



CITY OF
West Linn

PLANNING MANAGER DECISION

DATE: October 25, 2023

FILE NO.: ELD-23-07

REQUEST: Approval of an SB458 Expedited Land Division for a Townhouse Project to divide 4 existing lots into 8 new lots for the construction of 8 townhouse units at 5715 West A Street.

PLANNER: Chris Myers, Associate Planner

Planning Manager

DSW

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GENERAL INFORMATION

APPLICANT/ OWNER:	Icon Construction & Development, LLC 1969 Willamette Falls Drive., Suite 260 West Linn, OR. 97068
SITE LOCATION:	5715 West A Street
SITE SIZE:	24,500 square feet
LEGAL DESCRIPTION:	Clackamas County Assessor Map 22E30CB Tax Lots 2700, 2800, 2900
COMP PLAN DESIGNATION:	Medium-Density Residential
ZONING:	R-5, Residential (5000 sq. ft. min. lot size)
APPROVAL CRITERIA:	Oregon Revised Statute 92.031
63-DAY RULE:	The application became complete on August 30, 2023. The 63-day period for an expedited land division ends November 1, 2023.
PUBLIC NOTICE:	Notice was mailed to property owners within 100 feet of the subject property, public facility and services providers, and the Bolton Neighborhood Association on September 1, 2023. A re-notice was sent to all property owners with 100 feet of the subject property, public facility and services providers, and the Bolton Neighborhood Association on September 5, 2023, as required by Oregon Revised Statute 197.365. The notice was also posted on the City's website on September 1, 2023. Therefore, public notice requirements have been met.

EXECUTIVE SUMMARY

The subject property is a 24,500 square foot property and a legal lot of record on West A Street. The property is zoned R-5 Residential, and the applicant will construct a Townhouse Project consisting of 4 structures each with 2 townhomes for a total of 8 townhouse units as 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 divide the property under SB458 rules adopted by the Oregon Legislature in 2021 and codified in Oregon Revised Statute 92.031. Each resulting lot will contain one dwelling unit of the Townhouse Project.

Proposed Lot Sizes

Lot 1A – 3000 sq. ft.

Lot 1B – 3000 sq. ft.

Lot 2A – 3000 sq. ft.

Lot 2B – 3000 sq. ft.

Lot 3A – 3000 sq. ft.

Lot 3B – 3000 sq. ft.

Lot 4A – 3000 sq. ft.

Lot 4B – 3500 sq. ft.

The property is not located within the Willamette River Greenway (WRG), a Water Resource Area (WRA), nor any FEMA flood hazard area. There is an existing water line adjacent to the property in West A Street. An existing sewer line is adjacent to the south side of the subject property. The nearest existing stormwater drainage line is also located adjacent to the south side of the subject property.

The property has approximately 200 feet of frontage on West A Street, which has a functional classification of a Collector Street. Each of the eight lots will take access from private driveways adjacent to West A Street. The West A Street right-of-way (ROW) is approximately 60 feet wide adjacent to the subject property and requires no additional ROW dedication.

Public comments:

The City received five public comments prior to the closing of the public comment period. The full text of the comments can be found in Exhibit PD-2. Below staff has summarized the comments and provided responses.

Mike Dant Email 9.11.23

Expressed concern for the increased traffic and congestion from adding 8 additional dwelling units. Also concerned about the speed of drivers on West A Street and the volume of traffic during the school year.

Staff Response:

The applicant proposes to develop a middle housing type (townhouse) 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).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to permit townhouses in areas allowing construction of a single-family detached home (see Staff Finding 1). 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 Townhouse Project to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

West A Street is approximately 40 feet wide curb to curb, the right-of-way is approximately 60 feet wide, and has a functional classification of a Collector Street. A traffic impact analysis is not a part of the approval criteria set forth by the State of Oregon.

The speed of traffic is not a part of the approval criteria set forth by the State of Oregon. The applicant will be required to build a sidewalk across the entire frontage of the subject property. The City has a project in the 2016 Transportation System Plan to extend/construct sidewalks from Highway 43, on West A Street, to Terrace Drive thus giving a complete sidewalk connection on West A Street.

Bryan Faulkner Email 9.11.23

Expressed concern that the property sold for more than its value which allows developers to outbid home buyers thus driving the housing market up and putting home buying further out of reach for many.

Further concern was expressed that by allowing properties to be split in this manner will drastically increase class sizes for local schools and thus lower the effectiveness of the schools.

Another concern is that parking on West A is limited especially during the school year. Converting one home into 8 will add an excessive amount of cars that need to park and drive on West A Street.

Lastly, the construction of lower cost homes will decrease the value of existing homes in the adjacent neighborhood.

The applicant proposes to develop a middle housing type (townhouse) 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).

The Oregon Legislature approved HB2001 in 2019, requiring the City of West Linn to allow Townhouses on the subject property (see Staff Finding 1). The applicant proposes a Townhouse Project (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 Townhouse Project to be located on its own lot or parcel. The applicant proposes to divide the property under SB458 rules.

The market value and sale price of the subject property is not part of the criteria set forth by the State of Oregon as part of HB2001 or SB458.

Each townhouse will provide two parking spaces via a dedicated driveway and a garage.

The potential increase or decrease in value of nearby homes is not a part of the approval criteria set forth by the State of Oregon.

Matthew Williams Email 9.6.23

Mr. Williams expressed concern about the size and height of the proposed buildings as well as the space between the proposed buildings. It was also expressed that the proposed structures will only be 20 feet from West A Street which is the minimum front yard setback based on the code and that the buildings should be further away from the street if they are going to be the maximum allowed, 35 feet in height.

The West Linn Community Development Code (CDC) Chapter 13 Residential R-5 lists specific dimensional requirements for structures. CDC Chapter 13 allows for structures to be up to 35 feet in height and up to 20 feet from the front property line and within 5 feet of a side property line. The proposed Townhouse Project will be reviewed through the building permit process to ensure all dimensional requirements are met.

Alexander Bish Email 9.19.23

Mr. Bish expressed concern that parking is already strained on West A Street. Specific parking concerns included: lack of City patrols to ensure proper parking permits, event parking is challenging and causes a nuisance for homeowners, and parked cars blocking the bike lane and taking portions of the travel lane, as well as parking in front of driveways and painted curbs.

Further concern was expressed about local homeowners having to deal with more construction while the subject property is being developed. Construction on I-205 and Highway 43 has made travel difficult for this area of the City.

Lastly, concern was expressed for the potential for the townhouse project to reach the maximum structure height of 35 feet as allowed by the West Linn Community Development Code.

Each townhouse will provide two parking spaces via a dedicated driveway as well as a garage. Further parking requirements were not set forth by the State of Oregon as part of the criteria for middle housing through HB2001 and SB458.

Construction on the subject site is not a part of the approval criteria. Construction on the I-205/Highway 43 interchange is not a part of the approval criteria for this development.

The West Linn Community Development Code (CDC) Chapter 13 Residential R-5 lists specific dimensional requirements for structures. CDC Chapter 13 allows for structures to be up to 35 feet in height and up to 20 feet from the front property line and within 5 feet of a side property line. The proposed Townhouse Project will be reviewed through the building permit process to ensure all dimensional requirements are met.

Vince Miles Email 9.19.23

Expressed concern that the Notice of Upcoming Planning Manager Decision was not received by most of the homeowners within 500 feet of the subject property nor did the Bolton Neighborhood Association receive the notice.

The Notice of Upcoming Planning Manager Decision was mailed to all property owners within 100 feet of the subject property, on September 1, 2023, as required by the State of Oregon. The notice was also mailed to the Bolton Neighborhood Association on September 1, 2023. The Notice of Upcoming Planning Manager Decision was Re-Noticed on September 5, 2023 to all property owners within 100 feet and the Bolton Neighborhood Association (see Exhibit PD-4). Notice of the application was also posted on the City's website on September 1, 2023. Notice was also sent to the West Linn Wilsonville School District, Metro, Clackamas County, PGE, Tualatin Valley Fire & Rescue, and the Stafford-Tualatin Community Planning Organization as well as others. The noticing complies with Oregon Revised Statute 197.365.

DECISION

The Planning Manager (designee) approves this application (ELD-23-07) 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. **Preliminary Plat.** With the exception of modifications required by these conditions, the final plat shall substantially conform to the Preliminary Plat dated 8/15/23 (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. **Public Stormwater Easement.** The applicant shall show the 10-foot public stormwater easement centered on the existing public stormwater line that crosses the subject property on the face of the final plat.
6. **Private Stormwater Easements.** The applicant shall provide authorization from Portland General Electric to locate private stormwater infrastructure in the existing powerline easement and show/record private stormwater easements over the infrastructure locations on the final plat or the applicant shall move the private stormwater infrastructure out of the existing powerline easement and show/record private stormwater easements over the infrastructure on the final plat.
7. **West A Street Public Utility Easement.** The applicant shall show an eight-foot public utility easement along the West A Street right-of-way frontage on the face of the plat prior to final plat approval by the City.
8. **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".
9. **Final Plat Recording.** The approval of the tentative plat (ELD-23-07) shall be void if the applicant does not record the final partition plat within three years of approval.
10. **Street Improvements.** The applicant shall complete frontage improvements per the TVF&R approved plan found in Exhibit PD-1. The City may partner with the applicant to fund additional improvements as part of the project.

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

Chris J. Myers
Chris Myers, Associate Planner

October 25, 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 26th day of October, 2023.

Therefore, the 14-day appeal period ends at 5 p.m., on November 9, 2023.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
ELD-23-07**

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

Staff Finding 1: The subject property is zoned Residential, R-5 and permits the construction of 8 townhomes. ORS 197.758(2)(a) requires the City of West Linn to allow townhomes, one type of middle housing, in areas zoned for residential use that allows for the development of detached single-family dwellings. The applicant proposes the construction of Townhouse Project with each townhome on its own lot as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a townhouse as "A dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit." The CDC defines

Townhouse Project as, “One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.” The proposed division of the subject lots, which allows the development of middle housing, is permitted. The criteria are 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 Townhouse Project, which qualifies as a middle housing type (see Staff Finding 1). The applicant did not submit building plans for the Townhouse Project 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 Townhouse Project, 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 applied and calculated based on the subject property boundary and total area. Sidewall transitions and maximum building height will be reviewed based on building plans. The applicant did not submit building plans for the Townhouse Project 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 is not located within the Willamette River Greenway, a Water Resource Area, nor a Floodplain Management Area. The criteria are met.

(b) Separate utilities for each dwelling unit;

Staff Finding 5: The applicant proposes the construction of a Townhouse Project 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 subject property has an existing stormwater line running south to north across the property. The applicant proposes a 10-foot public storm easement centered on the line and shall show the easement on the face of the plat per Condition of Approval 5.

The applicant proposes private stormwater infrastructure for the future townhouses to be located in the rear of the newly created lots and within the existing Portland General Electric (PGE) powerline easement. The applicant shall submit authorization from PGE to locate the infrastructure within the powerline easement and show/record private stormwater easements over the infrastructure crossing property lines on the final plat or move the stormwater infrastructure out of the PGE powerline easement and show/record private stormwater easements over the infrastructure crossing property lines on the final plat per Condition of Approval 6.

The City franchise agreements require an eight-foot public utility easement along West A Street. The applicant shall show the utility easement on the face of the final plat prior to final plat approval by the City per Condition of Approval 7. 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 Townhouse Project on the subject property, including the division of the parcel as allowed by SB458. All dwellings will have pedestrian access to West A Street, a public street, via dedicated driveways for each lot. 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; 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 Townhouse Project on the subject property, including the division of the parcel as allowed by SB458. The proposal does not include any parking areas needing an easement. Access to all parcels will come directly from West A Street via dedicated driveways for each parcel. 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 Townhouse Project as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines a townhouse as “A dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit.” The CDC defines Townhouse Project as, “One or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.” The proposed division of the subject lots, which allows the development of middle housing, is permitted. 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 Townhouse Project, which qualifies as a middle housing type. The applicant did not submit building plans for the Townhouse Project 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 Townhouse Project on the subject property, 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 8. 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 Townhouse Project on the subject property, 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 8. 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 subject property has approximately 200 feet of frontage along West A Street, which is classified as a Collector Street. The applicant shall complete frontage improvements per the TVF&R approved plan found in Exhibit PD-1. The City may partner with the applicant to fund additional improvements as part of the project. Subject to the Conditions of Approval, 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 driveway for each of the proposed townhomes. 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 Conditions of Approval 2 and 3. 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 is adjacent to West A Street, a public right-of-way (ROW). The existing West A Street ROW measures approximately 60 feet in width. The proposed project does not require a right-of-way dedication. The criteria do not apply.

(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 Townhouse Project on the subject property, including the division of the lot as allowed by SB458. The type of middle housing, Townhouse Project, 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 any 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 (ELD-23-07) shall be void if the applicant does not record the final partition plat within three years of approval per Condition of Approval 9. 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-5 and within the Portland Metropolitan Area Urban Growth Boundary. The applicant proposes development of a Townhouse Project, 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 is not located within the Willamette River Greenway. No development is proposed in a Water Resource Area. 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 meet street connectivity standards in the vicinity of the subject property. The 2016 West Linn Transportation System Plan (TSP) does not include any street connectivity projects adjacent to the subject property. The pedestrian plan within the TSP shows a sidewalk installation project on both the east and west sides of West A Street from a point approximately 250 feet east of Willamette Drive (Highway 43) to Terrace Drive. The subject property will construct frontage improvements per Condition of Approval 10. Subject to the Conditions of Approval, 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 is approximately 24,500 sq. ft. and zoned Residential, R-5, which requires a minimum lot size of 5000 sq. ft. Maximum density under a traditional CDC Chapter 85 land division would allow four dwelling units. The applicant proposes a Townhouse Project 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 eight 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 four lots as permitted 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 Townhouse Project, 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 lots 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: See Staff Findings 24 to 32. 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 August 15, 2023 and deemed incomplete by the City on August 18, 2023. The applicant submitted the revised submittal package on August 30, 2023 and the City deemed the application complete on August 30, 2023. 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 August 15, 2023 and deemed incomplete by the City on August 18, 2023. The applicant submitted the revised submittal package on August 30, 2023 and the City deemed the application complete on August 30, 2023. Approval of the application is based on the standards and criteria found in ORS 92.031 that were applicable on August 30, 2023. 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 September 1, 2023. The City provided written notice to property owners within 100 feet of the entire contiguous site, compiled from the most recent property owner information available, on September 1, 2023. The City provided written notice to the Bolton Neighborhood Association on September 1, 2023. The City provided a Re-Notice to property owners within 100 feet, the Bolton Neighborhood Association, and to all state agencies, local governments, and special districts responsible for providing public facilities or services on September 5, 2023. The affidavit of public notice is found in Exhibit PD-4 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-4. 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 September 1, 2023, and a Re-Notice on September 5, 2023 with a deadline for submission of written comments on September 19, 2023. This provided a 14-day comment period. A copy of the notice is found in Exhibit PD-4. 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 August 15, 2023 and deemed incomplete by the City on August 18, 2023. The applicant submitted the revised submittal package on August 30, 2023 and the City deemed the application complete on August 30, 2023. The City approved the application with conditions on October 25, 2023, the 56th 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 August 15, 2023, the 56th 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 Chris Myers	PROJECT NO(S). ELD-23-07	PRE-APPLICATION NO.	
NON-REFUNDABLE FEE(S) \$4,900	REFUNDABLE DEPOSIT(S)	TOTAL	\$4,900

Type of Review (Please check all that apply):

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



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

Site Location/Address:

5715 West A Street

Assessor's Map No.:	2-2E-30CB
Tax Lot(s):	2700, 2800 & 2900
Total Land Area:	24,500 S.F.

Brief Description of Proposal:

Expedited Land Divisions to divide 4 existing lots into a total of 8 lots for and the construction of 8 new townhouse units.

Applicant Name: (please print) **Icon Construction & Development, LLC**
Address: 1969 Willamette Falls Dr., Suite 260
City State Zip: West Linn, OR 97068

Phone: (503) 657-0406
Email: darren@iconconstruction.net

Owner Name (required): (please print) **Same as applicant.**
Address:
City State Zip:

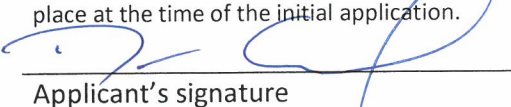
Phone:
Email:

Consultant Name: (please print) **Rick Givens, Planning Consultant**
Address: 28615 SW Paris Ave., Unit 110
City State Zip: Wilsonville, OR 97070

Phone: 503-351-8204
Email: rickgivens@gmail.com

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. The City accepts electronic (.pdf) land use applications and project submissions from applicants. Applicants should submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

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


 Applicant's signature
DARREN GUSSDORF

8/14/23
 Date


 Owner's signature (required)
MARK HANDRUS

8/14/23
 Date

Expedited Land Division Narrative

5715 West A Street - Expedited Land Division

Icon Construction & Development, LLC

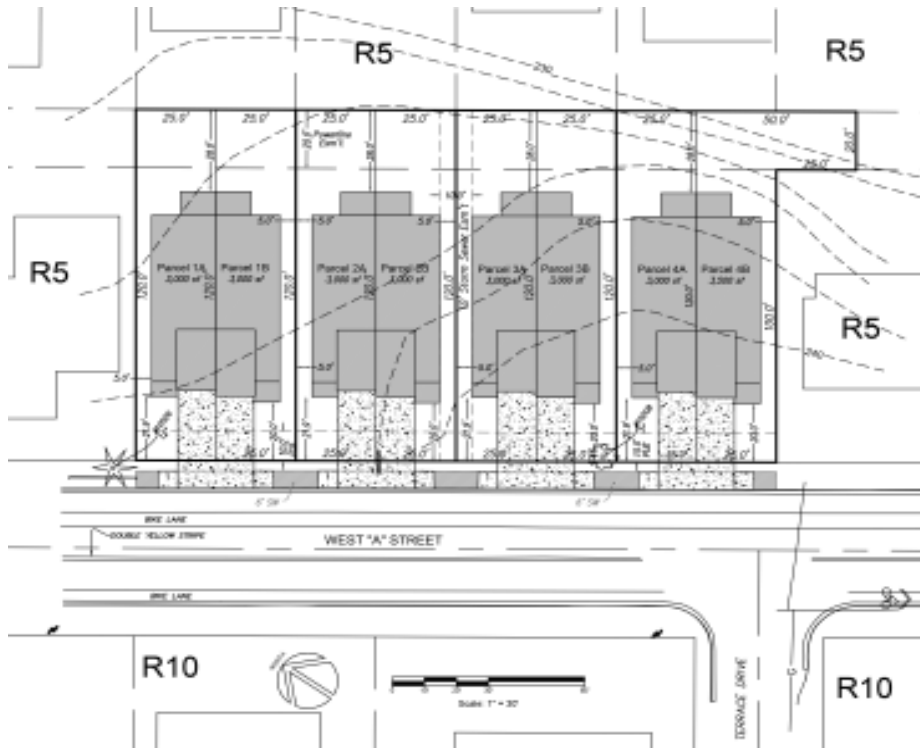
Proposal: This application requests approval of a middle housing Expedited Land Division (ELD) for a total of four platted lots located at 5715 West A Street in West Linn. This site is located on the east side of West A Street between Webb Street and Terrace Drive.



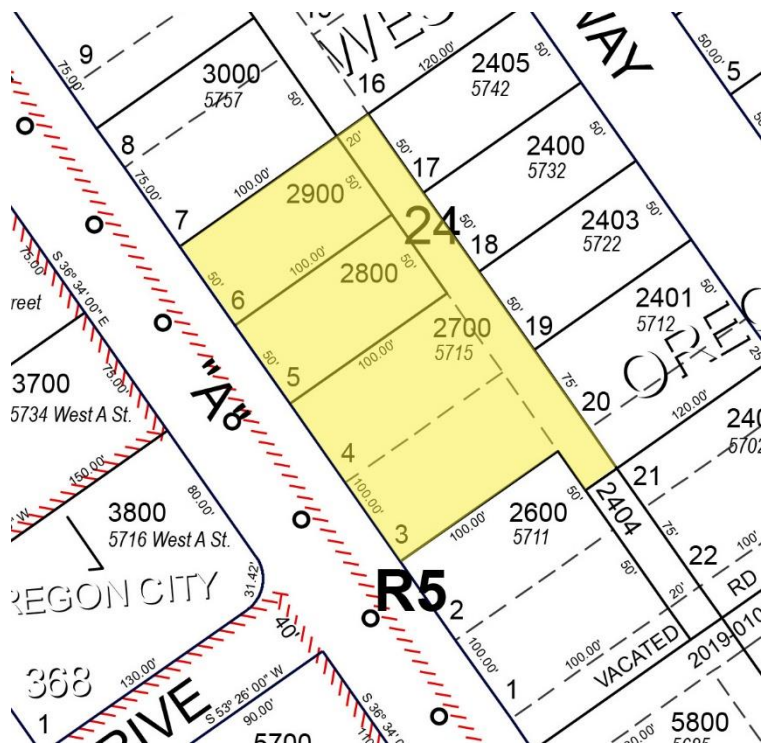
Vicinity Map

The existing lots included in the project are identified as Lots 3, 4, 5 & 6 of Block 24 of the West Oregon City Addition to the City of West Linn subdivision recorded in 1924. The property is presently identified by the Clackamas County Assessor's Office Map No. 22E30CB as Tax Lots 2700 (containing Lots 3 and 4 and a 20'-wide power line tract), 2800 (Lot 5) and 2900 (Lot 6). The site measures 24,500 sq. ft. in area and is zoned R-5. There is an existing single-family detached home on the subject property that spans Lots 3, 4 and a portion of Lot 5. This home will be demolished in order to allow for the construction of pairs of townhouse units on each of the four platted lots.

This application requests approval of an Expedited Land Division to permit middle housing, pursuant to the provisions of ORS 92.031, to divide each of the four platted lots into two parcels. Each parcel will contain a townhouse unit. The proposed site plan is depicted on the map on the following page as well as on the Tentative Plan submitted with this application.



Site Plan



Crop from Assessor's Map
22E30CB

Existing Conditions

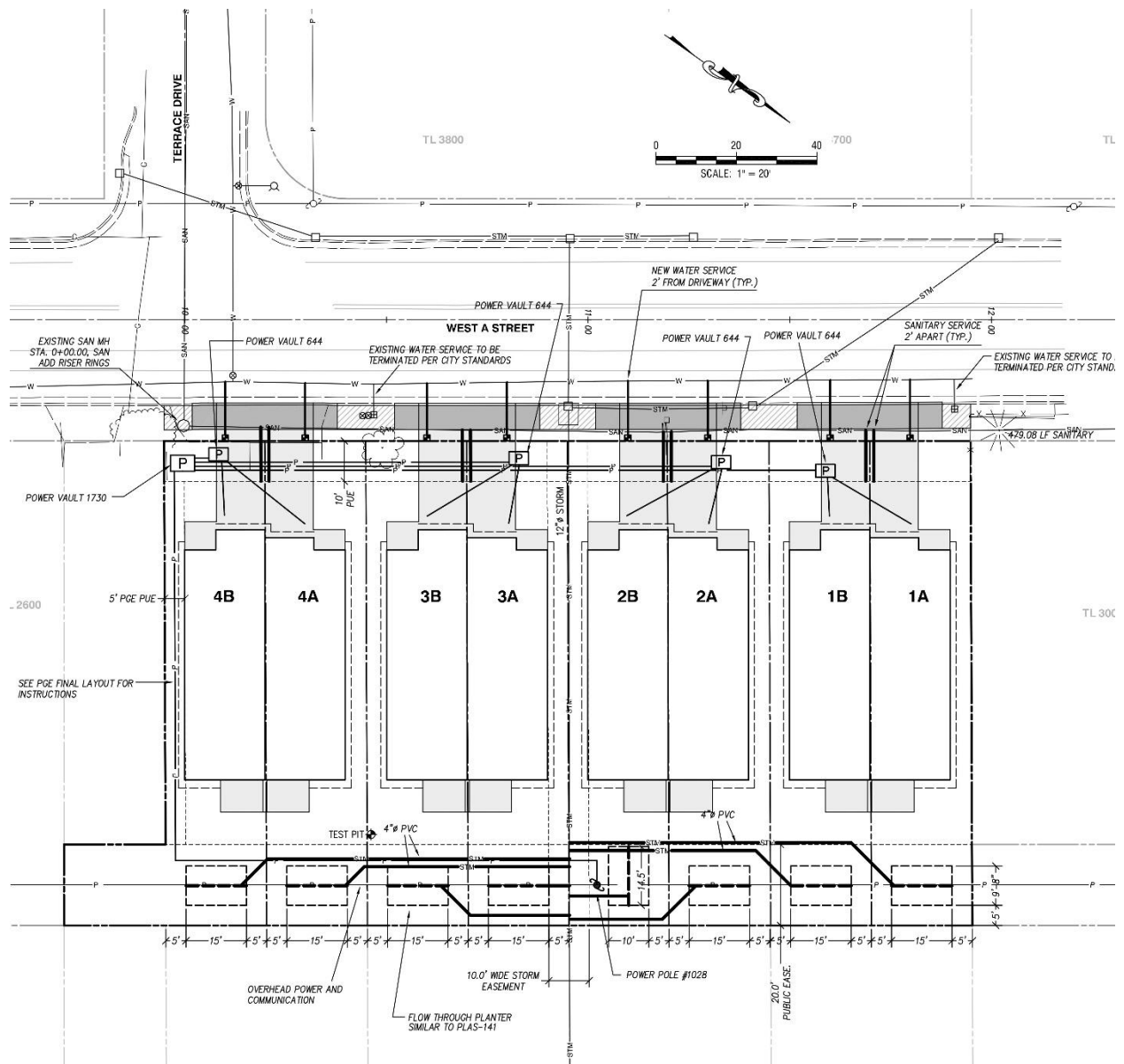
The subject property is shown outlined in yellow on the aerial photograph on the following page. As discussed above, there is an existing house on the property that will be demolished to make way for the construction of the proposed townhouse units. The property slopes downhill from West A Street to the northeast at a grade of less than five percent. There are existing overhead powerlines locate in the 20-foot-wide easement on the east edge of the property.



Aerial Photograph of Existing Conditions

Public Facilities

City of West Linn sanitary sewer and water lines are located in West "A" Street to serve the proposed project. New service laterals and water meters will be installed as shown on the preliminary utility plans shown below. There is an existing storm sewer line that drains water from West A Street that passes through the site. There is no existing easement for this facility on the property. The plans for the project include the removal of the existing storm line and the installation of a new 12" line in a new easement between Tax Lots 2700 & 2800. Flow-through infiltration soakage chambers will be used for individual lots, with overflow to the new storm line.



Utility Plan

Compliance with Approval Criteria:

Consistent with the provisions of ORS 92.031, this proposed middle housing land division application will make use of the Expedited Land Division procedures set forth in ORS 197.360. The approval criteria relevant to this application are found in ORS 92.031.

(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 townhouse units, one of which will be located on each parcel. The townhouse units will be constructed in pairs. Townhouse units are middle housing pursuant to the definitions in ORS 197.758(1). The subject lots are zoned R-5 and this zone 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 townhouse units, as shown on the attached Tentative Plan. 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 to provide for compliance with state requirements for middle housing. The new standards allow for middle housing in all residential districts, including the R-5 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 applicable dimensional standards for the R-5 zone are found in CDC 13.070 and are shown in the table below:

STANDARD	REQUIREMENT	ADDITIONAL NOTES	COMMENT
<i>Average min. Lot or Parcel size for a Townhouse Project</i>	<i>1,500 SF</i>		The proposed townhouse parcels are a minimum of 3,000 sq. ft. in area. This standard is met.
<i>Minimum lot width at front lot line</i>	<i>35 ft.</i>	<i>Does not apply to Townhouses or Cottage Clusters.</i>	Not applicable to the proposed townhouse units.
<i>Average Minimum lot width</i>	<i>35 ft.</i>	<i>Does not apply to Townhouses or Cottage Clusters.</i>	Not applicable to the proposed townhouse units.
<i>Front Yard</i>	<i>20 ft</i>	<i>None Applicable.</i>	The proposed minimum front yard setback is 20 feet.
<i>Interior Side Yard</i>	<i>5 ft</i>	<i>Townhouse common walls that are attached may have a 0 ft side setback.</i>	The proposed side yards are 5 feet except for the proposed 0 ft. setback between attached townhouse units.
<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 townhouse units will comply with the maximum 35' height. Compliance with height standards will be reviewed with the building permit application.
<i>Maximum Lot Coverage</i>	<i>40%</i>	<i>Maximum lot coverage does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters.</i>	Not applicable to the proposed townhouse units.
<i>Minimum Accessway Width to a lot which does not abut a street or a flag lot</i>	<i>15 ft</i>		Not applicable. No accessways are proposed.
<i>Maximum Floor Area Ratio</i>	<i>0.45</i>	<i>Max FAR does not apply to duplexes, triplexes, quadplexes, townhouses or cottage clusters.</i>	Not applicable to the proposed townhouse units.

(b) Separate utilities for each dwelling unit;

Comment: Each unit of the townhouses will have separate utilities, as shown on the Utility Plan above.

(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. Public Utility Easements required for all facilities are shown on the Tentative Plan and Utility Plan.

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

Comment: All of the lots front directly onto West A Street. A new 6'-wide sidewalk will be installed along the frontage, as shown on the Tentative Plan and Utility Plan.

(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 one vehicle plus an attached garage providing an additional parking space.

(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

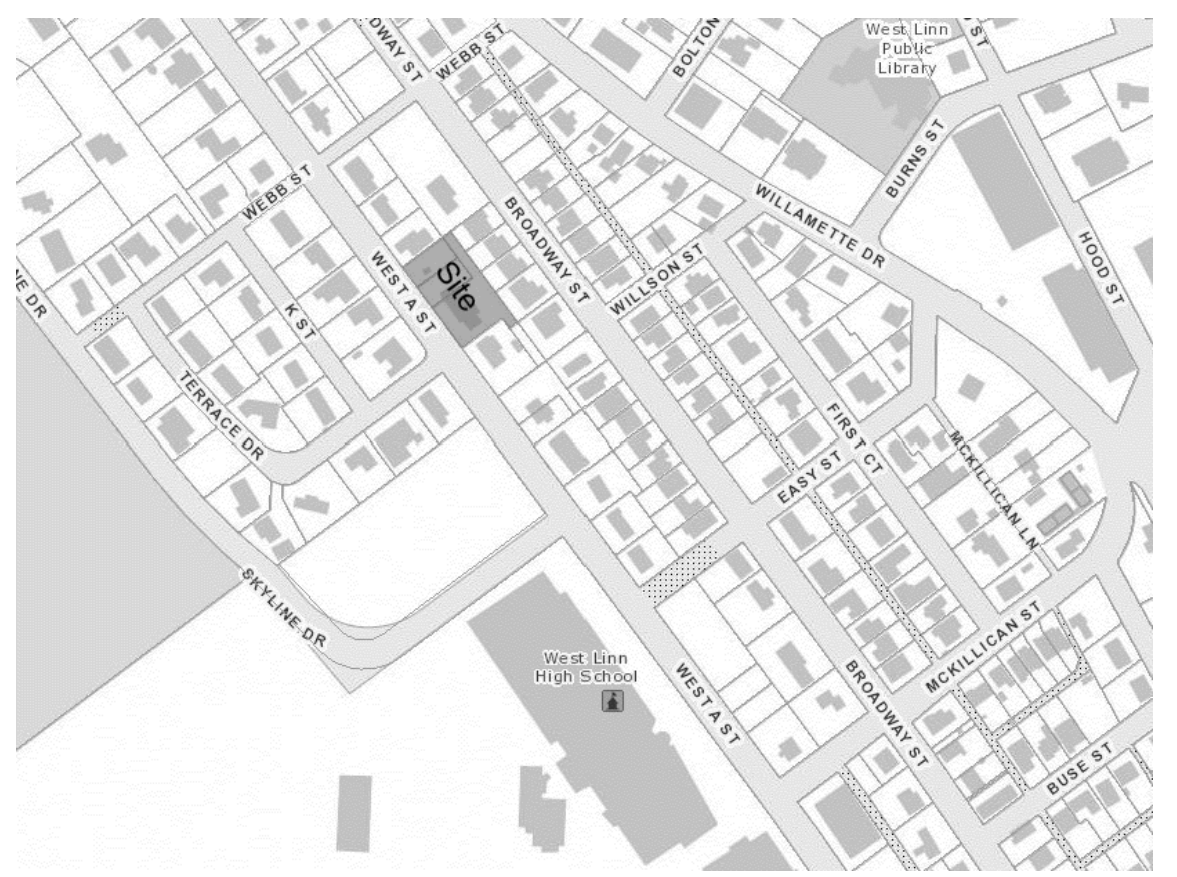
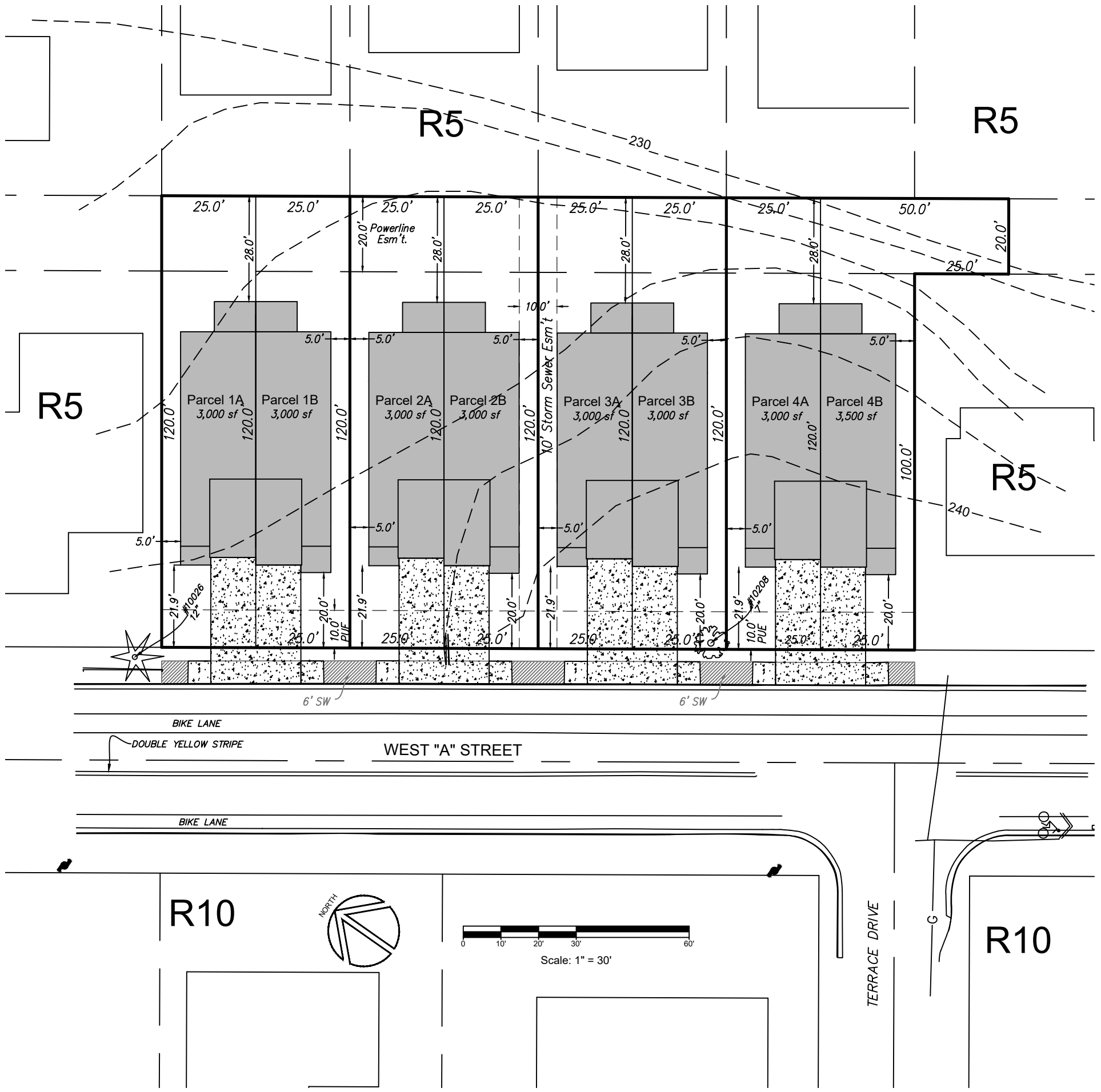
Comment: Each lot will be developed with exactly one dwelling unit.

(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.

Grading and Utility Plans per CDC 85.170(C)-(E)

Utility and Grading Plans, prepared by Theta, LLC, are included with this application. These drawing shows all sewer, water and storm services required to serve the proposed lots. Future grading for the foundations for the homes to be built on the lots will be submitted with the building permit applications prior to the commencement of home construction.



VICINITY MAP

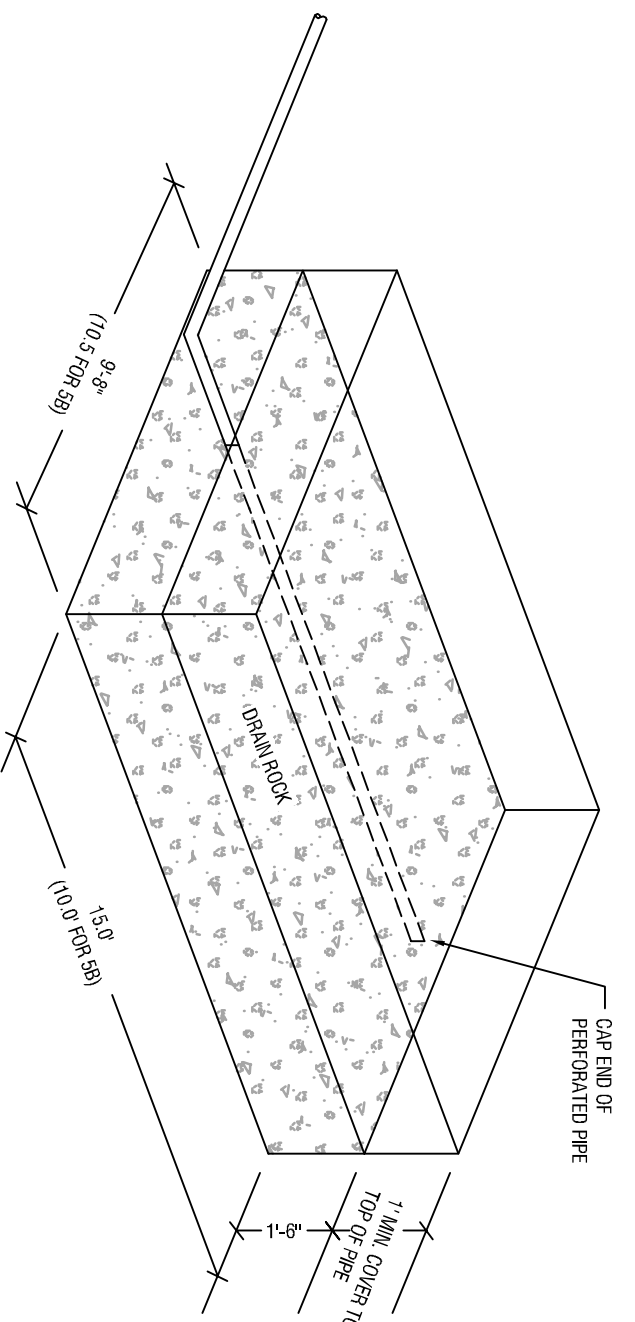
Legal: 22E30CB 2700, 2800 & 2900
 Water: City of West Linn
 Sewer: City of West Linn
 Engineer: Theta Engineering
 Surveyor: Centerline Concepts, Inc.
 Site Area: 24,500 sq. ft.
 Zoning: R-5

DESIGNED:	R.E.G.		
DRAWN:	R.E.G.		
SCALE:	1" = 30'		
DATE:	August 2023		
FILE:	23-ICN-100	DATE	NO.
			REVISION

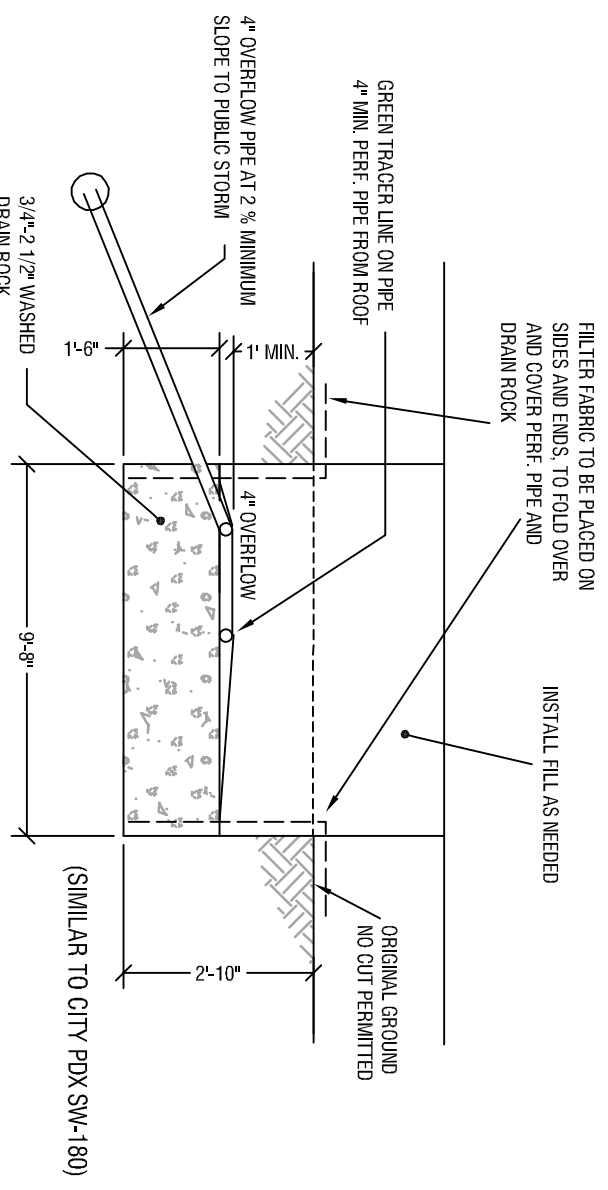
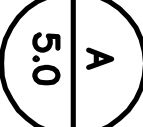
Richard E. Givens, Planning Consultant
 28615 SW Paris Ave., Unit 110
 Wilsonville, OR 97070
 PH: (503) 351-8204

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

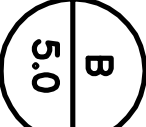
5715 West A Street ELDs
Tentative Plan



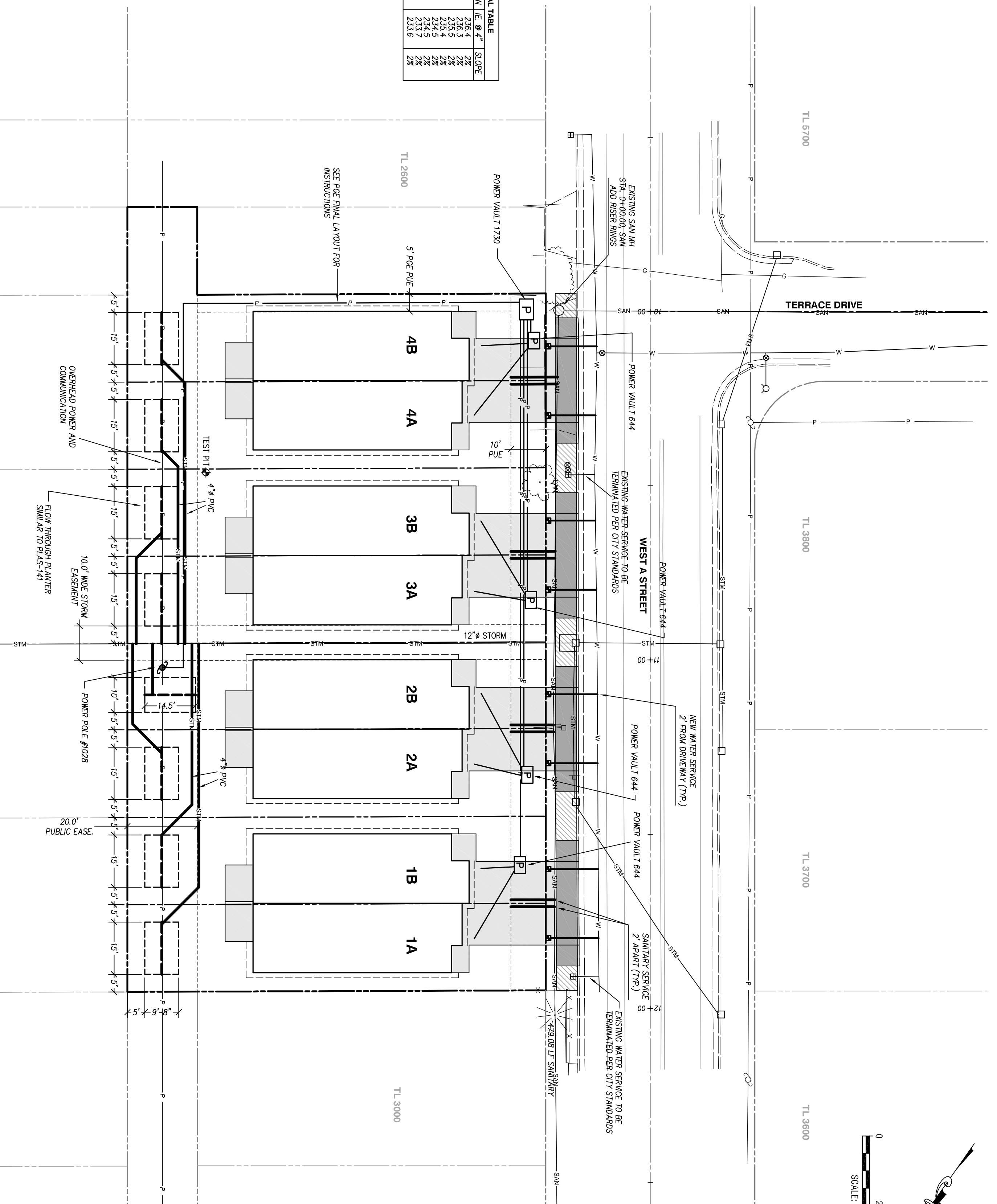
SOAKAGE TRENCH
3A, 3B, 4A, 4B, 5A, 6A, 6B
 SCALE: NTS



SOAKAGE TRENCH SECTION
 SCALE: NTS



LOT	STATION	LENGTH	IN. SAN.	IN. SAN.	IN. SAN.	IN. SAN.	IN. SAN.	IN. SAN.
50	0+00	13.34	2335.09	236.3	22	22	22	22
3A	0+30	13.34	2335.09	236.3	22	22	22	22
4B	0+45	12.67	2334.20	234.4	22	22	22	22
4A	0+48	12.67	2334.20	234.4	22	22	22	22
5B	1+28	12.16	2333.30	232.4	22	22	22	22
5A	1+28	12.16	2333.30	232.4	22	22	22	22
6B	1+30	12.54	2332.40	230.4	22	22	22	22
6A	1+30	12.54	2332.40	230.4	22	22	22	22
6A	1+80	12.57	2331.40	228.4	22	22	22	22
			323.40	233.6	22	22	22	22



2023-1292ZA
 DESIGNED: BDG
 DRAWN: BJS
 SCALE: 1" = 20'
 DATE: July, 2023
 FILE: A Avenue 1292ZA CIVIL

THE
ENGINEERING - SURVEYING - PLANNING
 P.O. Box 1345
 Lake Oswego, Oregon 97035
 503.481-8822
 email: thebain@comcast.net

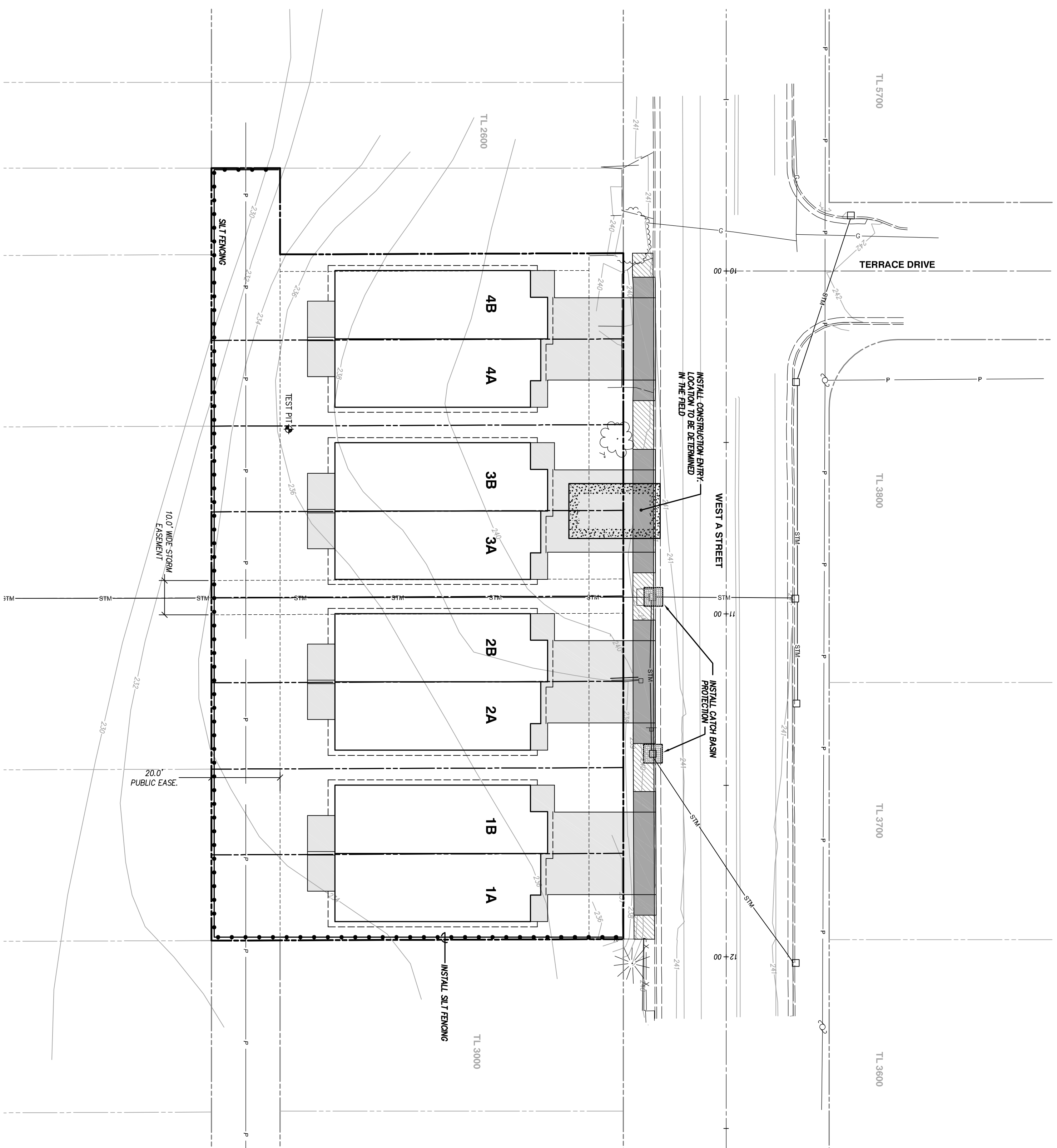
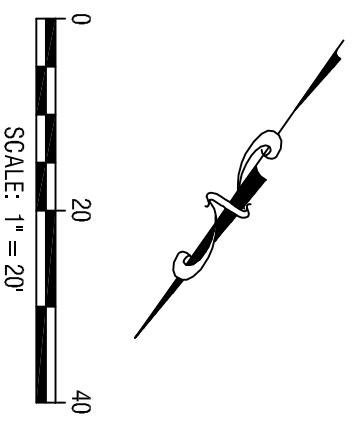
Icon Construction and Development
 1969 Willamette Falls Drive #280
 West Linn, Oregon 97068

West A Redevelopment
 5715 W. A Street
 West Linn, Oregon



UTILITY PLAN

SHEET:
5.0



DESIGNED:	BDG	
DRAWN:	BJS	
SCALE:	1" = 20'	
DATE:	July, 2023	
FILE:	A Avenue 1292A CIVIL	

THEETA, LLC
ENGINEERING - SURVEYING - PLANNING
PO Box 1345
Lake Oswego, Oregon 97035
503/481-8822
email: theeta@comcast.net

Icon Construction and Development
1969 Willamette Falls Drive #280
West Linn, Oregon 97068

GRADING AND EROSION CONTROL PLAN

West A Redevelopment
5715 W. A Street
West Linn, Oregon

SHEET:
6.0

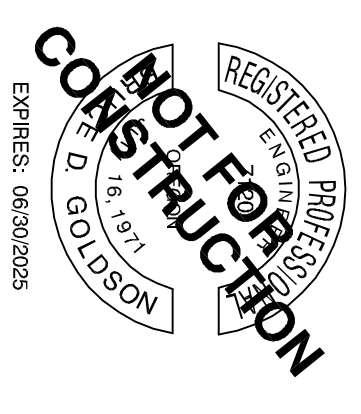


EXHIBIT PD-2 PUBLIC COMMENTS

Dear Chris Myers,

I am writing in regard to File No. ELD-23-07, which is a proposal by Icon Construction & Development (“Icon”) to take what is presently a large lot with a single family home (5715 West A St) and divide it into eight lots with eight townhomes.

To be frank, I strongly oppose Icon’s proposal. I live right next door to the subject property, having purchased my home last November with my wife. At that time, the home currently on the subject property was vacant; we understood the gentlemen who had lived there for decades had recently passed and his home was going through probate.

We had looked forward to someone purchasing the home, but we were quite disappointed to learn that a developer gobbled it up and has decided to put eight townhomes on the property in what, by all appearances, is nothing more than a cash grab. Certainly not the developer’s concern, as they presumably don’t live next door like I do or even in this neighborhood and thus won’t experience anything other than a financial windfall. Yet, for me and others who call this place home, we now face several months of construction, loss of privacy, and what is sure to be an exacerbation of what is already a parking nightmare.

The construction concerns should be fairly evident and do not need much elaboration—eight townhomes is quite the project in a neighborhood on a busy street home to a high school. This area could use a little breather from construction-induced traffic, given the maddening impact of the I-205 ramp construction and re-pavement of West A St. that occurred earlier this year and caused frustratingly long delays each day.

With respect to parking, the land that Icon plans to subdivide presently enjoys a long stretch of street parking. This is currently used by students during the day who park there without regard for the families that live in this neighborhood and the rule that a permit is required to park here between 7 a.m. and 3 p.m. (a permit that only homeowners in this area are eligible to possess and use for residential, not school, purposes). This stretch of parking is also used by people attending events at the high school. Both uses are significant and already provide quite the nuisance.

The city does not enforce the daytime permit parking rules on its own and instead requires a complaint to act. And even then the city does not always come out and write tickets to those students who deserve them. Similarly, when the school has a function and folks pour into our neighborhood, say for a Friday night football game, the city does not patrol these streets to ticket those who make parking out of spaces that are never legal parking spots—parking on painted curbs, parking in the bike lane with half their car hanging into the street, or just blocking driveways entirely. It’s a free for all, and the city basically does nothing about it.

Needless to say, having people park properly and legally in this neighborhood has already been quite the stress, if not a fruitless endeavor, and removing the nearly four-lots’ worth of street parking before the subject property is only going to amplify the problem. It will simply push more parking into the surrounding area and make things even worse for those of us who

deal with this every day. Add to it that residents of these eight townhomes could have more than two vehicles per household or have guests who will visit them, which will only add to the need for street parking. The thought of looking out my window to see cars chronically parked in front of my home is beyond frustrating, as that spacing should be for short-term parking (primarily for visitors of my home) but will likely become a source of long-term parking for neighbors and their guests.

As for privacy, the fence between my home and the subject property will no longer provide a formidable structure preserving what I enjoy about my backyard. I will now share that space with eight townhomes that are (likely) the maximum of 35 feet tall, with a perfect view into my backyard. Moreover, I imagine the nature that I currently hear will slowly be drowned out by having eight townhomes' worth of new neighbors. While this all may make me sound like a curmudgeon, I'd ask whether you, the developer, or anyone else in my shoes for that matter would feel any differently. I'd hazard a guess that, on balance, most would share my concerns and frustrations.

I request and trust that the city will fully analyze ORS 92.031 and other statutes cross-referenced therein, as well as any other applicable laws, to assess whether the concerns that I have raised, along with any others mentioned by my neighbors or any issues the city discovers in its analysis, warrant the rejection of Icon's proposal. In any event, it should be known that this proposal impacts people in this neighborhood in a negative way, an impact that is not to be felt by the developer who lines their pocket or even the city officials who weigh this decision (unless, of course, they live here too).

Thank you for your time and consideration.

Sincerely,

Alex Bish

From: Bryan Faulkner <bryan.s.faulkner@gmail.com>
Sent: Monday, September 11, 2023 12:59 PM
To: Myers, Chris
Subject: File No. ELD-23-07 Expedited Land Division

You don't often get email from bryan.s.faulkner@gmail.com. [Learn why this is important](#)

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Good Afternoon Chris,

My wife and I are sending this email to voice our concerns over the expedited land division request submitted for 5715 West A Street. We believe adding 8 units on a piece of property that currently has a single family house on it would not be in the best interest of our neighborhood. The only one who benefits from this change is the contractor, as they can maximize their profits on the purchase of a single family residence. Yet there are many problems that will arise by allowing this type of property division to be allowed in West Linn.

For starters, this property sold for more than it should have given the condition of the existing house on the property. By allowing contractors to purchase single family residence and turning one unit into eight, allows them to outbid typical home buyers because they know they will be able to make enough profit to make back that additional cost. Setting this precedence will continue to drive the housing market up in West Linn and will make it even more out of reach of typical home buyers. One of the most desirable attributes of West Linn to new families is all the single family neighborhoods.

Another one of the desirable attributes of West Linn is the high rating of the public schools. This is in large part due to the small class sizes. Continuing to allow properties to be split like this will increase class room sizes drastically of the next decade, which will in turn lower the rating of these schools and the effectiveness of a small class size.

Additionally, parking on A Street is already difficult as you can only park on one side of the road and we are constantly battling for parking spots with the High School students for most of the year. Converting one single family home into 8 units will add an excessive amount of cars to this already crowded and busy street.

Increasing the population of our neighborhoods and building lower cost homes also decreases the value of the existing homes in our neighborhood. All the families currently living here invested in a home in this neighborhood completely unaware a change like this might occur. We have all worked hard to be able to live here and to invest in our homes and shouldn't have our homes devalued to line the pockets of a random contractor.

Our family chose to move to this neighborhood because we wanted to be in a neighborhood filled with single family homes. We chose not to live near apartments, townhomes, condos, etc. because we did not want to be in such a crowded area. Allowing this to happen will completely change the dynamic of this neighborhood and will result in other properties doing the same thing in the future. This will ultimately drive away existing homeowners who do not want to live in a neighborhood like that.

I hope you consider our concerns as many of our neighbors share the same feelings.

Thank you,

Bryan Faulkner

5783 West A Street

West Linn, OR 97068

503-875-7115

From: Matthew Williams <bikeman511@gmail.com>
Sent: Wednesday, September 6, 2023 8:07 PM
To: Myers, Chris
Cc: Jennifer Williams
Subject: 5715 W A St

[You don't often get email from bikeman511@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

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Hi Chris,

My wife Jennifer and I live at 5716 W A St, directly across from 5715. We have several comments and questions regarding the proposed development.

We are concerned about the size of the proposed buildings. According to the application, the proposed buildings will be 4 separate 6,000 square foot buildings, while the lot currently contains just 1 one-story home. That is a very big change.

We are specifically concerned about the height. To include that much square footage the buildings will have to be at least 3 stories tall. Maximum height per code is 35ft. The application says the buildings will comply, but the application and the plans are not specific. How tall will the buildings be? Exactly 35ft? 35ft in the front of the lots or 35ft in the lower back area of the lots?

And how much space between these proposed buildings? It can't be much. It looks like only 10ft? If the buildings are 35ft tall in the front with minimal separation between then I'm concerned we'll be looking at a massive wall of new buildings towering over our property. This will block most of the morning sun.

And the planned setback from W A is only 20ft, which is the bare minimum per code, right? The buildings should be farther back than the bare minimum if they are going to be at maximum height.

And will there be a public hearing or comment session for open discussion at any point prior to construction? Perhaps at building permit stage?

We need more information to fully understand and comment on the proposal. Please answer above questions at least 3 days prior to comment deadline so we have time for additional comments.

Thank you,
Matthew Williams

Sent from my iPhone

From: Mike Dant <mikedant@gmail.com>
Sent: Monday, September 11, 2023 2:05 PM
To: Myers, Chris
Subject: 5715 West A St Project # ELD-23-07

You don't often get email from mikedant@gmail.com. [Learn why this is important](#)

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Chris,

I am writing with concerns about the proposed development at 5715 W A St. We live on A street, and it is already extremely congested in its current state. The road and bridge work has crippled our ability to even get to the Market of Choice shopping center. Adding 8 additional units will not only increase congestion but the logistics of 16+ additional cars entering and exiting the driveways in a huge safety hazard. People drive way too fast down A street and use the Stop sign as a drag-racing takeoff point. I understand the need for more housing in West Linn but shoehorning eight units on a single lot is excessive and unacceptable, two single-family residences on that lot are all that should be allowed. This is not even considering the traffic and congestion during the school year from students, parents, and extracurricular activities.

Thank you,

Mike Dant

503-936-4141

From: vince miles <v.miles.234@gmail.com>
Sent: Tuesday, September 19, 2023 12:27 PM
To: Myers, Chris
Subject: Expedited Land Division ELD-23-07

You don't often get email from v.miles.234@gmail.com. [Learn why this is important](#)

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to: Chris Myers
Associate Planner, City of West Linn

RE: 5715 West A Street SB 458 Expedited Land Division to divide 4 lots into 8 lots
<https://westlinnoregon.gov/planning/5715-west-street-sb-458-expedited-land-division-divide-4-lots-8-lots>

RE: City of West Linn - Re: Notice of Upcoming Planning Manager Decision, File No. ELD-23-07
https://westlinnoregon.gov/sites/default/files/fileattachments/planning/project/55781/eld-23-07_notice.pdf

Mr. Myers,

In years past, the City of West Linn graciously notified property owners within 500 feet of potential development projects of pending Planning Department decisions and encouraged affected homeowners and the public to provide comments, express concerns, and convey support or objections prior to the recommendation to approve or deny proposed development.

In light of Oregon House Bill 2001 (Housing Choices), Senate Bill (SB) 458, and the adoption of Ordinance 1736, however, this courtesy has appeared to have been curtailed as Icon Construction and Development seeks approval of an Expedited Land Division of three, Zone R5 properties located at 5745, 5723, and 5715 West A Street for the purposes of constructing eight (8) townhouses.

While very few homeowners within 500 feet received a hardcopy notification of Icon's intentions through the mail, most did not. Additionally, the membership Bolton Neighborhood Association was not notified of Icon's application for an Expedited Land Division and proposed redevelopment plans. It is now apparent that homeowners and the Bolton Neighborhood Association must take the initiative to acquire such information by visiting the Planning Department's website and share the particulars of potential developments with their neighbors. An unfortunate and displeasing situation.

Re: ELD23-07 Applicant Submittal, Development Review Application

Several concerns must be addressed:

- 1) The planned architectural style of the townhouse units, which have not been (and likely will not be) disclosed to residents within 500 feet of 5715 West A Street, will not resemble that of the surrounding neighborhood, which is mostly comprised of modest Ranch and Split-Level dwellings developed in the mid-20th Century. There used to be Community Development Codes that require the architectural style

of new construction to be similar to that of established structures.

2) The pronounced elevation disparity of the townhouse units on Parcels 1A through 2B, if the Maximum Building Height of thirty-five (35) feet is maintained, to that of the adjacent, Zone R5 residential property at 5757 West A Street.

3) Parking of vehicles: Each parcel is presumed to have a driveway and an attached garage to provide parking of two vehicles. Garages are, however, frequently used for household storage instead of their intended purpose. Occupants of the townhouses will park their vehicles on the street (though legally with required parking permits per Ordinance 1374) in front of neighboring residences.

4) Adverse disturbance of West A Street, recently overlain with two (2) inches of asphalt as part of the City of West Linn's 2023 Road Program Construction (P-23-02), for the purposes of decommissioning and installing utilities and infrastructure.

Vince Miles

53-year resident of West Linn

EXHIBIT PD-3 COMPLETENESS LETTER



CITY OF
West Linn

August 31, 2023

Darren Gusdorf
Icon Construction & Development, LLC
1969 Willamette Falls Dr., Suite 260
West Linn, OR 97068

Subject: ELD-23-07 - Application for an expedited land division to divide 4 existing lots into 8 new lots for the construction of 8 townhouse units.

Mr. Gusdorf,

You submitted revised application materials on August 30, 2023. The Planning and Engineering Departments determined that the application is now **complete** as of August 30, 2023.

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 November 1, 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 503-742-6062, or by email at cmyers@westlinnoregon.gov if you have any questions or comments.

Respectfully,

Chris Myers

Chris Myers
Associate Planner

EXHIBIT PD-4 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.: **ELD-23-07**

Applicant's Name: Icon Construction & Development

Development Name: **5715 West A Street**

Scheduled Decision Date: **September 19, 2023**

MAILED NOTICE

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

Icon Construction & Development, applicant	9/1/23	<i>Lynn Schroder</i>
Property owners within 100ft of the site perimeter	9/1/23	<i>Lynn Schroder</i>
Bolton Neighborhood Association	9/1/23	<i>Lynn Schroder</i>
Metro emailed per request	9/1/23	<i>Lynn Schroder</i>
WLWL SD	9/1/23	<i>Lynn Schroder</i>
Clackamas County	9/1/23	<i>Lynn Schroder</i>
PGE	9/1/23	<i>Lynn Schroder</i>
TriMet	9/1/23	<i>Lynn Schroder</i>
Comcast	9/1/23	<i>Lynn Schroder</i>
NW Natural Gas	9/1/23	<i>Lynn Schroder</i>
TVF&R	9/1/23	<i>Lynn Schroder</i>
Stafford-Tualatin CPO	9/1/23	<i>Lynn Schroder</i>

RE-Notice MAILED NOTICE

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

Icon Construction & Development, applicant	9/5/23	<i>Lynn Schroder</i>
Property owners within 100ft of the site perimeter	9/5/23	<i>Lynn Schroder</i>
Bolton Neighborhood Association	9/5/23	<i>Lynn Schroder</i>
Metro emailed per request	9/5/23	<i>Lynn Schroder</i>
WLWL SD	9/5/23	<i>Lynn Schroder</i>
Clackamas County	9/5/23	<i>Lynn Schroder</i>
PGE	9/5/23	<i>Lynn Schroder</i>
TriMet	9/5/23	<i>Lynn Schroder</i>
Comcast	9/5/23	<i>Lynn Schroder</i>
NW Natural Gas	9/5/23	<i>Lynn Schroder</i>
TVF&R	9/5/23	<i>Lynn Schroder</i>
Stafford-Tualatin CPO	9/5/23	<i>Lynn Schroder</i>

EMAILED NOTICE

Notice of Upcoming Planning Manager Decision was emailed at least 14 days before the decision date to:

Bolton Neighborhood Association	9/1/23	<i>Lynn Schroder</i>
Icon Construction & Development, applicant	9/1/23	<i>Lynn Schroder</i>

METRO	9/1/23	<i>Lynn Schroder</i>
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WEBSITE

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

9/5/23	<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.

10/26/23	<i>Lynn Schroder</i>
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CITY OF WEST LINN
***RE-NOTICE OF UPCOMING PLANNING MANAGER DECISION**
FILE NO. ELD-23-07

The City of West Linn has received a complete application for an expedited land division (SB458) for middle housing (HB2001) at 5715 West A Street (Tax Lot 22E30CB 2700, 2800, &2900). The applicant is requesting approval of a middle housing land division to construct 8 townhouse units. Proposed parcel sizes are approximately: Lot 1A – 3000 sq. ft., Lot 1B – 3000 sq. ft., Lot 2A – 3000 sq. ft., Lot 2B – 3000 sq. ft., Lot 3A – 3000 sq. ft., Lot 3B – 3000 sq. ft., Lot 4A – 3000 sq. ft., Lot 4B – 3500 sq. ft.

The Planning Manager will decide after the required 14-day written comment period expires. The decision will be based on the criteria found in [Oregon Revised Statute 92.031](#). An appointed referee will review any appeal of the decision.

The complete application and all evidence submitted by the applicant are posted on the City’s website <https://westlinnoregon.gov/planning/5715-west-street-sb-458-expedited-land-division-divide-4-lots-8-lots>. Alternatively, the application and all evidence submitted by the applicant are available for review between 8:00 am and 5:00 pm, Monday through Thursday, at City Hall at no cost. Copies may be obtained at a reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to submit written comments for consideration must submit all material before the 14-day comment period expires. The deadline to submit written comments is 4:00 pm on September 19, 2023. Written comments can be submitted to cm Myers@westlinnoregon.gov or 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 Chris Myers, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, or 503-742-6062 or cm Myers@westlinnoregon.gov.

****The previous notice (dated 9/1/23) for this project incorrectly stated the project was for a Triplex.***

Scan this QR Code to go to Project Web Page:



ELD-23-07 – Properties within 100 feet of 5715 West A Street





**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # ELD-23-07
MAIL: 9/1/2023 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.