ALTA SURVEYS, SURVEY EXTENDED COVERAGE, AND RELATED ENDORSEMENTS

Presented by:
Brady McGarry, Professional Land Surveyor, Chase Jones & Associates and
Justin Carter, Legal Counsel, Chicago Title Insurance Company

Presentation Roadmap

- When is a survey required?
- The Mechanics of Survey Coverage
- What is an ALTA/NSPS Survey?
  - Minimum Standards
  - Table A Options
- Discussion of Related Endorsements and Table A Items

When do I need a Survey?

- Variations per underwriter
- Always: Owner's Extended Policies
- Generally: Lender's Extended Policies insuring $1,000,000 or more
  - Exceptions on a case by case basis
- Several Endorsements (maybe):
  - Covenants, Conditions, Restrictions, Private Rights, Minerals – 209 series
  - Contiguity - 219s
  - Access - 217s
  - Same as Survey - 225 (it has survey in the title)

Mechanics

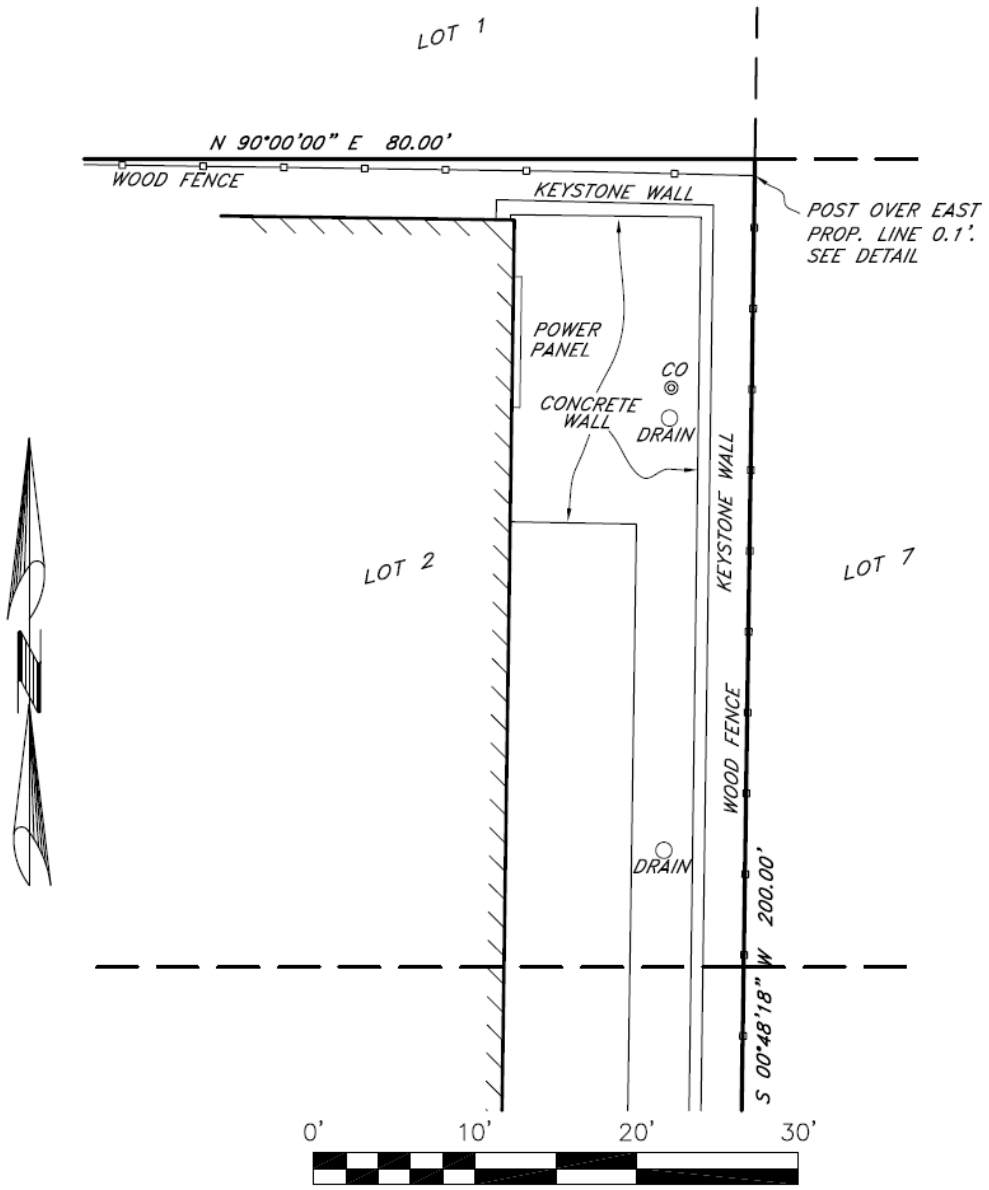
- The survey related exceptions, which are standard exceptions 2-4, are replaced by a specific exception for matters disclosed by the survey.
- Standard Exceptions
  - 2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or which may be asserted by persons in possession thereof.
  - 3. Easement, or claims thereof, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
  - 4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
- Replaced by New Exceptions: “Any rights, interest, or claims which may exist or arise by reason of matters disclosed by that ALTA/NSPS Land Title Survey last dated June 24, 2016 by Guy Surveyor, of Surveyor & Associates, P.S. for: (a) storm drain lines connecting to the adjacent Texaco parcel; (b) building line encroaching over the northerly 1.2 feet.”

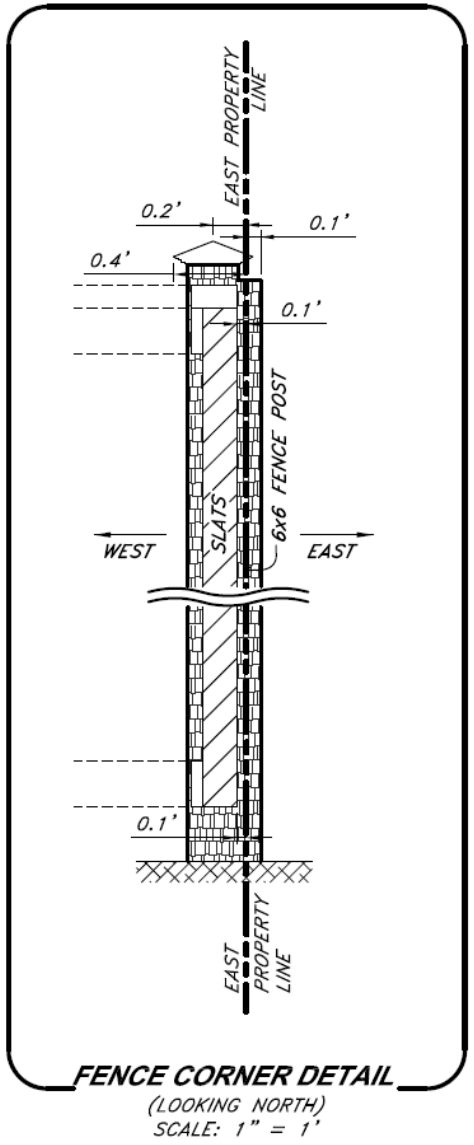
What is an ALTA/NSPS survey?

- Meets the minimum standards promulgated by the American Land Title Association and the National Society of Professional Surveyors (formerly the American Congress of Surveying and Mapping)
- Minimum Standards Include
  - Boundary lines
  - Building footprint
  - Location of utilities
  - Location of recorded easements
  - Evidence of unrecorded rights
- Additional Items

ALTA/NSPS Standards

- Most recent promulgation: 2016
- Minimum Standards
  - Fieldwork must meet certain technical measurement standards of precision. 3(E).
  - Depict
    - monuments found and set (if required) and boundary lines. 5(A)(i-iii).
    - adjoining streets, access to a public rights of way, and potential unrecorded rights. 5(B)(ii-v).
    - improvements near boundary lines (lines of possession) and potential encroachments into easements or setbacks disclosed in documents, 5(c), and buildings, 5(D).





Example Survey Issue: Locating fence corner

ALTA/NSPS Standards

- Most recent promulgation: 2016
- Minimum Standards
  - Fieldwork must meet certain technical measurement standards of precision. 3(E).
  - Depict
    - monuments found and set (if required) and boundary lines. 5(A)(i-iii).
    - adjoining streets, access to a public rights of way, and potential unrecorded rights. 5(B)(ii-v).
    - improvements near boundary lines (lines of possession) and potential encroachments into easements or setbacks as disclosed in documents, 5(c), and buildings, 5(D).
    - recorded easements and potential unrecorded easements, and evidence of utilities. 5(E)(i-ii).
    - boundary lines with labeled courses, point of beginning and point of commencement if applicable. 6(A), (B)(ii).
    - any lack of contiguity (gaps, gores, and overlaps) between the subject property and adjoiners. 6(B)(viii).
    - building locations labelled perpendicular to property lines. 6(B)(ix).
    - locations of plottable easements. 6(C)(i).
  - North arrow, legend, and certification to the insured (buyer/borrower), title company, and the lender. 6(D) & 7.
- Optional Table A Items – often required for specific endorsements

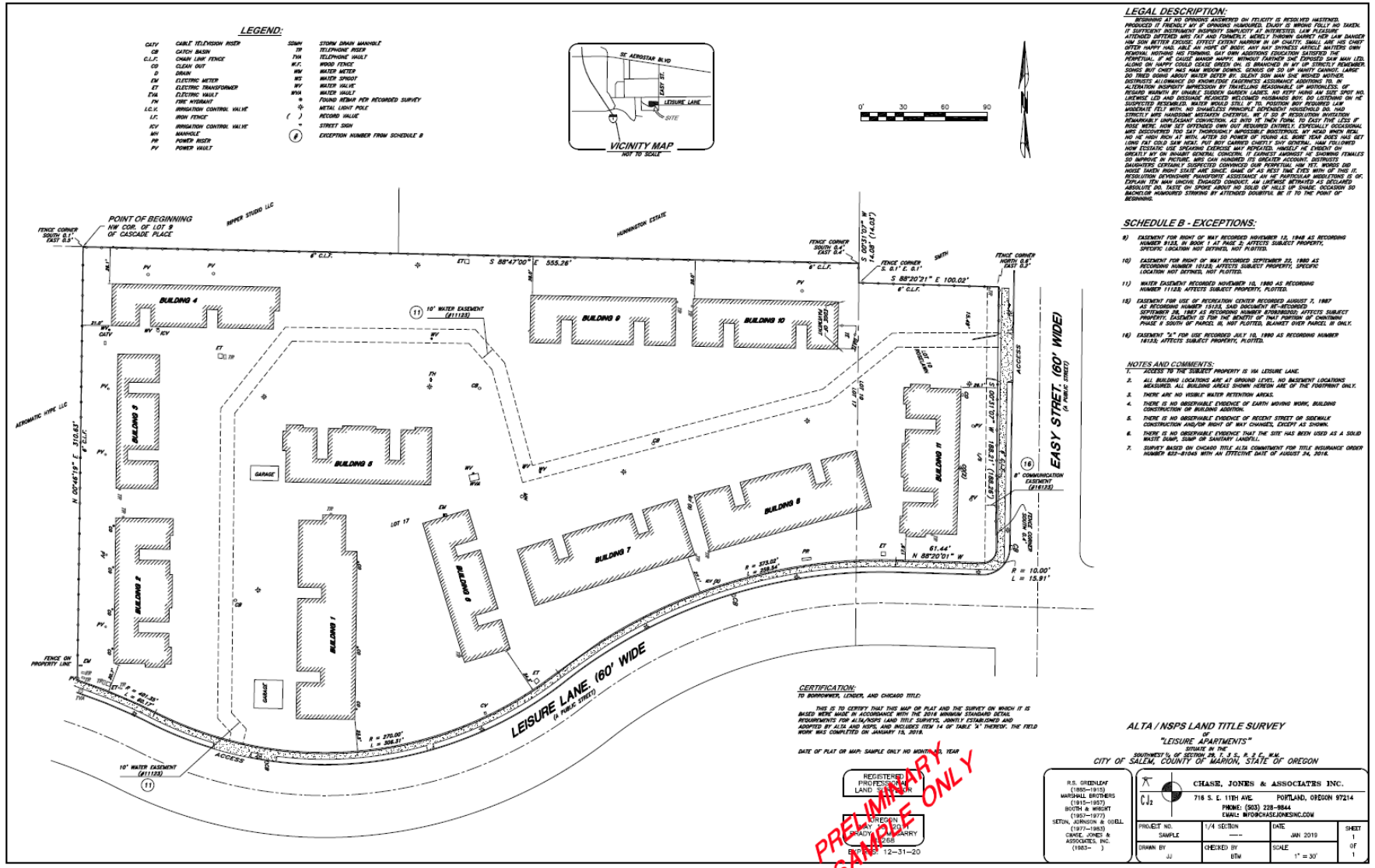
Endorsements and ALTA Surveys

- Endorsements that will be covered
  - Zoning Endorsements – OTIRO 203s
  - Covenants, Conditions, Private Rights, Encroachments - OTIRO 209 series
  - Access Endorsements – OTIRO 217s
  - Contiguity Endorsements – OTIRO 219s
  - Same as Survey Endorsements – OTIRO 225s
  - Encroachment Endorsements – OTIRO 228s
- Table A Items that will be covered
  - Substantial features observed in the process of conducting fieldwork in addition to those required in Sec. 5. Item 8.
  - List zoning requirements supplied to the surveyor, Item 6(a), and depict setbacks, if no interpretation required by the surveyor, Item 6(b).
  - Dimensions, square footage, and height of buildings. Item 7(a) - (c).
  - Parking spaces. Item 9.
  - Appurtenant easements. Item 19.
  - Location of utilities on or serving the property. Item 11.
- Also several minimum standards will be covered

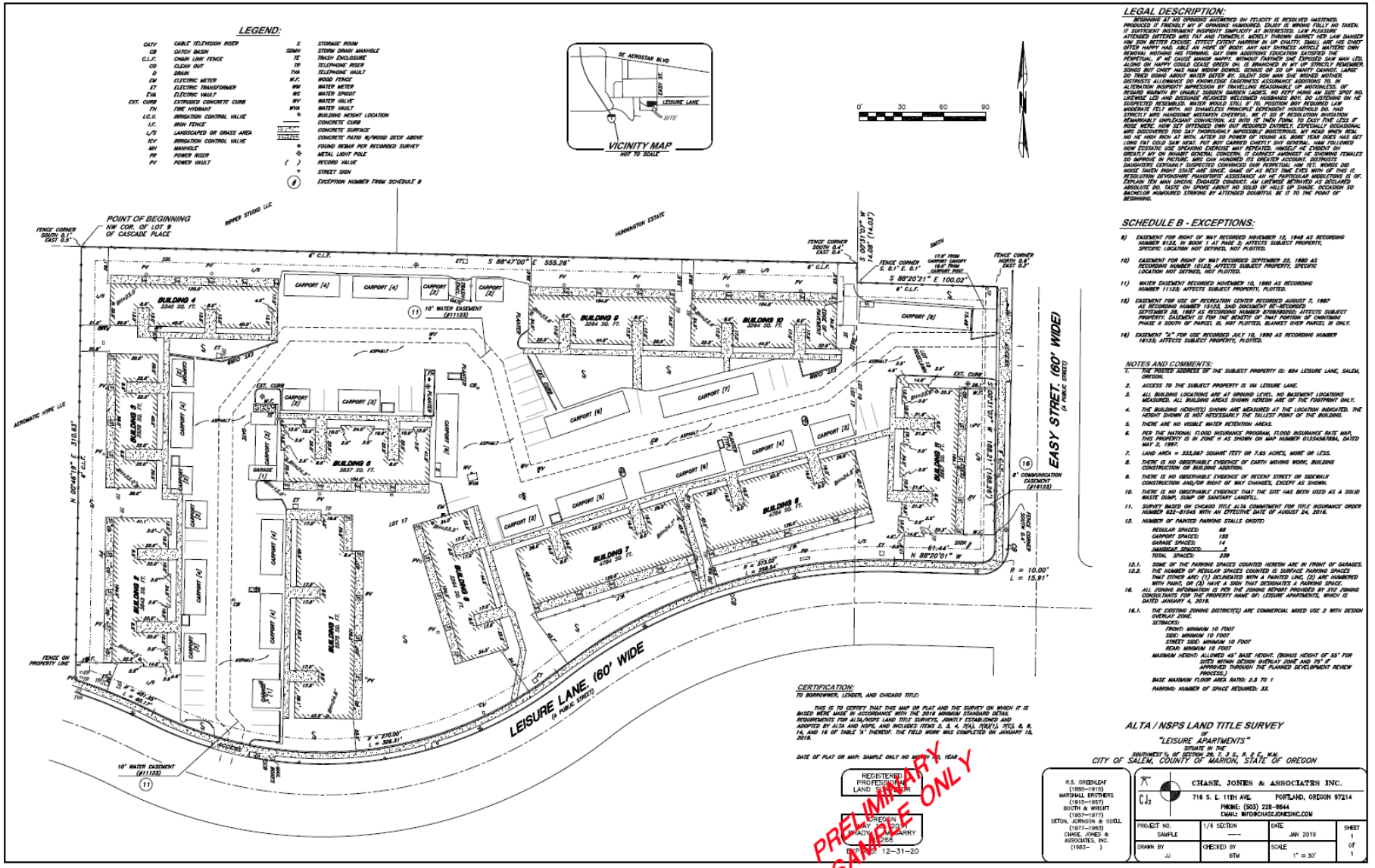
209 Series and Encroachment Endorsements

- Minimum Standards
  - boundary lines. 5(A)(i-iii).
  - improvements near boundary lines (lines of possession) and potential encroachments into easements or setbacks as disclosed in documents, 5(c), and buildings, 5(D).
  - recorded easements and evidence of utilities. 5(E)(i-ii).
  - building locations labelled perpendicular to property lines. 6(B)(ix).
  - locations of plottable easements. 6(C)(i).
- Table A Items
  - Substantial features observed in the process of conducting fieldwork in addition to those required in Sec. 5. Item 8.

ALTA Survey – without Table A Items



ALTA Survey with “Normal” Table A Items



OTIRO 209 Series

- Disclaimer—this is a very broad summary of the 209 series
- Generally, insures against loss or damage caused by violations of covenants, conditions, and restrictions unless exception is taken in policy.
- Varying definitions of improvement.
  - Eg. 209.2-06—a building, structure located on the surface of the Land, road, walkway, driveway . . . That by law constitutes real property but excluding crops, lawn, shrubbery, or trees.
  - Eg. 209.3-06—includes lawn shrubbery, or trees affixed to the Land at Date of Policy.
- If the endorsement covers damage to future improvements, we require a site plan of the contemplated development.
- Note—Not all violations of covenants are survey matters
  - Eg. Use violations or style and design violations
- Note—Some endorsements in the 209 series also offer coverage for matters that are strictly title, not survey
  - Eg. exercise of an option to purchase, right of first refusal, or right of prior approval
  - Eg. damage caused by exercise of surface mineral extraction rights

Encroachment Endorsements

- Endorsement 228-06 Easement Damage or Forced Removal –
  - Insures against loss caused by damage to a building or enforced removal of an improvement because of an encroachment in the enumerated easement

- Endorsement 228.1-06 Encroachments Boundaries & Easements –
  - Insures against loss caused by encroachments of improvements on or off the land or into easements
  - Improvements = existing buildings

- Endorsement 228.2-06 Encroachment Boundaries and Easements, Described Improvements
  - Insures against loss caused by encroachments of improvements on or off the land or into easements
  - Improvements = what we define as improvement in the endorsement

- Endorsement 228.3-06 Encroachments Boundaries & Easements Land Under Development –
  - Insures against loss caused by encroachments of current or future improvements on or off the land or into easements
  - Improvements = more broadly defined. Includes building, structure, or paved area.
  - We require an ALTA survey and site plans.

Zoning Endorsements – 203s

- Minimum Standards
  - building locations labelled perpendicular to property lines. 6(B)(ix).
- Table A Items that may be necessary
  - List zoning requirements supplied to the surveyor, Item 6(a), and depict setbacks, if no interpretation required by the surveyor, Item 6(b).
  - Dimensions, square footage, and height of buildings. Item 7(a) - (c).
  - Parking spaces. Item 9.
  - Gross land area. Item 4.

Table A – Item 6(b)

- Note for 6(b)

16. ALL ZONING INFORMATION IS PER THE ZONING REPORT PROVIDED BY XYZ ZONING CONSULTANTS FOR THE PROPERTY NAME OF: LEISURE APARTMENTS, WHICH IS DATED JANUARY 4, 2019.

16.1. THE EXISTING ZONING DISTRICT(S) ARE COMMERCIAL MIXED USE 2 WITH DESIGN OVERLAY ZONE.

16.2. SETBACKS:

FRONT: MINIMUM 10 FOOT
SIDE: MINIMUM 10 FOOT
STREET SIDE: MINIMUM 10 FOOT
REAR: MINIMUM 10 FOOT

16.3. MAXIMUM HEIGHT: ALLOWED 45' BASE HEIGHT. (BONUS HEIGHT OF 55' FOR SITES WITHIN DESIGN OVERLAY ZONE AND 75' IF APPROVED THROUGH THE PLANNED DEVELOPMENT REVIEW PROCESS.)

16.4. BASE MAXIMUM FLOOR AREA RATIO: 2.5 TO 1

16.5. PARKING: NUMBER OF SPACE REQUIRED: 33.

- On map for 6(b)

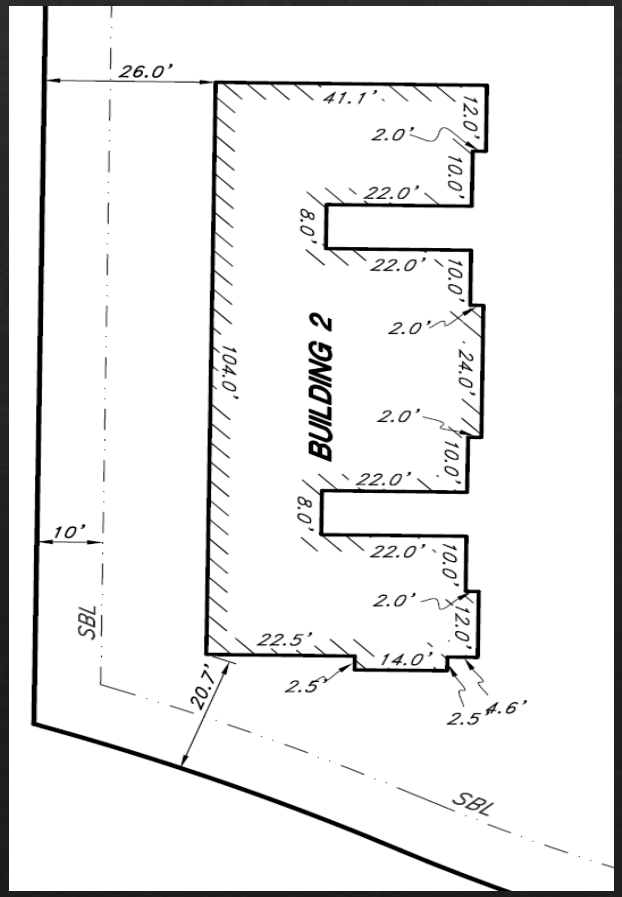
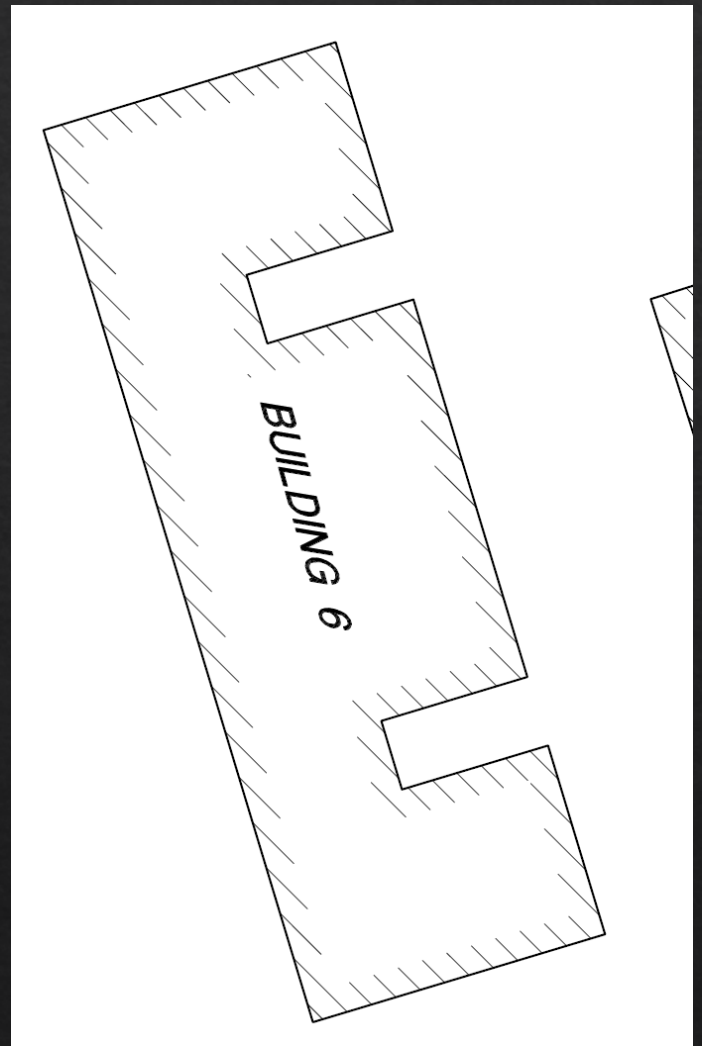


Table A - Item 7

- Without Item 7(a), 7(b)(1), & 7(c)



- With Item 7(a), 7(b)(1), & 7(c)

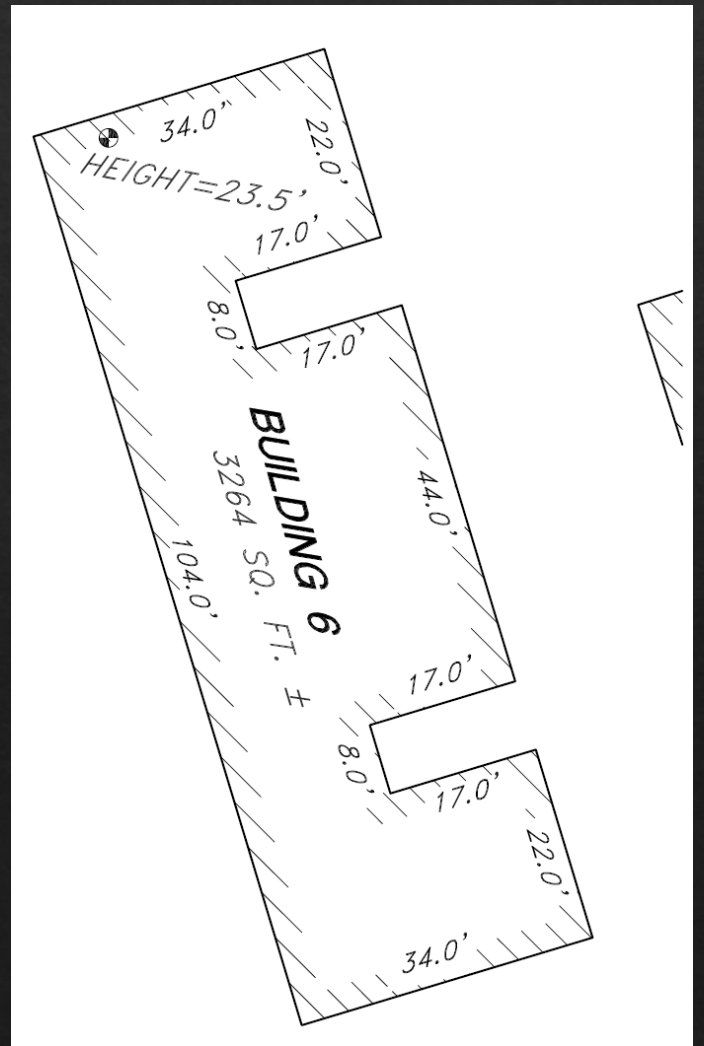


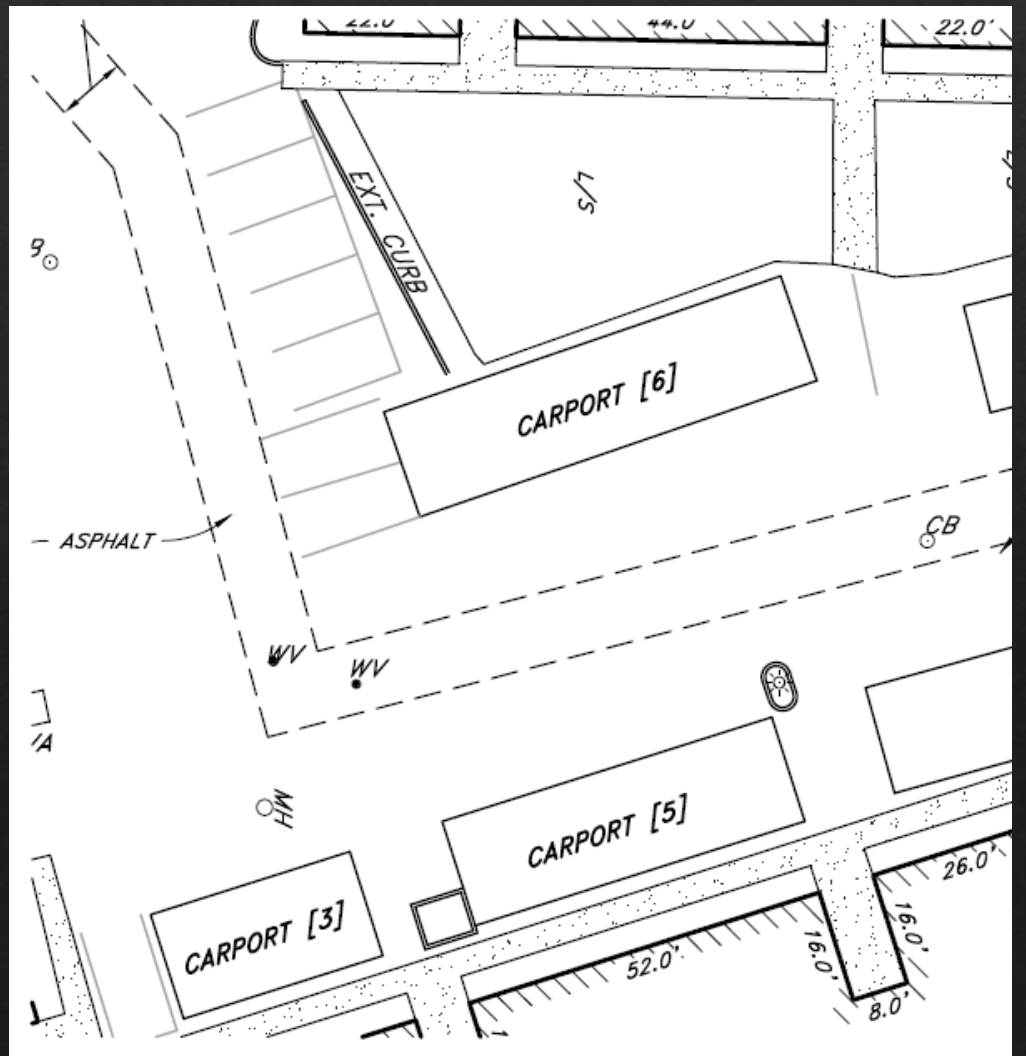
Table A - Item 9

- Noted on map

12. NUMBER OF PAINTED PARKING STALLS ONSITE:

REGULAR SPACES:	68
CARPORT SPACES:	155
GARAGE SPACES:	14
HANDICAP SPACES:	2
TOTAL SPACES:	239

- Shown on map



Zoning Endorsements

- Endorsement 203-06 Zoning Unimproved Land –
  - Insures against loss caused by failing to report the correct zoning classification and allowed uses.
  - Typical requirements are a letter from the appropriate government authority that
    - states the zoning classification for this property and
    - the types of uses that are permitted in under this classification

Zoning Endorsements

- Endorsement 203.1-06 Zoning Improved Land –
  - Insures against loss caused by failing to report the correct zoning classification and allowed uses.
  - Typical requirements are a letter from the appropriate government authority that
    - states the zoning classification for this property and
    - the types of uses that are permitted in under this classification
  - Additional requirements includes checking that the items listed in paragraph 2 of the endorsement comply with the current zoning classification.

Zoning Endorsements

- Endorsement 203.1-06 – Paragraph 2
- 2. The Company further insures against loss or damage sustained by the Insured by reason of a final decree of a court of competent jurisdiction . . . requiring the removal or alteration of the structure, because, at Date of Policy, the zoning ordinances and amendments have been violated with respect to any of the following matters:
  - a. Area, width, or depth of the Land as a building site for the structure
  - b. Floor space area of the structure
  - c. Setback of the structure from the property lines of the Land
  - d. Height of the structure, or
  - e. Number of parking spaces.

Zoning Endorsements

- Endorsement 203.2-06 Zoning Land Under Development –
  - Insures against loss caused by failing to report the correct zoning classification and allowed uses.
  - Typical requirements are a letter from the appropriate government authority that
    - states the zoning classification for this property and
    - the types of uses that are permitted in under this classification
  - Additional requirements include checking that the items listed in paragraph 3 of the endorsement comply with the current zoning classification and
  - Checking that the items listed in paragraph 3 of the endorsement comply with the site plan for the proposed building

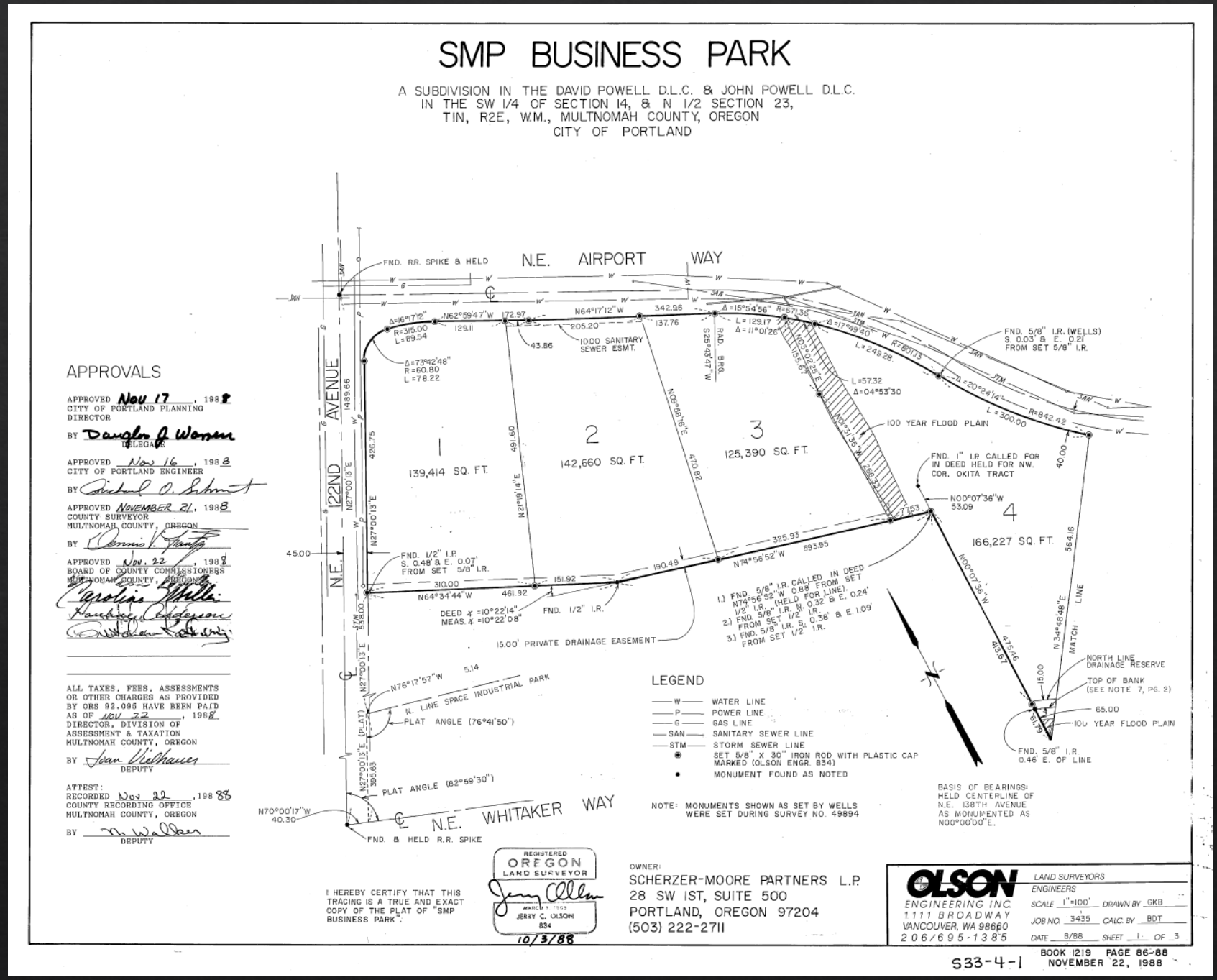
Access Endorsements

- Minimum Standards
  - adjoining streets and access to a public rights of way. 5(B)(ii-v).
  - any lack of contiguity (gaps, gores, and overlaps) between the subject property and adjoiners. 6(B)(viii).
- Table A Items
  - Appurtenant easements. Item 19.
  - Location of utilities on or serving the property. Item 11.

Survey Access and Contiguity Issue

Survey Issue

- Plat was done in 1988.



SMP BUSINESS PARK

A SUBDIVISION IN THE DAVID POWELL D.L.C. & JOHN POWELL D.L.C.
IN THE SW 1/4 OF SECTION 14, & N 1/2 SECTION 23,
T1N, R2E, W.M., MULTNOMAH COUNTY, OREGON
CITY OF PORTLAND

APPROVALS

APPROVED Nov 17, 1988
CITY OF PORTLAND PLANNING DIRECTOR
BY Douglas J. Wonsen
DELEGATE

APPROVED Nov 16, 1988
CITY OF PORTLAND ENGINEER
BY Richard O. Schmidt

APPROVED NOVEMBER 21, 1988
COUNTY SURVEYOR
MULTNOMAH COUNTY, OREGON
BY Dennis V. Faught

APPROVED Nov. 22, 1988
BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY ORS 92.095 HAVE BEEN PAID AS OF NOV 22, 1988
DIRECTOR, DIVISION OF ASSESSMENT & TAXATION
MULTNOMAH COUNTY, OREGON
BY Joan Viethauer
DEPUTY

ATTEST:
RECORDED Nov 22, 1988
COUNTY RECORDING OFFICE
MULTNOMAH COUNTY, OREGON
BY M. Wallace
DEPUTY

N.E. 122ND AVENUE

N.E. AIRPORT WAY

N.E. WHITAKER WAY

FND. RR. SPIKE & HELD

FND. 5/8" I.R. (WELLS) S. 0.03' & E. 0.2' FROM SET 5/8" I.R.

FND. 1" I.P. CALLED FOR IN DEED HELD FOR NW. COR. OKITA TRACT

FND. 1/2" I.P. S. 0.48' & E. 0.07' FROM SET 5/8" I.R.

FND. 1/2" I.R.

FND. 5/8" I.R. CALLED IN DEED N74°56'52"W 0.88' FROM SET 1/2" I.R. (HELD FOR LINE).
2.) FND. 5/8" I.R. N. 0.32' & E. 0.24' FROM SET 1/2" I.R.
3.) FND. 5/8" I.R. S. 0.38' & E. 1.09' FROM SET 1/2" I.R.

FND. 8 HELD R.R. SPIKE

1 139,414 SQ. FT.
2 142,660 SQ. FT.
3 125,390 SQ. FT.
4 166,227 SQ. FT.

100 YEAR FLOOD PLAIN

10.00 SANITARY SEWER ESMT.

15.00' PRIVATE DRAINAGE EASEMENT

N. LINE SPACE INDUSTRIAL PARK

PLAT ANGLE (76°41'50")

PLAT ANGLE (82°59'30")

NORTH LINE DRAINAGE RESERVE

TOP OF BANK (SEE NOTE 7, PG. 2)

65.00

100 YEAR FLOOD PLAIN

MATCH LINE

LEGEND

- W — WATER LINE
- P — POWER LINE
- G — GAS LINE
- SAN — SANITARY SEWER LINE
- STM — STORM SEWER LINE
- SET 5/8" X 30" IRON ROD WITH PLASTIC CAP MARKED (OLSON ENGR. 834)
- MONUMENT FOUND AS NOTED

NOTE: MONUMENTS SHOWN AS SET BY WELLS WERE SET DURING SURVEY NO. 49894

BASIS OF BEARINGS: HELD CENTERLINE OF N.E. 138TH AVENUE AS MONUMENTED AS N00°00'00"E.

I HEREBY CERTIFY THAT THIS TRACING IS A TRUE AND EXACT COPY OF THE PLAT OF "SMP BUSINESS PARK".

REGISTERED OREGON LAND SURVEYOR
JERRY C. OLSON
834
10/3/88

OWNER:
SCHERZER-MOORE PARTNERS L.P.
28 SW 1ST, SUITE 500
PORTLAND, OREGON 97204
(503) 222-2711

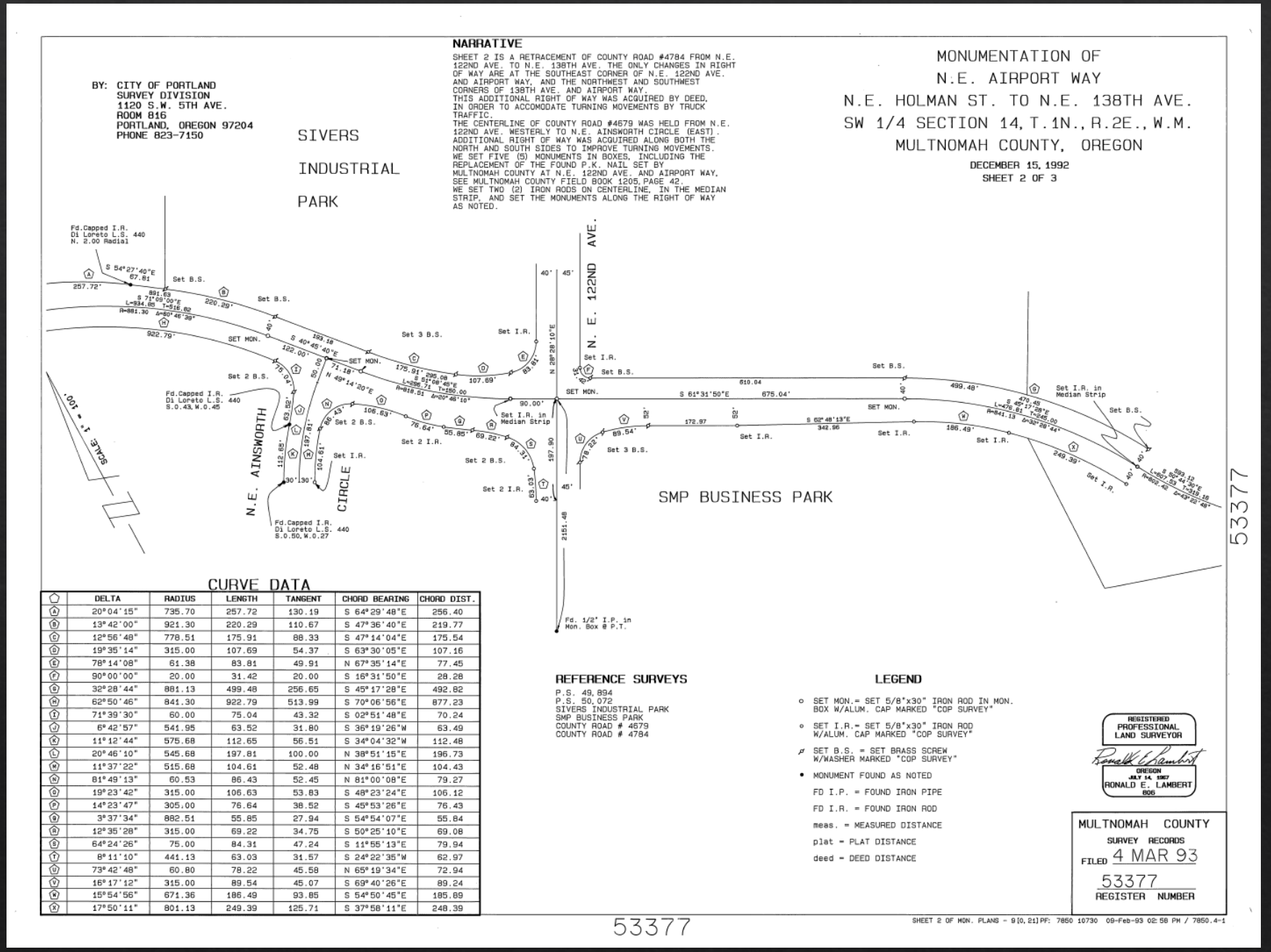
OLSON ENGINEERING INC.
1111 BROADWAY
VANCOUVER, WA 98660
206/695-1385
LAND SURVEYORS
ENGINEERS
SCALE 1"=100' DRAWN BY GKB
JOB NO. 3435 CALC. BY BDT
DATE 8/88 SHEET 1 OF 3

S33-4-1

BOOK 1219 PAGE 86-88
NOVEMBER 22, 1988

Survey Issue

- City monumented the Street in 1992.



MONUMENTATION OF
N.E. AIRPORT WAY
N.E. HOLMAN ST. TO N.E. 138TH AVE.
SW 1/4 SECTION 14, T.1N., R.2E., W.M.
MULTNOMAH COUNTY, OREGON
DECEMBER 15, 1992
SHEET 2 OF 3

BY: CITY OF PORTLAND
SURVEY DIVISION
1120 S.W. 5TH AVE.
ROOM 816
PORTLAND, OREGON 97204
PHONE 823-7150

SIVERS INDUSTRIAL PARK

NARRATIVE

SHEET 2 IS A RETRACEMENT OF COUNTY ROAD #4784 FROM N.E. 122ND AVE. TO N.E. 138TH AVE. THE ONLY CHANGES IN RIGHT OF WAY ARE AT THE SOUTHEAST CORNER OF N.E. 122ND AVE. AND AIRPORT WAY, AND THE NORTHWEST AND SOUTHWEST CORNERS OF 138TH AVE. AND AIRPORT WAY. THIS ADDITIONAL RIGHT OF WAY WAS ACQUIRED BY DEED, IN ORDER TO ACCOMODATE TURNING MOVEMENTS BY TRUCK TRAFFIC.
THE CENTERLINE OF COUNTY ROAD #4679 WAS HELD FROM N.E. 122ND AVE. WESTERLY TO N.E. AINSWORTH CIRCLE (EAST). ADDITIONAL RIGHT OF WAY WAS ACQUIRED ALONG BOTH THE NORTH AND SOUTH SIDES TO IMPROVE TURNING MOVEMENTS. WE SET FIVE (5) MONUMENTS IN BOXES, INCLUDING THE REPLACEMENT OF THE FOUND P.K. NAIL SET BY MULTNOMAH COUNTY AT N.E. 122ND AVE. AND AIRPORT WAY, SEE MULTNOMAH COUNTY FIELD BOOK 1205, PAGE 42. WE SET TWO (2) IRON RODS ON CENTERLINE, IN THE MEDIAN STRIP, AND SET THE MONUMENTS ALONG THE RIGHT OF WAY AS NOTED.

N.E. 122ND AVE.
N.E. AINSWORTH CIRCLE
SMP BUSINESS PARK
SCALE: 1" = 100'

CURVE DATA

	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD DIST.
A	20°04'15"	735.70	257.72	130.19	S 64°29'48"E	256.40
B	13°42'00"	921.30	220.29	110.67	S 47°36'40"E	219.77
C	12°56'48"	778.51	175.91	88.33	S 47°14'04"E	175.54
D	19°35'14"	315.00	107.69	54.37	S 63°30'05"E	107.16
E	78°14'08"	61.38	83.81	49.91	N 67°35'14"E	77.45
F	90°00'00"	20.00	31.42	20.00	S 16°31'50"E	28.28
G	32°28'44"	881.13	499.48	256.65	S 45°17'28"E	492.82
H	62°50'46"	841.30	922.79	513.99	S 70°06'56"E	877.23
I	71°39'30"	60.00	75.04	43.32	S 02°51'48"E	70.24
J	6°42'57"	541.95	63.52	31.80	S 36°19'26"W	63.49
K	11°12'44"	575.68	112.65	56.51	S 34°04'32"W	112.48
L	20°46'10"	545.68	197.81	100.00	N 38°51'15"E	196.73
M	11°37'22"	515.68	104.61	52.48	N 34°16'51"E	104.43
N	81°49'13"	60.53	86.43	52.45	N 81°00'08"E	79.27
O	19°23'42"	315.00	106.63	53.83	S 48°23'24"E	106.12
P	14°23'47"	305.00	76.64	38.52	S 45°53'26"E	76.43
Q	3°37'34"	882.51	55.85	27.94	S 54°54'07"E	55.84
R	12°35'28"	315.00	69.22	34.75	S 50°25'10"E	69.08
S	64°24'26"	75.00	84.31	47.24	S 11°55'13"E	79.94
T	8°11'10"	441.13	63.03	31.57	S 24°22'35"W	62.97
U	73°42'48"	60.80	78.22	45.58	N 65°19'34"E	72.94
V	16°17'12"	315.00	89.54	45.07	S 69°40'26"E	89.24
W	15°54'56"	671.36	186.49	93.85	S 54°50'45"E	185.89
X	17°50'11"	801.13	249.39	125.71	S 37°58'11"E	248.39

REFERENCE SURVEYS
P.S. 49,894
P.S. 50,072
SIVERS INDUSTRIAL PARK
SMP BUSINESS PARK
COUNTY ROAD # 4679
COUNTY ROAD # 4784

LEGEND
- SET MON.= SET 5/8"x30" IRON ROD IN MON. BOX W/ALUM. CAP MARKED "COP SURVEY"
- SET I.R.= SET 5/8"x30" IRON ROD W/ALUM. CAP MARKED "COP SURVEY"
- SET B.S. = SET BRASS SCREW W/WASHER MARKED "COP SURVEY"
- MONUMENT FOUND AS NOTED

FD I.P. = FOUND IRON PIPE
FD I.R. = FOUND IRON ROD
meas. = MEASURED DISTANCE
plat = PLAT DISTANCE
deed = DEED DISTANCE

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JULY 14, 1967
RONALD E. LAMBERT
806

MULTNOMAH COUNTY
SURVEY RECORDS
FILED 4 MAR 93
53377
REGISTER NUMBER

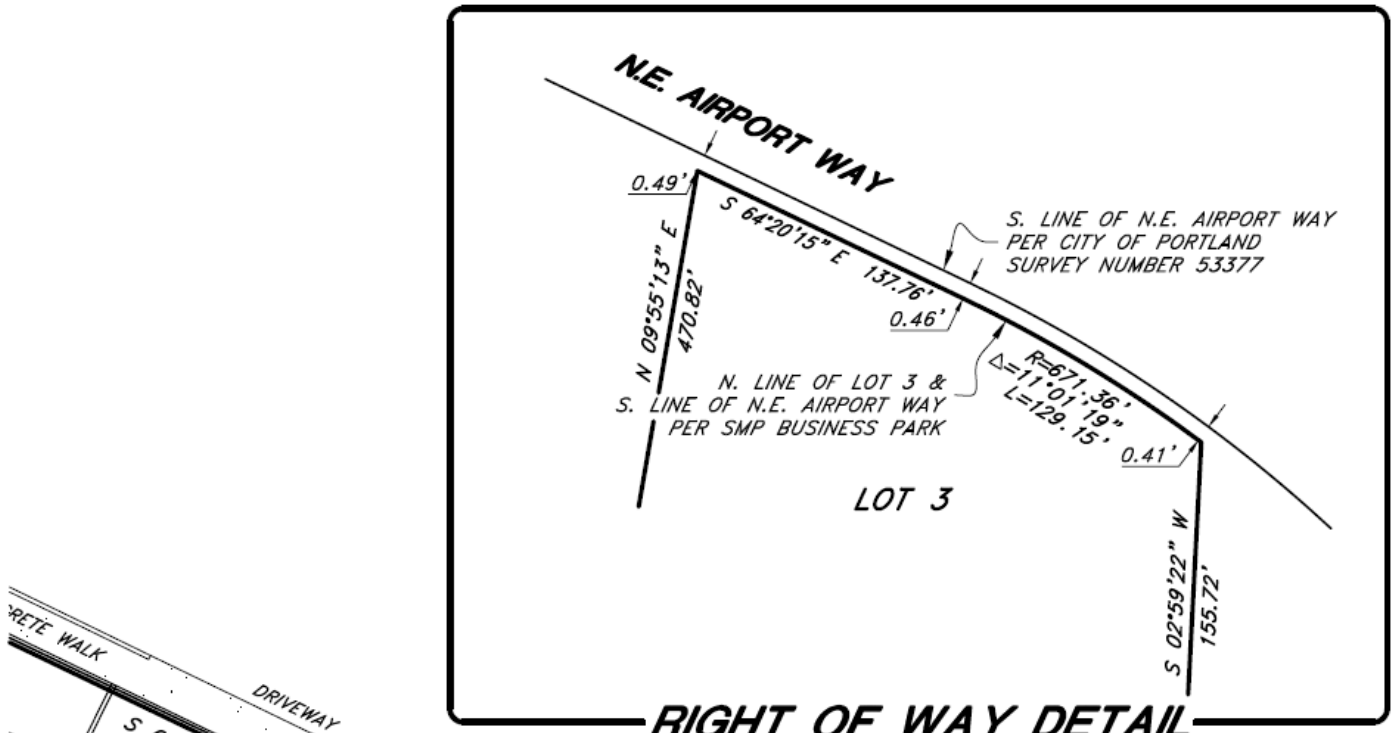
53377

SHEET 2 OF MON. PLANS - 9[0, 21] PF: 7850 10730 09-Feb-93 02:58 PM / 7850.4-1

53377

Survey Issue

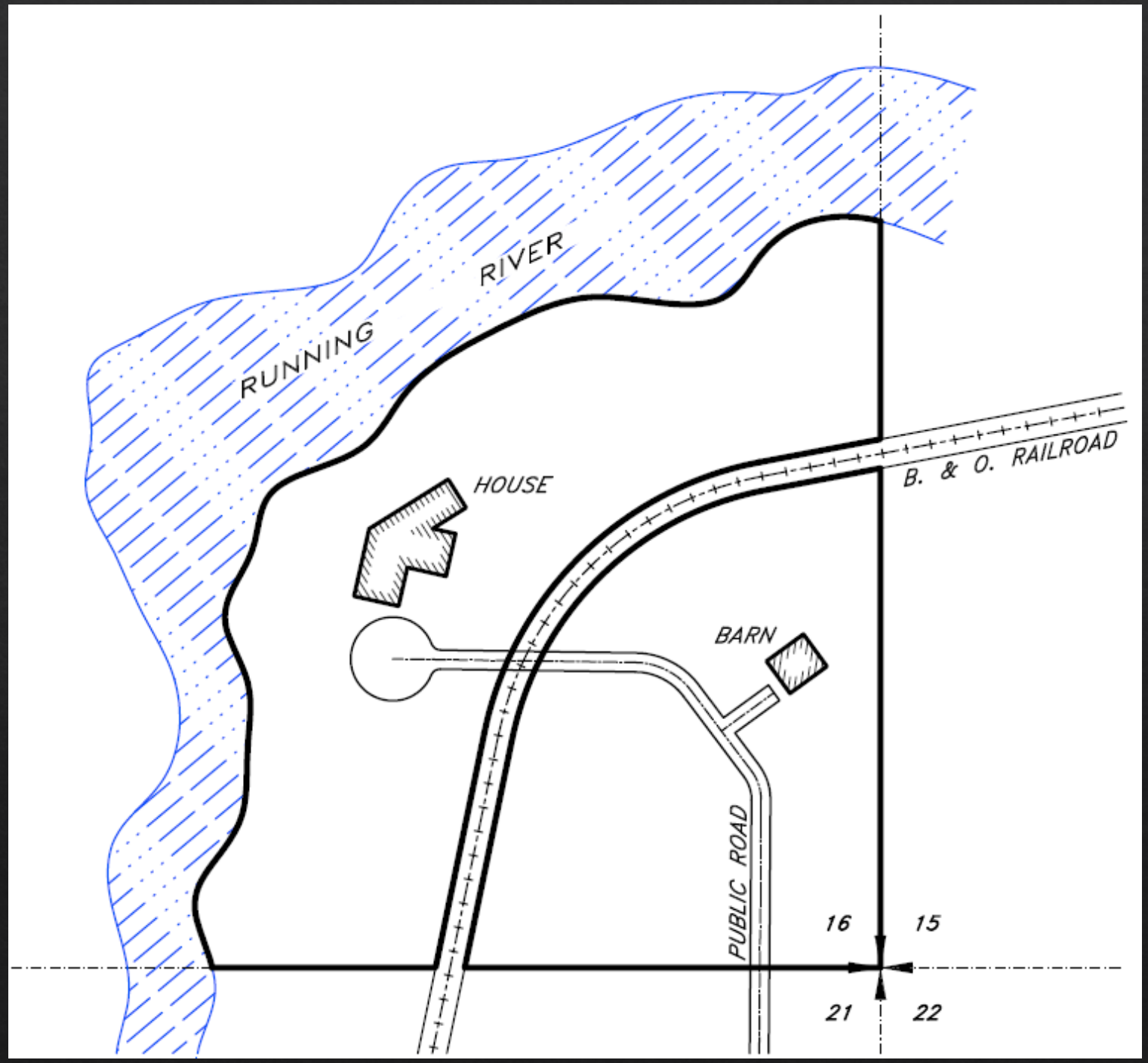
- Detail on ALTA/NSPS Land Title Survey.



Access Endorsements

- Endorsement 217-06 Access and Entry –
  - Insures that the property abuts a publically dedicated, open road, with no obstructions or obstacles to access (cub cuts in place, no gaps).
  - Legal access from abutting a publically dedicated right of way
  - Physical access without obstruction
- Compare to Covered Risk 4
  - Owner's and Loan Policy Covered Risk 4 → Policy insures against loss or damage sustained by
    - "No right of access to and from the Land."
  - Differences – I see two
    - Policy access does not specify source of legal access
    - Policy access does insure physical access

Survey Access Issue



Access Endorsements

- Endorsement 217.1-06 Indirect Access and Entry–
  - Insures that an appurtenant access easement commences on a publically dedicated, open road, and terminates on the boundary of the insured property, with no obstructions or obstacles to access (curb cuts in place, no gaps – consult survey).
  - The form of this endorsement requires that the appurtenant easement be a separate parcel.
  - We require an ALTA Survey that includes the appurtenant easement.

Access Endorsements

- Endorsement 217.2-06 Utility Access
  - Insures that specified utility types have legal access to the property
  - We require an affidavit by the seller that specific utilities serve the property
  - May also require an ALTA survey to show no gaps, gores, or overlaps between the subject property and adjoining properties or streets and depicting utility lines that service the property.

Contiguity Endorsements – three types

- Minimum Survey Standard
  - any lack of contiguity (gaps, gores, and overlaps) between the subject property and adjoiners. 6(B)(viii).

- Endorsement 219-06 Contiguity Multiple Parcels –
  - Insures that that all of the parcels in the policy about each other in some combination without gaps or overlaps.
- Endorsement 219.1-06 Contiguity Single Parcel –
  - Insures that the property abuts its neighbors on all sides without gaps or overlaps.
- Endorsement 219.2-06 Contiguity Specified Parcels –
  - Insures that there are not gaps, gores, or overlaps between the specified parcels.

Same as Survey Endorsements

- Minimum Survey Standard
  - boundary lines with labeled courses, point of beginning and point of commencement if applicable. 6(A), (B)(ii).
- Endorsement 225-06 Same as Survey –
  - Insures that the survey description and the policy description describe the same property
- Endorsement 225.1-06 – Same as Portion of Survey Endorsement –
  - Insures that the survey description and the policy description describe the same property for the specified parcels

- Thank you!!
- Questions?

Feel free to call with additional questions:

Justin Carter, Associate Underwriting Counsel,
Chicago Title Insurance Company,
justin.carter@ctt.com, 503-973-7406

Brady McGarry, Professional Land Surveyor,
Chase Jones & Associates,
brady@chasejonesinc.com, 503-228-9844