



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Agenda City Commission

Dan Holladay, Mayor
Brian Shaw, Commission President
Nancy Ide, Frank O'Donnell, Renate Mengelberg

Wednesday, August 16, 2017

7:00 PM

Library Community Room, 606 John Adams

Meeting held at the Oregon City Public Library, 606 John Adams Street

- 1. Convene Regular Meeting and Roll Call**
- 2. Flag Salute**
- 3. Ceremonies, Proclamations and Presentations**
 - 3a. [17-462](#)** Proclamation for the 97th Oregon City / West Linn Rivalry Day
Attachments: [Proclamation](#)
 - 3b. [17-439](#)** Tourism Strategic Plan Scope of Work Presentation by Coraggio Group
Sponsors: Economic Development Manager Eric Underwood
Attachments: [Staff Report](#)
[Oregon City Tourism Strategic Plan - Scope of Work](#)
 - 3c. [17-452](#)** Pavement Maintenance Utility Fee (PMUF) and Pavement Condition Index (PCI) Update
Sponsors: Public Works Director John Lewis
Attachments: [Staff Report](#)
[Pavement Management Budget Options Report](#)
- 4. Citizen Comments**

Citizens are allowed up to 3 minutes to present information relevant to the City but not listed as an item on the agenda. Prior to speaking, citizens shall complete a comment form and deliver it to the City Recorder. The City Commission does not generally engage in dialog with those making comments, but may refer the issue to the City Manager. Complaints shall first be addressed at the department level prior to addressing the City Commission.
- 5. Adoption of the Agenda**
- 6. Public Hearings**
- 7. General Business**

7a. [PC 17-092](#) Request for City Commission Review of the Parker Knoll Subdivision

Sponsors: Community Development Director Laura Terway

Attachments: [Staff Report](#)

[Request from the Applicant](#)

[Proposed Subdivision Site Plan](#)

7b. [17-469](#) Resolution No. 17-22, Declaring an Emergency and Exempting Clackamas County Modular Tiny Home Assembly from Planning Code Requirements and Processes on a Temporary Basis

Sponsors: Community Development Director Laura Terway

Attachments: [Staff Report](#)

[Resolution No. 17-22](#)

[Exhibit 1: Clackamas County Request](#)

[Exhibit 2: Site Plan](#)

7c. [17-413](#) Purchase and Sale Agreement for 1220 Main Street (Municipal Parking Lot)

Sponsors: Economic Development Manager Eric Underwood

Attachments: [Staff Report](#)

[Purchase and Sale Agreement](#)

8. Consent Agenda

This section allows the City Commission to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may only be discussed if it is pulled from the consent agenda.

8a. [17-457](#) Amendment to Interim Agreement for Rediscover the Falls

Sponsors: Community Development Director Laura Terway

Attachments: [Staff Report](#)

[Amended Agreement](#)

[Previous Agreement](#)

8b. [17-453](#) 2017 Oregon City Roadway Reconstruction Projects Contract (CI 16-018) Change Order 3

Sponsors: Public Works Director John Lewis

Attachments: [Staff Report](#)

[Change Order #3](#)

8c. [17-423](#) OLCC: Liquor License Application- On-Premises Sales, to Existing Location, Additional Services, Applying as a Corporation, Fred Meyer #242, 1839 Molalla Avenue, Oregon City, OR 97045

Sponsors: Police Chief and Public Safety Director James Band

Attachments: [Staff Report](#)

[Liquor License Application](#)

- 8d. [17-419](#) OLCC: Liquor License Application- On-Premises Sales, New Outlet, Applying as a Limited Liability Company, Black Ink Coffee LLC, 503 Main Street, Oregon City, OR 97045

Sponsors: Police Chief and Public Safety Director James Band

Attachments: [Staff Report](#)

[Liquor License Application](#)

- 8e. [17-451](#) Minutes of the June 7, 2017 Regular Meeting

Sponsors: City Recorder Kattie Riggs

Attachments: [Minutes of 6/07/2017](#)

- 8f. [17-454](#) Minutes of the June 13, 2017 Joint Work Session

Sponsors: City Recorder Kattie Riggs

Attachments: [Minutes of 6/13/2017 Joint Work Session](#)

- 8g. [17-455](#) Minutes of the June 13, 2017 Work Session

Sponsors: City Recorder Kattie Riggs

Attachments: [Minutes of 6/13/2017](#)

9. Communications

a. City Manager

b. Commission

c. Mayor

10. Adjournment

Citizen Comments: The following guidelines are given for citizens presenting information or raising issues relevant to the City but not listed on the agenda.

**Complete a Comment Card prior to the meeting and submit it to the City Recorder.*

**When the Mayor calls your name, proceed to the speaker table and state your name and city of residence into the microphone.*

**Each speaker is given 3 minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.*

**As a general practice, the City Commission does not engage in discussion with those making comments.*

**Electronic presentations are permitted, but shall be delivered to the City Recorder 48 hours in advance of the meeting.*

Agenda Posted at City Hall, Pioneer Community Center, Library, City Web site.

Video Streaming & Broadcasts: The meeting is streamed live on Internet on the Oregon City's Web site at www.orcity.org and available on demand following the meeting. The meeting can be rebroadcast on Willamette Falls Television. Please contact WFMC at 503-650-0275 for a programming schedule.

The Oregon City Public Library is wheelchair accessible with entry ramps and handicapped parking located on the south side of the building. Hearing devices may be requested from the City Recorder prior to the meeting. Disabled individuals requiring other assistance must make their request known 48

hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: PC 17-092

Agenda Date: 8/16/2017

Status: Agenda Ready

To: City Commission

Agenda #: 7a.

From: Community Development Director Laura Terway

File Type: Land Use Item

SUBJECT:

Request for City Commission Review of the Parker Knoll Subdivision

RECOMMENDED ACTION (Motion):

Staff recommends the City Commission review the Parker Knoll Subdivision (Planning file TP 17-02).

BACKGROUND:

The Oregon City Planning Division received an application from Icon Construction for a subdivision located at 19510 Leland Road, Oregon City, OR 97045 and identified as Clackamas County Map 3-2E-07D, Tax Lots 600, 601, 700, 701, 501, and 401. The subject site is adjacent to Wesley Lynn Park along its northeast and southeast borders.

The proposal includes subdividing the subject site into 11 lots to accommodate single-family residences along an extension of Reddaway Avenue. The applicant proposed to utilize an existing easement to accommodate a portion of the roadway on the Wesley Lynn Park site. The easement area has twice been the subject of election proposals that would have allowed locating a roadway, drainage and utilities necessary to support the development on park land. As those elections both were narrowly defeated, the applicant has revised the design to include a public road within a portion of the easement as well as a concrete path, both within and outside of the easement area, which they believe is authorized by the easement and does not require voter approval.

As a large component of the project entails answering the question of whether voter approval is required for the redesigned project, staff and the applicant are asking that the City Commission call up the subdivision application and review the proposal in a comprehensive manner, effectively deciding if the subdivision complies with the development standards in the Oregon City Municipal Code and answering the if voter approval is required by the Charter.

By calling up the review, the public would be invited to participate in a *de novo* decision making process where new evidence may be submitted both in writing and in person before the City Commission. Though the subdivision application has already been noticed to the public, if the City Commission decides to call-up the matter, notice of the change would be posted on the project site, posted on the City's website, posted in the paper, mailed to nearby property owners, and emailed to a variety of agencies and citizens. This process would allow the public more time to comment on the application. Staff would provide written findings to the

City Commission for their consideration and the City Commission's decision would be appealable to the Land Use Board of Appeals (LUBA). This process would not include participation from the Planning Commission, although a subdivision is reviewed through a Type II process that would not include the Planning Commission in any event. Further, staff believes that the City Commission is the most appropriate body to interpret City Charter requirements.

August 8, 2017

Michael C. Robinson
MRobinson@perkinscoie.com
D: +1.503.727.2264
F: +1.503.346.2264

VIA EMAIL

Ms. Laura Terway, Director
Community Development Director
City of Oregon City Community Development
221 Molalla Ave, Suite 200
Oregon City, OR 97045

Re: Request by Icon Construction for Oregon City Commission Call-Up of Type II Application

Dear Ms. Terway:

This office represents Icon Construction (“Icon”), which has a Type II subdivision application pending before the Oregon City (“City”) Community Development Director that includes locating a public roadway partly within the existing fifty foot (50’) wide easement and, at the request of the Oregon City Parks and Recreation Department, a ten foot (10’) wide public concrete path inside and outside of the easement for the benefit of park users, both within Wesley Lynn Park. The purpose of this letter is to request that the City Commission call-up Icon’s Type II application before the Community Development Director reaches a decision on it so that the Oregon City City Commission can make a decision on Icon’s Type II application and interpret Chapter X of the Oregon City Charter.

Members of the public have submitted comments during the comment period on the Type II application that have demonstrated to Icon and the City that the public is concerned about the effect of the application on the adjacent City park. The concern that the public has expressed implicates Chapter X of the City Charter. Icon and the City have determined that an interpretation of Chapter X of the City Charter by the City Commission is appropriate in conjunction with the Type II application.

Icon and the City agree that the City Commission has the legal authority to call up a matter pending before the Community Development Director before the Director has rendered a decision. Although such a call-up might be procedural error where the City’s code does not authorize and prescribe such a process, the Oregon Land Use Board of Appeals (“LUBA”) has held that procedural error is not a basis to reverse or remand a local government’s land use decision unless the procedural error prejudices the ability of an opponent of the decision to prepare and submit their case against it, and to receive a full and fair hearing regarding their

Ms. Laura Terway, Director
August 8, 2017
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opposition. *See e.g., Wal-Mart Stores, Inc. v. City of Central Point*, 49 Or LUBA 697 (2005); *Muller v. Polk County*, 1988 WL 898629 (Or LUBA).

The Oregon City Municipal Code does not authorize or prescribe the procedures for a call-up of a pending matter by the City Commission. However, the City Commission will review Icon's application in a *de novo* public hearing. The *de novo* hearing will provide more, not less, opportunity for parties interested in Icon's application to be heard and to make their case. The City Commission has the legal authority to call up Icon's Type II application in accordance with this request. Therefore, no party's substantial rights will be prejudiced by the call-up.

If the City Commission calls up Icon's Type II application, Icon agrees to extend the 120-day time period in ORS 227.178(1) by thirty (30) days. The 120-day period is currently set to expire on November 2, 2017.

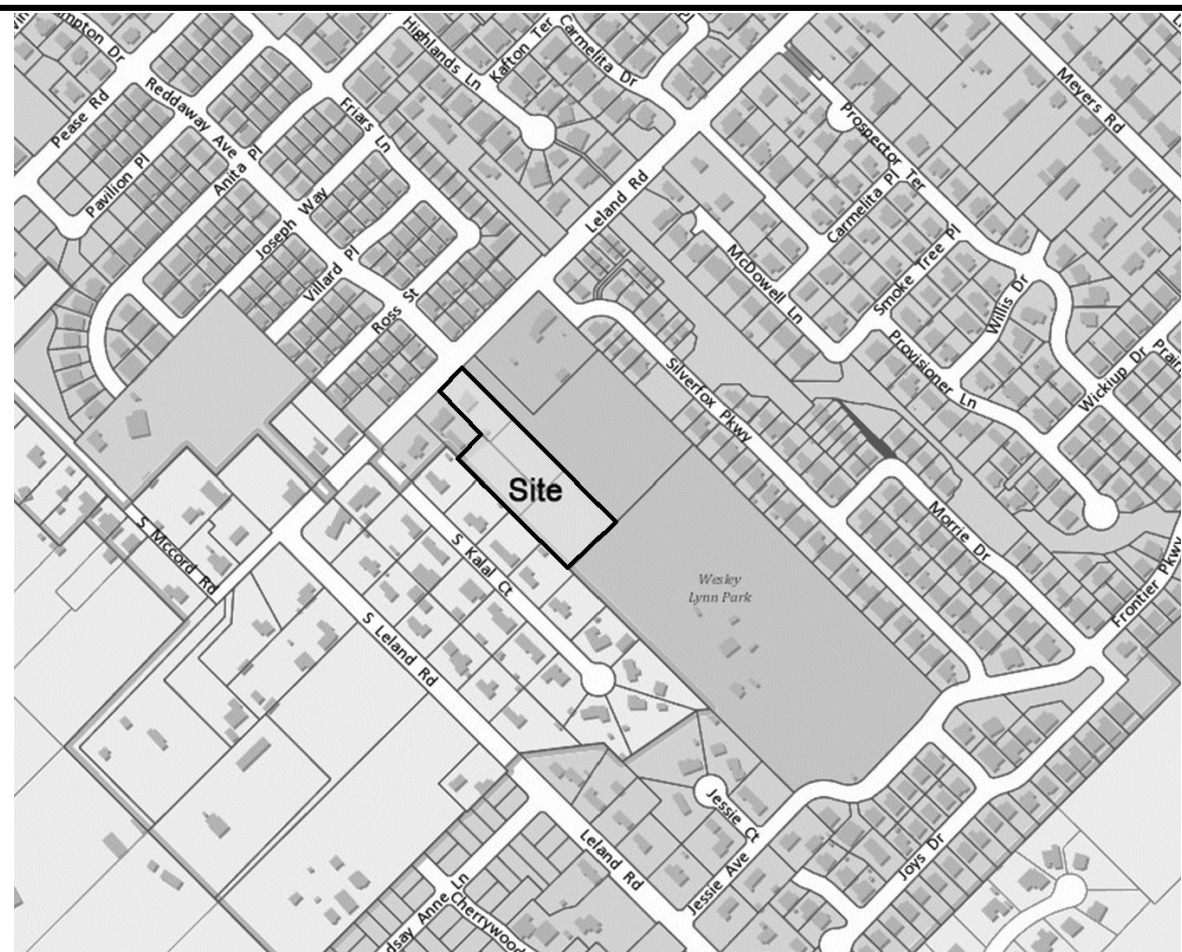
Very truly yours,



Michael C. Robinson

MCR:rsr

cc: Ms. Carrie Richter (via email)
Mr. Mark Handris (via email)
Mr. Rick Givens (via email)



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

Legal: 3-2E-7D TL 600, 601 & 701

Water: City of Oregon City

Sewer: City of Oregon City

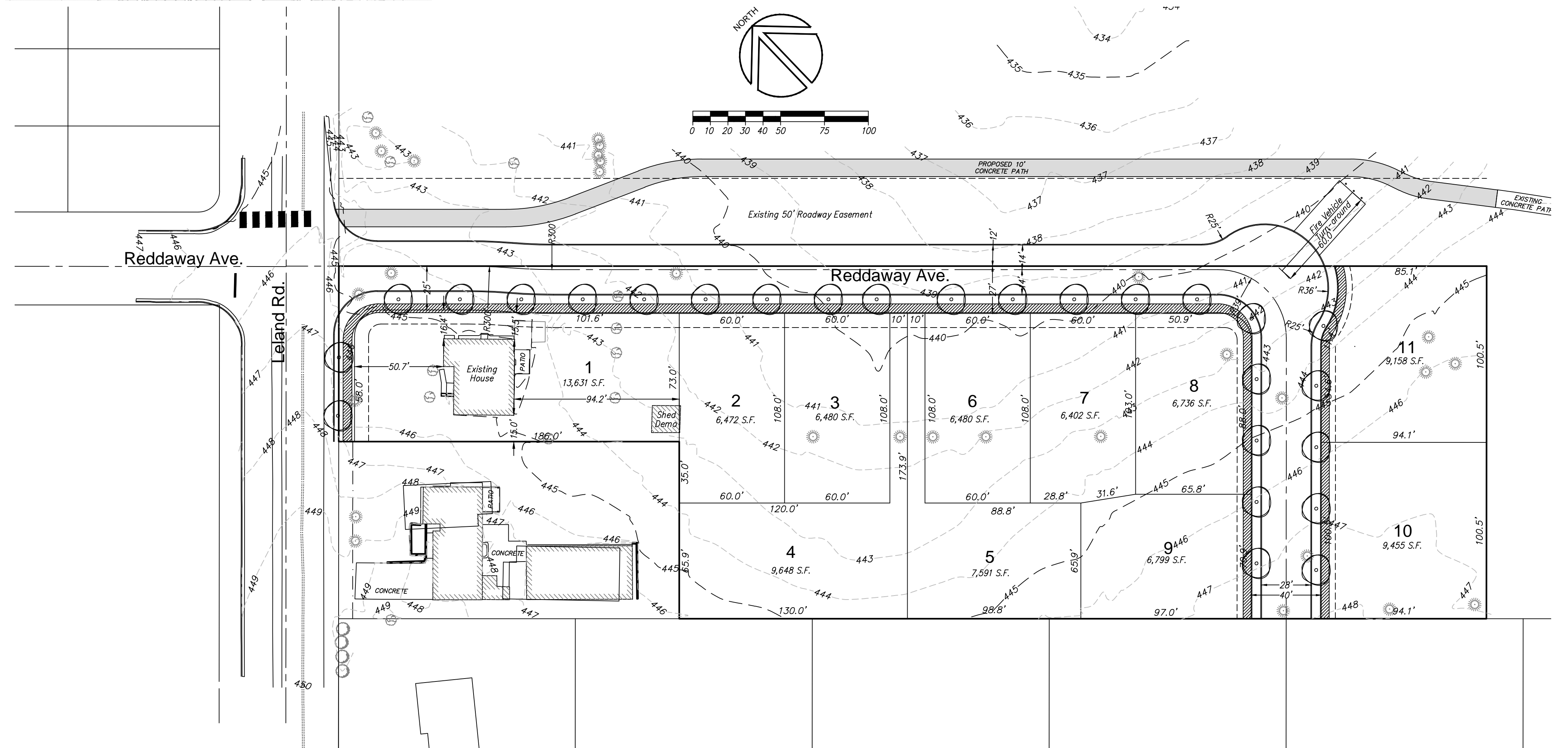
Contours: Field Survey by Centerline Concepts, Inc.

Site Area: 2.57 Acres

Engineer:
Theta Engineering, Inc.
4260 Country Woods Ct.
Lake Oswego, OR 97035
PH: (503) 481-8822

Zoning: R-8

Impervious Areas: Street - 22,209 sq. ft.



DESIGNED: REG			
DRAWN: REG			
SCALE: 1" = 40'			
DATE: April 2017			
FILE: 14-ICN-103	DATE	NO.	REVISION

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

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

Parker Knoll
Preliminary Plan

SHEET:
1/3

Request for City Commission
Review of the Parker Knoll
Subdivision



Silverfox Pkwy

Wesley Lynn Park

Reddaway Ave.

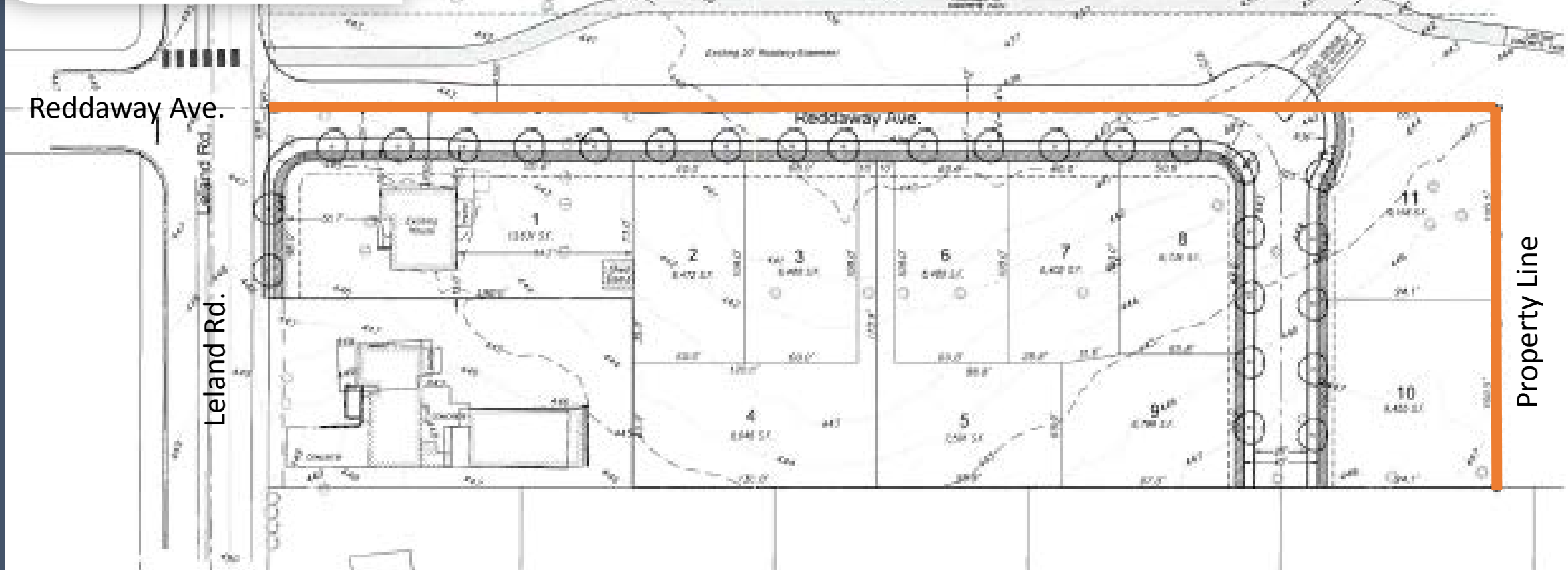
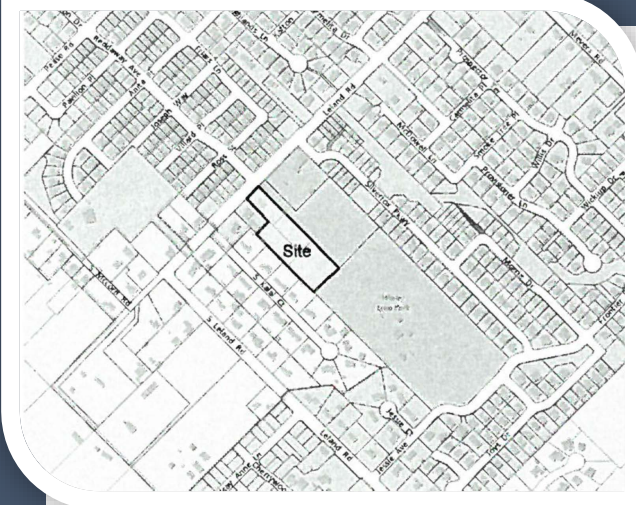
Leland

Leland Rd.

Proposed Parker Knoll

S Kalal Ct

Wesley Lynn Park



The Charter of Oregon City

- Limits the use of park land without a vote of the people

The screenshot displays the official website of Oregon City, Oregon, specifically the Code of Ordinances section. The header features the Oregon City logo, a search bar, and links for notifications, sign in, help, and language selection. The main content area is titled "Oregon City, Oregon - Code of Ordinances / THE CHARTER OF OREGON CITY". A sidebar on the left lists various sections of the code, with "THE CHARTER OF OREGON CITY" selected. The main content area shows the title "THE CHARTER OF OREGON CITY" and a version note "VERSION: MAR 3, 2017 (CURRENT)". The text of the charter begins with "To provide for the government of the city of Oregon City, Clackamas County, Oregon; and to repeal all charter provisions of the city enacted prior to the time that this charter takes effect." It then states "BE IT ENACTED by the people of the city of Oregon City, Clackamas County, Oregon:". The charter is organized into chapters, with "CHAPTER 1 - NAME AND BOUNDARIES" highlighted. Under this chapter, "Section 1 - Title of Enactment." states "This enactment may be referred to as the Oregon City Charter of 1982." "Section 2 - Name of City." states "The municipality of Oregon City, Clackamas County, Oregon, shall continue to be a municipal corporation with the name 'Oregon City.'". "Section 3 - Boundaries." states "Unless mandated by law, the city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by the voters. The recorder shall keep in his office at City Hall at least two copies of this charter, in each of which he shall maintain an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection at any time during regular office hours of the recorder." A note at the bottom indicates "(Amended by voters at the City election held May 18, 1999.)".

OREGON CITY

Search

NOTIFICATIONS SIGN IN HELP Select Language

Oregon City, Oregon - Code of Ordinances / THE CHARTER OF OREGON CITY

SHOW CHANGES

VERSION: **MAR 3, 2017 (CURRENT)**

OREGON CITY, OREGON MUNICIPAL CODE **modified**

SUPPLEMENT HISTORY TABLE **modified**

THE CHARTER OF OREGON CITY

- CHAPTER 1 - NAME AND BOUNDARIES
- CHAPTER II - POWERS
- CHAPTER III - FORM OF GOVERNMENT
- CHAPTER IV - COMMISSION
- CHAPTER V - POWERS AND DUTIES OF OFFICERS
- CHAPTER VI - ELECTIONS
- CHAPTER VII - VACANCIES IN OFFICE
- CHAPTER VIII - ORDINANCES
- CHAPTER IX - PUBLIC IMPROVEMENTS

THE CHARTER OF OREGON CITY

To provide for the government of the city of Oregon City, Clackamas County, Oregon; and to repeal all charter provisions of the city enacted prior to the time that this charter takes effect.

BE IT ENACTED by the people of the city of Oregon City, Clackamas County, Oregon:

CHAPTER 1 - NAME AND BOUNDARIES

Section 1 - Title of Enactment.

This enactment may be referred to as the Oregon City Charter of 1982.

Section 2 - Name of City.

The municipality of Oregon City, Clackamas County, Oregon, shall continue to be a municipal corporation with the name "Oregon City."






Section 3 - Boundaries.

Unless mandated by law, the city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by the voters. The recorder shall keep in his office at City Hall at least two copies of this charter, in each of which he shall maintain an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection at any time during regular office hours of the recorder.

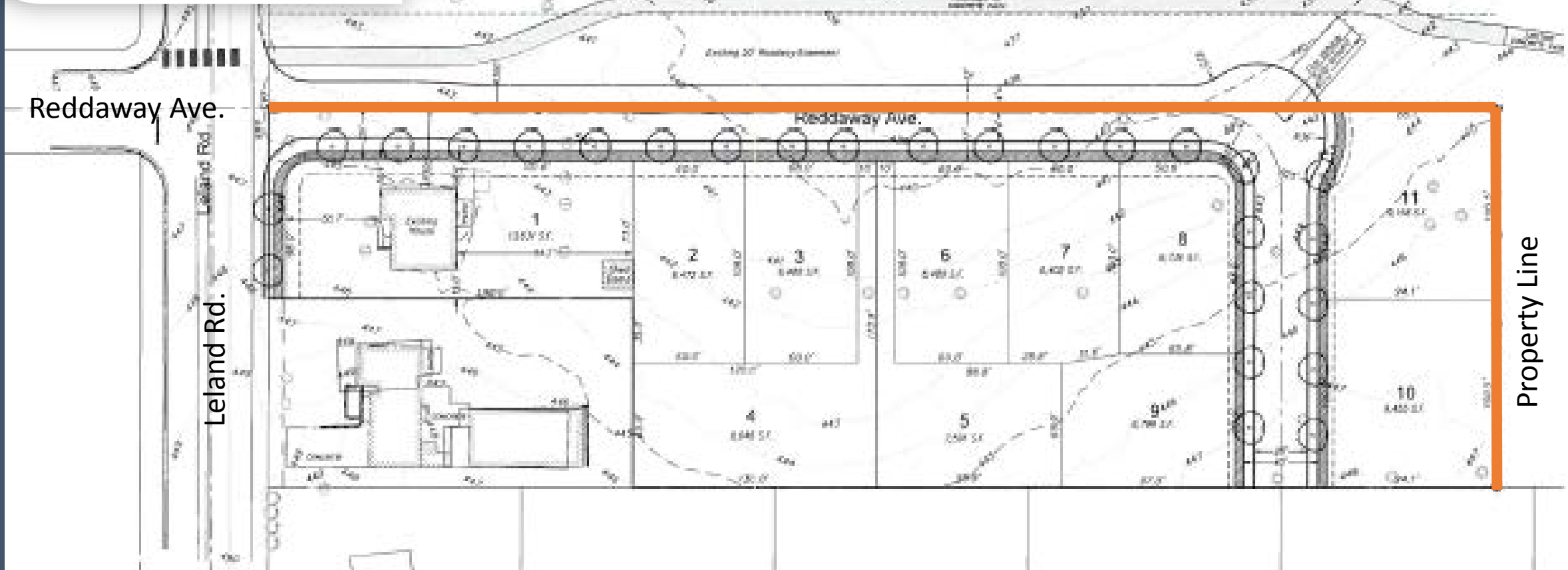
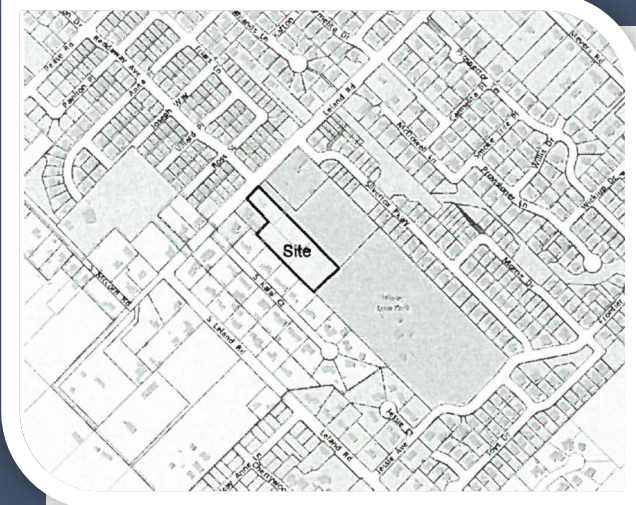
(Amended by voters at the City election held May 18, 1999.)

Tonight's Purpose

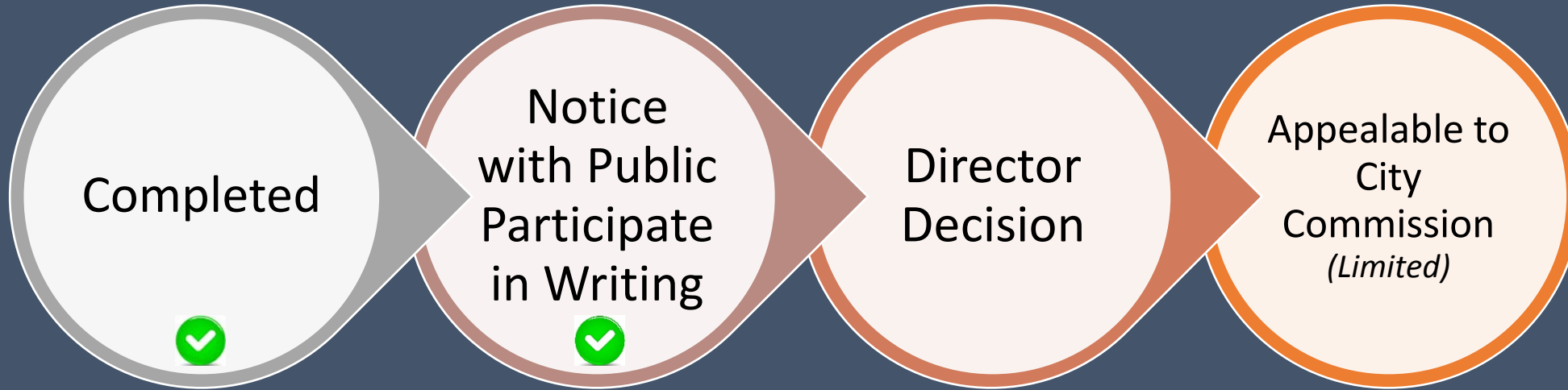
A policy decision to determine if the City Commission should review the Parker Knoll subdivision application.

-  *Not reviewing Charter*
-  *Not deciding if the application requires a vote*
-  *Not reviewing the merits of the application*
-  *Not taking public comments on the development application*
-  *Not a land use hearing*

Wesley Lynn Park



Existing Process



Proposed Process



Staff Report and Recommendation

Rationale for Answering

- The City Commission can look at the Charter question in context with the subdivision.
- Less confusing for the public
- Allow additional opportunities for the public to participate
- Allow a longer time frame for public participation
- Save appeal fee
- There is no efficient process to answer the Charter question

If Request Approved:

City Commission Work Session on September 12th

- Limited to the relationship of the proposal and the Charter

City Commission Hearing October 4th

- Hearing to review compliance of the subdivision and Charter relationship

Decision for the City Commission:

Should the City Commission review the
Parker Knoll subdivision application?