



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

March 3, 2006



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Marion County Plan Amendment
DLCD File Number 006-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 20, 2006

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the 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). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Les Sasaki, Marion County

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FORM 2

D L C D NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision **FEB 28 2006**
per ORS 197.610, OAR Chapter 660 - Division 18

(See second page for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: Marion County

Local File No.: CP 05-5

(number, use none)

(If no)

Date of Adoption: February 22, 2006
(Must be filled in)

Date Mailed: Feb 24, 2006
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: December 22, 2005

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: Plan amendment/Goal 11 exception
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."
 Approval of request to allow sewer service extension by Mill City to 0.86 acre property outside the Mill City UGB/city limits due to failed septic system. County Comprehensive Plan policy does not allow for extension of sewer service unless a health hazard problem exists for which there is no other alternative with such extension requiring County approval and a Goal 11 exception.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same". If you did not give notice for the proposed amendment, write "N/A". "Same"

Plan Map Changed from: NA to:

Zone Map Changed from: NA to:

Location: 29509 N. Santiam Hwy, Mill City
0.86 acres

Acres Involved:

Specify Density: Previous: NA New:

Applicable Statewide Planning Goals: Goal 11 - Public Facilities and Services

Was an Exception Adopted? Yes: No:

Does Adopted Amendment affect the areas in unincorporated Marion County where the

Zoning Code applies? Yes: No:

DLCD File No.: 006-05 (14903)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Les Sasaki

Area Code + Phone Number: 503-588-5038

Address: PO Box 14500

City: Salem, OR

Zip Code+4: 97309-5036

Email Address: lsasaki@co.marion.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of the)	Case No. CP 05-5
)	
Application of:)	Clerk's File No.
)	
GENE AND GINA RUNION)	Comprehensive Plan Amendment/ Goal 11 Exception

An Administrative Ordinance

ORDINANCE NO. 1224

THE MARION COUNTY BOARD OF COMMISSIONERS HEREBY ORDAINS AS
FOLLOWS:

SECTION 1. Purpose

This ordinance is enacted pursuant to the authority granted to general law counties in the State of Oregon by ORS Chapters 197, 203 and 215 to implement the Marion County Comprehensive Land Use Plan. This ordinance amends the Comprehensive Plan by taking an exception to Statewide Land Use Planning Goal 11 – Public Facilities and Services, for a specific 0.86 acre property located at 29509 North Santiam Highway outside the city limits and urban growth boundary of the City of Mill City, to be provided sewer service by extension of service by the City to the property to mitigate a health hazard problem resulting from a failed septic system. (T9S-R3E-S29CA-TL2900)

SECTION 2. Procedural History

The Marion County Board of Commissioners held a public hearing on February 8, 2006, for which proper public notice and advertisement was given. The purpose of the hearing was to consider a Comprehensive Plan Amendment/Goal 11 Exception request for approval of a sewer service extension by the City of Mill City to a single property located outside the city limits and urban growth boundary of Mill City to mitigate a health hazard problem of a failed septic system. All persons present during the public hearing and those provided notice of the hearing, were given the opportunity to speak or present written statements on the proposal.

SECTION 3. Adoption of Findings and Conclusions

The Board has reviewed the evidence and findings in the record and given due consideration to the testimony provided in the hearing record. The comprehensive plan amendment/goal exception to comply with Marion County Comprehensive Plan policy made hereunder is based on consideration and analysis of existing Marion County Comprehensive Plan goals and policies on Rural Development and Services, the provisions of ORS Chapters 197 and 215, Oregon Administrative Rules 660 Divisions 4 and 11, and the State Land Use Planning Goals.

After careful consideration of all the facts and evidence in the record, the Board adopts as its own the Facts and Findings contained in Exhibit A attached hereto, and by this reference incorporated herein. The property which is granted the goal exception is shown on the map attached as Exhibit B, which by this reference is incorporated in this ordinance.

SECTION 4. Action

The Comprehensive Plan Amendment/Goal 11 Exception to permit the extension of sewer service to the Runion property by the City of Mill City is **GRANTED**.

Ordinance No. 1222, which was signed and filed in error on February 15, 2006 is hereby rescinded.

SECTION 5. Severability

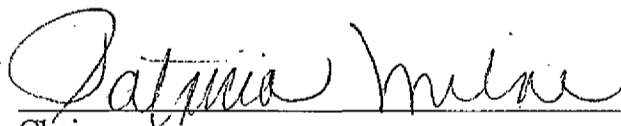
Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance or any policy, provision, findings, statement, conclusion, or designation to a particular land use or area of land, or any other portion, segment or element of this Ordinance or of any amendments thereto and adopted hereunder, be declared invalid for any reason, such declaration shall not affect the validity and continued application of any other portion or element of this Ordinance or amendments to the Comprehensive Plan; and if this Ordinance or any portion thereof should be held invalid on one ground, but valid on another, it shall be construed that the valid ground is the one upon which this Ordinance or any portion thereof was enacted.

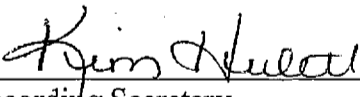
SECTION 7. Effective Date

Pursuant to Ordinance 669, this is an administrative ordinance and shall take effect 21 days after the adoption and signature of the Marion County Board of Commissioners.

SIGNED and FINALIZED this 22 day of February 2006 at Salem, Oregon.

MARION COUNTY BOARD OF COMMISSIONERS


Chair


Recording Secretary

JUDICIAL NOTICE

Oregon Revised Statutes (ORS) Chapter 197.830 provides that land use decisions may be reviewed by the Land Use Board of Appeals (LUBA) by filing notice of intent to appeal within 21 days from the date this ordinance becomes final.

**FACTS AND FINDINGS
COMPREHENSIVE PLAN AMENDMENT/GOAL 11 EXCEPTION**

PROCEDURAL BACKGROUND

This matter comes before the Board of Commissioners at the request of the property owner and the City of Mill City for Board consideration of the quasi-judicial application to extend city sewer service to a single parcel located outside the Mill City urban growth boundary and city limits. The standard quasi-judicial process would have involved a public hearing and a recommendation by the Marion County Hearings Officer prior to the Board considering the application. On January 4, 2006 the Board called up the application that was filed on December 19, 2005 due to a need to address a pending public health and safety issue concerning a failed septic system, and set the public hearing for February 8, 2006, to allow for proper notice of the application.

BACKGROUND

In August and September 2005, the City of Mill City staff consulted with County planning staff regarding the possible scenario of a property owner with a failing septic system located outside the urban growth boundary and city limits, requesting to hook up to the city sewer system. City and County staff coordinated on the decisions and processes that would need to occur given various scenarios/options such as whether the property would be annexed to the city, included within the growth boundary, remain outside the boundary and city limits, or some variation of the options. The City was advised of the County policy regarding the extension of services outside the boundary/city limits and requirements for approval. The City and County coordinated on a timely process that would allow extension of sewer service to the property as an interim step while the City pursued the annexation and inclusion of the property within the city limits and urban growth boundary.

On December 2, 2005, the property owner (Runion) of the subject 0.86 acre parcel filed an application with the City for annexation/UGB amendment/Plan amendment/zone change for the property and to allow for extension of sewer service beyond the city limits due to a health hazard. A public hearing on the application is scheduled before the Mill City Planning Commission on February 10, 2006 with a City Council hearing to consider the matter to occur at the end of February. Upon completion of the city decision process on the land use application stated above, the Plan/UGB amendment will need to be submitted to the County for approval and adoption of the amendments.

On December 19, 2005, the property owner filed a Comprehensive Plan amendment/Goal 11 Exception application with the County to allow for the immediate connection to the city sewer system due to a failed septic system. The connection to the sewer system is an interim step or approval until the property is annexed to the City and included within the Mill City UGB. An alternative process would have been to go through the annexation/UGB amendment process and not the Plan amendment/Goal Exception but that would not have addressed the immediate health hazard of the failed septic system through the City and County processes. The application complies with procedural requirements under the County Comprehensive Plan policy for extension of sewer service outside a city's UGB/city limits. The application included requests for Board call up and consideration of the quasi-judicial application and a waiver of the application fees, though the application included the required fee.

FINDINGS OF FACT

The following findings address the applicable criteria for a comprehensive plan amendment/Goal 11 exception for the purpose of extending sewer service to a land outside of the Mill City urban growth boundary and city limits resulting from a health hazard problem. The applicant has provided findings to address the criteria for a plan amendment/goal exception as part of the application.

A. Comprehensive Plan Amendment (compliance with applicable Plan policy)

1. Marion County Comprehensive Plan Rural Development Rural Services Special District Policy 6 states:

“The creation or expansion of any sewer district as well as the extension of sewer services to lands outside an existing service district’s boundaries, unincorporated communities’ boundaries, urban growth boundaries or city limits shall be discouraged unless the area to be served has demonstrated persistent health hazard problems confirmed by the County Health Department and the State Department of Environmental Quality and needs for which no other practical and reasonable alternative is available. Cost may be a factor in determining whether an alternative is practical and reasonable, however, cost shall not be the only factor or even the primary factor. Any extension shall require the approval of the Marion County Board of Commissioners and an exception to Goal 11 (Public Facilities and Services).”

The Plan amendment application is to allow the extension of sewer service by the City of Mill City to a single-family dwelling on a 0.86 acre parcel that is outside but contiguous to the city limits/UGB of the City due to a health hazard problem (failed septic system and drain field) in accordance with the provisions of Policy 6. The City has a similar policy regarding sewer service extensions which are limited to properties within the city limits and that properties outside the city limits shall be annexed prior to being eligible for extension of the sewer system, with an exception allowed for cases due to health hazards.

The property is designated “Forest” in the Marion County Comprehensive Plan and zoned TC (Timber Conservation) in the County. Surrounding properties outside the Mill City UGB/city limits have a similar plan designation and zoning within the county. Surrounding properties inside the Mill City UGB/city limits have city plan designations and zoning. In a separate land use application being considered by the City, the applicant has applied for annexation and to amend the UGB to include the property as residential land.

2. The applicant has a failed septic system and drain field which is posing a health hazard problem. It is estimated that the existing on-site sewage system was installed at the time the existing house was built in 1951. The applicant has limited use of bathrooms and plumbing within the house and the existing septic tank must be pumped every two weeks to provide some functional use of the system pending a solution to the failed system.

The Marion County Building Inspection Division inspected the property on December 19, 2005 to investigate a pollution complaint. A letter regarding the inspection findings dated December 19, 2005 was provided to the property owners and submitted for the record of this application. The complaint alleged that the septic system serving the property had trouble functioning properly in the wet winter months and becomes saturated with sewage around the septic tank. The inspection by the County On-site Wastewater Specialist found the following: sewage seepage around the septic tank; no history on the installation of the septic system; and an assumption that the system is undersized by today’s requirements due to the limited area that is undeveloped. The Specialist determined that should the system enter into full-blown failure, there is not enough room on the 0.86 acre property to install a new septic system that meets 2005 requirements, and that it may be best to connect this property to the City sewer system before the system becomes a serious public health hazard.

The State Department of Environmental Quality (DEQ) was notified of the request and proposal and has not submitted a response to date, for inclusion in the record on this matter.

3. The applicant obtained a cost estimate of \$12,000 to \$15,000 to install a new septic system and drain field to serve the house. The application indicates that one of the challenges for a new drain field on the property is that the soils on the property are shallow and the property includes a basalt outcropping that makes it difficult to install a drain field and create a secondary drain field area. The City has received a bid of \$7,094.50 to install a sewer interceptor tank, piping, and connect the house to the sewer system. The City sewer system is located on the north side of Highway 22, approximately 100 feet west of the southwest corner of the applicant's property and the City has approved immediate extension of service to correct the health hazard problem. The City has approved a housing rehabilitation loan to enable the applicant to immediately connect to the city sewer system and pay for County land use fees. The applicant will be able to obtain an additional rehabilitation loan to perform electrical, plumbing and energy retrofit work to the house upon annexation.

The dwelling is already connected to the City of Mill City water system as it was one of 68 homes outside the city limits/UGB that were connected to the Pacific Power water system when the City purchased the system in 1984.

4. The application addresses the provisions of the specific Comprehensive Plan policy on the extension of sewer service to a property outside the UGB/city limits. A demonstrated health hazard problem exists for a single property owner that can be resolved through the extension of city sewer service. The extension is an interim step or action to address the health hazard issue while the long-term solution of annexing the property and including the property within the Mill City UGB is processed. Hooking up the dwelling to the city system and annexing the property will allow for the health hazard problem to be sufficiently addressed through the provision of sewer service to replace a failed septic system and drain field, and to allow other rehabilitation work on the existing dwelling to occur that will mitigate the health hazards for the property owner. The extension of the city sewer is also a practical and cost-effective solution due to physiological conditions on the property (rocky soil conditions) that may provide limitations to the use of on-site sewage disposal systems.

B. Comprehensive Plan Amendment Approval Criteria

1. The Marion County Comprehensive Plan specifies the procedures used to consider Plan amendments. For individual or quasi-judicial amendments, amendments are reviewed by the zone change procedure established in the County Zoning Ordinance. Marion County Rural Zoning Ordinance 123.060 specifies the criteria that must be addressed for approval of a zone change application.

The application was filed in compliance with the provisions of the Zoning Ordinance as specified in Chapter 119. The application is being processed in accordance with the procedures established for zone changes. The application does not involve the rezoning of the property and the zone change criteria are not applicable to the proposal which is a comprehensive plan policy provision compliance matter to allow city sewer service to be extended outside a city limits/UGB. The application does not involve an amendment to any Comprehensive Plan policy or land use designation. The single-family dwelling is an existing use within the County's TC (Timber Conservation) zone which will not be changed by the interim action being sought by the property owner to allow connection to the Mill City sewer system while the process of annexation to the City and inclusion within the Mill City UGB is pursued in a separate land use application filed with the City that will need to be concurred in by the County.

2. The application addresses the zone change criteria of the County Zoning Ordinance and the criteria of the City of Mill City pertaining to annexation, comprehensive plan amendments and zone changes though the application does not involve any of these land use actions. As indicated in Finding #1 above, the application is to allow for the extension of city sewer service to an existing dwelling outside the city limits/UGB of Mill City and will not involve any change of use on the property or the rezoning of the
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property. The property will be rezoned and redesignated as part of the land use process to annex and amend the UGB to include the 0.86 acre property, which is a separate action being pursued by the property owner.

3. The Department of Land Conservation and Development (DLCD) was provided 45 day notice of the amendment/goal exception proposal and provided comments on the application in a letter dated February 2, 2006. County staff has discussed the application with DLCD staff and provided them with a follow-up letter to the amendment notice that clarifies the interim sewer system extension/connection issue and procedures being considered by the County, and that a separate City of Mill City action is being pursued that will involve annexation and amendment of the Mill City UGB to include the property within the City's boundaries. DLCD comments addressed: the alternative of being able to repair or replace the existing septic system not requiring an exception and needing to be addressed as a factor for an exception; the Mill City policy for service extension requiring annexation and not having an exception process for health hazard abatement; and the option of pursuing public health hazard procedures for rural extension of sewer service under OAR 660 Division 011 requirements as the best course of action. The DLCD comments were considered and addressed in the findings to this application.

Notice of the proposal was provided to other agencies, county departments, surrounding properties and interested parties. Other than comments from the Marion County Building Inspection Division as noted previously and the Public Works Department that any utility work in the public right-of-way will require a utility permit from the appropriate agency (County or ODOT), no other comments or objections were submitted in response to the application.

C. Goal 11 (Public Facilities and Services) Exception

1. Marion County Comprehensive Plan Rural Development Rural Services Special District Policy 6 requires an exception to Statewide Planning Goal 11 as part of the County approval of any extension of sewer service to land outside an existing UGB or city limits where a health hazard problem exists. Goal 11 – Public Facilities and Services states:

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.

Goal 11 allows for the extension of sewer systems to mitigate public health hazards where the extension is the only practicable alternative. As indicated previously under the findings for the comprehensive plan amendment, the applicant has a failed septic system and drain field which is causing a health hazard problem to exist. The property is 0.86 acres in size and limited by size and soil conditions that make continued use of an on-site sewage disposal system problematic in solving the sewage needs for the property. The practical alternative or solution is to extend the city system to serve the property in the interim while the property owner is also proceeding with an application to annex and include the property within the city limits/UGB of Mill City. The application provides findings to address applicable Goal 11 reasons for an exception contained in the Oregon Administrative Rules (OAR) Chapter 660, Division 11 given the circumstances of the property.

2. Oregon Administrative Rules (OAR) Chapter 660, Division 11 – Public Facilities Planning implements the Goal 11 provisions. The OARs (660-011-0060(4)) allows local governments to extend an existing sewer system to serve land outside urban growth boundaries in order to mitigate a public health hazard, provided certain conditions are met, primarily that the Oregon Health Division determines a public health
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hazard exists in the area, that there is no practicable alternative to a sewer system in order to abate the health hazard, and that other specific requirements are met. In situations that meet these OAR provisions, the extension is permitted by the Rule and an exception to Goal 11 is not required.

The application does not meet the provisions of 660-011-0060(4) in that the Oregon Health Division has not made a determination that a public health hazard exists in the area as required under this section of the Rule. If such a determination had been or is made for the property and the other applicable provisions were complied with, the need for a goal exception would not apply. OAR 660-011-0060 addresses Sewer Service to Rural Lands and provides for various other sewer service scenarios such as systems serving lands inside an urban growth boundary being located outside the boundary (subsection 3), extension of service to parcels within an existing district and not within a growth boundary (subsection 8), and provisions for extension not provided under subsections (4) or (8) above provided an exception to Goal 11 is made (subsection 9).

3. The applicable OAR 660-011 section that applies to the property and this application is section 0060 (9) which states the following:

A local government may allow the establishment of new sewer systems or 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 new system, or 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.*

The Goal 11 exception is being applied to a single 0.86 acre parcel which has a failed septic system and drain field which poses an imminent health hazard that has been documented by the County Building Inspection Division On-site Wastewater Specialist. Replacement of the existing septic system may be accomplished at added cost over hooking up to the city sewer system, though due to the small parcel size and limited area on the property to install a new system, meeting 2005 septic system requirements may be difficult. The failed system (septic tank and drain field) has resulted in sewage seepage around the septic tank and limited functional use of the system by the property owner with the tank being pumped every two weeks. A health hazard problem exists for the property owner and surrounding property owners due to the seepage of the present system.

A city sewer line is located within 100 feet of the subject property and is available to serve the property. The Goal 11 exception to allow extension of city sewer service to the property is temporary and an interim measure to mitigate the health hazard while the process of annexing the property to the city and including it within the urban growth boundary is being processed. The City comprehensive plan contains service extension policies that require properties to be annexed to the city to receive service with an exception allowed in cases where there is a health hazard. By allowing for the possible immediate installation of a new sewer interceptor tank and connection to the city system, the property is required to be annexed to the city and the property owner has filed the necessary application which is being processed by the city concurrent with the request to allow the extension to occur in the interim through a Goal exception as required by County policy.

The sewer system extension will mitigate a public health hazard resulting from the failed septic system on the property. A sewage seepage problem exists surrounding the existing septic tank along with failure of the drain field. The property owner currently pumps out the existing tank to allow for limited function of the system which does not solve the sewage disposal issue or reduce the health hazard of a failed system. Cost to replace the existing septic tank and install a new drain field have been estimated at \$12,000 to \$15,000. Replacement of the septic system will be a challenge due to shallow soils, a basalt outcropping that makes it difficult to install a drain field and create a secondary drain field area. Meeting the current 2005 on-site sewage disposal system requirements for the property may also be difficult due to the 0.86 acre size of the property and existing improvements which limit installation options of a new system. A health hazard problem already exists due to the failed system. Replacement of the existing system with a new on-site system would correct the system problem but may not correct the health problem if the system is not able to function properly due to limitations or challenges with installing a new system on the property. Connection of the property to the city sewer system provides an alternative that will address the sewage disposal issue for the property, correct the health hazard problem created by the existing septic system, and provide an affordable option for the property owner.

Marion County policy requires a demonstrated health hazard problem and an exception to Goal 11 to allow any extension of sewer service to land(s) outside an existing growth boundary or city limits. The City of Mill City requires that property must be annexed to the city in order to receive service with an exception provision where a health hazard exists. Goal 11 allows the extension of a sewer system outside the growth boundary to mitigate a public health hazard where extension is the only practicable alternative. Documentation of a health hazard by the State Health Division and Department of Environmental Quality allows for extension of sewer service without a goal exception, provided other requirements under the administrative rule are met and improvements to the existing system or a new system will not abate the health problem. There are various iterations of the above processes that will result in a sewer extension to property outside of a boundary when a health hazard exists that needs to be mitigated. Each process involves different reasons or actions to occur to accomplish the stated purpose of addressing a health hazard situation, which in this specific case results from a failed septic system. The application is a proposal to provide for an interim measure to eliminate a health hazard, provide a property with the best and cost-effective solution for its sewage needs without creating possible future health hazard problems, and enable a jurisdiction to effectively provide a service that will resolve a problem and benefit the parties involved in the situation.

There are several alternatives that exist to address the failed septic system situation and they have been considered in formulating the process being followed and the solution to the health hazard. The question of a new or replacement septic system raises challenges and possible limitations that could be overcome and may resolve the health hazard issue. The sewer extension alternative is the alternative that ensures the health problem will be abated in a cost-effective and practical manner. The property will be required to be annexed to the City of Mill City. The annexation process has been initiated but will take time to complete, along with the request to include the property within the Mill City urban growth boundary. The exception process is being utilized as the mechanism to allow an extension of sewer service to occur immediately to alleviate a problem while the process of annexation/ugb amendment takes place. The City's intention is to be able to annex and include the property within the growth boundary. As indicated above, several other scenarios can occur other than annexation and inclusion in the boundary, such as extension of service outside the city limits/ugb, and extension of service and annexation of the property without a boundary amendment. Each extension scenario and process to provide an extension results in different circumstances for the property. The central issue is to address the health hazard problem in an efficient manner that eliminates the potential for any future problems to arise for the property.

The property will eventually be annexed to the City of Mill City which is the logical provider of the service and is able to extend sewer service to the property in an efficient and cost-effective manner, which also accommodates the property owner's circumstances. The issue to be addressed with this goal exception application is to provide a stop-gap method to alleviate the health hazard in the interim period prior to the property being annexed to the city. The health hazard currently exists resulting from a failed septic system. The exception is not to try to avoid a potential health problem but to provide a means to correct a health hazard problem for a single parcel that can be provided sewer service while the appropriate processes and approvals are being pursued to comply with both the City and County policy provisions.

CONCLUSION

The Board finds that the application complies with the provisions of Marion County Rural Development Rural Services Special District Policy 6 for extension of sewer services to land outside the Mill City urban growth boundary and city limits due to a health hazard problem and the exception to Goal 11 (Public Facilities and Services) for the 0.86 acre Runion property located at 29509 North Santiam Highway (T9S-R3E-S29CA-TL2900) meets the applicable criteria in the Oregon Administrative Rules, Oregon Revised Statutes, Statewide Planning Goals, and the Marion County Comprehensive Plan and is justified.

Mill City, Oregon - Zoning

**Subject
Property**

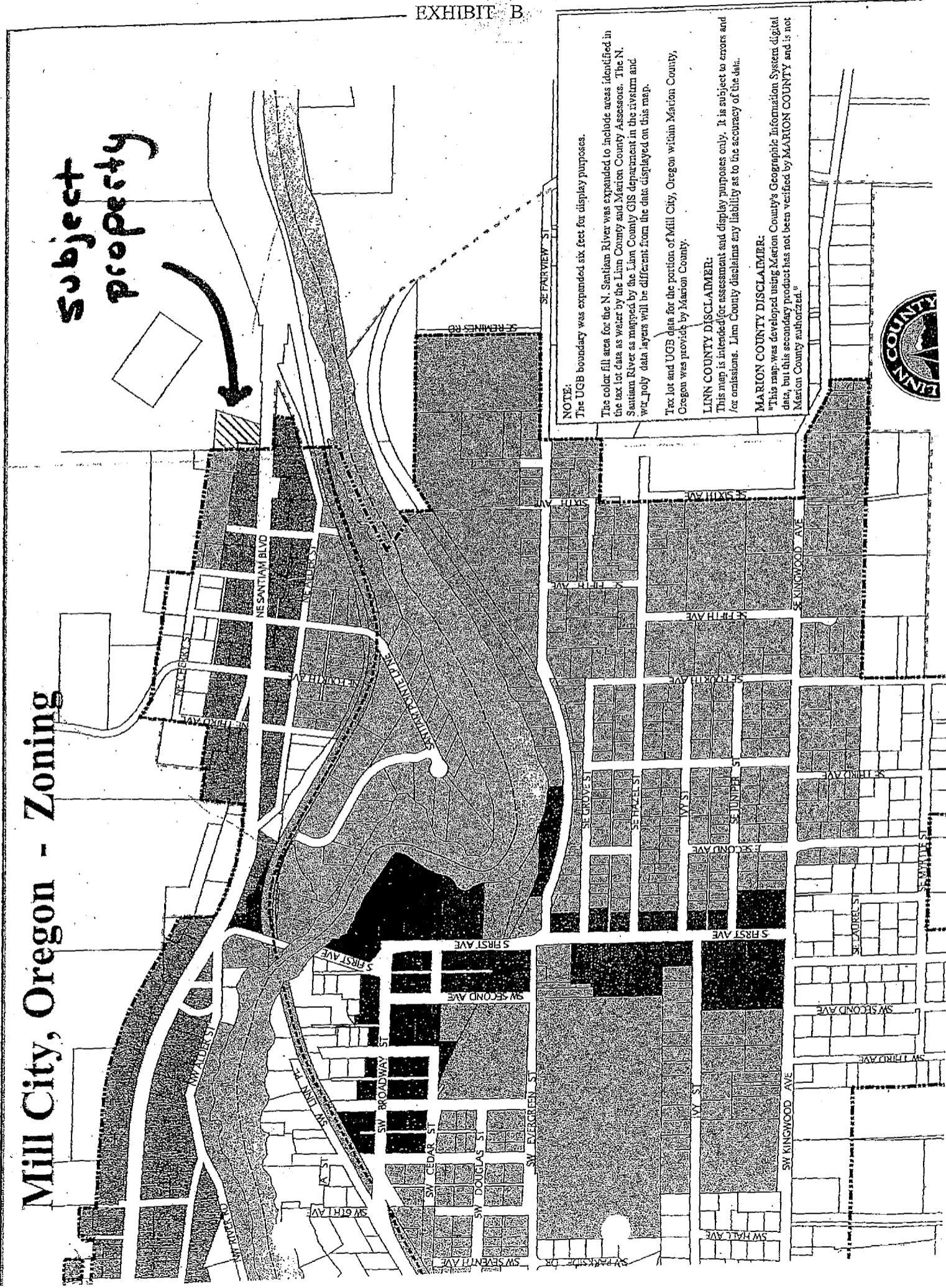


EXHIBIT B

NOTE:
The UGB boundary was expanded six feet for display purposes.

The color fill area for the N. Santiam River was expanded to include areas identified in the tax lot data as water by the Linn County and Marion County Assessors. The N. Santiam River as mapped by the Linn County GIS department in the river and water poly data layers will be different from the data displayed on this map.

Tax lot and UGB data for the portion of Mill City, Oregon within Marion County, Oregon was provided by Marion County.

LINN COUNTY DISCLAIMER:
This map is intended for assessment and display purposes only. It is subject to errors and/or omissions. Linn County disclaims any liability as to the accuracy of the data.

MARION COUNTY DISCLAIMER:
This map was developed using Marion County's Geographic Information System digital data, but this secondary product has not been verified by MARION COUNTY and is not Marion County authorized.



**MARION COUNTY
NOTICE OF ADOPTION**

On February 22, 2006 the Marion County Board of Commissioners adopted and signed Administrative Ordinance No. 1224 which finalized the Board's decision approving Comprehensive Plan Amendment and Goal 11 Exception Case No. 05-5 to permit the extension of sewer service to the Runion property by the City of Mill City. The Runion property is a 0.86 acre property located at 29509 North Santiam Highway (T9S-R3E-S29CA-TL2900).

A copy of the adopted administrative ordinance is being provided to interested persons who participated in the public hearing process by either providing oral or written testimony, and to property owners in the vicinity of the Runion property.

If you have any questions regarding this notice of adoption or the adopted administrative ordinance, please contact Les Sasaki, Principal Planner at 503-588-5038.

Gary Fish
Dept Land Conservation and Dev
635 Capitol St NE, Suite 150
Salem OR 97301-2540

Sid Friedman
1000 Friends of Oregon
189 Liberty St NE, #307A
Salem OR 97301

Clare P. Kelly
PO Box 225
Mill City OR 97360

Travis and Lanai Whisenhunt
PO Box 12
Mill City OR 97360

Pentecostal Church of God
PO Box 1182
Mill City OR 97360

Allan and Sanya Curtis
29539 North Santiam Highway
Mill City OR 97360

Steve Michaels
Linn County Planning Dept
PO Box 100
Albany OR 97321

Randy Trox
Dept of Environmental Quality
750 Front St NE, Suite 120
Salem OR 97301-1039

Kelly Lumber Sales
PO Box 225
Mill City OR 97360

Thomas and Mary Smith
PO Box 497
Mill City OR 97360

Sam and Virginia Belvedere
PO Box 657
Mill City OR 97360

Gene and Gina Runion
29509 North Santiam Highway
Mill City OR 97360

Dave Kinney, City Administrator
City of Mill City
PO Box 256
Mill City OR 97360

Marguerite Nabeta
Dept Land Conservation and Dev
99 E. Broadway, Suite 400
Eugene OR 97401

Cindy R. Shaaron
PO Box 214
Mehama OR 97384

Elaine L. Russell
PO Box 436
Mill City OR 97360

RF Wilson, Lv Trust
PO Box 99
Lyons OR 97358