



ORDER OF BUSINESS FOR THE SESSION OF THE
LINN COUNTY BOARD OF COMMISSIONERS
ROOM 200, LINN COUNTY COURTHOUSE, ALBANY, OREGON
TUESDAY, JULY 25, 2023

- 9:30 am
1. Call to Order
 2. Flag Salute
 3. Roll Call Recorded
 4. Approval of Agenda
 5. Approval of the July 11 and 18, 2023 Commissioners' Meeting Minutes
 6. **SHERIFF'S OFFICE** – Michelle Duncan, Linn County Sheriff
 - A. Resolution & Order 2023-008 approving an Agreement between the City of Sweet Home Jim Riggs Community Center and Linn County
 7. Reports of Staff and Committees:
 - A. **JUVENILE DEPARTMENT UPDATE** – Torri Lynn, Linn County Juvenile Department Director
 8. **ROAD DEPARTMENT** – Wayne Mink, Linn County Roadmaster
 - A. Resolution & Order 2023-100 accepting and recording certain real property granted to Linn County for road purposes (County Road Number 0328, Goldfish Farm Road)
 9. Correspondence
 10. Special Orders:
 - A. Personnel Action Forms
 - B. Resolution & Order 2023-274 approving a Purchase and Sale Agreement between Albany Evangelical Church and Linn County

11. Unfinished Business and General Orders:
 - A. Discussion regarding appropriation of funds for courthouse security/improvements
 - B. Calendar Update
12. New Business
13. Announcements
14. Business from Public – Limited to three-minutes per speaker; state your name and address when called upon
15. **PLANNING & BUILDING DEPARTMENT** – Steve Wills, Linn County Planning and Building Director
 - A. Resolution & Order 2023-276 approving an application for a partition, an easement review and a Measure 49 review for Fern Hollow Farms
 - 10:00 am B. **PUBLIC HEARING** – PLN2023-00303: Combined applications by Willamette Concrete Products, Inc. for a Comprehensive Plan (Plan) Text Amendment on a 5.00-acre portion of two properties (T15S, R03W, Section 9, Tax Lots 202 and 219) – Kate Bentz, Assistant Planner, Linn County Planning and Building Department
16. Adjournment

Next Meeting Scheduled at 9:30 a.m. on Tuesday, August 1, 2023

You may join the Board meeting via teleconferencing by calling:
541-704-3002; Pin Number 8442



LINN COUNTY SHERIFF'S OFFICE

Michelle Duncan, Sheriff

1115 Jackson Street SE, Albany, OR 97322

Phone: 541-967-3950

www.linnsheriff.org

Agenda Summary

To: Board of Commissioners

From: Ric Lentz – Linn County Emergency Manager

Date: 07/19/2023

Re: Resolution & Order No. 2023-008

The following item is scheduled to be heard on 07/25/2023:

Resolution & Order 2023-051: A sheltering/emergency use agreement between Linn County and The City of Sweet Home. In the event of a significant disaster, Linn County would be able to call on the Sweet Home Senior Center to use its buildings and grounds as a temporary sheltering and emergency use site. Linn County would have access to supplies and equipment on the grounds. The Senior Center has cooking supplies, a gymnasium, fields, and classrooms that could be used to organize a secure sheltering site. Linn County volunteers would help staff the site during an activation.

Financial Impact: Linn County would reimburse The City of Sweet Home for any supplies used and any damages that would result from sheltering operations.

Staff Recommendations: In the event of an activation, the shelter would be staffed by Linn County volunteers and partnering volunteer organizations (Salvation Army, OR-DHS, Red Cross, CERT, and MRC).



LINN COUNTY JUVENILE DEPARTMENT
104 SW 4th Ave. Suite 200 / PO Box 100
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REPORT TO COMMISSIONERS

Update for June 2023

Submitted by Torri Lynn; Juvenile Department Director

Detention

Benton: 3 youth were held for 37 total of days of care, 1 females and 2 males.

Total Admissions to Detention = 3

Average Daily Population = 1.23 youth

Average Length of Stay = 12.33 days

Linn: 25 youth were held for 300 total of days of care, 6 females and 18 males.

Total Admissions to Detention = 25

Average Daily Population = 10.00 youth

Average Length of Stay = 12.00 days

Lincoln 2 youth were held for 35 total days of care, 1 females and 1 males

Total Admissions to Detention = 2

Average Daily Population = 1.17 youth

Average Length of Stay = 17.50 days

Time for Change Program: 0

Probation

The Juvenile Department received 46 referrals during the month of June 2023.

Of the 46 referrals, 12 represent dependency, 11 status and 21 criminal.

There are currently 191 youth in the Probation Unit either on probation or pending court with 18 of those being assessed high-risk.

There are currently 69 youth under the Community Programs Unit serving on informal probation and the Intervention Specialist is currently serving 114 youth. 110 of those youth are from the community with no involvement with law enforcement.

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Juvenile Department

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LINN COUNTY JUVENILE DEPARTMENT

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Albany OR 97321

Phone: 541-967-3853

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Victim Advocate made 88 contacts.

Cases Unassigned: 9

OYA Cases: 45

Work Crew

Tier 1 – 7 youth completed 142.50 hours of community service in 12 project days. In 2022 6 youth completed 85.75 hours of service during the same time period.

Tier 2 – 20 youth completed 550.00 hours of work crew in 25 project days. In 2022 21 youth completed 594.50 hours of service during the same time period.

Miscellaneous Business -

Working on getting the State Fire Marshals Grant started. We have funding and have been working with the County Attorney's office to set up the payment structure for youth.

Working on getting our account renewed for the federal grant reimbursement payments. It has been very difficult.

Torri Lynn
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Juvenile Department

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Rob Perkins Jr.
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Lisa Robinson
Supervisor
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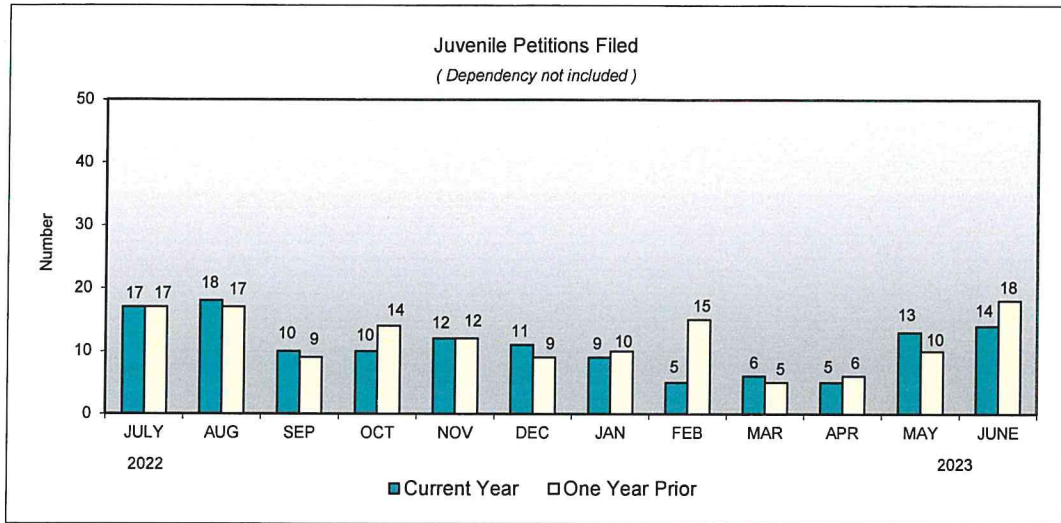
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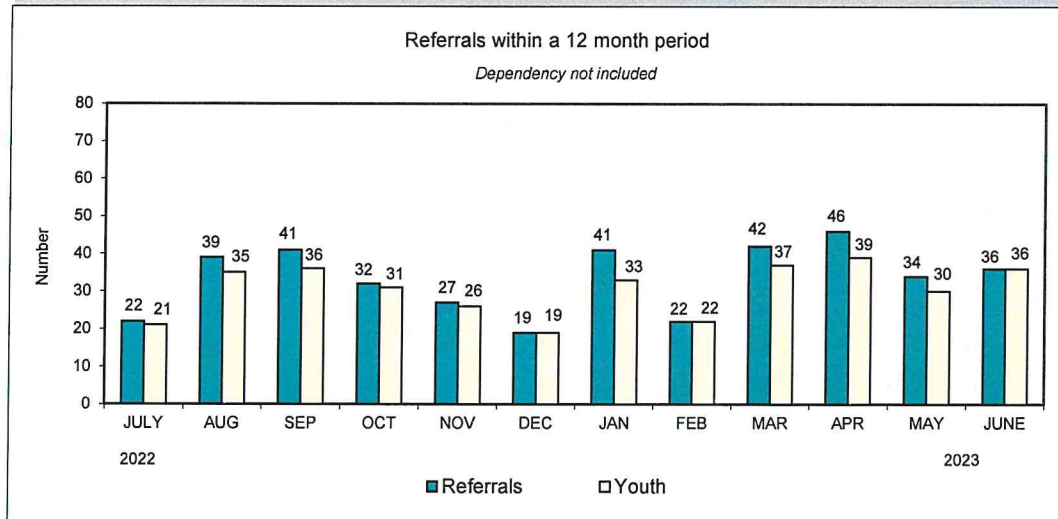
Kevin Husk
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**Linn County Juvenile Department
JUNE 2023 Statistics**

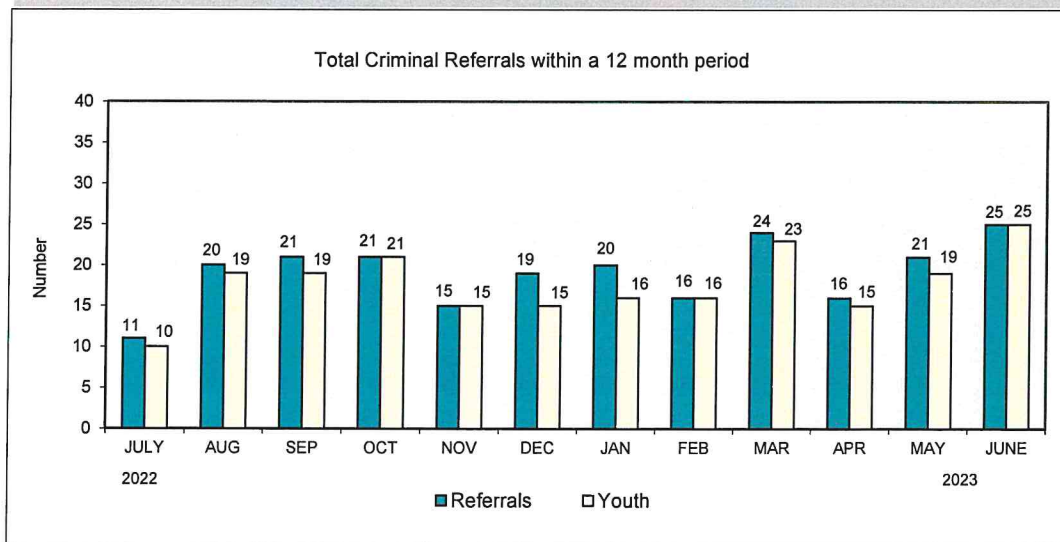


PETITIONS	
Current	130
Last	142
Difference	-12



REFERRALS	
Current	401
Last	294
Difference	107

YOUTH	
Current	365
Last	262
Difference	103



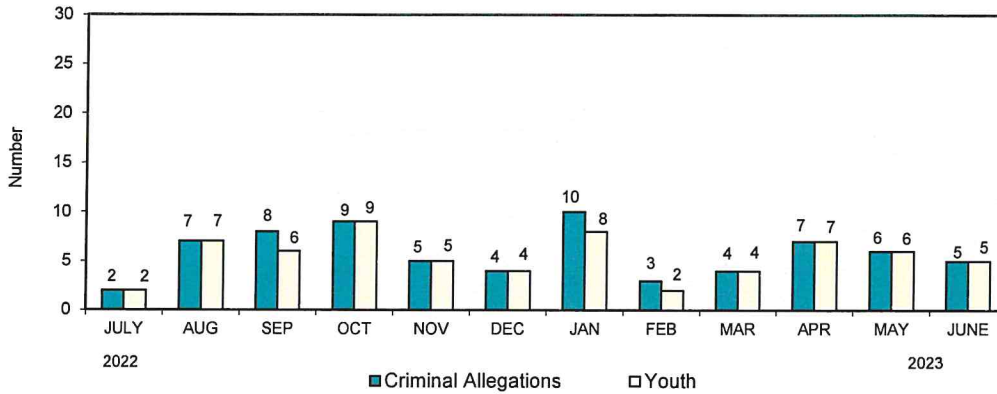
CRIMINAL REFERRALS	
Current	229
Last	163
Difference	66

YOUTH	
Current	213
Last	155
Difference	58

Linn County Juvenile Department
JUNE 2023 Statistics

Note: Person, Property & Drug Crimes are at the ALLEGATION level.

Person to Person Crimes within a 12 month period



CRIMES

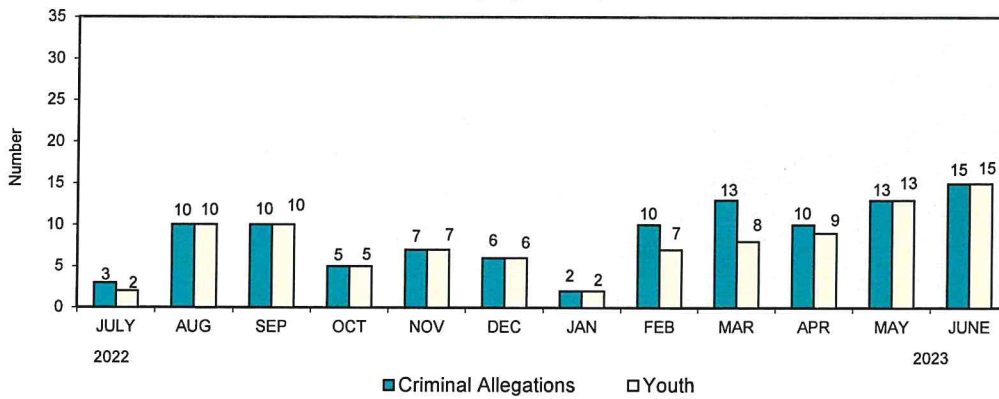
Current	70
Last	70
Difference	0

YOUTH

Current	65
Last	64
Difference	1

Property Crimes within a 12 month period

(Allegation Level)



CRIMES

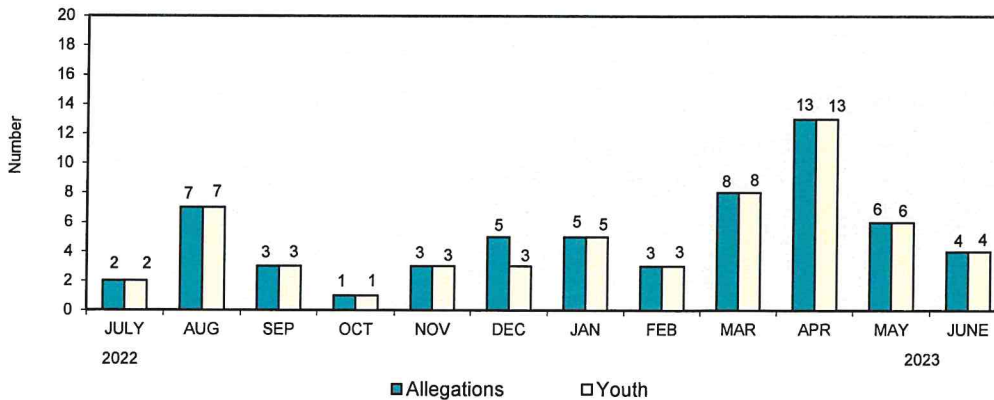
Current	104
Last	64
Difference	40

YOUTH

Current	94
Last	56
Difference	38

Drug and Alcohol Offenses within a 12 month period

(Allegation Level - Includes Tobacco)



CRIMES

Current	60
Last	51
Difference	9

YOUTH

Current	58
Last	47
Difference	11



Linn County Road Department

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

Memorandum

Date: 7/19/2023

To: Linn County Board of Commissioners

From: Wayne Mink, Roadmaster *WEM*

RE: Background Information for Agenda Items – 7/25/2023

The Road Department has the following item on the Board of Commissioners agenda for the weekly meeting on July 25, 2023. The following is a brief description of the item.

Resolution & Order 2023-100 – Acceptance of a Permanent Easement – Goldfish Farm Road, Tax Lot 403

This is a Resolution & Order to accept a permanent easement along Goldfish Farm Road for the Goldfish Farm Road Improvement project between Hwy. 20 to Bridge 328-036. Grantor is Floyd Zumwalt, Trustee of the Floyd and Kathy Zumwalt Revocable Living Trust. Easement cost is \$1,069.

We request your approval.



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

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TO: Linn County Board of Commissioners (Board)
FROM: Alyssa Boles, Planning Manager
DATE: July 25, 2023
RE: Resolution & Order No. 2023-276

The following items are scheduled to be signed by the Board on July 25, 2023:

Resolution & Order No. 2023-276 – PD19-0200; Fern Hollow Farms, Inc. (Applicant) proposes to divide a 64.41-acre property into two, 5.00-acre parcels and one, 54.41-acre parcel. The access review is to recognize an existing 30-foot wide flag strip and establish a 30-foot wide easement to provide access to the proposed parcels. The proposal is the result of a Measure 37 application (M37-220-06) approved by Linn County and a Measure 49 claim (E133086) approved by the State of Oregon. The subject property is described on Linn County Assessor maps as T09S, R01E, Section 20, Tax Lot 400; a 64.41-acre property zoned Exclusive Farm Use (EFU).

This matter is back before the Board of Commissioners following appeal and decisions issued by the Linn County Circuit Court and the Oregon Court of Appeals. Linn County Circuit Court affirmed the Board's decision pursuant to Case no. 20CV17708 on January 27, 2021. The Circuit Court decision was appealed to the Oregon Court of Appeals. The Court of Appeals reversed and remanded the Circuit Court's decision on September 21, 2022, pursuant to Case no. A175675. The Circuit Court issued a General Judgement on June 6, 2023 ordering Linn County to reissue a decision which is consistent with the opinion rendered by the Court of Appeals.

LINN COUNTY BOARD OF COMMISSIONERS HEARING STAFF REPORT

PREPARED BY: Kate Bentz, Assistant Planner

DATE ISSUED: July 18, 2023

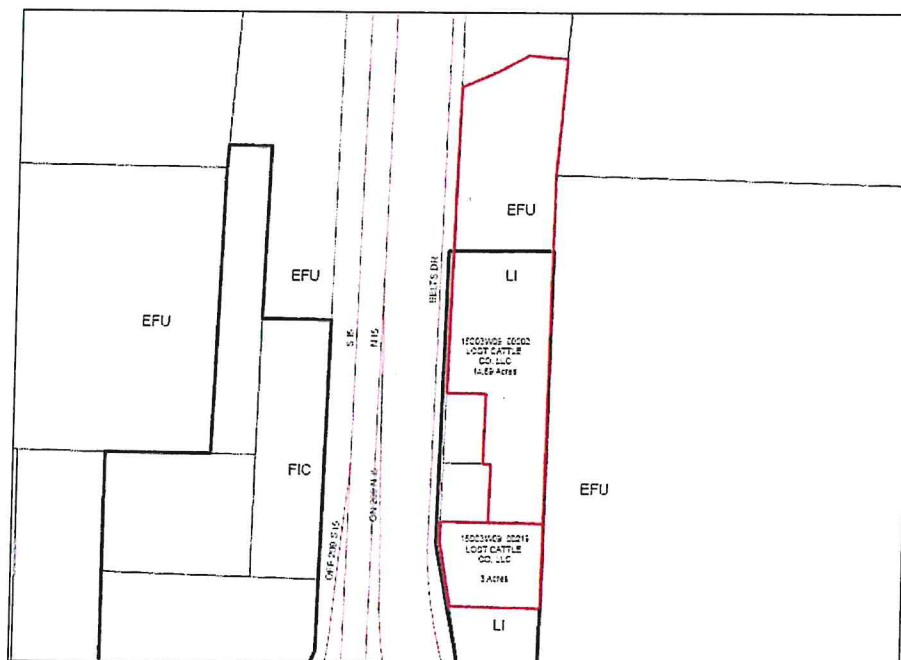
HEARING DATE: July 25, 2023



APPLICATION: **PLN-2023-00303:** Combined applications by Willamette Concrete Products, Inc. for a Comprehensive Plan (Plan) text amendment, a Zoning Map Amendment, and a Code Text Amendment on a 5.00-acre portion of two properties (T15S, R03W, Section 9, Tax Lots 202 and 219). Tax Lot 219 is zoned Limited Industrial (LI) and Tax Lot 202 is split-zoned LI and Exclusive Farm Use (EFU). The application affects all of Tax Lot 219 and a 2.00-acre portion of Tax Lot 202, zoned LI. The Plan text amendment is for an exception to Statewide Planning Goal 14 (Urbanization) on the 5.00-acre portion of the properties in order to establish and operate a "ready-mix concrete batch plant". The Zoning map amendment would establish a Limited Use Overlay (LUO) to the 5.00-acre area. The Code Text amendment would establish the uses allowed within the LUO.

LOCATION: The properties are located at 32733 and 32780 Belts Drive, approximately 0.25 miles north of the intersection of Belts Drive and Diamond Hill Drive, and approximately 4.71 miles east of the city limits of Harrisburg.

CRITERIA: Linn County Code (LCC) Sections 921.822(B), 921.824, and 921.872, and Oregon Administrative Rule (OAR) 660-004-0020, 660-004-0022, and 660-014-0040 contain the applicable decision criteria.



1 inch = 350 feet

Linn County Planning & Building Department

Date: 07/05/2023

I. INTRODUCTION

A. APPLICATION SUMMARY

Wilsonville Concrete Products Inc. submitted concurrent applications for a *Comprehensive Plan (Plan)* text amendment, a Land Development Code (Code) text amendment, and a Zoning map amendment on a 5.00-acre portion of two properties identified as T15S, R03W, Section 9, Tax Lots 202 and 219. The subject properties are located at 32733 and 32780 Belts Drive.

Tax Lot 219 is zoned Limited Industrial (LI) and Tax Lot 202 is split-zoned LI and Exclusive Farm Use (EFU). The current *Plan* map designations of the subject properties are Agricultural Resource and Industrial. The proposed Zoning map amendment would apply an LUO to the entirety of Tax Lot 219 and a 2.00-acre portion of Tax Lot 202, all zoned LI. The proposed amendments would result in 5.00 acres of the properties zoned LI-LUO and the rest of Tax Lot 202 would remain zoned LI and EFU. The application states that the applicant intends to initiate a property line adjustment to consolidate the 2.00-acre portion of Tax Lot 202 into Tax Lot 219. This would occur as part of a separate land use review if the application is approved.

The proposed *Plan* text amendment would amend Linn County Code (LCC) Chapter 905, Appendix 2 (Goal 14 Exceptions) to add the subject property to the Goal 14 Exceptions table, pursuant to LCC Section 905.610(F) (**Exhibit B**).

The proposed Zoning map amendment and Code text amendment requires a Plan text amendment to adopt a "reasons" exception to Statewide Planning Goal 14 (Urbanization). The *Plan* text amendment is for an exception to Statewide Planning Goal 14 on the LI zoned portion of the property in order to establish a concrete batch plant (**Exhibit A**). The proposed Code text amendment would amend LCC Section 931.420(B) (LUO; additional uses permitted outright on specific LUO properties) by adding the text "concrete batch plant" (**Exhibit C**).

The applicant has submitted information to address the applicable decision criteria, the *Plan* policies, Oregon Administrative Rules (OAR), and the Statewide Planning Goals. The application and applicant submittals are attached to this staff report as **Exhibit A**.

B. PLANNING COMMISSION RECOMMENDATION

The Planning Commission (Commission) held a public hearing on this matter at 7:00 p.m., July 11, 2023. After considering the staff analysis and the written and oral testimony presented at the Commission hearing, the Commission voted 4-0 to adopt a motion to recommend that the Board approve the proposed amendments. Voting in favor of the motion were Commissioners Alderman, Barnard, Cromwell and McKinney.

C. DECISION CRITERIA

Linn County Code (LCC) Sections 921.822(B), 921.824, and 921.872, and Oregon Administrative Rule (OAR) 660-004-0020, 660-004-0022, and 660-014-0040 and the Oregon Statewide Planning Goals contain the decision criteria for use in this land use review (**Exhibit D**).

Section 921.822(B) – Decision criteria for Zoning map amendments

LCC 921.822(B)(1): The presence of development limitations including but not limited to geologic hazards, natural hazards, water quality and quantity and septic suitability, do not significantly adversely affect development permitted in the proposed zoning district;

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, page 5.

STAFF ANALYSIS: There are no potential geologic hazards identified on the subject property; therefore, there should be no significant geologic hazard related adverse effects on land uses permitted through this amendment.

The entire 5.00 acres affected by the proposed LUO is located in a Special Flood Hazard Area (SFHA). The Linn County Floodplain Manager was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared. New construction within the flood hazard area would be required to comply with LCC Chapter 870, Floodplain Management Code. The application of an LUO on the subject property does not exempt the property from compliance with floodplain development standards. Any permitted or conditional uses proposed on the subject property must comply with applicable floodplain development standards. No other natural hazards were identified on the subject property.

The application states that water supply will be from a new on-site well or a well currently located on the adjacent property. Tax Lot 202 contains an existing well, which is offsite, outside of the 5.00-acres proposed to be zoned with a Limited Use Overlay. The Oregon Water Resources Department was notified of the application and did not submit comments as of the date of this staff report. ORS 537.545 states that any single industrial or commercial purpose not exceeding 5,000 gallons of water a day is exempted from obtaining water rights. Exempted uses are on a per-property or per-development basis. Adding additional wells does not increase an exempt limitation. The application does not state a specific amount of water proposed per day for a concrete batch plant. The application states that the applicant will implement an engineered water management and drainage plan (Exhibit A, pages 121-153), and will contain, recycle, and process wastewater and surface water runoff on-site. The Oregon Water Resources Commission is responsible for managing groundwater resources and the Oregon Water Resources Department issues permits for new water rights and wells.

Previous uses on Tax Lot 219 used a 4000 gallon septic holding tank as a sanitary waste disposal system, authorized by the County per record #E-1021. The Linn County Environmental Health Program (EHP) was notified of the application and issued comments stating that septic permits will be required for the proposed use as the previous holding tank was decommissioned. Approval from EHP must be obtained for an on-site septic system prior to the operation of any new permitted or conditional use proposed on the subject property.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(2): The amendment will result in a development pattern having no significant adverse impact upon transportation facilities, police and fire protection, storm drainage facilities or the provision of other regional public facilities;

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, pages 5-6. Additional findings made by the applicant that address this criterion can be found in Exhibit A, pages 83-87.

STAFF ANALYSIS: Police protection for the property is provided by the Linn County Sheriff's Department. The property is located within the Harrisburg Rural Fire Protection District and Harrisburg Department were notified of the proposed amendments and did not submit comments as of the time this staff report was prepared.

Storm water drainage is typically addressed when a building permit is issued. Development is required to provide for storm water drainage, which is not permitted to flow directly onto adjoining properties. The applicant has submitted a proposed Stormwater Pollution Control Plan which they propose to follow while operating the concrete batch plant (Exhibit A, pages 121-153).

The property has frontage and access on Belts Road, a county maintained-right-of-way. The Linn County Road Department was notified of the application and did not submit comments identifying any significant adverse impact upon transportation facilities as a result of the Zoning Map amendment. Road Department comments state that a commercial access review will be required for the proposed use of a concrete batch plant (Exhibit E, page 4). Any new development on the property would be subject to County permitting requirements and would be reviewed prior to site development. The subject property is also within ¼ mile from the northbound side of Interstate-5, Exit 209. Oregon Department of Transportation (ODOT) regulates access and traffic control along interstates and state highways. ODOT was provided notice of the application and after reviewing the applicant materials did not express any concern with the proposed Zoning Map amendment and resulting use (Exhibit E, pages 2-3).

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(3): The amendment will result in a development pattern compatible with uses on nearby lands and will have no significant adverse impact on the overall land use pattern in the area;

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, page 6.

STAFF ANALYSIS: Adjacent properties are zoned Limited Industrial and Exclusive Farm Use. The subject property is within the I-29 ("Hanson Warehouse") Industrial Exception Area. (The Exceptions Statement for the 1980 Linn County *Comprehensive Plan* originally identified this exception area as the I-30 Industrial Exception Area.) Previous *Plan* text amendments and Zone map amendments adopted by the Board of Commissioners contained findings that determined that the LI zoned portion of the subject property was committed to urban levels of development for specific uses such as mobile home parts supply, paper recycling, canopy manufacturing, etc (Exhibit F, pages 18-23). The proposed amendments would allow an additional specific use (ready-mix concrete batch plant) that would be contained within the existing boundary of the LI zoned portion of the property. No expansion of the LI zoned portion of the property is proposed. Previous *Plan* text amendments and Zone map amendments also determined that the uses contained within the LI zoned portion of the

property were compatible with uses on nearby land and did not have a significant adverse impact on the overall land use pattern in the area. The establishment of a concrete batch plant within the existing LI zoned portion of the property could be considered a similar use in comparison to other types of industrial uses already permitted conditionally in the LI zoning district.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(4): The amendment is consistent with the intent and purpose statement of the proposed zoning district;

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, page 7-8. Additional findings supporting this criterion can be found in Exhibit A, pages 17-20.

STAFF ANALYSIS: The statement of purpose of the LI zone is found in LCC 929.310 and reads as follows:

"(A) The purpose of the Limited Industrial (LI) zoning district is primarily to permit the continuation and expansion of existing industrial land uses; to provide the opportunity for new resource-related and rural-scale industrial uses; and to provide economic development opportunities on qualifying abandoned or diminished mill sites consistent with applicable Plan policies. (B) The Limited Industrial zoning district is intended primarily for land uses which are dependent upon close proximity to natural resources or raw materials or which need a relatively isolated location because of operational characteristics. (C) Small-scale, rural-dependent businesses are permitted as set forth in LCC 929.320 to 929.340. (D) The expansion and replacement of certain existing urban industrial uses identified in LCC 929.340 is permitted and described in detail in the Comprehensive Plan."

The proposed amendments would allow for an additional use to be established within the LI zoned portion of the property which is resource-related and may supply local rural and urban markets. Concrete production is dependent on close proximity to raw materials from aggregate sites. The subject property is located approximately 2 miles from Bond Butte Quarry, a local supplier of aggregate materials. The subject property is located approximately 4.71 miles from the city limits of Harrisburg, providing a relatively isolated location ideal for the proposed operation characteristics of a ready-mix concrete batch plant.

The statement of purpose for the LUO is: "(A) The purpose of this Subchapter is to identify property which has been approved for development through a Comprehensive Plan amendment and reasons exception (through provisions in ORS 197.732 and OAR 660-004-020 and 022). (B) The LUO is intended to permit land uses which have been approved through an amendment and exception and to limit the site to the specific uses which have been approved. (C) The LUO shall apply to the property until the overlay is removed through the plan amendment process."

The Limited Use Overlay would permit a specific use that would be approved through a Plan text amendment, Code text amendment, Zone map amendment, and Goal 14 Exception process. The applicant proposes to amend LCC Section 931.420(B) to permit a specific use (ready-mix concrete batch plant) on the subject property. The applicant is

proposing a "reasons exception" to Statewide Planning Goal 14 to authorize the operation of a ready-mix concrete batch plant on the subject property, and has submitted findings to demonstrate compliance with the criteria found in OAR 660-004-0020.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(5): The amendment is consistent with the existing Comprehensive Plan map designation;

APPLICANT STATEMENT: The applicant states, "The amendment is to apply the Limited Use Overlay (LUO) to the subject property. The Comprehensive Plan map designation of the property is Industrial Land. The zoning is Limited Industrial (LI). Neither the Industrial Land Plan designation nor the LI zoning designation will be affected by the zoning map amendment. An LUO may be applied to land with an Industrial Plan designation and to land with a LI zoning designation. The amendment is therefore consistent with the existing Comprehensive Plan map designation." (Exhibit A, page 8)

Additional applicant findings related to consistency with Comprehensive Plan policies for Industrial Lands can be found in Exhibit A, pages 44-46.

STAFF ANALYSIS: The proposed amendments would not change the *Plan* designation of the LI zoned portion of the property. LI has a *Plan* designation of Industrial. The proposed amendments would allow for the establishment of a concrete batch plant on the LI zoned portion of the property. The Industrial Land section of the Land Use Element of the *Comprehensive Plan* states that "...it is not always feasible nor desirable to locate industrial uses within an urban growth boundary. A rural setting is more appropriate for land uses which need to be isolated from conflicting uses. Also, proximity to raw materials, other industrial uses, key transportation networks or an energy supply may provide comparative advantages not available elsewhere..." (LCC 905.550(N)). However, under the context of the Statewide Planning Goals, many uses which are not of rural scale or not solely dependent on rural markets must be labeled "urban" and planned for in a different manner. If an applicant wishes to establish an urban use on rural zoned industrial lands, an exception to Goal 14 (Urbanization) is required. The applicant adequately addresses the criteria for a "Reasons Exception" to Goal 14 in Exhibit A, pages 53-88.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(6): The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat; and

APPLICANT STATEMENT: The applicant states, "There is no inventoried fish or wildlife habitat in the area." (Exhibit A, page 8)

STAFF ANALYSIS: There are no sensitive habitats inventoried on the 5.00-acre site affected by the Zoning Map amendment. Little Muddy Creek, which runs parallel on the opposite side of Belts Drive from the subject property, is identified within the National Wetlands Inventory but is not identified as a sensitive riparian or fish habitat within the *Comprehensive Plan*. An unnamed, seasonally flooded wetland is also identified in the National Wetlands Inventory on the adjacent farmland property to the east. Industrial use on the subject property may

have an impact on the adjacent wetlands and riparian habitat; however, impacts to wetlands and riparian habitats are generally mitigated at the time of site development. The Linn County Code protects sensitive fish and riparian habitat with a 50-foot structural setback standard from the riparian area for all new development. Additional on-site mitigation may occur during development depending on requirements of Oregon Department of Fish and Wildlife (ODFW) or Oregon Department of State Lands (DSL). The DSL was notified of the proposed amendment and submitted comments which state that a wetlands delineation is recommended prior to any future development.

On July 11th during the public hearing conducted by the Planning Commission, the applicant gave oral testimony stating that they will work with a specialist to complete a wetlands delineation per DSL's recommendations, prior to the development of the proposed batch plant.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.822(B)(7): The amendment, if within an adopted urban growth boundary, is consistent with the Comprehensive Plan and implementing ordinances of the affected city.

STAFF ANALYSIS: The subject property is not located within an adopted urban growth boundary; therefore, this criterion is not applicable.

Section 921.824 - Decision criteria for Development Code text amendments

LCC 921.824(B)(1): The amendment is consistent with the intent and purpose statement of the affected Chapter or subchapter of the Land Development Code; and

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, pages 16-20.

STAFF ANALYSIS: The affected area of the subject properties is currently zoned Limited Industrial. The applicant proposes to amend LCC Section 931.410(B) to apply a new Limited Use Overlay (LUO) to 5.00 acres identified as T15S, R3W, Section 9, Tax Lot 219 and a portion of Tax Lot 202 (which the applicant proposes) will be consolidated with Tax Lot 219 by a property line adjustment). The applicant is proposing to amend LCC Section 931.420(B) (LUO; additional uses permitted outright on specific LUO properties) to add "Ready-mix concrete batch plant" as use permitted on the subject property. (Exhibit C)

The applicant statement adequately addresses this criterion. The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.824(B)(2): The amendment is consistent with the intent of the policies within the applicable section (s) of the Comprehensive Plan.

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, pages 21-26.

STAFF ANALYSIS: The applicable sections of the *Plan* include the Industrial Lands element and the Urbanization element.

The applicant statement adequately addresses the Industrial Lands element, specifically the applicable policies in LCC 905.570 (Policies for industrial lands). The urbanization element of the *Plan* is addressed below as part of the criterion found in LCC 921.874(A)(1). The applicant also addresses additional sections of the *Plan* including LCC 903.160 (Policies for environmental quality).

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

Section 921.872 - Decision criteria for Plan text amendments

LCC 921.872(A): The amendment is consistent with the intent of the application section(s) of the *Comprehensive Plan*; and

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, pages 38-47.

STAFF ANALYSIS: The applicable sections of the *Plan* include the Industrial Lands element and the Urbanization element.

The applicant statement adequately addresses the Industrial Lands element, specifically the applicable policies in LCC 905.570 (Policies for industrial lands).

The following section of the Urbanization element of the *Plan* also applies to the proposed amendments:

905.600(C) Urbanization; background

The urbanization process (transition from rural to urban land use) does not mean that all residential, commercial, and industrial activity will occur inside UGBs or city limits. Most intensive land uses requiring public facilities will be located within city limits or UGBs. Residential, commercial, and industrial activities outside of UGBs will be sited on the basis of locational and need criteria. These criteria are directed toward preservation of resource lands for resource uses and maintaining a scale of development consistent with rural land use.

This section summarizes that there is a process in place for siting residential, commercial, or industrial activities outside of UGBs, subject to applicable criteria. Oregon Revised Statutes and Oregon Administrative Rules allow local jurisdictions to adopt exceptions to Statewide Planning Goal 14 to allow specific uses on rural lands when certain criteria are met. The Urbanization Land Use Element of the *Plan* is the applicable section for any proposed Goal 14 Exception.

The proposed amendments include a Goal 14 "reasons" exception. The amendment proposes to add a LUO to allow a "ready-mix concrete batch plant." The property and adopted amendments would be added to a list of properties in Linn County that have an adopted Goal 14 Exception to allow specific urban uses on rural land, which is maintained in Chapter 905, Appendix 2 (Exhibit B). The applicant statement addresses the applicable exception criteria in Exhibit A, pages 53-88.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

LCC 921.872(B): The amendment is consistent with the statewide planning goals.

APPLICANT STATEMENT: The applicant statement addressing this criterion can be found in Exhibit A, pages 48-52.

STAFF ANALYSIS: The applicant statement adequately addresses Goals 1 through 4, as well as Goals 6-19. Staff notes that Tax Lot 202 is split-zoned EFU and LI, so Goal 3 would still apply to the EFU zoned portion of Tax Lot 202, though this area is not included within the proposed LUO boundary.

The applicant statement indicates the subject property does not contain any Goal 5 resources; therefore, Goal 5 is not applicable. Staff notes that the subject properties are located near Goal 5 resources. The County uses the National Wetlands Inventory to determine if a property is affected by wetlands. Though not on site, there are wetlands present on adjacent properties including Little Muddy Creek on the west side of Belts Drive and a seasonally flooded freshwater emergent wetland on the adjacent farmland property to the east. Any new development of the 5.00-acre site should ensure that impacts to Goal 5 resources either don't exist or can be mitigated. The proposed use may potentially have an impact on adjacent wetlands or riparian habitat; however, impacts to sensitive fish and wildlife habitats are generally mitigated at the time of site development through compliance with development standards, such as setbacks, or compliance with any requirements of ODFW or DSL.

The proposed amendments require an exception to Statewide Planning Goal 14. This goal is addressed as part of the exception criteria above.

The Board should consider the applicant statement and staff analysis to determine if the proposed amendments are consistent with this criterion.

D. EXISTING AND PROPOSED CONDITIONS

CONDITION	EXISTING	PROPOSED
Plan Designation	Agricultural Resource, Industrial	Same
Zone Designation	Exclusive Farm Use (EFU), Limited Industrial (LI)	Exclusive Farm Use (EFU), Limited Industrial (LI), and Limited Industrial – Limited Use Overlay (LI-LUO) (5.00-acres)
Site Location	T15S, R03W, Section 9, Tax Lots 202 and 219).	Same
Access	Belts Drive	Same
Land Use	Vacant 5,000 sq. ft. building (formerly an airplane hangar), and unimproved land.	Mobile ready-mix concrete batch plant including gravel equipment parking area, aggregate storage, concrete mixer truck washout pond, and use of the existing 5,000 sq. ft. building as an office space and truck maintenance shop.

E. ZONING AND DEVELOPMENT BACKGROUND

The properties are located at 32733 and 32780 Belts Drive, approximately 0.25 miles north of the intersection of Belts Drive and Diamond Hill Drive, and approximately 4.71 miles east of the city limits of Harrisburg. The properties are identified in Linn County Assessor maps as T15S, R03W, Section 9, Tax Lots 202 and 219

The Linn County Zoning Code was first adopted by Ordinance on March 22, 1972. The properties are within the I-29 ("Hanson Warehouse") Industrial Exception Area. The Exceptions Statement for the 1980 Linn County Comprehensive Plan originally identified this exception area as the I-30 Industrial Exception Area. The properties have had their current zoning since September 8, 1989. Previous land use actions involving the subject properties include:

- A-14-78/79 – an Appeal to allow an adjustment of the Limited Industrial (LI) zoning designation on Tax Lot 202. The property owner of Tax Lot 202 appealed to the Board of Commissioners to allow an adjustment of the boundaries of the LI zoning designation on his property due to inadequacies in the present mapping. A formal survey of the property was submitted and the Board approved a modification of the zoning map to reflect the approved adjustment.
- CU-12-82/83 – a Conditional Use Permit application to locate an airport for use by ultralight aircraft in conjunction with a sales and service outlet on Tax Lot 202. The application was withdrawn.
- CP-5-84/85 – a *Plan* amendment to amend the exception statement multiple exception areas including "I-29 Hanson Warehouse" to demonstrate that the unit is substantially developed and committed to industrial uses, in order to bring the *Plan* into compliance for acknowledgement by the Land Conservation and Development Commission (LCDC). Findings noted that the area (including Tax Lot 202 and 219) is substantially developed with warehousing, manufacturing, and residential uses. (Exhibit F, pages 22-23)
- CP-7-87/88 – a *Plan* map amendment and a *Zone* map amendment to change T15S, Section 16, Tax Lots 200, 201, 202, 205, 206, 208, and 209 from Industrial/Limited Industrial (LI) to Agricultural Resource/Exclusive Farm Use (EFU). The amendment has been proposed in response to an Oregon Court of Appeals decision (4-CONT-383, CA A34869) remanding the county's land use plan for further review. The county presented evidence to take an exception in cases where the land area could be shown to be irrevocably committed to non-agricultural uses.
- CP-5-89/90 – a *Plan* map amendment and a *Zone* map amendment to change the northern 7 acres of Tax Lot 202 from a *Comprehensive Plan* map designation of Industrial to Agricultural Resource and from a zoning map designation of Limited Industrial to Exclusive Farm Use. The amendment had been proposed in response to an Oregon Court of Appeals decision (4-CONT-383, CA A34869) remanding the county's land use plan for further review. The Board approved the application and adopted Ordinance #89-659 on November 8, 1989. (Exhibit F, pages 20-21)
- PD20-0273 – a Partition application to partition a 19.69-acre split-zoned Tax Lot 202 into one, 3.0 acre property zoned LI and one, 16.69-acre property split-zoned LI and EFU. The partition was approved (Partition Plat No. 2020-74), resulting in Tax Lots 202 and 219. (Exhibit F, pages 8-14)

- PLN-2021-00363 – A Partition application to partition Tax Lot 202, a 16.69-acre property into two, 1.0-acre parcels and one 14.69-acre parcel. The partition was approved (Partition Plat No. 2022-53), resulting in the current configuration of the subject properties as they are today. (Exhibit F, pages 1-7)
- PLN-2022-00520 – A Code Interpretation application to confirm whether the service and sale of livestock trailers, including pig, goat, cattle, sheep and horse trailers, and repair services to other self-propelled and towed agricultural equipment is a Commercial Activity in Conjunction with Farm Use ("CACFU"). The use was proposed on Tax Lot 219, a 3.0-acre parcel. The Director concluded that the proposed use is a CACFU, which is an outright allowed use in the LI zoning district. This use is not currently in operation on Tax Lot 219, but is in operation on a property in adjacent ownership (15S, 03W, Section 9, Tax Lot 220).

II. PROPERTY CHARACTERISTICS

- A. SOIL TYPES** - The following is based upon information in the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), publication Soil Survey of Linn County Area, Oregon, July, 1987:

Soil Type	HVFL type	SCS type	% of parcel	# of acres	Cu ft/ ac/yr
33 – Dayton Silt Loam	2	IVw	44.42%	7.86	4
8 – Bashaw Silt Clay	2	IVw	55.61%	9.84	0.00
TOTAL			100.00%	17.69	

- B. TOPOGRAPHY** – The property is relatively level, with very little slope.
- C. NATURAL FEATURES AND IMPROVEMENTS** – The 5.00-acre portion of the subject properties is comprised of an existing gravel driveway, an existing gravel roadway that connects to the neighboring industrial property to the north, and a 5,000 sq. ft. building. The remainder of the site is undeveloped and ground cover includes short grass and sparse shrubs/weeds.
- D. NATURAL AND/OR GEOLOGIC HAZARDS** - The entire 5.00-acre portion of the subject properties is located within a designated 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.

There are no potential geologic hazards identified on the subject properties (Bulletin 84, Environmental Geology of Western Linn County Oregon).

III. ENVIRONMENTAL FACTORS

- A. WILDLIFE HABITAT** – The property is not located within an identified big game habitat area. The property does not contain sensitive fish habitat as identified in the Comprehensive Plan.
- B. WETLANDS** – There are wetlands identified in the National Wetlands Inventory near the east and west boundaries of the subject properties, outside of the portion of the property under review. The subject properties are classified as having Predominantly Hydric (wet) Soils according to DSL's Statewide Wetlands Inventory.

IV. AVAILABILITY OF PUBLIC FACILITIES AND SERVICES

- A. **FIRE** – The property is located within the Harrisburg Rural Fire Protection District.
- B. **POLICE** - The Linn County Sheriff's Department provides police protection.
- C. **SCHOOL** - The properties lie within the Harrisburg School District No. 7, the Linn Benton Lincoln Education Service District and the Linn Benton Community College District.
- D. **OTHER DISTRICTS** – The property is located within the Linn Soil and Water District.
- E. **SEWAGE DISPOSAL** – Tax Lot 219 was previously approved for a 4,000 gallon septic holding tank under permit #22-1677. The Linn County Environmental Health program states that this holding tank was decommissioned. There are other septic disposal systems on Tax Lot 202 which are outside of the 5.0-acre area affected by this application. The proposed use will require EHP approval. The applicant has submitted a copy of a proposed Stormwater and Pollution Control Plan (SPCP) to minimize potential off-site water related impacts. The SPCP includes the proposed development of a series of swales to protect potential wetlands along the east property boundary.
- F. **WATER SUPPLY** – A well is located on Tax Lot 202, which is off-site, outside of the 5.00-acre area affected by this application. The applicant states that "water supply will be from a new on-site well or a well currently located on an adjacent property". The applicant states that their proposed water control plan will utilize a truck washout water recycling pond, three vegetated infiltration swales, and two additional berms.
- G. **ACCESS** – The property has frontage and access on Belts Road, a county maintained right-of-way.

V. NOTICE TABLE AND PROCEDURE

A. NOTICE

Property owners within 1,000 feet of the boundaries of the subject property were provided notice of this application. On June 15, 2023, 9 property owners within the notification area were notified of the proposed land use applications. One surrounding property owner has submitted a letter in support of the application which is attached in **Exhibit E, page 7**. Submitted comments from local and state agencies are attached in **Exhibit E, pages 1-6**. The following agencies have been provided notice and responded before this report was written.

AGENCIES	PROVIDED	RESPONDED	AGENCIES	PROVIDED	RESPONDED
Environmental Health	x	x	Linn County GIS	x	
Linn County Assessor	x		Linn Bldg. Official	x	
Linn County Road Dept.	x	x	Linn County Sheriff	x	
Dept. State Lands	x	x	Dept. of Transportation	x	x
Dept. of Water Resources	x		Dept. Land Cons. & Dev.	x	
RFPD: Harrisburg	x		Other: Daniels Field Airport	x	

B. PROCEDURE

The Planning Commission (Commission) conducted a public hearing on the applications and voted to **recommend** that to the Linn County Board of Commissioners (Board) to approve the *Plan* text amendment, Code text amendment and Zone map amendment. A hearing before the Board is scheduled for 10:00 a.m., Tuesday, July 25, 2023.

The Board may consider the applications 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 proposed amendments. The Board will consider all the testimony in the matter and may take action to:

1. Approve the applications;
2. Deny the applications; or
3. Modify the applications.

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 raised issue 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. The 120-day time limitations of ORS 215.428 do not apply to the proposed Comprehensive Plan amendment.

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 hearing, which is scheduled for a date and time certain on Tuesday, July 25, 2023, in the Board Hearing Room, Room 200, on the second floor of the Linn County Courthouse is at least seven days from the initial Commission hearing and provides adequate opportunity to present additional evidence and testimony for the record.

VI. EXHIBITS

- A. Application and Supporting Documents
- B. LCC Chapter 905, Appendix 2 Goal 14 Proposed Edits
- C. LCC 931.420 Proposed Language
- D. Decision Criteria
- E. Written Comments
- F. Prior Land Use Decisions and County Permits
- G. Hearing Notice and Correspondence