

ORDINANCE No. 951-A

Introduced by Commissioner Bruce Bohak

AMENDING ORDINANCE NO. 945-A TO INCLUDE A DEVELOPMENT  
AGREEMENT BETWEEN THE CITY OF WARRENTON, THE OREGON  
DEPARTMENT OF TRANSPORTATION AND APPLICANTS WHO ARE  
PARTIES TO A REZONE OF 13.12 ACRES FROM I1-GENERAL  
INDUSTRIAL ZONE TO C1-GENERAL COMMERCIAL ZONE

The City of Warrenton hereby resolves as follows:

WHEREAS, certain changes are necessary to amend Ordinance 945-A as a result of an appeal filed by the Oregon Department of Transportation (ODOT) with the Land Use Board of Appeals (LUBA); and

WHEREAS, ODOT as agreed to withdraw its appeal (LUBA 95-117) of City Ordinance #945-A and the City has agreed, upon the adoption of an ordinance reflecting the substance of a development agreement; and

WHEREAS, the City, the applicants and ODOT have reached an agreement on the contents of such a Development Agreement which allows for the zone change subject to certain conditions, and which is hereby attached as "Exhibit A", and as referenced, hereby made a part of this ordinance.

NOW, THEREFORE, the Warrenton City Commission ordains as follows:

Section 1: The City, ODOT, and the applicants, have reached an agreement which sets forth the criteria and conditions for zoning and land use, applicable to the properties subject to the development agreement shown as "Exhibit A", which is attached hereto and by reference incorporated herein.

Section 2: This ordinance shall become effective thirty days after its adoption.

Section 3: If any article, section, subsection, subdivision, phrase, clause, sentence or word in this ordinance shall, for any reason, be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the ordinance but shall be confined to the article, section, subdivision, clause, sentence or word so held invalid or unconstitutional.

First reading : September 20, 1995

Second reading : October 18, 1995

PASSED by the City Commission of the City of Warrenton, Oregon,  
this 18th day of October, 1995.

PASSED by the Mayor of the City of Warrenton, this 18th day of  
October, 1995.

  
Barbara Balensifer, Mayor

ATTEST:

  
Gilbert G. Gramson  
City Manager/Auditor

## Development Agreement

### I. Introduction:

This Development Agreement between the City of Warrenton, The State of Oregon by and through its Department of Transportation, Ocean Crest Chevrolet, Inc., Keith and Rosemary Moore, Harold McGauley, James and Jensina Deloe, Donald and Eula Ellis, is intended to describe the rights and obligations of the parties with respect to development, use and land use regulatory control over property subject to the agreement. The agreement is intended to resolve the Oregon Department of Transportation's (ODOT) objections about the transportation impacts of General Commercial zoning on the subject property, and allow compliance with the Transportation Planning Rule. ODOT will withdraw its appeal of City Ordinance # 945-A to the Land Use Board of Appeals (LUBA) upon adoption of an ordinance reflecting the substance of this agreement.

### II. Parties:

The parties to this agreement are the City of Warrenton, The State of Oregon by and through its Department of Transportation, Ocean Crest Chevrolet, Keith and Rosemary Moore, Harold McGauley, James and Jensina Deloe, Donald and Eula Ellis. For purposes of notice, the City of Warrenton can be notified at City Hall 147 South Main Street, Warrenton, OR 97146; or by mail at P.O. Box 250, Warrenton, OR 97146; or by telephone at 503/861-0822. Ocean Crest Chevrolet, can be notified at 426 14th, Astoria, OR 97103; and the property owners can be notified at the following addresses.

Keith & Rosemary Moore  
2187 SE Dolphin  
Warrenton, OR 97146

Harold McGauley  
P.O. Box 512  
Warrenton, OR 97146

James & Jensina Deloe  
P.O. Box 265  
Warrenton, OR 97146

Donald & Eula Ellis  
1399 S. Main  
Warrenton, OR 97146

### III. Property:

The properties subject to this agreement are described as follows, and are shown on the map attached as Exhibit A:

8-10-33A-101  
8-10-33A-103  
8-10-33A-104  
8-10-33A-200 (east of highway 101)  
8-10-33A-300 (north half)  
8-10-33A-400

IV. The City of Warrenton will:

*What was "current use?"*  
*Answered by #5* *Jason*

1. Retain the current zoning (General Commercial) on the subject properties so long as the properties remain in the current use except that an automobile dealership on 8-10-33A, Tax Lot 200, shall be allowed if the applicant meets the requirements set forth below.
2. Prior to the issuance of a building permit for an automobile dealership on 8-10-33A, the City shall verify that the applicant provided information to ODOT necessary to allow ODOT to conduct a transportation site review (TSR). The TSR will evaluate impacts at the intersection of US Highway 101 and Dolphin Avenue and determine if they are significant. If it is determined that the impacts of the automobile dealership will have a significant impact on the intersection, the TSR shall describe improvements needed to offset the identified impacts. The improvements shall be required to be constructed prior to the issuance of a building permit.
3. Issue a building permit for an automobile dealership on 8-10-33A, Tax lot 200, if development plans conform to applicable provisions of the City's zoning ordinance and the requirements of this agreement, including #2, directly above.
4. Initiate proceedings to change the zoning on a subject property back to I1-General Industrial if uses other than the current uses are proposed on a subject property, or an automobile dealership on 8-10-33A, Tax lot 200, is established on a property subject to this agreement.
5. Allow continuation of existing uses, including residences, on the subject property under the applicable terms of the City's zoning ordinance.
6. The conditions on the property associated with the General Commercial zone, as set forth in the agreement, may be removed or changed if a zone change is obtained on a property subject to this agreement. The process by which requested or proposed changes shall be addressed by the City will be Article 14, Amendments, and Article 15, Administrative Procedures, of the Warrenton Zoning Ordinance. Notification will be provided to ODOT of the proposed or requested change(s).
7. Shall adopt an ordinance amending City Ordinance #945-A.
8. Residential uses in the C1-General Commercial Zone are considered conditional and require Planning Commission review approval and notice to ODOT per Section VII of this agreement.

V. The Parties to this agreement and Ocean Crest Chevrolet will:

1. Limit use of the subject properties to the existing uses and allow the development of an automobile sales dealership and service facility to be located on 8-10-33A, Tax Lot 200.
2. Notify buyers, lessors, renters or others having or obtaining a property interest in the subject properties of the terms of this agreement.
3. Comply with the requirements and standards in the City's zoning ordinance with respect to existing uses and to the automobile dealership.
4. Ocean Crest Chevrolet shall provide information to the City and ODOT necessary to allow ODOT to conduct a transportation site review (TSR). The TSR will evaluate impacts at the intersection of US Highway 101 and Dolphin Avenue and determine if they are significant. If it is determined that the impacts of the automobile

dealership will have a significant impact on this intersection, the TSR shall describe improvements needed to offset the identified impacts. Ocean Crest Chevrolet agrees to construct and/or install these improvements prior to the issuance of a building permit.

5. Pay all permit fees, business license fees, development charges, utility hook-up fees and other payments required by City Ordinance or by state statute.
6. Provide on-site and off-site road and utility improvements as required by the city public works department.
7. Not object to any action the City takes in accordance with this agreement, including a change of the zone back to II-General Industrial for any part of the subject property.
8. Agree to seek and obtain a zone change in accordance with the City's comprehensive plan, zoning ordinance prior to using the property for a use other than the existing or additional residential use or, in the case of 8-10-33A, Tax lot 200, a automobile dealership.

#### VI. ODOT will:

1. Complete the Transportation Site Review (TSR) within ninety-days (90) of receipt of the data to be provided as agreed upon in Section V.4. of this agreement. If ODOT does not complete the TSR within the ninety-day period a finding of no significant impact will be made by the City and the City can issue a building permit to the dealership to proceed with the project.

#### VII. Notice and Hearing

A public hearing before the City Planning Commission shall be held in accordance with applicable ordinance provisions and state law, including but not limited to the Land Conservation and Development Commission's Transportation Planning Rule, OAR 660-12, if any of the following are proposed:

- a. any zone map change for the subject property;
- b. any text amendments to the city's land use documents that might affect use of the subject property;
- c. any new land use on the subject property other than an automobile dealership on 8-10-33A, Tax Lot 200.

In addition to those parties required by statute or ordinance to receive notice of the public hearing, notice shall also be mailed in a timely fashion to ODOT, Region 2, 2960 State Street, SE, Salem, OR 97310.

#### VIII. Consistency with the Comprehensive Plan

The City finds that this agreement is consistent with the City's Comprehensive Plan and Zoning Ordinance, and that it is an appropriate method for implementing the Plan and Zoning Ordinance on the subject property.

IX. Applicable Zoning Ordinance Provisions

A proposed automobile dealership will be subject to the following provisions of the Warrenton Zoning Ordinance:

- Definitions (Section 1.030)
- General Commercial Zone (Sections 3.060 through 3.064)
- Flood Hazard Overlay Zone (Sections 4.010 through 4.012)
- Soils Hazard Overlay Zone (Section 4.030 through 4.034)
- Accessory Uses (Section 7.020)
- Access (Section 7.030)
- Clear Vision Areas (Section 7.040)
- Maintenance of Minimum Ordinance Requirements (Section 7.050)
- Enclosure or Screening Requirement (Section 7.055)
- Drainage (Section 7.060)
- Off-Street Parking Requirements (Sections 7.080 through 7.083)
- Sign Requirements (Section 7.090)
- Protection of Archaeological Sites (Section 7.115)
- Protection of Riparian Vegetation (Section 7.200)
- Large-Scale Development (Section 7.700)
- Exceptions and Non-Conforming Uses (Article 10)
- Variances (Article 11)
- Administrative Provisions (Article 15)

X. Enforcement:

Disputes arising out of the ordinance adopted by the City incorporating the terms of this agreement are to be resolved in the Land Use Process including the Land Use Board of Appeals.

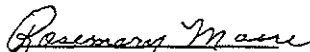
The parties to this agreement warrant that they agree to the terms of this development agreement and as proof of their consent they affix their signatures to this document.

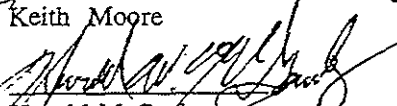
XI. Signatories:

In Witness whereof, the parties have executed this agreement on the dates below indicated.

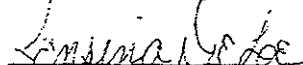
Dated this 13<sup>th</sup> day of October 1995.

  
Keith Moore


  
Rosemary Moore

  
Harold McGadley

  
James Deloe

  
Jensina Deloe

  
Donald Ellis

  
Eula Ellis

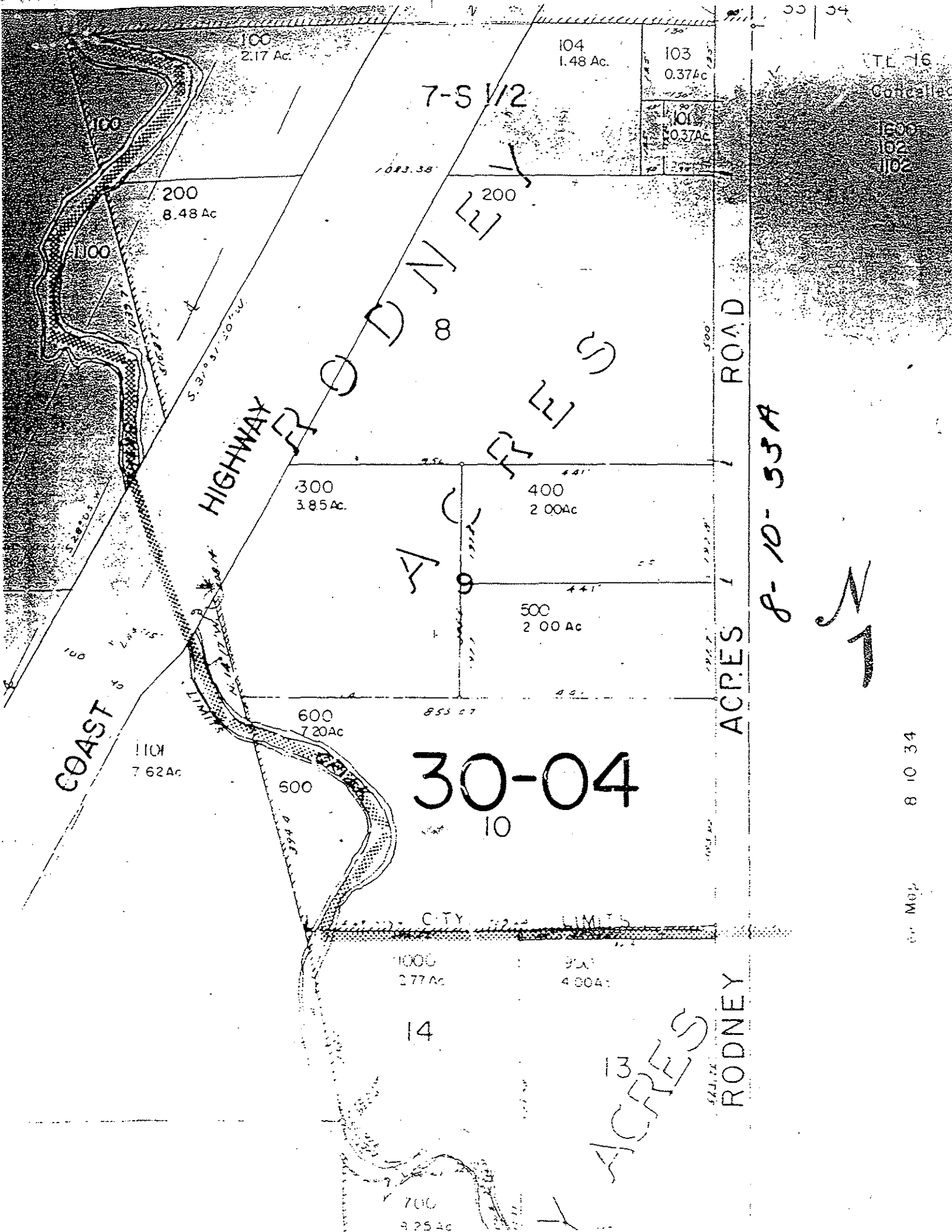
Dated this 16th, day of Oct, 1995.  
By: [Signature]  
Ocean Crest Chevrolet

Dated this 23rd, day of October, 1995.  
By: [Signature]  
Barbara Balensifer, Mayor as authorized by motion  
of the Warrenton City Commission on Oct 18, 1995.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 1995.

By: \_\_\_\_\_  
Donald R. Wagner, Region 2 Manager  
Oregon Department of Transportation.

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DINLEY  
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RODNEY ROAD  
ACRES

8-10-53A

*Handwritten signature or mark*

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CITY LIMITS

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ACRES  
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Map