

TITLE: AN ORDINANCE AMENDING ORDINANCE NO. 4517, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN (EXHIBIT "A") AND THE CITY OF ALBANY COMPREHENSIVE PLAN MAPS (EXHIBITS "B" - "H" ON DISPLAY AT CITY OF ALBANY PLANNING DEPARTMENT), TO PROVIDE FOR THE RECLASSIFICATION OF ±ONE ACRE LOCATED AT 250 QUEEN AVENUE SW FROM LIGHT COMMERCIAL TO LIGHT INDUSTRIAL.

WHEREAS, the Planning Commission of the City of Albany has held such hearings as are required by law and the ordinances of this city and has made findings concerning the appropriate Comprehensive Plan amendment with said findings being based upon evidence produced at hearings; and

WHEREAS, the Council of the City of Albany has duly advertised and caused notices to be given as required by law and has had a public hearing concerning the Comprehensive Plan amendment above described and evidence having been introduced and the same being fully considered; and

WHEREAS, the Council's decision has been made in accordance with the findings on file with the City Recorder which have been adopted by separate motion and incorporated by reference herein.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. COMPREHENSIVE PLAN AMENDMENT NO. 2

An area described as follows: 11-3W-7CD, Tax Lot 102 (250 Queen Avenue SW), is hereby reclassified from Light Commercial designation to Light Industrial designation, and this amendment shall be known as Comprehensive Plan Amendment No. 2.

Section 2. COPY FILED

A copy of this Comprehensive Plan amendment shall be filed in the Office of the City Recorder of the City of Albany.

Passed by the Council: July 11, 1984
Approved by the Mayor: July 12, 1984
Effective Date: August 10, 1984

Donald W. Brudwig
Mayor

ATTEST:

Joel C. ...
City Recorder

JUN 06 1984

BEFORE THE CITY COUNCIL
OF THE CITY OF ALBANY

EXH. 'A'

In the Matter of File)
No. CP-01-84/~~2C~~-01-84)
an Application by Ed)
Perlenfein, et al, Re-)
lating to Property)
located at 250 SW Queen,)
Albany, Oregon.)

FINDINGS AND CONCLUSIONS

WHEREAS, Ed Perlenfein, Rick Perlenfein, and Arlene Hein, hereinafter referred to as Applicants, have filed applications seeking a change in the Comprehensive Plan designation from Light Commercial to Light Industrial with a concurrent zone change from Residential Professional to Light Industrial and have submitted to the Planning Department written comments on applicable criteria, and

WHEREAS, a public hearing before the Albany Planning Commission was held on May 7, 1984, at 7:15 PM. At said hearing, opportunity was afforded for proponents and opponents of the applications to testify. No person testified against the applications. The Commission considered the written comments submitted by the Applicants, the written staff report submitted by the Planning Department staff, the testimony of the witnesses at the public hearing, and the comments of staff and commission given at the public hearing. Being fully advised, the Commission unanimously voted to recommend to the City Council that the applications be approved. Thereafter, the Planning Department staff forwarded to the Council the entire record of the Planning Commission hearing, and all written testimony had been considered by the Planning Commission. The City Council then scheduled public hearings for

June 13, 1984, and June 27, 1984, and gave the required public notice to all interested parties. The Council has conducted the hearings, and being fully advised in the premises,

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ALBANY MAKES THE FOLLOWING FINDINGS AND CONCLUSIONS:

I.

CRITERIA FOR COMPREHENSIVE PLAN AMENDMENT

CRITERIA A. The Applicants must show conformance with goals and policies of the Plan or demonstrate a change in circumstances which would necessitate a change in the goals and/or policies. The Albany Development Code, Section 3.070(1).

FACTS: The subject parcel is less than one acre located at 250 SW Queen Avenue, a four lane major arterial. The adjoining property to the West contains an auto towing and wrecking business and a transmission repair business. Across Queen Avenue to the North are a ceramic shop, a floor covering store and a machine shop. Across Queen to the Northeast are single-family homes. To the east of the property are single-family residences and a convenience store. The property to the South contains single-family residences on large lots. Virtually all the property to the West has been developed for industrial or heavy commercial uses. To the East and South are mixed single-family and multiple residential uses, and a neighborhood convenience store.

The surrounding zoning is Light Industrial to the North and West; Limited Multiple Family Residential to the South and immediate East. Further East zoning is Neighborhood Commercial and Single-Family Residential.

The property is flat, has no significant vegetation upon

it, and has no particularly distinguishing, aesthetic or physical characteristics. It was previously used as the site for an oil distribution business and there is an existing industrial type building upon the property. The prior industrial use was non-conforming, but the property has been used industrially for many, many years. When it was zoned Residential-Professional, it was the City's desire that professional offices would locate upon the site and upgrade the area. There has been no interest whatsoever in development of the site for Residential-Professional uses. On the other hand, numerous inquiries have been made regarding the development of the site for industrial purposes. There are significant vacant office units within the City, as well as significant vacant residential units.

CONCLUSIONS: In written materials or by oral testimony, the Applicants have addressed and shown compliance with all applicable Comprehensive Plan Goals and Guidelines. This Council adopts the comments and conclusions of both the Applicants and the staff set out in the staff report which is marked Exhibit "A", attached hereto and by reference incorporated herein. Where conflicts exist in that staff report between the comments of the Applicants and the comments of the staff, the comments of the staff shall be deemed to be the position of this Council.

CRITERIA B: The City must consider whether there has been adequate opportunity for citizen review and comment. The Albany Development Code, Section 3.070(2).

FACTS: A Comprehensive Plan amendment is a Type IV procedure under the Albany Development Code. Section 2.060 of the Code sets out the procedures which must be followed in this case.

Notice was published and mailed to interested property owners, including those within 300 feet of the subject property. Notice was also posted upon the property giving the time and place of the public hearing and the nature of the proceeding. The hearing was held as scheduled. Opportunity was provided for both proponents and opponents to testify. The Council considered all the written and oral testimony before reaching its decision.

CONCLUSION: The Albany Development Code contains sufficient safeguards to insure that citizens are afforded the opportunity to review and comment on proposed Comprehensive Plan changes. The procedural aspects of the Code were strictly complied with in this case.

CRITERIA C: The Applicants must show that the request conforms to applicable state goals. The Albany Development Code, Section 3.070(3).

FACTS: Pages 7 through 11 of the staff report address state goals 1 through 15. The Comments of the Applicants and the staff correctly state the facts and those comments are adopted by this Council. As indicated above, in the event the Applicants' comments differ from staff's the comments of the staff are adopted as the position of the Council. As indicated in the staff report, the only public facility not adequately provided for is storm drainage. That problem can adequately be cured by compliance with the site plan, grading, drainage and paving plans required by the Ordinance.

CONCLUSIONS: We adopt the conclusions of staff and the Applicants as set out in the staff report. Applicable state goals will be complied with by the approval of the application. Reactivating this previously used industrial property adjacent to other industrial

lands conserves land resources and public facilities and is an example of common sense planning.

CRITERIA D: The City must consider input from affected governmental units and other agencies.

FACTS: The Applicants' proposal has been submitted to the various City departments for review and comment. The subject property is located well within the city limits and is not in an area where other governmental units have expressed an interest. No objections have been received from any City department or other governmental agency.

CONCLUSIONS: Interested City departments and other governmental units have been afforded the opportunity to comment on the application. No objections have been received.

CRITERIA E: The City must consider the short and long term impacts of the proposed change. The Albany Development Code, Section 3.070(5)

FACTS: The application and other materials submitted by the Applicant indicated a tire store would go into operation upon the property. Testimony at the hearing indicated that the tire store may or may not still be interested. Testimony of the Applicants indicated other Light Industrial uses had expressed interest in immediately leasing the property for their operations. Testimony from the Applicants and staff indicated immediate aesthetic improvements would occur such as painting and landscaping. The property has not been used for several years and the wrecking yard to the West has encroached upon it. Active use of the property would eliminate that encroachment.

CONCLUSIONS: Short term impacts would be beneficial.

This long deserted property has become an eyesore. Repainting the building, general cleanup, and the intensive landscape requirements of the industrial zones will improve the aesthetic effect on the surrounding properties. Long term effects cannot be accurately predicted, but, if the business operating on the site is successful, it is assumed the site will be further upgraded.

CRITERIA F: In lieu of a showing that there is a public need for the change and that the proposed change would best meet that need, the Applicants must show that the plan designated was adopted in error. The Albany Development Code, Section 3.070(9).

FACTS: Written and oral testimony indicated that for as long as the witnesses could remember, which was many, many years ago, the site had been used industrially. After zoning came into effect, it continued as a nonconforming industrial site. It has never been used for residential or residential-professional purposes. Comment at the May 7, 1984, public hearing from Steve Bryant, City Planning Director, confirmed that the City placed the Light Commercial Designation and the Residential-Professional zoning on the property in the hope that professional offices would locate upon and thereby upgrade the property. In Bryant's opinion, that was a mistake in that he does not feel that professional offices will ever locate next to the large wrecking yard which adjoins the West boundary of the property. The Applicants testified that not one inquiry has been made regarding the development of the property for the uses permitted in the current classifications. On the other hand, numerous unsolicited inquiries have been made regarding its use for Light Industrial purposes. Both staff and the Applicants testified that the industrial zones required more intensive screening and

landscaping and larger setbacks than the zones permitted in the Light Commercial designation.

CONCLUSIONS: The current Comprehensive Plan designation and zoning were adopted in error. The subject property should have been included in the large Light Industrial zone which now adjoins it to the East. It was not realistic for the City to expect professional offices to locate next to a wrecking yard, when they can locate within any of the commercial or residential areas of the City. As a practical matter, with its intense landscaping and buffering requirements, a Light Industrial designation will act as a better buffer between the wrecking yard and the residences to the East than professional offices. The plan designation error should be corrected. Light Industrial is the proper designation for the property.

II.

CRITERIA FOR ZONE AMENDMENT

CRITERIA A: The Applicants must show that the proposed zone amendment conforms to the Comprehensive Plan.

FACTS: As indicated in the findings and conclusions in Section I of this document, the Council has approved the Applicants' request to change the Comprehensive Plan designation from Light Commercial to Light Industrial. The Applicants concurrently requested a zone change from Residential-Professional to Light Industrial. Residential-Professional is not a compatible use within the Light Industrial plan designation. (See Plan Designation-Zoning Matrix, p. 130 Comp. Plan). The staff report at pages 13 - 17 address the zone change criteria. We again adopt the comments of