



CITY OF
West Linn

**STAFF REPORT
PLANNING MANAGER DECISION**

DATE: January 15, 2025
FILE NO.: ELD-24-05
REQUEST: Approval of an SB458 Expedited Land Division to divide the existing 10,729 square foot parcel at 2089 5th Avenue into two parcels and construct a detached duplex.
PLANNER: Aaron Gudelj, Associate Planner

Planning Manager DSW

TABLE OF CONTENTS

STAFF ANALYSIS AND RECOMMENDATION
GENERAL INFORMATION2
EXECUTIVE SUMMARY.....3
PUBLIC COMMENTS3
DECISION AND CONDITIONS OF APPROVAL.....4
ADDENDUM APPROVAL CRITERIA AND FINDINGS.....5

EXHIBITS
PD-1 APPLICANT SUBMITTAL..... 18
PD-2 COMPLETENESS LETTER38
PD-3 AFFIDAVIT AND NOTICE PACKET 40

GENERAL INFORMATION

APPLICANT

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

CONSULTANT: Rick Givens
28615 SW Paris Avenue, Unit 110
Wilsonville, OR 97070

SITE LOCATIONS: 2089 5th Avenue

SITE SIZE: 10,729 square feet

LEGAL DESCRIPTION: Parcel 1, Clackamas County Partition Plat No. 1995-148
Tax Lot 04800, Clackamas County Assessor Map 31E 02AB

COMP PLAN DESIGNATION: Low Density Residential

ZONING: R-10, Residential
(10,000 sq. ft. min. lot size)

APPROVAL CRITERIA: Oregon Revised Statute 92.031

63-DAY RULE: The application became complete on November 20, 2024. The 63-day period for an expedited land division ends January 22, 2025.

PUBLIC NOTICE: Notice was mailed to property owners within 100 feet of the subject property, public facility and services providers, and the Willamette Neighborhood Association on November 26, 2024 as required by Oregon Revised Statute 197.365. The notice was also posted on the City's website on November 26, 2024. Therefore, public notice requirements have been met.

EXECUTIVE SUMMARY

The applicant proposes to construct middle housing (detached duplex) at 2089 5th Avenue. The existing 10,729 square foot parcel is zoned R-10 Residential and currently contains an existing single-family residence onsite that will remain. The applicant has proposed to partition the property under Oregon Revised Statute 92.031 with each resulting parcel containing one dwelling unit. The property is not located within the Willamette River Greenway (WRG), any FEMA flood hazard area, or Water Resource Area (WRA). Sanitary sewer and water utilities are available on 5th Avenue or 10th Street. Stormwater will be treated/detained onsite.

Vehicle access to the dwelling units will be from 5th Avenue for the western most parcel (parcel 2); and from 10th Street for the eastern most parcel (parcel 1). The 5th Avenue right-of-way (ROW) is fully-paved, approximately 40-feet wide, has a 4-ft wide sidewalk, and requires no additional ROW dedication. The 10th Street ROW is fully-paved, approximately 45-feet wide, has a 4-ft wide sidewalk, and curb and requires no additional ROW dedication. No street improvements are required for either street frontage.

Public comments:

No public comments were received before the closing of the required 14-day comment period.

DECISION

The Planning Manager approves this application (ELD-24-05) 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 November 10, 2024 (Exhibit PD-1 – Applicant Submittal).
2. **Compliance with Oregon Residential Specialty Code.** The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code from West Linn Building staff prior to final plat approval from the City.
3. **Compliance with Siting and Design Standards.** The applicant shall submit building plans and obtain approval of compliance with siting and design standards from West Linn Planning staff prior to final plat approval from the City.

4. **Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final plat approval. Public Works may coordinate with the applicant to complete additional, voluntary, off-site improvements.
5. **Utility Easements.** The final plat shall show an 8-foot public utility easement along the 5th Avenue and 10th Street right-of-way frontages prior to approval by the City.
6. **Access Easements.** The existing driveway easement shared between Parcel 1 and the adjacent lot to the rear – Tax Lot 4801 – shall be recorded on the plat.
7. **Final Plat Notation.** The applicant shall include on the face of the plat the notation “This middle housing land division approval was given under the provisions of ORS 92.031. Further division of the resulting parcels is prohibited”.
8. **Final Plat Recording.** The approval of the tentative plat (ELD-24-05) shall be void if the applicant does not record the final partition plat within three years of approval.
9. **Stormwater Easements.** The final plat shall show a stormwater easement between Parcel 1 and Parcel 2 prior to approval by the City.

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

A. Gudelj
 Aaron Gudelj, Associate Planner

January 15, 2025
 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 three years from effective approval date if the final plat is not recorded.

Mailed this 15th day of January 2025.

Therefore, the 14-day appeal period ends at 5 p.m., on January 29, 2025.

**ADDENDUM
APPROVAL CRITERIA AND FINDINGS
ELD-24-05**

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-10 and permits the construction of single-family detached dwelling units. ORS 197.758(2)(a) requires the City of West Linn to allow duplexes, 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 a detached duplex as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines duplex residential units as: “Two attached or detached dwelling units on a lot or parcel in any configuration”. Therefore, the proposed division of the subject parcels, 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);

Staff Finding 2: The applicant proposes the construction of a detached duplex, which qualifies as a middle housing type (see Staff Finding 1). The applicant did not submit building plans for the detached duplex with this application. The applicant shall submit building plans and obtain approval of compliance with the Oregon residential specialty code from West Linn

Building staff prior to final plat approval by the City per Condition of Approval 2. Subject to the Conditions of Approval, the criteria are met.

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

Staff Finding 4: The City has adopted protective measures pursuant to statewide land use planning goals for the Willamette River Greenway (Goals 5 and 15), Water Resource Areas (Goals 5, 6, and 7), and Floodplain Management Areas (Goal 7). The City regulates the protective measures through CDC Chapters 27, 28, and 32. The subject property 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 detached duplex with separate utility connections for each dwelling unit. Utilities shall be installed in compliance with West Linn Municipal Code requirements per Condition of Approval 4. As conditioned, the criteria are met.

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

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

Staff Finding 6: The applicant proposes direct connections from each resulting parcel to the water and sanitary sewer infrastructure without the need for easements. The applicant proposes storm water treatment/detention on each parcel and the natural topography of the site will require stormwater from Parcel 2 to utilize Parcel 1, thereby the project is conditioned to show a stormwater easement between the two parcels on the final plat.

The City franchise agreements require an eight-foot public utility easement along 5th Avenue and 10th Street. The applicant shall show the utility easement on the face of the final plat per Condition of Approval 5. I 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 direct pedestrian access from each of the parcels to 5th Avenue, a public street; no easements are required. 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 direct driveway vehicle access for the western most parcel (parcel 2) from 5th Avenue, a public street. Vehicle access for the eastern most parcel (parcel 1) - where the existing house will remain - will continue to utilize the shared driveway at the rear of the property. The project is conditioned to require the easement for the shared driveway to be recorded on the Final Plat. Subject to the Conditions of Approval, the criteria are met.

(E) Any dedicated common area;

Staff Finding 10: The applicant does not propose any dedicated common use area; the criteria does not apply.

(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 a detached duplex on the subject property as permitted by West Linn Community Development Code (CDC) Chapter 11.030.1(a). CDC Chapter 2 defines duplex residential units as: “Two attached or detached dwelling units on a lot or parcel in any configuration.”. The division of the subject property under ORS 92.031 rules will result in one dwelling unit of a duplex on each resulting parcel. No common areas are proposed. The criteria are met.

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

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

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

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

Staff Finding 13: The applicant proposes the construction of a detached duplex on the subject property, including the division of the property as allowed by SB458. The applicant shall include on the face of the plat a notation prohibiting the further division of the resulting parcels under the provisions of SB458 per Condition of Approval 7. As conditioned, the criteria are met.

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

Staff Finding 14: The applicant proposes the construction of a detached duplex on the subject property, including the division of the property as allowed by SB458. The applicant shall include on the face of the plat a notation indicating the approval was given under the provisions of SB458 per Condition of Approval 7. As conditioned, 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: Existing street improvements along 5th Avenue include a fully-paved 40-ft road with a 4ft sidewalk in front of the subject parcel. Existing street improvements along 10th Street include a fully-paved 45-ft wide street, a 4-ft wide sidewalk with curb; both existing street improvements are consistent with the neighboring lots. No street improvements are required.

(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 proposed utilizing direct vehicle access from 5th Avenue for Parcel 2 and, the existing shared driveway at the rear of the lot for Parcel 1. 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 a corner lot with street frontages of 103.80-feet along 5th Avenue and 10th Street respectively, both public rights-of-way (ROW). The existing 5th Avenue right-of-way is 40-feet wide and is classified as a local street. The 10th Street right-of-way is 45-feet wide and is classified as a local street as well. No right-of-way dedication along 5th Avenue and 10th Street is required. The criteria are met.

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

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

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

Staff Finding 22: The applicant does not propose an accessory dwelling unit on 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-24-05) shall be void if the applicant does not record the final partition plat within three years of approval per Condition of Approval 8. As conditioned, 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 (detached duplex), which is eligible for an expedited land division under ORS 92.031, Middle Housing Land Division. The criteria are met.

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

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

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

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

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

(ii) The Willamette River Greenway;

Staff Finding 26: The subject property is not located within the Willamette River Greenway and 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, beaches, or 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 does not include any connectivity projects along 5th Avenue and 10th Street across from the subject property. The criteria are met.

(E) Will result in development that either:

(i) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or

(ii) Will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built.

Staff Finding 29: The subject property is approximately 10,729 sq. ft. and zoned Residential, R-10, which requires a minimum lot size of 10,000 sq. ft. Maximum density under a traditional CDC Chapter 85 land division would allow one single family residence. The applicant proposes a detached duplex middle housing development on the subject property, which is eligible for expedited land division under ORS 92.031, Middle Housing Land Division. The middle housing development will result in two dwelling units on the subject property, 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 a division that creates two parcels from the subject property under ORS 92.031. The proposal meets the criteria set forth in paragraph (a), see Staff Findings 24 to 29. The criteria are met.

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

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

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

(a) The physical characteristics of permitted uses;

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

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

Staff Finding 32: The applicant proposes middle housing on the subject property through the construction of a detached duplex, including the division of the existing property 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 a Middle Housing Land Division. The application was submitted on October 30, 2024, and the City deemed the application complete on November 20, 2024. The criteria are met.

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

Staff Finding 35: The application was submitted on October 30, 2024, and the City deemed the application complete on November 20, 2024. Approval of the application is based on the standards and criteria found in ORS 92.031 that were applicable on October 30, 2024. The criteria are met.

(2) The local government shall provide written notice of the receipt of the completed application for a land division to any state agency, local government or special district responsible for providing public facilities or services to the development and to owners of property within 100 feet of the entire contiguous site for which the application is made. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government

can provide an affidavit or other certification that such notice was given. Notice shall also be provided to any neighborhood or community planning organization recognized by the governing body and whose boundaries include the site.

Staff Finding 36: The City provided written notice of the receipt of a completed application to all state agencies, local governments, and special districts responsible for providing public facilities or services on November 26, 2024. 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 November 26, 2024. The City provided written notice to the Willamette Neighborhood Association on November 26, 2024. The affidavit of public notice is found in Exhibit PD-3. 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-3. The criteria are met.

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

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

Staff Finding 38: The City provided written notice under subsections (2) and (3) on November 26, 2024, with a deadline for submission of written comments on December 11, 2024. This provided a 14-day comment period. A copy of the notice is found in Exhibit PD-3. The criteria are met.

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

Staff Finding 39: The application was submitted on October 30, 2024, and the City deemed the application complete on November 20, 2024. The City approved the application with conditions on January 15, 2025, 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 January 15, 2025, 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 that includes a fee for expedited land divisions. The applicant paid the given fee at the time of submittal. The criteria are met.

EXHIBIT PD-1 APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only

STAFF CONTACT	PROJECT NO(S). ELD-24-05	PRE-APPLICATION NO. n/a
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"/> 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 checked="" 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 type="checkbox"/> Variance (VAR)
<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: 2089 5th Avenue	Assessor's Map No.: 31E02AB <hr/> Tax Lot(s): 4800 <hr/> Total Land Area: 10,729 square feet
--------------------------------------------------	----------------------------------------------------------------------------------------------------

Brief Description of Proposal:

The application proposes a two-lot expedited land division for development of middle housing in the form of detached duplexes.

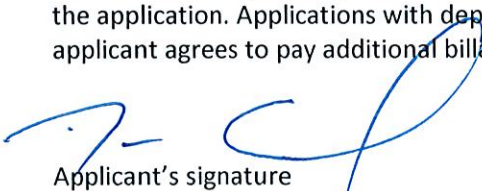
Applicant Name*: Icon Construction & Development, LLC Address: 1969 Willamette Falls Drive, Suite 260 City State Zip: West Linn, OR 97068	Phone: 503-657-0406 Email: darren@iconconstruction.net
--------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------

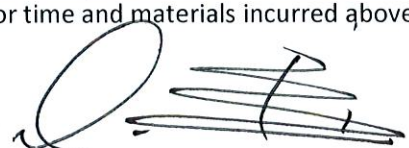
Owner Name (required): Same as applicant. Address: City State Zip:	Phone: Email:
---------------------------------------------------------------------------------	------------------

Consultant Name: Rick Givens Address: 28615 SW Paris Ave., Unit 110 City State Zip: Wilsonville, OR 97070	Phone: 503-351-8204 Email: rickgivens@gmail.com
------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------

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
 ELD-24-05
 Date: 10-21-24

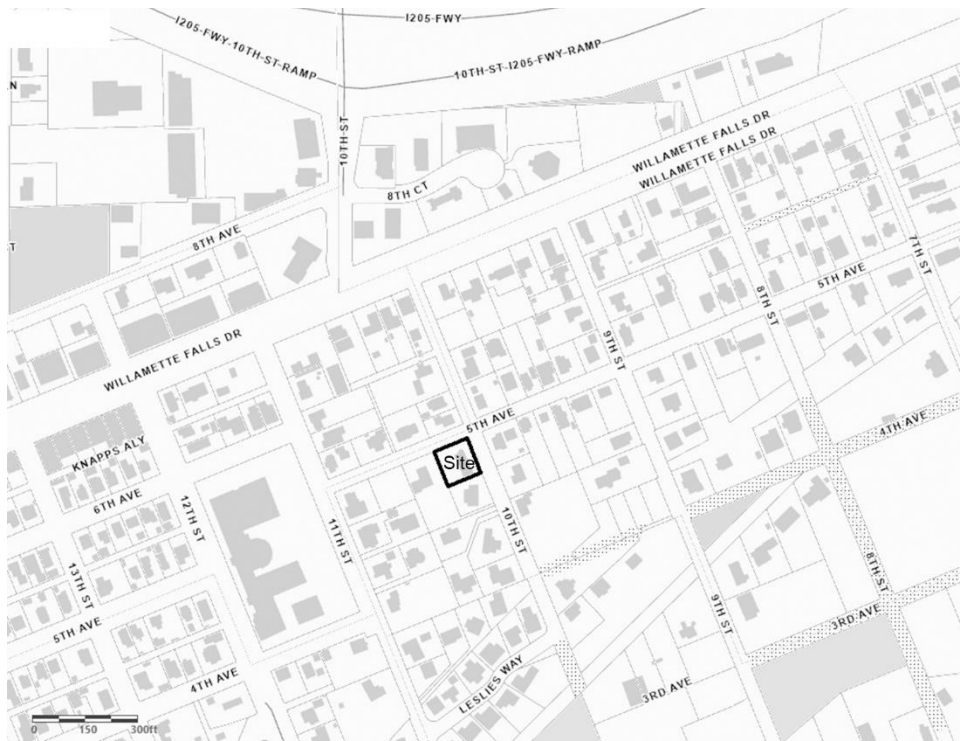

 Owner's signature (required)
 Date: 10-21-24

Expedited Land Division Narrative

Tax Lot 31E02AB04800, 2089 5th Avenue, West Linn

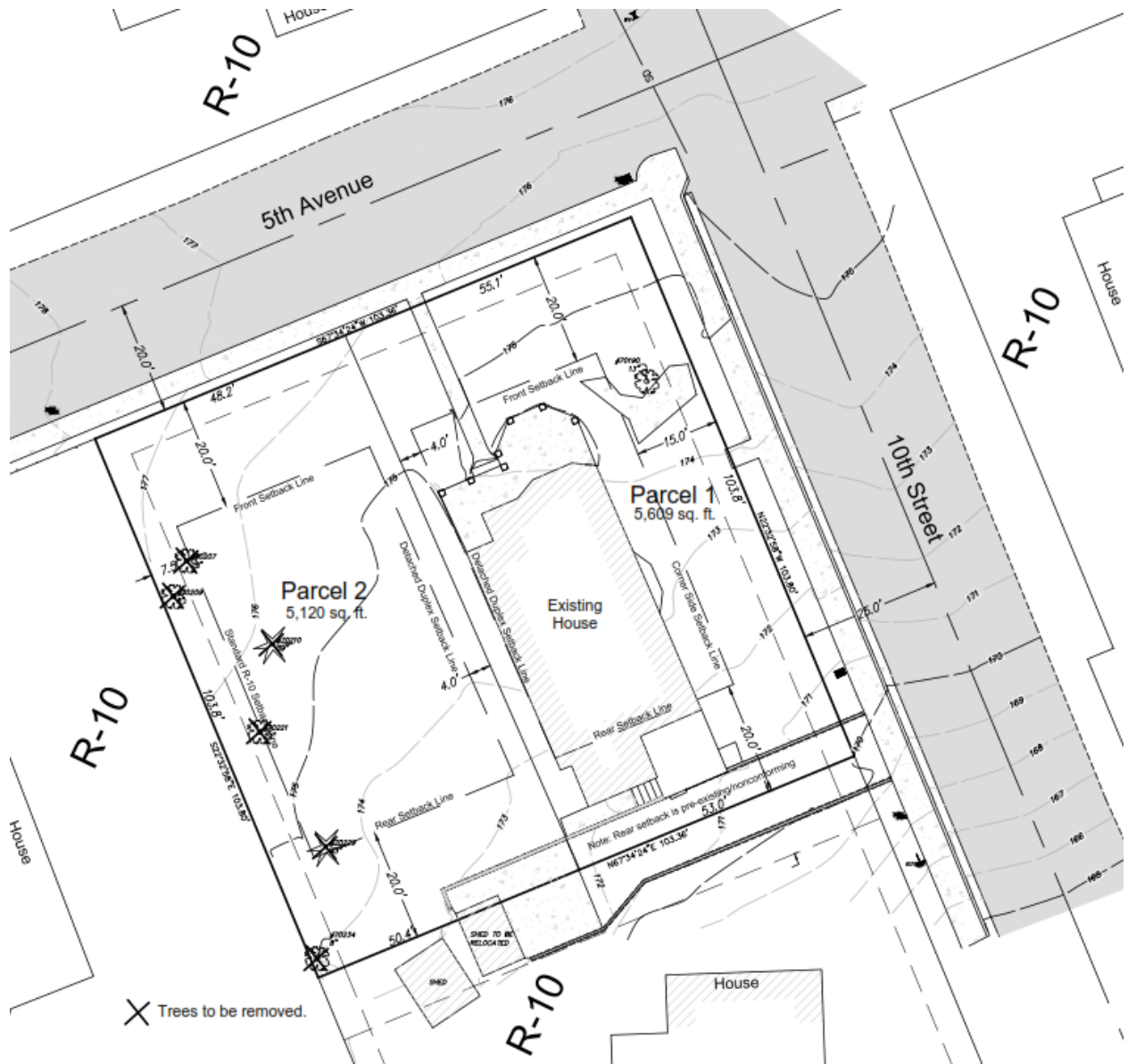
Icon Construction & Development, LLC

Proposal: This application requests approval of a middle housing Expedited Land Division (ELD) for an existing lot described as Tax Lot 31E02AB04800. The property is located at 2089 5th Avenue in the Willamette area of West Linn. This site is located on the south side of 5th Avenue at its intersection with 10th Street.

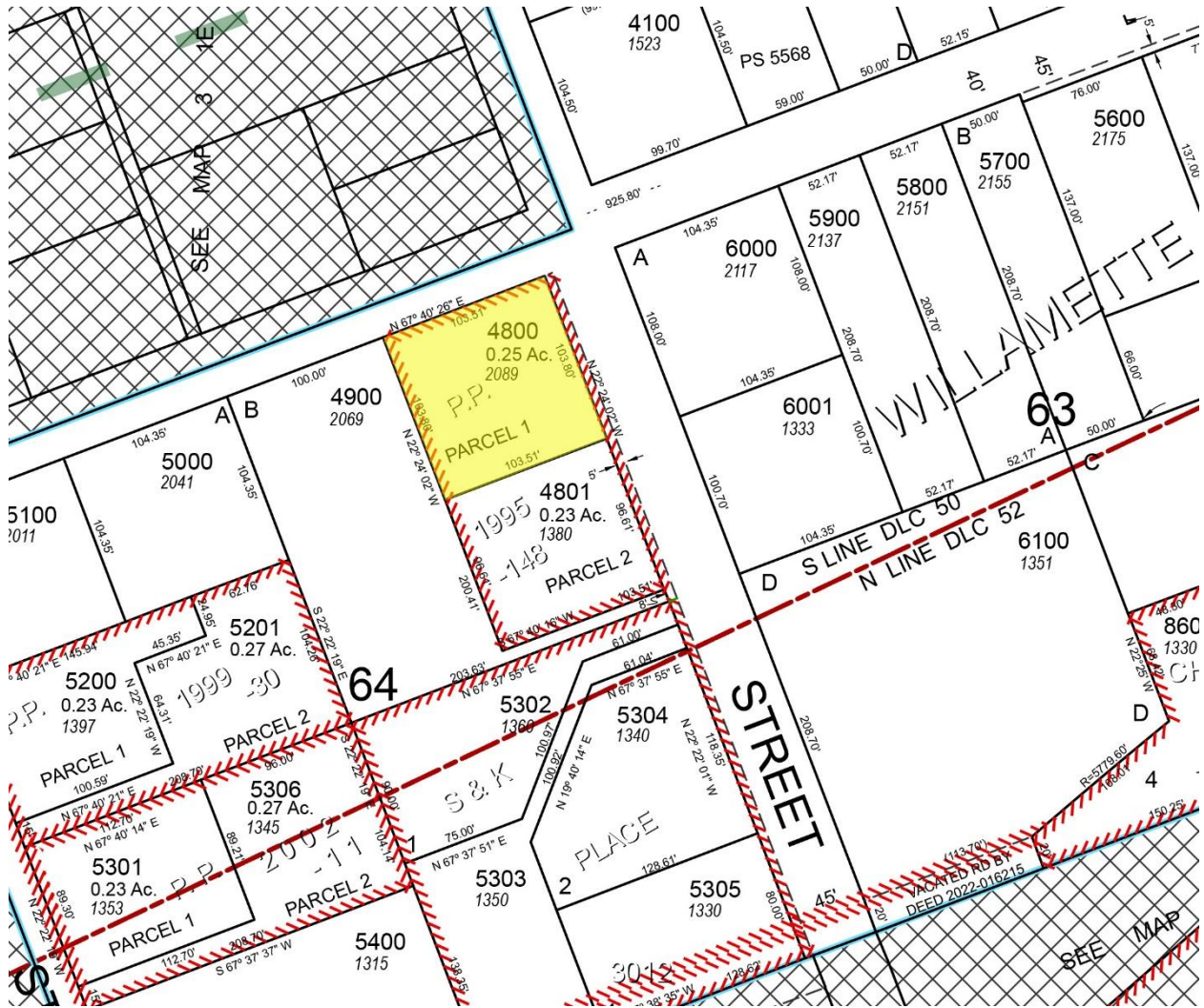


Vicinity Map

The property is developed with an existing single-family home that County records indicate was built in 1907. This house is proposed to be retained. A new parcel would be created to the west of the existing home and a new house will be constructed there. Together, the two homes will be middle housing detached duplexes. The proposed site plan is depicted on the map on the following page as well as on the Tentative Plan submitted with this application.



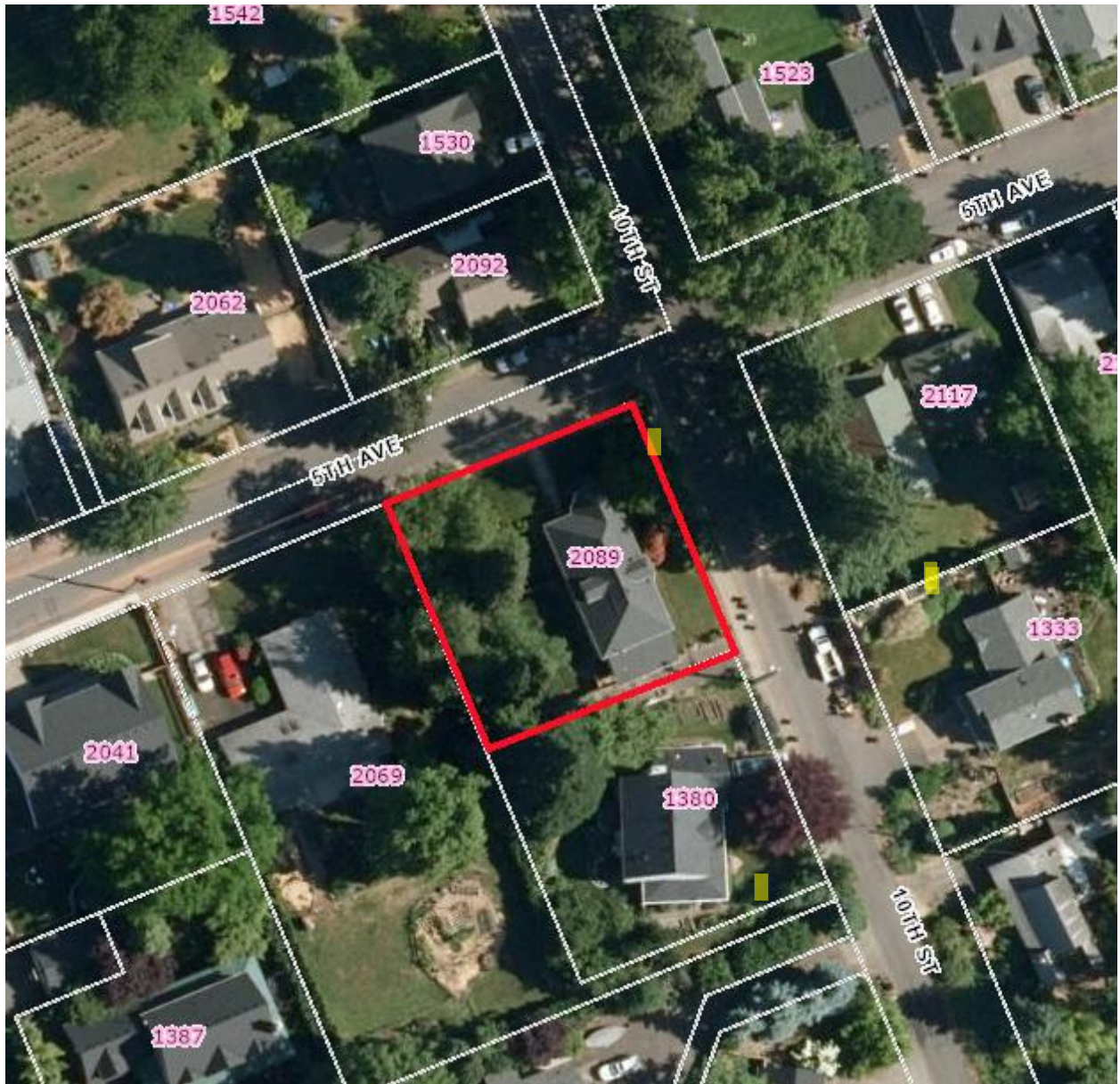
Site Plan



Crop from Assessor's Map
22E30CB

Existing Conditions

The subject property is shown outlined in red on the aerial photograph below. The property is fairly level, sloping downhill to the south from 5th Avenue. The grade is less than 5 percent. There are coniferous trees along the west border of the site that will need to be removed to allow for site development. There are no creeks, wetlands or other natural resource areas on the property.



Aerial Photograph of Existing Conditions

Public Facilities

City of West Linn sanitary sewer, storm sewer and water lines are located in 5th Avenue and 10th Street to serve the proposed project. A preliminary utility plan and storm report for the project have been prepared by Theta Engineering and are included with our application package. Please refer to those documents for proposed utility information.

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 detached duplex units, one of which will be located on each parcel. Duplex units are middle housing pursuant to the definitions in ORS 197.758(1). The subject lots are zoned R-10 and this zone allows for the development of middle housing under standards adopted by the City of West Linn.

ORS 197.360(1)(a)(C)(i) requires that ELD proposals *"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;*
- (iii) Estuarine resources;*
- (iv) Coastal shorelands; and*
- (v) Beaches and dunes.*

Comment: The subject property does not contain any resource lands described under subsections (i) through (v).

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

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

Comment: The proposed parcels will be developed with detached duplex units, 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 adopted standards allow for middle housing in all residential districts, including the R-10 district applicable to the subject property. The only limitations provided in the updated standards are dimensional requirements that do not discourage development of middle housing. The applicable dimensional standards for the R-10 zone are found in CDC 13.070 and are shown in the table below:

STANDARD	REQUIREMENT	ADDITIONAL NOTES	COMMENT
Minimum lot size	10,000 SF	For a single-family attached or detached unit.	Not applicable to detached duplexes.
Average min. Lot or Parcel size for a Townhouse Project	1,500 SF		Not applicable to detached duplexes.
Minimum lot width at front lot line	35 ft.	Does not apply to Townhouses or Cottage Clusters.	The lot widths at the front lot line are: Parcel 1- 55.1', Parcel 2-48.2'.
Average Minimum lot width	50 ft.	Does not apply to Townhouses or Cottage Clusters.	Does not apply to detached duplexes.
Minimum Yard Dimensions or Minimum building setbacks		Except as specified in CDC 25.070(C)(1) through (4) for the Willamette Historic District. Front, rear, and side yard setbacks for in a Cottage Cluster Project are 10 ft. There are no additional setbacks for individual structures on individual lots, but minimum distance between structures shall	Not applicable to the proposed project as it does not include a Cottage Cluster.

		<i>follow applicable building code requirements.</i>	
<i>Front Yard</i>	<i>20 ft</i>	<i>Except for steeply sloped lots where the provisions of CDC 41.010 shall apply.</i>	The proposed minimum front yard setback is 20 feet.
<i>Interior Side Yard</i>	<i>7.5 ft</i>	<i>Townhouse common walls that are attached may have a 0 ft side setback.</i>	This standard is not applicable to duplex units along their common line. A 4' setback is proposed on the common lot line. The perimeter side yards will maintain the required 7.5' setback.
<i>Street Side Yard</i>	<i>15 ft</i>		Parcel 1 is a corner lot. The street side yard dimension is 22.7', which exceeds the 15' minimum standard.
<i>Rear Yard</i>	<i>20 ft</i>		The minimum rear yard proposed for the home to be built on Parcel 2 will not exceed 20 feet. The rear yard of the existing home on Parcel 1, however, measures only 9.7'. This a preexisting nonconforming situation. The existing home was built in 1907, which is well before the City of West Linn had zoning standards. The existing home is oriented towards 5 th Avenue. Further, the dimension of the existing lot prior to partitioning measures slightly longer on the 10 th Street frontage (103.8') than on the 5 th Avenue frontage (103.36'). By definition in CDC Chapter 2, on a corner lot the front lot line is "the shortest lot line along a street (other than an alley) that separates the lot from the street." The existing 9'7' rear yard dimension is not conforming, but predates zoning standards.
<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>	Homes to be built will comply with the maximum 35' height standard. Compliance with height standards will be reviewed with the building permit application.
<i>Maximum Lot Coverage</i>	<i>35%</i>	<i>Maximum lot cover does not apply to Cottage Clusters. However, the maximum building footprint for a Cottage Cluster is less than 900 sf per dwelling unit.</i> <ul style="list-style-type: none"> <i>This does not include detached garages, carports, or accessory structures.</i> 	The existing home on Parcel 1 has a lot coverage of 1,687 sq. ft. The lot area proposed is 5,609 sq. ft., which yields a percentage coverage of 30%. Lot coverage for the home to be built on Parcel 2 will be less than the maximum will comply with the 35% standard as will be demonstrated at the time of building permit application.

		<ul style="list-style-type: none"> 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		Not applicable. Both parcels have direct frontage onto public streets.
Maximum Floor Area Ratio	0.45	Max FAR does not apply to cottage clusters.	Not applicable. The proposed project is for detached duplexes.
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.	The home on Parcel 1 has a floor area of 2,087 sq. ft. per County Assessor's records. The lot area proposed is 5,609 sq. ft., which yields a FAR of 37.2%. Compliance with the floor area ratio standard for the home to be built on Parcel 2 will comply with this standard and will be reviewed at the time of building permit application.

(b) Separate utilities for each dwelling unit;

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

(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 the street right-of-way fronting the lots. No Public Utility Easements other than the standard PUE along the street right-of-way are proposed.

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

Comment: Both lots front directly onto abutting streets. City sidewalks are existing on both 5th Avenue and 10th Street, as shown on the Tentative 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: Parcel 1 has an existing driveway easement that extends onto Tax Lot 4801 as shown on the Tentative Plan. Parcel 2 will have a driveway off of 5th Avenue that does not require any easements.

(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.

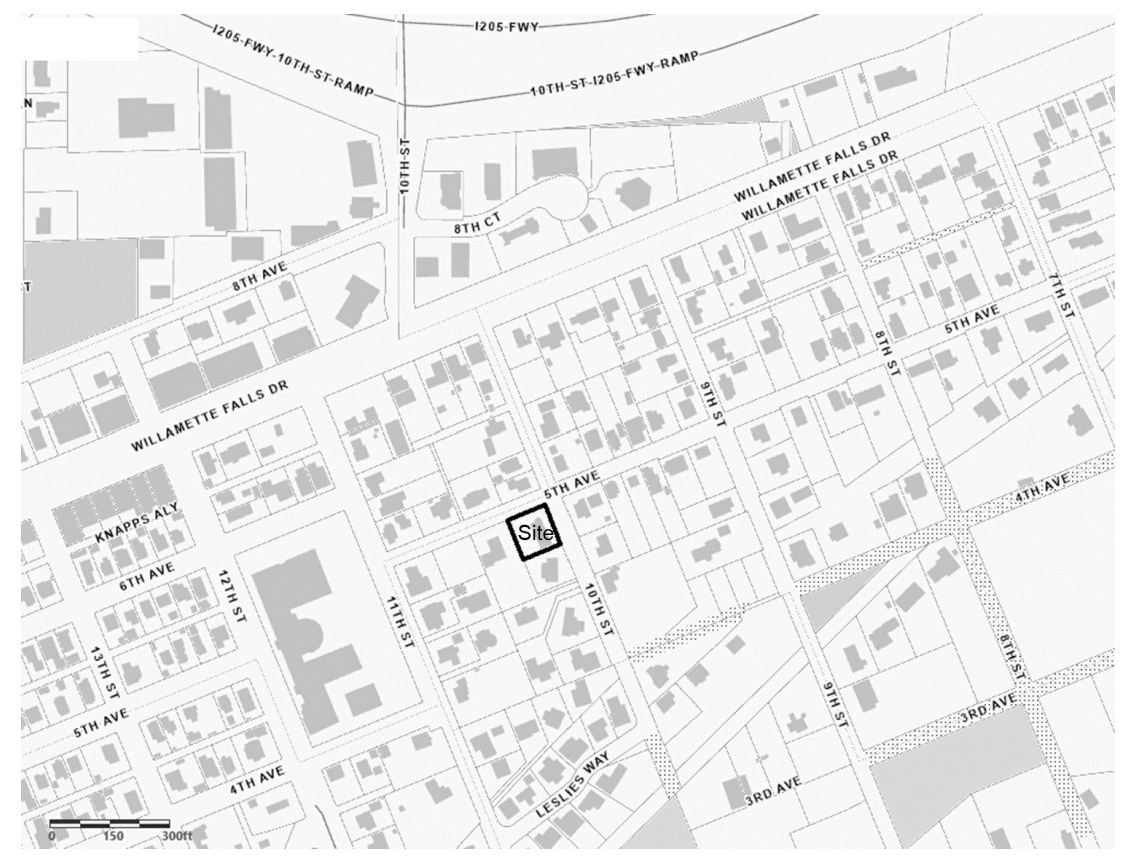
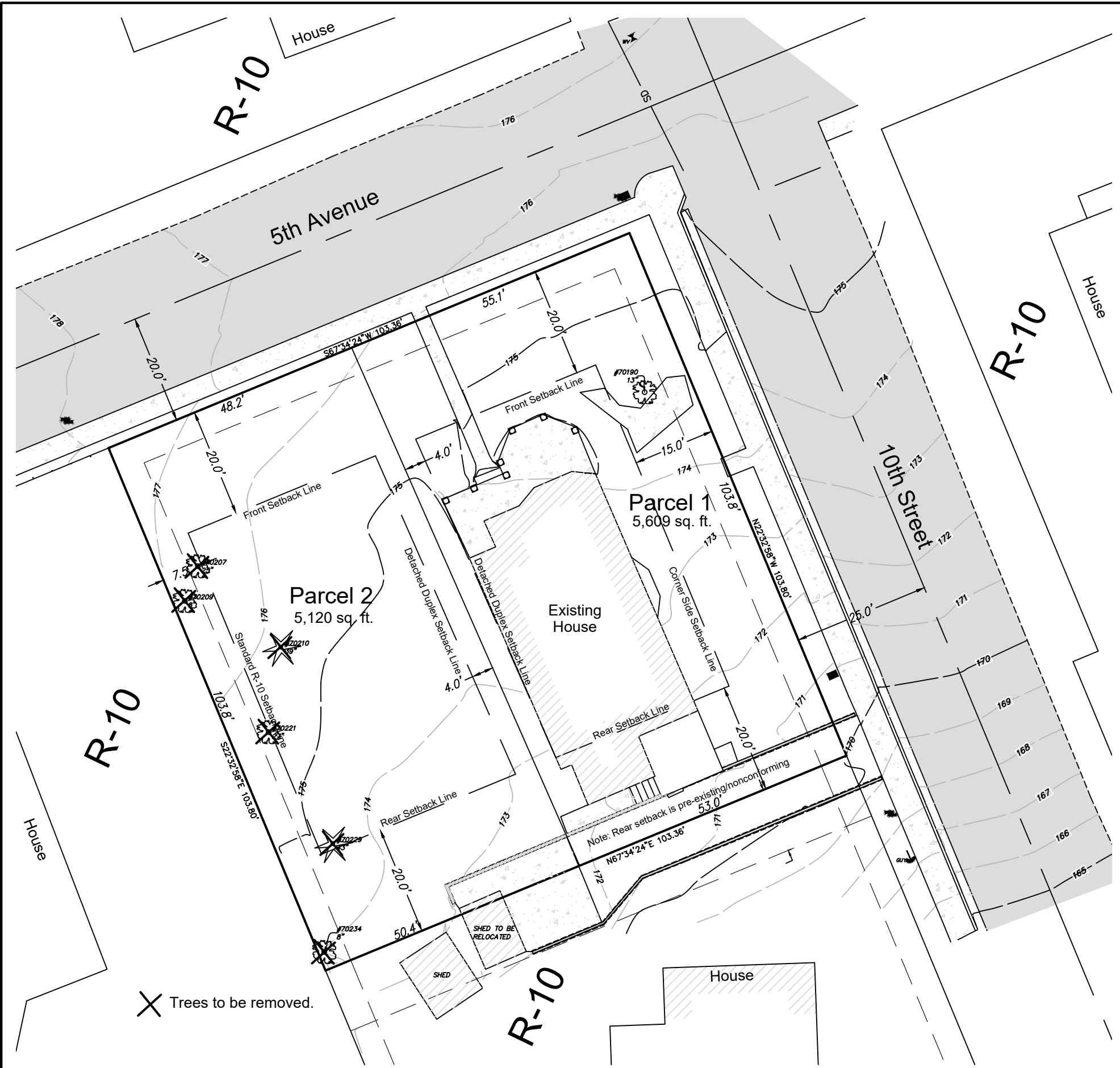
ORS 92.031(4) In reviewing an application for a middle housing land division, a city or county:

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

Comment: The property's frontages on both 5th Avenue and 10th Street are fully improved with street, curb, and sidewalks. No further improvements are anticipated by the applicant.

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

A Preliminary Utility Plan, prepared by Theta, LLC, is included with this application. This drawing shows all sewer, water and storm services required to serve the proposed lots. No site grading is proposed at this time. 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

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

Legal: 31E02AB04800

Water: City of West Linn

Sewer: City of West Linn

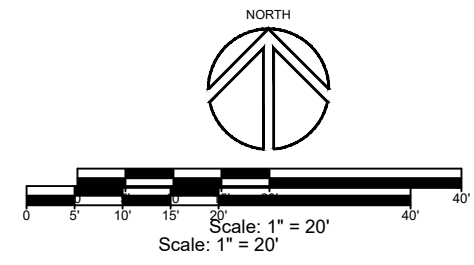
Contours: Centerline Concepts, Inc.

Site Area: 10,729 square feet

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

Surveyor:
 Centerline Concepts, Inc.
 19376 Molalla Ave Suite 120
 Oregon City, OR 97045
 PH: (503) 650-0188

Zoning: R-10



DESIGNED:	R.E.G.			
DRAWN:	R.E.G.			
SCALE:	1" = 20'			
DATE:	10-10-2025			
FILE:	24-ICN-103	DATE	NO.	REVISION

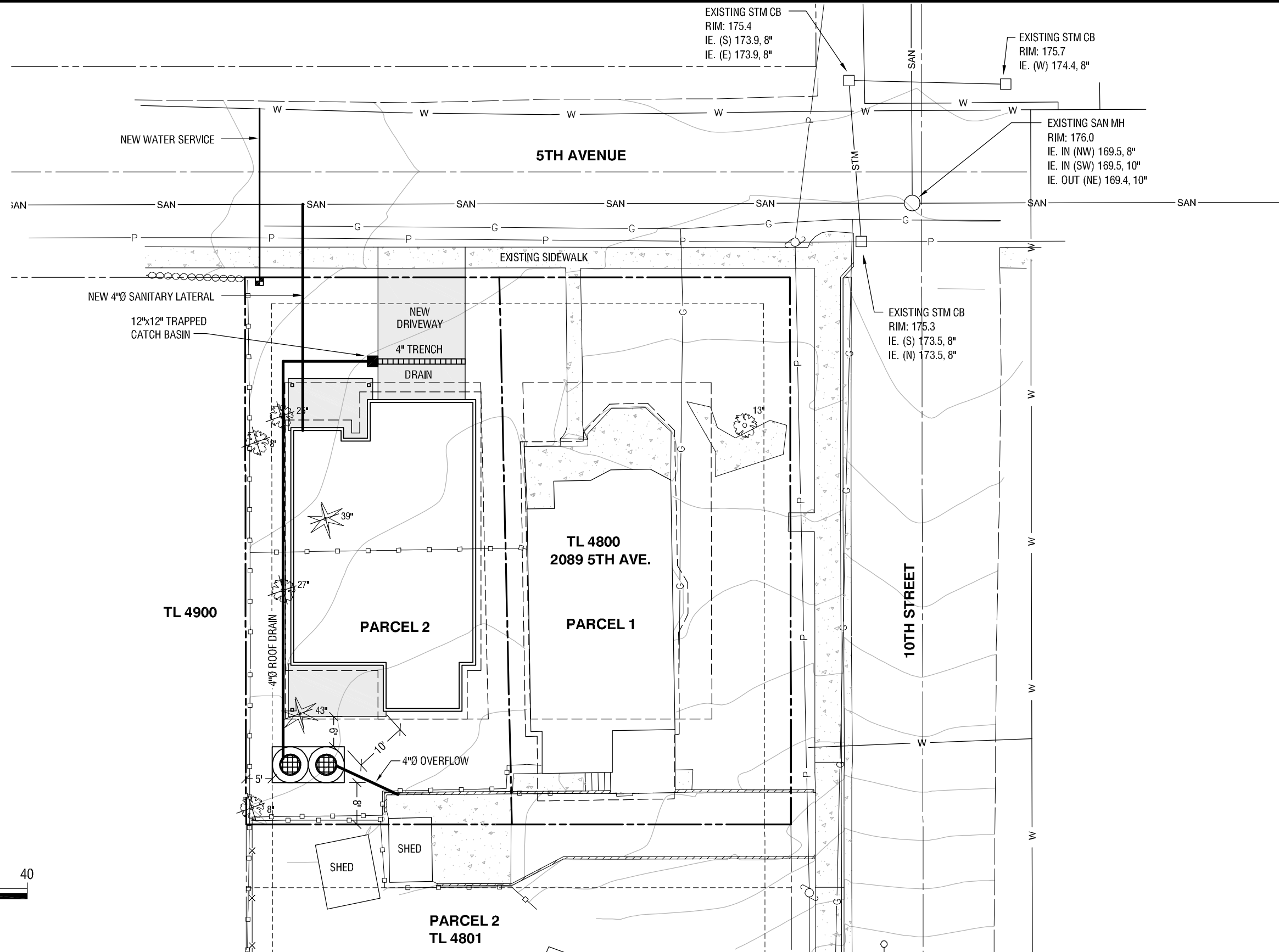
Richard E. Givens, Planning Consultant
 28615 SW Paris Ave., Unit 110
 Wilsonville, OR 97070
 PH: (503) 351-8204

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

Page 29 of 44

2089 5th Ave. Middle Housing
 ELD Tentative Plat Planning Manager Decision

SHEET:
 1/1



2024-129ZB

PRELIMINARY

DESIGNED:	BDG
DRAWN:	BJS
SCALE:	1" = 20'
DATE:	October, 2024
FILE:	ELD-2089 5th Ave Prelim1

Theta, llc

ENGINEERING - SURVEYING - PLANNING

PO Box 1345
Lake Oswego, Oregon 97035

503/481-8822
email: thetaeng@comcast.net

Icon Construction & Development, LLC
1980 Willamette Falls Drive, Suite 200
West Linn, OR 97068
PH: (503) 657-0406

Page 30 of 44

2089 5th Avenue
West Linn, Oregon

1/1

Planning Manager Decision



STORM ANALYAIS

2089 5th Avenue

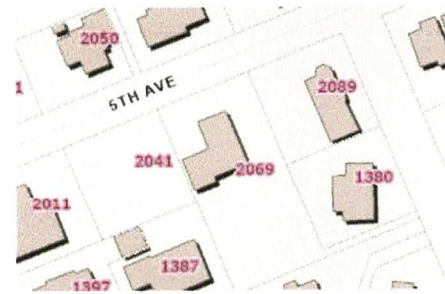
WEST LINN, OREGON

Narrative:

This is a 0.25-acre parcel with a vintage 1907 house to remain and a new house by the middle housing process proposed to the west, that is being redeveloped. This is a corner lot on the south side of 5th Avenue and the west side of 9th Street, and records indicate the house dates to 1900. The property is more or less level along 5th Avenue and slopes at approximately 5% to the south along 10th Street. An infiltration test was completed by Theta LLC (October 2024) with a field rate of 3.375 inches per hour after presoaking the day before and with three 1-hour tests. The test pit was 48-inches deep with 8” of organic material followed by brown silt loam with no seeps or ground water. The Simplified City of Portland Dry Well sizing chart has been used to size the storm facilities (PDX SW 180).

References:

1. Icon Construction and Development
2. West Linn Storm Water
3. City of Portland Stormwater Manual



Infiltration:

A safety factor of 2 was applied to the observed rate of 3.375 in/hour for a design rate of 1.69 in/hour or 35.5 minutes per inch. Rapid Soils Solutions found on a test one block away that ground water would be 40-feet or more below the surface. The USDA finds the soil to be Willamette silt loam

SUMMARY

Parcel	New impervious	1.25%	Dry Well
lot	2547 SF	3184 SF	1592 EA (2)
	Sizing chart	2500 SF max	5-ft
	Sizing chart	2500 SF max	5-ft

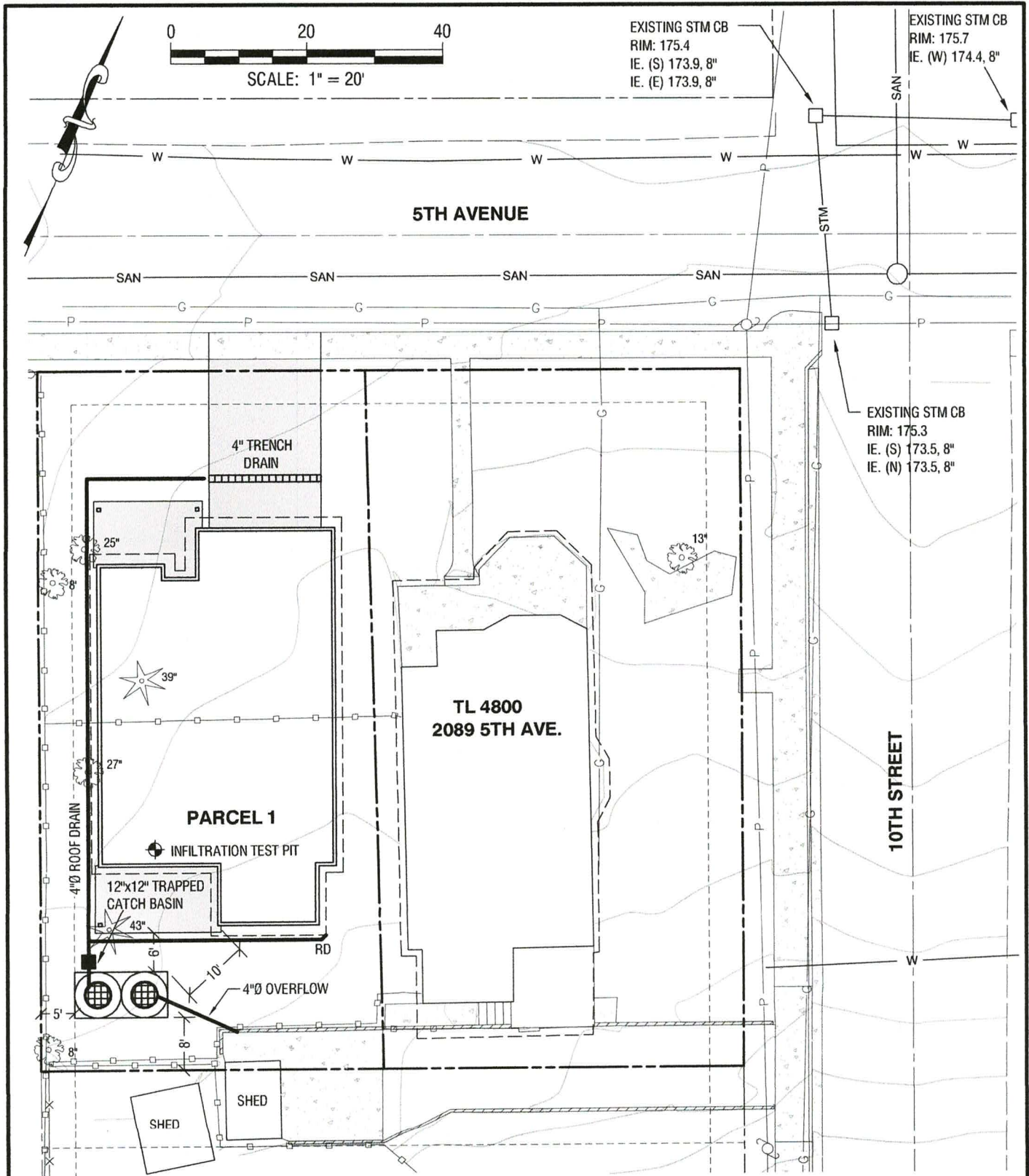
Results and Conclusions:

The simplified approach was found to best fit this situation using two drywells connected together and 5 feet deep. Rain gardens were found to be too large to be accommodated on the lot as were planter boxes. If overflow did occur the flow towards 10 street

Prepared by:
Bruce D. Goldson, PE
Theta, LLC
October 26, 2024
2014-129ZB



EXPIRES: 06/30/2025



2024-129ZB

STORM DRAINAGE REPORT

Theta, llc

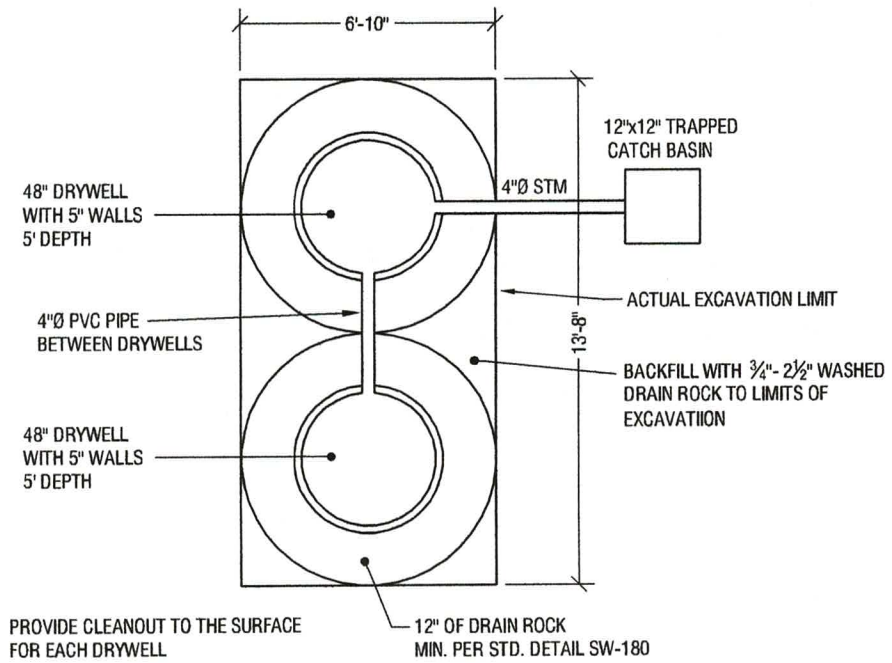
ENGINEERING - SURVEYING - PLANNING

PO Box 1345
Lake Oswego, Oregon 97035

503-481-8822
email: thetaeng@comcast.net

2089 5th Avenue
West Linn, Oregon

1
2



DRYWELL DETAIL

SCALE: 1" = 5'

2024-129ZB

STORM DRAINAGE REPORT

Theta, llc

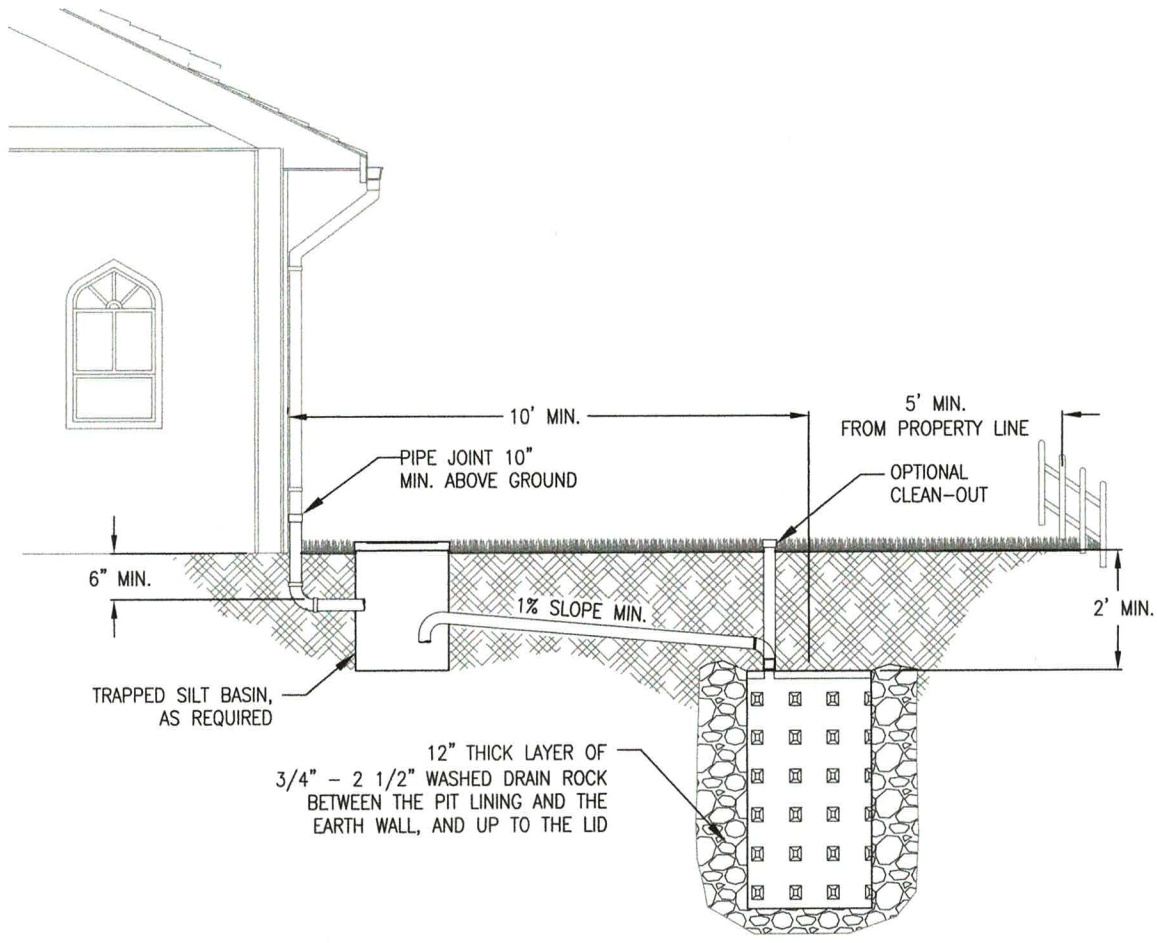
ENGINEERING - SURVEYING - PLANNING

PO Box 1345
Lake Oswego, Oregon 97035

503-481-8822
email: thetaeng@comcast.net

2089 5th Avenue
West Linn, Oregon

2
2



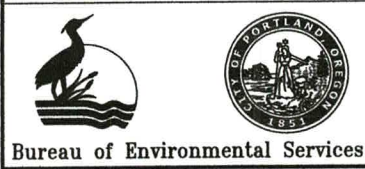
1. Sizing: See adjacent table to size the drywell(s) based on impervious area.
2. Siting Criteria: The base of the drywell must be at least 5' above seasonal high groundwater.
3. Setbacks: Measured from the center, the drywell must be 10' from foundations and 5' from property lines except next to the right-of-way where no setback is required between the edge of the drywell drain rock and the property line. The foundation setback is 8" for plastic mini-drywells.
4. Piping: Conform with Oregon Plumbing Specialty Code (OPSC) requirements.
5. Access: In residential settings, an access cleanout is optional but highly recommended.
6. Pre-Treatment: A trapped silt basin such as a sumped catch basin is required except for drywells managing roof runoff and runoff from pedestrian-only areas.
7. The top of the perforated drywell sections must be lower than neighboring foundations.
8. Inspections: Call BDS IVR inspection line, (503) 823-7000. Request 487.3 inspections required.

Drywell Depth	Maximum Catchment Area Managed by One Drywell	
	28" diameter	48" diameter
5'	1000 sf	2500 sf
10'	2500 sf	4500 sf
15'	3500 sf	5000 sf
2x2 plastic mini-drywell (maximum of 2 drywells per catchment)	500 sf	

CONSTRUCTION REQUIREMENTS

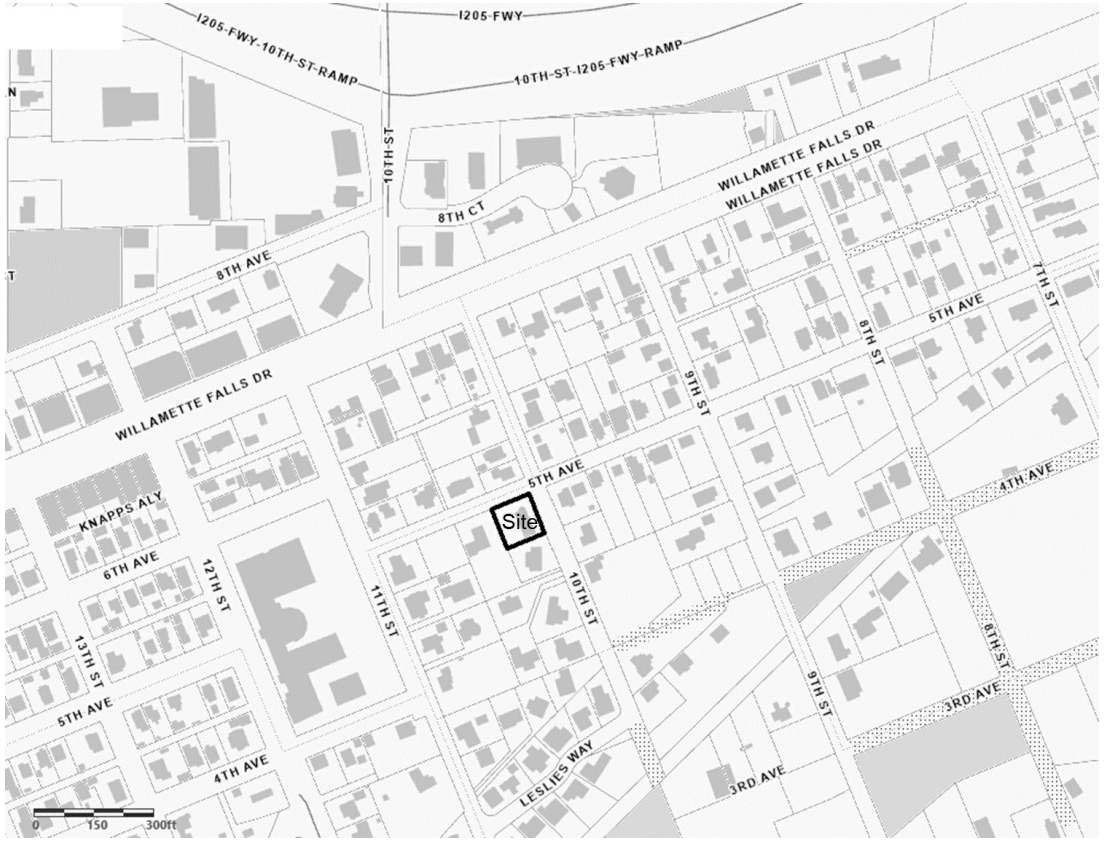
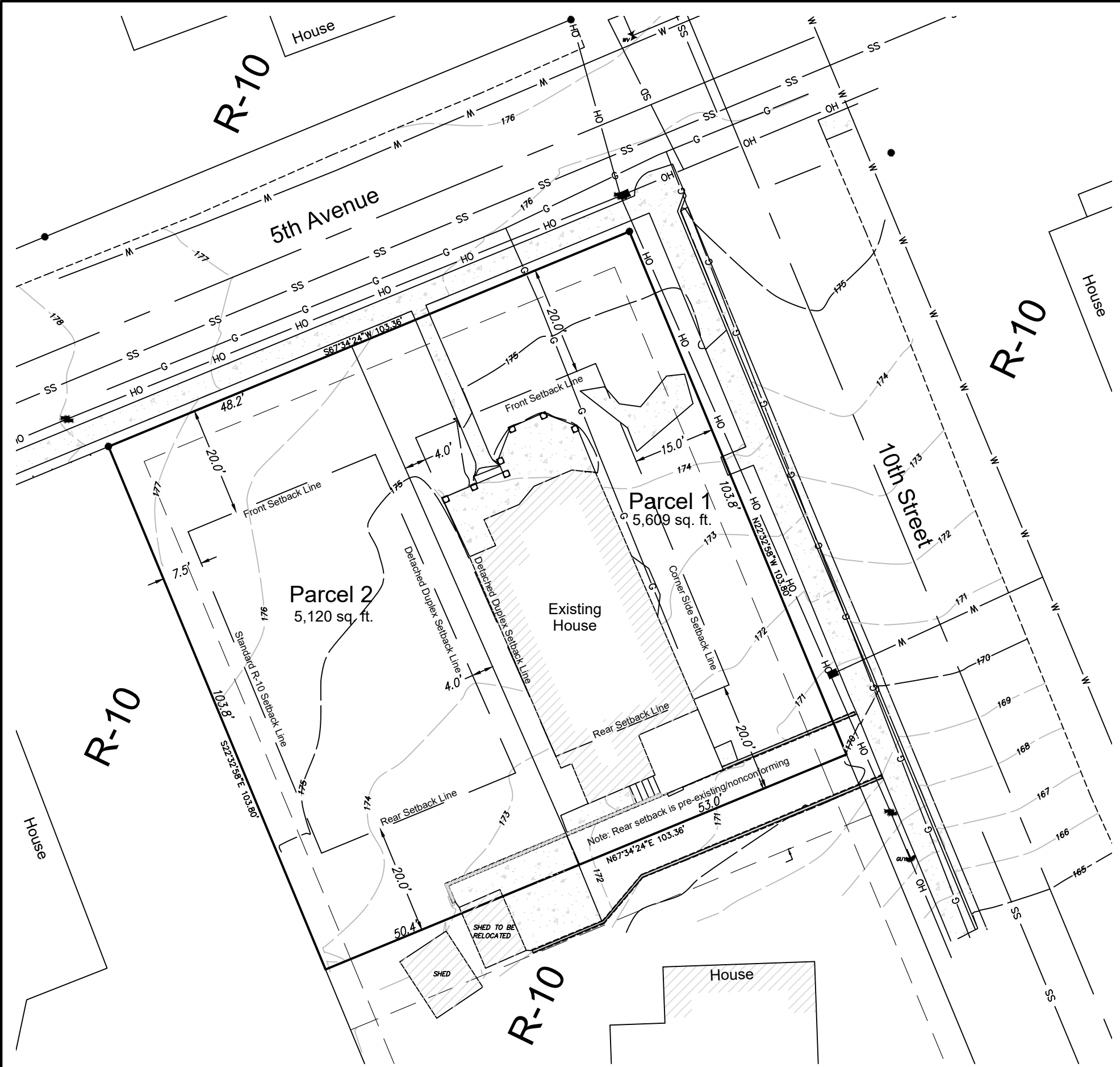
Smearing the soil surface during excavation can limit infiltration rates. If smooth excavation tools are used, roughen the sides and bottom of the excavation with a sharp pointed tool. Remove loose material from the bottom of the excavation.

- DRAWING NOT TO SCALE -



STORMWATER MANAGEMENT
TYPICAL DETAILS FOR
PRIVATE PROPERTY

DRYWELL SW-180



Vicinity Map

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

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

Legal: 31E02AB04800

Water: City of West Linn

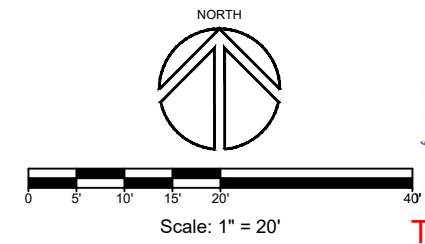
Sewer: City of West Linn

Contours: Centerline Concepts, Inc.

Site Area: 10,729 square feet

Surveyor:
 Centerline Concepts, Inc.
 19376 Molalla Ave Suite 120
 Oregon City, OR 97045
 PH: (503) 650-0188

Zoning: R-10



APPROVED PLANS

APPROVAL OF PLANS IS NOT AN APPROVAL OF OMISSIONS OR OVERSIGHTS

Jason Am...
 Deputy Fire Marshal II

TVF&R Permit# 2024-0165

DESIGNED:	R.E.G.			
DRAWN:	R.E.G.			
SCALE:	1" = 20'			
DATE:	10-10-2025			
FILE:	24-ICN-103	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

Page 36 of 44

2089 5th Ave. Middle Housing
ELD Tentative Plat Planning Manager Decision

SHEET:
 1/1

**FIRE CODE / LAND USE / BUILDING REVIEW
APPLICATION**



North Operating Center
11945 SW 70th Avenue
Tigard, OR 97223
Phone: 503-649-8577

South Operating Center
8445 SW Elligsen Rd
Wilsonville, OR 97070
Phone: 503-649-8577

REV 6-30-20

Project Information

Applicant Name: Icon Construction & Development, LLC
Address: 1969 Willamette Falls Drive, Suite 260
Phone: 503-657-0406
Email: darren@iconconstruction.net
Site Address: 2089 5th Ave.,
City: West Linn
Map & Tax Lot #: 31E02AB TL 04800
Business Name: Icon Construction & Development, LLC
Land Use/Building Jurisdiction: West Linn
Land Use/ Building Permit # Not applied for yet.

Choose from: Beaverton, Tigard, Newberg, Tualatin, North Plains, West Linn, Wilsonville, Sherwood, Rivergrove, Durham, King City, Washington County, Clackamas County, Multnomah County, Yamhill County

Project Description

The project is a two-lot middle housing Expedited Land Division (partition). The property is vacant. Two homes will be built on the property.

Permit/Review Type (check one):

- XLand Use / Building Review - Service Provider Permit
- Emergency Radio Responder Coverage Install/Test
 - LPG Tank (Greater than 2,000 gallons)
 - Flammable or Combustible Liquid Tank Installation (Greater than 1,000 gallons)
 - * Exception: Underground Storage Tanks (UST) are deferred to DEQ for regulation.
 - Explosives Blasting (Blasting plan is required)
 - Exterior Toxic, Pyrophoric or Corrosive Gas Installation (in excess of 810 cu.ft.)
 - Tents or Temporary Membrane Structures (in excess of 10,000 square feet)
 - Temporary Haunted House or similar
 - OLCC Cannabis Extraction License Review
 - Ceremonial Fire or Bonfire (For gathering, ceremony or other assembly)

For Fire Marshal's Office Use Only

TVFR Permit # 2024-0165
Permit Type: SPP-West Linn
Submittal Date: 10-16-2024
Assigned To: DFM Arn
Due Date: NA
Fees Due: Ø
Fees Paid: Ø

Approval/Inspection Conditions
(For Fire Marshal's Office Use Only)

This section is for application approval only

[Signature]
Fire Marshal or Designee

10-21-2024
Date

Conditions: See approved fire service plan.

See Attached Conditions: Yes No

Site Inspection Required: Yes No

This section used when site inspection is required

Inspection Comments:

Final TVFR Approval Signature & Emp ID _____ Date _____

EXHIBIT PD-2 COMPLETENESS LETTER



CITY OF
West Linn

November 20, 2024

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

SUBJECT: ELD-24-05: Proposed two-parcel SB458 middle-housing expedited land division of Clackamas County Taxlot 31E02AB04800 on Cornwall Street

Mr. Gusdorf,

The City accepted this application for review on October 30, 2024. The Planning and Engineering Departments reviewed the submittal documents and finds the application **complete**.

The application proposes a SB458 expedited land division for HB2001 middle housing development. Per SB458, the City is required to process the application under the procedures outlined in Oregon Revised Statute 197.360 to 197.380. The City has 63 days to make a decision to approve or deny the application; that period ends January 22, 2025.

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 503-742-6057, or by email at agudelj@westlinnoregon.gov if you have any questions or comments.

Sincerely,

A. Gudelj

Aaron Gudelj
Associate Planner

EXHIBIT PD-3 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-24-05** Applicant's Name: **Icon Construction & Development**
 Development Name: 2089 5th Avenue
 Scheduled Decision Date: **Planning Manager Decision no earlier than 1/22/25**

MAILED NOTICE

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

Icon Construction & Development, applicant	11/26/24	Lynn Schroder
Rick Givens, applicant representative	11/26/24	Lynn Schroder
Property owners within 100ft of the site perimeter	11/26/24	Lynn Schroder
Willamette Neighborhood Association	11/26/24	Lynn Schroder
WLWL SD	11/26/24	Lynn Schroder
Clackamas County	11/26/24	Lynn Schroder
PGE	11/26/24	Lynn Schroder
TriMet	11/26/24	Lynn Schroder
Comcast	11/26/24	Lynn Schroder
NW Natural Gas	11/26/24	Lynn Schroder
TVF&R	11/26/24	Lynn Schroder

EMAILED NOTICE

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

Icon Construction & Development, applicant	11/26/24	Lynn Schroder
Rick Givens, applicant representative	11/26/24	Lynn Schroder
Willamette Neighborhood Association	11/26/24	Lynn Schroder
METRO	11/26/24	Lynn Schroder
Stafford-Tualatin CPO	11/26/24	Lynn Schroder

WEBSITE

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

11/26/24	Lynn Schroder
----------	---------------

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.

01/15/2025	Lynn Schroder
------------	---------------



CITY OF
West Linn

**WEST LINN PLANNING Director
NOTICE OF FINAL DECISION
FILE NO. ELD-24-05**

On January 15, 2024, the West Linn Planning Director approved a request by Rick Givens on behalf of Icon development a 2-lot Expedited Land Division at 2089 5th Avenue. The decision was based on the facts, findings, and conclusions found in the record.

The Planning Director Decision and application are posted on the City's website, <https://westlinnoregon.gov/projects>. Alternatively, the Final Decision, complete application, and all documents or evidence are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost.

Persons who have established standing in this matter may appeal this decision to the West Linn City Council within 14 days of the Final Decision Notice mailing date pursuant to the provisions of CDC Chapter 99 and any other applicable rules and statutes.

Appeals must be filed with the West Linn Community Development Department with the \$400 appeal fee by 5:00 pm on the fourteenth day from the date of mailing this notice of final decision. An appeal application must include:

- The \$400 appeal fee;
- A reference to the decision (project number) to be appealed;
- The name, address, and signature of the appellant; and
- A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.
- The appeal application may state the grounds for appeal.

Any questions should be directed to Aaron Gudelj, Associate Planner, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6057.

This decision shall become effective at 5:00 p.m. on the fourteenth day from the date of mailing this Notice of Final Decision, unless appealed.

Mailed January 15, 2025.

Therefore, this decision becomes **effective at 5 p.m., January 29, 2025.**



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # ELD-24-05
MAIL: 11/27/2024 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.

ELD-24-05 – Notified Properties within 100 feet of 2089 5th Ave

