

**City Of Woodland
City Council Meeting Agenda Summary Sheet**

Agenda Item: Reconsider Amended Ordinance 1258, Approving the Proposed Liberty Evans Comprehensive Plan Map Amendment	Agenda Item #: <u>(K) Action</u> For Agenda of: <u>January 7, 2013</u> Department: <u>Planning</u> Date Submitted: <u>January 2, 2013</u>
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Cost of Item: 0
Amount Budgeted: _____
Unexpended Balance: _____

BARS #: Description:

Department Supervisor Approval: Mayor Grover Laseke

Committee Recommendation: On November 13, 2012 the Planning Commission made a *Do Not Approve* recommendation to the City Council.

Agenda Item Supporting Narrative (list attachments, supporting documents): <ol style="list-style-type: none">1. Legal Memo2. Council Rule 8.5, Motions to Reconsider3. Amended Ordinance 1258, Approving Comprehensive Plan Map Amendment
Summary Statement:

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TO: Grover Laseke, Mayor and Woodland City Council

CC: Bart Stepp, Carolyn Johnson

FROM: William Eling, City Attorney *WJE*

RE: Motion to Reconsider – Liberty Evans Decision

DATE: January 2, 2013

Facts: At the December 17th meeting, the City Council considered a proposed ordinance that included both a change in the comprehensive plan and a change in the zoning of a specific parcel. The ordinance failed to pass on a 3 – 4 vote. A council member has requested that the matter be added to the agenda for reconsideration at the January 7, 2013, meeting.

Issue: Can the City Council reconsider the failure of the Proposed Ordinance No. 1258 which, if passed, would have modified the City of Woodland's Comprehensive Plan and changed the zoning designation of a specific parcel owned by Liberty Evans LLC?

Answer: Provided the motion satisfies the criteria of Woodland City Council Rule 8.5, the decision regarding modification/amendment of the comprehensive plan may be reconsidered. The decision denying the proposal to re-zone the parcel may not be reconsidered.

Discussion: The City Council has adopted rules to govern the meeting process. These rules include motions to reconsider Council decisions. See *Woodland City Council Rule 8.5*. Proposed Ordinance No. 1258 included two subjects: modification of the comprehensive plan and re-zone of a specific parcel. Based on their statutory character, modification of the comprehensive plan and the rezone are treated differently under Woodland City Council rules. Per the Council Rule 8.5, "...a motion to reconsider a quasi-judicial decision after the close of testimony is prohibited and is out of order. The Rules shall not be suspended to allow for reconsideration whenever the Council is acting in a quasi-judicial capacity."

The decision regarding the zoning change is quasi-judicial. As a result it cannot be reconsidered. Because it was not a zoning change of area-wide significance,

but rather a site specific zone change, and it, therefore, was quasi-judicial under RCW 42.36.010. ["Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding."]

The Washington appellate courts have opined on what constitutes a legislative zoning decision with area wide significance. "There is a distinction between rezoning a specific site and amendments which modify the text of the zoning ordinance. See R. Settle, *Washington Land Use and Environmental Law and Practice*, Section 2.11 (1983). Actions of a city council are rezones when there are 'specific parties requesting a classification change for a specific tract.' *Cathcart-Maltby-Clearview Comm'ty Coun. v. Snohomish Cy.*, 96 Wn.2d 201, 2112, 634 P2d 853 (1981). Here the text amendment is of area-wide significance because it affects the entire TC district, not just a specific tract." *Raynes v. City of Leavenworth*, 118 Wn.2d 237 (1992). In the matter before the City Council, the Liberty-Evans proposal is a rezone of a specific tract and does not alter the text of the zoning ordinance. Therefore it is quasi-judicial.

In contrast, the comprehensive plan amendment is not a quasi-judicial decision. The decision regarding the comprehensive plan may be reconsidered provided that both the council member moving for reconsideration voted with the majority of the council on the ordinance and the motion to reconsider is made at the next scheduled regular meeting. However, it must be considered separately from the zoning question. Revision of a comprehensive plan is not quasi-judicial pursuant to RCW 42.36.010 ["Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance."]

- 8.5 **Motions to Reconsider:** Except in those circumstances described in section 8.1, a motion to reconsider must be made by a councilmember who voted with the majority on the principal question and must be made either at the same meeting at which the vote sought to be reconsidered was taken or at the next scheduled regular meeting.

Notwithstanding the preceding language, a motion to reconsider a quasi-judicial decision after the close of testimony is prohibited and is out of order. The Rules shall not be suspended to allow for reconsideration whenever the Council is acting in a quasi-judicial capacity. The Council reserves the right to enact rules specific to quasi-judicial hearings.

- 8.7 **Questions of Interpretations:** The City Attorney shall decide all questions of interpretations of these policies and procedures and all other questions of parliamentary nature to the best of his/her abilities, which may arise at a Council meeting. All cases not provided for in these policies and procedures shall be governed by the most recent version of Robert's Rules of Order. In the event of a conflict, these policies and procedures shall prevail.

9. RESOLUTIONS AND ORDINANCES

- 9.1 **Review by City Attorney:** All Resolutions and Ordinances shall be reviewed and finalized by the City Attorney before appearing on the agenda.
- 9.2 **Procedure:** Ordinances shall generally require two readings. The first reading will consist of a staff presentation and may include Council discussion. The second reading will occur at a subsequent meeting. First & Final Reading are allowed pursuant to WMC 1.01.110 if declared necessary by the Mayor or presiding officer.
- 9.3 **Dissents & Protests:** Any Council member shall have the right to express dissent from or protest any ordinance or resolution of the Council and have the reason therefore entered into the minutes.
- 9.4 **Format of Ordinances and Resolutions:** Resolutions and Ordinances shall be in a format determined by the City Clerk Treasurer including numerical identification. No Ordinance or Resolution shall contain more than one subject which shall be clearly stated in the title. No Resolution or Ordinance shall be amended unless the amendment sets forth each modified section in full. Resolutions and Ordinances shall be signed by the Mayor and attested to by the City Clerk Treasurer. The City Attorney shall sign all Resolutions and Ordinances to approve the form.

ORDINANCE NO. 1258A

AN ORDINANCE OF THE CITY OF WOODLAND, WASHINGTON, AMENDING THE WOODLAND COMPREHENSIVE PLAN MAP BY APPROVING A COMPREHENSIVE PLAN MAP AMENDMENT AS MORE SPECIFICALLY SET FORTH HEREIN.

WHEREAS, the City of Woodland received Land Use Application #212-914 from Mark Fleischauer, Liberty Evans LLC (applicant) on June 14, 2012 to amend the Woodland Comprehensive Plan Map and Zoning Map in accordance with the annual amendment cycle requirements set forth in the Woodland Comprehensive Plan;

WHEREAS, the subject property is a vacant, unaddressed property located east of Schurman Way just south of Dike Access Road. The 3.4 acres proposed to be reclassified on the Comprehensive Plan Map makes up the northern portion of the parcel. The site has been given Cowlitz County Tax Parcel No. 507870101 and is legally described in Exhibit "A" attached hereto;

WHEREAS, the request is to reclassify the subject property's Comprehensive Plan Map designation from *Light Industrial* to *Commercial*;

WHEREAS, the application was deemed complete on July 9, 2012, the Notice of Application (NOA) was issued July 9, 2012, and the SEPA Determination of Non-Significance (DNS) was issued on September 12, 2012;

WHEREAS, the Appeal Period for the SEPA DNS ended on October 10, 2012;

WHEREAS, the City of Woodland notified the Washington Department of Commerce on September 18, 2012 of the aforementioned land use application;

WHEREAS, the Woodland Planning Commission conducted a duly advertised public hearing on November 13, 2012 concerning the above land use application, and forwarded its recommendations to the City Council for final action;

WHEREAS, any amendment of or revision to development regulations must be consistent with the Comprehensive Plan in accordance with RCW 36.70A.130 (1) (d);

WHEREAS, on December 17, 2012, the City of Woodland City Council voted to deny the aforementioned comprehensive plan map amendment and a site-specific rezone;

WHEREAS, at the January 7, 2013 Council meeting, the next regularly scheduled City Council meeting following the December 17th meeting, a motion to reconsider the comprehensive plan map amendment portion of the applicant's proposal was made by a Councilmember who had voted with the majority. The motion to reconsider was approved by Council; and

WHEREAS, at a properly noticed public meeting, the City Council approved the applicant's request to amend the comprehensive plan map classification from *Light Industrial* to *Commercial* for the subject property legally described in Exhibit "A."

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. **Approval.** The City of Woodland Comprehensive Plan Map is hereby amended so that the northern portion of the subject property known as Cowlitz County Tax Parcel No. 507870101, and legally described in the Exhibit "A" attached hereto and approximately 3.4 acres in size, has a Comprehensive Plan Map designation of *Commercial*.

Section 2. **Savings.** The ordinance, or portions of the ordinance, which are amended by this ordinance shall remain in full force and effect until the effective date of this ordinance.

Section 3. **Severability.** If any section sentence, clause or phase of this ordinance is ruled invalid by a court of competent jurisdiction, the remaining portion of this ordinance shall remain valid and in full force and effect.

Section 4. **Effective Date.** This ordinance shall become effective five (5) days after its publication in the media or paper of record as required by law.

ADOPTED this ____ day of January, 2013.

CITY OF WOODLAND, WASHINGTON

Approved:

Grover Laseke, Mayor

Attest:

Mari E. Ripp, Clerk / Treasurer

Approved as to form:

William Eling, City Attorney

EXHBIT A

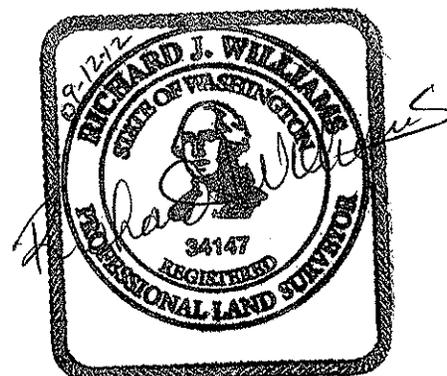
Description of Tract for Rezone
June 2012

A portion of that certain tract of land described under Auditor's File No. (AFN) 3427840, records of Cowlitz County, located in the Southwest Quarter (SW 1/4) of Section 12, Township 5 North, Range 1 West, Willamette Meridian, Cowlitz County, Washington, described as follows:

Beginning at a point on the Easterly right-of-way line of Schurman Way, 35 feet measured perpendicular to the centerline of said Schurman Way, opposite centerline Station 2+29.47, as shown on that certain Exhibit Drawing, as recorded under AFN 3421279, records of Cowlitz County, said Beginning Point bears South 05°01'10" East 134.13 feet from a 2-inch brass cap marking the centerline intersection of Dike Access Road and said Shurman Way; thence North 32°36'57" East a distance of 52.23 feet to the Northerly line of that certain survey recorded in Volume 16 of Surveys, page 166, records of Cowlitz County; thence South 70°06'06" East along said Northerly line a distance of 396.43 feet; thence along a curve to the left, concave to the North, through a central angle of 04°40'12", having a radius of 537.50 feet, an arc distance of 43.81 feet to a 5/8-inch rebar with a red plastic survey cap, marked "Gibbs & Olson, OR 1890 WA 21711; thence South 17°26'14" East a distance of 130.66 feet to a 5/8-inch rebar with a red plastic survey cap, marked "Gibbs & Olson OR 1890 WA 21711; thence South 89°49'46" East a distance of 112.04 feet to a 5/8-inch rebar with a red plastic survey cap, marked "Gibbs & Olson OR 1890 WA 21711; thence South 00°00'02" East a distance of 165.06 feet to a 5/8-inch rebar with a red plastic survey cap, marked "Gibbs & Olson OR 1890 WA 21711; thence North 76°32'53" West a distance of 282.76 feet to a 5/8-inch rebar with a red plastic survey cap, marked "Gibbs & Olson OR 1890 WA 21711" at the interior corner along the East side of said survey; thence North 73°01'40" West a distance of 374.23 feet to said Easterly right-of-way of said Schurman Way, said point bears South 70°03'06" East 71.05 feet from the Southeast corner of Lot 1, City of Woodland Short Subdivision No. 209-931, recorded in Volume 16 of Short Plats, page 95; thence North 10°06'25" East along said Easterly right-of-way, a distance of 222.63 feet to the Point of Beginning.

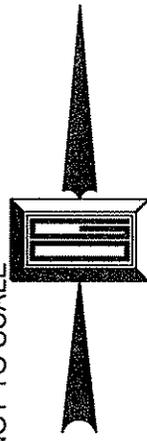
Subject to reservations, restrictions and easements of record.

Containing 3.413 acres



DIKE ACCESS ROAD

2" Brass Cap



NOT TO SCALE

S05° 01' 10"E
134.13'
Sta. 2+29.47

Δ 04°40'12"
L 43.81'
R 537.50'

S70° 03' 06"E
71.05'

35'

N10° 06' 25"E
222.63'

N32° 36' 57"E
52.23'

S70° 06' 06"E
396.43'

S17°26'14"E
130.96'

112.04'

S89° 49' 46"E

374.23'
N73° 01' 40"W

N76° 32' 53"W
282.76'

S00° 00' 02"E
165.06'

SE Corner of Lot 1 City of Woodland
Short Subdivision No. 289-931
Volume 16 of Short Subdivisions, Page 95

SCHURMAN WAY
S08°49'49"W

A PORTION OF AUDITOR'S FILE NO. 342-88-0
SOUTHWEST QUARTER, SECTION 12,
TOWNSHIP 5 NORTH, RANGE 1 WEST

Volume 16 of Surveys, Page 166

S01°11'00"E

