

City of St. Helens
ORDINANCE NO. 3213

AN ORDINANCE TO AMEND THE CITY OF ST. HELENS COMPREHENSIVE PLAN
MAP FOR CERTAIN PROPERTY FROM THE SUBURBAN RESIDENTIAL (SR)
DESIGNATION TO THE GENERAL RESIDENTIAL (GR) DESIGNATION AND THE
ZONING DISTRICT MAP FROM THE MODERATE RESIDENTIAL (R7) ZONE TO THE
GENERAL RESIDENTIAL (R5) ZONE

WHEREAS, applicant has requested to amend the City of St. Helens Comprehensive Plan Map and Zoning District Map for property described as **Parcel 1 of Partition Plat No. 1991-14**, and **Parcels 1 and 2 of Partition Plat No. 2007-22**, City of St. Helens, Columbia County, Oregon, from the Suburban Residential (SR) designation to the General Residential (GR) designation, and Moderate Residential (R7) zone to General Residential (R5) zone, respectively; and

WHEREAS, the St. Helens Planning Commission did hold a duly noticed public hearing and concluded to not 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 Comprehensive Plan Map is amended to change the plan designation boundaries of the Suburban Residential (SR) designation to the General Residential (GR) designation for the property described herein.

Section 3. The City of St. Helens Zoning District Map is amended to change the zoning district boundaries of the Moderate Residential (R7) zone to the General Residential (R5) zone for the property described herein.

Section 4. In support of the aforementioned Comprehensive Plan Map and Zone District Map Amendment, the Council hereby adopts the Findings of Fact and Conclusions of Law, attached hereto as **Attachment "A"** and made part of this reference.

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

Section 6. This Ordinance becomes void and the Comprehensive Plan Map and Zoning District Map changes revert back to their original status before this Ordinance took effect, if the street intersection improvements identified in the Emerald Meadows Estates Subdivision Traffic Impact Study dated December 19, 2016 conducted by Lancaster Engineering (in the record of file CPZA.1.16) are not completed to City of St. Helens' standards and as approved by the City, within one-year from the effective date of this Ordinance.

Section 7. No development of the subject property shall be allowed under the General Residential (R5) zoning district standards until the intersection improvements per Section 6 are completed. The Moderate Residential (R7) standards apply until said improvements are completed.

Read the first time: February 15, 2017
Read the second time: March 1, 2017

APPROVED AND ADOPTED this 1st day of March, 2017 by the following vote:


Ayes: Locke, Carlson, Conn, Morten, Scholl

Nays: None



Rick Scholl, Mayor

ATTEST:



Kathy Payne, City Recorder

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Comprehensive Plan Map and Zoning District Map Amendment CPZA.1.16**

APPLICANT: Wayne Weigandt
OWNER: Same as applicant
ZONING: Moderate Residential (R7)
LOCATION: 4N1W-5BC-8400 & 7500, 4N1W-5BD-9100
35090 Pittsburg Rd.
PROPOSAL: Comprehensive Plan Amendment from Suburban Residential (SR) to General Residential (GR). Zone Map Amendment from Moderate Residential (R7) to General Residential (R5).

SITE INFORMATION / BACKGROUND

The approximately 12.57-acre site is primarily undeveloped with one single family dwelling on tax lot 7500 off Pittsburg Road. Tax lot 7500 was annexed with a “developing” overlay, which will affect its density calculations when further development occurs. The subject property has street frontage on N. Vernonia Road along its east side and Pittsburg Road along its north side. In addition, two streets terminate along the south property line: Catarin Street and Camden Street.

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

September 13, 2016 before the Planning Commission

Originally scheduled for October 19, 2016 before the City Council. However, the applicant requested that the date be postponed. The new date is February 1, 2017.

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on August 22, 2016 via first class mail. Notice was sent to agencies by mail or e-mail on August 22, 2016. Notice was published in the The Chronicle on August 31, 2016. Notice was sent to the Oregon Department of Land Conservation and Development on August 10, 2016.

For the February 1, 2017 City Council public hearing, Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on January 13, 2017 via first class mail. Notice was published in the The Chronicle on January 18, 2017.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.20.120(1) – Standards for Legislative Decision

(1) 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, including compliance with the Transportation Planning Rule, as described in SHMC 17.08.060;
 - (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.
- (2) Consideration may also be given to:
- (a) Proof of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

(1) (a) Discussion: Legislative zoning and Comprehensive Plan changes require compliance with the statewide planning goals, including the Transportation Planning Rule (TPR).

The TPR is addressed below under the analysis of criterion (1)(d). This is statewide planning goal 12 (Transportation). Conditions are necessary for compliance.

As for the other statewide planning goals, no goal exception is proposed.

The applicant addresses these goals starting on page 17 of the January 2017 revised narrative.

Note that on page 20 of said narrative, “no development is proposed concurrent [with this proposal].” This is important as a draft preliminary plat subdivision is included. An approval of this request needs to specifically note that this doesn’t approval anything beyond the Comprehensive Plan map and Zoning map. Any subsequent development requires the applicable review process (e.g., a subdivision would require a subdivision preliminary plat application).

(1) (a) Finding(s): The Council adopts the findings of the applicant in regards to the statewide planning goals. Conditions for road improvements are necessary for compliance with Goal 12. This is explained further below.

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(1) (b) Discussion: Legislative zoning and Comprehensive Plan changes require compliance with any applicable federal or state statutes or guidelines.

(1) (b) Finding(s): There are no known applicable federal or state statutes or guidelines.

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(1) (c) Discussion: Legislative zoning and Comprehensive Plan changes require compliance with the applicable comprehensive plan policies, procedures, appendices and maps.

The request is to change the property from Comprehensive Plan designation from Suburban Residential (SR) to General Residential (GR), so review of SHMC 19.12.030 and 19.12.020 is important. **This change is necessary for the R5 zone to be possible.**

The applicant addresses some aspects of the Comprehensive Plan in their January 2017 revised narrative, but not SHMC 19.12.030 and 19.12.020.

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-suburban areas.

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

(a) Allow for the convenient location of grocery stores by the conditional use process.

(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.

(d) Review diligently all subdivision plats in the suburban residential category to ensure the establishment of a safe and efficient road system.

(e) *Designate suburban residential lands as R-7, Moderate Residential, or R-10, Suburban Residential, on the city zoning map.*

19.12.020 General residential category goals and policies.

(1) Goals. To create conditions suitable for higher concentrations of people in proximity to public services, shopping, transportation and other conveniences.

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

(a) Require undeveloped public ways of record to be improved to applicable city standards as a condition to the issuance of building permits for lots that front these ways.

(b) Encourage the infilling of areas presently undeveloped due to topographical limitations to achieve a more efficient use of the land.

(c) Allow for the convenient location of grocery stores by the conditional use process.

(d) Develop rules for multifamily dwellings which are consistent with housing policies.

(e) *Designate general residential lands as R-5, General Residential or AR, Apartment Residential on the city zoning map.*

The Comprehensive Map needs to be changed for the desired R-5 zoning to be possible.

The City can scrutinize where R5 and R7 zoning should be. But the mechanism to do so is the underlying Comprehensive Plan. The Goal of the R7 zone is to target “moderate density semi-suburban areas.” The goal of the R5 zone is to target areas intended “for higher concentrations of people in proximity to public services, shopping, transportation and other conveniences.”

If the city was creating a new comprehensive plan map, review would differ. However, in this case, the city is dealing with an existing Comprehensive Plan map. The bulk of the City’s R5 zoning is on the east side of town (East of US30/Columbia River Highway). However, there is a contiguous mass of R5 zoning (and GR comprehensive plan designation) on the west side (approximately 90 acres) and the subject property abuts that.

(1) (c) Finding(s): The Comprehensive Plan designation of the subject property needs to change from Suburban Residential (SR) to General Residential (GR) in order for the zoning district to change from Moderate Residential (R7) to General Residential (R5).

The council finds that the proposal is not contrary to the comprehensive plan policies, procedures, appendices and maps.

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(1) (d) Discussion: Legislative zoning and Comprehensive Plan changes require compliance with the applicable provisions of the implementing ordinances.

A key implementing ordinance of the Comprehensive Plan is the Community Development Code (St. Helens Municipal Code Title 17).

There are at least two things to consider: 1) The definition of “spot zoning” and 2) the provisions of Chapter 17.156 SHMC, Traffic Impact Analysis.

The City’s Development Code relies heavily on its definitions for implementation of law. One example that applies here is “spot zoning” defined as follows:

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.

Euclidean zoning also known as single-use zoning is a planning tool that helps control land uses in a given jurisdiction. A common practice in North America, including the City of St. Helens, the name comes from of a court case in Euclid, Ohio, which established its constitutionality, *Village of Euclid, Ohio v. Ambler Realty Co.* (1926). The concept of zoning is to help separate uses that are not compatible.

The definition of “spot zoning” is in the current ordinance (ORD No. 2875, adopted in 2003, as amended) and its predecessor (ORD No. 2785, adopted in 1999). The zoning ordinance that predates that (ORD No. 2616, adopted in 1991) lacks the definition. Since this is a fairly recent addition to the city’s zoning code, its inclusion appears to be purposeful. The purpose is to ensure zoning operates appropriately, which includes changes over time.

Generally, the Commission’s concern of this proposal pertained to compatibility and zoning appropriateness. The Commission felt (on at 4-2 vote for denial of the proposal) that the change was not compatible. This was in part due to the R5 zone allows a wider array of residential uses compared to the R7 zone. For example, attached single-family dwellings and multi-dwelling units (apartment complexes with 3 or more units) are possible in the R5 zone, but not R7. The Commission was also concerned about the zoning pattern in coming to this conclusion.

Given the size of the subject property (i.e., not just a small lot or two), the amount of adjacent R5 zoning and GR comprehensive plan designation (as described above) and that there are attached single-family dwellings within approximately 550 feet to the south (in R5 zoning) of the subject property, and that Pittsburg Road (a Minor Arterial classified street per the City’s Transportation Systems Plan) separates lower density properties to the north (which act as a buffer from the Urban Growth Boundary), an argument that this is not a “spot zoning” can be made.

Note that the subject property, based on review of past zoning maps, was not annexed into the city, until around 1999 or after. However, the 1978 Comprehensive Plan Map shows it being designated as Rural Suburban Unincorporated Residential (RSUR), which per today’s code, would typically allow R10 or R7. Obviously, the decision authority at that time chose R7.

(1) (d) Finding #1: The council finds that the proposed zone change is not a “spot zoning” as is defined in the Development Code.

(1) (d) Discussion, continued: Chapter 17.152 SHMC requires a traffic impact analysis for certain zoning or comprehensive plan map amendments. This is also intended to comply with the Transportation Planning Rule, discussed above.

The applicant had a traffic impact analysis prepared by Lancaster Engineering (dated December 19, 2016), to address this. This analysis compares the potential vehicular trip generation between the current R7 zone and R5 zone. Only one functionality issue is identified in the study. The analysis shows that the change would reduce the operational standard of the Columbia Boulevard/N-S Vernonia Road intersection below the city’s standard. The analysis also indicates two mitigation scenarios to alleviate this:

- Adequate roadway width is available along Columbia Boulevard to accommodate an additional travel lane. By restriping the westbound approach to include a shared left turn/through lane and a right-turn lane the intersection is projected to operate acceptably.
- A trip cap of 92 evening peak hour trips may be conditioned on the site before the study intersection is projected to operate below acceptable standards.

In order to approve the proposal, these need to be conditions of approval. Staff thinks its administratively cleaner to do the intersection improvements. In that case, the improvements should be done within a year (or less as determined by the Council) from the date the ordinance is adopted; otherwise the ordinance becomes void and the zoning map and comprehensive plan map change back to the original.

(1) (d) Finding #2: The Council finds that the transportation planning rule and the provisions of Chapter 17.156 SHMC are met with a condition that the intersection improvements identified in the TIA are completed to city standards and as approved by the city within 1 year of the adoption ordinance. Otherwise, the ordinance becomes void and the zoning map and comprehensive plan map change back to their original zoning district and comprehensive plan map designation.

In addition, no development shall occur under the R5 standards until the intersection improvements are completed. Otherwise, development could occur under the R5 zone and if the intersection improvements are not done and the proposal becomes void, the R5 development was done before its impacts were addressed “for free.”

* * *

(2) (a) Discussion: Consideration of legislative zoning and Comprehensive Plan changes may also include analysis of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or implementing ordinance.

Staff is not aware of any error.

The applicant's narrative discusses a change in the community beginning on page 7. Note that the applicant indicates city planning maps from the late 1970's. The City's oldest "modern" (post Oregon SB 100) zoning and comprehensive plan maps date back to 1978.

(2) (a) Finding(s): The Council adopts the findings of the applicant in regards to a change in the community to support the proposal. In particular, the need for affordable housing.


CONCLUSION & DECISION

Based upon the facts and findings herein, the City Council approves the requested comprehensive plan map and zoning district map and amendments with the following conditions:

- 1) This zoning map and comprehensive plan map amendment do not act to approve any subsequent development of the site. Any subsequent development requires the applicable review process (e.g., a subdivision would require a subdivision preliminary plat application).
- 2) The intersection improvements identified in the TIA are completed to city standards and as approved by the city within 1 year of the adoption ordinance. Otherwise, the ordinance becomes void and the zoning map and comprehensive plan map change back to their original zoning district and comprehensive plan map designation.
- 3) No development of the subject property shall be allowed under the R5 zoning district standards until the intersection improvements per condition 2 are met. The R7 standards apply until the improvements are completed.



Rick Scholl, Mayor



Date