#### **RESOLUTION NO. 1468**

## A RESOLUTION OF THE CITY OF WILSONVILLE AUTHORIZING EXECUTION OF A DEVELOPMENT AGREEMENT FOR TOWN CENTER PARK.

WHEREAS, the City executed a Memorandum of Understanding in July 1997, relating to the development of Town Center Park; and

WHEREAS, in the July 1997, Memorandum of Understanding the City and Property Owner detailed responsibilities and obligations of the parties which are formalized and merged into this Development Agreement.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

The Wilsonville City Council authorize the Mayor to execute the "Development 1. Agreement for Town Center Park" attached hereto as Exhibit A.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 20th day of May, 1998, and filed wit the Wilsonville City Recorder this date.

CHARLOTTE LEHAN, MAYOR

ATTEST:

Sandra C. King, CMC, City Recorder

SUMMARY of votes:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Helser	Yes
Councilor Barton	Yes
Councilor Luper	Yes

**RESOLUTION NO. 1468** 

PAGE 1 OF 1

### DEVELOPMENT AGREEMENT FOR TOWN CENTER PARK

This agreement is hereinafter made effective May 18, 1998, between the City of Wilsonville (the "City") and Plaza Royal, Sky-Land Inc., and Jack E. Kohl, Jr. (the "Owner"), as tenants-incommon owning certain real property identified as 3S1W14D-tax lot 221 (the "Property").

### RECITALS

WHEREAS, the City is committed to developing a five acre Town Center Park contiguous to the east of the Owner's property; and

WHEREAS, Owner desires to assist the City in its Town Center Park development by dedicating and conveying certain property for street ingress and egress to and for the Park provided the Owner receives certain development rights and relocation of the existing sanitary sewer line in consideration of the Owner's dedication and conveyance of property.

WHEREAS, the Clackamas County Tourism Development Council is a partner in the Town Center Park project as regards the Visitor Information Center and supporting infrastructure, and has entered into a Memorandum of Understanding regarding funding to proceed with development; and

WHEREAS, the City and Owner executed a Memorandum of Understanding dated July 1, 1997, detailing responsibilities and obligations of the parties in contemplation of the aforesaid Park development and funding, which are formalized and merged into this development agreement.

#### AGREEMENTS

- 1. The Owner shall dedicate and convey to the City real property necessary for the extension of Parkway Court as identified in Exhibit A Street Dedication and Exhibit B Public Utility Easement, attached hereto and by this reference incorporated herein.
- 2. Chicago Title Insurance Company has prepared a First Supplemental Status of Record Title Report for the property dated June 18, 1997, which has been provided to the Owner and to the City. Owner agrees to convey the Property to City subject only to exceptions described in the June 18, 1997, report. All costs associated with dedication and conveyance of the Property such as legal descriptions, title reports, escrow services, transfer of title, recordation, and any other miscellaneous expenses shall be borne by the City.
- 3. The location and description of required future sidewalks shall be specific to Owner's future development proposal, and all costs shall be borne by Owner at that time.

Development Agreement Plaza Royal, Sky-Land, Inc. B11052-01 Page 1 of 4

Exhibit A

- 4. The City shall replace the existing sanitary sewer line presently crossing Owner's Property with a sanitary sewer line in the Parkway Court road extension, at no cost to Owner. Upon the completion of the replacement, the City shall by a duly adopted resolution make a finding and determination that there is no longer a public purpose and use for the portion of property on Owner's land described in the existing pipeline easement on record with Clackamas County Deed Records, #86-11259 and that such property shall revert to the Owner by operation of law. Any removal of the abandoned sanitary sewer line and all costs applicable thereto are the Owner's responsibility.
- 5. The Owner shall have the development right to include on-street parking adjacent and contiguous to the Property, as identified in Exhibit C attached hereto and by this reference incorporated herein, in site parking calculations for any future development proposal of the Property.
- 6. The Owner shall be allowed, as part of the future development of its Property, two vehicular access points aligned with parking lot accesses on the east side of Parkway Court, and further depicted in Exhibit C. These future commercial driveways, including curb cuts and driveway impact panels, shall be constructed at no cost to the City.
- 7. As part of the Parkway Court extension, the City shall provide domestic water, sanitary sewer and storm sewer utility stub-outs to Owner's Property line at City expense as identified in Exhibit D. City shall provide a copy of as-built utility documents to Owner upon the Parkway Court extension project completion and receipt by the City of such documents.
- 8. The City shall provide prior to close of escrow at no cost to Owner a surveyed legal description and plat map for Owner's property remainder.
- 9. Unless otherwise provided for in this agreement, the City shall bear all costs associated with the extension of Parkway Court including construction of curb, gutter and street storm drainage.
- 10. The City, its authorized agents, employees and independent contractors are hereby granted the right to enter upon the Property at reasonable times for the purpose of completing the Town Center Park project and any other obligations under the terms and conditions of this agreement. Upon project completion, City shall return property remainder to Owner restored to its original condition. City shall indemnify, defend and hold Owner harmless of and from any and all claims, demands, actions and liabilities that may arise or result from City's activities in connection with such entry.

Development Agreement Plaza Royal, Sky-Land, Inc. BH052-01

- 11. This agreement is contingent upon funds appropriated therefor. This agreement shall terminate if Parkway Court extension construction has not initiated within 12 months of execution of this agreement.
- 12. Nothing contained herein shall be constructed to require the commission of any act contrary to law, and wherever there is any conflict between any provisions contained herein and any present or future statute, law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail; but, the provision of this Agreement which is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.
- 13. In the event of a dispute, the dispute will be litigated in Clackamas County Circuit Court; however, the parties may mutually agree to arbitrate the matter under the rules of the American Arbitration Association, or by any other arbitrator mutually agreed upon by the parties hereto, and judgment upon the award rendered may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled to recover from the other party such sums as the court or arbitrator may adjudge reasonable as attorneys' fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.
- 14. This Agreement constitutes the entire agreement between the parties, integrate all of the terms and conditions mentioned herein or incidental hereto, and supersede all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

Owners: PLAZA ROYAL, Tenant-in-Common City: CITY OF WILSONVILLE

By: Philip W. Lapp General Partner By: Charlotte Lehan Mayor

By: Donald F. Mala, President Sky-Land, Inc. General Partner

SKY-LAND, INC., Tenant-in-Common

By:	Donald F. Mala, President
	Sky-Land, Inc.

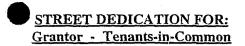
Development Agreement Plaza Royal, Sky-Land, Inc. BH052-01

## JACK E. KOHL, JR., Tenant-in-Common

By: Jack E. Kohl, Jr.

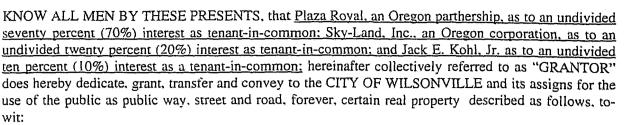
Development Agreement Plaza Royal, Sky-Land, Inc. BH052-01

Page 4 of 4



11

Exhibit A



SEE EXHIBIT "A" Legal Description AND EXHIBIT "B" Locational Map attached hereto, and incorporated by reference as if fully set forth herein.

TO HAVE AND TO HOLD the above described and dedicated premises unto the City of Wilsonville for the Public forever for the uses and purposes herein above mentioned; provided, however, in the event said premises are not used or cease to be used for public purpose, the premises shall revert to the GRANTOR.

The true and actual consideration paid for the transfer, stated in terms of dollars, is \$\_\_\_\_\_0\_\_\_\_\_ and other consideration identified in May 18, 1998, Development Agreement for Town Center Park.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, the undersigned GRANTOR has executed this dedication, this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 19 \_\_\_\_\_.

GRANTOR(S): PLAZA ROYAL, Tenant-in-Common

Owners: PLAZA ROYAL, Tenant-in-Common

By: Philip W. Lapp General Partner

By: Donald F. Mala, President Sky-Land, Inc. General Partner

After recording, return to: CITY RECORDER CITY OF WILSONVILLE 30000 SW Town Center Loop E. Wilsonville OR 97070

Street Dedication 713(a) Rev. 5/4/94 Page 1 of 3 SKY-LAND, INC., Tenant-in-Common

By: Donald F. Mala, President Sky-Land, Inc.

JACK E. KOHL, JR., Tenant-in-Common

By: Jack E. Kohl, Jr.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON My Commission Expires:

On this \_\_\_\_\_ day of \_\_\_\_\_\_. 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared **Philip W. Lapp** known to me to be the person whose name is subscribed to the within instrument and acknowledged that **he** executed the same for the purposes therein contained.

IN WITNESS WHEREOF. I have hereunder set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON My Commission Expires:

On this \_\_\_\_\_ day of \_\_\_\_\_\_. 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared **Donald F. Mala** known to me to be the person whose name is subscribed to the within instrument at two places and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal on the day and year above written.

		NOTARY PUBLIC FOR OREGON
		My Commission Expires:
STATE OF OREGON	)	- • • <u>- • • · · · · · · · · · · · · · · · · · </u>
	) ss	
County of	)	

On this \_\_\_\_\_ day of \_\_\_\_\_\_, 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared Jack E. Kohl. Jr. known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Street Dedication 713(a) Rev. 5/4/94 Page 2 of 3

IN WITNESS WHEREOF, I have hereunder set my hand and official seal on the day and year above written.

> NOTARY PUBLIC FOR OREGON My Commission Expires:

APPROVED AS TO FORM

this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Michael E. Kohlhoff, City Attorney City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Mike Stone, P.E., City Engineer City of Wilsonville, Oregon

ACCEPTED on behalf of the City of Wilsonville, Oregon

21 ST day of Mary, 19 98. this / à

Charlotte Lehan, Mayor

ATTESTED TO: <u>Aandra C. King</u> Sandra C. King, City Recorder

Vay 2/1/1983

Street Dedication 713(a) Rev. 5/4/94 Page 3 of 3

# EXHIBIT A

# Legal Description for a Road Dedication

A parcel of land located in the Southwest quarter of Section 13 and the Southeast quarter of Section 14, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, State of Oregon, and being a portion of Parcel 1 of Partition Plat No. 1991-202, dated April 2, 1991, and also a portion of Parcel 3 of Partition Plat No. 1991-164, dated April 2, 1991, said Partition Plats filed in the Clackamas County Surveyor's Office, Oregon City, Oregon, more particularly described as follows:

Beginning at a 1" iron pipe marking the Northwest corner of said Parcel 3 as shown on said Partition Plat No. 1991-164; thence along the westerly prolongation of the north line of said Parcel 3, South 89° 26' 32" West 52.55 feet to a point on a non-tangent curve concave easterly, having a radius of 190.00 feet and a radial bearing of North 88° 18' 35" East: thence southerly 117.01 feet along said curve through a central angle of 35° 17' 03"; thence South 36° 58'28" East 81.29 feet to the beginning of a 160.00 foot radius curve concave westerly; thence southerly 213.08 feet along said curve through a central angle of 76° 18'08" to the southerly line of said Parcel 3; thence along said southerly line South 89° 57'00" East 38.65 feet to an angle point in the southerly line of said Parcel 3, also being the southwest corner of that certain parcel of land conveyed to the City of Wilsonville by Capital Realty Corporation and recorded in Document No. 96-029358, Clackamas County Recorder's Office, in said Oregon City: thence North 00° 03'00" East 103.56 feet along the westerly line of said City of Wilsonville parcel to the beginning of a 150.00 foot radius curve concave westerly; thence continuing northerly along said westerly line 104.09 feet along said curve through a central angle of 39° 45'39" to the beginning of a 150.00 foot radius reverse curve; thence continuing northerly along said westerly line 104.09 feet along said curve through a central angle of 39° 45'40"; thence continuing along said westerly line North 00° 03'01" East 76.30 feet to the northwest corner of said Parcel 3 and the point of beginning.

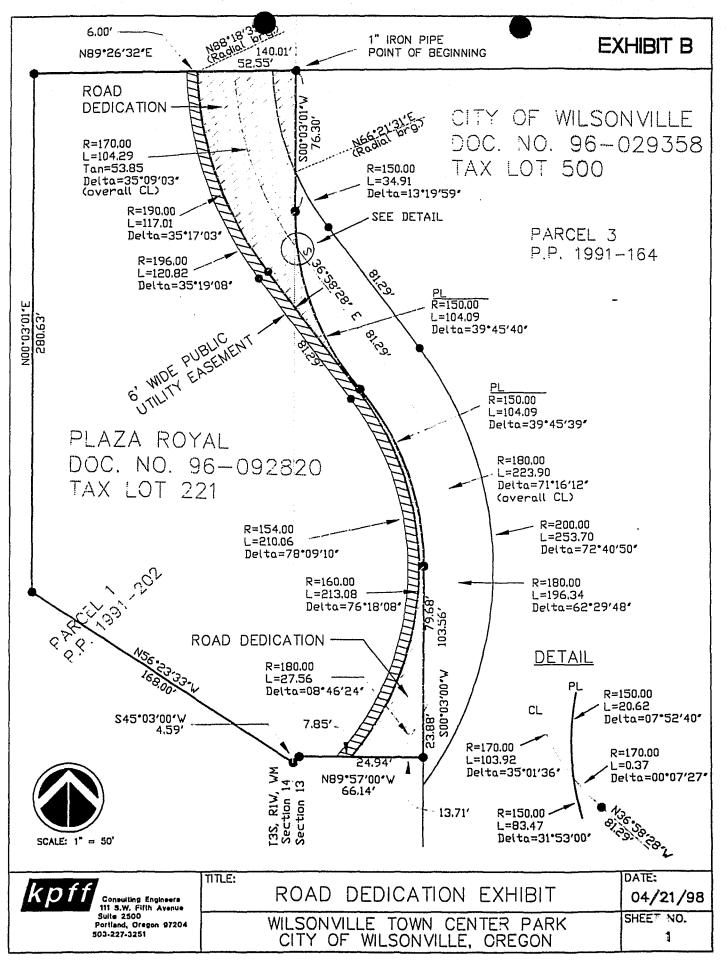
Containing 6,452 square feet, more or less.

End of Description.

REGISTERED PROFESSIONAL LAND SURVEYCR ØREGON JULY 20, 1993 MARK D. FILSINGER 2513

Benew Dale 12-31-99

April 13, 1998 I:'c\p\96\96222\6222road.des





KNOW ALL MEN BY THESE PRESENTS, that <u>Plaza Royal</u>, an Oregon parthership, as to an <u>undivided seventy percent (70%)</u> interest as tenant-in-common; <u>Sky-Land</u>, Inc., an Oregon corporation, as to an <u>undivided twenty percent (20%)</u> interest as tenant-in-common; and Jack E. Kohl. Jr. as to an <u>undivided ten percent (10%)</u> interest as a tenant-in-common; hereinafter collectively referred to as "GRANTOR" does hereby dedicate, grant, transfer and convey to the CITY OF WILSONVILLE and its assigns for the use of the public as public way, street and road, forever, certain real property described as follows, to-wit:

- 1. Legal description is set forth in EXHIBIT "A" attached hereto, and incorporated by reference herein.
- 2. A map of the above legal description is set forth in EXHIBIT "B" and incorporated by reference herein.

The true and actual consideration paid for this transfer, stated in terms of dollars, is  $\underbrace{\$0}$ . However, the actual consideration consists of or includes other property or value given or promised which is the whole of the consideration as identified in May 18, 1998, Development Agreement for Town Center Park.

In the event the permanent right-of-way and easement shall no longer serve a public purpose, it shall revert back to the Grantor, its successors and/or assigns: and

TO HAVE AND TO HOLD the above described permanent right-of-way and easement unto said Grantee in accordance with the conditions and covenants as follows:

1. The Grantee, through its officers, employees and agents, shall have the right to enter upon said lands in such a manner and at such times from this date as may be reasonably necessary for the purpose of constructing, building, patrolling, replacing and maintaining thereon a public utilities easement along said right-of-way for the conveyance of power, electric, natural gas, telephone or cable, including such renewals, repairs, replacements and removals as may be from time to time required. Said right shall be perpetual for so long as grantee shall operate or cause to be operated a public utility for said purposes as herein provided.

2. Immediately after any construction or repair of said public utility the surface of the ground shall be restored equal to its original condition so that the Grantor and its successors and/or assigns shall have the free and unobstructed use thereof, subject to rights of Grantee herein provided.

After recording, return to: CITY RECORDER CITY OF WILSONVILLE 30000 SW Town Center Loop, E. WILSONVILLE OR 97070

**Public Utility Easement** 709(a) Rev. 5/3/94 Page 1 of 4 3. Grantee will make no mreasonable interference with such use the surface of said land by Grantor and its successors and/or assigns.

4. Grantor and its successors and/or assigns will not be responsible for damage by others to said public utilities.

5. Grantee will indemnify and hold harmless the Grantor and its successors and/or assigns from claims or injury to person or property as a result of the negligence of the Grantee, its agents or employees in the construction, operation or maintenance of said easement for public utilities.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

IN WITNESS WHEREOF, the undersigned grantor has executed this easement, this \_\_\_\_\_ day

of \_\_\_\_\_, 19\_\_\_\_.

GRANTOR(S): PLAZA ROYAL, Tenant-in-Common

Owners: PLAZA ROYAL, Tenant-in-Common

By: Philip W. Lapp General Partner

By: Donald F. Mala, President Sky-Land, Inc. General Partner

SKY-LAND, INC., Tenant-in-Common

By: Donald F. Mala, President Sky-Land, Inc..

JACK E. KOHL, JR., Tenant-in-Common

By: Jack E. Kohl, Jr.

Public Utility Easement 709(a) Rev. 5/3/94 Page 2 of 4

#### STATE OF OREGON

County of

On this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared **Philip W. Lapp** known to me to be the person whose name is subscribed to the within instrument and acknowledged that **he** executed the same for the purposes therein contained.

) SS )

IN WITNESS WHEREOF, I have hereunder set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON My Commission Expires:

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared **Donald F. Mala** known to me to be the person whose name is subscribed to the within instrument at two places and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON
My Commission Expires: \_\_\_\_\_

On this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 19 \_\_\_\_, before me, a notary public in and for said County and State, personally appeared **Jack E. Kohl, Jr.** known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF. I have hereunder set my hand and official seal on the day and year above written.

NOTARY PUBLIC FOR OREGON
My Commission Expires: \_\_\_\_\_

Public Utility Easement 709(a) Rev. 5/3/94 Page 3 of 4 APPROVED AS TO FORM

this \_\_\_\_\_\_ day of \_\_\_\_\_\_, 19\_\_\_.

Michael E. Kohlhoff, City Attorney City of Wilsonville, Oregon

APPROVED AS TO LEGAL DESCRIPTION this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Mike Stone, P.E., City Engineer City of Wilsonville, Oregon

ACCEPTED on behalf of the City of Wilsonville, Oregon this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Charlotte Lehan, Mayor

ATTESTED TO:

Sandra C. King, City Recorder

Date:

Public Utility Easement 709(a) Rev. 5/3/94 Page 4 of 4

# EXHIBIT A

# Legal Description for a Public Utility Easement

A parcel of land located in the Southwest quarter of Section 13 and the Southeast quarter of Section 14, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, State of Oregon, and being a portion of Parcel 1 of Partition Plat No. 1991-202, dated April 2, 1991, and also a portion of Parcel 3 of Partition Plat No. 1991-164, dated April 2, 1991, said Partition Plats filed in the Clackamas County Surveyor's Office, Oregon City, Oregon, more particularly described as follows:

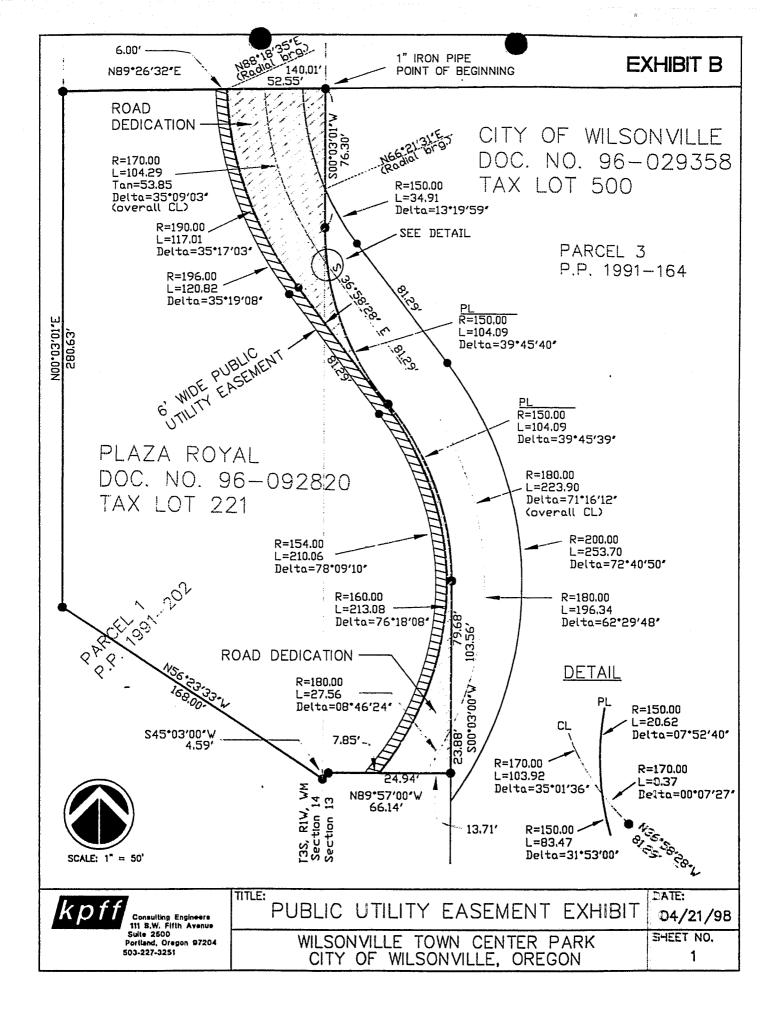
Commencing at a 1" iron pipe marking the Northwest corner of said Parcel 3 as shown on said Partition Plat No. 1991-164; thence along the westerly prolongation of the north line of said Parcel 3, South 89° 26' 32" West 52,55 feet to a point on a non-tangent curve concave easterly, having a radius of 190.00 feet and a radial bearing of North 88° 18' 35" East, said point also being the **TRUE POINT OF BEGINNING** of this description: thence southerly 117.01 feet along said curve through a central angle of 35° 17' 03"; thence South 36° 58'28" East 81.29 feet to the beginning of a 160.00 foot radius curve concave westerly; thence southerly 213.08 feet along said curve through a central angle of 76° 18'08" to the southerly line of said Parcel 3; thence along said southerly line North 89° 57'00" West 7.85 feet to the beginning of a 154.00 foot radius nontangent curve concave westerly, having a radial bearing of North 48º 49'18" West; thence continuing northerly along said westerly line 210.06 feet along said curve through a central angle of 78° 09'10"; thence North 36° 58'28" West 81.29 feet to the beginning of a 196.00 foot radius curve concave easterly; thence northerly 120.82 feet along said curve through a central angle of 35° 19'08" to the said westerly prolongation of the north line of said Parcel 3: thence North 89° 26'32" East 6.00 feet to the point of beginning.

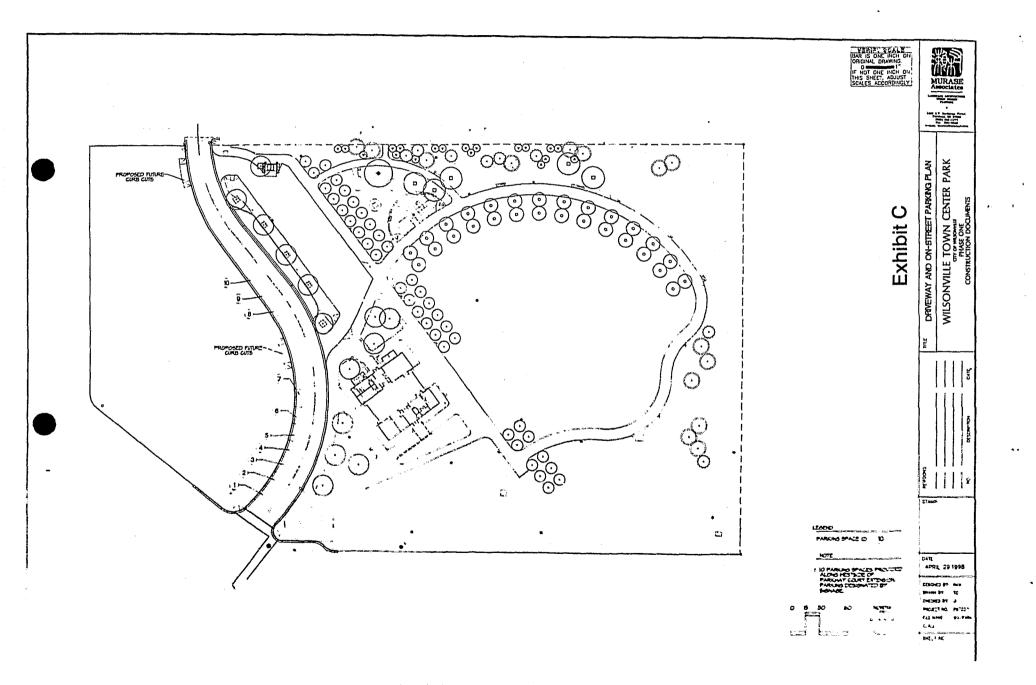
Containing 2,471 square feet, more or less.

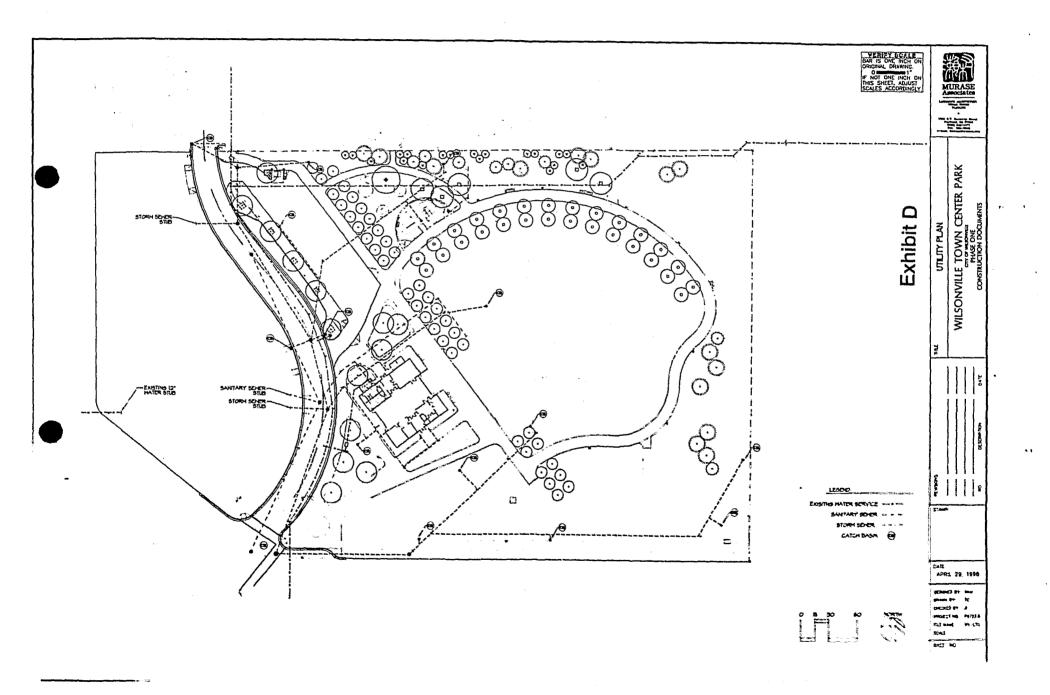
End of Description.

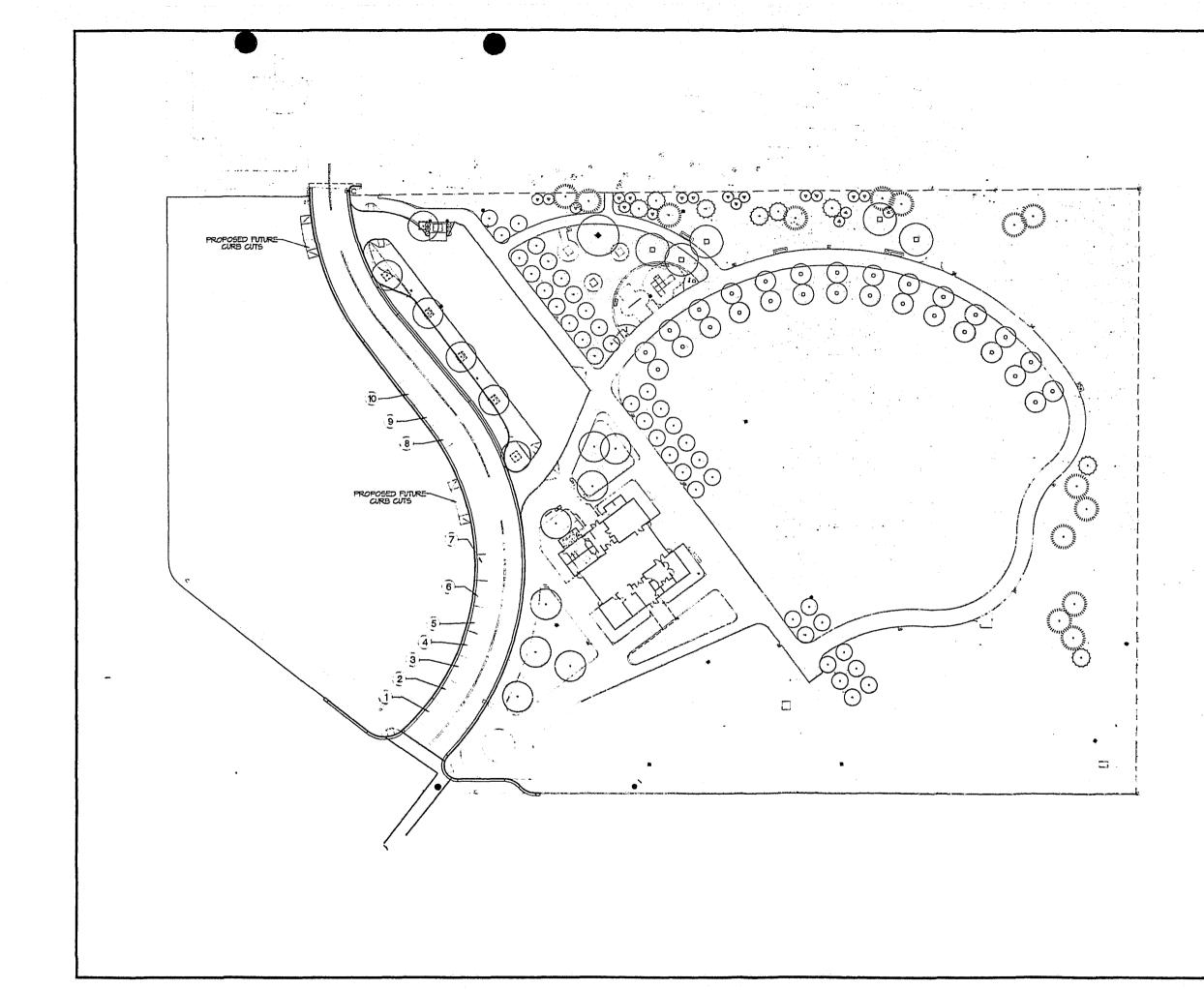
REGISTERED PROFESSIONAL LAND SURVEYOR MARK D. FILSINGER Renew Data

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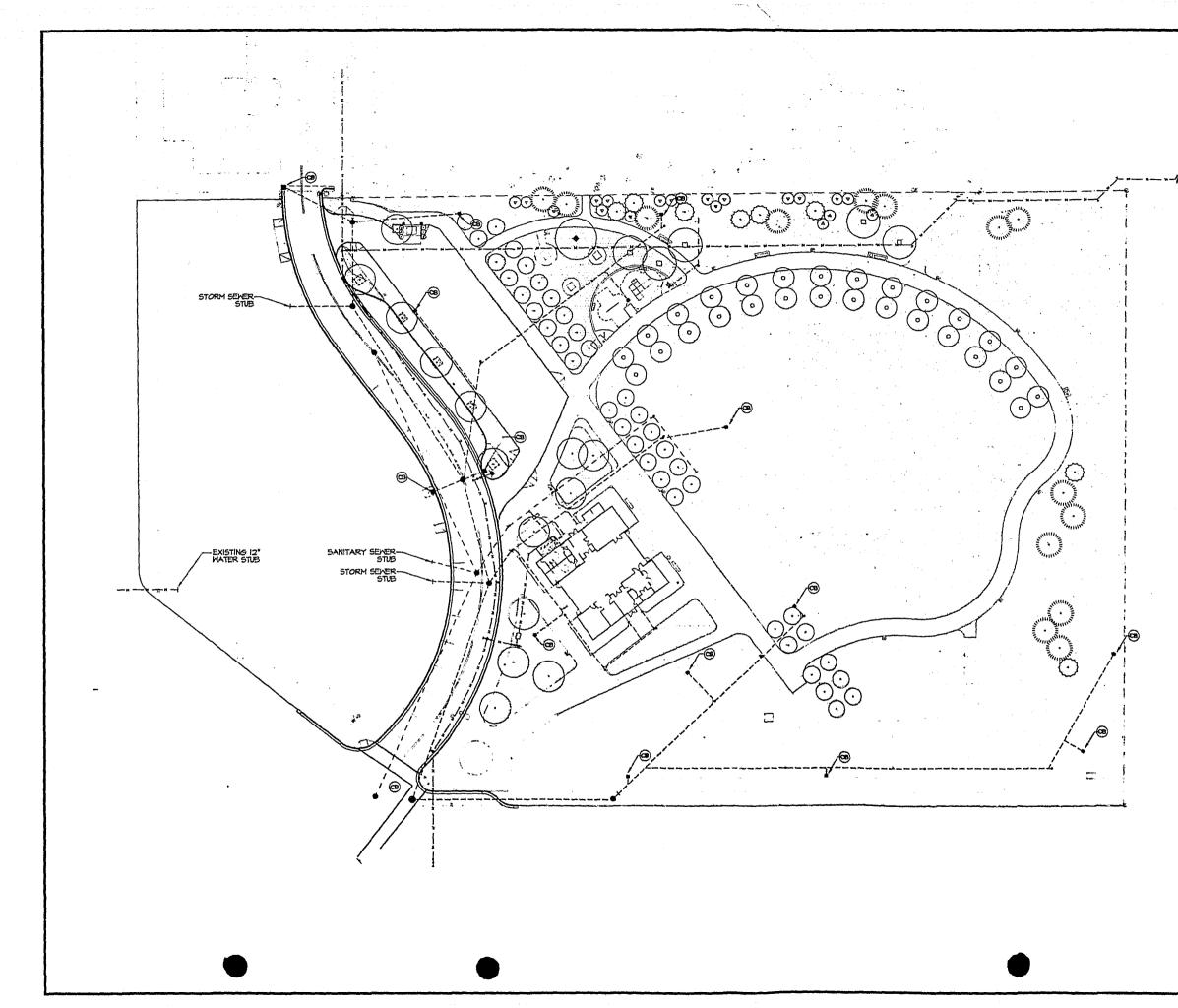






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