

Introduced By

Approved For Form And Legality

\_\_\_\_\_  
Councilmember

*F. Faiz*  
\_\_\_\_\_  
City Attorney

2007 OCT 11 11 2:11

## OAKLAND CITY COUNCIL

**RESOLUTION No. 80922 C.M.S.**

**RESOLUTION CONDITIONALLY ACCEPTING IRREVOCABLE DEDICATIONS  
OF PUBLIC RIGHT-OF-WAY FROM PULTE HOME CORPORATION AND  
MOTHER FISH LLC FOR A NEW STREET IN THE ARCADIA PARK  
SUBDIVISION TO CONNECT WITH 92nd AVENUE**

**WHEREAS**, Pulte Home Corporation (Grantor), a Michigan corporation doing business in California (no. C1637972) and Mother Fish LLC (Grantor), a California limited liability company (no. 200633610246), owners of two (2) properties described in Grant Deeds recorded March 1, 2007, series no. 200789805, and April 4, 2007, series no. 2007128979, by the Alameda County Clerk-Recorder, and identified by the Alameda County Assessor as parcel numbers 044-4989-016-00 and 044-4988-006-01, and identified by the City of Oakland as 921 98th Avenue and 888 92nd Avenue, and more particularly described in Exhibit A attached hereto, have individually and voluntarily made irrevocable dedications to the City of Oakland, a municipal corporation, of portions of said real properties for use in perpetuity by the general public as right-of-way for an extension of a publicly maintained street, herein after identified as Ellington Way; and

**WHEREAS**, said dedications and the textural descriptions and graphical delineations of said portions of real property for said extension of Ellington Way are attached hereto in Exhibit B; and

**WHEREAS**, pursuant to Resolution 80602 C.M.S. of the Council of the City of Oakland, the Grantor, Pulte Home Corporation, has previously filed with the Alameda County Clerk-Recorder a Final Map, identified as Tract 7640 for the Arcadia Park subdivision, that has

- voluntarily merged said parcel 044-4989-016-00 with adjoining parcels it owns in fee simple interest, and has
- subdivided the platted land for development of individual lots for residential home ownership, and has
- dedicated right-of-way for publicly maintained streets and an easement for a publicly maintained pathway; and

**WHEREAS**, pursuant to said Resolution, acceptance by the City of Oakland of said dedications were condition upon acceptance by the City Engineer of the City of Oakland of necessary public infrastructure improvements which are currently being constructed by the Grantor, Pulte Home Corporation with permit number PX0600089; and

**WHEREAS**, the Grantor, Pulte Home Corporation, now desires to expand the use of said public pathway to accommodate the ingress and egress of automobiles, delivery and service trucks, and emergency vehicle traffic; and

**WHEREAS**, pursuant to California Streets and Highways Code section 1805 , said expanded use shall require the dedication of a minimum width of forty (40) feet (measured orthogonally to the longitudinal axis) of public right-of-way; and

**WHEREAS**, the Grantor, Pulte Home Corporation, desires to re-dedicate without cost to the City of Oakland the full-width and full-length of said public pathway as public right-of-way; and

**WHEREAS**, said public pathway is delineated on said Final Map as twenty (20) feet wide (measured orthogonally to the longitudinal axis); and

**WHEREAS**, the Grantor, Mother Fish LLC, similarly desires to dedicate without cost to the City of Oakland a companion strip of real property twenty (20) feet wide (measured orthogonally to the longitudinal axis) that adjoins said public pathway to the northeast;

**WHEREAS**, the Grantor, Pulte Home Corporation, understands and agrees that construction of supplemental public infrastructure improvements required for the full use of said dedications as a public street shall be without cost to the City of Oakland and shall be an indistinguishable part of said permit PX0600089 and shall further be an indistinguishable part of the Subdivision Improvement Agreement executed by the Grantor pursuant to said Resolution 80602 C.M.S.; and

**WHEREAS**, said supplemental infrastructure improvements shall conform in all manners with the plans and specifications approved with said permit PX0600089 for construction of Ellington Way and companion public streets within said Arcadia Park subdivision; and

**WHEREAS**, said dedications and supplemental infrastructure improvements conform with the approved Tentative Map (TM 7640) and land use permits (ER05003, CMV05446, GP05331, GP05331) for the Arcadia Park subdivision; and

**WHEREAS**, on September 21, 2005, the Planning Commission certified the EIR, adopted CEQA findings in connection with the approval of this project; and

**WHEREAS**, the City Council hereby finds and determines on the basis of substantial evidence in the record that the EIR fully analyzes the potential environmental effects of the project, including the dedication contemplated herein, and incorporates mitigation measures to substantially lessen or avoid any potentially significant impacts in accordance with CEQA. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and in CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the project or the circumstances under which the project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects; and (2) there is no "new information of substantial importance as described in CEQA Guidelines Section 15162(a)(3); now, therefore, be it

**RESOLVED:** That the City Council's action approving dedications of public right-of-way, as conditioned herein, complies with the California Environmental Quality Act; and be it

**FURTHER RESOLVED:** That the dedications of public right-of-way, as conditioned herein after and described and delineated in Exhibit B, are hereby accepted to extend a new public street, identified as Ellington Way, to connect with 92nd Avenue; and

**FURTHER RESOLVED:** That the dedications of public right-of-way are hereby conditioned by the following special requirements:

1. the Grantor, Pulte Home Corporation, shall be responsible for the construction of supplemental public infrastructure improvements without cost to the City of Oakland to extend Ellington Way to 92nd Avenue; and
2. construction by the Grantor, Pulte Home Corporation, of the supplemental public infrastructure improvements shall conform with the plans, specifications, and general and special conditions of permit PX0600089 and all revisions thereto; and
3. pursuant to Resolution 80602 C.M.S., all requirements, restrictions, conditions, limitations, and time durations set forth in the Subdivision Improvement Agreement executed by the Grantor, Pulte Home Corporation, for approval of the Final Map for the Arcadia Park subdivision shall apply equally to construction of the supplemental public infrastructure improvements and acceptance of the dedications of public right-of-way and subsequent maintenance of public streets; and
4. the hereinabove conditions shall be binding upon the Grantors and their successive owners and assigns thereof; and be it

**FURTHER RESOLVED:** That this resolution shall take effect when all the conditions hereinabove set forth shall have been complied with to the satisfaction of the City Attorney and the City Engineer of the City of Oakland and shall become null and void upon the failure of the Permittee to comply with the conditions hereinabove set forth after notice and failure to cure such conditions in a reasonable manner; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to file a certified copy of this resolution for recordation by the Alameda County Clerk-Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 6 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

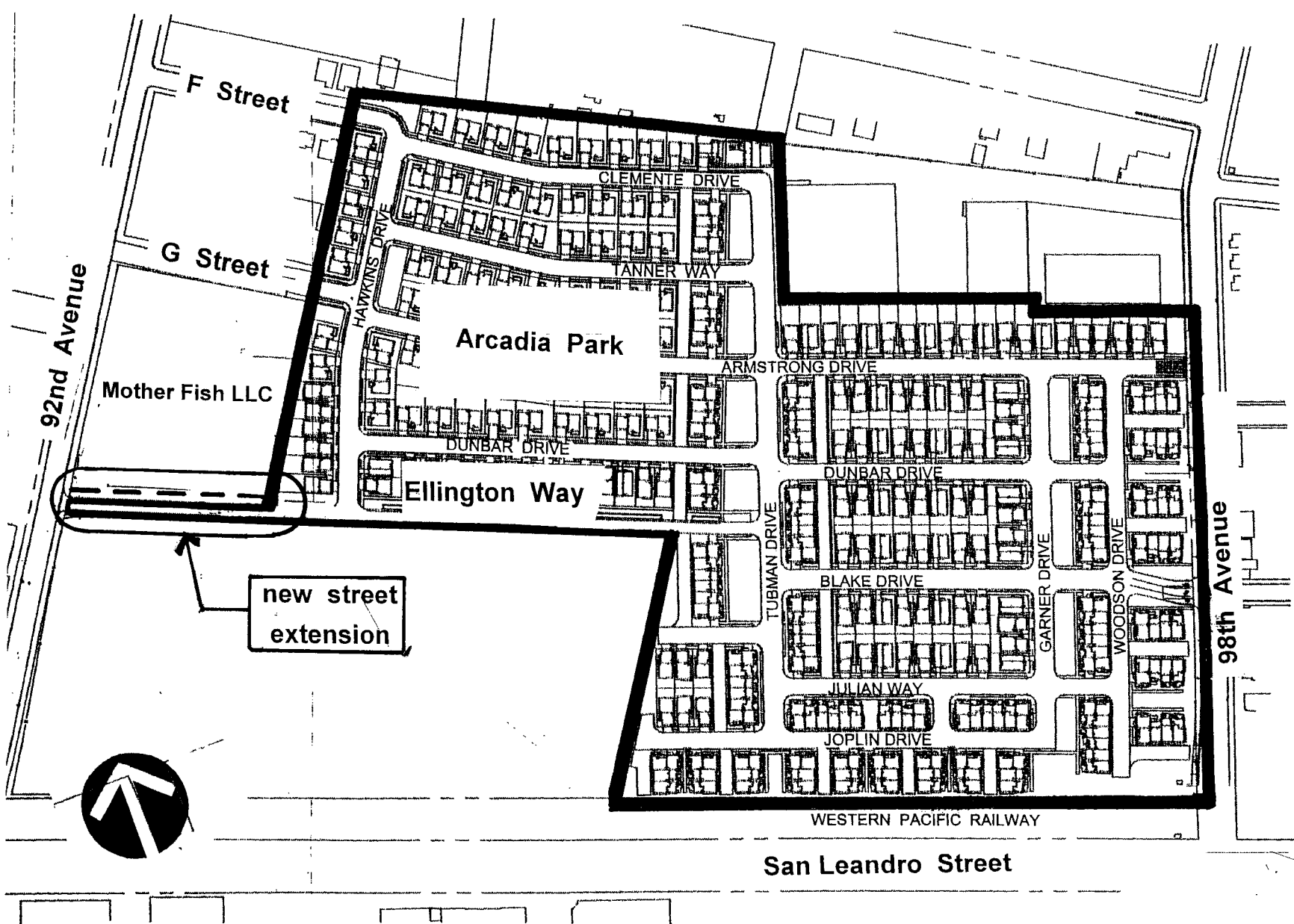
ABSTENTION - 0

ATTEST:



LATONDA SIMMONS

City Clerk and Clerk of the Council  
of the City of Oakland, California



92nd Avenue

F Street

G Street

Mother Fish LLC

Arcadia Park

Ellington Way

new street extension



CLEMENTE DRIVE

TANNER WAY

HAWKINS DRIVE

ARMSTRONG DRIVE

DUNBAR DRIVE

DUNBAR DRIVE

TUBMAN DRIVE

BLAKE DRIVE

GARNER DRIVE

WOODSON DRIVE

JULIAN WAY

JOPLIN DRIVE

WESTERN PACIFIC RAILWAY

San Leandro Street

98th Avenue

recording requested by:

**CITY OF OAKLAND**

when recorded mail to

City of Oakland  
CEDA - Building Services  
Dalziel Administration Building  
250 Ogawa Plaza - 2nd Floor  
Oakland, CA 94612  
Attention: City Engineer

----- space above for Recorder's use only

## **IRREVOCABLE OFFER OF DEDICATION**

Pursuant to California Government Code Section 7050, the undersigned, as owners of the fee simple interest in the real property described in the Grant Deed, Series No. 200789805, recorded March 1, 2007, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as a portion of Parcel No. 044-4989-016, do hereby make an irrevocable offer of dedication of a strip of land, as delineated in Exhibit A attached hereto, to the City of Oakland, a municipal corporation, for its use in perpetuity as public right-of-way.

Pursuant to California Streets and Highways Code Section 8300 et seq., in the event that some or all of said land should be vacated by the City at some future date, as yet undetermined, the owners and their representatives, heirs, successors, and assigns hereby retain the unqualified right unto themselves to the underlying fee simple interest in said land.

Pulte Home Corporation, a Michigan Corporation

By: \_\_\_\_\_  
Daniel J. Carroll, Attorney In Fact

## EXHIBIT "A"

LOT R OF TRACT MAP 7640, FILED JULY 25, 2007, IN BOOK  
299 OF MAPS, PAGES 89 THROUGH 97, INCLUSIVE, OFFICIAL  
RECORDS OF ALAMEDA COUNTY.

APN: 044-4989-016 (PORTION)

LANDS OF JEANNE WU

N60°36'24"E  
22.88'

N39°52'36"W 340.41'

LOT R

N39°52'36"W 340.41'

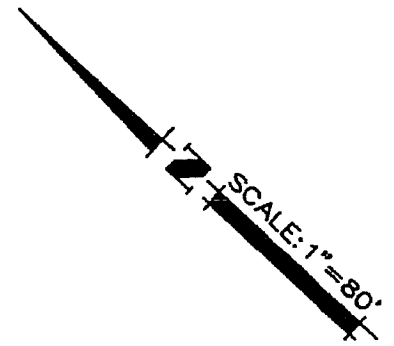
N60°36'24"E  
POINT OF BEGINNING

5'  
30' 30'  
60'  
489.60'

MONUMENT LINE

92ND (KINSELL) AVENUE  
N60°36'24"E

LANDS OF STEVENS & STEPHENS VIII, LLC



72'

WESTERN PACIFIC RAILWAY CO.

**EXHIBIT "B" - LOT R**

CEA FILE NAME: 04125PLAT2



**Civil Engineering Associates**

Civil Engineers • Planners • Surveyors

2580 North First Street • Suite 290 • San Jose, CA 95131

T: (408) 435-1066 • F: (408) 435-1075

BY: L.C.

DATE: 08-15-07

SCALE: 1"=80'

JOB NO. 04-125

SHT.NO.

22

RECORDING REQUESTED BY  
CHICAGO TITLE COMPANY

AND WHEN RECORDED MAIL TO

Pulte Home Corporation  
6210 Stonridge Mal Rd., 5th Fl.

Pleasanton, CA 94588



2007089805

03/01/2007 08:30 AM

OFFICIAL RECORDS OF ALAMEDA COUNTY  
PATRICK O'CONNELL  
RECORDING FEE: 21.00  
COUNTY TAX: 8423.80  
CITY TAX: 114870.00



2 PGS

*1-800  
Pul  
by 4p  
2  
pk*

Escrow No. 913570-2-CW  
Order No. 913570-2-MO OAK

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Assessor's Parcel No:  
044-4989-016

GRANT DEED

The undersigned declares that the documentary transfer tax is \$8,423.80

and is

- computed on the full value of the interest or property conveyed, or is
- computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale.

The undersigned declares that the city/county transfer tax is \$114,870.00

The land, tenements or realty is located in  unincorporated area  City of Oakland

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,  
CALIFORNIA REFRIGERATED EXPRESS INCORPORATED, A CALIFORNIA CORPORATION

hercby GRANT(S) to  
PULTE HOME CORPORATION, A MICHIGAN CORPORATION

the following described real property in the City of Oakland  
County of Alameda, State of California:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

AS EXHIBIT "A"

Dated February 21, 2007

STATE OF CALIFORNIA  
COUNTY OF Alameda } SS.

On 2/22/07 before me,  
C.J. WILSON

a Notary Public in and for said County and State, personally appeared

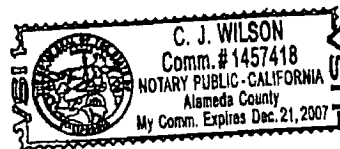
Ronald Dreisbach

California Refrigerated Express, Inc., a  
California corporation

By: Ronald Dreisbach  
Ronald Dreisbach  
Its: President

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

WITNESS my hand and official seal.



C. J. Wilson #1457418  
Alameda County, CA, Exp. 12/21/07  
FOR NOTARY SEAL OR STAMP

Signature of Notary

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE: IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE  
same as above

Name

Street Address

City, State & Zip



Page 1

Escrow No. 913570-2 - CW

**LEGAL DESCRIPTION EXHIBIT "A"**

CITY OF OAKLAND

PARCEL ONE:

PARCEL A, AS SHOWN ON THE PARCEL MAP NO. 3323, FILED SEPTEMBER 9, 1980 IN BOOK 121 OF PARCEL MAPS, PAGE 11, ALAMEDA COUNTY RECORDS.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR ROADWAY PURPOSES, APPURTENANT TO PARCEL ONE, HEREIN DESCRIBED, OVER AND ALONG THE LAND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERN LINE OF 92ND AVENUE, DISTANT THEREON NORTH 58° 59' 45" EAST, 512.48 FEET FROM THE NORTHEASTERN LINE OF THE RIGHT OF WAY, 72 FEET WIDE, OF THE WESTERN PACIFIC RAILROAD COMPANY; AND RUNNING ALONG SAID LINE OF 92ND AVENUE, NORTH 58° 59' 45" EAST, 27.96 FEET; THENCE SOUTH 41° 29' 15" EAST, 340.41 FEET; THENCE SOUTH 58° 59' 45" WEST, 27.96 FEET; THENCE NORTH 41° 29' 15" WEST, 340.41 FEET TO THE POINT OF BEGINNING.

ASSESSOR'S PARCEL NO. 044-4989-016

recording requested by:

**CITY OF OAKLAND**

when recorded mail to

City of Oakland  
CEDA - Building Services  
Dalziel Administration Building  
250 Ogawa Plaza - 2nd Floor  
Oakland, CA 94612  
Attention: City Engineer

----- space above for Recorder's use only

## **IRREVOCABLE OFFER OF DEDICATION**

Pursuant to California Government Code Section 7050, the undersigned, as owners of the fee simple interest in the real property described in the Grant Deed, Series No. 2007128979, recorded April 4, 2007, by the Alameda County Clerk-Recorder and identified by the Alameda County Assessor as Parcel No. 044-4949-006-01 and by the City of Oakland as 888 92<sup>nd</sup> Avenue, do hereby make an irrevocable offer of dedication of a strip of land, as delineated in Exhibit A attached hereto, to the City of Oakland, a municipal corporation, for its use in perpetuity as public right-of-way.

Pursuant to California Streets and Highways Code Section 8300 et seq., in the event that some or all of said land should be vacated by the City at some future date, as yet undetermined, the owners and their representatives, heirs, successors, and assigns hereby retain the unqualified right unto themselves to the underlying fee simple interest in said land.

Mother Fish LLC, a California limited liability company, by:

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

04-125

May 21, 2007

EXHIBIT "A"

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

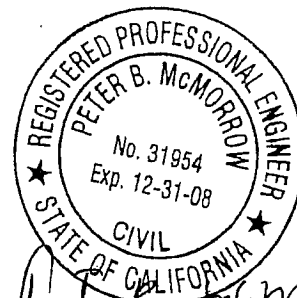
BEGINNING AT A POINT ON THE SOUTHEASTERN LINE OF 92<sup>ND</sup> AVENUE DISTANT THEREON NORTH 60° 36' 24" EAST 512.48 FEET FROM THE NORTHEASTERN LINE OF THE RIGHT OF WAY 72 FEET WIDE, OF THE WESTERN PACIFIC RAILROAD COMPANY;

THENCE CONTINUING NORTH 60° 36' 24" EAST ALONG SAID SOUTHEASTERN LINE OF 92<sup>ND</sup> AVENUE A DISTANCE OF 27.96 FEET;

THENCE SOUTH 39° 55' 46" EAST A DISTANCE OF 340.47 FEET;

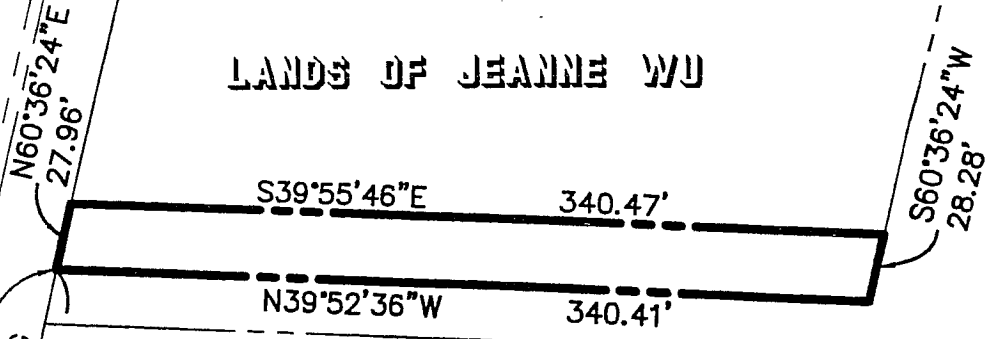
THENCE SOUTH 60° 36' 24" WEST A DISTANCE OF 28.28 FEET;

THENCE NORTH 39° 52' 36" WEST A DISTANCE OF 340.41 FEET TO THE POINT OF BEGINNING.



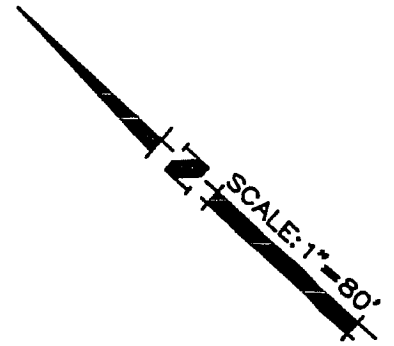
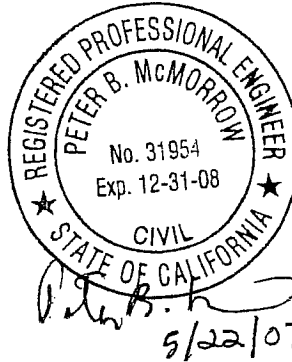
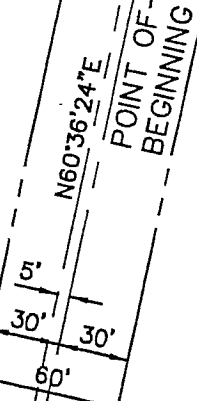
*Peter B. McMorrom*  
5/22/07

LANDS OF JEANNE WU



LANDS OF STEVENS & STEPHENS VIII, LLC

MONUMENT LINE  
 92ND (KINSELL) AVENUE  
 512.48'



WESTERN PACIFIC RAILWAY CO.

EXHIBIT "A"

CEA FILE NAME: 04125PLATT



**Civil Engineering Associates**

Civil Engineers • Planners • Surveyors

2580 North First Street • Suite 290 • San Jose, CA 95131

T: (408) 435-1066 • F: (408) 435-1075

BY: C.H.

DATE: 5-21-07

SCALE: 1"=80'

JOB NO. 04-125

SHT.NO.