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No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting. Microphones will be muted, and webcams will be turned off for remote participants unless called upon to speak or during public comment period.

Persons shall not comment or testify without first receiving recognition from the presiding officer and stating their full name and city of residence.

During public hearings no person shall present irrelevant, immaterial, or repetitious testimony or evidence.

There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting. If online participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off. If disruption continues, the participant(s) will be removed from the meeting.

PLANNING COMMISSION PUBLIC HEARING & WORK SESSION

Millersburg City Hall
4222 NE Old Salem Road, Millersburg, OR 97321
July 19, 2022 @ 6:00 p.m.

Planning Commission meetings are in-person. Remote access continues to be available. Instructions for joining are at <https://www.cityofmillersburg.org/bc-pc/page/planning-commission-meeting>. If you need additional support, please contact City Hall prior to 5:00 p.m. on Monday, July 18.

Meeting link to join via computer:
<https://aspencu.accessionmeeting.com/j/1167491335>
Phone number to join meeting: 503-212-9900
Meeting ID: 116 749 1335

- A. CALL TO ORDER
- B. ROLL CALL
- C. MEETING MINUTE APPROVAL
 - 1) Approval of June 21, 2022, Planning Commission Public Hearing & Work Session Minutes
Action: _____
- D. PUBLIC HEARING
 - File DC 22-03 Withdraw of Territory (De-annexation) from the City Limits
The City is proposing to remove about 171.84 acres of property from the City limits. A change to the City limits is considered a Comprehensive Plan Map and Zoning Map amendment because these are the official records of the City limits.
Action: _____
- E. WORK SESSION
- F. PLANNING UPDATE
- G. ADJOURNMENT

Upcoming Meeting(s):
<https://www.cityofmillersburg.org/calendar>

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**PLANNING COMMISSION PUBLIC HEARING &
WORK SESSION MINUTES**
4222 NE Old Salem Road, Millersburg OR 97321
June 21, 2022 @ 6:00 pm

A. CALL TO ORDER: Commission Chair Anne Peltier called the meeting to order at 6:01pm.

B. ROLL CALL:

Members Present: Chair Anne Peltier, Commissioners Wil Canate, Jr., Mike Hickam, Connie Lepin, Ryan Penning, and Caryl Thomas
Members Absent: Commissioner Monte Ayers
Staff Present: Matt Straite, Community Development Director; Kimberly Wollenburg, City Recorder; Kevin Kreitman, City Manager; Janelle Booth, Assistant City Manager/City Engineer; and Forrest Reid, City Attorney

C. ELECTION OF PLANNING COMMISSION VICE-CHAIR

ACTION: Motion to Elect Commissioner Mike Hickam as the Planning Commission Vice-Chair made by Commissioner Caryl Thomas; seconded by Commissioner Wil Canate, Jr.

Chair Peltier: Aye
Commissioner Ayers: Absent
Commissioner Canate: Aye
Commissioner Hickam: Aye
Commissioner Lepin: Aye
Commissioner Penning: Aye
Commissioner Thomas: Aye

Motion Passed: 6/0

D. MEETING MINUTE APPROVAL

1) Approval of May 17, 2022, Planning Commission Work Session

ACTION: Motion to Approve the May 17, 2022 Planning Commission Meeting and Work Session Minutes made by Commissioner Connie Lepin; seconded by Commissioner Caryl Thomas.

Chair Peltier: Aye
Commissioner Ayers: Absent
Commissioner Canate: Aye
Commissioner Hickam: Aye
Commissioner Lepin: Aye
Commissioner Penning: Aye
Commissioner Thomas: Aye

Motion Passed: 6/0

Commission Chair Peltier opened the public hearing at 6:08 p.m.

E. QUASI-JUDICIAL HEARING

1) File No: SP 22-02 Valley Pressure Washing

The applicant is proposing a 7,500-sf truck wash facility with two truck and RV wash bays, an office, mechanical room, staff area, restrooms, and lobby areas. The site will feature new access driveways, a dumpster facility, landscaped areas, and 11 parking spaces. The site has no street access but uses a private easement.

ACTION: Motion to Approve File No. SP 22-02 made by Commissioner Mike Hickam; seconded by Commissioner Wil Canate, Jr.

Chair Peltier:	Aye
Commissioner Ayers:	Absent
Commissioner Canate:	Aye
Commissioner Hickam:	Aye
Commissioner Lepin:	Aye
Commissioner Penning:	Aye
Commissioner Thomas:	Aye

Motion Passed: 6/0

Commission Chair Peltier closed public hearing at 6:21 p.m.

F. HOUSING AUTHORITY WORK SESSION

Community Development Director Straite provided a brief overview of the plan for the work session then turned over the discussion to the consultant with 3J and the project manager for the update to the housing chapter in the Development Code.

After the presentation, there were lengthy discussions regarding the results of the citizen engagement efforts, Climate Friendly Equitable Communities, and what future considerations will need to be determined. There was lengthy discussion regarding accessory dwelling units and duplexes and how they might work, which would accommodate the growth and blend into the existing communities. The consultant recapped the current housing chapter specifics then shared the process for the implementation of the revisions to the housing chapter.

G. PLANNING UPDATE

Community Development Director Straite reminded them of the upcoming unusual date for the Planning Commission of July 6 to have a hearing on the Development Code updates and spoke briefly about the de-annexation project that will occur during the regular hearing day and time.

H. ADJOURNMENT: Meeting adjourned by Commission Chair Peltier at 8:14 p.m.

Respectfully submitted:

Reviewed by:

Kimberly Wollenburg
City Recorder

Matt Straite
Community Development Director



File No: DC 22-03 Withdraw of Territory (De-annexation) from the City Limits

Proposal: The City is proposing to remove about 171.84 acres of property from the City limits. A change to the City limits is considered a Comprehensive Plan Map and Zoning Map amendment because these are the official records of the City limits.

It should be noted that this process of de-annexation (technically called a removal of territory) is a standalone process; however, it is meant to be part of a larger Urban Growth Boundary (UGB) swap. The property is generally unbuildable, and this City limit change is the first step in swapping this unbuildable property for other property that would allow industrial development. The file number for the de-annexation is DC 22-03, but the UGB update is DC 22-01 and is a separate process that will be heard at a future date.

Pursuant to State law requirements, the de-annexation action has three steps: first the City Council adopts a resolution stating what the limits of the proposed City limit change will be. That happened on June 14, 2022. Second, the Planning Commission and City Council hold a public hearing for the public to provide comment on the revision. The Council can then change the resolution and the limits of the change if they so desire. Third, the City Council makes the change official by adopting an ordinance effectuating the new City limits on the Comprehensive Plan Map and the Zoning Map. This staff report is for the second step: the public hearing.

I. **BACKGROUND**

- A. Applicant: City of Millersburg
- B. Location: The sites have no address. They are located along the western edge of the City, generally south of NE Conser Road, along the Willamette River. The tax lot numbers are 10S-03W-33-200, 300, and 201.
- C. Review Type: The proposal is a Development Code Amendment (DC) because it changes the City limits which is formalized in the Comprehensive Plan Map and Zoning Map; however, the City's Development Code requires specific steps for a Development Code Amendment. The State regulations have different requirements, specifically a three-step process (see project description above). The hearing before the Planning Commission is scheduled for July 19, which is prior to the planned adoption by the City Council on August 23, 2022. The Commission will make a recommendation to the City Council. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).

- D. Public Notice and Hearing: A notice was posted in City Hall and the newspaper twice. A separate notice was sent to the Department of Land Conservation and Development (DLCD) on June 8, 2022. Information related to the hearing is posted on the City's website here <https://www.cityofmillersburg.org/bc-pc/page/dc-22-03-de-annexation-property-city-limits>
- E. Review Criteria: Section 5.09.050 and 5.10.050
- F. Current Zoning: General Industrial (GI)
- G. Proposed Zoning: Unincorporated County (zoning designation to be determined by the County)
- H. Background: As outlined above in the project description, the process to remove property from the City limits is a very specific process, which is different from any other land use process in the State. This requires three steps: the City Council adopts a resolution stating the limits of the de-annexation, the City Council then holds a hearing where the public can address the Council about the proposed limits of the change, and the last step is an adoption of an ordinance. The State process is silent on the need for any action by the Planning Commission. However, this is considered a Comprehensive Plan Map change and a Zoning Map change. As such, we are required to follow the processes identified in the City Land Use Development Code as well, which does include a requirement for the Planning Commission to advise the City Council on the change.

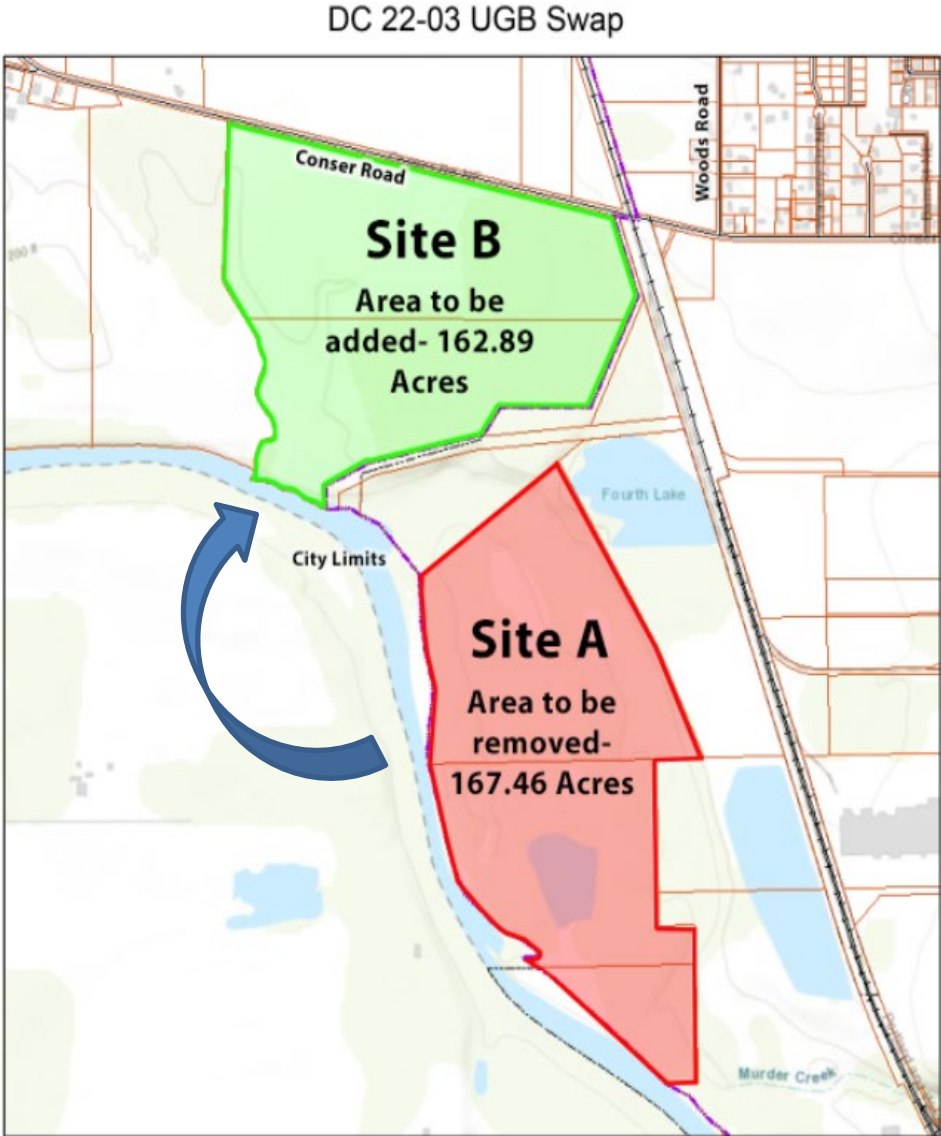
Traditionally, the Planning Commission holds a hearing before the City Council does. In this case, based on the way the City Council and Planning Commission dates normally fall on the calendar, we are holding the public hearing before the City Council first and the Planning Commission second. This is permitted because the City Council cannot take action on the de-annexation at the July 12th City Council hearing. The scheduled ordinance adoption is on August 23rd. Thus, the Planning Commission recommendation will still be presented to the City Council prior to the City Council action on August 23rd.

This staff report is for the Planning Commission public hearing, which is part of the second step in the process. On June 14th the City Council adopted a resolution stating the intent to remove the property from the City limits and identifying the area to be removed. This also set the date for the City Council

hearing on July 12th.

During the public hearing the City Council can change the area to be removed, based on public input, by changing the resolution and re-adopting it.

The proposed de-annexation is shown below. Site A, in red, is the subject for the proposed de-annexation. The green area, Site B, is planned to be added to the UGB. This is the subject of a future (and separate) land use action.



II. CRITERION

CITY OF MILLERSBURG DEVELOPMENT CODE

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.**

ANALYSIS: The map change is unique. The City is not proposing to change a designation on the map, it is proposing to change the City limits by removing three properties from the City. At the time the property is removed, the City will no longer have jurisdiction of them. They will still be within the Millersburg Urban Growth Boundary (UGB), but that does not give the City any jurisdictional control of land uses. The County will become the jurisdiction with land use authority on all three properties once the change is made. The County will apply Comprehensive Plan Land Use designations to the properties at some time in the future.

The City is proposing to move the three properties out of the City limits for a number of reasons including:

- All three properties are almost completely within a Floodway. A Floodway is a FEMA designation for areas of very high probability of flooding. Typically, this is an area where water is frequently present and of fairly high velocity. Though FEMA has a pathway to develop within a Floodway (with mitigation and studies), the City has more strict requirements (which FEMA encourages). City regulations do not permit any development within a Floodway. Therefore, even though these three properties have a zoning designation of G1, they are unbuildable because of this designation.
- The properties have no public access, meaning there are no streets to these properties. The City's Transportation System Plan does not propose any streets in this area. Having that said, there are ways to build streets to these areas, but that would require FEMA mitigation and expensive construction techniques to create them. It is not practical, probable, or

efficient to add streets to these lots.

- Based on the wooded nature of the three properties, their location along the Willamette River and the Floodway designation, these properties are better suited to a natural open space land use than an industrial one.
- The County is better suited to designate these properties with a Comprehensive Plan Land Use designation that would be intended to provide long-term protections to the area. The City has no such designations. The highest and best use for these properties is open space.
- Because the property cannot build out as industrial, leaving them in an Industrial Comprehensive Plan Land Use designation is misleading and creates complications in the City's ability to plan development of other industrial areas. Therefore, removing these properties will have a positive impact on the amount of industrially designated property within the City, because it will give the City ability to change the UGB and City limits to add more industrial property to the City. The new property will be better suited to development.
- Removing these properties from the City will allow the City the ability to alter the UGB to include other property into the City limits that is more able to build-out with industrial uses.
- Further development of industrial areas adds more tax revenues to the City and allows a lower tax rate to the residents of the City.

Based on the reasons listed above, it is in the public's best interest to remove these properties from the City.

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 project does comply with the State Planning Goals, no exception is needed. The following is a summary of the project's consistency with the State Goals.

- Goal 1 calls for citizen participation. The project will have hearings at the Planning Commission and City Council levels. There will be ample opportunity for public input. The project is consistent with, and implements, Goal 1.
- Goal 2 calls for the City to provide Land Use designations that help guide development in locations that are appropriate for development. The property proposed to be removed from the City is not appropriate for the current Land Use designation of industrial, for the reasons listed above. The project is consistent with, and implements, Goal 2.
- Goals 5 and 6 call for the protection of areas that have natural resources or are scenic. Removing the properties from the City will help their protection by affording them County Land Use designations that are far better suited to protecting the wooded natural riverfront property. The project is consistent with, and implements, Goals 5 and 6.
- Goal 7 calls for cities to protect development (or restrict it) from natural hazards. As discussed previously, the three properties are almost completely within a Floodway. Removing the Industrial Land Use designation, by removing it from the City, will assure development does not occur in this hazard area. The project is consistent with, and implements, Goal 7.
- Goal 9 calls for cities to use planning as a way to help the economy of the State or Oregon. Removing these properties from the City will allow the City to designate other areas, currently outside the City and far more developable, as industrial. Increasing the likelihood of building out the City's Land Use designations helps the State's economy. This also helps the State place industrial development in a location (of the State) that is best suited to additional industrial development. Ample water, power, train access and many other features make Millersburg best suited to industrial development.
- Goal 11, Public Facilities, and Goal 14, Urbanization, calls for cities to maximize land uses to prevent continual expansion into farmland. The project will not result in additional land expansion, rather it will facilitate

a swap, almost one-for-one, of acreage. The project simply allows the City to swap the designation to a location that makes more sense to develop and maximizes the efficiency of public infrastructure.

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: Based on staff's review of the Comprehensive Plan goals and policies, the proposed project is fully constant with the Comprehensive Plan. Many of the Comprehensive Plan's goals and policies implement and reiterate the State Planning Goals. Therefore, most of the State goal analysis is applicable here as well. Below is a summary of the project's consistency with the Comprehensive Plan.

- Section 9.100 calls for the public to be able to comment on planning issues. This project will be before the Planning Commission and the City Council in a hearing format which allows for ample public comment.
- Section 9.160 calls for all affected public agencies to review projects. This was transmitted to several public agencies for review.
- Section 9.190, the Planning Section, calls for the City to review and monitor land uses to change them when they are not working. This project implements this because the property cannot be developed and others can. Removing these from the City will allow other property to be added as industrial property and allow the City more opportunity for industrial development.
- Section 9.200 address the environment. Eliminating these lots from the City will help protect them long term, thus implementing the policies of this section.
- Section 9.300 addresses the economy. As explained above, removing these unbuildable lots from the City limits allows the City the ability to change the UGB and include other lots in the City that are more viable for industrial development, thus impeding the policies of Section 9.400.
- Section 9.500 is the Land Use section. This section requires a balance of land uses in the City and it requires that adequate area for each land

use be provided. This section contains the Land Use map and contains an entire section of policies specific to the development of industrial uses. None of these three lots can implement any of these Comprehensive Plan policies because they are not buildable. Removing them from the City will help us re-designate other properties that can implement these policies.

- Section 9.500 also contains policies regarding the protection of the Willamette River Greenway, a State priority. One of these policies requires a 150-foot setback from the ordinary low water line of the river. Another policy says that development should be placed as far from the river as possible. These policies further limit possible development of these properties. Removing the lots from the City will assist with implementing the Greenway policies.
- Section 9.800 is the Growth Management section. This section includes policies that encourage boundary changes to use existing property lines, coordinate boundary changes with the County, grow where public facilities can be reasonably provided, protect natural drainage areas, and avoid of hazards to name a few. The proposed project implements all of these because it uses existing property lines to identify the three lots for removal, the City coordinated with the County prior to beginning the change, removes property that would have been difficult for public facilities to service (and allows the City the opportunity to add new property closer to existing utilities), and the removal of the lots will protect the Floodway and allow it to remain in place.

In summary, the proposed project is highly consistent with the Comprehensive Plan.

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: This criterion does not apply to the proposed change. The proposal is to remove areas from the City. The plan is to make this part of a swap of properties that generally match in size. When complete there will be no significant change on the amount of industrial properties in the City. Further,

the existing lots are not buildable, so the question of the total City-wide amount of industrial property is irrelevant. This is the first step in a series of actions that make the full amount if industrial property buildable.

FINDING: Based on the analysis above, this criterion does not apply.

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

ANALYSIS: See analysis for criteria 4 above. This criterion does not apply.

FINDING: Based on the analysis above, this criterion does not apply.

(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: Because the City is not going to provide a new designation to the three lots removed from the City, this criterion does not apply. By removing the property from the City limits, the responsibility of designating the Land Use designation to the three lots will fall on the County.

The City has met with the County. They explained that they plan to designate the property with an open space designation. Having that said, looking forward to an ultimate open space designation by the County, such a land use designation will not destabilize land use patterns of the surrounding properties. The three properties will ultimately have open space uses on the west and south (the river), and industrial uses on the east and north. Industrial uses have regulations that will assure their uses do not pollute the air or water. These regulations (City, region, and State) will assure that the industrial uses will not detrimentally impact the open space uses. Likewise, the neighboring open space will have no deleterious effects on the industrial uses. In fact, the open space property could eventually be used for purposes that may help neighboring uses develop, such as wetland mitigation banking for example.

FINDING: Based on the analysis above, while the criteria does not apply—it will be 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.**

ANALYSIS: No use is proposed, but the ultimate use of open space will need no services.

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

5.10.050 Zoning Map Amendment Decision Criteria.

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.**

ANALYSIS: The City is proposing to eliminate the Comprehensive Plan Land Use designation for the properties. Likewise, the three properties being removed will also no longer have City zoning classifications. The change proposed is not changing the classifications—it is changing the boundary of the map itself. As such, this criterion does not apply to the project. The County has indicated that an open space zone will be applied at some point to the properties.

FINDING: Based on the analysis above, the criteria does not apply to the project.

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

ANALYSIS: No new zone is proposed on the site; thus no new uses are proposed. The County will ultimately add an open space zone to the site. Uses in an open space zone typically do not allow development and would therefore not exceed the capacity of the property.

FINDING: Based on the analysis above, the criteria does not apply to the project, though it will be met.

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

ANALYSIS: No new zone is proposed on the site; thus no new uses are proposed. The County will ultimately add an open space zone to the site. Uses in an open space zone typically do not allow development. Any uses would have to comply with County development requirements. Therefore, this criterion does not apply.

FINDING: Based on the analysis above, the criteria does not apply to the project, though it will be 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.

ANALYSIS: An open space zone would not typically require public facilities. There is no transportation network in place to access the site, there are no public roads to the three properties proposed to be removed. Thus, adequate facilities do exist, in that there are none and the proposed use (by the County) will require none.

FINDING: Based on the analysis above, this criterion is met.

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

ANALYSIS: The change is not residential.

FINDING: Based on the analysis above, this criterion does not apply.

III. TRANSPORTATION PLANNING RULE

Oregon's Transportation Planning Rule (TPR), Oregon Administrative Rule 660-012-000, was enacted to support Oregon's Goal 12- the Transportation Goal. The TPR explains that local governments and state agencies are responsible for assuring that land uses and transportation planning remain linked. Section 0060 directs cities and counties to assess whether proposed plan amendments and zone changes will have a significant effect on the transportation system.

As explained previously, the project proposes to remove three lots from the City limits. There are no streets servicing these three lots and none were planned or proposed in the Transportation System Plan for the City. Further, the eventual open space Land Use designations that will be applied by the County will not permit any significant development of these three lots. The proposed amendment will have no effect on the existing or proposed transportation system. As such, the proposed project is fully consistent with the TPR.

IV. STAFF RECOMMENDATION TO THE PLANNING COMMISSION

Based on the above findings of fact, the proposed Comprehensive Plan Map and Zoning Map amendment satisfies the applicable criteria. Staff recommends, that the Planning Commission recommend approval to the City Council.

V. RECOMMENDED MOTION

Staff recommends the following as a sample motion:

I motion that the Planning Commission recommend approval of DC 22-03 to the City Council.

VI. EXHIBITS

- A. Resolution 2022-08
- B. Public Hearing Notice