

City of St. Helens
ORDINANCE NO. 3293

AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN
PROPERTY AT 35082 MAPLE STREET

WHEREAS, applicant Travis James has requested to annex to the City of St. Helens certain property at 35082 Maple Street. This property is also described per **Exhibit A** and depicted per **Exhibit B**;

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 17, 2023 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 Suburban Residential, R10.

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

Section 5. The land is classified as "Established" 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.2.22 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: June 7, 2023
Read the second time: June 21, 2023

APPROVED AND ADOPTED this 21st day of June, 2023 by the following vote:

Ayes:

Nays:

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 NW $\frac{1}{4}$ of Section 8, Township 4 N., Range 1 W., Willamette Meridian, Columbia County, Oregon, more specifically described as follows:

Beginning at a point, which is the Northwest corner of Lot 23 of the Firlok Park Subdivision, Columbia County, Oregon;

Thence, along the West line of said Lot 23, South $0^{\circ}33'$ West a distance of 5.05' to the **True Point of Beginning**;

Thence, North $81^{\circ}37'$ West a distance of 36.83' to a point;

Thence, South $0^{\circ}33'$ West to a point on the South line of Lot 22 of said Firlok Park Subdivision;

Thence, along said South line, North $62^{\circ}04'$ East a distance of 17.10' to an interior corner of said Lot 22;

Thence, continuing along said South line, South $67^{\circ}15'$ East a distance of 23.18' to the Southwest corner of Lot 23 of said Firlok Park Subdivision;

Thence, along the South line of said Lot 23, South $67^{\circ}15'$ East a distance of 132.72' to the most Southerly corner of said Lot 23;

Thence, North $62^{\circ}23'$ East a distance of 36.43' to the Southeast corner of said Lot 23;

Thence, along the East line of said Lot 23, North $12^{\circ}26'$ East a distance of 107.70' to the most Easterly corner of said Lot 23;

Thence, continuing along said East line, North $52^{\circ}22'$ West a distance of 66.20' to an interior corner of said Lot 23;

Thence, continuing along said East line, North $10^{\circ}54'$ West a distance of 26.77' to an interior corner of said Lot 23;

Thence, continuing along said East line, North $1^{\circ}10'$ West a distance of 125.50' to the Northeast corner of said Lot 23;

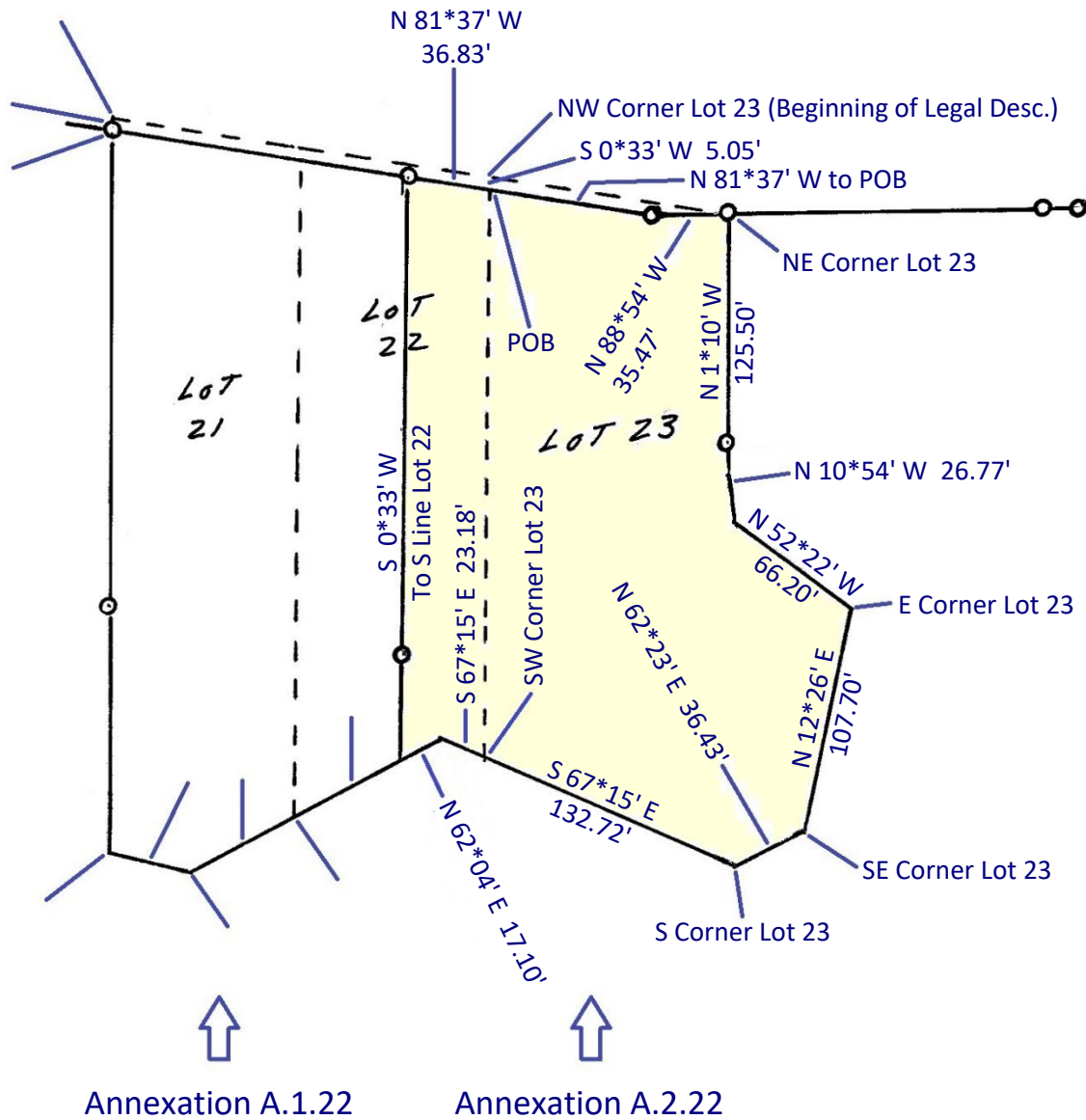
Thence, North $88^{\circ}54'$ West a distance of 35.47 feet to a point;

Thence, North $81^{\circ}37'$ West to the **True Point of Beginning**.

EXHIBIT B

S.W. 1/4 N.W. 1/4 SEC.8 T.4N. R.1W. W.M.

COLUMBIA COUNTY



CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Annexation A.2.22

APPLICANT: Travis Jenkins

OWNERS: Same

ZONING: Columbia County's Single-Family Residential (R-10)

LOCATION: 35082 Maple Street; 4N1W-8BC-1900

PROPOSAL: The property owner filed consent to annex because they desire to connect to City sanitary sewer.

SITE INFORMATION / BACKGROUND

The subject property is an irregular shaped lot at 51,400 square feet or 1.18 acres. It is developed with a detached single-family dwelling, but a permit has been issued through Columbia County for a new detached single-family dwelling (County Permit No. 192-22-001312-DWL). The new dwelling is currently under construction. McNulty Creek runs along the southern property line. The site is accessed off Maple Street, which is a developed local classified street without frontage improvements (sidewalks and curb) abutting the property, although it is developed with frontage improvements across the street. Maple Street is a Columbia County jurisdiction road. The parcel is generally flat sloping towards McNulty Creek with large trees bordering the southern property line.

Abutting Zoning

North – City Moderate Residential (R7)

East - County's Single-Family Residential (R-10) and City Mixed Use (MU)

South - County's Single-Family Residential (R-10) and City Mixed Use (MU)

West – County's Single-Family Residential (R-10)

PUBLIC HEARING & NOTICE

Hearing dates are as follows:

April 11, 2023 before the Planning Commission

May 17, 2023 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on March 20, 2023 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 29, 2023. Notice was sent to the Oregon Department of Land Conservation and Development on February 21, 2023 via e-mail.

AGENCY REFERRALS & COMMENTS

Columbia County Roads Department: The applicant already has an active access permit for this property. The applicant must complete all access improvements and meet all City of Saint Helens standards to obtain final sign off for their access.

Columbia County Land Development Services: Has no concerns about the annexation of this property that is located within the City of St. Helens' UGB and is adjacent to city limits.

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). Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1).

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. Sewer and water capacity to serve this property is addressed in more detail under SHMC 17.28.030 (1) below. By this review process, the proposal complies with this aspect of the Comprehensive Plan. There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC. Zoning and Comprehensive Plan designations are addressed under SHMC 17.28.030 (1)

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 Suburban Residential (R10) or Moderate Residential (R7).**

Generally, when comparing potential land use impact on transportation facilities, the *reasonable worst case scenario* for the existing and proposed designation/zone are considered. The potential land uses are very similar for both the City and County. The City's zoning is comparable to the County with regards to the possible intensity of uses allowed and potential vehicular trips generated. Thus, this proposal will not affect an existing or planned transportation facility.

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

SHMC 17.28.030 (1) – Annexation criteria

- (a) Adequate public facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and
- (b) Comply with comprehensive plan amendment standards and zoning ordinance amendment standards and not be in conflict with applicable comprehensive plan policies and implementing ordinances; and
- (c) Complies with state laws; and
- (d) Abutting roads must meet city standards or property owner will be required to sign and record an irrevocable consent to local improvement district; and
- (e) Property exceeding 10 acres in gross size must show a need on the part of the city for such land if it is designated residential (e.g., less than five years' supply of like designated lands in current city limits).

Discussion: (a)

Water - The property is within the McNulty water service district, which serves the existing dwelling. McNulty water will serve the new dwelling as well.

Sewer - The site is not currently hooked to City sewer. Access to the City sewer is available in Maple Street abutting the property. The County issued a building permit for a new detached single-family dwelling (County Permit No. 192-22-001312-DWL) which is currently under construction. As part of the approval, the County required the new dwelling to connect to the City's sewer.

With regards to *capacity*, 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. Sanitary sewer *capacity* is adequate.

With regards to *conveyance*, the city adopted a new **Wastewater Master Plan (WWMP)** in November 2021 that identifies undersized trunk lines already operating at or above capacity that further development of the subject property (e.g., land division creating new parcels) would depend on. The WWMP can be found here:

<https://www.sthelensoregon.gov/engineering/page/public-infrastructure-master-plans>

Sewer pipes are considered "at capacity" when peak flows exceed 85% of the full depth of the pipe in accordance with industry standards. This depth is based on the maximum depth of flow ratio (d/D), where "d" is the depth of flow and "D" is the pipe diameter. The WWMP includes an exhibit—Figure 18—that shows that the sanitary sewer main route between the subject property to the wastewater treatment plant has multiple areas that are operating at or above 100%, which is much greater than the industry and city standard 85% "at capacity" flows.

This annexation may still be approved given the sanitary sewer conveyance circumstances based on the following:

First, some of the issues are actively planned to be resolved. City Public Works and Engineering staff have begun to address the necessary sanitary sewer infrastructure upgrades having received a loan with Oregon DEQ's State Revolving Fund Program to fund both priority 1 projects (in basins 4 and 5) and priority 3 projects in basin 6. Basin 6 is applicable to this proposal and will resolve much of the conveyance deficiency between the subject property and the WWTP. City Public Works and Engineering indicate an anticipated 4-year timeframe (from October 2022, when DEQ approved a \$16.4 million loan) for completion of these upgrades.

Second, further development of the subject property is unlikely in the near future given that the remaining land outside for future land division and development is so limited. The property is already developed with a single-family dwelling, in addition to construction for the new a new single-family dwelling. Moreover, the natural constraints (flood plain and sensitive lands) addressed under SHMC 17.112.020 below are additional impediments to redevelopment.

Third, if the subject property was redeveloped with a proposal that required a land use permit (e.g., Site Development Review or Partition) while the conveyance issue still exists, the city may implement a proportional fee as a condition of approval to contribute to the conveyance projects in the WWMP to help offset the deficiency. Because single-family dwellings and duplexes are

not subject to Site Development Review per SHMC 17.96.020, the fee would not apply to that type of development. As a property that has an existing detached single-family dwelling and is already approved to be developed with another, this fee would not apply to this annexation.

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) The land use of the subject property is a detached single-family dwelling with a new 2nd dwelling under construction. This is a permitted use in the corresponding zoning district.

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 addressed under SHMC 17.28.030 (1) above. There is no evidence that adequate infrastructure will not be available to serve the annexed area if redeveloped in the future.

- ***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 Maple Street. Maple Street is classified as a local street with a minimum right-of-way width of 50', which is met. There are no frontage improvements (sidewalks and curb) abutting the subject property. 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 or right-of-way dedications. As such, no improvements are warranted with this proposal. At the time of future land division and/or development, these items would be considered.

(e) The subject property is not greater than 10 acres in gross size. An 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 City's options for zoning are Suburban Residential (R10) or Moderate Residential (R7). The Planning Commission recommended Suburban Residential (R10). The City Council agreed. The Comprehensive Plan designation would be Suburban Residential (Incorporated) (SR).

Finding: Upon annexation, the subject property's Comprehensive Plan designation shall be Suburban Residential (Incorporated) and zoned Suburban Residential (R10).

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: In addition to already being developed with a single-family dwelling, this property is subject to natural resource protection measures under Goal 5 due to the presence Riparian Corridor R-MC-12 with a 50' upland protection zone and 100-year flood plain which constrains

approximately the southern half of the property. Therefore, this property is not considered buildable land under OAR 660-008-0005.

Finding: The subject property should be designated as “established.”

CONCLUSION & DECISION

Based upon the facts and findings herein, and the recommendations of staff and the Planning Commission, the City Council approves this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Suburban Residential (SR), be zoned Suburban Residential (R10), and be designated as “established” with the condition that:

All Columbia County Road Department Access requirements must be completed.

Rick Scholl, Mayor

Date