



LINN COUNTY SHERIFF'S OFFICE

Michelle Duncan, Sheriff

1115 Jackson Street SE, Albany, OR 97322

Phone: 541-967-3950

www.linnsheriff.org

MEMORANDUM

To: Linn County Board of Commissioners

From: Captain Andy Franklin

Date: June 3, 2025

Re: Resolution & Order No. 2025-188

Resolution & Order No. 2025-188: This Resolution and Order is a Grant Agreement from the Oregon Department of Emergency Management State and Local Cybersecurity Grant Program for \$217,828. This grant will pay for Cybersecurity services, to include the setup, implementation, and cybersecurity monitoring services for two consecutive years. These services will protect the Linn County Sheriff's Office IT infrastructure, including the servers and systems for the Willamette Valley Operations Consortium used by multiple partner agencies for CAD, RMS, & JMS purposes.

Financial Impact: None; grant funded project

LINN COUNTY TREASURER



MICHELLE HAWKINS

Treasurer

mhawkins@co.linn.or.us

BREEANNA OXFORD

Chief Deputy Treasurer

boxford@co.linn.or.us

Linn County Courthouse
P.O. Box 100, Albany, Oregon 97321
(541) 967-3861 FAX: (541) 926-8228

To: Board of Commissioners

From: Linn County Treasurer/Budget Officer

Date: June 3rd, 2025

Re: Order # 2025-193

Order # 2025-193 is a transfer within the General Fund for the Medical Examiner's office and Parks Department. This is for year-end expenditures needed.

For a total of \$ 153,000.00

Financial Impact. There is no financial impact.

Re: Order # 2025-194

Order # 2025-194 is a Revenue increase within the General Fund for the Clerk's office, Assessor's office, GIS department, and JP Courts office. This is for year end and the offices needing to make adjustment to their budgets to accept Revenue.

For a total of \$ 201,400.00

Financial Impact. There is no financial impact.

Re: Order # 2025-195

Order # 2025-195 is a Revenue increase within the Corner Preservation Fund from the Clerk's office. This is for year end and the office needing to make adjustment to their budgets to accept Revenue.

For a total of \$ 12,000.00

Financial Impact. There is no financial impact.

Re: Order # 2025-196

Order # 2025-196 is a Revenue increase within the Grants Fund for the District Attorney, Sheriff's, Special Transportation, Veterans and Parks budget. This is for year end and the office needing to make adjustment to their budgets to accept Revenue.

For a total of \$ 73,000.00

Financial Impact. There is no financial impact.

Re: Order # 2025-197

Order # 2025-197 is a transfer from Personal Services to Materials & Services within the Law Enforcement Fund for the District Attorney. This is for year-end adjustments needed.

For a total of \$ 60,000.00

Financial Impact. There is no financial impact.

Re: Order # 2025-198

Order # 2025-198 is a transfer from within the Health Fund from Contingency to Materials & Services to make year-end payments within Developmental Disabilities office.

For a total of \$ 150,000.00

Financial Impact. There is no financial impact.

Re: Order # 2025-199

Order # 2025-199 is a transfer from Contingency to Personal Services and Materials & Services to make year-end payments within the Road Fund

For a total of \$ 128,000.00

Financial Impact. There is no financial impact

Re: Order # 2025-203

Order # 2025-203 is a transfer from Materials & Services to Personal Services within the Grants Fund for Property Management's budget. This is to make year-end adjustments

For a total of \$ 4,000.00

Financial Impact. There is no financial impact



Linn County Road Department

*Providing safe and efficient transportation to
citizens and visitors of Linn County.*

Memorandum

Date: 5/29/2025
To: Linn County Board of Commissioners
From: Wayne Mink, Roadmaster *WEM*
RE: Background Information for Agenda Items – 6/3/2025

The Road Department has the following items on the Board of Commissioners agenda for the weekly meeting on June 3, 2025. The following is a brief description of the items.

Resolution & Order 2025-179 – Purchase and Sale Agreement with Yolanda Stover, Dewey Street Property

This is a Resolution & Order to approve a Purchase and Sale Agreement with Yolanda Stover for real property on Dewey Street. The property is a vacant lot. This will secure right-of-way for future realignment of the intersection with Walker Road. The purchase price is \$110,000.

Resolution & Order 2025-181 – Approval of the Purchase of Property with Yolanda Stover, Dewey Street Property

This is a Resolution & Order to approve the purchase of real property on Dewey Street from Yolanda Stover.

Resolution & Order 2025-187 – IGA for Right of Entry Permit with the State of Oregon, Parks and Recreation Department

This is a Resolution and Order to approve an intergovernmental agreement with the State of Oregon, Parks and Recreation Department (OPRD) and delegate authority to Wayne E. Mink, Roadmaster. This agreement grants the Road Department and/or its contractors access to the Simpson Lakes Access for investigation activities associated with the Cox Creek Waverly Drive bridge replacement. There is no cost associated with the agreement.

We request your approval.



Linn County Health Services

"Working Together to promote the health and well-being of all Linn County residents"

Toll Free: 800.304.7468

TTY/Oregon: 800.735.2900

PO Box 100, Albany, OR, 97321

linncountyhealth.org

Board Summaries for June 3, 2025

R&O 2025-185

This Intergovernmental Agreement is between Multnomah Education Service District (MESD) and Linn County. Under the agreement, MESD will provide a web-based survey tool for Linn County employees to complete Medicaid Administrative Surveys, documenting non-reimbursable activities performed for Medicaid clients. Linn County agrees to compensate MESD an amount not to exceed \$67,051.36 for services rendered during the term of July 1, 2025, through June 30, 2026.

R&O 2025-189

This is Amendment #3 to the Intergovernmental Agreement between the Oregon Health Authority (OHA) and Linn County for the Behavioral Health Workforce Incentive Payment Program. This amendment extends the term of the agreement from June 30, 2025, to June 30, 2026, to allow additional time for Linn County to fully utilize the allocated funding.

REFUND FOR REQUEST

Environmental Health is requesting to issue a Refund to Lisette Hamer-Richardson for \$1,277.00. A duplicate application was submitted to install a Standard Septic Tank system. This request is refunding the second application.

Administration

M: 541.704.3004 F: 541.924.6904
toddnoable@linncountyhealth.org

Alcohol & Drug Treatment

M: 541.967.3819 F: 541.967.7259
justinthomas@linncountyhealth.org

Developmental Disabilities

M: 541.967.3890 F: 541.924.6905
chrissyliburn@linncountyhealth.org

Environmental Health

M: 541.967.3821 F: 541.924.6904
shanesanderson@linncountyhealth.org

Mental Health

M: 541.967.3866 F: 541.928.3020
sandyminta@linncountyhealth.org

Public Health

M: 541.967.3888 F: 541.926.2102
shanesanderson@linncountyhealth.org

LINN COUNTY BOARD OF COMMISSIONERS



WILL TUCKER
Commissioner

SHERRIE SPRENGER
Commissioner

ROGER NYQUIST
Commissioner

Linn County Courthouse
P.O. Box 100, Albany, Oregon 97321
(541) 967-3825 FAX: (541) 926-8228

DARRIN L. LANE
Administrative Officer

June 3, 2025

Via: sponsler@uoregon.edu

Patrick Sponsler, MPA
Administrator
Resolution Oregon
University of Oregon School of Law
1515 Agate St
Eugene, OR 97403-1221

RE: Notice of OOCDR Grantee Selection

Dear Mr. Sponsler:

The Linn County Board of Commissioners has unanimously selected **Neighbor-to-Neighbor, Inc.** as the Grantee to receive the Oregon Office for Community Dispute Resolution funds.

Please let us know if we can be of assistance.

Sincerely,

LINN COUNTY BOARD OF COMMISSIONERS

Roger Nyquist, Chair

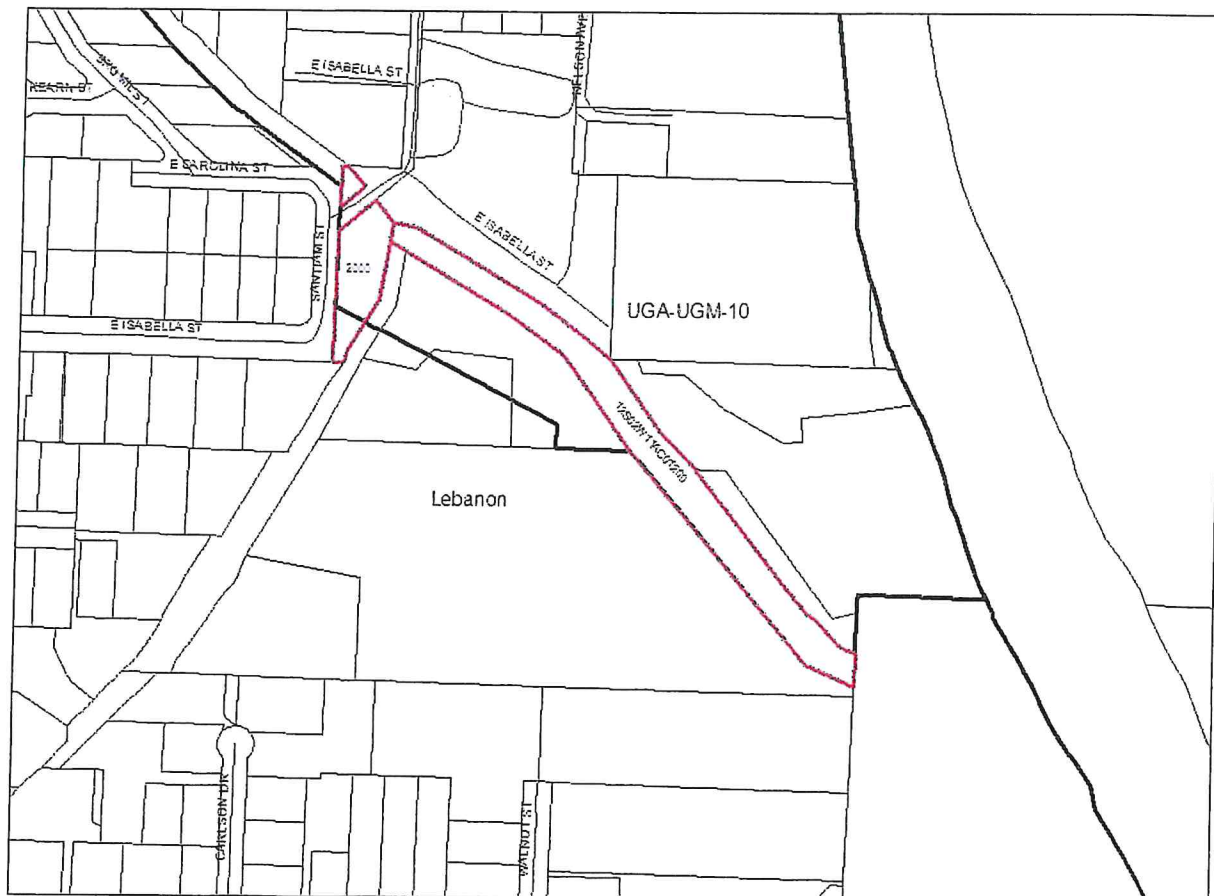
William C. Tucker, Vice-Chair

Sherrie Sprenger, Commissioner

c: Heather Wright, Executive Director, Neighbor-to-Neighbor, Inc.
Darrin L. Lane, Linn County Administrative Officer

A circular ink stamp with the word "RECEIVED" at the top, the date "MAY 28 2025" in the center, and "LINN COMMISSIONERS." at the bottom.

CRITERIA: The applicable decision criteria are identified in Linn County Code 933.260(B).



A

1 inch = 200 feet

Date: 12/02/2024

I. INTRODUCTION

A. APPLICATION SUMMARY & BACKGROUND

Build Lebanon Trails (Applicant) is requesting a conditional use permit to establish a multi-use public trail.

On October 2, 2024, the Planning Director issued a Notice of Decision approving the application. The Notice of Decision included findings that determined the application complied with the specified decision criteria in Linn County Code (LCC) 933.260(B). A copy of the Planning Director's decision, including findings for approval, is attached as **Exhibit D**.

The Notice of Decision was mailed to all parties with standing, pursuant to LCC 921.185. On October 15, 2024, Nimby NBR, LLC, submitted a letter of appeal along with the required appeal fee. On October 31, 2024, the Department accepted the appeal letter and deemed it complete. The letter of appeal is attached as **Exhibit C**.

The Linn County Planning Commission (Commission) conducted a duly noticed public hearing on the application on December 10, 2024. After receiving testimony and evidence at the December 10, 2024 hearing, the Commission closed the hearing to oral testimony, left the record open for additional written testimony, response, and rebuttal and continued the public hearing to January 14, 2025 for deliberation and decision. The Commission received a request by Nimby NBR, LLC to reopen the record regarding the applications on January 13, 2025, prior to the January 14, 2025 hearing. At the January 14, 2025 hearing, the Commission adopted by a vote of six (6) in support of the motion and none (0) opposed to **deny** the request to reopen the record. At the January 14, 2025 hearing, after considering all oral and written testimony and evidence submitted at public hearing and during the open record period, the Commission adopted by a vote of six (6) in support of the motion and none (0) opposed to **approve** the requested conditional use permit, and to adopt as part of the conditional use permit the following permit conditions. A copy of the Planning Director's decision, including findings for approval, is attached as **Exhibit J**.

On February 19, 2025, Nimby NBR, LLC submitted a letter of appeal along with the required appeal fee. On March 6, 2025, the Department accepted the appeal letter and deemed it complete. The appeal letter is attached as **Exhibit M**.

The appeal of the Commission decision asserts that there are omissions and inadequacies to the decision's findings and conclusions, notably that the Commission decision does not comply with Linn County Code (LCC) 920.100(B)(262) and criterion 4 of LCC Section 933.260(B). The appellant proposes new conditions for the proposed use to address the asserted omissions and inadequacies, which can be found on **Exhibit M**.

B. PLANNING COMMISSION ACTION

On December 10, 2024, the Commission conducted a public hearing on the proposed application. After receiving testimony and evidence at the December 10, 2024 hearing, the Commission continued the public hearing to January 14, 2025 to allow for additional written evidence and testimony. At the January 14, 2025 hearing, the Commission reviewed additional written evidence regarding the proposed use. The Commission adopted a motion to approve the conditional use permit by a vote of 6-0. Commissioners Alderman, Boshart, Cromwell, Legras, McHenry, and McKinney voted in favor of the motion. A copy of the Commission decision, including findings for approval, is attached as **Exhibit J**.

C. BOARD HEARING

A public hearing is scheduled before the Linn County Board of Commissioners (Board) on **Tuesday, June 3, 2025 at 10:00 a.m.** in Room 200 of the Linn County Courthouse in Albany Oregon. The public hearing on this matter is *de novo*. All evidence and argument must be submitted to the Board on the record to be considered in this matter. The Board will make a final land use decision after the close of the public hearing.

II. DECISION CRITERIA AND ANALYSIS

Linn County Code (LCC) 933.260(B) contains the decision criteria for use in this land use review.

933.260 - Decision Criteria - UGAZ

- 1. The proposed development is permitted and is consistent with the affected city's comprehensive plan map designations and the future city zoning.**
- 2. The location, size, design and operating characteristics of the proposed development are compatible with future development allowed by the affected city's comprehensive plan map designation.**
- 3. The affected city has reviewed the proposal and has not identified any substantial conflicts with its Comprehensive Plan, Facilities Plans or development standards.**
- 4. The location, design and site planning of the proposed development does not:**
 - (a) preclude future urban development on the subject property or adjacent properties; or**
 - (b) conflict with future location and placement of streets and services.**

STAFF ANALYSIS: The applicant proposes to establish a multi-use public trail across the subject properties. The property is designated as Residential Low Density (C-RL) and Mixed Use (C-MU) in the City's Comprehensive Plan. The application states that the City of Lebanon's Community Development Department indicated that the area is designated for parks and neighborhoods, and that the trail would be compatible with those uses. The application also indicates that the City is ready to accept ownership of the trail after it is built, and that the applicant intends to donate

it to them when it is completed. The applicant also submitted a letter from the Lebanon City Manager. The letter indicates that the proposed trail is listed as Trail #4 on City's Trails Master Plan. The City Manager's comment indicates that the City has donated \$25,000 towards the development of this specific trail segment and that once the trail is built and inspected to meet City standards, City staff will present the trail to the City Council with support and recommendation for formal acceptance of the trail by the City.

The appellant argues that the public trail is permissible when owned or operated by a government agency or a public utility. (LCC 930.720(B)(3) and LCC 920.100(261)). Staff notes that nothing in the County Code prohibits the applicant from being a representative or person other than a government agency or public utility. Staff notes that a condition is proposed that the trail must be owned or operated by a government agency or a public utility per LCC 920.100(B)(261) and requires an agreement outlining the terms of conveyance of ownership or access of the trail to the City of Lebanon be provided to the Department upon completion of the trail. A condition is also proposed that the trail shall be blocked off from public use until the City provides a signed document that they have inspected the completed trail and will accept ownership or right-of-way dedication of the trail. The Board may determine that the City's monetary investment in the development of the trail, approved by the City Council, and the letter from the City Manager stating the City's support for and recommendation of acceptance of the trail by City Council may be sufficient evidence to conclude that the trail will be owned or operated by a government agency, as required by Code.

The appellant proposes a revision to proposed Condition #3. The proposed condition as listed in the staff report states:

"The trail must be owned or operated by a government agency or a public utility per LCC 920.100(B)(262). An agreement outlining the terms of conveyance of ownership or access of the trail to the City of Lebanon shall be provided to the Department upon completion of the trail."

The appellant proposes the following language:

"The trail must be owned or operated by a government agency or a public utility per LCC 920.100(B)(262). **A recorded deed transferring ownership or right-of-way dedication of the associated trail properties to the City of Lebanon shall be provided by the Applicant to the Department prior to issuance of permits and opening the trail to the public.**"

Staff notes that the language in LCC 920.100(B)(262) does not require that the City own the trail or the properties associated with the trail; rather, the trail (the public use) can be dedicated as right of way or an easement can be established by the City for use and maintenance while the properties are still in ownership of Build Lebanon Trails. The condition language proposed by the appellant may be too restrictive, as the applicant nor the City may want to transfer ownership of the trail, or may want to do so at a later date. Staff recommends the Board adopt Condition #3 as proposed in the staff report.

The appellant also proposes a revision to Condition #5. The proposed condition as listed in the staff report states:

"The trail shall be blocked off from public use until the City provides a signed document that they have inspected the completed trail and will accept ownership or right-of-way dedication of the trail."

The appellant proposes the following language:

"The trail shall be blocked off from public use until the City **accepts title to the right-of-way dedication and the City has** inspected the completed trail. "

As staff notes above, the language in LCC 920.100(B)(262) does not require that the City own the trail or the properties associated with the trail; rather, the trail (the public use) can be dedicated as right of way or an easement can be established by the City for use and maintenance while the properties are still in ownership of Build Lebanon Trails. The condition language proposed by the appellant may be too restrictive, as the applicant nor the City may want to transfer ownership of the trail, or may want to do so at a later date. Staff recommends the Board adopt Condition #5 as proposed in the staff report.

The appellant argues that LCC 933.360(B)(4) is not met based on the following assertions:

"While the applicant, Build Lebanon Trails (BLT), has stated that the proposed trail will eventually be owned by the City of Lebanon, the lack of a binding deed or recorded agreement requiring conveyance at the time of approval renders the development noncompliant. The County and City have not provided the form of the deed or agreement into the record demonstrating that compliance with both of these criteria is feasible. Without deeded ownership transfer or right-of-way dedication, the trail remains a private development, which is expressly prohibited in the applicable Urban Growth Area–Urban Growth Management (UGA-UGM-10) zone.

Furthermore, the private ownership of the trail property prevents essential urban infrastructure expansion. Adjacent parcels rely on the trail property for future street extensions and access to utilities. Without deeded public ownership or right-of-way dedication, there is no means to ensure connectivity. Buildable lands will be landlocked and precluded from future urban development.

Government ownership of the land is critical to ensure proper integration of the trail into the city's long-term urban development plans, street alignments, and infrastructure expansion efforts. Without such ownership, the proposed development obstructs future urbanization and creates conflicts with adjacent property access and services."

Information provided by the applicant includes an email from the City of Lebanon Community Development Director. The email from the City states that the proposed use does not preclude future urban development. City comments do not indicate

any conflicts with any applicable City Facilities Plans or development standards or any conflicts with future location and placement of streets and services.

Staff reasons that conditions proposed as part of this staff report ensure compliance with the requirement of Code that the trail be owned or operated by a government agency. And as noted in the staff report above, the applicant submitted a letter from the Lebanon City Manager, which indicates that the proposed trail is listed as Trail #4 on City's Trails Master Plan. The City Manager's comment indicates that the City has donated \$25,000 towards the development of this specific trail segment and that once the trail is built and inspected to meet City standards, City staff will present the trail to the City Council with support and recommendation for formal acceptance of the trail by the City. Compliance with LCC 920.100(B)(262) seems feasible given the fact that the trail is on the City's Master Parks Plan and Transportation System Plan and the City has already invested money in the project.

Government ownership is an option for a public or semi-public use, but is not required by Code. Code requires the use to be owned or operated.

The City's Comprehensive Plan states that Residential Low Density land is primarily to provide lands for low-density urban residential development, primarily single-family homes with provisions for planned developments and low density multi-family use. Mixed Use land provides lands that possess potential for several types of land use or combinations of different land uses. The intent of this designation is to achieve an environment in which different land uses can co-exist by providing building groupings for privacy, usable and attractive open spaces, and safe circulation, thus promoting the general wellbeing of the residents, businesses, and other occupants. Mixed Development lands are open to all types of development including residential, commercial, and light industrial land uses.

According to Comprehensive Plan Table 4-2: Annexation Zoning Matrix and Lebanon Development Code (LDC) Table 16.26-1: Annexation Zoning Matrix, the compatible zoning district based on the Lebanon Plan designation C-RL is Residential Low Density (Z-RL). According to Comprehensive Plan Table 4-2: Annexation Zoning Matrix and LDC Table 16.26-1: Annexation Zoning Matrix, the compatible zoning district based on the Plan designation C-MU is Mixed Use (Z-MU).

The appellant argues the proposed use would not be consistent with the future Z-RL zoning district because public trails are not allowed in the Z-RL zoning district and may conflict with future location and placement of streets and services upon annexation. The notice of appeal and additional documents submitted by the appellant also assert that the proposed use is inconsistent with the Comprehensive Plan and other applicable plans, such as the Transportation Plan and the Lebanon Trails Plan. The appellant also argues that reliance on comments or lack of comments from the City could be considered a tacit approval and requires analysis of the applicable City plans as the decision maker.

Information provided by the applicant includes an email from the City of Lebanon Community Development Director, which indicates the trail is included on the City's Trail Master Plan, and that the proposed use is consistent with the City's Plan map

designations and future city zoning. The email from the City also states that the proposed use does not preclude future urban development. City comments do not indicate any conflicts with any applicable City Facilities Plans or development standards or any conflicts with future location and placement of streets and services.

The applicant's information contained in the record includes a Code Interpretation issued by the City Community Development Director at the request of the appellant. The Code Interpretation requests a determination of whether public recreational trails are prohibited in the City's Low-Density Residential (Z-RL) zone. The City Community Development Director's interpretation concluded that trails that implement the Trails Master Plan and are maintained as part of the City of Lebanon park system are to be interpreted as categorized as "parks and recreational facilities, open space and pedestrian amenities" as listed in Table 16.05-5 in Section 16.05.070 of the Lebanon Development Code, and as such trails are not strictly prohibited in the residential low-density zone.

Staff refers to the provisions in the urban growth management agreement (UGMA) between the County and the City that indicate that if no comments are received, then it is assumed there are no objections to the proposal. Under this provision of the UGMA, the County assumes that if there is no comment indicating identified conflicts or any objection from the City, there are no identified conflicts with the City's applicable plans, as the City is required under the UGMA to address compliance with applicable Plans and City standards. The same understanding goes for the imposition of conditions. If none are identified by the City as necessary to demonstrate compliance with their Plan or City ordinances, the County assumes there are no additional City requirements for development. Staff notes that there is correspondence from the City included in the record indicating that the proposed use is consistent with their applicable City plans, future zoning district and that the proposed use will not preclude future development. There is no evidence in the record to demonstrate the proposed use does not comply with these criteria or that the proposed use conflicts with any City plans. Staff reasons it is not a tacit approval to rely on comment or lack of comment from the City. Rather, procedures are dictated in the UGMA and findings based on described procedures and standards of review are consistent with the requirements of County Code.

The decision maker can include conditions on an application as necessary to ensure compliance with decision criteria. If no conflicts are determined to be identified by the Board or the Board finds the application meets the decision criteria based on evidence and testimony in the record, and/or based on input from staff or the affected city, the Board is not obligated to include additional conditions to demonstrate compliance with the City's Plan or other City ordinances. The City did not identify any additional conditions to be placed on the application. Staff notes that there are conditions included as part of this staff report, including conditions regarding ownership of the trail, as required by Code, development standards, and applicable development permit requirements.

The appellant argues that the applicant and the County fail to include adequate provisions to ensure that adjacent properties (landlocked by the subject property)

are provided street and utility access to/from East Isabella Street and Santiam Street rights-of-way via either a private access/utility easement or right-of-way dedication.

The creation of easements for access is established between private property owners. The local government may review easements of access, typically for compliance with applicable access standards; but not necessarily for maintenance or use since they are not maintained by the local government. City and County zoning maps indicate that except for portions of property immediately adjacent to the subject property, all other adjacent properties are within the City of Lebanon. Any establishment of easements or access roads on those properties would be under the jurisdiction of the City of Lebanon. The County has no authority to require an easement be created for property located inside the city limits and not under the jurisdiction of the County, nor does staff believe the County has authority to require a private property owner grant another private property owner an access easement. None of the comments or input provided by the City regarding the application requires the applicant to establish private access/utility easements or right-of-way dedication. County Code does not regulate utilities or utility easements.

The appellant states the City of Lebanon does not have transportation engineer on staff and instead contracts that service with Kittelson and Associates, Inc. According to the appellant, they reached out the City's contract engineer about the application. The appellant comments indicate that the engineer stated that neither the City or County forwarded the application to them for their review or asked for technical review assistance; therefore, the contract engineer believes it is unknown how the city or county could make any determination about conformance with the applicable transportation plans or regulations. The email from the engineer included in the record does not state what appellant argues in their comments, so staff is unsure whether the appellant statements are accurate based on what has been provided for the record for review. Regardless, staff does not find this statement compelling or relevant to the decision.

The Appellant ordered a Transportation Impact Analysis (TIA) from Ferguson and Associates, Inc., which is included in the record. The TIA conclude the proposed trail-bridge location:

- a. Improperly encourages mid-block pedestrian crossings on Santiam Street.
- b. Does not adequately address impacts for pedestrian.
- c. Does not consider how the trail to the north will connect in the future.
- d. Creates the need for mitigation which may improperly be passed on to future development.
- e. Has not considered alternative locations or treatments to resolve potential problems with pedestrian/vehicle conflicts.

Staff review of the TIA reaches a few conclusions. One, because the TIA was commissioned by a private citizen, and not the City or County, it is unclear what the scope the of review or intent of the analysis is, comparative to the proposed use. Second, the TIA does not detail the anticipated pedestrian or bicycle counts as a result of the proposed use; rather, it talks about potential future residential

development of land inside the city limits and potential increase in traffic counts based on future residential development. Third, staff believes the TIA should have been provided to the City for review and determination of whether the TIA was completed consistent with the proposed use and their applicable plans. There is no indication in the record the City was given the opportunity to review the report for consistency with their transportation plan policies.

Staff would note that a TIA was not requested by the City to demonstrate compliance with the applicable transportation policies in their Comprehensive Plan. The County would not request a TIA because the nearest road is a City maintained right of way. Additionally, staff reasons that based on the proposed use, a multi-use walking trail, the County would not require that type of analysis to be completed because no traffic or parking improvements are proposed. The proposed trail is already part of an approved City trails plan and is included as part of the City's Transportation Plan as a proposed system management project.

The applicant is proposing a 10- to 12-foot wide path with one-foot wide shoulders as part of the application materials, stating the width is due to the property being located within the 100-year floodplain. The appellant argues that the City standard for these types of paths is 15 feet. The City's Transportation Plan indicates that shared use paths should be 15 feet wide in areas of significant walking or biking demand, but that the City may reduce the width of the typical paved shared-use path to a minimum of ten feet in constrained areas (e.g., steep, environmentally sensitive, historic, or previously developed areas). The City has authority under their applicable plans to allow for the smaller sized path. As noted by the City Manager letter, the City will be working with the applicant to make sure the path is engineered and constructed to comply with City standards and the applicant testified that the project is being designed in coordination with and in compliance with city standards.

The appellant argues that LCC 907.310(B)(9)(b) applies. That policy states: *Within or near major urban growth boundaries, Linn County will require that proposed accesses demonstrate: how the access will integrate with and connect to the future road network, or (ii) how the access will integrate with and connect to the future road network planned for the area; or (iii) how the access coordinates with community transportation plans.*

Generally, the policies in this section of the County's Transportation Plan apply to functional classification and access management of various classifications of roads, such as major and minor arterials, major and minor collectors, and local roads. The proposed use is not a road and staff finds this policy does not apply to this application.

Comments received from the appellant list several sections of Lebanon's Development Code regarding extensions of local street, consolidated access points, and/or reciprocal access easements. Staff addresses each section mentioned below:

- *The purpose statement of Chapter 16.12 of the Lebanon Development Code (LDC) is as follows "is to ensure that developments provide adequate access to lots*

as well as safe and efficient access and circulation, for pedestrians, bicycles, **and motor vehicles.**" [emphasis added]

Chapter 16.12 addresses transportation access, access management and circulation. The provisions of this chapter address Motor Vehicle Access and Management Requirements, Bicycle Access and Management Requirements, Pedestrian Access and Management Requirements, and Exceptions to Requirements for Streets and Accessways. This chapter implements the City's Transportation Plan with development standards. The purpose statement acts as the overall goal for the chapter, implemented by specific sections addressing different modes of transportation and applicable standards. The purpose statement, while relevant, does not contain any criteria or standards. Criteria and standards are incorporated in other sections of Lebanon's Development Code.

- LDC 16.12.030(C) requires an access permit when new or modified access to the public street system is proposed. LDC 16.32.020 defines "access" as "the way or means by which pedestrians, bicycles and motor vehicles enter (ingress) and leave (egress) property." ." [emphasis added]

This section (16.12.030) applies to motor vehicle access and management requirements. The proposed use is a multi-use public trail with no motor vehicle access. Staff concludes this requirement in City Code does not apply.

- LDC 16.12.030(I) states that the number of street access points for **public developments** "shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection "J," below, in order to maintain the required access spacing, and minimize the number of access points." [emphasis added]

This provision addresses the number of access points as they relate to certain types of development. The section (16.12.030) applies to motor vehicle access and management requirements. The proposed use is a multi-use public trail with no motor vehicle access Staff concludes this requirement in City Code does not apply.

- LDC 16.12.030(J)(1) states that the number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible **and new streets shall be stubbed to adjacent developable parcels to indicate future extension.** [emphasis added]

- LDC 16.12.030(J)(3) states that public use developments shall provide a cross-access drive and pedestrian access (and reciprocating access easements) to allow off roadway circulation between sites.

- LDC 16.12.030(J)(4) **states that access easements for the benefit of affected properties shall be recorded for all shared driveways, joint access, cross-access, and shared parking areas as well as pathways, (...) as a condition of site development approval.** Pursuant to the provisions of this subsection, the property

owners: a. Shall record an easement with the deed allowing cross access to and from other properties served by facility (i.e., the joint use driveways, and/or cross access, and/or service drive). b. Shall record a coordinated maintenance agreement with the deed defining maintenance responsibilities of the property owners. c. Such agreements shall be on forms acceptable to the City. [emphasis added]

These three sections of the Code address shared driveways and access. Staff does not believe these provisions apply to this review. The proposed use is classified as a trail as part of the City's Parks Plan, with separate standards for trails also contained in the City's Parks Plan.

LDC 16.12.030(K)(4)(a) **states that whenever a proposed development abuts unplatted land, underutilized land, redevelopable land (as identified in the City's Buildable Lands Inventory), (...), street stubs shall be provided to access abutting properties and to extend the street system into the surrounding area.** LDC 16.32.020 defines "street stub" as "a temporary street ending where the street is intended to be extended through adjacent property in the future, as those properties develop." [emphasis added]

This section details requirements for street connectivity and formation of blocks for new land divisions and large site developments. (K)(4)(a) specifically states: **"The street grid of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as provided below: a. Whenever a proposed development abuts unplatted land, underutilized land, redevelopable land (as identified in the City's Buildable Lands Inventory), or a future development phase of the same development, street stubs shall be provided to access abutting properties and to extend the street system into the surrounding area, except where (1) Existing development precludes street stubs, or (2) Geographical or natural features preclude street stubs.**

The proposed multi-use public trail is not part of a land division, is not a large site development that would require the formation of blocks and is not part of a subdivision. Staff concludes this requirement in City Code does not apply.

- LDC 16.13.030(H)(1)(2) states that a minimum separation of 150 feet for local streets is required and **that all local streets that abut a development site shall be extended within the site to provide through circulation and connection to abutting streets.** [emphasis added]

This section (16.12.030) applies to motor vehicle access and management requirements. The proposed use is a multi-use public trail with no motor vehicle access. Staff concludes this requirement in City Code does not apply.

- LDC 16.12.030(K)(5) **states that the alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop.** [emphasis added]

The proposed multi-use public trail is not part of a land division, is not a large site development that would require the formation of blocks and is not part of a subdivision. Staff concludes this requirement in City Code does not apply.

• LDC 16.12.030(O) **states that pre-existing and legally established access in place prior to the adoption of this Code are considered to be nonconforming and shall be brought into compliance with applicable standards under the following conditions: 1. When new access permits are requested; 2. When a land use permit is required for change of use, building expansion, or redevelopment.** [emphasis added]

This section (16.12.030) applies to motor vehicle access and management requirements. The proposed use is a multi-use public trail with no motor vehicle access. Staff concludes this requirement in City Code does not apply.

Based on evidence, testimony, and information in the record, staff concludes that proposed development is permitted within in applicable sections of the City's Transportation Plan and Parks Master Plan and is consistent with Lebanon's Comprehensive Plan map designations and the future city zoning; the location, size, design and operating characteristics of the proposed development are compatible with future development allowed by the Lebanon's Comprehensive Plan map designation; The City of Lebanon has reviewed the proposal and has not identified any conflicts with its Comprehensive Plan, Facilities Plans or development standards; and, stated the location, design and site planning of the proposed development does not preclude future urban development on the subject property or adjacent properties; No conflicts with future location and placement of streets and services have been identified by the City.

5. **If the proposed development has the potential to generate conflicts which have been determined to be detrimental to the public health, safety and general welfare or to the overall livability of the neighborhood, then the development shall not be permitted without mitigations. The mitigations will be determined by the decision maker. Potential conflicts include, but are not limited to noise, vibration, smoke, dust, odor, fumes, heat, glare or electromagnetic interference.**

STAFF ANALYSIS: The applicant proposes to establish a multi-use public trail across the subject properties. The trail will connect at River Park at the south end to Santiam Street at the north end. The trail will include a pedestrian bridge over the Albany Santiam Canal at Santiam Street. No buildings are proposed for the use. The application indicates that the trail will be 12 feet wide, including 10 feet of either asphalt or concrete, and 1-foot gravel shoulders. The total length of the trail will be 1200 feet and occupy 1.26 acres. No water supply is needed for the proposed use.

The application states: "Many studies have shown that multi-use trails improve the overall health and well-being in a community, resulting in an enhanced quality of life. By providing a direct connection from the neighborhoods surrounding Santiam Street to the paved trail in River Park, the proposed new trail will give many hundreds of community members direct access to several miles of trail extending through parks

and scenic areas, and then past schools and shopping areas, ultimately to join the trail complex at Cheadle Lake. With the continued development of high-density housing throughout Lebanon, there is a critical need to provide paved, off-street access to public open spaces and other activities. The trail has strong community support and its completion will be taking a big step in that direction." The applicant submitted news articles at the public hearing stating the benefits of public recreational trails and areas, which are contained in the record.

The Department provided notice to surrounding property owners within 100 feet of the subject property. Three comments were received from surrounding property owners during the Department and Commission reviews expressing concerns regarding the proposed use.

One comment received notes the potential trespass onto adjacent private property. The comment states: *"A fence will limit the potential of this occurring and reduce private property owner liability resulting from personal injury and/or property damage from (unintentional or intentional) trespass. A maintenance agreement will eliminate questions about long-term obligations and responsibility of the installed fence."*

The appellant states the proposed use will make adjoining private property more susceptible to crime, littering, vandalism, trespass, and vagrancy and that the application includes no mitigation measures, such as trail illumination, trash receptacles, fencing, signage, or landscape to diminish conflicts between the proposed use and adjacent private low density residential land use. At the hearing, two photos were submitted by the appellant of some damage to a fence and a bag of trash on the subject property. Staff notes that any damage to existing property is not a result of the proposed use because it is not yet established. Staff does not believe the submitted photos are substantial evidence that the proposed use will cause an increase in crime, littering, vandalism, trespass, and vagrancy.

The second comment in opposition states: *"The proposed trail will run adjacent to land zoned low-density residential and improved with residential dwellings. To help achieve compatibility between the public recreational trail and private property, regulations must be established to limit hours of operation, outline rules of use, exclusion, violations, etc. Chapter 12.12 (Parks and Public Places) of the Lebanon Municipal Code includes codified regulations for municipal parks, recreation areas, and other public spaces within the Lebanon city limits or owned by the city of Lebanon. Lebanon Municipal Code 12.12.120 outlines the process for apply these regulations to recreation areas."*

The applicant provided responses to issues raised and indicated in their letter and stated at the public hearing that the project will include a five-foot tall chain link fence extending along the southwest side of the trail from the pedestrian bridge over the canal to River Park, there will be two trash receptacles and two dog waste stations. The applicant also indicates that the project will include 16' light poles spaces at approximate intervals of 83' along the full length of the trail project, down facing LED light fixtures, like those placed on the Old Mil Trail, will be used. The applicant indicates the City agrees the trail will be under their Park rules and regulations, including public access limited to 7 am to 10pm. The City and the applicant agree that landscaping is not warranted, aside from mowable grass on both sides of the trail.

County Code does not have any screening, fencing, landscaping, illumination, or operating requirements for the UGA-UGM zoning district or the proposed use. The letter from the City Manager contained in the record indicates that the City will work with the applicant to ensure the trail is constructed in compliance with city engineering and applicable development standards before taking ownership of the trail.

The City of Albany Public Works Department submitted comments indicating that Albany Santiam Canal is operated by the City of Albany and is regulated by the Federal Energy Regulatory Commission (FERC), due to the canal acting as a water source for Albany's hydroelectric power generation plant. Albany notes that, as to date, the applicant has not contacted the Public Works Department about the requirements necessary to construct a bridge across the canal. The staff report proposes a permit condition that the applicant shall comply with the review requirements of the City of Albany and the FERC of the bridge across the Santiam-Albany Canal.

The subject property is served by the Lebanon Fire Department and the Linn County Sheriff's Department. The Lebanon Fire Department was notified of the proposed application. The Lebanon Fire District submitted comments stating that the applicant should consider reasonable emergency access to the trails in the case of medical emergency, but did not express any public health or safety concerns as a result of the proposed trail. The Linn County Sheriff's Department was notified of the proposed application and did not identify any public health or safety issues or concerns as a result of the proposed use.

6. The proposed site:

- (a) can support an on-site, subsurface sewage disposal system, and**
- (b) has an adequate supply of potable water.**

The application indicates that no water or sewer facilities are needed for the use. One comment was received stating that the proposed use did not demonstrate adequate supply of portable water or that the use can support an onsite subsurface sewage disposal system. Staff reasons that a public multi-use trail would not need to be supported by an on-site water supply or on-site subsurface sewage disposal system; therefore, finds this criterion is not applicable.

7. Traffic generated from the site can be adequately served by the road system servicing the site.

8. Road access meets County standards as found in section 3.2 of the Linn County Transportation Element of the Comprehensive Plan.

The applicant states that the south end of the walking trail will connect to a paved trail in River Park and the north end of the trail will front onto Santiam Street, a paved City street.

The applicant responded to the notice of appeal by stating the City has reviewed the proposed for consistency with its transportation plan and providing the following response:

As previously stated, there are no known current development projects near the project area. New development projects will be responsible for needed improvements in areas their project impacts. BLT does not currently anticipate a traffic conflict between the public trail and future unknown development. However, if one becomes apparent, it appears we have a readily available solution.

BLT is currently working with the City and Udell Engineering to develop a detailed development plan. The plan will include review of trail entrance/exit at Santiam Street, pedestrian bridge design and location, as well as design considerations for floodplain elevations. The trail termination point will be determined during project design.

Staff concludes that Section 3.2 of the Linn County Transportation Element of the Comprehensive Plan is not applicable to this review because road access is not proposed in support of the use; and because the adjacent road is a City maintained right of way. The City's Transportation is applicable.

One comment was received from a surrounding property owner expressing concern regarding impacts to adjacent properties and future city streets as a result of the proposed use; however, as addressed in the analysis in LCC 933.260(B)(1-4) above, the City of Lebanon did not indicate any concerns regarding traffic generated as a result of the proposed use or indicate the need to for an impact analysis as a result of the proposed use. The City of Lebanon did not indicate any conflicts with their Transportation Plan or the impacts of the proposed use to the location of future city streets. Additionally, the proposed use is described in both the City's Parks Master Trail Plan and the City's Transportation Plan as a future project. It was also found above that the proposed use is not subject to the City's motor vehicle access and management standards.

One comment was received stating that the proposed walking trail has no through access for motor vehicles. Staff reasons that a walking trail would not provide access to vehicles, rather access would be for pedestrians.

Additional comments received by the appellant assert the following provisions in the County's Access Code (Chapter 935) apply under this criterion:

LCC 935.015(D) - All authorized units of land shall have functional road access to a public road by either frontage abutting a public road or an easement of record for road access, or an easement of road access.

The comment argues that one of the properties is landlocked and does not have frontage or an easement. Linn County Code [LCC 920.100(B)(96)] defines easement as a right of use over the property of another. It is uncommon for a property owner to grant themselves an easement to access an adjacent property they also own. Staff notes that the properties are a tract in common ownership and that the tract has frontage on a public road.

LCC 935.015(F) (Comment states G) - No person shall construct or install any principal use on any authorized unit of land unless access is first provided in a manner consistent with this Development Code.

The County Road Department and the City did not submit comments requiring the applicant to obtain an access permit for the proposed use, and it was determined in findings above that an access permit does not apply to the proposed use under the City's Development Code. The purpose of Chapter 935 is to provide the specifications and standards which are required when constructing or improving access as part of developing a property. The Code goes on to describe that the Chapter includes provisions on County roads created outside of the subdivision process, easements of road access, local access roads, private driveways, and private roads. The applicant is not proposing any of those types of improvements. Also, Chapter 935 does not contain improvement standards for public trails.

LCC 935.015(E) - If the easement of road access required by LCC 935.015(G) cannot be recorded because contiguous units of land are under single ownership and at least one unit is landlocked, then the applicant may delay recording the easement. Prior to the issuance of any development permits, the applicant shall file with the Director a letter of intent promising to record the easement simultaneously with the conveyance of ownership of either unit.

This section applies to partitioning of property and is not applicable to the proposed application. The full provision states: *If the easement of road access required by [LCC 935.015(G)] of this section cannot be recorded because contiguous units of land **created by the land division** are under single ownership and at least one unit is landlocked, then the applicant may delay recording the easement. Prior to the issuance of any development permits, the applicant shall file with the Director a letter of intent promising to record the easement simultaneously with the conveyance of ownership of either unit.*

9. The proposed development site is located outside of a mapped geologic hazard area or of a 100-year flood plain unless it is demonstrated that the use can be designed and engineered to comply with accepted hazard-mitigation requirements.

The property is not located within a mapped geologic hazard area.

The subject properties are located within the 100-year floodplain, specifically Flood Zones A and AE. Linn County Code Chapter 870 (Floodplain Management Code) contains the applicable provisions for development within the special flood hazard area.

LCC 870.130 contains the general construction requirements within the 100-year floodplain. These include all structural and non-structural building materials at or below the base flood elevation shall be resistant to flood damage per FEMA Technical Bulletin 2 and all new construction or substantial improvements shall be constructed using methods and practices that minimize flood damage.

Additionally, LCC 870.144 contains the applicable requirement for any fill and excavation within the floodplain. The following fill and excavation standards apply"

(A) All fill placed at or below the base flood elevation shall be balanced with at least an equal amount of material removed either on site or from an approved nearby area at or below the base flood elevation in the same drainage basin or provide certification by an engineer as per number (4) below. In addition to the requirements of LCC 850 (Fill and Excavation Code), when approved by the floodplain administrator fill may be placed in an area of special flood hazard when:

- (1) a development permit is obtained;
- (2) the net effect of fill and excavation operations (onsite) constitutes no positive change in fill volume;
- (3) the proposed fill or excavation will not change the direction or velocity of flood water flow;
- (4) the proposed fill or excavation will not cause a compounding of flood hazards; or
- (5) a registered engineer shall certify that the proposed project will not cause a rise in the base flood elevation during a one-hundred-year event or create conditions that would be detrimental to adjacent or neighboring properties. The certification shall be provided with the development permit application.

A condition is proposed that any construction must comply with the floodplain construction standards in LCC Chapter 870. A condition is proposed that a detailed trail plan be submitted to the Department for approval prior to the start of construction. The trail plan shall demonstrate how the proposed construction complies with the floodplain development standards in LCC Chapter 870. Development permits will be required for the work and pre- and post-construction elevation certificates will be required to demonstrate the work complies with the floodplain construction standards. Engineering and construction completed in compliance with the required floodplain development standards is the accepted form of hazard mitigation. The design will be required to comply with FEMA Pre-Implementation Compliance Measures (PICMs) as part of floodplain development. This includes a habitat mitigation assessment to determine whether construction of the trail within the floodplain will have impacts to essential fish habitat or create a loss of floodplain function.

III. EXISTING AND PROPOSED LAND USES

CONDITION	EXISTING	PROPOSED
Plan Designation	C-RL and C-MU	Same
Zone Designation	UGA-UGM-10	Same
Site Location	T12S, R02W, Section 11AC, Tax Lot 1200 & T12S, R02W, Section 11BD, Tax Lot 2000	Same
Access	Isabella Street, Santiam Street	Same
Land Use	Unimproved, adjacent to Albany Santiam Canal	Multi-use public trail

IV. ZONING AND DEVELOPMENT BACKGROUND

The properties were zoned Single Family Residential (SR) on March 22, 1972. The property has been zoned Urban Growth Area – Urban Growth Management (UGA-

UGM-10) since September 2, 1980. The properties are authorized units of land, as defined in LCC 920.100(B)(30)(d)(i)(I).

V. PROPERTY CHARACTERISTICS

- A. **TOPOGRAPHY** – The properties contain little to no slope, with an average elevation of 338 feet.
- B. **SOIL TYPES** – The soils on the property are determined from the Soil Conservation Service (SCS) *Soil Survey of Linn County Area, Oregon*, July 1984. The soil types identified on the property are listed below (Source: NRCS Soil Survey of Linn County, Oregon).

Table 1
Subject Property Soil Classification

Soil Type	HVFL type	SCS type	% of parcel	# of acres	Cu ft/ ac/yr
Newberg Fine Sandy Loam	1	llw	81.41%	1.02	153.00
Malabon Silty Clay Loam	1	I	16.96%	0.21	21.00
Chapman Loam	1	I	1.63%	0.03	2.80
TOTAL			100%	1.26	176.80

- C. **NATURAL AND/OR GEOLOGIC HAZARDS** – The properties are not located within a mapped geologic hazard area (Bulletin 84, Environmental Geology of Western Linn County Oregon).

The subject properties are located within an identified flood hazard area according to the Federal Emergency Management Agency (FEMA) Flood Insurance Study for Linn County, Oregon and Incorporated Areas dated September 29, 2010 (**Exhibit G**).

VI. AVAILABILITY OF PUBLIC FACILITIES AND SERVICES

- A. **FIRE** - The property is located within the Lebanon Fire District.
- B. **POLICE** - The Linn County Sheriff's Department and Lebanon Police Department serve the area.
- C. **SCHOOL** - The properties lie within the Lebanon School District and the Linn-Benton Community College District.
- D. **SEWAGE DISPOSAL** – The properties do not contain a septic system
- E. **WATER SUPPLY** – The properties are not served by a water supply.
- F. **ACCESS** – The properties have frontage on Isabella Street and Santiam Street

VII. RECOMMENDATIONS, CONDITIONS, AND REQUIREMENTS:

If the Board moves to deny the application, findings that demonstrate the reasons why the application does not comply with one or more of the applicable decision criteria in LCC Sections 933.360 are required.

If the Board moves to approve the application, findings that demonstrate the reasons why the application complies with all of the applicable criteria in LCC Sections 933.360 are required.

The Board may adopt reasonable and practicable permit conditions and requirements that the Board finds make the proposed use reasonably compatible with and have a minimal impact on the livability and appropriate development of nearby properties, and to ensure compliance with other applicable decision criteria.

If the Board approves the application, staff recommends the decision include the following permit conditions and Code requirements. These conditions are presented as guidelines for Board discussion. The Board can choose to adopt, modify, or remove these conditions as part of this decision:

A. PERMIT CONDITIONS:

1. A conditional use permit is approved to construct a multi-use public trail. The conditional use permit shall be initiated within two years of the approval date, as described in Linn County Code (LCC) Section 921.920.
2. The properties are located within the special hazard flood area. Construction within an area of special flood hazard must comply with the Linn County Floodplain Management Code Chapter 870. For more information, please contact the Linn County Floodplain Administrator at 541-967-3816.
3. The trail must be owned or operated by a government agency or a public utility per LCC 920.100(B)(262). An agreement outlining the terms of conveyance of ownership or access of the trail to the City of Lebanon shall be provided to the Department upon completion of the trail.
4. The applicant shall comply with any review requirements of the City of Albany and the Federal Energy Regulatory Commission for the construction of the bridge across the Santiam-Albany Canal.
5. The trail shall be blocked off from public use until the City provides a signed document that they have inspected the completed trail and will accept ownership or right-of-way dedication of the trail.
6. A detailed trail plan be submitted to the Department for approval prior to the start of construction.

VIII. NOTICE TABLE AND PROCEDURE

A. NOTICE

Property owners within 100 feet of the boundaries of the subject property, and the agencies identified in the table below, were provided notice of this application at least 20 days prior to the hearing date. Notice was also published in the Albany Democrat-Herald newspaper at least 20 days prior to the hearing date. The certification of mailing for this hearing is included in **Exhibit L**.

There are 13 properties within the notification area. No additional comments were received from surrounding property owners as of the date this staff report was prepared.

Public comments in **Exhibit F** were submitted during the Department and Commission review. The following table indicates agencies that were provided notice and responded by the date this staff report was prepared (**Exhibit E**).

AGENCY	NOTICE	RESPONSE	AGENCY	NOTICE	RESPONSE
Environmental Health	x	x	Lebanon Fire District	x	x
Linn County Assessor	x		Linn Co Building Official	x	
Linn County Sheriff	x	x	Oregon DSL	x	
Linn County Road Dept.	x	x	City of Lebanon	x	
GIS	x		County Floodplain Manager	x	

B. PROCEDURE

The Board of Commissioners will hold a public hearing on this matter on June 3, 2025 at 10:00 a.m. in Room 200 of the Linn County Courthouse in Albany, Oregon. The Board will review the application as a *de novo* hearing. The Board will conduct the hearing following the Uniform Hearing Procedures contained in Linn County Policy 34. The Board will make a decision after the close of the public hearing.

The Board may consider the application for 42 days from the close of the public hearing. Tabling of the request for a period not to exceed 35 days may also occur if the applicant consents. Specified findings, stating the reason for decision, are required in taking action on the proposal. The Board will consider all the testimony in the matter and may take action to: (1) Approve the application; (2) Deny the application; or (3) Modify the application.

All testimony and evidence must be directed toward the applicable decision criteria including applicable criteria in the plan or other land use regulations. Failure to raise an issue before the close of the record, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.

If additional documents or evidence are provided by any party, the Board may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Board shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the Board grants a continuance, the hearing shall

be continued to a date, time and place certain at least seven days from the initial hearing.

IX. EXHIBITS

- A. Application and supplemental information
- B. Decision criteria
- C. Appeal letter and appellant completeness letter
- D. Planning Director decision
- E. Agency Comments
- F. Public Comments
- G. Floodplain Map
- H. Certification of mailings for Planning Commission hearing
- I. Certification of mailings for Director decision
- J. Planning Commission decision
- K. Supplemental Application Information submitted for Board hearing
- L. Certification of mailings for Board hearing
- M. Board Appeal letter and appellant completeness letter