



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

March 3, 2006



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment
DLCD File Number 002-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 15, 2006

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

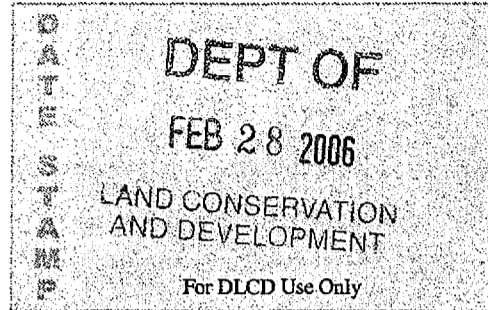
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Doug White, DLCD Community Services Specialist
Marguerite Nabeta, DLCD Regional Representative
Deborah Pinkerton, Linn County

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FORM 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: Linn County Local file number: BC05-0003

Date of Adoption: 2/22/2006 Date Mailed: 2/27/2006

Date original Notice of Proposed Amendment was mailed to DLCD: 11/28/2005

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Applicant proposed to amend zoning designation on 2.44 acres from Urban Growth Management-10 acre minimum (UGM-10) to Urban Growth Area-Rural Commercial (UGA-RCM). The property is located adjacent to State Highway 20 within Lebanon's urban growth area. The property has a Comprehensive Plan map designation of Commercial.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

Same

Plan Map Changed from: _____ to: _____

Zone Map Changed from: UGM-10 to: UGA-RCM

Location: T12S, R2W, Section 24C, Tax Lot 1200 Acres Involved: 2.44

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: 14

Was and Exception Adopted? YES NO

DLCD File No.: 002-05 (14834)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?** Yes No
If no, do the statewide planning goals apply? Yes No
If no, did Emergency Circumstances require immediate adoption? Yes No

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Lebanon, Department of Transportation

Local Contact: **Deborah Pinkerton** Phone: **(541) 967-3816** Extension: **2367**
Address: **P O Box 100** City: **Albany**
Zip Code + 4: **97321-** Email Address: **dpinkerton@co.linn.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

FILED

FEB 22 2006

STEVE DRUGENMILLER, CLERK
Steve Drugenmiller
Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY OREGON

IN THE MATTER OF AMENDING THE)
LINN COUNTY ZONING MAP)

RESOLUTION &
ORDER NO. 2006-099
Planning and Building Department;
(BC05-0003)
(Findings and Conclusions)

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public meeting on January 18, 2006, for the purpose of considering the matter of a proposed zoning map amendment that would amend the zoning map designation on property identified as Tax Lot 1200 on Assessor map T12S, R2W, Section 24C;

WHEREAS, The proposed zoning map amendment had been previously considered by the Linn County Planning Commission at a duly advertised meeting on January 10, 2006 and who unanimously voted to recommend approval to the Board;

WHEREAS, The Board, after considering all testimony and evidence submitted, reached a consensus to recommend that the proposed zoning map amendment be adopted; and

WHEREAS, The findings in support of the proposed zoning map amendment are attached hereto as Exhibit 1 (BC05-0003 Decision Criteria, Findings and Conclusions); and now, therefore, be it

RESOLVED, That the Board of County Commissioners for Linn County approve the Findings and Conclusions as set forth in Exhibit 1 (BC05-0003 Decision Criteria, Findings and Conclusions); and

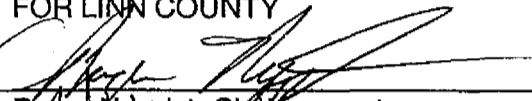
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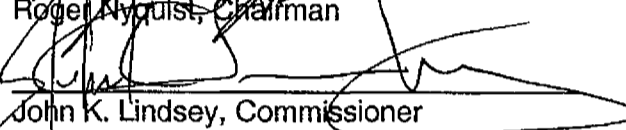
ORDERED, That the Linn County Zoning map be prepared by county staff for amendment to designate thereon the 2.44 acres identified as Tax Lot 1200 on Assessor map T12S, R2W, Section 24C, Linn County, Oregon, as "Urban Growth Area-Rural Commercial (UGA-RCM)."

Resolved this 22nd, day of February, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY



Roger Nyquist, Chairman

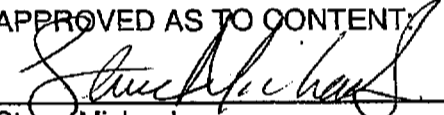


John K. Lindsey, Commissioner

Participated by phone - Agreed

Cliff Wooten, Commissioner

APPROVED AS TO CONTENT:



Steve Michaels
Linn County Planning and Building Director

APPROVED AS TO FORM:



Thomas N. Corr
Linn County Legal Counsel

EXHIBIT 1
BC05-0003 Decision Criteria, Findings and Conclusions

I. DECISION CRITERIA

Section 921.822(B) of the Linn County Land Development Code contains the applicable decision criteria.

II. FINDINGS

- A. **CRITERION:** The presence of development limitations including but not limited to geologic hazards, natural hazards, water quality and quantity and septic suitability, do not significantly adversely affect development permitted in the proposed zoning district.

FACTS: Tax lot 1200 is not within any designated base flood area. Based on information in the Environmental Geology of Western Linn County, Oregon, there is no mass movement topography identified on the property. The Linn County Environmental Health Program (EHP) has stated they have no records of a septic system on the property. The applicant, however, states there is an existing sewage disposal system and well and that the septic system was recently evaluated. At the Planning Commission public hearing, Dave Bertucci stated that Hank's Concrete evaluated the system when Mr. Deibele purchased the property about a year ago. The system had to be repaired and a baffle replaced. Mr. Bertucci also stated that city sewer is between $\frac{1}{4}$ and $\frac{1}{2}$ mile away.

- B. **CRITERION:** The amendment will result in a development pattern having no significant adverse impact upon transportation facilities, police and fire protection, storm drainage facilities or the provision of other regional public facilities.

FACTS: The property is within the Lebanon Fire Protection District and receives police protection from the Linn County Sheriff's Department. Ditches along Sturtevant Road and Santiam Highway already provide storm drainage. The property has frontage on both Santiam Highway and Sturtevant Road. It appears from a site visit that the primary access into the property is from Sturtevant Road. This roadway has a gravel surface and is not maintained by Linn County. Portions of the road are in very poor condition. The access into the property from Santiam Highway is about 90 feet from the intersection with Sturtevant Road. Dave Bertucci stated at the Planning Commission hearing that there is a secondary access onto Santiam Highway that is located west of tax lot 1300. The City of Lebanon has suggested that access to Santiam Highway be eliminated as the driveway is too close to the corner and is not optimal. The Oregon Department of Transportation (ODOT) controls access onto a state highway. ODOT does not have record of an access permit for the site. They have a miscellaneous permit for a drainage problem from 1974. Should access be desired from Santiam Highway, a permit will be required from ODOT. The above information reflects ODOT's comments on the zoning map amendment.

- C. CRITERION: The amendment will result in a development pattern compatible with uses on nearby lands and will have no significant adverse impact on the overall land use pattern in the area.

FACTS: Property to the west is zoned Urban Growth Area-Limited Industrial (UGA-LI). Property to the north, east, south and northwest is zoned Urban Growth Management-10 acre minimum (UGM-10). A stud mill is located on UGM-10 zoned land across Santiam Highway to the north. The UGA-LI property is used as a wrecking yard. Most of the remaining UGM-10 zoned properties in the area contain one or more dwellings. A dwelling is located immediately west of tax lot 1200 and a manufactured home park is located along Santiam Highway about 700 feet west of the subject property. Many properties along Sturtevant Road are used as very small acreage home sites (1/3+ acre).

The stud mill, while on land that is zoned UGM-10, is located on land with a *Comprehensive Plan* map designation of General Industrial. The wrecking yard land has a *Comprehensive Plan* map designation of Light Industrial. The applicant's property and tax lot 1300, a 0.55-acre property located west of the subject property, are designated Commercial on Lebanon's *Comprehensive Plan* map. Much of the residential land is designated Mixed-Density Residential.

The property had been used by the Willamette Valley Rehabilitation Center for wood products manufacturing since before 1977. In a request for a zone amendment (ZA-11-78/79) from Suburban Residential (SR) to Agriculture, Residential, and Timber (ART), the staff report states that the use is a non-conforming use, which indicates the property had been in use as a wood products manufacturing facility since before March 22, 1972. According to Dave Bertucci, Willamette Valley Rehabilitation Center had up to 50 employees at one time.

While the applicant's property has a Commercial *Comprehensive Plan* map designation, the historical use of the property, wood products manufacturing, has been industrial. This use has existed for over 30 years. The Land Conservation and Development Commission (LCDC) has acknowledged Lebanon's *Comprehensive Plan*, therefore the Commercial designation on the applicant's property has been reviewed and determined to be compatible with the area. The proposed zone amendment would implement the existing *Comprehensive Plan* map designation. There is a mix of uses along Santiam Highway in the area of tax lot 1200 that consist of residential (single family dwellings and manufactured home park) and industrial (stud mill and wrecking yard). Based on the existing uses in the area, the proposed amendment is consistent with this criterion.

- D. CRITERION: The amendment is consistent with the intent and purpose statement of the proposed zoning district.

FACTS: The Urban Growth Area-Rural Commercial (UGA-RCM) zoning district is designed to protect areas adjacent to urban centers from the type and intensity of land division or development that would impede future urbanization of the area. Until annexation, the uses, minimum property size and development of land within an UGA-RCM zoning district shall be consistent with the *Comprehensive Plan* designation of the affected city.

The City of Lebanon has stated they are in support of the proposed amendment and that it establishes a zone designation that is congruent with the *Comp Plan* designation. Therefore, this criterion is satisfied.

- E. CRITERION: The amendment is consistent with the existing *Comprehensive Plan* map designation.

FACTS: The property is within Lebanon's urban growth area and has a *Comprehensive Plan* map designation of Commercial. The proposed zoning is Urban Growth Area-Rural Commercial (UGA-RCM). Comments from the City of Lebanon states that the City supports the proposed amendment, that the proposed amendment is consistent with the *Comprehensive Plan* map designation, and is in compliance with the Linn County/City of Lebanon Urban Growth Management Agreement. This criterion has been satisfied.

- F. CRITERION: The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat.

FACTS: There are no wildlife, sensitive fish or riparian habitats identified on the subject property. Neither does the property contain any inventoried wetlands.

Because there are no habitats identified on the property, this criterion is satisfied.

- G. CRITERION: The amendment, if within an adopted urban growth boundary, is consistent with the *Comprehensive Plan* and implementing ordinances of the affected city.

FACTS: As stated previously, the *Comprehensive Plan* map designation is Commercial. The proposed zoning designation is Urban Growth Area-Rural Commercial (UGA-RCM). The City of Lebanon has submitted a statement that the proposed amendment is consistent with their *Comprehensive Plan*.

Based on comments from the City of Lebanon, this criterion has been met.

III. CONCLUSION

Sufficient information is available to conclude the proposal is consistent with the applicable decision criteria. Therefore, the zoning map amendment application is approved.

FILED

FEB 22 2006

STEVE DRUCKENMILLER, CLERK
Steve Druckenmiller
Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY

IN THE MATTER OF AN ORDINANCE)
AMENDING THE LINN COUNTY ZONING MAP)

ORDINANCE NO. 2006-100
(Amending Code)
(Planning and Building
Department; BC05-0003)

WHEREAS, The Linn County Board of Commissioners (Board) advertised notice that it would consider a proposed amendment to the Linn zoning map on January 18, 2006;

WHEREAS, At 10:30 a.m., on January 18, 2006, the Board conducted a regularly scheduled and duly advertised public hearing, considered the proposed amendment for the zoning map;

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and

WHEREAS, The findings in support of this ordinance are attached to Resolution and Order No. 2006-099 and entitled Exhibit 1, (BC05-0003 Decision Criteria, Findings and Conclusions); and, now, therefore, be it

Ordained by the Linn County Board of Commissioners, That:

Section 1. Map Amendment. Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the 2.44 acres identified as Tax Lot 1200 on Assessor map T12S, R2W, Section 24C, Linn County, Oregon, as "Urban Growth Area-Rural Commercial (UGA-RCM)."

Section 2. Savings clause. Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

Section 3. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

Section 4. Effective date. To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

Section 5. Codification. Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

Public reading held January 18, 2006.

LINN COUNTY, OREGON 2006-04227
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I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

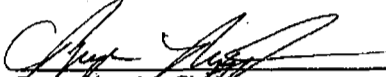
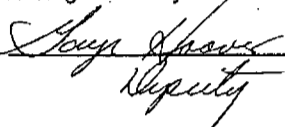
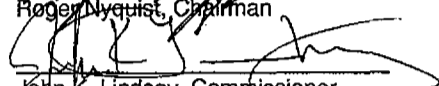
Steve Druckenmiller - County Clerk

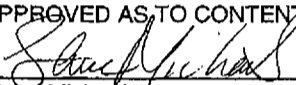


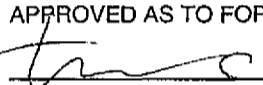
Adopted and passed February 22, 2006.
The effective date of this Ordinance shall be February 22, 2006.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

Signed February 22, 2006

		Voting	
		For	Against
Steve Druckenmiller, Linn County Clerk Recording Secretary	 Roger Nyquist, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
By  Deputy	 John K. Lindsey, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<u>Participated by phone - Agreed</u> Cliff Wooten, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPROVED AS TO CONTENT:

Steve Michaels
Linn County Planning and Building Director

APPROVED AS TO FORM:

Thomas N. Corr
Linn County Legal Counsel