



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

03/23/2011

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment  
DLCD File Number 005-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, April 07, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jacob Graichen, City of St. Helens  
Gloria Gardiner, DLCD Urban Planning Specialist  
Anne Debbaut, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

STATE STAFF

DEPT OF

MAR 18 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of St. Helens**

Local file number: **CPZA.4.10**

Date of Adoption: **March 16, 2011**

Date Mailed: **March 18, 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 12.10.10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Comp Plan Map and Zone Map change of property from residential to mixed use.**

Does the Adoption differ from proposal? No.

Plan Map Changed from: **General Residential, GR**

to: **General Commercial, GC**

Zone Map Changed from: **General Residential, R5**

to: **Mixed Use, MU**

Location: **1750 Old Portland Road**

Acres Involved: **0.66**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                                     |                                     |                          |                                     |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                            | <b>10</b>                           | <b>11</b>                | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 005-10 (18647) [16571]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

n/a

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Local Contact: **Jacob Graichen**

Phone: (503) 366-8204 Extension: n/a

Address: PO Box 278

Fax Number: 503-397-4016

City: St. Helens

Zip: 97051

E-mail Address: [jacobg@ci.st-helens.or.us](mailto:jacobg@ci.st-helens.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

City of St. Helens  
**ORDINANCE NO. 3146**

AN ORDINANCE TO AMEND THE CITY OF ST. HELENS COMPREHENSIVE PLAN MAP FOR CERTAIN PROPERTY FROM THE GENERAL RESIDENTIAL, GR DESIGNATION TO THE GENERAL COMMERCIAL, GC DESIGNATION AND THE ZONING DISTRICT MAP FROM THE GENERAL RESIDENTIAL, R5 ZONE TO THE MIXED USE, MU ZONE

**WHEREAS**, applicants have requested to amend the City of St. Helens Comprehensive Plan Map and Zoning District Map for property identified as Columbia County Tax Assessor Map Number 4N1W-4DC-5100 and 5101, also known as Lot 3, and portions of Lots 1, 2, 4 and 5 lying on the north side of the Old Portland Road right-of-way, Block 149, St. Helens Subdivision to the City of St. Helens, Columbia County, Oregon, and the adjacent southern half of the Umatilla Street right-of-way vacated by City Ordinance 1276 lying between the S. 18<sup>th</sup> Street (South Street) and S. 17<sup>th</sup> Street (Klamit Street) rights-of-way from General Residential to General Commercial, and General Residential to Mixed Use, respectively; and

**WHEREAS**, the St. Helens Planning Commission did hold a duly noticed public hearing and did conclude to recommend such a change to the City Council; and

**WHEREAS**, the City Council did hold a duly noticed public hearing and did find that after due consideration of all the evidence in the record compared to the criteria, that they agreed with the application; and

**WHEREAS**, the Council has considered the findings of compliance with criteria and law applicable to the proposal.

**NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:**

**Section 1.** The above recitations are true and correct and are incorporated herein by reference.

**Section 2.** The City of St. Helens Comprehensive Plan Map is amended to change the plan designation boundaries of the General Residential, GR designation to the General Commercial, GC designation for the property described herein.

**Section 3.** The City of St. Helens Zoning District Map is amended to change the zoning district boundaries of the General Residential, R5 zone to the Mixed Use, MU zone for the property described herein.

**Section 4.** In support of the aforementioned Comprehensive Plan Map and Zone District Map Amendment, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "A"** and made part of this reference.

**Section 5.** The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.



Read the first time: March 2, 2011  
Read the second time: March 16, 2011

**APPROVED AND ADOPTED** by emergency this 16<sup>th</sup> day of March, 2011, by the following vote:

Ayes: Morten, Locke, Peterson, Martyn, Barlow

Nays: None

  
\_\_\_\_\_  
Randy Peterson, Mayor

ATTEST:

  
\_\_\_\_\_  
Kathy Payne, City Recorder

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Comprehensive Plan & Zoning District Map Amendment CPZA.4.10**

**APPLICANT:** Johnny's Bar & Grill / Jimikat, Inc. (Michael Roso)

**OWNER:** KMJ Properties, LLC

**ZONING:** General Residential, R5

**LOCATION:** 1750 Old Portland Road

**PROPOSAL:** Comprehensive Plan Map change from General Residential, GR to General Commercial, GC and Zoning District Map change from General Residential, R5 to Mixed Use, MU

**The 120-day rule (ORS 227.178) for final action for this land use decision is not applicable per ORS 227.178(7).**

**SITE INFORMATION**

The site is developed with one building/use—Johnny's Bar & Grill—with associated paved parking around the building and gravel parking on the east half of the subject property. The site abuts and has access from three improved public rights-of-way: Old Portland Road, S. 18<sup>th</sup> Street and S. 17<sup>th</sup> Street. There is only sidewalk: along S. 18<sup>th</sup> Street.

Surrounding land uses include residential to the north and east, McCormick Park to the west and vacant industrial property to the immediate south (basically the front lawn of the Boise paper mill).

The existing use on the subject property is an eating/drinking establishment and is an existing non-conforming use. Pursuant to Chapter 17.104 SHMC, no expansion of that use is allowed under current zoning.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows:

February 8, 2011 before the Planning Commission

February 16, 2011 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on January 12, 2011 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on January 19, 2011. Notice was sent to the Oregon Department of Land Conservation and Development on December 10, 2010.

At their February 8, 2011 public hearing, the Planning Commission unanimously recommended approval of the proposal to the City Council.

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 17.08.040(1)(a) – Quasi-Judicial Amendments & Standards**

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.

**Discussion:** (i) The applicable Comprehensive Plan Policies and other criteria are as follows (policy language is in arial font):

- 19.08.020(3)(g): Allocate adequate amounts of land for economic growth and support the creation of commercial and industrial focal points.

Generally residential land is not associated with jobs and economic growth capacity. This would add additional 2/3rds of an acre to the commercial lands inventory. This is supported by the Economic Opportunities Analysis (SHMC Chapter 19.24), which notes a shortage of commercial lands. Note: there is no identified shortage of residential land.

- 19.08.020(3)(j): Make commercial designation large enough to accommodate a large variety of commercial development with sufficient buffers.

If redeveloped as commercial property, the site would need to include buffers from the residential use at least to the north. Having streets on the other three sides and industrial property to the south (across Old Portland Road), the necessary buffer requirements for commercial redevelopment of the site is minimized, based on current law.

- 19.08.020(3)(k): Encourage land uses that are compatible with the transportation facilities.

The site is located at the intersection of S. 18th Street and Old Portland Road, classified as a collector and minor arterial street, respectively. These streets have a substantial amount of traffic, and given the site's exposure, may not lend itself well to certain residential development. Traffic issues of non-residential could be addressed given proper access management and site design.

- 19.08.040(3)(d): Control or eliminate traffic hazards along road margins through building setbacks, dedications or regulation of access at the time of subdivision, zone change or construction.

Access is controlled along S. 18th Street by a sidewalk (curb) but not so much elsewhere. For example, there is no driveway approach along Old Portland Road on the west half of the property's street frontage, thus there is an expanse of over 100 linear feet for vehicular ingress and egress. The same is true along S. 17th Street where there is approximately 60' for vehicular ingress and egress. The Planning Commission determined that these issues did not need to be addressed for the purpose of this proposal, as they would be addressed at the time of development/re-development.

- 19.12.020(2)(c): Allow for the convenient location of grocery stores by the conditional use process.

In the R5 zone, limited commercial use is possible by Conditional Use Permit. For example, a neighborhood store/plaza. If zoned MU, the potential number commercial uses are increased, including the eating/drinking establishment on the site.

- 19.12.070(2)(a): Encourage new commercial development in and adjacent to existing, well-established business areas taking into account the following considerations:
  - (i) Making shopping more convenient for patrons,
  - (ii) Cutting down on street traffic,
  - (iii) Maximizing land through the joint use of vehicular access and parking at commercial centers, and
  - (iv) Encouraging locations that enjoy good automobile access and still minimize traffic hazards.

The site's current use appears to pre-date the zoning and comprehensive plan designation applied to the site in or around 1978. This can be construed as a well-established business site. Commercial uses could be a convenience for surrounding residential uses; though, some uses that would serve residential property (i.e. neighborhood store/plaza via CUP) are possible in the R5 zone.

Street traffic: see below [19.16.010(3)].

Vehicular access and parking could be addressed at the time of re-development. The site has good vehicular access, and traffic hazards could be minimized with re-development or as noted above [19.08.040(3)(d)].

- 19.16.010(3): All proposed amendments to this plan shall follow state laws and local laws. In particular they shall comply with ORS Chapters 195 and 215.

A key law to examine for this proposal is the Transportation Planning Rule. Statewide Planning Goal 12 (on Transportation) requires local governments to "provide and encourage a safe, convenient and economic transportation system." Goal 12 is implemented through LCDC's 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.

The first question that needs to be answered is *whether the proposal, as measured at the end of the planning period identified in the adopted transportation system plan would:*

*(A) 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;*

*(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*

*(C) 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.*

Comparing the potential trip generation of the two zonings, even though commercial use is more likely in the MU zoning district, the R5 district does allow a neighborhood store/plaza with a Conditional Use Permit. And generally, commercial uses have greater trip generation rates than residential uses.

The neighborhood store/plaza use is probably the greatest trip generation use possible in the R5 zone. Using data from the Institute of Transportation Engineers (ITE), Trip Generation, 6th ed., the weekday average vehicle trip generation per 1,000 square foot gross floor area for a convenience market open 24 hours (ITE category 851) is 737.99.

There are more commercial and other traffic generating uses in the MU zone, but none appear to be more potentially intense, assuming buildings of equal size, than the convenience market (also possible in the MU zone as a retail establishment use). For example, using the same source of data as above, the weekday average vehicle trip generation per 1,000 square foot gross floor area for a fast-food restaurant without a drive through window (ITE category 833) is 716. For a fast food restaurant with a drive through window (ITE category 834) the value is 496.12.

Notwithstanding the *probability* of certain uses occurring at the subject property, the potential trip generation is comparable between the MU and R5 zone. Given that and that there is an existing eating/drinking establishment on the site, which reduces additional trips for any expansion of commercial use on the site from the time of Zoning District/Comprehensive Plan Map change, this proposal will not in and of itself, result in changes to the City's transportation facilities.

- That the change will not adversely affect the health, safety, and welfare of the community.

The Planning Commission determined that this proposal will not adversely affect the health, safety, and welfare of the community.

**(ii):** The City has an adopted Comprehensive Plan.

**(iii):** There are no other applicable standards of any provision of this code or other applicable implementing ordinance to be reviewed for the purpose of this proposal not already addressed herein.

**Finding:** The necessary criteria for this proposal are met.

#### **SHMC 17.08.040(1)(b) – Quasi-Judicial Amendments & Standards**

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.

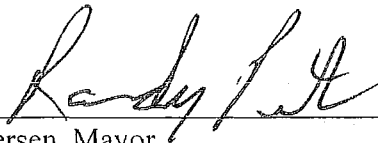
**Discussion:** Applicant notes that the subject property was zoned commercial when the building was constructed and suggests a mapping error. City records (1952 zoning map) show that it was

zoned Central Commercial, from around 1952 to 1978. Given the differences between these two eras and constancy of zoning district and Comprehensive Plan designations after 1978, the site's current zoning does not appear to be erroneous.

**Finding:** There is no conclusive zone mapping error.

#### CONCLUSION & DECISION

**Based upon the facts and findings herein, the City Council approves this Comprehensive Plan & Zoning District Map Amendment.**

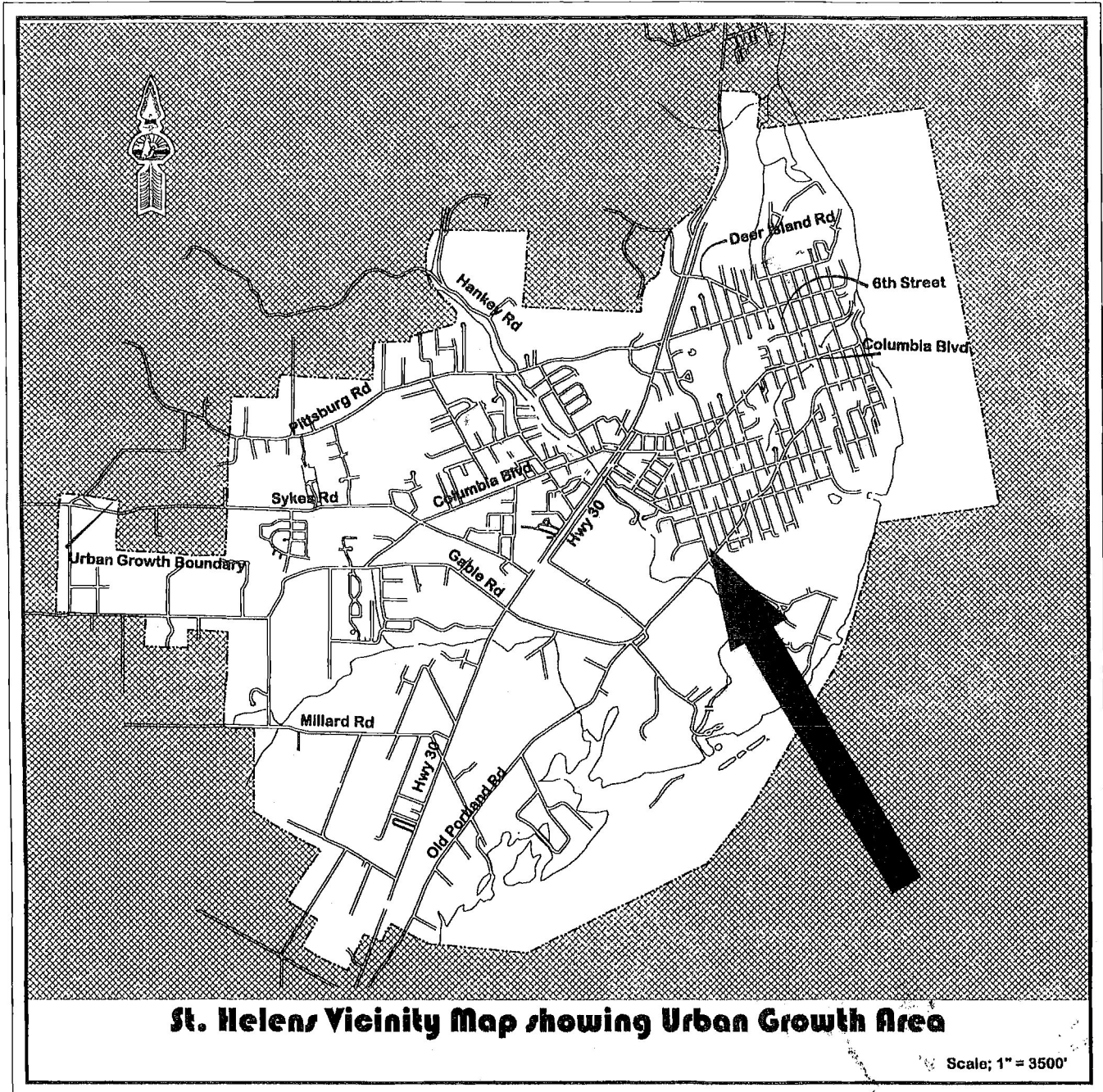
  
\_\_\_\_\_  
Randy Petersen, Mayor

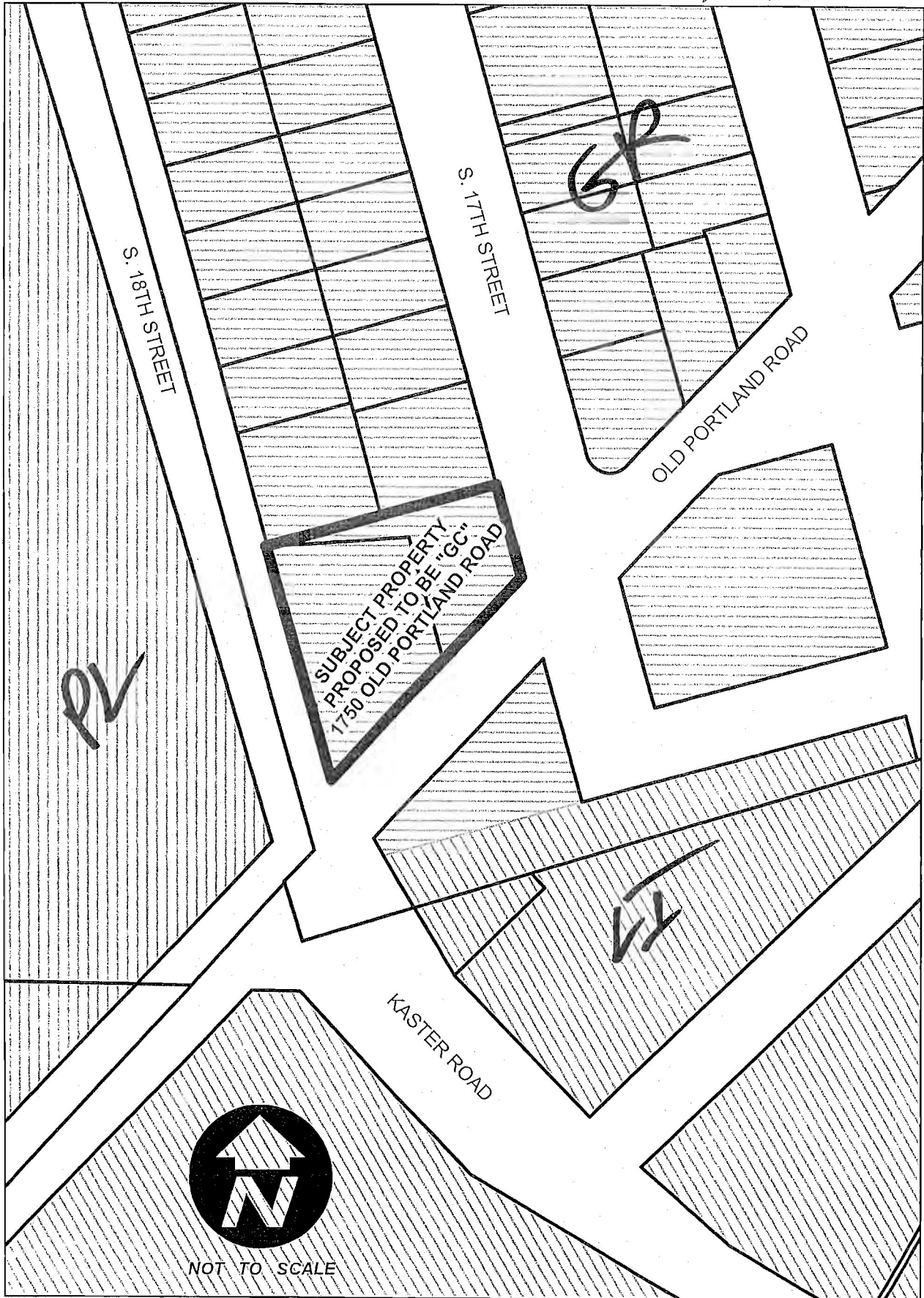
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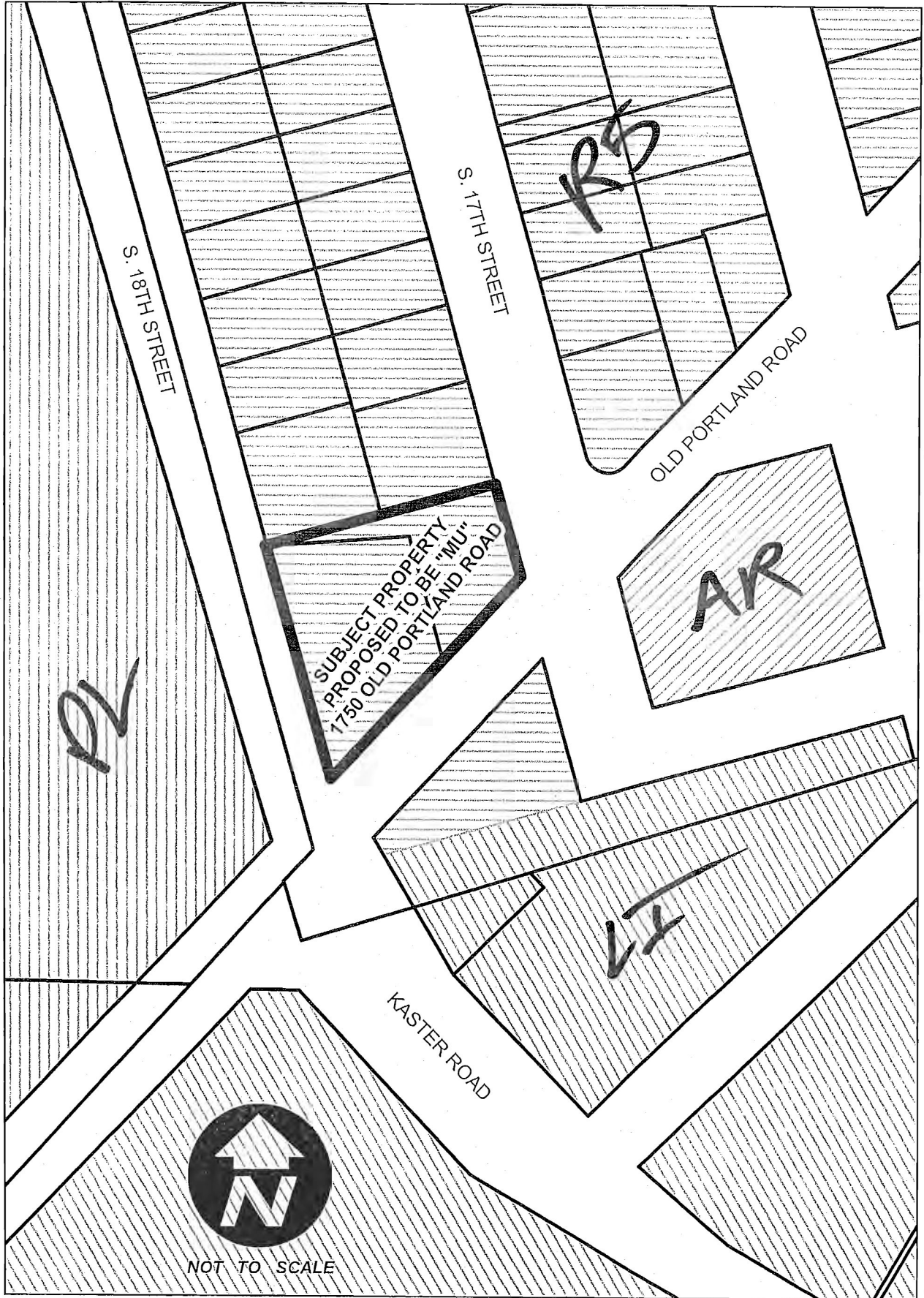


# Subject Property

~ Approximate Location ~









DEPT OF

MAR 18 2011

LAND CONSERVATION  
AND DEVELOPMENT



**City of St. Helens**

PO Box 278  
265 Strand Street  
St. Helens, OR 97051

ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPT. OF LAND CONSERVATION & DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OR 97301-2540