



CITY OF
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: January 29, 2025

FILE NO.: VAR-24-06/17

REQUEST: Class I Variance to reduce each side yard setback for 6 lots from the R-7 code standard of 7.5 feet to 6 feet (a 20% reduction) for 6 new single-family detached homes at 4092 Norfolk Street.

PLANNER: Chris Myers, Associate Planner

Planning Manager

DSW

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GENERAL INFORMATION

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

SITE LOCATION: 4092 Norfolk Street

LEGAL DESCRIPTION: Tax Lot Number 21E36AC01400

SITE SIZE: 45,813 Square feet (1.052 Acres)

COMP PLAN DESIGNATION: Low Density Residential

ZONING: Residential, R-7

APPROVAL CRITERIA: Community Development Code (CDC) Chapter 12: R-7; Chapter 75: Variances and Special Waivers; Chapter 96 Street Improvement Construction; Chapter 99: Procedures for Decision-Making: Quasi-Judicial.

120-DAY RULE: The application became complete on October 1, 2024. The 120-day period therefore ends on January 29, 2025.

PUBLIC NOTICE: Notice was mailed to property owners within 300 feet of the subject property and the Sunset Neighborhood Association on October 23, 2024. The property was posted with a notice sign on October 28, 2024. The notice and application were posted on the City's website October 23, 2024. Therefore, public notice requirements of CDC Chapter 99 have been met.

EXECUTIVE SUMMARY

The applicant requests a reduction of the side yard setback from 7.5 feet to 6 feet (a 20% reduction), as allowed in a Class I Variance. The purpose of the variance is to permit the property owner/applicant to construct 6 single-family detached homes at 38.5 feet wide rather than 35.5 feet wide. There are 12 total variances requested, 2 for each of the lots.

The Class I Variance provides minor relief from certain code provisions that will not harm adjacent properties and conforms to any other code provisions. With approval of the variance, the side yard setbacks will be reduced to 6 feet.

Public comments:

No public comments were received.

DECISION

The Community Development Director (designee) approves this application (VAR-24-06/17), based on: 1) the findings submitted by the applicant, which are incorporated by this reference; 2) supplementary staff findings included in the Addendum; and, 3) by the condition of approval below:

Condition of Approval

- 1. The final plan shall conform to the plans for Proposed Class I Variance contained in PD-1.**

The provisions of the Community Development Code Chapter 99 have been met.

Chris J Myers

Chris Myers, Associate Planner

January 29, 2025

DATE

Appeals to this decision must be filed with the West Linn Planning Department within 14 days of mailing date. Cost is \$400. An appeal to City Council of a decision by the Planning Manager shall be heard on the record. The appeal must be filed by an individual who has established standing by submitting comments prior to the decision date. Approval will lapse 3 years from effective approval date unless substantial construction has taken place or an extension is granted per Chapter 99 CDC.

Mailed this **29th** day of **January 2025**.

Therefore, the 14-day appeal period ends at 5 p.m., on **February 12, 2025**.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
VAR-24-06/17**

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

CHAPTER 12 RESIDENTIAL, R-7

12.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. *Single-family attached and detached residential unit.*

(...)

Staff Finding 1: The applicant proposes construction of 6 single-family homes on 6 existing lots. Single-family detached homes are permitted uses in the R-7 zone. The criteria are met.

12.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

STANDARD	REQUIREMENT	ADDITIONAL NOTES
Minimum lot size		
For single-family detached units	7,000 sf	No yard shall be required between units
For single-family attached units	5,500 sf	
Average minimum lot or parcel size for a townhouse project	1,500 sf	
Minimum lot width at front lot line	35 ft	Does not apply to townhouses or cottage clusters
Average minimum lot width	35 ft	Does not apply to townhouses or cottage clusters
Minimum yard dimensions or minimum building setbacks		Front, rear, and side yard setbacks in a cottage cluster project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall follow applicable building code requirements.
Front yard	20 ft	Except for steeply sloped lots where the provisions of CDC 41.010 shall apply
Interior side yard	7.5 ft	Townhouse common walls that are attached may have a 0-ft side setback.

STANDARD	REQUIREMENT	ADDITIONAL NOTES
Street side yard	15 ft	
Rear yard	20 ft	
Maximum building height	35 ft	Except for steeply sloped lots in which case the provisions of Chapter 41 CDC shall apply.
Maximum lot coverage	35%	Maximum lot cover does not apply to cottage clusters. However, the maximum building footprint for a cottage cluster is less than 900 sf per dwelling unit. <ul style="list-style-type: none"> This does not include detached garages, carports, or accessory structures. A developer may deduct up to 200 sf for an attached garage or carport.
Minimum accessway width to a lot which does not abut a street or a flag lot	15 ft	
Maximum floor area ratio	0.45	Maximum FAR does not apply to cottage clusters.
Duplex, triplex, and quadplex	0.60	Type I and II lands shall not be counted toward lot area when determining allowable floor area ratio, except that a minimum floor area ratio of 0.30 shall be allowed regardless of the classification of lands within the property. That 30 percent shall be based upon the entire property including Type I and II lands. Existing residences in excess of this standard may be replaced to their prior dimensions when damaged without the requirement that the homeowner obtain a non-conforming structures permit under Chapter 66 CDC.

...

Staff Finding 2: The applicant is requesting 12 separate variances on 6 separate lots. The requested variances will allow a reduction in the side yard setbacks, for each lot, by 20%. The request is to reduce of the side yard setbacks from 7.5 feet to 6 feet on all 6 properties. Each of the lots meets the minimum 50-foot width requirements of the R-7 zone. All other development related dimensional requirements will be confirmed at time of building permits and construction. Each of the subject properties meets the minimum 7500 square foot requirement of the R-7 zone.

Lot 1 – 7575 square feet

Lot 2 – 7575 square feet

Lot 3 – 7575 square feet

Lot 4 – 7575 square feet

Lot 5 – 7575 square feet

Lot 6 – 7950 square feet

The criteria are met.

CHAPTER 75 VARIANCES AND SPECIAL WAIVERS

75.020 CLASSIFICATION OF VARIANCES

A. *Class I Variance.* Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:

1. *Required Yard and Minimum Lot Dimensional Requirements.* Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:

- a. *Provides for a more efficient use of the site;*
- b. *Preserves and incorporates natural features into the overall design of the project;*
- c. *Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and*
- d. *Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*

...

Staff Finding 3: The applicant has requested a Class I Variance to reduce the side yard setback requirement of 7.5 feet. A Class I variance allows for a 20 percent reduction of the setback, or 1.5 feet. The side yard setback would be 6 feet, a 20% reduction to the required side yard setback in the R-7 zone. The applicant is not proposing any changes to the off-street parking nor the vehicular or pedestrian access to the subject property. The Class I Variance does not pose any adverse effects on adjoining property regarding light, air circulation, noise levels, privacy, and fire hazards. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT	PROJECT NO(S).	PRE-APPLICATION NO.
NON-REFUNDABLE FEE(S)	REFUNDABLE DEPOSIT(S)	TOTAL

Type of Review (Please check all that apply):

- | | | |
|--|---|---|
| <input type="checkbox"/> Annexation (ANX)
<input type="checkbox"/> Appeal (AP)
<input type="checkbox"/> CDC Amendment (CDC)
<input type="checkbox"/> Code Interpretation (MISC)
<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Review (DR)
<input type="checkbox"/> Tree Easement Vacation (MISC)
<input type="checkbox"/> Expediated Land Division (ELD)
<input type="checkbox"/> Extension of Approval (EXT) | <input type="checkbox"/> Final Plat (FP) Related File# _____
<input type="checkbox"/> Flood Management Area (FMA)
<input type="checkbox"/> Historic Review (HDR)
<input type="checkbox"/> Lot Line Adjustment (LLA)
<input type="checkbox"/> Minor Partition (MIP)
<input type="checkbox"/> Modification of Approval (MOD)
<input type="checkbox"/> Non-Conforming Lots, Uses & Structures
<input type="checkbox"/> Planned Unit Development (PUD)
<input type="checkbox"/> Street Vacation | <input type="checkbox"/> Subdivision (SUB)
<input type="checkbox"/> Temporary Uses (MISC)
<input type="checkbox"/> Time Extension (EXT)
<input type="checkbox"/> Right of Way Vacation (VAC)
<input checked="" type="checkbox"/> Variance (VAR) 12 Minor Variances
<input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP)
<input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)
<input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)
<input type="checkbox"/> Zone Change (ZC) |
|--|---|---|

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

Site Location/Address: 4092 Norfolk Street	Assessor's Map No.: 21E36AC <hr/> Tax Lot(s): 1400 <hr/> Total Land Area: 1.05 Acres
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Brief Description of Proposal:

This is a proposed consolidated application to reduce the side yard setbacks for the six lots in the Norfolk Landing subdivision by 20% from the standard 7.5' to 6'.

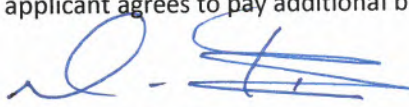
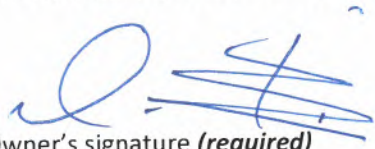
Applicant Name*: Icon Construction & Development, LLC Address: 1969 Willamette Falls Drive, Suite 260 City State Zip: West Linn, OR 97068	Phone: 503-657-0406 Email: darren@iconconstruction.net
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Owner Name (required): Same as applicant. Address: City State Zip:	Phone: Email:
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Consultant Name: 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
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1. Application fees are non-refundable (excluding deposit). Applications with deposits will be billed monthly for time and materials above the initial deposit. ***The applicant is financially responsible for all permit costs.**
2. The owner/applicant or their representative should attend all public hearings related to the propose land use.
3. A decision may be reversed on appeal. The decision will become effective once the appeal period has expired.
4. Submit this form, application narrative, and all supporting documents as a single PDF through the Submit a Land Use Application web page: <https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner authorizes the application and grants city staff the **right of entry** onto the property to review the application. Applications with deposits will be billed monthly for time and materials incurred above the initial deposit. The applicant agrees to pay additional billable charges.

 Applicant's signature	Date 9-9-24	 Owner's signature (required)	Date 9-9-24
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Norfolk Landing Variances Application

INTRODUCTION: This application requests approval of minor variances to allow the side yard setback for the homes to be reduced by 20%, from the R-7 standard of 7.5 feet to 6 feet. The requested variances would apply to both sides of all six of the lots within the Norfolk Landing subdivision. A total of 12 variances are requested (one for each side yard). The applicant requests that the review of all variances be consolidated into a single application.

On August 7, 2024, the West Linn Planning Manager approved a request for a 6-lot expedited land division at 4092 Norfolk St (Taxlot 01400 Clackamas County Assessor Map 21E36AC).

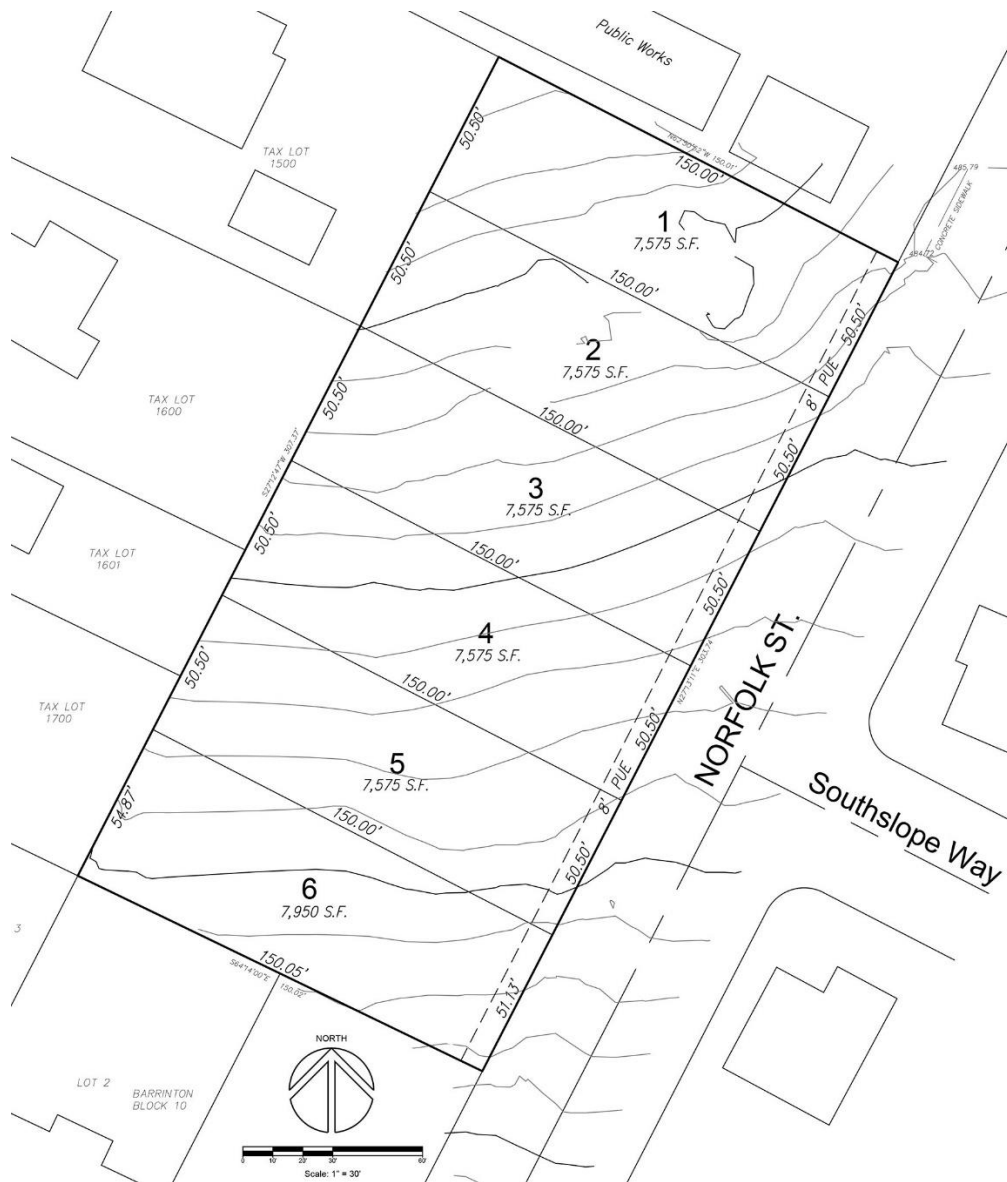


Figure 1: Tentative Plan

The subdivision included a total of 6 lots, each of which is proposed to be developed with a single-family detached home. As shown in the approved Tentative Plan above, each lot meets the minimum lot size of 7,500 square feet. Lots 1-5 are 50.5 feet in width, while Lot 6 has a frontage of 51.13 feet. These narrow lot widths allow a building width of 35.5 feet if the 7.5' side yard standard is used. This width limits the floor plans that will fit on the lot and makes the garages take up an excessive amount of the front elevation. Approving the requested variances would allow homes that are 38.5 feet in width, which makes a larger number of floor plans available and reduces the percentage of the front elevation taken up by the garage. The requested variances would allow for an overall design that is more compatible with the character of the surrounding neighborhood.

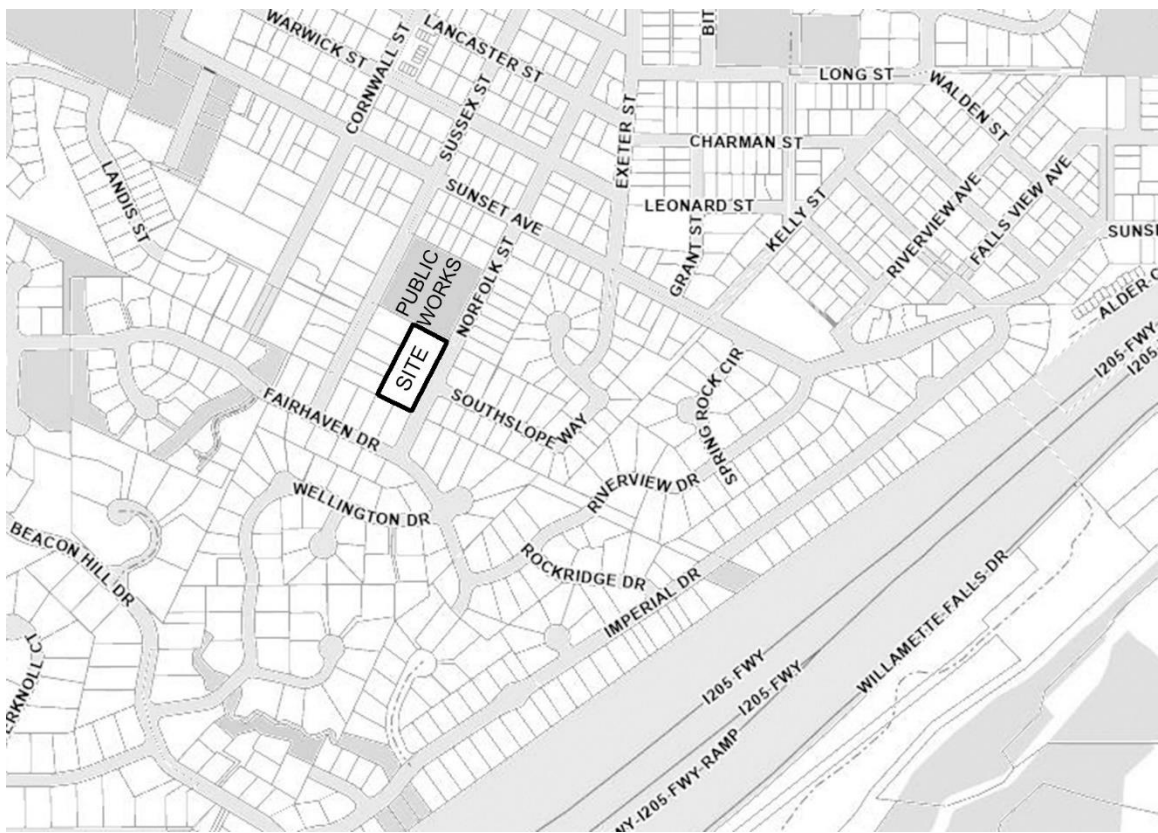


Figure 2: Vicinity Map

COMPLIANCE WITH APPROVAL CRITERIA:

The requested 20% variances to side setback requirements are consistent with the dimensional standards for Class 1 Variances, as set forth in CDC 75.020 – Classification of Variances:

- A. *Class I Variance. Class I variances provide minor relief from certain code provisions where it can be demonstrated that the modification will not harm adjacent properties, and it conforms with any other code requirements. Class I variances are allowed for the following code provisions:*

1. *Required Yard and Minimum Lot Dimensional Requirements. Required yards may be modified up to 20 percent, lot dimensions by up to 10 percent and lot area by up to five percent if the decision-making authority finds that the resulting approval:*

Applicant Response: The requested reduction of the side yard standard from 7.5 feet to 6 feet is a 20 percent reduction, consistent with the maximum allowed by this CDC section. The requested variances conform to the approval criteria as follows:

- a. *Provides for a more efficient use of the site;*

Applicant Response: The wider building footprint afforded by the requested variances will allow three more feet of living space at the important front elevation of the home. Assuming a minimum 20-foot double garage width of 20 feet, the living space portion of the home can increase from 15.5 feet to 18.5 feet in width. With a typical 5.5-foot-wide entryway area, this means that the space for a living room or office can increase from 10 feet to a much more usable 13 feet. This allows for a more efficient use of the front portion of the lots.

- b. *Preserves and incorporates natural features into the overall design of the project;*

Applicant Response: The trees that will be retained on site are in the rear portion of the lots, as shown on the approved Tree Plan shown below. Increasing the width of the lots means that more living space can be provided in the areas that are already planned to be cleared for site development, thereby permitting a greater setback from the driplines of the trees that will be preserved. The greater separation reduces the potential impacts existing tree resources.



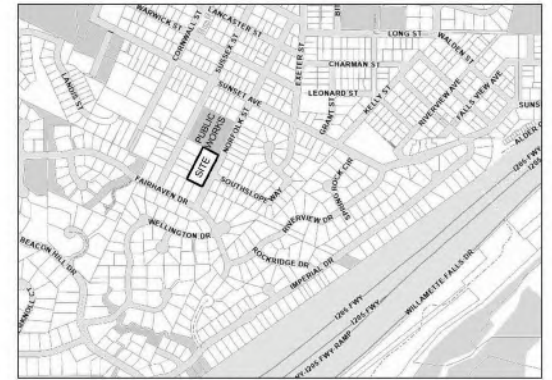
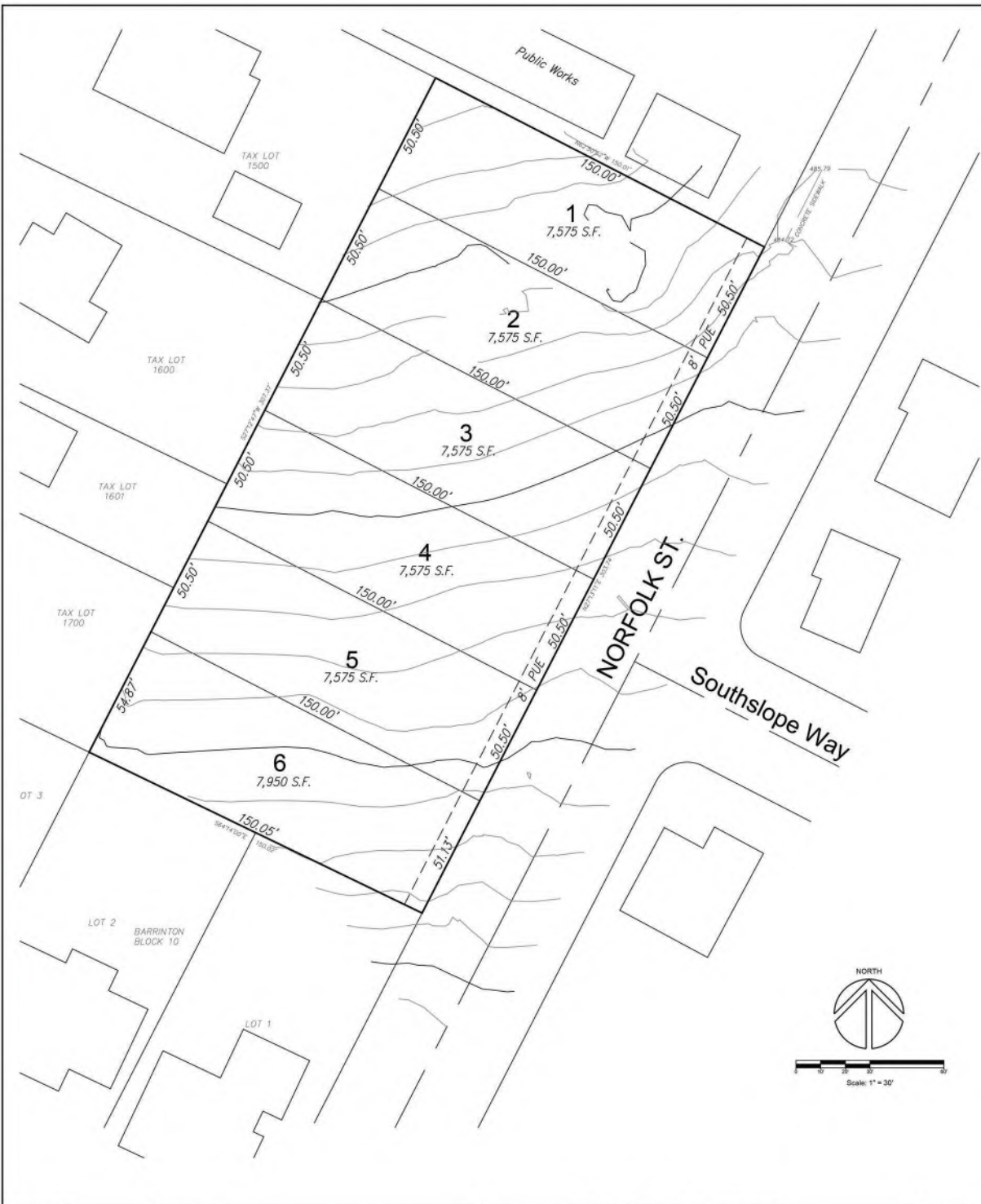
Figure 3: Tree Plan

- c. Does not adversely affect adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazards; and*

Applicant Response: The reduced side setbacks are internal to the development except for the northerly side setback of Lot 1 and the southerly side setback of lot 6. Lot 1 abuts the City of West Linn Public Works property. A 1.5' reduction in the side yard will have no measurable impact on the City's office and storage buildings on that site. The south side yard of Lot 6 abuts the rear yards of the homes on Tax Lots 2500 and 2600. The setbacks to these homes from the common lot line of the subject property exceed 20 feet and are therefore less impacted by the 1.5' reduction of the side setback on Lot 6. Further, these two neighboring properties are located to the south of Lot 6. Shading from the planned home on Lot 6 will be on the north side of the house, not the south. The reduced setback, combined with the 20' rear yard setback on Tax Lots 2500 and 2600, will maintain a minimum separation of 31 feet between homes, which is more than adequate to ensure light, air circulation, and privacy while protecting from noise impacts and fire hazards. It should also be noted that R-4.5 zoning is allowed in the Comprehensive Plan designation applied to the subject property. If the property were to be rezoned to R-4.5, a 5-foot interior side setback would be applied to the property. The proposed 6-foot setback exceeds this alternative setback that could be applied to this site.

- d. Provides for safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*

Applicant Response: The frontage of the subject property will be improved with a six-foot sidewalk, six-foot landscape strip, curb and gutter, and pavement improvements per City local street standards. The proposed lots will have driveway approaches consistent with current City standards. These improvements will not be impacted by the proposed reduction in side setbacks and they will serve to ensure that both safe vehicular and pedestrian access and circulation are provided.



Vicinity Map

Applicant/Owner:
 Icon Construction & Development, LLC
 1969 Willamette Falls Drive, Suite 260
 West Linn, OR 97068
 PH: (503) 657-0406

Legal: 2-1E-36AC TL 1400

Water: City of West Linn

Sewer: City of West Linn

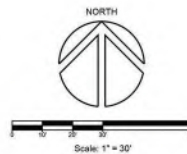
Contours: Site Survey

Site Area: 1.05 Acres

Engineer:
 Theta Engineering, Inc.
 PO Box 1345
 Lake Oswego, OR 97035
 PH: (503) 481-8822

Surveyor:
 CMT Surveying & Consulting
 20330 SE Hwy. 212
 Damascus, OR 97089
 PH: (503) 850-4672

Zoning: R-7



DESIGNED: REG			
DRAWN: REG			
SCALE: 1" = 30'			
DATE: Sept 2024			
FILE: 24-ICN-101			
	DATE	NO.	REVISION

VAR-24-06/17

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

Norfolk Landing
 Planning Manager's Decision
 Site Plan

EXHIBIT PD-2 COMPLETENESS LETTER



CITY OF
West Linn

October 1, 2024

Icon Construction
Darren Gusdorf
1969 Willamette Falls Drive, Suite 260
West Linn, OR 97068

SUBJECT: VAR-24-06 - 24-17 Application for 12 Class I Variances at 4092 Norfolk Street.

Mr. Gusdorf:

The city accepted this application for review on September 11, 2024. The Planning and Engineering Departments find the application to be **complete** as of October 1, 2024. The city has 120 days to exhaust all local review once an application has been deemed complete; that period ends January 29, 2025.

Please be aware that a determination of a complete application does not guarantee a recommendation of approval from staff 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 to property owners within 300 feet of the property, neighborhood associations, and relevant agencies. The City will review and respond to all comments about the project and prepare findings as to whether the application meets the approval criteria of the applicable Community Development Code Sections.

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

Sincerely,

Chris Myers
Associate Planner

EXHIBIT PD-3 AFFADIVIT 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.: **VAR-24-06 to VAR-24-17**

Applicant's Name: **ICON Construction & Development, LLC**

Development Address: 4092 Norfolk Street

Planning Manager Decision no earlier than 11/6/24

MAILED NOTICE

Notice of Upcoming Planning Manager Decision was mailed at least 14 days before the decision, per Section 99.080 of the CDC to:

Rick Givens, applicant representative	10/23/24	<i>Lynn Schroder</i>
ICON Construction & Development, property owner	10/23/24	<i>Lynn Schroder</i>
Property owners within 300ft of the site perimeter	10/23/24	<i>Lynn Schroder</i>

EMAILED NOTICE

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

Sunset Neighborhood Association	10/23/24	<i>Lynn Schroder</i>
ICON, applicant	10/23/24	<i>Lynn Schroder</i>
Rick Givens, applicant consultant	10/23/24	<i>Lynn Schroder</i>

WEBSITE

Notice of Upcoming Planning Manager Decision was posted on the City's website at least 14 days before the decision.

10/23/24	<i>Lynn Schroder</i>
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SIGN

A sign for Upcoming Planning Manager Decision was posted on the property at least 10 days before the decision, per Section 99.080 of the CDC.

10/28/24	<i>Chris Myers</i>
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FINAL DECISION

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City's website, per Section 99.040 of the CDC.

1/29/25	<i>Lynn Schroder</i>
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**CITY OF WEST LINN
NOTICE OF UPCOMING PLANNING MANAGER DECISION
FILE NO. VAR-24-06 – 24-17**

The West Linn Planning Manager is considering a consolidated Class I Variances at 4092 Norfolk Street to reduce the required side yard setback by 20% from 7.5 feet to 6 feet.

The Planning Manager will decide the application based on criteria in Chapters 12, 38, 75, and 99 of the Community Development Code (CDC). The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the City Library.

The application is posted on the City's website, <https://westlinnoregon.gov/projects>. The application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at City Hall at no cost. Copies may be obtained at reasonable cost.

A public hearing will not be held for this decision. **Anyone wishing to submit comments for consideration must submit all material before 4:00 p.m. on November 6, 2024,** to cmyers@westlinnoregon.gov or mail them to City Hall. All comments must be received by the deadline.

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this application should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue (CDC Section 99.090).

The final decision will be posted on the website and available at City Hall. Persons with party status may appeal the decision by submitting an appeal application to the Planning Department within 14 days of mailing the notice of the final decision pursuant to CDC [99.240](#).

For additional information, please contact Chris Myers, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6062.



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # VAR-24-16/17
MAIL: 1/29/25 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.