



Agenda Report 2017-11-13-04

Date: November 13, 2017

To: Russ Axelrod, Mayor
Members, West Linn City Council

From: Peter Spir, Planning Department *PS*

Through: John Williams, Community Development Director *JW*
Eileen Stein, City Manager

Subject: MISC 17-06 - Vacation of right-of-way along Third Avenue and 10th Street at 1220 Ninth Street

Purpose

To consider the request from Emery Smith, DBA Encore Homes LLC, to vacate 38,191 square feet of undeveloped right-of-way (ROW) along Third Avenue and 10th Street in the Willamette Neighborhood.

Question(s) for Council:

1. Does the Council wish to accept the petition for ROW vacation and hold a hearing?
2. Should the ROW along Third Avenue and 10th Street be vacated?

Public Hearing Required:

Yes.

Background & Discussion:

The applicant, Emery Smith, DBA Encore Homes LLC (Roy Marvin), proposes to vacate undeveloped portions of Third Avenue and Tenth Street ROW as shown in Exhibit D. The purpose of the vacation is to allow the applicant to build a single family home on the property south of Third Avenue and east of Tenth Street without having to construct street improvements in those two ROWs, as required by CDC Chapter 96. The applicant will be required to improve abutting Ninth Street ROW.

The Community Development Code (CDC) defers to state statute for the approval criteria for vacation of ROW. The vacation process is a two-step quasi-judicial process. Council is asked to consider both steps on the same hearing date. In the first step, Council accepts the petition in order to hold a hearing on whether the ROW should be vacated as long as the petition is complete. This vacation petition included the required attachment showing that 100% of abutting property owners and 75% of "affected properties" (66.6% required) consent to the vacation.

In the second step, the council makes a decision on the vacation request by addressing the statutory criteria in ORS 271.120: "whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation." The decision is approved by ordinance. As stated above, the petition included the requisite number of signatures. Notice of the public hearing was posted for two consecutive weeks in the paper and posted at both ends of the proposed vacation as required by ORS 271.110

The Public Works Director supports the ROW vacation. The Transportation System Plan does not identify these right-of-ways as needed. No adopted utility master plans require these ROWs. The Parks Director supports the ROW vacation as well.

The ROWs and adjacent properties are occupied by a creek, wetlands, 100 year floodplain, Habitat Conservation Areas (HCAs), and Riparian Corridors, as shown in Exhibit E.

Budget Impact:

Negligible, the addition of land into the tax rolls will not create an additional buildable lot.

Council Options:

1. Accept the Petition, hold a public hearing on the vacation, and approve the ROW vacation.
2. Accept the petition, hold a public hearing on the vacation, and deny the ROW vacation.

Staff Recommendation:

Staff recommends that the Council approve the vacation request.

Potential Motion:

Motion for Step One:

I move to accept the petition and hold a public hearing on the right-of way vacation petition.

Motion for Step Two:

1. I move to approve MISC 17-06 and vacate the unimproved rights-of-way on Third Avenue and 10th Street as described in Exhibits A1, A2, B1 and B2.
2. I move to deny MISC 17-06.

Attachments:

1. MISC-17-06 staff report
2. Ordinance No. 1665
3. Exhibits including applicant's submittal
4. Public comments received to date



**STAFF REPORT
FOR THE CITY COUNCIL**

FILE NUMBER: MIS-17-06

HEARING DATE: November 13, 2017

REQUEST: Vacation of undeveloped portions of right-of-way (ROW) on Tenth Street and Third Avenue, west and south of 1220 Ninth Street

**STAFF REPORT
PREPARED BY:** Peter Spir, Associate Planner

Planning Manager's Initials PSB

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GENERAL INFORMATION

- OWNERS/
APPLICANT:** Emery Smith DBA Encore Homes LLC (Roy Marvin)
- SITE LOCATION:** The ROW to be vacated are portions of Third Avenue and Tenth Street.
(See Exhibit A, D and E)
- DESCRIPTION:** Proposed street vacation of undeveloped ROW.
- SITE SIZE:** 38,191 square feet.
- ZONING:** R-10 (Single family residential detached, 10,000 square foot minimum lot size)
- PLAN
DESIGNATION:** Low Density Residential
- APPROVAL
CRITERIA:** Oregon Revised Statute (ORS) 271.120. Hearing conducted per the procedures of Community Development Code (CDC) Chapter 99.
- PUBLIC NOTICE:** Notice was completed per CDC 99.080 and ORS 271.110

EXECUTIVE SUMMARY

Street ROW vacations are reviewed and decided by City Council by the authority of ORS 271 and acting as the City's "Governing Body" (ORS 271.005 (1)). Street ROW vacations are a two-step quasi-judicial process with both steps being considered on the same hearing date.

Step 1 petition acceptance phase, requires "... the consent of the owners of all abutting property and of not less than two-thirds in the area of the real property affected." (ORS 271.080(2)). The Step 2 hearing process requires three criteria: 1) a finding that the number requirements are met (100% and 66.6%), 2) notice was proper, and 3) vacation is in the public interest. (ORS 271.120).

The petition included the requisite number of signatures. Notice of the public hearing was posted for two consecutive weeks in the paper and posted at both ends of the proposed vacation as required by ORS 271.110.

The Public Works Director supports the ROW vacation. The Transportation System Plan does not identify these right-of-ways as needed. No adopted utility master plans require these ROWs. The Parks Director supports the ROW vacation as well.

The ROWs and adjacent properties are occupied by a creek, wetlands, 100 year floodplain, Habitat Conservation Areas (HCAs), Riparian Corridors as shown in Exhibit E.

The applicant, Emery Smith DBA Encore Homes LLC (Roy Marvin), proposes to vacate undeveloped portions of Third Avenue and Tenth Street ROW as shown in Exhibits A1, A2, B1 and B2. The purpose of the vacation is to allow the applicant to build a single family home on the property south of Third Avenue and east of Tenth Street without having to construct street improvements in those two ROWs, as required by CDC Chapter 96. The applicant will be required to improve abutting Ninth Street ROW.

RECOMMENDATION

Staff recommends that the Council approve the ROW vacation request.

PUBLIC COMMENTS:

Greg Smith (2140 Volpp Street) contacted staff seeking additional information about the proposed vacation and the applicant's future plans. (See Exhibit I)

ADDENDUM APPROVAL CRITERIA AND FINDINGS

Approval Criteria 1: The proposed vacation must have the support of all abutting property owners and two-thirds of property within the “affected area” per ORS 271.080(2).

Staff Finding 1: The proposed street ROW vacation has the consent of 100 percent of the abutting property owners as required by ORS 271.080(2).

The “affected area” was measured out by staff and is shown in Exhibit C. The “affected area” comprises 772,728 square feet. The square footage of properties supporting the vacation totals 579,720 square feet which represents 75 percent. This amount exceeds the minimum two-thirds or 66.6 percent. All property owner signatures were notarized and validated. The criteria is met.

It is noted that Willamette Park is abutting the proposed 10th Street ROW vacation. Willamette Park is owned by the City of West Linn. The Parks Director has expressed his support for the vacation, but the City’s support or non-support is ultimately expressed by the City Council decision to either approve or deny the application.

Approval Criteria 2: The notice must be completed per ORS 271.110 and 99.080 (E).

Staff Finding 2: Notice has been satisfied. Notice was published in the West Linn Tidings newspaper once each week for the two consecutive weeks prior to the hearing (publish dates: November 2, 2017 and November 9, 2017). Staff posted a “*Notice of Street Vacation*” at each end of the ROWs 14 days prior to the hearing date. The criteria is met.

Approval Criteria 3: The “public interest” shall not be prejudiced by the vacation.

Staff Finding 3: The Public Works Director has determined that there is no need to retain these ROWs for future street improvements. The Transportation System Plan does not identify the ROWs as necessary. There are no existing utilities in these ROWs. No future utilities are proposed in these ROWs per the adopted Storm, Sewer and Water Master Plans. The Public Works Director does, however, want to establish utility easements in those ROWs. The proposed ordinance, attached as Exhibit A, provides for creation of a utility easement.

The Parks Director has determined that the adjacent Willamette Park will not be adversely impacted by the proposed vacation. Conversely, by not vacating the ROWs and seeing a future street constructed on the east edge of Willamette Park, the viability and health of the park’s wetland and associated HCA could be adversely impacted. The 2013 Trails Plan does not identify these ROWs as needed.

The ROWs and adjacent properties are constrained by a creek, riparian corridor, wetlands, the 100 year floodplain and an HCA. By vacating the ROWs, the street improvements will not be required and the public interest of resource protection will be served.

The vacation of the ROW will not compromise future development on adjacent properties since all properties will retain frontage on Ninth Street.

Also, a large pole barn owned by Thomas Farwell, the neighbor to the north of Third Avenue, encroaches 12 feet into that ROW (visible in Exhibit D.) By vacating the ROW, the structure will meet the R-10 zone setbacks and become a conforming structure.

The criteria is met.

EXHIBIT A: ORDINANCE NO. 1665
(Commences next page)

ORDINANCE NO. 1665

**AN ORDINANCE VACATING A PORTION OF THE
THIRD AVENUE AND TENTH STREET RIGHT-OF-WAY WITHIN
THE CITY OF WEST LINN, OREGON.**

WHEREAS, Emery Smith DBA Encore Homes LLC submitted a petition to vacate a portion of the Third Avenue and 10th Street right-of-way on June 13, 2017; and the City fixed a time pursuant to Oregon Revised Statute (ORS) 271.130 on November 13, 2017, for a public hearing on the proposed vacation; and,

WHEREAS, the City published notice of the proposed right-of-way vacation in the West Linn Tidings on November 2, 2017 and November 9, 2017, and City staff posted a copy of the notice with all required information at three conspicuous places near each end of the proposed vacation area; and,

WHEREAS, the City Council held a public hearing on the proposed vacation on November 13, 2017; and,

WHEREAS, the City Council found that the petition was complete with the consent of 100 percent of abutting property owners and the consent of property owners of over two-thirds of the affected area in support of the vacation; and,

WHEREAS, the City Council found that the applicants obtained the requisite signatures of consent, the notice was complete, and the public interest will not be prejudiced by the vacation because the right-of-ways do not serve any purposes with the exception of a public utility easement to be established on these right-of-ways.

NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Vacation. The portions of Third Avenue and 10th Street right-of-ways, located in the City of West Linn, Clackamas County, Oregon, adjacent to tax lots 300 and 800 of Assessor's Map 31E2AC, as more particularly described in attached Exhibits A1 and A2 (legal descriptions) and Exhibits B1 and B2 (maps), is vacated.

SECTION 2. Establish Public Utility Easement. All of the vacated right-of-ways, as described in Exhibits A1, A2, B1 and B2, are subject to dedication of a public utility easement for their entirety.

SECTION 3. Vacation Effective Date. This ordinance shall take effect on the 30th day after its passage.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

PASSED and ADOPTED this _____ day of _____, 2017.

RUSSELL AXELROD, MAYOR

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 2(C) of the City Charter on the _____ day of _____, 2017, and duly PASSED and ADOPTED this _____ day of _____, 2017.

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job # 5926

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM-KEIZER, OR

EXHIBIT A1

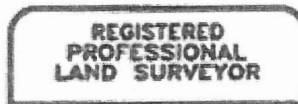
Right-of-Way Vacation Description

A portion of right-of-way of the plat "Willamette & Tualatin Tracts", Plat No. 198, Clackamas County Plat Records, located in the Northeast One-Quarter of Section 2, Township 3 South, Range 1 East, Willamette Meridian, City of West Linn, Clackamas County, Oregon, and being more particularly described as follows:

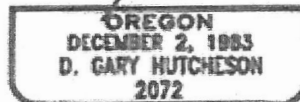
Beginning at the northeasterly corner of Lot A, Tract 20 of said plat; thence along the southerly right-of-way line of 3rd Avenue (20.00 feet from centerline), South $67^{\circ}39'00''$ West 418.00 feet to the northwesterly corner of Lot B of said Tract; thence leaving said southerly right-of-way line, North $22^{\circ}21'00''$ West 40.00 feet to the southwesterly corner of Lot C, Tract 21 of said plat, also being on the northerly right-of-way line of 3rd Avenue (20.00 feet from centerline); thence along said northerly right-of-way line, North $67^{\circ}39'00''$ East 418.00 feet to the southeasterly corner of Lot D of said Tract; thence leaving said northerly right-of-way line, South $22^{\circ}21'00''$ East 40.00 feet to the Point of Beginning.

The above described tract of land contains 16,720 square feet, more or less. The Basis of Bearings is per said plat.

6/14/2017



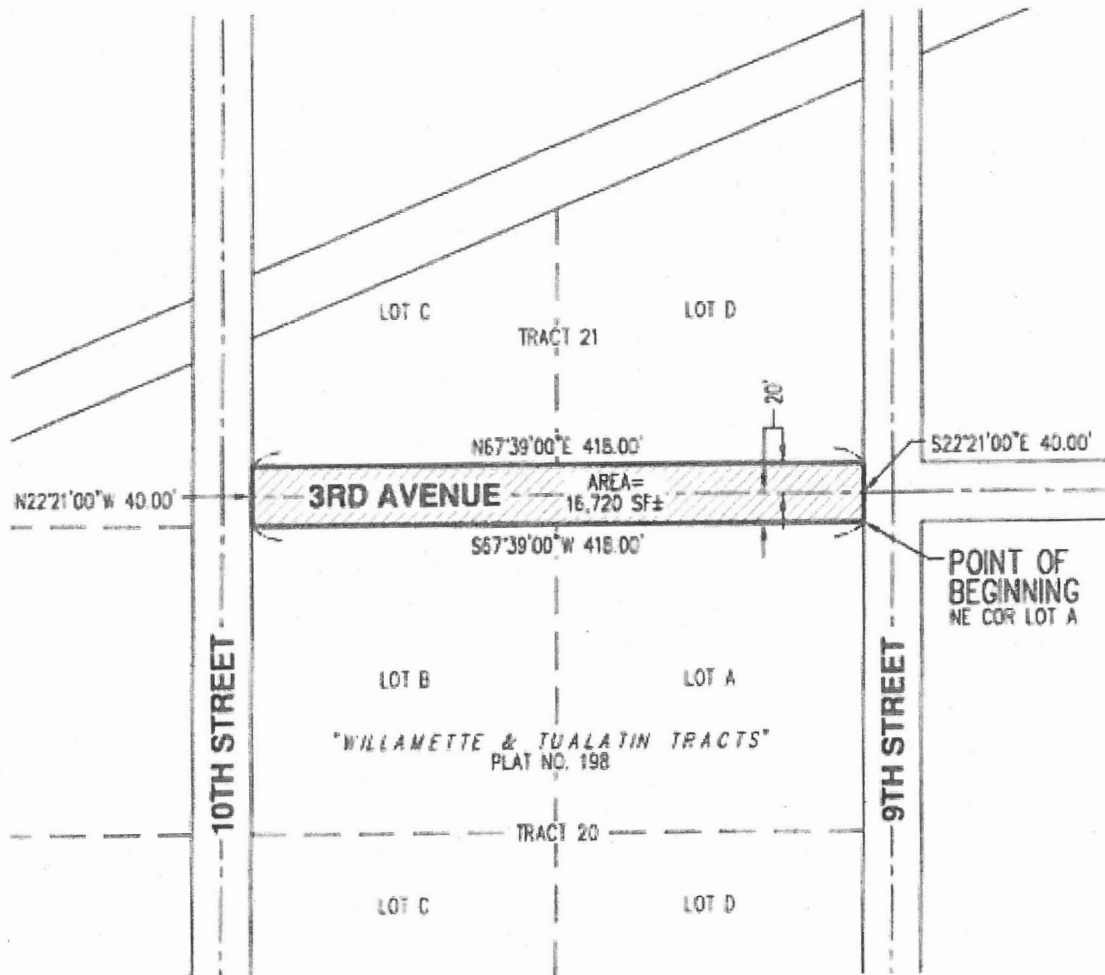
D. Gary Hutcherson



RENEWS: 6/30/19

EXHIBIT B1

A PORTION OF RIGHT-OF-WAY OF THE PLAT "WILLAMETTE & TUALATIN TRACTS",
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 2,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON



6/14/2017

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

D. Gary Hutcheson

OREGON
 DECEMBER 2, 1983
 D. GARY HUTCHESON
 2072

RENEWS: 6/30/19

PREPARED FOR

ENCORE HOMES LLC
 7989 SE TOWHEE COURT
 MILWAUKIE, OR 97267

THE BASIS OF
 BEARINGS IS PER
 THE PLAT
 "WILLAMETTE &
 TUALATIN TRACTS",
 PLAT NO. 198.

SCALE: 1" = 100 FEET



MAP OF RIGHT-OF-WAY VACATION		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12955 SW HERMAN RD, STE 100 TUALATIN, OR 97052 P: 503.563.6151 F: 503.563.6152 aks-eng.com		DRWN: WCB CHKD: DGH AKS JOB 5926





AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #5926

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM-KEIZER, OR

EXHIBIT A2

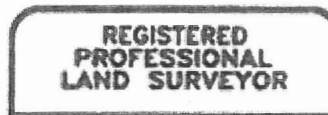
Right-of-Way Vacation Description

A portion of right-of-way of the plat "Willamette & Tualatin Tracts", Plat No. 198, Clackamas County Plat Records, located in the Northeast One-Quarter of Section 2, Township 3 South, Range 1 East, Willamette Meridian, City of West Linn, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the southwesterly corner of Lot C, Tract 20 of said plat; thence South 67°39'00" West 40.00 feet to the southeasterly corner of Lot D, Tract 23 of said plat, also being on the westerly right-of-way line of 10th Street (20.00 feet from centerline); thence along said westerly right-of-way line, North 22°21'00" West 528.54 feet to the northeasterly corner of Lot E, Tract 22 of said plat, also being on the southerly right-of-way line of a 40.00 foot wide Portland General Electric easement; thence leaving said westerly right-of-way line, North 45°17'00" East 43.25 feet to the northwesterly corner of Lot C, Tract 21 of said plat, also being on the easterly right-of-way line of 10th Street (20.00 feet from centerline); thence along said easterly right-of-way line, South 22°21'00" East 545.00 feet to the Point of Beginning.

The above described tract of land contains 21,471 square feet, more or less. The Basis of Bearings is per said plat.

6/14/2017



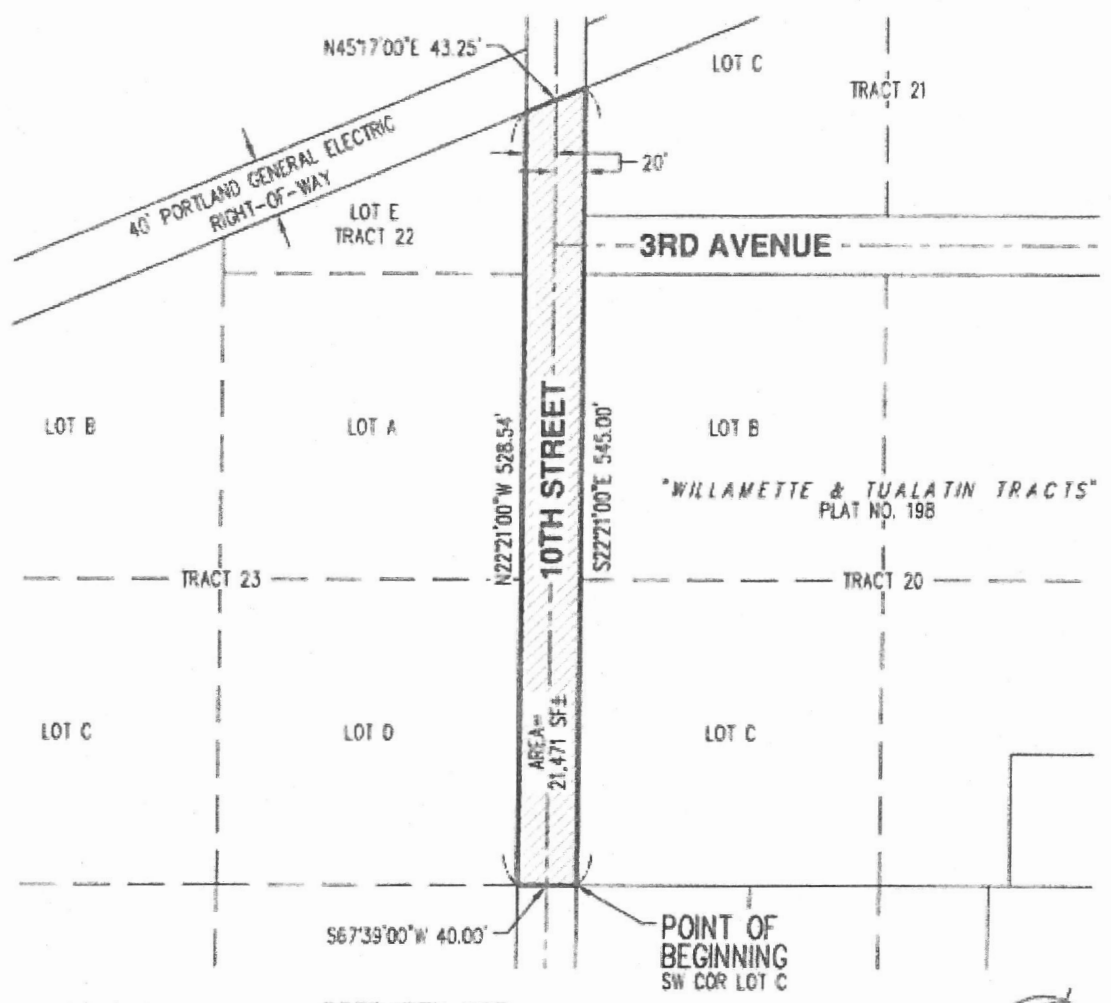
D. Gary Hutcheson



RENEWS: 6/30/19

EXHIBIT B2

A PORTION OF RIGHT-OF-WAY OF THE PLAT "WILLAMETTE & TUALATIN TRACTS",
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 2,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON



6/14/2017
 REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

PREPARED FOR
 ENCORE HOMES LLC
 7989 SE TOMWEE COURT
 MILWAUKIE, OR 97267

SCALE: 1" = 100 FEET



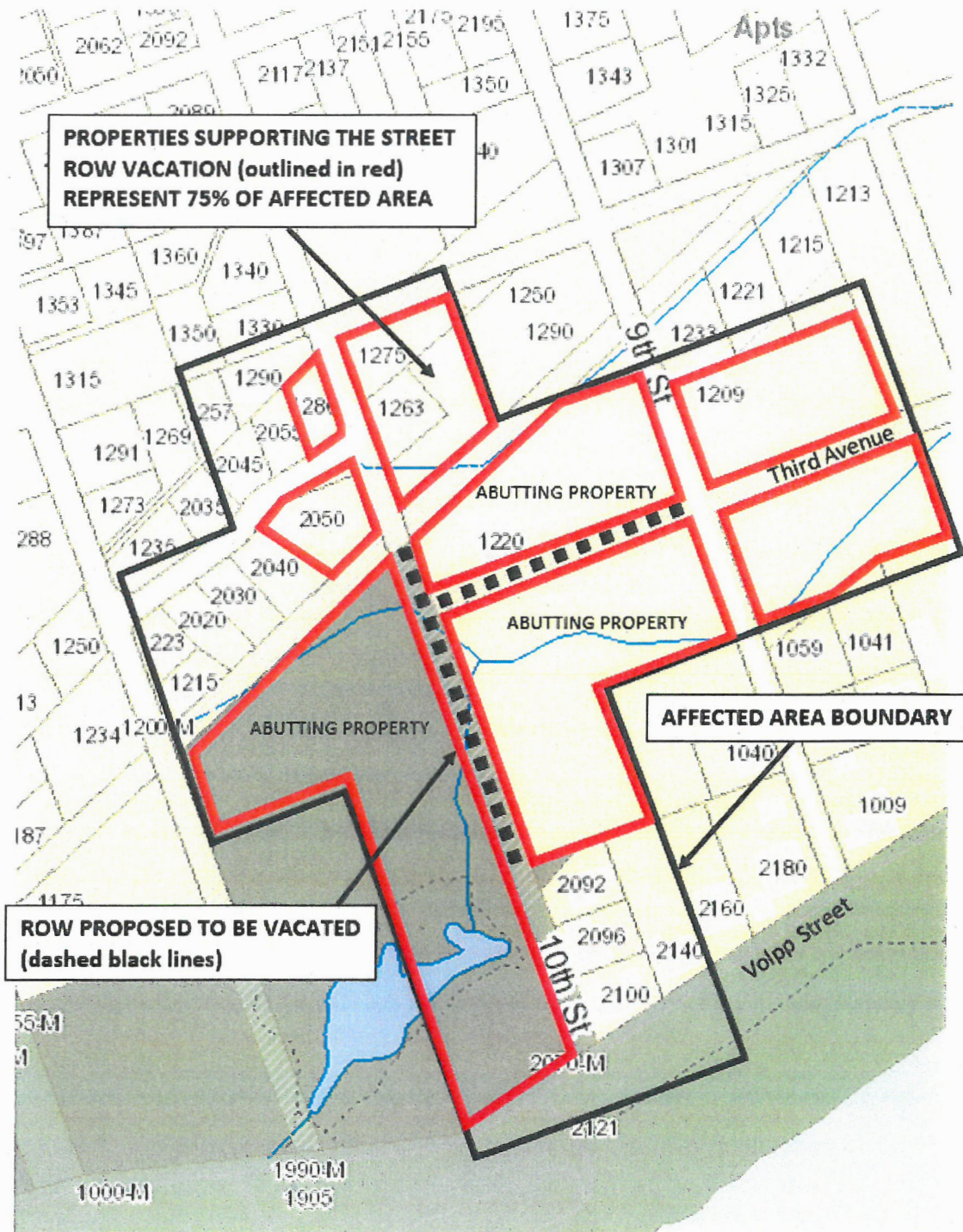
D. Gary Hutcheson
 OREGON
 DECEMBER 2, 1983
 D. GARY HUTCHESON
 2072
 RENEWS: 6/30/19

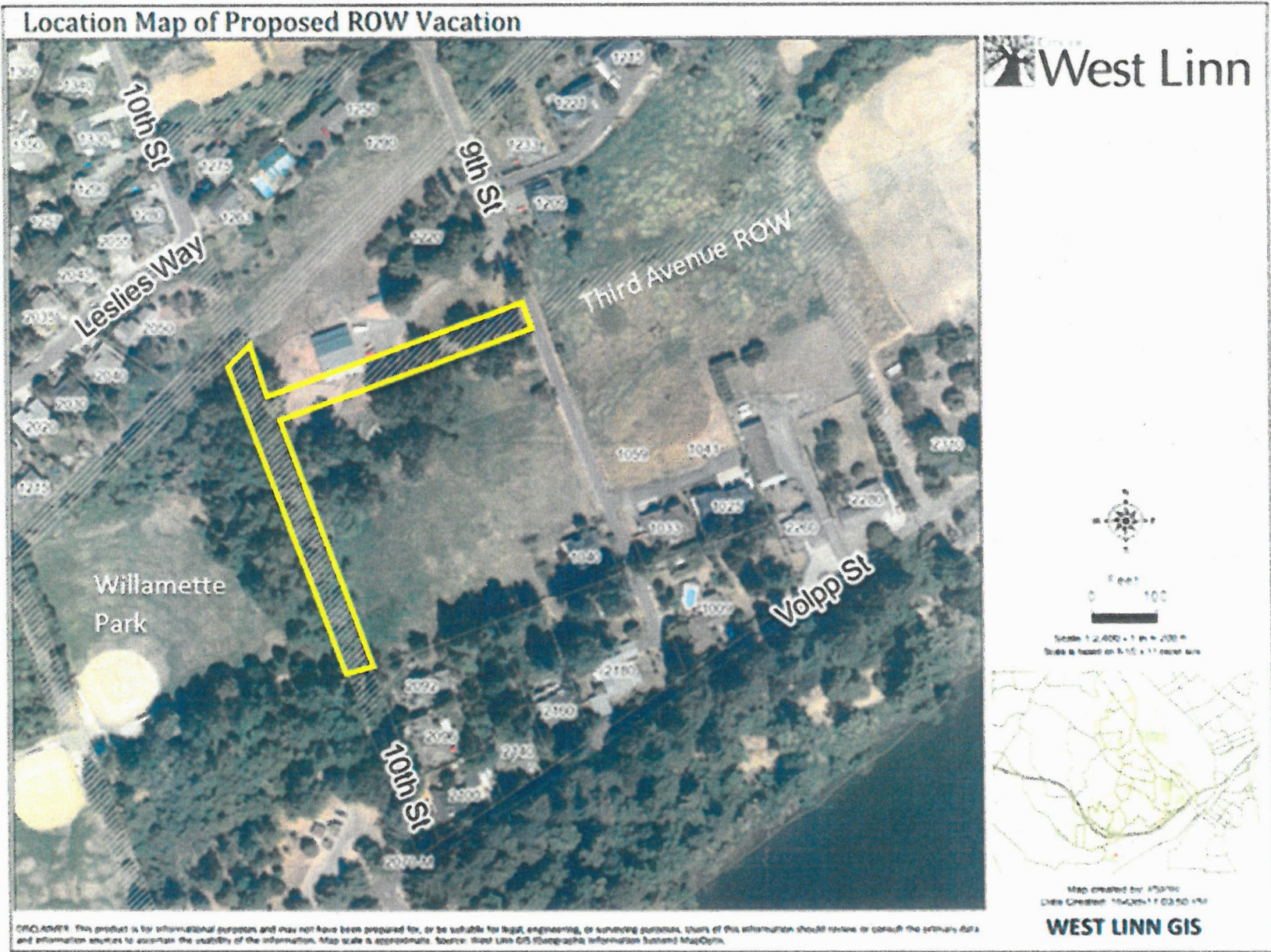
THE BASIS OF
 BEARINGS IS PER
 THE PLAT
 "WILLAMETTE &
 TUALATIN TRACTS",
 PLAT NO. 198

MAP OF RIGHT-OF-WAY VACATION		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12955 SW HERMAN RD, STE 100 TUALATIN, OR 97052 P: 503.563.6151 F: 503.563.6152 aks-eng.com		ORRN: W-3 CHKD: DGH AKS JOB 5926



Exhibit C: Map of "Affected Area" including properties in support of the vacation
(Source: West Linn Planning Staff)





Resource Overlays: Wetlands, HCAs, Floodplain, Riparian Corridor



- Legend
- FIRM Flood Areas
 - Floodway
 - Special Flood Hazard Areas 100-year
 - Other Flood Areas 500-year

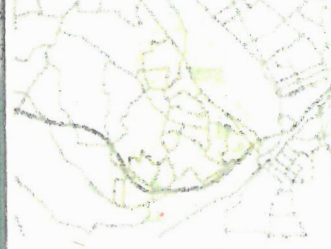
Wetland Inventory 2005 Goal 5

- Stream Lines
- Significant
- an Goal 5

0 100 Feet

Metro on
Published October 2005

Habitat Conservation Area



Map created by: PDS/ST
Date Created: 1/4/13 12:01 PM AM

WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the accuracy of the information. Map scale is approximate. Source: West Linn GIS Geographic Information Systems Mapfiles.

Exhibit E: Wetland, HCAs, Floodplain and Riparian Corridor Overlay Map

Exhibit F: AFFIDAVIT OF NOTICE

AFFIDAVIT OF NOTICE

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

GENERAL

File No. Misc-17-06 Applicant's Name Roy Marvin
Development Name _____
Scheduled Meeting/Decision Date 11-13-17

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A _____

- A. The applicant (date) 10-26-17 (signed) S. Skoyer
- B. Affected property owners (date) _____ (signed) _____
- C. School District/Board (date) _____ (signed) _____
- D. Other affected gov't. agencies (date) _____ (signed) _____
- E. Affected neighborhood assns. (date) _____ (signed) _____
- F. All parties to an appeal or review (date) _____ (signed) _____

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) 11-2-17 : 11-9-17 (signed) S. Skoyer
City's website (posted date) 10-26-17 (signed) S. Skoyer

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) Oct 25, 2017 (signed) [Signature] (3 signs)
and per ORS 271.

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B _____

- A. The applicant (date) _____ (signed) _____
- B. Affected property owners (date) _____ (signed) _____
- C. School District/Board (date) _____ (signed) _____
- D. Other affected gov't. agencies (date) _____ (signed) _____
- E. Affected neighborhood assns. (date) _____ (signed) _____

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.

Date: _____ (signed) _____

STAFF REPORT mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) _____ (signed) _____

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) _____ (signed) _____

Exhibit G: COMPLETENESS LETTER



CITY OF
West Linn

Smt

September 20, 2017

Emery Smith DBA Encore Homes LLC
(Roy Marvin)
7989 SE Towhee Ct.
Milwaukie, OR 97267

SUBJECT: MIS-17-06 application for Street ROW Vacation for portions of 10th Street and Third Avenue

Dear Roy:

You resubmitted this application on September 13, 2017 with additional notarized signatures. You now have the support of 74 percent of the affected area which exceeds the minimum 66.6 percent per ORS 271. The Planning and Engineering Departments find that this application is **complete**. This is a legislative action and therefore the 120 day rule does not apply. You will be notified of the date when the City Council will meet to consider your application.

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

Sincerely,

Peter Spir

Peter Spir
Associate Planner

Exhibit H: APPLICANT'S SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT <i>Peter Spiv</i>	PROJECT NO(S) <i>MISC-17-06</i>	
NON-REFUNDABLE FEE(S) <i>6000-</i>	REFUNDABLE DEPOSIT(S) <i>0</i>	TOTAL <i>6000-</i>

Type of Review (Please check all that apply):

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

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

Site Location/Address: <i>1220 9th ST</i>	Assessor's Map No.: 31E02AC
Between 9th and 10th Streets, south of 3rd Avenue	Tax Lot(s): 800
	Total Land Area: 3.76

Brief Description of Proposal:

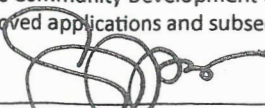
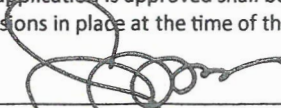
Vacate portions of the unimproved rights-of-way on 10th Street and 3rd Avenue

Applicant Name: <i>Roy Manin</i> EMELY SMITH DBA ENCORE HOMES LLC	Phone:
(please print)	Please contact Applicant's representative
Address: 7989 SE Towhee Ct.	Email:
City State Zip: Milwaukie, OR 97267	
Owner Name (required):	Phone:
(please print)	
Address: Same as applicant	Email:
City State Zip:	
Consultant Name: Zach Pelz, AICP	Phone: (503) 563-6151
(please print)	
Address: AKS Engineering & Forestry 12965 SW Herman Rd., Suite 100	Email: pelzz@aks-eng.com
City State Zip: Tualatin, OR 97062	

- All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application.**
One (1) complete set of digital application materials must also be submitted on CD in PDF format.
If large sets of plans are required in application please submit only two sets.

* No CD required / ** Only one hard-copy set needed

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

	<i>5/22/17</i>		<i>5/22/17</i>
Applicant's signature	Date	Owner's signature (required)	Date

June 16, 2017

Lance Calvert, P.E.
Public Works Director
City of West Linn
West Linn, OR 97068

RE: Petition to Vacate a Portion of the Unimproved 3rd Avenue and 10th Street Right-of-Way

Dear Mr. Calvert,

We are submitting this request to vacate a portion of the unimproved rights-of-way that comprise 10th Street and 3rd Avenue (see attached Exhibit A) to develop the property described as Clackamas County Assessor's Map 3-1E-02AC, Tax Lot 800. Improving the subject rights-of-way along the frontage of the site is not feasible given the high degree of constraint posed by water resource, habitat conservation, and flood management areas located within Tax Lot 800.

Our review of the site, in the context of recent advice from City Planning and Engineering staff and applicable development criteria, revealed the potential for three new residential dwelling units on Tax Lot 800. New single-family homes on these three lots will be responsible for public street improvements along more than 1,100 linear feet of public right-of-way. In addition to the sheer length of the potential street improvements, much of this frontage is located within environmentally sensitive and flood management areas which will unquestionably raise the cost of permitting and construction beyond that typically associated with public street improvements. Exhibit B illustrates impracticality to construct these improvements, and depicts the several unimproved public rights-of-way and under-improved tracts in the immediate vicinity of the subject site. Considerably denser residential development and improved public rights-of-way are located immediately outside of the environmentally constrained areas encompassing the subject site.

Vacating these public rights-of-way is also in the best interest of the City's habitat preservation and flood management objectives for the area. The potential environmental impact necessary to construct public street improvements cannot be justified by the provision of limited needed housing (subject property and surrounding area is zoned R10) that may be provided in this part of West Linn.

We have obtained consent from all abutting and affected property owners, per ORS 271.080, and have found no public or franchise utilities located within the rights-of-way subject to this vacation request.

For these reasons, we respectfully request that the City approve the vacation of the existing public rights-of-way, as described in Exhibit A. Per ORS 271.080, the following additional documents are included with this submittal:

- Fully executed City of West Linn Development Review Application Form
- Fee for a public right-of-way vacation
- Consent of owners of abutting property, per ORS 271.080(2)
- Exhibit A – Exhibit map illustrating right-of-way subject to this vacation request
- Legal Description of right-of-way subject to this vacation request

Thank you for your consideration in this matter. Please do not hesitate to contact me with any questions regarding this vacation request.

Sincerely,

AKS ENGINEERING & FORESTRY, LLC

A handwritten signature in blue ink, appearing to be 'Zach Pelz', written in a cursive style.

Zach Pelz, AICP

(503) 563-6151

pelzz@aks-eng.com



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #5926

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM-KEIZER, OR

EXHIBIT A

Right-of-Way Vacation Description

A portion of right-of-way of the plat "Willamette & Tualatin Tracts", Plat No. 198, Clackamas County Plat Records, located in the Northeast One-Quarter of Section 2, Township 3 South, Range 1 East, Willamette Meridian, City of West Linn, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northeasterly corner of Lot A, Tract 20 of said plat; thence along the southerly right-of-way line of 3rd Avenue (20.00 feet from centerline), South 67°39'00" West 418.00 feet to the northwesterly corner of Lot B of said Tract; thence leaving said southerly right-of-way line, North 22°21'00" West 40.00 feet to the southwesterly corner of Lot C, Tract 21 of said plat, also being on the northerly right-of-way line of 3rd Avenue (20.00 feet from centerline); thence along said northerly right-of-way line, North 67°39'00" East 418.00 feet to the southeasterly corner of Lot D of said Tract; thence leaving said northerly right-of-way line, South 22°21'00" East 40.00 feet to the Point of Beginning.

The above described tract of land contains 16,720 square feet, more or less. The Basis of Bearings is per said plat.

6/14/2017

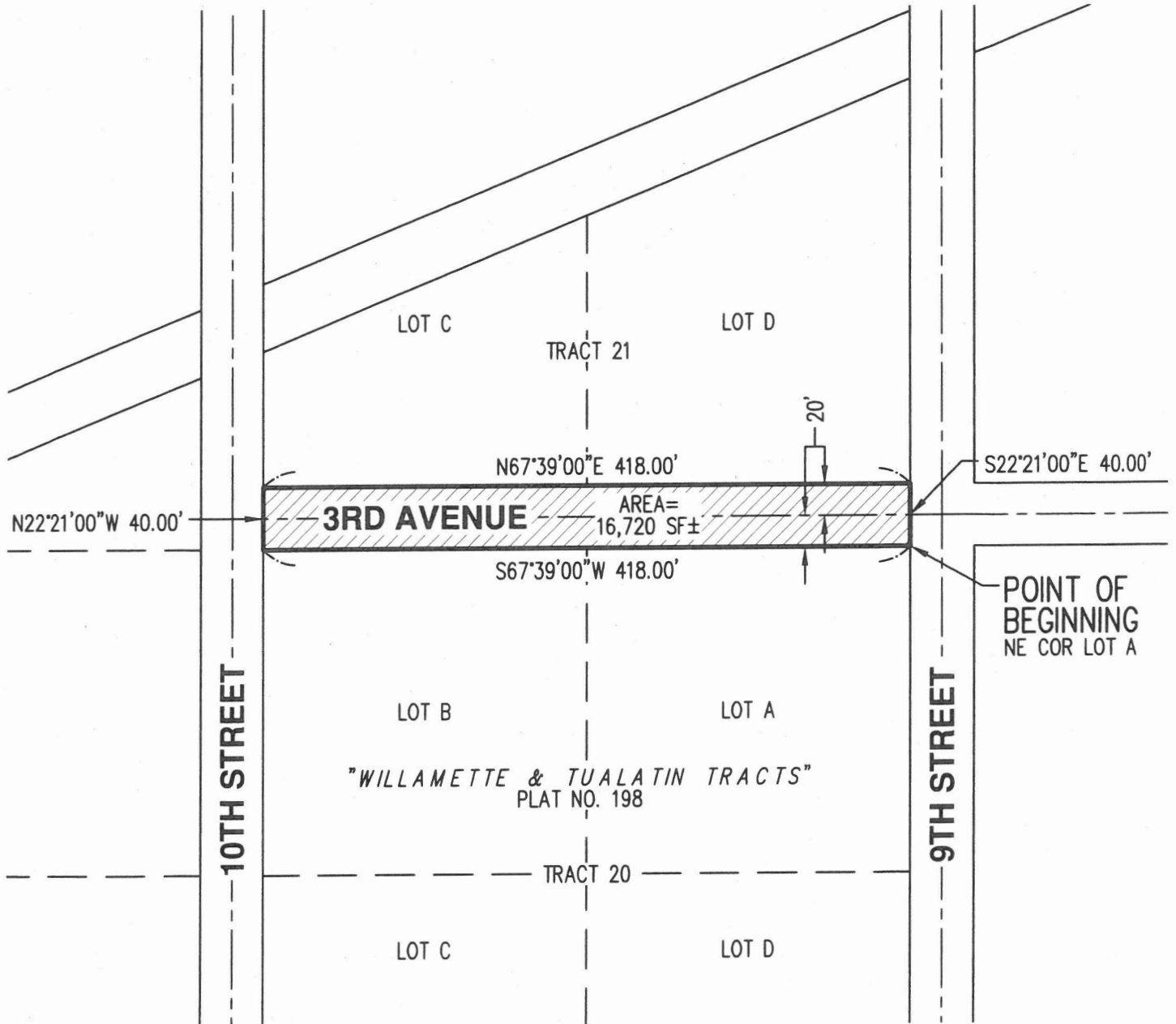
REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
DECEMBER 2, 1983
D. GARY HUTCHESON
2072

RENEWS: 6/30/19

EXHIBIT B

A PORTION OF RIGHT-OF-WAY OF THE PLAT "WILLAMETTE & TUALATIN TRACTS",
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 2,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON



6/14/2017

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

D. Gary Hutcheson

OREGON
 DECEMBER 2, 1983
 D. GARY HUTCHESON
 2072

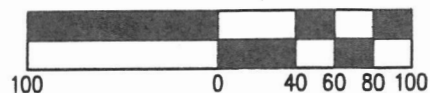
RENEWS: 6/30/19

PREPARED FOR

ENCORE HOMES LLC
 7989 SE TOWHEE COURT
 MILWAUKIE, OR 97267

THE BASIS OF
 BEARINGS IS PER
 THE PLAT
 "WILLAMETTE &
 TUALATIN TRACTS",
 PLAT NO. 198.

SCALE: 1" = 100 FEET



MAP OF RIGHT-OF-WAY VACATION		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 PL 103757 City Council Meeting		DRWN: WCB CHKD: DGH
AKS		AKS JOB: 5926

EXHIBIT A

Right-of-Way Vacation Description

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Beginning at the southwesterly corner of Lot C, Tract 20 of said plat; thence South 67°39'00" West 40.00 feet to the southeasterly corner of Lot D, Tract 23 of said plat, also being on the westerly right-of-way line of 10th Street (20.00 feet from centerline); thence along said westerly right-of-way line, North 22°21'00" West 528.54 feet to the northeasterly corner of Lot E, Tract 22 of said plat, also being on the southerly right-of-way line of a 40.00 foot wide Portland General Electric easement; thence leaving said westerly right-of-way line, North 45°17'00" East 43.25 feet to the northwesterly corner of Lot C, Tract 21 of said plat, also being on the easterly right-of-way line of 10th Street (20.00 feet from centerline); thence along said easterly right-of-way line, South 22°21'00" East 545.00 feet to the Point of Beginning.

The above described tract of land contains 21,471 square feet, more or less. The Basis of Bearings is per said plat.

6/14/2017

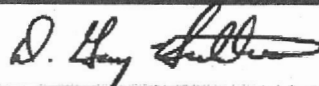
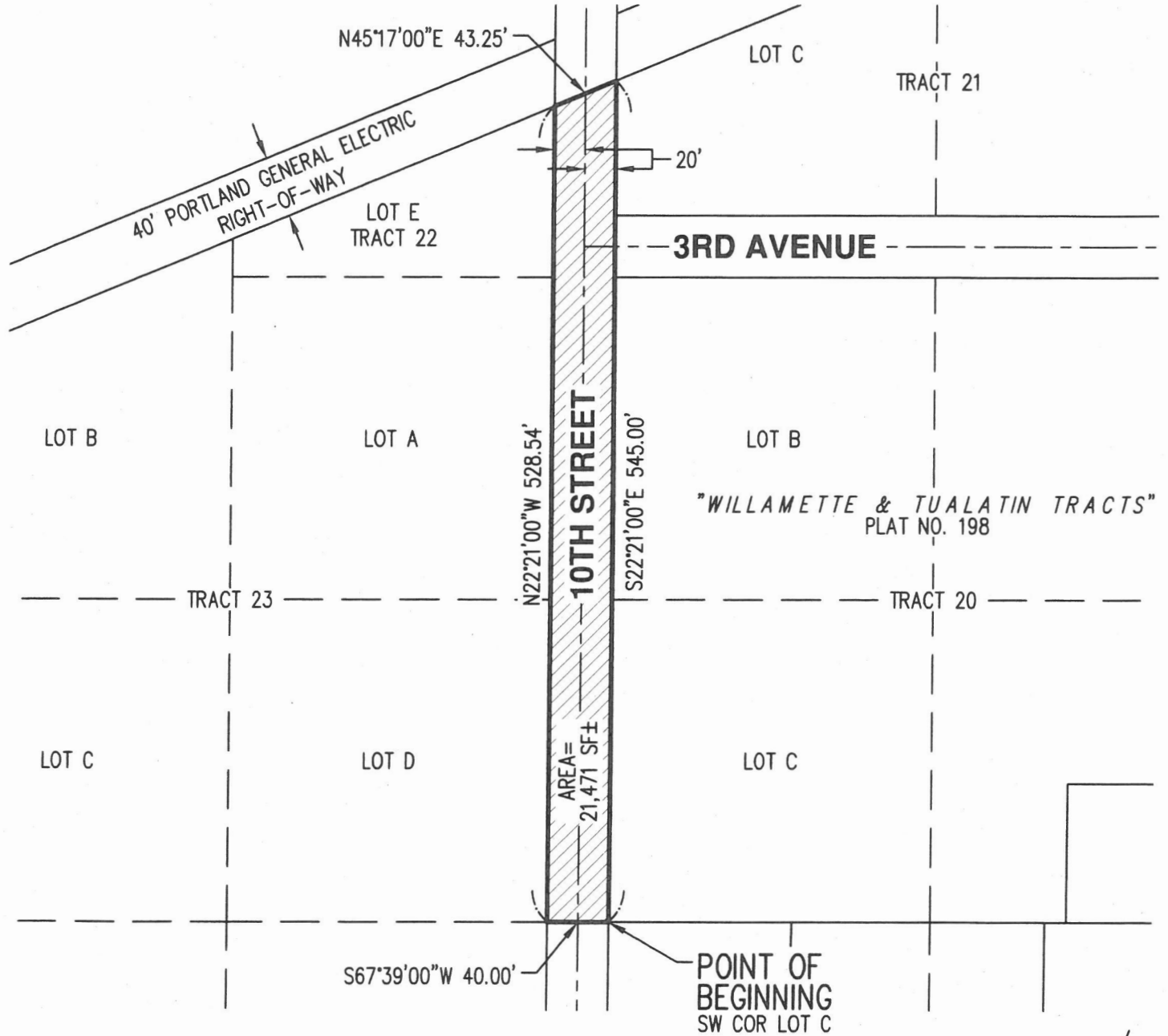
**REGISTERED
PROFESSIONAL
LAND SURVEYOR****OREGON
DECEMBER 2, 1983
D. GARY HUTCHESON
2072****RENEWS: 6/30/19**

EXHIBIT B

A PORTION OF RIGHT-OF-WAY OF THE PLAT "WILLAMETTE & TUALATIN TRACTS",
 LOCATED IN THE NORTHEAST 1/4 OF SECTION 2,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON



6/14/2017

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

D. Gary Hutcheson

OREGON
 DECEMBER 2, 1983
 D. GARY HUTCHESON
 2072

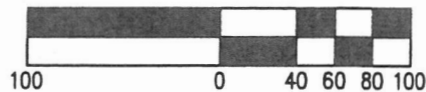
RENEWS: 6/30/19

PREPARED FOR

ENCORE HOMES LLC
 7989 SE TOWHEE COURT
 MILWAUKIE, OR 97267

THE BASIS OF
 BEARINGS IS PER
 THE PLAT
 "WILLAMETTE &
 TUALATIN TRACTS",
 PLAT NO. 198.

SCALE: 1" = 100 FEET



MAP OF RIGHT-OF-WAY VACATION

AKS ENGINEERING & FORESTRY, LLC
 12965 SW HERMAN RD, STE 100
 TUALATIN, OR 97062
 PH: 503.535.5500 FAX: 503.535.6153
 aks-eng.com



EXHIBIT
B

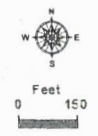
DRWN: WCB
 CHKD: DGH

AKS JOB:
 5926

Exhibit B - Environmental Constraints Limit Potential for Residential Development



- Legend**
- Flood Management Areas
 - Wetland Inventory 2005 Goal 5
 - Stream Lines
 - Significant Riparian Goal 5
 - Unimproved Right of Way
 - Historic Parcel Lines



Map created by: public
 Date Created: 13-Jun-17 04:12 PM
WEST LINN GIS

DISCLAIMER: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information. Map scale is approximate. Source: West Linn GIS (Geographic Information System) MapOptix.



Acknowledgment by Individual

State of Oregon County of Clackamas

On this 25 day of April, 2017, before me, Naghmeh Asiatic Pourassef
Name of Notary Public

the undersigned Notary Public, personally appeared
Euan Currie.

- Name of Signer(s)
- Proved to me on the oath of _____
 - Personally known to me
 - Proved to me on the basis of satisfactory evidence _____
(Description of ID)

to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged that he/she/they executed it.

WITNESS my hand and official seal.



Notary Seal

Naghmeh Asiatic Pourassef
(Signature of Notary Public)

My commission expires 1-29-19

Optional: A thumbprint is only needed if state statutes require a thumbprint.

Right Thumbprint of Signer

Top of thumb here

Description of Attached Document

Type or Title of Document
Proposed street Vacation Exhibit A

Document Date 4-24-17 Number of Pages 4

Signer(s) Other Than Named Above

Scanner Enabled Stores should scan this form
Manual Submission Route to Deposit Operations



FO01-00000DSG5350-01

DSG5350 (Rev01-01/15)

Notice of Non Solicitation: This notice advises Buyers who have entered into an Oregon Real Estate Agency contract with a Realtor in the State of Oregon, that all terms and obligations of such contract(s) remain in full force, until such time that the contract expires or is terminated or canceled. If you have questions about the term of the contract you are advised to discuss it with your Realtor or seek competent legal counsel. The Buyer acknowledges that they have contacted the Realtor on their own behalf and at no time has the Realtor solicited such contact while client was already under contract. Any decision by the Buyer to enter into a new Oregon Real Estate Agency contract with the Realtor shall be of their own desire and such contract shall not begin until prior contract(s) have expired or have been mutually cancelled by the parties, as evidenced in writing.

I have read the above disclosures and have also received copies of the following checked documents:

Oregon Real Estate Agency Disclosure Pamphlet

Protect Your Family/Lead Paint EPA Handout (If built prior to 1978)

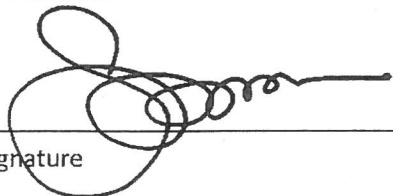
Home Warranty Brochure

Encore Homes, LLC.

Buyer - Print Name

Buyer - Print Name

BY



Buyer Signature

Date

Buyer Signature

Date

Carol Howard

Broker Signature

Date

To whom it may Concern,

Re; Proposed street vacation of 3rd Ave & 10th st on Tax lot #'s

00748668-00748613

West Linn, Or 97068

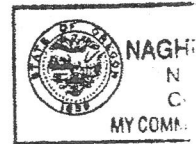
We the undersigned support the proposed street vacation as shown in exhibit A.

Thomas Farwell



4-24-17

1220 9th St West Linn

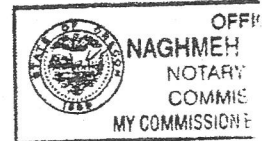


Susan Farwell

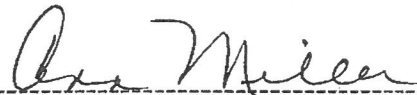


4-24-17

1220 9th st West Linn

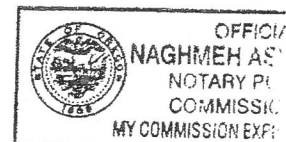


Ann Miller



4/24/17

1009 9th St West Linn

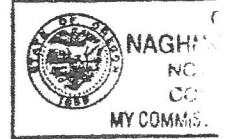


Euan Currie

[Handwritten signature]

4/25/17

1209 9th St West Linn



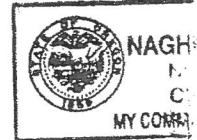
Carol Gronvold

[Handwritten signature]

4/24/17

1307 9th st

West Linn, Or



Re; Proposed street vacation of 3rd Ave & 10th st on tax lot #'s

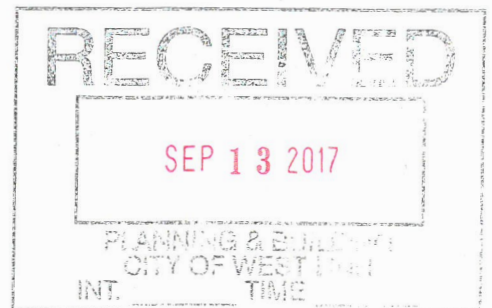
00748668- 00748613

Donald R Nelke 9/12/17



We the undersigned support the proposed street vacation as shown in exhibit A.

1275 Tenth St.



ALL-PURPOSE ACKNOWLEDGMENT

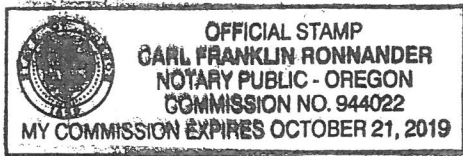
State of OREGON

County of CLACKAMAS

On 09/12/2017 before me, CARL FRANKLIN RONNANDER
DATE NAME OF NOTARY PUBLIC

personally appeared DONALD RAY NELKE,
NAME(S) OF SIGNER(S)

personally known to me OR proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal or Stamp Here

Carl Franklin Ronnander
SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it may prove valuable to persons relying on this Acknowledgment and could prevent fraudulent reattachment of this certificate to another document.

DESCRIPTION OF ATTACHED DOCUMENT

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT

PROPOSED STREET VACATION

TITLE OR TYPE OF DOCUMENT

2

NUMBER OF PAGES

NONE

DATE OF DOCUMENT

NONE

SIGNER(S) OTHER THAN NAMED ABOVE

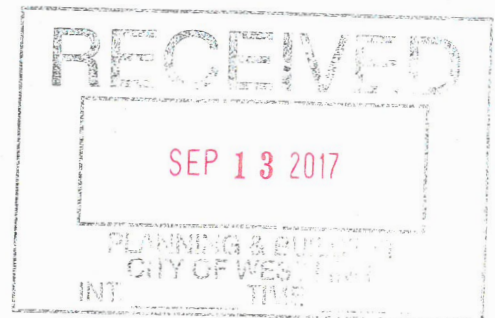
1250 Ninth St.

Re; Proposed street vacation of 3rd Ave & 10th st on tax lot #'s

00748668- 00748613

We the undersigned support the proposed street vacation as shown in exhibit A.

Gerald L. Paulsen *Gerald L Paulsen 9/12/17*



This map was prepared for assessment purpose only.

SW 1/4 NE 1/4 SEC 2 T3S.R1E.WM.
CLACKAMAS COUNTY
1" = 100'

D. L.C.
AMBROSE FIELDS NO. 52

3 IE 2AC
WEST LINN

CANCELLED
200
600
80001
80001
80001
59001
29002
602
100
600
1000
400
1204
1206

1250 Ninth St.

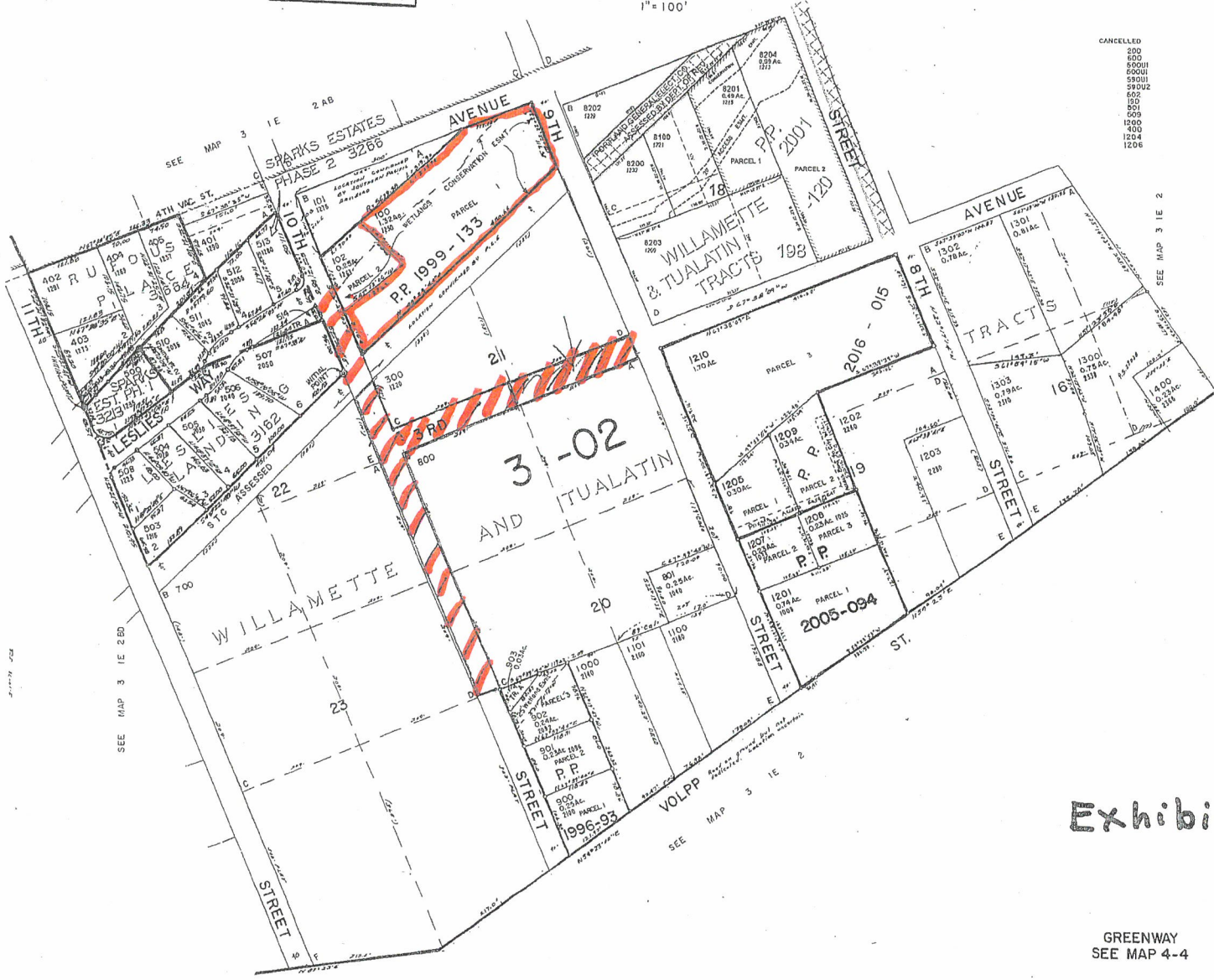


Exhibit A

GREENWAY
SEE MAP 4-4

3 IE 2AC

BOOK 27

ALL-PURPOSE ACKNOWLEDGMENT

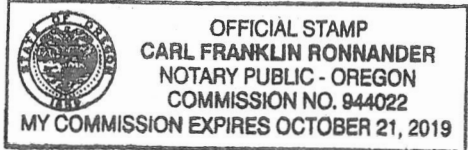
State of OREGON

County of CLACKAMAS

On 09/12/2017 before me, CARL FRANKLIN RONNANDER
DATE NAME OF NOTARY PUBLIC

personally appeared GERALD LOREN PAULSEN
NAME(S) OF SIGNER(S)

personally known to me OR approved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), an that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal or Stamp Here

Carl Franklin Ronnander
SIGNATURE OF NOTARY

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NUMBER OF PAGES

NONE
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SIGNER(S) OTHER THAN NAMED ABOVE

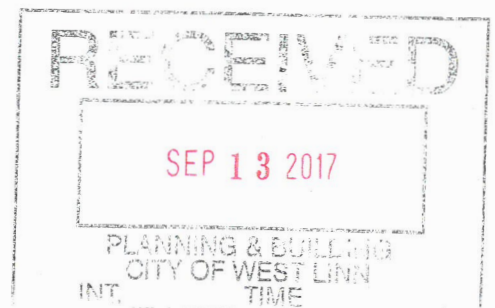
Re; Proposed street vacation of 3rd Ave & 10th st on tax lot #'s

00748668- 00748613

We the undersigned support the proposed street vacation as shown in exhibit A.

9/12/2017

Stacy Linn
1263 10th St.
West Linn, OR 97068

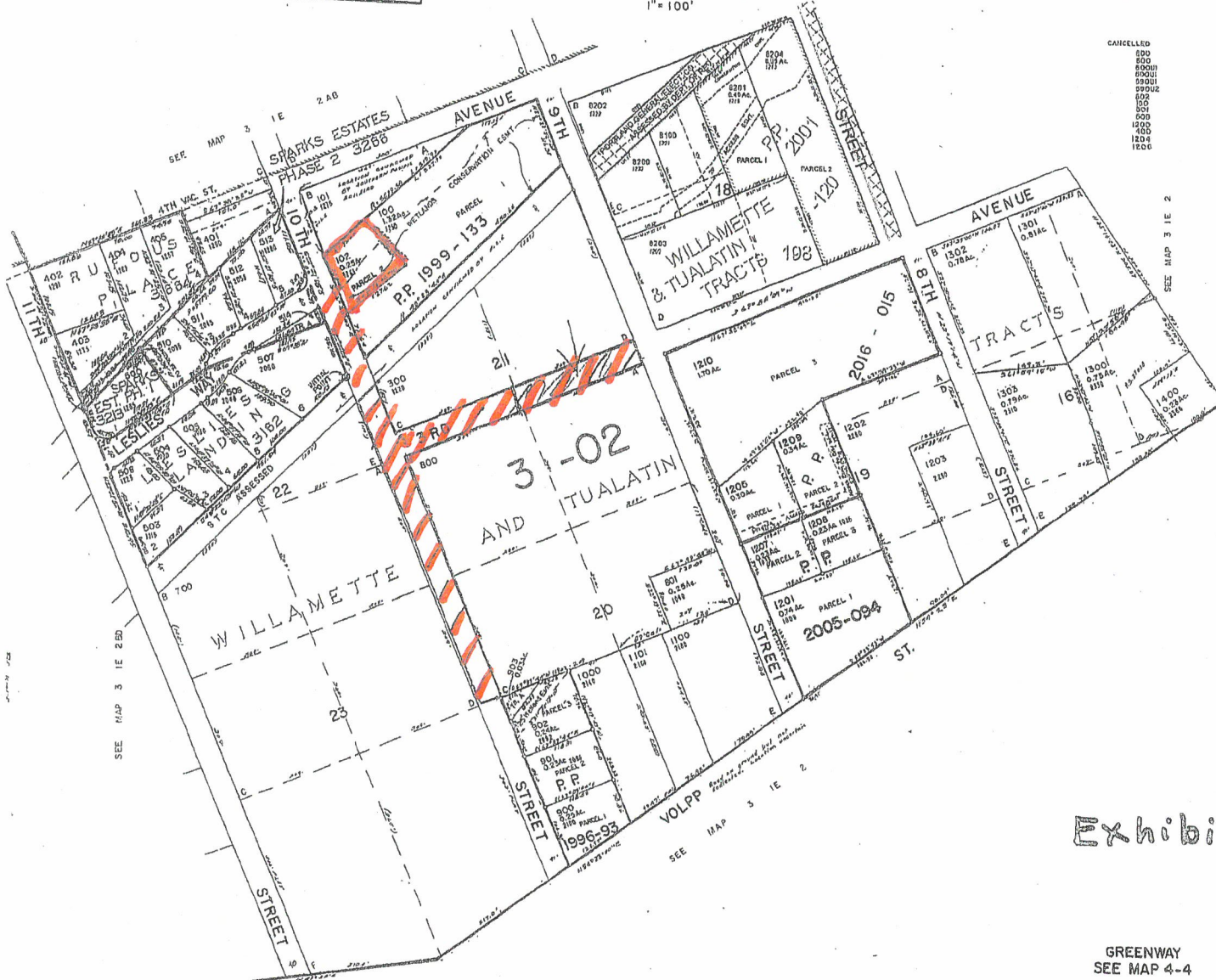


This map was prepared for assessment purpose only.

SW 1/4 NE 1/4 SEC 2 T3S.R1E.WM.
CLACKAMAS COUNTY
1" = 100'

D. L. C.
AMBROSE FIELDS NO. 52

3 IE 2 AC
WEST LINN



CANCELLED
 100
 200
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1263 Tenth St.

Exhibit A

GREENWAY
SEE MAP 4-4

3 IE 2 AC

BOOK 27

ALL-PURPOSE ACKNOWLEDGMENT

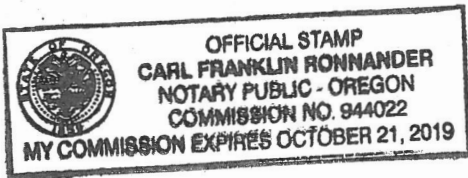
State of OREGON

County of CLACKAMAS

On 09/12/2017 before me, CARL FRANKLIN RONNANDER
DATE NAME OF NOTARY PUBLIC

personally appeared STACEY JENNIFER KRISH
NAME(S) OF SIGNER(S)

personally known to me OR proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal or Stamp Here

Carl Franklin Ronnander
SIGNATURE OF NOTARY

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SIGNER(S) OTHER THAN NAMED ABOVE

2050 Leslies Way

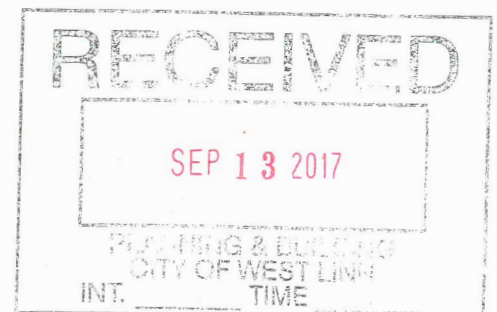
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00748668- 00748613

We the undersigned support the proposed street vacation as shown in exhibit A.

Dominic Zeni

Dominic Zeni 9/12/17



ALL-PURPOSE ACKNOWLEDGMENT

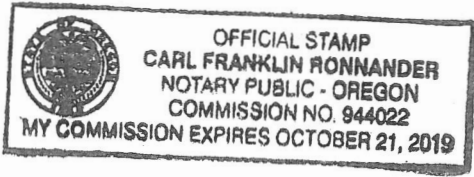
State of OREGON

County of CLACKAMAS

On 09/12/2017 before me, CARL FRANKLIN RONNANDER
DATE NAME OF NOTARY PUBLIC

personally appeared DOMINIC CHARLES ZENI
NAME(S) OF SIGNER(S)

personally known to me OR approved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

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Carl Franklin Ronnander
SIGNATURE OF NOTARY

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TO THE DOCUMENT
DESCRIBED AT RIGHT

PROPOSED STREET LOCATION

TITLE OR TYPE OF DOCUMENT

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NUMBER OF PAGES

NONE

DATE OF DOCUMENT

NONE

SIGNER(S) OTHER THAN NAMED ABOVE

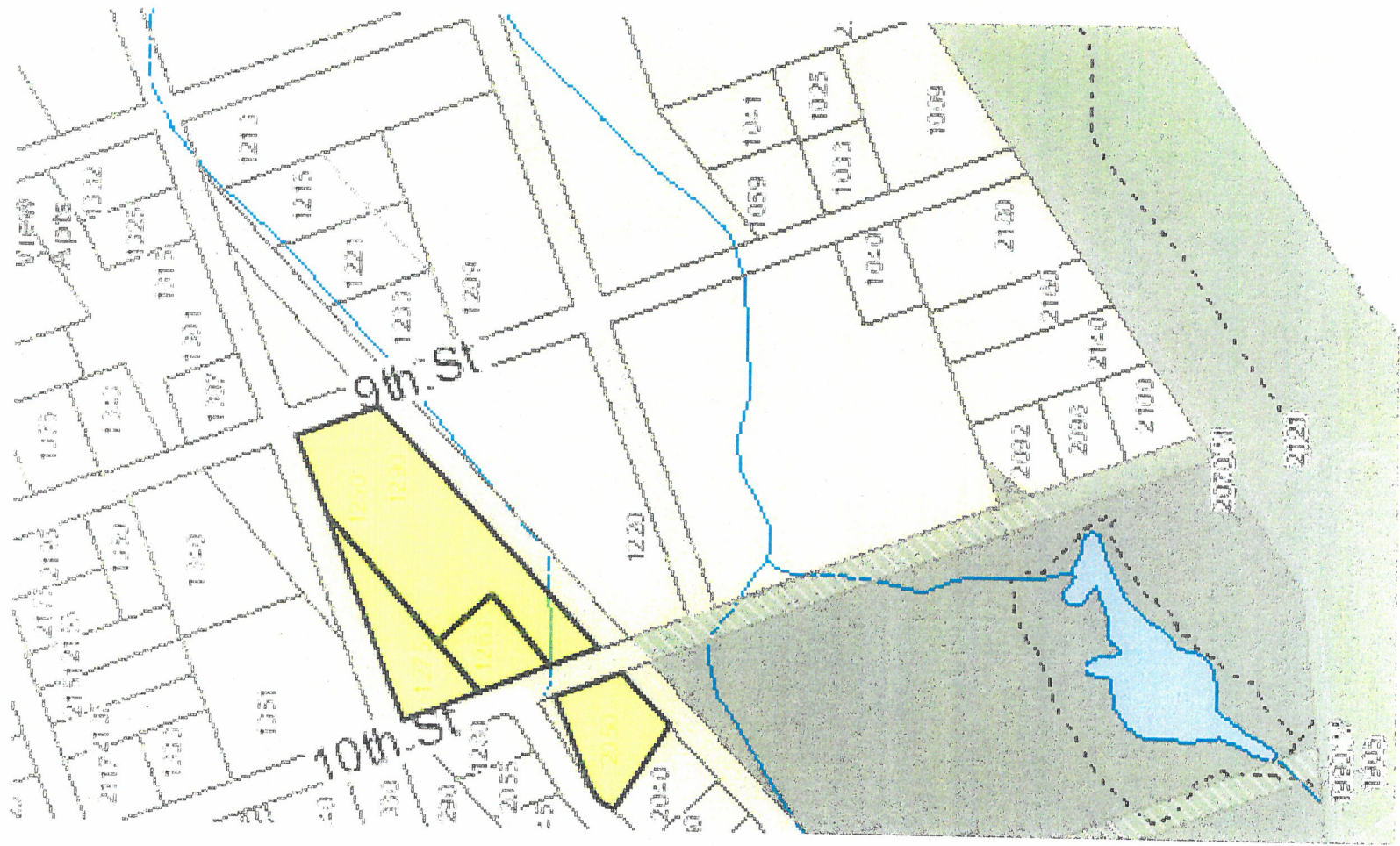


Exhibit I: PUBLIC COMMENTS

Spir, Peter

From: Greg Smith <gasmith@lclark.edu>
Sent: Thursday, October 26, 2017 9:55 AM
To: Spir, Peter
Subject: Vacating 10th and 3rd Streets

October 26, 2017

Dear Peter,

I just saw the announcement of the request by Emery Smith Encore Homes to vacate 10th and 3rd Streets. I'm checking to make sure that "vacate" means returning the control of the land to abutting property owners. I'm guessing that doing so would allow Emery Smith to include the now vacated land when the entire property is subdivided into additional buildable lots. Is this what is planned? And if so, where would these houses be located? Finally, would any of the vacated land on the formerly platted 10th Street be used for additional roads?

Many thanks. A group of neighbors who had not been consulted about this change by Smith's company will be meeting this evening. It would be helpful to have information that will allow us to understand what his company's plans are.

Sincerely yours,

Greg Smith