



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

2/12/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of St. Helens Plan Amendment
DLCD File Number 007-09

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, February 25, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

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

<paa> YA

FORM 2

DLCD

Notice of Adoption

DEPT OF

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FEB 05 2010

**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

Jurisdiction: **City of St. Helens**

Local file number: **A.6.09**

Date of Adoption: **February 3, 2010**

Date Mailed: **February 5, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: October 20, 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 residential property prompted by water connection and consent to annex filed and recorded in 1991.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Unincorporated Multi-Fam. Res., UMPR** to: **General Residential, GR**

Zone Map Changed from: **Columbia County's Multi-Fam. Res., MFR** to: **Apartment Residential, AR**

Location: **35430 Firlock Park Blvd.**

Acres Involved: **0.85**

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

New: **n/a**

Applicable statewide planning goals:

| | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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

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**.

City of St. Helens
ORDINANCE NO. 3125

**AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY
AT 35430 FIRLOCK PARK BOULEVARD**

WHEREAS, applicant George Gortler has requested to annex to the City of St. Helens certain property at 35430 Firlock Park Boulevard. This property is also described as Columbia County Map & Tax Lot Number(s) 4N1W-8BD-600; 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 January 6, 2010 on the annexation proposal; and

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

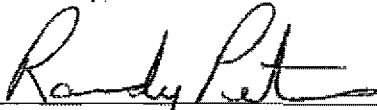
NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

1. The above recitations are true and correct and are incorporated herein by this reference.
2. The property described above is hereby accepted for annexation to the City of St. Helens.
3. The St. Helens Zoning Ordinance Map is hereby amended to reflect that the property described herein shall be zoned Apartment Residential, AR.
4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as General Residential, GR.
5. The land is classified as "Developing" in accordance with Chapter 17.112 of the St. Helens Community Development Code (SHMC Title 17) and OAR 660-08-0005.
6. In support of the above annexation and zoning, the Council hereby adopts the A.6.09 Annexation and Zone Map Amendment Findings of Fact and Conclusions of Law dated February 3, 2010.
7. The City Council does hereby refer the final decision to annex this property to the voters of the City of St. Helens.

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

Read the first time: January 20, 2010
Read the second time: February 3, 2010

APPROVED AND ADOPTED this 3rd day of February, 2010.



Randy Peterson, Mayor

ATTEST:



Kathy Payne, City Recorder

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Annexation A.6.09**

APPLICANT: George A. Gortler (*posthumously*)
OWNER: William Dean Gortler

ZONING: City Comp Plan Designation is Unincorporated Multi-Family Residential, UMFR
LOCATION: 35430 Firlock Park Boulevard
PROPOSAL: Annexation of approximately 0.85 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 a property developed with a detached single family dwelling. It abuts Firlock Park Boulevard which is a developed right-of-way lacking frontage improvements (i.e. sidewalk, curb and gutter). There are detached single family dwellings on the south side of Firlock Park Blvd. within the vicinity of the site, whereas the St. Helens High School grounds are to the north of the street.

PUBLIC HEARING & NOTICE

Hearing dates are as follows:
December 8, 2009 before the Planning Commission
January 6, 2009 before the City Council

At their Dec. 8, 2009 meeting the Planning Commission recommended approval of this annexation request by a split decision.

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on November 13, 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 November 18, 2009. Notice was sent to the Oregon Department of Land Conservation and Development on October 20, 2009.

AGENCY REFERRALS & COMMENTS

As of the date of this staff report, the following agency referrals/comments have been received that are pertinent to the analysis of this proposal:

St. Helens School District No. 502: Although SHSD has undergone financial and facility limitations, the St. Helens School District has no objection to the Gortler Annexation request.

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 Multi-Family Residential, UMFR. 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; a consent to annex allowed connection to City water in or around 1991 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) Public facilities are water, sanitary sewer, storm water, and transportation systems. Public services include but are not limited to police, fire, health, schools, recreation, and library.

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 Firlock Boulevard or the intersection of Firlock Park Boulevard/Columbia River Hwy. There is no evidence this annexation will by itself, result in additional impact to the surrounding transportation network.

There is no known impact to public services.

(b) The use on the property is a detached single family dwelling. This is a permitted use in the AR zone, thus no existing use conflict.

There are no other specific provisions of the Comprehensive Plan applicable to this proposal.

(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 Firlock Park Boulevard.

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 (in or around 1991).

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 MFR and the City zoning option given annexation is AR.*

Uses permitted in the Multiple-Family Residential, MFR zone are:

- Single-family residential.
- Two-family residences (duplexes).
- Apartment and multiple-family dwellings.
- Structures accessory to permitted uses...

Uses permitted in the City's AR zone are:

- Duplex residential units.
- Home child care.
- Home occupations...
- Multidwelling unit residential facilities.
- Public facility, minor.
- Public park.
- Residential facility.
- Residential home.
- Single-dwelling unit, attached...
- Single-dwelling unit, detached...

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. Thus, this proposal will not affect an existing or planned transportation facility.

(d) The subject property abuts one right-of-way: Firlock park Boulevard, which is improved but lacking frontage improvements such as sidewalk and curb, rather having only a ditch. *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, 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 Multi-Family Residential, UMFR. Upon annexation, the Comprehensive Plan designation would thus be (incorporated) General Residential, GR. There is only one zoning option under the current unincorporated comprehensive plan designation: Apartment Residential, AR.

Finding: The subject shall be designated General Residential, GC and zoned Apartment Residential, AR 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. Though there may be certain environmental constraints (riparian area of McNulty Creek), it is privately owned and is underdeveloped (i.e. greater density is possible). As such, the subject property can be classified as a "developing area."

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

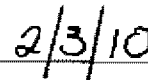
CONCLUSION & DECISION

Based upon the facts and findings herein, the City Council approves this annexation and that upon annexation, the subject property have a Comprehensive Plan Designation of General Residential, GR, be zoned Apartment Residential, AR, and designated as "Developing," 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.



Randy Peterson, Mayor



Date

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



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