

DEVELOPMENT REVIEW BOARD MEETING

MONDAY, AUGUST 26, 2019

6:30 PM

VI. Public Hearing:

- A. **Resolution No. 363. Cherbourg Lane Street Vacation: Polygon at Villebois III LLC and Allen and Victor Chang – Petitioners.** The City is vacating SW Cherbourg Lane right-of-way north of SW Berlin Avenue, Section 15AB, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Staff: Daniel Pauly

Case Files: DB19-0006 Street Vacation

The DRB action on the Street Vacation is a recommendation to the City Council.

**DEVELOPMENT REVIEW BOARD
RESOLUTION NO. 363**

A RESOLUTION ADOPTING FINDINGS RECOMMENDING APPROVAL OF A REQUEST FOR THE CITY TO VACATE SW CHERBOURG LANE RIGHT-OF-WAY NORTH OF SW BERLIN AVENUE, SECTION 15AB, TOWNSHIP 3 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON. POLYGON AT VILLEBOIS III LLC AND ALLEN AND VICTOR CHANG – PETITIONERS.

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code, and

WHEREAS, the Planning Staff has prepared the staff report on the above-captioned subject dated August 19, 2019, and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board Panel A at a scheduled meeting conducted on August 26, 2019, at which time exhibits, together with findings and public testimony were entered into the public record, and

WHEREAS, the Development Review Board considered the subject and the recommendations contained in the staff report, and

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby adopt the staff report dated August 19, 2019, attached hereto as Exhibit A1, with findings and recommendations contained therein, and authorizes the Planning Director to issue permits consistent with said recommendations for:

DB19-0006: Street Vacation

ADOPTED by the Development Review Board of the City of Wilsonville at a regular meeting thereof this 26th day of August, 2019 and filed with the Planning Administrative Assistant on _____. This resolution is final on the 15th calendar day after the postmarked date of the written notice of decision per *WC Sec 4.022(.09)* unless appealed per *WC Sec 4.022(.02)* or called up for review by the council in accordance with *WC Sec 4.022(.03)*.

Richard Martens, Chair - Panel B
Wilsonville Development Review Board

Attest:

Shelley White, Planning Administrative Assistant

Exhibit A1 Staff Report Wilsonville Planning Division

Vacation of SW Cherbourg Lane North of SW Berlin Avenue

Development Review Board Panel 'B'
Quasi-Judicial Public Hearing

Hearing Date: August 26, 2019
Date of Report: August 19, 2019

Application Nos.: DB19-0006 Street Vacation

Request/Summary The requests before the Development Review Board include a vacation (abandon and transfer ownership to adjacent properties) a street stub of SW Cherbourg Lane north of SW Berlin Avenue. The total area proposed for vacation is 2,075 Square Feet. The vacation reflects the fact the City no longer plans an extension of SW Cherbourg Lane through this block.

Location: SW Cherbourg Lane right-of-way north of SW Berlin Avenue, Section 15AB, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

Petitioners: Victor C. Chang, Allen Y. Chang, Polygon at Villebois III LLC

Applicant's Rep.: Pacific Community Design, Inc.

Comprehensive Plan Map Designation: Residential-Village

Zone Map Classification: V (Village)

Staff Reviewers: Daniel Pauly AICP, Planning Manager
Steve Adams PE, Development Engineering Manager
Dominique Huffman PE, Civil Engineer

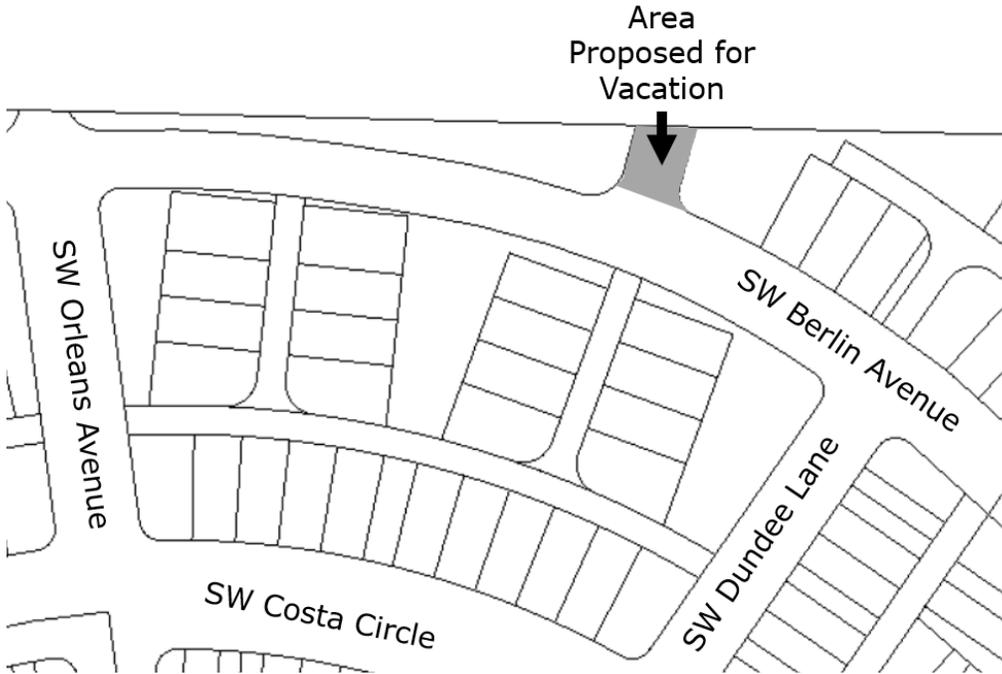
Staff Recommendations: Recommend approval of the requested right-of-way vacation to City Council.

Applicable Review Criteria

Development Code	
Section 4.008	Application Procedures-In General
Section 4.009	Who May Initiate Application
Section 4.010	How to Apply
Section 4.011	How Applications are Processed
Section 4.014	Burden of Proof
Subsection 4.031 (.01) L.	Authority of the Development Review Board: Street Vacations
Subsection 4.032 (.01) D.	Authority of the Planning Commission: Street Vacations

Subsection 4.033 (.01) H.	Authority of the City Council: Street Vacations
Subsection 4.034 (.07)	Street Vacation Review Standards and Procedures
Other City Planning Documents	
Villebois Village Master Plan	
Transportation Systems Plan	
SAP North Approval Documents	
PDP 5 North Approval Documents	
Oregon Revised Statutes	
ORS 271.080	Vacation in incorporated cities; petition; consent of property owners.
ORS 271.120	Vacation hearing; determination.
ORS 271.140	Title to vacated areas.
ORS 271.150	Vacation records to be filed; costs.
ORS 271.190	Vacation consent of owners of adjoining properties; other required approval.
ORS 271.200	Vacation Petition; notice

Vicinity Map



Background/Summary:

During approval of Villebois Phase 5 North (Clermont) the City found the segment of SW Cherbourg Lane between SW Berlin Avenue and SW Stockholm Avenue was not feasible due to topography. This action vacates a small stub of SW Cherbourg Lane previously dedicated to the City and constructed in association with Villebois Phase 2 North. The vacated area will be

incorporated into portions a mid-block pedestrian connection, portion of an alley, and portions of two residential lots.

Conclusion and Conditions of Approval

Staff reviewed the applicant’s analysis of compliance with the applicable criteria. Based on the information included in this Staff Report, and information received from a duly advertised public hearing, staff recommends that the Development Review recommend approval of the right-of-way vacation to City Council (DB18-0049) with the following conditions:

The following Conditions of Approval are provided by the Engineering, Natural Resources, or Building Divisions of the City’s Community Development Department or Tualatin Valley Fire and Rescue, all of which have authority over development approval. A number of these Conditions of Approval are not related to land use regulations under the authority of the Development Review Board or Planning Director. Only those Conditions of Approval related to criteria in Chapter 4 of Wilsonville Code and the Comprehensive Plan, including but not limited to those related to traffic level of service, site vision clearance, recording of plats, and concurrency, are subject to the Land Use review and appeal process defined in Wilsonville Code and Oregon Revised Statutes and Administrative Rules. Other Conditions of Approval are based on City Code chapters other than Chapter 4, state law, federal law, or other agency rules and regulations. Questions or requests about the applicability, appeal, exemption or non-compliance related to these other Conditions of Approval should be directed to the City Department, Division, or non-City agency with authority over the relevant portion of the development approval.

Engineering Division Conditions:

Request C: DB18-0051 Preliminary Development Plan

PFC 1.	Public Works Plans and Public Improvements shall conform to the “Public Works Plan Submittal Requirements and Other Engineering Requirements” in Exhibit C1.
PFC 2.	For any public or private utilities currently located within the proposed vacated Right-of-Way, and anticipated to remain in this location, Applicant shall provide public or private utility easements on City approved forms. For public easements these shall be minimum 15-foot wide easements centered on the utility. For private easements they shall be of sufficient width as needed by the private utility and as approved by the City.

Master Exhibit List:

The entry of the following exhibits into the public record by the Development Review Board confirms its consideration of the application as submitted. The exhibit list below includes exhibits for Planning Case File DB19-0006. The exhibit list below reflects the electronic record posted on the City’s website and retained as part of the City’s permanent electronic record. Any inconsistencies between printed or other electronic versions of the same Exhibits are inadvertent and the version on the City’s website and retained as part of the City’s permanent electronic record shall be controlling for all purposes.

- A1. Staff report and findings (this document)
- A2. Slides and notes for Staff’s Public Hearing Presentation (*available at Public Hearing*)
- B1. Petition
- B2. Applicant’s Narrative
- B3. Legal Description of Area Being Vacated and Noticing/Affected Property Maps.

Findings of Fact:

- 1. Surrounding land uses are as follows:

Compass Direction	Zone:	Existing Use:
North:	Clackamas County EFU	Agriculture
East:	V	Residential
South:	V	Residential
West:	V	Residential

- 2. Prior land use actions include:

Legislative:

- 02PC06 - Villebois Village Concept Plan
- 02PC07A - Villebois Comprehensive Plan Text
- 02PC07C - Villebois Comprehensive Plan Map
- 02PC07B - Villebois Village Master Plan
- 02PC08 - Village Zone Text
- 04PC02 – Adopted Villebois Village Master Plan
- LP-2005-02-00006 – Revised Villebois Village Master Plan
- LP-2005-12-00012 – Revised Villebois Village Master Plan (Parks and Recreation)
- LP10-0001 – Amendment to Villebois Village Master Plan (School Relocation from SAP North to SAP East)
- LP13-0005 – Amendment to Villebois Village Master Plan (Future Study Area)

Quasi Judicial:

- DB07-0054 et seq – SAP-North

DB07-0087 et seq – PDP-1N, Arbor at Villebois
DB11-0024 et seq – PDP-1N Modification, SAP North Amendment Polygon NW
DB12-0066 et seq – PDP-1N Modification, SAP North Amendment Polygon NW
DB13-0020 et seq – PDP-2N, SAP North Amendment Polygon NW
DB14-0009 et seq – PDP-3N, SAP North Amendment Polygon NW
DB15-0084 et seq – PDP 4N, SAP North Amendment Polygon NW
DB18-0049 et seq – PDP 5N, SAP North Amendment Polygon NW
AR19-0004 – Minor Modifications to Park Area, Number of Lots, and Pedestrian Connection

3. The applicant has complied with Sections 4.013-4.031 of the Wilsonville Code, said sections pertaining to review procedures and submittal requirements. The required public notices have been sent and all proper notification procedures have been satisfied.

Conclusionary Findings

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case.

Request: DB19-0006 Street Vacation

As described in the Findings below, the request meets the applicable criteria or will by Condition of Approval.

Planning and Land Development Ordinance

Authority to Review Street Vacations

Subsections 4.031 (.01) L., 4.032 (.01) D., Subsection 4.033 (.01) H.

1. The City previously approved specific development applications for the land being vacated subject to approval of the street vacation. The approved plans show the vacated land developed as a portion of a mid-block pedestrian crossing, a portion of an alley, and portions of two residential lots. See case files DB18-0049 et. seq. and AR19-0004. Due to the previous submission of specific development application for the subject land, the Development Review Board is reviewing the street vacation to make a recommendation to City Council. The City Council will then take the final action on the request.

Street Vacation Reviewed In Accordance with ORS 271.

Subsection 4.034 (.07)

2. As shown in Findings 4-7 below, the City's review of the street vacation request is in accordance with ORS 271.

Previous Land Use Approvals

Condition of Approval to Vacate

DB18-0051 SAP-East PDP 5N, Preliminary Development Plan, Condition of Approval PFC 6.

3. The Condition of Approval requires, "with previous development a stub of Cherbourg Lane was constructed off the north side of Berlin Avenue. Applicant shall submit the required exhibits and work with the City to abandon or transfer ownership of the existing right-of-way, demolish the roadway and reconstruct the north edge of Berlin Avenue with curb and gutter, sidewalk, landscape and irrigation." The proposed street vacation enables this Condition of Approval to be met.

Oregon Revised Statutes

Petition for Street Vacation/Proposed Use of Vacated Ground/Public Hearings

ORS 271.080 (1), ORS 271.090, ORS 271.100, ORS 271.110, ORS 271.120

4. Polygon Homes and Victor and Allen Chang filed the described petition. Petitioners are receiving notice of the public hearings for the requested vacation along with all other required notices for the public hearings. The previous land use approvals for the Clermont subdivision establish the subject area will be incorporated into portions a mid-block pedestrian connection, portion of an alley, and portions of two residential lots.

Consent of All Adjoining Properties and 2/3 of Affected Properties

ORS 271.080 (2)

5. The petition has been signed by all owners of abutting property, who are also the owners of more than two-thirds (2/3) of real property affected thereby. The total size of real property affected thereby is 225,963 SF. The sum of the area of real property affected thereby that is also within the abutting tax lots is 200,690 SF, or 90% of the total real property affected thereby. Given that the petition has been signed by all owners of abutting property, consent of property owners for 90% (i.e. greater than two-thirds) of the area of the real property affected has been provided on the attached petition.

Title to Vacated Area

ORS 271.140

6. The title to the vacated area will be attached to the bordering properties consistent with state statute.

Vacation Records to be Filed

ORS 271.150

7. The ordinance approving the street vacation will be duly recorded in the records of Clackamas County, the cost of which will be borne by the petitioners.

Street Vacation Petition

This petition must be signed by all abutting property owners, and the owners of not less than 2/3 of the area of the real property "affected thereby", as defined in ORS 271.080 (2) and as shown on the attached Street Vacation Map, attached hereto as **Exhibit A**. All signatures must be in ink. A listing of the names and addresses of all abutting and affected area property owners, as shown on the attached Street Vacation Map, was obtained from the Clackamas County real property tax roll records and is attached hereto as **Exhibit B**.

REQUIRED SIGNATURES:

We, the owner in fee simple of the following described real properties consent to the vacation of all of SW Cherbourg Lane ROW, North of Berlin Avenue, in the City of Wilsonville, Clackamas County, Oregon, as shown on the attached Street Vacation Map, and as described in the application narrative, attached hereto as **Exhibit C**.

) Polygon at Villebois III, LLC.
Property Owner's Name

Signature


Jason Baker

Taxlot(s) 31W15AB00543 & 8130
Property Street Address and Legal Description

3/4/19
Date



City of Wilsonville
Exhibit B1 DB19-0006

Street Vacation Petition

This petition must be signed by all abutting property owners, and the owners of not less than 2/3 of the area of the real property “affected thereby”, as defined in ORS 271.080 (2) and as shown on the attached Street Vacation Map, attached hereto as **Exhibit A**. All signatures must be in ink. A listing of the names and addresses of all abutting and affected area property owners, as shown on the attached Street Vacation Map, was obtained from the Clackamas County real property tax roll records and is attached hereto as **Exhibit B**.

REQUIRED SIGNATURES:

We, the owner in fee simple of the following described real properties consent to the vacation of all of SW Cherbourg Lane ROW, North of Berlin Avenue, in the City of Wilsonville, Clackamas County, Oregon, as shown on the attached Street Vacation Map, and as described in the application narrative, attached hereto as **Exhibit C**.

) Allen Chang
Property Owner’s Name


Signature

Victor Chang
Property Owner’s Name

Signature

28201 SW 110th Avenue, Wilsonville, OR 97070 (TL 31W15AB07400 & 7600)
Property Street Address and Legal Description

Date

Street Vacation Petition

This petition must be signed by all abutting property owners, and the owners of not less than 2/3 of the area of the real property "affected thereby", as defined in ORS 271.080 (2) and as shown on the attached Street Vacation Map, attached hereto as **Exhibit A**. All signatures must be in ink. A listing of the names and addresses of all abutting and affected area property owners, as shown on the attached Street Vacation Map, was obtained from the Clackamas County real property tax roll records and is attached hereto as **Exhibit B**.

REQUIRED SIGNATURES:

We, the owner in fee simple of the following described real properties consent to the vacation of all of SW Cherbourg Lane ROW, North of Berlin Avenue, in the City of Wilsonville, Clackamas County, Oregon, as shown on the attached Street Vacation Map, and as described in the application narrative, attached hereto as **Exhibit C**.

) Allen Chang
Property Owner's Name

Signature

Victor Chang
Property Owner's Name

Victor C. Chang
Signature

28201 SW 110th Avenue, Wilsonville, OR 97070 (TL 31W15AB07400 & 7600)
Property Street Address and Legal Description

2/26/2019
Date

NARRATIVE & COMPLIANCE REPORT

SW CHERBOURG LANE ROW VACATION

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LIST OF EXHIBITS

- A COPY OF APPLICATION FORM
- B SIGNED PETITION, PETITION EXHIBITS & PROPERTY OWNERSHIP INFO
- C LEGAL DESCRIPTION AND SKETCH

I. PROPOSAL SUMMARY

GENERAL INFORMATION

Applicant/Property Owner: **Polygon WLH, LLC.**

Applicant's Representative: **Pacific Community Design, Inc.**
12564 SW Main Street
Tigard, OR 97223
(503) 941-9484
Contacts: Stacy Connery, AICP
Patrick Espinosa, PE
Travis Jansen, PLS

Subject Site: SW Cherbourg Lane ROW north of
Berlin Avenue in Villebois SAP
North, PDP 5N (Clermont)

Abutting Tax Lots: 3S1W15007400;
3S1W15AB00543, 8130

REQUEST & PROJECT DESCRIPTION

The Applicant requests approval of a Street Vacation for SW Cherbourg Lane ROW north of Berlin Avenue within Villebois PDP 5N (also known as Clermont). Exhibit C is a legal description and sketch that depicts the area of the proposed ROW vacation.

The City approved SAP North PDP 5N (Casefile No. DB18-0051) November 26, 2018. Construction of improvements will begin upon approval of construction plans and issuance of permits. The locations of Tract U (linear green), Tract T (private alleyway) and lots 87 and 88 are proposed to be within the existing ROW of Cherbourg Lane that is being vacated. Connectivity of the neighborhood will still be provided through the proposed street configurations and the proposed linear greens on-site.

Compliance with applicable sections of the City of Wilsonville Planning & Land Development Ordinance are addressed in Section II of this Narrative. Section III addresses compliance with the relevant conditions of approval of Casefile No. DB18-0051. Section III addresses compliance with ORS 271.

II. WILSONVILLE PLANNING & LAND DEVELOPMENT ORDINANCE

4.031 AUTHORITY OF THE DEVELOPMENT REVIEW BOARD

(.01) As specified in Chapter 2 of the Wilsonville Code and except as specified herein, the Board shall have authority to act on the following types of applications:

- L. Street vacations, where a specific development application has been filed for the subject property. If no specific development has been filed for the subject property, the vacation request shall be considered by the Planning Commission. Action of the Planning Commission or Board on a street vacation request shall be a recommendation to the City Council.

Response: The area of SW Cherbourg Lane to be vacated is within SAP North PDP 5N (Casefile No. DB18-0051), which was approved on November 26, 2018. The proposed ROW vacation is subject to review by the DRB, which will make a recommendation to City Council.

4.033 AUTHORITY OF THE CITY COUNCIL

(.01) Upon appeal, the City Council shall have final authority to act on all applications filed pursuant to Chapter 4 of the Wilsonville Code, with the exception of applications for expedited land divisions, as specified in Section 4.232. Additionally, the Council shall have final authority to interpret and enforce the procedures and standards set forth in this Chapter and shall have final decision-making authority on the following:

- H. Final actions on street vacation applications.

Response: As described above, the proposed street vacation is subject to initial review by the DRB. The Applicant acknowledges that the City Council has final decision-making authority on the proposed ROW vacation.

4.034 APPLICATION REQUIREMENTS

Applications shall be reviewed as follows:

(.07) Applications for street vacations shall be reviewed in accordance with the standards and procedures set forth in ORS 271.

Response: Compliance with the applicable sections of ORS 271 is addressed in Section IV of this Narrative.

III. CONDITIONS OF APPROVAL

DB18-0051 SAP-NORTH PDP 5N, PRELIMINARY DEVELOPMENT PLAN

PFC 7. With previous development a stub of Cherbourg Lane was constructed off the north side of Berlin Avenue. Applicant shall submit the required exhibits and work with the City to abandon or transfer the existing right-of-way, demolish the roadway and reconstruct the north edge of Berlin Avenue with curb & gutter, sidewalk, landscape and irrigation.

Response: PDP 5N (Casefile No. DB18-0051) received planning approval on November 26, 2018. This petition is being requested to fulfill this condition as requested by the City. The ROW of Cherbourg Lane north of Berlin Avenue is to be vacated using this petition. The north end of SW Berlin Avenue will be reconstructed to comply with the condition above.

This application provides the required exhibits for vacation of the necessary portions of SW Cherbourg Lane. The Final Plat for Clermont will address further transfer of the vacated areas and any easements that are necessary. Separate documents addressing any easements outside of areas to be platted will be provided in conjunction with the Final Plat.

Approval of this application for ROW vacation of SW Cherbourg Lane North of Berlin Avenue will allow the Applicant to comply with Condition PFC 7.

IV. OREGON ADMINISTRATIVE RULE (ORS) 271

271.080 VACATION IN INCORPORATED CITIES; PETITION; CONSENT OF PROPERTY OWNERS

- (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.
- (2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing.

Response: This application is a petition for vacation of SW Cherbourg Lane ROW north of Berlin Avenue, as depicted on the attached legal description and sketch (see Exhibit C). This Narrative describes the purpose of the proposed street vacation. Exhibit B includes a copy of the signed petition with an attached map and list that demonstrates the areas of proposed ROW vacation, and the abutting properties and real property affected thereby. The petition has been signed by all owners of abutting property, who are also the owners of more than two-thirds (2/3) of real property affected

thereby. The total size of real property affected thereby is 225,963 SF. The sum of the area of real property affected thereby that is also within the abutting tax lots is 200,690 SF, or 90% of the total real property affected thereby. Given that the petition has been signed by all owners of abutting property, consent of property owners for 90% (i.e. greater than two-thirds) of the area of the real property affected has been provided on the attached petition.

271.120 HEARING; DETERMINATION

At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

Response: The Applicant understands that the governing body shall hear the petition and objections and determine whether the requirements for street vacation have been met. Compliance with ORS 271.080 is addressed above. The signed petition is provided as Exhibit B. A legal description and sketch are provided as Exhibit C.

271.140 TITLE TO VACATED AREAS

The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city.

Response: The Applicant understands that the title to portions of the street to be vacated will be attached to the lands bordering the subject area in equal portions.

271.150 VACATION RECORDS TO BE FILED; COSTS

A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

Response: ORS 271.150 addresses the final ordinance procedure and accompanying fee for filing and recording. The Applicant acknowledges that the petitioner bears the recording cost and the cost of preparing and filing the certified copy of the ordinance and map and will carry out this responsibility at the time when the final ordinance is prepared.

271.190 CONSENT OF OWNERS OF ADJOINING PROPERTY; OTHER REQUIRED APPROVAL

No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

Response: Compliance with ORS 271.080 is addressed above. The area of proposed ROW vacation is not within 5,000 feet of a harbor or pierhead line of a port.

271.200 PETITION; NOTICE

- (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.
- (2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

Response: This application is a petition to the City to vacate portions of ROW, as depicted on the attached legal description and sketch (see Exhibit C). This Narrative describes the circumstance of the proposed street vacation. A copy of the petition signed by abutting property owners, who are also more than 2/3 of owners of real property affected thereby, and a list of the names of the affected property owners is provided as Exhibit B.

V. CONCLUSION

This narrative and the attached exhibits demonstrate compliance with the applicable provisions of the City of Wilsonville Planning & Land Development Ordinance, relevant conditions of approval, and ORS 271. Therefore, the Applicant respectfully requests approval of the proposed street vacation.

EXHIBIT A



LEGAL DESCRIPTION Right-of-Way Vacation Map 3S1W15

A tract of land being SW Cherbourg Lane Right-of-Way located in the Northeast Quarter of Section 15, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, State of Oregon, more particularly described as follows:

BEGINNING at the Northeast corner of Tract "FFF", plat of "Tonquin Woods At Villebois No. 6";

thence along the northerly plat boundary line of said plat, South 88° 34' 09" East, a distance of 41.67 feet to the Northwest corner of Tract "GGG" of said plat;

thence along the westerly line of said Tract "GGG", South 15° 00' 55" West, a distance of 44.62 feet to a point of tangential curvature;

thence continuing along said westerly line, along a 15.00 foot radius tangential curve to the left, arc length of 21.19 feet, central angle of 80° 57' 09", chord distance of 19.47 feet, and chord bearing of South 25° 27' 39" East to a point on the northerly Right-of-Way line of SW Berlin Avenue;

thence along a 727.50 foot radius curve, being parallel with and 27.50 feet northerly from the centerline of SW Berlin Avenue, with a radius point bearing South 24° 03' 46" West, arc length of 52.56 feet, central angle of 04° 08' 23", chord distance of 52.55 feet, and chord bearing of North 68° 00' 25" West;

thence continuing along said parallel line, North 70° 13' 10" West, a distance of 3.62 feet to a point on the easterly line of said Tract "FFF";

thence along said easterly line, along a 24.00 foot radius non-tangential curve, concave northwesterly, with a radius point bearing North 47° 54' 33" West, arc length of 11.34 feet, central angle of 27° 04' 31", chord distance of 11.24 feet, and chord bearing of North 28° 33' 11" East to a point of tangency;

thence continuing along said easterly line, North 15° 00' 55" East, a distance of 32.04 feet to the POINT OF BEGINNING.

Containing 2,075 square feet, more or less.

Property Vested in:

Polygon at Villebois III, L.L.C.

Map 3S1W15

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 9, 2002
TRAVIS C. JANSEN
57751

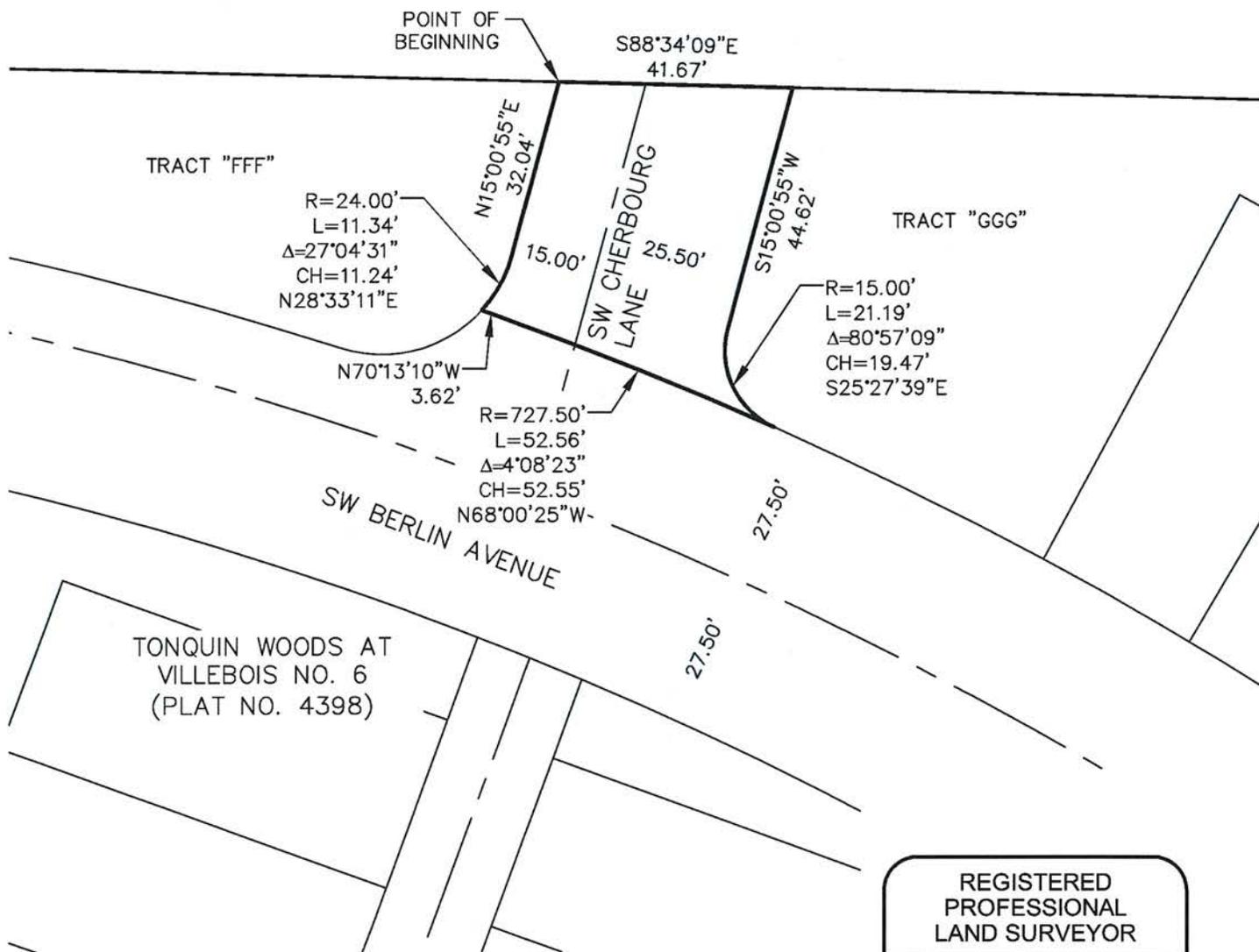
RENEWS: 6/30/2019





SKETCH TO ACCOMPANY LEGAL DESCRIPTION
RIGHT-OF-WAY VACATION
MAP 3S1W15

DOCUMENT NO.
91-08203



REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 9, 2002
TRAVIS C. JANSEN
57751

RENEWS: 6/30/2019

Property Vested in:
POLYGON AT VILLEBOIS III, L.L.C.
MAP 3S1W15

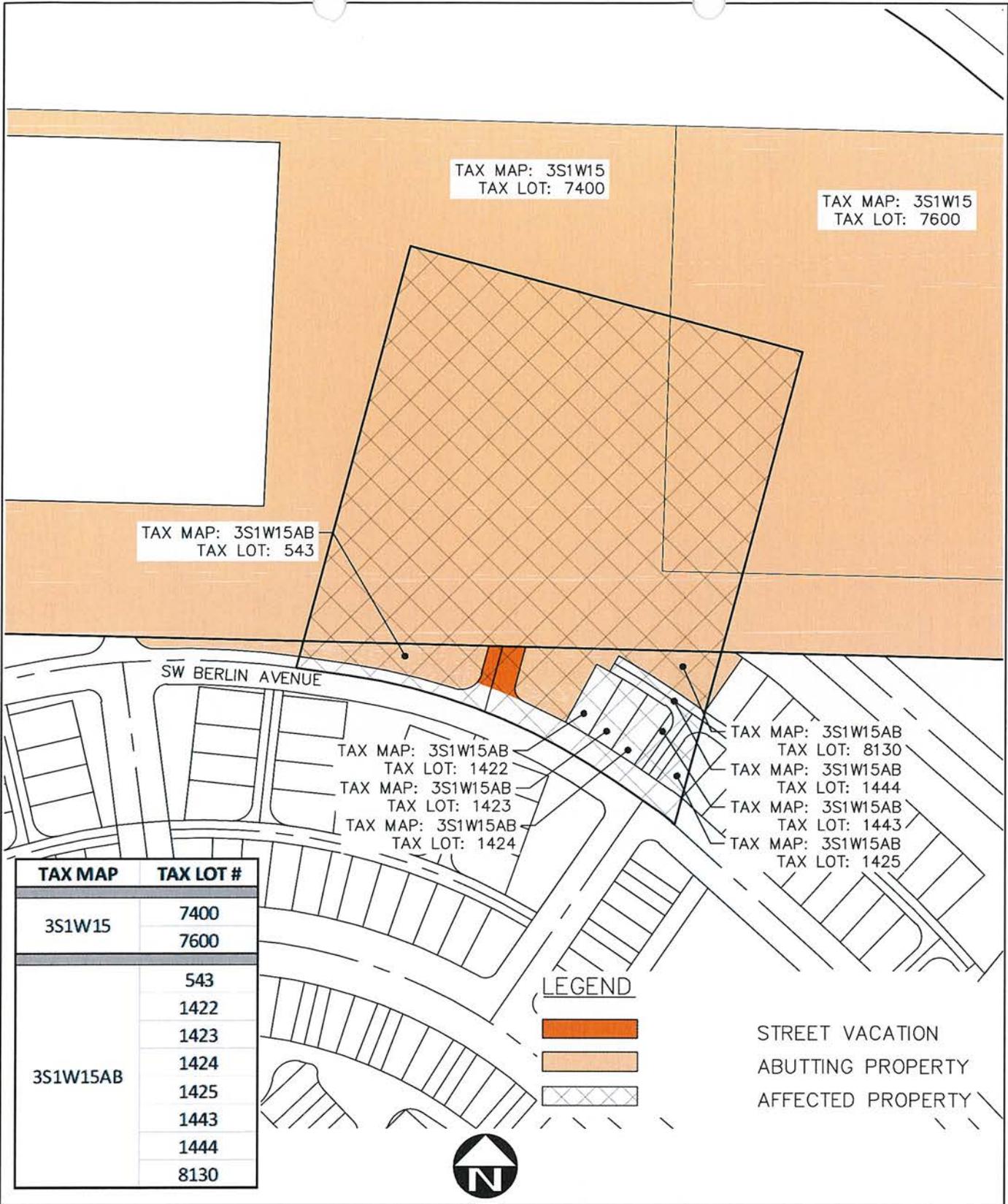


SCALE



1 INCH = 30 FEET

N:\proj\395-079\09 Drawings\06 Survey\Exhibits\395079 ROW Vacation Exhibit\SW Berlin Ave.dwg - SHEET: 1 Oct. 4, 18 - 2:06 PM. fateman



TAX MAP	TAX LOT #
3S1W15	7400
	7600
3S1W15AB	543
	1422
	1423
	1424
	1425
	1443
	1444
	8130

STREET VACATION
 ABUTTING PROPERTY
 AFFECTED PROPERTY

DRAWN BY: FAA DATE: 10/04/18
 REVIEWED BY: TCJ DATE: 10/04/18
 PROJECT NO.: 395-079
 SCALE: 1"=200'
 PAGE 1 OF 1



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