

Sheriff's Office

Meyer, Marsha

From: JIM YON <jyon@linnsheiff.org>
Sent: Thursday, June 20, 2019 7:50 PM
To: Meyer, Marsha
Subject: 2019-198

This is an extension of a current contract with Benton County Sheriff's Office on floating bed rental in my jail. They do not use us very often and the extension does not change anything from the current contract. They can use up to 8 beds.

Jim

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LINN COUNTY JUVENILE DEPARTMENT

104 4th SW, Room 200 / PO Box 100

Albany OR 97321

Phone: 541-967-3853 Fax: 541-967-4268



REPORT TO COMMISSIONERS

Update for May 2019

Submitted by Torri Lynn; Juvenile Department Director

Detention

Benton: 7 youth were held for 72 total of days of care, 3 females and 4 males.

Total Admissions to Detention = 9

Average Length of Stay = 8.0 days

Average Daily Population = 2.3 youth

Linn: 43 youth were held for 321 total of days of care, 14 females and 33 males.

Total Admissions to Detention = 47

Average Length of Stay = 6.8 days

Average Daily Population = 10.4 youth

Time for Change Program: 0

Measure 11 Youth: 1 Benton, 1 Yamhill

Probation

The Juvenile Department received 87 referrals during the month of May 2019.

Of the 87 referrals, 15 represent dependency, 44 status and 28 criminal.

There are currently 278 youth in the Probation Unit either on probation or pending court with 62 of those being assessed high-risk.

There are currently 241 youth under the Community Programs Unit serving on informal probation and the Intervention Specialist is currently serving 51 youth.

Victim Advocate is serving 100.

Cases Unassigned: 27

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Juvenile Department

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Community Programs
Manager

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Lisa Robinson
Probation Manager

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Tracy Vaughan
Office Manager.

tvaughan@co.linn.or.us

Kevin Husk
Detention Manager
Linn Benton Detention Center
(541) 791-9397
khusk@co.linn.or.us

Work Crew

Did not get data in time for this report this month.

Miscellaneous Business -

SB1008 passed pushing forward the reform of M11 charging of juveniles.

Eliminates automatic waiver and now must have a court hearing to determine if a juvenile should be tried as an adult.

Ensures youth who commit offenses before 18 are able to be placed in an OYA facility even if the prosecution doesn't commence until after their 18th birthday

Authorizes a conditional release hearing when a youth is required to transfer from OYA to DOC at 25 but completes their sentence before age 27.

Second-Look hearing if they receive a M11 sentence as a 15, 16 or 17 year old and have served half of the sentence imposed.

Prohibits the imposition of a life sentence without the possibility of parole if the person was under the age of 18 at the time of their offense.

Applies to sentences imposed on or after January 1, 2020.

Torri Lynn
Director
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Rob Perkins Jr.
Community Programs
Manager

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Lisa Robinson
Probation Manager

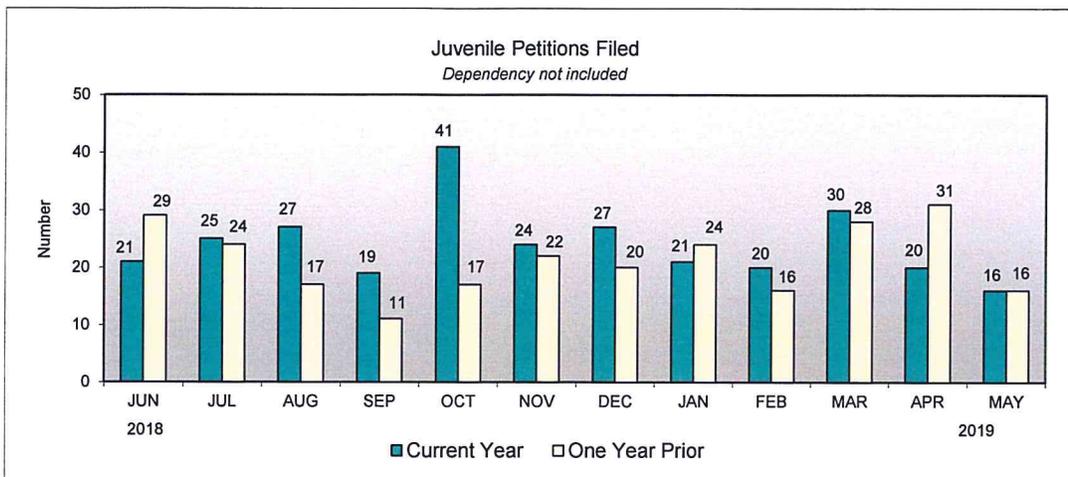
lrobinson@co.linn.or.us

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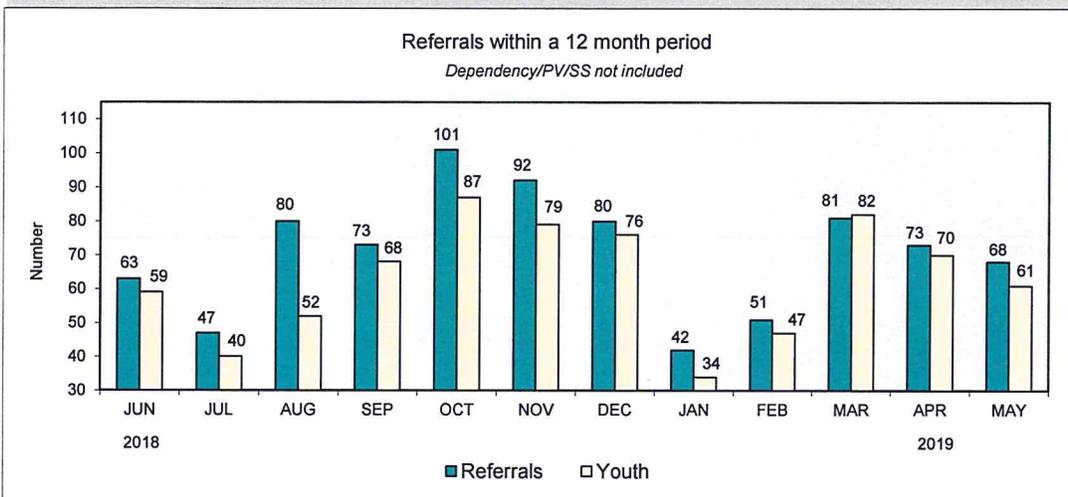
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Linn County Juvenile Department
MAY 2019 Statistics

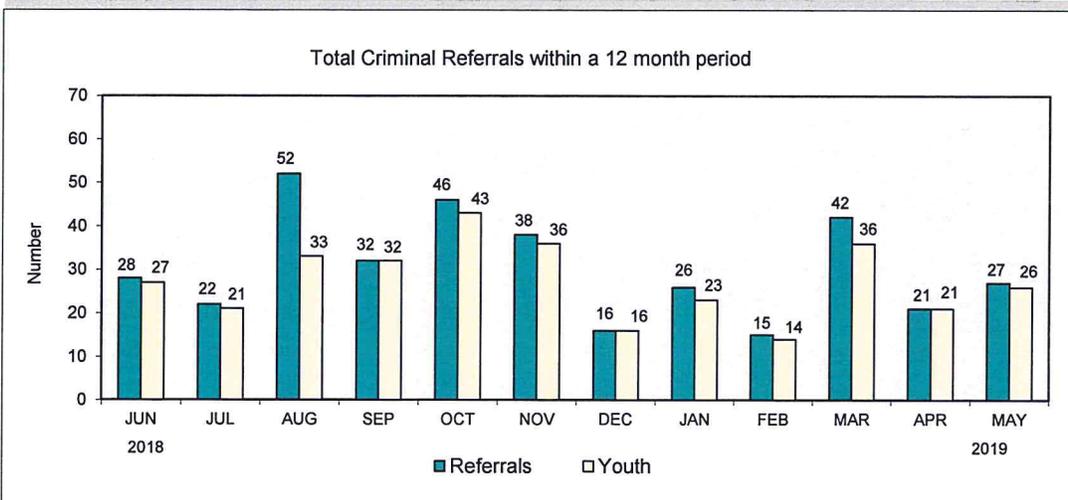


PETITIONS	
Current	291
Last	255
Difference	36



REFERRALS	
Current	851
Last	926
Difference	-75

YOUTH	
Current	755
Last	752
Difference	3

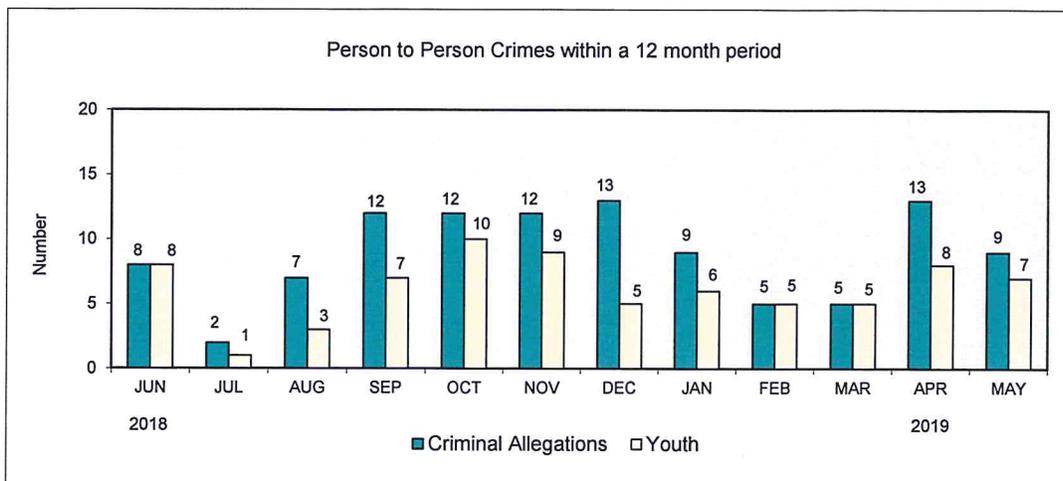


CRIMINAL REFERRALS	
Current	365
Last	410
Difference	-45

YOUTH	
Current	328
Last	371
Difference	-43

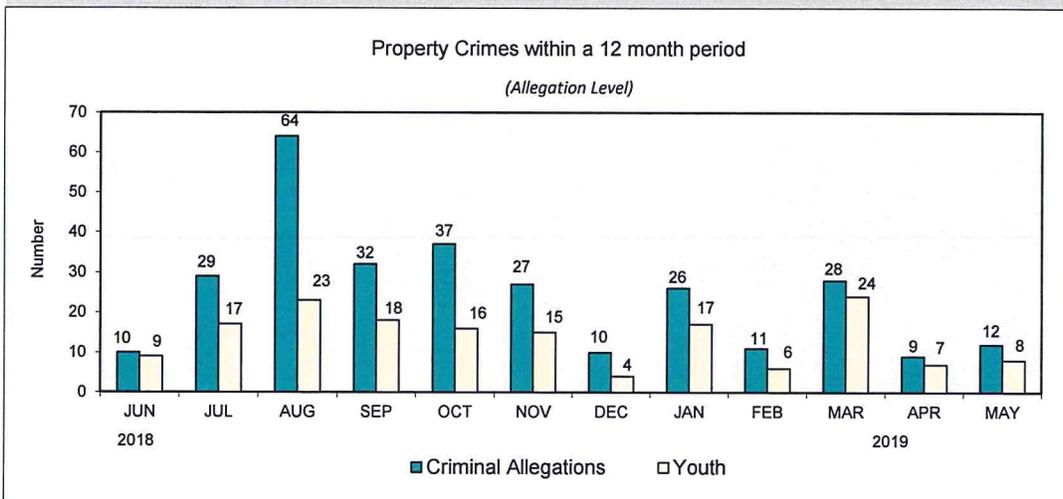
Linn County Juvenile Department
MAY 2019 Statistics

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



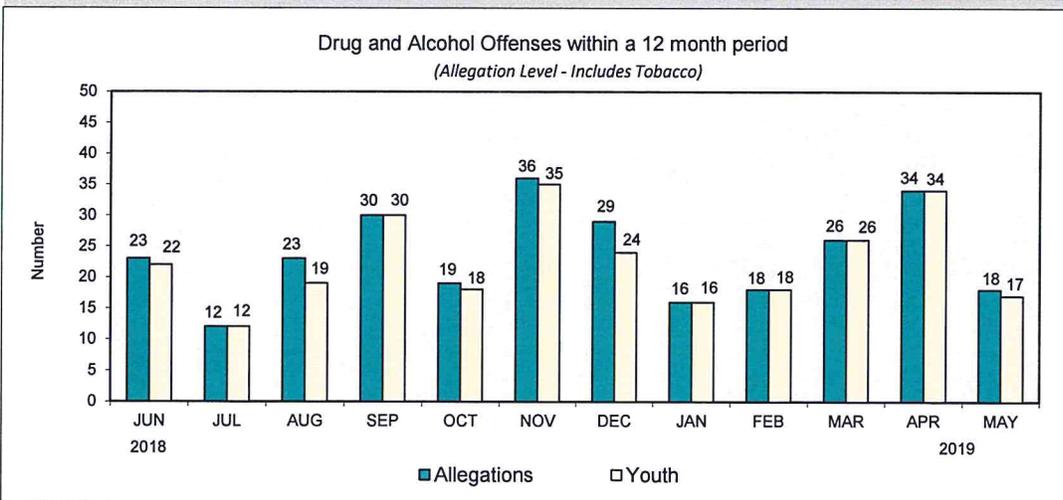
CRIMES	
Current	107
Last	101
Difference	6

YOUTH	
Current	74
Last	64
Difference	10



CRIMES	
Current	295
Last	238
Difference	57

YOUTH	
Current	164
Last	208
Difference	-44



CRIMES	
Current	284
Last	274
Difference	10

YOUTH	
Current	271
Last	268
Difference	3

June 25, 2019 Agenda Item

To: Linn County Board of Commissioners
From: Mark Volmert, Special/Rural Transportation Coordinator
Subject: Federal Section 5311 Funds for Linn Shuttle
Agreements with ODOT and Senior Citizens of Sweet Home, Inc.

Recommendations:

Approve Resolution and Order No. 2019-198 adopting Agreement No. 33427 between ODOT and Linn County and delegating to the Chairman the authority to sign the agreement

Approve Resolution and Order No. 2019-199 adopting a Subrecipient Agreement between Linn County and the Senior Citizens of Sweet Home, Inc. (Sweet Home Senior Center/Linn Shuttle)

Background:

The Federal Transit Administration Section 5311 program allocates (through state transportation agencies) funds for transportation programs serving small cities and rural areas. This program has a 56% federal/44% local match ratio for operations and 89% federal/11% local match rate for administration. Three programs in Linn County currently receive Section 5311 money: Linn Shuttle, Sweet Home Dial-A-Bus and Lebanon Dial-A-Bus.

ODOT allocates Section 5311 funds for the Linn Shuttle and the Sweet Home Dial-A-Bus, operated by the Sweet Home Senior Center. Since the Sweet Home Senior Center is a non-profit agency, the federal government and ODOT require that a public agency serve as the recipient of the Section 5311 funds, with a subrecipient agreement with the non-profit agency.

Linn County serves as the recipient of the federal money for the Linn Shuttle, with a sub-recipient agreement between the county and the Sweet Home Senior Center. In a similar manner, the City of Sweet Home serves as the recipient of federal Section 5311 funds for the Sweet Home Dial-A-Bus program, with a subrecipient agreement between the city and the Sweet Home Senior Center.

Current item:

On December 4, 2018 the Board approved the submittal of an application for 2019-2021 federal Section 5311 funds.

The allocation is determined by a formula which includes a base amount of \$50,000 plus the number of rides (40%) and the vehicle service miles (60%). The ODOT 2019-2021 allocation to the Linn Shuttle is \$288,420, 10% more than the 2017-2019 allocation of \$262,200.

ODOT has developed State Grant Agreement 33427 to allocate the Section 5311 funds to Linn County; and the County Attorney has prepared a subrecipient agreement between Linn County and the Sweet Home Senior Center, transferring the money, obligation and responsibilities of the ODOT-Linn County agreement to the Sweet Home Senior Center. The two agreements are similar to the current agreements.

The long-standing Section 5311-funded Linn Shuttle service provides the foundation for the enhanced linkage with the Linn-Benton Loop funded through the Section 5310 program. This enhanced coordinated, connecting service improves access to Linn-Benton Community College and provides limited, cost effective service between Lebanon and Corvallis with the use of a bus transfer at LBCC. Coupled with route changes, the Linn Shuttle now stops at LBCC 19 times a day instead of 8 times a day.

It is important to note that the annual contribution from LBCC has increased from \$10,000 in 2010-2011 to \$50,000. This funding is used as part of the required local match; and has been very helpful in funding extra "express bus service" to handle overflow ridership during academic sessions. The recent addition of a seventh daily round trip will be particularly helpful to LBCC students attending classes at LBCC's new health sciences educational facility in Lebanon.

In simple terms, the Section 5311 and the Section 5310 funding programs are linked together to provide this enhanced service. Under the provisions of the federal FAST Act transportation funding legislation (and the President's preliminary budget request) the Section 5311 program is generally considered to be financially sustainable for 2019-2021. The required local match is also considered sustainable for 2019-2021. We will, however, continue to closely monitor federal and state funding discussions and report any proposed changes to the Board of Commissioners.

Additionally, in April the Board approved the Statewide Transportation Improvement Fund (STIF) Plan which allocates \$256,000 in 2019-2020 and \$256,000 in 2020-2021 to the Linn Shuttle to increase daily round trips from 7 to 10 and adds Saturday service (linked to the Sweet Home Dial-A-Bus and the Lebanon Dial-A-Bus service).

In accordance with the Linn County Special/Rural Transportation Title VI/Non-Discrimination Plan, Linn County requires each grant recipient to ensure it shall not discriminate on the basis of race, color or national origin in the performance of federal grant funded projects.



Linn County Road Department

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

Memorandum

Date: 6/20/2019
To: Linn County Board of Commissioners
From: Darrin Lane, Roadmaster 
RE: Background Information for Agenda Items – 6/25/2019

The Road Department has the following items on the Board of Commissioners agenda for the weekly meeting on June 25, 2019. Below is a brief description of the items.

2019-177 – Change Order No. 1 to the 2019 Asphalt Overlays Contract

This is a Resolution & Order to execute a change order to the 2019 Asphalt Overlays contract with North Santiam Paving Co. This change order adds driveway approach paving for an additional 115 driveways and paving of the Brewster Road / Golden Valley Drive intersection. Total additional cost is \$95,310.

2019-178 – Deed Acceptance for the Old Salem Road Sidewalk Project

This Resolution and Order is to accept a deed from Truax Corp. for additional right-of-way needed for the construction of sidewalk and ramps for the Old Salem Road Project.

2019-181 – Establishment of a No Parking Regulation on Queen Avenue

This is a Resolution & Order to establish a no parking regulation on Queen Avenue between the two County maintained bridges. Currently, vehicles parking along the widened shoulder area interfere with maintenance crews and create hazards due to trash and illegal dumping.

2019-184 – Foster Dam Road Closure for Fireworks Display

This is a Resolution & Order to allow the Sweet Home Volunteer Firefighters Association to temporarily close a portion of Foster Dam Road for their annual Fireworks Display. The closure is scheduled for 8:00pm to 12:00am on July 13, 2019.

2019-185 – Deed Acceptance for the Old Salem Road Sidewalk Project

This Resolution and Order is to accept a deed from Al and Dixie Sullivan for additional right-of-way needed for the construction of sidewalk and ramps for the Old Salem Road Project.

2019-186 – Deed Acceptance for Brownsville Road Culvert Replacement Project

This Resolution and Order is to accept a deed from Rhiger Family LTD PRNP for additional right-of-way for replacement of a recently washed out culvert on Brownsville Road.

We request your approval.



Linn County Parks And Recreation

Memo

To: Board of County Commissioners
From: Brian Carroll, Parks Director
Date: 6/21/2019
Re: Parks Concessions Notice of Intent to Award

Park Concessions Notice of Intent to Award Contract

- Linn County Parks is requesting permission to send out a Notice of Intent to Award a contract for food concessions services at Foster Reservoir to Norene Collins/NW Mobile Cuisine. We only received one proposal, which was Norene Collin's proposal, however, the County Parks Staff believe it is a good proposal and for this first year of providing concessions, having one vendor is adequate.
- The contract includes potentially providing portable food & beverage cart/trailer services at Lewis Creek Park, Edgewater Marina and Sunnyside County Park during the summer months of June, July, and August. The first year we would focus on Lewis Creek where we have received the most visitor requests for food and beverage services. The
- The Linn County Parks Commission passed a motion supporting the addition of food and beverage concessions in the parks listed in the RFP. Park visitors have asked for these services at the Parks. The Parks staff believes that provision of food concessions will expand and diversify the services offered to park visitors and provide an additional revenue source to help support the County Parks system, with very limited impacts to the parks and park operations.

LINN COUNTY PARKS & RECREATION

3010 FERRY STREET SW, ALBANY, OREGON, 97321
TELEPHONE: (541) 967-3917 FAX: (541) 924-6915



NOTICE OF INTENT TO AWARD

DATE: 6/25/2019
TO: All Offerors
FROM: Linn County Parks & Recreation Department
RE: RFP No. Bid Number 19-01

Concessions and Catering Services (County Parks)

On May 31, 2019 proposal submittals were received by the following firms in response to the above-referenced solicitation:

- Norene Collins/Northwest Mobile Cuisine

Evaluation of these submittals has been completed. Linn County intends to negotiate and award a contract to Norene Collins/Northwest Mobile Cuisine of 820 Columbus St. SE, Albany, Oregon because they were deemed the most-qualified proposer for this project and received the highest score. This Notice of Intent to Award is issued pursuant to ORS 279B.135 and LCC 137-047-0610. Any entity which believes that they are adversely affected or aggrieved by the award may submit a written protest within seven (7) calendar days after the issuance of this Notice. Protests submitted after that date will not be considered. All protests must be addressed as follows:

Linn County Board of Commissioners
Contract Provision Protest
RFP No. 19-01
300 SW 4TH AVE
PO BOX 100
Albany, OR 97321

A written protest must include, at minimum, the following information:

- A detailed statement of the legal and factual grounds for the protest;
- A description of the resulting prejudice to the Offeror; and
- A statement of the desired changes to the contract terms and conditions, including any specifications.

If a protest is not settled, the Board of Commissioners, or its designee, shall promptly issue a written decision on the protest. Judicial review of that decision will be available if provided by statute.

If you have any questions regarding this Notice of Intent to Award, or the procedures under which the County is proceeding, please contact Brian Carroll, Linn County Parks & Recreation Department at 541-924-6916 (EXT: 2950) or Email: bcarroll@co.linn.or.us .



**LINN COUNTY
ASSESSMENT AND TAXATION**

P.O. Box 100; Albany, Oregon 97321

Phone: (541) 967-3808

FAX: (541) 917-7448

Internet: www.co.linn.or.us

Andy Stevens
Assessor & Tax Collector

To: Board of Commissioners

From: Andy Stevens, Linn County Assessor/Tax Collector

Date: June 20, 2019

Re: Resolution & Order 2019-201 and 2019-203

The following item is scheduled to be heard on June 25, 2019.

Resolution & Order 2019-201. This is an ORMAP Intergovernmental Agreement with the Department of Revenue to receive a \$4,400 grant for work being done to improve accuracy in certain rural maps.

Resolution & Order 2019-203. This is a renewal of the Helion contract for our tax and assessment software.

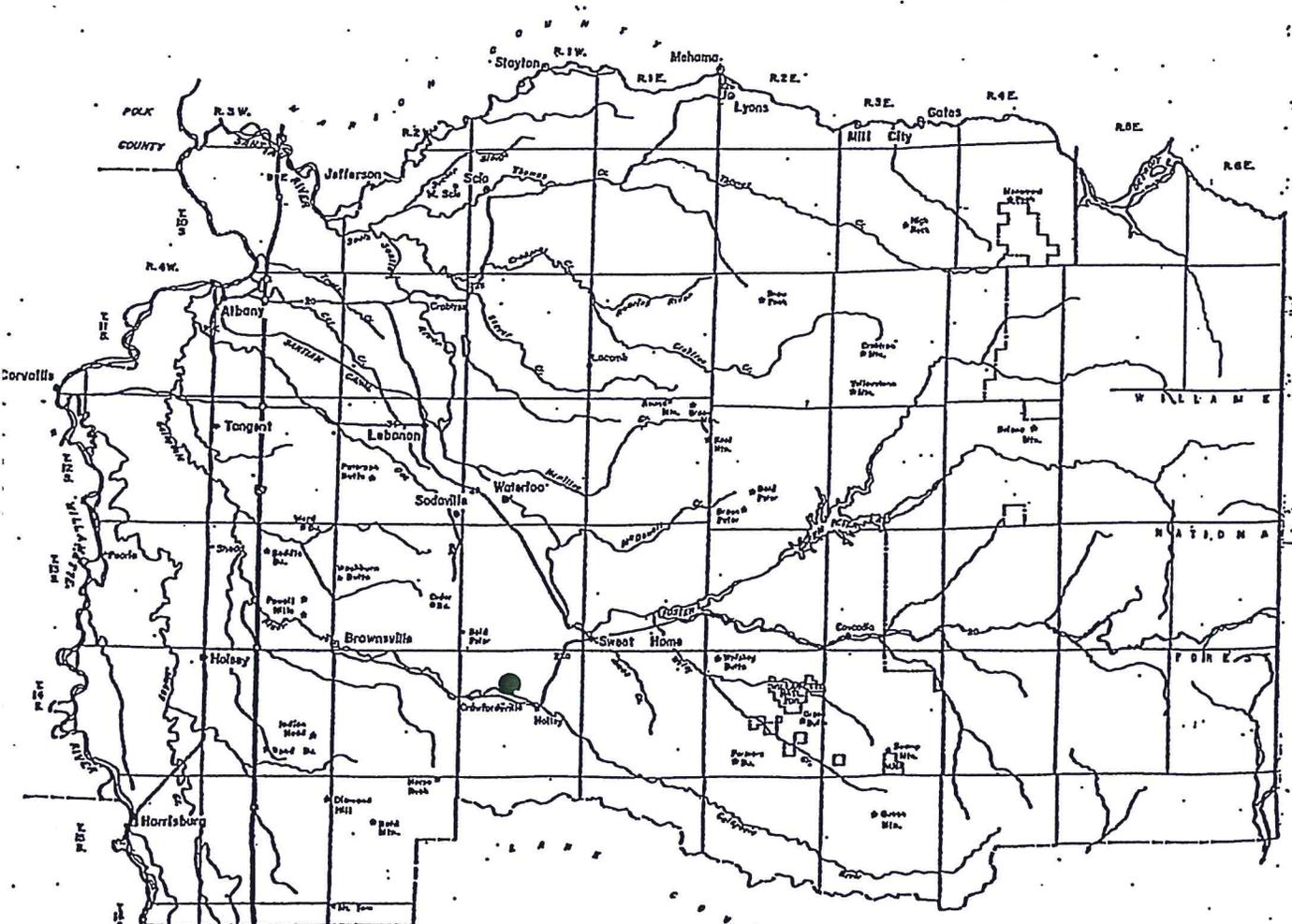
STAFF REPORT

June 25, 2019



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

RE: **BC19-0002:** Applications by Ronald & Virginia Henthorne for a *Comprehensive Plan (Plan) Map* amendment and *Zoning Map* amendment on a 108.59-acre property. The amendments would change the *Plan* designation on the subject property from Farm/Forest to Non-Resource and change the zoning from Farm/Forest (F/F) to Non-Resource Five-Acre Minimum (NR-5). The property is located on the north side of Crawfordsville Drive, approximately 0.47 miles west of the intersection of Crawfordsville Drive and Scott Mountain Road, and approximately 0.68 miles northeast of the rural center of Crawfordsville. The property is identified as T14S, R01W, Section 8, Tax Lot 101. Linn County Code (LCC) Sections 921.822(A) and 921.874 contain the applicable decision criteria.



I. INTRODUCTION

A. APPLICATION SUMMARY

Ronald and Virginia Henthorne (Applicant) are requesting that the County change the *Comprehensive Plan (Plan)* Map designation on a 108.59-acre property from Farm/Forest (F/F) to Non-Resource (NR) and change the Zoning Map designation of the property from Farm/Forest (F/F) to Non-Resource Five Acre Minimum (NR-5). The application is attached to this report as **Exhibit A**.

The application indicates there is a variance request to allow for dwellings that would exceed the big game habitat density standard required by LCC 934.565 included with the *Plan* and Zoning map applications; however, a variance application is not required to apply for a *Plan* and Zoning map amendment. The subject property is identified on Linn County Assessor maps as T14S, R01W, Section 8, Tax Lot 101. The property is located on the north side of Crawfordsville Drive, approximately 0.47 miles west of the intersection of Crawfordsville Drive and Scott Mountain Road, and approximately 0.68 miles northeast of the rural center of Crawfordsville.

The application states the current use of the property is personal recreation and forestry. The application indicates that the purpose of the *Plan* and Zoning map amendments is to enable the property to be developed into residential lots between 5 and 10 acres in size through the application of the Non-Resource zone.

For the County to approve the proposed amendments, the applicant must provide evidence that the proposal is consistent with the applicable decision criteria, identified below and attached as **Exhibit B**, including all applicable Comprehensive Plan policies.

B. PLANNING COMMISSION MEETING AND RECOMMENDATION

The Planning Commission (Commission) held a public meeting on this matter at 7:00 p.m., June 11, 2019. The Commission received written and oral testimony from the applicant's representative. The applicant representative's written comments are contained in **Exhibit A, pages 155-162**. The Commission also received oral testimony from two parties opposed to the amendments, and two individuals who were neutral to the proposed amendments. Written testimony received at the meeting from Corby and Brenda Wilson in opposition to the proposed amendments is contained in **Exhibit F**.

After considering the staff analysis and the written and oral testimony presented at the Commission hearing, **the Commission voted 4-0 to adopt a motion to recommend that the Board approve the proposed amendments**. Voting in favor of the motion were Commissioners Alderman, Cromwell, Egan, and McKinney.

C. DECISION CRITERIA AND ANALYSIS

The decision criteria applicable to the proposed Plan map amendment are contained in Linn County Code (LCC) 921.874. The criteria applicable to the proposed Zoning Map amendment are identified in LCC 921.822(A). The applications, including the applicant statements to address the applicable criteria, are attached to this report in **Exhibit A**. The applicable decision criteria are attached to this report in **Exhibit B**.

LCC 921.874 Decision criteria for Plan Map amendments

LCC 921.874(A)(1): The amendment is consistent with and does not alter the intent of applicable section(s) of the Comprehensive Plan.

FACTS: The Linn County *Comprehensive Plan* allows for the designation of land as Non-Resource. The *Plan* describes non-resource lands as lands that are not subject to Statewide Planning Goal 3 or 4 and where the land is neither suitable for farm or forest use based on a set of decision criteria. The applicant is proposing to apply the Non-Resource *Plan* designation and apply a Non-Resource-5 acre minimum (NR-5) zoning district to the 108.59-acre property.

APPLICANT STATEMENT: The application states:

"Linn County Code Chapters 900 through 907 cover the Linn County Comprehensive Plan. Elements of the Plan relating to this amendment appear in and are addressed herein response to other codes. Chapter 905, Land Use Element Code, contains most of the applicable codes and has been addressed in prior sections. The amendment is consistent with Linn County Codes and the record shows it does not alter the intent of the applicable section(s) of the Comprehensive Plan.

The applicant is applying for a re-designation of this property through a process allowed by Linn County. He is requesting a Plan designation of Non-Resource with a zoning designation of NR-5. The Comprehensive Plan allows both of these. The applicant's proposal is consistent with and does not alter the intent of the Comprehensive Plan."

STAFF ANALYSIS: Applicable Comprehensive Plan (Plan) sections include Linn County Code (LCC) Chapter 903 (Natural Resources Element), LCC 904 (Community Facilities and Development Element), LCC 905 (Land Use Element), and LCC 907 (Transportation Plan). The applicant addresses natural resources, community facilities and development, and transportation in LCC 921.871(A)(4-7), which are contained later in this staff report. LCC Chapter 905, specifically 905.960, is most relevant to the applications and is addressed below.

The application specifically addresses LCC 905.940(C) (Planning of non-resource lands) and the policies in LCC 905.960 (Policies for non-resource lands). Each policy is listed below and includes the applicant's analysis and the staff analysis.

LCC 905.940(C) states:

"While the amount of non-resource lands is not expected to be substantial, preserving unproductive non-resource land for resource use does not promote the economic, social or environmental interests of Linn County's citizens. Allowing for the beneficial use of non-resource lands, the county's land use regulations should provide property owners an opportunity to demonstrate that their land is not suitable for farm or forest use and that the land can support low density rural residential development that is compatible with nearby farming or forest practices."

The application states:

"The applicant has the right as the landowner to file for an amendment to the Land Development Code (LCC 921.812(6)) and Comprehensive Plan (LCC 921.860(6)) affecting the applicant's own property.

The subject property has been demonstrated through intense, site specific investigation and reporting to be unproductive for farming or commercial forest use due to soil limitations.

There is very little beneficial value to restricting use to farm or forest at this site. Rezoning it to the Non-Resource zone will create significantly more value per acre, fill a strong demand for low density residential lots, and create significant long term tax revenues that disproportionally support county and local services."

Pursuant to the cited sections of the Linn County Land Development Code (Code), the applicants are allowed to submit an application for a *Plan* map and Zoning map amendment for their property. LCC 905.940(C) requires that the applicant demonstrate that their land is not suitable for farm or forest use and that the land can support low density rural residential development that is compatible with nearby farming or forest practices. The applicant has submitted analysis in order for the Board to determine if the application complies with the application sections of the *Plan* and the applicable decision criteria. The majority of the applicant's analysis addressing the *Plan* is focused on LCC 905.960, which contains the policies applicable to non-resource zoned lands. These policies assist in determining whether the land is not suitable for farm or forest uses and whether the land can support low density rural residential development that is consistent with surrounding land uses. Analysis of LCC 905.960 is addressed next.

LCC 905.960(A) states:

"Linn County shall provide for the appropriate and orderly development of Non-Resource lands while minimizing potential conflicts with other land uses."

The application states:

"The larger proposed tracts of land (five acre minimum) on the subject property will maintain the rural character of the area and allow low-density residential development to co-exist with wildlife habitat. The remaining farm or forest lands in the general vicinity of this application will remain viable and basically undisturbed or unchanged partly because of the significant topographic barriers and the low intensity of farm and forest uses in the area. Residential parcels in the area are compatible with the NR zone."

This policy ensures that the development of non-resource zoned lands can be done in such a way that it will minimize potential conflicts with surrounding land uses. This policy is implemented through compliance with LCC 905.960(J) and LCC 921.874(A)(2), both of which determine whether the proposed *Plan* and Zoning map amendment will be compatible with adjacent uses and will not adversely impact the overall land use pattern in the area. LCC 905.960(J) and LCC 921.874(A)(2) are addressed later in this staff report.

LCC 905.960(B) states:

"Land designated Non-Resource should have conditions that permit development with a limited exposure to geological hazards or a 100-year flood."

The application states:

"The subject property is not within any designated base flood area and is not identified as having any elevated geologic hazards in either Linn County's GIS inventory of Geologic Hazard Areas or the publication Environmental Geology of Western Linn County, Oregon. There is no evidence or history of mass land movement risk. Development of the property will happen through Linn County's subdivision application process and construction will be overseen by an Oregon licensed Engineer with the work complying with Linn County construction code."

The subject property is not located within a designated flood hazard area. The property is not identified as being within an identified area subject to mass movement topography, as inventoried in the Environmental Geology of Western Linn County, Oregon (DOGAMI, 1974).

LCC 905.960(C) states:

"Land designated Non-Resource should be located or have the capability to be included in a rural fire protection district."

The application states:

"The property is located within the Sweet Home Rural Fire District which has a full time, paid fire staff that service the area."

According to Linn County Assessor records, the property is located and taxed within the Sweet Home Rural Fire Protection District.

LCC 905.960(D) states:

"Land designated Non-Resource should have favorable conditions for location of sub surface waste disposal systems and for supplying adequate amounts of potable water."

The applicant statement addressing this policy is contained in **Exhibit A, pages 18-19**. The application includes well logs for three properties adjacent to the subject property and a well report query and summary showing well logs on file with Oregon Water Resources Department (WRD) within the same township/range/section (**Exhibit A, pages 88-92**). The applicant statement indicates that the average depth where water was found is less than 100 feet, and static levels are high at an average of 33 feet. The application also indicates the average well depth is 145 feet producing 18.45 gallons per minute (GPM) and that a consultant drilled on the adjacent property owned by the applicants in 2016 and received 23 GPM with a 125 foot deep well. The statement also indicates there is some arsenic known to be in the area but at treatable levels. The applicant representative also noted that there are generally good conditions locally for potable water. Based on the applicant statement, adjacent wells appear to meet the Oregon WRD acceptable flow standard of 5 GPM. Oregon WRD was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared. In order to demonstrate adequate potable water, a water test would be required demonstrating that the level of contaminants in the water complies with the Oregon Health Authority Drinking Water Program standards considered to be safe for drinking water.

A well not has been drilled on the subject property to determine water quality and quantity on the subject property. Staff notes that the County cannot rely on findings regarding water quality and quantity on other parcels to satisfy criteria for a Comprehensive Plan map or zoning map amendment that require a site-specific evaluation of the water supply on the subject parcel, absent a determination that the conditions on surrounding lands can be relied upon to determine the water quality and quantity on the subject parcel. In order to determine that the subject property has favorable conditions for an adequate supply of water, a finding is needed that water quality and quantity on surrounding lands can clearly demonstrate that it reflects the water quality and quantity on the subject property [*Doob v. Josephine County, 31 Or LUBA 275 (1996)*].

In response to staff analysis addressing this criterion, the applicant's representative submitted information at the Commission hearing to address adequate potable water supply on the subject property (**Exhibit A, pages 155-162**). The additional information included:

- A letter from Nugent Drilling Company stating their experience drilling in the area and indicated they researched local well information, and noted that they drilled several wells in the area with adequate water supply. Nugent Drilling Company
- A map showing five nearby wells, with corresponding flow rates, depths, and static water levels.
- A drinking water report for a well adjacent to the subject property, which detected no nitrate, coliform, or E.coli. The applicant representative testified at the Commission hearing that the levels of arsenic detected could be treated through the installation of a reverse osmosis system.

The application indicates that the property owners have applied for a site evaluation; however, no record has been submitted to confirm whether the site evaluation was completed or approved. The applicant representative indicates the poor soils on the property would limit the number of potential lots and that Cascade Earth Sciences has been hired to evaluate and design septic systems to assist and advise in locating the proper sites for septic systems. Linn County Environmental Health Program (EHP) was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared.

LCC 905.960(E) states:

"Land designated Non-Resource should have access to a county road with sufficient capacity to accommodate additional development."

The application states:

"The subject property fronts on Crawfordsville Drive, an existing, paved, and county maintained road that is identified in the Linn County Transportation Plan. Crawfordsville Drive, like most rural roads in Linn County, does not meet the current new road construction standards in LCC 935 for a public road in regard to travel width and shoulder width. The road is generally in good condition though and was resurfaced in 2016. It does have a weight restriction on the portion of it west of the subject property. The road has very little traffic load, disperses traffic westward and eastward to different connections with Oregon Highway 228."

The property has frontage on Crawfordsville Drive. The Linn County Road Department comments indicate specific development standards and improvements applicable to the proposed future development. The Road Department comments stress the construction of adequately sized roads, taking into consideration soils, storm water collection, retention, and treatment, and slopes. The Road Department comments do not require that the applicant submit a traffic impact analysis as part of the proposed amendments. (**Exhibit E, pages 2-4**). If the proposed amendments are approved, future construction of roads would need to comply with the subdivision road improvements described in LCC Chapter 926 and access standards described in LCC Chapter 935.

LCC 905.960(F) states:

"The Non-Resource Plan designation is implemented with two Non-Resource zoning districts that are distinguished only by minimum property size standards. The NR-5 zone has a 5-acre minimum property size for new units of land and the NR-10 zone has a 10-acre minimum property size for new units of land."

The application states:

"The applicant has requested the NR-5 zoning. However many lots will be larger in order to accommodate terrain, wildlife buffer areas, septic system needs, and road design. The flexibility to have some parcels as small as five acres is needed to ensure full use of the land."

The application is for Non Resource Plan and Zoning Map designations, with a five-acre minimum property size. The application materials indicate that, notwithstanding the five-acre minimum designation, actual lot sizes will be in excess of five acres due to various factors, such as topography, septic system requirements, access roads and driveways. The NR-5 zoning district requires a minimum of 5 acres for new units of land but the units of land may exceed 5 acres in size. The uses allowed outright and conditionally in the NR zone are the same, regardless of the minimum property size.

LCC 905.960(G) states:

"The NR-5 (5-acre minimum for new units of land) district is applied to suitable areas in order to maintain a rural development pattern reasonably compatible with nearby resource and non-resource lands. When applied near agricultural and forest resource areas, the 5-acre size standard will maintain an adequate buffer to minimize potential conflicts."

The application states:

"The use allowed by the applicant's request would be compatible with the existing Rural Residential development pattern to the east and standard setbacks from adjacent property will minimize conflicts. Lots bordering adjacent timberland zoned Timber Conservation Management (TCM) will abide by the standard 200 foot setback for all structures. The development's CC&Rs will limit structural improvements to a smaller footprint within each lot and the standard recorded covenant acknowledging dominance of farm and forest activities in the area will minimize conflicts at this density."

Nearby properties are zoned Rural Residential (RR), Exclusive Farm Use (EFU), Farm/Forest (F/F), and Forest Conservation Management (FCM). The application contains a half-mile

study area of adjacent lands. The applicant statement indicates the study determined that the adjacent RR zoned area has an average parcel size of 6.27 acres, the median EFU zoned parcel is 9.16 acres, and the median for F/F zoned parcels is 11.02 acres. The study indicates that, with the exception of the FCM zoning district, over 90 percent of the properties within the study area are developed with dwellings. The proposed amendment to allow a 5-acre minimum lot size would allow the creation of lots below the median property size applicable to the surrounding zoning districts; however, the applicant has indicated that the properties may be larger than five acres depending on various site factors. In order to apply the NR-5 (5-acre minimum) Zoning Map designation, the Board must determine that the area is suitable for development at the proposed density.

LCC Chapter 934 requires a setback of 200 feet for any structures on properties abutting the FCM zoning district boundary in order to ensure adequate buffers between non-forest uses and commercial forest lands. The site plan submitted as part of the application identifies the 200-foot buffer as it applies to the subject property (**Exhibit A, page 152**)

LCC 905.960(H) states:

"The NR-10 (10-acre minimum for new units of land) district is applied to suitable areas where larger property sizes are necessary to maintain a rural development pattern reasonably compatible with nearby resource and non-resource lands, or where larger property sizes are necessary to meet residential suitability characteristics such as groundwater availability, septic suitability, or access standards. When applied near agricultural and forest resource areas, the 10-acre size standard will maintain an adequate buffer to minimize potential conflicts."

The application states:

"It is not necessary to apply the larger NR-10 zoning designation to this property. The proposed use will not change area-wide land use patterns, groundwater is not limited in the area, appropriate setbacks will be observed and septic installation will be govern[ed] by the Linn County Sanitarian. The limiting factor on lot sizes will be the ability to find approved locations for septic systems, which will result in larger average lot size but having the flexibility to create 5-acre parcels where physically suitable is needed for efficient use of the land."

The application is to adopt the 5 acre minimum property size; however the application states that some of the lots will be larger in size due to various factors such as topography, septic system requirements, roads, and driveways.

The subject property is not located within a restricted groundwater area. The policies in LCC Chapter 905 indicate that both a 5-acre minimum and a 10-acre minimum property size will maintain an adequate buffer to minimize potential conflicts on adjacent agricultural and forest resource areas. The half-mile study area submitted as part of the application indicates that the adjacent RR zoned area has an average parcel size of 6.27 acres, the median EFU zoned parcel is 9.16 acres, and the median for F/F zoned parcels is 11.02 acres. The study indicates that, with the exception of the FCM zoning district, over 90 percent of the properties within the study area are developed with dwellings. If the Board determines that the subject property does not contain characteristics or features suitable for development of home sites at a density below 10 acres, or that the five-acre minimum is not reasonably

compatible with nearby resource and non-resource lands, the Board may apply the NR-10 (10-acre minimum) zoning designation in place of the NR-5 zoning.

Additional factors that may require the 10-acre minimum property size may be the location of the property in the peripheral big game habitat, or the subject property being partially located within a sensitive bird habitat overlay, if it is found that adequate measures are not in place to protect these wildlife habitat resources.

LCC 905.960(I) states:

"New public sewer and water systems may not be established within the NR zone unless the County determines that a health hazard exists pursuant to DEQ or Oregon Health Division procedures and criteria. A new or extended public water or sewer system is appropriate in the rural areas only when needed to protect the public's health and safety."

The application states:

"No public sewer or water systems are necessary. The applicant has proposed to serve new residential uses with individual septic systems and private wells."

LCC Chapter 904 stresses that in the area outside the urban growth boundaries of incorporated cities, it is important to establish the levels of service appropriate to rural lands. At rural densities, it is necessary for individual households to furnish their own water supply and sewage disposal. Additionally, Statewide Planning Goal 11 prohibits the establishment of public sewer and water systems outside urban growth boundaries unless it is determined that a health hazard exists. The applicant is not proposing to establish a public sewer or water system; therefore, the proposed amendments are consistent with this policy.

LCC 905.960(J) states:

"A comprehensive plan and zoning map amendment must be approved before property designated Agricultural Resource or Farm/Forest can be amended to a Non-Resource Plan map designation. In addition to the LCC plan amendment criteria, the following criteria (Statewide Planning Goal and Administrative Rule resource land definition) must be met:"

LCC 905.960(J)(1): The land is not predominantly SCS Class I, II, III and IV soils.

The applicant statement addressing LCC 905.960(J)(1) is contained in **Exhibit A, page 20**.

The following policies require the applicant to address why the property does not meet the definition of agricultural land as described in OAR Chapter 660, Division 33. Information in the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), publication Soil Survey of Linn County Area, Oregon, July, 1987, indicates the property contains soil identified as:

Soil Type	HVFL type	SCS type	% of parcel	# of acres	Cu ft/ ac/yr
Hazelair Silty Clay Loam 2-7% Slopes (43B)	Non	IIIe	4.73%	5.14	231.3
Ritner Cobbly Silty Clay Loam 2-30% Slopes (84E)	Non	VIe	19.83%	21.53	2777.37
Dixonville Silty Clay Loam 12-30% Slopes (34E)	Non	IVe	34.28%	37.22	4280.3
Philomath Cobbly Silty Clay 12-45% Slopes (79F)	Non	VIe	33.76%	36.66	1649.7
Ritner Cobbly Silty Clay Loam 30-60% Slopes (84G)	Non	VIIIe	7.40%	8.04	1037.16
TOTAL			100%	108.59	9975.83

Staff review of the soil assessment submitted as part of the application confirms that assessment determined the property is predominately (60.99%) comprised of Class VI or worse soils and is not predominantly SCS Class I, II, III and IV soils.

LCC 905.960(J)(2): The land is not intermingled with or adjacent to SCS Class I-IV land within the same farm unit.

The application states:

"The subject property is not part of a farm unit and there is no active farming on any side of the parcel."

Linn County Assessor's Office data indicates that the applicant owns the subject property and an adjacent 9.96 acre parcel that contains a dwelling. Current and historical Linn County GIS aerial imagery demonstrates that neither property has been employed for farm use. Linn County Assessor's Office data also indicates that both properties are not in special farm assessment. Adjacent resource properties are utilized for commercial forest production. The application states that the current use of the property is recreation and forestry. It also states there are a number of recreational trails/dirt roads within the property and some old boundary fences in a few places, but contains no other improvements.

LCC 905.960(J)(3): The land is not suitable for farm use taking into consideration; (a) Soil fertility; (b) Suitability for grazing; (c) Climatic conditions; (d) Existing and future availability of water for farm irrigation purposes; (e) Existing land use patterns; (f) Technological and energy inputs required; or (g) Accepted farming practices.

The applicant statement addresses each of these individually. Each analysis is contained below:

LCC 905.960(J)(3)(a): The applicant representative states, "...the soils were found to have high seasonal water tables. Both the high water table and shallow bedrock severely limit rooting depth of vegetation, dry season moisture holding capacity, and available soil fertility. The high percentage of cobble in the soil compounds these physical limitations. Productive growing seasons are extremely short, after water tables drop but before moisture is lost. As a result native grasses begin growing late in spring and "brown out" early in summer. The few pockets of slightly deeper and better-drained soils exist but tend to be on steeper slopes in units too small and dispersed to employ for farm use. Given these physical limitations the soil fertility is very low."

The subject property contains predominately Ritner and Philomath series soils. USDA NRSC soil class information indicates that soil classes are located on the low hills and side slopes of foothills. Both soil classifications appear to have low permeability. A soils analysis submitted as part of the application summarized that the soils on the subject property are gravelly, cobbly, stony, and shallow. The soils analysis supports the applicant statement indicating that growing seasons would be short, notably due to the rocky nature of the soils and the low permeability.

LCC 905.960(J)(3)(b): The applicant representative states, *"The property is not managed for domestic livestock grazing, is unfenced except for a few boundary areas and there's no evidence of subject property or adjacent properties being used for stock grazing in many years, and perhaps ever. Vegetation for grazing purposes primarily consists of native perennial grasses with a short growing season that would not withstand defoliation over time. Grazing uses, to be practical and economic, must be based on improved species such as perennial ryegrass, tall fescue, orchard grass and various clovers. It is not practical, economical or sustainable on these shallow and rocky soils to attempt renovation. Furthermore, the volume of cobble and limited depth to bedrock would make fencing and cross fencing impractical."*

The applicant statement indicates that the high water table and shallow bedrock severely limit rooting depth of vegetation, dry season moisture holding capacity, and available soil fertility and that the high percentage of cobble in the soil compounds these physical limitations. Low soil fertility would hinder the ability to produce enough vegetation to meet the animal unit month standard for determining the grazing of livestock.

"Animal Unit" or "AU" is one mature cow of approximately 1,000 pounds and a calf up to weaning, usually 6 months of age, or their equivalent. For example: one yearling is 0.7 of an animal unit; one bull is 1.35 of an animal unit; one dry cow is 0.92 of an animal unit; one horse is 1.25 of an animal unit, or one sheep is 0.20 of an animal unit.

"Animal Unit Month" or "AUM" is the amount of forage (approximately 800 pounds of air-dried material) necessary to feed one animal unit for one month.

LCC 905.960(J)(3)(c): The applicant representative states, *"As noted prior, there's a prevalence of high seasonal water table, poor summer moisture holding capacity, and short effective growing season. Dry summer growing conditions are compounded by the south-facing aspect of the property that expose it to long hours of summer sunlight and winds. As the climate warms these conditions become even more restrictive."*

Both soil class series are found in areas with warm, wet winters and hot, dry summers, with mean precipitation between 45-50 inches and mean temperature around 53 degrees.

LCC 905.960(J)(3)(d): The applicant representative states, *"There are no water rights on the property or adjacent ones for farm use. In an inquiry with the regional Oregon Department of Water Resources Water Master we were informed within the Calapooia drainage late summer water rights are restricted to preserve flows in the Calapooia River. There's no reason to believe water for farm irrigation will be available in the future. Even if it were, the shallow, unproductive, sloped soils on the property would not provide economical returns from the application of irrigation."*

Based on the water irrigation rights map submitted as part of the application, none of the properties north of the Calapooia River appear have irrigation rights within the study area. The irrigation rights within the study area appear to be on less than 10 properties south of and immediately adjacent to the Calapooia River. The soils on the subject property have low permeability, which would hinder the ability to effectively irrigate the property.

LCC 905.960(J)(3)(e): The applicant representative states, *"The local land use pattern doesn't itself make the property unsuitable, rather the physical limitations of the soil do. The local land use pattern in general shows upslope properties with deeper soils are in forest production on larger parcels. Downslope, gentler sloping lands along the Calapooia River are employed in low-intensity farm use, primary haying or grazing. Sandwiched between the two uses in the foothill fringe, which the subject property is in, soils tend to be thin and generally unproductive for commercial forests but too rocky and sloped for farm use. In this strip smaller residential parcels are common, though these uses don't restrict farming."*

The application included a study area within a half-mile of the subject property. The study area properties zoned Rural Residential (RR), Exclusive Farm Use (EFU), Farm/Forest (F/F), and Forest Conservation Management (FCM). Surrounding land uses appear to be commercial timber production on the FCM zoned properties, larger acreage residential lots on the RR zoned properties, and smaller acreage EFU and F/F zoned properties. The study indicates that, with the exception of the FCM zoning district, over 90 percent of the properties within the study area are developed with dwellings. Staff review of the study area determined that the surrounding land use pattern is primarily acreage homesites with some limited or small-scale agricultural uses.

LCC 905.960(J)(3)(f): The applicant representative states, *"The use of technology such as subsurface drainage or application of energy in the form of fertilizer would not be economical on the subject property given the shallow soils, rock cobble, minimal nutrient storage capacity, and overall low farm productivity. Cobble on the surface and varied slopes make plowing, haying or general use of farm equipment impractical. The erection of farm animal shelters and green houses would be cost prohibitive due to varied terrain."*

The applicant statement asserts that in order to make the subject property suitable for farm use, extensive inputs would be required and that the topography and soils on the subject property may restrict the ability to establish those technological or energy inputs required to render the subject property viable as farm land.

LCC 905.960(J)(3)(g): The applicant representative states, *"There's really no locally accepted farm practices that apply to the site. The site could have some minimal value for very low intensity grazing in specific seasons of the year if used in conjunction with large tracts similar to free range practices in Eastern Oregon, however, the local area lacks large tracts of land in which to rotate grazing."*

LCC 920.100(B)(2) defines "accepted farm practice" as *"a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money and customarily utilized in conjunction with farm use."* Adjacent properties contain large commercial timber operations, which would limit the ability to provide for large tract grazing, as noted by the applicant statement. Additionally, as discussed previously, low soil fertility can hinder the ability to produce enough vegetation to meet the animal unit month standard for determining the grazing of livestock. The application also indicates that the property does not have any irrigation rights. Even if the property had

irrigation rights, the low permeability of the soil classes on the subject property would potentially cause irrigation to be ineffective for the production of farm crops.

LCC 905.960(J)(4) states:

The land is not necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

The application states:

"There is no indication the amendment would have any effect on existing uses or that the property is needed to support nearby farm uses. There are no adjacent farms, the property is undesirable for expansion of existing farms, and the farm activities in the area are generally of a low intensity type.

There are no adjacent commercial farm activities and the property does not block access to any farms in the area. Its inherent physical limitations prevent its use in conjunction with other farmland in the area. The farms employed in the area include low intensity practices, mostly haying or grazing, which generally don't include irrigation, intensive spraying, field burning or other activities that would conflict with the proposed use of the subject property."

Adjacent properties contain large tract commercial timber operations. Current and historical Linn County aerial imagery indicates the subject property is not adjacent to any farm operations. Staff review of the study area submitted as part of the application determined that the surrounding land use pattern is primarily acreage homesites with some limited or small-scale agricultural uses, with the small scale agricultural uses located south of the subject property and on the other side of the Calapooia River.

LCC 905.960(J)(5) states:

The land is not suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices on commercial forest lands or other forested lands that maintain soil, air, water and fish and wildlife resources.

The applicant statement addressing LCC 905.960(J)(5) is contained in **Exhibit A, pages 22-25**.

This policy requires the applicant to address why the property does not meet the definition of forest land as described in OAR Chapter 660, Division 6. The application includes a report from McKenzie River Associates, LLC, prepared by biometrician Jim Mehrwein. The report includes a survey completed by Applicant, who is identified as a retired Oregon Department of Forestry Stewardship Forester (**Exhibit A, pages 31-55**). The report and the survey by the property owner both concluded that the subject property contains soil limitations preventing it from functioning as commercial forestland. The prepared report reviewed the site productivity of the subject property as specified in the Oregon Department of Forestry (ODF) Land Use Planning Notes Number 3 – April 2010.

OAR 660-006-0005(2) establishes a hierarchy of preferences for site productivity data. Both the planning document prepared by the ODF and OAR establish that the UDSA NRCS soils data is the preferred source of soils productivity data. When the NRCS data is shown to be

inaccurate, then other sources of data can be used to determine site productivity. A soil survey prepared by Andy Gallagher, CPSSC/SC of Red Hill Soils, submitted as part of the application, determined that the USDA NRCS soils data was inaccurate, specifically that the property contained more Class VI soils than was identified on the USDA NRCS soils data. The site forestry analysis report submitted determined that the subject property lacked an adequate number of site trees and contained a large amount of non-stockable areas. Because the USDA NRCS data was determined to be inaccurate and there were not an adequate number of site trees present to measure for productivity, the applicant hired a soils professional to conduct a site-specific soils survey (**Exhibit A, pages 56-85**). The soils survey concluded that the subject property falls within Forest Productivity Class 6, which produces between 20-49 cubic feet per acre per year. ODF regulations indicate that Forest Productivity Class 6 is the lowest rating of forestland.

The report includes a survey completed by the applicant that summarizes Applicant's past efforts to establish a commercial forest operation on the subject property. Attempted reforestation conducted by the applicant included:

- Repeated re-planting of difficult portions
- Hand fertilizing
- Aerial fertilizing
- Ripping and trenching to improve drainage
- Brush and grass management
- Cultivation of pine seedlings from on-site, native trees for planting in difficult soils
- Manual thinning
- Multiple species were tested on site, including larch, Leyland cypress, incense cedar, Willamette Valley pine, and Douglas fir.

The report determined that efforts to convert the site to a commercial tree farm have largely been unsuccessful in the 36 years the applicant has owned the property, even when managed by an experienced forester. The report concluded that due to physical site limitations, the majority of planted Douglas-fir has died or currently is dying before reaching commercial size. Testimony received at the Commission hearing from a surrounding property owner also indicated that the Douglas-fir on the property is dying off. The report concluded that the subject property is not suitable for commercial forest use due to exceptionally low soil productivity, extreme difficulty of artificial reforestation, susceptibility to permanent soil damage from forestry equipment, and the tendency of the subject to grow undesirable species or trees of poor form. The report also concluded that most of the subject property lacks the physical qualities needed for sustainable logging and reforestation and that low site and the soil conditions make reforestation extremely expensive and commercially impracticable over much of the ground.

In order to address this policy, Applicant is also required to determine that the subject property is not forest land because it is not necessary to permit forest operations or practices on commercial forest lands or that the property is other forested lands that maintain soil, air, water and fish and wildlife resources.

Addressing why the subject property is not necessary to permit forest operations or practices on other commercial forest land, the application states: *"The site does not contribute to the local timber industry because of its low productivity and other site-specific limitations. Most of the site has potential limited to low density pine production for which there is little demand in the local forest industry. In reality, the mortality seen on the site*

creates an elevated threat of forest fire that endangers better local timber stands. Converting the site to a low density oak savanna with better road access would benefit the forest industry as well as other nearby landowners. Any potential conflicts with local forest uses could be mitigated by standard structure setbacks from property lines and recording to the property a standard declaratory document acknowledging and accepting forest uses."

Adjacent properties are owned by Timber Services Company and managed as commercial forest operations. Timber Services Company was sent notice of the proposed Plan and Zoning map amendments and has not submitted comments as of the date this staff report was prepared. The applicant's representative indicated at the Commission hearing that they had been in contact with Cascade Timber Services and discussed established a trail adjacent to Timber Services property to act as a fuel break. No testimony or evidence has been submitted to indicate the subject property has ever been used in conjunction with any forest operations or practices on nearby commercial forest lands. The *Plan* policies include a statement that the NR zones both maintain an adequate buffer to minimize potential conflicts when applied to properties adjacent to forest resource areas. The applicant statement indicates that the establishment of a NR zone on the property with low-density residential development would reduce the risk of forest fires that would be detrimental to nearby commercial forest operations in the area due to the establishment of maintained oak savanna and the implementation of CC&R's.

Addressing why the subject property is not other forested lands that maintain soil, air, water and fish and wildlife resources, the application states: *"There is no evidence of any adversely impacted soil, air, water, fish or wildlife natural resources.*

The subject property is not "other forested lands that maintain soil, air, water and fish and wildlife resources." Any minimal values that may exist for maintaining soil, air, water and wildlife resources are likely to improve on the property given the low residential density proposed along with development of oak savanna rather than commercial forest.

The nearest fish-bearing waters are the Calapooia River south of the property. Seasonal runoff follows a defined channel in a southwest direction through the adjacent property to the west before emptying into the river through a culvert under the county road. The culvert outlet is tens of feet above the river such that fish passage does not occur. There are no resident fish in the drainage channels on the subject property as they completely dry up each year."

The applicant statement indicates that the proposed development associated with the NR zoning district will not cause significant soil erosion and other negative impacts to fish and air quality. The applicant statement also indicates that since the site is unproductive for timber growth, it is not a significant contributor to air quality. The property is located within a peripheral big game habitat area. The application addresses this further in LCC 921.871(A)(4). Both the forestry report and the soil survey submitted as part of the application stated that the soil quality on the subject property is not capable of producing adequate timber growth.

LCC 905.960(K) states:

An exception to Statewide Planning Goals 3 and 4 is not required to support a plan map amendment to a Non-Resource Plan designation when detailed and factual evidence shows that the lands are not farm or forest lands as defined in the Goals.

The application states:

"The application contains detailed and factual evidence to show the subject property is not farm (agricultural) land, as defined in Goal 3; or forestland as defined in Goal 4. An exception to Statewide Planning Goals 3 and 4 is not required to support the proposed Plan map amendment to a Non-Resource Plan designation."

To approve the proposed Plan and Zoning map amendments, the Board must consider the analysis and testimony in this section and contained in the application and determine whether there is detailed and factual evidence to demonstrate the property is not agricultural land, as defined in Goal 3, and is not forestland, as defined in Goal 4. If the Board determines that the subject property is not agricultural land or forest land, an exception to Statewide Planning Goals 3 and 4 is not required to support a Plan map amendment to a Non-Resource Plan designation.

LCC 905.960(L) states:

Notwithstanding the provisions of LCC 905.120(G) and LCC 905.330(G), conversion of lands designated as Agricultural Resource or Farm/Forest in the Comprehensive Plan to a Non-Resource Plan designation does not require an exception to Statewide Planning Goal 3 or Goal 4.

The application states:

"No exception is requested or required here because it is demonstrated Statewide Planning Goals 3 and 4 do not apply to the subject, because the subject is not forest or agriculture land as defined in statute and rule."

LCC 905.120(G) and LCC 905.330(G) are the applicable sections of the Agricultural Lands Plan policies and the Forest Resource land policies that require an exception to Statewide Planning Goals 3 and 4 for Comprehensive Plan map amendments. If it is determined that the subject property is not agricultural land, as defined in Goal 3 or is not forestland as defined in Goal 4, then an exception to Goals 3 and 4 is not required.

LCC 905.960(M) states:

Applying the Non-Resource designation on isolated tracts surrounded by farm or forest lands shall be discouraged if it is shown that a non-resource designation would adversely affect existing farm or forest uses.

The application states:

"The subject property is not an isolated tract. [The study area submitted as part of the application] show the area within a half mile is fairly parceled. The adjacent Rural Residential zoned area has an average parcel size of 6.27 with all but one having a

dwelling. The median EFU zoned parcel is 9.16 acres with all but one having a dwelling. The median Farm/Forest zoned parcel, excluding the subject parcel, is less than 10 acres and all of them have dwellings. Only the forest parcels in upland areas to the north meet minimum parcel sizes for resource zoning."

Previous analysis found in LCC 905.960(G)(H) and (J) above discuss potential impacts to adjacent resource and non-resource uses. Additionally, LCC 921.874(A)(2) below addresses compatibility with adjacent uses how the proposed amendment will not adversely impact the overall land use pattern in the area.

LCC 905.960(N) states:

Only lands designated Agricultural Resource, Farm/Forest, Agricultural Resource-Rural Residential Reserve or Farm/Forest-Rural Residential Reserve are eligible for a map amendment to Non-Resource.

The application states:

"The subject property is designated Farm/Forest, and so is eligible for the requested Plan map amendment to a Non-Resource Plan designation."

The Linn County Comprehensive Plan map indicates the subject property has a *Plan* designation of Farm/Forest. The proposed application is consistent with this *Plan* policy.

LCC 921.874(A)(2): The amendment will be compatible with adjacent uses and will not adversely impact the overall land use pattern in the area.

APPLICANT STATEMENT: *"Findings relating to compatibility with adjacent uses have been made in response to LCC 905.960(A) and LCC 905.960(M) and are incorporated here by reference. The applicant's information indicates he analyzed properties within a one-half mile radius of the subject property. The average parcel size and number of dwellings on those parcels are consistent with the proposed parcel sizes and will not adversely impact the overall land use pattern."*

STAFF ANALYSIS: The application includes a study of land use within one half-mile of the subject property. The study area properties are zoned Rural Residential (RR), Exclusive Farm Use (EFU), Farm/Forest (F/F), and Forest Conservation Management (FCM). Surrounding land uses appear to be commercial timber production on the FCM zoned properties, larger acreage residential lots on the RR zoned properties, and smaller acreage EFU and F/F zoned properties. The applicant statement indicates the study determined that the adjacent RR zoned area has an average parcel size of 6.27 acres, the median EFU zoned parcel is 9.16 acres, and the median for F/F zoned parcels is 11.02 acres. The study indicates that, with the exception of the FCM zoning district, over 90 percent of the properties within the study area are developed with dwellings. Staff review of the study area determined that the surrounding land use pattern is primarily acreage home sites with some limited or small-scale agricultural uses.

LCC 929.920 provides that the NR zoning districts allow for a dwelling on a unit of land, as well as farm use and the cultivation, management, protection or harvest of forest crops, but excluding timber processing operations or maintenance and repair facilities for timber vehicles or equipment. Uses allowed outright in the NR zoning district appear to be similar to

the surrounding land use pattern. New lots of between five and 10 acres fall within the median property size of the study area for each of the zoning districts, with the exception of FCM zoned property.

LCC 921.874(A)(3): The amendment, if within an adopted urban growth boundary, is in substantial conformity with the *Comprehensive Plan* and implementing ordinances of an affected city.

APPLICANT STATEMENT: *This property is outside any urban growth boundary.*

STAFF ANALYSIS: The subject property is not located within an adopted urban growth boundary. This criterion is not applicable.

LCC 921.874(A)(4): The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat.

APPLICANT STATEMENT: *Within Linn County, big-game habitat areas are broken into three categories: "non-sensitive," "peripheral," and "sensitive." According to the Oregon Department of Fish and Wildlife (ODFW), the subject property is within the Peripheral, a common and widespread designation in this part of the county. The applicant has worked with ODFW to create a plan for use that's compatible with and would enhance wildlife. The property is not within sensitive fish habitat. There are no fish bearing streams on or adjacent to the property. The seasonal drainage on the property runs to a culvert under Crawfordsville Drive that empties into the river at an elevation tens of feet above the river, blocking fish passage, and the drainage dries up completely every summer.*

The amendment will not have a significant adverse impact on sensitive fish or wildlife habitat.

STAFF ANALYSIS: The subject property is located within the peripheral big game habitat area (**Exhibit C**). The subject property also contains a mapped Sensitive Bird Habitat Overlay, which protects the band-tailed pigeon mineral spring (**Exhibit D, pages 1-4**).

The application includes a big game management plan, which the applicant indicates was reviewed by the Oregon Department of Fish and Wildlife (**Exhibit A, pages 139-140**). The applicant indicates the plan would make the proposed Plan and zoning designation and the uses associated compatible with the wildlife habitat in the area.

The plan indicates the intended management of the property is for the land to be subdivided into five to ten acre lots with a single dwelling permitted on each lot. The existing timber on the property would be thinned heavily to accentuate fewer, widely spaced and dominant Oregon White Oak, Ponderosa Pine, incense cedar, fruit trees and dead snags. The intent of the plan is to reduce fire risk, increase light to the ground to increase browse and graze volume, as well as increase acorn production, consistent with the oak savanna that historically dominated the property. The plan indicates that heavy vegetated strips would remain along drainages to minimize erosion, shade surface water and provide cover for big game travel.

The management plan proposes design factors such as minimizing road distances, retaining vegetated travel corridors, creating combined portions of parcels forming open areas for wildlife grazing, develop watering holes for game, provide a trail system within the

community that allows bird and wildlife watching as well we a common observation area that reinforces conservation values, and preserve intact unique areas of rock outcroppings, the pond, and riparian brush that shades season drainage and larger snags for wildlife.

The management plan also proposes using CC&R's to further maintain compatibility with the wildlife habitat in the area. These restrictions include prohibiting hunting of big game or shooting of firearms, prohibiting high fences or woven fences that impede big game, minimize the size of non-native landscaping and prohibiting invasive species within the development, retain large property line setbacks, restricting nigh time illumination to allow for nocturnal feeding, prohibiting farm animals that compete for resources, and clustering improvements within a small portion of each property.

Linn County Code Section 903.510 presents Plan policies for wildlife areas and habitat. LCC 903.510(B)(8) states that the County shall require clustering provisions for new dwellings located in the major and peripheral habitat. The *Plan* indicates that application of clustering techniques will preserve habitat and provide for uniform density standards in the peripheral habitat area. LCC 903.510(B)(10) discusses what clustering techniques should be used. These include:

- Locating dwellings and structures near each other and existing roads.
- Locating dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas.
- Minimize road development to that necessary to support the residential use.

The proposed clustering of development described within the game management plan would be consistent with the requirements of the *Plan*.

Approximately 37 acres of the subject property is located within a mapped Sensitive Bird Habitat Overlay, which protects a band-tailed pigeon mineral spring located on an adjacent property. The overlay was adopted as part of the process to acknowledge the County's Comprehensive Plan. Linn County Code requires the inclusion of land within 600 feet of a Band-tailed Pigeon mineral spring to also be protected.

LCC 931.500-931.550 contains the criteria applicable to the review of a development permit for property located within a mapped Sensitive Bird Habitat Overlay. Because a Comprehensive Plan map amendment and a zoning map amendment are not considered a development permit as defined in LCC 920.100(B)(87), the criteria in those sections would not apply as part of this review. If the amendments are approved, future development permits, such as a subdivision review, would be required to demonstrate compliance with the provisions of LCC 931.500-931.550. Staff notes that LCC Chapter 934 does not contain any additional development standards for properties located within the Sensitive Bird Habitat Overlay, other than standard setback requirements, including mandatory setbacks from mapped riparian habitats.

The initial application did not address the Sensitive Bird Habitat Overlay; however, Applicant's representative provided additional information to regarding protection of habitat resources within the overlay (**Exhibit A, pages 142-148 and 153-154**). The applicant representative noted:

"The proposal for the rezoned property includes provisions for the protection of the band-tailed pigeon from the outset. Historically, the adjacent spring property was used for fee

hunting. This continued until I [applicant representative] purchased the property and halted the hunting. The property was sold to the current owner with agreement it would be preserved for wildlife without any hunting. We observed during ownership the birds were unaffected by equipment operation or noise but very sensitive to on foot traffic in the near vicinity of the spring, and the sound of gunshots. Our zoning proposal includes a no hunting, no shooting restriction, which in conjunction with conservation on the property with the spring will allow the birds uninterrupted access. Through our proposed CC&Rs we also prohibit free roaming of house pets that might add to predation, prohibit excessive nighttime lighting, and clustering of improvements within each parcel to leave substantial open space."

Testimony given by surrounding property owners in opposition to the proposed amendment expressed concern about the impacts to the pigeon spring as a result of site development. The Oregon Department of Fish and Wildlife (ODFW) was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared.

The subject property contains inventoried wetlands, which includes a seasonal drainage, a pond, and an intermittent stream. Testimony given by surrounding property owners in opposition to the proposed amendment expressed concern about runoff off the property into the Calapooia River, which is a sensitive fish habitat. Oregon Department of State Lands (DSL) was notified of the proposed amendments and submitted comments (**Exhibit E, pages 5-6**). The DSL did not raise any objections to the proposed amendments. DSL comments indicate that the proposed road may impact jurisdictional wetlands or waterways along the watercourse on the property. DSL noted that an on-site inspection by a qualified wetland consultant is recommended prior to site development to determine whether development will impact wetlands or other waters that may be regulated. DSL also indicated that a joint permit from the US Army Corp of Engineers and DSL may be required and that a state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water mark of waterways or within waters of the state.

LCC 921.874(A)(5): The amendment will not have a significant adverse impact upon the provision of public facilities including police and fire protection, sanitary facilities and storm drainage facilities.

APPLICANT STATEMENT: *The property is located within the Sweet Home Fire Protection District and Linn County Sheriff protection area. The property has access to a county road for fire and police protection services. All the homes will be built in accordance with all applicable codes, including the Oregon Fire Code, there would be no adverse impacts. The CC&Rs that will govern use of the property will include provisions for maintaining fire breaks around all structures. New roads will provide improved access for fire and emergency vehicles. Conversion of the land from overstocked and failed forestland with a significant number of dead trees to a more open oak savanna accentuating widely spaced larger and more fire resistant trees will make the land more defensible against fire. As stated prior the property will pay a disproportionately high level of property taxes while consuming minimal public services.*

Should the applicant go forward with any development if this proposal is approved, additional site evaluations will need to be completed and approved prior to the division of the property. No divisions of the property for residential development can be authorized

without an approval for an on-site sewage disposal system. No public sanitary facilities will be impacted.

As the property is developed for residential use, each parcel created will need to be evaluated for storm drainage needs, and no additional runoff will be allowed to negatively impact properties located down-slope. In summary, there's no indication the amendment would have any adverse impact on public facilities so long as typical construction standards are observed and inspections are completed by Linn County in the process of partition approval and development.

STAFF ANALYSIS: The subject property is located within the Sweet Home Rural Fire Protection District and receives police protection from the Linn County Sheriff's Department.

If the proposed amendments are approved, future development of the property into a subdivision requires that the road be improved, including establishing surface drainage facilities both within and outside of right-of-way limits and storm drains installed in roads by the subdivider prior to the surfacing of the roads. LCC Chapter 926 states that road improvements shall not have final approval until such time as the Roadmaster is satisfied that the required road improvements are completed in accordance with the specifications and standards set forth in LCC Chapter 926 and any further specifications deemed appropriate by the Roadmaster, which would include provisions to properly deal with stormwater drainage.

LCC Chapter 904 notes that in the area outside the urban growth boundaries of incorporated cities, it is important to establish the levels of service appropriate to rural lands. At rural densities, it is necessary for individual households to furnish their own sewage disposal. Statewide Planning Goal 11 prohibits the establishment of public sewer systems outside urban growth boundaries unless it is determined that a health hazard exists. The applicant is not proposing to establish a public sewer or water system as part of the application and the application does not indicate that a health hazard exists in the area.

The application indicates that the property owners have applied for a site evaluation; however, no record has been submitted as part of the application to confirm whether the site evaluation was completed or approved. The applicant representative indicates the poor soils on the property would limit the number of potential lots and that Cascade Earth Sciences has been hired to evaluate and design septic systems and to assist and advise in locating the proper sites for septic systems. Linn County Environmental Health Program was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared.

LCC 921.874(A)(6): **The amendment will not have a significant adverse impact upon the transportation facilities.**

APPLICANT STATEMENT: *Comments relating to LCC 905.960(E) are incorporated here by reference. Crawfordville Drive has been resurfaced in recent years and is in good condition with sufficient extra capacity to accommodate the new traffic load. It connects to Highway 228 at two points, northeast of the subject and southwest, dispersing traffic load.*

STAFF ANALYSIS: The applicant statement references LCC 905.960(E), which requires that land designated Non-Resource must have access to a county road with sufficient capacity to accommodate additional development.

The subject property has frontage on Crawfordsville Drive, a county maintained right-of-way. The Linn County Road Department comments indicate specific development standards and improvements applicable to the proposed future development. The Road Department comments stress the construction of adequately sized roads, taking into consideration soils, storm water collection, retention, and treatment, and slopes. The Road Department comments do not require that the applicant submit a traffic impact analysis as part of the proposed amendments. (**Exhibit E, pages 2-4**). If the proposed amendments are approved, future construction of roads would need to comply with the subdivision road improvements described in LCC Chapter 926 and access standards described in LCC Chapter 935.

LCC 921.874(A)(7): The presence of any development limitations including geologic hazards, flood hazards or water quality or quantity will not have a significant adverse effect on land uses permitted through the amendment.

APPLICANT STATEMENT: *Comments in regards to geologic hazards and flood hazards were made in response to LCC 905.960(B) and are incorporated here by reference. Finding relating to water quality and quantity were made in response to LCC 905.960(D) and are incorporated here by reference.*

There are no mapped elevated geologic hazards or floodplain on the subject property. Groundwater is underutilized in the area, especially the upslope recharge area. Water quality in the area is good due to the low density of septic and lack of upslope farming.

There are no development limitations including geologic hazards, flood hazards or water quality or quantity that would have a significant adverse affect on land uses permitted through the amendment.

STAFF ANALYSIS: The subject property is not located within a mapped designated flood hazard area. The property is not identified as being within an identified area subject to mass movement topography, as inventoried in the Environmental Geology of Western Linn County, Oregon (DOGAMI, 1974).

The application includes well logs for three properties adjacent to the subject property and a well report query and summary showing well logs on file with Oregon Water Resources Department (WRD) within the same township/range/section (**Exhibit A, pages 88-92**). The applicant statement indicates that the average depth where water was found is less than 100 feet, and static levels are high at an average of 33 feet. The application also indicates the average well depth is 145 feet producing 18.45 gallons per minute (GPM) and that a consultant drilled on the adjacent property owned by the applicants in 2016 and received 23 GPM with a 125 foot deep well. The statement also indicates there is some arsenic known to be in the area but at treatable levels. The applicant representative also noted that there are generally good conditions locally for potable water. Based on the applicant statement, adjacent wells appear to meet the Oregon WRD acceptable flow standard of 5 GPM. In order to demonstrate adequate potable water, a water test would be required demonstrating that the level of contaminants in the water complies with the Oregon Health Authority Drinking Water Program standards considered to be safe for drinking water.

Oregon WRD was notified of the proposed amendments and did not submit comments as of the date this staff report was prepared.

No information has been submitted as part of the application indicating that a well has been drilled on the subject property to determine water quality and quantity specifically for the subject property. Staff notes that the County cannot rely on findings regarding water quality and quantity on other parcels to satisfy criteria for a Comprehensive Plan map or zoning map amendment that require a site-specific evaluation of the water supply on the subject parcel, absent a determination that the conditions on surrounding lands can be relied upon to determine the water quality and quantity on the subject parcel. In order to determine that the subject property has favorable conditions for an adequate supply of water, a finding is needed that water quality and quantity on surrounding lands can clearly demonstrate that it reflects the water quality and quantity on the subject property [Doob v. Josephine County, 31 Or LUBA 275 (1996)].

In response to staff analysis addressing this criterion, the applicant's representative submitted information at the Commission hearing to more adequately address adequate potable water supply on the subject property (**Exhibit A, pages 155-162**). The additional information included:

- A letter from Nugent Drilling Company stating their experience drilling in the area and indicated they researched local well information, and noted that they drilled several wells in the area with adequate water supply. Nugent Drilling Company
- A map showing five nearby wells, with corresponding flow rates, depths, and static water levels.
- A drinking water report for a well adjacent to the subject property, which detected no nitrate, coliform, or E.coli. The applicant representative testified at the Commission hearing that the levels of arsenic detected could be treated through the installation of a reverse osmosis system.

LCC 921.874(A)(8): An exception to the statewide planning goals is not required. If required, then findings have been prepared to meet the exception criteria.

APPLICANT STATEMENT: *This criterion is addressed by the specific language of Linn County Title 9, Community Development, Section XII, Non-Resource Lands, LCC 905.960, titled Policies for Non-Resource Lands, subsection (K). The Linn County Comprehensive Plan expressly identifies reasons why exceptions to statewide planning Goals 3 or 4 are not required to rezone land that qualifies under the Plan as Non-Resource land. DLCD participated in the County's legislative process to adopt Non-Resource land provisions in the Plan and the Land Development Code.*

The property is not agricultural land and is not forest land as defined in Statewide Planning Goal 3, Goal 4, and LCC 905.960, and an exception to those goals is not required to adopt the Non-Resource Plan designation and the proposed NR-5 zoning designation. Exceptions to Statewide Planning Goals are not required.

STAFF ANALYSIS: LCC 905.960(K) states that an exception to Statewide Planning Goals 3 and 4 is not required to support a *Plan* map amendment to a Non-Resource *Plan* designation when detailed and factual evidence shows that the lands are not farm or forest lands as defined in the Statewide Planning Goals. The analysis in LCC 921.874(A)(1) discusses the policies in LCC 905.960, which contain the criteria to determine if the subject property is not agricultural land or forest land, as defined in the Statewide Planning Goals and Oregon Administrative Rule. If the Board determines that the subject property is not agricultural land

or forest land, as defined in the Statewide Planning Goals and Oregon Administrative Rule, an exception to Statewide Planning Goals 3 and 4 is not required. The applicant also discusses the statewide planning goals in LCC 921.874(A)(9), which is addressed below and incorporated herein by reference.

If the Board determines the application is consistent with all the statewide planning goals, no exception is required. If the Board determines that the application does not comply with one or more of the statewide planning goals, then an exception is needed for that goal(s).

LCC 921.874(A)(9): The amendment is consistent with the statewide planning goals.

APPLICANT STATEMENT: The applicant statement addressing this criterion is contained in **Exhibit A, pages 28-30.**

STAFF ANALYSIS: Each statewide planning goal is listed below and includes staff analysis of goals and the applicant statement:

Goal 1 – Citizen Involvement – Goal 1 requires the County to provide for public involvement in the land use process. Notice was sent to surrounding property owners and public hearings will be held in accordance with the requirements in State law and Linn County Code. The application is consistent with this goal.

Goal 2 – Land Use Planning - Goal 2 requires the County to have and follow a comprehensive land use plan and implementing regulations. Linn County has an acknowledged *Plan* and Land Development Code that allows for the applicant to apply for the proposed *Plan* and zoning map amendment. The application is consistent with this goal.

Goal 3 – Agricultural Lands – Goal 3 requires the County to identify and protect agricultural land. Non-Resource land is not considered agricultural land as described in Goal 3. The analysis in LCC 921.874(A)(1) discusses the policies in LCC 905.960, which contain the criteria to determine if the subject property is not agricultural land, as defined in the Statewide Planning Goals

Goal 4 – Forest Lands - Goal 4 requires the County to identify and protect forest lands. Non-Resource land is not considered forest land as described in Goal 4. The analysis in LCC 921.874(A)(1) discusses the policies in LCC 905.960, which contain the criteria to determine if the subject property is not forest land, as defined in the Statewide Planning Goals.

Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resource – The subject property does not contain any inventoried open spaces, scenic or historic areas. The subject property contains several inventoried natural resources, including peripheral big game habitat, a sensitive bird habitat area overlay, and wetlands. Analysis in LCC 921.874(A)(4) addresses natural resources on the subject property.

Goal 6 – Air, Water and Land Resources Quality – Goal 6 instructs the County to consider protection of air, water and land resources from pollution and pollutants when developing comprehensive plans. The applicant statement indicates that future development will be done in compliance with all state and local regulations regarding air, water and land quality.

Goal 7 – Areas Subject to Natural Disasters and Hazards – Goal 7 requires the County to address natural hazards. The subject property is not located within a mapped geologic hazard area or within a mapped special flood hazard area. The property is served by the Sweet Home Rural Fire Protection District. The application is consistent with this goal.

Goal 8 – Recreational Needs – Goal 8 requires the County to plan for the recreation needs of their residents and visitors. The applicant statement adequately addresses this goal.

Goal 9 – Economic Development – The purpose of Goal 9 is to make sure cities and counties have enough land available to realize economic growth and development opportunities, notably on commercial and industrial land. This goal doesn't apply to the proposed *Plan* and zoning map amendment.

Goal 10 – Housing – Goal 10 requires jurisdictions with buildable lands in urban and urbanizable areas to be inventoried and comprehensive plans shall encourage the availability of adequate numbers of needed housing units. The property is not urban or urbanizable land, therefore Goal 10 does not apply.

Goal 11 – Public Facilities and Services – Goal 11 allows for planning and development of a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The applicant is not proposing to establish a public facility and is proposing to establish individual wells and septic systems in the event the amendments are approved. The application is consistent with Goal 11.

Goal 12 – Transportation – Goal 12 requires the County and the state to create a transportation system plan that takes into account all relevant modes of transportation. The County has an adopted transportation system plan that addresses the various forms of transportation. The Linn County Road Department comments indicate specific development standards and improvements applicable to the proposed future development. The Road Department comments stress the construction of adequately sized roads, taking into consideration soils, stormwater collection/retention/treatment, and slopes. The Road Department comments do not require that the applicant submit a traffic impact analysis as part of the proposed amendments.

Goal 13 – Energy Conservation – Goal 13 encourages communities to look within existing urban neighborhoods for areas of potential redevelopment before looking to expand, to "recycle and re-use vacant land." The goal also directs the County to have systems and incentives in place for recycling programs. This goal doesn't apply to the proposed *Plan* and zoning map amendment.

Goal 14 – Urbanization – Goal 14 provides for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. LCC 905 indicates that Non-Resource land is not land that requires an exception to Statewide Planning Goals 3 and 4 and is not rural residential land, where an exception to Goal 14 is required to establish minimum property sizes less than 10 acres in size. The proposed *Plan* and zoning map amendments are consistent with Goal 14.

Goal 15 – Willamette River Greenway – The property is not located within the mapped Willamette River Greenway. This goal does not apply to the proposed *Plan* and zoning map amendment.

Goal 16 - Estuarine Resources, Goal 17 - Coastal Shorelands, Goal 18 - Beaches and Dunes, and Goal 19 - Ocean Resources do not apply to lands within Linn County.

LCC 921.822 Decision criteria for Zoning Map amendments

(A) When a Zoning Map or Land Development Code text amendment is necessary due to a proposed Comprehensive Plan amendment, only findings and conclusions responding to the Comprehensive Plan amendment criteria for decision are necessary to amend the Zoning Map or Code text provisions.

STAFF ANALYSIS: Both a Zoning map amendment and a Plan map amendment are proposed with this application. The Plan amendment criteria described in 921.874 are addressed above. Compliance with the Plan Amendment criteria satisfies this criterion.

D. EXISTING AND PROPOSED CONDITIONS

CONDITION	EXISTING	PROPOSED
Plan Designation	Farm/Forest	Non-Resource
Zone Designation	Farm/Forest (F/F)	Non-Resource (NR-5)
Site Location	T14S, R01W, Section 8, Tax Lot 101	Same
Access	Crawfordsville Drive	Same
Land Use	Recreation and forest use	5-10 acre sized residential lots

E. ZONING AND DEVELOPMENT BACKGROUND

The subject property was zoned Agriculture, Residential (ART) on March 22, 1972. The property has been zoned Farm/Forest (F/F) since September 2, 1980.

Previous land use actions involving the subject property include:

- CU-(MH)-5-80/81 – A conditional use permit application for a medical hardship dwelling. The permit was never initiated.
- FF-93-81/82 - A farm/forest review for a land division. The application was denied.
- V-56-81/82 – A variance application for a land division to divide the property into two parcels. The application was approved, but it does not appear the application was initiated.
- ZA-7-84/85 – A Zoning Map amendment to establish a Sensitive Bird Habitat Overlay over a portion of the subject property. The overlay protects Crawfordsville Band-Tailed Pigeon Spring.
- PD-9-99 – A partition application that divided the subject property into one, 9.96-acre parcel and one 185.60-acre parcel.
- PD03-0223 – An application for a property line adjustment. The adjustment reduced the property from 185.60 acres to 108.59 acres and increased an adjacent property from 145.65 acres to 226.66 acres.

- M37-266-06 – A M37 Claim order issued by Linn County. The property owners subsequently received a Measure 49 Final Order from DLCD to authorize the placement of a dwelling on the subject property.

II. PROPERTY CHARACTERISTICS

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

Soil Type	HVFL type	SCS type	% of parcel	# of acres	Cu ft/ ac/yr
Hazelair Silty Clay Loam 2-7% Slopes (43B)	Non	IIe	4.73%	5.14	231.3
Ritner Cobbly Silty Clay Loam 2-30% Slopes (84E)	Non	VIs	19.83%	21.53	2777.37
Dixonville Silty Clay Loam 12-30% Slopes (34E)	Non	IVe	34.28%	37.22	4280.3
Philomath Cobbly Silty Clay 12-45% Slopes (79F)	Non	VIs	33.76%	36.66	1649.7
Ritner Cobbly Silty Clay Loam 30-60% Slopes (84G)	Non	VIII s	7.40%	8.04	1037.16
TOTAL			100%	108.59	9975.83

- B. **TOPOGRAPHY** – The property slopes downward from north to south and contains a seasonal drainage running generally northeast to southeast, and with a mix of meadows, native brush, and planted trees.
- C. **NATURAL FEATURES AND IMPROVEMENTS** – The subject property contains a seasonal drainage running northeast to southeast on the subject property.
- D. **NATURAL AND/OR GEOLOGIC HAZARDS** - The subject property is not within a designated flood hazard area. The property is not identified as being within an identified area subject to mass movement topography, as inventoried in the Environmental Geology of Western Linn County, Oregon (DOGAMI, 1974).

III. ENVIRONMENTAL FACTORS

- A. **WILDLIFE HABITAT** – A portion of the subject property is located within a peripheral big game habitat area (**Exhibit C**). The property is located within Section 8 of T14S, R1W, in Linn County, Oregon. This section (Section 8) is developed with 21 existing dwellings. Pursuant to LCC 903.510(B)(2), the section is not considered to be "impacted" in regards to current development and the effects of potential development on big game wildlife habitat. Based on Linn County GIS data, the dwellings in Section 8 appear to be clustered in accordance with LCC 903.510(B)(7).

Approximately 37 acres of the property is located within a Sensitive Bird Habitat Overlay. The overlay protects the Crawfordsville Band-Tailed Pigeon Spring.

- B. **WETLANDS** – The subject property contains a seasonal stream running down to the upper northwest portion of the subject property, a drainage course, and a pond.

IV. AVAILABILITY OF PUBLIC FACILITIES AND SERVICES

- A. **FIRE** – The property is located within the Sweet Home Rural Fire Protection District.
- B. **POLICE** - The Linn County Sheriff’s Department provides police protection.
- C. **SCHOOL** - The property is in the Sweet Home School District, the Linn Benton Lincoln Education Service District and the Linn-Benton Community College District.
- D. **OTHER DISTRICTS** – The property is within the 4H Extension District.
- E. **SEWAGE DISPOSAL** – The property does not contain a sewage disposal system.
- F. **WATER SUPPLY** – The property does not contain a well.
- G. **ACCESS** – The property has access via Crawfordsville Drive.

V. NOTICE TABLE AND PROCEDURE

A. NOTICE

Property owners within 1,000 feet of the boundaries of the property were provided notice of the applications. There are 20 property owners within the notification area. One written comment was received from a surrounding property owner at the Commission hearing in opposition to the proposed amendments (**Exhibit F**) No additional comments from surrounding property owners were received regarding the proposed amendments as of the date this staff report was prepared. The following agencies have been provided notice and responded before this report was prepared.

AGENCIES	PROVIDED	RESPONDED	AGENCIES	PROVIDED	RESPONDED
Environmental Health	x		Or. Dept. of State Lands	x	x
Linn County Assessor	x		Dept. Land Cons. & Dev.	x	
Linn County Road Dept.	x	x	Or. Dept. of Forestry	x	
Linn County GIS	x		Other: St. Fire Marshal	x	
Linn County Sheriff	x		Dept. of Water Resources	x	
Sweet Home RFPD	x		Or. Dept. of Fish & Wildlife	x	

B. PROCEDURE

The Planning Commission (Commission) conducted a public hearing to review the application on June 11, 2019 and made a **recommendation** to the Linn County Board of Commissioners (Board) to approve the Plan and Zoning Map amendment applications.

The Board is scheduled to conduct a public hearing on this matter at 10:00 a.m., Tuesday, June 25, 2019. The Board may consider the application for 42 days from the close of the public hearing. Tabling of the request for a period not to exceed 35 days may also occur if the applicant consents. Specified findings, stating the reason for decision, are required in taking action on the proposal. The Board will consider all the testimony in the matter and

may take action to: (1) Approve the application; (2) Deny the application; or (3) Modify the application.

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

If additional documents or evidence are provided by any party, the Board may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The Board shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the Board grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing. The 150-day time limitation described in ORS 215.427 does not apply to the proposed *Comprehensive Plan* amendment.

VI. EXHIBITS

- A. Application and Supporting Documents
- B. Decision Criteria
- C. Big Game Habitat Map
- D. Sensitive Bird Habitat Overlay Map and Ordinance
- E. Agency Comments
- F. Surrounding Property Owner Comments
- G. Legal Notice & Correspondence



LINN COUNTY BOARD OF COMMISSIONERS

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RALPH E. WYATT
Administrative Officer

DATE: June 25, 2019

TO: Roger Nyquist, John Lindsey and Will Tucker

FROM: Heather Gravelle

RE: B & B Auto Wrecking License Renewal

B & B Auto Wrecking, Inc. submitted their wrecking license renewal application on May 29, 2019. I forwarded the application to Environmental Health, the Planning and Building Department, the Roadmaster and the Sheriff.

All departments have recommended approval of the wrecking license renewal; however, the Planning and Building Department noted that the applicant should be reminded that all material should be kept inside and below the height of the fence. I have prepared a letter to be sent with the wrecking license should you approve it.