



**Proposal:** The City is proposing to change the Comprehensive Plan Map designation for three properties totaling about 150 acres along the western edge of the City from a designation of Agricultural to Residential. The Zoning designation of Rural (RU) is not proposed to be changed at this time.

## I. BACKGROUND

- A. Applicant: City of Millersburg
- B. Location: The farmed property west of Woods Road. Tax Lot 404, 30.53 acres, Tax Lot 200, 57.24 acres, plus a portion of tax lot 300 which is 61.63 acres for a total of about 150 acres. See Exhibit A.
- C. Review Type: The proposed Comprehensive Plan Map Amendment requires a hearing before the Planning Commission whereby the Commission makes a recommendation to the City Council. A subsequent hearing before the City Council is required for a final action, including the adoption of an ordinance. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA). This is considered a quasi-judicial land use action.
- D. Public Notice and Hearing: A notice was posted in City Hall. A separate notice was sent to the Department of Land Conservation and Development (DLCD) on September 29, 2021. Information related to the hearing is posted on the City's website here - <http://cityofmillersburg.org/planning-commission/>. A hearing notice was sent to every surrounding tax address on January 29, 2022.
- E. Review Criteria: Section 5.09.050
- F. Current Zoning: Rural (RU)
- G. Property: Tax Lot 404, 30.53 acres, Tax Lot 200, 57.24 plus a portion of tax lot 300 which is 61.63 acres for a total of 149.4 acres.
- H. Background: In October of 2020 the City adopted a new Land Use Development Code. At the same time the City adopted revisions to the Comprehensive Plan (Comp Plan). This was to assure the two were consistent. As part of the changes to the Comp Plan the City created an all new separate Comp Plan Map.

**What is a Comp Plan Map?** Not many outside the Planning profession are too familiar with what a Comp Plan Map is. A Comp Plan Map is more conceptual than a Zoning Map. A Zoning Map implements the Comp Plan Map. Comp Plan maps designate what kinds of uses should be in given areas of the City, but at a very general level.

For example, the Comp Plan Map has designations like 'Residential' or 'Industrial.' Zoning gets more detailed with zones like 'Residential Medium,' 'Residential Low' and 'Rural.' All three of these would be consistent with the Residential Comp plan designation. Likewise, the Zoning Map includes zones such as 'Light Industrial' and 'General Industrial,' both of which are consistent with the Comp Plan designation of Industrial. Having that said, the 'Rural Residential' Zone would not be consistent with the Industrial Comp Plan designation.

It is also important to note that some zones can be consistent with more than one Comp Plan Land Use Designation. For example, the City has a Rural Zone that is consistent with both the Agricultural and Residential Comp Plan Designation.

Previously the Zoning Map acted as both the Comprehensive Plan Land Use Map and the Zoning Map. This is often called a one map system. The City changed to a two map system (where the Zone Map and the Comprehensive Plan Map are different from each other) in order to allow the City and land owners to change zoning designations without having to *also* change the Comprehensive Plan Land Use Map.

**Agriculture in the City.** One more key element should be explained. The Oregon Planning system is unlike most others in the Country. The system was designed in the 1970's, partially to protect Oregon from the kind of sprawl that was happening in California and other western states. Oregon created very clear and simple limits to where urban uses should be and where agricultural uses should be. The tool used was the Urban Growth Boundary, or UGB. This was supposed to act like a wall around cities, keeping urban uses within cities and farmland clearly protected from developers outside cities. Cities are only allowed to grow the UGB if they absolutely have to, in order to accommodate growth projections. So, the entire system is designed to have farms outside the UGB, and typical home development (including 10,000 square foot lots), as well as businesses and industry inside the UGB. The system was never designed to allow or protect long term agricultural uses

inside a UGB; in fact, the system is *designed* to eliminate agricultural uses within a City UGB over the long term. Any agricultural uses within a UGB are a temporary condition intended to be a holding area for more *urban* development.

**The Agriculture Comp Plan Designation.** At the time the City created the Comp Plan Land Use Designation map, the 'Agricultural' designation was only applied to three properties, the three that are subject to this application. The reason the City applied this designation was because the three properties in question had previously indicated that they did not intend to develop. That created issues for the City as we looked to the future. As discussed previously, property within a UGB should not be planned for long term agricultural uses. Therefore, the City was looking at options to address the owners lack of a desire to build, including possibly removing these three properties from the City and adding others that could help the City accommodate a 20-year residential projection. After all, placing them outside the City and the UGB would put them under the jurisdiction of the County, which is the right jurisdiction to protect agricultural uses long term. The Agricultural Comp Plan designation was used as a tool to allow the City more time to make a plan to accommodate the City's projected growth. The Agricultural Comp Plan designation would have helped us better justify a possible removal of the property from the City.

**So what changed?** Three things have changed. First, the City performed an analysis of the residential capacity and the ability for the City to accommodate the 20-year residential projections. The analysis applied the projected population for the next 20 years, provided by the Oregon Population Forecast Program from Portland State University. That projection is then applied to the land capacity. The study determined that the City had capacity to absorb the projected population. The 150 acres of property that is the subject of this amendment was *not* included in this analysis, because it had a Comp Plan designation of Agriculture, not Residential. However, the City feels that the projected population is significantly short of what we truly anticipate.

The PSU projections call for the City to grow by about 1,900 people between 2021 and 2041 at an average annual growth rate of 2.6%. Millersburg *must* use this forecast (by law) as the basis for forecasting housing growth over the 2021 to 2041 period. However, the Housing Needs Assessment also explains that the City population actually grew by 338% between 2000 and 2020. Millersburg added 2,199 new residents, at an average annual growth rate of

7.7%. We have no reason to believe that the rate will slow very much. We certainly have no reason to believe it will fall to 2.6% as indicated by PSU.

To take a glance at what that means, if the growth rate stayed at 7.7%, based on the most recent population figure of 3,093, our population in 2041 would be 13,636 vs. the PSU projection of 4,883. While the true number is probably between the two, the existing supply of land will likely be exhausted well in advance of the 2041 period studied in the Housing Needs Analysis. As such, the City is taking proactive steps to prepare for additional buildable land within the UGB.

The second thing that has recently changed is some of the property owners are now showing signs that they have softened their position on possibly developing the three properties. As stated above, because the City could grow at a rate that would quickly outstrip the available residential property, the City wants to change the Comp Plan designation because it is acting as a barrier that could slow development. Remember, that designation was intended as a tool to help the City possibly remove those properties from the City.

Third, the State is about to change the requirements to process Comprehensive Plan amendments. The new rules will be more complicated and costly, specifically the rules regarding the Transportation Planning Rule, or TPR. The City is hoping to make this change now before the process gets more difficult.

**So what will that mean?** For these reasons, the City is proposing to remove the Agriculture designation and replace it with Residential. The three properties will continue to have a Rural Zoning designation, which will be consistent with the new Residential Comp Plan designation. So, there will be no issue with consistency between the zoning and the Comp Plan. The real change will be in the ability to change the zone in the future, whenever the property owners request such a change. Right now if a property owner wanted to develop, the existing Agricultural Comp Plan designation will prevent any zone change that could accommodate residential development. However, changing the Comp Plan designation to Residential will allow an applicant to apply for a change to the zoning from Rural to Residential Low, which would accommodate more homes in order to accommodate growth. The applicant would still need to apply for a zone change, however, which would require a full public hearing process. The difference is that change would no longer also require a Comp Plan

designation change. This would simplify the process for the applicant significantly.

**Why Now?** As discussed above, the State is changing the requirements for Comp Plan Amendments, and they are about to get more complicated. The City is trying to remove this barrier now while the process is still manageable.

## II. CRITERION

### CITY OF MILLERSBURG DEVELOPMENT CODE

#### 5.09.050 Decision Criteria.

**Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:**

- (1) All information and analysis must justify the proposed change relative to the map designation to which the property is proposed to change, and to the map designation from which the property is changing. The analysis must speak to the impacts from the decrease in land acreage of one map designation and the increase in land acreage for the proposed map designation.**

**ANALYSIS:** As stated above in the background section, the justification for the change comes from the historical growth rate and the available supply of residential land in the City, using the growth rate of 7.7% annually between 2000 and 2020. As explained in the HNA, the bulk of housing demand in the City will be for single family homes. Using the smaller growth rate from PSU of 2.6% the City currently has only a surplus of 37 acres in the Residential Low Zone. Using the historical growth rate of 7.7% the City would be short 613 acres of RL zoning in the City.<sup>1</sup> This justifies the need for the additional 150 acres of property within the Residential Comp Plan designation (which therefore has the potential to be re-zoned to a different zoning designation). This is especially true because this property is already within the City UGB and the City limits.

It should be noted, even if all 150 acres of the property in question were to fully develop, and if the growth rate stayed at 7.7%, the City would still be short about 463 acres of RL Zoned property. This proposed Comp Plan amendment is only seeking to address part of this need. The staff report only brings up the deficit to illustrate the point that more RL Zoned property will be

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<sup>1</sup> That leaves all other variables the same in the HNA and simply substitutes the growth rate of 2.6% for 7.7%.

in high demand if the growth rate continues. The need for the proposed project is high.

The change would eliminate the Agriculture Comp Plan designation from the three properties in question. As stated above, this is the only Agriculture Comp Plan designated property within the City limits. Therefore, this proposed change would leave no property with the designation of Agriculture. Eliminating all property from the designation will not result in any inconsistency with any other policies or requirements of the Comp Plan or State rules. There are no State requirements for the City to have any land in the Agriculture designation. In fact, as explained previously, based on the current structure of the State land use system (specifically urban growth boundaries), farmland should only remain, long term, outside of city limits. Again, the only reason that designation existed in our Comp Plan was to help potentially remove the property from the City if that was needed.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(2) Compliance is demonstrated with the Statewide Land Use Planning Goals and Guidelines and any relevant Administrative Rules applying to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the Oregon Land Conservation and Development Commission Administrative Rules for the type of exception needed shall also apply.**

**ANALYSIS:** The applicable State Planning goals include 1, 2, 3, 7, 10, 12 and 14.

State Goal 1 is the Citizen Involvement Goal. This requires the City to assure appropriate public participation. This application requires a full series of public hearings including Planning Commission and City Council hearings. Notification was provided to the property owners surrounding the site (200 feet from all three properties).<sup>2</sup> The proposed project is fully consistent with Goal 1.

State Goal 2 is the Land Use Planning Goal. This Goal essentially establishes the structure for City Planning, requiring a Comp Plan and zoning. The proposed project is fully consistent with the State Goal because it is changing

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<sup>2</sup> The code requires different notifications for legislative hearings vs. quasi-judicial hearings. This project is considered quasi-judicial because the change impacts specific properties.

the land uses designated to the properties using the procedures and processes outlined in the Comp Plan and Zoning Code. The proposed project is fully consistent with Goal 2.

State Goal 3 is the Agricultural Lands Goal. This is the Goal that has been discussed above which requires counties to inventory, preserve, and maintain agricultural lands through farm zoning. This is the Goal that essentially says farmland should be outside UGBs and urban uses should be inside UGBs. The project is fully consistent with, and implements, Goal 3.

State Goal 7 is the Natural Hazards Goal. This requires cities to regulate certain aspects of floodplains, landslides, wetlands and other such possible hazards. The properties do not feature a significant amount of any hazards. Some wetlands are shown in the national wetland database, though the bulk of the property could be developed outside of these possible features. A more detailed review of all hazards will be performed if and when actual development occurs. The proposed change is fully consistent with Goal 7.

State Goal 10 is the Housing Goal. This Goal requires cities to plan for and accommodate housing. The City must analyze the amount of available land and assure there is enough to accommodate projected need for housing. The proposed change is in reaction to the recently completed housing needs analysis and buildable lands inventory and is fully consistent with the requirements of Goal 10. As discussed above, if the City continues to grow at the rate of 7.7% this proposed land use change will help address a deficit of property needed to accommodate housing.

State Goal 12 addresses transportation. This is primarily implemented by OAR Chapter 660, most commonly known as the Transportation Planning Rule or TPR. This Chapter requires close coordination between changes in land use and the possible impacts that has on roads. "Land use" here generally means changes to the Comprehensive Plan Land Use designation or zoning designations. Therefore, this chapter is applicable to the proposed Comp Plan Map amendment. The proposed amendment is fully consistent with Goal 12 because the street system was designed to accommodate the full build out of the City capacity, which includes the three properties in question. The Transportation System Plan classifies Woods Road as a collector, which has capacity to accommodate the full build out of the property.

State Goal 14 is the Urbanization Goal. This Goal ties very closely with the previous Goals in that it requires cities to plan for all future growth needs

(residential and non-residential) and create a UGB to separate urbanizable land from rural land. The parcels in question are located in an area that has full access to existing utilities including streets, water and sewer. They are located along Woods Road which is designated as a collector in the Transportation System Plan. This street classification was made with the assumption that these properties would someday develop. A multipurpose trail is planned along Woods Road to help provide bike and pedestrian connectivity between the three properties and the rest of the City, including existing parks and open space.<sup>3</sup>

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(3) Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.**

**ANALYSIS:** The Comprehensive Plan is largely organized by the State Goals. The Comp Plan implements the State Goals within the City limits. The Comp Plan is then further implemented by the Zoning Code. The applicable policies from the Comp Plan are similar to those listed above.

*Citizen Involvement*

As described above, the project will be heard by both the Planning Commission and the City Council. All hearings will be open to the public and all notification is consistent with the requirements of the Comp Plan and Zoning Code. In addition, in conformance with State and Comp Plan requirements, notice of the hearing is sent to the Department of Land Conservation and Development (DLCD), which in turn provides notice to applicable agencies.

*Land Use*

The Comp Plan Land Use section explains “the City will extend water service west from Old Salem Road in an incremental systematic extension that does not permit inefficient and expensive leap-frog developments. This will maintain farmland until needed, enhance the rural and urban livability of the community, provide an orderly conversion from rural to urban use and facilitate the efficient provision of urban services.” The growth plan in the Comp Plan

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<sup>3</sup> ORS 660-014-0030 requires additional analysis for property that is irrevocably committed to urban uses. This does not apply because the land is currently farmland and does not currently feature urban uses. ORS 660-014-004 requires additional analysis for new urban development on undeveloped rural lands. This does not apply because it only applies to property outside a UGB.



explains that growth in the City limits will largely be dictated by the availability of water and sewer. Since the first Comp Plan was drafted, utilities have progressed westerly in the City. Now, all required utilities are available near the three properties in question (with moderate extensions by the developer, which is typical). This means that according to the growth plan all three properties are ready to develop should they choose to. This is important because it shows that the proposed amendment to the Comp Plan Land Uses is consistent with the policies of the Comp Plan.

Changing the Comp Plan will not call for the immediate development of these three properties; rather, the Comp Plan explains that zoning will continue to allow farming - "the Rural Zone to the north is maintained in 2.5-acre minimum rural parcels until needed for urban use. This assures maximum servicing efficiencies, preserves farmland until needed and provides an orderly and efficient conversion from rural to urban use." It should also be noted that Policy Ag 1 says that existing agricultural uses within the community may be maintained as an interim use until a development proposal is approved by the City. This project will not force anyone to sell any property or stop any existing farming activity. The owners of these three properties can continue farming as long as they like.

#### *Housing*

The Comp Plan housing element explains that the City will maintain adequate amounts of land for each housing type to address community needs. The proposed change is helping to implement this concept. Many of the policies of the housing element do not apply specifically to the proposed project because the revision is only changing the Comp Plan designation. Specifics regarding housing types do not apply to this change because they are driven by zoning. The project is consistent with all applicable housing policies.

**FINDING:** Based on the analysis above, the project meets the required criteria.

- (4) The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Plan.**

**ANALYSIS:** As explained previously, assuming a growth rate of 7.7% the City will run out of available land zoned Residential Low much sooner than the 20 year growth projection from PSU has indicated. The proposed Comp Plan change will be part of a solution to address this deficit, though additional

solutions will need to be employed as the land supply is depleted.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(5) The Plan provides more than the projected need for lands in the existing land use designation.**

**ANALYSIS:** The existing Comp Plan designation is Agriculture. These three properties are the only three in the City with the Agricultural designation. There is no legal requirement for the City to have Agricultural designations. The policies of the Comp Plan explain that the any agricultural use is a placeholder for future development. This also matches with the intent of the State planning structure which, as stated previously, is designed to protect agricultural uses *outside* city limits, and convert any agricultural uses within a City to urban uses (as a way to protect agricultural uses outside cities). Therefore the proposed change meets this criteria.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(6) The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.**

**ANALYSIS:** For the purposes of the proposed Comp Plan amendment, the uses will stay the same. The uses are dictated by the existing zoning, which is, and will remain, Rural. As a reminder, table 9.500B from the Comp Plan explains that the Rural Zone is consistent with both the Agriculture and Residential Comp Plan Land Use designations. In summary, the uses will not change with the action proposed by this application.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(7) Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.**

**ANALYSIS:** As stated above, water and sewer services are available in the general vicinity of the three properties.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**III. STAFF RECOMMENDATION TO THE PLANNING COMMISSION**

Based on the above findings of fact, the proposed Comp Plan Map amendment satisfies the applicable criteria. Staff recommends that the Planning Commission recommend approval of Application No. DC 21-03 to the City Council.

**IV. SUGGESTED MOTION FOR PLANNING COMMISSION**

I motion that the Planning Commission recommend approval of DC 21-03 to the City Council because all applicable criteria are met and all findings of fact are included in the staff report.

**V. STAFF RECOMMENDATION TO THE CITY COUNCIL** *(assuming the Planning Commission recommends approval)*

Based on the above findings of fact the proposed amendment satisfies the applicable criteria. The Planning Commission and staff recommend that the City Council approve Application No. DC 21-03 and adopt Ordinance No. XXX.

**VI. EXHIBITS**






- A. Map Exhibit A
- B. Ordinance No. XXX
- C. Public Hearing Notice

# Comp Plan Map

Project Area

AG to R

## Comp Type

-  Agriculture
-  Commercial
-  Industrial
-  Public and Semi Public
-  Residential

## OTHER

-  City Limits

## City of Millersburg

0.5 0.25 0 0.5 Miles



## **ORDINANCE NO. XXX-22**

### **AN ORDINANCE AMENDING THE MILLERSBURG COMPREHENSIVE PLAN MAP (FIGURE 1 OF THE LAND USE CHAPTER)**

**WHEREAS**, the State of Oregon Land Conservation and Development Commission acknowledged the City's first Comprehensive Plan and the City adopted said plan in 1983; and where revisions to the plan were acknowledged and adopted again in 2001 and 2020; and,

**WHEREAS**, the 2020 update changed the City from a one-map zoning and Comprehensive Plan Land Use system to a two map system where the zoning map and Comprehensive Plan Land Use map were separate documents; and,

**WHEREAS**, on the 2020 Comprehensive Plan Land Use map the farmed property west of Woods Road identified as tax lots 10S-03W-17-00404, 30.53 acres, 10S-03W-20-00200, 57.24 acres, plus a portion of tax lot 10S-03W-00300 which is 61.63 acres totaling 143.6 acres were designated Agriculture; and,

**WHEREAS**, the City now wishes to amend the Comprehensive Plan Land Use designation on the three properties from Agriculture to Residential in order to help accommodate future growth; and,

**WHEREAS**, the existing zoning on the properties is not proposed to change and is consistent with both the Agriculture and Residential Comprehensive Plan Land Use designations; and,

**WHEREAS**, the Department of Land Conservation and Development (DLCD) received hearing notice thirty-five days in advance of the hearing; and,

**WHEREAS**, quasi-judicial public hearing notices were sent to all surrounding addresses in the City (200 feet), at least twenty days prior to the hearing; and,

**WHEREAS**, the Millersburg Planning Commission recommended to the Millersburg City Council on February 15, 2022 that the City Council approve the amendment that is the subject of this Ordinance; and,

**WHEREAS**, the Millersburg Planning Commission and City Council finds that the project meets all criteria requirements from Section 5.09 of the Millersburg Land Use Development Code and all findings are included in the staff report dated January 31, 2022;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF MILLERSBURG DO**

**ORDAIN AS FOLLOWS:** the Millersburg Comprehensive Plan Land Use Map (Figure 1 of the Land Use Chapter) is hereby amended to make the Comprehensive Plan Land Use designation Residential on tax lots 10S-03W-17-00404, 30.53 acres, 10S-03W-20-00200, 57.24 acres, plus a portion of tax lot 10S-03W-00300 which is 61.63 acres:

**PASSED by the Council and approved by the Mayor this 8<sup>h</sup> day of March, 2022.**

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Jim Lepin,  
Mayor

ATTEST:

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Kimberly Wollenburg,  
City Recorder



**NOTICE OF PUBLIC HEARING**  
**February 15, 2022, 6:00 p.m. and**  
**March 8, 2022, 6:30 p.m.**

**Hearings will be in person,  
by phone/computer, or both.**

**See Agenda on the City website for details**

**THIS IS TO NOTIFY YOU THAT THE CITY OF MILLERBURG HAS PROPOSED A  
LAND USE REGULATION THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR  
PROPERTY AND OTHER PROPERTIES.**

The City of Millersburg will hold a **PLANNING COMMISSION** hearing on February 15, 2022 at the above time and place, and a **CITY COUNCIL** hearing on March 8, 2022 at the above time and place to consider the action described below. The action may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment or attend the hearing. A staff report relating to the proposal will be available seven (7) days prior to the first public hearing. For further information, contact Millersburg City Hall at (458) 233-6306.

The location of the meeting (should it held in person) is accessible to the disabled. If you need any special accommodations to attend or participate in the meeting, please notify City Hall twenty-four (24) hours before the meeting.

**APPLICANT:** City initiated

**LOCATION:** The farm property west of Woods Road. Tax Lot 404, 30.53 acres, Tax Lot 200, 57.24 plus a portion of tax lot 300 which is 61.63 acres for a total of 149.4 acres. See Exhibit A.

**CRITERIA:** Millersburg Development Code; Chapter 5.09.050. These criteria also require compliance with the applicable Statewide Planning Goals and Oregon Administrative Rules, 660-004, 660-012, 660-014, 660-015, 660-022, and Oregon Revised Statutes 197.732.

**FILE No.:** DC 21-03

**REQUEST:** The City is proposing to change the Comprehensive Plan Map designation for three properties totaling about 150 acres along the western edge of the City. The City proposes to change the Comprehensive Plan Map designation from 'Agricultural' to 'Residential.' The Zoning designation of Rural (RU) is not proposed to be changed at this time.



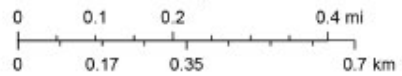
# DC 21-03 Comp Plan Amendment



12/14/2021, 2:58:24 PM

1:18,056

- UGB
- Tax Lots
- Highways
- Roads
- Railroad
- City Boundary



Linn County GIS, City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri, Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METV, NASA, EPA, USDA, GeoTerra, 2021