



City of Yamhill
A small taste of Oregon

**Planning
Commission
Meeting Packet
November 20, 2023
6:30 pm**

STAFF REPORT

TO: Yamhill Planning Commission

FROM: Walt Wendolowski, Contract Planner

SUBJECT: Planning File SUB/FP 23-01
Park Meadows Subdivision

DATE: November 13, 2023

I. BACKGROUND

- A. **APPLICANT:** Jake Lucey Real Estate & Development, Inc
- B. **PROPERTY LOCATION:** The property is located on the south side of East 3rd Street between South Hemlock and South Cedar Streets. There is no property address, and the County Assessor places the property within Township 3 South; Range 4 West; Section 04; Tax Lot 2200.
- C. **PARCEL SIZE:** The subject property contains approximately 12.7 acres.
- D. **ZONING:** Single Family Residential Zone (R-2).
- E. **REQUEST:** The applicant is requesting approval to establish a 57-lot single-family subdivision on the subject property, and final plat approval of the subdivision.
- F. **DECISION CRITERIA:** Yamhill Municipal Code; Chapter 11.08 (Subdivisions and Planned Unit Developments) and Chapter 11.20 (Design Standards).

II. APPLICATION SUMMARY

- A. The applicant received City Council approval to divide the property, creating a 57-lot single family subdivision identified as Park Meadows. The lots would range in size from 6,154 to 8,204 square feet. Hemlock, Elm, and Cedar Streets extend south into the property while East 4th Street intersects these streets eventually connecting the existing East 4th Street further east.
- B. The Council approved the application on March 9, 2022, with the decision becoming final on or about April 1, 2022. Condition "D." of the Council Order required the applicant to record the final plat within one year of the final date of approval. This is consistent with the requirements in Code Section 11.080.030. Further, based on this Section, failure to record within the one-year time results in the decision expiring.
- C. The City did not receive a final plat for review until October 2023, nearly six months after the final date to record. As the decision for approval lapsed, the applicant was

required to submit a new application. Most, if not all the required improvements are in place. In effect, the subdivision is complete except for a new subdivision approval and recording of the final plat. This Commission hearing reviews the new subdivision application.

- D. This is an unusual application in that the Commission is reviewing a subdivision request **and** considering whether the applicant should be allowed to proceed with recording the final plat of the same subdivision. However, given the level of improvement it appeared appropriate to consider both in one hearing instead of holding two separate hearings. Staff also noted a decision can be adequately conditioned to ensure the applicant cannot record the plat until final subdivision approval is obtained.

III. CRITERIA AND FINDINGS –SUBDIVISION

- A. In their March 9, decision, the Council established findings indicating the layout and improvements could comply with all the decision criteria. The new application is a carbon copy of the original, and creates the same 57 lots, with the same street layout and lot dimensions.
- B. Attached to this memo is the Council Order approving the original Park Meadows subdivision. Instead of reviewing the entire project, staff notes that as this is the same subdivision layout, the findings contained in that Order remain applicable. The fact that the subdivision improvements are nearly completed clearly shows the subdivision can - and certainly did - comply with the conditions of approval. Additional findings are not required at this time.

III. CRITERIA AND FINDINGS – FINAL PLAT

- A. Section 11.08.080(A) outlines the steps for the final plat review of subdivisions. If the City Engineer determines that the final plat conforms fully with all applicable regulations and standards, the City Engineer shall advise the Planning Commission. If the Planning Commission finds the final plat to be in compliance with the preliminary plat/partition plan and applicable regulations and standards, they shall direct the chair of the Planning Commission to sign the plat.

FINDINGS: The City Engineer submitted a letter identifying the current level of site improvements. These include new public roadways and utilities throughout the subdivision; frontage improvements along existing East Third Street Right-of-way; approximately 1,200 lineal feet of offsite water main from the subject property to HWY 240; and approximately 1,000 lineal feet of offsite sewer main replacement from the subject property.

- B. In effect, the applicant built out the subdivision. All that remains is final acceptance of the improvements; completion of the System Development Charge Credit agreement for the value of SDC eligible work the developer completed by

constructing the offsite water main improvement; and fee-in-lieu payment for the water treatment plant intake improvements. Once the applicant completes these steps, and obtains required signatures, the applicant may record the plat.

IV. RECOMMENDATION AND CONDITIONS OF APPROVAL

City staff finds the proposal complies with the applicable Subdivision criteria and requirements to record the Final Plat and recommends the Planning Commission approve the application subject to the following Conditions:

- A. This subdivision approval remains subject to the conditions in SDV21-1, approved by the City Council on March 9, 2022.
- B. Upon completion of the requirements in the City Engineer's letter dated November 8, 2023, and made part of this record, the City Engineer shall be authorized to sign the final plat for Park Meadows.
- C. Upon receiving the signed document from the City Engineer, the Planning Commission Chair shall be authorized to sign the final plat for Park Meadows.
- D. The final plat shall be recorded per provisions in Development Code Section 11.08.080 and shall include concurrent fee-in-lieu payment for the water treatment plant intake improvements.
- E. The final plat approved by this decision shall be recorded within one year of the date of final approval of this application.
- F. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

V. PLANNING COMMISSION ACTION

- A. The Planning Commission has the following options:
 - 1. Approve the application, adopting findings and conditions contained in the staff report.
 - 2. Approve the application, adopting modified findings and/or conditions.
 - 3. Deny the application, establishing findings as to why the application fails to comply with the decision criteria.
- B. Staff will prepare an Order for the Chair's signature.

CITY OF YAMHILL
SUBDIVISION APPLICATION
PLANNING DEPARTMENT
CITY HALL
YAMHILL, OREGON 97148
(503) 662-3511

Docket Number:	_____
Hearing Date:	_____
Staff Member:	_____
Present Zone:	_____

= APPLICANT IS:

APPLICANT:

Legal Owner
Contract Buyer
Option Holder
Agent

Name: Jake Lucey Real Estate & Development, Inc.

Address: 5802 BARCELONA CT SE, Salem, OR 97317

TITLE HOLDER OF THE PROPERTY:

Name: Jake Lucey Real Estate & Development, Inc.

Address: 5802 BARCELONA CT SE, Salem, OR 97317

LEGAL DESCRIPTION OF THE PROPERTY INVOLVED IN THIS APPLICATION

Location of Property: 3rd St between S Hemlock and S Cedar Size: X Tax Lot: 3404 Tax Lot 2200

Lot: _____ Block: _____ Sub-Division: _____ Total Area: _____

Total Area Involved: 12.7 acres Current Zoning: R-1 _____; R-2 X; R-3 _____

INTRODUCTION

Prior to the division (within a calendar year) of a unit of land into four (4) or more lots (regardless of the size of each lot) the Yamhill Municipal Code, Title 11, Subdivision Regulations require that a tentative plan and supplementary information must first be submitted and approved by the Yamhill Planning Commission. A subdivision lot includes any portion of the original unit of land remaining in the ownership of the subdivider after the other sub-units or lots have been created or sold. It is advisable that you familiarize yourself with the subdivision standards and procedures for the City of Yamhill, and that you coordinate your efforts with the City (any agencies providing utilities or services to your subdivision).

Formal application for a subdivision requires:

- A.) Conformance to the Comprehensive Plan.
- B.) Conformance to the Zoning Regulations.
- C.) Conformance to the design and development standards of the Subdivision Regulations.
- D.) A completed Subdivision Application form.

Please contact City Hall if you have any questions about subdividing land. Subdivision applications are accepted by appointment only. The application must be completed in full to be accepted.

TECHNICAL INFORMATION

A.)	Name of Subdivision	<u>Park Meadows</u>
B.)	Size of Subdivision (Acres)	<u>12.70 Acres</u>
C.)	Number of Access Roads	<u>Five (5)</u>
D.)	Number of Lots	<u>57</u>
E.)	Number of Residential Units	<u>57 Single Family</u>
F.)	Minimum Lot Size	<u>6,026 Sq Ft</u>
G.)	Average Lot Size	<u>7,348 Sq Ft</u>
H.)	Density of Entire Subdivision per Acre	<u>4.49 lots per acre</u>
I.)	Total Population	
	Anticipated	<u>170</u>
J.)	Size Park(s) in Acres of Square Feet	
		<u>Zero. Fee in lieu of.</u>

SUBDIVIDER'S REPRESENTATIVE

Will a representative assist the subdivider at the hearing for this subdivision? Yes

Surveyor and Address (if applicable): AKS Engineering & Forestry, LLC.
12965 SW Herman Rd Suite 100, Tualatin, OR 97062

Phone: 503-563-6151

Engineer and Address (if applicable): HBH Consulting Engineers, Inc. 501 E First Street, Newberg, OR
97132

Phone: (503) 554-9553

Names and addresses of all property owners within 300 feet of the partitioning's proposed boundaries, as shown on the last preceding tax roll of the Yamhill County Assessor. Attach to this application as Exhibit "A".

DEVELOPMENT LIMITATIONS

- A.) Current Land Use: Residential R-2 Vacant
- B.) Topography: Gently sloping east to west and north to south, max slope 7 ½%, average slope 3%.
- C.) Explain Surrounding Uses: North and east is developed residential, west is city park and south is farm land with creek and wetland at southern boundary of adjacent property. Currently zoned EFU-40.
- D.) Do your tentative subdivision plans delineate the general location of all previously recorded easements and encumbrances presently binding upon the subdivision site? Yes (see attached title report)

(A current title report or subdivision guarantee for the site would disclose such easements or encumbrances.)

E.) Do your tentative subdivision plans delineate any necessary easements, i.e.:

Drainage Easements: _____ Sewer Easements: Existing to be deleted
Utility Easements: 10 feet PUE Water Easements: _____

F.) What is the estimated time of construction? March - October 2023

G.) Date of completion: October 2023

H.) Explain how the proposed subdivision will be phased. It will be constructed in one phase

I.) Is the property proposed for partitioning located within an area of flood or soil hazard or within an area of steep slopes.

No

J.) Does the partitioning affect any parcel or building with historical significance. _____

No

K.) Will fill or removal be required to develop this site: Yes X No _____ How Much 5,000 CY

L.) How will surface water be taken care of: Roof drains & catch basins will be carried to an existing drainage facility. Please see proposed storm drainage analysis & drawings attached.

CONFORMANCE TO APPLICABLE REGULATIONS

A.) What is the current zoning classification of the subdivision site. R-2 single family

B.) Explain how your proposed subdivision and use conform to the zoning classification. The proposed single family lots are in direct conformance with R-2 zone. All lots will exceed 6,000 SF minimum.

C.) Are there any requirements specified within the Zoning Regulations that the proposed subdivision would not comply with? Yes, lot width to depth ratio, land use regulations require a 2:1 ration. Due to street layout a variance to the width would be required.

Lot Width Variance: 2.34 feet for lots 30 & 31; 3 feet for lots 9-12, 22-24, 26-28, 30-35, 37-39; 4 feet for lots 20-21, 25, 29, 32, 36

D.) Are there any requirements specified within the Subdivision Regulations that the proposed subdivision would not comply with? Perhaps street ROW width, however it was noted in the pre-design meeting that 50 feet width would be adequate.

E.) Explain how your proposed subdivision and use would conform to the uses, and goal and policy statements in the Comprehensive Plan. The proposed development is in direct compliance with the following findings, goals, and policies of the City of Yamhill Comprehensive Plan.

Citizen Involvement: Citizen involvement is obtained through the hearings process during

comprehensive plan amendments and zoning previsions. On a more local level citizens are encouraged to participate in public hearings at both the Planning Commission and City Council meetings during the subdivision process.

Natural Resources: The findings and policies relating to preservation of lands with natural resources is enhanced by avoidance of development of properties with said resources. This project provides for needing without destroying lands with natural resources.

Community Resources: The proposed project is in direct compliance with coordinated expansions of water, sewer, and streets adjacent to the development and by implementing portions of the sewer and water master plans.

Community Development: The project provides for the orderly development of urbanizable lands and enhances the availability of housing choice within the community.

APPLICANT'S CERTIFICATION

No title search or survey will be made by the City of Yamhill before this application is processed. It is the responsibility of the applicant for any permits to determine whether he has the legal right to use the property in question for the intended purpose. No permission for such use, either express or implied, is given by the City of Yamhill by the issuance of any permit.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NOTE: Attach detailed, accurate site plans (minimum of Ten copies are required). Other statements, plans, photos, data, etc., which would help to substantiate and clarify your request may also be submitted. Attach responses to all questions prior to submission to the City.


Applicant's Signature

10/24/23
Date of Application


Owner's Signature

Date of Application

SUBDIVISION APPLICATION

APPLICATION:

A complete Application includes the following items:

- 1.) The Application Form filled out as completely and accurately as possible. Give as thorough an explanation as possible. If additional explanation or materials would assist or support the request, attach these and include them with the Application Form.
- 2.) Ten copies of a Vicinity Plan of the proposed subdivision and its relationship to surrounding properties, and roads and streets.
- 3.) Ten copies of a description of the proposed subdivision and tentative plan of the property for which action is requested. The Tentative Plan shall be drawn to scale to show existing and proposed features (i.e. slope, vegetation, adjacent development, drainage, etc.) This shall include:
 - A.) The date, north-point, scale, and a good and sufficient description to define the location and boundaries of the parcel.
 - B.) Approximate acreage of the parcel under a single ownership, or, if more than one ownership is involved, the total contiguous acreage of all owners of land directly involved in the subdivision.
 - C.) For land adjacent to and within the parcel to be subdivided, show locations, names, and existing widths of all streets and easements; and location and size of sewer and water lines, and drainage ways.
 - D.) Outline and location of existing buildings to remain in place.
 - E.) Lot layout showing size and relationship to existing or proposed streets and utility easements.
 - F.) Such additional information as required by the Planning Commission procedures.
- 4.) A list of the names and addresses, from the last preceding County Tax Roll, of all owners of property situated within 300 feet of the subject property, including public rights-of-ways, of the external boundaries of the affected property.
- 5.)

Application Fee - Preliminary Plat	\$ 2990	
Plus a per lot fee of	\$ 10	
Application Fee - Final Plat	\$ 3500/\$750 Dep.	
Professional Review Fee	\$ 2500	
Appeal Fee	\$ 250	
Initial City Fee at Application	\$ 1000	
		+ \$200 Per Lot Fee
- 6.) Make certain the Application is signed by the Legal Owner(s) of the affected property. (Proof of title may be required.)

SUBMISSION OF APPLICATION:

A completed application shall be filed with the City Recorder at least thirty (30) days prior to the Planning Commission Meeting at which the Public Hearing will be conducted.

A minimum fee of \$1,000.00 (plus the per lot fee), for the Preliminary Plan, shall be charged for plan review upon filing of the application. Such fees shall be non-refundable. The applicant is advised that he will be subject to Professional Service Charges of Yamhill Municipal Code Section 10.128.230.

In the event the tentative plan must be reviewed again because of error in the original documents as submitted by the applicant, the City Engineer must charge an additional fee of up to \$200.00 plus \$3.00 for each lot in said subdivision.

The City Recorder shall schedule a public hearing before the Planning Commission as established in the Yamhill Municipal Code. The Planning Commission shall review the plans and application at their regularly scheduled meeting and determine whether the proposal is compatible with the City of Yamhill Comprehensive Plan and all other applicable regulations. The Planning Commission may require such dedication of land and easements and may specify such conditions or modifications in the plan as are deemed necessary to carry out the Yamhill Comprehensive Plan. In no event, however, shall the Planning Commission require greater dedications or conditions than could be required if the entire parcel were subdivided.

FILING:

When the plan and application has been approved, four copies of the FINAL PLAT shall be marked with the date and conditions, if any, of approval and signed by the Mayor, Planning Commission Chairman, City Recorder, and City Engineer. One copy shall be returned to the applicant, two copies shall be filed in the Yamhill County files, and one copy shall be retained by the City. FINAL PLAT approval shall not be granted until the partition shall have conformed to the requirements of State Law, the standards established by Yamhill Municipal Code, Title 11, and any special conditions of the Planning Commission at the time of approval of the Tentative Plan.

PROFESSIONAL EXPENSES:

10.128.230 Professional Expenses. In addition to any other fees prescribed by the City Council, there is imposed upon an Applicant before the Planning Commission or City Council, an additional fee for the professional review of the application. Said fee shall not exceed \$1,000.00 unless approved by majority vote of the Planning Commission or City Council. Said fee shall not exceed actual cost to City for professional services of planners, engineers, attorneys, or other professionals whose assistance is sought by the Planning Commission and/or City Council.

The City shall not bill for the first four (4) hours of the professional review performed by City Staff and the first four (4) hours of the professional review performed by the City Planner. Unless specifically included within the application fee, all services by the City Engineer and the City Attorney shall be covered under Professional Expenses. The City shall have the authority to impose the above said fee only in those cases where additional professional review, beyond four (4) hours, engineering review, and/or legal review, is required on the application. Prior to imposing said fee or beginning professional review of such projects, the City Recorder shall notify the Applicant that his application is subject to the Professional Review Fee and that the Applicant shall be liable for said fees. Such notifications may be made by printing said notification on the land use application to come before the Planning Commission and/or City Council. The City, after notification to Applicant of the professional review fee, shall provide the Applicant a period of not less than seven days in which to withdraw his application without being responsible for said fee. The City, at the request of the applicant may provide to the applicant an estimate of the Professional Review Fee however, such estimates shall not be binding in any way upon the City. An estimated Professional Review Fee may be charged at the time of initial or subsequent hearing if the governmental body has good cause to believe a fee will be required.

The Professional Review Fee shall be collected from the applicant before final approval of the application. If estimated professional review fees have been collected by the City, and the Professional Review Fee actually charged to the City by a professional is less than the amount rendered by the Applicant, the City Recorder shall refund to the Applicant the balance of the fee paid beyond the professional fees actually charged the City. Likewise, if the estimated professional review fees paid by the applicant are

insufficient to cover the amount assessed the City by the designated professionals, then the City Recorder will have the authority, prior to the Planning Commission or City Council acting upon the application, of collecting additional fees. (Ord. 350, §15.22, 1984)



BEND, OR
2777 NW Lolo Drive
Suite 150
Bend, OR 97703
(541) 317-8429
www.aks-eng.com

KEIZER, OR
3700 River Road N
Suite 1
Keizer, OR 97303
(503) 400-6028

THE DALLES, OR
3775 Crates Way
The Dalles, OR 97058
(541) 296-9177

TUALATIN, OR
12965 SW Herman Road
Suite 100
Tualatin, OR 97062
(503) 563-6151

VANCOUVER, WA
9600 NE 126th Avenue
Suite 2520
Vancouver, WA 98682
(360) 882-0419

WHITE SALMON, WA
107 W Jewett
Suite 100
White Salmon, WA 98672
(509) 281-3227

Date: 11/8/2023
To: Walt Wendolowski – City of Yamhill Planning
From: John P. Christiansen, PE – City of Yamhill – Engineer of Record
Project Name: Park Meadows
AKS Job No.: 3940-32
Subject: SDV 21-1 Park Meadows – Status of Public Improvements

The City of Yamhill and the Developer entered into a Development Agreement on March 8, 2023. In accordance with the agreement, the developer provided a Performance Bond in the amount of \$974,997.10 and paid a plan review and inspection deposit in the amount of \$77,427.43.

The Park Meadows Subdivision (SDV 21-1) received engineering plan approval on March 17, 2023. Construction commenced on March 30, 2023. Public improvements associated with the development include the following:

- New public roadways and utilities throughout the subdivision
- Frontage improvements along existing East Third Street Right-of-way
- Approximately 1,200 lineal feet of offsite water main from the subject property to HWY 240
- Approximately 1,000 lineal feet of offsite sewer main replacement from the subject property to the wastewater treatment plant.

All public improvements were observed by AKS Engineering & Forestry, LLC on behalf of the City of Yamhill. To date, all the improvements listed above have been completed. AKS, the City of Yamhill, the contractor, and the developer are currently reviewing the improvements for final acceptance.

The developer and the City of Yamhill are currently working on System Development Charge (SDC) Credit agreement. This agreement will establish the value of SDC eligible work the developer completed by constructing the offsite water main improvement.

The \$100,000 fee-in-lieu payment for the water treatment plant intake improvements is outstanding and should be paid by the developer concurrent with recording of the subdivision plat.

DEVELOPMENT AGREEMENT BETWEEN THE CITY OF YAMHILL, OREGON AND HBH CONSULTING ENGINEERS, INC.

This Development Agreement ("Agreement") is entered into between the City of Yamhill, Oregon (the "City") and Take Lucy Deal Estete + Development, Inc. ("Developer") on 3/8/23, 2023, (the "Effective Date").

I. RECITALS

1. Take Lucy Deal Estete + Development, Inc., is the Developer of certain property located in the City which does not have a property address but is identified by the County Assessor as Tax Lot 2200 in Township 3 South, Range 4 West, Section 04 (the "Development").
2. Developer submitted application No. SDV 21-1 (subdivision) for approval of a 57 lot subdivision. The application was approved by the City Council for the City of Yamhill on March 9, 2022.
3. Review of the status of the Development has indicated that various improvements will be required to comply with all city planning ordinances, building codes and conditions of approval (the "Improvements").
4. Developer is willing to satisfy the approval conditions set forth in the City Council Order dated March 9, 2022 (the "Approval").
5. Oregon Law authorizes the City Council to approve Development Agreements that contain performance guarantees to secure the terms and conditions under which Developer will fulfill his obligation to satisfy the conditions of approval stated below.
6. Developer desires to develop the Development with the Improvements in a timely fashion and has had a full and fair opportunity to seek and obtain legal advice and counsel relating to this Agreement and has been encouraged to do so.
7. WHEREAS, the City Engineer for the City has approved the civile engineering plans for improvements to this development, as evidenced by his signature and the City's stamp of approval on said plans. The approved civil engineering plans are incorporated herein by reference. The term "improvement" shall include any or all public facilities or public assets used for water supply, treatment and/or distribution; wastewater (including stormwater) collection, transmission, treatment and disposal; drainage and flood control; transportation; street trees and landscaping within the public right-of-way; and parks, open spaces or other areas used for recreational purposes.

II. RIGHTS AND OBLIGATIONS OF THE PARTIES

A. Developer's Rights and Obligations.

1. Developer shall comply with all of the Conditions of Approval included in the March 9, 2022, City Council Order, including the stated deadlines for such actions (see Yamhill City Council Order attached hereto as Exhibit A).
2. Developer shall proceed with the public improvement, with the intent and purpose to complete all improvements of said residential subdivision not later than one (1) year from the date of this Agreement, and Developer is hereby bound to comply with all development and associated standards as set forth in said City of Yamhill Municipal Code and the standard engineering specifications adopted by the City, or as may be otherwise approved by the City Engineer and to use only such material to follow such design as may be required to conform thereto.
3. Upon completion of public facility improvements, a final plat complying with all provisions of ORS Chapter 92 shall be completed by a registered land surveyor. The Final Plat shall substantially conform to the proposed layout. City review and recording of the Final Plat shall be subject to the applicable provisions of the Yamhill Zoning Code.
4. Developer shall provide a Performance Bond to City in a form acceptable to City. This Performance Bond shall be in an amount not less than 110% of the engineer's estimate for improvements within the existing public rights of way and improvements to existing City infrastructure. The Performance bond amount is **Nine-hundred seventy four thousand, nine-hundred ninety seven and 10/100 dollars (\$974,997.10).**

B. City Rights and Obligations

1. City may enforce any or the requirements specified above, and all other City codes requirements and Conditions of Approval that may be attached to the Approval.
2. City agrees to make and provide periodic and final inspections which in the City's judgement are necessary to assure compliance herewith, in consideration whereof the Developer has paid prescribed inspection fee deposit in the amount of **seventy seven thousand, four hundred twenty seven and 43/100 dollars (\$77,427.43).**

III. TERMINATION OF AGREEMENT

This Agreement will terminate on 3/8/24 if not sooner terminated by mutual written agreement of the parties. Developer may apply for an extension of this agreement per applicable provisions of the Municipal Code.

IV. DEFAULT/CURE

In the event that Developer shall fail, neglect or refuse to proceed with the work in an orderly and progressive manner to assure completion within the time limited, upon thirty (30) days' notice by the City to Developer and such default and failure to proceed continuing thereafter, the City may at its option proceed to have the work completed and charge the costs thereof against the Developer and in the event same be not paid, to bring action on the said security to recover the amount thereof. In the event such action be brought, Developer promises and agrees to pay in addition to the amount accruing and allowable, such sum as the court shall adjudge reasonable as attorney's fees and cost incurred by the City both in the Trial Court and Appellate Court, if any, or the City may as its option, bring proceedings to enforce against the Developer specific performance of the contract and compliance with the development standards and ordinances of the City, and in such event, in like manner, the City shall be entitled to recover such sum as the court adjudge reasonable as and for the City's attorney's fees and costs, both in the Trial Court and Appellate Court, if any.

V. DISPUTE RESOLUTION

If any dispute arises between the parties concerning the terms of this Agreement or the parties' obligations or activities under this Agreement, the dispute shall be submitted to mediation before a mediator agreed to and compensated equally by both parties prior to commencement of arbitration or litigation. If the parties fail to agree on a mediator, a mediator shall be appointed by the presiding judge of the Yamhill County Circuit Court.

VI. REMEDIES

A. Specific Performance

If a party defaults under the terms of this Agreement, the non-defaulting party may, in addition to any other remedies at law or in equity compel the other party's performance under this Agreement or prevent any action contrary to this Agreement by injunction or other equitable relief.

B. Nonexclusive Remedies

No remedy conferred upon or reserved to any party under this Agreement is intended to be exclusive of any other remedy allowed by law. Unless expressly provided otherwise in this Agreement, each and every remedy will be cumulative and will be in addition to any other remedy given to each party in this Agreement.

C. Waiver of Default

To the extent not precluded by this Agreement, the non-defaulting party may, in its discretion, waive any default hereunder and its consequences and rescind any consequence of such default. In case of any such waiver or rescission, the parties will be restored to their respective former positions and rights under this Agreement, but no such waiver or rescission will extend to or affect any later or other default, or impair any right consequent thereon. No such waiver or rescission will be in effect unless it is in writing and signed by the non-defaulting party.

VII. GOVERNING LAW; VENUE; JURISDICTION

This Agreement will be governed and construed according to the laws of the State of

Oregon, without regard to its choice of law provisions. Jurisdiction and venue for any suit or action filed in this matter shall lie solely and exclusively in the Circuit Court for Yamhill County, Oregon.

VIII. NO BENEFIT TO THIRD PARTIES

Developer and City are the only parties to this Agreement and are the only parties entitled to enforce its terms. There are no third-party beneficiaries of this Agreement. However, during the period of this agreement, the City will in good faith consider the transfer of this agreement to a third party should Developer decide not to pursue development and the City still desire development of the Development.

IX. NOTICES

All notices given under this Agreement will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, to a party at their last known address for Developer, and to Yamhill City Hall for City. Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving written notice of such change in address in accordance with this notice provision.

X. NON-WAIVER

Waiver by any Party of strict performance of any provision of this Agreement will not be deemed a waiver of or prejudice a Party's right to require strict performance of the same or any other provision in the future. A claimed waiver

must be in writing and signed by the Party granting a waiver. A waiver of one provision of this Agreement will be a waiver of only that provision. A waiver of a provision in one instance will be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

XI. SURVIVAL

Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

XII. COUNTERPARTS

This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts will constitute one and the same instrument.

XIII. AMENDMENTS

This Agreement (including exhibits) may be amended only by mutual written agreement of the Parties. No amendment to any provision of this Agreement will be implied from any course of performance, any acquiescence by any Party, any failure of any Party to object to another Party's performance or failure to perform, or any failure or delay by any Party to enforce its rights under this Agreement.

XIV. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and shall be binding upon each of the parties hereto and such parties' partners, successors, executors, administrators and assigns.

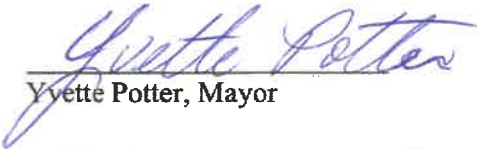
XV. ENTIRE AGREEMENT

This Agreement (including exhibits) is the entire agreement between the Parties relating to the subject matter covered by this Agreement. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations made by either party, express or implied, other than those contained in this Agreement.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year first set forth above.


City: CITY OF YAMHILL, OREGON

Developer: 


Yvette Potter, Mayor

By: Jake Luey Real Estate & Development, Inc
Jake Luey, President (Print
Name)

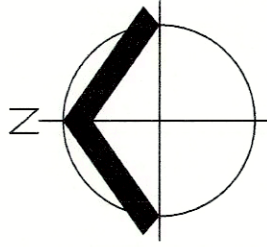
ATTEST:

By: 
Interim City Recorder

Its: Interim city Recorder (Title)

PREPARED FOR

JAKE LUCEY REAL ESTATE &
DEVELOPMENT, INC.
5082 BARCELONA CT SE
SALEM, OR 97317



SCALE: 1" = 100 FEET

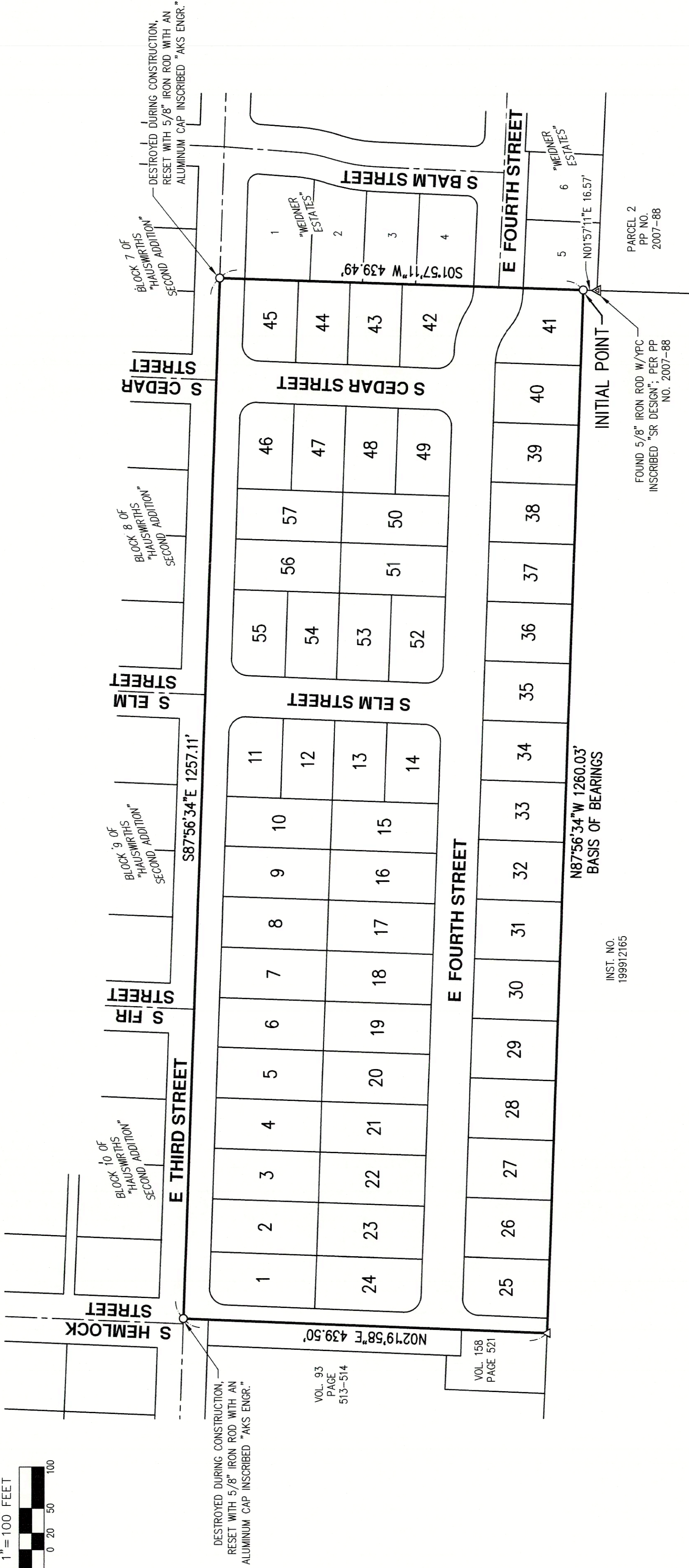
PARK MEADOWS

LOCATED IN THE SOUTHEAST 1/4 OF SECTION 4,
TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN,
CITY OF YAMHILL, YAMHILL COUNTY, OREGON
DATE: OCTOBER 23, 2022

SHEET 1 OF 5

SHEET INDEX

- SHEET 1 PLAT BOUNDARY, NARRATIVE, SURVEYOR'S CERTIFICATE, PLAT NOTES
SHEET 2 LOTS 1-7 AND 18-30
SHEET 3 LOTS 8-17, 31-36, AND 52-55
SHEET 4 LOTS 37-51 AND 56-57
SHEET 5 DECLARATION, ACKNOWLEDGMENT, CONSENT AFFIDAVIT, APPROVALS



PLAT NOTES

- THIS PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL SET FORTH IN THE CITY OF YAMHILL PLANNING FILE NO. SDV 21-1.
- THIS PLAT IS SUBJECT TO AN UTILITY EASEMENT PER INSTRUMENT NUMBER 200720026, YAMHILL COUNTY PLAT RECORDS. THIS EASEMENT SHALL BE RELEASED PRIOR TO PLAT RECORDING AND IS NOT SHOWN.

NARRATIVE

THE PURPOSE OF THIS PLAT TO SUBDIVIDE AND MONUMENT THAT TRACT OF LAND DESCRIBED IN INSTRUMENT NUMBER 202004715, YAMHILL COUNTY DEED RECORDS, INTO LOTS AS SHOWN HEREON. THE BASIS OF BEARINGS (N87°56'34\"/>

LEGEND

- FOUND 5/8\"/>
- △ FOUND 3/4\"/>
- ▲ DENOTES FOUND MONUMENT AS NOTED; HELD UNLESS NOTED OTHERWISE
- INST. NO. INSTRUMENT NUMBER PER YAMHILL COUNTY DEED RECORDS
- W/YPC WITH A YELLOW PLASTIC CAP
- PP NO. PARTITION PLAT NUMBER PER YAMHILL COUNTY SURVEY RECORDS
- CS COUNTY SURVEY NUMBER PER YAMHILL COUNTY SURVEY RECORDS
- ROW RIGHT-OF-WAY

REVIEW COPY

10/24/2023

REGISTERED PROFESSIONAL LAND SURVEYOR

Michael S. Kalina

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/25

I, MICHAEL S. KALINA, CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL PLAT.

MICHAEL S. KALINA

SURVEYOR'S CERTIFICATE

I, MICHAEL S. KALINA, 89558PLS, DO HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS, THE LANDS REPRESENTED ON THE ANNEXED MAP OF "PARK MEADOWS", SITUATED IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN, CITY OF YAMHILL, YAMHILL COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT, BEING A FOUND 5/8-INCH IRON ROD WITH A YELLOW PLASTIC CAP INSCRIBED "AKS ENGR." LOCATED AT THE SOUTHEAST CORNER OF INSTRUMENT NUMBER 202004715, YAMHILL COUNTY DEED RECORDS, WHICH BEARS NORTH 01°57'11" EAST 16.57 FEET FROM A 5/8-INCH IRON ROD WITH A YELLOW PLASTIC CAP INSCRIBED "SR DESIGN" LOCATED AT THE NORTHWEST CORNER OF PARCEL 2 OF PARTITION PLAT NUMBER 2007-88 AND ALSO BEING THE SOUTHWEST CORNER OF LOT 5 OF "WEIDNER ESTATES"; THENCE ALONG THE SOUTH LINE OF SAID INSTRUMENT NUMBER 202004715, NORTH 87°56'34" WEST 1260.03 FEET TO A 3/4-INCH IRON PIPE AT THE SOUTHWEST CORNER THEREOF; THENCE ALONG THE WEST LINE OF SAID INSTRUMENT NUMBER 202004715, NORTH 02°19'58" EAST 439.50 FEET TO A 5/8-INCH IRON ROD WITH A YELLOW PLASTIC CAP INSCRIBED "AKS ENGR." AT THE NORTHWEST CORNER THEREOF; THENCE ALONG THE NORTH LINE OF SAID INSTRUMENT NUMBER 202004715, SOUTH 87°56'34" EAST 1257.11 FEET TO A 5/8-INCH IRON ROD WITH A YELLOW PLASTIC CAP INSCRIBED "AKS ENGR." AT THE NORTHEAST CORNER THEREOF; THENCE ALONG THE EAST LINE OF SAID INSTRUMENT NUMBER 202004715, SOUTH 01°57'11" WEST 439.49 FEET TO THE INITIAL POINT. CONTAINS 12.70 ACRES, MORE OR LESS.

AS PER O.R.S. 92.070(2), I ALSO CERTIFY THAT THE POST MONUMENTATION OF THE REMAINING MONUMENTS IN THIS SUBDIVISION WILL BE ACCOMPLISHED WITHIN 90 CALENDAR DAYS FOLLOWING THE COMPLETION OF PAVING IMPROVEMENTS OR ONE YEAR FOLLOWING THE ORIGINAL PLAT RECORDATION, WHICHEVER COMES FIRST, IN ACCORDANCE WITH O.R.S. 92.060.

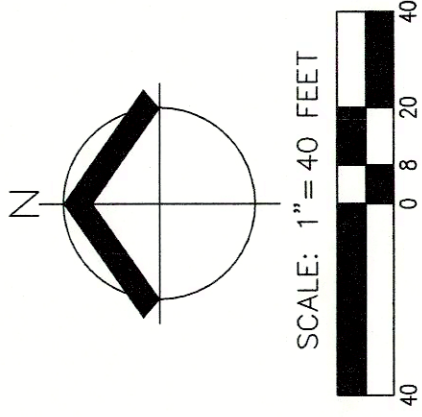
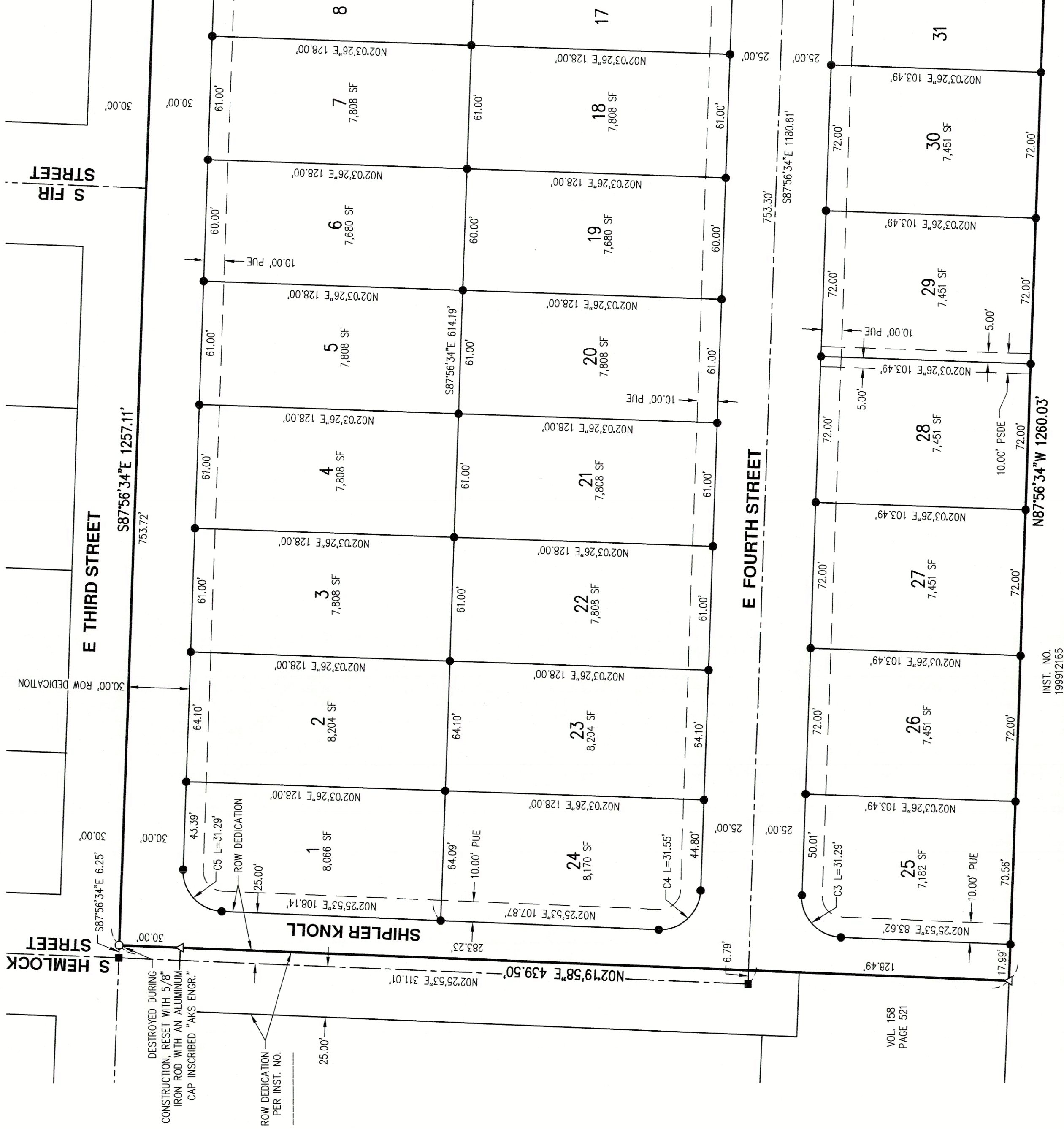
AKS

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151
WWW.AKS-ENG.COM

ENGINEERING · SURVEYING · NATURAL RESOURCES
FORESTRY · PLANNING · LANDSCAPE ARCHITECTURE

PREPARED FOR
JAKE LUCEY REAL ESTATE &
DEVELOPMENT, INC.
5082 BARCELONA CT SE
SALEM, OR 97317

PARK MEADOWS
LOCATED IN THE SOUTHEAST 1/4 OF SECTION 4,
TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN,
CITY OF YAMHILL, YAMHILL COUNTY, OREGON
DATE: OCTOBER 23, 2023



LEGEND

- 5/8" X 30" IRON ROD W/IPC INSCRIBED "AKS ENGR.", TO BE SET DURING REMAINING MONUMENTATION, SET ON: / / 20
- 5/8" X 30" IRON ROD WITH AN ALUMINUM CAP INSCRIBED "AKS ENGR.", TO BE SET DURING REMAINING MONUMENTATION, SET ON: / / 20
- FOUND 5/8" IRON ROD W/IPC INSCRIBED "SR DESIGN"; PER PLAT OF "WEIDNER ESTATES"; HELD UNLESS NOTED OTHERWISE
- FOUND 5/8" IRON ROD W/IPC INSCRIBED "AKS ENGR."; PER CS 13777; HELD UNLESS NOTED OTHERWISE
- △ FOUND 3/4" IRON PIPE; PER CS 3291; HELD UNLESS NOTED OTHERWISE
- ▲ DENOTES FOUND MONUMENT AS NOTED; HELD UNLESS NOTED OTHERWISE
- INST. NO. INSTRUMENT NUMBER PER YAMHILL COUNTY DEED RECORDS
- W/IPC WITH A YELLOW PLASTIC CAP
- PP NO. PARTITION PLAT NUMBER PER YAMHILL COUNTY SURVEY RECORDS
- CS COUNTY SURVEY NUMBER PER YAMHILL COUNTY SURVEY RECORDS
- ROW RIGHT-OF-WAY
- SF SQUARE FEET
- PUE PUBLIC UTILITY EASEMENT
- PSDE PRIVATE STORM DRAINAGE EASEMENT TO BENEFIT INST. NO. 199912165

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C3	20.00'	89°37'33"	31.29'
C4	20.00'	90°22'27"	31.55'
C5	20.00'	89°37'33"	31.29'

REVIEW
COPY

10/24/2023

REGISTERED
PROFESSIONAL
LAND SURVEYOR

I, MICHAEL S. KALINA, CERTIFY THAT
THIS IS AN EXACT COPY OF THE
ORIGINAL PLAT.

MICHAEL S. KALINA

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
8958BPLS
RENEW: 6/30/25

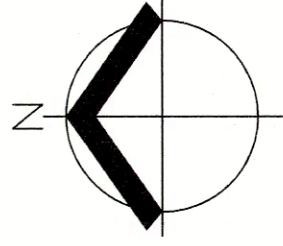


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JOB NAME:	PARK MEADOWS
JOB NUMBER:	7915
DRAWN BY:	MK
CHECKED BY:	GP
DRAWING NO.:	7915 PLAT

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PARK MEADOWS
LOCATED IN THE SOUTHEAST 1/4 OF SECTION 4,
TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN,
CITY OF YAMHILL, YAMHILL COUNTY, OREGON
DATE: OCTOBER 23, 2023



SCALE: 1" = 40 FEET

LEGEND

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- ROW RIGHT-OF-WAY
- SF SQUARE FEET
- PUE PUBLIC UTILITY EASEMENT

CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C6	20.00'	90°21'16"	31.54'
C7	20.00'	89°38'44"	31.29'
C8	20.00'	90°21'16"	31.54'
C9	20.00'	89°38'44"	31.29'

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OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEW: 6/30/25



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CURVE TABLE					CHORD
CURVE	RADIUS	DELTA	LENGTH		
C1	78.00'	332°1'50"	45.42'	N71°15'39"W	44.78'
C2	78.00'	32°43'16"	44.54'	S70°56'22"E	43.94'
C10	20.00'	90°20'40"	31.54'	N42°46'14"W	28.37'
C11	20.00'	89°39'20"	31.30'	N47°13'46"E	28.20'
C12	68.23'	401°2'24"	47.88'	N66°52'32"W	46.91'
C13	62.48'	395°0'11"	43.44'	N68°37'15"W	42.57'
C14	44.33'	30°30'55"	23.61'	S72°02'32"E	23.33'
C15	99.90'	31°16'52"	54.54'	S72°25'31"E	53.87'
C16	20.00'	90°28'03"	31.58'	S42°49'56"E	28.40'
C17	20.00'	89°39'20"	31.30'	S47°13'46"W	28.20'

REVIEW
COPY

10/24/2023

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**OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS**

AKS
TRY, LLC
100

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PREPARED FOR

JAKE LUCEY REAL ESTATE &
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5082 BARCELONA CT SE
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PARK MEADOWS
LOCATED IN THE SOUTHEAST 1/4 OF SECTION 4,
TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN,
CITY OF YAMHILL, YAMHILL COUNTY, OREGON
DATE: OCTOBER 23, 2023

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS THAT JAKE LUCEY REAL ESTATE AND DEVELOPMENT, INC., AN OREGON CORPORATION, IS THE OWNER OF THE LAND SHOWN ON THE ANNEXED MAP AND AS DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAS CAUSED THE SAME TO BE SURVEYED AND PLATTED IN ACCORDANCE WITH THE PROVISIONS OF THE OREGON REVISED STATUTES CHAPTER 92, ALL LOTS BEING OF THE DIMENSIONS SHOWN AND ALL STREETS AND EASEMENTS OF THE WIDTHS HEREON SET FORTH, AND DOES HEREBY DEDICATE TO THE PUBLIC AS PUBLIC WAYS ALL RIGHTS OF WAY AS SHOWN, AND DOES HEREBY GRANT ALL EASEMENTS AS SHOWN OR NOTED HEREON ON SAID PLAT. THE DECLARANT MAKES NO CLAIM TO LAND BEYOND THE BOUNDARY MONUMENTED.

JAKE LUCEY, PRESIDENT

ACKNOWLEDGMENT

STATE OF OREGON)
COUNTY OF _____) SS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS _____ DAY OF _____, 20____ BY JAKE LUCEY, AS PRESIDENT OF JAKE LUCEY REAL ESTATE AND DEVELOPMENT, INC. AN OREGON CORPORATION.

NOTARY SIGNATURE _____

NOTARY PUBLIC – OREGON (PRINTED NAME) _____

COMMISSION NO. _____

MY COMMISSION EXPIRES _____

CONSENT AFFIDAVITS

A SUBDIVISION PLAT CONSIST AFFIDAVIT BY CHAD E. DAVIS CONSTRUCTION, LLC, AN OREGON LIMITED LIABILITY COMPANY, BENEFICIARY UNDER TRUST DEEDS RECORDED IN INSTRUMENT NUMBER 202206497 AND INSTRUMENT NUMBER 202304902, HAS BEEN EXECUTED AND RECORDED IN INSTRUMENT NUMBER _____, YAMHILL COUNTY DEED RECORDS.

A SUBDIVISION PLAT CONSIST AFFIDAVIT BY FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF McMinnville, BENEFICIARY UNDER TRUST DEED RECORDED IN INSTRUMENT NUMBER 202303882, HAS BEEN EXECUTED AND RECORDED IN INSTRUMENT NUMBER _____, YAMHILL COUNTY DEED RECORDS.

REMAINING CORNER MONUMENTATION

IN ACCORDANCE WITH O.R.S. 92.070, THE REMAINING CORNERS OF THIS SUBDIVISION HAVE BEEN CORRECTLY SET WITH PROPER MONUMENTS. AN AFFIDAVIT HAS BEEN PREPARED REGARDING THE SETTING OF SAID MONUMENTS AND IS RECORDED IN INSTRUMENT NO. _____, YAMHILL COUNTY DEED RECORDS.

APPROVED THIS _____ DAY OF _____

YAMHILL COUNTY SURVEYOR

APPROVALS

APPROVED THIS _____ DAY OF _____
CITY OF YAMHILL PLANNING COMMISSION CHAIR
YAMHILL PLANNING FILE NO. SDV 21-1

BY: _____

APPROVED THIS _____ DAY OF _____
CITY OF YAMHILL MAYOR

BY: _____

APPROVED THIS _____ DAY OF _____
YAMHILL COUNTY SURVEYOR

BY: _____

APPROVED THIS _____ DAY OF _____
YAMHILL COUNTY COMMISSIONER

BY: _____

APPROVED THIS _____ DAY OF _____
YAMHILL COUNTY COMMISSIONER

BY: _____

APPROVED THIS _____ DAY OF _____
YAMHILL COUNTY COMMISSIONER

BY: _____

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY ORS 92.095 HAVE BEEN PAID AS OF THIS _____ DAY OF _____, 20____.

DIRECTOR OF ASSESSMENT AND TAXATION
YAMHILL COUNTY ASSESSOR

BY: _____

REVIEW

COPY

10/24/2023

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PROFESSIONAL
LAND SURVEYOR

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ORIGINAL PLAT.

Michael S. Kalina

MICHAEL S. KALINA

OREGON
JANUARY 12, 2016
MICHAEL S. KALINA
89558PLS

RENEWS: 6/30/25

AKS ENGINEERING & FORESTRY, LLC

12965 SW HERMAN RD, STE 100

TUALATIN, OR 97062

503.563.6151

WWW.AKS-ENG.COM



JOB NAME: PARK MEADOWS

JOB NUMBER: 7915

DRAWN BY: MK

CHECKED BY: GP

DRAWING NO.: 7915 PLAT

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First American Title™

First American Title Insurance Company

775 NE Evans Street
McMinnville, OR 97128
Phn - (503)376-7365
Fax - (866)800-7290

**Supplemental
PUBLIC RECORD REPORT
FOR NEW SUBDIVISION OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF:

Mike Kalina
12965 SW Herman Rd. Ste. 100
Tualatin, OR 97062
Phone: 503.563.6151
Email: miked@aks-eng.com

Date Prepared : September 05, 2023
Effective Date : 8:00 A.M on August 24, 2023
Order No. : 1032-3718896
Subdivision : **PARK MEADOWS SUBDIVISION**

The information contained in this report is furnished by First American Title Insurance Company (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report. Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Yamhill, State of Oregon, and is described as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:

As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:

As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof

- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:

As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

EXHIBIT "A"
(Land Description Map Tax and Account)

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 3 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN, YAMHILL COUNTY, OREGON, SAID TRACT BEING A PORTION OF THAT TRACT OF LAND DESCRIBED IN DEED TO VAN DYKE RIVERVIEW FARMS, L.L.C., AND RECORDED IN INSTRUMENT 199912165, YAMHILL COUNTY DEED RECORDS, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID VAN DYKE RIVERVIEW FARMS, L.L.C. TRACT, SAID CORNER ON RECORD AS BEING A STAKE SET IN THE CENTER OF THIRD STREET IN THE CITY OF YAMHILL AT A POINT SOUTH 00° 30' 00" EAST 336.27 FEET FROM THE NORTHEAST CORNER OF THE JOHN B. ROWLAND DONATION LAND CLAIM AND AT A POINT THAT IS NORTH 89° 55' 00" EAST 126.39 FEET FROM THE INTERSECTION OF THIRD STREET AND CEDAR STREET IN THE CITY OF YAMHILL; THENCE SOUTH 89° 55' 00" WEST 1259.08 FEET ALONG THE NORTH LINE OF SAID VAN DYKE RIVERVIEW FARMS, L.L.C. TRACT TO THE NORTHEAST CORNER OF THE CITY PARK AS CONVEYED TO THE CITY OF YAMHILL IN BOOK 93, PAGE 513, YAMHILL COUNTY DEED RECORDS; THENCE SOUTH 00° 05' 00" EAST 440.02 FEET TO THE SOUTHEAST CORNER OF SAID CITY PARK; THENCE NORTH 89° 55' 00" EAST 1262.28 FEET, MORE OR LESS, TO THE EAST LINE OF SAID VAN DYKE RIVERVIEW FARMS, L.L.C.; THENCE NORTH 00° 30' 00" WEST 440.03 FEET ALONG SAID EAST LINE TO THE PLACE OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

Map No.: R3404 02200
Tax Account No.: 88274

EXHIBIT "B"
(Vesting)

Jake Lucey Real Estate & Development, Inc., an Oregon corporation

EXHIBIT "C"
(Liens and Encumbrances)

1. Taxes for the fiscal year 2023-2024 a lien due, but not yet payable.
2. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
3. City liens, if any, of the City of Yamhill.
4. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.
5. Easement, including terms and provisions contained therein:
Recording Information: September 10, 2007 as Instrument No. 200720026, Deed and Mortgage Records
In Favor of: American Legacy Homes, Inc., their heirs, successors, and assigns
For: Utility
6. Deed of Trust and the terms and conditions thereof.
Grantor/Trustor: Jake Lucey Real Estate & Development, Inc.
Grantee/Beneficiary: Chad E. Davis Construction, LLC, an Oregon limited liability company
Trustee: First American Title
Amount: \$500,000.00
Dated: May 4, 2022
Recorded: May 5, 2022
Recording Information: Instrument No. 202206497, Deed and Mortgage Records

The lien of said Deed of Trust was subordinated to the lien of the instrument recorded May 5, 2023 under recording no. 202303882 by agreement recorded May 5, 2023 under recording no. 202303881 .
7. Line of Credit Trust Deed, including the terms and provisions thereof, given to secure an indebtedness of up to \$4,275,000.00
Grantor: Jake Lucey Real Estate and Development, Inc., an Oregon corporation
Beneficiary: First Federal Savings & Loan Association of McMinnville
Trustee: Kevin P. Moran
Dated: May 1, 2023
Recorded: May 5, 2023
Recording Information: 202303882

8. Deed of Trust and the terms and conditions thereof.

Grantor/Trustor:	Jake Lucey Real Estate & Development, Inc.
Grantee/Beneficiary:	Chad E. Davis Construction, LLC, an Oregon limited liability company
Trustee:	First American Title
Amount:	\$500,000.00
Dated:	June 6, 2023
Recorded:	June 7, 2023
Recording Information:	202304902

9. Unrecorded leases or periodic tenancies, if any.

NOTE: Taxes for the year 2022-2023 PAID IN FULL

Tax Amount:	\$199.21
Map No.:	R3404 02200
Property ID:	88274
Tax Code No.:	16.0

DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.
2. **Liability of the Company.**
 - (a) THIS REPORT IS NOT AN INSURED PRODUCT OR SERVICE OR A REPRESENTATION OF THE CONDITION OF TITLE TO REAL PROPERTY. IT IS NOT AN ABSTRACT, LEGAL OPINION, OPINION OF TITLE, TITLE INSURANCE COMMITMENT OR PRELIMINARY REPORT, OR ANY FORM OF TITLE INSURANCE OR GUARANTY. THIS REPORT IS ISSUED EXCLUSIVELY FOR THE BENEFIT OF THE APPLICANT THEREFOR, AND MAY NOT BE USED OR RELIED UPON BY ANY OTHER PERSON. THIS REPORT MAY NOT BE REPRODUCED IN ANY MANNER WITHOUT FIRST AMERICAN'S PRIOR WRITTEN CONSENT. FIRST AMERICAN DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION HEREIN IS COMPLETE OR FREE FROM ERROR, AND THE INFORMATION HEREIN IS PROVIDED WITHOUT ANY WARRANTIES OF ANY KIND, AS-IS, AND WITH ALL FAULTS. AS A MATERIAL PART OF THE CONSIDERATION GIVEN IN EXCHANGE FOR THE ISSUANCE OF THIS REPORT, RECIPIENT AGREES THAT FIRST AMERICAN'S SOLE LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY AN ERROR OR OMISSION DUE TO INACCURATE INFORMATION OR NEGLIGENCE IN PREPARING THIS REPORT SHALL BE LIMITED TO THE FEE CHARGED FOR THE REPORT. RECIPIENT ACCEPTS THIS REPORT WITH THIS LIMITATION AND AGREES THAT FIRST AMERICAN WOULD NOT HAVE ISSUED THIS REPORT BUT FOR THE LIMITATION OF LIABILITY DESCRIBED ABOVE. FIRST AMERICAN MAKES NO REPRESENTATION OR WARRANTY AS TO THE LEGALITY OR PROPRIETY OF RECIPIENT'S USE OF THE INFORMATION HEREIN.
 - (b) No costs (including, without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (c) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment on the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.
3. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.



First American Title™

First American Title Insurance Company
775 NE Evans Street
McMinnville, OR 97128

Illegal Restrictive Covenants

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

STAFF REPORT

TO: Yamhill Planning Commission

FROM: Walt Wendolowski, Contract Planner

SUBJECT: Partition/Property Boundary Adjustment File No. 23-01

DATE: November 13, 2023

I. BACKGROUND INFORMATION

- A. **APPLICANT:** Carol Smith and Erik Kittleson.
- B. **PROPERTY LOCATION:** The subject property is located at 160 West Third Street and the County Assessor Map identifies the site as located within Township 3 South; Range 4 West; Section 04BD; Tax Lot 3600.
- C. **ZONING:** Residential Limited Commercial (RLC).
- D. **PARCEL SIZE:** Approximately 0.59 acres.
- D. **EXISTING DEVELOPMENT:** The property contains a single-family home and garage, fronts along Olive Street, 2nd Street and 3rd Street, and public sewer and water facilities serve the property.
- E. **REQUEST:** The applicant is requesting approval of a Property Boundary Adjustment and Partition to create three parcels.
- F. **DECISION CRITERIA:** This decision will be based on compliance with the criteria contained in Yamhill Municipal Code; Chapter Section 11.16 (Property Boundary Adjustments), Chapter 10.24 (Residential Limited Commercial Zone), and Chapter 11.12 (Partitions).

II. APPLICATION SUMMARY

- A. The subject property is comprised of Lot 1, Block 1 of the North Yamhill subdivision and a portion of Lot 2, Block 1 of North Yamhill. Each Lot is a separate and distinct platted lot which may be developed independently. The existing garage is on Lot 1 and the home is on a portion of Lot 2.
- B. The request is in two parts. First, the applicants wish to adjust the boundary between the lots by 332 square feet. This will increase the size of Lot 1 from 17,741 square feet to 18,073 square feet. Conversely, the adjustment reduces Lot 2 from 7,760 square feet to 7,428 square feet.

- C. After the adjustment, the applicants wish to divide Lot 1 into three parcels of 6,026 square feet (Parcel 1), 6,027 square feet (Parcel 2), and 6,020 square feet (Parcel 3). Parcel 1 will be located on the southeast corner of the intersection of Olive and 2nd Streets while Parcel 2 will be located to the east of Parcel 1. Both Parcel 1 and Parcel 2 will access 2nd Street. Parcel 3 is located to the east of Parcel 2 and will contain the existing garage. For the record, the existing home remains with Lot 2, which as noted, is a separate lot.
- D. Boundary adjustments are staff-level reviews and subject to provisions in Chapter 11.16 while Partitions are subject to Chapter 11.12 and reviewed by the Planning Commission. Since the boundary adjustment is essential for the partition request to occur, the Commission reviews the entire request.

III. CRITERIA AND FINDINGS – PROPERTY BOUNDARY ADJUSTMENT

- A. Chapter 11.16 contains the requirements for a property boundary adjustment. Section 11.16.010 establishes the purpose state while Section 11.16.020 specifies the application requirements. For the record, the request is consistent with the purpose statement as it does not create a new lot or parcel. Further, the applicant submitted the necessary material with the application deemed complete. Section 11.16.030 contains the decision criteria and are reviewed in the following Sections.
- B. Section 11.16.030 - Review Criteria. Approval or denial of a property boundary adjustment shall be based on the following criteria:
 - 1. Section 11.16.030(A) - A property boundary adjustment cannot create a parcel. Creation of a parcel requires approval of a land division.

FINDINGS: As noted, the proposal adjusts the boundary between two lots and does not create a new lot or parcel.
 - 2. Section 11.16.030(B) - Following the property boundary adjustment, all lots or parcels must comply with lot size and dimensional standards of the applicable land use district. For nonconforming lots, the adjustment shall not increase the degree of nonconformance of the subject property.

FINDINGS: For a single-family home in the RCL zone, the minimum lot size is 6,000 square feet, with a minimum depth of 90-feet and a minimum width of 50-feet at the building line. After the adjustment Lot 1 and Lot 2 exceed the minimum area requirement as well as the dimension standards.
 - 3. Section 11.16.030(C) - The adjustment shall not result in a setback violation for existing structures.

FINDINGS: The adjustment only affects the rear yard setbacks for the garage and home. In both cases, the structures will exceed the 20-foot minimum setback after the adjustment.

4. Section 11.16.030(D) - The adjustment should not reorient or significantly reconfigure the lots or parcels.

FINDINGS: In both cases, the side lot lines remain perpendicular to the adjacent street. Therefore, the lots are not significantly reconfigured.

- C. Section 11.16.050 - Completion of a Property Boundary Adjustment. After a property boundary adjustment is approved, the new boundary becomes effective only after the following steps are completed:

1. Section 11.16.050(A) - The metes and bounds legal descriptions of the adjusted properties are recorded with the Yamhill County Clerk.
2. Section 11.16.050(B) - If required by ORS Chapter 92 or the requirements of this chapter, a final map and boundary survey are prepared, and all new boundaries are monumented as required by ORS Chapters 92 and 209.

FINDINGS: This is a Code requirement to complete the process and the applicant's responsibility.

IV. CRITERIA AND FINDINGS – PARTITION

- A. Chapter 11.12 contains the requirements for a partition. Sections 11.12.010 to 11.12.040 establish general provisions, submittal requirements, and outline the review process. For the record, the request is consistent and conforms with these Sections. The decision criteria are contained in Section 11.12.050 and are reviewed in the following Sections.
- B. Section 11.12.050(A) - Each parcel shall meet the requirements of Section 11.20. The specific design requirements are reviewed below:

1. Section 11.20.020(A) - Minimum lot area. The minimum lot area shall conform to the requirements of the zoning district in which the parcel is located. Where the slope of the ground exceeds 10 percent in any direction for more than 60 percent of the buildable area of a lot, the area of a lot shall be increased.

FINDINGS: Per Section 10.24.080, the minimum parcel size is 6,000 square feet with a minimum building line width of 50-feet and a minimum average depth of 90-feet. There are no parcel slopes that require an increase in the minimum parcel size. All three Parcels exceed these minimums.

2. Section 11.20.020(B) - Lot width and depth. The depth of a lot or parcel shall not be more than 3 times the width of the parcel, except that Parcels created for public utility uses or in zones where there is no minimum lot area requirement shall be exempt from width to depth ratio provisions.

FINDINGS: Parcels 1 and 2 have a depth to width ratio of 1.99:1 while the Parcel 3 ratio is 2.23:1. Based on the submitted plan, the parcels comply with this requirement.

3. Section 11.20.020(C) - Access. All lots and parcels created after the effective date of this Ordinance shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. An exception is permitted for flag lots.

FINDINGS: All three proposed Parcels comply with this provision.

4. Section 11.20.020(D) - Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed.

FINDINGS: The layout does not contain a flag lot.

5. Section 11.20.020(E) - Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography and orientation.

FINDINGS: The partition does not establish through lots.

6. Section 11.20.020(G) - Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line.

FINDINGS: All lot lines run perpendicular to 2nd Street and both front and rear lot lines are equivalent.

7. Section 11.20.020(H) - Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width consistent to comply with City of Yamhill Public Works Standards.

FINDINGS: The submitted site plan identifies the location of the existing facilities ensuring the new Parcels are fully serviced.

- C. Section 11.12.050(B) - Each parcel shall satisfy the dimensional standards of applicable zoning district unless a variance from these standards is approved.

FINDINGS: As noted, all three parcels comply with the provisions of the RCL zone.

- D. Section 11.12.050(C) - Adequate public facilities shall be available to serve the existing and newly created parcels.

FINDINGS: As noted, the submitted site plan indicates the new Parcels will be fully serviced.

- E. Section 11.12.060 establishes the requirements for recording of the final plat. For the record, both the applicant and City must comply with these provisions.

V. RECOMMENDATION AND CONDITIONS OF APPROVAL

Staff finds the submitted application complies with the applicable decision criteria and recommends approval subject to the following Conditions of Approval:

- A. A metes and bounds legal description of the adjusted lots shall be recorded with the Yamhill County Clerk within one year of the final date of this decision. The common property boundaries shall be relocated as indicated on the submitted site plan. If required by ORS Chapter 92, a final map and boundary survey shall be prepared, and all new boundaries shall be monumented as required by ORS Chapters 92 and 209.
- B. A final partitioning plat, complying with provisions in ORS Chapter 92, shall be completed by a registered land surveyor and recorded within one year. The final plat shall comply with the following:
 - 1. The final shall substantially conform with the submitted partition plan.
 - 2. Completion, submittal and recording of the final partitioning plat, and development of the vacant parcel, shall comply with the requirements contained in the Yamhill Municipal Code, Title 11.
 - 3. The applicant shall have the option of submitting the property boundary adjustment and partition plat on a single document.
- C. Development of the two vacant parcels shall comply with the following:
 - 1. Both parcels shall obtain their access from 2nd Street.
 - 2. Development of the vacant parcels shall comply with the applicable development provisions in Title 10 of the Municipal Code.

3. Prior to occupation of any new dwelling, the applicant shall connect to existing public services.
- D. All improvements shall comply with the applicable public facility standards. The applicant shall be responsible for all costs associated with public facility improvements, including applicable system development charges.
- E. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

V. PLANNING COMMISSION ACTION

- A. The Planning Commission may either:
 1. Approve the application and adopt findings contained in the Staff Report, or
 2. Approve the application with modified findings and conditions, or
 3. Deny the application, specify reasons why the applicant has not met the criteria.
- B. Staff will return with an Order for the Chair's signature based on the Planning Commission decision.

CITY OF YAMHILL
PLANNING DEPARTMENT
CITY HALL
YAMHILL, OREGON 97148
(503) 662-3511

PARTITION APPLICATION

Docket Number: 23-01

Hearing Date: 11/20/23

Staff Member: ②

Present Zone: RLC

APPLICANT IS

Legal Owner ✗
Contract Buyer ()
Option Holder ()
Agent ()

TITLE HOLDER OF THE PROPERTY

Name: Carole Smith / Eric Kittleson

Address: [REDACTED]

LEGAL DESCRIPTION OF THE PROPERTY INVOLVED IN THIS APPLICATION

Location of Property: 160 W Third St Size: 16.8 X 109.6 Tax Lot: 3600

Lot: 2 Block: 1 Sub-Division: NORTH Yamhill Total Area: 3760 ft²

Total Area Involved: 3760 SF Current Zoning: R-1 ; R-2 ; R-3 X

INTRODUCTION

This application is provided for the filing and review of all proposed partitions in the City of Yamhill. The application is organized to correspond with the requirements of Yamhill Municipal Code, Title 11, which establishes standards and procedures for the partitioning of land in the City of Yamhill. This Title should be consulted when preparing this application.

The filing of this application will initiate a process, which includes the following:

- A) Application submission to City Recorder or designated official.
- B) Scheduling of a public hearing with the City Planning Commission.
- C) Notification of affected citizens and agencies.
- D) City Review.
- E) Planning Commission hearing and discussion.

NAMES

Surveyor and Address (if applicable): Leland MacDonald, Assoc. LLC Phone:

Engineer and Address (if applicable): 3885 NE Riverbend Dr McMinnville Phone: 503-472-7904

Names and addresses of all property owners within 300 feet of the partitioning proposed boundaries, as shown on the last preceding tax roll of the Yamhill County Assessor. Attach to this application as Exhibit "A".

DEVELOPMENT LIMITATIONS

- A) Total number of lots to be created: 3
- B) Size of lots to be created: 6026, 6027, 6020
- C) For what purposes is the property being partitioned:
Future sale
- D) Estimated length of roads or streets to be created (if any):
N/A

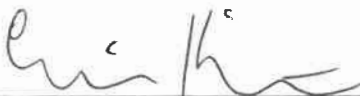
- E) Zone description of the property to be partitioned: 2-3
- F) How will the land division be served with:
Sewerage: City Water: City
- G) Is the property proposed for partitioning located within an area of flood or soil hazard or within an area of steep slopes? no
- H) Does the partitioning affect any parcel or building with historical significance?
no
- I) Will fill or removal be required to develop this site? Yes _____ No X
If yes, how much? _____
- J) How will surface water be taken care of?
Natural drainage
- K) Proposed improvements: Describe all proposed improvements to occur and include (if known) an approximate schedule for initiation and completion of each improvement.
no improvements planned

APPLICANT'S CERTIFICATION

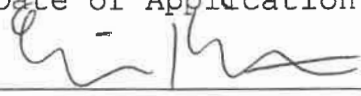
The City of Yamhill will make no title search or survey before this application is processed. It is the responsibility of the applicant for any permits to determine whether he has the legal right to use the property in question for the intended purpose. No permission for such use, either express or implied, is given by the City of Yamhill by the issuance of any permit.

I HEREBY CERTIFY THAT ALL STATEMENTS CONTAINED HEREIN, ALONG WITH THE EVIDENCE SUBMITTED, ARE IN ALL RESPECTS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NOTE: Attach detailed, accurate site plans (minimum of Ten copies are required). Other statements, plans, photos, data, etc., which would help to substantiate and clarify your request may also be submitted. Attach responses to all questions prior to submission to the City.


Applicant's Signature

8-8-23
Date of Application


Owner's Signature

PARTITION APPLICATION

TENTATIVE PARTITION & LOT LINE ADJUSTMENT for: S&K PROPERTY MANAGEMENT

Legend

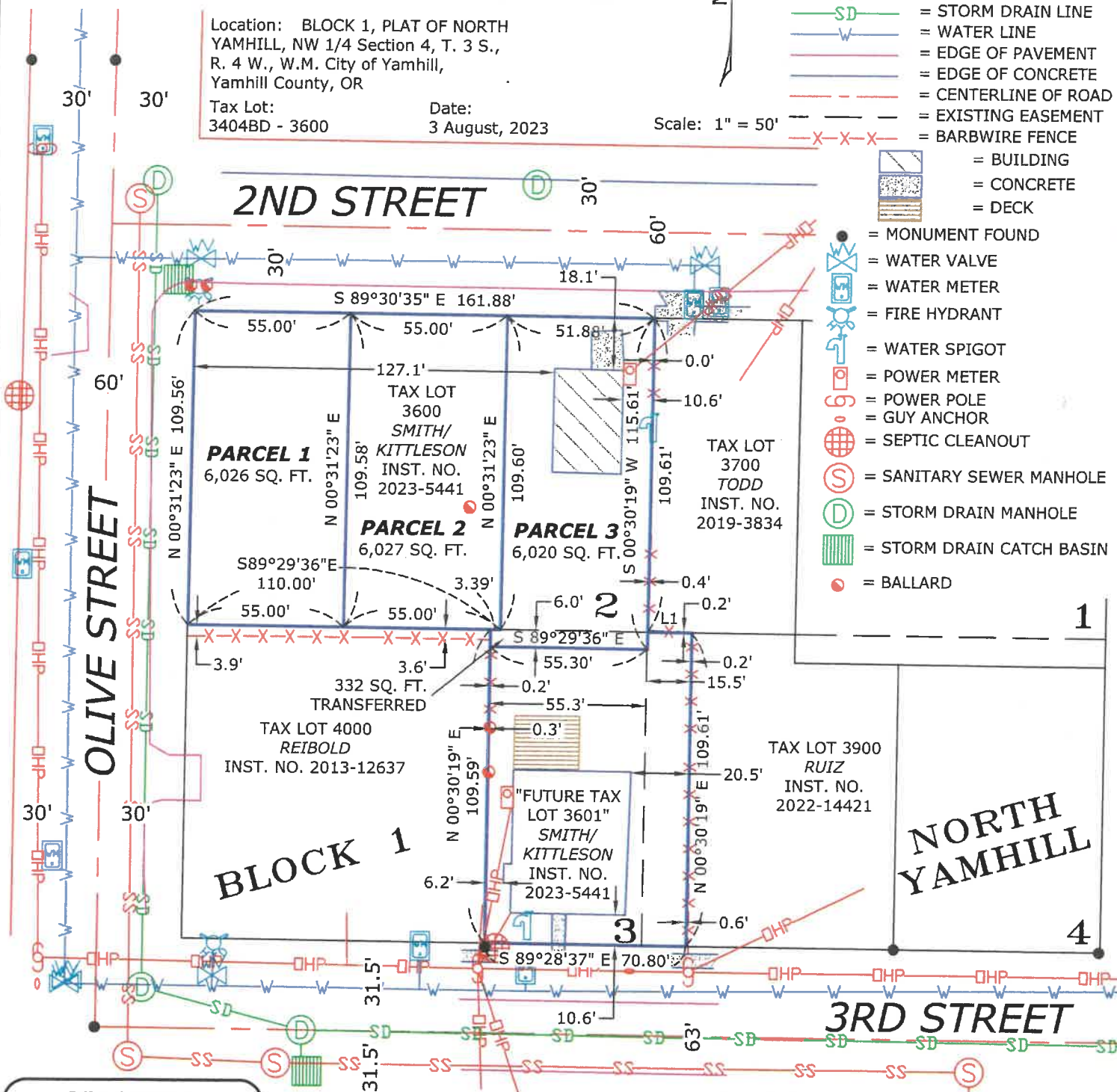
- = PROPERTY LINE
- = PUBLIC RIGHT-OF-WAY
- OHP = OVERHEAD POWER
- SS = SANITARY SEWER LINE
- SD = STORM DRAIN LINE
- W = WATER LINE
- = EDGE OF PAVEMENT
- = EDGE OF CONCRETE
- - - = CENTERLINE OF ROAD
- - - = EXISTING EASEMENT
- X-X-X = BARBWIRE FENCE
- = BUILDING
- = CONCRETE
- = DECK
- = MONUMENT FOUND
- ⊕ = WATER VALVE
- ⊕ = WATER METER
- ⊕ = FIRE HYDRANT
- ⊕ = WATER SPIGOT
- ⊕ = POWER METER
- ⊕ = POWER POLE
- ⊕ = GUY ANCHOR
- ⊕ = SEPTIC CLEANOUT
- S = SANITARY SEWER MANHOLE
- D = STORM DRAIN MANHOLE
- ⊕ = STORM DRAIN CATCH BASIN
- = BALLARD

Location: BLOCK 1, PLAT OF NORTH
YAMHILL, NW 1/4 Section 4, T. 3 S.,
R. 4 W., W.M. City of Yamhill,
Yamhill County, OR

Tax Lot:
3404BD - 3600

Date:
3 August, 2023

Scale: 1" = 50'



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
January 16, 2002
LELAND A. MACDONALD
53226

Renews 31 December 2024

LINE	BEARING	DISTANCE
L1	S 89°29'36" E	15.50'

By : Leland MacDonald & Assoc., LLC
Formerly dba Matt Dunckel & Assoc.
3885 Riverside Drive
McMinnville, Oregon 97128
Phone : 503-472-7904
Fax: 503-472-0367
Email: lee@macdonaldsurveying.com

RECORD TAX LOT 3600
25,502 SQ. FT.

TAX LOT 3600
17,741 SQ. FT. BEFORE ADJUSTMENT
18,073 SQ. FT. AFTER ADJUSTMENT

332 SQ. FT. TRANSFERRED TO TAX
LOT 3600

"FUTURE TAX LOT 3601"
7,760 SQ. FT. BEFORE ADJUSTMENT
7,428 SQ. FT. AFTER ADJUSTMENT

#9910