

City of St. Helens  
**ORDINANCE NO. 3227**

AN ORDINANCE TO AMEND THE CITY OF ST. HELENS ZONING DISTRICT MAP  
TO ADD A PLANNED DEVELOPMENT OVERLAY ZONE FOR CERTAIN PROPERTY

**WHEREAS**, applicants have requested to amend the City of St. Helens Zoning District Map for property described in **Exhibit "A"** and depicted in **Exhibit "B"** attached hereto and made part of this reference to add a Planned Development Overlay Zone; and

**WHEREAS**, the St. Helens Planning Commission did hold a duly noticed public hearing and did conclude to recommend such a change to the City Council; and

**WHEREAS**, the City Council did hold a duly noticed public hearing and did find that after due consideration of all the evidence in the record compared to the criteria, that they agreed with the application; and

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

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

**Section 1.** The above recitations are true and correct and are incorporated herein by reference.

**Section 2.** The City of St. Helens Zoning District Map is amended to add a Planned Development Overlay Zone for the property described herein.

**Section 3.** In support of the aforementioned Zone District Map Amendment, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Exhibit "C"** and made part of this reference.

**Section 4.** Both parcels as described in **Exhibit "A"** shall be used together as a Planned Development (not separately or individually) for the Planned Development Overlay Zone to be utilized.

**Section 5.** The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time:            April 18, 2018  
Read the second time:        May 2, 2018

**APPROVED AND ADOPTED** this 2<sup>nd</sup> day of May, 2018 by the following vote:

Ayes:        Locke, Carlson, Conn, Morten, Scholl

Nays:        None



\_\_\_\_\_  
Rick Scholl, Mayor

ATTEST:

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

**EXHIBIT "A"**  
Legal Description

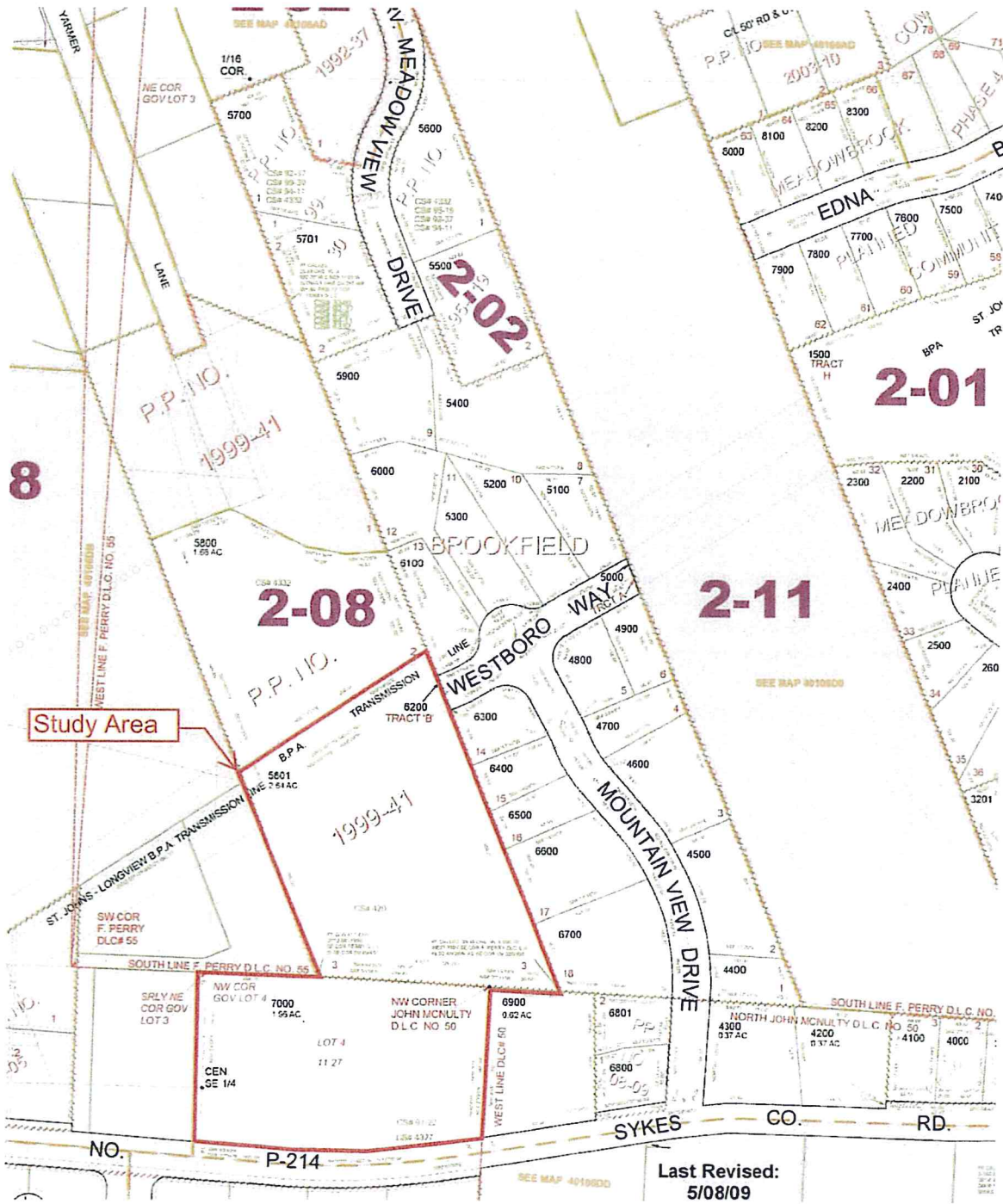
Parcel 1

Beginning at the Northeast corner of tract conveyed to Ben Harrison, et ux, by deed recorded April 11, 1955 in Book 125, page 361, Deed Records of Columbia County, Oregon, said point being South 0°05 1/2' West 1316.4 feet and South 88°53' East 1327.34 feet and North 0°24 1/2' East 176.43 feet from the center of Section 6, Township 4 North, Range 1 West of the Willamette Meridian, Columbia County, Oregon, said point also being the Northwest corner of Government Lot 4 in said Section, Township and Range; thence North 89°12' West along the North line of said Harrison, et ux, tract, a distance of 10 feet to a point; thence South 0°24 1/2' West parallel with the East line of said Harrison, et ux, Tract and Southerly extension thereof, to the North right of way line of Sykes County Road No. P-214; thence Easterly along the North right of way line of said Road to the East line of Government Lot 4 in said Section, Township and Range, said point being the Southeast corner of the Ben Harrison Tract as described in Deed Book 114, page 200, Deed Records of Columbia County, Oregon; thence North along the East line of said Government Lot 4 and the East line of said Harrison Tract to the Northeast corner of said Government Lot 4, and of said Harrison Tract; thence West along the North line of said Government Lot 4, to the point of beginning.

Parcel 2

Parcel 3 of Partition Plat No. 1999-41 recorded December 1, 1999, in Fee Number 1999-15996, Records of Columbia County, Oregon.

# EXHIBIT "B"



**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Planned Development (Overlay Zone) PD.1.18**

**APPLICANT:** Kessi Engineering & Consulting  
**OWNER:** SJRE Ventures LLC (Rich Bailey Construction)

**ZONING:** Moderate Residential, R7  
**LOCATION:** 4N1W-6DA-7000 & 5801  
34759 Sykes Road

**PROPOSAL:** Planned Development (Zoning Overlay)

**The 120-day rule (ORS 227.178) for final action for this land use decision is not applicable per ORS 227.178(7).**

**SITE INFORMATION / BACKGROUND**

The site is approximately 4.6 acres and mostly undeveloped, except for a detached single-family dwelling (34759 Sykes Road). According to the City’s utility billing records, it is connected to both City water and sewer. The site is sloped with the low point in the southeast portion of the site, where a wetland is located. The southern half of the site is heavily forested. There is a Bonneville Power Administration (BPA) easement and power lines running through the north side of the property. It is access via Sykes Road and Westboro Way. Surrounding area is developed as residential.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows: March 13, 2018 before the Planning Commission and April 4, 2018 before the City Council.

**At their March 13, 2018 meeting the Planning Commission unanimously recommended approval of this proposal to the City Council.**

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on February 22, 2018 via first class mail. Notice was sent to agencies by mail or e-mail on February 21, 2018. Notice was published in the The Chronicle on February 28, 2018. Notice was sent to the Department of Land Conservation and Development on February 7, 2018.

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 17.148.060 – Planned Development Allowed and Disallowed**

- (1) A planned development shall not be allowed on any lands, with less than a two-acre minimum, shown on the comprehensive plan map as “developing areas”.
- (2) A planned development shall not be allowed in residential zones located in areas designated as “established areas” on the comprehensive plan map, except the

commission may approve a planned development within an “established area” where the commission finds:

- (a) Development of the land in accordance with the provisions of the “established area” would:
  - (i) Result in an inefficient use of land;
  - (ii) Result in removing significant natural features; or
  - (iii) Result in a change of the character of the area surrounding a significant historic feature or building;
- (b) The planned development approach is the most feasible method of developing the area; and
- (c) The site is of a size and shape that the compatibility provisions of Chapter 17.56 SHMC can be met.

**(1) Discussion:** If the subject property is considered “developing,” SHMC 17.148.060(1) is the section to review for the planned development (PD) overlay consideration.

**Finding(s):** The proposed PD area is considered a “developing area” because it is a larger parcel and mostly vacant. It is approximately 4.6 acres in size. However, it is divided into two separate lots at approximately 1.97 acres and 2.64 acres. In order to utilize the planned development overlay zone for a development proposal, both lots shall be included in a PD proposal. The purpose of this is to ensure the PD meets the intended size requirement and to prevent leftover (excluded) area that does not meet the size requirement.

**(2) Discussion:** If the subject property is considered “established,” SHMC 17.148.060(2) is the section to review for the PD overlay consideration

**Finding(s):** The subject property is not considered “established.”

#### **SHMC 17.20.120(1) – Standards for Legislative Decision**

The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- (a) The statewide planning goals and guidelines adopted under ORS Chapter 197;
- (b) Any federal or state statutes or guidelines found applicable;
- (c) The applicable comprehensive plan policies, procedures, appendices and maps; and
- (d) The applicable provisions of the implementing ordinances.
- (e) A proposed change to the St. Helens Zoning District Map that constitutes a spot zoning is prohibited. A proposed change to the St. Helens Comprehensive Plan Map that facilitates a spot zoning is prohibited.

**(a) Discussion:** This criterion requires analysis of the applicable statewide planning goals. The applicable goals in this case are Goal 1, Goal 2, Goal 5, Goal 10, and Goal 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.*

**Finding(s):** 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 required too. Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties. The City has met these requirements and notified DLCD of the proposal.

Given the public vetting for the plan, scheduled public hearings, and notice provided, Goal 1 is satisfied.

***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.*

**Finding(s):** The City and State (i.e., DLCD) coordinated with regard to the adoption of this proposal. The City notified DLCD as required by state law prior to the public hearings to consider the proposal.

There are no known federal or regional documents that apply to this proposal. Comprehensive Plan consistency is addressed further below.

Given the inclusion of local, state, regional and federal documents, laws, participation and opportunity for feedback as applicable, Goal 2 is satisfied.

***Statewide Planning Goal 5: Natural Resources, Scenic & Historic Areas, & Open Spaces***

*It is the purpose of this goal to protect natural resources and conserve scenic and historic areas and open spaces. This includes riparian corridors, wetlands, wildlife habitat, natural area, and others.*

**Finding(s):** The proposed zoning map overlay would allow for more flexible development standards to accommodate the identified wetland resource and required open space buffer in the southeast corner of the subject property. The wetland in question is officially listed on the City's Local Wetlands Inventory as **wetland MC-2, a Type II significant wetland**.

Given the flexibility of the PD overlay, that will offer protection of the identified and inventoried wetland resource, while still allowing use of the land, Goal 5 is met.



***Statewide Planning Goal 10: Housing***

*This goal is about meeting the housing needs of citizens of the state. Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.*

**Finding(s):** First, a comparison of what is currently allowed versus what the PD overlay, by itself, would allow.

Number of housing types currently allowed:

- Base zone: R7
- Subject to density computations of Chapter 17.56 SHMC. Requires “net developable area” calculation divided by minimum lot size (7,000 square feet). Wetlands are removed from gross area to help determine net developable area.

How does the PD impact number of units allowed:

- Per SHMC 17.148.080(1)(a), the normal minimum lot size and dimension standards don’t apply except as they relate to density computations per Chapter 17.56 SHMC. Thus, the PD overlay, by itself, doesn’t impact the R7 zoned density (number of units possible).
- Note that R7 zoning exists on the East, South and West sides. The closest higher density zone (R5 in this case) is nearly 1,000 feet away to the East. The area to the north has a comprehensive plan designation of RSUR, where if annexed, the zoning applied it most likely to be R7 or R10.

Second, what is actually proposed:

- Per SHMC 17.148.015(8), the overlay zone can be processed separately from a specific development proposal.
- Development applications were submitted but due to necessary revisions, they were not deemed complete until March 12, 2018. Reference files SUB.1.18 and DEV.1.18. However, they did not need to be submitted in order to consider the PD overlay zone request.

This PD Overlay is about obtaining the ability to obtain base density on an irregular shaped property, which is encumbered by a wetland significant to the City. This wetland has been delineated per DSL WD # 2017-0096. The density doesn’t change based on the PD overlay itself. If the wetland wasn’t present, this PD overlay would not be necessary and it would be developed under normal subdivision standards, which doesn’t require Goal 10 analysis.

The development honors the site’s comprehensive plan designation which has been approved by the State of Oregon. It has been zoned R7 for approximately 20 years. The City’s wetland rules took effect in 2003, which are intended to protect significant wetlands such as that on the subject property. **The PD overlay in this case doesn’t change the general outcome originally intended by the City’s modern Comprehensive and Zoning schemes in regards to both density and type of dwelling unit possible.** Rather it helps allow what the R7 zoning was intended to allow, while keeping the wetland intact. Wetlands are important for ecological function and balance, of the

which human life depends. Loss of wetlands *en mass* poses detriment to human life including all income levels. Housing type is irrelevant if human life ceases.

However, in regards to economics, this proposal helps to meet the basic density allowance which helps reduce overall project costs and housing price. It will result in dwellings accessible to a greater range of income levels.

Goal 10 is satisfied.

***Statewide Planning Goal 12: Transportation***

*Goal 12 requires local governments to “provide and encourage a safe, convenient and economic transportation system.” Goal 12 is implemented through DLCD’s 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.*

**Discussion:** A traffic impact analysis shall be submitted with a plan amendment or zone change application, **as applicable**, pursuant to Chapter 17.156 SHMC. See Section (d) for a more detailed discussion of the TPR and implementing ordinances

**(b) Discussion:** This criterion requires analysis of any applicable federal or state statutes or guidelines in regards to the residential zone change request.

**Finding(s):** There are no known applicable federal or state statutes or guidelines applicable to this development overlay zone request.

**(c) Discussion:** This criterion requires analysis of applicable comprehensive plan policies, procedures, appendices, and maps. The proposal is to add a planned development overlay zone to an existing Moderate Residential (R7) zone to allow more flexibility in development standards. This overlay zone would not change the amount of available lands for residential development.

The applicable Comprehensive Plan goals and policies are:

**SHMC 19.080.060 (2) Natural factors and local resources goals and policies**

*(a) To maintain, and where possible, enhance the air, water, and land resources of the St. Helens area*

*[...]*

*(e) To preserve open spaces within and between urban living areas*

*(f) To encourage the protection of the forest area thin the urban growth boundary*

*[...]*

**SHMC 19.12.030 Suburban residential category goals and policies**

*(1) Goals. To establish conditions which will maintain attractive, convenient, residential living typical of moderate density semi-urban areas.*

*(2)Policies. It is the policy of the city of St. Helens to:*

*[...]*



*(b) Permit a degree of flexibility in residential site design and a mixture of housing, including multi-dwelling units, through the planned development procedures.*

*(c) Promote the development of homesites at a density and standard consistent with: the level of services that can reasonably be provided and the characteristics of the natural environment [...]*

**Finding(s):** Due to the protection and required buffer of the identified wetland resource, this proposal is preserving open space and protecting a forested area within the urban area. The proposed overlay zoning district allows flexibility to accomplish adequate preservation, while still providing development at a density standard consistent with the zoning, level of services that can be provided, and the characteristics of the natural environment.

This criterion is met; the Planning Commission and Council find that the proposal is not contrary to Comprehensive Plan goals and policies.

**(d) Discussion:** This criterion requires that the proposal not conflict with the applicable provisions of the implementing ordinances.

**Finding(s):** Per SHMC Chapter 17.156.030(3)(a), a Traffic Impact Analysis shall be required to be submitted to the City with a land use application when the proposed change or comprehensive plan amendment designation results in more vehicle trips based on permitted uses.

Per Chapter 17.148.120 (2) (a), the planned development overlay zone has to meet the density requirements per Chapter 17.56 Density Computations. In other words, the overlay zone does not increase the allowed density for the site.

The overlay zone will not significantly affect an existing or planned transportation facility. A Traffic Impact Analysis is not warranted this overlay zone.

Chapter 17.40 SHMC addresses inventoried significant wetlands. SHMC 17.40.050 allows flexibility for new development or land divisions given a PD and Development Agreement. Given that **wetland MC-2** and its statutory 50 feet upland protection zone (per this Chapter) encumbers a significant portion of the property, the PD overlay makes sense, assuming compliance with all other aspects of approval.

Note that **wetland MC-2** has been delineated with Oregon DSL concurrence in May of 2017 (WD #2017-0096). Thus, the wetland area is known, not assumed.

**(e) Discussion:** This criterion requires that the proposed change is not a spot zone. The definition of “spot zoning” per Chapter 17.16 SHMC:

*Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.*

On the Zoning Map, the property abuts existing Moderate Residential (R7), Suburban Residential (R10), and unincorporated properties. On the Comprehensive Plan Map, the property abuts R7 and Rural Suburban Unincorporated Residential (which includes R7 and R10).

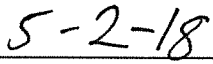
**Finding:** This proposal does not change the underlying zoning district. The PD overlay is meant to be site specific. As such, this proposal is not a “spot zoning.”

**CONCLUSION & DECISION**

**Based upon the facts and findings herein, the City Council approves the proposal, with the following modification:**

In order to utilize the planned development overlay zone for a development proposal, both lots shall be included in a planned development proposal.

  
\_\_\_\_\_  
Rick Scholl, Mayor

  
\_\_\_\_\_  
Date