



Surveyor's Office

61150 SE 27th St. • Bend, Oregon 97702
(541) 388-6581 • FAX (541) 388-2719

Trouble Shooting Plats and Surveys

This document is intended to help land surveyors avoid common pit falls we have seen which have delayed plat review and to also provide potential fixes for some common problems.

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DESCHUTES COUNTY SURVEYOR'S OFFICE
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Section 1: Affidavits prior to recording the plat

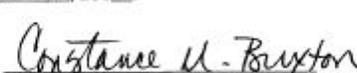
Plat Declarations

If the declarant is not able to sign the plat, they can sign an Affidavit of Consent to Declaration deed.

This deed is recorded just before the plat is recorded at the Clerk's Office. A consent block is needed on the plat, which will have the Vol./Pg. of the Affidavit of Consent to Declaration inked in prior to recording the plat. This has been used in the past when it was known that the owner was going to be out of the area at the time the plat was ready for mylar. This procedure is spelled out in **ORS 92.075(4)** which says in part "...the fee owner... may record an affidavit consenting to the declaration of property being subdivided or partitioned and to any dedication or donation of property to public purposes".

In examples 1a and 1b, Rubin, Garrigan, Armstrong, Ostroff, the Buxtons and Kingsbury were the declarants for Awbrey Woods Phase 2. Rubin and Garrigan signed the plat. Armstrong, Ostroff, the Buxtons and Kingsbury, who lived in California, executed an "Affidavit of Consent and Declaration of Dedication" deed which was shipped back to Oregon and then recorded prior to the plat being recorded. By doing this, the final mylars did not need to be shipped to California for signatures by Armstrong, Ostroff, the Buxtons and Kingsbury.

Example 1a: Consent of **OWNERS** by deed with the deed information then placed on the plat (Portion of Deed Vol. 2007 Pg. 31967):

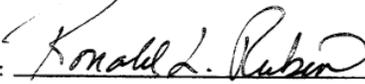
After recording return to:	DESCHUTES COUNTY OFFICIAL RECORDS NANCY BLANKENSHIP, COUNTY CLERK	2007-31967
Ronald L. Rubin P.O. Box 2028 Sisters, OR 97759	 80553084286708319670850858	\$51.00
	D-AFFCD Cnt=1 Str=23 JS	06/06/2007 01:05:26 PM
	\$25.00 \$11.00 \$10.00 \$5.00	
AFFIDAVIT OF CONSENT AND DECLARATION OF DEDICATION		
J. Chester Armstrong, as to an undivided 9.930% interest; Nicholas A. Ostroff, as to an undivided 4.965% interest; Nigel D. O. Buxton and Constance M. Buxton, as to an undivided 17.288% interest, and John H. Kingsbury, as to an undivided 17.288% interest, as tenants in common, hereby consents to the subdivision and declaration of the plat of "AWBREY WOODS, PHASE II", being a replat of Lot 14, AWBREY WOODS, PHASE I, located in the northeast one-quarter of Section 25, Township 17 South, Range 11 East, Willamette Meridian, City of Bend, Deschutes County, Oregon.		
The Declarant's interest in this property arises from that Statutory Warranty Deed, recorded July 5, 2006, in Volume 2006, Page 46099, Deschutes County Official Records.		
This Affidavit of Consent to Declaration is being recorded pursuant to ORS 92.075(4).		
Dated this <u>29th</u> day of <u>December</u> , 200 <u>6</u> .		
By:  Nigel D. O. Buxton	By:  Constance M. Buxton	

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Example 1b: Portions of Plat (CS17366) with Vol. 2007 Pg. 31967 information:

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS THAT RONALD L. RUBIN, AS TO AN UNDIVIDED 33.241% INTEREST; MICHAEL GARRIGAN, AS TO AN UNDIVIDED 17.288% INTEREST; J. CHESTER ARMSTRONG, AS TO AN UNDIVIDED 9.930% INTEREST; NICHOLAS A. OSTROFF, AS TO AN UNDIVIDED 4.965% INTEREST; NIGEL D. O. BUXTON AND CONSTANCE M. BUXTON, AS TO AN UNDIVIDED 17.288% INTEREST; AND JOHN H. KINGSBURY, AS TO AN UNDIVIDED 17.288% INTEREST AS TENANTS IN COMMON, THE OWNERS OF THE LAND SHOWN ON THIS PLAT, HAVE CAUSED SAID LAND TO BE SURVEYED AND PLATTED INTO LOTS, AS SHOWN ON THIS PLAT MAP, AND HEREBY SUBMIT FOR APPROVAL AND RECORD SAID PLAT OF "AWBREY WOODS, PHASE II" HENCEFORTH TO BE SO KNOWN.

BY: 

RONALD L. RUBIN, TENANT IN COMMON

BY: 

MICHAEL GARRIGAN, TENANT IN COMMON

"AFFIDAVIT OF CONSENT AND DECLARATION DEDICATION" FOR REMAINING TENANTS IN COMMON IS RECORDED IN VOLUME 2007, PAGE 31967, DESCHUTES COUNTY OFFICIAL RECORDS.

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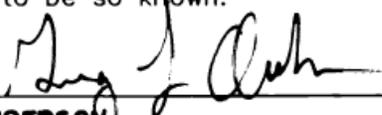
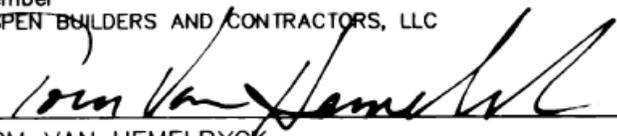
Trust/Mortgage Deed holder (beneficiary on title report) Consent to Declaration:

- Required on all Partitions and Subdivisions dedicating road right-of-way or granting PUBLIC utility easement (or any other any dedication or donation of land to public purposes) (**ORS 92.075 (3)**).
- Required on all County Partitions and Subdivisions even if there is no dedication or donation of land to public purposes on the plat (**DCC 17.24.060.Q**)
- Not required on condominiums plats (right-of-way cannot be dedicated on condos, although public utility easements ("PUE") can be granted, but an Affidavit of Consent to Declaration is still not required on a Condo for PUEs).
- Consent can be a signature on the plat or an "Affidavit of Consent to Declaration" deed recorded right before the plat per **ORS 92.075(4)**. The plat then has the volume and page of the Deed inked onto the consent block of the plat.

(Note- A lien holder does not need to be mentioned in, or sign or consent to, the declaration.)

The following examples cover most of the situations for Consent to Declaration deeds

Example 2: Consent signature on deed - the **beneficiary of a trust deed** signing a plat (not shown in this snippet is that the signature is also acknowledged by a notary elsewhere on the sheet):

<u>DECLARATION</u>	
KNOW ALL MEN BY THESE PRESENTS, that ASPEN BUILDERS AND CONTRACTORS, LLC, an Oregon Limited Liability Company, and <u>COLUMBIA RIVER BANK</u> , as beneficiary of the trust deed recorded May 31, 2006 in Volume 2006, Page 37575, and trust deed recorded September 13, 2006, in Volume 2006, Page 62275, Deschutes County Records, have caused said lands to be subdivided into lots and streets in accordance with the provisions of O.R.S. Chapter 92, and hereby dedicate to the public forever Oconnor Way, Megan Court, Wolcott Place, that portion of Highway 20, sidewalk easements, and the public utility easements as shown on plat; and hereby dedicate to the City of Bend forever Tract A, the storm drain easement, the slope easement, and the sewer easement (See Note A, Plate Two) as shown on this plat: and hereby submit for approval and record said plat of "TANAGER VILLAGE", henceforth to be so known.	
 _____ GREG L. ANDERSON Member ASPEN BUILDERS AND CONTRACTORS, LLC	10/9/06 Date
 _____ TOM VAN HEMELRYCK Vice President <u>COLUMBIA RIVER BANK</u>	10/10/06 Date

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Example 3: Consent by deed with the deed information then placed on the plat. In this example the plat was encumbered by two different trust deed holders, so both had to consent. The consent affidavits were recorded just before the plat, their recording information was inked onto the mylar, and then the mylar was recorded:

FILE No. 05-421

NEWPORT GARDENS

A REPLAT OF LOTS 11 THRU 16 AND PART OF LOTS 17 AND 18,
BLOCK 9, KENWOOD GARDENS
LOCATED IN THE N.W. 1/4 OF THE N.E. 1/4 OF
SECTION 31 T.17S., R.12E., W.M.
CITY OF BEND
DESCHUTES COUNTY, OREGON
JANUARY 10, 2006

DECLARATION

Know all men by these presents that Newport Gardens, LLC, an Oregon Limited Liability Company, owner in fee simple of the land subdivided hereon and U.S. Bank N.A. as beneficiary of Line of Credit Trust Deeds and R. Dean Kine, Trustee of the R. Dean Kine Revocable Trust as beneficiary of the Deed of Trust recorded October 6, 2005 as Instrument No. 2005-68294 of the Deschutes County Official Records, have caused said land to be surveyed and platted, in accordance with the provisions of O.R.S. chapter 92, into lots, as shown, and do hereby create the access, utility and storm water easement to benefit Lots 1 through 14 of this subdivision and do hereby dedicate the 20-foot wide access easement, the 5-foot wide public access easement on Lots 8 through 14, the public utility easements and the City of Bend water meter easements to the public forever and do hereby submit for record and approval said plat of NEWPORT GARDENS.

Newport Gardens, LLC does hereby dedicate the water meter easements to the City of Bend as a permanent, perpetual and exclusive right to construct, install, maintain and operate water lines and all related facilities on the surface and within the subsurface of the easement. No person or entity shall be authorized to construct, erect or install any structures or facilities on the surface or within the easement without first obtaining approval from the City of Bend.

An Affidavit of Consent by U.S. Bank N.A. has been recorded in Volume 2006, Page 84708 of the Deschutes County Official Records.

An Affidavit of Consent by R. Dean Kine, Trustee of the R. Dean Kine Revocable Trust has been recorded in Volume 2006, Page 84709 of the Deschutes County Official Records.

By:  Title: Member

NOTE: In the above example, the trust beneficiaries are stated in the declaration. This is not necessary. See Example 4 on the next page.

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Example 4: Trust deed/Mortgage holder does not need to be mentioned in declaration. This plat is similar to example 3; however the parties consenting are not mentioned in the declaration. This works fine and may be less troublesome to fix in case the mortgages are paid off before the plat is ready for recording (in which case the consent blocks would be lined through since they would no longer be applicable) or the mortgage is assigned to a different beneficiary (in which case the declaration would not need to be altered or crossed out, just the consent blocks below).

Plat of Kian Canyon (CS17166)

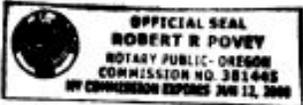
DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS, THAT FEHLMAN LAND AND HOMES, INC., AN OREGON CORPORATION, IS THE OWNER OF THE LANDS SHOWN ON THIS REPLAT OF "KIAN CANYON", THE BOUNDARY OF WHICH IS MORE PARTICULARLY DESCRIBED IN THE SURVEYOR'S CERTIFICATE, AND THAT SAID CORPORATION CAUSED THE SAME TO BE SURVEYED AND REPLATTED INTO LOTS AND EASEMENTS, AND SAID CORPORATION DOES HEREBY SUBMIT FOR RECORD AND APPROVAL SAID REPLAT, AND DOES HEREBY DEDICATE TO THE CITY OF REDMOND FOREVER THAT CITY OF REDMOND SEWER EASEMENT, THOSE PUBLIC UTILITY EASEMENTS AND THOSE SLOPE EASEMENTS SHOWN HEREON.

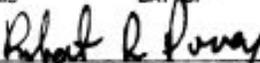

STEVE D. FEHLMAN, PRESIDENT,
FEHLMAN LAND AND HOMES, INC.

ACKNOWLEDGEMENT

STATE OF OREGON }
COUNTY OF DESCHUTES } S.S.



THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY STEVE D. FEHLMAN, PRESIDENT, FEHLMAN LAND AND HOMES, INC. ON THIS _____ DAY OF _____, 2006.


NOTARY PUBLIC, STATE OF OREGON

NAME: Robert R. Povey
COMMISSION NUMBER: 381445
EXPIRATION DATE: June 12, 2008

CONSENT TO DECLARATION

A SUBDIVISION CONSENT AFFIDAVIT FROM BANK OF SALEM HAS BEEN RECORDED IN BOOK 2006 . PAGE 83196 . DESCHUTES COUNTY RECORDS.

CONSENT TO DECLARATION

A SUBDIVISION CONSENT AFFIDAVIT FROM R. BRUCE DUSTERHOFF HAS BEEN RECORDED IN BOOK 2006 . PAGE 83197 . DESCHUTES COUNTY RECORDS.

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Examples of various wording in Consent to Declaration Deeds:

Example 5: Bend subdivision (portion of Vol. 2006 Pg. 75187):

AFFIDAVIT OF CONSENT TO DECLARATION

Community Financial Corporation does hereby consent to the subdivision and declaration of **NORTHCREST SUBDIVISION** located in the east 1/2 of Section 16 of Township 17 South and Range 12 East of the Willamette Meridian, City of Bend, Deschutes County, Oregon as shown on this plat map and fully described as follows:

Beginning at a 5/8" iron rod with a "SCE&S" yellow plastic cap, the Initial Point for this subdivision, at the southeast corner of TANGO CREEK and the intersection of the south right-of-way of Tango Creek Avenue and the westerly right-of-way of Boyd Acres Road; thence following said westerly right-of-way, South 07°35'10" East 90.22 feet to a 5/8" iron rod; thence North 77°31'21" West 6.81 feet to a 5/8" iron rod; thence 139.99 feet along the arc of a 130.00 foot radius curve left (the long chord of which bears South 71°37'42" West 133.32 feet) to a 5/8" iron rod; thence South 40°46'45" West 580.76 feet to a 5/8" iron rod; thence 260.06 feet along the arc of a 970.00 foot radius curve right (the long chord of which bears South 48°27'35" West 259.28 feet) to a 5/8" iron rod; thence leaving said westerly right-of-way, North 24°49'47" West 107.46 feet to a 5/8" iron rod; thence 6.55 feet along the arc of a 330.00 foot radius curve right (the long chord of which bears South 67°40'29" West 6.55 feet) to a 5/8" iron rod; thence South 68°14'37" West 110.35 feet to a 5/8" iron rod; thence North 21°45'23" West 166.87 feet to a 5/8" iron rod; thence South 71°04'41" West 24.95 feet to an angle point in the easterly boundary of BROOKSIDE, FIRST ADDITION and the centerline of Swalley Canal; thence following said Canal centerline, North 11°15'34" East 551.27 feet to the south boundary of said plat of TANGO CREEK; thence East 826.15 feet to the point of beginning; contains 9.15 acres.

Community Financial Corporation is beneficiary of the Deed of Trust recorded June 9, 2005 in Volume 2005, Page 36129 of the Deschutes County Official Records

This Affidavit of Consent is being recorded pursuant to Oregon Revised Statute 92.075(4).

By: _____

State of: OREGON
County of: Clackamas

This is to certify that on this 15th day of June, 2006, before me appeared John B Satterberg, known to be the individual who signed above as a free and voluntary act and acknowledged that they are authorized to act on behalf of Community Financial Corporation.

In testimony whereon I have set my hand and official seal the day and year of this certificate first written above.

Notary Public, State of Oregon:
Vicki J Forter

OFFICIAL SEAL
VICKI J FORTER
NOTARY PUBLIC-OREGON
COMMISSION NO. 363670
MY COMMISSION EXPIRES DEC. 8, 2008

After recording return to:
Jerry Powell, David Evans and Associates, Inc. 709 NW Wall Street, Suite 102 Bend, Oregon 97701

DESCHUTES COUNTY SURVEYOR'S OFFICE
Subdivision, Partition and Condominium Review

Affidavit of Consent to Declaration when MERS is listed as beneficiary

The following 3 pages explain a method to contact MERS "servicers" for signature of plats and consent affidavits:

Determining Mortgage Electronic Registration System (MERS) "Servicer" For Consent Signatures On Subdivision/Partition Plats Or Consent Affidavits.

ORS 92.075 (3) & (4) requires the holder of any mortgage or trust deed to consent to the declaration on a subdivision or partition if the declaration contains any dedication or donation of land to public purposes. Additionally, Deschutes County Code Chapter 17.24.060 (Q)(1)(b) & (c) requires that on any county subdivision or partition the mortgage or trust deed holder(s) must consent to the declaration, even if a dedication or donation to the public is not being made on the plat.

MERS is shown as the beneficiary of mortgage and trust deeds on quite a few of the title reports we review and many local surveyors have had difficulty contacting MERS to sign plats or consent deeds. The following information, based on correspondence with MERS legal counsel, may be helpful to expedite this process.

Please be aware that this situation may not apply to all MERS deeds and that you may need to contact the title company or MERS to confirm that his information is accurate for your situation.

If MERS is listed as the Beneficiary on a title report, then MERS is the lienholder and must sign the plat or consent affidavit. However, it may be easier to contact the MERS "Servicer" for the trust or mortgage deed to have the Servicer sign for MERS. Every MERS Servicer has an employee authorized to act as a MERS certifying officer, with corporate authority to sign for MERS.

The MIN number (Mortgage Identification Number) on a MERS trust or mortgage deed is used to find the name, address and phone number of the Servicer for that particular loan:

1. MERS deeds have an 18 digit "MIN" number near the top of the first page.
2. Usually Section (E) of the deed has the MERS toll free number of 888-679-MERS (888-679-6377)
3. Call this number for the automated listing to find out who is the Servicer of this loan.
4. The automated message instructs you to enter in the 18 digit MIN number. It will then tell you who the "Servicer" is, together with their address and phone number.
5. You then have the opportunity to have this information faxed to you. The fax you receive will have the MIN number and the Servicer name, address and phone number. Although the fax does not have any additional information regarding the deed (Volume/Page, trustee, etc.) it is a good idea to have the information faxed to check the MIN against the deed. If you mis-enter the MIN over the phone you could be chasing the wrong Servicer.
6. You can then contact the Servicer to see if they can sign on behalf of MERS.. According to MERS legal counsel, all of the Servicers have employees with corporate authority to sign documents for MERS.

MERS also states in their correspondence that documents can be sent directly to MERS corporate headquarters for signatures, but it is my understanding that contacting MERS corporate has been somewhat difficult and time consuming.

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An example of a MERS deed of trust on a parcel of land and the subsequent Affidavit of Consent to Declaration for a partition of this parcel can be found on the clerk's on-line records (<http://lava5.deschutes.org/survey/index.cfm>) :

Vol. 2000 Pg. 45828: MERS deed of trust. The MIN number is 100013801017538954. If you call the MERS 888 number you will find that GMAC Mortgage is the Servicer of this mortgage.

Vol. 2006 Pg. 45061: Affidavit of Consent to Declaration. An officer for GMAC Mortgage signed this affidavit as a representative for MERS.

The information on the previous page is based on discussions with local title companies and the following correspondence with MERS:

Portion of email to MERS

From: Mike Berry [mailto:Mike_Berry@co.deschutes.or.us]
Sent: Tuesday, December 12, 2006 5:02 PM
To: Ben Kahrl
Subject: Oregon specific question about "Servicer" vs. "Beneficiary" vs. "holder of mortgage or trust deed"

Ben Kahrl, Senior Counsel
MERS

Dear Mr. Kahrl,

In Oregon if a plat is dedicating land for public purposes it is required by law that the "holder of any mortgage or trust deed" shall either execute the declaration of a subdivision plat or file in the deed records an affidavit consenting to the declaration.

On preliminary title reports, the holder of a trust or mortgage deed is usually listed as the "beneficiary". ... If MERS is listed as the Beneficiary, can MERS execute such instruments?

Sincerely,
Mike Berry

MERS response:

From: Ben Kahrl [mailto:benk@mersinc.org]
Sent: Wednesday, December 13, 2006 2:02 PM
To: Mike Berry
Subject: RE: Oregon specific question about "Servicer" vs. "Beneficiary" vs. "holder of mortgage or trust deed"

Mr. Berry:

MERS is the record lienholder, so MERS should be the signatory. If you send it to our corporate headquarters, we will make arrangements for it to be signed. If you send it directly to the servicer, the servicer will make arrangements to have a MERS officer sign the document as well. We have appointed certain employees of each member to act as MERS certifying officers, and they have corporate authority to sign documents for MERS.

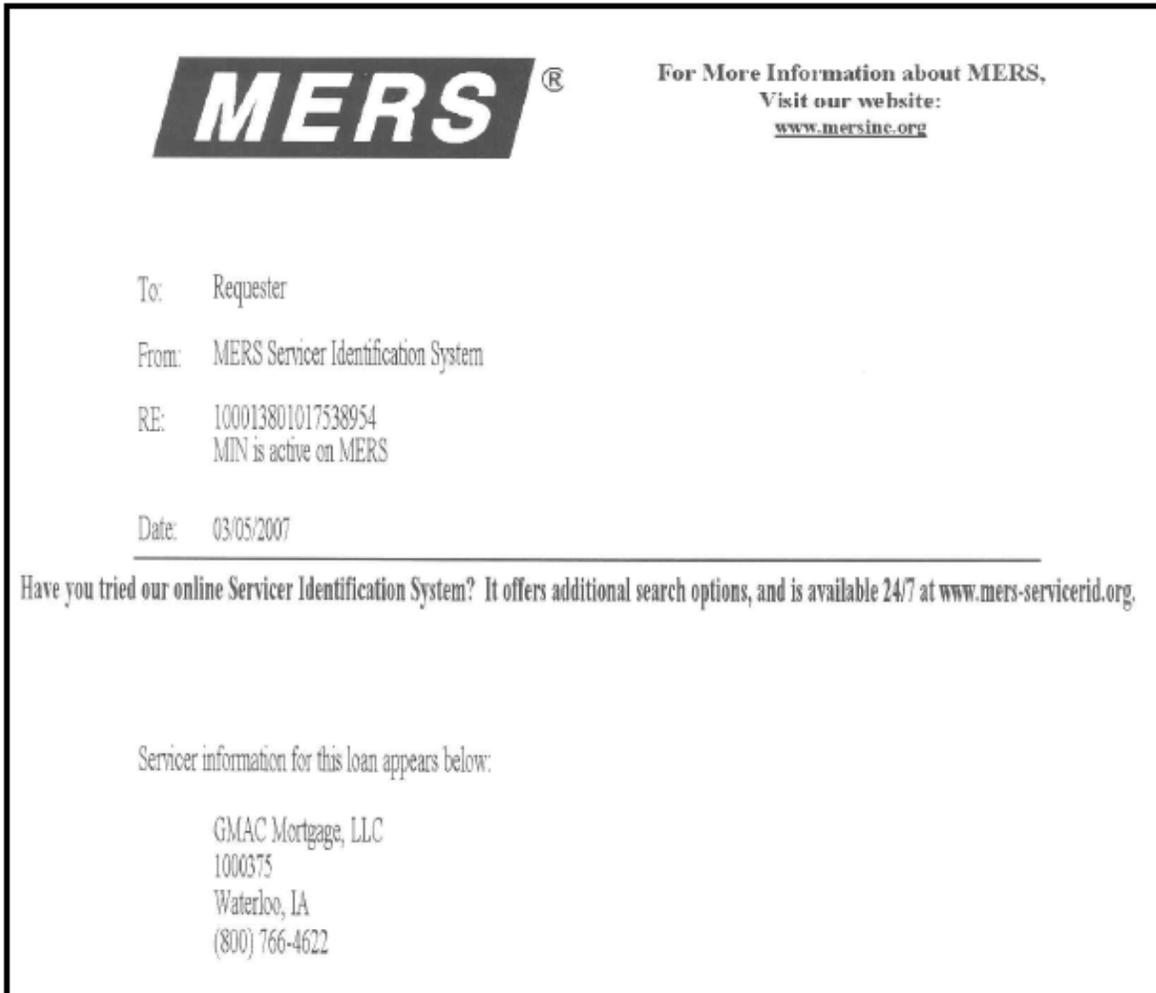
For your purposes, it is probably faster for you to use the MIN # and send the document directly to the servicer, but the servicer will be signing as MERS.

Let me know if you have any additional questions.

Thanks.
Ben Kahrl
MERS Senior Counsel

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Example of fax from MERS for MIN 100013801017538954



The MERS website is: <http://www.mersinc.org/>

According to the MERS website knowledge base, you may be able to search for Servicer information on-line without becoming a MERS member. For more information, go to the following link and then select the topic "MIN Information" in the topics section on the left side of the screen:

https://www.mersonline.org/merskb/MERS_Knowledge_Base.htm

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Example 7a: Example of a MERS Affidavit of Consent to declaration signed by "servicer", a certified officer of Countrywide bank FSB (portion of page 1 of Vol. 2010 Pg. 21858):

AFFIDAVIT OF CONSENT TO DECLARATION

Mortgage Electronic Registration Systems as nominee for Countrywide Bank, FSB fka Countrywide Bank N.A., hereby consents to the partitioning of the following described parcel of land situate in a portion of the NW1/4 SE1/4 of Section 20, Township 15 South, Range 13 East of the Willamette Meridian, City of Redmond, Deschutes County, Oregon:

"Redmond Minor Partition No. RMP-06-12"

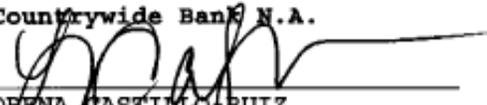
and to the Declaration of "RMP-06-12", located in the City of Redmond, Deschutes County, Oregon.

Trust Deed Holder's interest in this property arises from that certain trust deed dated September 5, 2006 and recorded September 12, 2006 in Volume 2006, Page 61950, Deschutes County Official Records.

This Affidavit of Consent to Declaration is being recorded pursuant to Oregon Revised Statute 92.075(4).

Dated this 27TH day of JUNE, 2007.

Mortgage Electronic Registration Systems
as nominee for Countrywide Bank, FSB
fka Countrywide Bank N.A.

By: 
LORENA CASTILLO RUIZ,
Vice President

Example 7b: Example of above deed referenced on Partition Plat 2010-09 (CS18161):

CONSENT TO DECLARATION

A PARTITION CONSENT AFFIDAVIT FROM MORTGAGE ELECTRONIC REGISTRATION SYSTEMS AS NOMINEE FOR COUNTRYWIDE BANK, HAS BEEN RECORDED IN BOOK 2010, PAGE 21858, DESCHUTES COUNTY RECORDS.

Section 2: Affidavits after recording the plat

Besides the standard reasons for recording Affidavits of Corrections for plats per ORS 92.170, some title and consent omissions on a recorded plat can be corrected as shown on the following pages.

Correcting Ownership on Recorded Plat

In Deschutes County it has been determined by title companies and attorneys that an affidavit of consent can be recorded after the fact - after the plat had been recorded - as long as the consent is attached to an Affidavit of Correction.

- Situation – Plat is recorded, but one of the owners did not show up on Title Report or in the plat declaration at time of recording.
- Solution – The owner can file an Affidavit of Consent to Declaration. This must be attached to an Affidavit of Correction. The deed is filed as an Affidavit of Correction, with the Affidavit of Consent to Declaration as the second page.

The next 2 pages are examples of an affidavit of consent attached to an affidavit of correction to resolve this problem.

Until this problem was corrected by this deed, title insurance would not be issued on any of the parcels in this partition.

Note that the affidavit of correction is recorded pursuant to ORS 92.170.

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Example 8a – Vol.2007 Pg. 20383 (page 1) -for PP2007-18, CS17263

**AFFIDAVIT OF CORRECTION
PARTITION PLAT NO. 2007-18**

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK
2007-20383
\$36.00
04/09/2007 12:17:46 PM
D-AFFIM Cnt=1 Str=23 JS
\$10.00 \$11.00 \$10.00 \$5.00

I, MICHAEL W. TYE, being duly sworn, depose and say that I am the surveyor who surveyed the plat of PARTITION PLAT NO. 2007-18, as filed in pages 414 and 415, Cabinet 3, Deschutes County, Oregon, Partition Plat Records, and recorded in Volume 2007, Page 17795, Deschutes County Official Records, Deschutes County, Oregon, and;

The following correction to said plat is necessary and is as follows:

1. At the time of recording of Partition Plat No. 2007-18, Hale-Campbell Properties, LLC, and not Generation Development, Inc., was the deed owner of the property described on said plat. Therefore their signed and notarized Affidavit is being recorded with this Affidavit of Correction as "Exhibit A" which is incorporated herein by this reference.

The present fee owner of the property materially affected by said Affidavit is as follows:

1. Hale-Campbell Properties, LLC, An Oregon Limited Liability Company

Michael W. Tye
MICHAEL W. TYE
Registered Professional Land Surveyor #1046
920 S.E. Armour Road
Bend, OR 97702



NOTARY CERTIFICATE

STATE OF OREGON)
)ss
COUNTY OF DESCHUTES)

Subscribed and sworn to before me this 2ND day of April, 2007, by Michael W. Tye

Elizabeth L Trimble
Notary Public for the State of Oregon



My Commission Expires July 11, 2007

APPROVAL

I, MIKE BERRY, Deschutes County Surveyor, do hereby certify that said affidavit of correction for PARTITION PLAT NO. 2007-18, has been examined by me and that it complies with O.R.S. 92.170.

Ken Grantham, Deputy 4/2/07
MIKE BERRY Date
Deschutes County Surveyor

AFTER RECORDING RETURN TO:

DESCHUTES COUNTY SURVEYOR'S OFFICE
61150 SE 27TH STREET
BEND, OR 97702

DESCHUTES COUNTY SURVEYOR'S OFFICE
Subdivision, Partition and Condominium Review

Example 8b – Vol.2007 Pg. 20383 (page 2)-for PP2007-18, CS17263

After recording return to:

Deschutes County Surveyor's Office.
61150 SE 27th Street
Bend, OR 97702

EXHIBIT "A"
AFFIDAVIT OF CONSENT

PARTITION PLAT NO. 2007-18, located in the South One-Half of the Southwest One-Quarter of Section 8, Township 18 South, Range 12 East, Willamette Meridian, City of Bend, Deschutes County, Oregon.

Hale-Campbell Properties, LLC, an Oregon Limited Liability Company, hereby consent and agree to have caused said lands to be partitioned into two separate parcels in accordance with the provisions of O.R.S. Chapter 92; and hereby consent to the approval and recording of said plat of PARTITION PLAT NO. 2007-18 as recorded in Volume 2007, Page 17795, Deschutes County Official Records, Deschutes County, Oregon.

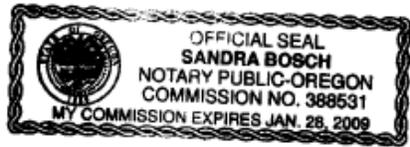
GEORGE A. HALE
Member
Hale-Campbell Properties, LLC , An Oregon Limited Liability Company

State of Oregon)

County of Deschutes)

On this 7th day of APRIL, 2007, before me a Notary Public in and for the State of Oregon, personally appeared GEORGE A. HALE, Member, Hale-Campbell Properties, LLC, to me personally known, or proved to me by satisfactory evidence to be the identical person described herein, who executed the foregoing declaration and acknowledged to me that he did so freely and voluntarily for the purpose therein named.

(NOTARY)



DESCHUTES COUNTY SURVEYOR'S OFFICE
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Correcting Trust/Mortgage Holder Consent on Recorded Plat

- Situation – Plat that is dedicating right-of-way or PUE (or any County plat) is recorded, but a Trust/Mortgage deed holder did not show up on Title Report and did not sign or consent to the plat.
- Solution – The Trust/Mortgage deed holder can file an Affidavit of Consent to Declaration. This must be attached to an Affidavit of Correction. The recorded is filed as an Affidavit of Correction, with the Affidavit of Consent to Declaration as the second page.

The next 3 pages are examples of an affidavit of consent attached to an affidavit of correction to resolve this problem.

Until this problem was corrected by this deed, title insurance would not be issued on any of the parcels in this partition.

Note that the affidavit of correction is recorded pursuant to ORS 92.170.

Section 3: Farm and Forest Easements on County Plats

On some Deschutes County subdivisions and partitions the land owner may be required by the Deschutes County Community Development Department to file a "Farm and Forest Management Easement" prior to the recording of the plat. This requirement is outlined in Chapter 18 of Deschutes County Code:

Deschutes County Code Chapter 18:

18.16.050. Standards for dwellings in the EFU zones.

Dwellings listed in DCC 18.16.025 and 18.16.030 may be allowed under the conditions set forth below for each kind of dwelling, and all dwellings are subject to the landowner for the property upon which the dwelling is placed, signing and recording in the deed records for the County, a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

This easement must be noted on the plat. Some surveyors have not been placing this information on their mylars since the Farm/Forest easement does not show up on the initial title report. If your plat falls under this requirement you should anticipate that the owner will be recording a Farm/Forest easement which will need to be noted on the mylar.

To determine if this is a requirement on a County Subdivision or Partition, you need to review the Findings and Decisions for the subdivision or partition. If the "Conditions of Approval" section of the document contains the following wording, then a Farm and Forest Management Easement will need to be recorded at the Clerk's Office before the plat can be approved:

7. Prior to final plat approval, the applicant/owner shall sign and record a waiver of remonstrance, for the nonfarm dwelling in the deed records for the County. Such document binds the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.396 or 30.397.

Once the Farm/forest easement is recorded you will need to note it on the mylar. The following wording is being commonly used:

NOTE: Property is subject to conditions and restrictions of Farm and Forest Management Easement recorded in Volume 2007 Page 373, Deschutes County Official Records.

A boilerplate of a Farm and Forest Management Easement can be obtained by contacting the Deschutes County Community Development Department.

Section 4: Plats and Surveys in the City of La Pine

The City of La Pine was created in the election held in November of 2007. The city encompasses the following Sections of land:

T21S, R10 E – Section 35 (portion of)
T21S, R10 E – Section 36 (all)

T22S, R10 E – Section 1 (all)
T22S, R10 E – Section 2 (portion of)
T22S, R10 E – Section 10 (portion of)
T22S, R10 E – Section 11 (portion of)
T22S, R10 E – Section 12 (all)
T22S, R10 E – Section 13 (portion of)
T22S, R10 E – Section 14 (all)
T22S, R10 E – Section 15 (portion of)

T22S, R11 E – Section 7 (Portion of)

(Please see the sketch on the next page)

Title blocks and/or certificates for any plats or surveys within the new city limits should now state "City of La Pine"

Example:

Old: *NE 1/4 Section 2, T22S, R10 E, Willamette Meridian, Deschutes County, Oregon*

New: *NE 1/4 Section 2, T22S, R10 E, Willamette Meridian, **City of La Pine**, Deschutes County, Oregon*

On Tuesday, January 2, 2007 the City of La Pine adopted a resolution delegating authority to the Deschutes County Board of County Commissioners to sign all plats on behalf of the City until such time as the two jurisdictions enter into an intergovernmental agreement.

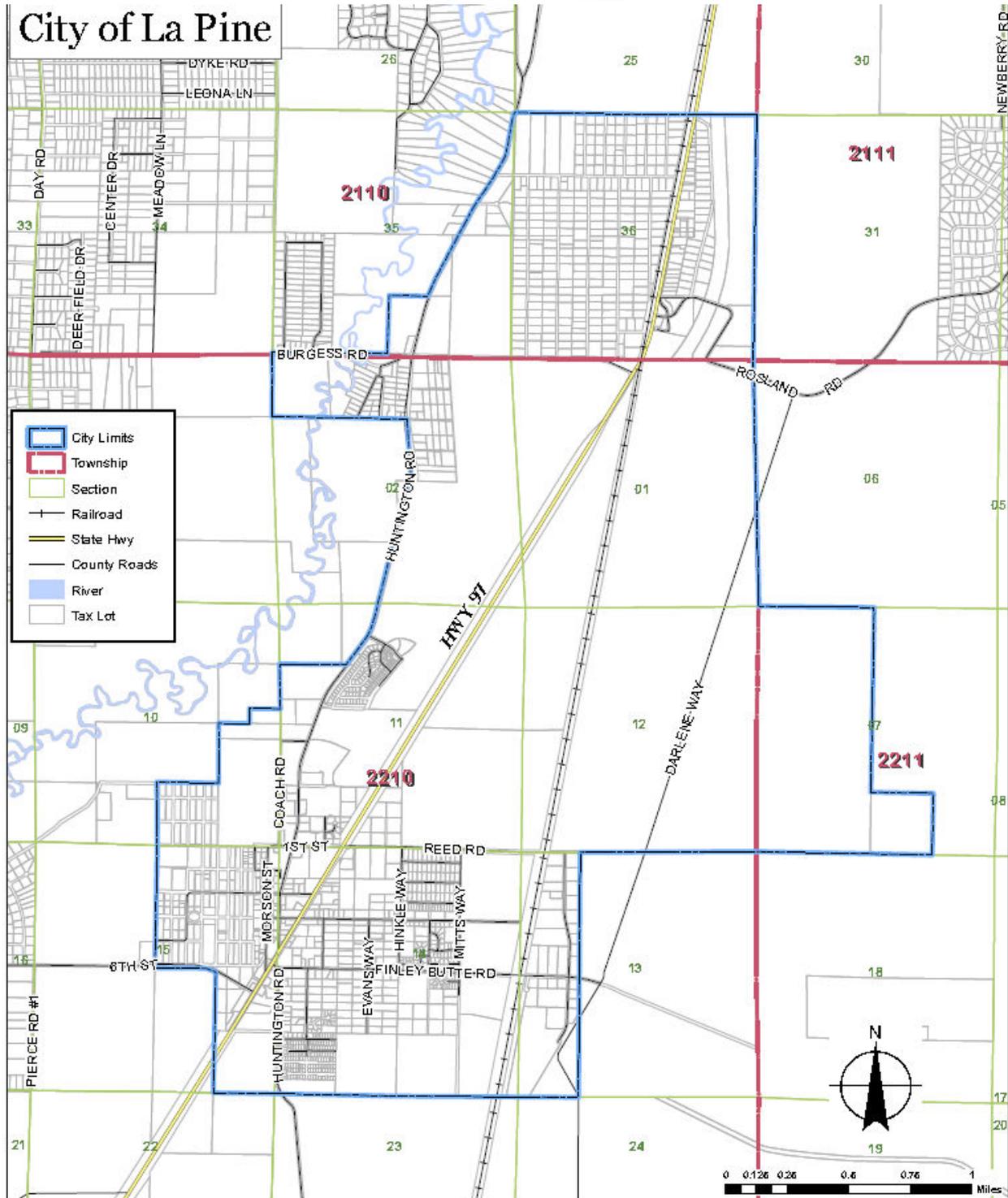
When you submit a City of La Pine plat for review to the surveyor's office, use the current county approval signature block. Currently, none of the elected or appointed City of La Pine officials sign the plats

The note below needs to be added to the approval signature block:

Signature by the Deschutes County Commissioners constitutes approval by the City of La Pine as delegated by City Resolutions 2007-001

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~ MAP NOT TO SCALE ~



The information on this map was derived from digital databases on Deschutes County's G.I.S. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



Map Date: January 3, 2007

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Section 5: Miscellaneous

Conveyances on Plats to Cities or other governmental agencies - Although this method of conveyance is acceptable in some Oregon counties, local authorities have determined that this practice is not acceptable for conveying tracts or lots to governmental agencies (such as a tract being conveyed on a plat to a City for a retention pond or sewer pump station). Most local cities that require these conveyances are working with the developers to record deeds contemporaneously with the plat recording.

Conveyances on Plats to HOAs or other private entities -The same has been determined for plat conveyances to entities like Home Owners Associations. If a plat conveys a common area or private to a HOA, the Assessor's Office will still show ownership of the common area or private road as being the plat declarant until such time as these tracts are conveyed by deed to the HOA.

Dedication or Grant? – Private easements should be granted to the grantees and public roads should be dedicated to the public. Black's law dictionary defines "Dedication" as "*the appropriation of land, or an easement therein, by the owner, for the use of the public...*" To make sure the status of your client's intended private road can't be challenged in court, it might be wise to avoid the word "dedicate". Other common ways to make private easements are to say they are "created" or "reserved" in the dedication.

Creating Private Roads on Plats – The following are examples of various methods local surveyors have created private roads on plats:

Example 10a. Reserves Easements for Road Purposes over Private Ways (Ridge at Eagle Crest 50, CS16926)

DECLARATION:
KNOW ALL PERSONS BY THESE PRESENTS THAT EAGLE CREST, INC., AN OREGON CORPORATION, THE OWNERS OF THE LAND SHOWN ON THIS PLAT, HAS CAUSED SAID LAND TO BE SURVEYED AND PLATTED INTO PRIVATE LOTS, COMMON AREAS, PUBLIC UTILITY EASEMENTS, AND PRIVATE WAYS AS SHOWN ON THIS PLAT, AND DOES HEREBY DEDICATE TO THE PUBLIC FOREVER, PUBLIC UTILITY EASEMENTS OVER ALL PRIVATE WAYS, THE PUBLIC UTILITY EASEMENTS AS SHOWN AND HEREBY RESERVES EASEMENTS FOR ROAD PURPOSES OVER ALL PRIVATE WAYS, INCLUDING SIGNS, IRRIGATION SYSTEMS, THE RIGHT OF INGRESS AND EGRESS FOR CONSTRUCTION AND MAINTENANCE, AND HEREBY RESERVES EASEMENTS OVER ALL COMMON AREAS FOR UTILITIES, DRAINAGE, IRRIGATION SYSTEMS, WATER FEATURES, SIGNS AND OTHER RELATED USES AS SHOWN AND DOES HEREBY SUBMIT FOR APPROVAL AND RECORD SAID PLAT OF "RIDGE AT EAGLE CREST 50," HENCEFORTH TO BE SO KNOWN.

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Example 10b. Roads Reserved by owner and then granted to residents as private ways (Golfside Park P.U.D., CS 16593)

DECLARATION:

GOLFSIDE INVESTMENTS, LLC, AN OREGON LIMITED LIABILITY COMPANY, VESTEE OF THE LAND ON THE SUBDIVISION PLAT OF "GOLFSIDE PARK, P.U.D." AND MORE PARTICULARLY DESCRIBED IN THE SURVEYORS CERTIFICATE HEREUNTO ATTACHED, HAS CAUSED SAID LAND TO BE PLATTED AS SHOWN ON SUCH PLAT AND DECLARE THE SUBDIVISION PLAT OF "GOLFSIDE PARK, P.U.D." TO BE PREPARED AND PROPERLY SUBDIVIDED IN ACCORDANCE WITH O.R.S. CHAPTER 92; AND WALTER MUSA, JR. AS MORTGAGEE UNDER MORTGAGE RECORDED FEBRUARY 22, 2000 IN VOLUME 2000 PAGE 06424, OF DESCHUTES COUNTY OFFICIAL RECORDS, SAID MORTGAGE WAS ASSUMED BY GOLFSIDE INVESTMENTS, LLC BY INSTRUMENT RECORDED JANUARY 17, 2003 IN VOLUME 2003 PAGE 0372B OF SAID RECORDS, SAID MORTGAGE WAS MODIFIED BY INSTRUMENT RECORDED JANUARY 23, 2003 IN VOLUME 2003 PAGE 05205 OF SAID RECORDS; AND WALTER MUSA, JR. AS BENEFICIARY UNDER DEED OF TRUST RECORDED FEBRUARY 22, 2000 IN VOLUME 2000 PAGE 06425 OF SAID RECORDS, SAID DEED OF TRUST WAS ASSUMED BY GOLFSIDE INVESTMENTS, LLC BY INSTRUMENT RECORDED JANUARY 17, 2003 IN VOLUME 2003 PAGE 03727 OF SAID RECORDS; AND U.S. BANK, N.A. AS BENEFICIARY UNDER DEED OF TRUST RECORDED OCTOBER 4, 2004 IN VOLUME 2004 PAGE 59759 OF SAID RECORDS, CONSENTS TO THE PLATTING OF "GOLFSIDE , P.U.D." AS DESCRIBED IN THE SURVEYORS CERTIFICATE HEREUNTO ATTACHED AND RESERVES THE PRIVATE RIGHTS-OF-WAY SHOWN AS GEARY DRIVE, VERYL COURT, HAWES LANE, LARKIN COURT AND LYON COURT, AS SHOWN ON SAID SHEETS 3 AND 4 OF THIS PLAT; AND FURTHER GRANTS TO ROATS WATER COMPANY THE WATER LINE EASEMENT AS SHOWN ON SHEETS 7 AND 8 OF THIS PLAT WHICH AFFECTS A PORTION OF LOT 91 AND A PORTION OF GEARY DRIVE; AND FURTHER GRANTS SAID PRIVATE WAYS FOR THE BENEFIT OF THE RESIDENTS OF "GOLFSIDE PARK, P.U.D."; AND FURTHER GRANTS THE 10.00 FOOT WIDE SEWER EASEMENTS AS DETAILED ON SHEET 10 TO THE CITY OF BEND AND SHALL BE A PERMANENT, PERPETUAL AND EXCLUSIVE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE A SEWER LINE AND ALL RELATED FACILITIES ON THE SURFACE AND WITHIN THE SUBSURFACE OF THE EASEMENT. NO PERSON OR ENTITY SHALL BE AUTHORIZED TO CONSTRUCT, ERECT OR INSTALL ANY STRUCTURES OR FACILITIES ON THE SURFACE OR WITHIN THESE EASEMENTS WITHOUT FIRST OBTAINING APPROVAL FROM THE CITY OF BEND;

Example 10c. Dedicates portions of two roads; Private Roads Reserved by owner and public access easements (? !) created over all private roads; Private roads also reserved for utility and private utility services, subject to city water and sewer easements. (Stonegate P.U.D. Phase 1, CS 16826)

DECLARATION:

ELK HORN LAND DEVELOPMENT INC., AN OREGON CORPORATION, VESTEE OF THE LAND ON THE SUBDIVISION PLAT OF "STONEGATE, P.U.D., PHASE 1" AND MORE PARTICULARLY DESCRIBED IN THE SURVEYOR'S CERTIFICATE HEREUNTO ATTACHED, HAVE CAUSED SAID LAND TO BE PLATTED AS SHOWN ON SUCH PLAT AND DECLARE THE SUBDIVISION PLAT OF "STONEGATE, P.U.D., PHASES 1 AND 2" TO BE PREPARED AND PROPERLY SUBDIVIDED IN ACCORDANCE WITH O.R.S. CHAPTER 92 AND HOUSING CAPITAL COMPANY, A MINNESOTA PARTNERSHIP, AS BENEFICIARY UNDER DEED OF TRUST RECORDED JUNE 17, 2005 IN VOLUME 2005 PAGE 37959 DESCHUTES COUNTY OFFICIAL RECORDS, CONSENTS TO THE PLATTING OF "STONEGATE, P.U.D., PHASE 1" AS DESCRIBED IN THE SURVEYORS CERTIFICATE HEREUNTO ATTACHED AND FURTHER DEDICATES TO THE PUBLIC FOREVER FOR STREET AND UTILITY PURPOSES, THE RIGHTS-OF-WAY OF CHINA HAT ROAD AND PARRELL ROAD, AND FURTHER DEDICATES TO PACIFIC POWER AND LIGHT COMPANY, QWEST, CASCADE NATURAL GAS COMPANY AND BEND BROADBAND, THEIR SUCCESSORS AND ASSIGNS, FOREVER, FOR UTILITY PURPOSES, THE UTILITY EASEMENTS AS SHOWN. THE EASEMENTS SHALL ENCOMPASS THE PHYSICAL LOCATION OF THE CONSTRUCTED UTILITIES, PACIFIC POWER AND LIGHT COMPANY, QWEST, CASCADE NATURAL GAS COMPANY AND BEND BROADBAND SHALL HAVE THE RIGHT TO INSTALL, MAINTAIN AND OPERATE THEIR EQUIPMENT ABOVE AND BELOW GROUND AND ALL OTHER RELATED FACILITIES WITHIN THE EASEMENTS IDENTIFIED ON THIS PLAT AS MAY BE NECESSARY OR DESIRABLE IN SERVING THE LOTS IDENTIFIED HEREON, INCLUDING THE RIGHT OF ACCESS TO SUCH FACILITIES AND THE RIGHT TO REQUIRE THE REMOVAL OF ANY OBSTRUCTIONS INCLUDING TREES AND VEGETATION THAT MAY BE PLACED WITHIN THE EASEMENTS AT THE LOT OWNER'S EXPENSE. AT NO TIME MAY ANY PERMANENT STRUCTURES BE PLACED WITHIN THE EASEMENTS OR ANY OTHER OBSTRUCTION WHICH INTERFERES WITH THE USE OF THE EASEMENTS WITHOUT WRITTEN APPROVAL OF THE UTILITY COMPANIES IN THE EASEMENTS; AND FURTHER GRANTS TO THE CITY OF BEND, THE WATER AND SEWER EASEMENTS AS SHOWN, WHICH SHALL BE A PERMANENT, PERPETUAL AND EXCLUSIVE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE A WATER AND SEWER LINE AND ALL RELATED FACILITIES ON THE SURFACE AND WITHIN THE SUBSURFACE OF THE EASEMENT. NO PERSON OR ENTITY SHALL BE AUTHORIZED TO CONSTRUCT, ERECT OR INSTALL ANY STRUCTURES OR FACILITIES ON THE SURFACE OR WITHIN THIS EASEMENT WITHOUT FIRST OBTAINING APPROVAL FROM THE CITY OF BEND; AND FURTHER RESERVES THE PRIVATE RIGHT-OF-WAYS SHOWN AS STONEGATE DRIVE, ADDIE TRIPLETT LOOP, SAWTOOTH MOUNTAIN LANE, HEDGEWOOD LANE, ROLLED ROCK WAY AND SAGE STONE LOOP AS SHOWN ON THIS PLAT; AND FURTHER CREATES A PUBLIC ACCESS EASEMENT OVER ALL PRIVATE ROADS; THE AFOREMENTIONED PRIVATE ROADS ARE ALSO RESERVED FOR UTILITIES AND PRIVATE UTILITY SERVICES, SUBJECT TO SAID CITY OF BEND WATER AND SEWER EASEMENTS; AND FURTHER CREATES THE PUBLIC PEDESTRIAN ACCESS EASEMENT WHICH AFFECTS PORTIONS OF COMMON TRACTS 1 AND 2 WHICH SHALL ENCOMPASS THE PHYSICAL LOCATION OF THE CONSTRUCTED PATHWAYS; AND FURTHER CREATES THE 5.00 FOOT WIDE PRIVATE DRAINAGE EASEMENT WHICH AFFECTS PORTIONS OF LOTS 15 AND 16; AND FURTHER CREATES THE 5.00 FOOT WIDE PRIVATE SEWER SERVICE EASEMENT WHICH AFFECTS PORTIONS OF LOTS 26 AND 27; AND FURTHER CREATES THE PRIVATE TRAIL EASEMENT WHICH AFFECTS A PORTION OF LOT 78; AND FURTHER CREATES THE SURFACE STORM DRAIN SWALE EASEMENTS AS SHOWN; AND FURTHER CREATES NON-SPECIFIC STORM DRAIN EASEMENTS ON COMMON TRACTS 2 AND 9.

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Creating Easements on Plats – ORS 92.075(1) states “any public or private easements created, or any other restriction made, shall be stated in the declaration.”

Having been involved with trying to resolve problems with older plats where the declarations, or the easements shown on the plat, were vague as to the intent of an easement or who was benefited or encumbered by an easement, we prefer to have as many particulars as possible addressed in the declaration, such as:

Example 11 Bailey, CS17525

AND FURTHER DEDICATES TO THE PUBLIC FOREVER FOR ROAD AND UTILITY PURPOSES THE RIGHT-OF-WAYS OF "LUCIA STREET", "PARRELL ROAD", "ELAINE LANE", "LUNA PLACE", AND "LOIS WAY" AS SHOWN ON SHEET 3;

AND FURTHER CREATES A STORM WATER DRAINAGE AND RETENTION EASEMENT WHICH AFFECTS LOTS 1 AND 38 AS SHOWN ON SHEET 3;

AND FURTHER CREATES THE PRIVATE ACCESS EASEMENT WHICH AFFECTS LOTS 1, 2, AND 38 AS DETAILED ON SHEET 3 FOR THE BENEFIT OF SAID LOTS;

AND FURTHER CREATES A PRIVATE STORM WATER DRAINAGE AND RETENTION EASEMENT OVER SAID PRIVATE ACCESS EASEMENT;

If just the term “and do hereby create the easements as show” is in the declaration, then the new easements being created on the plat must be clearly labeled as such and have notes that clearly state the purpose of the easement, who it benefits, what lots, parcels or tracts it encumbers and any other information that will keep the easement from going to court. A listing of concise easement notes works well in these situations.

Example 12 – Heritage Ranch, CS17542. The declaration dedicates a public utility easement and “Storm Drain Easement” to the City and elsewhere on the plat under the listing of “Easements and restrictions” following notes give precise details:

- UTILITIES SHALL HAVE THE RIGHT TO CONSTRUCT, INSTALL, MAINTAIN AND OPERATE PUBLIC UTILITIES AND ALL RELATED FACILITIES WITHIN THE PUBLIC UTILITY EASEMENTS SHOWN HEREON – PLACEMENT OF STRUCTURES OR OTHER OBSTRUCTIONS, OR EXCAVATION WITHIN THESE EASEMENTS IS PROHIBITED – LANDSCAPE AND SURFACE MAINTENANCE WITHIN THESE EASEMENTS SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE AFFECTED PROPERTY;
- THE CITY OF REDMOND SHALL HAVE THE RIGHT TO CONSTRUCT, MAINTAIN AND OPERATE A STORM DRAINAGE SYSTEM WITHIN THE CITY STORM DRAIN EASEMENTS SHOWN HEREON – PLACEMENT OF STRUCTURES OR OTHER OBSTRUCTIONS, OR EXCAVATION WITHIN THESE EASEMENTS IS PROHIBITED – LANDSCAPE AND SURFACE MAINTENANCE WITHIN THESE EASEMENTS SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE AFFECTED PROPERTY;
- VEHICULAR ACCESS BETWEEN THE LOTS OF THIS SUBDIVISION AND NW TENTH STREET AND BETWEEN THE LOTS OF THIS SUBDIVISION AND NW QUINCE AVENUE IS PROHIBITED, OTHER THAN WITHIN THE PRIVATE VEHICULAR ACCESS EASEMENT SHOWN HEREON.

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Existing Easements- Addressing Non Specific or Blanket; (Subdivisions and Partitions):

EXAMPLES OF ACCEPTABLE WORDING

ORS 92.050 (6) The location, dimensions and purpose of all recorded and proposed public and private easements must be shown on the subdivision or partition plat along with the county clerk's recording reference if the easement has been recorded by the county clerk. Private easements become effective upon the recording of the plat

1. (Timbers, CS16891, Sheet 1, General Notes)

3. A NONSPECIFIC PIPE LINE EASEMENT TO THE CITY OF REDMOND AS PER VOLUME 86, PAGE 506 OF OFFICIAL DESCHUTES COUNTY DEED RECORDS MAY EXIST ON THESE LANDS. SAID DOCUMENT DOES NOT DESCRIBE EXACT LOCATIONS. AN UNDERGROUND UTILITY LOCATE REQUESTED FROM THE CITY OF REDMOND DID NOT INDICATE ANY PIPELINES ON THESE LANDS.

2. (Traditions East, CS16760, Sheet 3, Easement Notes)

1. THE SOUTH 330 FEET OF THE SE1/4 SW1/4 OF SECTION 35, T.17S., R.12E., W.M., IS SUBJECT TO A 10 FOOT WIDE RIGHT-OF-WAY IN FAVOR OF CASCADE NATURAL GAS CORPORATION OVER AN EXISTING GAS PIPE, PER INSTRUMENT RECORDED AUGUST 16, 1961 IN VOLUME 128 PAGE 361 DESCHUTES COUNTY DEED RECORDS. AS-BUILT GAS COMPANY RECORDS SHOW AN EXISTING GAS MAIN WITHIN THE RIGHT-OF-WAY OF BEAR CREEK ROAD AS WELL AS A SERVICE TO THE EXISTING RESIDENCE ON LOT 47. THIS SERVICE HAS BEEN RELOCATED INTO THE RIGHT-OF-WAYS OF DANTILLI ROAD AND BARTLETT LANE.

3. (PP 2006-11., CS16842, Sheet 1)

EASEMENTS: DISCLOSED BY AMERITITLE'S TITLE NO. 078432

ITEM #11: AN EASEMENT RESERVED BY THE STATE OF OREGON FOR DITCHES AND CANALS IN A DEED IS RECORDED JUNE 24, 1909 IN BOOK 6, PAGE 49, DEED RECORDS. THERE ARE NO IRRIGATION DITCHES OR CANALS WITHIN THIS REDMOND MINOR PARTITION NO. RMP-03-09.

4. (PP 2005-85., CS16721, Sheet 3)

- #31 RECORDED OCT. 20, 1944 IN BOOK 65, PAGE 506, DEED RECORDS
WATERLINE EASEMENT IN FAVOR OF THE CITY OF REDMOND, EXACT LOCATION AND WIDTH UNKNOWN.
- #33 RECORDED MARCH 24, 1954 IN BOOK 106, PAGE 526, DEED RECORDS
RIGHT-OF-WAY EASEMENT IN FAVOR OF PACIFIC POWER AND LIGHT COMPANY,
EXACT LOCATION AND WIDTH UNKNOWN.

5. (PP 2005-53, CS16513, Sheet 2)

EASEMENTS AND NOTES

- EASEMENTS IN FAVOR OF PACIFIC POWER AND LIGHT COMPANY, RECORDED 6/22/1951 IN BOOK 94, PAGE 67, AND RECORDED 9/19/1961 IN BOOK 128, PAGE 589 ARE BLANKET EASEMENTS FOR ELECTRIC TRANSMISSION LINES AND APPURTENANCES - NOTE ALL SUCH FACILITIES LOCATED WITHIN THE BOUNDARIES OF THIS PARTITION ARE ALSO LOCATED WITHIN THOSE PUBLIC UTILITY EASEMENTS PREVIOUSLY DEDICATED, AND AS SHOWN HEREON;
- AN EASEMENT IN FAVOR OF PACIFIC POWER AND LIGHT COMPANY, RECORDED 10/13/1971 IN BOOK 179, PAGE 658 PERTAINS TO PROPERTY LOCATED OUTSIDE THE BOUNDARY OF THIS PARTITION;

EXAMPLES OF EASEMENT NOTES WHICH NEED CLARIFICATION

6. These easement notes should state that easements do not have an exact width or location. See examples 1 and 3 of the “Examples of Acceptable Wording” for more concise wording.

1. THERE EXISTS A NON-SPECIFIC EASEMENT TO PACIFIC POWER AND LIGHT COMPANY FOR AN ELECTRICAL TRANSMISSION AND DISTRIBUTION LINE PER RIGHT-OF-WAY EASEMENT, PER VOL. 80, PG. 253 OF DESCHUTES COUNTY RECORDS WHICH AFFECTS THE LANDS WITHIN THE BOUNDARIES OF THIS PLAT.

2. THERE EXISTS A NON-SPECIFIC EASEMENT TO PACIFIC POWER AND LIGHT COMPANY FOR AN ELECTRICAL TRANSMISSION AND DISTRIBUTION LINE PER RIGHT-OF-WAY EASEMENT, PER VOL. 80, PG. 542 OF DESCHUTES COUNTY RECORDS WHICH AFFECTS THE LANDS WITHIN THE BOUNDARIES OF THIS PLAT.

7. The notes “are not shown on this map” need to be clarified to communicate the fact that the easements are non-specific/non-locatable. Easement 4 should state that the easements do not have an exact width or location and/or that no such facilities exist within plat.

4. RESERVATIONS TO RIGHT-OF-WAY FOR DITCHES, CANALS, AND RESERVOIR SITES FOR IRRIGATION PURPOSES, CONSTRUCTED, OR WHICH MAY BE CONSTRUCTED, RECORDED APRIL 2, 1908. VOLUME 5, PAGE 7 DESCHUTES COUNTY DEED RECORDS. ARE NOT SHOWN ON THIS MAP.

5. MINERAL RESERVATIONS FOR ALL OF SECTION 16, RECORDED APRIL 1, 1959. VOLUME 121, PAGE 559 DESCHUTES COUNTY DEED RECORDS. ARE NOT SHOWN ON THIS MAP.

6. IMPLIED EASEMENT FOR INGRESS AND EGRESS FROM THE MINERAL RESERVATIONS FOR ALL OF SECTION 16, RECORDED APRIL 1, 1959. VOLUME 121, PAGE 559 DESCHUTES COUNTY DEED RECORDS. NOT SHOWN ON THIS MAP.

8. Should state that easements do not have an exact width or location.

5. A PORTION OF THIS PROPERTY IS SUBJECT TO A BLANKET RIGHT OF WAY EASEMENT TO MIDSTATE ELECTRIC COOPERATIVE, INC., RECORDED DECEMBER 2, 1952, IN VOLUME 102, PAGE 506, DESCHUTES COUNTY DEED RECORDS, AFFECTS SECTION 8 - SE 1/4 NW 1/4 AND THE E 1/2 SW 1/4 ALONG WITH SECTION 17 - E 1/2 NW 1/4.

9. Should state that easements do not have an exact width or location and/or that no such facilities exist within plat.

THE S1/2 OF THE NW1/4 OF SECTION 3, T15S, R13E, W.M. IS SUBJECT TO THE RIGHTS OF WAY FOR DITCHES, CANALS, AND RESERVOIR SITES FOR IRRIGATION PURPOSES PER DOCUMENT RECORDED NOVEMBER 19, 1910 IN BOOK 8, PAGE 423 OF DESCHUTES COUNTY DEED RECORDS.

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10. The purpose of easements 2 and 3 should be stated (water? sewer?). Easement 4 is obviously for gas lines, although it wouldn't be a bad idea to state this.

NOTE A:

The following easements do not lie within the boundaries of the plat and therefore do not affect the platted property: (1) The C.O.I. canal easement as shown on the plat of Healy Meadows. (2) Easement to City of Bend per Volume 343, Page 1297. (3) Easement to City of Bend per Volume 343, Page 1302. (4) Easement to Cascade Natural Gas Corporation per Volume 353, Page 2352. (5) Easement as shown on the plat of Prophet's Den for driveway and parking. (6) Easement as shown on the plat of Bear Creek Condominium Stage 1 for 20.00 foot canal. (7) Reciprocal Access Easement per Volume 527, Page 2942.

NOTE B:

Easement per Volume 264, Page 145, Deschutes County Records, to Pacific Power and Light Company lies within the utility easement to be dedicated in this plat.

NOTE C:

Agreement for Easement per Volume 275, Page 141, Deschutes County Records, is a blanket easement and does not affect the platted property.

Miscellaneous

Existing Easement now falls within new right-of-way (Subdivisions and Partitions):

(Coyote Springs, Phase Three, CS16783, Sheet 1, Notes)

4.) A PUBLIC UTILITY AND ACCESS EASEMENT GRANTED TO THE CITY OF SISTERS, EXISTS ENTIRELY WITHIN THE RIGHT OF WAY OF ALL THE ROADS SHOWN ON THIS PLAT, RECORDED IN DOCUMENT NUMBER 2003-86164, DESCHUTES COUNTY OFFICIAL RECORDS RECORDED DECEMBER 19, 2003.

Section 6: Miscellaneous Fixes

Plat Declarations – Owners change

Problem – Mylar comes in for approval and a new title report is emailed to our office from the title company. The title report show (a) a new easement has been granted or (b) the owner has actually conveyed the property to someone else.

Solution – This has happened more times than you would imagine. Your client may not be aware of the fact that you should be notified if a new easement is created on the property or a portion of the owner's interest is sold to a new party.

Deeds are sometimes executed that affect the property during the review process that the surveyor is unaware of until the next title report, if any, is issued. In some cases new easements have been granted by the owner that the surveyor has not been aware of, and in other cases the owner has sold the property lock, stock and barrel to someone else.

It is a good idea to periodically check on the County Clerk's deed research website to see if this is the case. There are a number of ways you can search for deeds including the name of the owner of the land or the location of the property (by township, range and section or lot or parcel if the development is a replat in an existing subdivision or partition). The search results from the clerk's office list the most recent deed recording first in reverse chronological order which makes this an easy way to see if your client has recently executed deeds affecting your plat.