



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

11/29/2010

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 002-10

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: Friday, December 10, 2010

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

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

☐ In person ☐ electronic ☐ mailed

**DEPT OF**

**NOV 22 2010**

**LAND CONSERVATION AND DEVELOPMENT**

For Office Use Only

**DATE STAMP**

Jurisdiction: **City of St. Helens**

Local file number: **A.1.10**

Date of Adoption: **November 17, 2010**

Date Mailed: **November 19, 2010**

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

☐ 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".

Annexation of approximately 3.02 acres along and on the north side of Millard Road.

Does the Adoption differ from proposal? NO

Plan Map Changed from: **Rural Suburban Unincorporated Res.** to: **Suburban Residential**

Zone Map Changed from: **Columbia County's Zoning** to: **R7**

Location: **35031 Millard Road**

Acres Involved: **3**

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 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 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. 002-10 (18400) [16424]



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

**Columbia County**  
**McNulty Water District**

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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: **jacobbg@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. 3142**

**AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY  
AT 35031 MILLARD ROAD**

WHEREAS, applicant Juanita Richards for the St. Helens Community Bible Church has requested to annex to the City of St. Helens certain property at 35031 Millard Road. This property is also described as Columbia County Map & Tax Lot Number(s) 4N1W-8CB-501; and

WHEREAS, the applicant has consented in writing to the proposed annexation; and

WHEREAS, the applicant constitutes 1) all the owners of the property to be annexed, and 2) more than half of the owners of the property to be annexed own more than half of such property representing more than half of the assessed value pursuant to ORS 222.170(1); and

WHEREAS, the City Council must recommend the property for annexation to the voters; and

WHEREAS, the City Council must determine the incorporated Comprehensive Plan Map designation and the Zone Map designation; and

WHEREAS, appropriate notice has been given and a public hearing was held October 20, 2010 on the annexation proposal; and

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

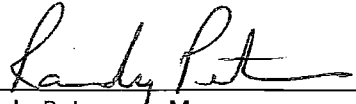
NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

1. The above recitations are true and correct and are incorporated herein by this reference.
2. The property described above is hereby accepted for annexation to the City of St. Helens.
3. The St. Helens Zoning Ordinance Map is hereby amended to reflect that the property described herein shall be zoned Moderate Residential, R7.
4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as Suburban Residential, SR.
5. The land is classified as "Developing" in accordance with Chapter 17.112 of the St. Helens Community Development Code (SHMC Title 17) and OAR 660-08-0005.
6. In support of the above annexation and zoning, the Council hereby adopts the A.1.10 Annexation and Zone Map Amendment Findings of Fact and Conclusions of Law dated November 17, 2010.
7. The City Council does hereby refer the final decision to annex this property to the voters of the City of St. Helens.

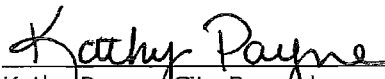
8. The effective date of this Ordinance shall be the date of the successful approval by the voters of the City of St. Helens, in accordance with the City Charter and other applicable laws.

Read the first time: November 3, 2010  
Read the second time: November 17, 2010

**APPROVED AND ADOPTED** this 17<sup>th</sup> day of November, 2010.

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

ATTEST:

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

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Annexation A.1.10**

**APPLICANT:** Juanita Richards for the St. Helens Community Bible Church  
**OWNER:** St. Helens Community Bible Church  
**ZONING:** Columbia County's Community Service Institutional, CS-I  
**LOCATION:** 4N1W-8CB-501; 35031 Millard Road  
**PROPOSAL:** Annexation of approximately 3.02 acres

**The 120-day rule (ORS 227.178) for final action for this land use decision is n/a [Clark v. City of Albany, 142 Or App 207, 921 P2d 406 (1996)].**

**SITE INFORMATION**

The subject property lies on the north side of Millard Road and is developed with a few buildings including a "stick built" church building, a double-wide manufactured building and storage sheds. The property's Millard Road frontage lacks rights-of-way improvements (e.g. sidewalk and curb). The site is rectangular in shape, with more-or-less flat topography and is underdeveloped.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows:

September 14, 2010 before the Planning Commission  
October 20, 2010 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on August 18, 2010 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 August 25, 2010. Notice was sent to the Oregon Department of Land Conservation and Development on July 12, 2010.

**At their September 14, 2010 meeting, the Planning Commission recommended approval of the proposal to the City Council.**

**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. (Ord. 2875 § 1.020.040, 2003)

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

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 the Comprehensive Plan.

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 needn't be analyzed.

(a)(iii) Other provisions applicable to this proposal are discussed elsewhere herein, except:

Pursuant to SHMC 13.04.020(7): *"All water users in the city whose closest property line is within 160 feet of a city water main shall be connected to the city water system."*

Currently, there is not a City water main within this distance of the subject property.

**Finding:** The quasi-judicial amendment criteria are met as they relate to this annexation request.

#### **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) Both the City water and sewer systems have the capacity to serve the subject property. The property is within the McNulty Water District and is already served by them. If McNulty Water is incapable of adequately serving the property in the future it may be possible to extend the City's water main from the north (Maple Street) or elsewhere.

Storm water capacity is not an issue as it ultimately ends up in the Columbia River. If there is any conveyance issue with water, sewer or storm, improvements would be required at the time of development in relation to the intensity and nature of that development.

With regards to the road system, the closest intersection that the City's Transportation System Plan (TSP) includes is that of Columbia River Highway (Hwy. 30) and Millard Road. Based on the TSP (from June 1997), this intersection has levels of service (LOS) for the 2016 growth forecast under the various scenarios (i.e. no build condition and the TSM, TDM, road system, and combination alternatives) of F, D or C. The only scenario that gets a C—road system alternative—involves more street connections to Millard Road from the north, which is complicated by disparate ownerships and wetlands/stream crossings. LOS of A-C is generally considered adequate. However, though a poor intersection, a recent review for a hospital on this property (County file DR 09-01), did not trigger any intersection or other off-site right-of-way improvements; this included ODOT. The situation is same, whether annexed or not.

Finally, with regards to public facilities, as noted under AGENCY REFERRALS & COMMENTS above, service agencies have been notified of the proposal and none responded identifying conflicts with the proposed annexation and their respective provided service.

**The council determined that the zoning be R7 based on lack of pedestrian improvements (sidewalk) in the foreseeable future (see below).**

(b) The primary use on the subject property is a church. Generally, the Development Code refers to this type of use as "religious assembly." As explained later, the R10, R7, R5 and AR zones are the possible zoning districts based on the Comprehensive Plan designation of the site. All four of these zoning districts include religious assembly as conditional uses (requiring a Conditional Use Permit).

The existing use is possible given the City's zoning upon annexation.



There does not appear to be any conflicts with the Comprehensive Plan or implementing ordinances.

(c) 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 is adjacent to it on the east side.

Further, ORS Chapter 222 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.

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 CS-I and the City zoning option given annexation is R7 or R10, generally.*

*Uses permitted in the County CS-I zone are:*

- Schools, public or private, and their accompanying sports facilities.  
Government office buildings for local, state, or federal, such as a City
- Hall, Courthouse, or other similar type building.
- Public or private cemetery, crematory, or mausoleum.
- Hospital, clinic, or sanitarium.
- Extended care facility.
- Civic auditorium or stadium.
- County fairgrounds.
- Correctional facilities.
- Churches.
- Day care centers and private kindergartens.
- Police stations.
- Fire stations.
- Ranger stations.
- Armory.
- Museum.
- Library.
- Private club, fraternal organization, lodge, or grange.
- Nursing home.
- Other uses found similar by the Commission.

Note: there are no conditionally permitted uses in the County's CS-I zone.

***Uses permitted or conditionally permitted in the City's R10 and/or R7 zone are:***

- Home child care.
- Home occupation, Types I and II (per Chapter 17.120 SHMC).
- Public facilities, minor.
- Public park after site design review.
- Residential facility. **(R10 only)**
- Residential home.
- Single-dwelling unit, detached.
- \*Auxiliary dwelling units.
- \*Bed and breakfast, homestay, boarding house. **(R7 only)**
- \*Children's day care/day nursery.
- \*Cultural exhibits and library services. **(R10 only)**
- \*Community recreation including structures. **(R7 only)**
- \*Duplex residential units. **(R7 only)**
- \*Neighborhood store/plaza. **(R7 only)**
- \*Elderly/convalescent home.
- \*Private park.
- \*Public facilities, major.
- \*Public safety facilities.
- \*Religious assembly.

Generally, when comparing potential land use impact on transportation facilities, the ***reasonable worst case scenario*** for the existing and proposed designation/zone are considered. Given the subject property's size and access, none of the above uses can specifically ruled out.

The potential land uses are very similar for both the City and County; the City's zoning is no more intense then the County's 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.

**(d)** The subject property abuts one street/road: Millard Road, which is improved (asphalt) but lacking frontage improvements such as sidewalk and curb, rather having only a ditch. City standards require such improvements. ***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.*** As such, the only option is for the property owner to be required to sign and record an irrevocable consent to local improvement district, though, the applicant could improve the frontages if they desired.

If sidewalk and related frontage improvements where installed, right-of-way dedication would be necessary. The City's Transportation Systems Plan classifies Millard Road as a Minor Arterial Street, which requires a minimum right-of-way width of 60 feet. There is only about 40' fronting the subject property.

Pursuant to SHMC 17.152.030(9) "...additional rights-of-way shall be provided at the time of land division or development." An annexation is neither.

(e) The subject property is less than 10 acres in size and not designated or zoned residential, thus, showing a need on the part of the city for such land (if designated residential) is not necessary.

**Finding:** The annexation approval criteria are met for this proposal, with the condition that the property owner to be required to sign and record an irrevocable consent to local improvement district for street improvements or complete the street improvements (following the appropriate right-of-way dedication) to City standards.

#### **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 for the subject property is Rural Suburban Residential, RSUR. Upon annexation, the Comprehensive Plan designation would thus be (incorporated) Suburban Residential, RS. There are two zoning options under that designation: Suburban Residential, R10 or Moderate Residential, R7, except the General Residential, R5 and Apartment Residential, AR zoning districts are possible if the following conditions are found:

- The parcel is vacant and larger than two acres in size.
- The carrying capacity of the public services including but not limited to streets, sewer, and water are sufficient for higher density development.
- The county and city determine, due to the pattern of development in the city and within the urban growth area, that other lands are more appropriate for these designations.

What zone is best? There no specific criteria to determine R7 or R10. So it's best to start by determining whether the R5 or AR zone can be ruled out. Based on the above criteria for the R5 or AR zone:

- The parcel is not vacant, but is underdeveloped; there is about 2+ undeveloped acres on the site.
- The carrying capacity of utilities and public services is possible for higher density (though this could require infrastructure improvements to property serve the parcel).
- There is no pattern in this area, except for single-family dwellings. But this property does abut property zoned Public Lands and a higher density development adjacent to that can be construed as a zoning/land use buffer to surrounding lower density development.



The R5 and AR zoned are not necessarily ruled out. The Planning Commission recommended Apartment Residential, AR. **The Council determined that the potential density would conflict with the lack of pedestrian amenities (sidewalk) into the foreseeable future and decided that R7 was the most appropriate zoning district.**

**Finding:** The subject property shall be designated Suburban Residential, RS and zoned Moderate Residential, R7 upon annexation.

#### **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. (Ord. 2875 § 1.150.020, 2003)

**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 will be zoned residential, is privately owned and there are no inventoried natural hazards/resources on the subject property (though a jurisdictional wetland to the east). The property is also underdeveloped (i.e. greater density is possible). As such, the subject property can be classified as a “developing area.”

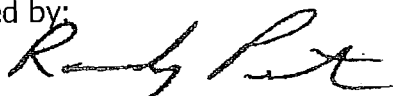
**Finding:** The subject property should be designated as “developing” in accordance with SHMC 17.112 and OAR 660-008-0005.

#### **CONCLUSION & DECISION**

**Based upon the facts and findings herein, the Council approves annexation, subject to voter approval, and that upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential, SR, and be zoned R7, and designated as “Developing,” with the condition that:**

The street(s) abutting the subject property shall be brought into compliance with City street standards, *following the appropriate right-of-way dedication* (or) property owner(s) shall sign and record an irrevocable consent to a local improvement district.

Signed by:

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

11/17/10  
\_\_\_\_\_  
Date

City of St. Helens  
P.O. Box 278  
St. Helens, OR 97051



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