



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m., December 29 2016. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT'S NAME: David Bender

LANDOWNER: Bender Real Estate, LLC

TYPE OF REQUEST/FILE NUMBER: PD16-0284; combined applications for a conditional use and a variance.

LOCATION OF PROPERTY: The subject property is located at 37948 Weirich Drive and abuts the city limits of Lebanon (T12S, R02W, Section 24C, Tax Lot 800).

PLAN DESIGNATION/ZONE DESIGNATION: Industrial / Urban Growth Area - Heavy Industrial (UGA-HI)

URBAN GROWTH AREA/PLANNING AREA: Lebanon Urban Growth Area

SUMMARY OF REQUEST: The applicant is requesting a conditional use permit to develop a covered outdoor storage complex, consisting of approximately 257 storage units. The applicant is also requesting a variance to the maximum property coverage standard of 30 percent to configure the proposed covered outdoor storage complex with a total property coverage of 35.25 percent. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS: [Blank lines for comments]

BY _____ AGENCY (IF ANY) _____ DATE _____

STAFF CONTACT PERSON: Jennifer Cepello; (541)967-3816, ext.2368 or jcepello@co.linn.or.us

- Checkboxes for Linn County, State of Oregon, and Other departments: EHP, Parks, Assessor, GIS, RFPD, Sheriff, Bldg. Off./Flood, Roads, Surveyor, Lebanon Fire, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City of Lebanon, Udell Engineering & Land Surveying, LLC, Attn: Andrew Paul

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

- 1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Sections, 933.260 and 938.300 of the Linn County Land Development Code contain the decision criteria specified for use with this application.

Section 933.260(B) – UGAZ Decision Criteria

(B) *Decision criteria.*

- (1) The proposed development is permitted and is consistent with the affected city's comprehensive plan map designations and the future city zoning.
- (2) The location, size, design and operating characteristics of the proposed development are compatible with future development allowed by the affected city's comprehensive plan map designation.
- (3) The affected city has reviewed the proposal and has not identified any substantial conflicts with its Comprehensive Plan, Facilities Plans or development standards.
- (4) The location, design and site planning of the proposed development does not:
 - (a) preclude future urban development on the subject property or adjacent properties; or
 - (b) conflict with future location and placement of streets and services.
- (5) If the proposed development has the potential to generate conflicts which have been determined to be detrimental to the public health, safety and general welfare or to the overall livability of the neighborhood, then the development shall not be permitted without mitigations. The mitigations will be determined by the decision maker. Potential conflicts include, but are not limited to noise, vibration, smoke, dust, odor, fumes, heat, glare or electromagnetic interference.
- (6) The proposed site
 - (a) can support an on-site, subsurface sewage disposal system, and
 - (b) has an adequate supply of potable water.
- (7) Traffic generated from the site can be adequately served by the road system servicing the site.
- (8) Road access meets County standards as found in section 3.2 of the Linn County Transportation Element of the Comprehensive Plan.
- (9) The proposed development site is located outside of a mapped geologic hazard area or of a 100-year flood plain unless it is demonstrated that the use can be designed and engineered to comply with accepted hazard-mitigation requirements.

Section 938.300 - Decision criteria

(B) *Decision criteria.*

- (1) A variance from a development standard as set forth in LCC 934 (Development Standards Code) is needed because conditions or circumstances or both exist on the land or structure involved that renders development impractical or impossible;
 - (2) Granting a variance from a development standard will not have a significant adverse affect on property, improvements, or public health or safety in the vicinity of the subject property; and
 - (3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department Director. Oral comments cannot be accepted for Director decisions.

4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.427.
8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing, that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.427.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who

neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

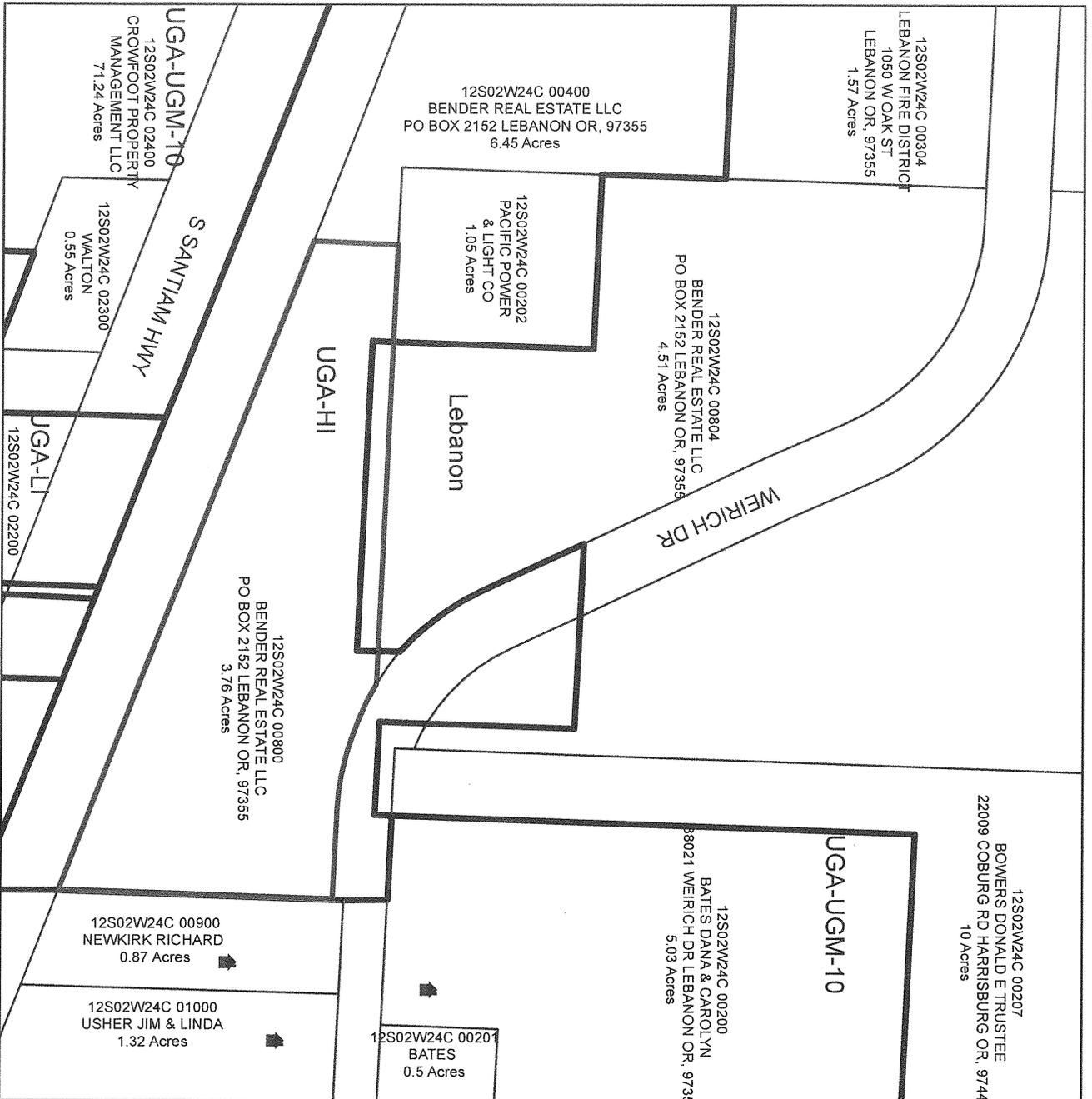
If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.

2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
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-  Subject Property
-  taxlots
-  Zoning

PD16-0284
12S02W24C 00800
BENDER REAL ESTATE LLC
3.76 acres



1 inch = 175 feet

12/05/2016

