

City of St. Helens
ORDINANCE NO. 3268

AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF
CERTAIN PROPERTY AT 35111 SIX DEES LANE

WHEREAS, applicant Roy & Jinkee McCullough requested to annex to the City of St. Helens certain property at 35111 Six Dees Lane. 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 June 2, 2021 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 ORDAINS 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 Moderate Residential, R7.

Section 4. The St. Helens Comprehensive Plan Map is hereby amended to reflect that the property described herein shall be designated as Suburban Residential (Incorporated).

Section 5. The land is classified as "Developing" in accordance with Chapter 17.112 of the St. Helens Community Development Code (SHMC Title 17) and OAR 660-08-0005.

Section 6. In support of the above annexation and amendments described herein, the Council hereby adopts the Annexation A.1.21 Findings of Fact and Conclusions of Law, attached hereto as **Exhibit C** and made part of this reference.

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:
Read the second time:

June 16, 2021
July 21, 2021

APPROVED AND ADOPTED this 21st day of July 2021 by the following vote:

Ayes: Morten, Topaz, Chilton, Birkle, Scholl

Nays: None



Rick Scholl, Mayor

ATTEST:



Kathy Payne, City Recorder

EXHIBIT A
LEGAL DESCRIPTION

A parcel of land located in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 5, Township 4 N., Range 1 W., Willamette Meridian, Columbia County, Oregon, more specifically described as follows:

Beginning at a point, the **True Point of Beginning**, which is the Southeast corner of Lot 10 of the Summerfield Subdivision, City of St. Helens, Columbia County, Oregon;

Thence, South 87°28'00" East a distance of 477.14 feet;

Thence, South 38°17'00" East a distance of 101.26 feet to the Northwesterly right-of-way line of Columbia Boulevard;

Thence, Southwesterly along said Northwesterly right-of-way line a distance of 58.45 feet;

Thence, North 38°17'00" West a distance of 93.56 feet;

Thence, North 87°28'00" West a distance of 258.08 feet;

Thence, South 51°43'00" West a distance of 41.01 feet;

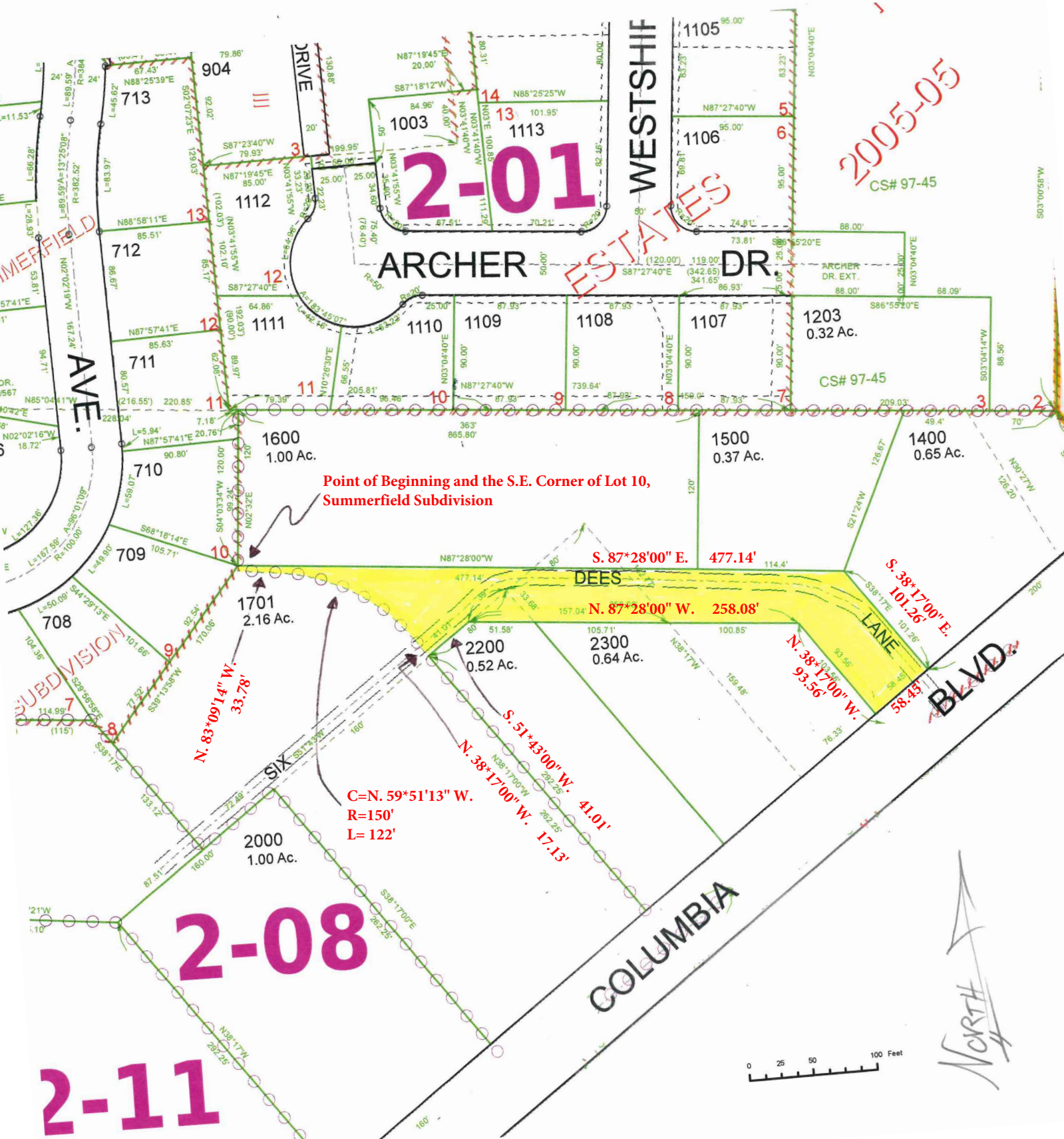
Thence, North 38°17'00" West a distance of 17.13 feet;

Thence, along the arc of a 150 foot radius curve to the left (the long chord bears North 59°51'13" West 118.67 feet) an arc length of 122 feet;

Thence, North 83°09'14" West a distance of 33.78 feet to the **True Point of Beginning**.

EXHIBIT B

S.W. 1/4 S.W. 1/4 SEC. 5 T.4N. R. 1W. W.M.
COLUMBIA COUNTY



**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT & CONCLUSIONS OF LAW
Annexation A.1.21**

APPLICANT: Roy & Jinkee McCullough

OWNER: Same

ZONING: Columbia County's Single-Family Residential (R-10) and City's Moderate Residential (R7)

LOCATION: 35111 Six Dees Lane; 4N1W-5CC-1701

PROPOSAL: The property owner filed a consent to annex to bring the remainder of a lot which was only partially within City limits into City limits as part of a detached single-family development (BP #749-20-1506)

SITE INFORMATION / BACKGROUND

The subject property is a part of a larger lot which was annexed in March 1998 and left this portion outside City limits. The remainder of the lot to be annexed is an irregular shape that contains an access easement (Six Dees Lane) which serves an abutting detached single-family dwelling (35090 Six Dees Lane) from Columbia Blvd. It is approximately 23,700 square feet (0.54 acres).

A Building Permit (No. 749-15076) was approved to construct a new detached single-family dwelling on the portion of the lot which is already within City limits. As part of the development of the detached single-family dwelling (and connection to City utilities), the applicant is required to annex the remainder of the property into City limits.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission for *recommendation to the City Council*: **May 11, 2021**. Public hearing before the City Council: **June 2, 2021**.

Notice of this proposal was sent to the Oregon Department of Land Conservation and Development on April 6, 2021 through their PAPA Online Submittal website.

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property on April 21, 2021 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on April 28, 2021 in The Chronicle newspaper.

AGENCY REFERRALS & COMMENTS

The following agency referrals/comments were received that are pertinent to this proposal:

City Engineering: There is a public watermain that runs through the subject property that may not have an easement. If there is not an easement, it would be requires that the applicant provide a 15-foot wide easement centered on the location of the watermain.

County Public Works: The applicant needs to obtain an access permit through the Columbia County Public Works Department. The existing access and driveway culvert is not up to standard.

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 Rural Suburban Unincorporated Residential (RSUR). 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), the Parks & Trails Master Plan (Ord. No. 3191), the Riverfront Connector Plan (Ord. No. 3241), and the Housing Needs Analysis (Ord. No. 3244).

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 Single-Family Residential (R-10) and the City’s zoning options given annexation are Moderate Residential (R7) or Suburban Residential (R10).**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. Although the property could be divided into smaller lots in the City than in the County, 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 has access to connect 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 – In early 2021, the applicant completed a sanitary sewer mainline extension in order to develop the property. The City’s wastewater treatment plant currently has a daily limit

(physically and as permitted by DEQ) to handle over 50,000 pounds of Biochemical Oxygen Demand (BOD) and a monthly average limit of 26,862 pounds. This 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. Therefore, potential and future uses that could occur on the subject property can be accommodated by the City’s sanitary sewer system.

Fill from the sanitary sewer mainline extension was brought to the subject property with a grade-fill permit (No. 749-21-000093-SD). The fill was not engineered and contained organic materials. Given that this property may be divided in the future for additional development, this fill may need to be analyzed for suitability before development.

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

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

(b) There are no existing uses on the vacant property. The proposed use is a detached single-family dwelling. This use would be a permitted use in the corresponding zoning districts.

Finding: 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 the west side 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. 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 Columbia Blvd., which is a collector-classified developed street. The existing right-of-way width is 60 feet which is sufficient for the collector street right-of-way width standard of 60 feet. There are no 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, right-of-way dedications, or other requirements. As such, no conditions are warranted with this annexation.

(e) The subject property is not greater than 10 acres in gross size. 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 Rural Suburban Unincorporated Residential (RSUR). The Comprehensive Plan designation would thus be Suburban Residential (Incorporated) (SR). The City’s zoning options given annexation are Moderate Residential (R7) or Suburban Residential (R10). Council finds that the property should be zoned R7 to be consistent with the remainder of the lot and to avoid split zoning of the lot.

Finding: Upon annexation, the remainder of the subject property’s Comprehensive Plan designation shall be Suburban Residential (Incorporated) and be zoned Moderate Residential (R7).

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 classifies *buildable land* as:

Residentially designated land within the urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered “suitable and available” unless it:

- (a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;

- (b) Is subject to natural resource protection measures determined under Statewide Planning Goals 5, 6, 15, 16, 17 or 18;
- (c) Has slopes of 25 percent or greater;
- (d) Is within the 100-year flood plain; or
- (e) Cannot be provided with public facilities.

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 zoned residential and is classified as buildable.

Finding: A portion of the subject property should be designated as “developing” in accordance with SHMC 17.112.

CONCLUSION & DECISION

Based upon the facts and findings herein, City Council approves this annexation and that upon annexation, the remainder of the subject property have a Comprehensive Plan designation of Suburban Residential (Incorporated) SR, be zoned Moderate Residential (R7), and a portion of the subject property designated as “developing.”

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



Rick Scholl, Mayor

7/21/21

Date