



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: July 27, 2015
Jurisdiction: City of Mill City
Local file no.: 2015-03
DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 07/21/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 002-15 {23657}
Received: 7/21/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Mill City

Local file no.: **2015-03**

Date of adoption: 07/14/2015

Date sent: 7/21/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 03/05/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

The proposal is the same as submitted. Annexation and Zone Change of a 1.26 acre parcel at 365 NE Third Avenue in Mill City.

Local contact (name and title): Stacie Cook, MMC, City Recorder

Phone: 503.897-2302

E-mail: scook@ci.mill-city.or.us

Street address: PO Box 256, 444 1st Avenue

City: Mill City, OR

Zip: 97383-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from UT-5	to R-1	Acres: 1.26
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): T9S R3E 29CB 01200

List affected state or federal agencies, local governments and special districts: Marion County Planning, Oregon Dept. of Revenue, Marion County Assessor and Marion County Clerk.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Adopting Ordinance 378 including Order of Approval and Notice of Decision.

ORDINANCE NO. 378

AN ORDINANCE REZONING A 1.26 ACRE PARCEL AT 365 NE THIRD AVENUE TO A SINGLE FAMILY RESIDENTIAL (R-1) ZONE AND ANNEXING THE PROPERTY, WHICH IS CONTIGUOUS WITH THE CURRENT CITY LIMITS OF THE CITY OF MILL CITY, WITHOUT AN ELECTION OF THE PEOPLE.

WHEREAS, the City of Mill City has received a land use application from Robert and Linda Krokoski regarding a 1.26 +/- acre site at 365 NE Third Avenue in Mill City; Marion County Assessor's Map T9S, R3E, Section 29CB, Tax Lot 01200; and

WHEREAS, the applicant proposes to

1. Annex a 1.26 acre parcel, including a home at 365 NE Third Avenue in Mill City, Oregon; and
2. Amend the Mill City Zoning Map to rezone the annexed property from Marion County Urban Transition (UT-5) to a City of Mill City Single Family Residential (R-1) zone.

WHEREAS, the Planning Commission held a public hearing on May 29, 2015 to consider the application and upon deliberation, after the close of the public hearing, recommended the city council approve the application and further recommended that the City Council approve the annexation and zone change; and

WHEREAS, the City Council held a public hearing on June 23, 2015 and at the close of the hearing the City Council concurred with the Planning Commission recommendations to annex the applicant's property and rezone the property; and

WHEREAS, the City Council adopted findings of fact approving the land use application;

WHEREAS, the City has reviewed the legal descriptions of the property to be annexed and rezoned; and

WHEREAS, ORS 222.125 allows cities to annex territory when all (100%) of the property owners of the territory and not less than 50% of the electors (registered voters) living within the area to be annexed submit a petition (application) requesting the property be annexed. The owners of the subject property are Robert and Linda Krokoski and there are no electors residing on the property; and

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

SECTION 1: ZONING MAP AMENDMENT. The Mill City Zoning Map shall be amended to rezone the following property from Marion County Urban Transition (UT-5) to City of Mill City Single Family (R-1) Residential.

Parcel	Owner(s)	Assessor Map & Tax Lot	Size in Acres	Existing Use	Prior Marion County Zoning	New Mill City Zoning
1	Robert and Linda Krokoski	09 3E 29CB TL 01200	1.26	Home site 365 NE Third	UT-5	SFR (R-1) Residential

Attached hereto is Exhibit “A”, which accurately portrays the property to be rezoned to Single Family Residential (R-1).

SECTION 2: ANNEXATION AREA – 365 NE Third Avenue. The following property, shown on the map attached hereto as “Exhibit B”, and described in the legal description, attached hereto in “Exhibit C”, is hereby proclaimed to be annexed into the City of Mill City.

Parcel	Owner(s)	Marion County Assessor Map & Tax Lot	Size in Acres	Existing Use
1	Robert and Linda Krokoski	09 3E 29CB TL 01200	1.26	Home site 365 NE Third Avenue, Mill City

SECTION 3: RECORD.


1. The City Recorder shall submit to the Oregon Secretary of State a certified true copy of this ordinance.
2. The City Recorder shall send a description, by metes and bounds, and a map depicting the new boundaries of the city to the Linn County Assessor, the Linn County Clerk, Linn County GIS, the Marion County Clerk, the Marion County Assessor and the Oregon State Department of Revenue within ten (10) days of the effective date of the annexation.
3. The City Recorder shall notify all affected utilities of the annexation.

This Ordinance read by title only for the first time on this 23rd day of June 2015.

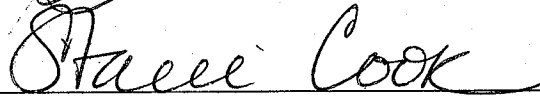
This Ordinance read by title only for the second time on this 14th day of July 2015.

This Ordinance passed on the 14th day of July, 2015 by the City Council and executed by the Mayor this 15th day of July 2015.

Date: 7-15-15

By: 
THORIN THACKER, Mayor

Date: 7-15-15

Attest: 
STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: _____

By: _____
JAMES L. McGEHEE, City Attorney

Exhibits:

“A” - Map of Area to be Rezoned.

“B” - Map of Tax Parcel 9S 3E 29CB, TL 01200 at 365 NE Third Avenue to be Annexed to the City of Mill City.

“C” Legal Description 9S 3E 29CB, TL 01200 at 365 NE Third Avenue to be Annexed to the City of Mill City.

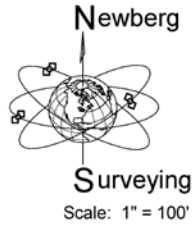
EXHIBIT B

ANNEXATION MAP
365 NE Third Avenue, MILL CITY, OREGON



ANNEXATION MAP

NW 1/4 SW 1/4 SECTION 29 T. 9 S., R. 3 E., WM.,
MARION COUNTY, OREGON
MAY, 2015

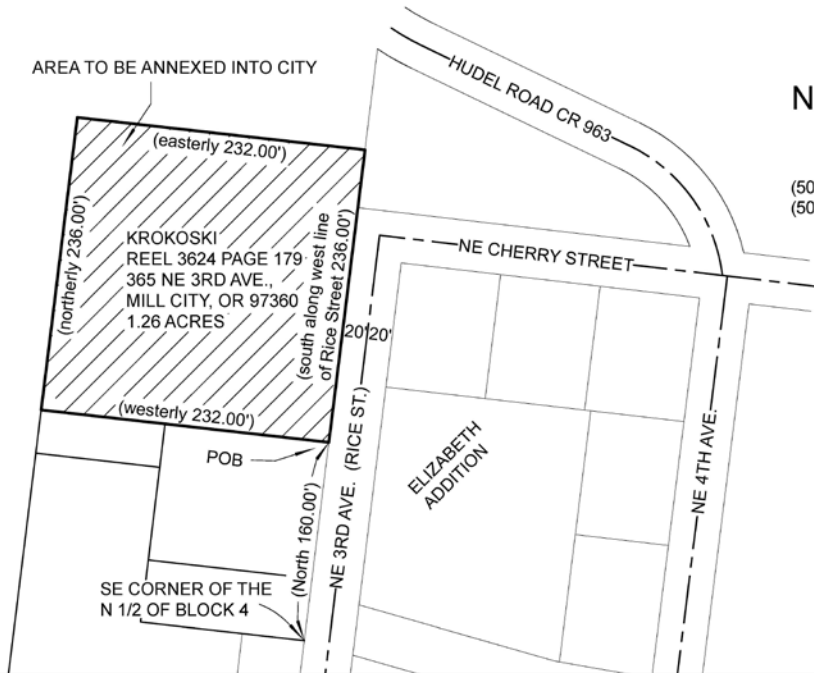
THE PURPOSE OF THIS MAP IS TO SHOW THE AREA TO BE ANNEXED
INTO THE CITY. THE AREA TO BE ANNEXED IS DESCRIBED IN REEL 3624
PAGE 179, MARION COUNTY DEED RECORDS.



Legend

-  = AREA TO BE ANNEXED
-  = RECORD DATA PER DEED
per Reel 3624 Page 179

AREA TO BE ANNEXED INTO CITY



Newberg Surveying, Inc.

1205 NE Evans
McMinnville, OR 97128
(503)-474-4742 (971)-237-1956 Cell
(503)-474-3752 Fax newberg@viclink.com

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John G. Newberg

OREGON
June 30, 1997
JOHN G. NEWBERG
2838

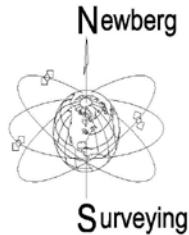
Renewable 12-31-2016

#1352

EXHIBIT C

LEGAL DESCRIPTION OF ANNEXATION AREA
365 NE THIRD AVENUE, MILL CITY, OREGON

PROPERTY LOCATED AT 365 NE THIRD AVENUE, MILL CITY, OREGON THAT IS
CONTIGUOUS WITH THE CURRENT CITY LIMITS OF THE CITY OF MILL CITY.



Newberg Surveying, Inc
1205 NE Evans
McMinnville, OR 97128
(503)-474-4742 • (503)-474-3752 FAX

May 1, 2015

Legal Description of land to be annexed into Mill City:

A tract of land being located within the Northwest 1/4 Southwest 1/4 Section 29, Township 9 South, Range 3 East, W.M., Marion County, Oregon being that land described in a deed recorded in Reel 3624 Page 179. Marion County Deed Records, the exterior boundary being more particularly described as follows:

Beginning at an iron stake on the west line of Rice Street in Mill City, Oregon, said stake is 160.0 feet north of the southeast corner of the north one half of Block 4, Section 29, Township 9 South, Range 3 East, Willamette Meridian in Marion County, Oregon; thence westerly 232 feet to an iron stake; thence northerly 236 feet to an iron stake; thence easterly 232 feet to an iron stake; thence south along the west line of Rice Street 236 feet to the place of beginning, containing 1.26 acres more or less.



City of Mill City

P.O. Box 256
Mill City, Oregon 97360
Phone: 503-897-2302 ♦ Fax: 503-897-3499
Email: scook@ci.mill-city.or.us

June 24, 2015

Robert and Linda Krokoski
1088 SE Ashley Place
Grants Pass, OR 97526

RE: Notice of Decision Approving an Annexation and Zone Change
Marion County Map: T9S R3E 29CB, Tax Lot 01200
365 NE Third Avenue, Mill City, Oregon
File No. 2015-03

Dear Mr. and Mrs. Krokoski:

On June 23, 2015 the City Council held a public hearing on your application for annexation and rezoning of your property at 365 NE Third Avenue in Mill City. The City Council **approved** the proposal.

A. Findings and Conclusions:

The City Council finds the proposal complies with the application requirements and decision criteria for annexation of the property to the City and rezoning of the 1.26 acre parcel at 365 NE Third Avenue to the Single Family Residential (R-1) zone. The Order of Approval is attached. The City Council completed a first reading of the ordinance approving the zone change and annexation of your property to the City of Mill City. The final reading of the ordinance will be completed on July 14, 2015. The effective date of the Ordinance is August 13, 2015.

B. Conditions of Approval:

The City Council did not impose any conditions of approval.

C. Right of Appeal:

Any person aggrieved by this decision may file an appeal with the Oregon Land Use Board of Appeals (LUBA) in accordance with LUBA's appeal deadlines and filing requirements. The Notice of Intent to Appeal and required fees must be filed at LUBA within 21 days after the land use decision becomes final as described by OAR 661-010-0010.

If you have any questions regarding this decision, you may contact me at City Hall at 897-2302.

Sincerely,

/s/

Stacie Cook, CMC
City Recorder

Encl. Final Order of Approval for Annexation and Zone Change
Ordinance Approving the Annexation and Zone Change
Cc: Mill City Planning Commission

BEFORE THE CITY COUNCIL OF THE CITY OF MILL CITY

In the matter of)	Annexation and Zone Change
the application of)	365 SE Third Avenue
Robert and Linda Krokoski, Applicants)	T9S, R3E, Section 29CB, Tax Lot 01200
)	City of Mill City, Oregon
)	Land Use File #2015-03

ORDER OF APPROVAL

I. NATURE OF THE APPLICATION

The applicants, Robert and Linda Krokoski, propose to annex a 1.26 acre parcel, including an existing home at 365 SE Third Avenue, and rezone the property from Marion County Urban Transition (UT-5) to City of Mill City Single Family Residential (R-1) zone.

The purpose of the annexation is to enable the City of Mill City to provide sewer service to the property. The existing septic system has failed and the home was connected to the city sewer system in March 2015 to eliminate a potential health hazard. City of Mill City's comprehensive plan policy LU-19 does not allow for the extraterritorial extension of a sewer line to serve the home. The applicant was advised that the property must be annexed to the City in order for the home to be served by the City's sewer system. If annexed, the property will be concurrently rezoned from Marion County Urban Transition (UT-5) zone to the City of Mill City's Single Family Residential (R-1) zone, which is consistent with the Mill City Comprehensive Plan map.

II. PUBLIC HEARINGS

The Planning Commission conducted a site visit on May 29, 2015 at 9:00 a.m. A public hearing was held on the application before the Mill City Planning Commission on May 29, 2015 beginning at 9:30 a.m. At the hearing, Land Use File #2015-03 was made a part of the record.

At the conclusion of the hearing, the Planning Commission made findings of fact, conclusions of law and recommended the City Council approve the application as proposed. The Planning Commission found the application is consistent with the Annexation and Zone Change requirements in Chapter 17.08 and 17.60 of the Mill City Municipal Code (MCMC).

The City Council conducted a public hearing to consider the application and the Mill City Planning Commission recommendation on June 23, 2015 beginning at 6:30 p.m. At the conclusion of the hearing, the City Council adopted findings of fact, conclusions of law and directed an Ordinance be prepared approving the application as proposed and annexing the adjacent public right-of-way in SE Third Avenue.

III. FINDINGS OF FACT

The Mill City Planning Commission and City Council, after careful consideration of the testimony and evidence in the record adopted the following findings of fact:

A. EXISTING CONDITIONS

1. Robert and Linda Krokoski are the owners of the property.

2. There are no electors living on the property.
3. The tax lot is lot 01200, Township 9, Range 3 East of the Willamette Meridian, Section 29CB.
4. The property is a 1.26+/- acre parcel located at 365 SE Third Avenue in Mill City and is zoned Marion County Urban Transition (UT-5).
4. The parcel has frontage on NE Third Avenue.
5. The parcel is approximately 232' deep by 236' wide (NE Third Avenue frontage).
6. The surrounding properties are zoned Timber Conservation (west and north), Single Family Residential (northeast) and Highway Commercial (southeast and south). There are adjacent residential uses to the west, south, northeast and east.
7. The subject parcel has an existing 672 sf manufactured home and outbuildings.
8. The property is currently served by city water and sewer services (connected March 2015).
9. The property is currently served by private utilities.
10. During the week of March 4, 2015 the applicant filed a plumbing permit application to install a new sewer connection. Permit # MC15-1637 was issued by the City and Linn County Building Department and the interceptor tank, building sewer and the connection to the City sewer line were installed between March, 4, 2015 and March 11, 2015. Final inspections were completed on March 11, 2015.

B. PROPOSAL

1. The proposal is to annex the property to the City of Mill City and rezone the site Single Family Residential (R-1).

C. AGENCY COMMENTS

The following agencies commented on the proposal:

1. Marion County Planning and Building: Joe Fennimore, Planning and Warren Jackson, Building Inspection. The City and Marion County Planning and Building Department staff discussed DEQ and county regulations. Marion County does not permit repair of the existing on-site septic system if the home is within 300' of a city sewer line. The structure must be connected to the City's system. Marion County agreed to work with the city to alleviate a health hazard by allowing immediate connection to the sewer system subject to the City review of the annexation and zone change proposal.
2. Marion County Surveyor: On May 5, 2015 the City submitted the DRAFT annexation ordinance, map and legal description to the Marion County Surveyor for review prior to the Planning Commission public hearing.
3. Oregon Department of Revenue: On May 5, 2015 the Oregon Department of Revenue was asked to review the draft ordinance, maps and legal descriptions for the proposal. The DOR cartography section completed a preliminary review and approved the map and legal description in May 2015. The final annexation ordinance and map must be submitted to DOR after adoption by the City.
4. Northwest Natural Gas: Dan Kizer, NWNG, noted they did not have any comments on the proposal and requested the City provide notification to NWNG after the annexation is approved.

5. Mill City Rural Fire Protection District: Chief Ohrt stated that with the annexation there is a possibility of more homes in this area. He stated there are inadequate hydrants and fireflows in the neighborhood and suggested an additional fire hydrant.

D. PUBLIC COMMENTS

There were no public comments received prior to the public hearing. The applicant's Robert and Linda Krokoski were unable to attend the public hearing on May 29, 2015 and waived their right to appear. No other persons testified for or against the application during the public hearing.

E. APPROVAL CRITERIA

The following criteria apply to the proposal.

1. *Statewide Planning Goals.*

Statewide Planning Goals that apply to the application include Goals 1, 2, 6, 10, 11, and 14. Goals 3, 4, 5, 6, 7, 8, 9, 12 and 13 do not apply to this proposal.

GOAL 1 - Citizen Involvement: As a quasi-judicial land use action involving a Zone Change and Annexation, the City has taken the following actions to provide for citizen involvement and comply with the public hearing notification and citizen involvement requirements of Mill City Municipal Code, Chapter 17.64:

1. Letters were mailed to affected property owners, Marion County, public agencies and DLCD advising them of the proposal, soliciting public comment and inviting them to attend the public hearings.
2. Public hearings will be held with the Mill City Planning Commission on May 29, 2015 and with the City Council on June 23, 2015.

GOAL 2 - Land Use Planning: The applicant's property is within the Mill City UGB and has been planned for future urban uses. The zone change and annexation process is consistent with Goal 2 because the quasi-judicial proceeding followed the land use process established in the MCMC Chapter 17, ORS 197.763 and OAR administrative rules for post-acknowledgement plan amendments.

GOAL 6 - Air, Water and Land Resources Quality: The proposal is consistent with Goal 6 because the extraterritorial extension of sewer service to property is for the purpose of protecting groundwater quality and surface water quality from contamination from the failed septic system at 365 SE Third Avenue.

GOAL 10 - Housing: The proposal annexes 0.75 acres of buildable residential land that is served by City water and sewer facilities. It rezones the property from UT-5 acre minimum to R-1 with a 7,000 sf minimum lot size making it ready for development. The City's buildable land inventory shows the City has an adequate supply of buildable residential to serve the needs of the City during the 20-year planning period.

Goal 11 - Public Facilities and Services: The proposal is consistent with Goal 11 by annexing land into the City which is already served by City water, City sewer and a city street. Findings for the extra-territorial sewer service extension prior to annexation are provided in the next section.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban use.*

The proposal is consistent with Goal 14 because the property is inside the Mill City UGB and the proposal annexes 1.26 acres of land that is contiguous with the city limits, is served by city water and sewer services in SE Third Avenue and abuts an existing city street. After annexation, the property may be developed at urban densities.

2. LCDC Goal 11 Exception Criteria and Oregon Administrative Rules (OAR)

Goal 11: Public Facilities and Services: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

As discussed in Section I of this staff report the City granted a Goal 11 exception to permit the immediate extension of the sewer line outside the city limits to correct a potential health hazard (due to the failed septic tank). The exception is a temporary exception. It is needed during the time it will take for the City of Mill City to complete land use proceedings to consider an annexation and zone change for the applicant's property. The following section includes findings related to the Goal 11 exception.

OAR Goal 11 Exception Criteria

1. OAR 660.015.000(11) states that *"Local governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land"*
2. OAR 660-011-0060 (2), (3), (4), (8) and (9) sets forth exception procedures for extra-territorial extensions of sewer service. Subsection (9) applies to this situation.

Subsection (9) states: *"A local government may allow the . . . extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in Section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include, but are not limited to the following:*

- a. The . . . extension of an existing system is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and*
- b. There is no practicable alternative to the sewer system in order to avoid the imminent public health hazard.*

Findings:

1. The septic tank at 365 SE Third Avenue has failed.
2. The property at 365 SE Third Avenue is located outside the city limits of Mill City, but is within the city's Urban Growth Boundary. The house is located approximately 50' from the city sewer line on the west side of SE Third Avenue.

3. In February 2015 the City and the Marion County Building Inspector concluded that the property must be connected to the City of Mill City sewer system and that Marion County could not issue a permit to repair or replace the septic system because the home was within 300' of a municipal sewage system.
5. The city and county staff concluded that the sewer is both legally and practically accessible:
 - a. Practical and Accessible: City sewer is available in SE Third Avenue approximately less than 100' from the existing building sewer in the home. A new sewer interceptor tank and a 4" service lateral from the tank to the new sewer main is feasible. Both the city and county consider a 100' to 150' building sewer a practical and accessible alternative.
 - b. Legally Available: Sewer lines cannot be extended outside the city unless the property is annexed to the city. Extraterritorial extensions can be granted as a Goal 11 waiver and exception is granted by the city and county. In order to connect to the city sewer, city land use regulations require that the property be annexed to the city. The City of Mill City Comprehensive Plan, Policy #19 states:

Policy #19: The city shall extend sewer service only to properties within the city limits. Properties outside the city limits shall be annexed to the city prior to being eligible for extension of the sanitary sewer system to serve the property.
6. In February 2015, the city councilors and Mayor authorized the City Recorder to grant a Goal 11 exception to permit the immediate connection of the building sewer to the house outside the city limits to correct a potential health hazard. The city council granted this exception because the applicant had submitted an application for annexation to the City.
7. On February 17, 2015 Warren Jackson, Marion County Building Inspector, notified the City that it could not issue an on-site disposal permit and the home must be connected to the available public sewer. He stated Marion County had no objections to the extraterritorial extension while an annexation application is being processed.
8. During the week of March 4, 2015 the applicant filed a plumbing permit application to install a new sewer connection. Permit # MC15-1637 was issued by the City and Linn County Building Department and the interceptor tank, building sewer and the connection to the City sewer line were installed between March, 4, 2015 and March 11, 2015. Final inspections were completed on March 11, 2015.
9. On April 24, 2015 the applicant submitted a land use application to annex and rezone the property. The application was certified complete on April 27, 2015.

3. Mill City Municipal Code – Chapter 17 “Zoning”

Section 17.08.040 of the Mill City Zoning Ordinance requires annexations and re-zoning to be handled concurrently, and states further:

Section 17.08.040 Zoning of Annexed Areas. Any additional property to be annexed to the City of Mill City shall have attached to the legal description thereof, a map of the property. All annexations and zoning of the annexed properties shall be handled concurrently at the same public hearing. All annexed properties shall be zoned within a City zoning district that is in harmony with the existing comprehensive plan description.

The Mill City Municipal Code (MCMC) Section 17.60.030 has minimal criteria for approval of an annexation to the City and a concurrent zone change: “The amendment must be consistent with the applicable policies of the comprehensive plan.”

4. Mill City Comprehensive Plan Goals and Policies

The following comprehensive plan policies are applicable to the annexation request. Staff comments are noted in italics.

Land Use Goal 3: To provide residential lands which are serviceable and which can provide for a mix of housing types and life-styles within the economic capabilities of the citizens and future citizens of Mill City in areas that are pleasant, safe, and healthful in which to live.

Policy 5: Land Use. Mill City shall encourage the in-filling of vacant residential lands where services are available.

Staff findings: The applicant proposes this vacant 3-acre parcel be annexed for residential purposes and be zoned R-1. The undeveloped 2.5 acres of the property may be redivided into a small subdivision or large lot residential parcels.

Policy 14: Water Service. The city shall extend water service only to areas within the Mill City UGB and to those properties receiving water prior to the time the city acquired the water supply system. In the event of water supply capacity limitations, the city will provide water to new customers inside the city limits prior to extending service to those areas between the city limits and the UGB.

Policy 19: Sewer Service Extensions. The city shall extend sewer service only to properties within the city limits. Properties outside the city limits shall be annexed to the city prior to being eligible for extension of the sanitary sewer system to serve the property.

Staff findings The property is currently served by city water. A city sewer line is located on the west side of SE Third Avenue. The City issued a sewer connection and plumbing permit to connect the house at 365 SE Third Avenue to the sewer main. No additional connections to city water or sewer will be permitted until the property is annexed

Policy 35: Fire Protection Services. The city shall notify the Mill City Rural Fire Protection District of all subdivision, annexation and major partitions and request comments from the district on its ability to provide service.

Staff findings: The property is located inside the Mill City Rural Fire District. The fire district expressed concern with the low fire flows in the NE Cherry/NE Birch St. neighborhood and suggested an additional fire hydrant be added.

The applicant’s propose to annex 1.26 acres with an existing structure that is already connected to the City water system. The annexation will not add any new demand on the water system and the staff concludes there is no rationale nexus to require the installation of an additional fire hydrant at this time. If there is a redevelopment or land division on the property, the City and Planning Commission will need to evaluate pressures, fire flows and demands on the existing water distribution system in the neighborhood. At that time the City may impose requirements to ensure new development meets the City’s public works standards and fire code requirements.

Transportation Policy 9. The City shall review all development proposals to assure that emergency vehicles have property access. All areas of the city should be easily reached by emergency vehicles. Alternative access points are available in the event one route becomes impassable.

Urbanization Goal 1. To provide for the orderly outward expansion and growth of the City of Mill City while maintaining fiscal accountability and preserving the livability of the city.

Urbanization Policy 1. Urbanization shall grow outward from existing developed areas of Mill City in a systematic and phased manner to preserve agricultural lands:

- A. Targeting areas with existing services as growth areas.
- B. Encouraging in-fill of vacant land.

Staff findings Emergency vehicles have two access streets to the applicant's property via NE Third Avenue and NE Cherry Street. The applicant's property is contiguous to the City along NE Third Avenue. Annexation of the applicant's site is a logical expansion of the city since water and sewer facilities are in NE Third Avenue and the lot is fronted by NE Third Avenue. The annexation provides an opportunity for the orderly subdivision and development of the parcel in the future.

Since the proposed annexation area is contiguous to the city limits, is already partially developed and is served by urban services, the staff finds the proposal meets the Urbanization goal and policies to encourage in-fill and development at the edge of the existing city limits.

Summary Discussion of Comprehensive Plan Policy Issues:

Annexation normally occurs before the city extends water and sewer service (Policies 14 & 19). In this case, the failed septic system led the City and Marion County to agree that the only viable solution was to grant a Goal 11 exception to allow for connection to the city sewer system to resolve the potential health hazard and require the applicant to annex the property after the connection to the sewer system.

The property lies within the UGB and is contiguous to the city limits. The area is planned for future residential development. The proposed annexation is a logical extension of the city limits and allow for in-fill with new residential development. The property abuts NE Third Avenue, is currently served by city water, abuts the city limits on the east, and the vacant area of the site may be redeveloped in the future.

IV. CONCLUSION

The applicant's proposal is to annex a 1.26 acre parcel at 365 SE Third Avenue and rezone it to a Single Family Residential (R-1) zone. Based on the findings of fact, the Planning Commission and City Council conclude the proposal complies with the standards and criteria for the approval of a Goal 11 exception for the extraterritorial extension of a sewer line prior to annexation of the property and for the approval of an annexation and zone change. Standards and criteria that applied to this proposal included the referenced statewide planning goals, Oregon Administrative Rules, goals and policies of the Mill City Comprehensive Plan, and Mill City Zoning Code requirements.

V. ORDER AND CONDITIONS OF APPROVAL

It is hereby found that application meets the requirements in MCMC Chapter 17.08 Chapter 17.60 and the City Council hereby **approves the annexation and zone change for the applicant's property at 365 NE Third Avenue in Mill City** as proposed by the applicant in Land Use File 2015-03.

VI. OTHER PERMITS AND RESTRICTIONS

The applicant is herein advised that the use of the property involved in this application may require additional permits from the City or other local, state or federal agencies.

The City of Mill City land use review and approval process does not take the place of, or relieve the Applicant of responsibility for acquiring such other permits, or satisfy any restrictions or conditions there on. The land use permit approval herein does not remove, alter, or impair in any way the covenants or restrictions imposed on this property by deed or other instrument.

VII. NOTICE OF DECISION

A Notice of Decision was issued to the applicant on June 24, 2015. An Ordinance approving the annexation will be adopted on July 14, 2015 and will take effect on August 13, 2015.

VIII. APPEAL DATES

The City Council's decision may be appealed to the Oregon Land Use Board of Appeals. Any person aggrieved by this decision may file an appeal with the Oregon Land Use Board of Appeals (LUBA) in accordance with LUBA's appeal deadlines and filing requirements. The Notice of Intent to Appeal and required fees must be filed at LUBA within 21 days after the land use decision becomes final as described by OAR 661-010-0010.

Approved by the City Council of the City of Mill City, Oregon on the 23rd day of June 2015.

Order of Approval prepared and issued on the 24th day of June 2015.

PREPARED BY:



David W. Kinney
Planning Consultant for the City of Mill City

June 24, 2015

Date

ATTESTED BY:

Stacie Cook, MMC
City Recorder