



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. Second, the City Council holds 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, while 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, they 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 on 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.

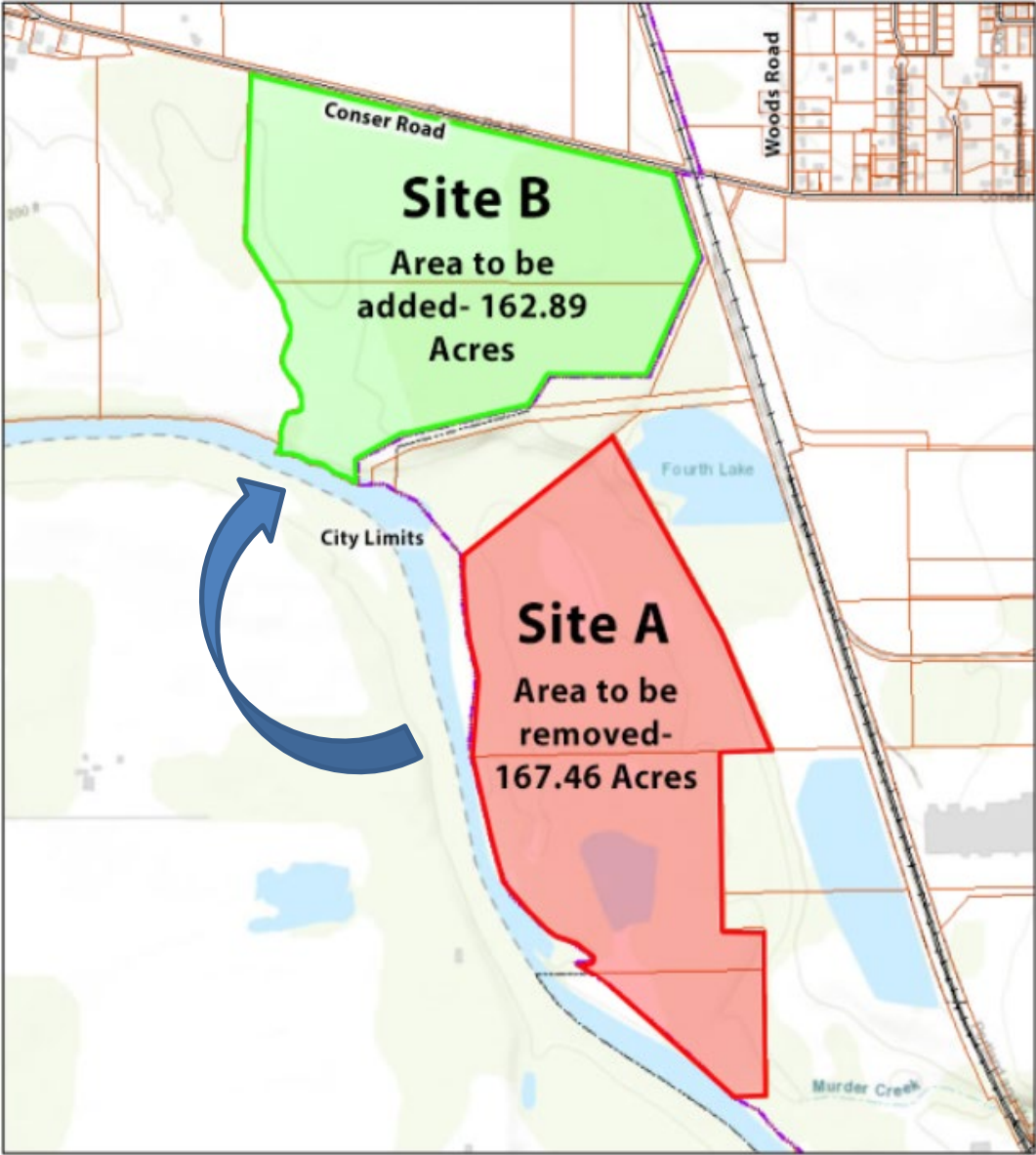
This staff report is for the City Council public hearing, which is the second step in the process. On June 14th the City Council adopted a resolution stating the intent to remove the property from the City limits and identifying the area to be removed. This also set the date for this hearing on July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

DC 22-03 UGB Swap



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 add 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, call 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 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 projects 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 impending the policies of Section 9.400.
- Section 9.500 is the Land Use section of the Plan. This section requires a balance of land uses in the City, 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 criteria 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 criteria 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 criteria does not apply.

FINDING: Based on the analysis above, this criteria 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 designations to the three lots removed from the City, this criteria 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 meet 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 criteria 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 criteria 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 criteria 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 criteria 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 CITY COUNCIL

Based on the above findings of fact, the proposed Comprehensive Plan Map and Zoning Map amendment satisfies the applicable criteria. Staff recommends, pursuant to the State ORS requirements for de-annexations, that the City Council direct the Mayor to sign an order formalizing the limits of the

change and setting a date for the final adoption of an Ordinance formally removing the property from the City.

V. RECOMMENDED MOTION

Staff recommends the following as a sample motion:

The City Council hereby directs the Mayor to sign an order declaring that the Council still favors the withdrawal of territory pursuant to the resolution as approved, and setting forth the boundaries of the area to be withdrawn, and sets a date of August 23, 2022, 6:00 P.M. at the Millersburg City Hall, for final hearing on the Ordinance withdrawing the territory from the City, and amending the Comprehensive Plan Land Use Map and Zoning Map to reflect the change.

VI. EXHIBITS

- A. Resolution 2022-08
- B. Draft Ordinance No. 2022-XX
- C. Public Hearing Notice

RESOLUTION NO. 2022-08

A RESOLUTION INITIATING WITHDRAWAL OF TERRITORY FROM THE CITY OF MILLERSBURG

WHEREAS, except as expressly prohibited by a city charter, ORS 222.460 provides that the legislative body of a city may order the withdrawal of territory from the city limits when it determines that it is in the public interest to take such action; and,

WHEREAS, ORS 222.460 further sets out procedures for withdrawing territory, including information that must be contained in city resolutions, requirements for public hearings, thresholds for when elections are required, and disposition of taxes and assessments; and,

WHEREAS, the City of Millersburg is requesting the removal of three properties from the City (totaling 167.46 acres): tax lot 10S03W2900200, 16.94 acres, tax lot 10S03W2900201, 86.92 acres, and tax lot 10S03W2900300, 63.60 acres; and,

WHEREAS, the three properties have no planned or existing public access (street) and are generally undevelopable because they are located completely within a floodway; and,

WHEREAS, the three properties are currently zoned General Industrial (GI), but are better suited to long-term protection from development interests based on reasons listed in this resolution; and,

WHEREAS, the City has no zoning designations that could assure long-term protection; and,

WHEREAS, leaving the current zoning designation of General Industrial (GI) on the three properties creates a false presumption that the property is viable for industrial development, which has negative ramifications on the presumed availability of land for non-residential development within the City limits, which could hamper any future economic development; and,

WHEREAS, the General Industrial (GI) zoning designation on the three properties is misleading due to a prohibition on any development due to its location within a floodway, and because no urban development of any kind would be permitted on these properties without unrealistic mitigation to remove the properties from the floodway; and,

WHEREAS, the City does not intend to revise the City's Urban Growth Boundary (UGB) at this time; and,

WHEREAS, the City Council discussed the proposal at the January 13, 2022 meeting and in subsequent meetings, where the Council indicated support for a series of land use actions that would essentially swap one set of properties out of the Urban Growth Boundary (UGB)

and another set into the UGB, the first step of which is a resolution to officially initiate removal of property from the City limits.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILLERSBURG as follows:

1. It is the intention of the City of Millersburg to change the boundary of the City by means of withdrawing the three properties listed below from the City limits.
2. The territories to be withdrawn from the City of Millersburg are real property in the County of Linn, State of Oregon, described as follows (full legal descriptions of each are attached as Exhibit B):
 - a. Tax lot 10S03W2900200, 16.94 acres
 - b. Tax lot 10S03W2900201, 86.92 acres
 - c. Tax lot 10S03W2900300, 63.60 acres
3. The territory is further illustrated on the Linn County Assessor's Map attached as Exhibit A.
4. The City will schedule a public hearing on July 12, 2022 to receive public input on the boundary change proposed. A tentative date to adopt an Ordinance to formally remove the property from the City is scheduled for August 23, 2022.

ADOPTED AND EFFECTIVE THIS 14TH DAY OF JUNE, 2022.

Jim Lepin, Mayor

ATTEST:

Kimberly Wollenburg
City Recorder

Exhibit A- Linn County Assessors Map



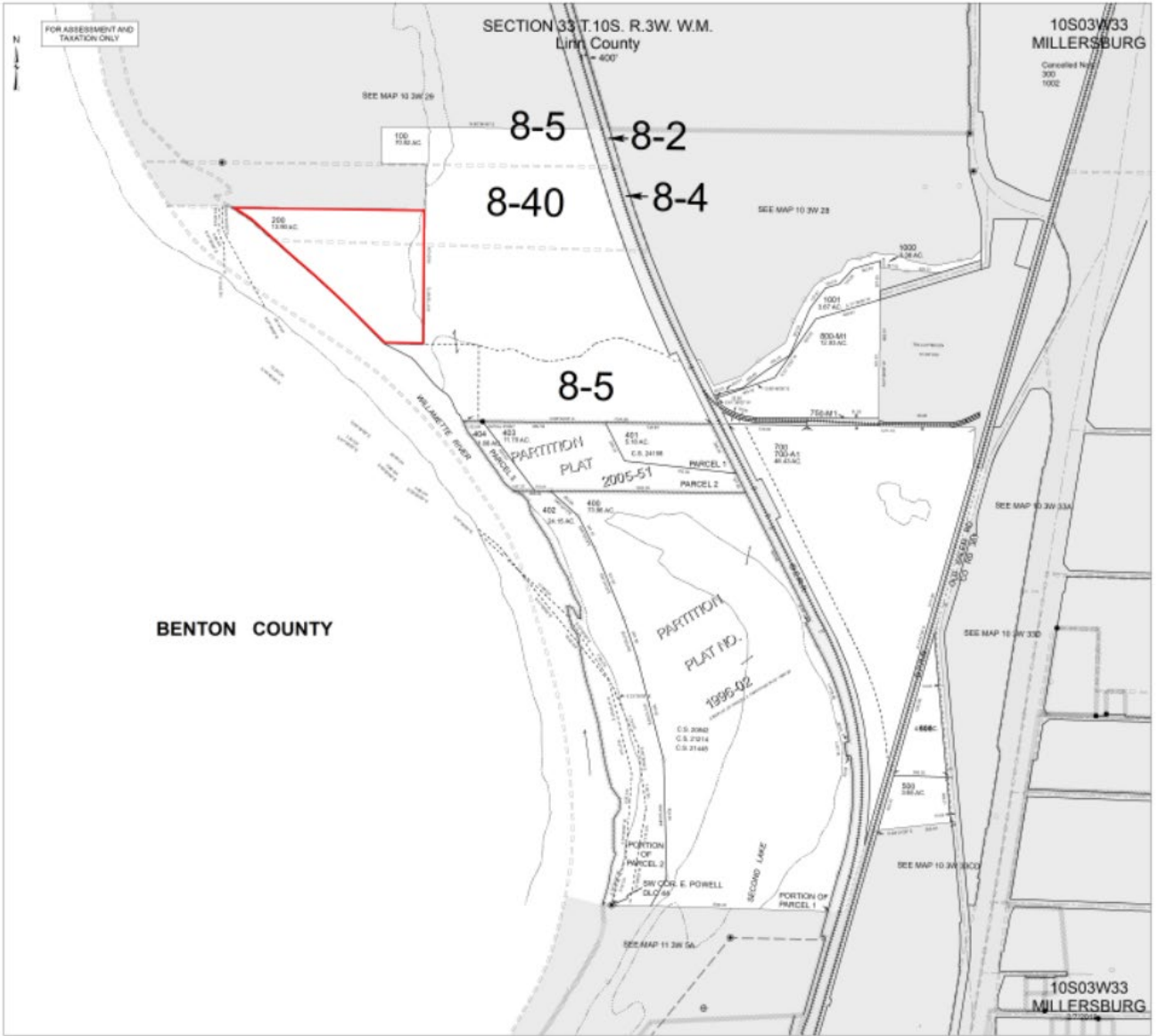


Exhibit B- Deeds with legal descriptions for all three properties.¹

¹ Two deeds are attached as one deed represents both tax lot 300 and tax lot 201, the second deed represents tax lot 100.

After recording
return to TICOR Title

Feb 1 2013 18:14

After recording return to:
Millersburg Power LLC
PO Box 2087
Salem, OR 97308

LINN COUNTY, OREGON 2013-08997
D-WD
Col=1 Str=1 COUNTER 05/31/2013 11:21:25 AM
\$50.00 \$11.00 \$15.00 \$19.00 \$10.00 \$105.00



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Steve Druckenmiller - County Clerk



GRANTOR: International Paper Company
6400 Poplar Avenue
Memphis, TN 38197

GRANTEE: Millersburg Power LLC
PO Box 2087
Salem, OR 97308

Until a change is requested, all tax statements shall be sent to Grantee at the following address:
Millersburg Power LLC
PO Box 2087
Salem, OR 97308

STATUTORY SPECIAL WARRANTY DEED

International Paper Company, successor and assign to IP Eat Three LLC ("Grantor") conveys and specially warrants to Millersburg Power LLC ("Grantee") the real property in Linn County, Oregon, more particularly described on Exhibit A attached hereto and by this reference incorporated herein (the "Real Property" or the "Land"), free of encumbrances created or suffered by the Grantor, except for those encumbrances set forth on Exhibit B, attached hereto and by this reference incorporated herein.

Together with a non-exclusive easement thirty feet (30') in width over, on and under the adjacent lands of Grantor, running in a northerly direction from the suction point of the withdrawal pipe of the ASB pond to the common boundary between the lands conveyed to Grantee by this deed for the sole purposes of ingress and egress, operating, repairing, maintaining, removing, improving and replacing the ASB Delivery System in such a manner as not to interfere with Grantor's operations on such lands. A sketch identifying the location of the aforementioned easement is attached hereto as Exhibit C and by this reference incorporated herein.

The true consideration for this conveyance in terms of dollars is \$1,200,000.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR

First American Title

0808-2005 (A)(w)

FATCO. NO.

205 - 309302 - c87



✓ After recording return to:
 First American Title Insurance
 Company
 2101 Fourth Avenue, Suite 800
 Seattle, WA 98121
 Attn: Donna Koerber/T2007-439
 Until a change is requested all tax statements
 shall be sent to the following address:
 IP EAT Three LLC
 c/o International Paper Company
 PO Box 2118
 Memphis, TN 38101
 File No.: 309302 CP7 (dk)

THIS SPACE RESERVED FOR RECORDER'S USE

LINN COUNTY, OREGON 2008-15425

O-BS 08/04/2008 11:58:45 AM

Cnt=1 Sln=1 COUNTER \$151.00

\$130.00 \$11.00 \$10.00



0008888200800154250260266

I, Steve Druckenmiller, County Clerk for Linn
 County, Oregon, certify that the instrument
 identified herein was recorded in the Clerk
 records.



Steve Druckenmiller - County Clerk

STATUTORY BARGAIN AND SALE DEED

Weyerhaeuser Company, a Washington corporation, successor by merger to Willamette Industries, Inc., an Oregon corporation, as to Parcels I, II, III, IV, VI, VII, XI, XII and XV and **Weyerhaeuser Company**, a Washington corporation, successor by merger to Willamette Industries, Inc., an Oregon corporation, successor by merger to Western Kraft Corporation, an Oregon corporation, as to Parcels V, VIII, IX, X, XIII, XIV and XVI, GRANTOR, conveys to **IP EAT Three LLC**, a Delaware limited liability company, GRANTEE, the following described real property: **See Exhibit "A"**

TOGETHER WITH all the tenements, hereditaments and appurtenances belonging or in any way appertaining to the Property.

TO HAVE AND TO HOLD the same in fee simple forever.

This conveyance is made subject only to those matters set forth in **Exhibit "B"**, attached hereto and incorporated herein by this reference (the "Permitted Exceptions").

And GRANTOR hereby covenants with GRANTEE that GRANTOR is lawfully seized of the Property in fee simple; that GRANTOR has good right and lawful authority to sell and convey the Property; and that GRANTOR does hereby fully warrant the title to the Property and will defend the same against lawful claims of all persons claiming by, through or under GRANTOR, but against none other.

ORDINANCE NO. 2022-XX

AN ORDINANCE TO REMOVE TAX LOTS 10S-03W-33-200, 300, AND 201 FROM THE CITY LIMITS AND AMEND THE MILLERSBURG COMPREHENSIVE PLAN LAND USE MAP AND ZONING MAP TO SHOW THE REVISED CITY LIMITS.

WHEREAS, the City of Millersburg City Council directed staff to move forward with an exchange of property (a swap) to remove property from the City limits and Urban Growth Boundary (UGB) and alter the UGB to include different property in a more viable location; and,

WHEREAS, in order to swap property by changing the UGB, two different land use actions are required; the first step is to withdraw territory, the second step is to revise the UGB; and,

WHEREAS, Oregon Revised Statute (~~ORS~~) 222.524 and 222.460 contains requirements specific to the land use action of a de-annexation; and,

WHEREAS, on June 14, 2022, the City Council approved Resolution 2022-08 stating an intent to withdraw territory (de-annex) property and identifying tax lots 10S-03W-33-200, 300, and 201 as the properties intended for removal; and,

WHEREAS, City and County staff met to discuss the proposed project and the County did not register any specific concerns with the City's proposal; and,

WHEREAS, a de-annexation does not require any land use actions on the part of the County; and,

WHEREAS, the project is fully consistent with the Urban Growth Management Agreement between the City and the County (and Urban Growth Boundary Procedural Ordinance 80-163); and,

WHEREAS, Oregon Revised Statute (~~ORS~~) 222.524 and 222.460 contains requirements specific to the land use action of a de-annexation; and,

WHEREAS, public notice was posted twice in a newspaper for a public hearing to occur on July 12, 2022, before the City Council; and,

WHEREAS, on July 12, 2022, the City Council held a public hearing to provide the public with an opportunity to address the City Council about the de-annexation, the Comprehensive Plan Map, and the Zoning Map amendment; and,

WHEREAS, on July 19, 2022, the Planning Commission held a public hearing and recommended the City Council adopt an ordinance to remove the property from the City limits, and furthermore, to amend the City's Comprehensive Plan Map and Zoning Map; and,

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

WHEREAS, the Millersburg Planning Commission and City Council find that the project meets all criteria requirements from Section 5.09 and 5.10 of the Millersburg Land Use Development Code and all findings are included here and within the staff report dated July 5, 2022;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF MILLERSBURG DO ORDAIN AS FOLLOWS: tax lots 10S-03W-33-200, 300, and 201 are hereby removed from the City limits and the Millersburg Comprehensive Plan Map and Zoning Map are amended as shown in Exhibit A.

This Ordinance shall become effective 30 days after its approval.

PASSED by the Council and approved by the Mayor this 23rd day of August, 2022.

Jim Lepin,
Mayor

ATTEST:

Kimberly Wollenburg,
City Recorder

Attachments:

Exhibit A- Amended Comprehensive Plan Map and Zoning Map



NOTICE OF PUBLIC REVIEW
July 12, 2022, 6:00 p.m.
Hearing will be in person and
by phone/computer.

See Agenda on the City website for details

The City of Millersburg will hold a **CITY COUNCIL** hearing on July 12, 2022 at the above time and place, and a **PLANNING COMMISSION** hearing on July 19, 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. A final action on the project is planned on August 23, 2022 in the form of an Ordinance adoption. For further information, contact Millersburg City Hall at (458) 233-6306.

The location of the meeting 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: South of NE Conser Road along the western edge of the City in the wooded property along the Willamette River. For a map see the link below.

CRITERIA: The project is a de-annexation, to remove property from the City limits. The State Oregon Revised Statutes (ORS) have a specific process for such an action. This does not include specific criteria. The change is considered a Comprehensive Plan Map Amendment and a Zoning Map Amendment, both of these have City criteria, specifically those found in Development Code Sections 5.09.050 and 5.10.050.

FILE No.: DC 22-03






REQUEST: The City is proposing to remove about 171.84 acres of property from the City limits, see map on following page (opposite side of this notice). This area is designated as General Industrial. 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. This is not proposing to make any changes to the Urban Growth Boundary. See this link for more detail and full Code text edits proposed:
<https://www.cityofmillersburg.org/bc-pc/page/dc-22-03-de-annexation-property-city-limits>

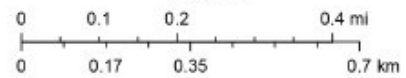
DC 22-03 Vicinity Map



6/7/2022, 11:30:31 AM

1:18,056

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



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, GeoTechnologies, Inc., USGS, METWASA, EPA, USDA, GeoTerra, 2021

ArcGIS Web AppBuilder

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, GeoTechnologies,