

**A BILL FOR AN ORDINANCE AMENDING
THE COMPREHENSIVE PLAN MAP AND
ZONING MAP ON PROPERTY
WITHIN THE CITY OF LEBANON**

) **ORDINANCE BILL NO. 2011 - 7**
)
)
) **ORDINANCE NO. 2820**

WHEREAS, the City of Lebanon has received an application to amend the Comprehensive Plan Map and Zoning Map on property located at 21 Main Street and also identified by the Linn County Assessor as located within Township 12 South; Range 2 West; Section 11BB; Tax Lot 4400; and,

WHEREAS, the Planning Commission for the City of Lebanon conducted a hearing on May 25, 2011 on Planning File No. 11-03-19 and made findings recommending the Comprehensive Plan Map and Zoning Map amendments on said property; and,

WHEREAS, after conducting the hearing and considering all objections or remonstrances with reference to the proposed Plan Map and Zone Map amendments, and further considering the recommendation of the Lebanon Planning Commission, the City Council finds that the proposed amendments are in the best interest of the City.

NOW, THEREFORE, the City of Lebanon ordains as follows:

Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "A" which is incorporated herein by this reference as if fully set forth at this point.

After Recording, Please Return To:

City of Lebanon
Attn: City Clerk
925 Main Street
Lebanon, OR 97355

AREA RESERVED
FOR USE BY
LINN COUNTY RECORDER

Section 2. Zone Change Area. Based upon the findings contained above and in Exhibit "A", adopted herein, the Lebanon Comprehensive Plan Map is hereby amended to establish the "Commercial" Plan designation on the entire parcel; and, the Zoning Map is hereby amended, changing that portion of the property currently zoned Residential High Density (Z-RH) to Highway Commercial (Z-HCM).

Section 3. Record. The City Recorder shall amend the official City of Lebanon Comprehensive Plan Map and Zoning Map on the subject property. Passed by the Lebanon City Council by a vote of 5 for and 0 against and approved by the Mayor this 8th day of June 2011.

CITY OF LEBANON, OREGON

Kenneth I. Toomb

Kenneth I. Toomb, Mayor

Bob Elliott, Council President

Attest:

Linda Kaser (per Ginger Allen)
Linda Kaser, City Clerk

EXHIBIT A
LEBANON CITY COUNCIL FINDINGS
Planning File No. 11-03-19

In the Matter of the)	
)	1. Plan Map Amendment
Application of the)	
)	2. Zone Map Amendment
Arthur Messmer)	

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of Arthur Messmer to amend the Comprehensive Plan Map and Zoning Map on property located at 21 Main Street.

II. BACKGROUND INFORMATION

A. Site Location

The subject property is located on the southeast corner of Main Street and Wheeler Street. The site address is 21 Main Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 11BB; Tax Lot 4400.

B. Site Development and Zoning

The 0.42-acre parcel contains a 3,565 square foot commercial building in use as a retail appliance store (Kellenberger's). Parking and access are located along Main Street and Wheeler Streets, and public facilities serve the property.

The property is designated Residential Mixed Density by the Comprehensive Plan. The approximate west half is zoned Highway Commercial (Z-HCM) while the east half is zoned Residential High Density (Z-RH).

C. Adjacent Zoning and Land Use

Additional HCM land is located to the northwest and north, and includes offices and a restaurant. To the east and south is RH zoned land containing an apartment building and single-family home, respectively. Property to the west is zoned Public Use and contains Academy Square, the City Library and Senior Center.

D. Proposal

The applicant is requesting approval of the following: (1) amend the Comprehensive Plan Map to establish the Commercial Plan Map designation on the entire property; and, (2) amend the Zone Map to establish the Highway Commercial zone on the east half of the site.

III. PUBLIC HEARING

A. Planning Commission Action

On May 25, 2011, the Planning Commission held a public hearing on this matter. At the hearing, Planning File 11-03-19 became part of the official record. The City provided notice of the hearing pursuant to Chapter 16.20 of the Lebanon Development Code. Commissioner John Brown indicated helped prepare the application, but indicated it would not bias his decision. Otherwise, no objection was raised as to jurisdiction, conflicts of interest, bias or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend the City Council approve the proposed Plan Map and Zone Map amendments, finding the proposal consistent with the applicable decision criteria.

B. City Council Action

A public hearing was duly held on this application before the Lebanon City Council on June 8, 2011. At the hearing, Planning File 11-03-19 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, evidence or testimony presented at the hearing. At the conclusion of the hearing, the City Council deliberated on the issue and voted to approve the application finding the proposed changes consistent with the applicable decision criteria.

IV. FINDINGS OF FACT-GENERAL

The Lebanon City Council, after careful consideration of the testimony and evidence in the record, adopts the following General Findings of Fact:

- A. The applicant is Arthur Messmer.
- B. The subject property is located on the southeast corner of Main Street and Wheeler Street. The site address is 21 Main Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 11BB; Tax Lot 4400.
- C. The parcel contains 0.42 acres.
- D. The property contains a 3,565 square foot commercial building in use as a retail appliance store (Kellenberger's). Parking and access are located along Main Street and Wheeler Streets, and public facilities serve the property.
- E. The property is designated Residential Mixed Density by the Comprehensive Plan. The approximate west half is zoned Highway Commercial (Z-HCM) while the east half is zoned Residential High Density (Z-RH).
- F. Additional HCM land is located to the northwest and north, and includes offices and a restaurant. To the east and south is RH zoned land containing an apartment building and single-family home, respectively. Property to the west is zoned Public Use and contains Academy Square, the City Library and Senior Center.
- G. The applicant is requesting approval of the following: (1) amend the Comprehensive Plan Map to establish the Commercial Plan Map designation on the entire property; and, (2) amend the Zone Map to establish the Highway Commercial zone on the east half of the site.
- H. Approval or denial shall be based on the applicable decision criteria contained in the following Chapters of the Lebanon Development Code: Chapter 16.27 – Map Amendments and Chapter 16.20 – Review and Decision-Making Procedures.

V. APPLICATION SUMMARY

- A. The applicant intends to expand the existing building by constructing a 3,835 square foot addition on the east side of the existing building. This new addition will serve as warehouse space for existing retail operations. A parking/loading area will be located on the north side of the addition, adjacent to Wheeler Street. Existing points of access on Main and Wheelers will remain.

B. To proceed with the proposal, the following land use approval must occur:

1. Comprehensive Plan Map Amendment - The entire property is currently designated Residential Mixed Density, but divided into two zones, one commercial and the second residential. To allow the proposed expansion, and facilitate future commercial use of the site, requires amending the Plan Map designation from Residential Mixed Density to Commercial. This action affects the entire parcel.
2. Zone Change – To correspond with the new Plan designation, the east half of the site will be rezoned from Residential High Density (Z-RH) to Highway Commercial (Z-HCM).
3. Administrative Review - Highway Commercial zone allows the retail sales of home furnishings and appliances (Section 16.08.060). Construction of a new building, or expansion of an existing one, requires an Administrative Review.
4. Variance – Section 16.08.100.A, requires commercial buildings to maintain a minimum 20-foot setback from adjacent residential zones. This setback applies to the addition's setback from the south property line. A Class 3 Variance is necessary to approve the expansion, as the proposed 9-foot setback is less than the required 20-foot standard.

The Planning Commission previously reviewed and approved the Administrative Review and Variance under a separate Order. This Ordinance is limited to the proposed Comprehensive Plan Map Amendment and Zone Map Amendment.

C. The City mailed notice of the application to the adjacent property owners and affected agencies. The Department received the following comments:

1. Development Engineering - Development Engineering reviewed the request and did not oppose the Plan or Zone Map amendment.
2. Lebanon Fire District – The District reviewed the proposal and did not oppose the project nor submit comments.
3. ODOT – ODOT reviewed the proposal and noted since the city has an existing process to allow construction of the warehouse, the Transportation Planning Rule does not apply. Further, their evaluation indicates that the described development will not cause a "change of use" for the approach road, so an approach road permit will not be needed at this time.

VI. CRITERIA AND FINDINGS – COMPREHENSIVE PLAN MAP AMENDMENT AND ZONE CHANGE

- A. Chapter 16.27 contains requirements for map amendments, including both the Comprehensive Plan map and Zoning map. The City may amend the Plan and Zoning maps over time and an individual has the authority to request a change in a property's Plan and Zoning map. Section 16.27.010 addresses the Chapter's purpose while Section 16.27.020 establishes the authority to request map amendments. This application conforms to these two Sections. Consistent with provisions in Section 16.27.030, the City Clerk maintains the official Plan and Zoning maps, as well as subsequent amendments.
- B. The Planning Commission cannot consider a Plan or Zone map amendment within the one-year period immediately following a previous denial (section 16.27.040). This Section does not apply, as this is the first Plan and/or Zone map amendment application regarding the subject property.

- C. Section 16.27.050 establishes the decision criteria for reviewing a Plan map or Zone map amendment. Section 16.27.080 covers this material, which the appropriate Section (Sections IV., V. and VI.) of this Exhibit reviews.
- D. Section 16.27.060 describes the application process and submittal requirements. Subsection "A" states the request requires hearings before the Planning Commission and City Council. The Commission provides a recommendation to the Council and the Council makes the final decision. Subsection "B" establishes the application requirements. For the record, this application and process conform to provisions in Subsection "A" and the applicant submitted the required information pursuant to provisions in Subsection "B".
- E. Based on the above findings, the submitted Plan and zoning map request complies with the applicable application processing provisions in Chapter 16.27.
- F. Section 16.28.080 establishes the decision criteria for Plan map and Zone map amendments. This Section states the City may approve a Comprehensive Plan Map or Zoning Map Amendment request if it satisfies all of the relevant Decision Criteria cited in Section 16.27.050. Subsection "A" contains the relevant criteria, which the following Sections review.
- G. Section 16.27.050.A.1 - All proposed amendments to the Comprehensive Plan Map or to the Zoning Map shall be consistent with the City of Lebanon's adopted Comprehensive Plan and Facility Plans. The City's Facility plans, including the Transportation System Plan, are based on the future service demands according to the Comprehensive Plan Map designation and zoning. The Plan consists of ten Chapters with each Chapter addressing specific land use issues such as housing or natural resources. Each Chapter's *applicable* policies are reviewed below:
1. Chapter 1: Introduction - This Chapter describes the Comprehensive Plan, its relationship to the Statewide Land Use Goals, the Citizen Involvement program and key terminology. Goals and policies relate to the organization of the Plan, the continued need for citizen involvement and the relationship of the Plan to State law and implementing codes. The Development Code criteria implement the Plan's goals and policies, and establish the public hearing process.
 2. Chapter 2: Natural Environment – The Chapter address goals and policies related to the City's natural environment.

FINDINGS: This Chapter does not apply, as the subject property does not contain wetlands, steep slopes, wildlife habitat or other resources identified as requiring preservation or protection.
 3. Chapter 3: Urbanization – This Chapter provides the framework for future urban development within the City. The following policies apply:
 - P-3: Support a flexible phased program for the orderly extension of water, wastewater, storm drainage and transportation services in response to land development proposals.
 - P-4: Maintain directives and technical standards for the extension of services as identified in the various original or updated infrastructure master plans and studies, such as the Wastewater Facility Study Master Plan, the Water Facility Study, Storm Drainage Master Plan, and the Transportation System Plan (TSP).
 - P-5: Maintain and routinely update Capital Improvements plans. Often the plans are revised, updated, and implemented according to a five year plan beginning with the current budget year. The regularly updated plans may include Transportation, Water, Wastewater, Storm Drainage, and Facilities & Parks

projects.

- P-10: Review all development proposals to ensure that public facilities are available and have adequate capacity to accommodate the proposed development, or that such facilities and their capacities can be made available through appropriate extensions and/or enhancements concurrent with or prior to proposed developments.
- P-11: Require that new developments are either served by existing and/or proposed public infrastructure improvements, and/or are served by privately funded infrastructure extensions and improvements.

FINDINGS: Other than possible facility connections, Development Engineering concluded the proposed map amendments did not require any facility improvements.

Additional Considerations for Conversion of Urbanizable Land to Urban Uses

- P-30: Manage its Urban Growth Boundary and the lands within so as to make available sufficient land for the various uses to ensure choices in the market place, through implementation of land use regulations and land use policies.
- P-31: Manage its Urban Growth Boundary and the lands within so as to encourage development within urban areas before conversion of urbanizable areas, through implementation of land use regulations and land use policies.

FINDINGS: Based on data contained in Table 3-2 of this Chapter, there is a projected surplus of 1,122.6-acres of Mixed Density Residential property, whereas commercial property has a potential deficit of 6.7 to 34.4-acres. The loss of 0.42 acres of Mixed Density property does not alter the City's ability to provide needed residential land while the new designation provides needed commercial property (P-30). Further, the amendments make better use of a small parcel by allowing full development of commercial uses, consistent with the existing land use on the property (P-31).

- 4. Chapter 4: Land Use – This Chapter details the goals and policies to assure the City provides different types of land within City limits that are suitable for a variety of uses. The following policies apply:

- P-1: Recognize that the Comprehensive Plan land use designations or categories shall determine zoning.
- P-6: Require that changes to the Comprehensive Plan Map be consistent with the policies of the Comprehensive Plan, State law, and any adopted intergovernmental agreements.
- P-12: Ensure that the Zoning Map reflects and implements the Comprehensive Plan Map.

FINDINGS: The proposal will result in the Commercial Plan designation and Highway Commercial zone on the entire property, thereby ensuring consistency between the Plan, existing development and proposed Zone map amendment (P-1 and P-12). This review addresses compliance with Comprehensive Plan policies (P-6). The State effectively acknowledged the Plan so that conformance with these policies assures conformance with state law. Chapter 10 reviews compliance with Statewide Goals.

- P-32: Require that upon development of property in a commercial or industrial zone that abuts a residential zone, the developer must provide an effective buffer to be used to minimize or mitigate the negative impacts to the abutting residential property.

FINDINGS: The City implements this process through the Administrative Review process.

5. Chapter 5: Population & Economy – This Chapter addresses population growth and economic development as well as those trends affecting both. The following policies apply:

P-5: Designate enough land in a variety of parcel sizes and locations to meet future employment and commercial needs.

P-8: Support diversity in type, scale, and location of professional, industrial, and commercial activities to maintain a high level of employment and to promote diversification of the local economy.

FINDINGS: As a single parcel containing an established commercial use, the site provides opportunities for additional development. The Commercial designation and Highway Commercial zoning are consistent with use of the site, thereby increasing its chance of development and providing employment opportunities (P-5 and P-8).

6. Chapter 6: Housing – This Chapter establishes the City's Goals and Policies related to Housing. Given the previously identified surplus in Mixed Density Residential land, and the existing commercial development on the site, the proposal does not diminish the ability of the City to provide housing.

7. Chapter 7: Community Friendly Development & Preservation of Historic Resources - This Chapter focuses on policies creating a built environment suitable for the needs of a diverse population through a variety of uses scaled for the pedestrian, and capable of accommodating the automobile and mass transit. The Chapter does not directly apply, as the site is currently developed.

8. Chapter 8: Transportation – This Chapter addresses the transportation needs of the City with an emphasis of creating a variety of transportation options for pedestrians, bicyclists, vehicles and mass transit. The following policies apply:

P-12: The transportation system shall be managed to reduce existing traffic congestion and facilitate the safe, efficient movement of people and commodities within the community.

FINDINGS: Based on comments submitted by ODOT and Development Engineering, the proposal will not affect local traffic nor require specific street improvements.

9. Chapter 9: Public Facilities and Service - The City is required by State law to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban development. Goals and policies in this Chapter address those requirements. The following policies apply:

P-8: Review all development proposals to ensure that public facilities are available and have adequate capacity to accommodate the proposed development, or that such facilities and their capacities can be made available through appropriate extensions and/or enhancements concurrent with or prior to proposed developments. *(Duplicated in Chapter 3, Urbanization)*

P-9: Require that new developments are either served by existing and/or proposed public infrastructure improvements, and/or are served by privately funded infrastructure extensions and improvements. *(Duplicated in Chapter 3, Urbanization)*

P-10: Consider impacts on key City-provided urban utility services (water, storm drainage, wastewater, and streets) and any other community facilities that are identified by service providers as substantially impacted by the proposal before development proposals, or rezoning applications are approved.

FINDINGS: As previously noted, based on information supplied by Development Engineering, the site and proposed development does not require improvements to existing public facilities. Therefore, the proposal is consistent with the noted policies.

10. Chapter 10: Plan Implementation, Amendment, and Land Use Planning Coordination – This Chapter establishes procedures for amending the Comprehensive Plan Map and Zoning Map. Specific applicable policies include:

- P-1: The City Council may amend the Comprehensive Plan and/or Map after referral to the Planning Commission public hearing, for action, review, revisions, and recommendations.
- P-2: Changes to the Plan and/or Map shall be made by ordinance after public hearings as prescribed by state law and local ordinances.
- P-3: Changes in the Plan and/or Map shall be incorporated directly into the document at the appropriate place. A list of all amendments with date of passage shall then become part of the document until the next comprehensive update of the entire Comprehensive Plan.
- P-4: An amendment to the Comprehensive Plan and/or Map may be considered when one or more of the following conditions exist:
 - a. Updated data demonstrates significantly different trends than previous data;
 - b. New data reflects new or previously undisclosed public needs;
 - c. New community attitudes represent a significant departure from previous attitudes as reflected by the Planning Commission or City Council;
 - d. Statutory changes significantly affect the applicability or appropriateness of existing plan policies.
- P-5: Residents, property owners, their authorized agents, the Planning Commission, the City Council, or City staff may initiate a Comprehensive Plan amendment. In order to obtain a Comprehensive Plan and/or Map amendment, the applicants shall have the burden of proof that all of the following conditions exist:
 - a. There is a need for the proposed change;
 - b. The identified need can best be served by granting the change requested;
 - c. The proposed change complies with the Statewide Planning Goals; and,
 - d. The proposed change is consistent with all other provisions of the City's Comprehensive Plan.

FINDING: Policies P-1, P-2 and P-3 relate the processing of a Plan text or map amendment. The City is obligated to follow these requirements and does so with the public hearing process.

Given existing development, the trend *is not* toward development of this site for residential uses but expansion of commercial activities (P-4.a). The Plan and Zone map amendments will allow existing uses to continue and permit further commercial development of the site (P-5.a and P-5.b).

Compliance with the Statewide Goals (P-5.c) is noted as follows:

Goal 1, Citizen Involvement: Consistent with City procedures and the intent of the Goal., public hearings are held before both the Planning Commission and City Council.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide

Goals. Adoption actions are consistent with the acknowledged Comprehensive Plan and Development Code.

Goal 3, Agricultural Lands: This Goal does not apply, as the land is not designated farmland.

Goal 4, Forest Lands: This Goal does not apply, as the land is not designated forestland.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: This Goal does not apply, as the property does not contain identified historic, cultural, or natural resources.

Goal 6, Air, Water and Land Resource Quality: There does not appear to be anything inherent in the Plan and zone change, and subsequent development that would adversely affect air, water or resource quality.

Goal 7, Natural Hazards: This Goal does not apply, as the site is not located within an identified hazard area.

Goal 8, Recreational Needs: The proposed map amendment does not involve recreational land, or create uses, affecting recreational opportunities.

Goal 9, Economic Development: The map amendments support the existing use and allow further commercial development at the site.

Goal 10, Housing: This Goal does not directly apply, as the map amendments do not directly involve the supply or location of needed housing, or the ability to provide housing.

Goal 11, Public Facilities and Services: Previous findings indicate the site is fully serviced and the map amendments will not affect the City's ability to provide necessary public facilities.

Goal 12, Transportation: Previous findings indicate the site is located along an improved public street and the map amendments will not affect the City's transportation system. Further, ODOT noted provisions in the TPR do not apply to this request.

Goal 13, Energy Conservation: The map amendments are neutral with regard to energy conservation.

Goal 14, Urbanization: Previous findings indicate the City retains a surplus in residential property so that the map amendments will not have affect the City's ability to meet residential needs. Conversely, the amendments support existing uses on the property and allow for similar development in the future.

Goals 15 to 19, Willamette River Greenway, Estuarine Resources, Coastal Shores, Beaches and Dunes, Ocean Resources: The proposals do not involve land within the Willamette Greenway or coastal areas.

Finally, all previous findings indicate the proposal complies with the applicable policies of the City's Comprehensive Plan (P-5.d).

- H. Facility plans need to be consistent with the Comprehensive Plan Map as well as the text, and changes to the Map may necessitate changes to a facility plan. For example, changing a Comprehensive Plan Map designation to a higher intensity use may require an amendment to

the TSP, sanitary sewer or potable water master plans.

FINDINGS: Comments received by Development Engineering indicate map amendments will result in no greater impact on public facilities and the street network, and, ODOT did not identify any impacts on the adopted TSP. For this reason, the proposal does not require amendments to adopted facility plans.

- I. Applicants proposing amendments to the Zoning Map must request a City Zoning Classification that is consistent with the Comprehensive Plan Map designation for a subject property (see the Annexation Zoning Matrix, Table 16.26-1.)

FINDINGS: Table 16.26-1 of Development Code Section 16.26.040 identifies the various Comprehensive Plan designations and the zones consistent with these Plan designations. The proposal calls for the "Commercial" Plan map designation, and pursuant to this Table, the Highway Commercial zone is consistent with this designation. No other amendments are required.

- J. Section 16.27.080.B states that if proposed amendments to the Comprehensive Plan Map or Zoning Map do not comply with the Comprehensive Plan, the Comprehensive plan must first be amended so that the proposed Map amendment will be consistent with and accurately implement the Plan.

FINDINGS: Previous findings indicate the proposal complies with the applicable Comprehensive Plan policies and does not require amendments to the Plan text. Therefore, this provision does not apply.

- K. Section 16.27.090 establishes criteria for Urban Growth Boundary (UGB) Amendments. This Section does not apply as the property lies within the UGB.

VII. CONCLUSION

The City Council concludes the proposal to amend the Comprehensive Plan Map and Zoning Map on the subject property, complies with the applicable decision criteria.