



# **MALHEUR COUNTY** PLANNING DEPARTMENT

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TO: Ontario Planning Commission, Malheur County Planning Commission,  
Ontario City Council and Malheur County Court

FROM: Eric Evans, Malheur County Planning Director

SUBJECT: Planning Action Number 2020-09-003 and City of Ontario Planning  
Number 2020-08-32AZ: Amend the Ontario Urban Growth  
Area/Boundary (UGA/UGB) and zone change from Ontario O-RS/UGA  
to Ontario O-II/UGA to include a portion of property commonly  
identified as Map 18S47E05AA TL 301 and 300; Additionally, approve a  
proposed property line adjustment between the above referenced parcels  
where prior to the property line adjustment Tax Lot 300 will consist of  
98,901 square feet and Tax Lot 301 will consist of 42,456 square feet.  
Upon completion of the property line adjustment, Tax Lot 300 will consist  
of 126,450 square feet and Tax Lot 301 will consist of 14,908 square feet.

## **I. General Information:**

SUBJECT PROPERTY ( "subject property" or "Property"):

**Rezone From ONTARIO Residential/UGA to ONTARIO UGA-Light Industrial**

- 18S47E05AA TL 301 (0.97 acres)

APPLICANT: Gordon and Linda Curtis

DATE: October 22, 2020

CURRENT USE OF PROPERTY: Single family residential dwelling and office building

## **II. Summary and Background:**

*Proposal.* A zone change is proposed for the Property as shown on the map attached as Exhibit A-1 of the application. The overall affect is to adjust the property in a way which reflects 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) is 42,456 square feet and will be adjusted to 14,908 square feet, and since approximately 1966 has been used for a single-family residential dwelling. Tax lot 300 is currently zoned Ontario Light Industrial/UGA. Tax lot 301 is zoned Ontario Residential/UGA. Both parcels (tax lots 300 and 301) are

surrounded by Light Industrial to the north and Residential to the south and are committed to these uses.

*Analysis for Compliance with State and Local Regulations.*

A portion of the property will be rezoned from Ontario Urban Growth Area Residential (O-RS/UGA) to Ontario Urban Growth Area Light Industrial (O-I1/UGA). It is further anticipated that the property will 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 have criteria in their zoning ordinances that must be met in order for the proposal to be approved. County and City provisions are addressed in Section III. Because the plan amendment and zone change affect 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 is 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.

**III. Applicable City and County Criteria and Standards:**

1. The applicable criteria can be found in **Ontario Planning and Zoning Development Standards 10B-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 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 such 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.**

#### **IV. 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. This Goal is not applicable.**

**V. DLCD 35 Day Notice**

Notice to Department of Land, Conservation and Development was submitted on September 17, 2020.

**VI. Property Owner Notice:**

Notice to all property owners within 100 feet from subject property was mailed on October 1, 2020.

**VII. Legal Notice**

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

**VIII. Hearing Dates**

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

**IX. Upon Recommendation from the Malheur County Planning Commission and the Ontario Planning Commission to the Malheur County Court and Ontario City Council:**

a. Approve Malheur County Planning Action Number 2020-09-003 and City of

Ontario Planning Number 2020-08-32AZ based on the findings, staff report and public testimony provided at the joint hearing in support of the application.

b. Amend the Ontario and County Zoning Maps rezoning the subject property from O-RS/UGA to O-I1/UGA.

c. Adopt Malheur County Ordinance No. 226 and City of Ontario Ordinance No. \_\_\_\_\_.

**X. SUGGESTED MOTIONS FOR APPROVAL/DENIAL**

a. Approval needs two motions:

i. I move that the Planning Commission Accept and Approve the Findings of Fact as set forth in County Planning Action 2020-09-003 and City Planning Action 2020-08-32AZ and be recommended for APPROVAL to the County Court, based on the information, findings and conclusions set forth in the Staff Report.

ii. I move that the request for a zone change from Ontario O-RS/UGB to Ontario O-I1/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 County Planning Action 2020-09-003 and City Planning Action 2020-08-32AZ be recommended for APPROVAL to the County Court, based on the information, findings and conclusions set forth in the Staff Report.

b. Denial:

i. I move that the request for a zone change from Ontario O-RS/UGB to Ontario O-I1/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 County Planning Action 2020-09-003 and City Planning Action 2020-08-32AZ be recommended for DENIAL to the County Court, based on the information, findings and conclusions set forth in the Staff Report.