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**City of St. Helens**  
**COUNCIL PUBLIC HEARING AGENDA**  
**Wednesday, May 2, 2018**  
City Council Chambers, 265 Strand Street, St. Helens

**City Council Members**

Mayor Rick Scholl  
Council President Doug Morten  
Councilor Keith Locke  
Councilor Susan Conn  
Councilor Ginny Carlson

**Welcome!**

All persons planning to address the Council, please sign-in at the back of the room. When invited to provide comment regarding items not on tonight's agenda, please raise your hand to be recognized, walk to the podium in the front of the room to the right, and state your name only. You are not required to give your address when speaking to the City Council. If you wish to address a specific item on the agenda, you should make your request known to the Mayor as soon as possible before the item comes up. The Council has the authority to grant or deny your request. Agenda times and order of items are estimated and are subject to change without notice.

1. **OPEN PUBLIC HEARING – 6:45 p.m.**
2. **TOPIC**
  - a. **Proposal:** Easement Extinguishment  
**Applicant:** John Luttrell  
**Owner:** Ronald Summers  
**Location:** 2480 Gable Road
3. **CLOSE PUBLIC HEARING**

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The St. Helens City Council Chambers are handicapped accessible. If you wish to participate or attend the meeting and need special accommodation, please contact City Hall at 503-397-6272 in advance of the meeting.

Be a part of the vision...get involved with your City...volunteer for a City of St. Helens Board or Commission!  
For more information or for an application, stop by City Hall or call 503-366-8217.



**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
Easement Extinguishment**

**DATE:** April 24, 2018  
**TO:** City Council  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT (OWNER)/LOCATION:**

John Luttrell (Ronald Summers) / 2480 Gable Road (4N1W-5CD-2102)

**PROPOSAL:** Removal of a *portion* of a public storm sewer easement on property identified above.

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**APPLICABLE LAW & PROCESS**

**221.725 Sale of city real property; publication of notice; public hearing.**

(1) Except as provided in ORS 221.727, when a city council considers it necessary or convenient to sell real property or any interest therein, the city council shall publish a notice of the proposed sale in a newspaper of general circulation in the city, and shall hold a public hearing concerning the sale prior to the sale.

(2) The notice required by subsection (1) of this section shall be published at least once during the week prior to the public hearing required under this section. The notice shall state the time and place of the public hearing, a description of the property or interest to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. Proof of publication of the notice may be made as provided by ORS 193.070.

(3) Not earlier than five days after publication of the notice, the public hearing concerning the sale shall be held at the time and place stated in the notice. Nothing in this section prevents a city council from holding the hearing at any regular or special meeting of the city council as part of its regular agenda.

(4) The nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the property, shall be fully disclosed by the city council at the public hearing. Any resident of the city shall be given an opportunity to present written or oral testimony at the hearing.

(5) As used in this section and ORS 221.727, "sale" includes a lease-option agreement under which the lessee has the right to buy the leased real property in accordance with the terms specified in the agreement.

To remove a public easement, the City has typically used a Quit Claim Deed and Release (extinguishment) from each party who benefits from an easement (e.g., utility companies, the City) that is recorded in public records. This requires a public hearing with notice as described per the ORS above.

**PUBLIC HEARING & NOTICE**

Hearing date before the City Council: May 2, 2018.

Publish date for the notice of this hearing is via the The Chronicle on November 8, 2017.

**BACKGROUND**

Timeline:

1. The subject property was created in 2006 via Partition Plat No. 2006-30.
2. A storm easement was established on the property's west 7.5 feet in 2007 (Inst. No. 2007-6059).
3. A building permit to construct a detached single-family dwelling was applied for in 2017.
4. On July 7, 2017, the City Building Official (BO) conducted a foundation inspection. BO contacted me about a minor encroachment of the SE corner of the building. Since it was <1' and a corner only, I told him that was ok under the circumstances and it still met the intent of the City's yard (setback) requirements. The other and more serious issues didn't come up then.
5. A public access (trail) easement was recorded on the property's west 5' on March 12, 2018 (Inst. No. 2018-2014). This was a requirement of the building permit.
6. Foundation survey conducted on or before April 12, 2018 showing actual placement of home. Note: this was a requirement of the lender as part of a real estate transaction.
7. On April 12, 2018, Ticor Title, notifies the City that the lender and their underwriter need to have the portion of easement encroached upon released.
8. Easement extinguishment applied for on April 16, 2018.

Compare the approved site plan and foundation survey and you will see a significant difference in how the dwelling was placed on the parcel. To meet the City basic yard (setback) requirements, the home was shown (per the site plan) to be within about 20' of the NW property corner. The foundation survey shows the dwelling was actually built 46.7' from this point. In addition, the owner/applicant did not disclose the easement on the site plan. As a result we have the current situation.

The encroached upon easement needs to be extinguished for the property transaction to occur.

Speaking to Sue Nelson, P.E., Public Works Engineering Director, and Neal Sheppard, Public Works Operations Director, they seem to be able to live with the extinguishment.

This outcome demonstrates a blatant disregard for the basic provisions of the Development Code. The house was positioned on the site plan given its size and the wedge-like geometry of the site. Before the Building Permit was submitted, staff told the applicant that if they wanted the house plan they proposed, it would need to be set towards the back of the lot in order to meet the side yards (setbacks). Comparing the site plan and the foundation survey, there is a difference of 26 feet! Pursuant to SHMC 17.12.020, constructing a building contrary to the Development Code is a violation. SHMC 17.12.030 states a penalty of \$1,250 for an intentional violation. This should be an aspect of this matter.

Moreover, the foundation survey doesn't include the fence. The fence installed per the picture here (**next page**) may also be within the public access easement given the error. This would be an obstruction of access, contrary to the easement's purpose and needs to be resolved too.



The subject property (house on the left) as viewed from the opposite side of Gable Road (i.e., looking south).

The access easement was honored but given the error of building placement, we need to make sure the fence is not within the access easement.

Note how the home was not built parallel to the west property line as shown on the foundation survey and contrary to the approved site plan, which shows it parallel.

**Affected parties:** No other utility provider would be affected by this proposal. The only affected party is the City (public).

### CONCLUSION

The portion of PUE encroached upon by the dwelling may be extinguished.

#### **Before the mayor signs the quitclaim deed:**

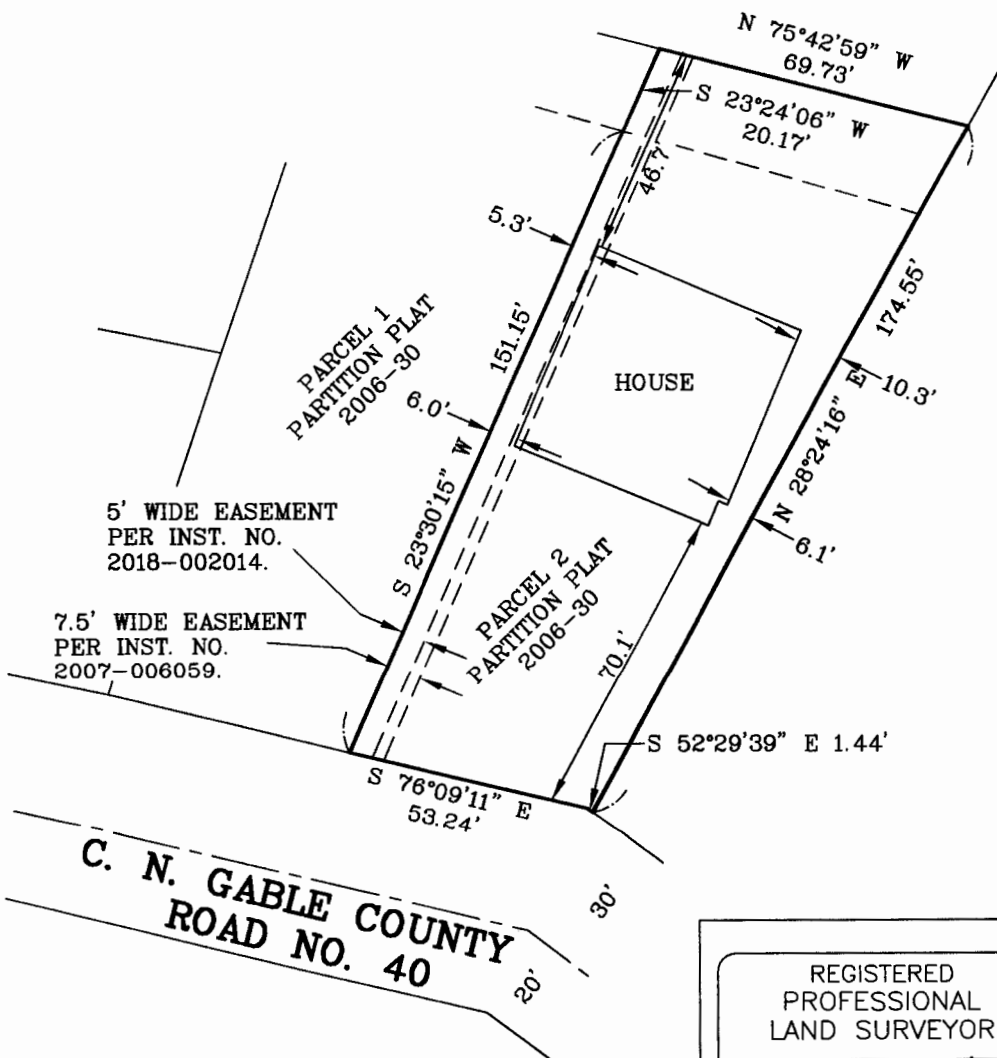
1. The applicant shall pay a fine of \$1,250.
2. Any obstruction of the public access easement per Inst. No. 2018-2014 shall be removed or moved to eliminate the obstruction.
3. The owner will shall provide a legal description and depiction exhibit of the area for the City to complete a quitclaim deed to extinguish this portion of PUE.

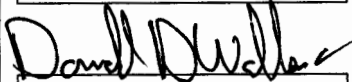
**Attachment(s):** Foundation survey (dated Apr. 12, 2018)

Building Permit No. 13817 approved site plan

Inst. No. 2007-6059 (affected storm sewer easement)

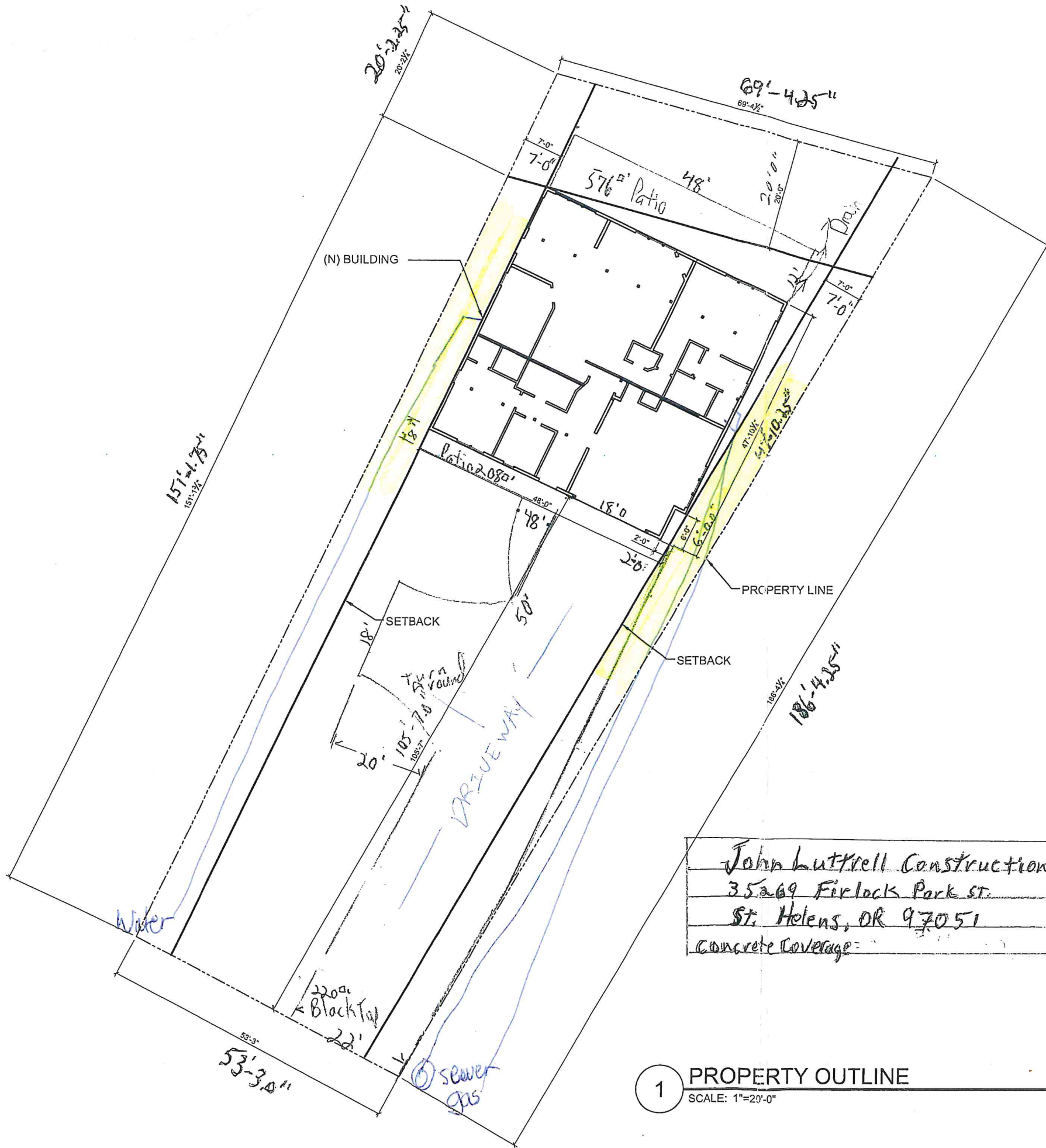
**FOUNDATION SURVEY**  
**PARCEL 2 & A PORTION OF PARCEL 3,**  
**OF PARTITION PLAT 2006-30,**  
**IN LOT 12 GREENWOOD ACRES**  
**IN THE NW 1/4 OF SECTION 8 &**  
**SW 1/4 OF SECTION 5, T4N, R1W, W.M.,**  
**CITY OF ST. HELENS,**  
**COLUMBIA COUNTY, OREGON**  
**SCALE 1" = 40' APRIL 12, 2018**



REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
  
 OREGON  
 JANUARY 19, 1993  
 DONALD D WALLACE JR  
 2601  
 RENEWAL DATE 6/30/18

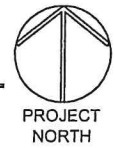


**K.L.S. SURVEYING INC.**  
 1224 ALDER STREET  
 VERNONIA, OR 97064  
 (503)429-6115



John Luttrell Construction	CCB#
35269 Firlock Park St.	196117
St. Helens, OR 97051	
Concrete Coverage:	

1 PROPERTY OUTLINE  
 SCALE: 1"=20'-0"



**BUILDING DEPT. COPY**

13817

AFTER RECORDING RETURN TO:  
City of St. Helens  
P O Box 278  
St. Helens OR 97051

GRANTOR:  
Mathew S. Couch  
Lisa M. Couch  
50594 Firridge Ave.  
Scappoose, OR 97056

GRANTEE:  
City of St. Helens  
P O Box 278  
St. Helens OR 97051

#### EASEMENT

In consideration of the sum of \$0, Mathew S. and Lisa M. Couch, Grantor, conveys to the City of St. Helens, a municipal corporation, Grantee, a perpetual non-exclusive Public Storm Drain easement to use an area which is located as follows across the property of Grantor, to wit:

The westerly 7 ½ feet of Parcel 2 of Partition Plat 2006-30, Columbia County Oregon

See Exhibit "A" attached hereto and incorporated herein by this reference.

The terms of this easement are as follows:

1. Grantee, its agents, independent contractor, and invitees shall use the easement for installation, maintenance, and repair of a storm drain line therein.
2. Grantee agrees to indemnify and defend Grantor from any loss, claim, or liability to Grantor arising in any manner out of Grantee's use of the easement.
3. Grantee has the right of reasonable access to construct, reconstruct, maintain, and repair the storm drain line.
4. Grantee, upon construction of the storm drain line, or upon reconstruction, maintenance, and repair shall return the surface of the property to the condition it was prior to the work.
5. Grantor reserves the right to use the easement to construct driveways, paving, landscaping, and fill, provided that Grantor shall not construct or maintain any building or structure which would interfere with the rights herein granted.

COLUMBIA COUNTY, OREGON 2007-006059  
DEED-EA  
Cnt=1 Stn=8 HUSERB 05/04/2007 11:55:49 AM  
\$15.00 \$11.00 \$10.00 Total:\$36.00



00063969200700060590030034

I, Elizabeth E. Huser, County Clerk for Columbia County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Elizabeth E. Huser - County Clerk

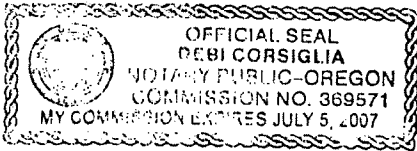


Mathew S. Couch  
50594 Firridge Ave.  
Scappoose, OR 97056

By Mathew S. Couch Mathew S. Couch  
(printed name) (signature)

STATE OF OREGON )  
) ss.  
County of Columbia )

On this 3 day of May, 2007, personally appeared before me the above named Mathew S. Couch and acknowledged the foregoing instrument to be his/her voluntary act and deed.



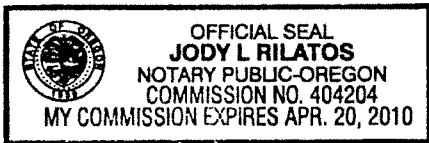
John Curry  
Notary Public of Oregon  
My commission expires: 07/05/07

Lisa M. Couch  
50594 Firridge Ave.  
Scappoose, OR 97056

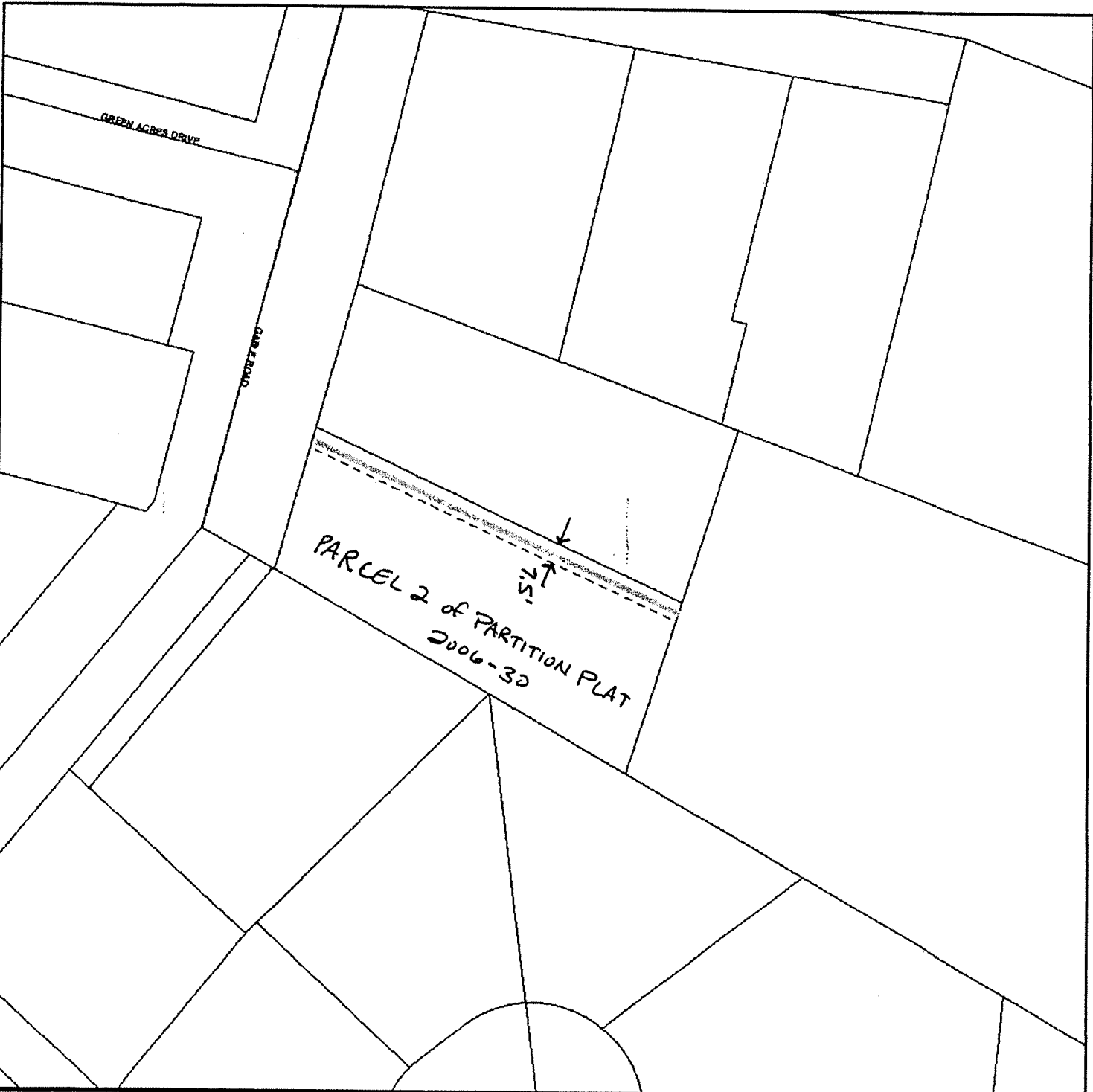
By Lisa M Couch  
(printed name) (signature)

STATE OF OREGON )  
) ss.  
County of Columbia )

On this 3 day of May, 2007, personally appeared before me the above named Lisa M Couch and acknowledged the foregoing instrument to be his/her voluntary act and deed.



Jody L Rilatos  
Notary Public of Oregon  
My commission expires: 4-20-10



Storm Drain Easement

- City/Taxlot
- Street Centerlines

1 in. = 50.0 feet

