

ORDINANCE NO. 007/2010

AN ORDINANCE CHANGING THE ZONING DESIGNATION OF A PARCEL OF PROPERTY FROM LIGHT INDUSTRIAL WITH RESTRICTIVE CONDITIONS TO LIGHT INDUSTRIAL REPEALING THE CONDITIONS SET FORTH IN ORDINANCE 673 RECORDED UNDER AUDITOR FILE # 8010030259 FOR SAID PROPERTY AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the property owner initiated a request to rezone the property legally described as SEC 35 TWP 28 RGE 06 THAT PTN OF SE1/4 SE1/4 DAF - BEG AT SE COR OF SD SEC 35 TH N00*59 27WALG E LN OF SD SEC 35 FOR 220FT TH S89*00 33W AT R/A TO SD E LN 329.90FT TO BEG OF A TANG CRV TO R HAVG A RAD OF 284.81FT TH WLY ALG SD CRV AN ARC DIST OF 175.19FT THRU C/A 31*14 42 TH N55*44 45W DIST 67.91FT TO TPB TH N55*4445W DIST 255.51FT TH N00*59 27W DIST 644.35FT TO SLY BDY OF CERTAIN R/W CONVYD TO PSP & LIGHT CO TH S60*31 27E ALG SD SLY R/W LN 432.02FT TH S01*30 47E DIST 335.55FT TH S88*29 13W 159FT THS00*59 27E DIST 240.33FT TPB AKA PTN LOT 4 SP AF 7908170205 & REV BY BLA REC AF 8911290086 & SURV AF 8911275005 (Vicinity Map attached as Exhibit A and incorporated by this reference as if set forth in full) from Light Industrial with restrictive covenants to Light Industrial; and

WHEREAS, the Monroe City Council rezoned the subject property Business Low Density and applied conditions limiting the use and configuration of the site, through Ordinance 673; and

WHEREAS, in order to implement the conditions of Ordinance No. 673, the owners placed restrictive land use covenants on the property in 1980, recorded under Auditor File # 8010030259; and

WHEREAS, the Monroe City Council rezoned the subject property Professional Office through Ordinance 922 and the Council did not at that time repeal the conditions required by Ordinance No. 673; and

WHEREAS, the Monroe City Council rezoned the subject property Light Industrial through Ordinance 1193 and the Council did not at that time repeal the conditions required by Ordinance No. 673; and

WHEREAS, the city issued a categorical exemption from State Environmental Policy Act review of the subject rezone under the Washington Administrative Code 197-11-800(19); and

WHEREAS, the Monroe Planning Commission held a public hearing on May 24, 2010, to consider repealing the restrictive conditions, adopted by City of Monroe Ordinance 673 and to recommend approval of the requested rezone to Light Industrial; and

WHEREAS, the Monroe City Council considered the recommendation of the Monroe

Planning Commission on June 06, 2010 and determined to approve the zoning designation from Light Industrial with restrictive conditions to Light Industrial; and

WHEREAS, the Monroe City Council desires to repeal the conditions set forth in Ordinance 673 recorded under Auditor File # 8010030259 for said property;

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

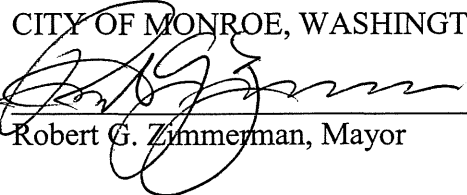
Section 1. The rezone from Light Industrial with restrictive conditions to Light Industrial identified in the whereas clauses above is hereby approved.

Section 2. Findings, Conclusions, and Analysis. The Monroe City Council adopts the Planning Commission's findings, conclusions, and analysis on the subject rezone (city staff report and May 24, 2010 Planning Commission minutes, pages 11-12), attached hereto as Exhibit B and Exhibit C and incorporated by this reference as if set forth in full.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance shall be in full force and effect five (5) days after its passage and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 15th day of June 2010.

CITY OF MONROE, WASHINGTON:

Robert G. Zimmerman, Mayor

1st and Final Reading: 6/15/10
Published: 6/22/10
Effective: 6/27/10

APPROVED AS TO FORM:


Phil Olbrechts, City Attorney

ATTEST/AUTHENTICATED:


Eadye Martinson, Deputy City Clerk

Exhibit A

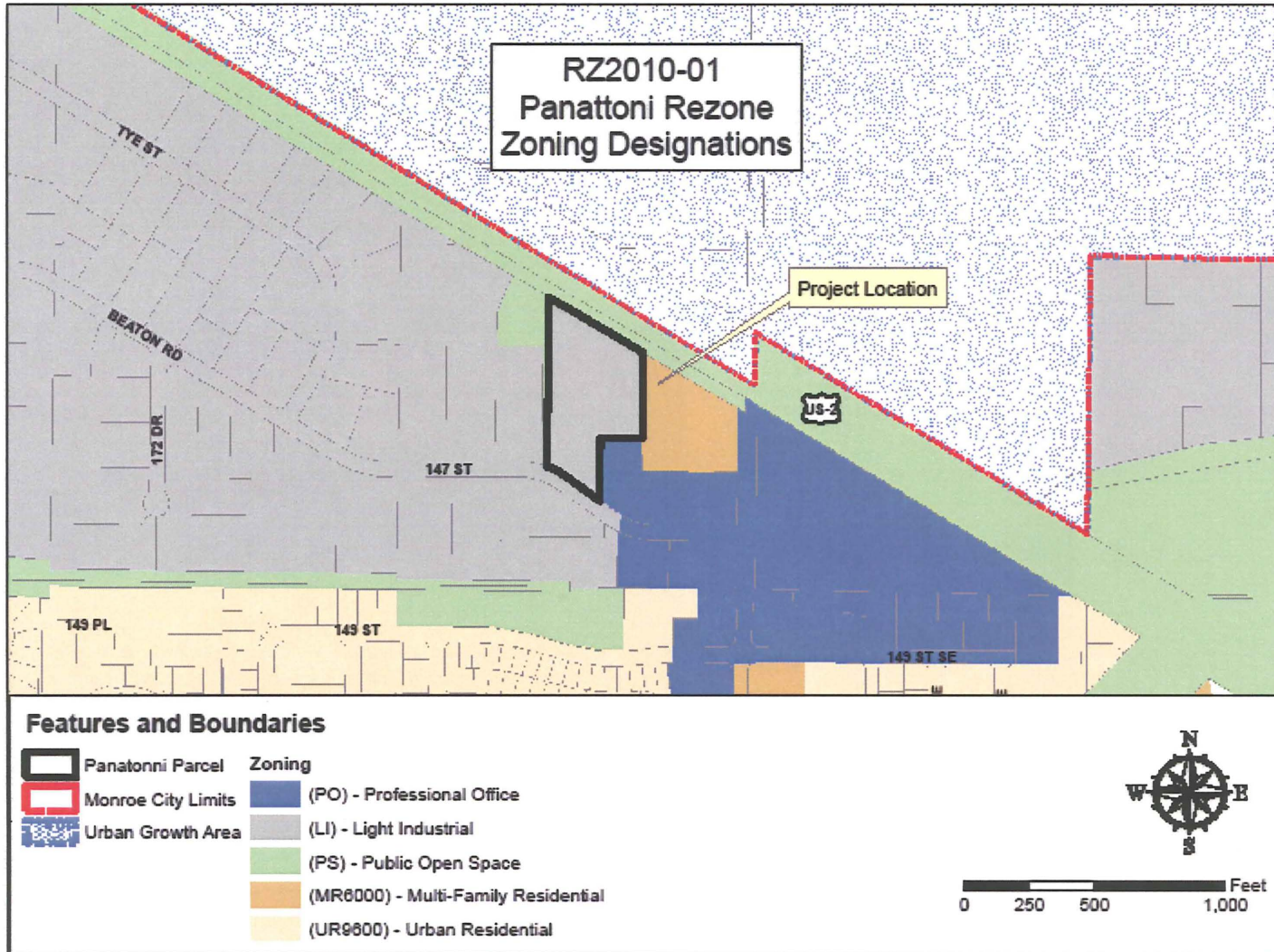


Exhibit B

**STAFF REPORT AND RECOMMENDATION (Exhibit 1)
Zoning Reclassification Application**

**RZ2010-01
May 24, 2010**

TO: CITY OF MONROE PLANNING COMMISSION
FROM: RUSS WRIGHT, ASSOCIATE PLANNER
SUBJECT: PANATTONI REZONE (#RZ2010-01) FROM LIGHT INDUSTRIAL WITH LAND USE RESTRICTIONS TO LIGHT INDUSTRIAL
HEARING: MAY 24, 2010

A. PURPOSE:

The proponent requests a rezone from Light Industrial with land use restrictions to Light Industrial to allow the full range of light industrial uses permitted in the zoning district. Existing land use restrictions, adopted through Ord 673, limit the use of the property.

B. INFORMATION:

| | |
|--------------------------------|--------------------------------|
| Property Owner(s): | Applicant: |
| Panattoni Development Co., Inc | Bart Brynestad |
| 6840 Fort Dent Way | Panattoni Development Co., Inc |
| Suite 350 | 6840 Fort Dent Way |
| Seattle, Washington 98188 | Suite 350 |
| 206-248-0555 | Seattle, Washington 98188 |
| | 206-248-0555 |

Property Location: 17675 / 17731 - 147th Street SE (Exhibit 2)

Legal Description: SEC 35 TWP 28 RGE 06 THAT PTN OF SE1/4 SE1/4 DAF - BEG AT SE COR OF SD SEC 35 TH N00*59 27WALG E LN OF SD SEC 35 FOR 220FT TH S89*00 33W AT R/A TO SD E LN 329.90FT TO BEG OF A TANG CRV TO R HAVG A RAD OF 284.81FT TH WLY ALG SD CRV AN ARC DIST OF 175.19FT THRU C/A 31*14 42 TH N55*44 45W DIST 67.91FT TO TPB TH N55*4445W DIST 255.51FT TH N00*59 27W DIST 644.35FT TO SLY BDY OF CERTAIN R/W CONVYD TO PSP & LIGHT CO TH S60*31 27E ALG SD SLY R/W LN 432.02FT TH S01*30 47E DIST 335.55FT TH S88*29 13W 159FT THS00*59 27E DIST 240.33FT TPB AKA PTN LOT 4 SP AF 7908170205 & REV BY BLA REC AF 8911290086 & SURV AF 8911275005

Zoning: Light Industrial (LI) (Exhibit 3)

Comprehensive Plan Designation: Industrial

Adjacent Zoning: North – Public Open Space East – MR6000 / PO

| | | |
|-------------------|--|-----------------------------|
| | South – LI / Professional Office (PO) | West – LI |
| Adjacent Land | North – Special Regional Use | East – PO |
| Use Designations: | South – Industrial / Professional Office (PO) | West – Industrial |
| Adjacent Land | North – Puget Sound Energy / Railroad | East – Medical / Apartments |
| Uses: | South – Warehouse / Retail / Medical | West – PUD station |
| Codes & Policies: | Chapter 18.99 MMC (Rezoning Procedures), Chapter 20.04 MMC (State Environmental Policy Act), the Monroe Comprehensive Plan, and Chapter 36.70A RCW (Growth Management Act) | |

C. DISCUSSION/HISTORY

The city received rezone application RZ2010-01 on April 06, 2010 (Exhibit 4). The city deemed the application complete as of April 06, 2010 (Exhibit 5).

In 2008, Barghausen Consulting applied for a two lot short subdivision of the subject lot. Concurrently, the proponents constructed two buildings on the site intended for Light Industrial uses (Exhibit 6). During its review, staff discovered restrictive covenants (AF # 8010030259) (Exhibit 7) attached to the property concurrently with a rezone of the property to Business Low Density (BL) from Low-Density Multifamily in 1980. As part of rezone approval, the city limited the use of the property to

“... professional business uses as defined as relating to schools, especially a graduate school or offering instruction in a profession, or professional offices for service offered by doctors, dentists, lawyers, architects, engineers, accountant or practitioners of similar professions” through Ord 673 (Exhibit 8).

Subsequent to the 1980 rezone, the city adopted new land use designations and zoning districts. In 1989, Ord 922 (Exhibit 9) rezoned the property to Professional Office, which is consistent with the restrictions, to the property. Following in 2000, Ord 1193 (Exhibit 10) amended the zoning classification for this parcel from Professional Office to Light Industrial. The various rezones did not repeal the underlying land use restrictions.

Staff held an introductory workshop with the Planning Commission on April 26, 2010. On May 03, 2010, city staff mailed written notification of the hearing to all property owners within 500-feet (Exhibit 11a). City staff posted the Notice of Application and Public Hearing notice on-site May 05, 2010 (Exhibit 11b). The Monroe Monitor published the hearing notice May 05, 2010 (Exhibit 11c).

As noted above, the proponent requests to remove the land use restrictions through a rezone process. The proposed rezone to Light Industrial will allow the full range of light industrial uses permitted throughout the zoning district.

FINDINGS AND CONCLUSIONS

Compliance with Chapter 18.99 MMC (Rezoning Procedures) and Rezone Application Criteria:

Findings:

- The property owners requested that the city remove the land use restrictions and allow the full range of uses permitted in the Light Industrial zone.

- As noted in Section B, a variety of land uses are currently found in the surrounding area including retail, medical, warehousing, utility, and multifamily.
- The site has undergone a series of rezones dating back to 1980 that reflect changes in the use of the property.
- Staff identified no negative impacts with the proposed change.

Conclusions:

- The proposed rezone from Light Industrial with land use restrictions to Light Industrial is consistent with the goals and policies of the Comprehensive Plan and Land Use Map (see Subsection 4).
- Industrial uses are consistent with the purposes of the zoning code and the existing land uses of surrounding properties.
- The proposed rezone addresses changes in economic patterns, social customs, policy changes, and other factors that affect the character of the area.
- The proposal is not injurious to the public or private property.

Consistency with the Chapter 20.04 MMC (SEPA)

Findings:

- The project is exempt from environmental review under Washington Administrative Code 197-11-800(19) as a procedural clarification.
- The SEPA Administrator issued Determination of Categorical Exemption on April 12, 2010. (Exhibit 12)

Conclusions: The proposed rezone is consistent with Chapter 20.04 MMC and Chapter 197-11 WAC.

Consistency with the Comprehensive Plan:

Findings:

- The proposed amendment is consistent with the underlying Comprehensive Plan Land Use designation of Industrial.
- LUP-1.1.11 notes that the Industrial designation comprises both light and general industrial uses, including non-polluting manufacturing and processing, wholesaling, warehousing and distribution and other similar activities...
- LUG-11 promotes industrial growth to provide a healthy employment base for local citizens, complement existing industrial uses, and provide for projected needs.

Conclusions: The proposed rezone is consistent with the Monroe Comprehensive Plan.

Consistency with the Chapter 36.70A (Growth Management Act):

Findings:

- Staff requested Expedited Review of the proposal from the Department of Commerce on April 23, 2010 (Exhibit 13a).
- The Department of Commerce emailed a Letter of Acknowledgement on April 26, 2010 with

material ID # 15606 (Exhibit 13b).

- The Department of Commerce granted expedited review on May 10, 2010 (Exhibit 13c).
- Staff received no agency comments.

Conclusions: The proposal has met the Growth Management Act requirements.

RECOMMENDATION

Staff hereby recommends the Planning Commission **APPROVE** the requested Rezone Application, file number RZ2010-01 changing the present zoning district from Light Industrial with land use restrictions to Light Industrial as it complies with the Monroe Municipal Code, City of Monroe Comprehensive Plan and other State and Federal Regulations.

F. PROPOSED CONDITIONS OF APPROVAL

Pending approval of RZ2010-01, the proponent/owner must record an approved legal instrument with Snohomish County repealing or removing the prior restrictive, land use covenants A through C recorded under (AF # 8010030250).

G. EXHIBITS (Exhibits are on file & available upon request and may be available at: http://www.ci.monroe.wa.us/citygov/depts/community_development/planning/codeamend/codeamend.php):

- | | |
|---------------------------|--|
| 1. Staff Report | 11. Public Notice |
| 2. Vicinity Map | a. Affidavit of Mailing |
| 3. Zoning Map | b. Affidavit of Posting |
| 4. Application | c. Proof of Publication |
| 5. Letter of Completeness | 12. Determination of Categorical Exemption |
| 6. Site Plan | 13. Department of Commerce |
| 7. AF # 8010030259 | a. Expedited Review Request |
| 8. Ordinance 673 | b. Letter of Acknowledgement |
| 9. Ordinance 922 | c. Expedited Review Granted |
| 10. Ordinance 1193 | |

Exhibit C

City of Monroe
Planning Commission Minutes
Regular Meeting of May 24, 2010

forward with change when something is not planned. He would rather look at a change when the area is annexed because we will have a better view of the economy, where housing starts are, and what is happening with the development of our other Comprehensive Plan Amendments.

Motion

Commissioner Knettles made a motion that the Planning Commission recommend to City Council that they disapprove CPA2010D Comprehensive Plan Amendment. Commissioner Rodland seconded the motion. By show of hands the motion passed 4/2.

Planner Wright explained what the process is for the Comprehensive Plan Amendments and said this will be going tentatively to City Council on June 8 for an introduction and adoption July 6.

RZ2010-01 (Bart Brynestad on behalf of Panattoni Development) – Associate Planner Planner Wright

Vice Chair Philip opened the public hearing.

Planner Wright reviewed this item and explained that in 1980 the city adopted restrictions on development of the property at 17675/17731 – 147th Street SE. The zoning has changed several times over the years once to Professional Office, then to Light Industrial. As that happened the original restrictions were not looked at again. The owners have constructed two buildings on this property and have tenants who would like to have businesses other than Professional Office.

Planner Wright has completed an analysis of this rezone stating it complies with the Monroe Municipal Code, the Monroe Comprehensive Plan, and other state and federal regulations and recommended approval.

Vice Chair Philip opened the public testimony portion of the hearing.

Vice Chair Philip offered the affirmation of truth to the witness. Mr. Cyr answered affirmatively.

Paul Cyr, Barghausen Consulting Engineers, 18215 72nd Avenue, Kent, Washington

Mr. Cyr recommended following staff's recommendation and allow for development of this property according to the current zoning and would like the Planning Commission approve removal of the restrictions. He distributed current photos of the property and thanked the Planning Commission for their time.

Vice Chair Philip offered the affirmation of truth to the witness. Mr. Gemma answered affirmatively.

Patrick Gemma, 6840 Fort Dent Way, Suite 350 Seattle, Washington

Mr. Gemma explained that the restrictions on the property were brought to their attention when they were going through a short plat process. They currently have 3 tenants that will bring

approximately 75-80 jobs to Monroe and asked the Planning Commission for their recommendation.

Motion

Commissioner Loots made a motion to close the public testimony portion of the hearing. Commissioner Rodland seconded the motion. By vote the motion passed 6/0.

Motion

Commissioner Loots made a motion to close the public hearing. Commissioner Kristiansen seconded the motion. By vote the motion passed 6/0.

Motion

Commissioner Loots made a motion that the Planning Commission recommend to City Council approval of RZ2010-01 changing the present zoning district from Light Industrial with land use restrictions to Light Industrial as it complies with the Monroe Municipal Code, the Monroe Comprehensive Plan, and other state and federal regulations. Commissioner Rodland seconded the motion. By vote the motion passed 6/0.

Break 9:17 - Vice Chair Philip reconvened the meeting at 9:20.

WORKSHOP

RZ2010-03 (Introduction Joseph Smeby on behalf of HHD LLC Rezone) – Assistant Planner Ben Swanson

Planner Swanson explained that with Comprehensive Plan Amendments different land use designations may have more than one underlying zone. There is a direct correlation between the current zone of R8-11 dwelling units per acre and MR6000. The Comprehensive Plan Amendment was approved by City Council on Oct. 6, 2009 with a stipulation that the Rezone have a developer's agreement to limit the use to retirement housing/assisted living, single family or Type I group homes.

Planner Swanson explained that all studies have been completed and because there is a direct correlation to the Comprehensive Plan Amendment, no other studies need to be done. An additional SEPA has been submitted and is currently going through the process. There is no new additional information to submit. The city acknowledges that this parcel is capable of this designation. He asked for direction from the Planning Commission.

Commissioner Loots asked if City Council's restrictions allowed any commercial use on the property, if they will see the developer's agreement, and what is the timeline. Planner Swanson replied there is no commercial use is permitted, staff is waiting for the SEPA process to be complete and for CTED's response.

The next step, Planner Swanson explained, is to go to either a workshop or public hearing. Consensus was to move to public hearing as long as the Planning Commission's hearing materials will contain any comments relating to the SEPA determination, the CTED review and the developer's agreement