



# Oregon

John A. Kitzhaber, M.D., Governor

**Department of Land Conservation and Development**

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



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

Date: March 04, 2015

Jurisdiction: City of Mill City

Local file no.: 2014-09

DLCD file no.: 003-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 02/26/2015. 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 38 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](mailto:plan.amendments@state.or.us)



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

**FOR DLCD USE**  
File No.: 003-14 {22555}  
Received: 2/26/2015

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.: **2014-09**

Date of adoption: 02/12/2015

Date sent: 2/26/2015

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): 11/11/2014

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 3.00+/- acre parcel at 48974 SE Fairview St. 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](mailto:scook@ci.mill-city.or.us)

Street address: PO Box 256, 444 1<sup>st</sup> 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:

Zoning Code Amendments - Housekeeping to correct Section #s throughout Zoning Code. Amends Chapter 17.64 Administration Sections re: notices, public hearings, appeals and compliance with public works standards.

**For a change to a zoning map:**

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

Change from UGA-RR 2.5	to R-1	Acres: 3.00
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 32 00301

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

Ordinance 376, including Order of Approval and notices to Oregon Dept. of Revenue.

# ORDINANCE NO. 376

AN ORDINANCE REZONING A 3.00 ACRE PARCEL AT 48974 SE FAIRVIEW STREET TO A SINGLE FAMILY RESIDENTIAL (R-1) ZONE AND ANNEXING THE PROPERTY INCLUDING THE 3.00 ACRE PARCEL AND THE ADJACENT SE FAIRVIEW RIGHT OF WAY, WHICH ARE 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 Opal Mason regarding a 3.00 +/- acre site at 48974 SE Fairview Street in Mill City; Linn County Assessor's Map T9S, R3E, Section 32, Tax Lot 00301; and

WHEREAS, the applicant proposes to

1. Annex a 3.00 acre parcel, including the applicant's home at 48974 SE Fairview Street; and
2. Amend the Mill City Zoning Map to rezone the annexed property from Linn County Urban Growth Area Rural Residential (UGA RR-2.5) to a City of Mill City Single Family Residential (R-1) zone.

WHEREAS, the Planning Commission held a public hearing on December 19, 2014 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 of the SE Fairview Street right-of-way adjacent to the applicant's property; and

WHEREAS, the City Council held a public hearing on January 27, 2015 and at the close of the hearing the City Council concurred with the Planning Commission recommendations to annex the applicant's property and the SE Fairview Street right-of-way adjacent to the applicant's 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 owner of the subject property is Opal Mason and she comprises 100% of the electors residing on the property; and

WHEREAS, Linn County has concurred with the annexation of the adjacent SE Fairview Street right-of-way and the County is retaining jurisdiction of the SE Fairview right-of-way.

**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 Linn County Urban Growth Area Rural Residential 2.5 (UGA RR-2.5) to City of Mill City Single Family (R-1) Residential.

Parcel	Owner(s)	Assessor Map & Tax Lot	Size in Acres	Existing Use	Prior Linn County Zoning	New Mill City Zoning
1	Opal Mason	09 3E 32 TL 00301	3.00	Home site 48974 SE Fairview	UGA-RR 2.5	SFR (R-1) Residential

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

**SECTION 2: ANNEXATION AREA – 48974 SE Fairview Street.** 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)	Linn County Assessor Map & Tax Lot	Size in Acres	Existing Use
1	Opal Mason	09 3E 32 TL 00301	3.00	Home site 48974 SE Fairview Street

**SECTION 3: ANNEXATION AREA – SE Fairview Street.** The following portion of SE Fairview Street right-of-way, adjacent to 48974 SE Fairview Street, as shown on the map attached hereto as “Exhibit D”, and described in the legal description, attached hereto as “Exhibit E”, is hereby proclaimed to be annexed into the City of Mill City.

Parcel	Owner(s)	Linn County Assessor Map & Tax Lot	Size in Acres	Existing Use
2	Linn County	SE Fairview Street ROW adjacent to applicant’s site.	0.60	SE Fairview Street Right-of-way

**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 27<sup>th</sup> day of January 2015.

This Ordinance read by title only for the second time on this 10<sup>th</sup> day of February 2015.

This Ordinance passed on the 10<sup>th</sup> day of February, 2015 by the City Council and executed by the Mayor this 12<sup>th</sup> day of February, 2015.

Date: 2-12-2015 By: /s/  
THORIN THACKER, Mayor

Date: 2-12-2015 Attest: /s/  
STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: 2-18-2015 By: /s/  
JAMES L. McGEHEE, City Attorney

Exhibits:

- “A” - Map of Area to be Rezoned.
- “B” - Map of Tax Parcel 9S 3E 32, TL 00301 at 48974 SE Fairview St. to be Annexed to the City of Mill City.
- “C” Legal Description 9S 3E 32, TL 00301 at 48974 SE Fairview Street to be Annexed to the City of Mill City.
- “D” - Map of SE Fairview Street Right-of-way to be Annexed to the City of Mill City.
- “E”- Legal Description of SE Fairview Street Right-of-way to be Annexed to the City of Mill City.

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 27<sup>th</sup> day of January 2015.

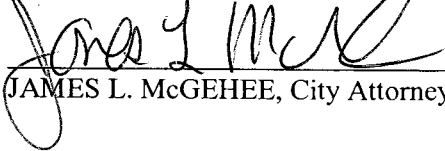
This Ordinance read by title only for the second time on this 10<sup>th</sup> day of February 2015.

This Ordinance passed on the 10<sup>th</sup> day of February, 2015 by the City Council and executed by the Mayor this 12 th day of February 2015.

Date: 2-12-15 By:   
 THORIN F. THACKER, Mayor

Date: 2-12-15 Attest:   
 STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: 2-18-15 By:   
 JAMES L. McGEHEE, City Attorney

Exhibits:

- “A” - Map of Area to be Rezoned.
- “B” - Map of Tax Parcel 9S 3E 32, TL 00301 at 48974 SE Fairview St. to be Annexed to the City of Mill City.
- “C” Legal Description 9S 3E 32, TL 00301 at 48974 SE Fairview Street to be Annexed to the City of Mill City.
- “D” - Map of SE Fairview Street Right-of-way to be Annexed to the City of Mill City.
- “E”- Legal Description of SE Fairview Street Right-of-way to be Annexed to the City of Mill City.

City of Mill City  
Ordinance No. 376

EXHIBIT A  
AREA TO BE REZONED TO CITY OF MILL CITY (R-1) RESIDENTIAL

Opal Mason Annexation & Zone Change

48974 SE Fairview St., Mill City, Oregon

File 2014-09

Rezone from Linn County RR-2.5 to Mill City R-1 Residential

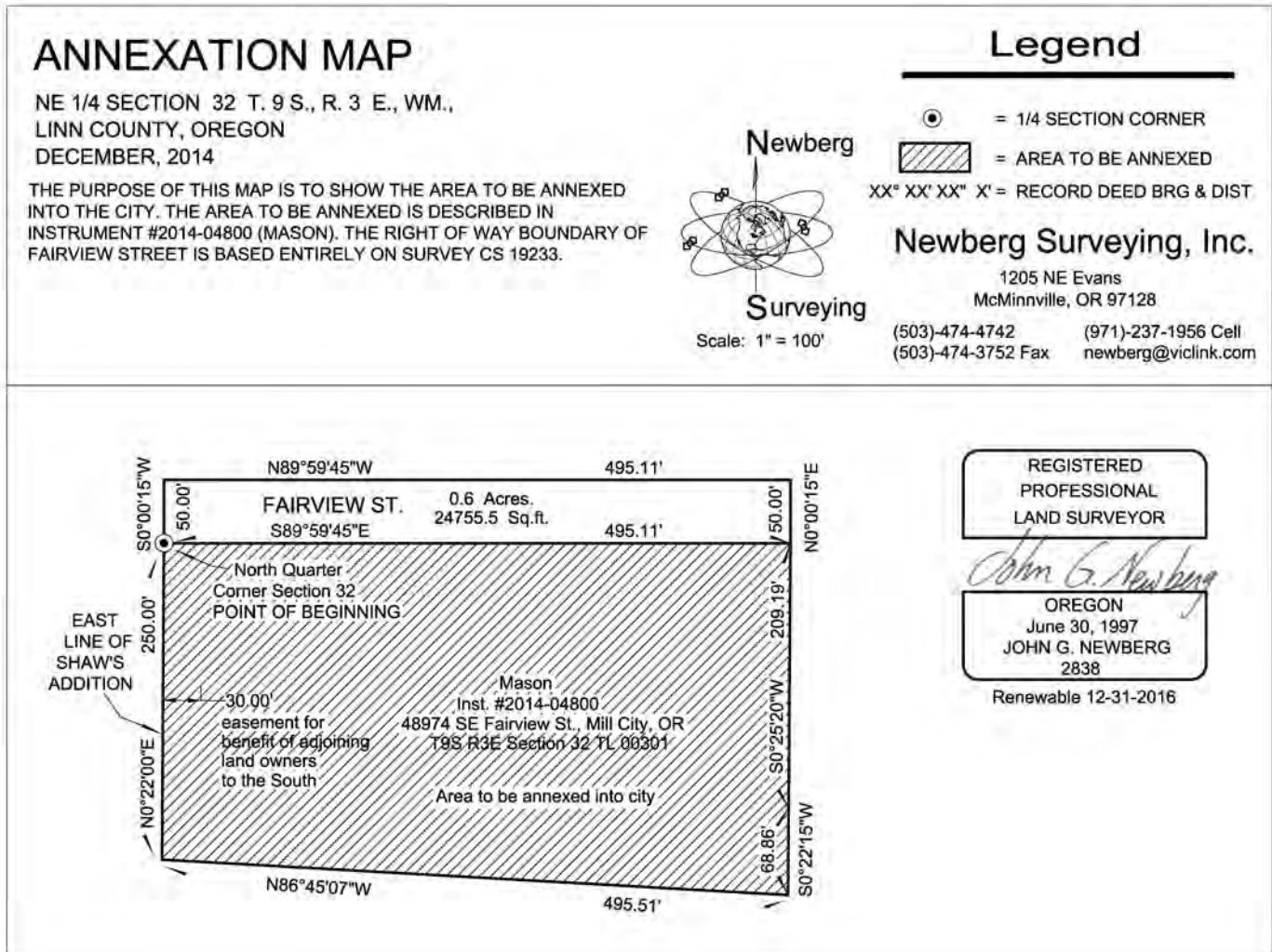




City of Mill City  
Ordinance No. 376

EXHIBIT B

ANNEXATION MAP  
48974 SE FAIRVIEW STREET, MILL CITY, OREGON



City of Mill City  
Ordinance No. 376

EXHIBIT C

ANNEXATION AREA – 48974 SE FAIRVIEW STREET  
MILL CITY, OREGON

PROPERTY LOCATED AT 48974 SE FAIRVIEW STREET THAT IS CONTIGUOUS WITH THE CURRENT CITY LIMITS OF THE CITY OF MILL CITY.

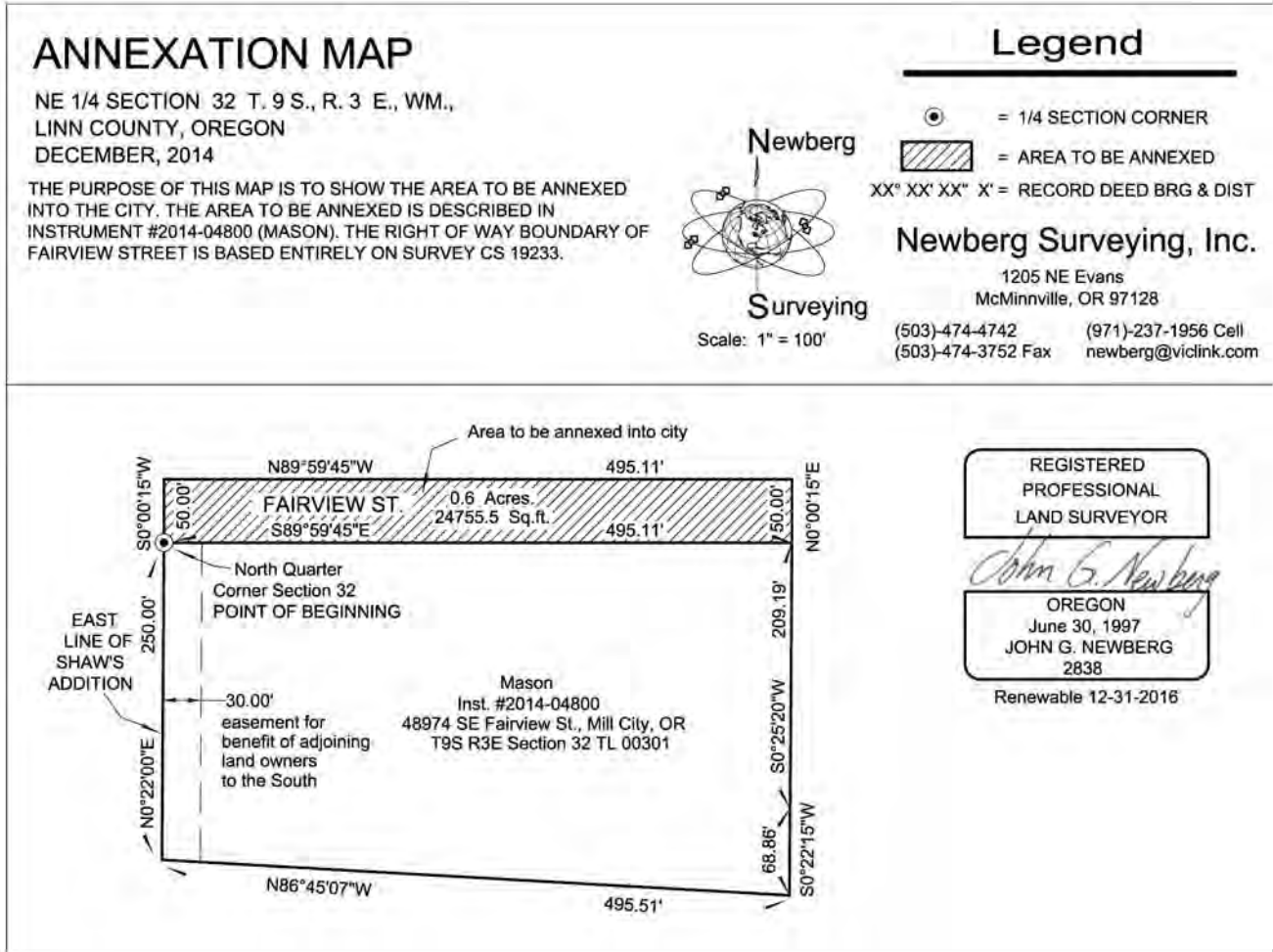
Real property in the County of Linn, State of Oregon, described as follows:

Beginning at the quarter corner on the North line of Section 32, Township 9 South, Range 3 East of the Willamette Meridian in Linn County, Oregon; thence South 89° 59' 45" East 495.11 feet along the section line; thence South 0° 25' 20" West 209.19 feet to an iron pipe; thence South 0° 22' 15" West 68.86 feet; thence North 86° 45' 07" West 495.51 feet to the East line of Shaw's Addition to Mill City; thence North 0° 22' East 250.00 feet to the place of beginning.

City of Mill City  
Ordinance No. 376

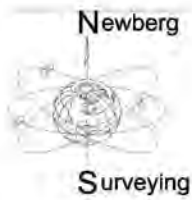
EXHIBIT D

ANNEXATION AREA – SE FAIRVIEW STREET RIGHT-OF-WAY  
ADJACENT TO 48974 SE FAIRVIEW STREET, MILL CITY, OREGON



City of Mill City  
Ordinance No. 376

EXHIBIT E



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

Legal description of a portion of Fairview Street to be annexed into the city of Mill City, Linn County, Oregon

A tract of land located within the Northeast Quarter of Section 32, Township 9 South, Range 3 East, Willamette Meridian the exterior boundary being more particularly described as follows:

Beginning at the Northwest corner of that land described in Instrument #201404800 said point also being North Quarter Corner of Section 32 and being on the southerly margin of Fairview Street; thence South 89° 59' 45" East along the south margin 495.11 feet to the Northeast corner of Instrument #201404800; thence North 0° 00' 15" East 50.00 feet to the North margin of Fairview Street; thence North 89° 59' 45" West along said north margin a distance of 495.11 feet more or less to the intersection point of the city limits; thence South 0° 00' 15" West along the easterly boundary of the city limits a distance of 50.00 feet to the point of beginning, containing 24,755 square feet more or less.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*John G. Newberg*

OREGON  
June 30, 1997  
JOHN G. NEWBERG  
2838

Renewable 12-31-2016

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# City of Mill City

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444 S. 1st Avenue • Post Office Box 256 • Mill City, Oregon 97360

Phone: 503-897-2302 • FAX: 503-897-3499 • Email: millcity@ci.mill-city.or.us

February 26, 2015

EMAIL Transmittal: [boundary.changes@oregon.gov](mailto:boundary.changes@oregon.gov)

Oregon Department of Revenue  
Cadastral Information Systems Unit  
PO Box 14380  
Salem, OR 97309-5075

Secretary of State  
Official Documents  
800 Summer St. NE  
Salem, OR 97310 (503-373-0701 ext. 221)

RE: Annexation to the City of Mill City – Mason City File # 2014.09  
**DOR File Number 22-P10-2014**


To Whom It May Concern:

Enclosed with this letter is one certified true copy of Mill City Ordinance No. 376, enacted February 10, 2015, annexing a 3.00+/- acre parcel located at 48974 SE Fairview Street and an adjacent 0.60 acre portion of the SE Fairview Street right-of-way into the City of Mill City, Linn County, Oregon. This ordinance takes effect 30 days after enactment on March 10, 2015.

This annexation occurred as provided in ORS Chapter 222 without an election of the people.

Sincerely,

CITY OF MILL CITY



Stacie Cook, MMC  
City Recorder

cc: Linn County Clerk's Office, PO Box 100, Albany, OR 97321  
Linn County Assessor's Office, PO Box 100, Albany, OR 97321  
Linn County GIS Office, PO Box 100, Albany, OR 97321  
Linn County Planning and Building Department, PO Box 100, Albany, OR 97321  
Marion County Clerk's Office, PO Box 14500, Salem, OR 97309-5036  
Marion County Planning Department, 5155 Silverton Rd. NE, Salem, OR 97305  
File No. 2014.09 – Mason Annexation and Zone Change

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# City of Mill City

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444 S. 1st Avenue • Post Office Box 256 • Mill City, Oregon 97360

Phone: 503-897-2302 • FAX: 503-897-3499 • Email: millcity@ci.mill-city.or.us

February 26, 2015

CERTIFIED - RETURN RECEIPT REQUESTED

PACIFICORP  
PO Box 400  
Portland, OR 97207-0400

NORTHWEST NATURAL GAS  
3123 Broadway NE  
Salem, OR 97303  
Attn: Dan Kizer P.E.

VERIZON  
3965 N. Clark Avenue  
Long Beach, CA 90808

WAVE BROADBAND  
PO Box 850  
Canby, OR 97013

RE: Annexation to the City of Mill City – Mason

City File # 2014.09

To Utility Representatives

Enclosed with this letter is one certified true copy of Mill City Ordinance No. 376, enacted February 10, 2015, annexing a 3.00 +/- acre parcel located north of 48974 SE Fairview Street and an adjacent 0.60 acre portion of the SE Fairview Street right-of-way into the City of Mill City, Linn County, Oregon. This ordinance takes effect 30 days after enactment on March 10, 2015.

This annexation occurred as provided in ORS Chapter 222 without an election of the people. Please adjust your service maps to include this property inside the City of Mill City and include these properties in your franchise area for the City of Mill City.

Sincerely,

CITY OF MILL CITY

  
Stacie Cook, MMC  
City Recorder

cc: File No. 2014.09  
City Boundary File  
Franchise Files  
PacifiCorp – Office of General Counsel

Located in the Scenic North Santiam Canyon

The City of Mill City is an equal opportunity provider.

**BEFORE THE CITY COUNCIL OF THE CITY OF MILL CITY**

In the matter of ) Annexation and Zone Change  
the application of ) 48974 SE Fairview Street  
Opal Mason, Applicant ) T9S, R3E, Section 32, Tax Lot 00301  
) City of Mill City, Oregon  
) Land Use File #2014-09

**ORDER OF APPROVAL**

**I. NATURE OF THE APPLICATION**

The applicant, Opal Mason, proposes to annex a 3-acre parcel, including her existing home at 48974 SE Fairview Street, and rezone the property from Linn County Urban Growth Area, Rural Residential 2.5 acre minimum lot size (UGA RR-2.5) to City of Mill City Single Family Residential (R-1) zone.

The purpose of the annexation is to enable the applicant to connect her existing home to the city sewer system. The existing septic system has failed. 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 Linn County’s UGA RR-2.5 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 December 19, 2014 at 9:00 a.m. A public hearing was held on the application before the Mill City Planning Commission on December 19, 2014 beginning at 9:30 a.m. At the hearing, Land Use File #2014-09 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 January 27, 2015 beginning at 6:30 p.m. At the conclusion of the hearing, the City Council adopted findings of fact, conclusions of law and adopted an Ordinance approving the application as proposed and annexing the adjacent public right-of-way in SE Fairview Street.

**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. Opal Mason is the owner of the property, is the only elector and is the Applicant.
2. The tax lot is lot 00301, Township 9, Range 3 East of the Willamette Meridian, Section 32.

3. The property is a 3.00+/- acre parcel located at 48974 SE Fairview Street in Mill City and is zoned Linn County UGA-Rural Residential, 2.5 acre minimum..
4. The parcel has frontage on SE Fairview Street.
5. The parcel is approximately 250 to 278' deep by 495' wide (SE Fairview frontage).
6. The surrounding properties are zoned R-2 Residential (west), Public (north) and UGA-RR 2.5 (east and south). There are adjacent residential uses to the west, south and east. The City of Mill City wastewater facility is north of SE Fairview Street.
7. The subject parcel has an existing 2,026 sf home, a garage and various outbuildings.
8. The property is currently served by city water and sewer services (connected 11-26-2014).
10. The property is currently served by private utilities.

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. Linn County Environmental Health: Jan Heron, Environmental Health Specialist, informed the City that DEQ and county regulations do 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. Linn County will 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. Linn County Roads Department: LC Roads provided the following comments:
  - a. Linn County Roads has jurisdiction of SE Fairview Street next to the applicant's property.
  - b. A utility permit will be required if the sewer line is placed in the road right-of-way.
  - c. Annexation of the right of way does not affect jurisdiction of a "County Road".
  - d. Linn County Roads has no concerns if the city includes the right-of-way in the annexation area.
  - e. LC Roads has no improvement requirements at this time.
  - f. LC Roads will want to be involved when any development takes place in the future because of the City and County street improvement requirements.
3. Linn County Surveyor: Notify the Surveyor's office if the annexation is approved, in order for them to review the legal description of the proposed annexation area before the city adopts the annexation ordinance.
4. Mill City Rural Fire Protection District: Chief Ohrt stated the District has no objections to the annexation. He is concerned that addresses on this block be consistent (City # or County #) so it is easy for emergency responders to find a home.
5. Oregon Department of Revenue: 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 in December 2014 and recommended several changes. The City's surveyor



modified the map and legal descriptions to address DOR comments. The DRAFT ordinance was resubmitted to DOR on December 16, 2014 requesting complete their review by December 31, 2014. DOR sent a letter to the City on December 19, 2014 granting preliminary approval of the legal description and map. The final annexation ordinance and map must be submitted to DOR after adoption by the City.

D. PUBLIC COMMENTS

There were no public comments received prior to the public hearing. The applicant's Opal Mason presented the application at the public hearing on December 19, 2014. Nancy Kelle and Bill Sanderson testified in support of the applicant's proposal. 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, Linn 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 December 19, 2014 and with the City Council on January 13, 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 48974 SE Fairview Street.

**GOAL 10 - Housing:** The proposal annexes 2.50 acres of buildable residential land that is served by City water and sewer facilities. It rezones the property from RR-2.5 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 County road. Findings for the extraterritorial 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 3 acres of land that is contiguous with the city limits, is served by city water and sewer services in SE Fairview Street and abuts an existing County Road. 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 48974 SE Fairview St. has failed, as documented by Lone Pine Septic, a private sewer installer. The inspector concluded the existing septic tank and drain field has failed and either needs to be repaired or the home needs to be connected to the city sewer system.

2. The property at 48974 SE Fairview Street is located outside the city limits of Mill City, but is within the city's Urban Growth Boundary. The house is located approximately 150' from the city sewer line on the north side of SE Fairview Street.
3. Two options were initially considered by the applicant: (1) Repair/Replace the system or (2) Connect to the City Sewer.
4. In November 2014 the Linn County Environmental Health Department concluded that the property must be connected to the City of Mill City sewer system and that Linn 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 Fairview St. approximately 150' 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 is 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 November 2014, 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 November 12, 2014 Jan Heron, Linn County Environmental Health Department, notified the City that it could not issue an on-site disposal permit and the home must be connected to the available public sewer. She indicated the County had no objections to the extraterritorial extension while an annexation application is being processed.
8. On November 10, 2014 the City certified the applicant's annexation application as complete and on November 12<sup>th</sup> the City accepted an application for a sewer lateral permit to connect the home to the City of Mill City sewer system..
9. The building sewer, interceptor tank and sewer connection were completed as of December 19, 2014.

### **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 north side of SE Fairview Street. The City has issued a sewer connection and plumbing permit to connect the house at 48974 SE Fairview Street 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 has no concerns with the annexation, but requests the City maintain the rural addressing to make it easier for emergency responders to find homes.*

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 should be 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 one access to the applicant's property via SE Fairview Street. The applicant's property is contiguous to the City (north & west). Annexation of the applicant's site on SE Fairview is a logical expansion of the city since water and sewer facilities are in SE Fairview and the lot is fronted by SE Fairview St. The annexation provides an opportunity for the orderly development of the residential area south of SE Fairview St., including the large lot residential parcels south of Ms. Mason's property.*

*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 Linn 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 SE Fairview Street, is currently served by city water, abuts the city limits on the north and west, and the vacant area of the site will permit future street extensions to the south.

### **IV. CONCLUSION**

The applicant's proposal is to annex a 3.0+/- acre parcel at 48974 SE Fairview Street 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 48974 SE Fairview Street in Mill City** as proposed by the applicant in Land Use File 2014-09.

The City Council also finds the City of Mill City should concurrently annex the adjacent SE Fairview right-of-way. **The annexation of the adjacent SE Fairview right-of-way is also approved.**

## 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

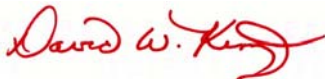
An Ordinance approving the annexation was adopted on January 27, 2015 and will take effect on February 27, 2015. A Notice of Decision was issued to the applicant on January 28, 2015.

## 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 27<sup>th</sup> day of January 2015.  
Order of Approval prepared and issued on the 28<sup>th</sup> day of January 2015.

PREPARED BY:



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

January 28, 2015

\_\_\_\_\_  
Date

ATTESTED BY:

\_\_\_\_\_  
/s/  
Stacie Cook, CMC  
City Recorder