

DECLARATION OF DEED RESTRICTIONS

This Declaration of Deed Restrictions ("Declaration"), dated this ____ day of _____, 1995, is for the benefit of the City of Portland, Oregon, and the Declarant and is applicable to real property legally described as Section 33, Township 1 South, Range 1 East, Tax Lot 63, County of Multnomah, State of Oregon ("Property"). Exhibit A of this Declaration contains a metes and bounds description of the Property. Exhibit B contains a map of the Property and the parcels thereof as described below.

RECITALS

WHEREAS, Mildred B. Stocking, herein referred to as the Declarant, is owner in fee simple of the Property; and

WHEREAS, the Declarant desires to declare of public record her intentions to create certain restrictive conditions to Parcel A of the Property in consideration for the city assessing final costs for the S.W. Palatine/Boones Ferry LID Project (C-9831) ("LID Project") based on the percentage of cost allocation shown on Exhibit C; and

WHEREAS, as shown on Exhibit B, the Property has four distinct areas based on current zoning and topography, including three areas which are located in an environmental conservation overlay zone ("ec") and one area which is located in an environmental protection overlay zone ("ep"); and

WHEREAS, Area A, as shown on Exhibit B, is the subject of this Declaration. Area A is defined by its location within a triangular-shaped area, containing approximately 34,000 square feet, located along the Property's western boundary within an ec zoning area; and

WHEREAS, due to the location, topography and zoning of Area A and the other areas of the Property, the parties agree that Area A is in a unique situation because it is not contiguous to any reasonably developable portions of the Property nor does it have reasonably available access to S. W. Palatine Street; and

WHEREAS, Area D is located within an environmental protection zone and cannot be reasonably developed and therefore is exempt from assessment for local improvements by city policy; and

WHEREAS, in consideration of this Declaration, the City of Portland shall exempt the square footage of Areas A and D from the calculation of assessable area of the Property when calculating the final assessment of local improvement district costs associated with the improvement of S.W. Palatine Street between Boones Ferry Road and its western terminus as part of the LID Project; and

WHEREAS, this Declaration shall run with the land in perpetuity for the benefit of the City of Portland, Oregon and Declarant;

NOW, THEREFORE, based upon the foregoing Recitals, and in consideration of the mutual promises set forth in this Declaration, the parties agree as follows:

AGREEMENT

1. Area A shall not be served by or have vehicular access to it, either directly or by way of easements through any other real property, from that portion of SW Palatine Street which extends approximately 1,100 feet west of its intersection with SW Boones Ferry Road, and which extension is part of the LID Project.

2. Whatever development or density transfer rights Area A may have shall not be sold, transferred or conveyed in any form to any real property which has access to that portion of S. W. Palatine Street which is being improved and extended as part of the LID Project.

3. The restrictions set out in paragraphs 1 and 2 above shall remain in full force and effect regardless of any future zone changes to any portion of the Property or surrounding real property. Furthermore, the restrictions set out in paragraphs 1 and 2 above shall not be affected by any city code provisions generally authorizing the transfer, sale or conveyance of development rights or densities unless the city adopts by ordinance a provision specifically superseding or amending this Declaration.

4. This Declaration and the restrictions herein shall run with the land for the benefit of the City of Portland and shall be binding on all parties hereto and their respective heirs, legal representatives, successors and assigns.

5. This Declaration and the restrictions herein can be terminated and revoked or amended only by a duly recorded instrument containing the consent of the Portland City Council and signed by the Mayor and Auditor of the City of Portland, Oregon.

6. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration. In the event the covenants are breached, damages shall be the amount of money gained by sale of the development rights, by the transfer of development rights, sale of the property or development of the property plus all costs including attorney's fees incurred in enforcing these covenants.

7. Invalidation of any one of these provisions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has signed her name as of the date first above written.

MILDRED B. STOCKING (Declarant)

STATE OF OREGON)
)ss.
County of _____)

Dated this ____ day of _____ 1995.

Personally appeared before me the above-named MILDRED B. STOCKING, and acknowledged the foregoing instrument to be her voluntary act and deed.

NOTARY PUBLIC FOR OREGON
My Commission Expires:_____

JHB/kvw
jhb\stocking\Declarat.D03

EXHIBIT A

Metes and Bounds Description

Tax Lot 63, Section 33, Township 1 South, Range 1 East,
County of Multnomah, State of Oregon

Beginning at an iron pipe set at the southwest corner of the north one-half of the northeast in-quarter of Section 33, thence south 89 degrees, 30 minutes east along the south line of said north one-half of the northeast one-quarter of Section 33, 200.00 feet to an iron pipe; thence north 0 degrees, 02 minutes west 654.88 feet to an iron pipe set in the southerly side of the Arnold Street right-of-way; thence westerly along a curve to the right having a radius of 316.50 feet through a central angle of 25 degrees, 09 minutes, 138.93 feet to the beginning of a tangent in the southerly line of Arnold Street; thence north 60 degrees 23 minutes west along said tangent, 78.47 feet to an iron pipe set in the southerly line of Arnold Street; thence south 0 degrees, 02 minutes east along the north and south center line of Section 33, 732.29 feet to the point of the beginning.

Multnomah County Property Tax Identification No. R991330630.

Section 33, Township 1 South, Range 1 East, Tax Lot 63, 3.18 Acres.

1248 SW Arnold Street, Portland, Oregon

EXHIBIT

A

City of Portland, Oregon
Office of the City Auditor

170173

168150

SW Palatine/Boones Ferry LID Project (C-9831)

Property	Owner	Legal Property Description	Assessed Area	Assessment Estimates Original	Revised	Change
R649702920	Youngdahl	Partition Plat 1990-49, Lot 2	10788	2,359.77	2,601.35	241.58
R991330410	Swan	Section 33, T1S, R1E, TL 41	9023	2,171.33	2,373.38	202.05
R991330440	Logdahl	Section 33, T1S, R1E, TL 44	19602	4,805.90	5,244.86	438.96
R991330450	Cavanagh	Section 33, T1S, R1E, TL 45	24829	5,860.22	6,416.22	556.00
R991330480	Fullbrook	Section 33, T1S, R1E, TL 46	20473	5,066.29	4,911.59	(154.70)
R991330500	Millor	Section 33, T1S, R1E, TL 50	43560	10,010.60	10,986.04	975.44
R991330530	Bailey	Section 33, T1S, R1E, TL 53	30000	6,512.34	7,184.14	671.80
R991330550	Bates	Section 33, T1S, R1E, TL 55	43560	10,569.43	11,544.88	975.45
R991330570	Bailey	Section 33, T1S, R1E, TL 57	36000	8,781.64	9,587.80	806.16
R991330630	Stocking	Section 33, T1S, R1E, TL 63	13600	21,212.34	3,272.12	(17,940.22)
R991330800	Woik	Section 33, T1S, R1E, TL 80	43560	9,728.48	10,703.93	975.45
R991330970	Stanich, S	Section 33, T1S, R1E, TL 97	43663	9,465.53	10,443.28	977.75
R991330980	Stanich, J	Section 33, T1S, R1E, TL 98	10284	2,791.87	3,022.16	230.29
R991330990	Radakovich	Section 33, T1S, R1E, TL 99	22830	5,526.42	6,037.66	511.24
R991331000	Stocking	Section 33, T1S, R1E, TL 100	10287	4,735.63	2,481.84	(2,253.79)
R991331010	Stocking	Section 33, T1S, R1E, TL 101	27650	4,547.15	6,623.57	2,076.42
R991331020	Freeman	Section 33, T1S, R1E, TL 102	27620	5,997.92	6,616.42	618.50
R991331530	Kelley	Section 33, T1S, R1E, TL 153	25000	6,146.64	6,706.47	559.83
R991331590	McClelland	Section 33, T1S, R1E, TL 159	30000	7,075.62	7,747.42	671.80
R991331690	Sandstrom	Section 33, T1S, R1E, TL 169	33737	8,444.15	9,127.43	683.28
R991331770	Gouge	Section 33, T1S, R1E, TL 177	51020	12,834.99	13,974.68	1,139.69
R991331970	Wright	Section 33, T1S, R1E, TL 197	43560	10,313.21	11,288.66	975.45
R991332010	Bailey	Section 33, T1S, R1E, TL 201	24000	5,565.83	6,103.27	537.44
R991332040	Swan	Section 33, T1S, R1E, TL 204	9147	2,133.78	2,338.61	204.83
R991332080	Stanich, R	Section 33, T1S, R1E, TL 208	12549	3,314.01	3,595.02	281.01
Total - Property Owner Share				175,971.09	170,932.80	(5,038.29)
City Subsidies:						
Intersection				2,725.80	2,725.80	0.00
Drainage				14,045.00	14,045.00	0.00
Other Adjustments				(5,038.29)	0.00	5,038.29
Total Estimated Project Costs				187,703.60	187,703.60	0.00
Average				7,038.84	6,837.31	(201.53)
Minimum				2,133.75	2,338.61	204.83
Maximum				21,212.34	13,974.68	(7,237.66)

EXHIBIT

C

ORDINANCE NO. 170173

- * Authorize a Declaration of Deed Restrictions with Mildred B. Stocking relating to the final assessment of costs of the SW Palatine/Boones Ferry Road Local Improvement District.
(Ordinance; Streets; C-9831)

The Council of the City of Portland ordains:

Section 1. The Council finds:

1. On September 21, 1994, the Council adopted Ordinance No. 168150 to form the SW Palatine/Boones Ferry Road Local Improvement District.
2. During the public hearing that preceded the adoption of Ordinance No. 168150, the Council directed the City Auditor to prepare a deed restriction with Mildred B. Stocking relating to the final assessment of a portion of her property described as Tax Lot 63, Section 33, Township 1 North, Range 1 East of Multnomah County.
3. The Auditor's Office and City Attorney's Office have worked with the property owner and her legal representative to produce a Declaration of Deed Restriction (Exhibit A). The deed restriction achieves the goals set forth by the Council at the formation of the local improvement district.

NOW, THEREFORE, the Council directs:

- a. the City Auditor to obtain the necessary signature of the property owner and record the deed restriction (exhibit A) in the Office of the Multnomah County Recorder.

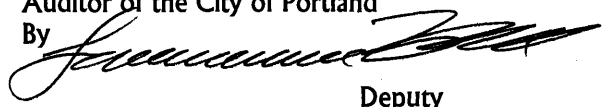
Section 2. The Council declares that an emergency exists because it is necessary to expedite the final assessment of the SW Palatine/Boones Ferry Road Local Improvement District; therefore, this ordinance shall be in effect from and after its passage by the Council.

Passed by the Council **MAY 29 1996**

Barbara Clark, Auditor
DGV
May 22, 1996

BARBARA CLARK
Auditor of the City of Portland

By



Deputy

Agenda No. **891**
ORDINANCE NO. **170173**

Title

- * Authorize a Declaration of Deed Restrictions with Mildred B. Stocking relating to the final assessment of costs of the SW Palatine/Boones Ferry Road Local Improvement District.
(Ordinance; C-9831)

<p>INTRODUCED BY Barbara Clark <i>BC</i></p>	<p>Filed: MAY 23 1996</p>
<p>NOTED BY COMMISSIONER</p> <p>Affairs</p> <p>Finance and Administration</p> <p>Safety</p> <p>Utilities</p> <p>Works</p> <p>BUREAU APPROVAL</p> <p>Bureau: City Auditor's Office</p> <p>Prepared by Date D.G. Vizzini 5/1/96</p> <p>Budget Impact Review: <input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not Required </p> <p>Bureau Head: Barbara Clark, CPA</p>	<p style="text-align: center;">Barbara Clark Auditor of the City of Portland</p> <p>By: <u><i>Betta Olson</i></u> Deputy</p> <p>For Meeting of:</p> <p>Action Taken:</p>

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
Consent <input checked="" type="checkbox"/>	Regular			YEAS	NAYS
NOTED BY		Blumenauer	Blumenauer		
City Attorney		Hales	Hales		
City Auditor		Kafoury	Kafoury		
City Engineer		Lindberg	Lindberg		
		Katz	Katz		