

## MEMORANDUM

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TO: Newberg Planning Commission

FROM: Jeremiah Cromie, Associate Planner

SUBJECT: Supplemental Packet Material: Additional Public Comments for File No. CUP24-0004/DR224-0006/MISC124-00018 and Approved DSL Wetland Delineation

DATE: January 6, 2024

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Following publication of the staff report for File No. CUP24-0004/DR224-0006/MISC124-0018, staff received three additional written comments from the public on January 3, 2025 and January 6, 2025.

In addition, the staff report mentions an approved Department of State Lands (DSL) approval that was not included in the original packet but has been added to the attachments.

Please review these additional materials and add to your packet.

### Attachments:

1. Public Comment from Brian Francis (99W Drive-In Theater Owner)
2. Public Comment from Michele Crisman
3. Public Comment from Terence
4. Approved Department of State Lands Wetland Delineation

**From:** [Brian Francis](#)  
**Sent:** Friday, January 3, 2025 2:51 PM  
**To:** [PLANNING](#)  
**Subject:** CUP24-0004 West Branch Apt. Comments

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City of Newberg Planning Department,

As long-time Newberg citizens, we are concerned about the safety of both cars and pedestrians on Springbrook Rd. We have had a front-row seat to seeing the increased severe traffic congestion and multiple car accidents in the area of the proposed apartments over the last decades, and we believe that all neighbors will be impacted in many potentially negative ways.

As owners of one of only three drive-in theatres left in Oregon, and the only remaining one within the entire Willamette Valley, we are even more concerned about adding high-density housing to such a sensitive and small area. Our theatre has been in continuous operation since 1953, and it is on The National Register of Historic Places. For us, Springbrook Road is our most exposed side, in which light could instantly ruin the picture on our screen. (And also, sound echos off of the screen.) If we demolish our closed indoor twin cinemas, we would have additional parking next to our snack bar, but we would be left even more exposed to light and noise. We are finding it more difficult and dangerous to enter or exit our business, and that includes our back gates on Springbrook Rd directly across from the proposed apartments.

Unlike having neighboring businesses being built next to us, 98 residential units would have uncontrollable situations.

These new concerns include:

1. Light Pollution from windows with opened curtains or blinds.
2. Domestic noises and disturbances
3. 24-hr parking, and the lights and noises associated with it.
4. Not enough "visitor" parking and the spillage of cars into other areas.
5. Lasers and flashlights to ruin the show. (Yes, people do that.)
6. Light Pollution from parking lot lights 24/7.
7. Light Pollution from exterior and porch lights 24/7.
8. Increased trespassing and/or loitering.

We would also like to address the local wildlife. The springs were capped off near McDonalds many years ago. The wildlife that was once there, migrated over to the creek behind the proposed apartments. We have seen and rescued turtles and frogs that cross

over Springbrook Rd and become trapped inside the drive-in. We ask that their habitat be honored and respected as well.

Our family will be out of town during the meeting, but we ask that you share our comments and concerns from this email. Thank you.

Sincerely,

~Brian Francis (And family)

Owner/Operator 99W Drive-In.

**From:** [PLANNING](#)  
**Sent:** Monday, January 6, 2025 8:55 AM  
**To:** [Jeremiah Cromie](#)  
**Subject:** FW: CUP24-0004 West Branch Apt. Comments

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**From:** michele crisman <[mcrisman61@gmail.com](mailto:mcrisman61@gmail.com)>  
**Sent:** Monday, January 6, 2025 8:54 AM  
**To:** PLANNING <[planning@newbergoregon.gov](mailto:planning@newbergoregon.gov)>  
**Subject:** CUP24-0004 West Branch Apt. Comments

This email originated from outside the City of Newberg's organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Newberg Planning Dept.,  
I am writing in concern of a proposal for yet another apartment complex here Newberg; especially because this one hinders the future of 2 historical sites in our city...the Fernwood Grange and the 99W Drive-In.  
As a child I visited my Grandparents in Newberg every weekend; and I grew to love it and became a resident in 1987. I have always admired what I thought to be a city that planned carefully, and in the best interest of our great history. And now, I struggle to understand why the city would consider a project that would cause great distress to sites they deemed historical. These 2 sites are treasures in our community, and many have invested blood sweat and tears to not only maintain, but enhance these 2 properties to better our community. And now, you ... the city planning dept ... are considering destroying all of that and the future of our Grange and Drive-In; as that is what I believe the proposed 96 unit apartment complex will do. It encroaches upon the Fernwood Grange property and brings traffic that neither they nor Springbrook Rd needs(it's already a mess as it is today!!) And the lighting from this proposed project will have adverse effects on the ability for the Drive-In to provide quality viewing of their movies. It is my opinion that Newberg does not need another set of unaffordable apartments, especially when they will harm the present and future of 2 beloved historical sites. Our history is far more important than the all mighty dollar, that I believe is behind all of this.  
It is my hope that you will listen to our community concerns, and not move forward with these apartments.  
Sincerely,  
Michele Crisman

**From:** teddc89@yahoo.com  
**Sent:** Monday, January 6, 2025 2:26 PM  
**To:** PLANNING  
**Subject:** CUP24-0004 West Branch Apt. Comments

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I, with many others are concerned about the effects these new apartments will have on the 99W Drive-in. How will the increased light pollution & noise be mitigated? Right now the land looks marshy & overgrown so I don't understand why anyone would want to build apartments but there.

Sincerely, Terence



# Oregon

Tina Kotek, Governor

## Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

[www.oregon.gov/dsl](http://www.oregon.gov/dsl)

November 14, 2024

### State Land Board

DMKS, LLC

Attn: G Michael Gougler

901 N Brutcher Street, Suite 206

Newberg, OR 97132

Tina Kotek

Governor

LaVonne Griffin-Valade

Secretary of State

Re: WD # 2024-0533 **Approved**

Wetland Delineation Report for West Branch Apartments

Yamhill County; T3S R2W S16 TLs 2017, 2025 & 2024 (Portion)

Tobias Read

State Treasurer

Dear G Michael Gougler:

The Department of State Lands has reviewed the wetland delineation report prepared by AKS Engineering & Forestry, LLC for the site referenced above. Please note that the study area includes only a portion of the tax lots described above (see the attached map). Based upon the information presented in the report, and additional information submitted upon request, we concur with the waterway boundaries as mapped in revised Figure 6 of the report. Please replace all copies of the preliminary wetland map with this final Department-approved map.

Within the study area, one waterway (Water 1) was identified. The waterway is subject to the permit requirements of the state Removal-Fill Law. Under current regulations, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined).

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal, other state agencies or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of impacts to waters of this state. Because measures to avoid and minimize impacts to waters of this state may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact Chris Stevenson, PWS, the Wetland Ecologist for Yamhill County at (503) 798-7622.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Ryan", with a stylized flourish at the end.

Peter Ryan, PWS Emeritus  
Aquatic Resource Specialist

Enclosures

ec: Emma Eichhorn, AKS Engineering & Forestry, LLC  
City of Newberg Planning Department  
Kirsten L. Brown, Corps of Engineers  
Rebecca Loiselle, DSL



## WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

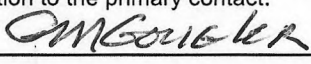
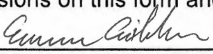
A complete report and signed report cover form, along with applicable review fee, are required before a report review timeline can be initiated by the Department of State Lands. All applicants will receive an emailed confirmation that includes the report's unique file number and other information.

### Ways to submit report:

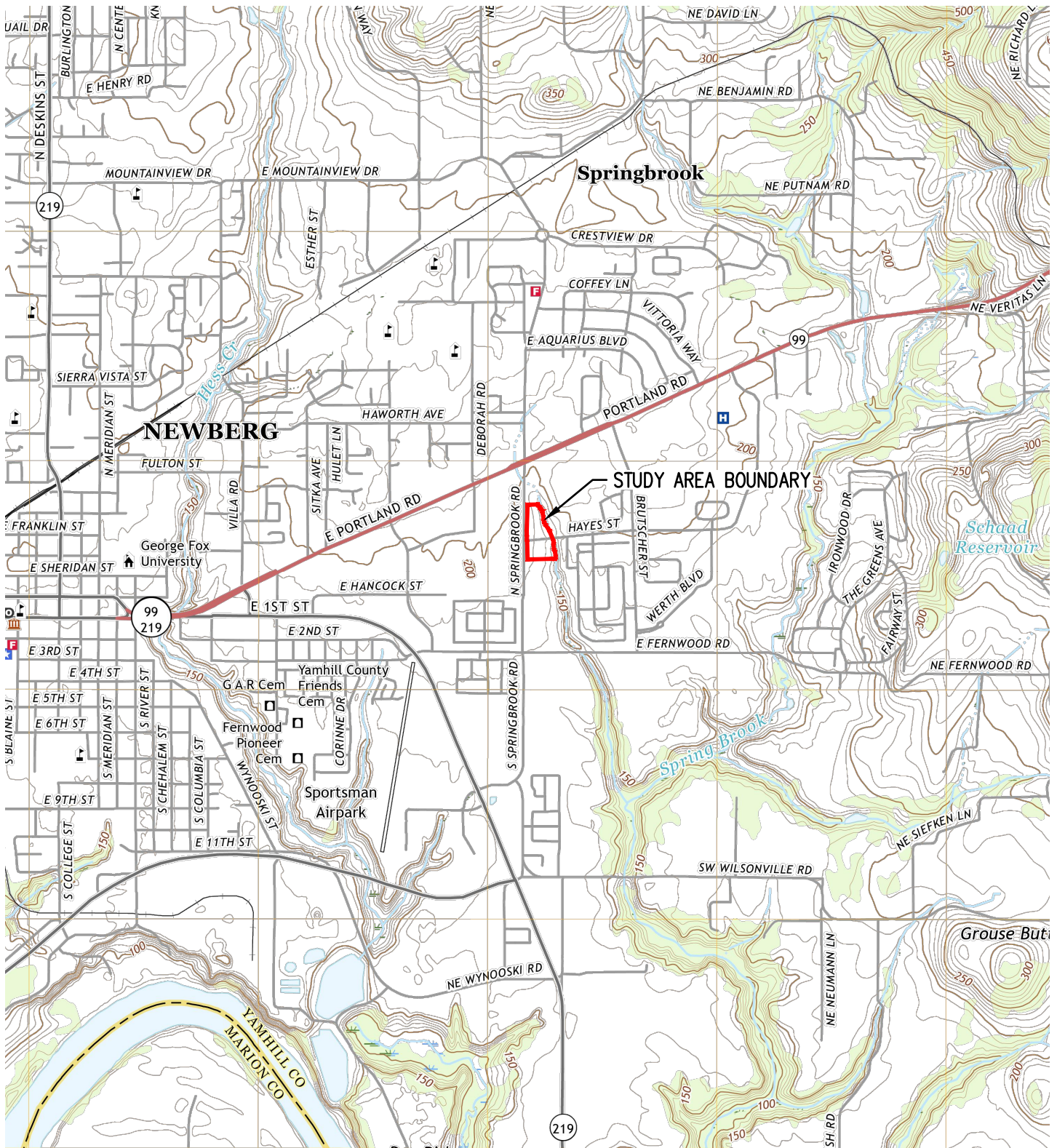
- ❖ **Under 50MB** - A single unlocked PDF can be emailed to:  
wetland.delineation@dsl.oregon.gov.
- ❖ **50MB or larger** - A single unlocked PDF can be uploaded to DSL's Box.com website.  
After upload notify DSL by email at: wetland.delineation@dsl.oregon.gov.
- ❖ **OR** a hard copy of the unbound report and signed cover form can be mailed to: Oregon  
Department of State Lands, 775 Summer Street NE, Suite 100, Salem, OR 97301-1279.

### Ways to pay review fee:

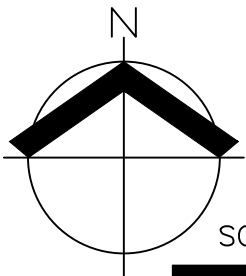
- ❖ By credit card on DSL's epayment portal after receiving the unique file number from DSL's emailed confirmation.
- ❖ By check payable to the Oregon Department of State Lands attached to the unbound mailed hardcopy **OR** attached to the complete signed cover form if report submitted electronically.

Contact and Authorization Information	
<input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner Name, Firm and Address: DMKS, LLC 901 N Brucher Street, Suite 206 Newberg, OR 97132	Business phone # (503) 810-5576 Mobile phone # (optional) E-mail: ggoug@yahoo.com
<input type="checkbox"/> Authorized Legal Agent, Name and Address (if different):	Business phone # Mobile phone # (optional) E-mail:
I either own the property described below or I have legal authority to allow access to the property. I authorize the Department to access the property for the purpose of confirming the information in the report, after prior notification to the primary contact.	
Typed/Printed Name: <u>G. Michael Gougler</u> Signature: <u></u> Date: <u>9/30/24</u> Special instructions regarding site access: _____	
Project and Site Information	
Project Name: West Branch Apartments	Latitude: 45.303528° Longitude: -122.946442° <b>decimal degree</b> - centroid of site or start & end points of linear project
Proposed Use: Development of Apartment complex with parking, playgrounds, storage units and sidewalk improvements.	Tax Map # 3 2 16 Tax Lot(s) 2017, 2025, portion of 2024
Project Street Address (or other descriptive location): 3411 Hayes Street	Tax Map # Tax Lot(s)
City: Newberg County: Yamhill	Township 3S Range 2W Section 16 QQ Use separate sheet for additional tax and location information
Waterway: Tributary to Spring Brook River Mile: 0.7	
Wetland Delineation Information	
Wetland Consultant Name, Firm and Address: Emma Eichhorn AKS Engineering & Forestry, LLC 12965 SW Herman Road, Ste 100 Tualatin, OR 97062	Phone # (503) 563-6151 Mobile phone # (if applicable) E-mail: eichhorne@aks-eng.com
The information and conclusions on this form and in the attached report are true and correct to the best of my knowledge.	
Consultant Signature: <u></u> Date: <u>9/30/2024</u>	
Primary Contact for report review and site access is <input checked="" type="checkbox"/> Consultant <input type="checkbox"/> Applicant/Owner <input type="checkbox"/> Authorized Agent	
Wetland/Waters Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Study Area size: 5.53 Total Wetland Acreage: 0.0000	
Check Applicable Boxes Below	
<input type="checkbox"/> R-F permit application submitted	<input checked="" type="checkbox"/> Fee payment submitted \$ <u>559</u>
<input type="checkbox"/> Mitigation bank site	<input type="checkbox"/> Resubmittal of rejected report (\$100)
<input type="checkbox"/> EFSC/ODOE Proj. Mgr: _____	<input type="checkbox"/> Request for Reissuance. See eligibility criteria. (no fee)
<input type="checkbox"/> Wetland restoration/enhancement project (not mitigation)	DSL # _____ Expiration date _____
<input type="checkbox"/> Previous delineation/application on parcel If known, previous DSL # _____	<input type="checkbox"/> LWI shows wetlands or waters on parcel Wetland ID code _____
For Office Use Only	
DSL Reviewer: <u>DE</u> Fee Paid Date: ____ / ____ / ____	DSL WD # <u>2024-0533</u>
Date Delineation Received: <u>09 / 30 / 2024</u>	DSL App.# _____

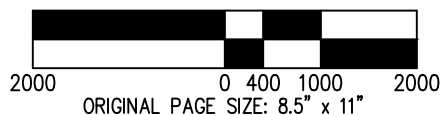




USGS 7.5' TOPOGRAPHIC SERIES  
QUADRANGLE: NEWBERG, OR (2020)



SCALE: 1" = 2000 FEET



DATE: 09/24/2024

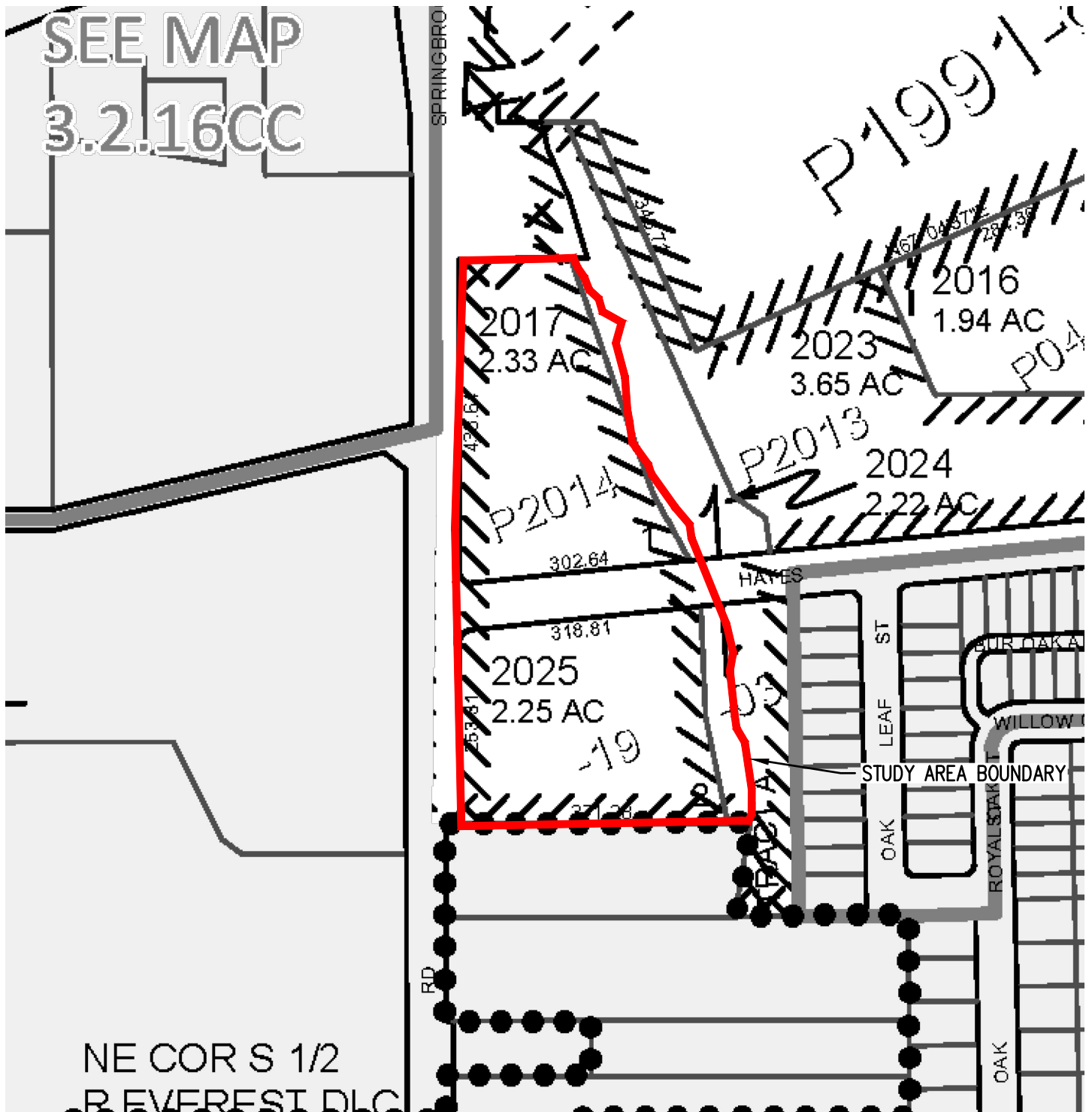
**USGS VICINITY MAP  
WEST BRANCH APARTMENTS WATER DELINEATION REPORT**

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

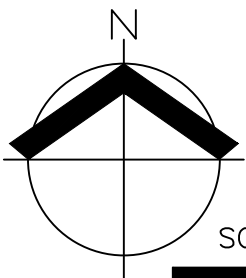


**FIGURE  
1**

DRWN: GPM  
CHKD: EE  
AKS JOB:  
9028



YAMHLL COUNTY  
TAX LOTS 2017 & 2025 AND  
PORTION TAX LOT 2024 & ROW  
TAX MAP 3 2 16



SCALE: 1" = 200 FEET



ORIGINAL PAGE SIZE: 8.5" x 11"

DATE: 09/24/2024

**TAX MAP (MAP 3 2 16)**  
**WEST BRANCH APARTMENTS WATER DELINEATION REPORT**

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

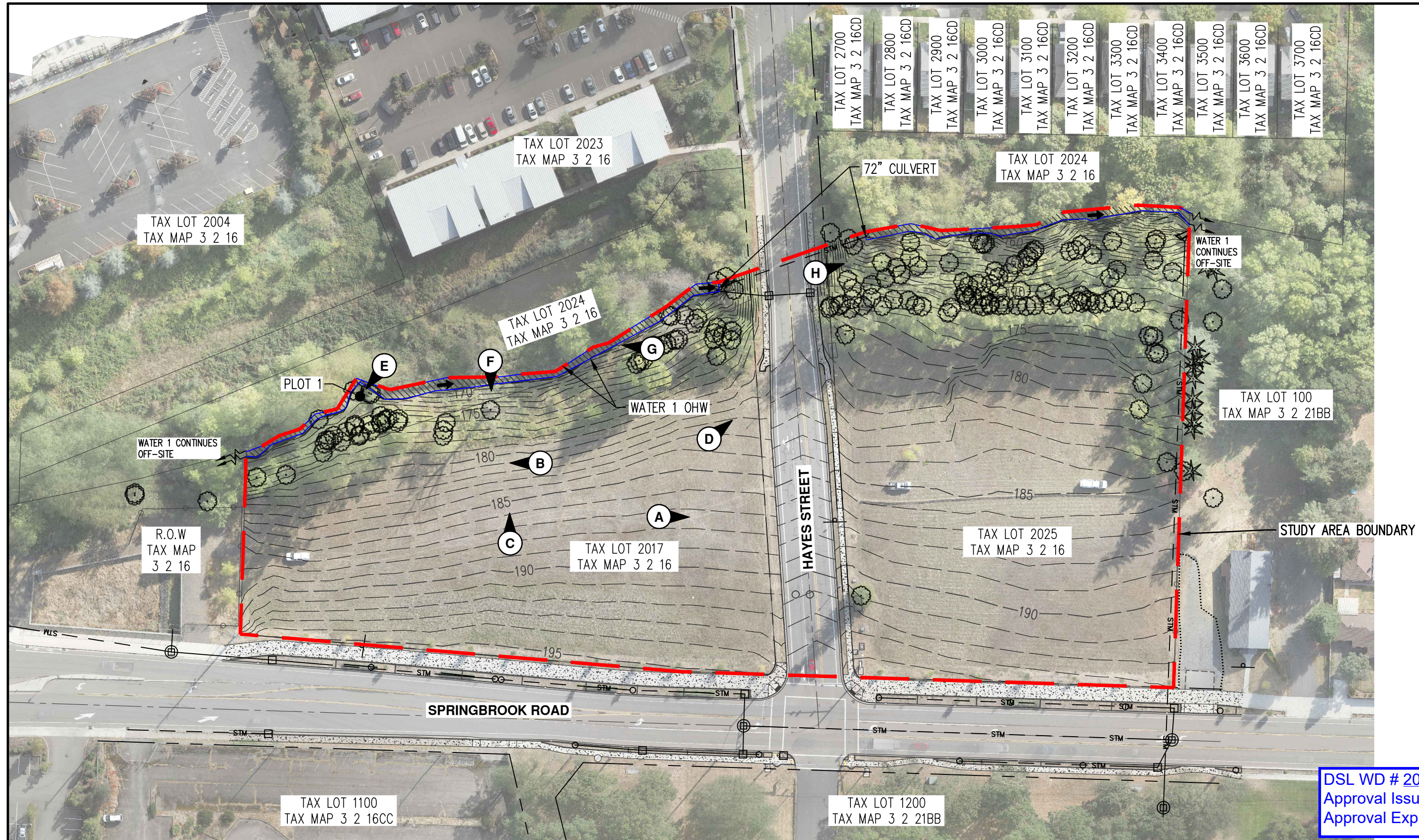


FIGURE  
**2**





DRWN: GPM  
CHKD: EE  
AKS JOB:  
9028



DWG: 9028 WDR EXCOND | FIGURE 6



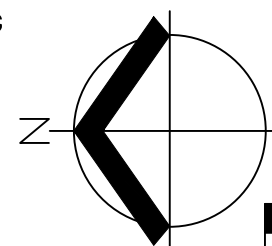
**LEGEND (COLOR COPY):**

-  TOTAL ON-SITE WATER 1 OHW AREA:  
4,319 SF± (0.10 ACRES) / 723 LF± (±6 FEET WIDE)
-  STUDY AREA BOUNDARY
-  EXISTING STORMWATER LINE
-  PHOTO POINT LOCATION & ORIENTATION

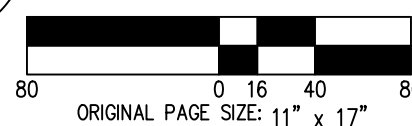
WATER 1 OHW AND DATA PLOT SHOWN WERE DELINEATED BY AKS ENGINEERING & FORESTRY, LLC (AKS) ON SEPTEMBER 14, 2021. WATER 1 OHW AND DATA PLOT WERE LOCATED WITH SUBMETER ACCURACY BY AKS PROFESSIONAL LAND SURVEY.

TAX LOT BOUNDARIES, EXISTING CONDITIONS, 1-FOOT INTERVAL GROUND CONTOURS, AND TREE SURVEY OF TREES >6" DBH DERIVED FROM AKS PROFESSIONAL LAND SURVEY FROM SEPTEMBER 8, TO 28, 2021.

AERIAL DERIVED FROM AKS DRONE SURVEY SEPTEMBER 2021.



SCALE: 1"=80 FEET



**WATER DELINEATION MAP**

**WEST BRANCH APARTMENTS WATER DELINEATION REPORT**

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



DATE: 11/06/2024

FIGURE

**6**

DRWN: GPM  
CHKD: EE  
AKS JOB:  
9028