



## COUNCIL PUBLIC HEARING

Wednesday, December 20, 2023 at 6:30 PM

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### COUNCIL MEMBERS:

Mayor Rick Scholl  
Council President Jessica Chilton  
Councilor Mark Gundersen  
Councilor Russell Hubbard  
Councilor Brandon Sundeen

### LOCATION & CONTACT:

HYBRID: Council Chambers & Zoom (details below)

Website | [www.sthelensoregon.gov](http://www.sthelensoregon.gov)

Email | [kpayne@sthelensoregon.gov](mailto:kpayne@sthelensoregon.gov)

Phone | 503-397-6272

Fax | 503-397-4016

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## AGENDA

### OPEN PUBLIC HEARING

#### TOPIC

1. Comprehensive Plan Map and Zoning Map Amendment (CPZA.2.23) at 475 N. 12th Street (Stamp)

### CLOSE PUBLIC HEARING

### VIRTUAL MEETING DETAILS

Join: <https://us02web.zoom.us/j/83984487974?pwd=ZnZJRThpTHp6WEJZS0YxeDNHeDA4Zz09>

Meeting ID: 839 8448 7974

Passcode: 185564

Dial: 669-900-9128

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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.

Be a part of the vision and get involved...volunteer for a City Board or Commission! For more information or for an application, go to [www.sthelensoregon.gov](http://www.sthelensoregon.gov) or call 503-366-8217.

**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
Comprehensive Plan Map and Zoning Map Amendment CPZA.2.23**

**DATE:** December 11, 2023  
**TO:** City Council  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT:** Andrew H Stamp, Esq. of Vial Fotheringham, LLP  
**OWNER:** 1771 Columbia Boulevard, LLC

**ZONING:** Light Industrial, LI  
**LOCATION:** 475 N. 12<sup>th</sup> Street; Lots 4, 5, 22, and 23, Block 5, Railroad Addition to St. Helens  
**PROPOSAL:** Comprehensive Plan Map Amendment from Light Industrial, LI to General Residential, GR and Zoning Map Amendment from Light Industrial, LI to General Residential, R5

**SITE INFORMATION / BACKGROUND**

The site is composed of four lots of the Railroad Addition to St. Helens (Lots 4, 5, 22, and 23, Block 5). The site was developed with a detached single family dwelling since the early 20<sup>th</sup> century (per County Assessor records) until the use was discontinued and the dwelling razed. The demo permit to raze the building (749-22-000630-DEMO) was issued by the Building Department on December 29, 2022.

The site was zoned two-family residential with heavy industrial abutting the north side per the 1952 zoning map but has been zoned light industrial since the 1980s.

The owner applied for a Site Development Review (file SDR.1.23) in 2023 but has not pursued that proposal to develop the site for industrial related use. Instead, they have initiated this proposal to amend the Comprehensive Plan and Zoning Maps.

**PUBLIC HEARING & NOTICE**

**Public hearing** before the Planning Commission for *recommendation to the City Council*: November 14, 2023. Public hearing before the City Council: December 20, 2023. The Planning Commission unanimously recommended approval to the City Council.

**Notice** of this proposal was sent to the Oregon Department of Land Conservation and Development on October 4, 2023 through their PAPA Online Submittal website.

**Notice** of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on October 25, 2023 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

**Notice** was published on November 1, 2023 in The Chronicle newspaper.

## APPLICABLE CRITERIA, ANALYSIS & FINDINGS

### SHMC 17.20.120(1) – Standards for Legislative Decision

The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.
- (e) A proposed change to the St. Helens zoning district map that constitutes a spot zoning is prohibited. A proposed change to the St. Helens comprehensive plan map that facilitates a spot zoning is prohibited.

### Findings:

- (a) This criterion requires analysis of the applicable statewide planning goals.

See applicant's narrative. Goals 9 and 10 are discussed specifically in this report.

In regard to *Statewide Planning Goal 9: Economic Development*, this goal is satisfied when it can be shown that the proposal will not negatively affect industrial or other employment land, as such lands are catalysts to economic development.

According to the 2008 Economic Opportunities Analysis (Ord. 3101), St. Helens should have no shortage of industrial land over the next 20 years. Projections of future employment and industry demand indicate that St. Helens has a surplus of industrial zoned lands and parcels of at least 78 acres.

Since 2008, the city has rezoned 25 acres of Heavy Industrial to the Riverfront District zoning district (Ord. No. 3215), approximately 1 acre from Light Industrial to Apartment Residential zoning (Ord. No. 3220), and approximately 9.84 acres from Light Industrial to General Commercial (Ord. No. 3297). This totals approximately 35.84 acres; this means there is still a 42.16-acre industrial land surplus.

This proposal would only reduce the city's industrial land inventory an additional 20,000 square feet (approximately 0.46 acres).

One shortcoming of the EOA is that it doesn't prioritize industrial lands as to utility availability, which is a major factor in a 20-year planning horizon. Much industrial land lacks water and or sanitary sewer, which is available for the subject property.

However, that it lies on the other side of the long-time in place wall/fence that surrounded the former lumber mill to the north (and is still intact), is noteworthy. Despite its

industrial zoning, the subject property is the only known developed property of significance outside of the wall/fence area in the contiguous industrial zoning area associated with (or in the immediate vicinity of) the former mill site.



**Above left:** Subject property in March 2023 after it was cleared. This photo taken from N. 12<sup>th</sup> Street. The fence/wall that surrounded the former mill site is visible to the right of the photo.



**Below left:** This photo from March 2023 is taken from N. 12<sup>th</sup> Street looking north towards the end of the street with the subject property to the left. The fence/wall that surrounded the former mill site is visible in the background.



In regard to *Statewide Planning Goal 10: Housing*:

***Statewide Planning Goal 10: Housing.***

*Goal 10 requires buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density*

This Goal has a couple components: 1) inventorying of land for housing need, and 2) demographic broad spectrum housing availability in both quantity and variety of type.

**Inventorying**

St. Helens completed and adopted a Housing Needs Analysis (HNA) and Buildable Lands Inventory (BLI) in 2019 (Ordinance No. 3244). The results of the housing needs analysis indicates that the current St. Helens Urban Growth Boundary is sufficient to accommodate future housing needs, with a small deficiency (8 acres needed) of high-density land for multi-family development. Commercial/Mixed Use land can make up for the high-density land deficiency. Even though there are no guarantees Commercial/Mixed Use lands will be used for residential purposes, the following residential developments on commercial/mixed use lands since the inventorying effort of the HNA are noteworthy:

- St. Helens Place Apartments at 700 Matzen Street. Originally approved by Conditional Use Permit CUP.2.18 in 2018, this 204-unit multidwelling project was completed late 2020.

Zone: General Commercial. Total acres used: 7.72 out of 7.72 ac.

- Broadleaf Arbor being developed by the Northwest Oregon Housing Authority (NOHA) and Community Development Partners at 2250 Gable Road. Originally approved by Conditional Use Permit CUP.3.19, this 239-unit multidwelling project is nearing completion with full completion anticipated in 2024. The site has wetlands that will be preserved so only a portion of the property will be developed.

Zone: General Commercial, GC. Total acres used: approx. 13.7 ac. out of 16.7 ac.

This proposal takes 4 vacant city lots that, as currently zoned, do not contribute to the housing need, supply, or diversity. If changed to R5 as proposed, they would be eligible for single-dwellings, duplexes, attached dwellings (if partitioned) or multifamily (3+ units) if used together. So, though housing need is technically met, this adds to the available lands for housing, which can take many forms contributing to variety. Thus, Goal 10 is advanced by this proposal.

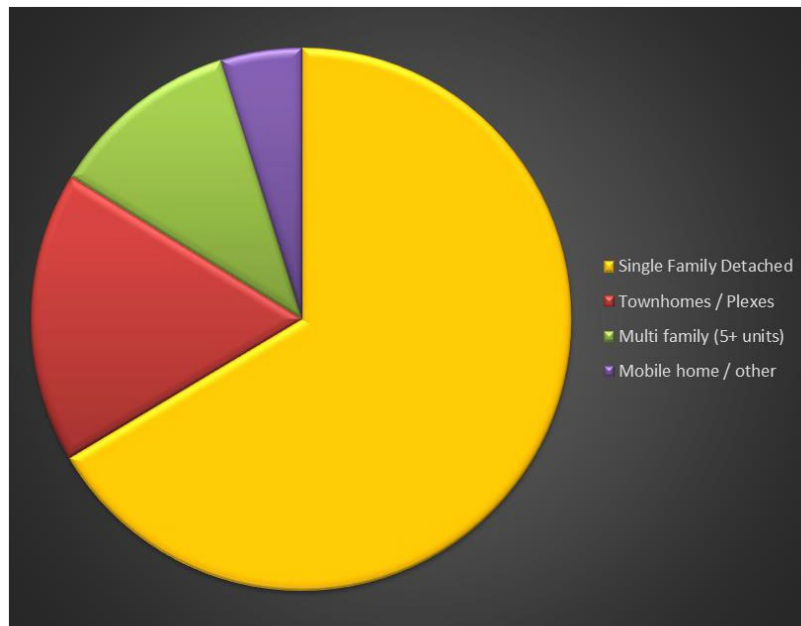
Land Need (net acres)	
Low Density*	240
Medium Density**	40
High Density	24
Manufactured Home Parks	5
<b>Total</b>	<b>309</b>
Buildable Land Inventory (net acres)	
Low Density	532
Medium Density	93
High Density	16
Manufactured Home Parks	45
Commercial/Mixed Use***	19
<b>Total</b>	<b>705</b>
UGB Land Surplus/Deficit (net acres)	
Low Density*	293
Medium Density**	53
High Density	(8)
Manufactured Home Parks	40
Commercial/Mixed Use	19
<b>Total</b>	<b>397</b>
<b>Adequacy of UGB to meet housing need</b>	<b>adequate</b>

\* Includes detached units and mobile homes. \*\* Includes townhomes, plexes and group quarters.

**Upper Left:** Table showing the city's HNA findings. St. Helens has adequate land across most categories. The high-density deficit of 8 acres can be addressed in the commercial/mixed use land surplus and there are development projects since the HNA adoption that have done so, exceeding 8 acres.

This amendment adds to the medium density category. Though this category is determined to be sufficient, this proposal will still contribute to housing diversity because the R5 zone allows several types of housing addressed in the St. Helens Development Code.

**Lower Left:** The proposed R5 zone potentially allows all types identified, which promotes housing type diversity.



Source: U.S. Census, American Community Survey, 2013-2017.

These Goal 10 findings are supported by The Fair Housing Council of Oregon per correspondence from them dated December 11, 2023.

- (b) This criterion requires analysis of any applicable federal or state statutes or guidelines applicable to this zone change. None identified.
- (c) This criterion requires analysis of applicable comprehensive plan policies, procedures, appendices, and maps.

See applicant's narrative.

SHMC 19.08.020(2)(j) talks about adequate amounts of land for economic growth. This aligns with the Economic Opportunity Analysis referenced above.

- (d) This criterion requires an analysis of the implementing ordinances. The lot is vacant, but also small and abutting residential zoning.

The applicant's narrative discusses some of the spatial inefficiencies that this circumstance, combined with code standard, results in.

- (e) This criterion requires that the proposed change is not a spot zone. The definition of "spot zoning" per Chapter 17.16 SHMC:

*Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.*

The subject property is surrounded on three sides by residential zoning. Two sides (south and east) have the same zoning as proposed. The west side is zoned Apartment Residential and the north side Light Industrial.

Three side (west, east and south) have the same Comprehensive Plan Map designation as proposed.

That combined with the long existing fence described above alleviates any "spot zoning" issue.

### CONCLUSION & RECOMMENDATION

**Based upon the facts and findings herein, the Planning Commission recommends approval of this Comprehensive Plan Map and Zoning Map Amendment.**

**Attachment(s):** Letter from the Fair Housing Council of Oregon dated December 11, 2023  
 Zoning exhibit  
 Comprehensive Plan designations exhibit  
 Aerial exhibit  
 Applicant's narrative



December 11, 2023

St. Helens City Council  
265 Strand St  
St. Helens, OR 97051

**RE: Comprehensive Plan Map Amendment from Light Industrial, LI to General Residential, GR and Zoning Map Amendment from Light Industrial, LI to General Residential, R5 (CPZA.2.23)**

Dear Mayor and City Councilors:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians.

Both HLA and FHCO commend the City's work on CPZA.2.23. Planning staff responded to our initial concerns with insightful and detailed staff Goal 10 findings which made a strong case for the need for this amendment. This will be used as a good example for other jurisdictions. Good luck with the continuation of this project!

Thank you for your consideration of our comments.

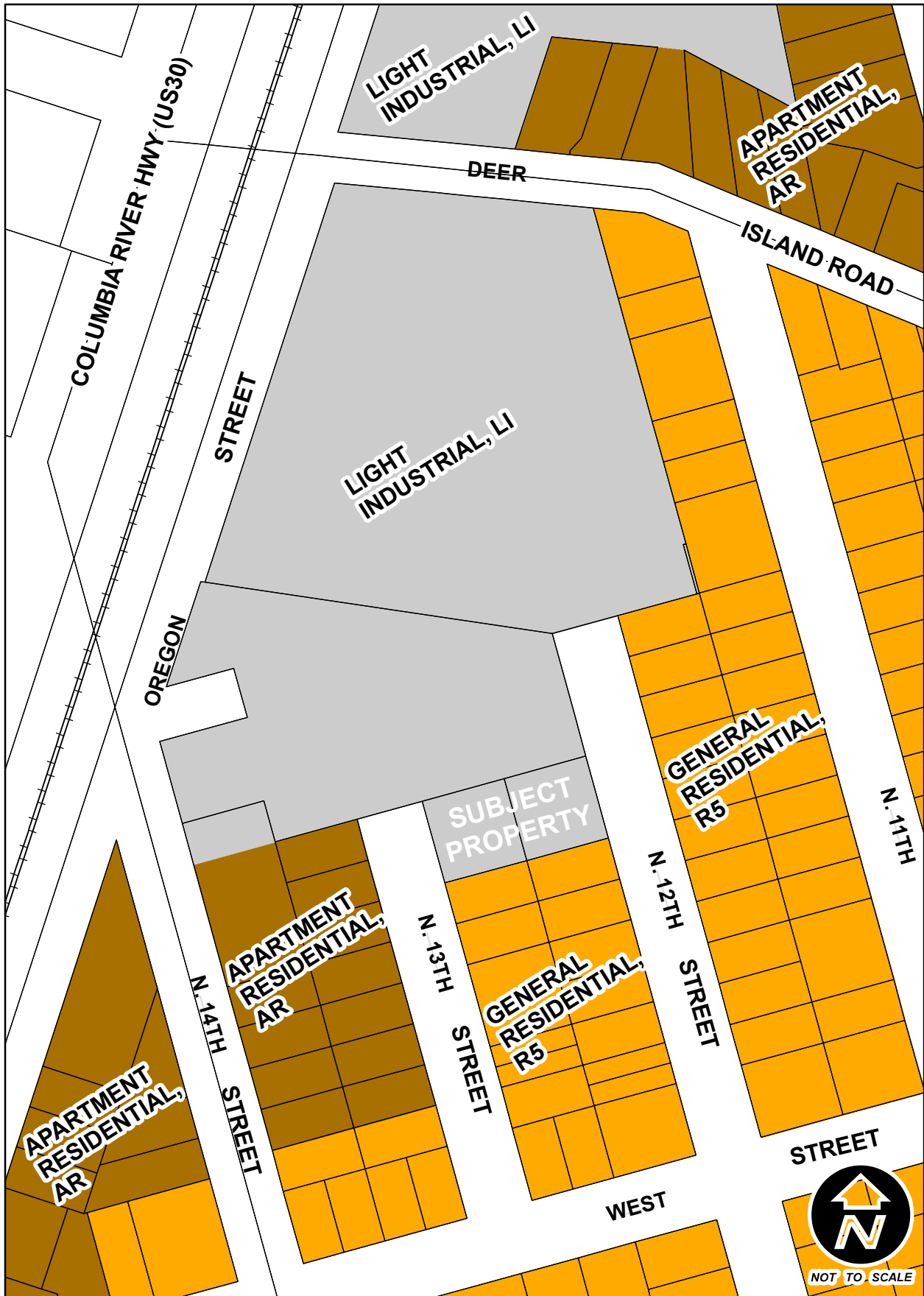
Sincerely,

A handwritten signature in black ink, appearing to read "Sam Goldberg".

Samuel Goldberg  
Education & Outreach Specialist  
Fair Housing Council of Oregon

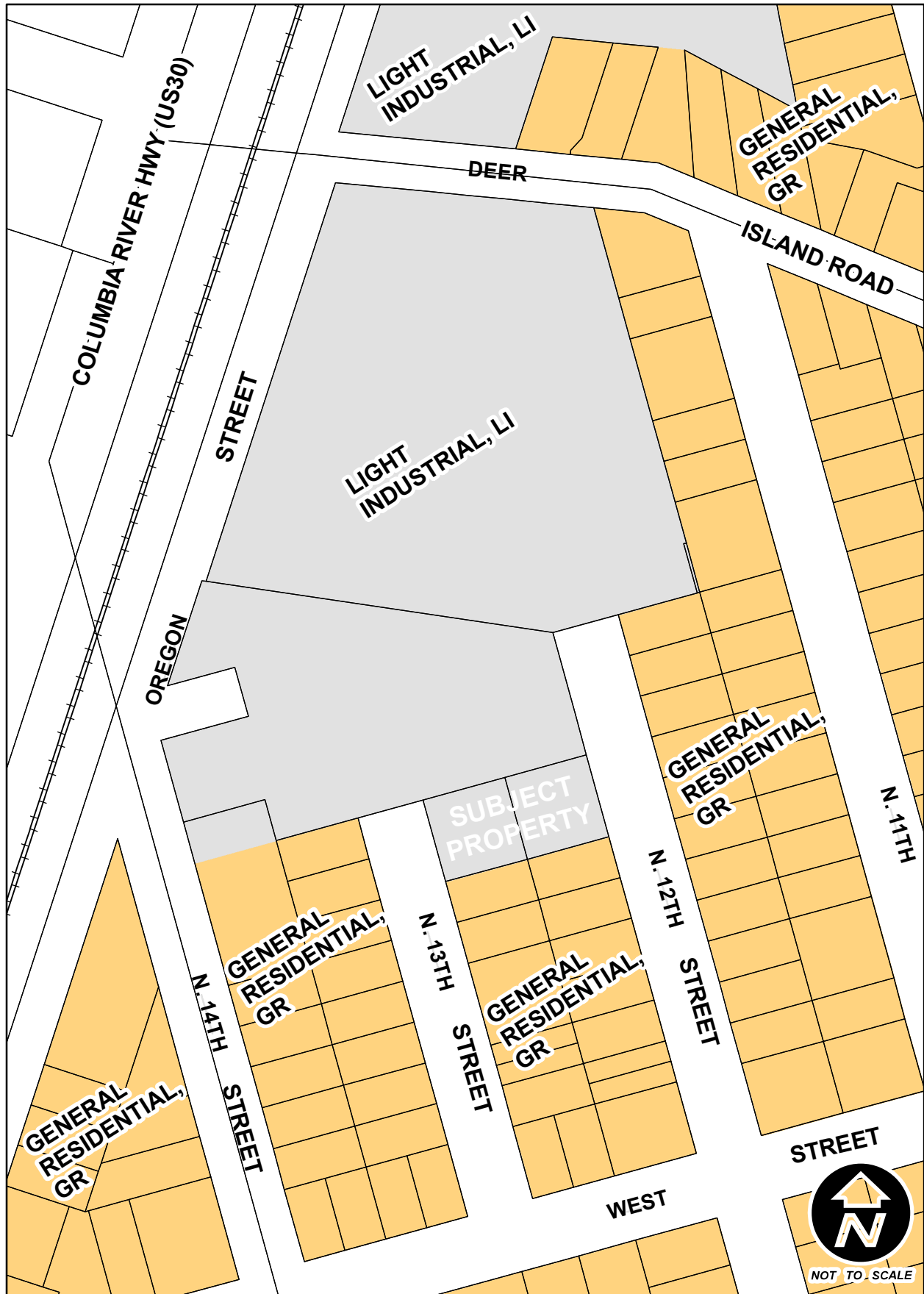
Cc: Ethan Stuckmayer, DLCD

# CPZA.2.23 ZONING



OCTOBER 2023

# CPZA.2.23 COMPREHENSIVE PLAN DESIGNATIONS



OCTOBER 2023



# CPZA.2.23 AERIAL



OCTOBER 2023



**APPLICATION FOR A  
POST ACKNOWLEDGEMENT PLAN  
AMENDMENT (“PAPA”)  
AND  
ZONE CHANGE**

Application Narrative

## I. PROPOSAL SUMMARY.

### A. GENERAL INFORMATION.

OWNER & APPLICANT: Wayne Weigandt  
310 Riverside Drive  
St Helens, OR 97051  
weigandt@opusnet.com

APPLICANT REPRESENTATIVE: Andrew H. Stamp, Esq.  
Vial Fotheringham, LLP  
17355 SW Boones Ferry Road, Suite A  
Lake Oswego, OR 97035  
Andrew.stamp@vf-law.com

SITE ADDRESS: 475 N 12<sup>th</sup> St., St. Helens, OR 97051

TAX LOT NUMBERS: T5N, R1W, Section 33, TL 7500, 8700.

TOTAL AREA: Approximately (100 x 200) 20,000 s.f.

CITY COMPREHENSIVE PLAN: Light Industrial (LI) (Current)  
General Residential (GR) (Proposed)

CITY ZONING: Light Industrial (LI) (Current)  
General Residential, R-5 (Proposed)

### B. NATURE OF REQUEST & BACKGROUND FACTS.

This application has two objectives for the application:

- (1) Change the Comprehensive Plan Designation for the subject properties from Light Industrial (LI) to General Residential (GR); and
- (2) Rezone the subject properties from Light Industrial (LI) to General Residential (R-5).

Mr. Weigandt has owned the property since 2022. *See* Exhibit 1. He paid \$325,000 for the land. At the time, the property contained a dilapidated “packrat” home that was more of a liability than an asset. Mr. Weigandt invested nearly another \$75,000 to remove the home and relocate power lines, etc. pursuant to permit 749-22-000630-DEMO, which was issued on December 29, 2022. *See* Exhibit 2.

Mr. Weigandt’s first development plan for the site was to create a small industrial building on the site. He received a limited land use decision, numbered SDR.1.23 and dated

March 23, 2023, enabling site development in accordance with the current light industrial zoning. *See* Exhibit 3. However, he quickly realized that the combination of a minimum 30-foot buffer setback (SHMC 17.72.130 Buffer matrix), and on-site parking requirements would conspire to make the plan unfeasible. The buffer alone could take up 6,000 s.f. (*i.e.* 30% of the property), and that is in addition to other setbacks that apply to the other three sides of the property. If offsite impacts were established for any proposed light industrial usage, the required buffer could be up to 150 feet, which would eliminate the possibility of developing the site altogether with the current zoning, since it is only 100 feet in width. The limited land use decision furthermore specifies that onsite parking of more than three spaces would need to be created and screened, further eliminating usable space for any construction of buildings corresponding to the light industrial zone. Another problem facing any industrial user of the property is that it takes access through a residential neighborhood. Headlight glare from industrial vehicles is identified in the limited land use decision as an “important aspect of the parking area buffer,” and would certainly affect neighbors who live on these residential streets as well. The neighbors seem to be in agreement that the land is better suited for residential uses. For these reasons, this request to rezone the subject property seems like a logical request. With the potential to build attached residential units on 25x100 s.f. lots, the property seems well-suited to providing eight (8) units of needed housing to the community.

The city recently adopted a Housing Needs Analysis (HNA) which documented a deficiency of 8 acres of high-density residential land. *Id.* at p. 21. The HNA defines “high density” as lots with an average density of 12+ dwelling units per acre. *Id.* at 28. As discussed in more detail herein, this application is consistent with the goal of proving more high-density residential land to meet the land needs set forth in the HNA.

One policy issue that must be considered is whether the loss of 20,000 s.f. of vacant industrial land is warranted in light of this pressing need for housing. We have already discussed the inefficiency associated with this small site due to the buffering issue. Beyond that, the applicant believes that the need for housing land outweighs any small loss of industrial land. Despite the best efforts of the city and county, the industrial base of the city is shrinking. In large part, this is due to the decline in the wood products industry. For example, in 2009, Stimpson shut down its lumber mill on the property to the north of the subject site. Boise Cascade closed its veneer mill manufacturing facility in 2008. The Boise Cascade White Paper Mill stopped pulp production in 2012, and reduced its paper production. Although a packaging producer, Cascades Inc., moved in to the space, they recently decided to close the tissue plant, a move which results in the loss of 75 jobs. Thus, the City has more than the 350 acres of land that it previously identified as being “available for industrial development” in 2007. *See* City of St. Helens Economic Opportunities Analysis, Aug 1, 2007.

The subject property might be more useful for actual industrial use if it could be used in conjunction with the largely vacant industrial property to the north. This property was for a long time known as the “Stimpson Lumber Mill.” Stimpson shut down its operations in 2009. Columbia County now uses the northern portion of the former Stimpson site as a transportation hub known as the “CC Rider Transit Center.” The southern portion of the site does not have utilities, which makes the property unable to be used to fulfill its highest and best use. Having been vacant for the past 14 years, it is not anticipated that an industrial user will be found for the property in the short term.



## II. LEGAL ANALYSIS.

### A. Applicable Zoning Code Provisions.

#### 17.08.020 – Legislative amendments:

**Legislative amendments to this code and to the zoning map shall be in accordance with the procedures and standards as set forth in Chapter 17.20 SHMC.**

**Applicant Response:** The applicant proposes a legislative amendment to both the comprehensive plan map and the zoning map. The term “legislative” is defined as follows:

*“Legislative” means any proposed action which would result in a change in city policy including: (a) a change to the comprehensive plan text; (b) a change to the comprehensive plan map which involves a number of parcels of land; (c) a change to the text of an implementing ordinance; (d) a change to the zoning map which involves a number of parcels of land; and/or (e) a change to any land use plan or map which represents a change in city land use policy.*

SHMC 17.16.010. In contrast, the term “quasi-judicial” is defined as follows:

*“Quasi-judicial” means an action or decision which involves the application of adopted policy to a specific development application or amendment.*

This zone constitutes a “change” to both the comprehensive plan map and zoning map which involves “a number of parcels of land,” and therefore the matter is processed as a legislative matter in accordance with the standards set forth in Chapter 17.20.

#### 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.**

**Applicant Response:** In this case, the subject property is accessed by two local roads. The applicant anticipates that approach roads to both roads will be maintained.

The rezone will not have a significant effect on a transportation facility. More than likely, any effect on the transportation facilities will be neutral or positive. As an initial matter, the rezone will correct the presently allowed problem of heavy trucks accessing the site via residential roads. Second, the current Light Industrial (LI) zoning could easily facilitate uses that have a more intensive trip generation profile than eight residential users would. Examples of uses with high-trip-generation that are allowed by right in the LI zone include: motor vehicle sales, commercial gas stations, vehicle wash operations, nurseries, auto sales, and building materials sales.

**(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.**

**Applicant Response:** This section does not apply.

**(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.**

**Applicant Response:** City Staff indicated that a TIA is not warranted to merely support a PAPA and zone change that will only create 8 pm peak hour trips.

## **17.20 Procedures for Decision Making - Legislative**

### **17.20.020 - The application process**

**(1) A request for a legislative change may be initiated by:**

- (a) **Order of the council;**
- (b) **Resolution of a majority of the commission;**
- (c) **The director;**
- (d) **Any person or the person's agent authorized in writing to make the application.**

**Applicant Response:** The property owner is initiating the application for zone change.



**17.20.120 – The standard of the decision**

**(1) The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:**

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197, including compliance with the Transportation Planning Rule, as described in SHMC 17.08.060;**
- (b) Any federal or state statutes or guidelines found applicable;**
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and**
- (d) The applicable provisions of the implementing ordinances.**

**(2) Consideration may also be given to:**

- (a) Proof of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.**

**Applicant Response:** The Applicant notes the following:

- ❖ The statewide Planning Goals are discussed in Section II.B. p. 8.
- ❖ Applicable comprehensive Plan policies are discussed in Section IIC., p. 13.
- ❖ The TPR is discussed in Section IIA, p. 4.

The last remaining issue concerns whether there is proof of a change in the neighborhood or community. In the limited land use decision Mr. Weigandt obtained for the site, the City states that “the site was developed with a detached sing[l]e family dwelling since the early 20<sup>th</sup> century (per County Assessor records).” It was “zoned as two-family residential ... per the County’s 1952 zoning map, but has been zoned light industrial since the 1980s.” *Ibid*. The exact circumstances under which it was zoned for LI are likely lost to history, but the change was likely made to provide the mill to the north some additional room for expansion. Note that this is the only rationale that makes any sense from a planning perspective, as the land to the north is zoned LI and could provide access to the subject property. Given that the mill is no longer in operation, any continued reliance on the LI zoning is not prudent from a planning standpoint.

**17.32.070 – General residential zone – R-5**

**(1) Purpose. The R-5 zone is intended to provide minimum development standards for residential purposes and to establish sites for single-dwelling, detached and attached units for medium density residential developments.**

**(2) Uses Permitted Outright. In an R-5 zone, the following uses are permitted outright:**

- (a) Duplex dwelling units.**
- (b) Home child care.**
- (c) Home occupation, Types I and II**
- (d) Public facility, minor.**
- (e) Public park.**
- (f) Residential facility.**
- (g) Residential home.**
- (h) Single-dwelling units, attached (five units maximum together).**
- (i) Single-dwelling unit, detached.**

**Applicant Response:** At the time of development, the above list of uses would be permitted outright under the R-5 zone. The applicant is proposing to sell the land to a developer who could build eight (8) attached dwellings or four (4) duplexes.

**This PAPA and Zone Change Do Not Represent Impermissible “Spot Zoning.”**

The St Helens Municipal Code contains the following definition of “Spot Zoning.”

***“Spot zoning” means rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.***

As far as we have been able to tell, there is no corresponding approval standard that references the term “spot zoning.” As a result, we are inclined to believe that this is definition is nothing more than a vestige from an older version of the Code.

This definition largely mirrors the definition assigned to the term by the Oregon Supreme Court.

'Spot zoning' is the practice whereby a single lot or area is granted privileges which are not granted or extended to other land in the vicinity in the same use district \* \* \*." 1 Rathkopf, *The Law of Zoning and Planning* 26-1 (3d ed 1966). See also 46 Or L Rev 323 (1967).

*Follmer v. County of Lane*, 5 Or. App. 185, 480 P.2d 722 (1971). Yokley, *Zoning Law and Practice*, discusses the concept of spot zoning as follows:

"\* \* \* Cases become 'spot zoning' cases where obviously a particularly small lot or parcel of ground is singled out and placed in an area, the use of which is inconsistent with the small lot or area so placed and whose classification is changed in the ordinance, and in these cases *where special benefits are sought to be conferred on a particular property owner, or special burdens sought to be imposed upon particular property owners, these and these alone, in our way of thinking, become the real 'spot zone' amendments* and they alone constitute the cases that sabotage the laudable efforts of progressive municipal authorities to comprehensively zone the municipalities and drag down into the dust such praiseworthy undertakings."

All of the Oregon case law addressing "spot zoning" predated *Fasano v. Washington Co. Comm.*, 264 Or 574, 507 P2d 23 (1973), which held that small-scale rezonings are quasi-judicial actions requiring certain procedural safeguards, and the 1973 adoption of new statewide land use legislation. These changes in the law make the concept of "spot zoning" obsolete in Oregon. Since *Fasano*, there have been no judicial or LUBA decisions declaring a rezoning invalid as "spot zoning."



In this case, any decision to change the plan and zone map designations for the subject parcel are being made pursuant to provisions in the Statewide Planning Goals ("goals") and the City's Comprehensive Plan, which has been acknowledged by the Land Conservation and Development Commission (LCDC) as complying with the goals. There can be no spot zoning if the City's decision identifies the applicable criteria and adopts findings to demonstrate those criteria are satisfied. Stated another way, if the proposed plan and zone map amendment are adopted in compliance with the applicable criteria, it cannot be considered arbitrary and, therefore, is not invalid "spot zoning." *See Wallowa Lake Forest Ind. v. Wallowa County*, 13 Or LUBA 172, 179 (1985); *Brown & Cole, Inc. v. City of Estacada*, 21 Or. LUBA 392, 408-409 (1991).

This request does not meet any definition of "spot zoning." If granted, this request will not change the overall character of the nearby neighborhoods, nor negatively affect these land uses. As can be seen from the attached map, nearly all of the surrounding area to the south, east and west is already zoned R-5 and developed with residential housing.

## B. STATEWIDE PLANNING GOALS

### *Citizen Involvement (Goal 1)*

***To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.***

**Applicant Response:** The intent of Goal 1 is to ensure that citizens have meaningful opportunities to participate in land use planning decisions. As stated in the Goal, the purpose is:

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Goal 1 has five stated objectives that are relevant to a zone change:

*Citizen Involvement -- To provide for widespread citizen involvement.*

*Communication -- To assure effective two-way communication with citizens.*

*Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.*

*Technical Information -- To assure that technical information is available in an understandable form.*

*Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.*

Citizen involvement is always applicable to both quasi-judicial and legislative land use applications. The City's acknowledged Comprehensive Plan and Development Code include citizen involvement procedures with which the review of this application will comply. This

process allows for citizens to communicate their input into this application review conducted by the City at public hearings or by submitting written comments. This process complies with this goal.

***Land Use Planning (Goal 2)***

***To establish a land use planning process and policy framework as a basis for all decision and actions related to use.***

**Applicant Response:** Goal 2 requires all incorporated cities to establish and maintain comprehensive land use plans and implementing ordinances. It also requires cities to coordinate with other affected government entities in legislative land use processes. The purpose of Goal 2 is:

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The SHCC and STMC are acknowledged to be in compliance with statewide planning goals and guidelines. Goal 2's coordination obligation will be met because the applicant and County shall seek public comment from any affected unit of government, including any special district whose boundaries overlap with the site. The procedural requirements for a zone change are contained in the St. Helens Municipal Code, which involve assessment of the application's merits, notice to affected parties, and public hearings. The proposal is to change the zoning on the subject property from LI to R-5, in compliance with Goal 2. Notice of the zoning map amendment will be provided by the City of St Helens to the Oregon Department of Land Conservation and Development (DLCD), as required by law. The City's decision will be based on findings of fact.

***Agricultural Lands (Goal 3)***

***To preserve and maintain agricultural lands.***

**Applicant Response:** This Goal is not applicable since the land is within the city limits, is anticipated to be developed at an urban scale, and no identified agricultural resources are listed on site.

***Forest Lands (Goal 4)***

***To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.***

**Applicant Response:** The subject property does not contain forest land. The land is within the city limits. Therefore, Goal 4 does not apply to this land. This Goal is also not applicable since the land is anticipated to be developed at an urban scale, and no identified forest lands are identified on site.

***Open Spaces, Scenic and Historic Areas and Natural Resources (Goal 5)***

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***To protect natural resources and conserve scenic and historic areas and open spaces.***

**Applicant Response:** There are no identified Goal 5 resources on or near the site. The subject property is not designated as an open space, scenic, or historic area and has no Goal 5 natural resources to protect. There are no natural resources located on the subject property at issue. There are no landslide hazard areas. There are no historic resources or cultural areas located or identified on the site. There are no identified mineral or aggregate resources on the site. The site is not located downtown or in a neighborhood conservation district. Therefore, this goal does not apply.

***Air, Water and Land Resources Quality (Goal 6)***

***To maintain and improve the quality of the air, water, and land resources of the state.***

**Applicant Response:** The site is currently zoned for light industrial use, and is proposed to be rezoned for residential use. The zone change request will have no impact with regard to this goal. Development applications submitted in the future will create additional impervious surfaces which will increase storm water effluent unless those impacts are mitigated. However, it is reasonable and likely that engineering solutions exist which can successfully mitigate those impacts, and therefore, compliance with this goal can be deferred to future development proposals.

***Areas Subject to Natural Disasters and Hazards (Goal 7)***

***To protect people and property from natural hazards.***

**Applicant Response:** The subject site is not located within a potential landslide, earthquake, or flooding hazard area. The zoning map amendment proposal is consistent with avoidance of natural disasters and hazards under Goal 7.

***Recreational Needs (Goal 8)***

***To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.***

**Applicant Response:** Goal 8 requires governmental organizations with responsibilities for providing recreational facilities plan for meet the recreational needs of the community. The City of St. Helens has adopted a Parks and Trails Master Plan (2015) that implements this Goal.

The site is presently zoned light industrial, and is proposed to be zoned R-5. The site has not been planned for recreational use. The requested zoning map amendment will not result in a reduction of land planned or reserved for recreational use. Consequently, the requested zoning map amendment is in compliance with this Goal.

***Economic Development (Goal 9)***

***To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.***

**Applicant Response:** This Goal is applicable to commercial and industrial lands. Goal 9, paragraph 3 requires a city to “provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses

consistent with plan policies.” *Home Depot USA v. City of Portland*, 169 Or App 599, 601, 10 P3d 316 (2000). LUBA has repeatedly held that in the context of post-acknowledgement plan amendments, local governments are required by Goal 9 to consider the adequacy of their inventory of lands that would remain available for industrial or commercial uses in the aftermath of decisions that would actually redesignate or divert existing industrially or commercially zoned lands from all industrial and commercial use.” *Id.* at 602, citing *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995), *aff’d*, 141 Or App 249, 918 P2d 116 (1996), and *Volny v. City of Bend*, 37 Or LUBA 493, *aff’d* 168 Or App 516, 4 P3d 768 (2000). Furthermore, Goal 9 requires that a local government’s inventory of suitable commercial and industrial sites be adequate not just with regard to total acreage, but also with regard to size, type, location and service levels, to provide for a “variety of industrial and commercial uses consistent with plan policies.” *Opus Development Corp.*, 28 Or LUBA at 691. Thus, a post-acknowledgement plan amendment (“PAPA”) and zone change can trigger an obligation to evaluate the adequacy of a city’s Goal 9 inventory if (1) the amendments physically reduce the acreage of land in the Goal 9 inventory, or (2) threaten to convert lands inventoried for Goal 9 uses to uses not protected by the goal. *Shamrock Homes LLC v. City of Springfield*, 68 Or LUBA 1 (2013). However, changing acknowledged plan map designations for industrially designated lands to allow a combination of industrial, commercial and residential uses does not violate the Goal 9 requirement that a local government have sufficient suitable industrially designated sites, where the local government will have more than enough constraint-free industrially designated land to meet projected needs, notwithstanding the plan map amendments. *Neste Resins Corp. v. City of Eugene*, 23 Or LUBA 55 (1992).

In this case, the City has a surplus of available industrial land, not just with regard to total acreage, but also with regard to size, type, location and service levels. The St. Helens Industrial Business Park is a 225-acre industrial property that was acquired by the City of St. Helens in 2015 when the Boise White Paper Mill closed. It provides significant opportunities for both large and small industrial users.

As noted by the Code, the light industrial zone allows for general industrial use including light manufacturing and related activities with few, if any, nuisance characteristics such as noise, glare, and smoke. It permits manufacturing, processing, assembling, packaging or treatment of products from previously prepared materials and discourages residential and limited commercial uses. Standards are determined by the proximity to residential zones and the anticipated off-site impacts. The maximum height within 100 feet of any residential zone is 35 feet. The code imposes a 30-foot buffer on LI zoned lands that are adjacent to residential lands.

Paragraph 4 of Goal 9 requires the City to “[l]imit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.” However, this does not apply in this case. LUBA has stated that Goal 9, paragraph 4 does not impose a requirement that uses near all lands zoned for commercial or industrial use be limited to those compatible with commercial and industrial uses in general, but rather applies only where a local government has designated certain commercial or industrial zoned land for specific commercial or industrial uses with special site requirements. OAR 660-09-025(4). *Opus Development Corp.*, 28 Or LUBA at 692.



The guidelines to the Statewide Planning Goals are not standards that must be satisfied to approve a post-acknowledgment plan amendment, and thus alleged inconsistency between a plan amendment and a guideline to Goal 9 is not a basis to reverse or remand the plan amendment. *People for Responsible Prosperity v. City of Warrenton*, 52 Or LUBA 181 (2006).

***Housing (Goal 10)***

***To provide for the housing needs of citizens of the state.***

**Applicant Response:** The site is currently zoned Light Industrial. The proposed zoning map amendment to R-5 would enable the City to provide additional needed housing units once the site is developed for residential use. The proposed zoning map amendment is in compliance with this Goal.

***Public Facilities and Services (Goal 11)***

***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.***

**Applicant Response:** Full urban services are available to serve the site and will be constructed/extended at the applicants' expense at the time of development.

***Transportation (Goal 12)***

***To provide and encourage a safe, convenient and economic transportation system.***

**Applicant Response:** This Goal requires the City to prepare and implement a Transportation System Plan (TSP). The City of St. Helens completed a TSP update in 2011.

Under the current zoning, the access creates a condition that is not ideal from a safety standpoint, because light industrial uses will often involve the use of heavy trucks. Frequent usage of heavy trucks in residential neighborhoods can reduce the property values of those homes. It was probably anticipated that the subject property would take access through the property located to the north, but the fact that the properties are currently in separate ownerships and separated by a tall fence make the consolidations of these properties unlikely.

***Energy Conservation (Goal 13)***

***To conserve energy.***

**Applicant Response:** LUBA and the Courts have never given any regulatory affect to this Goal. Despite this, the rezoning of land from an unused industrial site to general residential will result in a more compact urban form, which should have at least a marginal effect on energy efficiency. The site is located immediately adjacent to other residential land. The proposed zoning map amendment would permit development in accordance with the Comprehensive Plan, with the potential to create an energy efficient land use pattern within the City limits of St. Helens.

***Urbanization (Goal 14)***

***To provide for an orderly and efficient transition from rural to urban land use.***

**Applicant Response:** The subject property is already located within the City limits, and has been planned for urban land use. Goal 14 does not apply.

### **Goals 15 through 19**

**Applicant Response:** The following Goals are not applicable to this application: Willamette River Greenway (Goal 15); Estuarine Resources (Goal 16); Coastal Shorelands (Goal 17); Beaches and Dunes (Goal 18); and Ocean Resources (Goal 19).

## **C. APPLICABLE COMPREHENSIVE PLAN POLICIES**

SHDC 17.20.120(1)(c) requires the city to comply with “applicable comprehensive plan policies, procedures, appendices and maps.” Determining whether any given Comprehensive Plan policy is an “applicable” approval standard can present vexing questions for practitioners. In some cases, the plan itself will provide a “roadmap” by expressly stating which, if any, of its policies are applicable approval standards. For example, if the comprehensive plan specifies that a particular plan policy is itself an implementing measure, LUBA will conclude that policy applies as an approval criterion for land use decisions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990). On the other hand, where the comprehensive plan emphasizes that plan policies are intended to *guide* development actions and decisions, and that the plan must be implemented through the local code to have effect, such plan policies are not approval standards for individual conditional use decisions. *Schellenberg v. Polk County*, 21 Or LUBA 425 (1991). Similarly, statements from introductory findings to a comprehensive plan chapter are not plan policies or approval standards for land use decisions. *19th Street Project v. City of The Dalles*, 20 Or LUBA 440 (1991). Comprehensive plan policies which the plan states are specifically implemented through particular sections of the local code do not constitute independent approval standards for land use actions. *Murphey v. City of Ashland*, 19 Or LUBA 182 (1990). Where the county code explicitly requires that a nonfarm conditional use in an exclusive farm use zone “satisfy” applicable plan goals and policies, and the county plan provides that its goals and policies shall “direct future decisions on land use actions,” the plan agriculture goals and policies are applicable to approval of the nonfarm conditional use. *Rowan v. Clackamas County*, 19 Or LUBA 163 (1990).

Often, however, no roadmap is provided. In those cases, the key is to look at the nature of the wording of the plan provision at issue. LUBA has often held that some plan policies in the comprehensive plan will constitute mandatory approval criteria applicable to individual land use decisions, depending on their context and how they are worded. See *Stephan v. Yamhill County*, 21 Or LUBA 19 (1991); *Von Lubken v. Hood River County*, 19 Or LUBA 404 (1990). For example, where a comprehensive plan provision is worded in mandatory language – such as when the word “shall” is used – and is applicable to the type of land use request being sought, then LUBA will find the standard to be a mandatory approval standard. Compare *Axon v. City of Lake Oswego*, 20 Or LUBA 108 (1990) (“Comp plan policy that states that “services shall be available or committed prior to approval of development” is a mandatory approval standard”); *Friends of Hood River v. City of Hood River*, 68 Or LUBA 459 (2013). Conversely, use of aspirational language such as “encourage” “promote,” or statements to the effect that certain things are “desirable” will generally not be found to be mandatory approval standards. *Id.*; *Neuschwander v. City of Ashland*, 20 Or



LUBA 144 (1990); *Citizens for Responsible Growth v. City of Seaside*, 23 Or LUBA 100 (1992), *aff'd w/o op.* 114 Or App 233 (1993).

In some cases, an otherwise applicable plan policy will be fully implemented by the zoning code. Where the text of the comprehensive plan supports a conclusion that a city's land use regulations fully implement the comprehensive plan and displace the comprehensive plan entirely as a potential source of approval criteria, demonstrating that a permit application complies with the city's land use regulations is sufficient to establish consistency/compliance with the comprehensive plan. *Save Our Skyline v. City of Bend*, 48 Or LUBA 211-12; *Murphy v. City of Ashland*, 19 Or LUBA 182, 199 (1990); *Miller v. City of Ashland*, 17 Or LUBA 147, 169 (1988); *Durig v. Washington County*, 35 Or LUBA 196, 202 (1998) (explicit supporting language is required to establish that land use regulations entirely displace the comprehensive plan as a source of potentially applicable approval criteria for land use decisions). However, a local government errs by finding that its acknowledged zoning ordinance fully implements the acknowledged comprehensive plan, thus making it unnecessary to apply comprehensive plan provisions directly to an application for permit approval, where the acknowledged zoning ordinance specifically requires that the application for permit approval must demonstrate compliance with the acknowledged comprehensive plan and the county does not identify any zoning ordinance provisions that implement applicable comprehensive plan policies. *Fessler v. Yamhill County*, 38 Or LUBA 844 (2000).

**19.16.010 Amendments to the Comprehensive Plan.**

**(1) Preface.** *It is the intent of this section to give direction for amending the St. Helens Comprehensive Plan.*

**(2) Goal.** *To create a process that complies with state and local laws for amending the acknowledged St. Helens Comprehensive Plan.*

**(3) Policy.** *All proposed amendments to this plan shall follow state laws and local laws. In particular they shall comply with ORS Chapters 195 and 215. See SHMC 17.08.060 for transportation planning rule compliance. (Ord. 3150 § 3 (Att. B), 2011; Ord. 2980 § 2, 2006)*

ORS Chapter 195 does not contain any approval standards for a PAPA or zone change. Perhaps the intended cross-reference is ORS Chapter 197, which sets forth the required procedure for a PAPA, ORS 197.610 *et seq.*, as well as the procedural requirements for conducting a land use hearing. ORS 197.763.

ORS Chapter 215 only applies to counties. This appears to be a typo as well, as the equivalent chapter for cities is ORS Chapter 227.

**19.08.020 Economic goals and policies.**

**(3) Policies.** *It is the policy of the city of St. Helens to:*

**(j)** *Allocate adequate amounts of land for economic growth and support the creation of commercial and industrial focal points.*



**Applicant Response:** The proposed PAPA and zone change will only result in the loss of 20,000 s.f. of industrial land. This is a *de-minimus* amount, which is offset by the need for housing.

**19.08.030 Public services and facilities goals and policies. (Ref: Statewide Planning Goal 11)**

**(3) Policies. It is the policy of the city of St. Helens to:**

***(c) Require in new residential developments that water, sewer, storm sewer, paved streets, curbs, parks and other improvements are installed as part of the initial construction. Encourage the placement of underground utilities whenever feasible.***

**Applicant Response:** This requirement can be made a condition of approval. Adjacent streets have utilities in place that can be connected to each lot.

***(d) Ensure that capacities and patterns of utilities and other facilities are adequate to support the residential densities and land use patterns of the Comprehensive Plan.***

**Applicant Response:** This is a directive to the City Council and staff, which is primarily accomplished via the adoption and implementation of utility master plans. The Zoning Code requires an application for a subdivision to demonstrate that adequate public facilities exist to support the development.

***(g) Have all new subdivisions within the urban area connect to public sewer and water systems.***

**Applicant Response:** This requirement can be made a condition of approval.

***(j) Require new developments to provide adequate drainage at the time of initial construction; however, discourage the removal of streamside vegetation, the alteration of streams and the drainage or contamination of wetlands that are identified as significant wildlife habitats.***

**Applicant Response:** This requirement can be made a condition of approval.

***(m) Discourage the leapfrog development of industrial lands, unless there is a program to provide sewer and water to intervening properties.***

**Applicant Response:** Nothing proposed in this request will result in leapfrog development.

**19.08.050 Housing goals and policies.**

**(3) Policies. It is the policy of the city of St. Helens to:**

***(e) Permit multifamily developments which conform to the following general conditions and criteria:***

***(i) They should not be constructed within areas which are established and recognized as substantially well maintained single-family areas.***

- (ii) They should have safe and appropriate arrangement of buildings, open spaces, and parking access.*
- (iii) They should not be so large or close to single-family homes as to block their view or sunlight or to unduly interfere with an established single-family character; where conditionally used, they thus shall be subject to density criteria.*
- (iv) They should include adequate open space.*
- (v) They should include ample off-street parking.*
- (vi) They should not be located where undue noise or other factors will adversely affect residential living.*
- (vii) They shall be subject to a site design review process and minimum landscaping requirements.*

**Applicant Response:** The policy that multi-family development should not be allowed in “established and substantially well-maintained single-family areas” has been superseded by state law and is no longer enforceable. With the exception of policy E(vii), the remainder of these policies are not “clear and objective.” State law no longer allows a local government to apply discretionary standards to multi-family housing.

**19.12.090 Light industrial category goals and policies.**

- (1) Goals. To provide a place for smaller and/or less intensive industrial activities where their service and transportation requirements can be met, and where their environmental effects will have minimal impact upon the community.*
- (2) Policies. It is the policy of the city of St. Helens to:*
  - (a) Apply this category where light industrial concerns have become established and where vacant industrial sites have been set aside for this purpose.*
  - (b) Encourage preserving such designated areas for light manufacturing, wholesaling, processing and similar operations by excluding unrelated uses which would reduce available land and restrict the growth and expansion of industry.*
  - (c) Ensure that light industry operations have adequate space with respect to employee and truck parking, loading, maneuvering and storage.*
  - (d) Follow a site design review process for light industrial activity to ensure proper setbacks as well as screening and buffering, particularly for unsightly areas which can be viewed from arterials or from adjoining residential areas; in contemplating the setbacks, consideration should be given to the effect of the activity on significant fish and wildlife areas. (Ord. 2980 § 2, 2006)*

**Applicant Response:** The subject property is not a good candidate to remain zoned for light industrial (LI) uses because it is too small to be effectively developed for that purpose, and the access is highly problematic because it requires access through a residential neighborhood, among other issues discussed *supra*.

**19.12.160 Rural suburban unincorporated residential category goals and policies**

- (1) Goals: To provide sufficient are for urban development that will accommodate a variety of housing types.*
- (2) Policies: It is the policy of the city of St Helens to:*
  - (a) Work with the county on partition and subdivision applications for these lands to ensure that they are divided in a manner that does not hinder future urbanization.*
  - (b) Zone the rural suburban unincorporated residential as R-7 or R-10 upon annexation to the City unless circumstances listed in subsection (2)(c) of this section exist.*

- (c) *Consider zoning lands with the rural suburban unincorporated residential category for R-5 or AR if the following conditions are found:*
- (i) *The parcel is vacant and larger than two acres in size.*
  - (ii) *The carrying capacity of the public services including but not limited to streets, sewer, and water are sufficient for higher density development.*
  - (iii) *The county and city determine, due to the pattern of development in the city and within the urban growth area, that other lands are more appropriate for these designations.*

**Applicant Response:** This provision appears to only be applicable when rural land is being considered for future urbanization. The subject site is currently inside City limits, however, so this provision should not apply.

The St. Helens Comprehensive Plan SHMC 19.08.050(2) requires the city:

- (a) To promote safe, adequate, and affordable housing for all current and future members of the community.*
- (b) To locate housing so that it is fully integrated with land use, transportation and public facilities as set forth in the Comprehensive Plan.*

Neither of these two goals are mandatory approval standards. Nonetheless, the proposed PAPA and zone change will fully support this first Comprehensive Plan goal, promoting safe, adequate and affordable housing for St. Helens residents.



TICOR 360220054

## RECORDING REQUESTED BY:



2534 Sykes Road, Ste C  
St Helens, OR 97051

## GRANTOR'S NAME:

Estate of Bill Edward Allshouse

## GRANTEE'S NAME:

1771ColumbiaBlvd, LLC

## AFTER RECORDING RETURN TO:

1771ColumbiaBlvd, LLC, an Oregon limited liability company  
310 Riverside Drive  
Saint Helens, OR 97051

## SEND TAX STATEMENTS TO:

1771ColumbiaBlvd, LLC  
310 Riverside Drive  
Saint Helens, OR 97051

13503, 13517, 5N1W33-DC-07500 and 5N1W33-DC-08700  
475 N 12th St, Saint Helens, OR 97051-1317

COLUMBIA COUNTY, OREGON **2022-09023**  
DEED-PRD  
Cnt=1 Pgs=2 FAILB 11/18/2022 09:36:01 AM  
\$10.00 \$11.00 \$10.00 \$60.00 \$5.00 **\$96.00**

I, Debbie Klug, County Clerk for Columbia County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Debbie Klug - County Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

### PERSONAL REPRESENTATIVE'S DEED

**Jason L Ford**, the duly appointed, qualified and acting personal representative of the estate of Bill Edward Allshouse, deceased, pursuant to proceedings filed in Circuit Court for Columbia County, Oregon, Case No. 21PB08492, Grantor, conveys to **1771ColumbiaBlvd, LLC, an Oregon limited liability company**, Grantee, all the estate, right and interest of the above named deceased at the time of the deceased's death, and all the right, title and interest that the above named estate of the deceased by operation of law or otherwise may have acquired afterwards, in and to the following described real property:

Lots 4, 5, 22 and 23, Block 5, RAILROAD ADDITION, in the City of St. Helens, Columbia County, Oregon.

The true consideration for this conveyance is Three Hundred Twenty-Six Thousand And No/100 Dollars (\$326,000.00).

**Subject to:**

Rights of the public to any portion of the Land lying within the area commonly known as streets, roads and highways.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

PERSONAL REPRESENTATIVE'S DEED

(continued)

Item 1.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Estate of Bill Edward Allshouse  
By: [Signature]  
Jason L Ford, Personal Representative

11/17/22  
Date

State of OR  
County of Columbia

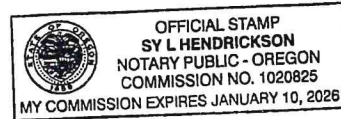
This instrument was acknowledged before me on 11/17/22 by

Jason L Ford as Personal Representative of

The Estate of Bill Edward Allshouse

[Signature]  
Notary Public - State of Oregon

My Commission Expires: 01/10/26



RECORDING REQUESTED BY:



2534 Sykes Road, Ste C  
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**GRANTEE'S NAME:**

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COLUMBIA COUNTY, OREGON **2022-09023**

DEED-PRD

Cnt=1 Pgs=2 FAILB

11/18/2022 09:36:01 AM

\$10.00 \$11.00 \$10.00 \$60.00 \$5.00

**\$96.00**

I, Debbie Klug, County Clerk for Columbia County, Oregon, certify that  
the instrument identified herein was recorded in the Clerk records.

Debbie Klug - County Clerk

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PERSONAL REPRESENTATIVE'S DEED  
(continued)

Item 1.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Estate of Bill Edward Allshouse

By: [Signature]  
Jason L Ford, Personal Representative

11/17/22  
Date

State of OR  
County of Columbia

This instrument was acknowledged before me on 11/17/22 by

Jason L Ford as Personal Representative of

The Estate of Bill Edward Allshouse

[Signature]  
Notary Public - State of Oregon

My Commission Expires: 01/10/26







265 Strand St.  
St. Helens, OR 97051  
503-397-6272  
Fax: 503-397-4016

## Building Permit

### Residential Demolition

Permit Number: 749-22-000630-DEMO-01

IVR Number: 749081283991

Web Address: [www.sthelensoregon.gov](http://www.sthelensoregon.gov)

Email Address: [buildingsafety@sthelensoregon.gov](mailto:buildingsafety@sthelensoregon.gov)

Permit Issued: December 29, 2022

Application Date: December 16, 2022

#### TYPE OF WORK

Category of Construction: None Specified

Type of Work: None Specified

Submitted Job Value: \$0.00

Description of Work: DEMO 20'x20' (400 SQ FT) SHOP

#### JOB SITE INFORMATION

**Worksite Address**

0 NO ADDRESS ASSIGNED  
ST HELENS OR 97051

**Parcel**

5N1W33DC 8700

**Owner:**

1771COLUMBIABLVD LLC

**Address:**

310 RIVERSIDE  
ST HELENS, OR 97051

#### LICENSED PROFESSIONAL INFORMATION

**Business Name**

ADVANTAGE JC EXCAVATING LLC -  
Primary

**License**

CCB

**License Number**

200834

**Phone**

503-396-2551

#### PENDING INSPECTIONS

**Inspection**

1999 Final Building

**Inspection Group**

Struct Res

**Inspection Status**

Pending

#### SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 749081283991

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

Per R105.7 and R 106.3.1, a copy of the building permit and one set of approved construction documents shall be available for review at the work site.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

**ATTENTION:** Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

## PERMIT FEES

Fee Description	Quantity	Fee Amount
Technology Fee		\$4.11
City Permit Administration Fee	1	\$42.00
Demolition permit fee, total structure		\$95.00
<b>Total Fees:</b>		<b>\$141.11</b>

Note: This may not include all the fees required for this project.

## ADDITIONAL INFORMATION/CONDITIONS OF APPROVAL FOR ONSITE

Date Applied: 12/20/2022

Comments:

## ADDITIONAL INFORMATION/CONDITIONS OF APPROVAL FOR PLANNING

Date Applied: 12/16/2022

Comments: Residential use of this property for a detached single-family dwelling is no longer allowed after this structure has been demolished due to its zoning as Light Industrial.



265 Strand Street  
St. Helens, Oregon  
97051

**NOTICE OF ADMINISTRATOR'S LIMITED LAND USE DECISION**  
**March 29, 2023**

**RE: Site Development Review SDR.1.23**

You are receiving this notice of a decision by the City of St. Helens Planning Administrator because you are entitled to it by law. Wayne Weigandt of 1771 Columbia Boulevard, LLC submitted an application to develop property located at 475 N. 12<sup>th</sup> Street with a building and associated site improvements for uses possible in the Light Industrial zoning district. The site is also known as Columbia County Assessor Map No. 5N1W-33DC-7500/8700. The City Planning Administrator is authorized by the City of St. Helens Development Code (SHMC Title 17) to review Major Site Development Review applications and approve, deny or approve them with conditions.

Attached is a complete report of the proposal, which includes the criteria and evaluation to approve or deny the proposal, and the decision. Comments are invited and acceptable **no later than 14 days following the date of this notice**. Any issues which may provide the basis for an appeal must be raised prior to the expiration of the comment period. Issues must be raised with sufficient specificity to enable the decision-maker to respond to the issue. In order to be considered, comments pertaining to this decision should be directed to:

**City of St. Helens Planning Department**  
**265 Strand Street**  
**St. Helens, OR 97051**

If there are any agency or citizen comments that would affect the decision at the end of the comment period, the City will send another notice of the final decision to all that submitted evidence and/or comments. The final decision can be appealed or amended by those entitled to do so in accordance with SHMC 17.24.290. If no comments are received during the comment period or comments are received that don't warrant a revised decision, this decision will become final subject to an appeal period of **ten (10) calendar days from the date the comment period ends**. If no revised decision is made, there will not be any additional notice for the appeal period.

The application and details are on file at City Hall and are available for review during normal business hours. Copies are available for a nominal charge.

If you have any questions, please contact this office.





265 Strand Street  
St. Helens, Oregon  
97051

### AMENDED DECISION PROCESS

- The approving authority may issue an amended decision after the notice of final decision has been issued and within 10 working days of receipt of a proper request for an amended decision.
- A request for an amended decision shall be in writing, accompanied with the appropriate fee and filed with the Director within the appeal period, after the notice of final decision has been filed.
- A request for an amended decision may be filed within the appeal period by:
  1. The City Council;
  2. The Planning Commission;
  3. An employee of the City's planning staff;
  4. Any party entitled to notice of the original decision; or
  5. Any party who submitted comments in writing on the original decision.
- The amended decision process shall be limited to 1 time for each original application.
- The approving authority shall make the determination as to issuance of an amended decision based on findings that 1 or more of the following conditions exist:
  1. An error or omission was made on the original notice of final decision;
  2. The original decision was based on incorrect information; and
  3. New information becomes available during the appeal period which was not available when the decision was made which alters the facts or conditions in the original decision.
- An amended decision shall be processed in accordance with Section 17.24.120 and 130 of this code.

### APPEALS

- In the case of a decision by the Director, any person entitled to notice of the decision per this code or any person who is adversely affected or aggrieved by the decision, may file a notice of appeal as provided by the St. Helens Municipal Code, Chapter 17.24.
- In the case of a decision by the Planning Commission, except for a decision on an appeal of the Director's decision, any person shall be considered a party to a matter, thus having standing to seek review, provided:
  1. The person appeared before the Planning Commission orally or in writing and;
    - a. The person was entitled as of right to notice and hearing prior to the decision to be reviewed; or
    - b. The person is aggrieved or has interests adversely affected by the decision.

### APPEAL PETITIONS

- The petition for appeal shall contain:
  1. A reference to the application sought to be appealed;
  2. A statement as to how the petitioner qualifies as a party;
  3. The specific grounds for the appeal. Grounds shall include specific reference to the Development Code sections or comprehensive plan provisions which form the basis for the appeal; and
  4. The date of the filing of the final decision on the action or, in the case of a decision by the Director, the date the decision was filed and the date notice of the final or proposed decision was given.
- The appeal petition shall be accompanied by the required fee.
- All the requirements of Section 17.24.340 (Notice of Appeal) are jurisdictional requirements for filing a valid petition for appeal.

### FEE WAIVER FOR APPEALS

- The fee for a petition to appeal may be waived or reduced and refunded in whole or in part to the applicant by the Council upon written request if:
  1. The proposed project will benefit the general public; or
  2. The applicant is a public agency or non-profit, community-oriented service organization; or
  3. Payment of the application fee would pose a financial hardship to the applicant.
- Only the "local" portion of a fee may be waived or reduced when a portion of a fee must be remitted to another agency as required by law.



**CITY OF ST. HELENS PLANNING DEPARTMENT  
ADMINISTRATIVE STAFF REPORT**

**File(s): Site Development Review SDR.1.23**

**Proposal:** Develop site with a building for uses possible in the Light Industrial zoning district. This proposal requires a Site Development Review.

**Location:** 475 N. 12<sup>th</sup> Street

**Map/Taxlot(s):** 5N1W-33DC-7500/8700

**Applicant(s):** Wayne Weigandt of 1771 Columbia Boulevard, LLC

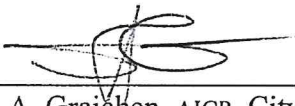
**Owner(s):** same as applicant

**Zoning:** Light Industrial, LI

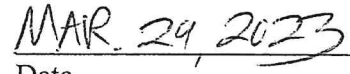
\* \* \* \* \*

**CONCLUSION & DECISION**

Based upon the facts and findings herein, the City Planning Administrator **APPROVES** this **Site Development Review with conditions** (as detailed in the next section of this report).



Jacob A. Graichen, AICP, City Planner



Date

\* \* \* \* \*

**CONDITIONS OF APPROVAL**

Please note that the requirements of other City of St. Helens departments (e.g., Building, Engineering, and Administration) and other agencies (local, state and/or federal) may apply to this proposal. This **local land use approval** decision does not exempt and is not a substitute for those requirements.

**The following conditions apply to the *local land use approval* aspect of this proposal:**

1. This **Site Development Review** approval is valid for a limited time (to establish the use) pursuant to SHMC 17.96.040. This Site Development Review approval is valid for 1 year. A 6-month extension is possible but requires an application and fee. If the approval is not vested within the initial 1 year period or an extension (if approved), this is no longer valid and a new application would be required if the proposal is still desired. See SHMC 17.96.040.
2. The following shall be required prior to any development or building permit issuance:
  - a. All lots of the subject property (Lots 4-5 and Lots 22-23 of Block 5, Railroad Add.) shall be combined such that they can only be transferred (change of ownership) together as a whole. This may be done by a Declaration of Covenant to Bind Property prepared by the city or by a one-parcel land partition. Applicant is responsible for all recordation fees.

- b. The existing utility pole along N. 12<sup>th</sup> Street must be moved with approval from all applicable utility provider(s) and the city such that it will not conflict with the circulation, parking or overall design. If not moved or moved to a location that will result in plan changes, a minor or major modification Site Development Review shall be required for any plan to be approved before development or building permit issuance.
- c. Final plans as submitted with any development or building permit(s) shall comply with the plans submitted with this Site Development Review with the following additions and/or corrections:
  - i. All provisions of SHMC 17.96.090, 17.96.110, 17.96.120, 17.96.130, 17.96.140, and 17.96.150 shall apply.
  - ii. New location of pole per condition 2.b unless a major or minor modification of this Site Development Review is necessary, in which case pole location will be addressed by the modification application.
  - iii. In addition to being drawn to scale dimensions shall be specifically identified to ensure workers implementing the plan construct improvements according to the plan.
  - iv. Street trees along N. 12<sup>th</sup> Street. Trees shall be “small” species per the Development Code and a minimum of three are required. Tree location shall also comply with requirements per 17.72.035(2)(d)-(l). Trees shall be minimum 2” caliper at four feet in height. Specific species shall be indicated and applicant shall not plant a different species without prior approval from the city.
  - v. Street trees along N. 13<sup>th</sup> Street. Tree location shall also comply with requirements per 17.72.035(2)(d)-(l). Trees shall be minimum 2” caliper at four feet in height. There shall be no less than three street trees unless a “large” species is used, in which case there shall be no less than two street trees. Specific species shall be indicated and applicant shall not plant a different species without prior approval from the city.
  - vi. Landscaping plans meeting the buffering and screening requirements of Chapter 17.72 SHMC. Headlight glare screening from residential properties shall be addressed.
  - vii. Landscaping along the perimeter that includes a balance of low lying and vertical shrubbery and trees to “screen” off-street parking areas.
  - viii. Per condition 5.
  - ix. Trash enclosure details demonstrating compliance with all provisions of the Development Code.
  - x. Parking spaces behind the sidewalk (opposite street side) but also within the public right-of-way shall be omitted. These will not be allowed.
  - xi. Accessible (disabled person) space in compliance with applicable laws.
  - xii. A bicycle space, which must be lockable.
  - xiii. How all interior drives and access aisles will be marked and signed to indicate vehicular direction flow.



- xiv. Wheel stops for all off-street parking spaces.
  - xv. Specifications as to proposed building mounted lighting. Additional lighting shall be included on the building north side.
  - xvi. Pedestrian crossings shall be indicated with pavement markings, or contrasting pavement materials, which shall be depicted and indicated on plans.
  - xvii. The regulations pertaining to visual clearance areas (SHMC Chapter 17.76) shall apply.
- d. Engineering construction plans shall be submitted for review and approval addressing all public improvements including but not limited to street improvements including but not limited to curb, sidewalk, landscaping and maneuvering area. Parking spaces behind the sidewalk (opposite side from the street) within the public right-of-way shall be prohibited.
  - e. A drainage and stormwater plan by a certified by a registered professional engineer shall be submitted that addresses any increase in runoff from the site and how the potential impacts will be mitigated. Plans shall include oil/water separation.
  - f. An erosion control plan shall be reviewed and approved by City Engineering to prevent erosion of any new soil materials.
  - g. Property corners shall be identified by Professional Land Surveyor licensed in the State of Oregon. Written proof that said surveyor has done this including verification of the accuracy of field markings and photos of those markings shall be required.
  - h. An additional "fair share" fee shall be paid per equivalent dwelling unit (EDU) based on the portions of the city wastewater collection system between the subject property and the wastewater treatment plant, that this development depends on, that are at or above capacity as identified in the 2021 Wastewater Master Plan. Estimated per EDU cost is \$3,400 based on October 2022 dollars. Inflation adjustment to value at time of building permit issuance shall be included.
3. The following shall be required **prior to** Certificate of Occupancy by the City Building Official or commencement of use:
- a. All improvements necessary to address the requirements herein, and in accordance with approved plans, shall be in place. Discrepancies from improvements and approved plans must be resolved. This includes changes to physical improvements and modification of the Site Development Review (processing a modification application) as applicable.
  - b. A professional Land Surveyor licensed in the State of Oregon shall verify property corners as marked before construction per condition 2.g. Any discrepancy from the approved plan shall be resolved.
4. This Site Development Review does not allow uses with offsite impacts.
5. Service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened,



regardless if such screening is absent on any plan reviewed by the City. This includes but is not limited to ground mounted, roof mounted or building mounted units. See SHMC 17.72.110(2).

6. Any artificial lighting of the site shall be designed such that there will be no glare into nearby public rights-of-way or residences.
7. Disabled person parking space(s) shall comply with local, State, and Federal standards.
8. Any new sign requires a sign permit prior to installation, pursuant to Chapter 17.88 SHMC.
9. Any new utilities shall be underground. Existing overhead utilities may remain above ground provided there are no new poles.
10. No plan submitted to the City for approval shall contradict another.
11. The off-street parking assumed for this proposal is 1 space per 600 feet of gross floor area. Uses that exceed this are subject to Site Development Review, in addition to any other applicable requirements, in order to be allowed.
12. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17).

\* \* \* \* \*

#### APPLICABLE CRITERIA, ANALYSIS & FINDINGS

**Deemed Complete Info:** This application was originally received and deemed complete on February 6, 2023.

\* \* \*

**Permitting History:** The site is composed of four lots of the Railroad Addition to St. Helens (Lots 4, 5, 22, and 23, Block 5. The site was developed with a detached single family dwelling since the early 20<sup>th</sup> century (per County Assessor records) until the use was discontinued and the dwelling razed. The demo permit to raze the building (749-22-000630-DEMO) was issued by the Building Department on December 29, 2022.

The site was zoned two-family residential with heavy industrial abutting the north side per the 1952 zoning map, but has been zoned light industrial since the 1980s.

\* \* \*

**Zoning Compliance:** The site is zoned Light Industrial, LI.

(4) Standards.

- (a) The standards for the LI zone shall be determined by the proximity to residential zones and the anticipated off-site impacts.
- (b) The maximum height within 100 feet of any residential zone shall be 35 feet.

The property is on the edge of a division between residential and industrial zoned property. Abutting property on the south side is zoned R5 and developed with dwellings. There is AR zoning across N. 13<sup>th</sup> Street and R5 across N. 12<sup>th</sup> Street and these areas are also developed with dwellings. Industrial land abuts the north side.

Buffering and screening is address below and, in part, to address this zoning transition.

Because the property is within 100' of residential zoning on three sides, the height limit of 35 feet applies. Proposed building is 20' in height.

\* \* \*

**Sensitive Lands:** There are no known sensitive lands as identified in the Development Code.

\* \* \*

**Building Height Limitations & Exceptions:** Chapter 17.68 includes some industrial zone building height provisions as follows:

Any building located in an industrial zone may be built to a maximum height of 75 feet, provided:

- (1) The total floor area of the building does not exceed one and one-half times the area of the site;
- (2) The yard dimensions in each case are equal to at least the following:
  - (a) Half of the building height from any abutting residential (e.g., R-10, R-7, R-5, AR or MHR) or mixed use (e.g., MU, RD or HBD) zoning district;
  - (b) As necessary to comply with the provisions of Chapter 17.72 SHMC; and
  - (c) Pursuant to Chapter 17.64 SHMC.

As noted in the zoning section above, the building height is limited to 35 feet. So the 75 foot possibility is moot. However, the other provisions still apply.

(1) As a one story building whose footprint does not include the entire property, it is not possible for the total floor area to achieve the maximum 150% of site area maximum. It will be below 100%.

(2) The building is proposed to be 30' from the abutting R5 zoned property, which exceeds half of the proposed 20' building height (i.e., 10 feet). Provisions of other chapters address elsewhere herein.

\* \* \*

**Landscaping/buffering/screening:** Street trees will be required because this is new development with more than 100' of street frontage.

There is overhead utility lines along the N. 12<sup>th</sup> Street side, thus, street trees need to be "small" per this chapter along N. 12<sup>th</sup> Street. This requires a 20' spacing. Along N. 13<sup>th</sup> Street, there is not overhead utility lines along the abutting street(s) that would restrict tree size to "small" trees per the code; tree spacing will be based on tree size per 17.72.035(2)(a)-(c).

Tree location shall also comply with requirements per 17.72.035(2)(d)-(l). There is an existing power pole along N. 12<sup>th</sup> Street that will need to be moved or incorporated into plans that differ from the proposal presented and thus will require a modification of this Site Development Review.

Because of proposed driveways and such, greenscape along both streets is limited. However, each street frontage is 100' long and 100/3 is 33.333. Medium trees require a 30' spacing and large trees 40'. There is no reason three trees cannot be installed (one in the middle and one on each side) if large trees are not used. No less than three street trees along N 12<sup>th</sup> Street and the same for N. 13<sup>th</sup> Street unless a large tree species per Chapter 17.72 is used.

**This chapter requires buffering. This applies in this case as follows:**

- Site abuts R5 zoned properties occupied by detached single-family dwellings. The normal requirement is minimum 30' of buffer plus screening for abutting Light Industrial uses.

This is for Light Industrial uses (the site is zoned Light Industrial) but the buffer could be as much as 150' if there are significant off site impacts. This is an important distinction as the specific use of the building is to be determined and the LI zone contemplates off site impacts. For example, one of the permitted uses is:

Manufacturing, repairing, compounding, research, assembly, fabricating, or processing activities of previously prepared materials and without off-site impacts.

And one of the conditional uses (i.e., needs a Conditional Use Permit) is:

Manufacturing, repairing, compounding, research, assembly, fabricating, processing or packing of resource materials with some off-site impacts.

A use with offsite impacts would require different land use permitting—a Conditional Use Permit, which this Site Development Review is not a substitute for—and different buffer considerations. These limitations must be reflected in the conditions of approval.

Plans show a 30' separation from the building to the abutting R5 zoning. But the parking areas are closer.

- Parking lots between 4-50 spaces abutting the same R5 zoned property requires 10' buffer plus screening.

Plans show about a 10' area between the R5 zoning and parking lots on both sides of the building.

For all of the buffer areas described, no landscape plan has been submitted. Final plans will be necessary to demonstrate adequate buffering plantings and screening as required by the code. Sidewalk is proposed within the buffer area, which is allowed.

Screaming headlight glare for residential properties will be an important aspect of the parking area buffer.

**This chapter requires screening (unrelated to buffering above). This applies in this case as follows:**

Because the parking lot will be greater than three spaces, it is required to be screened. For screening in this case, the City usually requires landscaping along the perimeter that includes a balance of low lying and vertical shrubbery and trees.

There are areas for landscaping, but no landscape details, which will ne necessary with final plans.

Service facilities and equipment (e.g., HVAC and other mechanical unit) visible from a public street, customer or residential parking area, any public facility or residential area are required to be screened whether they are ground, wall or roof mounted. In addition, rooftop facilities and equipment are required to be screened from street and adjacent properties.

There is no information for this at this time. Details necessary with final plans. Screening required in all cases.

Refuse container or collection area are required to be screened (e.g., trash enclosure).

A trash enclosure is shown on the plans, but certain details such as wall/fence type and height were not provided. Details needed with final plans.



**Interior parking lot landscaping.** When off-street parking lots have more than 20 spaces, landscape islands are required with trees.

Less than 20 spaces are proposed.

\* \* \*

**Visual Clearance:** Chapter 17.76 SHMC requires proper sight distances at intersections to reduce traffic hazard potential. The required area to maintain clear vision is greater for arterial streets.

Parking spaces (one on each side) behind the sidewalk but proposed within the public right-of-way will not function as street parking and are within much of the vision clearance area. As such, they must be omitted.

\* \* \*

**Off-Street Parking/Loading:** Off street parking is required because this is new development.

**Dimension and type.** All proposed spaces are standard size and meet the normal dimensional requirements (min. size 9' x 18').

**Location.** Parking spaces are required to be within 200' of the building or use served. Proposed spaces are within this distance.

**Accessible (disabled person) spaces.** Required to comply with State and Federal Standards. A total of <20 parking spaces are proposed. Per the 2022 Oregon Specialty Code, this requires at least 1 accessible space, which is required to be van-accessible. There is a wheelchair access aisle presumably for an ADA space; needs to be clearer with final plans.

Also, accessible parking spaces are required to be located on the shortest route to an accessible pedestrian entrance. Though this is a building code issue, it is relevant to site design. Presumed proposed location is logical.

**Bicycle parking.** 1 lockable space is required at a rate of 5% of vehicle spaces. Bicycle spaces are required to be within 50' of primary entrances, under cover when possible, and not located in parking aisles, landscape areas, or pedestrian ways.

5% of 14 or 16 parking spaces (14 assumes two spaces proposed in the right-of-way will not work due to vision clearance conflicts) is 1 bicycle space. This is not address on plans.

**Number of off-street parking spaces required.** The building is approximately 8,700 square feet in size. Though 16 spaces are proposed, due to vision clearance conflicts, only 14 will be allowed.

$8,700/14 = 621.42$  or about 1 space per 600 square feet. This can accommodate some uses, though many industrial uses are based on employee numbers. The proposal may not be able to accommodate high employee users or uses whose parking requirement exceeds 1 space per 600 square feet, generally.

**Aisle width.** Two-way vehicle circulation requires a minimum of 24 feet. Such is proposed, however, there is an existing power pole on the N. 12<sup>th</sup> Street side that interferes with this.

Revised plans needed showing the pole moved, with written consent from the applicable utility providers, or redesign, which will be a modification of this approval and must be formally addressed as a minor or major modification pursuant to Chapter 17.96 SHMC.

**Markings.** All interior drives and access aisles are required to be marked and signed to indicate direction flow. This shall be a plan and final improvement requirement.

**Surface area.** All areas used for parking, storage or maneuvering of vehicles (including things towed by vehicles) shall be paved. No gravel is proposed or allowed by this proposal.

**Wheel stops.** Wheel stops are required along the boundaries of a parking lot, adjacent to interior landscape area, and along pedestrian ways. All spaces front pedestrian ways and will need wheel stops, which will need to be indicated on final plans.

**Drainage.** Drainage plans will be required to prevent ponding, prevent water flow across pedestrian ways and to address pollutants from vehicles (e.g., oil/water separation).

**Lighting.** Required to be directed to avoid glare from surrounding residences and roads/streets. Building mounted lighting is proposed, though the specific type is not indicated, which will be required with final plans.

**Off-street loading spaces.** New or altered buildings or structures which receive and distribute material or merchandise by truck are required to maintain off-street loading and maneuvering area if they are at least 10,000 square feet in size. The building is less than 10K SF in size, so no truck loading dock is required.

\* \* \*

**Access/egress/circulation: Joint access and reciprocal access easements.** Joint access via easement is allowed by the code provided there is satisfactory legal evidence of such (e.g., easements) and the legal means of allowing the shared access is provided to the City. The development includes 4 lots to be used together; lots need to be combined.

**Public street access.** All vehicular access and egress per Chapter 17.84 SHMC is required to directly connect to a public or private street approved by the City for public use. Moreover, vehicular access is required to be within 50' of ground floor entrances.

The site abuts the following streets:

Street/Road Name	Public or Private	Street Class (TSP)	Jurisdiction	Improved?
N. 12 <sup>th</sup> Street	Public	Local	City of St. Helens	partial; no curb or sidewalks
N. 13 <sup>th</sup> Street	Public	Local	City of St. Helens	partial; no curb or sidewalks

The site utilizes these streets for access and brings vehicle access within the statutory distance of the primary entrance.

**Vehicular access spacing, amount, etc.** As local streets, there is no spacing between driveways requirements. However, there is a code provision about minimizing access points for industrial (and other) uses.

Two 24' wide access points (driveways) are proposed off both streets. If the lots were residential (like the rest of the streets) and each developed with a single-family dwelling or duplex, each would have its own

driveway and it would be the same amount proposed. So no issue. Also, 24' access width is the minimum requirement for industrial uses.

**Pedestrian access (interior walkways).** Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multibuilding commercial, institutional, and industrial complexes. Walkways also shall provide access to existing and planned transit stops adjacent to the development site. Unless impractical, walkways should be constructed between a new development and neighboring developments.

A walkway is included connecting all doors to the adjacent public streets.

Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum six-inch vertical separation (curbed) or a minimum three-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards.

Walkways cross vehicle aisles in front of both proposed overhead doors, but these crossing are less than 36 feet, so pavement markings or contrasting pavement material may be used. Must be included on final plans.

Required walkways shall be paved with hard-surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways shall be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

The shading of the walkway areas suggests concrete use. Proposed building mounted lighting, aligns with the walkways.

**Access requirements based on type and intensity of use.** Only one driveway is required based on the size of the parking areas on each side of the building, but as noted above, having two 24' wide driveways along each street frontage is acceptable.

\* \* \*

**Signs:** No signs are proposed at this time. New signs will require permits per Chapter 17.88 SHMC.

\* \* \*

**Solid Waste/Recyclables:** Chapter 17.92 SHMC includes provisions for functional and adequate space for on-site storage and efficient collection of mixed solid waste and recyclables subject to pick up and removal by haulers.

Minimum area required is 10s.f. + (4s.f. x 1,000 s.f. GFA) or about 45 square feet. Proposes enclosure exceeds this. Minimum 6' high sign obscuring fence/wall is required; such detail not provided. A minimum 10' wide gate opening is required, which is reflected on the plans. Needed additional details will be required for final plans.

\* \* \*



**Site Development Review:** This chapter details several plan requirements for site development review applications. The applicant provided a basic site plan and building elevations but did not fully address all requirements of Chapter 17.96 SHMC. All requirements shall be met with final plans.

Buildings are required to be located to preserve existing trees and such. Per Chapter 17.96 SHMC trees with a 6" or greater dbh require preservation or replacement. The site is void of trees.

**Crime prevention.** There are "eyes on the street" throughout the neighborhood given the dwellings in the area. The proposal includes building mounted lighting on three sides but omits anything on the north side. There is a fence on the abutting property to the north that was associated with the former mill that operated there until around 2010. There is space between the property line and old mill fence as vast as 30 feet. With the proposed building and development, the area between the property line and fence will be less visible overall. Lighting of this side of the site is warranted for crime prevention purposes.

\* \* \*

**Street/Right-of-Way Standards:** The applicant is proposing street frontage improvements consistent with each street's local classification. There is a power pole that conflicts with the design along N. 12<sup>th</sup> Street. All existing improvements need to be incorporated into plans.

Design subject to review by city engineering. The rights-of-way exceed the normal width requirement so no dedication needed. However, the applicant proposes to use right-of-way for maneuvering associated with the off-street parking on private property, so a surveyor is needed to ensure where the division of private versus public improvements, both before and after construction.

\* \* \*

#### **Utility Standards:**

**Water:** City water is available within both the N. 12<sup>th</sup> and N. 13<sup>th</sup> Streets right-of-way.

**Sanitary Sewer:** Sewer is available within both the N. 12<sup>th</sup> and N. 13<sup>th</sup> Streets right-of-way.

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 in West Street, N. 10<sup>th</sup> Street, and N/S 4<sup>th</sup> Street have portions currently operating at or above 100%. This is much greater than the industry and city standard 85% "at capacity" flows and is a portion of the conveyance system between the subject property and the wastewater treatment plant.

Pipeline surcharging occurs as flows exceed the capacity of a full pipe, causing wastewater to back up into manholes and services. In addition to potentially backing up into homes and health risks associated with sanitary sewer overflows, Oregon DEQ prohibits all sanitary sewer overflows and can fine cities for allowing such and has done so to other jurisdictions. Examples of DEQ fines can be found here:

<https://www.oregon.gov/deq/Pages/enforcement-actions.aspx>

Given this issue, SHMC 17.152.090(4) must be considered:

SDR.1.23

Permits Denied. Development permits may be restricted by the commission or council (i.e., the applicable approval authority) where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

There is a current deficiency (undersized pipes for existing demand) of a widespread scale within the city per the WWMP including infrastructure this development would need to utilize that could result in surcharging, fines (e.g., for violation of Oregon DEQ standards) and public health risks.

Staff finds this development can still be approved under these circumstances given this criterion based on the following findings or conditions of approval:

- The deficient conveyance infrastructure this development depends on for sanitary sewer is a priority 1 or 3 in the WWMP. Priority rankings include three categories. There is no priority 2 conveyance improvements. The difference between priority 1 and 3, is priority 1 includes areas that have been reported to have overflows or significant surcharging during wet weather events, whereas priority 3 areas are where there have been infrequent or no observations of historical overflows or surcharging.
- City Public Works and Engineering staff have already begun to address the necessary sanitary sewer infrastructure upgrades having already submitted an application to the State Revolving Fund Program (for below market rate loans) to Oregon DEQ to fund both priority 1 projects (in basins 4 and 5) and priority 3 projects in basin 6. Basin 3 and 4 is applicable to this proposal, with basin 4 improvements a priority. 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.
- A condition of approval to require a fee per equivalent dwelling unit will be included. This is not a System Development Charge pursuant to ORS 223.299(4)(b); it is a temporary charge by order for development and land divisions proposed under these circumstances until the infrastructure is in order per the WWMP. The nexus is clear as it relates to the sewer conveyance deficiency and an amount has been determined based on calculations to determine fair proportionality—see attached **St. Helens Wastewater Collection System New Sewer Connection Surcharge memo**.

**For this project, the fee per equivalent dwelling unit is \$3,400, and this estimated amount is determined to be a fair share quantity for this proposal. It is based on October 2022 dollars, and inflation must be considered.**

- Though denial of this proposal itself does not warrant a moratorium or public facilities strategy as there is no prior stoppage or restriction of permits, authorizations, or approvals\*, the city recognizes that the sanitary sewer conveyance problems identified in the WWMP are widespread and denial could set a precedence of action that if continued for projects under similar circumstances, could be construed as a pattern or practice that at some point could warrant a moratorium or public facilities strategy.

\*Per ORS 197.524 a local government is required to adopt a public facilities strategy under ORS 197.768 or a moratorium on construction or land development under ORS 197.505 to 197.540 when it engages in a pattern or practice of delaying or stopping the issuance of permits, authorizations or approvals necessary for land divisions or construction due to the shortage of public facilities (like sanitary sewer).

**Storm Sewer:** There is some storm infrastructure within the N. 13<sup>th</sup> Street right-of-way. Storm plans will need to be approved as part of the final plan set/building permit package.

**Other:** There are overhead utilities along both N. 12<sup>th</sup> and N. 13<sup>th</sup> Streets. Overhead utilities may be utilized as long as there are no new poles.

\* \* \*

**Trails/bikeways:** There is no planned trail or bikeway identified in the Transportation Systems Plan and Parks and Trails Mater Plan associated with this site.

\* \* \*

**Traffic Impact Analysis:** Not warranted.

\* \* \*

**Other Considerations:** Multiple lots need to be consolidated given building placement over property lines and associated site improvements utilizing all four lots as one.

\* \* \* \* \*

#### ATTACHMENTS

As mailed:

- St. Helens Wastewater Collection System New Sewer Connection Surcharge memo (excerpts: pgs. 1-6, 16, and 25-26)
- Site plan
- Building elevations plan





# St. Helens Wastewater Collection System New Sewer Connection Surcharge

December 1, 2022  
Revision 01

EXCERPT  
FOR  
SDR. 1.23

CITY OF ST. HELENS  
265 STRAND STREET | ST. HELENS, OREGON 97051  
503.397.6272 | [WWW.STHELENSOREGON.GOV](http://WWW.STHELENSOREGON.GOV)

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## SECTION 1 – BACKGROUND

### 1.1 Wastewater Masterplan 2021 Update

The City of St. Helens provides sanitary sewer collection services to businesses and residences within the City limits. The sanitary sewer collection system is a combination of over 60 miles of gravity and force mains, 9 lift stations, and over 1,700 sanitary sewer manholes, vaults, and cleanouts. The sewer pipes in the City range from 6-inches to 48-inches in diameter, with the majority of the pipes being 8-inch. All sewage flows are conveyed to the City's wastewater treatment facility.

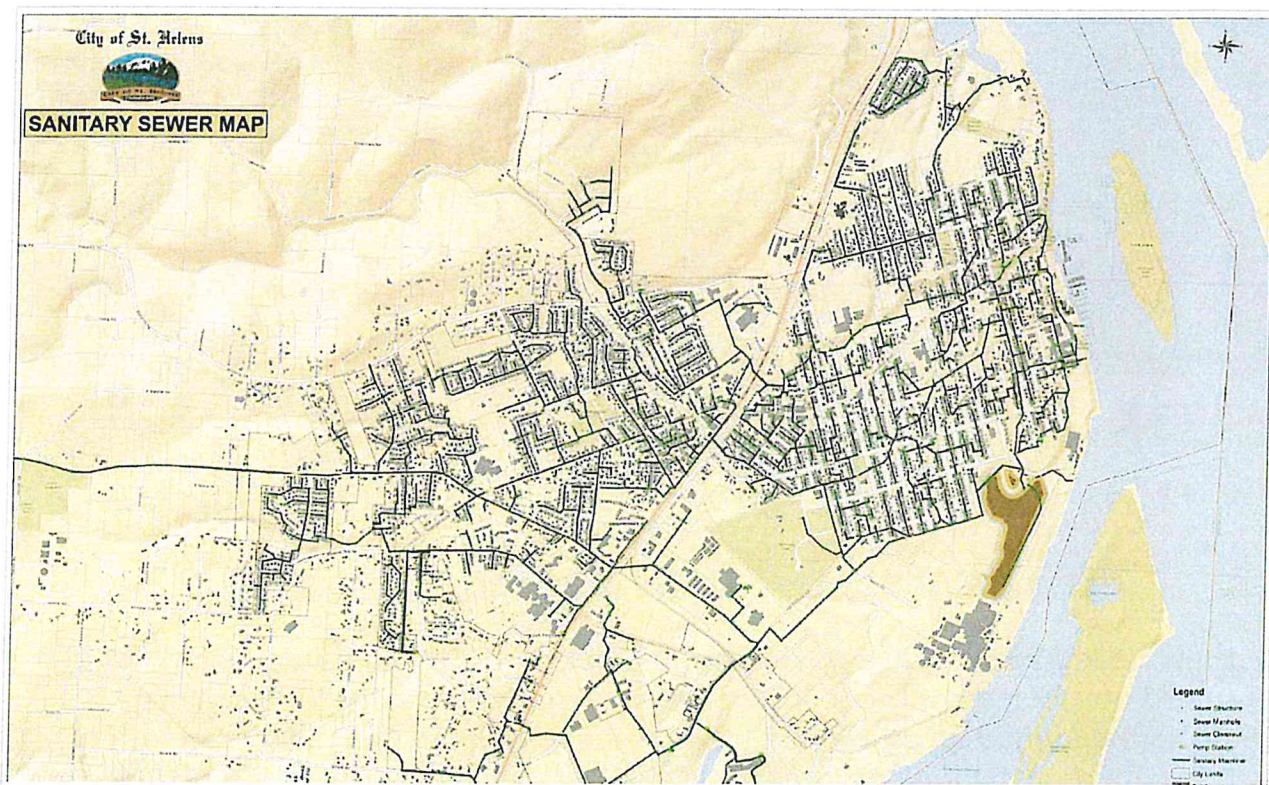


Figure 1.1.A St. Helens Sanitary Sewer Map

On November 17, 2021, the St. Helens City Council adopted the updated Wastewater Master Plan (WWMP) under Resolution No. 1940. This update to the City's WWMP is the first complete study done on the entire sewer collection system since 1989. The population was 7,500 at the time. Since then, the population of St. Helens has grown to over 14,500 – almost double. With this added population, more load is added to the public sewer system. Meanwhile, the size of the sewers have not been increased.

After 33 years of growth, the WWMP revealed that the majority of the City's sewer trunklines are at operating at or above capacity. This means that the greater portion of the City's public sewer system is inadequate to serve a growing population. Without



increasing the sizes of the trunklines, there is an increased risk of sanitary sewer overflows in the collection system.

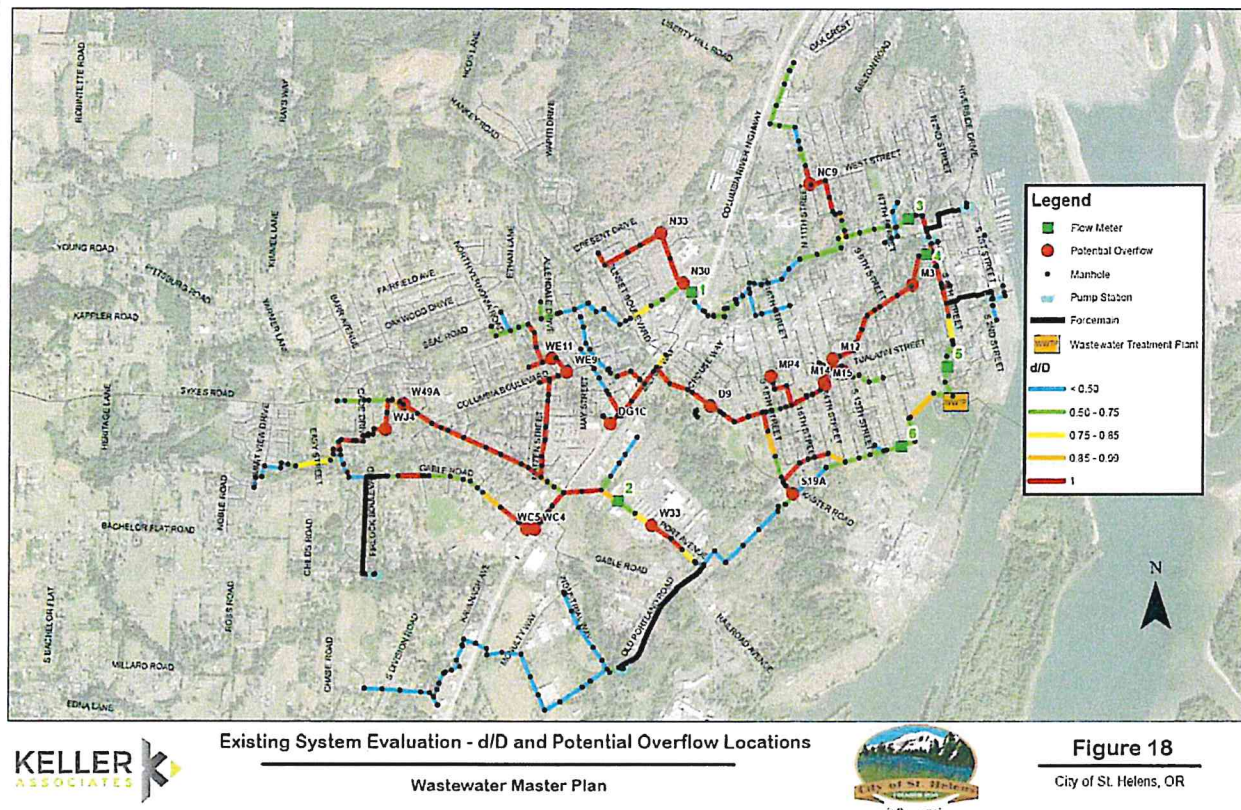


Figure 1.1.B Existing Sanitary Sewer Evaluation Map (2021 WWMP)

## 1.2 New Development Sewer Surcharge

To assess the impacts of future development on the public sewer system and how the City could pay for the costly capital improvements identified in the WWMP, Keller Associates performed an assessment of a sewer charge based on the shared of costs that new upstream Equivalent Dwelling Units (EDUs), as identified in the 2019 Housing Needs Analysis, would pay to complete the downstream CIP improvements along trunk lines that convey their sewage flows. The costs per EDU were based on the CIP project costs broken down by trunkline.

This sewer surcharge assessed per EDU is to fund capacity upgrades to the public sewer system and will be levied on those properties and developments requiring connection to the sewer trunklines identified in the 2021 WWMP update as "at or above" capacity. These fees will allow the City to recover a fair portion of the infrastructure improvements made by the City to accommodate new users and be used solely for public sewer capacity improvements. Equivalent Dwelling Units conversion details for sewer charges for multifamily dwellings, commercial, and industrial land uses may be found in Section 4 – EQUIVALENT DWELLING UNIT CONVERSION.



## SECTION 2 – ST. HELENS SEWER TRUNKLINE BASINS

### 2.1 Sanitary Sewer Trunk Basins Methodology

Sewer basin delineations by trunk lines were created to aid in the proper assessment of the sewer surcharge to ensure costs reflect the actual share of costs that new upstream EDUs, as identified in the 2019 Housing Needs Analysis, would pay based on the downstream sanitary sewer capital improvements along the trunk lines the flows for their property would flow through.

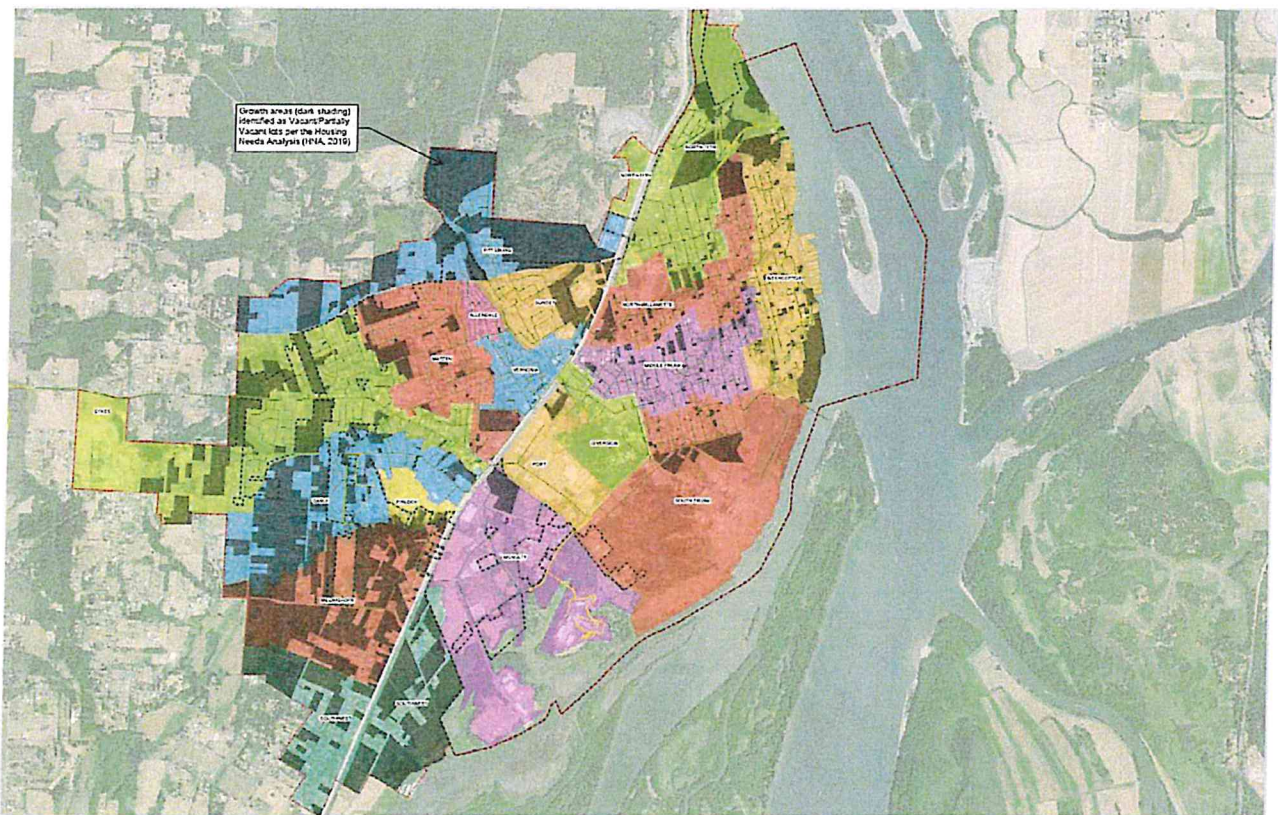


Figure 2.1.A St. Helens Sanitary Sewer Trunkline Basin Delineations

The delineation of CIP projects was simplified and where major portions of a Capital Improvement Project (CIP) spanned more than one basin, projects were split by basin. Basin delineation generally reflects existing conditions, except the Pittsburg basin, which is largely undeveloped and is anticipated to discharge to the North-11<sup>th</sup> basin.

Costs were calculated by summing CIP costs in and downstream of a basin and summing the EDUs in and upstream of the basin. The downstream CIP costs are then divided by the upstream EDUs. A sewer surcharge cap of \$15,000 per EDU is assumed.

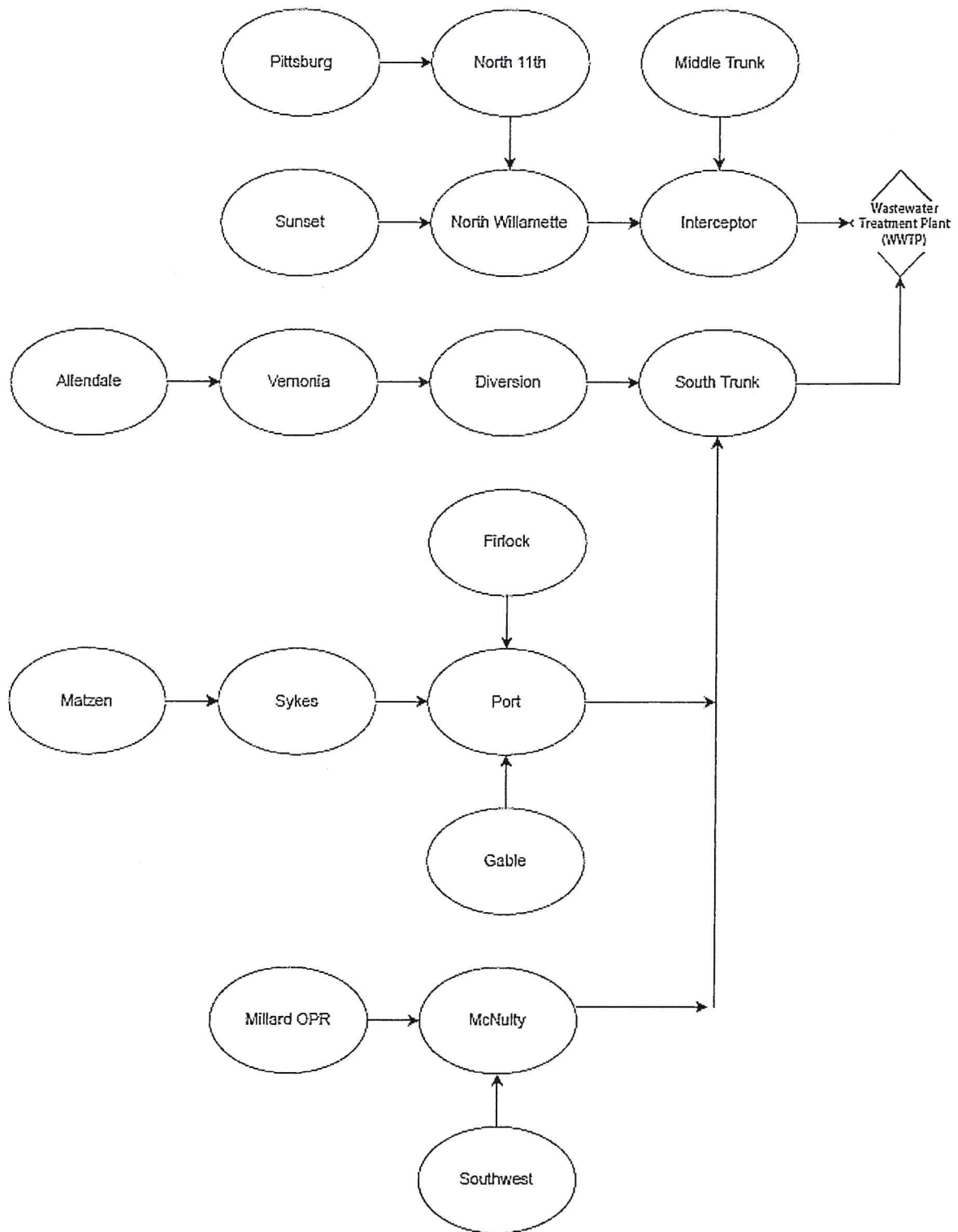


Figure 2.1.B St. Helens Sanitary Sewer Trunkline Basin Flow Paths



## 2.11 North 11th Sewer Basin

The North 11th sewer basin area has 304 new In-Basin EDUs.

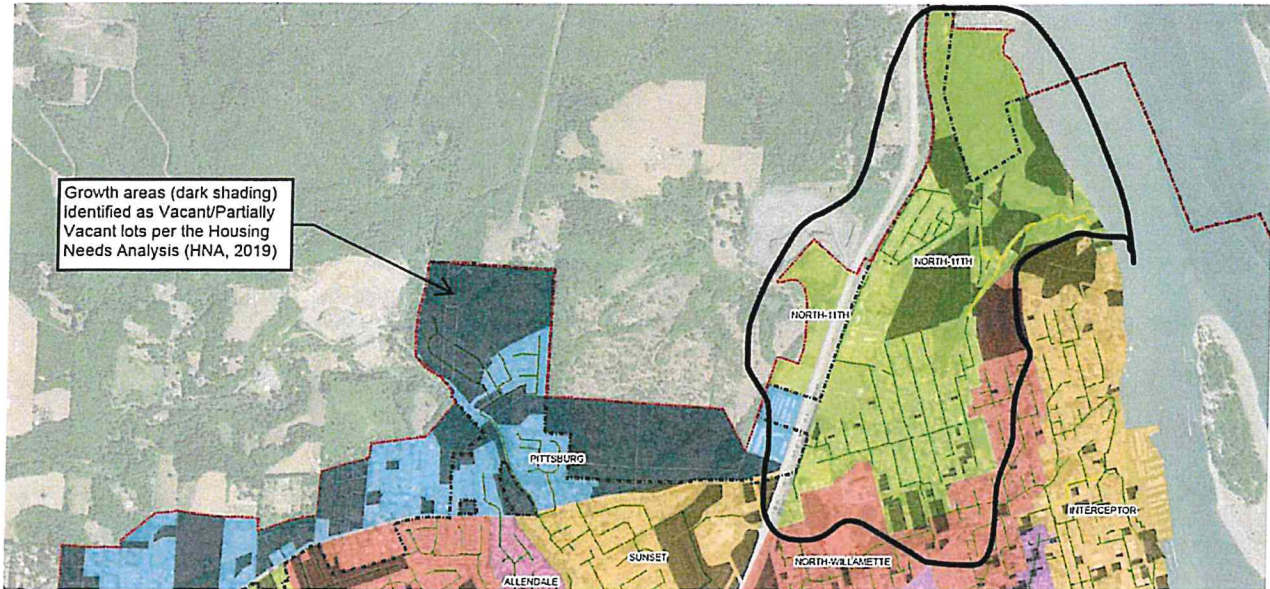


Figure 2.11.A North 11th Sanitary Sewer Basin

The allocation of the North 11th sewer basin's downstream CIP share per new upstream EDU, which consists of North 11th, North Willamette, and the Interceptor basins, is \$3,400.

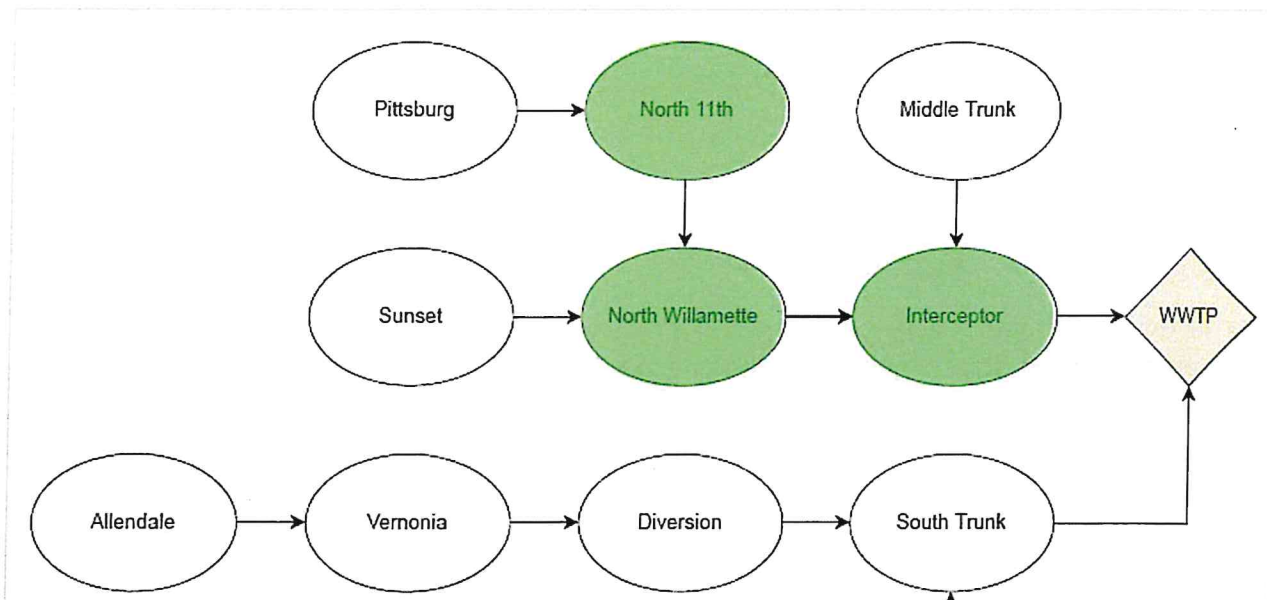


Figure 2.11.B North 11th Sewer Basin Flow Path to WWTP

## SECTION 3 – SEWER SURCHARGE CHART

Sewer Trunkline Basin	Downstream CIP Share per New Upstream EDU	New-In Basin EDU	Sewer Surcharge per EDU*
Allendale	\$104,900	1	\$15,000 (max.)
Diversion	\$104,900	1	\$15,000 (max.)
Firlock	\$7,600	0	\$7,600
Gable	\$7,900	589	\$7,900
The Interceptor	\$2,200	512	\$2,200
Matzen	\$12,700	430	\$12,700
McNulty	\$3,200	144	\$3,200
Middle Trunk	\$41,400	91	\$15,000 (max.)
Millard-OPR	\$3,200	806	\$3,200
North 11th	\$3,400	340	\$3,400
North Willamette	\$2,200	134	\$2,200
Pittsburg	\$3,400	731	\$3,400
Port	\$3,800	36	\$3,800
South Trunk	\$1,800	124	\$1,800
Southwest	\$3,200	748	\$3,200
Sunset	\$7,900	321	\$7,900
Sykes	\$6,600	500	\$6,600
Vernonia	\$104,900	30	\$15,000 (max.)

\* Estimated Sewer Surcharge cost per EDU is based on the US dollar at the time this document was published. Inflation adjustment to value at time of building permit issuance shall be included.

## SECTION 4 – EQUIVALENT DWELLING UNIT CONVERSION

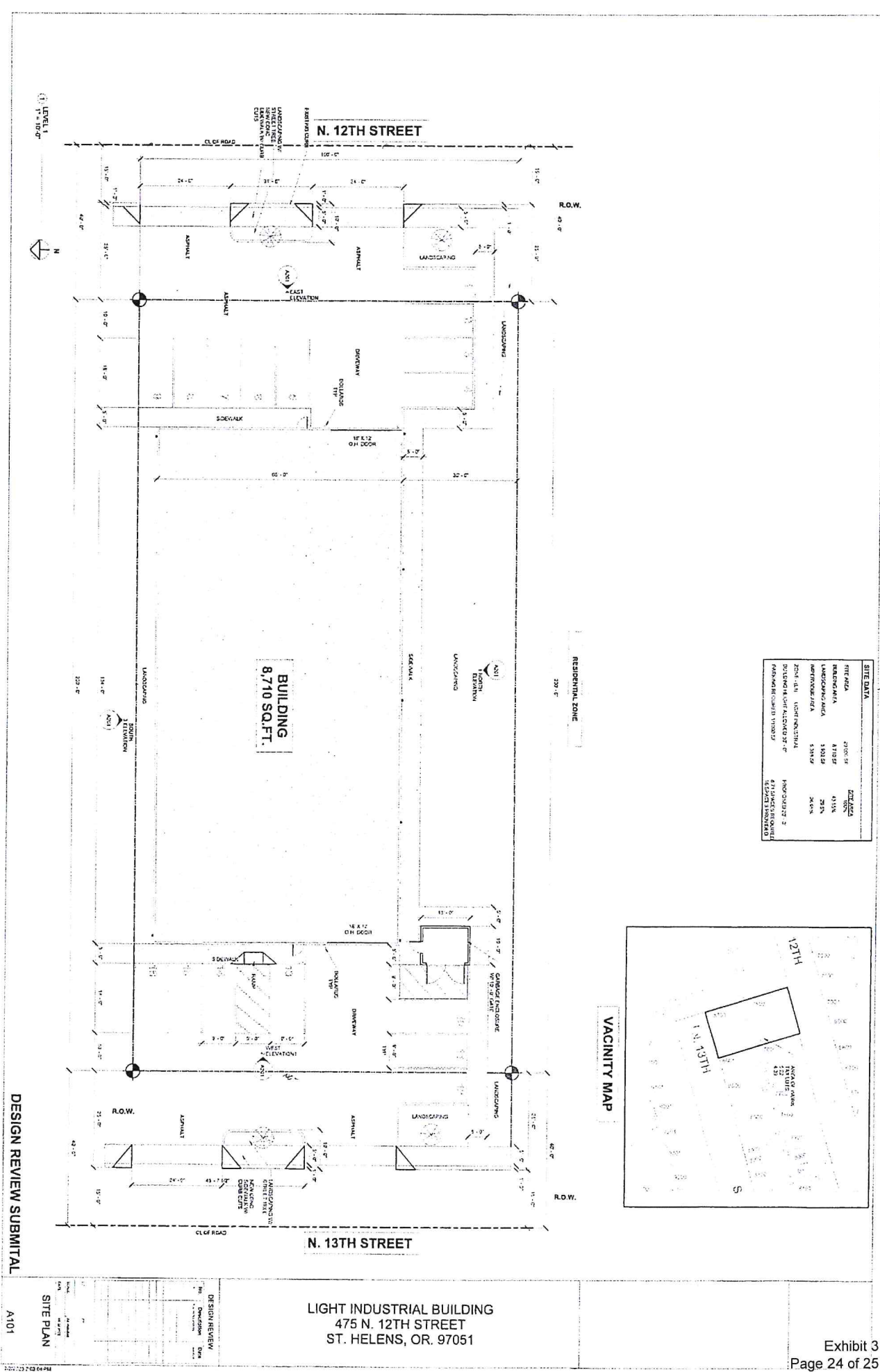
Land Use	EDU Conversion
Single Family Residential	1.00 EDU per unit
Multi Family (Duplex)	0.80 EDU per unit
Multi Family (3 or more Dwelling Units)	0.77 EDU per unit

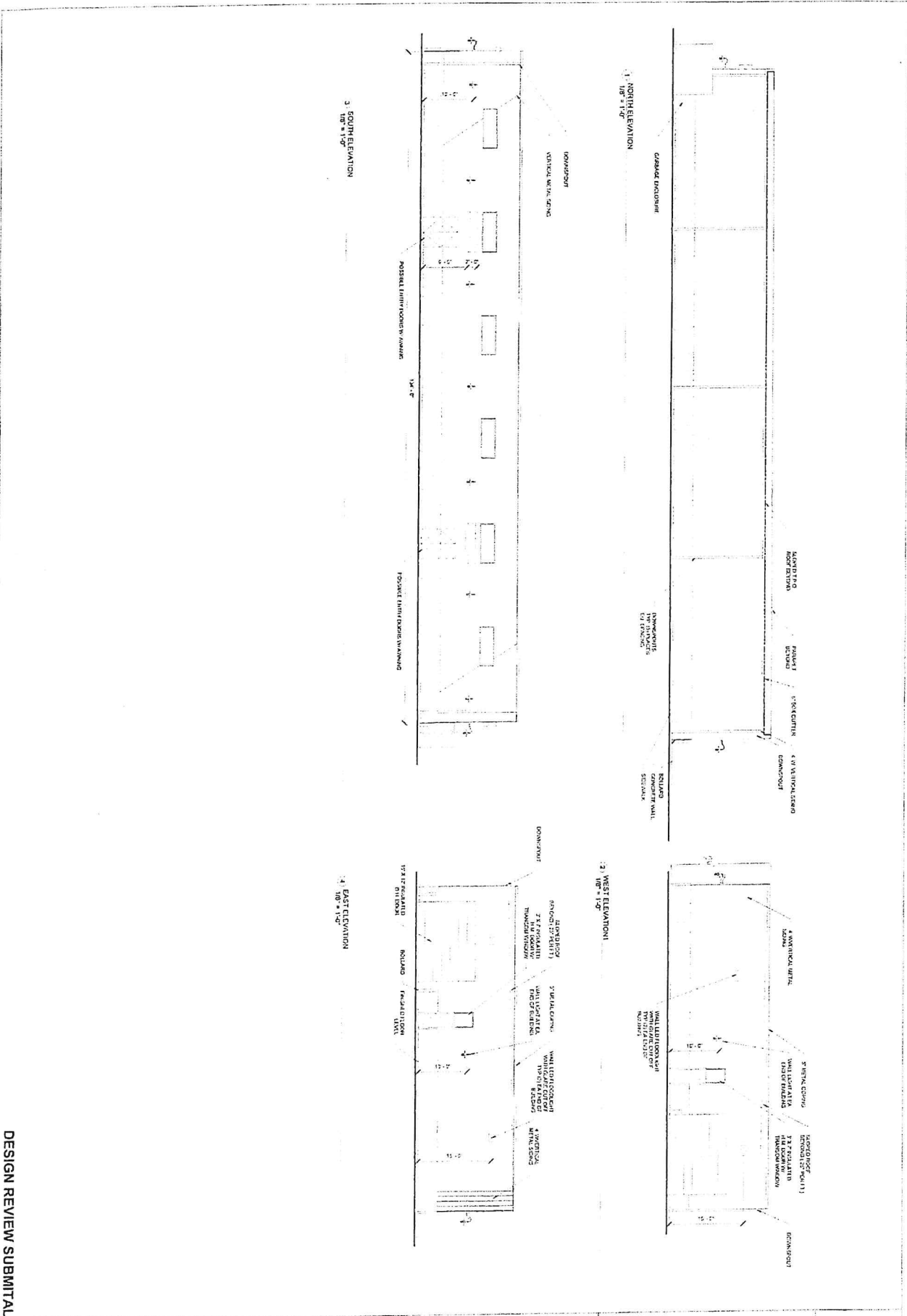
*Residential EDU conversion rate based on the City of St. Helens adopted Sewer Utility Rates and Charges.*

**EDU conversion rates for sewer surcharges for commercial, industrial, and other land uses not covered under Single Family Residential, Multi Family (Duplex), or Multi Family (3 or more Dwelling Units) shall be based on City of St. Helens wastewater rate classifications for water meter size(s),**

3/4-inch meter	1.00 x Sewer Surcharge
1-inch meter	1.67 x Sewer Surcharge
1.5-inch meter	3.33 x Sewer Surcharge
2-inch meter	5.33 x Sewer Surcharge
3-inch meter	10.00 x Sewer Surcharge
4-inch meter	16.67 x Sewer Surcharge
6-inch meter	33.33 x Sewer Surcharge
8-inch meter	53.33 x Sewer Surcharge







DESIGN REVIEW SUBMITAL

ELEVATIONS

A201

LIGHT INDUSTRIAL BUILDING  
475 N. 12TH STREET  
ST. HELENS, OR. 97051