

AN ORDINANCE AMENDING ORDINANCE NO. 5354 THAT LEVIED WATER AND SEWER SYSTEM DEVELOPMENT CHARGES AGAINST PROPERTY SPECIFICALLY TO BE BENEFITTED BY WATER AND SEWER CONNECTIONS AT: 2850 GRAND PRAIRIE ROAD SE, ALBANY; AND DECLARING AN EMERGENCY.

WHEREAS, on February 11, 1998, Ordinance No. 5354 levied Water and Sewer System Development Charges against property described as 2850 Grand Prairie Road SE, Map 11S-03W-17D, Tax Lot 102; and

WHEREAS, the property owners, d.b.a. Periwinkle Park Partnership, and owners of Tax Lot 102, of Map 11S-03W-17D, had intended to develop a manufactured home park subdivision, however, their proposal to develop the parcel has been rescinded; and

WHEREAS, the property owners had financed the Water and Sewer System Development Charges and have submitted payments totaling \$25,699.95. These fees were calculated based on the development of a manufactured home park subdivision and the property owners have requested full reimbursement.

THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Ordinance No. 5354 is hereby amended and the Water and Sewer System Development Charges levied for the property described as 2850 Grand Prairie Road SE, Map 11S-03W-17D, Tax Lot 102 are voided. Payments that were received by the City of Albany for payment of the Manufactured Home Park System Development Charges will be reimbursed in the amount of \$25,699.95.

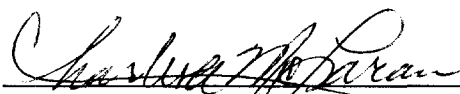
(See attached assessment listings)

Section 2: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist; and this ordinance will be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by Council: February 28, 2001

Approved by Mayor: February 28, 2001

Effective Date: February 28, 2001

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

**AMENDING THE ASSESSMENT FROM:**

<u>ACCOUNT NO.</u>	<u>OWNER NAME / ADDRESS</u>	<u>DESCRIPTION</u>	<u>ASSESSED AMOUNT</u>
WSDC535401	Lefor, Richard Kremer D, Coffey T.E. 544 Ferry Street Suite 2B Salem, OR 97301	11S-03W-17D-00102 Tax Acct # 119772 Acreage, W-0437-97 Site: 2850 Grand Prairie Road SE 68 units @ \$1,000	\$68,000
SSDC535401	Lefor, Richard Kremer D, Coffey T.E. 544 Ferry Street Suite 2B Salem, OR 97301	11S-03W-17D-00102 Tax Acct # 119772 Acreage, B-0607-97 Site: 2850 Grand Prairie Road SE 68 units @ \$1,120	\$76,160

**AMENDING THE ASSESSMENT TO:**

<u>ACCOUNT NO.</u>	<u>OWNER NAME / ADDRESS</u>	<u>DESCRIPTION</u>	<u>ASSESSED AMOUNT</u>
WSDC535401	Lefor, Richard Kremer D, Coffey T.E. 544 Ferry Street Suite 2B Salem, OR 97301	11S-03W-17D-00102 Tax Acct # 119772 Acreage, W-0437-97 Site: 2850 Grand Prairie Road SE -0- units @ \$1,000	\$-0-
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The property owners of Tax Lot 102, of Map 11S-03W-17D, have rescinded their request to develop a manufactured home park. The developer states increased infrastructure costs have made it no longer a viable development option. The Water and Sewer System Development Charges were calculated based on this development and the effective rates from December 1997.

James V. B. Delapoer (OSB No.: 76117)  
Attorney at Law  
201 West First Avenue  
P.O. Box 40  
Albany, OR 97321  
(541) 926-5504

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

DAVID J. KREMER, T.E. COFFEY and  
RICHARD B. LEFOR dba PERIWINKLE  
PARK PARTNERSHIP,

Plaintiff,

vs.

CITY OF ALBANY,

Defendant.

Case No.

**AFFIDAVIT IN SUPPORT OF O  
REQUEST**

STATE OF OREGON     )  
                                  )  
COUNTY OF MARION   )ss.

We, David Kremer, T.E. Coffey and Richard B. LeFor, dba Periwinkle Park Partnership, being first duly sworn depose and say:

This Affidavit is in Support of our Request for the Refund of System's Development Charges for water and sewer heretofore paid to the City of Albany in connection with the development of a manufactured home park subdivision generally located at 2850 Grand Prairie Road SE, Albany, Oregon 97321.

We hereby acknowledge that in consideration of the return by the City of Albany of previously paid Systems Development Charge fees in the total amount of \$29,004.61, we hereby request and agree that all development rights heretofore granted by the City of Albany in connection with the above-referenced Manufactured Home Park Development, including but not limited to, the site plan review approval issued by the City of Albany on or about March

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2000 shall be deemed waived, rescinded, and of no further force and effect. We understand that any subsequent development of this site will have to be preceded by new development permits to be issued by the City of Albany pursuant to such development regulations, fees, and charges, as may then be in effect.

The undersigned further warrant and warrant to the City of Albany that they are the present owners of the above-referenced property more specifically know as Tax Lot Number 11S03W17D 00102. The undersigns further warrant and convenient to the City of Albany that they are authorized by any and all lien holders, and/or persons or entities having an interest in the above-referenced property to execute this Waiver Affidavit. This waiver shall further bind our heirs, successors and assigns.

DATED this 3 day of January, 2001.

Periwinkle Park Partnership

By: David J. Kremer Title: Partner

David J. Kremer

By: T.E. Coffey Title: Partner

T.E. Coffey

By: Richard B. LeFor Title: Partner

Richard B. LeFor

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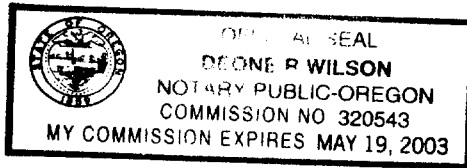
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STATE OF OREGON )  
County of Marion ) ss.

Personally appeared the above named David J. Kremer and acknowledged the foregoing to his voluntary act and deed.

2001 SUBSCRIBED AND SWORN TO before me this 3 day of January

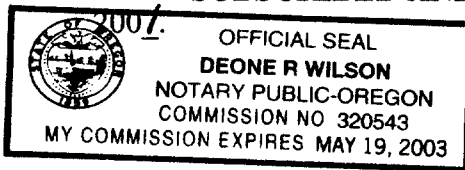


Deone R Wilson  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5/19/2003

STATE OF OREGON )  
County of Marion ) ss.

Personally appeared the above named T.E. Coffey and acknowledged the foregoing to his voluntary act and deed.

2001 SUBSCRIBED AND SWORN TO before me this 3 day of January

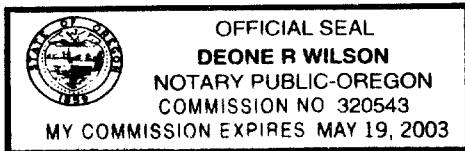


Deone R Wilson  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5/19/2003

STATE OF OREGON )  
County of Marion ) ss.

Personally appeared the above named Richard B. LeFor and acknowledged the foregoing to his voluntary act and deed.

2001 SUBSCRIBED AND SWORN TO before me this 3 day of January



Deone R Wilson  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 5/19/2003

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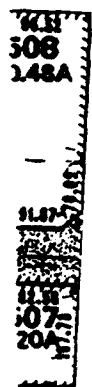
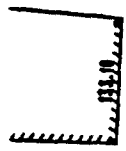
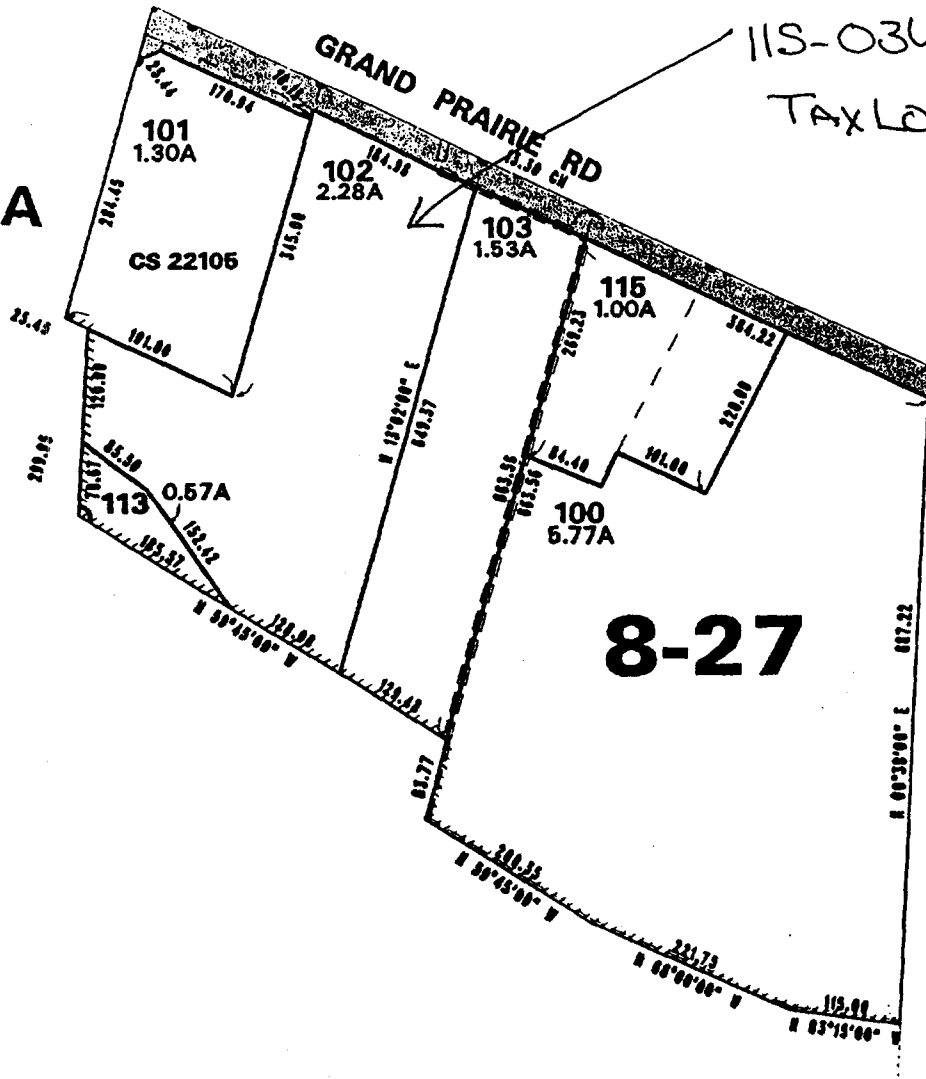
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11S-03W-17D,  
TAX LOT 102



SEE MAP 11 3W 17DA

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DB