

MEMORANDUM
Proposed JW Underground (Winters) Plan Map Amendment
CITY COUNCIL REMAND

HEARING DATE: July 12, 2021

MEMO DATE: June 30, 2021

TO: Gresham Planning Commission

FROM: Ken C. Onyima, AICP, Senior City Planner

FILE NUMBER: PMA 20-26000240

PROPOSAL: The proposal is for a Plan Map Amendment from Transit Low Density Residential (TLDR) to Heavy Industrial (HI) for a 1.22-acre northern portion of a lot of record consisting of Tax Lots 00500 and 01400 Section 1S3E05BD.

APPLICANT: James Conger & Christine Rardin

REPRESENTATIVE: Tracy Brown, Tracy Brown Planning Consultants, LLC

LEGAL DESCRIPTION: Section 1S3E05BD Tax Lots 00500 and 01400

LOCATION: SE 190TH Avenue (JW Underground Gravel Pit)

EXHIBITS:

- A. Vicinity Map
- B. Applicant's Supplemental Narrative
- C. December 31, 2020 Staff Report

RECOMMENDATION: Staff recommends that the Planning Commission recommend approval of this Plan Map Amendment to the City Council based on the finding that the applicant has satisfied the item of remand.

I. BACKGROUND INFORMATION

A. DESCRIPTION OF PROPOSAL AND HISTORY

The proposal would change 1.22 acres from the current land use designation of Transit Low Density Residential (TLDR) to Heavy Industrial (HI). The TLDR designation primarily allows single-family detached and attached dwellings, duplexes, and Institutional uses under the Special Use Review. The HI designation generally allows for industrial type uses, limited commercial uses and certain Institutional uses under the Special Use Review.

The property is located east of SE 190th Avenue with no address. It is currently developed with a gravel quarry that is in the process of reclamation. Uses also include dirt spoils dumping, and concrete and asphalt recycling. The site is bordered by HI designated properties to the east, west and south. Bordering properties to those directions are also a reclaimed gravel quarry pit. Transit Low Density Residential (TLDR) designated properties border the site to the north and are developed with single-family detached residences and duplexes.

At annexation in June of 1987 (BC 2285), the site assumed zoning of Heavy Industrial (HI). The site was split zoned HI and TLDR in 1998 as part of a comprehensive planning effort for the Rockwood area. It is unclear in that project's records the reason behind the split and no justification for it is described.

The applicant has pointed out that the proposed change in designation is being pursued to better align the zoning with the historic and current heavy industrial gravel quarry use.

The Planning Commission recommended approval of this proposed PMA to the City Council following a hearing on January 11, 2021. At the hearing before City Council on March 2, 2021, the council remanded the proposal to the Planning Commission to provide additional details on how the proposal satisfies the approval criteria of Section 12.001 A.3, subsections c.i or c.ii.

The applicant shall demonstrate compliance with one of the following criteria:

i. A mistake was made in the current designation. The applicant must identify a specific error made during the adoption process of the Community Code that, if it had been brought to the attention of the council, would have influenced the council's decision of the appropriate designation.

ii. The site is suitable for the proposed designation and there is a lack of

appropriately designated alternative sites within the vicinity. The size of the vicinity will be determined on a case-by-case basis since the impacts of a proposed land use designation and its potential uses vary. The factors to be used in determining suitability are parcel size and location.

B. EXECUTIVE SUMMARY

The proposed amendment of 1.22 acres to a Heavy Industrial (HI) designation satisfies the Plan Map Amendment approval criteria of Section 12.001 A.3.c.i or c.ii, which is the subject of the remand.

The reasons for this Finding as detailed in the applicant's narrative are as follows:

With regard to the criterion of Section 12.001 A.3, subsection c.i – A mistake was made in the current designation:

- Tax lot 501 was originally zoned by Multnomah County in the mid-70's for industrial uses (LM). When this property was annexed into the city of Gresham in 1988 it was brought in with an HI zoning designation. The property carried this designation until it was rezoned to TLDR in 1998 with adoption of the Central Rockwood Plan.
- Tax lot 501 and tax lot 1400, which is located directly south of tax lot 501, are combined as a single legal lot of record today and were a legal lot of record when tax lot 501 was rezoned. The legal lot status of these properties was not considered prior to rezoning tax lot 501.
- Rezoning tax lot 501 to TLDR caused tax lot 501 (TLDR) and tax lot 1400 (HI) to be split zoned. It is unlikely staff would have recommended rezoning tax lot 501 if they were aware of the legal lot status of these lots.
- At the time tax lot 501 was being considered to be rezoned, tax lot 501 was combined with tax lot 500 to the north as a single tax lot. Because tax lot 500 contains frontage on SE Yamhill Street and was zoned MDR-24, a residential zone, is likely the reason tax lot 501 was rezoned to TLDR. These parcels were separated into two separate tax lots and the new tax lot 501 was created in 2005.
- Tax lot 501 and surrounding properties to the west, south, and east have all been part of an active quarry since at least the early 70's. This use is unlikely to change in the foreseeable future.
- The Central Rockwood Plan area contains over 800 acres and the subject

property (tax lot 501) is only 1.22 acres. Development of the Plan included an extensive but generalized public outreach and participation process. This process did not require notices to be sent to individual property owners informing them their property was proposed to be rezoned as is now required by Ballot Measure 56. The property owner of tax lot 501 at the time indicated he was not made aware of the rezone and did not receive a notice as such. He also indicated that if he had been aware of the proposed zone change he would have issued an objection.

- Tax lot 501 abuts other industrial properties on its western, southern, and the majority of its eastern boundary. The location of the property is landlocked and has limited road access and access to public utilities. The current TLDR zoning designation is not conducive to developing the property with uses permitted in this zone.
- The change in designation of tax lot 501 from HI to TLDR in 1998 appears to have been in error. The site was already committed to industrial uses and effectively linked to the adjacent site, and the resulting parcel should never have been split zoned.

With regard to the criterion of Section 12.001 A.3.c.ii – *The site is suitable for the proposed designation and there is a lack of appropriately designated alternative sites within the vicinity:*

- When tax lot 501 was annexed into the city in 1988 it was zoned HI and the property carried this designation until it was rezoned TLDR in 1998 with adoption of the Central Rockwood Plan. It is reasonable to believe tax lot 501 was given an HI zoning designation with annexation because this was how the property had been used since the early 70's and because it is bordered on three sides by similarly zoned and used properties under the same ownership.
- The proposed zone change would be expected to enhance the marketability and operations of the heavy industrial property, both current operations as well as when reclamation is completed.
- The inclusion of the site in the City's enterprise zone reflects a recognition of the importance of this industrial cluster as well as the site.
- The loss of residential capacity is not expected to have a negative impact on economic development efforts. While the current zoning allows for 9 to 18 units to be developed, it is not considered to be likely to see any residential development due to conflict from surrounding uses.
- The entitlement change would be expected to be supportive of the City's

adopted goals and policies; and

- The site is well suited for industrial development due to physical and locational characteristics.

II. APPLICABLE COMMUNITY DEVELOPMENT CODE PROCEDURES

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| A. | Section 11.0204 | Type III Procedures |
| B. | Section 11.0101 | Development Permit Application |
| C. | Section 11.0213-0214 | Referral and Review of Development Permit |
| D. | Section 12.0000 | Community Development Plan Map Amendments |

III. FINDINGS

Staff adopts the findings of the applicant that the proposed Plan Map Amendment satisfies the approval criteria of 12.001.A.3 ci and cii. Although satisfaction of only one of the two criteria is required, the applicant has demonstrated compliance with both criteria by documenting that a mistake was made in designating the site as TLDR (12.001A.3.c.i). It has also been demonstrated that the site is better suited for industrial use (HI) rather than low density residential of TLDR (12.001A.3.c.ii).

IV. CONCLUSION

The proposed Plan Map amendment is consistent with the remanded applicable criteria of the Community Development Plan, as indicated by findings contained in Exhibit B of this memorandum.

VII. RECOMMENDATION

Staff's recommendation is that Planning Commission recommend approval of application number PMA 20-26000240 to the City Council based on the findings and conclusions in the December 31, 2020 staff report and the June 30, 2021 Staff Memorandum.

End of Staff Memorandum