

LINN COUNTY PARKS & RECREATION

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Board of Commissioners

From: Stacey Whaley, Parks Director

Date: August 1, 2023

Re: Resolution and Order 2023-284

The following item(s) are scheduled to be heard on August 1, 2023:

Resolution & Order 2023-284 In accordance with the previously shared Lewis Creek County Park Master Plan, Linn County Parks and Recreation will be replacing the main restroom building with a prefabricated concrete CXT restroom building. The design is called the Pomona, and has separate men's/women's 3 stall restrooms with ADA compliant access, as well as a concession area. This building must be ordered 6 months in advance of installation. We have a matching grant to cover half of the cost through the Oregon Parks and Recreation Department for up to \$247,650 (which will include replacing sidewalks and water access paths with ADA compliant surfaces.) This grant was approved by the Board of Commissioners in R & O 2022-404. We are working with the US Army Corps of Engineers to work through their approval process for the work as well.

Financial Impact: Cost of the building- \$ 353,247.80. \$176,623.90 paid by grant, \$176,623.90 paid by Linn County Parks with a combination of TLT, RV, and Forest Funds.

Staff Recommendation: Approve so we can get the order placed ASAP, although work will not occur until Winter 2023 or Spring 2024.



Linn County Road Department

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

Memorandum

Date: 7/25/2023

To: Linn County Board of Commissioners

From: Wayne Mink, Roadmaster *WEM*

RE: Background Information for Agenda Items – 8/1/2023

The Road Department has the following item on the Board of Commissioners agenda for the weekly meeting on August 1, 2023. The following is a brief description of the item.

Resolution & Order 2023-278 – Cox Creek (Waverly Drive) Bridge Project IGA

This is a Resolution & Order to approve a supplemental project agreement between Linn County, the State of Oregon, Department of Transportation and the City of Millersburg for funding improvements to the Cox Creek (Waverly Drive) Bridge, which is under the jurisdiction of the City of Millersburg. As a Certified Agency, the County will administer the project on behalf of the City. This is a federally funded project limited to reimbursement of \$482,209.02 for the preliminary engineering design of this project. We anticipate amendments to this agreement to include the right-of-way and construction phases of this project. The City is responsible for reimbursing the County for all remaining costs in excess of the federal funds.

We request your approval.

LINN COUNTY TREASURER



MICHELLE HAWKINS
Treasurer
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Chief Deputy Treasurer
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*Linn County Courthouse
P.O. Box 100, Albany, Oregon 97321
(541) 967-3861 FAX: (541) 926-8228*

To: Board of Commissioners

From: Linn County Treasurer/Budget Officer

Date: August 1st, 2023

Re: **Order # 2023-293**

Order # 2023-293 is an increase within the General Fund for Planning and Building department. This money was reimbursed for the work on the wild fires. Steve would like to include it in his budget this year. \$ 100,000.00.

Financial Impact. There is no financial impact.



LINN COUNTY BOARD OF COMMISSIONERS HEARING STAFF REPORT

PREPARED BY: Alyssa Boles, Planning Manager

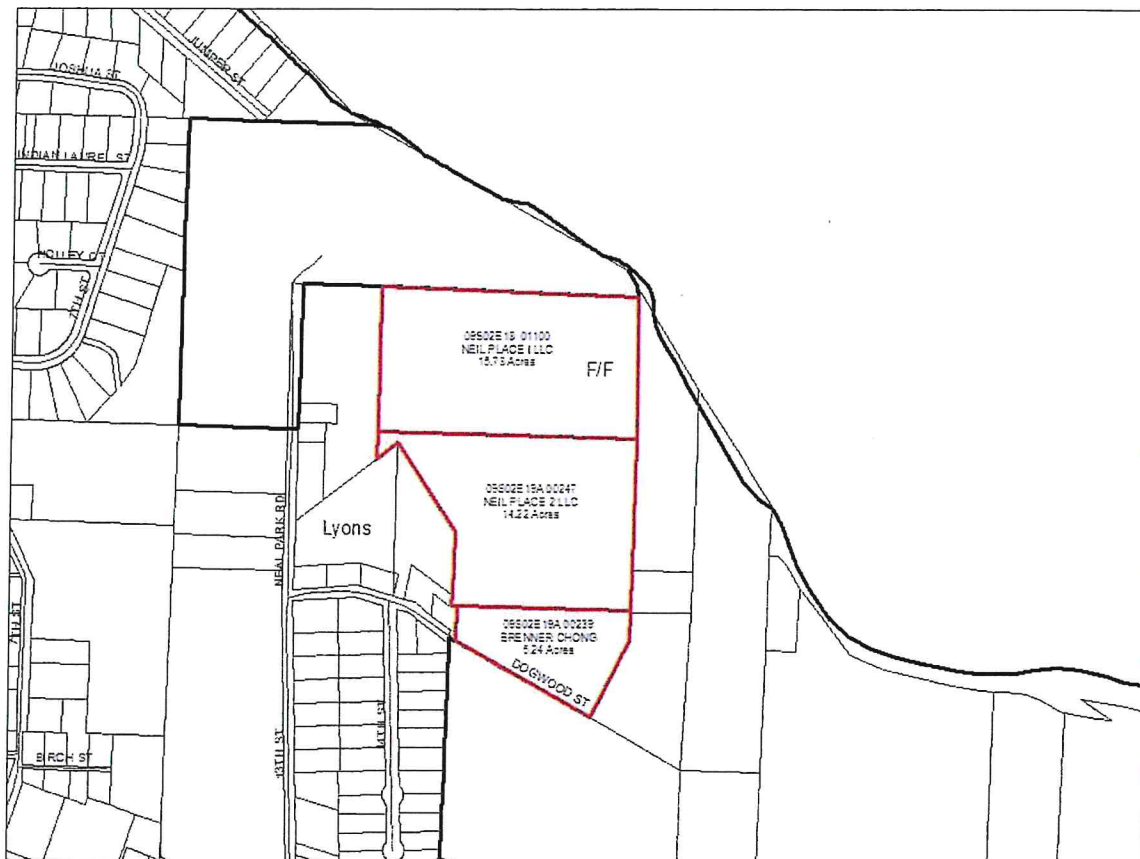
DATE ISSUED: July 25, 2023

HEARING DATE: August 1, 2023

APPLICATION: **PLN-2023-00192:** concurrent applications by **Dan Hafner** for a *Comprehensive Plan (Plan)* map amendment and Zoning map amendment. The amendments are proposed as part of an urban growth boundary (UGB) amendment approved by Lyons to add 28.12 acres to the Lyons UGB. The amendments would remove 28.12 acres from the County *Plan* map and Zoning map.

LOCATION: The properties are identified as T09S, R02E, Section 19A, Tax Lots 239 and 247 and T09S, R02E, Section 18, Tax Lot 1100 and are zoned Farm/Forest (F/F).

CRITERIA: Linn County Land Development Code (LCC) 921.822(A) and 921.874 contain the applicable decision criteria.



N
1 inch = 500 feet

Linn County Planning & Building Department

Date: 07/02/2023

I. APPLICATION SUMMARY

Applications by the Dan Hafner for a *Comprehensive Plan (Plan)* map amendment and Zoning map amendment. The amendments are proposed as part of an urban growth boundary (UGB) amendment approved by Lyons to add 28.12 acres to the Lyons UGB. The amendment would remove 28.12 acres from the County *Plan* map and Zoning map. The City of Lyons approved the proposed UGB amendments per City Ordinance No. 244-2023, adopted March 28, 2023. The amendment would change the *Plan* designation and Zoning map designation on the three properties, listed below. If approved, the properties proposed to be added to the Lyons UGB would subsequently be annexed into the city limits.

The following table lists the subject properties that will be added to the UGB, the affected acreage, and current and proposed *Plan* and zoning designations:

Map	Tax Lot	Acres	Owner	Current <i>Plan</i> /Zoning	<i>Plan</i> /Zoning After Amendment
09S 02E 19A	239	5.24	Chong Brenner	Farm/Forest / Farm/Forest	Residential/Single-Family (SFR)
09S 02E 19A	247 (part)	12.52	Neil Place II, LLC	Farm/Forest / Farm/Forest	Residential/Single-Family (SFR)
09S 02E 18	1100 (part)	10.36	Neil Place I, LLC	Farm/Forest / Farm/Forest	Residential/Single-Family (SFR)
Total Acres to be Added		28.12			

Approximately 7.12 acres of tax lots 1100 and 247 are located within the Lyons UGB and are designated as Residential land. The City proposes to annex the 7.12 acres currently within the UGB into city limits. The City would apply a City zoning designation based on their applicable *Plan* designation. The additional 28.12 acres is proposed to be zoned SFR upon annexation.

A map identifying the subject properties can be found in **Exhibit A, page 17**. The applicant has submitted information to address the applicable decision criteria and the applicable *Plan* policies. The application and applicant submittals are attached to this staff report as **Exhibit A**.

II. PLANNING COMMISSION RECOMMENDATION

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

III. LAND USE INFORMATION

A. SITE LOCATION

The subject properties are identified on Linn County Assessor maps as T09S, R02E, Section 19A, Tax Lots 239 and 247 and T09S, R02E, Section 18, Tax Lot 1100.

B. ZONING AND DEVELOPMENT BACKGROUND

Department records indicate the subject properties were zoned Single Family Residential (SR) on March 22, 1972. The subject properties have been zoned Farm/Forest since September 2, 1980. Approximately 7.12 acres of tax lots 1100 and 247 are located within the Lyons UGB and have been designated as Residential land since June 25, 1980.

Table 1
Existing and Proposed Conditions

CONDITION	EXISTING	PROPOSED
Plan Designation	Farm/Forest	Residential
Zone Designation	Farm/Forest (F/F)	Single-Family (SFR)
Site Location	See map (Exhibit A, page 17)	Same

IV. PROPERTY CHARACTERISTICS

- A. SOIL TYPES** – The soils types identified on the subject properties vary. Soil types on the subject properties are identified and documented by the Natural Resource Conservation Service (NRCS). Soils data is contained in **Exhibit E**.
- B. TOPOGRAPHY** – The topography of the subject properties varies. Elevation of the subject properties is identified on adopted United States Geologic Survey (USGS) maps.
- C. NATURAL AND/OR GEOLOGIC HAZARDS** – There are no potential geologic hazards identified on the subject properties (Bulletin 84, Environmental Geology of Western Linn County Oregon).

Portions of T09S, R02E, Section 18, Tax Lot 1100 and T09S, R02E, Section 19A, Tax Lot 247 are located within an identified flood hazard area according to the Federal Emergency Management Agency (FEMA) Flood Insurance Study for Linn County, Oregon and Incorporated Areas dated September 29, 2010 (**Exhibit F**).

V. PUBLIC FACILITIES AND SERVICES

- A. FIRE** – The subject properties are served by the Lyons Fire District.
- B. POLICE** – The Linn County Sheriff's Department serves all the subject properties.
- C. SEWAGE DISPOSAL** – The subject properties are served by individual septic systems.
- D. WATER SUPPLY** – The subject properties are served by individual wells.
- E. ACCESS** – Tax lot 239 has frontage on Dogwood Street. Tax lots 1100 and 247 have access via an easement to Dogwood Street.

VI. ANALYSIS

DECISION CRITERIA

Linn County Code (LCC) 921.822 and 921.874 contain the decision criteria for use in this land use review. The decision criteria are attached to this report as **Exhibit B**.

LCC 921.822(A) Decision criteria for Zoning Map amendments

When a Zoning Map or Land Development Code text amendment is necessary due to a proposed *Comprehensive Plan (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 below. This criterion is satisfied.

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*.

APPLICANT STATEMENT: The applicant statement addressing this criterion is contained in **Exhibit A, page 18.**

STAFF ANALYSIS: The Citizen Involvement, Natural Resource Element, Land Use elements of the *Plan* are the applicable sections for this review.

The City adopted Ordinance No. 244-2023 approving the proposed amendments. The ordinance included findings that the proposed amendments were found to be consistent with the Lyons Comprehensive Plan and Development Code, and Oregon Administrative Rule 660 Division 24, Urban Growth Boundaries - Oregon Administrative Rules 660-024 (**Exhibit A, pages 61-94**).

The applicant statement adequately addresses the applicable elements of the County's *Plan*.

Citizens Involvement Element

Consistent with Statewide Planning Goal 1, this Element is designed to ensure public participation in the land use process. An effective tool for outreach is the public hearing process, both before the Planning Commission and the Board of Commissioners. Notice of land use actions allows the public an opportunity to participate through comments to the Planning Commission and Board at the City and County level. The proposed project was noticed as required through the procedures described in Chapter 921 of the Land Development Code.

Natural Resources Element

This element addresses hazards, open spaces, vistas, historic and cultural areas, waterways and other resources. Portions of tax lots 1100 and 247 are within the FEMA special flood hazard area. Section 903.230 of the Plan requires that all FEMA rules are followed. The proposed UGB amendment will not conflict with any of the listed open space or scenic policies. Most of the listed policies speak to the need for the County to reach out to impacted/effected agencies regarding development of the property. The land use processes associated with the city and county review will ensure that all policies of the Element are met.

Land Use Element

This element contains goals and policies for each specific Land Use designation.

Urbanization Subsection

Section 905.610 addresses urbanization, which includes UGB amendment policies. This section says that the cities in the County will grow into surrounding areas based on need and serviceability. Subsection C lists the following factors that should be considered when a UGB change is requested:

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.
- (2) Need for housing, employment opportunities, and livability.
- (3) Orderly and economic provision for public facilities and services.
- (4) Maximum efficiency of land uses within and on the fringe of the existing urban area.
- (5) Environmental, energy, economic and social consequences.
- (6) Retention of agricultural land as defined, with class I being the highest priority for retention and class VI the lowest priority.
- (7) Compatibility of the proposed urban uses with nearby agricultural activities.

These factors are considered as part of the City's analysis and as part of compliance with OAR 660-024, which are the administrative rules governing urban growth boundary amendments (**Exhibit A, pages 61-94**).

Planning Area Subsection

Section 905.610(D) explains:

Further, several cities have established "planning areas" outside their UGBs which contain lands key to future urbanization. While these lands may not be presently needed inside the UGB, the cities are concerned with their development. The cities' right to review and comment on county land use decisions within the planning area is secured within the UGB management agreement.

The City of Lyons has a planning area outside the UGB. The subject properties are within the Lyons Planning Area. While the planning area is principally an area of concern for the City in terms of being notified of County development in this area, it also acts as a placeholder for future development. In other words, the planning area is an area of possible future growth for the City. This is important because it shows that the City and the County have planned for the City to grow into the planning area someday.

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: The applicant statement addressing this criterion is contained in **Exhibit A, page 19**.

STAFF ANALYSIS: The proposed amendment would add three properties to the Lyons UGB. The total area of land to be added to the UGB is 28.12 acres. The amendment would change the *Plan* designation and Zoning map designation on the three properties.

No comments have been received from surrounding property owners regarding the proposed amendment as of the date this staff report was prepared.

The City adopted Ordinance No. 244-2023 approving the proposed amendment. The ordinance included findings that the proposed amendment, Plan designation, and zone change are compatible with the abutting land uses and development patterns within the City's UGB. Future development on the properties is required to comply with the City's Comprehensive Plan policies and Development Code criteria and standards.

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.

STAFF ANALYSIS: The amendment is within the Lyons UGB. The proposal will add specified properties to the UGB. The proposal has been evaluated by the City through its adopted review and decision process, and it has been found to conform to the City's Comprehensive Plan and implementing ordinances. The City's review, analysis, and findings are included in Lyons Ordinance No. 244-2023, adopted on March 28, 2023. Findings adopted by the City as part of Ordinance No. 244-2023 approving the UGB amendments are contained in **Exhibit A, pages 22-60**.

The ordinance includes findings that the proposed amendments were found to be consistent with the Lyons Comprehensive Plan and the Development Code and Oregon Administrative Rule 660 Division 24, Urban Growth Boundaries - Oregon Administrative Rules 660-024.

The applicant statement and City ordinance findings adequately address this criterion (**Exhibit A, page 19**).

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

APPLICANT STATEMENT: The applicant statement addressing this criterion is contained in **Exhibit A, page 19**.

STAFF ANALYSIS: The City adopted Ordinance No. 244-2023 approving the proposed amendments. The ordinance included findings that the proposed amendment complies with the policies implementing Goal 5 contained in the Lyons Comprehensive Plan, along with compliance with Oregon Statewide Planning Goal 5.

Tax lot 1100 is located within the peripheral wildlife habitat area. Tax lots 239 and 247 are located within the peripheral but developed wildlife habitat area. Oregon Department of Fish and Wildlife (ODFW) was sent notice regarding the proposed amendments. The ODFW did not submit comments indicating any impacts to the wildlife habitat area as a result of the UGB amendment, as of the date this staff report was prepared. Future development of the properties upon annexation is subject to applicable Plan policies and Code requirements if the area is identified as habitat within the city's adopted Goal 5 maps.

Portions of tax lots 1100 and 247 contain inventoried wetlands. Oregon Department of State Lands was notified of the proposed amendment and submitted comments indicating that if wetlands within the project site have a connection to the NF Santiam,

they have a zero cubic yard threshold for impact. They also stated that other onsite wetlands and waters have a 50 cubic yard threshold for removal/fill and that a wetland delineation is recommended as part of the UGB planning to identify onsite wetlands and waters and to determine the permitting threshold of those resources (**Exhibit D, pages 2-4**). Upon annexation, any future development of the subject properties must comply with any applicable provisions in the City's code regarding development within wetland areas, along with compliance with any DSL permitting requirements.

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 applicant statement addressing this criterion is contained in **Exhibit A, pages 19-20**. Findings adopted by the City as part of Ordinance No. 244-2023 approving the UGB amendment is contained in **Exhibit A, pages 47-48**.

STAFF ANALYSIS: The subject properties are currently served by the Lyons Fire District and the Linn County Sheriff's Department and will continue to be served by both agencies after the adjustment.

Upon annexation into the city limits, development on the properties will be served by applicable city utilities.

Notice was sent to the Linn County Sheriff's Department, the City of Lyons, and the Lyons Fire District. As of the time of writing this staff report, the Department has not received comments from any of those agencies indicating any adverse impacts as a result of the proposed amendments.

The applicant statement and City ordinance findings adequately address this criterion.

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

APPLICANT STATEMENT: The applicant statement addressing this criterion is contained in **Exhibit A, page 20**. Findings adopted by the City as part of Ordinance No. 244-2023 approving the UGB amendment is contained in **Exhibit A, pages 47-48**

STAFF ANALYSIS: The Linn County Road Department comments did not indicate any significant adverse impact upon transportation facilities as a result of the amendments (**Exhibit D, Page 1**).

Tax lot 239 has access via Dogwood Street, a County maintained right of way. Tax lot 247 and 1100 have access via an easement to Dogwood Street. Future development upon annexation into city limits will require compliance with applicable transportation policies and standards contained within the City's Plan and Development Code.

The City adopted Ordinance No. 244-2023 approving the proposed UGB amendment. The ordinance included findings that the proposed amendments were found to be consistent with the City's Comprehensive Plan policies regarding transportation, as well as and Statewide Planning Goal 12 (Transportation Planning Rule) (**Exhibit A, page 52**).

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: The applicant statement addressing this criterion is contained in **Exhibit A, page 20**. Findings adopted by the City as part of Ordinance No. 244-2023 approving the UGB amendment is contained in **Exhibit A, pages 46 and 53**.

STAFF ANALYSIS: There are no potential geologic hazards identified on any of the subject properties (Bulletin 84, Environmental Geology of Western Linn County Oregon); therefore, there should be no significant adverse effects on land uses permitted through this amendment.

Portions of tax lots 1100 and 249 are located within an identified flood hazard area according to the Federal Emergency Management Agency (FEMA) Flood Insurance Study for Linn County, Oregon and Incorporated Areas dated September 29, 2010. Upon annexation into the City, any future development within the identified flood hazard will have to comply with any applicable floodplain development standards contained in the City's Plan and Development Code.

The water quality or the presence of existing wells or water service on the subject properties is unknown. Oregon Water Resources Department regulates the establishment of new wells. Proof of water quality and quantity is dependent on the type of use proposed on the property. Because the need for this requirement is based on the proposed use of a property, there should be no significant adverse impact to the land uses allowed as part of this amendment. Any development within the City of Lyons is subject to any requirements to connect to utility services.

The City adopted Ordinance No. 244-2023 approving the proposed UGB amendment. The ordinance included findings that the proposed amendments were found to be consistent with the City's Comprehensive Plan and Statewide Planning Goal 7 (Natural Hazards) (**Exhibit A, page 46**).

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.

The applicant statement indicates that no exception is needed.

STAFF ANALYSIS: Staff concurs that an exception to statewide planning goals is not required. This criterion is satisfied.

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

STAFF ANALYSIS: The applicant statement addressing this criterion is contained in **Exhibit A, page 21**. Findings adopted by the City as part of Ordinance No. 244-2023 approving the UGB amendment is contained in **Exhibit A, pages 43-54**.

The City adopted Ordinance No. 244-2023 approving the proposed amendments. The ordinance included findings that the proposed amendments were found to be consistent with the Oregon Statewide Planning Goals, along with Oregon Administrative Rule 660 Division 24, Urban Growth Boundaries - Oregon Administrative Rules 660-024.

VII. NOTICE AND HEARING PROCEDURE

A. NOTICE

Notice of this application was printed in the Albany Democrat-Herald newspaper at least 21 days prior to the hearing. Affected public agencies and owners of properties within 1,000 feet of the subject properties were also provided written notice of this application. No comments have been submitted from surrounding property owners as of the time this staff report was prepared. Two comments were received from an affected agency regarding the applications (**Exhibit D**).

Table 2
Public Agency Notice and Comments

AGENCY	NOTICE	RESPONSE	AGENCY	NOTICE	RESPONSE
Environmental Health	x		DLCD	x	
Linn County Assessor	x		DSL	x	x
Linn County Road Dept.	x	x	City of Lyons	x	
GIS	x		RFPD: Lyons	x	
Floodplain Manager	x		ODFW	x	
Linn Co Sherriff			WRD	x	

B. PROCEDURE

The Planning Commission (Commission) conducted a public hearing to review the application on July 11, 2023 and made a recommendation to the Linn County Board of Commissioners (Board) to approve the Plan Map and Zoning Map amendment applications.

The Board is scheduled to conduct a public hearing on this matter at 10:00 a.m., Tuesday, August 1, 2023. The Board may consider the application for up to 42 days from the close of the Board hearing. Tabling of the request for a period not to exceed 35 days may also occur if the applicant consents. Specified findings, stating the reason for decision, are required in taking action on the proposed amendments.

The Board 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.

VIII. EXHIBITS

Exhibit A:	Application and Supporting Documentation
Exhibit B:	Application Decision Criteria
Exhibit C:	Public Notice and other letters
Exhibit D:	Agency Comment
Exhibit E:	NRCS Soils Report
Exhibit F:	Floodplain Map