

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT Chris Myers	PROJECT NO(S). MISC-21-16	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S) \$6,000	REFUNDABLE DEPOSIT(S)	TOTAL \$6,000

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) | <input type="checkbox"/> Time Extension |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input checked="" type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: 1310 9th St.	Assessor's Map No.: 3-1E-2AB
	Tax Lot(s): 6300
	Total Land Area: 23,617 S.F.

Brief Description of Proposal:

Vacate 4th Avenue street right-of-way from 9th Street to 10th Street.

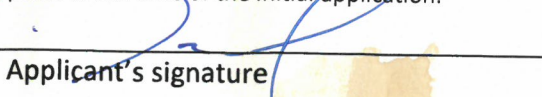

Applicant Name: <small>(please print)</small>	Icon Construction & Development, LLC	Phone:	(503) 657-0406
Address:	1969 Willamette Falls Dr., Suite 260	Email:	darren@iconconstruction.net
City State Zip:	West Linn, OR 97068		

Owner Name (required): <small>(please print)</small>	Same as applicant.	Phone:	
Address:		Email:	
City State Zip:			

Consultant Name: <small>(please print)</small>	Rick Givens, Planning Consultant	Phone:	503-351-8204
Address:	18680 Sunblaze Dr.	Email:	rickgivens@gmail.com
City State Zip:	Oregon City, OR 97045		

- All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
- The owner/applicant or their representative should be present at all public hearings.
- A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
- The City accepts electronic (.pdf) land use applications and project submissions from applicants. Applicants should submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

	<u>12/6/21</u>		<u>12-6-21</u>
Applicant's signature	Date	Owner's signature (required)	Date



November 22, 2021
City Council
City of West Linn
22500 Salamo Road
West Linn, OR 97068

Rick Givens
Planning Consultant
18680 Sunblaze Dr.
Oregon City, Oregon 97045

RE: 4th Avenue Right-of-Way Vacation Request

To the City Council:

Icon Construction and Development, LLC, (the Applicant), represents itself and the surrounding property owners in favor of this proposed vacation application. At the request of these neighbors, Icon Construction is submitting to you, this Right-of-Way vacation request of 4th Ave, between 9th Street and 10th Street. The section of right-of-way proposed to be vacated is roughly 40 feet wide by 40 feet long, totaling 16,000 square feet.

Icon Construction and Development recently purchased the property located at 1310 9th Street in West Linn with intentions to partition this parcel into two 10,000+ square foot lots. Consistent with Community Development Code standards and at the direction of City staff, the partition application proposed making frontage improvements on the portion of the existing 4th Avenue right-of-way that abuts the partition property. Upon receiving notification of the partition application and conditions of approval requiring the improvement of a portion of 4th Avenue, surrounding neighbors objected to the construction of street improvements within the existing right-of-way. Further, it became apparent upon further investigation by the applicant and City engineering staff, that terrain considerations made the proposed improvement of the street through to 10th Street impracticable. In consideration of these factors, and with support of City staff, the applicant is submitting this vacation proposal for consideration by City Council. We request that the application be approved and that the right-of-way be vacated.

Sincerely yours,

Rick Givens

Attachments:

- A. Map of affected land area
- B. Applicable ORS standards and responses
- C. Petition with written consent by all required property owners

Proposed 4th Avenue Right-of-way Vacation

Compliance with State Statutes

ORS Chapter 271.080 through .170 establish the procedures and criteria for the vacation of streets within incorporated cities. The proposed right-of-way vacation described in the attached petition and associated materials complies with these provisions as follows:

ORS 271.080 – Street Vacation In Incorporated Cities

- (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.*

Finding: The applicant is Icon Construction & Development, LLC which owns and proposes to develop property located at 1310 9th Street in West Linn, Oregon. The description of the ground proposed to be vacated is detailed in Attachment A of the right-of-way vacation petition letter. The purpose for the proposed street vacation is to eliminate unneeded street right-of-way which cannot reasonably be developed for public street purposes due to terrain limitations.

- (2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing.*

Finding: The required petition is attached to this application. The Affected Area Map included with this application shows properties within the affected area, adjoining properties, and petition signers. The total area of the affected area is 14.96 acres. The petition has been signed by the owners of properties totaling 11.30 acres in area, 75.5 percent of the total affected area. This criterion is met.

ORS 271.090 Filing of Petition - *The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such*

information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

Finding: This petition is presented to the City Recorder of the City of West Linn for review by the City Council, and contains all of the information required for a sufficient petition.

ORS 271.100 Action by city governing body - *The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.*

Finding: The applicant and petitioners request that the City Council accept this application for a street vacation and set a time for a public hearing on the vacation of the subject portion of 9th Street.

ORS 271.110 Notice of hearing –

1. *The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.*
2. *Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.*
3. *The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.*

Finding: The City of West Linn's procedures for the vacation of street rights-of-way are consistent with these requirements and can reasonably be expected to be met prior to the public hearing.

ORS 271.120 Hearing - *At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor*

of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

Finding: In order for a vacation to occur, the West Linn City Council will determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given, and whether the public interest will be prejudiced by the vacation of the public right-of-way. The petition and other materials submitted by the applicant provides evidence that the signatures indicating consent from the adjoining owners and for the required 2/3rds majority of area represented within the affected land area. Notice will be duly provided by the City's staff per the requirements described above. Regarding the usefulness of the area in question, the applicant, the City's planning staff, and the City's engineering department are all in agreement that the land in question is currently not used for public street purposes and that, due to topographic constraints, cannot reasonably be constructed with street improvements for such purposes.

ORS 271.130 Vacation on city governing body's own motion –

Finding: Not applicable. This application is being submitted by the applicant and petition signers pursuant to the provisions of ORS 271.080 (1) and (2).

ORS 271.140 Title to vacated areas - *The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city.*

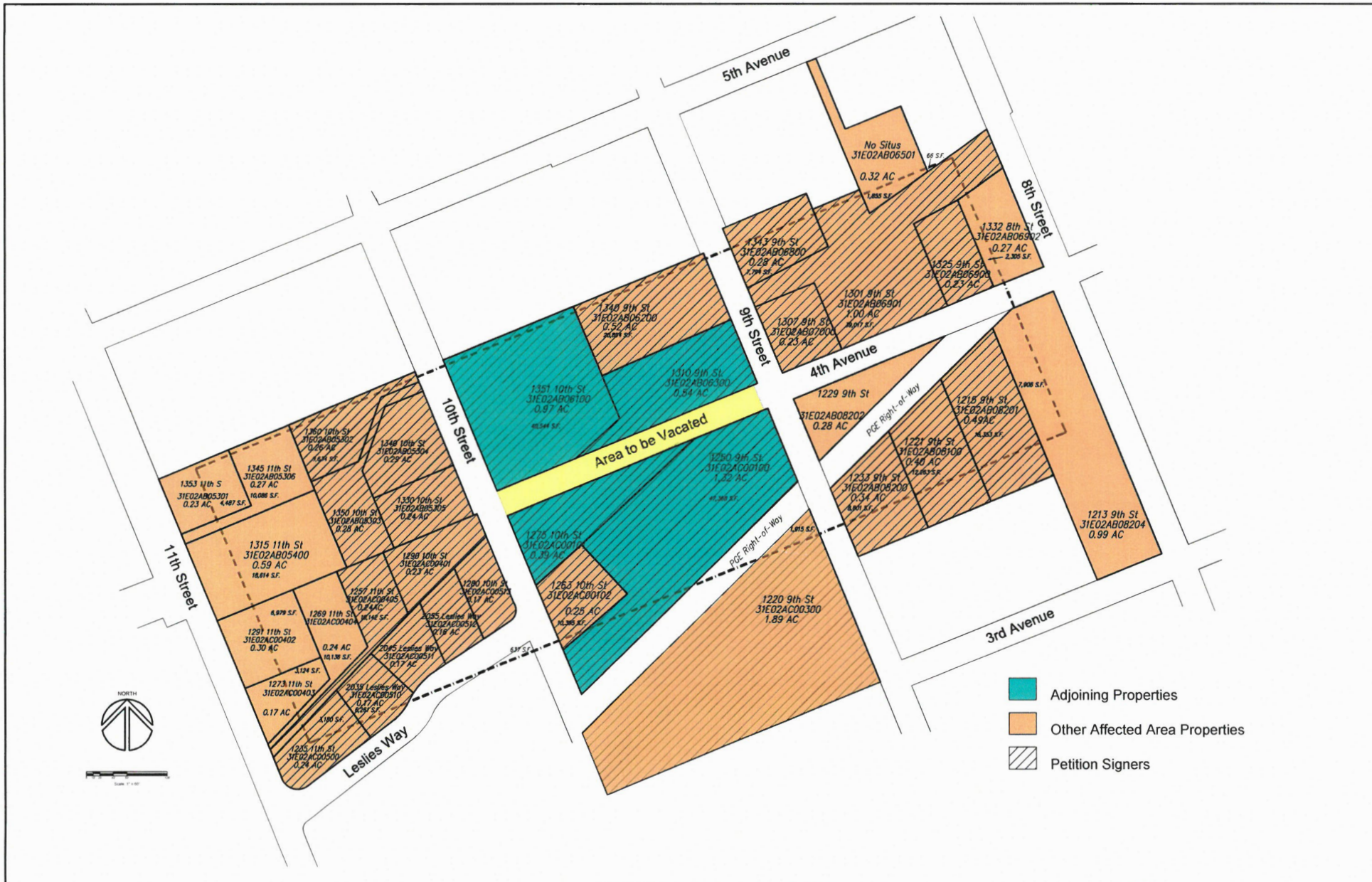
Finding: The title to the right-of-way area to be vacated will be attached to the adjoining properties, consistent with these provisions.

ORS 271.150 Vacation records to be filed – costs - *A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.*

Finding: The applicant agrees to bear all recording and file preparation costs.

ORS 271.170 Nature and operation of statutes - *The provisions of ORS 271.080 (Vacation in incorporated cities) to 271.160 (Vacations for purposes of rededication) are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.*

Finding: The City of West Linn does not maintain right-of-way vacation provisions in its chapter or code of ordinances separate from ORS 271.080 to 271.160.



- Adjoining Properties
- Other Affected Area Properties
- Petition Signers

DESIGNED: REG			
DRAWN: REG			
SCALE: 1" = 60'			
DATE: Nov. 23, 2021			
FILE: 21-124-100	DATE: NO	REVISION:	

Richard E. Givens, Planning Consultant
 18680 Sunblaze Dr
 Oregon City, OR 97045
 PH: (503) 479-0097

APPLICANT: Icon Construction & Development, LLC
 1969 Willamette Falls Dr., Suite 260
 West Linn, OR 97068
 PH: (503) 657-0406

4th Avenue Right-of-way Vacation Affected Area Map

ParcelId	TaxAcctNum	OwnerNameLabelFormat	SiteAddr	SiteCity	SiteState	SiteZIP	Acres	LotSqFt	Affected Area	LegalDsc
00748294	31E02AB05301	Ross & Candace Scott	1353 11th St	West Linn	OR	97068	0.2309	10,058	4,487	Partition Plat 2002-011 PARCEL 1 Y 185,430
00748301	31E02AB05400	Edward Hastings	1315 11th St	West Linn	OR	97068	0.5928	25,822	18,614	147 WILLAMETTE TRACTS TR 1-64 PT LT D BLK 64 & PT VAC ST Y 185,430
00748392	31E02AB06100	Phyllis Koessler	1351 10th St	West Linn	OR	97068	0.9715	42,319	40,544	147 WILLAMETTE TRACTS TR 1-64 TL136 LT D BLK63 Y 185,430
00748409	31E02AB06200	Alfred & Melissa Bianchi	1340 9th St	West Linn	OR	97068	0.5179	22,560	20,864	147 WILLAMETTE TRACTS 1-64 PT LT C BLK 63 Y 185,430
00748418	31E02AB06300	Icon Construction & Development LLC	1310 9th St	West Linn	OR	97068	0.5103	22,229	23,522	147 WILLAMETTE TRACTS TR 1-64 PT LTS C&D BLK63 Y 185,430
00748427	31E02AB06400	Theodore Kooy	2289 5th Ave	West Linn	OR	97068	0.5	21,780	66	147 WILLAMETTE TRACTS TR 1-64 PT LTS B&C BLK 62 Y 185,430
00748472	31E02AB06800	David Osborne	1343 9th St	West Linn	OR	97068	0.2789	12,149	7,794	147 WILLAMETTE TRACTS TR 1-64 PT LTS A&D BLK 62 Y 185,430
00748481	31E02AB06900	Andrew Teitelman & Chandra Basham	1325 9th St	West Linn	OR	97068	0.2296	10,001	10,001	Partition Plat 2001-005 PT PARCEL 1 Y 185,430
00748490	31E02AB07000	Gronvold Family Trust	1307 9th St	West Linn	OR	97068	0.2309	10,058	10,058	Subdivision WILLAMETTE TRACTS 1-64 BLK 62 PT LT D 147 & Partition Plat 2001-005 PT PARCEL 2 Y 185,430
00748579	31E02AB08100	Brian & Anna Wheeler	1221 9th St	West Linn	OR	97068	0.4008	17,459	12,263	198 WILLAMETTE&TUALATIN TR PT LTS C&DBLK 18 Y 185,430
00748588	31E02AB08200	Sarah & Deric Brown	1233 9th St	West Linn	OR	97068	0.3386	14,749	8,801	Subdivision WILLAMETTE&TUALATIN TRACTS BLK 18 PT LTS C&D 198 Y 185,430
00748597	31E02AC00100	Martin Heinemann	1250 9th St	West Linn	OR	97068	1.2988	56,576	47,368	1999-133 PARTITION PLAT PARCEL 1 Y 185,430
00748604	31E02AC00101	Shilo & Michelle Joslin	1275 10th St	West Linn	OR	97068	0.3904	17,006	17,006	198 WILLAMETTE&TUALATIN TR PT LTS A&B BLK 21 Y 185,430
00748613	31E02AC00300	Andrew Persse	1220 9th St	West Linn	OR	97068	1.8937	82,490	1,915	198 WILLAMETTE&TUALATIN TR LTS C&D BLK 21 & PT VAC RD Y 185,430
00748631	31E02AC00500	Janice Russell	1235 11th St	West Linn	OR	97068	0.2407	10,485	3,180	3213 SPARKS EST PH 1 LT 1 Y 185,430
01498098	31E02AC00401	Travis Cook & Samantha Faile	1290 10th St	West Linn	OR	97068	0.2297	10,006	10,006	198 WILLAMETTE&TUALATIN TR PT LT A BLK 22 & PT VAC ST Y 185,430
01545484	31E02AB05302	Joel & Jennifer Lafollette	1360 10th St	West Linn	OR	97068	0.2575	11,217	9,634	3012 S&K PLACE LT 1 Y 185,430
01545493	31E02AB05303	Travis & Amy Rutter	1350 10th St	West Linn	OR	97068	0.2824	12,301	12,301	3012 S&K PLACE LT 3 Y 185,430
01545509	31E02AB05304	Catherine Johnson	1340 10th St	West Linn	OR	97068	0.2913	12,689	12,689	3012 S&K PLACE LT 2 Y 185,430
01545518	31E02AB05305	Brian Bitke	1330 10th St	West Linn	OR	97068	0.2363	10,293	10,293	3012 S&K PLACE LT 4 Y 185,430
01729972	31E02AC00510	Patrick & Lara Hall	2035 Leslies Way	West Linn	OR	97068	0.1746	7,606	6,261	3266 SPARKS EST PH 2 LT 2 Y 185,430
01729981	31E02AC00511	Amy Darrow	2045 Leslies Way	West Linn	OR	97068	0.1722	7,501	7,501	3266 SPARKS EST PH 2 LT 3 Y 185,430
01729990	31E02AC00512	Thomas & Kim Crawford	2055 Leslies Way	West Linn	OR	97068	0.1636	7,126	7,126	3266 SPARKS EST PH 2 LT 4 Y 185,430
01730005	31E02AC00513	Derek & Siboney Hines	1280 10th St	West Linn	OR	97068	0.1704	7,423	7,423	3266 SPARKS EST PH 2 LT 5 Y 185,430
01730014	31E02AC00514	Matthew & Alison Kay		West Linn	OR	97068	0.0381	1,660	637	3266 SPARKS EST PH 2 TR A Y 185,430
01830825	31E02AB06901	Francesco Zorich	1301 9th St	West Linn	OR	97068	1.0047	43,765	39,017	Partition Plat 2001-005 PT PARCELS 1 & 2 & Subdivision WILLAMETTE TRACTS 1-64 BLK 62 PT LT D 147 Y 185,430
05000889	31E02AC00102	Joseph & Stacey Krish	1263 10th St	West Linn	OR	97068	0.2464	10,733	10,385	1999-133 PARTITION PLAT PARCEL 2 Y 185,430
05003206	31E02AB06902	Craig Mason	1332 8th St	West Linn	OR	97068	0.2732	11,901	2,305	Partition Plat 2001-005 PARCEL 3 Y 185,430
05003482	31E02AB08201	Gregory Kantor	1215 9th St	West Linn	OR	97068	0.4945	21,540	16,353	Partition Plat 2001-120 PARCEL 1 Y 185,430
05003483	31E02AB08202	City Of West Linn	1229 9th St	West Linn	OR	97068	0.2805	12,219	12,219	Subdivision WILLAMETTE&TUALATIN TRACTS BLK 18 LT B 198 Y 185,430
05003755	31E02AC00402	Shannen Knight	1291 11th St	West Linn	OR	97068	0.3025	13,177	6,979	Subdivision RUFIOUS PLACE LT 1 3664 Y 185,430
05003756	31E02AC00403	Joshua Coxwell	1273 11th St	West Linn	OR	97068	0.1731	7,540	3,124	Subdivision RUFIOUS PLACE LT 2 3664 Y 185,430
05003757	31E02AC00404	Gregory Bullard	1269 11th St	West Linn	OR	97068	0.2428	10,576	10,136	Subdivision RUFIOUS PLACE LT 3 3664 Y 185,430
05003758	31E02AC00405	Ryan & Emily McKenna	1257 11th St	West Linn	OR	97068	0.2417	10,528	10,142	Subdivision RUFIOUS PLACE LT 4 3664 Y 185,430
05004860	31E02AB08204	Wallace Walker	1213 9th St	West Linn	OR	97068	0.9932	43,264	7,906	Partition Plat 2001-120 PARCEL 2 Y 185,430
05004919	31E02AB05306	David Rudawitz & Linda Milburn	1345 11th St	West Linn	OR	97068	0.2684	11,692	10,086	Partition Plat 2002-011 PARCEL 2 Y 185,430
05017486	31E02AB06501	Jeffrey & Laura Gilbert	2253 5th Ave	West Linn	OR	97068	0.3166	13,791	1,855	Partition Plat 2007-048 PARCEL 2 Y 185,430

TOTAL AFFECTED AREA:	440,861
2/3 AREA NEEDED:	293,907
NOTARIZED:	299,882



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "A"
Legal Description

A tract of land being all of the right of way of 4th Avenue (a 40.00 foot wide right of way), lying between the west right of way line of 9th Street (a 40.00 foot wide right of way), and the east right of way line of 10th Street (a 40.00 foot wide right of way), located in the northeast one-quarter of Section 2, Township 3 South, Range 1 East of the Willamette Meridian, City of West Linn, County of Clackamas, State of Oregon, being more particularly described as follows:

BEGINNING at the northeast corner of Parcel 1, Partition Plat No. 1999-133, Clackamas County Plat Records, also being the northeast corner of Block 21, "Willamette & Tualatin Tracts", Plat No 198, Clackamas County Plat Records, being 20.00 feet west of the centerline of said 9th Street, when measured at right angles; thence, along the north line of said Partition Plat No. 1999-133 and said Block 21, South 67°40'51" West, 417.19 feet to the northwest corner of said Block 21, being on the east right of way line of said 10th Street, being 20.00 feet from the centerline thereof, when measured at right angles; thence, along the northerly extension of the west line of said Block 21, North 22°25'00" West, 40.00 feet to the southwest corner of Block 63, "Willamette Tracts", Plat No. 147, Clackamas County Plat Records; thence, along the south line thereof, being 40.00 feet northerly of and parallel with the north line of said Block 21, North 67°40'51" East, 417.19 feet to the southeast corner of said Block 63, being on the west right of way line of said 9th Street; thence, along the southerly extension of the east line of said Block 63, South 22°25'00" East, 40.00 feet to the **POINT OF BEGINNING**.

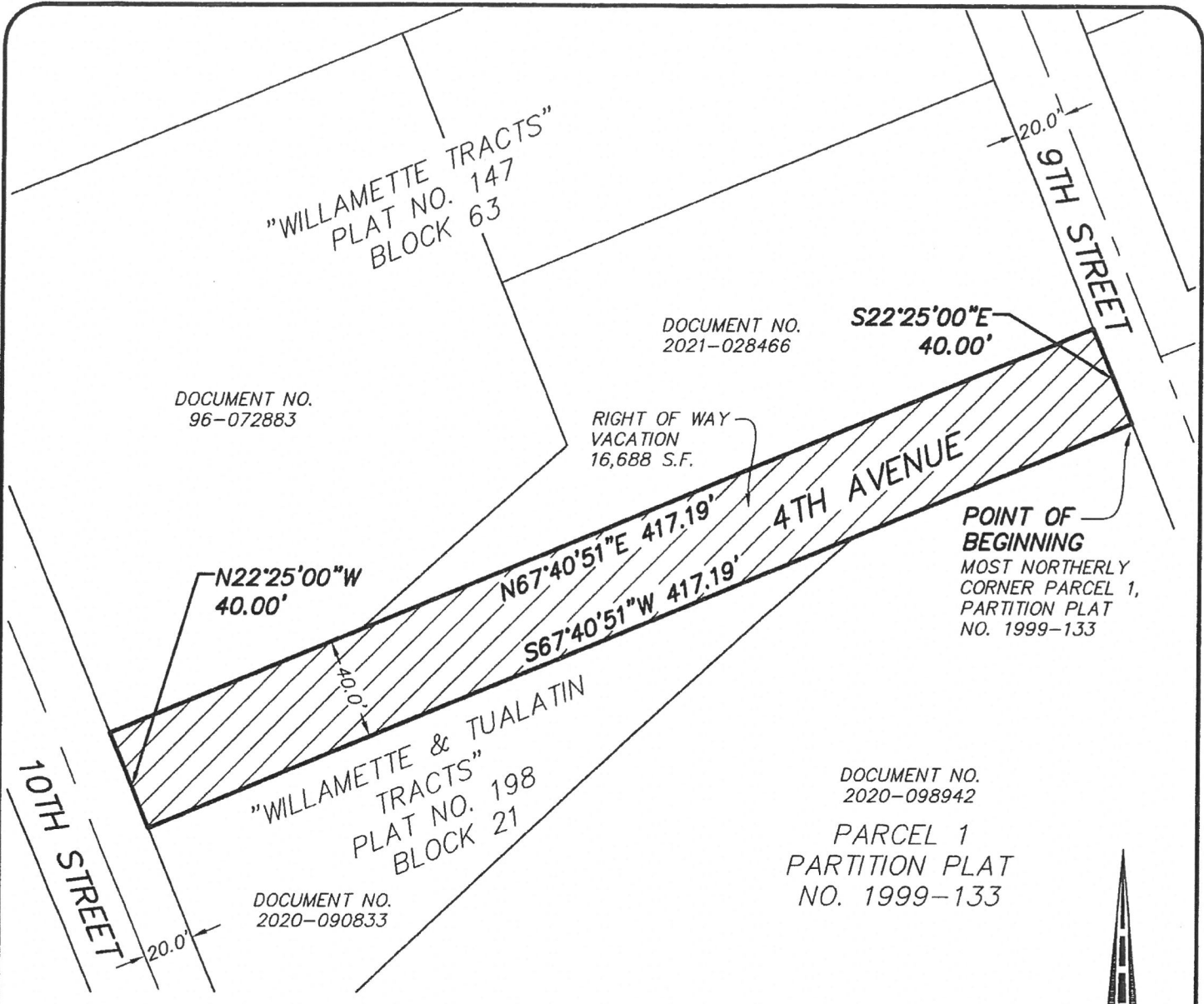
Contains 16,688 square feet, more or less.

04 NOV 21

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: 31 DEC 21

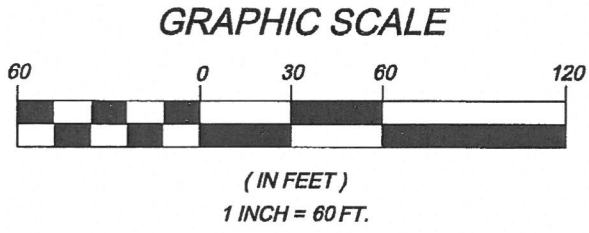


SIGNED ON: 04 NOV 21

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: DECEMBER 31, 2021



CLIENT: ICON
ORIG. DATE: 11/2/2021
DRAWN BY: MPW
SHEET No. 1 OF 1

EXHIBIT "B"
RIGHT OF WAY VACATION
CITY OF WEST LINN, CLACKAMAS COUNTY, OR
Scale: 1"=60'

**CENTERLINE CONCEPTS
LAND SURVEYING, INC.**
19376 MOLALLA AVE., SUITE 120
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189