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Washington County, Oregon  
06/28/2013 09:17:53 AM  
D-R/B Cnt=2 Stn=22 I REED  
\$80.00 \$5.00 \$5.00 \$11.00 \$15.00 - Total = \$116.00

2013-058866



01850892201300588660160169

I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and reported in the book of records of said county.



Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk

**When Recorded Return to:**  
Jimmy and Patty Dougherty  
PO Box 623  
Manzanita Or 97130-0623  
NO CHANGE IN TAX STATEMENTS

Declaration of Covenants, Conditions and Restrictions and Agreement

**Recitals**

**A. Parties**

- 1. Declarant: means the owners of the Property, Jim and Patricia Dougherty.
- 2. Benefitted Party: City of Sherwood.

**B. The Property:**

- 1. The "Property", as used herein, means the land described in Exhibit A-1 and as shown in Exhibit A-2. Exhibit A-1 and A-2 are attached hereto and incorporated herein by this reference.
- 2. The "Partition Property", as used herein, means Partition Plat No. 2013-020 described in Exhibit B-1 and shown in Exhibit B-2. Exhibit B-1 and B-2 are attached hereto and incorporated herein by this reference.
- 3. The "Out Parcel" means Parcel 1, Document No. 91059128, Washington County, Oregon, as described in the attached Exhibit C-1 and shown in Exhibit C-2. Exhibit C-1 and C-2 are attached hereto and incorporated herein. The Out Parcel is not part of the Partition Property but is benefitted and burdened by these CCRs.
- 4. "Future right-of-way" is that portion of the Out Parcel which is described in Exhibit D-1 and shown in Exhibit D-2. Exhibit D-1 and D-2 are attached hereto and incorporated herein by this reference.
- 5. The Property, the Partition Property and the Future right-of-way on the Out Parcel is shown in Exhibit "E", attached hereto and incorporated herein.
- 6. The Partition Property, the Future Right-Of-Way on the Out Parcel and the existing terminus of Arrow Street west of the Property which will eventually be extended onto Tract A and the Out Parcel is shown in Exhibit F, attached hereto and incorporated herein.

C. Definitions:

1. CIP: means the adopted City Capital improvement Program for transportation improvement.
2. City: means City of Sherwood.
3. Partition Approval: means that City Decision File MLP 11-01 "Gerda Lane Partition" issued on September 9, 2011.
4. Dedication Requirement: means either Dedication Requirement One or Dedication Requirement Two.
5. Dedication Requirement One: means when the City places the extension of Arrow Street on its CIP, to provide for the extension of Arrow Street from the existing terminus west of the Property, across the intervening property, the Partition Property and the Out parcel as shown in Exhibit F, thereby triggering the dedication of Tract A and the Exhibit D-1 property to the public.
6. Dedication Requirement Two: means when any of the Partition Property parcels receive City development review approval and dedication of the whole or part of Tract A and/or the Exhibit D-1 property is required for the approved development under City standards that would apply to such development in the usual course of development review regardless of Dedication Requirement One.
7. Improvements: means buildings, the existing potable water well and existing septic tank systems that are on the Property and that are serving the occupied buildings on the Property
8. Removal of Improvements: means that with respect to the Property, removal of Improvements thereon and, as applicable decommissioning thereof, that are reasonably determined to be in the way of access that is required to be supplied through the triggering of a Dedication Requirement, but only at such time after a Dedication Requirement is triggered, and then only as the City may reasonably require.
9. Tract A: means that strip of land shown on Partition Plat 2013-020. Tract A is intended to be a private street for the benefit of all parcels on the Partition Property and will so remain until such time as dedication of Tract A to the City for right of way purposes

occurs pursuant to triggering of Dedication Requirement One or Dedication Requirement 2, in which case some or all of Tract A will become public depending on which Dedication Requirement applies.

10. **Future Right-Of-Way:** means the portion of the Out Parcel described in Exhibit D-1 and shown in Exhibit E which will be dedicated to the City for right of way purposes pursuant to the triggering of Dedication Requirement One or Dedication Requirement 2.

**D.** **Purpose:** The Declarant intends to make the Property available for purposes of supplying access for the Partition Property to Gerda Lane. Declarant intends to honor both Dedication Requirement One and Dedication Requirement Two as specified in the Partition Decision as those requirements relate to the Property. Therefore, the purpose of this document is to ensure that the Property is not unduly burdened and may be used, maintained and developed subject to the obligation to facilitate access as described in Dedication Requirement 1 and Dedication Requirement 2. This is intended to be achieved through the declarations, covenants, conditions and restrictions set forth in this Declaration of Covenants, Conditions and Restrictions Agreement (hereafter, this "Agreement").

**E.** **Declaration:** Declarant hereby make the following declarations, intending that all of the Property, as defined in this Agreement, shall be held, sold, and conveyed subject to the provisions of these covenants, conditions and restrictions:

1. The Declarant for themselves and all future owners and interest holders of the Partition Property and the Out Parcel agree that (a) the owner (or other interest holder) or possessor of the Partition Property and the Out Parcel will be bound by Dedication Requirement One and Dedication Requirement Two. At such time as either Dedication requirement One or Dedication Requirement Two occurs, all of Tract A shall be dedicated to the City as public right-of-way.
2. **Removal of Improvement:** Buildings as well as existing potable water well and septic tank systems on Parcel 1 of Document Number 91059128 (Out Parcel) serving those occupied buildings in the way of such access will be removed and decommissioned when SW Arrow Road is dedicated as public right of way (Dedication Requirement 1) or when improved access is needed to serve Parcels 1, 2 and 3 (Dedication Requirement 2).
3. The Benefitted Party for itself agrees (a) to supply Declarant or their successor or assigns, at least 30 days advance written notice and accompanying documentation that either Dedication Requirement One or Dedication Requirement Two is reasonably anticipated to be triggered,

{00223412; 1 }Page 3 - Declaration of Covenants, Conditions and Restrictions and Agreement

and (b) exercise its authority reasonably with respect to this Declaration and Agreement.

- F.** Run With the Land: These covenants, conditions and restrictions set forth in this Agreement shall be perpetual, shall run with the Property, and shall be binding on the Property, and inure to, the benefit of the Parties, their successors and assigns having any interest in some or all of the Property.
- G.** Removal: These covenants, conditions and restrictions can be removed only by and at such time as the Parties authorize, execute and record a release of the covenants, conditions and restrictions created by this instrument.
- H.** General Terms Applicable to this Agreement
  - 1.** Limitation. Notwithstanding any other provisions of this Agreement:
    - a.** Nothing in this Agreement is intended to burden any property other than the Property.
  - 2.** Enforcement. This Agreement may be enforced by the Parties in an action at law, or a suit in equity seeking injunctive and other equitable relief, together with any other remedies available at law. Failure of any Party to enforce this Agreement or any covenant or restriction contained in this document will in no event be deemed a waiver of the right to do so at a later time.
  - 3.** Arbitration. In the event a dispute arises out of or relating to this Agreement, the dispute must be submitted to binding arbitration. The arbitrator must be selected by mutual agreement or pursuant to ORS 36.645 by the Parties. The arbitrator's fees will be shared equally by the Parties to such arbitration during the course of the arbitration, but will be recoverable as costs to the prevailing party. Unless otherwise agreed upon by the Parties to such arbitration, pleading, procedure, discovery and evidentiary issues in the arbitration will be governed by the Oregon Rules of Civil Procedure, the Uniform Trial Court Rules and the Oregon Rules of Evidence. The arbitrator will control the scheduling of all events and will resolve all disputes, including disputes regarding pretrial procedure and discovery.
  - 4.** Severability. Invalidation of any one of these covenants, conditions or restrictions or Agreement by judgment or court order shall in no way affect any other provisions of this document, which shall remain in full force and effect.

5. Recitals. The above recitals correctly set forth the facts and agreements of the Parties, are contractual in nature, and are incorporated herein by this reference.
6. No Merger: The Parties acknowledge that the Property and Partition Property are both owned in fee by the Declarant and agree that the Doctrine of Merger shall not apply to either this Declaration or Agreement.
7. Oregon Law Governs: The law of the State of Oregon governs this document. Any disputes shall be resolved in Washington County, Oregon.
8. Notices: All Notices required under this Declaration and Agreement shall be supplied to the following persons at the following addresses or updated address as may be supplied in writing between the Parties:

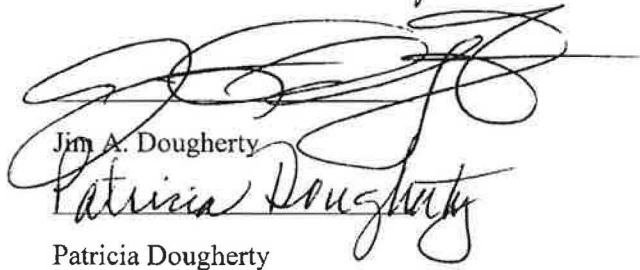
DECLARANT:

Jim A. and Patricia Dougherty  
P.O. Box 623  
Manzanita, Oregon 97130-0623

BENEFITTED PARTY:

City of Sherwood  
22560 SW Pine Street  
Sherwood, Oregon 97140

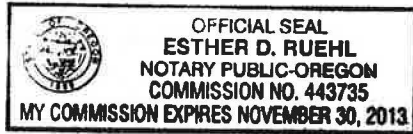
IN WITNESS WHEREOF, the undersigned DECLARANT, has heretofore set their hand this 12th day of JUNE, 2013



Jim A. Dougherty  
Patricia Dougherty

State of Oregon        )  
                                  ) ss  
County of Tillamook )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of JUNE, 2013 by Jim and Patricia Dougherty, who on oath stated that they is authorized to execute this instrument.



*Esther D. Ruehl*  
Notary Public for Oregon  
My Commission expires:  
November 30, 2013

IN WITNESS WHEREOF, the undersigned City Manager of Sherwood, has heretofore set their hand this 25<sup>th</sup> day of June, 2013.

*[Signature]*  
\_\_\_\_\_  
City Manager of Sherwood

State of Oregon        )  
                                  ) ss  
County of Washington)

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of June, 2013 by Joseph, City Manager, City of Sherwood.



Notary Public for Oregon  
My Commission expires:  
*K. Ouellette* May 15<sup>th</sup> 2015

Reviewed and approved by:

City Attorney for City of Sherwood  
*[Signature]*  
\_\_\_\_\_  
City Attorney

**ENGINEERING PLANNING  
FORESTRY**

13910 S.W. Galbreath Dr., Suite 100  
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Phone: (503) 925-8799  
Fax: (503) 925-8969



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**EXHIBIT A1**  
Property Legal Description

A tract of land being Parcel 1 of Document Number 91059128 and Parcel 3 of Document Number 2012-001771, located in the Northwest One-Quarter of Section 28 and the Northeast One-Quarter of Section 29, Township 2 South, Range 1 West, Willamette Meridian, City of Sherwood, Washington County, Oregon, being more particularly described as follows:

Beginning at the 1/4 corner common to Sections 28 and 29, thence North 19°07'57" East 15.34 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 1°15'36" East 49.01 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific", also being the True Point of Beginning; thence along the right-of-way of SW Tualatin Sherwood Road (49.00 feet from centerline) along a non-tangent curve to the left with a Radius of 4049.00 feet, a Delta of 1°05'26", a Length of 77.07 feet, and a Chord of North 89°17'48" West 77.07 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 89°50'31" West 590.48 feet to a point; thence along the west line of Parcel 3 of Document Number 2012-001771 North 01°04'41" East 679.05 feet to a 5/8 inch iron rod with an illegible yellow plastic cap; thence along the north line of said Parcel 3 South 88°49'27" East 868.08 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones & Associates"; thence along the west line of Parcel 1 of Document Number 91059128 North 5°05'55" East 43.86 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones and Associates"; thence along the north line of said Parcel 1 South 88°49'27" East 171.79 feet to a point; thence along the east line of Parcel 1 of Document Number 91059128 and the east line of Parcel 3 of Document Number 2012-001771 South 1°10'33" West 501.15 feet to a point; thence along the northerly right-of-way line of SW Gerda Lane North 88°45'05" West 0.95 feet to a point; thence continuing along said right-of-way (30.43 feet from centerline) South 1°14'55" West 198.00 feet to a 3/4 inch iron pipe with yellow plastic cap inscribed "COUNTY SURVEYOR"; thence South 45°54'17" West 18.28 feet to a 5/8 inch iron rod; thence along the right-of-way of SW Tualatin Sherwood Road (49.00 feet from centerline) North 88°45'05" West 360.21 feet to the True Point of Beginning.

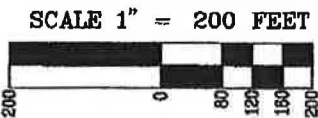
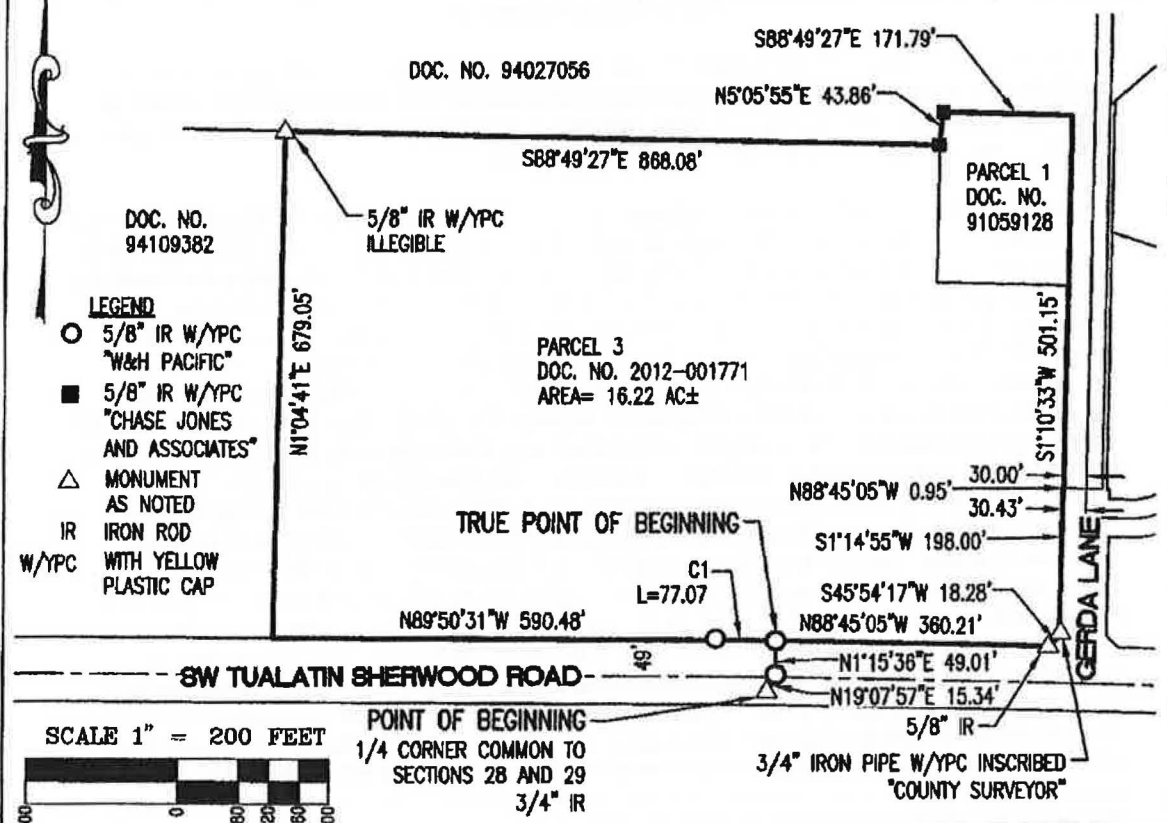
The above described tract of land is 16.22 acres, more or less.



# EXHIBIT A2

## MAP OF PROPERTY BOUNDARY

A TRACT OF LAND BEING PARCEL 1 OF DOCUMENT NUMBER 91059128 AND PARCEL 3 OF DOCUMENT NUMBER 2012-001771 LOCATED IN THE NW 1/4 OF SECTION 28 AND NE 1/4 OF SEC. 29, T2S, R1W, W.M., CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON



CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	4049.00'	01°05'26"	77.07'	N89°17'48"W 77.07'

PREPARED FOR  
MISTY MOUNTAIN ENTERPRISES  
P.O. BOX 623  
MANZANITA, OR 97130

REGISTERED PROFESSIONAL LAND SURVEYOR

*Nick White*

OREGON  
JANUARY 9, 2007  
NICK WHITE  
70852LS  
RENEWS: 6/30/12

JOB NAME: GERDA LANE

JOB NUMBER: 2977

DRAWN BY: BDT

CHECKED BY: NSW

DWG NO.: 2977CEXHA2

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**EXHIBIT B1**

Property Legal Description

A tract of land being Parcel 3 of Document Number 2012-001771, located in the Northwest One-Quarter of Section 28 and Northeast One-Quarter of Section 29, Township 2 South, Range 1 West, Willamette Meridian, City of Sherwood, Washington County, Oregon, being more particularly described as follows:

Beginning at a 3/4 inch iron rod at the 1/4 corner common to Sections 28 and 29, thence North 19°07'57" East 15.34 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "W&H Pacific"; thence North 1°15'36" East 49.01 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific", also being the True Point of Beginning; thence along the right-of-way of SW Tualatin Sherwood Road (49.00 feet from centerline) along a non-tangent curve to the left with a Radius of 4049.00 feet, a Delta of 1°05'26", a Length of 77.07 feet, and a Chord of North 89°17'48" West 77.07 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "W&H Pacific"; thence North 89°50'31" West 590.48 feet to a point; thence along the west line of Parcel 3 of Document Number 2012-001771 North 1°04'41" East 679.05 feet to a 5/8 inch iron rod with an illegible yellow plastic cap; thence along the north line of said Parcel 3 South 88°49'27" East 868.08 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones & Associates"; thence along the west line of Parcel 1 of Document Number 91059128 South 1°10'33" West 185.24 feet to a point; thence along the south line of said Parcel 1 South 88°49'17" East 174.79 feet to a point; thence along the east line of Parcel 3 of Document Number 2012-001771 South 1°10'33" West 272.15 feet to a point; thence along the northerly right-of-way line of SW Gerda Lane North 88°45'05" West 0.95 feet to a point; thence continuing along said right-of-way (30.43 feet from centerline) South 1°14'55" West 198.00 feet to a 3/4 inch iron pipe with yellow plastic cap inscribed "COUNTY SURVEYOR"; thence South 45°54'17" West 18.28 feet to a 5/8 inch iron rod; thence along the right-of-way of SW Tualatin Sherwood Road (49.00 feet from centerline) North 88°45'05" West 360.21 feet to the True Point of Beginning.

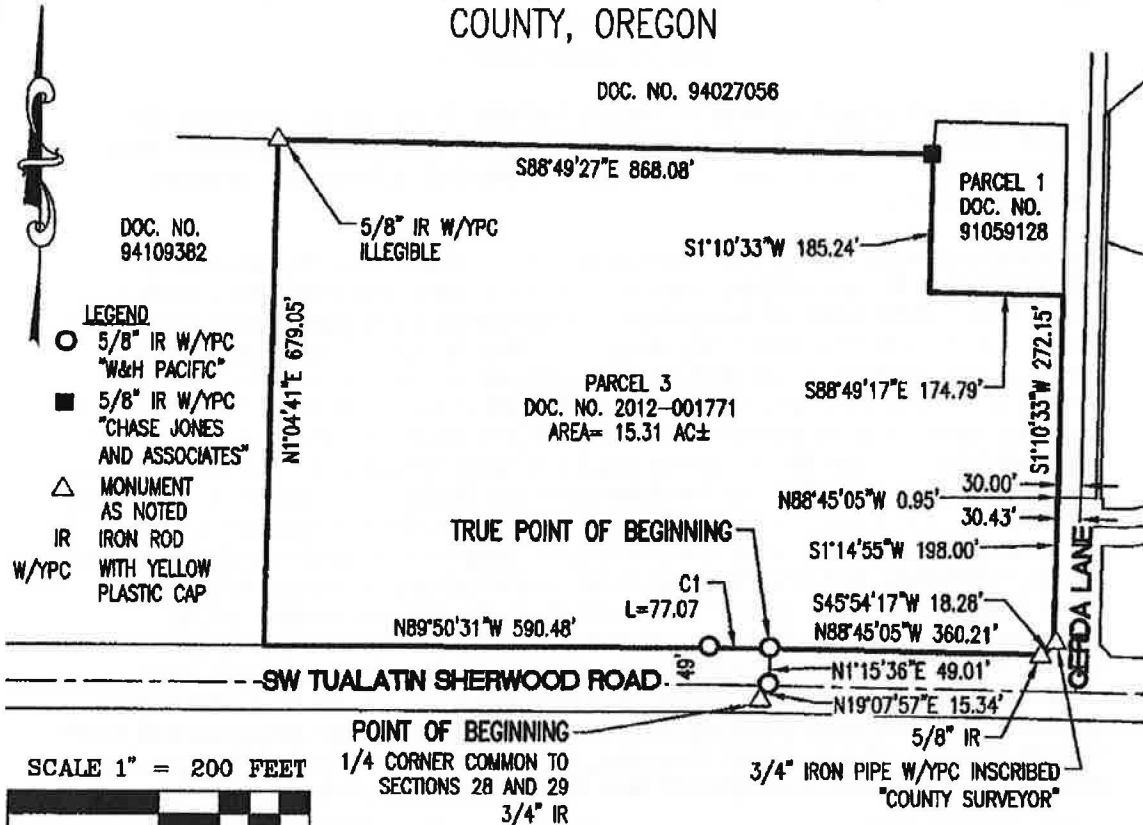
The above described tract of land is 15.31 acres, more or less.



# EXHIBIT B2

## MAP OF PROPERTY BOUNDARY

A TRACT OF LAND BEING PARCEL 3 OF DOCUMENT NUMBER 2012-001771, LOCATED IN THE NW 1/4 OF SEC. 28 AND NE 1/4 OF SEC. 29, T2S, R1W, W.M., CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON



PREPARED FOR  
MISTY MOUNTAIN ENTERPRISES  
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CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	4049.00'	01°05'26"	77.07'	N89°17'48"W 77.07'

REGISTERED PROFESSIONAL LAND SURVEYOR

*Nick White*

OREGON  
JANUARY 9, 2007  
NICK WHITE  
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RENEWS: 6/30/12

JOB NAME: GERDA LANE
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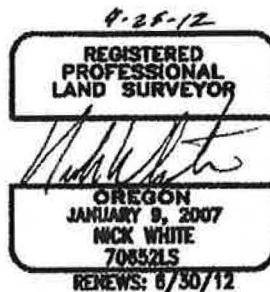
**EXHIBIT C1**

Property Legal Description

A tract of land being Parcel 1 of Document Number 91059128, located in the Northwest One-Quarter of Section 28, Township 2 South, Range 1 West, Willamette Meridian, City of Sherwood, Washington County, Oregon, being more particularly described as follows:

Beginning at a 3/4 inch iron rod at a 3/4 inch iron rod at the 1/4 corner common to Sections 28 and 29, thence North 19°07'57" East 15.34 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 1°15'36" East 49.01 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence along the right-of-way of SW Tualatin-Sherwood Road (49.00 feet from centerline) along a non-tangent curve to the left with a Radius of 4049.00 feet, a Delta of 1°05'26", a Length of 77.07 feet, and a Chord of North 89°17'48" West 77.07 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 89°50'31" West 590.48 feet to a point; thence along the west line of Parcel 3 of Document Number 2012-001771 North 01°04'41" East 679.05 feet to a 5/8 inch iron rod with an illegible yellow plastic cap; thence along the north line of said Parcel 3 South 88°49'27" East 868.08 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones & Associates", also being the True Point of Beginning; thence along the west line of Parcel 1 of Document Number 91059128 North 5°05'55" East 43.86 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones and Associates"; thence along the north line of said Parcel 1 South 88°49'27" East 171.79 feet to a point; thence along the east line of said Parcel 1 South 1°10'33" West 229.01 feet to a point; thence along the south line of said Parcel 1 North 88°49'17" West 174.79 feet to a point; thence along the west line of said Parcel 1 North 1°10'33" East 185.24' to the True Point of Beginning.

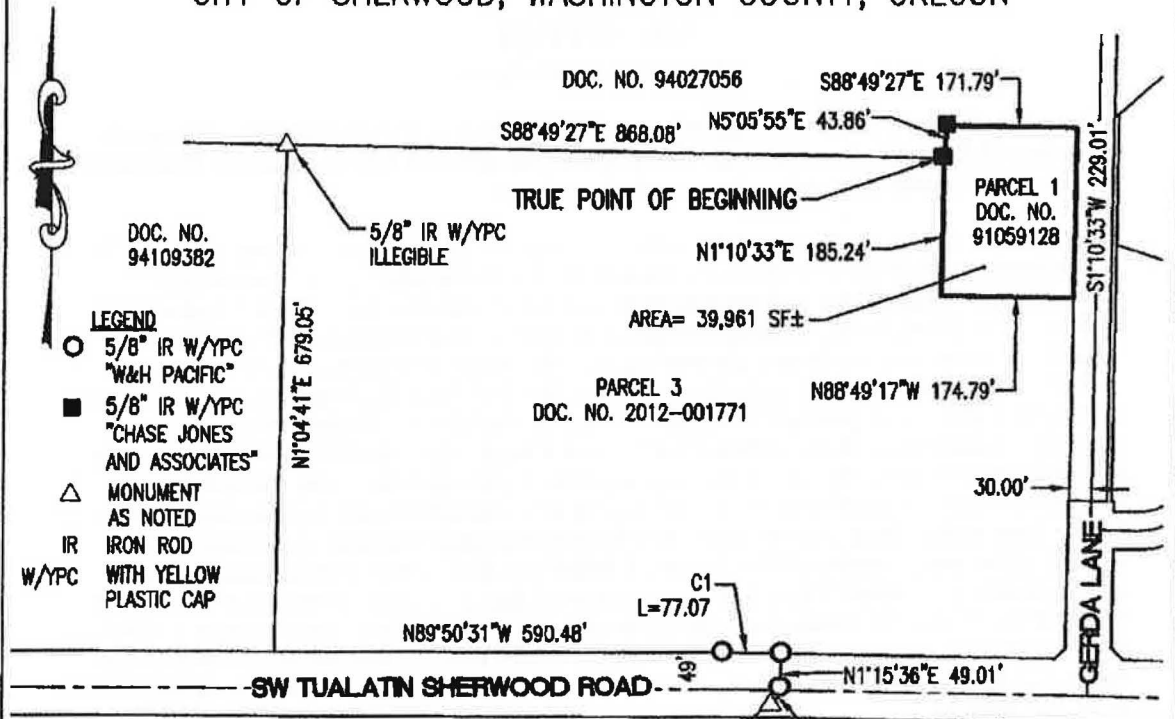
The above described tract of land is 39,961 square feet, more or less.



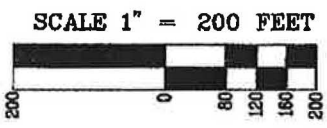
# EXHIBIT C2

## MAP OF PROPERTY BOUNDARY

A TRACT OF LAND BEING PARCEL 1 OF DOCUMENT NUMBER 91059128, LOCATED IN THE NW 1/4 OF SEC. 28, T2S, R1W, W.M., CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON



- LEGEND**
- 5/8" IR W/YPC "W&H PACIFIC"
  - 5/8" IR W/YPC "CHASE JONES AND ASSOCIATES"
  - △ MONUMENT AS NOTED
  - IR IRON ROD
  - W/YPC WITH YELLOW PLASTIC CAP



CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
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4-26-12

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 JANUARY 9, 2007  
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 RENEWS: 6/30/12

JOB NAME: GERDA LANE

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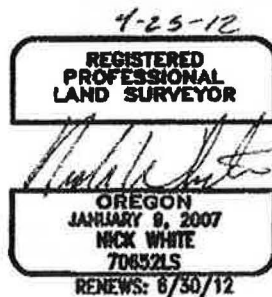
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**EXHIBIT D1**  
Future Right-of-Way  
Legal Description

A tract of land being a portion of Parcel 1 of Document Number 91059128, located in the Northwest One-Quarter of Section 28, Township 2 South, Range 1 West, Willamette Meridian, City of Sherwood, Washington County, Oregon, being more particularly described as follows:

Beginning at a 3/4 inch iron rod at the 1/4 corner common to Sections 28 and 29, thence North 19°07'57" East 15.34 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 1°15'36" East 49.01 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence along the right-of-way of SW Tualatin-Sherwood Road (49.00 feet from centerline) along a non-tangent curve to the left with a Radius of 4049.00 feet, a Delta of 1°05'26", a Length of 77.07 feet, and a Chord of North 89°17'48" West 77.07 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "W&H Pacific"; thence North 89°50'31" West 590.48 feet to a point; thence along the west line of Parcel 3 of Document Number 2012-001771 North 01°04'41" East 679.05 feet to a 5/8 inch iron rod with an illegible yellow plastic cap; thence along the north line of said Parcel 3, South 88°49'27" East 868.08 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "Chase Jones & Associates", also being the True Point of Beginning; thence South 88°49'27" East 174.79 feet to a point; thence along the east line of Parcel 1 of Document Number 91059128 South 1°10'33" West 50.00 feet to a point; thence North 88°49'27" West 174.79 feet to a point; thence along the west line of said Parcel 1 North 1°10'33" East 50.00 feet to the True Point of Beginning.

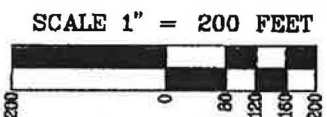
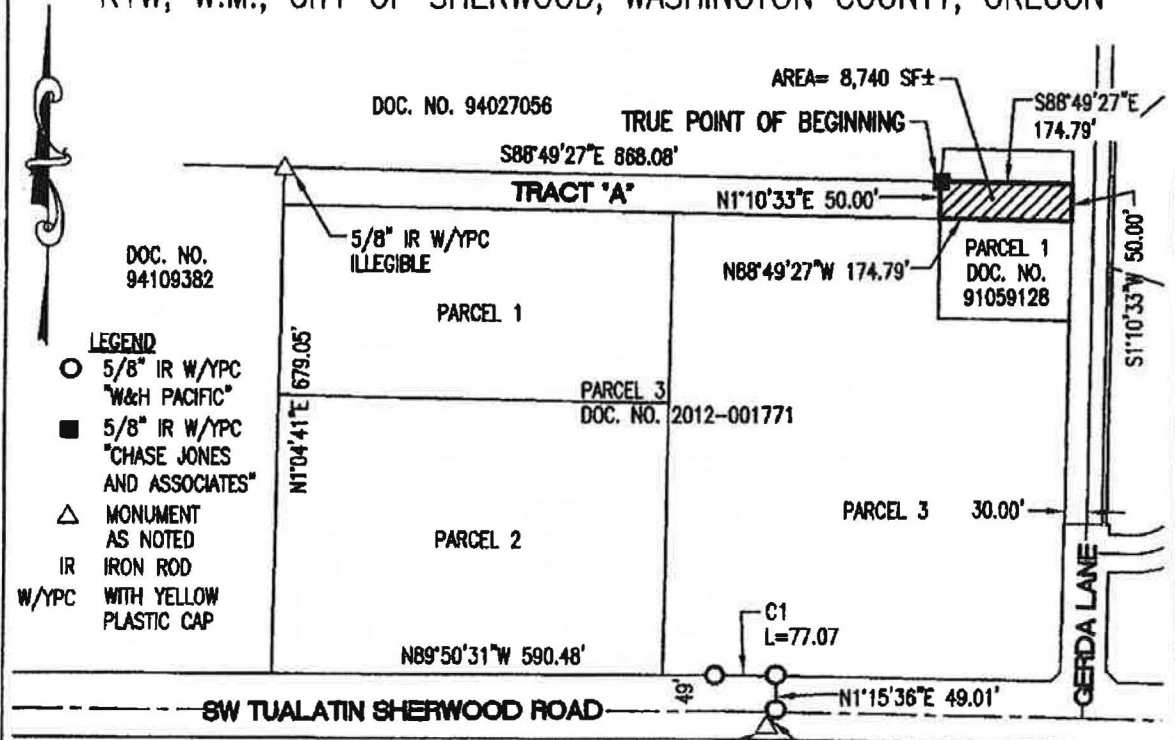
The above described tract of land contains 8,740 square feet, more or less.



# EXHIBIT D2

## MAP OF FUTURE RIGHT-OF-WAY

A TRACT OF LAND BEING A PORTION OF PARCEL 1 OF DOCUMENT NUMBER 91059128, LOCATED IN THE NW 1/4 OF SEC. 28, T2S, R1W, W.M., CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON



POINT OF BEGINNING  
 1/4 CORNER COMMON TO SECTIONS 28 AND 29  
 3/4" IR

CURVE TABLE				
CURVE	RADIUS	DELTA	LENGTH	CHORD
C1	4049.00'	01°05'26"	77.07'	N89°17'48"W 77.07'

PREPARED FOR  
 MISTY MOUNTAIN ENTERPRISES  
 P.O. BOX 623  
 MANZANITA, OR 97130

REGISTERED PROFESSIONAL LAND SURVEYOR

*Nick White*

OREGON  
 JANUARY 9, 2007  
 NICK WHITE  
 70652LS  
 RENEWS: 6/30/12

JOB NAME: GERDA LANE  
 JOB NUMBER: 2977  
 DRAWN BY: BDT  
 CHECKED BY: NSW  
 DWG NO.: 2977CEXHD2

ENGINEERING • PLANNING • LANDSCAPE ARCHITECTURE  
 FORESTRY • SURVEYING

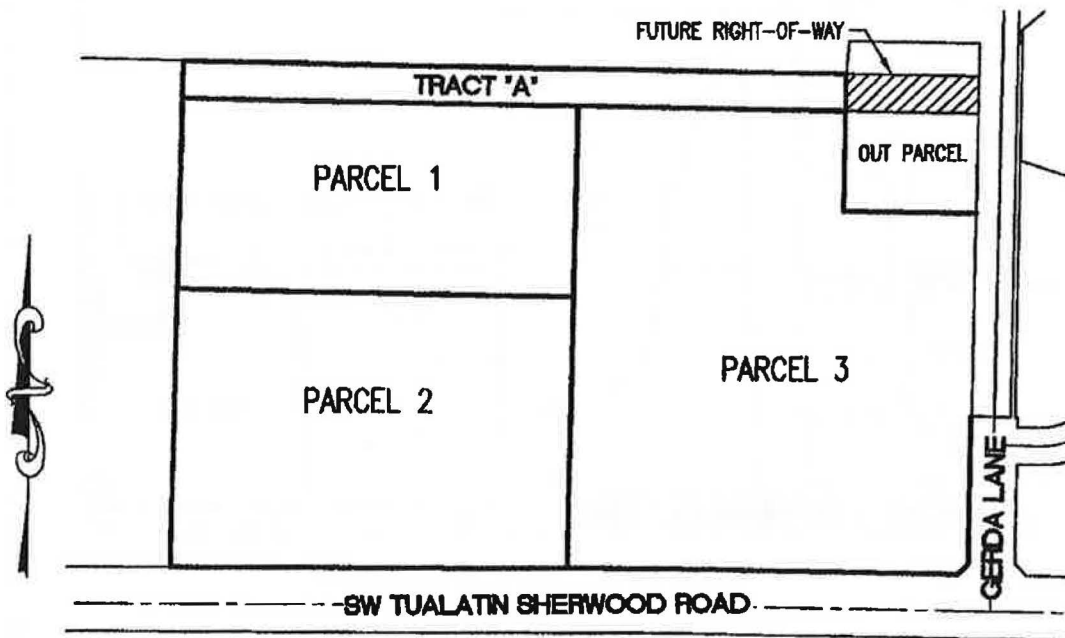


LICENSED IN OR & WA  
 13910 SW GALBREATH DRIVE, SUITE 100  
 SHERWOOD, OR 97140  
 PHONE: (503) 925-8799  
 FAX: (503) 925-8969  
 OFFICES LOCATED IN SALEM, OR & VANCOUVER, WA

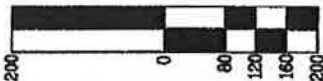
# EXHIBIT E

## MAP OF PARTITION PLAT

PARCEL 3 OF DOCUMENT NUMBER 2012-001771, LOCATED IN THE  
 NW 1/4 OF SEC. 28 AND NE 1/4 OF SEC. 29, T2S, R1W, W.M.,  
 CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON



SCALE 1" = 200 FEET



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4-25-12

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JOB NAME: GERDA LANE

JOB NUMBER: 2977

DRAWN BY: BDT

CHECKED BY: NSW

DWG NO.: 2977CEXHE

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 FORESTRY • SURVEYING

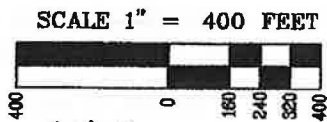
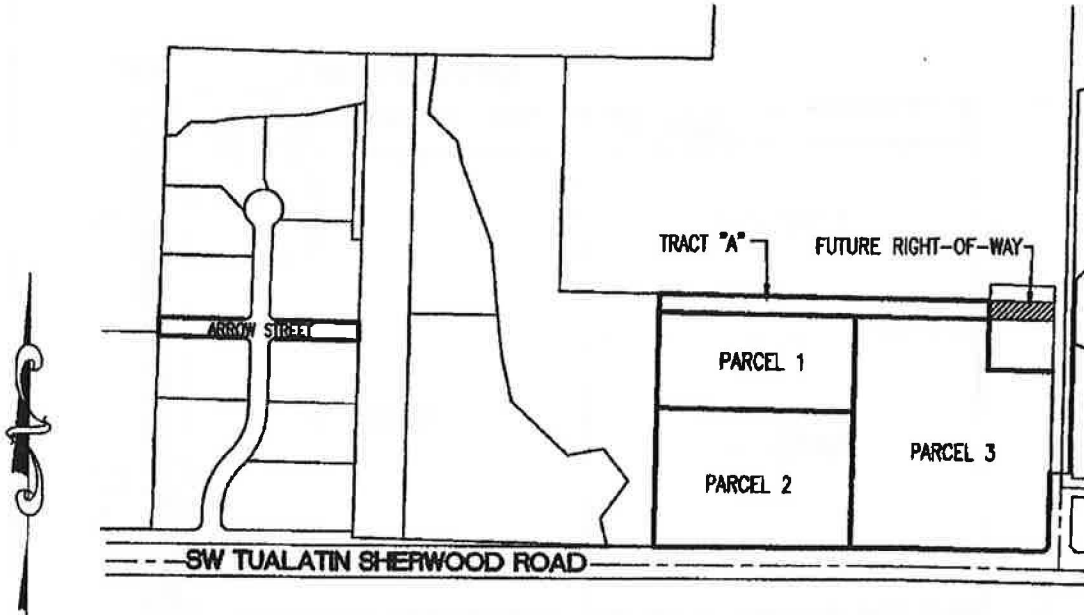


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OFFICES LOCATED IN SALEM, OR & VANCOUVER, WA

**EXHIBIT F**  
**MAP OF TRACT A AND ARROW STREET,**  
**LOCATED IN THE NW 1/4 OF SEC. 28 AND THE NORTH 1/2 OF SEC.**  
**29, T2S, R1W, W.M., CITY OF SHERWOOD, WASHINGTON COUNTY,**  
**OREGON**



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CHECKED BY: NSW

DWG NO.: 2977CEXHF

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 FORESTRY • SURVEYING

**AKS**  
 ENGINEERING & FORESTRY

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