fact and Conclusions of Law set forth in the minutes of the Nyssa City Planning Commission meeting of October 21, 2010 together with the recorded proceedings of the City Council hearing on this matter have established the legal basis for approving this change to the City's Comprehensive Plan, Zoning ordinance and plan map. The proposed Amendments are hereby adopted and the same are by this reference incorporated herein, as though fully set forth.

Section 5: Repeal

Ordinance No. 613-06 is hereby repealed in its entirety.

Section 6: Emergency Clause.

The Common Council of the City of Nyssa hereby adjudges that it is necessary for the immediate preservation of the public health, welfare, peace and safety, and for the future economic and social well-being of the citizens of the City of Nyssa, Oregon, that this Ordinance be effective immediately upon its enactment, and an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon its passage by the City Council of the City of Nyssa, Oregon.

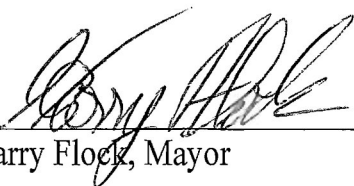
Passed by the following vote this 9th day of November 2010.

Ayes: Mayor Harry Flock, Council President Pat Brewer, Councilors:
Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver and
Mary Shelton
Nays: None
Absent: None

Passed by the following vote this 15th of December 2010.

Ayes: Mayor Harry Flock, Council President Pat Brewer, Councilors:
Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver and
Mary Shelton
Nays: None
Absent: None

Approved this 9th day of November 2010 and this 15th day of December 2010.



Harry Flock, Mayor

ATTEST:



Marla Roberts

Nyssa Planning Commission

Minutes 10/21/10

Nyssa Council Chambers

14 South 3rd Street

7:00pm

ROLL CALL: Members Present: Chairperson Roberta Purcell, Steve Talbot, Jim Maret, Victoria Ramirez, Nikki Gallegos, Richard Beck, Larry Wilson, Stan Foster - Land use Consultant, Rick and Shari Stokoe, Nadine Sparks, Shaw Stowe, City Manager Roberta Donovan, City Recorder Marla Roberts

Pledge of Allegiance led by Jim Maret at 7:04pm

NEW BUSINESS: City Manager Roberta Donovan gave Nikki Gallegos the Oath of Office as the new planning commission member.

Location: The subject property is land approved in 2007 as a subdivision entitled: Turning Leaf Subdivision lots 1-18. The commonly known location is 906 Elm Avenue, Nyssa, Oregon 97913. A further legal description identifies the parcel as located at Township 19S, Range 47E, Section 29 and further delineated as inclusive of tax account number (s): 20302, 20304, 20305, 20306, 20307, 20308, 20309, 20310, 20311, 20312, 20313, 20314, 20315, 20316, 20317, 20318, 20319 and 19397.

Staff Report- Stan Foster, Private land use consultant for the city, gave the prelude for the purpose of tonight's meeting which is to request an amendment of the Zoning Map, changing the zoning of a 6.25-acre property from Residential Mobile Home Zone (R-4) to Single Family Housing (R-1).

This action is requested to institutionalize a prior action of the city planning commission, when they approved the subdivision as a single family housing project within the R-4 zone as an outright permitted use. This property is scheduled to be sold at 10:00am on January 10th at the County Courthouse in Vale. Since the foreclosure of the properties, it is desired to supply the same type of development that Turning Leaf Subdivision/Stone Ridge Development LLC would have provided the City of Nyssa.

The infrastructure of the property, roads, water, sewer and utility lines are all supplied. The Property is developed as an R-1 zone and is consistent with what the developer intended. Potentially under the minimum lot sizes of an R-4 could allow up to 68 homes which would double the density where an R1 would allow 23 Lots.

Anything modifying the character of the subdivision could compromise the potential of the neighborhood and surrounding neighborhoods.

When the economy changes and interest grows the subdivision would get built out, there is a growing interest in having opportunities for families to raise their children in a rural community.

The developer provided the city with covenants, codes and restrictions with the CCNRs that were part of the original approval. By changing to an R1 they are more applicable than in an R4 zone. There are also additional lands, should there be a need to annex the land from the UGB boundary.

Because the City accepted the subdivision with the criteria it was intended for it is in the City's best interest to preserve affordable single family housing in an R1 zone. The planning commission has the option of adopting the staff report as your findings from an R4 to an R1. Torri - She was under the impression that when they approved the subdivision in 2007 it was being zoned correctly at that time.

Roberta - What was done at the time was to allow single family housing in an R4 zone; we are

trying to correct that now.

Torri - She feels there are no arguments to the zone change it was the original intent when it was approved the first time.

Nadine Sparks - Can you change the CCNR's?

Larry Wilson - He suggested making the CCNR's a part of the final requirements.

Stan Foster - Because the City of Nyssa approved the CCNR's in effect any subsequent owner would have to verify the legal statues and that they are in effect. It is in the staff report that it remains a requirement of that lot. It is controlled by state statues. The CCNR's go with the property it is part of the home owners association agreement the handover occurs when 50% of the lots are sold out.

Proponent Testimony - Roberta Donovan on behalf of the City of Nyssa - It is important to preserve the integrity of the subdivision, we realize there was work put in by the Community Resource Team and one of the needs in the community was medium income housing, so it is very important that the City protects what they have.

Rick Stokoe - When they looked at coming to Nyssa they liked the location and with the stringent CCNR's they decided it was a good investment for them. He would hope that the planning commission would help them protect their investment and future investments.

Stan Foster - He would like to point out to the audience if you want your testimony to be heard please speak up during this time to be counted on the record. There are legal standards that have to be met and make sure things are done correctly.

Nadine Sparks - She believes the City is doing the right thing, to protect any future developments, she agrees with the zone change. Nadine asked if a duplex is allowed in an R1 zone.

Stan Foster - No, not in an R1 zone.

Larry Wilson - He feels this is a smart move, he has seen the CCNR's and feels they are very attractive for any future buyers.

Roberta Donovan read letter from Jim Jensen Malheur County Community Development.

Opponent Testimony - Letter read by Roberta Donovan from Grant Young

Conclusion by Stan Foster - It is his belief that they have shown enough proof and justification to approve the rezone. As a city, this does not exclude any other type of housing in the appropriate zone. The Bank involved with this property is also supportive of this rezone.

Roberta Purcell - She believes in approving this zone change, to protect the land with its original intent, to protect future buyers and the citizens of Nyssa.

Public hearing closed at 7:47pm

Jim Maret made motion to adopt the staff report as submitted. Steve Talbot seconded the motion. Voting in favor of the motion, Torri Gomez, Richard Beck, Jim Maret, Steve Talbot, Nikki Gallegos and Bert Purcell

Meeting adjourned at 7:49pm

Posted: 10/19/2010 City Hall, 4th W Market, Nyssa CC-DP, Senior Center, Angus Observer, Post Office

The City of Nyssa is an Equal Opportunity Employer. We do not discriminate on the basis of race, religion, color, sex, age, national origin or disability.

City of Nyssa, Oregon, Planning Department
Preliminary Findings and Conclusions
Application # Re-zone 1 – 2010-1
October 18, 2010

Special Notification: *The City of Nyssa has retained the private consulting firm, Public Affairs Research Consultants (PARC) Resources to act as city planning staff for this application. This step was taken to provide independent review and determination on the specific zone change request due to the fact that the City is the applicant in this matter. The City has not influenced the opinions, findings and/or conclusions, as all opinions contained within this staff report are the views and determination of PARC Resources in the conduct of their role as planning staff.*

1. Applicant:

City of Nyssa, Oregon
301 Main Street
Nyssa, Oregon 97913

2. Owner:

Stone Ridge Development, LLC
c/o Intermountain Community Bank
Jeffrey C. Gardner, Successor Trustee
Ball Janik LLP
101 SW Main Street, Suite 1100
Portland, Oregon 97204-3219

3. Location:

The subject property is land approved in 2007 as a planned unit development (P.U. D.) entitled: Turning Leaf Subdivision lots 1-18. The commonly known location is 906 Elm Avenue, Nyssa, Oregon 97913. A further legal description identifies the parcel as located at Township 19S, Range 47E, Section 29 and further delineated as inclusive of tax account number(s): 20302, 20303, 20304, 20305, 20306, 20307, 20308, 20309, 20310, 20311, 20312, 20313, 20314, 20315, 20316, 20317, 20318, 20318, 20319, and 19397.

4. Request:

The applicant requests an amendment of the Zoning Map, changing the zoning of a 6.25-acre property from Residential Mobile Home Zone (R-4) to Single Family Housing (R-1). This action is requested to institutionalize a prior action of the city planning commission, when they approved the planned unit development as a single family housing project within the R-4 zone as a conditional use permit.

5. Parcel Size:

The subject property is 6.25 acres. The applicant has provided a final plot description that establishes 17 lots within the P.U.D. with an additional 38,262

square foot parcel identified as lot 18, which has a preliminary plot plan for five additional single family dwelling tax lots. This subdivision has been platted and developed with all infrastructure installed for the sale of the first 17 lots within the P.U.D. This fact is relevant to subsequent findings and also the basis of the City of Nyssa's action to protect the integrity of this approved subdivision. The subject parcel is now in default and has resulted in the bank foreclosing on the property to resell the subject parcels. Sale of the subject parcel is scheduled to take place at 10:00 am. on January 10, 2011.

6. **Comprehensive Plan:**

The Comprehensive Plan designates this property as R-4 Mobile Home Zone. This parcel was approved as a Single Family Residential housing project as a conditional use permit under the current zone. All infrastructure, setbacks, minimum lot sizes and associated design considerations were for single family dwellings which would be governed by an approved Homeowners Association (HOA) which would maintain the subdivision's infrastructure in the manner approved as part of the conditional use permit authorized under the original application. The applicant's request is to memorialize this condition of approval by changing the zone designation to reflect the standards and conditions of an R-1 zone with all Turning Leaf Covenants and Conditions remaining in place. One lot is occupied by an independent owner who is in compliance with the HOA requirements.

7. **Zoning:**

The lot is zoned Mobile Home Zone (R4).

8. **Access:**

Current access to the subject parcel is provided from Highways 201, 26 and 20, which is the Central Oregon highway and which becomes Thunderegg Boulevard, adjacent to the western property line.

9. **Road Type:**

Thunderegg Boulevard is a two-lane road that meets state and federal single lane highway standards.

10. **Easements:**

Easements currently exist for public sewer, water, storm drains, and underground utilities as part of the Planned Unit Development to be maintained and owned by the Turning Leaf HOA. A right of way for the Nyssa-Arcadia Drain right of way is noted on the plat and recorded with Malheur County.

11. **Land-Use:**

The parcel contains one completed home (lot one) and complete infrastructure for 16 additional lots. There are five preliminary plotted future lots which are in reserve and have not had the necessary infrastructure developed for single family dwellings.

12. **Buildings:**
One building is located on the subject parcel.
13. **Adjacent:**
North: (R4)/ Mobile Home Zone
East: (R4)/ Mobile Home Zone.
South: (R4)/ Mobile Home Zone.
West: Highway and Urban Reserve (outside city limits/within UGB)
14. **Soils, Hazards, Flood Zones:**
The proposed use would not adversely create a hazard, disturb sensitive soils, or create a flood hazard. The property is not within the 100-year flood zone.
15. **Utilities:**
Municipal and private utility services are installed in the subdivision per approved permits and as a condition of approval for the conditional use permit originally granted.
16. **City May withhold maximum residential density under zone:**
Under administrative rule # **660-008-0025** as authorized under ORS Chapter 197:

“A local government may defer rezoning of land within an urban growth boundary to maximum planned residential density provided that the process for future rezoning is reasonably justified. If such is the case, then:

(1) The plan shall contain a justification for the rezoning process and policies which explain how this process will be used to provide for needed housing.

(2) Standards and procedures governing the process for future rezoning shall be based on the rezoning justification and policy statement, and must be clear and objective.”
17. **Relevant Land-Use Criteria and Facts Addressing those Criteria:**
The applicant shall carry the burden of proof in demonstrating that the following review criteria are satisfied and that the basis for restricting densities on the subject parcel are reasonable and protect the opportunity for adequate housing resources in the future.
Following is the applicable criteria with summaries of conclusions and findings as determined by city planning staff (PARC Resources).
1. **Criteria: Consistency with the Comprehensive Plan**
The proposed designation is consistent with and supports the purposes of the portions of the City's Comprehensive Plan. Circumstances have changed to justify a change in the Comprehensive Plan.

Findings:

The project is developed, but now in foreclosure due to the default of the original developer. The project was approved as a conditional use permit with very specific proposed uses which were the basis of the City's original approval of this request. The City must ensure that the integrity of its land-use process is respected in regards to this specific development and the most efficient and practical way to achieve this result is to adjust the zone to be consistent with the approved subdivision. The impact of this decision does not alter the inventory of available land, nor unreasonably restrict any future owner from fully utilizing the installed infrastructure, nor continuing to build out this subdivision in a manner consistent with the original conditions of approval.

The proposal will remain consistent with the Comprehensive Plan land use objectives which were approved previously by the City of Nyssa when the City approved the Turning Leaf Subdivision. The City determined that the community had a need for more single family dwellings and that current resources were adequate to provide for a higher density mobile home residential facility within the communities current resources. This condition was determined based on the closing of local food processers that relied on more seasonal and transient populations for a significant portion of their work force. Because of economic conditions and the absence of large food processers in the area, the need for temporary and non-permanent housing is now weighted in favor of single family dwellings for families who wish to reside in Nyssa and work in surrounding communities. Nyssa's location and small town atmosphere appeals to families who wish to raise their children in the type of environment offered by Nyssa. This expectation increases the need for affordable family homes and Turning Leaf Subdivision was relying on this condition when they approached the city and received approval for the conditional use permit under the R-4 zone. While financial conditions have worsened for every community, Nyssa's housing needs remain similar to when this was originally approved in 2007. Furthermore, the City approved the development based on the setbacks, minimum lot sizes, access and utility easements which now are installed in the approved subdivision. Nyssa approved all aspects of the existing subdivision to provide single-family stick-built homes (HOA restrictions) with suitable sizing of all sewer, water, storm water and street configurations for the densities of an R-1 type development. Allowing the higher density development opportunities offered under an R-4 Mobile Home Zone could adversely impact the existing owner and also overtax the installed infrastructure beyond the ability of the system to protect the health and safety of the community.

2. Criteria: Land Supply for Various Uses

The City of Nyssa originally approved this subdivision as a goal two exception as established by ORS 197.303 (3) that allows the city to:

“(1) A local government may satisfy the substantive standards for exceptions contained in Goal 2, Part II, upon a demonstration in the local housing needs projection, supported by compelling reasons and facts, that:

- (a) The needed housing type is being provided for elsewhere in the region in sufficient numbers to meet regional needs;
- (b) Sufficient buildable land has been allocated within the local jurisdiction for the types of housing which can meet the need for shelter at the particular price ranges and rent levels that would have been met by the excluded housing type; and
- (c) The decision to substitute other housing types for the excluded needed housing type furthers the policies and objectives of the local comprehensive plan, and has been coordinated with other affected units of government.

(2) The substantive standards listed in section (1) of this rule shall apply to the ORS 197.303(3) exceptions process in lieu of the substantive standards in Goal 2, Part II. The standards listed in section (1) of this rule shall not apply to the exceptions process authorized by OAR 660-007-0360.

Stat. Auth.: ORS 197”

Findings:

The proposed zone change does not impact the currently approved land-use designations within the City of Nyssa as the subdivision is platted, infrastructure installed and one lot is occupied per the approved conditional use permit. Rather, the approval of this zone change institutionalizes the previous action by changing the zone for the subdivision to an appropriate zone designation for the approved development. This does not effectively reduce or diminish the available land for any type of development as this action has already been completed and approved by all regulatory bodies. The City of Nyssa has adequate urban reserves which, when brought into the city under the annexation process, can provide for a replacement of the higher density zone that is available under the R-4 designation. Due to statutory changes made by the legislature, a zone specifically designated for mobile homes may be inappropriate as mobile homes are considered single family dwellings under state law and could be placed in most zones provided that the dwelling meets health and safety standards and the minimum lot sizes are adhered to in placing the home. In Turning Leaf Subdivision, the developer proposed a homeowner association per state law and placed certain restrictions on the type and density of homes to be established within the subdivision. This is a private matter, but the conditions of approval which were adopted by the City of Nyssa, accepted this application based on all proposed development criteria as offered by the original developer. In the case of at least one homeowner, these assurances and HOA, CCRs were relied upon as good faith conditions upon which he purchased and occupied his home. While the city does not enforce Covenants, Conditions and Restrictions of any Homeowner association, the city did rely upon these assurances in granting the conditional use permit and these CCRs were an essential part of the sale of any and

all lots. Since a dwelling is developed under these restrictions and the city accepted these restrictions as part of the original permit, it is reasonable to assume that these CCRs remain in effect until such time as the original permit is modified and/or the CCR's are legally modified under the Homeowners Association as provided within the CCRs.

In granting the original conditional use permit, the City of Nyssa evaluated the need for additional R-4 Mobile Home Zone development and concluded that there was an adequate supply of this type of housing both in affordability, and in numbers adequate to meet the population needs. In analyzing the amount of land within the urban reserve (land within the UGB but outside the city limits), the City rightfully concluded that there were adequate lands which, when annexed into the city, could provide for additional R-4 zoned land based on the housing and population needs at the time of annexation. In addition, there are additional undeveloped R-4 lands that if market and consumer demand were there, could be developed as mobile home parks. These factors were all considered in the original permitting process and remain relevant to the current action. The proposed action of approving a zone change from R-4 to R-1 simply institutionalizes a previous action that could be compromised as a result of a foreclosure sale and a change in ownership. By approving the current requested action, it continues the intent of the original approved conditional use permit granted to Turning Leaf Subdivision to provide single family residences based on the relevant criteria of a R-1 development. This zone change makes permanent the approval of the conditional use permit which modified the original zone to allow single family residences. The infrastructure is established to accommodate this density and type of development and any modification of this action would require a future land-use request except for that which is currently approved, i.e., single family residences meeting the density and setback standards of an R-1 type development.

3. Criteria: Impact on Public Facilities and Services

The proposed designation will not negatively impact existing or planned public facilities and services.

Findings:

Approving the zone change from (R4) to (R1) maintains the current lower impact on public facilities by providing a lower number of dwellings per square foot as approved by the original conditional use permit. Lower densities will create a corresponding decrease in municipal wastes, water supply, etc., thus reducing pressures on public facilities existing under the current zone designation. Furthermore, infrastructure has been installed which will accommodate 17 single family dwellings (one is complete) with five future home sites identified as a future phase of the project. This infrastructure was designed to meet the density standards of an R-1 zone with appropriate setbacks and minimum lot sizes allowed under the R-1 zone. It is important to recognize that the City of Nyssa approved the original subdivision based on the type of dwellings and density of home sites allowed under

the R-1 zone. Now due to the foreclosure action, this development could be changed, if the criteria of the underlying zone were applied. The R-4 zone provides for a minimum lot size of 4,000 square feet, while the R-1 zone provides for a minimum lot size of 8,000 square feet. Obviously, this difference would allow a doubling of the density from what the approved subdivision has already developed infrastructure systems. Based on the acreage involved, the change in density could result in 68 home sites where there are currently 23 potential home sites. This dramatic increase in housing density would have an immediate adverse impact on city services and systems. The currently installed water, sewer and other infrastructure has all been designed to accommodate 23 single family homes at the maximum and any significant modification would clearly violate the original intent when granting the conditional use permit to Turning Leaf Subdivision for the subdivision which is currently designed, built and partially occupied. Therefore, it is in the interest of the City of Nyssa to preserve the density levels originally approved as part of the subdivision application, and this is best accomplished by rezoning the subject parcel to R-1, which would still accommodate more homes than are currently platted under the subdivision but far less than what is possible under the R-4 zone.

4. Criteria: Site Suitability

The site is suitable for the proposed use considering the topography, adjacent streets, access, size of the site, availability of public facilities, and any other pertinent physical features.

Findings:

The proposed zone change is consistent with existing residential development in the immediate vicinity. The site is an approved single-family residential neighborhood and adjacent to an existing R-4 mobile home park development adjacent to the south. No changes are proposed with this zone change request other than permanently approving the development that has occurred as part of a conditional use permit granted for the Turning Leaf Subdivision. The existing streets are local streets already serving the residential neighborhood and developed based on the maximum daily traffic count corresponding to 23 home sites. The site has access provided from Highway 201/26/20, the Central Oregon Highway. This is a private development which has sited all supporting public facilities per the permitting criteria relevant for up to 23 homes. The city of Nyssa, when approving this original request, determined that the scale and density of the home sites were appropriate for the protection of health and safety of the community and would not adversely impact traffic conditions, water and sewer demands or public safety protection for the area. By approving the zone change request, the City of Nyssa is maintaining the current conditions and protecting future owners and the current owners from a significant change in the nature and type of development approved for the subject parcel. Approving the zone change request maintains the current status of the property for future use and protects the community from a wholesale change in the intended and type of use on this property.

5. Criteria: Support of Community Interest

Other sites in the city or the vicinity are unsuitable for the proposed use. In other words, ownership and desire to develop a particular use, in themselves, provide insufficient rationale for changing a zoning designation that does not support the interests of the City as a whole.

Findings:

The City has an interest in supporting the existing developed infrastructure for the purposes originally approved as part of the Turning Leaf Subdivision. This interest is in ensuring that approved housing developments remain a viable resource for the community and that any modified use that would tax capacities of the current development would require a future land use application and review, except for the currently approved single family dwelling subdivision. This action by the city protects future owners of the development by providing a consistent interpretation of the zone which corresponds to the originally approved subdivision. This certainly actually protects the future buyer and the City by offering a viable opportunity to utilize the property in a manner for which it is designed. This also protects the City's interest in providing for a reasonable support of affordable housing in a mix and type consistent with the needs of its citizens. The variety of housing types offered in the community gives the citizenry a range of housing options that will meet the widest range of citizens housing needs.

The City of Nyssa carefully considered the original application for the Turning Leaf Subdivision and determined that the mix and type of housing offered in the area was a good mix for building mixed diverse neighborhoods, and supported the reasonable build-out of Nyssa's residential neighborhoods. This criterion still applies and in fact, because of the changes in the overall economic conditions in the area, there is a greater need for affordable permanent single-family dwellings that can house growing families. This action supports our schools, maintains our favorable pricing in the housing market, and contributes to the overall health of our community. Creating a high density housing project (which would be allowed under the R-4 zone) within the current infrastructure could contribute to an overall decline in the neighborhood character in the area and adversely impact residents who were now using water and sewer lines designed for much lower densities. It is in the City's interest to protect all current and future property owners by ensuring that Turning Leaf Subdivision continues to be developed in a manner originally approved in the conditional use permit granted under the original application. This can best be accomplished by approving the zone change request which will require the housing density of this subdivision to remain basically similar to what is currently established.

18. Conclusions:

A. This proposal is consistent with the Comprehensive Plan, which allows the City to take appropriate action to preserve the integrity of the land-use process by enacting rules which protect the public from unintended consequences not associated with the land-use process. This was an approved R-1 type

subdivision, despite the economic condition; this is still an appropriate use and type of housing development for the subject parcel. The City is acting in the best long-term interest of the community by approving the zone change request to permanently change the allowed density to an R-1 type development.

- B. The proposal recognizes the existing and future use of the property. The proposal also protects future buyers, current homeowners, and the general community by ensuring that the intended use continues under new ownership.
- C. Adjusting the zoning boundary will not affect the long- or short-term residential development of the area. The City has adequate urban reserves which could be annexed to meet any future need for more R-4 type housing. The City currently has an additional 20+/- acres of R-4 land which could be developed if the need and market for such houses was present.
- D. Residential development in this area will help serve the existing and future needs of the Nyssa Community by providing a wider choice of home types and residential options. Furthermore, the addition of more single family homes is appropriate to the changing economic conditions in the region as more and more families are looking for affordable housing options in a rural community. As growth continues in the Boise area to the Oregon border, there is a greater demand for alternative housing in quiet rural communities, and Nyssa fits the bill in this regard.

19. Conditions of Approval:

- A. The applicant understands that this action is a legislative action under Oregon law and the Nyssa Planning Commission will recommend approval or denial of this permit application to the Nyssa City Council, which has the final authority to approve or deny this application. The City Council shall provide lawful notice of a hearing on this matter and receive the Planning Commission's recommendation. Only those parties who have established "*standing*" in this matter at the Planning Commission level shall be allowed to address this matter before City Council, and then they may only address relevant matters related to the actual land use issues raised in the previous hearing.
- B. The Planning Commission may adopt the findings contained within this report, as well as add to or delete elements of this staff report as they determine is appropriate in their deliberation on these matters. A summary of the findings and recommendations shall be conveyed in a timely manner to the City Council.
- C. The City shall provide written notice to all parties with standing and to those property owners within the affected area of concern of the Planning Commission's recommendation and the date of the hearing before City Council.

- D. The City shall modify the zone map and the comprehensive plan map designation for the subject parcel if the proposed action is approved by the City Council.
- E. The City shall make the zone and map change effective immediately upon completing the statutory period for appeal of the action.

20. Staff Conclusion:

Subject to the conditions stated in Item 19 above and based on the facts, findings, and conclusions enumerated herein, and based on the general information provided by the applicant and included in this report, Staff concludes that the proposal is consistent with the City Comprehensive Plan, and it conforms to the standards of the City Zoning Code for approval of a request to change the applicable land use zone of 6.25 acres from Mobile Home Zone (R-4) to Single Family Housing (R-1). There is adequate justification for the proposed change and this action does not diminish or restrict the property right of any citizen, and preserves the City's ability to manage their City resources in a manner that best meets the needs of its citizens and the community

21. Staff Recommendation:

Staff recommends that the Planning Commission approve the zone change application and forward it to the City Council for final adoption. The Planning Commission may use the above facts, findings, and conditions to adopt a motion for approval.

If the public hearing reveals testimony that leads the Planning Commission to the conclusion that additional conditions are necessary or that the application should not be approved, the Planning Commission will need to develop alternative findings and conclusions, which would be used to condition or deny the application.

The Planning Commission may also continue the public hearing or defer action on this proposal to a date and time specified in public at this meeting. Such action shall be based on a stated substantive reason, which, in the opinion of the Planning Commission, necessitates additional information or additional time for consideration of the information presented.

The City planning staff has relied on the representations of the applicant in evaluating their application for land-use approval. The conclusions and findings are the independent determination of the City planning staff (PARC Resources).

***Staff report prepared by Stan Foster, PARC Resources
Land-use Consultant***

Date

By affixing my signature hereto, I accept the findings and conclusions of the staff report and forward said report to the City Council with a specific recommendation for action. The hearing was conducted in a manner consistent with state law and this proposed action has been duly advertised and properly noticed as a public hearing. The affected property owners in the surrounding area have been properly notified as well and all comments and testimony has been recorded and made part of the public record.

Nyssa City Planning Commission Chairperson

Date

Nyssa City Council Meeting Minutes – 11/09/10

Mayor Harry Flock called the meeting to order at 7:00 PM.

Roll Call: Members Present: Mayor Harry Flock. Councilors: Diego Castellanoz, Brent Huffman, Sue Walker, Pat Oliver, Pat Brewer and Mary Shelton. Absent: City Attorney Mike Horton.

Audience: City Engineer Kasey Ketterling, Larry Meyer –Argus, Roberta (Bert) Purcell and Susan Barton – Nyssa Chamber of Commerce

Pledge of Allegiance: Led by – Mayor Harry Flock 7:01 PM.

Adoption of the Agenda - Roberta made the following changes to the Agenda: Added Resolution 883-10 Motion made to adopt the agenda as amended by Diego Castellanoz. Pat Oliver seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None.

Adoption of the Consent Agenda: Motion to Adopt the Consent Agenda was made by Pat Brewer. Diego Castellanoz seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None.

Audience Time: Opened at 7:05 p.m. Susan Barton – December 2nd at 4:00pm is the Christmas Tree Lighting and on December 11th will be the Christmas Night Light Parade. There is a Local Food Guide developed by Chloe Ricoh a volunteer from the Ontario Food Bank, which lists local food buyers and sellers in our area

Audit Report FY 2009-2010 given by Brian Richins CPA. Report reviewed by Council. The books were reconciled and the statements balanced each month. The finances are in really good shape. The city staff has been very cooperative and helpful which made the audit go very well.

PUBLIC HEARING: CDBG Water Management & Conservation Plan/Rate Study.

Open Public Hearing at 7:34 P.M.

Staff Report: The City of Nyssa received the CDBG grant and two public hearings are required during the process, at the beginning and end of the process. This hearing is the last in the process to close out the grant. Susan Newstetter (CDBG Grant Administrator) had reported that the project had gone very smoothly and she updated the status of the progress. Kasey Ketterling, City Engineer stated that the Water Conservation and Master Plan and the Water Rate Study had been completed.

The State of Oregon has a funding source for small communities that have low to moderate income levels. The City of Nyssa had the opportunity to apply for these funds. The City committed \$10,000.00 to start and received \$66,500 in Grant funds which paid for the City to establish a Water Conservation and Master Plan plus a Water Rate Study for short and long term projects to identify the City's resources.

The project is federally funded so there are a variety of requirements. The State is satisfied with the grant process, the engineers and staff has done a very good job providing all the necessary information needed. No questions from Council.

Kasey Ketterling had given handout to Council. Current average water bill is around \$21.75. Base rate would be \$20.50 variable rate would be \$2.25, and suggested a step increase over a period of 2 years, until the goal of \$34.00 is reached. This would help fund the water system otherwise the City's investment diminishes in value.

Goals:

- 1.) All meter connections pay a base rate
- 2.) The incremental rate pay for the first gallon that is pumped
- 3.) Charge enough to cover a portion of the depreciation for the system

Until the water rates are at the \$34.00 threshold, the City is not eligible for grant funding and currently there is up to \$2,000,000 available for projects. The City is in a good position to receive this funding since the Water Master Plan/Study is completed.

- A recent analysis of the Reservoir shows corrosion problems.
- City should meter its water system to know the outflow from the Reservoir. The City pumps into the Reservoir but no way to meter the amount of water used.
- The wells at South Park are not being used and the City needs to do the conversion to be able to use the wells to water South Park.
- The Booster Pump Station needs to be operated and should be an automated process. Systems that have any age to them at all need to be replaced.

Concerns:

- The Census results may decrease or raise the fees.
- Has the Council made provisions for depreciation of the water system?
- What happened to the funds in the 2001-2002 budget set aside for the water tank?
- The added burden on citizens; the City needs to be conservative by going with the step increase over time to the \$34.00 charge. The City needs to make sure that the system is in good working order.

Public Hearing Closed: 7:39 pm.

PUBLIC HEARING: Opened at 7:40 P.M. Zone Change – Turning Leaf Subdivision/Stone Ridge Development from Mobile Home R-4 Zone to Single Family (R-1) Zone.

It was the understanding of the Council that this issue had been addressed of when Turning Leaf Subdivision was first developed.

Roberta explained that this was a house cleaning item as when the zoning was originally changed, the zone wasn't changed but the use was amended to include single family dwellings (R-1) in a Residential Mobile Home zone (R-4). In order to protect the integrity of the City of Nyssa and the subdivision, it is critical that the City to clean this up and make the zone change as was originally intended. The City retained a private consulting firm (PARC) to act as an independent consultant since the City is the applicant.

Close Public Hearing at 7:48 P.M.

Sue Walker made motion to finalize the re-zone of Turning Leaf Subdivision. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

OLD BUSINESS:

Ordinance No. 628-10: Prohibiting the manufacture, distribution, possession and use of certain non-prescription intoxicating compounds; and declaring an emergency.

Brent Huffman read by Title only and made motion to adopt Ordinance No. 628-10. Diego Castellanoz seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Sue Walker made motion to waive third reading. Pat Oliver seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Ordinance No. 629-10 - An Ordinance amending to the zoning ordinance and zoning map of the City of Nyssa, amending the comprehensive plan; rezoning said properties; repealing Ordinance No. 613-06. Pat Brewer made motion to adopt Ordinance No. 629-10. Brent Huffman seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No. 874-10 – OLCC IGA – Rental Agreement with OLCC they have agreed to pay rent of \$300.00 per month. Brent Huffman Pat Oliver seconded the motion Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No.875-10 – Surplus Property – Pat Oliver made motion to adopt Resolution 875-10. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No.876-10 – Amendment No. 1 – ODOT Agreement – Locust Ave. & 3rd Street. Pat Brewer made motion with (2) amendments. Brent Huffman seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No.877-10 - Special City Allotment application.

Pat Oliver asked if it will include intersections. Roberta- Yes, she will note the change.

Sue Walker made motion to adopt Resolution No. 877-10 as amended. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No. 878-10 – DEQ Agreement - Discussion by Council.

Sue Walker made motion to table this for another meeting for more review. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No. 879-10 – Water Rate Increase – Brent Huffman made motion to adopt Resolution No. 879-10. Sue Walker seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No. 880-10 – CIS Agreement Risk Management Grant – We would like to apply for grants for a Security System at City Hall and ADA accessible door. Sue Walker made motion to adopt Resolution 880-10. Pat Oliver seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Resolution No. 881-10 - Fair Housing Policy – Every time we receive a grant before we can receive or spend the money we have to publish in the local paper. Pat Brewer made motion to adopt Resolution No. 881-10. Sue Walker seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None.

Resolution No. 882-10 - PD Policy Manual– Pat Oliver made motion to adopt Resolution 882-10. Mary Shelton seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Policy No. 09-2010 – Drug Policy - Pat Brewer made motion to adopt policy #09-2010. Sue Walker seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Policy No.10-2010/PD 300 Excessive Force Policy – Sue Walker made motion to adopt policy # 10-2010/PD 300. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Policy No. 11-2010 - Non-Discrimination Policy - Brent Huffman made motion to adopt policy # 11-2010. Mary Shelton seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

Water Right Transfer - Information & Notice given to Council.

Resolution 883-10 – There is a sewer line with 11 connections that have a pipe through it and a gas line is also in the way. This was put out for bid and Warrington construction came in with the lowest bid. Pat Oliver made motion to adopt Resolution 883-10, seconded by Diego Castellanoz. Voting in favor of the motion: Mayor Harry Flock, Councilors: Diego Castellanoz, Sue Walker, Brent Huffman, Pat Oliver, Pat Brewer and Mary Shelton. Against: None. Absent: None

POLICE CHIEF REPORT – Chief Rick Stokoe

- October 2 felony arrests
- 4 warrant arrests
- 213 calls for service
- 21 citations
- 96 traffic stops

Shannon Bias had to leave the academy with an injury, but hopes to return in January 2011.
Sue - She appreciates Rick's reports they are put together very well.

MANAGER'S REPORT: Roberta has been very busy this month with grants that are in process with more coming up. She went to Portland to sign the closing Bond documents for the City, and rode with the Chief in the Veterans' Parade in honor of our Veteran's. She hopes to see everyone at the Nyssa Parade on the 11th of December.

COUNCIL TIME:

Diego Castellanoz – Wanted to say that there is no conflict with anyone on the council when he votes against something; he is considering the opinions' of people in our community.

Sue Walker – We need to consider the needs of our community and listen to what they are saying. She would also like to thank everyone for the well wishes when she hurt her foot.

Pat Brewer – nothing at this time

Brent Huffman – nothing at this time

Mary Shelton – Thanksgiving Dinner at the High School on Thanksgiving Day

Pat Oliver - Food Pantry is in need of Turkey's for this Holliday and would like to congratulate the Cross Country and Football Teams for their success.

MAYOR'S TIME: When he attended the Oregon Main Street Conference there were several ideas that he would like to see happen here. The community volunteers have been meeting and considering some possible art work, silhouettes, considering something different for Nyssa. He considers this council to be by far the best and he is proud

to be the Mayor of Nyssa and thinks we have a wonderful place to live and would love to see more businesses come to Nyssa. He will do everything he can to make the town better.

Meeting Adjourned at 9:11P.M.

Nyssa City Council Meeting Minutes - 12/15/10

Mayor Harry Flock called the meeting to order at 7:00 PM.

Roll Call: Members Present: Mayor Harry Flock, Council President Pat Brewer, Councilors: Pat Oliver, Brent Huffman, Diego Castellanoz, Sue Walker and Mary Shelton. City Manager Roberta Donovan, City Recorder Marla Roberts, Police Chief Rick Stokoe, City Engineer Kasey Ketterling and City Attorney Mike Horton.

Audience: Bert Purcell, Larry Meyer – Argus Observer, Susan Barton, Tom Cook and Linda Aman – Nyssa Chamber of Commerce.

Mayor Harry Flock led the Pledge of Allegiance.

Adoption of the Agenda – Motion made to adopt the agenda as presented by Diego Castellanoz, Brent Huffman seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None

Consent Agenda – Council Meeting Minutes of November 9th, 2010, staff and committee monthly reports for September 2010, Current Payroll \$41,654.93, Accounts Payable: \$159,610.48 (Includes \$62,507.63 for WWTP Project). Motion made to adopt the Consent Agenda by Sue Walker. Diego Castellanoz seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Diego Castellanoz, Mary Shelton, Sue Walker, and Pat Brewer. Against: None. Absent: None

Audience Time: Sue Barton from Nyssa Chamber of Commerce wanted to thank the Police Department and the City Crew for helping with the lighting of the Christmas tree, downtown lighting, parade and the snow removal. She appreciates all their hard work. Susan stated that she wished she would have gotten a picture of Roberta and Rick running the snow plows.

Please mark your calendars; Chamber at noon on January 5th will feature the Nyssa FFA Students, they will be giving speeches to prepare for their regional and state competitions.

There are now 89 members in the Chamber; some new members are Hittle's Automotive, Veteran Advocates of Ore-Ida, Snake River Chapter of Oregon Rural Action, Juanita Lassiter and Roni Laikin. The Honor's Banquet and Auction is Saturday January 29th at 6:00 pm in the Nyssa High School Cafeteria. Tickets are \$17.50 for the Prime Rib dinner. The Chamber is collecting items for the auction so if you have anything you would like to donate they would appreciate receiving it.

The Honorees this year are:

- Agriculturalist of the year - Steve Saito
- Business of the year - Sterling Savings Bank
- The Citizen of the year - Don Bullard
- Educator of the year - Rodger Hunter

Public Servant of the year was presented to Diego Castellanoz by Tom Cook. Diego is very appreciative of this honor; he believes that if you want to make a difference you need to be involved. Diego also appreciates the support from family and this community.

Old Business: Ordinance #629-10: A Ordinance amending the Zoning Ordinance and Zoning Map of the City of Nyssa, amending the Comprehensive Plan; rezoning said properties; repealing Ordinance No. 613-06 and declaring an emergency. Brent Huffman made a motion to suspend the third reading of this ordinance and read by title only. Pat Brewer seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

New Business: Ordinance #630-10 – An Ordinance of the City of Nyssa relating to Animal Control, providing penalties for violation thereof and repealing Ordinance no. 607-05, 615-06 and all other ordinances in conflict herewith, and declaring an emergency. City Attorney Mike Horton read ordinance #630-10. Motion made by Sue Walker to accept Ordinance #630-10 as read. Brent Huffman seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

Resolution 884-10: Acceptance of Abstract Votes from 2010 Election. Diego Castellanoz made motion to adopt Resolution 884-10. Pat Oliver seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

Resolution 885-10: Accepting Unanticipated Fnds for Street Department. Sue Walker made motion to adopt Resolution 885-10. Diego Castellanoz seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

Resolution 886-10: Grant Administrator for CDBG Wastewater Collection Plan - Appointing Susan E Newstetter. One of the requirements of this grant is to appoint a Grant Administrator to identify the City's collection needs in the wastewater system, to update lift stations if necessary and collection lines. The City has funds set aside for the match of \$10,000 to receive \$148,000.00 in Grant funds. Brent Huffman made motion to adopt Resolution 886-10. Diego Castellanoz seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

Mayor Harry Flock presented Mary Shelton with a Certificate of Appreciation for her service on the City Council the past two years. Mary appreciates the opportunity and is happy to have served.

A letter was received from Devin Rindlisbacher for plans to erect a gazebo at the park by US Bank for his Eagle Scout project. The Council looks forward to him presenting his ideas and requested that he attend the City Council meeting next month.

Resolution #887-10: Adopting Policy 12-2010: Employee speech, expression and social networking. Roberta would like to implement this policy in order to protect the City and its employees and not expose the City to online social networking sites. Pat Oliver made motion to adopt Resolution #887-10. Diego Castellanoz seconded the motion. Voting in favor of the

motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.

Resolution #888-10 Authorizing Mayor or City Manager to sign change order for Michael A. Becker Contractors - Schedule B, WWTP Project. The loan is closed for the wastewater treatment plant project, but we still have \$137,000 left for the city to use or we will lose it. Roberta, Myra and the Engineer feel there is a need for some collection line upgrades, between East 1st to East 4th then from East 4th to East Ehrgood Avenue. The Contractors have reviewed these areas and agree there is a need to replace these lines as soon as possible. Pat Brewer made motion to adopt Resolution #888-10. Brent Huffman seconded the motion. Voting in favor of the motion: Mayor Harry Flock, Councilors: Pat Oliver, Brent Huffman, Pat Brewer, **Diego Castellanoz, Mary Shelton and Sue Walker. Against: None. Absent: None.**

City Engineer Report – Kasey Ketterling, Holladay Engineering – The Water Master, Conservation and Water Study Grant is nearing the end. Warrington Construction repaired the sewer lines between Walnut and Maple Avenues between 5th and 6th and is now complete. Soil stability erosion at the Water Tank was contracted out and is almost completed. The site now has a drain to prevent erosion off the edge.

Police Chief Report: Rick Stokoe

- ▶ 4 felony arrests
- ▶ 11 misdemeanors
- ▶ 11 citations
- ▶ 179 calls for service
- ▶ 79 Traffic stops

There have been several burglaries in our area in the last month, he would like people to be aware of this and not leave anything of value in their vehicles, and it is a good idea for residents to keep serial numbers on their equipment.

He hopes to have Shannon back to the academy by the end of December.

Officer Bob Trotter has retired.

Manager's Report – Given to Council

Council Time: Pat Brewer – She would like to congratulate Diego for his recognition and she would like to let Mary know she will be missed and would like to wish everyone a Merry Christmas.

Diego Castellanoz – He would like to extend his appreciation to Mary and her time served on the Council. He would also like to let the people in the community to know he is attentive to their concerns and always considers the information he receives in order to make the right decisions for our future and he feels honored to be recognized for his service in the Community.

Susan Walker – Wishes Mary luck and has enjoyed working with her and would also like to wish everyone a Merry Christmas and to be safe.

Brent Huffman – He has appreciated serving on the Council with Mary and would like to congratulate Diego on a well deserved award. Brent will be attending the BSU game in Vegas to support the Broncos.

Mary Shelton – Has appreciated serving on the Council and would like to stay involved.
Pat Oliver – Also appreciates serving with Mary. He would also like to wish everyone a Merry Christmas.

Mayor's Time: Thanks to Mary and Congratulations to Diego it is well deserved. He appreciated the snow removal around town. He would like to mention the Veteran's Advocates of Ore-Ida behind the Eagles building; they need help packing boxes for our troops etc. Susan Barton mentioned that the Veteran's Advocates of Ore-Ida received a donation from a business person who has agreed to match any contribution they receive. Mayor Flock also wanted to wish everyone a Merry Christmas.

Meeting adjourned at 8:29 pm.

Executive Session as per ORS 190.660 called to order at 8:50 PM.

Executive Session adjourned at 9:15 PM

Regular City Council called back into order at 9:15 PM.

No decisions made.

Meeting adjourned at 9:16 PM.

FOR 1 DLCD Notice of Proposed Amendment

THIS FORM 1 **MUST BE RECEIVED** BY DLCD AT LEAST
45 DAYS PRIOR TO THE FIRST EVIDENTIARY HEARING
PER ORS 197.610, OAR 660-018-000

in person electronic mailed

DATE
STAMP

DEPT OF
AUG 11 2010
LAND CONSERVATION
AND DEVELOPMENT
For DLCD Use Only

Jurisdiction: **City of Nyssa**

Local File Number: **ReZone1_2010**

Is this a **REVISION** to a previously submitted proposal? Yes No Date submitted: **August 9, 2010**

Comprehensive Plan Text Amendment

Land Use Regulation Amendment

New Land Use Regulation

Transportation System Plan Amendment

Date of First Evidentiary Hearing: **October 21, 2010**

Date of Final Hearing: **November 9, 2010**

Comprehensive Plan Map Amendment

Zoning Map Amendment

Urban Growth Boundary Amendment

Other:

Briefly Summarize Proposal. Do not use technical terms. Do not write "See Attached"(limit 500 characters):
The R-4 property was approved to be Turning Leaf Subdivision for single family homes, and has since been foreclosed. Upon approval of the subdivision, the site was not rezoned, but the issue was meant to be revisited. It is proposed that the subdivision be rezoned to R-2 to continue the same type of development that Turning Leaf would have provided at the main northern entrance into Nyssa.

Has sufficient information been included to advise DLCD of the effect of proposal? Yes, text is included

For Map Changes: Include 8½"x11" maps of Current and Proposed designation. Yes, Maps included

Plan map changed from:

To:

Zone map changed from: **R-4 Mobile Home Zone**

To: **R-2 Medium Density Housing**

Location of property (do not use Tax Lot): **SE corner of Hwy. 201 and Chestnut (to include all properties along Tupelo Drive and Redwood Court) in the NW corner of Nyssa City Limits.**

Previous density: **R-4**

New density: **R-2**

Acres involved: **6.25**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Is an exception to a statewide planning goal proposed? YES NO Goals:

Affected state or federal agencies, local governments or special districts (It is jurisdiction's responsibility to notify these agencies. DLCD only records this information): **DLCD, Malheur County**

Local Contact: **Roberta Donovan**

Address: **301 Main Street**

Fax Number: **(541) 372-3737**

Phone: **(541) 372-2264**

City: **Nyssa**

E-mail Address: **NyssaManager@nyssacity.org**

Extension:

Zip: **97913**

DLCD file No. 001-10



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Northeast Regional Office

105 Fir Street, Suite 210

La Grande, OR 97850

Phone: (541) 663-1393

Fax: (541) 663-1056

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



Roberta Donovan; City Manager
City of Nyssa
301 Main Street
Nyssa, OR 97913

RE: Proposed Rezone of Residential Land
Local File # Re-Zone 1-2010-1
DLCD File # Nyssa PAPA 002-10

Dear Ms. Donovan:

Thank you for your recent submittal of the City's proposed Post Acknowledgement Plan Amendment (PAPA) in which the city proposes to rezone approximately 6.25 acres from R4 to R1. The Department (DLCD) appreciates the opportunity to comment. We respectfully request that the City consider the following comments on this matter.

From our review it appears that the intent of this proposal is to rezone land in a high-density, Multi-Family Mobile Home Zone to a low-density, Single Family Detached Dwelling Zone. However, we are unable to corroborate this without copies of the Nyssa Zoning Code, zoning map, Housing Element of the Comprehensive Plan, and the plan map, which were not included. Also, we have not received copies of the staff report and findings for this action, which should explain how the proposal complies with both the Statewide Planning Goals and the city's comprehensive plan. Please send this material as soon as possible.

We commend the city for wanting to respond to local needs for housing, and for encouraging economic development activities. We are concerned, however that the proposed rezone makes it more difficult for Nyssa to comply with Statewide Planning Goal 10:Housing, which requires the city to provide enough land for the types, numbers, rentals, and prices of housing that are needed by current and future Nyssa residents.

When it changes R-4 land to R-1 land, Nyssa must make sure that the UGB still contains enough R-4 land to meet the needs of the people who can afford that type of housing. In other words, the city's decision must consider the effect of the zone change on the city's buildable residential land supply. The documents and analysis required to do this are a recent residential buildable lands inventory, housing needs analysis, residential land need analysis, comparison of the inventory with the city's 20-year need, and a determination whether the zone change will reduce the supply of R-4 land below the total amount that is needed during the current 20-year planning period.

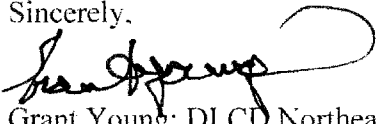
This work should be done consistently with Goal 10 and related rules and statutes. We didn't see these documents or analyses in the submittal.

Department staff would be happy to assist Nyssa in reviewing city and county planning materials to see if the needed justification can be found, and to assemble this material as needed to satisfy requirements for this particular rezone. This may take some time as Department resources are limited. If the needed information cannot be found, then it must be created, which will take additional time and most likely the services of a professional planning consultant. The department would like to help the city do this *as funding is available* with Technical Assistance Grants for this work.

In conclusion, the proposal currently lacks the needed justification to approve this application. If the required information is available and the work noted above has been done, please provide this material for our review as soon as possible; if not, we recommend that the City delay this matter until the analysis and findings are available. The Department will assist in this as we are able. Please advise us of your intentions so that we may help.

Thank you again for the opportunity to participate in this planning decision. Please enter these comments into the record for this matter.

Sincerely,



Grant Young; DLCD Northeast Region Representative

cc: Darren Nichols
Gloria Gardiner
Jon Jinings
File

City of Nyssa
301 Main Street
Nyssa, Oregon 97913



Attention: Plan Amendment Specialist
Department of Land Conservation And Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540