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450 East Main Street
 John Day, Oregon 97845

October 22, 2018

ANNEXATION WITH LAND USE DISTRICT MAP AND TEXT AMENDMENTS (TYPE IV PROCEDURE) – AMD-18-04

Application Number: AMD-18-04
Applicant: City of John Day
Property Owner(s): City of John Day
 Mills, Kenneth J
 Iron Triangle Logging Inc.
Subject Property: Oregon Pine and adjacent properties
 13S-31E-22D Tax Lots 300, 301 and 2700
Requested Action: Annexation and land use district map amendment
Zoning: General Industrial (GI) and GI (County)

PROJECT DESCRIPTION AND BACKGROUND

The City of John Day (the “City”) recently purchased the property commonly referred to as Oregon Pine (tax lot 300). This property is contiguous with the city limits on both the north and south sides of the John Day River. Portions of two adjacent properties (tax lots 301 and 2700) are located partly in the city limits and partly in the City’s urban growth boundary (UGB). City is proposing to annex lot 300 and those portions of lots 301 and 2700 which are unincorporated. City also proposes an amendment to the land use district map for the properties on the south side of the John Day River to change the land use designation from General Industrial (GI) to General Commercial (GC). The proposed changes are shown in the table 1.

Table 1. Proposed annexations and land use district amendments

Tax Lot	Owner	Current Zoning	Proposed Zoning
300	City of John Day (Oregon Pine)	GI	GI (north side of John Day River) GC (south side of John Day River)
301	Kenneth Mills	GC (portion inside city limits) GI (portion in UGB)	GC
2700	Iron Triangle LLC	GI (County)	GI

APPLICABLE CRITERIA

This request is for an annexation with map amendment. Map amendments are permitted under the City of John Day Development Code (the “Code”) and may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

The John Day City Council on its own motion may initiate an annexation. The approval criteria in section 5-4.10.050 of the Code shall apply. Provided, however, that in the case of annexation where current or probable public health hazard due to lack of full City sanitary sewer or water services or the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits, the only standards that apply shall be 5-4.10.050(A).

REVIEW PROCESS

The Planning Commission’s review must focus on the relevant code criteria and follow the public hearing procedures for Type IV (Quasi-Judicial) review under Section 5-4.1.030. The Planning Commission should approve the request if it conforms to the approval criteria or if it can be made to conform to the criteria through the imposition of reasonable conditions.

Public Notification

The City of John Day mailed public hearing notices to the applicant and property owners within 100-feet of the subject site, 20 days before the hearing date. At least 14 business days before the hearing, notice of the hearing was printed in The Blue Mountain Eagle.

Application Completeness

The following plans, exhibits, and narrative submitted by the applicant are attached to this report and are hereby made part of the public hearing record:

- Certification of Public Notice (Exhibit A)
- Consent to Annexation – Iron Triangle (Exhibit B)
- Existing Zoning (Exhibit C)
- Proposed Zoning (Exhibit D)
- Transportation Planning Rule (TPR) Findings (Exhibit E)

Staff has reviewed the application pursuant to the City of John Day Development Code and the requirements for Land Use District Map and Text Amendments. No responses were received from adjacent property owners following the public notice.

Burden of Proof

The applicant has the burden of demonstrating that the proposal meets all applicable Development Code requirements. The applicant is also responsible for complying with building code requirements and applicable state or federal requirements. It is the Planning Commission’s responsibility to apply the code requirements and determine whether the applicant’s proposal complies with based on findings of fact.

APPROVAL CRITERIA FOR ANNEXATIONS

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.
- B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City Limits.
- D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage.
- E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

APPROVAL CRITERIA FOR QUASI-JUDICIAL AMENDMENTS

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- 1. Approval of the request is consistent with the Statewide Planning Goals;
- 2. Approval of the request is consistent with the Comprehensive Plan;
- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
- 4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan map or zoning map regarding the property which is the subject of the application; and
- 5. The amendment conforms to the Transportation Planning Rule provisions under Section 5-4.7.060.

The applicable code criteria are provided below in *italics* typeface; staff’s findings follow each code provision in regular typeface. The findings, which are based on information submitted by the applicant, are preliminary. The final decision notice will contain findings addressing the Planning Commission’s deliberation, and any public testimony, including any additional agency comments received by the close of the hearing.

The application and staff report findings may be modified based on factual information entered into the public hearing record. Members of the public who have questions about the proposal or who would like to submit oral or written testimony testify in person at the public hearing or submit written testimony to the City of John Day before the close of the hearing. Testimony should respond directly to the applicable criteria.

5-4.10.050 *Annexation Approval Criteria*

- A. *The land is within the City's Urban Growth Boundary.*

Findings: The proposed tax lots are within the city’s UGB.

- B. *The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.*

Findings: This request is consistent with the intent of the Comprehensive Plan to provide adequate facilities for commercial development. The comprehensive plan intends to provide areas suitable and desirable for those retail, service, tourist, and other similar commercial activities which are needed in the community. The primary purpose of this classification is to encourage a relatively concentrated commercial center to maintain or improve commercial returns by maximizing customer interaction between business and minimizing costs of providing the relatively high level of City services commercial establishments require.

C. The land is currently contiguous with the present City Limits.

Findings: The proposed land is contiguous with the present city limits.

D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage.

Findings: City facilities will be provided upon approval of a development request to be submitted in conjunction with the Innovation Gateway Area Plan. City utilities (streets, water and sanitary sewer) are located adjacent to the property.

E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

Findings: This annexation conforms to the City's policies contained in the comprehensive plan. Per the City's comprehensive plan, the Urban Growth Boundary (UGB) be used as the official guideline by which to plan all public services, future annexations, and land uses to the year 2023. The code also requires that city water and sewer services will not be provided unless an area has been annexed to the city, or a —consent to annex has been set forth and approved by the City. Iron Triangle LLC consented to annexation during a prior land acquisition from the city (reference Exhibit B).

5-4.7.030 Quasi-Judicial Amendments

1) Approval of the request is consistent with the Statewide Planning Goals;

Findings: The foundation of statewide program for land use planning in Oregon is a set of 19 Statewide Land Use Planning Goals. The goals express the state's policies on land use and related topics, like citizen involvement, housing, and natural resources. Goal 9: Economic Development is satisfied because it is intended to make sure cities and counties have enough land available to realize economic growth and development opportunities, such as the Innovation Gateway greenhouses currently under construction at this site, which were previously approved at a public hearing held by the Grant County Planning Commission. Goal 14: Urbanization is also satisfied by this request because the land is inside the UGB and is therefore considered urbanizable. Additional developments are not proposed at this time but will be reviewed at a future planning commission hearing as part of the Innovation Gateway Area Development Plan scheduled to begin in October 2018.

2) Approval of the request is consistent with the Comprehensive Plan;

Findings: Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land-division ordinances needed to put the plan into effect. The City of John Day Comprehensive Plan was adopted in 2003. This request is consistent with the intent of the Comprehensive Plan to provide adequate facilities for commercial activity, as outlined in the Economic Element of the plan.

3) The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period;

Findings: The property is currently served by a state highway and multiple gravel lanes for the industrial sites currently on the property. Streets and utilities will be developed based on the proposals made during the Innovation Gateway Area Plan, which will be subject to their own public hearings. No new development is proposed with this zoning change. Therefore, this criterion is satisfied.

- 4) *The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan map or zoning map regarding the property which is the subject of the application; and*

Findings: Zoning these properties as General Commercial (GC) reflects their proposed use as an innovation center for the city. This location was identified by the John Day City Council as the site for the future John Day Innovation Gateway at multiple council meeting and public hearings held over the past two years. The city completed a Phase 2 Environmental Site Assessment after purchasing the property in May 2017 and completed sufficient environmental remediation activities to receive a No Further Action (NFA) designation from the Oregon Department of Environmental Quality. Zoning the properties on the south size of the river as General Commercial (GC) is consistent with zoning already applied within city limits for properties adjacent to this site. It also eliminates dual-zoning of the Mills Building Supply property for that portion that is being annexed and is currently zoned General Industrial (GI).

- 5) *The amendment conforms to the Transportation Planning Rule provisions under Section 5-4.7.060.*

Findings: When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012- 0060 (Transportation Planning Rule - TPR) and the Traffic Impact Analysis provisions of Section 5-4.1.090. This criterion does not apply to this map change but will be addressed in the Transportation System Plan (TSP) update to be submitted in 2019 (Exhibit E).

CONCLUSION AND STAFF RECOMMENDATION

Based on the foregoing analysis and findings, staff recommends approval of AMD-18-04 without conditions.

PLANNING COMMISSION MOTION

After hearing the applicant's presentation and any public testimony, including any rebuttal, the commission will close the hearing and deliberate. The following motion is suggested:

"I move to approve amendment AMD-18-04 based on the findings contained in the staff report [with conditions, if any]."

The staff report may be amended during the course of the hearing. The commissioner making the motion should list any additional conditions of approval or changes to staff's proposed conditions of approval in his/her motion.

Respectfully submitted this 22nd day of October, 2018:



Nicholas Green
City Manager / City Planning Official
City of John Day

Enclosures

**CITY OF JOHN DAY
GRANT COUNTY, OREGON**

CERTIFICATION OF PUBLIC NOTICE

IN THE MATTER OF AN APPLICATION FOR ANNEXATION AND LAND USE DISTRICT MAP AMENDMENT NO. AMD-18-04, BY: CITY OF JOHN DAY. I, Nicholas A. Green, City Planning Official, do hereby certify that a Public Notice in the matter of the subject land use application was sent first class mail or hand delivered on this 4th day of October 2018, to the person, parties and agencies listed below. A copy of said notice is attached hereto.

Lot	Map	Name	Address
102	13S31E22C	Nancy J Clark	PO Box 100, John Day, OR 97845
200	13S31E22C	Robert L Pereira	373 Patterson Bridge Road, John Day, OR 97845
1000 1801	13S31E22C	Oregon Dept. of Fish & Wildlife	PO Box 59, Portland, OR 97202
1900 200 300 2500	13S31E22C 13S31E22D	City of John Day	450 E Main Street, John Day, OR 97845
2700	13S31E22D	Iron Triangle Logging Inc.	PO Box 325, John Day, OR 97845
100	13S31E22D	Hayes Development, LLC	Estate Builders of Oregon 2397 NW Kings Blvd. #241, Corvallis, OR 97330
303 305	13S31E22D	Iron Triangle LLC	PO Box 325, John Day, OR 97845
301	13S31E22D	Kenneth J Mills	751 W Main Street, John Day, OR 97845
302	13S31E22D	Advantage QALICB-1, LLC	442 SW Umatilla Ave, Ste. 200, Redmond, OR 97756
400	13S31E22D	Angelique Jones	Investors Lending Group PO Box 872, Salem, OR 97308
201	13S31E22DD	Ronald D & Sherri L Lundbom	620 Hillcrest Road, John Day, OR 97845
202	13S31E22DD	Cernazanu Enterprises	350 Highland Place, John Day, OR 97845
400	13S31E22DD	JD Rents & Power Equipment Inc	306 N Canyon Blvd, John Day, OR 97845
500	13S31E22DD	Jerry E & Marcia V Franklin	30923 N River Road, Prairie City, OR 97845
		Grant County Planning Department	Emailed
		John Day City Staff	Emailed

So certified this 4th day of October 2018.

Nicholas A. Green, Planning Official

After recording, return to:

City of John Day
Attn: City Manager
450 East Main Street
John Day, Oregon 97845

Consent to Annexation

The undersigned property owner, I.T. Logging, Inc. ("Owner"), an Oregon corporation, whose address is 433 Patterson Bridge Road, John Day, Oregon 97845, hereby consents to the annexation of the following real property (the "Property") to City of John Day, Grant County, Oregon ("City"):

Land in the SE1/4 Section 22, Twp. 13 S., R. 31 E., W.M., City of John Day, Grant County, Oregon, more particularly described as follows:

Beginning at a 5/8" iron pin with attached yellow plastic cap marked BENCHMARK SURVEYING on the west line of the S1/2NW1/4SE1/4 said Section 22, said point also being N.00°23'30"W, a distance of 1787.84 feet from the S1/4 Corner said Section 22, thence N. 00°23'30"W, 191.54 feet to the Northwest Corner of said S1/2NW1/4SE1/4;

thence along the north line of said S1/2NW1/4SE1/4 N.89°26'53"E., 1321.24 feet to the Northeast Corner thereof;

thence S.00°06'21"E., 204.26 feet along the east line of said S1/2NW1/4SE1/4;

thence West, 1320.25 feet to the point of beginning.

Together with and Subject to easements, rights of way and reservations as the same may exist or appear of record.

All according to Record Map of Survey No. 2077, on file and of record in the office of the Grant County Surveyor.

Owner and City intend that this Consent to Annexation (this "Consent") will comply with all requirements of law for annexation of the Property and agree to execute a legally binding consent if this Consent is determined legally insufficient. Owner will pay, perform, and comply with all legal requirements concerning the Property's annexation to City, including, without limitation, executing any consent to annexation applications, documents, and/or instruments City deems necessary or appropriate.

This Consent (including, without limitation, Owner's payment obligations hereunder) will be perpetual and will run with the land and be binding upon the heirs, successors, and assigns of Owner and/or any interest in the Property. City may exercise this Consent and annex the Property at any time, in City's sole discretion.

Owner hereby waives the one-year requirement under ORS 222.173 (or under any similar provision if that statute is amended or modified) as more particularly described in the Consent to Annexation One Year Waiver attached hereto as Exhibit A for the property described herein and acknowledges that the consent will remain in effect indefinitely.

(signature page immediately follows)

Exhibit A

Consent to Annexation One-Year Waiver

I.T. Logging, Inc. ("Owner"), an Oregon corporation, whose address is 433 Patterson Bridge Road, John Day, Oregon 97845, hereby waives the one-year period as provided in ORS 222.173 concerning Owner's consent to annexation of the following real property (the "Property") to City of John Day, Grant County, Oregon ("City"):

[Insert legal description of the Property]

This will constitute a separate written agreement waiving the one-year period as provided under ORS 222.173 (or under any similar provision if that statute is amended or modified). The parties hereby acknowledge that the consent will remain in effect indefinitely.

Dated: 10/25/18, 2018.

Owner:
I.T. Logging, Inc.,
an Oregon corporation


_____, President

City:
City of John Day,
an Oregon municipal corporation



Nicholas Green, City Manager

Dated: 10/25/18, 2018.

Owner:
I.T. Logging, Inc.,
an Oregon corporation

[Signature]
_____, President

State of Oregon)
) ss.
County of Grant)

This instrument was acknowledged before me on October 25, 2018 by _____,
as president of I.T. Lumber, Inc., Owner.



[Signature]

Notary Public for Oregon
My Commission Expires: April 10, 2020

Dated: _____, 2018.

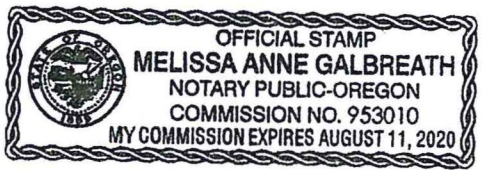
City:
City of John Day,
an Oregon municipal corporation

[Signature]

Nicholas Green, City Manager

State of Oregon)
) ss.
County of Grant)

This instrument was acknowledged before me on October 29, 2018 by
Nicholas Green, as city manager of the City of John Day.



[Signature]

Notary Public for Oregon
My Commission Expires: August 11, 2020

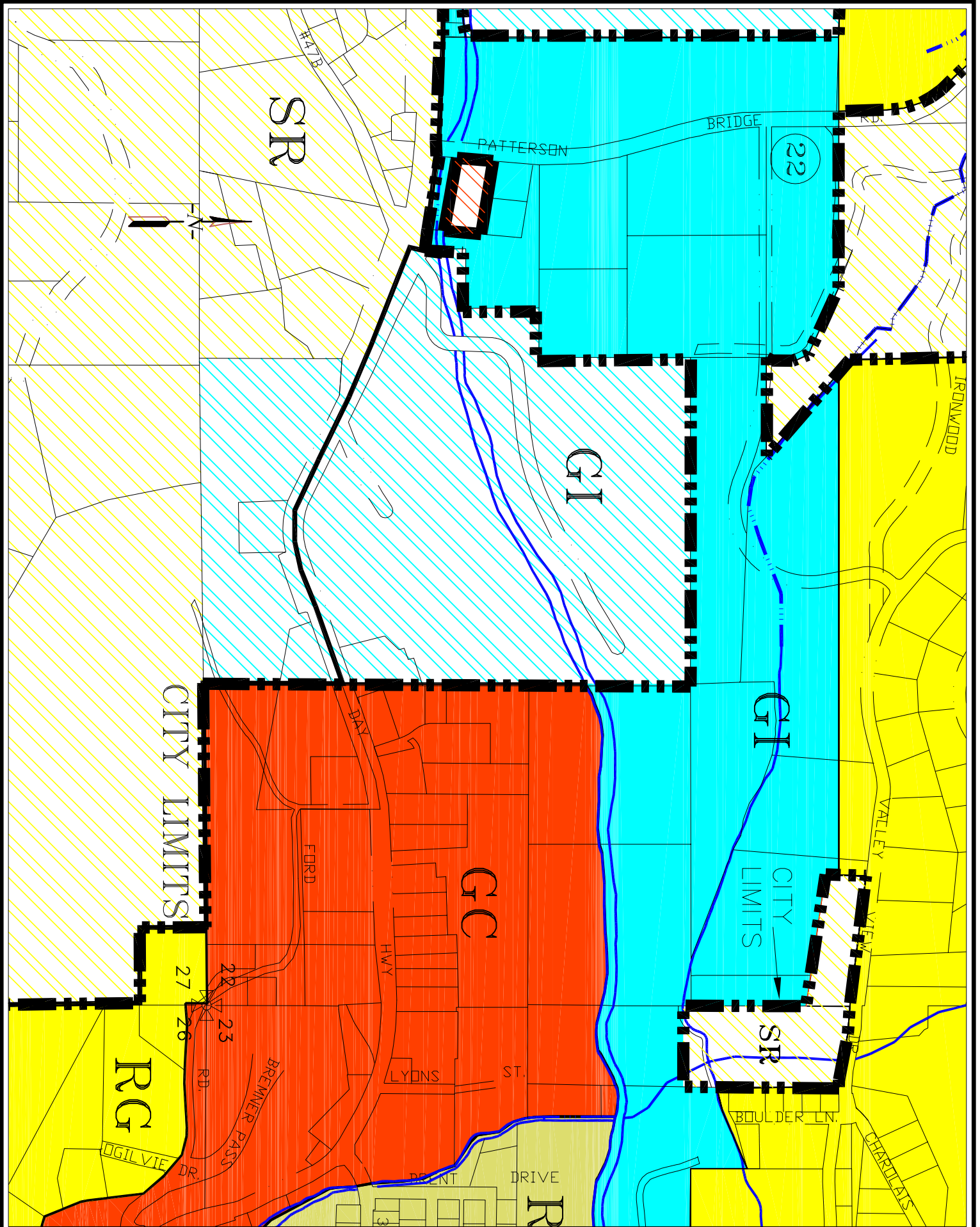
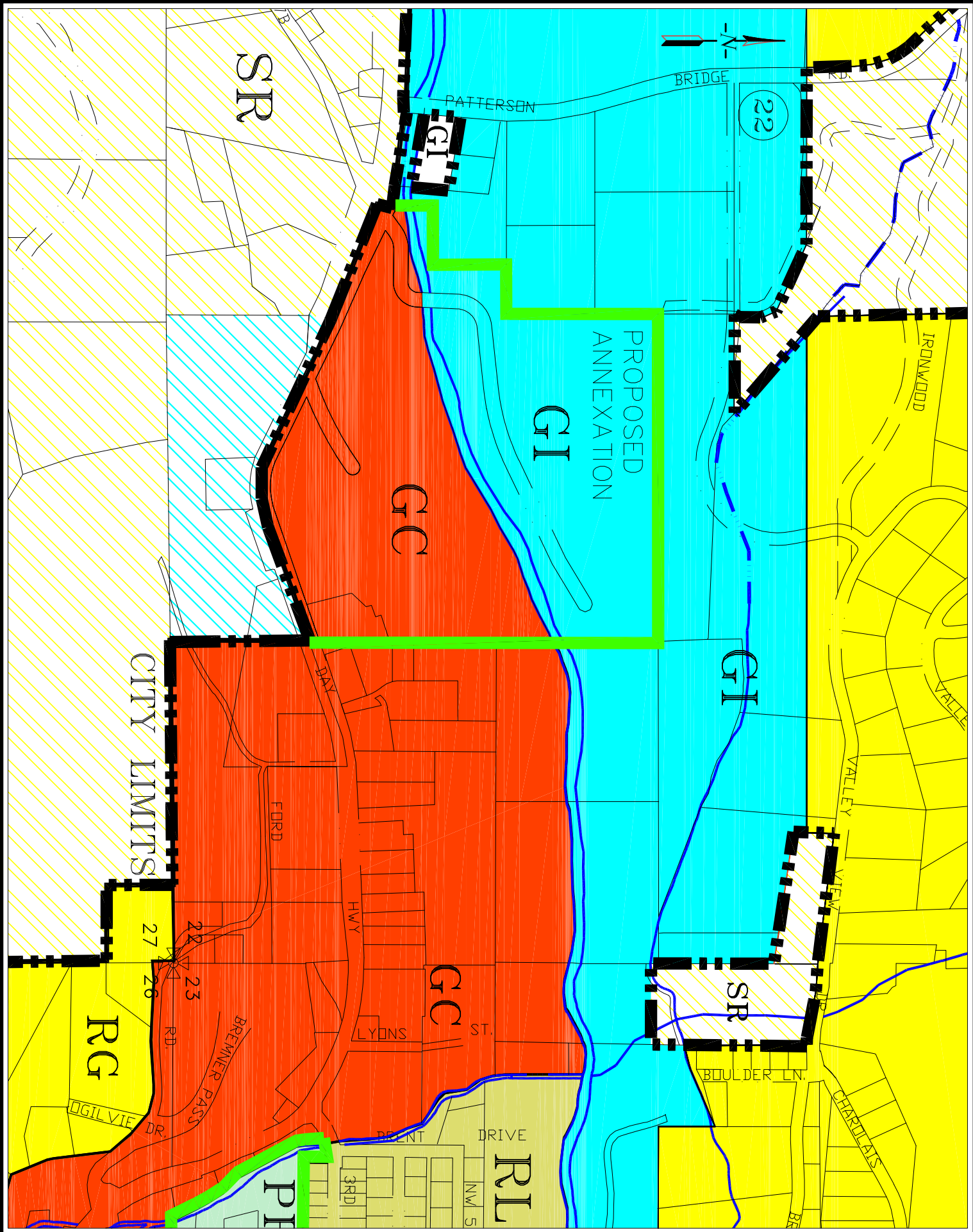


EXHIBIT C.

CURRENT ZONING MAP



PROPOSED ZONING MAP CHANGES

EXHIBIT E. TRANSPORTATION PLANNING RULE (TPR) FINDINGS

The City of John Day has contracted with ODOT and DKS Associates to develop a Transportation System Plan (TSP) update in 2019. This work order contract was approved as part of the intergovernmental agreement for the Transportation Growth Management (TGM) grant (TGM File Code 5A-17; EA# TG17LA23), signed and executed on November 5, 2018. The Statement of Work (SOW) for this document describes the area for the TSP development, which includes this location. Intermodal connectivity will be addressed by integrating the City's 1996 TSP with future developments that include a multi-modal trail network with connections to this location, the extension of the 7th Street to Patterson Bridge Road, and other street improvements. Trip generation and TRP requirements for this location will be addressed in the TSP update and will be completed prior to any substantial development of the location.