

Linn County Application Narrative

APPLICATION TO THE COUNTY FOR AN URBAN GROWTH
BOUNDARY AMENDMENT & ZONE CHANGE
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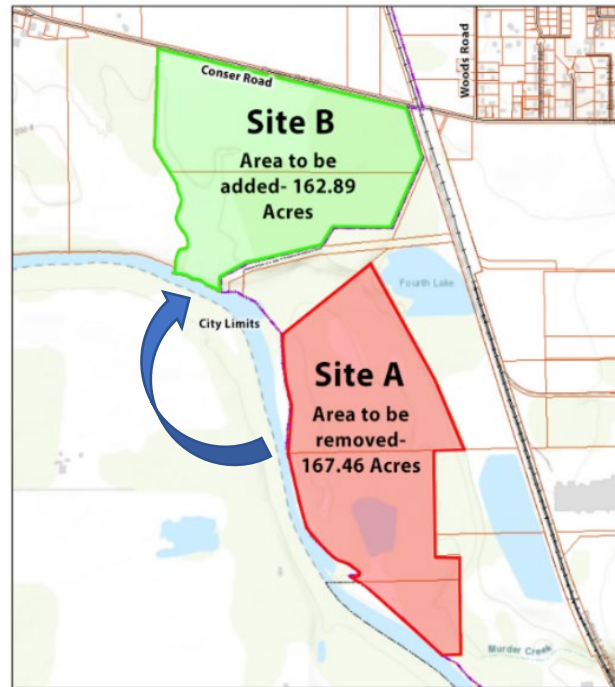
CITY OF MILLERSBURG

Introduction

Land to be removed from the UGB

As the City of Millersburg continues to see interest in industrial development, it has become apparent that some of the industrially zoned property in Millersburg is actually unbuildable for a host of reasons. Specifically, the area shown in the graphic as site A is property that is:

- heavily wooded,
- does not currently feature access,
- the topography of the site is challenging and features slopes over 25% that would not be conducive to industrial development,
- is largely within a Goal 15 Willamette River Overlay that prevents almost any kind of development,
- and is almost entirely within a FEMA designated floodway based on its location near the river.



The property is comprised of three tax lots totaling 167.46 acres. The entire western edge borders the Willamette River. The current City of Millersburg Comprehensive Plan Land Use designation for all three lots is Industrial. The existing City Zoning is General Industrial (GI). All three lots were removed from the City limits by Ordinance 197-22 in August of 2022. The UGB was not changed at that time, thus leaving the ability to swap the UGB location with site B. See the next section.

A land swap

For these reasons, the City is proposing an Urban Growth Boundary swap, to exchange unbuildable land for developable property. The concept is to swap two areas of land that are of similar size and keep the Land Use and Zoning designations the same. Thus, the total area within the UGB will generally stay the same, and the amount of land in each Land Use Designation from the Comprehensive Plan will remain generally the same. Site B, shown on the graphic, is the preferred alternative from the attached alternatives analysis. This property was selected based on several factors, most specifically its close proximity to other industrially zoned property, its relatively flat topography, its proximity to utilities, access to the River, rail, and truck access. The attached alternative analysis contains a more detailed analysis that used ORS 660-024-0065 and 67 to identify an appropriate location.

Traditionally, any changes to a City's UGB require an analysis the need for the change. However, when proposing a UGB swap, OAR 660-024-0070 explains that a justification using employment lands is not required.

The process

The UGB change requires many steps, the first of which was completed on August 23, 2022 when the City Council adopted Ordinance No. 197-22 to remove three lots from the City. The UGB did not change as a result of this. The next step is to amend (change) the shared City/County UGB. That takes an action by the Millersburg City Council. However, the boundary is shared with Linn County, so they have to approve the change as well. That is the reason for this application. The City of Millersburg City Council approved an Ordinance supporting the project on October 11.

Last, the State Department of Land Conservation and Development (DLCD) will have to review the change after the County action for a process called concurrence review. The DLCD reviews the project to be sure it meets all State requirements. Annexation of the property could then follow. That's up to the owners, not the City. This is not part of this action. This project will not change any City limits only the UGB.

It should be mentioned that a UGB change requires the Comprehensive Plan Map be revised, as the UGB is part of the Comprehensive Plan Map. The City and County are required to designate the properties which change jurisdiction with a Comprehensive Plan Land Use Designation (especially for a land swap). The State does not, however, require the property to be Zoned. However, the City is including a *pre-zoning* of the expanded UGB area as part of this process. The City felt it was important to add zoning now to help support the like-for-like swap nature of the requested land swap. It should also be noted that the property within the UGB is not actually part of the City until it is annexed. Before that, the Land Use Designation and Zoning classification are actually pre-designations. They are not binding until the property is annexed. Once they are annexed these established Comprehensive Plan Land Use Designations and Zoning Classifications would instantly take effect.

Project Description

The City of Millersburg is proposing an Urban Growth Boundary (UGB) swap. More specifically the City plans to remove 167.46 acres (10S-03W-33-00200, 10S-03W-29-00300, and 10S-03W-29-00201) from the City's UGB (this has already been removed from the City limits) and add 162.89 acres (10S-03W-20-00402 and 10S-03W-29-00101) to the City's UGB. The Land Use designation of Industrial (I) and Zoning classification of General Industrial (GI) will be applied to the newly expanded area. This will consist of a Comprehensive Plan Map and Zoning Map Amendment.

This application requests a corresponding change to the County Comprehensive Plan and Zoning, to add County Comprehensive Plan Land Use and Zoning designations to the property that is proposed to be removed from the City UGB (10S-03W-33-00200, 10S-03W-29-00300, and 10S-03W-29-00201). The City, in conjunction with the County, proposes a Comprehensive Plan Land Use designation of Agricultural Resource and a Zoning classification of Exclusive Farm Use (EFU) to the three parcels proposed to be added to the unincorporated community.

The City approved the amendments in October of 2022. The City action is tentative pending County approval, and DLCD review afterwards.

As a side note, the City also made a few clean up amendments to Land Use and Zoning designations on two other smaller properties near the location of the UGB change. These should not require any action by the County, but are included here to make sure the County is aware of the changes. These are not part of the UGB swap. These include tax lot 10S-03W-29-00104, 0.74 acres, and a portion of tax lot 10S-03W-29-00206, 2.29 acres, which is currently split by two

jurisdictions. The City added Land Use designations of Industrial, and Zoning of General Industrial (GI) to each of these to match the designations surrounding the site.

Criteria

There are many different criteria for altering a UGB. Each are reviewed below. These can be organized by jurisdiction, they include:

- A. State of Oregon – State Goals, most specifically Goal 14: Urbanization; Oregon Revised Statute 197.298: Priority of land to be included within UGB; Oregon Administrative Rule 660 Division 24; and, OAR 660-012-0060 also known as the Transportation Planning Rule.
- B. Linn County - Urban Growth Management Agreement (between Linn County and Millersburg); Linn County Comprehensive Plan; and Linn County Land Development Code Sections 921.882 and 921.874.
- C. City of Millersburg - Millersburg Comprehensive Plan; and the Development Code, Sections 5.09.050 and 5.10.050.

Findings for the proposed action are included below, in Ordinance 197-22, in Resolution 2022-09, and in all staff reports related to the removal of territory. The Alternatives Analysis is also hereby included by reference.

A. STATE OF OREGON

1. STATE PLANNING GOALS

Local Comprehensive Plans are created as a way to implement the State Planning Goals. Thus, conformance with an approved Comprehensive Plan should automatically show conformance with State Goals as well. However, each State goal is reviewed below to show clear consistency.

- Goal 1: Citizen Involvement. The City has held several public meetings on this UGB swap, mostly related to the first step of the process, which was to remove three properties from the City limits. The County too will hold public hearings, which allow the public an opportunity to speak on the item. The process to de-annex territory required several special meetings before the City Planning Commission and City Council which afforded the public several opportunities to address the decision makers and provide input. Additionally, the public will have an opportunity to address both the City and County during hearings for this proposed UGB update (Comprehensive Plan and Zoning Map Amendment). All public meetings have been noticed. The area to be removed, site A, has only 1 owner,

and the area to be added, site B, has only 1 owner, both have expressed support for the changes. Goal 1 has been met.

- Goal 2: Land Use Planning. This goal essentially calls for each City/County to create a Comprehensive Plan and Zoning. This plan amendment is consistent with this goal, as it is working within the City and County's land use process, which complies with Goal 2.
- Goal 3: Agricultural Lands. This is not applicable pursuant to OAR 660-024-0020(1)(b).
- Goal 4: Forest Lands. This is not applicable pursuant to OAR 660-024-0020(1)(b).
- Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. The proposed swap will have beneficial effects on open spaces. Site A is forested and located along the riverbank. Moving this area to the County's jurisdiction will help preserve this through limitations on allowable uses. Site B is currently farmed.
- Goal 6: Air, Water, and Land Resource Quality. The proposed action is a swap of property. Therefore, the impacts of industrial development in the area to be removed from the UGB would be similar to impacts developing the area to be added to the UGB. No development of site A is anticipated. All impacts for new development will be addressed at the time of development.
- Goal 7: Areas Subject to Natural Hazards. Natural hazards were the primary driver behind this UGB revision. Site A is almost completely within a FEMA designated floodway. Additionally, there are wetlands and slopes within site A. Site B features a small area of floodway and floodplain. These are along the southwestern corner. This area would likely not have been developed with buildings. The majority of site B has no natural hazards. The County designation for site A will not allow intensive development of the property, specifically structures.
- Goal 8: Recreational Needs. There are no parks on or near either site. The sites are similarly sized, and planned for industrial uses, so there will be no change in the demand for recreational areas. Site A could someday serve as a recreational area, due to its location along the banks of the river. Currently site A is not open to the public in any way. Removing site A from the UGB will place it in the jurisdiction of the County which will have more options for land use and zoning designations that may be more conducive to recreational uses. Site B is currently private property

and would not be suited to recreational uses. There is far less access to the river and no other features that would contribute to a recreational use on the site.

- Goal 9: Economic Development. The proposed change is highly consistent with Goal 9 because it removes property from an area that cannot develop and adds property that has a much stronger likelihood of new industrial development. As outlined in more detail in the alternatives analysis, site B has better access, rails access, and other features that make site B a much better location than site A for industrial development.
- Goal 10: Housing. There is no housing proposed in the UGB expansion or reduction area. The swap will provide more jobs to the area, which will help foster additional residential development within the City, but not the County, as well as meet the need for close, walkable or bikeable jobs within the City of Millersburg.
- Goal 11: Public Facilities. The City Engineer has reviewed the proposal. She determined that site B has adequate ability to connect to public utilities, consistent with the standards of the utility master plans. Street connectivity and utility connections are possible for site B with far less cost and creativity that would be needed for site A. Site A will likely not be developed in a way that would require any significant public facilities from the County.
- Goal 12: Transportation. Site B is located along Conser Road NE. The City has been master planning the industrial area south of NE Conser Road that is within the City. These plans include a new street designed to allow truck traffic east-west through the City without the need to place trucks on NE Conser Road. The new street would generally terminate at the intersection of NE Woods Road and NE Conser Road. It is being designed to provide a higher level of access for trucks across the railroad tracks on NE Conser Road because there is some industrially zoned property on the west side of those tracks already today that is viable. Adding site B will work very well with this new planned roadway. It should also be noted that the swap will ultimately have the total amount of industrial property remain the same, just in a different location. Site A would likely not develop within the County, nor require any significant public access to the site. Also see the Transportation Planning Rule analysis later in this document.

- Goal 13: Energy Conservation. The proposed land swap will ultimately not change the total acreage of the industrial area in the City. As such the impacts would have been the same if either site were developed.
- Goal 14: Urbanization. Goal 14 manages the UGB system in the State. The proposed change to the UGB is consistent with the requirements of Goal 14, as implemented through State rules (OAR's) and regulations (ORS's). The details of how the project conforms are analyzed throughout this narrative, the Alternatives Analysis, and all resolutions and ordinances attached to this narrative. A more detailed analysis of the urbanization is included in the review of the County Comprehensive Plan below.
- Goal 15: Willamette River Greenway. The City and County have a zoning overlay that implements Goal 15. Site A is within the overlay. The proposed UGB amendment will help protect site A by removing an industrial land use and zoning from the site and applying a County designation that is more conducive to preservation of the site. Site B will not include any property with the zoning overlay.
- Goal 16: Estuarine Resources, Goal 17: Coastal Shorelands, Goal 18: Beaches and Dunes, and Goal 19: Ocean Resources do not apply to this area or change.

2. OREGON REVISED STATUTE (ORS) 197.298- PRIORITY OF LAND TO BE INCLUDED

ORS 197.298(2) requires an analysis of the soil classifications through the Natural Resource Conservation Service (NRCS). This is analyzed in the attached Alternatives Analysis. In summary, all alternative locations that met the requirements for an industrial use shared similar soil classifications to each other and to the area to be removed from the UGB, site A. The selection of site B as the preferred alternative included a review of the NRCS system.

3. OREGON ADMINISTRATIVE RULES (OAR) CHAPTER 660, DIVISION 24

This section of the OAR regulates UGBs. These implement Goal 14. Most of Division 24 addresses the establishment of UGBs and amendments. As discussed above, because this is a UGB swap all portions of the OAR that require the establishment of need do not apply. OAR 660-024-0065

through 67 address the requirements for an alternatives analysis, which is attached as a separate document.

UGB adjustments and swaps are regulated by 660-024-0070. Subsection (1) and (3) explain that while there is no requirement to analyze employment need, all other requirements of Division 24 still apply, including the need for an alternatives analysis. Subsection (3)(a)(B) explains that the amount of employment land added to the UGB must meet an employment need that is substantially equivalent to the amount of employment land removed. As explained above, site A is 167.46 acres and site B is 162.89 acres. These are substantially equivalent in terms of the amount of employment that could be generated from the land acreage.

This section also requires that rural zoning be adopted for the areas removed from the UGB. This application is proposing that the County approve such rural zoning for site A. An analysis of the County Comprehensive Plan and Zoning criteria are included in this narrative. Further, OAR 660-024-0070 section 3(b) also requires that the Comprehensive Plan Land Use designation for the property added to the UGB generate the same employment levels as the land added to the UGB. For this swap the designations within the City will be the same for both, GI. Subsection (c) takes that concept one step further and requires that the type of industrial property be the same when swapped. For example, if the property removed would have been best suited to large storage of logs for lumber, then the property added to the UGB should also be well suited to that type of industrial. This played a key role in the alternatives analysis, because the City is assuring that the area added to the UGB can accommodate large utility users, like site A, access to the river, like site A, and users who would need exceptional access to streets and truck friendly routes. Site B can accommodate an even wider range of industrial types than site A did. As such, the proposal is highly compatible with these requirements, as well as all requirements of Division 24.

4. TRANSPORTATION PLANNING RULE

This is implemented by OAR 660-012. The State requires cities to align land use plans with transportation system plans. For the changes proposed on the City's side, Millersburg adopted its first Transportation System Plan (TSP) in 2016. The streets at that time were designed to accommodate the full buildout of the Land Use Plan. Part of that was built, part was just

planned. Because the UGB amendment is a swap, and does not propose adding any new industrial land, the impacts will be identical. The roads were planned to accommodate the traffic from all the planned industrial, including the 160 acres proposed to be shifted from site A to site B. The actual buildability of the property was not taken into account when the TSP is drafted, just the full buildout. Therefore, the buildability of site A is irrelevant for purposes of the Transportation Planning Rule (TPR). The proposed amendment to the UGB is therefore consistent with the intent of the TPR because the traffic levels planned will remain the same.

Likewise, for the property proposed to be added to the County jurisdiction, this area is not planned for development. The County zoning designation of EFU is intended to only provide a single user level of access and facilities, typically farmers. Therefore, the limited access to the site is consistent with the County TSP.

It should also be noted that OAR 660-024-0020(d) explains that the TPR need not be applied to a UGB amendment if the underlying zoning is retained, or if a limitation on vehicle trips is applied to assure there is no difference in vehicle trips overall due to the change. A swap is similar in that vehicle trips were allotted to the land use of site A in the TSP, and now those identical trips will shift to site B. Likewise, the County currently features EFU zoning on site B and will apply EFU zoning to site A when the amendment takes effect. That too will simply shift planned vehicle trips from one site to another, but they will stay identical.

B. LINN COUNTY

1. URBAN GROWTH MANAGEMENT AGREEMENT BETWEEN LINN COUNTY AND THE CITY OF MILLERSBURG

All cities in the State of Oregon are required to enter into an agreement with the local County to clarify the procedures between the two regarding land uses in UGBs and the general administration of the shared UGBs. Linn County and the City of Millersburg entered into an agreement (IGA) in 1980. That was amended and superseded in 1981 by Ordinance 81-344. Conformance with the requirements of this document are reviewed below.

The agreement includes specific procedures for land use matters within the UGB area. The County retains jurisdiction within UGBs until the City

annexes the area. The County will confer with the City prior to any land use action taken in the UGB.

The agreement explains that a UGB and zone change are both type III changes. Processes for land use application are prescribed in the agreement. However, the City and County have met and agreed to follow a slightly modified procedure which will meet all intentions of the agreement. The modified path also has the added benefit of following both County and City Development Code requirements to the letter. The modified procedure will be the following:

1. A preapplication between the City and County was held on March 7, 2022.
2. The application is filed with the City for a Comprehensive Plan Map Change and Zone Change.
3. The project will be heard by the City Planning Commission. They will make a recommendation to the City Council.
4. The project will then go to the City Council for a hearing. They will take a tentative action, pending the County's review and action.
5. An application will then be made to the County.
6. The County Planning Commission will hold a hearing for the project and make a recommendation to the County Board of Commissioners.
7. The project will then go to the Board of Commissioners for a hearing. They will take a final action.
8. Lastly, the project will go to the DLCD for review and concurrence that all criteria are met and State rules followed.

This process will comply with the intent of the agreement and each jurisdiction's Development Code. The agreement did not contain any additional criteria of any kind for any land use actions. Therefore, as long as the procedures are complied with, the proposed project is consistent with the terms of the agreement. At this time steps 1 through 5 above have been met.

2. LINN COUNTY COMP PLAN, CHAPTERS 900-907 OF TITLE 9

The Linn County Comprehensive Plan (Comp Plan) is comprised of 4 chapters, Citizen Involvement, Natural Resource Element, Community

Facilities and Development and Land Use. There is also an Administration Element which manages the plan. Each is briefly addressed below, more detail is provided for the Comp Plan Amendment Section, contained in the Administration Element Section, and the urbanization section of the Land Use Element because that specifically addresses UGB management.

Citizens Involvement Element

Like the State's Goal 1, this Element is designed to assure public participation in the planning and land use process. An effective tool for outreach is the public hearing process, specifically for the Planning Commission. Notice of land use items allows the public an opportunity to participate through comments to the Planning Commission at the City and County level. The proposed project will be fully noticed as required through the Development Code.

Section 902.200 addresses comprehensive plan amendments only to say that the administration element contains criteria for amendments.

Natural Resources Element

This element addresses hazards, open spaces, vistas, historic and cultural areas, waterways and other resources. As discussed previously, site A, which is intended to become part of the County, is within a FEMA Floodway zone and Willamette Greenway River Overlay. Section 903.230 of the Comp Plan essentially requires that all FEMA rules are followed. Site A is probably not going to develop but will remain open space. As such, the area will not conflict with these policies. If building did occur, it would have to comply with all FEMA requirements. The proposed UGB changes will not conflict with any of the listed open space or scenic policies. Most of the listed policies speak to the need for the County to reach out to impacted/effected agencies regarding development of the property. The County land use designation will help ensure that all policies of the Element are met.

Community Facilities and Development Element

This element addresses the need for infrastructure when a property develops including water, sewer, storm, street and other County provided infrastructure. These provisions apply to site A if that property were to ever develop; however, as stated previously, it is unlikely that the site will develop. The County has land use and zoning designations that

accommodate a property that is not planned for development, where the City does not have any such designations. The entire UGB system, as designed by the State, is intended to encourage development within a city, and discourage development in an unincorporated community. The Comp Plan explains that 90% of the County is open space or farmland. Because this property is not likely to develop, most of the policies of this element do not apply.

Land Use Element

This element contains goals and policies for each specific Land Use designation. The County has indicated that they plan to designate site A with an Agricultural Land Use Designation, which is addressed in Section 905.120. The policies of 905.120 include limitations on residential uses in the designation, specific notifications of uses, minimizing conflicts with agricultural uses, keeping large tracks of land together, and a priority on maintaining property in agricultural use. The designation of site A as Agricultural is consistent with all of these Policies. The property is over 160 acres and is not suitable for development except as an agricultural or open space use.

Urbanization Subsection

Section 905.610 addresses urbanization, which includes UGB amendment policies. This section says that the cities in the County will grow into surrounding areas based on need and serviceability. Site A is not serviceable, therefore should not be located within a City. Subsection C lists the following factors that should be considered when a UGB change is requested (analysis of each provided in *italics*):

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.
 - *The proposed change is a UGB swap. As such, the acreage and uses of the swapped land will remain the same. The County will be 'exchanging' site B, which will also keep the same designation.*
- (2) Need for housing, employment opportunities, and livability.
 - *See above. The City is not expanding a use, just swapping for property that is more suited to development.*
- (3) Orderly and economic provision for public facilities and services.
 - *The proposed swap will remove property that is difficult to service, and bring property into the City's UGB that is better*

served by public facilities and services.

- *The alternatives analysis provides a more detailed review of the utilities and services as they relate to site A and B.*

(4) *Maximum efficiency of land uses within and on the fringe of the existing urban area.*

- *As stated above, site A is currently designated for industrial zoning, but would be very costly to actually develop, including the need to change a FEMA floodway.*
- *Site B is not within the floodway and is located along an existing street, which can accommodate utility extensions with ease. Site B is also flat and should be more efficient to develop with industrial uses.*

(5) *Environmental, energy, economic and social consequences.*

- *The swap will allow development on site B which is currently being farmed. Therefore, there are no environmental resources on the property.*
- *Site B is further away from the river than site A, and will have less impacts to the river, in fact, site A is within the Willamete Greenway Overlay, site B is not.*
- *This swap will help preserve site A from impactful industrial development. Site B is also closer to homes in the City, and could result in more walking or biking to work, yet the site is also located on the west side of the existing railroad tracks, which help separate the use from the homes.*

(6) *Retention of agricultural land as defined, with class I being the highest priority for retention and class VI the lowest priority.*

- *Because this is a swap, the amount of agricultural land is not changing, only changing locations.*
- *Each of the properties feature similar soil classifications. Site B is currently farmland, probably for the same reasons it is well suited for development, specifically that it is flat and easy to access. Site A has not been farmed and is not as well suited for future farming for the same reasons it is not well suited for development, specifically the topography and floodway designations. That is not to say it cannot be farmed someday, though that would have to comply with the Willamette Greenway Overlay. If the property were tilled and cleared it could potentially be farmed. Flooding would remain a concern.*

- *Additionally, Section 905.930 further explains that soil classifications should be used as an initial screening process, but a full case-by-case subjective analysis should be done for any property that is changing away from agricultural.¹*

(7) Compatibility of the proposed urban uses with nearby agricultural activities.

- *Site B will be located near agricultural uses to the north and west. To the east and partially to the south is industrial uses (planned and constructed).*
- *Any development of site B will have to ensure compatibility through the design of the project.*
- *For site A the property to the west and south is the river, to the north and east is industrial land. For the places where site A is adjacent to future industrial development, and for site B where new development may border agricultural lands, the City's Comprehensive Plan and Development code include policies and standards that will help address any interface of agricultural and industrial land, as well as State requirements through DEQ and other sources to assure the impacts between industrial and agricultural uses will be minimized.*

Planning Area Subsection

Section 905.610(D) explains:

Further, several cities have established "planning areas" outside their UGBs which contain lands key to future urbanization. While these lands may not be presently needed inside the UGB, the cities are concerned with their development. The cities' right to review and comment on county land use decisions within the planning area is secured within the UGB management agreement.

The City of Millersburg does have a planning area outside the UGB. Site B is within the Millersburg Planning Area. While the planning area is principally an 'area of concern' for the City in terms of being notified of County development in this area, it also acts as a placeholder for future development. In other words, the planning area is an area of possible

¹ Section 905.930 defines and regulates the Non-Resource Comprehensive Plan Land Use Designations that the County applies to areas that are not agricultural or forest lands. This swap will not require the designation of Non-Resource lands, because site B will be placed into a City.

future growth for the City. This is important because it shows that the City and the County have planned for the City to grow into the planning area someday. Again, site B is within that planning area.

Willamette Greenway Subsection

Section 905.700 addresses regulations for the public interface with the Willamette River. The section of site A that is covered by the City's Goal 15 overlay (the Greenway Overlay) will continue to be protected by the County's Goal 15 greenway policies addressed in the County Comprehensive Plan Section 905.720. Site B is not included in the greenway.

3. LINN COUNTY LAND DEVELOPMENT CODE, CHAPTERS 920-940 OF TITLE 9

The County Development Code requires that Comprehensive Plan and Zoning amendments comply with stated criteria from the Code. Each is reviewed below.

Section 921.874 Decision criteria for Comprehensive Plan map amendments (analysis shown in italics)

(1) The amendment is consistent with and does not alter the intent of applicable section (s) of the Comprehensive Plan;

A full analysis of each Comprehensive Plan element is shown above. The proposed changes are consistent with all elements of the County's Comprehensive Plan.

(2) The amendment will be compatible with adjacent uses and will not adversely impact the overall land use pattern in the area;

For site A the property is currently vacant and wooded. It is within the County, because it was recently removed from the City limits. To the west and south of the site is the Willamette River, to the north is currently agriculture (though this swap proposes to make it industrial), and to the east of the site is industrially zoned property inside the City, though the property is currently vacant.

For site B the property is also currently within unincorporated Linn County with agricultural uses. The property to the east of site B is industrially zoned inside the City with a power substation. To the south is vacant wooded land. To the north and west the uses are agricultural.

Agricultural uses next to industrial uses do not typically present conflicts. Some industrial uses may create or manufacture products that may be harmful to agricultural crops, inversely, the application of some agricultural pesticides may conflict with food production or other sensitive industrial processes. These can be mitigated through the design of the industrial projects. Conflicts depend largely on the design of the industrial development. Potential conflicts will be identified and mitigated at the design review stage. The City has had Industrial Comprehensive Plan Land uses next to Agricultural Land Uses for years. Expanding the City Industrial Land Uses to the west with this swap will not result in new adjacency conditions that do not exist today.

(3) The amendment, if within an adopted urban growth boundary, is in substantial conformity with the Comprehensive Plan and implementing ordinances of an affected city;

Site A is within the Millersburg UGB, site B is not. The conformity with City regulations is reviewed below in detail. In summary, the project does substantially conform.

(4) The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat;

The proposed amendment will remove property near the Willamette River from the City UGB (site A) and place 160 acres (site B) into the City UGB. Site B touches the river, but not in a significant way. Site A is mostly located along the banks of the river. This action will help preserve site A better. The County Land Use and Zoning designations will be more inline with the preservation of the land than the City's industrial designations. The proposal will have beneficial impacts on the habitat.

(5) The amendment will not have a significant adverse impact upon the provision of public facilities including police and fire protection, sanitary facilities and storm drainage facilities;

The City of Millersburg contracts police service through Linn County and fire service through the City of Albany. Site A is currently served by the City (through contracts). That will change to services provided by the County, though due to proximity, services will still often be provided by the same City services through an agreement with the County. This depends on who is closest in the event of an emergency. Site A is not anticipated to develop, which will mean minimal need for services.

As noted above, the City has been planning utility and access

improvements to access site B, even before the proposed land swap,² and site A has been removed from the City partially because the site is highly difficult to get access and utilities to. The proposed expanded UGB over site B is contiguous with the existing City limits. Additional police and fire coverage will not be problematic. As such, the amendment will not have an adverse impact on facilities.

(6) The amendment will not have a significant adverse impact upon the transportation facilities;

Site A will be removed from the City's UGB and, as discussed previously, will likely not be developed. As such, there will be no impact to the County transportation facilities. Site B will be within the City UGB and ultimately, within the City (after annexation) and will easily be serviced by the existing NE Conser Road.

(7) The presence of any development limitations including geologic hazards, flood hazards or water quality or quantity will not have a significant adverse affect on land uses permitted through the amendment;

As noted above, site A is fully within a floodway FEMA designation. Site B is not. There are no other hazards on either property. Site A will likely not develop, and part of the desire to swap the UGB is to help protect site A.

(8) An exception to the statewide planning goals is not required. If required, then findings have been prepared to meet the exception criteria; and

No exception is required.

(9) The amendment is consistent with the statewide planning goals.

See Goal analysis above.

Section 921.822 Decision criteria for Zone map amendments (analysis shown in italics)

(A) When a Zoning Map or Land Development Code text amendment is necessary due to a proposed Comprehensive Plan amendment, only findings and conclusions responding to the Comprehensive Plan amendment criteria for decision are necessary to amend the Zoning Map or Code text provisions.

Site A will be receiving a Comprehensive Land Use Designation of

² The City owns property on the west side of the railroad tracks that will be taking access and utilities from NE Conser Road.

Agriculture and a Zoning designation of Exclusive Farm Use (EFU). The analysis for the Comprehensive Plan is included above. Pursuant to this criteria, no additional analysis of the Zoning criteria is needed because a Comprehensive Plan map amendment is proposed also.

C. CITY OF MILLERSBURG

1. MILLERSBURG COMPREHENSIVE PLAN

The City of Millersburg Comprehensive Plan is structured into 7 chapters or elements. Each is reviewed below.

Planning Element

The Planning Element is different from the City's Land Use element. This element largely covers the basics like addressing public participation, explaining the outline of the plan and covering the State Goals. The only applicable portion to this proposal is the required public participation. Like noted in the County Comprehensive Plan Section, public participation is addressed through public participation in the hearings, including the Planning Commission and the City Council. Because these are fully noticed to the public, and because the project is processed through the land use system established by the State and required in the Comprehensive Plan, the project is compliant with the Planning Element.

Environment Element

This element is structured into several sections, each with their own policies. Only pertinent policies are reviewed below.

For topography site B is located in an area with no natural channels. There is some FEMA floodplain designation but that property is located near the river and is quite minimal, especially compared with site A which is being swapped for site B as far as the UGB is concerned. The banks of the Willamette River are protected by removing site A from the City.

Geological policies are aimed at development proposals more than land use changes. Therefore, all geological policies will be addressed at the time of development. As discussed previously hazardous areas have been avoided by swapping site A with site B.

The soils policies of the Comprehensive Plan specifically address UGB changes. Policies 1 and 2 state that the UGB is intended to protect agricultural soils. The policies state that those soils should be preserved. While site B features class 1 soils, it should be noted that all alternative sites

and site A also contained class 1 soils. The swap will not consume more or less class 1 soils than if site A were developed. Because this is a swap, and the properties are essentially the same soils classification, the impacts are identical, and this policy is met.

The policies on water resources generally require that all State and Federal programs are followed at the time a site is developed. These include review by the DEQ and compliance with the National Pollutant Discharge Elimination System (NPDES). These will be met using the standard land use and building permit process at the time the property is developed.

Policies regarding natural vegetation, fish and wildlife include Policies 1 and 2. These state that remaining areas of natural vegetation shall be preserved, especially along the river. Site B has been farmed and is highly disturbed. Site A is largely forested. As discussed previously, the proposed swap would help preserve site A, thus implementing the policy. All other policies generally require preservation of riparian areas and habitat. These too are implemented through the swap because site B is disturbed and has no water features or habitat.

All air policies are implemented through participation in State and Federal programs. Noise policies pertain to development proposals and will be addressed through the land use and building permit review.

Population and Economy Element

This element largely addresses the need to accommodate increasing populations through residential development and foster a positive economic environment by responding to local and regional economic need. The proposed swap is addressing this by ensuring that the 160+-acres of industrial property are actually developed and not squandered in an area that could never develop. The policies specifically call for the City to provide and maintain an adequate supply of land for commercial and industrial uses. That is specifically what this project is proposing to address.

Housing

This element does not apply to this proposed UGB swap.

Land Use

This element also calls for the City to maintain adequate supplies of land for new uses. The policies are organized into types of uses. Residential and commercial do not apply to the proposed swap.

Industrial policies include requirements to allow interim farming on industrial property. Site B is currently farmed. The policies require industrial areas to be placed so that they do not disrupt residential uses. The advantages of site B have been discussed throughout the narrative. Site B will avoid most

impacts to these sensitive uses. The policies encourage large parcel sizes. Site B will include over 160 acres. Most other policies will be addressed at the development stage. The proposed swap will implement these industrial policies and be consistent with the land use element.

Agricultural policies of the Land Use Element include a requirement that any expansion of the UGB into agricultural areas be carefully planned. Site B is within the planning area for future growth. This proposal helps implement the vision of the Comprehensive Plan. The City has already planned the expansion of utilities and streets to site B as part of the effort to get both to another City owned industrial site on the west side of the railroad tracks.

Agricultural Policies 4 and 5 explain that prime farmland outside the UGB should be preserved. Site B is indeed prime farmland. So is site A. However, industrial sites require a specific mix of factors that can only be successfully met in a select number of locations. The alternatives analysis looked at several locations, and all included class 1 soils, as does site A which is being swapped for site B. Additionally, it should be noted that the LUBA has stated not every Comprehensive Plan policy must be followed in order determine consistency with the plan. The project, as a whole, remains consistent with the City's Comprehensive Plan.

Open space and Willamette River Greenway policies also reiterate the need to preserve open spaces that are not well suited to development, especially wooded areas and those in the Willamette Greenway Overlay area, such as site A. As explained previously, the swap implements these by placing site A into the jurisdiction of the County who is better equipped to administer site A for non-development.

Public Facilities

The public facilities element administers the implementation of infrastructure and City services as the City grows. Most policies require the City to respond to growth. They also require the City to implement specific policies when development occurs. All development-triggered policies have been translated into municipal and development code requirements. These policies do not relate specifically to a UGB swap, except that all services should be planned for in the new expanded area of the UGB. As explained before, utilities are planned for extension into the area. The swap is consistent with this element.

Growth Management

The Growth Management element is the City's response to State Goal 14. The policies require the Planning Area (reserve area) and an agreement between the City and County to administer the Planning Area. This was all addressed previously in this narrative. Millersburg Planning Area Policy 3

requires that parcel lines be used when possible for growth areas, which we have done in creating site B. Policy 4 requests that the County maintain adjacent lands to the north and west of the City in agriculture until the areas are needed for urban expansion of the City. This swap is consistent with this policy because it will have the City growing to the west (even though technically, the City is not growing, just shifting).

Planning Area Policy 5 explains:

Urbanized development or annexation requests within the Planning Area boundary shall be considered a request for an amendment to the urban growth boundary and shall follow the procedures and requirements of Statewide Planning Goals 2 and 14.

This proposed project is being processed as a UGB amendment, consistent with this policy. The amendment is proposed within the City's Planning Area. The State Goals have been analyzed in this narrative.

2. MILLERSBURG DEVELOPMENT CODE

Like the County, the City's Development Code includes specific criteria for Comprehensive Plan Map and Zoning Map Amendments. Each is reviewed below. *Analysis is shown in italics.*

5.09.050 Decision Criteria for Comprehensive Plan Map Amendments

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.**

As discussed previously, justification, or need, is not required to be addressed for a UGB swap. The amount of industrial and farmland property will stay the same, its just shifting. The proposed UGB swap will have no negative impacts from traffic and circulation patterns because the City has been planning, and will soon be building, improvements to the new NE Transition Parkway that will connect to

site B. This will keep truck traffic away from the residential sections of NE Conser Road. Public facilities and services are also already planned for that area near site B because the City has been extending services to an area on the west side of the railroad tracks, and south of site B.

Swapping property should have no effect on parks because both are industrial use properties. The swap will have great benefits to the economy of the City because site A is unbuildable, and site B is ready for development. The proposed swap will help protect the natural areas within site A as discussed previously. This criteria is met.

- (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.**

All Statewide Planning Goals and Administrative Rule requirements are reviewed in detail previously in the narrative. In summary, the proposed swap complies with all State requirements. This criteria is met.

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

All applicable Comprehensive Plan policies and procedures are reviewed above in this narrative. In summary, the proposed swap complies with the Comprehensive Plan. This criteria is met.

- (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.**

This criterion does not apply, because the application proposes a swap of property that is essentially the same acreage.

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

This criterion does not apply, because the application proposes a swap of property that is essentially the same acreage.

(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.

As explained previously, for site A the property is currently vacant and wooded. It is within the County, because it was recently removed from the City limits. To the west and south of the site is the Willamette River, to the north is currently agriculture (though this swap proposes to make it industrial), and to the east of the site is industrially zoned property inside the City, though the property is currently vacant.

For site B the property is also currently within unincorporated Linn County with agricultural uses. The property to the east of site B is industrially zoned inside the City with a power substation. To the south is vacant wooded land that has recently been removed from the City limits. To the north and west the uses are agricultural.

Agricultural uses next to industrial uses do not typically present conflicts. Some industrial uses may create or manufacture products that may be harmful to agricultural crops, inversely, the application of some agricultural pesticides may conflict with food production of other sensitive industrial processes. These can be mitigated through the design of the industrial projects. Conflicts depend largely on the design of the industrial development. Potential conflicts will be identified and mitigated at the design review stage. The City has had Industrial Comprehensive Plan Land uses next to Agricultural Land Uses (within the county) for years. Expanding the City Industrial Land Uses to the west with this swap will not result in new adjacency conditions that do not exist today.

This criteria is met.

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

As discussed previously, there will be adequate public facilities to serve site B. This criterion is met.

5.10.050 Decision Criteria for Zone Map Amendments.

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

(1) The proposed zone is appropriate for the Comprehensive Plan Land Use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan Land Use classification.

There is currently no Comprehensive Plan Land Use designation on site B. The proposed Comprehensive Plan land Use classification is Industrial, and the Zoning proposed is General Industrial (GI). The two are highly compatible based on Table 9.500B in the Comprehensive Plan Land Use Element. This criterion is met.

(2) The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

Site B is over 160 acres and is generally flat. There are no hazards on the site except for a small flood designation on the southwestern corner that would not likely be developed anyway. The property is well suited to industrial development. This criterion is met.

(3) Allowed uses in the proposed zone can be established in compliance with the development requirements in this Code.

As discussed above, the property is well suited to industrial development. Industrial uses can be accommodated on the site, specifically the GI standards including setbacks and height limits can be easily accommodated. All other development standards can be met for most typical industrial developments including concrete tilt up warehouses, battery storage facilities and other industrial projects. This criterion is met.

(4) Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.

As discussed previously, there will be adequate public utilities based on the City's planned extensions and adequate transportation facilities in the form of the planned improvements to NE Conser Road and NE Transition Parkway. This criterion is met.

(5) For residential zone changes, the criteria listed in the purpose statement for the proposed residential zone shall be met.

The change is not a residential zone change. This criteria does not apply.

ADDITIONAL FINDINGS

The following additional findings are included for the record.

The City recently completed a new Housing Needs Analysis, which was not formally adopted by the City Council. None of the proposed changes directly affect or impact housing development in the City. The swap is for industrial property only. The proposed swap is not inconsistent with the Housing Needs Analysis.