COUNCIL PUBLIC HEARING

Wednesday, November 03, 2021 at 6:45 PM

COUNCIL MEMBERS:

Mayor Rick Scholl
Council President Doug Morten
Councilor Patrick Birkle
Councilor Stephen R. Topaz
Councilor Jessica Chilton

LOCATION & CONTACT:

HYBRID: Council Chambers and Zoom (details below)
Website | www.sthelensoregon.gov
Email | kpayne@sthelensoregon.gov
Phone | 503-397-6272
Fax | 503-397-4016

AGENDA

OPEN PUBLIC HEARING

TOPIC

1. Annexation of 58241 S. Division Road (McPherson)

CLOSE PUBLIC HEARING

VIRTUAL MEETING DETAILS

Join Zoom Meeting: https://us06web.zoom.us/j/85499768771
Meeting ID: 854 9976 8771
Dial by your location: 1 253 215 8782

The St. Helens City Council Chambers are handicapped accessible. If you wish to participate or attend the meeting and need special accommodation, please contact City Hall at 503-397-6272 in advance of the meeting.

Be a part of the vision…Get involved with your City…Volunteer for a City of St. Helens Board or Commission!

For more information or for an application, stop by City Hall or call 503-366-8217.

CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.4.21

DATE: October 27, 2021
TO: City Council
FROM: Jennifer Dimsho, AICP, Associate Planner

APPLICANT: Michael McPherson
OWNER: Same

ZONING: Columbia County's Single-Family Residential (R-10)
LOCATION: 58241 South Division Road; 4N1W-8CB-1501
PROPOSAL: The property owner filed a consent to annex because they desired to connect to City utilities and to use our development regulations for the undeveloped "back half" of the subject property

SITE INFORMATION / BACKGROUND

The subject property is a 1.01-acre site developed with a detached single-family dwelling (manufactured home). In 2014, this property was sold by the Calvary Lutheran Church (which abuts the property to the north and west) to the applicant. The property abuts both South Division Road to the east and Millard Road to the south. Access to the dwelling is off South Division Road with a paved driveway approach. The site is connected to McNulty water, but not connected to City sewer, although it is available within Millard Road. Both Millard Road and South Division Road do not have sufficient right-of-way to meet our minimum width standards, and they lack frontage improvements abutting this property. Should this property be the subject of a development proposal in the future, some or all of these requirements may be warranted as part of the approval.

Subject property detached single-family dwelling taken from across S. Division Rd.

"Back half" of the subject property which is undeveloped

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission for *recommendation to the City Council*: October 12, 2021. Public hearing before the City Council: November 3, 2021.

Notice of this proposal was sent to the Oregon Department of Land Conservation and Development on September 7, 2021 through their PAPA Online Submittal website.

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property on September 17, 2021 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on September 29, 2021 in The Chronicle newspaper.

AGENCY REFERRALS & COMMENTS

The Columbia County Public Works Department had no comments or concerns for the annexation.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

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

(a) A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:
(i) The applicable comprehensive plan policies and map designation; and that the change will not adversely affect the health, safety, and welfare of the community; and
(ii) The applicable Oregon Statewide Planning Goals adopted under ORS Chapter 197, until acknowledgment of the comprehensive plan and ordinances; and
(iii) The standards applicable of any provision of this code or other applicable implementing ordinance.

(b) Consideration may also be given to:
(i) Any applicable evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map as it relates to the property which is the subject of the development application.

Discussion: <u>(a)(i)</u> The Comprehensive Plan designation for the subject property is Rural Suburban Unincorporated Residential (RSUR). Applicable designation and zoning district for annexation are discussed later.

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

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC.

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

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

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

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

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

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

Other provisions applicable to this proposal are discussed elsewhere herein.

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

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

SHMC 17.08.060 – Transportation planning rule compliance

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

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:
  (i) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
  (ii) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
  (iii) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

(2) Amendments That Affect Transportation Facilities. Comprehensive plan amendments, zone changes or land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
  (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
  (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060.
  (c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
  (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(3) Traffic Impact Analysis. A traffic impact analysis shall be submitted with a plan amendment or zone change application, as applicable, pursuant to Chapter 17.156 SHMC.

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

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

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

SHMC 17.28.030 (1) – Annexation criteria

(a) Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and
(b) Comply with comprehensive plan amendment standards and zoning ordinance amendment standards and not be in conflict with applicable comprehensive plan policies and implementing ordinances; and

(c) Complies with state laws; and
(d) Abutting roads must meet city standards or property owner will be required to sign and record an irrevocable consent to local improvement district; and
(e) Property exceeding 10 acres in gross size must show a need on the part of the city for such land if it is designated residential (e.g., less than five years' supply of like designated lands in current city limits).

Discussion: (a) Water – The site is currently connected to McNulty Water. The nearest City water line is at Les Schwab on Highway 30 (+2,500 feet away).

Sewer – The site is not currently connected to City sewer. With regards to capacity, the City's wastewater treatment plant currently has a daily limit (physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. Therefore, existing and future uses that could occur on the subject property can be accommodated by the City's sanitary sewer system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The subject property is served by McNulty water. Should the applicant desire a connection to the City sewer, capacities are adequate to serve the subject property. This is explained above. The existing development is adequately served.

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

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

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

(d) The subject property abuts South Division Road and Millard Road.

South Division Road is a local street without sidewalks on either side. The existing right-of-way is also not 50' wide, which is the minimum for local streets.

Millard Road is classified as a minor arterial without sidewalks on either side. The existing right-of-way is also not 60' wide, which is the minimum for minor arterials.

However, this property is not the subject of a current development land use review, which provides the legal nexus and proportionality to require such improvements, right-of-way dedications, or other requirements. As such, no improvements are warranted with this proposal.

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

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

SHMC 17.28.030 (2) – Annexation criteria

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

Discussion: The Comprehensive Plan designation is currently Rural Suburban Unincorporated Residential (RSUR). The City's zoning options given annexation are Moderate Residential (R7) or Suburban Residential (R10). The Comprehensive Plan designation would thus be Suburban Residential (Incorporated) (SR). **Staff and the Planning Commission recommends R7 zoning in this case to be consistent with the surrounding zoning.**

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

SHMC 17.112.020 – Established & Developed Area Classification criteria

(1) Established Area.

(a) An "established area" is an area where the land is not classified as buildable land under OAR 660-08-0005;
(b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
(c) An area shown on a zone map or overlay map as an established area.

(2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

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

> Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered "suitable and available" unless it:
> (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;
> (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
> (c) Has slopes of 25 percent or greater;
> (d) Is within the 100-year flood plain; or
> (e) Cannot be provided with public facilities.

Discussion: OAR 660-008-0005 generally defines "Buildable Land" as vacant residential property not constrained by natural hazards or resources, and typically not publicly owned. The subject property is zoned residential and is classified as buildable.

Finding: The subject property should be designated as "developing" in accordance with SHMC 17.112.

CONCLUSION & RECOMMENDATION

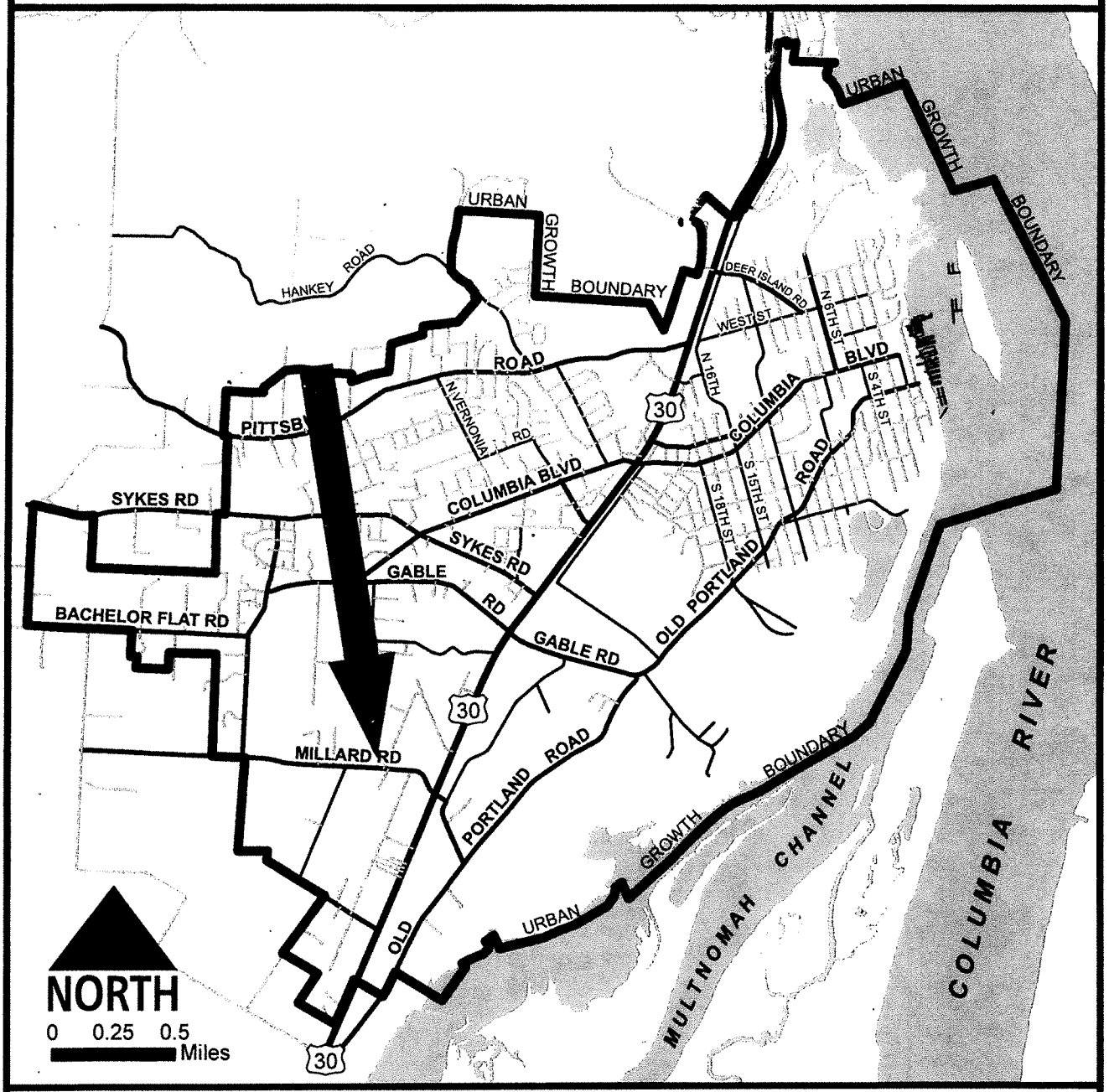
Based upon the facts and findings herein, staff and the Planning Commission recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential (Incorporated) SR, be zoned Moderate Residential (R7), and designated as "developing."

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

Attachments: General Map
Taxlot Map
Aerial Map

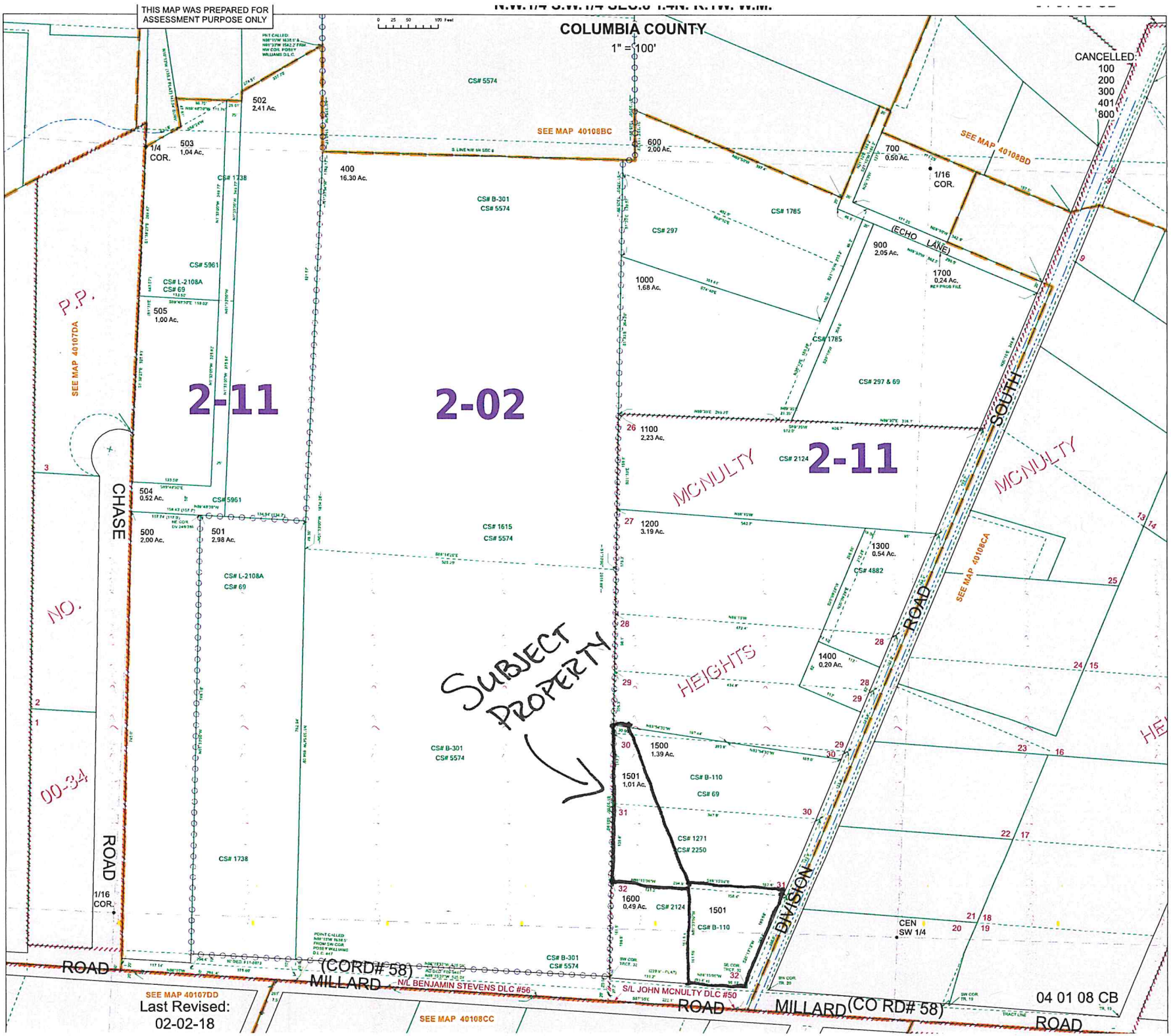
SUBJECT PROPERTY

~ Approximate Location ~



City of St. Helens Urban Growth Boundary Area Vicinity

jag/Dec. 2013


THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY
COLUMBIA COUNTY
1" = 100'
CANCELLED:
100
200
300
401
800
SEE MAP 40108BC
SEE MAP 40108BD
SEE MAP 40107DA
SEE MAP 40108CA
SEE MAP 40107DD
SEE MAP 40108CC
2-11
2-02
2-11
P.P.
NO.
00-34
CHASE
ROAD
MCNULTY
HEIGHTS
SOUTH
ROAD
DIVISION
(ECHO LANE)
SUBJECT PROPERTY
1/4 COR.
1/16 COR.
CEN SW 1/4
502 2.41 Ac.
503 1.04 Ac.
400 16.30 Ac.
600 2.00 Ac.
700 0.50 Ac.
900 2.05 Ac.
1700 0.24 Ac.
1000 1.68 Ac.
505 1.00 Ac.
504 0.52 Ac.
500 2.00 Ac.
501 2.98 Ac.
1100 2.23 Ac.
1200 3.19 Ac.
1300 0.54 Ac.
1400 0.20 Ac.
1500 1.39 Ac.
1501 1.01 Ac.
1600 0.49 Ac.
1501
CS# 5574
CS# 1738
CS# B-301
CS# 5574
CS# 297
CS# 1785
CS# 5961
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CS# 1785
CS# 297 & 69
CS# 2124
CS# 5961
CS# 1615
CS# 5574
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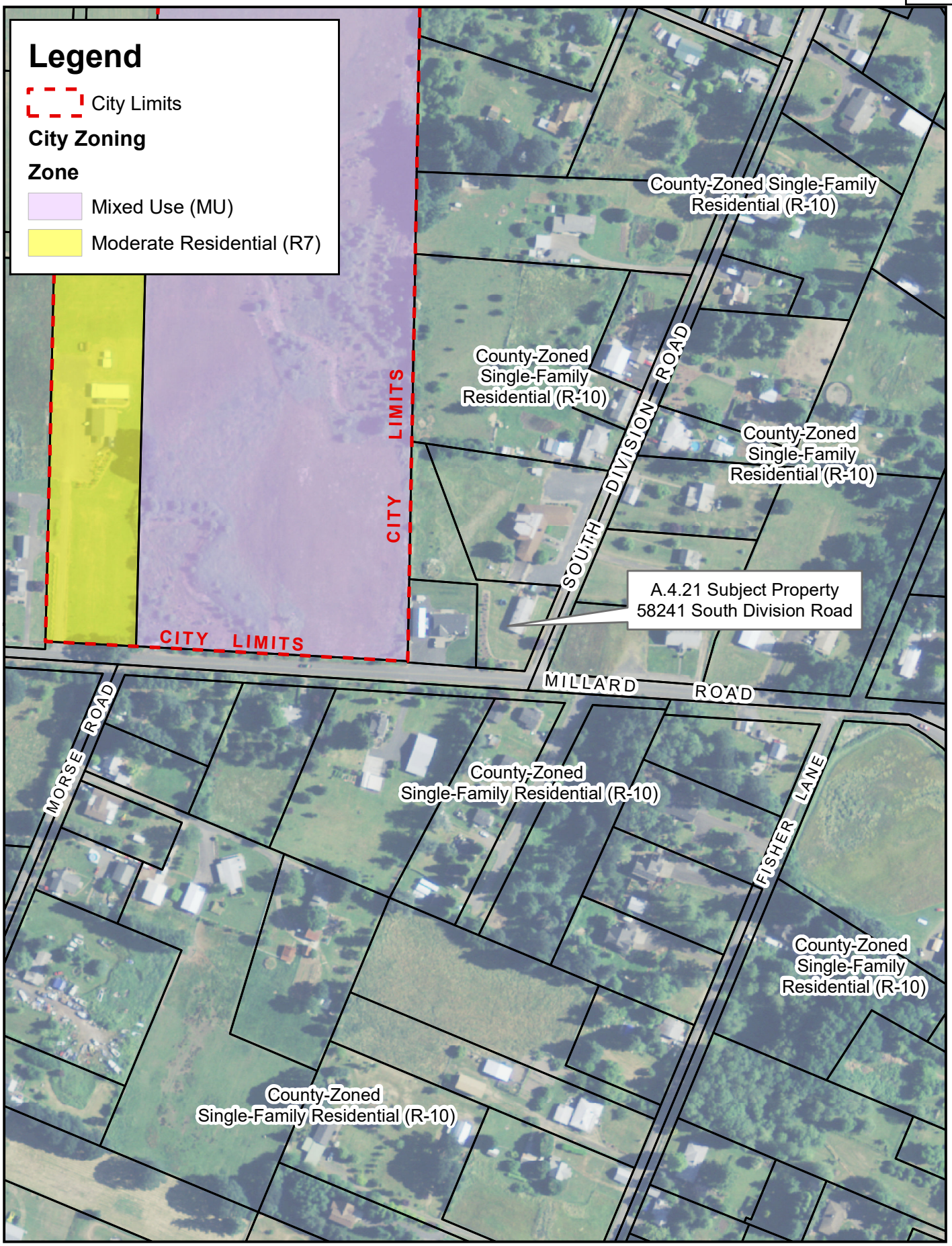
CS# 4882
CS# B-301
CS# 5574
CS# B-110
CS# 69
CS# 1271
CS# 2250
CS# 1738
CS# 2124
CS# B-110
CS# B-301
CS# 5574
ROAD
(CORD# 58)
MILLARD
N/L BENJAMIN STEVENS DLC #56
S/L JOHN MCNULTY DLC #50
ROAD
MILLARD
(CO RD# 58)
ROAD
04 01 08 CB
Last Revised:
02-02-18

A.4.21 Annexation Aerial Map



Aerial Image (2009). City of St. Helens.