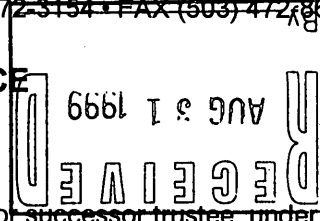


YAMHILL COUNTY TITLE & ESCROW, INC.

P.O. Box 628 • 1215 N.E. Baker • McMinnville, OR 97128 • Tel. (503) 472-3154 • FAX (503) 472-8864

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1698

DEED OF PARTIAL RECONVEYANCE



KNOW ALL MEN BY THESE PRESENTS, That the undersigned as trustee, or ~~successor trustee~~, under that certain Deed of Trust, dated **December 14**, 1993, executed and delivered by **Alvin R. Elber also known as Alvin Robert Elbert and Jeanine A. Elbert, also known as Jeanine Ann Elbert** as grantor and in which **City of Newberg** is named as beneficiary, recorded **December 16, 1993**, in Book/Film Volume **299** at Page **1939** of the Mortgage Records of Yamhill County, Oregon, having received from the beneficiary under said deed, or his successor in interest, a written request to reconvey a portion of the real property covered by said trust deed, does hereby, for value received, grant, bargain, sell and convey, but without any covenant or warranty, express or implied, to the person or persons legally entitled thereto, all of the estate held by the undersigned in and to the following described portion of the real property covered by said trust deed, to wit:

Parcel 2 of Partition Plat No. 1999-28, recorded May 26, 1999 as Instrument No. 199911089, Microfilm Records, Yamhill County, Oregon.

TOGETHER WITH a foot wide access and utilities easement as set forth on Partition Plat No. 1999-28.

The remaining property described in said trust deed shall continue to be held by the said trustee under the terms of said deed. This partial reconveyance is made without affecting the personal liability of any person for payment of the indebtedness secured by said trust deed.

In construing this instrument, whenever the context so requires, the masculine gender includes the feminine and the neuter and the singular includes the plural.

IN WITNESS WHEREOF, the undersigned trustee has hereunto set his hand and seal; if the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal to be affixed hereunto by its officers duly authorized thereunto by order of its Board of Directors.

DATED: August 26, 1999

YAMHILL COUNTY TITLE & ESCROW, INC.

By: Al D. Owen
Al D. Owen, President

STATE OF OREGON, County of Yamhill)ss.

This instrument was acknowledged before me on August 26, 1999,
by Al D. Owen, as President of Yamhill County Title & Escrow, Inc.



Jennifer A. Koch
Notary Public of Oregon
My commission expires April 15, 2002

Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK



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2 ANITA

AFTER RECORDING RETURN TO:

City of Newberg
Legal Dpt
PO Box 970
Newberg, OR 97132

YAMHILL COUNTY TITLE & ESCROW, INC.

AFTER RECORDER, RETURN TO:

Terrence D. Mahr, City Attorney
City of Newberg
PO Box 970
Newberg, Oregon 97132

Recorded in Official Yamhill County Records
CHARLES STERN, COUNTY CLERK



30.00

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2 ANITA

**DEDICATION DEED
FOR
PUBLIC RIGHT-OF-WAY PURPOSES**

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1688

W.F. Incorporated, hereinafter referred to as the "Owner", being the present title owner of record of the herein described parcel of land, does hereby release and quitclaim all right, interest and title to **City of Newberg**, a political subdivision of the State of Oregon, and its successors or assigns, for public right-of-way purposes including street, highway, landscaping, utilities, sidewalks, and other related purposes including maintenance thereof, the following-described real property situated in the County of Yamhill, State of Oregon:

Exhibit "A" (written description) and Exhibit "B" (plat map) attached hereto and by this reference incorporated.

- I. Owner dedicates said right-of-way subject to a reservation by Owner to use said right-of-way for landscaping that Owner shall install and maintain at Owner's expense to be counted toward meeting minimum landscaping requirements pursuant to the Newberg Development Code on any future development applications on the Owner's property known as Tax Lot #1500 and 1600, located at 615 South Springbrook Road, Newberg, Oregon. Said obligation of installation and maintenance of landscaping shall expire when half street improvements are constructed; however, the reservation to count the total area within the right-of-way to meet landscaping requirements shall be perpetual. The total area within the right-of-way shall count as landscaping to meet minimum landscaping requirements, notwithstanding that all the square footage in the right-of-way is not improved with plants and trees and may include walkways and bike paths.
- II. The consideration given for the dedication is the covenants, promises, and agreements made between Owner and City pursuant to the development of Owner's property. Owner acknowledges that it has received actual value in consideration for the dedication of this property.
- III. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAW AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.
- IV. This agreement shall be binding upon the undersigned, who is the legal Owner of the real property described above, and shall be binding upon their heirs, assigns, and legal representatives.

NORTHWEST TITLE COMPANY

1/4

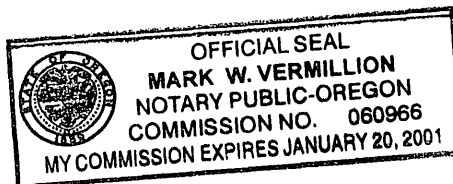
IN WITNESS WHEREOF, we have executed said document on this 7 day of June, 1999.

OWNER:

W.F. INCORPORATED

By: Arnold C. Fuchs
Arnold C. Fuchs, President

STATE OF OREGON)
City of Newberg) ss.
COUNTY OF YAMHILL)



The foregoing instrument was acknowledged before me this 7th day of June, 1999, by Arnold C. Fuchs as President of W.F. Incorporated.

(SEAL)

Mark W. Vermillion
Notary Public for Oregon
My Commission Expires: 1/20/2001

CITY OF NEWBERG:

*Accepted on behalf of the
City of Newberg by Duane R. Cole.*

By: Duane R. Cole
Duane Cole, City Manager

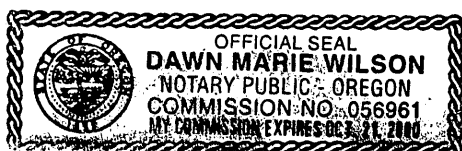
ACCEPTED AS TO FORM AND CONTENT:

By: Terrence D. Mahr 7/28/99
Terrence D. Mahr

STATE OF OREGON)
City of Newberg) ss.
COUNTY OF YAMHILL)

The foregoing instrument was acknowledged before me this 29th day of June, 1999, by Duane R. Cole as City manager of the City of Newberg.

(SEAL)



Dawn Marie Wilson
Notary Public for Oregon
My Commission Expires: 10/31/00

2/4

EXHIBIT "A"
Legal Description

Part of the Richard Everest and Donation Land Claim No. 52, Notification Number 1474, in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon more particularly described as follows:

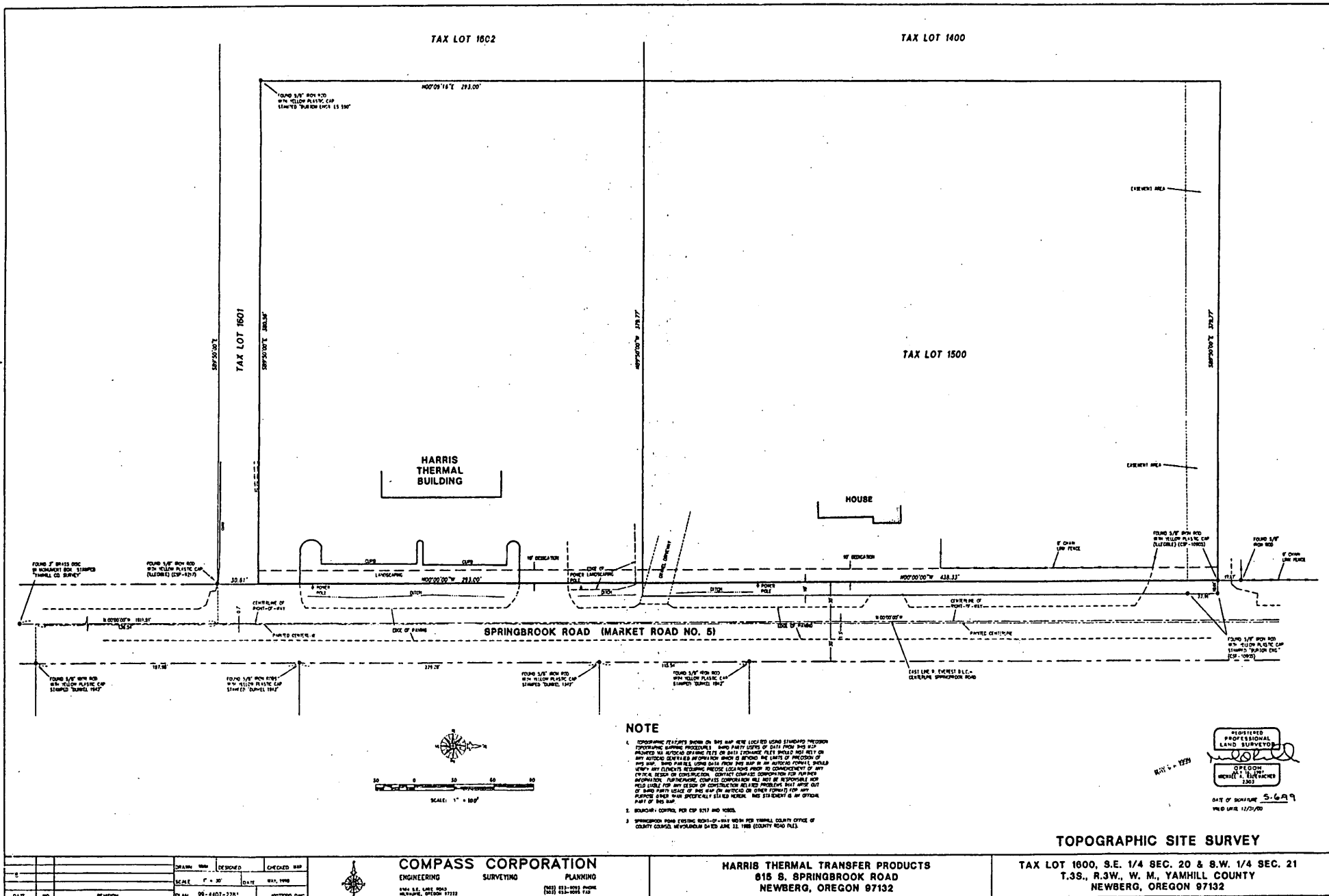
Beginning at a point on the East line of the Everest Donation Land Claim, 2373.36 feet North of the Southeast corner of said Claim, thence N 89°50' W 40.00 feet, thence South, parallel to the East line of said Claim and the centerline of Springbrook Rd. 776.33 feet to a point; thence S 89°50' E 40.00 feet to the East line of said Claim, thence North 776.33 feet, along the East line of said Claim and the centerline of Springbrook Rd. to the point of beginning.

EXHIBIT "B" Plat Map

Dedication Deed for Public Right-of-Way Purposes

Page 4

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AFTER RECORDER, RETURN TO:

Terrence D. Mahr, City Attorney

City of Newberg

PO Box 970

Newberg, Oregon 97132



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5.00 30.00 10.00

2 ANITA

45.00

DEFERRED IMPROVEMENT AGREEMENT

AND WAIVER OF REMONSTRANCE

(COVENANT RUNNING WITH THE LAND)

Newberg Planning Department File no. DR-107-98

THIS AGREEMENT, entered into this 7 day of June, 1999, between the following parties:

I. PARTIES.

CITY OF NEWBERG,
an Oregon Municipal Corporation

414 E. First Street
Newberg, Oregon 97132

W.F. INCORPORATED
an Oregon Corporation

615 S. Springbrook Rd.
Newberg, Oregon 97132

II. RECITALS. Owner was granted approval of development of property and as part of the approval, Owner is required to construct certain improvement. Owner agrees to be bound by said requirements. In consideration for the City's agreement to allow the Owner to defer the immediate construction of the required improvements, the Owner waives any right to object to said requirements, unless the City changes improvement requirements after the approval of Owner's improvement plans by the City.

III. REAL PROPERTY. The obligations pursuant to this agreement shall affect the real property (hereinafter referred to as the "Property"), owned by Owner which said property is more particularly described in **Exhibit "A"**, which is attached hereto and by this reference incorporated.

IV. PURPOSE. Owner desires to develop the Property and wishes to defer construction of required permanent improvements for a period of ten years beginning from **June 14, 1996**. City agrees to such deferment if Owner constructs improvements as herein agreed.

V. COVENANT RUNNING WITH THE LAND. This Agreement is an instrument

affecting the title or possession of the Property. All of the terms, covenants and conditions herein imposed, are for the benefit of the City and the real property or interest therein, which constitutes the streets and utility system. This Agreement shall be binding upon the Property and the successors in interest of the Owner, and shall act as covenants running with the land. Upon sale or division of the Property, the terms of this Agreement shall apply separately to each parcel and the Owner of each parcel shall succeed to the obligation imposed upon Owner by this Agreement.

- VI. IMPROVEMENTS.** The improvements set forth in this section may be deferred by Owner and shall be constructed when required in the manner set forth in this Agreement. The deferred improvements are generally described in **Exhibit "B"** attached hereto, and by this reference incorporated. Each of said improvements relate to the use, repair, maintenance or improvement of, or special assessments or fees on, the property described in **Exhibit "A"**.
- VII. TIME TO DEFER IMPROVEMENTS.** In exchange for Owner agreeing to construct certain improvements in **Exhibit "B"**, Owner shall not be required to commence construction for a period of ten years beginning from **June 14, 1996**. At Owners' sole option, Owner may commence construction within the ten year period. Owner may be required to participate in a Local Improvement District within the ten year period.
- VIII. NOTICE TO CONSTRUCT IMPROVEMENTS.** When the City, within its sole discretion determines that there is no further reason to defer construction of the improvements because their construction is necessary for the public health, welfare and safety and/or the orderly development of the surrounding area, City shall notify Owner in writing to commence their installation and construction. However, in no event shall the City require said improvements prior to the time period set forth in Paragraph VII of this Agreement. The notice shall be mailed to the current Owner or Owners of the Property as shown on the latest adopted County assessment roll. The notice shall describe the work to be done by Owner, the time within which the work shall commence and the time within which the work shall be completed. All or any portion of said improvements may be required at a specified time. Each owner shall participate on a pro rata basis in the cost of a facility provided by others. The notice shall include the amount and time of the payments.
- IX. PERFORMANCE OF THE WORK.** Owner shall perform the work and make payments required by City as set forth herein. Owner shall cause plans and specifications for improvements to be prepared by competent persons legally qualified to do the work; to submit said improvements plans and specifications for approval prior to commencement of the work; and to pay City improvement plan review and inspection fee. The work shall be done in accordance with City standards in effect at the time improvement plans are submitted for approval. The Owner has no obligation to construct

improvements except as approved by the City. Any changes after plan approval shall be made at the City's expense. Owner agrees to commence and complete the work within the time specified in the notice given by the City and to notify the City at least 48 hours prior to start of work. In the event Owner fails to construct any of the improvements required under this Agreement, City may, at its option, perform the work. A lien is hereby created on the property for the cost of such work. If City has to take any action pursuant to this agreement, Owner shall be responsible for all actual attorney fees, court costs and all other expenses including cost of litigation by City in connection therewith. In the event that the City violates any of its duties under this agreement and the Owner has to take action under this agreement, Owner shall be entitled to all actual attorney fees, court costs, and all other expenses, including cost of litigation by Owner incurred therewith.

- X. **JOINT COOPERATIVE PLAN.** Upon notice by City, Owner agrees to cooperate with other property owners, the City and other public agencies to provide the improvements set forth herein under a joint cooperative plan including the formation of a local improvement district; if this method is feasible to secure the installation and construction of the improvements.
- XI. **ACCEPTANCE OF IMPROVEMENTS.** City agrees to accept those improvements specified in **Exhibit "B"** which are constructed and completed in accordance with City standards and requirements and are installed within rights of way or easements dedicated and accepted by the City. Owner agrees to provide any necessary temporary drainage facilities, temporary access road or other required temporary improvements; to assume responsibility for the proper functioning thereof; to submit plans to the appropriate City agency for review; and to maintain said improvements and facilities in a manner which will preclude any hazard to life or health or damage to adjoining property during construction.
- XII. **WAIVER OF RIGHTS TO REMONSTRANCE.** The City and Owner agree that the above-described real property is held and shall be transferred, sold, and conveyed upon the condition that in the event of Springbrook Road, future streets or public utilities, or any part thereof abutting the site, are constructed or improved in accordance with certain practices of the City upon petition of the property owners or upon resolution by the Council, no remonstrance to said proposed street or municipal utility improvements shall be made and such remonstrance is hereby waived.
- XIII. **BONDS.** Prior to City approval of improvement plans, Owner may be required to obtain faithful performance bond and/or payment bond or other type of security in an amount and form reasonably acceptable to City. Said bond may be required to be released by the City in whole or in part upon completion of the required work and the payment of all persons furnishing labor and materials in the performance of the work

XIV. INDEMNITY. The Owner shall defend, indemnify and save harmless the City, its officers, agents and employees, from every expense, liability or payment by reason of injury (including death) to persons or damage to property suffered through any act or omission, including passive negligence or act of negligence, or both, of Owner, Owner's developer, contractors, subcontractors, employees, agents, or anyone directly or indirectly employed by any of them, or arising in any way from work called for by this Agreement, on any part of the premises, including those matters arising out of the deferment of permanent drainage facilities or the adequacy, safety, use or non-use of temporary drainage facilities, or the performance or nonperformance of the work.

THESE SIGNATURES ATTEST TO THE PARTIES' AGREEMENT TO EACH AND EVERY RECITAL AND PROVISION OF THIS AGREEMENT.

IN WITNESS WHEREOF, we have executed said document on this 7 day of June, 1999.

OWNER(S):

W.F. INCORPORATED

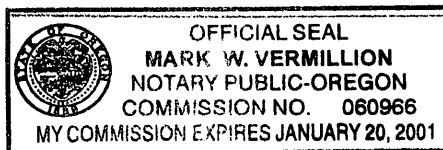
By:

Arnold C. Fuchs
Arnold C. Fuchs, President

STATE OF OREGON)

City of Newberg) ss.

County of Yamhill)



This instrument was acknowledged before me by Arnold C. Fuchs on 7th day of June, 1999.

Mark W. Vermillion

Notary Public for Oregon

My Commission Expires: 1/20/2001

CITY OF NEWBERG

Accepted on behalf of the

City of Newberg by Duane R. Cole.

ACCEPTED AS TO FORM AND CONTENT:

By

Duane R. Cole

Duane R. Cole, City Manager

By

Terrence D. Mahr 6/28/99

Terrence D. Mahr, City Attorney

**EXHIBIT A
LEGAL DESCRIPTION**

Tax Lot No. 1500

Part of the Donation Land Claim at Richard Everest and wife, notification no. 1474, Claim No. 52 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, and being Lot 1 of County Survey No. 3357, more particularly described as follows:

Beginning at a point on the East line of the said Everest Claim, which is North 2373.36 feet from the Southeast corner thereof and from which point an iron pipe set on the West margin of County Market Road No. 5 bears West 20.0 feet, said point is the Northeast corner of that parcel deeded to Arnold Fuchs and Shirley Fuchs in instrument no. 199601405 dated 1/29/96 Yamhill County deed records; thence North 89°50'00" West along the North line of said Fuchs parcel 20.00 feet to the said iron pipe on the West margin of County Market No. 5 and true point of beginning; thence continuing North 89°50'00" West along the North line and North line extended of said Fuchs parcel 389.77 feet; thence South parallel with the East line of said Everest land claim 483.33 feet to the South line extended of said Fuchs parcel; thence South 89°50'00" East along the South line extended and the South line of said Fuchs parcel 389.77 feet to a point 20.00 feet Westerly of when measured at right angles from the East line of said Everest land claim; thence North parallel to said Everest land claim 483.33 to the true point of beginning.

Containing 170,848 Sq. Ft. more or less.

Tax Lot No. 1600

Beginning at a point on the East line of the Richard Everest Donation Land Claim No. 52 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, which point marks the Southeast Corner of that tract of land conveyed to Marian F. DeAlton by Instrument recorded in Film Volume 207, Page 0256, Records for Yamhill County, Oregon and bears North 1935.03 feet from the Southeast corner of said Everest claim; thence North 89 degrees 50 minutes 44 seconds West along the South line of said DeAlton Tract, 30.00 feet to the TRUE POINT OF BEGINNING; thence South parallel with the East line of said Everest Claim 293.00 feet; thence North 89 degrees 50 minutes 44 seconds West parallel with the South line of DeAlton tract, 380.56 feet; thence North 00 degrees 09 minutes 16 seconds East 293.00 feet to a point on the Westerly projection of the South line of said DeAlton Tract; thence South 89 degrees 50 minutes 44 seconds East along said Line, 379.77 feet to the point of beginning.

TOGETHER WITH drainage easement recorded May 20, 1997 as Instrument 199708088, Deed and Mortgage Records.

EXHIBIT B IMPROVEMENTS

Improvements required by the City of Newberg and the Newberg Development Code as a condition of approval for the above-referenced development described in **Exhibit "A"**)

Springbrook Road

1. Approximately 776.33 linear feet of collector street improvements, 23 foot half width. Limited to engineering, curb, sidewalk, road base and paving, street lights, street signs, storm drainage, landscaping and financing costs.
2. Submit improvement plans to the Community Development Department, Engineering Division, for review; pay an inspection and plan review fee and any other applicable fees.

Relocation of utilities, if necessary, shall be the responsibility of the Owner, his agent or the utility company where applicable.

The construction of the above deferred improvements shall begin as outlined in the Deferred Improvement Agreement. After the deferred time period runs as set out in paragraph VII of the Deferred Improvement Agreement, construction of the deferred improvements may begin when either of the following occur:

1. Springbrook Road is constructed to its ultimate width by the City or by an assessment district.
2. Frontage improvements are constructed adjacent to the subject property.

6/6