

RESOLUTION 3234

ROAD LEGALIZATION ORDER: ROMAINE VILLAGE WAY

Findings

- A. On November 4, 2020, the City Council initiated the road legalization proceeding for Romaine Village Way between Ridge Drive and Highway 97.
- B. A portion of the roadway was established but never properly dedicated by the Board of County Commissioners in Deschutes County. Romaine Village Way, as traveled and used for more than ten years, does not conform to the location of the road described in City records.
- C. A notice of the Public Hearing was mailed to owners of abutting land on December 2, 2020.
- D. An engineer's report, including a survey of the road section, was filed with the City Council.
- E. The City Council held a duly-noticed public hearing on December 16, 2020, to consider the engineer's report and survey and to decide whether the legalization is in the public interest.
- F. The City followed all required procedures for the road legalization under ORS 223.935 to 223.950.
- G. Legalization of the road is in the public interest because the road as traveled has been in existence for more than ten years.
- H. One abutting property owner filed a request for compensation for encroaching structures before the end of the public hearing. The surveyor identified one wooden fence associated with a property to the north, which is partially in the right-of-way established by this order. The property owner has filed a claim for compensation with the City. The cost for removal of the fence has been estimated as \$950.00 by Mike's Fence Center.

Based on these finds, the City Council of the City of Bend resolves as follows:

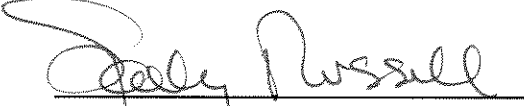
- 1. The City Council accepts the engineer's report and survey attached as Exhibits A and B. Romaine Village Way between Ridge Drive and Highway 97 as shown on Exhibit B is hereby legalized.
- 2. Staff shall take all measures necessary to complete the legalization of the road, including filing the survey map and narrative with the County Surveyor and causing the centerline and right of way to be monumented by a registered professional land surveyor.

3. The Council orders that \$950.00 is due as compensation for the removal of the encroaching fence and directs staff to take all measures necessary to provide this compensation to the landowner.
4. This resolution takes effect immediately upon adoption.

Adopted by a motion of the Bend City Council on December 16, 2020.

YES: Sally Russell, Mayor
Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell
Chris Piper

NO: none



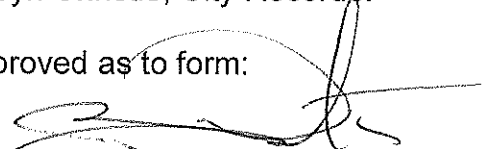
Sally Russell, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:

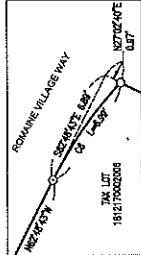
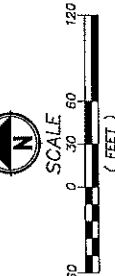
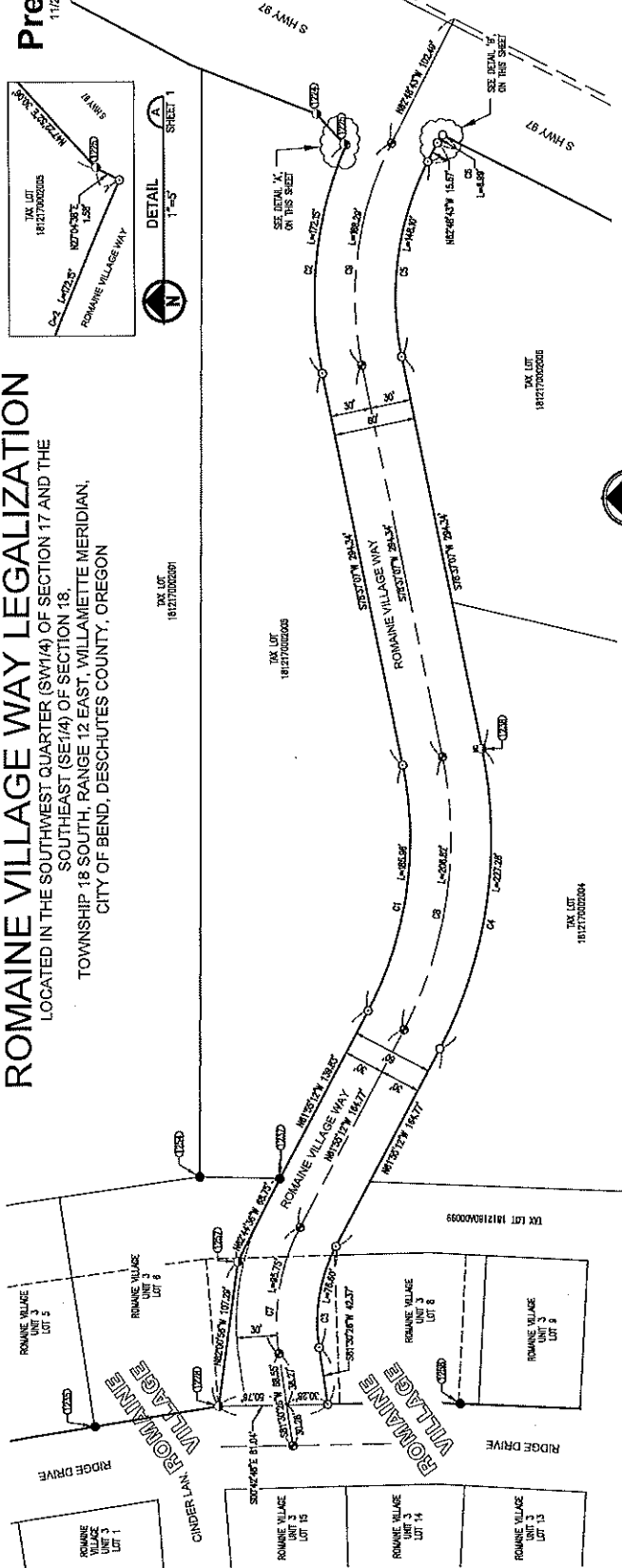
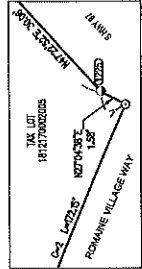


Mary Winters, City Attorney

ROMAINE VILLAGE WAY LEGALIZATION

LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 17 AND THE SOUTHEAST (SE1/4) OF SECTION 18, TOWNSHIP 18 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN, CITY OF BEND, DESCHUTES COUNTY, OREGON

Preliminary
11/22/2020 5:08:10 PM



NARRATIVE
THE PURPOSE OF THIS SURVEY IS TO MONUMENT THE EASements OF THE RECENTLY DEDICATED ROAD RIGHT-OF-WAY AREAS DESCRIBED IN INSTRUMENT NOS. 2020-38627 AND 2020-06875.
BEARINGS AND DISTANCES ARE BASED ON THAT CONTROL REDUCED TO SEA LEVEL AND ADJUSTED TO THE DESCHUTES COUNTY SURVEYORS OFFICE REFERENCE (M).
COORDINATES ARE BASED ON CENTRAL OREGON COORDINATE SYSTEM (COCS) VALUES.

- REFERENCES**
- (A) MINORLAND PARTITION MAP FILED AS COUNTY SURVEY NO. 1888 AS DESCHUTES COUNTY SURVEYORS OFFICE.
 - (B) RECORD OF SURVEY BY FREDERICK A. LUTHE, FILED AS COUNTY SURVEY NO. 1888 AS DESCHUTES COUNTY SURVEYORS OFFICE.
 - (C) RECORD OF SURVEY FOR ROADWAY RIGHT-OF-WAY FILED BY RUSSELL W. LARSEN, FILED JANUARY 4, 1991 AS COUNTY SURVEY NO. 0468 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (D) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (E) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (F) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (G) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (H) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (I) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.
 - (J) PLAT OF SURVEY FOR THE OREGON DEPARTMENT OF TRANSPORTATION BY JAMES R. THE FLEED NOVEMBER 4, 1991 AS COUNTY SURVEY NO. 0854 IN THE DESCHUTES COUNTY SURVEYORS OFFICE.

| CURVE NO. | LENGTH | RADIUS | DELTA | CHORD LENGTH | CHORD BEARING |
|-----------|---------|---------|---------|--------------|---------------|
| C1 | 163.58' | 2700.0' | 327.41° | 182.30' | N87.30.37W |
| C2 | 172.15' | 2800.0' | 337.33° | 159.45' | N87.46.04W |
| C3 | 76.87' | 1500.0' | 303.42° | 75.37' | N87.12.23W |
| C4 | 227.20' | 3000.0' | 327.41° | 222.62' | N87.30.37W |
| C5 | 148.10' | 2200.0' | 307.41° | 143.37' | N82.09.48W |
| C6 | 6.89' | 65.00' | 189.03° | 6.89' | N54.40.23W |
| C7 | 67.75' | 1000.0' | 307.41° | 64.13' | N87.12.23W |
| C8 | 208.67' | 3000.0' | 327.41° | 202.58' | N87.30.37W |
| C9 | 168.20' | 2800.0' | 327.41° | 165.13' | N87.30.37W |

FOUND MONUMENTS TABLE

| POINT NO. | NORTHING | EASTING | ELEVATION | DESCRIPTION |
|-----------|----------|-----------|-----------|---|
| 124 | 38922.00 | 328112.30 | 3815.70 | FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "0017 80" |
| 125 | 38927.68 | 328095.19 | 3815.68 | FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "0017 80" |
| 126 | 38930.52 | 328101.21 | 3816.08 | FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "THE ENGINEERING" |
| 127 | 38938.81 | 328114.67 | 3816.82 | FOUND 1/2" IRON ROD NO CAP |
| 128 | 38945.86 | 328103.67 | 3816.86 | FOUND 1/2" IRON ROD NO CAP |
| 129 | 38947.68 | 328094.20 | 3816.08 | FOUND 5/8" IRON ROD NO CAP, BENT |
| 130 | 38951.64 | 328103.67 | 3815.34 | FOUND 1/2" IRON ROD NO CAP |
| 131 | 38952.62 | 328097.58 | 3818.11 | FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "THE ENGINEERING" |
| 132 | 38953.68 | 328112.23 | 3822.08 | FOUND 1/2" IRON ROD NO CAP |

LEGEND

- FOUND 5/8" IRON ROD WITH YELLOW PLASTIC CAP (SEE FOUND MONUMENT TABLE)
- FOUND 5/8" IRON ROD, NO CAP (SEE FOUND MONUMENT TABLE)
- FOUND 1/2" IRON ROD, NO CAP (SEE FOUND MONUMENT TABLE)
- SET 2 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "PARAMETRIX"
- SET 2 1/2" IRON ROD WITH 2" ALUMINUM CAP STAMPED "PARAMETRIX"
- PROPOSED LEGALIZED RIGHT-OF-WAY FOR ROMAINE VILLAGE WAY
- CENTERLINE OF RIGHT-OF-WAY
- EXISTING PROPERTY LINE / ROADWAY RIGHT-OF-WAY LINE
- PLATTED LOT LINE

SURVEY PREPARED FOR:
SW SEWER BASIN, CITY OF BEND

Parametrix
ENGINEERING PLANNING ENVIRONMENTAL SCIENCES

155 NW PRACTICE PARK LANE, SUITE 110 | BEND, OR 97701
P. 541.588.7710
WWW.PARAMETRIX.COM

PAX JOB NO. 297-2763-024

| SURVEYED | DATE |
|----------|-------------------|
| BRB | NOVEMBER 20, 2020 |
| CKS | |
| SCB | |
| SCB | |

ONE INCH AT FULL SCALE, IF NOT SCALE ACCORDINGLY
SCALE 1"=60'
DATE NOVEMBER 20, 2020

SHEET NO. 1 OF 1

November 20, 2020
Parametrix No. 297-2763-024

Jake Sherman, PE
City of Bend | Project Engineer

Re: THE LEGALIZATION OF ROMAINE VILLAGE WAY (VILLAGE WAY), REVISION #1

Dear Jake:

The intent of this letter is to provide the city with the official written report per Oregon Revised Statute (ORS) 223.940(b) to support the basis for road legalization per ORS 223.935. Below you will find a summary of findings, conclusion for basis of legalization based upon ORS and next steps as it relates to the surveying requirements should council proceed with the legalization of Romaine Village Way.

A Resolution for Village Way (see Exhibit 'A'), later renamed Romaine Village Way, was entered into Deschutes County Commissioners Journal, Volume 34, Page 500, on April 2, 1980, said Resolution described Village Way as:

"A strip of land for street purpose, Village Way between Highway 97 and Ridge Drive, being 60 feet in width as platted on the official plat of Romaine Village as recorded in the office of the County Clerk, Deschutes County, Oregon."

Said Resolution also contains a sketch map on Page 501 of said Deschutes County Commissioners Journal Volume 34, which shows dimensions for said Village Way (see Exhibit 'B'). Village Way was then established on May 7, 1980 by an Order of Establishment (see Exhibit 'C'), in the Deschutes County Commissioners Journal, Book 34, Page 502, which contained the same description as the preceding Resolution but no sketch map. Right-of-way dimensions shown on said sketch map match the dimensions shown on Minor Land Partition MP-80-29 dated May 20, 1980 by George Cook, PLS, and filed with the Deschutes County Surveyor as County Survey No. 4021 (see Exhibit 'D').

Regarding the reference to the plat of Romaine Village within the Resolution and Order of Establishment, it's worth noting that this subdivision does not lie within the area of said description or sketch map of Village Way, rather the easterly end of the described roadway (as dimensioned on the aforementioned sketch map) terminates at the easterly sideline of the Old Brooks Scanlon Logging Road, being coincident with the east line of said MP-80-29, lying east of the plat of Romaine Village, Unit 3. A portion of this vacated right-of-way lying northerly of the extension of Village Road was transferred to the owners of Lots 1-7, Block 6, Romaine Village, Unit 3, recorded in Plat Cabinet A, Page 505, Official Records of Deschutes County, Oregon, via Lot Line Adjustment as shown on County Survey No. 09651 by George Cook, PLS, dated 12-29-81 (see Exhibit 'E'). This is the first recorded survey depicting the right-of-way for Village Way extending to the intersection with Ridge Road as called for in the Resolution and Order of Establishment. The centerline and southerly right-of-way of Village Way are graphically shown on the map with tangent lines and a curve, but not dimensioned. The southerly line of the adjusted property comprised of Lot 6 & associated transfer area shown on CS09651, and most recently retraced by Tye Engineering as shown on Deschutes County Survey No. 19656, was not established and monumented at a 30 foot offset from the centerline of Village Way through the vacated Old Brooks Scanlon Logging Road right-of-way and Lot 7, Block 6, Romaine Village Unit 3. Rather

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an angle point was established connecting the extension of the straight tangent from the southeast, to the northwest corner of Lot 7, Block 6, Romaine Village Unit 3.

The southerly right-of-way line through Lot 7 appears to be a 30 foot offset of the centerline per County Survey No. 09651 (see Exhibit 'E') and the tax assessor map covering this area seems to corroborate this (see Exhibit 'F'). Additional Cook engineering maps and calculations sheets were obtained from the Deschutes County Surveyor showing dimensions for the centerline and southerly right-of-way lines (see Exhibits 'G' & 'H'). The deed description for the property to the south (Tax Lot 18 12 18DA 1200) calls for "that portion of Lot Seven (7), Block Six (6), Unit 3 of Romaine Village, South of Village Way", but does not provide dimensions for the north line of this property. Researching the chain of title, this description appears in that Bargain and Sale Deed recorded August 5, 1982 in Volume 360, Page 239 in the Deschutes County Record of Deeds. This was recorded shortly after the filing of MP-80-29, and one can assume that the deed was written with full knowledge of the right-of-way defined by Cook years earlier.

It's important to note that the road establishment records, Minor Partition Plat No. MP-80-29 and the lot line adjustment map CS09651 were produced within a specific period of time (1980-1981) and contain identical bearings and distances in their respective descriptions, indicating a collaborative effort to establish this public roadway. Typically, Minor Partitions do not serve create a public street, possibly explaining the simultaneous effort to create the public right-of-way through an Order of Establishment. MP-80-29 depicts Village Way in the same manner as that of the sketch map in said Resolution (but in greater detail) and monumented the sidelines of said Village Way with both 5/8" and 1/2" iron rods with caps. No declaration was included with MP-80-29 to define rights within the boundaries of said partition, and the County Commissioners signatures are missing from the plat approvals. Further evidence that said MP-80-29 was never fully executed and recorded with the County Clerk is that the parcels contained within its boundaries deed descriptions are by metes and bounds around said Village Way rather than the typical parcel and plat identification typically used for property reference and conveyance. I believe the right-of-way as depicted and monumented in MP-80-29 is the best evidence as to the intended boundary anticipated in the Resolution.

Over the years, most of the High Desert Engineering right-of-way monuments have been lost. Recent field surveys by Parametrix and ODOT (County Survey No. 18429 – see Exhibit 'I') recovered two (2) monuments that appear to have been set per MP-80-29. The record dimensions do not fit well between these two monuments. ODOT's retracement of Cook's right-of-way for Romaine Village Way appears to be reasonable between recovered monuments #3057 & #3062, but elongates the original tangent length east of recovered monument #3062 by 2.75 feet. This contradicts the recovered monument positions from ODOT roll map 9B-28-8 (see Exhibit 'J'), which provides coordinates for several right-of-way monuments from MP-80-29. Inversed distances between provided coordinates for recovered monuments shown on ODOT Roll Map 9B-28-8 fit well with the record dimensions shown in MP-80-29, including the tangent line elongated by ODOT on County Survey No. 18429. For this reason, I believe the record dimensions from MP-80-29, east of ODOT recovered monument #3062 best represent the intended right-of-way through this area.

Romaine Village Way meets the criteria for a road legalization per ORS 223.935(1) and (3). While the intent is fairly evident, due to the non-existence of any dedication deeds, lack of dedication and acceptance in the partitioning of abutting lands, and ambiguities in the nature of said Resolution and Order of Establishment for Village Way, meets the criteria for road legalization per ORS 223.935(1):

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If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road,

Since the section of Village Way lying within said Lot 7 of Romaine Village Unit 3 to its intersection with said Ridge Drive has been in use for a minimum of 26 years and includes reliance on unrecorded documents to define the southerly right-of-way line, along with non-adherence to the 30' half width on the north side of the road as shown on County Survey No. 09651, this section meets the criteria for road legalization per ORS 223.935(3):

If the road as traveled and used for 10 years or more does not conform to the location of a road described in the city records.

Should council proceed with the legalization of Romaine Village Way and upon direction from the city, Parametrix will complete the preparation of the required survey map and surveyor's narrative, monumentation of the centerline and right-of-way of Romaine Village and filing of said survey map with the Deschutes County Surveyor's Office in accordance with ORS 209.250. Once said survey map is filed, Parametrix will provide the city with a pdf copy of the filed survey for their records.

Please note that based on these findings, Romaine Village Way includes additional width beyond the 60 foot wide corridor called for in the Resolution and Order of Establishment which may affect it's designation as a Frontage Road in the city Transportation System Plan (TSP). Consultation with Legal Counsel may be advisable regarding any recorded or implied right-of-way dedications beyond the 60 foot width contemplated in the Resolution and Order of Establishment, such as the section through Lot 7, Block 6, Romaine Village Unit 3 and the intersection with US Highway 97. If additional right-of-way is required and/or desired, it would need to be acquired after the conclusion of the legalization process.

Please reach out with any questions or concerns.

Sincerely,

PARAMETRIX



Scott C. Bolduc, PLS, CFedS
Senior Surveyor

cc: Project File

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Scott Bolduc

Digitally signed by Scott Bolduc
DN: cn=Scott Bolduc, o=Scott
Christopher Bolduc, l=astara,
c=Oregon, ou=US
Date: 2020.11.22 16:42:36-0800

OREGON
JULY 20, 2009
SCOTT C. BOLDOC
79288

EXPIRES: 12/31/2021

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Exhibit 'A' Resolution

IN THE BOARD OF COUNTY COMMISSIONERS
OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

VOL 34 PAGE 500
FILED
APR 2 1980
ROSEMARY PATTERSON, CO. CLERK

In the Matter of the)
Establishment of Village)
Way) R E S O L U T I O N

Be It Remembered, that at a term of the Board of County Commissioners, begun and held at the County Courthouse in Bend, in said County on this 2nd day of April, 1980 and continued from day to day thereafter to and including the date of the Resolution the same being a term of said Board of County Commissioners sitting for the transaction of County business, and at which time said Board of County Commissioners may, by Resolution, propose any county road, the following among other proceedings was had, to-wit:

WHEREAS, it is hereby considered that a public necessity exists for the establishment of the road hereinafter described, said Board of County Commissioners does hereby declare its intention to establish a county road in Deschutes County, Oregon, by Resolution, described as follows, to-wit:

A strip of land for street purpose, Village Way between Highway 97 and Ridge Drive, being 60 feet in width as platted on the official plat of "Romaine Village" as recorded in the office of the County Clerk, Deschutes County, Oregon.

NOW, THEREFORE, IT IS HEREBY ORDERED that the County Roadmaster or his duly qualified deputy, shall give notice of this Resolution by posting true copies thereof, properly certified to by the County Clerk, at the place of holding County Court and also at three public places in the vicinity of said proposed road thirty days previous to the consideration of this Resolution by the Board of County Commissioners, notifying all persons concerned that said Resolution will be considered and passed upon by this Board of County Commissioners at a meeting on the 7th day of May 1980 at which time the Board of County Commissioners will consider any objections or remonstrances which may be filed on account of said proposed road.

Dated at Bend, Deschutes County, Oregon this 2nd day of April, 1980.

DESCHUTES COUNTY BOARD OF COMMISSIONERS

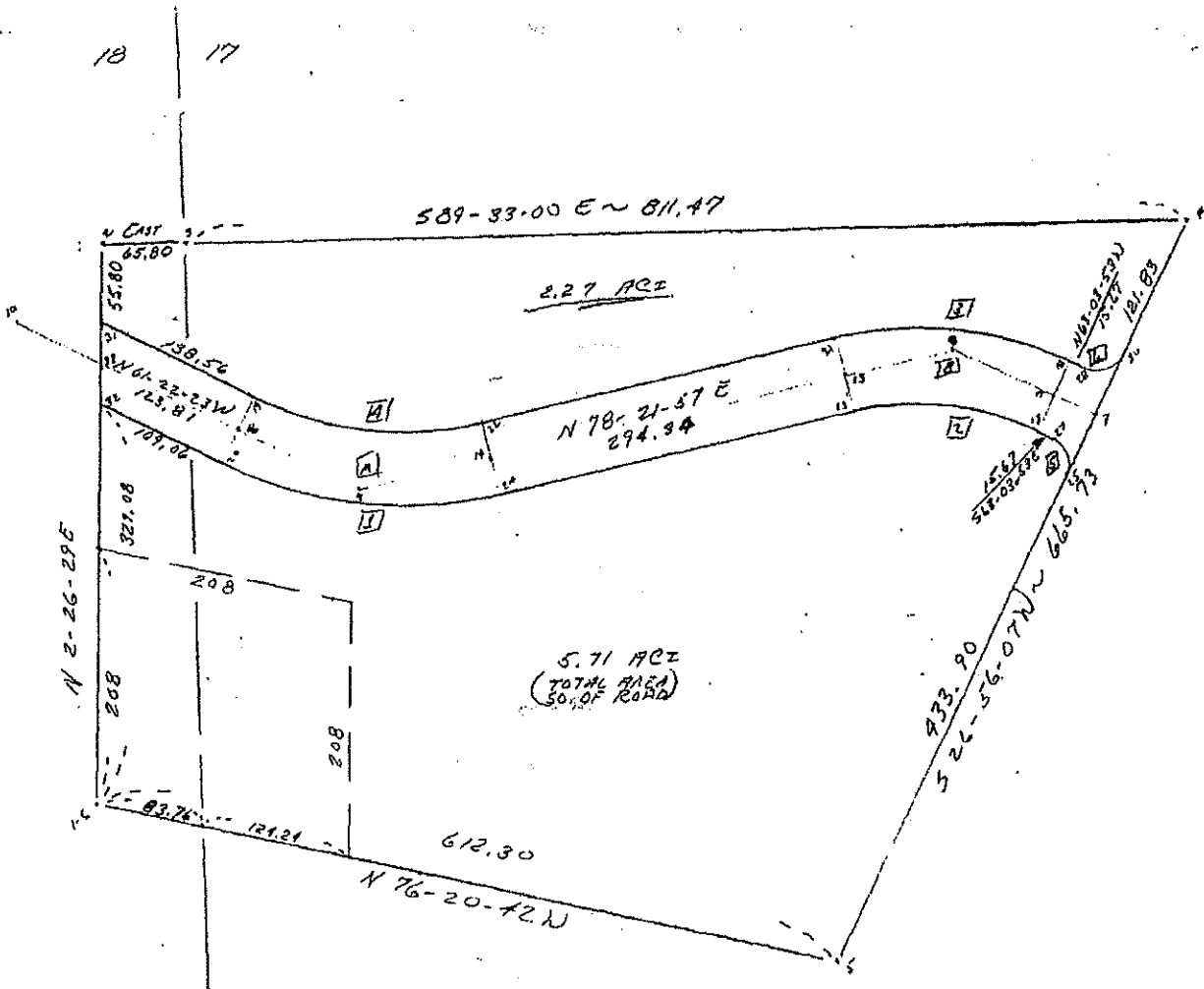
Albert A. [Signature]
Chairman

[Signature]
Commissioner

[Signature]
Commissioner

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Exhibit 'B' Sketch Map Accompanying Resolution



VOL 34 PAGE 501

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Exhibit 'C' Order of Establishment

VOL 34 PAGE 502

IN THE BOARD OF COUNTY COMMISSIONERS
OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

In the Matter of the)
ESTABLISHMENT of Village) ORDER ESTABLISHING
Way)

BE IT REMEMBERED, that at a term of the Board of County Commissioners of Deschutes County, Oregon, begun and held at the County Courthouse in Bend in said County on the 2nd day of April 1980 the same being a term of said Board of County Commissioners sitting for the transaction of County business, at which time the Board legally, by Resolution, proposed the establishment of the above mentioned road.

THAT on the said Wednesday, April 2 1980, the Board did consider that a public necessity existed for the establishment of said road hereinafter described, and did order that legal notice be given, and appointed May 7, 1980, as the day of hearing on the establishment of Village Way.

And now, at this time it appearing to the Board that due notice of this intention and this proceeding has been given, as by law required, for more than thirty (30) days preceding the day named in said Resolution and said notice for a hearing hereon; and this being after the date for hearing objections to such establishment, if anytherebe.

IT IS THEREFORE ORDERED AND DECREED that said road described below shall be established as described in said Resolution and by Order herein as follows, to wit:

A strip of land for street purpose, Village Way between Highway 97 and Ridge Drive, being 60 feet in wisth as platted on the official plat of "Aomaine Village" as recorded in the office of the County Clerk, Deschutes County, Oregon.

NOW, THEREFORE, IT IS FURTHER ORDERED that the Deschutes County Surveyor shall file a plat of said road, as surveyed on the ground, with the road records of Deschutes County.

Dated at Bend, Deschutes County, Oregon this 7th day of May, 1980.

DESCHUTES COUNTY BOARD OF COMMISSIONERS
Albert Affenberg
Chairman
Robert C. Paulson
Commissioner
Way Chapman
Commissioner

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Exhibit 'D' Minor Partition Plat MP-80-29

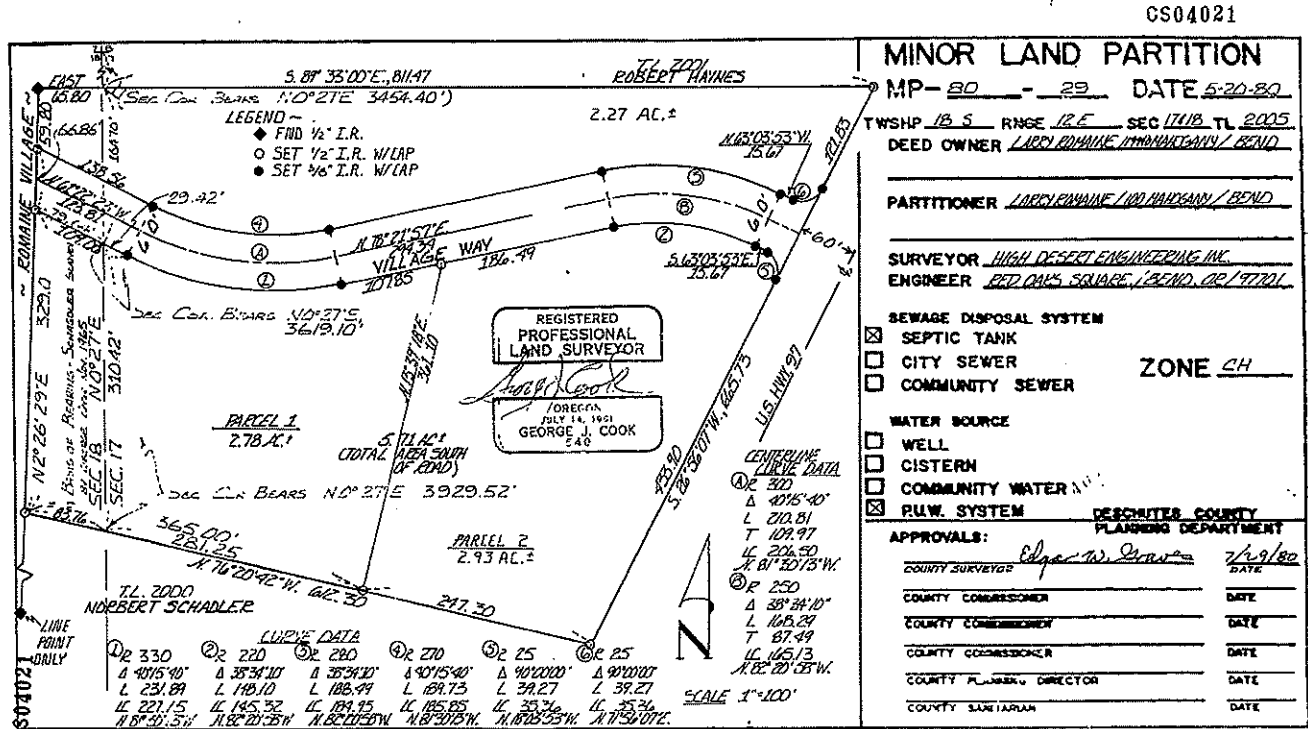
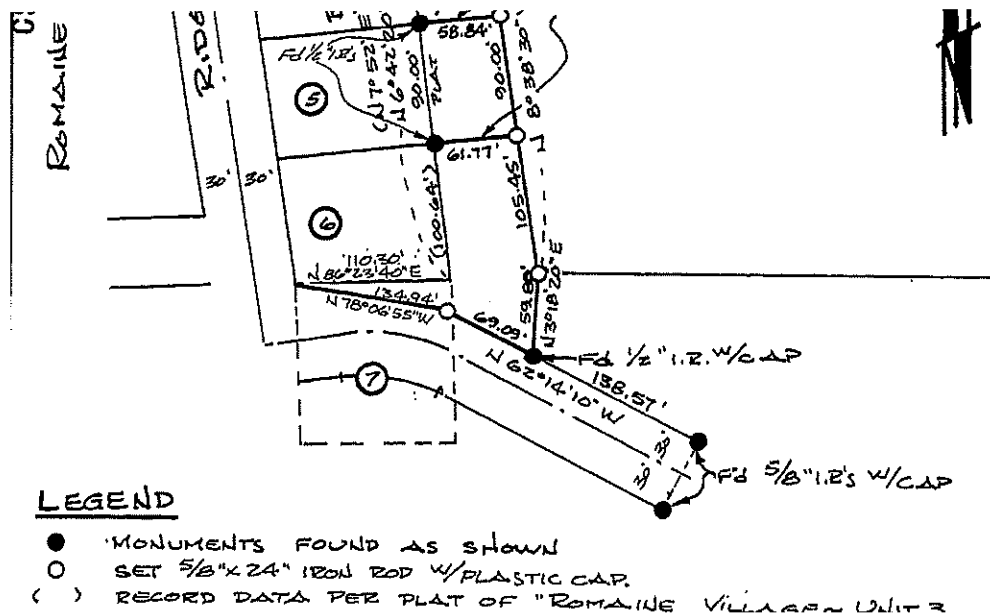


Exhibit 'E' Portion of County Survey No. 09651



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Exhibit 'F' Portion of Tax Assessor's Map 18 12 18DA

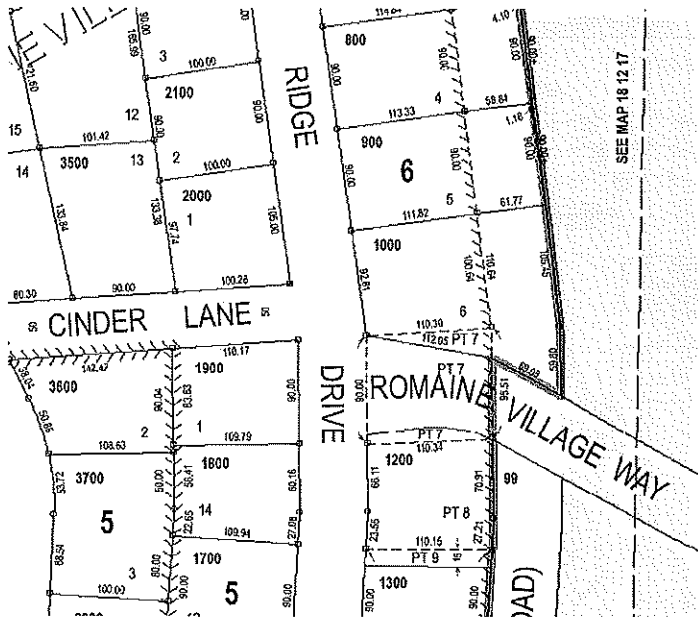
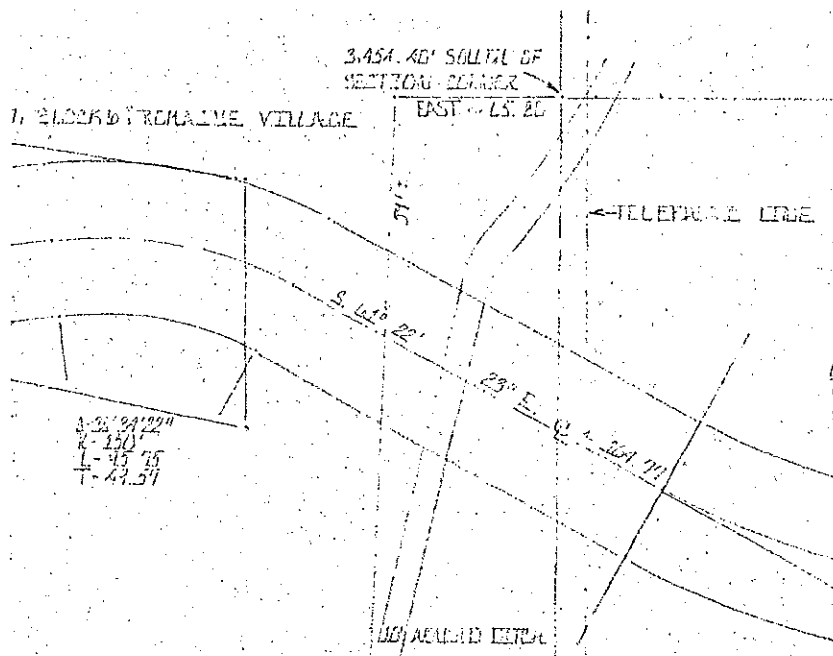
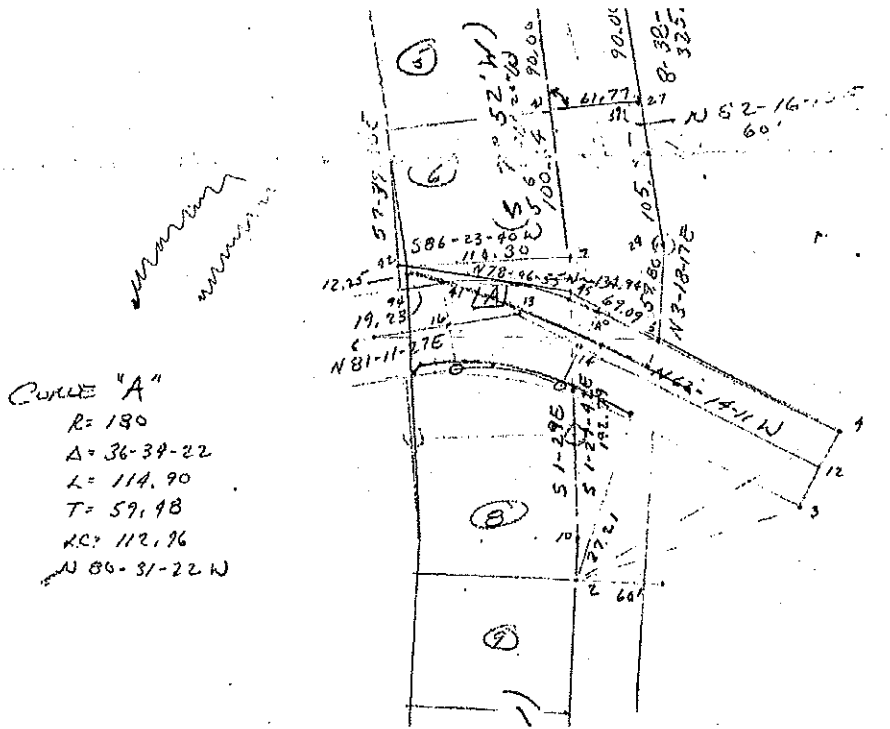


Exhibit 'G' Portion of George J. Cook Engineering unrecorded plan and profile map



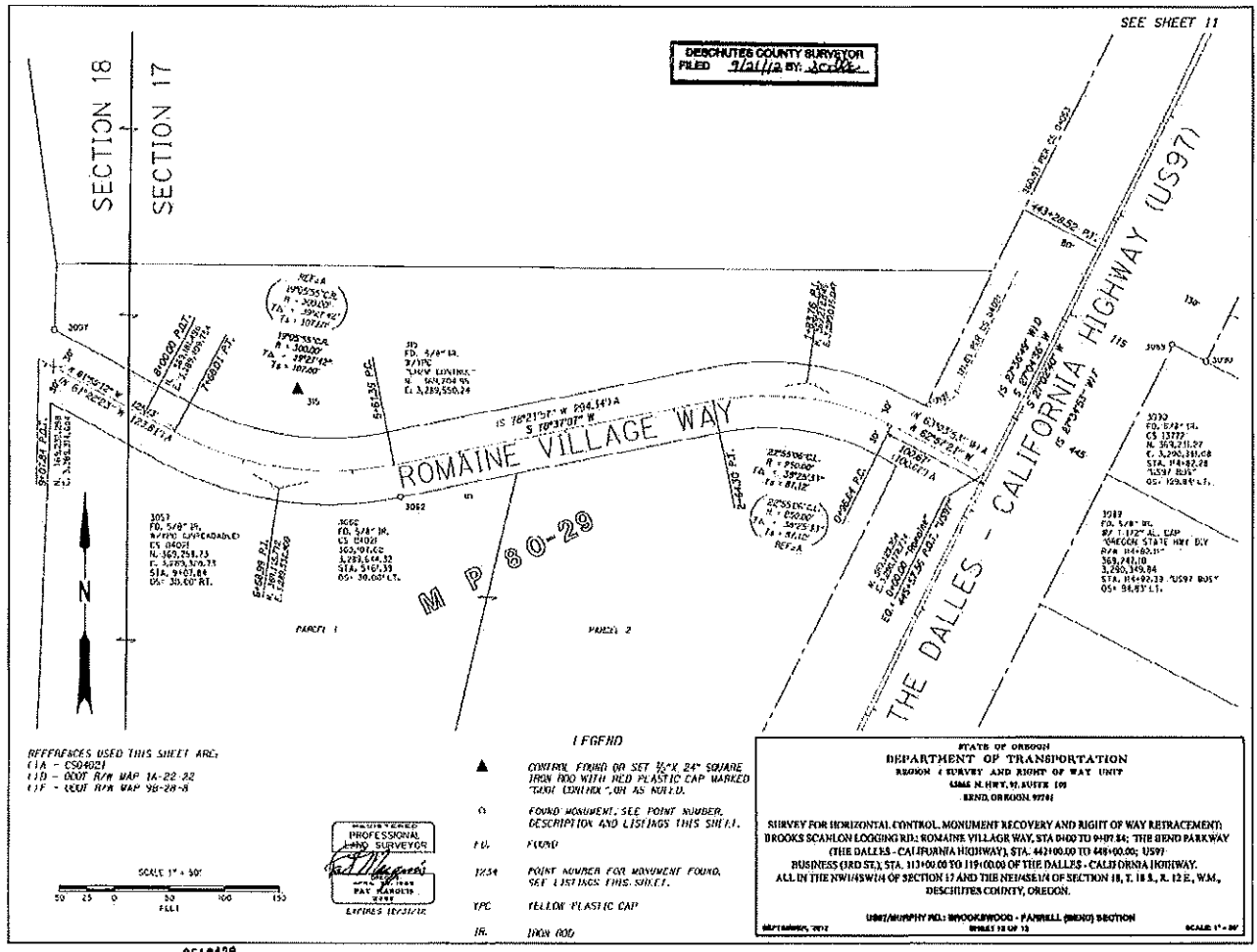
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Exhibit 'H' Portion of George J. Cook Engineering Property Line Adjustment Calculations Sheet



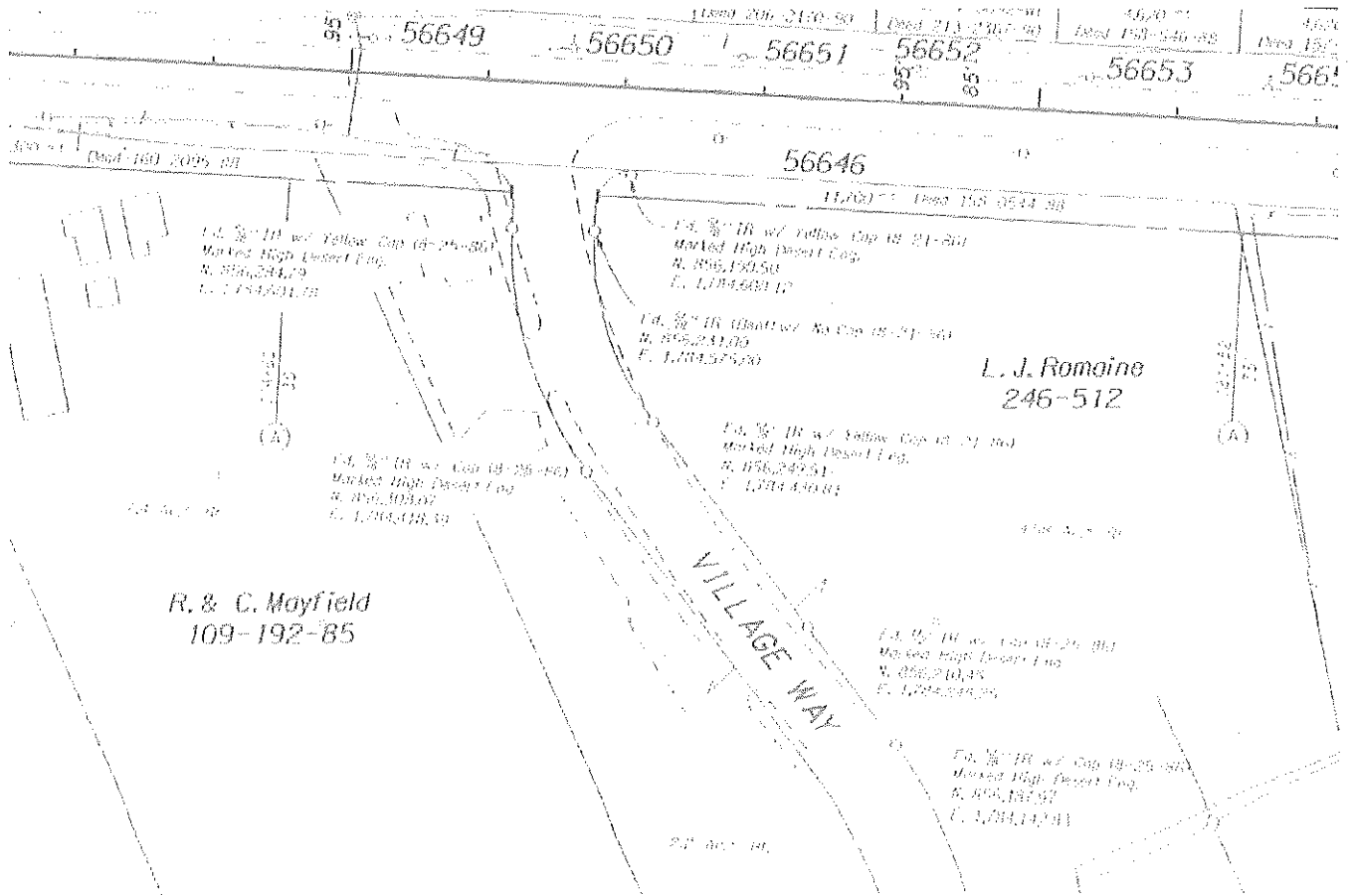
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Exhibit 'I' Sheet 12 of County Survey No. 18429



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Exhibit 'J' Portion of ODOT Roll Map 9B-28-8



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