



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

May 22, 2007

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 001-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 5, 2007

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. 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.

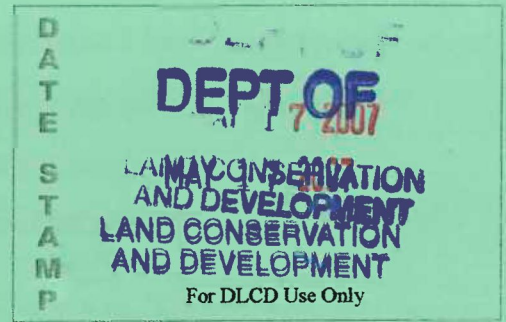
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

cc: Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative
Grant Young, City of Ontario

<paa> ya/

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: 2007-02-02AZCPAMD
Date of Adoption: 5/7/2007 Date Mailed: 5/14/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 2/23/2007

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: Annexation/Rezone

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

Comprehensive Plan Amendment to change zone classification from Public Facilities to Industrial and Residential; Annexation of 88.45 Acres and assignment of City Heavy Industrial and Single Family Residential Zone

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".

Same

Plan Map Changed from: Public Facilities to: Industrial & Residential

Zone Map Changed from: UGA PF to: CITY I-2 & RS-50

Location: 18S, 47E, 05; #3600 Acres Involved: 88.45

Specify Density: Previous: 6000 SQUARE FEET New: No Change

Applicable Statewide Planning Goals: 2, 9,10,11,12,14

Was and Exception Adopted? YES NO

DLCD File No.: 001-07 (15908)

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; Ontario Rural Fire; Ontario Rural Road

Local Contact: **Grant Young** Phone: **(541) 881-3222** Extension: _____

Address: **444 SW 4th Ave** City: **Ontario, OR**

Zip Code + 4: **97914-** Email Address: **grant.young@ontariorural.org**

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 **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

Not Recorded at the
request of Plaintiff

INSTRUMENT NO. 2007-3543
Page 1 of 32 Pages

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2:23 PM

MAY 09 2007

DEBORAH R. DELONG County Clerk
By *Shelvi Childs* Deputy

ORDINANCE NO. 2596-2007

ORDINANCE #2596-2007; AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN MAP AND PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3, AND DECLARING AN EMERGENCY

- WHEREAS, The City of Ontario has filed a written request for annexation and rezoning of the subject property in the proper manner, including a consent form signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS, All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS, The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS, The City desires to withdraw the land to be annexed from the ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302 and the ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3 pursuant to ORS 222.120(5) and has received no comment from the Districts in response to notice of the pending action; and
- WHEREAS, The annexation and rezoning of the subject property requires an amendment to the Comprehensive Plan Map to change the classification of the subject property from Public to Industrial and Residential as set forth and shown Exhibit "A" attached hereto; and
- WHEREAS, The proposal has been found consistent with all applicable Statewide Planning Goals, Comprehensive Plan Policies, Code requirements, Statute and Administrative Rule as set forth in Exhibit "A" attached hereto;

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Comprehensive Plan Amendment. The City of Ontario Comprehensive Plan Map is hereby amended to change the classification of the subject property from Public to Industrial and Residential as set forth in Exhibit "A" attached hereto.
2. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property mapped and legally described in the attached Exhibits "B" and "C" respectively.
3. Withdrawing above described area from Ontario Rural Fire Protection District 7-302. The Common Council of the City of Ontario deems it in the best interest of the public of the City of

Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural fire Protection District No. 7-302 on the effective date of this annexation pursuant to ORS 222.120(5).

4. Withdrawing above described area from the Ontario Rural Road Assessment District No. 3. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural Road Assessment District No. 3 on the effective date of this annexation pursuant to ORS Sections 222.120(5) and 222.510.
5. Rezone. The above described area is rezoned from Urban Growth Area Heavy Industrial (UGA I-2) and Urban Growth Area Residential (UGA-R) to City Heavy Industrial (I-2) and City Single-Family Residential (RS-50) as set forth in Exhibit A attached hereto.
6. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.
7. Emergency. This Ordinance being necessary for the immediate preservation of the public welfare, an emergency is declared to exist and this ordinance takes effect on its passage.

PASSED AND ADOPTED by the Common Council of the City of Ontario this 7th day of
May, 2007 by the following vote:

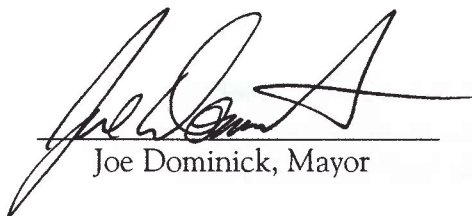
AYES: Gaskill, Allen, Cummings, Dominick, Mills, Mosier, Tuttle

NAYS: None

ABSENT: None

APPROVED by the Mayor this 7 day of May, 2007.

ATTEST:



Joe Dominick, Mayor



Tori Barnett, City Recorder

**BEFORE THE CITY COUNCIL
CITY OF ONTARIO, OREGON**

In the matter of Land Use Action #2007-02-02AZCPAMD,)
An amendment to the Comprehensive Plan Map, Rezone)
And annexation of certain property, as filed by the City of)
Ontario.)

**FINAL ORDER
And Findings of Fact**

ORDER in the **APPROVAL** of Land Use Action **2007-02-02AZCPAMD**, filed by the City of Ontario, to amend the City's Comprehensive Plan Map, and annex and rezone property designated as Assessor's Map #18S4705: Tax Lot 3600. The subject property is south of, and adjacent to, the City of Ontario Wastewater Treatment Plan lagoons, and lies on both sides of the Yturri Beltline, consisting of a single, discrete parcel bifurcated by the Beltline; said matter initiated and filed by the City of Ontario as provided for in the Ontario Municipal Code.

WHEREAS:

This matter came before the Ontario City Council as an application for amendment of the Ontario Comprehensive Plan and, annexation and rezone of property, in accordance with the City of Ontario Municipal Code and Statutory provisions for a Post Acknowledgement Plan Amendment. The application sought approval for an amendment of the Comprehensive Plan Map to change the classification of the subject property from public to industrial and residential; and, to rezone and annex the property into the City of Ontario.

Hearings were held before the City Council on April 16, 2007, and on May 7, 2007, as matters duly set upon the agendas of its regular meetings after giving public notice to all property owners, affected agencies, the local newspaper and electronic media, and otherwise as required by Sections 10B-03 and 10B-15 of the Ontario Municipal Code.

At the initial public hearing on said application oral testimony was presented by the Planning Official, and the hearing was continued to February 5, 2007, at which hearing evidence and testimony in the form of a staff report and exhibits were presented by the Planning Official. The hearings were conducted according to the rules of procedure and conduct of hearings on Post Acknowledgement Plan Amendments and on land use matters, as set forth in the Ontario Municipal Code. The City Council did receive and consider the City of Ontario Planning Commission's recommendation, concerning this action.

At the conclusion of the continued public hearing the City Council, after consideration and discussion of the evidence and testimony, upon a motion duly made and seconded, voted to approve the request as set forth above and proposed in Application #2007-02-02AZCPAMD based on decision criteria, findings of fact and conclusions of law as set forth in this order and in Exhibit 1 attached hereto and included herein by this reference.

At the May 7, 2007, public hearing the City Council, after giving public notice as required for a public meeting, did adopt Ordinance #2596-2007 as an emergency on the second and final

reading as a part of the public hearing.

FINDINGS OF FACT:

- 1) The City Council adopts the findings and conclusion in the Staff Report as the basis for this decision; and
- 2) The City Council accepts and modifies the Planning Commission's recommendation; and
3. The City Council adopts oral and written submittals of testimony of the April 16, 2007, and May 7, 2007, hearings as additional basis for this decision.

CONCLUSIONS OF LAW

1. The burden of proof is upon the applicant in proving the proposal fully complies with applicable Code criteria, Oregon State Statutes and Oregon Administrative Rules.
2. The City Council finds that Exhibit 1, Staff Report, and evidence and testimony presented at the hearings, address relevant comprehensive plan policies, standards of the Municipal Code, and Oregon State Statute and Administrative Rules sufficiently to support the burden of proof needed to approve the proposed amendment, annexation and rezone.

NOW THEREFORE LET IT HEREBY BE ORDERED that application #2007-02-02AZCPAMD, for amendment of the Comprehensive Plan Map, and, Annexation and Rezone of the subject property, filed by the City of Ontario, be **APPROVED**:

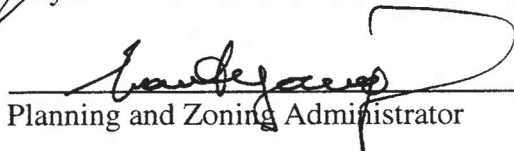
Based upon the above, the City of Ontario City Council has concluded that Application #2007-02-02AZCPAMD, meets the standards set forth in the applicable sections of State Statute, Administrative Rule and the Ontario Municipal Code and therefore complies with the purposes of the Code.

This order in **APPROVAL** of Application #2007-02-02AZCPAMD reviewed and approved by the City Council on this 7th day of May, 2007.

FOR THE CITY OF ONTARIO:



Mayor



Planning and Zoning Administrator

ONTARIO CITY COUNCIL – REPORT AND DECISION
Monday, May 7, 2007

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Grant Young, Planning and Zoning Administrator

SUBJECT: ACTION 2007-02-02AZCPAMD: A request for a **Comprehensive Plan Amendment, and, Annexation and Rezone**, of a parcel of land designated as Assessor's Map # 18S4705: Tax Lot 3600. The subject property is south of, and adjacent to, the City of Ontario Wastewater Treatment Plant lagoons, and lies on both sides of the Yturri Beltline. If approved, this action will result in the Annexation of 88.45 acres of land into the City of Ontario; and, the rezoning of the subject property as follows; approximately 84 acres from Urban Growth Area Public Facilities (UGA-PF) to City Heavy Industrial (I-2); and, approximately 4.45 acres from Urban Growth Area Public Facilities (UGA-PF) to City Single Family Residence, 5000 Square Feet Minimum Parcel Size (RS-50). The action will also result in an amendment to the City's Comprehensive Land Use Plan Map to change the classification of the subject property from Public to Industrial and Residential. The applicant and property owner is the City of Ontario.

REPORT DATE: Monday, May 7, 2007

I. SUMMARY & BACKGROUND:

Attached document(s):

- Exhibit "A" May 7, 2007, Staff Report and Exhibits

In March, 2007, the City Council directed Staff by motion to proceed with a rezone of the Stellings property; subsequently, Staff provided the required Notice to DLCD, adjacent property owners and to the local Newspaper. In providing this notice, Staff scheduled the Planning Commission and City Council Hearings one week apart, as has been past practice; thus, the hearing had to be continued from April 16, 2007, to the May 7, 2007, meeting. At the Thursday, May 3, 2007, worksession, the Council directed Staff to formulate motions to declare the matter an emergency due to the need to increase the chances of the subject property being chosen for development by a large company, thus bringing jobs to the City. Alternative motions were prepared and attached as Exhibit "E" to Exhibit "A" noted above.

II. PREVIOUS COUNCIL ACTION:

The Council has twice given direction to Staff to proceed with annexation and rezone for this property in the prior year; and, on April 16, 2007, opened, closed and continued the public hearing on this matter to this evening's hearing. A worksession was held before the Council and public on Thursday, May 3, 2007, worksession, wherein the Council directed Staff to formulate motions to declare the matter an emergency due to the need to increase the chances of the subject property being chosen for development by a large company, thus bringing jobs to the City. Alternative motions were prepared and attached as Exhibit "E" to Exhibit "A" noted above.

III. APPLICABLE ORDINANCE & COMPREHENSIVE PLAN CRITERIA AND STANDARDS:

A. Comprehensive Plan Amendment:

The City of Ontario's Comprehensive Plan contains a map that shows the different zoning classifications for different land uses; these classes include Industrial, Residential, Commercial, etc. This "Plan Map" is different from the City Zoning Map, which is part of the City's zoning regulations, or Code, and shows the different types of Zones within each zoning classification; for instance, the Industrial Zone Classification includes Light and Heavy Industrial, Business Park Industrial, and the Employment Zone, which is a hybrid Commercial/Industrial Zone. Basically, the zoning map is more detailed than the plan map. Changing a zone, or "rezoning" property within a classification, for example, Light Industrial to Heavy Industrial, does not require an amendment of the Comprehensive Plan Map, only an amendment of the Zoning Map, because there is no change of the Classification of the land proposed to be rezoned; it remains in the Industrial Classification. Rezoning land from one classification to another, for instance the proposed rezone of the subject "Stellings" property from the current Public Facilities to the proposed classification of Industrial, does require a Comprehensive Plan Amendment.

The Comprehensive Plan is the document that reflects the City's compliance and consistency with the Statewide Planning Goals; each Goal is contained within a chapter or "element" of the Comp Plan document. Each element addresses the specific Goal, with inventories, reports, etc. and findings that state how the City will achieve compliance with the applicable Goal. "Compliance" and consistency with each Goal has become more complex over the years since Oregon's land use laws were enacted due to changes in Statute and Administrative Rules, and decisions made on lawsuits (Case Law).

The Comprehensive Plan and plan map are supposed to reflect a 20-year supply of "available" (buildable) land in each classification; in order to change the classification of a property, the City must address the applicable Goals and corresponding elements of the Comprehensive Plan. The elements and Goals applicable to the proposed rezoning of the Stellings property are Goals 1 and 2, which deal with public involvement and the planning process; Goal 9, Economic Opportunity, which is the Goal that deals with

economic development - Industrial and Commercial lands; Goal 10, Housing, dealing with residential land; Goal 11, Public Facilities, which requires provision, and planning for provision, of water, sewer, police, fire, and other public services; Goal 12, Transportation, which deals with provision of, and planning for, transportation facilities.

1. *Goal 1, Citizen Involvement; Goal 2, Planning*

The City's Comprehensive Plan Goal 1 element requires citizen involvement in land use actions and in long range planning, consistent with the Statewide Goal. Goal 2 requires a planning process consistent with Statute and Rule.

Findings: There are two major types of land use planning actions that occur within the City; current planning and long range planning. These types are generally classified as “quasi-judicial” and “legislative” actions. A simple explanation of each type describes quasi-judicial actions as those actions that concern a single piece of property; and, legislative as those that concern multiple pieces of property. A conditional use, variance, or rezone of a single parcel is a quasi-judicial action. A change in the comprehensive plan or zoning code that affects an entire zone, and therefore multiple parcels, is a legislative action. The proposed annexation/rezone of the Stellings property is a quasi-judicial action that must go through both the Planning Commission and the City Council; the rezone and Plan Amendment are land use decisions; the annexation is not a land use decision; therefore, the rezone is the only action appealable to LUBA.

Legislative actions, particularly changes in plan policies and zoning regulations, generally involve extra citizen involvement in the form of a Technical Advisory Committee, which helps develop the changes before they come to the Planning Commission or City Council, as well as public notice consistent with Statute. Quasi-judicial actions require simply the proper process and notice, consistent with Statute and City Code requirements. This matter has been properly noticed, including the sign on the property posted by staff in accordance with code, and will go through the planning process consisting of review and recommendation by the Planning Commission to the City Council, and review and decision by the City Council. Both hearings and the entire process, including public involvement, are regulated by the Ontario Municipal Code which is consistent with the Goals through consistency with Statute and Rule.

Interim Conclusion: This land use action is a quasi-judicial action and will be processed according to the Ontario Municipal Code, which is consistent with the policies contained in the City's Comprehensive Plan and with Statute and Rule, and is therefore consistent with Statewide Planning Goals 1 and 2. **CRITERION IS MET**

2. *Goal 9, Economic Development*

Oregon Planning Goal 9 and its Administrative Rule requires jurisdictions to provide an adequate supply of buildable lands for a variety of commercial and industrial activities. In addition, Goal 9 requires plans to be based on an analysis of the comparative advantages of a planning region. Comparative advantage is defined in terms of the relative availability of factors that affect the costs of doing

business in the planning region; Goal 9 specifies many geographic, economic, and institutional factors that an analysis of comparative advantage should consider.

OAR 660-009-0025 requires plans to address the long-term supply of land (20 years), short-term supply of serviceable sites (1 years), and sites for uses with special siting requirements.

Findings: The City of Ontario has recently hired ECONorthwest to conduct a review and update of the City's Comprehensive Plan Goal 9 Element to determine whether or not the City has an adequate supply of Industrial land as required by Oregon Law. This analysis and other required tasks have been formatted into an Urbanization Report which concludes that the City is lacking 88.80 acres of land zoned for Industrial Use. While not adopted, this Study is the latest and best information and can be relied upon to support the rezone of the portion of the Stellings Property proposed for Heavy Industrial.

Conclusion: The City has conducted the proper studies with proper methodology to determine if the City has an adequate supply of Industrial Land within it's Urban Growth Boundary; the City does not, having a deficit of 88.80 acres. State Law requires an adequate supply; therefore, the proposed rezone of the Stellings property, 88.45 acres in size, meets the requirements of Goal 9.

CRITERION IS MET

2. *Goal 10, Housing*

Goal 10 requires that the City maintain an adequate supply of land needed for residential use in it's Urban Growth Area (UGA).

Findings: Findings and conclusions from preceding sections of this report are herein included by this reference.

The Urbanization Report prepared by ECONorthwest addresses Goal 10, with an ultimate finding that the City needs no additional residential land within it's UGA; however, the report also notes a deficit of land needed for public use, and notes that a major portion of this land will most likely come from existing residential zoning. The City has scheduled this plan for adoption; if adopted, the City will fulfill the need for public land from existing residential land, as bound by the report and consequent policies that will be adopted into the Comprehensive Plan. As a result of this policy, there will be a deficit of residential land within the UGA.

Conclusion: The Urbanization Report does not directly support a need for additional land; however, it does support a need for a large amount of land for public facilities, and will result in a Comprehensive Plan policy that mandates satisfying that need from existing residential land, thereby, through a "back door" sort of method, there will be a deficit of residential land. The amount of land proposed for rezoning to residential is small enough that the surplus should disappear with the first few parcels taken for public use. **CRITERION IS MET**

3. *Goal 11, Public Facilities*

Goal 11 requires, among other things such as a specific Public Facilities Plan, that a City maintain an adequate supply of land needed for public uses in it's Urban Growth Area, the same as for Industrial, Commercial and Residential land.

Findings: As with Goal 9 above, the studies and other work done by ECONorthwest indicate that the City has a deficit of 17.1 acres of land needed specifically for City Facilities. As the City is proposing to rezone 88.45 acres of land zoned for public facilities, this seems problematic at first glance; however, the intent of the City is to establish Urban Reserves and expand the Urban Growth Boundary, including all aforementioned classifications of land; that is the purpose of the work that ECONorthwest has done and is still engaged in. The City has scheduled adoption of the work products and expects that to be complete by July, 2007. No immediate need for 106 acres of land for public facilities is identified in the City's Public Facilities plan; therefore, the City can adjust the figures in the Urbanization Report to include that 106-acre need, and to reflect the change in the amount of industrial and residential lands.

Conclusion: The City is engaged in all the work necessary to expand the Urban Growth Boundary to ensure an adequate supply of industrial, commercial, public and residential lands. The studies completed used data gathered prior to the proposed rezone of the subject property, and show a deficit of public land and industrial land. Rezoning existing public lands to industrial will solve the deficit of industrial land, but create a bigger need for land specifically for City facilities; however, the need can be reflected in the report as it is an actual fact, and additional land for City facilities can be obtained through the expansion. No immediate need for land for City facilities is shown in the adopted Public Facilities Plan, and the adoption of the work products necessary for the expansion is scheduled; therefore, adequate time exists to obtain more land for City facilities. Changing the classification of the subject property does not violate Goal 11, and meets Goal 9 and 10 purposes. **CRITERION IS MET**

4. *Goal 12, Transportation*

Goal 12 requires planning for and provision of safe and efficient transportation facilities of all mode; air, rail, water, vehicular, pedestrian, etc. The goal is met through adoption and acknowledgement of a Transportation System Plan with appropriate Comprehensive Plan Policies and implementing zoning regulations. The TSP must address all land within the City, including the UGA.

Findings: The City adopted a TSP in February, 2005. The subject property is within the UGA and was included in the plan.

Conclusion: The proposed rezone and annexation is consistent with Goal 12 as it is included in the TSP. **CRITERION IS MET**

B. Rezone

1. *Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:*
 - a. *The zoning map amendment is in conformance with statewide planning goals and guidelines.*
 - b. *The zoning map amendment is in conformity with the acknowledged comprehensive plan.*
 - c. *The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.*
 - d. *A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
 - e. *The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*
 - f. *The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
 - g. *The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings of fact:

- a & b. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this is a Comprehensive Plan Amendment to change zoning classification, the amendment itself must be shown to be consistent with the plan and with the Goals. The above section of this report shows the proposed rezone to be consistent with the plan and the Goals.
- c & d. As previously stated and demonstrated in the Urbanization Report, circumstances have changed to require an expansion of the City's supply of Public Facilities and Industrial Lands. The proposed rezone meets the demonstrated need for Industrial Lands, and does

not violate Goal 10; the need for more Public Lands will be satisfied in the adoption that is currently in process.

- e. The subject property is 88.45 acres in size; the majority, about 84 acres, will be rezoned to Heavy Industrial with a minimum development site requirement of 6000 square feet, and a small portion, about 4 acres, will be rezoned to residential with a minimum development size of 6000 square feet.
- f. The property is bounded on the north by Malheur Drive, split by the Yturri Beltline, and has frontage on NW 4th Avenue. Sewer, water, electrical and gas are all either on the boundaries or within no more than ¼ mile. City fire and police services will be available upon annexation.
- g. Uses allowed by the new Industrial zone will be governed by the Zone itself, which includes performance standards prohibiting excessive impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land. Uses allowed by the new residential zone are basically identical to the uses of the nearest City Zone, which is the same as the proposed zone, and of the adjacent UGA residential zone.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.
CRITERIA ARE MET

B. Annexation:

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

Findings:

1. The applicant is exempt for fees, but has provided the proper application with signatures; there are no “electors” residing on the subject property.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is necessary to annex the property and justification has been presented in this report to demonstrate that the proposal is consistent with all applicable Comprehensive Plan Policies and the Goals.
4. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable industrial and residential land.

Conclusion: All criteria and standards applicable to a request for annexation have been met; the property may be annexed. **CRITERIA ARE MET**

IV. ONTARIO CITY COUNCIL DECISION:

Amendments to the City’s Comprehensive Plan and Zoning regulations are possible if the proposal is consistent with State Law, and requirements found in the City’s Comprehensive Plan and Zoning regulations for such amendment; the same is true for annexation of property into the City. The City Council finds that the amendments and annexation proposed in Action 2007-02-02AZCPAMD are consistent with State Law, with applicable City regulations for such amendments and annexation, and, with the City’s Comprehensive Plan. Therefore; the Council hereby **APPROVES Action 2007-02-02AZCPAMD and ADOPTS ORDINANCE #2596-2007.**

AGENDA REPORT-PUBLIC HEARING
May 7, 2007

TO: Mayor and City Council

THRU: Scott Trainor, City Manager

FROM: Grant Young, Planning and Zoning Administrator

SUBJECT: ACTION 2007-02-02AZCPAMD: A request for a **Comprehensive Plan Amendment, and, Annexation and Rezone**, of a parcel of land designated as Assessor's Map # 18S4705: Tax Lot 3600. The subject property is south of, and adjacent to, the City of Ontario Wastewater Treatment Plant lagoons, and lies on both sides of the Yturri Beltline. If approved, this action will result in the Annexation of 88.45 acres of land into the City of Ontario; and, the rezoning of the subject property as follows; approximately 84 acres from Urban Growth Area Public Facilities (UGA-PF) to City Heavy Industrial (I-2); and, approximately 4.45 acres from Urban Growth Area Public Facilities (UGA-PF) to City Single Family Residence, 5000 Square Feet Minimum Parcel Size (RS-50). The action will also result in an amendment to the City's Comprehensive Land Use Plan Map to change the classification of the subject property from Public to Industrial and Residential. The applicant and property owner is the City of Ontario. **ORDINANCE #2596-2007, FIRST READING**

DATE: April 30, 2007

SUMMARY & BACKGROUND:

Attached document(s):

- Exhibit "A" Assessor's Map of subject property
- Exhibit "B" Consent form
- Exhibit "C" Legal description and map of subject annexation/rezone
- Exhibit "D" Ordinance #2596-2007

In March, 2007, the City Council directed Staff by motion to proceed with a rezone of the Stellings property; subsequently, Staff provided the required Notice to DLCD, adjacent property owners and to the local Newspaper. In providing this notice, Staff scheduled the Planning Commission and City Council Hearings one week apart, as has been past practice; thus, the hearing had to be continued to the May 7, 2007, meeting from April.

PRIOR COUNCIL ACTION:

The Council has twice given direction to Staff to proceed with annexation and rezone for this property in the prior year; and, on April 16, 2007, opened, closed and continued the public hearing on this matter to this evening's hearing.

APPLICABLE ORDINANCE & COMPREHENSIVE PLAN CRITERIA AND STANDARDS:

The proposed development must comply with applicable provisions of the OCC (City of Ontario Zoning Ordinance as set forth in the Ontario City Code), and the City of Ontario Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning Ordinance it is considered to be consistent with the Comprehensive Plan.

A. Comprehensive Plan Amendment:

The City of Ontario's Comprehensive Plan contains a map that shows the different zoning classifications for different land uses; these classes include Industrial, Residential, Commercial, etc. This "Plan Map" is different from the City Zoning Map, which is part of the City's zoning regulations, or Code, and shows the different types of Zones within each zoning classification; for instance, the Industrial Zone Classification includes Light and Heavy Industrial, Business Park Industrial, and the Employment Zone, which is a hybrid Commercial/Industrial Zone. Basically, the zoning map is more detailed than the plan map. Changing a zone, or "rezoning" property within a classification, for example, Light Industrial to Heavy Industrial, does not require an amendment of the Comprehensive Plan Map, only an amendment of the Zoning Map, because there is no change of the Classification of the land proposed to be rezoned; it remains in the Industrial Classification. Rezoning land from one classification to another, for instance the proposed rezone of the subject "Stellings" property from the current Public Facilities to the proposed classification of Industrial, does require a Comprehensive Plan Amendment.

The Comprehensive Plan is the document that reflects the City's compliance and consistency with the Statewide Planning Goals; each Goal is contained within a chapter or "element" of the Comp Plan document. Each element addresses the specific Goal, with inventories, reports, etc. and findings that state how the City will achieve compliance with the applicable Goal. "Compliance" and consistency with each Goal has become more complex over the years since Oregon's land use laws were enacted due to changes in Statute and Administrative Rules, and decisions made on lawsuits (Case Law).

The Comprehensive Plan and plan map are supposed to reflect a 20-year supply of "available" (buildable) land in each classification; in order to change the classification of a property, the City must address the applicable Goals and corresponding elements of the Comprehensive Plan. The elements and Goals applicable to the proposed rezoning of the Stellings property are Goals 1 and 2, which deal with public involvement and the planning process; Goal 9, Economic Opportunity, which is the Goal that deals with economic development - Industrial and Commercial lands; Goal 10, Housing, dealing with residential land; Goal 11, Public Facilities, which requires provision, and planning for provision, of water, sewer, police, fire, and other public services; Goal 12, Transportation, which deals with provision of, and planning for, transportation facilities.

1. Goal 1, Citizen Involvement, Goal 2, Planning

The City's Comprehensive Plan Goal 1 element requires citizen involvement in land use actions and in long range planning, consistent with the Statewide Goal. Goal 2 requires a planning process consistent with Statute and Rule.

Findings: There are two major types of land use planning actions that occur within the City; current planning and long range planning. These types are generally classified as “quasi-judicial” and “legislative” actions. A simple explanation of each type describes quasi-judicial actions as those actions that concern a single piece of property; and, legislative as those that concern multiple pieces of property. A conditional use, variance, or rezone of a single parcel is a quasi-judicial action. A change in the comprehensive plan or zoning code that affects an entire zone, and therefore multiple parcels, is a legislative action. The proposed annexation/rezone of the Stellings property is a quasi-judicial action that must go through both the Planning Commission and the City Council; the rezone and Plan Amendment are land use decisions; the annexation is not a land use decision; therefore, the rezone is the only action appealable to LUBA.

Legislative actions, particularly changes in plan policies and zoning regulations, generally involve extra citizen involvement in the form of a Technical Advisory Committee, which helps develop the changes before they come to the Planning Commission or City Council, as well as public notice consistent with Statute. Quasi-judicial actions require simply the proper process and notice, consistent with Statute and City Code requirements. This matter has been properly noticed, including the sign on the property posted by staff in accordance with code, and will go through the planning process consisting of review and recommendation by the Planning Commission to the City Council, and review and decision by the City Council. Both hearings and the entire process, including public involvement, are regulated by the Ontario Municipal Code which is consistent with the Goals through consistency with Statute and Rule.

Interim Conclusion: This land use action is a quasi-judicial action and will be processed according to the Ontario Municipal Code, which is consistent with the policies contained in the City's Comprehensive Plan and with Statute and Rule, and is therefore consistent with Statewide Planning Goals 1 and 2. **CRITERION IS MET**

2. *Goal 9, Economic Development*

Oregon Planning Goal 9 and its Administrative Rule requires jurisdictions to provide an adequate supply of buildable lands for a variety of commercial and industrial activities. In addition, Goal 9 requires plans to be based on an analysis of the comparative advantages of a planning region. Comparative advantage is defined in terms of the relative availability of factors that affect the costs of doing business in the planning region; Goal 9 specifies many geographic, economic, and institutional factors that an analysis of comparative advantage should consider.

OAR 660-009-0025 requires plans to address the long-term supply of land (20 years), short-term supply of serviceable sites (1 years), and sites for uses with

special siting requirements.

Findings: The City of Ontario has recently hired ECONorthwest to conduct a review and update of the City's Comprehensive Plan Goal 9 Element to determine whether or not the City has an adequate supply of Industrial land as required by Oregon Law. This analysis and other required tasks have been formatted into an Urbanization Report which concludes that the City is lacking 88.80 acres of land zoned for Industrial Use. While not adopted, this Study is the latest and best information and can be relied upon to support the rezone of the portion of the Stellings Property proposed for Heavy Industrial.

Conclusion: The City has conducted the proper studies with proper methodology to determine if the City has an adequate supply of Industrial Land within its Urban Growth Boundary; the City does not, having a deficit of 88.80 acres. State Law requires an adequate supply; therefore, the proposed rezone of the Stellings property, 88.45 acres in size, meets the requirements of Goal 9. **CRITERION IS MET**

2. *Goal 10, Housing*

Goal 10 requires that the City maintain an adequate supply of land needed for residential use in its Urban Growth Area (UGA).

Findings: Findings and conclusions from preceding sections of this report are herein included by this reference.

The Urbanization Report prepared by ECONorthwest addresses Goal 10, with an ultimate finding that the City needs no additional residential land within its UGA; however, the report also notes a deficit of land needed for public use, and notes that a major portion of this land will most likely come from existing residential zoning. The City has scheduled this plan for adoption; if adopted, the City will fulfill the need for public land from existing residential land, as bound by the report and consequent policies that will be adopted into the Comprehensive Plan. As a result of this policy, there will be a deficit of residential land within the UGA.

Conclusion: The Urbanization Report does not directly support a need for additional land; however, it does support a need for a large amount of land for public facilities, and will result in a Comprehensive Plan policy that mandates satisfying that need from existing residential land, thereby, through a "back door" sort of method, there will be a deficit of residential land. The amount of land proposed for rezoning to residential is small enough that the surplus should disappear with the first few parcels taken for public use. **CRITERION IS MET**

3. *Goal 11, Public Facilities*

Goal 11 requires, among other things such as a specific Public Facilities Plan, that a City maintain an adequate supply of land needed for public uses in its Urban Growth Area, the same as for Industrial, Commercial and Residential land.

Findings: As with Goal 9 above, the studies and other work done by ECONorthwest indicate that the City has a deficit of 17.1 acres of land needed specifically for City Facilities. As the City is proposing to rezone 88.45 acres of land zoned for public facilities, this seems problematic at first glance; however, the intent of the City is to establish Urban Reserves and expand the Urban Growth Boundary, including all aforementioned classifications of land; that is the purpose of the work that ECONorthwest has done and is still engaged in. The City has scheduled adoption of the work products and expects that to be complete by July, 2007. No immediate need for 106 acres of land for public facilities is identified in the City's Public Facilities plan; therefore, the City can adjust the figures in the Urbanization Report to include that 106-acre need, and to reflect the change in the amount of industrial and residential lands.

Conclusion: The City is engaged in all the work necessary to expand the Urban Growth Boundary to ensure an adequate supply of industrial, commercial, public and residential lands. The studies completed used data gathered prior to the proposed rezone of the subject property, and show a deficit of public land and industrial land. Rezoning existing public lands to industrial will solve the deficit of industrial land, but create a bigger need for land specifically for City facilities; however, the need can be reflected in the report as it is an actual fact, and additional land for City facilities can be obtained through the expansion. No immediate need for land for City facilities is shown in the adopted Public Facilities Plan, and the adoption of the work products necessary for the expansion is scheduled; therefore, adequate time exists to obtain more land for City facilities. Changing the classification of the subject property does not violate Goal 11, and meets Goal 9 and 10 purposes. **CRITERION IS MET**

4. *Goal 12, Transportation*

Goal 12 requires planning for and provision of safe and efficient transportation facilities of all mode; air, rail, water, vehicular, pedestrian, etc. The goal is met through adoption and acknowledgement of a Transportation System Plan with appropriate Comprehensive Plan Policies and implementing zoning regulations. The TSP must address all land within the City, including the UGA.

Findings: The City adopted a TSP in February, 2005. The subject property is within the UGA and was included in the plan.

Conclusion: The proposed rezone and annexation is consistent with Goal 12 as it is included in the TSP.

B. Rezone

1. *Section 10B-20-30 REQUIRED FINDINGS, DECISION CRITERIA. In preparing findings to support a quasi-judicial zoning map amendment decision, the following findings shall be addressed except when alternatives are set forth or where a required findings clearly does not apply to the current action:*

a. *The zoning map amendment is in conformance with statewide planning goals and guidelines.*

- b. *The zoning map amendment is in conformity with the acknowledged comprehensive plan.*
- c. *The applicant has demonstrated a mistake or error in the original zone designation or the applicant has demonstrated a change in physical, social or market conditions generally affecting the area which make the proposed change appropriate.*
- d. *A public need is demonstrated for this zoning at this location and is not the granting of a special privilege for a single property or small group of properties.*
- e. *The property effected by the change is adequate in size and shape to facilitate its use and development as permitted under the new zoning classification.*
- f. *The property effected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
- g. *The proposed zoning map change will not result in adverse effects upon surrounding properties or surrounding uses from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land.*

Findings of fact:

- a & b. The City of Ontario Municipal Code Implements policies contained in the City of Ontario Comprehensive Plan, which conforms to the Statewide Planning Goals; if a proposed rezone meets all criteria and standards contained in the OMC, the request will be consistent with Comprehensive Plan Policies and therefore conform to the Statewide Planning Goals. As this is a Comprehensive Plan Amendment to change zoning classification, the amendment itself must be shown to be consistent with the plan and with the Goals. The above section of this report shows the proposed rezone to be consistent with the plan and the Goals.
- c & d. As previously stated and demonstrated in the Urbanization Report, circumstances have changed to require an expansion of the City's supply of Public Facilities and Industrial Lands. The proposed rezone meets the demonstrated need for Industrial Lands, and does not violate Goal 10; the need for more Public Lands will be satisfied in the adoption that is currently in process.
- e. The subject property is 88.45 acres in size; the majority, about 84 acres, will be rezoned to Heavy Industrial with a minimum development site requirement of 6000 square feet, and a small portion, about 4 acres, will be rezoned to residential with a minimum development size of 6000 square feet.

- f. The property is bounded on the north by Malheur Drive, split by the Yturri Beltline, and has frontage on NW 4th Avenue. Sewer, water, electrical and gas are all either on the boundaries or within no more than ¼ mile. City fire and police services will be available upon annexation.
- g. Uses allowed by the new Industrial zone will be governed by the Zone itself, which includes performance standards prohibiting excessive impacts from dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land. Uses allowed by the new residential zone are basically identical to the uses of the nearest City Zone, which is the same as the proposed zone, and of the adjacent UGA residential zone.

Conclusion: The proposed rezone is consistent with all applicable criteria and standards.

B. Annexation:

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

Findings:

1. The applicant is exempt for fees, but has provided the proper application with signatures; there are no "electors" residing on the subject property.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is necessary to annex the property and justification has been presented in this report to demonstrate that the proposal is consistent

with all applicable Comprehensive Plan Policies and the Goals.

4. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable industrial and residential land.

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

STAFF RECOMMENDATION:

Staff recommends the Council approve this matter by adoption of Ordinance #2596-2007.

PROPOSED MOTIONS:

1. Approval of Request:

I move that the City Council approve the request for annexation and rezone as set forth in Land Use Action #2006-02-02AZCPAMD, based on the information, findings of fact and conclusions in as set forth above, subject to the conditions of approval set forth below.

2. Adoption:

I move that the City Council adopt **ORDINANCE #2596-2007; AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN MAP AND PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3**, on first reading by Title only.

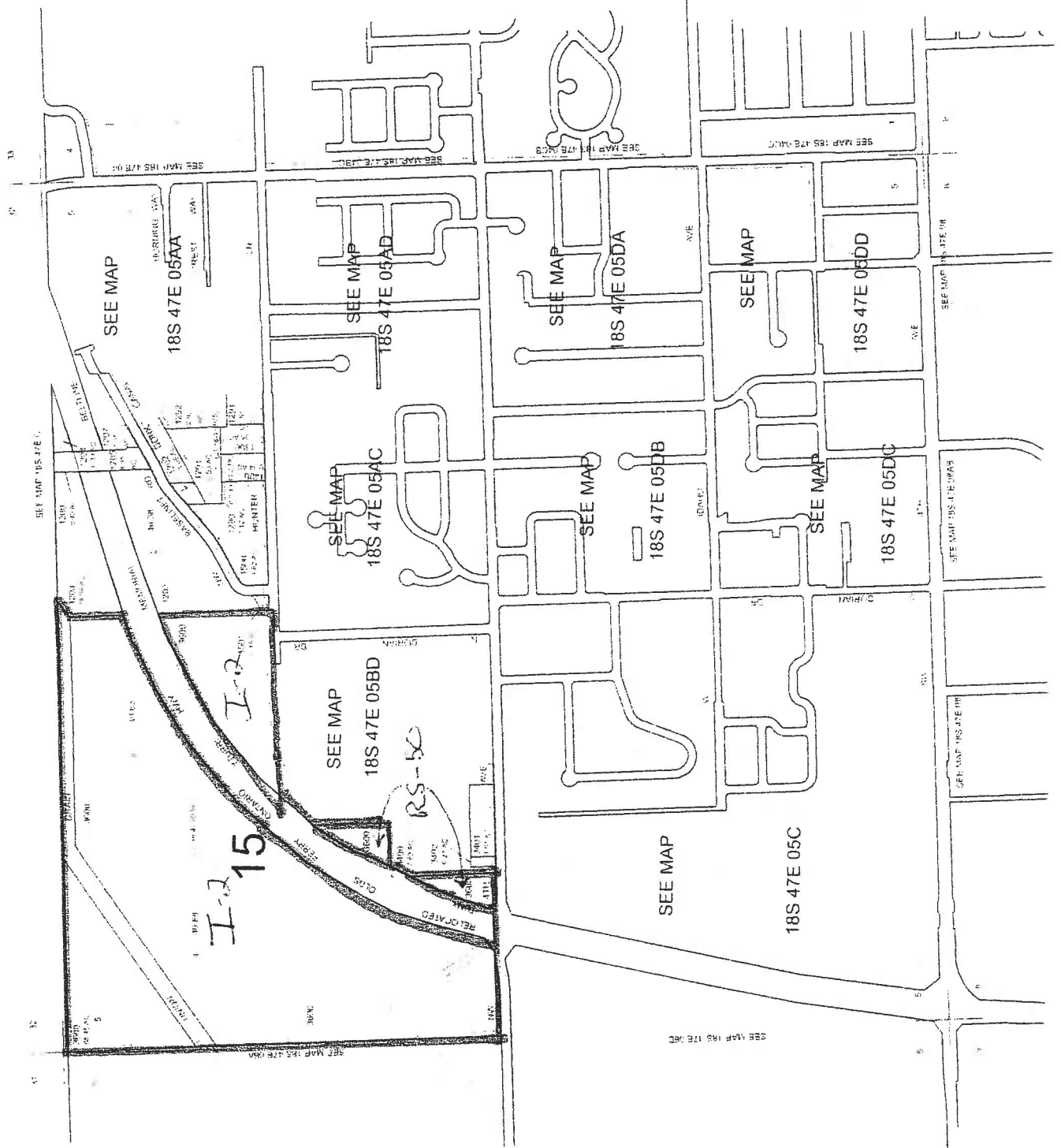
CONDITIONS OF APPROVAL:

1. The approval of the annexation and rezone granted herein is valid for a period of one year from the date the decision of the Council is final; that final decision date shall be the date of expiration of the 21-day period for appeal to LUBA as required by Oregon Revised Statute and as noted in the Notice of Decision for this request.

SECTION 05 T.18S. R.47E W.M.
MALHEUR COUNTY



*THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSES ONLY





CONSENT TO ANNEXATION

KNOWN ALL MEN BY THESE PRESENT that we, the undersigned, being owners, contract purchasers, mortgagees, or security holders upon a portion of land described below and which is proposed to be annexed to the City of Ontario, do hereby give our irrevocable consent that such land be annexed to the City of Ontario, and that our consent may be filed with the City Council of Ontario Oregon and that no election shall be held in said territory or notices posted therein. This consent is given pursuant to ORS SECTION 222.170.

LEGAL DESCRIPTION:

Malheur County Assessor's Map 18S4705; Tax lot 3600 in it's entirety; and including the Oregon Department of Transportation's Yturri Beltline right-of-way from a line intersecting the north line of the subject property to a line intersecting the southern boundary of the subject property; and, the right-of-way of NW 4th Avenue from the City Limits on the east, to a line intersecting NW 4th Avenue and the Western boundary of the subject property.

(MAP ATTACHED)

SIGNATURES:

[Signature] *[Signature]*

Date: 3-30-07

The above signatures on the original consents were filed in the office of the City Recorder in accordance with State Statute. The above parties are all the property owners within the territory to be annexed.

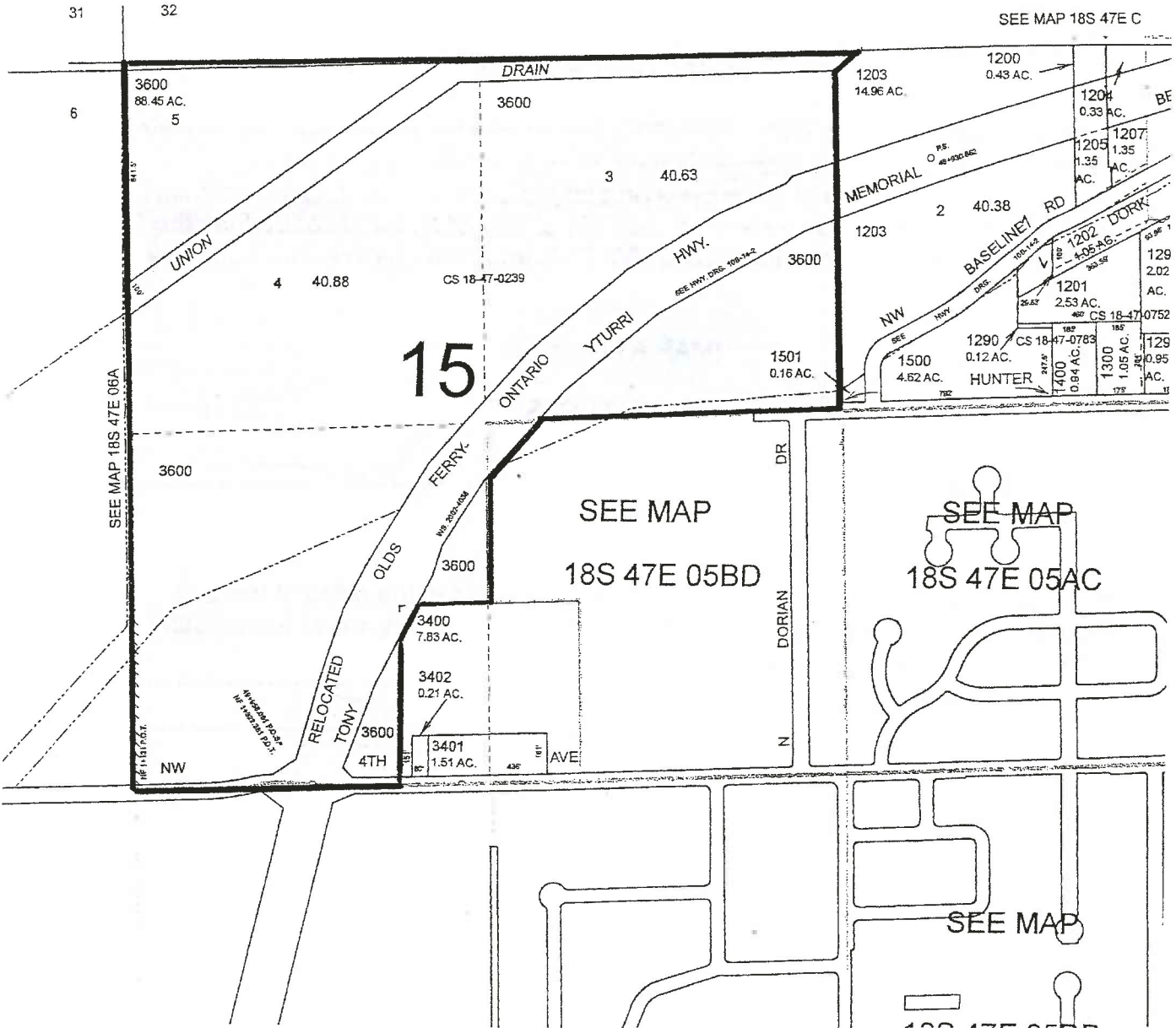
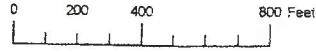
[Signature]
City Recorder



CITY OF ONTARIO
STELLINGS PROPERTY ANNEXATION
TAX LOT 3600

SECTION 05 T.18S. R.47E. W.M.
MALHEUR COUNTY
1" = 400'

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



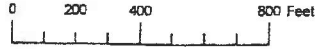
CITY OF ONTARIO
STELLINGS PROPERTY ANNEXATION
DESCRIPTION

Land in Twp. 18S., R. 47 E., W.M., Malheur County Oregon as follows:

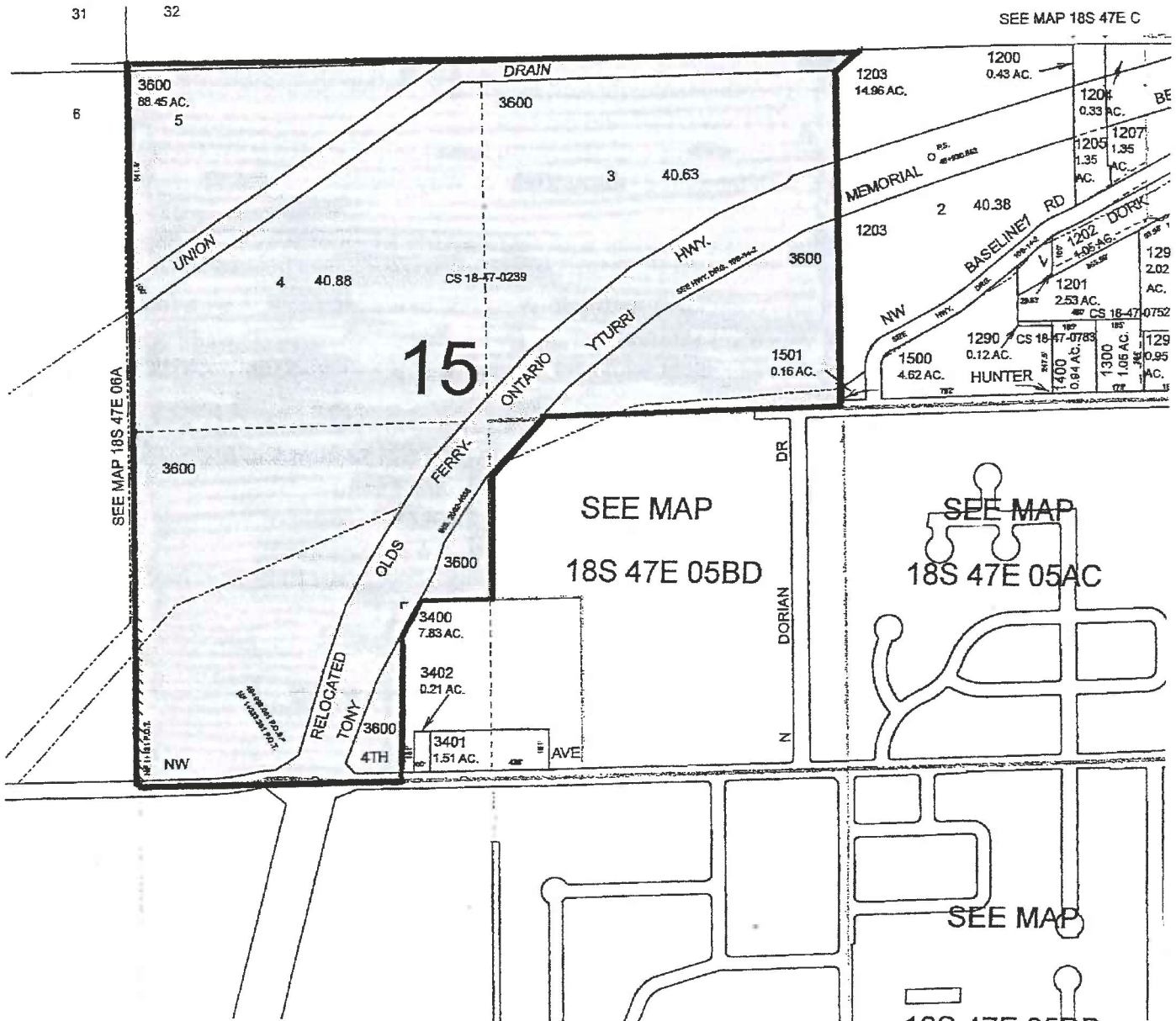
Section 5: Beginning at the SE corner of the NE1/4NW1/4 of said Section 5;
thence Westerly coincident with the South line of said NE1/4NW1/4 to it's
intersection with the East Right of Way line of the Tony Yturri Memorial Beltline as
described in Instrument No. 2002-4038;
thence Southwesterly coincident with said Easterly Right of Way to it's intersection
with the East line of the SW1/4NW1/4 of said Section 5;
thence Southerly coincident with said East line to the NE corner of the
E1/2SE1/4SW1/4NW1/4 of said Section 5;
thence Westerly coincident with the North line of said E1/2SE1/4SW1/4NW1/4 to it's
intersection with the said Easterly Right of Way line of the Tony Yturri Memorial
Beltline;
thence Southwesterly coincident with said Easterly Right of Way to it's intersection
with the West line of said E1/2SE1/4SW1/4NW1/4;
thence Southerly coincident with said West line to it's intersection with the South line
of the SW1/4NW1/4 said Section 5;
thence Westerly coincident with said South line to it's intersection with the West line
of said Section 5;
thence Northerly coincident with said West line to the NW corner of said Section 5;
thence Easterly coincident with the North line of said Section 5 to it's intersection
with the Easterly Right of Way line of the Union Drain;
thence Southwesterly coincident with said Union Drain Right of Way to it's
intersection with the East line of said NE1/4NW1/4 Section 5;
thence Southerly coincident with said East line to the POINT OF BEGINNING.

CITY OF ONTARIO
 STELLINGS PROPERTY ANNEXATION
 TAX LOT 3600

THIS MAP WAS PREPARED FOR
 ASSESSMENT PURPOSE ONLY



SECTION 05 T.18S. R.47E. W.M
 MALHEUR COUNTY
 1" = 400'



CITY OF ONTARIO
STELLINGS PROPERTY ANNEXATION
DESCRIPTION

Land in Twp. 18S., R. 47 E., W.M., Malheur County Oregon as follows:

Section 5: Beginning at the SE corner of the NE1/4NW1/4 of said Section 5;
thence Westerly coincident with the South line of said NE1/4NW1/4 to it's
intersection with the East Right of Way line of the Tony Yturri Memorial Beltline as
described in Instrument No. 2002-4038;
thence Southwesterly coincident with said Easterly Right of Way to it's intersection
with the East line of the SW1/4NW1/4 of said Section 5;
thence Southerly coincident with said East line to the NE corner of the
E1/2SE1/4SW1/4NW1/4 of said Section 5;
thence Westerly coincident with the North line of said E1/2SE1/4SW1/4NW1/4 to it's
intersection with the said Easterly Right of Way line of the Tony Yturri Memorial
Beltline;
thence Southwesterly coincident with said Easterly Right of Way to it's intersection
with the West line of said E1/2SE1/4SW1/4NW1/4;
thence Southerly coincident with said West line to it's intersection with the South line
of the SW1/4NW1/4 said Section 5;
thence Westerly coincident with said South line to it's intersection with the West line
of said Section 5;
thence Northerly coincident with said West line to the NW corner of said Section 5;
thence Easterly coincident with the North line of said Section 5 to it's intersection
with the Easterly Right of Way line of the Union Drain;
thence Southwesterly coincident with said Union Drain Right of Way to it's
intersection with the East line of said NE1/4NW1/4 Section 5;
thence Southerly coincident with said East line to the POINT OF BEGINNING.

ORDINANCE NO. 2596-2007

ORDINANCE #2596-2007; AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN MAP AND PROCLAIMING THE ANNEXATION OF CERTAIN TERRITORY TO THE CITY OF ONTARIO; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3,

- WHEREAS, The City of Ontario has filed a written request for annexation and rezoning of the subject property in the proper manner, including a consent form signed by 100% of the owners of land within the affected territory to be annexed; and
- WHEREAS, All of the owners of land in that territory have consented in writing to the annexation of their land in the territory and have filed a statement of their consent with the legislative body of the City; and
- WHEREAS, The City Charter does not expressly require the City to submit a proposal of annexation of territory to the electors of the City; and
- WHEREAS, The City desires to withdraw the land to be annexed from the ONTARIO RURAL FIRE PROTECTION DISTRICT 7-302 and the ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3 pursuant to ORS 222.120(5) and has received no comment from the Districts in response to notice of the pending action; and
- WHEREAS, The annexation and rezoning of the subject property requires an amendment to the Comprehensive Plan Map to change the classification of the subject property from Public to Industrial and Residential as set forth and shown Exhibit "A" attached hereto; and
- WHEREAS, The proposal has been found consistent with all applicable Statewide Planning Goals, Comprehensive Plan Policies, Code requirements, Statute and Administrative Rule as set forth in Exhibit "A" attached hereto;

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Comprehensive Plan Amendment. The City of Ontario Comprehensive Plan Map is hereby amended to change the classification of the subject property from Public to Industrial and Residential as set forth in Exhibit "A" attached hereto.
2. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property mapped and legally described in the attached Exhibits "B" and "C" respectively.
3. Withdrawing above described area from Ontario Rural Fire Protection District 7-302. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the

Ontario Rural fire Protection District No. 7-302 on the effective date of this annexation pursuant to ORS 222.120(5).

4. Withdrawing above described area from the Ontario Rural Road Assessment District No. 3. The Common Council of the City of Ontario deems it in the best interest of the public of the City of Ontario and hereby declares that the real property described hereinabove is withdrawn from the Ontario Rural Road Assessment District No. 3 on the effective date of this annexation pursuant to ORS Sections 222.120(5) and 222.510.
5. Rezone. The above described area is rezoned from Urban Growth Area Heavy Industrial (UGA I-2) and Urban Growth Area Residential (UGA-R) to City Heavy Industrial (I-2) and City Single-Family Residential (RS-50) as set forth in Exhibit A attached hereto.
6. Record. The City Planner shall submit to the Oregon Secretary of State (1) a copy of this Ordinance, (2) a copy of the statement of consent of the landowner in the territory annexed; and (3) Shall send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City within 10 days of the effective date of annexation to the Malheur County Assessor, Malheur County Clerk and the State Department of Revenue.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2007 by the following vote:

AYES:

NAYS:

ABSENT:

APPROVED by the Mayor this ____ day of _____, 2007.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, City Recorder



INSTRUMENT NO. 2007 -3543
Page 31 of 32 Pages

EXHIBIT E
City of Ontario
Department of Public Works
Planning and Zoning Administrator
444 SW 4th Street
Ontario, OR 97914
Voice (541)881-3222
Fax (541)881-3251
grant.young@ontariooregon.org

MEMORANDUM

TO: City Manager/Development Services Director/City Recorder/City Council

FROM: Grant Young, Planning & Zoning Administrator

DATE: May 6, 2007

RE: Stellings Property Annexation/Rezone/Plan Amendment

At the Thursday, May 3, 2007, work session the Council directed Staff to prepare material for the Staff report that enabled declaration of an emergency in this matter such that the adopting ordinance becomes effective immediately upon passage. A change in the proposed motions is needed; the new motions are provided herein.

PROPOSED MOTIONS:

1. Substitution:

I move that the City Council accept this Staff memo as Exhibit "E" to the Staff Report submitted for the May 3, 2007, worksession; and, delete the proposed motions in that Staff Report and replace those with the motions contained herein.

2. Approval of Request:

I move that the City Council approve the request for annexation, rezone and Comprehensive Plan Amendment as set forth in Land Use Action #2006-02-02AZCPAMD, based on the information, findings of fact and conclusions in as set forth above, subject to the conditions of approval set forth below.

3. Declaration of Emergency:

I move that the City Council declare that an emergency exists in the adoption of Ordinance #2596-2007 due to need to increase the attractiveness of the subject property to a potential developer; this being in the best interests of and therefore necessary for the health, safety and welfare of the Citizens of the City of Ontario.

4. Adoption; Emergency First Reading:

I move that the City Council adopt **ORDINANCE #2596-2007; AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN MAP; REZONING CERTAIN PROPERTY FROM UGA-PF TO CITY I-2 AND RS-50; PROCLAIMING THE ANNEXATION OF SAID TERRITORY TO THE CITY OF ONTARIO; WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND, WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3**, on emergency first reading by title only.

5. Adoption; Emergency Second and Final Reading:

I move that the City Council adopt **ORDINANCE #2596-2007; AN ORDINANCE AMENDING THE CITY OF ONTARIO COMPREHENSIVE PLAN MAP; REZONING CERTAIN PROPERTY FROM UGA-PF TO CITY I-2 AND RS-50; PROCLAIMING THE ANNEXATION OF SAID TERRITORY TO THE CITY OF ONTARIO; WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL FIRE PROTECTION DISTRICT; AND, WITHDRAWING SAID TERRITORY FROM THE ONTARIO RURAL ROAD ASSESSMENT DISTRICT NO. 3**, on emergency second and final reading by title only.