



**City of McMinnville**  
**Planning Department**  
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## EXHIBIT 2 - STAFF REPORT

**DATE:** December 16, 2021  
**TO:** Planning Commission Members  
**FROM:** Tom Schauer, Senior Planner  
**SUBJECT:** Public Hearing (Docket CPA 2-20/ZC 3-20) – Kimco Map Amendment, Request for Continuance

### STRATEGIC PRIORITY & GOAL:



### GROWTH & DEVELOPMENT CHARACTER

Guide growth & development strategically, responsively & responsibly to enhance our unique character.

**OBJECTIVE/S:** Strategically plan for short and long-term growth and development that will create enduring value for the community

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### Report in Brief:

This agenda item is the Comprehensive Plan Map Amendment and Zone Change with a Planned Development Overlay (CPA 2-20/ZC 3-20) for the property owned by Kimco McMinnville LLC located at 3310 SE Three Mile Lane. Staff has previously concurred with and recommended continuances requested by the applicant in order to work through resolution of transportation mitigation issues. In addition, the applicant has previously requested continuances to facilitate coordination of applications for map amendments for the adjoining properties to the east and west, with the intention of a hearing date for all three applications to be heard at a concurrent meeting. In November, Kimco requested a continuance to the December 16, 2021 Planning Commission meeting.

Kimco has requested that the public testimony portion of the hearing which was continued to December 16 be re-opened on December 16 to allow for additional public testimony, and that the hearing then be continued to January 20, 2022 upon conclusion of public testimony on December 16, with additional public testimony to be taken on January 20, 2022. **See Attachment A.**

### Background and Discussion:

At this time, staff does not have updated recommendations following the original staff report and decision document from the May 20, 2021 meeting to be incorporated into a new staff report or decision document, since transportation mitigation is still under discussion. The May 20, 2021 meeting packet with the original staff report, decision document, and application materials is available at the link below:

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Attachments:  
Attachment A – December 9, 2021 Correspondence from Dana Krawczuk

[https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning\\_commission/meeting/packets/22013/pc\\_5-20-21\\_packet\\_final.pdf](https://www.mcminnvilleoregon.gov/sites/default/files/fileattachments/planning_commission/meeting/packets/22013/pc_5-20-21_packet_final.pdf)

At such time as staff recommendations regarding transportation mitigation have been finalized, staff will provide an updated staff report and decision document with an updated recommendation, conditions, and findings.

The Planning Commission should be aware that the map amendment applications for the adjoining properties to the east and west have been submitted, but they are still in the completeness review period and have not yet been noticed for a public hearing. **Therefore, since those other two applications haven't been scheduled or noticed for a December 16 public hearing, the Planning Commission should not discuss the substantive issues associated with those other applications on December 16, in order to avoid ex-parte communication outside of noticed public hearings for those other applications.**

**Attachments:**

Attachment A: December 9, 2021 correspondence from Dana Krawczuk

**Recommendation:**

Staff recommends that the Planning Commission re-open the public testimony portion of the public hearing for additional testimony on December 16, 2021, and at the conclusion of public testimony, that the Planning Commission continue the public hearing to the January 20, 2022 Planning Commission meeting.

**RECOMMENDED MOTION BEFORE PUBLIC TESTIMONY: "I MOVE THAT THE PLANNING COMMISSION RE-OPEN THE PUBLIC TESTIMONY PORTION OF THE PUBLIC HEARING FOR DOCKET CPA 2-20/ZC3-20 FOR ADDITIONAL PUBLIC TESTIMONY."**

**RECOMMENDED MOTION AT THE END OF PUBLIC TESTIMONY: "I MOVE THAT THE PLANNING COMMISSION CONTINUE THE PUBLIC HEARING FOR DOCKET CPA 2-20/ZC3-20 TO THE JANUARY 20, 2022 PLANNING COMMISSION MEETING."**

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Attachments:

Attachment A – December 9, 2021 Correspondence from Dana Krawczuk



December 9, 2021

Dana L. Krawczuk  
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**VIA EMAIL**

McMinnville Planning Commission  
c/o Tom Schauer  
Senior Planner  
City of McMinnville  
Planning Department  
231 NE Fifth Street  
McMinnville, OR 97218

**Re: Status Update and December 16, 2021 Hearing for CPA 2-20 and ZC 3-20  
(3310 SE Three Mile Lane, Map & Tax Lot R4426 00700)**

Dear Planning Commissioners:

The Planning Commission conducted a public hearing on May 20, 2021 to consider Kimco McMinnville LLC's ("Kimco") above referenced applications, which propose to rezone 37.7 acres (with approximately 4.25 acres needed for right of way) from M-2 (General Industrial) to C-3 PD (General Commercial with a Planned Development Overlay). See the attached Project Proposal.

Since the May hearing, Kimco has been working to address the issues that were raised, including coordinating with neighboring property owners, the City, County and ODOT. We requested the opportunity to briefly check in with the Planning Commission at the December 16, 2021 hearing so that we can:

- Provide you with a brief update of our progress. We hope that this will refresh the Planning Commission on the application in preparation of a detailed substantive public hearing on January 20, 2022 which will consider Kimco's application and applications of neighboring property owners.
- Hear from the community and Planning Commission about any new concerns. We request that the Planning Commissioners identify any concerns they have with Kimco's application at the December 16<sup>th</sup> hearing so that we will be prepared to address the issues at the January hearing.

## Update on Key Issues

A following issue themes emerged at the May 20, 2021 hearing.

1. **Coordination with neighboring property owners.** Kimco and the abutting property owners, DRS Land, LLC and 330 TML LLC (collectively, the “Neighboring Property Owners”), have been collaborating since the May hearing. The Neighboring Property Owners have filed their own applications requesting comprehensive plan and zoning map amendments consistent with Kimco’s, and as depicted on the attached Neighboring Property Owners’ Proposal. Our shared goal is to have all three applications considered concurrently on their merits at the January 20, 2022 Planning Commission hearing.

So that ex parte contacts are not inadvertently created, we will not go into any detail about the Neighboring Property Owners’ pending applications at the December 16<sup>th</sup> hearing. We simply wanted to let the Planning Commission know that coordination is occurring, and that you will have the opportunity to evaluate the applications at an upcoming public hearing.

2. **The timing of Kimco’s application and its consistency with the 3MLAP.** A benefit of the time that has passed since the Planning Commission first heard Kimco’s application is that the 3MLAP has been further refined and is closer to adoption. The Planning Commission is likely to continue the 3MLAP hearing so that it is considered at the January 20, 2022 hearing. If Kimco’s application is ready to be approved prior to when the 3MLAP is adopted, Kimco will work with the City to craft conditions of approval that ensure that any development of Kimco’s property will be consistent with the 3MLAP.
3. **Confirm Kimco’s application will not absorb all of the commercial land need in the 3MLAP.** Comprehensive Plan Policy 48.70 (Ordinance 5098) provides that “40 acres of property along the south side of the Highway 18 frontage” shall be changed from industrial to commercial. The Neighboring Property Owners expressed concern that if Kimco’s rezone of approximately 37.7 acres was approved, it would absorb most of the 40 acre land need, which means that their property could not be zoned commercial in the future. We provided a detailed legal analysis on June 21, 2021 that explained why the 40 acre need in Policy 48.70 and the commercial land deficit in the 2013 EOA are the minimum acreage needed to accommodate the City’s commercial land demand; they are the “floor” not the “ceiling” of how much land can be designated commercial. We understand that the City Attorney and DLCDC agree with our analysis. Simply stated, there is enough commercial land need to support rezoning Kimco’s property and the Neighboring Property Owners’ parcels commercial.
4. **Traffic mitigation.** Kimco continues to work with the City, County, ODOT and Neighboring Property Owners to reach consensus on appropriate transportation mitigation measures and funding for those improvements. We will provide a detailed analysis in advance of the January 20, 2022 hearing.

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We appreciate the opportunity to update the Planning Commission on December 16, and look forward to hearing your and the community's input. We believe that checking in on December 16 will help us all prepare for the January 20, 2022 public hearing, at which time the three applications will be considered concurrently.

Very truly yours,



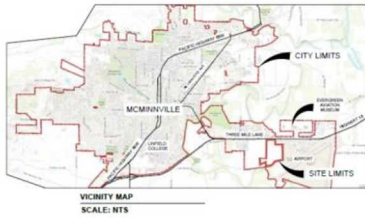
Dana L. Krawczuk

Attachments: Kimco's Project Proposal  
Neighboring Property Owners' Proposal

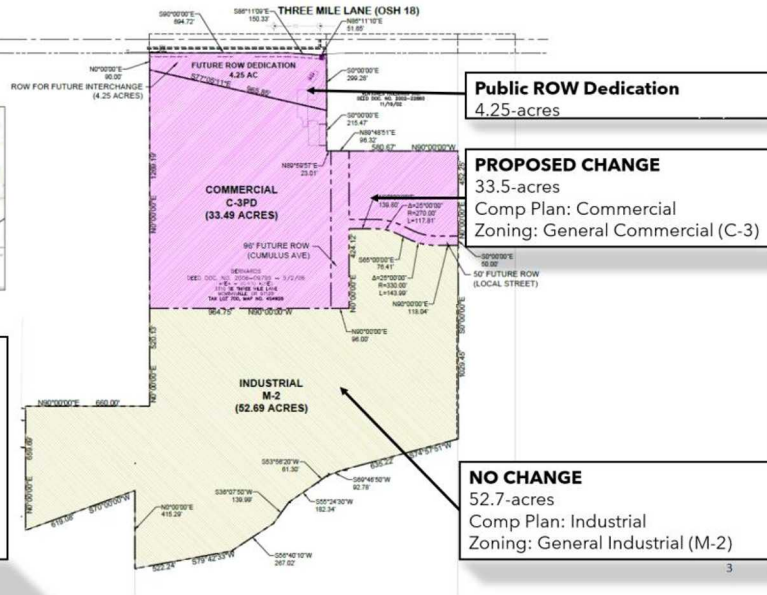
cc: Michael Strahs  
Alan Roodhouse  
Stewart Kircher, DRS Land, LLC and  
Fee Stubblefield, 330 TML LLC  
Mike Connors  
David Koch

### Kimco's Project Proposal

## PROJECT PROPOSAL



- **Comprehensive Plan Map Amendment** from Industrial to Commercial
- **Zone Change** from **General Industrial (M-2)** to **General Commercial (C-3)**
- Applies to **northern 33.5-acre portion** of the site along State Highway 18
- **No development** is proposed at this time.



**Neighboring Property Owners' Proposal**

