



**AGENDA**  
**City of Dallas**  
**Planning Commission**  
**Tuesday, January 9, 2024 - 7:00 p.m.**  
**City Hall Council Chambers**  
**187 SE Court Street**

**Planning  
Commission**

President  
John Swanson

Vice President  
Andy Groh

Commissioner  
Carol Kowash

Commissioner  
Tory Banford

Commissioner  
John Schulte

Commissioner  
Rich Spofford

Commissioner  
Mary Newell

**Staff**

City Attorney  
Lane Shetterly

City Planner  
Chase Ballew

Recording Secretary  
Benjamin Curry

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES - Regular meeting of December 12, 2023
4. PUBLIC COMMENT – This is an opportunity for citizens to speak to items not on the agenda (3 minutes per person please.)
5. PUBLIC HEARINGS
  - CUP 23-12 – Short-term Vacation Rental (Air BnB) – Naomi & Joshua Smith  
*Application for short-term rental at 1110 Levens Street*
  - SUB 23-03 – Miller Avenue Subdivision – Noble Built Homes, LLC  
*Application for 12-lot subdivision at 1390 SE Miller Avenue*
  - SUB 21-07 – Creekside 3 Subdivision Modification – David Radke  
*Modification of condition of approval regarding floodplain development*
7. COMMISSIONER COMMENTS
8. STAFF COMMENTS
9. ADJOURN

**Next meeting will be 02/13/2024**

Although the meeting is in person you may also watch virtually.  
To Watch Online: [www.dallasor.gov/community/page/dallasyoutube](http://www.dallasor.gov/community/page/dallasyoutube)

If you are watching online and want to submit a comment either in the public comment period or during the Public Hearing comment period, you must telephone: +1 253 215 8782  
Meeting ID: 213 855 0622  
If you are unable to access the meeting by telephone or by computer, please contact the Administration Department (503-831-3502) at least 48 hours in advance to request alternative accommodation.

Dallas City Hall is accessible to all people with disabilities. Any requests for accommodation should be made at least 48 hours before the meeting to the Economic and Community Development Department, 503-831-3565 or TDD 503-623-7355.

For questions or comments on the agenda, contact: Chase Ballew at 503.831.3570 or [chase.ballew@dallasor.gov](mailto:chase.ballew@dallasor.gov).

MINUTES

1 **1. CALL TO ORDER**

2 President John Swanson presiding, called the meeting to order at 7:01 p.m.  
3

4 **2. ROLL CALL**

5 **Commissioners Present:** John Swanson, Rich Spofford, John Schulte, Mary Newell, Tory Banford,  
6 Carol Kowash

7 **Not in Attendance:** Andy Groh

8 **Staff Present:** Chase Ballew, City Planner; Charlie Mitchell, Economic & Community Development  
9 Director; Tom Gilson, Public Works Supervisor; Benjamin Curry, Recorder

10  
11 Mr. Swanson made an announcement that the public hearing for SUB 21-01 Creekside 3 Subdivision  
12 Modification will be rescheduled to the January 9, 2024 agenda.  
13

14 **3. APPROVAL OF MINUTES**

15 Mr. Swanson presented the minutes of the regular meeting of November 14, 2023. Mr. Banford made a motion  
16 to approve the minutes as written. Mr. Schulte seconded the motion. The motion passed unanimously.  
17

18 **4. PUBLIC COMMENT (3 minutes per person)**

19 There were none.  
20

21 **5. PUBLIC HEARING – A TYPE IV**

22 **Conditional Use Permit #CUP-23-11 Dallas Community School – 636 Main Street**

23 Mr. Swanson opened the public hearing at 7:05 p.m. He introduced the agenda item, the rules for public  
24 testimony, and the quasi-judicial proceedings to follow. No other ex-parte contact or conflicts of interest were  
25 declared.  
26

27 **STAFF REPORT**

28 Mr. Ballew read from the staff report and summarized the application and the criteria for approval. Staff  
29 recommendation is that Conditional Use Permit CUP-23-11 be granted.  
30

31 **APPLICANT PRESENTATION**

32 Marlene Gillis, President, Soderstrom Architects – 3708 NE 136th Place, Portland, OR 97230  
33 The proposal is to expand the operation of the sister school across the street as they are running out of room.  
34 The current education program has a very successful k-8 offering and has grown to need a high school  
35 program as well. During the planning process, a feasibility study concluded that the property in question will  
36 meet the needs of the school's proposed use. To accommodate increased parking demand for faculty and  
37 students, an additional lot was purchased to the Southeast which should adequately serve the anticipated  
38 attendance level. Ms. Gillis concurred with the findings of the staff report and thanked city staff for their  
39 work on this application. Mr. Swanson inquired about the ownership status of the property. Ms. Gillis  
40 confirmed that the property is currently owned by Polk County and the school intends to purchase the  
41 property.  
42

43 **PUBLIC TESTIMONY**

44 **Samuel Owre - 392 SE Ironwood Avenue Dallas, OR 97338**

45 Mr. Owre shared that he is the property owner to the south of the previous Wells Fargo building and commended  
46 the school for how they currently operate across the street, listing parking and traffic control as being very well  
47 handled. He inquired about asphalt improvements and the impact on through traffic after parking is extended  
48 to the Southeast. He and his wife Sarah Owre are in full support of the school.  
49

50 **REBUTTAL**

51 Ms. Gillis said there are no plans to modify ingress or egress to the current driveway access and that any  
52 conflicts could be resolved with a cooperative parking arrangement with the surrounding properties for shared

53 access during off hours. Ms. Kowash inquired about maintenance responsibility for the access way. City staff  
54 identified the alleyway in question on a historical map and noted a portion that was vacated by the city in  
55 1979 around when the first bank was constructed. Mr. Shetterly noted the city may want to consider vacating  
56 the remaining section at a future date.  
57 Mr. Swanson closed the Public Hearing at 7:29 p.m.  
58

59 **DELIBERATIONS**

60 Mr. Banford expressed his support for improving a vacant property downtown and employing more young  
61 people in the area who will spur economic growth among local businesses, however he acknowledged his  
62 hesitation with taking commercial real estate off the tax rolls.  
63 Ms. Newell made a motion to approve Conditional Use Permit #CUP-23-11 with conditions of approval as  
64 written in the staff report, Ms. Kowash seconded the motion. The motion was passed unanimously with Mr.  
65 Swanson, Mr. Spofford, Mr. Schulte, Ms. Newell, Mr. Banford, and Ms. Kowash voting in favor.  
66

67 **PUBLIC HEARING - B**

68 **CPA#23-01 Clow Corner – Ken Perkins TYPE III (INITIATED BY APPLICANT)**

69 Mr. Swanson opened the public hearing at 7:32 p.m. He introduced the agenda item, the rules for public  
70 testimony, and the Type III quasi-judicial proceedings to follow. No ex-parte contact or conflicts of interest  
71 were declared.  
72

73 **STAFF REPORT**

74 Mr. Ballew read from the staff report summarizing the application and the criteria for approval utilizing a  
75 PowerPoint slide deck. Staff recommendation is that CPA#23-01 be recommended to City Council for  
76 approval. He noted that the office of Planning Official has the authority to expand the rezoning to include 498  
77 Hankel Street in alignment with the orderly expansion of the City.  
78 Ms. Newell asked if Ana Avenue is going to ultimately be the main residential access. Mr. Ballew replied that  
79 no current development proposal has been presented to the city yet and that according to the goalpost rule, a  
80 zone change would have to come first, but that it does look like the primary site access for the residential  
81 portion would be Ana Avenue. Mr. Banford asked if medium density residential would help address the  
82 housing needs deficit within the city. Mr. Ballew answered in the affirmative, referencing the current surplus  
83 of industrial land and the 22 acre deficit of RM zoning.  
84

85 **APPLICANT PRESENTATION**

86 Fred Evander, 746 SE Shelton, Dallas, Oregon 97338  
87 Mr. Evander spoke on behalf of the applicant Ken Perkins. He stated that the submitted packet contains all the  
88 information the applicant would like considered, noting that the proposal meets all 5 of the listed approval  
89 criteria. He believes that the proposal is in the public interest of the city referencing the 168-acre surplus of  
90 industrially zoned land and the need for more medium density residential within the city. He noted that Mr.  
91 Perkins was present in the audience and had spoken with the surrounding residents in advance of this hearing.  
92

93 **PUBLIC TESTIMONY**

94 **Nancy Tidwell - 1570 SE Ana Avenue Dallas, OR 97338**

95 Ms. Tidwell stated that she does not want her home to be surrounded by industrial property and she is in full  
96 support of the proposed application.  
97

98 **REBUTTAL**

99 No rebuttal was provided due to lack of opposing testimony.  
100 Mr. Swanson closed the Public Hearing at 7:46 p.m.  
101

102 **DELIBERATIONS**

103 Ms. Kowash is concerned about the future impact on traffic flow. Mr. Banford pointed out that a small  
104 portion of residential in an industrial zone can render the industrial less valuable. He is also concerned about  
105 losing industrial zoning on a major artery.  
106 Mr. Schulte made a motion to recommend CPA#23-01 as written to City Council for approval. Ms. Newell  
107 seconded the motion. The motion passed by split vote, with Mr. Spofford, Ms. Newell, Mr. Swanson, and Mr.  
108 Schulte voting in favor and Mr. Banford voting against.  
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**6. RENT BURDENED COMMUNITY DISCUSSION**

Mr. Ballew introduced the topic and the framing of the discussion to include the causes, impacts, and barriers to reducing rent burden within the city of Dallas. Mr. Swanson summarized the Planning Commission’s discussion from the prior year. The commission revisited land-use decisions in 2023 that were a step in the right direction. Mr. Ballew reported on current applications in the pipeline that are tentatively planned for future Planning Commission agendas that would increase the availability of housing. Commissioners discussed the unique characteristics of small towns that limit the supply of housing, some of the factors that price renters out of the market, as well as the role of tax policy within a community. They discussed the capabilities and limitations of the commission in impacting the availability of affordable housing in the broader decision-making apparatus of state and city government. Mr. Swanson requested that staff keep the commission apprised of additional reporting on this issue and the progress being made. He suggested being mindful of future developments that may help facilitate the addition of more affordable housing in the future.

**7. COMMISSIONER COMMENTS**

Mr. Swanson thanked the commissioners for the good work in 2023.

**8. STAFF COMMENTS**

Mr. Ballew provided an update on the Development Code Updates which will go before City Council for final deliberations in January.

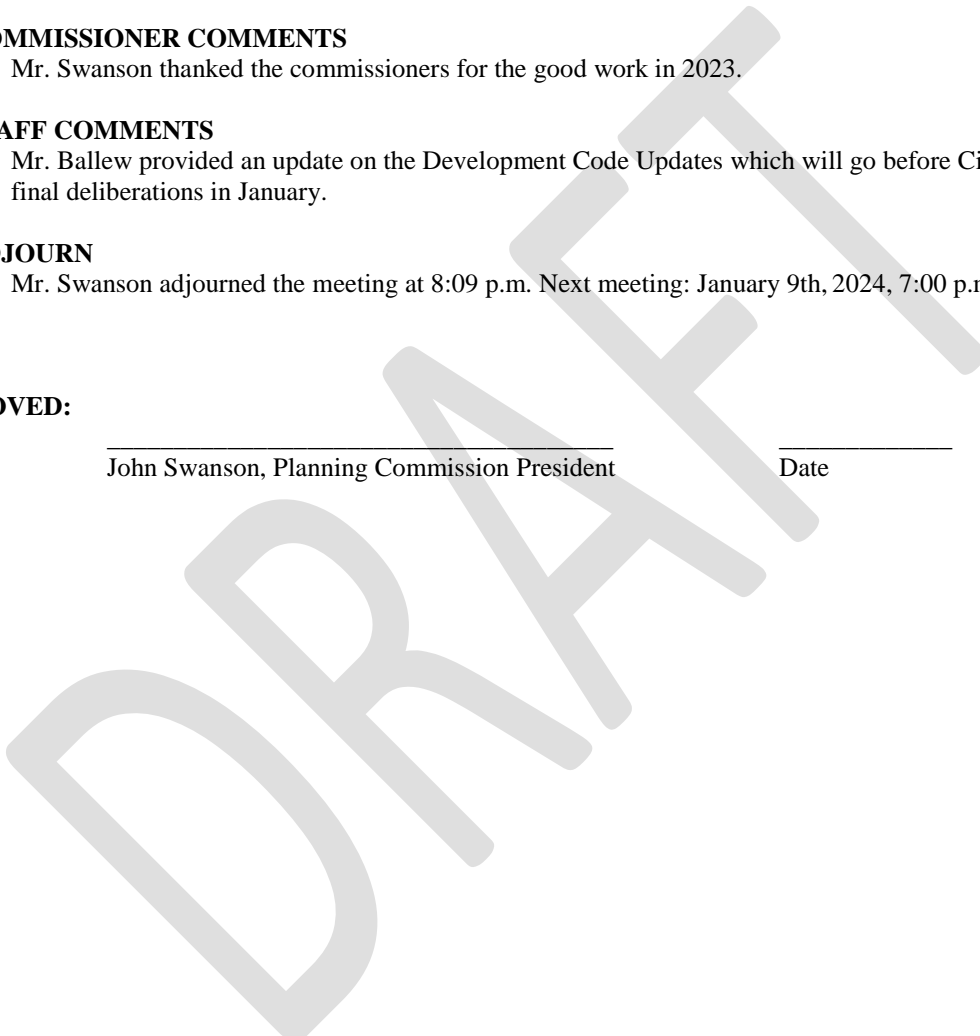
**9. ADJOURN**

Mr. Swanson adjourned the meeting at 8:09 p.m. Next meeting: January 9th, 2024, 7:00 p.m.

**APPROVED:**

\_\_\_\_\_  
John Swanson, Planning Commission President

\_\_\_\_\_  
Date





**CITY OF DALLAS  
PLANNING COMMISSION  
STAFF REPORT**

**MEETING DATE:** January 9, 2024  
**REPORT DATE:** January 2, 2024  
**TOPIC:** CUP-23-12

**APPLICATION TYPE:** Conditional Use Permit  
**OWNER / APPLICANT:** Naomi & Joshua Smith  
**LOCATION:** 1110 SW Levens Street

**RECOMMENDED ACTION**

Approval of the conditional use permit.

**BACKGROUND INFORMATION**

**Current Zoning:** (RM) Medium Density Residential  
**Comprehensive Plan Map:** Residential  
**Floodplain:** No Floodplain  
**Lot Size:** 0.11 Acres  
**Adjacent Land Uses:** Single-Family Residential;  
**Prior Land Use Approvals:** None Found

**PROJECT OVERVIEW**

The proposed conditional use permit would allow the existing residential structure to be used as a short-term vacation rental. The Dallas Development Code allows short-term vacation rentals in all residential zones, subject to a conditional use permit and special standards.

**APPROVAL CRITERIA:**

DDC Chapter 4.4 – Conditional Use Permits  
DDC Chapter 2.2.120.I – Short-Term Vacation Rental Special Use Standards

Staff refer to and incorporate the applicant’s written narrative for supportive findings in response to the above mentioned criteria (**Exhibit B**). These criteria are further identified in this report with specific findings, as follows:

## **SHORT TERM VACATION RENTAL CRITERIA**

**Criterion:**

*DDC.2.2.120.I.2.a – The vacation rental unit shall provide two (2) off-street parking spaces (not in addition to those otherwise required for a single-family dwelling).*

**Finding:**

Staff includes a photo of the driveway (**Exhibit D**). The driveway width is roughly 22 feet wide. The driveway depth varies. On the eastern half of the driveway, the depth is roughly 20 feet. On the western half it is roughly 10 feet deep. This means the driveway can accommodate only 1 vehicle space of 8.5 x 18 feet. The existing driveway does not meet the dimensional requirements to provide two off-street parking spaces. Staff propose a condition of approval to require the applicant to request and obtain approval of a variance to resolve this off-street parking deficiency (**Condition of Approval 6**)

**Criterion:**

*DDC.2.2.120.I.2.b – All required parking shall be provided on the same lot as the vacation home rental*

**Finding:**

The aforementioned driveway is on the same lot. This criterion is met.

**Criterion:**

*DDC.2.2.120.I.2.c – A vacation home rentals shall have a maximum occupancy of one person per 200 square feet or not more than 16 people, whichever is more restrictive.*

**Finding:**

County Tax Assessor records indicate that the subject dwelling contains 1,090 square feet of floor area (**Exhibit C**). 1,090 square feet divided by 200 square feet equals 5.45 persons. According to DDC 6.2.020, fractions for a maximum standard shall be rounded down. **Condition of approval 4** will limit the occupancy of the unit to 5 individuals.

**Criterion:**

*DDC.2.2.120.I.2.d – All other requirements of code applicable to single family dwellings shall apply.*

**Finding:**

The applicant is not proposing to make any structural modifications to the existing residential structure, nor are any new structures proposed to be built. The existing residential structure was built in 1900 and either complies with current single family residential development standards or would be considered non-conforming development, given its year of construction. This criterion is met.

**Criterion:**

*DDC.2.2.120.I.2.e – The property owner must provide receptacles for the deposit of garbage and subscribe to a solid waste collection service for the vacation rental dwelling.*

**Finding:**

The applicant's narrative does not discuss waste collection. A condition of approval will require the applicant to provide waste collection service through the City's franchise agreement with Republic Services (**Condition of Approval 5**). This criterion is met.

**Criterion:**

*DDC.2.2.120.I.2.f – All vacation rentals are subject to the Transient Lodging Tax.*

**Finding:**

**Condition of approval 3** requires the applicant to register with the City's finance office for the collection of the tax.

**Criterion:**

*DDC.2.2.120.I.2.g – The property owner shall designate a local representative who permanently resides within the Dallas Urban Growth Boundary or a licensed property management company with a physically staffed office within*

ten (10) vehicular miles of the Dallas Urban Growth Boundary. The owner may be the designated representative where the owner resides in the Dallas Urban Growth Boundary. The local representative must be authorized by the owner of the dwelling to respond to the tenant and neighborhood questions or concerns. The local representative shall serve as the initial contact person if there are questions or complaints regarding the operation of the dwelling for vacation rental purposes. The local representative must respond to complaints in a timely manner to ensure the dwelling complies with the standards for vacation rental dwellings and other city ordinances pertaining to noise, disturbances, nuisances, as well as state laws pertaining to the consumption of alcohol, or the use of illegal drugs.

**Finding:**

The applicant's company (Heritage Homes and Properties LLC) is located in Falls City, which is within 10 vehicular miles of the Dallas UGB, so this criterion is satisfied.

**CONDITIONAL USE CRITERIA**

**Criterion:**

*DDC 4.4.040.A.1. – The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety and aesthetic considerations;*

**Finding:**

The subject property is 4,800 square feet, and includes an existing single family residence of 1,090 square feet. The standards of DDC.2.2.120.I govern this specific use. Staff refers to findings herein for favorable findings in response to this criteria.

**Criterion:**

*DDC 4.4.040.A.2. – The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.*

**Finding:**

The proposed use is transient lodging as an Air BNB rental. The uses will be similar to and compatible with those of other dwelling units in the surrounding neighborhood. It can be reasonably expected that the proposed use will not create excessive noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, or other impacts beyond that otherwise allowed by right in a residential zone. Staff finds the criterion is met.

**Criterion:**

*DDC 4.4.040.A.3. – All required public facilities have adequate capacity to serve the proposal.*

**Finding:**

The subject property is served by existing street, water, sewer, and storm drainage systems that have adequate capacity to serve the proposed use. Staff finds the criterion is met.

**SITE DESIGN REVIEW CRITERIA**

Conditional Use Permits require the Site Design Review approval criteria to be met. The Planning Official may waive the application requirements for Site Design Review upon determining that the Conditional Use Permit application provides sufficient information to evaluate the proposal.

**Criterion:**

*DDC.4.2.060.A.1 – The application is complete, as determined in accordance with chapter 4.1*

**Finding:**

Staff determined the application to be complete. The proposal makes no alterations to the existing structure or development site, including no new structures proposed to be built. The criterion is met.

**Criterion:**

*DDC.4.2.060.A.2 – The application complies with all of the applicable provisions of the underlying Land Use District (Article 2), including building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other provisions.*

**Finding:**

The rental is an existing dwelling and no changes are proposed to the existing structure. In addition, no new structures are proposed. Staff finds this criterion does not apply to the subject request.

**Criterion:**

*DDC.4.2.060.A.3 – The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, non-conforming uses and development.*

**Finding:**

No such non-conforming development was identified. Staff finds this criterion does not apply.

**Criterion:**

*DDC.4.2.060.A.4 – The proposal complies with all of the design standards in Article 3.*

**Finding:**

Chapter 3.1 – Site Access - No changes to site access are proposed. These standards do not apply to the subject request.

Chapter 3.2 – Landscaping - The rental is an existing dwelling and no changes are proposed to the structure or development site. Staff finds these standards do not apply to the subject request.

Chapter 3.3 – Parking - Single family dwellings must have a minimum of two parking spaces, and the existing dwelling satisfies this standard.

Chapter 3.4 – Public Facilities - The existing roadway abutting the subject property is already improved to city standards, and no new public utility improvements are required.

Chapter 3.6 – Signs - Commercial signs are not permitted in the residential zones, and none are proposed.

Given the above, staff finds the criterion is met.

**Criterion:**

*DDC.4.2.060.A.5 – Existing conditions of approval required as part of a prior land use decision, including land divisions, conditional use permits, master planned developments, or other approval, shall be met.*

**Finding:**

No pre-existing conditions of approval were found for this property. This criterion does not apply to the subject request.

**RECOMMENDED ACTION**

Staff recommends that the application be approved with the following conditions.

**RECOMMENDED CONDITION OF APPROVAL:**

1. The project shall be completed in accordance with the general criteria, plans and specifications, documents, and all other information presented to/or modified by the Planning Commission.
2. The Applicant shall comply with all applicable Building and Fire Code requirements.
3. The Applicant shall register with the City's finance office for the collection of the Transient Lodging Tax.
4. The number of occupants shall be limited to five (5), in accordance with DDC.2.2.120.I.2.c.
5. The applicant shall provide waste collection through the City's franchisee, Republic Services, for the proposed use.
6. Prior to occupancy, the applicant shall apply for and obtain approval of a variance application to address the off-street parking deficiency in the proposed conditional use permit application.

**RECOMMENDED MOTION:**

I move to approve the conditional use permit with the conditions stated in the staff report.

**EXHIBITS:**

- A. Notice of Public Hearing
- B. Applicant's Application Form and Written Statement
- C. Real Property Assessment Report
- D. Photo of 1110 Levens Street Off-street Parking

**CITY OF DALLAS**  
**NOTICE OF PUBLIC HEARING**  
*Conditional Use Permit #CUP-23-04*

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**PROPERTY LOCATION:** 1110 SW Levens Street

**APPLICANT:** Naomi & Joshua Smith

**NATURE OF REQUEST:** Establish a short-term vacation rental within the existing structure

**APPROVAL CRITERIA:** DDC Chapter 4.4 – Conditional Use Permits

**HEARING DATE / TIME:** 7:00 p.m. Tuesday, January 9, 2024

**HEARING LOCATION:** **In Person:** Dallas City Hall, 187 SE Court Street, Dallas, Oregon  
**Telephone:** +1 253 215 8782 . . . . . Passcode: **213 855 0622**  
**Watch Online:** [www.dallasor.gov/community/page/dallasyoutube](http://www.dallasor.gov/community/page/dallasyoutube)

**CITY STAFF CONTACT:** Chase Ballew, City Planner Phone: 503-831-3570  
chase.ballew@dallasor.gov TDD: 503-623-7355

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At the above day and time the Dallas Planning Commission will hold a public hearing on this request. You may attend this meeting in-person at Dallas City Hall. You may also participate by telephone by dialing the number above and entering the passcode when prompted. Video of the proceedings will be broadcast live at the website above, but oral testimony must be in-person or by phone.

The Planning Commission will consider testimony which addresses the applicable criteria listed above. Testimony may be submitted in advance by writing to the Dallas Planning Department, 187 SE Court Street, Dallas, Oregon 97338, or given orally during the public hearing. The public hearing will be conducted in a manner that permits testimony from all interested parties.

At least seven days prior to the hearing the staff report, the application and documents and evidence submitted by or on behalf of the applicant, and the applicable approval criteria will be available for review online at [www.dallasor.gov/meetings](http://www.dallasor.gov/meetings) or in person at City Hall. Upon request, copies will be made at reasonable cost.

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.

Dated: December 20, 2023

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**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER, ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**  
The recipient of this notice is hereby responsible to promptly forward a copy of this notice to every person with a documented interest, including a renter or lessee.



Conditional Use Permit Application
Dallas Planning Department
Development Code Type III Review

Official Use Only:

File No.: CUP-23-12

Date: 12-7-2023

Fee: \$ 1,250 PAID

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses." The purpose of a conditional use permit is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met. An application for a new conditional use permit is processed as a Type III procedure (DDC 4.1.010). Modifications to approved or existing conditional uses shall be processed in accordance with DDC Chapter 4.6 – Modifications. A pre-application conference is required before a conditional use permit application is submitted.

Please return a completed application form with attachments, and the required fee to the Dallas Planning Department, Dallas City Hall, Second Floor, 187 SE Court Street, Dallas, Oregon 97338.

Section 1 – Applicant Information

Name(s): Naomi Smith / Joshua Smith
Mailing Address: 4315 Smith Lane, Falls City, OR 97344
Email: heritagehomesandproperties@hotmail.com Phone Number: 503-483-6663 Cell Number:

Section 2 – Property Owner Information (If not applicant)

Property Owner(s): Same
Mailing Address:
Email: Phone Number: Cell Number:

Section 3 – Project Description

Please describe your project: Short-term rental (Air BnB)
Site Address: 1110 Levens Street Total Land Area: 4800 SF
Assessor Map/Taxlot No. 07532-DA-09500 Zoning: RMD
Present Use of Property: Residential Dwelling

Section 4 – Application Submittal Information

Please submit one electronic copy (PDF format preferred) and one paper copy of the information listed below:

- Completed application form;
Required fee;
Written narrative that addresses the relevant criteria found in DDC Section 4.4.040 (see also Section 6, page 3); plan, how often, max occupancy
Existing site conditions map;
Preliminary grading plan;
A copy of all existing and proposed restrictions or covenants;
Drawings of all proposed signs;

## EXHIBIT B.2

- Site plan** with the following information:
  - The proposed development site, including boundaries, dimensions, and gross area;
  - Features identified on the existing site conditions map that are proposed to remain on the site;
  - Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
  - The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
  - Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - Loading and service areas for waste disposal, loading and delivery;
  - Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
  - Location, type, and height of outdoor lighting;
  - Location of mail boxes, if known;
  - Name and address of project designer, if applicable;
  - Locations of bus stops and other public or private transportation facilities;
- Architectural drawings** of all structures showing one or all of the following shall be required for new commercial, commercial/residential, industrial and multifamily buildings, and major remodels of the same:
  - Building elevations (as determined by the City Planning Official) with building height and width dimensions;
  - Building materials, colors and type;
  - The name of the architect or designer;
- Landscape plan** showing the following:
  - The location and height of existing and proposed fences, buffering or screening materials;
  - The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - The location, size, and species of the existing and proposed plant materials (at time of planting);
  - Existing and proposed building and pavement outlines;
  - Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule;
  - Other information as deemed appropriate by the City Planning Official. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2. Landscape, Street Trees, Fences and Walls of this Code;
- Traffic Impact Analysis** when required, shall be prepared in accordance with the road authority's requirements. See Section 4.1.090, and Section 3.4.010 for relevant standards; and
- Other information** determined by the City Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with the Dallas Development Code.



# EXHIBIT B.3

## Section 5 – Signatures Required

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge:

**PROPERTY OWNER(S):**

Naomi Smith Date: 12-7-23

Joshua Smith Date: 12-7-23  
(Heritage Homes and Properties LLC)

**APPLICANT(S)**

[Signature] Date: 12-7-23

Joshua Smith Date: 12-7-23

## Section 6 – Application Review Criteria

**Approval Criteria.** An application for a Conditional Use Permit shall be approved if the proposal meets all of the following criteria. The City decision making body may, in approving the application may impose reasonable conditions of approval, consistent with the applicable criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.

The Site Design Review approval criteria (DDC Section 4.2.060) shall also be met. The Planning Official may waive the application requirements for Site Design Review upon determining that the Conditional Use Permit application provides sufficient information to evaluate the proposal.

Additional criteria and requirements apply for Wireless Communication Facilities (see DDC Chapter 3.5) and Drive-up/Drive-through uses (See DDC Section 2.3.100).

## Section 7 – Review and Approval

**Official Use Only:**

Approved  Denied Reason for Denial: \_\_\_\_\_

Address Modification Required:  Yes  No

If yes,  Add  Remove \_\_\_\_\_  
(Address)

Staff Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# 1110 SW Levens Street, Dallas, OR 97338

## Proposal to rent home as short-term rental.

Home has 3 bedrooms, 1 bathroom, living room, dining room, and kitchen. Home has entrances on both Clay Street side and Levens Street side. Concrete driveway has been installed for off street parking to accommodate two vehicles with access from Clay street side.

This home will offer to accommodate up to 6 people at one time, with restrictions to not host parties or otherwise perform activities which could disturb neighbors. The home will be listed on AirBnB as a short term and vacation rental. The home will also be listed available to traveling nurses as well as traveling business professionals to encourage responsible tenants. Property and grounds will be maintained on a regular basis.

CITY OF DALLAS  
187 SE COURT ST  
DALLAS, OR 97338

Joshua and Naomi Smith

heritagehomesandproperties@hotmail.com

DATE : 12/7/2023 2:27 PM  
OPER : JC  
TKBY : Receipts Receipts  
TERM : 3  
REC# : R00427254

503-983-6663

400.0000 Miscellaneous Payment 1250.00  
Smith, Naomi & Joshua 1250.00  
Planning Miscellaneous - CUP-23-12 1110

Paid By:Smith, Naomi & Joshua  
1 1250.00 REF:1628

APPLIED 1250.00  
TENDERED 1250.00

CHANGE 0.00

**EXHIBIT C.1**  
**Polk County**  
**2023 Real Property Assessment Report**  
 Account 140173

**Map** 07532-DA-09500  
**Code - Tax ID** 0201 - 140173

**Tax Status** Assessable  
**Account Status** Active  
**Subtype** NORMAL

**Legal Descr** PARTITION PLAT 1992-0016  
 Lot - PARCEL 1

**Mailing** HERITAGE HOMES AND PROPERTIES LLC  
 4315 SMITH LN  
 FALLS CITY OR 97344

**Deed Reference #** 2023-1226  
**Sales Date/Price** 02-17-2023 / \$205,000  
**Appraiser** GRAHAM, PEGGY

**Property Class** 101    **MA**    **SA**    **NH**  
**RMV Class** 101    03    02    000

Site	Situs Address	City
1	1110 SW LEVENS ST	DALLAS

Value Summary					
Code Area	RMV	MAV	AV	RMV Exception	CPR %
0201	Land 133,800		Land	0	
	Impr 153,350		Impr	0	
<b>Code Area Total</b>	<b>287,150</b>	<b>101,030</b>	<b>101,030</b>	<b>0</b>	
<b>Grand Total</b>	<b>287,150</b>	<b>101,030</b>	<b>101,030</b>	<b>0</b>	

Land Breakdown										
Code Area	ID #	RFPD	Ex	Plan Zone	Value Source	Trend %	Size	Land Class	LUC	Trended RMV
0201					LANDSCAPE - AVERAGE	100				5,000
	1	<input checked="" type="checkbox"/>		RMD	Residential Site	112	4,800 SF		001	128,800
<b>Code Area Total</b>							<b>4,800 SF</b>			<b>133,800</b>

Improvement Breakdown										
Code Area	ID #	Year Built	Stat Class	Description	Trend %	Total Sqft	Ex%	MS Acct	Trended RMV	
0201	1	1900	121	One story	113	1,090			153,350	
<b>Code Area Total</b>							<b>1,090</b>			<b>153,350</b>



EXHIBIT D.1





**CITY OF DALLAS  
PLANNING COMMISSION  
STAFF REPORT**

**MEETING DATE:** JANUARY 9, 2024  
**REPORT DATE:** JANUARY 2, 20212  
**TOPIC:** MILLER SUBDIVISION - #SUB-23-03

**Application Type:** Subdivision  
**Owner:** Noble-Built Homes  
**Applicant:** 7 Oaks Engineering  
**Location:** 1390 SE Miller Avenue

**RECOMMENDED ACTION**

Approval with Conditions

**BACKGROUND INFORMATION**

**Zoning:** RL – Residential Low-Density  
**Comprehensive Plan Map:** Residential  
**Floodplain:** Property includes Floodplain and Floodway  
**Riparian Corridor** Property includes the Rickreall Riparian Corridor  
**Lot Size:** 5.76 Acres  
**Adjacent Land Uses:** Single-Family Residential; School; Creek Trail  
**Prior Land Use Approvals:** None Found

**PROJECT OVERVIEW**

Develop a residential subdivision with 12 lots and a remainder tract.

**APPROVAL CRITERIA:**

4.3.070 - Land Division Preliminary Plat Criteria.

Staff refer to and incorporate the applicant’s written narrative for supportive findings in response to the above mentioned criteria (**Exhibit B**). These criteria are further identified in this report with specific findings, as follows:

## **LAND DIVISION PRELIMINARY PLAT**

Land divisions are subject to the approval criteria of Dallas Development Code section 4.3.070.

### ***CRITERION:***

*DDC 4.3.070.A.1. - The proposed preliminary plat complies with the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable chapters and sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply.*

### ***FINDING:***

#### **Article 2 (Land Use District) Findings:**

*DDC 2.2.030.B. - Minimum Lot Size:* In the RL zone the minimum average lot size is 5,000 square feet. The smallest lot proposed is 5,650 square feet, so this standard is met.

*DDC 2.2.030.C. - Minimum Lot Dimensions:* In the RL zone the minimum lot width is 50 feet and the minimum depth is 75 feet. All lots are equal to or greater than those dimensions, therefore the lot dimension standard is met.

*2.2.050A - Density:* The allowable residential density range for the RL Zoning District is 4 – 9 dwelling units per net acre. The development site as proposed has 5.76 net acres, resulting in a net density of 2.8 dwellings per net acre, which is below the minimum allowable. However, there is a significant flood hazard area associated with the project site, and while not explicitly stated in code, past precedent has been to allow flood areas to be deducted from the net area for the calculation of minimum density. Specifically, DDC 2.2.050, describes the density calculation as “...the allowable number of dwelling units, subject to compliance with applicable development standards” and such standards includes DDC 2.7.060, which states that “...construction...within the 100-year floodplain shall be avoided...” If the calculation is limited to the 3.16 acres of buildable upland area as stated in the applicant’s narrative, the resulting density is approximately 4.1 dwellings per net acre, which is within the allowable range.

*2.2.030.F - Minimum Open Space Area:* The applicant is required to reserve 6% of the gross area of the subdivision as open space. No common open space is identified, however the applicant’s plans include unbuildable floodway and an unbuildable remainder tract. These two unbuildable areas far exceed the 6% requirement.

*2.2.080 - Housing Variety Standards:* Does not apply to subdivisions less than 20 lots.

*2.7.060 – Floodplain Review Criteria:* Refer to page 7 for specific findings for this section.

*2.8 - Riparian Corridors & Wetlands Regulations:* This chapter requires the applicant to provide a map of wetlands and riparian corridors and to coordinate with the Oregon Department of State Lands. The applicant’s site plan shows the top-of-bank and a condition of approval is to submit the stream corridor map to the Department of State Lands for concurrence (**Condition of Approval 3.f**).

Under DDC 2.8.050, no development is allowed within ten feet of the top of stream bank or associated wetland. The applicant’s narrative states they are requesting a ‘variance’ to this standard for lots 7 and 8, which are predominantly or entirely below the indicated top-of-bank, however no Class-B Variance application has been received and the Variance approval criteria of DDC 5.1 have not been addressed.

Regardless, it is not clear that a Variance is in fact required; DDC 2.8.050.B specifies that if the Department of State Lands determines there is no slough, stream, or wetland at that location, the buffer zone shall not apply at that location, therefore a ‘variance’ would not be necessary. Consequently, a proposed condition of approval is for lots 7 and 8 to be approved provisionally, subject to concurrence by the Department of State Lands (**Condition of Approval 4.f**).

**Article 3 (Design Standards) Findings:** Chapter 3.1 and 3.2 and 3.4 are applicable to residential subdivisions.

**Chapter 3.1** provides standards regarding **access and circulation**. The proposal includes shared driveways satisfying the 50’ access spacing standard; provisions for joint maintenance will need to be recorded along with the plat, either in covenants/conditions/restrictions for the subdivision, or in a separate agreement.

**Chapter 3.2** provides standards regarding **landscaping, street trees and fences and walls**.

- “Significant vegetation” is defined in DDC 3.2.020.B, and all as such vegetation on the site is located below the top-of-bank; therefore, a canopy-level inventory is sufficient and a tree plan mapping the locations of individual trees is not necessary to evaluate the application, per DDC 3.2.020.C.
- Planting of street trees is required, but may be deferred until inspection of completed dwellings to avoid construction damage, as allowed under DDC 3.2.040. A recommended condition of approval is for the street tree locations to be shown on the infrastructure plans, to minimize utility conflicts.
- The applicant has not proposed any fences or walls as part of the development; places where the code allows the Planning Commission discretion to determine fences should be required are specified in DDC 2.2.120.A.6 and in DDC 3.2.030.E.3.d, which includes flag lots as needed for privacy.

**Chapter 3.4** provides design standards that apply to **public facilities**, including transportation, sanitary sewer, water service, and storm drainage improvements. Engineering plans must be submitted to the City for review and approval before construction (**Condition of Approval 3**).

Regarding **Streets and Transportation Facilities**:

- The Applicant proposes to construct a 5 foot wide sidewalk within a sidewalk easement along SE Miller Avenue fronting lots 1, 2, 3, 4, 5, and 12. No sidewalk is proposed along SE Miller Avenue fronting Tract A.
  - The Dallas Transportation System Plan classifies SE Miller Avenue as a major collector, for which DDC 3.4.015.F specifies a 6 foot wide sidewalk and 5 foot wide landscape strip, and this is a recommended condition of approval.
  - SE Miller Avenue is currently a 60 foot wide right-of-way, and DDC 3.4.015.F specifies a preferred width of 74 feet (criteria width 70-80’) with sidewalks and landscaping strips on both sides. Although DDC 3.4.014.A.3 specifies that “streets within and adjacent to a development shall be improved... including sidewalks, curbs, gutters, bicycle lanes, vehicle travel lanes, traffic control devices, and park strips, and additional right-of-way or street width or improvements planned as a portion of an existing street...; the provided plans instead show a sidewalk easement on private property, and no additional right-of-way dedication is proposed. Staff propose a condition of approval to require 10 feet of additional right-of-way be dedicated for SE Miller Avenue (**Condition of Approval 4.a**).

- No sidewalk is proposed fronting Tract A. Deferring frontage improvements to a future development phase is not appropriate, as Tract A appears to have no further development potential, therefore sidewalks should be required now as a condition of approval. Exactions as a condition of development approval are required to be roughly proportionate to the impact of the development, and in Dallas, proportionality of sidewalks is generally 70 feet of sidewalk per single-family dwelling. For a 12 lot subdivision this would be 840 linear feet of sidewalk, which is less than the applicant's 1,122 linear feet of street frontage. Therefore, a recommended condition of approval is for sidewalks to be installed, with reimbursement from the city for sidewalks in excess of the proportionate share (**Condition of Approval 4.d**).
- In the RL zone the maximum allowable block length is 600 feet per DDC 3.4.015.G.4, and the property exceeds this length, however no additional street connectivity is proposed. In this instance, the Planning Commission may reasonably determine the creek precludes further extension of streets to the north, in conformance with the standards of DDC 3.4.015.J.3.
- A Traffic Impact Analysis was not provided or required, as the proposed 12 lots will generate less than the 300 Average Daily Trips threshold for requiring a traffic impact analysis under DDC 4.1.090.A.3.

Regarding **Storm Drainage, Sanitary Sewer and Water Service**, the Dallas Public Works Department has indicated that there are existing public utilities adjacent to the site with adequate capacity to serve the development. The applicant has provided a preliminary utility plan, however detailed infrastructure construction plans meeting applicable City of Dallas engineering standards must be submitted to the Engineering Services Division for review and approval prior to construction.

**CRITERION:**

*DDC 4.3.070.A.2. - The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;*

**FINDING:**

The proposed name for this subdivision is "Miller Subdivision". Subdivision naming is subject to review and approval by the County Surveyor. Staff did not verify whether or not this subdivision name currently exists.

**CRITERION:**

*DDC 4.3.070.A.3. - The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;*

**FINDING:**

Refer to page 3 for discussion of street connectivity standards and street improvement standards.

**CRITERION:**

*DDC 4.3.070.A.4. - All proposed private common areas and improvements (e.g. homeowner association property) are identified on the preliminary plat;*



**FINDING:**

There are no private open space proposed to be owned and maintained by a homeowners association. Therefore this criterion does not apply.

**CRITERION:**

*DDC 4.3.070.A.5. - Evidence that any required State and Federal permits have been obtained, or shall be obtained before approval of the final plat;*

**FINDING:**

A standard condition of approval is that all outside agency permits be obtained before the city issues a grading permit, as certain permits are required prior to construction activities, such as the National Pollutant Discharge Elimination System (NPDES) 1200c permit. With the standard condition of approval city staff believe the criterion can be satisfied.

**CRITERION:**

*DDC 4.3.070.A.6. - Evidence that improvements or conditions required by the City, road authority, Polk County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met;*

**FINDING:**

This staff report and the final decision order identify the improvements and conditions that must be met and the time line for completing them. The proposed development can comply with this criterion.

**CRITERION:**

*DDC 4.3.070.A.7. - If any part of the site is located within an Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.*

**FINDING:**

The site is not located within an Overlay Zone. This criterion does not apply.

**CRITERION:**

*DDC 4.3.070.B.1. - All lots shall comply with the General Development Standards of the applicable land use district (Article 2), and the standards of Section 3.4.010.G – Street Connectivity and Formation of Blocks.*

**FINDING:**

Refer to page 3 for discussion of how the application satisfies the standards of Article 2 and street connectivity standards.

**CRITERION:**

*DDC 4.3.070.B.2. - Setbacks shall be as required by the applicable land use district (Article 2).*

**FINDING:**

Staff concurs that the applicable setbacks can be met at the time of building permit review. Therefore, this criterion is satisfied.

**CRITERION:**

*DDC 4.3.070.B.3. - Each lot shall conform to the standards of Chapter 3.1 – Access and Circulation.*

**FINDING:**

Proposed driveways are shown on preliminary plans, and will be reviewed at the time of building permit / construction plan.

**CRITERION:**

*DDC 4.3.070.B.4. - Landscape or other screening may be required to maintain privacy for abutting uses.*

**FINDING:**

The applicant does not propose any privacy screening as part of the project. Areas where buffers or screens are or may be required by code are specified in DDC 2.2.030.E.3.

**CRITERION:**

*DDC 4.3.070.B.5. - In conformance with the Oregon Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive.*

**FINDING:**

Staff finds that a 20-foot wide access is provided to the buildable portions of the lots, therefore this criterion is satisfied.

**CRITERION:**

*DDC 4.3.070.B.6. - Where a common drive is to be provided to serve more than one lot, a reciprocal easement for access and maintenance rights shall be recorded with the approved subdivision or partition plat.*

**FINDING:**

This will be verified by city staff prior to approval of the final plat.

**CRITERION:**

*DDC 4.3.070.B.7. - All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.*

**FINDING:**

Staff concurs that engineering standards can feasibly be met with conditions of approval. A standard condition of approval is that the applicant shall submit detailed construction plans for review and approval by the Engineering Services Department, per DDC 3.4.070.

**FLOODPLAIN DEVELOPMENT PERMIT**

A floodplain development permit is required for the project, subject to the approval criteria of Dallas Development Code section 2.7.190/200, which states that where development in the flood hazard area is allowed, such development shall comply with the following:

**CRITERION:**

*DDC 2.7.190.A. - Alteration of Watercourses...*

**FINDING:**

No alteration is proposed, this section does not apply.

**CRITERION:**

*DDC 2.7.190.B – Anchoring...*

**FINDING:**

This section does not apply, as anchoring of buildings is part of building permits, not subdivisions.

**CRITERION:**

*DDC 2.7.190.C - Construction Materials and Methods*

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

**FINDING:**

Infrastructure construction plans must be approved by Dallas Public Works prior to installation, and will ensure the appropriate standards are satisfied.

**CRITERION:**

*DDC 2.7.190.D - Utilities and Equipment...*

**FINDING:**

Same as above, infrastructure construction plans must be approved by Dallas Public Works prior to installation, and will ensure the appropriate standards are satisfied.

**CRITERION:**

*DDC 2.7.190.E. - Tanks...*

**FINDING:**

No storage tanks are identified so this section does not apply.

**CRITERION:**

*DDC 2.7.060.F - Subdivision Proposals & Other Proposed Developments*

1. *All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is less, shall include within such proposals, Base Flood Elevation data.*

2. *All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:*
- a. *Be consistent with the need to minimize flood damage.*
  - b. *Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.*
  - c. *Have adequate drainage provided to reduce exposure to flood hazards.*

***FINDING:***

Base flood elevation data is available for the site, and development appears to be above the elevation of the floodplain. Utility infrastructure plans must be approved by Dallas Public Works prior to installation, and structures must obtain flood elevation certificates verifying they are constructed above the flood elevation. With these procedures in place this criterion is satisfied.

***CRITERION:***

*DDC 2.7.190.G - Use of Other Base Flood Elevation Data...*

***FINDING:***

This section does not apply; base flood elevation data is available, so alternate data is not necessary.

***CRITERION:***

*DDC 2.7.190.H. - Structures Located in Multiple or Partial Flood Zones...*

***FINDING:***

No structures are included in the subdivision application, so this section does not apply.

***CRITERION:***

*DDC 2.7.190.I. - Critical Facilities...*

***FINDING:***

No critical facilities are proposed, so this section does not apply.

***CRITERION:***

*DDC 2.7.190.J. - Maintaining Flood Storage Capacity: Development within the special flood hazard area shall result in no net loss in flood storage capacity. No net loss may be documented by demonstrating that the volume of material the development adds to the special flood hazard area below the BFE is less than or equal to the volume of material removed. No net loss may also be documented by hydraulic analysis certified by a registered professional engineer, subject to a Type II review per section 4.1.030....*

***FINDING:***

No development or fill is proposed within the flood area, so this section does not apply.

### **RECOMMENDED ACTION**

Staff recommends that the Subdivision application be approved with the following conditions:

- 1) The project shall be completed in accordance with the general criteria, plans and specifications, documents, and all other information presented to/or modified by the Planning Commission.
- 2) The final plat shall be submitted within 2 years of the date of this order or this approval shall lapse, unless extended pursuant to DDC 4.3.050.D.
- 3) **Prior to Construction Plan Approval:**
  - a) The Applicant shall submit detailed construction plans for review and approval by the Engineering Services Department, per DDC 3.4.070. This shall also include all necessary permit applications and studies as required.
  - b) No work on the site shall commence until all permits and approvals have been secured from the Engineering Department, except for work allowed under separate permits.
  - c) The Applicant shall obtain applicable state and federal permits as needed for the development, including but not limited to a National Pollutant Discharge Elimination System (NPDES) 1200c permit for construction activities (e.g. clearing, excavation).
  - d) Construction plans shall include location of street trees, consistent with DDC 3.2.040.
  - e) Construction plans shall include a 6 foot wide sidewalk along SE Miller Avenue, with ADA ramps as required.
  - f) The stream corridor and wetland delineation map(s) shall be submitted to the Department of State Lands for review and concurrence.
- 4) **Prior to Final Plat Approval:**
  - a) The final plat shall show all grants of easement and rights of way, including a 10 foot wide right-of-way dedication along SE Miller Avenue and the 10 foot public utility easement running immediately north of the SE Miller Avenue right-of-way dedication.
  - b) The Applicant shall provide a two-year warranty bond valid for 15% of the total cost of public improvements, per DDC 3.4.090.G.
  - c) All public improvements shall be installed as approved by the Engineering Department, except those improvements the City at its discretion allows to be deferred, provided that the Applicant sign a deferred improvement agreement and provide a performance bond of 110% of the cost of the deferred improvements, per DDC 3.4.090.
  - d) The 6 foot wide sidewalk shall be constructed (or bonded as allowed in subsection c above) with the developer entitled to reimbursement or credits equivalent to 25% of the reasonable construction cost of total sidewalk length (~282 of 1,122 linear feet).
  - e) Floodplain boundary markers, which include the words 'floodplain boundary' or similar words, shall be placed where property lines intersect the floodplain boundary.
  - f) In order for lots 7 and 8 to be platted, the Department of State Lands shall concur with the stream corridor and wetland delineation map(s). If the minimum buildable envelope of lots 7 and 8 extends to less than 10 feet from the DSL-approved top-of-bank, approval for platting those lots shall be rescinded, and the land shall be incorporated into adjoining lots or a new remainder tract, and no development shall be permitted there.

**5) Prior to Building Permit Approval for each lot:**

- a) The Applicant shall record the final subdivision plat at the Polk County Assessor's Office within 60 days of signature by the City.
- b) The Developer or Home Builder shall provide a final soils engineering report for City review and approval. The report shall include, but is not limited to, the location and depth of fill by lot, a compaction report, and a soil expansive index rating for the development. If the soils report has an expansive index rating over 20 or soil bearing under 1500 PSF, then the lot shall have a specific evaluation report regarding soil issues and engineered solutions for the foundation systems.
- c) A site survey establishing building location shall be required before approval to place concrete for building foundations if property pins are not in place at the time of residential construction (e.g. post-monumentation).
- d) The Applicant shall comply with all applicable Building and Fire Code requirements.
- e) For each lot containing mapped floodplain, an elevation certificate shall be provided for each proposed structure, demonstrating finished floor to be at least 1 foot above the Base Flood Elevation.

**RECOMMENDED MOTION:**

I move to approve the Subdivision application with the conditions stated in the staff report.

**EXHIBITS:**

- A. Notice of Public Hearing
- B. Applicant's Written Narrative and Plans

**CITY OF DALLAS**  
**NOTICE OF PUBLIC HEARING**  
***Subdivision #SUB-23-03***

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**PROPERTY LOCATION:** 1390 SE Miller Avenue

**APPLICANT:** 7 Oaks Engineering, on behalf of Noble Built Homes

**NATURE OF REQUEST:** Develop a 12-lot residential subdivision

**APPROVAL CRITERIA:** DDC Chapter 4.3 – Land Divisions

**HEARING DATE / TIME:** 7:00 p.m. Tuesday, January 9, 2024

**HEARING LOCATION:** **In Person:** Dallas City Hall, 187 SE Court Street, Dallas, Oregon  
**Telephone:** +1 253 215 8782 . . . . . Passcode: **213 855 0622**  
**Watch Online:** [www.dallasor.gov/community/page/dallasyoutube](http://www.dallasor.gov/community/page/dallasyoutube)

**CITY STAFF CONTACT:** Chase Ballew, City Planner      Phone: 503-831-3570  
chase.ballew@dallasor.gov      TDD: 503-623-7355

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At the above day and time the Dallas Planning Commission will hold a public hearing on this request. You may attend this meeting in-person at Dallas City Hall. You may also participate by telephone by dialing the number above and entering the passcode when prompted. Video of the proceedings will be broadcast live at the website above, but oral testimony must be in-person or by phone.

The Planning Commission will consider testimony which addresses the applicable criteria listed above. Testimony may be submitted in advance by writing to the Dallas Planning Department, 187 SE Court Street, Dallas, Oregon 97338, or given orally during the public hearing. The public hearing will be conducted in a manner that permits testimony from all interested parties.

At least seven days prior to the hearing the staff report, the application and documents and evidence submitted by or on behalf of the applicant, and the applicable approval criteria will be available for review online at [www.dallasor.gov/meetings](http://www.dallasor.gov/meetings) or in person at City Hall. Upon request, copies will be made at reasonable cost.

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.

Dated: December 20, 2023

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**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER, ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**  
The recipient of this notice is hereby responsible to promptly forward a copy of this notice to every person with a documented interest, including a renter or lessee.



## Subdivision Application Dallas Planning Department Type III Review

**Official Use Only:**File No.: SUB 23-03Date: 12/13/2023Fee: \$3,600  PAID

A SUBDIVISION means to divide land into four (4) or more lots in a calendar year. Lots created through the subdivision process shall meet the requirements for land divisions found in Dallas Development Code (DDC) Chapter 4.3. Each lot shall satisfy the dimensional standards of the applicable land use district, unless a variance from these standards is approved. In addition, adequate public facilities shall be available to serve the existing and newly created lots. A pre-application conference is required before application may be submitted. Please return a completed application form with attachments, and the required fee to the Dallas Planning Department, Dallas City Hall, Second Floor, 187 SE Court Street, Dallas, Oregon 97338.

### Section 1 – Applicant Information

Name(s): 7 OAKS ENGINEERING-KIM JOHNSONMailing Address: 345 WESTFIELD ST. #107, SILVERTON OR 97381Email: KIM@7OAKSENGINEERING.COM Phone Number: 503.308.8554 Cell Number: \_\_\_\_\_

### Section 2 – Property Owner Information

Property Owner(s) NOBLE BUILT HOMES, LLCMailing Address: PO BOX 800, SILVERTON OR 97381Email: VONFLUELAW@HOTMAIL.COM Phone Number: 503.932.7698 Cell Number: \_\_\_\_\_

### Section 3 – Project Description

Please describe your project:

12- LOT SUBDIVISION AT 1390 SE MILLER AVENUE, INCLUDING A PRIVATE ACCESS DRIVE. A PORTION OF THE WEST LOT WILL REMAIN UNDEVELOPEDSite Address: 1390 SE MILLER AVE-DALLAS OR Total Land Area: 5.76 ACAssessor Map/Taxlot No. 163666 Zoning: RESIDENTIAL LOW DENSITYPresent Use of Property: SFR

### Section 4 – Application Submittal Information

Submit one electronic copy (PDF format preferred) and one paper copy of the following information:

- Completed application form.
- Required fee.
- Deed of the property, including any restrictions or prior improvement agreements.
- Preliminary Plat (see Preliminary Plat Information Checklist)
- Narrative that addresses the relevant criteria in sufficient detail for review and decision-making (see Section 7 below).
- Traffic Impact Analysis, (if required). N/A
- Public Facilities and Services Impact Study. N/A



## EXHIBIT B.2

### Preliminary Plat Information Checklist

#### General Information:

- Name of subdivision (may not duplicate the name of another subdivision in Polk County);
- Date, north arrow, and scale of drawing;
- Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
- A title block including the names, addresses, and telephone numbers of the owners of the subject property and, as applicable, the designer, and engineer and surveyor if any, and the date of the survey if submitted.

#### Site Analysis:

- Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
- Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- Ground elevations shown by contour lines at 2-foot vertical interval, except where the City Engineer determines that larger intervals are adequate; i.e., for steep slopes. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor;
- The location and elevation of the closest benchmark(s) within or adjacent to the site;
- Potential natural hazard areas, including any areas identified as subject to a flood hazard as identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, County, or State as having a potential for geologic hazards;
- Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection;
- Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
- Designated historic and cultural resources on the site and adjacent parcels or lots;
- The location, size and species of trees having a caliper (diameter) of 6 inches or greater at 4 feet above grade; and
- Other information, as deemed necessary by the City Planning Official for review of the application.

#### Proposed Improvements:

- Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- Easements: location, width and purpose of all proposed easements;
- Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
- Proposed uses of the property, including all areas proposed to be dedicated to the public or preserved as open space for the purpose of surface water management, recreation, or other use;
- Proposed improvements, as required by Article 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
- Preliminary location of development showing those future buildings can meet siting and dimensional standards of the district.
- Proposed source of domestic water;
- Proposed method of sewage disposal;
- Proposed method of surface water drainage and treatment if required;
- The approximate location and identity of other utilities, including the locations of street lighting

## EXHIBIT B.3

fixtures;

- N/A  Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with the affected railroad and the Oregon Department of Transportation Rail Division regarding proposed railroad crossing(s);
- N/A  Changes to navigable streams, or other watercourses. Status of public access to these areas shall be shown on the preliminary plat, as applicable;
- N/A  Written evidence of initiation of a FEMA flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain;
- N/A  Evidence of contact with the road authority for any development requiring access to its facility; and
- N/A  Evidence of notice to applicable natural resource regulatory agencies for any development within or adjacent to wetlands, river, streams or other regulated water bodies.

### Section 5 – Signatures Required

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge:

#### PROPERTY OWNER(S)

Property Owner's Signature:  Owen Van, for NBA, LLC Date: 12-12-2023

Property Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### APPLICANT(S)

Applicant's Signature:  Kimberly Johnson Date: 12/11/2023

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Section 6 – Application Review Process

Subdivisions are approved by means of a preliminary plat evaluation and a final plat evaluation. The preliminary plat is reviewed in accordance with the Type III land use review procedures found in DDC 4.1.040 before the final plat can be submitted for approval consideration. The final plat must include all conditions of approval of the preliminary plat. The City may attach conditions to the preliminary plat decision that are necessary to carry out the provisions of the Development Code, and other applicable ordinances and regulations.

When a preliminary plat subdivision application is submitted, the City will notify the applicant in writing within 30 days as to whether the application is complete or what information is required to make the application complete. Once a complete application is submitted, the City will schedule a public hearing before the Planning Commission and provided written notification of the hearing to abutting properties located within 100 feet of the property. A staff report and recommendation for the application will be available approximately one (1) week prior to the public hearing. Upon holding a public hearing, the Planning Commission will issue a decision on the application. The Planning Commission's decision may be appealed to the City Council within ten (10) days of the mailed decision.

Upon receiving preliminary plat approval, the final plat must be recorded within two (2) years of the preliminary plan approval. If the final plat is not recorded within two (2) years, the preliminary plan approval will lapse. The City Planning Official may, upon written request by the applicant, grant one (1) written extension of the approval period not to exceed one (1) year provided the request is made before expiration of the original approved plan, and the extension meets the approval criteria found in DDC 4.3.050.D.



## Section 7 – Application Review Criteria

Approval of a preliminary subdivision plan is based upon whether or not the plan meets the following criteria:

**General Subdivision Approval Criteria.**

1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of Article 4, and the applicable chapters and sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5;
2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;
4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and
5. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;
6. Evidence that improvements or conditions required by the City, road authority, Polk County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and
7. If any part of the site is located within an Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.

**Layout and Design of Streets, Blocks and Lots.**

All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the General Development Standards of the applicable land use district (Article 2), and the standards of Section 3.4.010.G.4 Street Connectivity and Formation of
2. Setbacks shall be as required by the applicable land use district (Article 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement for access and maintenance rights shall be recorded with the approved subdivision or partition plat.
7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

**Housing Variety Standards (For 20 or more lots) DDC 2.2.080.**

Requires new neighborhoods and large subdivisions to contain a variety of housing types. The purpose of the housing variety standards is to support housing at price ranges and rent levels that are commensurate to local incomes, promotes livability by offering housing choices, and contribute to the development of complete neighborhoods, consistent with the Comprehensive Plan. Section 2.2.080 applies to land divisions creating or having the potential to create twenty (20) or more lots on any parcel or contiguous parcels in the RL and RM zones.



**CITY OF DALLAS**

**APPLICATION FOR LAND USE  
SUBDIVISION TYPE 3 REVIEW**

**1390 SE MILLER AVENUE  
MILLER SUBDIVISION**

Location: 1390 SE MILLER AVENUE  
DALLAS, OR.  
TAX LOT 163666

Prepared by: 7 OAKS ENGINEERING, INC  
345 Westfield St. #107  
Silverton, OR. 97381

Prepared for: Noble Built Homes, LLC  
PO Box 800  
Silverton, OR. 97381

Date: December 21, 2023

## EXHIBIT B.6

### APPLICANT'S STATEMENT

**Project Name:** Miller Subdivision

**Request:** Approval of a 13-lot subdivision

**Property Location:** Tax Lot 16366  
1390 SE Miller Avenue  
Dallas, OR. 97381

**Property Owner:** Noble Built Homes, LLC  
PO Box 800  
Silverton, OR. 97381

**Property Size:** 5.76 Acres

**Zoning:** Residential Low Density

## EXHIBIT B.7

### **EXECUTIVE SUMMARY**

**7 OAKS ENGINEERING** on behalf of Noble Built Homes, LLC is pleased to submit this application for a 13-lot subdivision to the City of Dallas. The application includes 13-lots, which 1-lot is unbuildable and therefore referenced herein as Lot A, and comprise of approximate 5,200 square feet to 39,300 square feet and intended for the future construction of single-family detached residence.

The application includes the City application forms, written materials, and preliminary plans necessary for City staff to review and determine compliance with the applicable approval criteria. The evidence is substantial and supports the City's approval of the application.

## EXHIBIT B.8

### **APPLICABLE REGULATIONS** **CITY OF DALLAS- DEVELOPMENT CODE**

#### **1. ARTICLE 2 (LAND USE DISTRICTS)**

- CHAPTER 2.2: RESIDENTIAL DISTRICTS**
- CHAPTER 2.7: FLOOD HAZARD REGULATIONS**
- CHAPTER 2.8: RIPARIAN CORRIDORS AND WETLAND REGULATIONS**

#### **2. ARTICLE 3 (COMMUNITY DESIGN STANDARDS)**

- CHAPTER 3.0: DESIGN STANDARDS ADMINISTRATION**
- CHAPTER 3.1: ACCESS AND CIRCULATION**
- CHAPTER 3.2: LANDSCAPE, STREET TREES, FENCES AND WALLS**
- CHAPTER 3.3: PARKING AND LOADING**
- CHAPTER 3.4: PUBLIC FACILITIES**

Housing Variety Standards do not apply to this development per DDC 2.2.080

# EXHIBIT B.9

## **FINDINGS**

### **CITY OF DALLAS- DEVELOPMENT CODE**

#### **1. ARTICLE 2 (LAND USE DISTRICTS)**

##### **CHAPTER 2.2: RESIDENTIAL DISTRICTS**

###### **SECTION 2.2.010**

###### **RESIDENTIAL DISTRICTS- ALLOWED LAND USES.**

**Table 2.2.110.A identifies the land uses that are allowed in the residential districts. The specific land use categories are described, and examples of uses are provided in Chapter 1.6 SDC. The Residential Low (RL) district accommodates a residential density of between 4 and 9 dwelling units per net buildable acre under the base development standards of the district.**

###### **COMMENT:**

The proposed 13-lot subdivision comprised of 5.76 acres, however, 2.18 acres are within the floodway and considered unbuildable. Of that 5.76 acres, 3.58 acres are considered buildable. Furthermore, the property to the west is unbuildable given the distance between the floodway and the public right of way. Excluding the western portion of the lot from the buildable area, leaves approximately 3.16 acres of buildable land. Therefore, the 13-lot subdivision is in conformance with the 4 to 9 dwelling units per net buildable acre. Although this application does not include the request to construct homes on the 13-lot residential lots in this subdivision, the applicant intends that these lots will host single-family detached dwellings

###### **SECTION 2.2.030**

###### **GENERAL DEVELOPMENT STANDARDS**

**The development standards in Table 2.2.030, apply to all uses, structures, buildings and development, and major remodels, in residential districts. Table 2.2.030 specifies development standards for acreage residential district.**

###### **COMMENT:**

The proposed development will not deviate from the general development standards, as shown with the preliminary documents and plat provided.



## EXHIBIT B.10

### SECTION 2.2.050

### HOUSING DENSITY

**A. Residential Density Standard.** To ensure efficient use of buildable lands and to provide for a range of needed housing in conformance with the comprehensive plan, all new development in the residential districts shall conform to the minimum and maximum densities prescribed in section 2.2.050.

**COMMENT:**

Although this application does not include the request to construct homes on the 13-lot residential lots in this subdivision, the applicant intends that these lots will host single-family detached dwellings. Given the Low Residential (RL) zoning, a minimum of 4 dwelling units with a maximum of 9 dwelling units per acre of buildable land. As mentioned above, we are within this threshold.

### **B. Residential Density Calculation**

**1. Minimum and maximum housing densities are calculated by multiplying the total parcel or lot area by the applicable density range. Properties must be developed within the minimum and maximum range. Some properties may not be capable of accommodating development at maximum densities. Properties that cannot meet maximum density standards may consider transferring density and modifying allowable lot sizes and/or housing types through a planned development process. Typical constraints include street right-of-way requirements, parcel configuration, or the presence of natural features or physical constraints.**

**2. Areas reserved for flag lot access (flag poles) are not counted for the purpose of calculating minimum lot area.**

**3. Housing density calculations resulting in fractions of dwelling units shall be rounded to the nearest whole number.**

**COMMENT:**

Although this application does not include the request to construct homes on the 13-lot residential lots in this subdivision, the applicant intends that these lots will host single-family detached dwellings. Given the Low Residential (RL) zoning, a minimum of 4 dwelling units with a maximum of 9 dwelling units per acre of buildable land. As mentioned above, we are within this threshold.

### SECTION 2.2.060

### LOT COVERAGE AND IMPERVIOUS SURFACE

**The maximum allowable lot coverage shall be as provided in Table 2.2.030. The purpose of the lot coverage standard is to provide flexibility in development design while encouraging developments that minimize stormwater runoff and incorporate water quality treatment. Therefore, lot coverage is calculated as the percentage of a lot or parcel covered by impervious surfaces (e.g., asphalt, concrete, and similar non-porous paving). It does not include areas that function as water quality treatment facilities and those allowing infiltration of treated surface water; such exempt areas may include**

## EXHIBIT B.11

**porous paving systems, swales, landscape areas and other water quality treatment facilities conforming to City standards and as approved by the Public Works Director.**

### **COMMENT:**

Given the Low Residential (RL) zoning, a maximum lot coverage (impervious surface) is 50%;

- A. Max. Lot Coverage by Impervious Surfaces draining into a public right-of-way or draining off-site.
- B. Areas covered with pervious surfaces (e.g., planted areas, porous paving systems, etc.) and allowing on-site infiltration of stormwater, are not counted toward lot coverage, provided such areas are designed to City standards.
- C. Adjustments are limited to 10% (e.g., up to 55% in RL), except as approved through a Master Plan under Chapter 4.5.

Due to the sites proximity to the creek, the majority of the site will sheet flow directly to the creek. The smaller impervious areas will on the east side of the development will drain to the private access way, however, ultimately outfall to the creek. There will be minimal runoff directed to the public right-of-way. Additionally, a proposed stormwater facility will be in place to capture the runoff from the private access way.

Although this application does not include the request to construct homes on the 13-lot residential lots in this subdivision, the applicant intends to comply with this criteria.

### **SECTION 2.2.070**

### **BUILDING ORIENTATION STANDARDS**

**All dwelling units shall have their primary entrance oriented to a public street sidewalk, as generally illustrated in this Section. Where no adjacent public street sidewalk exists or it is not practical to orient an entrance to a public street due to topographic or other physical site constraints, dwelling entrances may orient to a walkway, courtyard, or common lobby or breezeway (i.e., for multiple family buildings) meeting the standards of Section 3.1.030. Where a site contains multiple buildings and there is insufficient street frontage to which buildings can be oriented, a primary entrance may be oriented to common green, open space, plaza, or courtyard (e.g., Cottage Cluster). When oriented in this way, the primary entrance(s) and green, plaza, or courtyard shall be connected to the street, and all primary building entrances shall be connected to one another, by pedestrian walkway(s) meeting the standards in Section 3.1.030. See example in Figure 2.2.070.C(1) “acceptable site plan.”**

**1. Where a proposed development abuts a City-approved alley or shared access drive that has been created for purposes of accessing the subject site, off-street parking for the development shall be accessed primarily from the alley or shared driveway and direct access to abutting streets shall be minimized.**

**2. Off-street parking, driveways, and other vehicle areas shall not be placed between primary building entrances and the street(s) to which they are oriented, except the vehicle areas described in subsections 3-5 below are allowed where the decision making body finds that they will not adversely affect pedestrian safety and convenience:**

## EXHIBIT B.12

### COMMENT:

Lots 1-4 and 5 will have the building oriented towards the public street sidewalk. Lots 6-13 will orient towards the private access road onsite. Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section. At time of building permit submittal, the City will ensure the applicable standards can be met.

### SECTION 2.2.100

### BUILDING DESIGN STANDARDS

**Section 2.2.100 applies to all new dwelling types, including multi-dwelling buildings, single family house, attached house (townhome), duplexes, and cottage cluster developments. The standards are applied through building plan review for single family house dwellings or duplexes, and Site Design Review and/or Planned Unit Development Review, as applicable, for other building types. In addition, other building design standards may apply for certain types of land use and development, as provided under Section 2.2.120 Special Use Standards. The standards of Section 2.2.100 may be adjusted through the Adjustment (Type II) procedure provided the Adjustment is consistent with the above purpose and the applicant demonstrates that the proposed design meets the intent of the standard for which an Adjustment is sought.**

### COMMENT:

Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section. At time of building permit submittal, the City will ensure the applicable standards can be met.

### SECTION 2.2.110

### BUILDING DESIGN STANDARDS

**Building and structure heights shall conform to the standards in Table 2.2.030A. Additional height may be approved for mixed-use buildings through the Master Planned Development procedure and pursuant to the density bonus provisions of Section 2.2.090 Low-Impact Development.**

### COMMENT:

Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section. At time of building permit submittal, the City will ensure the applicable standards can be met.

### SECTION 2.2.120

### SPECIAL USE STANDARDS

### COMMENT:

This application is not applying for special use standards.

# EXHIBIT B.13

## CHAPTER 2.7: FLOOD HAZARD REGULATIONS

### SECTION 2.7.050 GENERAL PROVISIONS

In addition to meeting the informational requirements specified in Chapter 4.2, Land Use Review, the required site plan shall indicate the location of the designated floodplain and floodway. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- b. Elevation in relation to mean sea level to which a structure has been flood-proofed;
- c. Certification by a registered professional engineer, surveyor, or architect that the flood-proofing methods for a nonresidential structure meet the flood-proofing criteria in this Chapter; and
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

#### COMMENT:

A portion is located within a Floodway, as the northern half of the property is located within Rickreall Creek. However, all new development, including the future homes, will be constructed outside of the Floodway. The limits of the floodway are shown on the preliminary plans provided. There will be no alteration to the watercourse as a result of this development.

## CHAPTER 2.8: RIPARIAN CORRIDORS AND WETLANDS REGULATIONS

### SECTION 2.8.050 RIPARIAN CORRIDOR REVIEW

All applications for projects within or adjacent to a riparian or wetland area, including siting of individual homes, grading, and land divisions, shall indicate the precise location of sloughs, creeks, wetlands and the riparian corridor on preliminary plans. The Development Official may require a hydrological study, fish and wildlife habitat study, native vegetation study, geotechnical study, or similar studies, if deemed necessary to protect the functions and values of the riparian corridor, especially if a variance is proposed.

In order to maintain and improve water quality and vegetative cover within riparian corridors, development shall not occur within ten feet of the top of the stream bank or associated wetland area, except as authorized by this Chapter.

**A. Delineation Required.** All applications for projects within or adjacent to a riparian corridor, including siting of individual homes, grading, and land divisions, shall indicate the precise location of

## EXHIBIT B.14

sloughs, creeks, wetlands and the riparian buffer zone on preliminary plans.

**B. Agency Coordination.** The Division of State Lands shall review and approve all stream corridor and wetland delineation maps. If no slough, stream or wetland exists, then the riparian buffer zone shall not apply at that location.

**C. Riparian Corridor.** Native vegetation, trees and shrubs within the riparian corridor shall be maintained. If disturbed, the developer or property owner shall be responsible for preparing and implementing a restoration plan acceptable to the City. The width of the riparian corridor may be varied in consideration of the actual location of riparian vegetation, provided that the average width of the riparian corridor is not reduced below ten feet from the top of stream bank.

**D. Permitted Uses.**

1. Trails, public utilities and passive recreation areas may be located within the riparian corridor area.
2. Streets may be located in the riparian corridor area if there is no other reasonable alternative.
3. Other buildings and structures are not permitted

**COMMENT:**

The top of bank is indicated on the preliminary plans at the northern half of the site. Lots 7 and 8 are requesting a variance for the construction of the future single family homes within the top of bank.

# EXHIBIT B.15

## 2. ARTICLE 3 (COMMUNITY DESIGN STANDARDS)

### CHAPTER 3.0: DESIGN STANDARDS ADMINISTRATION

#### SECTION 3.0.020 DESIGN STANDARDS-APPLICABILITY

Projects requiring Site Design Review (Chapter 4.2), Land Division (Chapter 4.3), Master Planned Development (Chapter 4.5), amendment to the Comprehensive Plan or Zoning Map (Chapter 4.7), or other major land use approval must comply with the Development Code, including but not limited to the following:

1. Access and Circulation (Chapter 3.1)
2. Landscaping, Street Trees, Fences and Walls (Chapter 3.2)
3. Parking and Loading (Chapter 3.3)
4. Public Facilities (Chapter 3.4)
5. Signs (Chapter 3.6)
6. [Surface Water Management (Chapter 3.7) - Reserved]
7. [Outdoor Lighting (Chapter 3.7) - Reserved]

#### COMMENT:

The proposed 13-lot subdivision is considered a major project given the land division (Chapter 4.3).

### CHAPTER 3.1: ACCESS AND CIRCULATION

#### SECTION 3.1.020 VEHICULAR ACCESS AND CIRCULATION

**C. Access Permit Required.** Access to a public street (e.g., a new curb cut or driveway approach) requires an Access Permit. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval. In either case, approval of an access permit shall follow the procedures and requirements of the applicable roadway authority, as determined through the review procedures in Article 4.

#### COMMENT:

The attached preliminary plans indicate the subject site has frontage on SE Miller Avenue and will propose to have 3 shared driveways off SE Miller Avenue. As required, an access permit will be obtained from the City.

**D. Traffic Study requirements.** The City may require a traffic study prepared by a qualified professional to determine access, circulation, and other transportation requirements in conformance with Section 4.1.090, Traffic Impact Study.

#### COMMENT:

Based on past discussions with the City, this project will generate enough trips to warrant a Traffic Impact Study and therefore is not included in this submittal.

**F. Access Spacing.** Driveway accesses shall be separated from other driveways and street intersections in accordance with table 3.1.020F(2).

## EXHIBIT B.16

### **COMMENT:**

SE Miller Avenue is classified as Collector roadway and requires a minimum 50' access spacing. The proposed development satisfies this 50' minimum access spacing to SE Miller Avenue.

**G. Number of access points: For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted for two-family and three-family housing on corner lots subject to the access spacing standards in subsection 3.1.020F above.**

### **COMMENT:**

The preliminary plans will demonstrate that the proposed single family lots will not exceed one street access point per lot.

**H. Shared Driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. As applicable, the City shall require shared driveways as a condition of land divisions or site design review for traffic safety and access management purposes in accordance with the following standards:**

**1. Shared Driveways and Frontage Streets. These treatments may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (due to infill or redevelopment potential).**

**2. Access Easements. Access easements for the benefit of affected properties shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.**

### **COMMENT:**

The preliminary plans will demonstrate shared driveways with the adjoining lots to the maximum extent feasible. The shared driveways will have an access easement that will benefit both properties.

**I. When necessary for traffic safety and access management purposes, or to access flag lots, the City may require joint access and/or shared driveways in the following situations as follows:  
For shared parking areas;**

- 1. For adjacent developments, where access onto an arterial is limited;**
- 2. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:**

## EXHIBIT B.17

a. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;

b. A design speed of 10 miles per hour and a maximum width of 22 feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;

c. Driveway stubs to property lines (for future extension) and other design features to make it easy to see that the abutting properties may be required with future development to connect to the cross-access driveway;

### **COMMENT:**

The preliminary plans show the proposed joint access for Lots 5-12.

### **J. Joint and Cross Access – Easement and Use and Maintenance Agreement. Pursuant to this Section, property owners shall:**

1. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;

2. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

3. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

### **COMMENT:**

The preliminary plans show the proposed access easements as required. The proposed development will be in conformance with this code.

### **K. Access Connections and Driveway Design. All driveway connections to a public right-of-way (access) and driveways shall conform to all of the following design standards:**

1. **Driveway Width.** Driveways shall meet the following standards:

a. One-way driveways (one way in or out) shall have a minimum driveway width of 10 feet (single lane) and a maximum width of 12 feet per lane, and shall have appropriate signage designating the driveway as a one-way connection.

b. For two-way access, each lane shall have a minimum width of 9 feet and a maximum width of 12 feet.



## EXHIBIT B.18

**2. Driveway Approaches.** Driveway approaches shall be designed and located to provide exiting vehicles with an unobstructed view of other vehicles and pedestrians, and to prevent vehicles from backing into the flow of traffic on the public street or causing conflicts with on-site circulation. Construction of driveway accesses along acceleration or deceleration lanes or tapers should be avoided due to the potential for vehicular conflicts. Driveways should be located to allow for safe maneuvering in and around loading areas. See also, Chapter 3.3, Parking and Loading.

**3. Driveway Construction.** Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 3.1.020K. Driveway aprons shall conform to Americans with Disability Act requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than 3 feet in width, with a cross slope not exceeding 2 percent, and providing for landing areas and ramps at intersections.

**COMMENT:**

The preliminary plans illustrates that the shared driveways are 26' in width, 13' for each lot. The driveway shall be constructed and in conformance with city code and ADA requirements.

**L. Fire Access and Turnarounds.** When required by applicable Fire Codes, fire access lanes with turnarounds shall be provided. Except as waived in writing by the Fire Marshal, a fire equipment access drive shall be provided within 150 of all exterior walls of the first story of a building that is located more than 150 feet from an existing public street. The drive shall contain unobstructed adequate aisle width (14-20 feet) and turn-around area for emergency vehicles. The Fire Marshal may require that fire lanes be marked as "No Stopping/No Parking." For requirements related to cul-de-sacs or dead-end streets, please refer to Section 3.4.015.N.

**COMMENT:**

The joint access driveway will comply with the fire codes and provides adequate turnaround.

**Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6" for their entire length and width.

**COMMENT:**

As required, all utilities within the development will be placed underground and required vertical clearance will be maintained for all driveway, aisles, ramps, and turnaround areas.

**Vision Clearance.** No visual obstruction (*e.g.*, sign, structure, solid fence, or shrub vegetation) between three (3) feet and eight (8) feet in height shall be placed in "vision clearance areas" on streets, driveways, alleys, or mid-block lanes where no traffic control stop sign or signal is provided, as shown in Figure 3.1.020N. The minimum vision clearance area may be modified by the City Engineer upon

## EXHIBIT B.19

finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). The City Engineer may allow light standards, utility poles, tree trunks and similar objects within a required clear vision area. See also, Chapter 6.2 Methods of Measurement.

### COMMENT:

The 15-ft. minimum vision clearance area for driveways, and 30-ft. minimum vision clearance at street intersections, will be verified by the City when detailed construction plans are submitted for building permit review. The applicant is not proposing a modification to the above standards.

**Construction. The following development and maintenance standards shall apply to all driveways and private streets, except that the standards do not apply to driveways serving one single-family detached dwelling:**

**1. Surface Options. Driveways, parking areas, aisles, and turnarounds may be paved with asphalt, concrete, or comparable surfacing, including interlocking pavers or other durable paving material. When approved by the City Engineer, porous paving systems may be used to manage surface water runoff. All paving materials shall be subject to review and approval by the City Engineer.**

**2. Surface Water Management. All driveways, parking areas, aisles, and turnarounds shall have on-site collection of surface waters to eliminate sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with Chapter 3.7 and applicable engineering standards.**

**3. Driveway Aprons. When driveway approaches or “aprons” are required to connect driveways to the public right-of-way, they shall be paved with concrete surfacing and conform to the City’s engineering design criteria and standard specifications. (See general illustrations in Section 3.1.020K, above.)**

### COMMENT:

At this time, the applicant is requesting land use approval of a subdivision application. When building permits are requested for the development, detailed plans will be submitted to demonstrate compliance with the driveway surface, water management, and driveway apron standards.

## SECTION 3.1.020

## PEDESTRIAN ACCESS AND CIRCULATION

**A. Site Layout and Design. To provide safe, direct, and convenient pedestrian circulation, all developments, except single-family and duplex dwellings shall provide a continuous pedestrian system within the development site that connects to the public right-of-way, regardless of whether a public sidewalk currently exists. The pedestrian system shall be based on the standards in subsections 1-4, below:**

## EXHIBIT B.20

**1. Continuous Walkway System.** The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, if any, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose, in accordance with the provisions of Section 3.1.020, Vehicular Access and Circulation, and Section 3.4.010, Transportation Standards.

**2. Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following definitions:

**Reasonably direct.** A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.

**Safe and convenient.** Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations. "Primary entrance" is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance, as applicable.

**3. Connections Within Development.** Connections within developments shall be provided as required in subsections a-c, below:

**A.** Walkways shall connect all building entrances to one another to the extent practicable, as generally shown in Figure 3.1.030A(1);

**B.** Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections, as generally shown in Figure 3.1.030A(1); and

**C.** Parking areas containing twenty four (24) or more parking spaces shall be broken up so that parking bays do not exceed twelve (12) contiguous parking spaces without a break. Parking areas may be broken up with landscape areas (per subsection 3.2.030.E), handicap-accessible walkways, plazas, streets, or driveways with street-like features. Street-like features, for the purpose of this section, means a raised sidewalk that is at least four (4) feet wide for residential projects and at least six (6) feet wide in all other projects, with 6-inch raised curbs, accessible curb ramps, street trees in planter strips or tree wells, and pedestrian-oriented lighting. See also, "shopping street" provisions in Section 2.2.060.D.

### **COMMENT:**

The preliminary plans identify the location of continuous sidewalk within the public right of way. A continuous sidewalk is not provided to Lots 6-11. The plans demonstrate the sidewalk routes are ADA compliant, free from hazards within the public right of way. No parking lots are provided for the single family homes.

## EXHIBIT B.21

**B. Walkway Design and Construction.** Walkways, including those provided with access ways through a block, shall conform to all of the standards in subsections 1-4, below, as generally illustrated in Figure 3.1.030B:

**1. Vehicle/Walkway Separation.** Except for crosswalks (subsection 2), where a walkway abuts a driveway or street, it shall be raised 6 inches and curbed along the edge of the driveway/street.

Alternatively, the decision body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or masonry bollards designed to withstand a vehicle's impact, with adequate minimum spacing between them to protect pedestrians.

**2. Crosswalks.** Where a walkway crosses a parking area, driveway, or street ("crosswalk"), it shall be clearly marked with contrasting paving materials (e.g., light-color concrete or pavers inlaid between asphalt), which may be part of a raised/hump crossing area. The reviewing body may approve painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crosswalks not exceeding 24 feet in length.

**3. Walkway Width and Surface.** Walkway and accessway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the City Engineer, at least four (4) feet wide in residential projects and at least six (6) feet wide in all other projects. Multi-use paths (i.e., for bicycles and pedestrians) shall be concrete or asphalt, at least 10 feet wide, or as required by the roadway authority or park district, as applicable.

**4. Accessible routes.** Walkways shall comply with applicable Americans with Disabilities Act (ADA) requirements. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide direct routes to primary building entrances.

**COMMENT:**

The submitted preliminary site plan demonstrates the public walkways will be separated by a 6" raised curb. The plans additionally show a 4' wide sidewalk. The sidewalk grades will be compliant with ADA requirements.

### **CHAPTER 3.2: LANDSCAPING, STREET TREES, FENCES AND WALLS**

#### **SECTION 3.2.020**

#### **LANDSCAPE CONSERVATION**

**B. Significant Vegetation.** "Significant vegetation" means individual trees and shrubs within an Open Space District, any existing or proposed open space area within a development, geological hazard areas, flood plains, and jurisdictional wetlands, as determined by a natural resource agency with jurisdiction, except that protection shall

## EXHIBIT B.22

not be required for plants listed as non-native, invasive plants by the Oregon State University (OSU) Extension Service, Polk County, or other government agency, where removal of vegetation is necessary to protect the public health, safety or welfare as determined by the City approval body.

**C. Mapping and Protection Required.** Significant vegetation shall be mapped as required by Chapter 4.2, Site Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at 4 feet above grade, except where a site contains more than five acres the Community Development Director may require a canopy-level inventory of trees for a preliminary land division application. A “protection” area shall be defined around the edge of all branches (drip-line) of each tree. Drip lines may overlap between trees. The City also may require an inventory, survey, or assessment prepared by a qualified professional when necessary to determine construction boundaries, building setbacks, and other protection or mitigation requirements.

**D. Protection Standards.** Significant trees and shrubs identified as meeting the criteria in Section B, above, shall be retained to the extent practicable to minimize the risk of erosion, landslide, and stormwater runoff. Where protection is impracticable because it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district, the City may allow removal of significant vegetation to provide for a reasonable building envelope (area exclusive of required yard setbacks), and areas for access and utilities. Where other areas must be disturbed to provide for construction staging areas, the applicant shall be required to restore such areas after construction with landscaping to prevent erosion and to protect the public health, safety, and welfare. With the owner’s consent, the City may accept a land dedication or become a party to a conservation easement on private property for conservation purposes.

**E. Construction; Erosion and Sediment Control.** An erosion and sediment control plan is required for all new construction. All significant vegetation on a site that is not otherwise designated and approved by the City for removal shall be protected prior to, during, and after construction in accordance with a limit-of-clearing and grading plan approved by the City. The City may limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation areas, streams and other water bodies to prevent erosion, pollution, or landslide hazards. See also, Chapter 2.8 Wetland and Riparian Overlay.

**F. Exemptions.** The protection standards in “D” and “E” shall not apply to:

## EXHIBIT B.23

**1. Dead or Diseased Vegetation.** Dead or diseased vegetation may be removed from an area containing significant vegetation, as defined by subsection B, provided the burden is on the property owner to demonstrate to the Community Development Director that said vegetation is in fact diseased or dead before it is removed.

**2. Hazardous Vegetation and Other Emergencies.** Significant vegetation may be removed without land use approval pursuant to Article 4 when the vegetation poses an immediate threat to life or safety, or the vegetation must be removed for other reasons of emergency (e.g., fallen over road or power line, blocked drainage way, or similar circumstance), as determined by the City Community Development Director or emergency service provider.

**COMMENT:**

The site has been previously cleared and does not have significant trees within the development area. There are trees located within the bank and floodway that will not be disturbed.

**SECTION 3.2.030**

**LANDSCAPING**

**COMMENT:**

Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section. At time of building permit submittal, the City will ensure the applicable standards can be met.

**SECTION 3.2.040**

**STREET TREES**

Street trees shall be planted for all developments that are subject to Land Division or Site Design Review where landscape park strips exist or are required with the development. Requirements for street tree planting strips are provided in Section 3.4.010, Transportation Standards. Planting of street trees shall generally follow construction of curbs and sidewalks, however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines, Dallas City Code 3.800 to 3.820.

**COMMENT:**

Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section and a landscape plan will be provided with the street improvement plans.

**SECTION 3.2.050**

**FENCES AND WALLS**

**General Requirements.** All fences and walls shall comply with the height limitations of the respective land use district (Article 2) and the standards of this Section. The City may require installation of walls and/or fences as a condition of development approval, in accordance with land division approval (e.g., flag lots), approval of a conditional use permit, or site design review approval. When required through

## EXHIBIT B.24

one of these types of approvals, no further land use review is required. If not part of a prior land use approval, new fences and walls require Land Use Review (Type I) approval; if greater than seven (7) feet in height, a building permit is also required.

**COMMENT:**

Although this application does not include a request to construct homes on the 13 residential lots in this subdivision, the Applicant is aware of the standards of this section and will comply with the code when applying for a building permit.

### CHAPTER 3.3: PARKING AND LOADING

#### SECTION 3.3.030

#### AUTOMOBILE PARKING STANDARDS

**Vehicle Parking - Minimum Standards by Use.** The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 3.3.030A, or alternatively, through a separate parking demand analysis prepared by the applicant and subject to a Type II Land Use Review (or Type III review if the request is part of an application that is already subject to Type III review). Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described above. Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, City-approved shared parking, and designated on-street parking when approved by the City.

There is no minimum number of off-street parking required in the CBD district; however, new development and changes in use in the CBD shall be subject to a Downtown Parking District fee upon City adoption of a Downtown Parking District (or similar) ordinance. Where such Parking District applies, parking fees shall be calculated using the minimum parking ratios in Table 3.3.030A, below, or as established by City Ordinance.

**COMMENT:**

This development is not located within the CBD district, therefore, no minimum number of off-street parking stalls is required.

#### SECTION 3.3.040

#### BICYCLE PARKING STANDARDS

**COMMENT:**

This development is single family homes, and although this application does not include the request to construct these homes, the applicant is aware of the bicycle parking standards, although they do not apply to the single family residence.

#### SECTION 3.3.050

#### LOADING AREAS

**COMMENT:**



# EXHIBIT B.25

This code is not applicable to this development.

## CHAPTER 3.4: PUBLIC FACILITIES

### SECTION 3.4.105 TRANSPORTATION STANDARDS

**Development Standards and Criteria.** The following standards are implement the City of Dallas Transportation System Plan of October 2009 as amended. Projects shall be required to meet the current standards in effect at the time an application is filed.

#### COMMENT:

The submitted preliminary plans demonstrate Lots 5-12 will have access through a shared driveway. The proposed shared driveway provides access to the proposed dwellings and includes a turnaround which meets Fire Code standards. Lots 1-4 will have direct frontage on SE Miller Avenue.

### SECTION 3.4.020 PUBLIC USE AREAS

**Dedication of Public Use Areas.**

**1. Where a proposed open space, park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the public dedication or reservation of this area on the final plat for the subdivision, provided that the impact of the development on the City park system is roughly proportionate to the dedication or reservation being made.**

**2. The City may purchase or accept voluntary dedication or reservation of areas within the subdivision that are suitable for the development of parks and other public uses; however, the City is under no obligation to accept such areas offered for dedication or sale.**

**3. Alternatively, the City may impose conditions of approval providing for reservation and ongoing ownership, improvement and maintenance of open space areas (e.g., through Master Plan Development approvals under Chapter 4.5), including payment of property taxes for said property, by a private entity such as a homeowners association.**

#### COMMENT:

The submitted preliminary plans are for single family homes and public use areas are not included in this application.

### SECTION 3.4.030 SANITARY SEWER AND WATER SERVICE IMPROVEMENTS

**A. Sewers and Water Mains Required.** Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's Sanitary Sewer Master Plan, Water System Master Plan, and the

## EXHIBIT B.26

applicable engineering requirements. When streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements shall also be stubbed with the streets, except as may be waived by the City Engineer when alternate alignment(s) are provided.

**B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the City Engineer has approved all sanitary sewer and water plans in conformance with City standards.

**C. Over-Sizing.** The City may require as a condition of development approval that sewer, water, and/or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable Water, Sewer, and/or Storm Drainage Master Plan, provided that the City may grant the developer credit toward any required system development charge for the same, or the City may authorize other cost-recovery or cost-sharing methods, in conformance with Section 3.4.010D.

**D. Inadequate Facilities.** Development permits may be restricted or rationed by the City where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems.

### **COMMENT:**

The submitted preliminary plans demonstrate a public sewer and water main will be located for Lots 5-12, and will be designed in accordance with the city standards. Individual sewer and water lateral services will be provided off SE Miller Avenue for Lots 1-4.

### **SECTION 3.4.040**

### **STORM DRAINAGE IMPROVEMENTS**

**A. General Provisions.** A development permit may be granted only when adequate provisions for storm water and flood water runoff have been assured (i.e., through plans and assurances approved by the City). See also, Section 3.4.090.

**B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate existing and potential future runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Engineer.

**C. Effect on Downstream Drainage.** The rate of stormwater runoff leaving a development site during and after development (post-development) shall not exceed the rate of stormwater runoff leaving the site before development (pre-development).

**D. Storm Drainage Analysis and Mitigation Required.** The City Engineer may require an applicant for development to provide a storm drainage analysis prepared by a qualified professional engineer registered in the State of Oregon to examine pre- and post-development stormwater runoff conditions and any required

## EXHIBIT B.27

mitigation consistent with the City of Dallas Stormwater Master Plan. Such analysis, at a minimum, shall quantify pre- and post-development runoff volumes and rates and propose mitigation based on stormwater management best practices, as specified by the City Engineer. Such mitigation shall ensure that post-development runoff rates do not exceed pre-development rates and necessary facilities are provided to protect public health, safety, and welfare. If upon reviewing the applicant's storm drainage analysis, the City Engineer determines that the stormwater runoff resulting from the development will overload any existing and/or proposed drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential adverse impacts.

**E. Over-Sizing.** The City may require as a condition of development approval that any public storm drainage system serving new development be sized to accommodate future development upstream, provided that the City may grant the developer credit toward any required system development charge for the same, or the City may authorize other cost-recovery or cost-sharing methods, in conformance with Section 3.4.010D.

**F. Existing Watercourse.** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety. See also, Chapter 2.6 Flood Hazard Overlay Zone.

### **COMMENT:**

Due to the sites proximity to the creek, the majority of the site will sheet flow directly to the creek. The smaller impervious areas will on the east side of the development will drain to the private access way, however, ultimately outfall to the creek. There will be minimal runoff directed to the public right-of-way. Additionally, a proposed stormwater facility will be in place to capture the runoff from the private access way. A more detailed stormwater analysis report will be provided as part of the final design.

### **SECTION 3.4.050**

### **UTILITIES**

#### **Underground Utilities.**

**1. Generally.** All new utility lines and service laterals including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above. The City may require screening and buffering of above ground facilities to protect the public health, safety or welfare through Site Development Review.

## EXHIBIT B.28

**2. Subdivisions and Master Planned Developments.** The following additional standards apply to all new subdivisions, including those within Master Planned Developments, in order to facilitate underground placement of utilities:

The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic (Chapter 3.1);

The City reserves the right to approve the location of all surface-mounted facilities;

All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and

Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

**B. Exception to Undergrounding Requirement.** An exception to the undergrounding requirement may be granted where existing physical constraints, such as steep topography, natural resource constraints (e.g. geologic conditions, rivers and streams), or existing development conditions make underground placement impractical.

**COMMENT:**

All proposed utilities will be undergrounded and will not obstruct vision clearance areas for vehicular traffic.

**SECTION 3.4.060**

**EASEMENTS**

**A. Provision.** The developer or applicant shall make arrangements with the City, the applicable district, and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The City's standard width for public main line utility easements shall be determined by the City Engineer.

**B. Recordation.** As determined by the City Engineer, all easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other public utilities shall be recorded with the final plat. See Chapter 4.2, Site Design Review, and Chapter 4.3, Land Divisions.

**COMMENT:**

All proposed public utilities will provide easements, per the preliminary plans provided.

PRELIMINARY PLANS FOR:  
**NOBLE BUILT HOMES**  
 AT 1390 SE MILLER AVENUE  
 DALLAS, OREGON 97338

**PROJECT DIRECTORY:**

**ARCHITECT:** LVP DESIGN & BUILD, LLC  
 561 NE DOGWOOD DRIVE  
 SUBURBANITY, OR 97385  
 971.301.9341  
 PMLV@GMAIL.COM

**CIVIL ENGINEER:** 7 OAKS ENGINEERING, INC.  
 KIM JOHNSON, P.E.  
 345 WESTFIELD ST. #107  
 SILVERTON, OR 97381  
 503.308.8554  
 KIM@7OAKSENGINEERING.COM

**LAND SURVEYOR:** FEN SURVEYING  
 7720 SW STREET SE #145  
 TUMBLE, OR 97392  
 503.558.1330  
 INFO@FENSURVEYING.COM

**UTILITY PURVEYORS:**

**WATER:** CITY OF DALLAS  
 187 SE COURT ST.  
 DALLAS, OR 97338  
 503.623.2338

**STORM DRAIN:** CITY OF DALLAS  
 187 SE COURT ST.  
 DALLAS, OR 97338  
 503.623.2338

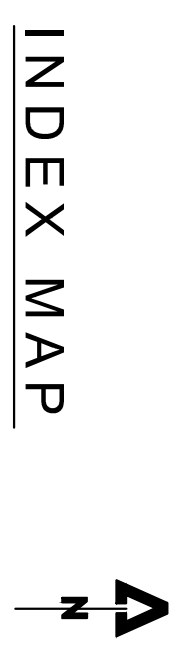
**SEWER:** CITY OF DALLAS  
 187 SE COURT ST.  
 DALLAS, OR 97338  
 503.623.2338

- SHEET INDEX:**
- 1 - TITLE SHEET
  - 2 - PRELIMINARY GRADING PLAN
  - 3 - PRELIMINARY WET UTILITY PLAN
  - 4 - PRELIMINARY PLAN

**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

**ENGINEER'S NOTICE TO CONTRACTOR:**

THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES OR STRUCTURES SHOWN IN THESE PLANS ARE OBTAINED BY A SEARCH OF AVAILABLE RECORDS, AND TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO EXISTING UTILITIES EXCEPT THOSE SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE ALL PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES SHOWN, AND ANY OTHER LINES OR STRUCTURES NOT SHOWN ON THESE PLANS, AND IS RESPONSIBLE FOR THE PROTECTION OF ANY DAMAGE TO THESE LINES OR STRUCTURES.  
 CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION FOR THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENTS SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AND AGENTS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT.  
 THE CONTRACTOR SHALL BE RESPONSIBLE TO REPORT DISCREPANCIES IN PLANS AND/OR FIELD CONDITIONS IMMEDIATELY TO THE DESIGN ENGINEER FOR RESOLUTION PRIOR TO CONSTRUCTION, AND SHALL BE RESPONSIBLE FOR DISCREPANCIES NOT SO REPORTED AND RESOLVED.

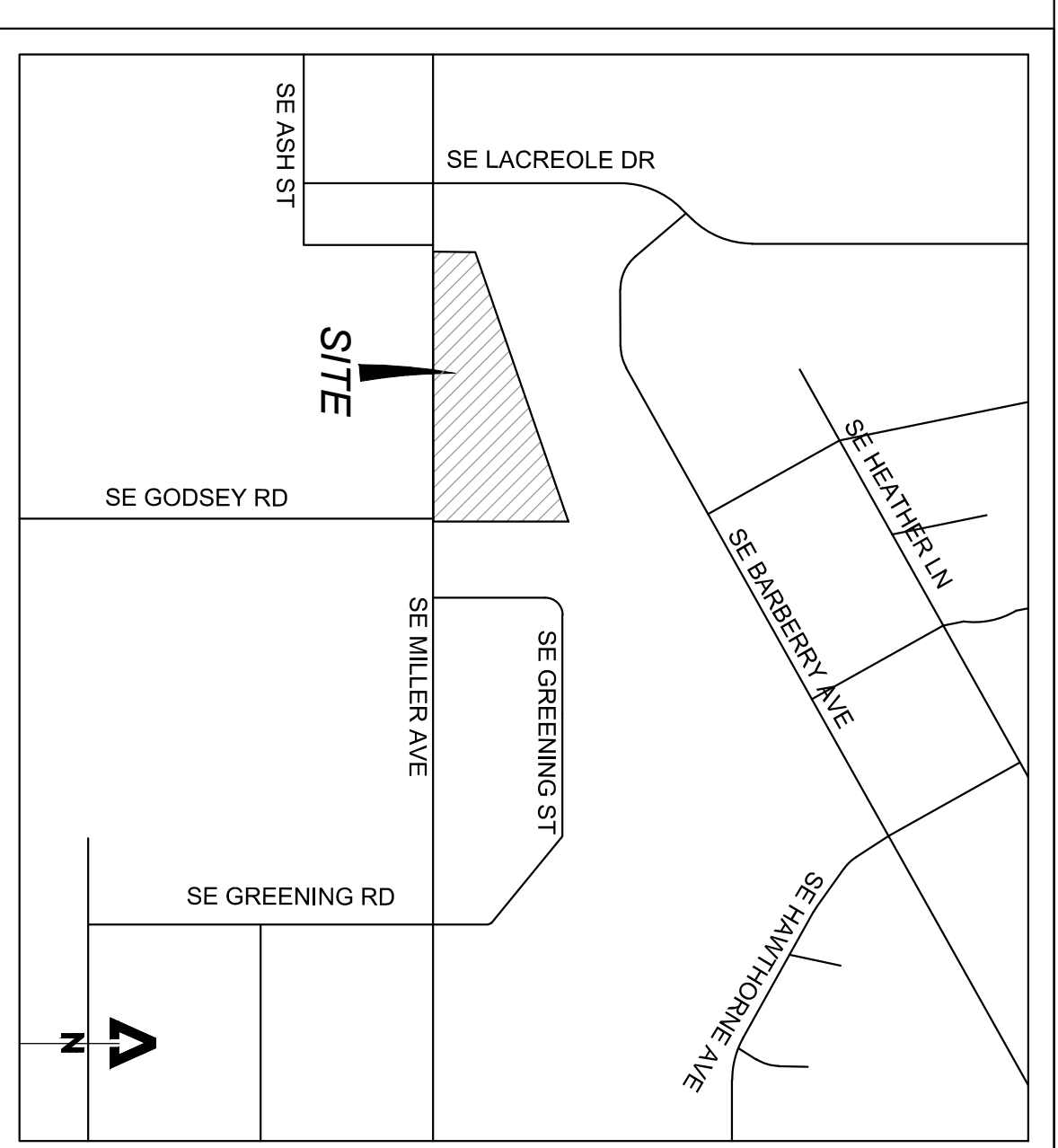


**PROJECT SURVEY:**

- THIS SURVEY IS BASED UPON FIELD WORK COMPLETED BY FORTY FIVE NORTH SURVEYING, LLC IN OCTOBER, 2023.  
 IN THE EAST 1/4 OF THE SECTION 33 AND THE WEST 1/4 OF THE SECTION 34, T3S., R5W., W.M. CITY OF DALLAS, POLK COUNTY, OREGON.
1. BASIS OF BEARING AND COORDINATE SYSTEMS IS BASED ON OREGON COORDINATE REFERENCE SYSTEM "SALEM" ZONE, NAD83(2011), EPOCH 2010.00 ALL DISTANCES SHOWN HEREON ARE GROUND DISTANCES.
  2. ELEVATIONS WERE ESTABLISHED FROM GPS RIK OBSERVATIONS UTILIZING THE OREGON REAL-TIME GNSS NETWORK. ALL ELEVATIONS SHOWN HEREON ARE NAVD83 DATUM. TO OBTAIN NGVD29 DATUM, SUBTRACT 3.40 FEET FROM ALL ELEVATIONS PER NOAA'S NAD11 UTILITY.
  3. THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED VISIBLE EVIDENCE OF ABOVE GROUND UTILITIES ALONG WITH SURFACE UTILITIES SHOWN WERE MARKED ON GUARANTEE AS TO THE ACCURACY OF SAID MARKINGS, HOWEVER, THEY ARE LOCATED AS ACCURATELY AS THEY ARE MARKED ON THE GROUND.
  4. PER OGS 209.150, ANY SURVEY MONUMENT REMOVED, DISTURBED OR DESTROYED SHALL BE REPLACED BY A PROFESSIONAL LAND SURVEYOR WITHIN 90 DAYS AT THE EXPENSE OF THE PERSON OR PUBLIC AGENCY RESPONSIBLE FOR SAID REMOVAL, DISTURBANCE OR DESTRUCTION.
  5. FIELD SURVEYED OCTOBER, 2023.

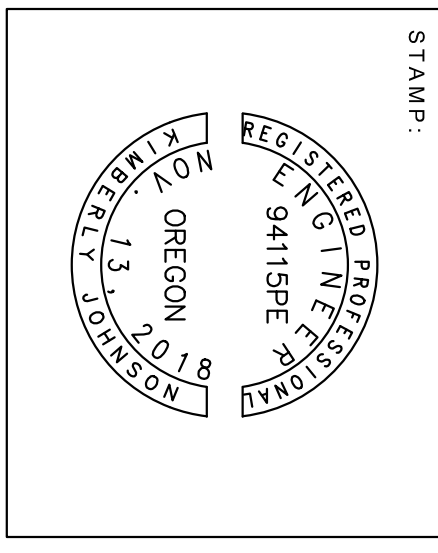
**FEMA:**

PROJECT IS LOCATED WITHIN FEMA FLOOD ZONE 'X' AREA OF MINIMAL FLOOD HAZARD. PER MAP 4105300241F, EFFECTIVE 12/19/2006



**ABBREVIATIONS:**

- PL PROPERTY LINE
- FF FINISHED FLOOR
- TC TOP OF CURB
- FS FINISHED SURFACE
- FL FLOW LINE
- FLS FLOW LINE SURFACE
- GB GRADE BREAK
- CL CENTERLINE
- R RIBBE LINE
- R/W RIGHT OF WAY
- WV WATER VALVE
- PR PROPOSED
- WIP NOT A PART
- NWP FEEL
- EV ELECTRIC VEHICLE
- CV CONCRETE VEHICLE
- STD. STANDARD
- A.C. AGES
- CUP CONDITIONAL USE PERMIT
- EX EXISTING
- TYP. TYPICAL
- MIN. MINIMUM
- SS SANITARY SEWER
- SD STORM DRAIN
- WM WATER METER
- FC FIRE DEPARTMENT CONNECTION
- APN ACCESSOR'S PARCEL MAP
- SOFT SQUARE FEET
- INV. INVERT
- BR BACKFLOW
- CFCS CUBIC FEET PER SECOND
- SOH SCHEDULE
- PRC POLYETHYLENE CHLORIDE
- PCB POLYETHYLENE TEREPHTHALATE
- SPR SPRINKLER PER SQUARE INCH
- NFPA NATIONAL FIRE PREVENTION ASSOCIATION
- CB CATCH BASIN
- D DIAMETER
- VCP VITRIFIED CLAY PIPE



**7 OAKS ENGINEERING**

345 WESTFIELD ST. #107  
 SILVERTON, OR. 97381  
 503.308.8554  
 ADMIN@7OAKSENGINEERING.COM

NO.	DATE	ISSUE DESCRIPTION

NO DISCREPANCIES, DISCREPANCIES OR THESE ERRORS WERE FOUND ON THESE PLANS. THESE PLANS WERE PREPARED BY AN ENGINEER AND THESE PLANS ARE THE PROPERTY OF 7 OAKS ENGINEERING. THESE PLANS ARE NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF 7 OAKS ENGINEERING. CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS AND UTILITIES PRIOR TO CONSTRUCTION AND MAKE NECESSARY ADJUSTMENTS TO THE PLANS AS REQUIRED. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS PRIOR TO CONSTRUCTION.

PROJECT NAME: **NOBLE BUILT HOMES**

PROJECT ADDRESS: **1390 SE MILLER AVENUE**

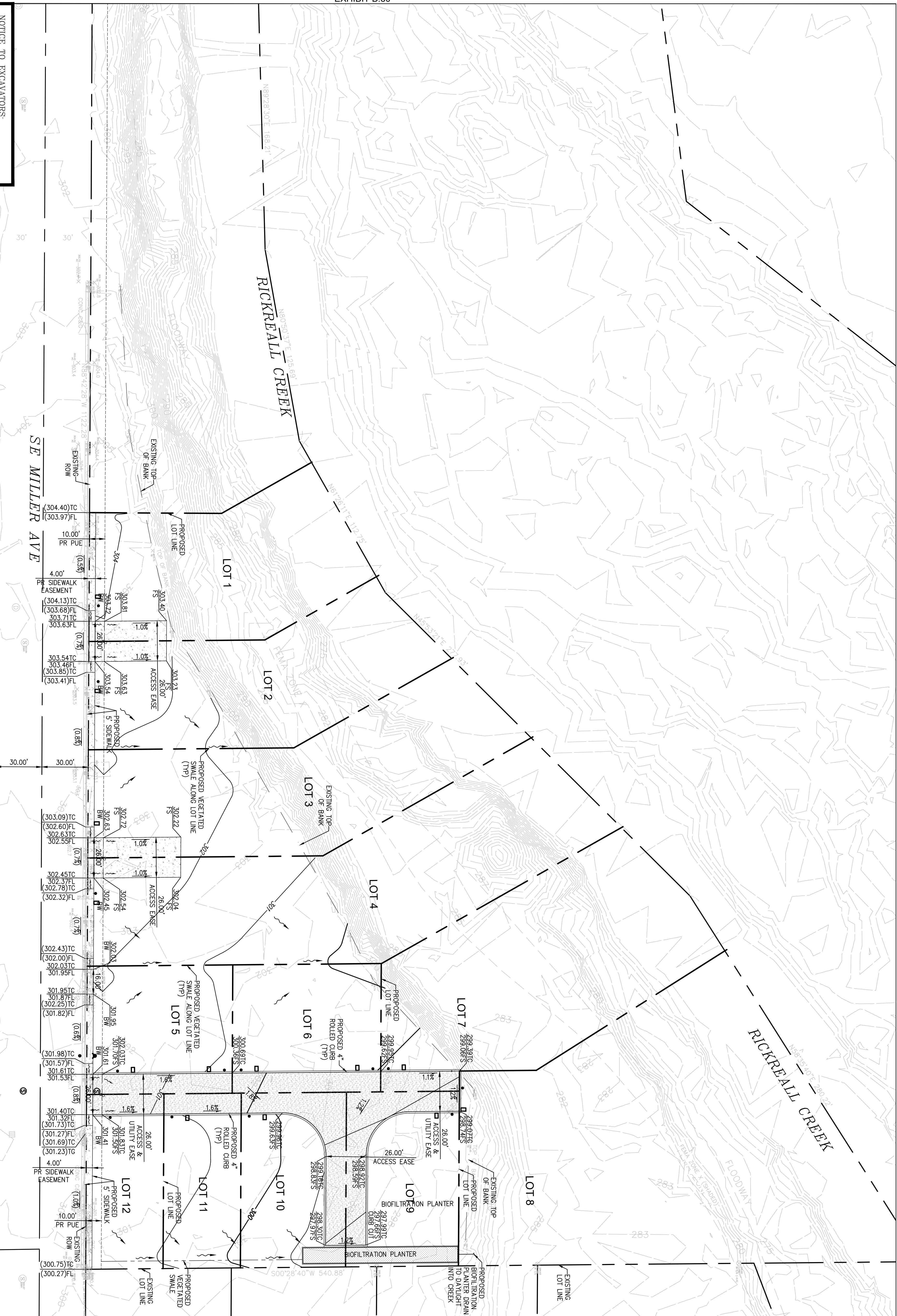
**DALLAS, OR 97338**

SHEET TITLE: **TITLE SHEET**

DATE: **12/12/2023**

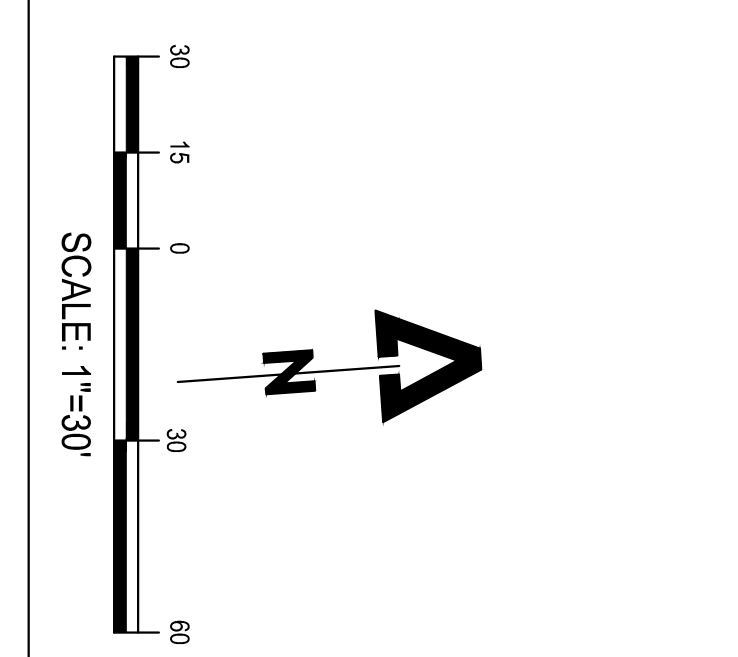
SHEET NUMBER: **1**





**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).  
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 DIAL 811 or 1-800-332-2344

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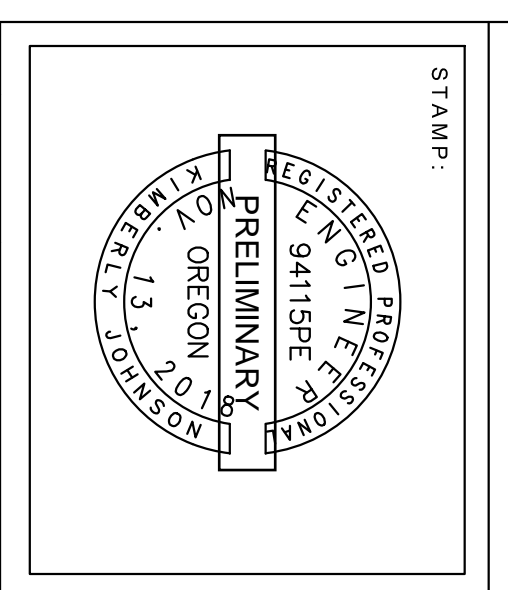


DATE: 12/12/2023  
 SHEET NUMBER: 2  
 SHEET TITLE: PRELIMINARY GRADING PLAN

PROJECT NAME: NOBLE BUILT HOMES  
 PROJECT ADDRESS: 1390 SE MILLER AVENUE DALLAS, OR 97338

NO DISCREPANCIES, DISCREPANCIES OR CONFLICTS BETWEEN THESE PLANS AND ANY RECORDS, SURVEY DATA, FIELD NOTES, OR OTHER INFORMATION PROVIDED TO THE ENGINEER BY THE CLIENT OR ANY OTHER PARTY. THE ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY DISCREPANCIES OR CONFLICTS BETWEEN THESE PLANS AND ANY RECORDS, SURVEY DATA, FIELD NOTES, OR OTHER INFORMATION PROVIDED TO THE ENGINEER BY THE CLIENT OR ANY OTHER PARTY.

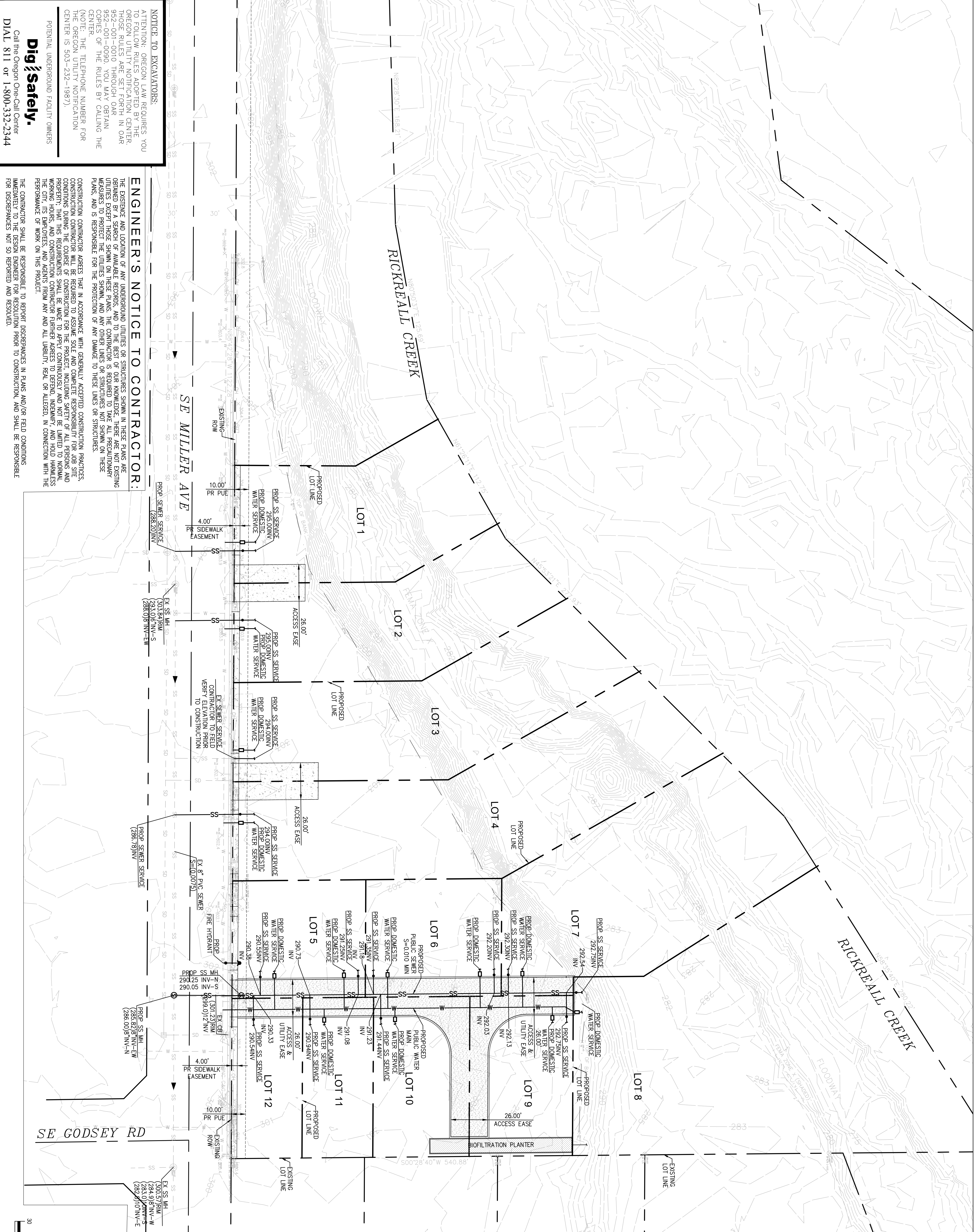
NO.	DATE	ISSUE DESCRIPTION



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**ENGINEER'S NOTICE TO CONTRACTOR:**

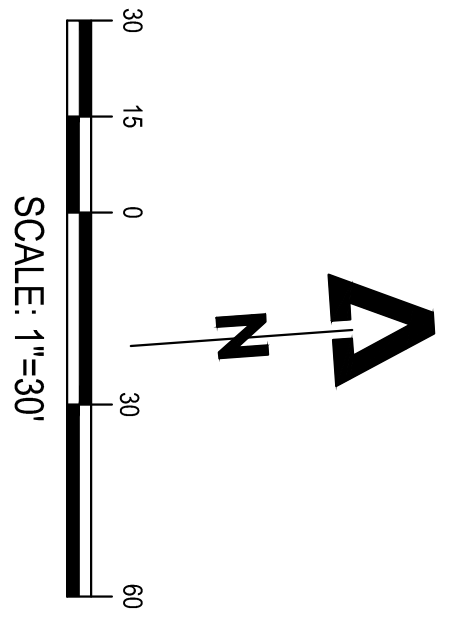
THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES OR STRUCTURES SHOWN IN THESE PLANS ARE OBTAINED BY A SEARCH OF AVAILABLE RECORDS, AND TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO EXISTING UTILITIES EXCEPT THOSE SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE ALL PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES SHOWN, AND ANY OTHER LINES ON STRUCTURES AND SHOWN ON THESE PLANS, AND IS RESPONSIBLE FOR THE PROTECTION OF ANY DAMAGE TO THESE LINES OR STRUCTURES.

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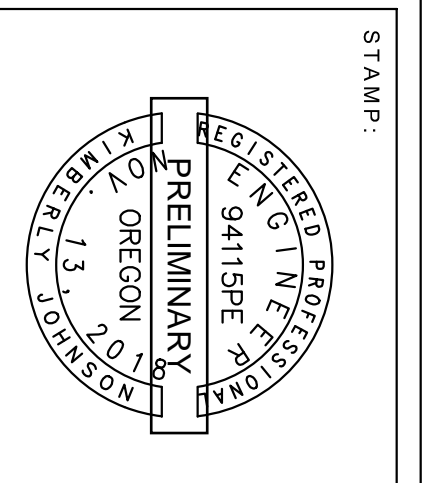
**NOTICE TO EXCAVATORS:**  
 ATTENTION: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 952-001-0010 THROUGH OAR 952-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER.  
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NO.	DATE	ISSUE DESCRIPTION

NO ENGINEER, ARCHITECT OR PROFESSIONAL DESIGNER HAS REVIEWED THESE DRAWINGS AND AGREES THAT THEY ACCURATELY REPRESENT THE DESIGN INTENT OF THE CONTRACTOR. THESE DRAWINGS MAY HAVE BEEN PREPARED BY A DESIGNER WHO IS NOT A REGISTERED PROFESSIONAL ENGINEER OR ARCHITECT. CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS AND UTILITIES PRIOR TO CONSTRUCTION AND BE RESPONSIBLE FOR ANY DISCREPANCIES OR CONFLICTS.

PROJECT NAME:  
**NOBLE BUILT HOMES**

PROJECT ADDRESS:  
**1390 SE MILLER AVENUE**  
**DALLAS, OR 97388**

DATE:  
 12/12/2023

SHEET NUMBER:  
**3**

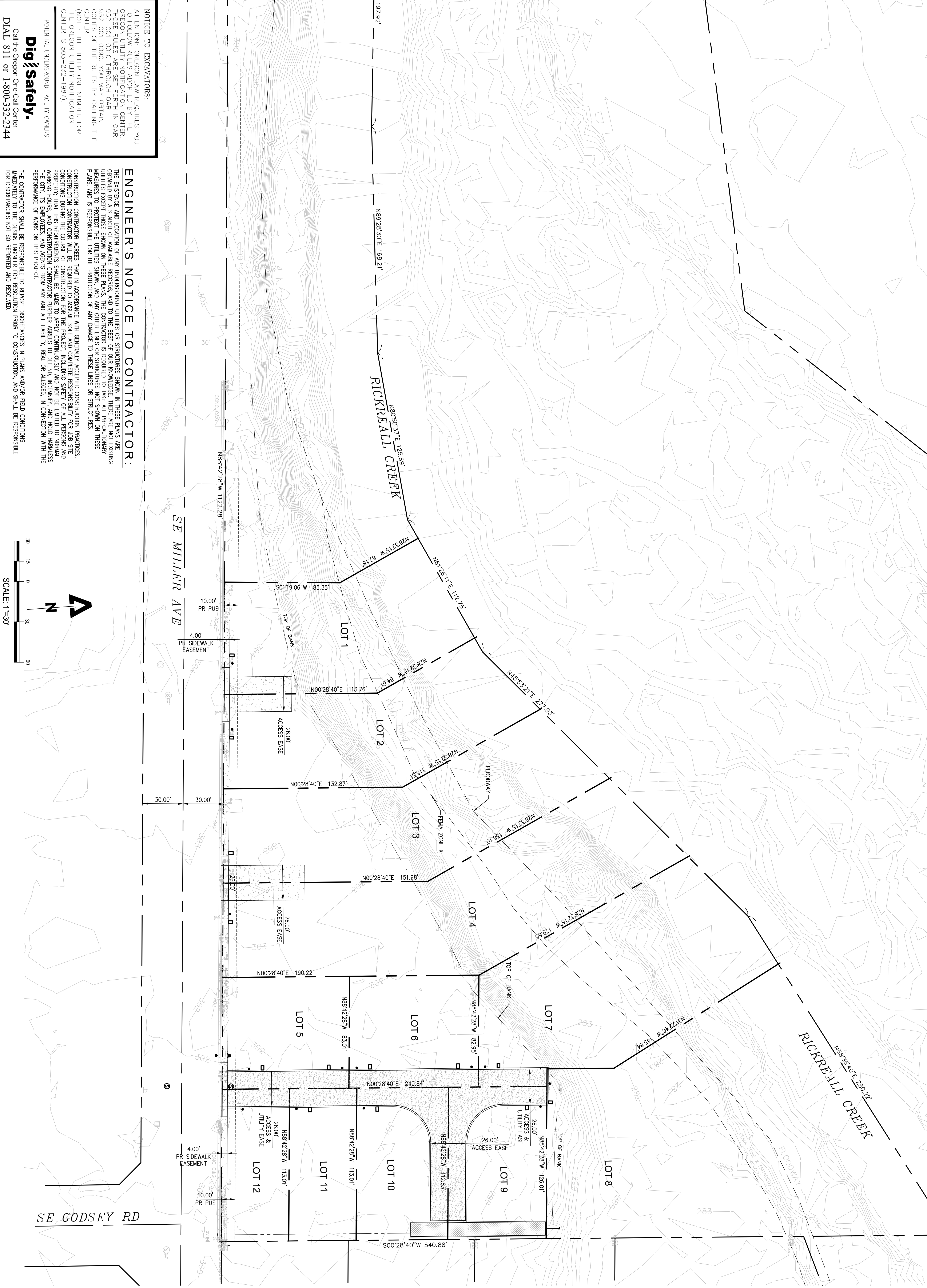
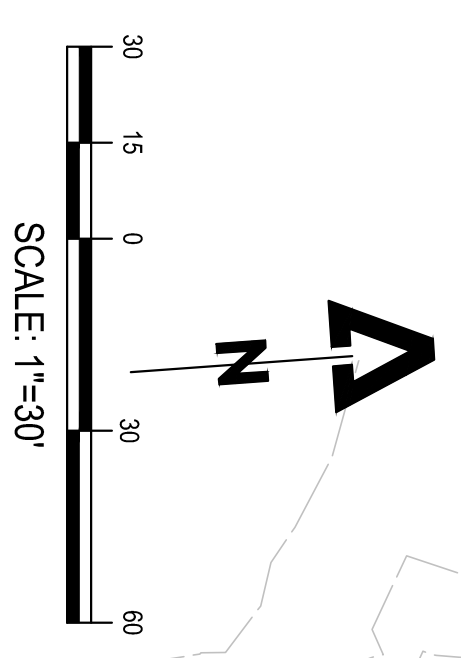
SHEET TITLE:  
**PRELIMINARY WET UTILITY PLAN**



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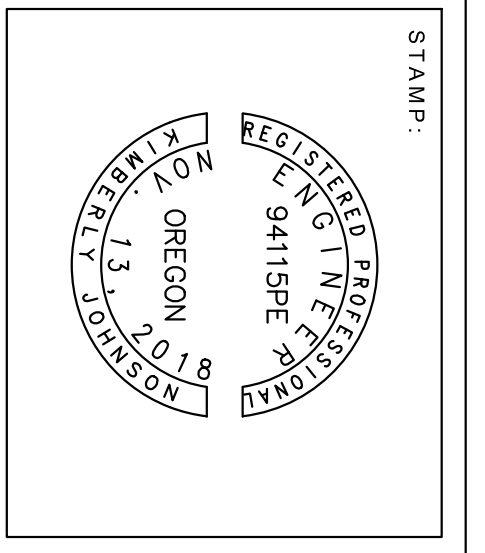


DATE: 12/12/2023	SHEET NUMBER: <b>4</b>
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PROJECT NAME: <b>NOBLE BUILT HOMES</b>
PROJECT ADDRESS: <b>1390 SE MILLER AVENUE DALLAS, OR 97338</b>

NO HOMES, WORKSHOPS OR THESE ARE SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE ALL PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES SHOWN, AND ANY OTHER LINES OR STRUCTURES NOT SHOWN ON THESE PLANS, AND IS RESPONSIBLE FOR THE PROTECTION OF ANY DAMAGE TO THESE LINES OR STRUCTURES.  
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NO.	DATE	ISSUE DESCRIPTION



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# CITY OF DALLAS PLANNING COMMISSION STAFF REPORT

**MEETING DATE:** JANUARY 9, 2023  
**REPORT DATE:** DECEMBER 5, 2023  
**TOPIC:** MODIFICATION OF CREEKSIDE 3 - #SUB-21-07 & #FLP-21-07

**Application Type:** Modification of Prior Approval - Subdivision  
**Applicant:** D&L Creekside Investments (David Radke)

## **APPROVAL CRITERIA:**

4.6.030.B – Major Modification Approval Criteria

## **RECOMMENDED ACTION**

Approval with Conditions

## **SITE INFORMATION**

**Zoning:** RL – Residential Low-Density  
**Comprehensive Plan Map:** Residential, Creek Trail  
**Floodplain:** Subdivision site includes Floodplain and Floodway  
**Lot Size:** 13.94 Acres (combined)  
**Adjacent Land Uses:** Single-Family Residential; Rural Residential; Creek Trail  
**Prior Land Use Approvals:** Partition #PTN-94-02 (Approved), 1994  
Partition #PTN-18-05 (Approved), 2018  
Subdivision #SUB-21-07 (Approved), 2021

## **PROJECT OVERVIEW**

Applicant has developed Creekside Phase 3, an 11 lot residential subdivision which was approved by the Planning Commission in 2021 and included a floodplain development permit. One of the conditions of approval for this project specifies that:

*“A final draft of the CC&Rs or deed restrictions shall be submitted for review and approval by the city, and shall include description of the regulatory floodplain and prohibit within the flood area any ‘development’ as defined in DDC 2.7, except for public utilities and transportation facilities.”*

Subsequently, DDC 2.7 was amended to include a more expansive definition of ‘Development’ now being:

*“Any human-made change to improved or unimproved real property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, fencing, landscaping, excavation or drilling operations or storage of equipment or materials.” [expanded text underlined]*

As the expanded definition restricts activities not previously encumbered in the initial condition of approval, and the city has a permitting process to allow such development within the floodplain elsewhere

in the city, the applicant is requesting that the condition of approval be modified or deleted to allow development within the floodplain, subject to the ordinary floodplain development permit restrictions.

### **MODIFICATION OF PRIOR APPROVAL**

#### ***CRITERION:***

*DDC 4.6.030.B.1. - Upon the City Planning Official determining that the proposed modification is a major modification, the applicant shall submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Planning Official may require other relevant information, as necessary, to evaluate the request.*

#### ***FINDING:***

The modification was determined to be a major modification under DDC 4.6.030.A.7, which defines a major modification to include a “*Change to a condition of approval... that could have a detrimental impact on adjoining properties. The City Planning Official shall have discretion in determining detrimental impacts warranting a major modification.*” In light of testimony presented during the initial approval process, floodplain development could have a detrimental impact on adjoining properties.

#### ***CRITERION:***

*DDC 4.6.030.B.2. - The application shall be subject to the same review procedure (Type II or III), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.*

#### ***FINDING:***

The subdivision was approved by the Planning Commission through a Type III process, so the modification request is subject to the same body and process.

The approval criteria for the initial project were contained in DDC 4.3 – Land Divisions, and DDC 2.7 – Floodplain Development. The land division criteria are outside the scope of the modification and are therefore not considered.

Code standards for floodplain development have changed since the initial approval, and DDC 2.7.060 no longer exists as approval criteria, having been replaced by new and/or substantially similar standards in DDC 2.7.190 and DDC 2.7.200.

#### ***CRITERION:***

*DDC 4.6.030.B.3. - The scope of review shall be limited to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping. Notice shall be provided in accordance with Chapter 4.1.*

#### ***FINDING:***

The request is for modification of the condition of approval prohibiting development in the flood area, so the review is limited to that request and the impacts that may result from that change.

#### ***CRITERION:***

*DDC 4.6.030.B.4. - The decision making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.*

#### ***FINDING:***

Dallas Development Code 2.7.160.A requires that:

*“A floodplain development permit must be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 2.7.070. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 2.7.040, including fill and other development activities.”*

It is the purpose of Chapter 2.7 to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas, and this is accomplished through the construction standards of DDC 2.7.190 and DDC 2.7.200.

These sections impose standards for construction materials and methods, flood venting and structural anchoring to prevent flotation or collapse, height of dwelling floors above the flood elevation to minimize damage, and other standards of construction.

Critically, these standards do not outright prohibit development within the floodplain, but instead require a floodplain development permit and impose standards of construction which must be met for such a permit to be issued. Accordingly, modification of the condition of approval to require a floodplain development permit for any development is consistent with these standards.

#### **RECOMMENDED ACTION**

Staff recommends that the condition of approval for the subdivision and floodplain development permit be modified to state as follows:

- 4.F) A final draft of the CC&Rs or deed restrictions shall be submitted for review and approval by the city, and shall include description of the regulatory floodplain and a requirement that a floodplain development permit shall be obtained from the city prior to any human-made change to improved or unimproved real property within the flood area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, fencing, landscaping, excavation or drilling operations or storage of equipment or materials.

#### **RECOMMENDED MOTION:**

I move to approve the modification as stated in the staff report.

#### **EXHIBITS:**

- A – Corrected Notice of Public Hearing
- B – Applicant’s Materials and Application Form

**CORRECTED**

**CITY OF DALLAS**  
**NOTICE OF PUBLIC HEARING**

***Modification of Subdivision #SUB-21-07 - "Creekside Phase 3"***

*You are receiving this notice because you own property near the proposed development.  
If you wish to provide public comment then instructions are provided below.*

- 
- PROPERTY LOCATION:** Creekside Phase 3 (See map on reverse)
- APPLICANT:** D&L Creekside Investments
- NATURE OF REQUEST:** Modify condition of subdivision approval prohibiting development within the floodplain.
- APPLICABLE CRITERIA:** Dallas Development Code 4.6.030.B – Modification of Prior Approvals
- HEARING DATE / TIME:** 7:00 p.m. Tuesday, December 12, 2023
- HEARING LOCATION:** **In Person:** Dallas City Hall, 187 SE Court Street, Dallas, Oregon  
**Telephone:** +1 253 215 8782 . . . . . **Passcode: 213 855 0622**  
**Watch Online:** [www.dallasor.gov/community/page/dallasyoutube](http://www.dallasor.gov/community/page/dallasyoutube)
- CITY STAFF CONTACT:** Chase Ballew, City Planner Phone: 503-831-3570  
chase.ballew@dallasor.gov TDD: 503-623-7355
- 

At the above day and time the Dallas Planning Commission will hold a public hearing on the above request.

You may attend this meeting in-person at Dallas City Hall. You may also participate by telephone by dialing the number above and entering the passcode when prompted. Video of the proceedings will be broadcast live at the website above, but oral testimony must be in-person or by phone.

The decision makers will consider testimony which addresses the applicable criteria listed above. Testimony may be submitted in advance by writing to the Dallas Planning Department, 187 SE Court Street, Dallas, Oregon 97338, or given orally during the public hearing. The public hearing will be conducted in a manner that permits testimony from all interested parties.

At least seven days prior to the hearing the staff report, the application and documents and evidence submitted by or on behalf of the applicant, and the applicable approval criteria will be available for review online at [www.dallasor.gov/meetings](http://www.dallasor.gov/meetings) or in person at City Hall. Upon request, copies will be made at reasonable cost.

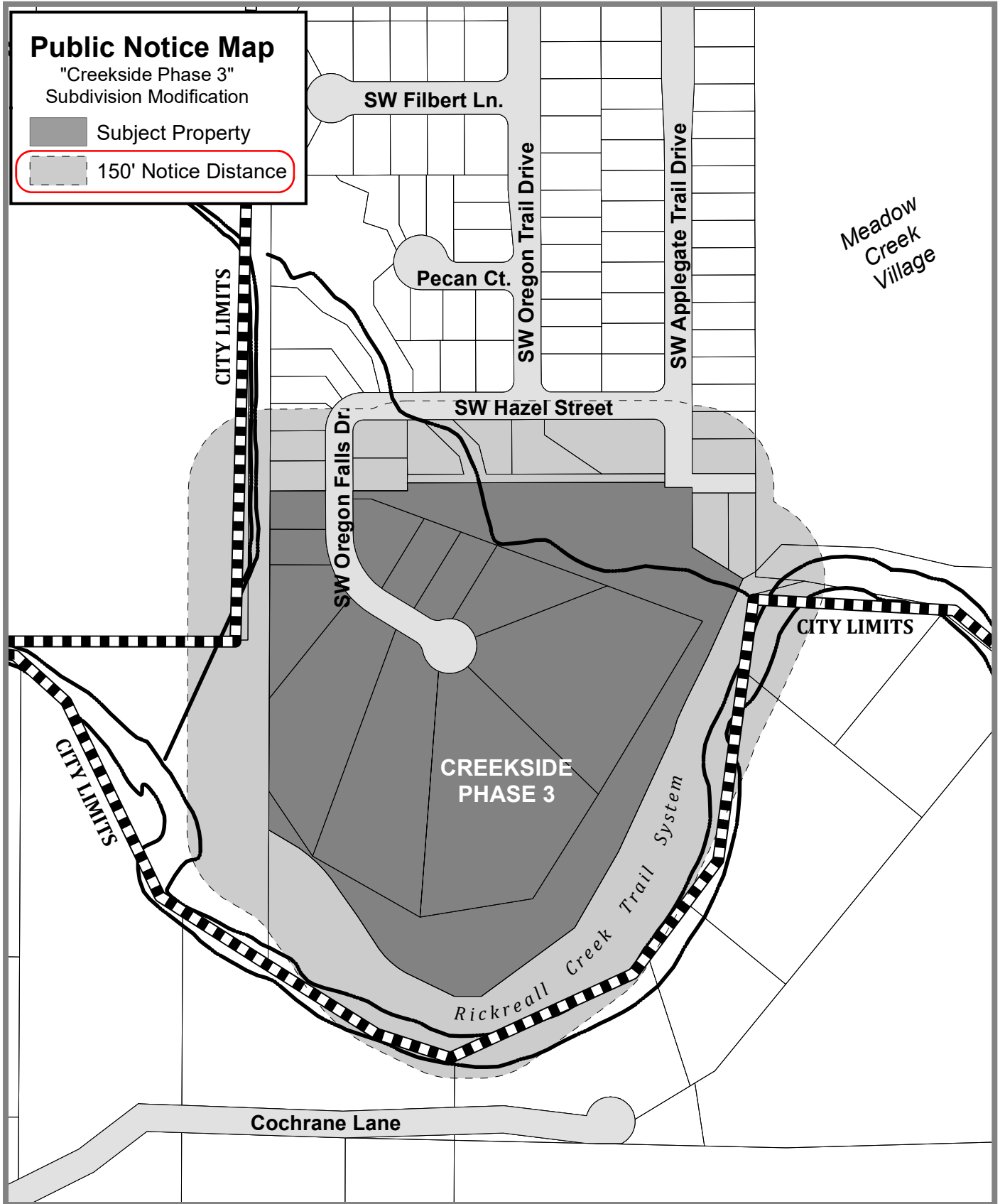
Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on that issue.

Dated: November 22, 2023  
Corrected: December 11, 2023

-----  
**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER, ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.**

The recipient of this notice is hereby responsible to promptly forward a copy of this notice to every person with a documented interest, including a renter or lessee.

EXHIBIT A.2





Modification of a Prior Approval
Dallas Planning Department

Official Use Only:

File Number: SUB 21-07

Submittal Date: 10-16-23

Fee: \$ [ ] Paid

Modification of a prior approval is governed by Section Chapter 4.6 of the Dallas Development Code.

Check 1 Major Modification (Type II or III) Minor Modification (Type I or II)
Fee: One-half of the fee for the original approval Fee: \$500

Section 1 - Applicant Information

Property Owner: D&L Creeksides Investments
Address of Subject Property: 4 Oregon Falls Dr. SW
Applicant: David & Lorrie Radke
Mailing Address: 206 SW Newton Dr. Dallas, Or 97338
Contact Person: Lorrie David Radke Email Address: lorrie.birdsong@gmail.com
Phone Number: 503-539-7558 Cell Number: Same
Application # of decision proposed to be Modified: #sub-21-07 creekside 3

Section 2 - Modification Description

Please describe the proposed Modification: I'm not after a mod. I just want what ever other Developer has been allowed in a flood plain. + fence outbuildings.

Section 3 - Attachments

Please provide a written description of the proposed modification, a site plan and/or building elevations illustrating the changes (if applicable), and any other information deemed necessary by the Planning Official.

Section 4 - Signatures

Applicant Signature: David Radke Date: 10/16/23
Property Owner's Signature (if not the applicant): David Radke Date: 10/16/23

Section 5 - Review and Approval

Official Use Only:
[ ] Approved [ ] Denied Reason for Denial:
Permit Required: [ ] Yes [ ] No Type: Department:
Planning Action Required: [ ] Yes [ ] No Type:
Staff Signature: Date:

<b>BILL TO:</b> Radke	<b>SHIP TO:</b>
Hemmens - Corrected Quote 10/10/2023	

QUOTE #	QUOTE DATE	LOAD DATE	SHIP DATE	QUOTED BY
7750000	9/18/2023	Load Date Not Set	Quote Not Ordered	Donna Colfinan
JOB NAME		CUSTOMER PO#	BUILDING/LOT #	CONTACT

LineItem #	Description	Net Price	Extended
1-1	Pro Series 200 Single Slider	\$175.00	\$175.00

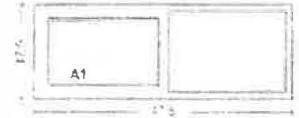
Qty: 1

Room Location:

mstr toilet

Note:

Overall Dimensions - Frame: 47 1/2 X 17 1/2, Rough Opening: 48 X 18  
 Frame Size 47.5 X 17.5, Even Split  
 HS-LC40 (DP +/-40/-40), U-Factor = 0.23, Solar Heat Gain Coefficient = 0.26, Visible Light Transmittance = 0.42, CPD = PWG-M-121-17113-00001  
 Exterior = White, Interior = White  
 XO  
 Unit 1: Glass Package = HP Max, Triple Glazed, Argon, WE  
 Unit 1 Left, 1 Right: Annealed, Low-E, Low-E/Clear/Low-E, Exterior 3/32, Glass Thickness - Center = 2.5mm 3/32in (Single Strength), Interior 3/32  
 CamLock, 1 Lock per Unit, Secondary Sash Stop, Weep Hole Baffle  
 Standard Screen -, Charcoal Fiberglass, White, Installed  
 WARNING California Residents = Proposition 65  
 Nail Fin, 1 3/8" Setback  
 HS-LC40 (DP +/-40/-40), No Thermal Requirement, U-Factor = 0.23, SHGC = 0.26, VLT = 0.42, CPD = PWG-M-121-17113-00001



Net Clear Opening Area: 2.08 sq. ft. Net Clear Opening Width: 21" Net Clear Opening Height: 14.25"

Clear Opening Width = 21, Clear Opening Height = 14.25, Clear Opening Square Foot = 2.08



*2004 Oregon  
Ballot Measure  
37 and 2007  
Oregon Ballot  
Measure 49*

---

**Oregon Ballot Measure 37** was  
a controversial land-use ballot  
initiative that passed in the U.S.



state of Oregon in 2004 and is now codified as Oregon Revised Statutes (ORS) 195.305.

Measure 37 has figured prominently in debates about the rights of property owners versus the public's right to enforce environmental and other land use regulations. Voters passed Measure 49 in 2007, substantially reducing the impact of Measure 37.<sup>[2]</sup>

## **Ballot Measure 37**



EXHIBIT B.5

**From:** David Radke davidradke@hotmail.com  
**Subject:** Fwd: Measure 37 in 2004  
**Date:** Oct 15, 2023 at 8:26:14 PM  
**To:** Lorrie Birdsong (lorriebirdsong@gmail.com)  
lorriebirdsong@gmail.com

---

## **Get Outlook for iOS**

---

**From:** Steve Ward <sward@westech-eng.com>  
**Sent:** Friday, October 13, 2023 11:37:40 AM  
**To:** Dave Radke (Davidradke@hotmail.com) <Davidradke@hotmail.com>  
**Subject:** Measure 37 in 2004

Dave,  
Here is the link to Measure 37.

[https://en.wikipedia.org/wiki/2004\\_Oregon\\_Ballot\\_Measure\\_37\\_and\\_2007\\_Oregon\\_Ballot\\_Measure\\_49#:~:text=Advocates%20for%20Measure%2037%20have,public%20use%2C%20without%20just%20compensation.](https://en.wikipedia.org/wiki/2004_Oregon_Ballot_Measure_37_and_2007_Oregon_Ballot_Measure_49#:~:text=Advocates%20for%20Measure%2037%20have,public%20use%2C%20without%20just%20compensation.)

Steven A. Ward PE  
Westech Engineering Inc.  
3841 Fairview Industrial Drive SE  
Suite 100  
Salem, OR 97302  
Office [503-585-2474](tel:503-585-2474)  
Mobile [503-931-3460](tel:503-931-3460)

# EXHIBIT B.6



0 100' 200'  
SCALE 1 INCH = 100 FEET

**CREEKSIDE 3**

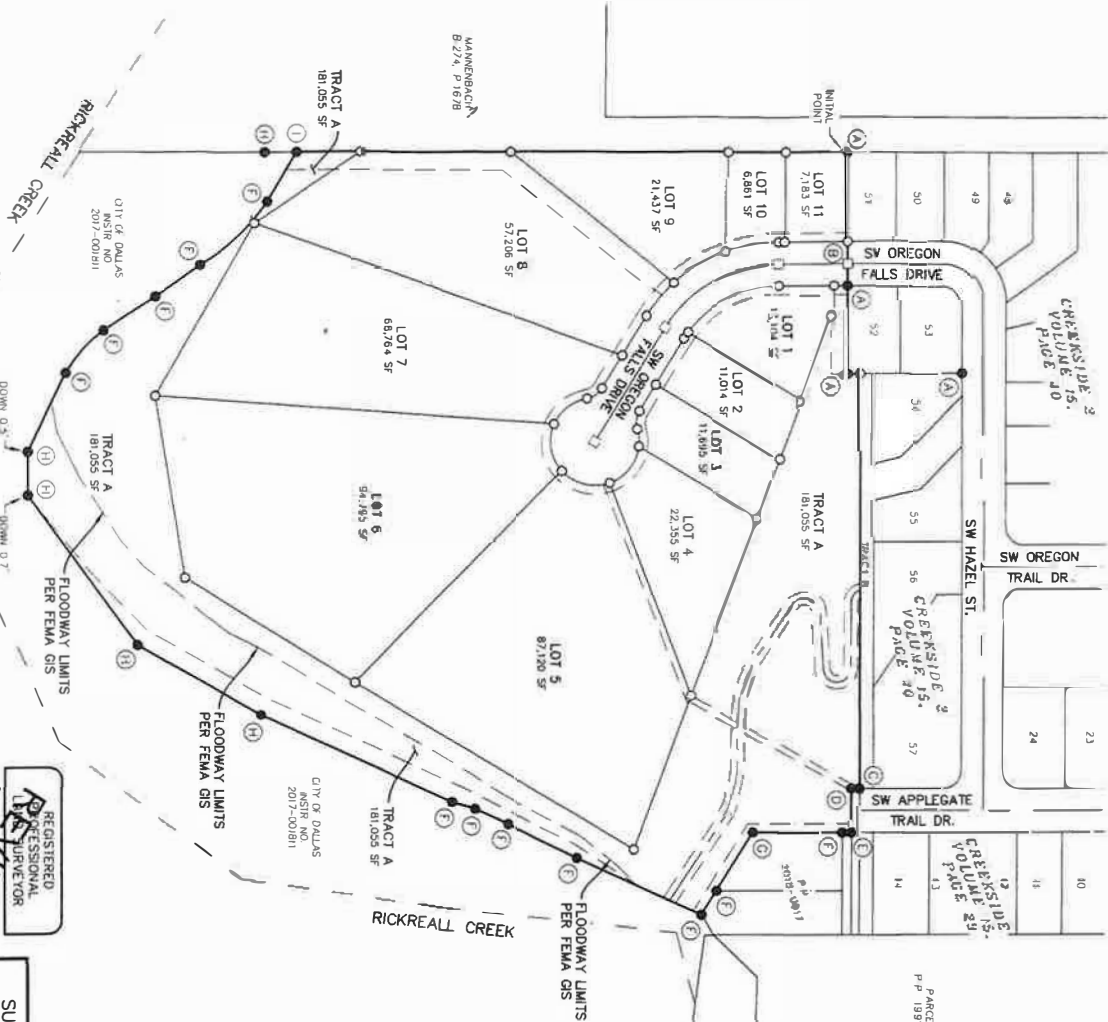
A REPLAT OF THE REMAINDER OF PARCEL 1, P.P. 2018-0017  
IN THE NE 1/4 OF SECTION 31, T.7S., R.5W., W.M.  
CITY OF DALLAS, POLK COUNTY, OREGON  
DATE: OCTOBER 21, 2022

### LEGEND

- FOUND MONUMENT AS NOTED
- HELD UNLESS NOTED OTHERWISE
- SET 5/8"x30" IR WYPC MARKED "HOWELL LS 91569"
- SET 5/8"x30" IR WAL MARKED "HOWELL LS 91569"
- RECORD DATA & REFERENCE [DATA#]
- IR IRON ROD
- INST# INSTRUMENT NUMBER
- WYPC WYPC WITH YELLOW PLASTIC CAP
- WAL WAL WITH ALUMINUM CAP
- SF SQUARE FEET
- P.P. PARTITION PLAT
- P.U.E. PUBLIC UTILITY EASEMENT
- B, P BOOK, PAGE
- B.O.T.P. BOOK OF TOWN PLATS

### SURVEY REFERENCES

- NOTE: ALL REFERENCES ARE FROM POLK COUNTY RECORDS
- (1) P.P. 1994-016
  - (2) P.P. 2018-0017
  - (3) CREEKSIDE
  - (4) CREEKSIDE 2
  - VOLUME 15, PAGE 40, B.O.T.P



### SHEET INDEX

- SHEET 1 - OVERALL PLAT LAYOUT, MONUMENT DESCRIPTIONS, SURVEY REFERENCES, LEGEND
- SHEET 2 - NORTHERLY PLAT AREA
- SHEET 3 - SOUTHERLY PLAT AREA
- SHEET 4 - APPROVALS, DECLARATION, ACKNOWLEDGEMENT, NOTES, NARRATIVE, SURVEYORS CERTIFICATE, CURVE & LINE TABLE

### MONUMENT DESCRIPTIONS

- NOTE: WITHIN 0.2' OF SURFACE UNLESS NOTED OTHERWISE
- A IR 5/8" WYPC MARKED "MULTI/TECH ENG" (4)
  - B IR 5/8" WAL MARKED "MULTI/TECH ENG" (4)
  - C DESTROYED BY CONSTRUCTION, RE-SET
  - D IR 5/8" WYPC MARKED "MULTI/TECH ENG" (3)
  - E IR 5/8" WYPC MARKED "HOWELL LS 91569" (2)
  - F BEARS N82°25'38"W, 0.15' FROM CORNER
  - G IR 5/8" WYPC MARKED "HOWELL LS 91569" (2)
  - H BEARS N25°55'17"W, 0.28' FROM CORNER
  - I IR 5/8" WYPC MARKED "HOWELL LS 91569" (2)
  - J IR 5/8" BENT, TIED SPIN HOLE, DOWN 0.4' (1)
  - K IR 5/8" WYPC MARKED "BARKER PLS 636" (1)
  - L IR 5/8" WYPC MARKED "HOWELL LS 91569" (2)
  - M BENT, TIED SPIN HOLE, UP 0.5'
  - N BEARS N37°01'22"W, 0.11' FROM CORNER

REGISTERED PROFESSIONAL SURVEYOR  
**DR. STEVEN LEE HOWELL**

SURVEYED FOR: D&D CREEKSIDE INVESTMENTS, LLC

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JOB NO. 21-287  
SHEET 1/4

REVIEWED  
DATE: SEPTEMBER 2017  
BY: STEVEN LEE HOWELL  
REVISIONS: 6-30-2023