



**NOTICE OF DECISION  
OF THE DAYTON PLANNING COMMISSION  
SUB 2024-07 and VAR 2024-10**

**Decision 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

**I. PLANNING COMMISSION FINAL ACTION**

The application involves a Subdivision and a Minor Variance in a consolidated application being reviewed under a 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. A properly noticed public hearing was duly held on the application before the Dayton Planning Commission on March 13, 2025. Notice of the hearing was mailed to owners of property within 200 feet of the subject property twenty days prior to the hearing. No written comments were submitted on the application and members of the public were given the opportunity to provide testimony at the hearing.

After the hearing was closed, the Planning Commission deliberated on the issues and voted to adopt the findings contained in the staff report, as presented on March 13, 2025, and approve SUB 2024-07 and VAR 2024-10 subject to the recommended conditions of approval.

## **II. CONDITIONS OF APPROVAL**

Planning Commission approval of Subdivision 2024-07 and Variance 2024-10 is subject to 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 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 4<sup>th</sup> 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 curbline 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 3<sup>rd</sup> 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."*

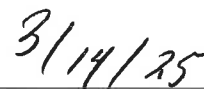
### **III. APPEAL**

Appeal of a type II decision is to the City Council. The decision of the Planning Commission for a Type II land use decision shall be final unless a notice of appeal from a party with standing is received by the City within 15 days of the date the final written notice is mailed. Appeal requests shall be made on forms provided by the City and shall state the alleged errors in the original action.

DATED at City of Dayton, 13<sup>th</sup> day of March, 2025

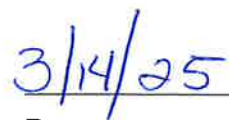
SIGNED:

  
\_\_\_\_\_  
Jeremy Caudle, City Manager

  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Rocio Vargas, City Recorder

  
\_\_\_\_\_  
Date

## 4<sup>th</sup> and Mill Street Pre-Application Meeting

10/26/2023

Staff: Curt Fisher, City Planner  
Denny Muchmore, City Engineer  
Rocio Vargas, City Recorder/Planning Coordinator  
Jason Shirley

NW Summit Development LLC: Dan Danicic

The goal is to purchase and develop the lot either a 6 lot sub-division or a 3-part partition. Whichever is most cost effective.

1. Have there been any land use code changes that could result in different conditions of approval?
  - a. There are some code changes that is going into effect after a final reading. Extending the year of application with a one-year extension.
2. Is this project eligible to payment in-lieu for the park land dedication requirement. If so how is the amount determined?
  - a. That was included in the previous condition 7.2.307 has the formula.
3. Is the appraisal the expense of the developer?
  - a. It is the city expense, but there is one the developer prefers the city would have to agree to use that appraiser.
4. If they do identify a parcel that meets the park area requirement, do we need to develop it as a park?
  - a. Depends on slope nothing over a 15%. This has been difficult to resolve in the past. Dedicate a park area and then the city would add benches or park structures.
5. Minimum density requirement 6.9.
  - a. Variance option
  - b. Duplex option
  - c. With a partition there would have to be enough space to meet the density requirement.
6. How does the city handle the fee for duplex fees.
  - a. It would be one fee per structure on a lot.
  - b. Meters would require two fees – one for each side.
7. What considerations are given to the unbuildable slope? Can the slope be excluded? Through code or PUD?
  - a. It can be entertained; it is a common standard.
  - b. Can be done through a PUD. Same process as a subdivision.
  - c. There is some provisions on the PUD that the open area has to be usable without steep slope areas.
8. What about code adjustment and/or variance?
  - a. Variance: Minor variance is a staff decision. Minor or major with a quasi-judicial decision will go to the high order. There is a 10% threshold.
9. What is the code adjustment 10%?
  - a. It is 10%.

- b. There are slopes in this site.
  - c. Density is determined per unit not per lot. There is an encouragement for higher density.
- 10. Is there a middle housing adoption code?
  - a. We are too small and don't have the mandatory requirements. This is already in the R2 and the middle housing types are already allowed in the R2.
  - b. In the previous approval submitted questions on small apartment use. R2 zone has flexibility on what you can do with the property.
  - c. There is a bill that passed that changed the population requirement to allow to build a duplex, not relevant to an R2 unless you want to build a duplex on a 6,000sf lot.
- 11. What about with lot size? With middle housing you can go with smaller lot sizes.
  - a. It is 3,500sf min in the R2 with attached, and 6,000sf for detached, duplex 7,000sf min with the new bill it will be the same as a single family.
- 12. If there was a 3-lot partition and left space for adding. Would it be allowed for those to have access to one common driveway.
  - a. Yes and no.
    - i. A common driveway to serve 2 lots is allowed. If it serves more lots, it will trigger a sidewalk requirement. With requirements is set by the fire code.
    - ii. If it is a private street there is a requirement for one on-street parking spot per unit. Refer to the design standards for the City of Dayton.
    - iii. Water and hydrant requirements would also affect the mount of units served on one driveway/ private drive.
    - iv. Utilities easements.
- 13. Has there been any inspection since 2018?
  - a. There have not been any new inspections.
  - b. The past 3 developers got a title search from different title companies that did not have the easement information. The city did forward the information to the developers to send to the title companies.
- 14. Is there any concern for the sewer line?
  - a. There is a concern that it is a vintage 1965 index concrete sewer and it may have grade problems with it. There were a backup issues in the past.
  - b. The 1965 easement doesn't condition just states there is an easement.
- 15. Does the city allow driveway on top of the easement?
  - a. Yes, driveways, lawns, gardens, any fences must have gates over the easement, but no permanent trees or structures over easement.
- 16. Public works engineering fees?
  - a. The design standards are online.
    - i. Appendix F there is a fee schedule.



City of Dayton

Planning Department



## Sub-Divisions & PUDs Application

416 Ferry St - PO Box 339  
Dayton OR 97114  
Ph # (503) 864-2221  
Fax # (503) 864-2956  
[www.daytonoregon.gov](http://www.daytonoregon.gov)  
[cityofdayton@daytonoregon.gov](mailto:cityofdayton@daytonoregon.gov)

For City of Dayton use:

Date Notice Received: <b>9/5/24</b>	Received By:	File Number:
Public Hearing Date:	Fee Amount:	Deposit Amount:
Public Hearing Notice Mail Date:	Appeal Decision Date:	• Approved • Denied

**Applicant Information:**Applicant Name: NW Summit Development LLCMailing Address: 111 N College St City: Newberg ST: OR Zip: 97132Phone Number: 971-998-7507 Email: jessica@nwsummitdevelopment.comSite Address or Location: 0 4th Street Street Dayton, OR 97114 (R4317DD 02600)**Property Owner Information:**Property Owner(s): Dayton Point LLCAddress: 197 NW Outlook Vista City: Bend ST: OR Zip: 97703

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

- Sub-Division Request
- Planned Unit Development (PUD) Request

Number of Lots or Units Proposed: 8 lots

Please describe your request (be specific): Applicant proposes to subdivide the parcel of land into 8 lots with  
access from Mill Street via a private street.

Applicant Signature:  Date: 9/5/24

DocuSigned by  
**Brian Stevens** Brian Stevens

Property Owner Signature: \_\_\_\_\_ Date: 8/22/2024

I/We the above signed, consent to the proposed Sub-Division or Planned Unit Development for development of our property as indicated on this application.

**For Office Use**

Fee: <u>4160.00</u>	Amount Paid: <u>4160.00</u>	Date Paid: <u>9/6/24</u>	Receipt # <u>16195</u>
Applicant Notification Date:	Comments:		
Professional Services Amount:	Date Paid:	• Planner • Engineer • Staff Time	

# City of Dayton

## Planning Department

### Consultants (please list all that apply)

☒ Planning ☐ Engineering ☐ Surveyor ☐ Other

Name: Jessica Cain Physical Address: same as above  
 Firm: NW Summit Development LLC City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
 City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

☐ Planning ☒ Engineering ☐ Surveyor ☐ Other

Name: Dan Danicic Physical Address: same as above  
 Firm: NW Summit Development LLC City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Telephone #: 503-476-7702  
 City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
 Email Address: dan@nwsummitdevelopment.com

☐ Planning ☐ Engineering ☒ Surveyor ☐ Other

Name: Lee MacDonald Physical Address: 3885 NE Riverside DR  
 Firm: MacDonald Surveying City: McMinnville, OR 97128 ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Telephone #: 503-472-7904  
 City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
 Email Address: lee@macdonaldsurveying.com

☐ Planning ☐ Engineering ☐ Surveyor ☐ Other

Name: \_\_\_\_\_ Physical Address: \_\_\_\_\_  
 Firm: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
 City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

☐ Planning ☐ Engineering ☐ Surveyor ☐ Other

Name: \_\_\_\_\_ Physical Address: \_\_\_\_\_  
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 Email Address: \_\_\_\_\_

☐ Planning ☐ Engineering ☐ Surveyor ☐ Other

Name: \_\_\_\_\_ Physical Address: \_\_\_\_\_  
 Firm: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
 City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

Deed



After recording return to:  
Dayton Point, LLC  
10902 Old Sheridan Road  
McMinnville, OR 97128

Until a change is requested all tax  
statements shall be sent to the  
following address:  
Dayton Point, LLC  
10902 Old Sheridan Road  
McMinnville, OR 97128

File No.: 1031-2837351 (MWG)  
Date: March 27, 2017

THIS SPACE RESERVED FOR RECORDER'S USE

Yamhill County Official Records **201710380**  
DMR-DDMR  
Stn=0 SUTTONS **06/30/2017 09:30:00 AM**  
2Pgs \$10.00 \$11.00 \$5.00 \$20.00 **\$46.00**

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.

Brian Van Bergen - County Clerk

## STATUTORY WARRANTY DEED

**Harold Y. Tanaka and Sharon A. Tanaka, as tenants by the entirety**, Grantor, conveys and warrants to **Dayton Point, LLC, an Oregon limited liability company**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

**LEGAL DESCRIPTION:** Real property in the County of Yamhill, State of Oregon, described as follows:

**Parcel 3 of Partition Plat 92-40, recorded May 28, 1992 in Volume 3, Page 230, Plat Records of Yamhill County, State of Oregon.**

**Subject to:**

Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$185,000.00**. (Here comply with requirements of ORS 93.030)

FIRST AMERICAN TITLE 2837351

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 22 day of June, 2017.

Harold Y. Tanaka  
Harold Y. Tanaka

Sharon A. Tanaka  
Sharon A. Tanaka

STATE OF Oregon )  
 )ss.  
County of Yamhill )

This instrument was acknowledged before me on this 22 day of June, 2017  
by **Harold Y. Tanaka and Sharon A. Tanaka.**

Michelle W. Gregor

Notary Public for Oregon

My commission expires: 4/30/21



# Preliminary Title Report



**First American Title™**

**First American Title Insurance Company**

775 NE Evans Street  
McMinnville, OR 97128  
Phn - (503)376-7363  
Fax - (866)800-7294

Order No.: 1032-4094805  
August 22, 2024

**FOR QUESTIONS REGARDING YOUR CLOSING, PLEASE CONTACT:**

KEELEY ROBINSON, Escrow Officer/Closer  
Phone: (503)538-7361 - Fax: (866)800-7290 - Email: KeeRobinson@firstam.com  
First American Title Insurance Company  
515 E Hancock, Newberg, OR 97132

**FOR ALL QUESTIONS REGARDING THIS PRELIMINARY REPORT, PLEASE CONTACT:**

**Clayton Carter**, Title Officer  
Phone: (503)376-7363 - Fax: (866)800-7294 - Email: ctcarter@firstam.com

**Supplemental Preliminary Title Report**

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

Please be advised that any provision contained in this document, or in a document that is attached, linked or referenced in this document, that under applicable law illegally discriminates against a class of individuals based upon personal characteristics such as race, color, religion, sex, sexual orientation, gender identity, familial status, disability, national origin, or any other legally protected class, is illegal and unenforceable by law.

**County Tax Roll Situs Address:** 0 4th Street, Dayton, OR 97114

2021 ALTA Owners Standard Coverage	Liability \$	299,950.00	Premium \$	950.00
2021 ALTA Owners Extended Coverage	Liability \$		Premium \$	
2021 ALTA Lenders Standard Coverage	Liability \$		Premium \$	
2021 ALTA Lenders Extended Coverage	Liability \$		Premium \$	
Endorsement 9.10, 22 & 8.1			Premium \$	
Govt Service Charge			Cost \$	25.00
Other			Cost \$	

We are prepared to issue Title Insurance Policy or Policies of First American Title Insurance Company, a Nebraska Corporation in the form and amount shown above, insuring title to the following described land:

The land referred to in this report is described in Exhibit A attached hereto.

and as of August 02, 2024 at 8:00 a.m., title to the fee simple estate is vested in:

Dayton Point, LLC, an Oregon Limited Liability Company

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings

by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

**The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.**

**In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:**

- A. Survey or alternative acceptable to the company
  - B. Affidavit regarding possession
  - C. Proof that there is no new construction or remodeling of any improvement located on the premises. In the event of new construction or remodeling the following is required:
    - i. Satisfactory evidence that no construction liens will be filed; or
    - ii. Adequate security to protect against actual or potential construction liens;
    - iii. Payment of additional premiums as required by the Industry Rate Filing approved by the Insurance Division of the State of Oregon
6. Water rights, claims to water or title to water, whether or not such rights are a matter of public record.
7. Taxes for the fiscal year 2024-2025 a lien due, but not yet payable
8. Taxes for the year 2023-2024

Tax Amount	\$	446.06
Unpaid Balance:	\$	446.06, plus interest and penalties, if any.
Code No.:		29
Map & Tax Lot No.:		R4317DD 02600
Property ID No.:		119794

Taxes for the year 2022-2023		
Unpaid Balance:	\$	438.63, plus interest
9. City liens, if any, of the City of Dayton.  
Note: An inquiry has been directed to the City Clerk and subsequent advice will follow concerning the actual status of such liens.



10. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of Palmer Creek.
11. Governmental rights in connection with flood control and propagation of anadromous fish and public rights of fishing and recreational navigation in and to the water, bed and shoreline of the Palmer Creek.
12. Any adverse claim based upon the assertion that some portion of said land has been removed from or brought within the boundaries thereof by an avulsive movement of the Palmer Creek or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.
13. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
14. Any conveyance or encumbrance by Dayton Point, LLC, an Oregon Limited Liability Company should be executed pursuant to their Operating Agreement, a copy of which should be submitted to this office for inspection.

- END OF EXCEPTIONS -

NOTE: Supplemental to bring current; update taxes

NOTE: We find no outstanding voluntary liens of record affecting subject property. An inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest in the subject property.

NOTE: According to the public record, the following deed(s) affecting the property herein described have been recorded within 24 months of the effective date of this report: NONE

NOTE: We find no matters of public record against NW Summit Development LLC that will take priority over any trust deed, mortgage or other security instrument given to purchase the subject real property as established by ORS 18.165.

Situs Address as disclosed on Yamhill County Tax Roll:

0 4th Street, Dayton, OR 97114

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!**  
**WE KNOW YOU HAVE A CHOICE!**

**RECORDING INFORMATION**

Filing Address: **Yamhill County**  
777 Commercial Street SE, Suite 100  
Salem, OR 97301

Recording Fees: \$ **81.00** for the first page  
\$ **5.00** for each additional page

cc: NW Summit Development LLC  
cc: Dayton Point LLC  
cc: Philip Higgins, Pacific Crest Real Estate Advisors  
11820 SW King James Place Suite 10C, Portland, OR 97224  
cc: Matthew Willcuts, Willcuts Company Realtors  
600 E. 2nd Street, Newberg, OR 97132

**Exhibit "A"**

Real property in the County of Yamhill, State of Oregon, described as follows:

PARCEL 3 OF PARTITION PLAT 92-40, RECORDED MAY 28, 1992 IN VOLUME 3, PAGE 230, PLAT  
RECORDS OF YAMHILL COUNTY, STATE OF OREGON.



## First American Title Insurance Company

### SCHEDULE OF EXCLUSIONS FROM COVERAGE

#### ALTA LOAN POLICY (07/01/21)

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
    - i. the occupancy, use, or enjoyment of the Land;
    - ii. the character, dimensions, or location of any improvement erected on the Land;
    - iii. the subdivision of land; or
    - iv. environmental remediation or protection.
  - b. any governmental forfeiture, police, regulatory, or national security power.
  - c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
  3. Any defect, lien, encumbrance, adverse claim, or other matter:
    - a. created, suffered, assumed, or agreed to by the Insured Claimant;
    - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
    - c. resulting in no loss or damage to the Insured Claimant;
    - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
    - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser or encumbrancer had been given for the Insured Mortgage at the Date of Policy.
  4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business law.
  5. Invalidity or unenforceability of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury law or Consumer Protection Law.
  6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction creating the lien of the Insured Mortgage is a:
    - a. fraudulent conveyance or fraudulent transfer;
    - b. voidable transfer under the Uniform Voidable Transactions Act; or
    - c. preferential transfer:
      - i. to the extent the Insured Mortgage is not a transfer made as a contemporaneous exchange for new value; or
      - ii. for any other reason not stated in Covered Risk 13.b.
  7. Any claim of a PACA-PSA Trust. Exclusion 7 does not modify or limit the coverage provided under Covered Risk 8.
  8. Any lien on the Title for real estate taxes or assessments imposed by a governmental authority and created or attaching between the Date of Policy and the date of recording of the Insured Mortgage in the Public Records. Exclusion 8 does not modify or limit the coverage provided under Covered Risk 2.b. or 11.b.
  9. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

#### ALTA OWNER'S POLICY (07/01/21)

The following matters are excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. a. any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) that restricts, regulates, prohibits, or relates to:
    - i. the occupancy, use, or enjoyment of the Land;
    - ii. the character, dimensions, or location of any improvement on the Land;
    - iii. the subdivision of land; or
    - iv. environmental remediation or protection.
  - b. any governmental forfeiture, police, regulatory, or national security power.
  - c. the effect of a violation or enforcement of any matter excluded under Exclusion 1.a. or 1.b.
- Exclusion 1 does not modify or limit the coverage provided under Covered Risk 5 or 6.
2. Any power of eminent domain. Exclusion 2 does not modify or limit the coverage provided under Covered Risk 7.
  3. Any defect, lien, encumbrance, adverse claim, or other matter:
    - a. created, suffered, assumed, or agreed to by the Insured Claimant;
    - b. not Known to the Company, not recorded in the Public Records at the Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
    - c. resulting in no loss or damage to the Insured Claimant;
    - d. attaching or created subsequent to the Date of Policy (Exclusion 3.d. does not modify or limit the coverage provided under Covered Risk 9 or 10); or
    - e. resulting in loss or damage that would not have been sustained if consideration sufficient to qualify the Insured named in Schedule A as a bona fide purchaser had been given for the Title at the Date of Policy.
  4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights law, that the transaction vesting the Title as shown in Schedule A is a:
    - a. fraudulent conveyance or fraudulent transfer;
    - b. voidable transfer under the Uniform Voidable Transactions Act; or
    - c. preferential transfer:
      - i. to the extent the instrument of transfer vesting the Title as shown in Schedule A is not a transfer made as a contemporaneous exchange for new value; or
      - ii. for any other reason not stated in Covered Risk 9.b.
  5. Any claim of a PACA-PSA Trust. Exclusion 5 does not modify or limit the coverage provided under Covered Risk 8.
  6. Any lien on the Title for real estate taxes or assessments imposed or collected by a governmental authority that becomes due and payable after the Date of Policy. Exclusion 6 does not modify or limit the coverage provided under Covered Risk 2.b.
  7. Any discrepancy in the quantity of the area, square footage, or acreage of the Land or of any improvement to the Land.

**SCHEDULE OF STANDARD EXCEPTIONS**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

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NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

Rev. 07-01-21



## Privacy Notice

**Effective:** October 1, 2019

**Notice Last Updated:** January 1, 2022

This Privacy Notice describes how First American Financial Corporation and its subsidiaries and affiliates (together referred to as "First American," "we," "us," or "our") collect, use, store, and share your information with the exception that a subsidiary or affiliate has their own privacy policy, that policy governs. This Privacy Notice applies to information we receive from you offline only, as well as from third parties, when you interact with us and/or use and access our services and products ("Products"). For more information about our privacy practices, including our online practices, please visit <https://www.firstam.com/privacy-policy/>. The practices described in this Privacy Notice are subject to applicable laws in the places in which we operate.

**What Type Of Information Do We Collect About You?** We collect a variety of categories of information about you. To learn more about the categories of information we collect, please visit <https://www.firstam.com/privacy-policy/>.

**How Do We Collect Your Information?** We collect your information: (1) directly from you; (2) automatically when you interact with us; and (3) from third parties, including business parties and affiliates.

**How Do We Use Your Information?** We may use your information in a variety of ways, including but not limited to providing the services you have requested, fulfilling your transactions, comply with relevant laws and our policies, and handling a claim. To learn more about how we may use your information, please visit <https://www.firstam.com/privacy-policy/>.

**How Do We Share Your Information?** We do not sell your personal information. We only share your information, including to subsidiaries, affiliates, and to unaffiliated third parties: (1) with your consent; (2) in a business transfer; (3) to service providers; and (4) for legal process and protection. To learn more about how we share your information, please visit <https://www.firstam.com/privacy-policy/>.

**How Do We Store and Protect Your Information?** The security of your information is important to us. That is why we take commercially reasonable steps to make sure your information is protected. We use our best efforts to maintain commercially reasonable technical, organizational, and physical safeguards, consistent with applicable law, to protect your information.

**How Long Do We Keep Your Information?** We keep your information for as long as necessary in accordance with the purpose for which it was collected, our business needs, and our legal and regulatory obligations.

**Your Choices** We provide you the ability to exercise certain controls and choices regarding our collection, use, storage, and sharing of your information. You can learn more about your choices by visiting <https://www.firstam.com/privacy-policy/>.

**International Jurisdictions:** Our Products are offered in the United States of America (US), and are subject to US federal, state, and local law. If you are accessing the Products from another country, please be advised that you may be transferring your information to us in the US, and you consent to that transfer and use of your information in accordance with this Privacy Notice. You also agree to abide by the applicable laws of applicable US federal, state, and local laws concerning your use of the Products, and your agreements with us.

We may change this Privacy Notice from time to time. Any and all changes to this Privacy Notice will be reflected on this page, and where appropriate provided in person or by another electronic method. **YOUR CONTINUED USE, ACCESS, OR INTERACTION WITH OUR PRODUCTS OR YOUR CONTINUED COMMUNICATIONS WITH US AFTER THIS NOTICE HAS BEEN PROVIDED TO YOU WILL REPRESENT THAT YOU HAVE READ AND UNDERSTOOD THIS PRIVACY NOTICE.**

**Contact Us** [dataprivacy@firstam.com](mailto:dataprivacy@firstam.com) or toll free at 1-866-718-0097.



### **For California Residents**

If you are a California resident, you may have certain rights under California law, including but not limited to the California Consumer Privacy Act of 2018 ("CCPA"). All phrases used in this section shall have the same meaning as those phrases are used under California law, including the CCPA.

**Right to Know.** You have a right to request that we disclose the following information to you: (1) the categories of personal information we have collected about or from you; (2) the categories of sources from which the personal information was collected; (3) the business or commercial purpose for such collection and/or disclosure; (4) the categories of third parties with whom we have shared your personal information; and (5) the specific pieces of your personal information we have collected. To submit a verified request for this information, go to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or by calling toll-free at 1-866-718-0097

**Right of Deletion.** You also have a right to request that we delete the personal information we have collected from and about you. This right is subject to certain exceptions available under the CCPA and other applicable law. To submit a verified request for deletion, go to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or call toll-free at 1-866-718-0097. You may also designate an authorized agent to submit a request on your behalf by going to our online privacy policy at [www.firstam.com/privacy-policy](http://www.firstam.com/privacy-policy) to submit your request or by calling toll-free at 1-866-718-0097.

**Verification Process.** For either a request to know or delete, we will verify your identity before responding to your request. To verify your identity, we will generally match the identifying information provided in your request with the information we have on file about you. Depending on the sensitivity of the information requested, we may also utilize more stringent verification methods to verify your identity, including but not limited to requesting additional information from you and/or requiring you to sign a declaration under penalty of perjury.

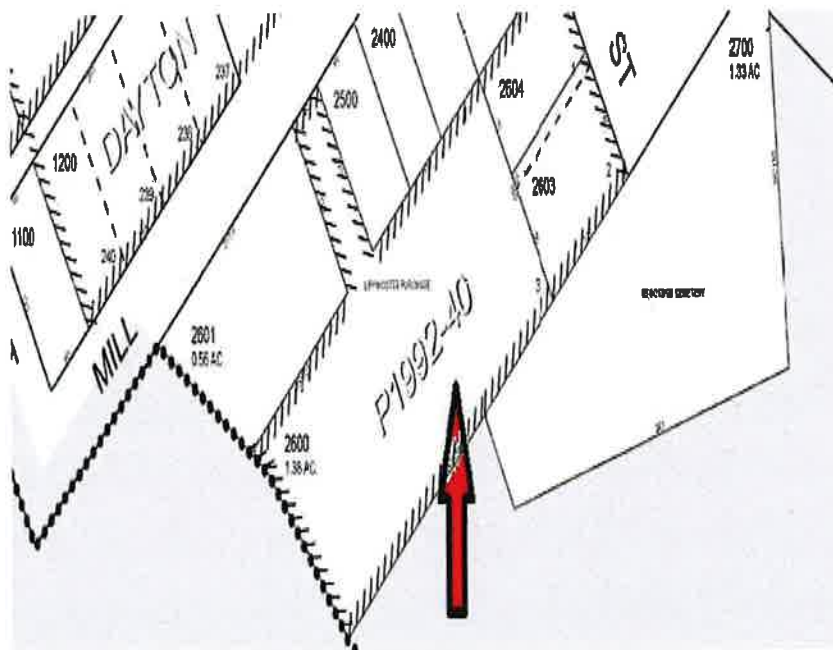
**Notice of Sale.** We do not sell California resident information, nor have we sold California resident information in the past 12 months. To the extent any First American affiliated entity has a different practice, it will be stated in the applicable privacy policy. We have no actual knowledge of selling the information of minors under the age of 16.

**Right of Non-Discrimination.** You have a right to exercise your rights under California law, including under the CCPA, without suffering discrimination. Accordingly, First American will not discriminate against you in any way if you choose to exercise your rights under the CCPA.

**Notice of Collection.** To learn more about the categories of personal information we have collected about California residents over the last 12 months, please see "What Information Do We Collect About You" in <https://www.firstam.com/privacy-policy>. To learn about the sources from which we have collected that information, the business and commercial purpose for its collection, and the categories of third parties with whom we have shared that information, please see "How Do We Collect Your Information", "How Do We Use Your Information", and "How Do We Share Your Information" in <https://www.firstam.com/privacy-policy>.

**Notice of Sale.** We have not sold the personal information of California residents in the past 12 months.

**Notice of Disclosure.** To learn more about the categories of personal information we may have disclosed about California residents in the past 12 months, please see "How Do We Use Your Information" and "How Do We Share Your Information" in <https://www.firstam.com/privacy-policy>.







**CCB#233725**

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

## **Dayton View Subdivision**

**Type-III 8-Lot Subdivision**

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0 4th Street Street Dayton, OR 97114 (R4317DD 02600)  
SUBDIVISION OF PARCEL 3 OF PARTITION PLAT 92-40

**Expedited Review Requested**  
**Dayton 7.3.109.07**

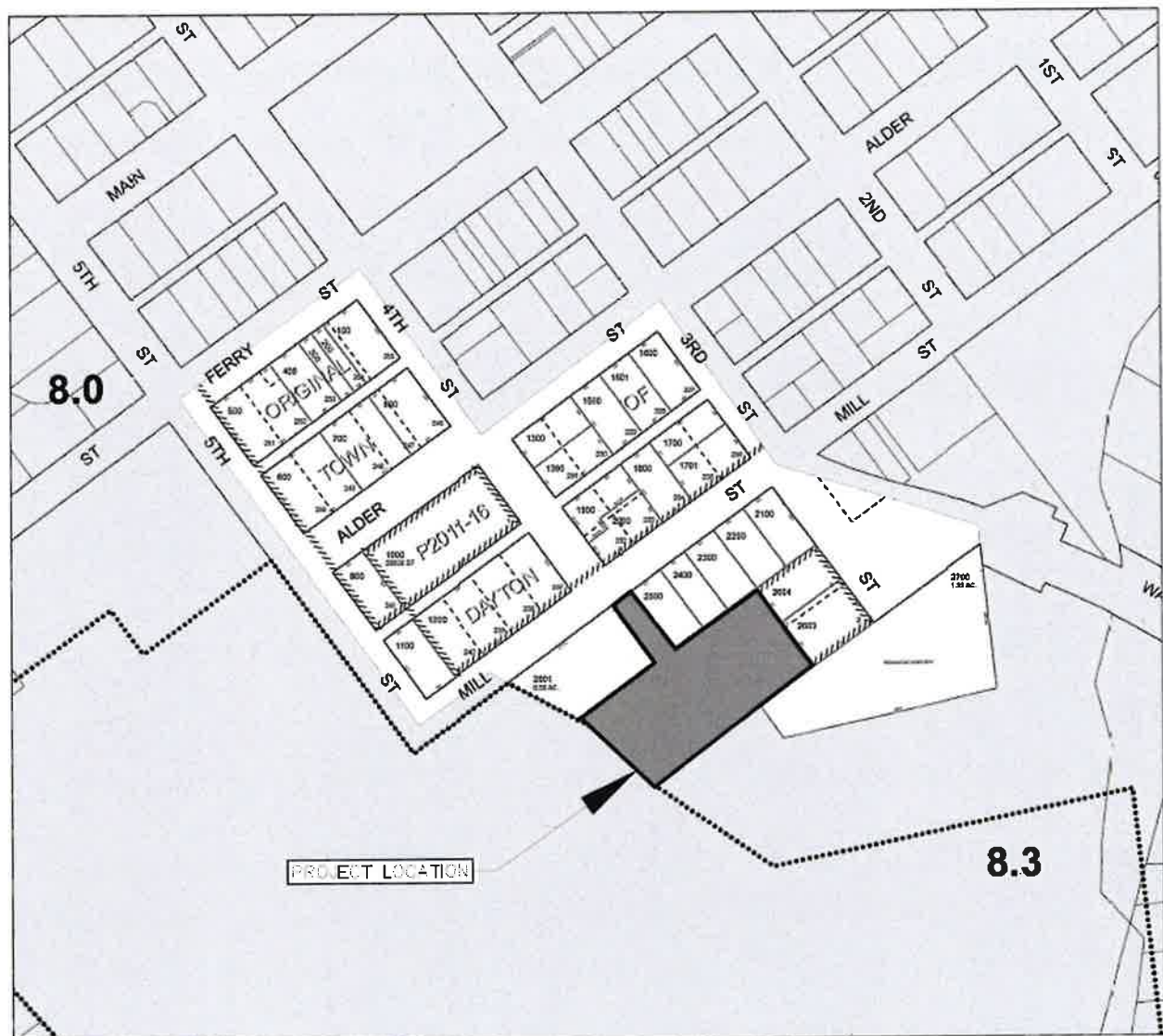
September 5 , 2024

# 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:	6,000sf
Proposed Lots sizes:	3884.99-13046.96 sf lots
Average Lot Size:	5422 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. Pursuant to the Development Code section 7.3.109.07, Applicant requests an expedited review of the application.



# PUBLIC SERVICES

## Sanitary Sewer

All of the proposed lots will be served by gravity to the public sanitary sewer system. Sanitary sewer extends along the frontage of Lots 1 through 6. A TV inspection was done and the existing sewer line is in good condition.

## Water Supply

All of the proposed lots will be serviced by municipal water. The water mainline is in Mill Street and will be extended to service the lots.

## Storm Drainage

Because of the topography, the storm water will be directed to a catch basin in the private street and will discharge through a 12" pipe at the back of Lot 8 into a rip rap channel that will serve to control erosion.

## Transportation

The private street serving the 8 lots will extend from Mill Street.

## TITLE 7: LAND USE AND DEVELOPMENT CODE

### 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 A 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:** These provisions will be met with the submission of subdivision plans.

- 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.

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

C. 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:** Not applicable.

#### **7.3.109.07 Expedited Land Division**

A. Eligibility. Land designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an expedited land division process when creating more four or more lots. The expedited land division process may be used in lieu of a Type II process.

B. Exclusion.

1. Property and process exclusions include properties specifically mapped and designated in the Comprehensive Plan or Development Code for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings.
2. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).

C. Complete Application. The City shall review an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.

D. Public Notice. Upon submittal of a complete application, the City shall send written notice to affected governmental agencies and property owners within 100 feet of the site proposed for the land division. The notice shall include the following:

1. The deadline for submission of written comments.
2. The time and place where all copies of evidence submitted by the applicant will be available for review.
3. The name, address, and telephone number of the City's staff person available to comment on the application.
4. Summary of the local decision making process for such a decision.

5. Applicable decision criteria.
  6. Notification that participants must raise all issues during the written comment period.
- E. Initial Decision. The local government must allow at least 14 days for written comments and shall render a decision within 63 days of a complete application. No public hearing may be held during the initial decision making phase.
- F. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.
- G. Time Extension.
1. Applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.
  2. City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a 7 day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.
- H. Decision Criteria. Criteria for approving the subdivision shall be as follows:
1. The criteria established in Section 3.109.04.
  2. Density. The application must be able to establish at least 80 percent of the allowable density of the applicable residential zone.
  3. Street Standards. The application must comply with the most recent City of Dayton Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards contained within this Code.
- I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.
- J. Appeal Fee. Filing an appeal requires a deposit according to the City's Fee Schedule to cover costs. An appellant faces the possibility of a higher assessment for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded. (*Revised Ordinance 614, 10/7/13-Effective 11/06/13*)
- K. Basis of an Appeal of the Initial Decision. The local appeal is shall based on the following:
1. The failure to meet local substantive and procedural requirements,
  2. Unconstitutionality,
  3. The decision was not within the expedited land division category, or
  4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.
- L. Hearings Officer. The appeal of the initial expedited land use decision shall be heard by a City designated hearings officer. The hearings officer may not be a City officer or City employee.
- M. Hearings Officer Notification. Within 7 days of the hearings officer's appointment, the City shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date



before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.

- N. Appeal Hearing. The hearings officer conducts a hearing that:
  - 1. Follows the Commission proceeding requirements,
  - 2. Allows the local government's explanation of its decision, and
  - 3. May consider evidence not previously considered.
- O. Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.
- P. Appeal of Hearings Officer Decision. Appeals of the Hearings Officer decision are to the Oregon Court of Appeals.
- Q. Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:
  - 1. Whether the decision followed the process for an expedited land division and the appellant raised that issue,
  - 2. Unconstitutionality, and
  - 3. Certain bias or interest on the part of the hearings officer or local government.
- R. Process for Final Plat Approval. Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 3.109.06.

**Response:** Applicant is submitting an expedited land division application and shall comply with the requirements of this section.

## **TITLE 7: LAND USE AND DEVELOPMENT CODE SECTION 7.2.3 - GENERAL DEVELOPMENT STANDARDS**

### **7.2.311.01 Purpose**

- A. To produce a residential development equal to or better than one resulting from traditional lot-by-lot development.
- B. To allow flexibility which will encourage a more creative approach in the development of land, and will result in a more efficient, aesthetic and desirable use of open area, while substantially maintaining the same population density and area coverage permitted in the district in which the project is located.
- C. To allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the site potential characterized by special features of geography, topography, size and shape.

**Response:** Purpose does not apply because it contains purpose statements which the Oregon Land Use Board of Appeals (LUBA) has stated in several decisions are not approval criteria. Because statements of purpose are not approval criteria they cannot be used as approval criteria.

**TITLE 7: LAND USE AND DEVELOPMENT CODE**  
**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.

**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 through 6 will be developed as attached single family dwellings, each having an area greater than 3,500 SF. Refer to Plan Sheet P-2 for proposed house layouts. The target density for this property is 7 lots. Lots 7 and 8 are larger than the standard size due to topography constraints.

**LOT SIZE (SF)**

LOT 1	3,884.99
LOT 2	3,884.99
LOT 3	3,884.99
LOT 4	3,884.99
LOT 5	3,884.99
LOT 6	4,064.50
LOT 7	13,046.96
LOT 8	10,906.41
TRACT A	12,508.54

- 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.

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.
3. Cul-de-sac lots shall have a minimum frontage of 25 feet.
4. Flag lots, as permitted in Subsection 2.307.03.C.
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:** Applicant proposes a private street 20' in width that connects to Mill Street.

- 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 Exhibit A



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

**Response:** Applicant 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:** Not applicable.

- 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 complies with 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:** Applicant shall 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.
2. Facilities. All sewer, water and storm water facilities shall be designed and constructed to comply with adopted Public Works 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.
  - 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.
  - d. Cul-de-sacs. Streets designed as cul-de-sacs shall comply with standards contained in Section 7.2.302.04.
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:** These provisions will be met with the submission of subdivision plans.

**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:

- A. Private Access. Where included, private driveways serving flag lots, or private streets, shall be surfaced per the requirements of this Code.

**Response:** Applicant proposes a private street extending from 4<sup>th</sup> and Mill Streets to provide access to Lots.

B. Street Frontage Improvements. The following improvements shall be required:

1. If the street frontage of the subject property is less than or equal to 250 feet, the applicant shall sign a non-remonstrance agreement with the City of Dayton. This agreement shall stipulate that the applicant or future property owner will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.
2. If the street frontage of the subject property exceeds 250 feet, or extends and existing dedicated right-of-way, the applicant shall improve the following:
  - a. Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities per approved master plans. Where a master plan has not been adopted, the developer shall enter into a non-remonstrance agreement consistent with item B.1., above.
  - b. Sidewalks, meeting City standards, along public street frontage.
  - c. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve lots accessing off of the new street.

**Response:** The street frontage along Mill Street is 40 feet and the adjacent frontages are unimproved. Applicant proposes to sign a non-remonstrance for future right of way improvements that will encumber Lots 1 through 8.

C. Public Facilities. Prior to recording the final partition plat, the developer shall submit engineering plans to the City for review. The plans shall address the required improvements contained in Section 7.2.301, and any conditions of approval, and shall conform with City Public Works Design Standards. The plans shall be approved prior to the recording of the final partition plat.

**Response:** Applicant shall submit construction plans for approval.

D. Completion Requirements. All required improvements shall be completed prior to the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the partition.

**Response:** Applicant understands the completion requirements.

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

- 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 that connects to a 12" PVC storm pipe and discharges at the back of Lot 8 into a rip rap channel for erosion control.

- 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 existing sanitary sewer line that extends along the frontage of the lots with a typical 4' PVC sanitary sewer lateral and cleanout.

- 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 shall connect to the existing City water line in Mill Street and extend a new 6' DI water line to service the eight lots.

- 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 the north side of the private drive extension of 4<sup>th</sup> Street.

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

**Response:** No streetlights will be necessary for this project.

- 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 prior to obtaining the building permit.

- 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:** The Applicant will not be installing driveways.

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 with the submission of subdivision plans.

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

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

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

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

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

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

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

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

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

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

## **TITLE 7: LAND USE AND DEVELOPMENT CODE**

### **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.

## TITLE 7: LAND USE AND DEVELOPMENT CODE

### 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:** The Applicant will comply with this requirement.

#### **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:** Not applicable

#### **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.

#### **7.3.204.05 Public Hearing Notice Requirements**

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

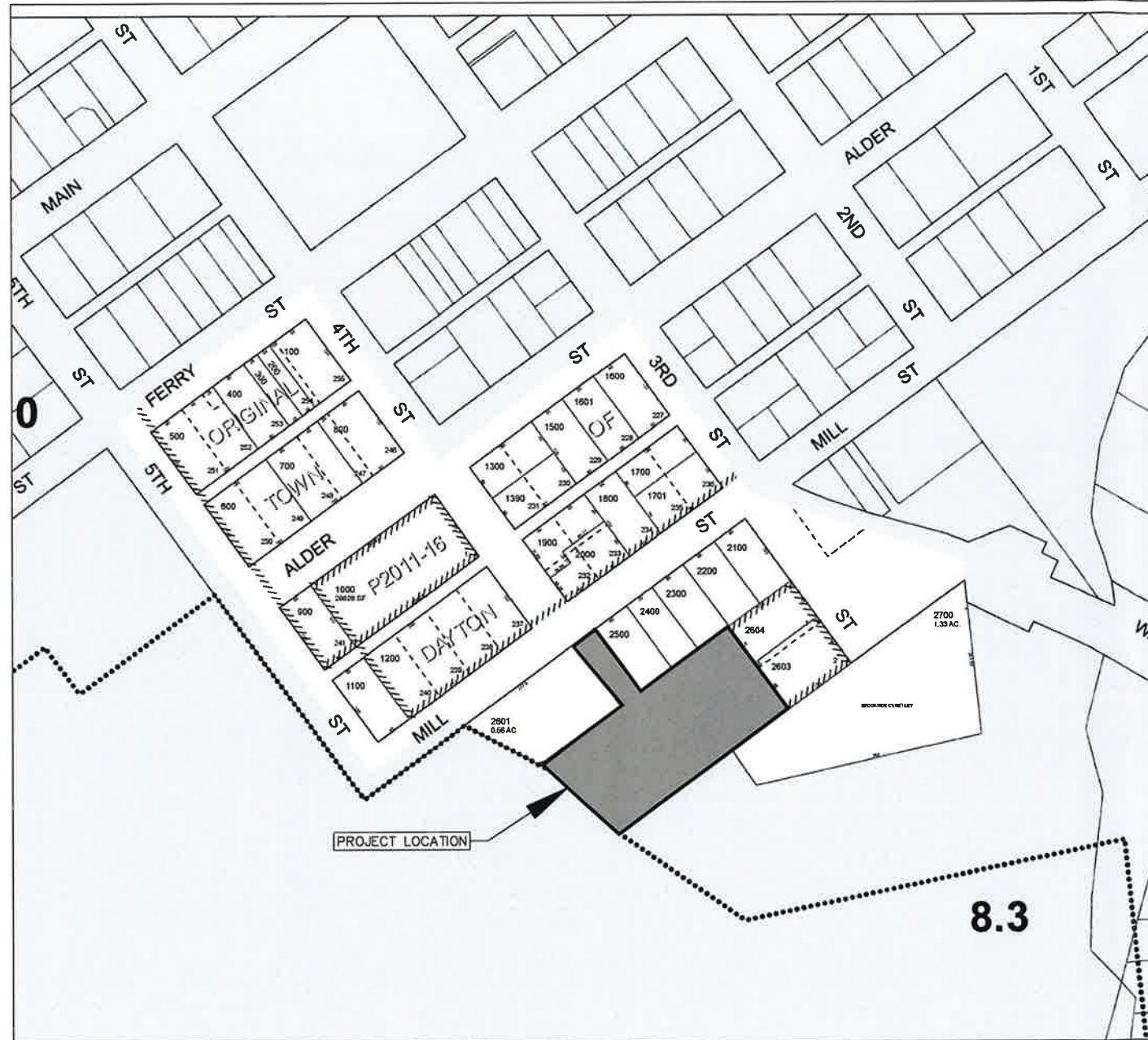
- A. Explain the nature of the application and the proposed use or uses which could be authorized.
- B. Cite the applicable criteria from the Code and the plan which apply to the application at issue.
- C. Set forth the street address or other easily understood geographical reference to the subject property.
- 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:** Applicant shall include these items on the Public Hearing Notice



**Exhibit A**  
**Preliminary Plan Set**



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  
2802  
2801  
1400

#### SHEET INDEX:

- G-1 COVER SHEET
- P-1 CURRENT PARTITION PLAT
- P-2 PRELIMINARY SUBDIVISION PLAT
- P-3 PRELIMINARY HOUSE LAYOUT
- 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\_12\_24 DAYTON 6 LOT

8/21/24

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: 431700 - 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 "Dundek PLS 1942"
- x - = existing fence line
- ( ) = data of record

DECLARATION

KNOW ALL MEN BY THESE PRESENTS that we, Andrie 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.

Andrie H. Krake Martha L. Krake  
Andrie H. Krake Martha L. Krake

ACKNOWLEDGMENT

STATE OF OREGON  
COUNTY OF YAMHILL

On this day, did personally appear Andrie 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 Public for Oregon  
Commission Expires: 4-24-94

APPROVALS :

M. L. Jones 5-26-92  
Yamhill Co. Engineer

Melissa Postman Secretary  
City of Dayton Planning Delegate

M/A  
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  
I hereby certify that the instrument was properly and duly recorded by me in Yamhill County records.  
T. Suller  
CLERK OF 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-6329, 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-6329 & CSP-9028 are set where they were intended to be. The legal descriptions that have been created since these surveys were done changed the dimensions from said surveys.

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

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

Matt Dundek  
OREGON  
MATTHEW E. DUNDEK  
1942

Initial Point  
3/4" IR, CS-2885, leaning to the NW,  
removed and set 5/8" in straight position from bottom of IR.  
SW cor. Lot 240, Town of Dayton bears S 80°56'00" W 697.29'

Surveyor's Certificate

I, Matt Dundek, do hereby certify that I have surveyed and marked with proper monuments the land herein shown on this subdivision 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 Andrie 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 180.00' 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 290.00' from the westerly margin of 3rd Street and the southeasterly corner of the Mill Wade tract described in deed recorded in Film Volume 198 Page 1446; thence N38°15'00"W 120.00' along the westerly line of said tract in contrast from Krake to Erickson and recorded in Film Volume 174 Page 1814; thence S30°15'00"E 120.00' to the southeasterly corner of said Erickson tract; thence S51°45'00"W 156.25' along the south line of said tract to the easterly line of that tract of land described in deed to Erickson and recorded in deed 125 Page 464, which is the centerline of a creek; thence S84°00'00"E 24.88' along said line; thence S48°00'00"E 80.81' along said line; thence S48°04'08"E 78.25' 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 448.75' to the point of beginning.

Matt Dundek  
Matt Dundek, Oregon PLS 1942

1062

PREPARED BY:

**NW SUMMIT  
DEVELOPMENT LLC**

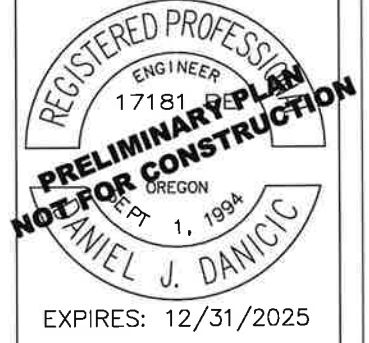
PREPARED FOR:

PROJECT:

**DAYTON  
VIEW**

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

SEAL:



REVISIONS \_\_\_\_\_ DATE \_\_\_\_\_

SUBMITTAL \_\_\_\_\_

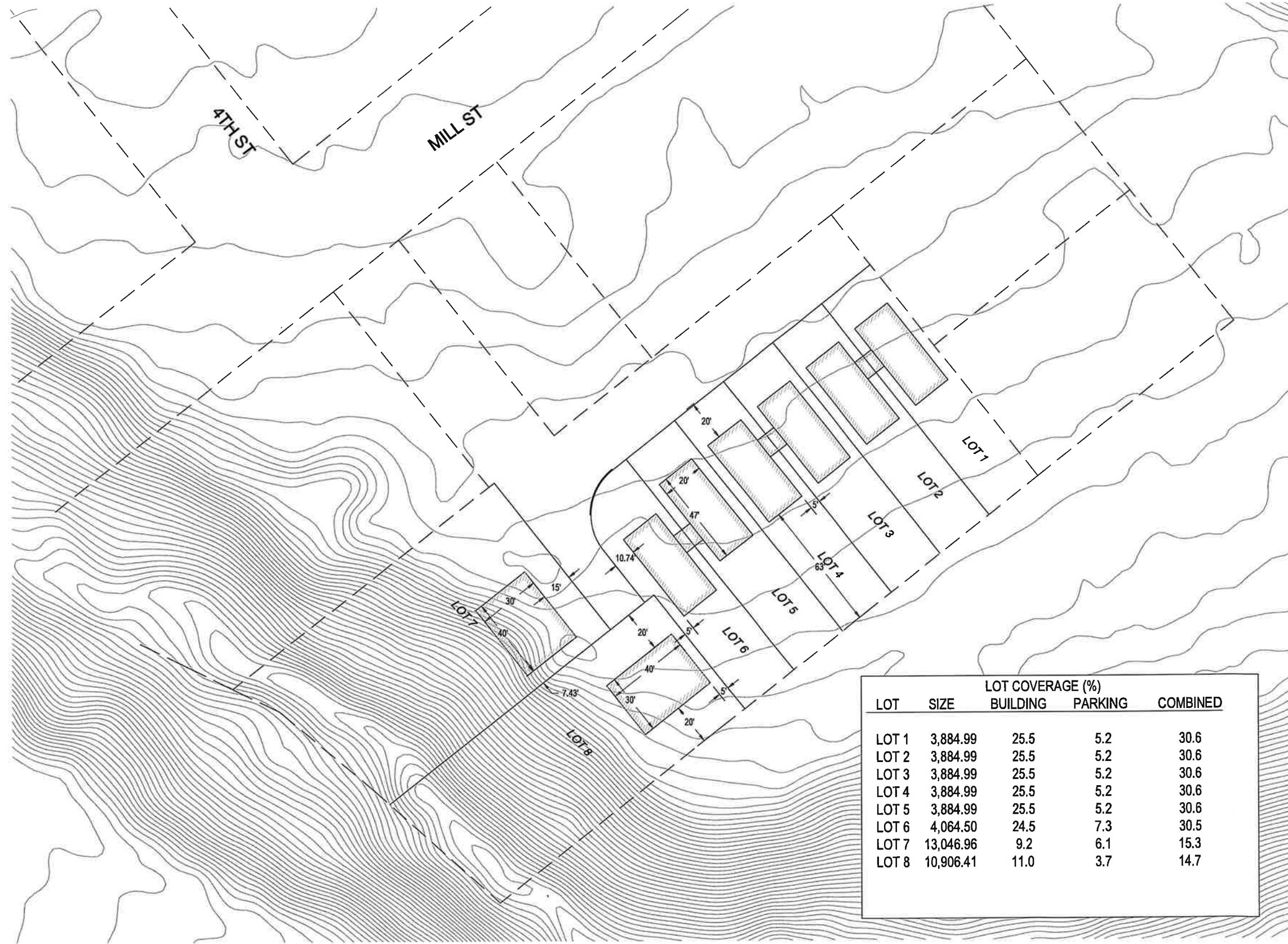
01\_12\_24 DAYTON 6 LOT  
8/21/24

TITLE: \_\_\_\_\_

ORIGINAL PARTITION PLAT

SHEET: \_\_\_\_\_

P-1



LOT	SIZE	LOT COVERAGE (%)		COMBINED
		BUILDING	PARKING	
LOT 1	3,884.99	25.5	5.2	30.6
LOT 2	3,884.99	25.5	5.2	30.6
LOT 3	3,884.99	25.5	5.2	30.6
LOT 4	3,884.99	25.5	5.2	30.6
LOT 5	3,884.99	25.5	5.2	30.6
LOT 6	4,064.50	24.5	7.3	30.5
LOT 7	13,046.96	9.2	6.1	15.3
LOT 8	10,906.41	11.0	3.7	14.7

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

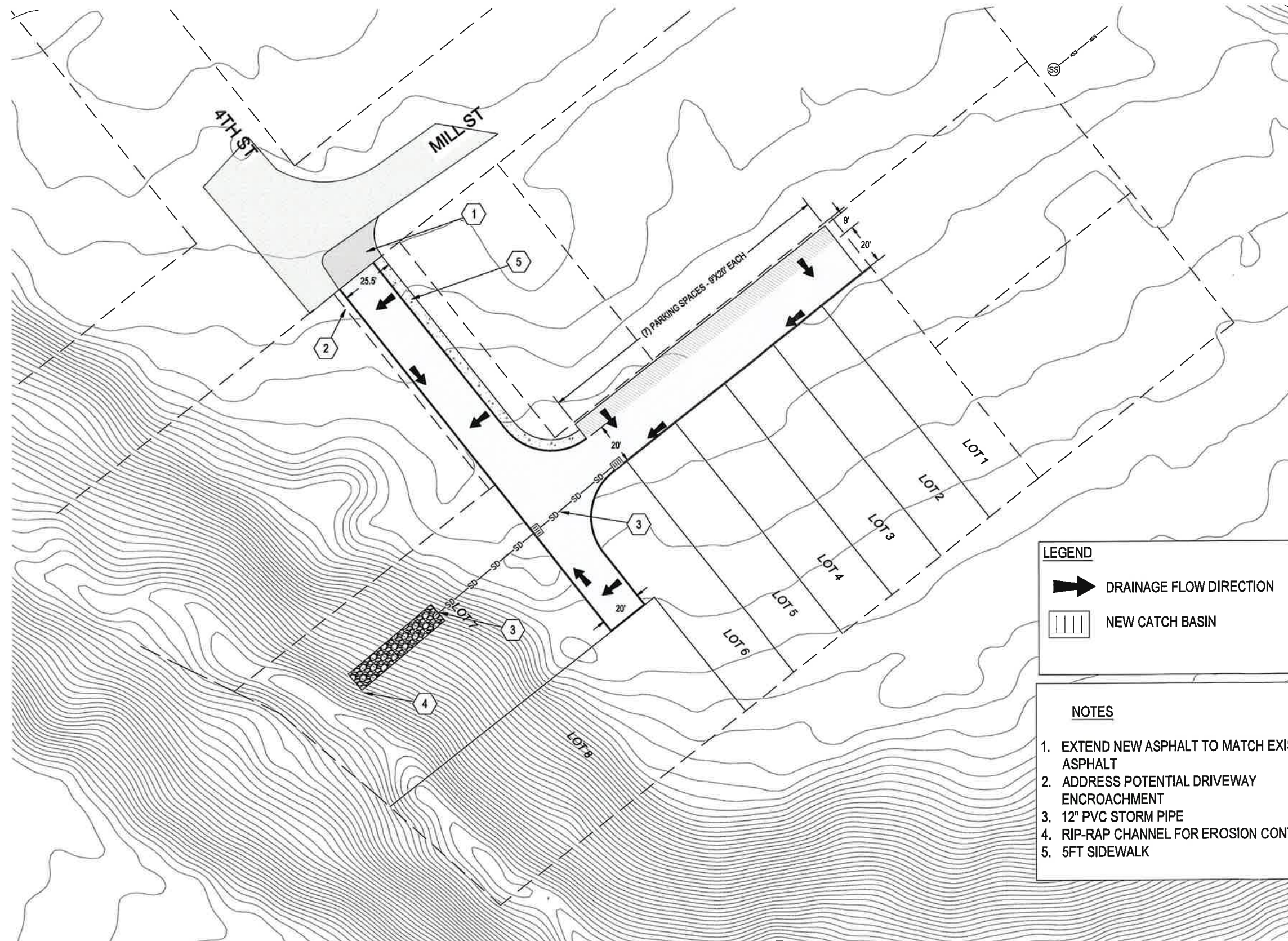
REVISIONS	DATE
SUBMITTAL	

01\_12\_24 DAYTON 6 LOT  
8/21/24

TITLE:  
**PRELIMINARY  
HOME LAYOUT**

SHEET:  
**P-3**



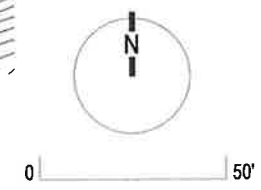


**LEGEND**

➔ DRAINAGE FLOW DIRECTION

|||| NEW CATCH BASIN

- NOTES**
- 1. EXTEND NEW ASPHALT TO MATCH EXISTING ASPHALT
  - 2. ADDRESS POTENTIAL DRIVEWAY ENCROACHMENT
  - 3. 12" PVC STORM PIPE
  - 4. RIP-RAP CHANNEL FOR EROSION CONTROL
  - 5. 5FT SIDEWALK



PREPARED BY:  
**NW SUMMIT DEVELOPMENT LLC**

PREPARED FOR:

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

SEAL:

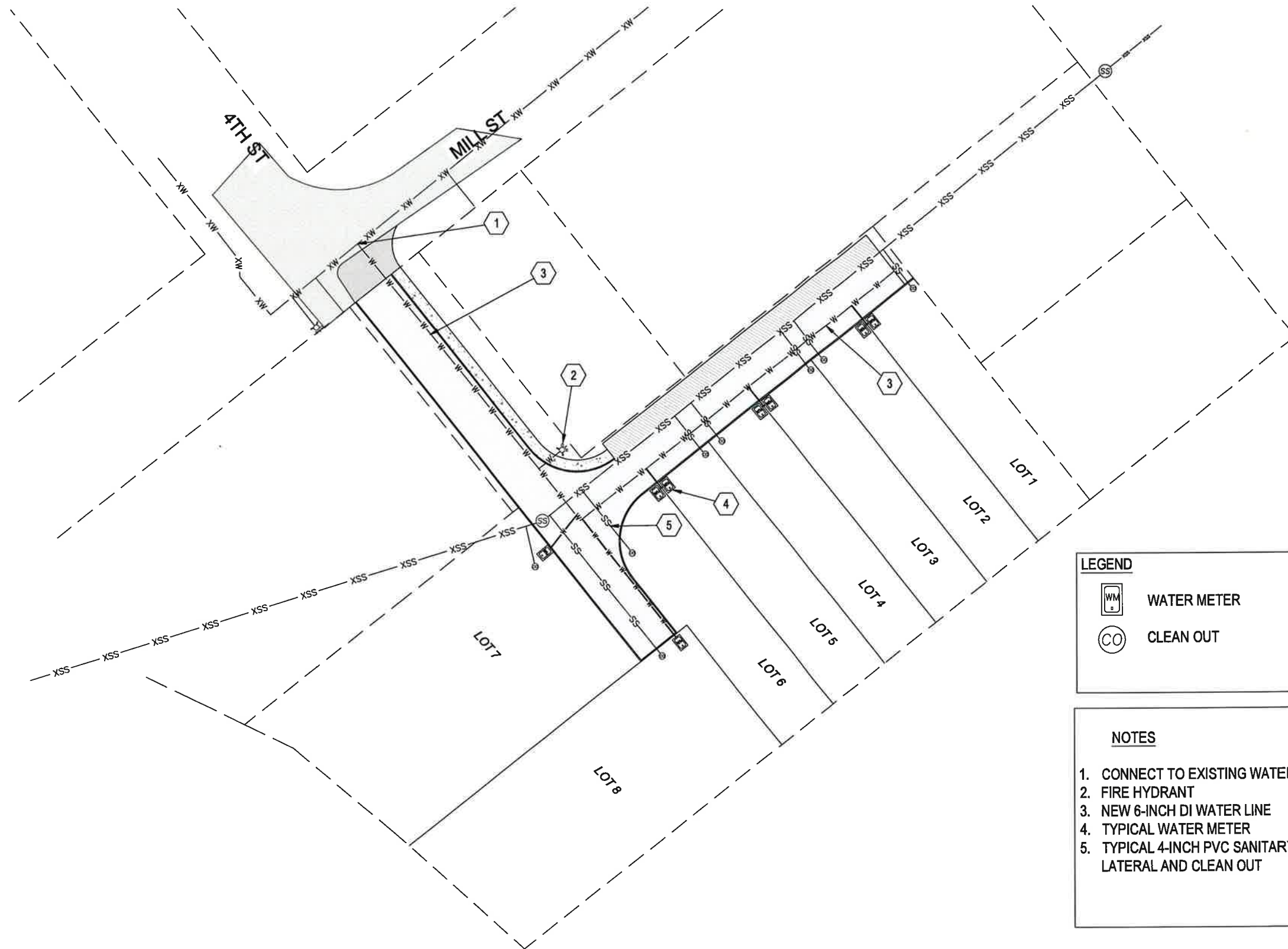
REGISTERED PROFESSIONAL ENGINEER  
17181  
**PRELIMINARY PLAN**  
OREGON  
JANUARY 1, 1994  
DANIEL J. DANICIC  
EXPIRES: 12/31/2025

REVISIONS	DATE
SUBMITTAL	

01\_12\_24 DAYTON 6 LOT  
8/21/24

TITLE:  
**STREET AND STORM IMPROVEMENTS**  
SHEET:  
**C-1**





**LEGEND**

WATER METER

CLEAN OUT

**NOTES**

1. CONNECT TO EXISTING WATER LINE
2. FIRE HYDRANT
3. NEW 6-INCH DI WATER LINE
4. TYPICAL WATER METER
5. TYPICAL 4-INCH PVC SANITARY SEWER LATERAL AND CLEAN OUT



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\_12\_24 DAYTON 6 LOT  
8/21/24

TITLE:  
**WATER AND SANITARY  
SEWER IMPROVEMENTS**  
  
SHEET:



## 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: <u>11/21/24</u>	Received By: <u>[Signature]</u>	File Number: <u>MAJVAR 2024-10</u>
Public Hearing Date:	Fee Amount: <u>\$350.00</u>	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: 971-448-7507 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 Outdoor Vista City: Bend ST: OR Zip: 97703  
 Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

Summary of Request: A Major Variance of code section 7.2.302.07.A.

Section(s) of the Code which you are seeking a variance for: 7.2.302.07.A.

Property Owner Signature: [Signature] Date: 11/20/24  
 Applicant Signature: [Signature] Date: 11/21/24

(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: <u>350.00</u>	Date Paid: <u>11/22/24</u>	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

Consultants (please list all that apply)

☒ Planning

☐ Engineering

☐ Surveyor

☐ Other

Name: Jessica Cain Physical Address: 111 N College St  
Firm: NW Summit Development LLC City: Newberg ST: OR Zip: 97132  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: 971-498-7507  
Email Address: Jessica@NWSummitDevelopment.com

☐ Planning

☒ Engineering

☐ Surveyor

☐ Other

Name: Dan Danicic Physical Address: 111 N College St  
Firm: NW Summit Development LLC City: Newberg ST: OR Zip: 97132  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: 503-476-7702  
Email Address: Dan@NWSummitDevelopment.com

☐ Planning

☐ Engineering

☒ Surveyor

☐ Other

Name: Lee MacDonald Physical Address: 3885 Nc Riverside DR  
Firm: MacDonald Surveying City: McMinnville ST: OR Zip: 97128  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: 503-472-7904  
Email Address: \_\_\_\_\_

☐ Planning

☐ Engineering

☐ Surveyor

☐ Other

Name: \_\_\_\_\_ Physical Address: \_\_\_\_\_  
Firm: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_

☐ Planning

☐ Engineering

☐ Surveyor

☐ Other

Name: \_\_\_\_\_ Physical Address: \_\_\_\_\_  
Firm: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Telephone #: \_\_\_\_\_  
City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_ Cell Phone #: \_\_\_\_\_  
Email Address: \_\_\_\_\_



**Applicant must provide evidence that all of the following circumstances substantially exist:**

- A. There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the requirements of the Code, and is the minimum relief to relieve the hardship. Adverse economic impact shall not be considered an unreasonable hardship or practical difficulty.
- B. There are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to the land, or uses in the same zone; however, non-conforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions.
- C. That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.
- D. That such variance is necessary for the preservation and enjoyment of the substantial property rights of petitioner.
- E. That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant.
- F. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.
- G. The variance request is not the result of a deliberate action or knowing violation on the part of the applicant.

***Describe the proposed Variance, make sure to address all the required criteria listed above (be specific):***

SEE ATTACHED

Attach additional pages if needed

#### **7.3.108.01 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. Those requests which result in a more than 10% change in a quantifiable standard require a major variance.

**Response:** This application is for a major variance of code section 7.2.302.07.A

*Application. At least three (3), and no more than six (6), lots or parcels may be served by a private street. Private street standards shall also apply if at least three (3), and no more than six (6), parcels may be created through a series of separate partitions. This limit shall not apply to planned unit developments.*

This request is to increase the number of lots served by a private street from six to eight. Allowing eight lots is greater than a 10% increase ( $6 \text{ lots} \times 1.10 = 6.6$ ) therefore a major variance is requested

#### **Density:**

*Code section 7.2.103.06F1. Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre.*

The subject property is 1.38 acres. The calculated density range is 6.9 to 9.66 lots. This variance to allow eight lots is greater than a 10% increase ( $6 \text{ lots} \times 1.10 = 6.6$ ) therefore a major variance is requested.

#### **Public Street:**

7.2.302.04 General Right-Of-Way And Improvement Widths specifies that for a local street serving less than 19 d/u the minimum width of right of way is 46 feet. The subject property is limited to a frontage width of 39.86 feet at the public right of way. Any subdivision of this property cannot meet this standard.

#### **7.3.108.02 Review And Approval Process**

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

**Response:** this major variance application is included with the type two subdivision application.

#### **7.3.108.03 Application And Fee**

An application for a variance shall be filed with the City Recorder 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:** The appropriate application fee has been paid.

#### **7.3.108.04 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 does not change the permitted use in the district as it will remain Limited Density Residential R2.

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

**Response:** There is no other existing procedure or criteria specified in the code that addresses this variance request for private streets.

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

**Response:** The modification requested is not prohibited within this district.

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

**Response:** The requested variance is not specifically disallowed in the district.

#### **7.3.108.05 Criteria And Procedure**

The Planning Commission may grant a major variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that all the following circumstances substantially exist:

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

**Response:** There are practical difficulties to me both the density development requirements and public Street standards as follows:

**Density:**

*Code section 7.2.103.06F1. Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre.*

The subject property is 1.38 acres.  $1.38 \times 5 = 6.9$  and  $1.38 \times 7 = 9.66$

The code required density, rounded, is 7 to 10 lots.

**Public Street:**

7.2.302.04 General Right-Of-Way And Improvement Widths specifies that for a local street serving less than 19 d/u the minimum width of right of way is 46 feet. The subject property is limited to a frontage width of 39.86 feet at the public right of way. Any subdivision of this property cannot meet this standard.

**Summary:** There is practical difficulty in that a public right of way is not possible which

requires the use of a private street. However the lot limitation for a private street prevents the subdivision from meeting density requirements. The requested variance provide relief.

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

**Response:** As noted above, the extraordinary condition where the dimension of the lot frontage at the right of way prevents the ability to meet public street standards.

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

**Response:** Granting this application will not be detrimental to the public welfare or be injurious to property or improvements in the neighborhood as as the variance increases the number of lots buy just two. All of the lots will meet the zoning criteria for size and density therefore, the subdivision will not be out of scale for the adjacent neighborhood.

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

**Response:** The property owner is entitled to develop this property within the density permitted by Code section 7.2.103.06F1.

*Subdivisions: The minimum density shall be 5 units per acre; the maximum density shall be 7 units per acre.*

The subject property is 1.38 acres. The required density then is 6.9 to 9.66 lots. The variance is to allow eight lots which is within the desired density in the R2 zone. Granting the variance preserves the property rights of the petitioner.

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

**Response:** Granting this application will not adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant as the use of the land does not change only the number of lots which themselves meet lot size and density criteria in the R2 zone. Therefore the development will be in keeping with the character of the neighborhood with the variance.

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

**Response:** This variance is the minimum necessary to permit development of the property within the density allowed within the R2 zone.

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

**Response:** this variance request is not the result of any deliberate action or knowing violation on the part of the applicant.

See attached documents that shows Brian Stevens has signing authority for Dayton Point, LLC.



Corporation Division  
[sos.oregon.gov/business](http://sos.oregon.gov/business)

# AMENDED ANNUAL REPORT

**E-FILED**  
Jul 23, 2024

**OREGON SECRETARY OF STATE**

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**REGISTRY NUMBER**

133796698

**REGISTRATION DATE**

06/27/2017

**BUSINESS NAME**

DAYTON POINT LLC

**BUSINESS ACTIVITY**

REAL ESTATE INVESTMENTS

**MAILING ADDRESS**

197 NW OUTLOOK VISTA  
BEND OR 97703 USA

**TYPE**

DOMESTIC LIMITED LIABILITY COMPANY

**PRIMARY PLACE OF BUSINESS**

197 NW OUTLOOK VISTA  
BEND OR 97703 USA

**JURISDICTION**

OREGON

**REGISTERED AGENT**

GREGORY STEVENS

197 NW OUTLOOK VISTA  
BEND OR 97703 USA

If the Registered Agent has changed, the new agent has consented to the appointment.

**MANAGER**

BRIAN STEVENS

197 NW OUTLOOK VISTA  
BEND OR 97703 USA



I declare, under penalty of perjury, that this document does not fraudulently conceal, fraudulently obscure, fraudulently alter or otherwise misrepresent the identity of the person or any officers, managers, members or agents of the limited liability company on behalf of which the person signs. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

By typing my name in the electronic signature field, I am agreeing to conduct business electronically with the State of Oregon. I understand that transactions and/or signatures in records may not be denied legal effect solely because they are conducted, executed, or prepared in electronic form and that if a law requires a record or signature to be in writing, an electronic record or signature satisfies that requirement.

**ELECTRONIC SIGNATURE**

**NAME**

BRIAN STEVENS

**TITLE**

MANAGER

**DATE**

07-23-2024



BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 22 day of June, 2017.

Harold Y. Tanaka  
Harold Y. Tanaka

Sharon A. Tanaka  
Sharon A. Tanaka

STATE OF Oregon )  
 )ss.  
County of Yamhill )

This instrument was acknowledged before me on this 22 day of June, 2017  
by **Harold Y. Tanaka and Sharon A. Tanaka.**

Michelle W. Gregor

Notary Public for Oregon  
My commission expires: 4/30/21





After recording return to:  
Dayton Point, LLC  
10902 Old Sheridan Road  
McMinnville, OR 97128

Until a change is requested all tax  
statements shall be sent to the  
following address:  
Dayton Point, LLC  
10902 Old Sheridan Road  
McMinnville, OR 97128

File No.: 1031-2837351 (MWG)  
Date: March 27, 2017

THIS SPACE RESERVED FOR RECORDER'S USE

Yamhill County Official Records **201710380**  
**DMR-DDMR**  
Stn=0 SUTTONS **06/30/2017 09:30:00 AM**  
2Pgs \$10.00 \$11.00 \$5.00 \$20.00 **\$46.00**

I, Brian Van Bergen, County Clerk for Yamhill County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.

Brian Van Bergen - County Clerk

## STATUTORY WARRANTY DEED

**Harold Y. Tanaka and Sharon A. Tanaka, as tenants by the entirety**, Grantor, conveys and warrants to **Dayton Point, LLC, an Oregon limited liability company**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

**LEGAL DESCRIPTION:** Real property in the County of Yamhill, State of Oregon, described as follows:

**Parcel 3 of Partition Plat 92-40, recorded May 28, 1992 in Volume 3, Page 230, Plat Records of Yamhill County, State of Oregon.**

**Subject to:**

Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$185,000.00**. (Here comply with requirements of ORS 93.030)

FIRST AMERICAN TITLE 2837351