

# Agenda

## Shady Cove Regular City Council Meeting

Shady Cove City Council Chamber  
22451 Highway 62, Shady Cove, Oregon  
Thursday, June 18, 2015  
6:00 p.m.

### I. Call to Order

- A. Roll call
- B. Pledge of Allegiance
- C. Announcements by Presiding Officer
  - 1. This meeting is being digitally recorded.
  - 2. The next meeting of the Planning Commission will be on June 25 at 6:30 p.m. in the City Council Chamber.
  - 3. The next regular City Council meeting, scheduled for July 2 is cancelled.
  - 4. City Hall will be closed July 3rd in observance of Independence Day.

### II. Public Hearing

- A. Public Hearing to Consider Proposed Amendments to the City of Shady Cove Code of Ordinances to Add Vacation Rental Dwellings to the List of Conditional Uses in its Residential Zones and to Establish Regulations Governing Their Use

### III. Public Comment

The public may comment on agenda items as they come up for discussion, but before deliberation by the Council.

### IV. Presentation

None

### V. Consent Calendar

- A. Accounts Payable, \$1,896.56 (pg. 3)
- B. Regular Meeting Minutes of June 4, 2015 (pg. 4-5)

**VI. Written Communications**

None

**VII. Staff Reports**

None

**VIII. Unfinished Business**

None

**IX. New Business**

A. Discussion Only – Vacation Rentals as a Permitted Use in Residential Zones

B. Discussion Only – Chronic Nuisance Property (pg. 6-12)

C. Resolution 15-23 – Authorizing the City Administrator to Sign an Agreement for Purchase of Real Property (pg. 13)

**X. Public Comment on Non-Agenda Items**

Public must state name and address and standing to discuss issue. Issues must have city-wide impact and not be personal issues.

**XI. Council Comments**

**XII. Adjournment**

**City of Shady Cove  
Unpaid Bills Report  
June 5, 2015 to June 12, 2015**

<u>Payee</u>	<u>Amount</u>	<u>Description</u>
Canon Solutions America, Inc.	\$153.49	Copies
IPMA - International Public HR Assoc.	\$107.00	Dues
M & M Productions	\$360.00	Website
Mount Bachelor Resort	\$315.98	Training
Office Depot	\$89.99	Office Supplies
OGFOA	\$105.00	Dues
Shady Cove Hardware, LLC	\$6.58	City Hall
SORED I	\$500.00	Dues
Upper Rogue Independent	\$239.13	Public Hearing Notice
VistaPrint	\$19.39	Business Cards
Total:	<u>\$1,896.56</u>	

City of Shady Cove  
**City Council Regular Meeting Minutes**  
Thursday, June 4, 2015

**CALL TO ORDER**

Council President Jim Ulrich called the Regular City Council Meeting to order at 6:00 p.m. in the City Council Chamber.

Council Present: Council President Ulrich, Councilor Sanderson and Councilor Burgess, Councilor Mitchell; Mayor Anderson absent.

Staff Present: Aaron Prunty, City Administrator, and Bonnie Pickett, Administrative Assistant

**ANNOUNCEMENTS**

The Council President led the audience in the Pledge of Allegiance; read the announcements listed on the agenda.

**PUBLIC COMMENT**

There was no public comment.

**CONSENT CALENDAR**

Revised Accounts Payable, \$99,046.09  
Regular Meeting Minutes of May 21, 2015

Motion to Approve the Consent Calendar.

Motion: Councilor Burgess                      Second: Councilor Sanderson  
All ayes. Motion carried 4-0

**WRITTEN COMMUNICATION**

The City Administrator, Aaron Prunty, read letters from Sandy Dennis regarding the business license fee.

**NEW BUSINESS**

**A. Resolution 15-20 – Certifying that the City of Shady Cove Provides Four or More Municipal Services Enumerated in ORS 221.760**

Motion to Approve Resolution 15-20 – Certifying that the City of Shady Cove Provides Four or More Municipal Services Enumerated in ORS 221.760.

Motion: Councilor Mitchell                      Second: Councilor Sanderson  
All ayes. Motion carried 4-0

**B. Resolution 15-21 – Electing to Receive State Revenues**

Motion to Approve Resolution 15-21 – Electing to Receive State Revenues

Motion: Councilor Burgess                      Second: Councilor Mitchell  
All ayes. Motion carried 4-0

**C. Resolution 15-22 – Adopting the Fiscal Year 2015-2016 Budget, Making Appropriations and Imposing and Categorizing Taxes**

Motion to Approve Resolution 15-22 – Adopting the Fiscal Year 2015-2016 Budget, Making Appropriations and Imposing and Categorizing Taxes

Motion: Councilor Sanderson Second: Councilor Burgess  
All ayes. Motion carried 4-0

**COUNCIL COMMENTS**

Councilor Mitchell announced he will be absent from the next Council meeting. He asked that the Council consider regulating the occupancy of vacation rental dwellings instead of the number of occupants per bedroom when considering the vacation rental ordinance.

Councilor Mitchell suggested having the community vote on the allowance of recreational marijuana in Shady Cove.

Councilor Burgess asked the council to add an agenda item, where the public could come and discuss their view on the memorials in Aunt Caroline's park and allow the council to decide if they are going to enforce Ordinance 216.

Councilor Sanderson mentioned the 2<sup>nd</sup> annual Salmon Derby and the 16<sup>th</sup> annual duck races going on this weekend.

Council President Ulrich mentioned Music in the Park on June 13, 2015.

**ADJOURNMENT**

The Council President adjourned the regular meeting at 6:47 p.m.

Approved:

Attest:

\_\_\_\_\_  
Tom Anderson  
Mayor

\_\_\_\_\_  
Aaron Prunty  
City Administrator

**Council Vote:**

Mayor Anderson \_\_\_\_\_  
Councilor Ulrich \_\_\_\_\_  
Councilor Sanderson \_\_\_\_\_  
Councilor Burgess \_\_\_\_\_  
Councilor Mitchell \_\_\_\_\_

City of Shady Cove

Ordinance No. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF SHADY COVE DEFINING CHRONIC NUISANCE PROPERTY, PROVIDING FOR THEIR ABATEMENT AND PROVIDING ACTIONS, REMEDIES AND ENFORCEMENT

**Whereas**, the City of Shady Cove identifies numerous conditions as nuisances, along with abatement, appeals and penalty procedures; and

**Whereas**, the City Council recognizes certain property to present a nuisance to the community and City of Shady Cove; and

**Whereas**, nuisance properties pose a threat to public welfare.

**THE COUNCIL OF THE CITY OF SHADY COVE ORDAINS AS FOLLOWS:**

Sections:

- Section 1. Definitions.
- Section 2. Violation.
- Section 3. Procedure--Notice.
- Section 4. Commencement of action--Remedies.
- Section 5. Emergency closure during pendency of action.
- Section 6. Enforcement--Costs.
- Section 7. Severability.

**Section 1. Definitions.**

For purposes of this chapter, the following definitions apply:

“Chronic nuisance property” means property on which two or more nuisance activities have occurred during any thirty-day period; property on which, or within two hundred feet of, any person associated with the property has engaged in two or more nuisance activities during any thirty-day period; or property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses under Oregon law have occurred within the previous thirty days; and the execution of the search warrant has resulted in the discovery of such controlled substances.

“Control” means the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on a property.

“Nuisance activities” means any of the following activities, behaviors or criminal conduct, as defined under Oregon state law: harassment; intimidation; disorderly conduct; assault or menacing; sexual abuse, contributing to the delinquency of a minor, or sexual misconduct; public indecency; prostitution or related offenses; alcoholic liquor violations; theft; arson or related offenses; possession, manufacture, or delivery of a controlled substance or related offenses; illegal gambling; criminal mischief; any attempt to commit (as defined by ORS 161.405), or conspiracy to commit (as defined by ORS 161.455), any of the above offenses; unlawful discharge of a firearm; unlawful operation of sound-producing or reproducing equipment or unnecessary noise.

“Permit” means to suffer, allow, consent to, acquiesce by failure to prevent, or expressly assent or agree to the commission of an act.

“Person” means any natural person, agent, association, firm, partnership or corporation capable of owning, occupying or using property in the city of Shady Cove.

“Person associated with” means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a property or person present on a property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner thereof.

“Person in charge” means any person, in actual or constructive possession of a property, including but not limited to an owner or occupant of property under his or her dominion, ownership or control.

“Property” means any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residential premises, room, house, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For property consisting of more than one unit, property is limited to the unit or the portion of the property on which any nuisance abatement has occurred or is occurring, but includes areas of the property used in common by all units of property including without limitation other structures erected on the property and areas used for parking, loading and landscaping.

## **Section 2. Violation.**

A. Any property within the city of Shady Cove which is a chronic nuisance property is in violation of these provisions and subject to the remedies prescribed herein. A property is not in violation of these provisions if an occupant of the property is the victim of a crime constituting the nuisance activity or an innocent occupant’s family member is the victim of such crime.

B. Any person in charge who permits property to be a chronic nuisance property shall be in violation of these provisions and subject to the remedies prescribed herein. Any person in charge who is a victim of a crime constituting the nuisance activity or any innocent person in charge whose family member is the victim of such crime shall not be in violation of these provisions.

### **Section 3. Procedure--Notice.**

A. When the city administrator receives a police report documenting the occurrence of a nuisance activity on or within two hundred feet of a property within the city, the city administrator or the city administrator's designee shall independently review such reports to determine whether they describe any acts enumerated under nuisance activities above. Following such review, the city administrator may notify the person in charge in writing that the property is in danger of becoming chronic nuisance property. The notice shall contain the following information:

1. The street address or a legal description sufficient for identification of the property.
2. A statement that the city administrator has information that the property may be chronic nuisance property, with a concise description of the nuisance activities that may exist or that have occurred. The city administrator shall offer the person in charge an opportunity to propose a course of action that the city administrator agrees will abate the nuisance activities giving rise to the violation.
3. Demand that the person in charge respond to the city administrator within ten days to discuss the nuisance activities.

B. After notification of nuisance activities to a person in charge, when the city administrator receives a police report documenting the occurrence of a second nuisance activity at or within two hundred feet of a property and determines that the property has become a chronic nuisance property, the city administrator shall notify the person in charge in writing that the property has been determined to be a chronic nuisance property. The notice shall contain the following information:

1. The street address or legal description sufficient for identification of the property.
2. A statement that the city administrator has determined the property to be a chronic nuisance property with a concise description of the nuisance activities leading to his findings.
3. Demand that the person in charge respond within ten days to the city administrator and propose a course of action that the city administrator agrees will abate the nuisance activities giving rise to the violation.
4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the person in charge at the address of the property, or

such other place which is likely to give the person in charge notice of the determination by the city administrator.

5. A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county, and/or the occupant at the address of the property, if these persons are different than the person in charge, and shall be made either personally or by first class mail, postage prepaid.

6. A copy of the notice shall also be posted at the property if ten days have elapsed from the service or mailing of the notice to the person in charge and the person in charge has not contacted the city administrator.

7. The failure of any person to receive notice that the property may be a chronic nuisance property shall not invalidate or otherwise affect the proceedings under these provisions.

C. If after the notification, but prior to the commencement of legal proceedings by the city pursuant to these provisions, a person in charge stipulates with the city administrator that the person in charge will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the city administrator may agree to postpone legal proceedings for a period of not less than ten nor more than thirty days.

D. Concurrent with any notification procedures set forth above, the city administrator shall send copies of the notice, as well as any other documentation which supports legal proceedings against the property, to the city attorney.

E. When a person in charge makes a response to the city administrator, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any nuisance activities have or are occurring. This section does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

#### **Section 4. Commencement of action--Remedies.**

A. The city council may, by resolution after affording the person in charge of the property an opportunity to be heard before the council, authorize the city attorney to commence legal proceedings in a court of competent jurisdiction to enjoin or abate chronic nuisance property and to seek closure, the imposition of civil penalties against any or all of the persons in charge thereof, and any such other relief deemed appropriate. Proof shall be by a preponderance of the evidence.

B. If, after the commencement but prior to the trial of any action or suit brought by the city, a person in charge of chronic nuisance property stipulates with the city that he or she will pursue a course of action the parties agree will abate the nuisance activities giving rise to the violation, the city may agree to stay proceedings for a period of not

less than ten nor more than sixty days, except in the case of nuisance activity involving drugs where a search warrant was executed at the property. The person in charge or the city may thereafter petition the court for such additional periods of time as may be necessary to complete the action(s) to abate the nuisance activities. However, in the event that the city reasonably believes the person in charge of a property is not diligently pursuing the action(s) necessary to abate the nuisance activities, the city may seek such relief as is deemed appropriate.

C. It is a defense to an action for chronic nuisance property that the person in charge at all material times could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property.

D. In the event a court determines property to be chronic nuisance property, the court shall order that the property be closed and secured against all access, use and occupancy for a period of not less than six months, nor more than one year. The court shall retain jurisdiction during any period of closure. The person in charge may petition the court for an order reducing the period of closure if the person in charge and the city stipulate that the nuisance has been and will continue to be abated.

E. If a property is found to be chronic nuisance property, the person in charge of the chronic nuisance property is subject to a civil penalty of up to one hundred dollars per day for each day nuisance activities occurred on the property following notice.

F. In establishing the amount of any civil penalty requested, the court may consider any of the following factors and shall cite those found applicable:

1. The actions taken by the person in charge to mitigate or correct the nuisance activities at the property;
2. The financial condition of the person in charge;
3. Whether the problem at the property was repeated or continuous;
4. The magnitude or gravity of the problem;
5. The cooperativeness of the person in charge with the city;
6. The cost of the city of investigating and correcting or attempting to correct the nuisance activities; and
7. Any other factor deemed by the court to be relevant.

G. Nothing in these provisions shall require any conviction for criminal activities prior to the commencement of any action provided herein.

### **Section 5. Emergency closure during pendency of action.**

If warranted, the city may seek emergency closure of the property. Any emergency closure proceeding initiated under this provision shall be based on evidence showing that nuisance activities have occurred on the property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of emergency closure shall be governed by the provisions of Oregon Rule of Civil Procedure 79 for obtaining temporary restraining orders. In such an event the notification procedures set forth above need not be complied with.

### **Section 6. Enforcement--Costs.**

A. The court may authorize the city to physically secure the property against all access, use or occupancy in the event that the person in charge fails to do so within the time specified by the court. In the event that the city is authorized to secure the property, all costs reasonably incurred by the city to physically secure the property shall be paid to the city by the person in charge and may be included in the city's money judgment. As used in this section, "costs" means those costs actually incurred by city for physically securing the property, as well as tenant relocation costs pursuant to this section.

B. The city department(s) physically securing the property shall prepare a statement of costs and the city shall thereafter submit that statement to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, the statement of costs shall be included in the city's money judgment.

C. Judgments imposed by this chapter shall bear interest at the rate of nine percent per year from the date the judgment is entered.

D. Any person who is assessed the costs of physically securing the property by the court shall be personally liable for the payment thereof to the city.

E. The person in charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(31) if, without actual notice, the tenant moved into the property after either:

1. A person in charge received a notice from the city administrator's determination that the property may be nuisance property; or
2. A person in charge received notice of an action brought to close a chronic nuisance property.

### **Section 7. Severability.**

The provisions of this chapter are intended to be consistent with any applicable provisions of state law. If any provision, or its application to any person or circumstances, is held to be invalid for any reason, the remainder of these provisions, or

the application of them to other persons or circumstances, shall not in any way be affected.

**PASSED AND APPROVED** by the City Council of the City of Shady Cove this \_\_\_\_\_ day of July, 2015.

Approved:

Attest:

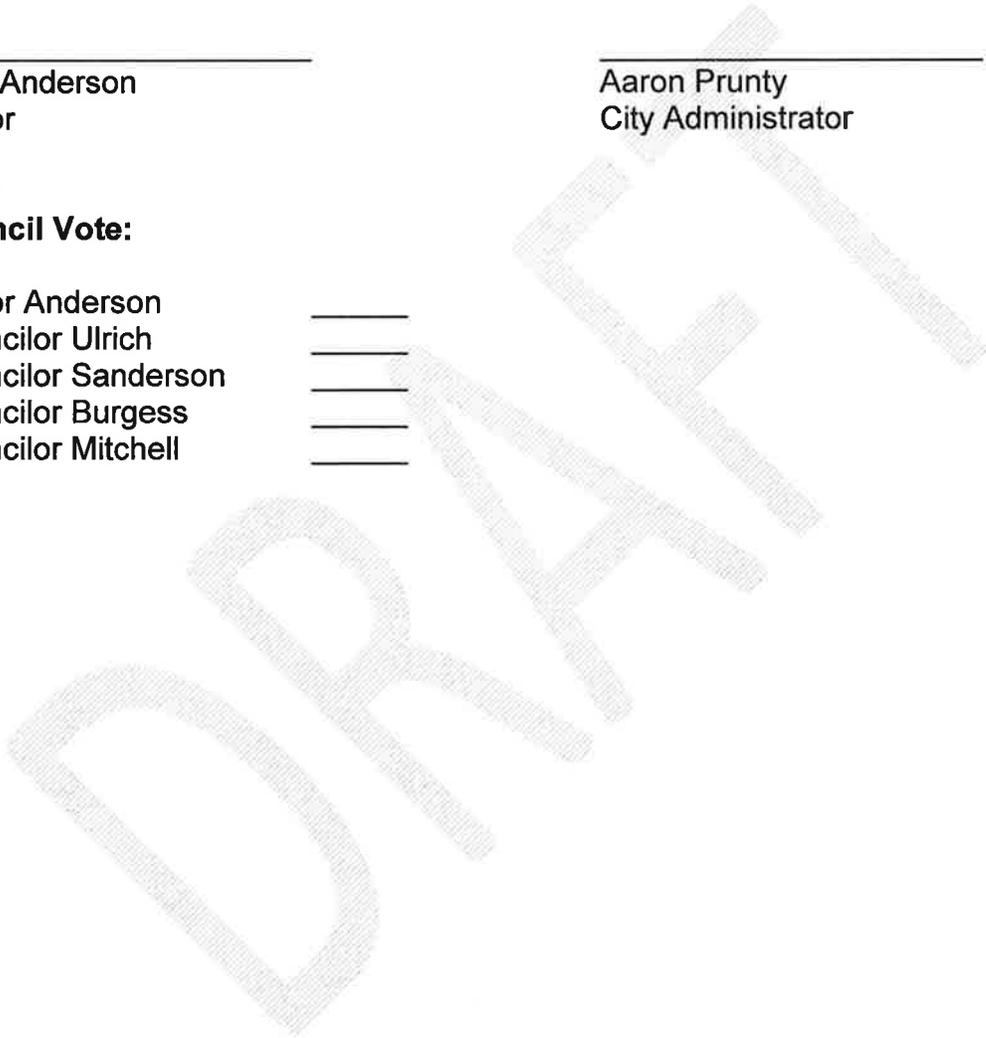
\_\_\_\_\_  
Tom Anderson  
Mayor

\_\_\_\_\_  
Aaron Prunty  
City Administrator

**Council Vote:**

Mayor Anderson  
Councilor Ulrich  
Councilor Sanderson  
Councilor Burgess  
Councilor Mitchell

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



City of Shady Cove

Resolution 15-23

**A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN ALL DOCUMENTS NECESSARY TO ACCOMPLISH THIS PURCHASE**

**Whereas**, the City of Shady Cove has a present or future need for land for municipal business or municipal activities; and,

**Whereas**, the City Council recognizes the value and opportunity to purchase land for municipal use; and

**Whereas**, the City Council wishes to purchase land consisting of approximately 62,565 square feet identified as Parcel 2 on attached Exhibit A for the sum of \$90,000 (ninety thousand dollars); and

**Whereas**, the City Administrator has budgeted for the purchase of said property, to be paid for with monies from the General Fund (\$25,000), and SDC Park Fund (\$65,000).

**Now, therefore, be it resolved**, the City Council hereby authorizes the City Administrator to obtain title insurance and take other appropriate steps as well as execute and sign all necessary documents to accomplish this purchase.

**Adopted** this 18th day of June, 2015.

Approved:

Attest:

\_\_\_\_\_  
Tom Anderson  
Mayor

\_\_\_\_\_  
Aaron Prunty  
City Administrator

**Council Vote:**

Mayor Anderson \_\_\_\_\_  
Councilor Ulrich \_\_\_\_\_  
Councilor Sanderson \_\_\_\_\_  
Councilor Burgess \_\_\_\_\_  
Councilor Mitchell \_\_\_\_\_

**LAND PARTITION**  
(TENTATIVE)

**EXHIBIT A**

**APPLICANT:**  
City of Shady Cove  
P.O. Box 1210  
Shady Cove, OR. 97539

**PROPERTY OWNER:**  
PBP Inc.  
156 Greenway Circle  
Medford, OR. 97504

**LOCATION:**  
T.L. No. 341W10CB - 2900  
City of Shady Cove  
Jackson County, Oregon

**PREPARED BY:**  
Kaiser Surveying  
19754 Highway 62  
Eagle Point, OR. 97524

**DATE:**  
May 5, 2015

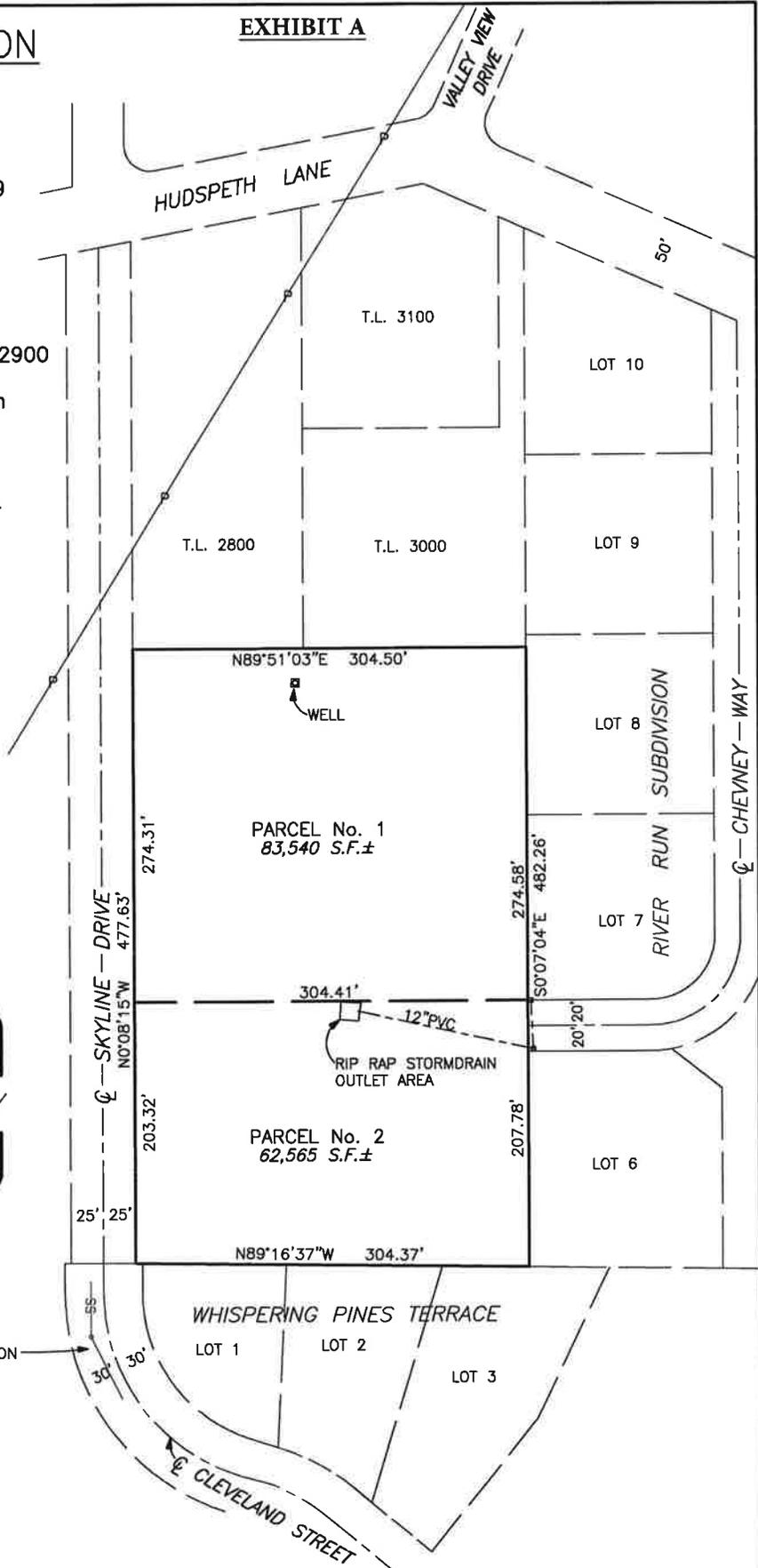


SCALE: 1" = 100'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

ELECTRONIC COPY

OREGON  
JULY 15, 2003  
BARY D. KAISER  
No. 52923  
EXP. 6-30-15



APPROXIMATE LOCATION  
CITY SEWER MAIN

- NOTES:**
1. Sewer service for Parcels would be from City Sewer Main located in Cleveland Street.
  2. Water for Parcel No. 1 would be by the existing well located on the property, and water for Parcel No. 2 would be provided by the existing well on Parcel No. 1 or proposed new well, until community water system is available.

**LEGEND**

- x — x — = Fence
- ss — = Sewer Main
- P — = Overhead Power lines