



# 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](http://www.lcd.state.or.us)



## NOTICE OF ADOPTED AMENDMENT

10/20/2009

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 001-09

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, October 30, 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: Jacob Graichen, City of St. Helens  
Gloria Gardiner, DLCD Urban Planning Specialist  
Gary Fish, DLCD Regional Representative

<paa> YA

**FORM**  
**2**

# DLCD

## Notice of Adoption

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

Dept of OLCD  
10/13/09

TP.

Jurisdiction: **City of St. Helens**

Local file number: **A.1.09**

Date of Adoption: **October 7, 2009**

Date Mailed: **October 9, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes.** Date: 5/27/2009

- |  |  |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment     | <input checked="" type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation           | <input type="checkbox"/> Other:                                      |

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

Annexation of 8.34 acres of property owned by the Columbia Health District. Property is proposed location for new hospital.

Does the Adoption differ from proposal? **No.**

Plan Map Changed from: **UPL**

to: **PL**

Zone Map Changed from: **County's**

to: **PL**

Location: **On N. side of Millard Road, 230' W. of Division Road**

Acres Involved: **8.34**

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

New: **n/a**

Applicable statewide planning goals:

- 1**  **2**  **3**  **4**  **5**  **6**  **7**  **8**  **9**  **10**  **11**  **12**  **13**  **14**  **15**  **16**  **17**  **18**  **19**

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

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 A. 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: [jacobjg@ci.st-helens.or.us](mailto:jacobjg@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, or by emailing [larry.french@state.or.us](mailto:larry.french@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 [larry.french@state.or.us](mailto:larry.french@state.or.us) - **Attention: Plan Amendment Specialist**.

**City of St. Helens**  
**ORDINANCE NO. 3116**

**AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY  
GENERALLY LOCATED NORTH OF MILLARD ROAD, APPROXIMATELY MIDWAY  
BETWEEN CHASE AND DIVISION ROADS.**

WHEREAS, applicant Columbia Health District has requested to annex to the City of St. Helens certain property generally located north of Millard Road, approximately midway between Chase and Division Roads. This property is also described as Columbia County Map & Tax Lot Number(s) 4N1W-8CB-401; 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 August 21, 2009 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 Public Lands, PL.
4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as Public Lands, PL.
6. In support of the above annexation and zoning, the Council hereby adopts the A.1.09 Annexation and Zone Map Amendment Findings of Fact and Conclusions of Law dated October 7, 2009.
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:  
Read the second time:

September 16, 2009  
October 7, 2009

**APPROVED AND ADOPTED** this 7th day of October, 2009.

Randy Peterson  
Randy Peterson, Mayor

ATTEST:

Kathy Payne  
Kathy Payne, City Recorder

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**Annexation A.1.09**

**APPLICANT:** Columbia Health District  
**OWNER:** Columbia Health District

**ZONING:** Columbia County's Community Service – Institutional, CSI  
**LOCATION:** The north side of Millard Road between properties addressed as 35031 & 35167  
Millard Road ; Columbia County Tax Assessor Map Number 4N1W-8CB-400  
**PROPOSAL:** Annexation of approximately 8.35 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 site is vacant open field with scattered trees and a couple wetlands in depressions, otherwise topography is relatively flat. Access is via Millard Road, which is a paved county road, with no frontage improvements (e.g. sidewalk/curb/gutter), having only a ditch. Surrounding uses include single-family dwellings and churches.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows:

July 14, 2009 before the Planning Commission  
August 12, 2009 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on June 19, 2009 and July 22, 2009 via first class mail. Notice was sent to agencies by mail or e-mail on June 19, 2009. Notice was published in the The Chronicle on June 24, 2009 and July 29, 2009. Notice was sent to the Oregon Department of Land Conservation and Development on May 27, 2009.

**At their July 14, 2009 meeting, the Planning Commission recommended approval of the proposal to City Council as stated herein, with a 3 to 1 vote.**

**AGENCY REFERRALS & COMMENTS**

As of the date of this staff report, no agency referrals/comments have been received that are pertinent to the analysis of this proposal.

**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 Unincorporated Public Lands, UPL. Applicable designation and zoning district for annexation are discussed below.

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; this annexation allows connection to City sewer to any proposed 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.

**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) The City's current water system has excess capacity of approximately 100% or about twice the consumption rate. The City's sewer has excess processing capacity at the plant of over twice the use rate domestically. McNulty Water District has stated in the past that they can handle any growth in the UGA that the City has. 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.

(b) There does not appear to be any conflicts with the Comprehensive Plan or implementing ordinances. The most recent (and catalyst for this annexation based on the need for sewer connection) development review (County file DR 09-01), approved by the County Planning Commission on December 5, 2008 was for a public hospital (Columbia Health District). The City's Public Lands zoning district does not list hospital as a permitted or conditional use, explicitly, as the HC, GC & MU zones (for example) do, but those uses only list "hospital" and do not differentiate between private or public hospital. The PL zone includes "public support and safety facilities" and "public facilities, major" which could be construed as including *public* hospitals. Given this logic, a public hospital would be possible under the PL zoning district.

(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 will abut the subject property on the north side, provided annexation of the abutting north property (see City File A.2.09).

Further, ORS Chapter 222 requires 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 where submitted with the annexation application.

Note: there is no legal dwelling units on the subject property.

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.

***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.

***Uses permitted or conditionally permitted in the City's PL zone are:***

- Cultural exhibits.
- Library services.
- Public facility, minor.
- Public or private park.
- Public or private playground.
- Public or private school and/or college

- Public facilities, major.
- Public support and safety facilities.
- Travel trailer park in public parks of over four acres in size to include a buffer of 20 feet where abutting a residential zone.

The potential land uses are very similar for both the City and County; the City's zoning is no more intense than the County's with regards to the 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. It lacks frontage improvements; for example, there is no sidewalk, curb or gutter, rather, just an asphalt roadway and a ditch. City standards require such improvements. Under the County's Design Review (file DR 09-01), half street improvements to Millard Road fronting the subject property were approved as proposed by the applicant. The actual development of the property provides the legal nexus to require such improvements; and it is the development (i.e. City sanitary sewer connection for proposed hospital) that's resulting in this annexation application.

This criterion is met based on existing development requirements.

(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.

#### **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 Unincorporated Public Lands, UPL. Upon annexation the Comprehensive Plan designation would be (incorporated) Public Lands, PL. There is only one zoning option under that designation: the Public Lands zoning district.

**Finding:** Subject property shall be designated and zoned Public Lands 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 is not residential land.

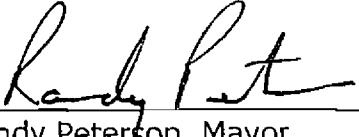
**Finding:** This is not applicable.

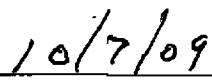
#### CONCLUSION & DECISION

Based upon the facts and findings herein, and the recommendations of staff and the Planning Commission (from their July 14, 2009 hearing), the City Council approves this annexation, subject to voter approval, and that upon annexation, the subject property have a Comprehensive Plan designation of Public Lands (incorporated), PL, and be zoned Public Lands, PL, with the condition:

This annexation is contingent on annexation of other property such that the subject property is contiguous to the City of St. Helens or separated from the City only by a body of water or public right-of-way.

Signed by:

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

  
\_\_\_\_\_  
Date