



## COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

# Notice of Filing

## Conditional Use

FP-06-22

July 12, 2022

The Planning Division has received the following APPLICATION. Please provide any comments you may have on this project to **David Martineau**, 541-917-7555 or [david.martineau@cityofalbany.net](mailto:david.martineau@cityofalbany.net), before **July 26, 2022**, so we may take your comments into account.

### Application Information

|                  |                                                                                                                                                                                                              |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| File:            | FP-06-22                                                                                                                                                                                                     |
| Proposal:        | Development in Floodway; Alteration of Watercourse; and Grading, Fill, Excavation, and Paving for Floodplain Development Permit for construction of a bridge along the Union Pacific Railroad over Cox Creek |
| Review Body:     | Staff (Type II review)                                                                                                                                                                                       |
| Property Owner:  | Union Pacific Railroad, attn. Kevin Rice; 1400 Douglas Street, Stop 0910; Omaha, NE 68179; 402-544-2213; <a href="mailto:kprice@up.com">kprice@up.com</a>                                                    |
| Representative:  | LeAnn Wiegand, CDM Smith; 560 North Park Avenue, Suite 300; Helena, MT 59601; 406-441-1405; <a href="mailto:WiegandLJ@cdmsmith.com">WiegandLJ@cdmsmith.com</a>                                               |
| Address/Location | Unaddressed. Track crosses Cox Creek at coordinates 44° 38' 34.7418" North, 123° 4' 12.9282" West (southeast bridge only)                                                                                    |
| Map/Tax Lot:     | East of Linn County Assessor's Map No. 11S-03W-05DA; Tax Lot 300                                                                                                                                             |
| Zoning:          | Not zoned.                                                                                                                                                                                                   |
| NOTE:            | The site is located within the jurisdictions of Albany and Millersburg. The city of Millersburg has agreed to allow Albany to take the lead on the floodplain development review.                            |

The City of Albany has received the Conditional Use application referenced above. We are mailing notice of the application to property owners within 300 feet of the proposed development. We invite you to provide written comments on this application, to be considered prior to issuing a notice of decision. Written comment should address the approval criteria listed below. Issues that may provide the basis for an appeal to the Planning Commission must be raised in writing and with sufficient detail to allow the City and the parties of record an opportunity to respond to the issue. The deadline for submitting written comments is 5:00 p.m. on **July 28, 2022**, 14 days from the date the City mails the notice of filing.

We have attached a location map and site plan. All application materials are available for review in-person by appointment only at the Planning Division, and copies can be obtained for a minimal charge. Should you wish to discuss this case with a staff planner, please contact David Martineau, project planner, at 541-917-7555. Written comments should be submitted to the Planning Division; PO Box 490, Albany, OR 97321 or by email to [david.martineau@cityofalbany.net](mailto:david.martineau@cityofalbany.net). Any person submitting written comments will receive a copy of the notice of decision on the application.

[cd.cityofalbany.net](http://cd.cityofalbany.net)



## Approval Standards for This Request

**Floodway Restrictions.** No development is allowed in any floodway except when the review body finds that the development will not result in any increase in flood levels during the occurrence of the 100-year flood. The finding shall be based upon applicant-supplied evidence prepared in accordance with standard engineering methodology approved by FEMA and certified by a registered professional engineer and upon documentation that one of the following criteria has been met (ADC 6.100):

- (1) The development does not involve the construction of permanent or habitable structures (including fences).
- (2) The development is a public or private park or recreational use or municipal utility use.
- (3) The development is a water-dependent structure such as a dock, pier, bridge, or floating marina.

For temporary storage of materials or equipment:

- (4) The temporary storage or processing of materials will not become buoyant, flammable, hazardous explosive or otherwise potentially injurious to human, animal, or plant life in times of flooding.
- (5) The temporary storage of material or equipment are not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

If a floodway boundary is not designated on an official FEMA map available to the City, the floodway boundary can be estimated from available data and new studies. Proposed development along the estimated floodway boundary shall not result in an increase of the base flood level greater than one foot as certified by a registered professional engineer.

**Alteration of a Watercourse.** A Watercourse is considered altered when any changes occur within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges (ADC 6.101):

- (1) No development shall diminish the flood-carrying capacity of a watercourse.
- (2) Subject to the foregoing regulation, no person shall alter or relocate a watercourse without necessary approval from the Floodplain Administrator.
- (3) Prior to approval, the applicant shall provide a 30-day written notice to the City, any adjacent community, the Natural Hazards Program of the Oregon Department of Land Conservation and Development, and the DSL.
- (4) The applicant shall be responsible for ensuring necessary maintenance of the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

**Grading, Fill, Excavation, and Paving.** A floodplain development permit is required for grading, fill, excavation, and paving in the Special Flood Hazard Area (100-year floodplain), except activities exempted in Section 6.094 of this Article. No grading will be permitted in a floodway, except when the applicant has supplied evidence prepared by a professional engineer that demonstrates the proposal will not result in any increase in flood levels during the occurrence of the 100-year flood. The permit will be approved if the applicant has shown that each of the following criteria that are applicable have been met (ADC 6.111):

- (1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.
- (2) The proposal will be approved only where adequate provisions for stormwater runoff have been made that are consistent with the Public Works Engineering standards, or as otherwise approved by the City Engineer.
- (3) No grading, fill, excavation, or paving will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading, fill, excavation, or paving will not be detrimental to the anticipated service life, operation, and maintenance of the existing utility.

- (4) In areas where no floodway has been designated on the applicable FIRM, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, fill, excavation, or paving when combined with all other existing and planned development, will not increase the water surface elevation of the base flood more than a maximum of one foot (cumulative) at any point within the community.
- (5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading, fill, excavation, or paving activity that will result in alteration or relocation of a watercourse (See Section 6.101).
- (6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down spouts and diffusers or other devices.
- (7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official or designee.

Additional review standards for this application are found in ADC Articles 1 & 6.

Attachments: Location Map, Site Plan