

CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Annexation A.1.24

DATE: April 23, 2024
TO: DLCD
FROM: Jennifer Dimsho, AICP, Associate Planner
APPLICANT: JLJ Earthmovers, LLC
OWNERS: IVES J & L & SCHLUMPBERGER R & T
ZONING: Columbia County’s Light Manufacturing, M-2
LOCATION: 2180 Gable Road; 4N1W-9BB-100
PROPOSAL: The property owner filed consent to annex because they desire to use the City’s development rules

SITE INFORMATION / BACKGROUND

The subject property is 3.91 acres abutting Gable Road. It is accessed by Gable Road with one semi-paved asphalt driveway. Gable Road is a developed minor arterial-classified street without frontage improvements (sidewalks, curb, and landscape strip) abutting the subject property. The site is partially developed with a 6’ high fence with barbed wire surrounding a portion of the lot. There is an identified wetland on the property by DSL WD# 2017-0028, which is identified as Wetland MC-23 on the St. Helens Local Wetland Inventory. It is not considered a “significant” wetland per the SHMC, though state and federal requirements still apply. It encompasses the northwest corner of the lot, which is also where most of the vegetation on the lot is located. A rail spur runs along the back side of the property.

Years ago, the property was developed with what is assumed to be a single-family dwelling. Per County Assessor information in 2013 the home structure had been vacant for many years and was in poor condition. The remaining structure was demolished in 2015. There is no known lawful use of land since this dwelling was functional (sometime prior to 2013) and used, to today.

In 2017, applicants and property owners Ron Schlumpberger and Jim Ives applied for a Site Design Review with the County for RV and boat storage with an enclosed storage building (County file DR 17-04). A holding tank was proposed for sanitary sewer. This application was received by the County on April 12, 2017, with a hearing date scheduled for June 5, 2017. The application was withdrawn by the applicant on May 24, 2017, via email. City staff was aware of this at least by June 6, 2017, when the email chain was received by the City.



Based on the photo herein dated April 24, 2017, fence improvements had started to be installed before and land use approval for the property and before application withdrawal. The fencing improvements were completed. At least, the applicant worked with the City, so the fencing was installed to have an access point that could be potentially be approved. However, no right-of-way permit has been obtained and no paving has occurred. Gable Road, at this location, is a city jurisdiction road. For several years after the 2017 efforts, the land sat idle but with the

fence installed.

In 2023, JLJ Earthmovers, LLC applied for a Land Use Compatibility Statement (LUCS) Planning Compliance Review for a contractor's yard. Oregon DEQ typically requires a LUCS for certain activities, most commonly a 1200-C permit. It was authorized by Columbia County planning staff who noted on the LUCS that the proposal will require Site Design Review.

Towards the end of 2023/beginning of 2024 staff noticed storage activity taking place. Staff had conversations with John Jersey of JLJ Earthmovers before the Christmas and New Year's holidays given the lack of land use approval for any use of the site. After no actions, City staff filed a complaint with the County via their online system on February 12, 2024. Further conversations with JLJ Earthmovers followed. The city reviewed the consent to annex on February 28, 2024.

The reason for the annexation in this case is to use the City's land use rules. To use the site as a storage yard, the City's normal process is administrative, whereas the County processes includes a public hearing before its Planning Commission given the size of the site. The County's process is not desired by the applicant. So, the intent is to annex and use the city's land use rules to grant the use and remedy this enforcement issue.



Photo taken March 29, 2024 looking northeast at the subject property from Gable Road.

The applicant filed a Site Development Review (SDR.2.24) with the city on April 10, 2024, for a storage site with no buildings and to relocate the proposed access point, that in conjunction with this annexation, is an effort to achieve compliance upon annexation.

Abutting Zoning

North - City Heavy Industrial (HI)

East – City Light Industrial (LI)

South – City General Commercial (GC) and County Light Manufacturing (M-2)

West – City Light Industrial (LI)

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission for *recommendation to the City Council*: May 14, 2024. Public hearing before the City Council: June 19, 2024.

Notice of this proposal was sent to the Oregon Department of Land Conservation and Development on April 4, 2024, 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 17, 2024, via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on May 1, 2024, in The Chronicle newspaper.

AGENCY REFERRALS & COMMENTS

Columbia County Land Development Services: No concerns with the approval of this annexation as proposed.

Columbia County Public Works: No comments or concerns with this annexation. It looks like there are no County Roads involved. Gable Road is the City’s jurisdiction at this property.

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 Light Industrial (ULI). Applicable designation and zoning district for annexation are discussed later.

There is no known conflict with the general Comprehensive Plan policies identified in Chapter 19.08 SHMC. Note that SHMC 19.08.030 discusses public services and facilities and includes utility provisions (e.g., water and sewer) as well as services such as police and library. In sum, all services are intertwined; the consent to annexation allows connection to City sewer to support existing and future development on the subject property, and, once annexed, all other City services/facilities. By this process, the proposal complies with this aspect of the Comprehensive Plan.

There is no known conflict with the specific Comprehensive Plan policies identified in Chapter 19.12 SHMC.

There is no known conflict with the addendums to the Comprehensive Plan which includes Economic Opportunities Analysis (Ord. No. 3101), Waterfront Prioritization Plan (Ord. No. 3148), the Transportation Systems Plan (Ord. No. 3150), the Corridor Master Plan (Ord. No. 3181), and the Parks & Trails Master Plan (Ord. No. 3191), 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 inconsistency 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 Light Manufacturing, M-2 and the City zoning option given annexation is Light Industrial.**

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 not currently connected to City water. The nearest City water line is approximately 205 feet away. 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 – City sewer is not in the immediate vicinity of the subject property. There are possible land uses for the site which would not require a connection to city sewer (e.g., the adjacent property at 2130 Gable Road has an approved holding tank for equipment storage, a truck maintenance building, and administrative office uses).

However, should the property owner wish to connect the property to City sewer in the future, the City's sewer system has notable system-wide conveyance issues as identified in the 2021 Wastewater Master Plan (WWMP). City Public Works and Engineering are in the process of designing and upgrading the system to address the conveyance deficiencies. If the property is developed with a proposal which requires a land use permit and requires connection to the City's sewer system 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.

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

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

(b) The site is currently vacant. 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 four sides of the subject property.

Although undertaking an annexation is authorized by state law, the manner in which a city proceeds with annexation is also dictated in the city charter. ORS 222.111(1) references a city's charter as well as other ORS. St. Helens' Charter requirements pertaining to annexations are noted above.

Per ORS 222.111(2) an annexation may be initiated by the owner of real property or the city council. This annexation request was initiated by the property owner. Further, ORS 222.125 requires that 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."

There is no evidence that adequate infrastructure cannot be made available to serve the annexed area if developed 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 Gable Road, which is a City road at this location.

The City's Transportation Systems Plan designates Gable Road as a Minor Arterial and subject to Minor Arterial standards. The existing right-of-way width for Gable Road is sufficient for this classification. Therefore, right-of-way dedication is not necessary.

Along the subject property, Gable Road is improved with asphalt, but lacks frontage improvements such as sidewalk and curb along the subject property's frontage. 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. As such, no improvements are warranted with this proposal. At the time of future development, this would be considered. However, there is an access point that is not approved by the City and is being used. All approvals for access and right-of-way improvements shall be obtained as a condition of this annexation. There are no such approvals currently.

(e) The subject property is not designated residential. 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 Light Industrial (ULI). Upon annexation, the Comprehensive Plan designation would thus be Light Industrial (Incorporated).

Finding: The subject property shall be designated Light Industrial (Incorporated), LI and zoned Light Industrial (LI) upon annexation.

SHMC 17.112.020 – Established & Developed Area Classification criteria

- (1) Established Area.
 - (a) An "established area" is an area where the land is not classified as buildable land under OAR 660-08-0005;
 - (b) An established area may include some small tracts of vacant land (tracts less than an acre in size) provided the tracts are surrounded by land which is not classified as buildable land; and
 - (c) An area shown on a zone map or overlay map as an established area.
- (2) Developing Area. A "developing area" is an area which is included in the city's buildable land inventory under the provisions of OAR except as provided by subsection (1)(b) of this section.

Discussion: OAR 660-008-0005 generally defines "Buildable Land" as vacant residential property not constrained by natural hazards or resources, and typically not publicly owned. The subject property is not zoned residential. This provision does not apply.

Finding: This provision is not applicable.

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends approval of this annexation and that upon annexation, the subject property have a Comprehensive Plan designation of Light Industrial (incorporated), LI, and be zoned Light Industrial, LI, with the condition that:

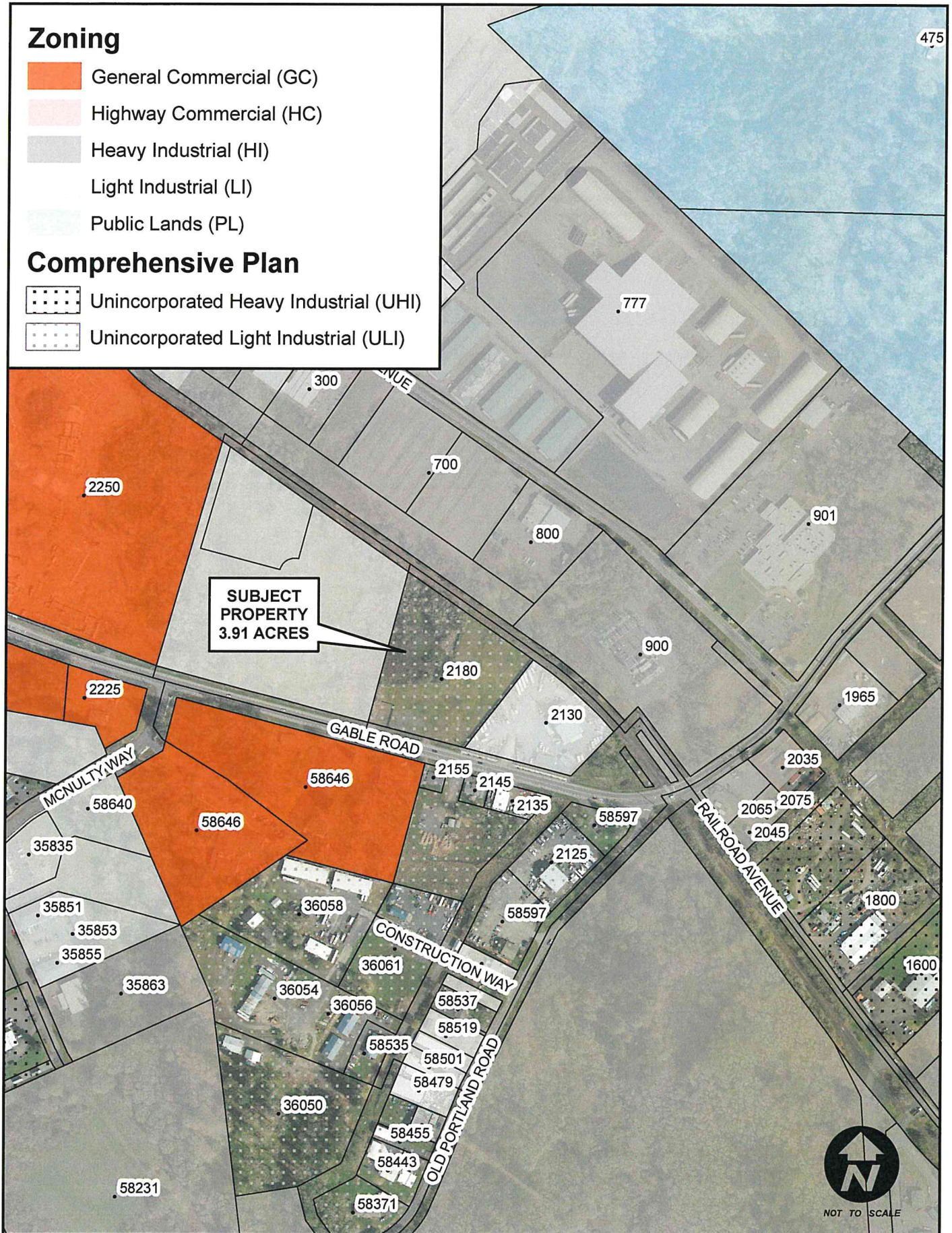
Any Gable Road access point, including one in use at the SW corner of the subject property, requires approval by the City and associated improvements including but not limited to paving prior to use. Use without such approval is contrary to this condition and applicable City law.

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

Attachments

- *Aerial Map*
- *Email chain between Ron Schlumpberger (owner/applicant) and Ginger Davidson (County Planner) regarding County file DR 17-04, withdrawal and related land use matters between May 24, 2017 and May 31, 2017*
- *Approved access concept for subject property initialed by Ron Schlumpberger on May 2, 2017*

Annexation A.1.24 Aerial Map



Jacob Graichen

From: Davidson, Ginger <ginger.davidson@co.columbia.or.us>
Sent: Tuesday, June 06, 2017 12:52 PM
To: Jacob Graichen
Subject: Fwd: Gable Rd Property

----- Forwarded message -----

From: Davidson, Ginger <ginger.davidson@co.columbia.or.us>
Date: Wed, May 31, 2017 at 12:05 PM
Subject: Re: Gable Rd Property
To: "Schlumpberger, Ron" <ron.schlumpberger@nfp.com>

Hi Ron-

The property needs to be used for a commercial/industrial use (anything listed as allowed or permitted in the M-2 zoning category). Residential storage for personal use is not listed as an allowed use. You will need to get approval for a storage business in order to store stuff on the property.

Regards,
Ginger

On Fri, May 26, 2017 at 12:23 PM, Davidson, Ginger <ginger.davidson@co.columbia.or.us> wrote:

Hi Ron-

In regards to your first question, I need to talk to Glen about it and he has been sick. Regarding the second question, you will need to do a partition and hire a surveyor. The City will most likely have both properties share access onto Gable Road (It is the City's decision because Gable is under the jurisdiction of the City and the property is in the UGB). I will call or email next week.

Ginger

On Wed, May 24, 2017 at 12:37 PM, Schlumpberger, Ron <ron.schlumpberger@nfp.com> wrote:

Ginger,

A couple of questions came to mind if you could answer these maybe I would know better on what direction, as being we are kind of in limbo because of our partnership it is tough to know what exactly we are going to do.

- 1) If we just use this personally ourselves for our own storage of our own vehicles, trailers, etc and not as a commercial storage do we need to do anything, until such time we sell the property, or settle on dividing it.
- 2) If we were to divide it down the middle, would we be able to do a lot line adjustment? And be able to have its own access utilizing the two existing approaches that access the property now?

Thank you!

Ron

From: Davidson, Ginger [mailto:ginger.davidson@co.columbia.or.us]
Sent: Wednesday, May 24, 2017 12:02 PM
To: Schlumpberger, Ron <ron.schlumpberger@nfp.com>
Subject: Re: Gable Rd Property

External Email

Hi Ron,

For the Type I Site Design Review, I will need a new application filled out and the paperwork (narrative and plot plan) updated with your intentions. In addition, update the plot plan to include the following:

- (1) Location and dimensions of the curb cut providing access to Gable Road.
- (2) Individual RV/boat storage spaces, locations and dimensions.
- (3) Interior traffic circulation patterns with dimensions.
- (4) Fencing, gate and screening locations in regards to property lines.

I am still working on getting the discounted pricing due to the partial refund for your withdrawn Type II. Will get back to you on the cost.

Regards,

Ginger

On Wed, May 24, 2017 at 9:42 AM, Davidson, Ginger <ginger.davidson@co.columbia.or.us> wrote:

Ron-

Ok. Per your request your Type II Design Review application has been withdrawn and is now off the June 5 Planning Commission meeting schedule. I will be in contact with you about how to proceed.

Regards,

Ginger

On Wed, May 24, 2017 at 8:44 AM, Schlumpberger, Ron <ron.schlumpberger@nfp.com> wrote:

Ginger,

I really don't want to go through the planning commission if our request doesn't require it, which I believe from what we've talked about just storage of boats and rv's does not require it.

Please go ahead and drop our planning II and proceed with Planning I applying partial credit, and if you can let me know what areas you would want more detail on.

Thank you!

Ron

Ron Schlumpberger

Vice President, CPCU

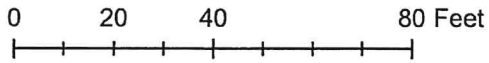
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SUBJECT PROPERTY

AREA OUTSIDE FENCE TO BE MAINTAINED

PROPERTY LINE

60' FENCE

GATE

60' FENCE

PROPERTY LINE

EDGE OF ROADWAY

GABLE ROAD

40' WIDE APPROACH

RS. 5-2-17