

RESOLUTION NO. 2257

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING ACQUISITION OF PROPERTY INTEREST RELATED TO THE CONSTRUCTION OF THE VILLEBOIS PRIMARY SCHOOL

WHEREAS, under and by virtue of the laws of the State of Oregon the City of Wilsonville is duly authorized and empowered to acquire such real property as may be deemed necessary and proper for identified public improvements; and

WHEREAS, cooperatively the City of Wilsonville (City) and the West Linn Wilsonville School District (District) have planned and conferred regarding the residential growth of the City, now and into the future, and the need to plan for, construct, and operate, among other things, school facilities and infrastructure facilities to serve such growth; and

WHEREAS, to meet the City's needs for future recreation field facilities to accommodate growth, as defined in the Master Parks and Recreation Plan, and the District's needs for future schools, the City and District entered into negotiations whereby the City would acquire an approximately 10-acre site in Villebois (hereinafter called the "school site") and subsequently exchange it for a 10-acre portion of a 40-acre parcel of land owned by District along Advance Road but just outside the Urban Growth Boundary (UGB), subject to, among other things, a master plan for developing the full 40-acre site, having the site come within the UGB or be designated as an Urban Reserve Area, and an equitable and proportionate plan for funding necessary infrastructure to the 40 acres to serve the master planned school and recreation field facilities; and

WHEREAS, the City and District have executed an Intergovernmental Agreement (IGA) dated September 9, 2010 in which the parties reached agreement on a site location in the Villebois Master Plan Area for a primary school including all necessary public improvement elements necessary to support the school operations; expenditures, and future reimbursements, and have agreed to the location of the 10-acre portion of the District's 40-acre parcel of land on Advance to be exchanged to the City and developed in the future by the City as sports fields for public use; and

WHEREAS, the school site to be acquired by the City through its Urban Renewal Agency will include a public park on its western boundary as well as sports fields on the eastern portion of the school site which will be available for public use; and

WHEREAS, it is in the public interest that property acquisition for this school site occur expeditiously so as not to impede construction and the District's proposed school opening date of September 2012; and

WHEREAS, the property to be acquired meets engineering specifications and reflects the least amount of property interest to ensure safe, efficient and adequate public improvements; and

WHEREAS, the property to be acquired consists of a portion of 3S1W15 tax lot 00300 owned by the Fasano Family LLC and the DeArmond Family LLC, a portion of 3S1W15 tax lot 00300 currently owned by Redus OR Land, LLC, which is affiliated with Wachovia Financial Services, and formerly owned by Matrix Development Corporation, and 3S1W15DA tax lots 11200, 11300 and 15500 (Tract P) and to accept right of way dedication from portions of 3S1W15DA tax lots 15600 and 15700 (Tracts Q and R respectively) owned by Legend Homes Corporation, successor in interest to Matrix Development Corporation; and

WHEREAS, these acquisition areas must be partitioned from large parcels in order for the acquisitions to be completed and recorded; and

WHEREAS, City staff has been in negotiations with the affected property owners with regard to the terms of prior development agreements impacted by bankruptcy proceedings, the terms of the acquisitions, and owner-cooperation in necessary land use partitions; and

WHEREAS, the City of Wilsonville is authorized to acquire property by legal means, including eminent domain, for a public purpose and has so advised the respective property owners; and

WHEREAS, the procedures for property acquisition requiring eminent domain shall conform to all statutory requirements to ensure that property owners' rights are fully respected;

WHEREAS, an agreement has been reached with the Fasano Family LLC and DeArmond Family LLC ownership regarding the acquisition from 3S1W15 TL 301 under the threat of condemnation, but the agreement is conditional and should the conditions fail condemnation may need to occur; and

WHEREAS, in negotiating this agreement the fact of the threat of condemnation assisted the acquisition due to tax benefits related to the reinvestment of sale proceeds; and

WHEREAS, reaching a settlement agreement with Redus OR Land LLC (Wachovia), in addition to all the required corporate signatures on the necessary partition documents, may not occur in a sufficient timeframe to meet the District's development schedule for the school; and

WHEREAS, the future filing of a condemnation action in court may become necessary in order to obtain legal possession of the property while continuing negotiations with Redus OR Land LLC; and

WHEREAS, City staff shall make diligent efforts to avoid the filing of any condemnation actions by communicating and negotiating with property owners in a manner intended to achieve willing and amicable settlements; and

WHEREAS, should negotiation efforts fail and agreement cannot be reached, City staff shall return to Council with notice of negotiation failure for final direction prior to filing condemnation proceedings in Court.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. As set forth in the recitals above, there is needed and required, for the public purpose of providing public improvements known as the Villebois Primary School, acquisition of property interest of those properties identified in Exhibits I, II and III attached hereto and incorporated herein by this reference.

2. The property interest is required as a result of the aforementioned public improvement, and the improvement has been planned and located in a manner most compatible with the greatest public good and the least private injury.

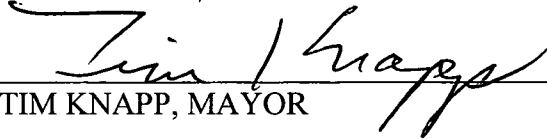
3. City staff and attorneys are authorized and directed to complete negotiations with the owners of the real property herein described as to the compensation to be paid for the acquisition of the property and, in the event agreement cannot be reached, staff and attorneys are authorized to commence and prosecute to final determination such condemnation proceedings as may be necessary to acquire the real property or property interest.

4. Upon trial of and action of condemnation, the attorneys for the City are authorized to make such stipulation, agreement or admission as in their judgment may be in the best interests of the City.

5. City staff anticipates it will acquire the above-described property in December of 2010.

6. This resolution is effective upon adoption.

ADOPTED by the City of Wilsonville at a regular meeting thereof this 18th day of October, 2010 and filed with the Wilsonville City Recorder this date.


TIM KNAPP, MAYOR

ATTEST:


Sandra C. King, MMC, City Recorder

SUMMARY OF VOTES:

Mayor Knapp	Yes
Councilor Kirk	Yes
Councilor Núñez	Yes
Councilor Goddard	Yes
Councilor Hurst	Yes

Attachments:

Exhibit I ~ Legal Description for Fasano Family LLC and DeArmond Family LLC

Exhibit II ~ Legal Description for Redus OR Land LLC (Wachovia)

Exhibit III ~ Legal Description for Legend Homes Corporation

LEGAL DESCRIPTION
 FASANO PORTION – PARCEL 2
 VILLEBOIS – CITY OF WILSONVILLE
 WEST LINN – WILSONVILLE SCHOOL DISTRICT

#6788
 9/20/10 MAR

EXHIBIT "A"

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

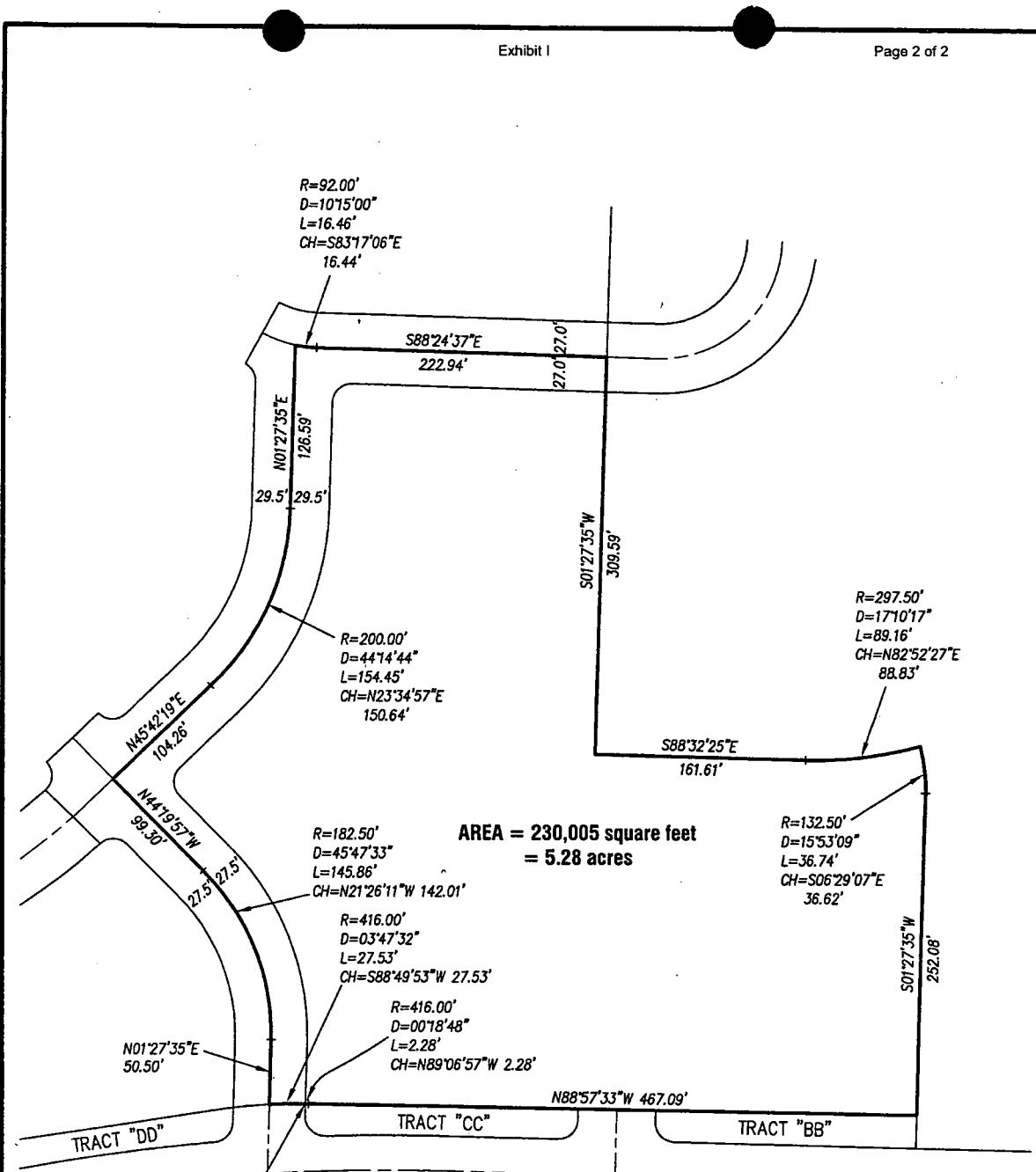
BEGINNING AT THE NORTHWEST CORNER OF TRACT "CC", "LEGEND AT VILLEBOIS", A SUBDIVISION PLAT OF RECORD (NO. 4101) IN SAID CLACKAMAS COUNTY; THENCE ALONG THE NORTH LINE OF "LEGEND AT VILLEBOIS", 27.53 FEET ALONG THE ARC OF A 416.00 FOOT RADIUS, NON-TANGENT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 03°47'32" (THE LONG CHORD BEARS S.88°49'53"W., 27.53 FEET); THENCE N.01°27'35"E., 50.50 FEET; THENCE 145.86 FEET ALONG THE ARC OF A 182.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 45°47'33" (THE LONG CHORD BEARS N.21°26'11"W., 142.01 FEET); THENCE N.44°19'57"W., 99.30 FEET; THENCE N.45°42'19"E., 104.26 FEET; THENCE 154.45 FEET ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 44°14'44" (THE LONG CHORD BEARS N.23°34'57"E., 150.64 FEET); THENCE N.01°27'35"E., 126.59 FEET; THENCE 16.46 FEET ALONG THE ARC OF A 92.00 FOOT RADIUS, NON-TANGENT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 10°15'00" (THE LONG CHORD BEARS S.83°17'06"E., 16.44 FEET); THENCE S. 88°24'37"E., 222.94 FEET; THENCE S.01°27'35"W., 309.59 FEET; THENCE S.88°32'25"E., 161.61 FEET; THENCE 89.16 FEET ALONG THE ARC OF A 297.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 17°10'17" (THE LONG CHORD BEARS N.82°52'27"E., 88.83 FEET); THENCE 36.74 FEET ALONG THE ARC OF A 132.50 FOOT RADIUS, NON-TANGENT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 15°53'09" (THE LONG CHORD BEARS S.06°29'07"E., 36.62 FEET); THENCE S.01°27'35"W., 252.08 FEET TO THE NORTH LINE OF "LEGEND AT VILLEBOIS"; THENCE ALONG SAID NORTH LINE, N.88°57'33"W., 467.09 FEET; THENCE 2.28 FEET ALONG THE ARC OF A 416.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00°18'48" (THE LONG CHORD BEARS N.89°06'57"W., 2.28 FEET) TO THE POINT-OF-BEGINNING, CONTAINING 230,005 SQUARE FEET (5.28 ACRES) MORE OR LESS.

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

MOORE

OREGON
 JULY 16, 1987
 MICHAEL A. RADEMACHER
 2303

DATE OF SIGNATURE: 9-22-10
 EXPIRES: 12/31/2010



"LEGEND AT VILLEBOIS"
PLAT NO. 4101



Scale: 1" = 100'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael A. Rademacher

OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303

DATE OF SIGNATURE: 9-22-10
EXPIRES: 12/31/2010

EXHIBIT "A-1"

6788 Exh5.dwg



COMPASS ENGINEERING
ENGINEERING SURVEYING PLANNING
4105 S.E. INTERNATIONAL WAY, SUITE 501
MILWAUKIE, OREGON 503.653.9093

FASANO OWNERSHIP OF PARCEL 2
VILLEBOIS DEVELOPMENT
CITY OF WILSONVILLE, OREGON
WEST LINN WILSONVILLE SCHOOL DISTRICT

LEGAL DESCRIPTION
 WACHOVIA PORTION - PARCEL 2
 VILLEBOIS - CITY OF WILSONVILLE
 WEST LINN - WILSONVILLE SCHOOL DISTRICT

#6788
 9/20/10 MAR

EXHIBIT "B"

A TRACT OF LAND LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT "BB", "LEGEND AT VILLEBOIS", A SUBDIVISION PLAT OF RECORD (NO. 4101) IN SAID CLACKAMAS COUNTY; THENCE N.01°27'35"E., 278.01 FEET; THENCE 36.74 FEET ALONG THE ARC OF A 132.50 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 15°53'09" (THE LONG CHORD BEARS N.06°29'07"W., 36.62 FEET; THENCE 89.16 FEET ALONG THE ARC OF A 297.50 FOOT RADIUS, NON-TANGENT CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 17°10'17" (THE LONG CHORD BEARS S.82°52'27"W., 88.83 FEET); THENCE N.88°32'25"W., 161.61 FEET; THENCE N.01°27'35"E., 309.59 FEET; THENCE S.88°24'37"E., 38.13 FEET; THENCE 147.87 FEET ALONG THE ARC OF A 94.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 90°07'49" (THE LONG CHORD BEARS N.46°31'29"E., 133.09 FEET); THENCE N.01°27'35"E., 29.29 FEET; THENCE S.88°24'37"E., 106.24 FEET; THENCE 188.95 FEET ALONG THE ARC OF A 750.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14°26'05" (THE LONG CHORD BEARS N.84°22'21"E., 188.45 FEET); THENCE N.77°09'18"E., 3.21 FEET; THENCE S.00°33'52"W., 162.81 FEET; THENCE 248.06 FEET ALONG THE ARC OF A 185.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 76°49'28" (THE LONG CHORD BEARS S.37°50'52"E., 229.89 FEET); THENCE S.15°43'11"W., 47.42 FEET; THENCE 46.04 FEET ALONG THE ARC OF A 185.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 14°15'36" (THE LONG CHORD BEARS S.08°35'23"W., 45.92 FEET); THENCE S.01°27'35"W., 321.87 FEET TO THE NORTH RIGHT-OF-WAY LINE OF LISBON STREET (27.50 FEET FROM CENTERLINE); THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES: 7.26 FEET ALONG THE ARC OF A 827.50 FOOT RADIUS, NON-TANGENT CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 00°30'10" (THE LONG CHORD BEARS N.89°16'06"W., 7.26 FEET); THENCE N.89°31'11"W., 203.01 FEET; THENCE N.88°31'58"W., 94.76 FEET TO THE POINT-OF-BEGINNING, CONTAINING 286,719 SQUARE FEET (6.58 ACRES) MORE OR LESS

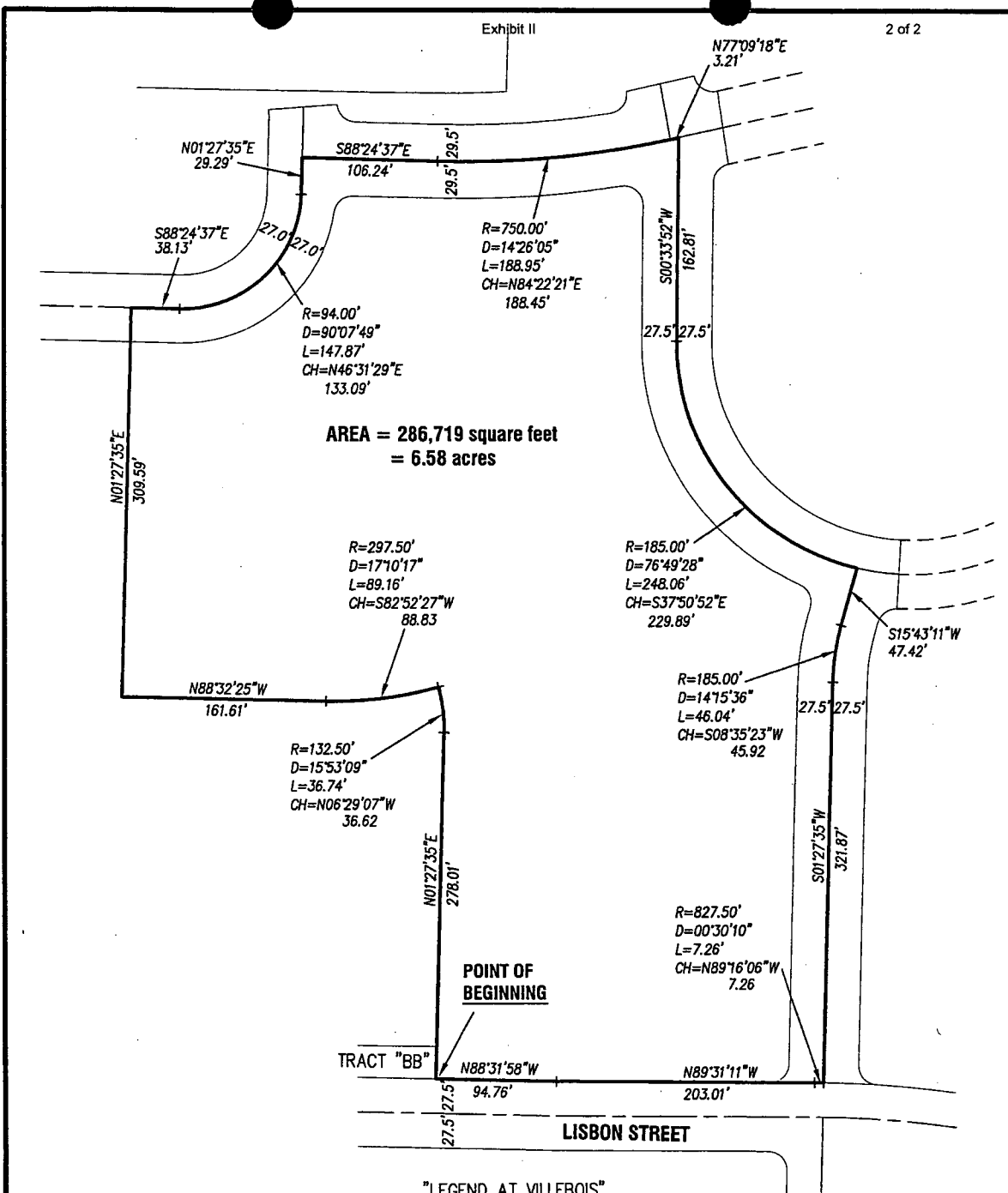
REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Michael A. Rademacher

OREGON
 JULY 16, 1987
 MICHAEL A. RADEMACHER
 2303

DATE OF SIGNATURE: 9-22-10

EXPIRES: 12/31/2010



"LEGEND AT VILLEBOIS"
PLAT NO. 4101

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael A. Rademacher
OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303


DATE OF SIGNATURE: 9-22-10
EXPIRES: 12/31/2010



Scale: 1" = 100'

EXHIBIT "B-1"

6788 Exh6.dwg


COMPASS ENGINEERING
 ENGINEERING SURVEYING PLANNING
 4105 S.E. INTERNATIONAL WAY, SUITE 501
 MILWAUKIE, OREGON 503.653.9093

WACHOVIA OWNERSHIP OF PARCEL 2
 VILLEBOIS DEVELOPMENT
 CITY OF WILSONVILLE, OREGON
 WEST LINN WILSONVILLE SCHOOL DISTRICT

Order No.: 472509474776TO-CTOR

LEGAL DESCRIPTION

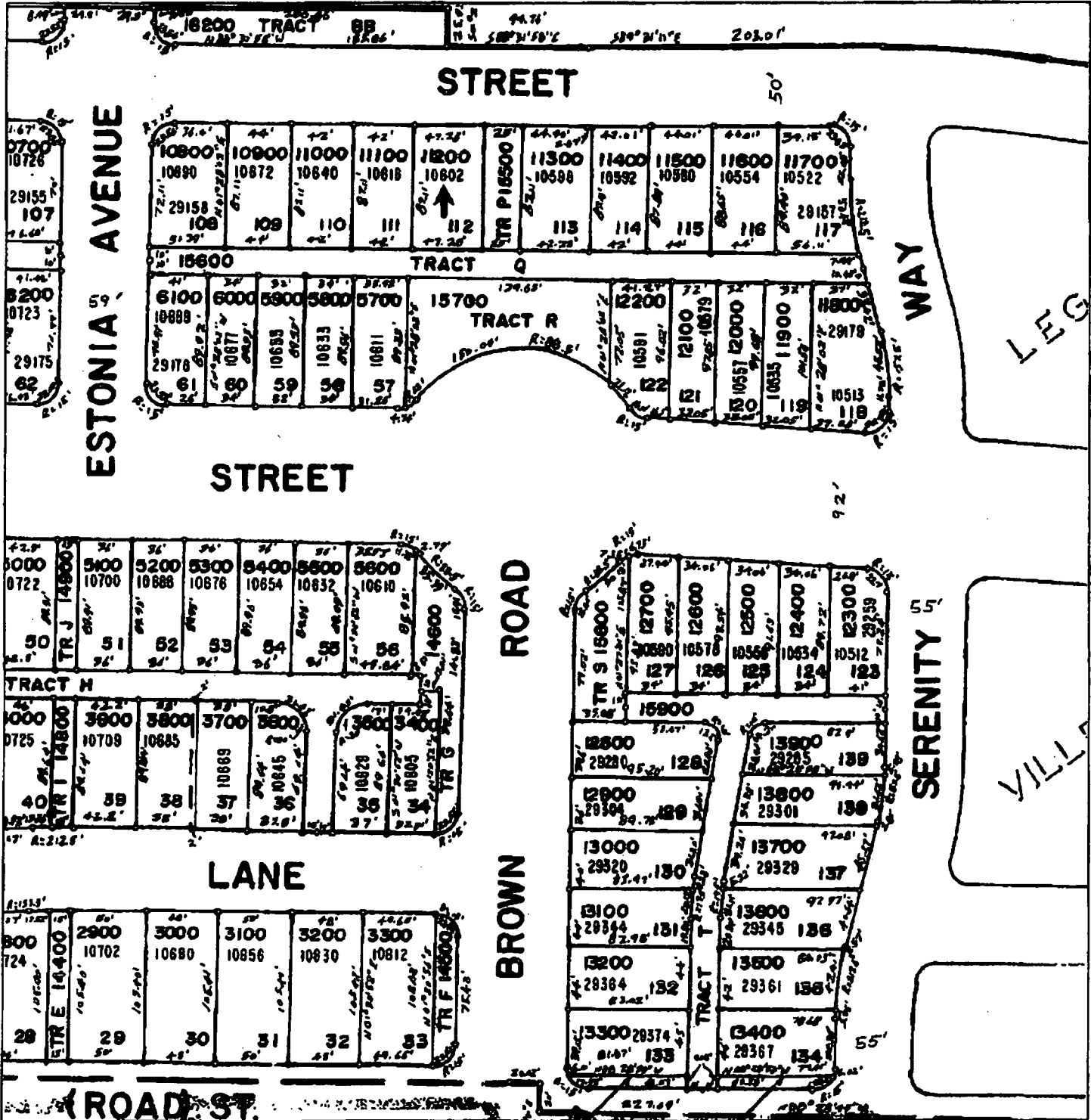
Lot 112, LEGEND AT VILLEBOIS, recorded as Plat No. 4101, in the County of Clackamas and State of Oregon.

The Title Group
 8585 Cascade Ave, #200
 Beaverton, OR 97008
 Phone - 503.646.4444 Fax - 503.469.4197

Map # 31W15DA11200



The drawing below is copied from the public records and is provided solely for the purpose of assisting in locating the premises. The Title Group assumes no liability for variations, if any, in dimensions, area or location of the premises or the location of improvements ascertained by actual survey.



Order No.: 472509474777TO-CTOR

LEGAL DESCRIPTION

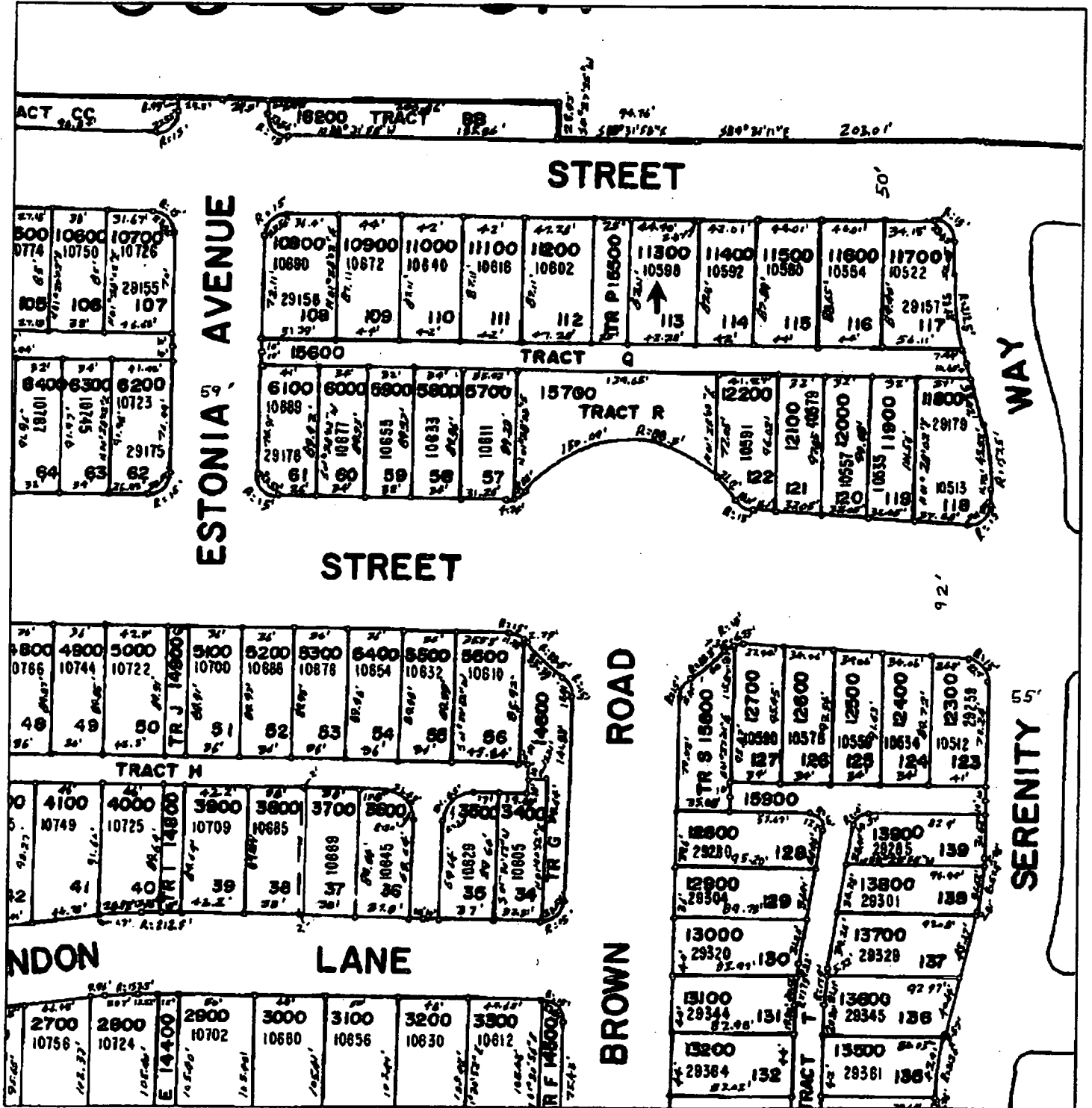
Lot 113, LEGEND AT VILLEBOIS, recorded as Plat No. 4101, in the County of Clackamas and State of Oregon.

The Title Group
 8585 Cascade Ave, #200
 Beaverton, OR 97008
 Phone - 503.646.4444 Fax - 503.469.4197

Map # 31W15DA11300



The drawing below is copied from the public records and is provided solely for the purpose of assisting in locating the premises. The Title Group assumes no liability for variations, if any, in dimensions, area or location of the premises or the location of improvements ascertained by actual survey.



Order No.: 472509474778TO-CTOR

LEGAL DESCRIPTION

Tract 'P', LEGEND AT VILLEBOIS, recorded as Plat No. 4101, in the County of Clackamas and State of Oregon.

The Title Group
 8585 Cascade Ave, #200
 Beaverton, OR 97008
 Phone - 503.646.4444 Fax - 503.469.4197

Map # 31W15DA15500



The drawing below is copied from the public records and is provided solely for the purpose of assisting in locating the premises. The Title Group assumes no liability for variations, if any, in dimensions, area or location of the premises or the location of improvements ascertained by actual survey.

