



CITY COUNCIL PUBLIC HEARING
Wednesday, October 16, 2019
265 Strand Street, St. Helens, OR 97051
www.ci.st-helens.or.us

Welcome!

All persons planning to address the Council, please sign-in at the back of the room. When invited to provide comment regarding items not on tonight's agenda, please raise your hand to be recognized, walk to the podium in the front of the room to the right, and state your name only. You are not required to give your address when speaking to the City Council. If you wish to address a specific item on the agenda, you should make your request known to the Mayor as soon as possible before the item comes up. The Council has the authority to grant or deny your request. Agenda times and order of items are estimated and are subject to change without notice.

1. **6:45 P.M. - Open Public Hearing**
2. **Topic**
 - 2.A. Annexation of 2185 & 2195 Gable Road (CCMH)
[A.2.19 Staff Report, Hearing CC.pdf](#)
3. **Close Public Hearing**

The St. Helens City Council Chambers are handicapped accessible. If you wish to participate or attend the meeting and need special accommodation, please contact City Hall at 503-397-6272 in advance of the meeting.

**Be a part of the vision...get involved with your City...volunteer for a City of St. Helens Board or Commission!
For more information or for an application, stop by City Hall or call 503-366-8217.**

CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.2.19

DATE: October 9, 2019
TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
Jennifer Dimsho, Associate Planner
APPLICANT: Columbia Community Mental Health
OWNERS: Same
ZONING: Columbia County's Light Manufacturing, M-2
LOCATION: *2185 & 2195 Gable Road, 4N1W-9BB-300
*These addresses are anticipated to be abandoned as part of CCMH's development in favor of one address for the entire complex: 58646 McNulty Way. This issue is being addressed via Columbia County file DR 18-07.
PROPOSAL: The property owner filed consent to annex because it was a condition of approval for a Type I Design Review (DR 18-07) for two new modular office structures

SITE INFORMATION / BACKGROUND

The subject property is an irregular-shaped corner lot at approximately 5.67 acres. It is made up of two parcels which have a restrictive covenant that ties them together via Inst. No. 2016-010344. The property abuts Gable Road and McNulty Way. It is accessed by Gable Road with one semi-paved asphalt driveway. Gable Road is a developed minor arterial-classified street without frontage improvements (sidewalks, curb, and landscape strip) on either side. McNulty Way is a collector-classified developed street, with frontage improvements abutting the property to be developed by December 2019. Frontage improvements are included in County file DR 18-07.

The property is just north of the main Columbia Community Mental Health building (58646 McNulty Way). It is currently developed with five structures, one of which is addressed at 2195 Gable Road. This former detached single-family dwelling was converted to a Youth and Family Counseling Center in 2017 with Columbia County file DR 17-03. DR 17-03 also authorized the installation of a 2,505 sq. ft. modular office structure. DR 18-07 was conditionally approved for the development of two new modular office structures at 1,440 sq. ft. and 560 sq. ft. which have already been placed on the site, but not yet occupied. One of the County's conditions for County file DR 18-07 was to apply for annexation into the City. The site's remaining (former) detached single-family dwelling, addressed at 2185 Gable Road, is planned for demolition with DR 18-07. The parcel is relatively flat with numerous mature trees near the undeveloped portion of the property along McNulty Way.

The main reason behind this annexation is connection to City water. This was not the original proposal and was discovered by CCMH staff around January of 2019. The City investigated and

confirmed. In January of this year, AKAAN Architecture and Design, LLC created a map utility map showing connections on the site for CCMH. This was at the request of the City for both the City and CCMH to understand what had been done, as the project had a tumultuous history. Staff spoke to Al Petersen with AKAAN who said he researched a well and personally knew of its location, but relied on Mark Comfort of Comfort Construction for other information. That map did not show a connection to City water, despite the connection being made. Comfort was a private contractor hired by CCMH to help with the project but CCMH staff took over around this time. The point of this is to highlight the numerous questionable actions by Comfort for this project. In this case, misleading AKAAN, CCMH and the City about this connection; and for creation of an incorrect utility map created as the expense of CCMH.

The first incident of Comfort's tendency to mislead was a discussion between Comfort and staff around September 2015. The history of this between 2015 and 2018 was documented in a 15 page "CCMH Violation" memo from February 28, 2018—[attached](#).

Abutting Zoning

North - City's Light Industrial (LI) and County's Light Manufacturing (M-2)

East - County's Light Manufacturing (M-2)

South - City's Light Industrial (LI) and County's Light Manufacturing (M-2)

West - City's General Commercial (GC)



*Existing Youth & Family Counseling Center
(former detached single-family dwelling)*



Existing single-family dwelling to be demolished



Existing modular office structures



Gravel parking lot to main CCMH building



McNulty Way frontage



Gable Road frontage

PUBLIC HEARING & NOTICE

Hearing dates are as follows: October 8, 2019 before the Planning Commission and October 16, 2019 before the City Council.

At their October 8, 2019 public hearing the Planning Commission unanimously recommended approval of this annexation (as recommended by staff).

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on September 18, 2019 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 September 25, 2019. Notice was sent to the Oregon Department of Land Conservation and Development on September 6, 2019 via e-mail.

AGENCY REFERRALS & COMMENTS

As of the date of this staff report, no comments have been received from relevant agencies regarding 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.

Discussion: (a)(i) The Comprehensive Plan designation for the subject property is Unincorporated Light Industrial (ULI). Applicable designation and zoning district for annexation are discussed later.

There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC. Note that 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; the consent to 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 this aspect of the Comprehensive Plan.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC.

There is no known conflict with the addendums to the Comprehensive Plan which includes Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), and the Parks & Trails Master Plan (Ord. No. 3191), and the Riverfront Connector Plan (Ord. No. 3241).

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 do not need to be analyzed per this section.

(a)(iii) In addition, Section 3 of the City's Charter states that "annexation, delayed or otherwise, to the City of St. Helens, may only be approved by a prior majority vote among the electorate." However, during the 2016 Legislative Assembly, Senate Bill 1578 was passed. It states that a City shall annex the territory without submitting the proposal to the electors if certain criteria are met:

1. Property is within the UGB
2. Property will be subject to the City's Comprehensive Plan
3. Property is contiguous to the City limits or is separated by only a public right of way or body of water
4. Property conforms to all other City requirements

As this proposal meets these criteria, this property will not be subject to a majority vote among the electorate.

Other provisions applicable to this proposal are discussed elsewhere herein.

(b) There is no evidence of a change in neighborhood, or mistake or inconstancy in the Comprehensive Plan or Zoning Map.

Finding: The quasi-judicial amendment and standards criteria are met.

SHMC 17.08.060 – Transportation planning rule compliance

- (1) Review of Applications for Effect on Transportation Facilities. A proposed comprehensive plan amendment, zone change or land use regulation change, whether initiated by the city or by a private interest, shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-012-0060 (the Transportation Planning Rule ("TPR")).

"Significant" means the proposal would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or

- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (i) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (ii) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or
 - (iii) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
- (2) Amendments That Affect Transportation Facilities. Comprehensive plan amendments, zone changes or land use regulations that significantly affect a transportation facility shall ensure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one or a combination of the following:
 - (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of OAR 660-012-0060.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- (3) Traffic Impact Analysis. A traffic impact analysis shall be submitted with a plan amendment or zone change application, as applicable, pursuant to Chapter 17.156 SHMC.

Discussion: This section reflects State law regarding the Transportation Planning Rule (TPR): 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 Light Manufacturing, M-2 and the City zoning option given annexation is Light Industrial.**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. The potential land uses are very similar for both the City and County. The City’s zoning is comparable to the County 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.

Finding: No transportation facility will be significantly affected by this proposal. No traffic impact analysis is warranted.

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) Water - The site is already connected to City water. The City's current water capacity is 6 million gallons/day and the peak flow, usually in the summer, is 3 to 4 million gallons/day. Additionally, the City has the capacity of approximately 10 million gallons to meet future demands. Any additional uses that occur on the subject property can be accommodated by the City's municipal water system as infrastructure has substantial capacity available.

Sewer - The site is not currently connected to City sewer. The closest City sewer is approximately 300 feet away in the Gable Road right-of-way. With regards to capacity, the City's waste water treatment plant currently has the capacity (physically and as permitted by DEQ) to handle 50,000 pounds of Biochemical Oxygen Demand (BOD), which is the "loading" or potency of the wastewater received by the plant. The average daily BOD is well below this at only 1,500 pounds. Thus, any potential uses that occur on the subject property can be accommodated by the City's sanitary sewer system as infrastructure is in place or can be upgraded and there is substantial capacity available.

Transportation - As described above, this proposal poses no significant impact on a transportation facility.

Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area.

(b) The land uses of the subject property are considered Public Facilities, Major. The remaining (former) single-family dwelling is proposed for demolition. Public Facilities, Major are a conditionally allowed use in the Light Industrial zone.

There is no known conflict with the Comprehensive Plan and implementing ordinances.

(c) With regards to Oregon Revised Statutes (ORS), city annexations of territory must be undertaken consistent with ORS 222.111 to 222.183.

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 lies on two sides of the subject property.

Although undertaking an annexation is authorized by state law, the manner in which a city proceeds with annexation is also dictated in the city charter. ORS 222.111(1) references a city's charter as well as other ORS. St. Helens' Charter requirements pertaining to annexations are noted above.

Per ORS 222.111(2) an annexation may be initiated by the owner of real property or the city council. This annexation request was initiated by the property owner. Further, ORS 222.125 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.

ORS 197.175(1) suggests that all annexations are subject to the statewide planning goals.

The statewide planning goals that could technically apply or relate to this proposal are Goals 1, 2, 11 and 12.

- ***Statewide Planning Goal 1: Citizen Involvement.***

Goal 1 requires the development of a citizen involvement program that is widespread, allows two-way communication, provides for citizen involvement through all planning phases, and is understandable, responsive, and funded.

Generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in the statutes and in its acknowledged comprehensive plan and land use regulations.

The City's Development Code is consistent with State law with regards to notification requirements. Pursuant to SHMC 17.20.080 at least one public hearing before the Planning Commission and City Council is required. Legal notice in a newspaper of general circulation is also required. The City has met these requirements and notified DLCD of the proposal.

- ***Statewide Planning Goal 2: Land Use Planning.***

This goal requires that a land use planning process and policy framework be established as a basis for all decisions and actions relating to the use of land. All local governments and state agencies involved in the land use action must coordinate with each other. City, county, state and federal agency and special districts plans and actions related to land use must be consistent with the comprehensive plans of cities and counties and regional plans adopted under Oregon Revised Statutes (ORS) Chapter 268.

Generally, Goal 2 requires that actions related to land use be consistent with acknowledged Comprehensive Plans and coordination with affected governments and agencies and be based on an adequate factual base. The City has an adopted Comprehensive Plan, compliance of this proposal which is addressed herein. Moreover, explanation and proof of coordination with affected agencies and factual base are described herein, as well, including inventory, needs, etc.

- ***Statewide Planning Goal 11: Public Facilities and Services.***

Goal 11 requires cities and counties to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The goal requires that urban and rural development be "guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable and rural areas to be served."

City water and sewer capacities are adequate to serve the subject property. This is explained above. Moreover, there is no evidence that adequate infrastructure cannot be made available to serve the annexed area if redeveloped. The existing development is adequately served.

- ***Statewide Planning Goal 12: Transportation.***

Goal 12 requires cities, counties, metropolitan planning organizations, and ODOT to provide and encourage a “safe, convenient and economic transportation system.” This is accomplished through development of Transportation System Plans based on inventories of local, regional and state transportation needs. Goal 12 is implemented through OAR 660, Division 12, also known as the Transportation Planning Rule (“TPR”). The TPR contains numerous requirements governing transportation planning and project development.

Traffic impacts and the City’s provisions that address the TPR are explained above. This proposal will not significantly affect an existing or planned transportation facility.

(d) The subject property abuts two streets: Gable Road and McNulty Way.

McNulty Way is a collector-classified developed street with abutting frontage to be developed by December 2019 per County file DR 18-07. Gable Road is a developed minor arterial-classified street without frontage improvements (sidewalks, curb, and landscape strip) on either side. City standards require such improvements.

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 desired.

The existing right-of-way widths for both Gable Road and McNulty Way is sufficient for their corresponding street classification. Therefore, right-of-way dedication is not necessary.

(e) The subject property is not designated residential. Thus a needs analysis 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 is currently Unincorporated Light Industrial (ULI). Upon annexation, the Comprehensive Plan designation would thus be Light Industrial (Incorporated).

Finding: The subject property shall be designated Light Industrial (Incorporated), LI and zoned Light Industrial (LI) upon annexation depending on the determinations of the Commission and Council.

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.

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. This provision does not apply.

Finding: This provision is not applicable.

CONCLUSION & RECOMMENDATION

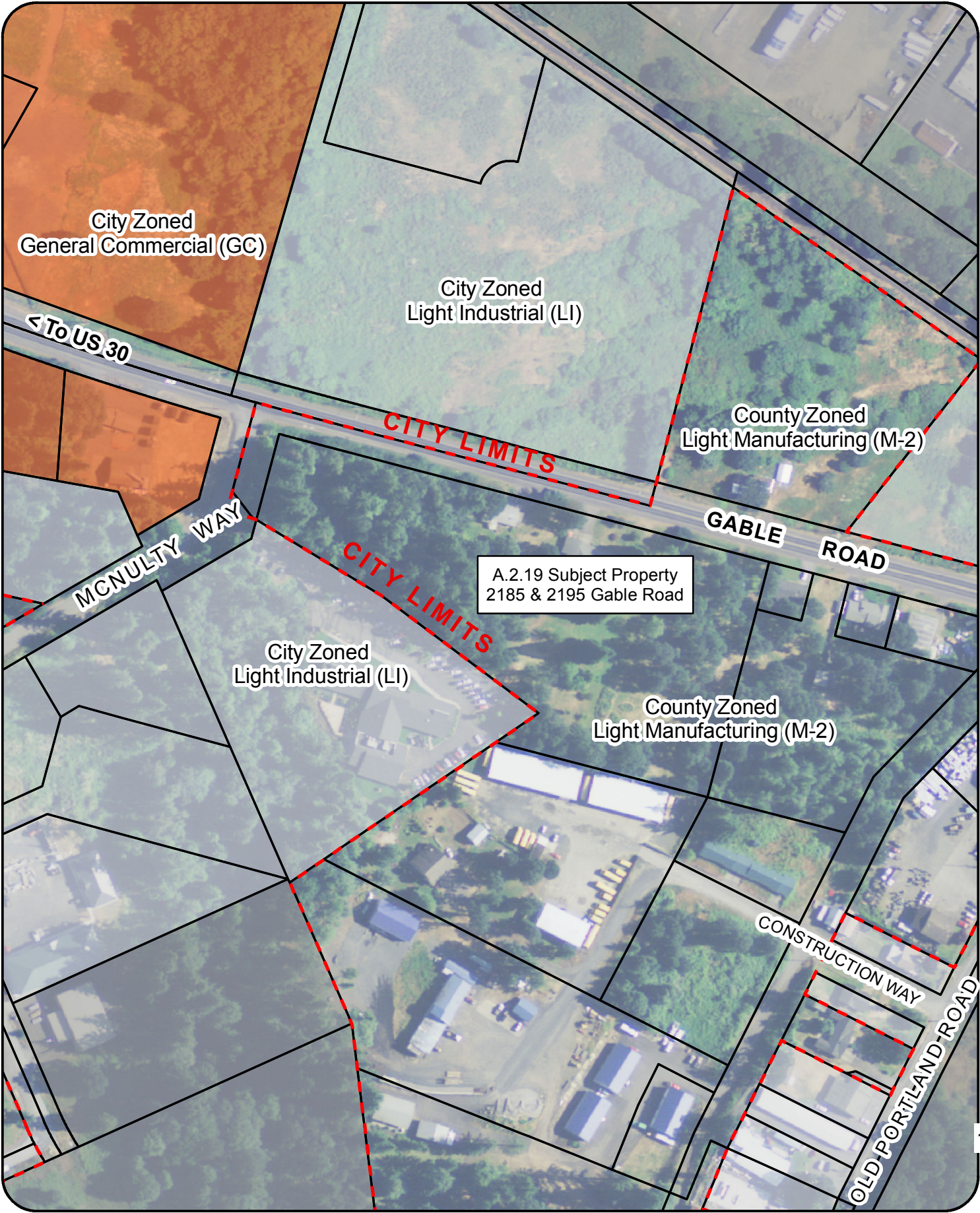
Based upon the facts and findings herein, staff recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Light Industrial (incorporated), LI, and be zoned Light Industrial, LI, with the condition that:

Gable Road frontage 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.

*This annexation will **not** be subject to voter approval subsequent to this land use process.*

Attachments: Aerial Map
Feb. 4, 2019 memo from City to Columbia County Re County file DR 18-07
CCMH site plan, updated in Jan. 2019 showing alleged utility lines/connections
CCMH Violation History (15 pgs.)—note that pg 1 is a Feb. 28, 2018 email

Annexation A.2.19 Aerial Map





CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: Deborah Jacob, Planner, Columbia County
FROM: Jacob A. Graichen, AICP, City Planner
RE: Columbia County file DR 18-07
DATE: Feb. 4, 2019

As of today, the City still stands behind its comments on this matter dated May 22, 2018.

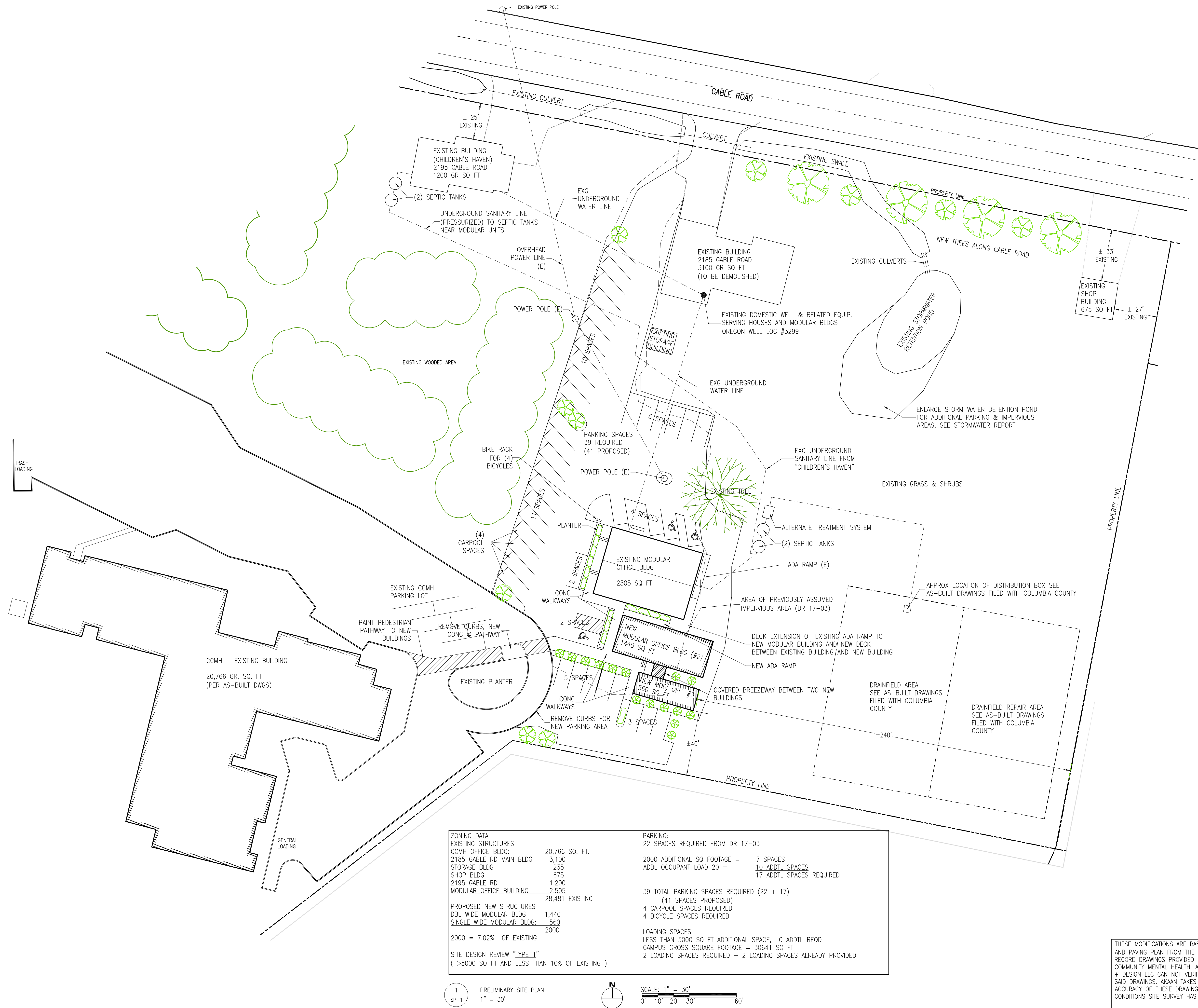
We need more time to work with CCMH, to possibly make any changes to those comments.

One pertinent update:

Based on a chlorine test and contrary to the utility connections shown on the site plan for this project (with January 2019 revisions showing water and on-site sewer information) the 2,500 s.f. modular office structure (approved by County file DR 17-03) is connected to City water. Note that this contradicts the DR 17-03 application provided to the County for that project, which indicated private well use. The application for DR 18-07 also stated private well use.

This is deeply concerning as the map was prepared by AKAAN architecture with aid by Mark Comfort of Comfort Construction who was responsible for much of the work (both legal and illegal) that has occurred on the site.

Thus, the 2017 and 2018 applications are misleading and the revised plan for DR 18-07 is also misleading.



THESE MODIFICATIONS ARE BASED ON THE LAYOUT AND PAVING PLAN FROM THE 2004 "AS - BUILT" RECORD DRAWINGS PROVIDED BY COLUMBIA COMMUNITY MENTAL HEALTH, AKAAN ARCHITECTURE + DESIGN LLC. AKAAN TAKES NO LIABILITY IN THE ACCURACY OF THESE DRAWINGS AS NO EXISTING CONDITIONS SITE SURVEY HAS BEEN PROVIDED.

THIS LAYOUT SHOWS THE INTENT OF THE DESIGN, LAYOUT IS SUBJECT TO ACTUAL SITE CONDITIONS.

Jacob Graichen

From: Jacob Graichen
Sent: Wednesday, February 28, 2018 12:54 PM
To: 'RolandM@ccmh1.com'; 'alpetersen@akaandesign.com'; 'Davidson, Ginger'
Cc: 'StaceyW@ccmh1.com'; Ginny Carlson
Subject: CCMH County pre-app tomorrow - Some City Comments
Attachments: CCMH McNulty Way Access Issue History (02282018).pdf

I don't think the city should allow CCMH further development until the McNulty Way improvements (lack thereof) issue is resolved. This means constructing it or retuning it back to its original condition.

This issue started with a lack of truth to city staff on behalf of a contractor representing CCMH and has yet to be resolved. CCMH has improved their site with other improvements, but unfortunately, has been irresponsible in this regard.

I sincerely apologize for the tone of this message, but I hope you can understand my concern given the history of this issue per the attached.

Jacob Graichen, AICP, City Planner
City of St. Helens
jacobg@ci.st-helens.or.us
(503) 397-6272

History of CCMH Unauthorized Work within McNulty Way right-of-way and near McNulty Creek

Feb. 28, 2018

2012

Staff does not have photographs of the site as observed from McNulty Way prior to the unauthorized (and thus unlawful) work that occurred within the public right-of-way and in close proximity to McNulty Creek starting in or around November 5, 2015. However, here is a 2012 Google Earth image for the “before” status.



September 2015 (approx.)

Mark Comfort visits City Hall, representing CCMH, asking about just laying down some river rock given the tendency for smokers to use the area by the McNulty Way driveway and McNulty Creek. The discussion left the impression that this was a very small project and staff didn't object or express need for permitting.

November 5, 2015

Receive email from Lower Columbia Engineering (58640 McNulty Way) inquiring about activity at CCMH. See attached email from LCE dated November 5, 2015.

November 6, 2015.

City Planner visits site to see what's going on. Spoke to both Mark Comfort and Roland Migchielsen about riparian regulations and other regulations and the need for permits.

Per these photos, much more work was being done than expressed to city staff earlier in the year.



February 2, 2016

Mark Comfort continues to do work, despite the conversation with both him and Roland Migchielsen in 2015.



CCMH Violation 3 of 15



March 2016

Al Petersen, Architect representing CCMH, visits City Hall to get information about permitting for this issue.

May 18, 2016

Minor Site Design Review (SDRm) and Sensitive Lands (SL) Permit issued by the City. Note that it states the requirement for right-of-way use and that if no agreement can be made, the site conditions to be restored to original condition. See attached SDRm.5.16 and SL.3.16 decision.

June 7, 2016

Email sent to Mark Comfort regarding improvements; notes requirements prior to commencement of work. See attached email dated June 7, 2016.

June 15, 2016

Council authorizes Mayor's signature for right-of-way agreement; signature would be on final version; final plans needed. This was based on final plans yet to be done, to help CCMH move along on the project sooner than later. See attached memo to the City Council dated June 8, 2016.

Emailed Mark Comfort, Roland Migchielsen same day. See attached email dated Weds, June 15, 2016).

June to November 2016

Some effort between the City, other agencies such as CC Rider, and Al Petersen, for final plans. Not worked out 100%. No further action of any significance from CCMH beyond this point in regards to this matter.

December 2016-current.

No further action of any significance from CCMH in regards to this issue. However, CCMH does have a pre-application meeting with the County in December 2016 to start further improvements to the portion of the Gable Road/McNulty Way facility that is outside City limits (property purchased by CCMH in August, 2016). Given the close proximity timewise to the issues discussed per City files SDRm.5.16 and SL.3.16, the City anticipates all improvements (in and outside City limits) to be done somewhat concurrently. This is also the impression staff had given communication between Mark Comfort and Roland Migchielsen.

February 2017

Staff observed parking on gravel areas, which is contrary to City law and any prior approvals. Gravel for parking in close proximity to riparian areas is especially in conflict with City law. Spoke to Mark Conform and CCMH about issue. To their credit, they did rope the area off to prevent this.

Staff also observed dying riparian plantings, demonstrating non-compliance with condition 3 of SDRm.5.16 and SL.3.16.



April 13, 2017

County issues decision for Design Review DR 17-03; these are the improvements discussed in the December 2016 County pre-application meeting. Note that CCMH works on the improvements addressed in the county decision (DR 17-03) and complies with the City comments of that effort. However, the authorized work noted herein by the McNulty Way driveway is not addressed.

Jacob Graichen

From: Andrew <Andrew@lowercolumbiaengr.com>
Sent: Thursday, November 05, 2015 2:15 PM
To: Jacob Graichen
Subject: CCMH

Hello Jacob,

What's going on across the creek at CCMH?

Thanks,

ANDREW NIEMI
LOWER COLUMBIA ENGINEERING, L.L.C.
58640 McNulty Way
St. Helens, Oregon 97051
OFFICE **503.366.0399**
FAX **503.366.0449**
Cell **503.369.2244**
EMAIL andrew@lowercolumbiaengr.com

Please note our new office location!

City of St. Helens

265 Strand / PO Box 278
St. Helens, Oregon
97051

NOTICE OF ADMINISTRATOR'S LIMITED LAND USE DECISION

May 18, 2016

Minor Site Design Review SDRm.5.16 Sensitive Lands Permit SL.3.16

You are receiving this notice of a decision by the City of St. Helens Planning Administrator because you are entitled to it by law. Comfort Construction on behalf of Columbia Community Mental Health submitted an application to expand its parking facility on or adjacent to property located at 58646 McNulty Way. The site is also known as Columbia County Assessor Map No. 4N1W-8AD-200. The City Planning Administrator is authorized by the City of St. Helens Development Code (SHMC Title 17) to review certain Sensitive Lands Permit and Minor Site Design Review applications and approve, deny or approve them with conditions.

Attached is a complete report of the proposal, which includes the criteria and evaluation to approve or deny the proposal, and the decision. Comments are invited and acceptable **no later than 14 days following the date of this notice**. Any issues which may provide the basis for an appeal must be raised prior to the expiration of the comment period. Issues must be raised with sufficient specificity to enable the decision-maker to respond to the issue. In order to be considered, comments pertaining to this decision should be directed to:

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

If there are any agency or citizen comments that would affect the decision at the end of the comment period, the City will send another notice of the final decision to all that submitted evidence and/or comments. The final decision can be appealed or amended by those entitled to do so in accordance with SHMC 17.24.290. If no comments are received during the comment period, this decision will become final subject to an appeal period of **ten (10) calendar days from the date the comment period ends**.

The application and details are on file at City Hall and are available for review during normal business hours. Copies are available for a nominal charge.

If you have any questions, please contact this office.

*FINAL
DECISION
June 1, 2016
Comment
Appeal
June 13, 2016*

**CITY OF ST. HELENS PLANNING DEPARTMENT
PLANNING ADMINISTRATOR REVIEW
Site Design Review, *Minor Modification* SDRm.5.16
Sensitive Lands Permit SL.3.16**

PROPOSAL: Expansion of off-street parking lot associated with Columbia Community Mental Health Facility

LOCATION: 58646 McNulty Way; Tax Assessor Map No. 4N1W-8AD-200

ZONING: Light Industrial, LI

STANDARDS: Pursuant to SHMC Chapters 17.44, 17.40 & 17.46 as applicable

NOTICE: Sent to surrounding property owners as required by the SHMC

***** APPLICABLE CRITERIA, ANALYSIS & FINDINGS *****

SHMC 17.96.080 (3) – Minor Modification Site Development Review approval criteria

(3) A minor modification shall be approved, approved with conditions or denied following the director's review based on the finding that:

- (a) No code provisions will be violated; and
- (b) The modification is not a major modification.

Findings: The site is developed with Columbia Community Mental Health (CCMH) Facility. This is a public facility, which is a conditionally permitted use in the LI zone.

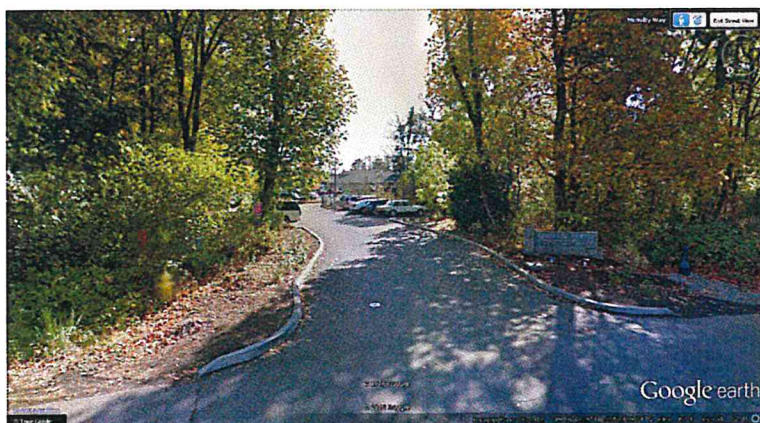
The proposed work is within the immediate vicinity of McNulty Creek.

It appears most if not all proposed parking would be in the public right-of-way. This proposal is not intended to meet minimum off-street parking requirements, rather, to add additional parking to meet increasing demand for CCMH services, which is exceeding current parking supply (per CCMH). The McNulty Way right-of-way width appears to be 100' along the subject property. The City's Transportation Systems Plan classifies McNulty Way as a Collector Street, which requires at least 60' of right-of-way width. Gable Road, just to the north of the site is classified as a Minor Arterial, also requiring at least 60' of right-of-way width. Future improvements to the nearby McNulty Way/Gable Road intersection could utilize the extra right-of-way width. Normally, improvements as proposed would not be located in the public right-of-way. However, given the public facility use, need for mental health services in Columbia County, and that the "extra" right-of-way is not needed at this time, the proposed improvements could be allowed, provided there is an agreement with the city (as approved by the City Council) recorded in the records of the County Clerk Office that protects the future use of said right-of-way area.

Any necessary survey to identify the right-of-way shall be the responsibility of the applicant.

Notwithstanding being largely or entirely within the McNulty Way right-of-way, the proposal appears to meet the provisions of the Development Code. Comments and noted issues are as follows:

- The site was approved before it was annexed into the city. Thus, there are some existing non-conforming conditions.
- Parking lots with more than three spaces are required to be screened. The proposal impacts the facility's view from McNulty Way. Landscaping is proposed to help soften the visual impact of the proposal. Final landscaping shall be subject to city review prior to installation.
- The visual clearance provisions of Chapter 17.76 should be met provided the landscaping installed is appropriate.
- Parking spaces meet the appropriate geometric standards.
- Wheel stops are required for parking spaces along pedestrian ways. In this case the pedestrian way shall be at least 7 feet wide or the spaces adjacent shall include a wheel stop. The walkway is also required to be paved (not gravel as per the site plan). See SHMC 17.80.050(12) and 17.84.050.
- The scale of the project wouldn't normally require frontage improvements. However, the applicant is proposing some improvements to facilitate a public bus stop along McNulty Way. Under these circumstances, there is design flexibility (the proposed improvements differ from the standards for Collector Streets). The plans will be subject to City Engineering review and the necessary standards for being within a public right-of-way. For example, the plans do not show a truncated dome ramp at the subject property driveway/McNulty Way intersection which would be required.



Above: Comparison of the subject area as seen before work started to occur and after site preparations, which occurred prior to any authorizations from the City. 2012 to the left and February 2016 to the right.

Per SHMC 17.96.040, Site Development Review approval is valid for one year.

SENSITIVE LANDS

Findings: The site abuts McNulty Creek. Per Chapter 17.40 SHMC creeks have protected riparian areas (the area of transition from an aquatic ecosystem to a terrestrial ecosystem) and an upland protection zone, also subject to protection from alteration. The protection zone for McNulty Creek is 50 feet upland from the top of bank or edge of significant riparian area, whichever is greater.

If alteration is within 200 feet of a resource such as a riparian area, an environmental assessment (EA) is required to determine the boundaries of the riparian area and protection zone. The applicant provided an EA indicating these boundaries.

Generally, the impact is small in total area and the proposed enhancement exceeds the required mitigation by enhancing approximately 2,000 square feet of riparian area protection zone.

CONCLUSION & DECISION

Based upon the facts and findings herein, the City Planning Administrator approves of this **Sensitive Lands Permit**, with the following conditions:

1. An agreement for use of right-of-way between the city and property owner shall be executed and recorded on the deed of the subject property prior to the issuance of any development permit to allow the proposed improvements. **No work shall occur until this agreement is recorded.**

Any necessary survey to identify the right-of-way in relation to the proposal or for legal descriptions shall be the sole responsibility of the applicant/property owner (not the city).

If no agreement can be made between the parties, the site improvements shall be restored to their original condition (see picture in this report for example of original conditions).

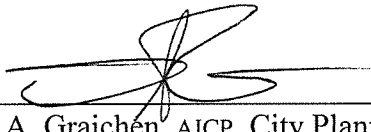
2. Prior to development permit issuance the following revisions shall be made to the plans:
 - a. Landscaping plan along the street frontage of the site to help soften the visual impact of the existing and new parking areas as seen from McNulty Way. Landscaping shall take into account Chapter 17.76 SHMC.
 - b. The pedestrian way connecting the CCMH facility to the proposed bust stop shall be paved, and be at least 7' wide or at least 4 feet wide if the parking stalls along said pedestrian way include wheel stops 3 feet back from the front of the stall.
 - c. Plans are subject to review by and the specifications of City Engineering.

3. Mitigation plantings for the riparian corridor/protection zone shall be maintained for a minimum of two years. Within that time, invasive species shall be controlled (i.e., removed as needed), with particular attention to Himalayan blackberry, and mitigation plants (including trees) that perish shall be replaced.

The applicant shall provide monitoring and maintenance reports performed by a qualified environmental professional upon request by the City to demonstrate compliance with this condition.

4. Owner/applicant is still responsible to comply with the City Development Code (SHMC Title 17).

MAY 18, 2016
Date



Jacob A. Graichen, AICP, City Planner

Attachment(s): Site Plan

Sensitive Lands Assessment (Environmental Assessment) by Wetlands Solutions NW, LLC



THESE INFORMATION ARE BASED ON THE LAYOUT AND FINANCIAL PLAN FROM THE 2004 "56 - 5ULT" RECORD DRAWINGS PROVIDED BY COLUMBIA COMMUNITY MENTAL HEALTH. AGAIN ARCHITECTURE + DESIGN LLC CAN NOT GUARANTEE THE ACCURACY OF SAID DRAWINGS. AGAIN TAKES NO LIABILITY IN THE ACCURACY OF THESE DRAWINGS AS NO SURVEY HAS BEEN PROVIDED.

Jacob Graichen

From: Jacob Graichen
Sent: Tuesday, June 07, 2016 9:16 AM
To: 'mcomfortconstruction@gmail.com'
Subject: CCMH - ROW Agreement and Needs
Attachments: ROW Temp License Release Hold Harmless Agreement (06072016 DRAFT).pdf; LCE Ltrr 06012016.pdf

Mark,

Note the land use decision that was sent to you in May. The conditions apply and there are things that are supposed to happen before work begins.

Condition 1 talks about a right-of-way agreement. Since most if not all of the improvements are within the ROW, this agreement is necessary. If an agreement cannot be reached, the site will need to be returned to its original state.

I attached a draft of the agreement. Please review this with CCMH.

I hope to get this agreement before the city council soon to make sure there are no issues with them and hopefully to get authorization for the Mayor's signature.

However, note that before this agreement can be executed (signed and recorded), revised plans are necessary since they are attachments to the agreement.

Some of the plan revisions are noted in the land use decision (Condition 2). But also note the attached letter from Lower Columbia Engineering (a nearby property owner). They make a good point. It's very possible that as part of this agreement with the Council the sidewalk will be required to continue on the opposite side of the driveway to the property line. This way, when the property between CCHMC and Gable Road develops, the sidewalk required for that development can complete the McNulty Way sidewalk connection to Gable Road. Please discuss this with CCMH.

Also needed for the agreement is the legal description of the property. Usually this is on the deed. Is this something you could get?

Another step before work begins: since the work is in the right-of-way and some public improvements are involved, review by City Engineering is necessary. Usually for public improvements they need engineering/construction plans. So please keep that in mind too for timeline and in your discussions with CCMH.

Please let me know if you have any questions.



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
RE: Agreement to use right-of-way for CCMH project at 58464 McNulty Way
DATE: June 8, 2016

Though uncommon, occasionally we have a request or situation that involves the use of public right-of-way for abnormal purposes (e.g., when an older building encroaches into a right-of-way). In these instances, the City has used a **Temporary License, Indemnification, and Hold Harmless Agreement**, to allow such use.

Per discussions with CCMH, both their staff and client counts are on the rise and their off-street parking demand exceeds current supply at their 58464 McNulty Way facility. As such they wish to add parking where possible.

CCMH has obtained land use approval to expand their parking lot, however, it appears that most or not all of the expansion is within the McNulty Way public right-of-way.

Typically, “private improvements” such as off-street parking facilities are not allowed within the right-of-way. In this case there are a couple reasons why the Council may be accepting of such an agreement.

First, the right-of-way fronting the property is 100’ wide. The City classifies McNulty Way as a Collector Street, which requires a minimum of 60 feet right-of-way width. 100’ wide rights-of-way are only required for Major Arterial Streets such as US30.

Second, this is a public entity providing a public service. It’s easier to determine this sort of action is in the public interest when a public benefit corporation (CCMH) provides a needed public benefit to the community.

Reasons for the agreement include a way to allow a use of the currently unused right-of-way, while protecting the City’s interest in the future use of the same right-of-way. This is close to the Gable Road/McNulty Way intersection and it’s possible that the right-of-way could be used for intersection improvements in the future.

One potential downside to the agreement is risk. Allowing these improvements can make dealing with future issues more challenging.

The attached agreement is a draft and some changes are anticipated, though mostly for the exhibits. But because the Council only meets once per month in July and August, staff wanted to present this to the Council to weed out any issues and if consent for Mayoral signature is granted, to be able to get that once the document is finalized.

Note a letter from a neighboring property owner: Lower Columbia Engineering. They talk about sidewalks. As part of this agreement, the Council can require sidewalks along the entire frontage (as opposed to just the south side of the driveway).

If the Council agrees to this agreement, staff recommends that a condition of the agreement is to have street frontage improvements along the entire subject property’s McNulty Way frontage.

If the Council does not agree to this agreement, CCMH will need to restore the site to its original condition.

Jacob Graichen

From: Jacob Graichen
Sent: Wednesday, June 15, 2016 4:06 PM
To: 'mcomfortconstruction@gmail.com'; 'RolandM@ccmh1.com'
Subject: CCMH Right-of-way use agreement

Roland and Mark,

The Council discussed this today. They agreed to authorize the Mayor's signature, once we have a final document. I sent an email to Mark on June 7, 2016 in regards to stuff necessary for the final document, which once completed and executed by all parties will be recorded on the CCMH property deed.

Also note that as a condition of the agreement, the council will require frontage improvements along the entire CCMH property's McNulty Way frontage (i.e., on both sides of the driveway). So that is relevant for revised site plan and the public improvement plans that are typically reviewed for any public improvement.

FYI

Jacob Graichen, AICP
 City of St. Helens
 City Planner

From: Jacob Graichen
Sent: Monday, June 13, 2016 9:10 AM
To: 'mcomfortconstruction@gmail.com' <mcomfortconstruction@gmail.com>; 'RolandM@ccmh1.com' <RolandM@ccmh1.com>
Subject: FW: St. Helens City Council Agendas for Next Week

Roland and Mark,

Note that the attached work session agenda (item #9) includes the agreement for use of right-of-way for CCMH's parking lot addition proposal. This will be discussed with the council at this time.

FYI

From: Kathy Payne
Sent: Friday, June 10, 2016 2:25 PM
To: Kathy Payne <Kathy@ci.st-helens.or.us>
Subject: St. Helens City Council Agendas for Next Week

Greetings from the City of St. Helens!

Attached are the Council agendas for next week. Packet materials are available online at www.ci.st-helens.or.us or you may [click here](#) to go directly to the City Council Agendas and Minutes webpage.

The meetings will be held in the Council Chambers at City Hall, 265 Strand Street, St. Helens, Oregon, Plaza entrance. The facility is handicap accessible. If you wish to participate or attend the meeting and

CCMH Violation 15 of 15