



# EXHIBIT A

## FINDINGS WITH CRITERIA COMPREHENSIVE PLAN TEXT AMENDMENT

File #: CPTA-02-01

### CRITERIA

#### **Zoning Ordinance Section 9.010: Authorization to Initiate Amendments**

An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the City Planning Commission or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the Planning Official using forms prescribed pursuant to Section 2.070. A filing fee in accordance with the provisions of Section 2.080 shall accompany an application by a property owner for an amendment.

### FINDING #1

The request for the Comprehensive Plan Text Amendment (change) complies with Zoning Ordinance Section 9.010 because the applicant is the City.

### CRITERIA

#### **Zoning Ordinance Section 9.020: Public Hearings on Amendments**

All requests for amendment to the text or zoning map of this Ordinance shall comply with the following public hearing procedures:

- (1) Notice of public hearing shall be as specified in Section 2.100.
- (2) The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed.
- (3) The Planning Commission shall, within 40 days after the initial hearing date, recommend to the City Council approval, disapproval or modification of the proposed amendment.
- (4) After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment in conformity with the notice provision of Section 2.100
- (5) All public hearing procedures shall be in accordance with the City procedures for the conduct of hearings before the Planning Commission and the City Council.
- (6) Within seven (7) days after a decision has been rendered with reference to an amendment, the Planning Official shall provide the applicant with written notice of the decision. This procedure shall apply to recommendations made by the Planning Commission and to final action made by the City Council.

### FINDING #2

The Planning Commission review of CPTA-02-01 has complied with the public hearing procedures listed in Lebanon Zoning Ordinance Section 9.020(1-5). The City of Lebanon Planning Commission held a public hearing on the Comprehensive Plan Text Amendment on August 21, 2002 after provided notice as required by law. On September 18, 2002, the Planning Commission unanimously decided to recommend approval of the Comprehensive Plan Text Amendment to the Lebanon City Council. The Lebanon City Council, after providing requisite legal notice, held a public hearing on November 13, 2002, which is continued to December 11, 2002 for a final decision.

## **CRITERIA**

**Comprehensive Plan Administrative Policies and Recommendations, Policy #1:** The Lebanon Comprehensive Plan shall be maintained as an ongoing decision-making guideline for planning and development actions within the Lebanon Urban Growth Boundary. (page 1-P-1)

### **FINDING #3**

The proposed Comprehensive Plan Text Amendment (change) complies with the Comp. Plan Administrative Policies and Recommendations, Policy #1, (page 1-P-1) because the City has held public hearings using Comprehensive Plan policies as criteria to examine the appropriateness of proposals and used these policies as criteria in the making the ultimate decision.

## **CRITERIA**

**Comprehensive Plan Administrative Policies and Recommendations, Policy #2:** The adopted Comprehensive Plan and Implementing Ordinances shall be reviewed annually and may be revised and amended as needed to reflect changing needs and conditions within the planning area. (page 1-P-1)

### **FINDING #4**

The proposed Comprehensive Plan Text Amendment (change) complies with the Comp. Plan Administrative Policies and Recommendations, Policy #2, (page 1-P-1) which states that the Comprehensive Plan and Implementing Ordinances shall be reviewed annually and may be revised and amended as needed to reflect changing needs and conditions within the planning area. This clearly was the intent of the 1995 Commercial Lands Study and failing to amend Commercial Land Use Policy #5 will substantially defeat or nullify the intent, results and positive community benefits of that completed, adopted and acknowledged Periodic Review Work Task.

## **CRITERIA**

**Comprehensive Plan Administrative Policies and Recommendations, Policy #8:** The City of Lebanon hereby adopts the applicable Statewide Planning Goals\* as they apply to the community, and reinforces them through specific goals, objectives, and policies in response to community needs.

### **FINDING #5**

The proposed Comprehensive Plan Text Amendment (change) complies with the Comp. Plan Administrative Policies and Recommendations, Policy #8, (page 1-P-1) that states that the City of Lebanon hereby adopts the applicable Statewide Planning Goals as they apply to the community, and reinforces them through specific goals, objectives, and policies in response to community needs. There is a demonstrated community need for vacant commercial lands as documented in the 1995 Commercial Lands Study. Failing to implement the proposed Comprehensive Plan Text Amendment will result in this community based need not being adequately addressed and thereby also failing to comply with the intent of Statewide Goal 9 as pertaining to vacant commercial lands.

## **CRITERIA**

**Statewide Planning Goal #12:** Goal 12 (Transportation) and the Transportation Planning Rule (TPR) aim in part to provide "a safe, convenient and economic transportation system." In addition Goal 12 requires a transportation plan that will, among other things, "facilitate the flow of goods and services so as to strengthen the local and regional economy."

### **FINDING #6**

The transportation planning requirements of Statewide Planning Goal # 12 (Transportation) and the Transportation Planning Rule (TPR) are routinely and systematically addressed as part of the development proposal planning review and approval process implemented by both city staff and the Planning Commission. This is particularly appurtenant to properties designated as

Special Development District (SPD) and zoned Mixed Use (MU) as such designation and zoning require Planning Commission public hearing review of all development proposals including proposed transportation impacts, mitigating measures and facility improvements. All of the large, vacant properties south of Market Street (and thereby impacted by the proposed Text Amendment) and abutting the highway are designated and/or zoned SPD or MU, respectively, and consequently are automatically subject to these transportation scrutinizing project review procedures. Additionally, City review of highway abutting/accessing development proposals includes access management considerations and ODOT Highway Division staff involvement including ODOT issued highway access permits. For all of the above-cited reasons, it is evident that the Lebanon planning review and approval procedures include adequate consideration of transportation related impacts and issues.

### **CRITERIA**

The City of Lebanon Comprehensive Plan (Chapter 1 – Introductory Provisions, section on Plan Revisions and Changes, Page 1-15) notes in part that:

**Major Revisions:** “Major Revisions include land use changes that have widespread and significant impact within the community.”

**Minor Changes:** “Minor changes are those which do not have significant effect beyond an immediate area or are individual aspects of the Plan that do not represent a major policy change relative to the community as a whole. Minor changes should be based on special studies or other information which will serve as the factual basis to support the change. The **public need** and justification for the particular change should be established. Minor changes should be made as needed to maintain the Plan as an up-to-date guideline for community growth and development.”

and

**Statewide Planning Goal 2 (Land Use Planning):** Requires that “...all land-use plans... shall be reviewed and, as needed, revised... to take into account public policies and circumstances ...” In addition Goal 2 contemplates, “minor changes, i.e., those which do not have significant effect beyond the immediate area of the change and, should be based on special studies or other information which will serve as the factual basis to support the change.”

### **FINDING #7**

The proposed Comprehensive Plan Text Amendment is a Minor Change of the Lebanon comprehensive Plan.

The area impacted by this proposed Comprehensive Plan Text Amendment is the portion of the City of Lebanon and the UGB immediately south of Market Street that is or could at some later date be available for highway commercial with direct access to Highway 20 (Santiam Highway). This does not represent a significant and widespread impact within the community. This proposed change would not have significant effect beyond an immediate area and represents a change to only an individual aspect of the Plan since it does not represent a major policy change relative to the community as a whole.

### **FINDING #8**

This proposed Comprehensive Plan Text Amendment is based on a special study that provides information that serves as a factual basis to support the proposed change, and thereby complies with this requirement of a Minor Change noted above. In June of 1995 the City completed its “Commercial Lands Study and Highway Access Plans” in partial fulfillment of these Goal 2 requirements. The City then approved this study based on the City’s public policy (both then and now) of encouraging a variety of economic development throughout the City, in addition to the need for more, large size commercial sites to meet the growth and employment needs of the City.

### **FINDING #9**

This proposed Comprehensive Plan Text Amendment implements the previously adopted Commercial Lands and Highway Access Plans Study (June 1995) and accompanying Comprehensive Plan Map Amendments approved by the Lebanon City Council on September 27, 1995. This amendment now corrects Comprehensive Plan Policy 5, an action that was inadvertently overlooked in 1995 when it should have been amended to bring it into conformity with the Lands Study and accompanying Comprehensive Plan Map Amendments. This proposed Comprehensive Plan Text Amendment and the September 27, 1995 Comprehensive Plan Map Amendments are both necessary to enable the intended uses of several parcels including the property owned by the Lebanon Community Foundation and home of the Strawberry Festival on the east side of the Santiam Highway.

### **FINDING #10**

This proposed Comprehensive Plan Text Amendment is necessary to meet the basic public need for lands suitable for commercial development.

- There has been extensive economic development interest in several parcels of land south of Market Street. All of this interest has been commercial in nature including, among others, an RV Park, Hotel, Movie Theatre Complex and large box retail. These types of uses, which would provide badly needed jobs (local unemployment rate over 9%) generally need sites that are 10 acres or larger. There are no other similarly serviced and sized commercial parcels anywhere in Lebanon.
- At least two owners of the parcels that were designated as commercial in 1995 have expressed to the City, an interest in promoting quality commercial development on their property. Failure to make the Text Plan change would defeat the public need to deal consistently with property owners as they contemplate appropriate use(s) of their property. Additionally, none of the sites for potential commercial development south of Market Street are an existing natural resource land and they have always been included in the Lebanon Urban Growth Boundary.
- The Text Amendment will also provide necessary transportation improvements by providing controlled access along Highway 20, and allowing for commercial development that can provide funding for necessary transportation improvements along Highway 20 south of Market Street.

### **FINDING #11**

The City of Lebanon's commercial land needs would be fulfilled by this proposed Comprehensive Plan Text Amendment, as shown in the Commercial Lands and Highway Access Plans Study of June 1995. This study was recommended for adoption by the Lebanon Planning Commission on September 20, 1995, adopted by the Lebanon City Council on September 27, 1995, and approved by the Oregon Division of Lands, Conservation and Development (DLCD) on December 1, 1995 (see attachment to Planning Commission Report of August 21, 2002). [Note: the 1995 Study did not specifically identify the Champion and Motor-Vu properties because they both were being used for commercial purposes at that time.]

### **CRITERIA**

**Statewide Planning Goal #9 (Economic Development):** Directs local communities to maintain an adequate supply of developable land to meet the communities commercial and industrial land development needs.

## FINDING #12

This proposed Comprehensive Plan Text Amendment meets statewide planning Goal 9, which requires that: "Comprehensive Plans shall contribute to a stable and healthy economy... and shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration..."a wide variety of factors." The testimony of John Hitt on August 21, 2002, establishes the need for available commercial lands of greater than 10 acres along Highway 20 as does the 1995 Commercial Lands Study. Several inquiries by developers have made such requests.

## FINDING #13

Adoption of the proposed Comprehensive Plan Text Amendment complies with the requirement established in statewide planning Goal 9 to consider factors beyond mere total acreage and growth absorption rates. This would include: the size and location of developable parcels, health of the current economy, labor market factors, and current market forces.

- Linn County's high unemployment rates, Lebanon's very short supply of larger (over ten acres) commercial sites and the market forces favoring large scale, non-strip and/or non-downtown development, all speak to the necessity of this proposed Comprehensive Plan Text Plan change in the light of Goal 9.
- Goal 9 further recognizes these needs by requiring that Comprehensive Plans ..."provide for at least an adequate supply of suitable sites, types, locations and service levels for a variety of industrial and commercial uses..." To be consistent with the Goal 9 requirement, the City must eliminate a Comprehensive Plan Text provision that would otherwise prevent the City from having available commercial sites, of various sizes and locations, and that also respect current labor and commercial market factors.
- Even if the City had a huge supply of small, isolated parcels of limited depth and poor transportation access this acreage would not meet the requirements of Goal 9.
- As an example, the City has only one commercial site on the entire south side of the City that is barely over two acres and that is north of Market Street. With the current Comprehensive Plan language in place, there could be no commercial development larger than two acres, except at the very north entrance to the city, some 2 and ½ miles from Market Street. Hence, the only effective way for the City to meet the requirements of Goal 9 is to make available commercial sites, south of Market Street, that provide economic development opportunities unmatched by existing sites north of Market.

## CRITERIA

**Statewide Planning Goal #12 (Transportation) and the Transportation Planning Rule (TPR):** Together these two aim in part to provide "a safe, convenient and economic transportation system." In addition Goal 12 requires a transportation plan that will, among other things, "facilitate the flow of goods and services so as to strengthen the local and regional economy."

## FINDING #14

The proposed Comprehensive Plan Text Amendment is consistent with Goal 12 because it establishes a standard to protect the flow of goods and services on Highway 20 (Lebanon's principal transportation artery) by prohibiting all commercial land uses south of Cascade from making direct access to Highway 20. Statewide planning Goal 12 (Transportation) requires a transportation plan that will, among other things, "facilitate the flow of goods and services so as

to strengthen the local and regional economy.” The proposed amendment, in conjunction with the rest of the Comprehensive Plan, and implementing ordinances, are a cohesive whole system that implements Goal 12 and the Transportation Planning Rule.

### FINDING #15

This proposed Comprehensive Plan Text Amendment, and multi-agency involvement in the review process for this amendment, demonstrate compliance with the provisions of the Transportation Planning Rule (TPR) cited in the ODOT letters of 8/6/02 and 8/12/02 attached to the August 21, 2002, Planning Commission Staff Report (CPTA-02-01, pages 8-14). Specifically, compliance is demonstrated with OAR 660-012-0045(2) that, among other things, requires access management and control, as well as a process for coordinated review to consider all aspects of compliance. This current coordinated review process, which includes related applications, also takes into account the alignment of streets as noted in OAR 660-012-0045(6)(a-c), and also enhanced facilities for vehicle, pedestrian/bicycle access and circulation as mandated in OAR 660-012-0045(3)(a-e). In addition, the City routinely requires the construction of sidewalks and pedestrian/bike paths as part of the approval process of development applications, further satisfying OAR 660-012-0045(3)(a-e). Studies supporting this text amendment, and other related applications, further demonstrate that the function of the Highway will not be adversely impacted as required by OAR 660-012-060 (see Addendum II, Items 3, 4, 10, 11, 16, 18, 22, 26, 44).

### CRITERIA

**General Economic-Related Commitments:** The City of Lebanon Comprehensive Plan makes numerous economic-related commitments, including the following examples:

- **General Goals and Objective # 5:** “To broaden opportunities for economic expansion and diversification” (page 1-17).
- **Chapter 3, Population and Economy, from the Section on Unemployment:** “The City’s policies on economic development are directed toward reducing the unemployment problem by attracting new industrial and business development.” . . .[and] . . . “Lebanon has a positive aggressive attitude toward growth . . .” (pages 3-18 & 3-19).

### FINDING #16

The Comprehensive Plan makes numerous commitments to “...reducing the unemployment problem by attracting new industrial and business development, “ and a self described “aggressive attitude toward growth” and a commitment to “broaden opportunities for economic expansion and development.” (Plan 3-18 & 19 and 1-17). A blanket prohibition on all commercial development south of Market Street, including the Strawberry Festival site, especially in light of current market conditions and the desired need for larger retail sites, stands in contradiction to these stated Comprehensive Plan goals and objectives. The proposed Comprehensive Plan Text Amendment to Commercial Land Use Policy #5 addresses these concerns highlighted in the above-mentioned sections of Comprehensive Plan and evidence has been provided that the Text Amendment would not conflict with these concerns.

### CRITERIA

**Commercial Land Use --** The City of Lebanon Comprehensive Plan makes numerous economic-related commitments, including the following examples:

**Highway Commercial (Chapter 5 – Land Use, pages 5-13 & 5-14):**

“Auto oriented business requiring direct vehicular access find locations in major arterials or highways attractive. A strip of business has developed along U.S. Highway 20 extending from Oak Street south to the Southgate Shopping Center at Market Street. Commercial buildings are spaced apart along the highway necessitating the use of the automobile.

Problems related to U.S. Highway 20 commercial strip development include:

1. Traffic congestion on needed through access arterials and highways.
2. Hazardous vehicular turning conflicts.

3. Ingress and egress conflicts due to too many access locations and through traffic conflicts.
4. Vehicular and pedestrian hazards and conflicts.

In order to prevent the continued spread of such problems along Highway 20, the plan designates no additional commercial development on Highway 20 south of the Southgate Shopping Center.

In 1979 the Lebanon Plaza was built adjacent to the Southgate Shopping Center and this area has emerged as Lebanon's second main commercial focus. Both facilities have adequate space for future expansion and this provides an excellent terminus for the existing strip development. The Plan allows for continued infilling of the strip between downtown and the Southgate/Lebanon Plaza area."

**Shopping Centers (Chapter 5 – Land Use, page 5-14):** States in part that, "[t]here are no major shopping centers in Lebanon." [As identified location areas] "...approach maximum utilization, new outlying centers would be encouraged to serve an expanding population." ... "Possible changes in highway and arterial street use will result in changes in traffic patterns. This then will affect the desirability of potential commercial sites. Such factors should be included when consideration is given to any additional commercial land use needs."

**Commercial Reserve and Commercial Development Standards (paragraphs pertaining to Shopping Centers) (Chapter 5 – Land Use, page 5-15):**

"No additional locations are identified for shopping center development, other than what now exists. However, future shopping centers should be allowed upon request within the Mixed-density Residential District based upon an approved development plan in conformance with the 'Planned Development' standards and procedures of the zoning Ordinance.

Location and development standards for shopping center commercial clusters should be based upon the following criteria:

1. Locations should be adjacent to arterial streets of [sic – should be "or?"] highways. Preferred locations would be at the intersection of two arterials, an arterial and a highway, or a collector street and an arterial.
2. Developments should be centralized and not allowed to spread into a commercial strip.
3. Limited access should be carefully controlled. To minimize pedestrian and vehicular conflicts, turning lanes should also be encouraged.
4. Adequate joint use of off-street parking should be provided and pedestrian and bicycle access encouraged.
5. Sign, setback, sidewalks, and landscaped buffer regulations should be enforced to protect adjacent property owners, the neighborhood and to provide environmental amenities within the project."

**Commercial Land Use Policy #6:** "Existing commercial businesses should be allowed to continue but no new developments of a strip nature should occur" (page 5-P-3).

**Commercial Land Use Policy 7:** "Existing commercial businesses should be reinforced prior to development of new outlying centers" (page 5-P-3).

**Commercial Land Use Policy #10:** "Commercial developments shall be constructed as compact centers rather than scattered along roadways or mixed in with non-commercial land uses that would conflict" (page 5-P-3).

### FINDING #17

This proposed Comprehensive Plan Text Amendment does not encourage or create Strip Development as restricted by **Commercial Land Use Policy #6**. Strip development is defined as follows in the Land-Use Planning in Oregon (pages 213-214): "*A linear pattern of commercial development along a major street or highway...[that]...brings several disadvantages to the community... high costs to extend sewer, water, and other utilities over a long distance; higher fuel consumption for longer vehicle trips along the extended commercial area; isolation of land behind the strip; traffic problems resulting from uncontrolled entrance and exit of many vehicles to and from a multitude of driveways; and the aesthetic costs of 'visual pollution' from neon signs, bright store fronts, parked cars, etc.*" Several facts support the finding that this proposed amendment does not encourage or create Strip Development. (1) The properties



between Market Street and Cascade Drive affected by this proposed amendment were already in commercial use when the 1995 Commercial Lands and Highway Access Plans Study was conducted. (2) The proposed amendment prohibits any new direct access to the Santiam Highway from commercial development south of Cascade Drive. (3) The proposed amendment actually prohibits "strip development" as defined in Land-Use Planning in Oregon.

#### **FINDING #18**

With the proposed Comprehensive Plan Text Amendment, the overall Lebanon Comprehensive Plan is consistent with Commercial Land Use Policy #5. Without the amendment, the existing Commercial Land Use Policy #5 is in conflict with numerous provisions of the current Comprehensive Plan.

#### **FINDING #19**

**Commercial Land Use Policy 10:** this Text Amendment is consistent with this policy as it will allow commercial development in areas already appropriately zoned and in some cases already used for commercial purposes, and helps prevent scattered development in this area of the community.

#### **FINDING #20**

**Shopping Centers** (Lebanon Comp Plan, page 5-14) -- The recognition that, "There are no major shopping centers in Lebanon", and that as the small, then existing shopping areas reach maximum utilization, "new outlying centers would be encouraged to serve an expanding population." The community has now reached this point of reaching maximum utilization. The only two places these proposed "outlying centers" could go, then and now, are either south of Market Street or north of Mary Street.

#### **FINDING #21**

**Commercial Land Use Policy 7:** The proposed Comprehensive Plan Text Amendment would be consistent with this policy, in that the time is appropriate, as per the findings of the 1995 Study, to provide for commercial development in new areas (Sites 1, 3 & 4) as well as reinforce all the other existing (in 1995 and/or today) commercial uses south of Market street.

#### **FINDING #22**

**Commercial Reserve and Commercial Development Standards [for Shopping Centers]** (Lebanon Comp Plan, page 5-15): The proposed Comprehensive Plan Text Amendment is consistent with the Comprehensive Plan standard for commercial reserve and commercial development standard. "Future shopping centers..." should be based on the criteria of, among others, (a) "Limited access," (b) Adequate joint use of off-street parking, as well as traffic access, (c) Sidewalks and landscape buffers should be provided, and "preferred locations would be at the intersections of ... an arterial and a highway." (Lebanon Comp. Plan, page 5-15) Most of the area that then can meet these criteria is south of Market Street because of the lots and acreage available in this area. Commercial sites north of Mary Street would have trouble meeting criteria b and c, unlike sites available south of Market Street.

#### **FINDING #23**

**Highway Commercial** (Lebanon Comp Plan, page 5-13) -- The plan recognizes that "auto oriented businesses requiring direct vehicular access find locations on major arterials or highways attractive." The Plan also notes the problems associated with Highway commercial strip development and proposes the prohibition of commercial development south of Market Street as a partial cure (page 5-13). However, this proposed cure does not address the stated traffic problems, but in fact, exacerbates them. Focusing more and more intense commercial

development north of Market Street will only serve (and has served) to create more congestion, more turning conflicts and more ingress and egress conflicts. The proposed amendment addresses these Comprehensive Plan concerns by allowing the development of larger scale, multi-use commercial developments with coordinated, limited, and controlled access to Highway 20, as well as, the ability to reduce vehicular hazards.

#### **FINDING #24**

The Comprehensive Plan Text Amendment complies with **Comprehensive Plan Commercial Land Use Policies # 7 and #10** and related land use recommendation (Plan, page 5-5) because it does not encourage commercial sprawl and reinforces existing commercial centers. Sprawl is defined as follows in the Land-Use Planning in Oregon (page 210): *"The uncontrolled spread of development over rural or undeveloped land...it usually connotes low densities, inefficient use of land, premature conversion of rural farm or forest land to urban uses, and the spread of development outward from cities in an amoeba-like manner."*

#### **CRITERIA**

##### **Comprehensive Plan Criteria/Administrative Policies & Recommendations (Page 1-P-1):**

- **Policy 1** --The Lebanon Comprehensive Plan shall be maintained as an ongoing decision-making guideline for planning and development actions within the Lebanon Urban Growth Boundary.
- **Policy 3** -- All proposed revisions or amendments to the adopted policies shall be reviewed at public hearings before final action.
- **Policy 7** -- An active and ongoing citizen involvement program shall be maintained by the city to insure that all citizens have an opportunity to be informed and involved in the planning process.

#### **DISCUSSION**

The Opposition sites the above Comp Plan Polices and argues their relevancy (Addendum IV: Item 7, p. 1). They contend that the proposed Comprehensive Plan Text Amendment is "primarily a Wal-Mart Issue" and that this has seemingly "been no issue for seven years;" they cite the original notice as evidence. In part, the original notice reads as follows:

"The proposed policy change is needed to permit the proposed Wal-Mart Superstore and to permit development of properties on the east side of Santiam Highway that were rezoned (changed) from Industrial to Mixed Use as a result of the findings of a 1995 Lebanon Commercial Lands Study (an approved Periodic Review Work Task) that identified the local need for more vacant commercial developable property along State Highway 20."

The opposition also argues (Addendum IV: Item 7, p. 2) that the denial of the proposed text amendment does not adversely impact the Strawberry Festival Site, and therefore this amendment should be denied.

#### **FINDING # 25**

The Comprehensive Plan Text Amendment has complied with the above criteria through the Planning Commission public hearing on this matter, held August 21, 2002 and September 18, 2002. At the public hearing on August 21, 2002, testimony and evidence was provided by citizens. Additionally, citizens provided testimony and evidence at the City Council Public Hearing of November 11, 2002.

The Comprehensive Plan Text Amendment has been proposed by the City to implement the  
*Exhibit A: City of Lebanon Findings for CPTA-02-01*

1995 Commercial Lands Study. The Text Amendment is needed for any and all commercial development in the impact area (see impact map). The notice provided for the public hearings does also recognize the fact that the Wal-Mart proposal did raise the priority level of this issue for the City at this time, but the Wal-Mart proposed development is not the primary reason for the proposed Text Amendment.

The opposition's contentions regarding the Strawberry Festival Site are misguided on two counts. They suggest that a project specific proposal for the site could be made that would warrant a Comp Plan change to accommodate whatever developments the Lebanon Community Foundation might have in mind. There is no guarantee that a project specific proposal would warrant a Comp Plan change. Furthermore, the opposition's argument at this point neglects the impacts on all of the properties on both sides of Highway 20 south of Market Street of failure to change Commercial Land Use Policy # 5 at this time.

### **DISCUSSION**

Citing the same above three criteria, and the fact that there are two intersections of a Cascade Drive with Highway 20 (one inside the UGB and the City's ultimate jurisdiction, and one in the County), the opposition contends that the proposed Text Amendment should be denied because of the resulting abuse or confusion.

The opposition also contends that the proposed Weldwood Drive extension (a potential part of the Wal-Mart Planned Development proposal currently before the Planning Commission) would create confusion since the intersection would no longer be named Cascade Drive, hence invalidating the proposed Text Amendment.

### **FINDING# 26**

As noted in verbal testimony before the Planning Commission and the City Council, there is only one intersection of Cascade Drive within the City and its UGB, and hence only one such intersection under the jurisdiction of the City. The Text Amendment cannot be referring to the southern Cascade Drive/Highway 20 intersection, located a couple of miles south, because it is not within the City's corporate limits or the adopted Urban Growth Boundary.

The proposed Weldwood extension is still in the conceptual stage; the exact configuration will be worked out between a number of parties (e.g., the City and ODOT, and/or Linn County, as well as the developer). The Comprehensive Plan Text Amendment is supported by evidence that it is consistent and in compliance with the criteria.

### **DISCUSSION**

The opposition claims that the proposed language of the amendment would only grant direct access to Wal-Mart, and hence is prejudicial to all other properties and thus contradicts the 95 Study.

### **FINDING# 27**

The Comprehensive Plan Text Amendment has no adverse or differential impacts on Site #3, and is not in conflict with the 1995 Study or Site #3. The property identified as Site 3 in the 1995 Commercial Lands and Highway Access Plans Study (the "1995 Study"), located on the east side of Highway 20, could obtain direct access onto Highway 20 because it is also north of the Cascade Drive/Highway 20 intersection. All direct highway access is subject to review and approval by ODOT, including the proposed right-in and right-out at the proposed Wal-Mart site

or on Site #3. Furthermore, the proposed language does not contradict access approvals in the 1995 Study for Site #4. The current new access into Site #4 from Highway 20 has been approved by ODOT, and will be further developed so that all parcels of Site #4 will have indirect access to the Highway via this access point.

### **DISCUSSION**

The opposition notes that the Champion and Theatre properties were not included in the 1995 Study, and contends that these properties should be treated like any other property south of Market Street that would be developed or redeveloped.

### **FINDING # 28**

The Wal-Mart proposed development and where it might be located is not relevant to whether the Comprehensive Plan Text Amendment meets the criteria. These two properties were not included in the 1995 Study because they were already in commercial use, and were thus part of the baseline or starting point of the 1995 Study – in short, the 1995 Study assumed that these properties would continue in commercial use. The proposed amendment does in fact treat these properties like all others located between Market Street and Cascade Drive. The proposed Text Amendment language fully implements the access agreement implicit in the 1995 Study, and is not in conflict with any element of the 1995 Study.

### **CRITERIA**

“Statewide Planning Goal 2 and ORS 197.010 require that plans are internally consistent” (Addendum IV Item #7, page 4).

### **DISCUSSION**

The opposition contends that the proposed Text Amendment allows direct access to Highway 20 for commercial development on Site #3 in conflict with the 1995 Study.

### **FINDING# 29**

The Comprehensive Plan Text Amendment is consistent with the Comprehensive Plan and incorporates the adopted 1995 Study. The 1995 Study clearly states (see original Planning commission staff report, page 35) that “[t]he existing industrial truck access [to Site #3] may remain but would become a much less used right-in and right-out access...” This access is in addition to increased access noted in the 1995 Study to Site #3 from both the proposed Market Street extension and the Cascade Drive extension eastward into Site #3.

### **CRITERIA**

- “Statewide Planning Goal 2 and ORS 197.010 require that plans are internally consistent” (Addendum IV Item #7, page 4).
- Page 5-13 of the Lebanon Comp Plan states in part that “[i]n order to prevent the spread of such problems along Highway 20, the plan designates that no additional commercial development on Highway 20 south of the Southgate Shopping Center.”

### **DISCUSSION**

The opposition notes that the proposed text change would be create a conflict with language on page 5-13 of the Comprehensive Plan similar to the existing language of Policy #5.

### FINDING# 30

It is true that the Comp Plan text on page 5-13 is similar to the language of existing policy #5 that the proposed amendment would change. The Comprehensive Plan Policies take precedence over general commentary in the Plan. This conflict will be eliminated when the entire Comp Plan is updated and revised as planned ~~in the fu~~. However, the City concedes that we could also change the language on page 5-13 at this time so that it would be consistent with the proposed amendment of Policy #5.

### CRITERIA

**Comp Plan (on page 5-14)** lists "six potential commercial development areas" for shopping centers in the City besides the Southgate Shopping Center and Lebanon Plaza.

### DISCUSSION

The opposition notes that the Comp Plan (on page 5-14) sets aside specific potential areas for shopping centers, and that the proposed site of the Wal-Mart Supercenter is not one of the sites listed in the 1980 Plan.

### FINDING# 31

The Wal-Mart proposed development is not relevant to the Text Amendment because the City is proposing the Comprehensive Plan Text Amendment to implement the 1995 Study.

The Comprehensive Plan recognizes that as the listed sites "approach maximum utilization," other sites are to be encouraged (CP, page 5-14). This condition now prevails. It is to be noted that the encouragement of other sites is to be triggered when maximum utilization is APPROACHED (not reached). [These points were made in earlier testimony -- see second bullet under proposed Finding #16 in City Council Staff Report page 6, and staff presentation for City Council, page 3, right column second bullet.]

### CRITERIA

**Commercial Land Use Policy 7:** "Existing commercial businesses should be reinforced prior to development of new outlying centers" (CP, page 5-P-3).

### DISCUSSION

Citing Commercial Land Use Policy #7 (CP, Page 5-P-3), the opposition has asserted that Wal-Mart has not explained why its proposed new development could not go on Site #3 combined with the current Wal-Mart site.

### FINDING# 32

The Comprehensive Plan Text Amendment decision is based upon relevant testimony and evidence. As the proposed Wal-Mart Development is not before the decision maker, this criteria has no relevancy for the Text Amendment {see City Council Staff Report, pages 6 & 8, Findings 16 & 18}.

### CRITERIA

The City of Lebanon Comprehensive Plan (Chapter 1 – Introductory Provisions, section on Plan Revisions and Changes, Page 1-15) notes in part that:

**Major Revisions:** "Major Revisions include land use changes that have widespread and significant impact within the community."

**Minor Changes:** "Minor changes are those which do not have significant effect beyond an

immediate area or are individual aspects of the Plan that do not represent a major policy change relative to the community as a whole. Minor changes should be based on special studies or other information which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should be made as needed to maintain the Plan as an up-to-date guideline for community growth and development."

### **DISCUSSION**

- The opposition asserts that the "approval of the amendment requires the demonstration that it satisfies some public need" (Addendum IV Item #7, page 6)
- The City takes note of the fact that the Friends of Linn County "concur that the proposed amendment is a minor change as defined in the Plan on page 1-15" (Addendum IV Item #7, page 6).
- The City further takes note of the fact that the Friends of Linn County agree that the 1995 Study demonstrated "public need" for "vacant commercial land" (Addendum IV Item #7, page 6).
- The opposition has argued that the public need criteria must now be met for the Wal-Mart Supercenter proposal, as a basis of approval for the text amendment (Addendum IV Item #7, page 6). They further argue that "[d]espite recurring claims to the contrary, the Wal-Mart proposal is not the equivalent to the 1995 Study" (Addendum IV Item #7, page 6).

### **FINDING# 33**

The Comprehensive Plan Text Amendment is based upon the public need established through the 1995 Study. The Wal-Mart proposed development is not specifically included within the Text Amendment and no showing of need for a particular proposed development is necessary or relevant.

### **DISCUSSION**

The opponents make a detailed argument about the number of acres in the 1995 Study and the number now remaining for development, and conclude that on this basis the amendment should not be approved.

### **FINDING# 34**

This argument about the number of acres available for commercial development is not relevant for the Text Amendment because the 1995 Study established the public need. The Text Amendment is necessary for commercial development and use of all properties south of Market Street identified in the 1995 Study, and all other commercial sites South of Market Street (see Impact map).

### **DISCUSSION**

The opponents argue that the City is claiming that one of the primary public needs claimed by the City as a justification for the proposed Text Amendment is the need to realign the Cascade Drive intersection with Highway 20 via the Wal-Mart development proposal.

### **FINDING# 35**

The need for realignment of the Cascade Drive intersection with Highway 20 is recognized in the 1995 Study.

It is the long standing policy of the City that development anywhere in the City pay for the corresponding impacts on improvements to the City's infrastructure, rather than having the

taxpayers at large subsidize private development, which follows the well-established principle of "rational nexus" or "proportionality," requirements would likely be placed on a developer putting in a subdivision along a street without sidewalks, and even street/drainage improvements for a street or storm drainage system that are substandard (see proposed Finding #17 in City Council Staff Report, CPTA-02-01, page 7).

Any development south of Market Street will be required to carry its fair share of the public infrastructure improvements triggered by their development in the immediate vicinity.

The need for the realignment of the Cascade Drive intersection with Highway 20 is not the reason behind this proposed Text Amendment. The Comprehensive Plan Text Amendment is proposed to implement the 1995 Study.

### **DISCUSSION**

The opposition contends that the City is claiming that one of the primary public needs claimed by the City as a justification for the proposed Text Amendment is the need for the "incremental movement of water and sewer infrastructure further towards potential development sites well removed from these services" (Addendum IV Item #7, page 7).

### **FINDING# 36**

The 1995 Study establishes the public need for this Text Amendment. The Comprehensive Plan Text Amendment in and of itself has no impact on water and sewer infrastructure in the vicinity, and such considerations have no relevancy for this Text Amendment.

### **CRITERIA**

The City of Lebanon Comprehensive Plan (Chapter 1 – section on **General Goals and Objectives of the Plan, page 1-17**), **Policy # 5**: "To broaden opportunities for economic expansion and diversification."

### **DISCUSSION**

The opposition contends that a "Wal-Mart Supercenter is in direct opposition to this goal.

### **FINDING# 37**

The Wal-Mart proposal is not relevant to this Text Amendment and this Comprehensive Plan policy as grounds for establishing "public need." This Text Amendment affects all commercial properties south of market Street, and thus satisfies Comp Plan General Goals Policy # 5.

### **CRITERIA**

The City of Lebanon Comprehensive Plan (Chapter 3, page 3-P-1) **Population and Economy Policy # 2**: "The city shall encourage a diversified economic base for the community which broadens and improves long-term employment opportunities and is compatible with the environmental resources of the community."

### **DISCUSSION**

The opposition argues that the proposed Wal-Mart proposed development would decrease the income potential for the community and fail to pay a living wage.

### **FINDING# 38**

The Wal-Mart proposal per se is not relevant to the Comprehensive Plan Text Amendment and this Comprehensive Plan policy as grounds for establishing "public need." The Text Amendment affects a much larger area than the site proposed for the Wal-Mart development (see Impact Map). Because this Text Amendment implements the 1995 Study, and impacts a number of other properties with commercial potential, this amendment does in fact meet the criteria of Comp Plan Population and Economy Policy # 2.

## **CRITERIA**

The City of Lebanon Comprehensive Plan (Chapter 3, page 3-P-1) **Population and Economy Policy # 3**: "The city shall continue to actively encourage industrial and business developments that improve the economy of the community and the state and ..."

## **DISCUSSION**

The opposition claims that a greatly enlarged Wal-Mart superstore would have a large negative impact on the community's economy, and therefore the Text Amendment should be denied because it does not meet this Comp Plan policy.

## **FINDING# 39**

The Wal-Mart proposed development is not relevant to the Comprehensive Plan Text Amendment's compliance with this criteria.

The Text Amendment affects a much larger area than the site proposed for the Wal-Mart development (see Impact Map). Because this Text Amendment implements the 1995 Study, and impacts a number of other properties with commercial potential, this amendment does in fact meet the criteria of Comp Plan Population and Economy Policy # 3.

## **CRITERIA**

The City of Lebanon Comprehensive Plan (Chapter 4, Urbanization, page 4-P-4) **Energy Policy # 1** in part states that: "The city shall support and enforce energy conservation and efficiency programs including...energy impact statements for all major developments."

## **DISCUSSION**

Because no energy impact statement has been filed to date for the Wal-Mart superstore development proposal, the opposition argues that the Text Amendment should be denied because it does not meet this Comp Plan policy.

## **FINDING# 40**

The Wal-Mart proposed development is not relevant to whether the Comprehensive Plan Text Amendment complies with this criteria. This change in the wording of Comp Plan Commercial Land Use Policy # 5 is not in and of itself a "major development" proposal and thus does not trigger an energy impact statement.

## **CRITERIA**

The City of Lebanon Comprehensive Plan **Commercial Land Use Policy #7**: "Existing commercial businesses should be reinforced prior to development of new outlying centers" (page 5-P-3).

## **DISCUSSION**

The opposition contends that the Text Amendment would violate this policy because the Wal-Mart development proposal would allegedly result in an empty building on a long-term basis thus causing a number of problems.

## **FINDING# 41**

The Wal-Mart proposed development is not relevant to whether the Comprehensive Plan Text Amendment meets this criteria.

However, this proposed Text Amendment complies with Commercial Land Use Policy # 7 by enabling the properties south of Market Street to continue in commercial use, as they were when the 1995 Study was conducted, and enables the intended commercial uses of those properties re-designated as a result of the 95 Study.



Not approving the proposed Text Amendment would leave in place the current wording of Commercial Land Use Policy # 5. The current wording of Policy #5 is in conflict with Commercial Land Use Policy # 7 since it would be a detriment to a number of existing commercial properties south of Market Street (see Impact Map).

#### **CRITERIA**

The City of Lebanon Comprehensive Plan **Commercial Land Use Policy #10**: "Commercial developments shall be constructed as compact centers rather than scattered along roadways or mixed in with non-commercial land uses that would conflict" (page 5-P-3).

#### **FINDING# 42**

The proposed Text Amendment does comply with Commercial Land Use Policy # 10. It enables the properties south of Market Street to continue in commercial use, as they were when the 95 Study was conducted, and enables the intended commercial uses of those properties re-designated as a result of the 95 Study. The very wording of this amendment, in conjunction with the highway access provisions of the previously adopted 95 Study help preclude development "scattered along roadways or mixed in with non-commercial land uses that would conflict" and would actively encourage the construction of commercial developments as "compact centers."

#### **CRITERIA**

- **Statewide Planning Goal #5** (Open spaces, Scenic and **Historic Areas** and natural Resources) states in part that "[l]ocal governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations" and requires that historic resources be protected.
- **OAR 660-023-0200(8)** requires in part that "[l]ocal governments shall protect all historic resources of statewide significance through local historic protection regulations, regardless of whether or not these resources are 'designated' in the local plan."
- **OAR 731-015-0085(1), OAR 731-015-0085(3), and ORS 358.653** require in part the coordination of state agencies (e.g., ODOT and SHPO) with local government to protect historic resources.
- The City of Lebanon Comprehensive Plan **Urbanization** (Chapter 4.0), subsection on **Historic Sites and Structures, Policy 1**: "The City shall assist local organizations or groups in preserving places of historic, cultural or special significance." (4-P-1)
- The City of Lebanon Comprehensive Plan **Urbanization** (Chapter 4.0), subsection on **Historic Sites and Structures, Policy 3**: "The City shall work to preserve identified historic sites within the Lebanon Urban Growth Boundary by considering identified historic sites and their preservation when making land use decisions." (4-P-1)

#### **DISCUSSION**

The opposition asserts that the City has failed to adequately protect the Santiam Wagon Road and that State agencies have failed to fulfill their coordination role with local government (i.e., Linn County).

#### **FINDING# 43**

Protection of the Santiam Wagon Road is not relevant to the Comprehensive Plan Text Amendment because there is no impact to the Historical Resource created by the Text Amendment.

Within the Wal-Mart proposed development, which is not relevant to the Comprehensive Plan Text Amendment, impacts on the Santiam Wagon Road will be considered. SHPO, in a letter dated August 5, 2002, cites several conditions that must be agreed to by the developer prior to ODOT's approval for the development.

James Hamrick of the State Historic Preservation Office (SHPO) in a letter dated September 5, 2002 (Addendum II, Item #6), indicates that if the conditions established by SHPO are implemented it will not only benefit the historic resources (the Santiam Wagon Road) and the community, but will in fact demonstrate a "private/public, state/local partnership" that will be a "success story for other communities."

### CRITERIA

**Statewide Planning Goal #9** (Economy of the State) states in part that "Comprehensive plans for urban areas shall (3) provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies."

### DISCUSSION

Citing the above listed potential criterion, the opposition claims that neither this goal nor the comprehensive plan "obligates Lebanon to insure that large format retail uses will be approved" and that information submitted indicates that the Wal-Mart development proposal would have negative consequences for the community, consequently the Text amendment should be denied (Addendum IV Item #7, pages 13-14).

### FINDING# 44

The proposed Text Amendment does comply with Statewide Planning Goal #9. It does this by enabling the properties south of Market Street to continue in commercial use, as they were when the 95 Study was conducted, and enables the intended commercial uses of those properties re-designated as a result of the 95 Study. Particular facts and evidence about Wal-Mart proposed development is not relevant to the Comprehensive Plan Text Amendment.

### CRITERIA

- **Statewide Planning Goal #12 (Transportation)** and the Transportation Planning Rule (TPR) aim in part to provide "a safe, convenient and economic transportation system." In addition Goal 12 requires a transportation plan that will, among other things, "facilitate the flow of goods and services so as to strengthen the local and regional economy" ... and requires in part that local jurisdictions adopt a **Transportation System Plan (TSP)** with many goals (for example see a few listed in Addendum IV Item #7, page 13). Additional guidelines for implementation of Goal 12 are cited in Addendum IV Item #7 (pages 14-15), **Guideline 2, OAR 660-012-0055(5)(b), OAR 660-012-0045(3), OAR 660-012-005(19)**.
- The **1991 Lebanon Master Transportation Master Plan General Policies 1, 2, and 3, as well as Streets and Highways Policy 2** establish requirements for accessing transportation proposals (for wording of these policies see Addendum IV Item #7, pages 15-16).

### DISCUSSION

Citing the above listed transportation-related potential criteria, the opposition asserts a number of failings on the part of the City to satisfy the specified requirements vis-à-vis any proposed traffic and access plans for vehicles, pedestrians or bicycles, and hence the Text Amendment should be denied.

### FINDING# 45

The Wal-Mart proposed development is not relevant to the Comprehensive Plan Text Amendment as it relates to this criteria. Impacts that the proposed development might have on the transportation infrastructure, traffic and safety are not created by the proposed Text Amendment.

### CRITERIA

The City of Lebanon Comprehensive Plan Urbanization Element, Phased Growth Program, Policy #1 (page 4-P-1) states in part that "the city shall maintain a compact growth pattern that expands the city limits incrementally in an orderly and efficient manner within the service capabilities of the city."

## **DISCUSSION**

The opposition claims that the Comprehensive Plan Text Amendment is inconsistent with this policy.

### **FINDING# 46**

As the Comprehensive Plan Text Amendment will not impact the City limits and does not expand the boundaries of the city. Any proposed increases in the City through the Wal-Mart proposed development are not created by the Comprehensive Plan Text Amendment and are not relevant.

## **CRITERIA**

- **Statewide Planning Goal #13 (Energy)** states in part that “[l]and and uses developed on the land shall be managed and controlled so as to minimize the conservation of all forms of energy, based upon sound economic principles.”
- The City of **Lebanon Comprehensive Plan in Chapter 4 (Urbanization, Energy Section)** states in part: “The Comprehensive plan will help assure energy conservation in a number of ways. The compact form of urban growth recommended in the Urbanization Element will result in a significant reduction of energy use for travel” (page 4-23). “Approximately 25 percent of the total energy used in Oregon is used by private automobiles” (page 4-24).

## **DISCUSSION**

The opposition has argued that the Comprehensive Plan Text Amendment is inconsistent with the criteria. The evidence presented is based upon the Wal-Mart proposed development.

### **FINDING# 47**

The Comprehensive Plan Text Amendment does not increase or impact on energy use because it does not include a specific development, rather it allows commercial development to occur. The potential impacts of development will be examined throughout the planning development approval process for each particular proposed development. Impacts created by the Wal-Mart proposed development is not relevant to the Comprehensive Plan Text Amendment.