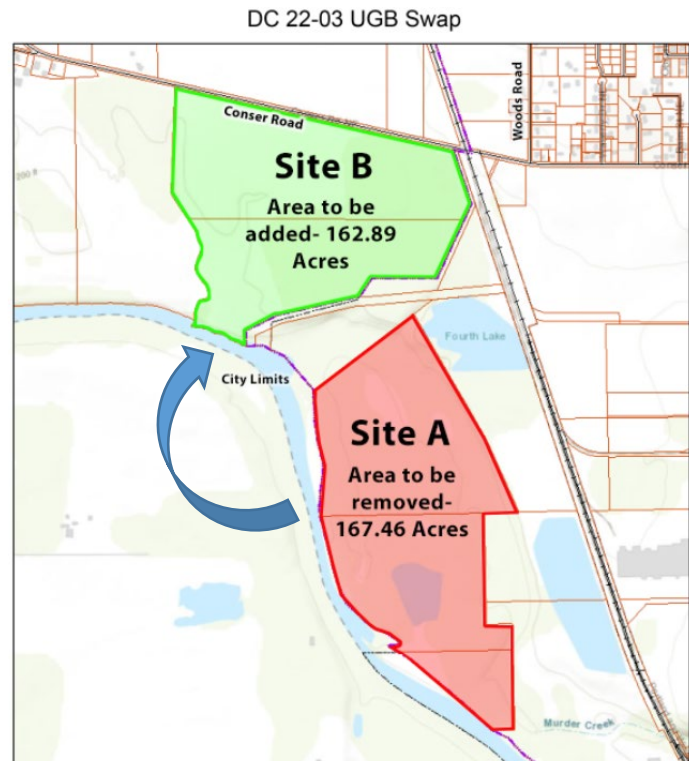




TO: Millersburg City Council
VIA: Kevin Kreitman, City Manager
FROM: Matt Straite, Community Development Director
DATE: June 9, 2022 for the June 14, 2022 City Council Meeting
SUBJECT: Resolution for an Intent to Withdraw Territory (De-annex Property) from the City Limits

Action Requested:
Adopt Resolution 2022-09 to declare the intent to withdraw.

Discussion:
During a Council work session on January 13, 2022, staff initiated a discussion regarding the possibility of swapping industrial property from the floodway restricted area adjacent to the Willamette River (Site A) to an area along Conser Road west of the current City limits (Site B). Based on Council direction staff has had further discussion with the City Council and Planning Commission regarding the proposed withdrawal.¹



As outlined in that work session and subsequent discussions, there are many steps to the process. The process would require, in this order:

- De-annexing Site A.
- Changing (swapping) the Urban Growth Boundary (UGB) to exclude Site A and include Site B.
- Lastly, annexation of property for Site B.

Each of these requirements has a separate process. This agenda item represents the first step in the revision to the City limits and UGB, the intent to declare the de-annexation of Site A. ²

¹ Tax Lot 00201 is 86.92 acres, Tax Lot 00300 is 63.60 acres, and Tax Lot 00200 is 16.94 acres

² The State Statues calls this a withdraw of territory. This is the same thing as a de-annexation, or removing property form the City limits.

The de-annexation step must happen first. This will remove Site A from the City Limits, but will not alter the UGB. This action does not require any action by the County. The property owners have consented to the action, though that is not a State requirement.

The de-annexation process is dictated by ORS 222.524, 460, and 465³. ORS 222.524 regulates removing properties from taxing districts, such as fire districts, school districts, and special districts. The only district proposed to change is the City, which is considered a taxing district. ORS 222.460 regulates the process specifically to de-annex. All findings related to this proposal are included in the resolution.

The process for de-annexation is a very specific process. The process is established to allow the public to have a lot of participation, in case a City is trying to remove property owners that may object. This proposal is uncontested, features undeveloped and undevelopable property, and impacts a single industrial owner who is in agreement with the proposal. These simplify the process. The requirements of this Statute are outlined below.

Step 1: Adopt a resolution of intent: The State requirements explain that the City needs to adopt a resolution of intent. That is what this agenda item is requesting. No hearing is required to adopt the resolution. The resolution is attached and establishes the property subject to this action (Site A). Today's action will also set a hearing no later than 30 days from the date of the adoption of the attached resolution for the first public hearing. This resolution is being presented for adoption on June 14, 2022, and the date of the first hearing is scheduled for July 12, 2022.

Step 2: Hold the first hearing for community input and to set the final boundaries of the de-annexation: This has been scheduled for July 12, 2022. The ORS requires that this be a public hearing. The idea is that the City Council has an opportunity to change the boundaries of the proposed de-annexation based on public input. Once public testimony concludes, the City Council can:

- alter the boundaries of the proposed de-annexation by modifying the previous resolution, or
- the Council can 'enter an order' (declare for the record) that the previous resolution stands (and the boundaries will not be modified), and,
- set a date between 20 and 50 days after the date of the order for a final hearing on the resolution, likely September 13, 2022, and,
- The Council must also declare the following: "An election regarding the removal of the property from the City will not be held unless a written request for such an election is filed at or before the final hearing by the property owner. If written requests for an election are not filed with the

³ ORS 222.465 does not apply. This section explains what should be done if water or sewer is connected to a property that is to be removed from the City limits. In this case, none of the three properties in question are connected to City water or sewer.

City Council at the time of the final hearing, the Council will adopt an ordinance detaching the property from the City."

Step 3: Hold a second hearing to adopt an Ordinance: This step will have the City Council adopt an ordinance formalizing the removal of the properties from the City limits. The tentative date for this action is August 23, 2022, which is normally reserved for a work session, but will be changed to a regular meeting date if the Council is available on that date. This assumes there will not be an election.

Step 4: Notice to the Oregon Department of Revenue and Oregon Secretary of State office: This step will be the final action that will change the taxing for the property with the State.

Suggested Motion:

Motion that the City Council has determined that it may be in the public's interest to withdraw the territory (de-annex the three properties, Site A) identified in the staff report. As such, the City Council motions for the initiation of de-annexation process with the adoption of Resolution 2022-09 and sets the matter for a public hearing on July 12, 2022.

Attachment(s):

- o Resolution 2022-09