



PLANNING COMMISSION

Tuesday, April 11, 2023 at 6:00 PM
HYBRID: Council Chambers & Zoom (details below)

AGENDA

6:00 P.M. CALL TO ORDER & FLAG SALUTE

TOPICS FROM THE FLOOR (Not on Public Hearing Agenda): Limited to five minutes per topic

CONSENT AGENDA

- [A.](#) Planning Commission Minutes Dated March 21, 2023
- [B.](#) Planning Commission Special Retreat Minutes Dated March 22, 2023

PUBLIC HEARING AGENDA (times are earliest start time)

- [C.](#) 6:00 p.m. Annexation at 35046 Maple Street - May
- [D.](#) 6:15 p.m. Annexation at 35082 Maple Street - Jenkins
- [E.](#) 6:30 p.m. Annexation at 58927 Firlok Park Street - Loveland

DISCUSSION ITEMS

- [F.](#) Architectural Review for 71 Cowlitz Street (The Klondike Tavern)
- [G.](#) HB 3115 Recommendations to Council

PLANNING DIRECTOR DECISIONS (previously e-mailed to the Commission)

- H. Partition at N. 12th Street - Hatfield
- I. Sensitive Lands Permit at N. 15th Street - LaGrand Townhomes, LLC
- J. Site Design Review at 475 N. 12th Street - 1771ColumbiaBlvd, LLC
- K. Sign Permit at 270 Columbia Boulevard - Columbia River Fire & Rescue

PLANNING DEPARTMENT ACTIVITY REPORT

- [L.](#) Planning Department Activity Report - March

PROACTIVE ITEMS

- M. Architectural Standards
- N. New Proactive Items Proposals

FOR YOUR INFORMATION ITEMS

ADJOURNMENT

NEXT REGULAR MEETING: May 9, 2023

VIRTUAL MEETING DETAILS

Join:

<https://us06web.zoom.us/j/84333887532?pwd=OTREVIErZzZqRmhDTDhIbTk5MjRKUT09>

Meeting ID: 843 3388 7532

Passcode: 738918

Dial by your location: +1 253 215 8782 US (Tacoma)

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at 503-397-6272.

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PLANNING COMMISSION

Tuesday, March 21, 2023, at 6:00 PM

DRAFT MINUTES

- Members Present:** Chair Steve Toschi
 Commissioner Pugsley
 Commissioner Russ Hubbard
 Commissioner Charles Castner
 Commissioner Ginny Carlson
 Commissioner Russ Low
- Members Absent:** Vice Chair Dan Cary
- Staff Present:** City Planner Jacob Graichen
 Associate Planner Jenny Dimsho
 Community Development Admin Assistant Christina Sullivan
 Councilor Mark Gundersen
- Others:** Brady Preheim
 Robyn Toschi
 Casey McGuirl
 Dan Hatfield
 Curt Deslatte
 Paul Meeuwsen
 Keith Meeuwsen

CALL TO ORDER & FLAG SALUTE

TOPICS FROM THE FLOOR (Not on Public Hearing Agenda): Limited to five minutes per topic

Preheim, Brady. Preheim was called to speak. He said he did not think the Joint Planning Commission and City Council went well. He said the Planning Commission did not make a good choice in their Chair selection. He said based on how the City Council responded to the meeting, it was clear to him how the Council felt about this commission and its ability to make thorough decisions. He also said that Chair Toschi should resign.

CONSENT AGENDA

A. Planning Commission Minutes Dated February 16, 2023

Motion: Upon Commissioner Low's motion and Commissioner Carlson's second, the Planning Commission unanimously approved the Draft Minutes dated February 16, 2023. Commissioner Pugsley abstained due to her absence from this meeting. [AYES: Commissioner Carlson, Commissioner Castner, Commissioner Hubbard, Commissioner Low; NAYS: None]

B. Planning Commission/City Council Joint Meeting Minutes Dated March 8, 2023

Motion: Upon Commissioner Pugsley's motion and Commissioner Carlson's second, the Planning Commission unanimously approved the Draft Joint Planning Commission & City Council Minutes dated March 8, 2023. Commissioner Castner abstained due to his absence from that meeting. [AYES: Commissioner Carlson, Commissioner Pugsley, Commissioner Hubbard, Commissioner Low; NAYS: None]

PUBLIC HEARING AGENDA (times are earliest start time)

C. 6:05 p.m. Conditional Use Permit & Sensitive Lands Permit at 1810 Old Portland Road – City of St. Helens (Started at 6:05 p.m.)

City Planner presented the staff report dated March 13, 2023. He shared this building was known for a long time as the FARA Building for Boise Cascade. He said in 1973 it was built as a warehouse and sales office. In the 1980s, the building was converted to a recreational facility. In 2015, the City purchased the mill site, including the building. In 2018, the City established the Recreation Facility. It became the secondary recreation center, when the City established the Community Center on Gable Road in 2021 and now it is evolving in to yet another use for the City with this application.

He shared the City would like to add Police Department offices for non-rank and file police staff. . He said the use of Public Safety Facility is a Conditional Use Permit in a Light Industrial zone. He said their current site was crowded and this space would allow them to spread out and buy some time until their new facility was built.

He said they needed to consider two things when looking at approving this use given its location within a 100-year flood area. One would be if this was a substantial improvement. If more than 50 percent of its value is being done on the building, then the Commission would have to apply floodproofing standards. After reviewing the previous recreation improvements and the proposed police improvements,, the total value was easily under the 50-percent threshold. He also said they needed to decide if it was a critical facility. He said because they would not have normal police functions or command and control at this facility (such function would continue at the current police station on S. 13th Street), the use of these offices would not constitute a critical facility.

Graichen said they would need a trash enclosure and an additional ADA space as conditions of approval.

He said because the property is zoned Light Industrial, offices are not allowed unless they were related or incidental to an allowable principal use such as manufacturing facilities. He said offices related to a public entity are fine, but to help protect the zoning's intent in the future, a condition should be added that the proposed office space could be used only by a public entity.

Graichen said he recommended approval with the conditions listed in the staff report.

Commissioner Ginny Carlson asked if this building would be in addition to the other buildings and portables the police already use. Graichen said yes.

In Favor

No one spoke in favor.

Neutral

No one spoke in neutral.

In Opposition

Preheim, Brady. Preheim was called to speak. He said he did not agree with this plan since they were already building a new police station. He said that they can't afford the new building and they should

take this money to remodel their current station and this space for more storage. He was concerned that they would take over this current building and keep it when the new building is built.

Rebuttal

Graichen said they would not be able to use this building in the future as a police station as it undoubtedly sits within the flood plain which is not feasible for a critical facility.

End of Oral Testimony

There were no requests to continue the hearing or leave the record open.

Close of Public Hearing & Record

Deliberations

Commissioner Pugsley asked if the space was minimized to the space proposed so that it meets the criteria. Graichen said the proposed plans would meet the criteria needed. The space proposed was not influenced by any standards.

Commissioner Carlson asked about the intersection and driveway approach spacing and if it currently meets safety standards. Graichen said there are two accesses off Old Portland road and the one closest to Kaster Road does not meet the spacing standards.

There was a discussion about the parking lot and the accesses and how to make them safer for vehicles entering and leaving the space. The Commission agreed there should be a condition of approval added to block off the entrance closest to Kaster Road to improve safety.

Motion: Upon Commissioner Low's motion and Commissioner Pugsley's second, the Planning Commission unanimously approved the Conditional Use Permit as recommended by staff with the additional condition that the access closest to Kaster Road be eliminated. [AYES: Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

Motion: Upon Commissioner Carlson's motion and Commissioner Castner's second, the Planning Commission unanimously approved the Chair to sign the Findings when prepared. [AYES: Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

D. 6:30 p.m. Conditional Use Permit and Variances (x3) at NW Corner of 6th Street and Columbia Blvd – LaGrand Townhomes, LLC (Started at 6:39 p.m.)

City Planner Jacob Graichen presented the staff report dated March 13, 2023. He shared where the property was located. He said the proposal was for a mixed-use building with up to three commercial units and nine residential units and related site improvements.

Graichen mentioned in 2020 the Planning Commission approved a six-lot subdivision for this site, but the applicant did not pursue that and has come back with something different.

Graichen said this property consists of three lots and the building was on one of them and the parking lot was on two of them, more-or-less. He said half of the parking lot was in an R5 zoning area. He also shared that across from the proposed property was the Methodist Church built in 1924 which is one of the City's designated landmarks, an official historic building in town. He did mention it was a tall building as well. He said the site was located at one of only a few non-highway locations where two arterial streets intersect. It is a highly trafficked and visible intersection which serves as a gateway between uptown and downtown.

He discussed the zoning district and the definition of shopping plaza and shopping center. He shared the Mixed Use zoning does not technically allow for the smaller version of the shopping center. He said the Commission had the right to condition that they only have one commercial space to meet the code. But they could also consider the purpose statement of the Mixed Use zoning district allowing the market to decide and whether it mattered that there was one or three units, as proposed. This would be establishing a use precedent.

He said one of the variances was for building height. He said because it was a multifamily building at the maximum allowed height by zoning is 35-feet. If there was no multifamily units in the building, then 45-feet would be allowed in this zoning district. He said the applicant is proposing just under 45-feet.

He said the second Variance was to allow a one-foot setback instead of the required 20-foot setback along Columbia Boulevard. He said if there was no multifamily component, they would be allowed to have a zero-foot setback. He said the prominence of this intersection and bringing the building to the street optimizes the sanctity of the residents who would like their privacy and outdoor space further away from Columbia Boulevard. Moving it forward would allow for that. He said moving the building forward puts the windows closer to the street and sidewalks, so the last variance was for the lower dwelling unit to be one-foot from the walkway instead of the required seven-feet for living room windows.

He discussed the parking required based on the basic standards. He said there would be at least 26 parking spaces required. He said 18 of those would be for the dwelling units and 8 spaces for the remaining commercial spaces. He said 21 parking spaces were currently proposed for off-street parking and that leaves 3 spaces off site for non-residential spaces. He did mention there was on-street parking available off both main streets, which could make up the difference (the extra 5 spaces needed) if the Commission considered and allowed shared parking provisions possible in commercial districts.

Graichen also mentioned there is an outdoor recreational requirement and the landscaping plan did show all the area that was needed. He said if the Commission felt there should be shared outdoor space, the requirement would be at least 1,800 square feet of. He said they could also consider the proximity of public parks one-quarter mile which allows them to exempt this requirement.

Commissioner Castner asked about Vision clearance at the corner of Columbia Blvd. Graichen mentioned the plans show there is a vision clearance triangle built into the design to avoid any visibility issues.

There was a small discussion about the staff report and items proposed by the applicant.

McGuirl, James Casey. Applicant. McGuirl was called to speak. McGuirl is the architect who represents the owner of the property and oversees the design of the project. He thought that the presentation by staff gave a great representation of how the applicant wishes to move forward. He said there were several iterations done to get to this point and there are some financial constraints.. He thought there could be some changes in architecture if they were reasonable requests.

Commissioner Carlson asked if they were doing things to make the design fit into the neighborhood. McGuirl said they did consider different ways of the façade to make it look nice and attractive to future tenants.

Commissioner Hubbard asked about adding more green and landscaping to the Columbia Boulevard side of the proposal. McGuirl said if they push the building back, it would cut into the landscaping for the tenants away from the busy street, but he said it is doable.

There was a small discussion about the type on-street parking.

There was a small discussion about the building height. McGuirl said the height of the building was to give the residential units more of an open feeling and the commercial units to have more space.

Hatfield, Dan. Applicant. Hatfield was called to speak. He said he did not want to do residential-only because there was more opportunity to achieve the maximum density with the Mixed-Use building. He said he had worked with the City multiple times to make this work out. He said he wanted it to be nice for the neighborhood and be a building the city is proud of.

In Favor

No one spoke in favor.

Neutral

Meeuwsen, Paul. Meeuwsen was called to speak. He owns the property adjacent to the proposed application. He asked about the application for variances and if it would affect his property line. Graichen said as property owner to the west, no setback reduction is proposed. Meeuwsen said the building height proposal seemed very high for the neighborhood and wanted to be sure it fit into the area and was aesthetically pleasing when you are driving down Columbia Boulevard.

Meeuwsen, Keith. Meeuwsen was called to speak. He expressed concern about the height and wanted to know if the neighboring property would be allowed to build this tall of a building if the current proposal was allowed. Graichen said it would depend on the zoning and what the other property owner proposed.

In Opposition

Deslatte, Curt. Deslatte lives at 135 N. 6th Street (the property to the north). Deslatte was called to speak. He expressed concern about the ground the building was being placed on. He said it was infilled with questionable things like old cars and he did not think the building would stay standing if the foundation collapsed. He also expressed concern about the number of lanes on the road and the traffic increase. He felt it would be a lot for a residential neighborhood. He was also concerned about the people who could possibly rent these properties.

Rebuttal

Hatfield, Dan. Applicant. He said there would be a soils study done to be sure that the ground they are building on is appropriate to hold the building they plan to construct. He said they also planned to install a storm drain to make sure there was no water runoff that would bother the neighbors. He said he planned to consider design elements to the building to make it look nice and fit into the neighborhood and that it meets all the appropriate zoning requirements.

End of Oral Testimony

There were no requests to continue the hearing or leave the record open.

Close of Public Hearing & Record

Deliberations

There was a small discussion about the environmental soils reports previously done to this property and the neighboring property.

Commissioner Pugsley expressed that the building height proposed was too high and she felt the design was very motel-like for the residential neighborhood. She said she might be able to consider a taller building if the setback was further back off the street.

Commissioner Carlson also agreed the proposed building height was too high for the neighborhood. She said she proposed meeting in the middle with the applicant and offering to agree to a 40-foot maximum height, instead of 45-feet.

Commissioner Hubbard said there was other architecture designs that could be considered in making the building a lower height.

There was a small discussion on the setbacks and the impact on the neighborhood. There was also a small discussion on the parking spots available to tenants and future customers.

There was a discussion about the landscaping and recreational area for the residential units.

Commissioner Pugsley said she agreed that this was the gateway into the Historic Downtown and she wanted to be sure what was placed here was not blight or have the potential of becoming blight..

Motion: Upon Commissioner Carlson's motion and Commissioner Hubbard's second, the Planning Commission approved the Variances (x3) as recommended by staff with the condition that the building height would not exceed 40-feet. [AYES: Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: Commissioner Pugsley; Motion Passes.]

There was a discussion about requiring some architectural design and historic design standards to the building being proposed so that it would better fit in to the neighborhood.

The Commission discussed having the applicant come back with his final design before applying for a building permit so they could look over it and see if it fits into the neighborhood. Commissioner Pugsley expressed concern that the building would look like the townhomes already being placed around the City by the same applicant. Chair Toschi asked if they are able to review the final plans. Graichen said they could impose a condition that states they would like to see the final design and offer a recommendation to open up the dialogue about building a structure that fits into the neighborhood.

There was another small discussion on the type of building being proposed for this property.

Chair Toschi suggested adding in a condition to require an architectural review of the plans before a building permit was submitted. Commissioner Low and Commissioner Hubbard agreed.

Motion: Upon Commissioner Carlson's motion and Commissioner Castner's second, the Planning Commission approved the Conditional Use Permit as recommended by staff with an added condition that the design be brought back before the Commission for recommendation to ensure it fits into the neighborhood. [AYES: Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: Commissioner Pugsley. Motion Passes]

Motion: Upon Commissioner Low's motion and Commissioner Hubbard's second, the Planning Commission unanimously approved the Chair to sign the Findings when prepared. [AYES: Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

DISCUSSION ITEMS

E. Renaming of "Mill Street" in the Riverfront District

Graichen talked about the street located in a mid-block segment in the Riverfront District that will connect Strand Street to S. 1st Street. He said it had to be renamed because the street names have to coordinate with 911 and not be similar or have the same name as other streets in the City. Since there is already another Mill Street off N. Vernonia Road, they would need to rename it. He said the appropriate type of street would be "Way". Because of the infrastructure project, the street signs needed to be ordered.

Graichen shared some suggestions to help get the discussion started.

Les Watters shared a presentation on some of the different options that were suggested and the history behind each of those names.

Commissioner Pugsley wanted to share that there were not many streets in St. Helens that were named after women and she hoped to see that change.

The Commission discussed the different names that were suggested and narrowed it down to four names to recommend to Council. The names the Commission recommended in a tie for first places was "Nellie Way" and "Wapama Way". Then "Kaleva Way" and "Keel Way" were close second and third.

PLANNING DIRECTOR DECISIONS (previously e-mailed to the Commission)

- F. Temporary Use Permit at 555 S Columbia River Hwy - Delgato**
- G. Site Design Review Modification at 343 S 1st Street – Lauridsen**

There was no discussion on the Planning Director Decisions.

PLANNING DEPARTMENT ACTIVITY REPORT

H. Planning Department Activity Report – February

Graichen shared some highlights from the report. He said Broadleaf Arbor apartments were starting to finish up and should be a completed project by the end of the year. He also discussed the requirement of a Right-of-Way dedication from the High School for Firlok Park Street. He said it had been in the works for a while but was finally shown on mapping (taxlot) data. He also said the Historical Museum found the plans for the Warrior Rock Lighthouse which would help them in fixing and upgrading the replica of it by the courthouse. He also mentioned that Dairy Queen had finally submitted applications.

Associate Planner Jennifer Dimsho also brought up that there would be a new rendering of the stage in the Columbia View Park. She said the architect took into consideration different comments and feedback from the Planning and Parks Commission. She will email the new rendering out to the Commission when she has it.

PROACTIVE ITEMS

- I. HB 3115**
- J. Architectural Standards**
- K. New Proactive Item Proposals**

The Commission agreed to move these items to the Planning Commission retreat and the next Planning Commission meeting.

FOR YOUR INFORMATION ITEMS

Community Development Admin Assistant Christina Sullivan reminded the Commission about the Annual Boards and Commission Appreciation dinner coming up in April. She reminded them to send in their reservations.

ADJOURNMENT

There being no further business before the Planning Commission, the meeting was adjourned at 9:59 p.m.

Respectfully submitted,

*Christina Sullivan
Community Development Administrative Assistant*



PLANNING COMMISSION SPECIAL SESSION

DRAFT MINUTES

Wednesday, March 22, 2023, at 4:00 PM

Members Present: Chair Steve Toschi
 Commissioner Russ Hubbard
 Commissioner Russ Low
 Commissioner Charles Castner
 Commissioner Ginny Carlson (Arrived at 5:30 p.m.)
 Commissioner Jennifer Pugsley

Members Absent: Vice Chair Dan Cary

Staff Present: City Planner Jacob Graichen
 Associate Planner Jennifer Dimsho
 City Councilor Mark Gundersen

Others Present: None

This meeting was held in the Council Chambers.

At 4:01 p.m., Chair Steve Toschi called the meeting to order. He asked all the Commission members to go over their background and share why they joined the Planning Commission.

Commissioner Jennifer Pugsley said she had been in the County since 1994. She shared she is a real estate broker by trade for almost 30 years. She also mentioned she sits on the Historical Society Board which is why she has such a passion for historic restoration. She said she did a full historic restoration on her building at 50 Plaza Square. She mentioned she joined the Planning Commission because she was asked to be on it, and she was already attending meetings and was a stakeholder in the community. She enjoys the work.

Commissioner Russ Hubbard said he founded his construction company in 1980 focusing on restorations and developing. He said they had worked here in town for about 14 years and moved out here to be closer to family. He is currently developing the property across from the Red Apple IGA. He joined the Planning Commission in the hopes of being more involved in what the City was doing. He felt the Planning Commission could help the City make better decisions towards improvements of the City.

Commissioner Russ Low shared he had recently retired from 27 years of a large scale Commercial Construction. He said he moved to the St. Helens area in 2001 and he loves the bones of the downtown St. Helens area and what it could evolve into. He said he wanted to be involved in the Planning Commission to help influence the City and their vision. He would like to see it become like a mini Astoria.

Commissioner Charles Castner has been in St. Helens for a little over seven years. He said he works in the legal department for a large freight liner truck corporation and handles any labor and employment law for over 27,000 employees. He mentioned he lived in Charleston, North Carolina for over 16 years and sees the value in historic preservation. He currently lives in a historic home on S. 1st Street in downtown St. Helens and joined the Planning Commission to be involved in his community.

City Councilor Mark Gundersen said he moved to St. Helens in 1995. He shared his wife was a registered nurse and they have raised two children here. He said he really likes government, and wanted to be involved, so he ran for City Council. He said the liaison role is new to him and he is working hard to figure it out. He felt the Commission was working together to improve the City..

Chair Steve Toschi said he lived here for three and a half years. He met his wife in San Francisco. He mentioned she was a St. Helens native for 30 years. He said they visited her family regularly and they slowly transitioned back to living here full time. He mentioned he is an attorney. He said he was asked to join the Planning Commission by several people. He said he sees the potential of the City and thinks he can offer a lot to this group.

City Planner Jacob Graichen shared he grew up in Columbia County. He has been a professional planner for 22 years. This is his fifth jurisdiction to work as a planner, with his first being in Klamath Falls. He wanted to get a job where he grew up and always wanted to work for the City.

Associate Planner Jennifer Dimsho shared that she came into the City as an undergraduate student through the RARE program. She was brought in to help update the Parks and Trails Master Plan. The program was paid for through a stipend. She said she has always loved rural small towns and is not from here, but she sees the vision of the community and feels it is her job to make those visions come to life. She mentioned she is successful in writing grants and that has helped her in her career growth. She said she was incredibly grateful to work here.

DISCUSS THE COMMISSIONS VISION AND FUTURE OF ST. HELENS

Chair Toschi asked each member to share what they love about St. Helens.

Commissioner Hubbard said he liked it was not Portland. He enjoyed the view and the small-town aspect. He liked it was an old mill town and that it was growing.

Commissioner Castner said he really likes the river and the natural resources. He liked it was a growing community and that the downtown was walkable. He said growth is inevitable and he is excited to be a part of it.

Chair Toschi said he liked the natural environment, the river and he loves fishing. He enjoyed the wildlife and that there was lots of park land. He said he loved the people here and wanted to see the small town preserved while it is going through growth.

Commissioner Low said he also loved the closeness of the river. He said there was no other community like St. Helens and he wanted to preserve the small town feel. He loves that it is an old logging and shipbuilding town and wants to preserve that history.

Councilor Gundersen said he loves to fish and being close to the river makes it easier. He loves all the downtown and old buildings. He said the community is great and all the sports and activities he was involved in make it even better. He said St. Helens is a hidden gem and has a very easy commute.

Commissioner Pugsley said she liked the small town. She works on the plaza and loves to see the reactions of tourists when they see the old courthouse and all the filming locations. She would like to see tourism expand. She wants to see St. Helens become more of a destination and for it to become more welcoming of small business. She would like to see it incentivizing historic preservation.

There was a discussion on the waterfront redevelopment site. Chair Toschi shared what type of housing and people he would like to see moving into that housing on the riverfront. Commissioner Pugsley would like to see more hotels or a diverse mix of restaurants and places to shop to keep the tourists engaged. Commissioner Castner would like to see more options for those who work from home, as this is the new trend for work models.

There was a discussion on the previous meeting and the public hearings that took place. They discussed how the decisions of the Variances and Conditional Use Permit were made and how there could have been better communication.

There was a discussion about architectural standards and implementing changes to the Development Code to be able to use these standards in all their decisions.

Commissioner Carlson felt it was important to the community and to each other to be respectful and supportive of each participant in the Planning Commission. She wanted to see the Commission become more respectful of staff time as well. She really likes historic preservation and has lived in this community for over 20 years and seen some growth. She shared her background in working with those who are underrepresented and that she is a huge advocate for equity and inclusion.

Commissioner Pugsley shared she would like to re-envision the Planning Commission's roles. She said some of the communication from Chair Toschi is aggressive in nature and for individuals who do not like conflict it, can feel uncomfortable. Chair Toschi discussed Robert's Rule of Order. He mentioned there will be times when there is conflict and there may be times they do not agree, but he wants them to be able to work together. Commissioner Castner said he would like to see more efficient meetings. Commissioner Low agreed and said he would like to see people not get off subject but stay on course and be more efficient. Dimsho mentioned some of the ways to help them move forward is to allow Staff to run through the report. They have already placed out items that are important and want to help the Commission not have to repeat things over.

The Commission agreed they would like to see a summary of items that Staff feel are the most important to highlight with each staff report.

There was a discussion about how the Commission can make better findings and when it is important to clarify findings.

The Commission changed the discussion to HB 3115. Chair Toschi talked about the house bill and things he has already shared about it previously.

There was some discussion on the current law. They also discussed whether or not there should be identified and designated property for the homeless to be able to camp. Commissioner Castner and Commissioner Carlson felt this was an important piece to the puzzle.

There was more discussion about the rules and how to move forward.

There was a small discussion about how to start discussing residential architectural standards.

There being no further business the meeting was adjourned at 7:16 p.m.

Respectfully submitted,

*Christina Sullivan
Community Development Administrative Assistant*



CITY OF ST. HELENS PLANNING DEPARTMENT

LAND USE FILE BRIEF

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
FILE: Annexation A.1.22
DATE: March 29, 2023

This memo is not a substitute for the staff report or record of the file. It is a review aid.

This is a typical annexation based on connection to a city utility. A key consideration is what zoning will apply once the annexation takes place.

Based on the city's Comprehensive Plan you have two choices: Suburban Residential (R10) or Moderate Residential (R7).

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.1.22**

DATE: April 4, 2023
TO: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner
APPLICANT: James & Illine May
OWNERS: Jason Groulx & Melissa McDowell
ZONING: Columbia County's Single-Family Residential (R-10)
LOCATION: 35046 Maple Street; 4N1W-8BC-1800
PROPOSAL: The property owner filed consent to annex because they desired to connect to City sanitary sewer.

SITE INFORMATION / BACKGROUND

The subject property is an irregular shaped lot at 45,302 square feet or 1.04 acres. It is developed with a detached single-family dwelling with McNulty Creek running along the southern property line. The site is accessed off Maple Street, which is a developed local classified street without frontage improvements (sidewalks and curb) abutting the property. It is developed with frontage improvements across the street. It is a Columbia County jurisdiction road. The parcel is generally flat sloping towards McNulty Creek with large fir trees located along the street and large trees along the creek.



*Left: 35082 Maple Street single family dwelling. Fir trees along the northern property line pictured.
 Right: Maple Street frontage abutting the property, looking west.*

Abutting Zoning

North – City Moderate Residential (R7)

East - County's Single-Family Residential (R-10) and City Mixed Use (MU)

South - County's Single-Family Residential (R-10) and City Mixed Use (MU)

West – County's Single-Family Residential (R-10)

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

April 11, 2023 before the Planning Commission

May 17, 2023 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on March 20, 2023 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on March 29, 2023. Notice was sent to the Oregon Department of Land Conservation and Development on February 21, 2023 via e-mail.

AGENCY REFERRALS & COMMENTS

Columbia County Roads Department: Does not have any comments or concerns for the annexation of this property property. In the future, if this property goes through development that requires a building permit, then they will need to obtain an access permit through the County Public Works Department.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.08.040 (1) – Quasi-judicial amendment and standards criteria

- (a) A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:
 - (i) The applicable comprehensive plan policies and map designation; and that the change will not adversely affect the health, safety, and welfare of the community; and
 - (ii) The applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197, until acknowledgment of the comprehensive plan and ordinances; and
 - (iii) The standards applicable of any provision of this code or other applicable implementing ordinance.
- (b) Consideration may also be given to:
 - (i) Any applicable evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.

Discussion: (a)(i) The Comprehensive Plan designation for the subject property is Rural Suburban Unincorporated Residential (RSUR). Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1).

SHMC 19.08.030 discusses public services and facilities and includes utility provisions (e.g., water and sewer) as well as services such as police and library. In sum, all services are

intertwined; the consent to annexation allows connection to City sewer to support existing and future development on the subject property, and, once annexed, all other City services/facilities. Sewer and water capacity to serve this property is addressed in more detail under SHMC 17.28.030 (1) below. By this review process, the proposal complies with this aspect of the Comprehensive Plan. There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC. Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1).

There is no known conflict with the addendums to the Comprehensive Plan which includes Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

Finally, there is no evidence that this proposal will be contrary to the health, safety and welfare of the community.

(a)(ii) The City's Comprehensive Plan has been adopted by the State, thus, the applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197 do not need to be analyzed per this section.

(a)(iii) Section 3 of the City's Charter states that "annexation, delayed or otherwise, to the City of St. Helens, may only be approved by a prior majority vote among the electorate." However, during the 2016 Legislative Assembly, Senate Bill 1578 was passed. It states that a City shall annex the territory without submitting the proposal to the electors if certain criteria are met:

1. Property is within the UGB
2. Property will be subject to the City's Comprehensive Plan
3. Property is contiguous to the City limits or is separated by only a public right of way or body of water
4. Property conforms to all other City requirements

As this proposal meets these criteria, this property will **not** be subject to a majority vote among the electorate.

Other provisions applicable to this proposal are discussed elsewhere herein.

(b) There is no evidence of a change in neighborhood, or mistake or inconstancy in the Comprehensive Plan or Zoning Map.

Finding: The quasi-judicial amendment and standards criteria are met.

SHMC 17.08.060 – Transportation planning rule compliance

- (1) Review of Applications for Effect on Transportation Facilities. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-012-0060 (the Transportation Planning Rule ("TPR")). "Significant" means the proposal would:
- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (i) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (ii) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
 - (iii) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
- (2) Amendments That Affect Transportation Facilities. Comprehensive plan amendments, zone changes or land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- (3) Traffic Impact Analysis. A traffic impact analysis shall be submitted with a plan amendment or zone change application, as applicable, pursuant to Chapter 17.156 SHMC.

Discussion: This section reflects State law regarding the Transportation Planning Rule (TPR): Transportation Planning Rule (TPR), OAR 660, Division 12. The TPR requires that where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures to assure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility. **Current zoning of the property is Columbia County's Single-Family Residential (R-10) and the City's zoning options given annexation are Suburban Residential (R10) or Moderate Residential (R7).**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. The potential land uses are very similar for both the City and County. The City's zoning is comparable to the County with regards to the possible intensity of uses allowed and potential vehicular trips generated. Thus, this proposal will not affect an existing or planned transportation facility.

Finding: No transportation facility will be significantly affected by this proposal. No traffic impact analysis is warranted.

SHMC 17.28.030 (1) – Annexation criteria

- (a) Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and
- (b) Comply with comprehensive plan amendment standards and zoning ordinance amendment standards and not be in conflict with applicable comprehensive plan policies and implementing ordinances; and
- (c) Complies with state laws; and
- (d) Abutting roads must meet city standards or property owner will be required to sign and record an irrevocable consent to local improvement district; and
- (e) Property exceeding 10 acres in gross size must show a need on the part of the city for such land if it is designated residential (e.g., less than five years' supply of like designated lands in current city limits).

Discussion: (a)

Water - The property is within the McNulty water service district, which serves the existing dwelling.

Sewer – The existing single-family dwelling is currently connected to City sewer. This was approved by the County with Columbia County Permit No. 192-22-000423-PLM which had its final inspection approved on April 15, 2022. The existing dwelling was served by an on-site system prior to this connection.

With regards to *capacity*, the City's wastewater treatment plant currently has a daily limit (physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. Sanitary sewer *capacity* is adequate.

With regards to *conveyance*, the city adopted a new **Wastewater Master Plan (WWMP)** in November 2021 that identifies undersized trunk lines already operating at or above capacity that further development of the subject (e.g., land division creating new parcels) would depend on. The WWMP can be found here:

<https://www.sthelenoregon.gov/engineering/page/public-infrastructure-master-plans>

Sewer pipes are considered "at capacity" when peak flows exceed 85% of the full depth of the pipe in accordance with industry standards. This depth is based on the maximum depth of flow ratio (d/D). where "d" is the depth of flow and "D" is the pipe diameter. The WWMP includes an exhibit—Figure 18—that shows that the sanitary sewer main route between the subject property to the wastewater treatment plant has multiple areas that are operating at or above 100%, which is much greater than the industry and city standard 85% "at capacity" flows.

This annexation may still be approved given the sanitary sewer conveyance circumstances based on the following:

First, some of the issues are actively planned to be resolved. City Public Works and Engineering staff have begun to address the necessary sanitary sewer infrastructure upgrades having received

a loan with Oregon DEQ's State Revolving Fund Program to fund both priority 1 projects (in basins 4 and 5) and priority 3 projects in basin 6. Basin 6 is applicable to this proposal and will resolve much of the conveyance deficiency between the subject property and the WWTP. City Public Works and Engineering indicate an anticipated 4-year timeframe (from October 2022, when DEQ approved a \$16.4 million loan) for completion of these upgrades.

Second, further development of the subject property is unlikely in the near future. The location of existing development is inefficient for land division and the existing dwelling is valued at approximately \$400,000 by itself, and less likely to be sacrificial for redevelopment. Moreover, the natural constraints (flood plain and sensitive lands) addressed under SHMC 17.112.020 below are additional impediments to redevelopment.

Third, if the subject property was redeveloped with a proposal that required a land use permit (e.g., Site Development Review or Partition) while the conveyance issue still exists, the city may implement a proportional fee as a condition of approval to contribute to the conveyance projects in the WWMP to help offset the deficiency. Because single-family dwellings and duplexes are not subject to Site Development Review per SHMC 17.96.020, the fee would not apply to that type of development. As an existing detached single-family dwelling developed property, this fee would not apply to this annexation.

Transportation - As described above, this proposal poses no significant impact on a transportation facility.

Finding: Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area.

(b) The land use of the subject property is a detached single-family dwelling. This is a permitted use in the corresponding zoning district.

Finding: There is no known conflict with the Comprehensive Plan and implementing ordinances.

(c) With regards to Oregon Revised Statutes (ORS), city annexations of territory must be undertaken consistent with ORS 222.111 to 222.183.

Pursuant to ORS 222.111(1), a City may only annex territory that is not within another City, and the territory must either be contiguous to the annexing City or be separated from the City only by a body of water or public right-of-way. The subject property is not within another City's jurisdiction and City of St. Helens corporate limits lies on the west side of the subject property. Although undertaking an annexation is authorized by state law, the manner in which a city proceeds with annexation is also dictated in the city charter. ORS 222.111(1) references a city's charter as well as other ORS. St. Helens' Charter requirements pertaining to annexations are noted above.

Per ORS 222.111(2) an annexation may be initiated by the owner of real property or the city council. This annexation request was initiated by the property owner. Further, ORS 222.125

requires that that all property owners of the subject property to be annexed and at least half of the electors residing on the property consent in writing to the annexation. These documents were submitted with the annexation application.

ORS 197.175(1) suggests that all annexations are subject to the statewide planning goals.

The statewide planning goals that could technically apply or relate to this proposal are Goals 1, 2, 11 and 12.

- ***Statewide Planning Goal 1: Citizen Involvement.***

Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is also required. The City has met these requirements and notified DLCD of the proposal.

- ***Statewide Planning Goal 2: Land Use Planning.***

This goal requires that a land use planning process and policy framework be established as a basis for all decisions and actions relating to the use of land. All local governments and state agencies involved in the land use action must coordinate with each other. City, county, state and federal agency and special districts plans and actions related to land use must be consistent with the comprehensive plans of cities and counties and regional plans adopted under Oregon Revised Statutes (ORS) Chapter 268.

Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base. The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

- ***Statewide Planning Goal 11: Public Facilities and Services.***

Goal 11 requires cities and counties to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The goal requires that urban and rural development be "guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

City water and sewer capacities are addressed under SHMC 17.28.030 (1) above. There is no evidence that adequate infrastructure will not be available to serve the annexed area if redeveloped in the future.

- ***Statewide Planning Goal 12: Transportation.***

Goal 12 requires cities, counties, metropolitan planning organizations, and ODOT to provide and encourage a “safe, convenient and economic transportation system.” This is accomplished through development of Transportation System Plans based on inventories of local, regional and state transportation needs. Goal 12 is implemented through OAR 660, Division 12, also known as the Transportation Planning Rule (“TPR”). The TPR contains numerous requirements governing transportation planning and project development.

Traffic impacts and the City’s provisions that address the TPR are explained above. This proposal will not significantly affect an existing or planned transportation facility.

(d) The subject property abuts Maple Street. Maple Street is classified as a local street with a minimum right-of-way width of 50’, which is met. There are no frontage improvements (sidewalks and curb) abutting the subject property. City standards require such improvements.

However, this property is not the subject of a current development land use review, which provides the legal nexus and proportionality to require such improvements or right-of-way dedications. As such, no improvements are warranted with this proposal. At the time of future land division and/or development, these items would be considered.

(e) The subject property is not greater than 10 acres in gross size. An analysis is not necessary.

Finding: The annexation approval criteria are met for this proposal.

SHMC 17.28.030 (2) – Annexation criteria

The plan designation and the zoning designation placed on the property shall be the city’s zoning district which most closely implements the city’s comprehensive plan map designation.

Discussion: The Comprehensive Plan designation is currently Rural Suburban Unincorporated Residential (RSUR). The City’s options for zoning are Suburban Residential (R10) or Moderate Residential (R7). The Comprehensive Plan designation would be Suburban Residential (Incorporated) (SR).

Finding: Upon annexation, the subject property’s Comprehensive Plan designation shall be Suburban Residential (Incorporated) **and zoned Suburban Residential (R10) or Moderate Residential (R7) based on the findings of the Planning Commission and City Council.**

SHMC 17.112.020 – Established & Developed Area Classification criteria

(1) Established Area.

- (a)** An “established area” is an area where the land is not classified as buildable land under OAR 660-08-0005;

- (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
- (c) An area shown on a zone map or overlay map as an established area.
- (2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

Discussion: OAR 660-008-0005 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

Discussion: In addition to already being developed with a single-family dwelling, this property is subject to natural resource protection measures under Goal 5 due to the presence Riparian Corridor R-MC-12 with a 50' upland protection zone and 100-year floodplain which constrains approximately the southern third of the property. Therefore, this property is not considered buildable land under OAR 660-008-0005.

Finding: The subject property should be designated as "established."

CONCLUSION & RECOMMENDATION

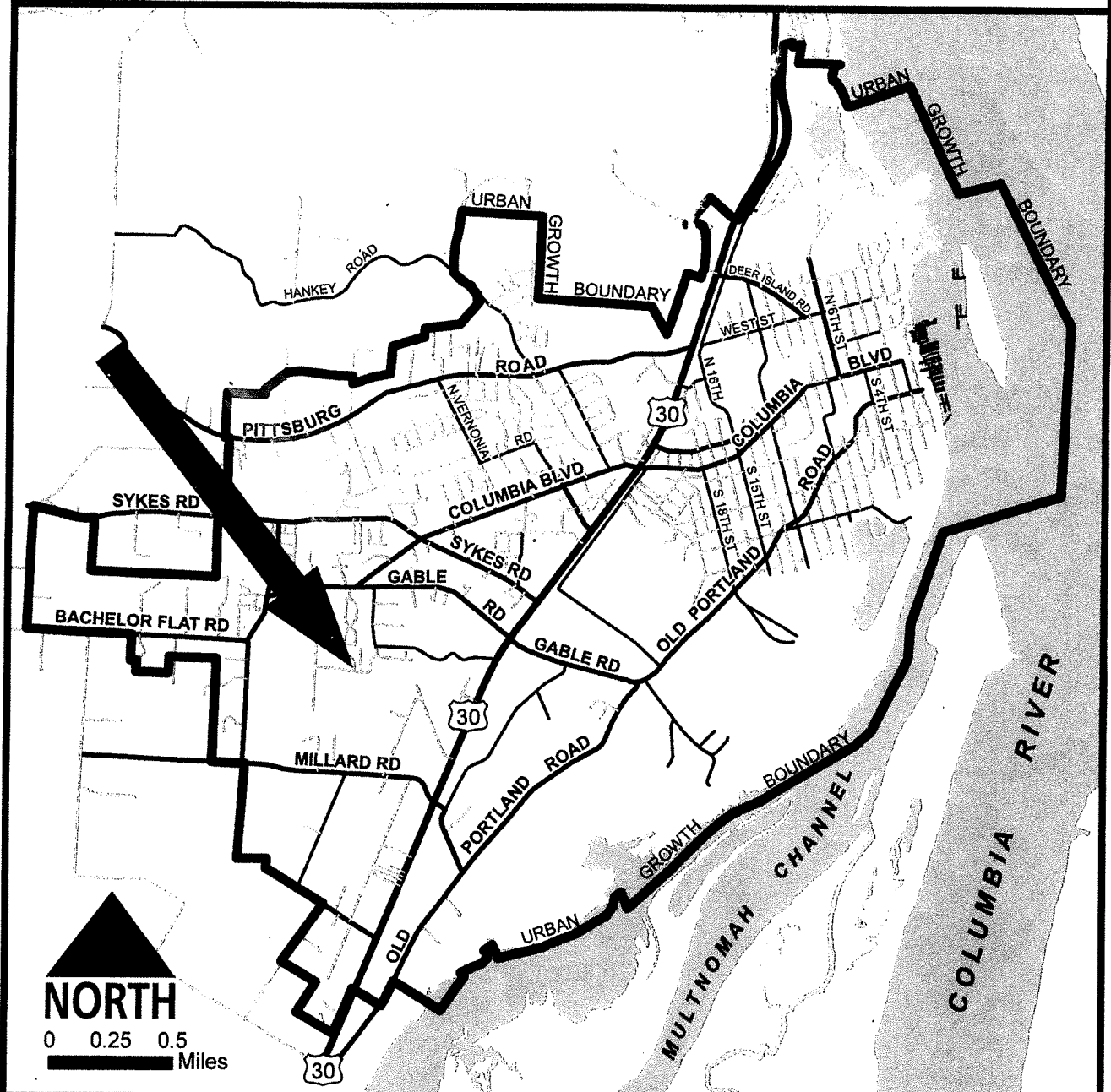
Based upon the facts and findings herein, staff recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential (SR), **be zoned Suburban Residential (R10) or Moderate Residential (R7) based on the findings of the Planning Commission and City Council, and be designated as "established."**

*This annexation will **not** be subject to voter approval subsequent to this land use process.*

Attachments: General Map
Taxlot Map
Aerial Map

SUBJECT PROPERTY

~ Approximate Location ~

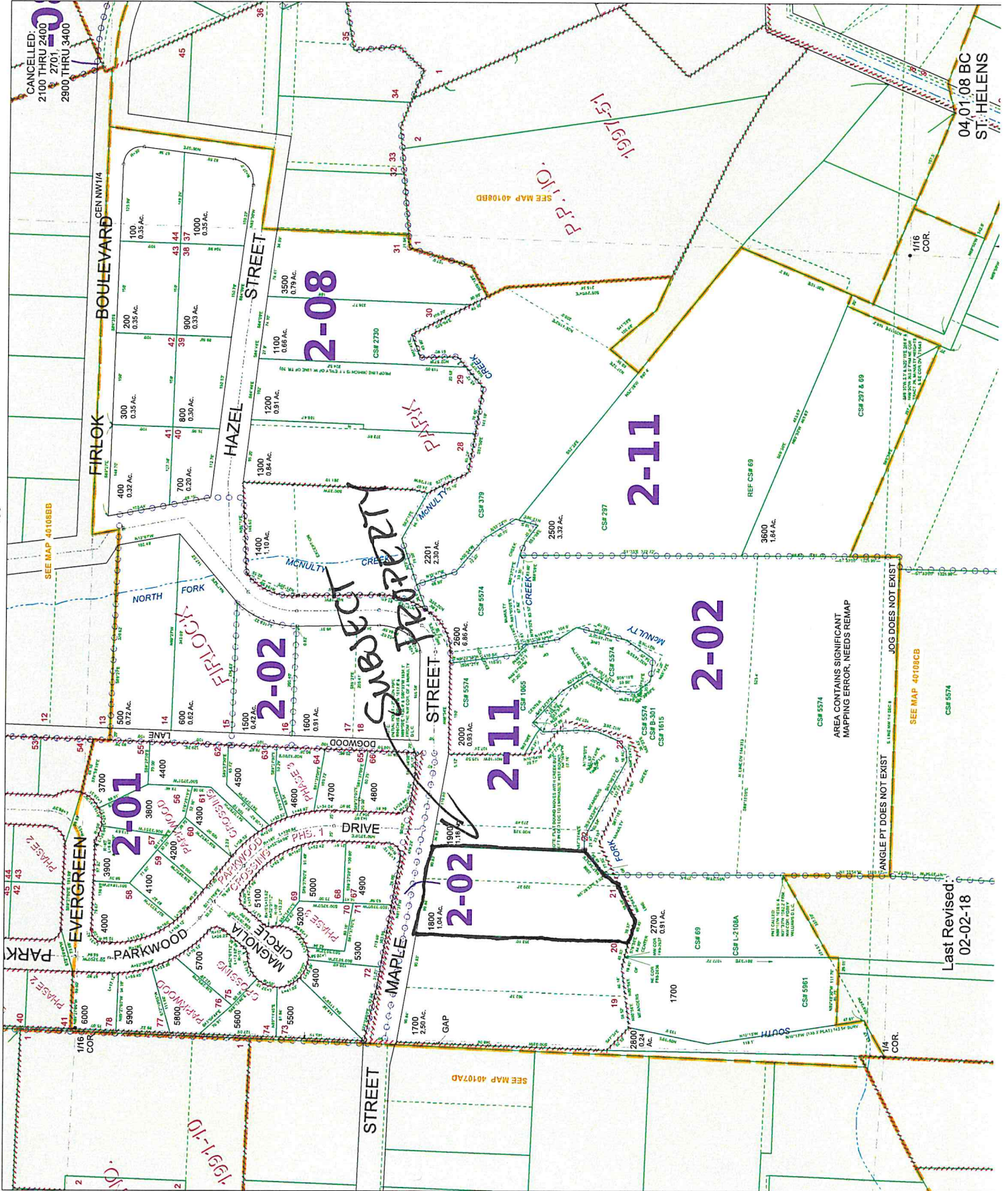


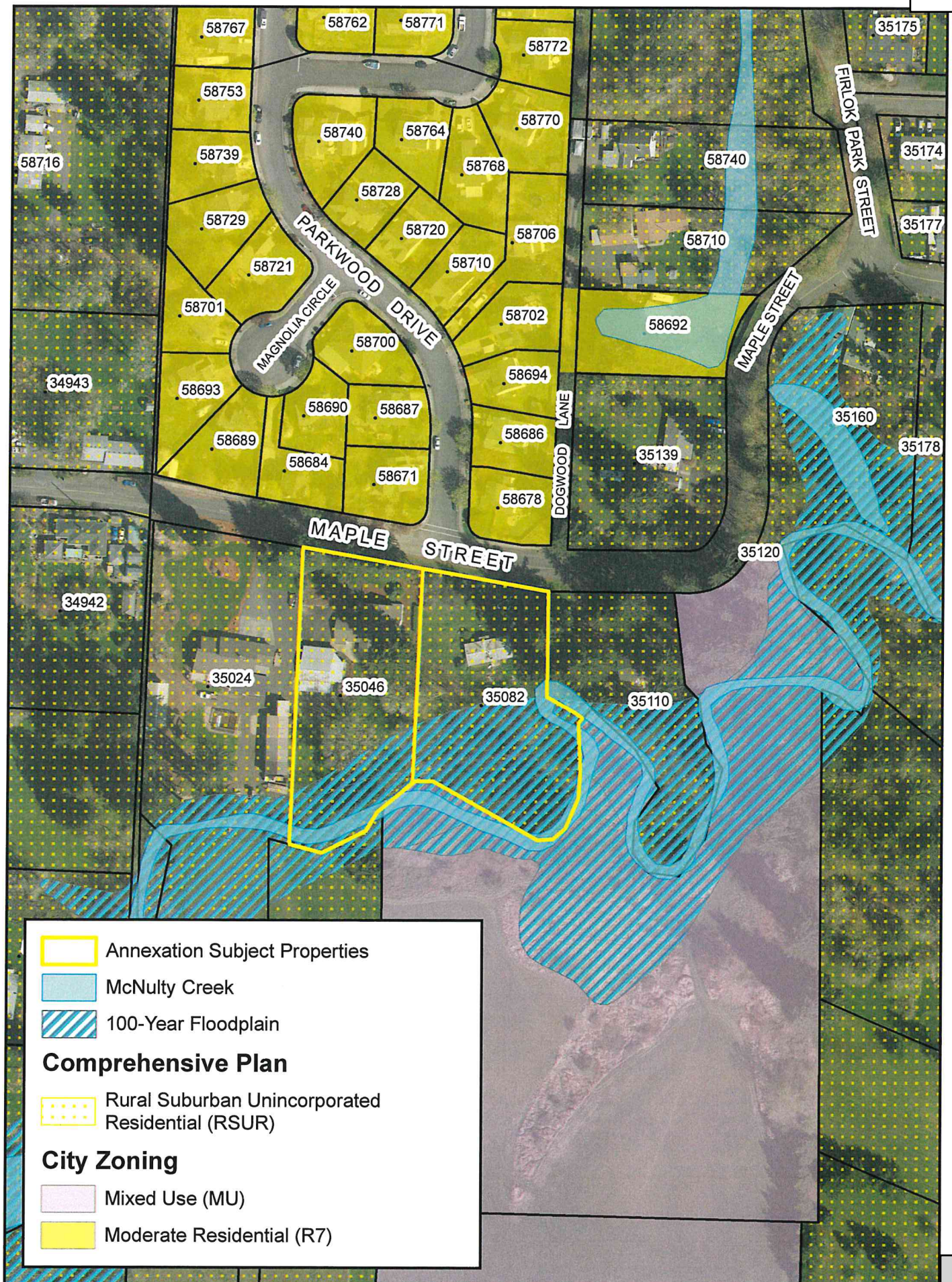
City of St. Helens Urban Growth Boundary Area Vicinity

jag/Dec. 2013

COLUMBIA COUNTY

1" = 100'







CITY OF ST. HELENS PLANNING DEPARTMENT

LAND USE FILE BRIEF

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
FILE: Annexation A.2.22
DATE: March 29, 2023

This memo is not a substitute for the staff report or record of the file. It is a review aid.

This is a typical annexation based on connection to a city utility. A key consideration is what zoning will apply once the annexation takes place.

Based on the city's Comprehensive Plan you have two choices: Suburban Residential (R10) or Moderate Residential (R7).

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.2.22**

DATE: April 4, 2023
TO: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner
APPLICANT: Travis Jenkins
OWNERS: Same
ZONING: Columbia County's Single-Family Residential (R-10)
LOCATION: 35082 Maple Street; 4N1W-8BC-1900
PROPOSAL: The property owner filed consent to annex because they desire to connect to City sanitary sewer.

SITE INFORMATION / BACKGROUND

The subject property is an irregular shaped lot at 51,400 square feet or 1.18 acres. It is developed with a detached single-family dwelling, but a permit has been issued through Columbia County for a new detached single-family dwelling (County Permit No. 192-22-001312-DWL). The new dwelling is currently under construction. McNulty Creek runs along the southern property line. The site is accessed off Maple Street, which is a developed local classified street without frontage improvements (sidewalks and curb) abutting the property, although it is developed with frontage improvements across the street. Maple Street is a Columbia County jurisdiction road. The parcel is generally flat sloping towards McNulty Creek with large trees bordering the southern property line.



*Left: 35046 Maple Street. Footings for new single-family dwelling in the foreground.
 Right: Maple Street frontage abutting the property, looking west.*

Abutting Zoning

North – City Moderate Residential (R7)

East - County's Single-Family Residential (R-10) and City Mixed Use (MU)

South - County's Single-Family Residential (R-10) and City Mixed Use (MU)

West – County's Single-Family Residential (R-10)

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

April 11, 2023 before the Planning Commission

May 17, 2023 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on March 20, 2023 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on March 29, 2023. Notice was sent to the Oregon Department of Land Conservation and Development on February 21, 2023 via e-mail.

AGENCY REFERRALS & COMMENTS

Columbia County Roads Department: The applicant already has an active access permit for this property see attached. The applicant must complete all access improvements and meet all City of Saint Helens standards to obtain final sign off for their access.

Columbia County Land Development Services: Has no concerns about the annexation of this property that is located within the City of St. Helens' UGB and is adjacent to city limits.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.08.040 (1) – Quasi-judicial amendment and standards criteria

- (a) A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:
 - (i) The applicable comprehensive plan policies and map designation; and that the change will not adversely affect the health, safety, and welfare of the community; and
 - (ii) The applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197, until acknowledgment of the comprehensive plan and ordinances; and
 - (iii) The standards applicable of any provision of this code or other applicable implementing ordinance.
- (b) Consideration may also be given to:
 - (i) Any applicable evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.

Discussion: (a)(i) The Comprehensive Plan designation for the subject property is Rural Suburban Unincorporated Residential (RSUR). Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1).

SHMC 19.08.030 discusses public services and facilities and includes utility provisions (e.g., water and sewer) as well as services such as police and library. In sum, all services are intertwined; the consent to annexation allows connection to City sewer to support existing and future development on the subject property, and, once annexed, all other City services/facilities. Sewer and water capacity to serve this property is addressed in more detail under SHMC 17.28.030 (1) below. By this review process, the proposal complies with this aspect of the Comprehensive Plan. There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC. Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1)

There is no known conflict with the addendums to the Comprehensive Plan which includes Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

Finally, there is no evidence that this proposal will be contrary to the health, safety and welfare of the community.

(a)(ii) The City's Comprehensive Plan has been adopted by the State, thus, the applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197 do not need to be analyzed per this section.

(a)(iii) In addition, Section 3 of the City's Charter states that "annexation, delayed or otherwise, to the City of St. Helens, may only be approved by a prior majority vote among the electorate." However, during the 2016 Legislative Assembly, Senate Bill 1578 was passed. It states that a City shall annex the territory without submitting the proposal to the electors if certain criteria are met:

1. Property is within the UGB
2. Property will be subject to the City's Comprehensive Plan
3. Property is contiguous to the City limits or is separated by only a public right of way or body of water
4. Property conforms to all other City requirements

As this proposal meets these criteria, this property will **not** be subject to a majority vote among the electorate.

Other provisions applicable to this proposal are discussed elsewhere herein.

(b) There is no evidence of a change in neighborhood, or mistake or inconstancy in the Comprehensive Plan or Zoning Map.

Finding: The quasi-judicial amendment and standards criteria are met.

SHMC 17.08.060 – Transportation planning rule compliance

- (1) Review of Applications for Effect on Transportation Facilities. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-012-0060 (the Transportation Planning Rule ("TPR")). "Significant" means the proposal would:
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (i) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (ii) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
 - (iii) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
- (2) Amendments That Affect Transportation Facilities. Comprehensive plan amendments, zone changes or land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
 - (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- (3) Traffic Impact Analysis. A traffic impact analysis shall be submitted with a plan amendment or zone change application, as applicable, pursuant to Chapter 17.156 SHMC.

Discussion: This section reflects State law regarding the Transportation Planning Rule (TPR): Transportation Planning Rule (TPR), OAR 660, Division 12. The TPR requires that where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures to assure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility. **Current zoning of the property is Columbia County's Single-Family Residential (R-10) and the City's zoning options given annexation are Suburban Residential (R10) or Moderate Residential (R7).**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. The potential land uses are very similar for both the City and County. The City's zoning is comparable to the County with regards to the possible intensity of uses allowed and potential vehicular trips generated. Thus, this proposal will not affect an existing or planned transportation facility.

Finding: No transportation facility will be significantly affected by this proposal. No traffic impact analysis is warranted.

SHMC 17.28.030 (1) – Annexation criteria

- (a) Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and
- (b) Comply with comprehensive plan amendment standards and zoning ordinance amendment standards and not be in conflict with applicable comprehensive plan policies and implementing ordinances; and
- (c) Complies with state laws; and
- (d) Abutting roads must meet city standards or property owner will be required to sign and record an irrevocable consent to local improvement district; and
- (e) Property exceeding 10 acres in gross size must show a need on the part of the city for such land if it is designated residential (e.g., less than five years' supply of like designated lands in current city limits).

Discussion: (a)

Water - The property is within the McNulty water service district, which serves the existing dwelling. McNulty water will serve the new dwelling as well.

Sewer - The site is not currently hooked to City sewer. Access to the City sewer is available in Maple Street abutting the property. The County issued a building permit for a new detached single-family dwelling (County Permit No. 192-22-001312-DWL) which is currently under construction. As part of the approval, the County required the new dwelling to connect to the City's sewer.

With regards to *capacity*, the City's wastewater treatment plant currently has a daily limit (physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. Sanitary sewer *capacity* is adequate.

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First, some of the issues are actively planned to be resolved. City Public Works and Engineering staff have begun to address the necessary sanitary sewer infrastructure upgrades having received a loan with Oregon DEQ's State Revolving Fund Program to fund both priority 1 projects (in basins 4 and 5) and priority 3 projects in basin 6. Basin 6 is applicable to this proposal and will resolve much of the conveyance deficiency between the subject property and the WWTP. City Public Works and Engineering indicate an anticipated 4-year timeframe (from October 2022, when DEQ approved a \$16.4 million loan) for completion of these upgrades.

Second, further development of the subject property is unlikely in the near future given that the remaining land outside for future land division and development is so limited. The property is already developed with a single-family dwelling, in addition to construction for the new a new single-family dwelling. Moreover, the natural constraints (flood plain and sensitive lands) addressed under SHMC 17.112.020 below are additional impediments to redevelopment.

Third, if the subject property was redeveloped with a proposal that required a land use permit (e.g., Site Development Review or Partition) while the conveyance issue still exists, the city may implement a proportional fee as a condition of approval to contribute to the conveyance projects in the WWMP to help offset the deficiency. Because single-family dwellings and duplexes are not subject to Site Development Review per SHMC 17.96.020, the fee would not apply to that type of development. As a property that has an existing detached single-family dwelling and is already approved to be developed with another, this fee would not apply to this annexation.

Transportation - As described above, this proposal poses no significant impact on a transportation facility.

Finding: Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area.

(b) The land use of the subject property is a detached single-family dwelling with a new 2nd dwelling under construction. This is a permitted use in the corresponding zoning district.

Finding: There is no known conflict with the Comprehensive Plan and implementing ordinances.

(c) With regards to Oregon Revised Statutes (ORS), city annexations of territory must be undertaken consistent with ORS 222.111 to 222.183.

Pursuant to ORS 222.111(1), a City may only annex territory that is not within another City, and the territory must either be contiguous to the annexing City or be separated from the City only by a body of water or public right-of-way. The subject property is not within another City's jurisdiction and City of St. Helens corporate limits lies on the west side of the subject property. Although undertaking an annexation is authorized by state law, the manner in which a city proceeds with annexation is also dictated in the city charter. ORS 222.111(1) references a city's charter as well as other ORS. St. Helens' Charter requirements pertaining to annexations are noted above.

Per ORS 222.111(2) an annexation may be initiated by the owner of real property or the city council. This annexation request was initiated by the property owner. Further, ORS 222.125 requires that all property owners of the subject property to be annexed and at least half of the electors residing on the property consent in writing to the annexation. These documents were submitted with the annexation application.

ORS 197.175(1) suggests that all annexations are subject to the statewide planning goals. The statewide planning goals that could technically apply or relate to this proposal are Goals 1, 2, 11 and 12.

- ***Statewide Planning Goal 1: Citizen Involvement.***

Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is also required. The City has met these requirements and notified DLCD of the proposal.

- ***Statewide Planning Goal 2: Land Use Planning.***

This goal requires that a land use planning process and policy framework be established as a basis for all decisions and actions relating to the use of land. All local governments and state agencies involved in the land use action must coordinate with each other. City, county, state and federal agency and special districts plans and actions related to land use must be consistent with the comprehensive plans of cities and counties and regional plans adopted under Oregon Revised Statutes (ORS) Chapter 268.

Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base. The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

- ***Statewide Planning Goal 11: Public Facilities and Services.***

Goal 11 requires cities and counties to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The goal requires that urban and rural development be "guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

City water and sewer capacities are addressed under SHMC 17.28.030 (1) above. There is no evidence that adequate infrastructure will not be available to serve the annexed area if redeveloped in the future.

- ***Statewide Planning Goal 12: Transportation.***

Goal 12 requires cities, counties, metropolitan planning organizations, and ODOT to provide and encourage a “safe, convenient and economic transportation system.” This is accomplished through development of Transportation System Plans based on inventories of local, regional and state transportation needs. Goal 12 is implemented through OAR 660, Division 12, also known as the Transportation Planning Rule (“TPR”). The TPR contains numerous requirements governing transportation planning and project development.

Traffic impacts and the City’s provisions that address the TPR are explained above. This proposal will not significantly affect an existing or planned transportation facility.

(d) The subject property abuts Maple Street. Maple Street is classified as a local street with a minimum right-of-way width of 50’, which is met. There are no frontage improvements (sidewalks and curb) abutting the subject property. City standards require such improvements.

However, this property is not the subject of a current development land use review, which provides the legal nexus and proportionality to require such improvements or right-of-way dedications. As such, no improvements are warranted with this proposal. At the time of future land division and/or development, these items would be considered.

(e) The subject property is not greater than 10 acres in gross size. An analysis is not necessary.

Finding: The annexation approval criteria are met for this proposal.

SHMC 17.28.030 (2) – Annexation criteria

The plan designation and the zoning designation placed on the property shall be the city’s zoning district which most closely implements the city’s comprehensive plan map designation.

Discussion: The Comprehensive Plan designation is currently Rural Suburban Unincorporated Residential (RSUR). The City’s options for zoning are Suburban Residential (R10) or Moderate Residential (R7). The Comprehensive Plan designation would be Suburban Residential (Incorporated) (SR).

Finding: Upon annexation, the subject property’s Comprehensive Plan designation shall be Suburban Residential (Incorporated) and **zoned Suburban Residential (R10) or Moderate Residential (R7) based on the findings of the Planning Commission and City Council.**

SHMC 17.112.020 – Established & Developed Area Classification criteria

(1) Established Area.

- (a) An “established area” is an area where the land is not classified as buildable land under OAR 660-08-0005;
 - (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
 - (c) An area shown on a zone map or overlay map as an established area.
- (2) Developing Area. A “developing area” is an area which is included in the city’s buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

Discussion: OAR 660-008-0005 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered “suitable and available” unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

Discussion: In addition to already being developed with a single-family dwelling, this property is subject to natural resource protection measures under Goal 5 due to the presence Riparian Corridor R-MC-12 with a 50’ upland protection zone and 100-year flood plain which constrains approximately the southern half of the property. Therefore, this property is not considered buildable land under OAR 660-008-0005.

Finding: The subject property should be designated as “established.”

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential (SR), be zoned Suburban Residential (R10) or Moderate Residential (R7) based on the findings of the Planning Commission and City Council, and be designated as “established” with the condition that:

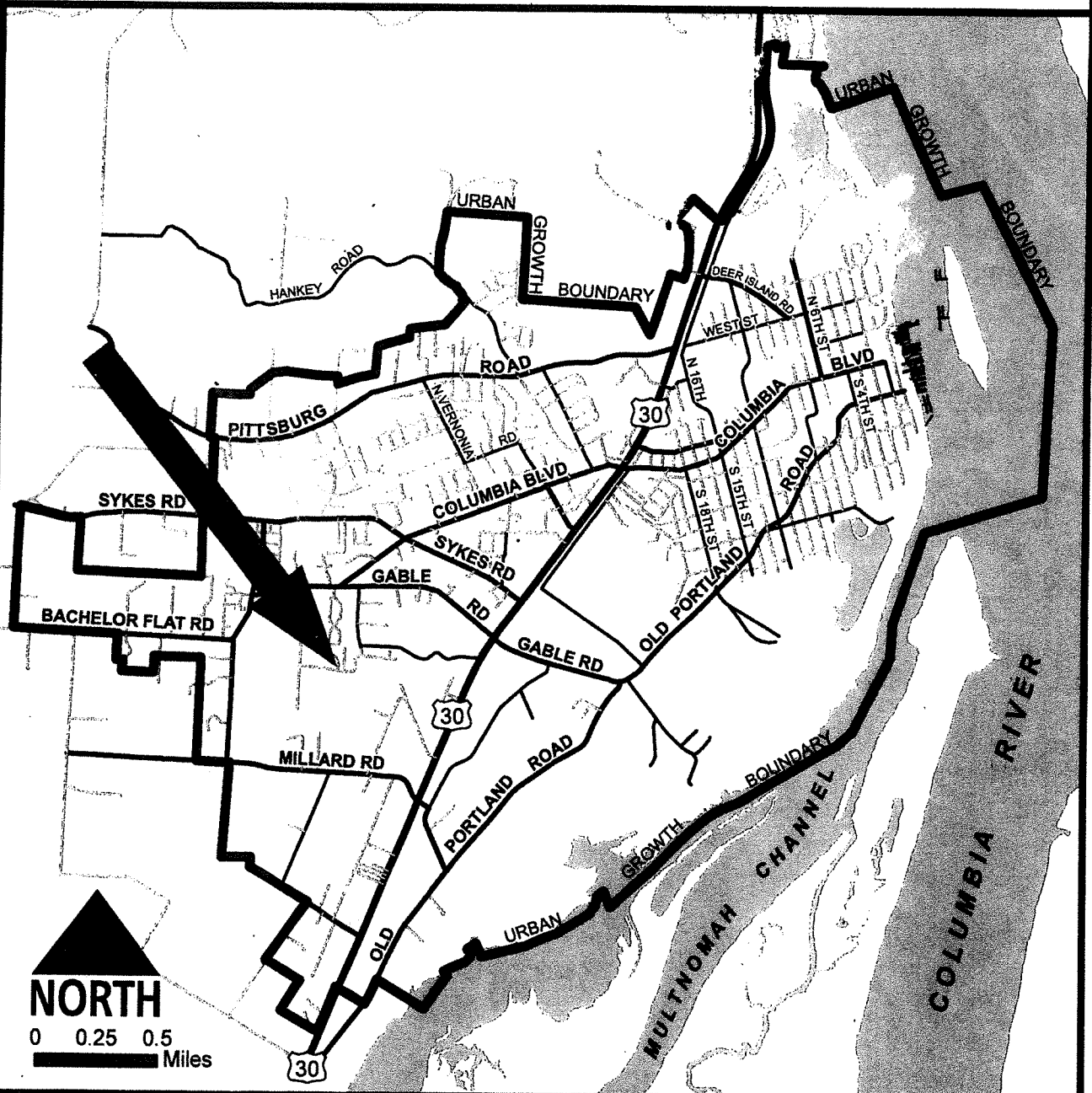
All Columbia County Road Department Access requirements must be completed (Permit approval attached).

*This annexation will **not** be subject to voter approval subsequent to this land use process.*

Attachments: General Map
Taxlot Map
Aerial Map
County Roads Department Access Permit

SUBJECT PROPERTY

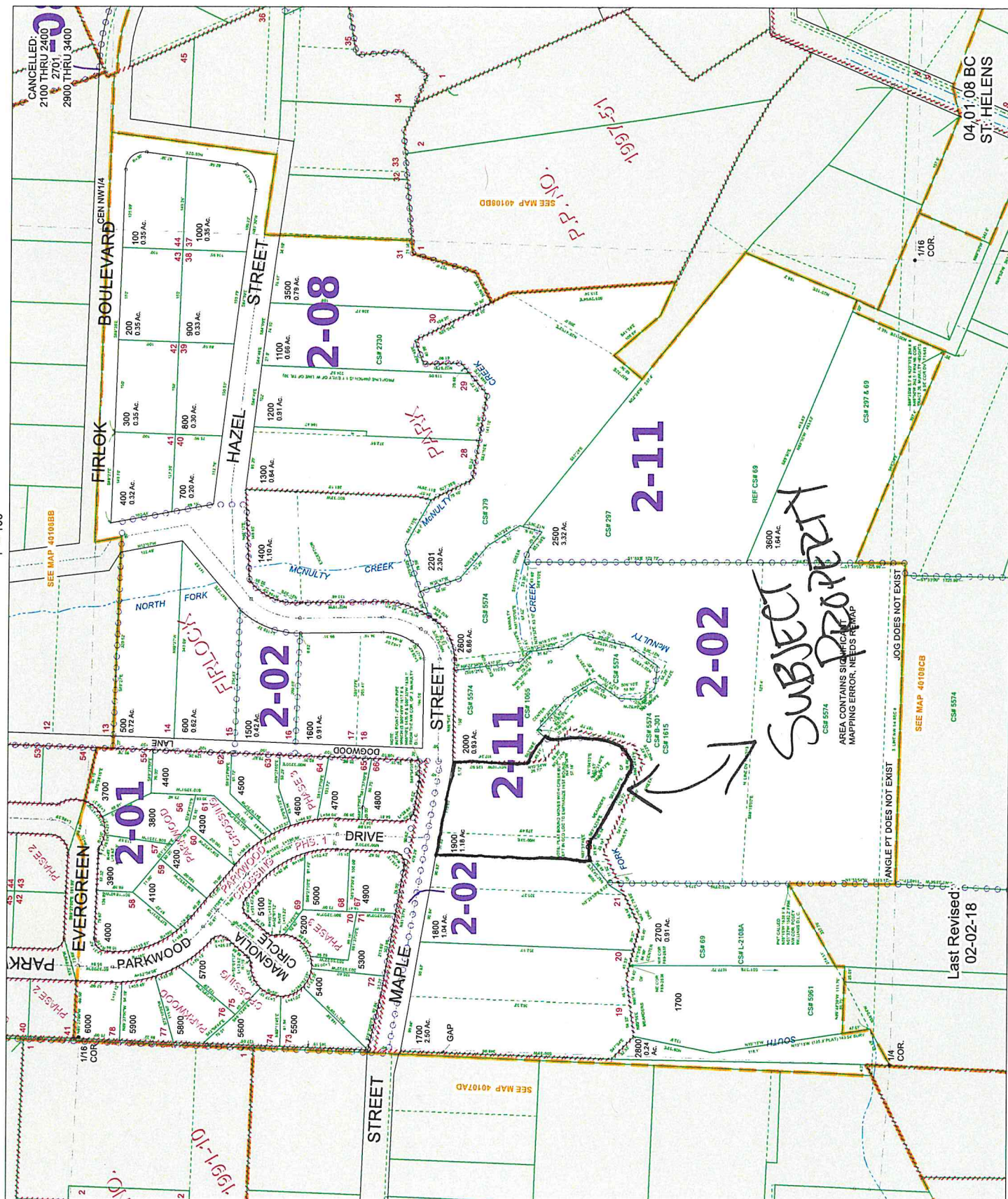
~ Approximate Location ~



City of St. Helens Urban Growth Boundary Area Vicinity

jag/Dec. 2013

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



Annexations Aerial (A.1.22 & A.2.22) Feb 2023

Item D.

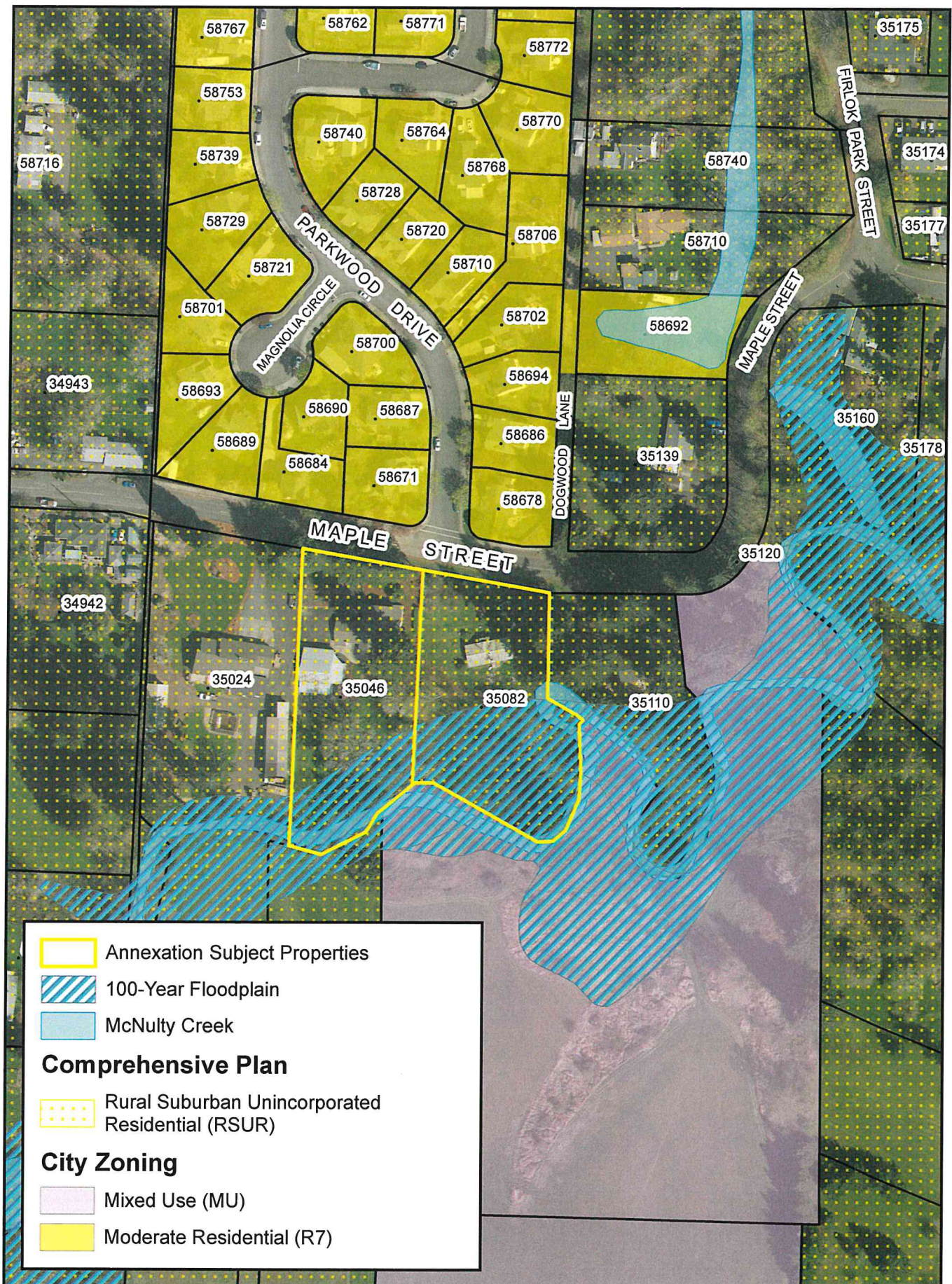


Exhibit A
ACCESS APPROACH ROAD CONSTRUCTION APPLICATION AND PERMIT

COLUMBIA COUNTY PUBLIC WORKS DEPARTMENT
1054 OREGON STREET, ST. HELENS, OR 97051
PHONE: (503) 397-5090 FAX: (503) 397-7215

A. APPLICATION

Permit Fee: \$50.00

Receipt #: 120130571PERMIT NUMBER: 2023-018Permit Expires: 8-29-2024Applicant Name (please print) Travis Jenkins

declares that he/she is the owner or sanctioned by owner of the real property adjoining the public road, private road or driveway at the location described herein and has the lawful authority to apply for this Permit. When approved, a Permit is subject to the terms and provisions of Columbia County Ordinance No. 2006-4, and Exhibit B Specifications.

NOTE: Access permit must be issued prior to obtaining a building permit. Access construction must be completed to specified standards within the time period allowed before a building inspector can approve the final inspection for occupancy or issue a Certificate of Occupancy. If access construction cannot be completed and the applicant is otherwise eligible for a final inspection and/or Certificate of Occupancy, a deposit of \$2,000 may be made as security for future construction. The deposit will be forfeited if the access is not completed within the required time. Applicant must notify County Road Department of any change in address to insure return of deposit.

Access Requested is: ☒ New Access ☒ Existing Access ☐ Replacement Access
 Access Type is: ☒ Permanent ☐ Temporary ☐ Low Usage

Road Name: Maple Street 12-digit Property Tax Account No. 4108-BC-01900
 Township, Range, Section, Parcel:

Side of Road: ☐ North ☒ South ☐ East ☐ West

Between/Near Landmarks (attach map or sketch): See map. This will be for 2 access points one existing and one new

Property Owner's Signature: [Signature] Date: 08.25.2022

Mailing Address: 35082 Maple Street

City: Saint Helens State: OR Zip: 97051 Phone: 971-645-3376

Email Address: Kaillinclements94@yahoo.com

(IF APPLICATION IS FAXED OR EMAILED, LOCATION MUST BE FLAGGED WITH ORANGE INSPECTORS' TAPE.)

B. PERMIT: Location must be approved prior to beginning construction.**THIS SECTION TO BE COMPLETED BY COLUMBIA COUNTY ROAD DEPARTMENT**Insurance required? Yes ☐ No ☒Sight distance adequate? Yes ☒ No ☐ If no, explain: _____Culvert required? Yes ☐ No ☒ Size: _____ Length: _____ Distance from edge of road: _____Dimensions of access apron if different than standard (Section IV & E): Need to pave full driveway per City StandardsPaving to a distance of _____ from edge of public/private road or driveway required? Yes ☒ No ☐Water diversion required on access apron? Yes ☐ No ☒

Special comments: Need to pave both driveways full length, Pave all drivable surface. Max width for driveway is 24' wide. Slope first 3'-5' of access away from road.

ACCESS LOCATION APPROVED BY: Scott Tenzinger Date: 9/17/2022 Title: ENGR. TECH. I

☒ Copy mailed to applicant on 9.12.22 ☒ Faxed to LDS on 9.12.22 ☒ Faxed to District Supervisor on 9.12.22 (TC)

CONSTRUCTION APPROVED BY: _____ Date: _____ Title: _____

☐ Copy mailed to applicant on _____ ☐ Faxed to LDS on _____ ☐ Faxed to Finance Dept. (if necessary) on _____

☐ Final Inspection authorized with \$2,000 deposit on (Date): _____ by (Signature of County Public Works Official): _____

☐ Faxed to LDS on (Date): _____ ☐ Faxed to Finance on (Date): _____

☐ Extension of time granted to (Date): _____ on (Date): _____ by (Signature of County Public Works Official): _____

☐ Faxed to LDS on (Date): _____



CITY OF ST. HELENS PLANNING DEPARTMENT

LAND USE FILE BRIEF

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
FILE: Annexation A.1.23
DATE: March 29, 2023

This memo is not a substitute for the staff report or record of the file. It is a review aid.

This is a typical annexation based on a desire to connect to a city utility. This annexation is also based on a desire to utilize the city's land use policies, which is the second most common reason for a St. Helens annexation.

Based on the city's Comprehensive Plan you only have one zoning option: Apartment Residential (AR).

So, if you agree with everything, this one will be a "rubber stamp" approval recommendation to the Council.

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.1.23**

DATE: April 4, 2023
To: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner
APPLICANT: Toni & Robert Loveland
OWNERS: Same
ZONING: Columbia County's Multi-Family Residential (MFR)
LOCATION: 58927 Firlok Park Street; 4N1W-8BB-2000
PROPOSAL: The property owner filed consent to annex because they desire to use the City's development rules and connect to City sanitary sewer.

SITE INFORMATION / BACKGROUND

The subject property is a rectangular shaped lot at 24,394 square feet or 0.56 acres. The property is developed with an existing detached single-family dwelling and two separate accessory structures. It is accessed by Firlok Park Street, which is a developed collector classified street without frontage improvements (sidewalks, curb, and landscape strip) on either side. The road is within the County's jurisdiction. The parcel slopes to the back with the North Fork McNulty Creek bordering the western property line. The dwelling is connected to City water, but not City sewer, although it is available in the Firlok Park Street right-of-way abutting the property.



*Left: 58927 Firlok Park Street single-family dwelling. Two accessory structures pictured in background.
 Right: Firlok Park Street right-of-way abutting subject property looking north*

Abutting Zoning

North – City Apartment Residential (AR)

East – City Apartment Residential (AR)

South – County Multi-Family Residential (MFR)

West – City Moderate Residential (R7)

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

April 11, 2023 before the Planning Commission

May 17, 2023 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on March 20, 2023 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on March 29, 2023. Notice was sent to the Oregon Department of Land Conservation and Development on February 21, 2023 via e-mail.

AGENCY REFERRALS & COMMENTS

Columbia County Roads Department: Does not have any comments or concerns for the annexation of this property. In the future, if this property goes through any development that requires a building permit then they will need to obtain an access permit through the County Public Works Department.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.08.040 (1) – Quasi-judicial amendment and standards criteria

- (a) A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:
 - (i) The applicable comprehensive plan policies and map designation; and that the change will not adversely affect the health, safety, and welfare of the community; and
 - (ii) The applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197, until acknowledgment of the comprehensive plan and ordinances; and
 - (iii) The standards applicable of any provision of this code or other applicable implementing ordinance.
- (b) Consideration may also be given to:
 - (i) Any applicable evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.

Discussion: (a)(i) The Comprehensive Plan designation for the subject property is Unincorporated Multi-Family Residential (UMFR). Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1).

SHMC 19.08.030 discusses public services and facilities and includes utility provisions (e.g., water and sewer) as well as services such as police and library. In sum, all services are intertwined; the consent to annexation allows connection to City sewer to support existing and

future development on the subject property, and, once annexed, all other City services/facilities. Sewer and water capacity to serve this property is addressed in more detail under SHMC 17.28.030 (1) below. By this review process, the proposal complies with this aspect of the Comprehensive Plan. There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC. Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1)

There is no known conflict with the addendums to the Comprehensive Plan which includes Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

Finally, there is no evidence that this proposal will be contrary to the health, safety, and welfare of the community.

(a)(ii) The City's Comprehensive Plan has been adopted by the State, thus, the applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197 do not need to be analyzed per this section.

(a)(iii) In addition, Section 3 of the City's Charter states that "annexation, delayed or otherwise, to the City of St. Helens, may only be approved by a prior majority vote among the electorate." However, during the 2016 Legislative Assembly, Senate Bill 1578 was passed. It states that a City shall annex the territory without submitting the proposal to the electors if certain criteria are met:

1. Property is within the UGB
2. Property will be subject to the City's Comprehensive Plan
3. Property is contiguous to the City limits or is separated by only a public right of way or body of water
4. Property conforms to all other City requirements

As this proposal meets these criteria, this property will **not** be subject to a majority vote among the electorate.

Other provisions applicable to this proposal are discussed elsewhere herein.

(b) There is no evidence of a change in neighborhood, or mistake or inconstancy in the Comprehensive Plan or Zoning Map.

Finding: The quasi-judicial amendment and standards criteria are met.

SHMC 17.08.060 – Transportation planning rule compliance

- (1) Review of Applications for Effect on Transportation Facilities. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-012-0060 (the Transportation Planning Rule ("TPR")).

"Significant" means the proposal would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (i) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (ii) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
 - (iii) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
- (2) Amendments That Affect Transportation Facilities. Comprehensive plan amendments, zone changes or land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- (3) Traffic Impact Analysis. A traffic impact analysis shall be submitted with a plan amendment or zone change application, as applicable, pursuant to Chapter 17.156 SHMC.

Discussion: This section reflects State law regarding the Transportation Planning Rule (TPR): Transportation Planning Rule (TPR), OAR 660, Division 12. The TPR requires that where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures to assure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility. **Current zoning of the property is Columbia County's Multi-Family Residential (MFR) and the City's only zoning option given annexation is Apartment Residential (AR).**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. The potential land uses are very similar for both the City and County. The City's zoning is comparable to the County with regards to the possible intensity of uses allowed and potential vehicular trips generated. Thus, this proposal will not affect an existing or planned transportation facility.

Finding: No transportation facility will be significantly affected by this proposal. No traffic impact analysis is warranted.

SHMC 17.28.030 (1) – Annexation criteria

- (a) Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and
- (b) Comply with comprehensive plan amendment standards and zoning ordinance amendment standards and not be in conflict with applicable comprehensive plan policies and implementing ordinances; and
- (c) Complies with state laws; and
- (d) Abutting roads must meet city standards or property owner will be required to sign and record an irrevocable consent to local improvement district; and
- (e) Property exceeding 10 acres in gross size must show a need on the part of the city for such land if it is designated residential (e.g., less than five years' supply of like designated lands in current city limits).

Discussion: (a)

Water – The existing single-family dwelling is currently served by City water. Regarding capacity, the City's current water capacity is 6 million gallons/day and the peak flow, usually in the summer, is 3 to 4 million gallons/day. Additionally, the City has the capacity of approximately 10 million gallons to meet future demands. Any additional uses that occur on the subject property can be accommodated by the City's municipal water system as infrastructure has substantial capacity available.

Sewer - The site is not currently hooked to City sewer, although it is available for connection in the Firlok Park Street right-of-way. The existing dwelling is served by an on-site system. The applicant has indicated a desire to build a 2nd dwelling on the property, which would be required to connect to City sewer.

With regards to *capacity*, the City's wastewater treatment plant currently has a daily limit (physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. Sanitary sewer *capacity* is adequate.

With regards to *conveyance*, the city adopted a new **Wastewater Master Plan (WWMP)** in November 2021 that identifies undersized trunk lines already operating at or above capacity that this development would depend on. The WWMP can be found here:
<https://www.sthelensoregon.gov/engineering/page/public-infrastructure-master-plans>

Sewer pipes are considered "at capacity" when peak flows exceed 85% of the full depth of the pipe in accordance with industry standards. This depth is based on the maximum depth of flow ratio (d/D), where "d" is the depth of flow and "D" is the pipe diameter. The WWMP includes an exhibit—Figure 18—that shows that the sanitary sewer main route between the subject property to the wastewater treatment plant has multiple areas that are operating at or above 100%, which is much greater than the industry and city standard 85% "at capacity" flows.

This annexation may still be approved given the sanitary sewer conveyance circumstances based on the following:

First, some of the issues are actively planned to be resolved. City Public Works and Engineering staff have begun to address the necessary sanitary sewer infrastructure upgrades having received a loan with Oregon DEQ's State Revolving Fund Program to fund both priority 1 projects (in basins 4 and 5) and priority 3 projects in basin 6. Basin 6 is applicable to this proposal and will resolve much of the conveyance deficiency between the subject property and the WTP. City Public Works and Engineering indicate an anticipated 4-year timeframe (from October 2022, when DEQ approved a \$16.4 million loan) for completion of these upgrades.

Second, further development of the subject property is unlikely in the near future. The location of existing single-family dwelling and detached garage is inefficient for land division and leaves little developable area left on the property. Moreover, the natural constraints (flood plain and sensitive lands) addressed under SHMC 17.112.020 below are additional impediments to redevelopment.

Third, if the subject property was redeveloped with a proposal that required a land use permit (e.g., Site Development Review or Partition) while the conveyance issue still exists, the city may implement a proportional fee as a condition of approval to contribute to the conveyance projects in the WWMP to help offset the deficiency. Because single-family dwellings and duplexes are not subject to Site Development Review per SHMC 17.96.020, the fee would not apply to that type of development. As an existing detached single-family dwelling developed property, this fee does not apply to this annexation.

Transportation - As described above, this proposal poses no significant impact on a transportation facility.

Finding: Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area.

(b) The proposed land use of the subject property is a detached single-family dwelling. This is a permitted use in the corresponding zoning district.

Finding: There is no known conflict with the Comprehensive Plan and implementing ordinances.

(c) With regards to Oregon Revised Statutes (ORS), city annexations of territory must be undertaken consistent with ORS 222.111 to 222.183.

Pursuant to ORS 222.111(1), a City may only annex territory that is not within another City, and the territory must either be contiguous to the annexing City or be separated from the City only by a body of water or public right-of-way. The subject property is not within another City's jurisdiction and City of St. Helens corporate limits lies on the west side of the subject property. Although undertaking an annexation is authorized by state law, the manner in which a city proceeds with annexation is also dictated in the city charter. ORS 222.111(1) references a city's charter as well as other ORS. St. Helens' Charter requirements pertaining to annexations are noted above.

Per ORS 222.111(2) an annexation may be initiated by the owner of real property or the city council. This annexation request was initiated by the property owner. Further, ORS 222.125 requires that all property owners of the subject property to be annexed and at least half of the electors residing on the property consent in writing to the annexation. These documents were submitted with the annexation application.

ORS 197.175(1) suggests that all annexations are subject to the statewide planning goals. The statewide planning goals that could technically apply or relate to this proposal are Goals 1, 2, 11 and 12.

- ***Statewide Planning Goal 1: Citizen Involvement.***
Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is also required. The City has met these requirements and notified DLCD of the proposal.

- ***Statewide Planning Goal 2: Land Use Planning.***
This goal requires that a land use planning process and policy framework be established as a basis for all decisions and actions relating to the use of land. All local governments and state agencies involved in the land use action must coordinate with each other. City, county, state and federal agency and special districts plans and actions related to land use must be consistent with the comprehensive plans of cities and counties and regional plans adopted under Oregon Revised Statutes (ORS) Chapter 268.

Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base. The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

- ***Statewide Planning Goal 11: Public Facilities and Services.***
Goal 11 requires cities and counties to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The goal requires that urban and rural development be "guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

City water and sewer capacities are addressed under SHMC 17.28.030 (1) above. There is no evidence that adequate infrastructure will not be available to serve the annexed area if redeveloped in the future.

- **Statewide Planning Goal 12: Transportation.**

Goal 12 requires cities, counties, metropolitan planning organizations, and ODOT to provide and encourage a “safe, convenient and economic transportation system.” This is accomplished through development of Transportation System Plans based on inventories of local, regional and state transportation needs. Goal 12 is implemented through OAR 660, Division 12, also known as the Transportation Planning Rule (“TPR”). The TPR contains numerous requirements governing transportation planning and project development.

Traffic impacts and the City’s provisions that address the TPR are explained above. This proposal will not significantly affect an existing or planned transportation facility.

(d) The subject property abuts Firlok Park Street. Firlok Park Street is classified as a collector street with a minimum right-of-way width of 60’, which is not met. There are also no frontage improvements (sidewalks, curb, landscaping strip) abutting the subject property. City standards require such improvements.

However, this property is not the subject of a current development land use review, which provides the legal nexus and proportionality to require such improvements or right-of-way dedications. As such, no improvements are warranted with this proposal. At the time of future land division and/or development, these items would be considered.

(e) The subject property is not greater than 10 acres in gross size. An analysis is not necessary.

Finding: The annexation approval criteria are met for this proposal.

SHMC 17.28.030 (2) – Annexation criteria

The plan designation and the zoning designation placed on the property shall be the city’s zoning district which most closely implements the city’s comprehensive plan map designation.

Discussion: The Comprehensive Plan designation is currently Unincorporated Multifamily Residential (UMFR). The City’s only option for zoning is Apartment Residential (AR). The Comprehensive Plan designation would be General Residential (Incorporated) (GR).

Finding: Upon annexation, the subject property’s Comprehensive Plan designation shall be General Residential (Incorporated) and zoned Apartment Residential (AR).

SHMC 17.112.020 – Established & Developed Area Classification criteria

(1) Established Area.

- (a) An “established area” is an area where the land is not classified as buildable land under OAR 660-08-0005;

- (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
 - (c) An area shown on a zone map or overlay map as an established area.
- (2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

Discussion: OAR 660-008-0005 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

Discussion: In addition to already being developed with a single-family dwelling, this property is subject to natural resource protection measures under Goal 5 due to the presence of Wetland MC-9 (Type I) with a 75' protection zone and Riparian Corridor R-MC-13 with a 50' upland protection zone. Therefore, this property is not considered buildable land under OAR 660-008-0005.

Finding: The subject property should be designated as "established."

CONCLUSION & RECOMMENDATION

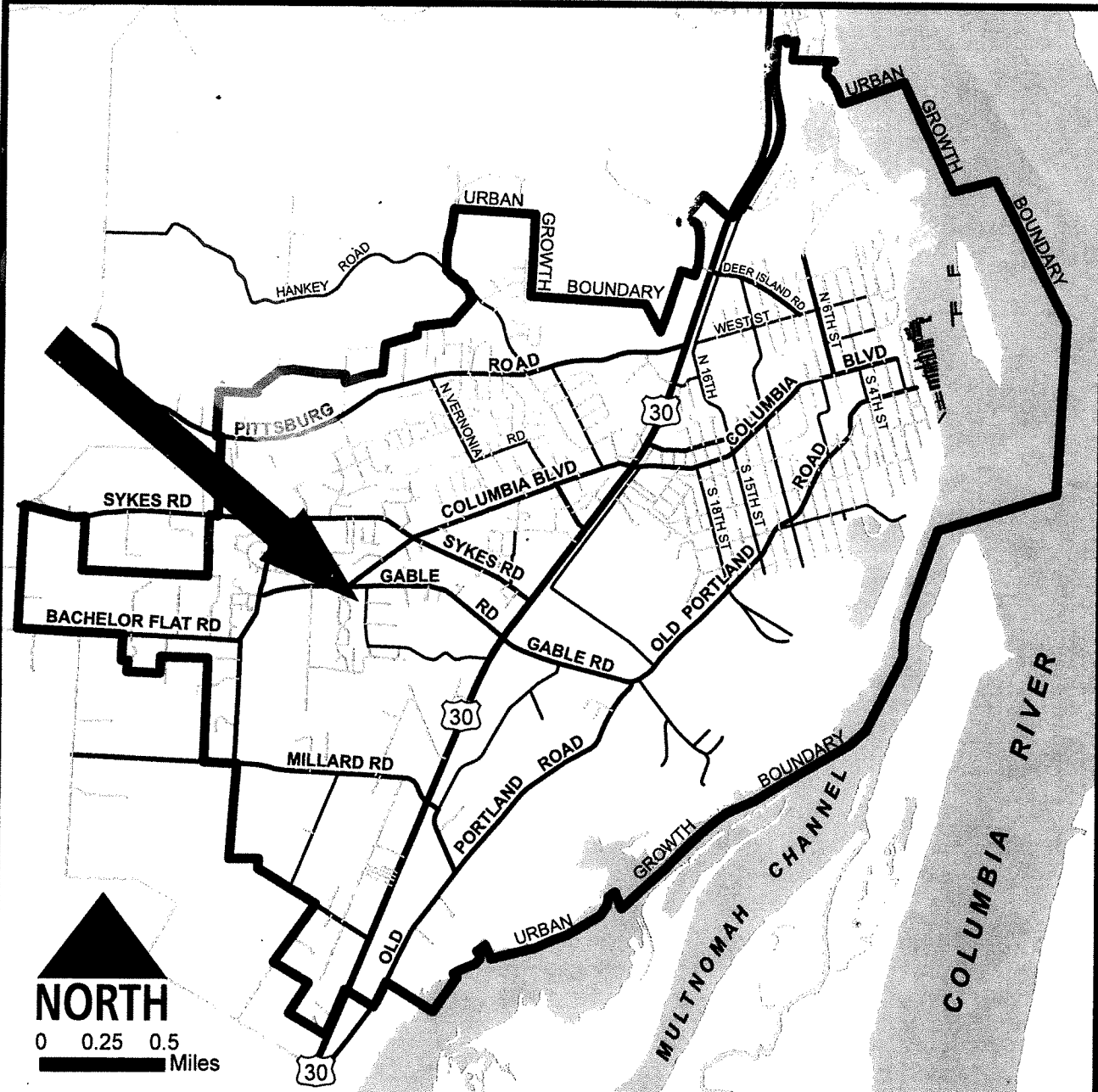
Based upon the facts and findings herein, staff recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of General Residential (GR), be zoned Apartment Residential (AR), and be designated as "established."

*This annexation will **not** be subject to voter approval subsequent to this land use process.*

Attachments: General Map
Taxlot Map
Aerial Map

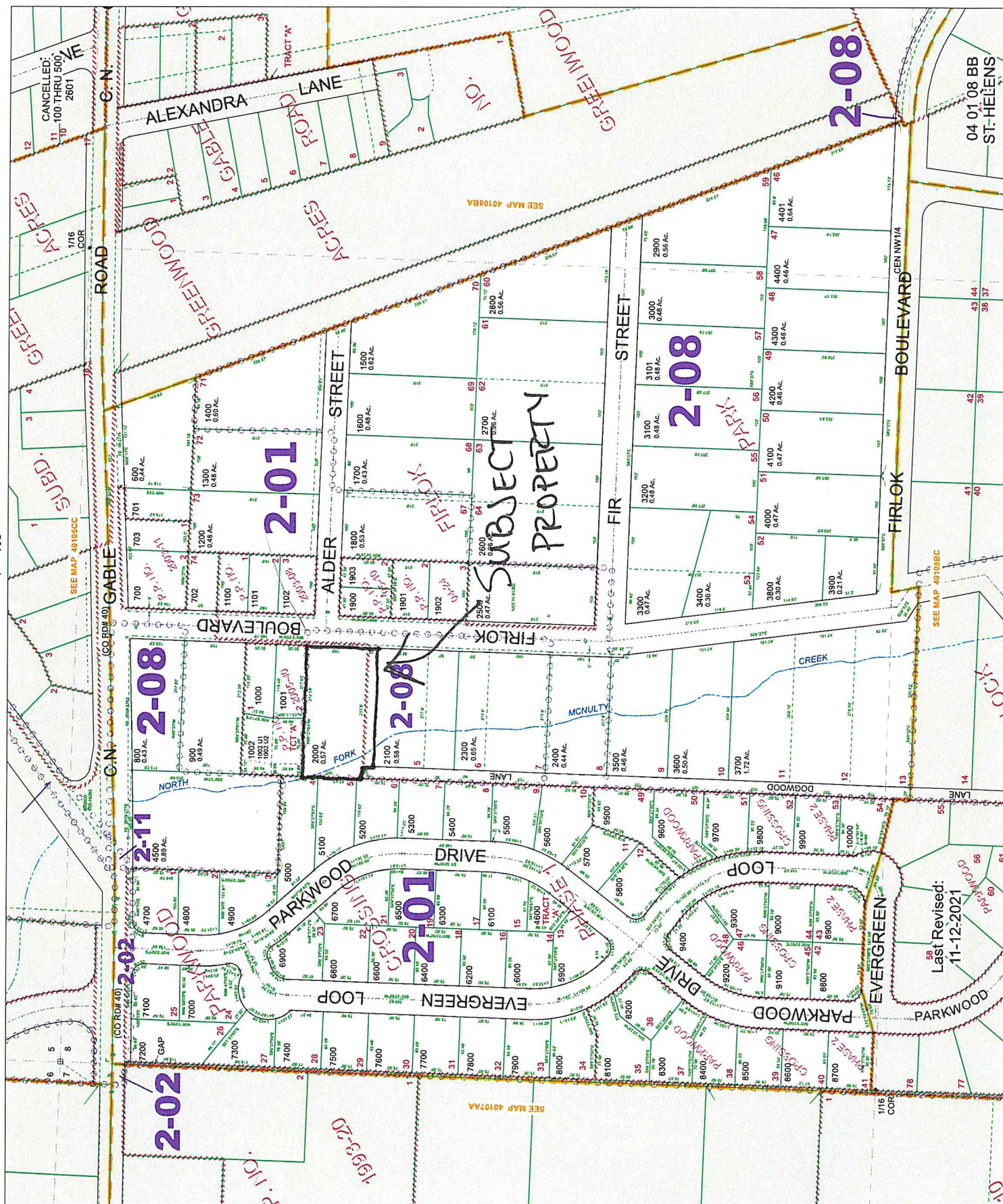
SUBJECT PROPERTY

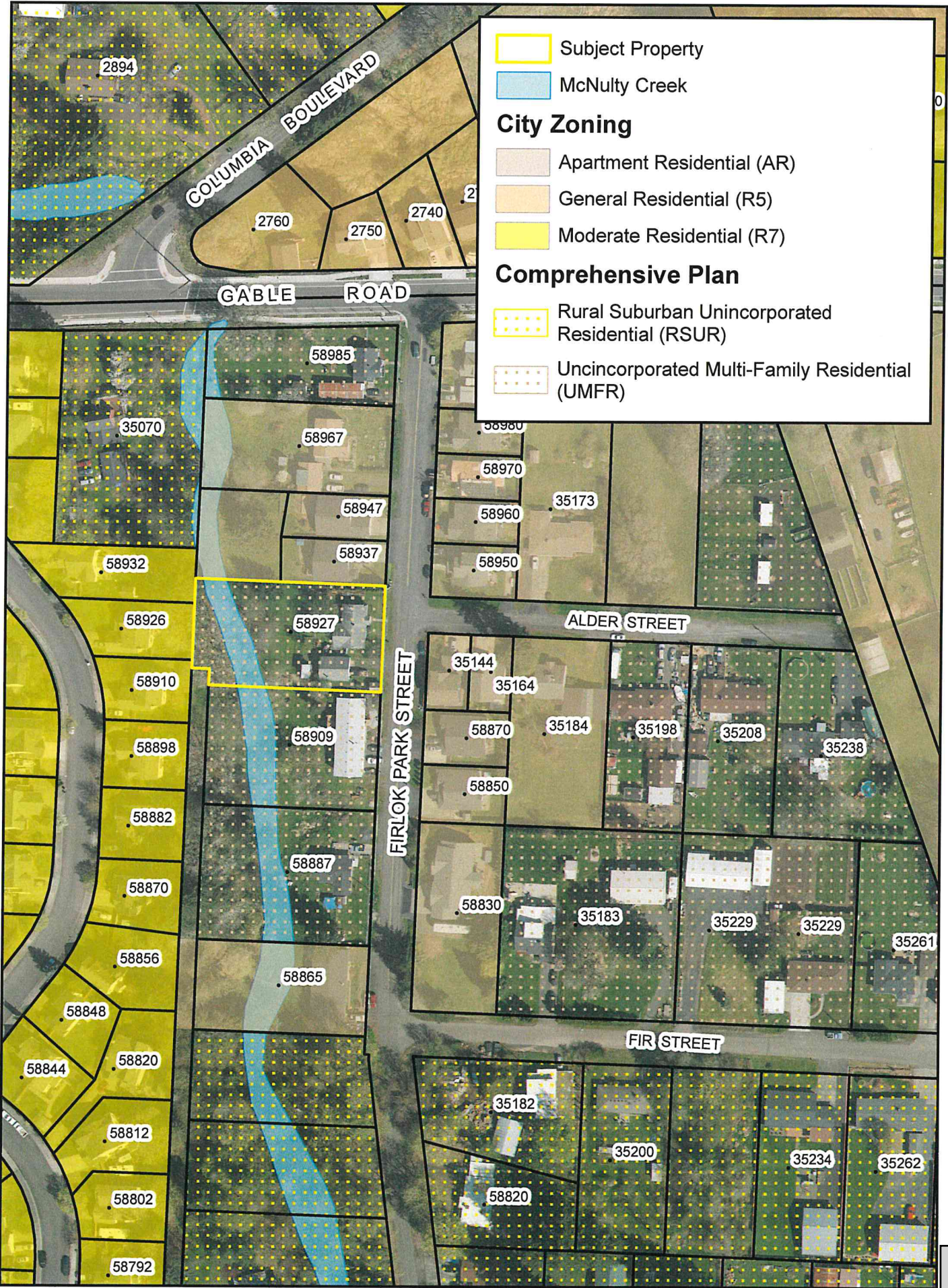
~ Approximate Location ~



City of St. Helens Urban Growth Boundary Area Vicinity

jag/Dec. 2013





Aerial Image (April 2022). City of St. Helens.



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: Planning Commission acting as the Historic Landmarks Commission
FROM: Jennifer Dimsho, AICP, Associate Planner
RE: 71 Cowlitz Street (The Klondike Tavern) Architectural Review
DATE: April 4, 2023

We received a Minor Site Development Review (SDRm.2.23) to construct a new 682 sq. ft. covered porch addition, a corresponding basement addition, a new ADA lift at the main entry, and other exterior modifications including a new basement entry door/stairs, a new exterior double door to the proposed porch addition, a new door into the restaurant near the ADA lift, and structural improvements to the foundation to help prevent the building from settling.

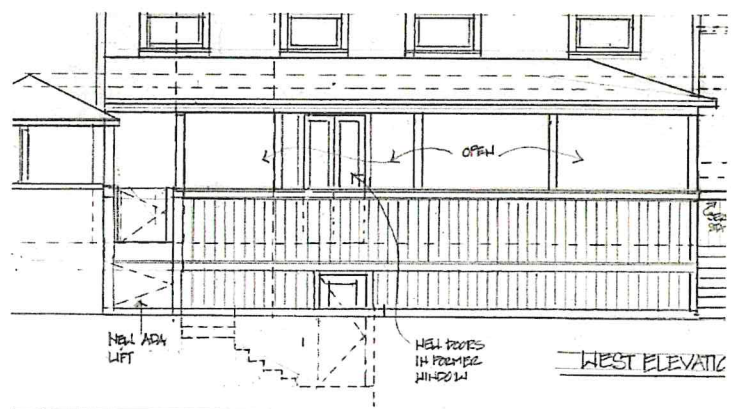
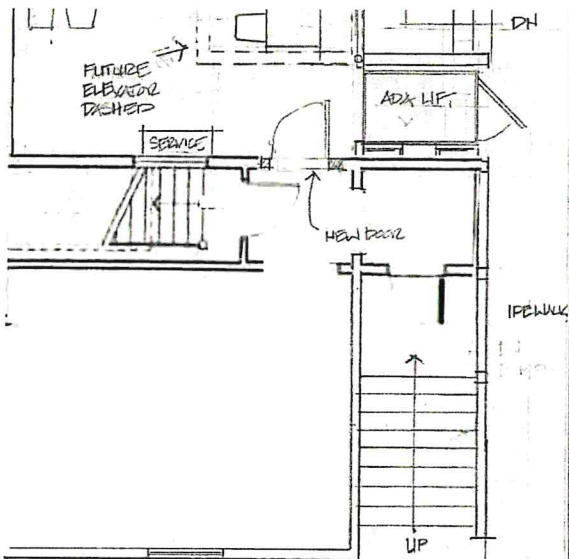
Per SHMC 17.32.070(7), permanent exterior architectural changes to buildings (that are not officially recognized historic resources) shall comply with the ***Riverfront District Architectural Guidelines***. The Historic Landmarks Commission shall make a recommendation to the approval authority as to whether the Commission believes the proposal complies. Please review your copy of the guidelines when looking at this proposal and be prepared to discuss. The guidelines can also be found on the City's website:

<https://www.sthelensoregon.gov/planning/page/riverfront-district-architectural-design-guidelines>

The following is a description of the exterior modifications in the order that they appear in the Guidelines. Questions and recommended conditions of approval are in **red**.

Building Facade/Entry

The existing building entry and stairs will remain the same with the new porch and the addition of the ADA lift. A person using the lift will be able to enter through a new door just past the existing lobby/vestibule. There is also a new door proposed into the lower basement level and a new double door from the new porch into the restaurant. This double door will be placed in a historic window opening that had been previously covered. The applicant is proposing $\frac{3}{4}$ light wood doors with kickplates for all three (3) new doors. Transom windows above the two first-floor doors are also proposed.



Building Lighting

Applicant notes in their narrative that the new basement door entry will feature a goose-neck style light to match the existing fixtures along the Cowlitz Street side of the building. **This is not shown in the plans, and revised plans submitted with the building permit should include this.**

Maintenance

The applicant is also proposing structural improvements to the existing foundation which will help stop settlement of the building foundation. This work will trigger excavation along the exterior perimeter of the building, including under the new proposed porch. This area under the proposed porch would become added floor area for additional basement storage. This work to the building's foundation is consistent with the Guidelines because it stabilizes the building, ensuring preservation of the building.

Material & Building Colors

The applicant is proposing vertical wood shiplap siding for the porch addition with 1x6" trim which will be painted to match the existing colors of the building. The existing building has matching vertical skirt siding as shown below.



The Guidelines discourage the use of bright, unfinished metals. The ADA lift will be made of metal. Its location is tucked between the main entry and the proposed porch, so it will not be as visible as the existing entry stairway. **The applicant indicates in the narrative they will paint the exterior facing gate of the lift the same color as the siding, but it is not shown in the plans. Revised plans submitted with the building permit shall include this.**

The applicant proposes to match the new posts for the porch addition with the interior structural posts that are currently inside of the building.

Setback, Orientation, and Bulk

The Guidelines encourage duplication of the existing or traditional roof shapes and materials on new construction to make new structures more visually compatible. For the new covered porch, the applicant shows a roofline/slope very similar to the existing roofline and entry roof. The shingles are also proposed to match the existing roof. This complies.

Windows

There are no new windows proposed with this project. However, the applicant is proposing to install a new door in a historically covered window opening, a photo of which was provided in the plan set.

Riverfront
 District's
 Architectural
 Design
 Guidelines

Historic Review Narrative for Covered Porch Addition at 71 Cowlitz Street

We are applying our Mainstreet Grant funds towards the addition of a covered porch to the interior courtyard-facing side of the restaurant and basement levels of the "Klondike Building" (the Historic Saint Helens Hotel Annex). This work is being done within the historic guidelines of the Secretary of the Interior both for state and federal tax benefits, and here we are discussing how the design and materials of the addition specifically also conform with the Saint Helens Historic Guidelines for downtown. The courtyard extends the seating capacity of the first floor restaurant and it connects the kitchen and bar directly to the existing brick patio, which overall improves the amenities, operations and economic potential of the restaurant space.

DESIGN: The design of the porch features a matching-grade shed roof and turned posts inspired by the original porch of the Saint Helens Hotel (see photo insert on design documents).

SIDING: The porch will have vertical wood shiplap and trim matching the existing historic vertical wood shiplap and 1x6" trim of the current building - this vertical siding surrounds the entire building below the horizontal main shiplap siding.

COLOR: The siding and trim of the addition will be painted to match the current historically compatible colors of the building.

POSTS: The porch posts will be custom turned posts matching an existing historic style of some extant historic structural posts inside of the building (see photo insert on design documents).

ROOFING: The roof shingles will be the same matching charcoal colored composite shingles of the main building that were just approved by the historic committee in the fall of 2022.

DOORS: We will be using solid wood, ¾ light historic "panel" toe-kick doors, which are specifically referenced as appropriate in the city historic guidelines (see photo insert on the design documents). For the doors on the first level, each will feature 6'8" doors with transom windows up to the 8' header height. The new basement window will be tall enough for a standard 6'8" door.

EXTERIOR LIGHTING: The basement doorway will feature a goose-neck style historically appropriate lighting fixture to match the existing goose-neck exterior lighting fixture on the building.

ADA LIFT: The exterior lift visually tucks "behind" the building's entry vestibule, and we will be painting the exterior facing gates the same color as the building siding.

BASEMENT STAIR AND RETAINING WALL: The stairs to the basement will be concrete, and the retaining walls which form the "rail" will be painted to match the existing stucco surface of the existing entry vestibule addition. The graspable hand-rail will be wood painted to match the existing trim and with historic metal bronze-colored rail holders.

FOUNDATION WORK AND EXCAVATION: We will be applying to building with engineering schematics for a portion of critical structural updates to the existing foundations to create footings which will stop any further settlement of the building's foundation and which will lend structural value compatible with future seismic retrofitting requirements. This stabilization work is a critical precursor to future seismic, structural and restoration work on the building, because the building is built on a combination of silt, fill and gravel that has shown continuing and consistent settlement since the original construction. This foundation work will require significant excavation along the exterior perimeter of the building, and we plan to use this excavation as an opportunity to excavate down under the footprint of the new porch to build a basement space at a consistent level with the existing basement - in other words, below the porch will be an addition to the current basement space. This space will be essential for future conversion - including storage, public bathrooms for the patio area, and the mechanical room for a future elevator for the hotel floors. At this time, however, we will limit the construction proposal just to the structural augmentation of the existing foundation to stabilize it, the new foundations and basement space under the porch, and any required utilities and drainage for future additions to the basement space (we are not proposing any finished basement functions beyond storage at this time).

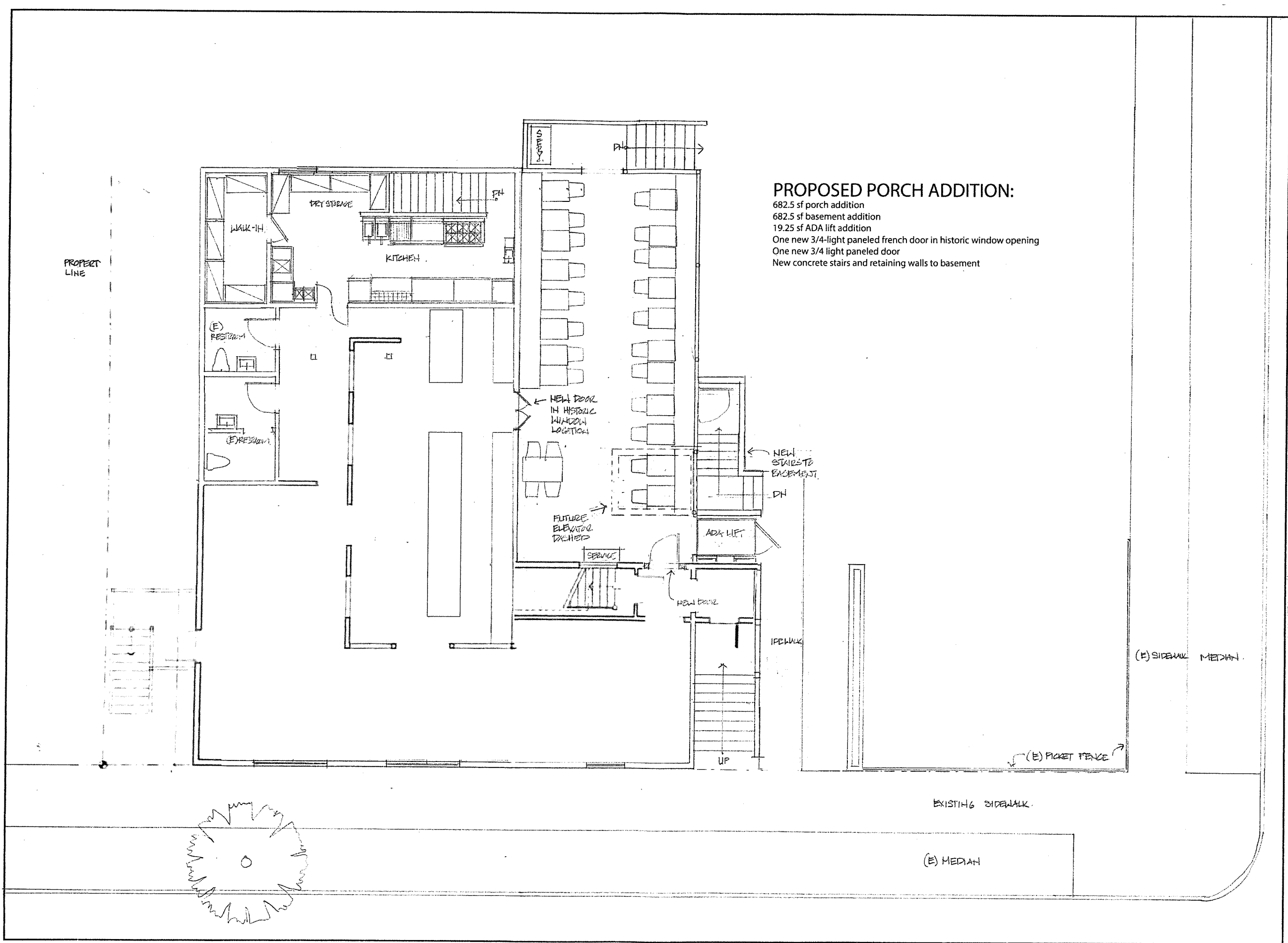
THE KLONDIKE HOTEL
ST HELENS, OREGON

Shopworks, LLC.
720 Seminary Street Napa, California 94559 707-258-1824

Revision
2/28/23

Sheet Number

2

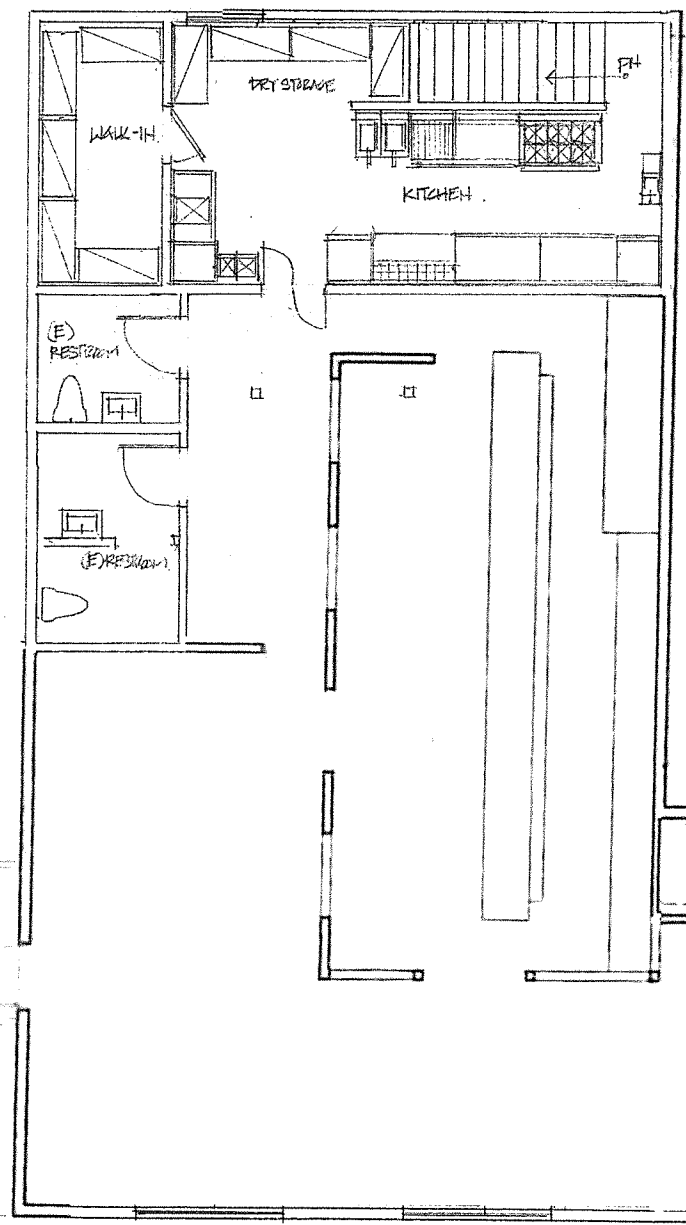


PROPOSED PORCH ADDITION:

- 682.5 sf porch addition
- 682.5 sf basement addition
- 19.25 sf ADA lift addition
- One new 3/4-light paneled french door in historic window opening
- One new 3/4 light paneled door
- New concrete stairs and retaining walls to basement

AS-IS FIRST FLOOR LAYOUT

PROPERTY
LINE



(E) SIDEWALK MEDIAN

(E) POCKET FENCE

EXISTING SIDEWALK

(E) MEDIAN

Shopworks, Inc.
730 Seminary Street Napa, California 94559 707-258-1824

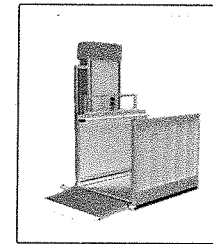
THE KLONDIKE HOTEL
ST HELENS, OREGON

Revision
2/28/23

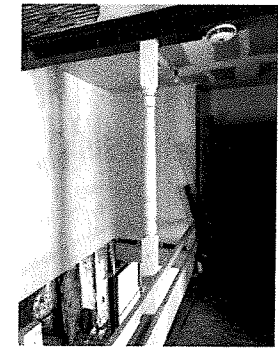
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6



3/4 light Wood "Toe Kick" panel
Doors and Transoms for
New Doorways



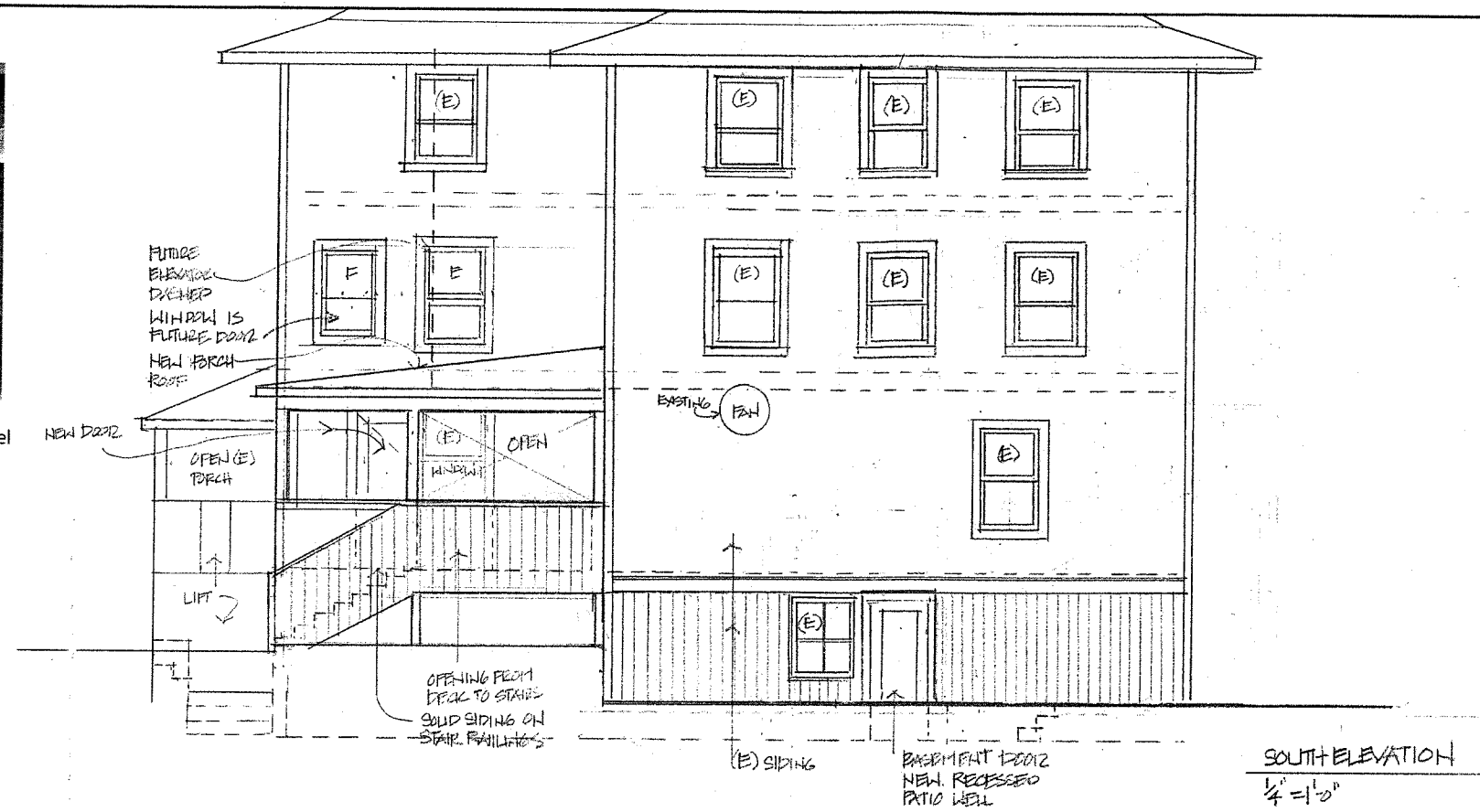
EZ-Pass Exterior ADA Lift
Tucked behind Entry Vestibule



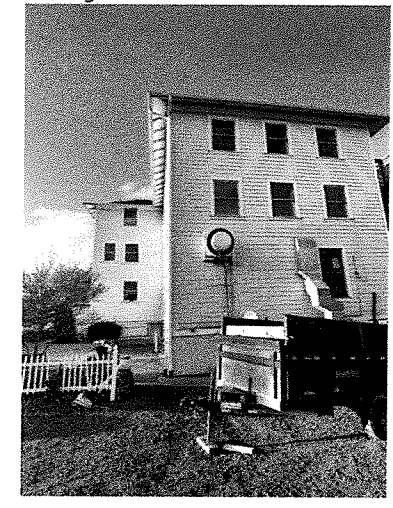
Existing interior structural
turned post that we will
match for porch
posts.



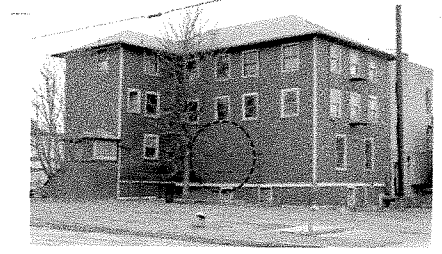
Porch and stair siding to match
Existing vertical skirt siding
And 1x6" trim.



Existing Southern Elevation



Historic Boarded Up Window Opening

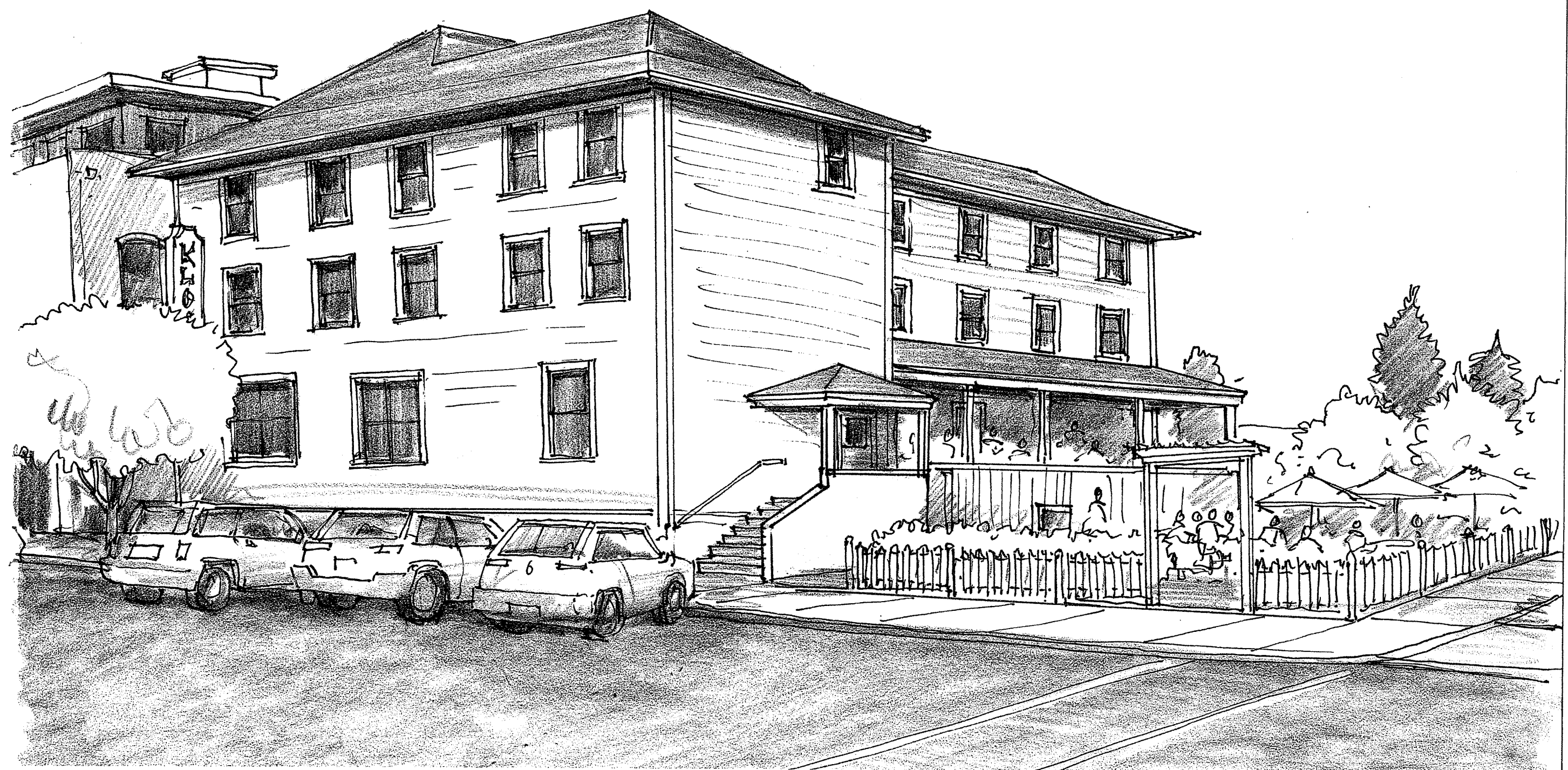


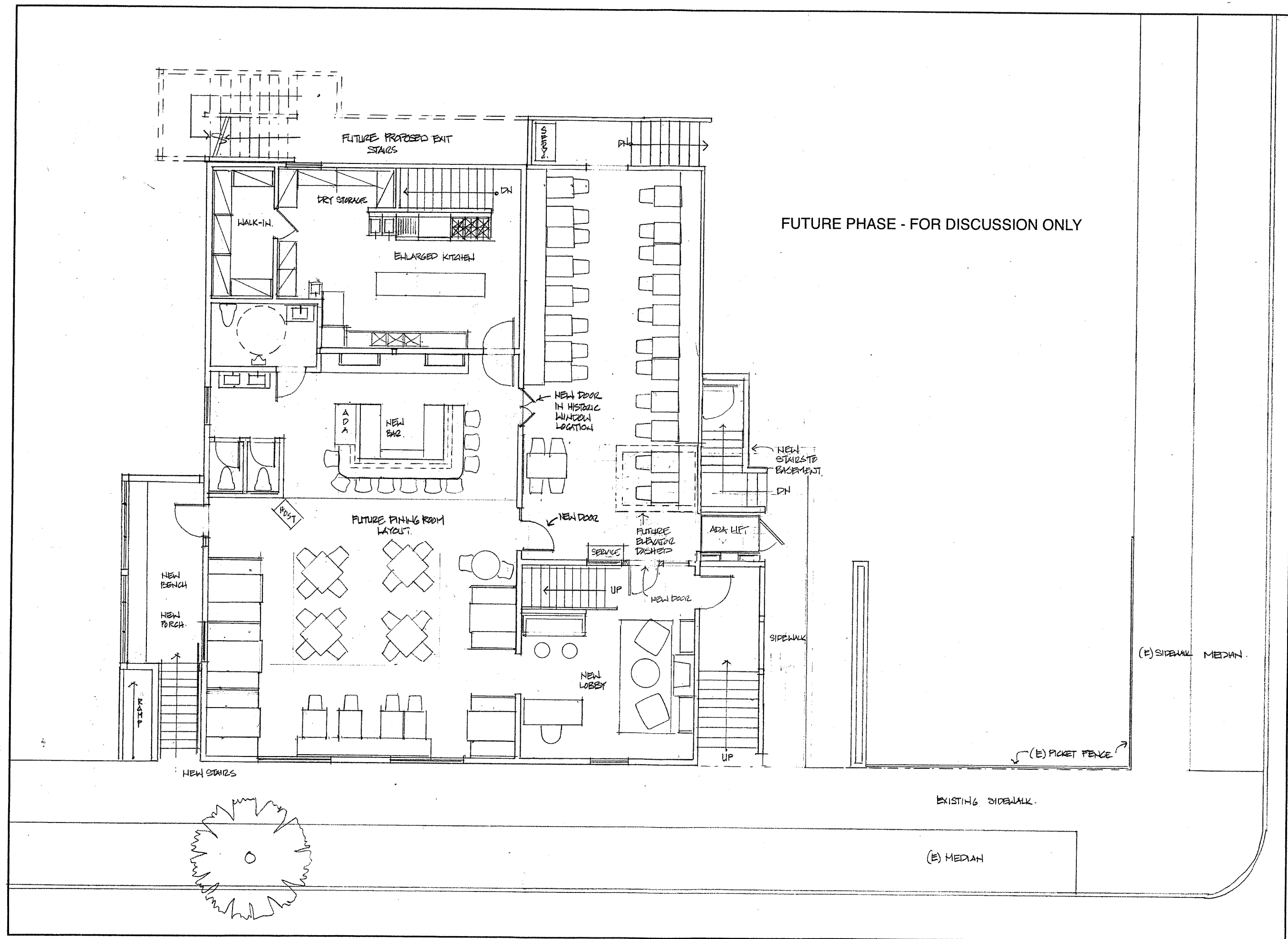
Existing Western Elevation



Historic Porch of the Main Hotel









CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: Planning Commission
 FROM: Jacob A. Graichen, AICP, City Planner
 RE: HB3115, et. al. – code amendment proposal, in general
 DATE: April 4, 2023

Staff in coordination with its legal counsel and considering the input received thus far, have developed code elements to address the provisions of HB3115 and related matters. A subset of the Planning Commission, the “subcommittee,” has devised a separate set of elements, some of which are incorporated into the city version. **Both the city and subcommittee version elements are summarized below for discussion purposes.**

Please note that the subcommittee is not a formerly recognized body like the Planning Commission, rather it is a non-quorum opportunity for discussion purposes only outside of normal Planning Commission meeting times.

The purpose of discussing this matter at the commission’s April 11, 2023 meeting is to attain feedback and provide recommendation for a subsequent discussion (targeting April 19th) with the City Council. As a reminder, we need to amend our current “camping on public property code” by July 1st, and the window of opportunity to adopt new law by ordinance is slowly closing.

I will have some basic presentation slides for the meeting to help with the discussion, including the summary below and some maps to help with the location discussion.

Note the attached February 28, 2023 letter to the City of Bend from the Bend Equity Project, ACLU of Oregon and the Law Office of Thaddeaus Betz. This illustrates many of the issues cities face with the new laws and those defending them in Oregon.

Also attached is a summary from Commissioner Toschi dated April 3, 2023 on this matter. Staff cannot guarantee the accuracy of the content therein. Moreover, the opinions and views do not necessarily reflect those of the City of St. Helens.

Attached: February 28, 2023 letter to the City of Bend from the Bend Equity Project, ACLU of Oregon and the Law Office of Thaddeaus Betz

Summary from Commissioner Toschi dated April 3, 2023

Summary of proposed law—city proposal in blue text and *PC subcommittee version in red:

To Camp (city proposal / *PC-subcommittee)

- >24 hours
- Must relocate at least once every 24 hours
- Relocation means moving from one City property to another
- Relocation does not mean moving to another portion of City property

-
- >7 days/30 day period without a documented request by a law enforcement or code enforcement officer to vacate the area and move to a location where camping is allowed following a documented discussion with law enforcement

Time (city proposal / *PC-subcommittee)

- Unlawful to camp (>24 hours) on city property
 - Unless authorized by law or by declaration of the City Manager
 - City manager's declaration exceeding 30 days needs City Council approval
 - No camping for any period of time within certain listed areas (next section)

-
- 5 continuous days only at specified locations where camping is allowed.
 - Person must vacate city for at least 60 continuous days after 5 day period
 - RV/vehicles on city streets, up to five days at any location within the city
 - Vehicle and person must vacate city for 90 continuous days after 5 day period

No camping for any period of time areas (city proposal / *PC-subcommittee)

- All parks, except as allowed by Chapter 8.24 SHMC
- Within 100 yards of any entrance to any residence or business
- Any public rights-of-way, except sidewalks when not blocked by all users including those with mobility devices
- Within any publicly owned building not established or maintained for the purpose of sleeping, camping, etc.
- Within 50' of any part of the shore of McNulty Creek and Milton Creek and any docks thereto
- Within 75' of the shore to the Columbia River, Multnomah Channel and Scappoose Bay and any docks thereto
- Residential zoning districts including any sidewalks

-
- Generally, anywhere except for specified areas

Specified areas (*PC-subcommittee)

- Behind 1810 Old Portland Road, maximum 8 people
- To-be-determined area off Kaster Road, maximum 7 people
- Other places already allowed such as Sand Island, and in vehicles referencing existing regulations
- Places allowed by City Administrator with Council approval required for > 30 days

Manner provisions (city proposal / *PC-subcommittee)

- Cannot occupy more than a 12 x 12 foot area
- No obstruction of any passageway
- Cannot remain in any location without being moved or relocated at least every 24-hours

-
- No fires
 - Cannot occupy more than a 12 x 12 foot area
 - Maintain clean condition
 - Dumping wastewater, greywater, etc. considered littering
 - Must use toilet facility at the site
 - Must use refuse facility at the site
 - Reference to other chapters

Violation (city proposal / *PC-subcommittee)

- Fine not to exceed \$50
- Amount imposed at discretion of the judge
- Judge may reduce or eliminate the fine if the person cited demonstrates they have engaged with a local service provider within 14 days of receiving citation

-
- First violation is a documented warning
 - Second violation within one year of first violation, fine not to exceed \$25
 - Third violation within one year of first violation considered a misdemeanor punishable by confinement in the County Jail for up to 30 days, civil forfeiture to the City of St. Helens of property facilitating the offence, and payment of a fine of up to \$500



Law Office of Thaddeus Betz, LLC

February 28, 2023

SENT VIA EMAIL

Bend City Council
council@bendoregon.gov

Ariel Mendez, Councilor
amendez@bendoregon.gov

Melanie Kebler, Mayor
mkebler@bendoregon.gov

Megan Norris, Councilor
mnorris@bendoregon.gov

Megan Perkins, Mayor Pro Tem
mperkins@bendoregon.gov

Mike Riley, Councilor
mriley@bendoregon.gov

Anthony Broadman, Councilor
abroadman@bendoregon.gov

Eric King, City Manager
eking@bendoregon.gov

Barb Campbell, Councilor
bcampbell@bendoregon.gov

Mary Winters, City Attorney
mwinters@bendoregon.gov

Re: Camping Code Implementation Liability

Dear Bend City Council, Manager King, and Attorney Winters:

The Bend Equity Project, the ACLU of Oregon, and the Law Office of Thaddeus Betz write to urge the City of Bend and its agencies to pause enforcement of Title 4 of the Bend City Code (“the Anti-Camping Code”), rethink the impending March 16 sweep of Hunnell and Clausen Roads (“Hunnell Sweep”), and consider its constitutional and new statutory legal obligations.

For the past several years, BEP has provided meals, transportation, sanitation services, and life-saving essential products to our neighbors living outside on Hunnell Road. At times, BEP has had to commit additional resources to relocating their houseless neighbors from an encampment that has been cleared by government agencies and/or their contractor agents. In these circumstances, BEP has documented disruption to people’s stability, destruction of critical pieces of people’s property that are necessary for survival, and a complete disregard for the impact that sweeps have on the most vulnerable Bend residents.



Law Office of Thaddeus Betz, LLC

A new law in Oregon¹—ORS 195.530—requires Bend to consider that disregarded impact in passing regulations of “sitting, lying, sleeping, or keeping warm and dry outdoors on public property.” The Anti-Camping Code is such a law, and ORS 195.530 permits lawsuits against Bend laws that are not “objectively reasonable,” a standard that explicitly requires consideration of “the impact of the law on persons experiencing homelessness.”

As we all know, there are more people without houses than there are shelter beds available in Bend. This is well documented and not disputed. And under the new code it remains unclear at best, and certain at worst, that there will now not be enough physical outdoor space in the City on which sleeping will be permitted for people experiencing homelessness. The Anti-Camping Code is all but an outright ban effectuated by a complex system of mapping, moving requirements, and a maze of intersecting restrictions. For example, someone experiencing homelessness must move every 24 hours, must refrain from accumulating property, can only camp out of sight of another group, any group must remain under a safe threshold of people, and any camp must be at least 600 feet away from another. This is anything but reasonable, especially for people who will be subject to punishment under it. **We urge Bend to halt the implementation of the Anti-Camping Code, repeal it, and take considerable time to understand and account for the impact any new regulation would have on people living outside with nowhere to go.**

In addition to inviting statutory liability, **the Anti-Camping Code also invites constitutional liability as cruel and unusual punishment and an excessive fine, both proscribed by the Eighth Amendment to the United States Constitution.**

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¹ While ORS 195.530 does not become operative until July of this year, the City should be on notice that its actions under the current code at any time may still provide strong evidence of unreasonableness come July.



Law Office of Thaddeus Betz, LLC

As described above, the new code may very well be a *de facto* ban given the unavailability of shelter beds, the extremely limited amount of physical space, and the numerous other restrictions on people sleeping outside. As the Ninth Circuit made quite clear in *Martin v. Boise*, 920 F.3d 584 (9th Cir. 2019), people cannot be punished for sleeping outside when there is nowhere else for them to go. However, the Anti-Camping Code still contemplates the forcible removal of individuals and arrest for appurtenant criminal charges. *See, e.g.*, 4.20.040 D.5. The Ninth Circuit has applied its central *Martin* principle to similar schemes that couple civil sanctions with potential for arrest. *See Johnson v. Grants Pass*, 50 F.4th 787, 807 (2022) (explaining that *Martin* “cannot be so easily evaded” by relying first on civil citations for enforcement).

While the *Johnson* court did not reach the excessive fines issue, Bend should be wary not to offend it. The Eighth Amendment’s protection against excessive fines remains “a crucial bulwark against government abuse.” *Pimentel v. City of Los Angeles*, 974 F.3d 917, 925 (9th Cir. 2020). As a C violation, some of Bend’s most poverty-stricken residents face fines of up to \$200 every time they may try to survive in a public place not sanctioned in the Anti-Camping Code’s maze of regulations. As the District of Oregon correctly decided in *Blake v. Grants Pass*, 2020 WL 4209227 at *11 (July 22, 2020), “any fine is excessive if it is imposed on the basis of status and not conduct.” Camping outside when there is insufficient shelter is inseparable from the experience of being homeless; **Bend cannot punish or fine its way out of this reality.**

Finally, we urge caution about Bend’s potential liability in managing the personal property of those subject to campsite removals. BEP has observed gross mismanagement of personal property typically resulting in destruction that can have severe impacts on the lives of unhoused people. Bend has a constitutional obligation to avoid unreasonable searches and seizures of property, as well to afford people with procedural due process when depriving them of their property. It is not clear to us that there are sufficient procedural protections for people who may have property taken from them. **Bend should ensure they and their partners are fully prepared to carefully manage people’s property and that there are ample opportunities for property recovery.**

Indeed, in both *Lavan v. City of Los Angeles*, 693 F.3d 1022 (2012), and *Garcia v. County of Los Angeles*, 11 F.4th 1113 (2021), the 9th Circuit protected the property interests of houseless individuals. In *Lavan*, the defendant-city was barred from



Law Office of Thaddeus Betz, LLC

destroying or seizing property after a general notice was provided that property could be seized at any time. In *Garcia*, the defendant-city was barred from enforcing its “bulky items” ban which permitted the city to seize items that were larger than sixty gallons. The city, in its newly enacted camping ordinance, commits many of the same violations in *Lavan* and *Garcia*. In particular, the generalized “notice” the city prescribes fails to advance a process where a camper can contest a property seizure. This, as *Garcia* recites, is no process at all.

We are grateful that Bend leaders continue to point to the personal safety of people experiencing homelessness as reason for its efforts. We understand that Deschutes County had a meeting yesterday at which Chris Doty indicated that those conducting construction nearby to Hunnell Road do not have a need for the camp to be cleared. As this safety threat has subsided, Bend has ample time to consider the law and the values espoused by Title 4: human dignity, respect, and wellness.

People who are experiencing homelessness have not had meaningful opportunities to engage with Bend in its decision-making even though they will be the most severely impacted. Council meetings, online channels of communication, and many means of accessing government are not accessible for people experiencing homelessness. Medical conditions, lack of transportation, inaccessibility of information, are just a few of the many barriers that typical public engagement processes do not accommodate.

We also urge you to listen to guidance from experts at the United States Interagency Council on Homelessness, the federal agency whose mission is to prevent and address homelessness. In a recent publication, they cautioned:

Criminalizing homelessness is becoming more common. While laws that criminalize homelessness have long been in existence, recent years have witnessed many states and communities across the United States enacting laws that fine and arrest people for doing activities in public that are otherwise legal in the setting of a home: sleeping, sitting, eating, drinking.

These policies are ineffective, expensive, and actually worsen the tragedy of homelessness. There is a better way to respond to this crisis.

Jeff Olivet, “Collaborate, Don’t Criminalize: How Communities Can Effectively and Humanely Address Homelessness,” USICH (Oct. 26, 2022), <https://www.usich.gov/news/collaborate-dont-criminalize-how-communities-can-effectively-and-humanely-address-homelessness>.



Law Office of Thaddeus Betz, LLC

Given Bend's statutory obligation to understand and account for the impacts on these members of the community – and given that criminalization approaches tend to entrench rather than solve homelessness– **we urge the City to pause and rethink its approach and to listen to and work *along with* people experiencing homelessness.**

Sincerely,

Eric Garrity, Member
Bend Equity Project

Kelly Simon, Legal Director
ACLU of Oregon

Thaddeus Betz, Principal
Law Offices of Thaddeus Betz

REPORT REGARDING UNSHELTERED PERSONS, ST. HELENS, OREGON, HB 3115

By: Steven Toschi, Planning Commissioner

Date: April 3, 2023

Title: Study and Recommendations to Council, HB 3115

Conclusions from the Author:

- 1) The current number of persons sleeping on public property in the City of St. Helens is one. St. Helens has traditionally used lawful and humane measures to achieve this result. St. Helens Police, and social services, and volunteers are encouraged to continue in their effective and humane care of the people they encounter;
- 2) St. Helens does not need to create large areas where unsheltered people can shelter and keep warm and dry;
- 3) It is critical that Law Enforcement be provided with clear and concise direction regarding their encounters with unsheltered persons seeking to sleep and keep warm and dry on public property;
- 4) Federal and State Law require the City to designate areas where persons can sleep and keep warm and dry on public property open to the public, subject to reasonable place, manner, and time restrictions when persons do not have other places to shelter within the City. Such Federal and State laws only require that unsheltered persons have a place where they can sleep and keep warm and dry for their survival;
- 5) St. Helens should designate an area behind the recreation center and an area down Kaster Road for a total maximum of 10 -15 persons to temporally shelter, sleep, and keep warm and dry for a maximum of 5 days in any 90 day period. Outhouses, a dumpster/trash receptacle, and clean drinking water should be provided for these persons;
- 6) It is abhorrent to the health, safety, and welfare of sheltered persons, homeowners, business owners, and the unsheltered to allow sleeping, camping, and keeping warm and dry within 400 feet of residences, parks, open spaces, schools, and 50 yards of most businesses and in areas not recommended in this Report. There can be some flexibility regarding the nature and type of business;
- 7) Humane treatment of the unsheltered means that people recognize the social nature of the houseless crisis and all persons are treated with an understanding that unsheltered persons will make decisions that are in their best interests and should have the freedom to do so within the place, time, and manner restrictions of the society in which they live or visit;
- 8) Unsheltered persons seeking to shelter, and keep warm and dry, will need to use the bathroom. Failure to provide a place for persons to relieve themselves will result in law violations by the unsheltered, litter, and unsanitary conditions;
- 9) Effectively treating mental illness and drug addiction requires skilled, trained individuals. St. Helens should support the Governor's Plan and the State of Oregon Plan to concentrate

- resources in areas where the houseless already exist and to require persons involuntarily experiencing homelessness to live in areas where these services are provided;
- 10) St. Helens is a City of approximately 14,000 people and cannot reasonably accommodate a large influx of unsheltered persons;
 - 11) The City should comply with ORS 195.500 and 195.505, and bring its statutory scheme concerning persons sleeping, lying, and keeping warm and dry upon public property within its goals of recognizing the social nature of the issue of homeless persons sleeping, lying and keeping warm and dry upon public property, and humanely removing persons from sleeping, and keeping warm and dry on public property. Failure of the City to do so will substantially increase its risks of loss of civil suits seeking injunctions and attorney's fees under ORS 195.530, and undesirable consequences for the citizens of St. Helens;
 - 12) Unmeritorious lawsuits brought under ORS 195.530 are likely. The City should be prepared to defend its place, time, and manner decisions, including decisions where sleeping, lying, and keeping warm and dry upon public property are prohibited;
 - 13) Selecting a PLACE where sleeping can lawfully occur should be based on data;
 - 14) Allowing sleeping in a PLACE will open the door to possibly requiring sleeping in all similar PLACES and it will be difficult to remove persons from the PLACE if change is required;
 - 15) Allowing camping in places within 400 feet of residences may reduce property values of those residences and disclosure that camping is allowed within 400 feet of the residence may be required for all residential land sales. The place of a residential property may ameliorate this issue.
 - 16) While identifying locations where people can sleep, camp, keep warm and dry may create a risk of liability to the City of St. Helens, this risk can be mitigated. The City can purchase insurance, patrol the areas, and take other steps to reduce its exposure. Residents who live and work near unsheltered campers suffer enormously. Generally, there is no data to support that allowing unsheltered persons to sleep, camp, lay down, and keep warm and dry within 400 feet of sheltered residents is a good idea and this should be avoided;
 - 17) Persons who are couch surfing are sheltered, but homeless. This is an example of the distinction between the two terms. It's unlikely that people who are sheltered, even informally, will seek to sleep, and keep warm and dry on public property. St. Helens should have a legal option to sleep, lay down, and keep warm and dry for those that find themselves unsheltered with appropriate place, manner and time restrictions;
 - 18) The police department supports a location for place for people to sleep near the recreation center. Also, having a place near the police station will provide a relatively safe place for the unsheltered;
 - 19) The data suggests that camping near water usually results in pollution to water and the surrounding natural area. The City is encouraged to supply drinking water to locations where the unsheltered may sleep, camp, and keep warm and dry.
 - 20) All residences and businesses within 400 feet of a proposed camp site should receive mailed written notice of a public hearing and a right to be heard.

History:

Jurisdiction: The subject Proactive Planning Commission Item was submitted to Staff, Counselor Patrick Birkle, and Secretary Christina Sullivan, entitled “Proactive Item Update” on August 17, 2022. Staff commented that the submission appeared to satisfy jurisdictional requirements and made no other comments. The Planning Commission reviewed the item and approved it to move forward. The Planning Commission ruled that the item would be handled in sub-committee.

The study of this issue:

More than 70+ hours were spent researching and reading the Boise and Grants Pass cases, internet research concerning unsheltered camping in cities, the YouTube Series, “Is Portland Over?”, the causes of homelessness, interview with the District Attorney, interviews with police, interviews with Community Action Team, reading interviews performed by Jacob Graichen, study of ORS 195.500, 195.505, and 195.530, and personally viewing every identified unsheltered location on public lands in the City of St. Helens. Study of the 2019 Housing Needs Analysis. Interviews with real estate broker professionals in St. Helens and Washington. Travel to Portland to view camping areas in Portland. Attending public forum held by State Representative and Portland Commissioners concerning action and analysis of unsheltered persons in Portland. Advice of attorney Aaron Hisel. Recognition of the mental health damage that can occur to citizens living in St. Helens, and elsewhere, from deprivation of views, beauty, parks, open spaces, and ordered public places. Interviews with Citizens. Consideration of public comment made to Planning Commission. Review of sleeping, camping, lying ordinances of Bend, Astoria, and Newport. Review of past Legislation in St. Helens concerning issues with people sleeping in McCormack Park.

The Planning Commission sub-committee of three persons met regularly, reported regularly to the Planning Commission in public meetings. The proposed Legislation to the Council forwarded by the subcommittee is a by-product of these and other efforts.

CITY OF ST. HELENS PLANNING DEPARTMENT ACTIVITY REPORT



To: City Council
From: Jacob A. Graichen, AICP, City Planner
cc: Planning Commission

Date: 03.27.23

This report does not indicate all *current planning* activities over the past report period. These are tasks, processing and administration of the Development Code which are a weekly if not daily responsibility. The Planning Commission agenda, available on the City's website, is a good indicator of *current planning* activities. The number of building permits issued is another good indicator as many require Development Code review prior to Building Official review.

ASSOCIATE PLANNER/PROJECT MANAGER—*In addition to routine tasks, the Associate Planner/Community Development Project Manager has been working on: See attached.*

PLANNING ADMINISTRATION—MISC.

Inspection of Skinny's parking lot addition conducted this month. Observed noncompliance with the approved plan and city standards. Other requirements not met. After July 5, these issues become matters of enforcement. Hoping things can be resolved outside of formal enforcement effort.

After months of discussion, we finally received an application to develop a lot along US30 as a Dairy Queen. It will be by the new Burger King currently under construction at US30/Howard Street.

Family Fun RV is still working on their plans for a new service building and some site improvements. This is not within city limits but is within our UGB, so these county projects subject to land use review take some city staff attention. Some of March's attention was spent on this.

Continue to work on HB 3115 et. al. stuff. Conducted a few interviews, including one with CAT with a couple Planning Commissioners to help with the effort. April will be a key month for this effort.

Budget season and related efforts as is typical around March.

The Planning Commission conducted a "retreat" meeting the day after their normal meeting. Some good teambuilding and such but between those two meetings but both planners had about 24 hours of work time in two days as a result.

DEVELOPMENT CODE ENFORCEMENT

Code enforcement received a complaint about a fire pit along Milton Creek for a home along Shore Drive. Being a concrete pad with cinderblock type bricks really close to the creek if a clear violation.

PLANNING COMMISSION (& acting HISTORIC LANDMARKS COMMISSION)

March 21, 2023 meeting (outcome): The Commission approved a Conditional Use Permit/Sensitive Lands Permit to allow 1810 Old Portland Road to be a public facility. The Commission also approved a Conditional Use Permit/Variations (x3) for a mixed use development at the NW corner of N. 6th Street and Columbia Boulevard.

In part, *as the Historic Landmarks Commission*, they considered some names to replace Mill Street in the Riverfront District to provide recommendations to the City Council.

April 11, 2023 meeting (upcoming): The Commission will have a few annexations and maybe architectural review in the Riverfront District. Otherwise, the bulk of the meeting is anticipated to be discussing recommendations to the Council for HB 3115 et. al.

COUNCIL ACTIONS RELATED TO LAND USE

We had the quarterly joint meeting with the City Council and Planning Commission this month. We were fortunate to have our legal counsel for the HB 3115 et. al. matters present as well. Though I hoped to have more discussion about HB 3115 at this critical point, we still got input on key issues.

GEOGRAPHIC INFORMATION SYSTEMS (GIS)

Trying to get the correct data from our wetland delineation efforts from 2020 from AKS. Looking at this data recently to help with the continued efforts at the St. Helens Industrial Business Park, it was apparent we revived data that was not 100% up to date. This is one of those things that can cause problems in the future.

ST. HELENS INDUSTRIAL BUSINESS PARK PROPERTY

PGE parcel/substation efforts made noteworthy progress this month.

From: [Jennifer Dimsho](#)
To: [Jacob Graichen](#)
Subject: March Department Report
Date: Monday, March 27, 2023 11:41:39 AM

Here are my additions to the March Planning Department Report.

GRANTS

1. **Safe Routes to School - Columbia Blvd. Sidewalk Project** – Culvert project (County) will be a separate project than the sidewalks project. Will process a sensitive lands permit for this work as soon as property owner signs application. Construction on sidewalk to begin June 2023. County working through acquiring construction/slope easements for affected property owners.
2. **Business Oregon – Infrastructure Finance Authority** – Loan Contract documents finalized for streets/utilities construction and Riverwalk project not covered by OPRD grants. Will submit first reimbursement once design work is complete for Riverwalk project.
3. **Riverwalk Project (OPRD Grants x2)** – 90% design received. 90% cost estimates received on 1/23. Amendment with M/R to include an additional rendering of the stage design was approved and completed. Review with stakeholders is ongoing. City Council will review rendering and 90% plans on 4/5 during their WS.
4. **Community Development Block Grants (CDBG)** – Public Hearing #1 held to apply on 3/1. CDBG request will be for \$2.5 million to fund design/engineering and permitting/environmental review only. Received approval of our initial project intake on 3/16. Began compiling application materials, working with Engineering Dept. Deadline of 4/30.
5. **Certified Local Government Historic Preservation Grant Program** – Submitted our application for 15k to fund the pass-through grant program, as discussed during the Jan PC meeting. Award contracts will come in April. Received news from the state of additional funding. Additional award of \$1,500 to \$2,000 may be possible because of surplus state funding!
6. **DLCD Technical Assistance Program** – Grant cycle will likely open in August and closes in October. DLCD Regional Rep thinks our Economic Opportunities Analysis update will be a great candidate for funding. Coordinated a meeting with the Scappoose Planning Director to discuss their EOA update. Compiled resources to assist with scoping our EOA update and writing our grant application this summer.
7. **Veterans Memorial Grant Program** - In partnership with the local VFW, we submitted a grant to fund a flag/monument expansion at the McCormick Park veterans memorial. Grant was due March 31. Request was for \$33k, with a match \$28k of in-kind labor/management/VFW donations.
8. **Oregon Mainstreet Grant Review** – Invited to participate on Mainstreet Alliance's Grant Program review committee which met on 2/8. Scored 3 applicants and selected our top candidate to move forward with an application for funding.

PROJECTS & MISC

9. **Riverfront Streets/Utilities Project** – Construction contract granted to Moore Excavation. Attending weekly check-ins to stay in tune with project schedule and any construction

- delays/issues. Attending a joint utility coordination meeting for all franchise utilities and to discuss undergrounding project as it relates to the project.
10. **1st Street & St. Helens St. Gateway Arch**– Worked with 2 local firms to prepare scopes to design a gateway arch/entry just south of the intersection of St. Helens Street on S. 1st Street. Introduced the project at the 2/15 Council meeting. Electrical is being run to the location of future posts for the archway as part of the Streets & Utilities project. Council selected LCE for the design/engineering work 3/1 meeting. Will coordinate a project kickoff soon.
 11. **St. Helens Industrial Business Park (SHIBP) Public Infrastructure Design** – 30% design for Phase I infrastructure & permitting/grading work for Phase II with Mackenzie. Mackenzie revised footprint to accommodate feedback from Cascades regarding use of the existing mill buildings. PGE said no further reduction in size is possible for the sub-station, so we are moving forward with design as presented. Planning for grading work for Phase II is kicking off this month as well.
 12. **Warrior Rock Lighthouse Replica Project** – Restoration of the warrior rock lighthouse replica on County-property near Columbia View Park. Councilor Sundeen was able to locate original Warrior Rock lighthouse plans from the Army Corps. Coordinated a meeting with SHPO to discuss the 2023 Oregon Heritage grant opportunity which opens this August 2023. This could potentially fund the design and cost of materials for the replica, a kiosk, and signage. Work would be completed in-house by Public Works staff.

Jenny Dimsho, AICP

Associate Planner / Community Development Project Manager

City of St. Helens

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