

**ORDINANCE NO. 6 6 7 5**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, APPROVING THE CITY-INITIATED REZONING OF FOUR PARCELS TOTALING APPROXIMATELY 1.34 ACRES LOCATED EAST OF C ST NW, BETWEEN W MAIN ST AND 3<sup>RD</sup> ST NW FROM DUC, DOWNTOWN URBAN CENTER TO M1, LIGHT INDUSTRIAL, AND THE CITY-INITATED REZONING OF AN APPROXIMATELY 0.98-ACRE PARCEL ON THE SOUTH SIDE OF SE 310<sup>TH</sup> ST, WEST OF 124TH AV SE FROM R-20, RESIDENTIAL ZONE 20 UNITS TO THE ACRE, TO I, INSTITUTIONAL TO IMPLEMENT THE COMPREHENSIVE PLAN AND AMENDING THE CITY'S ZONING MAPS

WHEREAS, the City Council of the City of Auburn, Washington, adopted, on August 18, 1986, a Comprehensive Plan by Resolution No. 1703, which included a Map establishing the location of the Comprehensive Plan Land Use Designations throughout the City; and

WHEREAS, on April 17, 1995, the City Council of the City of Auburn adopted Comprehensive Plan Amendments by Resolution No. 2635 to comply with the Washington State Growth Management Act; and

WHEREAS, on September 5, 1995, the City of Auburn reaffirmed that action with the adoption of Ordinance No. 4788; and

WHEREAS, on December 14, 2015, the City Council of the City of Auburn adopted a substantially revised Comprehensive Plan by Ordinance No. 6584 to comply with the periodic update required by the Washington State Growth Management Act; and

WHEREAS, on February 5, 2018, the City of Auburn reaffirmed that action with the adoption of Resolution No. 5341; and

WHEREAS, the City initiated a rezone application (File #REZ18-0001) on December 18, 2017, for four parcels located east of C ST NW identified by King County, Washington tax parcel numbers 5401600175, 5401600200, 5401600235, and 5401600260 and for a parcel located south of SE 310<sup>th</sup> ST identified by King County, Washington tax parcel number 0921059073; and

WHEREAS, the environmental impacts of proposed rezone were considered in accordance with procedures of the State Environmental Policy Act; and

WHEREAS, after proper notice published in the City's official newspaper at least ten (10) days prior to the date of hearing, the City of Auburn Planning Commission on February 6, 2018 conducted a public hearing on the proposed City-Initiated Rezone; and

WHEREAS, at the public hearing the City of Auburn Planning Commission heard public testimony and took evidence and exhibits into consideration; and

WHEREAS, thereafter the City of Auburn Planning Commission made a recommendation to the City Council on the proposed City-Initiated Rezone; and

WHEREAS, on, February 26, 2018, the Auburn City Council considered the proposed City-Initiated Rezone; as recommended by the City of Auburn Planning Commission; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1.** The City Council ("Council") adopts and approves the City-Initiated Rezone to change four parcels totaling approximately 1.34 acres located east of C ST NW from "DUC, Downtown Urban Center", to "M-1, Light Industrial" and to change an

approximately 0.98-acre parcel located south of SE 310<sup>th</sup> St from "R-20, Residential Zone 20 Units to the Acre" to "I, Institutional" and directs that the rezone application and all related documents be filed along with this Ordinance with the Auburn City Clerk and be available for public inspection.

**Section 2.** The Zoning Map amendment is herewith designated as a basis for the exercise of substantive authority under the Washington State Environmental Policy Act (SEPA) by the City's responsible environmental official in accordance with RCW 43.21C.060.

**Section 3.** The Council adopts the Findings of Fact and Conclusions of Law in the Planning Commission's recommendations, as set forth below:

### **FINDINGS OF FACT**

#### **Procedural:**

1. **Applicant.** The Applicant is the City of Auburn.
2. **Hearing.** A public hearing was held by the Planning Commission on the proposed rezone on February 6, 2018 at 7:00 p.m. at the City Council Chambers at Auburn City Hall.

#### **Substantive:**

3. **Site/Proposal Description.** The City as applicant has requested a rezone of five parcels in two locations; four privately-owned, developed parcels totaling approximately 1.34 acres changing from "DUC, Downtown Urban Center" to "M1, Light Industrial" to recognize and be more compatible with developed status of the properties. The other location is an approximately 0.98-acre city-owned parcel changing from "R-20, Residential Zone 20 Units to the Acre" to "I, Institutional" in response to recent City ownership as a developed park. The underlying comprehensive plan land use map designations of the parcels were amended to "Light Industrial" and to "Institutional", respectively, by City Ordinance No. 6667 adopted on December 18, 2017.
4. **Characteristics of the Areas.** For the first group of parcels, the land use designations and zoning for the subject properties have not been re-evaluated for many years and therefore have not considered the continued appropriateness of the land use

designations. The boundaries of the DUC, Downtown Urban Center zoning district were originally adopted in 2007 when the city was desirous of establishing a downtown center zoning classification over a large area. While the justification for the establishment of the boundaries cannot be precisely recreated, it may have been contemplated that the properties would redevelop, but this has not happened.

The contiguous sites are located at the northern margin of the "Downtown Urban Center" Comprehensive Plan designation and bordered to the north and the east by properties with an industrial designation. The sites align in a row north to south and are bordered by public streets of C ST NW to the west, 3rd ST NW to the north and by the Burlington Northern railroad to the east. The automobile body shop of A-1 Collision borders the sites to the south.

The two largest parcels, Parcel No. 5401600175 (0.7 acres) and Parcel No. 5401600235 (0.34 acres) have been developed for more than 25 years with structures and facilities that are more appropriate characterized as "industrial uses" than suburban downtown development. The configuration and location of the properties sandwiched between transportation corridors makes them less suitable for redevelopment as downtown service or retail type uses geared to leisure shopping and that would be subject to strict architectural and site design requirements. Also, due to the number of recent zoning inquiries, the City staff has increasingly become aware of the difficulty of the property owner in finding tenants that can occupy the former farm supply building and meet the zoning use regulations of the DUC zoning district. Also, few uses are capable of using the building with few physical alterations in order to avoid triggering consistency with Downtown Design Standards and significant upgrades.

Related to the second site, in 1996 the 0.98-acre property was part of a larger 2.23-acre property ownership by Schneider Homes Inc. that was proposed for development as the 'Pasafino Apartments' while in unincorporated King County prior to annexation to the City of Auburn. In 1996 a 'Petition for Annexation Agreement and Declaration of Covenant' was executed between the City and Schneider Homes Inc. in order for the City to provide water and sewer services to the proposed apartment development located outside the city, but within the city's established utility service area. An 'Amended Petition for Annexation Agreement and Declaration of Covenant' was executed on April 21, 1997. The Agreements provided that as a condition of the City providing water and sewer utility services, Schneider Homes Inc. would develop a park, and after annexation, convey the developed park land to the City of Auburn without obligation or cost. At the time of transfer, the city parks department would assume maintenance responsibility. The property was annexed to the City of Auburn effective in 2008 by Ordinance No. 6121; however, the transfer of ownership of the park land did not take place for many more years since the park land was not a separate parcel that could be deeded separately to the City. A Boundary Line Adjustment (BLA) application (File #BLA14-0005) was filed by Schneider Homes Inc. in May of 2014 to establish the park land as a separate parcel. The processing of the BLA was delayed due to changes in property ownership interest on the part of Schneider Homes Inc. for

refinancing purposes. The BLA was subsequently approved by the City and recorded on November 2, 2016 (Recording #20161102900004) and the property subsequently conveyed to the City. The park is depicted as "Village Square Park" on the city website.

It was previously appropriate to have the Comprehensive Plan land use designation of "Multiple "Family Residential" applicable to the site when it was privately-owned and part of a larger parcel that is mainly developed with apartments. However, now that Parcel No. 0921059073 is a separate parcel (as a result of the boundary line adjustment), owned by the City and developed for park purposes, it is appropriate for it to have the zoning classification be "I, Institutional" to implement and correspond with the "Institutional" land use designation of the Comprehensive Plan.

5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. A Determination of Non-Significance (DNS) was issued under City file SEP17-0014 on September 19, 2017. The comment period ended October 3, 2017, and the appeal period ended October 17, 2017. No comments or appeals were received.

## **CONCLUSIONS OF LAW**

### **Procedural:**

1. Authority of the Planning Commission. ACC 18.68.030(B)(2) grants the Planning Commission with the authority to review and make a recommendation to the City Council on rezone requests if the rezone is initiated by the City.

### **Substantive:**

2. Comprehensive Plan Land Use Map Designation. The Comprehensive Plan Land Use Map designation for the four the four parcels is "Light Industrial" and the Land Use Map designation for the other parcel is "Institutional".

3. Case Law Review Criteria and Application. The Auburn City Code does not include any criteria for rezone applications. Washington appellate courts have imposed some rezone criteria, requiring that the proponents of a rezone must establish that conditions have substantially changed since the original showing and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. See *Ahmann-Yamane, LLC v. Tabler*, 105 Wn. App. 103, 111 (2001). If a rezone implements the Comprehensive Plan, a showing that a change of circumstances has occurred is not required. *Id.* at 112.

The proposed rezone from "DUC, Downtown Urban Center" to "M1, Light Industrial" and from "R-20, Residential Zone 20 Units to the Acre" to "I, Institutional" clearly meets the judicial criteria for a rezone. There is no question that the proposal is necessary to implement the comprehensive plan, as the comprehensive plan land use map designations for the parcels are "Light Industrial" and the Land Use Map

designation for the other parcel is “Institutional”, respectively. The proposed zoning appropriately implements the land use designations.

The rezone bears a substantial relationship to the public health, safety, morals and welfare because it will not result in any significant adverse impacts as determined in Finding of Fact No. 5 while at the same time being consistent with the developed status of the properties and uses.

**Section 4.** Upon the passage, approval, and publication of this Ordinance as provided by law, the City Clerk of the City of Auburn shall cause this Ordinance to be recorded in the office of the King County Recorder.

**Section 5.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any of the Zoning Map amendments adopted herein, is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 6.** The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

**Section 7.** This Ordinance shall take effect and be in force five days from and after its passage, approval, and publication as provided by law.

INTRODUCED: \_\_\_\_\_  
PASSED: \_\_\_\_\_  
APPROVED: \_\_\_\_\_

\_\_\_\_\_  
NANCY BACKUS, Mayor

ATTEST:

\_\_\_\_\_  
Danielle E. Daskam,  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Daniel B. Heid,  
City Attorney

Published: \_\_\_\_\_