

RESOLUTION NO. 2311

A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEDIATED SETTLEMENT AGREEMENT FOR CONSTRUCTION OF THE VILLEBOIS COMMUNITY CENTER WITH ARBOR VILLEBOIS LLC, WEST HILLS DEVELOPMENT COMPANY, AND POLYGON AT VILLEBOIS, LLC

WHEREAS, on June 11, 2004, Arbor Villebois, LLC ("Arbor") and Villebois, LLC ("Villebois") entered into a Sale Agreement, Receipt for Earnest Money and Development Agreement ("Sale Agreement"). Pursuant to the Sale Agreement, Villebois was to sell to Arbor approximately 158 acres of real property in the City of Wilsonville (the "Real Property"). The Sale Agreement provided that the sale was to take place in five (5) separate phases over time. Arbor closed on and developed the first two (2) phases of the development that is known as Villebois Village. A dispute arose between Arbor and Villebois over the remaining three (3) phases. Arbor and Villebois arbitrated that dispute in 2008 (the "Arbitration").

WHEREAS, on November 8, 2005, Arbor and the City of Wilsonville ("City") entered in an agreement entitled "Hold Harmless Agreement." Pursuant to the Hold Harmless Agreement, the City granted Arbor permission to conduct certain mass grading in advance of its preliminary plat approval and issuance of public works permit and, in consideration thereof, Arbor agreed to construct a private community center for its owners, including a swimming pool it had proposed. Thereafter, the community center and swimming pool became part of the Villebois Village Master Plan and was incorporated into the Villebois Master Development Agreement.

WHEREAS, on December 31, 2009, Arbor and Villebois entered into a "Termination of Sale Agreement, Receipt for Earnest Money and Development Agreement" (the "Termination Agreement"), which terminated the Sale Agreement as to the remaining three (3) phases. The

Arbitration was dismissed as a result of Villebois paying the amount due pursuant to the Termination Agreement.

WHEREAS, Polygon at Villebois LLC and Villebois are now parties to a Purchase and Sale Agreement, dated November 8, 2010, as amended (the "Villebois/Polygon Purchase Agreement"), whereby Polygon agreed to purchase from Villebois the real property located in SAP South Phase 5 and SAP North Phase 1 of the Villebois Village Development, subject to satisfaction of certain conditions which include, without limitation, receipt of approvals regarding Polygon's development of the Villebois/Polygon Property on terms and conditions acceptable to Polygon.

WHEREAS, as a result of the Termination Agreement a dispute arose between Arbor and Villebois as to the responsibility for construction of the private community center and swimming pool within Villebois Village (collectively, the "Community Center").

WHEREAS, the City, wishing to avoid litigation over the Hold Harmless Agreement and also wishing to ensure that a Community Center would be timely constructed for the benefit of the Villebois Village residents, as provided in the Master Plan, requested that all the parties participate in mediation in an attempt to resolve the dispute and find a way to construct the Community Center.

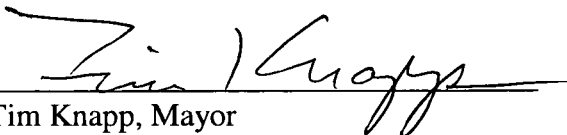
WHEREAS, all of the foregoing parties, also wishing to resolve their differences and bring to an end the dispute existing among them, agreed to participate in two (2) mediation sessions conducted by the Honorable Edward Leavy on June 10, 2011 and June 24, 2011. In addition to the parties listed above, designated representatives of Arbor homeowners also attended the mediation sessions.

WHEREAS, as a result of the mediation sessions, the parties have reached the agreement set forth in this Settlement Agreement, which includes a tolling of the statute of limitations on the Hold Harmless Agreement between the City and Arbor, in that the Settlement Agreement contains contingencies that must be met before the Community Center can be constructed, as contemplated by the Settlement Agreement.

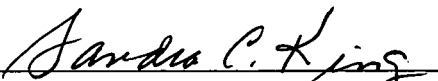
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. City Council hereby authorizes the City Manager to enter into the Mediated Settlement Agreement, described above and attached hereto as **Exhibit A**, in the form approved by the City Attorney.
2. This resolution is effective upon adoption.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 1st day of August, 2011, 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
Council President Núñez	Yes
Councilor Hurst	Yes
Councilor Goddard	Excused
Councilor Starr	Yes

Attachment: Mediated Settlement Agreement

MEDIATED SETTLEMENT AGREEMENT

This Mediated Settlement Agreement ("Settlement Agreement") is made this ____ day of July, 2011, by and between the city of Wilsonville ("the City"), Arbor Villebois, LLC ("Arbor"), West Hills Development Company ("West Hills"), Villebois, LLC ("Villebois"), and Polygon at Villebois, L.L.C. ("Polygon").

Recitals

A. On June 11, 2004, Arbor and Villebois entered into a Sale Agreement, Receipt for Earnest Money and Development Agreement ("Sale Agreement"). Pursuant to the Sale Agreement, Villebois was to sell to Arbor approximately 158 acres of real property in the city of Wilsonville ("the Real Property"). The Sale Agreement provided that the sale was to take place in five separate phases over time. Arbor closed on, and developed, the first two phases. A dispute arose between Arbor and Villebois over the remaining three phases. Arbor and Villebois arbitrated that dispute in 2008 (the "Arbitration").

B. On November 8, 2005, Arbor and the City entered in an agreement entitled "Hold Harmless Agreement." Pursuant to the Hold Harmless Agreement, the City granted Arbor permission to conduct certain mass grading in advance of its preliminary plat approval and issuance of public works permit and, in consideration thereof, Arbor agreed to construct a private community center for its owners, including a swimming pool. Thereafter, the community center and swimming pool became part of the Villebois Village Master Plan and was incorporated into the Villebois Master Development Agreement.

C. On December 31, 2009, Arbor and Villebois entered into a "Termination of Sale Agreement, Receipt for Earnest Money and Development Agreement" ("the Termination Agreement"), which terminated the Sale Agreement. The Arbitration was dismissed as a result of Villebois paying the amount due pursuant to the Termination Agreement.

D. Polygon and Villebois are parties to a Purchase and Sale Agreement, dated November 8, 2010, as amended (the "Villebois/Polygon Purchase Agreement") whereby Polygon agreed to purchase from Villebois real property located in SAP South Phase 5 and SAP North Phase 1 of the Villebois Village Development legally described in the attached Exhibit A (the "Villebois/Polygon Property"), subject to satisfaction of certain conditions which include, without limitation, receipt of approvals regarding Polygon's development of the Villebois/Polygon Property on terms and conditions acceptable to Polygon.

E. A dispute subsequently arose among the parties as to the responsibility for constructing the private community center and swimming pool within Villebois Village (collectively, the "Community Center").

F. Wishing to resolve their differences and bring to an end the dispute existing among them the parties participated in two mediation sessions conducted by the Honorable Edward Leavy on June 10, 2011 and June 24, 2011. In addition to the parties listed above, designated representatives of Arbor homeowners also attended the mediations. As a result of the mediation sessions, the parties have reached the agreement set forth in this Settlement Agreement.

Agreement

Now, therefore, in consideration of the mutual execution of this Settlement Agreement, and the releases and promises made herein, and incorporating the above referenced Recitals by reference, the parties agree as follows:

1. Creation of Community Center Parcel

(a) Polygon and /or Villebois will promptly apply to the City for a partition of SAP South Phase 5, currently owned by Villebois, to create a separate parcel described or outlined on the attached **Exhibit B** ("the Community Center Parcel"). Polygon and/or Villebois will be responsible for creating the preliminary and final plat for the Community Center Parcel.

(b) Polygon and/or Villebois will pay all costs associated with obtaining the partition to create the Community Center Parcel, including all public improvements required for final plat recording.

(c) Once the Community Center Parcel is created as a legal parcel and upon deposit of the \$700,000 into escrow, pursuant to Section 3(b), Villebois will execute and deliver a deed to the Community Center Parcel to Arbor Villebois LLC for the purpose of the construction of the Community Center and subsequent conveyance to Arbor Villebois Homeowners Association ("Arbor HOA"). The deed will be subject to restrictions requiring that the Community Center Parcel will be used solely for the construction and operation of the Community Center described below for the benefit of Arbor HOA and the owners of the Villebois/Polygon Property and their successors and assigns, including any HOA formed in connection with the development of the Villebois/Polygon Property.

2. Construction of Community Center

(a) Upon deposit of the \$700,000 in escrow and delivery of the deed to West Hills, as set forth above, West Hills will construct the Community Center on the Community Center Parcel. The Community Center shall consist of a clubhouse of approximately 5,000 square feet, and a 75 foot x 45 foot swimming pool, as outlined on the attached **Exhibit C**. The Community Center shall be designed and constructed according to the Plans, described in Section 2(c), substantially as depicted on the previously approved Preliminary Development Plan (PDP) – 5 Specific Area Plan (SAP) South application and Villebois Village Master Plan, although West Hills shall have reasonable latitude in redesigning the Community Center, including, but not limited to, modifying the roof design, exterior cladding materials, reducing the amount of stone, and other minor design features. The plans and specifications for the Community Center shall be subject to the review and approval of the City's Development Review Board ("DRB") through the normal design and development review process. The clubhouse and pool shall be fully constructed with all standard fixtures and mechanical equipment standard to a completed facility (the "Work"), but West Hills, Arbor, Polygon and Villebois shall have no obligation to provide any furnishings, including lockers, exercise equipment, window covering, and furniture. The parties contemplate that any such furnishings will be the responsibility of Arbor HOA.

(b) The Community Center will be deemed complete upon issuance of a final certificate of occupancy. Prior to such issuance, Arbor and Polygon will do a walk-through and will jointly

advise the City that they have agreement that the Community Center has been completed, as agreed. Upon completion of construction, West Hills shall provide to the Arbor HOA a one (1) year warranty as follows:

(i) **Warranty.** West Hills hereby warrants that it shall replace or repair, as West Hills may elect in its reasonable discretion, any defective plumbing, electrical, mechanical, structural, or other components of the Work on the terms and conditions contained in this Section 2(b). The warranty herein shall not apply to damages or defects as the result of ordinary wear and tear, natural disaster or other Acts of God, changes made to grade, elevation or to the structure by Arbor HOA or Polygon HOA, or any negligent or intentional act or acts of the Arbor HOA or Polygon HOA, Arbor HOA's or Polygon HOA's guests, invitees, tenants, patrons or trespassers, or other occurrences beyond West Hills' reasonable control and not a direct result of West Hills' workmanship. West Hills is not obligated to bear any consequential, financial or other loss.

(ii) **Expiration Date and Notice.** The warranty given in this Section 2(b) with respect to the Work shall expire on the first anniversary of the date of substantial completion of the Community Center, which shall not include completion of landscaping. West Hills shall be responsible for defects claimed by Arbor HOA or Polygon HOA in connection with the Work only if a written claim reasonably specifying the breach of warranty is delivered to West Hills in accordance with the notice section of this Settlement Agreement prior to expiration of the one-year warranty period.

(iii) **Limitation on Actions.** No action to enforce any warranty given in this Section 2(b) may be commenced after the fourth anniversary of the expiration of such warranty.

(iv) **Personal Property.** Notwithstanding any other provision of this Section 2(b), West Hills gives no warranty pursuant to this Settlement Agreement with respect to any tangible personal property which is normally used for facilities of this type (including any such property intended to be attached to or installed in any real property, without regard to whether it is so attached or installed). The warranty of all appliances, equipment, and other such products installed as part of the Work are solely those of the manufacturer or supplier. West Hills makes no warranties, express or implied, relating to these item or any other "consumer product" as defined under the Magnuson-Moss Warranty Act. Arbor HOA's or Polygon's HOA's sole remedy relating to any breach of warranty shall be against such manufacturer.

(v) **No Other Warranties.** OTHER THAN THOSE WARRANTIES EXPRESSLY DESCRIBED IN THIS SECTION 2(b), WEST HILLS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE WORK, INCLUDING WITHOUT LIMITATION: FITNESS FOR HABITATION OF THE IMPROVEMENTS; MERCHANTABILITY OF THE IMPROVEMENTS; FITNESS FOR A PARTICULAR PURPOSE OF THE IMPROVEMENTS; QUALITY OF THE IMPROVEMENTS; OR CONDITION OF THE IMPROVEMENTS. So long as the Work is completed substantially in accordance with the Plans, minor deviations and variations therefrom involving paint color, floor coverings, countertops and cabinets, appliances, plumbing and electrical fixtures, hardware and other decorations, and finish work shall not be considered defects due to workmanship or materials. Any warranty work performed by West Hills and its representatives will be during West Hills' normal weekday hours.

(c) West Hills, at its sole cost and expense, has provided the revised preliminary plans to the parties and will provide construction documents, at its sole cost and expense, for constructing the Community Center following the DRB hearing. West Hills has provided the schematics for the Community Center, including the pool, the interior and exterior structure, flat work and fencing surrounding the pool (collectively "Plans"). Exact copies of the Plans, excluding construction documents, have been provided to the City, Villebois, Polygon and Arbor HOA. The Plans have been reviewed and approved by Villebois, Polygon and Arbor HOA but are still subject to review and approval of the DRB, as provided below. If there are any changes, they must be re-approved by West Hills. City planning staff has reviewed the Plans and subject to the minor requested revisions discussed with West Hills during the mediation and summarized in the attached **Exhibit D**, will recommend their approval to the DRB but cannot promise that the Plans and Landscaping Plans will be approved exactly as presented to the DRB.

(d) Villebois will be responsible for the landscaping of the Community Center and shall submit the landscaping plans ("Landscaping Plans") at the same time West Hills presents its Plans for the Community Center. Villebois may assign this responsibility for landscaping to Polygon. West Hills shall not be responsible for any landscaping at the Community Center, but shall be responsible for concrete flatwork as shown on the approved Plans around the Community Center and Pool and a fence as such fencing is depicted on the original renderings and designed in accordance with the pattern book.

(e) West Hills will be responsible for submitting the application for the Community Center to augment the pending Polygon application for PDP-5 South ("Polygon's PDP-5 Application") and together obtaining the necessary approvals from the DRB. Villebois and Polygon agree to support the application of West Hills and to prepare and present the site plan, architecture and landscaping plan at the same meeting, along with Polygon's PDP-5 application. West Hills, Villebois, and Polygon agree to present their plans to the DRB at the August 22, 2011 meeting. In order for the City to allow presentation at the August 22, 2011 meeting, a complete application must be presented to City staff by no later than July 25, 2011. If a completed application is not presented on or before this date, the presentation will be moved to the next available DRB meeting. West Hills and Villebois/Polygon acknowledge that the DRB may suggest certain modifications and both parties agree that they will reasonably consider all requested changes by the DRB.

(f) The City will cooperate in the planning and permitting process, and will "fast track" all entitlement approvals associated with Polygon's PDP-5 Application. Recommended conditions of approval relating to the Community Center on PDP-5 South will include the obligation of the owner of PDP-5 South to partition and transfer title to the Community Center Parcel to Arbor, permit the construction of the Community Center on the Community Center Parcel in accordance with this Settlement Agreement, and payment of the \$700,000 amount into escrow as stated below in Section 3(b), as part of the closing on SAP South Phase 5 and SAP North Phase 1, which shall occur on or before December 30, 2011.

(g) The City will waive any application and planning fees associated with the construction of the Community Center. All other applicable City fees will apply.

(h) All parties to this Settlement Agreement will cooperate in the planning and permitting process and the City will "fast track" all entitlement approvals associated with the construction of the Community Center, to the extent required to meet the proposed construction schedule, subject to all required submittals being timely received and completed. Assuming all permits required to begin construction have been issued, West Hills agrees to begin construction on or before June 1, 2012, subject to all conditions precedent having been satisfied as expressly provided in this Settlement Agreement.

(i) West Hills will be responsible for paying for any and all systems development charges, construction permits and any and all engineering and architectural plan development fees (collectively "Permit & Development Fees") associated with the permitting and construction of the Community Center. Subject to the funding of the \$700,000 referred to in section 3(a) and the timely complete submittals required for construction being provided to the City, all permits for the construction of the Community Center will be issued by June 1, 2012. West Hills, with cooperation of the City, shall obtain the necessary building permits for the Community Center.

(j) Unless prevented from doing so by circumstances beyond its reasonable control, such as Acts of God, West Hills shall complete construction of the Community Center within six months after the issuance of the building permit and the escrow account required by section 3 of this Settlement Agreement is fully funded, as set forth therein.

(k) Polygon or Villebois will be responsible for extending all infrastructure and utilities to the Community Center Parcel on or before June 1, 2012.

3. Funding for Construction of the Community Center

(a) Polygon and/or Villebois will pay West Hills \$700,000 through escrow, as provided below, toward the construction of the Community Center. West Hills will pay any cost over and above that amount required to complete the construction of the Community Center in accordance with the approved Plans. Polygon/Villebois will notify the City and West Hills when they have closed escrow and deposited the \$700,000 as provided in Section 3 (b).

(b) Polygon and/or Villebois shall deposit the sum of \$700,000 into an interest bearing escrow account ("the Escrow Account") to be established at Fidelity National Title Company or M&T Bank, at the election of Polygon and Villebois ("the Escrow Agent") no later than December 30, 2011. The \$700,000 in the Escrow Account cannot not be drawn upon until West Hills has obtained its building permits for the Community Center and has commenced construction of the Community Center. Once construction has commenced West Hills shall be entitled to submit monthly draw requests as provided in Section 3(d) below. Interest shall accrue to the benefit of the depositor of the funds until the funds are withdrawn as construction commences.

(c) West Hills shall have no obligation to commence construction of the Community Center until the \$700,000 is deposited into the Escrow Account and the Community Center land has been deeded to Arbor.

(d) West Hills shall be entitled to receive payments from the Escrow Account monthly, based upon the percentage of completion. West Hills shall provide to the Escrow Agent a

monthly report of work completed, along with lien waivers for each application for payment. Escrow Agent shall also provide copies of the payment applications to Martin Brown, a City employee, for review and approval which approval shall not be unreasonably withheld, conditioned or delayed. If Martin Brown fails to approve or disapprove within five business days, the payment applications shall be deemed approved and the Escrow Agent may disburse the requested amount in the payment application to West Hills.

4. Conveyance of the Community Center Parcel by West Hills

Within 30 days following substantial completion as referred to in section 2(b)(ii) of the Community Center, West Hills shall convey the Community Center Parcel, and improvements thereon, to Arbor HOA, provided that the agreement described in Section 5(d) is executed and recorded at the same time.

5. Use and Maintenance of Community Center

(a) It is the understanding of the parties to this Settlement Agreement that, following the conveyance of the Community Center Parcel to Arbor HOA, all members of Arbor HOA, and all owners of lots on the Villebois/Polygon Property shall be entitled to use the Community Center and shall pay their allocable share of fees to pay for costs of maintenance, repair and replacements, provided no lot will be assessed such costs until a certificate of occupancy is issued for a home on such lot .

(b) Prior to or contemporaneously with the transfer of title to the Community Center Parcel to Arbor, Arbor and Polygon or Villebois shall prepare, execute and record a binding home owners' association(s) agreement(s) which provides for the payment of the proportionate share of ongoing repair and maintenance costs for the Community Center by all residents of their development or respective developments, as provided in Section 5(a) above. The agreement described in this section shall require those residents to pay their proportionate share of the assessment required to at all times keep the Community Center in good, clean, and presentable condition, to the quality standards set for the Villebois development. As an alternative method of documenting these obligations, Arbor agrees to permit Polygon or Villebois to annex the Community Center Parcel into their project(s) in Villebois, except for the Villebois Village Center, solely for the purposes of (a) permitting the homeowners in such project(s) to use the Community Center and (b) requiring such homeowners to share in the ongoing repair and maintenance expenses of the Community Center on a proportionate basis with the Arbor HOA homeowners. Arbor shall promptly execute, acknowledge, and deliver such documents as may be reasonably requested by Polygon or Villebois to effect such annexation.

(c) Polygon and Villebois shall be permitted to permit homeowners in additional projects, except for Villebois Village Center, developed by either of them or their successors and assigns, in Villebois to use the Community Center so long as those homeowners have a homeowners' association agreement that requires those homeowners to share in the ongoing costs of repair and maintenance of the Community Center on a proportionate basis with Arbor HOA homeowners and the Polygon or Villebois HOA homeowners described above. Arbor and Arbor HOA shall promptly execute, acknowledge, and deliver such documents as may be reasonably requested by Polygon or Villebois to effect this result.

6. Impact of Settlement Agreement on Hold Harmless Agreement

(a) Arbor and the City, contemporaneously with the execution of this Settlement Agreement, will enter into a tolling agreement extending the statute of limitations for any claims either may assert against each other arising out of the Hold Harmless Agreement, until March 1, 2013.

(b) If Polygon/Villebois fail to fund the Community Center, as provided herein, or West Hills fails to construct the Community Center, as provided herein, this Settlement Agreement will be null and void and any party may elect to proceed to litigation or arbitration, as described below, to resolve the disputes that would otherwise have been settled hereby.

(c) Subject to DRB approval being granted and the parties performing their respective obligations set forth in this Settlement Agreement, the City will act, in good faith to timely approve the construction of the Community Center before June 1, 2012. West Hills will act in good faith to commence construction of the Community Center by June 1, 2012 and will exercise best efforts to complete within six (6) months.

(d) Once West Hills has achieved final completion of the construction of the Community Center in a good and workmanlike manner, as required by this Settlement Agreement, and Arbor has conveyed the Community Center Parcel and improvements to Arbor HOA, and they have performed their other obligations under this Settlement Agreement, no party to this Settlement Agreement shall have any rights or claims against West Hills or Arbor under the Hold Harmless Agreement described in Recital B of this Settlement Agreement, except for the one-year warranty under Section 2(b).

7. Condition Precedent to Polygon's Obligations

Polygon agrees to apply for the approvals needed to create the Community Center Parcel, as described in Section 1(a), and Polygon agrees to perform the obligations set forth in Section 2(e). However, Polygon has no obligation to perform any other obligation under the Settlement Agreement whatsoever unless Polygon acquires fee title to all of the Villebois/Polygon Property. If Polygon does not acquire the Villebois/Polygon Property, then Villebois may elect to terminate this Agreement by a 10 day written notice to the parties to this Settlement Agreement and upon termination no party to this Settlement Agreement shall have any rights or obligations under this Settlement Agreement.

8. Representation by Counsel

The parties acknowledge and represent that they have read this Settlement Agreement and have consulted with their respective attorneys concerning its contents and consequences, and that this Settlement Agreement is being executed solely in reliance on their respective judgment, belief and knowledge of the matters set forth herein. The parties acknowledge that the terms and conditions of this Settlement Agreement are contractual and not mere recitals.

9. No Admissions

All parties agree that by entering into this Settlement Agreement no party is acknowledging any fault, liability or wrongdoing that this Settlement Agreement has been entered into in order to achieve an orderly settlement, and nothing contained herein shall be construed as an admission of fault or concession of any kind.

10. No Oral Modifications

This Settlement Agreement may not be modified, except in a writing signed by all parties affected by the modified term(s).

11. Governing Law

This Settlement Agreement shall be governed by the laws of the State of Oregon.

12. Counterparts

This Settlement Agreement may be executed in one or more identical counterparts, including facsimile counterparts, each of which may be deemed an original. All counterparts shall constitute one agreement, binding on all of the parties, notwithstanding that all parties have not signed the same counterpart.

13. Settlement Agreement Mutually Drafted

This Settlement Agreement has been mutually drafted by all parties, and it is agreed that any uncertainty or ambiguity existing in this Settlement Agreement shall not be construed against any party by reason thereof.

14. Headings

The headings used in this Settlement Agreement are for convenience of reference and shall in no way limit or expand the meaning or interpretation of this Settlement Agreement.

15. Dispute Resolution

(a) In the event of any dispute arising out of the interpretation of this Settlement Agreement, the parties shall first attempt to resolve such dispute by mediating the dispute with Judge Leavy, if he is then available, or with such other mediator as the parties deem acceptable. If the parties cannot agree upon a mediator, the parties shall request that the then-presiding judge of the Multnomah County Circuit Court appoint a mediator.

(b) If, following the mediation required by section 15(a) of this Settlement Agreement, the parties are unable to resolve their dispute(s), they shall be free to either litigate the dispute(s) or, if the parties agree, arbitrate the remaining dispute(s) under the then-prevailing rules of the Arbitration Services of Portland.

(c) In the event of arbitration, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorney's fees incurred in the arbitration proceeding.

16. Authority to Execute

The parties represent and warrant that their signatories to this Settlement Agreement have the authority to execute and bind the party on whose behalf this Settlement Agreement is signed.

17. Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by the means set forth below:

(a) by certified mail, return receipt requested, postage prepaid;

(b) by personal delivery; or

(c) by overnight courier, to the appropriate party at the address set forth herein.

Any notice so transmitted shall be deemed effective, three (3) days after deposit in the United States Mail, or one (1) business day after deposit with the overnight courier, or on the date that it is personally delivered to the party to whom the notice is addressed. Either party may, by written notice, designate a different address for purposes of this Settlement Agreement. The addresses of the parties for notice are the following:

If to West Hills or Arbor: c/o Brad Hosmar
735 SW 158th Avenue
Beaverton, OR 97006
Telephone: 503-641-7342
Facsimile: 503-641-7661

With a copy to: Douglas R. Grim, Esq.
Brownstein Rask Sweeney LLP
1200 SW Main Street
Portland OR 97205
Telephone: 503 412-6712
Facsimile: 503 221-1074

If to Villebois: c/o Mr. Wayne Rembold
1022 SW Salmon Street #450
Portland, Oregon 97205
Telephone: (503) 222-7258
Facsimile: (503) 222-4053

With a copy to: Michael G. Magnus, Esq.
Michael G. Magnus, P.C.
10700 SW Beaverton-Hillsdale Hwy #450
Beaverton, Oregon 97005
Telephone: (503) 641-7468
Facsimile: (503) 636-3339

If to Polygon:

c/o Mr. Fred Gast
109 E. 13th Street
Vancouver, WA 98660
Telephone: (503) 221-1920
Facsimile: (360) 693-4442

With a copy to:

Barbara Radler
c/o Ball Janik LLP
101 SW Main Street Suite 1100
Portland, Oregon 97204
Telephone: (503) 944-6089
Facsimile: (503) 295-1068

If to City:

City Attorney
29799 SW Town Center Loop E
Wilsonville, OR 97070
Telephone: 503-570-1507
Facsimile: (503) 682-1015

18. Release. For and in consideration of the promises and covenants herein stated, and conditioned upon compliance with the terms of this Settlement Agreement, the payment of the sum of \$700,000 for the construction of the Community Center and the construction of the Community Center as provided herein, the parties hereto mutually release, acquit and forever discharge each other of and from any and all actions, causes of action, claims, demands, damages, costs, loss of services, expenses, and compensation, known and unknown, whether or not on account of, or in any way growing out of the matters herein described and agreed to with regard to the construction of the Community Center for Arbor HOA and the Polygon HOA (or any successor thereto). This release shall only be effective if the Community Center is constructed as provided herein and the parties perform all of their respective obligations under this Settlement Agreement. Nothing contained herein shall be construed as a release of any defense or indemnification under any prior agreement in the event that any person or entity that is not a party to this Settlement Agreement, files legal action with respect to the Community Center. Finally, this release does not impair or nullify the warranty to be given by West Hills for the Work.

City:

CITY OF WILSONVILLE

By: _____
Name: _____
As Its: _____

Approved as to form for the City of Wilsonville:

By: _____

As Its: _____

Arbor:

ARBOR VILLEBOIS, LLC

By: _____

Name: _____

Title: _____

West Hills:

WEST HILLS DEVELOPMENT COMPANY

By: _____

Name: _____

Title: _____

Villebois

VILLEBOIS, LLC

By: _____

Name: _____

Title: _____

Polygon:

POLYGON AT VILLEBOIS, L.L.C., a Washington limited liability company.

By: PNW HOME BUILDERS SOUTH, L.L.C., a Washington limited liability company, its Manager

By: PNW HOME BUILDERS, L.L.C., a Washington limited liability company, its Sole Member

By: PNW HOME BUILDERS GROUP, INC. a Washington corporation, its Manager

By: _____

Name: FRED GOAR

Title: ASST. M.P.

Approved as to form for the City of Wilsonville:

By: _____

As Its: _____

Arbor:

ARBOR VILLEBOIS, LLC

By: _____

Name: _____

Title: _____

West Hills:

WEST HILLS DEVELOPMENT COMPANY

By: _____

Name: _____

Title: _____

Villebois

VILLEBOIS, LLC

By: 

Name: W. REMBOLD

Title: MANAGER

Polygon:

POLYGON AT VILLEBOIS, L.L.C., a Washington limited liability company.

By: PNW HOME BUILDERS SOUTH, L.L.C.,
a Washington limited liability company, its
Manager

By: PNW HOME BUILDERS, L.L.C., a
Washington limited liability company, its
Sole Member

By: PNW HOME BUILDERS GROUP, INC. a
Washington corporation, its Manager

By: _____

Name: _____

Title: _____

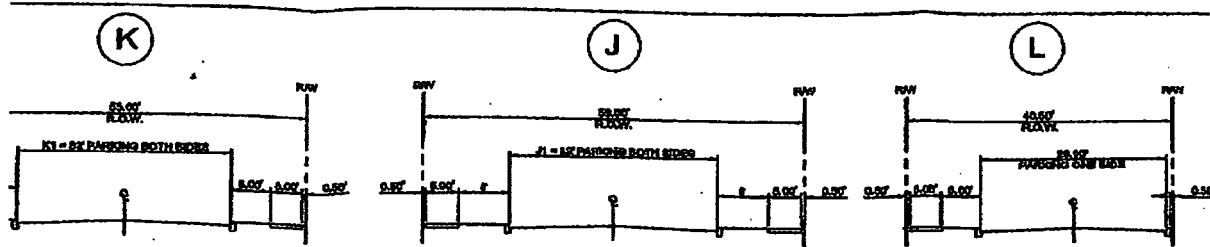
EXHIBIT A

Lot 3 of Villebois, a replat of Parcel 5 and a portion of Parcel 4 of Partition Plat No. 2005-063 located in the Northeast, Southeast, Southwest and Northwest one-quarters of Section 15, Township 3 South, Range 1 West, of the Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

AND

Parcel 1 of Partition Plat No. 2007-127 being a replat of Lot 1, Villebois Plat No. 4052, located in the Northeast and Northwest quarters of Section 15, Township 3 South, Range 1 West, of the Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

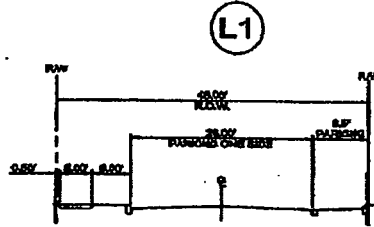
EXHIBIT B
 Attach map or other description of the Community Center Parcel



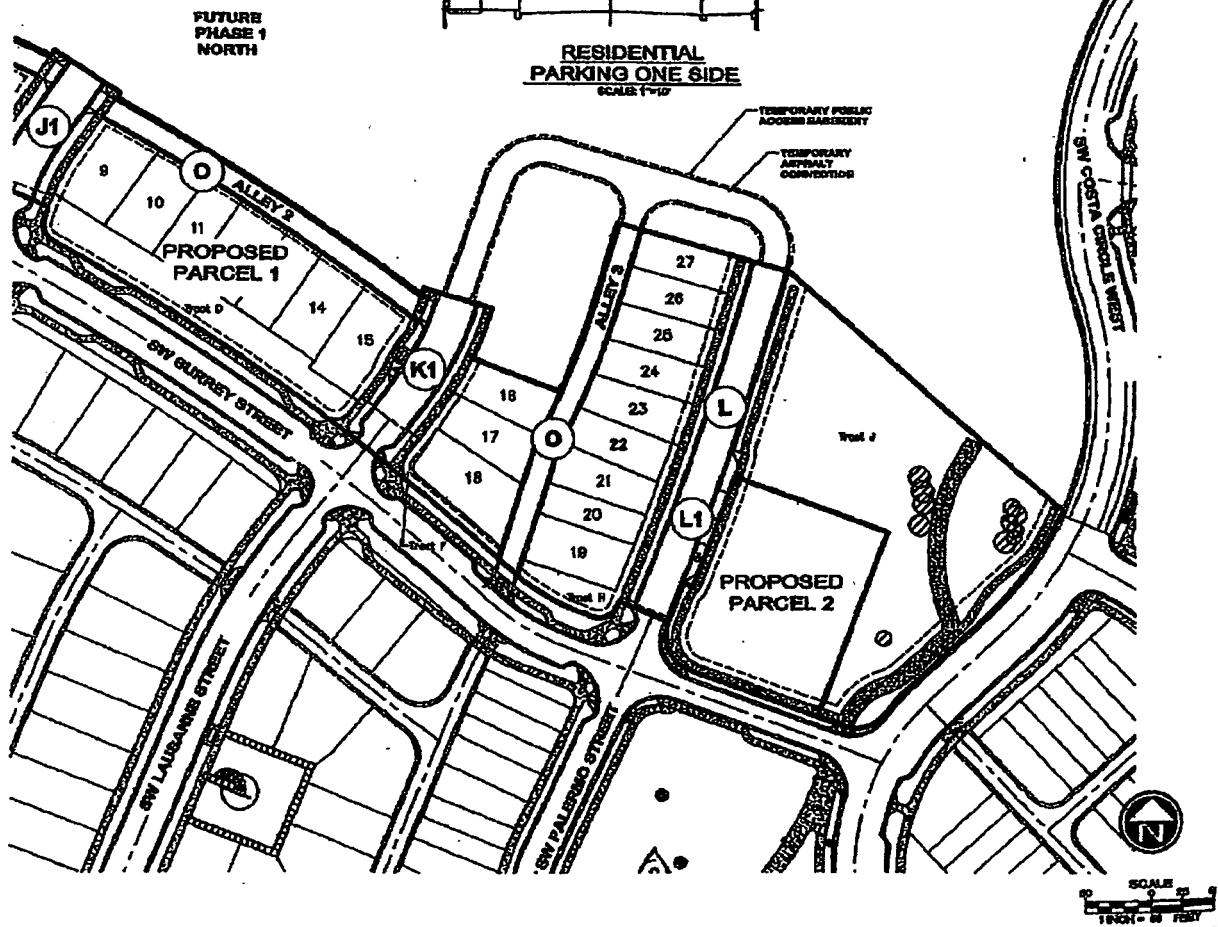
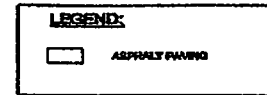
RESIDENTIAL - MINIMUM
 SCALE: 1"=10'

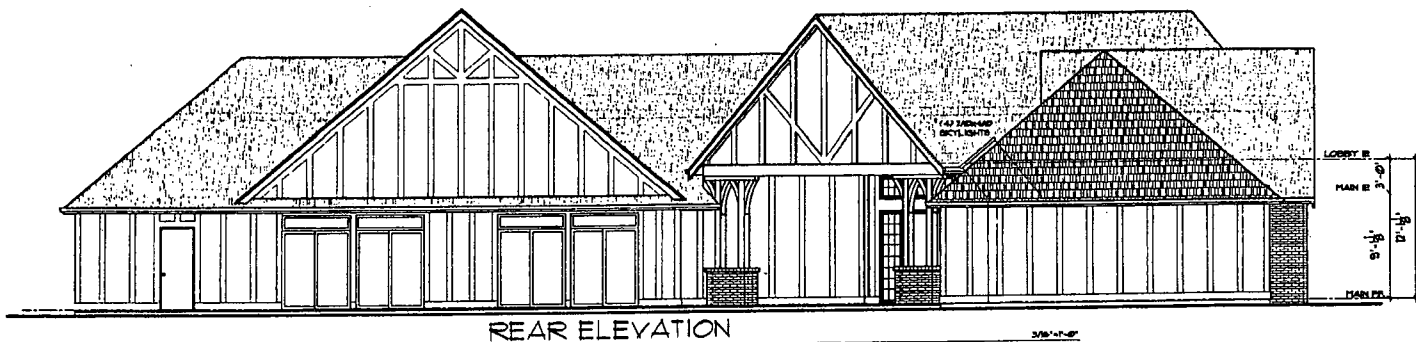
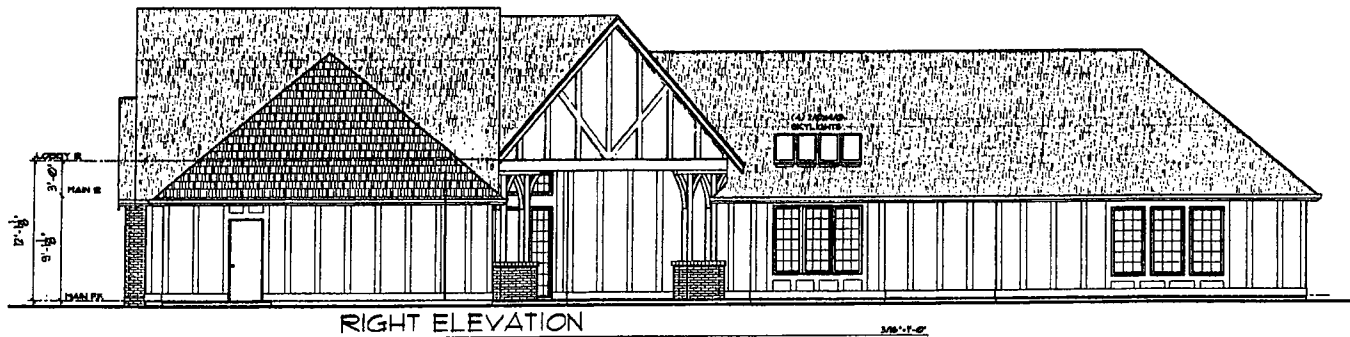
RESIDENTIAL - STANDARD
 SCALE: 1"=10'

**RESIDENTIAL
 PARKING ONE SIDE**
 SCALE: 1"=10'



**RESIDENTIAL
 PARKING ONE SIDE**
 SCALE: 1"=10'





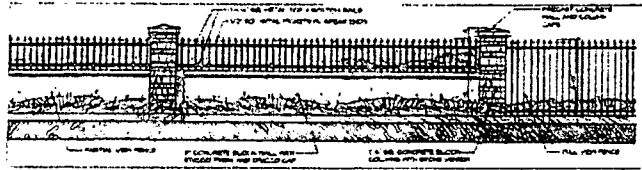
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**VILLEBOIS
SWIM CENTER**

CONDITIONED: 4,436 SQ FT
UN-CONDITIONED: 134 SQ FT
TOTAL: 4,570 SQ FT

NOTE:
FOR ALL STRUCTURAL
INFORMATION REFER
TO THE 'S' SHEETS

2



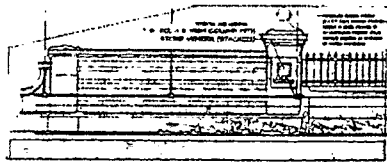
ELEVATION OF PARTIAL VIEW FENCE



NEIGHBORHOOD PARKS BENCH



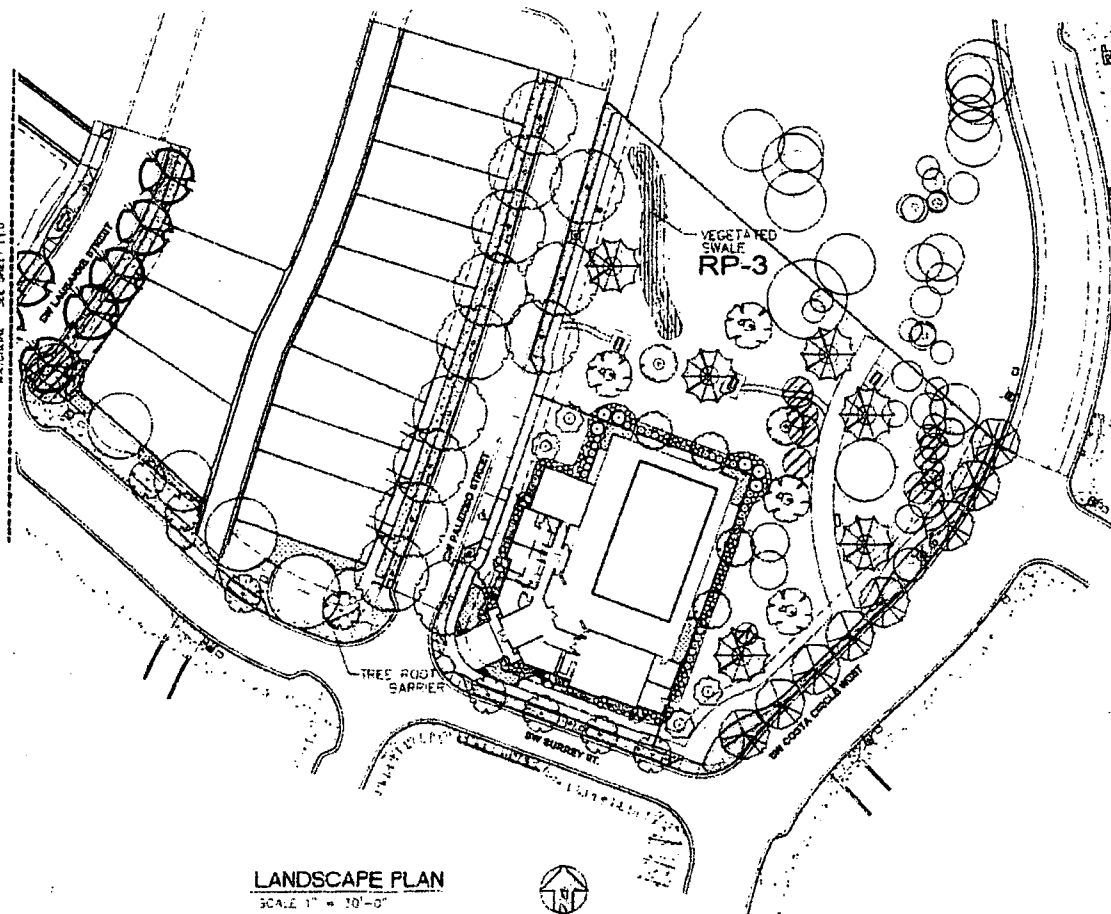
PICNIC TABLE



SECONDARY SITE IDENTIFIER

PLANT SYMBOLS AND SUGGESTED PLANT LIST FOR RP-3 PARK

SYMBOL	TYPE	EXAMPLES	DBH	SPACING
	Large Tree	White Oak Flowering Dogwood Live Oak	24" - 36"	10' x 10'
	Small to Medium Tree	Flowering Cherry Dogwood Crape Myrtle	12" - 24"	10' x 10'
	Star Tree	Star Magnolia Star Magnolia Star Magnolia	12" - 24"	10' x 10'
	Shrub	Japanese Maple Nandina Hydrangea	6" - 12"	5' x 5'
	Small Tree/Shrub	Japanese Maple Nandina Hydrangea	6" - 12"	5' x 5'
	Small Tree/Shrub	Japanese Maple Nandina Hydrangea	6" - 12"	5' x 5'
	Small Tree/Shrub	Japanese Maple Nandina Hydrangea	6" - 12"	5' x 5'
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	Small Tree/Shrub	Japanese Maple Nandina Hydrangea	6" - 12"	5' x 5'



LANDSCAPE PLAN
SCALE 1" = 30'-0"



POLYGON HW COMPANY
14150 COMBURY DR. S.W.
OTTAWA, ONTARIO, CANADA

TONQUIN WOODS

Villebois
Phase 5 South
Final
Development Plan

DATE: 02/20/11
REV: 02/20/11

L20



Villebois Club House

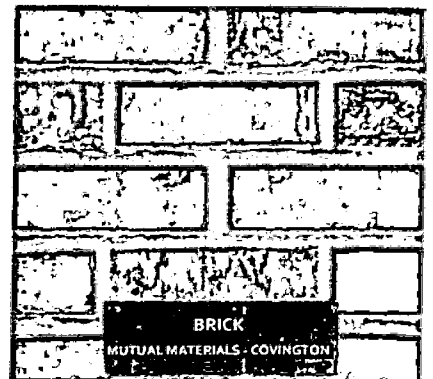
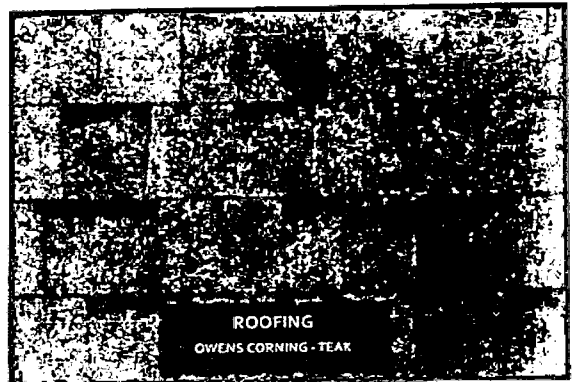
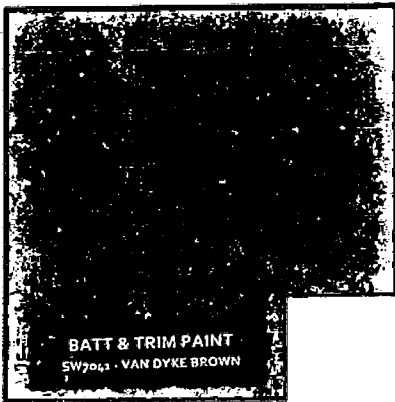


EXHIBIT D

Mark Robinson email dated July 1, 2011

1. Inclusion of both indoor and outdoor showers.
2. Need for ADA access at the doorways and an ADA pool lift.
3. As drawn the two exits for the community room are too close together to meet fire code so one should be moved. Residents also indicated a strong preference for some sliding doors out of the community room to allow for access to the outdoor patio area.
4. Understanding is that fencing around the Community Center will be included, consistent with original renderings, using materials consistent with the pattern book.
5. Request that front columns be lightened up a little by perhaps using timbers, in the old English style, instead of the heavy brick columns.
6. Confirmation that the front doors will be molded glass wood framed doors.