

VOL: 1999 PAGE: 30341
RECORDED DOCUMENT

STATE OF OREGON
COUNTY OF DESCHUTES



*1999-30341 * Vol-Page

Printed: 06/18/1999 16:19:58

DO NOT REMOVE THIS CERTIFICATE

(This certificate constitutes a part of the original instrument in accordance with ORS 205.180(2). Removal of this certificate may invalidate this certificate and affect the admissibility of the original instrument into evidence in any legal proceeding.)

I hereby certify that the attached instrument was received
and duly recorded in Deschutes County records:

DATE AND TIME: Jun. 18, 1999; 4:04 p.m.

RECEIPT NO: 7468

DOCUMENT TYPE: Covenants,
 Conditions & Restrictions

FEE PAID: \$60.00

NUMBER OF PAGES: 11

MARY SUE PENHOLLOW
DESCHUTES COUNTY CLERK

60
99-30341-1
After Recording Return To:
Ball Janik LLP
101 SW Main Street, Suite 1100
Portland, OR 97204
Attn: Daniel P. Semmens

DECLARATION OF COVENANTS

DATE: June 18, 1999
BY: CASCADE HIGHLANDS LIMITED PARTNERSHIP,
an Oregon limited partnership ("Declarant")

Recitals:

A. Pursuant to a transaction involving the exchange of various parcels of real property, Declarant acquired fee title to that certain parcel of real property in Deschutes County, Oregon consisting of approximately 130 acres commonly known as the "Westgate Parcel," which is located to the south of that certain approximately 10-acre parcel of real property in Deschutes County, Oregon owned by Declarant depicted on the attached Exhibit A (the "North Parcel"). The Westgate Parcel is scheduled to be created as two legal parcels, one of which is legally described on the attached Exhibit B (the "CHLP Parcel"), and the other of which consists of the Westgate Parcel less the CHLP Parcel (such parcel, the "Set-Aside Parcel"). CHLP contemplates contributing the Set-Aside Parcel to Bend Metro Park & Recreation District ("BMPRD"). The CHLP Parcel and the North Parcel are referred to herein jointly as the "Property."

B. The Westgate Parcel was formerly owned by, and subject to the jurisdiction of, BMPRD.

C. In conjunction with a series of public hearings and proceedings primarily before BMPRD relating to, among other things, Declarant's acquisition of fee title to the Westgate Parcel, Declarant expressed to BMPRD and others a willingness to subject the Property to certain obligations and restrictions intended to facilitate the harmonious development of the Property, as set forth below.

Declarations:

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, Declarant hereby declares as follows:

1. Effect of Declaration. This Declaration constitutes a restrictive and affirmative covenant binding upon the Property. This Declaration shall be for the benefit of BMPRD and

may be enforced by BMPRD. Subject to Section 4, this Declaration shall be permanent and shall run with the land as to all property burdened by this Declaration.

2. Certain Covenants. Declarant hereby declares and covenants to and for the benefit of BMPRD as follows:

2.1 Height Restriction. A height restriction area within the CHLP Parcel is hereby established and created, as depicted on the attached Exhibit C (the "Height Restriction Area"). No buildings or structures in excess of thirty (30) feet above existing grade shall be constructed or located on or within the Height Restriction Area.

2.2 Trails. Subject to applicable laws, rules, ordinances, and regulations, pedestrian trails shall be established and installed over and across the CHLP Parcel and the real property owned by Declarant to the north and east of the CHLP Parcel substantially in the locations depicted on the attached Exhibit D (collectively, the "Pedestrian Trails"); provided, however, there shall be no obligation to establish and cause to be installed that certain Pedestrian Trail identified as being at the bottom of the lower rock outcropping on Exhibit D in the event that improvements other than an inexpensive pedestrian crossing are required to be established and installed in connection with pedestrian access over and across the north-south collector road that is planned to extend from Century Drive to Skyliners Road as shown on the Bend Area Transportation Plan in effect as of the date of this Declaration (the "North-South Collector Road") or the Main Access Road (as defined in Section 2.3, below). Examples of improvements that are "other than an inexpensive pedestrian crossing" include, without limitation, a bridge or other overpass, an underpass, or any improvement that enables pedestrians to cross the North-South Collector Road or the Main Access Road, as the case may be, without crossing the surface of such road. The locations and dimensions of the Pedestrian Trails as depicted on Exhibit D are imprecise and illustrative, and the ultimate location and dimensions of the Pedestrian Trails, and their relocation, will depend upon field considerations and the instructions or mandates of public bodies, including, without limitation, the BMPRD, the County of Deschutes, the City of Bend, and the United States Forest Service, as well as the input of owners of private property near the Property and of the public in general. Subject to applicable laws, rules, ordinances, and regulations, the Pedestrian Trails will be made available to the public.

2.3 North-South Collector Road; Main Access Road. Subject to applicable laws, rules, ordinances, and regulations, Declarant shall be entitled to alter the location and configuration of the North-South Collector Road, as depicted on the Bend Area Transportation Plan existing as of the date of this Declaration, or to seek its removal from such plan. Declarant may not, however, locate the intersection of Century Drive and the North-South Collector Road or the intersection of Century Drive and the main access road serving the CHLP Parcel built in lieu of the North-South Collector Road (such road, the "Main Access Road") within that 1,250-foot wide strip of real property at the eastern edge of the Westgate Parcel depicted on the attached Exhibit E, unless Declarant is advised or required to locate such intersection within such strip of real property by a public body having jurisdiction over the placement and configuration of the road, such as, without limitation, the Oregon Department of Transportation, the County of Deschutes, or the City of Bend. In the event a public body having jurisdiction over the placement and configuration of the North-South Collector Road or the Main Access Road (as the

case may be) advises or requires that the intersection of Century Drive and such road be located within the 1,250-foot wide strip of real property, then Declarant shall use reasonable efforts to cause the North-South Collector Road or the Main Access Road (as the case may be) to veer to the west of and outside of such strip of real property as soon as is reasonably practicable. Declarant agrees to cause the North-South Collector Road or the Main Access Road (as the case may be) to be landscaped. Subject to this Section and applicable laws, rules, ordinances, and regulations, Declarant may cause roads to be constructed within the CHLP Parcel, including, without limitation, that 1,250-foot wide strip of real property depicted on the attached Exhibit E.

2.4 Public Park. Subject to applicable laws, ordinances, and rules, a park for public use and enjoyment shall be created within the North Parcel (the "North Parcel Public Park"), which park will be landscaped and contain a water feature and trails. Subject to applicable laws, ordinances, and rules, a parking area will be constructed off of the North-South Collector Road or the Main Access Road (as the case may be) and in the vicinity of the North Parcel Public Park.

3. Successors and Assigns. This Declaration shall be binding upon Declarant and Declarant's successors and assigns and inure to the benefit of the BMPRD and its successors and assigns.

4. Amendment. This Declaration, or any portion hereof, may be amended or waived by written agreement of Declarant and BMPRD recorded in the real property records of Deschutes County, Oregon.

5. Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first set forth above.

CASCADE HIGHLANDS LIMITED
PARTNERSHIP, an Oregon limited partnership

By: Broken Top, Inc., General Partner

By: 

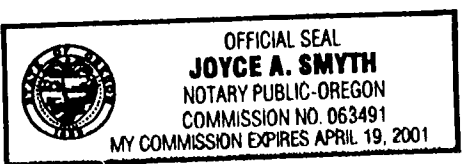
Its: SECRETARY

99-30341-4

STATE OF OREGON)
) ss
County of Multnomah

The foregoing instrument was acknowledged before me this 17th day of June, 1999 by Joseph E. Weston who is the _____ of Broken Top, Inc., the general partner of Cascade Highlands Limited Partnership, an Oregon limited partnership, on behalf of the limited partnership.

Joyce A. Smyth
Notary Public for Oregon
My Commission Expires: 4/19/2001



This topographic map illustrates the CHLP North Parcel and its surroundings. Key features include:

- CHLP Parcel Boundary:** A dashed line delineates the CHLP parcel, with a specific section labeled "CHLP NORTH PARCEL".
- Trails:** Multiple trails are shown as solid lines, with labels such as "TRAIL" and "TRAIL CONNECTS TO FOREST SERVICE INTERPRETIVE CENTER".
- Rock Outcroppings:** Two areas are marked as "EXISTING ROCK OUTCROPPING".
- Natural Open Space:** Shaded regions are labeled "NATURAL OPEN SPACE".
- Trailhead Parking:** A designated area for parking is labeled "TRAILHEAD PARKING".
- Surrounding Features:**
 - LAKE:** Located at the top of the map.
 - Conceptual North Parcel:** Indicated by an arrow pointing to a specific area.
 - W. CAMPBELL RD.:** A road running horizontally across the lower portion of the map.
 - CENTURY DRIVE:** A road running diagonally at the bottom right.
 - Other Roads:** "CARTMILL" and "KEMPLE DR." are visible on the right side.
 - CHLP Parcel Boundary:** Repeated labels on the right side of the map.
- Topography:** Contour lines represent the terrain's elevation.
- North Arrow:** A small circle with an 'N' indicates the north direction.


DATE	BY	REVISION	CHK
DRAWN BY: RH		 WHPACIFIC 660 SF BAYVIEW DR. SUITE C-100 BEND, OREGON 97009 www.whepacific.com TEL: (503) 338-1000 FAX: (503) 338-1000	
DESIGNED BY:			
CHECKED BY:			
APPROVED BY: KSD			

EXHIBIT 'A'
CONCEPTUAL
NORTH PARCEL MAP

SCALE:
1" = 300'

PROJECT NO.
2-2351-0003

FILE NAME:
1 RTFI POX DWG

99-30341-6

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Keith Dagostino

OREGON
JUNE 1, 1999
KEITH S. DAGOSTINO
2885

RENEWAL DATE: 12-31-99

EXHIBIT "B"
"CHLP PARCEL"
LEGAL DESCRIPTION

That portion of the Southwest Quarter (SW1/4), Section Twelve (12), Township Eighteen (18) South, Range Eleven (11) East of the Willamette Meridian, Deschutes County, Oregon, lying Northerly of Cascade Lakes Highway (also known as Century Drive);

EXCEPTING THEREFROM: That portion within W. Campbell Road, Lundgren Road, and Swarens Avenue;

and also excepting therefrom the parcel of real property described in Volume 8, Page 665, Deschutes County Deed Records, more particularly described as follows:

Beginning at the Southwest corner of Section 12, Township 18 South, Range 11 East of the Willamette Meridian; thence East along the South line of said Section 12, a distance of 165 feet; thence North parallel with the West line of said Section 12, to the North line of the Southwest Quarter of said Section 12; thence West along the North line of the said Southwest Quarter of Section 12, 165 feet to the quarter post between Section 11 and 12; thence South along the West line of said Section 12 to the Southwest corner thereof, the point of beginning.

Also excepting therefrom that parcel of real property described as follows:

Commencing at the center one-quarter corner of said section 12 (monumented by a 3" brass cap marked "David Evans and Associates", T18S, R11E, C1/4, S12, PLS 1068, 1990, the initial point and the true point of beginning; thence South 00°42'25" West along the east boundary of said SW1/4 of said section 12, as well as the west boundary of Lot 1, Block 7, "First On The Hill Sites", 450.34 feet; thence North 89°17'35" West, 30.00 feet; thence South 00°42'25" West, 30.00 feet west of and parallel with said east boundary, 832.72 feet to the northerly right-of-way (R/W) of West Campbell Road, dedicated February, 1965 in Volume 9, Page 325, Deschutes County Commissioners Journals; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 29°00'34", an arc length of 57.31 feet (the chord of which bears South 14°58'08" West, 56.70 feet); thence South 29°28'25" West, along said R/W, 278.58 feet; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 41°56'00", an arc length of 82.85 feet (the chord of which bears South 50°26'25" West, 81.01 feet); thence South 71°24'25" West along said R/W, 307.43 feet; thence leaving said R/W, North 00°42'25" East, 530.00 feet west of and parallel with said east boundary, 301.31 feet; thence north 76°30'00" East, 206.31 feet; thence North 00°42'25" East, 330.00 feet west of and parallel with said east boundary, 415.00 feet; thence North 89°17'35" West, 200.00 feet; thence North 00°42'25" East, 530.00 feet west of and parallel with said east boundary, 400.00 feet; thence North 65°00'00" East, 221.97 feet; thence North 00°42'25" East, 330.00 feet west of and parallel with said east boundary, 470.00 feet to the north boundary of said SW1/4; thence South 89°48'21" East along said north boundary, 330.01 feet to the true point of beginning.

EXHIBIT "C"
LEGAL DESCRIPTION
HEIGHT RESTRICTION AREA No. 1

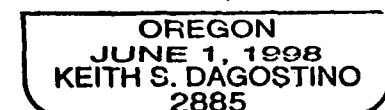
A parcel of land, located in the southwest quarter (SW1/4) of Section 12, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Commencing at the center one-quarter corner of said section 12 (monumented by a 3" brass cap marked "David Evans and Associates", T18S, R11E, C1/4, S12, PLS 1068, 1990, the initial point; thence South 00°42'25" West along the east boundary of said SW1/4 of said section 12, as well as the west boundary of Lot 1, Block 7, "First On The Hill Sites", 450.34 feet; thence North 89°17'35" West, 30.00 feet; thence South 00°42'25" West, 30.00 feet west of and parallel with said east boundary, 832.72 feet to the northerly right-of-way (R/W) of West Campbell Road, dedicated February, 1965 in Volume 9, Page 325, Deschutes County Commissioners Journals; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 29°00'34", an arc length of 57.31 feet (the chord of which bears South 14°58'08" West, 56.70 feet); thence South 29°28'25" West, along said R/W, 278.58 feet; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 41°56'00", an arc length of 82.85 feet (the chord of which bears South 50°26'25" West, 81.01 feet); thence South 71°24'25" West along said R/W, 307.43 feet; thence leaving said R/W, North 00°42'25" East, 530.00 feet west of and parallel with said east boundary, 105.95 feet to the **true point of beginning**; thence South 71°24'25" West, 100.00 feet north of and parallel with said R/W, 176.78 feet; thence along the arc of a 273.20 foot radius curve to the left, 100.00 feet north of and parallel with said R/W, through a central angle of 07°33'53", an arc length of 36.07 feet (the chord of which bears South 67°37'28" West, 36.04 feet); thence North 00°42'25" East, 730.00 feet west of and parallel with said east boundary, 217.19 feet; thence North 76°30'00" East, 206.31 feet; thence South 00°42'25" West, 530.00 feet west of and parallel with said east boundary, 195.26 feet to the true point of beginning.

The area contained within the parcel of land described herein is 0.94 acres.



Keith Dagostino



RENEWAL DATE: 12-31-99

EXHIBIT "C"
LEGAL DESCRIPTION
HEIGHT RESTRICTION AREA No. 2

A parcel of land, located in the southwest quarter (SW1/4) of Section 12, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Commencing at the center one-quarter corner of said section 12 (monumented by a 3" brass cap marked "David Evans and Associates", T18S, R11E, C1/4, S12, PLS 1068, 1990, the initial point; thence South 00°42'25" West along the east boundary of said SW1/4 of said section 12, as well as the west boundary of Lot 1, Block 7, "First On The Hill Sites", 450.34 feet; thence North 89°17'35" West, 30.00 feet; thence South 00°42'25" West, 30.00 feet west of and parallel with said east boundary, 832.72 feet to the northerly right-of-way (R/W) of West Campbell Road, dedicated February, 1965 in Volume 9, Page 325, Deschutes County Commissioners Journals; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 29°00'34", an arc length of 57.31 feet (the chord of which bears South 14°58'08" West, 56.70 feet); thence South 29°28'25" West, along said R/W, 278.58 feet; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 41°56'00", an arc length of 82.85 feet (the chord of which bears South 50°26'25" West, 81.01 feet); thence South 71°24'25" West along said R/W, 307.43 feet; thence leaving said R/W, North 00°42'25" East, 530.00 feet west of and parallel with said east boundary, 301.21 feet to the **true point of beginning**; thence North 76°30'00" East, 206.37 feet; thence North 00°42'25" East, 330.00 feet west of and parallel with said east boundary, 415.00 feet; thence North 89°17'35" West, 200.00 feet; thence South 00°42'25" West, 530.00 west of and parallel with said east boundary, 465.73 feet to the true point of beginning.

The area contained within the parcel of land described herein is 2.02 acres.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Keith Dagostino

OREGON
JUNE 1, 1998
KEITH S. DAGOSTINO
2885

RENEWAL DATE: 12-31-99

99-30341-9

EXHIBIT "C"
LEGAL DESCRIPTION
HEIGHT RESTRICTION AREA No. 3

A parcel of land, located in the southwest quarter (SW1/4) of Section 12, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Commencing at the center one-quarter corner of said section 12 (monumented by a 3" brass cap marked "David Evans and Associates", T18S, R11E, C1/4, S12, PLS 1068, 1990, the initial point; thence South 00°42'25" West along the east boundary of said SW1/4 of said section 12, as well as the west boundary of Lot 1, Block 7, "First On The Hill Sites", 450.34 feet; thence North 89°17'35" West, 30.00 feet; thence South 00°42'25" West, 30.00 feet west of and parallel with said east boundary, 832.72 feet to the northerly right-of-way (R/W) of West Campbell Road, dedicated February, 1965 in Volume 9, Page 325, Deschutes County Commissioners Journals; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 29°00'34", an arc length of 57.31 feet (the chord of which bears South 14°58'08" West, 56.70 feet); thence South 29°28'25" West, along said R/W, 278.58 feet; thence along the arc of a 113.20 foot radius curve to the right, along said R/W, through a central angle of 41°56'00", an arc length of 82.85 feet (the chord of which bears South 50°26'25" West, 81.01 feet); thence South 71°24'25" West along said R/W, 307.43 feet; thence leaving said R/W, North 00°42'25" East, 530.00 feet west of and parallel with said east boundary, 1002.60 feet to the **true point of beginning**; thence South 76°30'00" West 742.72 feet; thence North 65°00'00" East, 799.09 feet; thence South 00°42'25" West, 530.00 feet west of and parallel with said east boundary, 164.34 feet to the true point of beginning.

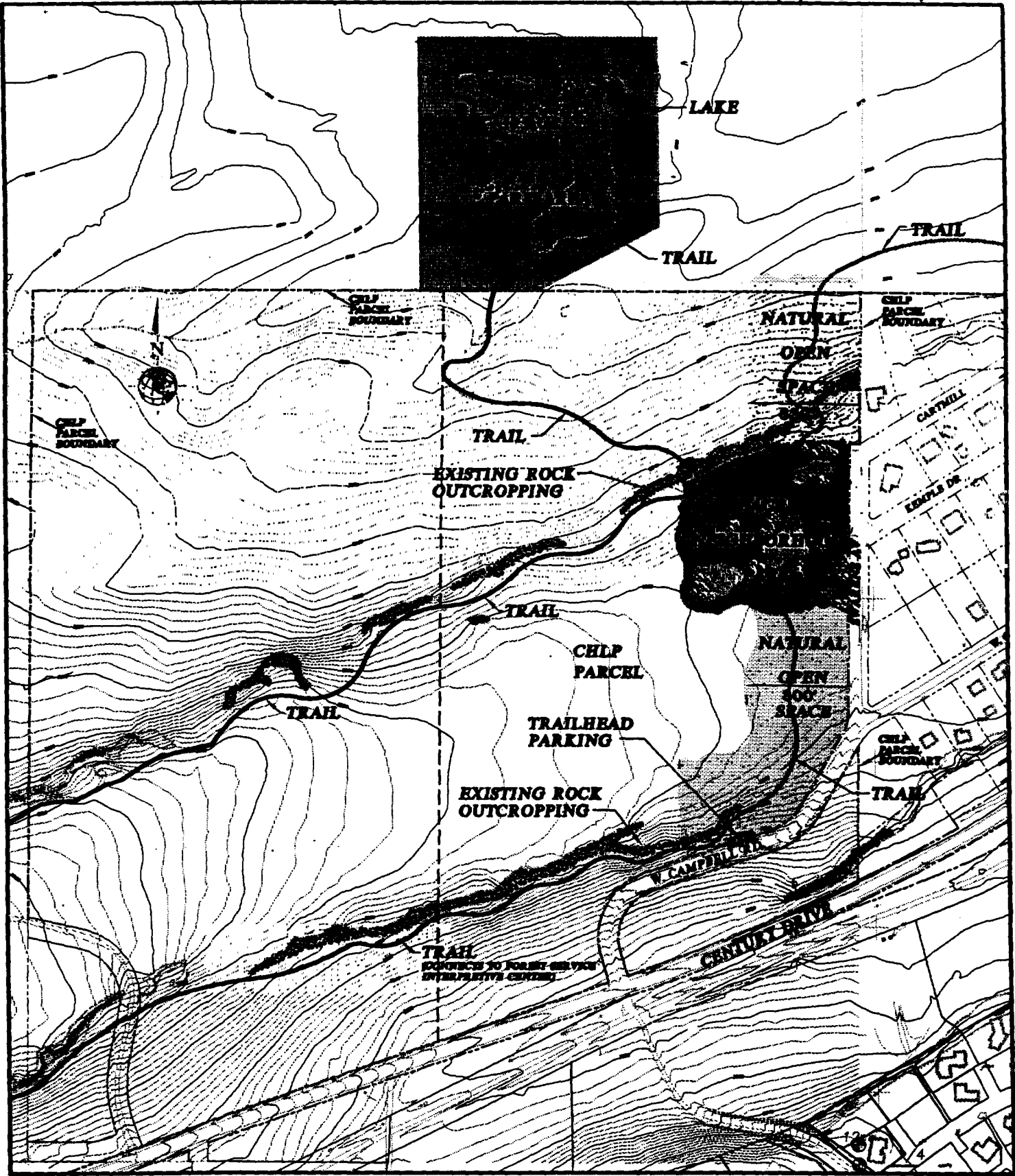
The area contained within the parcel of land described herein is 1.36 acres.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Keith Dagostino

OREGON
JUNE 1, 1998
KEITH S. DAGOSTINO
2885

RENEWAL DATE: 12-31-99



06/10/99

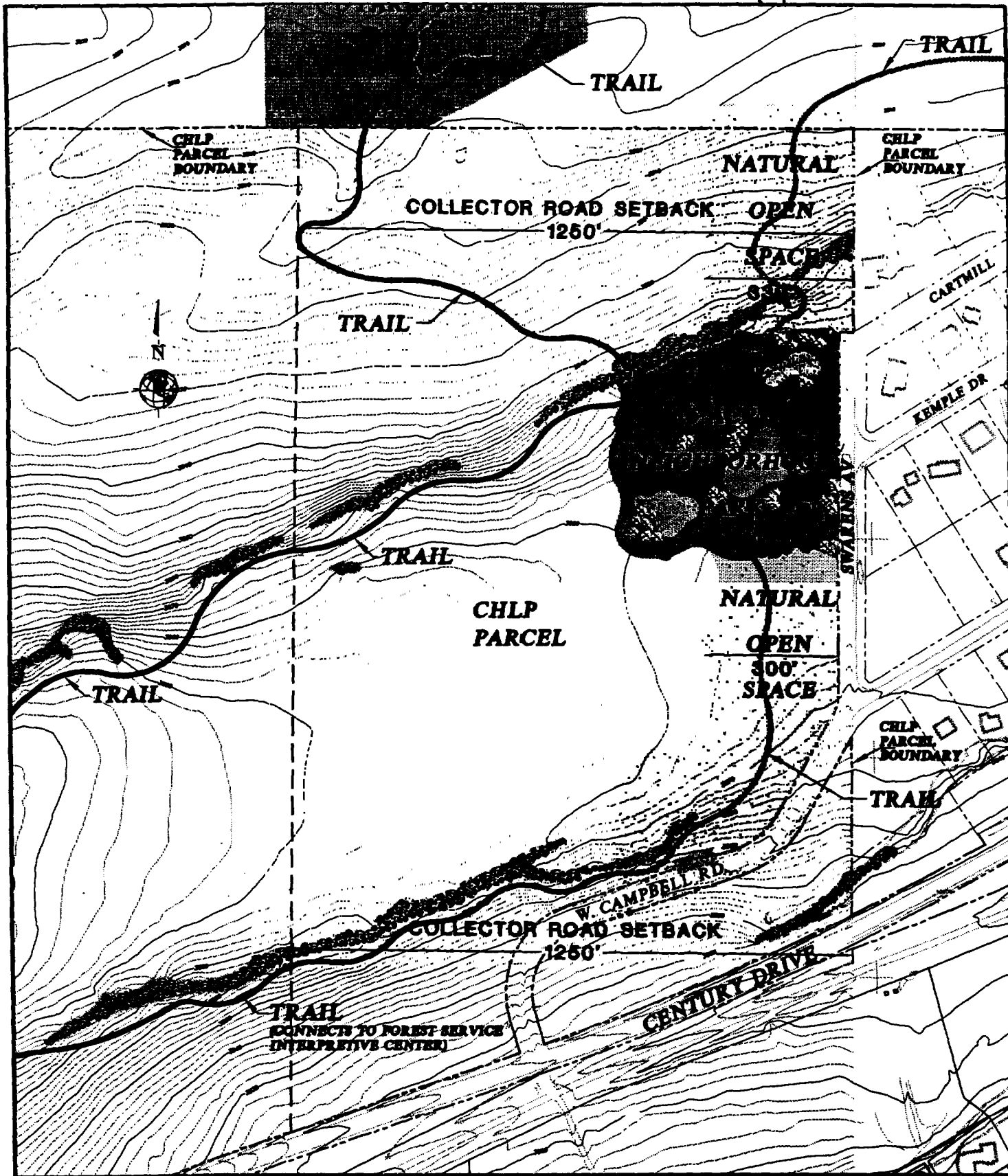
06/10/99

DATE	BY	REVISION	CHK
DRAWN BY: RH			
DESIGNED BY:			
CHECKED BY:			
APPROVED BY: KSD			

WHPACIFIC
200 BY BERRY BL. SUITE C-100
BIRMINGHAM, AL 35201
www.whpacific.com
TEL: (205) 988-8888 FAX: (205) 988-8888

EXHIBIT 'D'
DEPICTION OF PEDESTRIAN TRAILS OVER CHLP PARCEL

SCALE: 1"=400'	PROJECT NO. 2-2351-0003	FILE NAME: 1 RTFI POX DWG
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DATE	BY	REVISION	CHK
DRAWN BY:	RH		
DESIGNED BY:			
CHECKED BY:			
APPROVED BY:	KSD		



EXHIBIT 'E
DEPICTION OF COLLECTOR
ROAD SETBACK

SCALE: PROJECT NO. FILE NAME: :T EDIT: