



CITY OF  
**West Linn**

**PLANNING MANAGER DECISION**

DATE: January 9, 2023

FILE NO.: MIP-22-04

REQUEST: Approval of an SB458 Expedited Land Division for Two Parcels to Accommodate an HB2001 Detached-Duplex Development for Lot C, Tract 21, Willamette and Tualatin Tracts at 1220 9<sup>th</sup> Street

PLANNER: Darren Wyss, Planning Manager

Planning Manager

DSW

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## GENERAL INFORMATION

**APPLICANT/  
OWNER:**

Icon Construction & Development  
1969 Willamette Falls Drive, Suite 260  
West Linn, OR. 97068

**CONSULTANT:**

Rick Givens  
292 W. Sunrise Vista Drive  
Green Valley, AZ 85614

**SITE LOCATION:**

1220 9<sup>th</sup> Street (Lot C, Tract 21, Willamette and Tualatin Tracts)

**SITE SIZE:**

33,467 square feet

**LEGAL**

**DESCRIPTION:**

Lot C, Tract 21, Willamette and Tualatin Tracts (one of two legal lots of record comprising 3S 1E 02AC Tax Lot 300)

**COMP PLAN**

**DESIGNATION:**

Low-Density Residential

**ZONING:**

R-10, Single-Family Residential Detached  
(10,000 sq. ft. min. lot size)

**APPROVAL**

**CRITERIA:**

Oregon Revised Statute 92.031

**120-DAY RULE:**

The application became complete on November 8, 2022. The 63-day period for an expedited land division ends January 10, 2023.

**PUBLIC NOTICE:**

Notice was mailed to property owners within 100 feet of the subject property, public facility and services providers, and the Willamette Neighborhood Associations as required by Oregon Revised Statute 197.365. The notice was also posted on the City's website on November 30, 2022. Therefore, public notice requirements have been met.

## EXECUTIVE SUMMARY

The 1220 9<sup>th</sup> Street property is comprised of two legal lots of record, Lot C and Lot D, Tract 21, Willamette and Tualatin Tracts. The applicant will construct a detached duplex on Lot C, Tract 21, Willamette and Tualatin Tracts (Lot C). The property is zoned R-10 Residential and a detached duplex is permitted by West Linn Community Development Code Chapter 11.030.1(a), which was adopted as part of the City's HB2001 code amendment package (Ordinance 1736). The applicant has proposed to partition Lot C under SB458 rules adopted by the Oregon Legislature in 2021 and codified in Oregon Revised Statute 92.031. Each resulting parcel will contain one dwelling unit of the detached duplex. Access to the dwelling units will be via a shared driveway permitted as part of a previously approved development review application (WAP-20-04/WRG-20-02/MIS-20-08) and located in a recorded egress/ingress easement (Clackamas County Document No. 2021-0471720).

Lot C is located within the Willamette River Greenway (WRG) and contains a wetland and associated Water Resource Area (WRA) buffer on the north portion of the property. The WRA buffer associated with the delineated wetland along the northern portion of Lot C was reduced to 25 feet as part of application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01 and will be replanted to restore its functional value after serving as a horse pasture and riding area for the previous 25 years. The detached duplex will be constructed outside of the WRA buffer.

Development within the WRG in the City of West Linn is regulated by the adopted Habitat Conservation Area (HCA) map and the associated value of the habitat identified on a property. The majority of Lot C (see Exhibit PD-3) contains no high, medium, or low value HCA and has no development restriction, including the area proposed for construction of the detached duplex. A small portion of high value HCA is found along the west property line and no development is proposed in this area as it overlaps with the delineated wetland. A small portion of medium value HCA is found in the southeast corner of Lot C and southern portion of Lot D. This medium value HCA was removed from the map as part of a previously approved development application (MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01) because existing site conditions did not meet the definition of medium value HCA. This is due to impacts from adjacent development, which were mitigated as part of WAP-20-04/WRG-20-02/MIS-20-08 approval and construction of the home at 1088 9<sup>th</sup> Street, and historic use of the property altering its HCA value through removal of tree canopy and planting of a non-native landscape lawn.

The detached duplex will take access from 9<sup>th</sup> Street via a shared driveway. The 9<sup>th</sup> Street right-of-way is 40 feet wide and has a functional classification of Local Street. The applicant is installing half street improvements along the property frontage as part of the approval of MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01 to match 1068 9<sup>th</sup> Street improvements (curb/gutter/sidewalk). Sanitary sewer and water mains are located in the 9<sup>th</sup> Street right-of-way to provide service to the detached duplex via a recorded utility easement across Lot D (Clackamas County Document No. 2021-0471720).

## **Public comments:**

The City received 13 public comments prior to the closing of the public comment period. The full text of the comments can be found in Exhibit PD-4. Below staff has summarized the comments and provided a response to each.

### **Ann Miller Email 12.11.2022**

1. *Attempt to circumvent requirements of original four-lot subdivision request.*

**Staff Response:** The subject property (1220 9<sup>th</sup> Street) is comprised of two legal lots of record, Lot C and Lot D, Tract 21, Willamette and Tualatin Tracts. The applicant previously applied for and received approval for MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. This approval permitted the minor partition of Lot D into three parcels. No division of Lot C was proposed, nor was a four-lot subdivision requested. Lot C is eligible for an expedited land division for middle housing under SB458 as the applicant proposes a middle housing development on the property (detached duplex).

2. *Intent of HB2001 is to encourage development of more affordable housing. Will this really provide more affordable housing?*

**Staff Response:** The intent of HB2001 was to provide more housing options (middle housing) within the state in response to the housing crisis. West Linn is located within the Portland Metropolitan Urban Growth Boundary and was required to allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters on properties currently zoned to allow the development of single-family detached houses. There was no mandate for meeting an affordability target. However, the logic is that developing multiple dwelling units on a legal lot of record will result in lower housing prices than if only one dwelling unit was built.

3. *Application for a detached duplex seems a sneaky way to build two single-family homes without using the subdivision process.*

**Staff Response:** The subject property (1220 9<sup>th</sup> Street) is comprised of two legal lots of record, Lot C and Lot D, Tract 21, Willamette and Tualatin Tracts. The applicant previously applied for and received approval for MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. This approval permitted the minor partition of Lot D into three parcels. No division of Lot C was proposed, nor was a four-lot subdivision requested. Lot C is eligible for an expedited land division for middle housing under SB458 as the applicant proposes a middle housing development on the property (detached duplex).

4. *The willingness to decrease the wetland boundary is curious, when others has to comply in the past.*

**Staff Response:** The wetland boundary was delineated as part of development review application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. The applicant utilized the alternative review process in West Linn Community Development Code Chapter 32 to reduce

the required wetland buffer (WRA) from 65 to 25 feet based on a an assessment of the functionality of the WRA. This option is available to all properties within the City of West Linn that contain WRA. The assessment found the 25 foot buffer, when replanted with native vegetation, would provide increased functionality when compared to the current conditions of the 65 foot buffer. The 65 foot buffer has been severely altered with horse corrals/pasture, buildings, and a non-native landscape lawn.

5. *Attention needs paid to increased traffic from this application on 9<sup>th</sup> Street. The street is narrow and unsafe for children to walk to school or the park. Does the City intend to remedy this situation?*

**Staff Response:** The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

*Deric and Sarah Brown Email 12.13.2022*

1. *Comments focused on 9<sup>th</sup> Street safety issues and requests the City focus on making a continuous safe path for pedestrians and address other safety matters.*

**Staff Response:** The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

*Greg Kantor Email 12.09.2022*

1. *Opposed to development without making 9<sup>th</sup> Street a proper road with sidewalks and requests the City approves a plan for improving the street before any future development occurs.*

**Staff Response:** The City cannot place a moratorium on development unless it follows the process outlined in ORS 197.520. Full improvements to 9<sup>th</sup> Street are not currently prioritized

as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

2. *Unethical development as HB2001 intended to increase number of affordable homes and developer is exploiting legislation to bypass public hearing process.*

**Staff Response:** The intent of HB2001 was to provide more housing options (middle housing) within the state in response to the housing crisis. West Linn is located within the Portland Metropolitan Urban Growth Boundary and was required to allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters on properties currently zoned to allow the development of single-family detached houses. There was no mandate for meeting an affordability target. However, the logic is that developing multiple dwelling units on a legal lot of record will result in lower housing prices than if only one dwelling unit was built. The applicant proposes to develop a middle housing type (detached duplex) as permitted by the West Linn Community Development Code (see Staff Finding 1) and the land division process for middle housing types as found in SB458 (ORS 92.031).

Greg Kantor Email 12.14.2022

1. *Application does not qualify for a middle-housing land division pursuant to SB458*
  - a. *Invalid definition of "duplex" as the application is no different than a traditional, single-family home.*
  - b. *OAR 660-046 Exhibit B defines as "duplex means two attached dwelling units on a Lot or Parcel. A medium or large city may define a duplex to include two detached dwelling units on a Lot or Parcel".*
  - c. *West Linn CDC definition of detached duplex "Duplex Residential Units. Two dwelling units placed so some structural parts are in common, in any configuration, and are located on a single lot, parcel, or tract. Dwelling units may be detached on a single lot, parcel, or tract, where each dwelling unit is considered a primary residence".*

**Staff Response:** See Staff Finding 1.

2. *Nowhere in the state or City definition does it say that two units, each on its own parcel, can be considered a detached duplex. The application should be denied on basis it does not meet basic requirements set forth by legislation.*

**Staff Response:** The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

3. *ORS 197.360 defines “expedited land division” to require (E) will result in development that either: (i) creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or (ii) will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is build.*
  - a. *Tract C is 36,777 sq. ft. Dividing into two lots does not achieve 80% of maximum density.*
  - b. *If (i) is not met, then the homes must be sold at a purchase price in ballpark of \$400,000 according to Clackamas County and National Assoc. of Realtors Housing Affordability Index to meet (ii).*

**Staff Response: See Staff Finding 29.**

4. *Concerns about the safety of 9<sup>th</sup> Street because of narrow width and no sidewalks.*

**Staff Response: The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City’s Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.**

*Greg Smith Email 12.14.2022*

1. *Concerns about the intensity of development on a knoll between two wetlands.*

**Staff Response: See Staff Finding 26.**

*Jennifer Aberg and Martin Heinemann Letter 12.12.2022*

1. *Two new homes were recently built in the same area and the city approved “infill” of the wetlands, which has now caused water pooling in places from change in wetland environment. Concerned the impacts to wetlands will be detrimental to homes in the surrounding area.*

**Staff Response: Neither of the two new homes at 1068 9<sup>th</sup> Street and 1088 9<sup>th</sup> Street required infill of the wetlands. Both homes were constructed outside of the wetland boundary and associated buffer (WRA). The proposed middle housing development on the subject property will be constructed outside of the wetland boundary and associated buffer (WRA) as shown on the Tentative Plan contained in Exhibit PD-1.**

2. *The application will bring an exponential amount of traffic to 9<sup>th</sup> Street, which is not equipped to handle the increased traffic. The street is only 16 feet wide and difficult for two large cars to pass side by side. There are no sidewalks and pedestrian safety is a big concern. People speed and the street cannot handle the increased volume from the development. I implore the city to widen the street and add sidewalks before allowing "middle housing" in this area.*

**Staff Response:** The City cannot place a moratorium on development unless it follows the process outlined in ORS 197.520. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

3. *HB2001/SB458 was to allow for more affordable housing. Icon is exploiting the "spirit" of the law by adding 5 additional houses on a property that was originally approved for 3.*

**Staff Response:** The subject property (1220 9<sup>th</sup> Street) is comprised of two legal lots of record, Lot C and Lot D, Tract 21, Willamette and Tualatin Tracts. The applicant previously applied for and received approval for MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. This approval permitted the minor partition of Lot D into three parcels. No division of Lot C was proposed. Lot C is eligible for an expedited land division for middle housing under SB458 as the applicant proposes a middle housing development on the property (detached duplex).

4. *The homes proposed to be built will not be affordable.*

**Staff Response:** The intent of HB2001 was to provide more housing options (middle housing) within the state in response to the housing crisis. West Linn is located within the Portland Metropolitan Urban Growth Boundary and was required to allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters on properties currently zoned to allow the development of single-family detached houses. There was no mandate for meeting an affordability target. However, the logic is that developing multiple dwelling units on a legal lot of record will result in lower housing prices than if only one dwelling unit was built.

*Kathie Halicki Letter 12.13.2022*

1. *Concern from neighbors on lack of sidewalks, narrow street, Safe Routes to School, traffic, lack of fire hydrants and speeding on 9<sup>th</sup> Street. Large vehicles with boats is a huge issue. To place 6-8 more homes on this narrow street is an accident waiting to happen. The safety issues need addressed before this progresses forward.*

**Staff Response:** The City cannot place a moratorium on development unless it follows the process outlined in ORS 197.520. The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of



development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

- 2. The neighbors nor the WNA had any input on this development. I understand with HB2001 there is no input, but we now see the effect.*

**Staff Response:** The City provided public notice as required by ORS 92.031 (see Staff Findings 34 to 38). Thirteen public comments, including Ms. Halicki's, were submitted in response to the notice.

- 3. Encroachment on the wetlands is not acceptable. Current water drainage/runoff is an issue that needs addressed to prevent flooding.*

**Staff Response:** The proposed middle housing development on the subject property will be constructed outside of the wetland boundary and associated buffer (WRA) as shown on the Tentative Plan in Exhibit PD-1. The development will be required to comply with the City's adopted stormwater management design standards, the same as all other developments within the city limits.

*Lisa Steenson Email 12.02.2022*

- 1. Link in the notice of upcoming planning manager decision does not work. The correct thing to do is extend the deadline for comments.*

**Staff Response:** The City provided public notice as required by ORS 92.031 on November 21, 2022. The link to the application was incorrect and did not function. After multiple community members requested an extension of the public comment deadline, and after conferring with the applicant, the City resent the public notice with the correct link and a new public comment deadline (see Staff Findings 34 to 38).

- 2. Main concern is the increase in traffic with more homes going in and the city's plan to address the issue.*

**Staff Response:** The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

Lisa Steenson Email 12.14.2022

1. *Concerns about the narrow condition of 9<sup>th</sup> Street with no sidewalks and associated safety issues for pedestrians. Request developers and City develop a plan to address further improvements.*

**The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.**

Michelle Joslin Email 12.14.2022

1. *The housing being built would not be "middle housing" as intended by HB2001.*

**Staff Response: See Staff Finding 1.**

- a. *HB2001 intent was to create more options in housing and more affordable housing.*

**Staff Response: The intent of HB2001 was to provide more housing options (middle housing) within the state in response to the housing crisis. West Linn is located within the Portland Metropolitan Urban Growth Boundary and was required to allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters on properties currently zoned to allow the development of single-family detached houses. There was no mandate for meeting an affordability target. However, the logic is that developing multiple dwelling units on a legal lot of record will result in lower housing prices than if only one dwelling unit was built.**

- b. *A detached duplex is a euphemism for a single family home.*
- c. *OAR 660-046 defines a duplex as "two attached dwelling units on a Lot or Parcel. A medium or large city may define a duplex to include two detached dwelling units on a Lot or Parcel". The application seeks a detached duplex on each individual lot and doesn't comply with the definition. This is not middle housing and should not get any "expedited review" that is given to HB2001 housing.*

**Staff Response: The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.**

2. *The wetlands will be adversely impacted.*
  - a. *Metro HCA, Willamette River Greenway, and other ways to describe the land should offer some protection from unfettered development.*

**Staff Response:** The City regulates the Willamette River Greenway/HCA in Community Development Code (CDC) Chapter 28 and Water Resource Area Protection in CDC Chapter 32. The applicant complied with the regulations in previous development review application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. See Staff Finding 26.

- b. *Utilities should be underground, per the City of West Linn, however PGE wants the utilities above ground as it is too wet. It is wet because the land is wetlands and we shouldn't be building higher density housing on wetlands. The application to lessen the buffer was based on a previous plan and should be revoked and applied for again using the current plan.*

**Staff Response:** The applicant does not propose any development within a delineated wetland. The wetland boundary was delineated as part of development review application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. The applicant utilized the alternative review process in West Linn Community Development Code Chapter 32 to reduce the required wetland buffer (WRA) from 65 to 25 feet based on an assessment of the functionality of the WRA. This option is available to all properties within the City of West Linn that contain WRA. The assessment found the 25 foot buffer, when replanted with native vegetation, would provide increased functionality when compared to the current conditions of the 65 foot buffer. The 65 foot buffer has been severely altered with horse corrals/pasture, buildings, and a non-native landscape lawn. This assessment of functionality is valid regardless of the number of dwelling units proposed.

3. *Further development of 9<sup>th</sup> Street, with city infrastructure to support it, is unsafe.*
  - a. *The condition of 9<sup>th</sup> Street would not meet the definition of an alley and adding more traffic without adding sidewalks or additional width is laughable, if it wasn't so dangerous.*

**Staff Response:** The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

4. *The City should deny the application per OAR 660-046-0010*
  - a. *Medium and Large Cities must adopt land use regulations to protect water quality.*
  - b. *When middle housing exacerbates hazards and risks by altering the natural landscape.*
  - c. *Cities must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway.*

**Staff Response: See Staff Finding 26.**

- d. *Cities must ensure that infrastructure serving underdeveloped areas where middle housing is allowed is appropriately designed and sized to serve middle housing.*
- e. *Detached Duplexes should be on a single-lot and not split between two lots – that is a single family home.*

**Staff Response: The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.**

*Samantha Faile Email 12.14.2022*

*I would like to amend the last paragraph in my letter. Pertaining to the SAB. It was supposed to say SAB 2015 strategic planning document. Not just Sustainably Advisory Board. My comments were based off of that document on their webpage.*

*Samantha Faile and Travis Cook Letter 12.13.2022*

1. *Concern about sensitive habitat areas on the property.*
  - a. *Permits were issued under another land use application for a 3-lot partition. Environmental studies and permits based on this proposal and Icon has not proven the permitting criteria for FEMA, WRA, and WRG permits are still being met under the new proposal.*

**Staff Response: See Staff Finding 26.**

- b. *The land held one house and a barn for decades and now if approved it will host seven homes around 3,000 sq. ft. each in size.*

**Staff Response: The applicant proposes the development of a detached duplex on Lot C under the rules of HB2001 and the division of Lot C into two parcels under the rules of SB438. The proposal meets the approval criteria.**

- c. *There is no site plan with the positioning of the new detached duplex and the current permits were granted with an understanding that the three new homes would not be in any WRA areas.*

**Staff Response:** The applicant originally proposed to construct a detached single-family home on Lot C. After passage of HB2001, the applicant, as allowed by the West Linn Community Development Code, proposes to construct a detached duplex. Neither proposal required development in the WRA.

- d. *CDC 32.040C.2(b) allows non-conforming accessory structures (old barn to be removed) to be replaced in the same footprint, but they cannot be replaced with a single-family home (32.040.D(1)).*

**Staff Response:** The applicant does not propose to utilize the barn's footprint, nor does the applicant propose to construct the detached duplex within the WRA.

- e. *Middle Housing still needs to comply with Chapter 32.*

**Staff Response:** The applicant does not propose any development within a delineated wetland or required wetland buffer as shown on the Tentative Plan in Exhibit PD-1. The wetland boundary was delineated as part of development review application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. The applicant utilized the alternative review process in West Linn Community Development Code Chapter 32 to reduce the required wetland buffer (WRA) from 65 to 25 feet based on an assessment of the functionality of the WRA. This option is available to all properties within the City of West Linn that contain WRA. The assessment found the 25 foot buffer, when replanted with native vegetation, would provide increased functionality when compared to the current conditions of the 65 foot buffer. The 65 foot buffer has been severely altered with horse corrals/pasture, buildings, and a non-native landscape lawn. The middle housing proposal complies with CDC Chapter 32 and the assessment of functionality is valid regardless of the number of dwelling units proposed.

- f. *Inconsistent application of CDC Chapter 32 for homeowners versus developers.*

**Staff Response:** The City applies the rules of CDC Chapter 32 to any proposed development that impacts a WRA. Two recent proposals on 9<sup>th</sup> Street were problematic as the properties previously received approval for a reduced wetland buffer (WRA) under the provisions of CDC Chapter 32, but did not comply with the approval requirements and encroached into the WRA, and in one case encroached into a legally recorded conservation easement.

- g. *West Linn CDC requires undergrounding utilities and this application states utilities will be above ground.*

**Staff Response:** The proposal is for construction of a detached duplex and the division of the lot under the provisions of ORS 92.031, which does not require the undergrounding of utilities.

- h. Real estate listing for 1088 9<sup>th</sup> Street advertises space for a sport court or grass field and the City allowing development of the house so the buyer will assume there is nothing wrong having a green lawn and sport court.*

**Staff Response: The City does not have any control over a real estate listing, but the City is actively working with the developer of 1088 9<sup>th</sup> Street to ensure all Conditions of Approval are met prior to issuing a Certificate of Occupancy.**

- i. The application is in conflict with the West Linn Sustainable Strategic Plan.*

**Staff Response: The West Linn Sustainable Strategic Plan is only relevant to a development review application if the language is adopted into clear and objective Community Development Code criteria.**

Lower Willamette Neighbors Letter to Kathie Halicki 12.04.2022

*1. Environmental Impacts*

- a. Previously established wetland boundaries keep shrinking.*

**Staff Response: No recent developments along 9<sup>th</sup> Street have occurred within a delineated wetland boundary. The proposed detached duplex does not encroach on the wetland.**

- b. Past environmental assessments have noted concern over development and mitigation efforts resulting in pooling of water next to 1040 9<sup>th</sup> Street.*

**Staff Response: The proposal does not impact the private property adjacent to 1040 9<sup>th</sup> Street.**

- c. Request a new environmental study be conducted for proposed development of 1220 9<sup>th</sup> Street.*
- d. What is the vegetative mitigation plan for 1220 9<sup>th</sup> Street and why was the WRA permit approved? Under what circumstances would the City deny a WRA permit?*

**Staff Response: The applicant does not propose any development within a delineated wetland. The wetland boundary was delineated as part of development review application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. The applicant utilized the alternative review process in West Linn Community Development Code Chapter 32 to reduce the required wetland buffer (WRA) from 65 to 25 feet based on an assessment of the functionality of the WRA (March 2022 Report). This option is available to all properties within the City of West Linn that contain WRA. The assessment found the 25 foot buffer, when replanted with native vegetation, would provide increased functionality when compared to the current conditions of the 65 foot buffer. The 65 foot buffer has been severely altered with horse corrals/pasture, buildings, and a non-native landscape lawn. The middle housing proposal complies with CDC Chapter 32 and the assessment of functionality is valid regardless of the number of dwelling units proposed.**

2. *9<sup>th</sup> Street Safety Concerns*

- a. *No safe walking route to school.*
- b. *9<sup>th</sup> Street is primary route used by boat and park traffic.*
- c. *Reduced/impeded access to homes on 9<sup>th</sup> Street for public safety vehicles.*
- d. *Piecemeal road improvements are not sufficient.*
- e. *Request the City does a traffic study with ODOT and report to the neighborhood.*

**Staff Response:** The proposed detached duplex, which is permitted outright on this R-10 zoned property, will contribute roughly 20 vehicle trips per day. The previously approved three parcel minor partition required the applicant to construct 280 linear feet of street improvements (curb/gutter/sidewalk/travel lane) adjacent to Lot D (1220 9<sup>th</sup> Street), which is roughly proportional to the impacts from the development. The majority of development along 9<sup>th</sup> Street did not install any street improvements, which leads to the existing conditions. Full improvements to 9<sup>th</sup> Street are not currently prioritized as a project in the City's Transportation System Plan, but the Budget Committee/City Council has the ability to include the project in the Capital Improvement Program.

3. *Inconsistent and unfair application/interpretation of legislation/regulations.*

- a. *Existing homeowners have been unable to get approval for minor projects (patio remodel or driveway resurfacing), but recent developments bypassed many of these impediments and even redrew wetland boundaries.*

**Staff Response:** The City applies the rules of CDC Chapter 32 to any proposed development that impacts a WRA. Two recent proposals on 9<sup>th</sup> Street were problematic as the properties previously received approval for a reduced wetland buffer (WRA) under the provisions of CDC Chapter 32, but did not comply with the approval requirements and encroached into the WRA, and in one case encroached into a legally recorded conservation easement. Wetland boundaries are delineated by a professional wetland biologist and submitted to the Department of State Lands for concurrence.

- b. *City's process to communicate this application was extremely poor. Application was not available on City website and Planning Manager was unresponsive regarding the access to the application and comment deadline for several days. The NA was not notified and no signs were posted on the property like in the past.*

**Staff Response:** The City provided public notice as required by ORS 92.031 on November 21, 2022. The link to the application was incorrect and did not function. After multiple community members requested an extension of the public comment deadline, and after conferring with the applicant, the City resent the public notice with the correct link and a new public comment deadline (see Staff Findings 34 to 38). The Willamette Neighborhood

**Association was mailed the public notice (see Exhibit PD-6). The expedited land division rules in ORS 197.360 to 197.380 do not require posting of a sign on the site.**

- c. HB2001/SB458 were passed with intent of increasing the amount of affordable housing by requiring expedited approval of lot divisions for middle housing. This development exploits the legislation by reclassifying the project as middle housing when in fact they will be single-family detached homes priced in line with recently developed properties on 9<sup>th</sup> Street (well over \$1 million).*

**Staff Response: The intent of HB2001 was to provide more housing options (middle housing) within the state in response to the housing crisis. West Linn is located within the Portland Metropolitan Urban Growth Boundary and was required to allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters on properties currently zoned to allow the development of single-family detached houses. There was no mandate for meeting an affordability target. However, the logic is that developing multiple dwelling units on a legal lot of record will result in lower housing prices than if only one dwelling unit was built.**

**The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow a duplex on the subject property (see Staff Finding 1). The applicant proposes a detached duplex (middle housing) on the subject property. The Oregon Legislature subsequently approved SB458 in 2021, requiring cities and counties to allow the division of a lot or parcel that contains middle housing, thus permitting each unit of a duplex to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.**



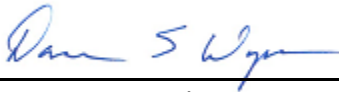
## DECISION

The Planning Manager (designee) approves this application (MIP-22-04) for an expedited land division under the rules of SB458 based on: 1) the applicant proposes to construct middle housing on the property; 2) the findings submitted by the applicant, which are incorporated by this reference; 3) supplementary staff findings included in the Addendum; and 4) the addition of conditions of approval below. With these findings, the applicable approval criteria of ORS 92.031 are met. The conditions are as follows:

1. **Tentative Plan.** With the exception of modifications required by these conditions, the final plat shall conform to the Tentative Plan dated 10/06/2022 (Exhibit PD-1).
2. **Compliance with Oregon Residential Specialty Code.** The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code from West Linn Building staff prior to final plat approval from the City.
3. **Compliance with Siting and Design Standards.** The applicant shall submit building plans and obtain approval of compliance with siting and design standards from West Linn Planning staff prior to final plat approval from the City.
4. **Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final plat approval. Public Works may coordinate with the applicant to complete additional, voluntary, off-site improvements.
5. **Utility Easement.** The applicant shall provide the utility easement (Clackamas County Document No. 2021-0471720, see Exhibit PD-2) on the face of the final plat and submit a copy of the recorded, private utility easement to confirm the newly created parcels have legal rights to locate, access, replace, and service all utilities within the easement prior to final plat approval by the City.
6. **Egress/Ingress Easement.** The applicant shall provide the egress/ingress easement (Clackamas County Document No. 2021-0471720, see Exhibit PD-2) on the face of the final plat and submit a copy of the recorded, private egress/ingress easement to confirm the newly created parcels have legal access rights to 9<sup>th</sup> Street prior to final plat approval by the City.

7. **Final Plat Notation.** The applicant shall include on the face of the plat the notation “This middle housing land division approval was given under the provisions of SB458. Further division of the resulting parcels is prohibited”.
8. **Final Plat Recording.** The approval of the tentative plat (MIP-22-04) shall be void if the applicant does not record the final partition plat within three years of approval.
9. **Water Resource Area Mitigation.** The applicant shall install all required mitigation plantings per approved plans in MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01 prior to issuance of final Certificate of Occupancy.

The provisions of the Oregon Revised Statute 92.031 have been met.



Darren Wyss, Planning Manager

January 9, 2023

Date

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date and include a \$300 deposit for costs. An appeal of an expedited land division is decided by a referee that is not an employee or official of the City of West Linn. The appeal must be filed by the applicant or an individual who has established standing by submitting comments prior to the public comment deadline date. Approval will lapse 3 years from effective approval date if the final plat is not recorded.

Mailed this 10<sup>th</sup> day of January, 2023.

Therefore, the 14-day appeal period ends at 5 p.m., on January 24, 2023.

**ADDENDUM  
APPROVAL CRITERIA AND FINDINGS  
MIP-22-04**

This decision adopts the findings for approval contained within the applicant's submittal, with the following exceptions and additions:

ORS 92.031 Middle housing land division; conditions of approval.

*(1) As used in this section, "middle housing land division" means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).*

*ORS 197.758(2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or more and each county or city within a metropolitan service district shall allow the development of:*

- (a) All middle housing types in areas zoned for residential use that allow for the development of detached single-family dwellings; and*
- (b) A duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.*

**Staff Finding 1: The subject property is zoned Residential, R-10 and permits the construction of a single-family detached dwelling. ORS 197.758(2)(b) requires the City of West Linn to allow a duplex, one type of middle housing, on any lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. The applicant proposes the construction of a detached duplex as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a duplex as "Two attached or detached dwelling units on a lot or parcel in any configuration". Therefore, the proposed partition of the lot, which allows the development of middle housing, is permitted. The criteria is met.**

*(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:*

*(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);*

*ORS 197.178(5) Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.*

**Staff Finding 2: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type (see Staff Finding 1). The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and**

obtain approval of compliance with the Oregon residential specialty code from West Linn Building staff prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.

**Staff Finding 3:** The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type (see Staff Finding 1). The City regulates siting and design of middle housing, including minimum property line setbacks, sidewall transitions, maximum floor-area-ratio (FAR), maximum lot coverage, and maximum building height. The siting and design regulations are reviewed by West Linn Planning staff during building permit review. Minimum property line setbacks and maximum lot coverage will be apply and be calculated on Lot C property boundaries and size. Sidewall transitions and maximum building height will be reviewed based on building plans. Maximum FAR will be calculated on Lot C square footage minus Type I and II Lands per CDC Chapter 11.070. Type I and II Lands comprise 15,896 sq. ft. of the 33,467 sq. ft. property. Maximum FAR for the detached duplex will be 10,570 sq. ft. (17,570 sq. ft. x 0.60). The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with siting and design standards from West Linn Planning staff prior to final plat approval by the City per Condition of Approval 3. Subject to the Conditions of Approval, the criteria are met.

**Staff Finding 4:** The City has adopted protective measures pursuant to statewide land use planning goals for the Willamette River Greenway (Goals 5 and 15), Water Resource Areas (Goals 5, 6, and 7), and Floodplain Management Areas (Goal 7). The City regulates the protective measures through CDC Chapters 27, 28, and 32. The subject property was reviewed for compliance and received approval in prior development review permits. See Staff Finding 26. The criteria are met.

*(b) Separate utilities for each dwelling unit;*

**Staff Finding 5:** The applicant proposes the construction of a detached duplex with separate utility connections for each dwelling unit. Utilities shall be installed in compliance with West Linn municipal code requirements per Condition of Approval 4. Subject to the Conditions of Approval, the criteria are met.

*(c) Proposed easements necessary for each dwelling unit on the plan for:*

*(A) Locating, accessing, replacing and servicing all utilities;*

**Staff Finding 6:** The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. Utilities will be placed within the existing, private utility easement recorded across Lot D (Clackamas County Document No. 2021-0471720, see Exhibit PD-2). The applicant shall show the utility easement on the face of the final plat and submit a copy of the private utility easement to confirm the newly created parcels have legal rights to locate, access, replace, and service all utilities within the

easement prior to final plat approval by the City per Condition of Approval 5. Subject to the Conditions of Approval, the criteria are met.

*(B) Pedestrian access from each dwelling unit to a private or public road;*

**Staff Finding 7:** The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. Pedestrian access to the dwelling units will be via a shared driveway connected to 9<sup>th</sup> Street, a public street, and permitted as part of a previously approved development review application (WAP-20-04/WRG-20-02/MIS-20-08) and located in a recorded egress/ingress easement (Clackamas County Document No. 2021-0471720, see Exhibit PD-2). The applicant shall show the egress/ingress easement on the face of the final plat and submit a copy of the private egress/ingress easement to confirm the newly created parcels have legal access rights to 9<sup>th</sup> Street prior to final plat approval by the City per Condition of Approval 6. Subject to the Conditions Approval, the criteria are met.

*(C) Any common use areas or shared building elements;*

**Staff Finding 8:** The applicant does not propose any common use areas or shared building elements, therefore no easements are required. The criteria are met.

*(D) Any dedicated driveways or parking; and*

**Staff Finding 9:** The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. The proposal does not include any parking areas needing an easement. Access to the dwelling units will be via a shared driveway connected to 9<sup>th</sup> Street and permitted as part of a previously approved development review application (WAP-20-04/WRG-20-02/MIS-20-08) and located in a recorded egress/ingress easement (Clackamas County Document No. 2021-0471720, see Exhibit PD-2). The applicant shall show the egress/ingress easement on the face of the final plat and submit a copy of the private egress/ingress easement to confirm the newly created parcels have legal access rights to 9<sup>th</sup> Street prior to final plat approval by the City per Condition of Approval 6. Subject to the Conditions Approval, the criteria are met.

*(E) Any dedicated common area;*

**Staff Finding 10:** The applicant does not propose any dedicated common use area, therefore no easements are required. The criteria are met.

*(d) Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas; and*

**Staff Finding 11:** The applicant proposes the construction of a detached duplex as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a duplex as “Two attached or detached dwelling units on a lot or parcel in any

*configuration". The division of the lot under SB458 rules will result in one dwelling unit on each resulting parcel. No common areas are proposed. The criteria are met.*

*(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.*

**Staff Finding 12: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type. The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code, including provisions related to new property lines, from West Linn Building staff prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.**

*(3) A city or county may add conditions to the approval of a tentative plan for a middle housing land division to:*

*(a) Prohibit the further division of the resulting lots or parcels.*

**Staff Finding 13: The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. The applicant shall include on the face of the plat a notation prohibiting the further division of the resulting parcels under the provisions of SB458 per Condition of Approval 7. Subject to the Conditions of Approval, the criteria are met.**

*(b) Require that a notation appear on the final plat indicating that the approval was given under this section.*

**Staff Finding 14: The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. The applicant shall include on the face of the plat a notation indicating the approval was given under the provisions of SB458 per Condition of Approval 7. Subject to the Conditions of Approval, the criteria are met.**

*(4) In reviewing an application for a middle housing land division, a city or county:*

*(a) Shall apply the procedures under ORS 197.360 to 197.380.*

**Staff Finding 15: Please see Staff Findings 24 to 51. The criteria are met.**

*(b) May require street frontage improvements where a resulting lot or parcel abuts the street consistent with land use regulations implementing ORS 197.758.*

**Staff Finding 16: The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. Neither created parcel abuts a public street, therefore no street frontage improvements are required. However, the applicant is**

installing street frontage improvements on 9<sup>th</sup> Street adjacent to Lot D under the requirements of a previous development review approval (MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01). The criteria are met.

*(c) May not subject an application to approval criteria except as provided in this section, including that a lot or parcel require driveways, vehicle access, parking or minimum or maximum street frontage.*

**Staff Finding 17: The City has not applied any approval criteria except as provided in this section. The applicant has proposed utilizing a shared driveway for access. The criteria are met.**

*(d) May not subject the application to procedures, ordinances or regulations adopted under ORS 92.044 or 92.046 that are inconsistent with this section or ORS 197.360 to 197.380.*

**Staff Finding 18: The City has not applied any approval criteria that are inconsistent with this section or ORS 197.360 to 197.380. The criteria are met.**

*(e) May allow the submission of an application for a middle housing land division at the same time as the submission of an application for building permits for the middle housing.*

**Staff Finding 19: The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code, including provisions related to new property lines, from West Linn Building staff prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.**

*(f) May require the dedication of right of way if the original parcel did not previously provide a dedication.*

**Staff Finding 20: The subject property (Lot C) is not adjacent to a public right-of-way. The City requires no right-of-way dedication. The criteria are met.**

*(5) The type of middle housing developed on the original parcel is not altered by a middle housing land division.*

**Staff Finding 21: The applicant proposes the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. The type of middle housing, detached duplex, will not be altered by the land division. The criteria are met.**

*(6) Notwithstanding ORS 197.312 (5), a city or county is not required to allow an accessory dwelling unit on a lot or parcel resulting from a middle housing land division.*

**Staff Finding 22: The applicant does not propose an accessory dwelling unit on either parcel resulting from the land division. The criteria are met.**

*(7) The tentative approval of a middle housing land division is void if and only if a final subdivision or partition plat is not approved within three years of the tentative approval. Nothing in this section or ORS 197.360 to 197.380 prohibits a city or county from requiring a final plat before issuing building permits.*

**Staff Finding 23: The approval of the tentative plat (MIP-22-04) shall be void if the applicant does not record the final partition plat within three years of approval per Condition of Approval 8. Subject to the Conditions of Approval, the criteria are met.**

*197.360 "Expedited land division" defined; applicability.*

*(1) As used in this section:*

*(a) "Expedited land division" means a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that:*

**Staff Finding 24: The applicant proposes a middle housing development (see Staff Finding 1), which is eligible for an expedited land division under ORS 92.031, Middle Housing Land Division. The criteria are met.**

*(A) Includes only land that is zoned for residential uses and is within an urban growth boundary.*

*(B) Is solely for the purposes of residential use, including recreational or open space uses accessory to residential use.*

**Staff Finding 25: The subject property is zoned Residential, R-10 and within the Portland Metropolitan Area Urban Growth Boundary. The applicant proposes development of a detached duplex, which is a residential use. No open space or recreational uses are proposed. The criteria are met.**

*(C) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect:*

*(i) Open spaces, scenic and historic areas and natural resources;*

*(ii) The Willamette River Greenway;*

**Staff Finding 26: The subject property (Lot C) is located within the Willamette River Greenway (WRG) and contains a wetland and associated Water Resource Area (WRA) buffer on the north portion of the property. Development within the WRG in the City of West Linn is regulated by the adopted Habitat Conservation Area (HCA) map and the associated value of the habitat identified on a property. The majority of Lot C contains no high, medium, or low value HCA and has no development restriction, including the area proposed for construction of the detached duplex. A small portion of high value HCA is found along the west property line and no development is proposed in this area as it overlaps with the delineated wetland. A small portion of medium value HCA is found in the southeast corner of Lot C and southern portion of Lot D. This medium value HCA was removed from the map, under the rules found**



in West Linn Community Development Code Chapter 28, as part of a previously approved development application (MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01) because existing site conditions did not meet the definition of medium value HCA. This determination was due to impacts from adjacent development, which were mitigated as part of WAP-20-04/WRG-20-02/MIS-20-08 approval, construction of the home at 1088 9<sup>th</sup> Street, and historic use of the property altering its HCA value through removal of tree canopy and planting of a non-native landscape lawn. The WRA buffer associated with the delineated wetland along the northern portion of Lot C was reduced to 25 feet, under the rules found in West Linn Community Development Code Chapter 32, as part of application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01 and will be replanted to restore its functional value after serving as a horse pasture and riding area for the previous 25 years. As shown on the Tentative Plan in Exhibit PD-1, the detached duplex will be constructed outside of the WRA buffer. The criteria are met.

- (iii) Estuarine resources;*
- (iv) Coastal shorelands; and*
- (v) Beaches and dunes.*

**Staff Finding 27: The subject property does not contain any estuarine resources, coastal shorelands, or beaches and dunes. The criteria are met.**

*(D) Satisfies minimum street or other right-of-way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules.*

**Staff Finding 28: Existing development patterns and adjacent wetlands prohibit street connectivity in the vicinity of the subject property. The 2016 West Linn Transportation System Plan does not include any connectivity projects adjacent to the subject property. The criteria are met.**

- (E) Will result in development that either:*
- (i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or*
  - (ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.*

**Staff Finding 29: The subject property (Lot C) is approximately 33,467 sq. ft. and zoned Residential, R-10, which requires a minimum lot size of 10,000 sq. ft. Lot C contains a wetland and associated 25 foot Water Resource Area (WRA) buffer on the north portion of the property as established in previously approved development application MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01. The wetland and WRA buffer are defined as Type II lands in West Linn Community Development Code (CDC) Chapter 2 and comprise 15,896 sq. ft. of the property. CDC Chapter 85 regulates land divisions within West Linn and outlines the process to calculate maximum density. Type II lands are removed from the gross acreage per CDC**

**85.200.A(1) to determine net developable area. Lot C has a net developable area of 17,570 sq. ft. (33,467 sq. ft. minus 15,896 sq. ft.) Maximum density under a traditional CDC Chapter 85 land division would allow one dwelling unit (17,570 sq. ft. divided by 10,000 sq. ft. = 1.76 dwelling units) as calculations are rounded down.**

**The applicant proposes a detached duplex middle housing development (see Staff Finding 1), which is eligible for an expedited land division under ORS 92.031, Middle Housing Land Division. The middle housing development will result in two dwelling units, which is 200 percent of the maximum density currently permitted on the subject property. The criteria are met.**

*(b) "Expedited land division" includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in paragraph (a) of this subsection.*

**Staff Finding 30: The applicant proposes an expedited land division that creates two parcels under ORS 92.031. The proposal meets the criteria set forth in paragraph (a), see Staff Findings 24 to 29. The criteria are met.**

*(2) An expedited land division as described in this section is not a land use decision or a limited land use decision under ORS 197.015 or a permit under ORS 215.402 or 227.160.*

**Staff Finding 31: The City and applicant acknowledge an expedited land division is not a land use decision or limited land use decision under ORS 197.015 or a permit under ORS 215.402 or ORS 227.160. The criteria are met.**

*(3) The provisions of ORS 197.360 to 197.380 apply to all elements of a local government comprehensive plan and land use regulations applicable to a land division, including any planned unit development standards and any procedures designed to regulate:*

*(a) The physical characteristics of permitted uses;*

*(b) The dimensions of the lots or parcels to be created; or*

*(c) Transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.*

**Staff Finding 32: The applicant proposes middle housing on the subject property through the construction of a detached duplex on Lot C, including the division of the lot as allowed by SB458. The City has applied the approval criteria of ORS 92.031, including the physical characteristics of the development (see Staff Finding 3), the dimensions of the parcels to be created (see Staff Findings 6, 7, 9, and 29), and required facilities and services necessary for the proposed development (see Staff Findings 5, 6, 7, 9, 16, and 20). The criteria are met.**

*(4) An application for an expedited land division submitted to a local government shall describe the manner in which the proposed division complies with each of the provisions of subsection (1) of this section.*

**Staff Finding 33: The application was submitted on October 20, 2022 and deemed complete by the City on November 8, 2022. The criteria are met.**

197.365 Application; notice to neighbors; comment period.

*Unless the applicant requests to use the procedure set forth in a comprehensive plan and land use regulations, a local government shall use the following procedure for an expedited land division, as described in ORS 197.360, or a middle housing land division under ORS 92.031:*

*(1)(a) If the application for a land division is incomplete, the local government shall notify the applicant of exactly what information is missing within 21 days of receipt of the application and allow the applicant to submit the missing information. For purposes of computation of time under this section, the application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.*

**Staff Finding 34: The applicant did not request to use the procedures outlined in the West Linn Community Development Code, therefore the City processed the application as an expedited land division. The application was submitted on October 20, 2022 and deemed complete by the City on November 8, 2022. The criteria are met.**

*(b) If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.*

**Staff Finding 35: The application was submitted on October 20, 2022 and deemed complete by the City on November 8, 2022. Approval of the application is based on the standards and criteria found in ORS 92.031 that were applicable on October 20, 2022. The criteria are met.**

*(2) The local government shall provide written notice of the receipt of the completed application for a land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.*

**Staff Finding 36: The City provided written notice of the receipt of a completed application to all state agencies, local governments, and special districts responsible for providing public facilities or services on November 30, 2022. The City provide written notice to property owners within 100 feet of the entire contiguous site, compiled from the most recent property owner information available, on November 30, 2022. The City provide written notice to the**

**Willamette Neighborhood Association on November 30, 2022. The affidavit of public notice is found in Exhibit PD-6. The criteria are met.**

*(3) The notice required under subsection (2) of this section shall:*

*(a) State:*

*(A) The deadline for submitting written comments;*

*(B) That issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and*

*(C) That issues must be raised with sufficient specificity to enable the local government to respond to the issue.*

*(b) Set forth, by commonly used citation, the applicable criteria for the decision.*

*(c) Set forth the street address or other easily understood geographical reference to the subject property.*

*(d) State the place, date and time that comments are due.*

*(e) State a time and place where copies of all evidence submitted by the applicant will be available for review.*

*(f) Include the name and telephone number of a local government contact person.*

*(g) Briefly summarize the local decision-making process for the land division decision being made.*

**Staff Finding 37: The City provided written notice in compliance with subsection (3). A copy of the notice is found in Exhibit PD-6. The criteria are met.**

*(4) After notice under subsections (2) and (3) of this section, the local government shall:*

*(a) Provide a 14-day period for submission of written comments prior to the decision.*

**Staff Finding 38: The City provided written notice under subsections (2) and (3) on November 30, 2022, with a deadline for submission of written comments on December 14, 2022. This provided a 14-day period. A copy of the notice is found in Exhibit PD-6. The criteria are met.**

*(b) Make a decision to approve or deny the application within 63 days of receiving a completed application, based on whether it satisfies the substantive requirements of the applicable land use regulations. An approval may include conditions to ensure that the application meets the applicable land use regulations. For applications subject to this section, the local government:*

**Staff Finding 39: The application was submitted on October 20, 2022 and deemed complete by the City on November 8, 2022. The City approved the application with conditions on January 10, 2023, the 63<sup>rd</sup> day after deeming the application complete. The criteria are met.**

*(A) Shall not hold a hearing on the application; and*

*(B) Shall issue a written determination of compliance or noncompliance with applicable land use regulations that includes a summary statement explaining the determination. The summary statement may be in any form reasonably intended to communicate the local government's basis for the determination.*

**Staff Finding 40: The City did not hold a hearing on the application. The City issued the Planning Manager decision with a summary statement explaining the determination. The criteria are met.**

*(c) Provide notice of the decision to the applicant and to those who received notice under subsection (2) of this section within 63 days of the date of a completed application. The notice of decision shall include:*

- (A) The summary statement described in paragraph (b)(B) of this subsection; and*
- (B) An explanation of appeal rights under ORS 197.375.*

**Staff Finding 41: The City provided notice of the decision to the applicant and those who received notice under subsection (2) on January 10, 2023, the 63<sup>rd</sup> day after deeming the application complete. The notice of decision included the summary statement and an explanation of appeal rights. The criteria are met.**

*197.370 Failure of local government to timely act on application.*

*(1) Except as provided in subsection (2) of this section, if the local government does not make a decision on an expedited land division or a middle housing land division, as defined in ORS 92.031, within 63 days after the application is deemed complete, the applicant may apply in the circuit court for the county in which the application was filed for a writ of mandamus to compel the local government to issue the approval. The writ shall be issued unless the local government shows that the approval would violate a substantive provision of the applicable land use regulations or the requirements of ORS 92.031 or 197.360. A decision of the circuit court under this section may be appealed only to the Court of Appeals.*

*(2) After seven days' notice to the applicant, the governing body of the local government may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division or a middle housing land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 92.031 and 197.360 to 197.380, including the mandamus remedy provided by subsection (1) of this section, shall remain applicable to the land division, except that the extended period shall be substituted for the 63-day period wherever applicable.*

*(3) The decision to approve or not approve an extension under subsection (2) of this section is not a land use decision or limited land use decision.*

**Staff Finding 42: The City acted in a timely manner and made the decision within the 63 day time period. The criteria are met.**

*197.375 Appeal of local government to referee; Court of Appeals.*

*(1) An appeal of a decision made under ORS 197.360 and 197.365 or under ORS 92.031 and 197.365 shall be made as follows:*

*(a) An appeal must be filed with the local government within 14 days of mailing of the notice of the decision under ORS 197.365 (4) and shall be accompanied by a \$300 deposit for costs.*

*(b) A decision may be appealed by:*

*(A) The applicant; or*

*(B) Any person or organization who files written comments in the time period established under ORS 197.365.*

*(c) An appeal shall be based solely on allegations:*

*(A) Of violation of the substantive provisions of the applicable land use regulations;*

*(B) Of unconstitutionality of the decision;*

*(C) That the application is not eligible for review under ORS 92.031 or 197.360 to 197.380 and should be reviewed as a land use decision or limited land use decision; or*

*(D) That the parties' substantive rights have been substantially prejudiced by an error in procedure by the local government.*

**Staff Finding 43: The applicant acknowledges and understands the appeal rights and process. If appealed, the City will follow the expedited land division appeal process and criteria. The criteria are applicable upon appeal.**

*(2) The local government shall appoint a referee to decide the appeal of a decision made under this section. The referee may not be an employee or official of the local government. However, a local government that has designated a hearings officer under ORS 215.406 or 227.165 may designate the hearings officer as the referee for appeals of a decision made under ORS 197.360 and 197.365.*

**Staff Finding 44: The applicant acknowledges and understands the appeal procedures. If appealed, the City will follow the expedited land division appeal process and criteria, including the appointment of a referee to decide the appeal.**

*(3) Within seven days of being appointed to decide the appeal, the referee shall notify the applicant, the local government, the appellant if other than the applicant, any person or organization entitled to notice under ORS 197.365 (2) that provided written comments to the local government and all providers of public facilities and services entitled to notice under ORS 197.365 (2) and advise them of the manner in which they may participate in the appeal. A person or organization that provided written comments to the local government but did not file an appeal under subsection (1) of this section may participate only with respect to the issues raised in the written comments submitted by that person or organization. The referee may use any procedure for decision-making consistent with the interests of the parties to ensure a fair opportunity to present information and argument. The referee shall provide the local government an opportunity to explain its decision, but is not limited to reviewing the local government decision and may consider information not presented to the local government.*

**Staff Finding 45: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.**

*(4)(a) The referee shall apply the substantive requirements of the applicable land use regulations and ORS 92.031 or 197.360. If the referee determines that the application does not qualify as an expedited land division or a middle housing land division, as defined in ORS 92.031, the referee shall remand the application for consideration as a land use decision or limited land use decision. In all other cases, the referee shall seek to identify means by which the application can satisfy the applicable requirements.*

*(b) For an expedited land use division, the referee may not reduce the density of the land division application.*

*(c) The referee shall make a written decision approving or denying the application or approving it with conditions designed to ensure that the application satisfies the land use regulations, within 42 days of the filing of an appeal. The referee may not remand the application to the local government for any reason other than as set forth in this subsection.*

**Staff Finding 46: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.**

*(5) Unless the governing body of the local government finds exigent circumstances, a referee who fails to issue a written decision within 42 days of the filing of an appeal shall receive no compensation for service as referee in the appeal.*

**Staff Finding 47: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.**

*(6) Notwithstanding any other provision of law, the referee shall order the local government to refund the deposit for costs to an appellant who materially improves his or her position from the decision of the local government. The referee shall assess the cost of the appeal in excess of the deposit for costs, up to a maximum of \$500, including the deposit paid under subsection (1) of this section, against an appellant who does not materially improve his or her position from the decision of the local government. The local government shall pay the portion of the costs of the appeal not assessed against the appellant. The costs of the appeal include the compensation paid the referee and costs incurred by the local government, but not the costs of other parties.*

**Staff Finding 48: If appealed, the referee appointed by the City will follow the expedited land division appeal process and criteria.**

*(7) The Land Use Board of Appeals does not have jurisdiction to consider any decisions, aspects of decisions or actions made under ORS 92.031 or 197.360 to 197.380.*

**Staff Finding 49: The applicant acknowledges and understands the Land Use Board of Appeals does not have jurisdiction over this decision.**

*(8) Any party to a proceeding before a referee under this section may seek judicial review of the referee's decision in the manner provided for review of final orders of the Land Use Board of Appeals under ORS 197.850 and 197.855. The Court of Appeals shall review decisions of the*

*referee in the same manner as provided for review of final orders of the Land Use Board of Appeals in those statutes. However, notwithstanding ORS 197.850 (9) or any other provision of law, the court shall reverse or remand the decision only if the court finds:*

*(a) That the decision does not concern an expedited land division as described in ORS 197.360 or middle housing land division as defined in ORS 92.031 and the appellant raised this issue in proceedings before the referee;*

*(b) That there is a basis to vacate the decision as described in ORS 36.705 (1)(a) to (d), or a basis for modification or correction of an award as described in ORS 36.710; or*

*(c) That the decision is unconstitutional.*

**Staff Finding 50: The applicant acknowledges and understands the right to seek judicial review of the referee's decision.**

**197.380 Application fees.**

*Each city and county shall establish application fees for an expedited land division and a middle housing land division, as defined in ORS 92.031. The fees must be set at a level calculated to recover the estimated full cost of processing an application, including the cost of appeals to the referee under ORS 197.375, based on the estimated average cost of such applications. Within one year of establishing a fee under this section, the city or county shall review and revise the fee, if necessary, to reflect actual experience in processing applications under ORS 92.031 and 197.360 to 197.380.*

**Staff Finding 51: The City has an adopted fee schedule, including for expedited land divisions. The applicant paid the fee at the time of submittal. The criteria are met.**



**EXHIBIT PD-1 APPLICANT SUBMITTAL**

## DEVELOPMENT REVIEW APPLICATION

For Office Use Only			
STAFF CONTACT	Wyss	PROJECT NO(S)	MIP-22-04
		PRE-APPLICATION NO.	
		n/a	
NON-REFUNDABLE FEE(S)	\$0	REFUNDABLE DEPOSIT(S)	TOTAL
		\$2,800	\$2,800

**Type of Review** (Please check all that apply):     Expedited Land Division

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

Pre-Application, Home Occupation, Sidewalk Use, Addressing, and Sign applications require different forms, available on the City website.

<b>Site Location/Address:</b>	<b>Assessor's Map No.:</b> 31E02AC
Part of (Tract C) 1220 9th Street	<b>Tax Lot(s):</b> Part of TL 300 (Tract C)
	<b>Total Land Area:</b> 33,467 Sq. Ft.

**Brief Description of Proposal:**

Divide Tract C into two parcels in conjunction with development of detached duplexes (middle housing) on each parcel.

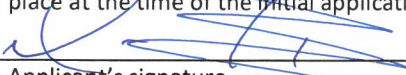
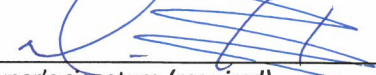
<b>Applicant Name:</b> Icon Construction & Development, LLC <small>(please print)</small>	Phone: (503) 657-0406
Address: 1969 Willamette Falls Dr., Suite 260	Email: darren@iconconstruction.net
City State Zip: West Linn, OR 97068	

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

<b>Consultant Name:</b> Rick Givens, Planning Consultant <small>(please print)</small>	Phone: 503-351-8204
Address: 292 W Sunrise Vista Dr.	Email: rickgivens@gmail.com
City State Zip: Green Valley, AZ 85614	

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. 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.

 Applicant's signature	10/20/22 Date	 Owner's signature (required)	10/20/22 Date
--	------------------	--	------------------

## 1220 9th Street (Tract C) ELD Partition

Icon Construction & Development, LLC

### Introduction:

This application requests approval of a middle housing land division, pursuant to the provisions of SB 458, to divide Tract C of TL 31E02AC 300 into two parcels. Each parcel will contain one unit of a detached duplex. Note that TL 300 is comprised of two legal lots of record, Tract C and Tract D, and that a partition was approved earlier this year to divide Tract D into three parcels (MIP-22-01/WAP-22-01/MISC-22-06/WRG-22-01). That decision also approved a Water Resource Area Permit that established a modified wetlands buffer that is applicable to both Tracts C and D.

Consistent with the provisions of SB 458, this proposed middle housing land division application will make use of the Expedited Land Division procedures set forth in ORS 197.360. The subject property is accessed via a private driveway from 9<sup>th</sup> Street on the vacated former right-of-way of 3<sup>rd</sup> Avenue. This driveway also serves Parcel 3 of the Tract D partition and an existing single-family home on property to the south of the subject property. This private driveway will be extended to serve the two new parcels.



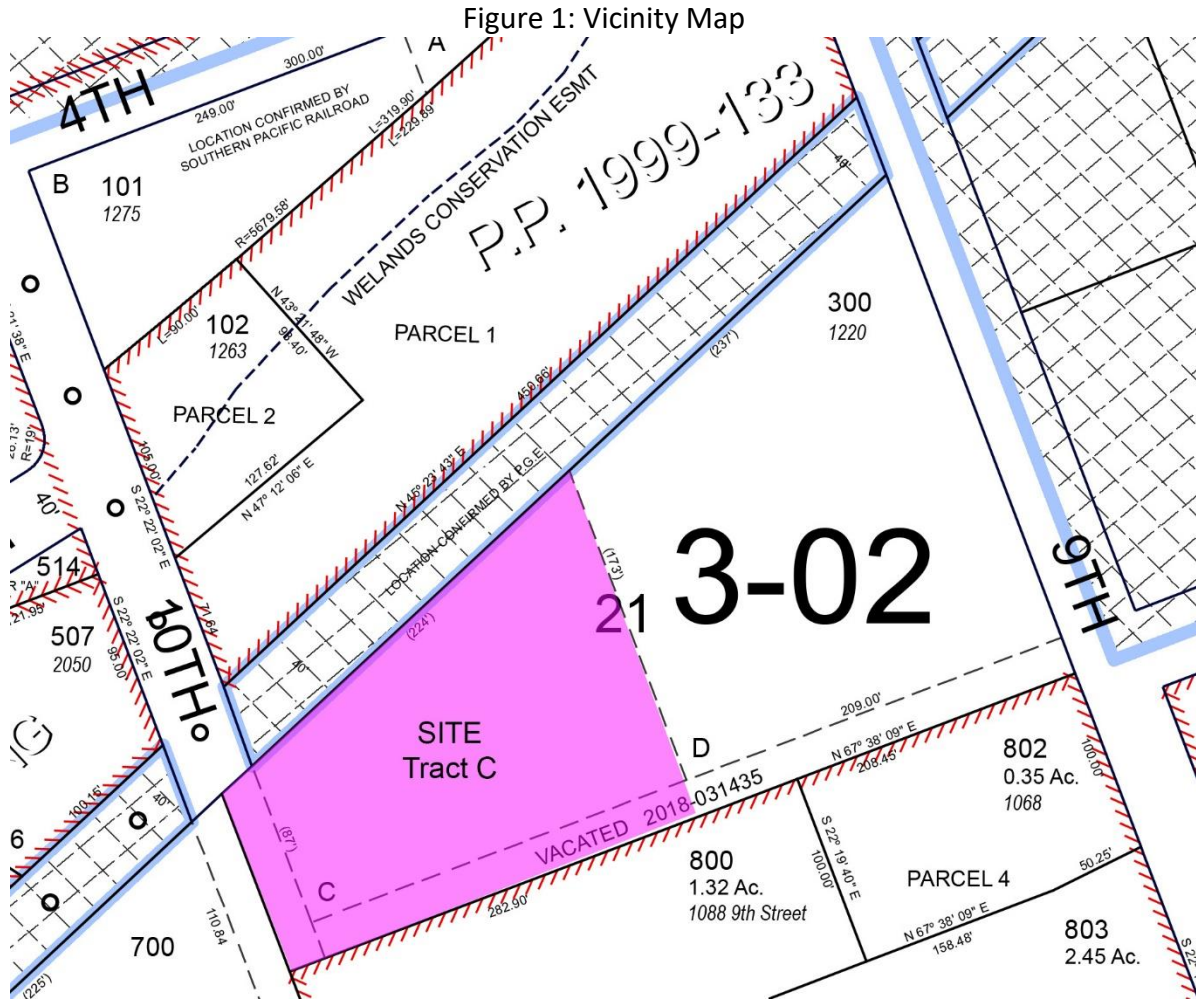


Figure 2: Assessor's Map

**Compliance with Approval Criteria:**

The approval criteria relevant to this application are found in Section 2 of SB 458.

**SECTION 2.**

(1) As used in this section, "middle housing land division" means a partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758 (2) or (3).

Comment: This application involves detached duplexes, one of which will be located on each lot. Duplexes are middle housing pursuant to the definitions in ORS 197.758(1). The proposed partition is located on property that allows for the development of middle housing under standards adopted by the City of West Linn.

(2) A city or county shall approve a tentative plan for a middle housing land division if the application includes:

(a) A proposal for development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot or parcel allowed under ORS 197.758 (5);

Comment: The proposed parcels will be developed with detached duplex units. Application for building permits will be submitted separately and they will demonstrate compliance with the Oregon residential specialty code.

ORS 197.758(5) states:

*“Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.”*

Comment: The City of West Linn adopted Ordinance 1736 this year to provide for compliance with state requirements for middle housing. The new standards allow for middle housing in all residential districts, including the R-10 district applicable to the subject property. The only limitations provided in the updated standards are dimensional requirements that do not discourage development of middle housing. The dimensional standards are:

STANDARD	REQUIREMENT	ADDITIONAL NOTES	COMMENT
Minimum lot size	10,000 SF	For a single-family attached or detached unit.	Not applicable to detached duplexes, but both parcels exceed 10,000 sq. ft.
Average min. Lot or Parcel size for a Townhouse Project	1,500 SF		Not applicable to detached duplexes.
Minimum lot width at front lot line	35 ft.	Does not apply to Townhouses or Cottage Clusters.	The minimum lot width at the front lot line is 67.5 feet (Parcel 1).
Average Minimum lot width	50 ft.	Does not apply to Townhouses or Cottage Clusters.	The minimum average lot width proposed is 67.5 feet (Parcel 1).
Minimum Yard Dimensions or Minimum building setbacks		Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District.  Front, rear, and side yard setbacks for in a Cottage	

		<i>Cluster Project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.</i>	
<i>Front Yard</i>	<i>20 ft</i>	<i>Except for steeply sloped lots where the provisions of CDC 41.010 shall apply.</i>	The proposed minimum front yard setback is 20 feet.
<i>Interior Side Yard</i>	<i>7.5 ft</i>	<i>Townhouse common walls that are attached may have a 0 ft side setback.</i>	This standard is not applicable to duplex units. A 5' setback is proposed.
<i>Street Side Yard</i>	<i>15 ft</i>		Not applicable. No street side yards exist in this proposal.
<i>Rear Yard</i>	<i>20 ft</i>		The minimum rear yards proposed exceed 20 feet.
<i>Maximum Building Height</i>	<i>35 ft</i>	<i>Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.</i>	The proposed dwelling units will conform to the maximum 35' height standard. This will be reviewed with the building permit application.
<i>Maximum Lot Coverage</i>	<i>35%</i>	<p><i>Maximum lot cover does not apply to Cottage Clusters. However, the maximum building footprint for a Cottage Cluster is less than 900 sf per dwelling unit.</i></p> <ul style="list-style-type: none"> <li>• <i>This does not include detached garages, carports, or accessory structures.</i></li> <li>• <i>A developer may deduct up to 200 sf for an attached garage or carport.</i></li> </ul>	Proposed building envelopes for both parcels are shown on the site plan. The maximum lot coverage for Parcel 1 is 27.3% and for Parcel 2 is 11.7%.
<i>Minimum Accessway Width to a lot which does not abut a street or a flag lot</i>	<i>15 ft</i>		The proposed accessway easement has a minimum width of 20 feet.
<i>Maximum Floor Area Ratio</i>	<i>0.45</i>	<i>Max FAR does not apply to cottage clusters.</i>	Not applicable to duplexes.
<i>Duplex, Triplex, and Quadplex</i>	<i>0.60</i>	<i>Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall</i>	The lot area, excluding Type I and II lands for Parcel 1 is 8,427 sq. ft. This means the maximum floor area allowed at an FAR of .6 would be 5,056 sq. ft. For Parcel 2, the non-Type 1 & 2 lot area is 9,124 sq. ft., yielding a maximum floor area of 5,474 sq. ft. Compliance will be

		<i>be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.</i>	demonstrated with the building permit application.
--	--	--	--

*(b) Separate utilities for each dwelling unit;*

Comment: Each unit of the detached duplex will have separate utilities.

*(c) Proposed easements necessary for each dwelling unit on the plan for:*

*(A) Locating, accessing, replacing and servicing all utilities;*

Comment: Each unit is on a separate lot and all utilities serving the homes are either on the proposed lots or within utility easements that protect the required access.

*(B) Pedestrian access from each dwelling unit to a private or public road;*

Comment: The access easements provide for pedestrian access to the private road serving these lots.

*(C) Any common use areas or shared building elements;*

Comment: Not applicable. There will be no common use areas or shared building elements.

*(D) Any dedicated driveways or parking; and*

Comment: Each parcel will have a driveway providing for parking for a minimum of two vehicles plus an attached garage providing parking for an additional two vehicles.

*(E) Any dedicated common area;*

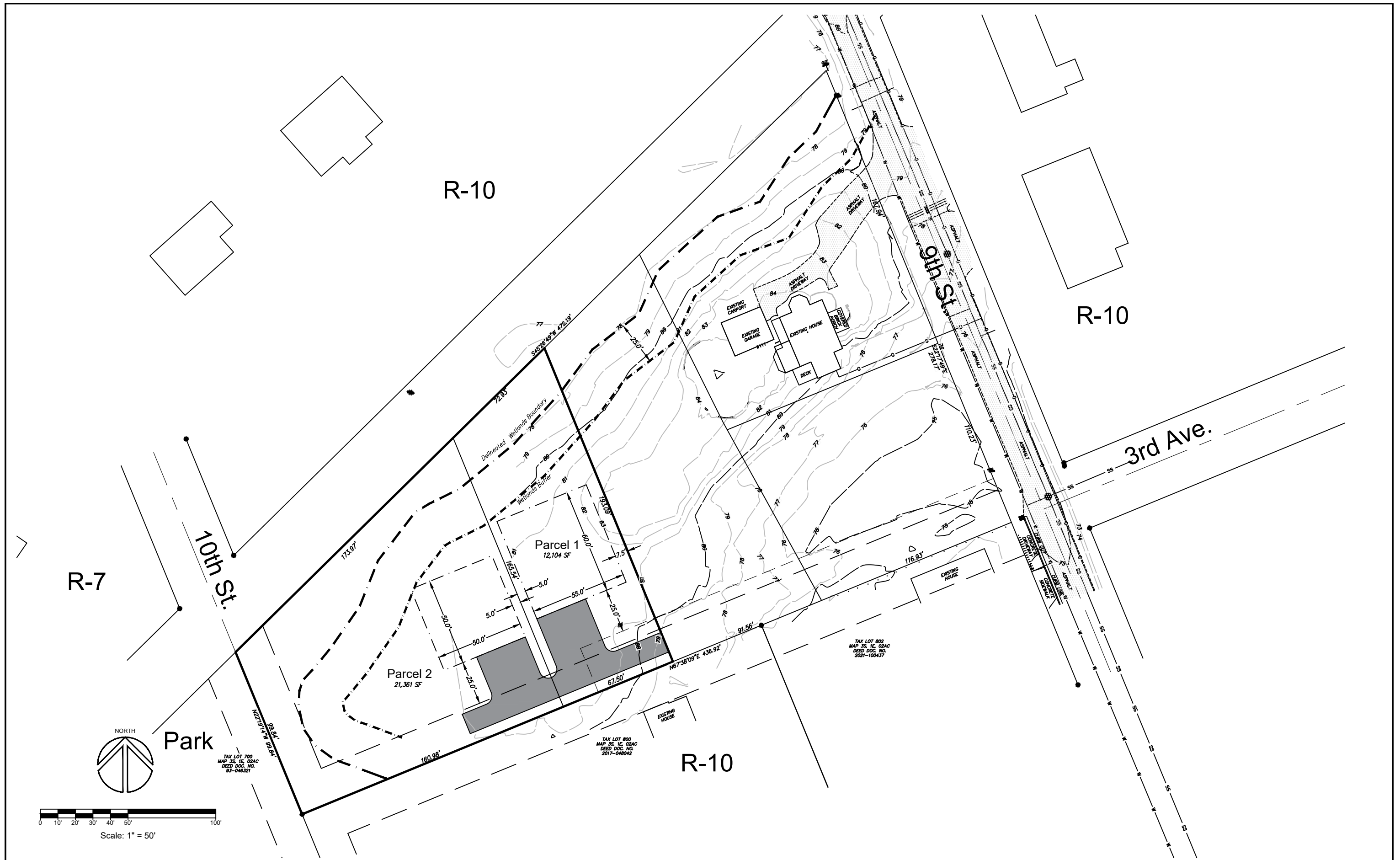
Comment: No dedicated common areas are proposed.

*(d) Exactly one dwelling unit on each resulting lot or parcel, except for lots, parcels or tracts used as common areas; and*

Comment: Both parcels will be developed with exactly one dwelling unit.

*(e) Evidence demonstrating how buildings or structures on a resulting lot or parcel will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots or parcels, how structures or buildings located on the newly created lots or parcels will comply with the Oregon residential specialty code.*

Comment: The plans and other materials required to demonstrate compliance with this requirement will be provided with the building permit applications.



DESIGNED:	R.E.G.			
DRAWN:	R.E.G.			
SCALE:	1" = 50'			
DATE:	10-6-2022			
FILE:	21-ICN-105	DATE	NO.	REVISION

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

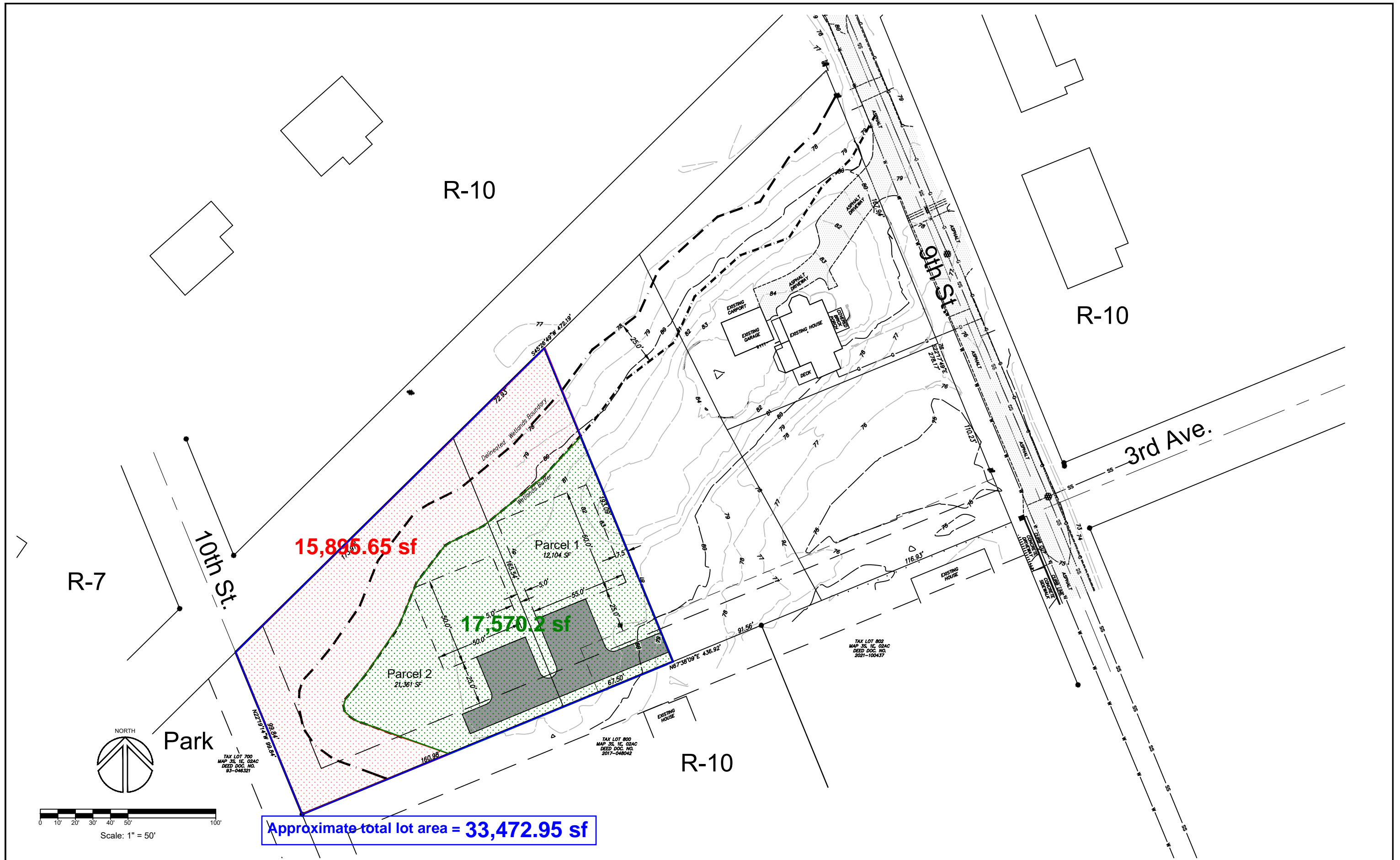
APPLICANT: Icon Construction & Development, LLC  
 1969 Willamette Falls Dr # 260  
 West Linn, OR 97068  
 PH: (503) 657-0406

1220 9th St. Tract C Partition  
 Tentative Plan

SHEET:  
 1/1



**EXHIBIT PD-2 WETLAND BOUNDARY AND WATER RESOURCE AREA  
(WAP-22-01)**



15,895.65 sf

17,570.2 sf

Approximate total lot area = 33,472.95 sf

DESIGNED:	R.E.G.			
DRAWN:	R.E.G.			
SCALE:	1" = 50'			
DATE:	10-6-2022			
FILE:	21-ICN-105	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 # 260  
 West Linn, OR 97068  
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 Tentative Plan

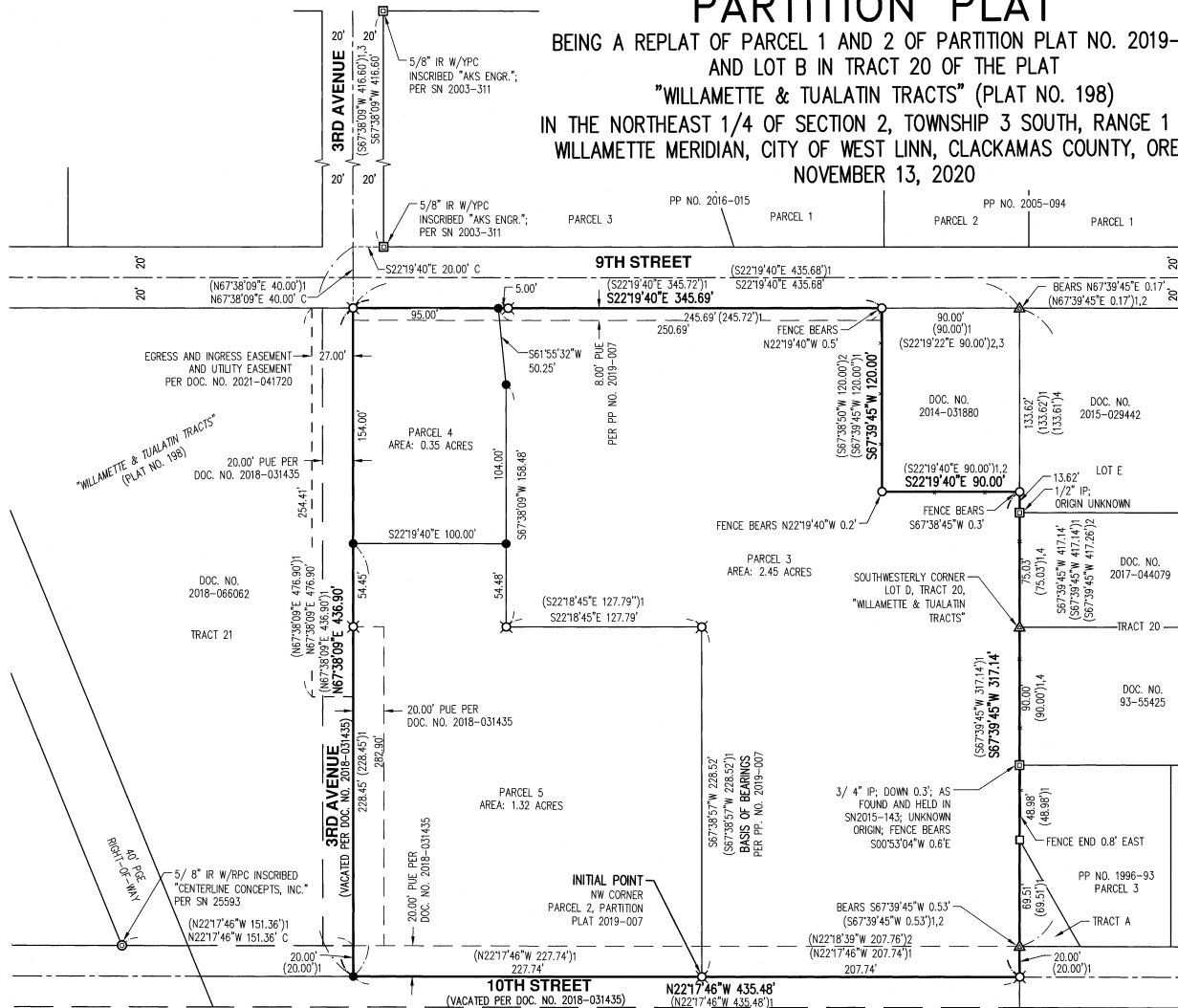
SHEET:  
 1/1

## **EXHIBIT PD-3 PROPERTY MAPS**

# PARTITION PLAT

BEING A REPLAT OF PARCEL 1 AND 2 OF PARTITION PLAT NO. 2019-007  
AND LOT B IN TRACT 20 OF THE PLAT  
"WILLAMETTE & TUALATIN TRACTS" (PLAT NO. 198)  
IN THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 1 EAST,  
WILLAMETTE MERIDIAN, CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON  
NOVEMBER 13, 2020

PARTITION PLAT NO. 2021-043  
SHEET 1 OF 2



## LEGEND

- SET 5/8" X 30" IRON ROD W/YPC INSCRIBED "AKS ENGR." ON: 11/13/2020
  - FOUND 5/8" IRON ROD W/YPC INSCRIBED "GAYLORD PLS 929"; PER PP NO. 1996-93; HELD UNLESS NOTED OTHERWISE
  - FOUND 5/8" IRON ROD W/YPC INSCRIBED "AKS ENGR."; PER SN 2003-012; HELD UNLESS NOTED OTHERWISE
  - △ FOUND 5/8" IRON ROD W/YPC INSCRIBED "AKS ENGR."; PER SN 29249; HELD UNLESS NOTED OTHERWISE
  - ▲ FOUND 3/4" IP; PER THE PLAT "WILLAMETTE & TUALATIN TRACTS" PLAT NO. (198); HELD UNLESS NOTED OTHERWISE
  - ⊙ FOUND 5/8" IRON ROD W/RPC INSCRIBED "CENTERLINE CONCEPTS"; PER PS 25593; HELD UNLESS NOTED OTHERWISE
  - ⊗ FOUND 5/8" IRON ROD W/YPC INSCRIBED "AKS ENGR."; PER PP NO. 2019-007; HELD UNLESS NOTED OTHERWISE
  - ⊠ DENOTES FOUND MONUMENT AS NOTED; HELD UNLESS NOTED OTHERWISE
- DOC. NO. DOCUMENT NUMBER PER CLACKAMAS COUNTY DEED RECORDS
- IP IRON PIPE
- IR IRON ROD
- W/RPC WITH A RED PLASTIC CAP
- W/YPC WITH A YELLOW PLASTIC CAP
- PP NO. PARTITION PLAT NUMBER PER CLACKAMAS COUNTY SURVEY RECORDS
- SN SURVEY NUMBER PER CLACKAMAS COUNTY SURVEY RECORDS
- PUE PUBLIC UTILITY EASEMENT
- C CALCULATED DISTANCE

## REFERENCES

- (1) RECORD INFORMATION PER PP NO. 2019-007
- (2) RECORD INFORMATION PER SN 2003-012
- (3) RECORD INFORMATION PER SN 2003-311
- (4) RECORD INFORMATION PER SN 2015-143

## NOTES

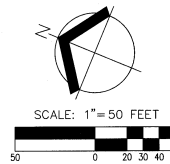
1. FOUND AND SET MONUMENTS ARE CONSIDERED FLUSH UNLESS NOTED OTHERWISE

6-17-2021  
REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON  
MARCH 14, 2017  
BENJAMIN R HUFF  
84738PLS  
RENEWS: 6/30/21

## PREPARED FOR

MALIBAR GROUP LLC,  
RETIREMENT PLAN FBO  
ROY MARVIN  
615 NW TERRITORIAL ROAD  
CANBY, OR 97013



JOB NAME:	1220 9TH ST
JOB NUMBER:	5926
DRAWN BY:	MTB / AK
CHECKED BY:	BRH
DRAWING NO.:	20200709 PPLAT

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



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

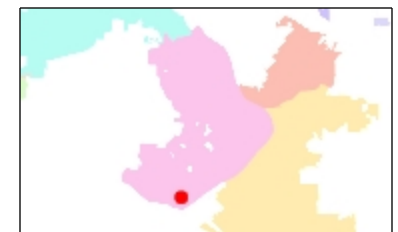
**Legend**

- Address dissolved 0-5K
- Approximate Historic Lot Line
- Habitat Conservation Areas
  - High
  - Moderate
  - Low
  - Not Designated as HCA
- Unofficial Tax Lots

0 0.02 0.03 Miles

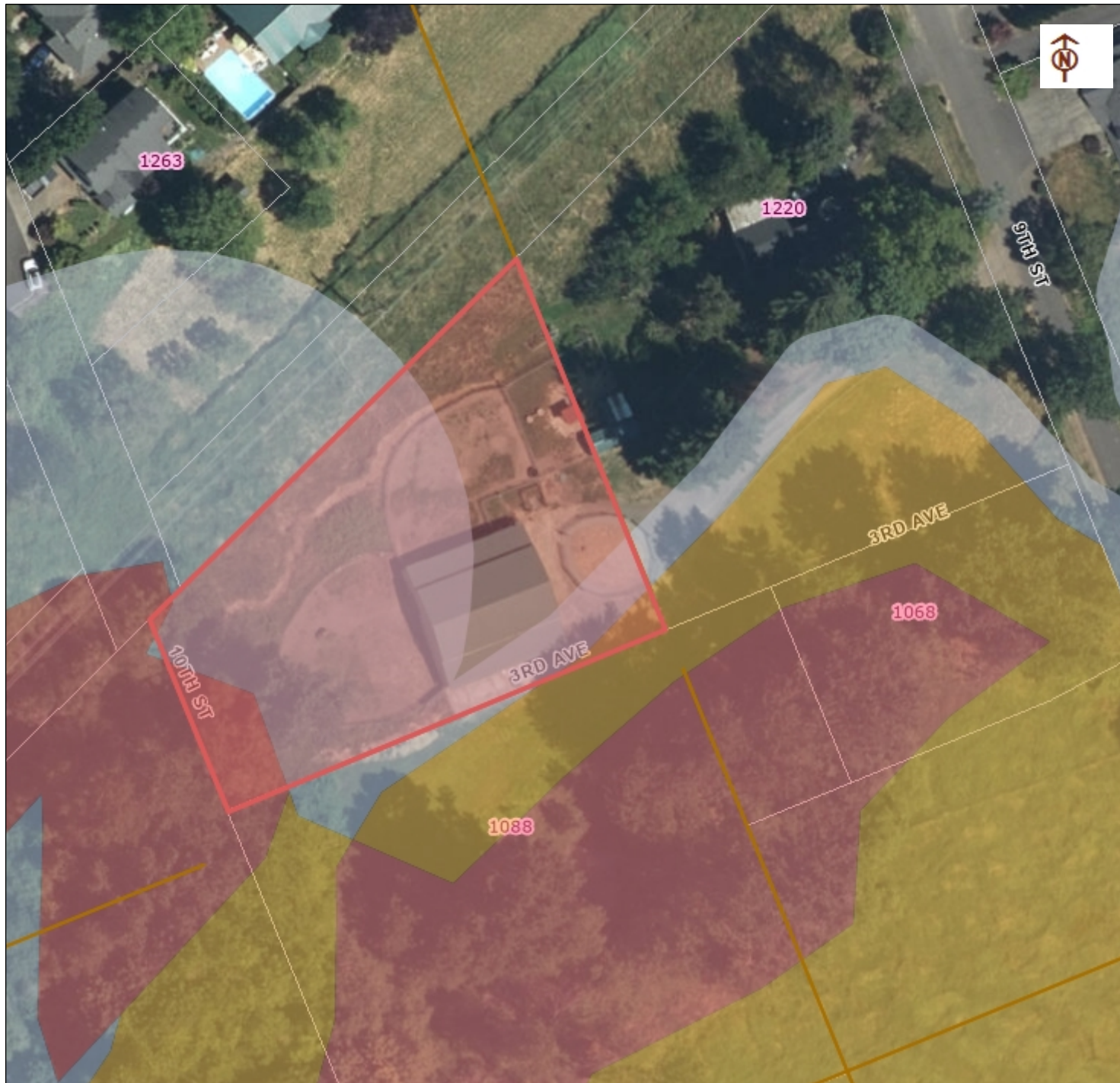


1: 1,200



**Notes**

This map was automatically generated using Geocortex Essentials.



3 1 E 02AC  
WEST LINN

S.W.1/4 N.E.1/4 SEC.2 T.3S. R.1E. W.M.  
CLACKAMAS COUNTY

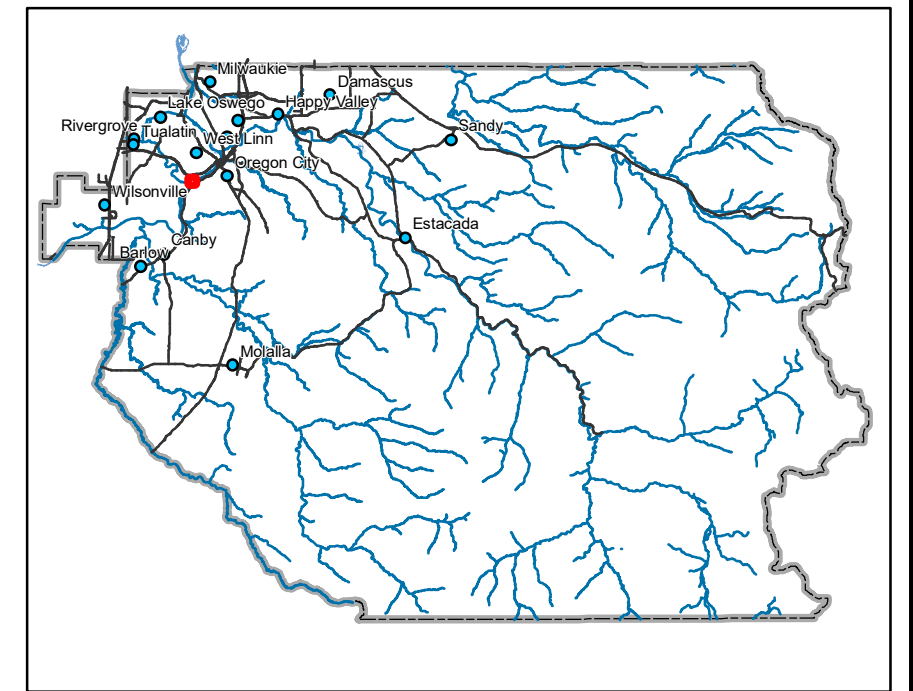
1" = 100'

D. L. C.  
AMBROSE FIELDS NO. 52

Cancelled Taxlots

- 200
- 600
- 500U1
- 590U1
- 590U2
- 502
- 190
- 501
- 509
- 1200
- 400
- 1204
- 1206

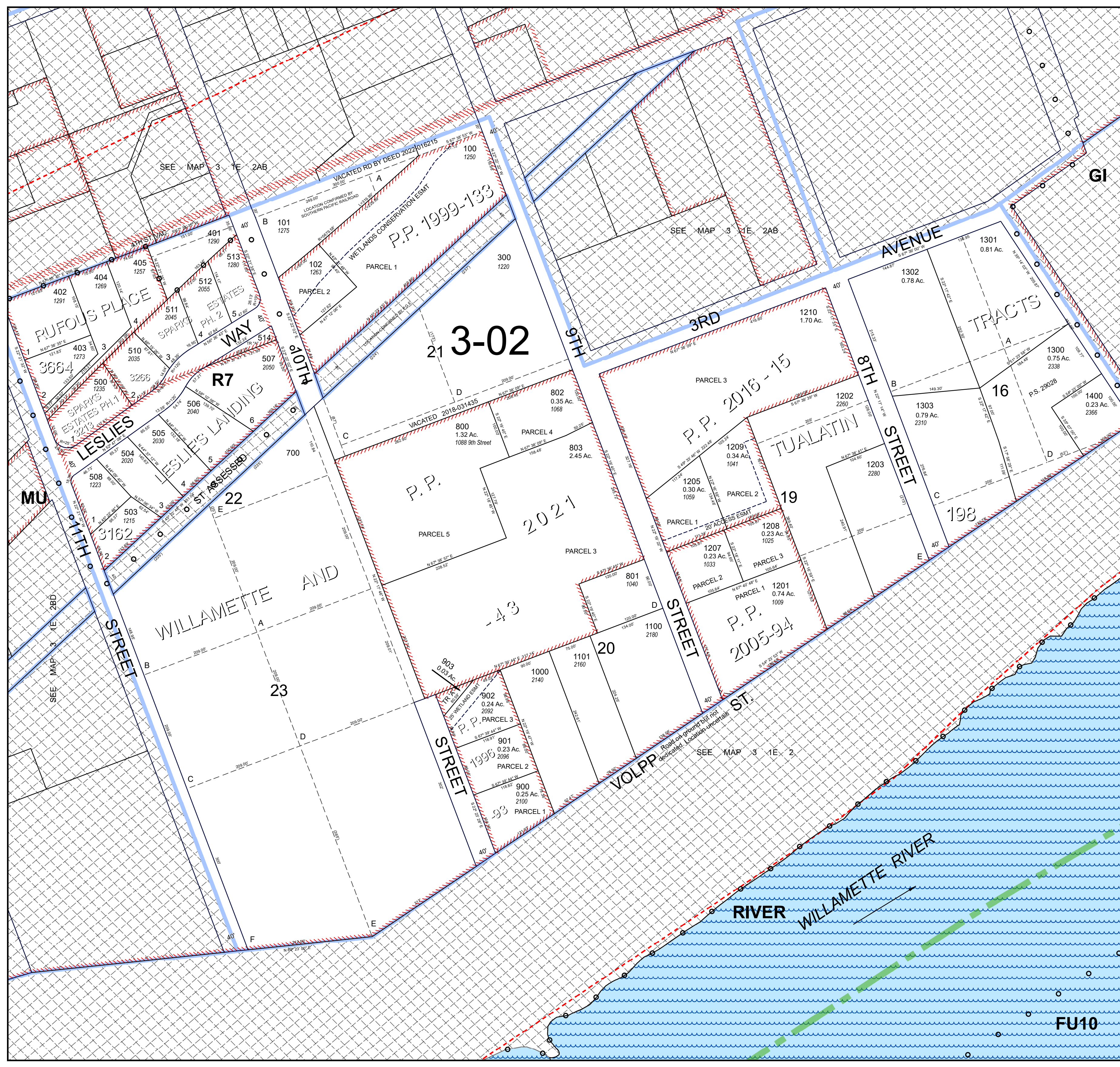
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT  
PURPOSES ONLY

3/21/2022

3 1 E 02AC  
WEST LINN



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WILLAMETTE AND

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10TH STREET

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12TH STREET

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16TH STREET

19TH STREET

20TH STREET

21ST STREET

22ND STREET

23RD STREET

## **EXHIBIT PD-4 PUBLIC COMMENTS**

**From:** [Gardner, Benjamin](#)  
**To:** [Ann Miller](#)  
**Cc:** [City Council](#); [Wyss, Darren](#)  
**Subject:** RE: 1220 9th Street expedited land division  
**Date:** Monday, December 12, 2022 8:06:22 AM

---

Good morning,

Thank you so much for your comments and inquiries-- I have provided them to Darren Wyss (the planner managing this project, cc'd) for inclusion in the associated decision. I think that he is best able to answer your questions on these matters.

Thanks!

-----Original Message-----

From: Ann Miller <[REDACTED]>  
Sent: Sunday, December 11, 2022 7:35 AM  
To: Gardner, Benjamin <BGardner@westlinnoregon.gov>  
Cc: City Council <citycouncil@westlinnoregon.gov>  
Subject: 1220 9th Street expedited land division

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

I am concerned that the application for expedited land division is simply an attempt by ICON to circumvent the requirements of their original request for a four lot subdivision. It is my understanding that the intent of HB2001 is to encourage the development of more affordable housing. The application for a detached duplex seems a sneaky way to build two single family homes without having to contend with the more time consuming scrutiny of the subdivision process. Will this development really provide more affordable middle housing?

I also find the willingness to decrease the wetland boundary curious. I realize the City required more setback than Metro but many of us have had to comply with the increase in the past, what's changed?

Attention also needs to be paid to the increased traffic this will cause on 9th Street. Our narrow Street is unsafe for our children to walk to school and the park. We currently have a patchwork of street improvements. Does the City intend to remedy this situation?

Sincerely,  
Ann Miller  
1009 9th Street



**From:** [Deric Brown](#)  
**To:** [Wyss, Darren](#)  
**Cc:** [Willamette Neighborhood Association President](#)  
**Subject:** 1220 9th Street/MIP-22-04  
**Date:** Tuesday, December 13, 2022 9:07:55 PM

---

To: Darren Wyss  
Planning Manager, City Of West Linn

Cc: Kathie Halicki  
President, Willamette Neighborhood Association

Re: File no. MIP-22-04

Darren,

We are aware that a group of surrounding neighbors have submitted a letter with their collective concerns regarding the upcoming development at 1220 9<sup>th</sup> Street. We chose not to add our names because we felt that street safety is a priority issue that needs to be highlighted; therefore, we wish to write separately in support of this matter alone.

Like many other families in the Willamette area with small children, we walk to the primary school, nearby parks and restaurants almost daily. In the 5-1/2 years we have lived on 9th street, the road has become increasingly unsafe as more homes are being built on a street that already struggles to safely support both vehicle and pedestrian traffic. The current safety issues presented at 9<sup>th</sup> street are as follows:

- Narrow street is not adequate for 2-way traffic
- No sidewalks or shoulder for pedestrians
- No posted speed limit signs
- Low visibility turning down 9<sup>th</sup> Street from 5<sup>th</sup> Avenue due to the steep hill
- Low/no visibility turning on Volpp Street from 9<sup>th</sup> Street due to tall trees/shrubs on the corner of 2180 Volpp Street
- Low visibility at night due to lack of street lights
- Heavily increased non-resident traffic/parking during Summer months
  - Frequent exiting boater traffic from Willamette River
  - Events such as the Old Time Fair and 4<sup>th</sup> of July are hosted at Willamette Park with all exiting traffic directed up 9<sup>th</sup> Street
  - Overflow boat trailer parking along 9th Street

Combined, these issues create extremely unsafe walking conditions for the existing residents which will only be exacerbated by the addition of more homes. We understand that street improvements are required and already planned along the new development frontage; we ask that the City focus on making connections where necessary to provide a continuous safe path for pedestrians, as well as consider taking action to address the other safety matters mentioned above.

Respectfully,  
Deric & Sarah Brown  
1233 9<sup>th</sup> Street

**From:** [Greg Kantor](#)  
**To:** [Greg Kantor](#); [Wyss, Darren](#)  
**Cc:** [REDACTED]; [Bialostosky, Rory](#); [Baumgardner, Mary](#); [Jones, Todd](#)  
**Subject:** Application File No. MIP-22-04  
**Date:** Friday, December 9, 2022 4:06:01 PM  
**Attachments:** [mjp-22-04\\_sb458\\_eld\\_notice\\_2.pdf](#)  
[2022-12\\_WNA letter\\_FINAL.pdf](#)

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**CAUTION:** This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Hi Darren,

The purpose of this email is submit comments regarding recent Application File No. MIP-22-04, which proposes a two-parcel Expedited Land Division (SB458) for Middle Housing at 1220 9<sup>th</sup> Street in West Linn. I have significant concern regarding this proposed development, but more importantly the broader plan to build a large number of new homes in this area without proper infrastructure. Please note I am not the only one with these concerns, as 21 other households in the immediate area have sent a letter (attached) to the Willamette Neighborhood Association expressing concerns and requesting support.

I live at 1215 9<sup>th</sup> Street, and I have seen two new homes put into this immediate area over the last year with little to no regard to the protected wetlands not to mention the increases to traffic on a rural, one lane road without sidewalks. If you don't already know, this proposed lot division is part of a larger plan to put in a total of 8 new homes over a very short timeframe. In addition to the negative impact this will have on the wetlands and the natural drainage, it will make our street unsafe for the residents.

**To summarize, I am not opposed to the addition of new homes on 9<sup>th</sup> Street. However, I am opposed to development without making 9<sup>th</sup> Street a proper road with sidewalks.** It is inappropriate for the City to rely on property developers to make piecemeal improvements to the road as it will do nothing to mitigate safety concerns. I ask that the City consider approval for further this lot division and future development **ONLY** after a plan has been approved for improving 9<sup>th</sup> street from Volpp to 5<sup>th</sup> Ave.

#### **SAFETY**

1. Regarding safety, our two children (ages 7 and 9) cannot take the bus to Willamette Primary School because the bus route does not serve those within close proximity to the school. Therefore they need to walk to school up or down 9<sup>th</sup>, which does not have room for both cars and pedestrians. We are not the only family with grade-school age children on this street. There are seven other families with similar aged kids who face the same dilemma. By allowing for such an increase in homes in this area, 9<sup>th</sup> Street will be unsafe for pedestrians.
2. During the Summer months, 9<sup>th</sup> Street experiences a huge spike in Park and Boat landing traffic as 9<sup>th</sup> Street is one of the only access roads to the Park and Boat Launch. During these times it is very difficult to leave or return home, let alone walk to the Park or to the Shops along Willamette Falls Drive.
3. Further regarding safety, public safety vehicles (ambulances, fire trucks, etc.) do not have proper access to the homes along 9<sup>th</sup> Street, and adding 8 more homes will make this even more of a concern.
4. Not only does the condition of 9<sup>th</sup> Street impact school children, it also impacts the local businesses on Willamette Falls Drive as residents are less inclined to walk to shops and

restaurants, and instead take up already scarce parking spaces.

### **UNETHICAL DEVELOPMENT**

1. In case you are not aware, this proposed lot division is seeking approval pursuant to recent Middle Housing legislation intended to increase the number of affordable homes to Oregonians. The plan on 9<sup>th</sup> Street has never been to build affordable homes. Rather, the developer intends to build 3,000+ sqft luxury homes that will carry prices outside the range of what would be considered Middle Housing. The fact that this developer is looking to exploit the legislation to bypass the normal approval process (including a public hearing) is unethical and deplorable. West Linn's own website states the following regarding HB2001: *"the 'housing choices' bill, aims to provide Oregonians with more housing choices, especially housing choices more people can afford."*

Please feel free to contact me directly to discuss. Thank you for your time.

Best regards,

Greg Kantor  


**From:** [Greg Kantor](#)  
**To:** [Greg Kantor](#); [Wyss, Darren](#)  
**Cc:** [REDACTED]; [Bialostosky, Rory](#); [Baumgardner, Mary](#); [Jones, Todd](#)  
**Subject:** RE: Application File No. MIP-22-04  
**Date:** Wednesday, December 14, 2022 9:41:12 AM  
**Attachments:** [hai-10-2022-housing-affordability-index-2022-12-09.pdf](#)

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Hi Darren,

Please accept this email as a follow up to my December 9, 2022 email with regard to Application File No. MIP-22-04. I would like to share some additional information in support of our concerns regarding the aforementioned application. I ask that you please acknowledge receipt of this email, as well as my previous email sent on December 9, 2022.

1. As multiple citizens noted to the West Linn City Council during the December 12, 2022 meeting, we believe Application File No. MIP-22-04 **does not qualify** for a "Middle Housing Land Division" pursuant to the provisions of SB 458.
  - a. The reason being that the application itself relies on an invalid definition of a "Duplex". The application states "*Each parcel will contain one unit of a detached duplex.*" There is no question that what this application proposes is **no different** than a traditional, single-family home.
  - b. In contrast, the State's definition of **Duplex** in OAR 660-046 Exhibit B, is the following: "*Duplex' means two attached dwelling units on a Lot or Parcel. A Medium or Large City may define a Duplex to include two detached dwelling units on a Lot or Parcel.*" LINK: (<https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=5988>)
  - c. The City of West Linn's definition of Detached Duplex in the final amended CDC is as follows: "*Duplex residential units. Two dwelling units placed so that some structural parts are in common, in any configuration, and are located on a single lot, parcel or tract. Dwelling units may be detached on a single lot, parcel, or tract, where each dwelling unit is considered a 'primary residence'.*"

Nowhere in the State or City language does it say that two units, each on its own parcel, can be considered a "Detached Duplex". Should the City allow for a different interpretation (such as that posed in Application File No. MIP-22-04), it would create a loophole for the bypassing the traditional development review process. Therefore, **we request the City deny this application on the basis that it does not meet the basic requirements set forth by the legislation.**

2. ORS 197.360 defines "Expedited Land Division" to mean "a division of land under ORS 92.010 to 92.192, 92.205 to 92.245 or 92.830 to 92.845 by a local government that: ... **(E) Will result in development that either: (i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or (ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.**
  - a. Tract C, which is the lot proposed for division under Application File No. MIP-22-04 is approximately 36,777 sq ft. Assuming it is divided evenly into two parcels, each parcel will be roughly over 18,000 sq ft. The area is zoned as R10, which means that 80% of the maximum density per the area zoning is 12,500 sq ft. Therefore, this application does not satisfy (E)(i) above as it is below 80% of the maximum net density permitted by the site zoning.
  - b. The median family income as of 2021 for Clackamas County is \$88,517

(<https://www.census.gov/quickfacts/fact/table/clackamascountyoregon/PST045221>). 120% of this figure is \$106,220.40. According to the NAR Housing Affordability Index (attached), a family with annual income of \$106,220.40 would not be able to afford a purchase price significantly above \$400,000. Therefore, we would expect the resulting homes developed per Application File No. MIP-22-04 to be sold at a purchase price in the ballpark of \$400,000. How do you propose to monitor and/or enforce this?

We request that you provide us with an explanation as to how this application, as well as the West Linn CDC more broadly, will satisfy the provisions set forth by ORS 197.360 outlined above.

3. Finally, I am providing you with a picture of 9<sup>th</sup> street, to illustrate the narrow width and lack of sidewalks. This is a key safety concern shared unanimously by the residents in the area. Allowing for substantial and rapid development on 9<sup>th</sup> street without addressing these safety concerns is a severe disservice to the residents in the area.

Please feel free to contact me directly with any questions.

Best regards,

Greg Kantor  
[REDACTED]

---

**From:** Greg Kantor <MustaineFan@hotmail.com>

**Sent:** Friday, December 9, 2022 4:06 PM

**To:** Greg Kantor [REDACTED]; dwyss@westlinnoregon.gov

**Cc:** [REDACTED]; rbialostosky@westlinnoregon.gov; mbaumgardner@westlinnoregon.gov; Jones, Todd <TJones@westlinnoregon.gov>

**Subject:** Application File No. MIP-22-04

Hi Darren,

The purpose of this email is submit comments regarding recent Application File No. MIP-22-04, which proposes a two-parcel Expedited Land Division (SB458) for Middle Housing at 1220 9<sup>th</sup> Street in West Linn. I have significant concern regarding this proposed development, but more importantly the broader plan to build a large number of new homes in this area without proper infrastructure. Please note I am not the only one with these concerns, as 21 other households in the immediate area have sent a letter (attached) to the Willamette Neighborhood Association expressing concerns and requesting support.

I live at 1215 9<sup>th</sup> Street, and I have seen two new homes put into this immediate area over the last year with little to no regard to the protected wetlands not to mention the increases to traffic on a rural, one lane road without sidewalks. If you don't already know, this proposed lot division is part of a larger plan to put in a total of 8 new homes over a very short timeframe. In addition to the negative impact this will have on the wetlands and the natural drainage, it will make our street unsafe for the residents.

**To summarize, I am not opposed to the addition of new homes on 9<sup>th</sup> Street. However, I am opposed to development without making 9<sup>th</sup> Street a proper road with sidewalks.** It is inappropriate for the City to rely on property developers to make piecemeal improvements to the road as it will do nothing to mitigate safety concerns. I ask that the City consider approval for further this lot division and future development **ONLY** after a plan has been approved for improving 9<sup>th</sup> street from Volpp to 5<sup>th</sup> Ave.

## **SAFETY**

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2. During the Summer months, 9<sup>th</sup> Street experiences a huge spike in Park and Boat landing traffic as 9<sup>th</sup> Street is one of the only access roads to the Park and Boat Launch. During these times it is very difficult to leave or return home, let alone walk to the Park or to the Shops along Willamette Falls Drive.
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4. Not only does the condition of 9<sup>th</sup> Street impact school children, it also impacts the local businesses on Willamette Falls Drive as residents are less inclined to walk to shops and restaurants, and instead take up already scarce parking spaces.

## **UNETHICAL DEVELOPMENT**

1. In case you are not aware, this proposed lot division is seeking approval pursuant to recent Middle Housing legislation intended to increase the number of affordable homes to Oregonians. The plan on 9<sup>th</sup> Street has never been to build affordable homes. Rather, the developer intends to build 3,000+ sqft luxury homes that will carry prices outside the range of what would be considered Middle Housing. The fact that this developer is looking to exploit the legislation to bypass the normal approval process (including a public hearing) is unethical and deplorable. West Linn's own website states the following regarding HB2001: *"the 'housing choices' bill, aims to provide Oregonians with more housing choices, especially housing choices more people can afford."*

Please feel free to contact me directly to discuss. Thank you for your time.

Best regards,

Greg Kantor  


## NATIONAL ASSOCIATION OF REALTORS: HOUSING AFFORDABILITY INDEX

Year		Median Priced Existing Single-Family Home	Mortgage Rate*	Monthly P & I Payment	Payment as a % of Income	Median Family Income	Qualifying Income**	Affordability Indexes			
								Fixed			
2019		274,600	4.04	1054	15.6	80,944	50,592	160.0			
2020		300,200	3.17	1035	14.7	84,394	49,680	169.9			
2021		357,100	3.01	1206	16.9	85,807	57,888	148.2			
2021	Oct	362,600	3.12	1,242	17.4	85,543	59,616	143.5			
2021	Nov	365,000	3.12	1,250	17.5	85,643	60,000	142.7			
2021	Dec	365,300	3.15	1,256	17.6	85,701	60,288	142.2			
2022	Jan	360,700	3.51	1,297	18.2	85,495	62,256	137.3			
2022	Feb	370,000	3.83	1,384	19.3	85,952	66,432	129.4			
2022	Mar	385,400	4.24	1,515	21.0	86,413	72,720	118.8			
2022	Apr	401,700	5.05	1,735	24.0	86,691	83,280	104.1			
2022	May	415,400	5.31	1,847	25.4	87,176	88,656	98.3			
2022	Jun	420,900	5.60	1,933	26.5	87,675	92,784	94.5			
2022	Jul	405,800	5.48	1,839	25.1	87,885	88,272	99.6			
2022	Aug	398,800	5.29	1,770	24.1	88,173	84,960	103.8			
2022	September	389,600	6.18	1,905	25.8	88,693	91,440	97.0			
2022	October	384,900	6.98	2,044	27.4	89,507	98,112	91.2			
									This Month	Month Ago	Year Ago
	Northeast	417,200	6.98	2,216	26.2	101,531	106,368		95.5	100.0	152.5
	Midwest	277,500	6.98	1,474	20.1	88,008	70,752		124.4	131.1	195.3
	South	353,700	6.98	1,879	27.5	82,043	90,192		91.0	97.0	145.0
	West	603,700	6.98	3,207	39.5	97,523	153,936		63.4	67.6	98.6

\*Effective rate on loans closed on existing homes - Federal Housing Finance Agency. Adjustable mortgage rates are not available since 2010.

Note: Starting in May 2019, FHFA discontinued the release of several mortgage rates and only published an adjustable rate mortgage called PMMS+ based on Freddie Mac Primary Mortgage Market Survey. With these changes, NAR will no longer release the HAI Composite Index (based on 30-year fixed rate and ARM) and will only release the HAI based on a 30-year mortgage. NAR calculates the 30-year effective fixed rate based on Freddie Mac's 30-year fixed mortgage contract rate, 30-year fixed mortgage points and fees, and a median loan value based on the NAR median price and a 20 percent down payment.

\*\*Based on a 25% qualifying ratio for monthly housing expense to gross monthly income with a 20% down payment.

p Preliminary r Revised

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**From:** [Greg Smith](#)  
**To:** [Wyss, Darren](#)  
**Cc:** [Samantha Faile](#)  
**Subject:** Fwd: Public Comment for 1220 9th st Tract C SB458 Expedited Land Division  
**Date:** Wednesday, December 14, 2022 4:58:34 PM

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Wednesday, December 14, 2022

Dear Darren,

Samantha Faile sent me the letter she sent to you. I thought she was giving me a chance to review it before posting it, but after rereading I see that this was not the case. Here's the email I sent her in response. I'd gotten in touch with her after her testimony on Monday because I was interested in the question she raised about both addressing the need for more housing (via in-fill and middle housing projects) and the protection of wetlands and the urban canopy. I wanted to get a sense about whether this might be an appropriate issue for the SAB to consider. She misinterpreted this as alignment of the SAB with the position being taken by a collection of Ninth Street neighbors. As you can see, I explained that I'm only one member of the SAB and others have not yet considered the issue. I wanted you to know about this misinterpretation. I, too, am concerned about the intensity of the development being considered for this small knoll between two segments of wetland, but that is only my concern and not the SAB's.

Thanks,

Greg Smith

----- Forwarded message -----

**From:** **Greg Smith** <[REDACTED]>  
**Date:** Wed, Dec 14, 2022 at 2:54 PM  
**Subject:** Re: Public Comment for 1220 9th st Tract C SB458 Expedited Land Division  
**To:** Samantha Faile <[REDACTED]>

Dear Samantha,

Thanks for sharing this. The references to the SAB are premature, however, and need to be removed. I'm only one member of this board, and this issue has not been raised at a formal meeting. The one person with the most experience I did discuss it with did not feel it was an issue we have any say about. That's why I was interested in having a conversation with you: to determine whether it is something that could legitimately be brought before the SAB. As I mentioned in my earlier letter, whatever recommendations the SAB makes may well be too late to affect the development decisions regarding the Ninth Street property but could make a difference for subsequent land use decisions. The letter is strong enough to stand on its own without reference to the SAB. I would suggest cc'ing to John Williams, the City Manager, as well.

Best wishes,

Greg Smith

On Wed, Dec 14, 2022 at 2:35 PM Samantha Faile <[failecook@gmail.com](mailto:failecook@gmail.com)> wrote:

Hey Greg,

FYI-

Here is the letter I sent to Darren Wyss about 9th street development. This is just me saying I'm not fan of the devil omens. Comments are due today by 4pm.

Samantha

----- Forwarded message -----

From: **Samantha Faile** <[REDACTED]>

Date: Wed, Dec 14, 2022 at 9:08 AM

Subject: Public Comment for 1220 9th st Tract C SB458 Expedited Land Division

To: <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>

CC: Travis Cook <[REDACTED]>

Dear Darren,

Please review the attached comments regarding: 1220 9th Street tract C SB458 Expedited Land Division when considering your decision on the application.

Thank You,

Samantha Faile

December 12, 2022

Mr. Darren Wyss, Planning Manager  
City of West Linn  
22500 Salamo Rd.  
West Linn, OR 97068

Dear Mr. Wyss:

This letter is in reference to a request for middle housing at 1220 9<sup>th</sup> Street in West Linn, OR. I am writing as a neighbor across the wetlands from the property. There are numerous reasons why middle housing should not be approved on that property or any property in and around the wetlands area of 9<sup>th</sup> Street.

Two new homes were built in the same area that is being requested for “middle housing”. The city approved “infill” to the wetlands in order for these homes to be built. This has since caused issues with water pooling in places that were not impacted prior to the change in the wetland environment. I am very concerned that the new approval to build a much larger cluster of homes (8 in total) over the next few years will have a substantial and detrimental impact on the surrounding wetlands, with the possibility of impacting homes in the surrounding area.

With the approval of these new homes, an exponential amount of traffic will increase on 9<sup>th</sup> Street and the street is not equipped to handle the increased traffic. The street is only 16 feet wide and it’s very difficult for two large cars to pass each other side by side. There are no sidewalks on the street, so safety is a big concern for pedestrian traffic. Recently the city wrote the speed limit on the street. This has little to no impact with the vehicular traffic slowing down. With the addition of eight homes, there will be an increase in traffic on 9<sup>th</sup> Street with more cars and delivery trucks – this street just can’t handle that volume. I implore you to develop infrastructure in widening the street and adding a sidewalk before you allow “middle housing” in this area.

HB2001 and SB458 approved by the state to allow for “more affordable” housing in Oregon deemed as “middle housing”. I believe that ICON is exploiting the “spirit” of this law by adding 5 additional houses on a property that was originally approved for 3. The homes that are proposed to be built are not going to be affordable for people that were supposed to benefit from “middle housing” (i.e., \$300,000 - \$400,000 versus \$500,000 - \$800,000 or more).

I urge the City to act and review all items outlined in letters and testimony regarding the request to change the original application of this property for middle housing. These housing development requests need to be reviewed as a “whole” versus “parts” of each project.

Thank you for your consideration.

Jennifer Aberg and Martin Heinemann  
1240 9<sup>th</sup> Street  
West Linn, OR

cc: City Council

Dec. 13, 2022

MIP-22-04

Dear Mr. Wyss,

I am writing to you as President of the Willamette Neighborhood Association. This came to my attention in a time frame where I cannot take it to our membership and, due to prior commitments, the board is unable to meet. Thus I am writing this on behalf of myself.

I receive a letter from Samantha Faile. She spelled out her neighbors concerns in a very thorough manner. I can report that these neighbors have come to WNA multiple times over the years, to voice their concerns of lack of sidewalks, Safe Routes to School, narrow street (only 16 ft.), traffic, lack of fire hydrants and speeding (especially during the spring – fall). The large vehicles towing boat trailers is a huge issue. The WLPD has been kind enough to try to work with them on the speeding issue by putting out the speed trailers. The rest of their issues have fallen on deaf ears. We have even attended the Safety Board several times, to no avail. One person said that she has difficulty backing out of her driveway due to the narrow street.

To place 6-8 more homes on this narrow street seems to be an accident waiting to happen. The neighbors nor the WNA have had any input on this development. I understand that with the new HB2001 there is no input, but we can now see how having no input is going to effect this development and others.

There are huge safety issues here that need to be addressed before this should progress forward. The encroachment on the wetlands is not acceptable. Current water drainage/runoff is an issue that needs to be addressed to prevent flooding, before any development is to start. This is a safety issue.

I support the neighbors in their concerns about this or any other development until the concerns can be addressed and rectified.

Kathie Halicki, WNA President

Lower Willamette Neighbors  
9<sup>th</sup> Street, 10<sup>th</sup> Street, Volpp Street, and adjacent  
West Linn, OR 97068  
December 4, 2022  
Kathie Halicki:  
President  
Willamette Neighborhood Association (“WNA”)  
[WillametteNA@westlinnoregon.gov](mailto:WillametteNA@westlinnoregon.gov)

Dear Kathie:

The purpose of this letter is to express a series of concerns on behalf of a large group of West Linn residents who live on and around 9<sup>th</sup> Street regarding an existing application (File No. MIP- 22-04) to

divide a lot at 1220 9<sup>th</sup> Street for the purpose of developing “Middle Housing” structures pursuant to HB2001 and SB458. Attached to this letter is the formal notice issued by the City Planning Department (which should have also been received by the WNA). We warmly request the WNA consider writing and submitting a letter of concern on the matter to City of West Linn Planning Manager, Darren Wyss at [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov) before 4:00pm on December 14, 2022. Over the last 18 months, two new homes were built on 9<sup>th</sup> street with little to no regard for the resulting negative environmental impacts such as excess tree removal, wetland destruction, and decreased natural drainage. In addition, the neighborhood has experienced a substantial increase to motor vehicle traffic as well as speeding problems over this same time period. Importantly, the proposed lot division is part of a larger plan to build eight new homes over the next few years, which represents a dramatic change for a street that is not to code and lacks sidewalks, making it ill-equipped for the influx of traffic.

A summary of our primary concerns regarding this planned development follows below. We would like to request that the WNA write a formal letter to the City Planner in support of our concerns.

**1. Continued encroachment on the protected wetland area as well as environmental impact and drainage concerns:** a. The previously established wetland boundaries keep shrinking as these developments continue to gain approval from the City.

b. Past environmental assessments have noted concern over further development, and mitigation efforts thus far have resulted in pooling of water next to 1040 9<sup>th</sup> Street.

c. The neighborhood would like to request a new environmental study be conducted to account for not only the current proposed development at 1220 9<sup>th</sup> Street, but also in consideration of the significant addition of homes (10 in total) in close proximity to the wetlands over a very short time frame.

d. We would like to know what the vegetative mitigation plan is for the development at 1220 9<sup>th</sup> Street as well as the reason for approving the WRA permit. We would also like to understand the circumstances under which the City turns down a WRA permit.

**2. Safety concerns generated by increased traffic on a rural, one-lane street without sidewalks:** a. Children do not have safe walking routes to school. There are many families on 9<sup>th</sup> Street with small children who attend Willamette Primary School. They are not serviced by the bus route due to proximity to the school. The children do not have space on the road (only wide enough for one car at a time) to walk safely up and down the hill.

b. There are four streets (14<sup>th</sup>, 12<sup>th</sup>, 9<sup>th</sup>, 4<sup>th</sup>) in the Willamette Neighborhood that provide vehicular traffic access to the river. 9<sup>th</sup> Street is one of only three options to exit the river and is one of the primary routes used by boat and park traffic. As a result, 9<sup>th</sup> street carries a very high volume of non-resident traffic—especially in the summer months. All boat traffic exiting the river must use 9<sup>th</sup> or 14<sup>th</sup>, and very few go all the way down to 4<sup>th</sup>. As a reminder the lower section of 12<sup>th</sup> is a one-way road going down to the river.

c. Public Safety vehicles have reduced/impeded access to homes in the area as 9<sup>th</sup> Street is only 16 feet wide. Furthermore, as we learned during the recent 4<sup>th</sup> Avenue proposal, fire hydrants in the area were not in compliance with residential standards and the proposal had ignored this fact. Further development in the area should require comprehensive assessment of residential safety standards.

d. It is not sufficient for the City to rely on “piecemeal” road improvements for these planned developments as they will do nothing to help alleviate safety and traffic concerns. It is our understanding that the City has no formal plan to connect these small road improvements at any point in the future.

e. We would like to request the City coordinate with ODOT to conduct a traffic study in the area and distribute the report to citizens in the neighborhood.

**3. Inconsistent and unfair application/interpretation of legislation/regulations:** a. Existing homeowners in the area have been unable to get approval for various minor improvement projects (such as a patio remodel, or a driveway resurfacing) because of environmental protections or City interests. However, recent property developer applications have been able to bypass many of these impediments and have even managed to redraw wetland boundaries, for example.

b. The City's process of communicating this application to the neighborhood was extremely poor. We understand that the notification boundary requirement was reduced per legislation from 500ft to 100ft, but additional steps were taken to reduce transparency to residents. For example, the application unavailable on the City Website, the Planning Manager (Darren Wyss) was unresponsive regarding access to the application and the comment deadline for several days, and the Neighborhood Association was not notified (they are required to be notified by SB458 under section 6), nor were any signs posted on the affected property like there had been in the past.

c. Recent state legislation (HB2001, SB458) was passed with the intent increasing the amount of affordable housing in Oregon by requiring expedited approval of lot divisions for "middle housing". Additionally, the first sentence on West Linn's website regarding HB2001 states, "*the 'housing choices' bill, aims to provide Oregonians with more housing choices, especially housing choices more people can afford.*" This proposed development at 1220 9th Street exploits the recent legislation by reclassifying the projects as "Middle Housing" when in fact they will be single family detached homes priced in line with other recently developed properties on 9th Street (each listed at well over \$1 million).

A list of residents is provided on the following page, who have collectively expressed support for this letter. Thank you for your consideration in this matter please do not hesitate to contact Samantha Faile or Greg Kantor with any questions.

Sincerely,

Lower Willamette Neighbors Kathie Halicki: December 4, 2022 Page 4

**LOWER WILLAMETTE  
NEIGHBORS** Euan Currie & Lisa  
Mahlum

1209 9th Street  
euancurrie@gmail.com

Josh Cheney & Ember Gard  
2030 Leslies Way  
joshua\_cheney@hotmail.com

Matthew & Alison Kay  
2050 Leslies Way

richar.am@gmail.com

David Osborne  
1343 9th Street  
yukon.dave@me.com

Jana Russell  
1235 11th Street  
503-915-9004  
jana.russell@gmail.com

Jennifer Aberg & Martin Heinemann  
1250 9th Street  
aberg1jen@gmail.com  
503-349-2096

Samantha Faile and Travis Cook  
1290 10th Street  
failecook@gmail.com

Catherine Johnson  
1340 10th Street  
503-703-7266  
cbj1025@gmail.com

Michelle Joslin & Shilo Joslin  
1275 10th Street  
michellemjoslin@gmail.com

Lisa and River Steenson  
1068 9th Street  
lisaksteenson@gmail.com

Brian & Anna Wheeler  
1221 9th Street  
503-351-7720  
bwheeler036@gmail.com

Greg Kantor & Isabelle Haranczyk  
1215 9th Street  
503-887-5176  
kantor.greg@gmail.com



Emily and Ryan McKenna  
1257 11<sup>th</sup> Street  
wheatcake@hotmail.com

Jay Wallace Walker & Sue Walker  
1213 9<sup>th</sup> Street  
jwallywalker@gmail.com

Kim Rydbom & Justin Jones  
2180 Volpp Street  
krydbom@gmail.com  
Amy Rutter  
1350 10<sup>th</sup> Street  
ameranner@yahoo.com  
Craig Evans and Julia Song  
2193 Willamette Falls Drive,  
putaobarney@yahoo.com

Ann Miller  
1009 9<sup>th</sup> Street  
503-349-8890  
annivancade@yahoo.com  
Rebecca Smith  
2140 Volpp Street  
503-317-3410  
smith.rebecca.f@gmail.com  
Phyllis Koessler  
1351 10<sup>th</sup> Street  
plk0221@gmail.com  
Anthony Powell  
2231 5<sup>th</sup> Ave  
deluxemm@gmail.com  
Frank Zorich  
1301 9<sup>th</sup> street  
Frankzorich@gmail.com

**From:** [Lisa Steenson](#)  
**To:** [Wyss, Darren](#)  
**Cc:** [River Steenson](#)  
**Subject:** Re: 1220 9th St - MIP-22-04 Notice  
**Date:** Friday, December 2, 2022 8:12:11 AM

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thank you for the information - this is helpful. I think the main concern is the increase in traffic with more homes going in and what the city plans to do to help with the traffic. There have been attempts with city council and the safety committee - they did paint some speed markers but honestly people still fly down the road. and really nothing is addressed about it so that's where the frustration is from the neighborhood. Since ICON owns multiple properties now on this street and yes I understand you only have to put in sidewalks in front of the home you are building but there are big gaps on 9th and the street is so narrow. It's not like other roads, so it would be nice to know if ICON could address this with the city as it puts in multiple new homes.....

On Thu, Dec 1, 2022 at 4:35 PM Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)> wrote:

Lisa and River,

Not sure if that was an invitation to join the meeting on Saturday, but I cannot make it that day. Here is some additional background information for you. The proposal has complied with all of the City's environmental requirements and received permits for the Water Resource Area, Floodplain, and Willamette River Greenway. The development will be required to treat and retain all stormwater according to City codes, just as any other development in West Linn, and street improvements will be installed along the property frontage. Icon followed the exact process Roy Marvin utilized when building the two homes (your home and the one behind you), except Icon is not altering the floodplain as Roy did when he placed fill in the floodplain (which caused the removal of soil on the south edge of your property to balance the fill) to construct your house and get the lowest floor one-foot above base flood elevation.

If there are concerns about the condition of 9<sup>th</sup> Street, the best recourse is to lobby City Council to include a project to upgrade the street in the next Capital Improvement Program. The next two-year budget will be adopted in June 2023, with budget committee meetings throughout the spring. Because of case law (Dolan vs. City of Tigard), the City cannot force a developer (e.g. Roy or Icon) to reconstruct the entire street, but is limited to requiring frontage improvements adjacent to the property. Hope this helps. Thanks.

**From:** Lisa Steenson [mailto:[lisaksteenson@gmail.com](mailto:lisaksteenson@gmail.com)]  
**Sent:** Thursday, December 1, 2022 9:43 AM  
**To:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>  
**Cc:** River Steenson <[river.steenson@gmail.com](mailto:river.steenson@gmail.com)>  
**Subject:** Re: 1220 9th St - MIP-22-04 Notice

Thanks for the follow up.

Yes we understand #1 however, the condition of 9<sup>th</sup> street, as well as any sort of environmental issues (i.e., wetland resource council, etc.) are extremely important to discuss. We would like to know/understand from the city certain things (e.g., traffic study, environmental study...) There are a number of neighbors meeting formally this weekend on Saturday.

River (my husband) who you have met with wants to understand specific the water mitigation plans as we own the wetland property.

On Wed, Nov 30, 2022 at 12:02 PM Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)> wrote:

I would be happy to speak with everyone, but need to know what exactly we would be discussing. I believe there may be some confusion, so here are some thoughts:

1. The proposal by Icon is allowed under the [HB2001](#) rules passed in the 2019 Oregon Legislative session and implemented by the City in June 2022 by [Ordinance 1736](#). This was followed up by [SB458](#), which allows the division of property that is developed under HB2001, in the 2021 Oregon Legislative session. All residentially zoned properties in the City of West Linn are permitted to utilize HB2001/SB458 rules.
2. As far as a plan for 9<sup>th</sup> Street, are we talking about the uses of privately owned property or the physical conditions (width, sidewalks, curb/gutter) of 9<sup>th</sup> Street itself?

Let me know. Thanks.

---

**From:** Lisa Steenson [mailto:[lisausteenson@gmail.com](mailto:lisausteenson@gmail.com)]  
**Sent:** Wednesday, November 30, 2022 11:14 AM  
**To:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>  
**Cc:** River Steenson <[river.steenson@gmail.com](mailto:river.steenson@gmail.com)>  
**Subject:** Re: 1220 9th St - MIP-22-04 Notice

Thank you for the follow up.

I know river would like to come meet with you about the overall plan. Many other neighbors have expressed interest in meeting with the city about the plan for 9th street. Would that be something to schedule with you?

Sent from my iPhone

On Nov 30, 2022, at 10:59 AM, Wyss, Darren  
<[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)> wrote:

The City is resending the notice today with a new 14-day comment period deadline. Thanks.

**From:** Lisa Steenson [mailto:[lisaksteenson@gmail.com](mailto:lisaksteenson@gmail.com)]  
**Sent:** Tuesday, November 29, 2022 5:20 PM  
**To:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>  
**Cc:** River Steenson <[river.steenson@gmail.com](mailto:river.steenson@gmail.com)>  
**Subject:** Re: 1220 9th St - MIP-22-04 Notice

Darren since we are just receiving this correct link today which has been more than half the time allotted to respond - I do believe the correct thing to do is to extend the deadline to the neighborhood. Many of the neighbors are concerned and deserve ample time to respond. There are at least 10 households represented who want to comment and respond. It is very disappointing that we are not receiving ample time to review and respond. My request is to push it back. This is a very complicated area in general with the wetlands and the road. So at the very least once the appropriate link is sent out then the 2 weeks should begin. But overall I think with the concerns from many of the neighbors - we would like to have a meeting with the city planner, icon and the neighbors. There is a lot to this area/street and understanding the overall master plan (if there is one) would be very beneficial and I believe the correct process for the neighborhood.

On Tue, Nov 29, 2022 at 5:04 PM Wyss, Darren  
<[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)> wrote:

River,

Apologies for the broken link. Please find the functioning link below. Thanks.

<https://westlinnoregon.gov/planning/1220-9th-st-tract-c-sb458-expedited-land-division>

**From:** River Steenson [mailto:[river.steenson@gmail.com](mailto:river.steenson@gmail.com)]  
**Sent:** Tuesday, November 29, 2022 4:11 PM  
**To:** Wyss, Darren <[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)>  
**Cc:** Lisa Steenson <[lisaksteenson@gmail.com](mailto:lisaksteenson@gmail.com)>  
**Subject:** Re: 1220 9th St - MIP-22-04 Notice

Darren, can you please reply with a working link to the documents? Without the information our time to respond by the deadline is being compromised.

Thanks,

River

On Wed, Nov 23, 2022 at 5:05 PM River Steenson <[river.steenson@gmail.com](mailto:river.steenson@gmail.com)> wrote:

Hi Darren, we received a letter in the mail today regarding the notice of upcoming planning manager decision at the property referenced above. The link provided within the letter does not appear to be working though. I tried: <https://westlinnoregon.gov/planning/1220-9th-st-tract-c-expedited-minor-partition> and it wouldn't connect me to the site to view the documents.

Can you please provide a working link so we can review the referenced files and respond by the Dec 5th, 4 PM cutoff date?

Best,

River Steenson  
1068 9th St, West Linn, OR 97068  
503-939-7249

--

Sent from Gmail Mobile

**Darren Wyss**  
*Planning Manager*  
Planning

22500 Salamo Rd.  
West Linn, Oregon 97068  
[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)  
[westlinnoregon.gov](http://westlinnoregon.gov)  
503-742-6064



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**Darren Wyss**  
*Planning Manager*  
Planning

22500 Salamo Rd.  
West Linn, Oregon 97068  
[dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov)  
[westlinnoregon.gov](http://westlinnoregon.gov)  
503-742-6064

  
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**Darren Wyss**  
*Planning Manager*  
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**Darren Wyss**  
*Planning Manager*  
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503-742-6064



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**From:** [Lisa Steenson](#)  
**To:** [Wyss, Darren](#)  
**Subject:** 1220 9th street  
**Date:** Wednesday, December 14, 2022 3:59:25 PM

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Hi Darren,

I would like to submit in writing our concern about the development of 1220 9th and the additional homes in regards to safety of 9th street for walkers and a safe route to school. We have two children who attend Willamette primary school and the road does not have sidewalks and is too narrow - it's mostly one lane. I think doing the bare minimum per development code for this road in particular is going to create an even more unsafe road to school. We would request that the developers and city develop a plan to address further improvements.

Thank you,

Lisa Steenson  
1068 9th street

Sent from my iPhone



**From:** [Michelle Joslin](#)  
**To:** [Wyss, Darren](#)  
**Subject:** Public Comment for 1220 9th st Tract C SB458 Expedited Land Division  
**Date:** Wednesday, December 14, 2022 2:56:37 PM

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Darren,  
Good afternoon, I'm writing in with my comments regarding the Land Division application referenced above.

I'm of the belief this application should be declined for multiple reasons:

- The housing being build would not be "middle housing" as intended by the HB 2001 legislation the applicant is looking to use
- The wetlands (Metro identified HCA moderately important riparian resources) will be adversely impacted
- The further development on 9th St, without city infrastructure to support it, is unsafe

### **The Application as Middle Housing**

As others have also pointed out, the use of middle housing to put this application through is on its face absurd. HB 2001's intent was to create more *options* in housing and more *affordable* housing. The additional options for housing is to accommodate for the trend of young single people, older people living alone, and others who need affordable housing. A detached duplex is a euphemism for a single family home. The Housing Capacity Analysis, that I think you were a contributing member, states clearly that "most housing since 2000 has been single family residents for homeowners". This middle housing application offers no new options for housing, its more of the same.

As for HB 2001's goal of affordability, this application flies in the face of the that intent. Even in an affluent town, West Linn's has 40% of households earning less than \$100k/year. For these households to have affordable housing, as defined by HUD, the homes they buy would need to be in the \$390k-\$470k range. From the plans that are available and previous builds, I think we could anticipate these single family homes in sheeps clothing to be sold closer to \$1M each - hardly affordable for 40% of the households in West Linn. I work professionally as a mortgage loan officer and have seen countless families get priced out of owning a home over the last years, and especially in the last 3 years. This application, as middle housing, is an insult to each and everyone of those people. The people being priced out need to build generational wealth and they are being locked out of the dream of homeownership. HB 2011 was designed to help with this, but this application as middle housing is a farce.

Additionally, OAR 660-046 defines a duplex as "two attached dwelling units on a Lot or Parcel. A Medium or Large City may define a Duplex to include two detached dwelling units on a Lot or Parcel." The application seems to want a "detached duplex" on each individual lot that would not comply the definition on a detached duplexes being on the same lot.

This is not middle housing. They are single family homes and should be treated as such. They should not get any “expedited review” that is given to HB 2001 housing.

### **The Wetlands**

The Metro HCA, Wilamette River Greenway, and all those other ways to describe this land should offer some protection from unfettered development. The utilities for these homes should be underground, per the city of West Linn, however, its been noted in the application that PGE thinks the utilities should be above ground because the ground is wet. Its wet because the land is wetlands. And perhaps instead of altering our utilities to bulldoze and build on wetlands we should consider that maybe its not a good idea to build higher density housing on the wetlands. Water is pooling by nearby homes. The application to lessen the buffer was based on a previous version of the build plan and should be revoked and applied for again using the current plan. It seems to be a bait and switch.

### **Safety**

The conditions on 9th St are untenably as it is. I walk those roads with my dog, 7 year old, and its not safe for current residents let alone after adding more density. It wouldn't even meet the definition on an alley these days. I would say the idea of adding more density, without adding sidewalks and bringing the street up to come is laughable, if it wasn't so dangerous. The city has a responsibility to its residents to make sure roads are safe and they aren't. Adding more traffic (cars, delivery trips, landscapers, boats, etc) is foolish. Its a long standing issue, brought up when 4th Ave was vacated, and being exacerbated. To look at this project in a vacuum is a disservice. The city knows full well there are plans to develop other lots on 9th St and should be proactive in managing safety.

Not only do I dislike the development for those reasons, I firmly believe the city has grounds to decline this applications. Per OAR 660-046-0010 here are some areas in which a city can regulate Middle Housing Applications that may be applicable here:

- Medium and Large Cities must adopt land use regulations to protect water quality
- When middle housing exacerbates hazards and risks by altering the natural landscape
- Cities must review intensifications, changes of use or developments to insure their compatibility with the Willamette River Greenway
- Cities must ensure that infrastructure serving underdeveloped areas where middle housing is allowed is appropriately designed and sized to serve middle housing
- Detached Duplexes should be on a single lot and not split between 2 lots - that's a single family home

I appreciate your time and am happy to discuss further.

Sincerely,

Michelle M Joslin  
503.550.0677

**From:** [Samantha Faile](#)  
**To:** [Wyss, Darren](#)  
**Subject:** Re: Public Comment for 1220 9th st Tract C SB458 Expedited Land Division  
**Date:** Wednesday, December 14, 2022 3:54:12 PM

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Hi Darren,

I would like to amend the last paragraph in my letter. Pertaining to the SAB. It was supposed to say SAB 2015 strategic planning document. Not just Sustainably Advisory Board. My comments were based off of that document on their webpage.

Thank you,  
Samantha Faile

On Wed, Dec 14, 2022 at 9:08 AM Samantha Faile <[failecook@gmail.com](mailto:failecook@gmail.com)> wrote:

Dear Darren,

Please review the attached comments regarding: 1220 9th Street tract C SB458 Expedited Land Division when considering your decision on the application.

Thank You,  
Samantha Faile

Samantha Faile  
Travis Cook  
1290 10<sup>th</sup> Street  
West Linn, OR 97068

December 13, 2022

Darren Wyss  
Planning Manager, City of West Linn  
City Hall  
22500 Salamo Road  
West Linn, OR 97068

Dear Mr. Wyss:

The purpose of this letter is to express a series of concerns with the development at 1220 9<sup>th</sup> street currently proposed as a two-parcel Expedited Land Division (SB458) for Middle Housing (HB2001) at 1220 9<sup>th</sup> Street (Lot C, Tract 21, Willamette & Tualatin Tracts). Our biggest concern is the sensitive habitat areas that encompass this land. All the permits required to build on this land were granted under a different a land use item. They were granted under a minor 3-lot partition that was approved earlier this year on August 11, 2022.

We implore the City of West Linn to keep the plan in place from the original 3-lot minor partition because that is what the environmental studies and permits are based on. Icon bought this land knowing it was in a habitat sensitive area and thus had building and development restrictions. The City of West Linn has every right to deny this two-parcel Expedited Land Division (SB458) for middle housing because the applicant has not produced materials confirming the permitting criteria for the FEMA, WRA, and WRG permits are still being met under the new proposal- the creation of a third lot and its intended use. It is our hope that the City Planner take into consideration the impact of this proposed project with the three existing structures already developed in the area. This land held one house and a barn for decades and now if this expedited land division is passed it will play host to seven homes around 3,000 square feet each in size.

In the Planning Managers Decision from August 11, 2022 a public comment was received about the continuing functions of the wetlands and the floodplain storage capacity. The Planning Managers response in the decision was, "The applicant does not propose to impact the wetlands, only to reduce the required WRA buffer as the site is currently degraded from previous uses. The applicant also does not propose to add any fill or structures to the floodplain and the shared access drive with 1088 9<sup>th</sup> street (WAP-20-04/WRG-20-02-08) was previously reviewed for potential impacts on the floodplain. No impacts to the floodplain storage capacity were identified."

The definition of the word impact is where the planning department and us will have to agree to disagree. *If this development is approved it will mean the following:*

1. Seven single family homes or detached duplexes, apparently these are the same thing, will reside at the old farm property that was known as 1220 9<sup>th</sup> street
2. Because of the ruling from August 11, 2022 of the minor 3-lot partition, these homes will reside on property containing a reduced WRA buffer. The original buffer for the one farm house and barn was 65ft. The new buffer will be 25 ft with some plantings for the new home owner to monitor.
3. The City of West Linn has lessened the buffer of the WRA and added an additional 6 dwellings to the old Farm property. (The 7<sup>th</sup> being the original farm house.)

Residents of the area can point out the negative impacts of the recent developments known as 1068 and 1088 9<sup>th</sup> street. The permanent pooling of water near the foundation of 10409 9<sup>th</sup> street is just one negative impact from the recent developments. We strongly encourage the City of West Linn to consider not approving this application. There is no site plan with positioning of the new detached duplexes in this application. This is concerning because the current permits were granted with an understanding that the then 3 houses would NOT be in any WRA areas. It is our understanding that the old barn will be removed and houses will be built there. This is problematic because under CDC 32.040.C2(b) it states that nonconforming accessory structures could be replaced with new accessory structures in the same footprint, but they cannot be replaced with a new single-family home (32.040.D1). It is our understanding that very little of Chapter 32 (Water Resource Area) in the CDC changes under the new Middle Housing codes. The Middle Housing codes even call out the specific natural resource areas as exceptions to the new codes.

If this development is approved under the proposed Expedited Land Division at 1220 9th Street (Lot C, Tract 21, Willamette & Tualatin Tracts) it will be viewed as an inconsistent and unfair use of authority. Several home owners in the vicinity have applied to the City of West Linn to improve their existing decks. They have been denied patio covers and various elements because of this code and others in Chapter 32 of the CDC. The City of West Linn needs to be consistent with your application of codes regardless if the applicant is a current resident or a developer. The Willamette Wetlands and surrounding biodiversity is the same environment for a resident as it is for a developer. In this application it states utilities will be above ground. This is in conflict with the City of West Linn CDC requiring all new developments where possible to be located in the ground. I know that both 1088, and 1068 9<sup>th</sup> have utilities in the ground.

Due to the lack of transparency with this application in regards to the adherence to the FEMA, WRG, and WRA permit requirements and the development of a fourth structure in our water resource area we cannot approve this application. Building in sensitive habitat areas in the year 2022 is not good practice. We also believe it is in conflict with the efforts of the City of West Linn Sustainability Advisory Board (SAB). In addition to being in conflict with the SAB we believe that the City of West Linn green lighting these projects also promotes an attitude of disregard for the Habitat Conservation Areas in and around West Linn. For a real time, example

of this this mindset, just look at the sales pitch currently listed for 1088 9<sup>th</sup> street which can be found at this link: [1088 9th St, West Linn, OR 97068 | MLS# 22286996 | Redfin](#) and is also included below. The development of a grass field or sport court in a habitat sensitive area shows the lack of conservation needed in this habitat area. After all the City of West Linn gave the green light to build a house at 1088 9<sup>th</sup> street so the buyer will assume there is nothing wrong with having a green lawn and sport court. The City of West Linn sets the tone and current tone is pro development from professional developers regardless of the environmental impacts and habitat loss. We strongly encourage the City of West Linn will to deny this application and reprioritize the environment over development. The encroachment and removal of this natural resource and Habitat Conservation Area will continue until its gone if the City of West Linn does not prioritize the importance of its Habitat Conservation Areas including Water Resources Areas and the Willamette River Greenway.

Sincerely,

Samantha Faile and Travis Cook

1290 10<sup>th</sup> Street  
West Linn OR 97068

Redfin listing description for 1088 9<sup>th</sup> street as of 12/13/2022:

“NOT IN FLOOD ZONE! New construction unlike any other. Luxury defined w/ every finish. Enjoy Wolf & Subzero appliances, rift oak throughout, engineered hardwoods, see through fireplace, high ceilings w/ exposed beams, custom tile work, soapstone counter tops, high end carpet, expansive windows & more. The private lot offers a trout stocked pond & huge level yard perfect for an out building, sport court or grass field. Walking distance to Historic Willamette Main St., Willamette Park & boat ramp!”

Lower Willamette Neighbors  
9<sup>th</sup> Street, 10<sup>th</sup> Street, Volpp Street, and adjacent  
West Linn, OR 97068  
December 4, 2022

Kathie Halicki:  
President  
Willamette Neighborhood Association (“WNA”)  
[WillametteNA@westlinnoregon.gov](mailto:WillametteNA@westlinnoregon.gov)

Dear Kathie:

The purpose of this letter is to express a series of concerns on behalf of a large group of West Linn residents who live on and around 9<sup>th</sup> Street regarding to an existing application (File No. MIP-22-04) to divide a lot at 1220 9<sup>th</sup> Street for the purpose of developing “Middle Housing” structures pursuant to HB2001 and SB458. Attached to this letter is the formal notice issued by the City Planning Department (which should have also been received by the WNA).

Over the last 18 months, two new homes were built on 9<sup>th</sup> street with little to no regard for the resulting negative environmental impacts such as excess tree removal, wetland destruction, and decreased natural drainage. In addition, the neighborhood has experienced a substantial increase to motor vehicle traffic as well as speeding problems over this same time period. Importantly, the proposed lot division is part of a larger plan to build eight new homes over the next few years, which represents a dramatic change for a street that is not to code and lacks sidewalks, making it ill-equipped for the influx of traffic.

A summary of our primary concerns regarding this planned development follows below. We would like to request that the WNA write a formal letter to the City Planner in support of our concerns.

**1. Continued encroachment on the protected wetland area as well as environmental impact and drainage concerns:**

- a. The previously established wetland boundaries keep shrinking as these developments continue to gain approval from the City.
- b. Past environmental assessments have noted concern over further development, and mitigation efforts thus far have resulted in pooling of water next to 1040 9<sup>th</sup> Street.
- c. The neighborhood would like to request a new environmental study be conducted to account for not only the current proposed development at 1220 9<sup>th</sup> Street, but also in consideration of the significant addition of homes (10 in total) in close proximity to the wetlands over a very short time frame.

- d. We would like to know what the vegetative mitigation plan is for the development at 1220 9<sup>th</sup> Street as well as the reason for approving the WRA permit. We would also like to understand the circumstances under which the City turns down a WRA permit.
2. **Safety concerns generated by increased traffic on a rural, one-lane street without sidewalks:**
    - a. Children do not have safe walking routes to school. There are many families on 9<sup>th</sup> Street with small children who attend Willamette Primary School. They are not serviced by the bus route due to proximity to the school. The children do not have space on the road (only wide enough for one car at a time) to walk safely up and down the hill.
    - b. There are four streets (14<sup>th</sup>, 12<sup>th</sup>, 9<sup>th</sup>, 4<sup>th</sup>) in the Willamette Neighborhood that provide vehicular traffic access to the river. 9<sup>th</sup> Street is one of only three options to exit the river and is one of the primary routes used by boat and park traffic. As a result, 9<sup>th</sup> street carries a very high volume of non-resident traffic—especially in the summer months. All boat traffic exiting the river must use 9<sup>th</sup> or 14<sup>th</sup>, and very few go all the way down to 4<sup>th</sup>. As a reminder the lower section of 12<sup>th</sup> is a one-way road going down to the river.
    - c. Public Safety vehicles have reduced/impeded access to homes in the area as 9<sup>th</sup> Street is only 16 feet wide. Furthermore, as we learned during the recent 4th Avenue proposal, fire hydrants in the area were not in compliance with residential standards and the proposal had ignored this fact. Further development in the area should require comprehensive assessment of residential safety standards.
    - d. It is not sufficient for the City to rely on “piecemeal” road improvements for these planned developments as they will do nothing to help alleviate safety and traffic concerns. It is our understanding that the City has no formal plan to connect these small road improvements at any point in the future.
    - e. We would like to request the City coordinate with ODOT to conduct a traffic study in the area and distribute the report to citizens in the neighborhood.
  3. **Inconsistent and unfair application/interpretation of legislation/regulations:**
    - a. Existing homeowners in the area have been unable to get approval for various minor improvement projects (such as a patio remodel, or a driveway resurfacing) because of environmental protections or City interests. However, recent property developer applications have been able to bypass many of these impediments and have even managed to redraw wetland boundaries, for example.
    - b. The City’s process of communicating this application to the neighborhood was extremely poor. We understand that the notification boundary requirement was reduced per legislation from 500ft to 100ft, but additional steps were taken to reduce transparency to residents. For example, the application unavailable on the City Website, the Planning Manager (Darren Wyss) was unresponsive regarding



Kathie Halicki:  
December 4, 2022  
Page 3

access to the application and the comment deadline for several days, and the Neighborhood Association was not notified (they are required to be notified by SB458 under section 6), nor were any signs posted on the affected property like there had been in the past.

- c. Recent state legislation (HB2001, SB458) was passed with the intent increasing the amount of affordable housing in Oregon by requiring expedited approval of lot divisions for “middle housing”. Additionally, the first sentence on West Linn’s website regarding HB2001 states, “the ‘housing choices’ bill, aims to provide Oregonians with more housing choices, especially housing choices more people can afford.” This proposed development at 1220 9<sup>th</sup> Street exploits the recent legislation by reclassifying the projects as “Middle Housing” when in fact they will be single family detached homes priced in line with other recently developed properties on 9<sup>th</sup> Street (each listed at well over \$1 million).

A list of residents is provided on the following page, who have collectively expressed support for this letter. Please do not hesitate to contact Samantha Faile or Greg Kantor with any questions.

Sincerely,

Lower Willamette Neighbors

**LOWER WILLAMETTE NEIGHBORS**

Euan Currie & Lisa Mahlum 1209 9 <sup>th</sup> Street euancurrie@gmail.com	Samantha Faile and Travis Cook 1290 10 <sup>th</sup> Street failecook@gmail.com
Josh Cheney & Ember Gard 2030 Leslies Way joshua_cheney@hotmail.com	Catherine Johnson 1340 10 <sup>th</sup> Street 503-703-7266 cbj1025@gmail.com
Matthew & Alison Kay 2050 Leslies Way richar.am@gmail.com	Michelle Joslin & Shilo Joslin 1275 10 <sup>th</sup> Street michellemjoslin@gmail.com
David Osborne 1343 9 <sup>th</sup> Street yukon.dave@me.com	Lisa and River Steenson 1068 9 <sup>th</sup> Street lisaksteenson@gmail.com
Jana Russell 1235 11 <sup>th</sup> Street 503-915-9004 jana.russell@gmail.com	Brian & Anna Wheeler 1221 9 <sup>th</sup> Street 503-351-7720 bwheeler036@gmail.com
Jennifer Aberg & Martin Heinemann 1250 9 <sup>th</sup> Street aberg1jen@gmail.com 503-349-2096	Greg Kantor & Isabelle Haranczyk 1215 9 <sup>th</sup> Street 503-887-5176 kantor.greg@gmail.com
Emily and Ryan McKenna 1257 11 <sup>th</sup> Street wheatcake@hotmail.com	Ann Miller 1009 9 <sup>th</sup> Street 503-349-8890 annivancade@yahoo.com
Jay Wallace Walker & Sue Walker 1213 9 <sup>th</sup> Street jwallywalker@gmail.com	Rebecca Smith 2140 Volpp Street 503-317-3410 smith.rebecca.f@gmail.com
Kim Rydbom & Justin Jones 2180 Volpp Street krydbom@gmail.com	Phyllis Koessler 1351 10 <sup>th</sup> Street plk0221@gmail.com
Amy Rutter 1350 10 <sup>th</sup> Street ameranner@yahoo.com	Anthony Powell 2231 5 <sup>th</sup> Ave deluxemm@gmail.com
Craig Evans and Julia Song 2193 Willamette Falls Drive, putaobarney@yahoo.com	

**EXHIBIT PD-5 COMPLETENESS LETTER**



CITY OF  
**West Linn**

November 8, 2022

Icon Construction & Development, LLC  
1969 Willamette Falls Drive, Suite 260  
West Linn, OR 97068

SUBJECT: SB458 Expedited Land Division (MIP-22-04) for middle housing at 1220 9<sup>th</sup> Street (Lot C, Tract 21, Willamette & Tualatin Tracts)

Mr. Gusdorf,

You submitted this application on October 20, 2022. The Planning and Engineering Departments determined that the application is now **complete**.

The application proposes a SB458 expedited land division for HB2001 middle housing development. Per SB458, the City is required to process the application under the procedures outlined in Oregon Revised Statute 197.360 to 197.380. The City has 63 days to make a decision to approve or deny the application; that period ends January 10, 2023.

Please be aware that a determination of a complete application does not guarantee an approval for your proposal as submitted – it signals that staff believes you have provided the necessary information for the Planning Director to render a decision on your proposal.

A 14-day public notice will be prepared and mailed. This notice will identify the earliest potential decision date by the Planning Director.

Please contact me at 503-742-6064, or by email at [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov) if you have any questions or comments.

Sincerely,

Darren Wyss  
Planning Manager

**EXHIBIT PD-6 AFFIDAVIT AND NOTICE PACKET**

**AFFIDAVIT OF NOTICE  
PLANNING MANAGER DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

**PROJECT**

File No.: **MIP-22-04** Applicant's Name: **Icon Construction**  
 Development Name: **1220 9<sup>th</sup> Street**  
 Scheduled Decision Date: **Planning Manager Decision no earlier than 12/14/22**

**MAILED NOTICE**

Notice of Upcoming Planning Manager Decision was mailed at least 14 days before the decision.

ICON Construction, applicant	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Rick Givens, applicant representative	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Metro	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
WLWL SD	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Clackamas County	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
PGE	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Comcast Cable	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
TriMet	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
NW Natural Gas	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
TVF&R	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Property owners within 100ft of the site perimeter	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS
Willamette Neighborhood Association	11/21/22	<i>Lynn Schroder</i>	Re-noticed 11/30/22 - LS

Identified parties were re-noticed on 11/30/22 with update URL link.

**WEBSITE**

Notice was posted on the City's website at least 14 days before the decision.

11/30/22	<i>Lynn Schroder</i>
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**FINAL DECISION**

Notice of Final Decision was mailed to the applicant and all parties mailed the original notice above (ORS 197.365), all parties with standing, and posted on the City's website.

1/10/2023	<i>Lynn Schroder</i>
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**CITY OF WEST LINN  
RE-NOTICE OF UPCOMING PLANNING MANAGER DECISION  
FILE NO. MIP-22-04**

The City of West Linn has received a complete application (MIP-22-04) proposing a two-parcel Expedited Land Division (SB458) for Middle Housing (HB2001) at 1220 9<sup>th</sup> Street (Lot C, Tract 21, Willamette & Tualatin Tracts).

The Planning Manager will make the decision after expiration of the required 14-day written comment period. The decision will be based on the criteria found in Oregon Revised Statute 92.031. Any appeal of the decision will be reviewed by an appointed referee.

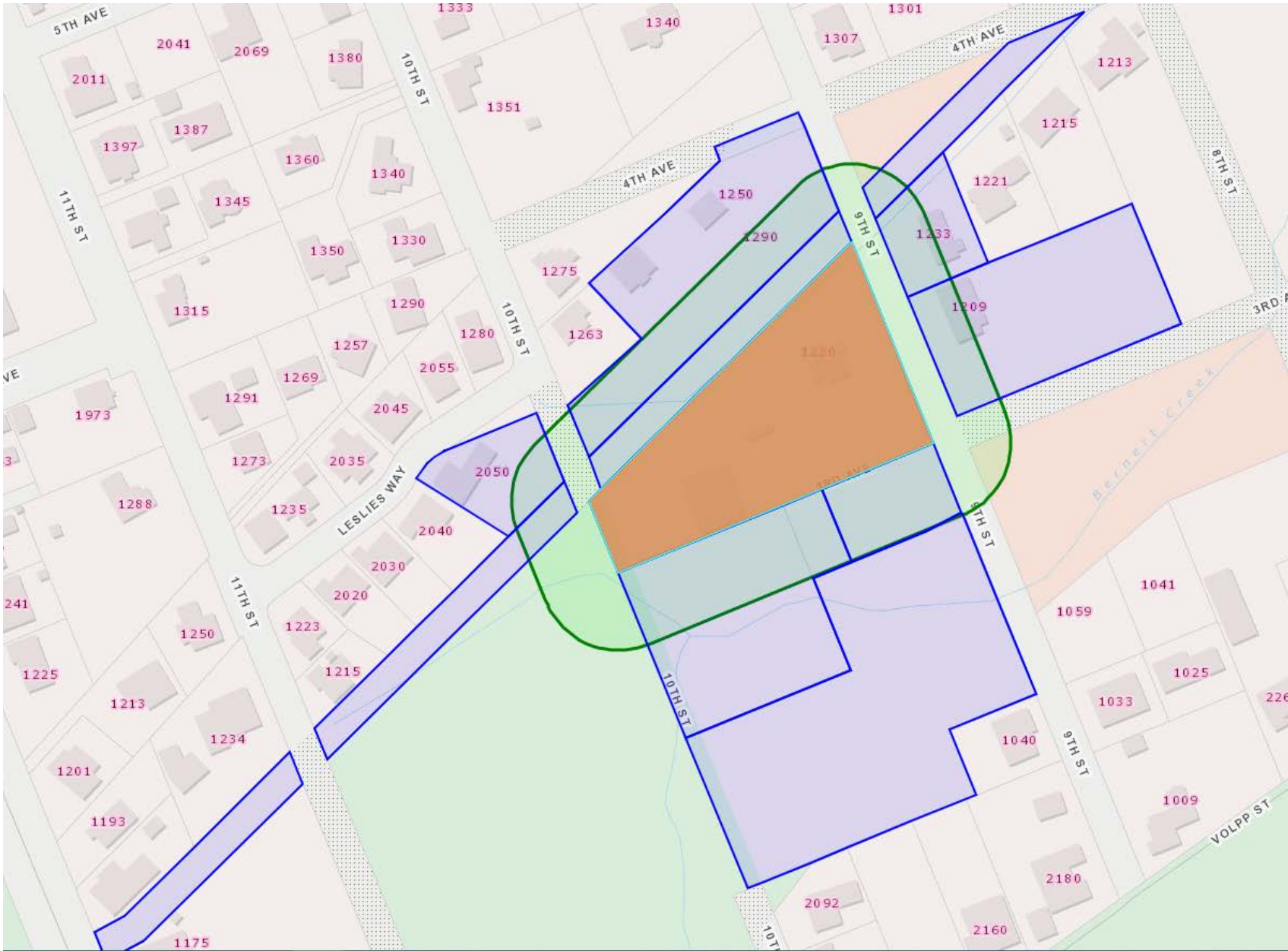
The complete application and all evidence submitted by the applicant is posted on the City's website <https://westlinnoregon.gov/planning/1220-9th-st-tract-c-sb458-expedited-land-division>. Alternatively, the application and all evidence submitted by the applicant are available for review between the hours of 8:00am and 5:00pm, Monday through Thursday, at City Hall at no cost. Copies may be obtained at reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to submit written comments for consideration must submit all material prior to the expiration of the 14-day comment period. The deadline to submit written comments is 4:00 p.m. on December 14, 2022. Written comments can be submitted to [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov) or to City Hall, 22500 Salamo Road, West Linn, OR 97068. All comments must be received by the deadline.**

All issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period outlined above and all issues must be raised with sufficient specificity to enable the Planning Manager to respond to the issue.

For additional information, please contact Darren Wyss, Planning Manager, at City Hall, 22500 Salamo Road, West Linn, OR 97068, or 503-742-6062 or [dwyss@westlinnoregon.gov](mailto:dwyss@westlinnoregon.gov).

# MIP-22-04 Notified Properties within 100 feet of 1220 9th Street







**NOTICE OF UPCOMING  
PLANNING MANAGER DECISION**

**PROJECT # MIP-22-04  
MAIL: 11/30/2022 TIDINGS: N/A**

**CITIZEN CONTACT INFORMATION**

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.