

BLT Conditional Use Appeal Response (1a)

12/14/24



With the investment of a great deal of time and effort, BLT was successful in getting the Georgia-Pacific Corporation to donate to us a key piece of Lebanon property for the specific purpose of building a public, multiple use trail from River Park to Santiam St. and beyond. Safety and quality have always been top priorities for BLT in the projects we develop. In this case, as in the past, we will be working in cooperation with Udell Engineering and the City of Lebanon to privately design, fund and build a fully accessible, state-of-the-art trail on that property which we now own. Our proposed trail is estimated to cost \$700,000 and we will build it entirely with donated funds. Once completed the trail will be turned over to the City to own and manage and for residents and visitors to use. BLT has proven with the completion of a similar project that we can build our trail on private property using private resources for an estimated \$300,000 less than what it would cost for the City to do the same project. The proposed trail will be 1,400 ft. in total length, made of concrete, 10ft in width (the standard in Lebanon for several years) and lighted from dusk to dawn with down-facing LED pole lights. We believe it will be as good as or better than any public trail currently existing anywhere in the mid-Willamette Valley.

BLT opted to build what we are calling the GPMRT (Georgia Pacific Mill Race Trail) using a county conditional use permit because we were advised by both the City and County that it was doable and could potentially save several thousand dollars which we hoped to use for future projects. We understood the County's initial approval of our CU permit could, and very possibly would, be appealed. We had several seemingly very positive interactions with an adjacent property owner, Laura LaRoque, beginning well before our CUP application. She described herself as a strong trail supporter and told us she was a professional land use planner and would help us with the permitting process. In fact, she initiated multiple contacts with the Linn County Planning and Building Department, supposedly on our behalf at the time. Needless to say, we were a bit surprised when she, under the name of NIMBY NBR, LLC, filed an appeal to our preliminary CUP approval. It was not the

filing of the appeal that was troubling, as our original application lacked a lot of detail, but the intensity of her protest/attack seemed very confusing. She already knew through our discussions that the trail would be fenced and lighted and that it would be owned by the City and operated under their Parks Rules and Regulations. She also understood we were supportive of her plan to develop a housing project on her property and that we were very willing to provide her with the cross-canal bridge and utility access needed for that project at a minimal cost (\$1,000-\$2,000).

As a Professional Land Use Planner, Laura LaRoque knows far more about city and county zoning and permitting regulations than we do – and probably more than any of the Planning Commission members do. Her appeal seemed extremely detailed and aggressive, as though it was designed to throw as much “dirt into the air” as possible. In our opinion the intent was to impress and intimidate both BLT and the Planning Commissioners and to put them on the defensive. She seemed to be pointing out even the most trivial code discrepancies and zoning issues she could find. She charged, for example, that our proposed trail did not fall exactly on the line displayed on the City’s 2009 Trails Master plan. The recognition that the trail alignment BLT is proposing lies just 50-60ft from the one predicted in the 2009 Trails Master Plan is impressive. The recommended alignment is located on the opposite side of an abandoned mill race from the one depicted in the Master Plan.

NIMBY vigorously challenges the GPMRT being 10 ft. wide instead of the City’s recorded standard of 12 ft. We have supplied documents showing that 10 ft. to 12 ft. (and even narrower in some cases) is acceptable. The reality is that 10 ft. wide trails have been the standard in Lebanon for several year and the City should make changes in their rules and regulations to reflect that. Is trail width actually something that the Planning Commission needs to be concerned with? Our responses to NIMBY’s many other questions and concerns have been documented in detail in the materials we submitted for the 12/10/24 Planning Commission Meeting.

NIMBY would like to convince you that there needs to be an up-front guarantee from the City that they will accept ownership of the trail when it is completed. We have explained why that is not possible and have provided abundant evidence that through their actions and statements regarding the project, the City fully intends to accept ownership of the trail when it is completed but can only do that after it is inspected. When the County Planning Commission issues a conditional use permit for a rural church building (as an example) do they ever do so with a promise they will accept the final product without first completing detailed inspections? We understand that a public trail on county property must be owned by a public entity. Would it not be reasonable for the Planning Commission to require that the City inspect the completed trail and provide a signed notification that they would be accepting ownership before the trail is allowed to be open to the public?

At the 12/10/24 Planning Commission meeting, NIMBY presented a “Transportation Impact Analysis” that she commissioned. While the study appears impressive, a more careful review reveals that the study has several serious flaws. First, it includes no mention of the estimated number of people that will be using the trail or the impact that will have on traffic. Why is that? Are we not considering the impact of the trail here? A realistic number would be between 0-6 trail users per hour crossing onto or off of Santiam St. There are two primary questions that the commissioners need to have answered: 1) Does traffic congestion exist in the area now? and 2) Will the presence of a trail cause traffic congestion? The answer to the first question is no and the answer to the second question (which we feel the study is intentionally designed to avoid providing) is also no! A third concern is safety. Can up to an average of 6 trail users per hour safely enter or leave Santiam St.? We are confident that the answer is yes, and we will be working with Udell Engineering and the City to make sure that is the case.

A second flaw in the study is that it strongly criticizes a “mid-block” entry of the trail onto Santiam St. That is apparently based on the information they were given but it is not the location where the crossing is planned to be. The preferred and safer location is at the east end of Santiam St. near the approach to the private

bridge entering into Woods Trailer Park. The final location and design of the crossing will be based on what Udell Engineering and the City determine will be the safest and most appropriate.

On page 19 of the Transportation Impact Report specifically points out that the BLT trail project “Creates the need for mitigation which may be improperly passed on to future development.” That conclusion is not justified.

The trail that BLT has proposed is apparently “intolerable” in most respects, and yet NIMBY suggests it would be “OK” if it were routed over a bridge into a property she owns and hopes to develop. She has no cross-canal access for the bridge and utilities her project would require. BLT owns the property she needs and, even if she eventually acquires it, the City has already advised her they have no interest in owning the bridge. Interestingly, if the trail is re-routed over her bridge, BLT would be expected to pay a significant portion of the cost of the structure and the City could be compelled to take ownership when it was completed. The fact that routing the trail over her bridge would come nowhere near providing the trail alignment that BLT needs is not even a consideration in her view. In fact, Scott LaRoque called Rod Sell on 12/13/24 to repeat the offer and clearly implying that routing the trail over their bridge might make the CUP appeal go away. In addition to the unacceptable alignment that option would create, it would require the trail cross two properties that BLT does not own. One of those properties Laura owns and the other she has been unsuccessfully trying to buy to include in her planned housing development. Would rerouting the trail improve Laura’s prospects of buying that property? I wonder?

NIMBY has also indicated that she is open to the trail being built at BLT’s proposed location but only if BLT turns the property over to the City and have them do the construction. She claims to be a “trail supporter” and clearly understands that option would increase the cost of our project by at least \$300,000 but that is not her concern. The advantage that Laura would gain from the City acquiring the property “up front” is that it creates a situation where the City would be required

to allow her to install her bridge and utilities sooner rather than later and without the need to purchase a right of way. We don't understand the legal basis for the arrangement, but Laura clearly does and has brought the idea up several times during our earlier conversations. She wants our donors to pay an extra \$300,000 because she sees it as an advantage to her putting in her bridge and utilities. Are you starting to see a pattern here?

The bottom line is that NIMBY somehow assumes that she can use private property (that we own) to provide a bridge and utility connection into a new housing development that she has in mind. On top of that she believes that our community donors should provide for the build-out of sidewalks and curbs on Santiam St in preparation for her new development. The City has agreed that the purpose of our project is to provide important trail connectivity and has nothing to do with developing curbs sidewalks on Santiam St. or the surrounding area. The trail will add an estimated 0-6 trail users per hour onto Santiam St. - a number that BLT is confident can be handled easily and safely without having a significant impact on traffic congestion. Santiam St. road and sidewalk improvements only become necessary if and when Laura is successful in acquiring the cross-canal access she needs to begin her housing project. At that point those improvements should be her responsibility.

Interestingly, BLT remains supportive of having a single-family housing development in the area. We are confident that it would fit and function well alongside the GPMRT. Statistics show that the trail will significantly increase surrounding home and homesite values. That being said, BLT is troubled by what we see as Laura LaRoque efforts to deceive and manipulate both BLT and the commissioners into believing BLT should be responsible for many of the development costs which she should be responsible for if and when her project is permitted, and construction begins.

BLT is confident that the commissioners will base their conditional use permit decision on the complete and factual responses we have provided to NIMBY's

concerns. We are optimistic that they will recognize the “dirt in the air” as a distraction that, in our opinion, has intentionally been placed there to confuse, intimidate and make the situation appear more complex than it actually is.

Thank you for all the time and effort you have invested in this difficult process. We very much hope and believe we have convinced you that the granting of our conditional use permit is justified and in the best interest of our community. Our task going forward will either be relatively simple and straight forward or become much more expensive, time-consuming and complex depending on the outcome. Either way BLT will respect your decision and is prepared to move forward with our effort to get GPMRT built.

Thad Nelson and Rod Sell

## BLT Conditional Use Appeal Response (1b)

12/14/24

This letter is Build Lebanon Trails (BLT)'s response to the written testimony from NIMBY that was submitted to the planning commission during the 12.10.24 commission hearing on Planning File No. PD24-0237; a Conditional Use Permit for a public trail.

BLT agrees with the Staff report submitted for the 12.10.24 meeting. This letter will further explain why BLT believes many of NIMBY's assumptions are flawed and inaccurate.

- (1) 1. It is BLT's understanding that County Code does not specifically require that the CUP applicant be a representative of a governmental agency. However once constructed a public trail must be owned and operated by a government agency.
2. The City has clearly demonstrated their intent to take ownership of the finished trail by the following actions:
  - A. The project has been presented to the Parks, Trees and Trails Committee and the City Council multiple times with continued support.
  - B. The City has designed a trail connection between their new River Park Trail Loop (scheduled to be constructed in 2025) and this project.
  - C. The City has agreed to work with Udell Engineering and BLT to design a safe and accessible trail connection onto Santiam Street.
  - D. The City Council voted to contribute \$23,500 to BLT for use on the project. Those funds have been received.
  - E. The trail is identified in the Lebanon Strategic Trails Plan which was adopted by City Council in 2009. Technically the predicted trail alignment in that document is approximately 50 feet east of our proposed trail location, lying just west rather than east of the abandoned mill race.
  - F. The City states that they will take ownership of the trail once it is completed and has been inspected and approved. BLT would suggest that the Planning Commission consider requiring that the trail be blocked off from public use until the City provides a signed document that they have inspected the completed trail and will accept ownership. The anticipated maintenance on this trail will be minimal and NIMBY's concern that the City will not accept ownership is unfounded.
  - G. BLT has arranged a meeting with City Manager, Ron Whitlatch and City Planner, Kelly Hart on the morning of 12/18/24 in hopes of obtaining a limited Letter of Intent, or similar document, clarifying the City's commitment to accept ownership of the GPMRT once it is completed.
  - H. BLT feels it is unreasonable to consider turning the property over to the City now and having them construct the trail as, previously stated, that would increase the cost of the project by an estimated \$350,000.
3. BLT refutes NIMBY's argument that says "The County cannot ignore the City of Lebanon's Residential Low Density (Z-RL) Zoning District. Even if the County establishes that the trail is part of the City's Comprehensive Plan, it must demonstrate consistency with both the City's Comprehensive Plan and future zone designation."
  - A. BLT strongly agrees with the Lebanon City Planner, Kelly Hart's statement to Laura LaRoque in a 10/24/24 email that:  
***"the master plan was initiated under prior zoning code, so it is understandable that the new zoning code may not reflect the exact zoning as the trail master plan. The trail master plan is an adopted master plan by the city council. The trail master plan includes other trails that exist in the RL zone and have already been constructed, such as the one along River Park, Oak Street, and Trail 9 as identified in the trail plan, which were, again, approved by the city council, so it is clear the city council intended***

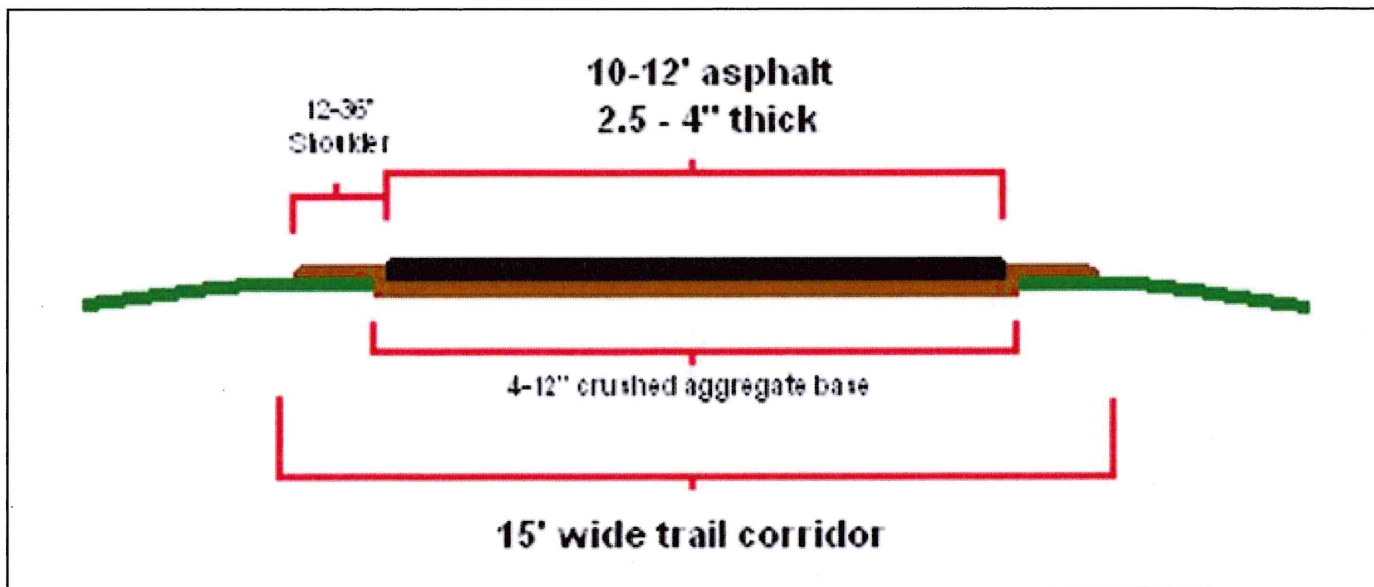


**to allow for trails to occur in the RL zone. At this point, I would identify the zoning code as a clerical oversight, so if we were to take any action, it would be to amend the zoning code as language clean-up to be consistent with the trail master plan and previous council actions.”**

BLT would argue that the City Council’s adopted 2009 Trails Master Plan takes precedence in this situation.

4. This conditional use permit application has nothing to do with the City’s proposed trail development north of Santiam Street and BLT contends that it should not be a consideration in the planning commission’s decision making. With regard to our proposed trail alignment between River Park and Santiam Street, it very closely approximates the conceptual alignment depicted in the 2009 Trails Master Plan.
5. Contrary to NIMBY’s assertion, 10-foot-wide hard surface trails have been standard in Lebanon for several years. Below is a copy of trail design standards taken from the 2009 Adopted Lebanon Strategic Trails Plan.

**TRAIL DESIGN General Standards** • A minimum trail corridor width of 15 feet is desired for construction and maintenance of trail segments. • Wider trail corridors are preferable wherever possible. Wider corridors allow for more open space, natural surroundings, and amenities. • Grading may be necessary to provide a level surface within the area to be used as trail. • The paved surface should be 12 feet wide, 10 or less may be sufficient. • Trail sections with width restrictions should be evaluated on a case by case basis to determine if a trail width less than 10 – 12 feet is acceptable. If a width less than 10’ is unacceptable, the trail route may have to be altered. • Ideal trail design includes 12 – 36 inch wide soft surface shoulders. **Determining Trail Base and Asphalt Thickness** Thickness of aggregate base and asphalt will vary depending upon the intended trail use. A trail intended for occasional use as a service road will require thicker crushed aggregate base and asphalt layers to accommodate heavier use. The following steps illustrate the process of determining trail base and asphalt thickness. 16 Determine heaviest intended use of the trail. Examples include multi-use trails, service vehicle accessible trails, nature/hiking trails. The heaviest intended use will be used to determine the required carrying capacity. For example, trails used as service roads have a higher carrying capacity than purely multi-use trails. Verify City specifications for crushed aggregate base and asphalt thickness. Typical crushed aggregate base thickness: 4 – 12 inches. Typical asphalt thickness: 2.5 – 4 inches. The following illustration is a cross section view of a typical trail, showing the normal range of width and thickness.



Trail width information taken from the 2009 Trail Master Plan pages 16 & 17

Question: Is trail width even something the planning commission should be considering?



6. The City agrees with BLT's contention that the trail does not interfere with anticipated future developments in the area. In BLT's opinion the low traffic volumes indicated in NIMBY's "Transportation Impact Analysis" document appears to support that conclusion. BLT's estimated 0 to 6 trail users per hour that will be introduced into the area will have no significant negative impact on future developments in the area.

Kelly Hart the Lebanon City Planner provided the following information in her email response to BLT dated 11/21/2024:

**2. Do you believe that the GPMRT precludes future urban development?**

No.

NIMBY contends that we should have submitted a detailed trail design, at an estimated cost of \$50,000, before finding out whether a Conditional Use Permit would be approved. As an alternative, would it be appropriate for the County Planning Commission to, instead, require a detailed trail plan be submitted for approval prior to the start of construction.

7. The traffic impact study that was submitted by NIMBY assumes Laura LaRoque's property will be developed. That can only occur if she acquires cross-canal access for a required bridge and necessary utilities. She does not have that currently and there is no prospect of her obtaining it since the needed property is owned by BLT.
8. The assumptions made in the Traffic Study are flawed.
  - A. The traffic study does not include any estimate of the number of trail users expected to be introduced to the area. BLT has done multiple user-surveys in the past on Lebanon's existing trails. BLT estimates the number of trail users entering or leaving Santiam Street to range between 0 - 6 per hour. That number can easily and safely be introduced to Santiam Street without having a significant impact on the area.
  - B. The traffic study erroneously assumes there will be a midblock entry of the trail onto Santiam Street. The more logical and safer entry point is at the north end of the street near the private bridge into Woods Trailer Park. The final location of the trailhead will be determined by Udell Engineering in consultation with BLT and the City of Lebanon focusing on safety and traffic flow.
  - C. BLT and the City agree that this is a trail project and does not require street and sidewalk improvements on Santiam Street. Those improvements will become necessary only if and when Laura LaRoque is able to secure cross-canal access to her property and is able to proceed with her housing development. At that point she should be responsible for Santiam Street improvements.
  - D. The traffic study comments on vehicles that occasionally park improperly on Santiam Street. BLT does not feel that is a significant problem but, if necessary, "No Parking" signs can be installed in the area. Appropriate signage will be installed based on the City's recommendations.

9. NIMBY states that **"the proposal opens public access to an area where none exists currently."** Providing public access to the area is the whole purpose of the project! The community deserves access to the parks, natural areas, schools, etc. that the trail connection to Santiam Street will create.

BLT submitted case studies (for the 12/10/24 Planning Commission Meeting) that demonstrate trails do not significantly increase trail-related crime.

Construction on the trail will not begin until the trail design is approved.

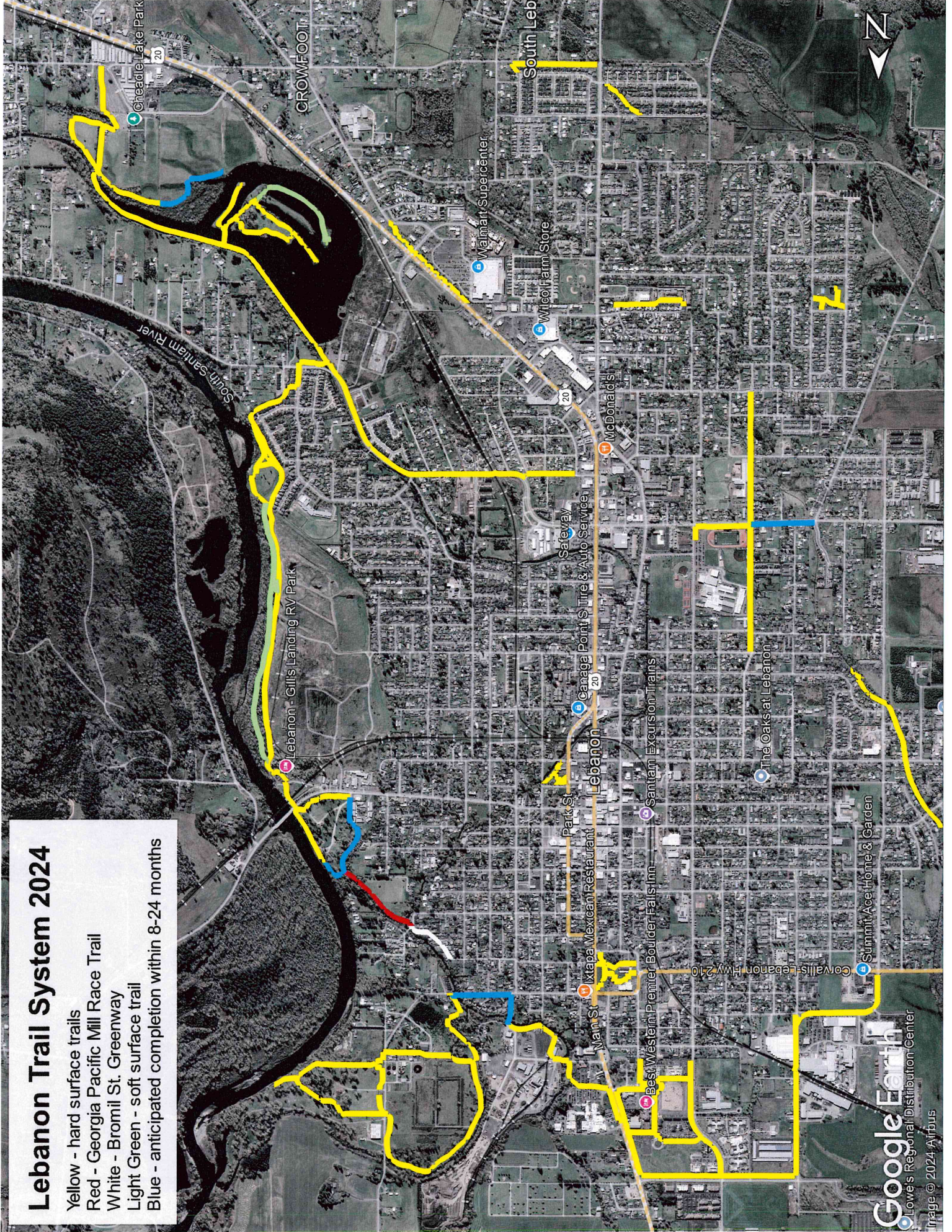
In Conclusion: BLT would like to thank the Commissioners for the extensive time and effort they have put into this process. We believe we have successfully presented detailed answers to NIMBY's numerous concerns. BLT is confident

that the Planning Commission will make an informed and appropriate decision to approve their Conditional Use Permit Application.



# Lebanon Trail System 2024

- Yellow - hard surface trails
- Red - Georgia Pacific Mill Race Trail
- White - Bromil St. Greenway
- Light Green - soft surface trail
- Blue - anticipated completion within 8-24 months





## Boles, Alyssa

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**From:** JAN DIAMANTINE <tookers@comcast.net>  
**Sent:** Monday, December 16, 2024 9:58 AM  
**To:** Boles, Alyssa  
**Subject:** from jan diamantine

Alyssa, please let me know when you receive this and thanks for all you have done.  
Jan Diamantine

Attention: Linn County Planning Commission

I am a citizen of Lebanon, OR and enjoy using the trails provided by the city of Lebanon with the assistance of Build Lebanon Trails.

I understand the approval by the Linn County Planning Commission of the Georgia Pacific Mill Race Trail (GPMRT) is being contested by NIMBY NBR, LLC and as a citizen I was very concerned with their opposition. This husband and wife team state that they "LOVE" and enjoy walking the trails. Interesting if they don't have some personal gain by opposing your decision as if they "LOVE" the trails it would seem they would be more helpful in supporting this great trail segment that will connect the North end of Lebanon with the South end via trails.

These are some things I have noted:

--This small parcel is a very generous donation by Georgia Pacific to Build Lebanon Trails (BLT) and I am sure their gift is mainly due to their support of the trail system.

--The city administration and the Lebanon City council has always been very supportive and are working partners with BLT. They approved giving nearly \$25,000 from the transient lodge tax for trails in the area. BLT constructed the Old Mill Trail (between Gill's Landing on Grant Street and Riverview Park) and it was readily approved and turned over to the city of Lebanon, setting a proven precedence. This also could be done with the Georgia Pacific Mill Race Trail (GMRT).

--NIMBY was concerned about the upkeep of the trails. BLT is having 5 trail work days in 2025 and many community members come out to help. BLT also has committed \$20,000 a year for 4 years to the city to help with mowing and maintenance of the trails. BLT has trail users that remove graffiti when reported.

--NIMBY was also concerned with debris etc. and it has been proven by many studies that trails enhance the area. We are not going to stop people from littering, as that is what some folks do, but I have seen many people pick up small items of debris along the trails.

--The city of Lebanon built a trail at Cheadle Lake park last summer and it is 10.2 feet wide thus setting an example or precedence in approving a trail less than 12 foot wide.

--If the city of Lebanon were to build the GPMRT it would cost significantly more than if BLT contracted it.

Thank you all for spending so much time and energy to again have BLT's request approved.

Jan Diamantine-a trail user in Lebanon  
2157 Steelhead Ct.  
Lebanon, OR 97355



# Wetland Land Use Notice Response

## Response Page

**LINN COUNTY**

**DEC 16 2024**

Planning & Building  
Department

**Department of State Lands (DSL) WN# \***

WN2024-0812

### Responsible Jurisdiction

**Staff Contact**

Alyssa Boles

**Jurisdiction Type**

County

**Municipality**

Linn

**Local case file #**

PD24-0237

**County**

Linn

### Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
12S	02W	11	AC	1200

Street Address

Isabella St at Santiam St

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Linn

**Latitude**

44.5426291

**Longitude**

-122.8949368

Township	Range	Section	QQ section	Tax Lot(s)
12S	02W	11	BD	2000

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

**Latitude**

44.5431973

**Longitude**

-122.8964791

### Wetland/Waterway/Other Water Features



- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.



- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The National Hydrography Dataset shows wetland, waterway or other water features on the property

## Your Activity

- It appears that the proposed project **may** impact wetlands and **may** require a State permit.

- An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

## Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

## DSL Review

### Wetland Ecologist Comments

Based on the available information, it appears that the proposed project may impact jurisdictional wetlands or waterways that may be present on the property. To determine if a wetland removal-fill permit is required, a DSL wetland delineation review is required to evaluate how much of the project area is wetlands and/or where the jurisdictional boundaries of waterways are. A wetland delineation provides the information needed to either avoid or minimize wetland impacts, or to complete a wetland removal-fill permit application if impacts cannot be avoided. Information on finding a qualified wetland professional consultant is listed under 'Resources' at <https://www.oregon.gov/dsl/wetlands-waters/Pages/Identification.aspx>

Applicant is further recommended to reach out the county Aquatic Resource Coordinator (Carrie Landrum (503) 881-7135, [carrie.landrum@dsl.oregon.gov](mailto:carrie.landrum@dsl.oregon.gov)) to discuss potential permit needs for placing a bridge over Lebenon Santiam Canal.

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

### Contact Information

For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county.

### Response Date

12/16/2024

### Response by:

Trevor Griffiths

### Response Phone:

(971) 375-8886

Linn County Planning and Building Department  
Linn County Planning Commission  
300 SW Fourth Avenue  
Albany, Oregon 97321



Re: PD24-0237

Dear Commissioners:

Laurel LaRoque has brought to my attention this current proceeding. Unfortunately, an expanded notice was not employed for this proceeding. I suspect that other neighbors in the immediate vicinity would have had interest in this proposal, like we, who are outside of the 100 foot area for which notice was provided, but will be affected by this proposal.

First, I endorse the twelve page submission submitted by the group "NIMBY NBR,LLC" and the analysis therein. I have no affiliation with this group.

This critique identifies shortcomings in the proposed project. Questions of the impact of added automobile traffic and conflicts with uses by pedestrians and bicycle traffic in the proposal fall well short of information which should be considered in evaluating this application. The fact is that the applicant cannot provide sufficient evidence to satisfy the applicant's burden of proof in this proceeding.

Second, the application and review process, as much as it is, ignores the criteria identified in the opponents' submission to represent serious review of the criteria. I join in those criticisms.

Ultimately, the proposal does not seem more than a rough idea of a project which does not fully identify conflicts in the proposal with traffic in the neighborhood. Experience, common sense and the meaningful application of planning criteria tell us that automobile traffic in the neighborhood which overuses Santiam Street and adjoining streets because there are no controlled intersections is not consistent with a use which will increase pedestrian, bicycle and more motor vehicles from a basic safety review.

For the reasons stated and the submission from NIMBY NBR,LLC, I concur that the proposal should be denied because it fails to meet the Applicant's burden of proof to go forward with the proposal.

Very truly yours,

Thomas McHill  
555 E. Dodge St.  
Lebanon, OR 97355





**NIMBY NBR, LLC**

450 Walnut Street, Lebanon, OR 97355  
Phone: (503) 501-7197

**Linn County Planning & Building Department**

Attn: Linn County Planning Commission

300 SW 4<sup>th</sup> Avenue, Room 114  
P.O. Box 100, Albany, OR 97321  
Phone: (541) 967-3816, ext. 2360  
Email: [aboles@co.linn.or.us](mailto:aboles@co.linn.or.us)

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**Linn County Planning Commission:**

This letter is to serve as additional written testimony for the Linn County Planning Commission hearing on Planning File No. PD24-0237; a Condition Use Permit for a public trail on properties identified by the Linn County Tax Assessor Map No. T12S, R02W, Section 11AC, Tax Lot 1200 and T12S, R02W, Section 11BD Tax Lot 2000.

This written testimony below augments previously submitted testimony on Planning File No. PD24-0237 and includes additional findings outlining how the proposed use fails to comply with the decision criteria of Linn County Development Code (LCDC) Section 933.260(B)(4)(8) and as such should be denied.

**Review Criterion 4 (LCDC 933.260(B)(4))**

*(4) The location, design and site planning of the proposed development does not: **(a) preclude future urban development on the subject property or adjacent properties**; or (b) conflict with future location and placement of streets and services*

1. The County and Applicant has failed to address LDCD 933.260(B)(4) about how the location, design, and site planning of the proposed development will not preclude future urban development on adjacent properties.

It is contested that the County and Applicant fail to include adequate provisions to ensure that adjacent properties (landlocked by the subject property) are provided street and utility access to/from the East Isabella Street and Santiam Street rights-of-way via either a private access/utility easement or right-of-way dedication.

The subject properties are identified by Linn County Assessor's Map No. 12S-02W-11-BD Tax Lot 2000 ("Area A") and 12S-02W-11AC Tax Lot 1200 ("Area B"). The subject properties are depicted on Sheet 2 of Linn County Boundary Survey No. 27504 as VOL. 469, PG. 790 and VOL. 469, PG 790.

Adjacent properties are identified by Linn County Assessor's Map No. 12S-02W-11AC Tax Lots 800, 900, 1000, and 1001. Tax Lots 800 and 900 are also illustrated on Sheet 2 of Linn County Boundary Survey No. 27504 as DN 2023-06064 and DN 2019-22207.

The adjacent properties are entirely within the Lebanon Urban Growth Boundary with portions within and/or contiguous to the Lebanon city limits. Tax Lot 900 (680 E. Isabella Street) is designated as Residential Low Density on the Lebanon Zone Map. Tax Lot 800 is designated at UGA-UGM-10 on the Linn County Zone Map. Both properties are designated as Mixed Use on the Lebanon Comprehensive Plan. Both properties are also identified in Lebanon Buildable Lands Inventory as “buildable land” that are “suitable, available, and necessary” for residential uses.

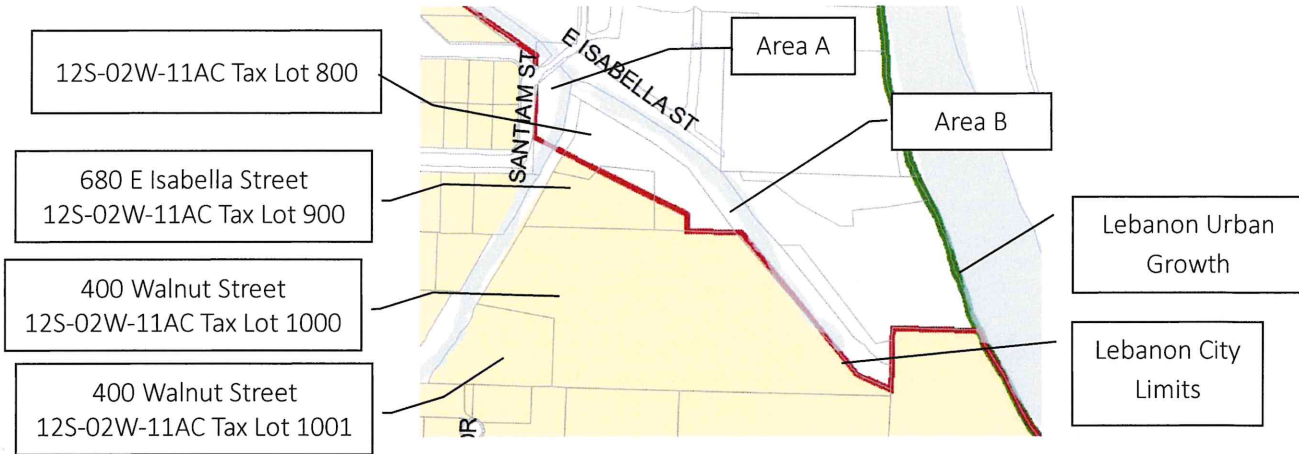
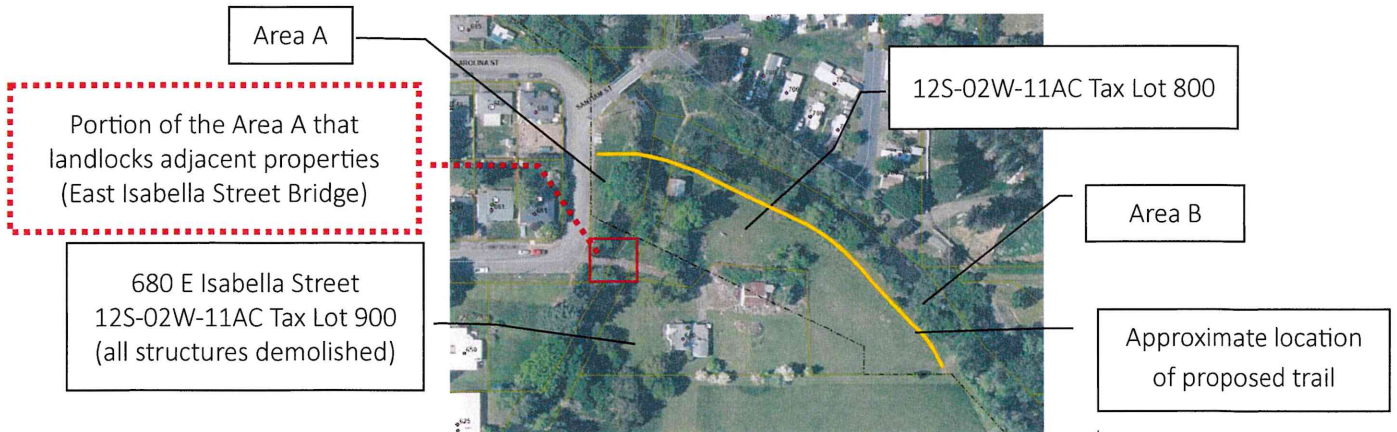


Figure 1 Subject Properties and Adjacent Properties

Currently, there is a single-lane vehicular bridge (East Isabella Bridge) spanning across the subject property (12S-02W-11-BD Tax Lot 2000, Area A) from east side of the Santiam Street right-of-way to the adjacent properties. Although a bridge exists, the Applicant has failed to produce evidence of a recorded access and utility easement with a maintenance agreement nor has a right-of-way dedication been proposed in association with the public trail development proposal.

The absence of a recorded access and utility easement with a maintenance agreement or a right-of-way dedication over the subject property (“Area A”) precludes future development of adjacent properties as this is the only access point that has adequate area for development of a full street system in compliance with the city’s design and improvement standards.



Both the Linn County and City of Lebanon Development Codes include provisions that regulate access and connection to public rights-of-way, easements, transportation systems, and utilities, including required extensions of services and frontage improvements with development. Yet, no analysis has been made by the County, City, or Applicant outlining how these regulations have not been satisfied by the submitted development proposal.

Section 907.310(B)(9)(b) of the Linn County Comprehensive Plan states that “within or near major urban growth boundaries, **Linn County will require that proposed accesses demonstrate: (i) how the access will accommodate future neighboring urban-scale development; or (ii) how the access will integrate with and connect to the future road network planned for the area; or (iii) how the access coordinates with community transportation plans.**”

The Lebanon Development Code (LDC) includes the following regulations to ensure extensions of local street, consolidated access points, and/or reciprocal access easements:

- The purpose statement of Chapter 16.12 of the Lebanon Development Code (LDC) is as follows “**is to ensure that developments provide adequate access to lots as well as safe and efficient access and circulation, for pedestrians, bicycles, and motor vehicles.**”
- LDC 16.12.030(C) **requires an access permit** when new or modified access to the public street system is proposed. LDC 16.32.020 defines “access” as “the way or means by which pedestrians, bicycles and motor vehicles enter (ingress) and leave (egress) property.”
- LDC 16.12.030(I) states that the number of street access points for **public developments** “shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection “J,” below, in order to maintain the required access spacing, and minimize the number of access points.”
- LDC 16.12.030(J)(1) states that the number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible and **new streets shall be stubbed to adjacent developable parcels to indicate future extension.**
- LDC 16.12.030(J)(3) states that public use developments shall provide a cross-access drive and pedestrian access (and reciprocating access easements) to allow off roadway circulation between sites.
- LDC 16.12.030(J)(4) **states that access easements for the benefit of affected properties shall be recorded for all shared driveways, joint access, cross-access, and shared parking areas as well as pathways, (...) as a condition of site development approval.** Pursuant to the provisions of this subsection, the property owners: a. Shall record an easement with the deed allowing cross access to and from other properties served by facility (i.e., the joint use driveways, and/or cross access, and/or service drive). b. Shall record a coordinated maintenance agreement with the deed defining maintenance responsibilities of the property owners. c. Such agreements shall be on forms acceptable to the City.



- LDC 16.12.030(K)(4)(a) states that whenever a proposed development abuts unplatted land, underutilized land, redevelopable land (as identified in the City’s Buildable Lands Inventory), (...), street stubs shall be provided to access abutting properties and to extend the street system into the surrounding area. LDC 16.32.020 defines “street stub” as “a temporary street ending where the street is intended to be extended through adjacent property in the future, as those properties develop.”
- LDC 16.13.030(H)(1)(2) states that a minimum separation of 150 feet for local streets is required and that all local streets that abut a development site shall be extended within the site to provide through circulation and connection to abutting streets.
- LDC 16.12.030(K)(5) states that the alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop.
- LDC 16.12.030(O) states that pre-existing and legally established access in place prior to the adoption of this Code are considered to be nonconforming and shall be brought into compliance with applicable standards under the following conditions: 1. When new access permits are requested; 2. When a land use permit is required for change of use, building expansion, or redevelopment.

**Review Criterion 4 (LCDC 933.260(B)(8))**

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

The County states that Section 3.2 of the Linn County Transportation Element of the Comprehensive Plan is not applicable to this review because road access is not proposed in support of the use. However, it is contested that the following codes require functional road access regardless of the proposed use:

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

Staff states that the subject properties are authorized units of land, as defined in LCC 920.100(B)(30)(d)(i)(I) in Section III, B of December 3, 2024, staff report.

It is further stated by staff that the subject properties have frontage on Isabella Street and Santiam Street in Section IV, V, E of December 3, 2024, staff report. Yet, this is not entirely true. The subject properties consist of two units of land (Linn County Assessor’s Map No. 12S-02W-11-BD Tax Lot 2000 (“Area A”) and 12S-02W-11AC Tax Lot 1200 (“Area B”)), which are depicted on Sheet 2 of Linn County Boundary Survey No. 27504 as VOL. 469, PG. 790 and VOL. 469, PG 790. As shown “Area B” is landlocked, as it lacks frontage on a public street and is not served by an easement of record for road access, or an easement of road access.

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

LCC 920.100 (256) defines “principal use” as the use allowed or permitted in the zoning district, which in this case is a public trail.



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

Functional road access is required for all properties regardless of if vehicular access is currently proposed. One of the primary purposes of land use planning and review is to ensure proposals do not create issues in the future. In this case, vehicular access may be needed at some point be needed for access to adjacent properties, trail construction vehicles, trail maintenance vehicles, and/or emergency response/apparatuses.

### **Conclusion**

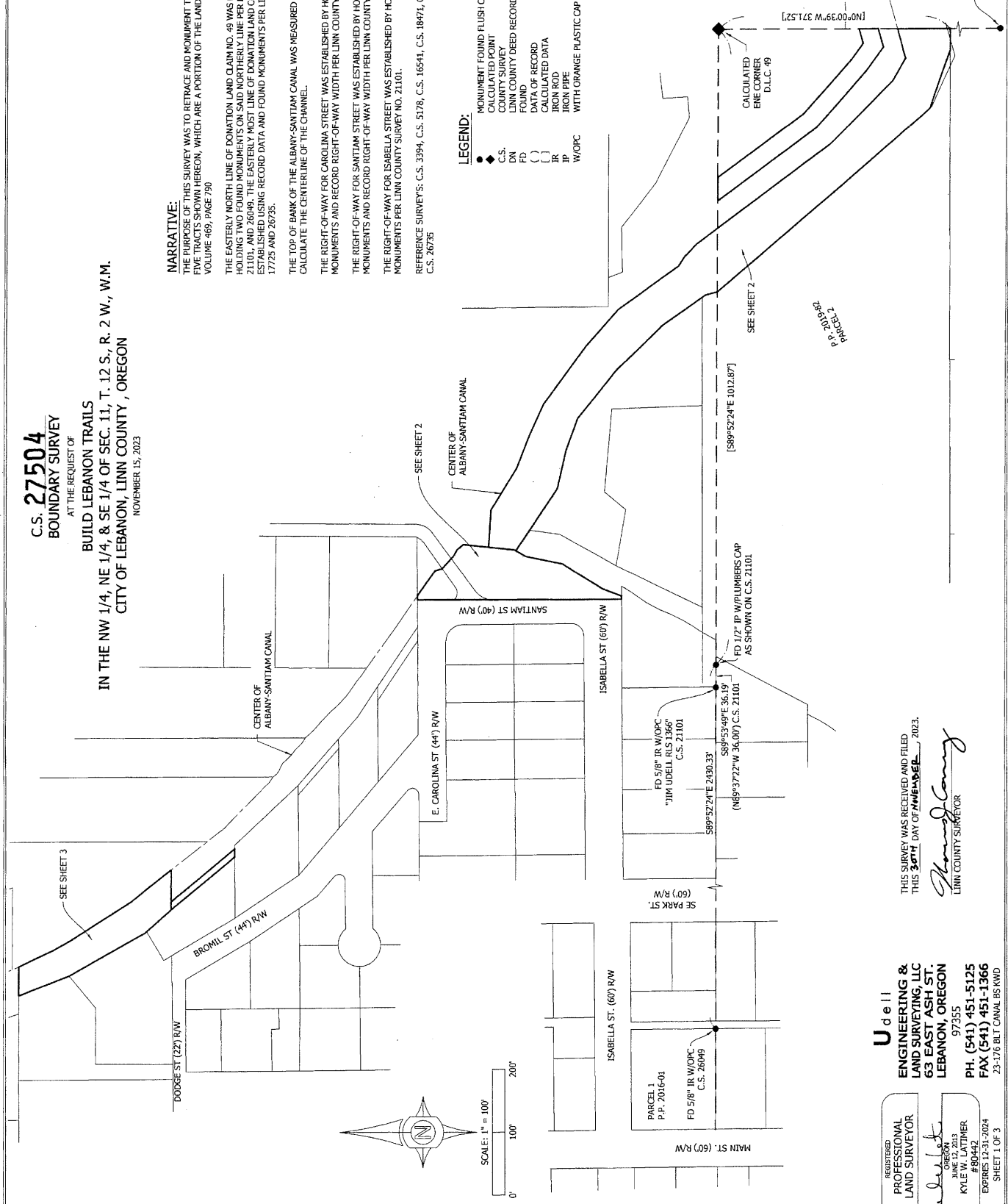
Ultimately, the Applicant has failed to make findings specific to LDCD 933.260(B)(4)(8) about how the location, design, and site planning of the proposed development will not preclude future urban development on adjacent properties or (b) conflict with future location and placement of streets and services or provides functional road access to the subject properties.

**C.S. 27504**  
**BOUNDARY SURVEY**  
 AT THE REQUEST OF

**BUILD LEBANON TRAILS**  
 IN THE NW 1/4, NE 1/4, & SE 1/4 OF SEC. 11, T. 12 S., R. 2 W., W.M.  
 CITY OF LEBANON, LINN COUNTY, OREGON  
 NOVEMBER 15, 2023

**NARRATIVE:**  
 THE PURPOSE OF THIS SURVEY WAS TO RETRACE AND MONUMENT THE BOUNDARY OF THE FIVE TRACTS SHOWN HEREON, WHICH ARE A PORTION OF THE LANDS DESCRIBED IN DEED VOLUME 469, PAGE 790  
 THE EASTERLY NORTH LINE OF DONATION LAND CLAIM NO. 49 WAS ESTABLISHED BY HOLDING FOUND MONUMENTS PER LINN COUNTY SURVEY'S 21101, AND 26049. THE EASTERLY MOST LINE OF DONATION LAND CLAIM NO. 49 WAS ESTABLISHED USING RECORD DATA AND FOUND MONUMENTS PER LINN COUNTY SURVEYS 17725 AND 26735.  
 THE TOP OF BANK OF THE ALBANY-SANTIAM CANAL WAS MEASURED ON BOTH SIDES TO CALCULATE THE CENTERLINE OF THE CHANNEL.  
 THE RIGHT-OF-WAY FOR CAROLINA STREET WAS ESTABLISHED BY HOLDING FOUND MONUMENTS AND RECORD RIGHT-OF-WAY WIDTH PER LINN COUNTY SURVEY'S 3394.  
 THE RIGHT-OF-WAY FOR SANTIAM STREET WAS ESTABLISHED BY HOLDING FOUND MONUMENTS AND RECORD RIGHT-OF-WAY WIDTH PER LINN COUNTY SURVEY NO. 3394.  
 THE RIGHT-OF-WAY FOR ISABELLA STREET WAS ESTABLISHED BY HOLDING FOUND MONUMENTS PER LINN COUNTY SURVEY NO. 21101.  
 REFERENCE SURVEYS: C.S. 3394, C.S. 5178, C.S. 16541, C.S. 18471, C.S. 21101, C.S. 26049, C.S. 26735

- LEGEND:**
- MONUMENT FOUND FLUSH OR AS NOTED
  - ◆ CALCULATED POINT
  - C.S.
  - DN COUNTY SURVEY
  - LN LINN COUNTY DEED RECORDS DOCUMENT NUMBER
  - FD FOUND
  - ( ) FOUND OF RECORD
  - ( ) CALCULATED DATA
  - IR IRON ROD
  - IP IRON PIPE
  - W/O/PC WITH ORANGE PLASTIC CAP



**Udell**  
**ENGINEERING & LAND SURVEYING, LLC**  
 63 EAST ASH ST.  
 LEBANON, OREGON 97355  
 PH. (541) 451-5125  
 FAX (541) 451-1366  
 KYLE W. LATIMER #80442  
 EXPIRES 12-31-2024  
 SHEET 1 OF 3

THIS SURVEY WAS RECEIVED AND FILED THIS 3<sup>RD</sup> DAY OF NOVEMBER, 2023.  
*Shawn Udell*  
 LINN COUNTY SURVEYOR

C.S. 27504

**BOUNDARY SURVEY**

AT THE REQUEST OF

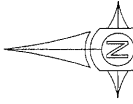
**BUILD LEBANON TRAILS**

IN THE NW 1/4, NE 1/4, & SE 1/4 OF SEC. 11, T. 12 S., R. 2 W., W.M.  
CITY OF LEBANON, LINN COUNTY, OREGON

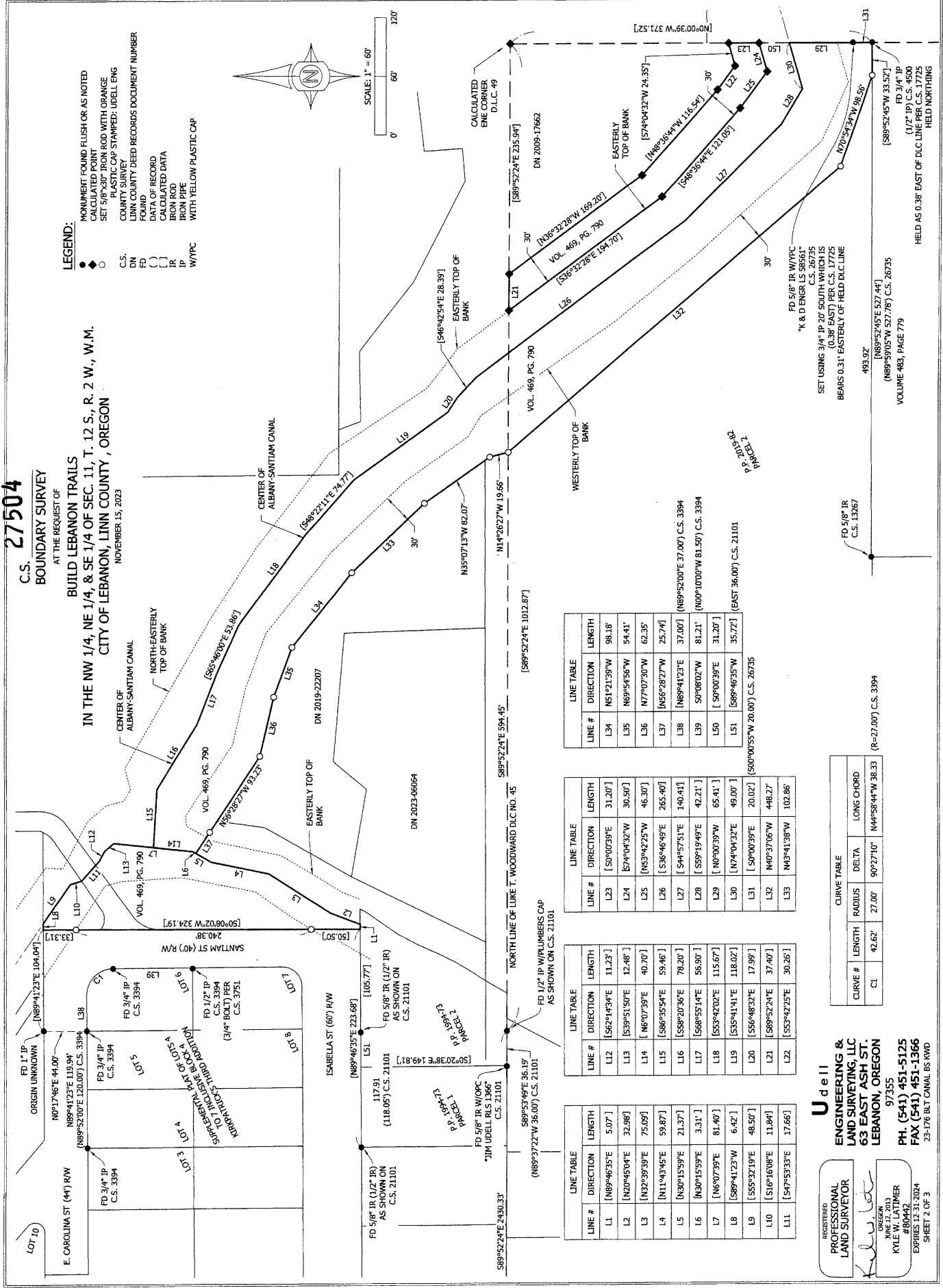
NOVEMBER 15, 2023

**LEGEND:**

- MONUMENT FOUND FLUSH OR AS NOTED
- CALCULATED POINT
- ◆ SET 5/8"x30" IRON ROD WITH ORANGE PLASTIC CAP
- ◇ PLASTIC CAP STAMPED: UDELL ENG COUNTY SURVEY
- LINN COUNTY DEED RECORDS DOCUMENT NUMBER FOUND
- DATA OF RECORD
- ( ) CALCULATED DATA
- [ ] IRON ROD
- [ ] IRON PIPE
- [ ] W/IPC
- [ ] WITH YELLOW PLASTIC CAP



SCALE: 1" = 60'



LINE #	DIRECTION	LENGTH
L34	N51°21'39"W	98.18'
L35	N69°54'55"W	54.41'
L36	N77°07'30"W	62.35'
L37	N65°28'27"W	25.74'
L38	N89°41'23"E	37.00'
L39	S0°08'02"W	81.21'
L50	S90°00'39"E	31.20'
L51	S89°46'35"W	35.72'

LINE #	DIRECTION	LENGTH
L23	S9°00'39"E	31.20'
L24	S74°04'32"W	30.50'
L25	N63°42'25"W	46.30'
L26	S36°46'49"E	265.40'
L27	S44°57'51"E	140.41'
L28	S59°19'49"E	42.21'
L29	N0°00'39"W	65.41'
L30	N74°04'32"E	49.00'
L31	S90°00'39"E	20.02'
L32	N40°37'06"W	448.27'
L33	N43°41'38"W	102.86'

LINE #	DIRECTION	LENGTH
L11	S62°14'54"E	11.23'
L13	S39°51'50"E	12.48'
L14	N68°07'39"E	40.70'
L15	S86°35'54"E	59.46'
L16	S88°20'36"E	78.20'
L17	S68°55'14"E	56.80'
L18	S53°42'02"E	115.67'
L19	S35°41'41"E	118.02'
L20	S56°48'32"E	17.99'
L21	S89°52'24"E	37.40'
L22	S53°42'25"E	30.26'

LINE #	DIRECTION	LENGTH
L1	N89°46'35"E	5.07'
L2	N20°45'04"E	32.98'
L3	N32°39'39"E	75.09'
L4	N11°43'45"E	59.87'
L5	N30°15'59"E	3.31'
L6	N6°07'39"E	81.40'
L7	S89°41'23"W	6.42'
L8	S55°32'19"E	48.50'
L9	S16°16'08"E	11.84'
L10	S47°53'33"E	17.66'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LONG CHORD
C1	27.00'	90°27'10"	N44°58'44"W 38.33'

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 23-476 BLT CANAL BS RWD  
 SHEET 2 OF 3

REGISTERED PROFESSIONAL LAND SURVEYOR  
 JUNE 12, 2013  
 KYLE M. MATTHEW  
 EXPIRES 12/31/2024