

Until a change is requested, all  
tax statements shall be sent to:  
80296

86-14825

WARRANTY DEED

Steven Gist  
777 S. Commercial  
Bend, OR 97702  
VOL 128 PAGE 1487

P. K. McClain & Sons, Inc., an Oregon corporation, Grantor,  
conveys and warrants to STEVEN M. GIST and GINA GIST, husband and  
wife, as tenants by the entirety, Grantees, the real property  
described on Exhibit "A", attached hereto and by this reference  
made a part hereof.

Subject to any reservations in patents and the following:

1. The existence of roads, railroads, irrigation ditches and  
canals, telephone, telegraph and power transmission facili-  
ties.
2. The premises under search fall within the boundaries of  
Tumalo Irrigation District and are subject to rules, regula-  
tions, assessments and liens thereon.
3. Easement, including the terms and provisions thereof,  
affecting the portion of said premises and for the purposes  
stated therein, as granted to Midstate Electric Cooperative,  
Inc., a corporation, as disclosed by an instrument recorded  
August 13, 1953, in Book 104, Page 562, Deed Records.  
(Note: The above easement is also depicted on a Preliminary  
Major Partition MJP-1-85).
4. Conditions, Covenants and Restrictions as set forth on  
Exhibit "B", attached hereto and by this reference made a  
part hereof.
5. Slope Easement, including the terms and provisions there-  
of, affecting the portion of said premises and for the pur-  
poses stated therein:  
As granted to: Deschutes County, a municipal corporation  
Recorded: August 15, 1977  
Book/Page: 256/175, Deed records.
6. Street Improvement Agreement, including the terms and  
provisions thereof, by and between The City of Bend, an  
Oregon Municipal Corporation, and P. K. McClain & Sons, Inc.,  
recorded July 17, 1986, in Book 127, Page 1333, Deschutes  
County records.

Grantor, by executing this document, declares under the  
penalties of perjury:

1. It is not a foreign corporation;

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First Title Company

2. Its true name is P. K. McClain & Sons, Inc.;
3. Its tax identifying number is: 93-0832560;
4. Its office address is 108 N.W. Tumalo Street,  
Bend, OR 97701.

THIS INSTRUMENT DOES NOT GUARANTEE THAT ANY PARTICULAR USE  
MAY BE MADE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT. A  
BUYER SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING  
DEPARTMENT TO VERIFY APPROVED USES.

The true and actual consideration for this conveyance is  
\$10,000.

DATED this 25<sup>th</sup> day of July, 1986.

GRANTOR:

P. K. MCCLAIN & SONS, INC.

BY Patrick K. McClain  
(Pres.) P.K. McClain & Sons, Inc.

STATE OF OREGON )  
 ) SS  
County of Deschutes )

On this 25<sup>th</sup> day of July, 1986, personally  
appeared before me the above named Patrick K. McClain and,  
being first duly sworn, did say that he is President of  
P. K. McClain & Sons, Inc. and he signed the foregoing Warranty  
Deed on behalf of said corporation by authority of its Board of  
Directors.

Sylvia Johnson  
Notary Public for Oregon  
My commission expires: 12-10-88

EXHIBIT "A"

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A parcel of land containing 10.00 acres, being the northeast part of that same parcel shown as Parcel 2 in Major Partition MJP-1-85, situate in the southeast part of the SE-1/4 NE-1/4 of Section 26, T. 17 S., R. 11 E., W. M., City of Bend, Deschutes County, Oregon, and more particularly described as follows:

BEGINNING AT A POINT, a #5 steel rod set at the East 1/4 corner of Section 26;

THENCE N 61°50'38" W 865.37 feet to a #5 plastic-capped steel rod set along the SE line of McClain Drive and 30 feet from the centerline thereof;

THENCE along said SE Line, 221.82 feet along the arc of a 990.20-foot Radius Curve Left, the chord of which bears N 31°50'31" E 221.36 feet to a point;

THENCE N 25°25'27" E 148.82 feet to a #5 plastic-capped steel rod;

THENCE 89.63 feet along the arc of a 282.13-foot Radius Curve Right, the chord of which bears N 34°31'30" E 89.25 feet to a #5 plastic-capped steel rod;

THENCE N 43°37'32" E. 243.57 feet to a #5 plastic-capped steel rod set at the intersection of the SE Line of McClain Drive and the SW Line of Shevlin Park Road and 40 feet from the centerline thereof;

THENCE along said SW Line, 283.13 feet along the arc of a 994.93-foot Radius Curve Left, the chord of which bears S 48°41'33" E 282.18 feet to a point;

THENCE S 56°50'42" E 182.68 feet to a #5 plastic-capped steel rod set at the intersection of said SW Line and the East Line of Sec. 26;

THENCE along the East Line of Section 26, S 00°06'18" W 694.40 feet to the Point of Beginning.

The property shall be subject to the following conditions, covenants and restrictions for the benefit and protection of the property and owners of the real property described in Exhibit C, attached hereto and made a part hereof.

Declaration of Conditions, Covenants and Restrictions:

Definitions: Developer: The developer is P. K. McClain & Sons, Inc., or its successors, heirs or assigns.

Owner: The purchaser or deed holder of property transferred by deed or contract by the developer.

1.1 Occupancy. No owner shall occupy, use or permit his lot or any part thereof to be used for any purpose other than a private residence for the owner, his family, or his guests, except that each owner shall be permitted to rent the unit when he is not in occupancy. Exceptions only by approval of the developer.

1.2 Improvements. Each lot shall be maintained in a clean and attractive condition, in good repair and in such a fashion as not to create a fire hazard.

1.3 Appearance. All garbage, trash, cuttings, refuse, garbage and refuse containers, clothes drying apparatus, and other service facilities located on the lot shall be screened from view in a manner approved by the developer.

1.4 Status. All lots shall remain in a tree farm status in conformance with State Forestry Guidelines. A tree farm site

plan for the property was filed with the State Forestry Department in October of 1985 by the developer. Owner must comply with said plan and the directions of the developer in effectuating said plan unless otherwise agreed. The tree farm status of the property may be changed by the developer, if the zoning status of the property changes from its existing status of UAR-10 to allow a greater density use. If enforcement of any conditions, covenants or restrictions would conflict with the tree farm use, then the tree farm use shall have priority over enforcement of said restrictions. It is further the intent of the developer that the farm use shall specifically control any conflicting provisions of the zoning ordinances for the City of Bend controlling solar access.

1.5 Construction and Alteration. Nothing shall be altered or constructed in or removed from or placed on a lot except with the prior written consent of the developer.

1.6 Offensive or Commercial Activity. Offensive and commercial activity may only be carried on with approval from the developer consistent with zoning regulations.

1.7 Signs. No sign of any kind shall be displayed to public view on or from any lot without approval from the developer.

1.8 Antennas. No television antenna, radio antenna, satellite antenna, or other receiving device shall be placed on any lot without approval by the developer.

1.9 Limitation on Transfer. No owner shall transfer either by conveyance, contract sale, or lease any interest in his lot which would result in ownership of such lot being held by more

than ten persons.

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1.10 Mobile Homes. No house trailer, mobile home or shack shall be erected. All outbuildings or similar structures, whether permanent or temporary, shall not be erected without approval by the developer.

1.11 Fences. All fences must be approved by the developer.

1.12 Livestock. No pig or poultry. All other livestock must be approved by the developer.

1.13 Utilities. No above-ground utilities, pipes or wires shall be used to connect improvements with supplying facilities.

1.14 Parking. All recreational vehicles and farm equipment must be covered or screened from view. All other parking of such vehicles must be approved by the developer.

1.15 Wells. All lots shall be serviced by well water until such time that city water facilities have been provided. No more than two lots per well will be allowed.

1.16 Future Development of Property Described in Exhibit C. Owner agrees and consents to any land use requests made to the City of Bend by developer, should developer, in the future, decide to request a zone change, conditional use or other permit necessary to allow a greater density or a planned unit development. Owner further consents and agrees that, in the event it is necessary to pave McClain Drive, owner will pay a sum not to exceed 1/7 of the total cost thereof. Owner further consents and agrees that he will agree to formation of a Local Improvement District for construction of such a road if necessary.

2.1 Accessory Buildings. Only buildings to be used as tem-

porary construction shelter may be erected on a lot prior to construction of the main residence building. Structures such as dog houses, tool sheds, etc., which are not pertinent or semipermanent use, by approval only.

2.2 Building Area. No structure shall be erected within 75' of any property line except by approval. All building sites and house plans must be approved by the developer.

2.3 Building Height. No structure shall be erected which is over three floors in height.

2.4 Chimneys. All exterior chimneys must be of wood, stone, or metal. A metal chimney must be of such a color as to blend aesthetically with the residence.

2.5 Driveways. Driveways shall be limited to one per lot, unless otherwise approved. Driveway width shall be kept to a 12' maximum and, in general, the amount of the driveway exposed to view from the adjacent roads shall be kept to a minimum.

2.6 Excavation. All excavation must be done so as to create a minimum disturbance on the site. All dirt and debris resulting from excavation must be removed from the site.

2.7 Exterior Walls and Trim. The following materials are approved for use in exterior walls and trims:

- a. Wood (natural or treated with earthtones semitransparent stains or earthtone paints).
- b. Brick-medium to dark earthtone colors.
- c. Textured masonry block units not to exceed four inches in height - medium to dark earthtone colors.
- d. Stucco - medium to dark earthtone colors.

2.8 Windows, Door Frames and Skylights. Aluminum windows, door frames and skylights must be bronze anodized. All wood or wood clad preferred.

2.9 Utility Meter Panels. In general, all utility meter panels shall not be visible to the public.

2.10 Garages and Carports. If a carport or garage is utilized, it should connect to the main house by a roof or screen or be part of the house structure. Consideration should be given to relating the design of the carport or garage to that of the residence. Carports should be enclosed to provide screening of autos from neighboring views and roadways. Carports are not to be used for storage of boats, recreational vehicles, garbage cans or other personal belongings.

2.11 Grading. All grading shall conform to natural contours to the maximum extent feasible.

2.12 Gutters and Downspouts. All gutters and downspouts shall be designed as a continuous architectural design feature. Exposed gutters and downspouts shall be colored to blend in with the surface to which they are attached.

2.13 Heating and Cooling Systems. All exterior elements of heating and/or cooling systems must be screened from view of neighboring property, roads, and where applicable, must be insulated to reduce noise transmission to acceptable levels at adjoining properties.

2.14 Hillside Lots. Exposed understructures of homes built on hillside lots are prohibited. Siding material must extend to within eight inches of the finished grade, skirt walls higher



than four feet to the finish floor shall have foundation landscaping to reduce the scale of the skirt wall.

2.15 Mailboxes and Newspaper Receptacles. Individual mailboxes and newspaper receptacles are allowed.

2.16 Roofs. Wood shakes and shingles, slate and concrete tiles shall be the only approved roof materials when a roof is exposed to view, unless other materials are specifically approved by the developer. Roof materials shall be earthtone colors.

2.17 Service Yards. When not provided by other structures, each residence shall have a screened service yard, enclosed garbage and trash containers, clothes drying apparatus, bicycles, outdoor maintenance equipment, firewood and so forth. None of these shall be placed where they will be seen from the roads or neighboring lots.

2.18 Street Number Indicators. All residences shall have a designated street number that is easily viewed from the road.

2.19 Utilities. All connections from trunk lines to individual structures must be underground; exposed plumbing and electrical lines are not allowed.

2.20 Maintenance. Each property owner is required to keep his land and all improvements in good repair and attractive condition.

2.21 Drainage. The existing drainage pattern on each lot should be carefully considered when siting an improvement. The natural drainage pattern should be preserved if at all possible.

2.22 Driveways. Driveway material shall be asphalt, concrete, masonry or crushed rock (no cinders).

2.23 Square Footage. For all homes, the minimum square footage will be 1750', excluding the garage or storage areas.

2.24 Solar Systems. All homes are required to use passive solar, glass surface area must be minimum of 5% of total living space. All homes are encouraged to use some form of active solar.

2.25 Enforcement. These restrictions may be enforced by suit in equity or other appropriate legal action by the developer or owner. The prevailing party shall be entitled to costs and reasonable attorney fees at trial and on appeal.

2.26 Amendment. These restrictions may be amended by mutual written consent of developer and owner or owners.

2.27 The conditions, covenants and restrictions shall run with the land.

## EXHIBIT "C"

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A parcel of land located in Section Twenty-Six (26), Township Seventeen (17) South, Range Eleven (11) East, Willamette Meridian, City of Bend, Deschutes County, Oregon, being more particularly described as follows:

Beginning at the East One-Quarter corner of said Section 26, thence along the East line of said Section 26 South  $00^{\circ}23'01''$  West a distance of 1311.69 feet to the Southeast corner of the NE1/4 of the SE1/4 Quarter of said Section 26; thence along South and West lines of said NE1/4 of SE1/4 of said Section 26, the following 2 bearings and distances: North  $89^{\circ}44'55''$  West a distance of 1326.94 feet; North  $00^{\circ}12'53''$  East a distance of 1026.49 feet to the East right-of-way of McClain Drive; thence along said East right-of-way of McClain Drive the following 3 curves and 3 bearings and distances; following the arc of 319.39 foot radius curve right a distance of 259.04 feet (chord bears North  $23^{\circ}26'58''$  East 252.00 feet); North  $46^{\circ}41'03''$  East a distance of 509.46 feet; following the arc of 989.04 foot radius curve left a distance of 366.99 feet (chord bears North  $36^{\circ}03'15''$  East 364.89 feet); North  $25^{\circ}25'27''$  East a distance of 148.82 feet; following the arc of 282.13 foot radius curve right a distance of 89.63 feet (chord bears North  $34^{\circ}31'30''$  East 89.25 feet); North  $43^{\circ}37'32''$  East a distance of 243.57 feet to the new Southerly right of way of Shevlin Park Road (40 feet from centerline); thence along said Southerly right-of-way the following 1 curve and 1 bearing and distance: Following the arc of a 994.93 foot radius curve left a distance of 283.13 feet (chord bears South  $48^{\circ}41'33''$  East 282.18 feet); South  $56^{\circ}50'42''$  East a distance of 182.68 feet to the East line of said Section 26; thence along the East line of said Section 26 South  $00^{\circ}06'18''$  West a distance of 694.40 feet to the Point of Beginning, the terminus of this description.

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:

BY: P. Pen DEPUTY

NO. 86-14525 FEE 50-

DESCHUTES COUNTY OFFICIAL RECORDS

1 - EXHIBIT "C"