

ORDINANCE NO. 619

AN ORDINANCE OF THE CITY OF WILSONVILLE VACATING PORTIONS OF SW 110TH AVENUE NORTH AND SOUTH OF BARBER STREET WITHIN THE VILLEBOIS VILLAGE COMMUNITY, AND DECLARING AN EMERGENCY

WHEREAS, the Villebois Village Master Plan provides for the realignment of SW 110th Avenue, which results in portions of SW 110th, north and south of Barber Street, being no longer needed as public right of way; and

WHEREAS, Villebois Village, SAP-East/PDP 1 has been approved by the City and includes portions of SW 110th that are no longer necessary for public right of way; and

WHEREAS, the property owners adjacent to such portions of SW 110th have submitted a letter asking that the city Council initiate, as authorized by ORS 271.130, the vacation proceedings of those portions of SW 110th north and south of Barber Street, as more particularly described in Exhibits A-1 and A-2, and as illustrated on Exhibit B, attached hereto and incorporated herein; and

WHEREAS, given the request by adjoining property owners that the City council initiate the vacation of such portions of the SW 110th Avenue, notice has been provided of such intended vacation, in accordance with ORS 271.110, and calling for the formal hearing on the question of such vacation to be held on November 6, 2007 at 7 p.m. at City Hall, 29799 SW Town Center Loop East; and

WHEREAS, the City Council has adopted a Resolution, this date, initiating the vacation of those portions of SW 110th Avenue north and south of Barber Street described in Exhibits A-1 and A-2 and as illustrated in Exhibit B; and

WHEREAS, the formal public hearing on the question of such vacations was duly and regularly held at the time, date and location as advertised and no one appeared in person or otherwise to object to or to remonstrate against the request and proposed vacation, and thereafter the City Council concluded as follows:

1. The adjoining property owners requested the City initiate the vacation of those portions of SW 110th Avenue, as described in Exhibits A-1 and A-2 and as illustrated in Exhibit B.
2. The required notice of the request for vacation, as required by ORS 271.110, was given.
3. That the City Council has initiated the vacation of such portions of SW 110th Avenue by Resolution this date.
4. The public interest will be served by the proposed vacations and such street vacations are consistent with and furthers the City approvals for the development of Villebois Village.
5. All City liens and all taxes have been paid on the land which is to be vacated.
6. The vacations will not affect the abutting properties and no damages are payable.
7. The proposed use is consistent with the present use of the adjoining property, the use for the zone in which it is located and the City's development plan for the area.
8. That such vacations are subject to the reservation of easements for those utilities within the portions of SW 110th Avenue to be vacated, and as more particularly described in Exhibits C-1 and C-2, attached hereto and incorporated herein.
9. Further, that in consideration of the street vacations described herein, Matrix Development Corporation aka Matrix Development, owner of Villebois Village SAP-East/PDP-1, grants a temporary public use easement, as set forth in Exhibit D, attached hereto, allowing the traveling public to use certain streets in the Villebois Village, SAP-East/PDP-1, in lieu of those portions of SW 110th Avenue hereby vacated and until such time as SAP-East/PDP-1 is recorded and such streets are dedicated as public streets.
10. In order to maintain the public's health, safety, and welfare in the transition from the vacated portions of 110th Avenue to the realigned 110th Avenue, the adjoining property owners agree that the public use of the vacated portions of 110th Avenue may continue until such time as construction of the realignment of 110th Avenue begins or as the adjoining property owners and the City may otherwise agree. As long as the vacated portions of 110th Avenue are used by the public as a public

street during the transition period to a realigned 110th Avenue , the City shall indemnify the adjoining property owners from any and all claims by third parties arising out of the vacated portions of 110th being used as a public street during the transition period.

NOW THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. That the title to the area vacated, as described in Exhibits A-1 and A-2, as illustrated in Exhibit B, and subject to reservation of those easements shown in Exhibits C-1 and C-2, shall be attached to the land bordering on such area as provided by ORS 271.140.

Section 2. Further, that it is in the public interest that the vacation occur as soon as possible; therefore, an emergency is declared and the vacation set forth herein shall be effective immediately upon adoption of the Ordinance.

SUBMITTED to the Wilsonville City Council and read for the first and second time at a regular meeting thereof on the 6th day of November, 2006, at the hour of 7:00 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop E., Wilsonville, Oregon.



Sandra C. King, MMC, City Recorder

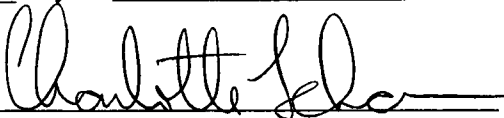
ENACTED by the City Council on the 6th day of November 2006, by the following votes:

YEAS:-5- NAYS: -0-



Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 7th day of November, 2006.



Charlotte Lehan, Mayor

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Council President Kirk	<u>Yes</u>
Councilor Holt	<u>Yes</u>
Councilor Knapp	<u>Yes</u>
Councilor Ripple	<u>Yes</u>

Attachments:

- Exhibit A-1 Legal Description North Vacation Parcel
- Exhibit A-2 Legal Description South Vacation Parcel
- Exhibit B Sketch to accompany legal description
- Exhibit C-1 Sketch of SW 110th Ave. Vacated ROW North Parcel
- Exhibit C-2 Sketch of SW 110th Ave. Vacated ROW South Parcel
- Exhibit D Temporary Public Access Easement



EXHIBIT "A" - I

LEGAL DESCRIPTION

JOB NO. 108-047

NORTH VACATION PARCEL

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

COMMENCING AT THE SOUTHEAST CORNER OF THE SAMUEL B. FRANKLIN DONATION CLAIM NO. 50; SAID POINT ALSO BEING A POINT ON THE CENTERLINE OF S.W. 110TH AVENUE (COUNTY ROAD 355); THENCE ALONG THE CENTERLINE OF SAID ROAD, NORTH 01°35'01" EAST, 32.50 FEET TO A POINT ON THE CENTERLINE OF SAID 110TH AVENUE; THENCE SOUTH 88°28'45" EAST, 20.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID ROAD; THENCE NORTH 01°35'01" EAST, 352.22 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 01°35'01" EAST, 230.02 FEET; THENCE LEAVING SAID LINE AND RUNNING ALONG THE ARC OF A 1238.00 FOOT NON-TANGENT CURVE CONCAVE NORTHWESTERLY 154.66 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF S.W. 110TH AVENUE, SAID CURVE HAVING A CENTRAL ANGLE OF 07°09'28", THE RADIUS POINT OF WHICH BEARS NORTH 76°59'48" WEST, AND A CHORD BEARING SOUTH 16°34'56" WEST, 154.56 FEET; THENCE ALONG SAID RIGHT-OF-WAY LINE SOUTH 01°35'01" WEST, 64.45 FEET; THENCE LEAVING SAID LINE AND RUNNING ALONG THE ARC OF A 43.00 FOOT RADIUS NON-TANGENT CURVE CONCAVE NORTHEASTERLY 32.01 FEET TO A POINT OF COMPOUND CURVATURE, SAID CURVE HAVING A CENTRAL ANGLE OF 42°39'24", THE RADIUS POINT OF WHICH BEARS NORTH 51°17'57" EAST, AND A CHORD BEARING SOUTH 60°01'45" EAST, 31.28 FEET; THENCE ALONG THE ARC OF A 554.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY 12.56 FEET TO THE POINT OF BEGINNING, SAID CURVE HAVING A CENTRAL ANGLE OF 01°17'57", THE RADIUS POINT OF WHICH BEARS NORTH 08°38'33" EAST, AND A CHORD BEARING SOUTH 82°00'25" EAST, 12.56 FEET.

CONTAINING APPROXIMATELY 5,776 SQUARE FEET OR 0.133 ACRES.

THE BASIS OF BEARINGS IS PER S.N. 2005-379, CLACKAMAS COUNTY SURVEY RECORDS.





EXHIBIT "A"- 2

LEGAL DESCRIPTION

JOB NO. 108-047

SOUTH VACATION PARCEL

A 40.00 FOOT WIDE TRACT OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 15 OF TOWNSHIP 3 SOUTH, RANGE 1 WEST, OF THE WILLAMETTE MERIDIAN, IN THE CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SAMUEL B. FRANKLIN DONATION CLAIM NO. 50; SAID POINT ALSO BEING A POINT ON THE CENTERLINE S.W. 110TH AVENUE (COUNTY ROAD 355); THENCE ALONG THE CENTERLINE OF SAID ROAD, NORTH 01°35'01" EAST, 32.50 FEET TO A POINT ON THE CENTERLINE OF SAID ROAD AND THE **TRUE POINT OF BEGINNING**; THENCE SOUTH 88°28'45" EAST, 20.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID ROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE NORTH 01°35'01" EAST, 264.26 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND RUNNING ALONG THE ARC OF A 83.00 FOOT NON-TANGENT CURVE CONCAVE SOUTHWESTERLY 41.06 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF S.W. 110TH AVENUE, SAID CURVE HAVING A CENTRAL ANGLE OF 28° 20'44", THE RADIUS POINT OF WHICH BEARS SOUTH 25° 58'33" WEST, AND A CHORD BEARING NORTH 78° 11'49" WEST, 40.65 FEET; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE SOUTH 01°35'01" WEST, 271.52 FEET; THENCE LEAVING SAID LINE SOUTH 88°28'45" EAST, 20.00 FEET TO THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 10,784 SQUARE FEET OR 0.248 ACRES.

THE BASIS OF BEARINGS IS PER S.N. 2005-379, CLACKAMAS COUNTY SURVEY RECORDS.

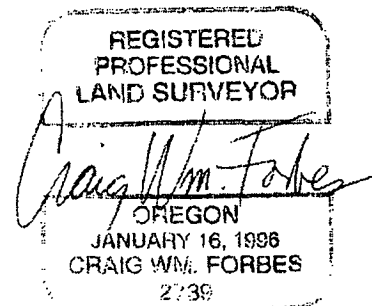
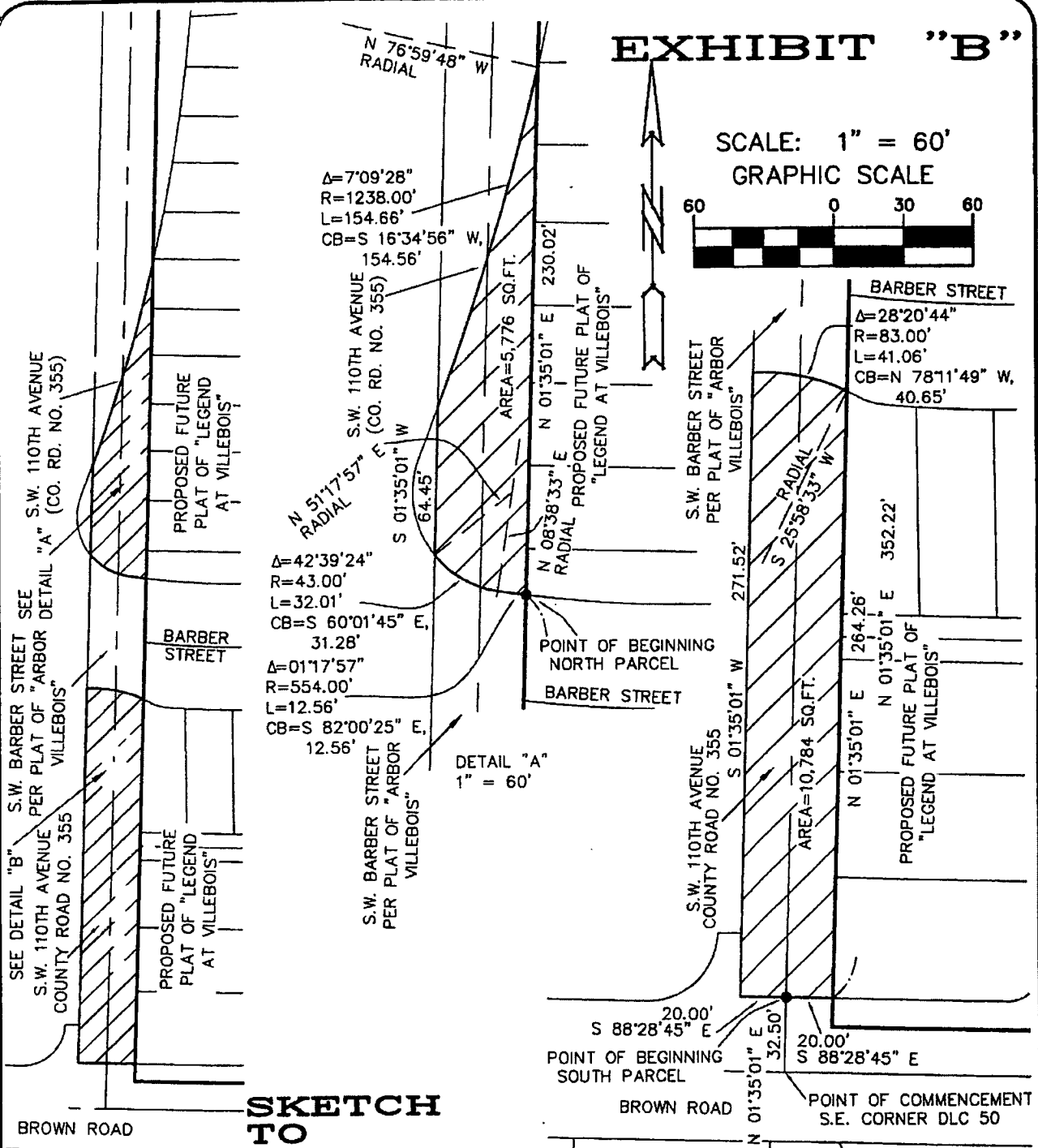
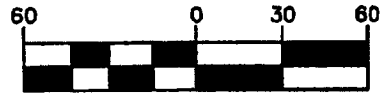


EXHIBIT "B"

SCALE: 1" = 60'
GRAPHIC SCALE



SKETCH TO ACCOMPANY LEGAL DESCRIPTION

SITE PLAN
1" = 100'

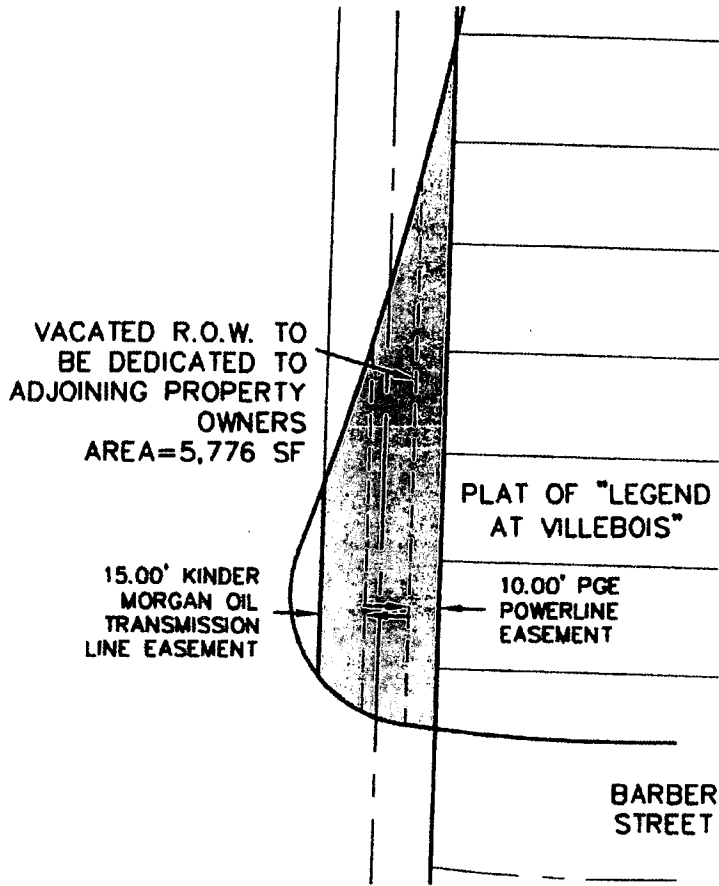
DETAIL "B"
1" = 60'

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DRAWN BY: RLMc DATE: 7-21-06
 REVIEWED BY: CWF DATE: 7-21-06
 PROJECT NO.: 108-047
 SCALE: AS SHOWN
108047VACATION.DWG



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NORTH PARCEL



SCALE: 1" = 60'
GRAPHIC SCALE



DRAWN BY: PRE DATE: 11-1-06

REVIEWED BY: _____ DATE: _____

PROJECT NO.: 108-047

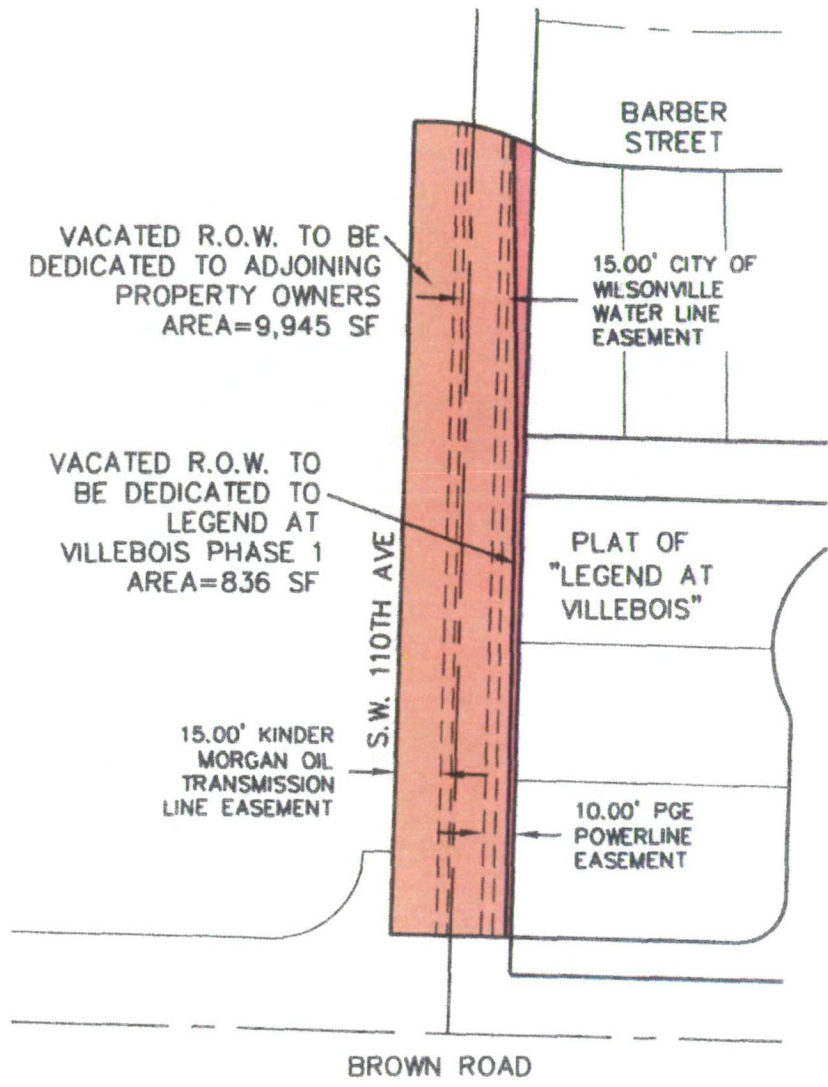
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EXHIBIT C-1

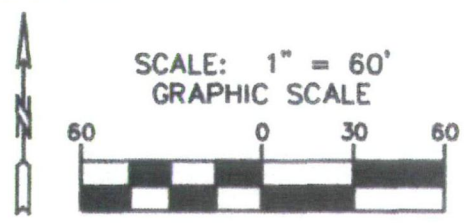
**SW 110TH AVE. VACATED R.O.W.
NORTH PARCEL**



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SOUTH PARCEL



DRAWN BY: PRE DATE: 11-1-06
 REVIEWED BY: _____ DATE: _____
 PROJECT NO.: 108-047
 SCALE: 1"=60'

EXHIBIT C-2
SW 110TH AVE. VACATED R.O.W.
SOUTH PARCEL

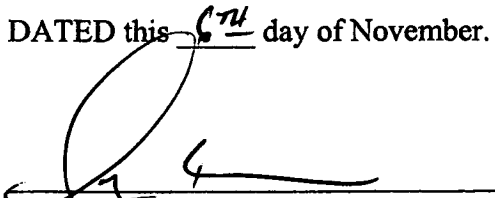


EXHIBIT D

TEMPORARY PUBLIC ACCESS EASEMENT

Matrix Development Corporation, an Oregon corporation (herein "MDC"), is owner of that portion of the Villebois Village SAP-East/ PDP-1, also known as "Legend at Villebois". The Legend at Villebois includes streets, as shown in Exhibit 1, attached hereto and incorporated herein, that provide vehicular alternate access routing for those portions of SW 110th Avenue vacated by City of Wilsonville Ordinance No. 619. It is anticipated that the final plat for Legend at Villebois will be recorded in the near future, providing for the dedication to the City of Wilsonville of the alternate route streets shown on Exhibit 1. MDC hereby grants to the City of Wilsonville a temporary public access easement over and across those streets within the Legend at Villebois, as shown on Exhibit 1 as the alternate route for SW 110th Avenue vacated street, for use by the vehicular traveling public until such time as such streets are dedicated to the City of Wilsonville. It is understood that such temporary use will be subject to City of Wilsonville and State traffic laws. It is understood and agreed that the traveling public use of the alternate route streets shall be at their own risk and that by granting this Temporary Public Access Easement, MDC, its subsidiaries, contractors, agents, officers and employees do not assume any liability beyond injury or damage resulting from the direct and affirmative actions of MDC, its subsidiaries, contractors, agents, officers and employees. This Temporary Public Access Easement shall automatically expire upon the recording of the Legend at Villebois plat.

DATED this 6th day of November, 2006.



Craig Brown, Vice President
Matrix Development Corporation

LEGEND AT VILLEBOIS

LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 14 AND THE SOUTHEAST ONE-QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 1 WEST, OF THE WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON

DATE OF MONUMENTATION: ALPHA COMMUNITY DEVELOPMENT
 6900 S.W. OAK PLAZA WEST, SUITE 130
 PORTLAND, OREGON 97223
 (503) 452-8023 JOB NO. 0108-0047

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 28, 1988
 MICHAEL R. GATES
 2428

NARRATIVE

1. THE PURPOSE OF THIS PLAN IS TO SUBDIVIDE THE PROPERTY DESCRIBED IN DOCUMENT NO. 2008-03614.

2. THE BASIS OF BEARINGS IS, FOR THE SURVEY FIELD AS SURVEY NUMBER 2008-378, CLACKAMAS COUNTY SURVEY RECORDS, ALONG THE NORTH RIGHT-OF-WAY LINE OF BROWN ROAD BETWEEN FOUND MONUMENTS AS SHOWN AND NOTED AS NORTH 89°28'48" WEST.

3. THE SOUTH, WEST AND A PORTION OF THE NORTH BOUNDARY ARE PER SURVEY NO. 2008-378, THAT PORTION OF THE NORTH BOUNDARY ADJOINING PROPERTY DESCRIBED IN DOCUMENT NO. 2008-03614 IS PER DOCUMENT NO. 2008-03614 AND DOCUMENT NO. 2008-03614.

LEGEND

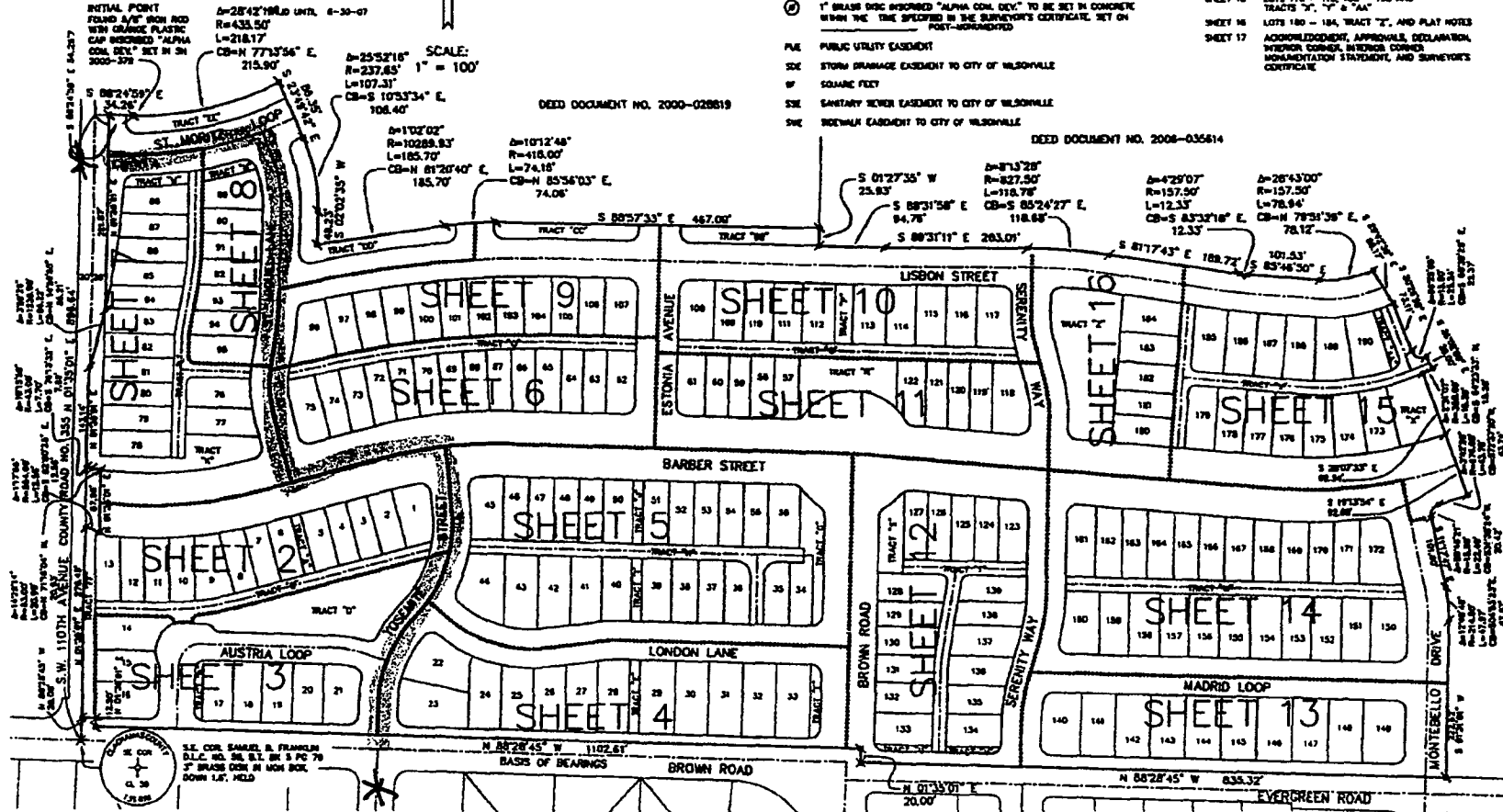
- ▲ FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "PANS & ASSOC. JULY 2008" SET IN PG 22077
- ✕ FOUND 5/8" IRON ROD NO CAP UNLESS NOTED OTHERWISE
- ✱ FOUND 5/8" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "ALPHA COAL DEV." SET IN SN 2008-378
- ✱ SET 5/8" x .30" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "ALPHA COAL DEV."
- 5/8" x .30" IRON ROD WITH ORANGE PLASTIC CAP INSCRIBED "ALPHA COAL DEV." TO BE SET WITHIN THE TIME SPECIFIED IN THE SURVEYOR'S CERTIFICATE, SET ON POST-MONUMENTED
- 5/8" x .30" IRON ROD WITH ALUMINUM CAP INSCRIBED "ALPHA COAL DEV." TO BE SET IN STREET WITHIN THE TIME SPECIFIED IN THE SURVEYOR'S CERTIFICATE, SET ON POST-MONUMENTED
- ⊙ 5/8" x .30" IRON ROD WITH ALUMINUM CAP INSCRIBED "ALPHA COAL DEV." TO BE SET IN STREET WITHIN THE TIME SPECIFIED IN THE SURVEYOR'S CERTIFICATE, SET ON POST-MONUMENTED
- ⊙ 1" BRASS DISC INSCRIBED "ALPHA COAL DEV." TO BE SET IN CONCRETE WITHIN THE TIME SPECIFIED IN THE SURVEYOR'S CERTIFICATE, SET ON POST-MONUMENTED
- PUE PUBLIC UTILITY EASEMENT
- SDE STORM DRAINAGE EASEMENT TO CITY OF WILSONVILLE
- WF SQUARE FEET
- SSE SANITARY SEWER EASEMENT TO CITY OF WILSONVILLE
- SWE SIDEWALK EASEMENT TO CITY OF WILSONVILLE

RECORDED AS DOCUMENT NO. _____

SHEET INDEX

SHEET 1	PLAT BOUNDARY, NARRATIVE, NOTES, AND SHEET INDEX
SHEET 2	LOTS 1 - 13 AND TRACTS "A", "C", & "H"
SHEET 3	LOTS 14 - 21 AND TRACTS "B" & "I"
SHEET 4	LOTS 22 - 33 AND TRACTS "E" & "J"
SHEET 5	LOTS 34 - 36 AND TRACTS "G" - "J"
SHEET 6	LOTS 62 - 75 AND TRACT "O"
SHEET 7	LOTS 76 - 88 AND TRACTS "K" - "M"
SHEET 8	LOTS 89 - 95 AND TRACTS "N", "OO" & "EE"
SHEET 9	LOTS 96 - 107 AND TRACT "CC"
SHEET 10	LOTS 108 - 117 AND TRACTS "Q" & "BB"
SHEET 11	LOTS 57 - 61, 118 - 122 AND TRACT "R"
SHEET 12	LOTS 123 - 138 AND TRACTS "S" - "V"
SHEET 13	LOTS 140 - 149
SHEET 14	LOTS 150 - 172 AND TRACT "W"
SHEET 15	LOTS 173 - 178, 183 - 186 AND TRACTS "X", "Y" & "AA"
SHEET 16	LOTS 180 - 184, TRACT "Z", AND PLAT NOTES
SHEET 17	ACKNOWLEDGMENT, APPROVALS, DECLARATION, INTERIOR CORNER, INTERIOR CORNER MONUMENTATION STATEMENT, AND SURVEYOR'S CERTIFICATE

Exhibit 1



* high lighted streets are alternate route for S.W. 110th Ave.
 in alternate street sections