

**MALHEUR COUNTY COURT MINUTES
SPECIAL MEETING
JOINT PUBLIC HEARING WITH THE CITY OF ONTARIO**

November 5, 2020

The Malheur County Court held a Special Meeting with the City of Ontario Council. The meeting was held electronically with the County Court members present at the Courthouse in Vale and the Ontario City Council members present at Ontario City Hall. Present from Malheur County were Judge Dan Joyce and Commissioner Don Hodge; and staff member Planner Eric Evans. Present from the City of Ontario were: Mayor Riley Hill, and City Councilors: Michael Braden, Norm Crume, Freddy Rodriguez, Marty Justus, and Ken Hart. The meeting was opened at 6:00 p.m. The purpose of the Special Meeting was to hold a joint public hearing to amend the Ontario Urban Growth Area/Boundary (UGA/UGB) and zone change from Ontario O-RS/UGA to Ontario O-I1/UGA to include a portion of property commonly identified as Map 18S47E05AA TL 301. Notice of the hearing was published in the Argus Observer, posted on the County website and emailed to the Argus Observer, Malheur Enterprise, and those persons who have requested notice. The meeting was audio recorded. The agenda is recorded as instrument # 2020-4990

Minutes of the joint public hearing were provided by the City of Ontario.

JOINT PUBLIC HEARING WITH CITY OF ONTARIO

City of Ontario Ordinance #2780-2020: Amending the City of Ontario Comprehensive Plan and Zoning Maps by Changing the Zoning Designation of a Portion of Property Commonly Identified as Map18S47EO5AA, Tax Lot 301 (Curtis) from Ontario Residential/UGA(O-RS/UGA) to Ontario Light Industrial/UGA(OLI/UGA), Planning Action 2020-08-32AZ, on First Reading by Title Only and Declaring an Emergency

and

Malheur County Ordinance #226: Amending the Malheur County Comprehensive Plan and Zoning Maps by Changing the Zoning Designation of a Portion of Property Commonly Identified as Map 18S47E05AA, Tax Lot 301 from Ontario Residential/UGA (O-RS/UGA) to Ontario Light Industrial / UGA (O-I1/UGA); and Declaring an Emergency.

It being the date advertised for public hearing on the above stated matter, the Hearing was declared open. There were no objections to the county's or city's jurisdiction to hear the action, no abstentions, ex-parte contact, or any declaration of a conflict of interest.

Eric Evans, Malheur County Planning Director, presented.

A zone change was proposed for the property as shown on the map attached as Exhibit A-1 of the application. The overall affect was to adjust the property in a way which reflected the current use,

and to bring the property into the Ontario URA/UGB and ultimately annex the property into the City of Ontario in order to alleviate a public health risk created by a failing onsite wastewater treatment system on the property. The owners of the property intend to connect to Ontario's water and sewerage system.

Use/Surrounding Uses. The subject property (Tax lot 301) was 42,456 square feet and would be adjusted to 14,908 square feet, since approximately 1966 it had been used for a single-family residential dwelling. Tax lot 300 was currently zoned Ontario Light Industrial/UGA. Tax lot 301 was zoned Ontario Residential/UGA. Both parcels (tax lots 300 and 301) were surrounded by Light Industrial to the north and Residential to the south and were committed to these uses.

Analysis for Compliance with State and Local Regulations. A portion of the property would be rezoned from Ontario Urban Growth Area Residential (O-RS/UGA) to Ontario Urban Growth Area Light Industrial (O-I1/UGA). It was further anticipated that the property would be annexed into the Ontario City limits. In addition to the requirements under Oregon's statewide goals and administrative rules, Malheur County and the City of Ontario had criteria in their zoning ordinances that must be met in order for the proposal to be approved. County and city provisions were addressed in Section III. Because the plan amendment and zone change affected land within the county's jurisdiction and the City of Ontario, both the county and city governing bodies must approve the zone change and amendment to the UGA. This request was being processed subject to the procedures for a quasi-judicial land use hearing contained in Chapter 11 of the Malheur County Code, and the Urban Growth Area Joint Management Agreement between the City of Ontario and Malheur County.

Applicable City and County Criteria and Standards:

1. The applicable criteria can be found in Ontario Planning and Zoning Development Standards IOB-20-30: REQUIRED FINDINGS, DECISION CRITERIA:

a. The Zoning Map amendment is in conformance with Statewide planning goals and guidelines.

Proposed Finding: Statewide land use goals and implementing OARs (Oregon Administration Rules) applicable to this request are addressed in Section IV.

b. The Zoning Map amendment is in conformity with the acknowledged Comprehensive Plan.

Proposed Finding. The Malheur County Comprehensive Plan states, "The county will work with the cities of Ontario, Nyssa, and Vale in establishing and amending urban growth boundaries and joint management agreements." Malheur County and the City of Ontario have an ongoing relationship in order to jointly manage lands in the UGB, pursuant to the Ontario Joint Management Plan. Both Malheur County and the City of Ontario agree that the rezone and simultaneous property line

adjustment in order to realign the UGA will correct a mistake in the original lot configurations.

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 effecting the area which make the proposed change appropriate.

Proposed Finding: Both Malheur County and the City of Ontario agree that Tax lot 301 has a portion which is irrevocably committed to a commercial or industrial use (the other use is residential). Rezoning said portion along with a property line adjustment will align the properties to their current uses.

d. A public need is demonstrated for this zoning at this location and is not the granting of special privilege for a single property or small group of properties.

Proposed Finding: The residence on the subject property has a failed onsite wastewater treatment system which in itself has a negative effect on the groundwater of the area. By annexing it into the City of Ontario, urban level facilities will be provided having a net positive affect on the groundwater in the area and alleviate a public health threat.

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.

Proposed Finding: The Property is currently 42,456 square feet and has 165 feet of street frontage. The City of Ontario has established a minimum lot size of 5,000 square feet and each lot must have 50 feet of street frontage. The Property is more than adequate in size and shape to facilitate its use and development.

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.

Proposed Finding: The Property is located adjacent to N Verde Drive. There is both water and sewer.

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.

Proposed Finding: This proposal will have no impact on any of the surrounding uses with respect to dust, noise, vibration, odor, heat, glare, lighting, or discharges into the air, water or land. The Property is already developed as a single-family dwelling and will continue to be zoned residential. This criterion is not applicable.

2. The applicable criteria can be found in Malheur County Code 6-10-7: COMPLIANCE WITH COMPREHENSIVE PLAN:

In considering an amendment to the text or the zoning maps, the Planning Commission and County Court shall determine the following:

A. That the proposed change is consistent with the Comprehensive Plan.

Proposed Finding. The Malheur County Comprehensive Plan states, "The county will work with the cities of Ontario, Nyssa, and Vale in establishing and amending urban growth boundaries and joint management agreements." Malheur County and the City of Ontario have an ongoing relationship in order to jointly manage lands in the UGB, pursuant to the Ontario Joint Management Plan. Both Malheur County and the City of Ontario agree that the rezone and simultaneous property line adjustment in order to realign the UGA will correct a mistake in the original lot configurations.

B. That the level of development in other locations has reached the point whereby additional land is needed for the proposed use(s), and that the area of the proposed change can best meet with needs.

Proposed Finding: Both tax lots 301 and 300 are part of the UGB. The realignment of the zoning designations and subsequently the property lines, will allow for tax lot 301 to be cleanly annexed into the City, thereby eliminating a split zoned parcel.

C. That adequate rural services are available and will not be overburdened.

Proposed Finding: The resulting property (tax lot 301) will remain Ontario O-RS/UGB and then be annexed into the City of Ontario. Thereafter, the Property will connect to City water and sewer services. Urban services will be provided and will not be overburdened. Public facilities are stubbed to and extend beyond the Property. This criterion is not directly applicable, as the proposal is to provide urban services to the site.

D. That amendments to the text or zoning map which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
2. Amending the transportation system plan to ensure that existing, improved or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the transportation planning rule; or
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

A text or zoning map amendment significantly affects a transportation facility if it:

1. Changes the functional classification of an existing or planned transportation facility;
2. Changes standards implementing a functional classification system;
3. Allows types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility; or
4. Would reduce the level of service of the facility below the minimum acceptable level identified in the transportation system plan. (Ord. 125, 6-20-2000)

Proposed Finding: The Property is currently 42,456 square feet and has 165 feet of street frontage. It currently has a home which was constructed in 1966. No new development is proposed with this amendment. This proposal will not impact transportation facilities.

Applicable Statewide Planning Goals and Oregon Administrative Rules.

A. Goal 1 - Citizen Involvement:

Proposed Finding: This Goal is met through the required quasi-judicial process including public notice and public hearings. The process provides the opportunity for citizens to be involved by allowing them to comment and present testimony or evidence on the proposed amendment.

B. Goal 2 - Land Use Planning:

Proposed Finding: Both properties are already in the Ontario UGB, and have previously been through an exception process. This Goal is not applicable.

C. Goal 3 - Agricultural Lands:

Proposed Finding: Both properties are already in the Ontario UGB, and have previously been through an exception process. This Goal is not applicable.

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

Proposed Finding: No identified natural resources have been identified on the subject property.

E. Goal 6 - Air, Land and Water Quality:

Proposed Finding: No negative impacts to air, land, water or other resources have been identified through this process. The residence on the subject property has a failed onsite wastewater treatment system which in itself has a negative effect on the groundwater of the area. By annexing it into the City of Ontario, urban level facilities will be provided having a net positive affect on the groundwater in the area.

F. Goal 7 - Areas Subject to Natural Hazards:

Proposed Finding: No known natural hazards have been identified on the Property. The subject property is outside the 100- and 500-year floodplains.

G. Goal 8 - Recreation:

Proposed Finding. No current recreational lands or properties are being affected by this UGB expansion.

H. Goal 9 - Economic Development.

Proposed Finding. Goal 9 requires cities to provide an estimate of the approximate number, acreage and site characteristics needed to accommodate industrial and other employment uses to implement plan policies. This goal is not applicable as the property is to be zoned residential.

I. Goal 10 - Housing:

Proposed Finding. Tax lot 301 has an existing single-family dwelling. The proposed property will not be used for any additional housing.

J. Goal 11 - Public Facilities and Services:

Proposed Finding: The subject property sites a single-family dwelling. Adequate public facilities and services are stubbed to the Property. The UGB expansion would not change public services provided by the City of Ontario.

K. Goal 12 - Transportation:

Proposed Finding: This action will not create additional average daily trips and will not trigger a traffic impact analysis under the Malheur County or City of Ontario Transportation System Plans. New access to the Property is not needed. The Property has a driveway access/frontage on N. Verde Drive. A safe, convenient and economic transportation system consisting of developed and maintained county roads and city streets serve the Property.

L. Goal 13 - Energy:

Proposed Finding: Additional energy services are not expected with this zone change. The use of Ontario public utilities on the Property will be more energy efficient.

M. Goal 14 - Urbanization:

Proposed Finding: The subject property currently contains a single-family dwelling, and is already zoned and committed to urban uses. The Goal is not applicable.

DLCD (Department of Land Conservation and Development) 35 Day Notice: Notice to Department of Land, Conservation and Development was submitted on September 17, 2020.

Property Owner Notice: Notice to all property owners within 750 feet from subject property was mailed on October 1, 2020.

Legal Notice: Notice was published in the Ontario Argus Observer on or before October 2, 2020.

Hearing Dates: Joint Malheur County/City of Ontario Planning Commissions: October 22, 2020; Joint Malheur County Court/Ontario City Council: November 5, 2020.

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

Judge Joyce moved that the Malheur County Court accept and approve the Findings of Fact as set forth in County Planning Action 2020-09-003 and the City Planning Action 2020-08-032AZ based on the information and findings and conclusions set forth in the Staff Report. Commissioner Hodge seconded and the motion passed.

Judge Joyce moved that the request for a zone change from Ontario ORS/UGB to Ontario OLI/UGB to include a portion of property commonly identified as Map 18S47E05AA TL 301 and 300 thereby amending the Ontario Urban Growth Area Boundary UGA/UGB as set forth in the County Planning Action 2020-09-003 and City Planning Action 2020-08-032AZ be approved based on the information, findings, and conclusions set forth in the Staff Report and the adoption of the Malheur County Ordinance #226, An Ordinance Amending the Malheur County Comprehensive Plan and the Zoning Maps by Changing the Zoning Designation of a Portion of the Property Commonly Identified as Map 18S47E05AA Tax Lot 301, from Ontario Residential to UGA/ORS-UGA to Ontario Light Industrial UGA OLI/UGA and Declaring an Emergency. Commissioner Hodge seconded and the motion passed. See instrument # 2020-4240

Councilor Hart moved, Councilor Crume seconded, that the City Council accepts the recommendation of the Planning Commissions and the Findings of Facts as outlined in the County Planning Action 2020-09-003 and City Planning Action 2020-08-32AZ amending the Ontario Urban Growth Area/Boundary (UGA/UGB) and zone change from Ontario O-RS/UGA to Ontario OLI/UGA, being a portion of Tax Lot 301 Map 18S47E05AA. Roll call vote: Rodriguez-yes; Justus-yes; Palomo-out; Hart-yes; Braden-yes; Crume-yes; Hill-yes. Motion carried 6/0/1
Councilor Braden moved, Councilor Crume seconded, that the City Council approve Ordinance #2780-2020, An Ordinance Amending the City of Ontario Comprehensive Plan and Zoning Maps by Changing the Zoning Designation of a Portion of Property Commonly Identified as Map 18S47E05AA, Tax Lot 301, from Ontario Residential/UGA (ORS/UGA) to Ontario Light

Industrial/UGA (OLI/UGA); and Declaring an Emergency. Roll call vote: Rodriguez-yes; Justus-yes; Palomo-out; Hart-yes; Braden-yes; Crume-yes; Hill-yes. Motion carried 6/0/1

Councilor Crume moved, Councilor Braden seconded that the City Council waive the second reading of Ordinance #2780-2020, An Ordinance Amending the City of Ontario Comprehensive Plan and Zoning Maps by Changing the Zoning Designation of a Portion of Property Commonly Identified as Map 18S47E05AA, Tax Lot 301, from Ontario Residential/UGA (O-RS/UGA) to Ontario Light Industrial/UGA (OLI/UGA); and Declaring an Emergency. Roll call vote: Rodriguez-yes; Justus-yes; Palomo-out; Hart-yes; Braden-yes; Crume-yes; Hill-yes. Motion carried 6/0/1

COURT ADJOURNMENT

The County Court meeting was adjourned.