



PLANNING COMMISSION

Tuesday, September 13, 2022 at 7:00 PM
HYBRID: Council Chambers & Zoom (details below)

AGENDA

7:00 P.M. CALL TO ORDER & FLAG SALUTE

CONSENT AGENDA

- A. Planning Commission Minutes Dated August 9, 2022

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

PUBLIC HEARING AGENDA (times are earliest start time)

- B. 7:00 p.m. Variance (Sign Adjustment) at vacant lot north of Howard Street and US 30 - St. Helens OR, LLC

DISCUSSION ITEMS

- C. Planning Commission Term Expirations
- D. Council Reports land use matters to Planning Commission

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

- E. Site Design Review at Lot 10 of the McNulty Creek Industrial Park - Port of Columbia County
- F. Sensitive Lands Permit at Lot 10 of the McNulty Creek Industrial Park - Port of Columbia County
- G. Partition at 35531 Firway Lane & 58606 Kavanagh Ave - Holcomb Revocable Trust
- H. Sensitive Lands Permit (x2) at 414 Riverside Drive - Bo & Emily Kelley
- I. Partition at SE corner of Howard Street & Kelly Street - Barry Hess
- J. Accessory Structure at 325 S 20th Street - Kara Marsh
- K. Site Design Review (Minor) at 1400 Kaster Road - ACSP
- L. Temporary Use Permit at 175 Bowling Alley Lane - CCPOD, LLC

PLANNING DEPARTMENT ACTIVITY REPORT

- M. Planning Department Activity Report - August

PROACTIVE ITEMS

- N. Oregon HB 3115

FOR YOUR INFORMATION ITEMS

ADJOURNMENT

NEXT REGULAR MEETING: October 11, 2022

VIRTUAL MEETING DETAILS

Join: <https://us06web.zoom.us/j/83550933042?pwd=WjNKbmtQWnJ2L0p2OVIyY2pMbHRPdz09>

Meeting ID: 835 5093 3042

Passcode: 332709

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

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

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 or call 503-366-8217.



PLANNING COMMISSION

Tuesday, August 9, 2022, at 7:00 PM

DRAFT MINUTES

Members Present: Chair Dan Cary
 Vice Chair Russ Hubbard
 Commissioner Steve Toschi
 Commissioner Jennifer Pugsley
 Commissioner Audrey Webster
 Commissioner Russ Low

Members Absent: Commissioner Sheila Semling

Staff Present: City Planner Jacob Graichen
 Associate Planner Jennifer Dimsho
 Community Development Admin Assistant Christina Sullivan
 Councilor Patrick Birkle

Others: Brendan Hart

CALL TO ORDER & FLAG SALUTE

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

There were no topics from the floor.

CONSENT AGENDA

A. Planning Commission Minutes Dated July 12, 2022

Motion: Upon Vice Chair Hubbard's motion and Commissioner Toschi's second, the Planning Commission unanimously approved the Draft Minutes as amended dated July 12, 2022. Commissioner Webster was absent from this meeting, so she abstained. [AYES: Vice Chair Hubbard, Commissioner Toschi, Commissioner Low, Commissioner Pugsley; NAYS: None]

DISCUSSION ITEMS

B. Architectural Design Guidelines Review for 230 Strand Street (Columbia County Courthouse Annex)

Associate Planner Dimsho presented the memo to the Commission. She said the County was proposing to replace a door with an automated sliding door, a floor to ceiling window with a new door for their mailroom access and then install a United States Postal Service box in-between both of those doors. These would be on the backside of the building. She mentioned the Historic District identifies this building as a noncontributing structure. She said the two doors are being placed to replace a nonfunctioning door and window. She said the mailbox would be painted to match the façade of the building.

Commissioner Webster mentioned this door would create an easier access for those who need handicap accessible entrances.

Motion: Upon Commissioner Webster's motion and Commissioner Pugsley's second, the Planning Commission unanimously recommended approval of the changes to 230 Strand Street. [AYES: Vice Chair Hubbard, Commissioner Webster, Commissioner Toschi, Commissioner Low, Commissioner Pugsley; NAYS: None]

C. Order and Conduct of Public Hearing

Dimsho shared the Order and Conduct Public Hearing document that shows the public how we conduct public hearings. She suggested a change to the document to impose a five minute per person time limit for those who are giving testimony that are not the Applicant.

She said this would help keep testimony on track and relevant to the public hearing topics and would help prevent meetings from extending into late hours of the evening.

Commissioner Pugsley commented that this would be a fair way to keep meetings shorter and give the Commission time to deliberate appropriately to make a fair decision based on the relevant criteria and code.

There was a small discussion on how to manage the five-minute time limit.

Dimsho mentioned the time limit could be extended if the testimony was relevant to the topic at hand. She said the Chair had the ability to allow the person to continue speaking after assessing the validity of the testimony. She also mentioned this time limit would be consistent with the City Council practice as well.

Chair Cary asked if they should be giving the public an explanation of what to give testimony on and that it is pertinent to the substantive criteria. Dimsho said this is already mentioned in the script that is read before the public hearing. Councilor Birkle commented that this could be the first time for the person to come and express and they may not understand the relevance but limiting helps them gather their testimony.

The Commission agreed to the suggested time limit as presented.

D. Planning Commission Start Time

Dimsho mentioned now that the meetings are hybrid and people can attend virtually, moving the meeting to an earlier timeframe would still allow people to attend if they have a commute outside of the County. She asked the Commission how they would feel about a meeting start time of 6 p.m.

Chair Cary asked if 6 p.m. was a normal time for public meetings. Dimsho said she did not look at other communities, but was willing to do some case studies if the Commission wanted her to. She did mention when they set the public hearings, they do connect with the applicant and try to give them a time that works with their schedule. She also said the applicants know about a month in advance of the public hearing, which allow them to make accommodations.

She did mention this new start time would not take place until January when the new public meetings list was put out by the City Recorder.

The Commission agreed to a new start time of 6 p.m. beginning January 2023. Councilor Birkle agreed to mention this discussion to the City Council at the next meeting.

E. Oregon's Measure 109 related to Psilocybin and land use implications

City Planner Graichen presented the report to the Commission. He mentioned that the Oregon Health Authority planned to implement licensing for the ability to build/use structures for the manufacturing of and the service centers for use of psilocybin as of January 23, 2023.

He said Measure 109 was adopted and approved in 2020 and it allowed for two years for the Health Authority to develop license processes.

He said the manufacturing would be growing and processing. He said the State law says does not allow outdoor manufacturing and that it will be very much like other types of manufacturing businesses now.

He said the service centers will be where individuals will be able to obtain and use the product. He said this law allows the City to outright ban manufacturing or service centers or enact a two-year ban if approved by a voter referendum. He said the City Council passed a resolution to have the voters decide on whether to delay the allowance of the psilocybin land uses for two years or not. He said they hope to have some time to develop some model code and to see how the service centers operate.

He said they have a generalized model for this because in 2015, they were dealing with marijuana retail. He mentioned the marijuana retailers had to be 1,000 feet from schools and have 2,000 feet between each operation. He said the provisions set forth currently for the service centers already have very similar provisions as the marijuana retailers. He said the service centers could not be in residential areas and could not develop within 1,000 feet of a school. He said if they did impose time, place, and manner rules over these centers, they would not be allowed to impose more than 1,000 feet in-between centers.

There was a small discussion on where the service centers might be located and operate.

Commissioner Toschi raised a concern that the public may not know exactly what all this referendum may entail. He thought it would be pertinent to give the public an explanation on what it entails. Chair Cary and Graichen mentioned the City and its entities could not endorse one way or the other. Chair Cary also felt it was not the Planning Commission's duty to give feedback to the public on these types of matters.

There was a discussion on the adopted resolution, Resolution No. 1961, from the City Council which places the decision in the hands of the voters on whether to place a moratorium for two years on these facilities.

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

There were no Planning Director Decisions

PLANNING DEPARTMENT ACTIVITY REPORT

Q. Planning Department Activity Report – July

There was no discussion on the Activity Report.

PROACTIVE ITEMS

There were no Proactive Items discussed.

FOR YOUR INFORMATION ITEMS

Commissioner Webster asked if staff was working on any code changes for the City to be paid for Street Vacations. Graichen said the statute is silent on the fee. He said they would have to be consistent if they decided to start doing these charges. He said this would be a question for the Council to advise staff.

There was a small discussion on if the question of charging a fee for a vacation of land should be considered as a proactive item to do more research on and how to calculate the value of land.

Graichen said there was a decision made by staff for the Port of Columbia County property that they have been working with the State on their Shovel-Ready Program. Graichen also said this was the last major project to be submitted at the end of Spring and he was finally able to process the land use permit, ending the Spring workload "pile up."

ADJOURNMENT

There being no further business before the Planning Commission, the meeting was adjourned 8:32 p.m.

Respectfully submitted,

*Christina Sullivan
Community Development Administrative Assistant*

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Variance V.5.22**

DATE: September 6, 2022
TO: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner

APPLICANT: St. Helens OR, LLC
OWNER: St. Helens II LLC

ZONING: Highway Commercial, HC
LOCATION: Vacant lot north of Howard Street & US 30
PROPOSAL: Variance (Sign Adjustment) to allow two freestanding signs on the subject property

SITE INFORMATION / BACKGROUND

The subject property is Lot 4 of a 4-lot commercial subdivision (SUB.1.21). The site is the location of a proposed Burger King which was approved with SDR.2.22 in April 2022. The applicant (Burger King) would like to apply for a sign permit to install a freestanding pole sign along US 30 in the near future. The subject property also has a sign easement from 2003 located on the south corner of the property. The sign easement alone does not vest the right to construct a freestanding sign. If Burger King applies for a sign permit and constructs their freestanding pole sign in the short term, this Variance/Sign Adjustment would allow the benefitting party of the sign easement to be able to construct a **second** freestanding sign on the property in the future.



Subject property taken from Howard Street looking towards the location of the sign easement on the south corner of the property. Burger King's proposed sign location is along US 30, approximately 20 feet from the sign easement.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: September 13, 2022

Notice of this proposal was sent to surrounding property owners within 100 feet of the subject properties on August 25, 2022 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on August 31, 2022 in The Chronicle newspaper.

AGENCY REFERRALS & COMMENTS

As of the date of this staff report, no relevant agencies have provided feedback on this proposal.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

DISCUSSION:

Burger King would like the benefitting party of the sign easement (the abutting property owner) to be able to construct a second freestanding sign in the location of the easement after they have received approval for a freestanding pole sign on the same property. The applicable sign rules are below.

SHMC 17.88.060 (a) Monument or Ground-Mounted Signs

- (i) For principal uses, one single- or double-faced monument or ground-mounted sign shall be permitted for each lot along the primary street frontage. Where a use has multiple street frontages, this signage may be permitted along each building frontage that abuts a TSP designated arterial or collector street. Sign area shall not exceed 40 square feet for each sign face.

Although there are two street frontages on the property (Howard Street and US 30), only US 30 is an arterial, so Howard Street would not be eligible for a second sign.

SHMC 17.88.095 Freestanding Signs (5)

- (5) Only one freestanding sign is allowed for each street frontage unless multiple signs are approved through a comprehensive sign plan.

A comprehensive sign plan is for multi-tenant projects per SHMC 17.88.110 and would not be an option for one principal use as proposed (Burger King).

Note: Sign permit(s) have not yet been submitted. If granted, this Variance would allow two freestanding sign permits to be granted on the property, subject to conformance of all other sign permit approval criteria. Sign permits are required for any new sign.

CRITERIA:**SHMC 17.88.135 Sign Adjustments**

- (2) The approval criteria per Chapter 17.108 SHMC shall apply, in addition to the following:
- (a) Any reference to “zoning district” shall be substituted with “sign districts” per SHMC 17.88.050;
 - (b) The requested adjustment shall not result from actions of the applicant, owner(s) or previous owner(s), or from personal circumstances of the applicant, owner(s) or previous owner(s), such as physical condition, age or financial situation; and
 - (c) Approval of the adjustment will not adversely affect the function or appearance of the development and use of the subject property and surrounding properties; and will not impose limitations on other properties and signage in the area including signage that would be allowed on adjacent properties.
- (3) The planning commission shall conduct a public hearing on the request for adjustment. The commission shall approve, approve with conditions, or deny the adjustment, based upon the evidence at the hearing. The commission may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from approving the adjustment. The hearing shall be conducted under the procedures used by the commission for a quasi-judicial land use hearing.

FINDINGS

(a) This has been done in the next section.

(b) The sign easement was established in 2003 and did not involve the current property owner (St. Helens II LLC) or the applicant (St. Helens OR, LLC) of this variance. When the sign easement was established, it was between St. Helens Partners (a Washington general partnership) and Columbia Commons LLC (an Oregon limited liability company).



In addition, there is a similar sign easement located at the northern end of the lot where a ground mounted “Columbia Commons” sign was constructed, but no similar sign was constructed in the southern easement. The Commission could find that the requested adjustment is not the result of personal circumstances related to physical condition, age, or financial situations of the applicant, owners, or previous owners.

(c) The minimum distance requirement between freestanding pole signs is 80 feet. Based on the proposed location of Burger King’s pole sign, another pole sign could not be placed within the sign easement. However, if this variance is granted, approval of a ground-mounted sign or monument sign, similar to the existing “Columbia Commons” sign, could be granted (assuming conformance of all other signage approval criteria). The Commission could find that approval

will **reduce** a limitation on the adjacent property, allowing a second freestanding sign to be constructed.

SHMC 17.108.050 (1) – Criteria for granting a Variance

- (a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same **sign** district or vicinity;
- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same **sign** district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

FINDINGS:

(a) This criterion requires a finding that the variance will not be detrimental.

- See applicant's narrative.
- Staff comments: Approval of the variance allows the adjacent property owner (the benefitting party of the easement) to construct a second freestanding sign on the property. The Commission could find that approval of this sign variance reduces a detrimental impact to an adjacent property owner by allowing a second freestanding sign to advertise the larger Columbia Commons complex.

(b) The criterion requires a finding that there are special and unique circumstances.

- See applicant's narrative.
- Staff comments: The Commission could find that the sign easement is a special circumstance specific to this lot and is not applicable to other properties in the same sign district.

(c) This criterion prohibits a use variance and requires a finding that the applicable standards are maintained to the greatest extent that is reasonably possible.

- See applicant's narrative.
- Staff comments: The Commission can find that this is not a use variance. There are other rules which permit multiple freestanding ground-mounted signs on each street frontage for the same property, but they do not apply in this case. The Commission could find that the standards are being maintained to the greatest extent possible.

(d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.

- See applicant's narrative.
- Staff comments: There is no evidence that there are adverse impacts related to traffic, drainage, landforms, or parks that would be affected any more than if development were located as specified in the code.

(e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.

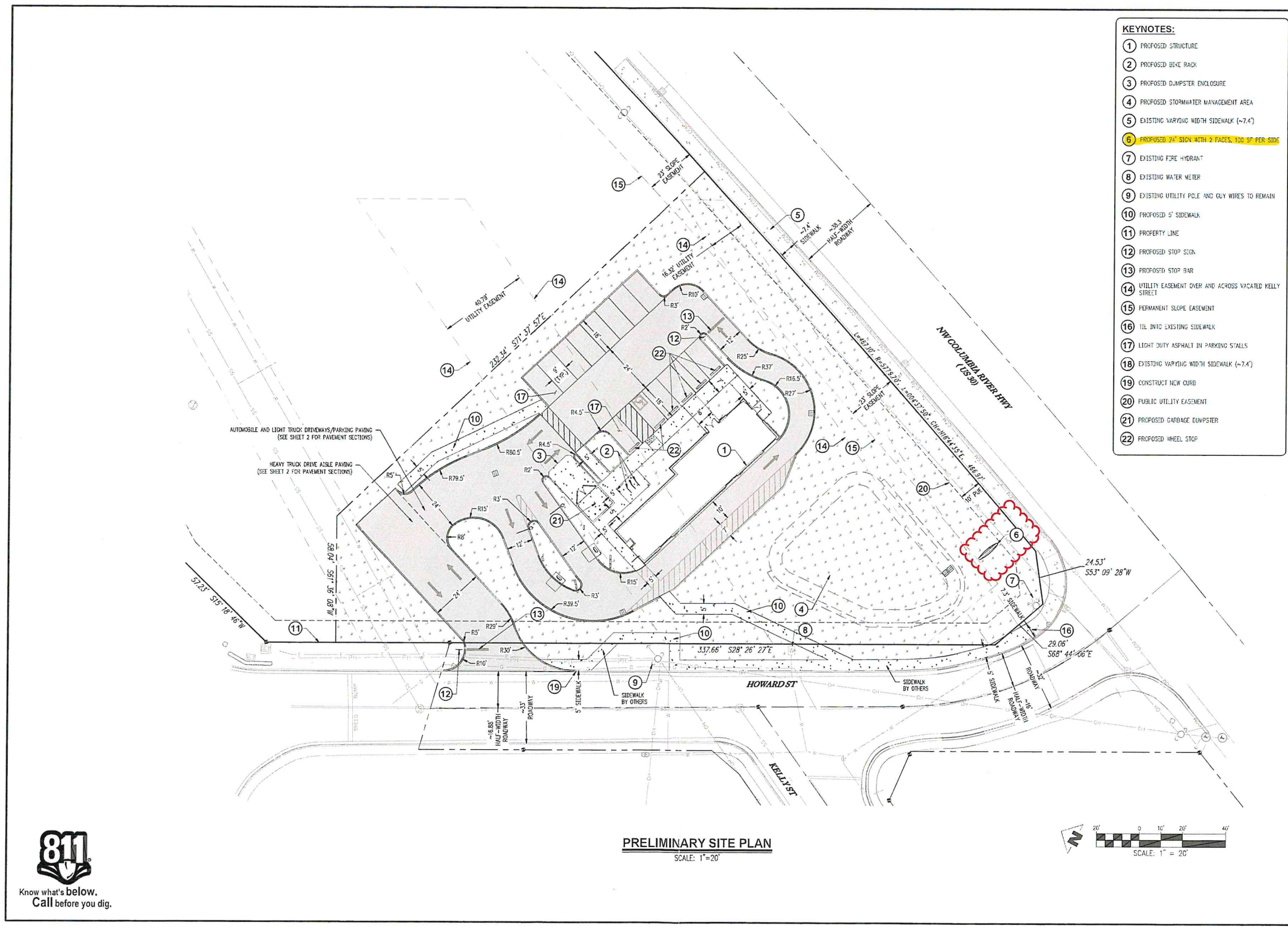
- See applicant's narrative.
- Staff comments: The Commission must find that this issue is not self-imposed and that the variance is minimum necessary to alleviate the hardship.

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends approval of this Variance/Sign Adjustment with the following conditions:

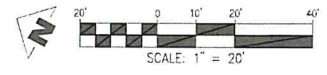
1. This Variance approval is valid for a limited time pursuant to SHMC 17.108.040. The sign easement may be used for the second sign if the proposed sign outside of the easement is established within the validity period of this Variance.
2. Any sign requires a sign permit prior to installation. This Variance **is not** a substitute for a sign permit.
3. This Variance is only valid as long as the existing sign easement is in place.
4. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.

Attachments: *Alta Land Title Survey, Preliminary Site Plan, Applicant's Narrative*



- KEYNOTES:**
- 1 PROPOSED STRUCTURE
 - 2 PROPOSED BIKE RACK
 - 3 PROPOSED DUMPSTER ENCLOSURE
 - 4 PROPOSED STORMWATER MANAGEMENT AREA
 - 5 EXISTING VARYING WIDTH SIDEWALK (~7.4')
 - 6 PROPOSED 24" SIGN WITH 2 FACES, 120 SF PER SIDE
 - 7 EXISTING FIRE HYDRANT
 - 8 EXISTING WATER METER
 - 9 EXISTING UTILITY POLE AND GUY WIRES TO REMAIN
 - 10 PROPOSED 5' SIDEWALK
 - 11 PROPERTY LINE
 - 12 PROPOSED STOP SIGN
 - 13 PROPOSED STOP BAR
 - 14 UTILITY EASEMENT OVER AND ACROSS VACATED KELLY STREET
 - 15 PERMANENT SLOPE EASEMENT
 - 16 TIL INTO EXISTING SIDEWALK
 - 17 LIGHT DUTY ASPHALT IN PARKING STALLS
 - 18 EXISTING VARYING WIDTH SIDEWALK (~7.4')
 - 19 CONSTRUCT NEW CURB
 - 20 PUBLIC UTILITY EASEMENT
 - 21 PROPOSED GARBAGE DUMPSTER
 - 22 PROPOSED WHEEL STOP

PRELIMINARY SITE PLAN
SCALE: 1"=20'



HOWARD STREET
TAX MAP 4104-BA
TAX LOT 3600
CITY OF ST. HELENS, OREGON

SITE PLAN

NO.	DATE	DESCRIPTION
0	8/2/2022	AGENCY SUBMITTAL

EMERIO
ENGINEERING - SURVEYING - DESIGN
6445 SW FALLERON PLACE, SUITE 100
BEAVERTON, OREGON 97008
TEL: (503) 638-0102
WWW.EMERIODSG.COM

REGISTERED PROFESSIONAL
ENGINEER
KELAN MICHAEL SMITH
LICENSE NO. 100000000
EXPIRES: 10/30/2024

SHEET
04
OF
12

P.L.E.P. 10990-001 Howard and US-30 Restaurant Imp Ltd 0990-001_04 Site Plan, Plot Date: 8/2/2022 3:51 PM, by: Keaton Smith

August 23, 2022

Jacob Graichen, AICP
City Planner
City of St. Helens
265 Strand Street
St. Helens, OR 97051

Dear Mr. Graichen,

Below are itemized responses to each of the criteria listed in St. Helens Municipal Code Title 17, Chapter 108, Section 040, as it relates to the proposed variance allowing two (2) signs on one (1) property located at 405 N. Columbia River Hwy.

Criteria for Granting a Variance:

(a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;

RESPONSE: The proposed variance will not be significantly detrimental to the overall purpose of the code, as there is an unnecessary hardship posed to the piece of land by an existing sign easement located on the property. Currently, there is an easement allowing the owner of the adjacent property, located at 500 North Columbia River Highway, the rights to construct a sign within the easement area, which is restricted to roughly 10' from the southern property corner, at the intersection of Howard St. and Columbia River Highway. A similar sign has already been constructed at the northern corner of the existing property, located at the southwest corner of the intersection of Wyeth St. and Columbia River Highway. Now, the overall property is being re-developed into four (4) separate parcels for commercial uses, however, the southernmost parcel is currently restricted, regarding signage improvements, because of the existing sign easement in the southern corner. The proposed variance will allow for construction of the proposed fast food restaurant sign, while maintaining the rights for the sign, which were granted to the adjacent property owner.

(b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

RESPONSE: Previously, a sign was allowed to be constructed at the north end of the existing lot, and an easement for a second sign was provided on the southern corner of the existing, single lot. Now, the lot is being divided into four (4) separate parcels, each of which will likely contain a commercial development with individual signs. The southernmost lot would like to construct a commercial sign, similar to the rest of the properties within the development but would also like for the adjacent property owner to maintain their rights to construct a sign on the property as well.

(c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

RESPONSE: The proposed variance will not have any effect on the use permitted by City Code and Standards.

(d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and

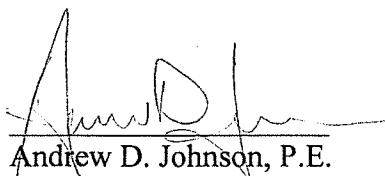
RESPONSE: The proposed variance will not have any effect on traffic, drainage, dramatic landforms or parks.

(e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

RESPONSE: The hardship is not self-imposed, as the sign easement existed prior to any commercial development interest. The variance requested is the minimum scope of work required to allow the proposed restaurant sign to be constructed. To clarify, only the restaurant sign will be constructed in the near future, while the sign for the adjacent property exists only by-right via the easement.

Please don't hesitate to contact me if you have any questions or concerns regarding the information presented above.

Sincerely,



Andrew D. Johnson, P.E.
 Project Manager

CITY OF ST. HELENS PLANNING DEPARTMENT ACTIVITY REPORT



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

Date: 8.24.2022

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

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

PLANNING ADMINISTRATION—NOTEWORTHY ADMINISTRATIVE DECISIONS

Issued decision for a Site Development Review for the Port of Columbia County for approximately 100K square feet of industrial floorspace divided into four separate buildings. This is along McNulty Way across from Pacific Stainless. This is significant as the Port has been talking with us about this property off and on for several years. They don’t have any specific tenants yet, but their objective is to get as close to “shove ready” as possible. This is the purpose of this land use permit. Per a later discussion with the Port (this month) they intend to build the first of four buildings within a year or so

The other significant about this Port of CC file is it the last batch of the “Spring pile” that I finally got through, not in mid-summer. As is typical, much gets submitted in the Spring, which creates a log jam that slowly gets unjammed into the summer.

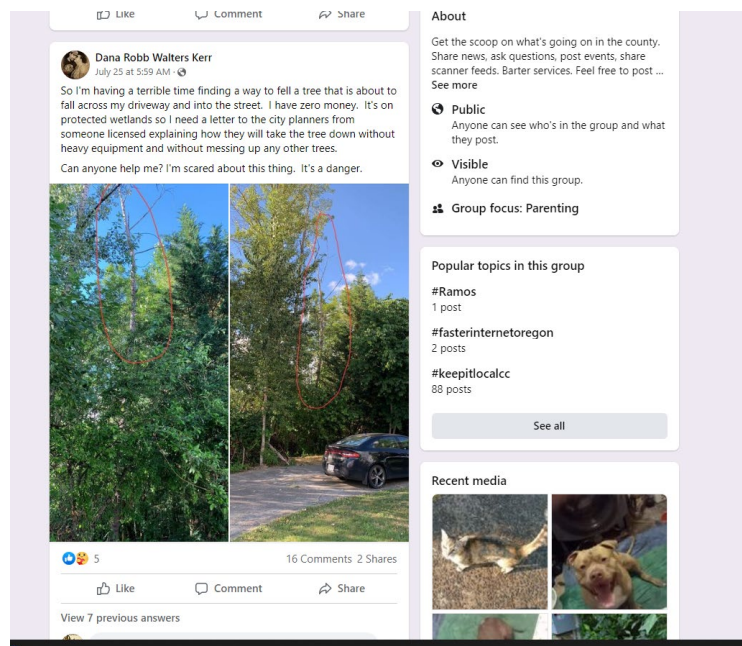
PLANNING ADMINISTRATION—PREAPPLICATIONS MEETINGS

Conducted an early assistance meeting for a potential residential subdivision of the remainder of the former mill site that was not used by the County’s Transit Center along Oregon Street and Deer Island Road.

PLANNING ADMINISTRATION—MISC.

Allowed removal of some dead trees within a significant wetland area at 88 Red Cedar Street.

There was a Facebook post about this actually (see right).



I was able to deliver the final plat and associated documents for the Columbia Commons Subdivision on Aug. 3, 2022 as all requirements met in that day. This is the four commercial lot development where Burger King is proposed. I expect another driveway through restaurant application for one of the other lots soon.

Review the draft Mercury TMDL Implementation plan that city engineering is working on. This is another state mandate without the state providing resources. Planning's role will be to support review and implementation of ordinances and land development code updates. This will inevitably conflict with other code updates we hoped to do in the near to somewhat near future.

☺ The objective is to reduce Mercury in the waters of the Willamette Basin.

DEVELOPMENT CODE ENFORCEMENT

Some work close to a significant wetland was discovered within the Meadowbrook Subdivision, after a complaint about a separate but related matter. This is a wetland that would have a 75' upland protection zone today, however Meadowbrook predates those rules that took effect December 2003. The separate matter (concrete chunks placed in the wetland area) has been resolved. The other issue, construction of a retaining wall immediately adjacent to the wetland (with apparent wetland impacts) is in process of being resolved.

PLANNING COMMISSION (& acting HISTORIC LANDMARKS COMMISSION)

August 9, 2022 meeting (outcome): The Commission discussed the order/conduct of public hearings (i.e., incorporating a testimony time limit) and decided to implement such by adding to its written procedures. They also discussed moving the time meetings/hearings start to 6pm beginning in January. The Commission also had a general discussion about Oregon's measure 109 related to Psilocybin.

As the Historic Landmarks Commission, they reviewed and recommended approval of minor exterior changes to the non-historic portion of the county's courthouse annex at 230 Strand.

September 13, 2022 meeting (upcoming): At a minimum we will talk about upcoming term expirations for two Planning Commissioners, both who has stated they will not seek new terms.

A Commission has submitted a proactive item for Commissioner consideration regarding Oregon HB 3115.

COUNCIL ACTIONS RELATED TO LAND USE

The Council adopted the Planned Development (overlay zone) for the Comstock property with the same modifications as recommended by the Planning Commission.

The Council held the public hearing for the Comstock subdivision and started deliberations. Deliberations were continued to the September 21st due to late additions to the record. The full staff report and record can be found by:

- Go to <https://www.sthelensoregon.gov/citycouncil/page/council-public-hearing-55>
- Click on the Details tab
- Scroll down to 'Agenda Packet Supplement – Uploaded 8/18/2022'

GEOGRAPHIC INFORMATION SYSTEMS (GIS)

The Engineering and Planning Departments have started to reorganize our data now that we have a fresh new batch of updates. Some of this organization is long overdue, so I am happy about this in-process milestone. Time consuming though. Some of the utility confirmation, such as confirming catch basins (old v. new and attribute data) has to be done at a per feature basis and there are more than a thousand catch basins. This is engineering's burden that may take months if not years. Thinking final organization as it pertains to Planning will be concluded by end of year.

Data update related to adoption of Comstock Planned Development.

Routine data updates.

MILLARD ROAD PROPERTY

Chase road easement agreement originated in 2009 with an 11-year window for development. We extended this for two years in 2020. Still no development. The extended two-year window ended in March. A little behind (but since on my mind), I finally created a revised agreement extension for the grantor's consideration. I mentioned this previously in May's report.

From: [Jennifer Dimsho](#)
To: [Jacob Graichen](#)
Subject: August Planning Department Report
Date: Wednesday, August 24, 2022 2:22:06 PM

Here are my additions to the August Planning Department Report.

GRANTS

1. **CDBG- Columbia Pacific Food Bank Project** – Final project closeout letter received from the state! Will pay retainage invoice once all certified payroll information confirmed and final occupancy is granted by the Building Official.
2. **Safe Routes to School - Columbia Blvd. Sidewalk Project** – Culvert project (County) will be a separate project than the sidewalks project, but the City's IGA still stands. 95% design received and reviewed with a followup meeting on 9/1. Bidding is anticipated late Fall 2022 with construction in Spring/Summer 2023. Amendment approved to push completion deadline from November 2022 to February 2024.
3. **Business Oregon – Infrastructure Finance Authority** – Contract documents finalized. Will submit first reimbursement once design work is complete for Riverwalk project.
4. **Technical Assistance Grant with the Oregon State Marine Board** - To assist with design and permitting of an in-water fishing dock and paddlecraft launch facility at Grey Cliffs Park. Feedback summarized submitted to OSMB to move forward. They would like to hire their environmental permit specialist before starting moving this project forward. Hiring is anticipated in August 2022.

PROJECTS & MISC

5. **Riverwalk Project (OPRD Grants x2)** – Moving into 90% design, continued regular PM meetings and TAC meetings. For permitting, stage and structure will require architectural review before the PC (anticipated in the early fall with the building permit). LWCF grant contract will be subject to the America/Build America requirements. We are likely going to apply for a waiver for our project, as this could have significant cost increases for our project. Working with County/NOAA for potential impacts near Tide Gauge Station.
6. **Riverfront Streets/Utilities Design/Engineering** –Streets/Utilities Project went to bid on 6/30. Attended mandatory pre-bid meeting/project walkthrough on 7/19. Bid opening extended to 8/18. Received 3 bids, with notice of intent to award granted to Moore Excavation.
7. **St. Helens Industrial Business Park (SHIBP) Public Infrastructure Design**– Work Order 1 approved - 30% design for Phase I infrastructure & permitting/grading work for Phase II with Mackenzie. Preparing for a pre-application meeting with Mackenzie and PGE to prepare for land use applications. Goal is for PGE to be able to buy the parcel from the City. Met with Paper Union president to discuss PUE needs for their property.
8. Planned/Registered for **OAPA conference** in Pendleton, OR on 10/26-10/28
9. **PSU 2022 Annual Housing Unit and Population Survey** – Worked with the Building Department and all group housing (like senior housing, jail, treatment facilities, etc) within city limits to fill out the 2022 AHUPS.
10. **Business Oregon/DLCD/DEQ Discussion** – About 15 state employees from different agencies (DLCD, Business Oregon, DEQ) came to St. Helens on 8/8 for a tour and

- discussion of the waterfront-related projects and the community as a whole
11. **Met with new Mainstreet Alliance coordinator** – Met monthly with Amara to discuss City projects/Mainstreet projects
 12. Issued **parklet renewal** at CCB/BRB on Strand Street for 6 months. Beyond 6 months will not be approved given construction impacts for the streets/utilities extension project underway

Jenny Dimsho, AICP
Associate Planner / Community Development Project Manager
City of St. Helens
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CITY OF ST. HELENS PLANNING DEPARTMENT
M E M O R A N D U M

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: Planning Commission Proactive Item Submission Consideration
DATE: August 24, 2022

In June 2022 the Planning Commission adopted the **Planning Commission Proactive Procedures, PCPR** (attached).

Commissioner Toschi submitted a Proactive Item for Commission consideration on August 8, with a revision August 21. Staff has reviewed the materials to the extent to at least determine compliance with items 1 and 2 of the PCPR for inclusion on the September agenda per item 3 of the PCPR.

Subject: Oregon HB 3115

Staff comments: Due to workload, no comments at this time.

Attached: June 2022 PCPR
Proactive Item Submission

CITY OF ST. HELENS, OREGON PLANNING COMMISSION PROACTIVE PROCEDURES

The Planning Commission and acting Historic Landmarks Commission hereby adopts the following proactive procedures. This is the original and there are no prior versions to be repealed.



- (1) Any Planning Commissioner can request that an agenda item include a proactive matter for Commission consideration (“Proactive Item”). In order to place a “Proactive Item” on the Planning Commission Agenda, the proposing Commissioner shall at least 20 business days before the week prior to the scheduled Planning Commission meeting, submit the “Proposed Item” for Staff review and, if desired, comment.
- (2) The proposed “Proactive Item” submitted to Staff must contain the following elements:
 - (a) The proposed Proactive Item shall identify in the presented materials how the item or matter for Commission study, planning, approval, action, proposed legislation, or other is within the Jurisdiction of the Planning Commission and shall identify specifically which provisions of the St. Helens Municipal Code (SHMC) Section 2.08.080 and/or Chapter 17.36 SHMC is/are applicable for the purposes of Jurisdiction;
 - (b) The proposed Proactive Item submission shall outline the reasons the Commissioner believes the Proactive Item is something the Planning Commission should undertake; and
 - (c) The proposed Proactive Item submission shall briefly outline the suggested process of study, investigation, public involvement, timeline and budget, as applicable, that the Commissioner suggests the Planning Commission undertake. This is for the purpose of Proactive Item consideration and not binding.
- (3) Having timely received a proposed Proactive Item submission from a Planning Commissioner, Staff shall review the proposed Proactive Item submission for compliance with paragraphs (1) and (2) above and place it on the Agenda for the next qualifying Planning Commission meeting. Staff may submit its comments at the usual time and manner preceding said meeting.
- (4) The Planning Commission may vote to take up the proposed Proactive Item submission. The discussion preceding a motion and vote shall include at least following:
 - (a) Determination of Jurisdiction per paragraph 2(a) above;
 - (b) Reasons per paragraph 2(b) above; and
 - (c) What level of Staff involvement and monetary expense will be necessary for the Proactive Item to advance and what actual staff resources and other resources are available based upon Staff workload and the City budget.

Research and reporting on that research is an example of activity that can be conducted by Commissioners, the public, volunteers, and hired help that can minimize staff inclusion and helps preserve Staff's ability to conduct daily tasks and other necessary Staff priorities.

- (5) The Planning Commission will track the Proactive Items on its Agenda calendar as it believes is appropriate. "Proactive Items" will be an agenda item for the Commission's regular scheduled meetings for this purpose.

* * *

APPROVED AND ADOPTED this 14th day of June, 2022, by the following vote:

Ayes: Commissioner Webster, Semling, Low, Toschi, Hubbard, and Pugsley

Nays: (none)


Dan Cary, Planning Commission Chair

CITY OF ST. HELENS PLANNING COMMISSION
 PROACTIVE ITEM SUBMISSION
 UPDATE

Date Submitted: August 17, 2022

Submitted by: Steve Toschi, Planning Commissioner

Proposed Date for Meeting for Discussion: September 13, 2022 or October 11, 2022

Item Matter Number: 2022-1 (subject to Staff numbering)

Title: Study and Recommendations to Council, HB 3115

Jurisdiction: The Planning Commission has jurisdiction under 2.08.080(10), “review and act on land use control ordinance change proposals,...and discretionary permits.” (12) “Recommend and make suggestions to the city council...concerning...betterment of housing and sanitation conditions and establishment of zones or districts limiting the use...of buildings and structures. (13) Recommend to the city council...plans for regulations of the future growth of the city and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds, and vacant lots and plans consistent with the future growth and development of the city in order to secure to the city and its inhabitants sanitation, proper services of all public utilities, harbor, shipping and transportation facilities.” (14) “Recommend to the city council...plans for promotion, development and regulation of industrial and economic needs of the community in respect to private and public enterprises engaged industrial pursuits.” And (18) Study and propose in general such measures as may be advisable for promotion of the public interest, health, morals, safety, comfort, convenience, and welfare of the city and the area six miles adjacent thereto within the urban growth boundary of the city.”

Reasons for Planning Commission Action: Upon further reading of HB 3115, we should separate out analysis of Subsections (2), (3), and (5), from Subsections (4) and (6). Subsections 2, 3 and 5 appear to be impediments to enforcement of sleeping and lying laws. In every case wherein a person is charged with a law violation they may raise the “unreasonableness” of the statute, “from perspective of those experiencing homelessness,” as a defense to the action. Subsections (4) and (6) create a class cause of action against a City for it to be sued for “injunctive relief” and “attorney’s fees” if its laws are not “objectively reasonable.” Subsections (2), (3), and (5) appear designed to thwart effective prosecution of lawlessness, thereby creating an anarchistic environment in the City. Essentially, it will be difficult for the City to enforce its laws. However, as long as the City has reviewed its laws and found them to be “humane,” then the statute does not apply and is not an option. By the Planning Commission studying homeless migration, the population of homeless, the harm caused by the homeless to the City and its population, and the humane methods of addressing the problem, the City, and its prosecuting attorneys, will have a strong body of evidence to counter legal attacks and to persuade the Judicial Branch of the government that the laws of St. Helens are reasonable, just, and humane.

Regarding the “class action” causes of action, the same study and ensuring that the laws are “humane” will insulate the City from lawsuits, and also in the unlikely event of a piecing of the findings and rulings of the PC and the City, the PC findings and the City acting on them will provide a solid foundation to defend attacks on the City.

Process of Study: The process will proceed in subcommittee with citizen involvement, mental crisis involvement, and hopefully law enforcement involvement. Staff will identify statutes and ordinances which could be interpreted as sleeping and lying laws, keeping warm laws, sitting laws, or laws concerning “camping” on public property, including vehicle camping and boat camping. These will be reviewed to ensure “humane” treatment of the homeless.

Recommendations to the Planning Commission will be made and a public hearing held for recommendations of legislation to council. Regulations possibly limiting the ability of government staff or management to disallow camping on public property by homeless.

Regulations limiting the ability of private citizens to establish homeless camps or homeless services will be explored.

Timeline: The goal will be to progress the item to council for recommendation by May 1, 2023.

Budget: Staff four entire days of time for one experienced planner. It’s likely that the Planning Department will be asked by the council to undertake this work anyway. Additionally, there could be monetary costs for the study of the causes of homelessness, the different homeless populations, homeless migration, how other cities are dealing with the homeless and how homeless end up in a place like St. Helens.

Enrolled House Bill 3115

Sponsored by Representative KOTEK; Representatives DEXTER, MARSH, MCLAIN, POWER, REYNOLDS, WILDE, Senators DEMBROW, MANNING JR, RILEY

CHAPTER

AN ACT

Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) "City or county law" does not include policies developed pursuant to ORS 203.077 or 203.079.

(b)(A) "Keeping warm and dry" means using measures necessary for an individual to survive outdoors given the environmental conditions.

(B) "Keeping warm and dry" does not include using any measure that involves fire or flame.

(c) "Public property" has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:

(a) Was not seeking to vindicate an interest unique to the plaintiff; and

(b) At least 90 days before the action was filed, provided written notice to the governing body of the city or county that enacted the law being challenged of an intent to bring the action and the notice provided the governing body with actual notice of the basis upon which the plaintiff intends to challenge the law.

(7) Nothing in this section creates a private right of action for monetary damages for any person.

SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 9, 2021

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

.....
Shemia Fagan, Secretary of State

Enrolled House Bill 3124

Sponsored by Representative LIVELY; Representatives POWER, WILDE, Senator GORSEK

CHAPTER

AN ACT

Relating to homelessness; amending ORS 203.079 and section 1, chapter 21, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 203.079 is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall *[include, but is not limited to,]* **conform, but is not limited, to** the following $[:]$ **provisions.**

(2) As used in this section, “personal property” means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] **(3) [Prior to] Except as provided in subsection (9) of this section, at least 72 hours before** removing homeless individuals from an established camping site, law enforcement officials shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] **(4)(a) [At the time that a 24-hour] When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] **(b)** The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d)] **(5)(a)** All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it [will] shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed [for] after 30 days may be disposed of or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020. [For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.]

[(e)] (8) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] (9)(a) The [24-hour] 72-hour notice [required] requirement under subsection [(1)] (3) of this section [shall] does not apply:

[(a)] (A) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.

[(b)] (B) In the event of an exceptional emergency [such as] at an established camping site, including, but not limited to, possible site contamination by hazardous materials [or when there is], a public health emergency or other immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] (10) A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] required under subsection (3) of this section and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site preempts contrary provisions of this section.

SECTION 1a. If Senate Bill 410 becomes law, section 1 of this 2021 Act (amending ORS 203.079) is repealed and ORS 203.079, as amended by section 1, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 410), is amended to read:

203.079. (1) A policy developed pursuant to ORS 203.077 shall [include, but is not limited to,] conform, but is not limited, to the following[:] provisions.

(2) As used in this section, "personal property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.

[(a)] (3) [Prior to] Except as provided in subsection (9) of this section, at least 72 hours before removing homeless individuals from an established camping site, law enforcement officials

shall post a **written** notice, *[written]* in English and Spanish, *[24 hours in advance]* **at all entrances to the camping site to the extent that the entrances can reasonably be identified.**

[(b)] **(4)(a)** *[At the time that a 24-hour]* **When a 72-hour** notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals **as to** where the notice has been posted.

[(c)] **(b)** The local agency may arrange for outreach workers to visit the camping site *[where a notice has been posted]* **that is subject to the notice** to assess the need for social service assistance in arranging shelter and other assistance.

[(d) Except as otherwise provided in paragraph (e) of this subsection:]

[(A)] **(5)(a)** All *[unclaimed]* personal property **at the camping site that remains unclaimed after removal** shall be given to *[law enforcement officials whether 24-hour]* **a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (10) of this section, whether** notice is required **under subsection (3) of this section** or not.

(b) The unclaimed personal property must be stored:

(A) For property removed from camping sites in counties other than Multnomah County, in a facility located in the same community as the camping site from which it was removed.

(B) For property removed from camping sites in Multnomah County, in a facility located within six blocks of a public transit station.

(c) Items that have no apparent value or utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.

(d) Weapons, controlled substances other than prescription medication and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.

(6) The written notice required under subsection (3) of this section must state, at a minimum:

(a) Where unclaimed personal property will be stored;

(b) A phone number that individuals may call to find out where the property will be stored; or

(c) If a permanent storage location has not yet been determined, the address and phone number of an agency that will have the information when available.

(7)(a) The unclaimed personal property shall be stored in an orderly fashion, keeping items that belong to an individual together to the extent that ownership can reasonably be determined.

(b) The property shall be stored for a minimum of 30 days during which it *[will]* shall be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed *[for]* after 30 days may be disposed of **or donated to a corporation described in section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 2020.**

[(B) For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an insanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site.]

[(C) Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to or retained by law enforcement officials.]

[(e) For unclaimed personal property located in Multnomah County:]

[(A) All unclaimed personal property shall be given to a law enforcement official, a local agency that delivers social services to homeless individuals, an outreach worker, a local agency official or a person authorized to issue a citation described in subsection (3) of this section, whether 24-hour notice is required or not.]

[(B) Facilities for storage of personal property under paragraph (d) of this subsection must be located within six blocks of a public transit station.]

[(f)] **(8)** Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

[(2)] **(9)(a)** The [24-hour] **72-hour** notice [required] **requirement** under subsection [(1)] **(3)** of this section [shall] **does** not apply:

[(a)] **(A)** When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring **at an established camping site**.

[(b)] **(B)** In the event of an exceptional emergency [such as] **at an established camping site, including, but not limited to,** possible site contamination by hazardous materials [or when there is], **a public health emergency or other** immediate danger to human life or safety.

(b) If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under subsection (3) of this section may be posted at least 24 hours before removing homeless individuals from the camping site.

[(3)] **(10)** A person authorized to issue a citation for unlawful camping under state law, administrative rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of [the] a notice [described in] **required under subsection (3) of this section** and within two hours before or after the notice was posted.

(11) Any law or policy of a city or county that is more specific or offers greater protections to homeless individuals subject to removal from an established camping site pre-empts contrary provisions of this section.

SECTION 2. Section 1, chapter 21, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Department of Transportation may enter into an intergovernmental agreement with a city that has a population of 500,000 or more for the removal, storage and disposition of personal property deposited, left or displayed on property that is owned by the department.

(2) Notwithstanding ORS 377.650, 377.653 and 377.655, an intergovernmental agreement entered into under this section may provide alternative provisions related to the removal, storage and disposition of personal property if the alternative provisions conform with the requirements for local government policy for removal of homeless individuals and personal property [described] under ORS 203.079[*, except that under this section the notices described in ORS 203.079 must be posted 48 hours in advance*].

(3) In addition to the requirements described in subsection (2) of this section, an intergovernmental agreement entered into under this section must include the following:

(a) Requirements for posting notice before the removal of personal property, including but not limited to the following:

(A) That the notice is created using durable materials and securely posted within 30 feet of the personal property to be removed;

(B) That the notice must provide the date the notice begins and the date upon which the city may begin removing personal property; and

(C) That the notice must provide a description of:

(i) How an individual may access personal property that is removed and stored; and

(ii) The length of time the city will store personal property before the city disposes of it.

(b) A requirement that the notice expires 10 days after the city posts the notice.

(c) A severe weather protocol regarding the weather conditions under which the city will not remove personal property.

(d) Provisions related to inventorying and storing the personal property to be removed.

(e) Provisions related to the city relinquishing unclaimed personal property after the storage period to the city's designated agent.

(f) Provisions related to when the city will provide impact reduction services, including but not limited to trash collection.

(4) The [48-hour] **72-hour** notice **under ORS 203.079** required under subsection (2) of this section does not apply:

(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring;

(b) Where there is an exceptional emergency, such as possible site contamination by hazardous materials; or

(c) When there is immediate danger to human life or safety.

(5) Before the city adopts an intergovernmental agreement under this section or changes to the agreement, the city shall invite public comment on the proposed agreement or the proposed changes to the agreement.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 19, 2021

Received by Governor:

Repassed by House June 9, 2021

.....M.,....., 2021

Approved:

.....
Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2021

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate June 8, 2021

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

.....M.,....., 2021

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Shemia Fagan, Secretary of State