



1400 Queen Ave SE • Suite 201 • Albany, OR 97322
(541) 967-8720 • FAX (541) 967-6123

MEMORANDUM

DATE: January 22, 2019
TO: Linn County Commissioners
FROM: Fred Abousleman, Executive Director,
Oregon Cascades West Council of Governments (OCWCOG)
RE: Update on OCWCOG Activities and Programs

Community and Economic Development

- GIS Services

As of December, the CED GIS staff are providing contract services to both the City of Philomath and City of Toledo. The capacity to serve OCWCOG members has increased through ArcGIS licensing upgrades, equipment, and staffing. CED is available to assist communities to modernize or expand their information system in the GIS environment. Some examples of the services being provided include:

- Updating internal facilities data and collect existing external data (tax lots, building footprints, etc.);
- Converting existing shapefiles and "paper" maps to an ArcGIS Geodatabase for long-term consistency and interaction with other data sets;
- Identifying mechanisms for field collection of data (traffic signs, water meters, etc.); and
- Activating ArcGIS Online accounts and creating interactive viewers - for internal use by staff and administration, and by the public. Internal viewers can be designed for use in the field by handheld units.

Transportation Services

- Cascades West RideLine (RideLine)

RideLine continues to provide high levels of non-emergent medical transportation assistance. In the period of October through December 2018, 3,864 RideLine clients took a total of 51,388 trips. Most of these trips were sedan (31,137) trips or mileage reimbursements (12,905).

Most transportation services are for physical, mental, and dental health, with the single highest concentration of transportation services around alcohol and drug treatment, and mental health. A breakdown of trips made in Linn County is here:

	Trips	Clients
Linn County	32,852	2,282
Change from Last Reporting Period	735 more	41 less
Regionally	51,388	3,864
Change from Last Reporting Period	167 less	51 less

In total, nearly 62,783 individuals are eligible for transportation assistance in OCWCOG's tri-county Region, including 34,746 in Linn County (2,941 Oregon Health Plan (OHP); 28,730 InterCommunity Health Network Coordinated Care Organization clients; plus, other Linn County residents on OHP with another Coordinated Care Organization total 3,075).

- Linn-Benton Loop Transit Service

Linn-Benton Loop Technical Advisory Committee (TAC) and Policy Board members, including staff from Albany and Corvallis Metropolitan Planning Organizations (MPOs) met December 18th for a Service Enhancement Plan workshop. At the workshop, the project consultants from Nelson/Nygaard reviewed project plan scenarios which included routes, timing, frequency, service span, and connections. Participants provided input on service needs and opportunities for further refinement of the draft scenarios. Draft projects will be presented to the TAC by the end of January.

- Safe Routes to School

Oak Heights Elementary School in Sweet Home continues to promote a monthly walk and bike to school day; December's event included 25 kids participating in two walking school buses and three children riding bicycles.

OCWCOG provided technical assistance and support to the Sweet Home School District for a proposal to fund a bike fleet, which was awarded. OCWCOG is working with a certified League of American Bicyclist instructor to assist with trainings in Sweet Home for the launch of bicycle education.

Cascades Elementary School in Lebanon School District continues to move forward with the *Safe Routes to School Action Plan* and plans for a bike rodeo this spring.

Community Services Program

- Foster Grandparent Program (FGP)

OCWCOG's FGP recruits and matches volunteers to children aged five to 18. The program is intergenerational, providing volunteers age 55 and over the opportunity to mentor, nurture, and support children with special or exceptional needs, or who are at an academic, social, or financial disadvantage. OCWCOG leverages the skills of Foster Grandparents to improve school readiness and help children gain academic confidence to excel in school.

For the months of October - December 2018:

	Regionally	Linn County
<i>Hours</i>	5,749	4,135
Change from Last Report	1,043 more	686 more

- Meals on Wheels (MOW)

	<i>October, November, and December 2018</i>	<i>October, November, and December 2018</i>
Linn County	1,975 individuals	29,844 meals
Change from Last Quarter	33 less	128 less
Regionally	3,388 individuals	50,717 meals
Change from Last Quarter	703 more individuals	521 less

- Older Adult Behavioral Health Initiative (OABHI)

Several of the behavioral health challenges OABHI currently grapples with include:

- Men are approximately three times more likely to die by suicide than women. The highest suicide rate in the State occurred among men age 85 and older.
- Oregon has the highest rate in the nation of those 65+ hospitalized for opioid-related issues such as overdose, abuse, and dependence.
- 77% of Americans age 55+ who die by suicide had seen their primary care provider within one year of death, and 58% had seen their provider within one month.
- 11% of older adults (65+) experienced a mental illness in the past year; 56% with any mental illness did not receive mental health services.
- 22% of adults in Oregon experience a disability.

OABHI continues to address the range of barriers contributing to these and other challenges and to build system(s) to serve all Oregonians at all stages in life. Beginning January 1, 2019, for the first time the number of people over the age of 60 outnumber those under the age of 18. Workforce development and community education aimed at those working with this aging demographic is becoming more crucial than ever.

- Retired Seniors Volunteer Program (RSVP)

RSVP is America's largest volunteer network for people age 55 and over. RSVP volunteers choose how, where, and how often they want to serve.

For the months of October - December 2018:

	Regionally	Linn County
<i>Hours</i>	9,087	3,562
Change from Last Report	1,559 less	858 more

- Senior Companion Program (SCP)
SCP provides a way for volunteers 55 and over to stay active by serving less-able seniors and other adults, helping them maintain independence in their home. Among other activities, Senior Companions assist with daily living tasks, such as grocery shopping and bill paying; provide friendship and companionship; alert doctors and family members to potential problems; and provide respite to family caregivers.

For the months of October – December 2018:

	Regionally	Linn County
<i>Hours</i>	1,453	770
Change from Last Report	563 more	40 more

- Senior Health Insurance Benefits Assistance (SHIBA) Program
SHIBA volunteers who provided one-on-one counseling to a total of 955 clients in the Region. SHIBA served 284 clients in Benton County, 326 in Lincoln County, and 345 in Linn County for a total of 1,676 hours of free Medicare counseling services.

County	Clients Served	Hours (October)	Hours (November)	Hours (December)
Benton County	284	226	172	97
Lincoln County	326	178	222	154
Linn County	345	263	264	100
Total Clients	955			

SHIBA continues to expand its services in the Region as it now offers routine counseling at the Oregon Veterans Home-Lebanon (OVHL). This past year, a social service worker from OVHL contacted SHIBA looking for help understanding Medicare for their residents; the program has provided two trainings to OVHL as well as research addressing specific issues surrounding the interaction of Medicare and VA benefits. OVHL qualifies for a continuous enrollment period; to build on the 20 hours served during open enrollment period, one-on-one counseling will be offered at least once a month throughout the year.

Senior and Disability Services

- Adult Protective Services (APS)

	Regionally		Linn County	
	<i>Complaints Received About Possible Abuse</i>	<i>Cases That Were or Are Still Being Investigated</i>	<i>Complaints Received About Possible Abuse</i>	<i>Cases That Were or Are Still Being Investigated</i>
November 2018	183	82	122	72
December 2018	171	88	143	81
Total	354	170	265	4
Change from Last Report	5 less	26 more	14 more	44 more

- Aging and Disability Resource Connection (ADRC)

	Unduplicated Consumers	Total Number of Calls for the Region *	Total Number of Calls for Linn County *
November 2018	648	792	404
December 2018	595	705	360

*Total Number of Calls – includes emails, faxes, mail, in-person, other, and unspecified contacts with OCWCOG staff.

- Oregon Department of Human Services Aging and People with Disability Services Launches Survey of In-Home Consumers in 2019

In May 2018, Aging and People with Disabilities (APD) signed a Memorandum of Understanding (MOU) between APD and the Oregon Law Center, Legal Aid Services of Oregon, and Disability Rights Oregon. The MOU was the result of a discussion between legal advocates and the State regarding changes that were implemented in the Medicaid *Long-Term Services and Supports* program in October 2018. Within this agreement, APD committed to completing a survey of consumers receiving in-home services with the hope of understanding how the changes had affected them. Topics that will be covered include consumer satisfaction with service plans and in-home care agencies, consumers ability to direct home care worker (HCW) schedules, satisfaction with HCW schedules, unmet needs, timing and frequency of tasks, need for use of assistive devices, and need for environmental modifications. The results from the survey will be shared. If significant unmet needs are found, APD agreed to convene a workgroup to meet the unmet needs that are Medicaid covered services. Follow up surveys are to happen two more times at three-year intervals.



Linn County Road Department

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

Memorandum

Date: 1/17/2019

To: Linn County Board of Commissioners

From: Darrin Lane, Roadmaster 

RE: Background Information for Agenda Items – 1/22/2019

The Road Department has the following item on the Board of Commissioners agenda for the weekly meeting on January 22, 2019. The following is a brief description of the item.

Resolution & Order 2019-019 – Permanent Easement for Public Road Purposes, Morrison Drive

This is a Resolution & Order to accept a right-of-way donation, from Frank Timber, on Morrison Drive for a future bridge project.

We request your approval.



OFFICIAL STATEMENT OF GRIEVANCE FORM

◆ Type Or Press Hard with Ballpoint Pen



Name of Grievant(s): _____

Name of Group (if applicable): SEIU Local 390 represented staff

Job Classification: All

Name of Agency: Linn County Work Location: all

Name of Immediate Supervisor: NA Filed with (if other than supervisor) Ralph Wyatt

Date Grievance Occurred or Discovered: December 5th, 2018

[Handwritten signature]
20 Dec 18

Statement of Grievance: { Be specific
Include date of occurrence
Attach additional sheets if necessary

To allow SEIU members off to honor the federal holiday and President Bush per contract. The County did not provide Holiday pay to SEIU members for December 5th, 2018 in lieu of closing.

The Stewards are requesting to meet with County management at each step, please let us know your availability to settle this at the lowest level.

Right Violated: (Cite articles in the contract): Article 17 and any other applicable articles

Remedy Requested: Make all affected workers and Union whole and develop a process with the Union to make sure the CBA gets followed as intended.

- ◆ I hereby assign the above grievance to the, SEIU Local 503, OPEU, AFL-CIO, CLC, for final disposition.
- ◆ I authorize any representative of the, SEIU Local 503, OPEU, CLC, to examine the contents of my personnel file.

Signature of Grievant: waived by agreement of County Date: 12/20/18

Grievant's Home Address: NA

Telephone Numbers: NA

Steward for this Grievance: [Signatures] NA

Steward's Home Address: NA

SEIU Field Rep for this Grievance: Melissa Gustaf

White ~ Steward

Yellow ~ Management

Pink ~ Grievant

c: Jane Karandy, County Atty

addition to the holidays enumerated in the agreement, "any other holiday which may hereafter be declared a general holiday by the President of the United States or by an act of Congress." An arbitrator held that the employer was obliged to recognize as a "legal holiday" the "National Day of Mourning" for former President Nixon, which had been declared by presidential proclamation. In the absence of any evidence of relevant bargaining history, the arbitrator relied on the dictionary definition of the term "legal holiday," the practice of other employees who had similar contract language in their agreements, and the fact that this employer had followed the leave practices of the federal government in the past, all of which supported the treatment of the National Day of Mourning as a holiday.¹⁶

The primary purpose of holiday pay provisions is to insure the employee against the possible loss in earnings when he or she does not work because of a holiday occurring during the workweek.¹⁷ Some contracts explicitly or by clear implication also include pay for holidays that fall on days when the employee would not have been scheduled to work, such as a regular day off or Saturday.¹⁸

Where contract language provided that two holidays were to be celebrated on the same day, arbitrators have reached conflicting decisions. The two contracts in question were in force during 1989, and each provided that if any holiday fell on a Sunday, it would be celebrated on the following Monday. In 1989 Christmas Eve and New Year's Eve, both recognized holidays, fell on Sunday. The next day was also a recognized holiday, Christmas Day and New Year's Day. All employees who worked on the following Tuesday were paid at the straight-time rate under the contracts. One arbitrator held that there was no contractual basis for requiring holiday pay on the two Tuesdays and no language covering the situation where holidays were to be celebrated on the same day. Accordingly, employees were not entitled to premium pay.¹⁹ The other arbitrator held that the parties' intent from the contract was that if a holiday fell on a Sunday it was to be celebrated on an alternative day. To hold that two holidays were required to be celebrated on

¹⁶Sheet Metal Workers' Nat'l Pension Fund, 103 LA 764 (Kaplan, 1994).

¹⁷Anaconda Aluminum Co., 48 LA 219, 223 (Allen, Jr., 1967). See also *Moitch & Merryweather Mech. Co.*, 51 LA 724, 726 (Dworkin, 1968); *American Airlines*, 39 LA 500, 503 (Hill, 1962); *Hemp & Co.*, 37 LA 1009, 1010 (Undegraft, 1962); *Oranger Home Furn. Co.*, 43 LA 471, 483 (Pollack, 1959); *Inland Steel Co.*, 20 LA 823, 824 (Undegraft, 1953). For a discussion of the history of holiday pay provisions, see *General Cable Corp.*, 37 LA 904, 940 (Kilgion, 1961); *Carson Elec. Co.*, 24 LA 667, 670-72 (Howard, 1955) (also giving examples of types of clauses as well as discussion of work requirements). In *R. Herschel Mfg. Co.*, 35 LA 826, 827 (Ruckel, 1960) the contract stated that the purpose of holiday pay is that no employee shall be deprived "of income he would have been able to earn."

¹⁸See *Leowall Sportswear Co.*, 55 LA 1165, 1166 (Dworkin, 1968); *Cleveland Transit Sys.*, 45 LA 905, 907 (Kates, 1965) (an "interest" arbitration); *International Paper Co.*, 43 LA 676, 677 (Goldstein, 1964); *Courier-Gitizen Co.*, 42 LA 269, 272 (Myers, 1966); *Pittsburgh Doe Moltes Steel Co.*, 40 LA 571, 581 (Koven, 1963); *Cf. Milwaukee Lichen Supply Co.*, 23 LA 382, 394 (Anderson, 1954); *Fremont Beverages*, 22 LA 806, 807 (Saligson, 1954); *Cannon Elec. Co.*, 21 LA 120, 122 (Jones, Jr., 1953); *Hanson & Whitney Co.*, 21 LA 69, 60 (Stutz, 1953). For a case involving the right of the company to require employees to work on a holiday, see *Georgius Pacific Corp.*, 59 LA 417, 418-20 (Hilbert, 1973).

¹⁹Nelson Packaging Corp., 96 LA 442 (Clarke, 1980).

the same day would mock the purpose of an alternative day when a recognized holiday falls on a Sunday. Accordingly, the employees were awarded premium pay for work on Tuesday. December 26, 1985.

An employer is not obligated to pay holiday pay to employees for holidays that occur after their termination as a result of a plant closing. Terminated employees lose all rights under the contract other than those specifically granted to such employees.²¹

In another plant-closing situation, employees were held entitled to personal holiday pay where the contract provided the holiday should be taken when mutually agreed upon by the employee and the company. But employees were not entitled to birthday holiday pay since the contract provided that such holiday was to be taken on the Monday following a birthday, and therefore, the right had not vested at the time of the closing of the business.²²

A. Work Requirements [LA CDI 100.5204; 116.1033]

When the contract does provide for holiday pay, the pay is considered a "fringe benefit" earned by the employee. However, while it is recognized as an earned benefit, holiday pay may be conditioned upon the employee's compliance with contractually stated work requirements.

Many employers discourage the "stretching" of holidays by requiring employees to work their shifts that immediately precede and follow a holiday as a precondition to receiving holiday pay. The employee may be required to work "specified shifts at agreed time proximate to" the holiday.²³ Thus, contracts commonly require both a stipulated minimum period of service and work on designated days surrounding the holiday in order for the employee to be eligible for holiday pay. In the latter regard, the contract may require the employee to work his or her last scheduled day before and his or her first scheduled day after the holiday,²⁴ the last regularly scheduled day before and the first regularly scheduled day after the holiday,²⁵ the last scheduled

²¹Inland Container Corp., 96 LA 1023 (Duff, 1991).

²²Container Gen. Corp., 85 LA 159 (McDermott, 1985). See also *City of Brooklyn, Ohio*, 85 LA 799 (Grashin, 1985).

²³Mechanizing Sparble Mktg., 91 LA 1366 (Shapiro, 1988).

²⁴Chenocott Copper Corp., 36 LA 507, 510 (Undegraft, 1960). See also *Watkins Trucking*, 48 LA 1101, 1102 (Klein, 1967); *Amron Corp.*, 47 LA 582, 583 (Kellher, 1966); *Colocex Corp.*, 36 LA 517, 521 (Dworkin, 1961); *Klapholz Bros.*, 33 LA 919, 921 (Tschler, 1959) (and other holiday pay arbitration cases concerned the various aspects of eligibility for such pay—compliance with work requirements, part-day absence or tardiness before or after a holiday, and the effect on eligibility of layoff, leave, vacation, or strike).

²⁵See *Duff-Norton Co.*, 72 LA 607, 609 (Carson, Jr., 1979); *Hubbell Metals*, 67 LA 638, 639 (Schaffner, 1976); *National Distillers Prods. Co.*, 63 LA 477, 478 (Jones, Jr., 1969); *Douglas & Lomason Co.*, 52 LA 745, 746 (Kocof, 1969); *Allison Steel Mfg. Co.*, 48 LA 1281, 1283 (Roberts, 1967).

²⁶See *Tunken Co.*, 75 LA 801, 804-05 (Morjan, 1980) (absence for religious reasons was not a specified exception to the work requirements clause); *Marlock Truck Body & Trailer Corp.*, 70 LA 1273, 1274 (Warne, 1978); *Beltus Inc.*, 69 LA 599, 603-04 (Teple, 1977); *1309, 1309 (Davis, 1968)*; *Columbiana Pump Co.*, 51 LA 481, 482 (Teple, 1968); *Watkins Trucking*, 48 LA at 1101 (Klein, 1967).

**EXECUTIVE ORDERS**

Executive Order on Providing for the Closing of Executive Departments and Agencies of the Federal Government on December 5, 2018

Issued on: December 1, 2018



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. All executive departments and agencies of the Federal Government shall be closed on December 5, 2018, as a mark of respect for George Herbert Walker Bush, the forty-first President of the United States.

Sec. 2. The heads of executive departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 5, 2018, for reasons of national security, defense, or other public need.

Sec. 3. December 5, 2018, shall be considered as falling within the scope of Executive

Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.

Sec. 4. The Director of the Office of Personnel Management shall take such actions as may be necessary to implement this order.

Sec. 5. General Provisions. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
December 1, 2018.

Cornell Law School

CFR › Title 48 › Chapter 6 › Subchapter H › Part 652 › Subpart 652.2 › Section 652.237-72

48 CFR 652.237-72 - Observance of Legal Holidays and Administrative Leave.

652.237-72 Observance of Legal Holidays and Administrative Leave.

As prescribed in 637.110(b), insert the following clause:

OBSERVANCE OF LEGAL HOLIDAYS AND ADMINISTRATIVE LEAVE (FEB 2015)**(a)** The Department of State observes the following days as holidays:

New Year's Day
Martin Luther King's Birthday
Washington's Birthday
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Christmas Day
Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When New Year's Day, Independence Day, Veterans Day or Christmas Day falls on a Sunday, the following Monday is observed; when it falls on Saturday, the preceding Friday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided. If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any "Excusable Delays" clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor's accounting policy.

(End of clause)

[59 FR 66772, Dec. 28, 1994, as amended at 64 FR 43634, Aug. 11, 1999; 69 FR 19343, Apr. 13, 2004; 76 FR 20251, Apr. 12, 2011; 80 FR 6924, Feb. 9, 2015]

[About LII](#) [Contact us](#) [Advertise here](#) [Help](#) [Terms of use](#) [Privacy](#)

[LII]

**RULES OF THE UNITED STATES
COURT OF FEDERAL CLAIMS**

As amended through August 30, 2013



TABLE OF CONTENTS

TITLE I.	SCOPE OF RULES; FORM OF ACTION.....	<u>5</u>
Rule 1.	Scope and Purpose.	<u>5</u>
Rule 2.	One Form of Action.	<u>5</u>
 TITLE II.	 COMMENCING AN ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS.....	 <u>6</u>
Rule 3.	Commencing an Action.	<u>6</u>
Rule 3.1.	Transfers and Referrals.	<u>6</u>
Rule 4.	Serving a Complaint on the United States.	<u>7</u>
Rule 4.1.	Serving an Order in a Contempt Proceeding.	<u>7</u>
Rule 5.	Serving and Filing Pleadings and Other Papers.	<u>8</u>
Rule 5.1.	Constitutional Challenge to a Statute—Notice, Certification, and Intervention [Not used.]..	 <u>10</u>
Rule 5.2.	Privacy Protection For Filings Made with the Court	<u>10</u>
Rule 5.3.	Proof of Service	<u>11</u>
Rule 5.4.	Contents and Length of a Brief or Memorandum.....	<u>12</u>
Rule 5.5.	Format of Filings and Required Information.	<u>14</u>
Rule 6.	Computing and Extending Time; Time for Motion Papers.	<u>16</u>
Rule 6.1	Motion for an Enlargement of Time.....	<u>17</u>
 TITLE III.	 PLEADINGS AND MOTIONS.....	 <u>18</u>
Rule 7.	Pleadings Allowed; Form of Motions and Other Papers.	<u>18</u>
Rule 7.1.	Disclosure Statement.	<u>18</u>
Rule 7.2.	Time for Filing.	<u>18</u>
Rule 8.	General Rules of Pleading.	<u>19</u>
Rule 9.	Pleading Special Matters.	<u>20</u>
Rule 10.	Form of Pleadings.....	<u>22</u>
Rule 11.	Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions.....	 <u>23</u>
Rule 12.	Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing... ..	 <u>24</u>
Rule 13.	Counterclaim.....	<u>26</u>
Rule 14.	Third-Party Practice.	<u>27</u>
Rule 15.	Amended and Supplemental Pleadings.....	<u>29</u>
Rule 16.	Pretrial Conferences; Scheduling; Management.....	<u>30</u>
 TITLE IV.	 PARTIES.	 <u>33</u>
Rule 17.	Plaintiff and Defendant; Capacity.....	<u>33</u>
Rule 18.	Joinder of Claims	<u>34</u>
Rule 19.	Required Joinder of Parties.....	<u>34</u>
Rule 20.	Permissive Joinder of Parties.	<u>35</u>
Rule 21.	Misjoinder and Nonjoinder of Parties.	<u>35</u>
Rule 22.	Interpleader [Not used.]	<u>35</u>
Rule 23.	Class Actions.	<u>36</u>
Rule 23.1.	Derivative Actions.	<u>39</u>

Rule 6. Computing and Extending Time; Time for Motion Papers

(a) **Computing Time.** The following rules apply in computing any time period specified in these rules, in any court order, or in any statute that does not specify a method of computing time.

(1) ***Period Stated in Days or a Longer Unit.***

When the period is stated in days or a longer unit of time:

- (A) exclude the day of the event that triggers the period;
- (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and
- (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) ***Period Stated in Hours.*** When the period is stated in hours:

- (A) begin counting immediately on the occurrence of the event that triggers the period;
- (B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and
- (C) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) ***Inaccessibility of the Clerk's Office.***

Unless the court orders otherwise, if the clerk's office is inaccessible:

- (A) on the last day for filing under RCFC 6(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or
- (B) during the last hour for filing under RCFC 6(a)(2), then the time for

filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) ***"Last Day" Defined.*** Unless a different time is set by a statute or court order, the last day ends:

- (A) for electronic filing, at midnight in the Eastern Time Zone; and
- (B) for filing by other means, when the clerk's office is scheduled to close, subject to the provision for after-hours filing permitted under RCFC 77.1(a).

(5) ***"Next Day" Defined.*** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) ***"Legal Holiday" Defined.*** "Legal holiday" means:

- (A) the day set aside by statute for observing New Year's Day, Inauguration Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day; and

(B) any other day declared a holiday by the President or Congress.

(b) **Extending Time.**

(1) ***In General.*** When an act may or must be done within a specified time, the court may, for good cause, extend the time:

- (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or
- (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) ***Exceptions.*** The court must not extend the time to act under RCFC 52(b), 59(b), (d), and (e), and 60(b).

In the United States Court of Federal Claims

DECEMBER 3, 2018

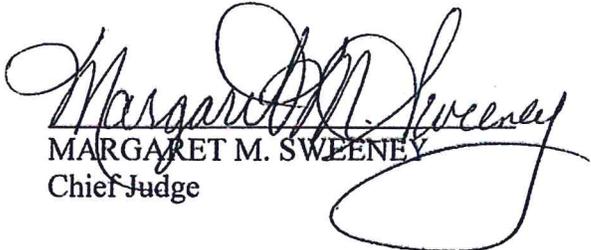
GENERAL ORDER

The United States Court of Federal Claims will be closed on Wednesday, December 5, 2018, in observance of the National Day of Mourning for former President George H.W. Bush.

For purposes of computation of time under Rule 6 of the Rules of the United States Court of Federal Claims (RCFC), December 5, 2018 shall be treated in the same manner as a legal holiday. See RCFC 6(a)(6).

This order shall be circulated within the court, transmitted to the United States Court of Federal Claims Bar Association, posted in the Office of the Clerk of Court, and posted on the court's website.

IT IS SO ORDERED.


MARGARET M. SWEENEY
Chief Judge

Rules of Bankruptcy Procedure. But some statutes contain deadlines stated in hours, as do some court orders issued in expedited proceedings.

Under subdivision (a)(2), a deadline stated in hours starts to run immediately on the occurrence of the event that triggers the deadline. The deadline generally ends when the time expires. If, however, the time period expires at a specific time (say, 2:17 p.m.) on a Saturday, Sunday, or legal holiday, then the deadline is extended to the same time (2:17 p.m.) on the next day that is not a Saturday, Sunday, or legal holiday. Periods stated in hours are not to be "rounded up" to the next whole hour. Subdivision (a)(3) addresses situations when the clerk's office is inaccessible during the last hour before a filing deadline expires.

Subdivision (a)(2)(B) directs that every hour be counted. Thus, for example, a 72-hour period that commences at 10:23 a.m. on Friday, November 2, 2007, will run until 9:23 a.m. on Monday, November 5; the discrepancy in start and end times in this example results from the intervening shift from daylight saving time to standard time.

Subdivision (a)(3). When determining the last day of a filing period stated in days or a longer unit of time, a day on which the clerk's office is not accessible because of the weather or another reason is treated like a Saturday, Sunday, or legal holiday. When determining the end of a filing period stated in hours, if the clerk's office is inaccessible during the last hour of the filing period computed under subdivision (a)(2) then the period is extended to the same time on the next day that is not a weekend, holiday, or day when the clerk's office is inaccessible.

Subdivision (a)(3)'s extensions apply "[u]nless the court orders otherwise." In some circumstances, the court might not wish a period of inaccessibility to trigger a full 24-hour extension; in those instances, the court can specify a briefer extension.

The text of the rule no longer refers to "weather or other conditions" as the reason for the inaccessibility of the clerk's office. The reference to "weather" was deleted from the text to underscore that inaccessibility can occur for reasons unrelated to weather, such as an outage of the electronic filing system. Weather can still be a reason for inaccessibility of the clerk's office. The rule does not attempt to define inaccessibility. Rather, the concept will continue to develop through caselaw. See, e.g., William G. Phelps, *When Is Office of Clerk of Court Inaccessible Due to Weather or Other Conditions for Purpose of Computing Time Period for Filing Papers under Rule 6(a) of Federal Rules of Civil Procedure*, 135 A.L.R. Fed. 259 (1996) (collecting cases). In addition, many local provisions address inaccessibility for purposes of electronic filing. See, e.g., D. Kan. Rule 5.4.11 ("A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.").

Subdivision (a)(4). New subdivision (a)(4) defines the end of the last day of a period for purposes of subdivision (a)(1). Subdivision (a)(4) does not apply in computing periods stated in hours under subdivision (a)(2), and does not apply if a different time is set by a statute, local rule, or order in the case. A local rule may provide, for example, that papers filed in a drop box after the normal hours of the clerk's office are filed as of the day that is date-stamped on the papers by a device in the drop box.

28 U.S.C. §452 provides that "[a]ll courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders." A corresponding provi-

(a)(2)(C). The Federal Rules of Bankruptcy Procedure contain both forward-looking time periods and backward-looking time periods. A forward-looking time period requires something to be done within a period of time after an event. See, e.g., Rules 1007(c) ("the schedules, statements, and other documents shall be filed by the debtor within 14 days of the entry of the order for relief"); 1019(5)(B)(ii) ("the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account"); and 7012(a) ("If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court.").

A backward-looking time period requires something to be done within a period of time before an event. See, e.g., Rules 6004(b) ("an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action"); 9006(d) ("A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing"). In determining what is the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C), one should continue counting in the same direction—that is, forward when computing a forward-looking period and backward when computing a backward-looking period. If, for example, a filing is due within 10 days after an event, and the tenth day falls on Saturday, September 1, 2007, then the filing is due on Tuesday, September 4, 2007 (Monday, September 3, is Labor Day). But if a filing is due 10 days before an event, and the tenth day falls on Saturday, September 1, then the filing is due on Friday, August 31.

Subdivision (a)(6). New subdivision (a)(6) defines "legal holiday" for purposes of the Federal Rules of Bankruptcy Procedure, including the time-computation provisions of subdivision (a). Subdivision (a)(6) continues to include within the definition of "legal holiday" days that are declared a holiday by the President or Congress.

For forward-counted periods—i.e., periods that are measured after an event—subdivision (a)(6)(C) includes certain state holidays within the definition of legal holidays, and defines the term "state"—for purposes of subdivision (a)(6)—to include the District of Columbia and any commonwealth or territory of the United States. Thus, for purposes of subdivision (a)(6)'s definition of "legal holiday," "state" includes the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

However, state legal holidays are not recognized in computing backward-counted periods. For both forward- and backward-counted periods, the rule thus protects those who may be unsure of the effect of state holidays. For forward-counted deadlines, treating state holidays the same as federal holidays extends the deadline. Thus, someone who thought that the federal courts might be closed on a state holiday would be safeguarded against an inadvertent late filing. In contrast, for backward-counted deadlines, not giving state holidays the treatment of federal holidays allows filing on the state holiday itself rather than the day before. Take, for example, Monday, April 21, 2008 (Patriot's Day, a legal holiday in the relevant state). If a filing is due 14 days after an event, and the fourteenth day is April 21, then the filing is due on Tuesday, April 22 because Monday, April 21 counts as a legal holiday. But if a filing is due 14 days before an event, and the fourteenth day is April 21, the filing is due on Monday,

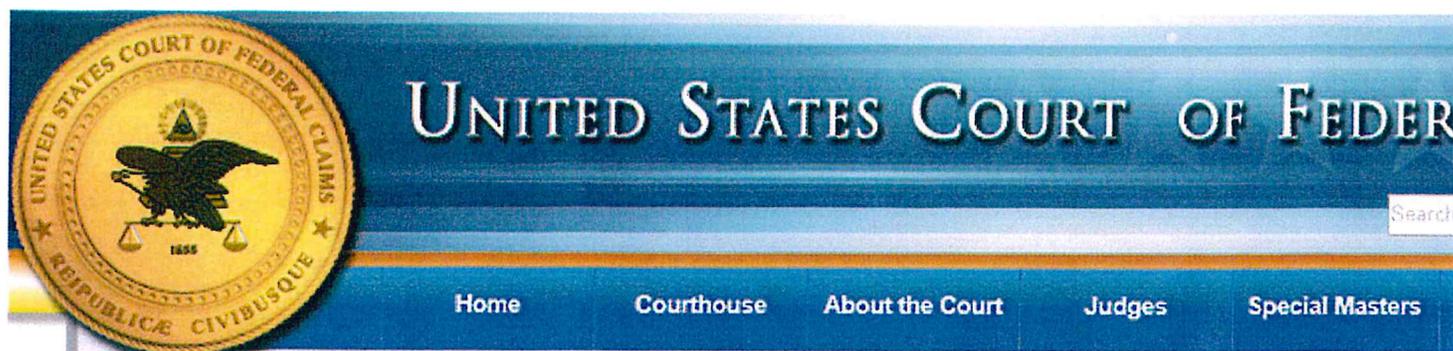
Subdivision (a)(4). New subdivision (a)(4) defines the end of the last day of a period for purposes of subdivision (a)(1). Subdivision (a)(4) does not apply in computing periods stated in hours under subdivision (a)(2), and does not apply if a different time is set by a statute, local rule, or order in the case. A local rule may provide, for example, that papers filed in a drop box after the normal hours of the clerk's office are filed as of the day that is date-stamped on the papers by a device in the drop box.

28 U.S.C. § 452 provides that "[a]ll courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders." A corresponding provision exists in Rule 5001(a). Some courts have held that these provisions permit an after-hours filing by handing the papers to an appropriate official. See, e.g., *Casaldue v. Diaz*, 117 F.2d 915, 917 (1st Cir. 1941). Subdivision (a)(4) does not address the effect of the statute on the question of after-hours filing; instead, the rule is designed to deal with filings in the ordinary course without regard to Section 452.

Subdivision (a)(5). New subdivision (a)(5) defines the "next" day for purposes of subdivisions (a)(1)(C) and

holidays the same as federal holidays extends the deadline. Thus, someone who thought that the federal courts might be closed on a state holiday would be safeguarded against an inadvertent late filing. In contrast, for backward-counted deadlines, not giving state holidays the treatment of federal holidays allows filing on the state holiday itself rather than the day before. Take, for example, Monday, April 21, 2008 (Patriot's Day, a legal holiday in the relevant state). If a filing is due 14 days after an event, and the fourteenth day is April 21, then the filing is due on Tuesday, April 22 because Monday, April 21 counts as a legal holiday. But if a filing is due 14 days before an event, and the fourteenth day is April 21, the filing is due on Monday, April 21; the fact that April 21 is a state holiday does not make April 21 a legal holiday for purposes of computing this backward-counted deadline. But note that if the clerk's office is inaccessible on Monday, April 21, then subdivision (a)(3) extends the April 21 filing deadline forward to the next accessible day that is not a Saturday, Sunday or legal holiday—no earlier than Tuesday, April 22.

Changes Made After Publication. The reference to Rule 6(a)(1) in subdivision (a)(3)(A) at line 50 of the rule as



Published on *US Court of Federal Claims* (<https://www.uscfc.uscourts.gov>)

[Home](#) > Court Closed, Wednesday, December 5, 2018

Court Closed, Wednesday, December 5, 2018

By order of the Chief Judge, the United States Court of Federal Claims will be closed on Wednesday, December 5, 2018, in observance of the National Day of Mourning for former President George H.W. Bush.

 [General Order re closure for funeral of Pres GHW Bush.pdf](#) ^[1]

Howard T. Markey National Courts Building • 717 Madison Place, NW, Washington, DC 20439 •
202-357-6400

Source URL: <https://www.uscfc.uscourts.gov/node/3090>

Links

[1] <https://www.uscfc.uscourts.gov/sites/default/files/General%20Order%20re%20closure%20for%20funeral%20of%20Pres%20GHW%20Bush.pdf>



	Read	Appr	Discuss	Copy
Roger				
Will				
John				
Ralph				
File				

TO: LINN COUNTY COMMISSIONERS
 FROM: SEIU LOCAL 390 STEWARDS
 SUBJECT: HOLIDAY PAY GRIEVANCE STEP 4
 DATE: JANUARY 9, 2019
 CC: RALPH WYATT, MELISSA GUSTAV
RS 9 Jan 5/19

We are appealing the above referenced grievance to you for resolution. We have included the grievance and County response from Ralph Wyatt.

We are happy to meet with you at your convenience to settle this at the lowest level possible.

Please let us know as soon as possible as to when you are available.

SEIU Local 390 Stewards

Lisa Walker

Lisa Walker

Nate Tisdell

Nate Tisdell

Rich Farrier

Rich Farrier



LINN COUNTY GENERAL ADMINISTRATION

300 Fourth Avenue, SW (Room 201), PO Box 100, Albany OR 97321-0031
Phone (541) 967-3825 Fax (541) 926-8228

BOARD OF COMMISSIONERS

John K. Lindsey
Roger Nyquist
William C. Tucker

Accounting/Payroll, Personnel Services, ITS, GIS, County Attorney,
General Services/Facilities/Property Management, Printing/Supplies, Veterans' Services

RALPH E. WYATT
Administrative Office

January 7, 2019

Lisa Walker, OPEU Local 390 President
Rich Farrier & Nat Tisdell, OPEU Local 390 Shop Stewards

RE: Step 3 Response to OPEU Local 390's Day of Mourning Grievance Filed December 20, 2018

Dear Lisa, Rich & Nat:

ISSUE: The issue is stated in the grievance (Attachment 1) and is centered on the CBA's Article 17, Section 2 – State and Federal Holidays which reads in part “All legal holidays designated by the Governor of the State of Oregon or President of the United States, shall be paid legal holidays”

REQUESTED REMEDIES: As stated in the grievance.

CRITERIA FOR REVIEW: The current Linn County/SEIU Collective Bargaining Agreement, the December 1, 2018 Executive Order on Providing for the closing of Executive Departments and Agencies of the Federal Government on December 5, 2018 and the past practice of the County since March 1983.

DOCUMENTS REVIEWED:

- The SEIU Local 503, OPEU Local 390 CBA
- December 1, 2018 Executive Order on Providing for the closing of Executive Department and Agencies of the Federal Government on December 5, 2018 (Attachment 2)
- The filed grievance
- March 1983 – May 1984 Linn County Employees Association CBA (Attachment 3)

DISCUSSION AND FINDINGS OF FACT: As stated, the Union claims December 5, 2018 is a “legal holiday”. The President closed Federal offices for December 5th but did not declare the day as a “holiday” and the Executive Order does not include the word “holiday”. Thus the day is not a “legal holiday” subject to Article 17, Section 2

In addition, the Section 2 language has been part of every CBA since at least March 4, 1983 and the Union has never filed a grievance claiming an Executive Order closing Federal offices was a “legal holiday”. The past practice for the County has consistently been that it is not a legal holiday per Article 17, Section 2.

CONCLUSION: The grievance as stated is denied as there is no violation of the CBA.

Ralph E. Wyatt, Linn County Administrative Officer

Atch 1 – Grievance; Atch 2 – Executive Order; Atch 3 - Portion of 1983 CBA



OFFICIAL STATEMENT OF GRIEVANCE FORM

◆ Type Or Press Hard with Ballpoint Pen ◆



Name of Grievant(s): _____

Name of Group (if applicable): SEIU Local 390 represented staff

Job Classification: All

Name of Agency: Linn County Work Location: all

Name of Immediate Supervisor: NA Filed with (if other than supervisor) Ralph Wyatt

Date Grievance Occurred or Discovered: December 5th, 2018

[Handwritten signature]
20 Dec 18

Statement of Grievance: { Be specific
Include date of occurrence
Attach additional sheets if necessary

To allow SEIU members off to honor the federal holiday and President Bush per contract. The County did not provide Holiday pay to SEIU members for December 5th, 2018 in lieu of closing.

The Stewards are requesting to meet with County management at each step, please let us know your availability to settle this at the lowest level.

Right Violated: (Cite articles in the contract): Article 17 and any other applicable articles

Remedy Requested: Make all affected workers and Union whole and develop a process with the Union to make sure the CBA gets followed as intended.

I hereby assign the above grievance to the, SEIU Local 503, OPEU, AFL-CIO, CLC, for final disposition.
I authorize any representative of the, SEIU Local 503, OPEU, CLC, to examine the contents of my personnel file.

Signature of Grievant: waived by agreement of County Date: 12/20/18

Grievant's Home Address: NA

Telephone Numbers: NA

Steward for this Grievance: [Signature] [Signature] [Signature] NA

Steward's Home Address: NA

OU Field Rep for this Grievance: Melissa Gustafson

White ~ Steward

Yellow ~ Management

Pink ~ Grievant



EXECUTIVE ORDERS

Executive Order on Providing for the Closing of Executive Departments and Agencies of the Federal Government on December 5, 2018

Issued on: December 1, 2018



By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. All executive departments and agencies of the Federal Government shall be closed on December 5, 2018, as a mark of respect for George Herbert Walker Bush, the forty-first President of the United States.

Sec. 2. The heads of executive departments and agencies may determine that certain offices and installations of their organizations, or parts thereof, must remain open and that certain employees must report for duty on December 5, 2018, for reasons of national security, defense, or other public need.

Sec. 3. December 5, 2018, shall be considered as falling within the scope of Executive Order 11582 of February 11, 1971, and of 5 U.S.C. 5546 and 6103(b) and other similar statutes insofar as they relate to the pay and leave of employees of the United States.

Sec. 4. The Director of the Office of Personnel Management shall take such actions as may be necessary to implement this order.

Sec. 5. General Provisions. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
December 1, 2018.

COLLECTIVE BARGAINING AGREEMENT

between the

Linn County Employees Association

An Affiliate of the Oregon Public Employees Union

and

Linn County

Expires: May 31, 1984

ORS 243.650(6); supervisory employes as defined in ORS 243.650(14); all District Attorney and Sheriff Department employes; and Road Department employes in the following classifications: Road Maintenance Man I, II, III, and IV, Shop Clerk, Serviceman, Bodyman, and Mechanic.

(b) Part-time employes who work less than twenty (20) hours per week, seasonal, temporary, and probationary employes with less than six (6) months service are excluded from this contract.

Section 2. The Association recognizes the Employers as a multi-employer association bargaining unit in which:

(a) The Assessor, the Clerk, the Surveyor, and the Treasurer each have responsibility for negotiating those parts of this Agreement which are nonmonetary subjects of collective bargaining as to the bargaining unit employes within their departments.

(b) The County is the governmental entity having responsibility to negotiate those parts of this Agreement which are nonmonetary subjects of collective bargaining, as to all County departments represented in the bargaining unit except those departments headed by the Assessor, Clerk, Surveyor and Treasurer.

Section 3. Elected officials have associated with the County for the purpose of negotiating all monetary items within the scope of ORS 243.650 to 243.782 and have relinquished to the County responsibility to negotiate those parts of this Agreement which are monetary subjects of the collective bargaining act, as to all employes in the bargaining unit.

ARTICLE 3 - DURATION OF AGREEMENT

Section 1. Except as otherwise indicated herein, this Agreement takes effect on March 4, 1983, and expires on May 31, 1984.

Section 2. This Agreement may be terminated at any time by mutual agreement of the parties.

ARTICLE 4 - SCOPE OF AGREEMENT

This document constitutes the sole and complete Agreement between the parties and embodies all the terms and conditions governing the employment of employes in the bargaining unit. The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject which is, or may be subject to negotiation. Any prior commitment or agreement between the Employers and the Association or any individual employe covered by this Agreement is hereby superseded by the terms of this Agreement.

ARTICLE 5 - SEPARABILITY

Should any article, section, or portion thereof, of this Agreement be held unlawful and unenforceable by any court of competent jurisdiction, such court decision shall not invalidate the entire Agreement, but shall apply only to the specific article, section, or portion thereof, directly specified in the decision. Upon the issuance of such a decision, the parties agree immediately to negotiate a substitute, if possible, for the invalidated article, section, or portion thereof.

provisions of Section 8, Compensatory Time, of Article 12, Salary Administration.

ARTICLE 24 - HOLIDAYS

Section 1. Holidays. The following days are paid legal holidays for bargaining unit members:

New Year's Day on January 1
Lincoln's Birthday on the first (1st) Monday in February
Washington's Birthday on the third (3rd) Monday in February
Memorial Day on the last Monday in May
Independence Day on July 4
Labor Day on the first (1st) Monday in September
Veteran's Day on November 11
Thanksgiving Day on the fourth (4th) Thursday in November
Christmas Day on December 25.

Section 2. All legal holidays designated by the Governor of the State of Oregon or President of the United States, shall be paid legal holidays, except such legal holidays shall not be paid holidays if they fall upon any of the days listed in Section 3 of this Article.

Section 3. A holiday season day off, being one (1) of the following, shall be a paid holiday: the day after Thanksgiving, or the regular working day before or the regular working day after the Christmas holiday day off, or the regular working day before or the regular working day after the New Year's holiday day off. This day off shall be scheduled so as to allow operation of all County departments.

Section 4. Weekend Holidays. Whenever a holiday falls on Saturday the preceding Friday shall be considered to be the holiday. Whenever a holiday falls on Sunday, the following Monday shall be considered to be the holiday. Employees working on an irregular workweek shall receive the same number of holidays as employees working the regular Monday through Friday workweek. Holidays which occur during paid vacation or sick leave with pay shall not be charged against such leave.

Section 5. Holiday Pay. Work performed on holidays which fall within the employee's workweek shall be considered as overtime work and shall be compensated at the rate of time and one half (1 1/2) or equivalent compensatory time.

ARTICLE 25 - PERSONNEL RECORDS

Section 1. An employe may, upon request, inspect the contents of his/her official personnel file, except for confidential reports from previous employers.

Section 2.

(a) Except as provided in subsection (b) below, no information reflecting critically upon an employe shall be placed in the employe's personnel file that does not bear the signature of the employe. The employe shall be required to sign such material to be placed in his/her personnel file provided

Section 2 - Grievance Procedure: Board of Commissioners.

(a) It is the intent of the County and the Union to encourage the employee and supervisor to work together to resolve concerns, issues or complaints in an informal manner. If an employee has a grievance, he/she will first discuss it with his/her immediate supervisor whenever possible. The parties shall conduct face-to-face meetings whenever possible throughout the grievance process.

(b) **Step 1:**

(1) The grievant, with or without Union Representation, shall submit the grievance to his/her immediate supervisor within the time limits specified in Section 1 of this Article. Such grievance shall be submitted on the form identified as Official Statement of Grievance Form. The immediate supervisor shall respond to the grievance, in writing, within ten (10) working days from receipt of such grievance.

(2) Within the Department of Health Services and when the program manager is not the immediate supervisor, if the grievance is not settled at Step 1, the grievance shall be submitted to the program manager. The grievance shall be submitted to the program manager within ten (10) working days from the receipt by the grievant of the immediate supervisor's response in Step 1. The program manager will respond to the grievant, in writing, within ten (10) working days from the receipt of the grievance.

Step 2: If the grievance is not settled at Step 1, the grievance shall be submitted to the department head within ten (10) working days from the receipt by the grievance of the response in Step 1. The department head shall respond to the grievant, in writing, within ten (10) working days from the receipt of the grievance.

Step 3: If the grievance is not settled at Step 2, the grievance shall be submitted to the County Administrative Officer within ten (10) working days from the receipt by the grievant of the response in Step 2. The County Administrative Officer shall respond, in writing, within ten (10) working days from the receipt of the grievance.

Step 4: If the grievance is not settled at Step 3, the grievance shall be submitted to the Board of Commissioners within ten (10) working days from the receipt by the grievant of the response in Step 3. The Board of Commissioners will respond, in writing, within ten (10) working days from the receipt of the grievance.

Step 5: If the grievance has not been settled at the end of Step 4, the grievance may then be submitted to arbitration.

c) Grievances may be filed on behalf of more than one (1) employee where they are similarly affected by the action that is being grieved. Such grievances shall be signed by the affected employees and filed at the lowest step where the person hearing the grievance has the authority to resolve it.

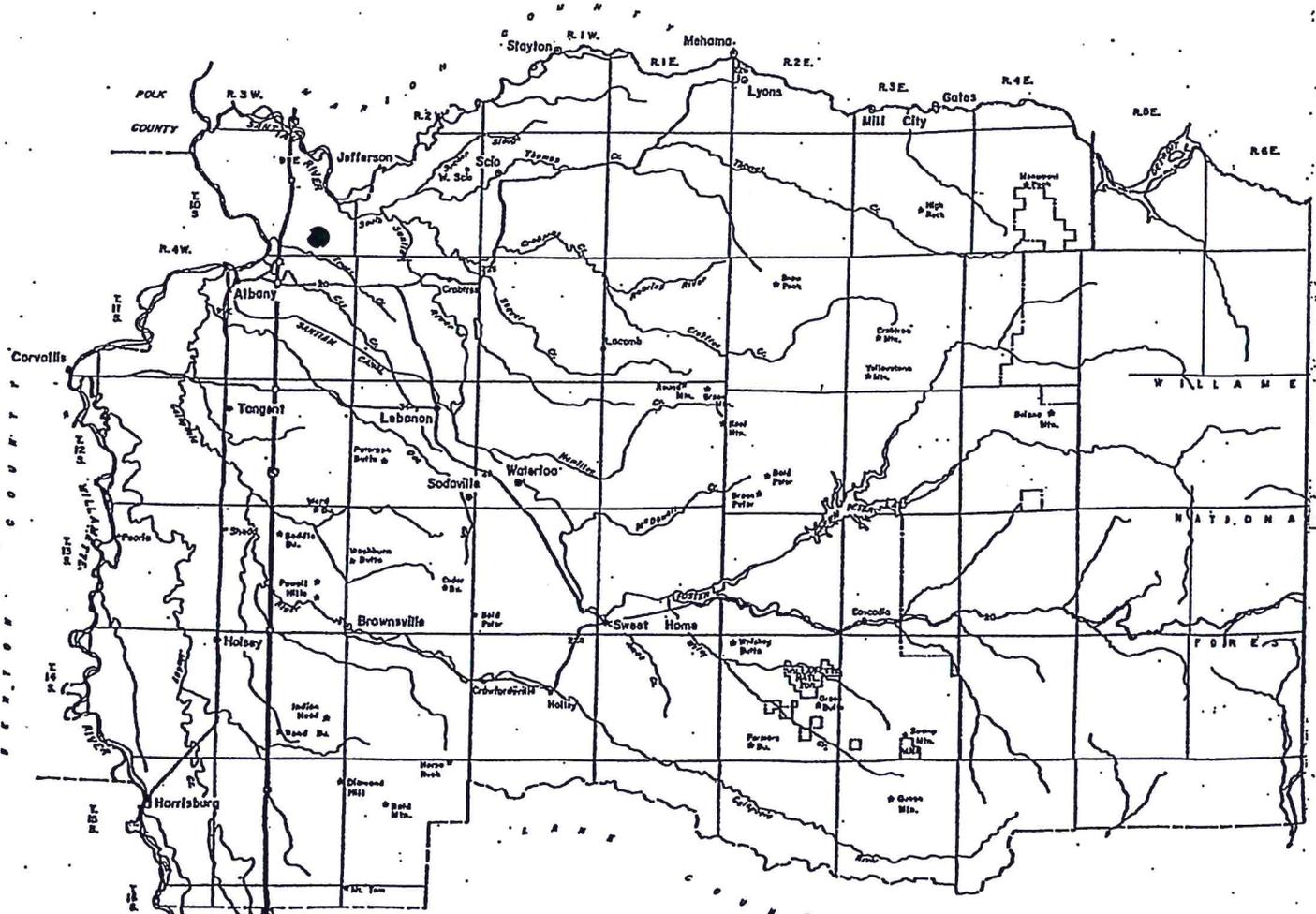
1) Time limits and steps referred to in this Article are binding unless waived by mutual agreement in writing.

STAFF REPORT
January 22, 2019



TO: Linn County Board of Commissioners
FROM: Linn County Planning and Building Department
PREPARED BY: Alyssa Boles, Senior Planner

RE: **PD18-0236: An appeal by the City of Albany of the Linn County Planning and Building Department Director decision approving a partition, variance, access review, and two conditional use permits.** Monty and Linda Ellison (applicants) are proposing to partition a 16.7-acre property into one, 5.00-acre parcel and one, 11.7-acre parcel. The applicant is requesting a variance to the property size standard (20 acres) to create the proposed parcels. The applicant has submitted conditional use permits to place a dwelling on each proposed parcel. Also, an access review application to modify an existing 30-foot access easement to provide access to the proposed parcels. The property is located northeast of Linnwood Drive, approximately 0.31 miles northeast of the intersection of Linnwood Drive and Scovel Hill Road, and approximately 1.00 mile northeast of the city limits of Albany. (T10S, R03W, Section 35, Tax Lot 101). The property has a Plan designation of Urban Residential Reserve and is zoned Urban Growth Area-Urban Growth Management-20 (UGA-UGM-20). The property is located in the Albany Urban Growth Area. The applicable decision criteria are contained in Linn County Code (LCC) Sections 924.200(B), 924.250, 933.260, 935.150, 938.300(B)(2-3), and 938.340.



I. INTRODUCTION

A. APPLICATION SUMMARY

The applicants, Monty and Linda Ellison, are proposing to divide a 16.7-acre property into one, 5.00-acre parcel and one, 11.7-acre parcel. The property is located within the Urban Growth Area-Urban Growth Management-Twenty Acre Minimum zoning district (UGA-UGM-20). The applicant is requesting a variance to the property size standard (20 acres) to create the proposed parcels. The applicant has submitted conditional use permits to place a dwelling on each proposed parcel. Also, an access review application to modify an existing 30-foot access easement to provide access to the proposed parcels. The property is located northeast of Linnwood Drive, approximately 0.31 miles northeast of the intersection of Linnwood Drive and Scrael Hill Road, and approximately 1.00 mile northeast of the city limits of Albany (T10S, R03W, Section 35, Tax Lot 101).

A copy of the complete application is attached to this report in **Exhibit A**.

B. BACKGROUND

On November 20, 2018, the Director issued a decision approving the proposed applications. The Director determined that the applications comply with the specified decision criteria in Linn County Code (LCC) 924.200(B), 924.250, 933.260, 935.150, 938.300(B)(2-3), and 938.340. A copy of the Director's decision, including findings for approval, is attached as **Exhibit C**.

On December 3, 2018, the City of Albany (City) submitted a letter of intent to appeal along with the required appeal fee. On December 12, 2018, the Department accepted the appeal and deemed it complete. The appeal letter included explanatory arguments for each assignment of error asserted in the appeal. The appeal letter is attached as **Exhibit B**.

C. PLANNING COMMISSION ACTION

On December 18, 2018, the Linn County Board of Commissioners (Board) voted 3-0 to elect to hear the appeal in the place of the Linn County Planning Commission, pursuant to LCC 921.135(A)(9).

D. BOARD HEARING

A public hearing is scheduled before the Linn County Board of Commissioners (Board) on **Tuesday, January 22, 2019 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

The subject property is in the UGA-UGM-20 zone. The UGA-UGM-20 zone has a minimum parcel size of 20 acres for the creation of new parcels. The application is to partition the subject 16.7-acre property into a 5.00-acre parcel and an 11.7-acre parcel. One single-family dwelling is proposed on each proposed parcel. The applicant also proposes to modify an existing 30-foot easement to provide access to the proposed parcels.

The proposed partition requires compliance with the applicable decision criteria in Linn County Code (LCC) 924.200 and 924.250. Because the proposed parcels do not meet the minimum acreage standard of the UGA-UGM-20 zoning district, a variance is required. Pursuant to 938.340, the County may approve a variance to the minimum property size of an authorized unit of land in the UGA-UGM zoning district. The variance criteria are contained in LCC 938.300(B-C) and 938.340. The proposed dwellings must satisfy the conditional use permit criteria in LCC 933.260. The proposed easement review must satisfy the criteria in LCC 935.150. If either the variance criteria or the conditional use permit criteria are not satisfied, then the partition may not be approved. The criteria are attached as **Exhibit D**.

LCC 924.200(B)

CRITERION: LCC 924.200(B) – Decision criteria for partitions; generally

- 1. Absent a variance, the partitioning of land must meet established minimum parcel sizes, established setbacks and other applicable property development standards in the Development Code.**

FACTS: The application is to partition a 16.7-acre parcel into two parcels of 5.00 acres and 11.7 acres, and to site a dwelling on each proposed parcel. The subject property is in the UGA-UGM-20 zone. The UGA-UGM-20 zone has a minimum parcel size of 20 acres and a minimum parcel width and depth requirement of 500 feet for the creation of new parcels.

STAFF ANALYSIS: The subject property currently exists below the UGA-UGM-20 zoning district minimum lot size standard of 20 acres. The applicant submitted an application for a variance to the minimum lot size requirement to create Parcel 1 at 5.00 acres and Parcel 2 at 11.7 acres

Based on the tentative partition map submitted as part of the application, each parcel meets the minimum width standard of 500 feet and the minimum depth standard of 500 feet required for new parcels in the UGA-UGM zoning district. The proposed parcels do not exceed the width to depth ratio of 2.5:1, as required by LCC Chapter 923.

This criterion is satisfied if the Board finds that the application satisfies the variance criteria in LCC 938.300(B-C) and 938.340, and other applicable property development standards in LCC Chapter 934.

2. **If the proposal complies with all of the applicable criteria specified in this section and in LCC 924.210 or 924.250, the Director shall grant tentative approval to the partition.**

FACTS: The application is to partition a 16.7-acre parcel into two parcels of 5.00-acre and 11.7 acres. Vehicular access to each proposed parcel is proposed to be by an existing 30-foot easement off of Scraffel Hill Road; therefore, compliance with LCC 924.250 is required.

STAFF ANALYSIS: Analysis addressing the criteria in LCC 924.250 is described below and is incorporated herein. The Linn County Road Department has evaluated the proposal and did not identify any negative impacts as a result of the proposed partition. The Linn County Road Department comments indicate that the property owner must obtain an access review and driveway review from the Linn County Road Department before residential development permits will be issued. The Albany Fire Department submitted comments that include requirements for the construction of the road in order to adequately support emergency vehicles.

The criteria in LCC 924.250 are addressed below. LCC 924.250 states that a partition plan for a partition having no recognized access may be tentatively approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the criteria in LCC 924.200 and LCC 924.250(B) are met. To satisfy this criterion, the decision maker may include a permit condition requiring compliance with the access standards identified by the Linn County Road Department and the Albany Fire Department. This criterion is satisfied if the Board finds that the application complies with LCC 924.250 and LCC Chapter 935, and other applicable criteria in this section.

3. **If the size of a parcel was the basis for a dwelling having been allowed outright, the parcel shall not be reduced in size below the qualifying minimum for that dwelling unless that dwelling is subsequently authorized under a different dwelling test.**

FACTS: The property is 16.7 acres in size and does not contain a dwelling. The property has been zoned UGA-UGM-20 since September 30, 1981. Prior to September 30, 1981, the property was zoned Exclusive Farm Use (EFU).

STAFF ANALYSIS: The property is 16.7 acres in size and does not contain a dwelling. The UGA-UGM zoning district does not have a qualifying minimum parcel size to establish a dwelling.

The City of Albany (City) appeal letter states that the UGA-UGM-20 zoning district only allows dwellings if they are pre-existing or approved through a conditional use permit. The City's letter also asserts that the requirements for siting a new dwelling through a conditional use permit are more restrictive for the size of the parcel and use of the land.

One of the criterion for the conditional use permit requires that the *"location, size, design, and operating characteristics of the proposed development are compatible with future development allowed by the City's Comprehensive Plan map*

designation." It is unclear in the City comments if this is the criterion they are referencing. Staff notes that the reference to size in this criterion addresses the size of the proposed development. The UGA-UGM zoning district does not require that a parcel be a specific size to establish a dwelling, either allowed outright or permitted conditionally. This criterion is not applicable.

4. **If the size of a parcel and the farm use of that parcel were the justification for a dwelling allowed conditionally, any reduction of the parcel size shall be allowed only if the resulting farm use continues to meet a current farm dwelling test. Such is an action is Type IIA. For example, the conditional use for a dwelling once justified by a 200-acre cow-calf operation, may or may not be justified if the parcel is allowed to be partitioned or adjusted downward to an 80-acre parcel.**

FACTS: The property is zoned UGA-UGM-20. The UGA-UGM-20 zoning district allows for limited farm use, as defined in LCC 920.100(B)(177). The property does not currently contain a dwelling.

STAFF ANALYSIS: The property is zoned UGA-UGM-20, which allows for limited farm use, as defined in LCC 920.100(B)(177). Based on County Geographical Information System (GIS) aerial photography, the subject property is not employed for farm use. This criterion is not applicable.

5. **If the Property is split-zoned and the split-zoning was not initiated by the landowner, the property may be partitioned in accordance with this Chapter along the zoning district or jurisdictional boundary if:**
 - a. **A property is transected by an urban growth boundary, city limits, county line or a boundary between a non-resource zone and a zoning district in the RRZ;**
 - b. **The property is transected by a boundary between two resource zoning districts and the resulting parcels would either conform to the minimum parcel size in the applicable zoning districts or have otherwise been authorized under the provisions of LCC 924.500 to LCC 927.800.**
 - c. **The resulting parcels have sufficient on-site area to provide an approved septic system; and**
 - d. **The proposed development on the resulting parcels can either meet the property line and riparian setbacks or has been approved for a variance**

FACTS: The property is zoned UGA-UGM-20, and is not split-zoned.

STAFF ANALYSIS: The property is not split zoned. This criterion is not applicable.

6. **The proposed parcels meet the minimum size, width and depth standards of the zoning district in which they are located and conform to the standards of LCC Chapter 923 (Lot and Parcel Design Standards Code). In the RR and RCT zoning districts, properties containing more than one lawfully-established habitable dwelling may be partitioned into substandard-sized parcels if consistent with Plan Policy 14 or 9, respectively. Where more than one dwelling exists, no parcel may be created that does not contain a dwelling and the size of each parcel shall be balanced as much as practical, given the location of dwellings, outbuildings, septic systems, setbacks and driveways.**

FACTS: The application is to partition a 16.7-acre parcel into a 5.00-acre parcel and an 11.7-acre parcel. The subject property is in the UGA-UGM-20 zoning district. The UGA-UGM-20 zone has a minimum parcel size of 20 acres and a minimum parcel width and depth requirement of 500 feet for the creation of new parcels. LCC Chapter 923 requires that new parcels do not exceed a width to depth ratio of 2.5:1. The property is not located in the RR or RCT zoning districts, and does not contain two dwellings.

STAFF ANALYSIS: LCC 934.710 contains the minimum size, width and depth standards for new parcels in the Urban Growth Area zoning districts. The subject property currently exists below the minimum UGA-UGM-20 zoning district lot size standard of 20 acres. The applicant submitted an application for a variance to the minimum lot size standard to create Parcel 1 at 5.00 acres and Parcel 2 at 11.7 acres.

Based on the tentative map submitted as part of the application, each parcel meets the minimum width standard of 500 feet and the minimum depth standard of 500 feet for new parcels in the UGA-UGM zoning district. The proposed parcels do not exceed the width to depth ratio of 2.5:1 set forth in LCC Chapter 923.

This criterion is satisfied if the Board finds that the application satisfies the variance criteria in LCC 938.300(B-C) and 938.340, and other applicable property development standards in LCC Chapter 934.

7. The partition of land will not create more than three authorized units of land within one calendar year.

FACTS: The application is to partition a 16.7-acre parcel into two parcels of 5.00-acre and 11.7 acres. County records indicate that there has not been a previous partition of land affecting the subject property within this or the previous calendar year.

STAFF ANALYSIS: The applicant proposes to create two parcels, as demonstrated on the tentative map submitted as part of the application. The subject property was created by a partition, platted on April 6, 2009 per land use action PD08-0137. No other partition application has been submitted or approved for the subject property. This criterion is met.

8. Except as provided in paragraph (9) of this subsection, each proposed parcel shall have an approved septic system located within the boundaries of the proposed parcels.

FACTS: The application states the property has Linn County Environmental Health Program (EHP) has approved a site on the proposed parcels for the location of an on-site septic system (EHP Record Nos. 33771 and 31157, Exhibit A, pages 31-36).

STAFF ANALYSIS: The Linn County EHP has approved a site on each of the proposed parcels for the location of an on-site septic system (EHP Record Nos. 33771 and 31157, Exhibit A, pages 31-36). According to the Linn County EHP site plan, each

approved septic system is located within the boundaries of each proposed parcel. Staff believes this criterion is satisfied.

9. **Within the Rural Resource Zone. (a) For a parcel in the RRZ created solely for resource management purposes, such parcel may not be required to have an approved septic system. (b) For a parcel in the RRZ not created solely for resource management purposes, such parcel is required to have an approved septic system unless the use does not require such system. (c) For a parcel in the RRZ created for a non-resource management purpose, such parcel is required to have an approved septic system unless the use does not require such system. Written certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company within whose boundaries the proposed partition is located as to whether or not the property is within the district and is subject to district fees. (See ORS 92.090)**

STAFF ANALYSIS: The subject property is zoned UGA-UGM-20 and is not located within a Rural Resource zone. This criterion is not applicable.

10. **When property proposed for partitioning is within a city's urban growth area (UGA), appropriate time shall be given for a city's review and comment pursuant to the urban growth boundary management agreement. Partitions within an urban growth area may require an urban conversion plan approved by the city.**

FACTS: The subject property is located within the City of Albany UGA.

STAFF ANALYSIS: Pursuant to LCC 905.610(A), review of the applications is consistent with the procedures described in the Urban Growth Boundary Management Agreement between the City of Albany and Linn County.

Pursuant to LCC 905.610(B), the City of Albany (City) was provided an opportunity to review the applications and make a recommendation on the applications. Notice was provided to the City of Albany on December 31, 2018 (Exhibit G, pages 1-8).

The Board may include a condition of approval requiring an urban conversion plan, if the Board feels it is necessary in order to determine that the application complies with this criterion.

LCC 924.250(B) - Decision criteria for partitions without recognized access

1. **The land partition complies with the Comprehensive Plan and all other applicable provisions of the Linn County Code.**

FACTS: The applicable elements of the Comprehensive Plan (*Plan*) are contained in Linn County Chapter 905 (Urbanization). The applicable section of the *Plan* is LCC 905.610 (Policies and policy implementation for urbanization); specifically policies described in LCC 905.610(A), (B) and (E).

LCC 905.610(A) states: "*As previously discussed throughout the text of the Plan, the retention of resource land for resource use is of prime importance. To that end,*

various policy and implementation measures have been established which will separate and in some cases prohibit conflicting uses from occurring on resource lands. In order to identify, manage, and amend urban growth boundaries, the cities and county have entered into urban growth boundary management agreements (on file at the planning department)."

LCC 905.610(B) states: "The cities and county have agreed to a formal process for review and action on development proposals and public improvement projects within the urban growth area. The cities will make recommendations to the county on land use decision in the UGB involving: conditional use permits; planned unit developments; partitions; capital improvement programs; public improvements; and recommendations for designation of health hazard areas. On matters to be decided by the city involving the UGB such as annexations, capital improvement programs, transportation facility improvements or public facilities (water supply, sewer, and drainage system), recommendations will be provided by the county. In order to provide for an orderly and efficient urbanization process, the cities will not provide sewage service outside of their UGBs unless a public health hazard exists."

LCC 905.610(E) states: "The Urban Growth Management (UGM) district is intended to protect and retain the urban growth area for future urban development."

STAFF ANALYSIS: The criteria in LCC 924.200 are addressed in the staff report above, and are incorporated herein. The criteria in LCC 935.150 are addressed in the staff report below and are incorporated herein.

The property is located within the urban growth boundary (UGB) of the City of Albany. The applicable section of the Linn County Comprehensive Plan is LCC 905.610 (Policies and policy implementation for urbanization); specifically policies described in LCC 905.610(A), (B) and (E).

Pursuant to LCC 905.610(A), review of the applications is consistent with the procedures for development proposal reviews described in the Urban Growth Boundary Management Agreement between the City of Albany and Linn County.

Pursuant to LCC 905.610(B), the City of Albany (City) was provided an opportunity to review the applications and make a recommendation on the applications. Notice was provided to the City of Albany on December 31, 2018 (Exhibit G, pages 1-7).

The City appeal letter discussing this criterion is contained in Exhibit B, pages 3-4. The City's appeal letter argues that LCC 905.600(B) and 905.600(D) should be addressed as part of this review. LCC 905.600(B) and 905.600(D) give background information about the Urbanization land use element of the *Plan*, which is implemented through the policies described in LCC 905.610. The City's letter correctly states that LCC 905.600(B) and 905.600(D) help describe why the policies in LCC 905.610 apply to the subject property. Staff agrees with the City's assertion that LCC 905.000(B) and 905.600(D) help describe why the implementing policies in LCC 905.610 apply to the subject property; however, staff disagrees that the language in LCC 905.600(B) and 905.600(D) need to be addressed. Pursuant to LCC 900.700, the *Plan* is implemented through policies and ordinances. Additionally, LUBA case law has determined that

local governments are not required to demonstrate compliance with aspirational plan provisions. Analysis should be limited to the applicable *Plan* policies and implementing ordinances.

The City's appeal letter correctly reads that LCC 905.610 identifies the intent of the UGM is "to protect and retain the urban growth area for future urban development." The City then correctly asserts that the UGM zoning zones were applied to land in recognition of the importance of protecting for future urbanization for the reasons including, but not limited to, those described in LCC 905.600(B) and 905.600(D). The City also lists the four different minimum lot size requirements of the UGA-UGM zoning district (2.5, 5, 10, and 20 acres, respectively), and argues that the 20-acre minimum was determined to be the most appropriate zoning designation for the subject property.

The City asserts that the applicant is asking the County to ignore the reasons for applying the UGA-UGM-20 zoning district to the subject property. City comments also assert that LCC 930.700(E) prohibits the change of density between UGA-UGM zoning districts. LCC 930.700(E) is found under the Statement of Purpose for the UGA-UGM zoning district. LCC 930.700(E) states:

"The density of one UGA-UGM zoning district is not interchangeable with the density of another UGA-UGM zoning district without prior review and approval by the affected city and Linn County."

Staff's interpretation of LCC 930.700(E) differs from the City. The language in LCC 930.700(E) does not prohibit property owners from applying for a variance to the minimum lot size standard. Staff believes the intent of this language is to indicate that a minimum lot size (density) is not interchangeable with another minimum lot size without proper land use review, meaning a zone change would be required to be reviewed and approved to change densities. Additionally, the density of uses allowed outright and permitted conditionally in the UGA-UGM-20 zoning district would still apply to the proposed parcels. Staff also notes that since 1980, the Linn County Code has contained provisions to allow the creation of properties in the UGA-UGM zoning district below the minimum lot size, subject to review by the County and including notice to the affected City in accordance with the procedures established in adopted Urban Growth Management agreements.

The applicant should address the City's comments and should address how the partitioning of the subject property is consistent with the applicable policies of the *Plan* and the Linn County Code.

- 2. Any access being created has received approval pursuant to LCC Chapter 935 (Access Improvement Standards Code) from the Director and the Roadmaster and if a performance security is required, pursuant to LCC 924.460, the developer has agreed, in writing, to provide such security.**

FACTS: The subject property is located northeast of Linnwood Drive, approximately 0.31 miles northeast of the intersection of Linnwood Drive and Scrael Hill Road. A 30-foot wide easement of road access off of Scrael Hill Road serves the subject

property in its current configuration. The applicant proposes to extend the existing 30-foot easement to provide access to the proposed parcels.

STAFF ANALYSIS: A 30-foot easement of road access serves the subject property in its current configuration. The applicant proposes to extend the existing 30-foot easement to provide access to the proposed parcels. The analysis addressing the criteria in LCC 935.150 is described below and is incorporated herein by reference.

The Linn County Road Department has evaluated the proposal and did not identify any negative impacts as a result of the proposed partition. The Road Department recommendations do not require that a performance security be established. Road Department comments indicated an access review will be required to establish driveways to the proposed parcels at the time of site development (Exhibit E, page 13). If the Board chooses to approve the applications, a condition of approval could be included requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel.

The Albany Fire Department submitted comments that included requirements for the construction of the road in order to adequately support emergency vehicles and as part of the construction of a new residential structure (Exhibit E, pages 2-4). If the Board chooses to approve the applications, a condition of approval could be included requiring the property owner to comply with the requirements of the Albany Fire Department before residential development permits will be issued for each proposed parcel.

LCC 933.260(B) - UGAZ Decision Criteria

1. The proposed development is permitted and is consistent with the affected city's comprehensive plan map designations and the future city zoning.

FACTS: The applicant submitted conditional use permit applications to place a single-family dwelling on each proposed parcel. The subject property is located within the City of Albany's UGB. The City's Comprehensive Plan Map indicates the property has a Plan designation of Urban Residential Reserve (URR).

APPLICANT STATEMENT: The applicant's representative provides the following analysis to address this criterion:

"The City of Albany's Comprehensive Plan policies under Chapter 8: Urbanization, Goal 14 (ACP Chapter 8) provides the following applicable policies:

- 1. Discourage low density sprawl development with the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.*
- 2. Since the undeveloped portions of the urban fringe are in transition from rural to urban uses, development in these areas shall occur in a manner consistent*

with the City of Albany and Linn and Benton Counties' Comprehensive Plans and implementing ordinances.

Regarding Policy 2, the subject application is a form of development that may be later converted to urban uses when urban uses become available. The location of the property...still allow[s] for urban development under the City's Comprehensive Plan.

The City of Albany's Comprehensive Plan map designation for the subject property is residential. The property is also within the East Albany "neighborhood boundary" under Plate 2 of the Comprehensive Plan mapping. Under this residential comprehensive plan designation, there are several residential-type property zones permitted including non-residential uses such as office professional, neighborhood commercial, schools, parks, cemeteries, churches and certain public facilities.

Of the uses permitted in the Comprehensive Plan, the subject property is best suited for residential use. Plate 7 of the Comprehensive Plan mapping shows the subject property is within a steep slope and hillside area and at the outer range of the urban growth boundary. The property sits atop Knox Butte. Access is limited by steep slopes and uneven terrain. The subject property is far from Scrael Hill Road, the main arterial. The terrain and proximity to the City center or other nearby development makes the property entirely unsuitable for office professional, neighborhood commercial uses, schools, churches or public facilities. Properties off the hill and on the valley floor adjacent to Scrael Hill Road area better suited for these urban level uses. The subject property would not meet any current urban standards identified under Goal 8 for such non-residential urban uses even if it was annexed into the City. The remaining residential uses allowed by the City's Comprehensive Plan map range from residential reserve to residential medium density. For the reasons identified for the non-residential urban uses above, the subject property would be unsuitable for medium to high density housing types such as townhomes, triplexes, duplexes, manufactured home parks, and multi-family apartments. The only feasible residential zoning for the property will be residential reserve or a single-family district.

The proposed development is also compatible with the future development allowed by the City of Albany's Comprehensive Plan. Goal 8 "allow[s] the development of existing lots designated for residential use on the Albany Comprehensive Plan within the unincorporated portion of the Urban Growth Boundary." Goal 14 of the City's Comprehensive Plan encourages the rural uses within the UGB so long as the property may later be utilized for urban uses. While the proposed [development will] meet residential standards and objectives under Goal 8 and Goal 14 because the proposed development remains a rural use.

The...placement of a dwelling on each parcel, presents no identifiable conflict with later redevelopment to urban uses as provided in the City of Albany Comprehensive Plan. The City of Albany Comprehensive Plan prohibits parcels smaller than five acres in size without first meeting urban-scale development standards. Goal 14, Urbanization, Section 3 of the Implementation Methods to the City Comprehensive Plan discourages premature "urban level" development within unincorporated areas of the UGB. "Urban level" development within the UGB is defined by the City's

Comprehensive Plan and includes new parcels under five acres in size. Partitions or subdivisions that result in smaller parcels are required to submit an "urban conversion plan" and enter into an annexation agreement. Parcels five acres or larger, consequently, are exempt from these requirements and considered "rural" use.

Finally, regarding ACP Chapter 8, Policy 3, there are no identifiable implementation ordinances that this subject application would violate. For parcels less than five acres in size, [Albany Development Code] (ADC) 12.480 applies. ADC 12.480 prohibits development of a dwelling on private septic systems where no public sewer is available within 300 feet of the property "except for construction one single family dwelling on an existing lot of record or a parcel no smaller than five acres created through the land division process. Because the subject application would not create parcels less than five acres in size, this implementation ordinance does not apply."

STAFF ANALYSIS: The City appeal letter discussing this criterion is contained in Exhibit B, pages 16-17. The subject property is designated as Urban Residential Reserve (URR) in the City of Albany Comprehensive Plan. The City indicates that the URR Plan designation could result in several different zoning designations, including Residential Single Family (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), and Office Professional (OP). City comments also indicate the zone would be applied at the time of annexation and that the applied zoning could either be a commercial or residential zoning district. Staff notes that conditional use permit approvals issued by the Department in the area surrounding the subject property have indicated that the affected properties would be given a residential zoning upon annexation.

The City's appeal letter states that single-detached homes may be compatible with some, but not all, of the zones currently eligible to apply to the property. The City also asserts that until a zoning district is applied, the City is unable to determine if the proposed dwellings would be compatible with the City's Comprehensive Plan and future City zoning.

The City appeal letter indicates that the proposed dwellings may be compatible with some of the zoning districts. The City's appeal letter indicates that the RMA zoning district does not allow single family dwellings, the NC zone requires a conditional use approval for a dwelling, and the OP zone requires a site plan review for dwelling. The letter does not address the remaining zones, so staff's interpretation is that the remaining zones allow for a single family dwelling as an outright use.

The applicant should address the City's comments and address how the proposed dwellings are consistent with URR Comprehensive Plan map designation 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.**

FACTS: The applicant submitted conditional use permit applications to place a single-family dwelling on each proposed parcel. The subject property is located within the City of Albany's UGB. The City's Comprehensive Plan Map indicates the property has a Plan designation of Urban Residential Reserve (URR).

APPLICANT STATEMENT: The applicant provides the following statement to address this criterion:

"There are no identifiable impacts this proposed development will have on the future urban development of adjacent properties. The proposed dwellings are rural uses and do not preclude future urban development. There are no identified streets, utilities, or other services planned for the subject property. Nor will the placement of two dwellings on large parcels prevent the future placement of streets, utilities, or other services that could be placed on the subject property. The location of the particular property is atop of Scrael Hill and will not be utilized as a key transportation or utility service area even if the property is later annexed into the City. The only anticipated use for the subject property in the future is single-family or residential reserve development. The subject application is consistent and will not impede such with future use."

The application notes that the applicant met with and discussed the proposed development with the City to identify any conflicts with its Comprehensive Plan. The application indicates that during that discussion of the project, the City did not identify any specific conflicts with the Albany Comprehensive Plan.

STAFF ANALYSIS: The City's appeal letter discussing these criteria is contained in Exhibit B, pages 16-17. The subject property is designated as Urban Residential Reserve (URR) in the City's Comprehensive Plan. The City comments indicate the property could be one of several zoning designations, which include Residential Single Family (RS-10, RS-6.5, RS-5), Residential Reserve (RR), Residential Medium Density Attached (RMA), Residential Medium Density (RM), Mixed Use Residential (MUR), Neighborhood Commercial (NC), Office Professional (OP). The City's appeal letter indicates that the RMA zone does not allow new single-family dwellings, the NC zone requires a conditional use approval to site a single family dwelling, and the OP zone requires a site plan review approval to site a single family dwelling.

City comments also indicate the zone would be applied at the time of annexation and that the applied zoning could either be a commercial or residential zoning district. Staff notes that conditional use permit approvals issued by the Department in the area surrounding the subject property have indicated that the affected properties would be given a residential zoning upon annexation.

The subject property is surrounded predominately by large and small acreage home sites and farm and forest uses. The location, size, design and operating

characteristics of the proposed dwellings appear to be consistent with surrounding uses.

City comments argue that until a City zone is applied to the property, it is not possible to determine that the location, size, design, and operating characteristics of the proposed development are compatible with the City's Comprehensive Plan, or consistent with future City zoning. The City argues, *"to the extent that single-detached homes could be permitted in some, but not all, of the zones currently eligible to apply to this site, the underlying use may be compatible. However, large lot development (based on urban standards) generally runs counter to the City's goal of creating a compact city that can efficiently serve its residents. The proposed development would make it more difficult for the site to urbanize in the future."*

The applicant should address the City's comments and address how the location, size, design and operating characteristics of the proposed dwellings are compatible with future development allowed by the City's comprehensive plan map designation. The applicant should also address why the location, design and site planning of the proposed dwellings does not preclude future urban development on the subject property or adjacent properties, or conflict with future location and placement of streets and services.

- 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.**

FACTS: The applicant submitted conditional use permit applications to place a single-family dwelling on each proposed parcel.

APPLICANT STATEMENT: The applicant states: *"Adjoining owners are a mixture of residential and forest and farm uses. The properties to the south and west along the hillside are residential with a subdivision along Linnwood Drive. The proposed development will be of rural residential use and consistent with other residential uses in the surrounding area."*

STAFF ANALYSIS: The applicants propose to partition the subject property into two parcels. Each parcel would contain a single-family dwelling. Predominate uses in the surrounding area are residential uses, on smaller and larger acreage lots, and farm and forest uses. The property is immediately adjacent to four properties that contain larger acreage home sites. The subject property is also in close proximity to the Oakwood Addition subdivision, which includes 31 lots roughly a half-acre in size each along Linnwood Drive.

Notice was sent to eight surrounding property owners within 100 feet of the subject property. As of the date this staff report was prepared, no comments were received from surrounding property owners identifying any conflicts that may be detrimental

to the public health, safety and general welfare or to the overall livability of the neighborhood as a result of the proposed development.

The subject property is located in the Albany Rural Fire District and is served by the Linn County Sheriff's Department. The Albany Fire Department submitted comments that included requirements for the construction of the road in order to adequately support emergency vehicles and as part of the construction of a new residential structure (Exhibit E, pages 2-4). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to comply with the requirements of the Albany Fire Department before residential development permits will be issued for each proposed parcel. The Linn County Sheriff's Department was notified of the proposed applications. The Sheriff's Department did not identify any public health or safety concerns as a result of the proposed conditional use permits (Exhibit E, page 1).

All construction associated with the proposed development must comply with all applicable regulations and construction standards in the *Oregon Structural Specialty Code*. Compliance with building code requirements includes determining that the construction meets established health and safety standards. If the Board chooses to approve the applications, a requirement of approval could be included requiring the property owner to obtain all applicable permits for the construction of the single family dwellings, as well as pass any applicable inspections.

An existing 30-foot easement of road access, traversing over a flag strip attached to tax lot 100 on map T10S, R03W, Section 35, serves tax lot 101 on map T10S, R03W, Section 35. The Linn County Road Department has evaluated the proposal and did not identify any negative impacts as a result of the proposed conditional use permits. Road Department comments indicated an access review will be required to establish driveways to the proposed parcels at the time of site development (Exhibit E, page 13). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel.

6. The proposed site

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

FACTS: The Linn County EHP has approved a site on each of the proposed parcels for the location of an on-site septic system (EHP Record Nos. 33771 and 31157, Exhibit A, pages 31-36). The application states there is an individual well on tax lot 100, directly adjacent to the subject property.

APPLICANT STATEMENT: The application states the property has Linn County Environmental Health Program (EHP) approval for placement of a septic system for each of the proposed dwelling sites. The application states, "Water is immediately available from a well on property owned adjacent to the subject property under a shared well agreement."

STAFF ANALYSIS: Linn County Environmental Health Program (EHP) has approved a site on the proposed parcels for the location of an on-site septic system (EHP Record Nos. 33771 and 31157, Exhibit A, pages 31-36).

A water quality test is required to demonstrate that total coliform, e-coli, and nitrate levels are acceptable. A pump test or other means to verify the flow rate of water from the well is required to show proof of adequate water supply. If the Board approves the applications, the Board may include a requirement that the property owner submit a water quality test and pump test to demonstrate proof of adequate supply of potable water.

Oregon Revised Statutes governing the Oregon Water Resources Department (WRD) allow for up to three households to share a domestic well. Oregon WRD was notified of the proposed applications and did not submit comments expressing concern over the proposed development.

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

FACTS: The subject property currently has access via a 30-foot wide easement of access off of Scrael Hill Road.

APPLICANT STATEMENT: The application states, *"The parcels will access Scrael Hill Road from an adjacent flag lot owned by the applicant. A gravel driveway from Scrael Hill Road to the subject property exists. The right of way for the gravel driveway is 30 feet."*

STAFF ANALYSIS: A 30-foot easement of access off of Scrael Hill Road serves the subject property in its current configuration. The applicant proposes to extend the existing 30-foot easement to provide access to the proposed parcels. Staff analysis addressing the criteria in LCC 935.150 are described below, and are incorporated herein.

The Linn County Road Department has evaluated the proposal and did not identify any negative impacts as a result of the proposed conditional use permits. Road Department comments indicated an access review will be required to establish driveways to the proposed parcels at the time of site development (Exhibit E, page 13). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel.

The Albany Fire Department submitted comments that included requirements for the construction of the road in order to adequately support emergency vehicles and as part of the construction of a new residential structure (Exhibit E, pages 2-4). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to comply with the requirements of the Albany Fire Department before residential development permits will be issued for each proposed parcel. The Linn County Sheriff's Department was notified of the proposed

applications. The Sheriff's Department did not identify any public health or safety concerns as a result of the proposed conditional use permits.

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

STAFF ANALYSIS: Section 3.2 of the Transportation Element of the Comprehensive Plan discusses Functional Classification and Access Management. This section addresses standards for new accesses and connections to county roads. A 30-foot easement of access off of Scrael Hill Road serves the subject property in its current configuration. The applicant proposes to extend the existing 30-foot easement to provide access to the proposed parcels. Staff analysis addressing the criteria in LCC 935.150 are described below, and incorporated herein by reference.

The Linn County Road Department has evaluated the proposal and did not identify any negative impacts as a result of the proposed conditional use permits. Road Department comments indicated an access review will be required to establish driveways to the proposed parcels at the time of site development (Exhibit E, page 13). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel.

The construction of the driveway is reviewed by the Road Department to ensure that vehicles have adequate access the property. Obtaining an access/driveway review will satisfy Section 3.2 of the Transportation Element of the Comprehensive Plan.

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.

STAFF ANALYSIS: The subject property is located outside a mapped geologic hazard area and outside of a 100-year flood plain.

LCC 935.150 – Decision criteria: easement of road access

(A) A request for easement of road access recognition may be approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following decision criteria can be met:

- (1) The proposed placement of the easement of road access shall not pose a traffic hazard, taking into consideration the number of nearby access points and geographic conditions of the property; and**
- (2) The easement of road access is the only reasonable method of providing access to the parcel;**

FACTS: The subject property is located northeast of Linnwood Drive, approximately 0.31 miles northeast of the intersection of Linnwood Drive and Scrael Hill Road. A 30-foot wide easement of road access off of Scrael Hill Road serves the subject

property in its current configuration. The applicant proposes to extend the existing 30-foot easement to provide access to the proposed parcels.

STAFF ANALYSIS: An existing 30-foot easement of road access, traversing over a flag strip attached to tax lot 100 on map T10S, R03W, Section 35, serves tax lot 101 on map T10S, R03W, Section 35. The application states that the modification of the existing 30-foot easement will not create a traffic hazard. The easement continues to be the only reasonable method of providing access to tax lot 101 because the property does not have frontage on a public right of way.

The Linn County Road Department comments did not identify any traffic hazards that may be posed as a result the proposed modification to the existing easement. Road Department comments indicated an access review will be required to establish driveways to the proposed parcels at the time of site development (Exhibit E, page 13). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel. The construction of the driveway is reviewed by the Road Department to ensure that vehicles have adequate access the property.

The Albany Fire Department submitted comments that included requirements for the construction of the road in order to adequately support emergency vehicles and as part of the construction of a new residential structure (Exhibit E, pages 2-4). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to comply with the requirements of the Albany Fire Department before residential development permits will be issued for each proposed parcel.

The property owner must ensure that the easement continues to be adequate for the proposed level of use, pursuant to LCC 935.015, and is constructed to meet Code standards. The construction of the driveway is reviewed by the Road Department to ensure that vehicles have adequate access the property. Obtaining an access/driveway review ensures access is adequate for the proposed use and that the road is constructed to meet Code standards.

LCC 938.300 – Decision criteria; variance

- (2) Granting a variance from a development standard will not have a significant adverse affect on property, improvements, or public health or safety in the vicinity of the subject property; and**

FACTS: The applicant is proposing a variance to the minimum lot size requirement of 20 acres in the UGA-UGM-20 zoning district to create a 5.00-acre parcel and an 11.7-acre parcel.

APPLICANT STATEMENT: The applicant addresses this criterion with the following analysis:

"The land is physically capable to serve the intended use. The parcels have sufficient on-site area to provide approved septic systems as shown in the...septic approvals received from Linn County Environmental Health Department. City services are so far away that development for urban uses is likely decades away. The proposed partition is consistent with the pattern of development in the area. Access to Scrael Hill Road is already available and meets current safety standards. The proposed partition parcels can meet all property line and riparian setbacks. A partition will not change drainage patterns. There are no identifiable adverse effects the partition will have on public health and safety in the vicinity of the subject property."

STAFF ANALYSIS: The minimum width and depth standard in the UGA-UGM-20 zoning district is 500 feet. Based on the tentative map submitted as part of the application, each parcel meets the minimum width standard of 500 feet and the minimum depth standard of 500 feet for new parcels in the UGA-UGM zoning district. The proposed parcels would each contain an individual septic system. The application states the proposed parcels would share a well located on tax lot 101 under a shared well agreement. Based on the site plan submitted with the applications, the proposed dwellings will be sited on the proposed parcel in compliance with the structural setback standards found in LCC Section 934.730, and the setback standard from road-related easements as described in LCC 935.120. The proposed parcels do not exceed the width to depth ratio of 2.5:1, in LCC Chapter 923.

One comment was received from a surrounding property owner in opposition to the proposed development during the initial notice period for the Director review; however, the comment did not indicate any significant adverse effects as a result of the proposed variance.

The subject property is located in the Albany Rural Fire District and is served by the Linn County Sheriff's Department. The Albany Fire Department submitted comments that included requirements for the construction of the road in order to adequately support emergency vehicles and as part of the construction of a new residential structure (Exhibit E, pages 2-4). If the Board approves the applications, the Board may include a condition of approval requiring the property owner to comply with the requirements of the Albany Fire Department before residential development permits will be issued for each proposed parcel. The Linn County Sheriff's Department was notified of the proposed applications. The Sheriff's Department did not identify any public health or safety concerns as a result of the proposed variance (Exhibit E, page 1).

All construction associated with the proposed development must comply with all applicable regulations and construction standards in the *Oregon Structural Specialty Code*. Compliance with building code requirements includes determining the construction meets established health and safety standards. If the Board approves the applications, the Board may include a requirement that the property owner obtain all applicable permits for the construction of the single family dwellings, as well as pass any applicable inspections.

An existing 30-foot easement of road access, traversing over a flag strip attached to tax lot 100 on map T10S, R03W, Section 35, serves tax lot 101 on map T10S, R03W, Section 35. The Linn County Road Department comments did not identify any public health or safety hazards that may be posed as a result the proposed variance. If the Board chooses to approve the applications, a condition of approval could be included requiring the property owner to complete an access review and driveway review with the Linn County Road Department before residential development permits will be issued for each proposed parcel. The construction of the driveway is reviewed by the Road Department to ensure that vehicles have adequate access the property.

The City appeal letter discussing this criterion is contained in Exhibit B, pages 4-7. The City's comments addressing this criterion argue that the proposed development interchanges zoning densities, circumvents the annexation process which may impact public safety, and could have an adverse effect on property and improvements over time.

The City asserts that the Director decision initially approving the application is effectively ignoring the County's past planning efforts done in coordination with the City and is treating the property as if it were zoned UGA-RR-5. City comments also assert that LCC 930.700(E) prohibits the change of density between UGA-UGM zoning districts. LCC 930.700(E) is found under the Statement of Purpose for the UGA-UGM zoning district. LCC 930.700(E) states:

"The density of one UGA-UGM zoning district is not interchangeable with the density of another UGA-UGM zoning district without prior review and approval by the affected city and Linn County."

Staff's interpretation of LCC 930.700(E) differs from the City. The language in LCC 930.700(E) does not prohibit property owners from applying for a variance to the minimum lot size standard. Staff believes the intent of this language is to indicate that a minimum lot size (density) is not interchangeable with another minimum lot size without proper land use review, meaning a zone change would be required to be reviewed and approved to change densities. Additionally, the density of uses allowed outright and permitted conditionally in the UGA-UGM-20 zoning district would still apply to the proposed parcels. Staff also notes that since 1980, the Linn County Code has contained provisions to allow the creation of properties in the UGA-UGM zoning district below the minimum lot size, subject to review by the County and including notice to the affected City in accordance with the procedures established in adopted Urban Growth Management agreements. Staff also notes that the zoning of the property is not effectively changed because a conditional use permit approval is still required to be approved to site a dwelling on the proposed parcels. If the zoning of the property were UGA-RR-5, a dwelling would be an outright use.

The City argues in its appeal letter, *"the City indicates that the City is the affected city and that Albany does not approve of the change in density"*, based on the language contained in LCC 930.700(E). Staff notes that the language in LCC 930.700(E) is inconsistent with the Urban Growth Management Agreement between

the City of Albany and Linn County, which identifies that the City can provide comments on certain types of development reviews, and the County has authority to issue a decision on those development reviews. LUBA case law also prohibits jurisdictions from deferring a decision on an application to another jurisdiction.

The City argues that approval of the applications would cause adverse impacts by circumventing the annexation process. The City also argues that allowing development of property before annexation can increase costs of bringing urban services to the property at a later time. Staff notes that both the Urban Growth Management agreement between the City and the County and the UGA-UGM zoning district does not prohibit development of property in the UGB prior to annexation. County Code allows for development in the UGA-UGM zoning district as long as it is consistent with the applicable *Plan* policies, Code criteria, and development standards.

The City's appeal states that the intended use of the UGA-UGM zoning district is to preserve properties for future urban development. LCC 905.610(E) of the County's *Plan* states: "*The Urban Growth Management (UGM) district is intended to protect and retain the urban growth area for future urban development.*" The City appears to be interpreting the *Plan* policy to mean that the property should not be developed until such time that it is needed for urban development. Staff believes the intent of the *Plan* policy is to ensure that UGM zoned properties should be managed in such a way that they will be available for future urban development. If the Board approves the applications, the subject properties will still be located within the UGB, will still be zoned UGA-UGM and would still be available for future urban development.

Staff notes that the City's appeal letter cites LCC 905.600(D), which provides background information as to why it is important to not create a development pattern within the UGB that would be detrimental to long range community planning goals. The reference to LCC 905.600(D) does not include additional language in the *Plan* which then explains that urban growth management agreements have been put in place that establish a process for the cities and the county to review and coordinate development, transportation, annexation and other growth issues. This background information is then implemented by *Plan* policies LCC 905.610(A-B), which establish that the City and County have entered into an Urban Growth Boundary agreement and that the agreement establishes processes for review and action on development proposals and public improvement projects within the urban growth area in an effort to ensure that proposed development will not preclude future urban development.

The applicant should address the City's comments and address why granting a variance from a development standard will not have a significant adverse effect on property, improvements, or public health or safety in the vicinity of the subject property.

(3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.

FACTS: The applicant is proposing a variance to the minimum lot size requirement of 20 acres in the UGA-UGM-20 zoning district to create a 5.00-acre parcel and an 11.7-acre parcel.

APPLICANT STATEMENT: The applicant states, "...The City's Comprehensive Plan discourages urban level development in the UGA-UGM zoning [district]. However, the County's zoning code encourages low-density or moderate scale uses including residential uses in the UGA-UGM zone. Parcels five acres or greater are considered by the City's Comprehensive Plan as rural or do not present an obstacle to later redevelopment to urban uses should the property ever be annexed into the City of Albany. Therefore, the 5-acre parcel is the minimum necessary to permit normal development of the property for the proposed use as permitted under the County zoning."

STAFF ANALYSIS: The minimum width and depth standard in the UGA-UGM-20 zoning district is 500 feet. Based on the tentative map submitted as part of the application, each parcel meets the minimum width standard of 500 feet and the minimum depth standard of 500 feet required for new parcels in the UGA-UGM zoning district. The proposed parcels would each contain an individual septic system. The application states the proposed parcels would share a well located on tax lot 101 under a shared well agreement. The proposed dwellings are required to be sited on the proposed parcel in compliance with the structural setback standards found in LCC Section 934.730, as well as the setback standard from road-related easements as described in LCC 935.120. The proposed parcels do not exceed the width to depth ratio of 2.5:1, in LCC Chapter 923.

The applicant proposes to create a 5.00-acre parcel and an 11.7-acre parcel. The proposed acreage allows for each parcel to contain a dwelling, a septic system, and also share a well with tax lot 100. The proposed parcel size allows for each dwelling to comply with the development standards of the UGA-UGM zoning district, and for each septic system to comply with setbacks from structures and wells.

The City appeal letter discussing this criterion is contained in Exhibit B, pages 7-9. The City asserts that the application does not meet this criterion because the applicant does not propose "normal development" of the property. Staff believes the City comments misconstrue the language in this criterion. The criterion states, "Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use." Normal development of the property for the proposed use (a single family dwelling) would include compliance with property development standards contained within Linn County Code, such as structural setback standards, lot coverage requirements, and height limitations. The intent of this criterion is to ensure the proposed parcel sizes can support normal development associated with the proposed single family dwellings, such as installation of a septic system, a driveway, any potential accessory buildings, as well as compliance with required development standards.

The applicant should address the City's comments and address why approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.

LCC 938.340 - Decision criteria for UGA-UGM minimum property size

The Director may approve a variance to the minimum property size of an authorized unit of land in the UGA-UGM zoning district if:

A. the criteria of LCC 938.300(B)(2) and (3) are met; and

STAFF ANALYSIS: Staff analysis addressing the criteria in LCC 938.300(B)(2) and (3) are described above and are incorporated herein by reference.

B. the proposal is consistent with the affected city's comprehensive plan.

FACTS: The subject property is located within the City of Albany's UGB and is designated as Urban Residential Reserve (URR) on the City of Albany Comprehensive Plan Map.

APPLICANT STATEMENT: The applicant provides the following analysis to address this criterion:

"The City of Albany's Comprehensive Plan policies under Chapter 8: Urbanization, Goal 14 (ACP Chapter 8) provides the following applicable policies:

- 1. Discourage low density sprawl development with the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.*
- 2. Since the undeveloped portions of the urban fringe are in transition from rural to urban uses, development in these areas shall occur in a manner consistent with the City of Albany and Linn and Benton Counties' Comprehensive Plans and implementing ordinances.*

Regarding Policy 2, the subject application is a form of development that may be later converted to urban uses when urban uses become available. The location of the property...still allow[s] for urban development under the City's Comprehensive Plan.

The City of Albany's Comprehensive Plan map designation for the subject property is residential. The property is also within the East Albany "neighborhood boundary" under the Plate 2 of the Comprehensive Plan mapping. Under this residential comprehensive plan designation, there are several residential-type property zones permitted including non-residential uses such as office professional, neighborhood commercial, schools, parks, cemeteries, churches and certain public facilities.

Of the uses permitted in the Comprehensive Plan, the subject property is best suited for residential use. Plate 7 of the Comprehensive Plan mapping shows the subject

property is within a steep slope and hillside area and at the outer range of the urban growth boundary. The property sits atop Knox Butte. Access is limited by steep slopes and uneven terrain. The subject property is far from Scrael Hill Road, the main arterial. The terrain and proximity to the City center or other nearby development makes the property entirely unsuitable for office professional, neighborhood commercial uses, schools, churches or public facilities. Properties off the hill and on the valley floor adjacent to Scrael Hill Road area better suited for these urban level uses. The subject property would not meet any current urban standards identified under Goal 8 for such non-residential urban uses even if it was annexed into the City. The remaining residential uses allowed by the City's Comprehensive Plan map range from residential reserve to residential medium density. For the reasons identified for the non-residential urban uses above, the subject property would be unsuitable for medium to high density housing types such as townhomes, triplexes, duplexes, manufactured home parks, and multi-family apartments. The only feasible residential zoning for the property will be residential reserve or a single-family district.

The proposed development is also compatible with the future development allowed by the City of Albany's Comprehensive Plan. Goal 8 "allow[s] the development of existing lots designated for residential use on the Albany Comprehensive Plan within the unincorporated portion of the Urban Growth Boundary." The Goal 14 of the City's Comprehensive Plan encourages the rural uses within the UGB so long as the property may later be utilized for urban uses. While the proposed [development will] meet residential standards and objectives under Goal 8 and Goal 14 because the proposed development remains a rural use.

The...placement of a dwelling on each parcel, presents no identifiable conflict with later redevelopment to urban uses as provided in the City of Albany Comprehensive Plan. The City of Albany Comprehensive Plan prohibits parcels smaller than five acres in size without first meeting urban-scale development standards. Goal 14, Urbanization, Section 3 of the Implementation Methods to the City Comprehensive Plan discourages premature "urban level" development within unincorporated areas of the UGB. "Urban level" development within the UGB, is defined by the City's Comprehensive Plan and includes new parcels under five acres in size. Partitions or subdivision[s] that result in smaller parcels are required to submit an "urban conversion plan" and enter into an annexation agreement. Parcels five acres are larger, consequently, are exempt from these requirements and considered "rural" use.

Finally, regarding ACP Chapter 8, Policy 3, there are no identifiable implementation ordinances this subject application would violate. For parcels less than five acres in size, [Albany Development Code] (ADC) 12.480 applies. ADC 12.480 prohibits development of a dwelling on private septic systems where no public sewer is available within 300 feet of the property "except for construction one single family dwelling on an existing lot of record or a parcel no small than five acres created through the land division process. Because the subject application would not create parcels less than five acres in size, this implementation ordinance does not apply."

STAFF ANALYSIS: Chapter 8 of the Albany Comprehensive Plan contains the policies and implementation methods applicable to this review. Chapter 8 addresses urbanization and includes policies and implementation methods for development outside of city limits and within the UGB that are consistent with both the Linn County and Albany Comprehensive Plans.

The City appeal letter discussing this criterion is contained in Exhibit B, pages 9-15. Comments received from the City cite Policies 2 and 3 and Implementation Method 1 of Chapter 8 addressing "Directing Growth" as applicable to this criterion.

Albany Comprehensive Plan Chapter 8, Policies 2 and 3 discourage low density sprawl development within the unincorporated portion of the UGB that cannot be converted to urban uses when urban services become available, and support development within the UGB in a manner that is consistent with the City and Linn County Comprehensive Plans and implementing ordinances.

The City cites Comprehensive Plan Chapter 8, Directing Growth Implementation Method 1 as applicable to the proposed variance. Implementation 1 states:

1. *"Maintain joint management agreements between the City of Albany and Linn and Benton Counties to ensure continued protection and orderly development of the urbanizing area in conformance with the Comprehensive Plan. Such agreements should include:
 - a. A mutual notification procedure for City or County actions which affect the other jurisdiction.
 - b. Concurrence between the City and County before any Plan or zoning changes affecting the UGB or urbanizable area can occur.
 - c. Establishment of county zoning districts and regulations which ensure that any development which occurs is compatible with or can be easily converted to urban development
 - d. Methods to arrive at consensus between the City and County regarding planning and development actions of mutual concern."*

Implementation Method 1 is enacted through compliance with the Urban Growth Management agreement between the City and the County. Staff notes that the language in this Implementation Method does not discourage development in the UGA-UGM zoning district. It requires that development in the UGA-UGM zoning district is compatible with (future urban development) or can easily be converted to urban development.

Staff believes that Chapter 8, Implementation Method 3 also applies to this application, although it is not cited in the City's letter. Implementation Method 3 appears to be another mechanism to ensure development in the UGB can be made compatible with future urban development. Method 3 appears to include provisions

to ensure development is completed in such a way that future urban services can be made available. Implementation Method 3 reads:

"3. Ensure that Linn and Benton Counties' development regulations discourage premature urban level development within the unincorporated portion of the Urban Growth Boundary and encourage development which occurs to meet the following criteria:

a. When land partitioning or subdivision occurs that will result in parcels of less than five acres, an urban conversion plan shall be submitted for City and County review. The urban conversion plan shall demonstrate the potential division of the property to urban densities and the desired location of streets and points of access.

b. When applicable, development shall meet City site development standards pertaining to lot size, density, setbacks, lot coverage, and height limitations.

c. When parcel divisions or subdivisions occur that result in parcels of less than five acres, an annexation agreement is recorded for the property that provides for non-remonstrance to annexation."

The City's appeal asserts that approval of the applications is effectively a zone change and treats the property as if it were zoned UGA-RR-5, and is not consistent with the Implementation Methods described above. Staff notes that the uses allowed outright and permitted conditionally in the UGA-UGM-20 zoning district, if approved, would still apply to the proposed parcels. Staff also notes that since 1980, the Linn County Code has contained provisions to allow the creation of properties in the UGA-UGM zoning district below the minimum lot size, subject to review by the County and including notice to the affected City in accordance with the procedures established in adopted Urban Growth Management agreements. Staff also notes that the zoning of the property is not effectively changed because a conditional use permit approval is still required to be approved to site a dwelling on the proposed parcels. If the zoning of the property were UGA-RR-5, a dwelling would be an outright use.

The City also cites Policies 3 and 6 from Chapter 8 addressing "Development Review" as applicable to this criterion.

Chapter 8, Development Review Policies 3 and 6 read:

"3. Give special attention to proposals in areas identified as in need of special review (greenway, floodplains, floodways, open space, airport, etc.), ensuring that developments in these areas are specially designed in recognition of the particular concern for that area.

6. Use the following criteria to balance the relative importance of conflicting Comprehensive Plan statements when applied to a particular use or development request:

a. Which goal or policy better serves both the existing and future public need?

b. With the exception of the conflicting statement(s), does the proposal conform to the overall purpose and objectives of the Comprehensive Plan?

- c. How will deviation from a particular Plan statement affect the surrounding area?*
d. What precedent would be established by choosing one statement over another?"

Plate 7 of the City's Comprehensive Plan shows the subject property is within an area of special review for slopes exceeding 12%. Properties that are in areas of special concern are subject to the policies and implementation methods described in Plan Chapter 2 (Special Areas). Policy 13 of Chapter 2, Flood Hazard and Hillside requires the City to develop hillside regulations for slope areas in excess of 12% in order to protect against geologic mass movement, excessive erosion and storm water runoff, and protection of important natural vegetation prior to annexation of a property. The subject property would be required to comply with applicable City hillside development standards at the time of annexation.

Policy 6 provides the City with criteria for consideration in the event there are conflicting Plan policies applicable to a development review.

The City asserts in its appeal that it has not determined what the specific zone will be on the subject property, that a specific City zone will not be applied until the property is annexed and ready to be developed, and that the applicant is developing prematurely and outside of an annexation that would be the trigger for assigning zones. Staff notes that the City's Development Code (ADC 2.135) contains provisions for a property owner to request a zoning designation upon annexation. While the City states that there could be seven applicable zoning districts, the applicant, at the time of annexation, could request a specific zoning district.

The applicant should address the City's comments and address why approval of the variance is consistent with the City of Albany's Comprehensive Plan.

Additional Analysis

The City argues that LCC 938.340(C) is applicable to this review. LCC 938.340(C) was a criterion applicable to requests for variances to the UGA-UGM zoning district that is no longer included in the Land Development Code. This criterion was removed from that section of County Code, pursuant to Ordinance 2018-108, dated June 5, 2018. Notice was prepared pursuant to LCC 921.350 and was sent to all affected cities pursuant to the procedures described in LCC 921.330. The amendment was acknowledged by DLCD 21 days after the Notice of Adoption was mailed on June 5, 2018.

The City asserts that it objects to the proposed variance. The City argues that the criterion is applicable because a variance to the minimum lot size is effectively a zone change. Staff notes that the UGB agreement contains provisions for the City and County to allow future modification to zoning maps upon written concurrence by both the City and the County and through a zone amendment process. Additionally, the UGB agreement allows for the City to provide comment on development review proposals. The UGA agreement does not require written concurrence between the City and County for variance applications; it only requires that the County provide the opportunity for the City to provide comment.

Staff also notes that in LUBA 2018-029 (City of Albany v. Linn County), LUBA agreed with the County's interpretation that the language in LCC 938.340(C) must be interpreted in context with the requirement in LCC 934.340(B) that a variance be consistent with the City's Comprehensive Plan. LUBA also agreed with the County that the objection criterion does not allow unfettered discretion to object to a variance proposal on any grounds or no grounds at all. Additional LUBA case law also prohibits jurisdictions from deferring a decision on an application to another jurisdiction.

The applicant is not required to address this criterion, as it is not applicable to this review.

III. EXISTING AND PROPOSED LAND USES

CONDITION	EXISTING	PROPOSED
Plan Designation	Urban Residential Reserve	Same
Zone Designation	Urban Growth Area-Urban Growth Management-Twenty Acre Minimum (UGA-UGM-20)	Same
Site Location	T11S, R03W, Sec. 35, TL 101	One 5.00-acre parcel, and one, 11.7-acre parcel
Access	30-foot easement off of Scrael Hill Road	Same
Land Use	Vacant land	One Single Family Dwelling on each resulting parcel

IV. ZONING AND DEVELOPMENT BACKGROUND

Tax lot 101 has been zoned Urban Growth Area-Urban Growth Management-Twenty Acre Minimum (UGA-UGM-20) since September 30, 1981. Prior to that date, tax lot 101 was zoned Exclusive Farm Use (EFU). No previous land use approvals have been issued to the subject property.

V. PHYSICAL CHARACTERISTICS OF PROPERTY

- A. **TOPOGRAPHY** – The subject property is located atop Knox Butte with varying topography. Generally the property slopes upward throughout.
- B. **NATURAL FEATURES AND IMPROVEMENTS** – There are no natural features of significance on the property. There are no improvements on the property.
- C. **NATURAL AND/OR GEOLOGIC HAZARDS** – There are no potential geologic hazards identified on the subject properties (Bulletin 84, Environmental Geology of Western Linn County Oregon). The subject property is not located within an identified flood hazard area.

VI. ENVIRONMENTAL FACTORS

- A. **WILDLIFE HABITAT** – The property is not located within an identified big game or sensitive wildlife or riparian habitat area.
- B. **WETLANDS** – The property does not contain any identified wetlands.

VII. AVAILABILITY OF PUBLIC FACILITIES AND SERVICES

- A. FIRE** - Fire protection is provided by the Albany Rural Fire Protection District.
- B. POLICE** - The Linn County Sheriff's Department provides police protection.
- C. SCHOOL** - The property is within the Greater Albany Public School District and the Linn-Benton Community College District.
- D. OTHER DISTRICTS** – The property is within the Linn Benton Lincoln ESD and 4-H Extension Districts.
- E. SEWAGE DISPOSAL** – The Linn County Environmental Health Program has approved an on-site septic system for each proposed parcel.
- F. WATER SUPPLY** –The proposed parcels would use the existing well located on tax lot 100 through a shared well agreement.
- G. ACCESS** – The proposed parcels would have access via a 30-foot easement off of Scrael Hill Road.

VIII. RECOMMENDATIONS, CONDITIONS, AND REQUIREMENTS:

If the Board denies 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 924.200, 924.250, 933.260, 935.150, 938.300(B-C), or 938.340 are required.

If the Board approves the application, findings that demonstrate the reasons why the application complies with all of the applicable criteria in LCC Sections 924.200, 924.210, 933.260, 935.150, 938.300(B-C), or 938.340 are required.

The Board may adopt reasonable and practical permit conditions and requirements that the Board finds are needed to make the proposed partition, variance and conditional use permit compliant with any 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 its decision.

PROPOSED CONDITIONS OF APPROVAL:

1. A partition is approved to divide a 16.7-acre parcel (described on Linn County Assessor's Map as T10S, R03W, Section 35, Tax Lot 101) into one, 5.00-acre parcel (Parcel 1) and one 11.7-acre parcel (Parcel 2).
2. A variance to the minimum lot size of 20 acres in the UGA-UGM-20 zoning district is approved to create each parcel at less than 20 acres (5.00 acres and 11.7 acres).
3. A conditional use permit is approved for the siting of one single-family dwelling on Parcel 1. A conditional use permit is approved for the siting of one single-family dwelling on Parcel 2.

4. A 30-foot wide easement, traversing across property described as Tax Lot 100 on map T10S, R03W, Section 35, is approved to be modified to provide access to proposed Parcel 1 and Parcel 2.
5. The property owner shall comply with all applicable requirements of the Albany Rural Fire District.
6. **Prior to the issuance of residential development permits for the resulting parcels,** an access permit and driveway review for each parcel is required from the Linn County Road Department. Please contact the Road Department at 541-947-3919 for information.
7. The conditional use permit shall be initiated within two years of the approval date, as described in Linn County Code (LCC) Section 921.920. The conditional use permit is considered initiated pursuant to the provisions described in LCC 920.100(B)(157).

CODE REQUIREMENTS:

1. Pursuant to ORS 92.050-92.080, **parcels being created that are 10 acres or smaller are required to be surveyed and to have a partition plat map prepared.** The plat map must receive final approval from the Planning and Building Department within **180 days**. An extension is available upon written request if one becomes necessary. Once Planning and Building Department approval has been given, the plat map must be recorded with the Linn County Clerk. Please consult a registered professional land surveyor or the Linn County Surveyor for additional information regarding this requirement.

The partition plat must include the following:

- b. A certificate which indicates whether or not the lands described have been surveyed and shall indicate that the survey complies with ORS. 92.050-080 and ORS 209.250. It shall include a notation of any monuments which could not be set and for which a reference monument was set;
- c. The surveyor's stamp and the notarized signature of the owner(s) of the land proposed for partitioning;
- d. The Planning and Building Department's case file number and a designated space for the Director, Linn County Planning Department to indicate when the partition has received final planning approval. A designated space for the signature of the Linn County Surveyor and Linn County Assessor shall also be provided.
- e. A partition plat report containing the following information shall accompany the final plat: name of current owner; any easements of record; and any other encumbrances on the subject property.

The plat map must receive final approval from the Planning and Building Department. Once approval has been given, the plat map must be recorded with the Linn County Clerk. Please consult a registered professional land surveyor or the Linn County Surveyor for additional information regarding this requirement.

2. All taxes must be paid in full per ORS 92.095 before the subdivision or partition plat will be recorded. A partition must be approved, platted and recorded before ownership interests in the authorized parcels are changed.
3. The property owner must obtain all required building, electrical, plumbing, and mechanical permits required to construct each dwelling. Each dwelling must be located at least 30 feet from the front property line and at least 10 feet from the rear and side property lines.
4. **Prior to issuance of any residential development permits for the resulting parcels,** the property owner shall demonstrate that the property has an adequate supply of potable water.
5. **Prior to the issuance of any other residential development permits for the resulting parcels,** the property owner shall comply with any installation requirements as determined by the Environmental Health Program (EHP). For more information, please contact Environmental Health at 541-967-3821.
6. An approved address shall be placed in a position that is plainly legible and visible from the road. The numbers shall be a minimum of four inches in height.
7. The construction of the road must comply with the following improvement standards before development permits (building permits, manufactured home placement permits or sewage disposal permits) for a primary use of the land may be issued:
 - a. The all-weather roadway must be built and maintained to the minimum access requirements of LCC 935.020 and shall be at least 20 feet in width and consist of a minimum of six inches of crushed rock or crushed gravel. An acceptable alternative base for a roadbed is six inches of quarry-run rock topped with minimum of four inches of 1" minus crushed rock or 1" minus crushed gravel. The access route, including any culverts and bridges, must be capable of supporting gross vehicle weights (GVW) of 60,000 pounds. The County reserves the right to require written verification of compliance with the GVW standard from an Oregon Registered Professional Engineer;
 - b. The road will be provided with an unobstructed vertical clearance of at least 13 feet six inches, an unobstructed horizontal clearance of 20 feet and a minimum curve radius of 48 feet;
 - c. At least one intervisible turnout every 500 feet shall be provided in any access roadway less than 20 feet wide. The turnout should provide passage space at least 40-foot radius measured from the center of the road or a hammerhead turnaround with dimensions of 20 foot wide and 70 feet long;
 - d. Roadside ditches must be provided if deemed appropriate by the Linn County Road Department;
 - e. Dead-end roadways over 150 feet in length should provide and maintain a cleared turnaround, with a turning radius of at least 40 feet, adequate for emergency vehicles. When a dead-end access serves four or more dwellings, a turnaround with a turning radius of 48 feet shall be provided and maintained; and
 - f. Road grades shall not exceed 12 percent.

- g. The driveway shall be marked with the resident's rural address unless the residence is visible from the roadway and the address is clearly visible on the residence. Letters or numbers shall be a minimum of three inches in height and constructed of reflective material.
 - 8. Deed covenants and conditions shall be incorporated into the chain of title for all properties using the roadway that:
 - a. Identifies the road as a private road that is not part of the county maintained road network; and
 - b. Assigns monetary responsibility for road and bridge maintenance and dust control to landowners of parcels served by said access.
 - 9. A copy of the deed or other document of legal conveyance with the attached covenants and conditions shall be provided to the Department. The covenants and conditions, written in a manner that runs with the title to the land, shall be recorded with the County Clerk.
 - 10. If a manufactured home is to be sited on the subject property, the property owner shall provide evidence of compliance with LCC 934.790 (manufactured home standards for placement on individual authorized units of land) (attached) for property located within an Urban Growth Area (UGA) at the time the building permit is submitted. Please note that a garage or carport is required if a manufactured home is located on the property.
-

IX. NOTICE TABLE AND PROCEDURE

A. NOTICE

Property owners within 100 feet of the boundaries of the property were provided notice of this application. There are 8 property owners within the notification area. One comment was received from a surrounding property owner regarding the proposed applications (**Exhibit F**).

The certification of mailings for the Planning Director decision and Board of Commissioners hearing is included in **Exhibit G**.

The following agencies have been provided notice and responded before this report was written. Comments received by agencies are included in **Exhibit E, pages 1-14**.

AGENCIES	PROVIDED	RESPONDED	AGENCIES	PROVIDED	RESPONDED
Environmental Health	X		Linn County Parks		
Linn County Assessor	X		Linn Bldg. Official	X	
Linn County Road Dept.	X	X	Linn County Sheriff	X	X
Linn County Surveyor	X		Linn Floodplain Admin.		
Dept. Environ. Quality			DOGAMI		
Div. State Lands			Or. Dept. of Trans.		
State Parks Department			Dept. Land Cons. & Dev.		
Or. Fish & Wildlife			Or. State Hwy. Division		
Linn SWCD			Ag. Extension Service		
RFPD: Albany RFPD	X	X	City: Albany	X	
Dept. of Water Resources	X		Or. St. Fire Marshal		

B. PROCEDURE

The Board of Commissioners will hold a public hearing on this matter on January 22, 2019 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 testimony and evidence presented in this 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 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.

X. EXHIBITS

- A. Application and Supplemental Information
- B. Appeal Letter and Appellant Completeness Letter
- C. Planning Director Decision
- D. Decision Criteria
- E. Agency Comments
- F. Surrounding Property Owner Comments
- G. Certification of Mailings for Director Decision and Board Hearing

LINN COUNTY BOARD OF COMMISSIONERS



JOHN K. LINDSEY
Commissioner

WILL TUCKER
Commissioner

ROGER NYQUIST
Commissioner

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

RALPH E. WYATT
Administrative Officer

2019-021

DATE: January 4, 2019

TO: Will, John and Roger

mdm
FROM: Marsha

RE: **BUDGET COMMITTEE**

Attached is a Committee Application from Kerry Johnson. Please designate below if you would like to appoint her to replace Shelly Boshart-Davis on the Linn County Budget Committee. Also, attached is a current membership list for your review.

Position	Current	Proposed	Action	Approval		
				Roger Y N	Will Y N	John Y N
6	Shelly Boshart-Davis	Kerry Johnson	Appoint	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>

COMMENTS: _____

If you have any questions, please let me know. Thanks!

c: Ralph Wyatt
Michelle Hawkins

LINN COUNTY BOARD OF COMMISSIONERS



JOHN K. LINDSEY
Commissioner

WILL TUCKER
Commissioner

ROGER NYQUIST
Commissioner

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

RALPH E. WYATT
Administrative Officer

DATE: November 14, 2018

TO: John, Will, Roger

mom

FROM: Marsha

2019-022

RE: **LINN LOCAL ADVISORY COMMITTEE**

Todd Noble has indicated that the following members were voted to be to be reappointed on the Linn Local Advisory Committee. There are currently seven vacancies on this Committee. A copy of the membership list is attached for your review.

Position	Current	Proposed	Action	Approval					
				Roger		Will		John	
				Y	N	Y	N	Y	N
13	Mitzi M. Naucier	Mitzi M. Naucier	Reappoint	✓		✓		✓	
14	George Matland, Jr.	George Matland, Jr.	Reappoint	✓				✓	
15	Louise Muscato, Ph.D	Louise Muscato, Ph.D	Reappoint	✓				✓	

COMMENTS: _____

If you have any questions, please let me know. Thanks!

Attachment