



# Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

05/15/2009

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 004-08

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, May 28, 2009

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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Skip Baker/Jacob Graichen, City of St. Helens  
Gloria Gardiner, DLCD Urban Planning Specialist  
Gary Fish, DLCD Regional Representative  
Thomas Hogue, DLCD Regional Representative  
Bill Holmstrom, DLCD Regional Representative

<paa> YA/

# Notice of Adoption

DEPT OF

MAY 08 2009

LAND CONSERVATION AND DEVELOPMENT

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of St. Helens**

Local file number: **ZA.2.08**

Date of Adoption: **5/6/2009**

Date Mailed: **5/7/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/21/2008

- 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".

Waterfront Redevelopment Overlay District to allow a mix of commercial and residential uses on industrial designated lands.

Does the Adoption differ from proposal? Yes, Please explain below:

Text content has been refined.

Plan Map Changed from: **na** to: **na**

Zone Map Changed from: **na** to: **na**

Location: **Affected area just south of County Courthouse** Acres Involved: **17**

Specify Density: Previous: **na** New: **na**

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>                |
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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.** See First Page

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

none

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Local Contact: **Jacob Graichen**

Phone: (503) 397-6272 Extension:

Address: **PO Box 278**

Fax Number: 503-397-4016

City: **St. Helens**

Zip: **97051-**

E-mail Address: **jacobg@ci.st-helens.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) 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**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

## ORDINANCE NO. 3107

### AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE, CHAPTER 17.32, ZONES AND USES, ADDING THE WATERFRONT REDEVELOPMENT OVERLAY DISTRICT, WROD

**WHEREAS**, pursuant to SHMC 17.20.020(1)(a) the St. Helens City Council initiated a legislative change to the St. Helens Municipal Code, Title 17 (Community Development Code) to add provisions for additional development options near downtown and along the river; and

**WHEREAS**, pursuant to the SHMC and Oregon Revised Statutes, the City has provided notice to: the Oregon Department of Land Conservation and Development on July 21, 2008, all property owners of and within 300 feet of the subject property listed in the Columbia County Tax Assessor records on August 13, 2008; December 23, 2008; and March 12, 2009, and the local newspaper of record on August 23, 2008; December 27, 2008; and March 14, 2009; and

**WHEREAS**, the St. Helens Planning Commission conducted public hearings on September 9, 2008; January 13, 2009; and March 10, 2009, and, following deliberation, made a recommendation of approval to the City Council; and

**WHEREAS**, the St. Helens City Council conducted a public hearing on April 1, 2009 and having the responsibility to approve, approve with modifications, or deny an application for a legislative change, has deliberated and found that based on the information in the record and the applicable criteria in the SHMC that the proposed amendments be approved.

#### **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.** Section 17.32.180 Waterfront Redevelopment Overlay District – WROD, is added to Chapter 17.32 Zones and Uses, of the St. Helens Municipal Code, attached hereto as **Attachment "A"** and made part of this reference.

**Section 3.** In support of the code amendments described herein, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "B"** and made part of this reference.

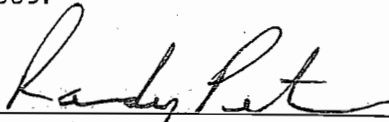
**Section 4.** If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable.

**Section 5.** Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code," "article," "section," or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

**Section 6.** 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: April 15, 2009  
Read the second time: May 6, 2009

**APPROVED AND ADOPTED** this 6th day of May, 2009.

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

ATTEST:

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

## 17.32.180 Waterfront Redevelopment Overlay District – WROD

(1) Purpose. The Waterfront Redevelopment Overlay District (WROD) is established to provide an alternative zoning and development option that may be used to implement the St. Helens Comprehensive Plan economic goals and policies, and the Strategic Plan goals and policies for economic development. The WROD allows for a traditional downtown neighborhood design including a horizontal and vertical mix of residential, commercial and limited industrial manufacturing uses, thereby providing for a variety of employment generating uses in close proximity to a mix of residential housing types. The WROD is available for use in existing under-utilized industrial areas that are suitable for redevelopment. Appropriate locations for the establishment of the WROD include waterfront properties with an industrial designation. The WROD introduces a mix of commercial and residential uses into areas with industrial designations while maintaining supplies of industrial designated lands.

(2) Implementation. The provisions of the WROD can be implemented with an approved Development Agreement. A Development Agreement is a voluntarily negotiated agreement between the City and the property owner(s) consistent with ORS Chapter 94 and any local implementing ordinance. The underlying zoning district and land use regulations of that zone remain in full force and effect unless and until the WROD is implemented with the approval of a Development Agreement. Upon such approval, the Development Agreement and WROD supersede the underlying zoning district and land use regulations normally applicable to development on the subject property. Conversely, should the Development Agreement be terminated, revoked or otherwise become void prior to completion, the WROD is no longer in effect and the underlying zone and the land use regulations of that zone return. The following apply to Development Agreements pursuant to this chapter in addition to the requirements of ORS Chapter 94, and other provisions of the City of St. Helens Development Code (SHMC Title 17), but is not intended to be an all encompassing list, limiting the City's ability to set forth terms and conditions in the Development Agreement necessary to ensure the health, safety and welfare of it's citizenry for said development:

(a) Development Plan. Development Agreement shall include a development plan or plans that has/have been approved through a Site Development Review and/or Conditional Use Permit and that has/have been revised as necessary to comply with City standards and applicable conditions of approval. Applicant bears responsibility for the development plan(s).

(b) Legal Description. Development Agreement shall include a legal description of the entire property subject to the Agreement, which shall be prepared by a licensed surveyor. The legal description shall include the total area, all separately described parcels, easements, and other pertinent instruments or exceptions of record. Applicant bears responsibility for the legal description.

(c) Executed Title Certification. Development Agreement shall include the names of the legal and equitable owner(s) of the property subject to the Agreement and be signed by said legal and equitable owner(s). As such, an executed certification from an attorney or title company that the record title to the subject property is in the name of the person, persons, corporation or other entity entering into the Agreement shall be submitted to the City. Applicant bears the responsibility for the executed title certification.

(d) Covenant of Unified Control. Development Agreement shall include a Covenant of Unified Control requiring all property subject to the Agreement to be held under single, (unified)

ownership, which property shall not be transferred, conveyed, sold, or otherwise divided in any other unit other than its entirety. An executed covenant shall be recorded in the public records with the executed Development Agreement. Applicant bears the responsibility of the Covenant of Unified Control. The covenant may provide for specified conveyances, including but not limited to the following (but transfer of ownership of a portion of a property eligible for the WROD shall not occur without a completed Land Partition or Subdivision):

(i) Conveyance of fully constructed lots or parcels, if any, to individual purchasers after approval of a final plat for the applicable lots or parcels when all applicable requirements contained in the Agreement, including the timetable and special conditions have been met.

(ii) If the development is designed and planned to be constructed in phases, conveyance of a phase, if the phase has complied with the applicable requirements contained in the Agreement, including the timetable and special conditions. A phase may be conveyed separately, only after final plat approval for that phase.

(iii) Conveyance of other portions of the property, subject to the Agreement, that will be used or maintained by governmental, environmental, charitable or other organizations or agencies for such purposes as the City Council may deem appropriate after compliance with all applicable requirements of the Agreement.

(e) Timetable of Development. Duration of the Development Agreement shall be consistent with the timetable of development, which is an exhibit of the Agreement. The timetable of development shall include dates for individual or phased final plat approval(s) (if applicable), construction commencement, as well as phase and project completion. Applicant is responsible for submitting proposed timetable of development. The following provisions apply to the timetable of development:

(i) If not phased, development shall be completed within two years of approval of the agreement, including final plat approval (if applicable).

(ii) If phased, the actual construction time for any phase including final plat approval (if applicable) shall not exceed two years. No phase shall be completed out-of-order; each phase shall be completed consecutively.

(iii) Regardless of the number of proposed phases, no timetable for development shall exceed six years.

(iv) In the event an extension of the commencement date or completion date is sought, the amendment can be approved only if there is demonstrated compliance with all current laws and regulations.

(v) The deadlines as set forth in a Development Agreement are independent of and do not supersede those of the applicable land use applications (e.g. Site Development Review, Conditional Use, Land Partition, and Subdivision).

(vi) In the event the project has not complied with the construction commencement date, the Development Agreement shall cease to be effective and the development shall cease to be authorized.

(vii) Notwithstanding SHMC 17.32.180(2)(e)(i) and (ii); one additional year may be added to each phase, without modification to the Development Agreement provided the delay is a direct result of a government agency's, other than the City of St. Helens, review process, and clearly not a fault of the applicant.

(3) Compliance with other standards. All applicable regulations of the St. Helens Community Development Code (SHMC Title 17) and adopted Engineering Standards (SHMC

Title 18) remain in full force and effect except as specifically modified in the applicable Development Agreement and WROD. In the case of a conflict with the requirements of SHMC 17.32.180, such conflicting requirements are superseded by those of SHMC 17.32.180 and the approved Development Agreement to the extent of such conflict.

(4) Properties eligible for the WROD. For a property to be eligible for the WROD, a legislative action pursuant to SHMC Chapter 17.20, Procedures for Decision-Making—Legislative, is required. The following properties are officially eligible for the WROD:

(a) Property identified as Taxlot 100, Section 3, T4N – R1W, Willamette Meridian, Columbia County, Oregon (as of December 2008). Said property being more particularly described and shown on the Exhibit(s) of Ordinance No. 3107.

(5) Uses permitted outright. The following uses are permitted outright, subject to all provisions of the SHMC including specifically the modifications to development standards and conditions specified in SHMC 17.32.180 and the applicable approved Development Agreement. Moreover, the applicable provisions of SHMC Chapter 17.96, Site Development Review, apply, except those modified by this chapter. Note: letters in parentheses [e.g. (a)] following the type of use refers to special conditions pursuant to SHMC 17.32.180(9).

(a) Residential (a):

- (i) Single dwelling units, attached (five units maximum together).
- (ii) Multidwelling units.

(b) Residential above non-residential permitted uses (a):

- (i) Dwelling, single family.
- (ii) Congregate care facility.
- (iii) Single dwelling units, attached (five units maximum together).
- (iv) Multidwelling units.
- (v) Residential care facility.
- (vi) Timeshare.

(c) Public and institutional uses (b) (c):

- (i) Amphitheater public uses.
- (ii) Historical and cultural exhibits.
- (iii) Education and research facilities.
- (iv) Library services.
- (v) Government administrative/office.
- (vi) Lodge, fraternal and civic assembly.
- (vii) Parking lots, public.
- (viii) Public facility, minor.
- (ix) Public facility, major.
- (x) Public or private park.
- (xi) Public or private recreation facilities.
- (xii) Public or private school/college.
- (xiii) Public safety and support facilities.

(d) Manufacturing (b) (c):

- (i) Artisan workshop.
- (ii) Art studios, galleries.
- (iii) Laboratories and research facilities.



- (e) Commercial (b) (c):
  - (i) Amusement services.
  - (ii) Animal sales and services, without outdoor kennels.
  - (iii) Medical facilities such as clinics, out-patient services, health care facility, etc.
  - (iv) Bed and breakfast facilities.
  - (v) Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.
  - (vi) Eating and drinking establishments – all (e.g. restaurant, diner, coffee shop).
  - (vii) Financial institutions.
  - (viii) Offices – all (e.g. medical, business or professional).
  - (ix) Hardware store, without outdoor storage.
  - (x) Health and fitness club.
  - (xi) Hotels or motels.
  - (xii) Kiosks (d).
  - (xiii) Parking lots, commercial.
  - (xiv) Pawn shop.
  - (xv) Pet shop/supplies.
  - (xvi) Plumbing, HVAC, electrical and paint sales and services, without outdoor storage.
  - (xvii) Repair and maintenance of permitted retail products.
  - (xviii) Rental center.
  - (xix) Residential storage facility (in conjunction with three or more dwelling units).
  - (xx) Retail sales establishments – all.
  - (xxi) Small equipment sales, rental and repairs, without outside storage.
  - (xxii) Theaters, indoors.
  - (xxiii) Trade and skilled services.
  - (xxiv) Type I and II, Home Occupation (per Chapter 17.120 SHMC).
  - (xxv) Used product retail (e.g. antique dealer, second-hand dealer, and flea market).
  - (xxvi) Veterinary medical services (with no kennel).
- (f) Marine Commercial (b) (c) (d):
  - (i) Houseboat(s) also known as floating homes.
  - (ii) Boathouse(s).
  - (iii) Boat launching, moorage facilities and marine boat charter services.
  - (iv) Boat or marine equipment sales, service, storage, rental or repair.
  - (v) Retail sale of handicraft and tourist goods.
  - (vi) Watercraft sales, rental, charters, without outdoor storage.
  - (vii) Bait and tackle shops.
  - (viii) Accessory marine related uses.
  - (ix) Marina.
  - (x) Docks.

(6) In the WROD, the following conditional uses may be permitted upon application, subject to provision of SHMC Chapter 17.100, Conditional Use, and other relevant sections of this code, except those modified by this chapter. Note: letters in parentheses [e.g. (a)] following the type of use refers to special conditions pursuant to SHMC 17.32.180(9).

- (a) Auction sales, services and repairs.

(b) Broadcast facilities without dishes over 36 inches in diameter or transmitter/receiver towers.

(c) Bus stations/terminals.

(d) Businesses with outdoor storage (for businesses that are permitted uses only) (b).

(e) Child care facility/day nursery.

(f) Funeral homes.

(g) Hospitals, nursing homes, and convalescent homes.

(h) Postal services.

(i) Communication services.

(j) Laundromats and dry cleaners.

(k) Religious assembly.

(l) Boat building (d) (e).

(7) Standards applicable to all uses. The following standards and special conditions shall apply to all uses in the WROD.

(a) The maximum building height varies within the WROD. The building height limitations of SHMC 17.68.040, building height criteria for scenic resources, do not apply in the WROD. Building height standards are specific to each property eligible for the WROD, pursuant to SHMC 17.32.180(8).

(b) Landscaping required:

(i) Screening shall be in accordance with SHMC Chapter 17.72, Landscaping and Screening. Landscaping used for screening may be included in the required landscaping pursuant to SHMC 17.32.180(7)(b)(iii).

(ii) See SHMC 17.32.180(7)(i). Landscaping used for this purpose may be included in the required landscaping pursuant to SHMC 17.32.180(7)(b)(iii).

(iii) Landscaping shall be provided in conjunction with each building, proportional to each building's size. The minimum landscape area required shall be based on the following calculation: (building width x building length x height) x 0.02. Location of landscaping is subject to City approval. Landscaping plants and materials used are subject to City approval and shall provide a minimum 50% coverage at maturity. Areas that will not be covered by landscaping vegetation shall include bark dust or similar non-vegetative ground cover.

(iv) Required landscaping pursuant to SHMC 17.32.180(7)(b)(iii), may be replaced on a 1:1 area basis, not to exceed 10% of the total minimum landscape area required, for any green roof utilized in a development.

(c) There is no minimum lot size requirement. Lots or parcels shall be of sufficient size to accommodate all applicable development standards for intended or potential land uses.

(d) No required setbacks from rights-of-way.

(e) Interior setbacks. New buildings containing any nonresidential use abutting a residential zoning district require one foot of setback for each foot of wall height with a minimum setback of 10 feet. For yards abutting non-residential districts, no interior setback is required, subject to Building Code requirements. Note: this setback may be reduced proportionately when the residential zoning district is topographically above the base level of new construction.

(f) The minimum lot width at the street and building line shall be 20 feet.

(g) The minimum lot depth shall be 50 feet.

(h) No maximum building size.

(i) Parking lots shall not front on S. 1<sup>st</sup> Street and The Strand. Parking lots with three or more spaces, visible from public streets shall include landscaping in addition to the other landscape requirements of this chapter and the SHMC, such that there is a minimum area 6' feet wide and length as necessary to visually soften the entire parking lot from public streets. Minimum improvements within these landscaping areas shall be pursuant to SHMC 17.72.080(4).

(j) Required usage ratio. The following ratio shall apply to each development proposal. Net usable land (less non-buildable areas such as wetlands, public park/dedicated public open space, and public rights-of-way) shall have a maximum residential-to-commercial use ratio of 4:1 or a commercial-to-residential use ratio of 4:1. In no case shall a development have a usage ratio that favors residential or commercial use more than a 4:1. This usage ratio is based on the sum of use(s) in buildings(s) and those not in buildings. The use(s) within buildings is based gross floor area, whereas the use not in buildings is based on net useable land as previously described. For the purpose of this section, the term "commercial" includes the industrial and institutional uses possible in the WROD.

(8) Building height standards for each property eligible for the WROD shall be determined during the process where a property becomes eligible for the WROD pursuant to SHMC 17.32.180(4). Building height standards for each property eligible for the WROD are as follows:

(a) For the property identified by SHMC 17.32.180(4)(a), the maximum building height is based on the following height zones:

(i) The first height zone is the area west of the centerline of the S. 2<sup>nd</sup> Street right-of-way (if it was extended in a straight line as platted in the St. Helens Subdivision in a southeasterly direction), where the maximum building height shall be 70 feet (standard "building height" definition).

(ii) The second height zone is the area between the centerlines of the S. 2<sup>nd</sup> Street and S. 1<sup>st</sup> Street rights-of-way (if they were extended in a straight line as platted in the St. Helens Subdivision in a southeasterly direction), where the maximum building height shall be 70 feet above mean sea level.

(iii) The third height zone is the area between the centerlines of the S. 1<sup>st</sup> Street and The Strand rights-of-way (if they were extended in a straight line as platted in the St. Helens Subdivision in a southeasterly direction), where the maximum building height shall be 60 feet above mean sea level.

(iv) The fourth height zone is the area east of the centerline of the The Strand right-of-way (if it was extended in a straight line as platted in the St. Helens Subdivision in a southeasterly direction), where the maximum building height shall be 50 feet above mean sea level.

(v) Notwithstanding the other height zones pursuant to SHMC 17.32.180(8)(a), the area 75 feet upland from the top of bank of the Columbia River, shall have a max building height of 0 feet (standard "building height" definition).

(vi) The maximum building height on the Columbia River shall be 25 feet (standard "building height" definition).

(9) Special conditions. In general, where letters appear enclosed in parentheses following a given permitted or conditionally permitted use of the WROD, the corresponding lettered

conditions below shall apply and constitute an approval criterion, clarification or restriction for the particular use listed.

(a) Maximum residential density is not based on the density computations of SHMC Chapter 17.56, but rather the usage ratios of this chapter and design requirements (e.g. off-street parking, landscaping, access areas, etc.).

(b) Outdoor storage of goods and materials as an independent use not in conjunction with another use is prohibited. Outdoor storage is allowed for conditional uses in this zone only when said storage is completely screened from the street and adjacent properties.

(c) Outdoor display of goods and materials for retail establishments is permitted on private property in front of the retail establishment, provided such displays do not: block safe ingress and egress from all entrances and exits including those specifically for emergency use, block safe pedestrian or vehicular circulation areas, block required parking areas, block emergency access ways, interfere with landscape areas such that those areas will be prone to damage, or otherwise create a hazard. In addition, outdoor display of goods and materials shall be properly and safely stored inside during non-business hours. Moreover, outdoor displays shall not encroach in public rights-of-way, including but not limited to streets, alleys or sidewalks without express written permission of the City Council as reflected in an executed temporary license, release and hold harmless agreement. License agreements shall require safe, sturdy and secure outdoor displays and may be subject to an annual fee determined by Resolution of the St. Helens City Council.

(d) Water uses cannot exceed 50% of water rights area (shoreline) fronting a given property.

(e) The following criteria shall be in addition to the other approval standards necessary to approve, approve with conditions, or deny an application for a conditional use:

(i) Use shall include restrictions determined necessary to prevent conflicts with exiting or potential nearby residential uses. Examples include but are not limited to restrictions addressing hours of operation, noise, vibration, external lighting and emissions (odor and particulates).

(ii) Use shall be located in an area determined by the commission to be the edge of non-industrial development for the foreseeable future.

(10) Additional requirements and standards.

(a) The residential density calculation and transition provisions of SHMC Chapter 17.56 shall not apply to the Waterfront Redevelopment Overlay District. Rather, density is controlled in accordance with SHMC 17.32.180(9)(a).

(b) The Planned Development overlay per SHMC Chapter 17.148 shall not apply to the Waterfront Redevelopment Overlay District.

(c) The Historic Sites and Overlay District provisions of SHMC Chapter 17.36 do not apply to the Waterfront Redevelopment Overlay District.

(d) The Architectural Character Review provisions of Olde Towne St. Helens, OTSH Zone pursuant to SHMC 17.32.170(7) shall apply to the Waterfront Redevelopment Overlay District.

(e) The Sensitive Lands requirements of SHMC Chapter 17.40 apply to the Waterfront Redevelopment Overlay District. Where development in or on the water fronting a development is for a public use or direct public benefit, then protection zone averaging provisions of that chapter are allowed.

(f) The Visual Clearance Area requirements of SHMC Chapter 17.76 do not apply to the Waterfront Redevelopment Overlay District.

(g) Any new development within 100 feet of the top of bank/shoreline of the Columbia River shall include the lands between 0 and 100 feet as part of the development. In addition, a bicycle/pedestrian facility shall be dedicated within this area for public use, of such width and design to sufficiently accommodate bicyclists and pedestrians as a multi-use pathway, and in accordance with the applicable City standards. Such bicycle/pedestrian facility shall connect to an adjacent public right-of-way, another bicycle/pedestrian facility or public park for connectedness.

(h) Supplemental provisions chapters:

(i) 17.40 Protective Measures for Significant Wetlands, Riparian Corridors, and Protection Zones.

(ii) 17.44 Sensitive Lands.

(iii) 17.46 Floodplains and Floodways.

(iv) 17.52 Environmental Performance Standards.

(v) 17.60 Manufactured/Mobile Home Regulations.

(vi) 17.64 Additional Yard Setback Requirements and Exceptions.

(vii) 17.72 Landscaping and Screening.

(viii) 17.80 Off-Street Parking and Loading Requirements.

(ix) 17.84 Access, Egress, and Circulations.

(x) 17.88 Signs.

(xi) 17.92 Mixed Solid Waste and Recyclables Storage in New Multi-Unit Residential and Nonresidential Buildings.

(i) Site Development Review, Chapter 17.96.

(j) Development and Administration chapters:

(i) 17.100 Conditional Use.

(ii) 17.104 Nonconforming Situations.

(iii) 17.108 Variance.

(iv) 17.116 Temporary Uses.

(v) 17.120 Home Occupations.

(vi) 17.124 Accessory Structures.

(vii) 17.132 Tree Removal.

(k) Land Division chapters:

(i) 17.136 Land Division – Subdivisions.

(ii) 17.140 Land Division – Partitioning – Lot Line Adjustment.

(iii) 17.144 Expedited Land Divisions.

(iv) 17.152 Street and Utility Improvement Standards.

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Development Code Amendment ZA.2.08**

**APPLICANT:** City of St. Helens  
**OWNER:** Boise Building Solutions Manufacturing, LLC  
**ZONING:** Heavy Industrial, HI  
**LOCATION:** 4N1W-3-100  
**PROPOSAL:** To create a new Waterfront Redevelopment Overlay District, applicable to the subject property that will allow the possibility of non-industrial uses on industrial lands.

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

**SITE INFORMATION**

The site is partially developed industrial land just south of the old downtown along the Columbia River. The site is developed with Boise veneer plant. Otherwise it is generally flat and open. Approximately half of the site is within 100-year floodplain based on FEMA FIRMs.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows:

September 9, 2008, January 13, 2009 & March 10, 2009 before the Planning Commission  
April 1, 2009 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on August 13, 2008, December 23, 2008 and March 12, 2009 via first class mail. Notice was sent to agencies by mail or e-mail on the same respective dates. Notice was published in the The Chronicle on August 23, 2008, December 27, 2008 and March 14, 2009. Notice was sent to the Oregon Department of Land Conservation and Development on July 21, 2008.

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 17.20.120 – Standards for Legislative Decision**

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

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.

**(a) Discussion:**

*Statewide Planning Goal 1 is Citizen Involvement.*

Goal 1 requires opportunity for citizens to be involved in all phases of the planning process. 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. Mailed notice of these hearings are required for the applicant, affected agencies and those requesting notice. Legal notice in a newspaper of general circulation is required too. The City has met these requirements and notified property owners within 300' of the subject property pursuant to SHMC 17.24.130. Finally, the City notified DLCD of the proposal.

Given scheduled public hearings and notice provided, Goal 1 is satisfied.

*Statewide Planning Goal 2 is Land Use Planning.*

This Statewide Planning Goal states that "All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs." 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.

Goal 2 is satisfied.

*Statewide Planning Goal 3 on Agricultural Lands.*

This goal is not applicable as agricultural land is not involved.

*Statewide Planning Goal 4 on Forest Lands.*

This goal is not applicable as forest land is not involved.

*Statewide Planning Goal 5 on Open Spaces, Scenic and Historic Areas, and Natural Resources.*

This goal addresses the conservation and protection of both natural and cultural resources. Two natural resource are inventoried on/adjacent to the site: the Columbia River and its associated the riparian area. There does not appear to be any inventoried

cultural resources. The standards that protect the inventoried resource will still be in effect, given adoption of this proposal.

As the inventoried resources will remain protected, Goal 5 is satisfied.

*Statewide Planning Goal 6 on Air, Water, and Land Resources Quality.*

Goal 6 addresses the quality of air, water and land resources. In the context of text amendments, a local government complies with Goal 6 by explaining why it is reasonable to expect that the proposed uses authorized by the amendment will be able to satisfy applicable federal and state environmental standards, including air and water quality standards. This proposal will allow a broader array of land uses, most of which, generally, have a less environmental impact than traditional heavy industrial uses. Further, laws governing environmental quality will still be applicable to any development following adoption of this proposal.

As such, Goal 6 is satisfied.

*Statewide Planning Goal 7 for Areas Subject to Natural Disasters and Hazards.*

Goal 7 deals with development in places subject to natural hazards. It requires that jurisdictions apply “appropriate safeguards” when planning for development there.

In this case, there is an identified natural hazard: special flood hazard area inundated by 100-year flood, associated with the Columbia River, as identified by NFIP FIRM Map Number 41009C0456 C. Regardless of the property’s zoning, both local and federal flood plain regulations would apply to new development.

As such, Goal 7 is satisfied.

*Statewide Planning Goal 8 on Recreational Needs.*

This goal calls for a government to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. The subject property has not been planned for recreational opportunities. Rather its Comprehensive Plan designation is Heavy Industrial. The only zoning under this designation is Heavy Industrial. Though not intended as a major contributor to recreational use, some recreational uses such as parks are allowed (by Conditional Use Permit) in the HI zone. This will also be the case for the proposed overlay zone.

As this proposal will not hinder recreational needs, Goal 8 is satisfied.

*Statewide Planning Goal 9 on Economic Development.*

This Goal is satisfied when it can be shown that the proposal will not negatively affect industrial or other employment land, as such lands are catalysts to economic development. One implementation tool the State has to demonstrate this is the Economic Opportunities Analysis (EOA) pursuant to OAR 660-009-0015. The EOA is required to be adopted into a local government’s Comprehensive Plan before it can be relied on for land use decisions. The EAO provides proof that an action that could change industrial



and other employment lands to something contrary to employment generation will not preclude economic development for the local jurisdiction.

On January 7, 2009, the City adopted an Economic Opportunities Analysis (EOA) as an addendum to the City Comprehensive Plan. The EOA has been acknowledged by the State (i.e. DLCD) and was not appealed or challenged.

The subject property is approximately 16.92 acres (or about 22 acres if railroad right-of-way that cuts a swath through the middle is included) and is zoned and designated Heavy Industrial, HI. The adoption of this proposal would make the WORD possible, which if implemented, would effectively nullify the Heavy Industrial zoning in favor of commercial and residential uses, generally.

The City's EOA indicates that the City has approximately 326 gross vacant acres of industrial land or 306 net vacant acres, less wetland areas (EOA Table 6). The EOA also details the City's industrial land needs, the conclusion of which is that the City will not require additional industrial acreage to meet both its 20-year industrial employment forecast and the City's desire to attract large industrial users. Table 8 shows that even using a need ratio of 2 people per acre, which is a liberal calculation (EOA Table 4), the City needs up to 290 industrial acres (EOA Table 8). The EOA further details properties most eligible to be changed from an industrial designation to something else. This includes the subject property given its proximity to the downtown, commercial uses and residential uses. This proximity issue is also basis as to why it's loss as industrial land would not compromise land available for large industrial operations.

As this proposal will not compromise the City's industrial (and "employment land") base, Goal 9 is satisfied.

*Statewide Planning Goal 10 on Housing.*

This Goal pertains to a local government's provision of the housing needs of its citizenry. This proposal will enable dwelling units on lands where this is currently not possible, except under limited and restrictive circumstances.

As this proposal will enable the possibility of a variety of types of dwelling units, Goal 10 is satisfied.

*Statewide Planning Goal 11 on Public Facilities Planning.*

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services. It further provides that urban and rural development "be guided and supported by types and levels of services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

The subject property is within City limits and surrounded by development. Should the subject property be developed, it would be an "expansion" of sorts of the downtown area, rather than a new development separate from existing ("leapfrog" development). Given

the availability of utilities (i.e. adjacency to existing development and functioning utilities) and the capacity to serve new development, which the City has, Goal 11 is satisfied.

*Statewide Planning Goal 12 on Transportation.*

Goal 12 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.

In this case, the proposal is an overlay zone that will broaden the types of uses (i.e. more residential and commercial mix with industrial uses), but given the potential traffic generated by certain heavy industrial uses, the potential new uses, provided the proposal is adopted, shouldn’t be more intense from a traffic generation point of view, generally speaking.

As such, a traffic impact analysis or similar study is not warranted and Goal 12 is satisfied.

*Statewide Planning Goal 13 on Energy Conservation.*

Goal 13 directs local governments to manage and control land and uses developed on the land to maximize the conservation of all forms of energy, based on sound economic principles. This proposal doesn’t specifically apply to this goal, though, the proposed overlay zone does include provisions regulating density; and air, light and space. Moreover, with a greater diversity of uses (residential, commercial and industrial) potentially intermixed, both jobs and housing may be created in the same location, which provides greater efficiency as transportation and similar needs are reduced; this is a catalyst of efficiency.

Goal 13 is satisfied.

*Statewide Planning Goal 14 on Urbanization.*

This Goal addresses the conversion of rural lands to urban lands. As the subject property is already within City limits and the St. Helens UGB, this Goal does not apply.

*Statewide Planning Goal 15 for Willamette Greenway*

The subject property is just north of the Willamette Channel. As the Willamette Greenway will not be impacted, Goal 15 does not apply.

**Finding:** These code amendments are not contrary to the Statewide Planning Goals and Guidelines adopted under ORS Chapter 197.

**(b) Discussion:** All of the federal or state statutes and/or guidelines found applicable should have been addressed above.

**Finding:** These code amendments are not contrary to known federal or state statute, not already discussed.

**(c) Discussion:** The applicable comprehensive plan policies, procedures, appendices and maps are under SHMC Chapter 19.08. These general goals and policies of the Comprehensive Plan more-or-less reflect the content of the Statewide Planning Goals described above. The following goals and policies of the City's Comprehensive Plan under SHMC Chapter 19.08 are met given the discussion under the respective Statewide Goals above:

- 19.08.010 Citizen involvement (ref: Statewide Planning Goal 1)
- 19.08.030 Public services & facilities (ref: Statewide Planning Goal 11)
- 19.08.040 Transportation (ref: Statewide Planning Goal 12)
- 19.08.050 Housing (ref: Statewide Planning Goal 10)
- 19.08.060 Natural factors & local resources (ref: Statewide Planning Goals 5, 6 & 7)

SHMC 19.08.020 Economic[s] (ref: Statewide Planning Goal 9) can only be fully met given adoption of an EOA as previously described. This ensures that employment land necessary for the City to meet its economic needs is not displaced for non-employment land. Though one of the goals of this section directly applies to this proposal: "make waterfront development a high priority." This proposal is an effort in that direction.

An EOA has been adopted—as previously discussed—and based on that document this proposal does not compromise the City's industrial or employment lands. In other words, the EOA provides the factual basis why this proposal is consistent with SHMC 19.08.020.

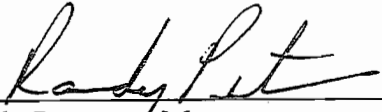
**Finding:** These code amendments are not contrary to the City's Comprehensive Plan.

**(d) Discussion:** This is an addition to the City's implementing ordinances. No other implementation law currently in effect will be affected.

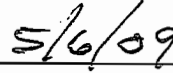
**Finding:** These code amendments are not contrary to the City's implementing ordinances (e.g. SHMC Title 17, Community Development Code).

#### CONCLUSION & DECISION

**Based upon the facts and findings herein, the recommendation of the Planning Commission (from their March 10, 2009 hearing) and staff, the City Council approves this Text Amendment to the Development Code.**



Randy Peterson, Mayor



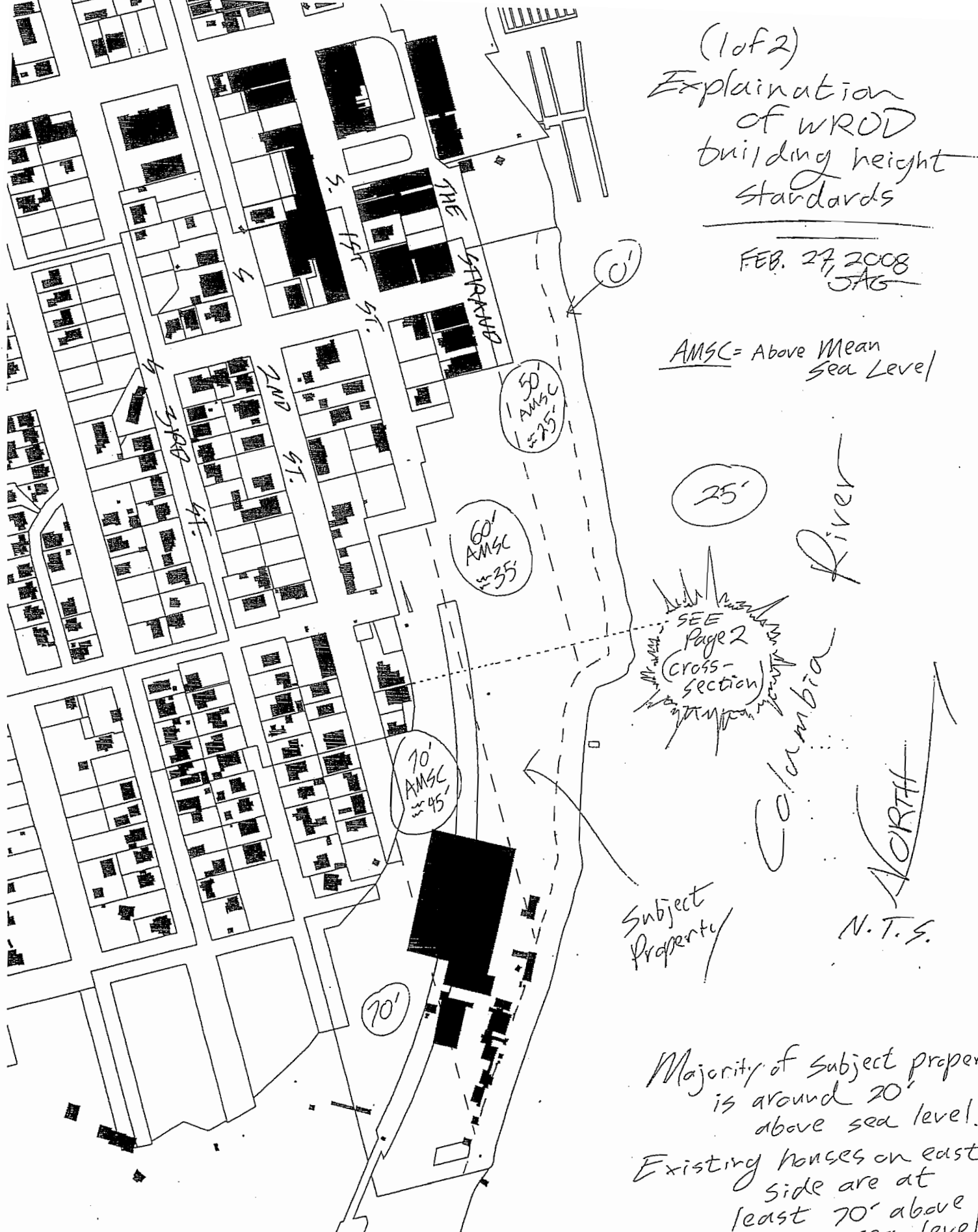
Date

**Attachment(s):** Visual explanation of the WROD building height standards (2 pages)

(1 of 2)  
Explanation  
of WRUD  
building height  
standards

FEB. 27, 2008  
JAG

AMSL = Above Mean  
Sea Level



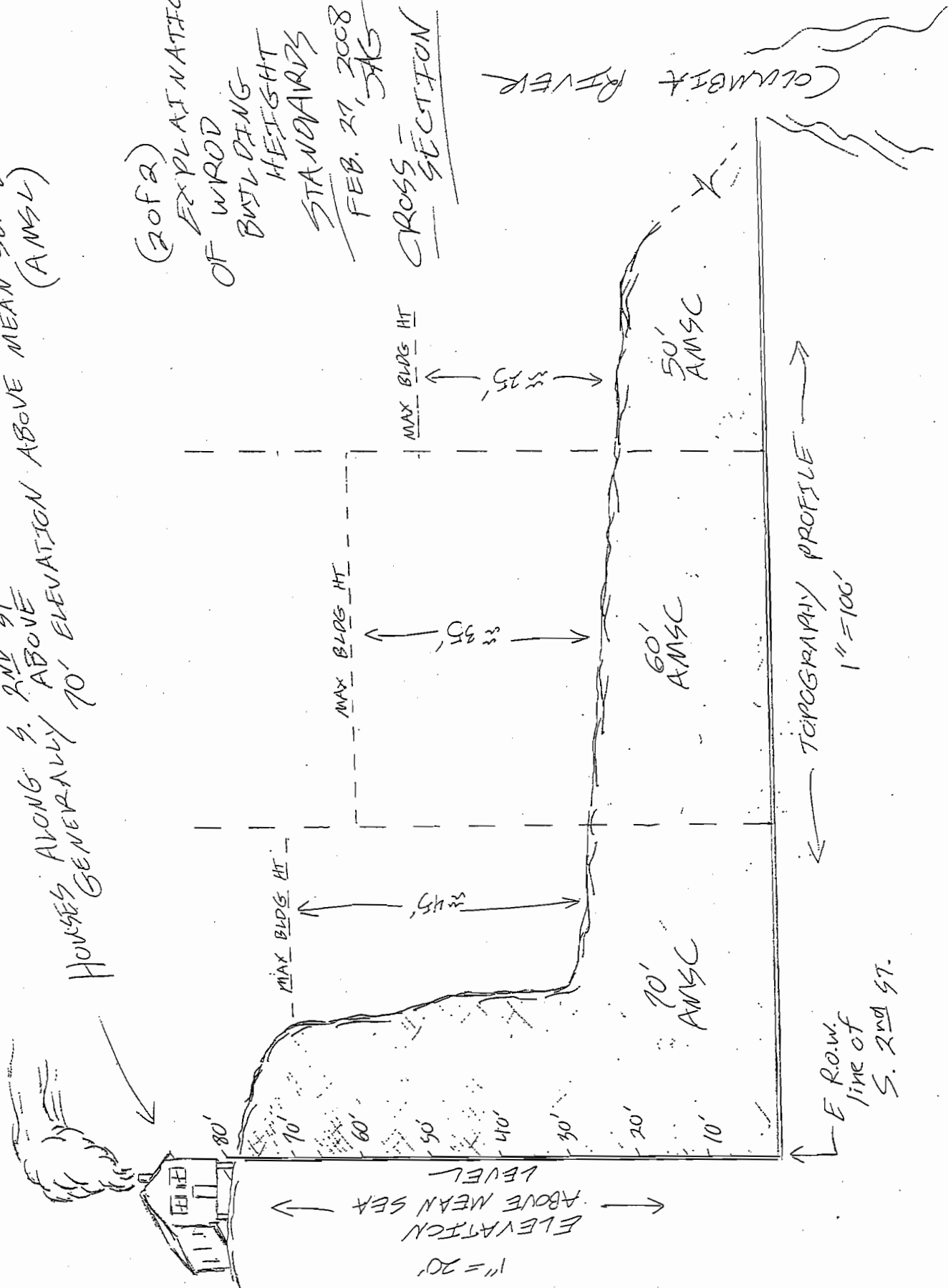
SEE  
Page 2  
(cross-  
section)

Subject  
Property

Majority of subject property  
is around 20'  
above sea level.  
Existing houses on east  
side are at  
least 70' above  
sea level.

HOUSES ALONG S. 2ND ST  
GENERALLY 70' ELEVATION ABOVE MEAN SEA LEVEL (AMSL)

(2012)  
EXPLANATION  
OF WIND  
BUILDING  
HEIGHT  
STANDARDS  
FEB. 27, 2008  
SAG  
CROSS-SECTION





UNITED STATES POSTAGE  
02 1M  
\$01.51<sup>0</sup>  
0004262816 MAY 07 2009  
MAILED FROM ZIP CODE 9705  
HONEY BOWES



Attn: Plan Amendment Specialist  
Dept. of Land Conservation & Develop.  
635 Capitol Street NE, Ste. 150  
Salem, OR 97301-2540

