

ORDINANCE NO. 2015-03

AN ORDINANCE CONDITIONALLY AMENDING THE CITY OF SANDY ZONING MAP BY CHANGING THE ZONING MAP DESIGNATIONS FOR TWO PROPERTIES

Whereas, Michael Maiden submitted a request to change the zoning for two properties (24E14 tax lots 1116 and 1120) composed of five lots and containing approximately 4.98 acres;

Whereas, the applicant requests changing the Zoning Map designation for this property from I-2, Light Industrial to I-1, Industrial Park;

Whereas, the applicant has proposed the zone change to be conditioned on completing modifications to the existing buildings in compliance with the Sandy Style Design Standards;

Whereas, the Planning Commission held a public hearing to review the proposal on March 23, 2015 and forwarded a recommendation to the City Council to approve the request; and

Whereas, the City Council then held public hearings to review the proposal on May 4, 2015 and June 1, 2015.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: The Council conditionally approves the following zoning map amendment, subject to the applicant's compliance with the terms and conditions contained in Exhibit A: the Zoning Map designation for T2S R4E Section 14, Tax Lots 1116 and 1120 is conditionally changed from I-2, Light Industrial to I-1, Industrial Park.


Section 2: All remaining provisions of the Sandy Comprehensive Plan and Title 17 of the Sandy Municipal Code are reaffirmed in their entirety.

Section 3: The zone change contained in this Ordinance will only be effective following completion of the terms and conditions contained in Exhibit A. This document contains findings supporting the above changes to the Zoning Map and relevant conditions of approval.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 15th DAY OF JUNE, 2015.


William King
Mayor

ATTEST:


Lisa Young
City Recorder

**EXHIBIT A
ORDINANCE 2015-03**

**FINDINGS OF FACT and FINAL ORDER
TYPE III LAND USE DECISION**

DATE: June 1, 2015

FILE NO.: 14-028 ZC

PROJECT NAME: Maiden Zone Change

APPLICANT/OWNER: Michael Maiden LLC

LEGAL DESCRIPTION: T2S R4E Section 14 Tax Lots 1116 and 1120

DECISION: The City Council approves a conditional zone change amendment subject to conditions contained in this Order.

The above-referenced proposal was reviewed as a Type IV Zone Change Amendment, the following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant Submittals

- A. Land Use Application Form
- B. Plat Map
- C. Applicant's Narrative
- D. Review of Comprehensive Plan Goals
- E. Transportation Planning Rule Review (MacKenzie consultants)
- F. Building Façade Remodel Renderings

Agency Comments

- G. Replinger & Associates (City Traffic Consultant)
- H. Seth Brumley, ODOT

Additional Exhibits

- I. Subdivision plat overlay aerial photo
- J. Supplement Transmittal from MacKenzie consultants (4/30/15)

Public Comments

None

FINDINGS OF FACT

General

1. These findings are based on the applicant's original submittal received on November 24, 2014 and additional information submitted on December 17, 2014. Where there is a conflict between these findings and the staff reports, these findings shall control.
2. The application was deemed complete on December 27, 2015.

3. The staff reports and this final order are based upon the exhibits listed above, as well as the testimony and discussion at the Planning Commission hearing held on March 23, 2015 and the City Council hearing held on May 4, 2015 and June 1, 2015.
4. Notification of the proposal before the Planning Commission meeting was mailed to property owners within 300 feet of the subject property and to affected agencies on February 25, 2015. A legal notice was published in the Sandy Post on March 11, 2015. A legal notice for the City Council hearing was published in the Sandy Post on Wednesday, April 22, 2015.
5. No individuals, besides the applicant, spoke at the Planning Commission or City Council public hearings.
6. Comments were received from the Oregon Department of Transportation and the City's Traffic Consultant.
7. The Planning Commission reviewed the application at a public hearing on March 23, 2015 and recommended approval of the application with a vote of 6-0 subject to conditions contained in this motion.
8. The City Council reviewed the application at a public hearing on May 4, 2015 and voted unanimously to direct staff to prepare an Ordinance and Final Order for their consideration at a subsequent meeting to include the Planning Commission recommended conditions.
9. The subject site contains a total gross area of approximately 4.98 acres composed five legal lots (Lots 2 – 5 and 7) consolidated as two tax lot. Lots 2-5 currently contain buildings and Lot 7 is vacant.
10. The site has a Plan Map designation of Industrial and a Zoning Map designation of Light Industrial, I-2. The applicant proposed changing the zoning designation for all five lots from Light Industrial, I-2 to Industrial Park, I-1. The Plan Designation will not change with this request.

Chapter 17.26 – Zoning District Amendment

11. Section 17.26.40(B)1 requires that in order to complete a zone change the applicant shall determine the effects on City facilities and services. Development on the site will require fill and a retaining wall, stormwater treatment and detention on-site, and water service for irrigation of landscaping around the future parking lot. Extension of sanitary sewer will be required with future development of the lot. The proposed comprehensive plan change and zone change should not negatively impact public facilities or create service capacity shortfalls. Changing the zoning from I-2 to I-1 has the potential of allowing more transportation intensive uses to access the site than what is currently allowed. As discussed in the applicant's submittal (Exhibit E), as reviewed by the City's Traffic Consultant (Exhibit G), transportation related issues associated with more traffic intensive uses accessing the site is the primary issue affecting city facilities and services. Because the proposal will not create a significant impact to City facilities and services, the application meets this criterion.
12. Section 17.26.40(B)2 requires that in order to complete a zone change the applicant shall assure consistency with the purposes of this chapter. The applicant has requested review of a Type IV

Quasi-Judicial Amendment to the Zoning Map as required by Chapter 17.26. With the applicant's proposal to reconstruct the existing buildings in compliance with the design review standards in the I-1 zone, the proposal is generally consistent with the purposes of this chapter. The applicant has requested review of a Type IV Quasi-Judicial Amendment to the Zoning Map as required by Chapter 17.26. As analyzed through review of Chapter 17.26, the City Council has determined with conditions as discussed in this Order, the proposal meets the applicable criteria. The subject properties are currently planned and zoned industrial and is proposed to be rezoned to a more traffic intensive uses. The properties are adjacent to industrial properties and right-of-way.

13. Section 17.26.40(B)3 requires that in order to complete a zone change the applicant shall assure consistency with the policies of the Comprehensive Plan. All properties contain a Comprehensive Plan designation of Industrial. This will not change. The proposal conforms to the policies of the City of Sandy Comprehensive Plan, specifically the following goals and policies:

Goal 1, Policy 2 – This proposed Comprehensive Plan change includes citizen participation as the approval process includes two public hearings and allows for people to submit written comment.

Goal 2 Policy 6 – This proposal is consistent with the Sandy Development Code, Municipal Code, and all adopted standards and enforcement codes of the City of Sandy.

Goal 9, Policy 2 – The proposed zone change is requested to allow additional uses in existing buildings and a vacant parcel. Expected development of the properties can be accommodated by existing water, sewer, and street capacity. The proposed trip cap will insure street capacity is maintained.

Goal 9, Policy 35 – Changing the zoning from I-2 to I-1 will increase the diversity of businesses allowed on the subject properties.

Goal 9, Policy 36 – This policy strives to protect industrial lands for industrial use and to limit commercial development in industrial areas. Changing the zoning from I-2 to I-1 will increase the opportunity for commercial uses on this property. The city recently completed an analysis to determine if sufficient commercial and industrial lands exist in the current urban growth boundary to accommodate projected growth for the next 20 years. This study concluded that there is currently a surplus of industrial lands and a deficient of commercial lands. As a result, converting the subject properties from I-2 to I-1 will not adversely affect this policy.

14. Section 17.26.40(B)4. requires that in order to complete a zone change the applicant shall assure consistency with the Statewide Planning Goals as may be necessary, and any other applicable policies and standards adopted by the City Council. In order to comply with the requirements of this section, the proposal must also meet the intent of the applicable Statewide Planning Goals.

Goal 1 – Citizen Involvement. The planning commission held a hearing on the zone change application on March 23, 2015. The council held a public hearing on May 4, 2015. The city

provided notice of the hearings in accordance with state law and the city's development code. Goal 1 is satisfied.

Goal 2 – Land Use Planning. Goal 2 requires the ordinance to be coordinated with other affected governmental entities and to be supported by an adequate factual base. The city provided notice of the proposed ordinance to the state, as Oregon law requires. Written comments were received from the Oregon Department of Transportation (Exhibit H).

With respect to an adequate factual base, the council believes the record contains evidence reasonable persons would rely on in approving the application. As noted elsewhere in these findings, the application meets the relevant approval criteria, and no participant alleged otherwise. The property occupies a prominent location in Sandy, particularly relative to those entering the city from the west. Permitting a change in zoning on the properties will result in a development meeting the “Sandy Style” design requirements, thereby improving the “curb appeal” of development in this area. As discussed further in these findings, a vehicle trip cap that ODOT has approved will mitigate increased traffic impacts that may result from the zone change. Goal 2 is satisfied.

Goal 3 – Agricultural Lands. Goal 3 is not applicable to the decision.

Goal 4 – Forest Lands. Goal 4 is not applicable to the decision.

Goal 5 – Natural Resources. Goal 5 is not applicable to the decision. The decision does not affect a Goal 5 resource under OAR 660-023-0250(3). In particular, while the zone change will permit new uses on the properties, none of those uses will conflict “with a particular significant Goal 5 resource site on an acknowledged resource list” and no participant presented evidence contradicting this conclusion.

Goal 6 – Air Water and Land Quality. The city's comprehensive plan with respect to Goal 6 and its development regulations governing land, air and water quality are not affected by the decision. Goal 6 is satisfied to the extent it is applicable to the decision.

Goal 7 – Natural Hazards. The city's comprehensive plan with respect to Goal 7 and its development regulations governing natural hazard areas are not affected by the decision. Goal 7 is satisfied to the extent it is applicable to the decision.

Goal 8 – Recreational Needs. No resorts are contemplated or authorized by the decision. The city's comprehensive plan with respect to Goal 8, its parks master plan and its development regulations governing recreational needs (e.g. park dedication/fee in-lieu-of requirements, open space provisions, etc.) are not affected by the decision. Goal 8 is satisfied to the extent it is applicable to the decision.

Goal 9 – Economy. The city has adopted an economic opportunities analysis (“EOA”) as Goal 9 requires. As the EOA describes, Sandy has a need for smaller employment sites (< five acres) and it could meet this need in part through a better use of underutilized sites via infill and redevelopment. The EOA also describes Sandy's comparative advantage for attracting businesses and suggested the city establish policies to attract professional service businesses, retirement facilities, personal services (lodging, restaurants, tourist-oriented

retail, etc.) and small-scale manufacturing firms. Based on the city's advantages, the EOA predicted these types of businesses are most likely to choose to locate in Sandy. The zone change the council conditionally approves in this decision will further the city's efforts to capitalize on those advantages, as the I-1 zone will allow for an increased mix of land uses relative to the existing I-2 zoning on the property, including overnight lodging and more permissive standards for restaurants and retail. Therefore, Goal 9 is satisfied.

Goal 10 – Housing. Goal 10 is not applicable to the decision.

Goal 11 – Public Facilities. The city has an existing public facilities plan that includes all properties within the city's urban growth boundary, including islands of unincorporated property. The zone change the council conditionally approves in this decision will not undermine or contradict any aspect of the existing public facilities plan. Goal 11 is satisfied.

Goal 12 – Transportation. The city's Comprehensive Plan contains an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. The state's transportation planning rule is triggered when a post-acknowledgment amendment such as this zone change "significantly affects" a transportation facility. OAR 660-012-0060(1)(a)-(c) defines a significant effect for the purposes of the rule as an amendment that: (1) changes the functional classification of an existing or future facility; (2) changes the standards implementing the functional classification system; or (3) results in any of the effects listed in 0060(1)(c)(A)-(C).

The applicant submitted an analysis of the Transportation Planning Rule from MacKenzie (Exhibit E) and this analysis was reviewed by Replinger & Associates, the City's Traffic Consultant (Exhibit G). This submittal was also reviewed by the Oregon Department of Transportation (Exhibit H). This document calculated the development potential of the site based on current zoning and calculated a trip generation rate based on these assumptions. The analysis estimated at full development of the site, based on current zoning, the site would generate 760 average daily trips (ADT) and 134 trips in the weekday PM peak hour. The applicant initially proposed these numbers be used to establish a trip cap for the property. The City's Traffic Consultant (Exhibit G) reviewed this analysis and generally agreed with the conclusions. He raised a concern regarding the correct number to be used for the PM peak hour. Mr. Replinger suggested that instead of using a proposed land use code of 715 (single tenant office building) that a code of 710 (general office building) be used. Using this land use code is estimated to produce 151 trips in the PM peak house instead of 134. Staff recommended the applicant respond to this recommendation. In addition, in order to determine the available trip capacity for the site, staff recommended the applicant provide a table identifying all of the existing uses on the site and the expected trip generation (both ADT and PM peak hours) for each of these uses. The applicant submitted a supplemental analysis prepared by MacKenzie Consultants (Exhibit J) agreeing with the recommendations of City's Traffic Consultant.

The City has experience administering a trip cap as a similar methodology was established for the three buildings in the Pioneer Corp. Park next to the Sandy Cinema. The proposed zoning amendment does not change the functional classification of any transportation facility, nor does it change standards implementing a functional classification system.

Furthermore, it is not clear the amendment will result in any of the effects identified in 0060(1)(c)(A)-(C). To the extent the amendment will result in any of those effects, the rule also expressly permits local governments to impose transportation demand management strategies to mitigate those effects. In this case, the city is proposing a condition that would impose a trip cap on the rezoned property, which will limit trips to those that are currently permitted under the property's existing I-2 zoning. ODOT has reviewed this strategy to manage traffic demands to the rezoned property and does not object to it. Therefore, Goal 12 is satisfied.

Goal 13 – Energy. The city's comprehensive plan with respect to Goal 13 and its standards governing energy conservation are not affected by the decision. Goal 13 is satisfied.

Goal 14 – Urbanization. The decision does not analyze or expand the city's urban growth boundary. Goal 14 is not applicable.

DECISION

For the reasons described above, the request by Michael Maiden, LLC, to change the zoning designation from I-2 to I-1 is hereby conditionally approved subject to the conditions listed below.

CONDITIONS OF APPROVAL

A. Prior to final conditional approval the applicant shall complete the following:

1. Enter into a development agreement with the City of Sandy specifying the terms and timelines associated with the zone change as detailed below.
 - A pre-application conference shall be applied for within two months from the date of this approval.
 - A design review application and approval received for all buildings within six months of approval.
 - All building upgrades shall be completed within three years.
 - The applicant has the option of completing building upgrades in two phases to include: the northern lots (Lots 2 and 3) and the southern lots (Lots 4 and 5). The zone change for each phase will become effective following completion of the building upgrades on that phase.
 - The change of zoning on Lot 7 (currently vacant) will only become effective concurrent with or following the effective date of the zone change for both phases above.

B. General Conditions of Approval

1. The zoning designation for the property will remain I-2, Light Industrial until all of the conditions contained in this Order are completed.

2. Following final approval of the Zone Change, the five lots in this application will be subject to a trip cap as detailed in the report by MacKenzie Consultants (Exhibits E and J) as modified by the City Engineer (Exhibit G) and reviewed by ODOT (Exhibit H). The site is allowed a maximum of 151 trips in the PM peak hour without doing a Traffic Impact Analysis.

Prior to initiating a new use (permitted or conditional) including tenant improvements or a business license on property subject to this trip cap, the applicant or its successor in interest shall submit a letter to the City Planning Director identifying the proposed use and confirming that the proposed use, when combined with then-existing uses, will not exceed PM weekday peak hour limits on vehicle trips, using the methodology set forth in this condition. The City will not consider approval of a use or combination of uses that exceeds the trip cap without submittal and approval of a traffic study meeting City and ODOT requirements and evaluating mitigation measures that may be required to meet City LOS standards and ODOT v/c standards.

- (a) Vehicle trips shall be calculated using the most recent edition of ITE *Trip Generation*.
- (b) If the Planning Director determines that there is a good match between the proposed use and the land use categories in *Trip Generation*, the rates in *Trip Generation* for the PM weekday peak hour shall be used.
- (c) If the Planning Director determines that there is not a good match between the proposed use and the land use categories in *Trip Generation*, the applicant may select from the following options for estimating PM peak weekday hour trip generation for the proposed use:

- (1) Accept the trip rate for the Specialty Retail land use category from *Trip Generation*; or
- (2) Submit evidence from a qualified professional engineer of a trip rate observed from similar uses from no fewer than three other sites; or
- (3) Submit evidence from a qualified professional engineer documenting actual trips at this site.

- (d) If the applicant uses a trip rate for Specialty Retail pursuant to paragraph (c)(1) of this condition, the applicant may choose to use that rate as interim rate until such time as a different rate can be developed pursuant to paragraphs (c)(2) or (c)(3). For purposes of paragraph (c)(3), the following conditions must be met: the business must have been in full operation for at least six months and sampling of PM weekday peak hour traffic from the site must have been conducted during at least three different months. For businesses that the Planning Director concludes may vary by season, the City may further require that sampling occur during specific months.

- (e) For purposes of the trip calculation the total number of estimated PM weekday peak hour trips from each use shall be reduced by 10 percent to account for internal trips that reflect the potential for motorists to visit one or more of the other businesses in the immediate area. There shall be no reduction allowed in the trip calculation for pass-by or diverted-link trips.

