

Portland Vancouver Junction Railroad LLC, Pioneer Industrial LLC, and Knife River are using the (IR) Railroad Industrial District zone to get (IH) Heavy Industrial uses permitted in an (IL) Light Industrial area with (R1-6) Residential zoning approximately 400 feet away and established (R1-6) zoned residential homes approximately 750 feet away.

The PVJR rezoning to IR poses risk to the adjacent IL zoned property that is used for a veterinary clinic. An IR zone prohibits veterinary zoning and is incompatible with the adjacent property. Veterinary is permitted in IL, IH, and BP zones.

The Pioneer Industrial LLC rezoning to IR poses risk to the surrounding residential areas. They plan to build a Ready-mix concrete plant at this location. They are typically zoned in an IH zone due to the noise and pollution generated. IH zones are incompatible with the residential approximately 400-750 feet away.

Applicants claim that IR zoning allows them to make full use of the nearby railroad, and their main purpose of the IR rezone is to expand the opportunities and broaden the scope of land usage for the property.

- Railroad distribution is already an outright permitted use under the IL zone. It can be used to move freight and support any of the permitted IL industry uses.
- All uses added by switching to an IR zone are IH permitted uses prohibited in IL zones. This change only makes sense for them if they have a specific use that is prohibited in IL but is permitted in an IR zone.
- They do admit when pressed to have specific intentions to use the land for a purpose permitted in the IR and prohibited in the IL zone. This use is currently an IH permitted use which is not appropriate for the nearby residential zones.
- Switching to IR they lose 55 Light Industrial uses and gain 16 Heavy Industrial uses. All the uses gained are considered incompatible with nearby residential zones. This effectively limits and narrows the scope of land usage therefore defeating their purpose for the rezoning.

- They mentioned already having a desired use for the site that is permitted under IR/IH but not the IL zone. It appears they are trying to get around needing IH approval by using the IR zoning as a loophole.
- Pioneer Industrial LLC and Knife River agreed to a Covenant that will reduce the IR zone uses even further so they could get the IR zoning approved for a specific use (cement batch plant). This usage falls under the IH zone and is prohibited in IL zones. This confirms the intent was to get the IH uses approved using the railroad as a reason to rezone to IR not to expand opportunities.
- The IR zone is virtually identical to the IH zone. It has all of the heavy industrial uses from the IH zone with the exception of 19 uses (18 of those uses are permitted in the IL zone). It appears to only exist to get IH approved in areas that would otherwise not permit a rezone to IH. I question the legitimacy of the IR zone when the IL and IH zones are already permitted to use the railroad for distribution.
- Eric Temple from PVJR worked closely with the county to develop the FRDU overlay and IR zone that exists today. The IR zone is now being used by his company to get IH uses approved in an IL zone so that his company can profit. Since the IR zone appears to be a loophole in the zoning I question his involvement and motives to get this zone created.

## Zone Change Approval Criteria

Zone changes may be approved only when all the following are met:

1. Requested zone change is consistent with the comprehensive plan map designation.
2. The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
3. The zone change either:
  - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
  - b. Better implements applicable comprehensive plan policies than the current map designation; or
  - c. Corrects an obvious mapping error.
4. There are adequate public facilities and services to serve the requested zone change.

## Zone Change Arguments

Request does not meet criteria 2 or 3b of the zone change approval criteria.

- The requested zone change is not consistent with the plan policies and locational criteria and the purpose statement of the zoning district.
- The zone change does not better implement applicable comprehensive plan policies than the current map designation.
- Table 1.6 on page 32 of the comprehensive plan clearly shows intention to keep heavy industrial uses and light industrial uses separate. The adoption of the IR zone is not consistent with this logic.

*Comprehensive Plan - Page 32*

*Table 1.6 | Urban Plan Designations to Zone Consistency Chart*

Comprehensive Plan	Zoning
<b>Urban Low Density Residential (UL)</b>	Single Family Residential (R1-5) Single Family Residential (R1-6) Single Family Residential (R1-7.5) Single Family Residential (R1-10) Single Family Residential (R1-20)
<b>Urban Medium Density Residential (UM)</b>	Residential (R-12) Residential (R-18) Residential (R-22) Office Residential (OR-15) Office Residential (OR-18) Office Residential (OR-22)
<b>Urban High Density Residential (UH)</b>	Residential (R-30) Residential (R-43) Office Residential (OR-30) Office Residential (OR-43)
<b>Mixed Use (MU)</b>	Mixed Use (MX)
<b>Commercial (C)</b>	Neighborhood Commercial (NC) Community Commercial (CC) General Commercial (GC)
<b>Industrial (I)</b>	Business Park (BP) Light Industrial (IL) Railroad Industrial (IR) Airport (A)
<b>Heavy Industrial (IH)</b>	Heavy Industrial (IH) Airport (A)

The Plan to Zone matrix is provided to identify those implementing base zoning districts which are consistent with each plan designation. **Those districts which are not included within a given plan designation are inconsistent with the plan map and are not permitted within that designation.** This information is necessary to determine when, where and under what circumstances these designations should be applied in the future.

- The IR zone does not create any further uses beyond what is already available in the IL, IH, and BP zones. The IR zone is virtually identical to the IH zone. There are only 19 uses in IH not permitted in the IR zone. 18 of those uses are permitted in the IL zone. Heavy industrial uses are not compatible with residential zoning due to noise, odor, and pollution concerns. This goes against CP Policy 9.1.2 listed below.

*Comprehensive Plan - Policy 9.1.2*

*Revise commercial and industrial development standards to allow for mixed use developments and **ensure compatibility with nearby residential and public land uses.***

- The applicants claim that the sites should be rezoned to IR because they can make use of the abutting railroad infrastructure. Their use is considered heavy industrial and would create noise and pollution. This would have a negative impact on the surrounding residential.

Industrial (I)

Areas within this designation are implemented with Light Industrial (IL), Business Park (BP) and Industrial Railroad (IR) base zones and are **intended to provide the community with employment opportunities such as compatible office and attractive new non-polluting industries.** Areas designated Industrial also provides for more intensive job-related land uses that pay family wages, such as professional offices, research and technology related industries.

Heavy Industrial (IH)

This designation is implemented with a heavy industrial (IH) base zone and provides land for **heavy manufacturing, warehousing and industrial uses** that may be incompatible with other categories of land uses. This designation is **appropriate for areas which have extensive rail and shipping facilities.**

Public was not adequately notified of the hearing and intended rezoning. Many of us impacted by this proposal had little reason to suspect this was taking place. We only found out because neighbors were outraged and began canvassing the neighborhood with flyers.

- Sign posted in a location with minimal visibility. The sign was located on the corner of the property at the end of 101<sup>st</sup> street. This is a public road that dead ends at the property location. It was 1000 feet from the main road 72<sup>nd</sup> where public traffic regularly travels.
- The Sunnyside Neighborhood Association was notified. We are within the boundaries but do not remember receiving notification from them.
- Notice was posted in the local newspapers. Many of the residence in the area do not have a subscription.
- The zone still does not show the IR zone change on the GIS website. It was approved for Pioneer Industrial LLC on 3/23/2021. The change approved for PVJR was approved on 10/2/2020 and does show up.
- It would be nice if the county would increase the notification area for zone changes to further inform and involve the public in these matters. It's currently set at 300' urban and 500' for rural. This seems extremely small given industrial zones can be larger than this size.

## Companies and Owners

Rail Asset Management LLC	Owner Eric Temple
Portland Vancouver Junction Railroad LLC	Owner Eric Temple
Pioneer Industrial LLC	Owner Mike Leboki
Knife River Corporation – Northwest	CEO David C Barney

## Timeline of Events

9/25/2012 Parcel ID 986031172  
Rail Asset Management LLC purchases the land from Clark County

2/28/2017 ESB 5517 passes the senate 38-11

*“In 2017, the state approved a law that would allow freight rail dependent development along county-owned short line railroads. The law was achieved, in no small part, due to the work of a lobbyist hired by PVJR. At that time, then-County Chair Marc Boldt praised the law as something that would help to bring jobs and economic development to the region.”*

<https://www.clarkcountytoday.com/news/chelatchie-prairie-operator-files-federal-lawsuit-alleging-retaliation/>

10/09/2017 Parcel ID 986031172  
PVJR purchases the land from RAM (RAM was dissolved)

1/09/2018 ESB 5517 implementation by County Council  
County began adopting the freight rail dependent use overlay and amending the county’s comprehensive plan to create policies to allow for freight rail dependent uses.

5/31/2018 Eric Temple working with Clark County on Freight Rail Dependent Use language and policy.

9/17/2019 Parcel ID 119480000  
Pioneer Industrial LLC purchases property 7715 NE 101<sup>st</sup>

3/23/2020 Parcel ID 119480000  
Pioneer Industrial LLC applies for IL to IR District zone change

4/21/2020 Parcel ID 986031172  
PVJR applies for IL to IR District zone change

6/25/2020 Parcel ID 119480000  
Pioneer Industrial LLC County Land Use Hearing  
Case # OLR-2020-00059

8/20/2020 Parcel ID 119480000  
Pioneer Industrial LLC IR Zone change request denied

8/21/2020 Parcel ID 119480000  
Pioneer Industrial LLC appeals the denial to superior court  
Case # 20-2-01634-06

8/27/2020 Parcel ID 986031172  
PVJR Clark County Land Use Hearing  
Case # OLR-2020-00065

10/02/2020 Parcel ID 986031172  
PVJR gets IR District zone change approved by the county.

1/22/2021 Parcel ID 119480000  
Order of Dismissal with Prejudice  
Case # 20-2-01634-06

2/2/2021 Parcel ID 119480000  
Covenant Running with the Land

2/25/2021 Parcel ID 119480000  
Pioneer Industrial LLC Clark County Land Use Hearing  
Case # OLR-2020-00059

3/23/2021 Parcel ID 119480000  
Pioneer Industrial LLC gets IR District zone change approved by  
county



11/23/2022 Parcel ID 119480000

Pioneer Industrial LLC and KRC-NW enter into land purchase agreement.

1/4/2023 Parcel ID 119480000

Pioneer Industrial LLC and KRC-NW hold public meeting

## Clark County Land Use Hearings

Portland Vancouver Junction Railroad LLC

<https://gis.clark.wa.gov/gishome/property/?pid=FindSN&account=986031172#>

8/27/20 CVTV Hearing

<https://www.cvtv.org/vid link/31146?startStreamAt=0&stopStreamAt=3736>

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Pioneer Industrial LLC

<https://gis.clark.wa.gov/gishome/Property/?pid=findSN&account=119480000>

6/25/2020 CVTV Hearing

<https://www.cvtv.org/vid link/30866?startStreamAt=0&stopStreamAt=4468>

2/25/2021 CVTV Hearing

<https://www.cvtv.org/vid link/32216?startStreamAt=0&stopStreamAt=9656>