City of St. Helens
ORDINANCE NO. 3262

AN ORDINANCE TO ANNEX AND DESIGNATE THE ZONE OF CERTAIN PROPERTY AT 35526 FIRWAY LANE

WHEREAS, applicant Mark and Elizabeth Sell have requested to annex to the City of St. Helens certain property at 35526 Firway Lane. This property is also described as **Lots 11 and 12, Block 2 of the Golf Club Addition to St. Helens, Columbia County, Oregon** and depicted per **Exhibit A.**

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 March 17, 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 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 as **Lots 11 and 12, Block 2 of the Golf Club Addition to St. Helens, Columbia County, Oregon** and depicted in **Exhibit A** 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 Highway Commercial (HC).

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

Section 5. In support of the above annexation and amendments described herein, the Council hereby adopts the Annexation A.2.20 Findings of Fact and Conclusions of Law, attached hereto as **Exhibit B** and made part of this reference.

Section 6. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: April 7th, 2021

Read the second time: April 21st, 2021

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

Ayes:

Nays:

Rick Scholl, Mayor

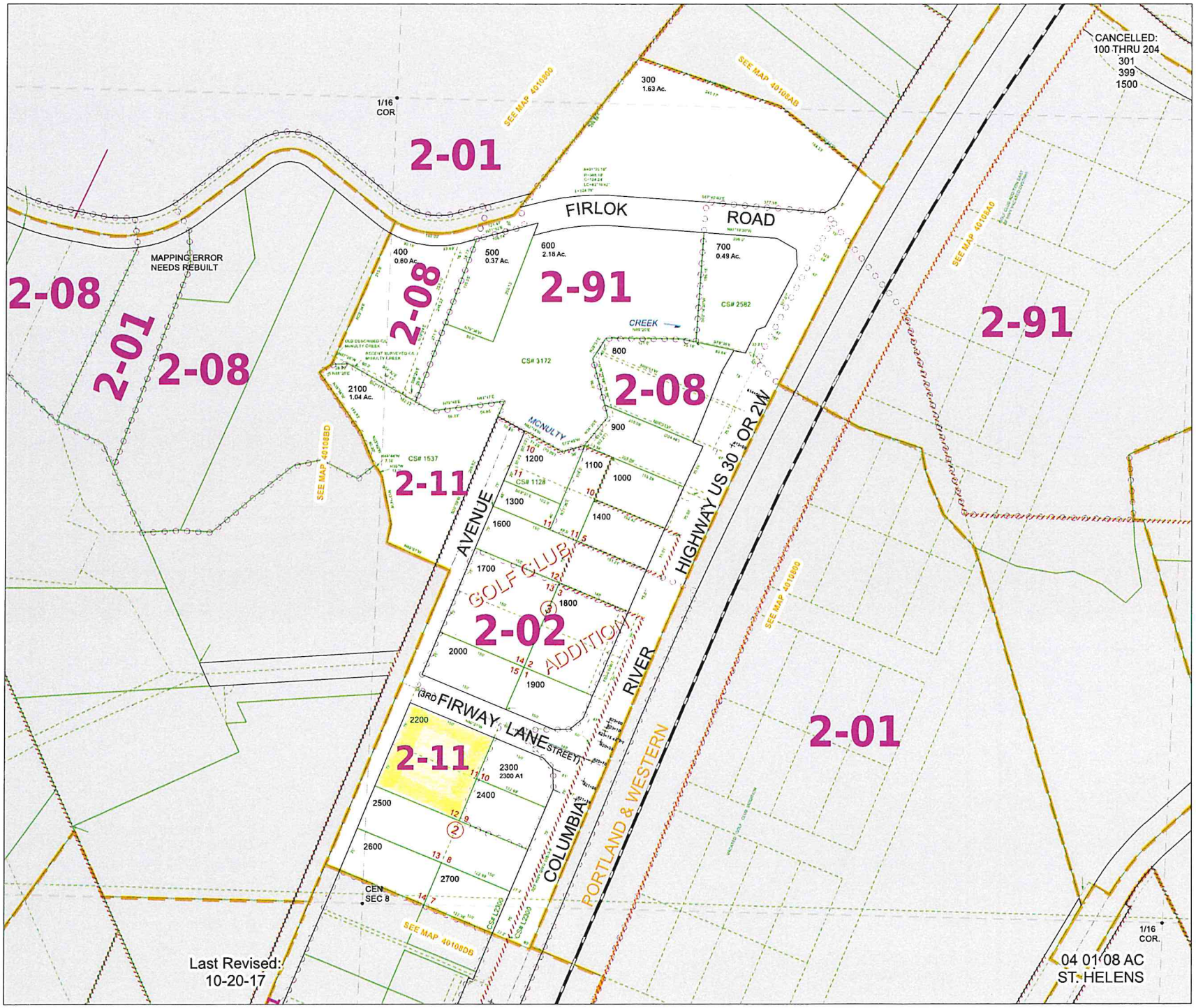
ATTEST:

Kathy Payne, City Recorder

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

S.W.1/4 N.E.1/4 SEC.8 T.4N. R.1W. W.M.
COLUMBIA COUNTY
1" = 100'

04 01 08 AC
ST. HELENS



Last Revised:
10-20-17

04 01 08 AC
ST. HELENS

EXHIBIT A

CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONSLUSIONS OF LAW
Annexation A.2.20

APPLICANT: Mark & Elizabeth Sell

OWNERS: Same

ZONING: Columbia County's Commercial-General (C-3)

LOCATION: 35526 Firway Lane, 4N1W-8AC-2200

PROPOSAL: The property owner filed consent to annex because they desire to be within City limits.

SITE INFORMATION / BACKGROUND

The subject property is developed with a detached single-family dwelling on a square-shaped, corner lot at 22,500 square feet or 0.52 acres. It is made of two lots from the Golf Club Addition Subdivision. It is accessed by Firway Lane with a paved driveway to a covered carport (pictured on right below). Firway Lane is a developed local classified street without sidewalks on either side, but it does have a curb and gutter along the abutting property. The subject property also abuts Kavanaugh Street right-of-way to the west, which is a gravel undeveloped right-of-way also lacking frontage improvements (although it does have a curb abutting the subject property). Both streets are within the County's jurisdiction. The dwelling is connected to McNulty water and not connected to City sewer, although City sewer is available in Firway Lane and Kavanaugh Street.

Subject property on left. Undeveloped Kavanaugh Street right-of-way pictured on right.

Subject property on left. Driveway approach shown with curb and gutter along Firway Lane.

Abutting Zoning

North – City's Highway Commercial (HC)
East – City's Highway Commercial (HC)
South - County's Commercial-General (C-3)

West - County's Commercial-General (C-3) & County's Single-Family Residential (R-10)

PUBLIC HEARING & NOTICE

Hearing dates are as follows:
February 9, 2021 before the Planning Commission
March 17, 2021 before the City Council

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject properties on January 20, 2021 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 January 27, 2021. Notice was sent to the Oregon Department of Land Conservation and Development on January 5, 2021 via e-mail.

AGENCY REFERRALS & COMMENTS

The Columbia County Planning Manager had no objection to this annexation.

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 Highway Commercial. 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) and 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 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 Commercial-General (C-3) and the City's only zoning option given annexation is Highway Commercial.**

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 site is currently connected to McNulty Water.

Sewer - The site is not currently connected to City 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. 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.

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. This is not a permitted use in the City's Highway Commercial zoning district, but the use can continue, subject to the City's non-conforming use rules. The applicant is aware of the creation of a non-conforming use of the property upon annexation into the City.

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 Statues (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."

The subject property is served by McNulty water. Should the applicant desire a connection to the City 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 Firway Lane and Kavanaugh Street. Both are classified as local streets without sidewalks 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 or right-of-way dedications. As such, no conditions are warranted.

The existing right-of-way widths of 50 feet are adequate for the City's local street standards.

(e) The subject property is not greater than 10 acres in gross size. 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 Highway Commercial (UHC). The City's only zoning option given annexation is Highway Commercial (HC). The Comprehensive Plan designation would thus be Highway Commercial (Incorporated) (HC).

Finding: Upon annexation, the subject property's Comprehensive Plan designation shall be Highway Commercial (Incorporated) and zoned Highway Commercial (HC).

SHMC 17.112.020 – Established & Developing 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.

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 does not apply.

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 Highway Commercial (Incorporated) HC and be zoned Highway Commercial (HC).

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

Rick Scholl, Mayor _____ Date _____