

AGENDA
DAYTON PLANNING COMMISSION



DATE: THURSDAY, MARCH 13, 2025
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 at: <https://us06web.zoom.us/j/85868358285>

Dayton – Rich in History . . . Envisioning Our Future

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE #</u>
A.	CALL TO ORDER & PLEDGE OF ALLEGIANCE	
B.	APPROVAL OF THE AGENDA	
C.	APPEARANCE OF INTERESTED CITIZENS	
D.	APPROVAL OF MINUTES	
	1. January 9, 2025	1-2
E.	PUBLIC HEARING	
	1. Dayton View Subdivision (SUB 2024-07 VAR 2024-10)	3-23
	i. Preliminary Subdivision Plans	24-29
	ii. Subdivision Application Narrative	30-68
	iii. Minor Variance Application Narrative	69-72
	iv. City Engineering Comments	73-95
	2. LA 2025-01 Model Floodplain Ordinance Adoption	97-101
	i. Code Amendments	102-137
	ii. PICM Community Letter to City of Dayton	138-140
	iii. FEMA Region 10 Model Code	141-189
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F.	OTHER BUSINESS	
	1. Parks Master Plan Update	193-203
G.	ADJOURN	

Posted: March 5, 2025

By: Rocio Vargas, City Recorder/Planning Coordinator

NEXT MEETING DATES

Planning Commission Meeting **April 10, 2025** (if needed)

Planning Commission Meeting **May 8, 2025** (if needed)

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

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

- Email - at any time up to 5 pm the day of the meeting to rvargas@daytonoregon.gov. 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 rvargas@daytonoregon.gov 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 Rocio Vargas, 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.

MINUTES
DAYTON PLANNING COMMISSION
January 9, 2025

Dayton Commissioners Present: Ann-Marie Anderson, Chairperson
 Dave Mackin, Vice-Chairperson
 Rob Hallyburton
 Katelyn Van Genderen

Dayton Commissioners Absent:

Dayton Staff Present: Curt Fisher, City Planner
 Rocio Vargas, City Recorder/Planning Coordinator
 Jeremy Caudle, City Manager

A. CALL TO ORDER & PLEDGE OF ALLEGIANCE

Chair Ann-Marie Anderson called the meeting to order at 6:29 pm.

B. APPROVAL OF AGENDA

No changes

C. APPEARANCE OF INTERESTED CITIZENS

None.

D. WORK SESSION

Chair Anderson asked City Planner to present the Model Flood Code Ordinance and the proposed text amendment to meet the requirements.

Curt Fisher, City Planner reviewed all the recommendations and changes proposed for the Dayton Municipal Code to conform to the Model Flood Code Ordinance.

Commissioner Katelyn Van Genderen noted a typo. She inquired about the mode of enforcement applied that is indicated.

City Planner stated that it would be to bring up to requirements or undo the change that does not meet the requirements.

Commissioner Rob Hallyburton inquired about the floodplain in Dayton already designated for open space.

City Planner stated that there is only one property in the floodplain that has had inquires in the past for possible development.

There was a discussion about homes and lots that are prone for flooding.

There was a discussion about the City being required to implement the Model Ordinance.

Commissioner Van Genderen inquired about the different between permit by permit and adopting the Model Ordinance.

E. OTHER BUSINESS

1. Joint Meeting with City Council

City Planner informed the Planning Commission that on January 29, 2025, at 6:30pm there will be a joint work session with City Council to review the final recommendations to the housing comprehensive plan.

F. ADJOURN

There being no further business to discuss meeting adjourned at 7:06pm.

Respectfully submitted:

Approved by Planning Commission **March 13, 2025**

By:
Rocio Vargas,
City Recorder/Planning Coordinator

As Written

As Amended

Ann-Marie Anderson, Planning Commission Chair



STAFF REPORT

SUB 2024-07 VAR 2024-10

Hearing Date: March 13, 2025

File Numbers: SUB 2024-07 / VAR 2024-10

Applicant: NW Summit Development LLC
111 N. College Street
Newberg, OR 97132

Owner: Dayton Point LLC
197 NW Outlook Vista
Bend OR 97703

Request: Subdivision of approximately 1.38 acres into 8 lots for single-family attached and detached homes, with associated utilities and a public street.

Property:

<u>Taxlot</u>	<u>Size</u>	<u>Zoning</u>
4 3 17 DD 2600	1.38 acres	Limited Density Residential

Zoning: Limited Density Residential (R-2)

Surrounding Zoning: North: Residential (R-2)
South: Public (P)
East: Residential (R-2)
West: Public

Criteria: **Dayton Land Use and Development Code (DLUDC)**

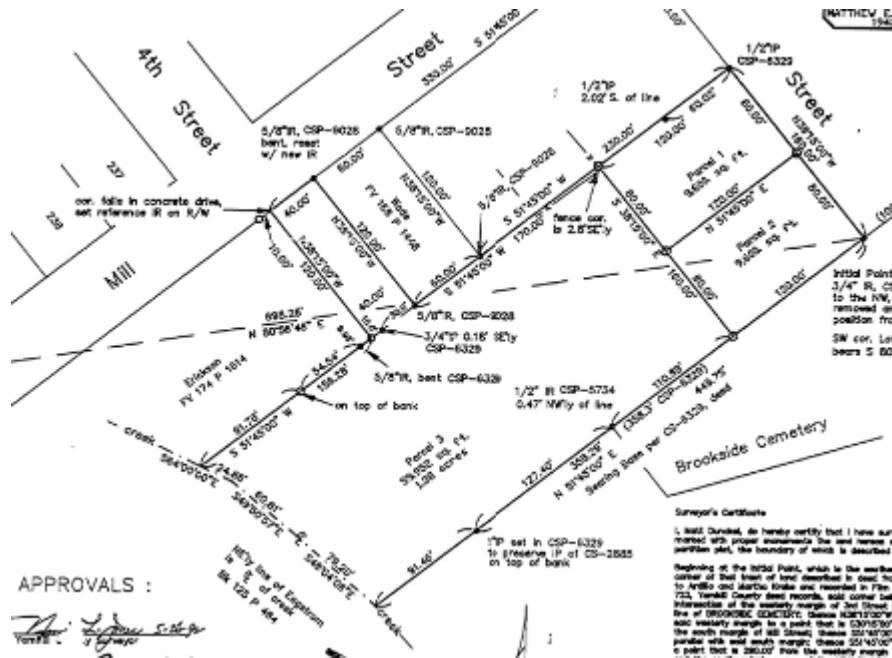
Section 7.2.103:	Limited Density Residential (R-2)
Section 7.2.307:	Development Standards for Land Divisions
Section 7.2.302:	Street Standards
Section 7.3.102:	General Provisions
Section 7.3.103:	Minor Variances
Section 7.3.109:	Subdivisions and Planned Unit Developments

Attachments: **Exhibit A:** Applicant's Preliminary Subdivision Plans
Exhibit B: Subdivision Application Narrative
Exhibit C: Minor Variance Application and Narrative
Exhibit D: City Engineering Comments

I. BACKGROUND

The project involves a subdivision of approximately 1.38 acres into 8 lots for single-family homes served by a public street with a Minor Variance application to increase the maximum density on the site from 7.55 units to 8 units to allow for one home per lot.

Figure 1: Parcel 3 of Partition Plat 92-40



The subject property is a "T" shaped parcel that was created by Partition Plat 92-40. The parcel has approximately 40 feet of frontage on Mill Street near the intersection of Mill Street and 4th Street. There are four adjacent properties on Mill Street developed with single-family homes. Property to the east includes Parcels 1 and 2 of Partition Plat 92-40 which take access from 3rd Street and are developed with single-family homes. Property to the south includes the Brookside Cemetery and property owned by the Dayton School District containing Lippincott's Gulch. The rest of the School District property is improved with ball fields, but the portion abutting the site is primarily undeveloped open space. The western portion of the site is constrained by steep slopes that descend into Lippincott's Gulch.

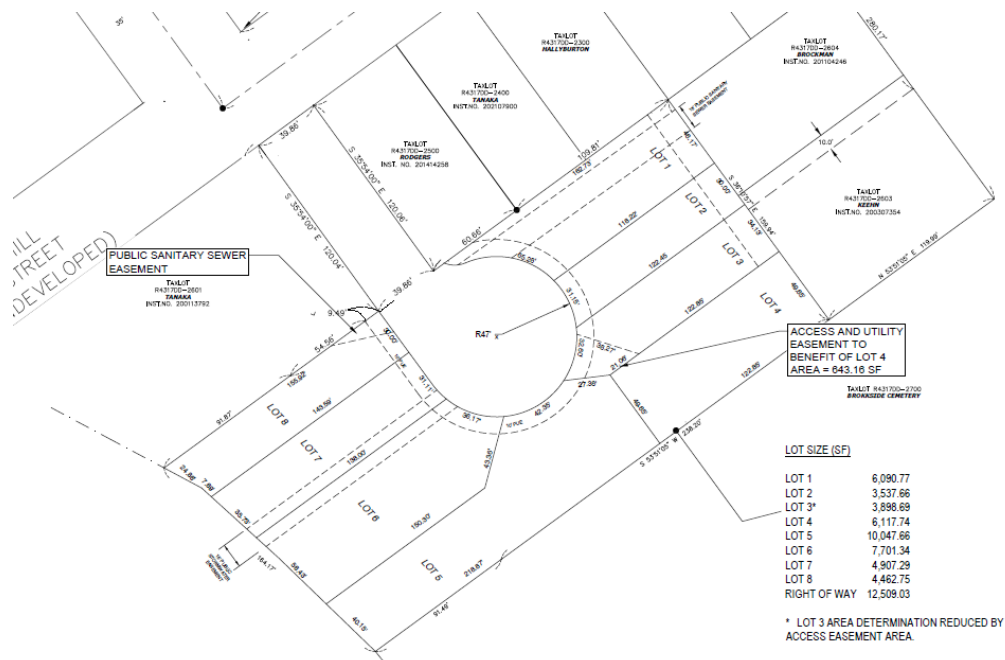
The site is currently vacant.

Figure 2: Mill Street



The current project involves an 8-lot subdivision of Parcel 3, served by a new public street, intended to comply with city standards for small-scale subdivisions described in Section 7.2.307.04.F of the DLUDC. The preliminary plan is configured to allow the lots to be developed with a combination of attached and detached units. The plans show Lots 1, 4, 5, and 6 with sufficient gross lot area to allow future single-family detached or attached homes. Lots 2, 3, 7, and 8 provide enough gross lot area to allow future attached homes only.

Figure 3: Applicant's Proposal



The application for Subdivision (File SUB 2024-07) was received by the City of Dayton on September 5, 2024. During the completeness review process, staff identified the need for a variance to remedy deficiencies in the original submittal. The applicant responded with the included request for a minor variance. The application was determined complete on January 28, 2025. Notice was mailed in compliance with 7.3.109.02(A) to property owners within 200 feet on February 6th, 2025 and to the city engineer, public works, and fire district on February 5th, 2025. The comments from the city engineer as included in Exhibit D.

The application involves a Subdivision and a Minor Variance in a consolidated application being reviewed under the highest-order (Type II) procedure. A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow some discretion. Staff has an advisory role. Public notice and a public hearing are provided. Appeal of a type II decision is to the City Council.

Staff also recognize that because the project is a housing project, the provisions of ORS 197A.400 apply, which state the following:

... a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions, and procedures:

- (a) May include, but are not limited to, one or more provisions regulating the density or height of a development*

- (b) *May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.*

Failure of the decision to list a particular permit, condition, term, or restriction shall not relieve the owner of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions. Any items or actions required to be completed under the existing ordinances of the City of Dayton shall not be waived, modified, or amended by omission from the decision.

II. APPLICABLE APPROVAL CRITERIA

The applicant has the burden to demonstrate compliance with approval criteria and applicable standards. Approval criteria for Subdivisions are described in Section 7.3.109 of the Dayton Land Use and Development Code and approval criteria for Minor Variances are described in Section 7.3.103.05.

7.3.109 Subdivisions and Planned Unit Developments

7.3.109.04 Review Criteria

Approval of a subdivision or PUD shall require compliance with the following:

- A. *Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved or the development standards permit a modification of these requirements.***

Findings: The property is zoned Limited Density-Residential (R-2) requiring a minimum lot size of 6,000 square feet for detached single-family dwellings and 3,500 square feet for attached single-family dwellings. The proposal is for 8 lots, with lot sizes ranging from $\pm 3,537$ square feet to $\pm 10,047$ square feet. The following dimensional and density standards in the R-2 zone apply:

7.2.103.05 Dimensional Standards

- A. *Minimum Lot Dimension and Height Requirements.***

<i>DIMENSION</i>	<i>Single Family</i>	<i>Duplex</i>	<i>Multi-Family</i>	<i>Non-Residential</i>
<i>Lot Size</i>	<i>6000 sq. ft. (1)</i>	<i>7000 sq. ft.</i>	<i>9000 sq. ft. (2)</i>	<i>(3)</i>
<i>Maximum Height</i>	<i>35 feet</i>	<i>35 feet</i>	<i>35 feet</i>	<i>35 feet</i>

- 1. Attached single family dwellings shall have a minimum lot area of 3500 square feet.*
- 2. Multi-family development must comply with the density standard in Section 7.2.103.06.*
- 3. Parcel size shall be adequate to contain all structures within the required yard setbacks.*

Findings: The proposed subdivision is designed to have attached and detached single-family dwellings. Refer to page P-3 of the plan set that identifies lots intended for detached single-family homes meeting the 6000 SF requirement and lots intended to have attached single-family dwellings that meet the minimum 3500 SF lot area. Building heights will be evaluated at the time of building permit. This standard is met

Minimum Yard Setback Requirements

SETBACKS	Single Family	Duplex	Multi-Family	Non-Residential
Front	15 feet	15 feet	15 feet	20 feet
Side	5 feet (1)	5 feet	(3)	10 feet
Rear	(2)	(2)	(3)	20 feet
Street-side	15 feet	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	20 feet	20 feet

Findings: The proposed subdivision is designed to have attached and detached single-family dwellings. Refer to page P-3 of the plan set that identifies lots intended for detached single-family homes meeting the 6000 SF requirement and lots intended to have attached single-family dwellings that meet the minimum 3500 SF lot area. The plans include conceptual building footprints that are not being reviewed as part of the subdivision application. Final review of these standards will take place at the time of building permit. These standards can be met.

7.2.103.06 Development Standards

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

- A. *Offstreet Parking: Parking shall be as specified in Section 7.2.303.*
- B. *Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.*

Findings: Parking and yard standards will be reviewed at the time of building permit submittal. These standards can be met.

- C. *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.*

Findings: The applicant has indicated that they do not intend to develop the new lots with uses that require site development review (multiple family development).

- D. *Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:*

Maximum building coverage (primary building):	40%
Maximum parking area coverage (including garage):	35%
Combined maximum lot and parking area coverage:	70%

- E. *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.*

Findings: Lot coverage and landscaping standards will be reviewed at the time of building permit submittal. These standards can be met.

F. Density: The following density provisions shall apply:

- 1. Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre.*
- 2. Manufactured home parks: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.*
- 3. Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.*

Findings: The applicant calculated the maximum allowed density of the proposed subdivision as follows:

Existing Property	1.38 ac
Less right of way	0.2872 ac (12,509.03 SF)
Less easement on Lot 3	0.0148 ac (643.16 SF)
Result	1.0780 ac

Multiply by the permitted maximum density of 7 units/ac
 $7 \times 1.078 = 7.55$ units/ac density for this project site.

A minor variance application is requested to increase the 7.55 units to 8 units, an increase of 6%, which is within the 10% allowed for a minor variance request.

DLUDC Section 7.1.2 defines density as the number of dwelling units per acre of land. “Land” includes all property within an “area” as defined in this section. Area is defined as the total area circumscribed by the boundaries of a lot or parcel except the public right of way, private access easements, and access strips to flag lots. The applicant has correctly excluded these areas when calculating density and assumes one dwelling per lot. The density proposed for the project exceeds the maximum density requirement by .45 units. A minor variance application is included to increase the maximum density from 7.55 units to 8 units. With the included variance, the standard can be met.

Staff find that criterion 7.3.109.04.A is met.

B. Adequate public facilities shall be available to serve the existing and newly created parcels.

Findings: The adequacy of public facilities to serve the project is substantially addressed by the comment submitted by the City Engineer in Exhibit D.

The applicant described the following public facilities available to serve the project as follows:

Sanitary Sewer The property is currently served by an 8-inch public sanitary sewer main located along the northwestern boundary. Each lot will connect to this line by a sanitary sewer lateral located either within the right-of-way or through an easement across adjacent lots.

Water Supply The nearest public water main is located in Mill Street. To serve the proposed development, a 6-inch water main extension is proposed from Mill Street to the end of the cul-de-sac. Individual service lines from the main will serve the individual lots.

Transportation A new public street ending in a cul-de-sac is proposed to serve the new lots. The design of the street follows the requirements of section 7.2.307.F.3 for small-scale subdivisions containing less than 10 lots.

Storm Drainage The street will slope to a low point within the cul-de-sac. At the low point, two catch basins will be installed such that one of the basins will act as an overflow to prevent ponding and overflow of the curb. Final grading will be contoured to direct the hundred-year storm event that may flow overland from the cul-de-sac to the creek to protect adjacent structures. The catch basins will discharge in a pipe down the slope to two and energy dissipating outlet structure located just above the existing drainage channel.

The City Engineer, Public Works and Fire Department were provided a copy of the application materials. The City Engineer submitted comments (Exhibit D) dated February 14, 2025, addressing the process and requirements for public facility improvements. These comments are summarized in this report and are incorporated into the conditions of approval.

Streets, Sidewalks, etc.

The flagstem of the property (*and the end of the new public street*) fronts on Mill Street at the 4th & Mill intersection. No lots will have direct frontage on Mill Street, but will take vehicular access from the new interior public street.

Mill Street in this location is a City right-of-way. The new internal street is proposed as a public street (*see discussion below*).

Mill Street.

The property has 40 feet of frontage on Mill Street, which at this location is a City street. The current Mill Street right-of-way width is shown as 60 feet on current City and County maps.

Mill Street at the connection point of the new public street is currently a turnpike street section, without curbs on either side, and without sidewalks on either side.

Mill Street is classified as a local street. Per PWDS 2.11 (table), local through streets of this type are to be provided with a 34 foot curb-to-curb width within a 50 feet minimum right-of-way width (*for reference when designing the intersection of the new public street into the subdivision*).

DLUDC 7.2.307.06.A states in part that: “*Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts . . . Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.*”

New Internal Street.

The proposed new internal street will be constructed along the 40-foot wide flagstem connected to Mill Street.

The application proposes that the new street be constructed as a public street. The application proposes that the new street have a 27 foot paved width (*curb to curb*), with a 5 foot sidewalk on one side (*as is allowed under DLUDC 7.2.307.04.F*).

The new internal street is shown on the application drawings as being approximately 240 feet long (*from the Mill Street centerline*).

The developer has proposed installing a cul-de-sac turnaround on the new public street.

Internal Public Street Improvement Conditions.

- The design of the new internal public street shall conform to the requirements of the Public Works Design Standards and DLUDC 7.2.307.04.F, including verification of the future intersection design at Mill Street.
- Full street improvements shall be constructed for the new internal public street, based on the width included in the application (*27 foot street width, 40 foot right-of-way width, 5 foot curblane sidewalks on one side and around the cul-de-sac bulb*).
- The sidewalk proposed along the west side of the flagstem portion of the new internal street shall be constructed in conjunction with the street improvements.
- Public storm drainage improvements shall be provided in conjunction with the new public street (*PWDS 3.2.c*), including extension of a public storm mainline to serve the Mill Street intersection.
- Street and traffic control signs shall be installed at locations conforming to City standards.
- The east side of the new public street shall have painted curbs and be signed for no parking.
- New street names shall be approved by the City prior to approval of the construction drawings.

PUEs a minimum of 8 feet wide are required along all property lines fronting public street right-of-ways (*excluding alleys or along the flagstem*) 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, except along the flagstem portion (*PWDS 1.10.j*). Language for these PUEs per PWDS 1.10.j will need to be included on any plat.

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*).

Based on PWDS 2.32 spacing standards (*200 feet, or 3 lot widths, whichever is less*), it appears that at least one additional street light will be required at the new cul-de-sac location.

- New public street light(s) shall be installed on the new public street, at location(s) approved by the City Engineer and Public Works based on City standards.

Storm Drainage.

The preliminary drawings included information on the general manner in which proposed storm drainage improvements will be provided. However, the new public storm drain must also be extended to collect storm drainage from the intersection of the new public street with Mill Street, as well as to provide storm drainage laterals for any lots which do not slope to the fronting curb. Detention is not shown for this project, but since it is located at the downstream end of the Lippencott Gulch ravine, there are no known capacity problems relating to downstream properties.

From the information provided, it appears that the storm drainage system can be provided in accordance with PWDS standards, based on the proposed approval condition.

Provisions for storm drainage lines serving each parcel will need to be provided, with drainage to be extended to a point of disposal acceptable to Public Works (*PWDS 3.9.b*). This will require that storm drainage easements be provided for any storm drains outside of

public right-of-way, or for storm lines or laterals crossing private property other than the lot being served.

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, and shall collect drainage from upstream properties/streets and convey it through or around the development as applicable (*including providing easements as applicable across the development property*). 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 for the entire property, as well as drainage from new streets and existing upgradient streets, and shall convey storm water runoff to an approved point of disposal. 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 solely serve. Storm drain laterals shall be provided for all lots which cannot drain to the fronting curblines.

Sanitary Sewer.

The preliminary drawings include information on proposed sanitary sewer improvements. However, the backlot sewer service lateral connections proposed are not allowed in Dayton except under exceptional circumstances (*which do not appear to apply for this subdivision*).

A new sewer mainline extension shall be constructed across the cul-de-sac bulb in order to accommodate new sewer service laterals to each of the new lots, from the new sewer in the public street. This will allow the new sewer service laterals to be installed perpendicular to the public street per City standards (*except for the services at the end of the cul-de-sac*).

In addition, since the existing backlot sewer main across the property is a terminal sewer accepting sewage from the inverted siphon installed under Lippencott's Gulch in 1965 AND is located within an easement, it will need to be TV inspected as required under PWDS 4.17.a.4. As noted in the PWDS, the TV inspection/locate painting and survey verification of existing mainlines which are located in easements outside of public right-of-ways must be done as part of the design process.

The subdivision sewer design shall include provisions to correct any adverse grade conditions, broken/obstructed pipe or other conditions found in the existing sewer which (*in the opinion of the City Engineer or Public Works Director*) (A) may cause sewer backups or (B) present maintenance issues upon extension of the mainline and/or connection of additional mainlines or sewer services, or (C) require upgrades along sewer alignments which are not located within public right-of-ways or within recorded easements in order to bring sewers into conformance with current City standards (*including all-weather maintenance access as applicable*). Corrections of any such adverse conditions shall occur prior to connecting to or extending the mainline, or setting new manholes.

The developer shall submit sanitary sewer drawings conforming to the requirements of the PWDS. A new sewer mainline shall be installed parallel with the new street, to allow sewer service laterals to be installed perpendicular with the ROW per City standards. In addition, cleaning & TV inspection of the existing gravity sewer main from existing MH 78 (*which is located in the new internal street*) to existing MH 77 (*located in the old 3rd Street ROW*) shall be completed as part of the design process, and reports and videos provided to the City Engineer. Correction of any problems discovered shall be the responsibility of the developer (*including but not limited to replacement of the existing gravity sewer main if applicable*). New gravity sanitary sewer mainlines and separate gravity service laterals from the new

public street shall be provided as required to serve all lots in the development (*connection to the existing inverted siphon pipe west of MH 78 is prohibited*). Sewers crossing private property shall be located within easements conforming to PWDS 4.15.d as approved by the City Engineer. New easements meeting PWDS requirements shall be provided for any public sewers located outside of street right-of-ways, or for private sewer lines which cross property other than that which they serve.

Water.

The preliminary drawings include information on proposed water system improvements, reflecting a new waterline along the new internal street within the development. However, the proposed configuration will need to be modified to meet City standards.

(Existing Waterlines & Hydrants)

Maps show an existing 10-inch water mainline along the 4th Street and an existing 8-inch waterline along the south side of Mill Street, across the flagstem frontage of the property.

Existing Hydrants. While there is an existing fire hydrant at 4th & Mill, this hydrant is too far from the property to be utilized for fire protection for all new lots (*see PWDS 5.17.a*).

Per OFC B105.3.1, minimum fire flows of 1000 gpm must be provided for detached residential structures (*our assumption is that fire sprinklers will not be provided for the buildings constructed within the subdivision*). The developer will be responsible for verifying that adequate fire flows are available from the existing 8-inch waterline at 4th & Mill. If adequate fire flows are not available, additional offsite waterline improvements will be required (*flow testing will need to be done on the hydrant at 4th & Mill to determine this*).

(New Fire Hydrants)

A new fire hydrant will be required for this development, installed at or near the throat of the cul-de-sac bulb, in order to meet the distance coverage requirements under current City standards.

(New Waterlines)

While a new waterline is shown along the new internal street, it does not meet the size requirements under City standards. The new waterline from Mill Street to the new fire hydrant shall be 8-inch minimum diameter, while the waterline beyond the new hydrant may be 6-inch diameter as proposed.

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 all hydrants at 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 developer shall construct new waterlines as required to supply all water services and fire hydrants. Fire hydrants per PWDS standards will be required at intersections and other locations approved by the City Engineer and the Fire Chief. Existing hydrants serving the property shall be provided with Storz adapters per City & Fire District standards, as applicable.

Franchise Utilities.

DLUDC 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.*”

Criterion 7.3.109.04.B can be met as conditioned.

C. The proposal shall comply with the applicable development standards in Section 7.2.307 (Land Divisions), or Section 7.2.311 (Planned Unit Developments).

7.2.307.03. Standards for Lots or Parcels

- A. *Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.*

Findings: The preliminary plan involves 8 lots. All of the proposed lots exceed the required minimum area of 6,000 square feet for detached single-family dwellings, and 3,500 square feet for those planned for attached dwellings. Conditions are recommended to ensure that the lots planned for attached dwellings are clearly identified on the recorded plat. Staff finds this standard is met.

- B. *Access. All lots and parcels created after the effective date of this Code shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. The following exceptions shall apply:*

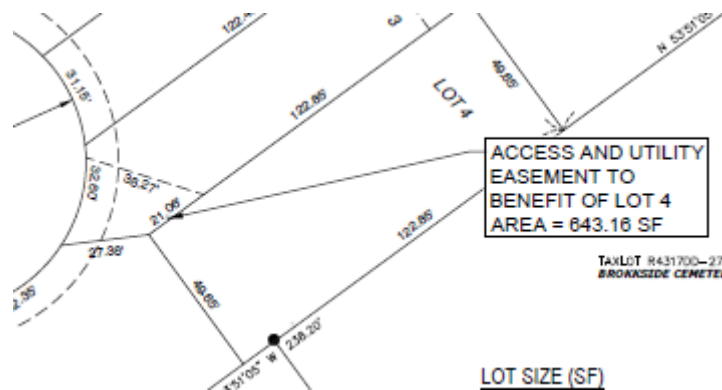
- 1. Residential lots or parcels may be accessed via a private street or partition access easement developed in accordance with the provisions of Section 7.2.302 when the City finds that public street is not necessary to provide for the future development of adjoining property.*

Findings: Section 7.2.307(F)(3) allows small-scale subdivisions (applicable to all subdivisions containing no more than ten lots and that do not exceed two acres in size) to be served by a public street designed to the standards in DLUDC 7.2.307(F)(3). The proposed street complies with these clear and objective standards. 7 of the 8 lots proposed meet the minimum requirement of 20 feet of frontage on a public street. Lot 4 is proposed to be accessed by 20-foot-wide flag lot access easement. Staff finds this standard is met.

- C. *Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed.*

Findings: The applicant proposes a flag lot for Lot 4 with an easement forming a narrow strip of land that provides the access to the public street. The applicant states that Lot 4 will share a common driveway with Lot 3. With the proposed shared access, staff finds the proposed configuration acceptable. Staff also observes the subjective language used in the standard (i.e., “unusually deep” and “unusual configuration”. The standard is met.

Figure 4: Lot 4 Flag Lot Configuration



- 1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway.*

2. *The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.*
3. *Flag lots located side-by-side shall share a common driveway. This requirement shall be placed in the deed record of each parcel and noted on the final plat.*

Findings: The applicant's plans show that the minimum improvement requirements for access can be met, the area of the easement is excluded from Lot 3, and a condition of approval is included requiring the shared access to be noted on the plat and place in the deed record for Lots 3 and 4. These standards can be met as conditioned.

D. Through Lots. Through lots are discouraged unless essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific site disadvantages. If approved, access may be limited to one street.

Findings: No through lots are proposed as a part of this application. Staff finds this standard is not applicable.

E. Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than ½ the dimension of the front lot line.

Findings: A number of the lot lines are planned with side lots lines that are not at precise right angles to the right-of-way around the cul-de-sac. While the configuration of the side lots line could be improved, the shown configuration can be accepted as practicable. Staff finds this standard is met.

F. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities.

Findings: PUE easements meeting City standards are required as a condition of approval. Staff finds this standard can be met as conditioned.

7.2.307.04. Additional Design Standards For Subdivisions

A. Standards for Blocks. The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic including pedestrian and bicyclist; and recognition of limitations and opportunities of topography. Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets may be greater in length but not more than 1,300 feet without an accessway. Block perimeters should not exceed 1,800 feet in length. Exceptions to block length and perimeter may be granted if one or more of the following conditions exist:

1. *Physical or topographic conditions make a street or accessway connection impracticable;*
2. *Building or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection;*
3. *Where one side of the block is an arterial street; or*
4. *Where an accessway exists in the block.*

Findings: The proposed layout is designed around a cul-de-sac designed to meet the street standards for small-scale subdivisions in DLUDC Section 7.2.307.03.D.3. Staff finds the configuration

acceptable because property to the south consists of steep slopes on the bank of Lippincott Gulch, undeveloped publicly zoned land, and the Brookside Cemetery. These conditions preclude a connection for future development. Therefore, a complete block is not practicable at this location.

B. Traffic Circulation. The proposed subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide traffic circulation with safe convenient and reasonably direct access. Connectivity. To achieve the objective in B., above, the City may require the following:

- 1. Stub Streets: Where the potential exists for additional residential development on adjacent property.*
- 2. Pedestrian/Bicycle Accessways: Public accessways to provide a direct connection to cul-de-sac streets and to pass through oddly shaped or unusually long blocks.*

Findings: The project is accessed by a cul-de-sac street design in accordance with the street standard for small-scale subdivisions in 7.2.307.03.D.3. Adjacent property is not available for future development. Therefore, the project does not present an opportunity to form a complete block with an extension of a public accessway from the end of the cul-de-sac. These provisions do not apply.

C. Park Requirements for Residential Subdivisions. Subdivisions shall provide for public parks by one of the following methods:

- 1. Dedication - The dedication of park land shall be subject to the following:*
 - a. Area: Land shall be dedicated at an area equal to one acre per 100 potential residents. For the purposes of this section, the potential residential population shall be computed at the rate of 3.25 persons for each potential unit for single family homes and duplexes; and, 2.75 persons for each potential unit for multiple family homes.*
 - b. Location: The location of any dedicated park land shall be determined by the Planning Commission, consistent with the guidelines in the Comprehensive Plan or in a Master Parks Plan adopted by the City Council.*
- 2. Financial Contribution - If the Planning Commission determines there is no need for park land in this location, or, there is no suitable location on the subject property for a public park, the developer shall contribute toward a City park fund an amount equivalent to the amount of land that would have been required in item 1. above. The financial contribution shall be subject to the following:*
 - a. Appraisal Requirements: Market value shall be established by a professional land appraiser who is a member of the American Institute of Real Estate Appraisers or is certified by the State of Oregon as a certified appraiser. A date which is within 60 days of the final approval of the tentative plan shall be used for the purpose of fixing value.*
 - b. Responsibility: The City shall be responsible for securing the services of a professional appraiser. The selected individual shall be acceptable to both the City and the developer.*
 - c. Annexation: If the property is subject to an annexation, the appraisal shall always be determined on a date subsequent to the parcel's annexation to the City.*

- d. Payment Schedule: The sum of money established by this procedure shall be paid to the City prior to the approval and recording of the final plat.*

Finding: The Subdivision involves 8 lots with one single family home per lot to provide homes for 3.25 potential people per home or 26 potential residents. Therefore, the amount of park land required for 26 potential residents is .26 acres, or the equivalent, as determined by an appraiser according to the standards set forth in Section 7.2.307.04(E)(2) and as requested by the applicant. A condition stating this requirement is included. Staff finds this standard can be met as conditioned.

D. Small-Scale Subdivisions In addition to the standards contained in Section 3.2.207.04.A to E, the following standard shall apply to those subdivisions containing no more than ten (10) lots and that do not exceed 2 acres in size.

- 1. Lots. Lots shall comply with the dimension requirements of the underlying zone and the design provisions contained elsewhere in Section 7.2.307.*

Findings: Staff incorporate the previous findings in response to Criterion 7.3.109.04.A, which include findings addressing the dimension requirements in the underlying R-2 zone in Section 7.2.103.05 this standard is met.

- 2. Facilities. All sewer, water and storm water facilities shall be designed and constructed to comply with adopted Public Works Standards.*

Findings: Staff incorporate findings from Criterion 7.3.109.04.B. for street improvement, utilities, water, storm, sewer, and the comments from the City Engineer (Exhibit D) that are included as conditions of approval. This standard can be met as conditioned.

- 3. Streets. All streets shall be dedicated to the public and constructed to adopted Public Works Standards. Streets shall contain the following minimum improvements:*

- a. Right-of-Way: 35 feet.*
b. Surfacing Width: 27-feet, curb-to-curb. This width shall provide for two travel lanes at 10-feet each and a 7-foot parking lane on one side.
c. Curbs/Sidewalks. Curbs shall be located on both sides of the surfaced width and a sidewalk shall be required on at least one side of the street.

Findings: The design right away width is ±40 feet. The proposed design for the improved portion is 27 feet of width curb-to-curb which will provide to travel lanes and a 7-foot parking lane on the southwestern side of the road. There are curbs located on both sides of the proposed street and a sidewalk on one side of the street, continuing all the way around the proposed cul-de-sac.

- d. Cul-de-sacs. Streets designed as cul-de-sacs shall comply with standards contained in Section 7.2.302.04.*

Findings: The preliminary configuration shown in the applicant's plan satisfies these standards and the final design will be confirmed through subsequent public works permits. This standard is met.

- 4. Design Limitations. Provisions in this section shall not apply if the proposed development has the potential to exceed ten lots or contain more than two acres*

Findings: The subject site is less than two acres and 8 lots are proposed. This standard is met.

Staff find that Criterion 7.3.109.04.C is met.

7.3.103 Minor Variances

7.3.103.01 Purpose

The development standards in this Development Code protect the public health, safety, and welfare by establishing standard setbacks, maximum building heights, and other development standards that apply to various uses. For lands or uses with unique characteristics, the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A minor variance may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

7.3.103.04 Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- A. The proposed variance would allow a use which is not permitted in the district;*
- B. Another procedure and/or criteria is specified in the Code for modifying or waiving the particular requirement or standard;*
- C. Modification of the requirement or standard is prohibited within the district; or,*
- D. An exception from the requirement or standard is not allowed in the district.*

Finding: The applicant desires to obtain approval of a minor variance to DLUDC Section 7.2.103.06 F.1, which establishes a maximum density of 7 units per acre for subdivisions. Following is the calculation for the development density of the proposed lot improvements, assuming each lot is developed with one unit.

Existing Property	1.38 ac
Less right of way	0.2872 ac (12,509.03 SF)
Less easement on Lot 3	0.0148 ac (643.16 SF)
Result	1.0780 ac

Multiply by the permitted maximum density of 7 units/ac
 $7 \times 1.078 = 7.55$ units/ac density for this project site.

A minor variance application is requested to increase the 7.55 units to 8 units, an increase of 6%, which is within the 10% allowed for a minor variance request.

Staff observes that the DLUDC does not provide guidance on whether or not the result of the maximum density calculation can be rounded up to the nearest whole unit. Therefore 7.55 units is interpreted as the maximum allow with subdivision of the property. The effect of approving the Minor Variance would be to allow the maximum density calculation to be rounded up to the nearest whole unit.

Staff concur that the Minor Variance procedure applies.

7.3.103.05 Criteria And Procedure

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

- A. The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances; OR, the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.***

Finding: The intent or purpose of the maximum density standard is not specifically described in the code. But generally, minimum density requirements help ensure that cities can meet their projected housing demand for the planning period, and maximum density limitations respond to neighborhood livability concerns and ensure that future development does not exceed the city's ability to serve a development with public facilities. Staff agrees that it is common practice to round the density calculations up to the nearest whole number. Staff also observes that engineering has confirmed that public facilities are available to serve the proposed development, the lots that abut neighboring lots will meet the applicable setback requirements from existing lots developed with single-family homes. Further, the R-2 district allows higher unit density to be permitted with multiple-family development. Staff finds the variance clearly satisfies the intent and purpose of the maximum density standard. This criterion is met.

- B. The proposed development will not unreasonably impact adjacent existing or planned uses and development.***

Finding: Development of the future lots will be subject to the same R-2 development standards as the existing adjacent development and the variance will not affect those properties. Land to the south is not planned for future development.

- C. The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.***

Finding: The applicant requests increasing the maximum density allowed on the site from 7.55 units to 8 units – an increase of 6%. This standard is met.

- D. There has not been a previous land use action prohibiting an application for a minor variance***

Finding: A 6-lot subdivision was approved for the for the site in 2018 (City File #2018-07). That approval has expired and the property is currently not subject to any conditions of approval from a previous land use action. This criterion is met.

III. RECOMMENDATION AND CONDITIONS OF APPROVAL

Based upon the above findings, Staff recommends the Planning Commission adopt the findings as outlined in the staff report and ***approve*** Subdivision 2024-07 and Variance 2024-10 with the following conditions:

General Planning Conditions

1. The final plat shall be recorded within 2 years of the date of the approval of the tentative plat (DLUDC 7.3.109.03.B), unless the applicant requests a time extension subject to Section 7.3.102.06. The plat shall substantially conform to the approved preliminary plat as conditioned by the land use approval, including any required easements.
2. The final subdivision or plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The City Manager shall signify staff approval of the final plat by signing the document. (DLUDC 7.3.109.06.A)

3. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees. (DLUDC 7.3.109.06.B)
4. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney. (DLUDC 7.3.109.06.C)
5. The plat shall clearly designate Lots 2, 3, 7, and 8 for attached zero lot line units only. Single-family detached units shall not be permitted on these lots unless they meet the minimum lot size requirement in the R-2 zone.
6. The applicant shall note the shared access easement serving Lot 4 across Lot 3 on the plat and record an agreement for common driveway access and maintenance between the lots.

Park Land Dedication

7. The amount of park land required for 8 lots (26 potential residents) is .26 acres, or the equivalent, as determined by an appraiser according to the standards set forth in Section 7.2.307.04(E)(2).
8. The developer shall contribute toward a City park fund an amount equivalent to the amount of land required in Condition 7 above. The financial contribution shall be subject to the following:
 - a. Appraisal Requirements: Market value shall be established by a professional land appraiser who is a member of the American Institute of Real Estate Appraisers or is certified by the State of Oregon as a certified appraiser. A date which is within 60 days of the final approval of the tentative plan shall be used for the purpose of fixing value.
 - b. Responsibility: The City shall be responsible for securing the services of a professional appraiser. The selected individual shall be acceptable to both the City and the developer.
 - c. Payment Schedule: The sum of money established by this procedure shall be paid to the City prior to the approval and recording of the final plat.

General Engineering Conditions

9. A current title report will need to be provided in conjunction with any construction drawings submitted for review by Public Works.
10. The existing sewer easement on the subject site will need to be correctly shown and referenced on the final subdivision plat when it is prepared, along with any new easement required by City standards.
11. 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 (DLUDC) and the Public Works Design Standards (PWDS). The applicant/developer is responsible for the construction costs of required public or private infrastructure improvements associated with the development (both onsite and offsite).
12. 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, sidewalk, and utility work (PWDS 1.9.b). This conference shall occur prior to submitting final 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 will be addressed.

13. After the pre-design conference, the applicant shall prepare and submit final 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.
14. Public Works construction permits for public improvements 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 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.
15. Any required off-site easements shall be approved by the City and recorded by the Developer prior to approval of the construction drawings by the City.
16. Building permits for new residential structures shall not be issued prior to completion of all required improvements and applicable conditions of approval, and written acceptance by the City, including submission of maintenance bonds and reproducible as-built drawings. This requirement shall apply to each phase separately if applicable.

Site Layout and Grading

17. The location of the existing driveway to 612 4th Street (TL 2601) shall be verified in conjunction with the subdivision design, and if it encroaches into the flagstem, the encroachment shall be resolved by the developer in consultation with the neighboring property owner. Options may include relocation/reconstruction of the existing driveway, granting of an easement for the existing driveway (provided such an easement leaves adequate width for the required improvements along the flagstem).
18. As part of the subdivision design, the developer shall have a detailed topographic survey performed for the property, as well as having a geotechnical report prepared which specifically evaluates the stability of the existing ravine slopes, as well as providing detailed design recommendations for any additional fills proposed to be placed on the top of the ravine slopes (for the lots or for the private road).
19. The developer shall be solely responsible to verify setbacks required for any buildings proposed on this property from the top of bank to the extent required by the Oregon building codes. While they may be shown on the preliminary drawings, the proposed locations of future buildings are not reviewed or approved as part of the subdivision approval process.
20. The developer shall record (against the lots west of the proposed private access road) an indemnification clause to clarify that the responsibility for slope stability stays with the property owners and does not devolve to the City (similar to the provisions in the CCRs recorded for the downslope lots on Country Heritage Estates Phase 2 project).
21. 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).

22. Any existing unsuitable fills within the proposed fire lane/common driveway will need to be removed or remediated in conjunction with the development and infrastructure construction.
23. Driveways and/or parking spaces shall be constructed as required to provide a minimum of two offstreet parking spaces for each new dwelling unit at the time of house construction. Per DLUDC 7.2.303.09.A, all driveways and parking areas shall be paved with asphalt or concrete.

Streets and Sidewalks

24. Mill Street is classified as a local street. Per PWDS 2.11 (table), local through streets of this type are to be provided with a 34 foot curb-to-curb width within a 50 feet minimum right-of-way width (for reference when designing the intersection of the new public street into the subdivision). DLUDC 7.2.307.06.A states in part that: *“Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts... Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.”*

New Internal Street

25. The design of the new internal public street shall conform to the requirements of the Public Works Design Standards and DLUDC 7.2.307.04.F, including verification of the future intersection design at Mill Street.
26. Full street improvements shall be constructed for the new internal public street, based on the width included in the application (27 foot street width, 40 foot right-of-way width, 5 foot curblane sidewalks on one side and around the cul-de-sac bulb).
27. The sidewalk proposed along the west side of the flagstem portion of the new internal street shall be constructed in conjunction with the street improvements.
28. Public storm drainage improvements shall be provided in conjunction with the new public street (PWDS 3.2.c), including extension of a public storm mainline to serve the Mill Street intersection.
29. Street and traffic control signs shall be installed at locations conforming to City standards.
30. The east side of the new public street shall have painted curbs and be signed for no parking.
31. New street names shall be approved by the City prior to approval of the construction drawings.
32. PUEs a minimum of 8 feet wide are required along all property lines fronting public street right-of-ways (excluding alleys or along the flagstem) as required by PWDS 1.10.j.
33. Street frontage PUEs shall be provided along the frontage of all right-of-ways where such easements do not already exist, except along the flagstem portion (PWDS 1.10.j). Language for these PUEs per PWDS 1.10.j will need to be included on any plat.
34. 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).
35. New public street light(s) shall be installed on the new public street, at location(s) approved by the City Engineer and Public Works based on City standards. Based on PWDS 2.32 spacing standards (200 feet, or 3 lot widths, whichever is less), it appears that at least one additional street light will be required at the new cul-de-sac location.

Storm Drainage

36. 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, and shall collect drainage from upstream properties/streets and convey it through or around the development as applicable (including providing easements as applicable across the development property). 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 for the entire property, as well as drainage from new streets and existing upgradient streets, and shall convey storm water runoff to an approved point of disposal. 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 solely serve. Storm drain laterals shall be provided for all lots which cannot drain to the fronting curblines.
37. Provisions for storm drainage lines serving each parcel will need to be provided, with drainage to be extended to a point of disposal acceptable to Public Works (PWDS 3.9.b). This will require that a storm drainage easements be provided for any storm drains outside of public right-of-way, or for storm lines or laterals crossing private property other than the lot being served.

Sanitary Sewer

38. The developer shall submit sanitary sewer drawings conforming to the requirements of the PWDS. Cleaning & TV inspection of the existing gravity sewer main from MH 78 (in the new internal street) to MH 77 (old 3rd Street ROW) per PWDS 4.17.1.4 shall be completed as part of the design process, and reports and videos provided to the City Engineer. Correction of any problems discovered shall be the responsibility of the developer (including but not limited to replacement of the existing gravity sewer main if applicable). Gravity sanitary sewer mainlines and/or separate gravity service laterals shall be provided as required to serve all lots in the development (connection to the existing inverted siphon pipe west of MH 78 is prohibited). Sewers crossing private property shall be located within easements conforming to PWDS 4.15.d as approved by the City Engineer. Easements meeting PWDS requirements shall be provided for any sewers located outside of street right-of-ways, or for private sewer lines that cross property other than that which they serve.

Water

39. 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 all hydrants at 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 developer shall construct new waterlines as required to supply all water services and fire hydrants. Fire hydrants per PWDS standards will be required at intersections and other locations approved by the City Engineer and the Fire Chief. Existing hydrants serving the property shall be provided with Storz adapters per City & Fire District standards, as applicable.
40. Per OFC B105.3.1, minimum fire flows of 1000 gpm must be provided for detached residential structures (our assumption is that fire sprinklers will not be provided for the buildings constructed within the subdivision). The developer will be responsible for verifying that adequate fire flows are available from the existing 8 inch waterline at 4th & Mill. If adequate fire flows are not available, additional offsite waterline improvements will be required (flow testing will need to be done on the hydrant at 4th & Mill to determine this).
41. A new fire hydrant will be required for this development, installed at or near the throat of the cul-de-sac bulb, in order to meet the distance coverage requirements under current City standards.

42. While a new waterline is shown along the new internal street, it does not meet the size requirements under City standards. The new waterline from Mill Street to the new fire hydrant shall be 8-inch minimum diameter, while the waterline beyond the new hydrant may be 6-inch diameter as proposed.

Franchise Utilities

43. DLUDC 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.”* .

IV. PLANNING COMMISSION ACTION – Sample Motions

- A. Approve the request for tentative subdivision approval:
 - 1. As recommended by staff, or
 - 2. As determined by the Planning Commission stating how the application satisfies all the required criteria, and any revisions to the recommended conditions of approval, or
- B. Deny the request for tentative subdivision approval stating how the application does not meet the applicable approval criteria.
- C. Continue the hearing to a time certain or indefinitely (considering the 120-day limit on applications).

FILE: J:\USERS\J.DANICIC\LIBRARY\MOBILE DOCUMENTS\COM-APPLE-CLD\DDCS\NW SUMMIT\DAYTON 6 LOT REVISED LAYOUT.DWG, PLOTTED: 2/28/2025 11:37 AM



ASSESSMENT & TAX
CARTOGRAPHY

S.E. 1/4 S.E. 1/4 SEC. 17 T.4S. R.3W. W.M.
YAMHILL COUNTY OREGON
1" = 100'

CANCELLED TAXLOTS:
2800
2602
2501
1400

EXHIBIT A

SHEET INDEX:

- G-1 COVER SHEET
- P-1 CURRENT PARTITION PLAT
- P-2 PRELIMINARY SUBDIVISION PLAT
- C-0 EXISTING SITE AND DEMO PLAN
- C-1 STREET AND STORM IMPROVEMENTS
- C-2 SANITARY AND WATER IMPROVEMENTS

PREPARED BY:

**NW SUMMIT
DEVELOPMENT LLC**

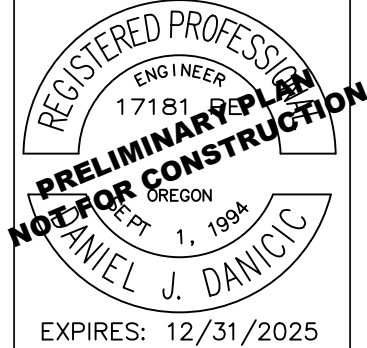
PREPARED FOR:

PROJECT:

**DAYTON
VIEW**

**SUBDIVISION
OF PARCEL 3
OF PARTITION
PLAT 92-40**

SEAL:



REVISIONS _____ DATE _____

SUBMITTAL _____

01_106_24 DAYTON 6 LOT REVISED LAYOUT

2/12/25

TITLE:

COVER SHEET

SHEET:

G-1.0

ENGINEER'S NOTE TO CONTRACTOR:

THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES OR STRUCTURES SHOWN ON THESE PLANS ARE OBTAINED BY A SEARCH OF AVAILABLE RECORDS. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO EXISTING UTILITIES EXCEPT THOSE SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITY LINES SHOWN ON THESE DRAWINGS. THE CONTRACTOR FURTHER ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR THE UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN OR NOT SHOWN ON THESE DRAWINGS.

THE CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR THE JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

CONTRACTOR SHALL VERIFY ALL CONDITIONS AND DIMENSIONS AND SHALL REPORT ANY DISCREPANCIES TO THE ENGINEER PRIOR TO THE COMMENCEMENT OF WORK.

PROJECT CONTACTS

APPLICANT:
JESSICA CAIN
NW SUMMIT DEVELOPMENT
111 N COLLEGE ST
NEWBERG, OR 97132

ENGINEER:
DANIEL DANICIC, PE
NW SUMMIT DEVELOPMENT
111 N COLLEGE ST
NEWBERG, OR 97132

NOTICE TO EXCAVATORS

ATTENTION: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER. (NOTE: THE TELEPHONE NUMBER FOR THE OREGON UTILITY NOTIFICATION CENTER IS (503)-232-1987).

POTENTIAL UNDERGROUND FACILITY OWNERS

Dig Safely.

Call the Oregon One-Call Center
DIAL 811 or 1-800-332-2344

PARTITION 92-40
for : A.H. & Martha Krake

Docket No. City of Dayton P-92-2

Location: SE1/4 Section 17, T. 4 S., R. 3 W., WM
City of Dayton, Yamhill Co., OR

Tax Lot: 4317DD - 2600

Date : 15 May 1992 Scale : 1" = 50'

- LEGEND:
- = monument found, flush to 0.2' down, in good condition unless otherwise stated. Origin is stated if known.
 - = set 5/8" iron rod with yellow plastic cap marked "Dunkel PLS 1942"
 - X - = existing fence line
 - () = data of record

DECLARATION

KNOW ALL MEN BY THESE PRESENTS that we, Ardilio H. Krake and Martha L. Krake are the owners of the lands represented on the attached map and more particularly described in the Surveyors Certificate and have caused said lands to be partitioned into the 3 parcels as shown.

In addition, there are no water rights appurtenant to the lands represented by this partition.

Ardilio H. Krake Martha L. Krake
Ardilio H. Krake Martha L. Krake

ACKNOWLEDGMENT

STATE OF OREGON)
COUNTY OF YAMHILL) ss.

On this day did personally appear Ardilio H. Krake and Martha L. Krake in the capacity shown in the above Declaration, who being duly sworn, did say that they are the identical persons named in the foregoing instrument and that they executed said instrument freely and voluntarily.

Notary State of Oregon
Commission Expires: 5-24-92

APPROVALS :

M. L. Dunckel 5-26-92
Yamhill County Surveyor

Melissa R. Peterson Secretary
City of Dayton Planning Delegate

M. L. Dunckel
Yamhill County Engineer

Recorded, date 5-28-92

Time of day 8:40 A.M.

Film 3 Page 230

STATE OF OREGON)
COUNTY OF YAMHILL) ss.

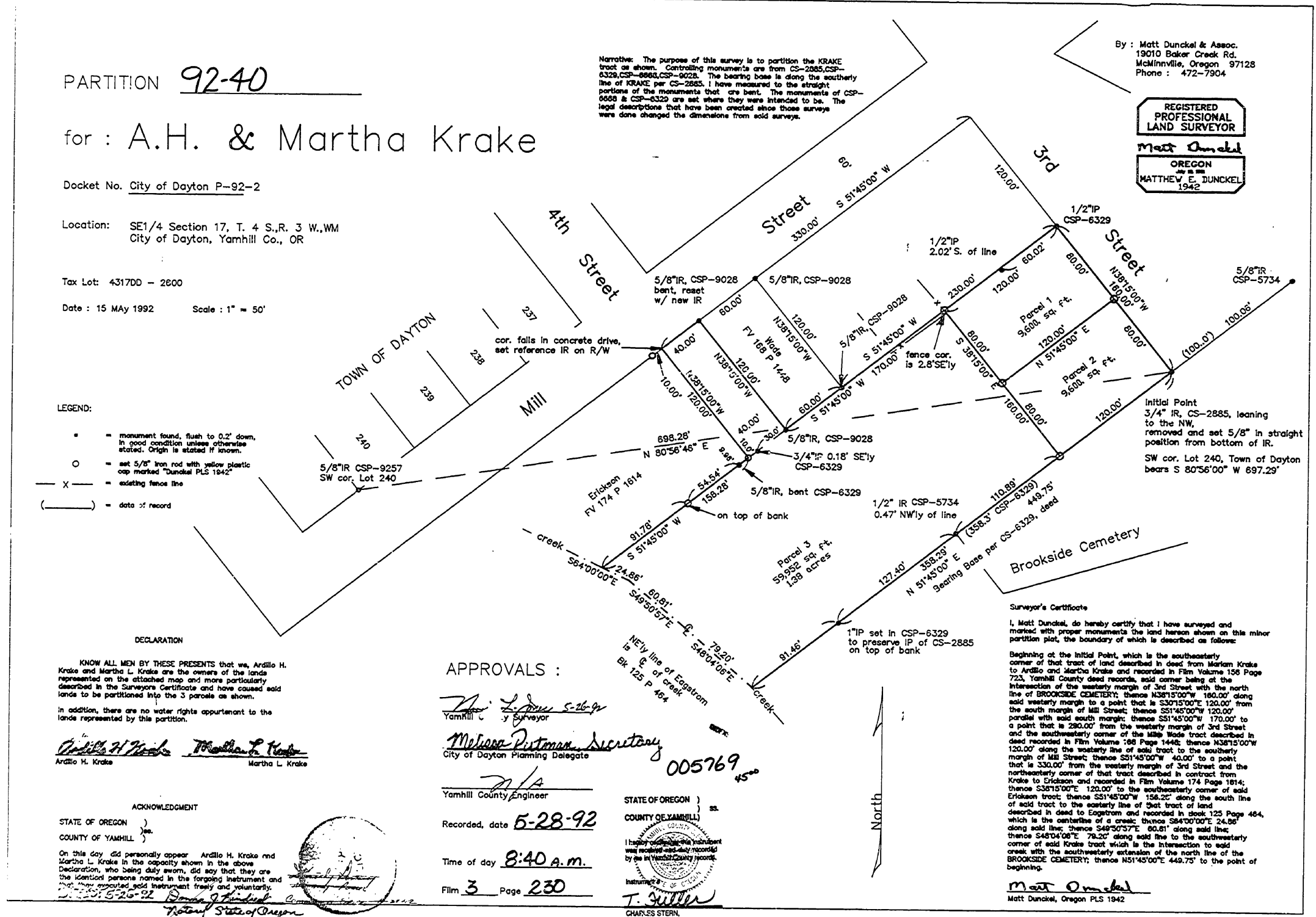
I hereby certify that this instrument was received and duly recorded by me as Yamhill County Clerk.

T. J. Suller
CHARLES STERN,
COUNTY CLERK

Narrative: The purpose of this survey is to partition the KRAKE tract as shown. Controlling monuments are from CS-2885, CSP-6329, CSP-6660, CSP-9028. The bearing base is along the southerly line of KRAKE per CS-2885. I have measured to the straight portions of the monuments that are bent. The monuments of CSP-6660 & CSP-6329 are set where they were intended to be. The legal descriptions that have been created since those surveys were done changed the dimensions from said surveys.

By : Matt Dunkel & Assoc.
19010 Baker Creek Rd.
McMinnville, Oregon 97128
Phone : 472-7904

REGISTERED
PROFESSIONAL
LAND SURVEYOR
Matt Dunkel
OREGON
MATTHEW E. DUNKEL
1942



Surveyor's Certificate

I, Matt Dunkel, do hereby certify that I have surveyed and marked with proper monuments the land hereon shown on this minor partition plat, the boundary of which is described as follows:

Beginning at the Initial Point, which is the southeasterly corner of that tract of land described in deed from Marion Krake to Ardilio and Martha Krake and recorded in Film Volume 156 Page 723, Yamhill County deed records, said corner being at the intersection of the westerly margin of 3rd Street with the north line of BROOKSIDE CEMETERY; thence N38°15'00\"W 160.00' along said westerly margin to a point that is S30°15'00\"E 120.00' from the south margin of Mill Street; thence S51°45'00\"W 120.00' parallel with said south margin; thence S51°45'00\"W 170.00' to a point that is 280.00' from the westerly margin of 3rd Street and the southeasterly corner of the little Wade tract described in deed recorded in Film Volume 166 Page 1446; thence N38°15'00\"W 120.00' along the westerly line of said tract to the southerly margin of Mill Street; thence S51°45'00\"W 40.00' to a point that is 330.00' from the westerly margin of 3rd Street and the northeasterly corner of that tract described in contract from Krake to Erickson and recorded in Film Volume 174 Page 1614; thence S30°15'00\"E 120.00' to the southeasterly corner of said Erickson tract; thence S51°45'00\"W 156.22' along the south line of said tract to the easterly line of that tract of land described in deed to Eagstrom and recorded in deed 125 Page 464, which is the centerline of a creek; thence S64°00'00\"E 24.86' along said line; thence S48°04'08\"E 78.02' along said line to the southeasterly corner of said Krake tract which is the intersection to said creek with the southeasterly extension of the north line of the BROOKSIDE CEMETERY; thence N51°45'00\"E 449.75' to the point of beginning.

Matt Dunkel
Matt Dunkel, Oregon PLS 1942

PREPARED BY:
**NW SUMMIT
DEVELOPMENT LLC**

PREPARED FOR:

PROJECT:
**DAYTON
VIEW**
**SUBDIVISION
OF PARCEL 3
OF PARTITION
PLAT 92-40**

SEAL:
REGISTERED PROFESSIONAL
ENGINEER
17181
OREGON
**PRELIMINARY PLAN
NOT FOR CONSTRUCTION**
APR 1, 1994
DANIEL J. DANICIC
EXPIRES: 12/31/2025

REVISIONS _____ DATE _____
SUBMITTAL _____

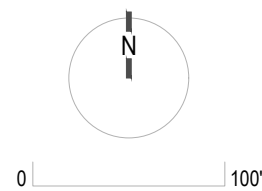
01_106_24 DAYTON 6 LOT REVISED LAYOUT
2/12/25

TITLE:

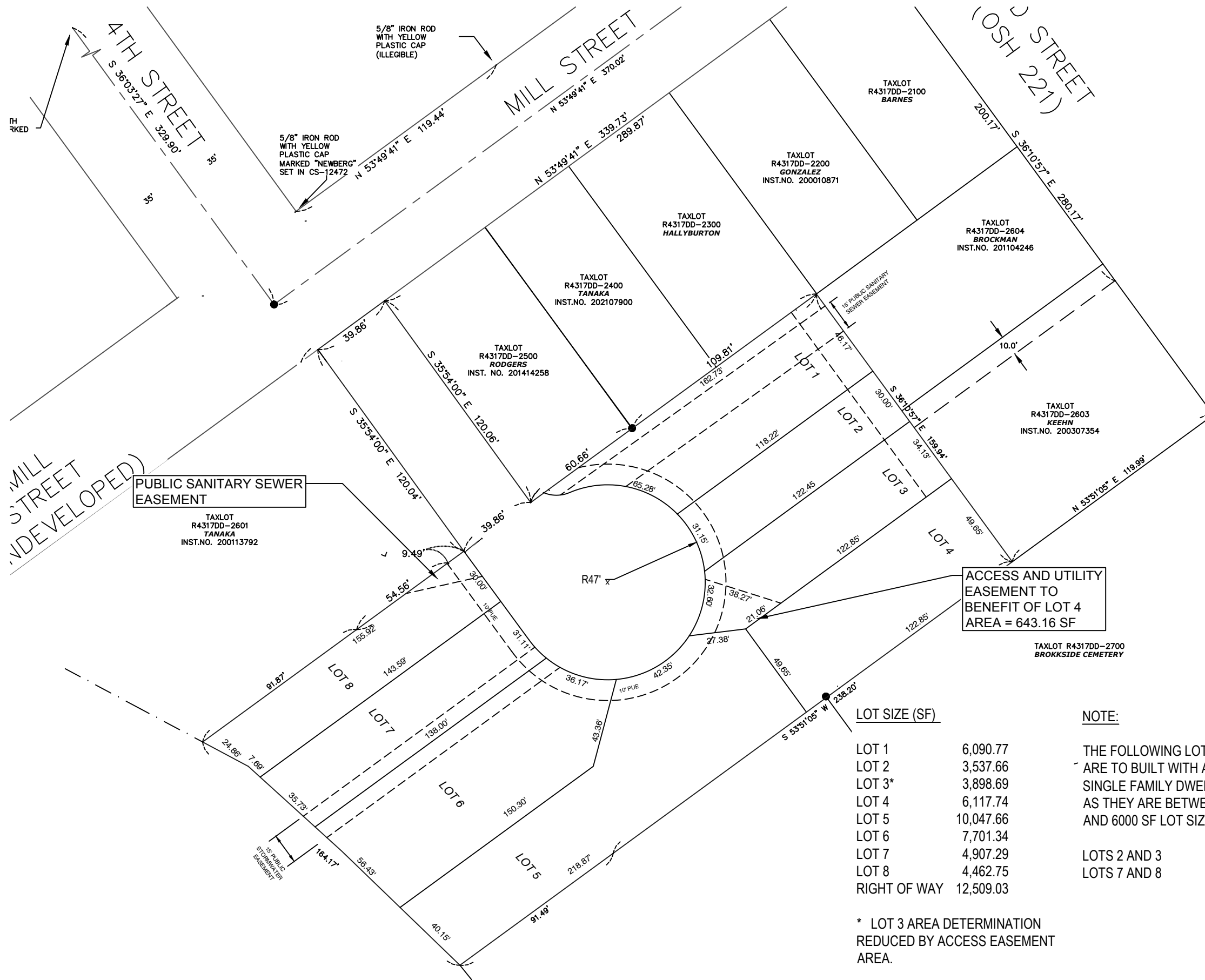
ORIGINAL PARTITION PLAT

SHEET:

P-1



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LOT SIZE (SF)	
LOT 1	6,090.77
LOT 2	3,537.66
LOT 3*	3,898.69
LOT 4	6,117.74
LOT 5	10,047.66
LOT 6	7,701.34
LOT 7	4,907.29
LOT 8	4,462.75
RIGHT OF WAY	12,509.03

* LOT 3 AREA DETERMINATION
REDUCED BY ACCESS EASEMENT
AREA.

NOTE:

THE FOLLOWING LOT PAIRS
ARE TO BUILT WITH ATTACHED
SINGLE FAMILY DWELLINGS
AS THEY ARE BETWEEN 3500
AND 6000 SF LOT SIZE.

LOTS 2 AND 3
LOTS 7 AND 8

PREPARED BY:

**NW SUMMIT
DEVELOPMENT LLC**

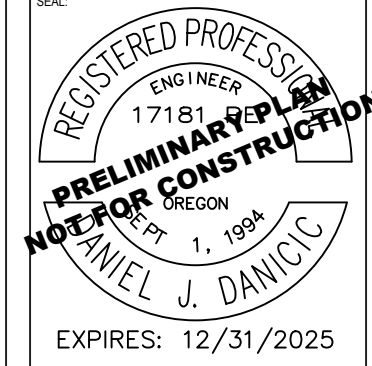
PREPARED FOR:

PROJECT:

**DAYTON
VIEW**

**SUBDIVISION
OF PARCEL 3
OF PARTITION
PLAT 92-40**

SEAL:



REVISIONS _____ DATE _____

SUBMITTAL _____

01_106_24 DAYTON 6 LOT REVISED LAYOUT
2/12/25

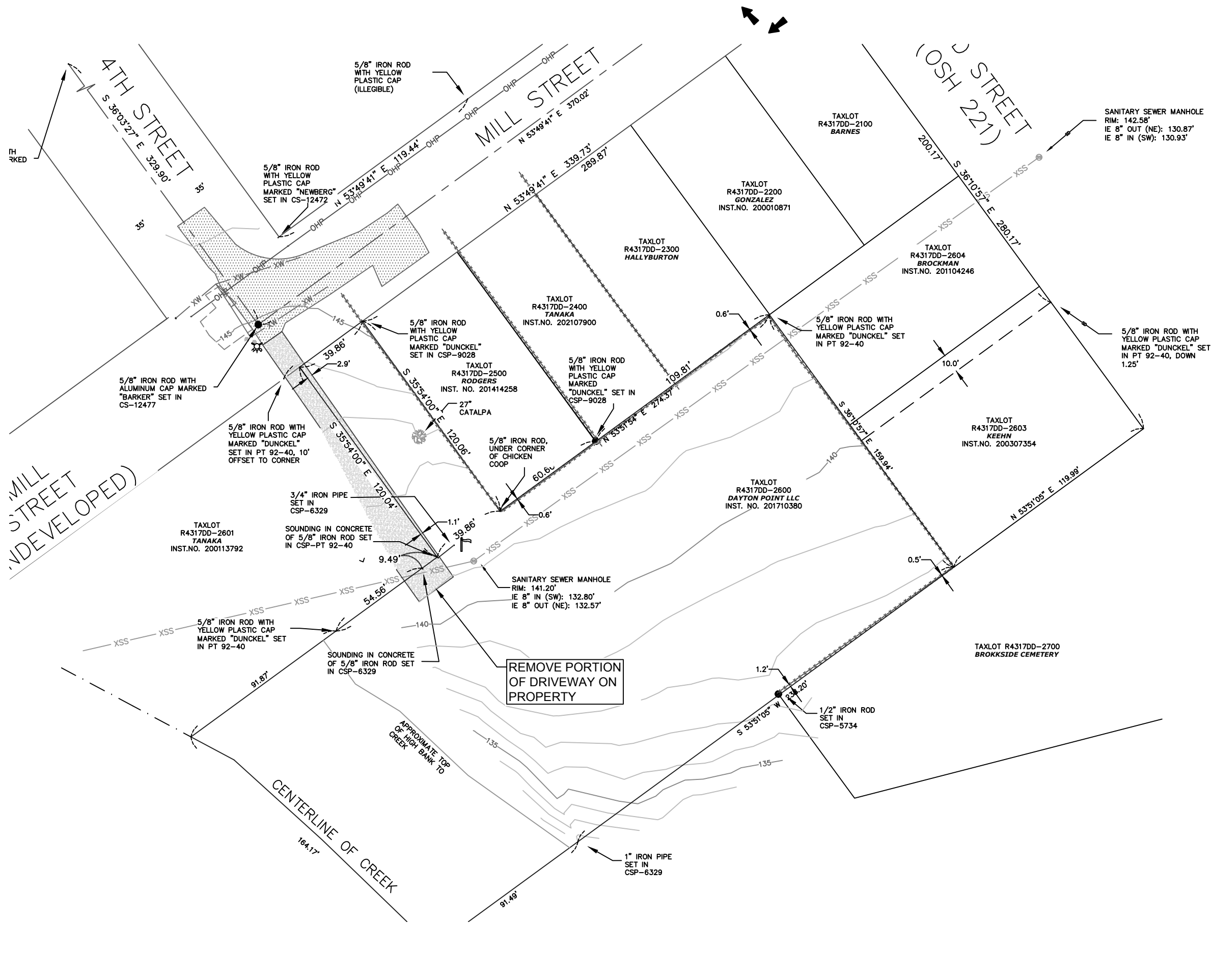
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PRELIMINARY PLAT

SHEET:

P-2

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PREPARED BY:

**NW SUMMIT
DEVELOPMENT LLC**

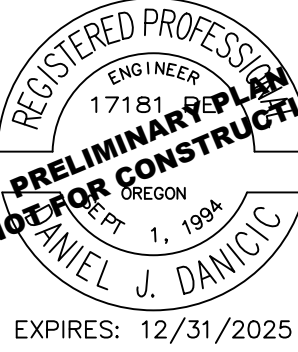
PREPARED FOR:

PROJECT:

**DAYTON
VIEW**

**SUBDIVISION
OF PARCEL 3
OF PARTITION
PLAT 92-40**

SEAL:



REVISIONS DATE

SUBMITTAL

01_106_24 DAYTON 6 LOT REVISED LAYOUT
2/12/25

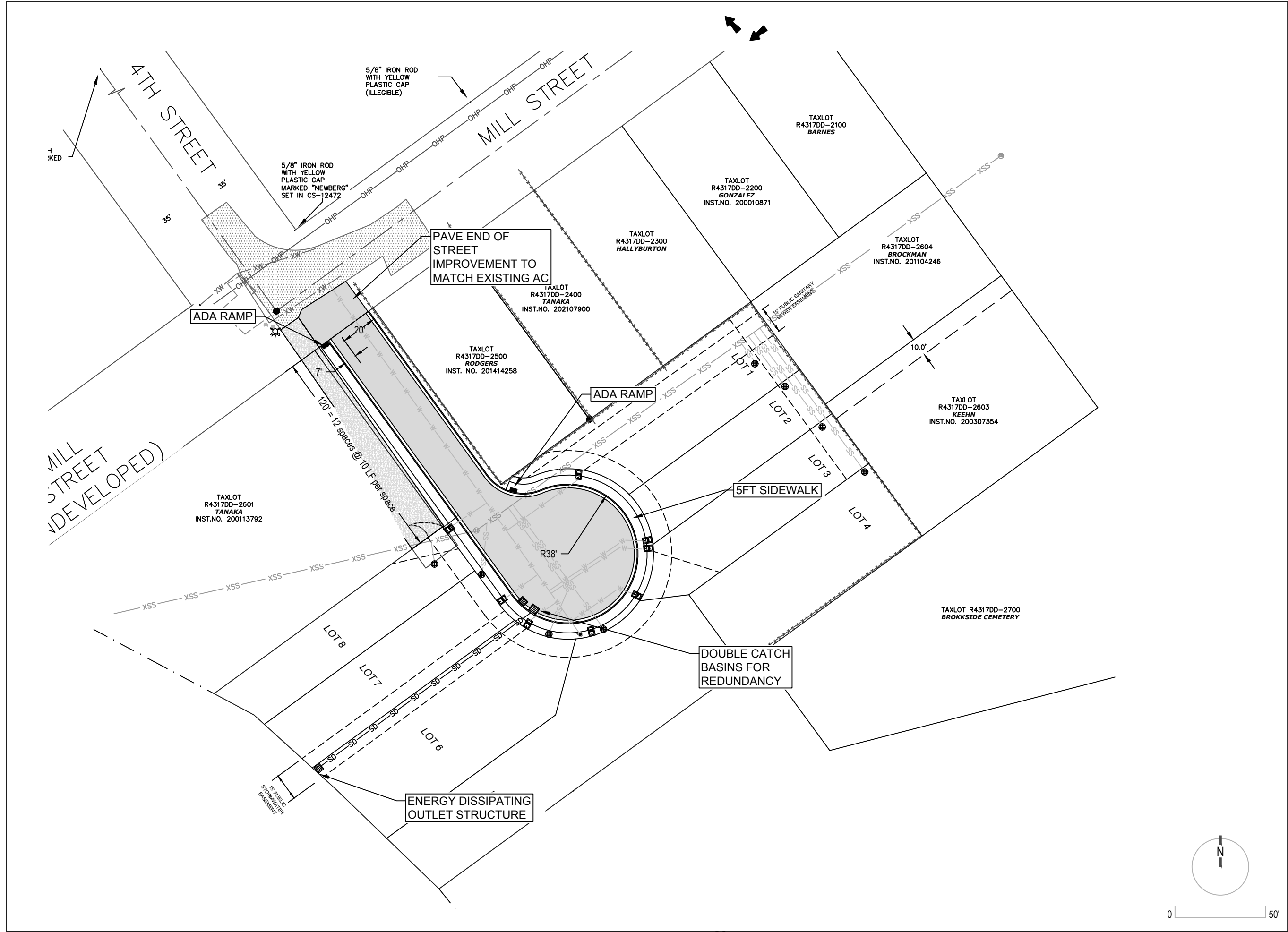
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**EXISTING SITE
AND DEMO PLAN**

SHEET:

C-0

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PREPARED BY:

NW SUMMIT DEVELOPMENT LLC

PREPARED FOR:

PROJECT:

DAYTON VIEW

SUBDIVISION OF PARCEL 3 OF PARTITION PLAT 92-40

SEAL:

REGISTERED PROFESSIONAL ENGINEER
17181
OREGON
JANIEL J. DANICIC
EXPIRES: 12/31/2025

REVISIONS	DATE
SUBMITTAL	

01_106_24 DAYTON 6 LOT REVISED LAYOUT
2/12/25

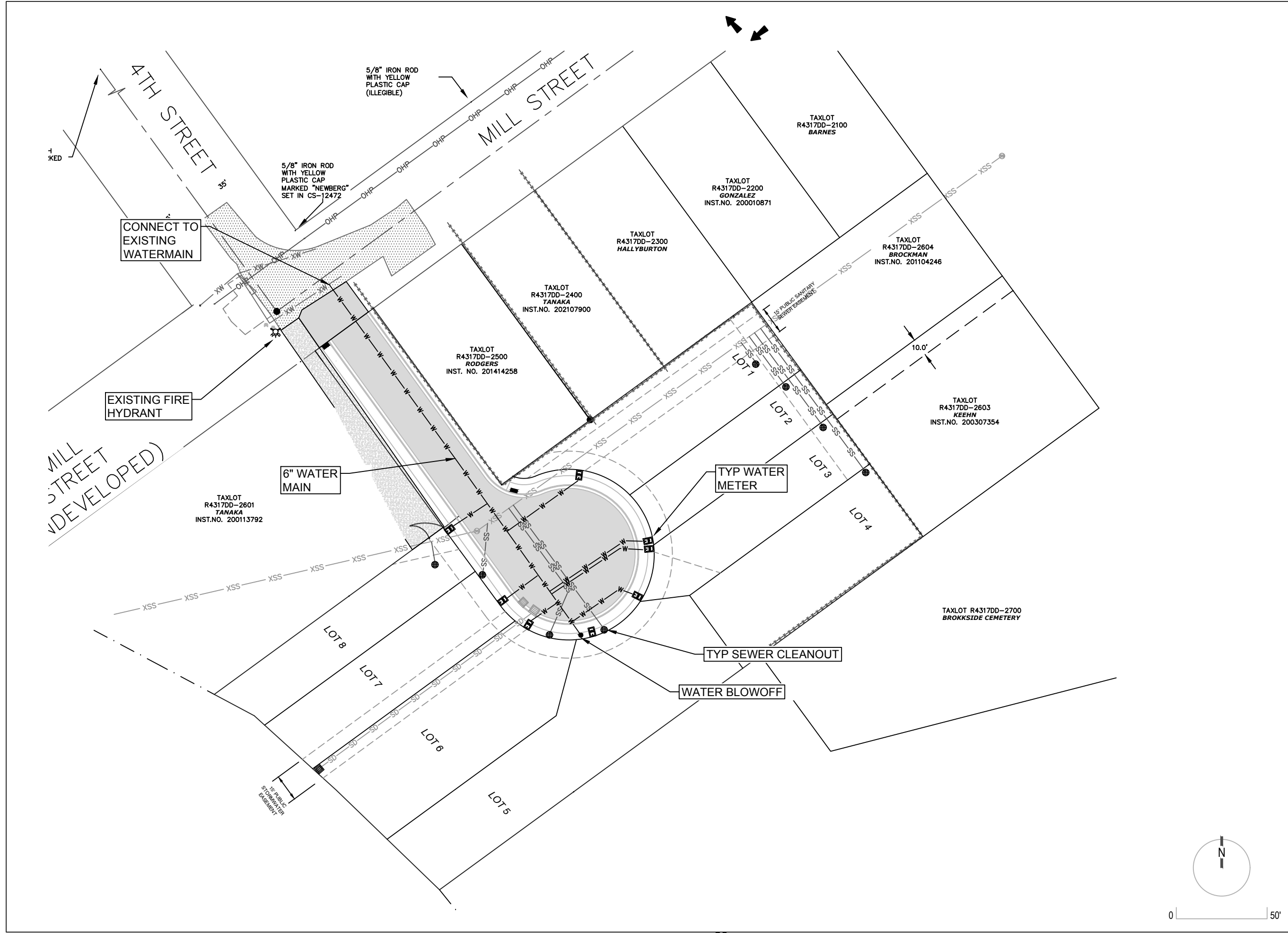
TITLE:

STREET AND STORM IMPROVEMENTS

SHEET:

C-1

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PREPARED BY:
**NW SUMMIT
DEVELOPMENT LLC**

PREPARED FOR:

PROJECT:
**DAYTON
VIEW**

**SUBDIVISION
OF PARCEL 3
OF PARTITION
PLAT 92-40**

SEAL:

EXPIRES: 12/31/2025

REVISIONS _____ DATE _____

SUBMITTAL _____

01_106_24 DAYTON 6 LOT REVISED LAYOUT
2/12/25

TITLE:
**STREET AND STORM
IMPROVEMENTS**

SHEET:
C-1

EXHIBIT B



CCB#233725

111 N. COLLEGE STREET
NEWBERG OR 97132
971-998-7507

Dayton View Subdivision Type-II 8-Lot Subdivision

4th Street Street Dayton, OR 97114 (R4317DD 02600)
SUBDIVISION OF PARCEL 3 OF PARTITION PLAT 92-40

January 20, 2025

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SECTION 7.3.2 - ADMINISTRATIVE PROCEDURES.....	37

DATA SHEET

Property Owner	Dayton Point LLC 197 NW Outlook Vista Bend OR 97703
Applicant	NW Summit Development LLC 111 N. College Street Newberg, OR 97132 Phone: 971-998-7507
Property Description	SUBDIVISION OF PARCEL 3 OF PARTITION PLAT 92-40
Zoning:	R-2
Lot Size:	1.38 ac
Proposal:	8 Lot Subdivision
Minimum Lot Size per Code:	3,500 sf
Proposed Lots sizes:	3884.99-13046.96 sf lots
Average Lot Size:	5,905 sf

PROJECT OVERVIEW

NW Summit Development LLC is proposing an 8-lot subdivision for a detached single-family residential development. This subdivision will be known as Dayton View. This subdivision will occur on tax lot R4317DD 02600 in Dayton, Oregon. The property currently is primarily vacant land. Access to the new lots will be by public roads from Mill Street that meets Public Works standards.



PUBLIC SERVICES

Sanitary Sewer

The property is currently served by an 8 inch public sanitary, sewer main located along the north western boundary. Each lot will connect to this line by a sanitary sewer lateral located either within the right way or through an easement across adjacent lots. The proposed pulmonary plat also provides a 15 foot easement for the public line which currently does not exist. A TV inspection was performed on the existing sewer main which demonstrates it is in good condition. The TV report is attached to this application (Exhibit A).

Water Supply

The nearest public water main is located in Mill Street. To serve the proposed development a 6-inch water main extension is proposed from Mill Street to the end of the cul-de-sac individual service lines from the main will serve the individual lots.

Transportation

A new public street ending in a cul-de-sac is proposed to serve the new lots. The design of the street follows the requirements of section 7.2.307.F.3 for small scale subdivisions containing less than 10 lots.

Storm Drainage

The street will slope to a low point within the cul-de-sac. At the low point two catch basins will be installed such that one of the basins will act as an overflow to prevent ponding and overflow of the curb. Final grading between lots six and seven will be contoured so as to direct the hundred year storm event that may flow overland from the cul-de-sac to the creek so as to protect adjacent structures. The catch basins will discharge in a pipe down the slope to two and energy dissipating outlet structure located just above the existing drainage channel.

SECTION 7.2.103 - Limited Density Residential - (R-2)

7.2.103.01 Purpose

The R-2 zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. Other uses compatible with residential development are also appropriate. R-2 zones are located in areas designated Residential in the Comprehensive Plan.

Response: The proposed development zoned R-2 and includes single family attached and detached dwellings as permitted.

7.2.103.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-2 zone:

- A. One detached single family dwelling on a separate lot or parcel.*
- B. Buildings with two or more dwelling units.*
- C. Combination of permitted attached or detached dwellings on a lot.*
- D. Residential homes and facilities.*
- E. Child day care service, including family day care provider, for 12 or fewer children.*

Response: The proposed development is only for residential homes as permitted.

7.2.103.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the R-2 zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses, subject to the applicable standards in Section 7.2.4:
 - 1. Accessory dwelling unit (Section 7.2.402). (Amended Effective 06/06/16, Ord 633)
 - 2. Attached dwelling units (Section 7.2.403).
 - 3. Manufactured homes on individual lots (Section 7.2.404).
 - 4. Manufactured home parks (Section 7.2.405).
 - 5. Home occupations (Section 7.2.406).
 - 6. Owner occupied short-term rentals (Section 7.2.417). (Amended ORD 633-Effective 06/06/16)

Response: No special permitted uses are necessary for the proposed development

7.2.103.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private elementary schools.*
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.*
- C. Child day-care services for 13 or more children.*
- 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. (Amended ORD 642-Effective 07/02/18)*
- E. Assisted living centers, nursing homes and similar institutions. These facilities are subject to the development provision for multi-family residential development. (Amended ORD 584-Effective 12/3/07)*
- F. Small wind energy systems including compliance with Section 7.2.413.*

Response: No conditional uses are necessary for the proposed development.

7.2.103.05 Dimensional Standards

A. Minimum Lot Dimension and Height Requirements. (Revised ORD 541 - Effective 07/03/02)

DIMENSION	Single Family	Duplex	Multi-Family	Non-Residential
Lot Size	6000 sq. ft. (1)	7000 sq. ft.	9000 sq. ft. (2)	(3)
Maximum Height	35 feet	35 feet	35 feet	35 feet

- 7. Attached single family dwellings shall have a minimum lot area of 3500 square feet.*
- 8. Multi-family development must comply with the density standard in Section 7.2.103.06.*
- 9. Parcel size shall be adequate to contain all structures within the required yard setbacks.*

Response: The proposed subdivision is designed to have attached and detached single-family dwellings. Refer to page P-3 of the plan set that identifies lots intended for detached single-family homes meeting the 6000 SF requirement and lots intended to have attached single-family dwellings which meet the minimum 3500 SF lot area.

B. Minimum Yard Setback Requirements

SETBACKS	Single Family	Duplex	Multi-Family	Non-Residential
Front	15 feet	15 feet	15 feet	20 feet
Side	5 feet (1)	5 feet	(3)	10 feet
Rear	(2)	(2)	(3)	20 feet
Street-side	15 feet	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	20 feet	20 feet

1. Zero side yard dwelling units are subject to the setback provisions in Section 7.2.404.
2. The rear yard setback shall be as follows: 15 feet for a 1-story home; 20 feet for 2 or more stories.
3. The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.
4. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.
5. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

Response: Sheet P3 of the plan set provides a preliminary layout for homes on each of the lots to demonstrate the feasibility of the proposed subdivision layout. Adherence to the setback standards will be assessed at the time of building permit submittals

7.2.103.06 Development Standards

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

A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.

Response: The required off street parking for these proposed lots in the R2 zone will be addressed at the time of building permit submit

B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

Response: The yard and lot standard for these proposed lots in the R2 zone will be addressed at the time of building permit submit

C. 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.

Response: The proposed single-family dwelling subdivision does not require a site development review.

D. *Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:*

Maximum building coverage (primary building): 40%

Maximum parking area coverage (including garage): 35%

Combined maximum lot and parking area coverage: 70%

Response: Sheet P3 of the plan set provides a preliminary layout for homes on each of the lots to demonstrate the feasibility of the proposed subdivision layout to meet coverage standards. Adherence to the coverage standards will be assessed at the time of building permit submittals.

E. *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)*

Response: The required landscaping for these proposed lots in the R2 zone will be addressed at the time of building permit submittal.

F. *Density: The following density provisions shall apply:*

1. Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre. (Amended ORD 584, Effective 12/3/07)

2. Manufactured home parks: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.

3. Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.

Response: The density of the proposed subdivision development is calculated as follows:

Existing Property	1.38 ac
Less right of way	0.2872 ac (12,509.03 SF)
Less easement on Lot 3	0.0148 ac (643.16 SF)
Result 1.0780	

Multiply by the permitted maximum density of 7 units/ac
 $7 \times 1.078 = 7.55$ units/ac density for this project site.

A minor variance application is requested to increase the 7.55 units to 8 units, an increase of 6%, which is within the 10% allowed for a minor variance request.

G. 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.*

Response: This application is not a redevelopment plan therefore this criteria does not apply.

SECTION 7.2.203 - Street Standards

7.2.302.03 General Provisions

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets in the City of Dayton:

- A. *General Requirement. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.*

Response: The proposed new public street takes into account existing and planned streets, topographical conditions, public convenience, and safety.

- B. *Continuation of Streets and accessways. Where feasible development proposals shall provide for the continuation of, and connection to, all streets, and access ways within and outside the development to promote appropriate vehicle, bicycle, and pedestrian circulation in the vicinity of the development. Exceptions may be granted if one or more of the following exist: (Amended by Ordinance 589 – Effective 4/2/09)*

- 1. Physical or topographic conditions make a street or accessway connection impracticable. (Added by Ordinance 589 – Effective 4/2/09)*
- 2. Building or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or (Added by Ordinance 589 – Effective 4/2/09)*
- 3. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street accessway connection. (Added by Ordinance 589 – Effective 4/2/09)*

Response: The subject property is fully enclosed by developed land, either single-family or the cemetery as well as a natural resource buffer therefore continuation of streets or access ways is not feasible.

- C. *Alignment. All streets other than local streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. Staggering of street alignments resulting in "T" intersections shall, wherever practical, be avoided. If unavoidable, the "T" intersection shall meet with the approval of the City Engineer and minimally acceptable traffic safety standards. (Amended by Ordinance 589 – Effective 4/2/09)*

Response: The proposed new public street is aligned with the 4th and Mill Street intersection to the maximum extent practicable.

D. Future extension of streets. When it appears possible to continue a street, bicycle path and/or pedestrian access way into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, said facilities shall be platted to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.

Response: Ss noted above feature extension of the proposed street is not feasible.

E. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs and approval of Public Works Department.

Response: The intersection of the new street with 4th and Mill Street intersection is at 90°.

F. Existing Streets. Whenever existing public streets adjacent to or within a tract are of a width less than the street design standard, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.

Response: This criteria does not apply.

G. Cul-de-sacs. The City discourages the use of cul-de-sacs. When cul-de-sacs are necessary, the maximum length shall be 800 feet. Cul-de-sacs over 400 feet in length shall provide access ways to provide connectivity to adjacent streets and uses, unless physical constraints preclude a pedestrian/bicycle access way.

Response: The proposed cul-de-sac has a length of 200 feet well within the maximum permitted of 800 feet.

H. Street Names. Street names and numbers shall conform to the established standards and procedures in the City.

Response: A name for the new proposed street has not yet been suggested. The applicant will work with city planning and engineering staff to determine if it should be called 4th Street or some other name to avoid confusion.

I. Alleys. Alleys are encouraged in residential zones to preserve the integrity and safety of the local street. Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided.

Response: No alleyways are proposed.

J. Clear Vision Areas. Clear vision areas shall be maintained on corner lots at the intersection of public streets and at the intersections of a public street with a private street, alley or private access driveway.

Response: There are no lots located at the corner of the intersection of fourth and Mill Street therefore clear vision will be maintained.

K. Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards in Section 7.2.3 shall provide sufficient yard setback equal to the minimum yard requirements of the zoning district, plus, the additional land required to meet the minimum right-of-way width.

Response: There are no lots that abut a partial street in this project criteria does not apply.

7.2.302.04 General Right-Of-Way And Improvement Widths

The following standards are general criteria for public streets in the City of Dayton. These standards shall be the minimum requirements for all streets, except where modifications are permitted under Subsection 2.202.05.

SERVICE AREA (a),(b),(c),(d)	WIDTH CURB/CURB	CURB (f),(g)	SIDEWALK (e)	TOTAL R-O-W WIDTH
LOCAL STREET I Up to 19 d/u or serving 190 ADT or 79,999 sf.	Parking 2 sides 30 feet	6"/side (1 ft. total)	5 ft. curblane Two sides	46 feet
LOCAL STREET II 20-79 d/u or 200-790 ADT or 79,999-319,999 sf	Parking 2 sides 32 feet	6"/side (1 ft. total)	5 ft. curblane Two sides	48 feet
LOCAL STREET III 80 or more d/u or 800 or more ADT or more than 320,000 sf	Parking 2 sides 34 feet	6"/side (1 ft. total)	5 ft. curblane Two sides	50 feet
CUL-DE-SAC or less than 450 ADT or less than 183,999 sf	As above; Min. Curb Radius 38 feet	6"/side (1 ft. total)	5 ft. curblane entire cul-de-sac	As above; Radius: 47 feet
COLLECTOR	(i)	(i)	(i)	(i)
ARTERIAL	(i)	(i)	(i)	(i)
(a) ADT = Average Daily Trips (ITE, Trip Generation Manual) (b) Trip Generation Rater for SFD = 10 ADT (c) Minimum Lot Size = 5,000 sq. ft.; Duplex = 7,000 sq. ft. (d) Calculated per street entrance; use largest number. (e) Required width around signs, mailboxes, utility poles, etc.			(f) Full curb height between driveways. (g) Max. 2 weep holes through curb face per lot. (h) Additional easements may be necessary. (i) Collector and arterial streets will be evaluated on an individual basis.	

Response: for this development right away and Improvement wits are guided by section 7.2.307.F.3 for a small scale subdivisions that are less than 10 lots.

7.2.302.05 Modification Of Right-Of-Way And Improvement Width

The City may allow modification to the public street standards of Subsection 2.302.04, when the following criteria are satisfied:

- A. Modification Permitted. The modification is necessary to provide design flexibility where:*
- 1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or*
 - 2. Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of Section 2.302.04; or*
 - 3. A modification is necessary to preserve trees or other natural features determined by the City to be significant to the aesthetic character of the area.*
 - 4. The modification of street standards is necessary to provide greater privacy or aesthetic quality to the development.*
- B. Vehicular Access Maintained. Modification of the standards shall only be approved if the City finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.*

Response: No modifications of the right away and Improvement width are requested.

7.2.302.06 Construction Specifications

Construction specifications for all public streets shall comply with the standards of the most recently adopted public works/street standards of the City of Dayton.

Response: The city of Dayton construction specifications will be followed for public street design and construction.

7.2.302.07 Private Streets

Streets and other right-of-ways that are not dedicated for public use shall comply with the following:

Response: No private streets are proposed therefore the provisions of this code section do not apply.

7.2.302.08 Private Access Driveway

A private access driveway created as the result of an approved partitioning shall conform to the following.

Response: There are no private access driveways in this development. Therefore, the provisions of this Code section do not apply.

7.2.302.09 Lots And Parcels Served By Private Streets And Access Easements

The following shall apply to all lots and parcels that are accessed by either a private street or private access driveway:

- A. Lot and Parcel Size. The easement containing the private street or private access driveway shall be excluded from the lot or parcel size calculation.*
- B. Setbacks. The lot line fronting along a private street or private access driveway shall be considered the front property line. Setbacks to the garage and home shall be measured from the easement line.*
- C. Lot Depth and Width. Where required by the underlying zone, the lot width shall be measured along the easement boundary and the lot depth shall be measured from the easement boundary to the rear lot line.*

Response: The the access easement on lot three has been excluded from the lot size calculation. Setbacks from the private easement will be taken into account when building permits are submitted for lot three construction.

7.2.302.10 Design Standards For Accessways

Accessways shall meet the following design standards:

Response: There are no access ways proposed in the development, therefore this code section criteria does not apply.

SECTION 7.2.304 - Storm Drainage

7.2.304.03 Plan For Storm Drainage And Erosion Control

No construction of any facilities in a development included in Subsection 2.301.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and, approved by the City. This plan shall contain at a minimum:

- A. Run-off. Minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.*
- B. Facilities. Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans.*
- C. Engineering Calculations. Calculations used by the engineer in sizing storm drainage facilities.*

Response: A storm drainage and erosion control plan will be prepared and submitted to the city for review and approval prior to the start of construction.

7.2.304.04 General Standards

A. Requirements. All development shall be planned, designed, constructed and maintained to:

- 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;*
- 2. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;*
- 3. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeding, phasing of grading;*
- 4. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;*
- 5. Provide dry wells, bio-swales, or similar methods, as necessary to supplement storm drainage systems;*
- 6. Avoid placement of surface detention or retention facilities in road rights-of-way.*

Response: The storm discharge from the site to the natural drainage. Channel will be designed to control the stormwater so as not to cause undue damage to the receiving system. This plan will be reviewed and approved by the city prior to the start of construction.

B. Easements. Adequate easements for storm drainage purposes shall be provided to the City. This shall not imply maintenance by the City.

Response: The proposed storm pipe discharge system is located in a 15 foot easement dedicated to the city.

C. Channel Obstructions. Channel obstructions are not allowed except as approved for the creation 304-3042 of detention or retention facilities approved under the provisions of this Code.

Response: No channel obstructions are proposed in this development.

D. Inspection Required. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be inspected by the City. All costs shall be borne by the developer.

Response: The city will provided an opportunity to inspect the storm system prior to final acceptance.

SECTION 7.2.4 - SUPPLEMENTAL STANDARDS FOR SPECIAL USES

7.2.403 Attached Dwelling Units

Attached dwelling units are single family homes on individual platted lots that are attached to a similar unit on one or two sides. Where permitted as a special use, attached dwelling units shall meet the following use and development standards:

- A. Permitted development. Any number of attached dwellings may be built contiguous with one or both sides of a separate platted lot with one dwelling per lot.*

Response: The proposed subdivision development intends to have attached dwelling units on separate platted lots for a portion of the development. Referred to sheet P3 at the plan set for preliminary home layouts.

- B. Setbacks*

- 1. Zero side yard units shall comply with the setback requirements for the front yard, rear yard and yard adjacent to a street in the applicable zone.*

Response: The proposed attached dwelling units will comply with setback requirements for front and rear yards.

- 2. Interior side yard requirements of the applicable zone shall be met when any part of an exterior wall faces, but is not contiguous to, a side lot line.*

Otherwise, the interior side yard requirements shall not apply.

Response: The dwelling units will be attached by means of a constructed shed, separated internally for use by each lot. The portions of the exterior wall of each residential unit will meet setback requirements for the zoning.

- C. Building separation. Buildings on adjacent properties, but not attached to each other, shall be separated by a distance of at least ten feet.*

Response: Buildings on adjacent properties that are not attached to each other will have more than 10 feet of separation from the attached dwelling unit lots.

- D. Accessory buildings. The provisions of this section apply to accessory as well as main buildings.*

Response: No accessory buildings are proposed in this development.

SECTION 7.2.3 - GENERAL DEVELOPMENT STANDARDS

7.2.307.01 Purpose

To provide for the orderly, safe, efficient and livable development of land within the City of Dayton.

Response: The Applicant will be compliant with these expectations.

7.2.307.02 Scope

Application. The provisions of this Section shall apply to all subdivisions and partitions within the City of Dayton.

Response: The proposed development is a subdivision and demonstrates its compliance with city of Dayton code within this application.

7.2.307.03 Standards For Lots Or Parcels

- A. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.*

Response: The Applicant is in compliance with the R2 zone lot sizes, per 7.2.103.05 Dimensional Standards footnote (1) allows for attached single family dwellings to have a minimum lot area of 3,500 sf. Lots 1-2, 3-4, and 7-8 will be developed as attached single family dwellings, each having an area greater than 3,500 SF. Refer to Plan Sheet P-3 for proposed house layouts.

- B. Access. All lots and parcels created after the effective date of this Code shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. The following exceptions shall apply:*

- 1. Residential lots or parcels may be accessed via a private street or partition access easement developed in accordance with the provisions of Section 7.2.302 when the City finds that public street is not necessary to provide for the future development of adjoining property.*

Response: Access to the residential lots will be by public street.

2. *Commercial or Industrial uses located in a campus or park-like development may be accessed via private streets when developed in accordance with Subsection 2.302.08.*

Response: This is a residential project therefore this criteria does not apply.

3. *Cul-de-sac lots shall have a minimum frontage of 25 feet.*

Response: all of the lots on the proposed cul-de-sac have a minimum of 25 feet of frontage with the exception of lot 4 which has access being an easement across lot 3. Refer to sheet P2 of the plan set for frontage dimensions.

4. *Flag lots, as permitted in Subsection 2.307.03.C.*

Response: No flag lots are proposed.

5. *Access standards for streets are: (Added by Ordinance 589 – Effective 4/2/09)*

Street Classification	Access Spacing
Arterial	150 feet (+/-20%)
Collector	75 feet
Local	25 feet

Response: The proposed new public street will be classified as local. All driveway access will meet the 25 foot spacing standard.

- C. *Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed. If a flag-lot is permitted, the following standards shall be met:*

1. *The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway.*
2. *The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.*
3. *Flag lots located side-by-side shall share a common driveway. This requirement shall be placed in the deed record of each parcel and noted on the final plat.*

Response: The Applicant does not propose flag lots.

- D. *Through Lots. Through lots are discouraged unless essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific site disadvantages. If approved, access may be limited to one street.*

Response: Applicant does not propose any through lots.

- E. *Lot Lines.* The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than ½ the dimension of the front lot line.

Response: The Applicant is in compliance to these standards as is demonstrated in the attached plan set.

- F. *Utility Easements.* Utility easements shall be provided on lot areas where necessary to accommodate public utilities.

Response: The subdivision plan provides a 10 foot Public Utility Easement along all lot frontages.

7.2.307.04 Additional Design Standards For Subdivisions

- A. *Standards for Blocks.* The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic including pedestrian and bicyclist; and recognition of limitations and opportunities of topography. Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets may be greater in length but not more than 1,300 feet without an accessway. Block perimeters should not exceed 1,800 feet in length. Exceptions to block length and perimeter may be granted if one or more of the following conditions exist: (Amended by Ordinance 589 – Effective 4/2/09)

1. *Physical or topographic conditions make a street or accessway connection impracticable; (Added Ord 589 – Effective 4/2/09)*
2. *Building or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; (Added Ord 589 – Effective 4/2/09)*
3. *Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection; (Added ORD 589 – Effective 4/2/09)*
4. *Where one side of the block is an arterial street; or (Added ORD 589 – Effective 4/2/09)*
5. *Where an accessway exists in the block. (Added ORD 589 – Effective 4/2/09)*

Response: The proposed subdivision project is a cul-de-sac and therefore Block standards do not apply.

B. Traffic Circulation. The proposed subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide traffic circulation with safe convenient and reasonably direct access. (Amended ORD 589 – Effective 4/2/09)

Response: Applicant's design connects the new public street to existing public roads meeting this requirement.

C. Connectivity. To achieve the objective in B., above, the City may require the following:

- 1. Stub Streets: Where the potential exists for additional residential development on adjacent property.*
- 2. Pedestrian/Bicycle Accessways: Public accessways to provide a direct connection to cul-de-sac streets and to pass through oddly shaped or unusually long blocks.*

Response: Not applicable.

D. Design Standards for Accessways. Accessways shall meet the following design standards: (Amended by ORD 589 – Effective 4/2/09)

- 1. Connections with adjoining arterial and collector streets shall be provided if any portion of the site's arterial or collector street frontage is over 600 feet from either a subdivision access street or other accessway. Exceptions may be granted if one or more of the following conditions exists:*
 - a. Physical or topographical conditions make a street or accessway connection impracticable.*
 - b. Building or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or*
 - c. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection.*
- 2. Minimum dedicated width: 15 feet*
- 3. Minimum improved width: 10 feet*
- 4. Maximum length: 250 feet with a clear line of vision for the entire length of the accessway.*
- 5. When an accessway is in excess of 100 feet in length, then pedestrian scale lighting fixtures shall be provided along the accessways and lighted to a level where the accessways can be used at night.*
- 6. The accessway shall be designed to prohibit motor vehicle traffic.*

7. *The accessway shall be maintained by a homeowners association or other mechanism acceptable to the City.*

Response: There are no proposed accessways, criteria does not apply.

E. *Park Requirements for Residential Subdivisions. Subdivisions shall provide for public parks by one of the following methods:*

1. *Dedication - The dedication of park land shall be subject to the following:*
 - a. *Area: Land shall be dedicated at an area equal to one acre per 100 potential residents. For the purposes of this section, the potential residential population shall be computed at the rate of 3.25 persons for each potential unit for single family homes and duplexes; and, 2.75 persons for each potential unit for multiple family homes.*
 - b. *Location: The location of any dedicated park land shall be determined by the Planning Commission, consistent with the guidelines in the Comprehensive Plan or in a Master Parks Plan adopted by the City Council.*
2. *Financial Contribution - If the Planning Commission determines there is no need for park land in this location, or, there is no suitable location on the subject property for a public park, the developer shall contribute toward a City park fund an amount equivalent to the amount of land that would have been required in item 1. above. The financial contribution shall be subject to the following:*
 - a. *Appraisal Requirements: Market value shall be established by a professional land appraiser who is a member of the American Institute of Real Estate Appraisers or is certified by the State of Oregon as a certified appraiser. A date which is within 60 days of the final approval of the tentative plan shall be used for the purpose of fixing value.*
 - b. *Responsibility: The City shall be responsible for securing the services of a professional appraiser. The selected individual shall be acceptable to both the City and the developer.*
 - c. *Annexation: If the property is subject to an annexation, the appraisal shall always be determined on a date subsequent to the parcel's annexation to the City.*
 - d. *Payment Schedule: The sum of money established by this procedure shall be paid to the City prior to the approval and recording of the final plat.*

Response: This small subdivision is not a suitable location for a public park therefore the Applicant proposes make a financial contribution in lieu of a park land dedication.

F. Small-Scale Subdivisions (Added by Ordinance #541, 6/03/02 - Effective 07/03/02)

In addition to the standards contained in Section 3.2.207.04.A to E, the following standard shall apply to those subdivisions containing no more than ten (10) lots and that do not exceed 2 acres in size.

- 1. Lots. Lots shall comply with the dimension requirements of the underlying zone and the design provisions contained elsewhere in Section 7.2.307.*

Response: This application elsewhere demonstrates compliance with the R2 zoning and design provisions contained in the code.

- 2. Facilities. All sewer, water and storm water facilities shall be designed and constructed to comply with adopted Public Works Standards.*

Response: I'll proposed sewer, water, and storm water public facilities will be designed and approved by the city engineer and compliance with Public Work standards.

- 3. Streets. All streets shall be dedicated to the public and constructed to adopted Public Works Standards. Streets shall contain the following minimum improvements:*

- a. Right-of-Way: 35 feet.*

Response: The design right away width is 39.86 ft.

- b. Surfacing Width: 27-feet, curb-to-curb. This width shall provide for two travel lanes at 10-feet each and a 7-foot parking lane on one side.*

Response: The proposed design is 27 feet of width curb-to-curb which will provide to travel lanes and a 7 foot parking lane on the south westerly side of the road.

- c. Curbs/Sidewalks. Curbs shall be located on both sides of the surfaced width and a sidewalk shall be required on at least one side of the street.*

Response: There our curbs located on both sides of the proposed street and a sidewalk on the south Westerly side of the street, continuing all the way around the proposed cul-de-sac.

- d. *Cul-de-sacs. Streets designed as cul-de-sacs shall comply with standards contained in Section 7.2.302.04.*

Response: The the proposed cul-de-sac complies with 7.2.302.04 as follows:

CUL-DE-SAC (or less than 450 ADT, or less than 183,999 sf)

Min. Curb Radius 38 feet - Design meets this criteria

Curb: 6"/side (1 ft. total) - Design meets this criteria

Sidewalk: 5 ft. curbline, entire cul-de-sac - Design meets this criteria

Radius: 47 feet - Design meets this criteria

4. *Design Limitations. Provisions in this section shall not apply if the proposed development has the potential to exceed ten lots or contain more than two acres.*

Response: The property is surrounded by fully developed land such that there is no opportunity of potential to exceed 10 lots in the future.

7.2.307.05 Improvement Requirements - Partitions

During the review of partition proposals, the City shall require, as a condition of approval, the following improvements:

Response: This a subdivision application therefore partition criteria does not apply.

7.2.307.06 Improvement Requirements - Subdivisions

The following improvements shall be required for all subdivisions:

- A. *Frontage Improvements. Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.302 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.*

Response: The proposed subdivision connects to an unimproved portion of Mill Street which lacks curb gutter or sidewalk improvements. The design proposal is to connect the new street to Mill Street with an asphalt transition and enter into a waiver of a remonstrance agreement for when future improvements are constructed along Mill Street.

- B. *Project Streets. All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.*

Response: The Applicant will construct a private drive to the standards stated in section 2.302.

- C. *Monuments. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes pursuant to ORS Chapter 92.*

Response: Applicant shall comply with this provision during construction.

- D. *Bench Marks. Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a cap set in a curb or other immovable structure.*

Response: Applicant shall comply with this provision during construction.

- E. *Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.*

Response: Applicant provides for the collection of storm water into a catch basin and pipe system that discharges to an existing drainage way along the south west side of the property.

- F. *Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.*

If the required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the Commission may recommend to the City Council construction as an assessment project with such arrangement with the sub-divider as is equitable to assure financing the sub-divider's share of the construction.

The City may require that the sub-divider construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the sub-divider as is desirable to assure his share of the construction.

Response: Applicant shall connect to the individual lots to the existing sanitary sewer line that extends thru the site.

- G. Water System. Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the City will not expect the developer to pay for the extra pipe material cost of mains exceeding ten inches in size.

Response: Applicant extend the existing City water line in Mill Street with a new 6' DI water main and individual water service lines to each lot.

- H. Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The City may defer sidewalk construction until the dwellings or structures fronting the sidewalk are constructed. Any required off-site sidewalks (e.g. pedestrian walkways) or sidewalks fronting public property shall not be deferred.

Response: Applicant proposes a 5' sidewalk along one side of the new street extension and around the cul-de-sac in accordance with the small scale subdivision criteria.

- I. *Street Lights. The installation of street lights is required at locations and of a type required by City standards.*

Response: A photometric study to locate required street lights will be prepared and submitted with the construction plan set for approval by the city.

- J. *Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Street signs shall be installed prior to obtaining building permits.*

Response: The Applicant will install the street signs in conjunction with right away improvements.

- K. *Public Works Requirements. Facility improvements shall conform to the requirements and specifications of the Dayton Public Works Department.*

Response: These provisions will be met with the submission of subdivision plans.

- L. *Curb Cuts.* Curb cuts and driveway installations, excluding common drives, are not required of the sub-divider, but if installed, shall be according to the City standards.

Response: If the applicant installs driveways and curb cuts with the construction of right away improvements, they will be done in accordance with city standards

- M. *Financial Requirements.* All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.

Response: These provisions will be met prior to Final Plat approval, if necessary.

7.2.307.07 Improvement Procedures

In addition to other requirements, improvements installed by a developer for any land division, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Code and improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedure:

- A. *Plan Review.* Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.

Response: These provisions will be met with the submission of subdivision plans for Public Works Permit.

- B. *Notification.* Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.

Response: Applicant shall notify the City when work commences.

- C. *Inspection.* Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.

Response: A detailed development plan adhering to these requirements will be submitted with the Public Works Permit application.

- D. *Underground Facilities.* All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.

Response: This criteria will be followed for both the design and construction phase.

- E. *Final Engineering Plans.* Upon completion of the public improvements and prior to final acceptance of the improvements by the City, the developer shall provide certified as-built drawings of all public utility improvements to the City. As-built conditions and information shall be reflected on one set of mylar based as-built drawings. The as-built drawings shall be submitted to the City Engineer by the Developer's engineer.

Response: As-built plans will be provided to the city prior to final acceptance of improvements.

7.2.307.08 Land Division Design Requirements

Development and improvements associated with land divisions shall comply with the applicable provisions of this Code. The following includes referenced items and applicable requirements:

- A. *Street Improvements.* Streets, including public streets, private streets, and private access driveways shall be improved per requirements contained in Section 7.2.302. Requirements in Section 7.2.307.04.F., shall apply to small-scale subdivisions.

Response: See responses to these code sections elsewhere in the application.

- B. *Street Frontage Improvements.* Frontage improvements for partitions shall be subject to provisions in Section 7.2.307.05; for subdivisions, applicable street improvement provisions in Section 7.2.302 shall apply.

Response: See responses to these code sections elsewhere in the application

- C. *Storm Drainage.* Storm drainage improvements shall be subject to provisions in Section 7.2.304.

Response: See responses to these code sections elsewhere in the application.

- D. *Sanitary Sewer Facilities.* Sanitary sewer facilities shall be subject to provisions in Section 7.2.305.

Response: See responses to these code sections elsewhere in the application.

E. Water Facilities. Water facility improvements shall be subject to provisions in Section 7.2.305.

Response: See responses to these code sections elsewhere in the application.

F. Utilities General. All utility improvements shall comply with adopted Department of Public Works Standards of the City of Dayton. In addition to the street, storm water, sanitary sewer and water facility provisions noted above, partitions are required to comply with the remaining improvement provisions in Section 7.2.307.05 and subdivisions with Section 7.2.307.06.

Response: Plans and specifications for all utility improvements will be submitted for review and approval by the city engineer for compliance with public work standards of the city of Dayton.

G. Parking. The following parking provisions apply:

- 1. Public Streets - On-street parking on public streets shall conform to applicable right-of-way improvements contained in Section 7.2.302.*
- 2. Private Streets - Land divisions involving private streets shall comply with parking provisions in Section 7.2.307.07.*
- 3. Lots or Parcels - Off-street parking requirements for individual lots shall comply with provisions in Section 7.2.303.*

Response: See responses to these code sections elsewhere in the application.

SECTION 7.3.1 - APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

7.3.109.01 Area Of Application

A subdivision is required for any land division which creates more than three parcels in a calendar year.

Response: The Applicant is applying for a subdivision consisting of 8 lots.

7.3.109.02 Submittal Requirements

Submittal Material. The following submittal requirements shall apply to all Preliminary Plan applications for subdivisions and planned unit developments.

- A. All applications shall be submitted on forms provided by the City to the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.*

Response: The Applicant submits with this narrative the appropriate form and fees.

- B. Applicants for subdivisions shall submit the following:*

- 1. Appropriate identification stating the drawing is a preliminary plat.*
- 2. North point, scale and date.*
- 3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.*
- 4. Map number and tax lot or tax account number of subject property.*
- 5. The boundary lines and approximate area of the subject property.*
- 6. Dimensions and size in square feet or acres of all proposed parcels.*
- 7. The approximate location of existing streets, bikeways, pedestrian facilities, public or private, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property. (Amended by Ordinance 589 – Effective 4/2/09)*
- 8. The location of any flood boundary.*
- 9. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application.*
- 10. Name of the subdivision.*
- 11. Date the drawing was made.*

12. *Vicinity sketch showing location of the proposed land division.*
13. *Identification of each lot by number.*
14. *Gross acreage of property being subdivided or partitioned.*
15. *Direction of drainage and approximate grade of abutting streets.*
16. *Streets proposed and their names, approximate grade, and radius of curves.*
17. *Any other legal access to the subdivision, partition other than a public street.*
18. *Contour lines at two foot intervals if 10% slope or less, five foot intervals if exceeding 10% slope, and a statement of the source of contour information.*
19. *All areas to be offered for public dedication.*

Response: Tentative plan is attached as Exhibit B with these items identified thereon.

- C. *Applicants for a phased subdivision shall submit the items required in subsection "B." above as well as the following additional items:*
1. *The tentative boundaries of each phase;*
 2. *The sequencing of the phases;*
 3. *The tentative configuration of lots in each phase; and*
 4. *A plan for the construction of all required city infrastructure in each phase.*

Response: A phased subdivision is not proposed, criteria does not apply.

- D. *Applicants for a planned unit development shall submit the material required in item "B." above as well as the following additional material:*
1. *Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.*
 2. *The approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site.*
 3. *Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.*
 4. *Written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.*

Response: Not applicable.

7.3.109.03 Review Procedures

- A. *Planning Commission. All Preliminary Plans for subdivisions and PUDs shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in Section 7.3.202.*

Response: Applicant will attend said hearing.

- B. *Time Limit. Approvals of any preliminary plans for a subdivision or PUD shall be valid for two years after the date of the written decision. A Final Plat for a Final Plan for a subdivision shall be recorded within this time period.*

Response: The Applicant is aware of this time frame and shall comply with the submittal of a Final Plat within this time period.

- C. *For a phased subdivision, the Final Plat for the first phase of the subdivision shall be recorded not more than two years after the date of the written decision. Final Plats for all subsequent phases shall be recorded not more than four years after the date of the written decision.*

Response: Not applicable.

- D. *Re-application Required. Failure to record a plat within the required time period shall void the approval and require a new application before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.*

Response: Applicant will submit a re-application should they fail to record a plat within the required time period.

7.3.109.04 Review Criteria

Approval of a subdivision or PUD shall require compliance with the following:

- A. *Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved or the development standards permit a modification of these requirements.*

Response: Refer to applicant responses below to SECTION 7.2.3 GENERAL DEVELOPMENT STANDARDS demonstrating compliance with this code provision.

- B. *Adequate public facilities shall be available to serve the existing and newly created parcels.*

Response: These provisions will be met with the submission of subdivision plans.

C. *The proposal shall comply with the applicable development standards in Section 7.2.307 (Land Divisions), or, Section 7.2.311 (Planned Unit Developments)*

Response: Criteria for Section 7.2.307 Elsewhere in this application. A PUD is not proposed so Section 7.2.311 does not apply.

D. *Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:*

- 1. Public facilities shall be constructed in conjunction with or prior to each phase;*
- 2. Each phase is substantially and functionally self-contained and self-sustaining with regard to required public*
- 3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;*
- 4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and*
- 5. Planning Commission approval is required for modifications to phasing plans.improvements*

Response: A phased subdivision is not proposed, this criteria is not applicable.

SECTION 7.3.2 - ADMINISTRATIVE PROCEDURES

7.3.202.01 Procedures For Type I Review

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:
 - 1. Upon receipt of the additional information to complete the application; or
 - 2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.
- C. Referrals may be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies at the Manager's option. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate.
- D. Within thirty (30) days of receipt of a complete application, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
- E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.
- F. Notice of the decision shall comply with the provisions in Section 7.3.204.
- G. A Type I land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within 15 days from the date of the final decision, pursuant to the provisions of Section 7.3.207.

7.3.202.02 Procedures For Type II And Type III Actions

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.

- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:*
- 1. Upon receipt of the additional information to complete the application; or,*
 - 2. If the applicant refuses to submit the information, the application shall be deemed complete for scheduling purposes only on the 31st day after the original submittal.*
- C. Referrals will be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate.*
- D. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 7.3.204.*
- E. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.*
- F. The public hearing before the Planning Commission shall comply with the provisions in Section 7.3.205.*
- G. Approvals of any Type II or Type III action may be granted subject to conditions and performance agreement requirements.*
- H. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision or recommendation shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.*
- I. A Type II land use decision may be appealed to the City Council by either the applicant, persons receiving notice of the decision or the Manager. The appeal shall be filed within 15 days from the date of the decision, pursuant to the provisions of Section 7.3.207. Type III land use applications are automatically reviewed by the City Council.*

Response: Applicant shall adhere to the applicable procedures for this subdivision application.

SECTION 7.3.2 - ADMINISTRATIVE PROCEDURES

7.3.204.01 Type I Action

Consistent with State statutes, written notice of a Type I decision shall be mailed to the applicant and all property owners, including county and state agencies responsible for road and highways, within 100 feet of the subject property. Written notice for a Type I Action shall include the following: (Amended by Ordinance 589 – Effective 4/2/09)

- A. Summary of the request.*
- B. Relevant decision criteria.*
- C. Findings of fact indicating how the request does or does not comply with the decision criteria.*
- D. Conclusionary statement indicating approval or denial of the request including (where appropriate) conditions of approval.*
- E. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.*

Response: Not applicable

7.3.204.02 Type II And Type III Actions

Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property, including county and state agencies responsible for roads and highways, within 200 feet of the boundaries of the subject property.

Response: Performed by City

7.3.204.03 Type IV Actions

Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of the hearing before the Planning Commission and City Council.

Response: Performed by City

7.3.204.04 Notice For Appeals

An appeal to either Planning Commission or City Council shall include written notice at least 10 days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

Response: Performed by City

7.3.204.05 Public Hearing Notice Requirements

Notice for any public hearing, including appeals, shall include the following:

- A. Explain the nature of the application and the proposed use or uses which could be authorized.*
- B. Cite the applicable criteria from the Code and the plan which apply to the application at issue.*
- C. Set forth the street address or other easily understood geographical reference to the subject property.*
- D. State the date, time and location of the hearing.*
- E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals.*
- F. Include the name and phone number of the City representative where additional information may be obtained.*
- G. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.*
- H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.*
- I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.*

Response: Performed by City

Date: February 12, 2025
To: Curt Fisher, AICP, Associate Planner, Mid-Willamette Valley Council of Governments
From: Daniel Danicic
Project: Dayton View Subdivision
Subject: Clarification Response to 7.2.307.03 Standards For Lots Or Parcels

7.2.307.03 Standards For Lots Or Parcels

C. Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed. If a flag-lot is permitted, the following standards shall be met:

- 1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway.*
- 2. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.*
- 3. Flag lots located side-by-side shall share a common driveway. This requirement shall be placed in the deed record of each parcel and noted on the final plat.*

Response: Cul-de-sac access design typically results in pie-shaped or otherwise non-rectangular layouts. The proposed subdivision is an infill project constrained by fully developed property on all sides which further limits flexibility for layouts. The proposed lot layout results in one flag lot (Lot 4). The proposed flag lot meets the standards of this section as the access strip is greater than 20 feet wide and can be improved with a 12 foot wide driveway in the future. This access strip was not used in the calculation of lot area when determining compliance with lot size provisions of the code. Lot 4 will share a common driveway with a Lot 3 via a deed recorded access easement noted on the final plat.



Application for Variance

☐ Major ☒ Minor

416 Ferry St - PO Box 339
Dayton OR 97114
Ph # (503) 864-2221
Fax # (503) 864-2956
www.daytonoregon.gov
cityofdayton (daytonoregon.gov)

For City of Dayton use:

Date Application Received:	Received By:	File Number:
Public Hearing Date:	Fee Amount:	Deposit Amount:
Application Completed Date:	Application Approval Date:	

Applicant Information:

Applicant Name: NW Summit Development LLC
 Mailing Address: 111 N College St City: Newberg ST: OR Zip: 97132
 Phone Number: 971-998-7507 Email: Jessica@NWSummitDevelopment.com

Site Information:

Site Address or Location: 04th Street Dayton, OR 97114 (R4317DD 02600)
 Map & Tax Lot Number: R4317DD 02600 Zoning: R-2

Is your site or building on the National Historic Registry? ☒ No ☐ Yes In a Flood Zone? ☐ Yes ☒ No

Owner Information:

Property Owner(s): Dayton Point LLC
 Address: 197 NW Outlook Vista City: Bend ST: OR Zip: 97703
 Phone: _____ Email Address: _____

Summary of Request:

Minor variance request to round the development density calculation from 7.55 to 8 units

Section(s) of the Code which you are seeking a variance for? _____

Property Owner Signature: Bein Stein, Mgr Date: 11/20/24

Property Owner Signature: _____ Date: _____

I/We the above signed Property Owner(s), consent to the proposed development of our property as indicated on this application.

For Office Use

Fee:	Deposit:	Amount Paid:	Date Paid:	Receipt #
Approved by:	<input type="checkbox"/> City Manager <input type="checkbox"/> City Planner <input type="checkbox"/> Public Works Director <input type="checkbox"/> City Engineer <input type="checkbox"/> Fire Marshall/Chief <input type="checkbox"/> Yamhill County Public Works <input type="checkbox"/> ODOT <input type="checkbox"/> Other			
Applicant Notification Date:	Comments:			
Additional Services Amount Billed:	Paid:	<input type="checkbox"/> Planner		
<input type="checkbox"/> Engineer	<input type="checkbox"/> Staff Time	<input type="checkbox"/> Other		

Variance Application

Revised 1/26/15

7.3.103 Minor Variances

7.3.103.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A minor variance may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

Response: The applicant desires to obtain approval of a minor variance to the development density of this property. Following is the calculation for the development density of the proposed lot improvements.

The density of the proposed development is calculated as follows:

Existing Property	1.38 ac
Less right of way	0.2872 ac (12,509.03 SF)
<u>Less easement on Lot 3</u>	<u>0.0148 ac (643.16 SF)</u>
Result	1.0780 ac

Multiply by the permitted maximum density of 7 units/ac
 $7 * 1.078 = 7.55$ units/ac density for this project site.

A minor variance application is requested to increase the 7.55 units to 8 units, an increase of 6%, which is within the 10% allowed for a minor variance request.

7.3.103.02 Review And Approval Process

Minor Variance applications shall be reviewed in accordance with the Type I review procedures specified in Section 7.3.201.

Response: The Type I review process is being followed for this Minor variance application.

7.3.103.03 Application And Fee

An application for a variance shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

Response: an application for the variance has been submitted and the fee paid.

7.3.103.04 Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- A. *The proposed variance would allow a use which is not permitted in the district;*

Response: The proposed variance will not allow a use that is not permitted. The current use is medium density residential, which is not changing.

- B. *Another procedure and/or criteria is specified in the Code for modifying or waiving the particular requirement or standard;*

Response: There are no other code criteria or procedures that could be used to achieve the same variance.

- C. *Modification of the requirement or standard is prohibited within the district; or,*

Response: The requested modification is not prohibited within the district.

- D. *An exception from the requirement or standard is not allowed in the district.*

Response: An exception is not being requested therefore this criteria does not apply.

7.3.103.05 Criteria And Procedure

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

- A. *The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances; OR, the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.*

Response: The 2022 Planning Atlas and Comprehensive Plan for the City of Dayton identifies a shortage of land needed to meet anticipated future single-family residential development demand. The R2 zone is intended for medium density. It is common practice in other jurisdictions to round the density calculation to the nearest whole number, however, such action is not clearly defined in the Dayton municipal code.

Approval to round up the density calculation from 7.55 to 8 units in keeping with the intent of medium density development and addresses the identified shortage of single family development.

- B. *The proposed development will not unreasonably impact adjacent existing or planned uses and development.*

Response: Adjacent development is currently single-family homes. improving. This minor variance will result in development at a density that will not feel out of place, nor will it unreasonably impact existing or planned uses nearby.

- C. *The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.*

Response: The minor variance for an increase of 0.45 does not expand the standard by more than 10% in order to achieve an adjustment from 7.55 to 8 units per acre.

- D. *There has not been a previous land use action prohibiting an application for a minor variance.*

Response: there has not been a previous Lindsey's action that would prohibit this minor variance.

EXHIBIT D

Curt Fisher

From: Denny Muchmore <dmuchmore@westech-eng.com>
Sent: Friday, February 14, 2025 3:44 PM
To: Don Cutler, Dayton PW (dcutler@daytonoregon.gov)
Cc: Curt Fisher; Jeremy Caudle, Dayton (jcaudle@daytonoregon.gov)
Subject: Dayton View Subdivision (4th & Mill flagstem property), Land Use Application Review Comments & Proposed/Suggested Conditions
Attachments: Utility map excerpts, 4th & Mill, 2025.pdf; V56-19 (backlot sewer, east of elementary school).pdf

External: Please report suspicious email to security@wesd.org

Don,
We assume that you will review the information below and add any additional comments you may have (*we are cc'ing the City Planner as well*).

Per the City's request, we have reviewed the land use application and associated lot layout drawing submitted for the proposed subdivision. We reviewed the application for conformance with applicable City requirements, with regards to recommended street, access and utility 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.

The following review comments are based on the assumption that the land use application for this property is approved in a manner that does not require significant changes to the proposed development layout in a manner not addressed by the proposed approval conditions (*if the street, access, infrastructure & utility recommendations in this review are addressed, the property should be able to be served by City street & utility systems*).

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 Public Works 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 perpendicular to Mill Street and parallel with 4th Street.

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 proposed development is generally located on flagstem parcel on the south side of Mill Street *(at the 4th & Mill intersection)*. The current application is to subdivide the property into 8 lots. All of the lots are proposed for either attached or detached single family homes.

The proposed site consists of Taxlot 4317DD-02600 *(no current address)*.

There are no existing buildings on the site.

The property is currently zoned Residential (R-2). The zoning of land bordering the development is as follows:

---North: Residential (R-2)

---South: Public (P) – school district property & cemetery

---West: Public (P) – school district property

---East: Residential (R-2)

Suggested Approval Conditions. We recommend including or referencing the following suggested conditions **(BULLETED PARAGRAPHS BELOW)** in the land use approval.

Prior Land Use Approval for Property.

We are not aware of any current land use actions affecting this property.

The property was partitioned in 1992 *(Plat 1992-40, Dayton Docket P92-02)*. Other than the recorded plat, we have no information on this previous partition approval.

Existing Plats, Easements, etc.

As noted above, this property is part of a previous partition plat (Parcel 3, P1992-40).

A current title report was not provided to us with the application *(including copies of referenced recorded documents in the title report)*. However, a copy of the existing sewer easement across the property is attached for reference *(from previous research done in this area)*.

- A current title report will need to be provided in conjunction with any construction drawings submitted for review by Public Works.
- The existing easement will need to be correctly shown and referenced on the final subdivision plat when it is prepared *(along with any new easements required by City standards)*.

New easements *(to the City)* will be required along any City or public utilities or drainage ways located outside of public right-of-ways, as well as providing for PUEs along all public street frontages *(excluding alleys)* where such easements *(meeting current City standards)* do not already exist.

Private easements *(with provisions complying with City standards)* will be required where any private accesses, driveways or private/franchise utilities cross property other than that being served *(private easements will need to include the specific language provisions required by the City PWDS)*.

Plat Approval Timeframe.

- The final plat shall be recorded within 2 years months of the approval of the tentative plat (LUDC 7.3.109.03.B). The plat shall substantially conform to the approved preliminary plat as conditioned by the land use approval, including any required easements.

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 this email to the Public Works Director Don Cutler. The applicant/developer is responsible for the construction costs of required public or private infrastructure improvements associated with the development (*both onsite and offsite*).
- After issuance/finalization of the land use approval, the developer and his engineer shall schedule and participate in a pre-design conference with City Public Works for the purpose of coordinating any required site / grading / street / sidewalk / utility work (PWDS 1.9). This conference shall occur after the issuance of land use approval (*and expiration of any appeal period*), but prior to submitting site / grading / street / sidewalk / utility construction drawings for review by Public Works. Participants shall include the developer, developer's engineer, City Public Works and the City Engineer, as well as public/franchise utility providers as applicable or desire by the development team. The developer shall provide all information required under PWDS 1.9 prior to the predesign conference (*including ensuring that a current title report is available*), 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 final 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.
- 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 as applicable. This requirement shall apply to each phase separately if applicable.
- Any required off-site easements shall be approved by the City and recorded by the Developer prior to approval of the construction drawings by the City.
- Building permits for new residential structures shall not be issued prior to completion of all required improvements and applicable conditions of approval, and written acceptance by the City, including submission of maintenance bonds and reproducible as-built drawings. This requirement applies to each phase separately if applicable.

Phasing.

The developer is proposing to construct the subdivision in a single phase.

Site Layout, Grading, etc.

The preliminary layout drawing included information on proposed streets and utilities. This information will be verified in conjunction with the predesign conference and the final subdivision construction drawings. The City is not responsible for any discrepancies or missing information not shown on the application drawings.

The application drawings show that the existing concrete driveway to 612 4th Street (TL 2601) actually encroaches several feet into the 40 foot flagstem.

- The location of the existing driveway to 612 4th Street (TL 2601) shall be verified in conjunction with the subdivision design, and if it encroaches into the flagstem, the encroachment shall be resolved by the developer in consultation with the neighboring property owner. Options may include relocation/reconstruction of the existing driveway, or granting of an easement to the adjacent property for the existing driveway (*provided such an easement leaves adequate width for the required improvements along the flagstem*).

The lots on the west side of the proposed new public street are located on the top of the steep slope down into the Lippencott Gulch ravine. Based on contours shown, it appears that the new access street & sidewalk can be installed within the constraints of the existing terrain. However, it is not clear whether or not the ravine slope is adequately stable to support houses west of the new public street (*a geotechnical report was not submitted*).

- As part of the subdivision design, the developer shall have a detailed topographic survey performed for the property, as well as having a geotechnical report prepared which specifically evaluates the stability of the existing ravine slopes, as well as providing detailed design recommendations for any additional fills proposed to be placed on the top of the ravine slopes (*for the lots or for the private road*).
- The developer shall be solely responsible to verify setbacks required for any buildings proposed on this property from the top of bank to the extent required by the Oregon building codes. While they may be shown on the preliminary drawings, the proposed locations of future buildings are not reviewed or approved as part of the subdivision approval process.
- The developer shall record (*against the lots west of the proposed private access road*) an indemnification clause to clarify that the responsibility for slope stability stays with the property owners and does not devolve to the City (*similar to the provisions in the CCRs recorded for the downslope lots on Country Heritage Estates Phase 2 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 new public street or new lot areas will need to be removed or remediated in conjunction with the development and infrastructure construction.

Driveways and/or parking spaces shall be constructed as required to provide a minimum of two offstreet parking spaces for each new dwelling unit at the time of house construction. Per LUDC 7.2.303.09.A, all driveways and parking areas shall be paved with asphalt or concrete.

Streets, Sidewalks, etc.

The flagstem of the property (*and the end of the new public street*) fronts on Mill Street at the 4th & Mill intersection. No lots will have direct frontage on Mill Street, but will take vehicular access from the new interior public street.

Mill Street in this location is a City right-of-way. The new internal street is proposed as a public street (*see discussion below*).

Mill Street.

The property has 40 feet of frontage on Mill Street, which at this location is a City street. The current Mill Street right-of-way width is shown as 60 feet on current City & County maps.

Mill Street at the connection point of the new public street is currently a turnpike street section, without curbs on either side, and without sidewalks on either side.

Mill Street is classified as a local street. Per PWDS 2.11 (table), local through streets of this type are to be provided with a 34 foot curb-to-curb width within a 50 feet minimum right-of-way width (*for reference when designing the intersection of the new public street into the subdivision*).

LUDC 7.2.307.06.A states in part that: “Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts . . . Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.”

New Internal Street.

The proposed new internal street will be constructed along the 40 foot wide flagstem connected to Mill Street.

The application proposes that the new street be constructed as a public street. The application proposes that the new street have a 27 foot paved width (*curb to curb*), with a 5 foot sidewalk on one side (*as is allowed under LUDC 7.2.307.04.F*).

The new internal street is shown on the application drawings as being approximately 240 feet long (*from the Mill Street centerline*).

The developer has proposed installing a cul-de-sac turnaround on the new public street.

Internal Public Street Improvement Conditions.

- The design of the new internal public street shall conform to the requirements of the Public Works Design Standards and LUDC 7.2.307.04.F, including verification of the future intersection design at Mill Street.
- Full street improvements shall be constructed for the new internal public street, based on the width included in the application (*27 foot street width, 40 foot right-of-way width, 5 foot curblane sidewalks on one side and around the cul-de-sac bulb*).
- The sidewalk proposed along the west side of the flagstem portion of the new internal street shall be constructed in conjunction with the street improvements.
- Public storm drainage improvements shall be provided in conjunction with the new public street (*PWDS 3.2.c*), including extension of a public storm mainline to serve the Mill Street intersection.
- Street and traffic control signs shall be installed at locations conforming to City standards.
- The east side of the new public street shall have painted curbs and be signed for no parking.
- New street names shall be approved by the City prior to approval of the construction drawings.

PUEs a minimum of 8 feet wide are required along all property lines fronting public street right-of-ways (*excluding alleys or along the flagstem*) 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, except along the flagstem portion (*PWDS 1.10.j*). Language for these PUEs per PWDS 1.10.j will need to be included on any plat.

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

--- 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 street construction per City and state standards. 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*).

--- Based on PWDS 2.32 spacing standards (*200 feet, or 3 lot widths, whichever is less*), it appears that at least one additional street light will be required at the new cul-de-sac location.

- New public street light(s) shall be installed on the new public street, at location(s) approved by the City Engineer and Public Works based on City standards.

Storm Drainage.

The preliminary drawings included information on the general manner in which proposed storm drainage improvements will be provided. However, the new public storm drain must also be extended to collect storm drainage from the intersection of the new public street with Mill Street, as well as to provide storm drainage laterals for any lots which do not slope to the fronting curb. Detention is not shown for this project, but since it is located at the downstream end of the Lippencott Gulch ravine, there are no known capacity problems relating to downstream properties.

From the information provided, it appears that storm drainage system can be provided in accordance with PWDS standards, based the proposed approval condition.

Provisions for storm drainage lines serving each parcel will need to be provided, with drainage to be extended to a point of disposal acceptable to Public Works (PWDS 3.9.b). This will require that a storm drainage easements be provided for any storm drains outside of public right-of-way, or for storm lines or laterals crossing private property other than the lot being served.

- 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, and shall collect drainage from upstream properties/streets and convey it through or around the development as applicable (*including providing easements as applicable across the development property*). 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 for the entire property, as well as drainage from new streets and existing upgradient streets, and shall convey storm water runoff to an approved point of disposal. 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 solely serve. Storm drain laterals shall be provided for all lots which cannot drain to the fronting curblines.

Sanitary Sewer.

The preliminary drawings include information on proposed sanitary sewer improvements. However, the backlot sewer service lateral connections proposed are not allowed in Dayton except under exceptional circumstances (*which do not appear to apply for this subdivision*).

A new sewer mainline extension shall be constructed across the cul-de-sac bulb in order to accommodate new sewer service laterals to each of the new lots, from the new sewer in the public street. This will allow the new sewer service laterals to be installed perpendicular with the public street per City standards (*except for the services at the end of the cul-de*).

In addition, since the existing backlot sewer main across the property is a terminal sewer accepting sewage from the inverted siphon installed under Lippencott's Gulch in 1965 AND is located within an easement, it will need to be TV inspected as required under PWDS 4.17.a.4. As noted in the PWDS, the TV inspection/locate painting and survey verification

of existing mainlines which are located in easements outside of public right-of-ways must be done as part of the design process.

The subdivision sewer design shall include provisions to correct any adverse grade conditions, broken/obstructed pipe or other conditions found in the existing sewer which (*in the opinion of the City Engineer or Public Works Director*) (A) may cause sewer backups or (B) present maintenance issues upon extension of the mainline and/or connection of additional mainlines or sewer services, or (C) require upgrades along sewer alignments which are not located within public right-of-ways or within recorded easements in order to bring sewers into conformance with current City standards (*including all-weather maintenance access as applicable*). Corrections of any such adverse conditions shall occur prior to connecting to or extending the mainline, or setting new manholes.

- The developer shall submit sanitary sewer drawings conforming to the requirements of the PWDS. A new sewer mainline shall be installed parallel with the new street, to allow sewer service laterals to be installed perpendicular with the ROW per City standards. In addition, cleaning & TV inspection of the existing gravity sewer main from existing MH 78 (*which is located in the new internal street*) to existing MH 77 (*located in the old 3rd Street ROW*) shall be completed as part of the design process, and reports and videos provided to the City Engineer. Correction of any problems discovered shall be the responsibility of the developer (*including but not limited to replacement of the existing gravity sewer main if applicable*). New gravity sanitary sewer mainlines and separate gravity service laterals from the new public street shall be provided as required to serve all lots in the development (*connection to the existing inverted siphon pipe west of MH 78 is prohibited*). Sewers crossing private property shall be located within easements conforming to PWDS 4.15.d as approved by the City Engineer. New easements meeting PWDS requirements shall be provided for any public sewers located outside of street right-of-ways, or for private sewer lines which cross property other than that which they serve.

Water.

The preliminary drawings include information on proposed water system improvements, reflecting a new waterline along the new internal street within the development. However, the proposed configuration will need to be modified to meet City standards.

(Existing Waterlines & Hydrants)

Maps show an existing 10-inch water mainline along the 4th Street and an existing 8-inch waterline along the south side of Mill Street, across the flagstem frontage of the property.

--- Existing Hydrants. While there is an existing fire hydrant at 4th & Mill, this hydrant is too far from the property to be utilized for fire protection for all new lots (*see PWDS 5.17.a*).

Per OFC B105.3.1, minimum fire flows of 1000 gpm must be provided for detached residential structures (*our assumption is that fire sprinklers will not be provided for the buildings constructed within the subdivision*). The developer will be responsible for verifying that adequate fire flows are available from the existing 8 inch waterline at 4th & Mill. If adequate fire flows are not available, additional offsite waterline improvements will be required (*flow testing will need to be done on the hydrant at 4th & Mill to determine this*).

(New Fire Hydrants)

--- A new fire hydrant will be required for this development, installed at or near the throat of the cul-de-sac bulb, in order to meet the distance coverage requirements under current City standards.

(New Waterlines)

While a new waterline is shown along the new internal street, it does not meet the size requirements under City standards. The new waterline from Mill Street to the new fire hydrant shall be 8-inch minimum diameter, while the waterline beyond the new hydrant may be 6-inch diameter as proposed.

- 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 all hydrants at 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 developer shall construct new waterlines as required to supply all water services and fire hydrants. Fire hydrants per PWDS standards will be required at intersections and other locations approved by the City Engineer and the Fire Chief. Existing hydrants serving the property shall be provided with Storz adapters per City & Fire District standards, as applicable.

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."*

If you have any questions or need additional information regarding this review, please contact us to discuss.

Denny Muchmore, PE (OR, WA)

Westech Engineering, Inc., 3841 Fairview Industrial Drive SE, Suite 100, Salem, OR 97302

503-585-2474 ph 503-585-3986 fax 503-931-8708 cell

dmuchmore@westech-eng.com *Celebrating 57 Years of Service 1968 - 2025*

2021-01

CHURCH ST

PINCOTT'S ADDITION (1889)

2005-39

92-46

IN ST

5TH ST

5TH ST

POST OFFICE

AD RT

ELEMENTARY SCHOOL

LIPPINCOTT'S GULCH

5TH ST

CITY HALL
CITY HALL ANNEX/PW

2024-15

PUBLIC WORKS

alley

2011-16

COMMUNITY CENTER

4TH ST

2015-05
(old 2010-05)

LIPPINCOTT'S PURCHASE
(SEE ORIG DAYTON PLAT)
(1865)

92-40

plat index

BASEBALL FIELD

LIPPINCOTT'S GULCH

ORIGINAL TOWN OF DAYTON (1865)

BASEBALL FIELD

T (OR221)

CHURCH ST

2018-21
2018-20

3RD ST (OR221)

ORIGINAL TOWN DAYTON (1865)

4TH ST

MAIN ST

COURTHOUSE SQUARE PARK (CITY PARK)

FERRY ST (HWY 155)

CS
(2024 PLA)
(pending)

CS13824
(2022 PLA)

COMMERCE ST (this block)
Frontier
ALDER ST

ORIGINAL TOWN DAYTON (1865)

2009-22

3RD ST (OR221)

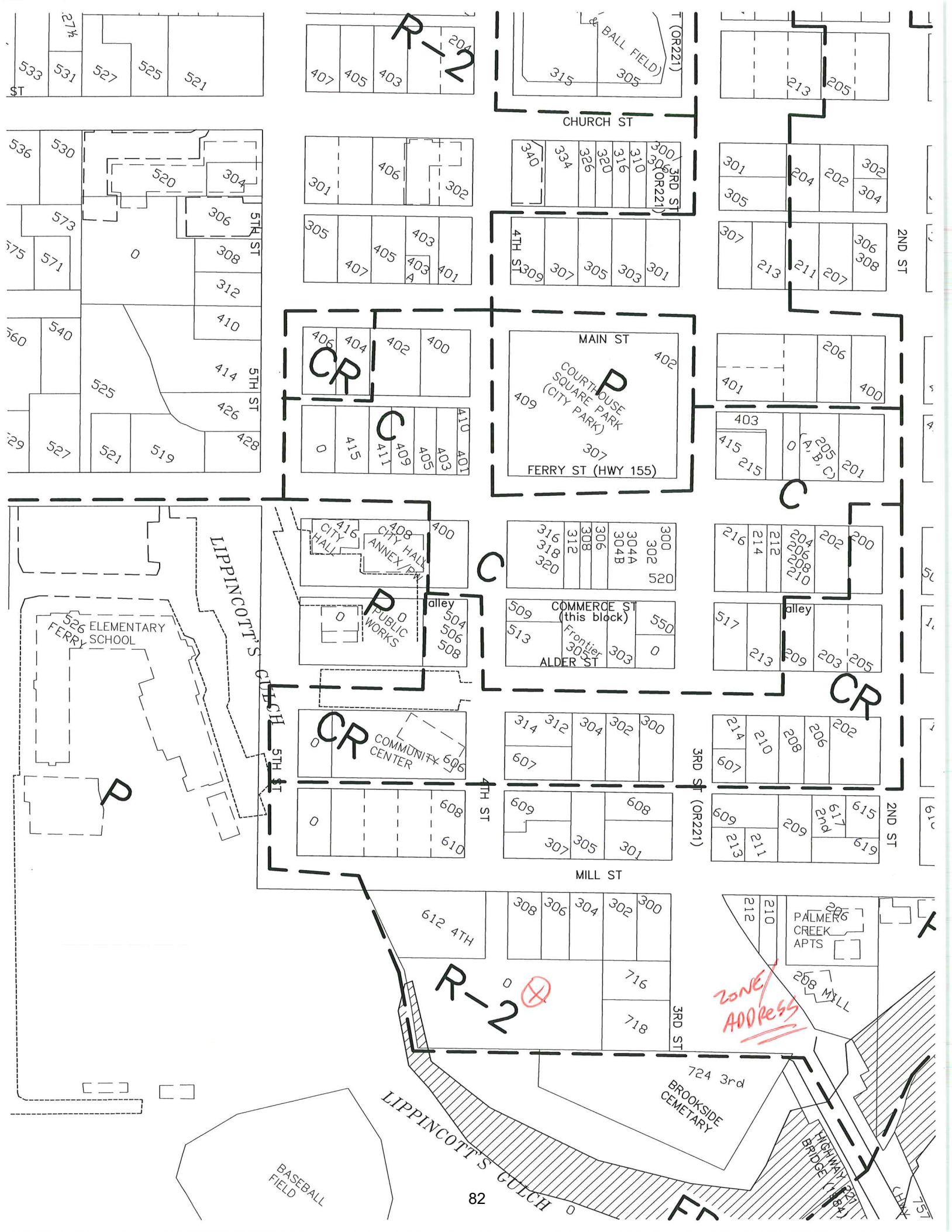
2006-35

MILL ST

PALMER CREEK APTS

BROOKSIDE CEMETARY

HIGHWAY 221
BRIDGE (1884)







CHURCH ST

3RD ST (OR221)

2ND ST

4TH ST

MAIN ST
COURTHOUSE
SQUARE PARK
(CITY PARK)
FERRY ST (HWY 155)

5TH ST

5TH ST

LIPPINCOTT'S GULCH
5TH ST

4TH ST

MILL ST

3RD ST (OR221)

2ND ST

PALMER
CREEK
APTS

*Historic
Property*

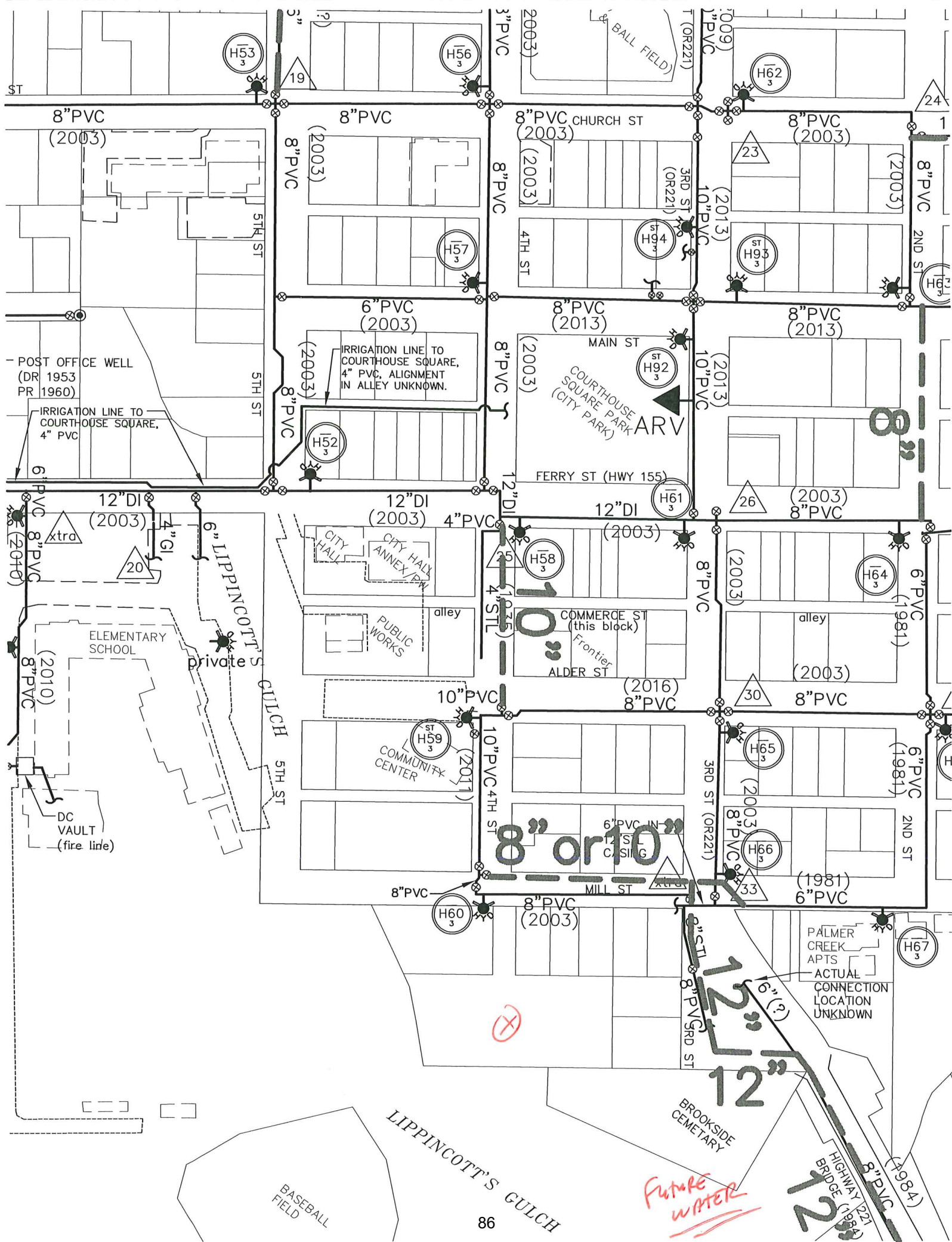
3RD ST

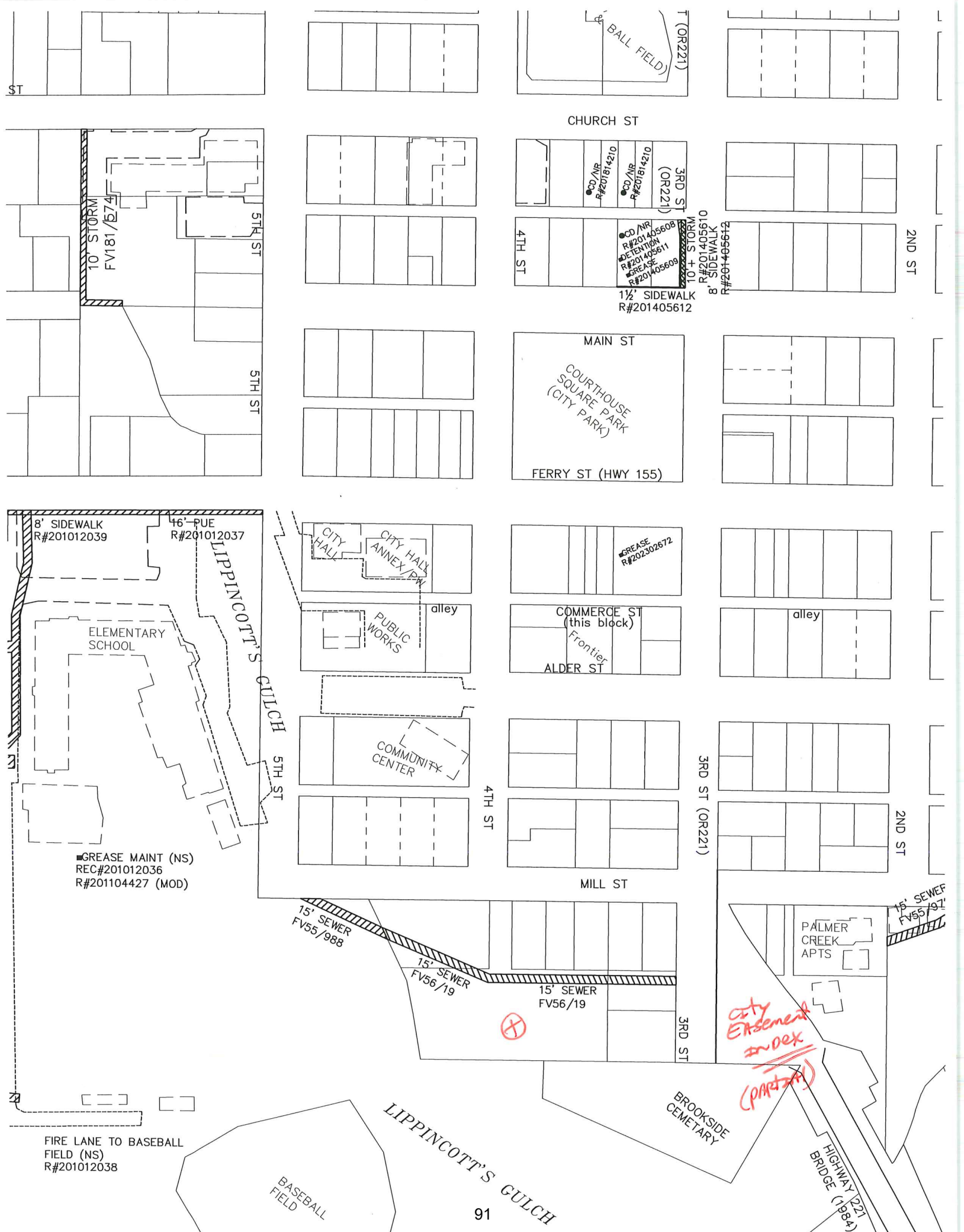
BROOKSIDE
CEMETARY

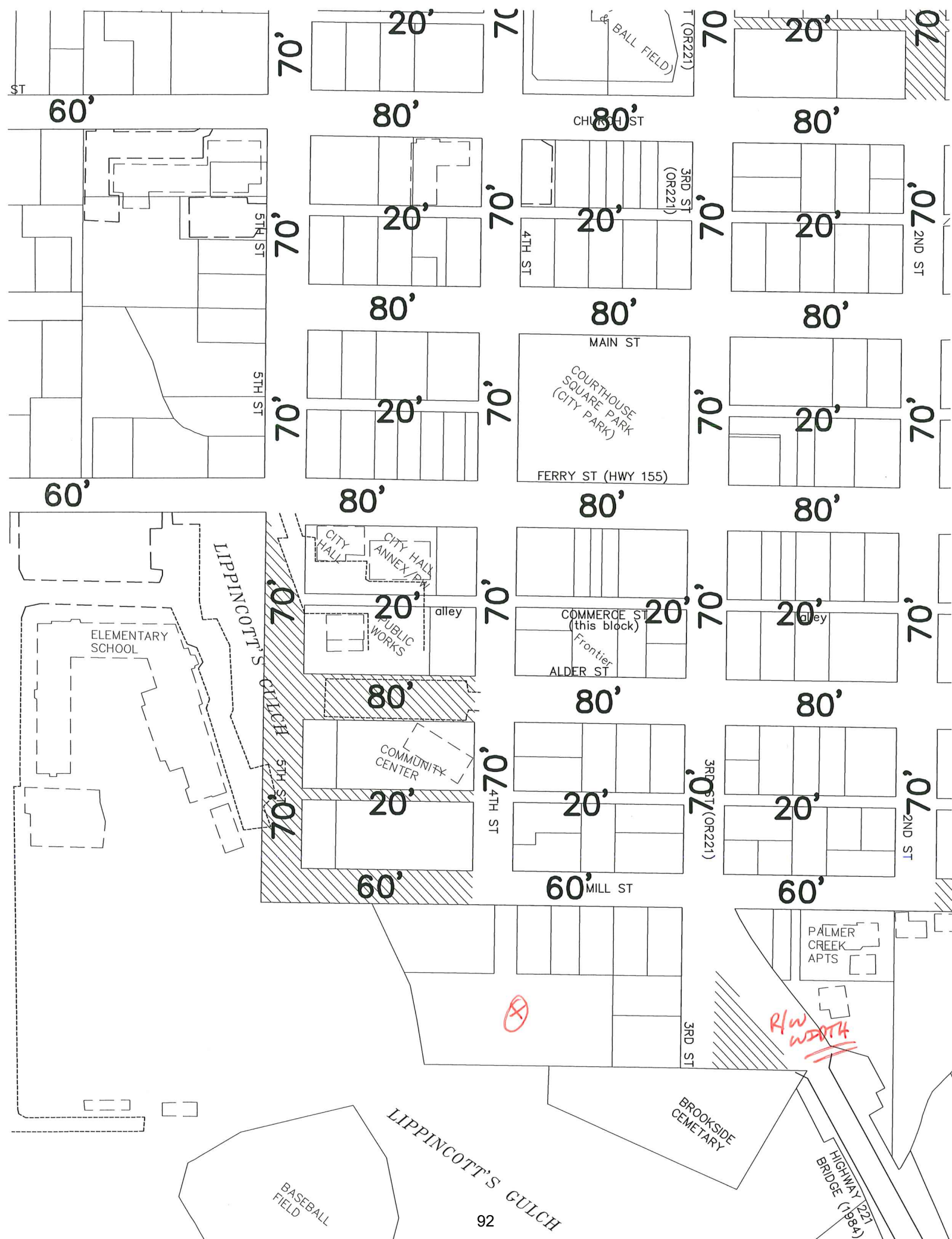
HIGHWAY 1221
BRIDGE

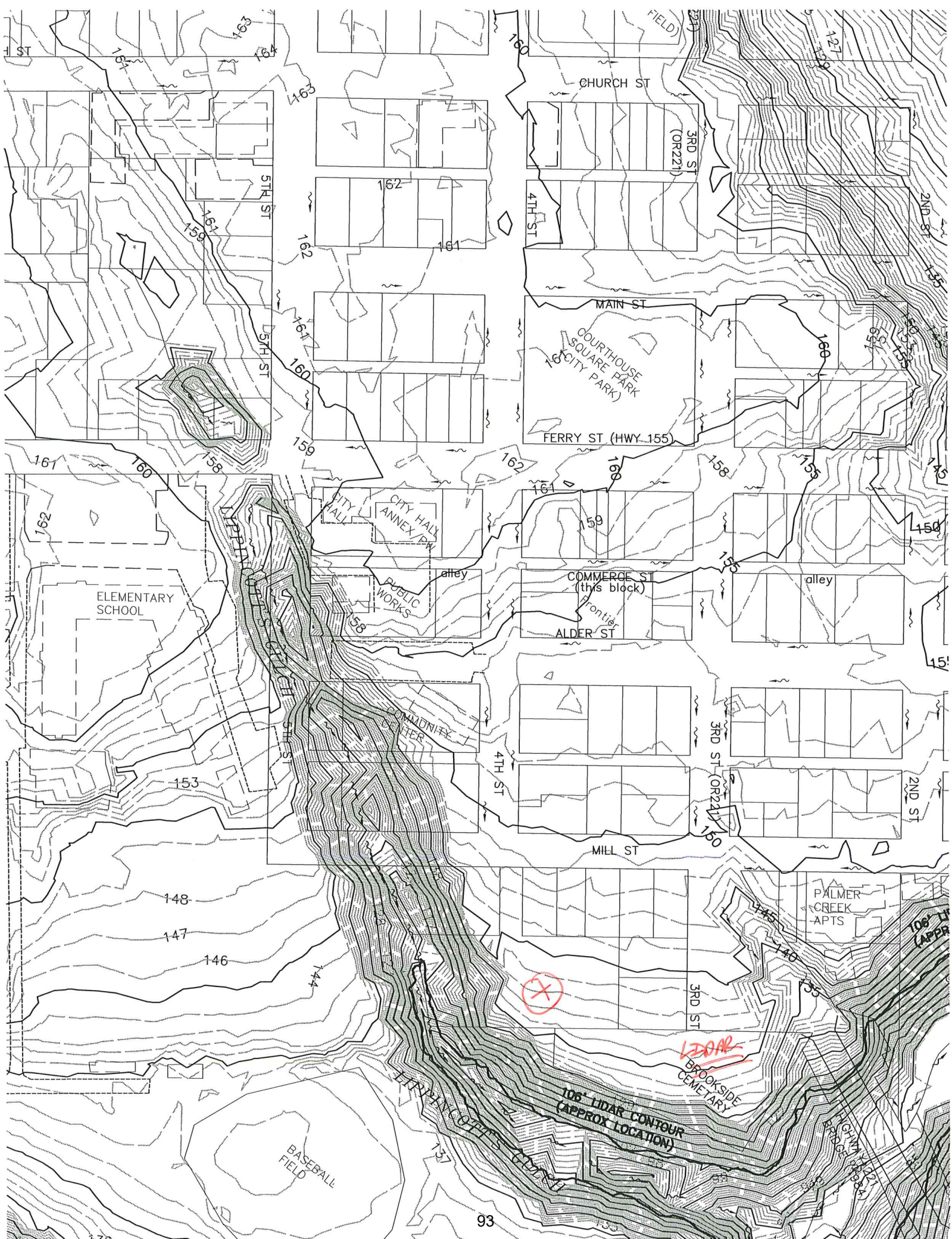
LIPPINCOTT'S GULCH

BASEBALL
FIELD









VOL 56 PAGE 19
SUGGESTED SEWER PIPE EASEMENT

THIS INDENTURE WITNESSETH, that, Ardilla H. and
Martha L. Krake grantor, for the consideration of
_____ Dollars,
to them paid, have granted and do hereby grant to
the City of Dayton

By and through its elected officers, a perpetual right and easement to construct, maintain, repair and have free access to all sewer pipe and appurtenances, occasioned by or resulting from the construction, operation or maintenance of a public sanitary sewer system and appurtenances upon the following described premises, to wit:

A parcel of land lying in the southeast $\frac{1}{4}$
of Section 17, Township 4 South, Range 3 West
of the Willamette Meridian in Yamhill County, Oregon, and being
a portion of that property conveyed by that deed to Ardilla H. and
Martha L. Krake, recorded in Book 158, Page 723,
of Yamhill County Record of Deeds.

The said parcel being that portion of said property included in a strip of land
40 feet in width for construction purposes and 15
feet in width for permanent easement purposes being 7.5 feet on the north-
westerly side and the remainder on the southeasterly side

of the centerline of the sewer line as said sewer line has been located, which centerline is described as follows:

Beginning at Engineer's centerline Station 16 + 06, said Station being
7.5 feet southeasterly along the northeasterly boundary line of
that certain parcel of land conveyed by ~~Martha L.~~ deed to Ardilla H. and Martha
L. Krake, described in Volume 158, page 723, Yamhill County Record of
Deeds, from the most northerly corner thereof,

SUGGESTED SEWER PIPE EASEMENT (Cont'd)

and running thence southwesterly on a line parallel to and 7.5 feet measured
perpendicularly from the northwesterly line of said Krake parcel a distance
of 385 feet; thence turning 23 degrees to the right, a distance of 158 feet more
or less to a point on the southwesterly boundary line of said Krake parcel,
said point being 70⁺ feet southeasterly along said southwesterly boundary from
the most westerly corner of said parcel.

No. 85916 11:10 AM
 Filed October 13 1966
 JACK BEELER, COUNTY CLERK
 By Wm. Merrill Deputy

It is expressly intended that these covenants, burdens and restrictions shall
 run with the land and shall forever bind the grantor, their heirs and
 assigns. And Ardilla H. and Martha L. Krake, the said grantor do
 hereby covenant to and with the City of Dayton

By and through its elected officers, that

Ardilla H. and Martha L. Krake the owner in fee simple of said premises

and that they will defend the same from all lawful claims
 whatsoever.

IN WITNESS WHEREOF we have hereunto set our

hand and seal this 20th day of August 1965.

Done in the presence of:

Viola J. Mattor A.H. Krake (SEAL)

Notary Public 11-13-66 Martha Krake (SEAL)

STATE OF OREGON

County of Jefferson

On this 20th day of August, 1965
 personally came before me, A Notary Public in and for said County and
 State the within named Ardilla H. Krake and

Martha L. Krake his wife to me personally
 known to be identical person described in, and who executed the within in-
 strument and who each personally acknowledged to me that he executed
 the same freely and voluntarily for the uses and purposes herein named

Witness my hand and official seal the day and year last above written.

Viola J. Mattor
 Notary Public for Oregon

My commission expires 11-13-66



STAFF REPORT

LA 2025-01 PUBLIC HEARING BEFORE PLANNING COMMISSION

<u>Hearing Date:</u>	March 13, 2025
<u>Subject:</u>	Legislative Public Hearing for a Development Code Amendment, Section 7.2.113 – FEMA Model Code Update for NFIP-ESA Integration.
<u>Approval Criteria:</u>	Dayton Land Use Development Code, Section 7.3.112.03, A – D.
<u>Exhibits:</u>	Exhibit A: Code amendments with changes shown in strikethrough format Exhibit B: PICM Community Letter City of Dayton Exhibit C: FEMA Region 10 Model Code Exhibit D: Published Public Notice

I. REQUESTED ACTION

Conduct a public hearing on proposed legislative amendments to the Dayton Land Use Development Code (DLUDC), case file LA 2025-01. Options for action on LA 2025-01 include the following:

- A. Adopt the findings in the staff report and recommend that the City Council adopt LA 2025-01:
 - 1. As presented and recommended by staff; or
 - 2. As amended by the Planning Commission (indicating desired revisions).
- B. Recommend that the City Council take no action on LA 2025-01.
- C. Continue the public hearing, preferably to a date/time certain.

II. BACKGROUND

This legislative amendment proposal is specific to Section 7.2.113 of the Dayton Land Use and Development Code (DLUDC) titled Flood Plain Overlay Zone (FPO). The last updates to the FPO were enacted in 2010 and do not reflect the most recent version of the model flood hazard ordinance published in 2019 by DLCD. The proposed replacement code in Exhibit A incorporates FEMA's recent Model Floodplain Ordinance of August 2024 which specifically addresses National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) integration in Oregon. The need for these changes is discussed in Exhibit B and explains that cities can implement ESA integration through enactment of one of three Pre Implementation Compliance Measures (PICMs). On October 7, 2024, the Dayton City Council, in review of FEMA's correspondence in Exhibit B, selected Option 1 (Model Code update) and so initiated legislative proceedings.

III. PROCESS

Section 7.3.112.01 requires text amendments to the DLUDC to be approved through a Type IV review procedure as specified in Section 7.3.2.

On January 9, 2025, Planning Commission held a work session to review a draft of the code amendments described in Exhibit A.

On February 7, 2025, staff issued the required 35-day notice to the Department of Land Conservation and Development and mailed notice to potentially affect property owners within the City's Flood Plain Overlay District. Written notice of the hearing before the Planning Commission and subsequent hearing before City Council was submitted to the McMinnville News Register for publication

The scope of the proposed text amendments associated with LA 2025-01 involves striking the content of Section 7.2.113 entirely and replacing it with the model code language. The amendments are shown in Exhibit A in ~~strike through~~ format.

IV. FINDINGS AND APPROVAL CRITERIA

7.3.112.01 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Section 7.3.201.

7.3.112.03 Criteria for Approval

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:

1. Traffic generation and circulation patterns;

Findings: The proposed amendments do not impact traffic generation and circulation patterns. Staff find no impact to traffic generation and circulation patterns.

2. Demand for public facilities and services;

Findings: The proposed amendments do not impact demand for public facilities and services. Staff find no impact to public facilities and services.

3. Level of park and recreation facilities;

Findings: The amendments do not involve changes to the uses allowed in the underlying zoning districts that would affect the level of service provided by existing park and recreation facilities. Staff find no impact to park and recreation facilities.

4. Economic activities;

Findings: The proposed amendments do not impact economic activities. Staff find the impact to economic activity is negligible.

5. Protection and use of natural resources;

Findings: The proposed amendments increase the required level of protection and use of natural resources present within the Floodplain Overlay district by implementing the NFIP-ESA no net loss standards to avoid or offset adverse impacts on threatened and endangered species and their critical habitat within the regulated floodplain. The criterion is met.

6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

Findings: The proposed amendments do not impact compliance with existing adopted special purpose plans or programs. Staff find this criterion is satisfied.

B. A demonstrated need exists for the product of the proposed amendment.

Findings: As discussed in Section II of this staff report, the amendment is needed to comply with changes in federal law – FEMA adopted measures for NFIP-ESA compliance. Staff find this criterion is met.

C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

Applicable Statewide Planning Goals.

Goal 1, Citizen Involvement.

Findings: A public hearing on the proposed amendments is scheduled before the Planning Commission on March 13, 2025, at City Hall at 6:30 p.m. and a second public hearing is scheduled before City Council on April 7, 2025. Public notice has been provided in accordance with noticing requirements in the Dayton Land Use and Development Code for legislative public hearings by the Planning Commission and the City Council. Goal 1 is satisfied.

Goal 2. Land Use Planning.

Findings: Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. These are in place. The scope of this legislative proposal does not involve any amendments to the Comprehensive Plan policies. Staff finds Goal 2 is satisfied.

Goal 3 & 4. Agricultural Lands and Forest Lands

Findings: Goal 3 and 4 primarily pertain to rural areas, typically outside urban areas. Staff finds Goals 3 and 4 to be not applicable due to the limited scope of the proposed text amendments.

Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces.

Findings: Chapter 3 of the Dayton Comprehensive Plan includes policies intended to protect recognized natural resources, including fish and wildlife, and discuss the importance of Dayton’s riverine flood plain areas in providing essential habitat for fish and wildlife.

The proposed changes in Exhibit A are intended to comply with current FEMA floodplain management standards and recent requirements for NFIP-ESA integration. One of the issues the NFIP-ESA integration is intended to address is reducing the potential impact to 16 anadromous fish species and the Southern Resident Killer Whale that are listed as threatened or endangered. The amendments respond to this issue through the implementation of performance standards and mitigation ratios to achieve a “no net loss” standard for habitat for such species. The phrase “no net loss” means any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The proposed changes shown in Exhibit A will implement goals and policies shown under Chapter 3 as they pertain within the Flood Plain Overlay District.

Goal 5 is satisfied.

Goal 6. Air, Water and Land Resources Quality.

Findings: While the amendments included in LA 2025-01 are likely to have reciprocal positive impacts on water resources, the proposal does not directly address Goal 6 resources. Based on the limited scope of proposed text amendments, staff find Goal 6 to be not applicable.

Goal 7. Areas Subject to Natural Hazards.

Findings: Chapter 4 of the Dayton Comprehensive Plan includes policies intended to protect people and property from natural hazards, including floods. Proposed changes as shown in Exhibit A will implement goals and policies primarily shown under Chapter 4 as pertain to floodplain management. The overall goal is to protect people and property from the effects of natural hazards. The following Chapter 4 policies apply to flood plain management.

5. *The City shall continue to participate in the National Flood Insurance Program.*
6. *The City shall restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.*
7. *The City shall require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.*

Proposed changes in Exhibit A are intended for consistency with current FEMA floodplain management standards and recent changes for NFIP-ESA integration. Exhibit A does not encompass a map change or study related to natural hazards. Staff finds the proposed changes to Section 7.2.113 to be consistent with the Comprehensive Plan policies in Chapter 4 that describe participating in the National Flood Insurance Program (NFIP), restricting development dangerous to health, safety and property due to water or in damaging increases in flood heights or velocities, and requirements that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction. Staff also incorporate Section 2 of the FEMA Model Ordinance for NFIP-ESA Integration (titled “Regulatory Crosswalk” provided as Exhibit C of this report) as findings. While Exhibit C is made part of the record to identify related rule / statute and the relationship with statewide Goal 7. Goal 7 is satisfied.

Goal 8. Recreation Needs.

Findings: The proposal does not address Goal 8 resources. Based on the limited scope of work included in this report staff finds Goal 8 to be not applicable.

Goal 9. Economic Development.

Findings: Proposed amendments do not change the permitted employment uses in employment zones or impact employment areas identified in Chapter 8 of the City of Dayton Planning Atlas and Comprehensive Plan. Accordingly, staff find that Goal 9 does not apply.

Goal 10. Housing.

Findings: Staff finds that proposed changes to Exhibit A do not impact or impede the ability to satisfy Dayton Housing needs. Further, the amendments are necessary to comply with federal regulations. Staff find Goal 10 to be not applicable.

Goal 11. Public Facilities and Services.

Findings: Public facilities under Goal 11 include water, sanitary sewer, police, and fire protection. Other services (e.g., health, communication services) are also listed in Goal 11. The proposed amendments do not have any direct impact on any of the master planning documents required under Goal 11. The proposed amendments are consistent with Goal 11.

Goal 12. Transportation.

Findings: The proposed amendments to the DLUDC do not involve changes or amendments to local transportation requirements or road classifications. Goal 12 is met.

Goal 13. Energy Conservation.

Findings: Based on the limited scope of work described in this report, staff finds Goal 13 to be not applicable.

Goal 14. Urbanization.

Findings: Based on the limited scope of the text amendments described in this report, staff finds Goal 14 to be not applicable. No change to the existing Urban Growth Boundary (UGB) is proposed.

Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.

Findings: Staff observe Goals 15 through 19 to apply only to specific regions of the state (*Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, Ocean Resources*). Goals 15 – 19 do not apply because the city is not on the Willamette River or in a coastal area.

Conclusion: Based on the facts and findings above, the proposed Legislative Amendment (LA 24-03) complies with applicable statewide planning goals and applicable goals, policies, and objectives of the Dayton Comprehensive Plan.

D. The amendment is appropriate as measured by at least one of the following criteria:

- 1. It corrects identified error(s) in the provisions of the plan.*
- 2. It represents a logical implementation of the plan.*
- 3. It is mandated by changes in federal, state, or local law.*
- 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.*

Findings: As discussed in Section II of this Staff report, the amendment is mandated by changes in federal law – FEMA adopted measures for NFIP-ESA compliance. Staff find criterion D.3 is met.

V. PLANNING COMMISSION ACTION – Sample Motion

A Planning Commissioner may make a motion to either:

1. Adopt the staff report and recommend the City Council approve the amendments. A sample motion is:

I move the Planning Commission adopt the staff report and recommend the City Council approve the amendments.
2. Adopt a revised staff report with changes by the Planning Commission and recommend the City Council approve the revised amendments. A sample motion is:

I move the Planning Commission adopt a revised staff report with the following revisions...state the revisions...and recommend the City Council approve the revised amendments.
3. Recommend the City Council deny the proposed amendments. A sample motion is:

I move the Planning Commission recommend the City Council deny the proposed amendments for the following reasons...and state the reasons for the denial.
4. Continue the hearing to a date/time certain. A sample motion is:

I move the Planning Commission to continue the hearing to a date (state the date) and time (state the time) to obtain additional information and state the information to be obtained.

EXHIBIT A: Draft Code Amendments

7.2.113 Flood Plain Overlay District (FPO)

~~7.2.113.01 Purpose~~

~~7.2.113.02 Definitions~~

~~7.2.113.03 General Provisions~~

~~7.2.113.04 Uses – Exempt~~

~~7.2.113.05 Uses – Permitted And Subject To Flood Plain Development Permit~~

~~7.2.113.06 (Reserved)~~

~~7.2.113.07 Flood Protection Standards~~

~~7.2.113.08 Generalized Flood Plain Areas~~

~~7.2.113.09 Variances~~

~~7.2.113.10 Variance Criteria~~

~~7.2.113.11 Warning And Disclaimer Of Liability~~

~~7.2.113.01 Purpose~~

The purpose of the Flood Plain Overlay Zone is to:

- ~~1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.~~
- ~~2. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.~~
- ~~3. Minimize flood damage to new construction by elevating or flood proofing all structures.~~
- ~~4. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.~~
- ~~5. Control filling, grading, dredging and other development which may be subject to or increase flood damage.~~
- ~~6. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.~~
- ~~7. Comply with the requirements of the Federal Insurance Administration to qualify the City of Dayton for participation in the National Flood Insurance Program.~~
- ~~8. Minimize flood insurance premiums paid by the citizens of the City of Dayton by reducing potential hazards due to flood damage.~~
- ~~9. Implement the flood plain policies in the City of Dayton Comprehensive Plan.~~
- ~~10. Coordinate and supplement provisions of the State Building Code with local land use and development ordinances. (Amended ORD 594 2/1/10 & enacted 3/2/10)~~

~~7.2.113.02 Definitions~~

For purposes of this Overlay Zone, the following terms shall mean:

1. ~~Accessory Structure: Sheds or small garages that are exempt from elevation or flood-proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.~~
2. ~~Area of Special Flood Hazard: Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.~~
3. ~~Base Flood Level: The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).~~
4. ~~Below-Grade Space: An enclosed area below the base flood elevation in which the interior grade is not more than two (2) feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, and does not exceed four (4) feet at any point. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
5. ~~Critical Facility: A facility for which even a slight change of flooding might be too great. Critical facilities include but are not limited to schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
6. ~~Conveyance: Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.~~
7. ~~Development: Any activity that has the potential to cause erosion or increase the velocity or depth of flood water. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.~~
8. ~~Encroachment: Any obstruction in the flood plain which affects flood flows.~~
9. ~~Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.~~
10. ~~Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).~~
11. ~~FEMA: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.~~
12. ~~Fill: The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.~~
13. ~~Flood or Flooding: A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.~~

14. Flood Boundary Floodway Map (FBFM): The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plain, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).
15. Flood Insurance Rate Map (FIRM): The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Dayton.
16. Flood Insurance Study (FIS): The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway map and the water surface elevation of the base flood and is on file with the City of Dayton.
17. Flood Plain: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Dayton. Also referenced in the State's Model Ordinance and the FEMA documents as the Special Flood Hazard Area (SFHA) as the 100-year flood plain. (Amended ORD 594 2/1/10, Enacted 3/2/10)
18. Flood Proofing: A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.
19. Floodway: The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.
20. Floodway Fringe: The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.
21. Hazardous Material: Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.
22. Lowest Floor: Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.
23. Manufactured Home: Means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in sub Q., of this Section. For insurance and flood plain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
24. Manufactured Home Park or Subdivision: Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
25. Mean Sea Level (MSL): Means, for purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which base flood elevations shown on a

community's Flood Insurance Rate Map are referenced. (Amended ORD 594 2/1/10, Enacted 3/2/10)

26. ~~Mobile Home: A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by sub CC., of this Section.~~
27. ~~New Construction: Any structure(s) for which the start of construction commenced on or after the original effective date of the Flood plain Overlay Zone.~~
28. ~~Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.~~
29. ~~Recreational Vehicle: Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801.350, and 801.565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub Z., of this Section.~~
30. ~~Special Flood Hazard Area (SFHA): See Flood Plain. (Amended ORD 594, Effective 3/2/10)~~
31. ~~Start of Construction: The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not used as part of the main structure.~~
- ~~For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.~~
- ~~For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.~~
32. ~~State Building Code: The combined specialty codes adopted by the State of Oregon. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
33. ~~Structure: Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.~~

~~34. Substantial Improvement: Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:~~

- ~~1. Before the improvement or repair is started; or~~
- ~~2. If the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences whether or not that alteration affects the external dimensions of the structures. The term does not include:~~
 - ~~1. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.~~
 - ~~2. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure as determined by the City Manager or Planning Commission using alteration criteria. (Amended 11/4/10 ORD 600)~~

~~35. Watercourse: A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified flood plain.~~

7.2.113.03 General Provisions

The following regulations apply to all lands in identified flood plains as shown graphically on the zoning maps. The flood plain is those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Yamhill County, Oregon, and Incorporated Areas, with an effective date of March 2, 2010," with accompanying Flood Insurance Rate Maps. The report and maps are incorporated in the overlay zone by this reference and are on file at the City of Dayton. When base flood elevation data has not been provided, the City Manager, or designee, shall have the authority to determine the location of the boundaries of the flood plain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination. (Amended ORD 594 2/1/10, Enacted 3/2/10)

- ~~1. Duties of the City Manager, or designee, shall include, but not be limited to:~~
 - ~~1. Review all development permits to determine that the permit requirements and conditions of this Code have been satisfied. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
 - ~~2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.~~
 - ~~3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 7.2.113, are met.~~
- ~~2. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City Manager, or designee, shall obtain,~~

review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.

~~3.—Information to be Obtained and Maintained~~

- ~~1.—From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement and below-grade crawl space) of all new or substantially improved structures. (Note: Below-grade crawl spaces are allowed subject to the standards as found in Federal Emergency Management Agency (FEMA) Technical Bulletin 11-01, Crawlspace Construction for Buildings Located in Special Flood Hazard Areas.) (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
- ~~2.—For all new or substantially improved flood-proofed structures:~~
 - ~~1.—Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,~~
 - ~~2.—Maintain any flood-proofing certifications required by this Section.~~
- ~~3.—Maintain for public inspection all records pertaining to the provisions of this Code.~~
- ~~4.—Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.~~

~~7.2.113.04 Uses—Exempt~~

~~Within a Flood Plain Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone and the provisions of this overlay zone. Except as provided herein all uses and flood plain development shall be subject to issuance of a determination or a conditional use permit as provided in Sections 7.2.113.06, and 7.2.113.07. The following uses are exempt from the regulations of this overlay zone:~~

- ~~1.—Signs, markers, aids, etc., placed by a public agency to serve the public.~~
- ~~2.—Driveways, parking lots and other open space use areas where no alteration of topography will occur.~~
- ~~3.—Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.110.~~
- ~~4.—Customary dredging associated with channel maintenance consistent with applicable State or Federal law.~~
- ~~5.—Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.~~

~~7.2.113.05 Uses—Permitted And Subject To Flood Plain Development Permit~~

~~If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit such as commercial and industrial uses, including the placement of fill to elevate a structure or site grading to prepare a site for development, may be allowed subject to a written determination (flood plain development permit) that the following requirements are met:~~

- ~~1. The structure is not located within a floodway. (See 7.2.113.07 L.) (Amended ORD 594, Enacted 3/2/10)~~
- ~~2. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.~~
- ~~3. The structures will be located on natural grade or compacted fill.~~
- ~~4. The lowest floor will be elevated to at least one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 7.2.113.07.F.. (Amended ORD 594 2/1/10, Enacted 3/2/10)~~
- ~~5. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections 7.2.113.A.4.07.~~
- ~~6. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 7.2.113.03.C, prior to occupancy.~~
- ~~7. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the Zoning Manager prior to use of the structure.~~
- ~~8. No alteration of topography beyond the perimeter of the structure is proposed.~~
- ~~9. A recreational vehicle may be located in a flood plain only during the non flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and, has no permanently attached additions.~~

~~7.2.113.06 (Reserved)~~

~~7.2.113.07 Flood Protection Standards~~

~~In all areas of identified flood plain, the following requirements apply:~~

- ~~1. Dwellings and Manufactured Homes New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this Code shall:~~
 - ~~1. Have the lowest floor, including basement and below grade crawl space, elevated on a permanent foundation to a minimum of one (1) foot above base flood elevation; and (Amended ORD 594 2/1/10, enacted 3/2/10)~~
 - ~~2. Manufactured homes shall be anchored in accordance with subsection F; and~~
 - ~~3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.~~
 - ~~4. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~

- ~~1. A minimum of 2 openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.~~
- ~~2. The bottom of all openings shall be no higher than one foot above grade.~~
- ~~3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~
2. ~~Manufactured Homes in Existing Manufactured Home Parks~~—Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:
 - ~~1. Have the finished floor elevated to a minimum of 18 inches above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement; or, (Amended ORD 5942/1/10, enacted 3/2/10)~~
 - ~~2. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. (Amended ORD 5942/1/10, enacted 3/2/10)~~

~~Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.~~

- ~~3. Non-residential Development~~—New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - ~~1. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.~~
 - ~~2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~
 - ~~3. Be certified by a registered professional engineer or architect that the standards in this subsection and subsection E, are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood proofed.~~
 - ~~4. Non-residential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in 7.2.110.07A,4.~~
 - ~~5. Applicants flood proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).~~
4. ~~Accessory Structures~~—Sheds or detached garages may be exempt from elevation and flood proofing standards providing the following development standards are met:
 - ~~1. The structure cannot be more than 480 square feet in area and shall not be used for human habitation;~~
 - ~~2. Shall be designed to have low potential for flood damage;~~

- ~~3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,~~
- ~~4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.~~

~~5. Fill~~

- ~~1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.~~
- ~~2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.~~

~~6. Anchoring~~

- ~~1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.~~
- ~~2. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over the top and frame ties to ground anchors. Specific requirements shall be that:~~
 - ~~1. Over the top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.~~
 - ~~2. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.~~
 - ~~3. All components of the anchoring system be capable of carrying a force of 4,800 pounds.~~
 - ~~4. Any additions or expansions to the manufactured home be similarly anchored.~~
- ~~3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).~~

~~7. Construction Materials and Methods~~

- ~~1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.~~
- ~~2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damages.~~

~~8. Utilities~~

- ~~1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.~~

- ~~2.—New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.~~
- ~~3.—Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.~~
- 9.—Developments, Generally—Residential developments involving more than one single family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A, and C, shall meet the following requirements:
 - ~~1.—Be designed to minimize flood damage.~~
 - ~~2.—Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.~~
 - ~~3.—Have adequate drainage provided to reduce exposure to flood damage.~~
 - ~~4.—Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods (as approved by the Building Official and/or City Engineer) will be required. (Amended ORD 594 2/1/10, Effective 3/2/10)~~
- ~~10. Storage of Materials and Equipment—Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.~~
11. Alteration of Watercourses (Floodways)—When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:
 - ~~1.—Adjacent communities, the Oregon Division of State Lands and the Department of Land Conservation and Development, and other appropriate state and federal agencies shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration. (Amended ORD 594 2/1/10, Effective 3/2/10)~~
 - ~~2.—Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.~~
12. Floodways—Located within areas of flood plain established in Section 7.2.110.03 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions shall apply in addition to the requirement in I: (These provisions shall also apply to areas within a flood plain where a floodway has not been technically determined and the base flood level is three (3) or more feet above the land surface:)
 - 1.—Except as provided in number 5 below, prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence

of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review. (Amended ORD 594 2/1/10, Enacted 3/2/10)

2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 7.2.110.07.
3. Prohibit the placement of any new manufactured home parks and manufactured homes except in an existing manufactured home park. (Amended ORD 594 2/1/10, Enacted 3/2/10)
4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.
5. Projects for stream habitat restoration may be permitted in the floodway provided: (Added ORD 594 2/1/10, Enacted 3/2/10)
 1. The project is certified by a qualified professional (a Registered Professional Engineer, Yamhill County staff, or an applicable State agency); provides a feasibility analysis and certification indicating that the project was designed to keep any rise in the 100-year flood levels as close to zero as practically possible given the goals of the project; evidence is presented that no structures will be impacted by a potential rise in flood elevation; and evidence that the local approval process requires an agreement to monitor the project, correct problems, and ensure the flood carrying capacity remains unchanged. (Added ORD 594 2/1/10, Enacted 3/2/10)
6. New Installation of Manufactured dwellings is prohibited (2002 Oregon Manufactured Dwelling Park and Specialty Code). Manufactured dwellings may only be located in floodways according to one of the following conditions. (Added ORD 594 2/1/10, Enacted 3/2/10)
 1. If the manufactured dwelling already exists in the floodway, the placement was permitted at the time of the original installation, and the continued use is not a threat to life, health, property, or the general welfare of the public; or (Added ORD 594 2/1/10, Enacted 3/2/10)
 2. A new manufactured dwelling is replacing an existing manufactured dwelling whose original placement was permitted at the time of installation and the replacement home will not be a threat to life, health, property, or general welfare of the public and it meets the following: (Added ORD 594 2/1/10, Enacted 3/2/10)
 1. Demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the manufactured dwelling and any accessory buildings, accessory structures, or property improvements (encroachments) will not result in any increase in flood levels during occurrence of the base flood discharge; (Added ORD 594 2/1/10, Enacted 3/2/10)
 2. Provide evidence that the replacement manufactured dwelling and any accessory buildings or accessory structures (encroachments) shall have the finished floor elevated a minimum of 18 inches (46cm) about the

base flood elevation as identified on the Flood Insurance Rate Map;
(Added ORD 594 2/1/10, Enacted 3/2/10)

3. Provide evidence that the replacement manufactured dwelling is placed and secured to a foundation support system designed by an Oregon professional engineer or architect and approved by Yamhill County Building Official. Placement shall be as approved; (Added ORD 594 2/1/10, Enacted 3/2/10)
4. Provide evidence that the replacement manufactured dwelling, its foundation supports, and any accessory buildings, accessory structures, or property improvements (encroachments) do not displace water to the degree that it causes a rise in the water level or diverts water in a manner that causes erosion or damage to other properties; (Added ORD 594 2/1/10, Enacted 3/2/10)
5. Provide evidence that the location of a replacement manufactured dwelling is allowed by the local planning department's ordinances; and; (Added ORD 594 2/1/10, Enacted 3/2/10)
6. Provide evidence of compliance with any requirements deemed necessary by the authority having jurisdiction. (Added ORD 594 2/1/10, Enacted 3/2/10)

13. ~~Recreational Vehicles~~ For recreational vehicles on individual lots see Off-Street Parking and Loading, Section 7.2.303.10 C,3, and for recreational vehicles within recreational vehicle parks see Section 7.2.408.05, Floodplain. (Added ORD 594 2/1/10, Enacted 3/2/10)

14. ~~Critical Facilities~~ Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical Facilities constructed within the SFHA shall have the lowest floor elevated three (3) feet above the base flood elevation (BFE) or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Added ORD 594 2/1/10, Enacted 3/2/10)

7.2.113.08 Generalized Flood Plain Areas

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is not in a flood plain. In such cases, a letter of map amendment may be required by the City Manager.

7.2.113.09 Variances

- ~~1.—A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 7.2.114.10.~~
- ~~2.—A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.~~
- ~~3.—A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the Manager.~~

~~7.2.113.10 Variance Criteria~~

~~The following criteria shall be used to review variance applications.~~

- ~~1.—Variances shall only be issued upon a showing that:~~
 - ~~1.—There is a good and sufficient cause;~~
 - ~~2.—That failure to grant the variance would result in exceptional hardship to the applicant;~~
 - ~~3.—That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;~~
 - ~~4.—The variance is the minimum necessary, considering the flood hazard, to afford relief;~~
 - ~~5.—The variance will be consistent with the intent and purpose of the provision being varied;~~
 - ~~6.—There has not been a previous land use action approved on the basis that variances would not be allowed; and~~
 - ~~7.—The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.~~

~~7.2.113.11 Warning And Disclaimer Of Liability~~

~~The degree of flood protection required by this overlay zone is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on occasion. Flood heights may be increased by man-made or natural causes. This zone does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This zone will not create liability on the part of the City of Dayton, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any decision lawfully made thereunder~~

7.113.01 Purpose.

The flood hazard areas of Dayton preserve the natural and beneficial values served by floodplains but are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

The purpose of the Flood Plain Overlay District (FPO) is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

- A. Protect human life and health;*
- B. Minimize expenditure of public money for costly flood control projects;*
- C. Preserve natural and beneficial floodplain functions;*
- D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;*
- E. Minimize prolonged business interruptions;*
- F. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;*
- G. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;*
- H. Notify potential buyers that the property is in a special flood hazard area;*
- I. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;*
- J. Participate in and maintain eligibility for flood insurance and disaster relief.*

7.113.02 Methods of Reducing Flood Losses.

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;*
- B. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;*
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;*
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;*

- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

7.113.03 Definitions.

For the FPO only, the following terms, words or phrases shall be interpreted so as to give them the meaning they have in common usage.

Appeal: *A request for a review of the interpretation of any provision of this ordinance or a request for a variance.*

Area of shallow flooding: *A designated Zone AO, AH, AR/AO or AR/AH on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.*

Area of special flood hazard: *The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard.”*

Base flood: *The flood having a one percent chance of being equaled or exceeded in any given year.*

Base flood elevation (BFE): *The elevation to which floodwater is anticipated to rise during the base flood.*

Basement: *Any area of the building having its floor subgrade (below ground level) on all sides.*

Development: *Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*

Fill: *Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered “development.”*

Fish Accessible Space: *The volumetric space available to fish to access.*

Fish Egress-able Space: *The volumetric space available to fish to exit or leave from.*

Flood or Flooding:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: *an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.*

Flood Insurance Rate Map (FIRM): *The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).*

Flood Insurance Study (FIS): *See "Flood elevation study."*

Floodway: *The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."*

Functionally Dependent Use: *A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.*

Green Infrastructure: *Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.*

Habitat Restoration Activities: *Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).*

Hazard Trees: *Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.*

Highest adjacent grade: *The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.*

Historic structure: *Any structure that is:*

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation: A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

Low Impact Development: An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured dwelling” does not include a “recreational vehicle” and is synonymous with “manufactured home.”

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Dayton and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See "Area of special flood hazard" for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

Variance: A grant of relief by City of Dayton from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation

certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

7.113.04 Applicability.

- A. Lands to which this Ordinance applies: This ordinance shall apply to all special flood hazard areas within the jurisdiction of the City of Dayton.*
- B. Basis for Establishing the Areas of Special Flood Hazard. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas, dated March 2, 2010," with accompanying flood insurance map (FIRM) is hereby adopted by reference and declared to be part of this chapter. The flood insurance study and the FIRM are on file at the City Hall.*
- C. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Dayton administers and enforces the State of Oregon Specialty Codes, the City of Dayton does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.*
- D. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.*
- E. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of this ordinance are subject to enforcement by the City of Carton under Section 7.04.06.*
- F. Abrogation. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.*
- G. Severability. This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.*
- H. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:*
 - 1. Considered as minimum requirements;*
 - 2. Liberally construed in favor of the governing body; and*
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.*

7.113.05 Warning and disclaimer of liability

- A. Warning. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.*

- B. Disclaimer of liability. This ordinance shall not create liability on the part of the City of Dayton, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.*

7.113.06 Administration.

- A. Designation of the Floodplain Administrator. The City Manager (or designee) is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.*

- B. Duties and Responsibilities of the Floodplain Administrator. Duties of the floodplain administrator, or their designee, shall include, but not be limited to:*

1. Permit Review. Review of all floodplain development permits to:

- a. Determine that the permit requirements of this ordinance have been satisfied;*
- b. Determine that all other required local, state, and federal permits have been obtained and approved;*
- c. Determine if the proposed development is in a floodway.*
 - i. If located in the floodway assure that the floodway provisions of this ordinance in Section 7.113.09 are met; and*
 - ii. Determine if the proposed development is in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of Section 7.113.09; and*
 - iii. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a floodplain development permit.*
- d. Determine if the proposed development qualifies as a substantial improvement as defined in Section 7.113.03.*
- e. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 7.113.09.A.*
- f. Determine if the proposed development activity includes the placement of fill or excavation.*
- g. Determine whether the proposed development activity complies with the no net loss standards in Section 7.113.11.*

- C. Information to be obtained and maintained.*

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- 1. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 7.113.09.H.*

2. *The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Sections 7.113.06.B.1 and 7.113.07 are adhered to.*
 3. *Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).*
 4. *Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.*
 5. *Maintain all Elevation Certificates (EC) submitted to the community.*
 6. *The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 7.113.09.H.*
 7. *All floodproofing certificates required under this ordinance.*
 8. *All variance actions, including justification for their issuance.*
 9. *All hydrologic and hydraulic analyses performed as required under Section 7.113.10.D.*
 10. *All Substantial Improvement and Substantial Damage calculations and determinations as required under Section 7.113.06.D.4.*
 11. *Documentation of how no net loss standards have been met (see Section 7.113.11.A).*
 12. *All records pertaining to the provisions of this ordinance.*
- D. *Requirement to notify other entities and submit new technical data.*
1. *Community Boundary Alterations.*
The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
 2. *Watercourse Alterations.*
 - a. *The Floodplain Administrator shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:*
 - (i). A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or*

- (ii). *Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.*
- b. *The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 7.113.06.D.*
- 3. *Requirement to Submit New Technical Data. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:*
 - a. *Proposed floodway encroachments that increase the base flood elevation; and*
 - b. *Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.*

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

4. *Substantial Improvement and Substantial Damage Assessments and Determinations.*

Conduct Substantial Improvement (SI) (as defined in Section 7.113.03) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 7.113.06.C. Conduct Substantial Damage (SD) (as defined in Section 7.113.03) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 7.113.06.B) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

7.113.07 Floodplain Development Permit

A. *Floodplain Development Permit Required.*

A floodplain development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in 7.113.06.B. The floodplain development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 7.113.03, including fill and other development activities.

B. *Application for Floodplain Development Permit.*

Application for a floodplain development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. *In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section 7.113.06.C.*
2. *Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.*
3. *Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section 7.113.10.C.3.*
4. *Description of the extent to which any watercourse will be altered or relocated.*
5. *Base Flood Elevation data for subdivision proposals or other development when required per Sections 7.113.06.B.1 and 7.113.09.G.*
6. *Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.*
7. *The amount and location of any fill or excavation activities proposed.*

7.113.08 Variance Procedure.

- A. *A variance as described in this section is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.*
- B. *Conditions for variances.*
 1. *Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of Sections 7.113.08.B.3 and 5, and 7.113.08.C. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.*
 2. *Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.*
 3. *Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.*
 4. *Variances shall only be issued upon finding:*
 - a. *A showing of good and sufficient cause;*
 - b. *A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,*
 - c. *A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.*
 5. *Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by*

methods that minimize flood damages during the base flood and create no additional threats to public safety.

6. *Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 7.113.11 and associated options in Table 1).*

C. Variance Notification

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 7.113.06.C.

7.113.09 Provisions for Flood Hazard Reduction.

General Standards. In all special flood hazard areas, the no net loss standards (see Section 7.113.11.A) and the following standards shall be adhered to:

A. Alteration of Watercourses.

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with Section 7.113.06.D.2. and 7.113.06.3.

B. Anchoring.

1. *All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.*
2. *All manufactured dwellings shall be anchored per Section 7.113.10.C.4.*

C. Construction Materials and Methods.

1. *All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.*
2. *All new construction and substantial improvements shall also be constructed using methods and practices that minimize flood damage.*

D. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

E. Electrical, Mechanical, Plumbing, and Other Equipment.

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall meet all the requirements of this section if replaced as part of a substantial improvement.

F. Tanks.

Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

G. Subdivision proposals and other proposed developments.

- 1. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals Base Flood Elevation data.*
- 2. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:*
 - i. Be consistent with the need to minimize flood damage.*
 - ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.*
 - iii. Have adequate drainage provided to reduce exposure to flood hazards.*
 - iv. Comply with no net loss standards in Section 7.113.11.A.*

H. Use of Other Base Flood Elevation Data.

- 1. When Base Flood Elevation data has not been provided in accordance with Section 7.113.04.B, the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 7.113.09. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 7.113.09.G.*
- 2. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.*

10. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon

I. Structures Located In Multiple Or Partial Flood Zones

In coordination with the State of Oregon Specialty Codes:

- 1. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.*
- 2. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.*

7.113.10 Specific Standards for Riverine Flood Zones.

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 7.113.09 of this ordinance and the no net loss standards (see Section 7.113.11.A).

A. Flood Openings.

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- 1. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;*
- 2. Be used solely for parking, storage, or building access;*
- 3. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:*
 - a. A minimum of two openings;*
 - b. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;*
 - c. The bottom of all openings shall be no higher than one foot above grade;*
 - d. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,*
 - e. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.*

B. Garages

- 1. Attached Garages. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:*
 - a. If located within a floodway the proposed garage must comply with the requirements of section 7.113.10.D;*
 - b. The floors are at or above grade on not less than one side;*
 - c. The garage is used solely for parking, building access, and/or storage;*

- d. *The garage is constructed with flood openings in compliance with section 7.113.10.A to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;*
 - e. *The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;*
 - f. *The garage is constructed in compliance with the standards in section 7.113.09.I and,*
 - g. *The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.*
2. *Detached Garages. Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 7.113.10.C.6 or non-residential structures in section 7.113.10.C.3 depending on the square footage of the garage.*
- C. *For Riverine Special Flood Hazard Areas with Base Flood Elevations.*

In addition to the general standards listed in Section 7.113.10. A the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

1. *Before Regulatory Floodway.*

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in Section 7.113.11.A.

2. *Residential Construction.*

New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE). Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 7.113.10.A.

3. *Non-Residential Construction.*

- a. *New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:*
 - i. *Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE); or*
 - ii. *Together with attendant utility and sanitary facilities:*
 - (a) *Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects*

of buoyancy; and, c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 7.113.06.C.

- (b). Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 7.113.10.A.*
- (c). Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one (1) foot below).*

4. Manufactured Dwellings.

- a. Manufactured dwellings to be placed (new or replacement) or substantially improved that are supported on solid foundation walls shall be constructed with flood openings that comply with Section 7.113.10.A.*
- b. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;*
- c. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;*
- d. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).*

5. Recreation Vehicles.

Recreational vehicles placed on sites are required to:

- a. Be on the site for fewer than 180 consecutive days, and*
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or*
- c. Meet the requirements of Section 7.113.10.C.4, including the anchoring and elevation requirements for manufactured dwellings.*

6. Appurtenant (Accessory) Structures.

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine flood zones may be granted for appurtenant structures that meet the following requirements:

- a. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 7.113.10.D.*

- b. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation;*
- c. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;*
- d. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;*
- e. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;*
- f. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 7.113.10.A.*
- g. Appurtenant structures shall be located and constructed to have low damage potential;*
- h. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 7.113.09.F; and,*
- i. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.*

D. Floodways.

Where the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:*
 - a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or*
 - b. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 7.113.11.A.*
- 2. If the requirements of Section 7.113.10.D. are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Sections 7.113.09 and 7.113.11.*

E. *Standards for Shallow Flooding Areas.*

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

1. *Standards for AH Zones.*

Development within AH Zones must comply with the standards in 7.113.09 and 7.113.10.

2. *Standards for AO Zones.*

In AO zones, the following provisions apply in addition to the requirements in 7.113.10.

- a. *New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) or at least two (2) feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.*
- b. *New construction, conversion to, and substantial improvements of nonresidential structures within AO zones shall either:*
 - i. *Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRMS) or at least two (2) feet if no depth number is specified; or*
 - ii. *Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 5.2.3.3(A)(4).*
- c. *Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:*
 - i. *Be on the site for fewer than 180 consecutive days, and*
 - ii. *Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or*
 - iii. *Meet the elevation requirements of Section 7.113.10.E.2 and the anchoring and other requirements for manufactured dwellings of Section 7.113.10.E.2(c).*
- d. *In AO zones, new and substantially improved appurtenant structures must comply with the standards in Section 7.113.10.C.6*

- e. *In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in Section 7.113.10.A*

7.113.11 Standards for Protection of SFHA Floodplain Functions

The standards described below apply to all special flood hazard areas as defined in Section 7.113.03.

A. No Net Loss Standards.

No net loss of the three proxies for the floodplain functions is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:

- 1. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);*
- 2. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;*
- 3. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.*

B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.

C. No net loss must be provided within, in order of preference:

- 1. The lot or parcel that floodplain functions were removed from,*
- 2. The same reach of the waterbody where the development is proposed, or*
- 3. The special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.*

D. Undeveloped Space.

- 1. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.*
- 2. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.*
- 3. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).*

a. *Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:*

(1) Ordinary High Water Mark to 10-year,

(2) 10-year to 25-year,

(3) 25-year to 50-year,

(4) And 50-year to 100-year

b. *Hydrologically connected to the waterbody that is the flooding source;*

c. *Designed so that there is no increase in velocity; and*

d. *Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.*

E. Impervious Surfaces.

Impervious surface mitigation shall be mitigated through any of the following options:

- 1. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or*
- 2. Use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or*
- 3. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading. See Section 7.113.11.G for stormwater retention specifications.*

F. Trees.

Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area. This requirement does not apply to silviculture where there is no development.

- 1. Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.*
- 2. Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.*

G. Stormwater Management.

Any development proposal that cannot mitigate as specified in Section 7.113.11.E.1. and 2. must include the following:

- 1. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and*

2. *Retention facilities that must:*

- a. *Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series).*
- b. *Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.*
- c. *Be designed to not entrap fish and drain to the source of flooding.*
- d. *Be certified by a qualified professional.*

3. *Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:*

- a. *Access to stormwater treatment facilities at the site by the City of Dayton for the purpose of inspection and repair.*
- b. *A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.*
- c. *For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.*
- d. *The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times. Records of the maintenance and repairs shall be retained and made available for inspection by the City of Dayton for five years.*

H. *Activities Exempt from No Net Loss Standards.*

The following activities are not subject to the no net loss standards in Section 7.113.11.A; however, they may not be exempt from floodplain development permit requirements.

- 1. *Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;*
- 2. *Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts. Activities exempt do not include expansion of paved areas;*
- 3. *Routine maintenance of landscaping that does not involve grading, excavation, or filling;*
- 4. *Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;*
- 5. *Routine silviculture practices that do not meet the definition of development, including harvesting of trees as long as root balls are left in place and forest road construction or maintenance that does not alter contours, use, or alter culverts;*

6. *Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;*
7. *Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;*
8. *Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.*
9. *Habitat restoration activities.*

I. Riparian Buffer Zone (RBZ)

1. *The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 70 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.*
2. *Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.*
3. *Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.*
4. *Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.*
5. *Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.*

Table 1 No Net Loss Standards

<i>Basic Mitigate Ratios</i>	<i>Undeveloped Space (ft³)</i>	<i>Impervious Surface (ft²)</i>	<i>Trees (6"<dbh≤20")</i>	<i>Trees (20"<dbh≤39")</i>	<i>Trees (39"<dbh)</i>
<i>RBZ and Floodway</i>	<i>2:1*</i>	<i>1:1</i>	<i>3:1*</i>	<i>5:1</i>	<i>6:1</i>
<i>RBZ - Fringe</i>	<i>1.5:1*</i>	<i>1:1</i>	<i>2:1*</i>	<i>4:1</i>	<i>5:1</i>
<i>Mitigation multipliers</i>					
<i>Mitigation onsite to Mitigation offsite, same reach</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>	<i>100%</i>

Mitigation onsite to Mitigation offsite, different reach, same watershed (5th field)	200% *	200% *	200% *	200%	200%
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Notes (table above):

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
 - a. For example, if only 500 square feet of the total 1000 square feet of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 square feet of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See Riparian Buffer Zone)



FEMA

July 15, 2024

Annette Frank
416 Ferry Street
Post Office Box 339
Dayton, Oregon 97114

Dear Annette Frank:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a

compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of Dayton there are currently 1 of NFIP policies in force representing \$250000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-isrTsqGN0KqckRLPPeaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: https://kearnswest.zoom.us/meeting/register/tZlqcOGpqDojHtTXaa946aI9dMpCTcJIH_zt
- Wednesday, August 21 at 12:30-2:30pm PT: <https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9gy>

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address fema-r10-mit-

Frank
July 15 2024
Page 3

PICM@fema.dhs.gov. Thank you for your community's on-going efforts to reduce flood risk in your community and for your support as we worked toward these milestones.

Sincerely,



Willie G. Nunn
Regional Administrator
FEMA Region 10

cc: DaveRucklos, City Of Dayton
John Graves, Floodplain Management and Insurance Branch Chief
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet

Oregon National Flood Insurance Program Endangered Species Act Integration

Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).

Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).

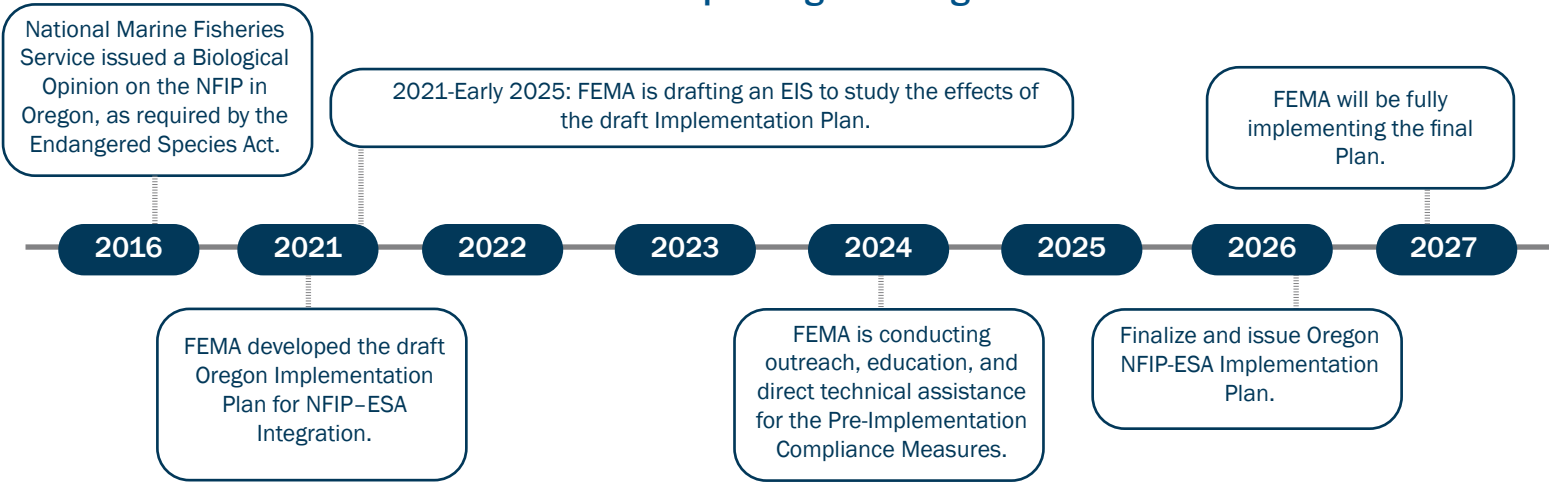


The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

What is “no net loss”?
Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

Timeline for Updating the Oregon NFIP



What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

EXHIBIT C



NFIP Oregon Implementation Program Guidance

Model Floodplain Management Ordinance

For Participating Communities in the
Implementation Plan Area



FEMA

Federal Emergency Management Agency
Region 10
Department of Homeland Security
130 – 228th Street SW
Bothell, WA 98021

Note to Communities: This document presents the draft model ordinance that for the Pre-Implementation Compliance Measures and is intended to closely represent most of the language that will be presented as Pathway A of the Draft Implementation Plan. It is built off the 2020 State of Oregon Model Flood Hazard Management Ordinance and the 2018 iteration of the Oregon Model ordinance for ESA Integration. It reflects the NMFS 2016 Biological Opinion (BiOp) (except where noted) and is informed by the 2023 NEPA Scoping effort.

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Acronyms and Abbreviations

BiOp	Biological Opinion
CFR	Code of Federal Regulations
CLOMR	Conditional Letter of Map Revision
CRS	Community Rating System
dbh	diameter breast height
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
LID	Low-Impact Development
LOMR	Letter of Map Revision
MHHW	Marine Higher-High Water line
NFIP	National Flood Insurance Program
NMFS	National Marine Fisheries Service
OHWM	Ordinary High Water Mark
ORS	Oregon Revised Statutes
ORSC	Oregon Residential Specialty Code
OSSC	Oregon Structural Specialty Code
RBZ	Riparian buffer zone
SFHA	Special Flood Hazard Area
TB	Technical Bulletin

SECTION 1. Introduction

FEMA has developed this model flood hazard management ordinance (“2024 model ordinance”) to address the requirements outlined in the Draft Implementation Plan for National Flood Insurance Program (NFIP)-Endangered Species Act (ESA) Integration in Oregon (“Oregon Implementation Plan”). The Federal Emergency Management Agency (FEMA) consulted with the National Marine Fisheries Service (NMFS) on potential effects of the implementation of the NFIP in Oregon on listed species under NMFS authority. In 2016, NMFS issued a Biological Opinion (BiOp), which recommended changes to the implementation of the NFIP in Oregon within the plan area (see the 2024 Draft Oregon Implementation Plan for NFIP-ESA Integration [2024 Draft Implementation Plan] for a description of the plan area).

As a result of the BiOp issued by NMFS, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in the SFHA while the 2024 Draft Implementation Plan undergoes an Environmental Impact Statement (EIS). The 2024 model ordinance provides the tools a community would need to implement “Path A” of the 2024 Draft Implementation Plan and serves as one of three actions a community can take under Pre-Implementation Compliance Measures (PICM).

The regulatory language contained within the 2024 model ordinance can be adopted verbatim and incorporated into local floodplain and land use regulations, or a community may select those sections that are missing from its current floodplain ordinance and adopt those sections. The State of Oregon’s Model Flood Hazard Management Ordinance (2020) was used as a starting point, with additions to provide compliance with the Oregon Implementation Plan. The additional sections are clearly noted with yellow highlighting to simplify implementation for Oregon communities in the plan area that have already adopted the Oregon Model Flood Hazard Management Ordinance (2020).

This 2024 model ordinance provides a set of provisions to protect the built environment from flood damage and to minimize potential impacts of construction and reconstruction on public health and safety, property, water quality, and aquatic and riparian habitats. The requirements pertain to new development in Special Flood Hazard Area (see definitions), which includes the maintenance, repair, or remodel of existing structures and utilities when the existing footprint is expanded and/or the floodplain is further encroached upon.

The Oregon Implementation Plan and this model ordinance do not change the definition of development in 44 Code of Federal Regulations [CFR] 59.1.

“Development” is defined as “any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.” (44 C.F.R. 59.1)

The 2024 model ordinance provides compliance with federal and state statutes and with the Oregon Implementation Plan. The 2024 model ordinance conforms to the following:

1. The requirements of the NFIP, as specified in 44 CFR 59 and 60.
2. Oregon State codes to protect structures from flood damage that are specified in Oregon Structural Specialty Code (OSSC), Section 1612 and Oregon Residential Specialty Code (ORSC), Section R322.
3. Oregon Statewide Land Use Planning Goals
4. Provisions needed to meet the requirements of the Oregon Implementation Plan for NFIP-ESA Integration. These sections are highlighted in yellow in the model ordinance.

This 2024 model ordinance provides communities with ordinance language that complies with the NFIP-ESA Integration Implementation Plan. Adoption of the ordinance language will ensure compliance with the minimum standards for participation in the NFIP in the plan area in Oregon. Prior to adoption of the ordinance language, communities must have their locally proposed draft language reviewed by FEMA and/or the Oregon Department of Land Conservation and Development.

The model flood hazard ordinance includes standards and provisions that encourage sound floodplain management. The language is based on the minimum requirements of the NFIP found in 44 CFR 59 and 60, Oregon's statewide land use planning Goal 7, and Oregon specialty codes. The new language added to the state model floodplain ordinance, highlighted in yellow, provides compliance with the ESA for floodplain development in the plan area.

Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can prevent the no net loss of the parent floodplain functions. These proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation. Mitigation of these proxies must be completed to ensure compliance with no net loss standards. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact.

1.1. How to Use this Document

This 2024 model ordinance includes a Table of Contents and a Regulatory Crosswalk that identifies the federal and state standards that align to and are reflected in each section. Communities will need to review their ordinances and ensure that all the required components are included.

Please refer to [FEMA's website](#) for information on how to determine whether or not your community is within the plan area.

1.1.1. ORDINANCE LANGUAGE LEGEND:

The colors are used in the text in the model ordinance to denote specific actions or sections with specific applicability.

- Black: Represents the existing NFIP and current state minimum requirements that are found in the 2020 Oregon Model Flood Hazard Management Ordinance.
- Red: Represents language that must be replaced with community specific information. Only include the appropriate language for your community.
- Purple: Represents language required for communities with Coastal High Hazard Areas mapped by FEMA (V Zones or Coastal A Zones). *(DELETE ALL PURPLE LANGUAGE IF NOT A COASTAL COMMUNITY).*
- Blue: Represents hyperlinks to other sections of the document or external websites.
- Yellow highlighting: Represents new ordinance language not in the 2020 Oregon Model Flood Hazard Management Ordinance. Communities that have previously adopted the state model ordinance may focus on the yellow highlighted sections.

1.2. Changes from the 2020 Oregon Model Flood Hazard Management Ordinance

This 2024 version of the Oregon Model Flood Hazard Ordinance (to be referred to herein as the “2024 Model Ordinance”), varies from the 2020 Oregon Model Flood Hazard Management Ordinance. with the addition of new content to be included for ESA compliance for NFIP-participating communities in the plan area. If no part of the Special Flood Hazard Area (SFHA) in your NFIP-participating community is in the Oregon NFIP-ESA Integration plan area, your community may continue to use the 2020 Oregon Model Flood Hazard Management Ordinance.

In general, the ordinance was revised to ensure that the implementation of the NFIP-ESA integration no net loss standards avoids or offsets adverse impacts on threatened and endangered species and their critical habitat. A summary of the primary changes found in the 2024 model ordinance is provided below:

1. New language has been added to incorporate the following no net loss standards:
 - a. No net loss of undeveloped space (see Section 6.1.1).
 - b. No net loss of pervious surface. (see Section 6.1.2).
 - c. No net loss of trees equal to or greater than 6 inches dbh (i.e., tree diameter measured at 4.5 feet from the ground surface). (see Section 6.1.3).

2. Some definitions (see 2.0) have been added to provide context for the new no net loss standards from the Oregon Implementation Plan.
3. Language has been added:
 - a. (see 6.3) to address activities that may require a floodplain development permit but are exempt from the no net loss requirement per the BiOp.
 - b. (see 6.4) to address the specific requirements of the Riparian Buffer Zone (RBZ).
4. In general, the language in the 2024 model ordinance mirrors the language from the 2020 Oregon Model Flood Hazard Management Ordinance. Minor edits to the 2020 language have been made for clarity, punctuation, and grammar.

1.3. Community Rating System

Implementation of the new no net loss standards related to NFIP-ESA integration may be eligible for credit under the Community Rating System (CRS). The CRS is explained further in CRS Credit for Habitat Protection, available online at: <https://crsresources.org/files/guides/crs-credit-for-habitat-protection.pdf>, and the 2017 CRS Coordinators' Manual, available online at: https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinators-manual_2017.pdf, and the 2021 Addendum to the 2017 CRS Coordinator's Manual, available online at: https://www.fema.gov/sites/default/files/documents/fema_community-rating-system_coordinator-manual_addendum-2021.pdf. The Association of State Floodplain Managers' Green Guide, also provides useful information on development techniques that avoid impacts on natural functions and values of floodplains. This document is available at: www.floodsciencecenter.org/products/crs-community-resilience/green-guide/. Communities interested in CRS credits should contact their CRS specialist for additional information and review.

Implementation of the no net loss standards would most likely contribute to credits under the following CRS activities:

- Activity 430 Higher Regulatory Standards
 - Development Limitations
 - Prohibition of all fill (DL1a): This credit is for prohibiting all filling in the regulatory floodplain. To meet this standard, communities may NOT approve Conditional Letters or Letters of Map Revision based on Fill (CLOMR-F or LOMR-F). If a CLOMR-F or LOMR-F is issued for a property in a community, then DL1 credit will be denied. This applies to CLOMRs and LOMRs that include filling as part of the reason for requesting a map change. Minor filling may be allowed where needed to protect or restore natural floodplain functions, such as part of a channel restoration project.

- The CRS manual describes a number of regulatory approaches that do not warrant credit under DL1; however, because the Oregon NFIP-ESA integration no net loss standards exceed the approaches described in the manual, a community meeting the Oregon no net loss standards should qualify for credit under DL1.

- Compensatory storage (DL1b): This credit is for regulations that require new development to provide compensatory storage at hydraulically equivalent sites up to a ratio of 1.5:1. Credit is not provided for:

- Compensatory storage requirements in floodways only or in V Zones only, or

- Stormwater management regulations that require a developer to compensate for any increase in runoff created by the development. This is credited under Activity 450.

- Activity 450 Stormwater Management

- Stormwater management regulations (SMR – 452a): This credit is the sum of four sub-elements: Size of development (Section 452.a(1), SZ); design storm used (Section 452.a(2), DS); low-impact development (LID) regulations (Section 452.a(3), LID); and public agency authority to inspect and maintain, at the owner's expense, private facilities constructed to comply with the ordinance (Section 452.a.(4), PUB).

- LID credits the community's regulatory language that requires the implementation of LID techniques to the maximum extent feasible to control peak runoff when new development occurs. LID techniques can significantly reduce or eliminate the increase in stormwater runoff created by traditional development, encourage aquifer recharge, and promote better water quality.

SECTION 2. Regulatory Crosswalk

The following table presents a crosswalk of the model ordinance sections against the relevant federal and state laws, regulations, and policies. The new sections related to the Oregon NFIP-ESA integration implementation (yellow highlighted sections of the model ordinance) are not listed in this table and are related to compliance with the ESA.

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
1.1 Statutory Authorization	59.22(a)(2)	Goal 7; ORS 203.035 (Counties), ORS 197.175 (Cities)
1.2 Findings of Fact	59.22(a)(1)	Goal 7
1.3 Statement of Purpose	59.2; 59.22(a)(1) and (8); 60.22	Goal 7
1.4 Methods of Reducing Flood Losses	60.22	Goal 7
2.0 Definitions	59.1; 33 CFR 328.3(c)(7)	Goal 7
3.1 Lands to Which this Ordinance Applies	59.22(a)	Goal 7
3.2 Basis for Establishing the Special Flood Hazard Areas	59.22(a)(6); 60.2(h)	Goal 7
3.3 Coordination with Specialty Codes Adopted by the State of Oregon Building Codes Division		ORS 455
3.4.1 Compliance	60.1(b) – (d)	Goal 7
3.4.2 Penalties for Noncompliance	60.1(b) – (d)	Goal 7
3.5.1 Abrogation	60.1(b) – (d)	Goal 7
3.5.2 Severability		
3.6 Interpretation	60.1(b) – (d)	Goal 7
3.7.1 Warning		
3.7.2 Disclaimer of Liability		
4.1 Designation of the Floodplain Administrator	59.22(b)(1)	Goal 7
4.2.1 Permit Review	60.3(a)(1) – (3); 60.3(c)(10)	Goal 7
4.2.2 Information to be Obtained and Maintained	59.22(a)(9)(iii); 60.3(b)(5)(i) and (iii); 60.3(c)(4); 60.3(b)(3); 60.6(a)(6)	Goal 7; 105.9; 110.33; R106.1.4; R109.1.3; R109.1.6.1; R322.1.10; R322.3.6

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
4.2.3.1 Community Boundary Alterations	59.22(a)(9)(v)	Goal 7
4.2.3.2 Watercourse Alterations	60.3(b)(6) – (7), 65.6(12-13)	Goal 7
4.2.3.3 Requirement to Submit New Technical Data	65.3, 65.6, 65.7, 65.12	Goal 7
4.2.4 Substantial Improvement and Substantial Damage Assessments and Determinations	59.1; 60.3(a)(3); 60.3(b)(2); 60.3(b)(5)(i); 60.3(c)(1), (2), (3), (5) – (8), (10), (12); 60.3(d)(3); 60.3(e)(4), (5), (8)	Goal 7
4.3.1 Floodplain Development Permit Required	60.3(a)(1)	Goal 7
4.3.2 Application for Development Permit	60.3(a)(1); 60.3(b)(3); 60.3(c)(4)	Goal 7; Oregon Residential Specialty Code (R) 106.1.4; R322.3.6
4.4 Variance Procedure	60.6(a)	Goal 7
4.4.1 Conditions for Variances	60.6(a)	Goal 7
4.4.2 Variance Notification	60.6(a)(5)	Goal 7
5.1.1 Alteration of Watercourses	60.3(b)(6) and (7)	Goal 7
5.1.2 Anchoring	60.3(a)(3); 60.3(b)(1), (2), and (8)	Goal 7; R322.1.2
5.1.3 Construction Materials and Methods	60.3(a)(3), TB 2; TB 11	Goal 7; R322.1.3; R322.1.3
5.1.4.1 Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems	60.3(a)(5) and (6)	Goal 7; R322.1.7
5.1.4.2 Electrical, Mechanical, Plumbing, and Other Equipment	60.3(a)(3)	Goal 7; R322.1.6;
5.1.5 Tanks		R322.2.4; R322.3.7
5.1.6 Subdivision Proposals	60.3(a)(4)(i) – (iii); 60.3(b)(3)	Goal 7
5.1.7 Use of Other Base Flood Data	60.3(a)(3); 60.3(b)(4); 60.3(b)(3); TB 10-01	Goal 7; R322.3.2
5.1.8 Structures Located in Multiple or Partial Flood Zones		R322.1
5.2.1 Flood Openings	60.3(c)(5); TB 1; TB 11	Goal 7; R322.2.2;

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
		R322.2.2.1
5.2.2 Garages	TB 7-93	R309
5.2.3.1 Before Regulatory Floodway	60.3(c)(10)	Goal 7
5.2.3.2 Residential Construction	60.3(c)(2)	Goal 7
5.2.3.3 Non-residential Construction	60.3(c)(3) – (5); TB 3	Goal 7; R322.2.2; R322.2.2.1
5.2.3.4 Manufactured Dwellings	60.3(b)(8); 60.3(c)(6)(iv); 60.3(c)(12)(ii)	Goal 7; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011
5.2.3.5 Recreational Vehicles	60.3(c)(14)(i) – (iii)	Goal 7
5.2.3.6 Appurtenant (Accessory) Structures	60.3(c)(5); TB 1; TB 7-93	Oregon Structural Specialty Code (S) 105.2; R105.2
5.2.4 Floodways	60.3(d); FEMA Region X Fish Enhancement Memo (Mark Riebau)	Goal 7
5.2.5 Standards for Shallow Flooding Areas	60.3(c)(7), (8), (11), and (14)	Goal 7
5.3 Specific Standards for Coastal High Hazard Flood Zones, and 5.3.1 Development Standards	60.3(e); TB 5; TB 8; TB 9	Goal 7; R322.3.1; R322.3.2; R322.3.3; R322.3.4; R322.3.5
5.3.1.1 Manufactured Dwelling Standards for Coastal High Hazard Zones	60.3(e)(8)(i) – (iii)	Goal 7; RR322.3.2; State of OR Manufactured Dwelling Installation Specialty Code (MDISC) and associated statewide Code Interpretation dated 1/1/2011

Ordinance Section	44 CFR and Technical Bulletin (TB) Citation(s)	State of Oregon Citation(s) (Goal 7, Specialty Codes*, Oregon Revised Statutes [ORS])
5.3.1.2 Recreational Vehicle Standards for Coastal High Hazard Zones	60.3(e)(9)(i)- (iii)	Goal 7
5.3.1.3 Tank Standards for Coastal High Hazard Zones		R322.2.4; R322.3.7

*[Link to Oregon Specialty Codes \(https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx\)](https://www.oregon.gov/bcd/codes-stand/Pages/adopted-codes.aspx)

SECTION 3. Model Ordinance Language

1.0 STATUTORY AUTHORITY, FINDINGS OF FACT, PURPOSE, AND METHODS

1.1 STATUTORY AUTHORIZATION

The State of Oregon has in **ORS 203.035 (COUNTIES) OR ORS 197.175 (CITIES)** delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the **COMMUNITY NAME** does ordain as follows:

1.2 FINDINGS OF FACT

- A. The flood hazard areas of **COMMUNITY NAME** **preserve the natural and beneficial values served by floodplains but** are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in special flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. **Preserve natural and beneficial floodplain functions;**
- D. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- E. Minimize prolonged business interruptions;

- F. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- G. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- H. Notify potential buyers that the property is in a special flood hazard area;
- I. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;
- J. Participate in and maintain eligibility for flood insurance and disaster relief.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- A. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.
- F. Employing a standard of “no net loss” of natural and beneficial floodplain functions.

2.0 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding: A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel

does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR (V, V1-30, VE). “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard.”

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall: A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Coastal high hazard area: An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Fill: Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered “development.”

Fish Accessible Space: The volumetric space available to fish to access.

Fish Egress-able Space: The volumetric space available to fish to exit or leave from.

Flood or Flooding:

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See "Flood elevation study."

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Green Infrastructure: Use of natural or human-made hydrologic features to manage water and provide environmental and community benefits. Green infrastructure uses management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

Habitat Restoration Activities: Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).

Hazard Trees: Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation: A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

Low Impact Development: An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with “manufactured home.”

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean Higher-High Water: The average of the higher-high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by **COMMUNITY NAME** and includes any subsequent improvements to such structures.

No Net Loss: A standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function

from the existing condition when a development application is submitted to the state, tribal, or local jurisdiction. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water line of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or 170 feet inland from the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See "Area of special flood hazard" for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that is undeveloped. Any form of development including, but not limited to, the addition of fill, structures, concrete

structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat must achieve no net loss.

Variance: A grant of relief by **COMMUNITY NAME** from the terms of a floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

3.0 GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas within the jurisdiction of **COMMUNITY NAME**.

3.2 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for **EXACT TITLE OF FLOOD INSURANCE STUDY FOR COMMUNITY**", dated **DATE (MONTH DAY, FOUR DIGIT YEAR)**, with accompanying Flood Insurance Rate Maps (FIRMs) **LIST ALL EFFECTIVE FIRM PANELS HERE (UNLESS ALL PANELS ARE BEING REPLACED THROUGH A NEW COUNTY_WIDE MAP THAT INCORPORATES ALL PREVIOUS PANELS/VERSIONS, IN THAT SITUATION PANELS DO NOT NEED TO BE INDIVIDUALLY LISTED)** are hereby adopted by reference and declared to be a part of this ordinance. The FIS and FIRM panels are on file at **INSERT THE LOCATION (I.E. COMMUNITY PLANNING DEPARTMENT LOCATED IN THE COMMUNITY ADMINISTRATIVE BUILDING)**.

3.3 COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the **COMMUNITY NAME** administers and enforces the State of Oregon Specialty Codes, the **COMMUNITY NAME** does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

3.4 COMPLIANCE AND PENALTIES FOR NONCOMPLIANCE

3.4.1 COMPLIANCE

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

3.4.2 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a (INFRACTION TYPE (I.E. MISDEMEANOR) AND PENALTIES PER STATE/LOCAL LAW ASSOCIATED WITH SPECIFIED INFRACTION TYPE (I.E. ANY PERSON WHO VIOLATES THE REQUIREMENTS OF THIS ORDINANCE SHALL UPON CONVICTION THEREOF BE FINED NOT MORE THAN A SPECIFIED AMOUNT OF MONEY...)) Nothing contained herein shall prevent the COMMUNITY NAME from taking such other lawful action as is necessary to prevent or remedy any violation.

3.5 ABROGATION AND SEVERABILITY

3.5.1 ABROGATION

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5.2 SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

3.6 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

3.7 WARNING AND DISCLAIMER OF LIABILITY

3.7.1 WARNING

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply

that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

3.7.2 DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of the **COMMUNITY NAME**, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

4.0 ADMINISTRATION

4.1 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The **INDIVIDUAL JOB TITLE** is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

[Additional Recommended Language Provided in Appendix B](#)

4.2 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

4.2.1 PERMIT REVIEW

Review all development permits to:

- A. Determine that the permit requirements of this ordinance have been satisfied;
- B. Determine that all other required local, state, and federal permits have been obtained and approved;
- C. Determine if the proposed development is located in a floodway.
 - i. If located in the floodway assure that the floodway provisions of this ordinance in section **5.2.4** are met; and
 - ii. Determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections **5.1.7**; and

- iii. Provide to building officials the Base Flood Elevation (BFE) (ADD FREEBOARD IF COMMUNITY HAS HIGHER ELEVATION STANDARDS) applicable to any building requiring a development permit.

- D. Determine if the proposed development qualifies as a substantial improvement as defined in section 2.0.
- E. Determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 5.1.1.
- F. Determine if the proposed development activity includes the placement of fill or excavation.

- G. Determine whether the proposed development activity complies with the no net loss standards in Section 6.0.

4.2.2 INFORMATION TO BE OBTAINED AND MAINTAINED

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- A. The actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with section 5.1.7.
- B. The elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 4.2.1(B), 5.2.4, and 5.3.1(F), are adhered to.
- C. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- D. Where base flood elevation data are utilized, As-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- E. Maintain all Elevation Certificates (EC) submitted to the community.
- F. The elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this ordinance and where

Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with section 5.1.7.

G. All floodproofing certificates required under this ordinance.

H. All variance actions, including justification for their issuance.

I. All hydrologic and hydraulic analyses performed as required under section 5.2.4.

J. All Substantial Improvement and Substantial Damage calculations and determinations as required under section 4.2.4.

K. Documentation of how no net loss standards have been met (see Section 6.0)

L. All records pertaining to the provisions of this ordinance.

4.2.3 REQUIREMENT TO NOTIFY OTHER ENTITIES AND SUBMIT NEW TECHNICAL DATA

4.2.3.1 COMMUNITY BOUNDARY ALTERATIONS

The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

4.2.3.2 WATERCOURSE ALTERATIONS

A. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:

- i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or

- ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

- B. The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 4.2.3.3. Ensure compliance with all applicable requirements in sections 4.2.3.3 and 5.1.1.

4.2.3.3 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

- A. A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.
- B. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - i. Proposed floodway encroachments that increase the base flood elevation; and
 - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- C. An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

[Additional Recommended Language Provided in Appendix B](#)

4.2.4 SUBSTANTIAL IMPROVEMENT AND SUBSTANTIAL DAMAGE ASSESSMENTS AND DETERMINATIONS

Conduct Substantial Improvement (SI) (as defined in section 2.0) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 4.2.2. Conduct Substantial Damage (SD) (as defined in section 2.0) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 3.2) are damaged to the extent that the cost of restoring

the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.3.1 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 3.2. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 2.0, including fill and other development activities.

4.3.2 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- A. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 4.2.2.
- B. In coastal flood zones (V zones and coastal A zones), the proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement.
- C. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- D. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in section 5.2.3.3.
- E. Description of the extent to which any watercourse will be altered or relocated.
- F. Base Flood Elevation data for subdivision proposals or other development when required per sections 4.2.1 and 5.1.6.
- G. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.

H. The amount and location of any fill or excavation activities proposed.

4.4 VARIANCE PROCEDURE

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

4.4.1 CONDITIONS FOR VARIANCES

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections **4.4.1 (C) and (E), and 4.4.2**. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- E. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of section **4.4.1 (B) – (D)** are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- F. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies for the three floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 6.0 and associated options in Table 1).

[Additional Optional Language Provided in Appendix B.](#)

4.4.2 VARIANCE NOTIFICATION

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 4.2.2.

5.0 PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all special flood hazard areas, the no net loss standards (see Section 6.0) and the following standards shall be adhered to:

5.1.1 ALTERATION OF WATERCOURSES

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 4.2.3.2 and 4.2.3.3.

5.1.2 ANCHORING

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. All manufactured dwellings shall be anchored per section 5.2.3.4.

5.1.3 CONSTRUCTION MATERIALS AND METHODS

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

5.1.4 UTILITIES AND EQUIPMENT

5.1.4.1 WATER SUPPLY, SANITARY SEWER, AND ON-SITE WASTE DISPOSAL SYSTEMS

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

5.1.4.2 ELECTRICAL, MECHANICAL, PLUMBING, AND OTHER EQUIPMENT

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level (ANY COMMUNITY FREEBOARD REQUIREMENT) or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

A. If replaced as part of a substantial improvement shall meet all the requirements of this section.

B. Not be mounted on or penetrate through breakaway walls.

5.1.5 TANKS

A. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.

B. Above-ground tanks shall be installed at or above the base flood level (COMMUNITY FREEBOARD REQUIREMENT) or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

C. In coastal flood zones (V Zones or coastal A Zones) when elevated on platforms, the platforms shall be cantilevered from or knee braced to the building or shall be supported on foundations that conform to the requirements of the State of Oregon Specialty Code.

5.1.6 SUBDIVISION PROPOSALS AND OTHER PROPOSED DEVELOPMENTS

A. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals Base Flood Elevation data.

B. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

- i. Be consistent with the need to minimize flood damage.
- ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- iii. Have adequate drainage provided to reduce exposure to flood hazards.

iv. Comply with no net loss standards in section 6.0.

5.1.7 USE OF OTHER BASE FLOOD ELEVATION DATA

A. When Base Flood Elevation data has not been provided in accordance with section 3.2 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section 5.0. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 5.1.6.

B. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc... where available. (REFERENCE TO ANY OF THIS TYPE OF INFORMATION TO BE USED FOR REGULATORY PURPOSES BY YOUR COMMUNITY, I.E. BASE LEVEL ENGINEERING DATA, HIGH WATER MARKS, HISTORICAL OR OTHER DATA THAT WILL BE REGULATED TO. THIS MAY BE NECESSARY TO ENSURE THAT THE STANDARDS APPLIED TO RESIDENTIAL STRUCTURES ARE CLEAR AND OBJECTIVE. IF UNCERTAIN SEEK LEGAL ADVICE, AT A MINIMUM REQUIRE THE ELEVATION OF RESIDENTIAL STRUCTURES AND NON-RESIDENTIAL STRUCTURES THAT ARE NOT DRY FLOODPROOFED TO BE 2 FEET ABOVE HIGHEST ADJACENT GRADE). Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

5.1.8 STRUCTURES LOCATED IN MULTIPLE OR PARTIAL FLOOD ZONES

In coordination with the State of Oregon Specialty Codes:

A. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.

B. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

[Additional Recommended Language Provided in Appendix B.](#)

5.2 SPECIFIC STANDARDS FOR RIVERINE (INCLUDING ALL NON-COASTAL) FLOOD ZONES

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 5.1 of this ordinance **and the no net loss standards (see Section 6.0).**

5.2.1 FLOOD OPENINGS

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements. Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- A. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- B. Be used solely for parking, storage, or building access;
- C. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - i. A minimum of two openings;
 - ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls;
 - iii. The bottom of all openings shall be no higher than one foot above grade;
 - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area; and,
 - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

5.2.2 GARAGES

- A. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
- i. If located within a floodway the proposed garage must comply with the requirements of section **5.2.4**;
 - ii. The floors are at or above grade on not less than one side;
 - iii. The garage is used solely for parking, building access, and/or storage;
 - iv. The garage is constructed with flood openings in compliance with section **5.2.1** to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;
 - v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - vi. The garage is constructed in compliance with the standards in section **5.1**; and,
 - vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- B. Detached garages must be constructed in compliance with the standards for appurtenant structures in section **5.2.3.6** or non-residential structures in section **5.2.3.3** depending on the square footage of the garage.

5.2.3 FOR RIVERINE (NON-COASTAL) SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS

In addition to the general standards listed in section **5.1** the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

5.2.3.1 BEFORE REGULATORY FLOODWAY

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not

result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in section 6.1.C.

5.2.3.2 RESIDENTIAL CONSTRUCTION

- A. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE) (ADDITIONAL FREEBOARD FOR YOUR COMMUNITY – RECOMMEND MINIMUM OF 1FT ABOVE BFE).
- B. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 5.2.1.

5.2.3.3 NON-RESIDENTIAL CONSTRUCTION

- A. New construction, conversion to, and substantial improvement of any commercial, industrial, or other non-residential structure shall:
 - i. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE) (ANY ADDITIONAL FREEBOARD REQUIREMENTS FOR YOUR COMMUNITY); or
 - ii. Together with attendant utility and sanitary facilities:
 - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 4.2.2.
- B. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 5.2.1.

- 782 C. Applicants floodproofing non-residential buildings shall be notified that
783 flood insurance premiums will be based on rates that are one (1) foot
784 below the floodproofed level (e.g. a building floodproofed to the base
785 flood level will be rated as one (1) foot below.

786 **5.2.3.4 MANUFACTURED DWELLINGS**

- 787 A. Manufactured dwellings to be placed (new or replacement) or
788 substantially improved that are supported on solid foundation walls
789 shall be constructed with flood openings that comply with section 5.2.1;
- 790 B. The bottom of the longitudinal chassis frame beam shall be at or above
791 Base Flood Elevation;
- 792 C. Manufactured dwellings to be placed (new or replacement) or
793 substantially improved shall be anchored to prevent flotation, collapse,
794 and lateral movement during the base flood. Anchoring methods may
795 include, but are not limited to, use of over-the-top or frame ties to
796 ground anchors (Reference FEMA's "Manufactured Home Installation in
797 Flood Hazard Areas" guidebook for additional techniques), and;
- 798 D. Electrical crossover connections shall be a minimum of twelve (12)
799 inches above Base Flood Elevation (BFE).

800 **5.2.3.5 RECREATIONAL VEHICLES**

801 Recreational vehicles placed on sites are required to:

- 802 A. Be on the site for fewer than 180 consecutive days, and
- 803 B. Be fully licensed and ready for highway use, on its wheels or jacking
804 system, is attached to the site only by quick disconnect type utilities and
805 security devices, and has no permanently attached additions; or
- 806 C. Meet the requirements of section 5.2.3.4, including the anchoring and
807 elevation requirements for manufactured dwellings.

808 **5.2.3.6 APPURTENANT (ACCESSORY) STRUCTURES**

809 Relief from elevation or floodproofing requirements for residential and non-
810 residential structures in Riverine (Non-Coastal) flood zones may be granted for
811 appurtenant structures that meet the following requirements:

- 812 A. Appurtenant structures located partially or entirely within the floodway
813 must comply with requirements for development within a floodway
814 found in section 5.2.4;
- 815 B. Appurtenant structures must only be used for parking, access, and/or
816 storage and shall not be used for human habitation;

- C. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet;
- D. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials;
- E. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
- F. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 5.2.1;
- G. Appurtenant structures shall be located and constructed to have low damage potential;
- H. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 5.1.5; and,
- I. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

5.2.4 FLOODWAYS

Located within the special flood hazard areas established in section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
 - i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or

ii. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 6.0.

B. If the requirements of section 5.2.4 (A) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 5.0 and 6.0.

5.2.5 STANDARDS FOR SHALLOW FLOODING AREAS

Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

5.2.5.1 STANDARDS FOR AH ZONES

Development within AH Zones must comply with the standards in sections 5.1, 5.2, and 5.2.5.

5.2.5.2 STANDARDS FOR AO ZONES

In AO zones, the following provisions apply in addition to the requirements in sections 5.1 and 5.2.5:

A. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps (FIRM) (COMMUNITY FREEBOARD REQUIREMENT) (at least two (2) feet if no depth number is specified). For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

B. New construction, conversion to, and substantial improvements of non-residential structures within AO zones shall either:

i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate

Maps (FIRMS) (**COMMUNITY FREE BOARD REQUIREMENT**) (at least two (2) feet if no depth number is specified); or

- ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the FIRM (**COMMUNITY FREEBOARD REQUIREMENT**) or a minimum of two (2) feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section **5.2.3.3(A)(4)**.

- C. Recreational vehicles placed on sites within AO Zones on the community's Flood Insurance Rate Maps (FIRM) shall either:

- i. Be on the site for fewer than 180 consecutive days, and
- ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- iii. Meet the elevation requirements of section **5.2.5.2(A)**, and the anchoring and other requirements for manufactured dwellings of section **5.2.3.4**.

- D. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section **5.2.3.6**.

- E. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section **5.2.1**.

5.3 SPECIFIC STANDARDS FOR COASTAL HIGH HAZARD FLOOD ZONES

Located within special flood hazard areas established in section **3.2** are Coastal High Hazard Areas, designated as Zones V1-V30, VE, V, or coastal A zones as identified on the FIRMs as the area between the Limit of Moderate Wave Action (LiMWA) and the Zone V boundary. These areas have special flood hazards associated with high velocity waters from surges and, therefore, in addition to meeting all provisions of this ordinance and the State of Oregon Specialty Codes, the following provisions shall apply in addition to the general standards provisions in section **5.1**.

5.3.1 DEVELOPMENT STANDARDS

A. All new construction and substantial improvements in Zones V1-V30 and VE, V, and coastal A zones (where base flood elevation data is available) shall be elevated on pilings and columns such that:

i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated a minimum of one foot above the base flood level; and

ii. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those specified by the State of Oregon Specialty Codes;

B. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.

C. Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures and whether or not such structures contain a basement. The floodplain administrator shall maintain a record of all such information in accordance with section 4.2.2.

D. Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

i. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and

ii. Such enclosed space created by breakaway walls shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.

iii. Walls intended to break away under flood loads shall have flood openings that meet or exceed the criteria for flood openings in section 5.2.1.

E. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum water loading values to be used in this determination shall be those associated with the base flood. Maximum wind loading values used shall be those specified by the State of Oregon Specialty Codes.

F. Prohibit the use of fill for structural support of buildings.

G. All new construction shall be located landward of the reach of mean high tide.

H. Prohibit man-made alteration of sand dunes which would increase potential flood damage.

I. All structures, including but not limited to residential structures, non-residential structures, appurtenant structures, and attached garages shall comply with all the requirements of section 5.3.1 Floodproofing of non-residential structures is prohibited.

5.3.1.1 MANUFACTURED DWELLING STANDARDS FOR COASTAL HIGH HAZARD ZONES

All manufactured dwellings to be placed (new or replacement) or substantially improved within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall meet the following requirements:

A. Comply with all of the standards within section 5.3

B. The bottom of the longitudinal chassis frame beam shall be elevated to a minimum of one foot above the Base Flood Elevation (BFE); and

C. Electrical crossover connections shall be a minimum of 12 inches above the BFE.

5.3.1.2 RECREATIONAL VEHICLE STANDARDS FOR COASTAL HIGH HAZARD ZONES

Recreational Vehicles within Coastal High Hazard Areas (Zones V, V1-30, VE, or Coastal A) shall either:

- A. Be on the site for fewer than 180 consecutive days, and
- B. Be fully licensed and ready for highway use, on wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

5.3.1.3 TANK STANDARDS FOR COASTAL HIGH HAZARD ZONES

Tanks shall meet the requirements of section 5.1.5 and 6.0.

6.0 STANDARDS FOR PROTECTION OF SFHA FLOODPLAIN FUNCTIONS

The standards described below apply to all special flood hazard areas as defined in Section 2.0.

6.1 NO NET LOSS STANDARDS

- A. No net loss of the three proxies for the floodplain functions mentioned in Section 1 is required for development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the three floodplain functions. Prior to the issuance of any development authorization, the applicant shall:
 - i. Demonstrate a legal right by the project proponent to implement the proposed activities to achieve no net loss (e.g., property owner agreement);
 - ii. Demonstrate that financial assurances are in place for the long-term maintenance and monitoring of all projects to achieve no net loss;
 - iii. Include a management plan that identifies the responsible site manager, stipulates what activities are allowed on site, and requires the posting of signage identifying the site as a mitigation area.
- B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss. To offset the impacts of delay in implementing no net loss, a 25 percent increase in the required minimum area is added for each year no net loss implementation is delayed.
- C. No net loss must be provided within, in order of preference: 1) the lot or parcel that floodplain functions were removed from, 2) the same reach of the waterbody where the development is proposed, or 3) the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which increase based on the preferences listed above.

6.1.1 UNDEVELOPED SPACE

A. Development proposals shall not reduce the fish-accessible and egress-able undeveloped space within the special flood hazard area.

B. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish-accessible and egress-able space.

C. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1 and at the same flood level at which the development causes an impact (i.e., plus or minus 1 foot of the hydraulically equivalent elevation).

i. Hydraulically equivalent sites must be found within either the equivalent 1-foot elevations or the same flood elevation bands of the development proposal. The flood elevation bands are identified as follows:

(1) Ordinary High Water Mark to 10-year,

(2) 10-year to 25-year,

(3) 25-year to 50-year,

(4) And 50-year to 100-year

ii. Hydrologically connected to the waterbody that is the flooding source;

iii. Designed so that there is no increase in velocity; and

iv. Designed to fill and drain in a manner that minimizes anadromous fish stranding to the greatest extent possible.

6.1.2 IMPERVIOUS SURFACES

Impervious surface mitigation shall be mitigated through any of the following options:

A. Development proposals shall not result in a net increase in impervious surface area within the SFHA, or

B. use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or

C. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to

1072 minimize pollutant loading. See section 6.2.C for stormwater retention
1073 specifications.

1074 **6.1.3 TREES**

1075 A. Development proposals shall result in no net loss of trees 6-inches dbh or
1076 greater within the special flood hazard area. This requirement does not
1077 apply to silviculture where there is no development.

1078 i. Trees of or exceeding 6-inches dbh that are removed from the RBZ,
1079 Floodway, or RBZ-fringe must be replaced at the ratios in Table 1.

1080 ii. Replacement trees must be native species that would occur naturally
1081 in the Level III ecoregion of the impact area.

1082 **6.2 STORMWATER MANAGEMENT**

1083 Any development proposal that cannot mitigate as specified in 6.1.2(A)-(B) must include
1084 the following:

1085 A. Water quality (pollution reduction) treatment for post-construction
1086 stormwater runoff from any net increase in impervious area; and

1087 B. Water quantity treatment (retention facilities) unless the outfall discharges
1088 into the ocean.

1089 C. Retention facilities must:

1090 i. Limit discharge to match the pre-development peak discharge rate
1091 (i.e., the discharge rate of the site based on its natural groundcover
1092 and grade before any development occurred) for the 10-year peak
1093 flow using a continuous simulation for flows between 50 percent of
1094 the 2-year event and the 10-year flow event (annual series).

1095 ii. Treat stormwater to remove sediment and pollutants from impervious
1096 surfaces such that at least 80 percent of the suspended solids are
1097 removed from the stormwater prior to discharging to the receiving
1098 water body.

1099 iii. Be designed to not entrap fish and drain to the source of flooding.

1100 iv. Be certified by a qualified professional.

1101 D. Stormwater treatment practices for multi-parcel facilities, including
1102 subdivisions, shall have an enforceable operation and maintenance
1103 agreement to ensure the system functions as designed. This agreement will
1104 include:

i. Access to stormwater treatment facilities at the site by the
COMMUNITY TYPE (e.g., city, county) for the purpose of inspection
and repair.

ii. A legally binding document specifying the parties responsible for the
proper maintenance of the stormwater treatment facilities. The
agreement will be recorded and bind subsequent purchasers and
sellers even if they were not party to the original agreement.

iii. For stormwater controls that include vegetation and/or soil
permeability, the operation and maintenance manual must include
maintenance of these elements to maintain the functionality of the
feature.

iv. The responsible party for the operation and maintenance of the
stormwater facility shall have the operation and maintenance
manual on site and available at all times. Records of the
maintenance and repairs shall be retained and made available for
inspection by the COMMUNITY TYPE (e.g., city, county) for five years

6.3 ACTIVITIES EXEMPT FROM NO NET LOSS STANDARDS

The following activities are not subject to the no net loss standards in Section 6.1;
however, they may not be exempt from floodplain development permit requirements.

A. Normal maintenance of structures, such as re-roofing and replacing siding,
provided there is no change in the footprint or expansion of the roof of the
structure;

B. Normal street, sidewalk, and road maintenance, including filling potholes,
repaving, and installing signs and traffic signals, that does not alter
contours, use, or alter culverts. Activities exempt do not include expansion
of paved areas;

C. Routine maintenance of landscaping that does not involve grading,
excavation, or filling;

D. Routine agricultural practices such as tilling, plowing, harvesting, soil
amendments, and ditch cleaning that does not alter the ditch configuration
provided the spoils are removed from special flood hazard area or tilled into
fields as a soil amendment;

E. Routine silviculture practices that do not meet the definition of
development, including harvesting of trees as long as root balls are left in
place and forest road construction or maintenance that does not alter
contours, use, or alter culverts;

F. Removal of noxious weeds and hazard trees, and replacement of non-native
vegetation with native vegetation;

- G. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;
- H. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.
- I. Habitat restoration activities.

6.4 RIPARIAN BUFFER ZONE (RBZ)

- A. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 170 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.
- B. Habitat restoration activities in the RBZ are considered self-mitigating and are not subject to the no net loss standards described above.
- C. Functionally dependent uses are only subject to the no net loss standards for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.
- D. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.
- E. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation and designated as open space.

Table 1 No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft ³)	Impervious Surface (ft ²)	Trees (6" < dbh ≤ 20")	Trees (20" < dbh ≤ 39")	Trees (39" < dbh)
RBZ and Floodway	2:1*	1:1	3:1*	5:1	6:1
RBZ-Fringe	1.5:1*	1:1	2:1*	4:1	5:1

<u>Mitigation multipliers</u>					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5 th field)	200% *	200% *	200% *	200%	200%

Notes:

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
 - a. For example, if only 500 ft² of the total 1000 ft² of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft² of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)



NOTICE OF PUBLIC HEARINGS

CITY OF DAYTON LAND USE AND DEVELOPMENT CODE AMENDMENT

CITY CASE FILE LA 2025-01

FEMA Model Floodplain Management Ordinance for NFIP-ESA Integration in Oregon

NOTICE IS HEREBY GIVEN that the City of Dayton will hold public hearings to consider adoption of proposed legislative amendments to the Dayton Land Use and Development Code, also recognized as Title 7 of the Dayton Municipal Code. Proposed legislative amendments are specific to Chapter 7.2.113., titled *Floodplain Overlay District*. The proposal is to remove all codified provisions in Chapter 7.2.113 and replace with similar updated provisions as contained in 2024 Federal Emergency Management Agency's (FEMA) Model Floodplain Management Ordinance. The FEMA model ordinance (recently changed for National Flood Insurance Program–Endangered Species Act integration in Oregon) can be viewed at:

https://www.fema.gov/sites/default/files/documents/fema_r10_oregon-nfip-esa-model-ordinance_082024.pdf

This notice has also been mailed to the owners of all properties encumbered by portions of the existing Floodplain Overlay District within the City of Dayton. Chapter 7.2.113 (standards / regulations) pertain only to land where encumbered by the 100-year floodplain / overlay area.

Oregon Revised Statutes (ORS) 227.186 requires public notices to contain the text (above) across the top of face page, extending from left margin to right margin. ORS 227.186 also requires the same notice to state that *adoption of an Ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property*. No analysis or determination has been made (or will be made) on how proposed updates affect permissible use of property or property value.

The first public hearing is scheduled for **Thursday, March 13, 2025, at 6:30 p.m.** before the Dayton Planning Commission; the second public hearing is scheduled for **Monday, April 7, 2025, at 6:30 p.m.** before the Dayton City Council. Both hearings will be held at the Dayton City Hall Annex, addressed at 408 Ferry Street, Dayton, OR 97114. Proposed changes to Chapter 7.2.113 are available for inspection at city offices, addressed at 416 Ferry Street, Dayton OR 97114 or may be purchased at a reasonable cost. An electronic version of the changes to Chapter 7.2.113 will also posted on the city website.

Persons wishing to participate in the public hearings may appear in person or by representative at the dates and times listed above, or virtually (meeting agendas include a Zoom link for this purpose). The legislative amendment procedure and approval criteria are described in Section 7.3.112 of the Dayton Land Use and Development Code. Failure of an issue to be raised at the hearing, in person or in writing, or failure to provide sufficient specificity to afford the City Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals.

For more information, please contact Rocio Vargas City Recorder at rvargas@daytonoregon.gov or 503-864-2221.

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00 "EXHIBIT A"

PUBLIC HEARING

CITY OF DAYTON LAND USE AND DEVELOPMENT CODE AMENDMENT

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AFFIDAVIT OF PUBLICATION

STATE OF OREGON } ss.

County of Yamhill

I, Terri Hartt

being first duly sworn, depose and say that I am the Legal Clerk, of the NEWS-REGISTER, a newspaper of general circulation as defined by O.R.S. 193.010 and O.R.S. 193.020 published two times each week at McMinnville, County of Yamhill, State of Oregon, and that **City of Dayton - Public Hearing Land use Development Code Amendment LA 2025-01 - February 21, 2025**

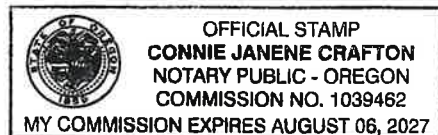
Subscribed and sworn before me this **2/25/2025**.

Terri Hartt

Connie Janene Crafton

Notary Public for Oregon

My Commission Expires 08/06/2027





2025 Parks & Recreation Master Plan

PLANNING COMMISSION MEETING
FEBRUARY 13, 2025

Overview

1. Introduction
2. Project Timeline
3. Discussion
4. Next Steps



What is the Parks Plan?

Planning Forward

The Parks & Recreation Master Plan (PRMP) is a 20-year guide and strategic plan for managing and enhancing recreation opportunities, facilities, parks, and open space for the Dayton community.

The Parks & Recreation Master Plan will guide investments to improve the park and recreation system and help the City pursue grants and other funding.



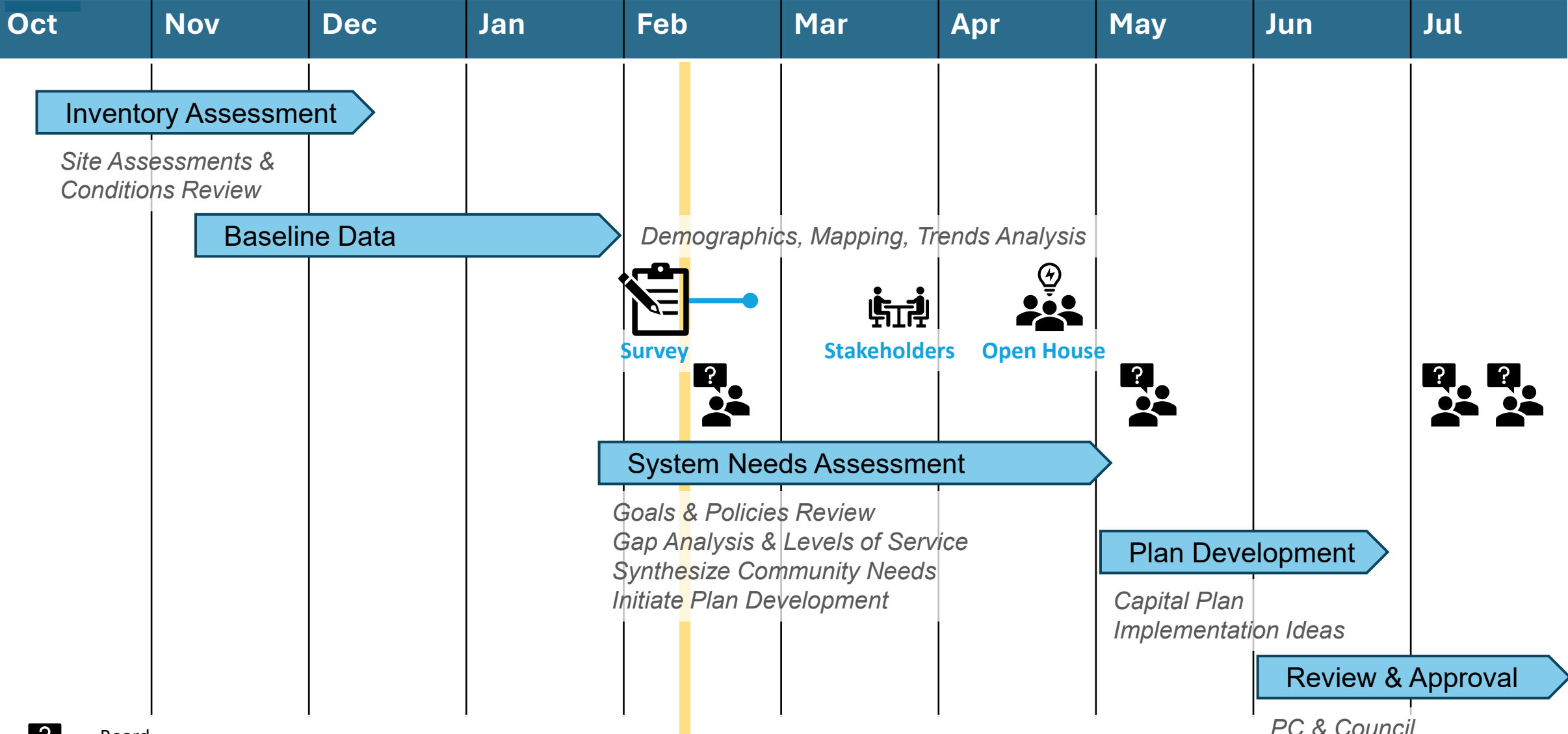
PRMP: The Next 20+ Years

The Plan is strategic in focus and guided by the following questions:

- What are our strengths? And what are key areas for improvement?
- How do we meet community needs now and into the future?
- Where should we focus our efforts and resources?

Public input is crucial to make sure goals and priorities are consistent with community needs and interests.

Project Timeline



We are here

Discussion Questions

- What do you value about Dayton's parks, facilities, and open spaces?

Discussion Questions

- What do you value about Dayton's parks, facilities, and open spaces?
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- **Imagine the City in 2035. What can you see happening with recreation options for youth, teens and adults? With park space? With trail connections?**

Community Engagement

- What do you want to learn from the community?
- Are there any hot topics or hot button issues to be aware of?

Next Steps

- Community survey underway
- Open house & community event tabling (Spring 2025)
- Additional sessions with PC
- Compile draft Plan (early summer 2025)



A background image of a baseball field. In the foreground, there is a large tree with light-colored blossoms on the left and another smaller tree on the right. A chain-link fence runs across the middle ground, separating the field from the background. The field itself is green grass. The sky is clear and blue.

Questions / Comments?