



# 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

## AMENDED NOTICE OF ADOPTED AMENDMENT

August 29, 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 003-07



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: September 10, 2007**

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

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

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

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

<paa> ya/

NR OF

# 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

DATE STAMP

**DEPT OF**

**AUG 22 2007**

**LAND CONSERVATION AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: City of Ontario Local file number: 2007-04-09AZ

Date of Adoption: 7-16-07 Date Mailed: 8/18/2007

Date original Notice of Proposed Amendment was mailed to DLCD: 4/25/2007

- |  |   |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment           |
| <input type="checkbox"/> Land Use Regulation Amendment     | <input checked="" type="checkbox"/> Zoning Map Amendment            |
| <input type="checkbox"/> New Land Use Regulation           | <input checked="" type="checkbox"/> Other: <b>Annexation/Rezone</b> |

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

**Annexation of 8,067 square feet of Urban Growth Area residential land into the City of Ontario with appropriate rezone to city residential; density consistent with adjacent city residential zones.**

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".

Plan Map Changed from: NA to: NA

Zone Map Changed from: UGA - Residential to: City RD-40

Location: 18S47E05AC, #8800 Acres Involved: .19

Specify Density: Previous: UGA-5 acres New: minimum sq ft 4,000

Applicable Statewide Planning Goals: NA

Was an Exception Adopted?  YES  NO

DLCD File No.: 003-07(16064)



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:

**DOR; DLCD; ODOT; Malheur County; All local Special Districts.**

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

Address: **444 SW 4th St** City: **Ontario**

Zip Code + 4: **97914** Email Address: *grant.young@ontariooregon.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 **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

After recording, return to:  
City Recorder  
City of Ontario  
444 SW 4th Street  
Ontario OR 97914

INSTRUMENT NO. 2007 *5517*  
Page *1* of *2* Pages

**FILED**

*11:06 a.m.*

JUL 20 2007

DEBORAH R. DE LONG County Clerk  
By *Sherril Childs* Deputy

ORDINANCE NO. 2601-2007

AN ORDINANCE 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 there has been submitted to the City of Ontario a written request for annexation to the City 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 assent from the Districts to do so;

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

1. Annexation Area. The following contiguous territory be and the same is hereby annexed: The property mapped and legally described in the attached Exhibits "A" and "B" respectively.
2. 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).
3. 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.



4. 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 16 day of July, 2007 by the following vote:

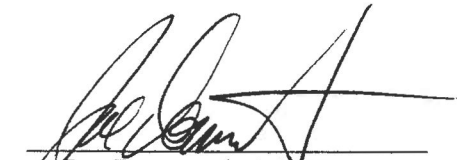
AYES: Gaskill, Allen, Cummings, Dominick, Mills, Tuttle

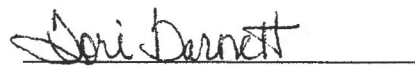
NAYS: None

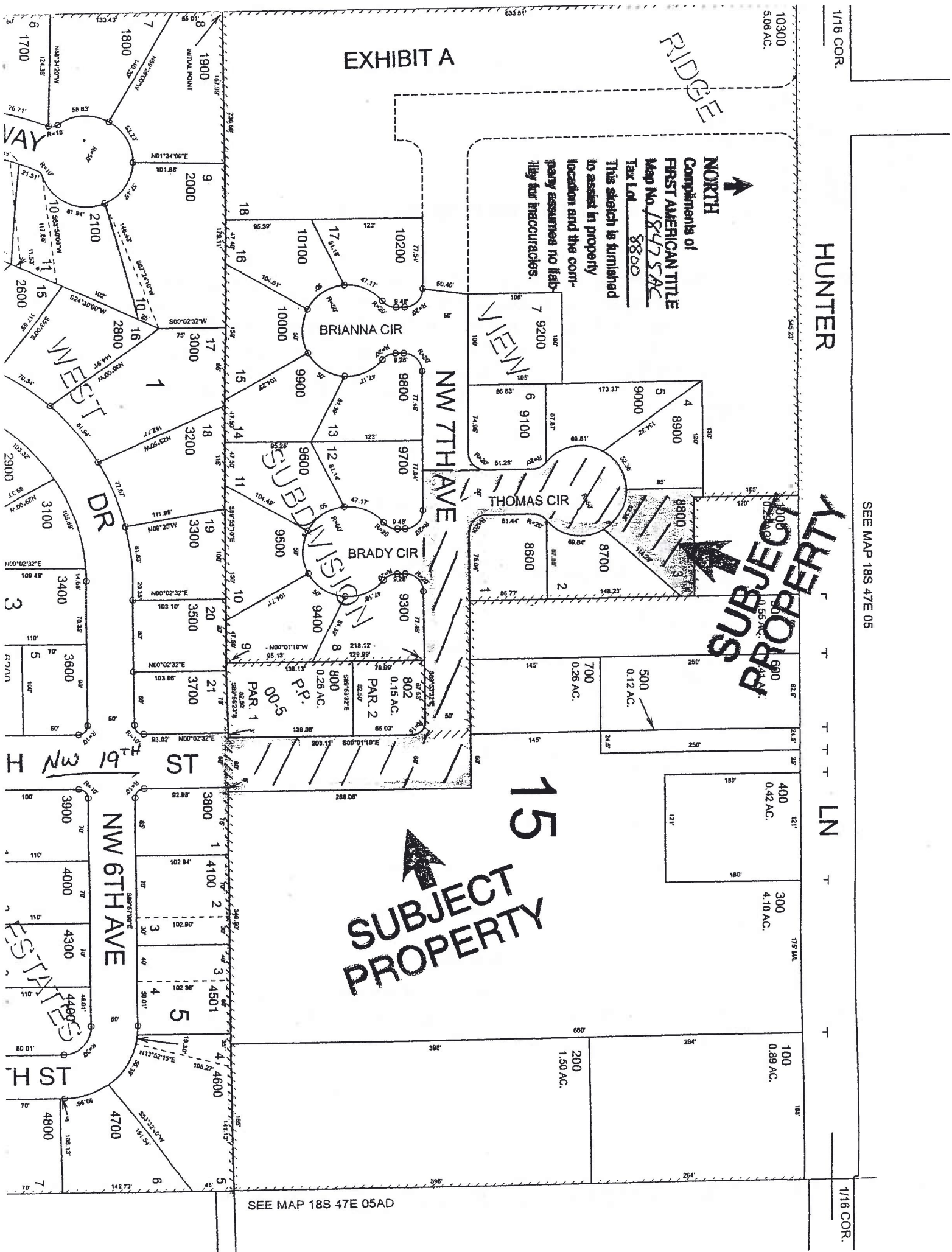
ABSENT: Mosier

APPROVED by the Mayor this 16 day of July, 2007.

ATTEST:

  
\_\_\_\_\_  
Joe Dominick, Mayor

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



SEE MAP 18S 47E 05AD

HUNTER LN

LN

1/16 COR.

SEE MAP 18S 47E 05

NORTH  
 Compliments of  
 FIRST AMERICAN TITLE  
 Map No 1847 SAC  
 Tax Lot 8800  
 This sketch is furnished  
 to assist in property  
 location and the com-  
 pany assumes no liab-  
 ility for inaccuracies.

**SUBJECT  
 PROPERTY**

**SUBJECT  
 PROPERTY**

15

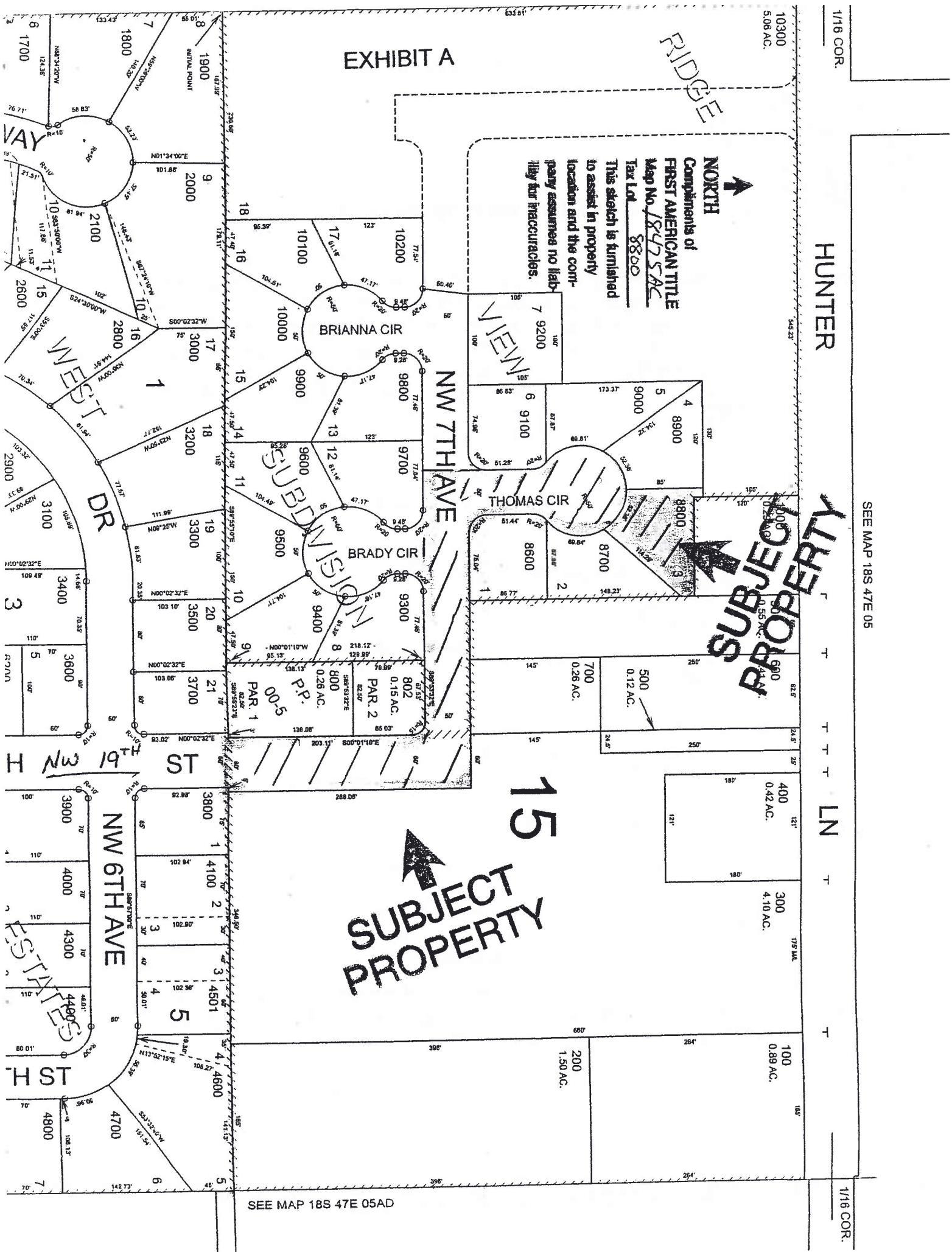




EXHIBIT B



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.

(Provide Legal Description)

1927 Thomas Circle  
TAX lot # 8800  
TAX Map No. 184.75 AC  
Zone Res  
Lot Size 8067 SF

X Devin Williams

Date: 2-27-07

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.

April Barnett  
City Recorder



Dennis Mills

EXHIBIT C

8800

Land in **RIDGE VIEW SUBDIVISION I, City of Ontario, Malheur County, Oregon**, according to the Official Plat thereof, as follows:  
**Lots 3.**

ALSO ALL OF THOMAS CIRCLE RIGHT OF WAY; NW 7<sup>TH</sup> AVE RIGHT OF WAY.  
AND NW 19<sup>TH</sup> ST. RIGHT OF WAY AS SHOWN ON THE ATTACHED MAP.

MAP 1847 SAC - TAX LOT 8800 AND STREET RIGHTS OF WAY



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

In the matter of Land Use Action #2007-04-09AZ, a                    )  
Request for annexation and rezone as filed by Dennis Mills    )

**FINAL ORDER  
And Findings of Fact**

**ORDER** in the **APPROVAL** of Land Use Action **2007-04-09AZ**, filed by Dennis Mills for the annexation, and rezone of .185 Acres of Land designated as Assessor's Map #18S4705AC; Tax Lot #8800, City of Ontario, Oregon, located at 1927 Thomas Circle; said application filed as provided for in the Ontario Municipal Code.

**WHEREAS:**

This matter came before the Ontario City Council as an application for annexation and rezone of property in accordance with the City of Ontario Municipal Code. The application sought approval for the annexation and rezone of a parcel of land contiguous to the City Limits of the City of Ontario.

Hearings were held before the City Council on June 18, 2007, and on July 16, 2007 as matters duly set upon the agendas of its regular meetings after giving public notice to affected property owners, agencies, the local newspaper and electronic media, and otherwise as set forth in Sections 10B-03 and 10B-45.

At the initial public hearing on said application evidence and testimony was presented by the Planning and Zoning Administrator in the form of a staff report and exhibits. The hearing was conducted according to the rules of procedure and conduct of hearings on annexations, and on land use matters, as set forth in the Ontario Municipal Code. The City Council did receive oral testimony at the hearing concerning this application.

At the conclusion of the initial 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 #2007-04-09AZ 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 July 16, 2007, public hearing the City Council, after giving public notice as required for a public meeting, did adopt Ordinance #2601-2007 on the second and final reading as a part of the Consent Agenda.

**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 adopts the oral and written submittals of testimony of the June 18, 2007, hearing 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 request for annexation and rezone.
3. The City Council finds that the applicant has met the burden of proof to support approval of the proposed application.

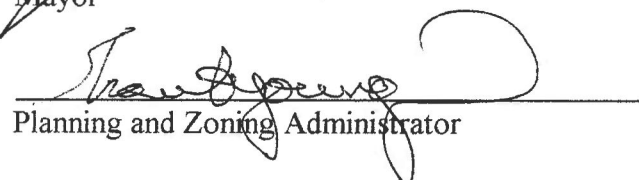
**NOW THEREFORE LET IT HEREBY BE ORDERED** that application #2007-04-09AZ, for the annexation, and rezone of property designated as Assessor's Map #18S4705AC; Tax Lot #8800, City of Ontario, Oregon, filed by Dennis Mills be **APPROVED**.

Based upon the above, the City of Ontario City Council has concluded that Application #2007-04-09AZ, meets the standards set forth in the applicable sections of the Ontario City Code and therefore complies with the purposes of the Code.

This order in **APPROVAL** of Application #2007-04-09AZ reviewed and approved by the City Council on this 16<sup>th</sup> day of July, 2007.

**FOR THE CITY OF ONTARIO:**

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Planning and Zoning Administrator



**ONTARIO CITY COUNCIL – REPORT AND DECISION**

Monday, July 16, 2007

**EXHIBIT 1**

TO: Mayor and City Council

FROM: Ed Aronson, Planning Technician

THROUGH: Scott Trainor, City Manager

**SUBJECT: ORDINANCE #2601-2007 - ACTION 2007-04-09AZ:** A request for **Annexation and Rezone** of a parcel of land located at 1927 Thomas Circle in the Ridgeview subdivision. If approved, this action will result in the Annexation of .185 acres of land into the City of Ontario; and, the rezoning of the subject property from Urban Growth Area Residential (UGA-R) to the City Residential (RD-40) Zone. The applicant and property owner is Dennis Mills, **First Reading**

DATE: July 9, 2007

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**SUMMARY:**

Attached are the following documents:

- 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 # 2601-2007

The applicant owns a lot in the Ridgeview subdivision, known as 18S4705AC, tax lot #8800 and is placing a manufactured home on the lot. The applicant wishes to connect to city water and sewer. In order to connect to City water and sewer, annexation into the City is necessary. This application, if approved, will result in the annexation of 8,067 square feet (.185 acres) of land into the City and a rezone of the property from Urban Growth Area Residential (UGA R) to City Residential (RD-40).

**PREVIOUS COUNCIL ACTION:**

None The Planning Commission heard this matter at their regular meeting June 11, 2007, and now forward a recommendation for approval to the Council.

**BACKGROUND:**

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.

The proposed development must comply with applicable provisions of the OCC (City of Ontario).

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**A. 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 affected 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 affected by the proposed change of zone is properly related to streets and public facilities and with services adequate to meet the demands of the uses allowed in the new zone.*
  - 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:**

- a. 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.
- b. The subject property is currently zoned UGA-R and the request is to rezone to the companion City Residential Zone that is the same zone as adjacent and nearby property. The requested zone allows basically the same use as the UGA zone, and is reflected in the Comprehensive Plan. No Comprehensive Plan amendment is necessary for this rezone; therefore, the proposal is consistent with, and conforms to, the Comprehensive Plan.



- c. The applicant has requested annexation into the City of Ontario concurrent with the request for rezone; a City Zone must be applied to the property once within City Limits. The existing zone is not a mistake, and there is no need to demonstrate a change in conditions in the surrounding area; the change in zone is necessary and appropriate.
- d. This request is legally necessary due to the annexation of the property; granting of this request is not a special privilege and no public need has to be demonstrated.
- e. The subject property is adequate in size and shape for the proposed use to be rezoned from UGA Residential to City Residential.
- f. The property owner proposes placing a manufactured home, and has presented a plot plan showing adequate room for structures, parking, landscaping, etc. City Water and Sewer are available near the boundary of the property. City fire and police services will be available upon annexation.
- g. Uses allowed by the current zone are basically identical to the proposed zone. No significant difference in allowed uses will occur as a result of the rezone.

**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 has paid the fees and provided the proper application with signatures.
2. The property is annexable because it lies inside the Urban Growth Boundary and is contiguous with current city limits.
3. The property is currently zoned for residential use in the Urban Growth Area; the requested zone, City Residential (RD-40), is consistent with contiguous property.
4. Findings from preceding sections of this report are herein included by this reference. A change to the comprehensive plan map or text is not necessary to annex the property; however, the annexation of the property must be consistent with all applicable Comprehensive Plan Policies.
5. Annexation would benefit the city by increasing tax revenue, and, by providing more potentially developable residential land.

**Conclusion:** All criteria and standards applicable to a request for annexation have been met.

**RECOMMENDATION:**

Staff recommends the Council approve the requested annexation and rezone.

**PROPOSED MOTION:**

1. Approval of Request:  
I move that the City Council approve the request for annexation and rezone as set forth in Land Use Action #2007-04-09AZ, based on the information, findings of fact and conclusions in Sections I through IV above, subject to the conditions of approval set forth in Section VI below.
2. Adoption:  
I move that the City Council adopt **ORDINANCE #2601-2007; AN ORDINANCE 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:

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.