

Council Business Meeting

February 20, 2018

Title: Quitclaim of an Unused Public Utility Easement for 560 Fordyce St.

From: Scott A. Fleury Deputy Public Works Director

Scott.fleury@ashland.or.us

Summary:

Before the Council is a request to approve a quitclaim deed that releases interest in a dedicated but unused public utility easement (PUE). The original easement, as stated, is no longer required due to an updated partition plat that granted a new public utility easement for adjacent properties.

Actions, Options, or Potential Motions:

- Council may move approval of the attached Quitclaim document
 - Quitclaims a PUE easement dedicated partition plat P-15-1997 and also shown on partition plat P-13-2001. The 10' wide PUE runs along the southern boundary of parcel #2 of P-13-2001.
 - If approved the City Administrator, John Karns, can sign on behalf of the City.

If Council does not approve the Quitclaim document then the existing approved encroachment permit will be maintained allowing the house to encroach 3.5 feet into the unused utility easement.

Staff Recommendation:

Staff recommends approval of the attached Quitclaim document which would remove a 10' wide PUE from property owner's current deed record. This action helps to clear title restrictions that are no longer necessary for the public interest.

Resource Requirements:

There are no resource requirements of this action other than expended staff time. All document recording fees will be borne by the property owner.

Policies, Plans and Goals Supported:

Council Goals:

- 4 Evaluate real property and facility assets to strategically support city mission and goals.

Department Goals:

- Evaluate all city infrastructure regarding planning management and financial resources.

Background and Additional Information:

Public Works staff was contacted by the Davis Hearn Anderson & Turner law firm regarding terminating a public utility easement upon which the house at 560 Fordyce Street encroaches by 3.5 feet. At the time the house was in trust and was in process to be sold when in title research

the encroachment was found and the potential buyer terminated the purchase. Public Works staff outlined the process of terminating the easement and the process to allow a temporary encroachment in order to allow the sale of the property through the trust. Staff processed a temporary encroachment permit to allow the sale of the house and provide for time to obtain Council approval of a quitclaim deed to terminate the easement.

The utility easement was originally dedicated on partition plat P-15-1997 and was meant to provide utilities to the adjacent parcel #2 upon development. The parcel was then partitioned again through P-13-2001 with an additional public utility easement provided along with a common ingress/egress point to serve parcels 3 & 4. It has been determined there are no utilities in the PUE and Public Works does not need the additional easement for infrastructure purposes.

Next Steps:

Should council approve this action, the property owner is responsible for recording the Quitclaim document with Jackson County.

Attachments:

1. Quitclaim document
2. Summary Record-Davis Hearn, Anderson & Turner

Recording Requested By:

City of Ashland, Oregon
Engineering Dept
20 E. Main St.
Ashland, OR 97520

When Recorded Mail To:

Christian E. Hearn, Attorney (OSB #911829)
Davis, Hearn, Anderson & Turner, P.C.
515 E. Main St.
Ashland, OR 97520

Grantor:

City of Ashland, Oregon
20 E. Main St. | Ashland, OR 97520

Grantees:

John C. Wise & Evelyn C. Wachtel
Trustees, Wise-Wachtel Revocable Living Trust
20591 Honey Hill Dr. | Hidden Valley Lake, CA 95467

Actual Consideration Paid: None

(Space Above for County Recorder's Use)

Send Tax Statements to:

Owner of Record per County Assessor Records

QUITCLAIM DEED

1. THE CITY OF ASHLAND, OREGON ("City"), hereby releases and quitclaims unto JOHN C. WISE and EVELYN C. WACHTEL, TRUSTEES OF THE WISE-WACHTEL REVOCABLE LIVING TRUST DATED JAN. 23, 2007, all City's right, title, and interest in and to that certain 10'-wide Public Utility Easement burdening the southerly boundary of Parcel No. Two (2) of Partition Plat No. P-13-2001, recorded March 14, 2001, in the Record of Partition Plats in Jackson County, Oregon, and filed as Survey No. 16827 in the office of the Jackson County Surveyor. Said Public Utility Easement being vacated and terminated by City herein is identified as indicated on the copy of Partition Plat No. P-13-2001, attached hereto as **Exhibit "A"**, located in the City of Ashland, Jackson County, Oregon.
2. This Quitclaim Deed is being provided in order to vacate and terminate the above-described Public Utility Easement, such Easement having been incorrectly located, and so there is no consideration for this vacation of easement.

MAYOR, CITY OF ASHLAND, OREGON:

JOHN STROMBERG, Mayor

Dated: _____

CITY RECORDER, CITY OF ASHLAND, OREGON:

MELISSA HUHTALA, City Recorder

Dated: _____

[NOTARY ACKNOWLEDGMENTS FOLLOW ON NEXT PAGE]

STATE OF OREGON)
) §
County of Jackson)

On _____, 20____, before me, the undersigned Notary Public, personally appeared the above named **JOHN STROMBERG**, personally known to me (or proved to me on the basis of satisfactory evidence) to be **Mayor of the City of Ashland, Oregon**, and also the person whose name is subscribed to this **Quitclaim Deed**, and acknowledged that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

WITNESS MY HAND AND OFFICIAL SEAL

Notary Public for the State of Oregon

My Commission Expires: _____

STATE OF OREGON)
) §
County of Jackson)

On _____, 20____, before me, the undersigned Notary Public, personally appeared the above named **MELISSA HUHTALA**, personally known to me (or proved to me on the basis of satisfactory evidence) to be **City Recorder for the City of Ashland, Oregon**, and also the person whose name is subscribed to this **Quitclaim Deed**, and acknowledged that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

WITNESS MY HAND AND OFFICIAL SEAL

Notary Public for the State of Oregon

My Commission Expires: _____

EXHIBIT "A"

16827

APPROVAL: Bill Hest DATE 3/6/2001
ASHLAND PLANNING DEPARTMENT PA # 2000-030

APPROVAL: James H. Holman
Examined and Approved this 5th day of March, 2001.
City Surveyor

DECLARATION
KNOW ALL MEN BY THESE PRESENTS, that I Scott Kurtz am the owner of the real property represented on this partition plat and more particularly described in the SURVEYOR'S CERTIFICATE and have caused the same to be partitioned into parcels as shown hereon, I do hereby dedicate to the City of Ashland for public use those parcels shown hereon as public utility easements, and I hereby acknowledge that the private ingress-egress easement over and across Parcel 1, Parcel 2 and Parcel 3, for the benefit of the owners, their heirs and assigns of Parcel 1, Parcel 2 and Parcel 3, I also create a 10.00 foot wide private ingress-egress easement over and across Parcel 3 as shown hereon, for the benefit of the owners, their heirs and assigns of Parcel 1, Parcel 2 and Parcel 4. Public and private emergency vehicles shall have right of ingress-egress over and across said private easements at all times. I hereby create a private 5" storm drain easement over and across Parcel 3, as shown hereon, for the benefit of the owners, their heirs and assigns of Parcel 3. Parcels 5, 6 and 7 are subject to additional deed restrictions disallowing development on said parcels until such time that Romeo Drive has been fully constructed to Mill Pond Road.

STATE OF OREGON)
COUNTY OF JACKSON) ss
Personally appeared the above named Scott Kurtz and acknowledged the foregoing instrument to be his voluntary act and deed before me this 15th day of February, 2001.
Chad L. Loma
NOTARY PUBLIC-OREGON
MY COMMISSION EXPIRES JUNE 3, 2003

LAND PARTITION SURVEY
PARTITION PLAT No. P-13-2001

LOCATED IN:
Parcels 1, 2 and 3 of partition recorded February 21, 1997 as Partition Plat No. P-15-1997 "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 15292 in the Office of the County Surveyor.
In the N.W. 1/4 OF SECTION 10, T39S., R1E., WM.
CITY OF ASHLAND, JACKSON COUNTY, OREGON

FOR
SCOTT KURTZ
676 LIBERTY STREET
ASHLAND, OREGON 97520

RECORDING
Filed for record this 14th day of March, 2001
at 3:04 o'clock P.M. and recorded as Partition Plat No. P-13-2001 of the Records of Jackson County, Oregon.
Ings. Volume 12, Page 13
William J. Boud Deputy County Clerk
COUNTY SURVEYOR File No. 16827
All taxes, fees, assessments or other charges as required by O.R.S. 92.095 have been paid, as of March 14, 2001.
Ben Aubrey Dept Assessor
Date March 14, 2001
James J. Dally Deputy 3-14-01
Date

SURVEYOR'S CERTIFICATE:
I Darrell L. Huck, a duly Registered Surveyor of the State of Oregon, do hereby certify that this map correctly represents a survey made by me or under my direction and complies with the regulations for land Partitions and the following is an accurate description of the parent tract of land as set forth hereon:
Parcel 1, Parcel 2 and Parcel 3 of partition recorded February 21, 1997, as Partition Plat No. P-15-1997, "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 15292 in the Office of the Jackson County Surveyor.
North Coast Emergency Physicians Retirement Trust, Howard Freeman, Trustee is the Beneficiary of a certain Trust recorded October 30, 2000 as Document No. 00-29388 of the official records of Jackson County, Oregon.
AFFIDAVIT OF CONSENT for Partition by North Coast Emergency Physicians Retirement Trust, Howard Freeman, Trustee, recorded as Document No. 01-09904 Official Records, Jackson County, Oregon.

EASEMENTS OF RECORD:
Power line Easement along East property line per Volume 144, Page 160 of Deed Records, Jackson County, Oregon.
(Exact location and width is not defined)
Easement for ditches and flumes - Volume 267, Page 400, Deed Records, Jackson County, Oregon.
(Location not defined - there is no visible evidence of ditches or flumes other than Roca Creek)
Overhanging Easement per Volume 368, Page 124, Deed Records, Jackson County, Oregon.
(Location not defined)

NOTES:
1. 10' PUBLIC UTILITY EASEMENT PER PARTITION PLAT NO. P-15-1997
2. 10' PUBLIC UTILITY EASEMENT & ROAD SLOPE EASEMENT
3. PER PARTITION PLAT P-15-1997
4. EXISTING 12" INGRESS-EGRESS EASEMENT AND POWER LINE EASEMENT PER PARTITION PLAT P-15-1997 (THIS EASEMENT IS TO BE RELINQUISHED)
5. 20' WIDE PRIVATE INGRESS-EGRESS & PUBLIC UTILITY EASEMENT
6. PARCELS 1, 2, 3 AND 4 ARE SUBJECT TO A JOINT MAINTENANCE AGREEMENT, TO BE RECORDED AS A SEPARATE DOCUMENT.
7. IRRIGATION OVERFLOW PIPE LOCATED ALONG NORTH BOUNDARY TO BE REMOVED.

MOFFRUE & ASSOCIATES, INC.
1062 E. JACKSON STREET, ASTORIA, OREGON
(503) 325-4641
BY: DARRELL L. HUCK
SCALE: 1" = 80' feet
BASIS OF BEARING: N.O.A.A. True Meridian at the N-S Centerline of Section 10 as derived from the 1989 N.O.A.A. net on file in the Office of the Jackson County Surveyor as referenced on Recorded Survey No. 10578
Set 5/8" x 24" iron pin with plastic cap stamped "D. Huck LS 2023"
Found 5/8" iron pin w/ plastic cap marked "D. Huck LS 2023" per S/N 13419, 13580 and 15292, unless noted otherwise.
Found brass cap monument as noted
Found 5/8" x 30" iron pin w/ 7/2" aluminum stamped "LS 2023" per S/N 15292.
Found 1 1/2" iron pipe w/ 7/2" brass disc in monument case, stamped "LS 2023" per S/N 15292.
Existing fence
PUE = Easement for Public Utilities, storm drainage, irrigation, gas, water, electric, telephone, cable television and sanitary sewer construction and maintenance (00177P.DWG) SHEET 1 OF 1

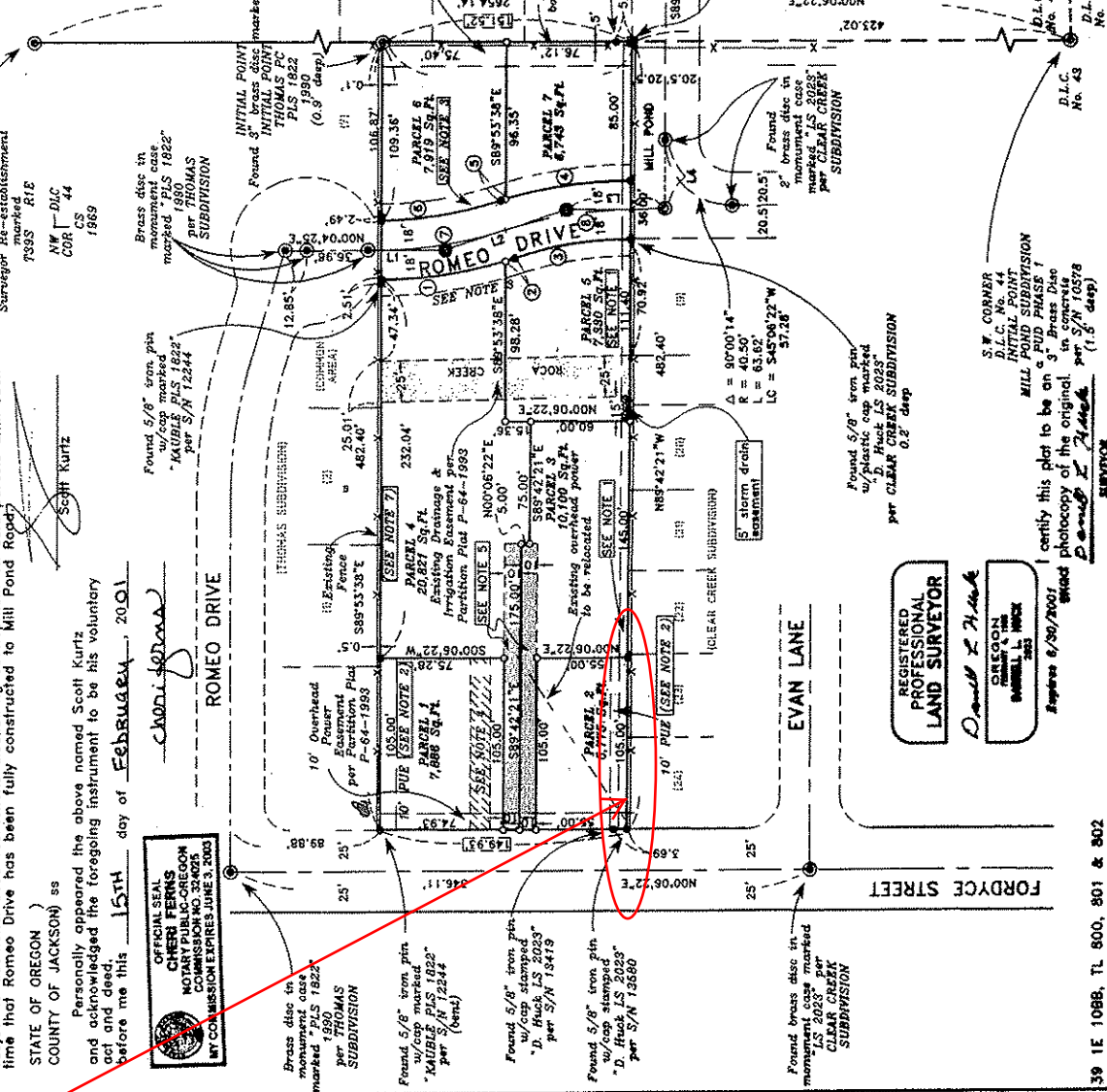
CURVE TABLE

CURVE	DELTA	CHORD	BEARING
1	18° 13' 10"	253.50'	76.50°
2	01° 21' 10"	253.50'	81.13°
3	18° 13' 24"	223.50'	71.09°
4	16° 59' 34"	253.50'	76.95°
5	01° 15' 49"	253.50'	5.72°
6	18° 14' 22"	223.50'	71.15°
7	18° 14' 31"	241.50'	78.89°
8	18° 14' 28"	241.50'	78.89°

LINE TABLE

LINE	DIRECTION	DISTANCE
L1	S00°04'23"W	46.85'
L2	S18°10'08"E	77.54'
L3	S00°04'22"W	59.61'
L4	S89°53'38"E	42.89'

IRRIGATION NOTE:
PARCELS 3, 4 and 5 are subject to irrigation conditions imposed by Talent Irrigation District Certification dated January 19, 2001 TO WIT:
I, the property utilizes the water flowing in Roca Creek without call for additional water at times that Roca Creek drops below demand of the pump
II. At any time in the future that the District no longer uses Roca Creek for irrigation, the property will voluntarily surrender its water rights.
III. Said property is responsible for any structures in the creek that impounds the water and is responsible for operating and maintaining their pump. The district has no responsibility to deliver water to the creek for this property. The source of water for this property will be pumping of the return flows from other lands by TID rights.



Public Utility Easement being Terminated

EXHIBIT "A"
Page 1 of 2

SURVEY NO. **16827**

**SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250
OREGON REVISED STATUTES**

Survey For: Scott Kurtz
676 Liberty Street
Ashland, Oregon 97520

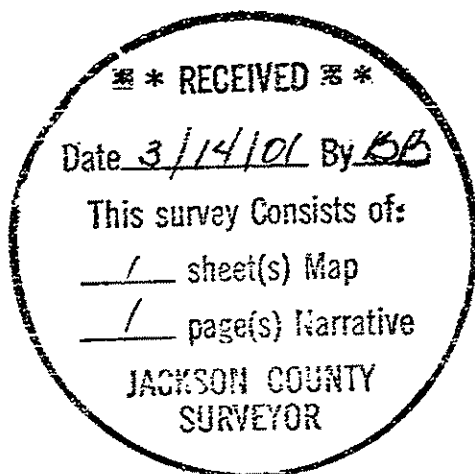
Location: Parcels 1, 2 and 3 of partition recorded February 21, 1997 as Partition Plat No. P-15-1997 "Record of Partition Plats" in Jackson County, Oregon and filed as Survey No. 15292 in the Office of the Jackson County Surveyor; in the Northwest One-Quarter (1/4) of Section 10, Township 39 South, Range 1 East, Willamette Meridian, City of Ashland, Jackson County, Oregon.

Purpose: Scott Kurtz acquired title to Parcels 1, 2 and 3 of Partition Plat P-15-1997 from Carolyn J. Eidman per Instrument No. 00-29387, of the Official Records of Jackson County, Oregon. Each parcel is now being partitioned and the purpose of this survey is to survey, monument and plat the combined partitioning of the 3 parcels as approved by the City of Ashland Planning Department, Planning Action No. 2000-090.

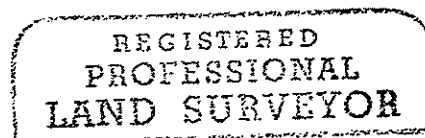
Procedure: Survey control established by this office to accomplish partition P-15-1997, filed as Survey No. 15292 in the Office of the Jackson County Surveyor, was utilized for this partition. The location of the parcel boundaries was computed according to client's direction and monuments were set as shown. Equipment used was a Leica TCA 1800 Total Station.

Basis of Bearing: N.O.A.A. True Meridian at the North-South centerline of Section 10 as derived from the 1968 N.O.A.A. net on file in the Office of the Jackson County Surveyor and as referenced on Filed Survey No. 10578.

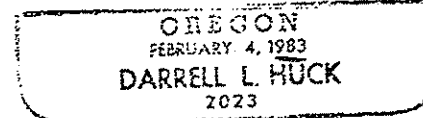
Date: January 5, 2001.



(00-177)
(kurtznrr.dlh) *



Darrell L. Huck



Darrell L. Huck
L.S. 2023 - Oregon
Expires 6/30/01
Hoffbuhr & Associates, Inc.
1062 E. Jackson St.
Medford, OR 97504

EXHIBIT "A"
Page 2 of 2



PW - Encroachment Permit

Permit Number: PW-2017-01307

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Job Address: 560 FORDYCE ST
ASHLAND OR 97520

Owner's Name: MOULDS DONALD G

Customer #: 08277
DAVIS HEARN ANDERSON & TURNER

Applicant: 515 EAST MAIN ST
Address: ASHLAND OR 97520

Phone:

Applied: 07/10/2017

Issued:

Expires: ~~01/06/2018~~ **N/A**

Maplot: 391E10BB803

C
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R

Contractor:
Address:

Phone:

State Lic No:

City Lic No:

Sub-Contractor:

Address:

Phone:

State Lic No:

City Lic No:

DESCRIPTION: To permit existing home at 560 Fordyce St. to encroach on a 10' wide Public Utility Easement burdening south boundary of Parcel I as shown in on Partition Plat P-15-1997

VALUATION

Occupancy Type	Construction	Units	Rate Amt	Actual Amt	Constuction Description
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Total for Valuation:

MECHANICAL

ELECTRICAL

STRUCTURAL

PERMIT FEE DETAIL

Fee Description	Amount	Fee Description	Amount
PW - Encroachment Permit	207.00		

CONDITIONS OF APPROVAL

COMMUNITY DEVELOPMENT
20 East Main St.
Ashland, OR 97520
www.ashland.or.us

Tel: 541-488-5305
Fax: 541-488-5311
TTY: 800-735-2900

Inspection Request Line: 541-552-2080

CITY OF
ASHLAND



PW - Encroachment Permit

Permit Number: PW-2017-01307

I hereby certify the contents of this application to be correct to the best of my knowledge, and furthermore, that I have read, understood and agreed to the following:

1. This permit shall remain valid only in accordance with code or regulation provisions relating to time lapse and revocation (180 days).
2. Work shall not proceed past approved inspection stage. All required inspections shall be called for 24 hours in advance.
3. Any modifications in plans or work shall be reported in advance to the department.
4. Responsibility for complying with all applicable federal, state, or local laws, ordinances, or regulations rests solely with the applicant.

Applicant

Date

Fee Summary

Paid Amounts

Building:	\$	0.00	\$	0.00
State Surcharge:	\$	0.00	\$	0.00
Development Fees:	\$	207.00	\$	207.00
Systems Development Charges:	\$	0.00	\$	0.00
Utility Connection Fees:	\$	0.00	\$	0.00
Public Works Fees:	\$	207.00	\$	207.00
Planning Fees:	\$	0.00	\$	0.00
Sub-Total:	\$			207.00
Fees Paid:	\$			207.00
Total Amount Due:	\$			0

COMMUNITY DEVELOPMENT
20 East Main St.
Ashland, OR 97520
www.ashland.or.us

Tel: 541-488-5305
Fax: 541-488-5311
TTY: 800-735-2900

Inspection Request Line: 541-552-2080

CITY OF
ASHLAND

CITY OF ASHLAND

Date: 7/10/2017

Receipt Number 00030593

Applicant: DAVIS HEARN ANDERSON & TURNER

Account Number: 08277

Type: CHECK # 10355

Description: 560 FORDYCE ENCROACHMENT

Permit Number	Fee Description	Amount
PW-2017-01307	PW - Encroachment Permit	207.00
	Total:	207.00

Community Development
20 E. Main Street
Ashland, Oregon 97520
www.ashland.or.us

Tel: 541/488-5305
Fax: 541-/488-6006
TTY: 800/735-2900



CITY OF ASHLAND
PUBLIC RIGHT-OF-WAY ENCROACHMENT PERMIT

A. Permittee Name: Dariene Housley (Successor Trustee of Donald G. Moulds Rev. Living Trust) and her successors and assigns Address: c/o Chris Hearn (Attorney for Donald Moulds Trust) 515 E. Main St. Ashland, OR 97520 Phone: 541-482-3111 chearn@davishearn.com	B. Premises: 560 Fordyce St. Ashland, OR (39-1E-10BB, Tax Lot 803)
C. Permit begins: To permit existing home at 560 Fordyce Street to encroach on 10' wide Public Utility	D. Payment: \$207.00
E. Purpose: Easement burdening south boundary of Parcel 1 as shown on Partition Plat P-15-1997	
F. Special Conditions:	

1. **DESCRIPTION OF PREMISES:** City permits Permittee to use the property described in Box B above ("the premises") on the terms and conditions stated below.
2. **TERM:** This permit shall begin on the date specified in Box C above and continue until terminated as provided in paragraph 5.
3. **PAYMENT:** Permittee shall pay City the sum specified in Box D above.
4. **PURPOSE:** The premises shall not be used for any other purpose than stated in Box E above. Permittee shall not use or allow the premises to be used for any unlawful purpose whatsoever.
5. **SPECIAL CONDITIONS:** The special conditions set forth in Box F above are made a part of this agreement.
6. **INDEMNIFICATION:** Permittee shall defend, indemnify and save the City of Ashland, its officers, agents, and employees harmless from any losses, claims, expenses, judgments, or other damages resulting from injury to any event participant or other person or damage to property, of whatsoever nature, arising out of or incident to this permit.
7. **IMPROVEMENTS:** Except for the purposes described in Box E above, no improvements shall be placed in or on the premises, and no alterations shall be made on the premises without the prior written consent of City. All improvements shall be made at the sole expense of Permittee. All improvements made by Permittee on the premises shall be and remain the property of Permittee. Permittee shall secure all necessary permits and licenses required in connection with the premises and shall comply with all federal, state, and local statutes, ordinances, and regulations that may concern, in any way, Permittee's use of the premises.
8. **TAXES, UTILITIES, MAINTENANCE:** Permittee shall be responsible for all taxes and assessments, if any, on all real and personal property and improvements on the premises, including real property belonging to City. Permittee shall pay for all utility services furnished to the premises. Permittee shall, at its sole expense, keep and maintain the premises at all times in an orderly, clean, and safe condition.

9. ASSIGNMENT: The provisions of this permit and all of its obligations and rights shall bind any assignee or legal successor of Permittee, and any purchaser or transferee of any interest of Permittee's in the property described in box E above. Permittee shall execute and acknowledge a memorandum of this permit as it affects the property described in Box E above in a form suitable for recording, and City may record the memorandum.

10. RIGHT OF ENTRY: City specifically reserves the right to enter and occupy the premises upon failure of Permittee to comply with any provision of this permit. City also reserves the right to enter the premises for purposes of inspection and to determine whether Permittee is complying with the provisions of this agreement and to perform acts necessary or proper for the protection, preservation, maintenance, reconstruction, and operation of the public right-of-way.

11. TERMINATION: In the event of breach of any of these permit terms, City shall have the right to immediately terminate this permit, to re-enter and repossess the premises, and to hold the same as though this permit had never been made or issued. In addition, this permit may be terminated as to all or part of the premises when needed for public purposes, or when the City determines that it is in the public's best interest, upon giving of a 30-day written notice to Permittee of its intent to terminate same. In the event of such termination, Permittee waives its rights to make a claim for any losses or damages suffered thereby. In the event of termination, regardless of how effected, Permittee shall, by the date of the termination, peaceably and quietly leave, vacate completely and surrender the premises, removing those improvements and fixtures placed or made by Permittee. If any improvements or fixtures are not removed from the premises and the premises are not completely vacated by the termination date, City may proceed to remove the same, and Permittee shall pay City, upon demand, the reasonable cost to City of such removal.

12. WAIVER: Time is of the essence of every provision of this permit. Failure of City to object to the violation of any provision of this permit shall not be deemed a waiver by City of a subsequent similar breach or of City's right to demand strict performance by Permittee.

Date: 06 July 2017

Date: _____

Signed: [Signature]

Signed: _____

Permittee, Christian E. Hearn, OSB # 911824 Permittee,

ATTORNEY FOR DONALD G. MOULDS REVOCABLE LIVING TRUST.

Permit granted this 11th day of July, 2017, for the above named Permittee to use the premises on the terms specified above.

[Signature] **DESIGNEE**
Title: Director of Public Works

JACK DAVIS
CHRISTIAN E. HEARN
EUGENE V. ANDERSON
GARRISON F. TURNER

**DAVIS HEARN
ANDERSON & TURNER**
ATTORNEYS AT LAW
a professional corporation

SAM B. DAVIS - Retired
SIDNEY E. AINSWORTH (1927-2003)
DONALD M. PINNOCK - Retired
DANIEL L. HARRIS - Retired
DAVID V. GILSTRAP - Retired
SUSAN V. SALADOFF - Retired
JEFFREY K. MCCOLLUM - Retired

Established 1953

515 E. MAIN ST. | ASHLAND, OREGON 97520
PHONE: 541.482.3111 | FAX: 541.488.4455
www.davishearn.com

July 6, 2017

Transmitted by Email & First Class Mail

TO: Scott Fleury, Engineering Services Manager
City of Ashland, Public Works Dept.
51 Winburn Way | Ashland, OR 97520

FROM: Chris Hearn | OSB # 911829 (chearn@davishearn.com)
DAVIS HEARN ANDERSON & TURNER PC (www.davishearn.com)

RE: Termination/Vacation of Unused Public Utility Easement
Our Client: Darlene Housley, Successor Trustee
Donald G. Moulds Revocable Living Trust
Subject Property: 560 Fordyce Street
Assessor's Map: 39-1E-10BB, Tax Lot #803
(Request for Encroachment Permit and Termination / Vacation of
Public Utility Easement at 560 Fordyce Street)

Dear Scott:

This follows our phone conversation concerning termination / vacation of City's unused existing 10' wide Public Utility Easement running along the southern boundary of the property at **560 Fordyce Street** (39-1E-10BB, Tax Lot 803).

This Public Utility Easement was created by the original Partition Plat **P-15-1997**, which created the lot back in 1997 (Survey No. 15292).

Information and Documentation Attached. I'm providing (below) some pertinent background information, and also attaching courtesy copies of relevant documentation for your review.

DAVIS HEARN ANDERSON & TURNER PC
515 E. MAIN ST. | ASHLAND, OREGON 97520
P: 541.482.3111 | F: 541.488.4455 | www.davishearn.com

Page -2-

Scott Fleury, Engineering Services Manager
City of Ashland Public Works Dept.
July 6, 2017

Encroachment Permit. In the short term, we would very much appreciate City's issuance of an **Encroachment Permit**, pending City's review, processing and (hopefully) approval of a quitclaim deed terminating the relevant unused Public Utility Easement. *Attached please find a completed Encroachment Permit form, along with the relevant City fee (\$207) for the Encroachment Permit.*

Quitclaim Deed Terminating / Vacating Public Utility Easement.

We're also respectfully requesting that the relevant Public Utility Easement be vacated / terminated by City following review by Staff and approval by Council. *Attached please find Quitclaim Deed terminating the relevant Public Utility Easement.*

BACKGROUND

Darlene Housley. Our client is Darlene Housley. Darlene Housley was named the "Successor Trustee" in her brother's living trust (Donald G. Moulds Revocable Living Trust). Sadly, Ms. Housley's brother, Donald Moulds, passed away this Spring. The home at 560 Fordyce Street was Mr. Mould's personal residence. Ms. Housley lives in Maryland but, as Successor Trustee of her brother's living trust, it's now her job to sell her brother's home at 560 Fordyce Street so that she may settle his estate.

Pending Sale of Home in May. Ms. Housley listed the property at 560 Fordyce Street (the "Property") for sale with Gateway Real Estate. A few weeks ago, she received an offer from an interested buyer, which she accepted on behalf of the Trust.

Discovery of Encroachment on Unused 10'-wide Public Utility Easement.

During escrow, however, Ms. Housley learned that her brother's home at 560 Fordyce Street – constructed during 2004-2005 – apparently encroaches approximately 3.5 feet into a 10-foot-wide Public Utility Easement running along the southern boundary of the Property, as identified and depicted on Partition Plat No. P-15-1997 (Survey No. 15292). **See: attached Exhibit "1" (Partition Plat No. P-15-1997).**

1997 Partition Plat Provided Public Utility Easement. The relevant 10-foot-wide Public Utility Easement runs along the south boundary of the 560 Fordyce Street Property. (The Property is identified as "Parcel 1" in the 1997 Partition Plat drafted by surveyor Darrell Huck of Hoffbuhr & Assoc. on behalf of the developer, Scott Kurtz.) **See: attached Exhibit "1" (Partition Plat No. P-15-1997).**

Page -3-

Scott Fleury, Engineering Services Manager
City of Ashland Public Works Dept.
July 6, 2017

As a result of the buyer's discovery that the home at 560 Fordyce Street apparently encroaches about 3.5 feet into the 10-foot-wide Public Utility Easement identified on Partition Plat No. P-15-1997 (and Partition Plat P-13-2001), the buyer declined to close escrow. Ms. Housley lost the sale.

In order to sell her brother's home at 560 Fordyce and settle his estate, Ms. Housley needs to clear up this easement encroachment issue.

"Utility Locate" Reveals No Utilities within Easement Area. First, Ms. Housley called for a "utilities locate" in the area of the 10-foot-wide Public Utility Easement, which revealed no utilities in the Easement area -- although it did locate an old Talent Irrigation District (TID) overflow line within the easement area (but not under the home itself). TID vacated/terminated its easement via a TID Quitclaim Deed recorded February 4, 2005 -- so that's not an issue. ***See: attached Exhibit "4" -- Quitclaim Deed from Talent Irrigation District recorded February 4, 2005, and relinquishing / terminating TID's Irrigation Line Easement.***

Information Provided by Surveyor Darrell Huck of Hoffbuhr & Associates. A few weeks ago, when this matter came to light, I contacted surveyor Darrell Huck of Hoffbuhr & Associates. It was Darrell Huck who drafted and recorded both Partition Plats back in 1997 and 2001 for the developer, Scott Kurtz. ***See: attached Exhibit "1" (Partition Plat No. P-15-1997); and Exhibit "2" (Partition Plat P-13-2001).***

Surveyor Darrell Huck retained his files associated with both his 1997 and 2001 survey work in connection with generating the respective Partition Plats. Mr. Huck was kind enough to research the situation and provide the following history and suggestions:

"The easement in question was originally created on Parcel 1 of Partition Plat No. P-15-1997, file as Survey No. 15292. [Exhibit "1".]

"At that time it was anticipated that this easement would need to provide utility access to Parcel 2 of the Partition.

"In 2001 the property was again partitioned by partition Plat No. P-13-2001 which created Parcel 2 (Tax Lot 803) and Parcel 3 (tax lot 804) in their current configurations. [Exhibit "2".]

Page -4-

Scott Fleury, Engineering Services Manager
City of Ashland Public Works Dept.
July 6, 2017

“With this second (2001) partition, the flag pole portion of Tax Lot 804 was created as an ingress/egress easement and was also dedicated as a public utility easement – thereby removing the need for the 10 foot PUE that had been previously created along the south line of Tax Lot 803.

“If no utilities exist in the previously-created PUE, along the south line of Tax Lot 803, it would be possible to contact the City of Ashland to have them relinquish their interest in the easement and make it go away. In the past, this has been done through a quit claim deed whereby the City quit claims any right, title, or interest in the area of concern.

“You might want to contact Brad Barber at City Engineering to discuss the process.”

Darrell Huck, Hoffbuhr & Associates

See: attached Exhibit “3” – email from surveyor Darrell Huck of Hoffbuhr & Associates dated May 30, 2017.

Partition Plats P-15-1997 and P-13-2001. Copies of Darrell Huck’s two Partition Plats attached as Exhibit “1” and Exhibit “2” for your easy reference.

Public Records Request to City Community Development – Planning and Building Divisions. In an effort to discover what documents the City of Ashland retained which might shed light on the issue, we sent a Public Records Request to the City. In response, we received the only documents the City has retained, which include the building permit and inspection history and certificate of occupancy issued for 560 Fordyce Street. ***See: attached Exhibit “5” – Public Records Request to City of Ashland; and Documents Provided by City in Response.***

City Issued Building Permits and Certificate of Occupancy for Home in Existing Location. City’s Building Division issued permits for construction of the home at 560 Fordyce Street in its current location. ***See: attached Exhibit “5”.*** The home was thereafter inspected and received a certificate of occupancy issues in 2004-2005. However, it now appears the home encroaches about 3.5 feet onto the unused Public Utility Easement.

SUMMARY

1. **Utilities Ultimately Installed North of Property.** Based upon our research and investigation conducted, including discussions with Surveyor Darrell Huck of Hoffbuhr & Associates (who did the relevant survey work and drafted the relevant 1997 and 2001 Partition Plats for developer Scott Kurtz), our belief is that the City requested the 10-foot-wide Public Utility Easement from developer Scott Kurtz back in 1997 in connection with the initial Partition Plat No. P-15-1997 – which created 560 Fordyce Street as “Parcel 1”. However, the second partition in 2001 creating the flag lots to the north provided a better path for placement of the necessary utilities, which were ultimately installed north of 560 Fordyce Street rather than in the Public Utility Easement originally created in connection with the 1997 partition. In 2001, in connection with a second Partition Plat by developer Scott Kurtz, two additional flag lots were created. We believe the relevant City utilities were actually installed to the north of 560 Fordyce Street, as indicated in Partition Plat P-13-2001 (per Surveyor Darrell Huck’s email, attached). In short, the 2001 partition provided a better location for the necessary utilities, so the Public Utility Easement identified in the 1997 Partition Plat became unnecessary.
2. **Utilities Locate.** Based on the “Utility Locate” ordered by Ms. Housley, no City of Ashland utilities were ever installed within the 10-foot-wide Public Utility Easement along the south boundary of 560 Fordyce Street.
3. **Home Constructed 2004-2005.** Mr. Mould’s home at 560 Fordyce was constructed in 2004-2005 in the location which apparently encroaches approximately 3.5 feet over onto the unused Public Utility Easement granted on Partition Plat P-15-1997, and carried forward on Partition Plat P-13-2001. *Exhibit “1” and Exhibit “2”.*
5. **Talent Irrigation Easement Vacated/Terminated.** The only development within the Public Utility Easement Area is an old Talent Irrigation District overflow line, but the easement for the TID line was terminated by Quitclaim Deed recorded February 4, 2005 as Document No. 2005-006389. ***See: attached Exhibit “4” – Quitclaim Deed from Talent Irrigation District relinquishing and terminating Irrigation Line Easement.***

Page -6-

Scott Fleury, Engineering Services Manager
City of Ashland Public Works Dept.
July 6, 2017

CONCLUSION

Your assistance in resolving this matter and obtaining approval for the City to execute the enclosed Quitclaim Deed vacating the now-unnecessary Public Utility Easement would be most appreciated, and would enable Ms. Housley to sell her brother's property and settle his estate.

In the meantime, issuance of the enclosed Encroachment Permit would be of interim assistance since the existing home at 560 Fordyce Street apparently encroaches into the Easement area. ***See: Enclosed check #10355 for the \$207.00 fee payable to City of Ashland for the Encroachment Permit.***

As always, please let me know if you have questions or concerns or require further information or documentation.

Sincerely,
DAVIS HEARN ANDERSON & TURNER PC



CHRISTIAN E. HEARN
chearn@davishearn.com

Enclosures/Attachments:

Check # 10355 for \$207 payable to City of Ashland for Encroachment Permit;
Quitclaim Deed;
Completed City of Ashland Encroachment Permit Application Form;
Exhibit "1": Partition Plat No. P-15-1997;
Exhibit "2": Partition Plat No. P-13-2001;
Exhibit "3": Email from surveyor Darrell Huck of Hoffbuhr & Associates
(Mr. Huck drafted Partition Plats P-15-1997 and P-13-2001);
Exhibit "4": Talent Irrigation District Quitclaim Deed to Donald Moulds;
Exhibit "5": Request for Public Records to City of Ashland and documents
produced by City in response to public records request

cc: Darlene Housley (Successor Trustee of Donald G. Moulds Revocable Living Trust)
Helen Whitcomb (Broker, Gateway Real Estate)

Recording Requested By:

City of Ashland, Oregon
Engineering Dept
20 E. Main Street
Ashland, OR 97520

When Recorded Mail To:

Christian E. Hearn, Attorney (OSB #911829)
Davis, Hearn, Anderson & Turner, P.C.
515 E. Main St.
Ashland, OR 97520

(This Space for Recorder's Use)

QUITCLAIM DEED

1. THE CITY OF ASHLAND, OREGON, hereby releases and quitclaims unto DARLENE HOUSLEY, AS SUCCESSOR TRUSTEE OF THE DONALD G. MOULDS REVOCABLE LIVING TRUST, all the said City's right, title, and interest in and to that certain 10'-wide Public Utility Easement burdening the southerly boundary of Parcel No. Two (2) of Partition Plat No. P-13-2001 recorded March 14, 2001, in the Record of Partition Plats in Jackson County, Oregon, and filed as Survey No. 16827 in the office of the Jackson County Surveyor. Said Public Utility Easement being vacated and terminated herein is identified as indicated on the copy of the Partition Plat No. P-13-2001, attached hereto as Exhibit "A", located in the City of Ashland, Jackson County, Oregon.
2. This Quitclaim Deed is being provided in order to vacate and terminate the above-described Public Utility Easement, having been incorrectly located, and so there is no consideration for this vacation.

CITY OF ASHLAND, OREGON MAYOR:

JOHN STROMBERG

Dated: _____

CITY OF ASHLAND, OREGON RECORDER:

BARBARA CHRISTENSEN

Dated _____

[NOTARY ACKNOWLEDGMENTS ON NEXT PAGE]

STATE OF OREGON)
) §
County of Jackson)

On _____, 20____, before me, the undersigned Notary Public, personally appeared the above named **JOHN STROMBERG**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this **Quitclaim Deed**, and acknowledged that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

WITNESS MY HAND AND OFFICIAL SEAL

Notary Public in and for the State of Oregon
My Commission Expires: _____

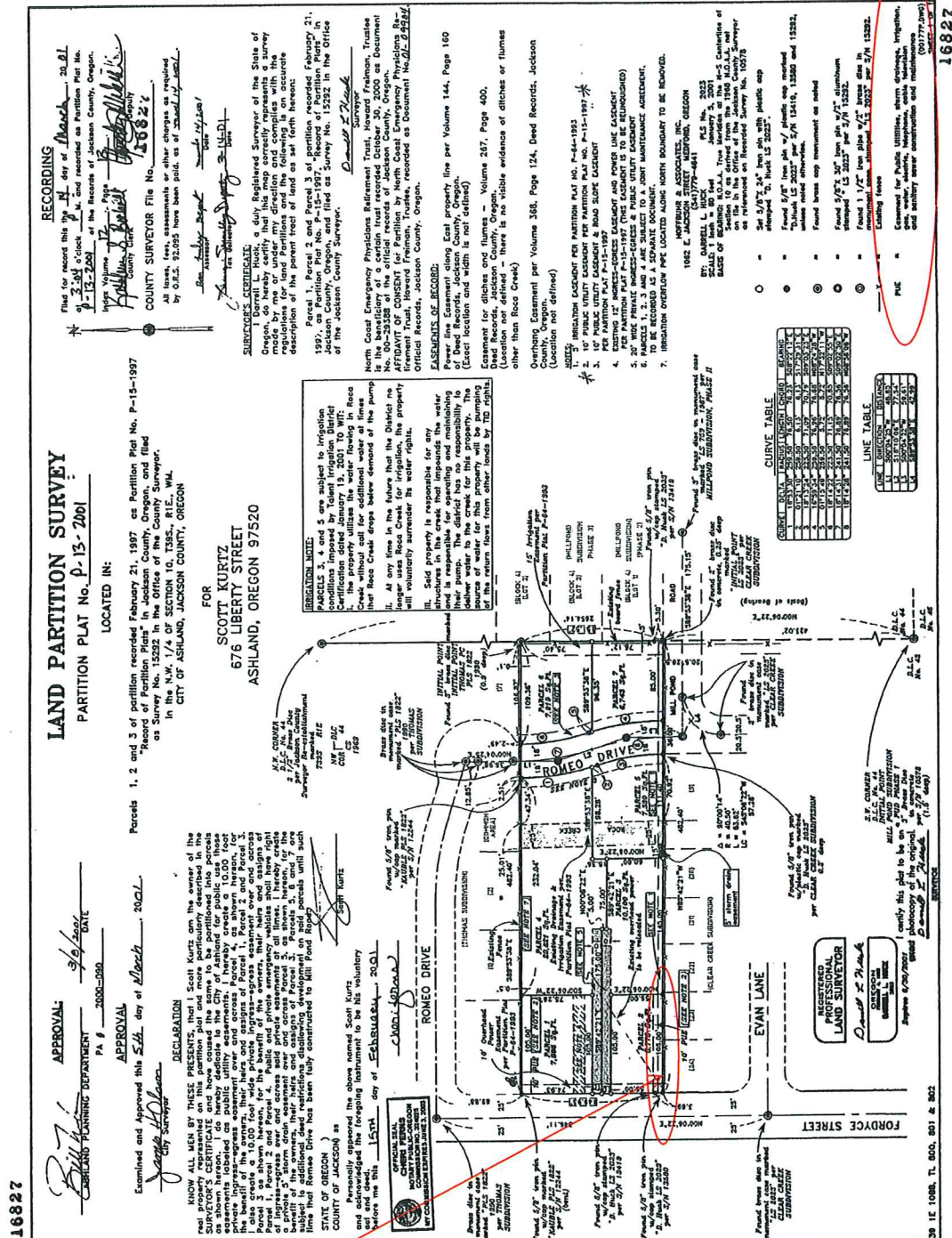
STAGTE OF OREGON)
) §
County of Jackson)

On _____, 20____, before me, the undersigned Notary Public, personally appeared the above named **BARBARA CHRISTENSEN**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this **Quitclaim Deed**, and acknowledged that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

WITNESS MY HAND AND OFFICIAL SEAL

Notary Public in and for the State of Oregon
My Commission Expires: _____

EXHIBIT "A"



Public Utility Easement being Terminated

SURVEY NO. **16827**

**SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250
OREGON REVISED STATUTES**

Survey For: Scott Kurtz
676 Liberty Street
Ashland, Oregon 97520

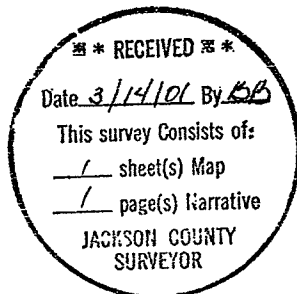
Location: Parcels 1, 2 and 3 of partition recorded February 21, 1997 as Partition Plat No. P-15-1997 "Record of Partition Plats" in Jackson County, Oregon and filed as Survey No. 15292 in the Office of the Jackson County Surveyor; in the Northwest One-Quarter (1/4) of Section 10, Township 39 South, Range 1 East, Willamette Meridian, City of Ashland, Jackson County, Oregon.

Purpose: Scott Kurtz acquired title to Parcels 1, 2 and 3 of Partition Plat P-15-1997 from Carolyn J. Eidman per Instrument No. 00-29387, of the Official Records of Jackson County, Oregon. Each parcel is now being partitioned and the purpose of this survey is to survey, monument and plat the combined partitioning of the 3 parcels as approved by the City of Ashland Planning Department, Planning Action No. 2000-090.

Procedure: Survey control established by this office to accomplish partition P-15-1997, filed as Survey No. 15292 in the Office of the Jackson County Surveyor, was utilized for this partition. The location of the parcel boundaries was computed according to client's direction and monuments were set as shown. Equipment used was a Leica TCA 1800 Total Station.

Basis of Bearing: N.O.A.A. True Meridian at the North-South centerline of Section 10 as derived from the 1968 N.O.A.A. net on file in the Office of the Jackson County Surveyor and as referenced on Filed Survey No. 10578.

Date: January 5, 2001.



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Darrell L. Huck

OREGON
FEBRUARY 4, 1983
DARRELL L. HUCK
2023

Darrell L. Huck
L.S. 2023 - Oregon
Expires 6/30/01
Hoffbuhr & Associates, Inc.
1062 E. Jackson St.
Medford, OR. 97504

(00-177)
(kurtznrr.dlh) *

EXHIBIT "A"
Page 2 of 2

15202

LAND PARTITION SURVEY

PARTITION PLAT NO. P-15-1997

LOCATED IN:

Parcel 1 of partition recorded July 27, 1993 as Partition Plat No. P-64-1993, "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 13580 in the Office of the County Surveyor, in the N.W. 1/4 OF SECTION 10, T38S., R1E., W4.

Examined and Approved this 6th day of Feb., 1997.

City Surveyor

CAROLYN J. EIDMAN -
556 FORDYCE STREET
ASHLAND, OREGON 97520

FOR

APPROVAL:

ASHLAND PLANNING DEPARTMENT

PA #

95-027

DATE

2/12/97

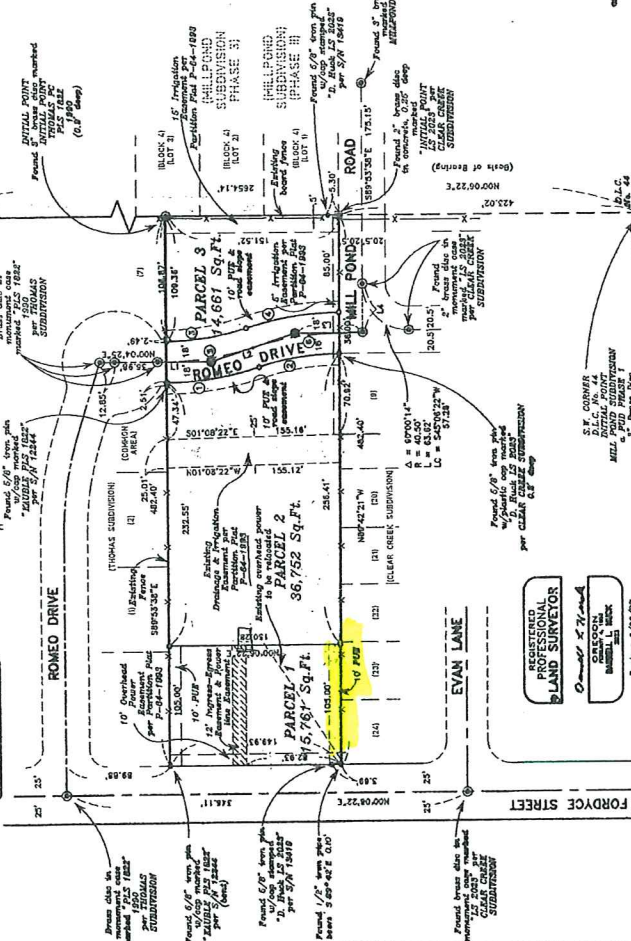
APPROVAL

CURVE TABLE

CURVE DATA	BEARING
1. 107.15°	107.15°
2. 107.15°	107.15°
3. 107.15°	107.15°
4. 107.15°	107.15°
5. 107.15°	107.15°
6. 107.15°	107.15°
7. 107.15°	107.15°
8. 107.15°	107.15°

LINE TABLE

LINE	DIRECTION	DISTANCE
1	S 89° 10' 00" E	75.54
2	S 89° 10' 00" E	75.54
3	S 89° 10' 00" E	75.54
4	S 89° 10' 00" E	75.54
5	S 89° 10' 00" E	75.54
6	S 89° 10' 00" E	75.54
7	S 89° 10' 00" E	75.54
8	S 89° 10' 00" E	75.54



RECORDING
This plat was recorded on 2/12/97 at 10:24 AM in the Office of the County Surveyor, Jackson County, Oregon.
Index Volume 8 Page 15
Northwest 1/4 Section 10, T38S., R1E., W4.
COUNTY SURVEYOR File No. 15292

County Surveyor
All taxes, fees, assessments or other charges as required by O.S. 42.05 have been paid as of 2-20-97.
2/20/97
Carolyn J. Eidman
City Surveyor

SURVEYOR'S CERTIFICATE:
I, Carolyn J. Eidman, a duly Registered Surveyor of the State of Oregon, do hereby certify that this plat represents a survey made by me and complies with the regulations for Minor Land Partitions and the following is an accurate description of the parent tract of land as set forth herein:
Parcel One (1) of partition recorded July 27, 1993 as Partition Plat No. P-64-1993, "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 13580 in the Office of the County Surveyor.

EASEMENTS OF RECORD:
Power line Easement along East property line per Volume 144, Page 180 of Deed Records, Jackson County, Oregon.
Easement for ditches and flumes - offsets Parcel 1 - Volume 267, Page 180 of Deed Records, Jackson County, Oregon.
Overhang Easement per Volume 368, Page 124, Deed Records, Jackson County, Oregon.
(Location not defined)

KNOW ALL MEN BY THESE PRESENTS, that I, Carolyn J. Eidman, on the one hand, do hereby certify and acknowledge that the foregoing instrument is the true and correct copy of the original instrument as the same is on file in the Office of the County Surveyor, Jackson County, Oregon, and that the same is a true and correct copy of the original instrument as the same is on file in the Office of the County Surveyor, Jackson County, Oregon.

STATE OF OREGON
COUNTY OF JACKSON
I, Carolyn J. Eidman, do hereby certify and acknowledge that the foregoing instrument is the true and correct copy of the original instrument as the same is on file in the Office of the County Surveyor, Jackson County, Oregon, and that the same is a true and correct copy of the original instrument as the same is on file in the Office of the County Surveyor, Jackson County, Oregon.

OFFICIAL SEAL
CAROLYN J. EIDMAN
COUNTY SURVEYOR
JACKSON COUNTY, OREGON
RECORDED
2/20/97

1002 E. JACKSON
JACKSON COUNTY, OREGON
RECORDED
2/20/97

1002 E. JACKSON
JACKSON COUNTY, OREGON
RECORDED
2/20/97

APPROVED
I certify this plat to be an exact photocopy of the original.
Carolyn J. Eidman
City Surveyor

RECORDED
JACKSON COUNTY, OREGON
RECORDED
2/20/97

RECORDED
JACKSON COUNTY, OREGON
RECORDED
2/20/97

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2/20/97

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RECORDED
2/20/97

RECORDED
JACKSON COUNTY, OREGON
RECORDED
2/20/97

SURVEY NO. 15292

SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250
OREGON REVISED STATUTES

SURVEY FOR: Carolyn J. Eidman
554 Fordyce Street
Ashland, OR 97520

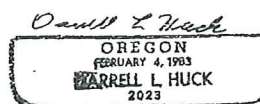
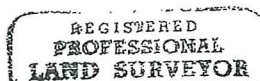
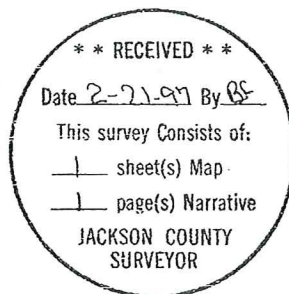
LOCATION: the Northwest one-quarter (1/4) of Section 10, Township 39 South, Range
1 East, willamette Meridian, City of Ashland, Jackson County, Oregon

PURPOSE: to survey and monument a land partition as approved by the City of Ashland
Planning Department (P.A. # 95-027)

PROCEDURE: the boundary of the property being partitioned has been previously surveyed
and monumented by this office per Survey No. 13580. Control established to accomplish that survey
was used for this partition. A one second theodolite and electronic distance measuring equipment
was used.

BASIS OF BEARING: N.O.A.A. True Meridian at the N-S centerline of Section 10, as derived from
the 1968 N.O.A.A. net on file in the office of the Jackson County Surveyor
and as referenced on Recorded Survey No. 10578

DATE: November 25, 1996



Darrell L. Huck
L.S. 2023 - Oregon
Expires 6/30/97
Hoffbuhr & Associates, Inc.
1062 Jackson Street
Medford, Oregon 97504

Exhibit 1
Page 2 of 2

SURVEY NO. **16827**

**SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250
OREGON REVISED STATUTES**

Survey For: Scott Kurtz
676 Liberty Street
Ashland, Oregon 97520

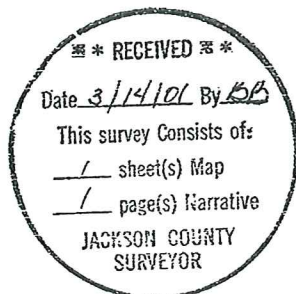
Location: Parcels 1, 2 and 3 of partition recorded February 21, 1997 as Partition Plat No. P-15-1997 "Record of Partition Plats" in Jackson County, Oregon and filed as Survey No. 15292 in the Office of the Jackson County Surveyor; in the Northwest One-Quarter (1/4) of Section 10, Township 39 South, Range 1 East, Willamette Meridian, City of Ashland, Jackson County, Oregon.

Purpose: Scott Kurtz acquired title to Parcels 1, 2 and 3 of Partition Plat P-15-1997 from Carolyn J. Eidman per Instrument No. 00-29387, of the Official Records of Jackson County, Oregon. Each parcel is now being partitioned and the purpose of this survey is to survey, monument and plat the combined partitioning of the 3 parcels as approved by the City of Ashland Planning Department, Planning Action No. 2000-090.

Procedure: Survey control established by this office to accomplish partition P-15-1997, filed as Survey No. 15292 in the Office of the Jackson County Surveyor, was utilized for this partition. The location of the parcel boundaries was computed according to client's direction and monuments were set as shown. Equipment used was a Leica TCA 1800 Total Station.

Basis of Bearing: N.O.A.A. True Meridian at the North-South centerline of Section 10 as derived from the 1968 N.O.A.A. net on file in the Office of the Jackson County Surveyor and as referenced on Filed Survey No. 10578.

Date: January 5, 2001.



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Darrell L. Huck
OREGON
FEBRUARY 4, 1983
DARRELL L. HUCK
2023

Darrell L. Huck
L.S. 2023 - Oregon
Expires 6/30/01
Hoffbuhr & Associates, Inc.
1062 E. Jackson St.
Medford, OR. 97504

(00-177)
(kurtznrr.dlh) *

Exhibit **"2"**
Page **2** of **2**

**Email from Surveyor Darrell Huck of Hofbuhr & Assoc.
re: Vacating Unnecessary Public Utility Easement at 560 Fordyce St.**

From: [Darrell Huck](#)
To: [Chris Hearn](#)
Subject: RE: 560 Fordyce Street (Client: Darlene Housley, successor trustee - mould rlt)
Date: Tuesday, May 30, 2017 9:07:28 AM

Chris,

The easement in question was originally created on Parcel 1 of Partition Plat No. P-15-1997, file as survey no. 15292. At that time it was anticipated that this easement would need to provide utility access to Parcel 2 of the Partition. In 2001 the property was again partitioned by partition Plat No. P-13-2001 which created Parcel 2 (Tax Lot 803) and Parcel 3 (tax lot 804) in their current configurations. With this second partition, the flag pole portion of Tax Lot 804 was created as an ingress/egress easement and was also dedicated as a public utility easement – thereby removing the need for the 10 foot pue that had been previously created along the south line of Tax Lot 803. IF NO UTILITIES exist in the previously created PUE, along the south line of Tax Lot 803, it would be possible to contact the City of Ashland to have them relinquish their interest in the easement and make it go away. In the past, this has been done through a quit claim deed whereby the City quit claims any right, title, or interest in the area of concern. You might want to contact Brad Barber at City Engineering to discuss the process.

Darrell Huck
 Hoffbuhr & Associates, Inc
 880 Golf View Drive ste 201
 Medford, Or. 97504
 541-779-4641

From: Chris Hearn [mailto:chearn@davishearn.com]
Sent: Friday, May 26, 2017 2:47 PM
To: Huck Darrell <dlh@hoffbuhr.com>
Cc: Darlene Housley <darlenemhousley@atlanticbb.net>; Dawn Caldwell
 <dcaldwell@davishearn.com>
Subject: 560 Fordyce Street (Client: Darlene Housley, successor trustee - mould rlt)

Darrell:

Just checking in to see if you were able to locate any of your file materials associated with partition resulting in lot now known as 560 Fordyce Street in Ashland. This follows our telephone conference earlier this week .

Client Darlene Housley now owns the property (in her capacity as successor trustee). The home 8560 Fordyce Street was apparently built encroaching approximately 3 feet over the 10 foot wide public utility easement -- which runs along the southern boundary of the parcel. We don't believe any public utilities were ever installed in the easement area.

Ms. Housley just lost a pending sale due to presumed encroachment. We are trying to clear up the public utility easement issue so the property may be sold. We are thinking if we can determine where and when the easement originated, and obtain further background

Exhibit "3"
 Page 1 of 2

information, then we can petition City of Ashland to vacate same.

Please let me know if you require additional information.

Thanks! ... and enjoy the long weekend,
Chris Hearn
Davis Hearn Anderson & Turner PC
(sent from Android smartphone device)

Exhibit "3"
Page 2 of 2

EXHIBIT

4

40g0401343ja

After recording return to:

Lawyers Title Insurance Corporation
1555 E. McAndrews Road, Suite 100
Medford OR 97504

Until a change is requested, all tax statements
shall be sent to Grantee at the following address:

No change

Jackson County Official Records 2005-006389

R-QCD

Cnt=1 SIn=10 CUTTING

\$10.00 \$5.00 \$11.00

02/04/2005 08:02:30 AM

Total:\$26.00



01088206200500063890020029

I Kathleen S. Beckett, County Clerk for Jackson County, Oregon,
certify that the instrument identified herein was recorded in the Clerk
records.

Kathleen S. Beckett - County Clerk

STATUTORY QUITCLAIM DEED

Talent Irrigation District

, Grantor, releases and quitclaims to
Donald G. Moulds

, Grantee, the following described real property:
See Exhibit "A" attached hereto and made a part hereof

The true consideration for this conveyance is \$ 0.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 31st day of January, 2005.

[Signature]

Jim Pendleton / Secretary, Manager

STATE OF OREGON

COUNTY OF Jackson

The foregoing instrument was acknowledged before me this 31st day of January, 2005, by

[Signature]
Notary Public for Oregon
My commission expires Dec 28, 2007



Exhibit

4

Page 1 of 2

2

EXHIBIT A

Talent Irrigation District Quitclaim

That certain 5' Irrigation Easement dedicated to Talent Irrigation District on partition plat recorded July 27, 1993 as Partition Plat No. P-64-1993 in "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 13580 in the Office of the Jackson County Surveyor, and as noted on partition plat recorded March 14, 2001 as Partition Plat No. P-13-2001 in "Record of Partition Plats" in Jackson County, Oregon, and filed as Survey No. 16827 in the Office of the Jackson County Surveyor, as it affects Parcel 2 of said Partition Plat No. P-13-2001.

This document in no way diminishes any other rights or easements with Talent Irrigation District.

391E10BB 803

2

Exhibit 4
Page 2 of 2



20 East Main St
Ashland, OR 97520

EXHIBIT "5"

REQUEST FOR PUBLIC RECORDS

The following information is to be filled out by the person requesting records:

Date of Request: 05/24/2017

Requestor's Name: Christian E. Hearn, OSB #911829; Davis, Hearn, Anderson & Turner

Requestor's Address: 515 East Main St. | chearn@davishearn.com

City: Ashland State: OR Zip: 97520 Phone: 541-482-3111

Please feel free to call Chris Hearn or Dawn Caldwell with any questions -- 541-482-3111

If this is an emergency request, indicate the date desired and please describe the nature of the emergency:

Not an "emergency" but deceased owner's sister (successor trustee) has a pending sale of property at 560 Fordyce Street and we are trying to help her clear up a public utility easement issue as quickly as possible. See below. Thanks.

RECORDS REQUESTED: Subject Address: 560 Fordyce St., Ashland | 39-1E-10BB, Tax Lot 803

1. Planning Division Documents:

Document Description: Any and all documents pertaining to 560 Fordyce Street planning actions,

including all planning files involving applications and approvals for

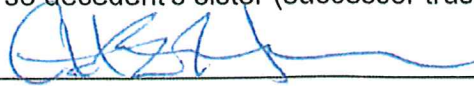
partition of land involving the parcel now known as 560 Fordyce St.

2. Building Division Documents:

All documents pertaining to building permits for placement of dwelling on the portion of the lot where the existing residence was constructed.

Please describe any additional information that will help us locate the records for you as quickly as possible:

Owner of 560 Fordyce (Mr. Moulds) recently passed away. His sister (successor trustee) has pending sale. Buyer states location where existing home constructed encroaches approx. 3' within "Public Utility Easement" identified on Plat. We need information in effort to clear title to 560 Fordyce Street so decedent's sister (successor trustee) may sell property and move on with her life.

Requestor's Signature:  Date: 05/24/2017

Christian E. Hearn | OSB #911829 | Davis Hearn Anderson Turner pc

For City Use Only

Staff person who received the Request: _____ Date: _____

Number of Copies: _____ Total Charge: _____

Staff person who provided the records: _____

Date: _____ Client Name Receiving records: _____

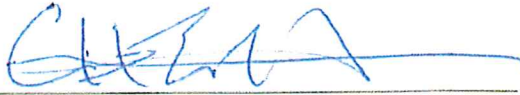
Please don't hesitate to contact us with any questions or concerns Thanks, Chris Hearn / Dawn Caldwell

COPYRIGHTED RECORDS USE FORM

The plans or documents that are in the record which you wish to copy are copyrighted works. Under the fair use doctrine, 17 USC §107, *et seq.*, copyrighted materials may be reproduced for the purposes of furthering a legislative or judicial hearing. Land Use hearings in Oregon are quasi-judicial in nature. Copies of copyrighted materials may be made available for the sole purpose of furthering comment or testimony on the proposed project before the hearings official(s).

In requesting copies of copyrighted materials submitted in Planning Action No. _____, I hereby certify that I understand the materials are only being made available under the fair use doctrine. I further certify that I will use the materials solely for the purpose of reviewing the proposed project for its compliance with applicable land use criteria. I certify that I will not otherwise reproduce, reuse, sell, transfer or otherwise utilize the materials in any manner that would infringe upon the copyright owner's rights. Once the quasi-judicial process on the proposed action has reached its final conclusion or when I have finished my use of the copyrighted materials, whichever occurs first, I agree to either return copies of the copyrighted materials to the City of Ashland, Community Development Department or to destroy the copyrighted materials.


By:



Date: 05/24/2017

Printed Name: Christian E. Hearn, OSB #911829

EXHIBIT "A" TO PUBLIC RECORDS REQUEST

Account Sequence	Map TL Sequence	Assessment Year 2016	Print Window	Close Window																												
Assessment Info for Account 1-095819-8 Map 391E10BB Taxlot 803 Report For Assessment Purposes Only Created May 24, 2017																																
Account Info Account: 1-095819-8 Map: 391E10BB 803 Taxlot: Owner: MOULDS DONALD G TRUSTEE HOUSLEY DARLENE MOULDS TRUSTEE MOULDS DONALD G REV LIV TRUST Situs Address: 560 FORDYCE ST ASHLAND Mailing Address: MOULDS DONALD G TRUSTEE ET AL 560 FORDYCE ST ASHLAND OR, 97520 Appraiser: 140		Tax Year 2016 Info Pay Taxes Online Tax Report Details Tax Statement Details First Trl Statement Details Tax History Details Tax Code 5-01 Tax Type: Advalorem Due Date: 11/15/16 Amount: \$4,619.80 Tax Rate: 15.9849 District Rates Details Tax Details Details Tax Rates Details																														
		Land Info Tax Code: 5-01 Acreage: 0.13 Zoning: UNK 0.13 Ac Land Class: 101 Property Class: 142 Stat Class: 199706-1 Unit ID: 2 Maintenance Area: 000 Neighborhood: 02 Study Area: ACTIVE Account Status: Assessable Tax Status: NORMAL Sub Type:																														
Sales Data (ORCATS) Last Sale (consideration > 0) \$ 426,000 Sale Date: Nov 10, 2004 Instrument Number: 2004-66225 Sales History: Details																																
+ Value Summary Detail (For Assessment Year 2016) - Market Value Summary (For Assessment Year 2016)																																
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ALL IN ONE REPORT? Details																																
+ Improvement Comments - Appraisal Maintenance 2005 - R.T. (A-SINGLE FAMILY DWELLING) 2007 - INVENTORY REVIEW - Account Comments 08/22/01 PLUS .13 ACRES FROM TL 801 SEG JV 2001-0616>>>02/07/05 CHANGED BS TO HS AND ADDED LS 1 ADJ #83>>> THE IMPROVEMENTS MARKET MODIFIER WAS CREATED AS THE RESULT OF A RATIO STUDY FOR 2005 R38 8-30-05 >>> 2006-04-25 UPDATED IMPROVEMENT ADJUSTMENT EN MASSE >>> 2006-05-05 CONVERSION TO 2005 FACTOR BOOK. POTENTIAL RMV CHANGE ONLY -- NO EXCEPTION GENERATED DUE TO THE CONVERSION. BEGINNING YEAR VALUE ADJUSTED TO REFLECT 2005 FACTOR BOOK>>> 9/11/06 NO LAND CHANGES #148>>>																																
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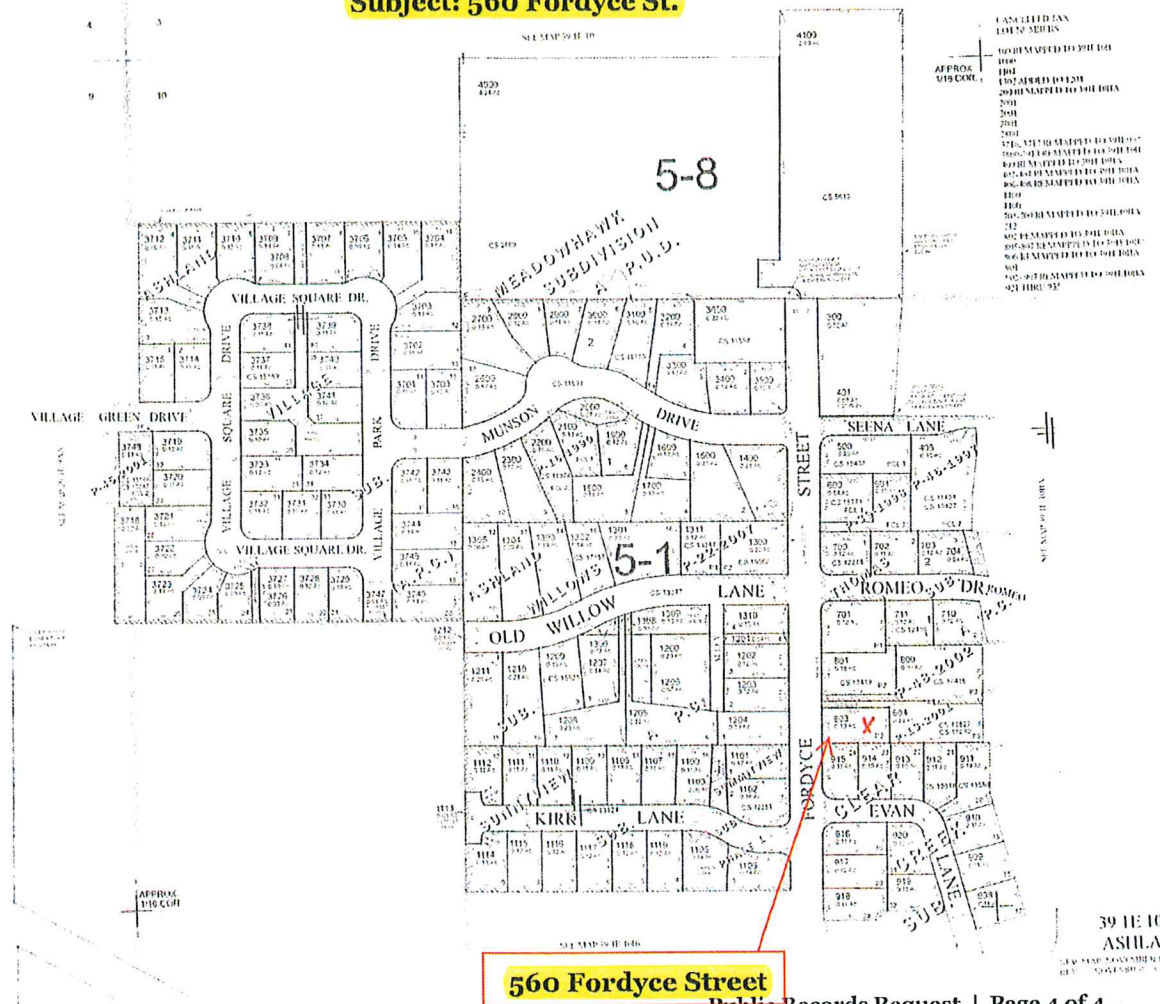
FOR ANNUAL MAP
EXAMINATION

N.W. 1/4, N.W. 1/4, SEC. 10, T.39S., R.1E., W.M.
JACKSON COUNTY
1" = 100'

Tax Lot 803

39 1E 101
ASHLAND

Subject: 560 Fordyce St.



560 Fordyce Street

Public Records Request | Page 4 of 4



Single Family Residential

Permit Number: BD-2004-00103

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Job Address: 0 TBA
ASHLAND OR 97520

Owner's Name: KURTZ-WALSH PROPERTY LLC

Customer #: 01613

KURTZ-WALSH PROPERTY LLC

Applicant: 831 LIBERTY ST

Address: ASHLAND OR 97520

Phone:

Applied: 01/20/2004

Issued: 03/17/2004

Expires: 02/28/2005

Maplot:

C
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Contractor: WALTZ, INC.

Address: 831 LIBERTY ST
ASHLAND OR 97520

Phone: (541) 482-0796

State Lic No:

City Lic No: 159005

Sub-Contractor: JT ELECTRIC

Address: 4849 AIRWAY DR

#105

CENTRAL POINT OR 97502

Phone: (541) 734-5714

State Lic No:

City Lic No: 148179

DESCRIPTION: 560 FORDYCE ST
482-0796

VALUATION

Occupancy Type	Construction	Units	Rate Amt	Actual Amt	Constuction Description
lwell	5-N	2,128.00	86.85	184,816.80	
garage	wf	484.00	22.84	11,054.56	
garage	carprt	100.00	15.60	1,560.00	
ITE	T -210	1.00	0.00	0.00	
Total for Valuation:		197,431.36			

MECHANICAL

Water Heater (gas)	1	Air Cond. up to 3HP	1	Central furnace < 100K	1
Exhaust Systems (old)	4	Gas Piping System	3	Gas Water Heater Venting	1
Kitchen Range Hood	1				

PLUMBING

Lavatory, number of	4	Showers, number of	1	Tub & Shower, number of	2
Sinks, number of	2	Water Closet/Bidet/Urinal	3	Washing Machines, number of	1
Dishwashers, number of	1	Disposals, number of	1	Hose Bibbs, number of	2
Sewer line linear feet	1	Waterline linear feet	1	Storm drain linear feet	1

ELECTRICAL

STRUCTURAL

Use Code	sfr	Building Valuation	197431	Occupancy Groups	R-3
Impervious surface	2423				

COMMUNITY DEVELOPMENT

20 East Main St.
Ashland, OR 97520
www.ashland.or.us

Tel: 541-488-5305
Fax: 541-488-5311
TTY: 800-735-2900

Inspection Request Line: 541-552-2080

CITY OF
ASHLAND



Single Family Residential

Permit Number: BD-2004-00103

PERMIT FEE DETAIL

Fee Description	Amount	Fee Description	Amount
Building Permit Fee	678.00	State Surcharge-Building	47.46
Plan Check - Structural	404.95	State Surcharge - Electric	11.41
State Surcharge - Plumbing	26.25	State Surcharge Mechanical	7.91
Community Development Fee	1,776.88	SDC-Water SFR	3,667.00
Engineering Development Fee	1,480.73	SDC - Sewer SFR	2,707.00
New Residential Elec Service	163.00	SDC - Parks	1,041.20
SDC - Transportation	2,043.70	SDC- Impervious Surface	409.49
Dishwasher Installations	15.00	Disposal Installations	15.00
Hose Bibb	30.00	Shower Installation	15.00
Storm Drain Installation	40.00	Waterline Installation	40.00
Water Closet Installations	45.00	Washing Machine Installations	15.00
Tub & Showers	30.00	Sewer line Installation	40.00
Sink Installations	30.00	Lavatory	60.00
Kitchen Range Hood	10.00	Issuance of Permit - Mech	15.00
Hot Water Heater / Boiler -old	15.00	Gas Water Heater Venting	10.00
Gas Piping Systems	6.00	Furnace	12.00
Exhaust Systems_OLD	30.00	Air Cond Compressor	15.00

CONDITIONS OF APPROVAL

FIRE DEPARTMENT 1/28/04

Installation of Fire Hydrant or Residential Fire Sprinkler System required. Fire hydrant is required to be within 250' of the furthest point on the building envelope. Distance to nearest hydrant is 366'. Installation of a residential fire sprinkler system increases the allowable distance of 800' to a hydrant.

Building numbers or addresses must be plainly visible and legible from the street fronting the property. Further, if property has a flag drive or other driveway used as fire apparatus access, additional building numbers or addresses must be plainly visible at all access intersections and on the building from the fire apparatus access. All premises identification must be in place with temporary signs when construction begins and permanent prior to issuance of occupancy approval.

Installation of single station smoke alarms with interconnected audible devices complying with current O.R.S. required.

PLANNING DEPARTMENT:

1) That street trees, 1 per 30 feet along the frontage be installed prior to the issuance of a certificate occupancy.

2) That all garages shall be setback a minimum of 20' from the front property line. *** NOTE: Maximum eave encroachment is 18" into setback area. Please adjust eaves or setbacks. However, this condition still applies.

PLEASE NOTE:

This building permit does not include utility connection fees (water, sewer, electric, or temporary power). Contact the City of Ashland Utility Billing office for connection information at 488-6004.

COMMUNITY DEVELOPMENT

20 East Main St.
Ashland, OR 97520
www.ashland.or.us

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TTY: 800-735-2900

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CITY OF
ASHLAND



Single Family Residential

Permit Number: BD-2004-00103

I hereby certify the contents of this application to be correct to the best of my knowledge, and furthermore, that I have read, understood and agreed to the following:

1. This permit shall remain valid only in accordance with code or regulation provisions relating to time lapse and revocation (180 days).
2. Work shall not proceed past approved inspection stage. All required inspections shall be called for 24 hours in advance.
3. Any modifications in plans or work shall be reported in advance to the department.
4. Responsibility for complying with all applicable federal, state, or local laws, ordinances, or regulations rests solely with the applicant.

Applicant

Date

Fee Summary

Paid Amounts

Building:	\$ 1,733.95	\$ 1,733.95
State Surcharge:	\$ 93.03	\$ 93.03
Development Fees:	\$ 3,257.61	\$ 3,257.61
Systems Development Charges:	\$ 9,868.39	\$ 9,868.39
Utility Connection Fees:	\$ 0.00	\$ 0.00
Public Works Fees:	\$ 0.00	\$ 0.00
Planning Fees:	\$ 0.00	\$ 0.00
Sub-Total:	\$ 14,952.98	
Fees Paid:	\$ 14,952.98	
Total Amount Due:	\$ 0	

COMMUNITY DEVELOPMENT
20 East Main St.
Ashland, OR 97520
www.ashland.or.us

Tel: 541-488-5305
Fax: 541-488-5311
TTY: 800-735-2900

Inspection Request Line: 541-552-2080

CITY OF
ASHLAND

CITY OF ASHLAND BUILDING DEPARTMENT

For questions call: 488-5309 from 8:00 a.m. to 4:00 p.m. For inspections call: 552-2980 before 3:00 p.m.

Permit number BD 2004-00103 Owner KJ12 - Walsh
 was issued 3/16/04 General Contractor Walsh, Inc.
 For SFR Plumbing Contractor Walsh, Inc.
 Address 500 Fidelity Dr. Electrical Contractor IT

Date/Inspector	ELECTRIC	Date/Inspector	FRAMING	Date/Inspector
SETBACKS	TEMP POWER		ATTIC VENTILATION	
RAINAGE	ELECTRICAL SERVICE	6-5-04	ROOF NAILING	
CAVATION	ROUGH ELECTRIC	MMB	FIRE BLOCKING	
CS FORMS FND	EL Trench	5-28-04 MMB	BRACING WALL	
CONCRETE FDN & STEEL			FIREPLACE (Masonry)	
MASONRY FDN & STEEL	PLUMBING		FRAMING	6-5-04 MMB
OOTINGS	ROUGH PLUMBING	4-5-04 RKL		
LAB PERIMETER INSULATION R-Value	TOP-OUT PLUMBING	5-24-04 RKL		
	PER FDN DRAIN LINES	PARTIAL 5-24-04 RKL	INSULATION	
	ROOF DRAIN LINES	5-24-04 RKL	WALL INSULATION	6-7-04 Jey
POUR NO CONCRETE	SEWER LINES	5-24-04 RKL	VAULTED CEILING VAPOR BARRIER	
until the above has been signed	WATER LINES	5-24-04 RKL	VAULTED CEILING INSUL R-value	
UNDER FLOOR FRAME			CEILING INSULATION R-value	6-7-04 Jey
FLOOR JOISTS/PIERS				
UNDER GIRDERS, BEAMS	MECHANICAL			
FLOOR POST	GAS PRESSURE (Yellow tag)		WALLBOARD	
ANCHOR BOLTS & WASHERS	GFAU & VENT	6/3/04 Jey	NAILING	
UNDER FLOOR ACCESS	HTG DUCTS R-value	6/3/04 Jey		
VENTILATION	BATH EXHAUST DUCTS	6/3/04 Jey		
INTERPROOF FDN WALLS	GAS WATER HTR & VENT		FINAL	
GRADE, SLOPE, DRAIN	COMBUSTION AIR		MECHANICAL FINAL	8-2-04 RKL
GROUND COVER - 6 mil	CHIMNEY		ELECTRICAL FINAL (fixtures)	8-2-04 MMB
FLOOR INSULATION	WOODSTOVE/FIREPLACE	6/8/04 Jey	PLUMBING FINAL (fixtures)	8-3-04 RKL
FLOOR INSULATION R-value	DRYER DUCTS		JOB FINAL	8-25-04 MMB
BELOW GRADE WALL INSULATION R-value				

NOTE: Inspector must sign all spaces pertaining to this job. Approved plans and structural design to be available on site

PENALTY FOR FAILURE TO POST: Any person failing to comply with the provisions of this Code shall be deemed guilty of a misdemeanor and work shall be subject to being stopped and the violator subject to a fine.



CITY OF ASHLAND

PERMIT NO. 011-2004-00000

Oregon Residential Energy Code Checklist

Job Location 560 Fordyce ST. Owner SCOTT KURTZ
Contractor _____Heating System Type: Electric _____ Gas X Other _____ Qualification Criteria: Prescriptive Path (Table 13-A) Number _____Heated Floor area 1800 Total Window Area _____ (path 8 only) Thermal Performance Calculation (Table 13-B) _____
(Attach Calculation Sheet)

Form Completed By _____ Phone _____ Building Code Plan Checked by _____

Building Components	Builder Values	Plan Check	Building Insp.	Building Components	Builder Values	Plan Check	Building Insp.
Slab Floor Edge Insulation	R-_____	R-_____	R-_____	Door U-Value - Main Entry	<u>U-.54</u>	U-_____	U-_____
Basement Wall Insulation	R-_____	R-_____	R-_____	Main Entry Door Area(<24 sq.ft	Sq. Ft. _____	Sq. Ft. _____	Sq. Ft. _____
Under Floor Duct Insulation	R- <u>8</u>	R-_____	R-_____	Prescriptive Path only)			
Floor Insulation	<u>R-25</u>	R-_____	R-_____	Door U-Value (other)	U-_____	U-_____	U-_____
Envelope Penetrations Sealed	<u>CAULK or</u>	Type _____	Type _____	Skylight U-Value	U-_____	U-_____	U-_____
Floor Vapor Retarder	Type _____	Type _____	Type _____	Skylight Area(<2% of floor area	U-_____	U-_____	U-_____
Wall Insulation	<u>R-21</u>	R-_____	R-_____	Prescriptive Paths only)	R-_____	R-_____	R-_____
Wall Vapor Retarder	Type _____	Type _____	Type _____	Flat Ceiling Insulation	<u>R-38</u>	R-_____	R-_____
Vaulted Ceiling Insulation	R-_____	R-_____	R-_____	Attic Duct Insulation	Sq. Ft. _____	Sq. Ft. _____	Sq. Ft. _____
Vaulted Ceiling Vapor Retarder (.5 Perm Rating)	Type _____	Type _____	Type _____	50% of windows on South wall(Paths 2,4,6 & 7 only)	Y _____	Y _____	Y _____
Window U-Value	<u>U-.40</u>	U-_____	U-_____	Lot borders on east/west running street Paths 2,4,6 & 7)	N _____	N _____	N _____
Window Percent (Path 8 only)	_____ %	_____ %	_____ %	House size limited to 1500 sq.ft. (Path 8 only)	Y _____	Y _____	Y _____
_____ % of Heated Floor Area				Log Homes Solid Timber	N _____	N _____	N _____
				Min. Thickness of 3.5 inches	Y _____	Y _____	Y _____



Certificate of Occupancy

Permit Number
Job Address
Property Owner
Contractor
Occupancy Type

BD-2004-00103
560 Fordyce St
Kurtz-Walsh Properties
Waltz Inc
R-3, U-1

Impervious Surface

2,423

With the issuance of this certificate of occupancy, it is recognized that the building at the above listed address complies with the Uniform Building Code and with the use and occupancy for which the proposed occupancy is classified. In addition, all of the criteria set forth by the Department of Community Development has also been met.

Date September 1, 2004

Building Official, City of Ashland