

**CITY OF CHENEY, WASHINGTON
ORDINANCE NO. Y-41**

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN
MAP AND ZONING MAP ESTABLISHING A MIXED-USE
ZONE (MX) ON LAND BOUNDED BY MINNIE CREEK, BI-
MART, 1ST STREET (SR 904) AND GROCERY OUTLET, AND
HIGH-DENSITY MULTI-FAMILY RESIDENTIAL (R-3H) ON
LAND LOCATED BETWEEN MINNIE CREEK AND
RAILROAD TRACKS; PROVIDING FOR OTHER MATTERS
RELATED THERETO AND SETTING AN EFFECTIVE DATE**

WHEREAS, the City of Cheney has the authority to adopt zoning regulations pursuant to RCW 35A.63.100;

WHEREAS, the applicant, Todd Tarbert, has made application to amend the Comprehensive Plan Map of 17.23 acres of land from Commercial to Mixed Use and Multi-Family Residential to allow a mixture of commercial and residential uses; and

WHEREAS, the applicant, Todd Tarbert, has made application to rezone 17.23 acres of land from C-2 (General Commercial) to MX (Mixed Use) and R-3H (High Density Multi-Family Residential) to allow a mixture of commercial and residential uses; and

WHEREAS, the MX (Mixed Use) portion of the rezone will include the following geography: Minnie Creek on the east, Bi-Mart on the south, 1st Street (SR 904) on the west, and Grocery outlet on the north; and

WHEREAS, the R-3H (High Density Multi-Family Residential) portion of the rezone will include the following geography: Minnie Creek on the west, and the Washington Eastern Railroad tracks to the east; and

WHEREAS, the subject property was posted with written notice, surrounding owners and residents were notified by mail, and a legal notice was published on January 19, 2023, in the Cheney Free Press (newspaper of record) advising of the public hearing; and

WHEREAS, the City Council has established a Planning Commission that makes recommendations concerning the location and use of buildings, structures and land for various purposes that promote the physical development of the City; and

WHEREAS, the Cheney Planning Commission, on February 13, 2023, at their regularly scheduled meeting, received information and held a public hearing on the proposal to modify the zoning map; and

WHEREAS, four members of the Planning Commission were present and qualified to sit as decision-makers; and

WHEREAS, the public hearing was held in accordance with procedural rules for quasi-judicial hearings in conformity with requirements set forth in the City of Cheney Municipal Code; and

WHEREAS, at the hearing, the Planning Commission received a written and oral staff report, heard public testimony and engaged in discussion on the zone change; and

WHEREAS, the Planning Commission adopted the Findings of Fact in the Staff Report dated February 13, 2023 and provided for the Planning Commission Hearing; and

WHEREAS, in consideration of the Planning Commission's recommendation to include review and receipt of the public record compiled under City Planning Department file no. LUA2022-004, the City Council may affirm, modify or disaffirm the decision of the Planning Commission at an open public meeting held for such purpose.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHENEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. An amendment to the zoning map must satisfy the following criteria set forth in CMC 21.56.020:

- (1) The zoning map amendment is responsive to conditions that have changed since the existing zoning designation was assigned. Changed conditions may include public opinion, land use patterns or the site itself.
- (2) The zone map amendment has a substantial relationship to the public health, safety, morals or welfare of the community.
- (3) The zone map amendment conforms to the Cheney Comprehensive Plan.

Section 2. The City Council finds that the written record and testimony/comments provide support for the 17.23-acre zone change from the C-2 to MX and R3-H as follows:

- (1) Changed conditions to the surrounding area support the need and appropriateness of commercial and additional residential meeting region wide housing needs.
- (2) By rezoning the subject site, it allows for a more conducive zoning that works with the topography, creek and buffers.
- (3) Findings #5-20 of the Staff Report and the Land Use Application demonstrate consistency with the Comprehensive Plan;

Section 3. Based on the written record and testimony, and after duly considering the requirements of the City of Cheney Municipal Code, the City Council HEREBY ADOPTS the Planning Commission Findings of Fact dated February 13, 2023, and determines that the

requested zone change from C-2 to MX and R-3H on approximately 17.23 acres is consistent with the City of Cheney zone map amendment criteria.

Section 4. Conflict with other CMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Cheney Municipal Code, this Ordinance shall control.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6. Effective Date. This ordinance shall become effective thirty (30) days after its passage, approval, and publication.

Introduced this _____ day of _____, 2023.

Passed by the City Council this _____ day of _____, 2023.

Approved by the Mayor this _____ day of _____, 2023.

Chris Grover, Mayor

ATTEST:

Cynthia L. Niemeier, City Clerk

APPROVED AS TO FORM:

Michael J. Kapaun, City Attorney