

CITY OF MAPLE VALLEY, WASHINGTON

ORDINANCE NO. O-12-523

AN ORDINANCE OF THE CITY OF MAPLE VALLEY, WASHINGTON, AMENDING THE CITY'S OFFICIAL ZONING MAP TO REZONE CERTAIN PROPERTIES, PROVIDING FOR SEVERABILITY, ESTABLISHING AN EFFECTIVE DATE, AND PROVIDING FOR CORRECTIONS.

WHEREAS, the City of Maple Valley Community Development Department received an application to rezone certain properties currently zoned Multiple Use (MU) to a combination of Service Commercial (SC), Community Business (CB) and Parks, Recreation and Open Space (PRO); and

WHEREAS, the City Determined the application complete and processed the rezone request as a Process 4 Site Specific Rezone; and

WHEREAS, the City of Maple Valley issued a SEPA threshold determination of non-significance (DNS) on October 16, 2012; and

WHEREAS, the City of Maple Valley submitted the proposal to the Washington State Department of Commerce on October 15, 2012 and received no comments; and

WHEREAS, the City Planning Commission held a public hearing to receive comments regarding the proposal on November 7, 2012; and

WHEREAS, the City Planning Commission made Findings, Conclusions and a Recommendation to adopt the proposed zoning map amendments on November 14, 2012; and

WHEREAS, on December 3, 2012, the City Council, having considered the complete record, voted 6-0 to approve the Brandt property rezone proposal and directed staff prepare an ordinance reflecting that decision, adopting Findings and Conclusions and amending the official Zoning Map; and

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

Section 1. Adoption of Findings of Fact and Conclusions. The City Council hereby adopts the Findings of Fact and Conclusions as set forth in **Exhibit A**, which is attached hereto and incorporated herein by this reference as set forth in full.

Section 2. Zoning Map Amendment. The City Council hereby amends the official zoning map to appear as set forth in **Exhibit B**, which is attached hereto and incorporated herein by this reference as set forth in full.

Section 3. Severability. If any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. Effective Date. A summary of this ordinance shall be published in the official newspaper of the City, and this ordinance shall take effect and be in full force five days after adoption and publication pursuant to RCW 35A.13.190.

Section 5. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or to correct ordinance numbering and section/subsection numbering.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MAPLE VALLEY,
WASHINGTON ON THIS 10TH DAY OF DECEMBER, 2012.

William T. Allison, Mayor

ATTEST:

Shaunna Lee-Rice, City Clerk

APPROVED AS TO FORM:

Alexander W. Mackie, Special Counsel

Date of Publication: December 18, 2012

Effective Date: December 23, 2012

CITY OF MAPLE VALLEY CITY COUNCIL

FINDINGS AND CONCLUSIONS

SITE SPECIFIC REZONE/ZONING MAP AMENDMENT

FILE NO. CD1210-001

Application: Brandt Property Rezone

File Number: CD1210-001

Applicant: City of Maple Valley
22017 SE Wax Rd. #200
PO Box 320
Maple Valley, WA 98038

Dates: Application filed **10/10/2012**; Technically Complete **10/12/2012**; Notice of Application issued **10/16/2012**; Public hearing held **11/07/2012**; Planning Commission recommendation **11/14/12**; City Council decision to approve **12/03/12**.

Project Description: The City of Maple Valley is proposing to rezone the area known as the “Brandt Property” located on approximately 50 acres north of SR 169 and SE 240th Way from the existing zoning designation of Multiple Use (MU) to a combination of Service Commercial (SC), Community Business (CB) and Parks, Recreation, and Open Space (PRO).

Location: North of SR 169 and SE 240th Way

Affected Parcels

<u>Parcel Number</u>	<u>Size</u>	<u>Proposed Zoning</u>
1522069012	299,692 s.f.	Service Commercial
1522069013	160,301 s.f.	Service Commercial
1522069119	313,196 s.f.	Service Commercial
1522069124	81,022 s.f.	Service Commercial
1522069125	91,476 s.f.	Service Commercial
1622069023	431,244 s.f.	Service Commercial
1622069168	154,638 s.f.	Service Commercial
1622069030	103,237 s.f.	Community Business
2122069050	326,264 s.f.	Community Business
885397110	92,783 s.f.	Parks, Recreation and Open Space
885697120	159,865 s.f.	Parks, Recreation and Open Space

Background

1 The “Brandt Property” is a collection of 11 parcels totaling approximately 50 acres. The
2 property is located at the intersection of SR 169 and SE 240th Way extending northwest
3 to the east of SR 169. The current zoning designation and zoning of the property is MU
4 (Multiple Use). This zoning allows for, and requires a mixture of residential, commercial
5 and office uses. Over the years, the property owner has explored options to develop
6 under the MU zoning, but to date, no official application has been received by the City.

7 In February of 2012, the City’s Economic Development Committee (EDC) made a
8 recommendation to City Council to make changes to the City’s comprehensive Plan and
9 zoning map/text to change the property from MU to, “Some combination of SC and CB
10 zoning that recognizes the retail opportunities of SR 169 frontage and advanced
11 technology/manufacturing to be consistent with SC zoning of North Sub-area Plan—
12 sensitive to the residential neighborhoods to the east)”. The recommendation also
13 included changes to height requirements allowing for 80-100 foot building heights.

14 Through the Comprehensive Plan amendment process as prescribed under RCW
15 36.70a.130, the City of Maple Valley amended the land use designation from the
16 designations described above (MU), to a combination of SC, CB, and PRO.

17
18

19 **Exhibits**

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21 The City Council takes liberty in acknowledging that all relevant public documents
22 including such items as the Comprehensive Plan, City Municipal Code, State
23 Regulations and requirements, other adopted City policies and plans and similar items in
24 the public venue are hereby considered documents available within context of the
25 record.

<u>Exhibit #</u>	<u>Name</u>	<u>Date Received</u>
26 1-A	Joseph & Judith Harrison	10/23/12
27 1-B	Robert & Wilma Monson	10/23/12
28 1-C	Ken & Lisa Geisen	10/25/12
29 1-D	Mr. & Mrs. Thomas O’Connell	10/29/12
30 1-E	Julie Bender	10/31/12
31 1-F	Scheris, Troy & Alyssa Schuring	10/31/12
32 1-G	James & Susan Rendahl	10/31/12
33 1-H	Ankie Stroes	11/1/12
34 1-I	Bob Castagna	11/1/12
35 1-J	Jennifer Kennedy	11/1/12
36 1-K	Megan Goetz	11/1/12
37 1-L	Megan Goetz	11/7/12
38 1-M	MV Chamber of Commerce	11/7/12
39 1-N	Julie Bender	10/31/12
40 1-O	Larry Lindstrand	11/7/12
41 1-P	Lois Brandt & Cheryl Castagna	11/7/12
42 2	Application Documents	
43 3	Staff Recommendation	

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4 The City Council of the City of Maple Valley, having reviewed all the files and records
5 submitted in conjunction with this application and having listened to the audio tape
6 recordings of the Planning Commission hearing and deliberation, presents the following
7 facts:

8
9 **FINDINGS**

10
11 On October 10, 2012, David Johnston, City of Maple Valley City Manager, representing
12 the City's Economic Development Committee filed a site specific rezone application, File
13 Number CD1210-001, with the City of Maple Valley. The request was for a site specific
14 rezone to change the current Comprehensive Plan designation and zoning of the
15 property from Multiple Use to a Combination of Service Commercial (SC), Community
16 Business (CB) and Parks, Recreation and Open Space (PRO). Notices for the public
17 meeting were duly published, posted and mailed to residents within 500 feet of the
18 subject property. A public hearing was held before the Planning Commission on
19 November 7, 2012.

20
21 Having considered all the testimony received and the information presented, the City
22 Council does make the following findings:

23
24 **Findings of Fact**

- 25
- 26 1. The Planning Commission's August 15, 2012 recommendation on Brandt
27 property Comprehensive Plan amendments and change in land use designation
28 with the incorporated "Factors of Consideration and Key Findings".
29
 - 30 2. The City Council adopted Ordinance No. O-12-512, on October 8, 2012, which
31 amended the Comprehensive Plan map and associated text affecting the Brandt
32 property. The application for a site specific rezone proposes to make the zoning
33 consistent with the approved land use designation as required by state law.
34
 - 35 3. The Economic Development Commission recommended in February 2012 that
36 the City Council Instruct the Planning Commission to consider a comprehensive
37 plan amendment and land use re-designation and rezoning regarding the Brandt
38 Property. This recommendation included re-designation of the site for Service
39 Commercial and Community Business classifications. The EDC
40 recommendation is driven by the City's goals to: increase services for residents,
41 diversify the tax base and increase employment opportunity.
42
 - 43 4. Three new zoning designations are proposed for the site: Community Business
44 (CB), Service Commercial (SC), and Parks, Recreation and Open Space
45 (PRO).The designations will be allocated as follows: approximately 6 acres PRO,
46 13 acres CB, and 35 acres SC.

- 1 5. The application request for rezone of the Brandt property, including the attached
2 document outlining the description, background, and responses to criteria.
3 Council has reviewed the provided documents and finds that the information
4 addressing responses to the criteria are adequate to support a rezone.
5
- 6 6. Staff submitted the application for a rezone to the State Department of
7 Commerce for review on October 15, 2012 and was granted expedited review.
8 No comments from state agencies were received.
9
- 10 7. Staff processed the SEPA checklist with a comment period ending on October
11 30, 2012. Comments relevant to SEPA and comments regarding the project
12 proposal received are included in the exhibit list.
13
- 14 8. Under MVMC18.100.040, this matter was heard by the Planning Commission as
15 an open record quasi-judicial hearing. A public hearing was held on November
16 7, 2012. The Commission received testimony from the public regarding the
17 project and has duly considered the relevant testimony.
18
- 19 9. Testimony from the public at the public hearing and in written exhibits
20 requested that the Planning Commission modify the uses allowed within
21 the SC zone and/or increase the buffer requirements for the SC zone.
22
- 23 10. RCW 36.70A.040 –development regulations must implement
24 comprehensive plans..... subsection (4) “Any county or city that is required to
25 conform with all the requirements of this chapter, as a result of the county
26 legislative authority adopting its resolution of intention under subsection (2) of
27 this section, shall take actions under this chapter as follows: (a) The county
28 legislative authority shall adopt a county-wide planning policy under RCW
29 [36.70A.210](#); (b) the county and each city that is located within the county shall
30 adopt development regulations conserving agricultural lands, forest lands, and
31 mineral resource lands it designated under RCW [36.70A.060](#) within one year of
32 the date the county legislative authority adopts its resolution of intention; (c) the
33 county shall designate and take other actions related to urban growth areas
34 under RCW [36.70A.110](#); and **(d) the county and each city that is located**
35 **within the county shall adopt a comprehensive plan and development**
36 **regulations that are consistent with and implement the comprehensive**
37 **plan** not later than four years from the date the county legislative authority
38 adopts its resolution of intention, but a county or city may obtain an additional six
39 months before it is required to have adopted its development regulations by
40 submitting a letter notifying the *department of community, trade, and economic
41 development of its need prior to the deadline for adopting both a comprehensive
42 plan and development regulations.” Emphasis added. Washington State law
43 requires the City's land use regulations, including the zoning ordinance, to
44 implement the City's Comprehensive Plan.

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11. RCW 36.70b.030 The State Local Project Review Act has a set of required elements and limitations (attached). Among the limitations on a review of this type – site specific rezone- before the Council is the following provision.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW [36.70B.110](#).

What this effectively means is that the Council is precluded from considering changes to the previously adopted development regulations relating to height, setback, buffer requirements, permitted uses or density. As part of this quasi-judicial review, the Council cannot reevaluate the merits of the code provisions already adopted . If evidence or facts came to light that identified an insufficiency in code or need for a code change – that must be considered within the context of a separate code amendment process and not part of the quasi-judicial project application review process. Washington State law does not allow the Planning Commission to revise existing city ordinances in the context of a quasi-judicial hearing.

(Planning Commission finding only. The Council conducted its own inquiry to assure the adequacy of environmental review.)

12. There is no development proposal tied to the rezone request. Mitigation, if any is necessary, will be required at the time of development is proposed, based upon the impacts of that specific proposal.

13. Given the concerns expressed about potential impacts to neighboring properties the Council inquired into potential impacts:

- The prior zone (MU) allowed a wide variety of uses and activities with an emphasis on commercial development and the potential for commercial level impacts on adjoining properties.
- The SC, CB and PRO zones allow a different mix of uses with a similar emphasis on commercial development and similar level of overall activity.
- With no project specifically identified any future impacts are truly hypothetical, particularly concerns about height that may or may not be realized depending on specific proposals.
- The City has other zones where SC zoning abuts residential zones and has tools, including site plan review and SEPA, to address project-specific concerns.
- There is no basis in the present record to conclude that the change in zoning will necessarily have a reasonable probability of more than a moderate impact on the environment.

1 Council affirms that the non-project environmental review resulting in the SEPA DNS
2 issued on October 16, 2012 was adequate and appropriate to the circumstances of the
3 recommended change.

4 **Decision Criteria**
5

6 1. There exists obvious technical error in the pertinent comprehensive plan provision; or

7 · This criteria does not apply. The proposed amendment does not address a
8 technical error in the comprehensive plan. The proposal is to make the
9 zoning map consistent with the Comprehensive Plan land use map.

10 2. The applicant has carried the burden of proof and produced evidence sufficient to
11 support the conclusion that the application merits approval or approval with
12 modifications; and

13 · The City is proposing the rezone subsequent to City Council adoption of a
14 Comprehensive Plan amendment that changed the land use designation of
15 the property. This application for a site specific rezone is to bring the
16 official City Zoning map in compliance with the Comprehensive Plan land
17 use designation.

18 3. The amendment bears a substantial relation to the public health, safety or welfare;
19 and

20 · Arguably all comprehensive plan and zoning amendments have some
21 correlation to public health, safety and welfare. In the case of this proposal,
22 the community and City Council's identified need for increased economic
23 development and job creation represents a public welfare need. The
24 zoning classifications recommended already exist within the City and in
25 close proximity and under similar conditions as exist here. Those zoning
26 designations have and continue to bear a relationship to the public welfare.

27 · Furthermore, consistency between the Comprehensive Plan and Zoning
28 are necessary for the public welfare. Citizens, tax payers and land owners
29 all rely on the predictability and coordination of the planning and regulatory
30 policies, processes and standards.

31 4. The amendment addresses changed circumstances on the site or the needs of the
32 City as a whole; and

33 · While the physical circumstances of the site itself have not changed, the
34 needs of the City and its' citizens desire for increased economic
35 development growth, as well as a strong desire for jobs in the community

1 indicate that a rezone addressing the Brandt property is merited. The
2 existing MU zone, likely for several reasons, has not allowed or created the
3 right environment or condition on the site for land development that would
4 promote the City's desire for increased commercial and economic growth.
5 Therefore a change is merited.

6 · Furthermore, the City Council's adoption of ordinance O-12-512 does
7 change the circumstances whereas the property is now designated for a
8 combination of land uses identified as Service Commercial (SC),
9 Community Business (CB) and Parks Recreation and Open Space (PRO).
10 This, in turn, necessitates a change to the City's official zoning map as
11 state statute requires that a parcel's zoning designation be consistent with
12 and implements the Comprehensive Plan designation.

13 5. The amendment is compatible with or complementary to the provisions of the
14 comprehensive plan or other goals or policies of the City; and

15 · There are no goals or policies that refute or discourage the proposed
16 rezone. The City retains adequate residential land capacity and the land
17 use policies addressing economic development support the proposed
18 comprehensive plan amendments. Furthermore, the City Council has
19 identified goals associated with the need to increase economic
20 development that achieves diversified and increased tax base to support
21 city and community services, provides desired services to citizens and
22 increases employment opportunities. The recently adopted change to the
23 Comprehensive Plan (Ordinance O-12-512) creates new policy directing
24 what the land use should be for the site and warrants the rezone and
25 bringing the property into compliance with the Comprehensive Plan land
26 use designation. Per RCW 36.70A.040, state statute requires that zoning
27 and development regulations implement the Comprehensive Plan.

28 6. If applicable to an identifiable property, the amendment is compatible with the existing
29 or intended adjacent development on properties in the vicinity; and

30 · Some of the properties to the north and west currently have identical or
31 similar commercial land use designations (SC, CB, O). Other properties to
32 the east and west are residential. However, amendments to the zoning
33 code text ensure that setbacks and buffers to these residential zones will
34 be maintained, or increased comparable to the MU zoning that currently
35 exists. In the case of buildings over 35 feet, increased setbacks and buffers
36 will apply. Ordinance O-12-513 has established setbacks that can be up to
37 as much as 170 feet from residentially zoned properties and require a

1 landscape buffer of at least 37.5 feet for a structure 85 feet tall in the
2 Service Commercial zone.

3 7. The amendment will result in development, which will not adversely impact community
4 facilities and public infrastructure including but not limited to utilities, transportation,
5 parks or schools; and

6 · No anticipated development would occur that would adversely impact
7 community facilities and public infrastructure. The only consideration that
8 may impact schools and parks is that under the MU designation, staff
9 estimated that as many as 180 single family units could have been built on
10 the property. The proposed Service Commercial designation will not allow
11 residential units. This may result in the loss of school and park mitigation
12 fees that could have been collected at permit issuance for any new
13 development on the MU designated property. However, this corresponding
14 need for these services will also decrease. The City evaluated the potential
15 transportation and traffic impacts that are associated with the zoning of the
16 properties in question. After analysis by our transportation consultant and
17 review by staff, it has been determined that the change in land use will
18 result in a negligible change in the transportation assumptions that were
19 just reviewed in 2011 by the Commission in the adoption of the
20 Transportation Element. The reason for this is that the potential increase in
21 commercial area/square footage is offset by the reduction of 180 single
22 family residences that will no longer be allowed under the proposed land
23 use. The transportation analysis conducted found that the proposal would
24 meet the designated transportation LOS. Conversely, there is a desire to
25 increase the assessed valuation of commercial development in the city.
26 That increase in the assessed valuation will make potential bond issues by
27 the City and the school district more affordable to the residential tax payer.
28 Discussions have occurred in both taxing districts to use debt to fund future
29 recreation facilities (the City) and a new high school and necessary capital
30 improvements to existing schools (Tahoma School District.) The cost for
31 these improvements through the bond process will be through a voter
32 approved initiative.

33 8. If applicable to an identifiable property, the site is suitable for development in general
34 conformance with the City's development regulations.

35 · While there are some areas of the site that development may be restricted
36 due to topographic conditions or easements, the site in general is suitable
37 for development in conformance with the City's development regulations
38 applicable to the proposed designations.

39

1 **Discussion & Conclusions**

2
3 Recognizing the existing findings and recommendation by the Planning Commission and
4 the ultimate decision by the City Council in adopting Ordinance O-12-512, the Council
5 concludes that the policy / legislative decision regarding the public interest to be served
6 in changing the land use classifications for the Brandt property were addressed in the
7 Comprehensive Plan amendments made previously. The pertinent questions before the
8 Council at this stage:

- 9 · Whether this proposed rezone is consistent with and implements the goals
10 and policies of the adopted Comprehensive Plan and serves the public
11 interest.
12 · Whether the environmental review and determination was adequate and
13 appropriate to the requested change.
14

15 Based on the record made before the Planning Commission and the considerations of
16 Council, the Council concludes the proposed rezone furthers the land use designations,
17 goals and policies under the Comprehensive Plan and is consistent with, and
18 implements, the Comprehensive Plan and furthers the public interest.

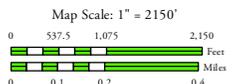
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20 1. The information included in the record supports approval of the request.
21 2. The decision criteria included in MVMC 18.110.060 have been met.
22 3. The proposal implements and is consistent with the Comprehensive Plan as
23 amended by Ordinance O-12-512.
24 4. The environmental review and determination were appropriate to the
25 circumstances and adequate to support the requested action.
26

27 From the above Findings of Fact and Conclusions, the Maple Valley City Council hereby
28 approves the rezone request for the Brandt Property File # CD1210-001, and directs the
29 City zoning map to be amended accordingly.

30 PASSED by a vote of 6-0 this 3rd day of December, 2012 by the City Council for
31 the City of Maple Valley, motion duly made and seconded.
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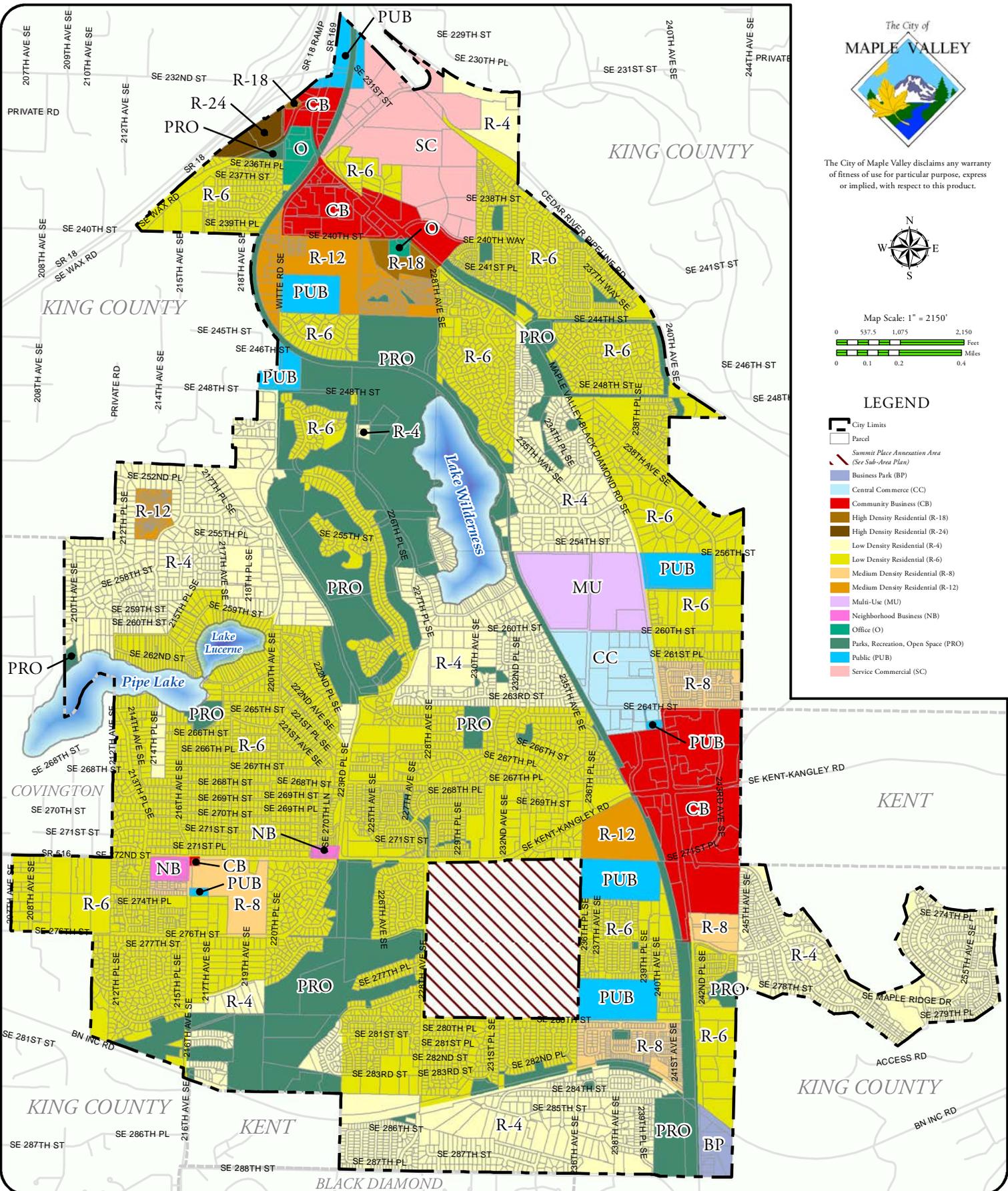


The City of Maple Valley disclaims any warranty of fitness of use for particular purpose, express or implied, with respect to this product.



LEGEND

- City Limits
- Parcel
- Summit Place Annexation Area (See Sub-Area Plan)
- Business Park (BP)
- Central Commerce (CC)
- Community Business (CB)
- High Density Residential (R-18)
- High Density Residential (R-24)
- Low Density Residential (R-4)
- Low Density Residential (R-6)
- Medium Density Residential (R-8)
- Medium Density Residential (R-12)
- Multi-Use (MU)
- Neighborhood Business (NB)
- Office (O)
- Parks, Recreation, Open Space (PRO)
- Public (PUB)
- Service Commercial (SC)



City of Maple Valley
OFFICIAL ZONING MAP

Revised: 11/19/2012 Ord.# 523

AS RECOMMENDED BY THE
COMMUNITY DEVELOPMENT DEPARTMENT
AND THE PLANNING COMMISSION AND
ADOPTED BY CITY COUNCIL
ADOPTED: 12/10/2012, Ordinance No. 0-12-523