



Oregon

Theodore R. Kubongski, 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

10/30/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment
DLCD File Number 004-09

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: Thursday, November 12, 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

Bill Holmstrom, DLCD Regional Representative

<paa> YA

Notice of Adoption

DEPT OF

OCT 23 2009

LAND CONSERVATION AND DEVELOPMENT

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

For DLCD Use Only

Jurisdiction: **City of St. Helens**

Local file number: **A.4.09**

Date of Adoption: **October 21, 2009**

Date Mailed: **October 22, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **YES** Date: July 15, 2009

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Annexation of approximately 1.53 developed acres. Annexation prompted by sanitary sewer connection.

Does the Adoption differ from proposal? No.

Plan Map Changed from: **UHC** to: **HC**

Zone Map Changed from: **Columbia County's C-3** to: **HC**

Location: **NW Corner of Columbia River Hwy & 1st St. R.O.W.** Acres Involved: **1.53**

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

DLCD file No. 004-09 (17692) [15781]

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

Columbia County
McNulty Water District

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**

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.**

Updated March 17, 2009

City of St. Helens
ORDINANCE NO. 3119

AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY
AT 58405 COLUMBIA RIVER HIGHWAY

WHEREAS, applicant David Gibson, Corporate Council, Les Schwab Tire Centers has requested to annex to the City of St. Helens certain property at 58405 Columbia River Highway. This property is also described as Columbia County Map & Tax Lot Number(s) 4N1W-8DB-600, 700 & 800; 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 September 16, 2009 on the annexation proposal; and

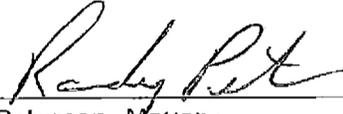
WHEREAS, the Council has considered findings of compliance with criteria and law applicable to the proposal.

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 Highway Commercial, HC.
4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as Highway Commercial, HC.
5. In support of the above annexation and zoning, the Council hereby adopts the A.4.09 Annexation and Zone Map Amendment Findings of Fact and Conclusions of Law dated October 21, 2009.
6. The City Council does hereby refer the final decision to annex this property to the voters of the City of St. Helens.
7. 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: October 7, 2009
Read the second time: October 21, 2009

APPROVED AND ADOPTED this 21st 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.4.09**

APPLICANT: David Gibson, Corporate Council, for Les Schwab Tire Centers
OWNER: Les Schwab Tire Centers

ZONING: Columbia County's General Commercial, C-3
LOCATION: 58405 Columbia River Highway
PROPOSAL: Annexation of approximately 1.5 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 at the NW corner of the Columbia River Highway/1st Street intersection. It also abuts the Kavanagh Avenue right-of-way on the west side. The highway is fully improved, 1st Street functions and is developed as if a driveway and Kavanagh is unimproved. The subject property is developed with the Les Schwab Tire Center complex.

The Planning Commission unanimously recommended approval as stated herein at their 9.8.09 meeting.

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

September 8, 2009 before the Planning Commission
September 16, 2009 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on August 17, 2009 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 26, 2009. Notice was sent to the Oregon Department of Land Conservation and Development on July 15, 2009.

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:

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- (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 Highway Commercial, UHC. 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 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.

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) did not include an analysis of the intersection of 1st Street (being unimproved except as a driveway)/Columbia River Highway, but it did analyze that portion of the highway between Millard Road and Firlock Park Boulevard. That portion of highway was given 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 either C or, B or better. 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) The use on the property is the tire business. "Tire shops within an enclosed building" is a permitted use of the HC zone. The existing use is possible under the City's zoning.

The Comprehensive Plan does include specifics about commercial activities along the highway south of McNulty Creek (which the subject property is) as follows, per SHMC 19.12.080(e):

No new commercial activities will be allowed on Highway 30 south of McNulty Creek unless:

- (i) Any new access is onto a frontage road and not Highway 30;
- (ii) The land receives city sewer and water services; and
- (iii) The designated area will be a minimum of 300 feet deep.

This is existing commercial activity, no new access is proposed from the highway, the land is in the McNulty Water District and will receive City sewer and the UHC/HC designation is 300' deep, including half of the Kavanagh Avenue right-of-way.

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 across the Columbia River Highway (Hwy 30) and railroad rights-of-way.

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 C-3 and the City zoning option given annexation is HC.*

Uses permitted in the County General Commercial, C-3 zone are:

- Any use permitted in a C-5 and C-4 District.
- Single-family dwelling accessory to a permitted use and contained in the main building.
- Two-family dwelling accessory to a permitted use and contained in the main building.
- Multi-family dwelling.
- Boarding, lodging, or rooming house.
- Commercial recreation.
- Motel, hotel, including an eating and drinking establishment in conjunction therewith.
- Group cottages.
- Church.
- Public or private school or college.
- Community meeting building.
- Utility facilities necessary for public service.
- Hospital, sanitarium, rest home, and nursing home.
- Governmental structure such as a fire station or library but excluding a storage or repair type facility.
- Radio or television transmitter tower.
- Retail trade establishment such as food store, drug store, gift shop, hardware store, and furniture store.
- Repair and maintenance service of the type of goods to be found in the above permitted retail trade establishments provided such service is performed wholly within an enclosed building.
- Business, governmental, and professional office.
- Financial institution.

- Eating and drinking establishment.
- Personal and business services such as barber shop, tailoring, printing, funeral home, or laundry and dry cleaning establishment.
- Animal hospital, provided no noise is audible in an adjacent residential district.
- Automobile service station and public garage.
- Automobile and truck sales area.
- Any other use held similar to the above uses, as approved by the Commission.

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

- Boat, trailer and recreational vehicle equipment sales, service and repair.
- Building supply firms that conduct business completely within an enclosed building except for outdoor storage.
- Bus and train stations/terminals.
- Car washes.
- Drive-up facilities (see specific requirements in Chapter 17.100 SHMC).
- Eating and drinking establishments, including drive-up and carry-out.
- Financial institutions, including drive-through (see specific requirements in Chapter 17.100 SHMC).
- Gasoline stations.
- Motels and hotels.
- Motor vehicle sales, service and repair.
- Nurseries and greenhouses.
- Offices catering to motorists (e.g., insurance claims).
- Parking lot.
- Plumbing, HVAC, electrical and paint sales and service.
- Produce stands.
- Public facility, minor.
- Retail sales establishments, specifically catering to motorists, including drive-in.
- Retail sales of large equipment items and repair and maintenance concerns that conduct business completely within an enclosed building except for outdoor storage.
- Shopping plaza (permitted businesses only).
- Small equipment rentals, sales and repair.
- Theaters, except drive-ins.
- Tire shops within an enclosed building.
- *Amusement services.
- *Animal sales and services, grooming, kennels, and veterinary (small animals).
- *Dry cleaners and laundromats.
- *Dwelling units above outright permitted uses.
- *Funeral homes.
- *Home occupation in dwelling unit (per Chapter 17.120 SHMC).
- *Hospitals.
- *Parks.
- *Public facilities, major.

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- *Recreation facilities.
 - *Religious assembly.
 - *Retail establishments not directly catering to motorists.
 - *Schools.
 - *Shopping centers (can include all retail, personal services, professional services, medical, and dental offices).
 - *Travel trailer parks.

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 possible intensity of uses allowed and potential vehicular trips generated. This is reinforced by the County's cumulative Commercial Zoning, where the C-3 zone allows the permitted and conditional uses of the County's Neighborhood Commercial, C-4 zone and Highway Commercial, C-5 zone (the uses of which are not listed above); the C-3 zone allows the greatest range of uses amongst the suburban commercial zoning districts of the County. Thus, this proposal will not affect an existing or planned transportation facility.

(d) The subject property abuts three street/road rights-of-way: Columbia River Highway, 1st Street and Kavanagh Avenue. The highway frontage is built out with curb and sidewalk along the property's entire length. The 1st Street right-of-way is unimproved, except for a partially paved, gravel "driveway" used to access property on the other side of the right-of-way from the subject property. The 1st St. right-of-way provides no functional purpose to Les Schwab Tire Centers and is above grade from the subject property. City standards require improvements for more than a driveway. Kavanagh Avenue right-of-way is unimproved all together. 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.

(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 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 Unincorporated Highway Commercial, UHC. Upon annexation, the Comprehensive Plan designation would thus be (incorporated) Highway Commercial, HC. There is only one zoning option under that designation: the Highway Commercial, HC zoning district.

Finding: The subject shall be designated Highway Commercial, HC and zoned Highway Commercial, HC 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 zoned residential, thus, this provision does not apply.

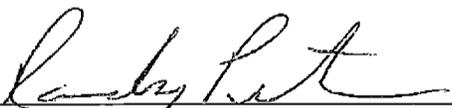
Finding: This provision is not applicable.

CONCLUSION & DECISION

Based upon the facts and findings herein, and the recommendations of staff and the Planning Commission, the City Council approves this annexation, subject to voter approval, and that upon annexation, the subject property have a Comprehensive Plan designation of Highway Commercial (incorporated), HC, and be zoned Highway Commercial, HC, with the condition that:

The street(s) abutting the subject property shall be brought into compliance with City street standards (or) property owner(s) shall sign and record an irrevocable consent to a local improvement district.

Signed by:



Randy Peterson, Mayor

10/21/09

Date