

**AGENDA  
DAYTON PLANNING COMMISSION MEETING**



**DATE:** THURSDAY, DECEMBER 08, 2022  
**TIME:** 6:30 PM  
**PLACE:** DAYTON CITY HALL ANNEX – 408 FERRY STREET, DAYTON, OREGON  
**VIRTUAL:** ZOOM MEETING – ORS 192.670/HB 2560

You may join the Planning Commission Meeting online via Zoom Meeting at: <https://us06web.zoom.us/j/84945868746>  
or you can call in and listen via Zoom: 1 346 248-7799 or 1 720 707-2699

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<b><u>ITEM</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>PAGE #</u></b>
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- A. CALL TO ORDER**
- B. APPROVAL OF ORDER OF AGENDA**
- C. APPEARANCE OF INTERESTED CITIZENS**

The public is strongly encouraged to relay concerns and comments to the Commission in one of the following ways:

- Email - at any time up to 5 pm the day of the meeting to [myork@ci.dayton.or.us](mailto:myork@ci.dayton.or.us). The Chair will read the comments emailed to the Planning Coordinator.
- Appear in person – If you would like to speak during public comment, please sign-up on the sign-in sheet located on the table when you enter the City Hall Annex.
- Appear by Telephone only – please sign up prior to the meeting by emailing the Planning Coordinator at [myork@ci.dayton.or.us](mailto:myork@ci.dayton.or.us) the chat function is not available when calling by phone into Zoom
- Appear Virtually via Zoom - once in the meeting send a chat directly to the Planning Coordinator Melissa York, use the raise hand feature in Zoom to request to speak during public comment, you must give the Planning Coordinator your First and Last Name, Address and Contact Information (email or phone number) before you are allowed to speak.

When it is your turn, the Chair will announce your name and unmute your mic.

**D. PUBLIC HEARING**

Dayton Land Use and Development Code (LUDC) – Staff Report	1-17
Section 7.2.102: Single Family Residential Zone (R-1)	
Section 7.2.3: General Development Standards	
Section 7.3.106: Site Development Review	
Section 7.3.108: Major Variance	
▪ Exhibit A: Vicinity Map	19
▪ Exhibit B: Engineer’s Comments	21-34
▪ Exhibit C: SDR Application Narrative	35-44
▪ Exhibit D: Site Plan	45
▪ Exhibit E: Variance Application Narrative	47-50

**E. OTHER BUSINESS**

**F. ADJOURN**

Posted: December 01, 2022

By: Melissa York, Office Specialist II/Planning Coordinator

**NEXT MEETING DATES**

Planning Commission Meeting Thursday, January 12, 2023 (if needed)

*Virtually via Zoom and in Person; City Hall Annex, 408 Ferry Street, Dayton, Oregon*

**CITY OF DAYTON**  
416 Ferry Street – P. O. Box 339  
Dayton, OR 97114-0039  
503-864-2221 fax 503-864-2956

**PLANNING COMMISSION  
STAFF REPORT**

**DATE:** December 1, 2022

**FILE NUMBER:** SDR 2022-11, MAJVAR 2022-11

**HEARING DATE:** December 8, 2022

**APPLICANT:** David Hakola

**OWNER:** First Baptist Church of Dayton

**SIZE:** 4.25 Acres

**ZONE:** R-1 (Single Family Residential)

**CRITERIA:** **Dayton Land Use and Development Code (LUDC)**  
Section 7.2.102: Single Family Residential Zone (R-1)  
Section 7.2.3: General Development Standards  
Section 7.3.106: Site Development Review  
Section 7.3.108 Major Variance

**EXHIBITS:** A. Vicinity Map  
B. Engineer’s Comments  
C. SDR Application Narrative  
D. Site Plan  
E. Variance Application Narrative

## I. BACKGROUND

The subject property is currently occupied by the Dayton First Baptist Church and is comprised of two legal lots, identified by Yamhill County Assessor's map tax lots 1400 and 1500. Approval for the development of the Church was issued in 1991 via conditional use permit and includes the associated parking area accessory structure. The property has frontage on both Flower Lane and Ash Road, and is bordered to the West by the Dayton City Limits Boundary.

### Surrounding Zoning:

North: Ash Road  
South: R-1  
East: Flower Lane ROW  
West: Yamhill County AF-10

## II. PROCESS

Site Design Reviews and Major Variances are Type II actions decided by the Planning Commission with a properly noticed public hearing. Application materials were submitted on August 18, 2022 and deemed incomplete on August 26<sup>th</sup>. The application was resubmitted on October 7<sup>th</sup> and deemed complete on October 21. The City has 120 days or until October 14, 2022 to issue a final decision on the applications.

Notice of the Planning Commission was mailed to all property owners within 300 feet of the subject properties on November, 15 2022, more than 20 days prior to the Planning Commission hearing.

No public comment has been received at the time of this staff report. Comments submitted by the City Engineer are attached as Exhibit B and referenced within the body of the staff report.

## III. STAFF FINDINGS

### **7.3.106 SITE DEVELOPMENT REVIEW**

#### *7.3.106.06 Evaluation of Site Development Plan*

*The review of a Site Development Plan shall be based upon consideration of the following:*

*A. Conformance with applicable General Development Standards in Section 7.2.3.*

*Applicable development standards are listed as follows:*

*7.2.201.04- Access to a Public Street*

**FINDING:** All uses must have access to a public street. The subject property has access to Flower Lane via the existing driveway. The proposed food pantry use will share the driveway access with the existing church.

*7.2.304.04- General Right-of-Way and Improvements Widths:*

**FINDING:** The subject property has frontage on two streets. Flower Lane is a city-owned street and is designated as a collector. The subject property has approximately 540 feet of frontage on Flower Lane. Per code, collector street widths are evaluated on a case-by-case basis, in which case we can defer to the City's public works design standards included in PWDS table 2.11. Per Exhibit B, a 5-foot ROW dedication is required along Flower Lane to accommodate a 36-foot pavement section within a 60-foot ROW. The required dedication has been agreed to and proposed by the applicant.

Ash Road is a street currently maintained by Yamhill County within the City of Dayton and is also designated as a collector. Because Ash Road is anticipated to be developed as a collector in the future, 15 feet of ROW dedication are required and have been proposed.

In addition to the ROW requirements, LUDC Section 7.2.302.04 requires street and sidewalk improvements along the property's frontage. However, because of the limited scope of improvements on site, staff concurs with the applicant's argument that the cost of street improvements go beyond the additional traffic and use caused by the addition of the proposed food pantry. The applicant has therefore submitted a major variance to allow the City to defer the additional street and sidewalk improvement requirements and require the applicant to sign a deferral/non-remonstrance agreement.

Staff finds that all applicable street and sidewalk improvement requirements are met or will be met pending approval of MAJVAR 22-11.

*7.2.303.06- Off-street parking requirements*

**FINDING:** Per the standards of this section, parking must be provided for each of the uses on site. The existing Church contains approximately 200 seats, generating a parking requirement of 50 spaces. While there are not specific parking requirements for the food pantry use, staff agrees that a "retail store handling bulky merchandise) is an appropriate similar use for the purposes of discussing parking requirements. Per code, one parking space is required for every 700 feet of building, generating the need for an additional four spaces. Combined, the total parking space requirement is 54 spaces. The applicant has proposed 64 spaces, exceeding the minimum required quantity.

*7.2.303.09- Parking and Loading Area Development Requirements*

1. *Screening. Parking or loading area within or abutting a residential zone shall be screened from all residential properties with a fence or wall from 4 feet to 7 feet in height.*
2. *Lighting. All lighting shall be directed entirely onto the loading or parking area and away from any residential use. The lighting shall not cast a glare or reflection onto the public rights-of-way.*
3. *Traffic Flow. Off-street parking access shall be designed to allow flow of traffic, provide maximum safety of traffic access and egress, and the maximum safety of pedestrians and vehicular traffic.*
4. *Entrance/Exits. Service drive entrances/exits shall have a minimum vision clearance area of 15 feet from the intersection of the street and driveway.*

5. *Landscaping. For parcels containing more than 50 parking spaces the following provisions shall apply:*
  1. *A minimum of 5% of the parking area shall be landscaped. This requirement is exclusive of landscaping necessary to comply with the provisions within the underlying zone.*
  2. *Parking lot landscaping shall be located within the perimeter of the parking area, bordered by curbing and sidewalks. Landscaping located adjacent to the paved parking surface shall not count toward this requirement.*
  3. *Landscaping improvements shall comply with provisions in Section 7.2.306.*

**FINDING:** While the parking area does border a residential zone to the South, there is no development currently present on the neighboring property and additional screening is therefore not required. Traffic has the ability to flow through the parking area via two drive aisles and the existing driveway provides both ingress and egress to the subject property and meets the 15-foot vision clearance requirement. The total square footage of the existing and proposed parking area is 31,817 SF and there is 1800 SF of landscaping proposed. The 1800 SF of landscaping comprises approximately 5.7% of the total parking area, exceeding the 5% requirement. A condition of approval is included requiring landscaping to be installed in keeping with the provisions of this section.

#### *7.2.303.11- Bicycle Parking*

**FINDING:** One bicycle space is required for each 20 required vehicle parking spaces. As there are 64 vehicle spaces, three bicycle parking spaces are required. The applicant has proposed three spaces, meeting the standard.

#### *7.2.304- Storm Drainage*

**FINDING:** Findings related to storm drainage can be found in the City' Engineer's comments (Exhibit B) and are restated below. All items requested by the City Engineer shall be included as conditions of approval.

"The preliminary drawings did not include information on proposed storm drainage improvements to serve the new building and expanded parking lot. In particular, the location & type of detention system proposed is not clearly shown or defined and will need to be verified and worked out during the design review process. (Existing Storm Mainlines). Based on information provided by the development team at the pre-application stage, there is an existing private storm drainage system which may be able to provide service to the expanded parking lot and the new building (flowing northerly toward Ash Road). The actual alignment and connection point to the City or County storm system will need to be verified during design, as well as the exact alignment, material, depth, slope and condition of the existing pipes by the developer (by TV inspection of the pipelines, as applicable).

--- The developer will need to provide storm drainage improvements as required to provide for collection of drainage from impervious areas (ie. roof drains, driveways, parking areas, etc.). Detention Requirements. Detention will be required for this development to limit flows to predevelopment 5 year flows per PWDS requirements (PWDS 3.18).

--- Detention Type & Location. Stormwater detention is required per PWDS requirements to limit flow from the project to predevelopment conditions as specified.

- While there is flexibility on the type of detention system provided, the City does require all detention systems to be maintained by the property owner.
- Per PWDS 3.18.c, detention facilities are to be located on private property (unless otherwise approved by the Public Works Director). A sample copy of the City's standard detention maintenance agreement is included in PWDS Appendix D.
- Per PWDS 3.18.d.1.b, open detention basins (or detention basins with open bottoms) are to be designed as off-stream storage basins, sloped to drain completely between design storms.
- If an in-line detention system is proposed, it must be a piped system per PWDS 3.18.d.7.
- Detention systems must include provisions for overflow based on a 50 year storm per PWDS 3.18.d.4.
- Per PWDS 3.18.d.1.c, any portion of the detention basin below the maximum water level in the receiving stream or storm system, or below the highest seasonal groundwater level (for open basins or detention systems with open bottoms), may not be utilized for storage volume in detention calculations.
- All weather maintenance access must be provided to provide maintenance access to any control structures, overflows or other facilities requiring inspection or maintenance.
- Stormwater Quality. Dayton does not currently have any specific additional water quality requirements for stormwater systems (assuming such requirements are not triggered by wetland or other similar permits from other agencies).

#### *7.2.305- Utility Lines and Facilities*

**FINDING:** Findings related to public utilities can be found in the City' Engineer's comments (Exhibit B) and are restated below. All items requested by the City Engineer shall be included as conditions of approval.

#### **Sanitary Sewer:**

The preliminary drawings do not include information on proposed sewer improvements to serve the new food pantry building. While page 2 of the revised narrative indicates that "the Food Pantry building can be served the existing utility systems located within the subject property that are used to serve the existing buildings on the site", it does not specify which utility systems, or how this is to be accomplished. It seems unlikely that a common sewer connected to the existing church building will be feasible or approvable under City standards. This will need to be verified and worked out during the design review process. (Existing Sewer Mainlines). There is an existing 8-inch concrete sewer along the westerly side of Flower Lane, fronting the portion of the property with the existing church building (8" concrete per utility maps, installed in 1965). (New Sewer Mainlines). Since there is an existing mainline available to serve this property, mainline sewer improvements will not be required. (Existing Sewer Service Laterals). At one point during the preapplication discussions, the development team indicated that (in addition to the sewer service lateral to the church building), their records show a separate sewer service lateral along the southerly edge of the parking lot, although the exact alignment, pipe material and condition was unknown. The location, slope, depth and condition of this presumed existing sewer service lateral will need to be verified by the developer. Any proposal to utilize an existing sewer service lateral serving the church building or church property will require that the size, alignment, material, depth, slope and condition of the existing pipes be verified by the developer (by TV inspection of the mainline, and/or locate TV inspection of the laterals, as applicable).

- City standards require commercial or industrial type sewer services to be 6" diameter minimum from the mainline to the property line cleanout (PWDS 4.18.b).

--- If existing laterals are proposed for reuse, service lateral pipe between the mainline & the building will need to be replaced, unless it is demonstrated that the existing pipe is leak free and meets City standards.

--- As outlined under PWDS 4.18.d, the City is under mandate from the Oregon Department of Environmental Quality (DEQ) to reduce infiltration and inflow (I/I) of storm runoff and groundwater into the City's sanitary sewer system. A significant portion of the (I/I) problems in the City's sewage collection system are attributable to leaking sewer service laterals or drains connected to service laterals. DEQ and City standards require that "No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage to any sanitary sewer." The City requires applicants to demonstrate compliance with this ordinance by testing existing sanitary sewer service laterals that are proposed for continuing use. This requirement is based on public health and sanitation regulations adopted by the City to meet Oregon DEQ and USEPA requirements under the City's NPDES permit.

--- Unless existing sewer service laterals are air tested in conformance with PWDS 4.18.d.2 from the property line cleanout to the building to verify that it is free of leaks or defects, any existing service lateral shall be replaced. A property line cleanout shall be provided for all existing or new service laterals, where such cleanouts do not already exist.

--- Any existing service lateral to the property which will not be utilized (ie. if abandoned) must be capped at the sewer mainline. (Grease Interceptor).

--- If a commercial style kitchen is proposed in the food pantry building (or other grease generating uses), the project will need to be provided with a grease interceptor vault as required under PWDS 4.18, at a location acceptable to Public Works, and must be provided with a recorded maintenance agreement.

--- Per OPSC 1014.1 requirements, sanitary flows must be piped separately, so as to bypass the grease interceptor (ie. so that it connects to the sewer service downstream of, or separately from, the grease interceptor).

**Water:** The preliminary drawings do not include information on proposed water service improvements to serve the new food pantry building. While page 2 of the revised narrative indicates that "the Food Pantry building can be served the existing utility systems located within the subject property that are used to serve the existing buildings on the site", it does not specify which utility systems, or how this is to be accomplished. It seems unlikely that a common water service connected from the existing church building will be feasible or approvable under City standards, without having to upsize the existing water meter. This will need to be verified and worked out during the design review process. It is unclear from the application narrative whether or not a fire sprinkler system for the new building is proposed or will be required. (Existing Waterlines & Hydrants) Maps show an existing 8-inch PVC Dayton City water mainline along the Flower Lane frontage of the property, across the portion of the property containing the existing church building (the waterline reduces to 6-inch diameter PVC at Church Street and north along Flower Lane).

--- There is also a 14-inch PVC water transmission main along Flower Lane, which serves Lafayette (located between the City waterline and the development property). Connection to this Lafayette transmission main is not allowed.

--- The Dayton City waterline (along Flower Lane) is on the opposite side of the street from the development property (ie. any new water service or fire lines will need to cross under the 14" transmission main).

--- Existing Hydrants. See discussion below regarding fire hydrant spacing requirements.

--- The existing fire hydrant at Flower Lane & Church Street is located about 230 feet north of the driveway entrance.



--- The existing fire hydrant at Flower Lane & Songbird Place Street is located about 250 feet south of the driveway entrance. (Existing Water Services). There is one existing water service serving this property, as follows.

--- There is an existing 1½-inch water service serving the church building.

--- If utilization of the existing meter is proposed, the developer will need to provide fixture unit counts and information for both the existing church and the proposed new building (unless a new meter for the new building is proposed), to allow verification that the existing meter meets City sizing criteria as discussed below (New Waterlines) Where existing waterlines do not meet current City standards, the developer is required to install new waterlines as required to provide service to the development in accordance with City standards. Waterline improvements are not anticipated unless required to provide fire flows for the proposed development.

--- The Dayton water master plan calls for a future 12-inch waterline along Flower Lane (although this waterline is not anticipated to be necessary until development occurs along Ash Road and Ash Street in the future).

--- If the Flower Lane street improvements are deferred, and if the existing 8" waterline along Flower Lane can provide adequate fire flows, the new 12" waterline construction will not be triggered by this development (if the new street were to be required, the new waterline should be installed prior to construction of the street over the top of the new waterline alignment). (Water Service(s) & Water Meters) Size any required new water service and/or meter is uncertain at this point. While the application narrative implies that the reuse of the existing water meter on Flower Lane may be proposed, the existing service line & meter is most likely NOT adequately sized to serve the proposed new development in addition to the existing uses. The developer will need to provide complete fixture lists and fixture unit counts and information for all uses proposed to be served from the existing or new meter(s), to allow verification that the meter(s) meet City sizing criteria as discussed below.

--- Standard water meter configurations are shown in the PWDS details.

--- The Developer will need to verify/clarify whether or not a separate irrigation meter is proposed.

--- Meter sizing criteria. Sizing criteria for water meters is summarized under PWDS 5.20.a.5.

--- With the final design, the development team will need to provide total fixture unit counts for the buildings being served (as well as all irrigation systems) for use in sizing any new domestic water meter(s).

--- Fixture unit equivalents and demand curves (used in determining the size of commercial water meters) shall be established in accordance with the Oregon Plumbing Specialty Code, with the meter size being determined based on the PWDS criteria noted above (once the development team provides a complete list of all fixtures and associated fixture unit counts, Public Works will indicate what size of meter will be required).

--- It is anticipated that a separate meter will be required to serve the new building, unless the existing meter is upsized (to be verified during design, since information was not provided with the application). (New Fire Hydrants) Hydrants shall be placed in locations approved by the City Engineer and the Fire Code Official, based on required distance from buildings and/or FDCs if provided (PWDS 5.17).

--- Based on the location of existing hydrants in relation to the new buildings, it appears that a new hydrant will be required adjacent to the driveway into the property. (Fire Flows Requirements)

--- Fire flows required will need to be determined from the Oregon Fire Code, based on the size and type of building, type of fire sprinklers provided for the new building, etc.

--- Even if fire sprinkler systems are proposed, the minimum fire flows required at the site for commercial type buildings is 1500 gpm (OFC B105.3.1). (Fire Flow Determination)

- We have no fire flow test data on for the existing 8" waterline along Flower Lane (ie. to determine flows at the new hydrant by the church driveway).
- The developer will be responsible to arrange for fire flow tests to determine whether or not adequate fire flows exist in this location (and to determine whether or not fire sprinklers will be required for the new building).
- If adequate fire flows are not available from the existing 8-inch City waterline, the developer will need to either provide a fire sprinkler system for the new building, or construct the new 12" waterline referenced above and noted in the water master plan. (Fire Sprinkler Systems) The developer has not definitely stated whether or not fire sprinklers will be required for the new building.
- If a fire sprinkler system is proposed, backflow devices and FDCs to City and Fire District standards will be required (Detail 554-556 for outdoor backflow assemblies, per OFC standards if located inside of the building).
- FDCs will be required at locations acceptable to Public Works and the Fire Chief (ie. location in relation to the building(s) being served, and location in relation to a fire hydrant per PWDS 5.22.d). -
- The location of the forward flow test port required under NFPA 10.10.10.2.5 shall be shown on the construction drawings (see general criteria on Detail 559), as well as defining how flows during the initial & subsequent forward flow test will be conveyed to the outside without flooding or damage to the building.

7.2.306.04- *Screening. Screening shall be used to eliminate or reduce the visual impacts of the following uses:*

1. *Commercial and industrial uses when abutting residential uses.*
  2. *Industrial uses when abutting commercial uses.*
  3. *Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas.*
  4. *Outdoor storage areas.*
  5. *Parking areas for 20 or more vehicles for multi- family developments, or 30 or more vehicles for commercial or industrial uses.*
  6. *At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.*
- B. *Screening Methods. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques. Where vegetative methods are used, the screening shall reach a minimum of six feet in height upon maturity.*
- C. *Buffering. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:*
- a. *Planting Area: Width not less than 15 feet, planted with either one row of trees staggered and spaced not more than fifteen 15 feet apart; or, at least one row of shrubs forming a continuous hedge at least 5 feet in height within one year of planting.*
  - b. *Berm Plus Planting Area. Width not less than 10 feet, with the combined total height of the berm and hedge not less than 5 feet.*
  - c. *Wall Plus Planting Area. Width must not be less than 5 feet with a masonry wall or fence not less than 5 feet in height and lawn, shrubs or ground cover covering the remaining area.*

- d. *Other approved methods which produce an adequate buffer considering the nature of the impacts to be mitigated.*

**FINDING:** The proposal includes a parking area of greater than 30 spaces. Screening is therefore required. There is an existing stand of trees located along the Southerly border of the subject property. The existing trees are sight obscuring and meet the screening and buffering standards of subsections B and C.

**B. Adequacy of public and private facilities.**

**FINDING:** Findings related to the adequacy of public facilities are included both under the above findings for “General Development Standards” and within Exhibit B. Staff finds the City’s public facilities are adequate to serve the development.

**C. Traffic safety, internal circulation and parking;**

**FINDING:** Findings related to parking may be found under Section 7.2.303 above. The applicant is proposing to use the existing driveway to access the property. There is an existing sidewalk from the Flower Lane ROW throughout the development that will be extended to the food pantry building upon development. Staff finds the proposed plan meets the applicable standards related to traffic safety, internal circulation, and parking.

**D. Provision for adequate noise and/or visual buffering from non-compatible uses.**

**FINDING:** The proposal is to add a low intensity use to the existing Church on the property. All abutting properties are either undeveloped or will not be adversely affected by the proposed use. Staff finds that the proposed use is compatible with surrounding uses and that additional buffering is therefore not needed.

**E. Conformance with development requirements of the underlying zone.**

**7.2.102 (Single Family Residential Zone)**

**7.2.102.04 Conditional Uses**

*The following uses, when developed under the applicable development standards in the Zoning Code, are permitted in the R-1 zone:*

- D. *House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 7.2.407*

**FINDING:** Staff finds that the food pantry use is an accessory use to the House of Worship use authorized by the 1991 Conditional Use Permit.

**7.2.103.05 Dimensional Standards**

*The following dimensional standards shall be the minimum requirements for all development in the R-1 Zone.*

DIMENSION	Residential Uses	Non-Residential Uses
Lot Size	7,000 sq. ft. - Single Family	(1)
	9,000 sq. ft. - Duplex	
Average Width	50	(1)
Average Depth	80	(1)
Maximum Height	35 feet	35 feet

SETBACKS	Residential Uses	Non-Residential Uses
Front	15 feet	20 feet
Side	5 feet	10 feet
Rear	15 feet - 1-story	20 feet
	20 feet - 2-story	
Street-side	15 feet	20 feet
Garage (1)	20 feet	20 feet

**FINDING:** The combined area of the subject properties is 4.25 acres, exceeding the minimum parcel size required to contain all structures within the required setbacks per subsection A3. All existing and proposed setback distances meet or exceed the requirements of subsection B as shown on the submitted site plan (Exhibit D).

**7.2.102.06 Development Standards**

*All development in the R-2 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:*

1. *Offstreet Parking: Parking shall be as specified in Section 7.2.303.*
2. *Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.*
3. *Site Development Review: Manufactured home parks, multi-family residential development and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.*
4. *Lot Coverage*

<i>Maximum building coverage (primary building):</i>	<i>35%</i>
<i>Maximum parking area coverage (including garage):</i>	<i>30%</i>
<i>Combined maximum lot and parking area coverage:</i>	<i>60%</i>

5. *Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. Multiple*

*family developments shall comply with provisions in Section 7.2.306.06. (Amended ORD 530, Effective 07/04/01)*

6. *Density: Subdivisions shall be developed at a minimum density of four dwelling units per acre with a maximum density of six dwelling units per acre.*
7. *Redevelopment Plan: A redevelopment plan shall be required to place a single family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:*
  1. *The redevelopment plan shall indicate how the remaining undeveloped portion of the property can be developed at a density consistent with the requirements of the R-2 zone.*
  2. *The plan may be revised or modified at the time of development provided the revised plan complies with the density requirement of the R-2 zone.*

**FINDING:**

1. Findings for the provision off-street parking can be found under the “off-street parking” section of this staff report.
2. All lots and yards comply with the provisions of LUDC Section 7.2.308.
3. This application is subject to Site Development Review and is being reviewed as such.
4. Building coverage is 11% of the total site area. Parking coverage is 16%. Total lot coverage is 27%, meeting the standard.
5. Findings for landscaping can be found under Sections 7.2.303 and 7.2.306 respectively. Staff finds that all applicable landscape requirements have been met.
6. The proposal is not residential development. The standard is therefore not applicable.
7. The proposal is not single family home. The standard is therefore not applicable.

**7.3.106 MAJOR VARIANCES**

The applicant is requesting a major variance to allow for the deferral of the required street improvements per LUDC Section 7.2.302.04 via a signed deferral/non-remonstrance agreement.

1. *There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the requirements of the Code, and is the minimum relief to relieve the hardship. Adverse economic impact shall not be considered an unreasonable hardship or practical difficulty.*

**FINDING:** The proposed development consists of the addition of a food pantry building on the property currently containing the Dayton First Baptist Church. Staff finds that while Criterion A expressly states that “adverse economic impact shall not be considered an unreasonable hardship or practical difficulty,” the scope of improvements required per code exceeds the impact the addition of the food pantry structure will have on the street system. Additionally, staff finds that a non-remonstrance agreement /deferral agreement similar to what is offered as an option at the time of partition and subdivision approval is an appropriate mechanism for ensuring future improvements are completed while meeting the legal precedent established by Nolan/Dolan.

2. *There are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to the land, buildings, or uses in the same zone; however, non-conforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions.*

**FINDING:** Improvement requirements reflect the increased impact a proposed development will have on the City's street system. Staff concurs with the applicant's statement that the development of the proposed food pantry structure on a property with a pre-existing significant primary use qualifies as an exceptional condition that does not apply to other properties in the same zone.

3. *That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.*

**FINDING:** Staff finds that the development of the food pantry building will not add significant traffic to the existing Church use and will therefore not be materially detrimental to the public welfare. The developer is proposing to dedicate the required ROW to accommodate future street improvements.

4. *That such variance is necessary for the preservation and enjoyment of the substantial property rights of petitioner.*

**FINDING:** The LUDC allows for the development of accessory uses commonly associated with a "house of worship." If the street improvement requirements were strictly enforced, the economic impacts of the street improvements would be out of proportion with the impact the food pantry addition would have on the street system. Staff finds that Criterion 4 is met.

5. *That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant.*

**FINDING:** The deferral of the street improvements and sidewalks along Ash Road will not adversely affect the health and safety of persons working or residing in the neighborhood or property of the applicant. The deferral agreement and ROW dedication will allow for future improvements to be completed, and the additional traffic generated by the food pantry use is estimated to be around 7 trips per day- Not a significant addition.

6. *The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.*

**FINDING:** The degree of variance from the required improvements is the minimum necessary to allow the applicant to develop the food pantry building. If the variance was not granted, the scope of the required improvements would exceed the nexus of rough proportionality established by Nolan/Dolan.

7. *The variance request is not the result of a deliberate action or knowing violation on the part of the applicant.*

**FINDING:** Staff finds that the variance request is not the result of a deliberate action or knowing violation on the part of the applicant.

#### **IV. CONDITIONS & CONCLUSION**

Based on the findings contained in this report, Staff recommends approval of SDR 22-10 and MAJVAR 22-11 with the following conditions:

1. If the developer wishes to consolidate the two legal parcels into a single legal lot of record and avoid the need for easements between the two properties, a PLA application will need to be submitted to the City. If the PLA is approved, the new deed effectuating the PLA/lot consolidation will need to be recorded within 12 months of the PLA approval decision.
2. Except for items specifically exempted by the planning approval, the development shall fully comply with the public facility requirements of the Dayton Land Use & Development Code (LUDC) and the Public Works Design Standards (PWDS), including information outlined in the City Engineer's 10/27/2022 email to the Public Works Director Steve Sagmiller, attached as Exhibit A. The applicant/developer is responsible for the construction costs of required public or private infrastructure improvements associated with the development (*both onsite and offsite*).
3. After issuance/finalization of the land use approval, the developer and his engineer shall schedule and participate in a pre-design conference with the City Public Works for the purpose of coordinating any required site / street / utility work (PWDS 1.9.b). This conference shall occur after the issuance of land use approval (*and expiration of any appeal period*), but prior to submitting final site / street / sidewalk / utility construction drawings for review by Public Works. Participants shall include City Public Works and the City Engineer, as well as public/franchise utility providers as applicable. The developer shall provide all information required under PWDS 1.9.b prior to the predesign conference (*including a title report*), as well as providing information on how each land use approval condition and Public Works issues identified herein will be addressed.
4. After the pre-design conference, the applicant shall prepare and submit any required street, grading, parking, storm drainage, sewer and water plans conforming to the requirements of the Public Works Design Standards (PWDS) for review by the City Engineer and Public Works.
5. Building permits (*structural, plumbing, etc.*) for the site, and Public Works construction permits for site / street / sidewalk / utility work shall not be issued until after the developer has received final approval of any required engineered site, street/sidewalk or utility construction drawings per PWDS requirements, a Developer-City construction agreement has been executed, and a performance security satisfactory to the City has been submitted guaranteeing that all improvements will be completed in accordance with the approved drawings and City Standards within the specified time period (PWDS G.10). The engineered site / street / sidewalk / utility construction drawings shall be based on a topographic survey showing the location of all property lines, right-of-way lines and existing easements (*including recording references*), and existing utilities. The construction drawings shall show any new easements required (*including recording references*), and all required site and utility improvements, addressing site grading, street improvements/repairs, sidewalk & pedestrian plans, street lights, waterlines, fire hydrants, sanitary sewer, storm drainage, access driveways/fire lanes and parking area layout/dimension plans as applicable, and irrigation plans & backflow device locations for all phases of the development as applicable, as well as information on how streets and/or utilities can be extended to serve adjacent or upstream undeveloped property.

6. A title report will need to be provided for review with the utility plans and with the final plat (*including copies of all referenced recorded documents, unless download links are provided in the title report*). (see PWDS 1.10.b.10).
7. Any required easements shall be approved by the City and recorded by the Developer prior to final approval of the construction drawings by the City.
8. Occupancy permits for structures shall not be issued prior to completion of all required improvements and conditions of approval, and written acceptance by the City, including submission of maintenance bonds and reproducible as-built drawings which have been reviewed & accepted by Public Works.
9. Except as specifically modified by this land use decision, the developer shall be responsible to obtain site/utility construction permits and building permits (*and commence substantial construction*) within one-year of this approval, or the approval will expire unless an extension is granted (*this does not require that all construction to be complete within the 1 year period*). Per LUDC 7.2.201.02.B, all structures must receive a certificate of occupancy within two years of beginning construction, or the approval will expire.
10. The final construction drawings shall provide accessible parking, number and configuration as may be required by applicable law, codes or standards based on parking requirements for the development and shall include the number of bicycle parking spaces required by City standards. Marking, striping and signing of crosswalks, parking spaces and handicap spaces shall conform with City and ADA standards. The final layout of the parking areas and access driveways shall conform with the PWDS and be acceptable to the City Engineer and Public Works, including but not limited to width, alignment, turning radius, clear vision areas, etc. If a dedicated loading space is provided, it shall be configured without blocking other access routes. Sidewalks fronting head-in parking areas shall be 6-foot minimum width unless wheel-stops are provided.
11. The style of any new private site & parking area lighting shall conform with City standards and shall be directed downward onto the areas to be lighted and shall not project outward or upward. Site lighting styles shall be submitted for review and approval by City staff prior to installation. All site lighting on private property shall be metered and the utility bills paid by the property owner.
12. The access drive configuration and signage shall conform to the requirements of the Philomath PWDS and any other agencies with jurisdiction.
13. Unless otherwise approved in writing by the Fire Chief, the final layout shall be such that all portions of each building is within 150 feet from a fire apparatus access route as measured by an approved route around the exterior of the building per OFC 503.1.1. All fire apparatus access routes are to be designated as fire lanes and signed for no parking in a manner acceptable to the Fire Chief and City standards. Fire lane widths shall conform with the OFC and be acceptable to the Fire Chief, including dimensions of turnarounds and corners (*or looped routes if proposed*).
14. All fire apparatus access roads shall be located within a recorded fire lane easement to the City, which shall include maintenance provisions.



15. An additional 5 feet of right-of-way will need to be dedicated across southerly half of the property frontage to provide the 60-foot ROW width for a future 36 foot collector street (*the ROW dedication can taper down to zero north of where the existing wider ROW exists north toward Ash Road*). A ROW radius will be required at the corner of Flower Lane & Ash Road, to accommodate future curb and sidewalk radius at this intersection.
16. An additional 15 feet of right-of-way will need to be dedicated along the development frontage with Ash Road, plus a ROW radius at the Flower Lane & Ash Road intersection corner (*to provide for future curb and sidewalk radius*).
17. Street frontage PUEs shall be provided along the frontage of all right-of-ways where such easements do not already exist (*PWDS 1.10.j*). Language per PWDS 1.10.j will need to be included on the plat for these PUEs.
18. CBU mailboxes per City & postal service standards (*and CBU access*) shall be installed by the Developer in conjunction with building construction per City and state standards, if mail delivery is proposed to the buildings. An ADA compliant pedestrian ramp from the street must be located within 50 feet of the new CBU mailboxes, per City standards, and an ADA compliant sidewalk between the ramp & CBU will need to be provided in conjunction with the CBU installation.
19. A new public street-light shall be installed at or adjacent to the Flower Lane driveway entrance, at a location to be approved by the City Engineer and Public Works based on City standards.
20. The Developer shall submit storm drainage construction drawings conforming to the requirements of the PWDS. The storm drainage plan shall demonstrate that there are no impacts to the downstream properties. Drainage maps and a summary of flow calculations for existing and developed conditions shall be included on the construction drawings. The storm drainage plan shall be designed to accommodate roof and foundation drains, as well as drainage from new and reconstructed streets, and shall convey storm water runoff to an approved point of disposal. The storm drainage plan shall include replacement of impacted storm drain pipes or inlets which are undersized or which do not meet current City standards (*may not be applicable if the Landmark Drive LID proceeds as anticipated*). Any downstream improvements required to provide required capacity shall be constructed to City standards, and shall be the responsibility of the Developer (*also may not be applicable if the Landmark Drive LID proceeds as anticipated*). The stormwater detention system (*PWDS 3.18*) shall conform with PWDS requirements, which requires the detention basin to be located on private property (*unless otherwise approved by the Public Works Director*) and provided with a recorded detention easement & maintenance agreement per City standards, as well as a permanent irrigation system. All weather maintenance access shall be provided to all public storm manholes and other structures unless otherwise approved by Public Works. Detention systems shall include provisions for inspection and maintenance access, with open basins designed for off-stream storage per PWDS 3.18.d.1.b b. Easements meeting PWDS requirements shall be provided for any public storm drains located outside of street right-of-ways, or for private storm lines that cross property other than that which they serve.
21. The developer shall submit sanitary sewer drawings for a new gravity sewer lateral(s) to serve the development, as well as providing for the abandonment (*ie. plugging at the mainline*) of any existing sewer laterals serving the property which are no longer being used. If a kitchen is

proposed in the new food pantry building, the development will require the installation of a grease interceptor vault in conformance with PWDS 4.18.e. Any required sewer improvements (*including any existing laterals to be capped/plugged at the mainline*) must be completed, tested and accepted prior to occupancy permits being issued for the new uses in the existing buildings, including recording of the grease interceptor maintenance agreement if applicable. Easements meeting PWDS requirements shall be provided for any public sewer lines located outside of street right-of-ways, or for private sewer lines that cross property other than that which they serve.

22. The Developer shall submit water system construction drawings conforming to the requirements of the PWDS, and shall demonstrate that the required fire flows are available to hydrants serving the site. All water system improvements required to provide the minimum fire flows (*with or without fire sprinklers*) shall be the sole responsibility of the developer. The drawings shall show the location and size of any existing or proposed domestic and/or irrigation water meters, as well as any existing or proposed backflow assemblies. The connection point of the domestic, irrigation and fire service lines to the public system, and the location of backflow devices, shall be as approved by Public Works and the City Engineer. A new fire hydrant will be required at a location approved by the City Engineer and the Fire Chief. For buildings that are fire sprinklered, the developer shall provide an approved fire system backflow device and FDC between the public system and the fire sprinkler system. The location of the detector backflow device, FDC and forward flow test port shall be as approved by the City Engineer and the Fire Chief. Any required water system improvements must be completed, tested and accepted prior to occupancy permits being issued for the new uses in the existing buildings. Easements meeting PWDS requirements shall be provided for any public waterlines located outside of street right-of-ways, or for private water lines that cross property other than that which they serve.
23. The applicant shall sign and record a non-remonstrance agreement for the required street and sidewalk improvements with Yamhill County prior to the approval of the final construction plans.
24. All required landscaping shall be installed in accordance with the provisions of the LUDC. A final landscape plan shall be submitted along with the final construction plans.

## **V. PLANNING COMMISSION OPTIONS**

- A. I move to approve SDR 22-10 and MAJVAR 22-11 with the conditions listed in the staff report.
- B. I move to approve SDR 22-10 and MAJVAR 22-11 with the following modifications....  
*Note: The Commissioner making the motion needs to state the reasons for the modifications and any revised conditions of approval.*
- C. I move to deny SDR 22-10 and MAJVAR 22-11 because...  
*Note: The Commissioner making the motion needs to state the reasons for denying the application.*
- D. I move to continue the hearing to (date/time certain) to obtain additional information regarding....

**Recommended Motion** *I move to approve SDR 22-10 and MAJVAR 22-11 with the conditions listed in the staff report.*

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NW 1/4 NW 1/4 SEC 20 T4S R3W W.M.  
YAMHILL COUNTY

4 3 20BB  
DAYTON

1" = 100'

CANCELLED  
402  
600  
602  
701  
801  
901

SEE MAP 4 3 17CD

SEE MAP 4 3 17CC

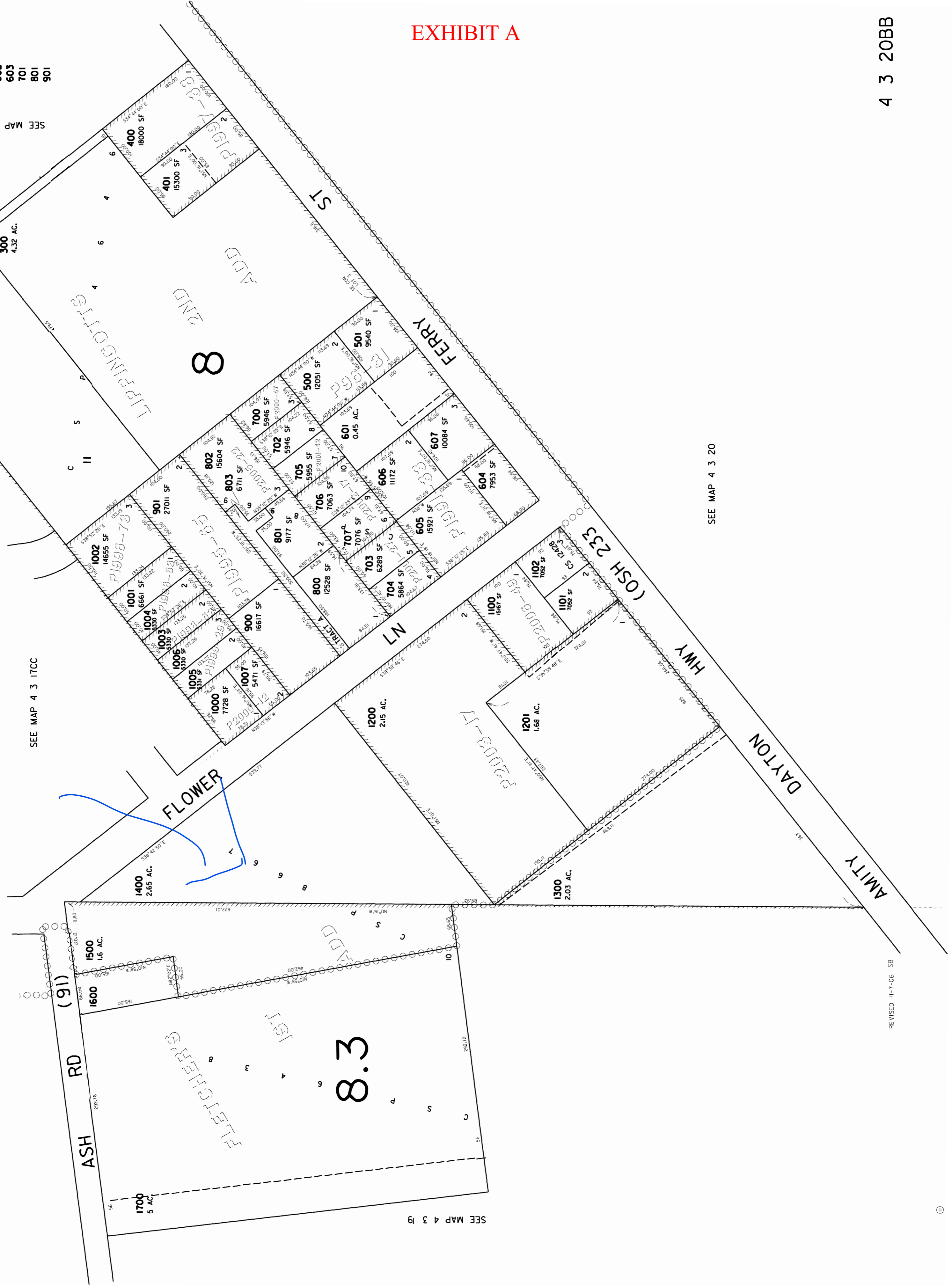
SEE MAP 4 3 19

SEE MAP 4 3 20

EXHIBIT A

4 3 20BB

REVISED 11-7-06 SB



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## EXHIBIT B

Per the City's request, we reviewed the land use application and associated layout drawing submitted for the proposed food pantry development proposed on the same property as the Dayton First Baptist Church on Flower Lane. We reviewed the application for conformance with applicable City requirements, with regards to recommended improvements to mitigate anticipated impacts. For the most part, our review is limited to public works & infrastructure issues. We understand that the City Planner will be reviewing the application from a planning/zoning standpoint and preparing the staff report.

We recommend that approval of this development be subject to the suggested conditions outlined below. As an alternative, the suggested conditions noted below can be included by reference by an approval condition, if this approach is desired by the City Planner.

If the Planning staff or Planning Commission wishes to modify any of the recommended conditions of approval outlined below, or grant any other variances based on information that we may not be aware of, we assume that this will be coordinated with Public Works as part of the land use approval process. The City Planner should exercise care and coordinate with other staff if any of the suggested conditions are reworded, to avoid changing the meaning of the requirements.

It is important to be aware that the PWDS (and Oregon Fire Code - OFC) provisions referenced herein are not land use regulations, and are not intended to have an impact on the decision as to whether to approve or deny the application, but are listed so that the applicant is made aware of some of the design/construction standards which must be addressed during the construction phase of the development (*ie. approval or denial should be based on the land use regulations, while conditions regarding specific improvements may reference the PWDS & OFC to clarify the extent of improvements required in order to provide service to or mitigate impacts from the development*).

### **BACKGROUND INFORMATION & APPLICATION OVERVIEW.**

*By City convention and to minimize confusion regarding directions, "plan" north (for purposes of this review) is considered to be parallel with Flower Lane and perpendicular to Church Street.*

The proposed development is generally located on property west of the Flower & south of Ash Road (*ie. generally west of the Flower & Church Street intersection*).

The applicant (*hereinafter called the Developer*) proposes development generally as follows.

- Construct a 3,000 ft<sup>2</sup> building to house a community food pantry on the same property as the existing church.
- Expand the existing parking lot to provide additional parking for the food pantry use.

Drawings were provided showing the general proposed layout of the site (*showing existing and new buildings*), but the preliminary drawings did not include proposed water or sewer utilities to serve the new building.

The following is an overview summary only, and does not include all proposed or required improvements.

Variance Applications. The developer has submitted one variance application relating to this project (*to waive or defer the otherwise required street improvements, which will allow for the execution of a non-remonstrance/construction deferral agreement instead of providing some level of street and/or sidewalk improvements*).

Excerpts from the City utility maps are attached for reference. These maps show the approximate location and layout of the surrounding properties and known utilities.

The development consists of the following tax lots.

- TL 4320BB-01400.
  - Most of existing church & assembly buildings are located on this property.
  - 300 Flower Lane.
  - This legal lot does not appear to be part of any existing subdivision or partition plat.
- TL 4320BB-01500.
  - A portion of the existing assembly building is located on this property.
  - No current address.
  - This legal lot appear to be part of the Fletchers 1<sup>st</sup> Addition plat.

The property is currently located inside City Limits, and is zoned Residential (R1).

The zoning of land bordering the development property is as follows:

- North: Residential (R1) – across Ash Road
- South: Residential (R1) – currently an undeveloped orchard
- West: AF-10 – outside current City Limits
- East: Residential (R1 & R2) – across Flower Lane

**DEVELOPMENT CONSIDERATIONS.** We recommend referencing the following suggested conditions and/or development considerations (**SOLID BULLETED PARAGRAPHS BELOW**) in the land use approval.

**Prior Land Use Approval for Property.**

Based on the application narrative, there was a previous Conditional Use approval allowing the church to be constructed on the residential zoned property. We assume this will be verified by the City Planner.

**Existing Plats, Easements, etc.**

These main church property does not appear to be part of any previous subdivision or partition plat. However, the westerly parcel appears to have been part of Fletchers 1<sup>st</sup> Addition.

Title reports for each of the properties was provided with the land use application.

There appear to be two easements to the City as follows, but no other recorded instruments precluding the proposed development approach.

- Well & waterline easement encompassing most of the north end of the property near the corner of Flower Lane & Ash Road.
- 10 foot wide storm drainage easement along the boundary of Flower Lane & Ash Road.

**Existing buildings, setbacks, etc.**

As noted above, there are existing structures on the property, none of which appear to be included on the historic property index map.

We are not aware of any issues relating to setbacks for the existing buildings. We assume that any setback issues will be addressed by the City Planner.

**PLA/Lot Consolidation Approval Timeframe.** (per LUDC 7.3.104.06)



As discussed with the developer during the pre-application stage, while the two legal lots can be considered as a single lot for purpose of the land use application and land use approval, any utilities or access routes which cross one of the parcels to provide service to or for the other parcel will require easements under the Public Works standards (*private easements or easements to the City, depending on the situation*).

If the developer wishes to avoid the need for such easements, the two properties can be consolidated into a single legal lot of record through a property line adjustment process (*ie. the PLA approval is a staff level decision, and it does not require the property be replatted, but simply requires a consolidation deed to be recorded with the County, along with any survey required by the County surveyor*).

- If the developer wishes to consolidate the two legal parcels into a single legal lot of record and avoid the need for easements between the two properties, a PLA application will need to be submitted to the City. If the PLA is approved, the new deed effectuating the PLA/lot consolidation will need to be recorded within 12 months of the PLA approval decision.

**General Items.**

- Except for items specifically exempted by the planning approval, the development shall fully comply with the public facility requirements of the Dayton Land Use & Development Code (LUDC) and the Public Works Design Standards (PWDS), including information outlined in the City Engineer's 10/27/2022 email to the Public Works Director Steve Sagmiller, attached as Exhibit A. The applicant/developer is responsible for the construction costs of required public or private infrastructure improvements associated with the development (*both onsite and offsite*).

If this email (*and associated conditions*) is not included by reference in the land use conditions, it should be included as an exhibit to the staff report so that it is part of the findings, and available for reference by the developer's design team.

- After issuance/finalization of the land use approval, the developer and his engineer shall schedule and participate in a pre-design conference with the City Public Works for the purpose of coordinating any required site / street / utility work (PWDS 1.9.b). This conference shall occur after the issuance of land use approval (*and expiration of any appeal period*), but prior to submitting final site / street / sidewalk / utility construction drawings for review by Public Works. Participants shall include City Public Works and the City Engineer, as well as public/franchise utility providers as applicable. The developer shall provide all information required under PWDS 1.9.b prior to the predesign conference (*including a title report*), as well as providing information on how each land use approval condition and Public Works issues identified herein will be addressed.
- After the pre-design conference, the applicant shall prepare and submit any required street, grading, parking, storm drainage, sewer and water plans conforming to the requirements of the Public Works Design Standards (PWDS) for review by the City Engineer and Public Works.
- Building permits (*structural, plumbing, etc.*) for the site, and Public Works construction permits for site / street / sidewalk / utility work shall not be issued until after the developer has received final approval of any required engineered site, street/sidewalk or utility construction drawings per PWDS requirements, a Developer-City construction agreement has been executed, and a performance security satisfactory to the City has been submitted guaranteeing that all improvements will be completed in accordance with the approved drawings and City Standards within the specified time period (PWDS G.10). The engineered site / street / sidewalk / utility

construction drawings shall be based on a topographic survey showing the location of all property lines, right-of-way lines and existing easements (*including recording references*), and existing utilities. The construction drawings shall show any new easements required (*including recording references*), and all required site and utility improvements, addressing site grading, street improvements/repairs, sidewalk & pedestrian plans, street lights, waterlines, fire hydrants, sanitary sewer, storm drainage, access driveways/fire lanes and parking area layout/dimension plans as applicable, and irrigation plans & backflow device locations for all phases of the development as applicable, as well as information on how streets and/or utilities can be extended to serve adjacent or upstream undeveloped property.

- A title report will need to be provided for review with the utility plans and with the final plat (*including copies of all referenced recorded documents, unless download links are provided in the title report*). (see PWDS 1.10.b.10).
- Any required easements shall be approved by the City and recorded by the Developer prior to final approval of the construction drawings by the City.
- Occupancy permits for structures shall not be issued prior to completion of all required improvements and conditions of approval, and written acceptance by the City, including submission of maintenance bonds and reproducible as-built drawings which have been reviewed & accepted by Public Works.

**Phasing & Timeframes.**

The developer is proposing to develop the project in a single phase.

LUDC 7.3.102.05 states that land use “*approvals shall be effective for a period of one year from the date of final approval.*” We assume this means that the approval will expire if site/utility construction permits and building permits are not obtained and substantial construction is not commenced within the one-year period, but does not require all construction to be complete within the 1 year period. To avoid confusion on this issue, we recommend that this be formalized as a condition of approval.

- Except as specifically modified by this land use decision, the developer shall be responsible to obtain site/utility construction permits and building permits (*and commence substantial construction*) within one-year of this approval, or the approval will expire unless an extension is granted (*this does not require that all construction to be complete within the 1 year period*). Per LUDC 7.2.201.02.B, all structures must receive a certificate of occupancy within two years of beginning construction, or the approval will expire.

**Lot Standards & Zoning Standards.**

We assume that conformance with lot and general development standards under the C zoning ordinance will be verified by the City Planner, and conditions added as applicable.

The proposed site and utility improvements appear to be contained within the developer owned property boundaries. If this changes, easements will be required where accesses or private utilities cross property lines or are located on property other than that being served.

**Site Grading & Fills, Flood Elevations.**

It does not appear that this project will include any significant grade changes. There are no flood plains in the vicinity of this development.

The following are included for reference only.

- A site grading plan will be required showing grading and drainage around the building, in conjunction with the site/grading/parking/street/sidewalk/utility construction drawings prepared for this project.
- Any fills within public rights-of-ways or fire lanes, or lot fills shall be compacted and tested to City standards and per the Oregon Structural Specialty Code requirements as applicable (*95% optimum per ASTM D1557 within right-of-ways, and 90% optimum within lot building envelopes*).
- Any existing unsuitable fills within the right-of-way, driveway alignments or building envelopes will need to be removed or remediated in conjunction with the development construction.

**Site Layout, Vehicular Access, etc.**

The preliminary layout drawing included information on proposed access & parking. This information will be verified in conjunction with the predesign conference and review of the final development construction drawings. The City is not responsible for any discrepancies or missing information not shown on the application drawings.

Offstreet Parking. We assume that the City Planner will review the proposal and determine the number of parking spaces (*including bicycle parking*) required based on the type of occupancy/use proposed, and provide direction on these numbers as applicable.

ADA Accessible Parking. Accessible parking space(s) will need to be provided, number and configuration as may be required by applicable law, codes or standards.

- LUDC 7.2.303.07 requires that the number and configuration of accessible parking spaces comply with the building code and the Oregon Transportation Commission standards.
- The number of accessible parking spaces required is based on the number of standard parking spaces required or provided for a particular development (*minimum of 1 accessible space for up to 25 parking spaces, with an additional accessible space required for each 25 additional parking spaces required or provided*), per OSSC Table 1106.1.

Bicycle Parking. The location and number of bicycle parking spaces will need to be determined by the City Planner and/or the Planning Commission as part of the land use process.

- LUDC 7.2.303.11 contains the City requirements for bicycle parking required for developments.

Loading Zone. LUDC 7.2.303.08 typically requires in part that “*All commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount: for buildings containing over 5,000 square feet of gross floor area, 1 space; for each additional 40,000 square feet of gross floor area, or any portion thereof, 1 space*”.

- Since the new building is less than 5,000 square feet, an off-street loading zone does not appear to be required.

Number of Parking, Accessible Parking & Bicycle Parking Spaces. We assume that the City Planner and/or Planning Commission will determine the number of bicycle parking spaces required based on the type of occupancy/use proposed, and provide direction on these numbers as applicable.

- The final construction drawings shall provide accessible parking, number and configuration as may be required by applicable law, codes or standards based on parking requirements for the development, and shall include the number of bicycle parking spaces required by City standards.
  - \_\_ vehicle parking spaces & \_\_ bicycle spaces.
 Marking, striping and signing of crosswalks, parking spaces and handicap spaces shall conform with City and ADA standards. The final layout of the parking areas and access driveways shall conform with the PWDS and be acceptable to the City Engineer and Public Works, including but not limited to width, alignment, turning radius, clear vision areas, etc. If a dedicated loading space is provided, it shall be configured without blocking other access routes. Sidewalks fronting head-in parking areas shall be 6 foot minimum width unless wheel-stops are provided.
- The style of any new private site & parking area lighting shall conform with City standards and shall be directed downward onto the areas to be lighted, and shall not project outward or upward. Site lighting styles shall be submitted for review and approval by City staff prior to installation. All site lighting on private property shall be metered and the utility bills paid by the property owner.
- The access drive configuration and signage shall conform to the requirements of the Philomath PWDS and any other agencies with jurisdiction.
- Unless otherwise approved in writing by the Fire Chief, the final layout shall be such that all portions of each building is within 150 feet from a fire apparatus access route as measured by an approved route around the exterior of the building per OFC 503.1.1. All fire apparatus access routes are to be designated as fire lanes and signed for no parking in a manner acceptable to the Fire Chief and City standards. Fire lane widths shall conform with the OFC and be acceptable to the Fire Chief, including dimensions of turnarounds and corners *(or looped routes if proposed)*.
- All fire apparatus access roads shall be located within a recorded fire lane easement to the City, which shall include maintenance provisions.

**Streets, Sidewalks, etc.**

The property has frontage on Flower Lane & Ash Road.

*(Frontage street – Flower Lane).*

Flower Lane is a City street *(under the jurisdiction of the City of Dayton)*, and is designated as a collector street *(36 foot future curb to curb width)*.

--- The current right-of-way width varies from 65 foot to 55 foot ROW width across the property frontage *(ie. 25 feet westerly of the ROW centerline)*, based on current City & County maps.

--- Flower Lane in this area is a turnpike street *(no curbs on the development side)* in relatively poor condition.

--- A property line sidewalk exists across a portion of the church frontage with Flower Lane.

--- The development property has approximately 540 feet of frontage on Flower Lane.

--- PWDS 2.11 (table) specifies the typical minimum street right-of-way and minimum improvement widths for streets of various classifications *(with modifications determined on a case-by-case basis, per LUDC 7.2.302.04)*.

--- Additional R/W dedication appears to be required along Flower Lane in conjunction with this development.

- An additional 5 feet of right-of-way will need to be dedicated across southerly half of the property frontage to provide the 60 foot ROW width for a future 36 foot collector street (*the ROW dedication can taper down to zero north of where the existing wider ROW exists north toward Ash Road*). A ROW radius will be required at the corner of Flower Lane & Ash Road, to accommodate future curb and sidewalk radius at this intersection.

--- Required Public Street Improvements. LUDC 7.2.301.02.A and 7.2.301.03 (*table*) state that street improvements are required for new public, commercial or industrial type developments. LUDC 7.2.302.02.B states in part that the provisions of the street standards section are applicable to “*The extension or widening of existing public . . . street improvements including those . . . which may be required by the City in association with other development approvals.*”

--- LUDC 7.2.302.01 states in part that the street standards apply in order to “*provide improvement standards for dedicated but unimproved or partially improved right-of-ways.*”

--- LUDC 7.2.302.02 states in part that “*[street] improvements in [existing developed areas] shall be based on standards adopted by the Department of Public Works.*”

--- PWDS 2.2.b reiterates that “*permanent street and associated improvements (including but not limited to paving, curbs, non-deferred sidewalks, street lights, storm drains to drain the street improvements, etc.) shall be provided for existing lots of record at the time development occurs.*”

Variance to Waive/Defer Frontage Street & Sidewalk Improvements. While Dayton standards appear to require street and sidewalk improvements along Flower Lane (*and along Ash Road*) across the development frontage, a variance has been submitted to waive the current requirement for the street improvements (*ie. City staff proposes to allow a construction deferral/non-remonstrance agreement rather than constructing street & sidewalk improvements*).

--- From a Public Works perspective, we have no objection to this variance being granted (*the scope of the current development does not currently appear to justify the requirement for street improvements along two street frontages*).

--- Per LUDC 7.3.108.05.F, allowing the non-remonstrance agreement approach instead of requiring street improvements appears to be “*the degree of variance from the standard [which] is the minimum necessary to permit development of the property for uses allowed in the applicable zone.*”

*(Frontage street – Ash Road).*

Ash Road is a County road within the City of Dayton (*under the permitting jurisdiction of Yamhill County*), and is designated as a collector street (*36 foot future curb to curb width*).

--- The current right-of-way width is only 40 feet across the property frontage (*ie. 20 feet southerly of the ROW centerline*), based on current City & County maps.

--- Flower Lane in this area is a turnpike street (*no curbs on the development side*) in relatively poor condition.

--- There are no sidewalks along the church frontage with Ash Road.

--- The development property has approximately 120 feet of frontage on Ash Road.

--- PWDS 2.11 (*table*) specifies the typical minimum street right-of-way and minimum improvement widths for streets of various classifications (*with modifications determined on a case-by-case basis, per LUDC 7.2.302.04*).

--- Additional R/W dedication appears to be required along Ash Road in conjunction with this development.

--- Since Ash Road is anticipated to be extended and improved as a City collector street in the future, additional right-of-way needs to be dedicated in conjunction with the land use approval.

--- The lot on the north side of Ash Road was previously partitioned and developed (*prior to adoption of the existing codes*). As such, the majority of the ROW dedication adjacent to Flower Lane needs to be provided on the south side.

- An additional 15 feet of right-of-way will need to be dedicated along the development frontage with Ash Road, plus a ROW radius at the Flower Lane & Ash Road intersection corner (*to provide for future curb and sidewalk radius*).

*(PUEs).*

PUEs a minimum of 8 feet wide are required along all property lines fronting public street right-of-ways (excluding alleys) as required by PWDS 1.10.j.

- Street frontage PUEs shall be provided along the frontage of all right-of-ways where such easements do not already exist (*PWDS 1.10.j*). Language per PWDS 1.10.j will need to be included on the plat for these PUEs.

*(CBU Mailboxes, PWDS 1.10.h.2.k & 2.21.j).*

--- If mail delivery is proposed, the location of the required CBU mailbox will need to be shown on the applicable drawings, at a location acceptable to the local postmaster. An ADA pedestrian curb ramp must be located within 50 feet of the CBU (*PWDS 2.21.i.5 & Oregon Structural Specialty Code 1111.4.1*), and ADA compliant sidewalk between the ramp & CBU will need to be provided in conjunction with the CBU installation.

- CBU mailboxes per City & postal service standards (*and CBU access*) shall be installed by the Developer in conjunction with building construction per City and state standards, if mail delivery is proposed to the buildings. An ADA compliant pedestrian ramp from the street must be located within 50 feet of the new CBU mailboxes, per City standards, and an ADA compliant sidewalk between the ramp & CBU will need to be provided in conjunction with the CBU installation.

*(Street Lights).*

Street lights must be provided along new street and existing frontage streets, per City spacing standards, where such street lights do not already exist (*PWDS 2.32.f, maximum of 200 feet spacing, or 3 lot widths, whichever is less*).

--- While there are existing street lights along a portion of the Flower Lane property frontage, the spacing (*each way from the existing driveway entrance*) exceeds the spacing limits under City standards.

--- Based on PWDS 2.32 spacing standards (*200 feet, or 3 lot widths, whichever is less*), it appears that an additional street light will be required at or adjacent to the Flower Lane driveway entrance.

--- Since there appears to be an existing power pole directly across from the existing driveway entrance, the new light may be able to be mounted to the existing pole (*developer will be required to verify and coordinate street light installation with PGE*). As discussed at the pre-application meeting, installation of new street lights on existing PGE poles does not typically involve direct costs to the developer.

- A new public street light shall be installed at or adjacent to the Flower Lane driveway entrance, at a location to be approved by the City Engineer and Public Works based on City standards.

**Storm Drainage.**

The preliminary drawings did not include information on proposed storm drainage improvements to serve the new building & expanded parking lot. In particular, the location & type of detention system proposed is not clearly shown or defined, and will need to be verified and worked out during the design review process.

*(Existing Storm Mainlines).*

Based on information provided by the development team at the pre-application stage, there is an existing private storm drainage system which may be able to provide service to the expanded parking lot and the new building (*flowing northerly toward Ash Road*). The actual alignment and connection point to the City or County storm system will need to be verified during design, as well as the exact alignment, material, depth, slope and condition of the existing pipes by the developer (*by TV inspection of the pipelines, as applicable*).

--- The developer will need to provide storm drainage improvements as required to provide for collection of drainage from impervious areas (*ie. roof drains, driveways, parking areas, etc.*).

Detention Requirements.

Detention will be required for this development to limit flows to predevelopment 5 year flows per PWDS requirements (*PWDS 3.18*).

--- Detention Type & Location. Stormwater detention is required per PWDS requirements to limit flow from the project to predevelopment conditions as specified.

--- While there is flexibility on the type of detention system provided, the City does require all detention systems to be maintained by the property owner.

--- Per PWDS 3.18.c, detention facilities are to be located on private property (*unless otherwise approved by the Public Works Director*). A sample copy of the City's standard detention maintenance agreement is included in PWDS Appendix D.

--- Per PWDS 3.18.d.1.b, open detention basins (*or detention basins with open bottoms*) are to be designed as off-stream storage basins, sloped to drain completely between design storms.

--- If an in-line detention system is proposed, it must be a piped system per PWDS 3.18.d.7.

--- Detention systems must include provisions for overflow based on a 50 year storm per PWDS 3.18.d.4.

--- Per PWDS 3.18.d.1.c, any portion of the detention basin below the maximum water level in the receiving stream or storm system, or below the highest seasonal groundwater level (*for open basins or detention systems with open bottoms*), may not be utilized for storage volume in detention calculations.

--- All weather maintenance access must be provided to provide maintenance access to any control structures, overflows or other facilities requiring inspection or maintenance.

--- Stormwater Quality. Dayton does not currently have any specific additional water quality requirements for stormwater systems (*assuming such requirements are not triggered by wetland or other similar permits from other agencies*).

- The Developer shall submit storm drainage construction drawings conforming to the requirements of the PWDS. The storm drainage plan shall demonstrate that there are no impacts to the downstream properties. Drainage maps and a summary of flow calculations for existing and developed conditions shall be included on the construction drawings. The storm drainage plan shall be designed to accommodate roof and foundation drains, as well as drainage from new and reconstructed streets, and shall convey storm water runoff to an approved point of disposal. The storm drainage plan shall include replacement of impacted storm drain pipes or

inlets which are undersized or which do not meet current City standards (*may not be applicable if the Landmark Drive LID proceeds as anticipated*). Any downstream improvements required to provide required capacity shall be constructed to City standards, and shall be the responsibility of the Developer (*also may not be applicable if the Landmark Drive LID proceeds as anticipated*). The stormwater detention system (PWDS 3.18) shall conform with PWDS requirements, which requires the detention basin to be located on private property (*unless otherwise approved by the Public Works Director*) and provided with a recorded detention easement & maintenance agreement per City standards, as well as a permanent irrigation system. All weather maintenance access shall be provided to all public storm manholes and other structures unless otherwise approved by Public Works. Detention systems shall include provisions for inspection and maintenance access, with open basins designed for off-stream storage per PWDS 3.18.d.1.b b. Easements meeting PWDS requirements shall be provided for any public storm drains located outside of street right-of-ways, or for private storm lines that cross property other than that which they serve.

**Sanitary Sewer.**

The preliminary drawings do not include information on proposed sewer improvements to serve the new food pantry building. While page 2 of the revised narrative indicates that *“the Food Pantry building can be served the existing utility systems located within the subject property that are used to serve the existing buildings on the site”*, it does not specify which utility systems, or how this is to be accomplished.

It seems unlikely that a common sewer connected to the existing church building will be feasible or approvable under City standards. This will need to be verified and worked out during the design review process.

*(Existing Sewer Mainlines).*

There is an existing 8-inch concrete sewer along the westerly side of Flower Lane, fronting the portion of the property with the existing church building (*8” concrete per utility maps, installed in 1965*).

*(New Sewer Mainlines).*

Since there is an existing mainline available to serve this property, mainline sewer improvements will not be required.

*(Existing Sewer Service Laterals).*

At one point during the preapplication discussions, the development team indicated that (*in addition to the sewer service lateral to the church building*), their records show a separate sewer service lateral along the southerly edge of the parking lot, although the exact alignment, pipe material and condition was unknown.

The location, slope, depth and condition of this presumed existing sewer service lateral will need to be verified by the developer.

Any proposal to utilize an existing sewer service lateral serving the church building or church property will require that the size, alignment, material, depth, slope and condition of the existing pipes be verified by the developer (*by TV inspection of the mainline, and/or locate TV inspection of the laterals, as applicable*).

--- City standards require commercial or industrial type sewer services to be 6” diameter minimum from the mainline to the property line cleanout (PWDS 4.18.b).



- If existing laterals are proposed for reuse, service lateral pipe between the mainline & the building will need to be replaced, unless it is demonstrated that the existing pipe is leak free and meets City standards.
- As outlined under PWDS 4.18.d, the City is under mandate from the Oregon Department of Environmental Quality (DEQ) to reduce infiltration and inflow (I/I) of storm runoff and groundwater into the City's sanitary sewer system. A significant portion of the (I/I) problems in the City's sewage collection system are attributable to leaking sewer service laterals or drains connected to service laterals. DEQ and City standards require that *"No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage to any sanitary sewer."* The City requires applicants to demonstrate compliance with this ordinance by testing existing sanitary sewer service laterals that are proposed for continuing use. This requirement is based on public health and sanitation regulations adopted by the City to meet Oregon DEQ and USEPA requirements under the City's NPDES permit.
- Unless existing sewer service laterals are air tested in conformance with PWDS 4.18.d.2 from the property line cleanout to the building to verify that it is free of leaks or defects, any existing service lateral shall be replaced. A property line cleanout shall be provided for all existing or new service laterals, where such cleanouts do not already exist.
- Any existing service lateral to the property which will not be utilized (*ie. if abandoned*) must be capped at the sewer mainline.

(Grease Interceptor).

- If a commercial style kitchen is proposed in the food pantry building (*or other grease generating uses*), the project will need to be provided with a grease interceptor vault as required under PWDS 4.18, at a location acceptable to Public Works, and must be provided with a recorded maintenance agreement.
- Per OPSC 1014.1 requirements, sanitary flows must be piped separately, so as to bypass the grease interceptor (*ie. so that it connects to the sewer service downstream of, or separately from, the grease interceptor*).
  - The developer shall submit sanitary sewer drawings for a new gravity sewer lateral(s) to serve the development, as well as providing for the abandonment (*ie. plugging at the mainline*) of any existing sewer laterals serving the property which are no longer being used. If a kitchen is proposed in the new food pantry building, the development will require the installation of a grease interceptor vault in conformance with PWDS 4.18.e. Any required sewer improvements (*including any existing laterals to be capped/plugged at the mainline*) must be completed, tested and accepted prior to occupancy permits being issued for the new uses in the existing buildings, including recording of the grease interceptor maintenance agreement if applicable. Easements meeting PWDS requirements shall be provided for any public sewer lines located outside of street right-of-ways, or for private sewer lines that cross property other than that which they serve.

Water.

The preliminary drawings do not include information on proposed water service improvements to serve the new food pantry building. While page 2 of the revised narrative indicates that *"the Food Pantry building can be served the existing utility systems located within the subject property that are used to serve the existing buildings on the site"*, it does not specify which utility systems, or how this is to be accomplished.

it seem unlikely that a common water service connected from the existing church building will be feasible or approvable under City standards, without having to upsize the existing water meter. This will need to be verified and worked out during the design review process.

It is unclear from the application narrative whether or not a fire sprinkler system for the new building is proposed or will be required.

*(Existing Waterlines & Hydrants)*

Maps show an existing 8-inch PVC Dayton City water mainline along the Flower Lane frontage of the property, across the portion of the property containing the existing church building (*the waterline reduces to 6-inch diameter PVC at Church Street and north along Flower Lane*).

--- There is also a 14-inch PVC water transmission main along Flower Lane, which serves Lafayette (*located between the City waterline and the development property*). Connection to this Lafayette transmission main is not allowed.

--- The Dayton City waterline (*along Flower Lane*) is on the opposite side of the street from the development property (*ie. any new water service or fire lines will need to cross under the 14" transmission main*).

--- Existing Hydrants. See discussion below regarding fire hydrant spacing requirements.

--- The existing fire hydrant at Flower Lane & Church Street is located about 230 feet north of the driveway entrance.

--- The existing fire hydrant at Flower Lane & Songbird Place Street is located about 250 feet south of the driveway entrance.

*(Existing Water Services)*

There is one existing water service serving this property, as follows.

--- There is an existing 1½-inch water service serving the church building.

--- If utilization of the existing meter is proposed, the developer will need to provide fixture unit counts and information for both the existing church and the proposed new building (*unless a new meter for the new building is proposed*), to allow verification that the existing meter meets City sizing criteria as discussed below

*(New Waterlines)*

Where existing waterlines do not meet current City standards, the developer is required to install new waterlines as required to provide service to the development in accordance with City standards.

Waterline improvements are not anticipated unless required to provide fire flows for the proposed development.

--- The Dayton water master plan calls for a future 12-inch waterline along Flower Lane (*although this waterline is not anticipated to be necessary until development occurs along Ash Road and Ash Street in the future*).

--- If the Flower Lane street improvements are deferred, and if the existing 8" waterline along Flower Lane can provide adequate fire flows, the new 12" waterline construction will not be triggered by this development (*if the new street were to be required, the new waterline should be installed prior to construction of the street over the top of the new waterline alignment*).

*(Water Service(s) & Water Meters)*

Size any required new water service and/or meter is uncertain at this point. While the application narrative implies that the reuse of the existing water meter on Flower Lane may be proposed, the existing service line & meter is most likely NOT adequately sized to serve the proposed new development in addition to the existing uses.

The developer will need to provide complete fixture lists and fixture unit counts and information for all uses proposed to be served from the existing or new meter(s), to allow verification that the meter(s) meet City sizing criteria as discussed below.

--- Standard water meter configurations are shown in the PWDS details.

--- The Developer will need to verify/clarify whether or not a separate irrigation meter is proposed.

--- Meter sizing criteria. Sizing criteria for water meters is summarized under PWDS 5.20.a.5.

--- With the final design, the development team will need to provide total fixture unit counts for the buildings being served (*as well as all irrigation systems*) for use in sizing any new domestic water meter(s).

--- Fixture unit equivalents and demand curves (*used in determining the size of commercial water meters*) shall be established in accordance with the Oregon Plumbing Specialty Code, with the meter size being determined based on the PWDS criteria noted above (*once the development team provides a complete list of all fixtures and associated fixture unit counts, Public Works will indicate what size of meter will be required*).

--- It is anticipated that a separate meter will be required to serve the new building, unless the existing meter is upsized (*to be verified during design, since information was not provided with the application*).

#### *(New Fire Hydrants)*

Hydrants shall be placed in locations approved by the City Engineer and the Fire Code Official, based on required distance from buildings and/or FDCs if provided (PWDS 5.17).

--- Based on the location of existing hydrants in relation to the new buildings, it appears that a new hydrant will be required adjacent to the driveway into the property.

#### *(Fire Flows Requirements)*

--- Fire flows required will need to be determined from the Oregon Fire Code, based on the size and type of building, type of fire sprinklers provided for the new building, etc.

--- Even if fire sprinkler systems are proposed, the minimum fire flows required at the site for commercial type buildings is 1500 gpm (*OFC B105.3.1*).

#### *(Fire Flow Determination)*

--- We have no fire flow test data on for the existing 8" waterline along Flower Lane (*ie. to determine flows at the new hydrant by the church driveway*).

--- The developer will be responsible to arrange for fire flow tests to determine whether or not adequate fire flows exist in this location (*and to determine whether or not fire sprinklers will be required for the new building*).

--- If adequate fire flows are not available from the existing 8-inch City waterline, the developer will need to either provide a fire sprinkler system for the new building, or construct the new 12" waterline referenced above and noted in the water master plan.

#### *(Fire Sprinkler Systems)*

The developer has not definitely stated whether or not fire sprinklers will be required for the new building.

--- If a fire sprinkler system is proposed, backflow devices and FDCs to City and Fire District standards will be required (*Detail 554-556 for outdoor backflow assemblies, per OFC standards if located inside of the building*).

--- FDCs will be required at locations acceptable to Public Works and the Fire Chief (*ie. location in relation to the building(s) being served, and location in relation to a fire hydrant per PWDS 5.22.d*).

--- The location of the forward flow test port required under NFPA 10.10.10.2.5 shall be shown on the construction drawings (*see general criteria on Detail 559*), as well as defining how flows during the initial & subsequent forward flow test will be conveyed to the outside without flooding or damage to the building.

- The Developer shall submit water system construction drawings conforming to the requirements of the PWDS, and shall demonstrate that the required fire flows are available to hydrants serving the site. All water system improvements required to provide the minimum fire flows (*with or without fire sprinklers*) shall be the sole responsibility of the developer. The drawings shall show the location and size of any existing or proposed domestic and/or irrigation water meters, as well as any existing or proposed backflow assemblies. The connection point of the domestic, irrigation and fire service lines to the public system, and the location of backflow devices, shall be as approved by Public Works and the City Engineer. A new fire hydrant will be required at a location approved by the City Engineer and the Fire Chief. For buildings that are fire sprinklered, the developer shall provide an approved fire system backflow device and FDC between the public system and the fire sprinkler system. The location of the detector backflow device, FDC and forward flow test port shall be as approved by the City Engineer and the Fire Chief. Any required water system improvements must be completed, tested and accepted prior to occupancy permits being issued for the new uses in the existing buildings. Easements meeting PWDS requirements shall be provided for any public waterlines located outside of street right-of-ways, or for private water lines that cross property other than that which they serve.

Franchise Utilities.

LUDC 7.2.305.02.C states in part that: *“All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.”*

--- Franchise utility service will need to be arranged with the applicable utility provider.

--- Easements meeting PWDS requirements shall be provided for any franchise utility service located outside of the street right-of-way, which crosses property other than that which it serves.

--- Franchise utility services to any new structures are required to be installed underground (*ie. new overhead services are not permitted*).

## APPLICANT'S NARRATIVE STATEMENT - REVISED

### Site Development Review

This written statement is being prepared for a Site Development Review pursuant to criteria in LUDC 7.3.106.05.

#### ***Introduction***

Dayton First Baptist Church has been located at 300 Flower Lane for over 30 years after having received a Conditional Use approval in 1991 for a house of worship use in a Single Family Residential (R-1) zone. The existing site consists of an assembly building adjacent to Flower Lane, a community building located southwest of and abutting the assembly building, and a utility building located in the southernmost area of the property. The site is served by a central parking lot consisting of 51 standard spaces and 4 ADA spaces. The 4.25-acre site is under common ownership, and the separate lots shall be considered a single lot for the purpose of this application pursuant to Section 7.2.201.06.C.

The Dayton Community Food Pantry is proposing to construct an approximately 3,000-square-foot structure [Food Pantry] for a food distribution program on the site of the existing Dayton First Baptist Church. Findings in support of applicable code requirements are included below.

#### ***Site Development Review Submittal Requirements***

The following information is being provided to fulfill the submittal requirements described under Dayton Land Use Development Code (LUDC) Sections 7.3.106.05. The narrative statement for each applicable subsection is included below along with drawings as needed to demonstrate compliance with each code provision.

##### ***7.3.106.05A. Grading***

The existing property is relatively flat with a gentle slope toward the north. Grading will occur in the area immediately surrounding the proposed food pantry building, within the temporary gravel lot that will be paved for vehicle parking, and within the stormwater detention basin required under Public Works Design Standards. The Ground Disturbance Plan is shown in Attachment A.

##### ***7.3.106.05B. Structures and Facilities***

The Existing Conditions Plan in Attachment A identifies all existing structures, roadways, sidewalks, and rights-of-way pertinent to the proposed development. The Overall Site Plan shows the location of the proposed Food Pantry building with setbacks in compliance with applicable development standards. The finished floor of the proposed building will be located minimally above existing grade for access and drainage.

##### ***7.3.106.05C. Transportation Circulation***

The existing church parking lot is accessible through a driveway connection to Flower Lane. No modifications are being proposed to the existing paved parking lot. The proposed parking configuration is shown on the Site Plan with 9 new standard spaces and one new ADA van space being proposed along the existing community building. Vehicle circulation is provided

so that vehicles can maneuver safely in both directions through the area. This circulation pattern is enhanced by a landscape island to prevent traffic conflicts within the parking lot.

#### *7.3.106.05D. Transportation Access*

Vehicular access is available from Flower Lane, which connects to Amity/Dayton Highway southeast of the subject property. A sidewalk is located with Flower Lane abutting the church development. This sidewalk allows pedestrians along Flower Lane to move further away from vehicles abutting the subject property, though sidewalks are generally lacking on Flower Lane in the surrounding vicinity. Pedestrians can safely move within the property through sidewalks located in front of the existing buildings and as proposed in front of the proposed Food Pantry building.

#### *7.3.106.05E. Drainage and Utilities*

The Food Pantry building can be served by the existing utility systems located within the subject property that are used to serve the existing buildings on the site. All utilities are available in Flower Lane if additional capacity is needed. An additional fire hydrant may be required in Flower Lane in order to provide adequate fire protection for the building as specified by the applicable fire codes.

Considerable area for stormwater detention is available to the north of the proposed Food Pantry building. Public Works Design Standards also allow for detention to be provided within the parking lot if grades allow. The final stormwater design will be completed at the time of building permit application.

#### *7.3.106.05F. Landscape Plan*

The Detailed Site Plan is shown in Attachment A. The site has a large existing lawn in the northern area of the property. The existing parking lot is screened by vegetation from Flower Lane and buffered by trees from the neighboring property to the south. Compliance with LUDC Sections 7.2.306 (Site and Landscaping) and 7.2.308 (Yard and Lot Standards) are addressed below.

#### *7.3.106.05G. Signage and Fencing*

The property currently has an existing sign abutting Flower Lane and is not currently fenced. No additional fencing or signing is proposed in conjunction with the Food Pantry building.

#### *7.3.106.05H. Development Schedule*

The project is intended to proceed as quickly as possible based on availability of consultants, contractors, suppliers, and the like. The Food Pantry Board anticipates that the regulatory processes will be completed in early 2023. Construction will likely start in spring of 2023 and be completed near the beginning of 2024.

#### *7.3.106.05I. Flood Boundary*

The subject property is not prone to flooding. The nearest Special Flood Hazard Area is located along West Fork Palmer Creek approximately a half-mile to the Southeast.

## **Underlying Zone Standards - Single Family Residential (R-1)**

### **7.2.102.04. Conditional Uses**

Under Section 7.2.102.04D, the existing church use was approved in the R-1 Zone through a Conditional Use Permit in 1991. The Dayton First Baptist Church continues to operate as a House of Worship use consistent with the original Conditional Use approval. Section 7.2.407 describes a variety of uses associated with the practices of the religious activity that are allowed in conjunction with a house of worship use.

The Food Pantry building will be used to provide a food distribution program consistent with meal programs allowed under Section 7.2.407E. The food distribution program is conducted through a partnership between the Dayton Community Food Pantry and the Dayton First Baptist Church as part of the church's religious and community outreach activities. The new Food Pantry building will allow for a more effective program of providing food for those in need without diminishing the traditional religious purposes conducted in the existing buildings.

Meal programs are often an integral part of a Christian church assembly. Dayton First Baptist Church and the Dayton Community Food Pantry adhere to the teachings of Jesus as recorded in the Holy Bible. Jesus frequently exhorted His followers to provide food to those in need:

- *"Then the King will say to those on his right, 'Come, you who are blessed by my Father; take your inheritance, the kingdom prepared for you since the creation of the world. For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in....whatever you did for one of the least of these brothers and sisters of mine, you did for me.'" Matthew 25:34-35, 40*
- *"What good is it, my brothers and sisters, if someone claims to have faith but has no deeds? Can such faith save them? Suppose a brother or a sister is without clothes and daily food. If one of you says to them, 'Go in peace; keep warm and well fed,' but does nothing about their physical needs, what good is it?" James 2:14-16*

Even though meal programs are an integral part of a Christian house of worship use, the logistics of the meal program at Dayton First Baptist Church are not well suited to be located within the buildings used for worship and religious instruction. Therefore, the meal program within the Food Pantry building is an extension of the house of worship use of the Dayton First Baptist Church consistent with Section 7.2.407.

### **7.2.105.05. Dimensional Standards**

- A. Lot and Height. No specific minimum lot size or dimensions apply to the subject property. The building will be constructed as a single-story structure less than the maximum height of 35 feet.
- B. Setbacks. The proposed building meets the minimum setbacks of 20 feet in the front yard, 10 feet in the side yard, and 20 feet in the rear yard.

### **7.2.102.06. [Applicable] Development Standards**

- A. Off-street Parking. Addressed under Section 7.2.303 below.
- B. Yards and Lots. Addressed under Section 7.2.308 below.

- C. Site Development Review. The provision is met through submittal of a Site Development Review application pursuant to Section 7.3.1 and the findings herein..
- D. Lot Coverage. The maximum coverage allowed for buildings, accessory structures and paved parking is as follows: Maximum building coverage (primary building): 35% Maximum parking area coverage (including garage): 30% Combined maximum lot and parking area coverage: 60%.  
  
The property is 4.25 acres. The building coverage of all buildings, including the proposed Food Pantry building, is 11 percent. The parking area coverage, including the expanded area, is 16 percent. The total combined coverage is 27 percent, all within the allowed coverage maximums.
- E. Landscaping: Addressed under Section 7.2.306 below.

**General Development Standards**

7.2.302. *Street Standards. Addressed in Major Variance Written Statement separately.*

7.2.303. *Off-Street Parking*

7.2.303.03. General Provisions

- C. Combined Uses. The existing site includes a building for religious assembly, a community building, and the new Food Pantry building. The parking standards for the existing three buildings are calculated based on number of seats in the Sanctuary building, and additional parking is proposed based on the Food Pantry. The total parking spaces are the sum of the requirements of each separate use.

7.2.303.04. Location and Use Provisions. All parking is provided on the same lot as the proposed buildings.

7.2.303.06. Off-Street Vehicle Parking

- A. Number of Spaces.

The existing site includes 3 buildings with the following uses: (1) a 6,300-square-foot building (Sanctuary) used for worship/assembly and religious instruction; (2) a 8,600-square-foot building (Gymnasium) used for community services; and (3) a 1,400-square-foot (Garage) used for equipment and vehicle storage.

The table shown in Section 7.2.303.06 uses the number of seats in the Sanctuary as the basis for parking requirements. The number of seats used in the Sanctuary varies each week based on a number of factors. Based on historical patterns of use in the Sanctuary, a 200-seat use is pertinent to the table in Section 7.2.303.06, totaling a minimum of 50 parking spaces for the existing use.

The Land Use Activity applicable to the Food Pantry building's use is not included in the table shown in Section 7.2.303.06. Because the Food Pantry is a low-traffic use, line 13 (retail store handling bulky merchandise) appears to be the most applicable use for determine parking requirements. The minimum number of new spaces is 3,000 square feet divided by 700 square feet per space, or 4 spaces.



Therefore, the minimum parking requirement for the overall site is 54 vehicle spaces and 3 bicycle spaces. The Detailed Site Plan shows 65 vehicle spaces and 3 bicycle spaces, meeting the minimum requirements.

- B. Maximum Number of Spaces. The minimum number of 54 vehicle spaces, and a 50 percent increase is allowed up to 81 spaces. The Detailed Site Plan shows 57 vehicle spaces in the existing parking lot and 12 vehicle spaces in the new parking lot for a total of 69 vehicle spaces (5 of which are ADA spaces) in compliance with this section.

#### 7.2.303.07. Handicap Spaces

- C. Oregon Transportation Commission accessibility standards require one accessible van space and two accessible car spaces for lots with up to 75 total spaces. The Detailed Site Plan shows a new accessible space near the Food Pantry in addition to 4 accessible existing spaces.

#### 7.2.303.09. Parking Area Development Requirements

- A. Surfacing. The new parking area shall be paved.
- B. Parking Spaces. Minimum dimensions shall be 9 feet wide and 18 feet in length.
- C. Driveways. The two-way driveways shall be 24 feet.
- D. Screening. The existing parking area abuts an R-1 zone to the south and is buffered by trees. No change is proposed to the existing parking lot. The new parking lot is screened from the abutting R-1 zone by the existing shed building and from the westerly abutting property by existing vegetative screening..
- F. Traffic Flow. Parking aisles provide for two-way traffic flow separated from pedestrian sidewalk areas to maximize safety of traffic and pedestrians. A sizable loading area is located along the new food pantry and existing garage in order to accommodate for loading of meals and other items into vehicles of members of the community in need. Additional maneuvering space is also needed abutting the garage for parking of vehicles in the garage.
- G. Entrance/Exits. The service drive entrances/exits have a minimum vision clearance area.
- H. Landscaping. As shown on the Detailed Site Plan, a small landscape island separates the existing lot spaces from the proposed lot spaces. A longitudinal landscape island separates parking aisles. A number of landscaping areas are proposed to be added or augmented in the existing parking lot. The combined parking lot of the existing and proposed lots is shown on the Overall Site Plan. The landscaping meets the minimum standard of 5 percent for the combination of the new and proposed parking lot.

#### 7.2.303.03. General Provisions

- C. Combined Uses. The parking standards are calculated based on number of seats in the Sanctuary and the square footage of the Food Pantry building for a sum of the requirements of each separate use.

#### *7.2.304. Storm Drainage*

The Ground Disturbance Plan shows a schematic location for the stormwater detention facility. In general, the space required for stormwater detention facilities are approximately 10 percent or less of the impervious areas being served by the facility. Sufficient area for stormwater detention is available to the north of the proposed Food Pantry building. Public Works Design Standards also allow for detention to be provided within the parking lot if grades allow. The final stormwater design will be completed at the time of building permit application.

#### *7.2.305. Utilities and Facilities*

The existing buildings on the site are currently served by all applicable utilities. The existing utility services may be adequate to provide service to the Food Pantry building. A new fire hydrant may be needed to provide sufficient fire flow. The Public Works Design Standards and Plumbing Codes require that existing systems be analyzed and inspected prior to connection. Final utility and facility design will be completed during the building permit application process.

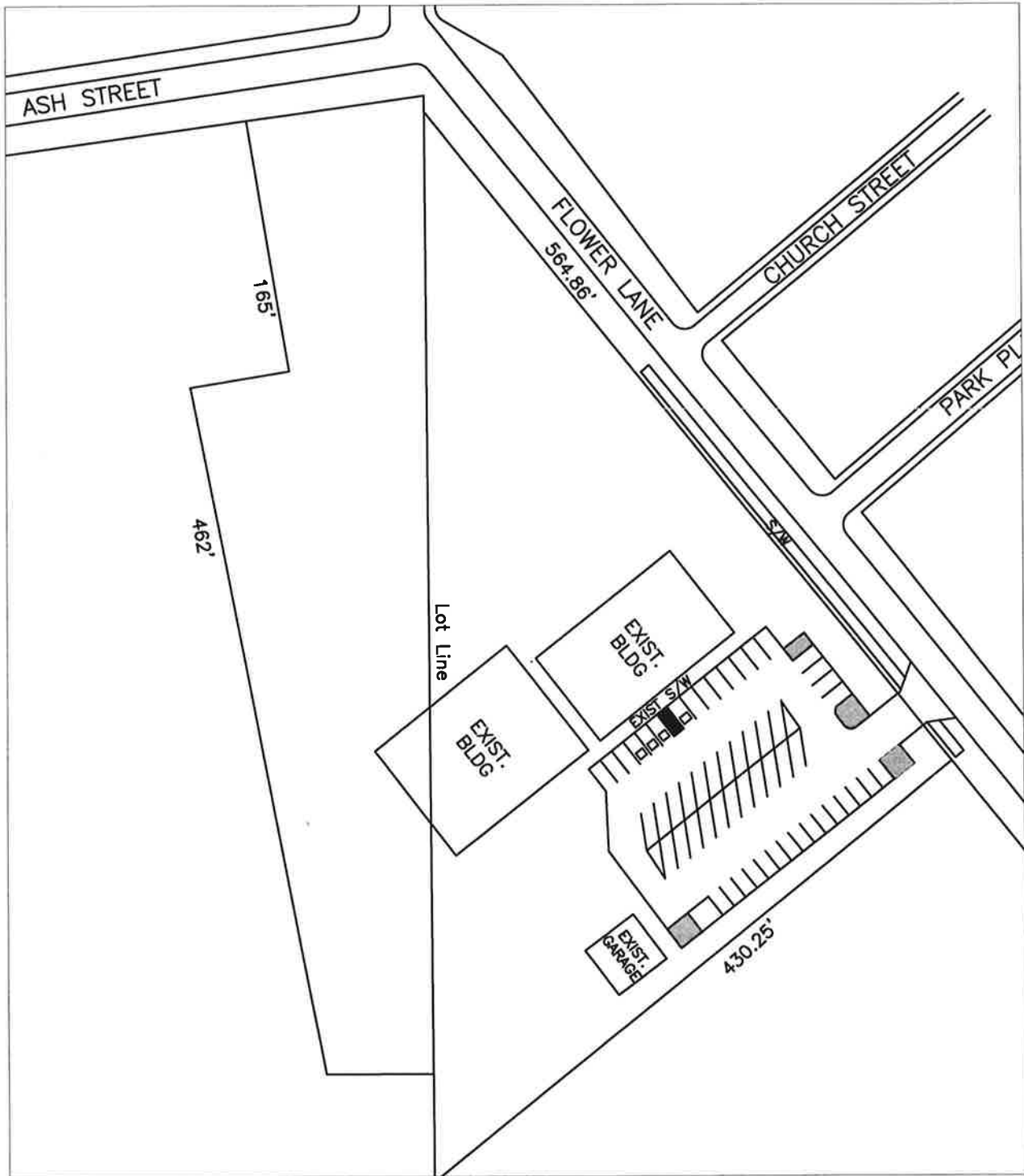
#### *7.2.306. Site and Landscaping*

Landscape materials constructed within proposed landscape areas are shown on the Detailed Site Plan and will conform with the provisions of this section as depicted in the final construction plans. The existing parking area abuts an R-1 zone to the south and is buffered by trees. No change is proposed to the existing parking lot. The new parking lot is screened from the abutting R-1 zone by the existing shed building and from the westerly abutting property by existing vegetative screening.

#### *7.2.308. Yard and Lot Standards*

Projections into yards shall meet the applicable provisions within this section. Existing and proposed intersections provide clear vision areas. The landscape island within the parking lot shall not have landscaping or obstructions exceeding 36 inches in height except as authorized in this section.

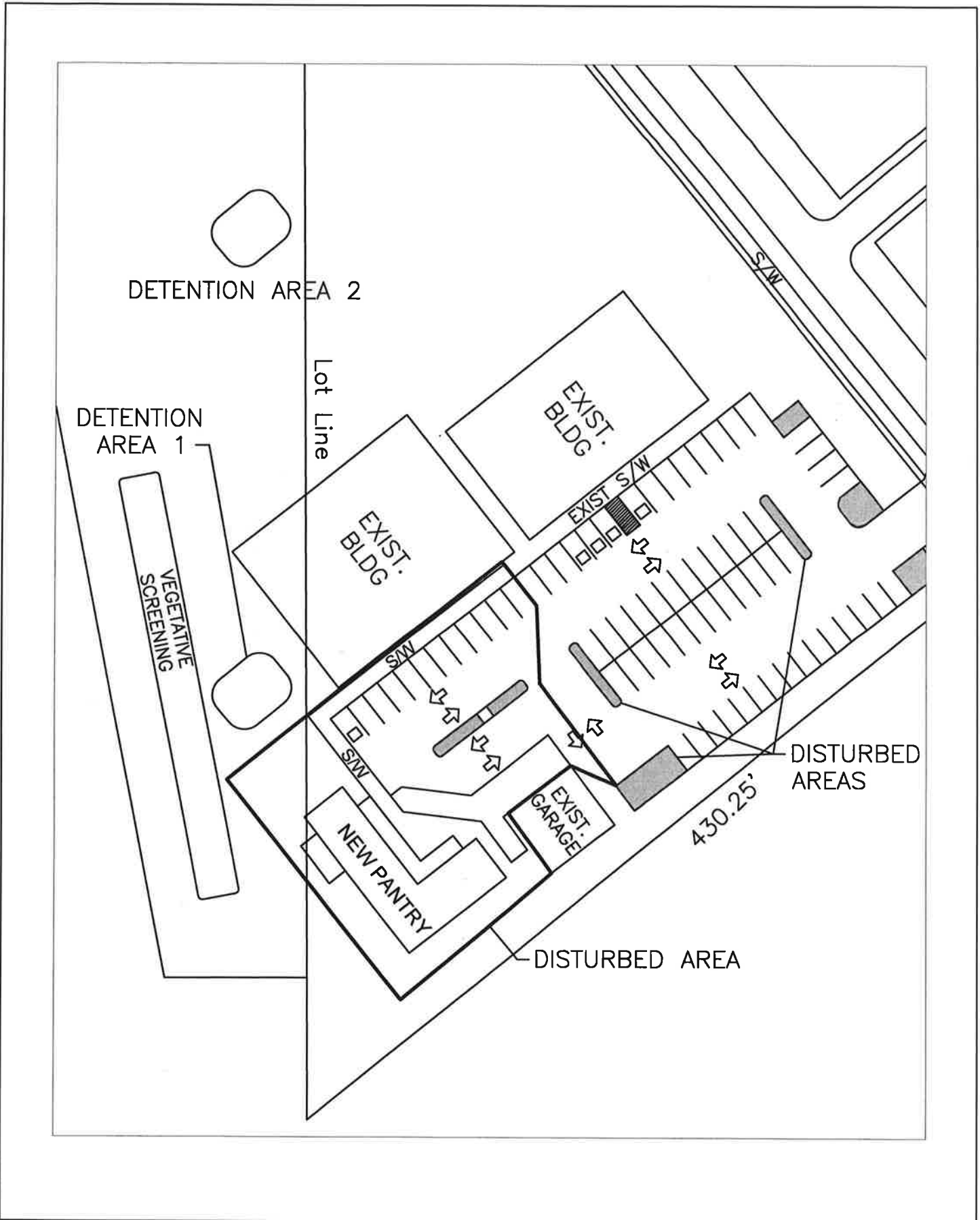
# APPENDIX A



DAYTON COMMUNITY  
FOOD PANTRY

EXISTING  
CONDITIONS PLAN

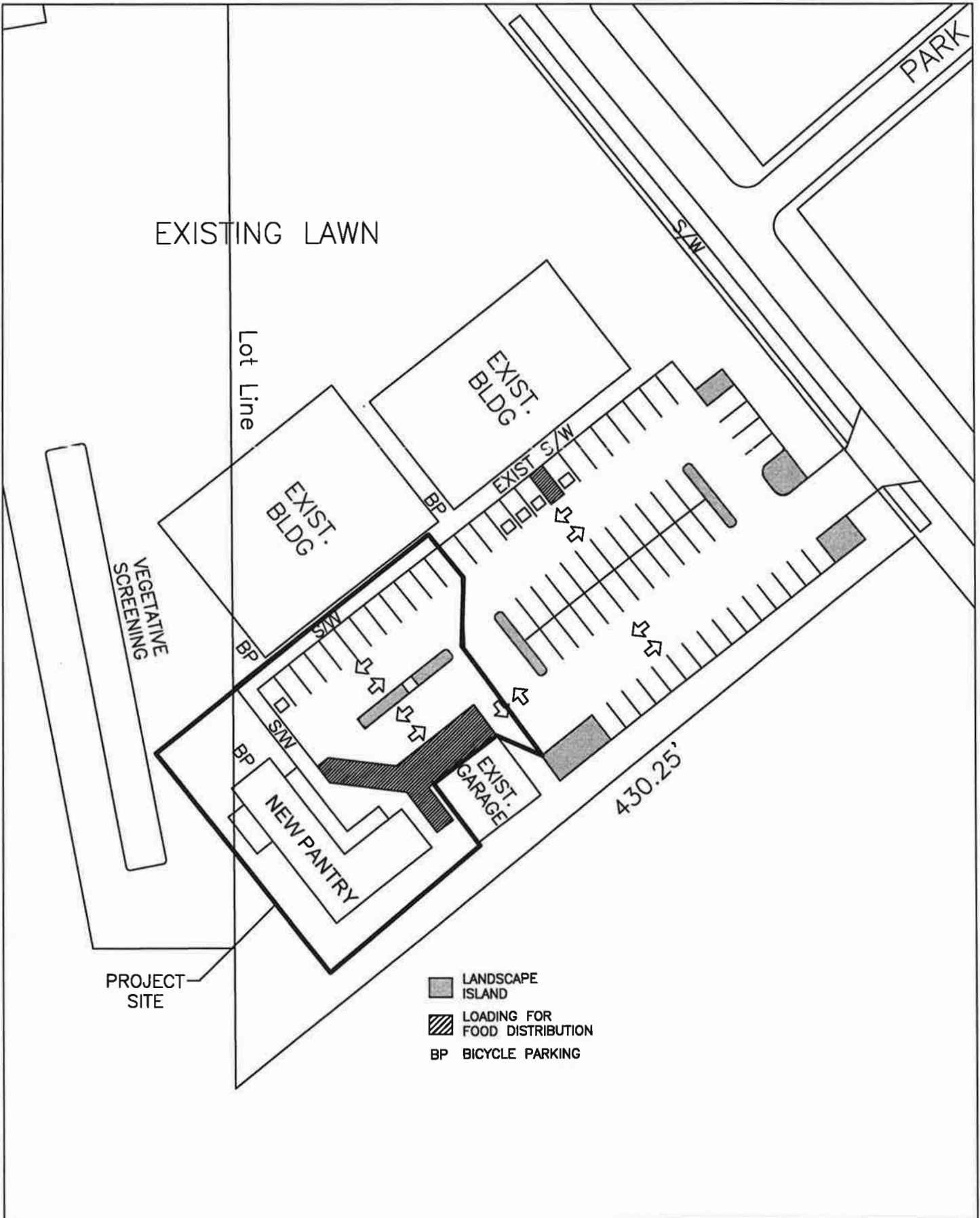
DATE:  
25SEP22



DAYTON COMMUNITY  
FOOD PANTRY

GROUND  
DISTURBANCE PLAN

DATE:  
28SEP22



DAYTON COMMUNITY  
FOOD PANTRY

DETAILED  
SITE PLAN

DATE:  
25SEP22

EXHIBIT D

GENERAL NOTES:

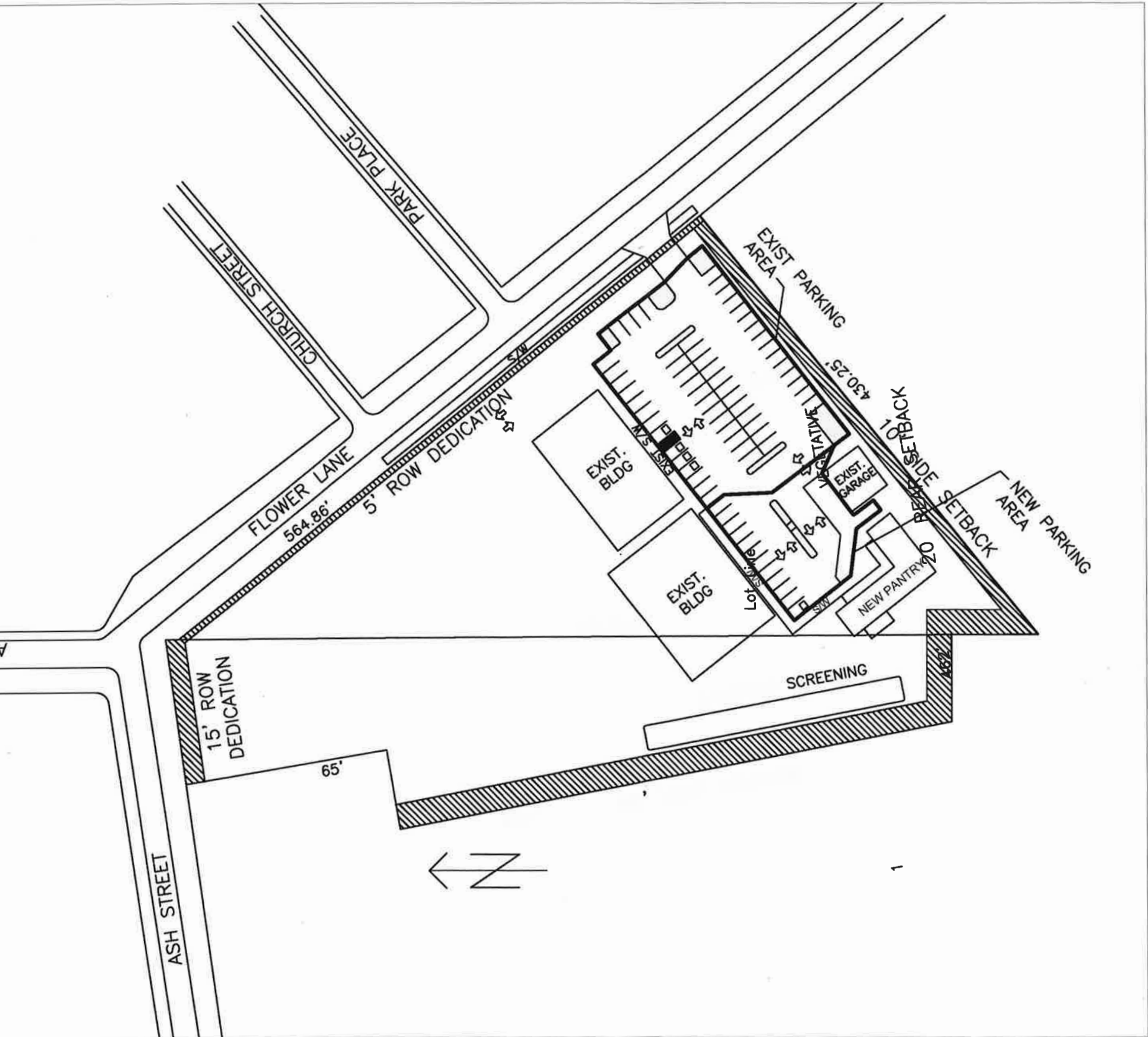
1. UTILITIES FOR EXISTING BUILDINGS ARE SERVED FROM FLOWER LANE. UTILITIES TO SERVE NEW FOOD PANTRY BUILDING TO BE SERVED FROM EXISTING SYSTEMS ON-SITE AND/OR FROM UTILITY MAINS IN FLOWER LANE.
2. PROPERTY CONSISTS OF TAX LOTS R4320BB01500 AND R4320BB01600, COMBINED AS A SINGLE LOT BOUNDARY PURSUANT TO DAYTON CODE SECTION 7.2.201.06.C. UTILITY EASEMENTS MAY BE REQUIRED PURSUANT TO PUBLIC WORKS DESIGN STANDARDS. SEE WRITTEN STATEMENT WITH DETAILED PLANS ATTACHED.
- 3.

PARKING AND LANDSCAPING CALCULATIONS:

EXISTING PARKING LOT AREA: 22,950 SF.

MINIMUM LANDSCAPING: 31,817 X 5% = 1,591 SF

EX. PARKING LOT LANDSCAPING: 800 SF



DATE: 25SEP22  
SCALE: 1"=100'

PRELIMINARY SITE PLAN

DAYTON COMMUNITY FOOD PANTRY

STILL WATERS CONSULTANTS

NEW PARKING L  
TOTAL PARKING

ADD'L PARKING  
TOTAL PARKING



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## APPLICANT'S NARRATIVE STATEMENT

### Major Variance

This written statement is being prepared for a Major Variance pursuant to criteria in LUDC 7.3.108.05.

#### ***Introduction***

Dayton First Baptist Church has been located at 300 Flower Lane for over 30 years after having received a Conditional Use approval in 1991 for a house of worship use in a Single Family Residential (R-1) zone. The existing church complex includes a religious assembly building, a multi-purpose building, and a garage/storage building.

The Dayton Community Food Pantry is proposing to construct an approximately 3,000-square-foot structure [Food Pantry] on the site of the existing Dayton First Baptist Church. A sidewalk was constructed along the frontage of Flower Lane in conjunction with the original church buildings. If the food pantry building had been included with the original construction project(s), the extent of sidewalk would be no different than it is today. No other sidewalks exist along Flower Lane between Ash Road and Amity/Dayton Highway.

#### ***Rough Proportionality***

The Dayton Land Use Development Code (LUDC) Sections 7.2.301 & 7.2.302 require that street improvements be constructed and right-of-way be dedicated along all streets abutting a property in conjunction with development on that property. In a pre-application conference dated August 4, 2021, Dayton staff identified that the following street mitigation would be required as a condition of the Food Pantry, except as modified through a major variance:

- A 5-foot-wide right-of-way dedication along Flower Lane
- A 15-foot-wide right-of-way dedication along Ash Road
- A right-of-way radius at the intersection of Flower Lane and Ash Road
- Up to a 36-foot-wide collector street improvement along 540 feet of Flower Lane, including sidewalks
- Up to a 36-foot-wide collector street improvement along 120 feet of Ash Road, including sidewalks

The U.S. Supreme Court has ruled that conditions of approval for a development must have an "essential nexus" and "rough proportionality" based on the impacts of the development pursuant to three key land use cases (Nollan v. California Coastal Commission, Dolan v. City of Tigard, and Koontz v. St. Johns River Water Management District). The City of Dayton's LUDC related to street improvements and right-of-way dedication does not include provisions for rough proportionality.

The Food Pantry will have a minimal impact to the Dayton transportation system. Pursuant to the Institute of Transportation Engineers Trip Generation Manual (ITE manual), transportation impacts for house of worship uses are generated based on the number of seats being used for the assembly use. Under that ITE methodology, the Food Pantry would have negligible trip generation, and the majority of those limited vehicle trips would be taking place at off-peak times. If the Food Pantry were built on vacant property, the ITE manual for warehousing would allocate approximately 7 average daily trips for a 3,000-square-foot structure.

Other communities in the Willamette Valley include provisions for rough proportionality within their development codes. In Salem, developments are exempt from street improvements or right-of-way dedication when the building generates less than 20 average daily trips. In Salem, there would be no street improvement or right-of-way dedication requirements for a structure equivalent to the Food Pantry. Eugene Land Use Code 9.6505(3)(b) specifies that developers may be required to construct street improvements “provided the City makes findings to demonstrate consistency with constitutional requirements.” Most other local jurisdictions allow reductions in the scope of street improvements through a variance or adjustment process with significant discretion much like Dayton’s LUDC.

Dedication of 5 feet of right-of-way along 540 feet of Flower Lane frontage and 15 feet along 120 feet of Ash Road frontage has a current market value of approximately \$20,000 to \$30,000. Assuming 7 new vehicle trips per day, the right-of-way dedications alone equal approximately \$3,000 to \$4,000 per trip in land value. System Development Charges are collected in addition to the right-of-way dedication, if applicable. Any street improvement in addition to right-of-way dedication along Flower Lane and Ash Road exceeds the rough proportionality standard required under Nollan, Dolan, and Koontz.

The applicant is a long-standing member of the Dayton community and has no objection to dedicating right-of-way roughly proportional to the impacts of the Food Pantry. Given the off-peak nature of the project’s vehicle trips and the low transportation impacts, the applicant proposes that a 5-foot-wide right-of-way dedication along Flower Lane is by itself roughly proportional to the project’s impacts. The applicant also proposes that a 15-foot-wide right-of-way dedication on the property’s frontage of Ash Road as requested by staff is appropriate.

***Major Variance Criteria (LUDC 7.3.108.05)***

LUDC 7.3.108.05 states, “the Planning Commission may grant a major variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that all the following circumstances substantially exist.” The following written statement demonstrates that a 5-foot-wide right-of-way dedication along the entire frontage of Flower Lane and a 15-foot-wide right-of-way dedication along the entire frontage of Ash Road are the appropriate mitigation for the limited transportation impacts of the proposed development.

**Criterion A: There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the requirements of the Code, and is the minimum relief to relieve the hardship. Adverse economic impact shall not be considered an unreasonable hardship or practical difficulty.**

Finding: Dayton staff informed the applicant in conjunction with a pre-application conference dated August 4, 2021, that LUDC Section 7.2.301 and 7.2.302 require street improvements for the development based on the Public Facilities Improvement Requirements Table in LUDC Section 7.2.301.03. The table specifies that street improvements are required for the following uses: multi-family; new public, commercial or Industrial; public, commercial or industrial expansion; or partition, subdivision, MHP. The table also specifies that street improvements can be required for new single family dwellings, but only when a street extension is needed.

The existing Dayton First Baptist Church development was approved as a conditional House of Worship use in a single family residential R-1 zone under LUDC Sections 7.2.102.04 and 7.2.407. A House of Worship use is not clearly defined in Dayton’s Municipal Code as a multi-family, public, commercial, or industrial use. It is a conditional use in a single-family residential

zone, and street improvements are not a clear and objective requirement based on the Public Facilities Improvement Requirements Table.

However, Dayton staff stated in the August 4 pre-application memo that a House of Worship use is subject to street improvements because it is a "new public, commercial or industrial type development." Such an interpretation appears to lack specific authority in Dayton's Municipal Code, so a requirement to construct street improvements is based on an ambiguity and is an unreasonable hardship. The variance process is Dayton's only mechanism to relieve the hardship caused by the ambiguity and lack of clear and objective standards.

Criterion A specifies that adverse economic impact shall not be considered an unreasonable hardship or practical difficulty. However, a major variance is the LUDC's only legal mechanism for addressing constitutional limitations regarding rough proportionality and ensuring that the scope of the conditions of development are appropriate for the scope of the transportation impacts generated by the development. Because Dayton's land use regulations lack consideration for proportionality, a major variance is the minimum relief to relieve the unnecessary, unreasonable constitutional hardship.

**Criterion B: There are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to the land, buildings, or uses in the same zone; however, non-conforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions.**

Finding: LUDC Sections 7.2.301 & 7.2.302 contemplate a vacant parcel that is fully developed with a new project. In those cases, strict interpretation of those sections is appropriate and roughly proportional to the impacts of development. The subject property is a large, partially developed site with an existing house of worship with approximately 540 feet of frontage on Flower Lane and 120 feet of frontage on Ash Road. Therefore, a requirement to construct street improvements along the entire frontage of the subject property is not proportional to the minor impact of the development partly based on the shape of the land and its proximity to abutting streets.

In this case, the development is a low-impact expansion on a small proportion of the property where a sidewalk has already been constructed abutting the frontage of the church building. This configuration is an extraordinary condition specifically applying to the land, buildings, and use that do not apply in the same way to other land, buildings, or uses in the same zone. If a food pantry structure were proposed on a small vacant parcel, then street improvements and right-of-way dedication would potentially be more proportional and appropriate for that project.

**Criterion C: That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.**

Finding: Dayton First Baptist Church is an existing house of worship use that has been active on the subject property for over 30 years. The proposed food pantry has been a significant benefit to the public welfare in the Dayton community. The existing meal program currently takes place in the existing buildings and generates vehicle trips at an off-peak time that have not been detrimental to the transportation system in the vicinity of the subject property. The new Food Pantry building will have a low transportation impact in comparison to the existing house of worship use and will not be materially detrimental to the public welfare or injurious to property or improvements in the surrounding neighborhood.

**Criterion D: That such variance is necessary for the preservation and enjoyment of the substantial property rights of petitioner.**

Finding: As stated above, Dayton LUDC Sections 7.2.301 & 7.2.302 do not accommodate for rough proportionality of a development project as required under Nollan, Dolan, and Koontz, except through the major variance process. Dayton First Baptist Church constructed sidewalk improvements along Flower Lane when the original buildings were constructed. Had the Food Pantry building been constructed at the time of the original development, no additional improvements would have been required. The segment of street improved with sidewalks by the church is the same segment of street abutting the Food Pantry building.

A street improvement project or a requirement to defer those improvements is disproportional to the impacts of the Food Pantry building. The constitutional property rights of the petitioner allow for development of the land without being burdened with requirements disproportionate to the impacts of the development, so much so that the project may not be financially feasible if the variance is not granted.

Absent the variance, the proposed development is subject to street improvement requirements far exceeding the project's transportation impacts. The proposed variance is necessary for the preservation and enjoyment of the substantial and constitutional property rights of the applicant.

**Criterion E: That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant.**

Finding: The Food Pantry will have a significantly positive effect upon the health and safety of the entire Dayton community. The transportation impacts of the Food Pantry are negligible and will not adversely affect the health or safety of persons working or residing in the surrounding community.

**Criterion F: The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.**

Finding: The Dayton Community Food Pantry is requesting a variance only from the street improvement requirements imposed on the development based on staff's interpretation of an ambiguous table found in LUDC Section 7.2.301.03. The existing church was approved as a conditional use within the single-family residential (R-1) zone. The Dayton Community Food Pantry building expands an existing meal program use allowed under the conditional House of Worship uses described in LUDC Section 7.2.407. Eliminating the requirement for construction or deferral of street improvements is the minimum necessary to permit development of the Food Pantry building, which is a logical and necessary extension of the original House of Worship use. The degree of variance from the standard is the minimum necessary to meet rough proportionality and permit development of the property for the allowed use.

**Criterion G: The variance request is not the result of a deliberate action or knowing violation on the part of the applicant.**

Finding: No deliberate action or knowing violation has caused the need for the subject variance.