

98-07139

1997 AMENDMENT OF THE PROTECTIVE COVENANTS OF
OAK TREE SUBDIVISION
BEND, DESCHUTES COUNTY, OREGON

SECTION I -- RECITALS

WHEREAS, all lots located within the Oak Tree Subdivision, Bend, Deschutes County, Oregon, are subject to protective covenants, conditions and restrictions and rights imposed by a document entitled "Protective Covenants, Conditions and Restrictions" that is recorded in the deed records of the Deschutes County Clerk in Volume 346 at Pages 2441 - 2445 (Document 94-29371) (hereinafter referred to as "Protective Covenants"); and

WHEREAS, the Protective Covenants were amended by the following legal documents, collectively referred to as the "Amending Documents":

1. A document entitled "Oak Tree" recorded at Volume 346 at Pages 2446 - 2447 of the deed records of the Deschutes County Clerk (Document 94-29372) (previously recorded in Volume 340 at Page 1214, Document #94-20537); and
2. A document entitled "Amended Protective Covenants, Conditions, and Restrictions for Oak Tree Subdivision" which was recorded in the deed records of the Deschutes County Clerk in Volume 367 at Page 1885, Document #95-07202; and
3. A document entitled "1996 Amended Building and Use Restrictions, Oak Tree Subdivision" which is recorded in Volume 426, Page 530 of the deed records of the Deschutes County Clerk; and

WHEREAS, the 1996 Amended Building and Use Restrictions allow amendment of the Protective Covenants by the recording of this document signed by the owners of 75% of the lots created by the final plats of Oak Tree Subdivision Phase I and Phase II; and

WHEREAS, said written consent has been obtained;

NOW THEREFORE, the Protective Covenants, as amended by Amending Documents, are amended as set forth in Section III below. These amendments shall be effective upon recording of this document with the Deschutes County Clerk's Office.

RECORDED BY
WESTERN TITLE & ESCROW CO.
12762-9X

SECTION II -- PROPERTY DESCRIPTION

The real property burdened and benefitted by the building and use restrictions contained in this document is:

Parcel I: The North Half of the North Half of the Northwest Quarter of the Southwest Quarter (N1/2 N1/2 NW1/4 SW1/4) of Section Twenty-six (26), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon.

Excepting therefrom the Westerly 40 feet as dedicated to the County of Deschutes by Declaration of Dedication, recorded March 9, 1981 in Book 337 Page 509.

Parcel II: The East Half of the South Half of the South Half of the Southwest Quarter of the Northwest Quarter (E1/2 S1/2 S1/2 SW1/4 NW1/4) of Section Twenty-six (26), Township Seventeen (17) South, Range Twelve (12) East of the Willamette Meridian, Deschutes County, Oregon.

SECTION III -- AMENDMENTS TO PROTECTIVE COVENANTS

Material being added to the Protective Covenants, as amended by Amending Documents, is highlighted in **bold face type**. Text being deleted is shown with a line through deleted text (~~deleted text~~).

A. Item 2 of the Protective Covenants, as amended by Amending Documents, is amended to read as follows:

2. BUILDING LOCATION --

- a. No building shall be erected, ~~any portion of which shall be nearer than twenty (20) feet from a front line, nor nearer than five feet to any rear lot line nor nearer than five feet to any side line, providing that the sum of the two side yards shall be a minimum of fifteen (15) feet.~~ **in a location which violates the required yard (setback) requirements of the City of Bend's zoning ordinance.**
- b. ~~For the purpose of this covenant, caves, steps and open porches or decks shall be considered as part of a building.~~
- c. Each building shall be located on each parcel so as to ~~keep be~~ compatible as possible with the natural surroundings and with other houses.
- c. **The ACC rules may impose more stringent required yard (setback) requirements for structures than those required by the City of Bend's zoning regulations.**

- B. Item 15 of the Protective Covenants, originally entitled Signs, was implied amended by the 1996 Amended Building and Use Restrictions document. That implied amendment deleted subsections b., c. and d. of Item 15 of the original Protective Covenants document. The text of said subsections provided as follows:
- d. ~~No fence, wall or other structure shall be commenced, erected or maintained upon the properties nor shall any exterior addition to or change or alteration therein be made until the plans and specifications have been approved by the ACC.~~
 - e. ~~Application for ACC approval shall be made thirty (30) days prior to when such approval is required.~~
 - f. ~~A plot plan detailing the landscaping to be accomplished shall be submitted to the ACC along with the house plans for the committee approval.~~
- C. Item 21. d. of the Protective Covenants, as amended by Amending Documents, is amended to read as follows:
- d. Amendment. These Protective Covenants may be amended or replaced by the recording of a ~~written document amending the Protective Covenants or new Protective covenants~~, signed by owners of at least 75% of the lots created by the final plats of Oak Tree Subdivision, ~~Phase I and Phase II~~ Phases I, II and III.

SECTION IV – INTERPRETATION

In the event of conflict between the provisions of this amending document and the terms of prior protective covenant documents, the text as shown in this amending document shall control.

SECTION V – CONSENT TO AMENDMENT

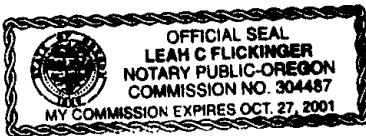
The owners of at least 75% of the lots created by the final plats of Phases I and II of the Oak Tree Subdivision hereby consent to the amendments set forth in this 1997 Amendment of the Protective Covenant of Oak Tree Subdivision, thereby making them effective against all subdivision lots according to Item 21, General Provisions, of the Protective Covenants, as amended by Amending Documents. By signing this document, all owners hereby acknowledge that they are the true and correct owners of the lots listed directly above their signatures and that they have the power and authority to encumber their property by the recording of this document.

LOTS 2 & 31
DEYOUNG CONSTRUCTION COMPANY

Deyoung Construction
 By: Bret Deyoung
 Its: President

STATE OF OREGON)
 County of Deschutes) ss.

This instrument was acknowledged before me on December 18, 1997 by
Bret Deyoung as President of Deyoung
 Construction Company.



Leah C. Flickinger
 Notary Public for Oregon
 My commission expires: 10-27-01

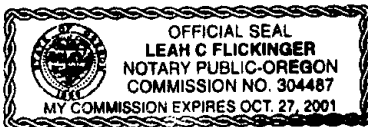
LOT 30

Bret Deyoung
 Bret James Deyoung, Owner

Angela Joy Deyoung
 Angela Joy Deyoung, Owner

STATE OF OREGON)
 County of Deschutes) ss.

This instrument was acknowledged before me on December 18, 1997 by
Bret James and Angela Joy Deyoung
307



Leah C. Flickinger
 Notary Public for OREGON
 My commission expires: 10-27-01

STATE OF OREGON
COUNTY OF DESCHUTES

Do it remembered, that on this 4 day of February 1998, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Angeles Jay Reynolds

known to me to be the identical individual described in and who executed the within instrument and acknowledged to me that she executed the same freely and voluntarily.

In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year last above written.



Robin Ann Walker
Notary Public for Oregon

My Commission expires 11-12-2000

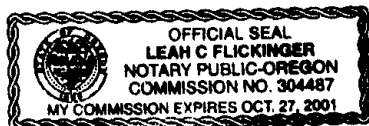
LOTS 1, 24, 25 and 39

Kelly W. Rogers
 Kelly W. Rogers, Owner
Gayla J. Rogers
 Gayla J. Rogers

STATE OF OREGON)
 County of Deschutes)

ss.

This instrument was acknowledged before me on December 18th, 1997 by Kelly W. Rogers And Gayla J. Rogers.



Leah C. Flickinger
 Notary Public for Oregon
 My commission expires: 10-27-01

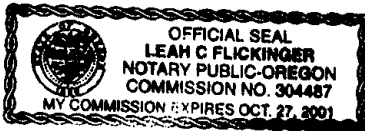
LOT 3

Larry Merrigan
Larry Merrigan, Owner

Grace Merrigan
Grace Merrigan, Owner

STATE OF OREGON)
County of Deschutes) ss.

This instrument was acknowledged before me on December 18, 1997 by
Larry and Grace Merrigan



Leah C. Flickinger
Notary Public for Oregon
My commission expires: 10-27-01

STATE OF OREGON,

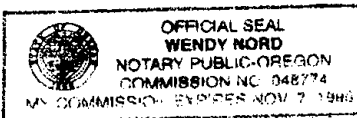
County of Deschutes } ss.

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 16 day of January, 1998,
before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within
named Grace Merrigan

known to me to be the identical individual ... described in and who executed the within instrument and
acknowledged to me that she executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed
my official seal the day and year last above written.



Wendy Nord
Notary Public for Oregon
My Commission expires 11-7-99

LOT 5

Phyllis M. Garner
Phyllis M. Garner
FLOYD
Floyd R. Garner

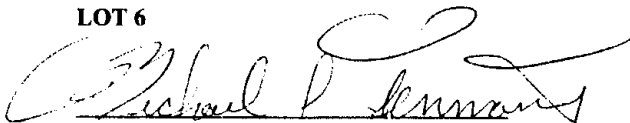
STATE OF OREGON)
 County of Deschutes) ss.

This instrument was acknowledged before me on Decemeber, 1997 by
Phyllis M. and Floyd R. Garner.


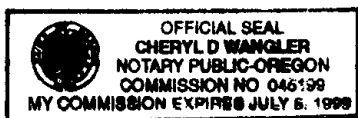


Leah C. Flickinger
 Notary Public for OREGON
 My commission expires: 10-27-01

LOT 6



Michael J. Tennant, Owner

STATE OF OREGON
County of Deschutes) ss. This instrument was acknowledged before me on Feb 2, 1998 by
Michael J. Tennant.
Notary Public for Oregon
My commission expires: 7-6-99

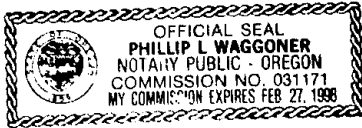
LOT 7

Robert W. Goslin
Robert W. Goslin, Owner

Kristi J. Goslin
Kristi J. Goslin, Owner

STATE OF OREGON)
County of Deschutes) ss.

This instrument was acknowledged before me on Feb 19, 1998 by
Robert W. Goslin and Kristi J. Goslin.



[Handwritten signature of Phillip L. Waggoner]

LOT 27

Lauziere TRUST

Lavaune J. Lauziere
 By: Lavaune J. Lauziere
 Its: Trustee

STATE OF OREGON)
 County of Deschutes) ss.

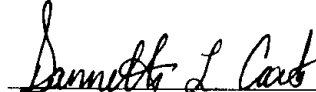
This instrument was acknowledged before me on January 16, 1998 by
 Lauvaune J. Lauziere as Trustee of Lauziere Trust.



Glee Snyder
 Notary Public for Oregon
 My commission expires: 10-2-01

LOT 28

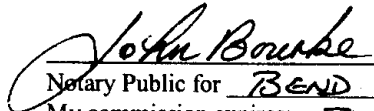

Steve D. Coats, Owner

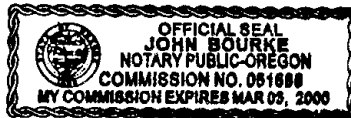

Dannette L. Coats, Owner

STATE OF OREGON
County of Deschutes

)
) ss.

This instrument was acknowledged before me on 17th JANUARY, 1998 by
Steve D. and Dannette L. Coats.


Notary Public for BEND OREGON
My commission expires: 3-3-2000



LOT 29

Wahl G. Barrett
Wahl G. Barrett, Owner

Priscilla Mae Barrett
Priscilla Mae Barrett, Owner

STATE OF OREGON)
County of Deschutes) ss.

This instrument was acknowledged before me on 4TH FEBRUARY, 1998 by
Wahl G. and Priscilla Mae Barrett.

John Bourke
Notary Public for BEND OREGON
My commission expires: 3-3-2000



LOT 34

Matthew C. Long
Matthew C. Long

Kimberly Long
Kimberly Long, Owner

STATE OF OREGON
County of Deschutes

)
) ss.

This instrument was acknowledged before me on 2/10/98, 199__ by
Matthew C. and Kimberly Long.



Robin Ann Walker
Notary Public for Bend, OR
My commission expires: 11-12-2000

LOTS 35 & 40

KOLBE TRUST

Eugene F. Kolbe
 By: Eugene F. Kolbe
 Its: Trustee

STATE OF Oregon)
 County of DeSchutes) ss.

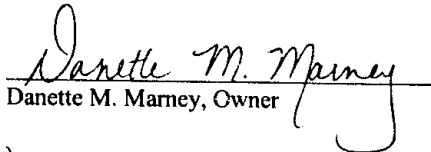
This instrument was acknowledged before me on February 9, 1998 by
 Eugene F. Kolbe as Trustee of KOLBE Trust



Sharon Riste
 Notary Public for Oregon
 My commission expires: 2-27-98

LOT 36


Timothy W. Marney, Owner

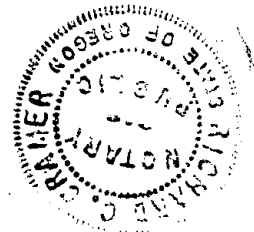
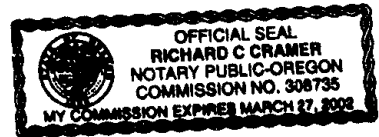

Danette M. Marney, Owner

STATE OF OREGON
County of Deschutes

)
) ss.

This instrument was acknowledged before me on Feb 13th, 1998 by
Timothy W. and Danette M. Marney.

Notary Public for STATE OF OREGON
My commission expires: 3-27-2002



LOT 38

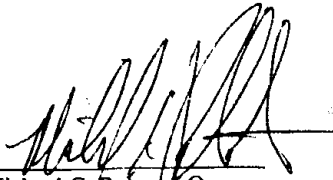
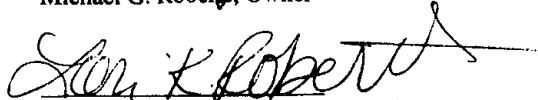
Darline Heilman
Darline Heilman, Owner

STATE OF OREGON)
County of Deschutes) ss.

This instrument was acknowledged before me on January 15th, 1998 by
Darline Heilman.

Mary R. [Signature]
Notary Public for Oregon
My commission expires: 12-13-99

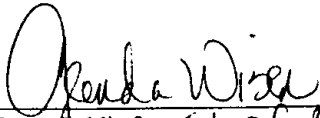
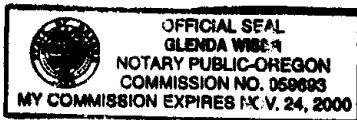
LOT 42


Michael G. Roberts, Owner
Lori K. Roberts, Owner

STATE OF OREGON
County of Deschutes

)
) ss.

This instrument was acknowledged before me on Feb 7th, 1998 by
Michael G. And Lori K. Roberts.


Notary Public for St of Oregon
My commission expires: 11/24/00

LOT 43

VIKCON INC., DBA VIKING CONSTRUCTION

By: Kurt I. Reynolds
 Its: _____

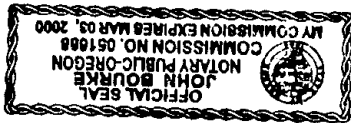
STATE OF OREGON)
 County of DESCHUTES) ss.

This instrument was acknowledged before me on February 19, 1998 by
KURT REYNOLDS as PRESIDENT of Vikcon Inc.,
 dba Viking Construction.



Natalka I. Dunn
 Notary Public for Oregon
 My commission expires: February 23, 1998

LOT 52



Penny R. Wieselmann
Penny R. Wieselmann, Owner

Terri G. Schliep
Terri G. Schliep, Owner

STATE OF OREGON)

County of Deschutes) ss.

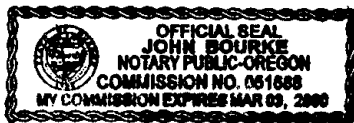
This instrument was acknowledged before me on 23RD FEBRUARY, 1998 by
Penny R. Wieselmann.

John Bourke
Notary Public for OREGON (BGND)
My commission expires: 3-3-2000

STATE OF OREGON)

County of Deschutes) ss.

This instrument was acknowledged before me on 23RD FEBRUARY, 1998 by
Terri G. Schliep.



John Bourke
Notary Public for OREGON (BGND)
My commission expires: 3-3-2000

STATE OF OREGON)
COUNTY OF DESCHUTES) ss.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

98 FEB 24 AM 8:48

MARY SUE PENHOLLOW
COUNTY CLERK

BY: Mary Sue Penhollow DEPUTY
98-07139 FEE 100.00
NO. DESCHUTES COUNTY OFFICIAL RECORDS