



**Summary:** The Tentative Decision was distributed for public review between February 20, 2024 and March 7, 2024. The City received a comment letter from the Albany Fire Department and the City Engineer. These were all provided during the agency review period. No other letters were received. All agency comments were incorporated into the conditions of approval prior to the public review period. No additional conditions of approval were added.

Staff has approved the partition, subject to the conditions of approval, finding that all criteria and standards were met with conditions of approval based on the accepted facts shown below. Staff relied on facts from the Staff Report, the applicant's materials, the City's Comprehensive Plan, State Rules and Statutes, and City Codes and Ordinances as provisions for the basis of the decision. This final decision can be appealed within 15 days to the Planning Commission.

Matt Straite  
City Planner

**Proposal:** The project proposes to divide a single residential .55-acre lot into two parcels of 10,743 square feet and 10,000 square feet. The project also features a 3,522 square foot street dedication (NE Zuhlke Lane) and a proposed water quality basin.

## I. BACKGROUND

- A. Applicant: Brooke Dvorak  
1425 Hill Street  
Albany, OR 97322
- B. Project Location: The current lot features a duplex, and therefore includes two addresses on the single lot- 4515 and 4517 Waverly Drive. The tax lot number is 10S-3W-20DD Tax Lot 1100
- C. Review Type: Table 5.01.030 of the Millersburg Development Code explains that a partition requires a Type II review, which is a staff level review with a 14-day notice provided to the neighbors.
- D. Public Notice: Notice has been provided pursuant to Chapter 5.07 and 5.18 of the Millersburg Development Code. Notice was provided to all neighbors within 100 feet on February 21, 2024 and all responsible agencies on February 8, 2024. The notice provided 14 days to respond.

- E. Review Criteria: Chapter 5.07.060 Partitions
- F. Current Zoning: Residential Low (RL)
- G. Proposed Zoning: N/A
- H. Property Size: 0.55 Gross Acres
- I. Background: The property to the north was subdivided and recently developed. The extension and construction of NE Zuhlke Lane to the north has made it possible for the applicant to divide and have the existing duplex remain fronting NE Waverly Drive and the new lot front north on the new NE Zuhlke Lane.

## II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

### Agencies:

The project was transmitted to the following agencies/departments on February 21, 2024: City of Albany, Albany Fire Department, City of Millersburg Engineer, Pacific Power, Linn County Planning and Building Department, Northwest Natural Gas, and PacifiCorp. Any comments received will be addressed in the final decision.

### Public:

Notice of this tentative decision was sent out to neighbors of the site on February 21, 2024. The notice was mailed to all property owners within 100 feet of the property. Any comments received will be addressed in the final decision.

## III. CRITERION

### CITY OF MILLERSBURG DEVELOPMENT CODE

#### Chapter 5

All findings below are in addition to those provided by the applicant in their narrative, which is included here by reference.

#### **Section 5.07.060 Decision Criteria**

Approval of a partition shall be subject to the following decision criteria:

- (1) **Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.**

**ANALYSIS:** The proposed partition is in the Residential Low (RL) Zone. The lot minimum lot size in the RL zone is a 10,000 square foot minimum for single family homes and duplexes. Proposed parcel 1 contains a duplex, which is proposed to remain. There are no specific dimensions required in the RL zone, though every lot is required to have at least 40 feet of street frontage not including driveways. The proposed parcels are approximately 10,743 square feet and 10,000 square feet.

The 40 feet of frontage can be met for each parcel based on the design of the parcels. For parcel 1, the frontage on NE Wavery Drive is over 100 feet not including the existing driveway. For parcel 2 the frontage is 110 feet. A driveway is not shown for parcel 2, however the width is adequate to accommodate the required 40 feet while leaving plenty of room for a future driveway.

Regarding setbacks, parcel 1 has an existing structure, a duplex. The RL setbacks are 20 to the rear, 15 to the front and 5 on each side. The design of the proposed parcel lines meets these setback requirements for the existing structure on parcel 1. More analysis is included on this below in the review of criteria 3. For parcel 2, the design of the parcel will be able to accommodate setbacks for a future home. The bulk of parcel 2 is only 56.8 feet wide. After setbacks are applied to this parcel the building envelope (for most of the lot) would only be 46.8 feet wide. While narrow compared to most 10,000 square foot lots, the parcel can accommodate a home.

It should be mentioned that the Development Code Section 2.03.020(4) explains that duplexes are permitted, but only on a corner lot. It could be argued that the existing duplex structure is on a corner lot; however, the issue is irrelevant. The City Development Code was inconsistent with State requirements which require the City to allow duplexes on any lot that permits a single-family home. The City was in the process of updating the City Development Code to clarify that duplexes are permitted on any lot. That update was adopted and took effect on February 8, 2024. Therefore, that update had not yet taken effect at the time the application was submitted. In this case it does not matter because the State requirements override the City Development code anyway. To summarize, the proposed uses are consistent with our Code and State requirements.

All zone standards are met.

**FINDING:** Based on the analysis above, the project meets the criterion.

**(2) The parcels shall meet the Development Standards for Land Division of Chapter 4.02.**

**ANALYSIS:** The Development Code includes standards for lot/parcel designs from Article 4; these are covered below in more detail in section IV of this staff report. All Article 4 standards are met with conditions of approval.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the criterion.

**(3) Existing structures and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.**

**ANALYSIS:** Proposed parcel 1 features a duplex and an accessory structure, which is labeled to be removed. A condition of approval has been added to require the removal of the accessory structure prior to the City signing the final plat.

There is also a small building covering a well that is currently in use on the property. Once the map is recorded the well will be on parcel 2. The well will be abandoned when the structure for parcel 1 is connected to City water as shown on the tentative map and explained in the narrative. This is consistent with the requirements of the Development Code. The well-house is not considered a structure because it is less than 200 square feet, however, setbacks still apply. The well-house will not meet setbacks for an accessory structure (which is 5 feet) and will need to be moved or removed. A condition of approval has been added.

The duplex also features a patio cover. This is shown encroaching into the setback on proposed parcel 1. At the time this was drafted there were no specific regulations regarding attached patio covers in the development code. As such, encroaching into the required setback is not specifically addressed and the attached patio cover is therefore not considered part of the structure for purposes of this application.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the criterion.

**CONDITION OF APPROVAL:**

- Prior to the City approval of the final plat, the shed and well-house shown on the tentative map shall be removed or relocated. Any new location must meet all setbacks and other zoning requirements.

**(4) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with adopted City policy.**

**ANALYSIS:** The project site features an existing duplex that is not currently connected to City water, but is connected to City sewer. Both parcels require water and sewer connections. The existing duplex on Parcel 1 will have to be fully connected to the City water system, and pay all water System Development Charges (SDCs) prior to City approval of the final plat. Conditions of approval reflect this. Water lines are available, now, directly north in NE Zuhlke Lane, which fronts the proposed parcel 2. Sewer lines with capacity exist in NE Waverly Drive. The map shows laterals for both on the plans.

Regarding access, parcel 1 fronts NE Waverly Drive, parcel 2 fronts NE Zuhlke Lane. Bollards currently block the access between the two, though both parcels will be able to get access. The Fire Department required that no parking signs be placed at the end of the cul-de-sac on NE Waverly Drive.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the criterion.

**CONDITIONS OF APPROVAL:**

- Prior to the City approval of the final plat the duplex (both units) on proposed Parcel 1 at 4515 and 4517 NE Waverly Drive shall connect to City Water and pay all applicable system development charges. City water is available in NE Zuhlke Lane. The applicant is responsible for all costs associated with utility connections including any applicable SDCs. The applicant can elect to have one meter for the two units, or two meters (one for each unit). Should two meters be used, two SDC payments would be required.
- Prior to City approval of the final plat, connection charges for water and sewer shall be paid. Connection charge calculation for water shall be based on frontage on NE Zuhlke Lane and connection charge for sewer shall be based on frontage of NE Waverly Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to SDCs.
- Proposed Parcel 2 must connect to city water and sewer. City water is available in NE Zuhlke Lane. City sewer is available in NE Waverly Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.
- Prior to City approval of the final plat, the applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter dated February 14, 2024, have been met.

**(5) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.**

**ANALYSIS:** Property to the north is developed. The recent subdivision has one road in, and one road out. The only secondary access is through bollards located at the end of NE Waverly Drive. The property to the west and south is developed and has full access on NE Waverly Drive. The property to the east has access on the newly constructed NE Zuhlke Lane. The development proposed by the applicant will not prohibit access for any of the neighboring properties.

**FINDING:** Based on the analysis above, the project meets the criterion.

**IV. STANDARDS**

The proposed land partition design complies with all the specifications and design requirements of Article 3 and 4 of the Millersburg Development Code. Areas that require additional conditions of approval to full comply or Code standards or that require analysis to explain how they meet the requirements, are shown below. All findings below are in addition to those provided by the applicant in the narrative, which is included here by reference.

**Section 3.01.030 Application of Public Facility Standards**

This section explains the general improvements required for partitions. More specifically the Code requires the following, as shown in Table 11:

Land Use Activity	Fire Hydrant	Street Improvements	Water Hookup	Sewer Hookup	Storm Drain	Street Lights	Bike & Ped
Partition (with public utilities)	No, unless required by fire code	C-2	Yes	Yes	Yes	No	C-2

*C-2: Street Improvements for Single-family Dwellings and Partitions:*

- a. *New single-family dwellings on an existing parcel less than 2.5 acres in size and fronting an existing street which does not have a full street improvement including sidewalks, as required in the City's most recently adopted engineering standards and Chapter 3.02, shall dedicate the needed right-of-way and shall install the full improvement along a parcel's frontage.*
- b. *If there is no adjacent improvement, a street frontage fee, in accordance with the City's adopted connection fees, will be required in lieu of constructing the improvement.*
- c. *If a street extension to serve the residence is necessary, the owner must provide the necessary right-of-way dedication and street improvement to City street standards along the full frontage of the parcel.*
- d. *A partition creating parcels of 2.5 acres or larger does not require street improvements.*

**ANALYSIS:** As noted above, the partition is less than 2.5 acres. NE Waverly Drive is not fully built out, but exists. NE Zuhlke Lane is built to ½ width standards on the northern half. Footnote C-2 requires both streets to be fully built out as part of the project approval, according to footnote subsection a; however, footnote subsection b expands on that and explains that if property adjacent to the proposed land division does not have compliant street infrastructure (sidewalks mainly), then the City can permit a connection fee in lieu of construction improvements. Additionally, the introduction text of the same section explains that future provisions can be assured through an agreement or similar instrument. This is echoed in section 4.02.050(2)b.

At this time the City is not requiring any street construction on either street and is opting for the following.

The City does not typically require a developer to pay connection charges on two streets. Because any improvement to NE Waverly Drive should be done at the same time the rest of the street is upgraded, the City is not requiring connection charges for NE Waverly Drive. Instead, as permitted by section 4.02.050(2)b, the City is requiring that a waiver of remonstrance be signed by the applicant regarding improvements to this street. This means that no funds are due now, but should the City ever elect to improve NE Waverly Drive, the owner of the property, at that time, will be required to pay their fair share of the improvements.

Conversely, because NE Zuhlke Lane is mostly constructed, and because the full construction of that street is more imminent (given submitted applications and development patterns in the area), the City has elected to have the applicant pay fair share improvement costs for NE Zuhlke Lane in the form of street connection charges. This is consistent with the requirements of 3.01.030 and 4.02.050(2)b which further elaborates on the details regarding connection charges.

Sidewalks are typically constructed at the time the home is built. At the City's discretion, sidewalks can be built with eventual street improvements instead if a waiver of remonstrance is signed, specific to the sidewalk improvements. Again, this means the sidewalks will be built when the full street improvements are but the homeowner, whomever owns the home at the time, will have to pay their fair share contribution of the construction costs.

Lastly, unrelated to actual street improvements, some street dedication is required for NE Zuhlke Lane, and has been shown on the proposed map. The applicant is welcome to temporarily cross the street dedication with a driveway, with the understanding that the southern half of NE Zuhlke Lane will someday be fully built out and any applicant improvements will be removed at that time. All setbacks for the structure on proposed parcel 2 must be taken from the proposed property line. No structures are permitted in the street right of way for NE Zuhlke Lane.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standard.

**CONDITIONS OF APPROVAL:**

- Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for all NE Waverly Drive right of way fronting Parcel 1. The waiver must be provided by the applicant.
- A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction

Specifications, except as modified by the City of Millersburg Pavement Patching Standards.

- Development of this property requires construction of half street improvements along the frontage of NE Zuhlke Lane. At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future.
- Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.

### **Section 3.04 Storm Drainage**

All development in the City is required to provide for storm drainage. A partition is considered development.

**ANALYSIS:** The applicant provided some storm drainage details insofar as they showed a basin on parcel 2. However, a drainage plan will need to be submitted prior to the approval of the final plat.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standard.

#### **CONDITIONS OF APPROVAL:**

- Prior to City approval of the final plat, the Applicant must provide a drainage plan for review and approval. All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. If the drainage plan requires easements they must be recorded on the final plat. The drainage plan must meet all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. The plan shall address stormwater quantity and quality requirements in accordance with the Millersburg Engineering Standards.
- Prior to City approval of the Final Plat, the applicant shall construct all required drainage facilities, or, at the discretion of the City, provide bonding (or similar) for all improvements approved by the City, unless otherwise approved by the City Engineer.

### **Chapter 3.22 Wetland and Riparian Areas**

This section provides protection for wetlands and riparian areas.



**ANALYSIS:** The applicant has indicated that there are no wetlands on the property, they cite the National Wetlands Inventory. The State Wetlands Inventory website<sup>1</sup> shows a portion of the property may contain predominantly hydric soils. This does not mean they are wetlands, though they could be. This GIS layer on the State Inventory shows map units with over 50 percent soil components meeting NRCS hydric criteria. These areas do not show where wetlands are, but where most soil components tend to be saturated, inundated or flooded for longer periods of time, thus increasing the potential that wetlands may develop in these areas. This State mapping layer is provided as a screening flag for those areas where wetland mapping may be lacking, incomplete or inaccurate.<sup>2</sup> In all cases actual field conditions determine the presence and extent of wetlands.

Section 3.22.020(3) explains when the City is required to provide notice to the Department of State Lands. These echo ORS 227.350. The activity proposed does not trigger any of these because no ground disturbance will result from this action, except the running of water lines from the duplex to NE Zuhlke Lane; which alone does not trigger this notification. However, the applicant should be aware that any grading or building on either of the parcels may require a wetland delineation. The applicant should contact the Department of State Lands regarding the further development of the property. A condition of approval has been added to clarify this.

**FINDING:** Based on the analysis above, with a condition of approval, the project meets the standards.

**CONDITION OF APPROVAL:**

- Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).

**Section 4.02.030 Standards for Lots or Parcels**

This section includes many standards for partitions. These include:

- Lot to depth requirements - the depth shall not be more than three times the width.
- All new lots shall provide at least 40 feet of frontage.
- Flag lots must have an access strip of at least 25 feet in width with an improved surface, and the access strip cannot exceed 150 feet in length without a turnaround.
- Through lots shall be avoided.
- Lot lines shall run at right angles when possible.
- Utility easements may need to be provided.

**ANALYSIS:** The project proposes two parcels. Both meet the lot width to depth ratio based mostly on the unique design of the parcels. As discussed previously, all lots feature at least 40 feet of frontage. No flag parcels or through parcels are

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<sup>1</sup> <https://maps.dsl.state.or.us/swi/>

<sup>2</sup> <https://maps.dsl.state.or.us/arcgis/rest/services/SWISoil23/FeatureServer/0>

proposed. All property lines that intersect with streets are at right angles. Public utility easements are shown on the exhibit.

**FINDING:** Based on the analysis above, the project meets the standards.

## V. ACTION

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria and staff approves the Partition Application No. PA 24-01, Dvorak Partition, pursuant to the conditions of approval listed below.

## VI. CONDITIONS OF APPROVAL

### General Conditions

1. Development and construction on the site shall conform substantially to the tentative partition development plans submitted by the applicant dated November 6, 2023 and attached to this staff report, except as modified in the conditions below, and shall conform specifically to final construction plans reviewed and approved by the City Engineer and the Building Official (Linn County). All plans shall comply with the applicable building, planning, engineering, and fire protection codes of the City of Millersburg.
2. **This approval is valid for a period of one (1) year from the date of the decision notice.** Extensions may be granted by the City as afforded by the Millersburg Development Code.
3. Development of this property requires construction of half street improvements along the frontage of NE Zuhlke Lane. At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future.
4. Proposed Parcel 2 must connect to city water and sewer. City water is available in NE Zuhlke Lane. City sewer is available in NE Waverly Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.
5. Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.
6. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).

## Prior to Approval of the Final Plat

7. The Final Plat shall be submitted for review by City staff prior to recording said plat with the County. The plat shall be drawn by a licensed land surveyor.
8. Prior to City approval of the final plat, connection charges for water and sewer shall be paid. Connection charge calculation for water shall be based on frontage on NE Zuhlke Lane and connection charge for sewer shall be based on frontage of NE Waverly Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to System Development Charges (SDCs).
9. Prior to the City approval of the final plat the duplex (both units) on proposed Parcel 1 at 4515 and 4517 NE Waverly Drive shall connect to City Water and pay all applicable System Development Charges (SDCs). City water is available in NE Zuhlke Lane. The applicant is responsible for all costs associated with utility connections including any applicable SDCs. The applicant can elect to have one meter for the two units, or two meters (one for each unit). Should two meters be used, two SDC payments would be required.
10. All required public improvement plans shall be approved by the City prior to beginning construction. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to approval of the Final Plat.
11. Prior to City approval of the final plat, the Applicant must provide a drainage plan for review and approval. All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. If the drainage plan requires easements they must be recorded on the final plat. The drainage plan must meet all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. The plan shall address stormwater quantity and quality requirements in accordance with the Millersburg Engineering Standards.
12. Prior to City approval of the final plat, the applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter dated February 14, 2024, have been met.
13. Prior to City approval of the Final Plat, the applicant shall construct all required drainage facilities, or, at the discretion of the City, provide bonding (or similar) for all improvements approved by the City, unless otherwise approved by the City Engineer.
14. Prior to the City approval of the final plat, the shed and well-house shown on the tentative map shall be removed or relocated. Any new location must meet all setbacks and other zoning requirements.
15. Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for all NE Waverly Drive right of way fronting Parcel 1. The waiver

must be provided by the applicant.

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### **VIII. NOTICES TO THE APPLICANT**

The applicant should also be aware of the following standards and processes that are required for development. These are not part of the decision on this land use case and are provided as a courtesy to the applicant. Please contact City Hall with any questions.

1. A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
2. Copies of any federal or state permits that may be required shall be filed in the Record File of this application.
3. All roof drains and yard drainage must be piped or trenched to an approved discharge point.
4. A Private Construction of Public Infrastructure (PCPI) permit is required for all construction of public infrastructure.
5. Driveways shall conform to Chapter 3.02 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 15%.
6. Decks, fences, sheds, building additions, and other site improvements shall not be located within any easement unless otherwise authorized in writing by the City Engineer.
7. The Final Plat shall include any required access or utility easements.
8. All agreements required as conditions of this approval must be signed and recorded.
9. This approval does not negate the need to obtain permits, as appropriate from other local, state, or federal agencies, even if not specifically required by this decision.
10. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
11. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
12. If required, any existing wells, septic systems, and underground storage tanks shall be abandoned in accordance with Oregon State Law, inspected by Linn County, and provide verification of such to the City Engineer.

13. The submittal by the applicant for Final Plat review and approval shall include but not be limited to the following: a Final Plat application; **narrative identifying how the required conditions of approval have or will be met**; three copies of the Final Plat; and any other materials required to demonstrate compliance with the conditions of approval.
14. The Final Plat shall show the City Manager as the City's approving authority within the signature block of the Final Plat and all private access easements, utility easements, and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note, and associated document, shall be reviewed and approved by the City Planner.
15. An electronic version of the Final Plat must be submitted to the City Planner.
16. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
17. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
18. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. All construction equipment and materials shall not be stored in public right-of-way. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.

## **IX. EXHIBITS**

- A. Vicinity Map
- B. Zoning Map
- C. Applicant's Site Plan/Map dated November 6, 2023
- D. Applicant's Narrative
- E. City Engineers comments dated February 13, 2024
- F. Albany Fire comments dated February 14, 2024
- G. Notice of Tentative Decision

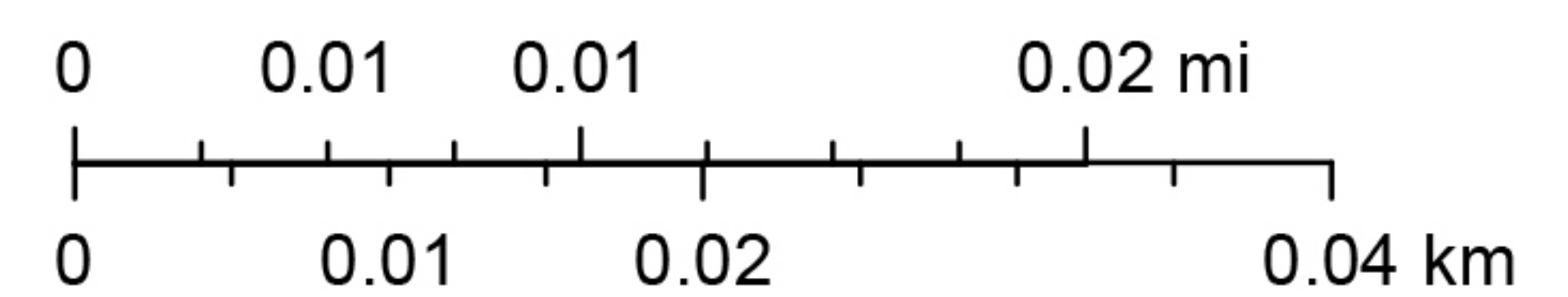
# PA 24-01 Vicinity Map



2/2/2024, 4:08:11 PM

1:1,128

- Highways
- Roads
- Railroad
- City Boundary
- Tax Lots

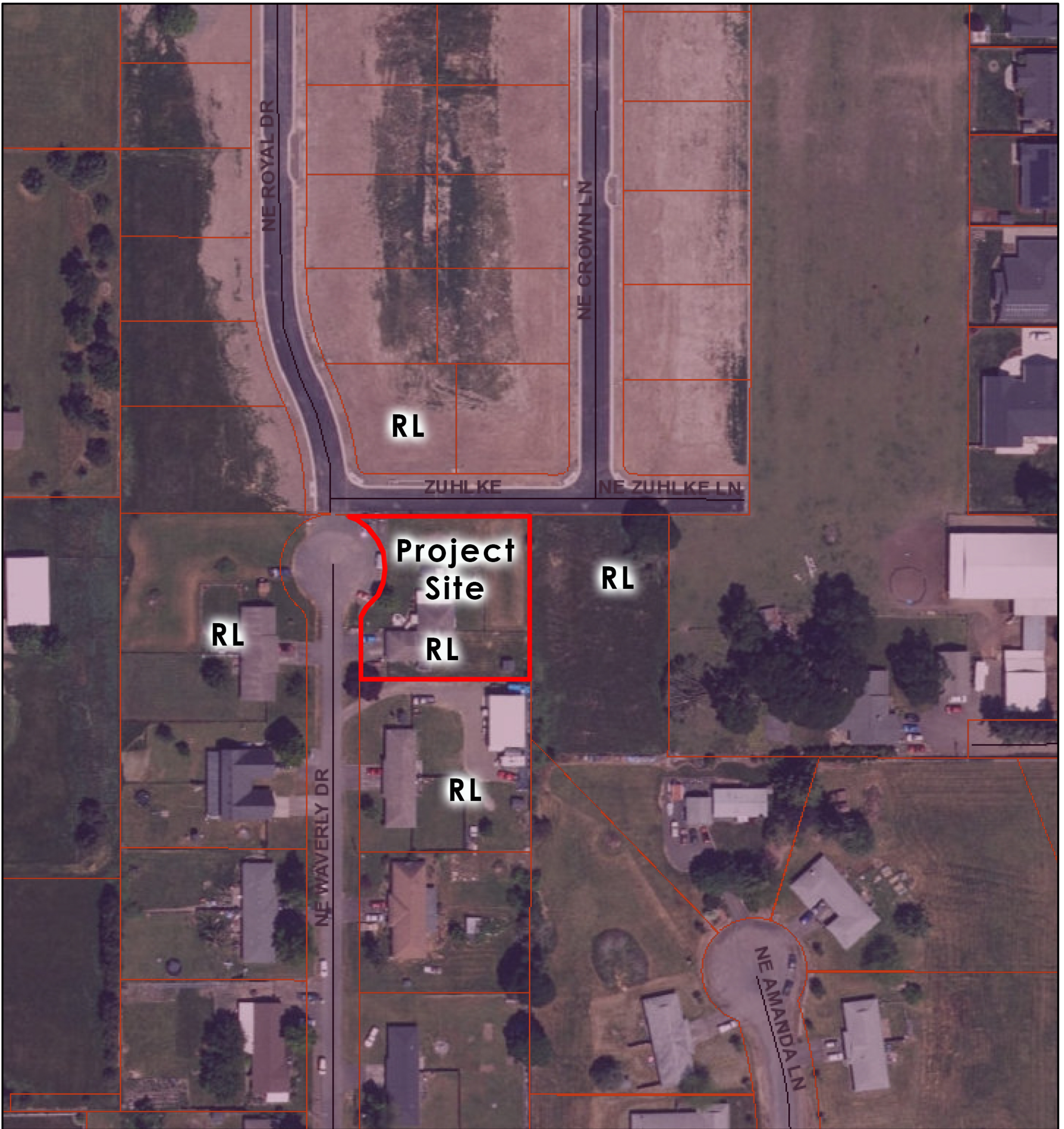


City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Linn County GIS, GeoTerra, 2021

ArcGIS Web AppBuilder

City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P,

# PA 24-01 Zoning Map



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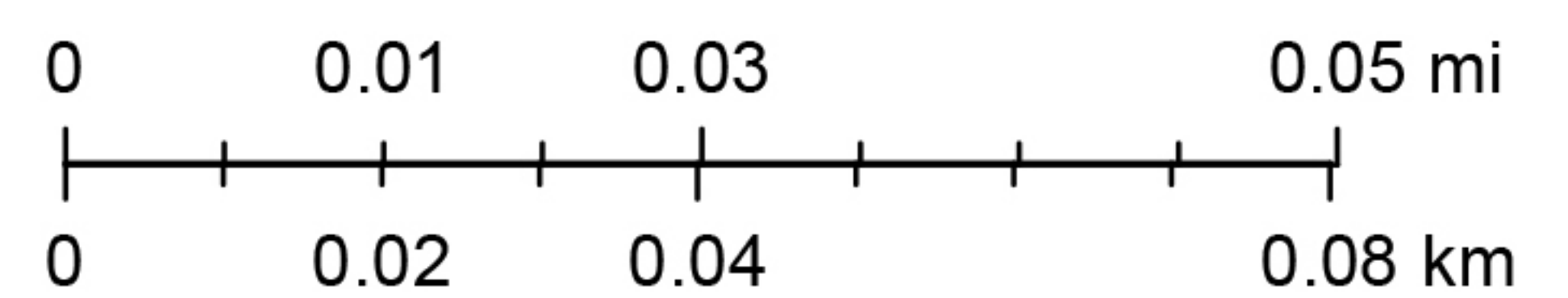
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— Highways

— Railroad

Millersburg Zoning

RESIDENTIAL LOW DENSITY



City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Linn County GIS, GeoTerra, 2021

ArcGIS Web AppBuilder

City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P,

TENTATIVE PARTITION PLAN  
FOR  
**BROOKE + DEVIN DVORAK**

LOCATED IN  
TAX LOT 1100, MAP 105-3W-20DD  
SE 1/4 SEC. 20, T. 10 S., R. 03 W., WM.

CITY OF MILLERSBURG, LINN COUNTY, OREGON  
NOVEMBER 6, 2023

**PROPERTY STATISTICS:**

**SITE ADDRESS:**  
4515 + 4517 NE WAVERLY DR.  
ALBANY, OR 97321

**SITE ZONING:**  
RESIDENTIAL LOW DENSITY

**TAX LOT:**  
1100 (105-3W-20DD)

**AREA = 0.55 ACRES**

**PARCEL 1:**  
AREA = 10,743 SF (0.25 ACRES)

**PARCEL 2:**  
AREA = 10,000 SF (0.22 ACRES)

**R-O-W DEDICATION**  
AREA = 3,522 SF (0.08 ACRES)

**UTILITY NOTES:**

PROPOSED 1-1/2" SCH 80 PVC ASTM 1789 WATER SERVICE LATERAL AND WATER METER TO SERVE PARCEL 1

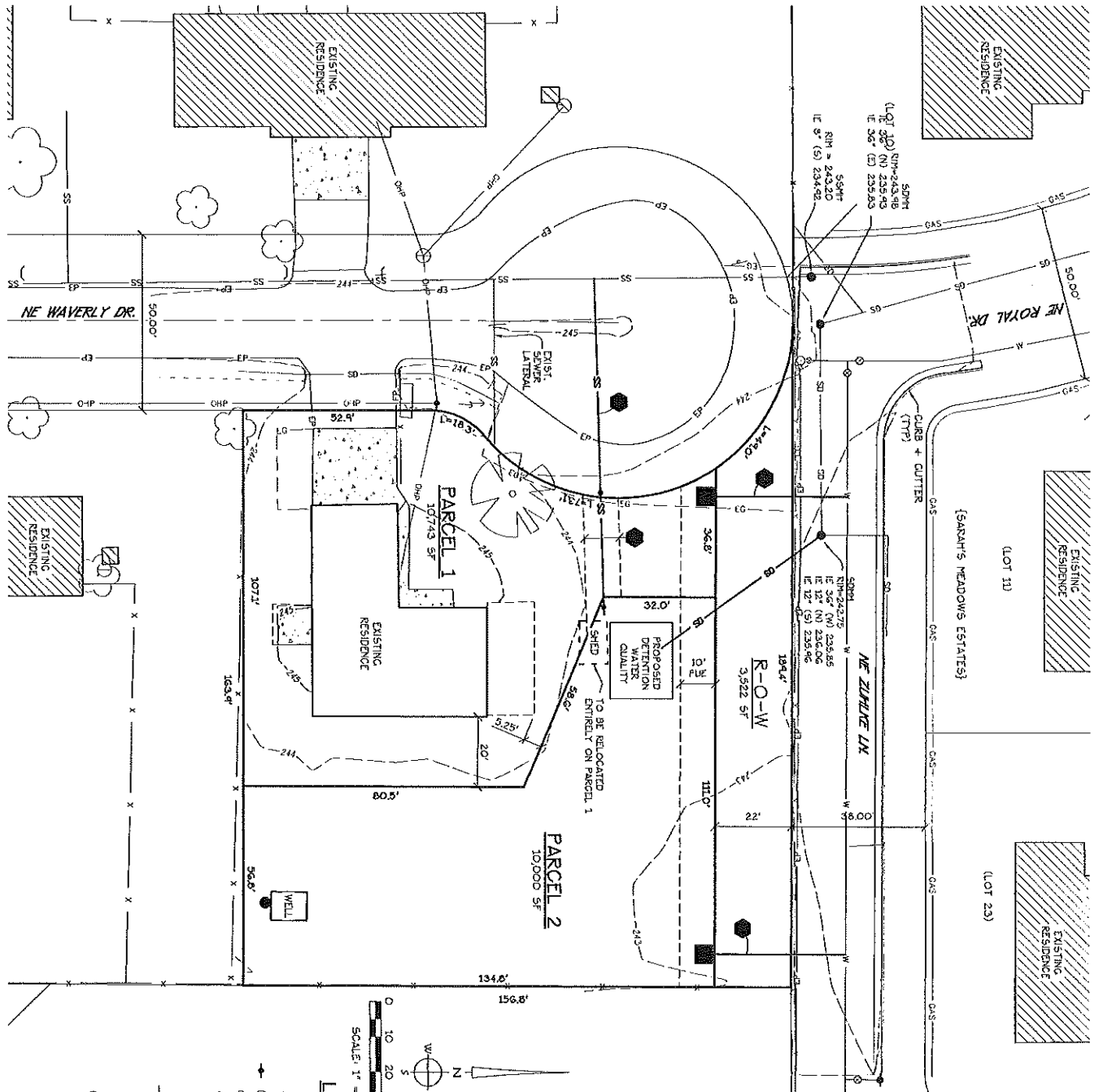
PROPOSED 1-1/2" SCH 80 PVC ASTM 1789 WATER SERVICE LATERAL AND WATER METER TO SERVE PARCEL 2

PROPOSED NEW 4" SEWER LATERAL TO SERVE PARCEL 2

PROPOSED 10" WIDE SANITARY SEWER EASEMENT ACROSS PARCEL 1 TO BENEFIT PARCEL 2

**TOPOGRAPHY:**

TOPOGRAPHIC FEATURES ARE BASED ON CITY OF ALBANY GIS MAPS AND FIELD SURVEYED DATA.



**LEGEND:**

- EXIST. SEWER CLEANOUT
- EXIST. FIRE HYDRANT
- EXIST. UTILITY POLE
- EXIST. CURB WIRE
- DECIDUOUS TREE
- EXIST. MANHOLE 55/50
- EXIST. WATER VALVE
- EXIST. SIGN
- EXIST. CULVERT WALL
- EXIST. WATER METER
- EXIST. POWER METER
- W— EXIST. WATER LINE
- X— EXIST. FENCE
- SS— EXIST. SEWER LINES
- |— EXIST. DITCH
- C— EXIST. EDGE OF GRAVEL
- E— EXIST. EDGE OF PAVEMENT
- BT— EXIST. TOP OF BANK
- SD— EXIST. STORM DRAIN LINES
- GAS— EXIST. NATURAL GAS LINES
- PROPOSED WATER METER
- S— PROPOSED WATER SERVICE
- S— PROPOSED SEWER CLEAN-OUT + SEWER LATERAL
- SD— PROPOSED STORM DRAINAGE



**Finding: The proposed partition does not block access of any adjoining properties.**

(6) PUD. Approval of a planned unit development shall require compliance with the following in addition to the criteria listed above:

- a. Conformance with provisions of 4.02.010 (Purpose Statement).
- b. The proposal shall comply with the applicable development and layout provisions contained in Section 4.02.030 of this Code.
- c. Infrastructure shall be available and appropriate to serve the proposed development.

**Response: N/A**

**Finding: N/A**

### 3.01.030 - Application of Public Facility Standards.

Standards for the provision and utilization of public facilities or services available within the City of Millersburg shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured through a bond, deposit, agreement, or similar instrument approved by the City.

- **3.04.030 - Plan for Storm Drainage and Erosion Control.**

It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainage way. Paving and catch basin outflows may require detention cells and/or discharge permits. Maintaining proper drainage is a continuing obligation of the property owner.

No construction of any facilities in a development included in Chapter 3.01.030 shall be permitted until a storm drainage and erosion control plan, designed in accordance with the most recently adopted City Engineering Standards, for the project is prepared by an engineer registered in the State of Oregon and is approved by the City. This plan shall contain at a minimum:

- (1) The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- (2) Plans for the construction of storm sewers, open drainage channels, and other facilities which depict line sizes, profiles, construction specifications, and

other such information as is necessary for the City to review the adequacy of the storm drainage plans.

- (3) Calculations used by the engineer in sizing storm drainage facilities.

**Response:** Parcel 1 contains an existing residence and other site improvements, no changes to the existing drainage patterns and no improvements are proposed on Parcel 1. Roof drains for the future residence on Parcel 2 will drain to a detention and water quality facility in the Northwest portion of the parcel. The Applicant proposes to submit a drainage plan when building permits are pulled.

**Finding:** A storm drainage plan will be submitted with building permits for Parcel 2 or prior to final plat if required by the City.

## CHAPTER 3.22. - WETLAND AND RIPARIAN AREAS

**Response:** The National Wetland Inventory does not identify any wetlands on the subject property.

**Finding:** Condition met

- 4.02.030 - Standards for Lots or Parcels.

**Response:**

**Minimum Lot Area-** The minimum Parcel area for this development zone is 10,000 sf. Parcel 1 is 10,743 sf and Parcel 2 is 10,000 sf.

**Parcel Width and Depth –** Parcel 2 “mean” width is 84 feet wide and 135 feet deep, Parcel 1 is 134 feet wide and 107 feet deep.

**Access-** Parcel 1 has 134 feet of frontage along NE Waverly Drive. Parcel 2 has 111 feet of frontage along NE Zuhlke Lane.

**Flag Lots –** No flag lots are proposed with this application.

**Through Lots –** No through lots are proposed with this application.

**Parcel Side Lines –** Parcel side lines run close to right angles as shown on the tentative map.

**Utility Easements – A 10.00 foot wide public utility easement is proposed for this application. Any private easements for utilities and driveways needed will be created with the final plat.**

**Re-Division – Parcels are not large enough to be further divided.**

**Public Dedication – A 22.00 foot right-of-way dedication along NE Zuhlke Lane is proposed with this development, as shown on the tentative map.**

**Remainder Areas - There are no remainder areas proposed for this application.**

**Lot Averaging – No averaging proposed.**

**Phased Development – This application does not propose any phasing.**

**Finding: The proposed partition meets Parcel standards.**

- 4.02.040 - Additional Standards for Subdivisions.

**Response – This application is for a Partition Additional Standards do not apply.**

TO: Matt Straite, City Planner

FROM: Janelle Booth, Millersburg City Engineer

DATE: February 13, 2024

SUBJECT: PA 24-01 - Engineering Comments

1. Connection Charges for water and sewer are due prior to City approval of the final plat. Connection charge calculation for water shall be based on frontage on Zuhlke Lane and connection charge for sewer shall be based on frontage of Waverly Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to System Development Charges (SDCs).
2. Proposed Parcel 1 must connect to city water. City water is available in Zuhlke Lane. Connection is required prior City approval of the final plat. The applicant is responsible for all costs associated with utility connections.
3. Proposed Parcel 2 must connect to city water and sewer. City water is available in Zuhlke Lane. City sewer is available in Waverly Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.
4. Water and sewer connection permits are required for connections to public water and sewer. System Development Charges (SDCs) are due at the time of connection.
5. A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
6. Development of this property requires construction of half street improvements along the frontage of Zuhlke Lane. At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future.



TO: Matt Straite, Community Development Director

From: Lora Ratcliff, Fire Marshal

DATE: February 14, 2024

SUBJECT: PA-24-01 –4517 Waverly Dr NE - Residential Partition – Fire Department Comments

The fire department has reviewed the above project for conformance to the 2022 Oregon Fire Code (OFC) per your request and has the following comments:

**\*\*Land Use permit will include a \$125 Fire Plans Review fee\*\***

1. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the new created lot as measured by an approved route of travel around the exterior of the structure with dead-end lengths not exceeding 150 feet long unless an approved turnaround is provided. (OFC 503.1.1, OFC 503.2.5 and OFC, Appendix D 103.4).
2. This proposed project is located within a "Protected Area" as defined by Oregon Fire Code (OFC) Appendix B, Section B102 and this area will be required to be served by a public water system. The Fire Flow required shall be as specified in Appendix B of the fire code. (OFC 507.3)
3. INADEQUATE FIRE APPROACH & ACCESS TO WATER SUPPLY

If the Fire Official determines that there is an inadequate fire apparatus access condition or an inadequate fire water supply for one or more parcels of the proposed division, in lieu of providing adequate fire apparatus access or supply and acting in conformance to the standards set forth in **OAR 918-480-0125**, the Uniform Alternate Construction Standard for One and Two Family Dwellings, the Building Official, will select the following standard to address the inadequacies pertaining to structures built on the affected parcels:

a. Installation of an NFPA Standard 13D fire suppression system

4. The northernmost portion of the cul-de-sac is a required secondary access to the neighborhood north of this property. It currently has removable bollards, but no signage has been provided to discourage parking. Weather-durable, aluminum signage stating NO PARKING – FIRE LANE will be required to be posted. (D103.6). One or more of the signs below shall be posted.

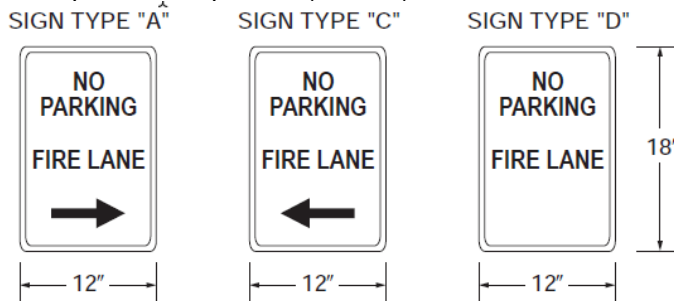


FIGURE D103.6  
FIRE LANE SIGNS

LAR/lar

[Lora.ratcliff@cityofalbany.net](mailto:Lora.ratcliff@cityofalbany.net)

541.917.7728

7. Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.
8. All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. Applicant must provide drainage plan for approval. If drainage plan requires easements they must be recorded on the final plat.
9. Prior to City approval of the final plat, the applicant shall submit for approval a drainage plan that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. This plan shall address stormwater quantity and quality requirements in accordance with the Millersburg Engineering Standards.
10. The Final Plat shall include any required access or utility easements.
11. All agreements required as conditions of this approval must be signed and recorded.
12. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).
13. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.



**NOTICE OF TENTATIVE DECISION**  
**PA 24-01 Dvorak Partition**  
**COMMENTS DUE March 7, 2024**

February 20, 2024

The City of Millersburg has received an application to partition a property in the City. The project was reviewed by staff for consistency with the Millersburg Development Code using a ministerial Land Use Review process. **Staff is now issuing a tentative decision to approve the project with conditions of approval.** No hearing will take place.

The City is asking for your input. Please review the attached exhibit and the staff report which is available here-<http://cityofmillersburg.org/current-planning-applications/>. Look for the link to PA 24-01. After the expiration of this 14-day public/agency review period, any input received will be taken into consideration, additional conditions of approval may be added to the decision to mitigate any concerns, and a final decision will be rendered by Staff.

Interested parties are invited to send written comment or email. Failure of an issue to be raised in this notice period or failure to provide sufficient specific information to allow the Staff an opportunity to respond to the issue may preclude your ability to appeal the decision based on that issue. Please send all comments to 4222 NE Old Salem Road, Millersburg OR 97321, or via email to [matt.straite@millersburgoregon.gov](mailto:matt.straite@millersburgoregon.gov) before February 7, 2024.

The application, all documents, and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost or copies are available for a minimal cost or online at the link shown above. For further information, contact Millersburg City Hall at (458)-233-6300.

The final decision can be appealed within 15 days to the Planning Commission.

<b>APPLICANTS:</b>	Brooke Dvorak
<b>LOCATION:</b>	The current lot features a duplex, and therefore includes two address on the single lot- 4515 & 4517 Waverly Drive (see map opposite page) 10S-3W-20DD Tax Lot 1100
<b>TAX LOT:</b>	Township 10 South; Range 3 West; Section 20DD; Tax Lot 1100
<b>PARCEL SIZE:</b>	0.55 Acres
<b>ZONING:</b>	Residential Low (RL)
<b>REQUEST:</b>	The project proposes to divide a single residential .55-acre lot into two parcels of 10,743 square feet and 10,000 square feet. The project also features a 3,522 square foot street dedication (NE Zuhlke Lane) and a proposed water quality basin.

**CRITERIA:**  
**FILE No.:**

Millersburg Development Code; Article 5.07.060  
PA 24-01

