



**CORVALLIS
CITY COUNCIL AGENDA**

*** SPECIAL MEETING ***

**June 11, 2007
7:30 pm**

**Downtown Fire Station
400 NW Harrison Boulevard**

COUNCIL ACTION

I. ROLL CALL

II. PUBLIC HEARINGS

- A. A public hearing to consider a vacation request (MIS06-00045 – Circle Boulevard Right-of-Way)

ACTION: An ordinance relating to the vacation of a portion of the public right-of-way for NW Circle Boulevard, between NW Dale Drive and NW Harrison Boulevard, all located in the City of Corvallis, and declaring an emergency, to be read by the City Attorney

III. ADJOURNMENT

For the hearing impaired, a sign language interpreter can be provided with 48 hours' notice prior to the meeting. Please call 766-6901 or TTD/TDD telephone 766-6477 to arrange for such service.

A LARGE PRINT AGENDA CAN BE AVAILABLE BY CALLING 766-6901

A Community that Honors Diversity

MEMORANDUM

TO: Mayor and City Council
FROM: Steve Rogers, Public Works Director 
DATE: June 1, 2007
SUBJECT: MIS06-00045, Vacation of NW Circle Boulevard

ISSUE

On December 19, 2006, Matrix Development and Legend Homes petitioned the City of Corvallis to vacate approximately 143,742 square feet of public right-of-way (ROW) on NW Circle Boulevard, between NW Dale Drive and NW Harrison Boulevard.

BACKGROUND

This ROW vacation request is made in coordination with the Witham Oaks land use applications PLD06-00012 and SUB06-00005. The ROW vacation application, including required letters of consent from abutting and affected area property owners, is included as Attachment A. A legal description and a graphic illustrating the right-of-way proposed to be vacated is included in Attachment A, Exhibits A and B, respectively. Copies of testimony are included in Attachment B.

On May 21, 2007, the City Council held a meeting to schedule a public hearing for the proposed street vacation. The public hearing was scheduled for June 11, 2007 to consider the request.

City of Corvallis Land Development Code Section 2.8.30.06 states that a vacation may be approved if the City Council finds that the request:

- 1) Is consistent with the purposes of Chapter 2.8, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council;
- 2) Will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, or public facilities/utilities;
- 3) Will not have a negative effect on traffic circulation or emergency service protection; and
- 4) Will serve the public interest, present and future.

PETITIONER DISCUSSION SUMMARY

The petitioner has cited policies and conditions supporting their request. These are discussed in detail within Attachment A. In summary, the petitioner cites the following items in support of the vacation: (1) consistency with Comprehensive Plan policies which call for preservation of open space areas, significant drainageways, minimizing impacts to resources such as wetlands, and safe and convenient pedestrian and bicycle access; (2) no negative impacts on public access or public facilities/utilities, traffic circulation, or emergency service protection; and (3) serving the public interest in the present and future by protection of the wetlands and maintaining the multi-use path connection from Harrison Boulevard north.

STAFF DISCUSSION

The proposed partial ROW vacation would bring the vacated area into possessive continuity with the larger PD OS-AG zone district wetland tract. The Witham Oaks tentative subdivision plat shows realignment of Circle Boulevard to the east edge of the site. This realigned location was selected to minimize impacts to wetlands based on City of Corvallis Comprehensive Plan policies and Land Development Code criteria. If approved, the Witham Oaks final plat would dedicate new ROW to accommodate the realigned NW Circle Boulevard.

The proposed ROW vacation request includes retaining a 30-foot wide ROW strip along the east side of the current ROW to accommodate the presence of an existing multi-use path and sanitary sewer.

The partial retention and dedication of new ROW ensures that the proposed ROW vacation will not have a negative effect on traffic circulation or emergency service protection.

Testimony was received during the Witham Oaks land use application process from the Beit Am Jewish Community and the Church of Latter-Day Saints regarding the proximity of the proposed realigned Circle Boulevard to their existing driveway locations on NW Harrison Boulevard. The final location of any realignment of NW Circle Boulevard will be determined through the Witham Oaks land use process. The land use process will consider whether the proposed NW Circle Boulevard realignment will cause negative effects on access between public rights-of-way or to existing properties, potential lots, or public facilities/utilities and whether the proposed realignment will serve the public interest, present and future.

CONCLUSION

Staff conclude that, based on establishing new NW Circle Boulevard ROW through the Witham Oaks land use application process, the applicable Land Development Code ROW criteria are met for the proposed ROW vacation.

RECOMMENDATION

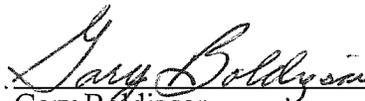
Staff recommends that City Council adopt an Ordinance, included in Attachment C, which vacates the requested ROW contingent upon recording of a final plat dedicating new NW Circle Boulevard ROW consistent with final approvals for Witham Oaks land use applications PLD06-00012 and SUB06-00005.

Review and Concur,



Scott A. Fewel
City Attorney

6/1/07
Date



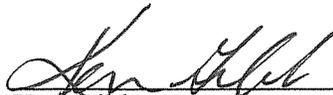
Gary Boldizar
Police Chief

6/5/07
Date



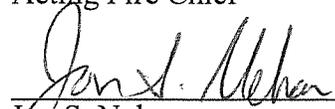
Roy Emery
Acting Fire Chief

5 June 07
Date



Ken Gibb
Community Development Director

6/5/07
Date



Jon S. Nelson
City Manager

6/6/07
Date

Attachments

ATTACHMENT “A”

Vacation Application and Letters of Consent

RIGHT-OF-WAY VACATION

Note: Review and approval of the Detailed Development Plan must occur prior to, but is contingent upon, Approval of the Right of Way vacation. We have packaged our request for the Right of Way Vacation as supplementary information in support of the site plan and application for the Detailed Development Plan.

Request: We are requesting approval of a Right-of-way Vacation for the existing Circle Boulevard to avoid and reduce impacts to the locally significant wetlands on site. Please refer to Exhibit 8.0 for a graphic representation of the area to be vacated and re-established.

Section 2.8.20 - PURPOSES

The procedures and review criteria established in this chapter are used for vacating public lands and plats for the following purposes:

- a. Permit vacation of public lands not needed for municipal purposes where it is consistent with the community land use policies and goals; or*
- b. Permit private ownership of public land where the proposed use of the lands promotes the public welfare; and*
- c. Permit vacating of all or part of undeveloped plats.*

2.8.30.02 - Application Requirements

- a. Applications submitted by property owners shall be made on forms provided by the Director and be accompanied by a map of the area proposed to be vacated and such other information as may be necessary for an adequate review of a petition.*
- b. At the time the application to vacate public land is submitted, the person(s) filing the application shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with ORS 271.080, affected property owners shall be defined as follows:
 - 1. All abutting property owners, and*
 - 2. Owners of not less than two-thirds in area of the real property affected thereby.**

2.8.30.06 - Review Criteria

A vacation may be approved if the City Council finds that the request:

- a. Is consistent with the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council;*
- b. Will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, or public facilities/utilities;*
- c. Will not have a negative effect on traffic circulation or emergency service protection; and*
- d. Will serve the public interest, present and future.*

PROPOSED FINDING: The proposed vacation involves the full length of Circle Boulevard right of way as it crosses through our property. We have proposed the full vacation for precision and ease of surveying. As currently aligned, the city's right-of-way begins in the northeast corner of the site and traverses in a southwesterly direction across and down through the site, and through the middle of the identified locally significant wetland system that exists in the southern portion of the site. The vacation is necessary to allow for a beneficial realignment of the proposed Circle Boulevard extension from its current terminus to Harrison Boulevard. The realignment shifts the lower portion of the right-of-way to the east along the property boundary, thereby avoiding the majority of the wetlands at the south end of the site. The realignment

Exhibit II - 251

significantly reduces the potential impacts to the wetlands and the potential 50 foot safe harbor buffer as follows:

	Existing ROW alignment:	Proposed ROW alignment	Net Reduction of Impacts
Impacts to Wetlands	140,996 sq ft	86,614 sq ft	54,382 sq ft (1.25 acres)
Impacts to Buffer	158,137 sq ft	121,796	36,341 (.83 acres)

A sanitary sewer line and 12-foot multi-use path is located within the existing right-of-way. The sanitary sewer line and path will remain in their current locations in the area proposed to be vacated up to where Street A intersects with Circle Boulevard. We propose placing a public access easement over the path for public access and City maintenance purposes. The proposed right-of-way vacation maintains public recreational and city maintenance access to the multi-use path and underlying sanitary sewer line, respectively. Leaving the current right-of-way as is maintains the possibility for future use of that area. This is not necessary. The only necessary element to these facilities is an easement granted to the public and the City of Corvallis for a width of 20 feet (12 + 4 feet on either side).

The proposed vacation is consistent with the purposes and review criteria of Chapter 2.8 because it:

- proposes a public access easement for use of the multi use path and maintenance access to sanitary sewer line;
- is consistent with Comprehensive Plan policies 4.10.3, 4.10.9, 4.11.12, 4.13.4 and 11.2.1 which call for preservation of open space areas, significant drainage ways and minimizing impacts to resources. Additionally, the proposed vacation is consistent with Comprehensive Plan Policies 11.5.12, 11.6.4, 11.6.6. and 11.6.7 which call for convenient and safe pedestrian and bicycle access;
- will not have a negative impacts on public access or public facilities/utilities;
- will not have a negative impact on traffic circulation or emergency service protection; and
- will serve the public interest in the present and future by protection of the wetlands and maintaining the through multiuse path connection from Harrison Boulevard for connection to the north. Where it adjoins Circle Boulevard.

EXHIBIT 'A'
N.W. CIRCLE BOULEVARD RIGHT-OF-WAY VACATION
DESCRIPTION
May 24, 2007

A strip of land, of varying width, in the southeast one-quarter of Section 28 and the northeast one-quarter of Section 33, Township 11 South, Range 5 West, Willamette Meridian, City of Corvallis, Benton County, Oregon, and the centerline of said strip being described as follows:

Beginning at the intersection of the centerline of the N.W. Circle Boulevard dedication recorded July 18, 1963 in Book 187, Page 209, Benton County Deed Records, with the northerly right-of-way line of N.W. Harrison Street, County Road 15050, which point bears N.83°30'37"W., 170.75 feet from a 3 1/4-inch brass cap at the northwest corner of the F.A.. Horning DLC 53, Benton County Corner Restoration 115853050R2; thence tracing said N.W. Circle Boulevard centerline along the following courses: N.00°28'47"W., 47.20 feet to the point of curve right of a 1432.40-foot radius curve; along the arc of said curve right through a central angle of 32°53'04", 822.11 feet (chord bears N.15°57'45"E., 810.88 feet); N.32°24'17"E., 754.26 feet to a point herein defined as Point 'A'; continuing N.32°24'17"E., 58.12 feet to the point of curve left of a 1432.40 foot radius curve; along the arc of said curve left through a central angle of 20°26'12", 510.92 feet (chord bears N.22°11'11"E., 508.21 feet); and N.11°58'05"E., 207.11 feet to the terminus of this strip;

The sidelines of this strip shall be lengthened or shortened as necessary to meet the northerly right-of-way line of said N.W. Harrison Street, County Road 15050;

The above described strip shall be 40.00 feet left and 10.00 feet right from its Point of Beginning to the above described Point 'A', and 40.00 feet left and 40.00 feet right from the above described Point 'A' to its terminus.

The Basis of Bearings for this description is Partition Plat 2001-30, Benton County Plat Records.

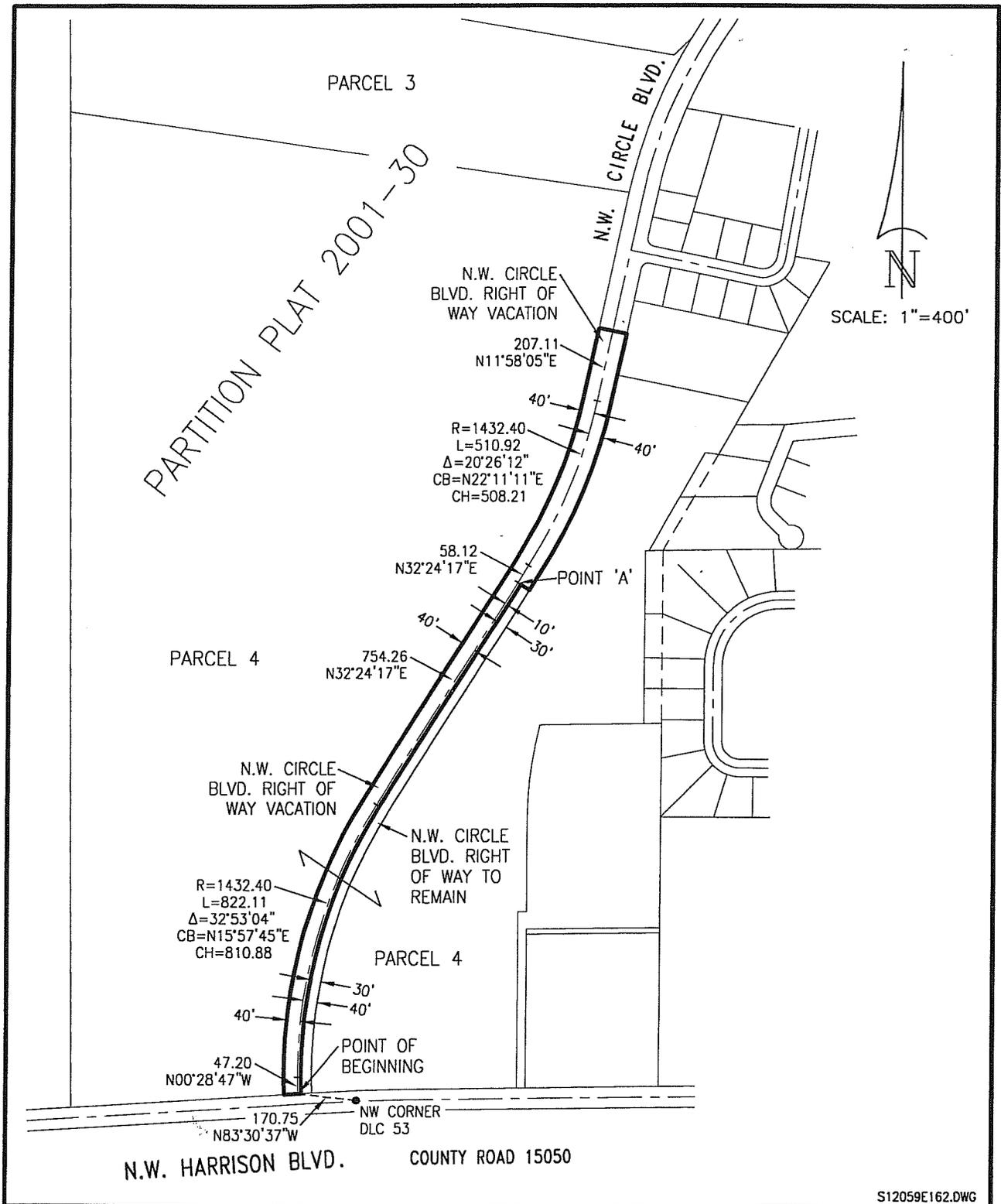


EXHIBIT 'B'
N.W. CIRCLE BOULEVARD VACATION
WITHAM HILL
CITY OF CORVALLIS
BENTON COUNTY, OREGON
MAY 24, 2007

otak
 incorporated

surveyors
 engineers
 planners

17355 S.W. BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 (503)635-3618 FAX (503)635-5395

CONSENT TO VACATE RIGHT-OF-WAY

I/ We do hereby agree to vacate portions of the Circle Blvd right-of-way as described in Exhibit A.

The vacation is necessary to allow for the most appropriate alignment of the Circle Blvd extension from its current terminus on Witham Hill to Harrison Blvd to the south.



Matrix Development

8-28-06

Date

CONSENT TO VACATE RIGHT-OF-WAY

I/~~We~~ do hereby agree to vacate portions of the Circle Blvd right-of-way as described in Exhibit A.

The vacation is necessary to allow for the most appropriate alignment of the Circle Blvd extension from its current terminus on Witham Hill to Harrison Blvd to the south.

Gloria M. Chavez
Owner

3/1/2006
Date

Owner

Date



February 6, 2006

Dear Patsy Linder,

As you may know, the city currently has right-of-way through the 96+ acre site now referenced as Witham Oaks, near your property. This right-of-way currently goes through the middle of the wetlands at the south end of the site and then extends up toward the north east where it connects to the currently terminated Circle Blvd constructed street.

We are proposing to move the location of Circle Blvd right-of-way further to the east to avoid the wetlands at the south end. As such, we need to vacate the right-of-way and reestablish new right-of-way. Per the City's code, we need property owner consent from owners representing 2/3 of the affected area. The city considers affected area 400 lineal feet beyond the right-of-way or 200 horizontal feet beyond the right-of-way. Your property is within the affected area.

I am hoping you are willing to consent to this right-of-way vacation. I am enclosing a consent form with an exhibit that shows the proposed change and a self-addressed stamp envelope. I am hoping to receive the consent forms back by Feb. 17th.

If you have any questions, please feel free to call me at 754.7235.

Sincerely,

Terri Valiant
Pahlisch Homes

I did not receive the consent form, but I do want this vacate the right-of-way. Please use this as my consent to the proposed change.
Patsy Linder
2-20-06

A

CONSENT TO VACATION OF RIGHT-OF-WAY

As a property owner within 400 lateral feet of the existing Circle Boulevard right-of-way described in Exhibit A, the State of Oregon acting by and through the State Board of Higher Education on behalf of Oregon State University consents to vacation of the portions of the Circle Blvd right-of-way as described in Exhibit A.

Brian Thomas

Date

2/24/06

STATE OF OREGON ACTING BY AND THROUGH
THE STATE BOARD OF HIGHER EDUCATION
ON BEHALF OF OREGON STATE UNIVERSITY

CONSENT TO VACATE RIGHT-OF-WAY

WAS

I ~~do~~ do hereby agree to vacate portions of the Circle Blvd right-of-way as described in Exhibit A.

The vacation is necessary to allow for the most appropriate alignment of the Circle Blvd extension from its current terminus on Witham Hill to Harrison Blvd to the south.

Tatiana K. Hichol
Owner

14 Feb. 2006
Date

Owner

Date

CONSENT TO VACATE RIGHT-OF-WAY

I/We do hereby agree to vacate portions of the Circle Blvd right-of-way as described in Exhibit A.

The vacation is necessary to allow for the most appropriate alignment of the Circle Blvd extension from its current terminus on Witham Hill to Harrison Blvd to the south.

James E. French
Owner

2-16-06
Date

Christine French
Owner

2-16-06
Date

ATTACHMENT "B"

Public Testimony Received By

June 6, 2007

* NONE RECEIVED

ATTACHMENT “C”

Vacation Ordinance

ORDINANCE 2007-___

AN ORDINANCE VACATING A PORTION OF NW CIRCLE BOULEVARD, AS DESCRIBED IN THIS ORDINANCE, ALL AS LOCATED WITHIN THE CITY OF CORVALLIS, OREGON; AND DECLARING AN EMERGENCY.

WHEREAS, on December 19, 2006, Matrix Development and Legend Homes submitted a petition to vacate a portion of NW Circle Boulevard right-of-way and have submitted the necessary letters of consent from abutting and affected property owners.

WHEREAS, at the regular meeting of May 21, 2007, the City Council of the City of Corvallis fixed June 11, 2007, at 7:30 p.m., in the Downtown Fire Station Meeting Room, 400 NW Harrison Boulevard, Corvallis, Oregon, as the date, time and place for the Council to hold a public hearing. The purpose of the hearing was to hear objections regarding the proposed vacation. Proof of publication of notice has been made with the City Recorder showing publication of notice in the Corvallis Gazette-Times, a newspaper of general circulation published in Corvallis, on May 28, 2007 and June 4, 2007.

WHEREAS, the proposed vacation is to be coordinated with dedication of new right-of-way to accommodate a realigned location of NW Circle Boulevard consistent with approval of the Witham Oaks land use applications PLD06-00012 and SUB06-00005.

WHEREAS, the City Council has held that public hearing and has heard and considered any and all objections.

WHEREAS, based upon the information presented, the Council finds that the request to vacate the portion of NW Circle Boulevard:

- 1) Is consistent with the purposes of Land Development Code Chapter 2.8, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council;
- 2) Will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, or public facilities/utilities;
- 3) Will not have a negative effect on traffic circulation or emergency service protection; and,
- 4) Will serve the public interest, present and future.

NOW THEREFORE, THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

1) That portion of NW Circle Boulevard described in Exhibit "A" and illustrated in Exhibit "B" is vacated and the described portion of street from the effective date of this ordinance is no longer a public way except as provided herein.

2) A certified copy of this vacation ordinance will be filed for record with the County Recorder, by the City, consistent with requirements outlined in Land Development Code Section 2.8.40, concurrent with recording of a final plat dedicating new right-of-way necessary to accommodate a realigned location for NW Circle Boulevard consistent with approval of the Witham Oaks land use applications PLD06-00012 and SUB06-00005.

3) The general welfare of the public will be promoted if this ordinance takes effect immediately upon the date a certified copy of this vacation ordinance is recorded with the County Recorder. Therefore, an emergency is declared and this ordinance shall take effect immediately upon its passage by the City Council, its approval by the Mayor, and its filing for record with the County Recorder as specified herein.

PASSED by the Council this _____ day of _____, 2007.

APPROVED by the Mayor this _____ day of _____, 2007.

Effective this _____ day of _____, 2007.

_____ Mayor

ATTEST:

City Recorder

EXHIBIT 'A'
N.W. CIRCLE BOULEVARD RIGHT-OF-WAY VACATION
DESCRIPTION
May 24, 2007

A strip of land, of varying width, in the southeast one-quarter of Section 28 and the northeast one-quarter of Section 33, Township 11 South, Range 5 West, Willamette Meridian, City of Corvallis, Benton County, Oregon, and the centerline of said strip being described as follows:

Beginning at the intersection of the centerline of the N.W. Circle Boulevard dedication recorded July 18, 1963 in Book 187, Page 209, Benton County Deed Records, with the northerly right-of-way line of N.W. Harrison Street, County Road 15050, which point bears N.83°30'37"W., 170.75 feet from a 3 1/4-inch brass cap at the northwest corner of the F.A.. Horning DLC 53, Benton County Corner Restoration 115853050R2; thence tracing said N.W. Circle Boulevard centerline along the following courses: N.00°28'47"W., 47.20 feet to the point of curve right of a 1432.40-foot radius curve; along the arc of said curve right through a central angle of 32°53'04", 822.11 feet (chord bears N.15°57'45"E., 810.88 feet); N.32°24'17"E., 754.26 feet to a point herein defined as Point 'A'; continuing N.32°24'17"E., 58.12 feet to the point of curve left of a 1432.40 foot radius curve; along the arc of said curve left through a central angle of 20°26'12", 510.92 feet (chord bears N.22°11'11"E., 508.21 feet); and N.11°58'05"E., 207.11 feet to the terminus of this strip;

The sidelines of this strip shall be lengthened or shortened as necessary to meet the northerly right-of-way line of said N.W. Harrison Street, County Road 15050;

The above described strip shall be 40.00 feet left and 10.00 feet right from its Point of Beginning to the above described Point 'A', and 40.00 feet left and 40.00 feet right from the above described Point 'A' to its terminus.

The Basis of Bearings for this description is Partition Plat 2001-30, Benton County Plat Records.

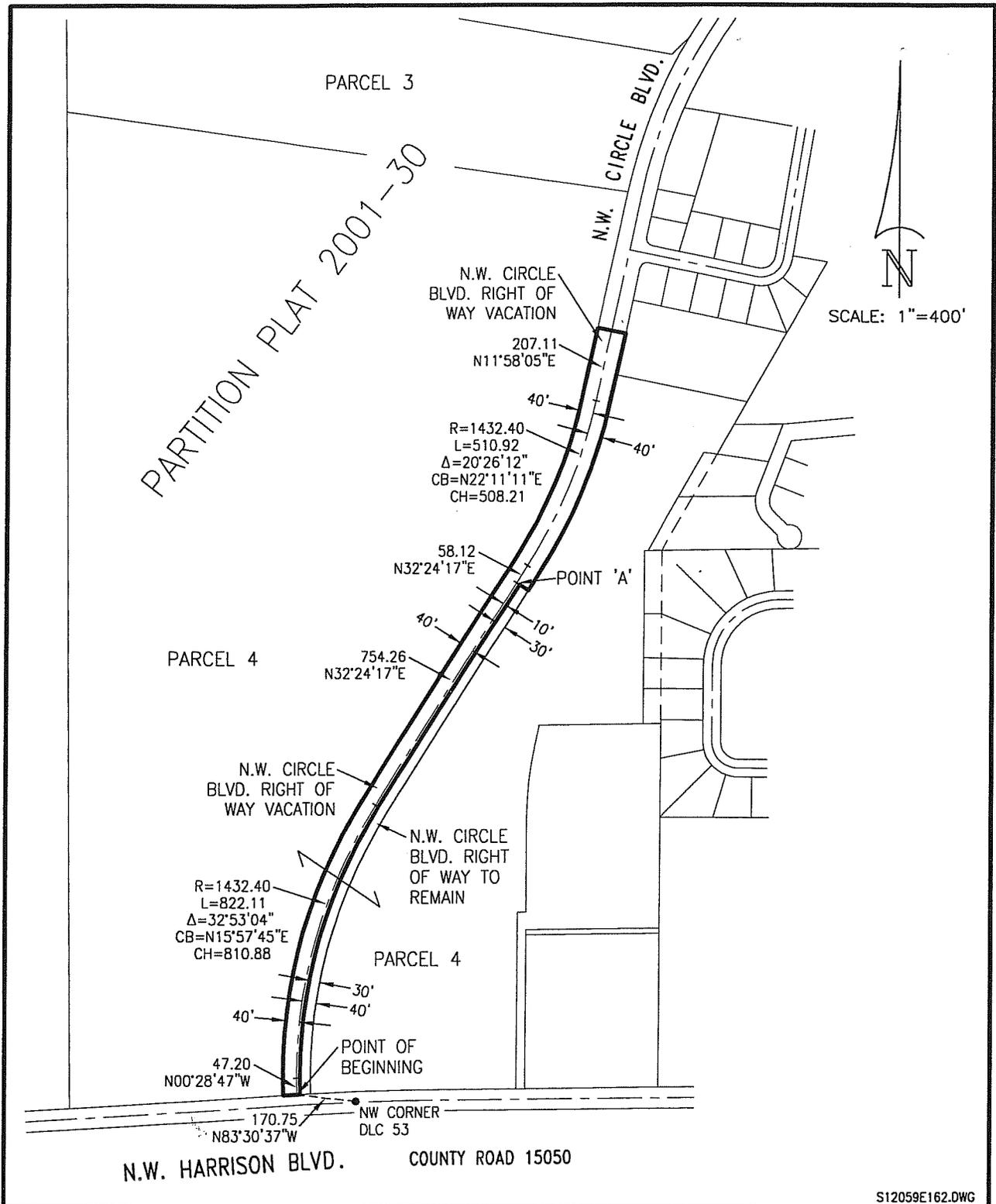


EXHIBIT 'B'
N.W. CIRCLE BOULEVARD VACATION
WITHAM HILL
CITY OF CORVALLIS
BENTON COUNTY, OREGON
MAY 24, 2007

otak
 incorporated

surveyors
 engineers
 planners

17355 S.W. BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 (503)635-3618 FAX (503)635-5395