



# 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

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 002-09

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: Tuesday, November 03, 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

# Notice of Adoption

DEPT OF

OCT 13 2009

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

LAND CONSERVATION  
 AND DEVELOPMENT

Jurisdiction: **City of St. Helens**

Local file number: **A.2.09**

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

Date Mailed: **October 9, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: May 27, 2009

☐ 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 property owned by the City of St. Helens, which abuts the north side of property owned by the Columbia Health District, a proposed future hospital location. Annexation of City property is necessary for annexation of Health District's to be adjacent to City corporate limits.

Does the Adoption differ from proposal? Yes.

Zoning upon annexation has been specified. Originally, there were a couple options based on the City's underlying Comprehensive Plan designation.

Plan Map Changed from: **UPL & RSUR**

to: **PL & SR**

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

to: **PL & R7**

Location: 4N1W – Sec. 8BC; S. of Maple St.; W. of N. fork McNulty Creek

Acres Involved: **14**

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>
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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.** \_\_\_\_\_

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: **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, or by emailing **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** - **Attention: Plan Amendment Specialist**.

**City of St. Helens**  
**ORDINANCE NO. 3115**

**AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY  
GENERALLY LOCATED SOUTH OF MAPLE STREET, APPROXIMATELY 694 FEET  
NORTH OF MILLARD ROAD, AND APPROXIMATELY MIDWAY BETWEEN CHASE  
AND DIVISION ROADS**

WHEREAS, applicant City of St. Helens has requested to annex to the City of St. Helens certain property generally located south of Maple street, approximately 694 feet north of Millard Road, and approximately midway between Chase and Division Roads. This property is also described as Columbia County Map & Tax Lot Number(s) 4N1W-8BC-2100, 4N1W-8BC-2600 and 4N1W-8CB-400; 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 12, 2009 on the annexation proposal; and

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

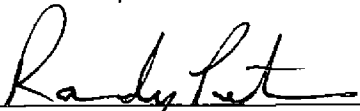
NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

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 Moderate Residential, R7 north of McNulty Creek and Public Lands, PL south of McNulty Creek.
4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as Suburban Residential, SR north of McNulty Creek and Public Lands, PL south of McNulty Creek.
5. The property north of McNulty Creek is classified as "Established" 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.2.09 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: September 16, 2009  
Read the second time: October 7, 2009

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

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

ATTEST:

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

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Annexation A.2.09**

**APPLICANT:** City of St. Helens  
**OWNER:** City of St. Helens

**ZONING:** Columbia County's Community Service – Institutional, CSI  
**LOCATION:** Generally south of Maple Street, north of Division Street, east of Chase Road, and west of Division Road; Columbia County Tax Assessor Map Number 4N1W-8BC-2100 & 2600, and 4N1W-8CB-400  
**PROPOSAL:** Annexation of approximately 15 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 undeveloped. The north quarter is heavily wooded with McNulty Creek, trails and a wood pedestrian bridge spanning the creek. Topography is irregular. Area south of the wooded portion is generally open field with scattered trees. Wetlands are located on the property in a couple different places. Access is via Maple Street, which is a paved street with no frontage improvements (e.g. sidewalk/curb/gutter), having only a ditch or drop-off; except there is road side utility infrastructure protected by partial curb. Surrounding uses include single-family dwellings, generally.

**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 2 to 1 vote, with one member abstaining due to a conflict of interest.

**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 for most of the subject property. The portion that abuts Maple Street (taxlot 2100) is designated Rural Suburban Unincorporated Residential, RSUR, and is 0.62 acres or 27,007 square feet of the site, approximately. 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 City's Transportation System Plan (TSP) does not identify any deficiencies to the road system or intersections in the immediate vicinity of the site, namely around Maple Street. Roads and intersections are identified as having a level 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 A or B. LOS of A-C is generally considered adequate.

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. City has recently acquired the property and now seeks annexation. Proposed use is a park. "Public park" is a permitted use in the R7/R10 and PL zoning districts (though development review may be necessary for such use). These are the potential zoning districts upon annexation as noted below.

(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 across the Maple Street right-of-way, measured at an angle, a distance of approximately



160' in a west, northwest direction and approximately 215' in a north, northwest direction. Recent annexation (A.1.08) crossed highway, rail road and street rights of way for about 275 feet, which was much more than this proposal.

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. Note: there are 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. *Current zoning of the property is Columbia County's CS-I and the City zoning options given annexation is R7 or R10 for the approximate 0.62 acre portion on the north side and PL for the remainder.*

***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.

*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.

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: Maple Street. It lacks frontage improvements; for example, there is no sidewalk, curb or gutter, rather, just an asphalt roadway and a ditch or drop off into a natural drainage. City standards require such improvements. This is owned by the City and is not subject of a current development land use review, which provides the legal nexus to require such improvements. There is no basis for street improvements at this time.

(e) The subject property is greater than 10 acres in size. However most of that is not residential land; only 0.62 acres is 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 for most of the site, except for approximately 0.62 acres on the north side (north of McNulty Creek), which is designated Rural Suburban Residential, RSUR. There is one zoning option under the PL designation: the Public Lands zoning district. There are two main options under the RSUR designation: R7 or R10. **The Planning Commission determined that R7 is the most appropriate zoning district based on existing zoning patterns in the area (i.e. preponderance of R7 zoning).**

**Finding:** The portion of the subject property more-or-less north of McNulty Creek shall be designated Suburban Residential, SR and zoned Moderate Residential, R7 upon annexation. The portion of the subject property more-or-less south of McNulty Creek shall be designated and zoned Public Lands, PL 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 portion of the subject property more-or-less south of McNulty Creek is not zoned residential, thus, this provision does not apply. The portion more-or-less north of McNulty Creek is zoned residential, however as it is publicly owned and possesses natural obstacles to development associated with McNulty Creek, its classification shall be "established."

**Finding:** The portion of the subject property, more-or-less north of McNulty Creek should be classified as "established" in accordance with SHMC 17.112 and OAR 660-008-0005.

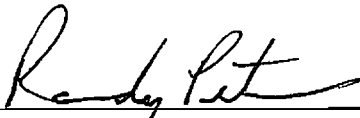
## CONCLUSION & DECISION

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 more-or-less south of McNulty Creek have a Comprehensive Plan designation of Public Lands (incorporated), PL, and be zoned Public Lands, PL;

And, the subject property more-or-less north of McNulty Creek have a Comprehensive Plan designation of Suburban Residential, SR, be zoned Moderate Residential, R7, and classified as "established."

Signed by:

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

10/7/09  
Date



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