

City of St. Helens  
**ORDINANCE NO. 3238**

AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN  
PROPERTY AT 2225 GABLE ROAD

**WHEREAS**, applicant Brent and Dawn Paintner have requested to annex to the City of St. Helens certain property at 2225 Gable Road. This property is also described per **Exhibit A** and depicted per **Exhibit B**; 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 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 May 15, 2019 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:**

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

**Section 2.** The property described in **Exhibit A** and depicted in **Exhibit B** is hereby accepted for annexation to the City of St. Helens.

**Section 3.** The St. Helens Zoning Ordinance Map is hereby amended to reflect that the property described herein shall be zoned General Commercial, GC.

**Section 4.** The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as General Commercial, GC.

**Section 5.** In support of the above annexation and amendments described herein, the Council hereby adopts the Annexation A.1.19 Findings of Fact and Conclusions of Law, attached hereto as **Exhibit C** and made part of this reference.

**Section 6.** The City Council does hereby refer the final decision to annex this property to the voters of the City of St. Helens.

**Section 7.** 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: June 5, 2019  
Read the second time: June 19, 2019

**APPROVED AND ADOPTED** this 19th day of June, 2019 by the following vote:

Ayes: Locke, Carlson, Morten, Topaz, Scholl

Nays: None



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

ATTEST:

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

EXHIBIT A  
LEGAL DESCRIPTION

A parcel of land located in the SE ¼ of the NE ¼ of Section 8, Township 4 N., Range 1 W., Willamette Meridian, Columbia County, Oregon, most specifically described as follows:

Beginning at a point, the **True Point of Beginning**, where the Southerly right-of-way line of Gable Road and the Westerly right-of-way line of McNulty Way intersect;

Thence, South 12°43'55" West, along the Westerly right-of-way line of McNulty Way, a distance of 145.52 feet;

Thence, South 64°16'55" West, along said Westerly right-of-way line, a distance of 108.61 feet;

Thence and leaving said right-of-way line, North 25°43'05" West, a distance of 67.18 feet;

Thence, North 81°46'27" West, a distance of 52.02 feet;

Thence, North 02°04'13" East, a distance of 175.80 feet to the Southerly right-of-way line of Gable Road;

Thence along said Southerly right-of-way line, along a 5,769.58 foot radius curve (chord bearing South 75°02'12" East a distance of 211.38 feet), a curve distance of 211.39 feet to the **True Point of Beginning**.

4, Page 9),  
 Denotes 5/8" iron rod w/ 847" found per C.S. No.  
 Denotes rail road spike w State Highway Division (O)  
 Denotes 5/8"x30" iron rod "REYNOLDS LAND SURVEY"  
 Denotes calculated positio  
 Denotes record data per l  
 Denotes record data per l  
 Denotes record data per l  
 Denotes record data per l  
 Denotes record data per l  
 Denotes record data per l  
 Denotes record data per l

•  
 ☒  
 ●  
 □  
 1[ ]  
 2[ ]  
 3[ ]  
 4[ ]  
 5[ ]  
 6[ ]  
 7[ ]  
 8[ ]

CF:9812C  
 SF:9812C  
 FB:23

Scale: 1" = 100'

Reynold  
 Land Survey  
 32990 Slom  
 Warren, Oreg  
 (503) 397-

REGISTERE  
 PROFESSIO  
 LAND SURVE  
 OREGON  
 JULY 26 1981  
 DAVID E. REYN  
 Z157  
 RENEWAL DATE: 12-

Record of

McNulty Creek Industrial Park  
 Phase One  
 Lot 1

C.N. Gable County Road No. 40  
 Alignment per C.S. No. H-151 (O.S.H.D.)

John McNulty D.L.C.  
 T.H. Smith D.L.C.  
 John McNulty D.L.C.

McNulty  
 No. 1991-18  
 cel 1

SEARCHED FOR MONUMENT NON FOUND

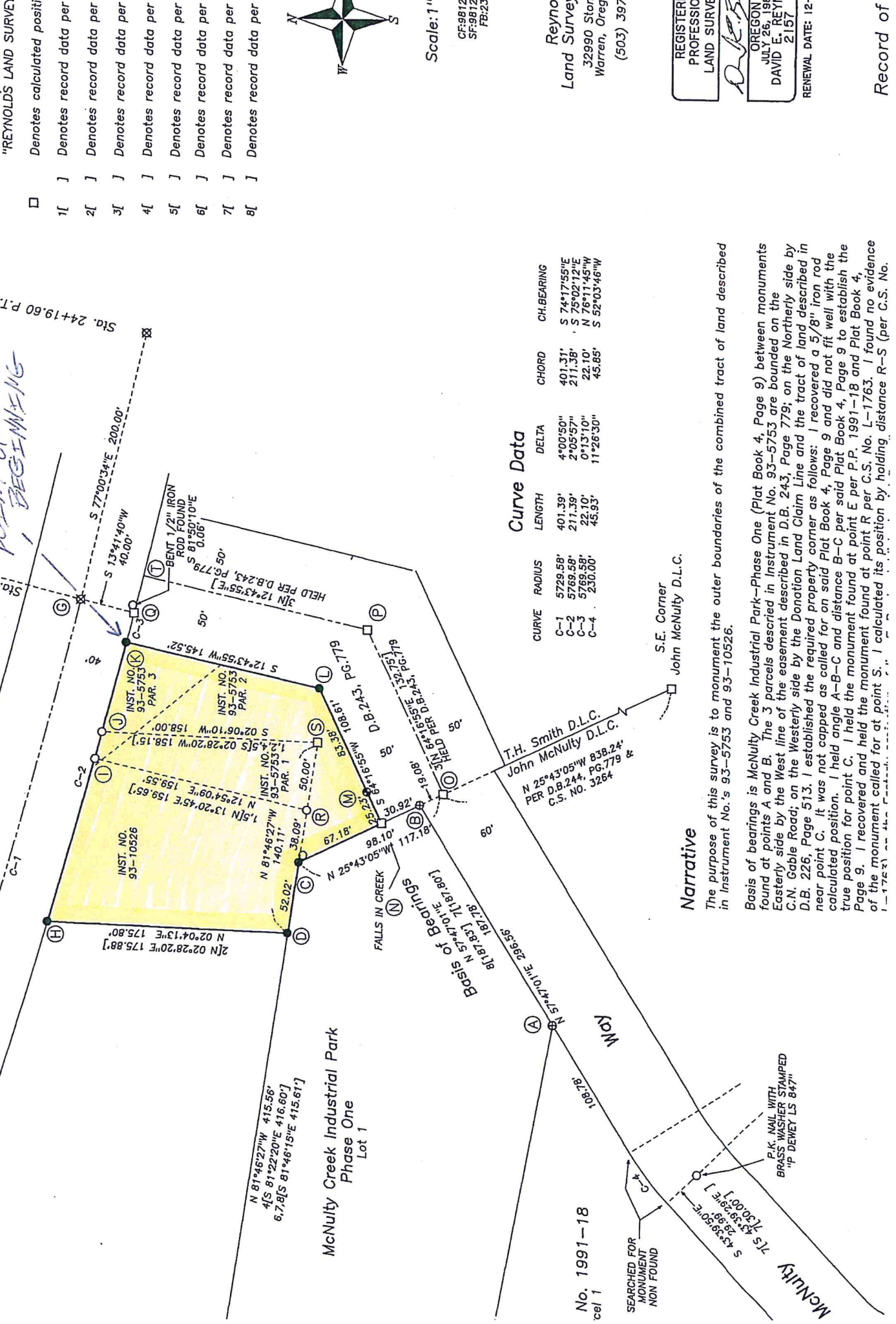
P.K. NAIL WITH BRASS WASHER STAMPED "P DEWEY LS 847"

Point of Beginning

Sta. 22+19.60 P.C.S.  
 Sta. 24+19.60 P.T.

35°27'W 0.05'  
 plastic cap marked L-1763, held at vertice

McNulty



**Curve Data**

CURVE	RADIUS	LENGTH	DELTA	CHORD	CH-BEARING
C-1	5729.58'	401.39'	4°00'50"	401.31'	S 74°17'55"E
C-2	5768.88'	217.39'	2°05'57"	217.38'	S 75°02'12"E
C-3	5769.58'	22.70'	0°13'10"	22.70'	N 76°11'45"W
C-4	250.00'	45.93'	11°26'30"	45.85'	S 52°03'46"W

**Narrative**  
 The purpose of this survey is to monument the outer boundaries of the combined tract of land described in Instrument No.'s 93-5753 and 93-10526.

Basis of bearings is McNulty Creek Industrial Park-Phase One (Plat Book 4, Page 9) between monuments found at points A and B. The 3 parcels described in Instrument No. 93-5753 are bounded on the Easterly side by the West line of the easement described in D.B. 243, Page 779; on the Northerly side by C.N. Gable Road; on the Westerly side by the Donation Land Claim Line and the tract of land described in D.B. 226, Page 513. I established the required proper corner as follows: I recovered a 5/8" iron rod near point C. It was not capped as called for on said Plat Book 4, Page 9 and did not fit well with the calculated position. I held angle A-B-C and distance B-C per said Plat Book 4, Page 9 to establish the true position for point C. I held angle A-B-C and distance B-C per said Plat Book 4, Page 9 to establish the true position for point C. I held the monument found at point E per P.P. 1991-18 and Plat Book 4, Page 9. I recovered and held the monument found at point R per C.S. No. L-1763. I found no evidence of the monument called for at point S. I calculated its position by holding distance R-S (per C.S. No. L-1763).

**CITY OF ST. HELENS PLANNING DEPARTMENT  
FINDINGS OF FACT AND CONCLUSIONS OF LAW  
Annexation A.1.19**

**APPLICANT:** Brent & Dawn Paintner

**OWNERS:** Paintner Holdings LLC

**ZONING:** Columbia County's General Commercial, C-3

**LOCATION:** 2225 Gable Road, 4N1W-8AD-500

**PROPOSAL:** The property owner filed consent to annex to develop/use the property using City standards

**SITE INFORMATION / BACKGROUND**

The subject property is an irregular-shaped corner lot at approximately 1.03 acres. It is made up of four (4) parcels which have restrictive covenant that ties them together via Inst. No. 2018-010123. It abuts Gable Road and McNulty Way. The parcel is accessed by Gable Road by two paved asphalt driveway approaches. Gable Road is a developed minor arterial-classified street without frontage improvements (sidewalks, curb, landscape strip) on either side. McNulty Way is a collector-classified developed street without frontage improvements (sidewalks, curb, landscape strip) on either side.

The parcel is developed with an existing 1,800 sq. ft. commercial office and a 2,000 sq. ft. shop. Both commercial buildings utilize a gravel parking lot. The site is not currently hooked up to City sanitary sewer or water, although they are available in the abutting rights-of-way. The parcel is relatively flat with a steeper downward slope close to the border of McNulty Creek near the southern property line and the existing shop building. Portions of the property near the creek are located in the 100-year flood-plain.

**Abutting Zoning**

North - City's General Commercial (GC)

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

South - City's Light Industrial (LI)

West - City's General Commercial (GC)

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows: April 9, 2019 before the Planning Commission and May 15, 2019 before the City Council.

**At their April 9, 2019 hearing, the Planning Commission unanimously recommended approval of this proposal.**

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on March 21, 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 March 21, 2019. Notice was sent to the Oregon Department of Land Conservation and Development on March 4, 2019 via e-mail.

### 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 General Commercial (UGC). 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).

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 General Commercial, C-3 and the City zoning option given annexation is General Commercial (GC).**

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** - Currently, the site is not connected to City water. Although, it is available in the McNulty Way right-of-way. 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. There is a City sewer line in the Gable Road right-of-way abutting the property. 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 existing land use of the subject property is an office and a shop of some kind. The office is an allowed use in the General Commercial zone. The shop *may* be considered a non-conforming use once annexed into the City. The City's Development Code allows nonconforming uses to continue provided the use is not destroyed, discontinued or abandoned (see Chapter 17.104 SHMC). If the subject property redevelops or is developed further in the future, existing uses will be confirmed in more detail at that time.

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.

City standards require such improvements. Gable Road is a developed minor arterial-classified street without frontage improvements (sidewalks, curb, landscape strip) on either side. McNulty Way is a collector-classified developed street without frontage improvements (sidewalks, curb, landscape strip) on either side.

**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 General Commercial, GC. Upon annexation, the Comprehensive Plan designation would thus be General Commercial (Incorporated). There are several zoning options under this designation, but based on the location of this property and the abutting City General Commercial zoning, the appropriate zoning would be General Commercial, GC.

**Finding:** The subject property shall be designated General Commercial (Incorporated), GC and zoned General Commercial, GC 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 & DECISION

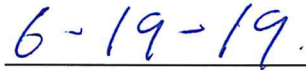
**Based upon the facts and findings herein, the Council approves this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of General Commercial (incorporated), GC, and be zoned General Commercial, GC, with the condition that:**

The streets 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.\*



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



\_\_\_\_\_  
Date