

**CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM**

TO: Sonia Bean, Senior Executive Secretary
Elizabeth Boynton, Associate Corporation Counsel

FROM: Alexander Jaegerman, Chief Planner

DATE: August 20, 2001

SUBJECT: Street Vacation of Nevada Avenue

- 1) Council Meeting at which action is requested (Date): September 19, 2001
- 2) Can action be taken at a later date? YES NO

I. SUMMARY OF ISSUE

Patricia Manoogian, 151 Virginia Street and Diane McManus, 141 Virginia Street, are requesting street vacation of a portion of Nevada Avenue.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The applicants would like to acquire a portion of Nevada Avenue, which lies between their properties.

III. INTENDED RESULT (How does it resolve the issue/problem?)

This street vacation would allow the applicants to acquire a portion of Nevada Avenue.

IV. FINANCIAL IMPACT

There are no known financial impacts to the City.

V. STAFF ANALYSIS & RECOMMENDATION

A public hearing was held by the Planning Board on August 14, 2001, at which time the Board voted unanimously (6-0 Caron absent) to recommend to the City Council that the vacation of the remaining portion of Nevada Street, and that the City accept a utility easement and pedestrian access easement, is in conformance with the Comprehensive Plan of the City of Portland.

Attachments:

1. Planning Board Report #38-01

NEVADA AVENUE STREET VACATION
PATRICIA MANOOGIAN AND DIANE McMANUS, APPLICANTS

Submitted to:

Portland City Council
Portland, Maine

August 20, 2001

I. INTRODUCTION

Patricia Manoogian, 151 Virginia Street and Diane McManus, 141 Virginia Street are requesting street vacation of a portion of Nevada Avenue. The portion of Nevada Avenue that the applicants are petitioning to vacate is shown on Attachment C. This portion of Nevada Avenue lies between Ms. Manoogian and Ms. McManus' properties.

As the Council may recall, in January 2000 the Planning Board recommended to the City Council a number of streets to be vacated. The recommendation included portions of Kansas Avenue, Penn Avenue, Nevada Avenue, Jersey Avenue, Utah Street, Montana Street, Illinois Avenue and Vermont Avenue. The City Council approved the street vacations. Since then, the City Council has also approved vacation of an additional portion of Utah Street and Wyoming Avenue. A map depicting all approved street vacations is included as Attachment B.

II. UTILITIES

The applicants have received letters from Portland Water District, Bell Atlantic, Northern Utilities and Central Maine Power. All of the utility companies have no objection to the street vacation. However, Portland Water District has deeded easement rights in Nevada Avenue, which allows the Portland Water District to install water mains within the street, and prohibits the building of permanent structures within the street. Although Portland Water District has no current plans to install a water main in Nevada Avenue, they intend to preserve their easement rights for future use if needed. Verizon is requesting that an easement for utilities be retained in the case that they need to use Nevada Avenue to serve existing and/or future homes in the area.

Public Works has reviewed the request and has no objection to the street vacation.

III. COMPREHENSIVE PLAN

While the Transportation Plan recommends the preservation and maintenance of a street network in the City, this street plays an insignificant role in the transportation system. As mentioned above, the northern portion of this street has been vacated.

If the Board recommended just the request by the applicants for this portion of Nevada Avenue be vacated, there would still be an unaccepted portion of Nevada Avenue, which would not be accessible. The Board is recommending that the remaining portion of Nevada Avenue be vacated. A large portion of the land along Nevada Avenue is owned by Amy Mulkerin and Greg McCormack and is part of The Pines subdivision. This area is the portion of The Pines subdivision, which is dedicated for detention area and common open space. In discussions with Amy Mulkerin and Greg McCormack, they did not have any concerns with the remaining portion of Nevada Avenue being vacated. Portland Water District also owns property on Nevada Avenue.

IV. PLANNING BOARD RECOMMENDATION

A public hearing was held by the Planning Board on August 14, 2001, at which time the Board voted unanimously (6-0 Caron absent) to recommend to the City Council that the vacation of the remaining portion of Nevada Street (as depicted on Attachment D), and that the City accept a utility easement and pedestrian access easement, is in conformance with the Comprehensive Plan of the City of Portland.

Attachments:

- A. Applicant's Submittal
- B. Streets Vacated by City Council
- C. Area Proposed to be vacated by Applicant
- D. Area Recommended to be Vacated by Planning Board

AH. A

VACATION WAIVER AND INDEMNIFICATION

Diane McManus +

WHEREAS, PATRICIA K. MANOBIAN of 141 Virginia Street +
(Petitioner)

151 VIRGINIA ST., PORTLAND, ME 04103
(Petitioner's Address)

(the "Petitioner") has requested the City of Portland (the "City") to vacate, pursuant to 30 M.R.S.A. § 3027 et seq., a certain (proposed Town way/portion of a proposed Town way) known as NEVADA AVE more

(Name of proposed Town way) particularly described as FOOT OF NEVADA AVE. - ON VIRGINIA ST.
(Insert description or a reference

LOT #404-14-005-00
to description attached hereto and hereby incorporated by
reference)

WHEREAS, the City of Portland as a condition precedent to any vacation of the proposed Town way or portion thereof requires a waiver of any and all claims which the Petitioner may have against the City for such vacation, and further, requires indemnification against any and all claims of any and all third persons arising out of or resulting from the vacation of said proposed Town way or portion thereof;

NOW, THEREFORE, in consideration of the City vacating said proposed Town way or portion thereof, the Petitioner for itself, its successors, heirs and assigns, agrees as follows:

1. The Petitioner hereby waives any and all claims for damages which it may now or hereafter have against the City arising out of or resulting from any vacation of said proposed Town way or portion thereof by the City pursuant to 23 M.R.S.A. § 3027 et seq.;

2. The Petitioner hereby agrees to defend, indemnify and hold harmless the City against any and all claims by any and all third persons against the City for damages arising out of or resulting from any vacation of said proposed Town way or portion thereof by the City pursuant to 23 M.R.S.A. § 3027 et seq.

DATED: June 8, ²⁰⁰¹ ~~19~~ 2001 x [Signature]

BY: Patricia K. Manoobian
(Petitioner's Signature)
PATRICIA K. MANOBIAN

Diane McManus + DIANE McMANUS
(Print Name)

ITS: _____
(Title)

Troy F. McDonald, P.L.S.
Right-of-Way Specialist



5 Davis Farm Road
Portland, ME 04103

Phone 207 797-1785
Fax 207 797-1098
troy.f.mcdonald@verizon.com

May 31, 2001

Patricia K. Manoogian
151 Virginia Street
Portland, Maine 04103

RE: Application for Vacation of Paper Street – Nevada Avenue, Portland, Maine

Dear Ms. Manoogian:

I received your information regarding the proposed vacation of Nevada Avenue in Portland. Our engineering department has reviewed the facility record and have indicated that presently we do not have any existing facilities within the limits of Nevada Avenue.

Please be aware that Verizon is requesting that an easement for utilities be retained as our routine engineer for this area has me that there could be the potential to use Nevada Avenue to serve existing and/or future homes in the area.

If you have any questions, or would like to discuss this issue further, do not hesitate to call. You can reach me at (207) 797-1785.

Sincerely,

A handwritten signature in dark ink, appearing to read "Troy F. McDonald", is written over a horizontal line.

Troy F. McDonald, PLS
Right-of-Way Specialist



Central Maine Power
162 Canco Road, Portland, Maine 04103

A2
1-800-750-4000

May 29, 2001

Ms. Patricia K. Manoogian
151 Virginia Street
Portland, Maine 04103-3943

RE: Property

Dear Ms. Manoogian:

Central Maine Power Company has no objection to the proposed vacation of Nevada Avenue, Portland. However, any request for relocation of Central Maine Power Company facilities will be billable.

Sincerely,

Robert L. Storey
Operations Supervisor

RLS/ib



A3

May 21, 2001

Patricia Manoogian
151 Virginia Street
Portland ME 04103

Dear Ms. Manoogian:

I am responding to your letter dated May 15, inquiring Lot #404-H-005-00.

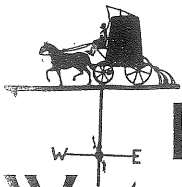
Please be advised that Northern Utilities has no interest in this property.

Please proceed forward with your attempt to acquire this property.

Sincerely,

Melvin R. Roast/seg

Melvin R. Roast
Operation Manager



Portland Water District

A4

225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

May 16, 2001

(207) 774-5961
FAX (207) 761-8307
www.pwd.org

Portland Planning Department
Portland City Hall
389 Congress Street
Portland, ME 04101
Att: Mr. Joseph Gray

Re: Proposed Vacation of a Portion of Nevada Avenue

Dear Mr. Gray:

Patricia Manoogian has informed the District that she intends to request that the City vacate the portion of Nevada Avenue from Virginia Street easterly. The District has no facilities in Nevada Avenue adjoining the Manoogian property and has no objection to its vacation. The District does, however, have deeded easement rights in all the streets in the Pines Subdivision and these easement rights would remain in effect if the street is vacated. The easement would restrict the owners of the paper street from ever building a permanent structure within the vacated paper street.

Do not hesitate to call me at 774-5961 ext. 3057 if you have any questions or need any further information regarding this request.

Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel

Norman V. Twaddel
Right of Way Agent

Exhibit B To Notice of Proposed Street Vacation Dated December 29, 1999

AH. B

STREETS TO BE VACATED (IN BLACK)

NOTES:

- (1) Master Plan showing extents of THE PINES Subdivision 1999, current phases, and lands remaining for future development.
- (2) Vacated Boundaries have been indicated to concur with street line information provided by City of Portland, July, 1999
- (3) AREAS:
 - Phase I 2.42 Acres
 - Phase II 4.16 Acres
 - Phase III 6.24 Acres
 - Phase IV 6.24 Acres
 - Phase V 2.37 Acres
- Remaining open spaces:
 - Paper streets 29.33 Acres
 - Remaining To be retained 2.69 Acres
 - 0.57 Acres
 - R-3
 - Block Work Elevation
 - Knobole Rim @ Kondana St and Penn Ave. Rev. 70.75

THE PINES
Portland, Maine

For: **A & G Associates**
426 Forest Avenue
Portland, Maine
Developer
Amy K Mulkerin
Gregory T. McCormack
(Owner's of Record)

Survey By: **SURVEY INC.**
P.O. Box 210
Windham, Me.

Plan Prepared By: **J.F.F.**
Survey, Inc.
P.O. Box 210
Windham, Me.

JULY, 1999

Approved By City of Portland, Maine
Planning Board

Date: _____

RECEIVING INFORMATION
Plan Recorded in Plan Book _____ Page _____
 Cumberland County Registry of Deeds
 Date: _____ Time: _____

THE PINES SUBDIVISION

Graphic Scale 1" = 100'

VACATION WAIVER AND INDEMNIFICATION

Diane McManus +

WHEREAS, PATRICIA K. MANOOGIAN of 141 Virginia Street +
(Petitioner)

151 VIRGINIA ST., PORTLAND, ME 04103
(Petitioner's Address)

(the "Petitioner") has requested the City of Portland (the "City") to vacate, pursuant to 30 M.R.S.A. § 3027 et seq.; a certain (proposed Town way/portion of a proposed Town way) known as NEVADA AVE more

(Name of proposed Town way) particularly described as FOOT OF NEVADA AVE. - ON VIRGINIA ST.
(Insert description or a reference

LOT #404-14-005-00
to description attached hereto and hereby incorporated by
reference)

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NOW, THEREFORE, in consideration of the City vacating said proposed Town way or portion thereof, the Petitioner for itself, its successors, heirs and assigns, agrees as follows:

1. The Petitioner hereby waives any and all claims for damages which it may now or hereafter have against the City arising out of or resulting from any vacation of said proposed Town way or portion thereof by the City pursuant to 23 M.R.S.A. § 3027 et seq.;

2. The Petitioner hereby agrees to defend, indemnify and hold harmless the City against any and all claims by any and all third persons against the City for damages arising out of or resulting from any vacation of said proposed Town way or portion thereof by the City pursuant to 23 M.R.S.A. § 3027 et seq.

DATED: June 8, ²⁰⁰¹ ~~19~~ 2001 x [Signature]

BY: Patricia K. Manoogian
(Petitioner's Signature)
PATRICIA K. MANOOGIAN

Diane McManus + DIANE McMANUS
(Print Name)

ITS: _____
(Title)



May 29, 2001

Ms. Patricia K. Manoogian
151 Virginia Street
Portland, Maine 04103-3943

RE: Property

Dear Ms. Manoogian:

Central Maine Power Company has no objection to the proposed vacation of Nevada Avenue, Portland. However, any request for relocation of Central Maine Power Company facilities will be billable.

Sincerely,

Robert L. Storey
Operations Supervisor

RLS/ib



May 21, 2001

Patricia Manoogian
151 Virginia Street
Portland ME 04103

Dear Ms. Manoogian:

I am responding to your letter dated May 15, inquiring Lot #404-H-005-00.

Please be advised that Northern Utilities has no interest in this property.

Please proceed forward with your attempt to acquire this property.

Sincerely,

Melvin R. Roast/sec

Melvin R. Roast
Operation Manager



Portland Water District

225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

May 16, 2001

(207) 774-5961
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www.pwd.org

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Portland City Hall
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Att: Mr. Joseph Gray

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Do not hesitate to call me at 774-5961 ext. 3057 if you have any questions or need any further information regarding this request.

Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel

Norman V. Twaddel
Right of Way Agent

**NEVADA AVENUE STREET VACATION
PATRICIA MANOOGIAN AND DIANE McMANUS, APPLICANTS**

Submitted to:

Portland Planning Board
Portland, Maine

August 14, 2001

I. INTRODUCTION

Patricia Manoogian, 151 Virginia Street and Diane McManus, 141 Virginia Street are requesting street vacation of a portion of Nevada Avenue. The portion of Nevada Avenue that the applicants are petitioning to vacate is shown on Attachment C. This portion of Nevada Avenue lies between Ms. Manoogian and Ms. McManus' properties.

As the Board may recall, in January 2000 the Planning Board recommended to the City Council a number of streets to be vacated. The recommendation included portions of Kansas Avenue, Penn Avenue, Nevada Avenue, Jersey Avenue, Utah Street, Montana Street, Illinois Avenue and Vermont Avenue. The City Council approved the street vacations. Since then, the City Council has also approved vacation of an additional portion of Utah Street and Wyoming Avenue. A map depicting all approved street vacations is included as Attachment B.

99 notices were sent to area residents. A legal ad appeared in the August 6th and 7th editions of the *Portland Press Herald*.

II. UTILITIES

The applicants have received letters from Portland Water District, Bell Atlantic, Northern Utilities and Central Maine Power. All of the utility companies have no objection to the street vacation. However, Portland Water District has deeded easement rights in Nevada Avenue, which allows the Portland Water District to install water mains within the street, and prohibits the building of permanent structures within the street. Although Portland Water District has no current plans to install a water main in Nevada Avenue, they intend to preserve their easement rights for future use if needed. Verizon is requesting that an easement for utilities be retained in the case that they need to use Nevada Avenue to serve existing and/or future homes in the area.

Public Works has reviewed the request and has no objection to the street vacation.

III. COMPREHENSIVE PLAN

While the Transportation Plan recommends the preservation and maintenance of a street network in the City, this street plays an insignificant role in the transportation system. As mentioned above, the northern portion of this street has been vacated.

If the Board recommends this portion of Nevada Avenue be vacated, there would still be an unaccepted portion of Nevada Avenue, which would not be accessible. The Board may want to consider vacating the remaining portion of Nevada Avenue. A large portion of the land along Nevada Avenue is owned by Amy Mulkerin and Greg McCormack and is part of The Pines subdivision. This area is the portion of The Pines subdivision, which is dedicated for detention area and common open space. In discussions with Amy Mulkerin and Greg McCormack, they did not have any concerns with the remaining portion of Nevada Avenue being vacated. Portland Water District also owns property on Nevada Avenue.

IV. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of the plans and petition submitted by the applicant and on the basis of information contained in Planning Report #37-01, the Planning Board recommends the following to the City Council:

- i. That the vacation of the portion of Nevada Avenue, as depicted on Attachment C [is/is not] in conformance with the Comprehensive Plan of the City of Portland provided that the City reserve the right to accept a utility easement and pedestrian access easement.

Or

- ii. That the vacation of the remaining portion of Nevada Avenue, as depicted on Attachment D [is/is not] in conformance with the Comprehensive Plan of the City of Portland provided that the City reserve the right to accept a utility easement and pedestrian access easement.

Attachments:

- A. Applicant's Submittal
- B. Streets Vacated by City Council
- C. Area Proposed to be vacated by Applicant
- D. Area Recommended to be Vacated by Staff

AH. A

VACATION WAIVER AND INDEMNIFICATION

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DATED: June 8, ²⁰⁰¹ 19 x [Signature]

BY: Patricia K. Manoogian
(Petitioner's Signature)
PATRICIA K. MANOGBIAN

Diane McManus + DIANE MCMANUS
(Print Name)

ITS: _____
(Title)

Troy F. McDonald, P.L.S.
Right-of-Way Specialist



5 Davis Farm Road
Portland, ME 04103

Phone 207 797-1785
Fax 207 797-1098
troy.f.mcdonald@verizon.com

May 31, 2001

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151 Virginia Street
Portland, Maine 04103

RE: Application for Vacation of Paper Street – Nevada Avenue, Portland, Maine

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Please be aware that Verizon is requesting that an easement for utilities be retained as our routine engineer for this area has me that there could be the potential to use Nevada Avenue to serve existing and/or future homes in the area.

If you have any questions, or would like to discuss this issue further, do not hesitate to call. You can reach me at (207) 797-1785.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Troy F. McDonald'.

Troy F. McDonald, PLS
Right-of-Way Specialist



A2

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A3

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Please proceed forward with your attempt to acquire this property.

Sincerely,

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Melvin R. Roast
Operation Manager



Portland Water District

A4

225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

May 16, 2001

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Portland Planning Department
Portland City Hall
389 Congress Street
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Do not hesitate to call me at 774-5961 ext. 3057 if you have any questions or need any further information regarding this request.

Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel

Norman V. Twaddel
Right of Way Agent

Exhibit B To Notice of Proposed Street Vacation Dated December 29, 1999

STREETS TO BE VACATED (IN BLACK)

NOTES:

(1) Master Plan showing extends of THE PINES Subdivision 1999, current phases, and lands remaining for future development.

(2) Proposed Boundaries have been adjusted to conform with street line information provided by City of Portland. July, 1999

(3) AREAS:

Phase I	2.42 Acres
Phase II	4.16 Acres
Phase III	4.14 Acres
Phase IV	6.53 Acres
Remainder	2.37 Acres
Remainder	open space +
paper streets	0.31 Acres
Total	29.93 Acres

Remaining To be retained 2.69 Acres

0.37 Acres

(4) Zoning: R-3

(5) Bench Mark Elevation: 104.82
 Bench Mark at Montona St and Penn Ave. Elev. 70.75

Location Map

Approved By City of Portland, Maine
 Planning Board

THE PINES
 Portland, Maine

For: A & G Associates
 426 Forest Avenue
 Portland Maine
 Developer
 Amy K. Mulkerin
 Gregory T. McCormack
 (Owner's of Record)

Date: _____

Recording Information: _____

Comberland County Registry of Deeds: _____

Survey By: SURVEY, INC.
 P.O. Box 210
 Windham, Me.

Plan Prepared By: J.T.F.
 Survey, Inc.
 P.O. Box 210
 Windham, Me.

Graphic Scale: 1" = 100'

THE PINES SEPTOMING

2011-0179

BRYCE CANYON

2322

PATRICIA K. MANOOGIAN
151 VIRGINIA ST.
PORTLAND, ME 04103

DATE 6-8-01

52-8841/2112

PAY TO ORDER OF CITY OF PORTLAND \$ 250.00

TWO HUNDRED FIFTY AND 100/100 DOLLARS



333 COTTAGE RD., SOUTH PORTLAND, ME 04106

FOR LAND VACATE

Patricia K. Manoogian MP

⑆ 211288417⑆ 701220401403⑆ 2322

© Charles F. American

NATURE TRAIL

DIANE L. McMANUS
141 VIRGINIA STREET
PORTLAND, ME 04103

52-36/112
0099609771

No. 994

DATE 6/6/01

Pay to the order of CITY of Portland \$ 250.
Two - Hundred - Fifty & No/100 DOLLARS



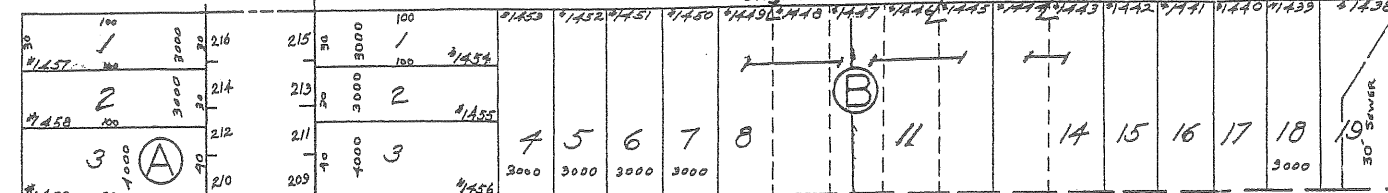
90903 www.fleet.com
Northgate Office
Portland, Maine 04103

[Signature]

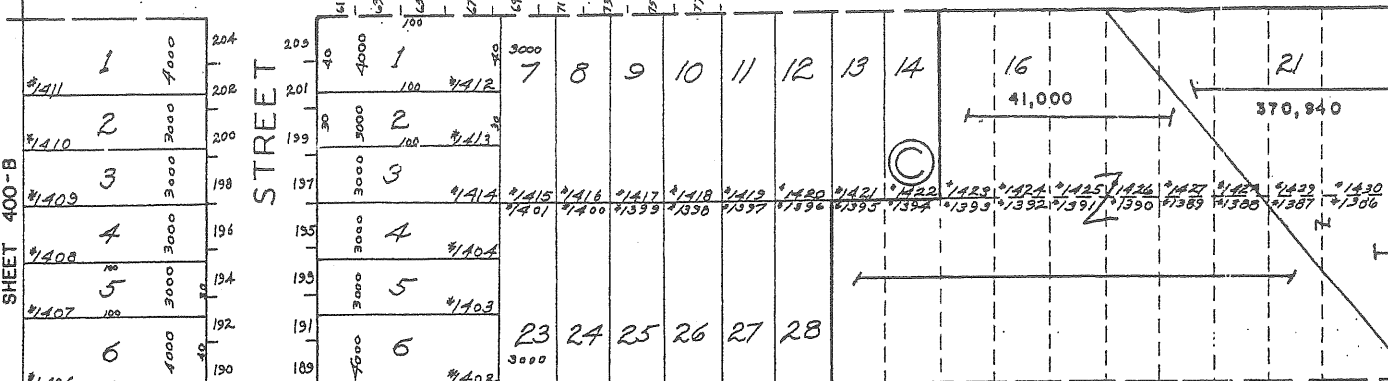
MEMO

⑆ 011200365⑆ 00996 0977⑆ 0994

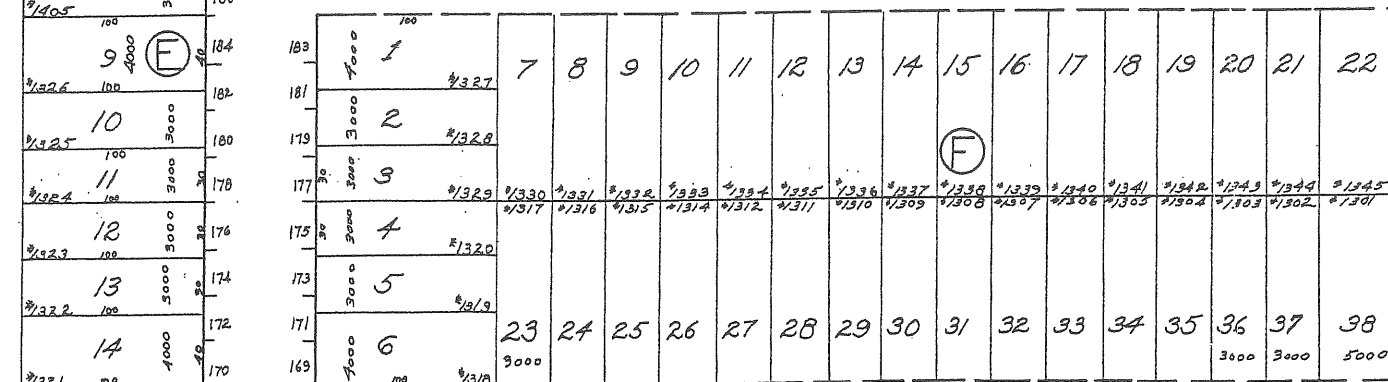
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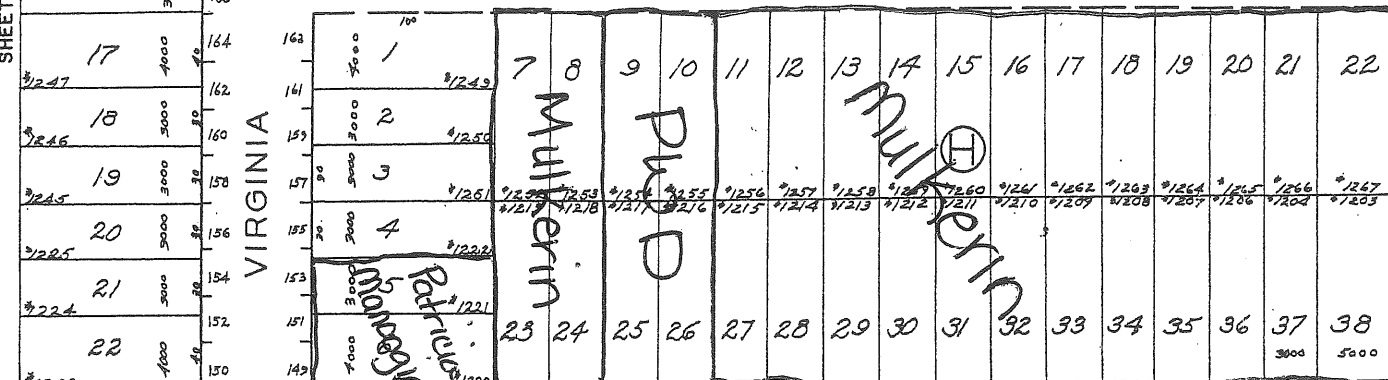
KANSAS AVENUE



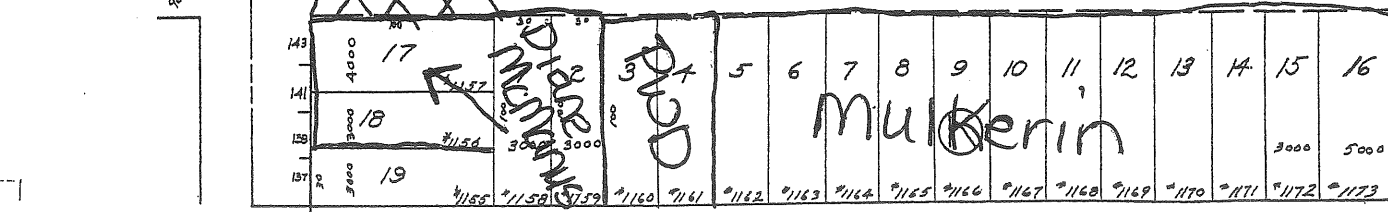
ILLINOIS AVENUE



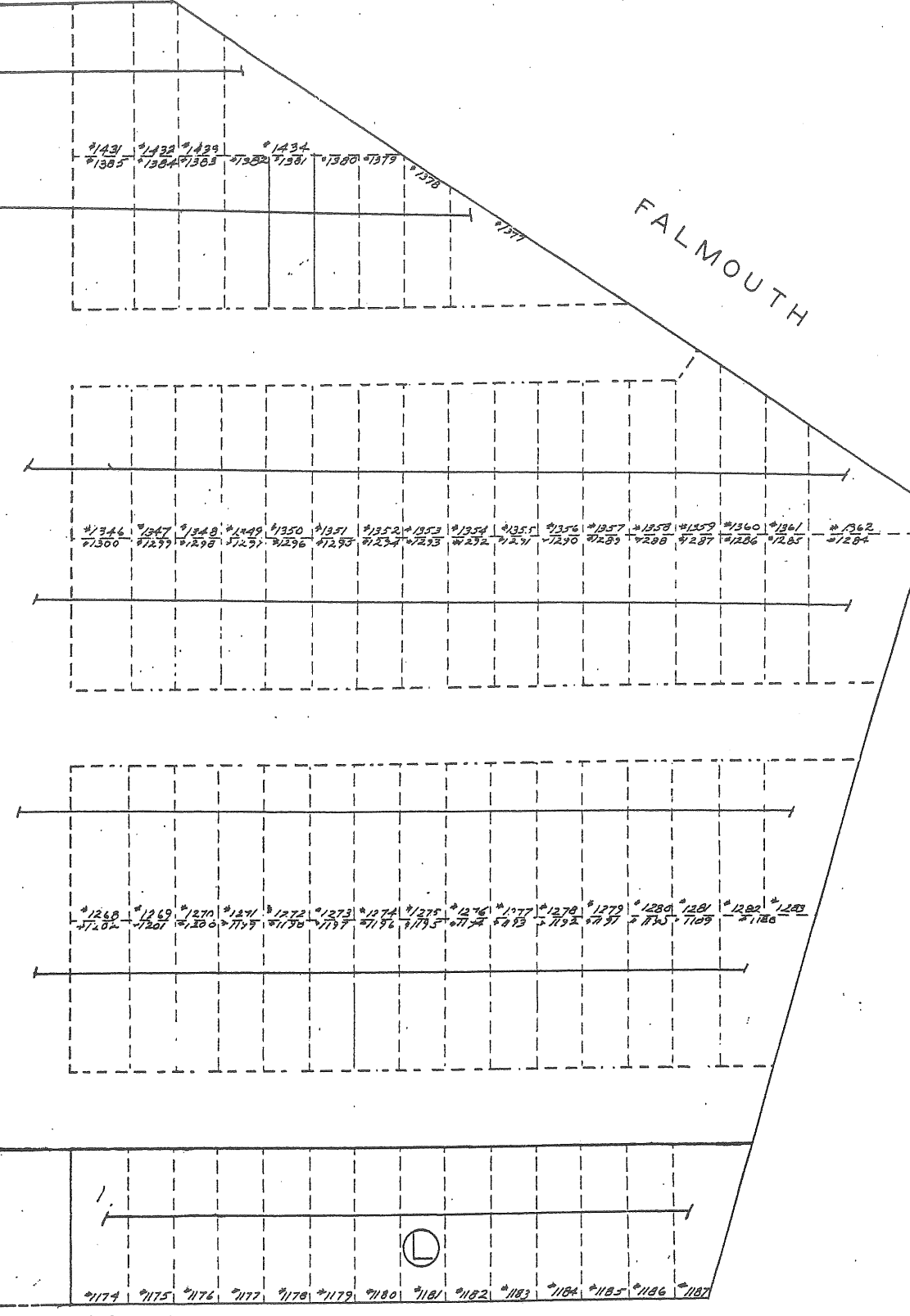
UTAH AVENUE



NEVADA AVENUE



VIRGINIA AVENUE



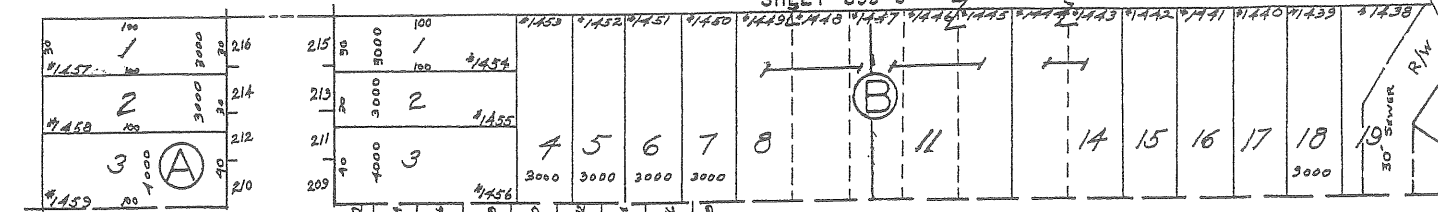
FALMOUTH

SHEET 400-B

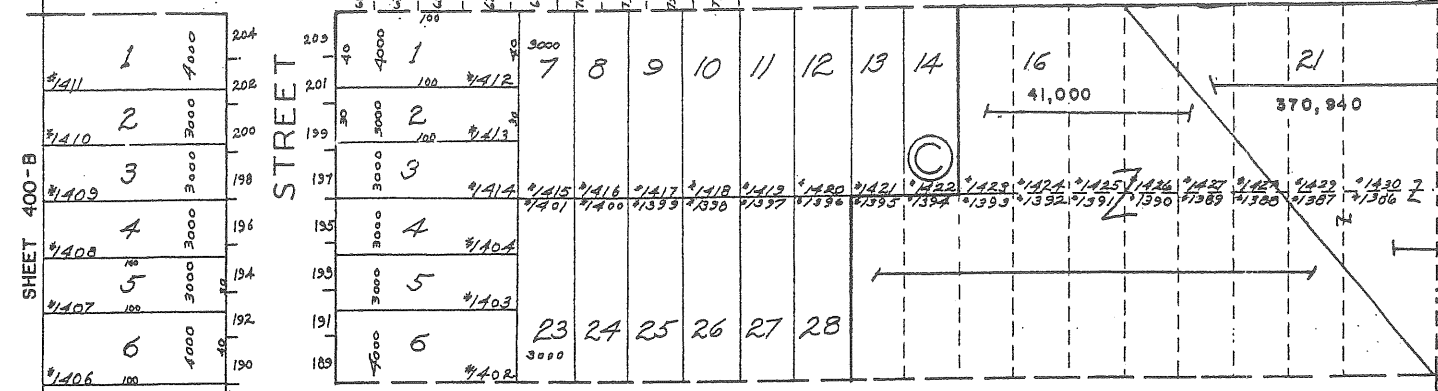
SHEET 403-B

No 404
A.H.D

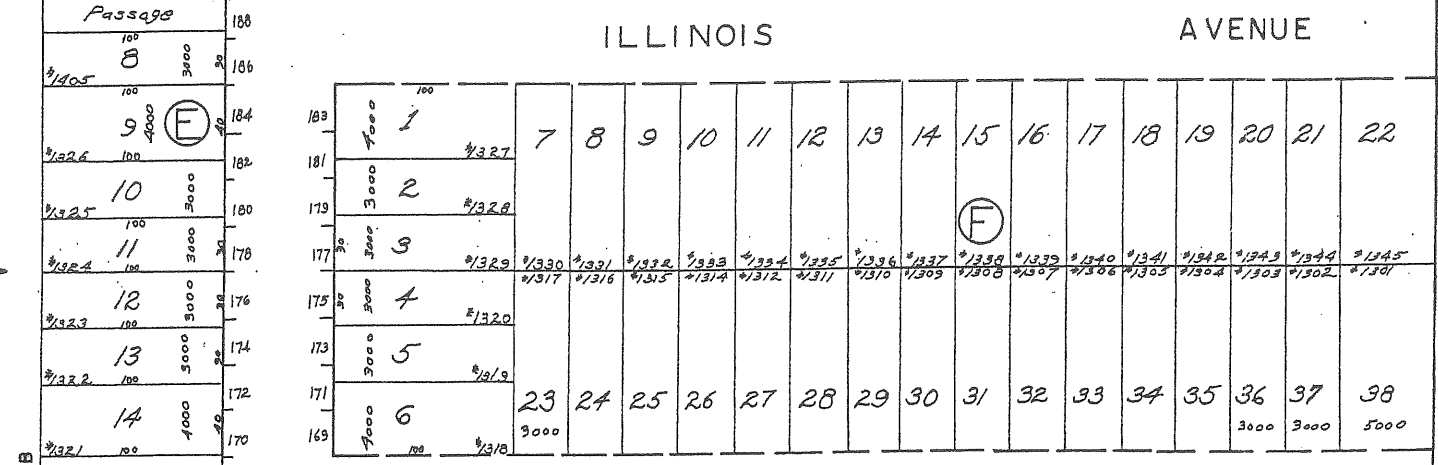
SHEET 399-C



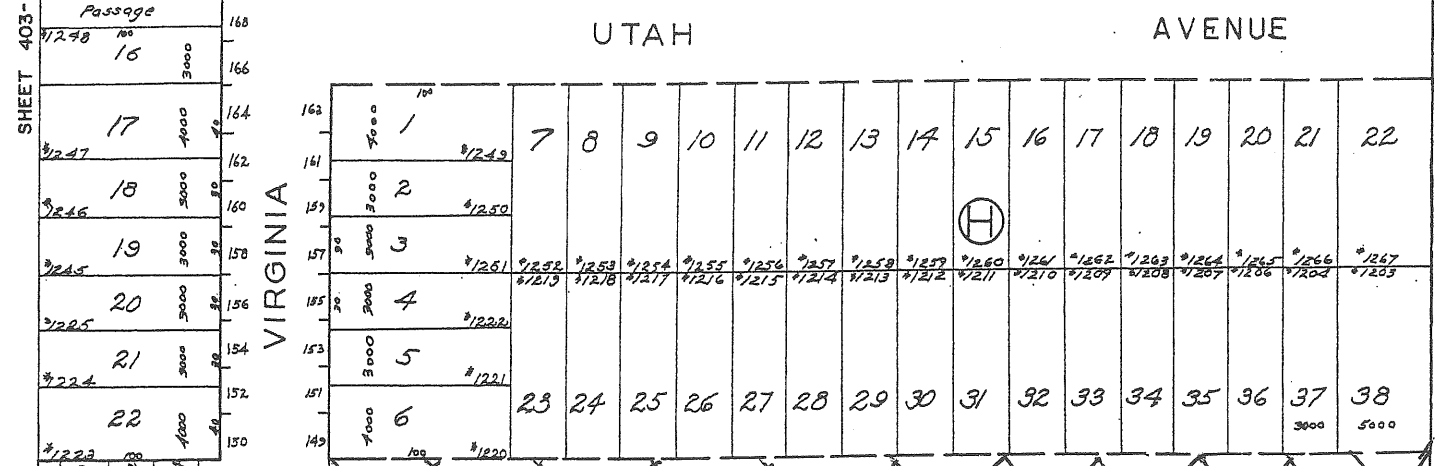
KANSAS AVENUE



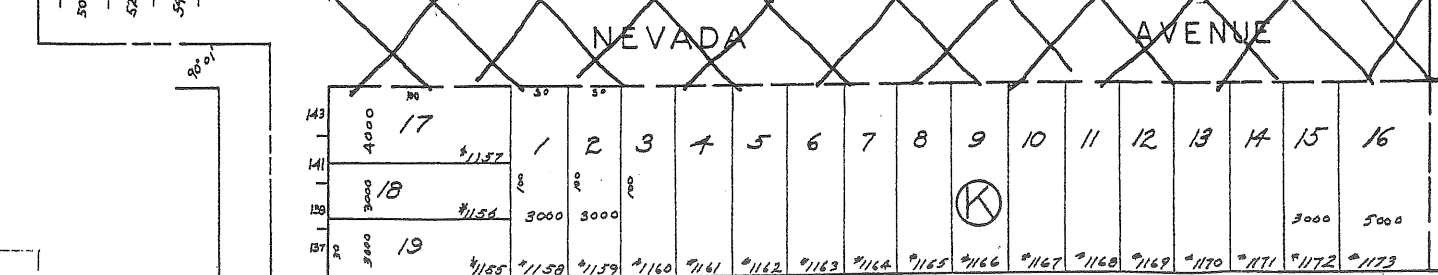
ILLINOIS AVENUE



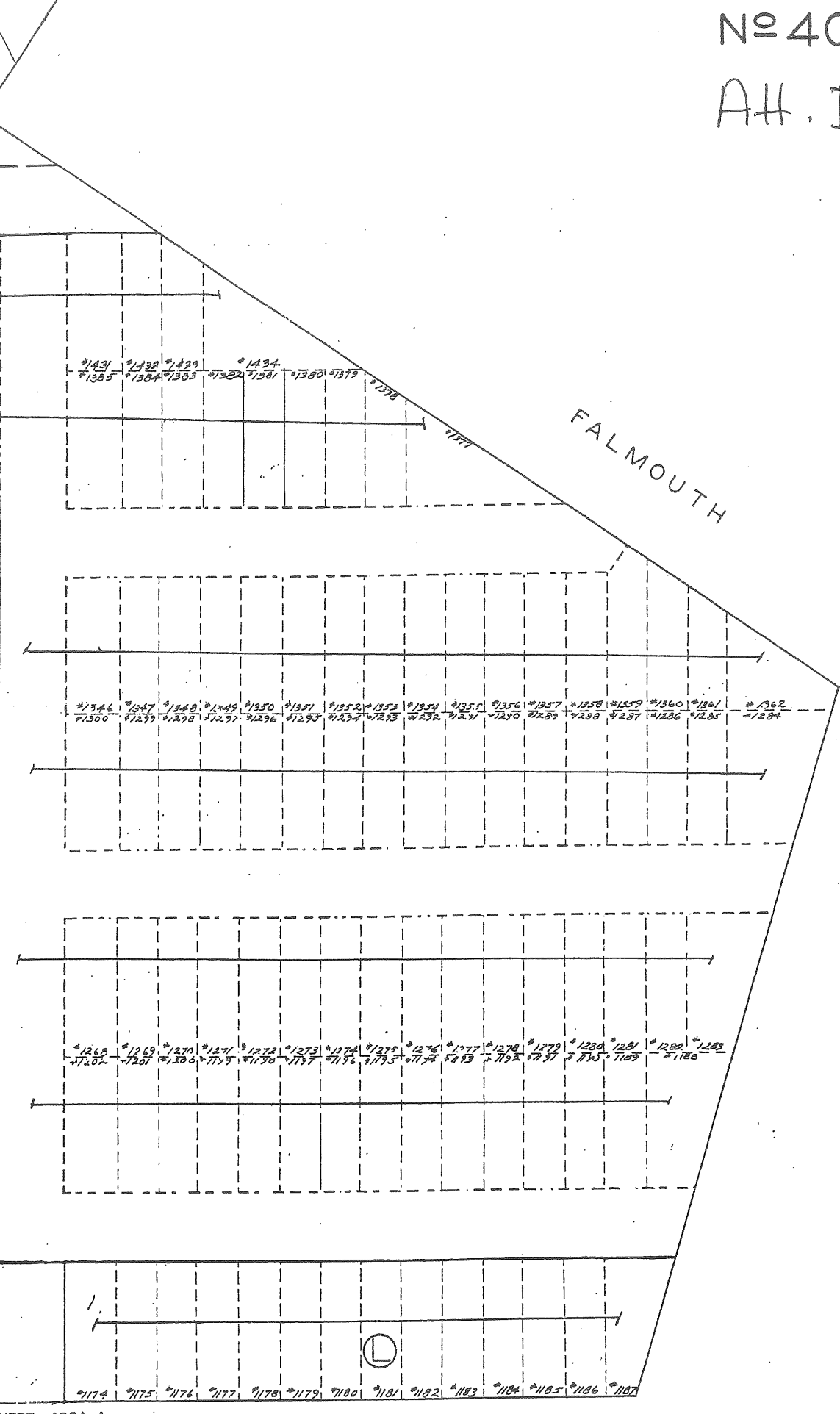
UTAH AVENUE



VIRGINIA AVENUE



NEVADA AVENUE



FALMOUTH AVENUE

SHEET 400-B

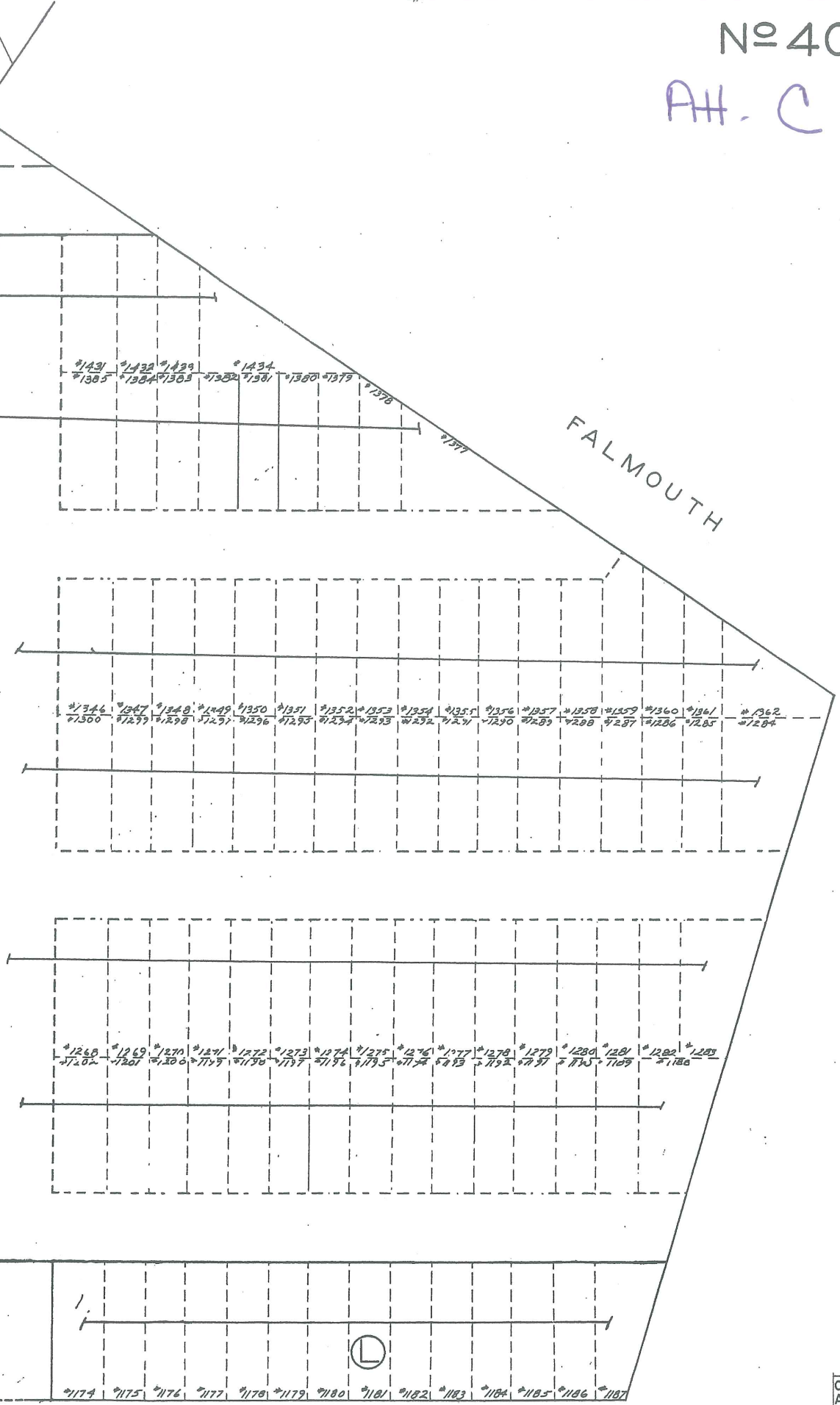
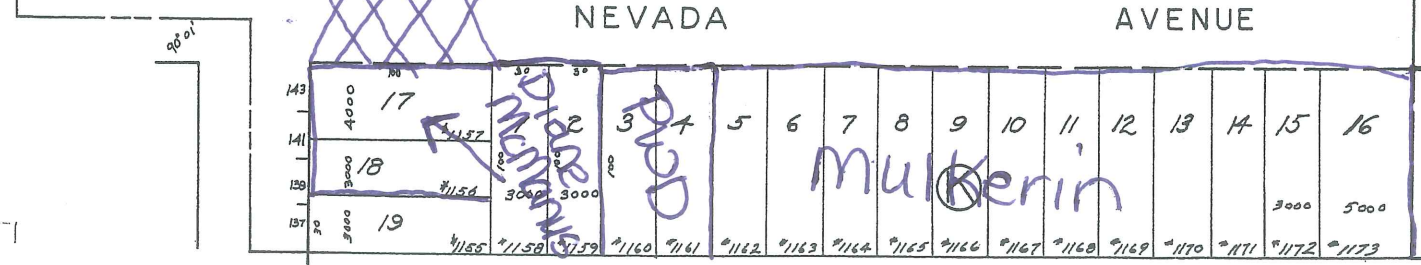
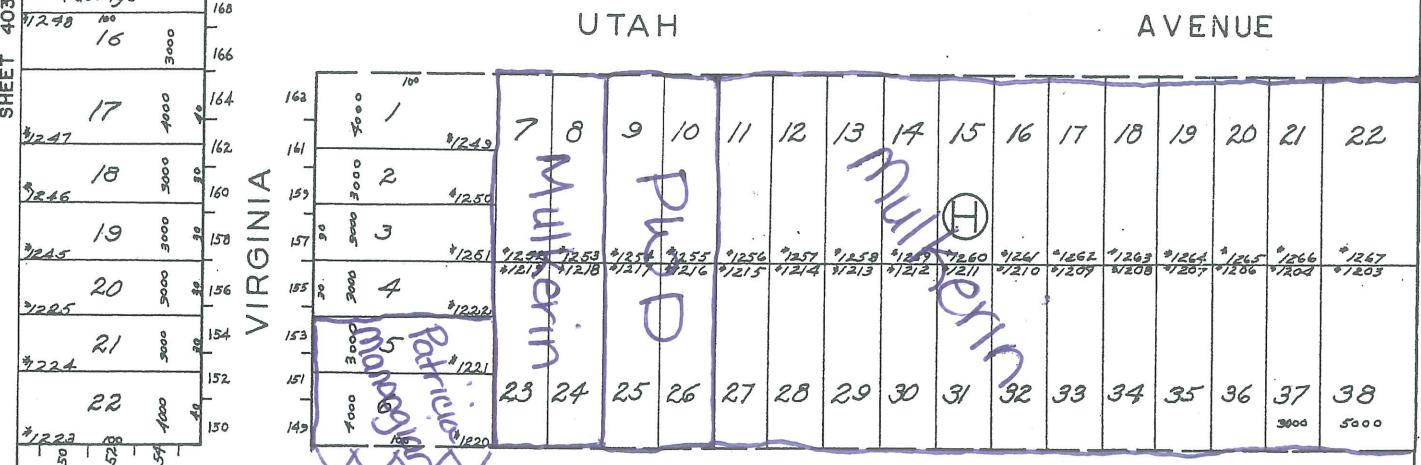
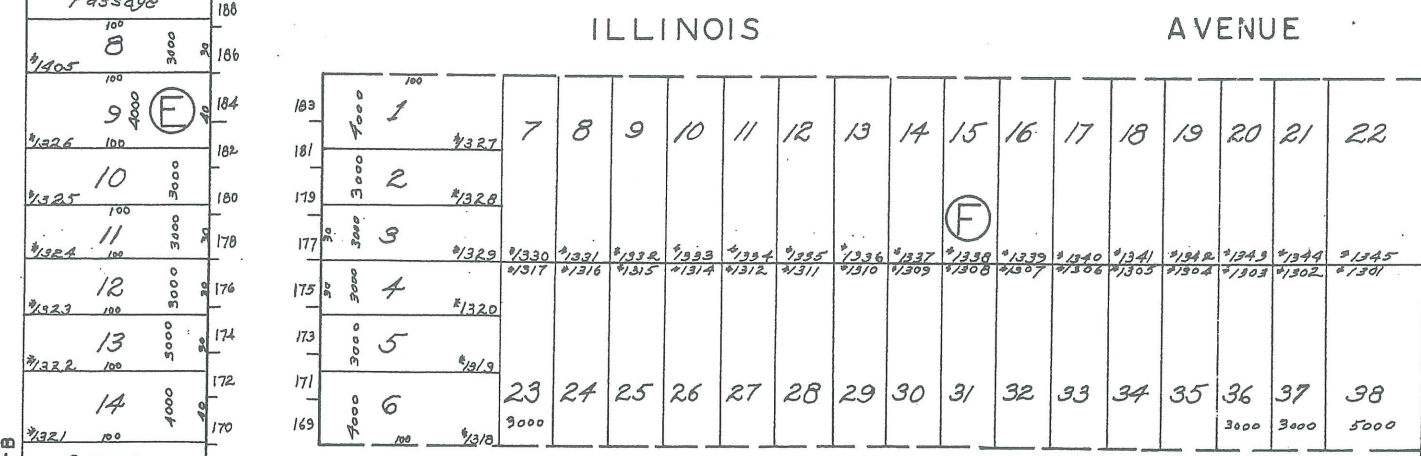
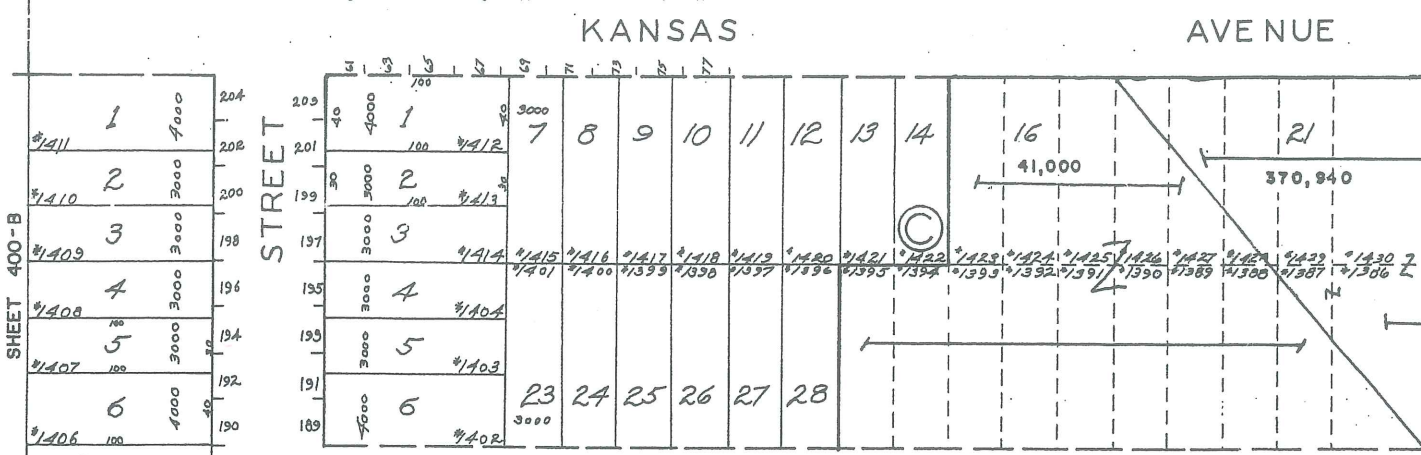
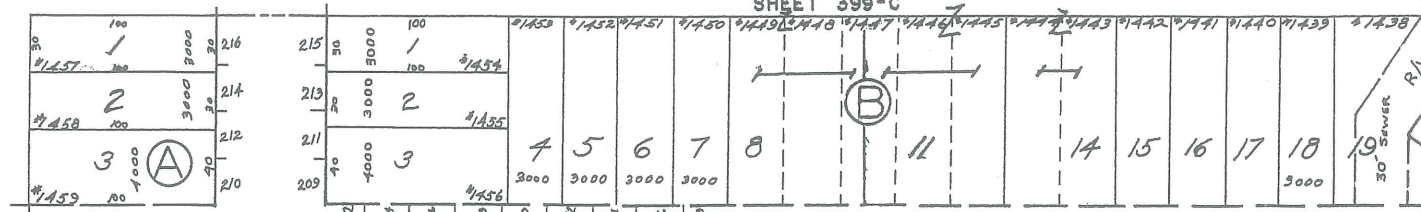
SHEET 403-B

SHEET 405A-A

CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50' ±

updated 8/28/00

AH-C



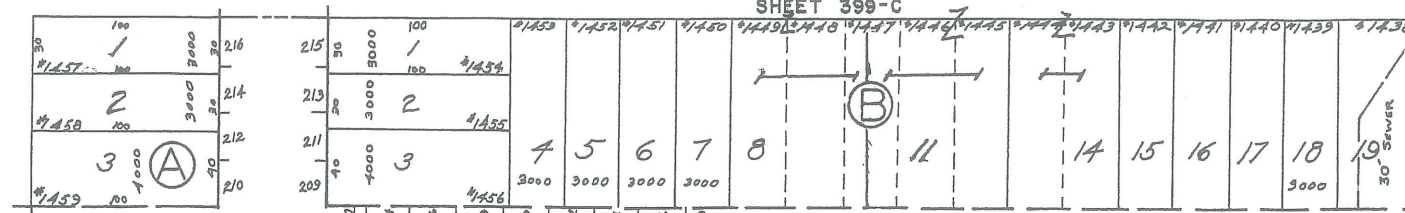
SHEET 400-B

SHEET 403-B

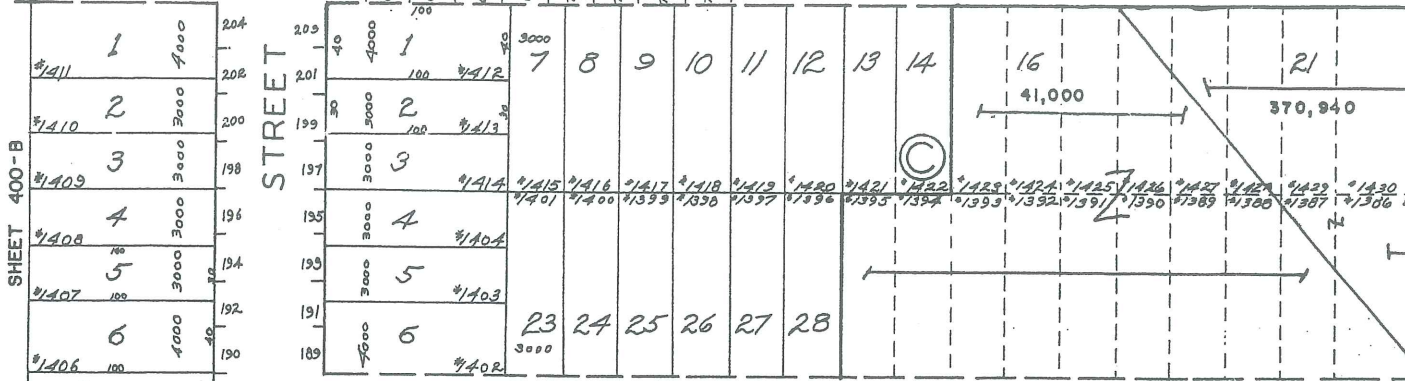
updated 8/28/00

No 404
A.H.D

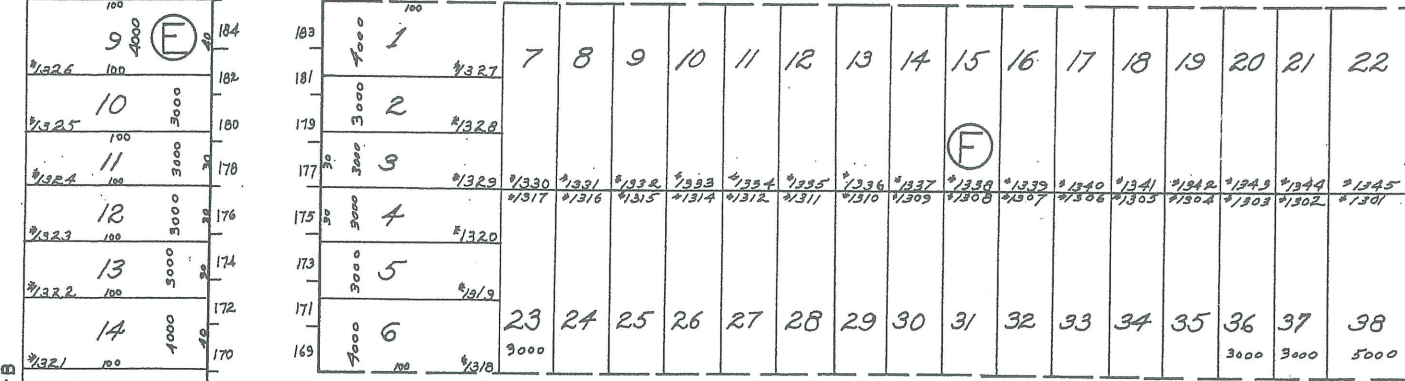
SHEET 399-C



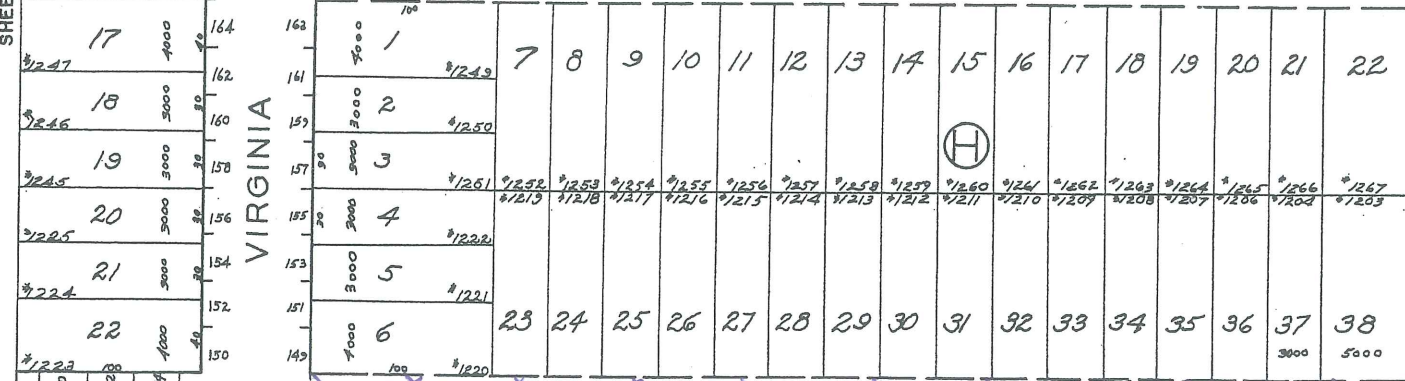
KANSAS AVENUE



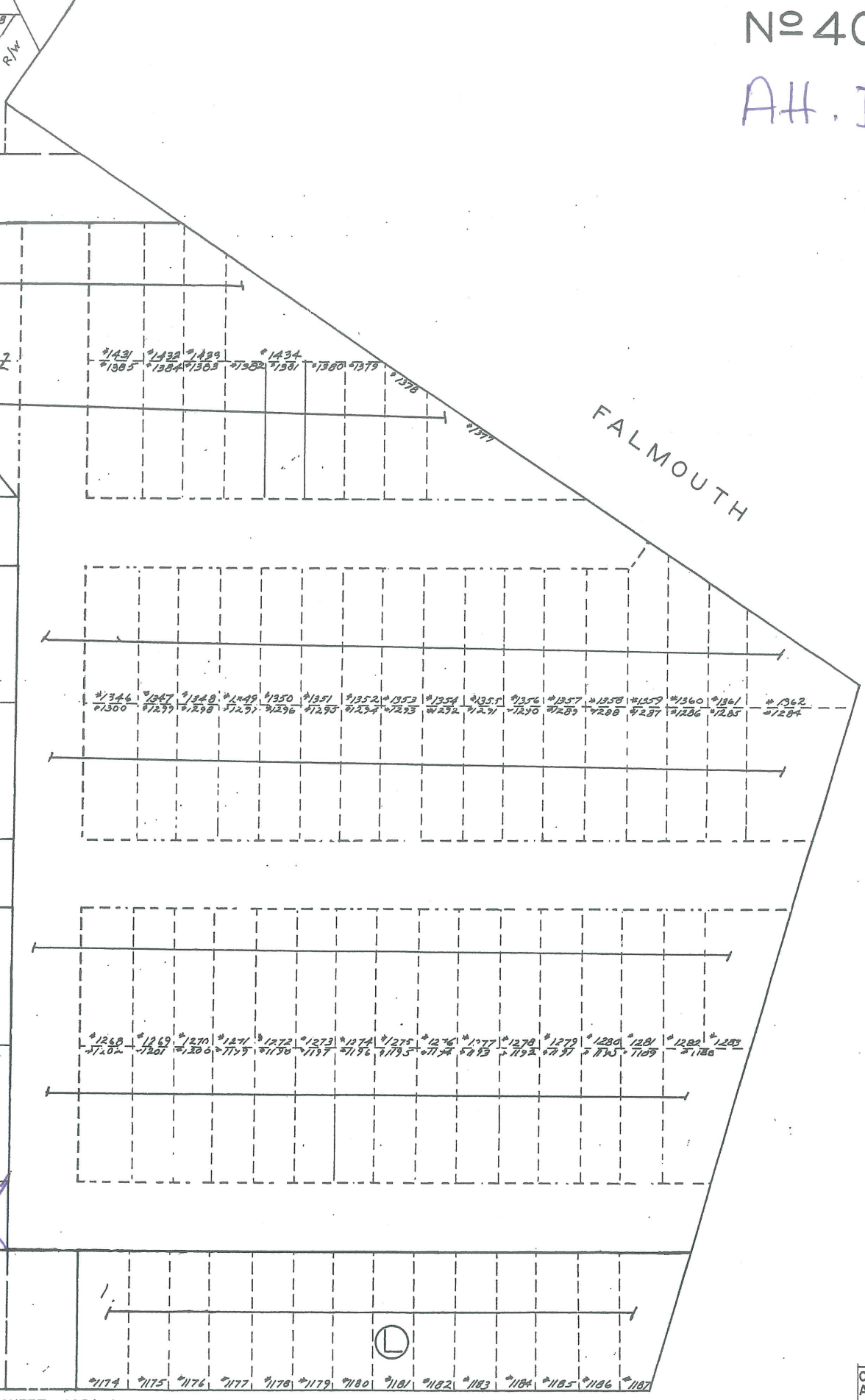
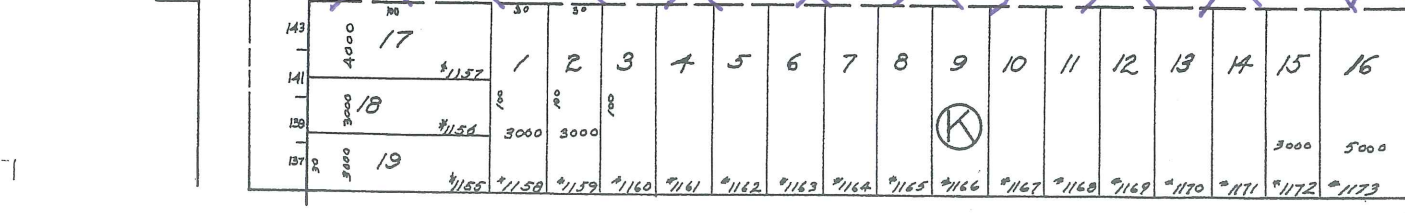
ILLINOIS AVENUE



UTAH AVENUE



NEVADA AVENUE



SHEET 405A-A

CITY OF PORTLAND
ASSESSORS PLAN
SCALE 1" = 50' ±

updated 8/28/00