



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

September 26, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment
DLCD File Number 011-06



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: October 12, 2006

This amendment was submitted to DLCD for review 45 days 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Gary Fish, DLCD Regional Representative
Skip Baker, City of St. Helens

<paa> ya/



DEPT OF

SEP 22 2006

LAND CONSERVATION
AND DEVELOPMENT

NOTICE OF ADOPTION

Jurisdiction: City of St. Helens

Local File No. Eagle PD3.06

Date of Adoption: September 20, 2006

Date Mailed: September 21, 2006

Date of Notice of Proposed Amendment was mailed to DLCD: July 17, 2006

____ Comp Plan Text Amendment ____ Comp Plan Map Amendment
____ Land Use Regulation Amendment yes ____ Zoning Map Amendment
____ New Land Use Regulation ____ Other _____

Summary of the adopted amendment: Zone Map Amendment

Describe how the adopted amendment differs from the proposed amendment.(If same, write same; if not applicable write, N/A). same

Plan Map Changed from: _none

Zone Map Changed from: _Planned Development Overlay Zone.

Location: Columbia County Tax lot 410500000600.

Acres involved _4.24cres.

Specify density: Previous _4 DU per acre ____ New: 4 DU per acre _____

Applicable Goals: _1,2,9,10,11,12,&14 ____ Was an Exception Adopted? _no ____

Did the DLCD receive notice of Proposed Amendment 45 days prior to final hearing?

Yes _X_ NO ____ The Statewide Planning Goals do not apply.

____ The Emer. Circumstances Req'd Expedited

Review.

Affected State or Federal Agencies, Governments or Special Districts: Columbia County, St. Helens Rural Fire District, and St. Helens Rural School District.

Local contact: Skip Baker

Phone No. 503-397-6272

Address: P. O. Box 278

City: St. Helens, OR

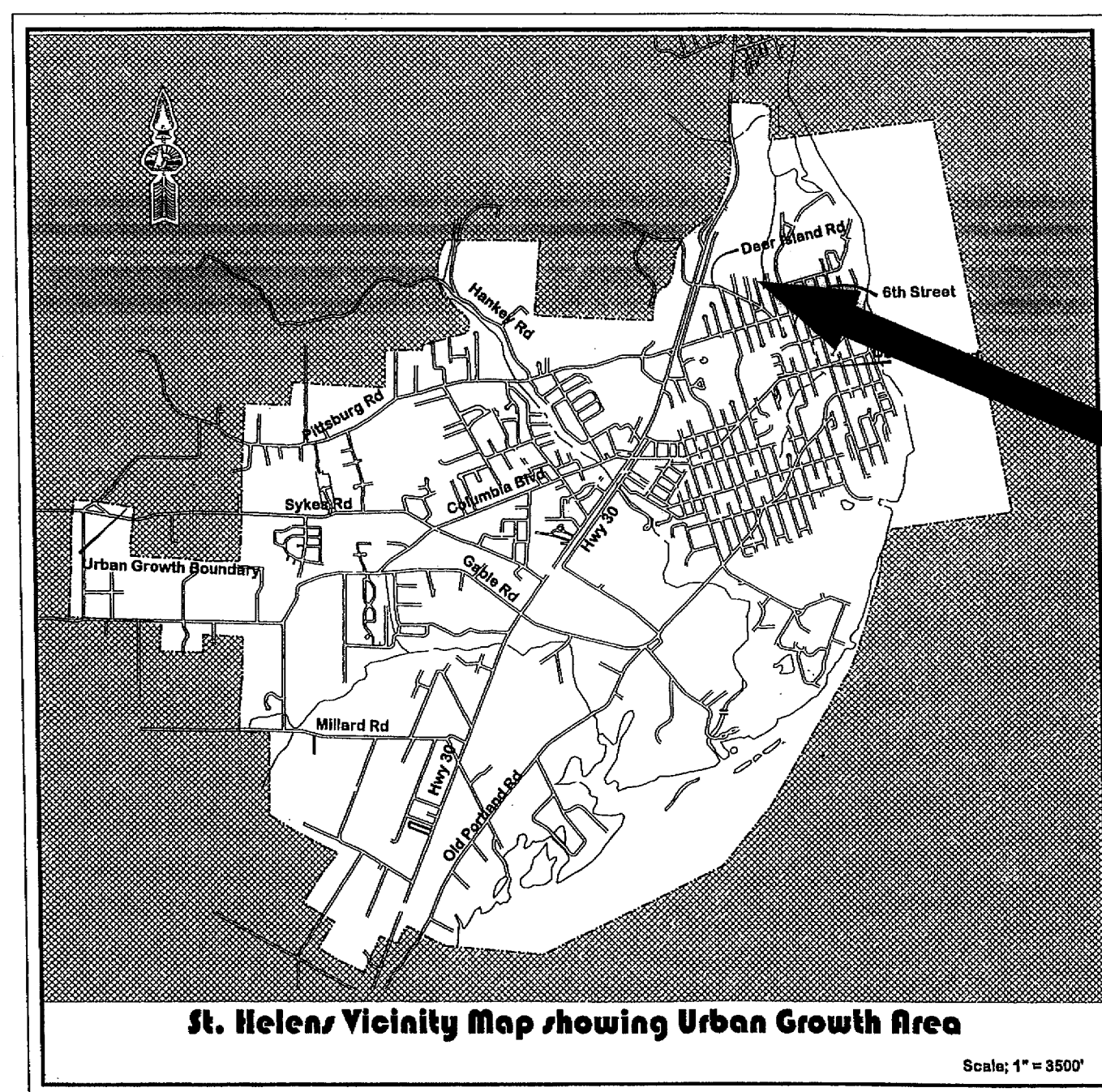
Zip code: 97051

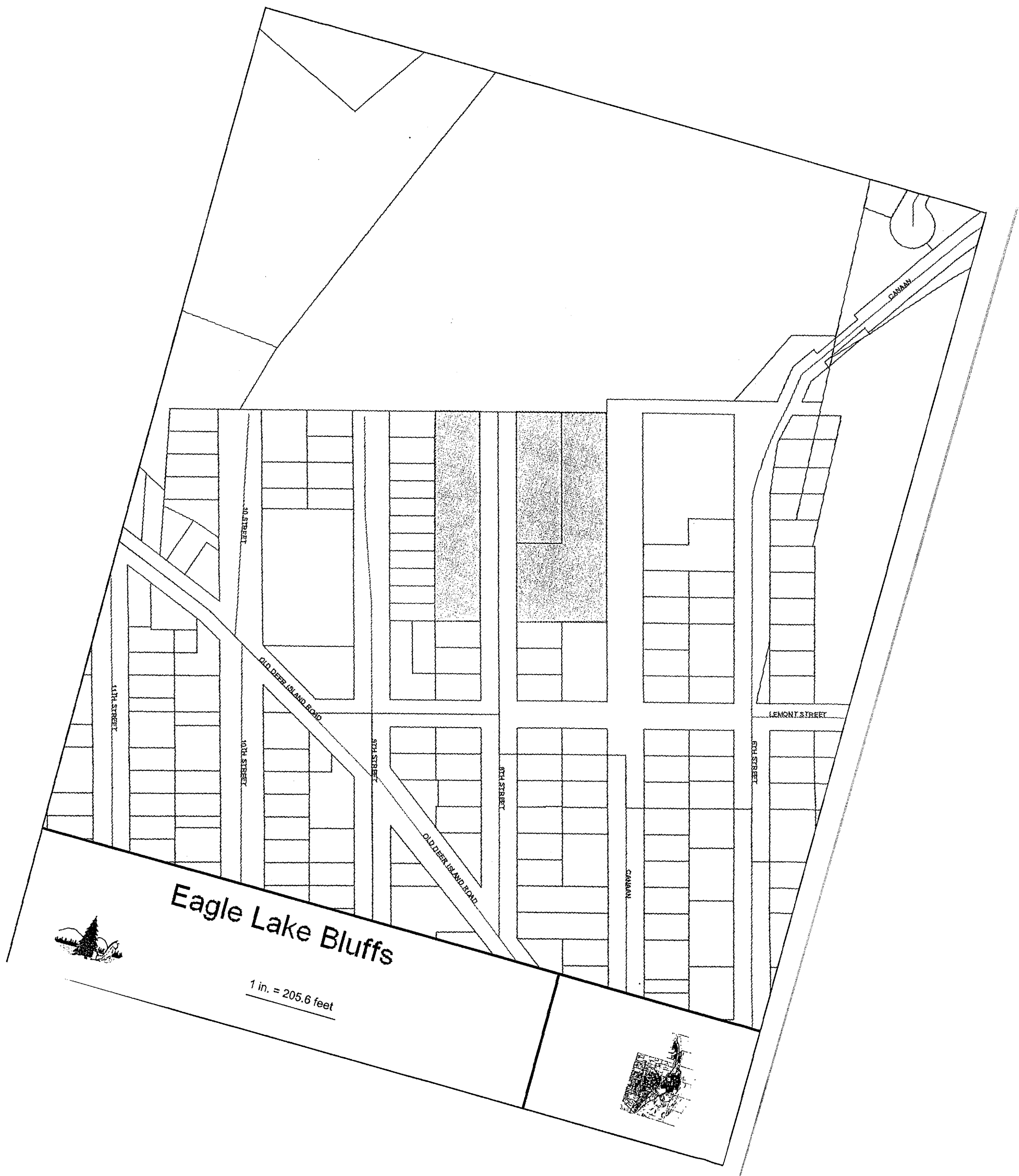
Mail to: Plan Amendment Specialist, DLCD, 635 Capitol St. NE., Ste. 150, Salem, OR. 97301

DLCD # 011-06
(15378)

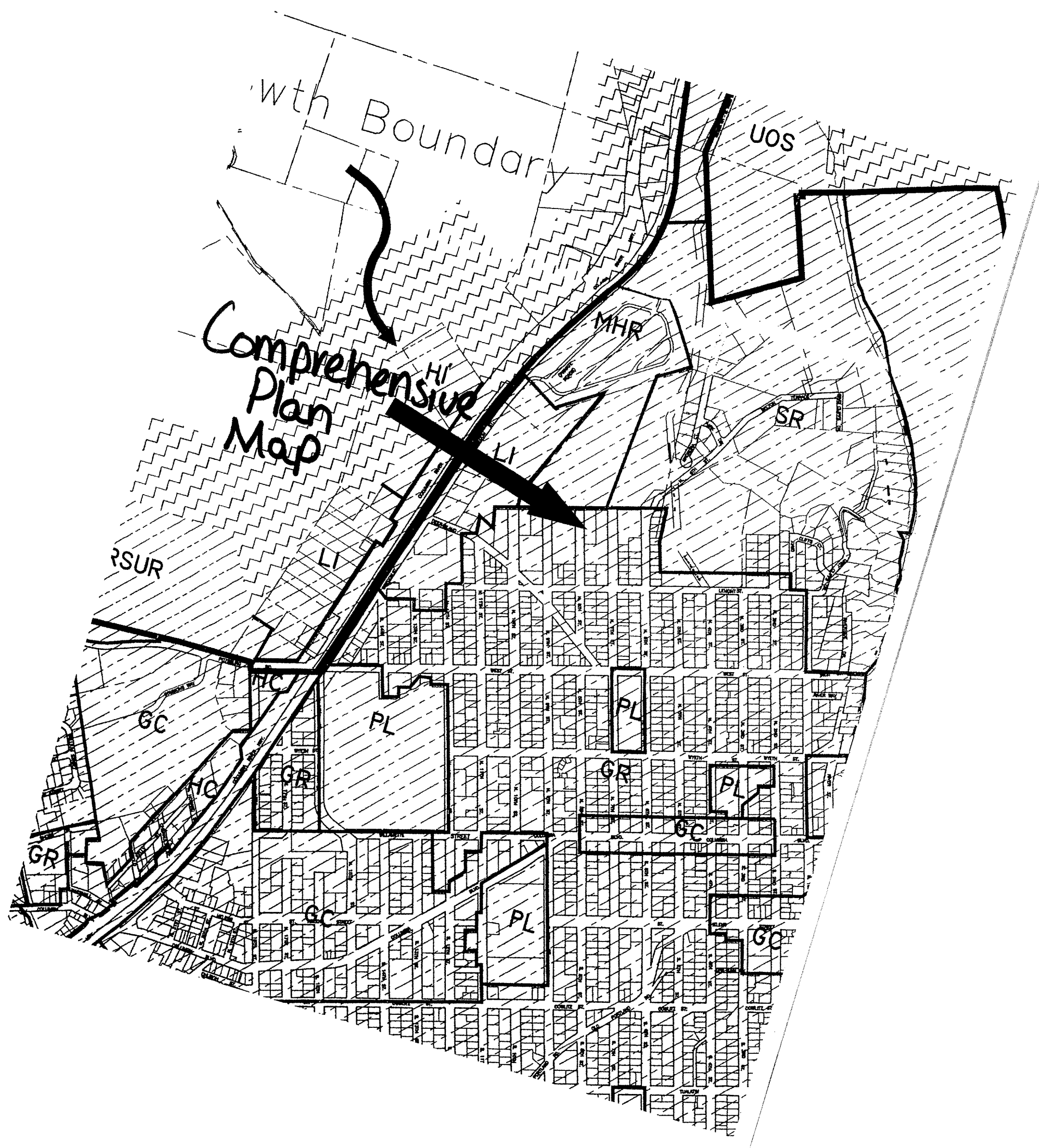
Subject Property

~ Approximate Location ~









ORDINANCE NO. 3015

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR EAGLE LAKE BLUFFS PLANNED COMMUNITY DEVELOPMENT PURSUANT TO ORS 94.504 – ORS 94.528; AND DECLARING AN EMERGENCY

Recitals:

The City of St. Helens City Council after consideration of the staff report, the recommendation of the Planning Commission, and the comments and evidence presented during the public hearings on the requested Development Agreement between the City of St. Helens and Robert Bass, finds and determines that the proposed Development Agreement is in the best interest of the public health, safety and welfare, meets a public need and provides a public benefit and that said Agreement is consistent with applicable City of St. Helens Laws and Ordinances.

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

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

Section 2. The City of St. Helens adopts "The Development Agreement for Eagle Lake Bluffs Planned Development" (together with exhibits attached thereto) attached to this Ordinance as Attachment 1 and made a part hereof by this reference.

Section 3. The Ordinance shall be effective as provided in Section 6 and the City Charter, provided the Ordinance shall not be effective if the unaltered Development Agreement approved with this Ordinance is not fully executed by the Owner and Mortgage Holders and delivered to the City by 5:00 P.M., Monday, October 2, 2006.

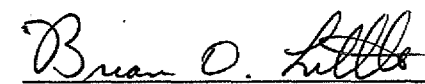
Section 4. **Severability.** If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can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

Section 5. **Codification.** Provisions of this Ordinance shall be incorporated in the City 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 relettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

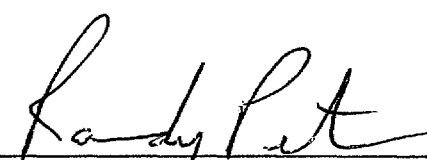
Section 6. Emergency. Conditions in the City of St. Helens are such that this Ordinance is necessary for the immediate preservation of the public health, peace, and safety. An emergency is hereby declared to exist by unanimous vote of the Council, and this Ordinance shall be in full force and effect after its passage and approval by the Mayor.

Read the first time:	September 20, 2006
Read the second time:	September 20, 2006
Read the third time and passed:	September 20, 2006
Approved by the Mayor:	September 20, 2006

Attested by:



Brian D. Little, City Administrator



Randy Peterson, Mayor

FINDINGS OF FACT AND CONCLUSIONS OF LAW
Eagle Lake Bluffs Preliminary Replat/ Zone Map Amendment/ Development Agreement

REQUEST:

Applicant has modified his application to replat 24 platted lots in First Addition to Rose Hill Plat with an amendment to the zone map to add a planned development overlay zone and to continue the request for a development agreement in accordance with the Sensitive Lands Chapter requirements and to ask for subdivision variances.

GENERAL INFORMATION:

1. Location- The site is located at the north end of North 8th Street.
2. Field Inspection- The site is sloped to the southeast with a large canyon and wetland on the northeast side.
3. Comprehensive Plan- The Comprehensive Plan designates the site as General Residential.
4. Zoning- The City Zoning Map designates the property as AR, Apartment Residential in the section to be replated and R-5, General Residential in the wetland section.
5. Access- Access to the property is from North 8th Street, a local unimproved street.
6. Use - Residential.
7. Referrals were sent to St. Helens City Engineer, Public Works Department, Police Department, Building Dept. and St. Helens Rural Fire District.

No one has raised any objections to date except for the School District as to increases in students and the City Engineering Department with concerns for the driveways on Lots 25 and 26 and the confluence of the roads narrowed at the south entrance to the new development.

CRITERIA AND EVALUATION:

Zone Map Amendment

The recommendation by the Commission and the decision by the Council shall be based on consideration of the following factors:

1. The applicable Comprehensive Plan policies and map designations; and that the change will not adversely affect the health, safety, and welfare of the community; and

2. Statewide planning goals adopted under Oregon Revised Statutes Chapter 197, until acknowledgment of the Comprehensive Plan and ordinances;
3. The standards applicable of any provision of this Code or other applicable implementing ordinance; and

Consideration may also be given to 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.

1. The applicable Comprehensive Plan policies and map designations; and that the change will not adversely affect the health, safety, and welfare of the community;

Finding: There are no known conflicts with the Acknowledged Comprehensive Plan. This will allow for flexibility in development design due to topography and wetland issues.

Finding: This will allow the wetlands to be preserved while allowing the owner use of their property.

Finding: This area has significant wetlands and topographical issues that are in the interest of the public to preserve as much as is practical.

2. Statewide planning goals adopted under Oregon Revised Statutes Chapter 197, until acknowledgment of the Comprehensive Plan and ordinances

Finding: Goal 1 is Citizen Involvement and the Code has numerous requirements for notice to the public as regards land use decisions and many opportunities for participation in the processes.

Finding: The Planning Commission is holding a public hearing to receive public input and then to make a recommendation to the City Council for their final decision.

Finding: The St. Helens Comprehensive has been approved by the State and is Acknowledged.

3. The standards applicable of any provision of this Code or other applicable implementing ordinance; and

Finding: The proposed changes are being accomplished in accordance with the processes set out in the current Development Code and in particular Chapter 1.060 which states the process necessary for changes to the Code.

Finding: Notice was sent to Department of Land Conservation and Development more than 45 days prior to the first evidentiary hearing and placed in the local newspaper more than 14 days prior to the hearing and sent to all property owners more than 20 days prior to the first hearing date.

Additional Considerations: (optional)

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.

Finding: There have been no mistakes or inconsistencies claimed by anyone. There has been a major change in the community directly impacting these properties in as much as the public has chosen to protect significant wetlands.

The criteria for zone amendment appear to be met.

Planned Development

4.. 1.180.060 Planned Development Allowed and/or Disallowed:

Finding: The proposed site is not classified as either “Developing” nor “Established” per the current zoning map.

Finding: The site is proposed to be about 4.05 acres.

Conclusion: The proposed overlay zone is allowed per the size and location requirements.

This criteria is met.

5. 1.180.070 Applicability and Allowed Uses:

Finding: AR zone allows single attached dwellings which is what the applicant has proposed to develop.

6. 1.180.080 Applicability of the Base Zone Provisions:

Finding: Minimum lot size, lot depth and lot width standards do not fully apply in accordance with the Code, Section 1.180.080.A.1.

Finding: Site coverage for this zone applies and is a maximum coverage of 50%.

Finding: Plans submitted show the footprint to be less than 50% on all lots.

Finding: No buildings are proposed over the height limits of 35 feet.

Finding: The applicant states that they plan to have 20 foot front yard setbacks except for lots 23 & 24 where the garages that face the street will be 14 feet.

Finding: The applicant testified at the Planning Commission hearing that they desire to change the configurations for Lots 25 & 26 to rotate them 90 degrees to face west and front on North 8th Street.

Finding: The applicant requested that Lot 23 no longer have a request for a front setback variance from 20 feet to 14 feet in front of the garage.

Finding: The applicant requested Lots 25 & 26 be included in the request for front yard setback variance from 20 feet to 14 feet in front of the garages.

Finding: The applicant states that they plan to have 5 foot side setbacks on all of the lots and 10 feet on flanking street sides.

Finding: The applicant states that they plan to have rear yard setbacks of at least 10 feet for all lots in accordance with the Code.

Conclusion: The base zone provisions are met as applicable with a subdivision variance for Lots 24 - 26 from 20 feet to 14 feet in front of the garages.

This criteria is met or can be met with a variance as requested.

7. 1.180.090 Applicability of Site Development Review Chapter:

Finding: Site Development Review Chapter 1.128 does not apply to developments of single dwelling units or duplexes.

Finding: This application is for single dwellings (attached).

Conclusion: The Site Development Review Chapter does not apply to this development.

This criteria is met.

8. 1.180.100 Phased Development

Finding: The application is not for a phased development.

Conclusion: This criteria is not applicable.

This criteria is not applicable.

The criteria for Planned Development are met.

Subdivision Replat Criteria: Chapter 1.170

The following criteria are from this chapter:

9. The proposed preliminary plat complies with the City's comprehensive plan, the applicable sections of this Code and other applicable ordinances and regulations;

Finding: The proposed preliminary plat complies with the Comprehensive Plan, most of the applicable sections of the implementing Code and any other applicable ordinances and regulations.

Finding: The Comprehensive Plan has been approved and acknowledged by the State of Oregon, Department of Land Conservation and Development.

Finding: This report encompasses all of the known ordinances and regulations governing Replats for subdivisions.

10. The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92[.090(1)];

Finding: No objection from the County Surveyor.

11. The streets and roads are laid out so as to conform to the plats of subdivisions and maps of partitions already approved for adjoining property as to width, general direction and in all other respects unless the City determines it is in the public interest to modify the street or road pattern.

Finding: The applicant has been approved for a vacation of a portion of North 8th Street from the south to north edges of the proposed plat with the condition that it be rededicated as a new right of way slightly offset to the existing right of way.

Finding: The new street will include 5 foot sidewalks on both sides and 34 feet of pavement with curbs and gutters per the Code.

Finding: The right of width is proposed to be 46 feet instead of 50 feet with the loss of utility easement made up in a larger easement on the private property frontages.

12. An explanation has been provided for all common improvements.

Finding: The common improvement will be the wetland and it is proposed to be deeded to the City or a Home Owners Association formed to own and maintain it.

13. Lot Dimensions:

Finding: Lot dimensions are exempt for the most part in the Planned Development Overlay Zone.

Finding: See #6 above.

14. Through Lots:

Finding: There are no through lots proposed.

15. Large Lots:

Finding: There are no lots proposed to exceed twice the minimum lot size when all other requirements are factored into the overall lot size.

Conclusions: The requirements of Chapter 1.170 are met.

This criteria is met.

Chapter 1.092 for Sensitive Lands is applicable.

Finding: The applicant has not delineated the significant wetland on this site but the environmental assessment shows the locations of the wetlands and the engineer has mapped the boundaries as shown on the preliminary plat.

Finding: The applicant has submitted an Environmental Assessment in accordance with Chapter 1.091 of the St. Helens Community Development Code.

Finding: The applicant will enter into a Development Agreement with the City in accordance with ORS Chapter 94 in order to meet the requirements of the Planned Development and Sensitive Lands Chapters for a Development Agreement.

Finding: Per the EA there will be no loss of wetlands or function.

Finding: Erosion controls have not been identified to mitigate construction activities.

Finding: The applicant has offered to fence the bluff and add trees.

Finding: The applicant has offered to improve .007 acres of protection zone for .005 acres.

Finding: The entire site is 4.05 acres.

Finding: Based upon the original site size less the wetlands and protection zone, less the 20% for public improvements results in a buildable area for this site is about 81,893 square feet divided by 1,600 square feet minimum lot size for single attached dwelling lots is 51 lots and the applicant is asking for 26 lots.

Development Agreement per ORS Chapter 94

94.504 Development agreements; requirements; contents.

(1) A city or county may enter into a development agreement as provided in ORS 94.504 to 94.528 with any person having a legal or equitable interest in real property for the development of that property.

Finding: See Section 3.0 of the Development Agreement.

(2) A development agreement shall specify:

(a) The duration of the agreement, which may not exceed four years for a development of fewer than seven lots or seven years for a development of seven or more lots;

Finding: See Section 8.0 of the Development Agreement

(b) The permitted uses of the property;

Finding: See Section 5.0 of the Development Agreement

(c) The density or intensity of use;

Finding: See Section 5.0 of the Development Agreement

(d) The maximum height and size of proposed structures;

Finding: See Section 5.0 of the Development Agreement

(e) Provisions for reservation or dedication of land for public purposes;

Finding: See Section 9.0 of the Development Agreement

(f) A schedule of fees and charges;

Finding: See Section 10.0 of the Development Agreement

(g) A schedule and procedure for compliance review;

Finding: See Section 16.0 of the Development Agreement

(h) Responsibility for providing infrastructure and services;

Finding: See Section 11.0 the Development Agreement.

(i) The effect on the agreement when changes in regional policy or federal or state law or rules render compliance with the agreement impossible, unlawful or inconsistent with such laws, rules or policy;

Finding: See Section 18.0 of the Development Agreement.

(j) Remedies available to the parties upon a breach of the agreement;

Finding: See Section 17.0 of the Development Agreement.

(k) The extent to which the agreement is assignable; and

Finding: See Section 24.0 of the Development Agreement.

(l) The effect on the applicability or implementation of the agreement when a city annexes all or part of the property subject to a development agreement.

Finding: not applicable

(3) A development agreement shall set forth all future discretionary approvals required for the development specified in the agreement and shall specify the conditions, terms, restrictions and requirements for those discretionary approvals.

Finding: See Section 15.0 of the Development Agreement.

(4) A development agreement shall also provide that construction shall be commenced within a specified period of time and that the entire project or any phase of the project be completed by a specified time.

Finding: See Section 6.0 of the Development Agreement.

(5) A development agreement shall contain a provision that makes all city or county obligations to expend moneys under the development agreement contingent upon future appropriations as part of the local budget process. The development agreement shall further provide that nothing in the agreement requires a city or county to appropriate any such moneys.

Finding: See Section 14.0 of the Development Agreement.

(6) A development agreement must state the assumptions underlying the agreement that relate to the ability of the city or county to serve the development. The development agreement must also specify the procedures to be followed when there is a change in circumstances that affects compliance with the agreement. [1993 c.780 §1]

Finding: See Section 13.0 of the Development Agreement.

94.508 Approval by governing body; findings; adoption.

(1) A development agreement shall not be approved by the governing body of a city or county unless the governing body finds that the agreement is consistent with local regulations then in place for the city or county.

Finding: See Whereas in beginning of the Development Agreement.

(2) The governing body of a city or county shall approve a development agreement or amend a development agreement by adoption of an ordinance declaring approval or setting forth the amendments to the agreement. Notwithstanding ORS 197.015 (10)(b), the approval or amendment of a development agreement is a land use decision under ORS chapter 197. [1993 c.780 §2]

Finding: The City Council is approving an Ordinance which will adopt the development agreement.

94.518 Application of local government law and policies to agreement.

Unless otherwise provided by the development agreement, the comprehensive plan, zoning ordinances and other rules and policies of the jurisdiction governing permitted uses of land, density and design applicable to the development of the property subject to a development agreement shall be the comprehensive plan and those ordinances, rules and policies of the jurisdiction in effect at the time of approval of the development agreement. [1993 c.780 §4]

Finding: This development agreement after notice in accordance with Ordinance 2875 as amended, is following the requirements of the St. Helens Community Development Code. See Section 25.0 of the Development Agreement.

94.528 Recording.

Not later than 10 days after the execution of a development agreement under ORS 94.504 to 94.528, the governing body of the city or county shall cause the development agreement to be presented for recording in the office of the county clerk of the county in which the property subject to the agreement is situated.

Finding: See Section 20.0 of the Development Agreement.

In addition to other provisions required by ORS 94.504 to 94.528, the development agreement shall contain a legal description of the property subject to the agreement. [1993 c.780 §6]

Finding: See Section 3.0 of the Development Agreement.

Subdivision Variance:

Variances requested have to do with Lots 24 - 26 for front yard setback reduction for the garage from 20 feet to 14 feet and for the street right of way reduction from 50 feet to 46 feet and for the street width at on location in front of Lots 1 & 2 where the width of the street is reduced from 34 feet to 24 feet.

1. There are special circumstances or conditions affecting the property which are unusual

and peculiar to the land as compared to other lands similarly situated;

Finding: The applicant has significant topography issues unique to this area.

2. The variance is necessary for the proper design or function of the subdivision;

Finding: The applicant could eliminate Lot 25 and meet the street requirements for width of paved street but the applicant has already reduced the allowed lots from 51 to 26 and met most of the requirements for streets with full width paved streets, curb, gutters and sidewalks.

3. The granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to the rights of other owners of property; and

Finding: There is no reason to believe that reducing the street width at one location by eliminating the parking lanes will be detrimental to public health, safety or the rights of other property owners and may in fact reduce traffic speed with a constriction.

The variance is necessary for the preservation and enjoyment of a substantial property right because of an extraordinary hardship which would result from strict compliance with the regulations of this code.

Finding: The applicant will not be able to develop an acceptable potential without this variance.

Conclusions:

1. The application complies with the criteria for planned development overlay zone map amendment.
2. The application complies with the criteria for planned development.
3. The application complies with the Subdivision criteria of the Code in Section 1.170.
4. The application complies with the Sensitive Lands criteria of the Code in Section 1.091.
5. The application complies with ORS 94 Sections 504 to 518 on Development Agreements.

6. The application complies with the Subdivision Variance criteria.

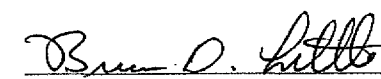
The Planning Commission held a public hearing, received the staff report, received testimony, and closed the hearing. Based upon previous testimony in July and based upon the evidence in this record and based upon the criteria for Planned Community Developments in a PDOZ and other criteria for sensitive lands and subdivisions and subdivision variances, the Planning Commission finds in favor of the applicant and recommends to the City Council for the addition of an overlay zone for this development site.

The City Council held a public hearing and based upon the recommendations of the Planning Commission and the criteria and the evidence in the record found in favor of the applicant for the planned development overlay zone map amendment and the development agreement with the following additional condition of approval:

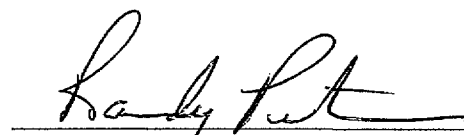
- a. Construct a five foot, minimum, black chain link fence along the bluff on the east side of the property.

Attested to:

Signed by:



Brian D. Little, City Recorder



Randy Peterson, Mayor

9/20/06

Date

9/20/06

Date