

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

) **ORDINANCE BILL NO. 2012-8A**
)
) **ORDINANCE NO. 2835**

WHEREAS, the City of Lebanon has received an application to amend the Zoning Map on property located at 1850 and 1950 South 12th Street and also identified by the Linn County Assessor as located within Township 12 South; Range 2 West; Section 16A; Tax Lots 808 and 900; and,

WHEREAS, the Planning Commission for the City of Lebanon conducted a hearing on May 16, 2012 on Planning File No. 12-03-13 and made findings recommending the Zoning Map amendment on said property; and,

WHEREAS, after conducting the hearing and considering all objections or remonstrances with reference to the proposed Zone Map amendment, and further considering the recommendation of the Lebanon Planning Commission, the City Council finds that the proposed Zone Map amendment is 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
40 N. 2nd Street
Lebanon, OR 97355

LINN COUNTY, OREGON **2012-11170**
ORD-ORD
Cnt=1 Str=7 S. WILSON **07/26/2012 12:16:37 PM**
\$55.00 \$11.00 \$15.00 \$19.00 \$10.00 **\$110.00**



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



Section 2. Zone Change Area. Based upon the findings contained above and in Exhibit "A", adopted herein, the Lebanon Zoning Map is hereby amended, changing the zoning from Industrial (Z-IND) to Mixed Use (Z-MU).

Section 3. Record. The City Recorder shall amend the official City of Lebanon Zoning Map on the subject property.

Passed by the Lebanon City Council by a vote of 6 for and 0 against and executed by the Mayor this 11th day of July, 2012.

CITY OF LEBANON, OREGON



Kenneth I. Toomb, Mayor



Bob Elliott, Council President



Attest:



Linda Kaser, City Clerk

EXHIBIT A
LEBANON CITY COUNCIL FINDINGS
Planning File No. 12-03-13

In the Matter of the)
Application of) 1. Zone Map Amendment
Gilbert, LLC)

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of Gilbert, LLC to establish the Mixed Use Zone (Z-MU) on land currently zoned Industrial (Z-IND).

II. BACKGROUND INFORMATION

A. Site Location

The subject properties are located on the west side of 12th Street, approximately 400 feet north of its intersection with Airport Road. Property addresses include 1850 and 1950 12th Street, and the Linn County Assessor Map places the properties within Township 12 South; Range 2 West; Section 16A; Tax Lots 808 and 900.

B. Site Development and Zoning

The vacant parcels access 12th Street. Public sewer, water and storm facilities are located in 12th Street and available to serve the property. The combined parcels total 2.95 acres and are designated "Mixed Use" by the Comprehensive Plan and zoned Industrial (Z-IND).

C. Adjacent Zoning and Land Uses

Property to the west and southwest is also zoned Industrial, and, contains the Willamette Valley Rehabilitation Center and West Coast Industrial Systems. Land to the north is zoned Mixed Use and currently vacant. To the east, and southeast, is land zoned Residential Mixed Density (Z-RM) primarily containing single family homes on larger lots. Property to the south and two lots to the east are located within the Linn County and contain single family homes.

D. Proposal

The applicant is requesting approval to amend the Zone Map to establish the Mixed Use (Z-MU) on both parcels.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was duly held on this application before the Lebanon Planning Commission on May 16, 2012. At the hearing, Planning File 12-03-13 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. As applicant, Commissioner John Brown excused himself from the podium to present his case. Otherwise, no objection was raised as to jurisdiction, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend City Council approval of the proposed Zone Change, finding the proposal complies with the decision criteria.

B. City Council Action

A public hearing was duly held on this application before the Lebanon City Council on July 11, 2012. At the hearing, Planning File 12-03-13 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 zone change 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 Gilbert, LLC.
- B. The subject properties are located on the west side of 12th Street, approximately 400 feet north of its intersection with Airport Road. Property addresses include 1850 and 1950 12th Street, and the Linn County Assessor Map locates the properties within Township 12 South; Range 2 West; Section 16A; Tax Lots 808 and 900.
- C. The parcels contain 2.95 acres (Tax Lot 808 - 1.00 acre; Tax Lot 900 1.95 acres).
- D. The vacant parcels access 12th Street. Public sewer, water and storm facilities are located in 12th Street and available to serve the property.
- E. The properties are designated "Mixed Use" by the Comprehensive Plan and zoned Industrial (Z-IND).
- F. Property to the west and southwest is also zoned Industrial, and, contains the Willamette Valley Rehabilitation Center and West Coast Industrial Systems. Land to the north is zoned Mixed Use and currently vacant. To the east, and southeast, is land zoned Residential Mixed Density (Z-RM) primarily containing single family homes on larger lots. Property to the south and two lots to the east are located within the Linn County and contain single family homes.
- G. The applicant is requesting approval to amend the Zone Map to establish the Mixed Use (Z-MU) on both parcels.
- H. Approval or denial shall be based on the applicable decision criteria contained in the Lebanon Development Code, Chapter 16.27 – Map Amendments.

V. APPLICATION SUMMARY

- A. Both vacant parcels are currently designated for Mixed Use development but zoned Industrial. To ensure consistency between the Plan designation and zoning, the applicant is requesting approval to amend the zoning map, establishing the Mixed Use (Z-MU) on both parcels. There is no concurrent development proposal.

- B. The City mailed notice of the application to the adjacent property owners and affected agencies. The City received comments from City Utility and General Services and the Lebanon Fire District. Neither agency opposed the request.
- C. The Department provided a notice of this request to the Department of Land Conservation and Development (DLCD). The DLCD commented, indicating they are not opposed to the request.

V. CRITERIA AND FINDINGS

- A. Chapter 16.27 contains requirements for map amendments, including both the Comprehensive Plan map and Zoning map. Section 16.27.010 addresses the Chapter's purpose while Section 16.27.020 establishes the authority to request map amendments. The Plan and Zoning maps may be amended over time and an individual has the authority to request change in a property's Plan and Zoning map. This proposal 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). For the record, this is the first Zone map application under current regulations regarding this property.
- C. Section 16.27.050 establishes the decision criteria for reviewing a Plan map or Zone map amendment. This material is covered under provisions in Section 16.27.080 and reviewed later in the findings.
- 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 Section 16.27.060.A. Further, the applicant submitted the required information pursuant to provisions in Section 16.27.060.B. (Note: Chapter 16.27 does not include a Section 16.27.070.)
- E. 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 above in Section 16.27.050. Subsection "A." contains the relevant criteria, which are reviewed in the following Sections.
- F. Section 16.27.080.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 2007 Transportation System Plan (TSP), are based on the future site service demands according to the Plan Map designation and associated zoning.

The Plan consists of ten Chapters with each Chapter addressing specific land use issues such as housing or natural resources. The *applicable* policies in each Chapter are reviewed below:

- 1. Chapter 1: Introduction - This introductory 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. In general, these goals and policies are maintained through the Development Code criteria for determining the appropriateness of a Plan and/or zone change and the public hearing process that encourage public participation.

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 steep slopes, wildlife habitat or other identified resources requiring preservation or protection.

3. Chapter 3: Urbanization – This Chapter provides the basic framework for future urban development within the City. The following policies apply:

Public Facilities Capability Policies

- 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: Based on information supplied by Utility and General Services, the site is fully serviced. Improvements are required when the site develops (e.g., installation of a water meter) but this will not affect the City's ability to provide public services.

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 580.8 to 762.8 acres of industrial-zoned property as well as a surplus of mixed-use properties of 188.5 to 267.9 acres. Therefore, this change does not have a measurable impact on the City's ability to meet industrial or mixed-use land needs (P-30). However, the zone map amendment allows a wider range of uses for the parcels (from residential to industrial), thereby encouraging development within City (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:

General Policies for Land Use

- 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 calls for a Mixed Use zone, thereby ensuring consistency between the Plan and Zone maps (P-1 and P-12). This review addresses compliance with Comprehensive Plan policies (P-6). The State effectively acknowledged the Comprehensive Plan, therefore, conformance with these policies assures conformance with state law. Compliance with Statewide Goals will be reviewed in the Chapter 10 heading.

Policies for Industrial Uses

- P-38: Maintain a supply of diverse, serviceable industrial lands that provide choices in the marketplace to attract desirable industries, particularly light manufacturing and nonpolluting industries, in support of the City's economic development program.

FINDINGS: As noted, this action will reduce the amount of available land by 2.95 acres. However, this loss is insignificant as the City retains some 580 to 762 acres of available industrial land within the UGB. Further, the Mixed Use zone does allow limited industrial development. Therefore, the change to a Mixed Use zone does not affect the ability for the City to provide industrial land (P-38).

Policies for a Mixed Use

- P-40: Encourage a mix of commercial and residential uses within individual buildings, lots, and neighborhoods, in order to promote a compact, pedestrian friendly environment. Industrial uses should be allowed to mix with residential and commercial uses where there are limited potentials for nuisance or jeopardy to the public health, safety, and welfare.

FINDINGS: The proposal effectively complies with this policy by creating a zone that allows a variety of residential and commercial uses to serve a neighborhood dominated by residential development. Further, this is entirely consistent with the intent and purpose of the existing Plan designation.

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

Policies

- 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: Rezoning of the property to Mixed Use allows a greater variety of uses on 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. The Chapter does not directly apply, as it does not involve residential zoning. However, the proposal does not diminish the ability of the City to provide housing and in fact provides additional housing opportunities through the Mixed Use zoning.
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 Code implements the design requirements to create such a development; compliance will be determined when the site develops. Finally, the site does not contain identified historic resources.
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 policy applies:

Transportation System Planning Policies

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: Utility and General Services comments did not indicate any potential capacity issues with the adjacent 12th Street.

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:

General Policies

- 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: The site is fully serviced and does not require system-wide improvements to accommodate potential uses in the new zone.

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.

Existing improvements along 12th Street indicate residential development is the primary activity. The proposed MU zone presents an opportunity to augment the existing development while providing a buffer between existing residences and industrial-type uses to the west and southwest (P-4.a).

The change is relatively neutral with regard to need (P-5.a and P-5.b). However, the zone change ensures consistency with the existing Comprehensive Plan designation. Further, while not the primary purpose of the zone, industrial uses are allowed within the zone thereby not affecting the City's ability to provide land for employment needs.

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

Goal 1, Citizen Involvement: Public hearings will be held before both the Planning Commission and City Council. This is consistent with City procedures and the intent of the Goal.

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: While generally neutral regarding this Goal, its potential use for non-industrial purposes is likely to reduce potential adverse impacts on 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 eliminate land scheduled for recreational opportunities.

Goal 9, Economic Development: Previous findings indicate the map amendment will allow a greater variety of uses thereby increasing development potential.

Goal 10, Housing: This Goal does not apply, as the map amendment does 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 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.

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 both industrial and mixed use properties so that the map amendment will not have impact the City's ability to meet demand for land in either zone. Further, the map amendment allows – and actually encourages - development of urban uses within an urban area.

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).

- G. 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: The current property is zoned for Industrial uses. As such, existing facility plans anticipated industrial-levels of activity on the property. However, this action is effectively a "down-zoning" of the property from Industrial to Mixed Use. Comments received by Utility and General Services indicate map amendments will result in no greater impact on public facilities and the street network. For this reason, the proposal does not require amendments to the TSP or facility plans.

- H. 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. If an applicant requests a City Zoning Classification that is not consistent with the Comprehensive Plan Map, the zoning requested shall not be granted until the Comprehensive Plan Map is first appropriately amended to reflect concurrence. (See the Annexation Zoning Matrix, Table 16.26-1.) Such an amendment requires a separate application, hearing and decision; this process may occur concurrently with the Zoning Map Amendment hearing.

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 current Plan designation on the subject properties is "Mixed Use"; pursuant to this Table, the only allowable zone is Mixed Use (Z-MU). Therefore, the proposed MU zone is entirely consistent with the existing designation; no other map amendment is required.

- I. 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 Comprehensive Plan.

FINDINGS: This provision does not apply as previous findings indicate the proposal complies with the applicable Comprehensive Plan policies.

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

- K. Establishing the Mixed Use zone is essential given the current Plan designation. However, the amendment not only increases the development potential, but also allows uses that are far more compatible with the residential character of the neighborhood. On balance, the map amendment does not affect the City's ability to provide land for industrial purposes but will increase development options on this site, thereby increasing employment opportunities for the community.

VII. CONCLUSION

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