



MALHEUR COUNTY

251 B Street West, #12 Vale, Oregon 97918

PLANNING DEPARTMENT

Phone (541)473-5185

File Number: 2024-09-011
Application Fee: 350-
Date Received: 9/25/2024
Date Deemed Complete: 1/23/2025

CONDITIONAL USE APPLICATION

LANDOWNER INFORMATION

Name: Melvon S. Davis Trust
Address: 2150 Highway 201
City/State/Zip: Nyssa, OR 97913
Phone: (208) 447-8561
Email: bakdor@fmtc.com

APPLICANT INFORMATION

☐ Check box if same

Name: Marchelle Burnham
Address: 759 Mendiola Road
City/State/Zip: Nyssa OR 97913
Phone: (208) 447-8561
Email: bakdor@fmtc.com

PROPERTY INFORMATION

Township: 21 S Range: 46 E Section: 14 Tax Lot: 400 Ref #: 10589 Acres: 74.24 Zoning: EFU C-A1
Address: 2180 Highway 20, Nyssa, Oregon 97913
Current use: Farming/Residence Use of surrounding properties: Farming/Residence
Proposed use: Residence/Farming Permitted subject to section: N/A
Water source: Well/Irrigation Sewage disposal method: Septic
Are the wetlands/water waterways on your property? ☐ No ☒ Yes (description): Natural Springs
Do you own neighboring property? ☐ No ☒ Yes (description): Beneficiary of the Melvon S. Davis Trust
Name of road providing access: Mendiola Road

LEGAL PARCEL STATUS

Partition: N/A Subdivision: N/A
or Most Recent Pre- 09/04/1974 Deed #: N/A Date Filed: N/A
Current Deed #: _____ Date Filed: _____

*The deed and a map showing the property described in the deed(s) must accompany this application.

*Additional descriptive maps and pictures may be attached.

SIGNATURES:

X Property Owner(s): Michelle Burnham Date: 1-21-2025

Property Owner(s): _____ Date: _____

X Applicant(s): Michelle Burnham Date: 1-21-2025

Applicant(s): _____ Date: _____

PLEASE NOTE: Before this application will be processed, you must supply all requested information and forms, and address all listed or referenced criteria. Pursuant to ORS 215.428, this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

SHADED AREA TO BE COMPLETED BY PLANNING DEPARTMENT

Legal Parcel	<input type="checkbox"/> NO <input type="checkbox"/> YES
Deed/Land Use Action: _____	
Previous Map and Tax Lot: _____	
Past Land Use Actions: If yes, list file #(s) _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Subject to previous conditions? _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Assessor Property Class: _____ Zoning: _____	
Water Resources: Are there bodies of water or wetlands (seasonal or permanent) on property or adjacent properties? _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Describe (include setback distances): _____	
<input type="checkbox"/> Fish bearing <input type="checkbox"/> Non fish bearing <input type="checkbox"/> Seasonal Creek <input type="checkbox"/> Irrigation ditch <input type="checkbox"/> Wetland <input type="checkbox"/> Pond/Lake <input type="checkbox"/> Not identified <i>(Note: Check buffers. Different zones have different setback requirements that may require a more extensive permitting process.)</i>	
Access: County or ODOT approach permit on file? <input type="checkbox"/> NO <input type="checkbox"/> YES, # _____	
Address: Address exists and has been verified to be correct? _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Address needs to be assigned after approval? _____	<input type="checkbox"/> NO <input type="checkbox"/> YES
Fire District: _____	



MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918 Phone (541)473-5185 Fax (541)473-5140

CONDITIONAL USE PERMIT

DETAILED SPECIFIC WRITTEN REQUEST

I am trying to divide off a section of ground from the Melvon S. Davis Trust. I was awarded 2 acres in 1981 pursuant to my parents' divorce settlement. I have lived on this Property since 1981. We have made all of the improvements, including building the house and barn, and maintained the property through the right County regulations.

(Attach additional pages if necessary)

DETAILED STRUCTURAL INFORMATION

PROPOSED IMPROVEMENTS				
Structure/Development	Length	Width	Height	Square Footage
Dwelling	N/A			
Driveway	N/A			
Accessory Structure	N/A			
Agricultural Structure	N/A			
Other	N/A			
EXISTING				
Dwelling	70 feet	24 feet	16 feet	1600 square feet
Accessory Structure	60 feet	30 feet	30 feet	1800 square feet
Agricultural Structure				
Other				

CONDITIONAL USE CRITERIA – Malheur County Code (MCC) CHAPTER 6-6-7

1. The proposal must be consistent with the goals and objectives of the Comprehensive Plan and MCC.
2. Taking into account location, size, design and operational characteristics of the proposed use, describe how your proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses:

This would be the same use, as has been used in the past 40 years. This is a residence surrounded immediately by bare ground that cannot be farmed and farm ground and residences in the area. The proposal would not change the current use.

Describe the operational characteristics (hours of operation, equipment used, etc.) of the proposed use:

There are no operational characteristics. This is a residential home on approximately two acres.

Describe the number of people/employees/customers associated with the proposed use:

No employees or customers will be associated with the proposed use as the proposed use is a residential home.

3. What are the existing developments and viewpoints of property owners in the surrounding area?
This property is established as a residence with associated outbuildings. No proposed changes to the view and/or look of the property.

4. The proposed use cannot exceed or significantly burden public facilities and services available to the area. Please describe the impact the proposed use will have on the following public facilities and services and provide letters from the appropriate entities:

Roads: The property is on an existing road and is already maintained by the Nyssa Oregon Road Department

Fire & Police Protection: There would be no changes to the fire and/or police protection.

Currently the Adrian Fire Department and the Malheur County Sheriff's Department services the area. This has been the same for the last 40 years.

Sewer & Water: Septic and Well. Both the septic and well have been servicing the property for approximately 40 years.

Electrical & Telephone: The electrical and telephone services on the property are Idaho Power and Century Link. This has been the same for 30 years.

Solid Waste Disposal: All trash on the site is currently hauled to the dump. There will be no change in the solid waste disposal.

5. What effect will the proposed use have on the stability of the community's social and economic characteristics?
The only change to the property will be increased property taxes. The proposed change will not add or subtract from current social and/or economic characteristics.

6. Demonstrate that the proposed use will not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the fish and wildlife habitat protection plan for Malheur County.

The proposed use will not interfere with traditional fish and wildlife use of habitats.

There is no change to the proposed use of the property, it will be the same as it has been for at least 40 years.

7. How will the proposed use increase setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances during development and operation?

The property is currently and has been used for the same purpose for the last 40 years.

The existing structures will remain as they currently are.

8. What are the proposed landscaping improvements for the visual benefit of the subject site and for the improved appearance of the neighborhood and County?

There are no proposed landscaping changes. The landscaping will stay the same way

as it has for the last 40 years. It is currently landscaped as yards adjacent to the home with bare ground surrounding.

9. The location and size of driveway access points and right of way widening and improvement for present and future traffic circulation consistent with the adopted County road standards or the standards of the appropriate road district and the access management standards of the Malheur County Transportation System Plan.

The driveway was previously established in 1981 and is a standard driveway. There are no additional access points or rights of way being sought.

10. What is the proposed visual screening of the outdoor waste and storage areas?

The property currently has trash barrels and storage bins on the property consistent with a residential home. There are no proposed changes to the visual screening of outdoor waste and storage area.

11. What efforts will be in place to control and focus the outdoor lighting to avoid glare being directed beyond property limits?

The only outdoor lights currently installed on the property are front porch lights, barn lights, outdoor patio lights, and motion lights. These lights do not create a glare beyond the property limits more than any other residential home lighting.

12. Demonstrate how the proposed use will not significantly increase the cost of, or force a significant change to, accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use.

Describe the agricultural uses (orchards, wheat, grazing, etc.) that are within 0.25 miles of the proposed development. How will the proposed development interact with surrounding agriculture uses?

The property currently has pasture for horses and cows and a small garden is maintained.

The neighboring farm properties are currently farmed, growing onions. There is also some bare ground and a grove of trees in the area surrounding the property. There are already power lines installed on the property.

The proposed changes will not require additional water nor impedes access to the neighbors, as this proposal will not change the current use of the property. Therefore this proposal will not affect the cost of, or force a significant change to, the current accepted farm practices in the surrounding areas.

Last Updated 01/28/2020

**NON-RESOURCE DWELLING and NON RESOURCE PARTITION –
Malheur County Code (MCC) 6-6-8-1 and (MCC) 6-6-8-2**

1. Describe how the proposed dwelling and the creation of the proposed partition(s) is compatible with farm uses and is consistent with ORS 215.243: The proposed partition is compatible with both farm uses and
ORS 215.243 because the property being partitioned will likely never be used as farm ground
even if the current home was removed. The ground is not suitable for farming for reasons stated
elsewhere in this application. No usable farm ground will be removed nor impeded by this
proposal. Instead, ground better suited for farming can continue to be used for that purpose.

2. Will the proposed dwelling and creation of the proposed partition(s) interfere seriously with accepted farming practices on adjacent lands and what conditions exist to avoid this problem? No.
The house is currently physically separated from the rest of the farming ground in this parcel by
natural, physical barriers. The property is not used for access for either the rest of the parcel
or by any neighboring parcels. There is no source of water that is shared with the larger parcel.
There will be nothing added that needs to be mitigated.

3. Will the proposed dwelling/partition be situated on generally unsuitable land for the production of farm crops or livestock considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of tract:
☐ No, if yes:
 - Is the proposed parcel only as large as necessary to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? The property is too small to be
productive and is physically separated from the majority of the farm ground so it is unsuitable
for the production of farm crops and livestock. The proposed parcel follows a natural barrier
and is sufficiently large enough to accommodate the home, barn, yard and surrounding areas.

- Is the proposed parcel located on land with predominantly low productivity V-VII soils not suited for agricultural use and is large enough to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? How so? There is a natural buffer (trees) on the Southwest side of the property and a drain ditch road to the north of the property. There are fields currently being farmed on the other two sides of the property with no additional buffer needed.

4. In what ways will the proposed partition avoid conflict with and have no significant adverse impact on:

- the quality of farm or range land: The proposal will have no significant adverse impact on surrounding farm land. The property has had a residence on it for the past 40 years and is physically separate from the farm land.
- the watersheds: The proposal will have no significant adverse impact on the watersheds as a home has been located on the property for 40 years and in that time the homeowner has never had any flooding. The water should continue down the road and into the ditch as it does now.
- fish and wildlife habitat: No significant adverse impacts are expected to fish and wildlife habitat as there is currently no major wildlife habitat. There is only small local wildlife existing on the property.
- soil and slope stability: There will be no adverse change in the soil or slope stability as the buildings on the property have been there for at least 40 years and no changes to the buildings are proposed.
- air and water quality: There should be no adverse change to the air quality or water as there are no proposed changes to the current structures or uses of the property.

- outdoor recreation areas: There are currently no recreational activities on the property so there will be no adverse impact. There are limit recreational activities, if any, on the neighboring properties so this proposal will have no impact on those either.

5. Will the proposed partition be created for an existing dwelling or for preserving a historical dwelling? _____

The proposed partition will be created for an existing dwelling. The residence on the property has been there since 1981 (updated in 1986). A barn was built in 2010.

6. Demonstrate that the dwelling will not materially alter the stability of the overall land use pattern of the area, by conducting the "Cumulative Impacts Analysis".

A. What are the types of soils that have been identified within the study area? _____

N/A

B. What are the types and numbers of existing dwellings that have been identified within the study area?

Primary Farm dwellings _____ Non-farm dwellings _____

Farm hand/labor dwellings _____ Hardship dwellings _____

C. What are the types of farm use occurring in the study area (row crops, pasture, range land, feed crops)? _____

N/A

D. What are the number of potential "lot of record" dwellings and non-farm dwellings within the study area?

Lot of Record dwellings _____ Non-farm dwellings _____

E. What are the number of parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings? One parcel will be divided into two parcels.

F. On the parcels where you concluded no potential dwelling(s) will be sited, describe why? _____

Currently the parcel has two homes located at opposite ends. Each house is completely independent of the other with no shared access or utilities. No changes to the current uses of the land or structures is proposed here. The proposal is to split off the home on Mendiola Rd, with the surrounding approximately 2 acres of land, from the larger parcel.

G. What dwelling development trends have been identified within the study area since 1993? _____

N/A

H. What are the findings of fact that describe the existing land use pattern of what the study area looks like now?

The property proposed to be split off is used as a residential home typical of those in the area with small acreage. The larger parcel is currently used for farming row crops and has an additional home and associated structures. The use of the surrounding areas includes row crops, pastures, some small tree stands, and homes associated with parcels of varying sizes.

I. What are the findings of fact that describe what the study area would look like if all the potential development occurs? No new development is being proposed. The proposal only requests splitting the second home from the larger parcel so that it will be a separate property. Both the smaller property to be split off and the larger remaining property will continue with their current use as they have been for the last 40 years.

J. Determine that the proposed dwelling will not materially alter the stability of the overall land use pattern of the study area. Does the cumulative impact of the existing and proposed non-farm dwelling and the potential new non-farm dwellings within the study area make it more difficult for the existing farms in the study area to continue operation due to diminished opportunities to expand, acquire water rights, purchase or lease farmland, such that the area will be destabilized, impeding normal production practices or crop and livestock due to increased population and associated activities? The proposal will not make it more difficult for the existing farms in the study area to continue operations as the proposal does not request a change in use or additional change in use or additional development.

There are currently no water rights associated with the property. The land immediately with the property. The land immediately surrounding the residence is not farmable.

The property cannot be expanded upon due to natural barriers. The parcel is currently owned by a Trust (except for the proposed 2 acres) and is farmland and will not be changed. In addition, there will be no increase in population or associated activities on the property.



Query

Tasks

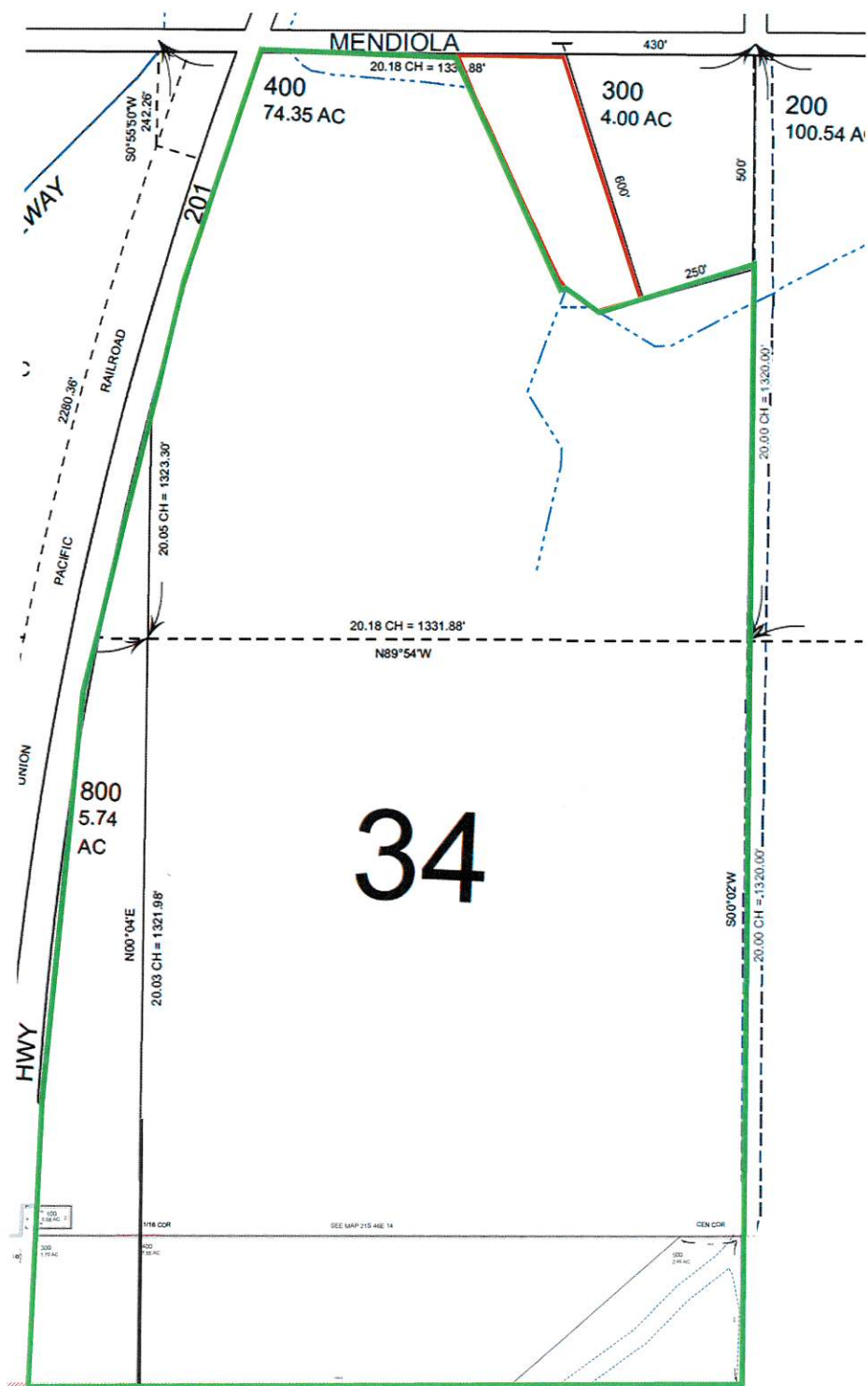
Results

Reference Number Search _Query result_2

Displayed features:1/1

DAVIS, MELVON S TRUST

MapNumber 21S46E14
Taxlot 400
MapTaxlot 21S46E1400400
Assessors [More info](#)
ORMap [More info](#)
SepticInfo [More info](#)
REF 10589
CONTRACTBU
ADD1
ADD2 P O BOX 321
CITYSTATE ADRIAN, OR
ZIP 97901
TCA 34
ZONING C-A1
TOTACRE 74.35
TAXES 1,293.05
ASSLND 75,006
ASSIMP 12,922
MKLND 622,850
MKIMP 70,300
SITUSADD 2150 201 HWY
CITY NYSSA
YRBL 2009
LOTSF 0
SLDATE 0
SLAMT 0
SPLTCK N



REF # 10589

TAX LOT 400



1/27/25
 9:40 POTENTIAL LIABIL. Y REAL PROPERTY INQUIRY A10100
 REF # 2025 R 10589 SPLIT ACCTS - CMD-18 Last Viewd 21176
 MAP# LOT# A NUM CODE PCL MCL AP VA ZONE PAR# %.xxxx REAL# PR
 21S4614 400 34 551 501 6 C-A1
 OWNER DAVIS, MELVON S TRUST ET ALS
 CNTRCT Pg 1
 ADDR
 P O BOX 321
 CTY/ST ADRIAN, OR 97901
 SC DEF SITUS: NYSSA
 SITUS: 2150 201 HWY +
 HOME ID:
 YR AP 2022 APPR 36 AUSTIN ENYEART
 ACRES 74.35 SPC ASM
 RMV M5 VALUE TOTAL AV
 LAND
 IMPROV M
 SUBTOT
 LESS EXEMPTIONS:
 LESS VET EXEMPT:
 NET VALUES:

ACTION CDS MAPCODE 0034
 NEW CONSTRUCTION
 NEW CONSTRUCTION
 CYCLE CONSTRUCTION +
 NOTES
 PHOTO# 478-25L

1-KEY 2-IMP 3-LND 7-E0J 8-CLR 9-BACK 10-FORWARD 17-JV/TL 22-SALES 23-TAX INQ

APPLICANT'S STATEMENT OF UNDERSTANDING

I, Melvon Davis, have filed an application for the **alteration, restoration or replacement of a lawfully established dwelling** pursuant to Oregon Revised Statutes 215.283(t) (A) through (E) with the Malheur County Planning Department to be reviewed and processed according to state and county requirements. The location of the existing dwelling that will be altered, restored or replaced is 2150 Hwy 201, Assessor's tax lot # 400, Assessor's map # 21S4614, Reference number #10589. My signature below affirms that I have discussed my application with Alvin Scott of the planning staff, and that I acknowledge the following disclosures:

1. I understand that any representations, conclusions or opinions expressed by staff in the pre-application review of this request do not constitute final authority or approval, and that I am not entitled to rely upon any such expressions in lieu of formal approval of my request.
2. I understand I may ask questions and receive input from planning staff, but acknowledge that I am ultimately responsible for all information or documentation submitted with this application. I further understand that planning staff cannot legally bind the County to any fact or circumstance which conflicts with state and local laws, and in the event a conflict occurs, the statement or agreement is null and void.
3. I understand I have the burden of proving my request meets State Statutes and Malheur County ordinance requirements and that I must address all of the criteria that apply. The criteria for approving or denying my request for the **alteration, restoration or replacement of a lawfully established dwelling** have been furnished to me as part of this application.
4. I understand that the dwelling to be replaced is a lawfully established dwelling that:
 - A. Has intact exterior walls and roof structure;
 - B. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - C. Has interior wiring for interior lights;
 - D. Has a heating system.
5. I understand that in the case of replacement, the dwelling to be replaced will be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
6. I understand that if the structure is to be converted to a nonresidential use, the kitchen and bathroom facilities will have to be removed from the structure.
7. I understand planning staff is entitled to ask for additional information or documentation any time after the submission of this application if it is determined such information is needed for review and approval.

8. I understand my application may be reviewed by the Oregon Department of Land Conservation and Development, and this agency has the authority to appeal its approval. In the event a public hearing is required, I agree that it is my responsibility, and not the County's, to respond to the appeal and make out the case in favor of the application. While the Planning Office may take a position supporting the application, I realize it is not the County's function to argue my case at the hearing.
9. I understand I am entitled to have a lawyer or a land use consultant help me with my application and to appear with me (or for me) at any appointment, conference or hearing relating to it. In light of the complexity and technical nature of my application, I have been advised that it may be in my best interests to have professional assistance.
10. I understand that the sewage system must meet all Department of Environmental Quality requirements for sanitation.
11. I understand that the new dwelling must meet all Malheur County Code, zoning and flood regulations, and Oregon State Building Codes regulations.
12. I understand that if the dwelling to be replaced pursuant to the replacement permit is re-established as a dwelling that the zoning approval for the replacement dwelling will become null and void.

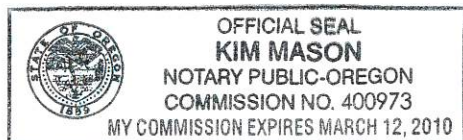
DATE: 5-18, 2009.

Melvon S. Davis
Property owner

STATE OF OREGON)
) ss.
County of Malheur)

On this 18 of May, 2009, Melvon S Davis personally came before me, a Notary Public for the State of Oregon and the County of Malheur, and executed the above *Statement of Understanding* and acknowledged to me that it was freely and voluntarily done.

NOTARY SEAL



Kim Mason
Notary Public, State of Oregon
My Commission expires: 3/12/2010

**DRAFT QUITCLAIM DEED FOR PROPOSED PARTITION PROPERTY
(not for recording)**

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

After recording return to:

STATUTORY QUITCLAIM DEED

Monte Davis, Trustee of the Melvon Davis Trust, Grantor, releases and quitclaims to
Marchelle Burnham, Grantee, all right, title and interest in and to the following described
real property:

See Exhibit A

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON
TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF
ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO
11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855,
OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.
THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN
THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS 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 THAT THE
UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR
PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES
OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST
FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE
ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS
195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424,
OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS
2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The true consideration for this conveyance is other property or value.

(Approximate Legal Description for Proposed Partition Parcel)
(subject to survey)

Township 21 South, Range 46 East, W.M., Malheur County, Oregon, Section 14:

Commencing at the Northeast corner of NE 1/4 NE 1/4 of Section 14; thence West 430 feet, to the point of beginning; thence West 250 feet; thence in a Southwesterly direction 650 feet to a point 600 feet South and 400 feet West for the point of beginning; thence East 150 feet; thence North 600 feet to the point of beginning.

**DRAFT QUITCLAIM DEED FOR REMAINING PROPERTY AFTER
PARTITION
(not for recording)**

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

After recording return to:

STATUTORY QUITCLAIM DEED

Monte S Davis, Trustee of the Melvon Davis Trust, Grantor, releases and quitclaims to
_____, Grantee, all right, title and interest in and to the following
described real property:

See Exhibit A

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The true consideration for this conveyance is other property or value.

**(Approximate Legal Description for Remaining Parcel)
(subject to survey)**

Township 21 South, Range 46 East, W.M., Malheur County Oregon:

Section 14: E1/2NW1/4 EXCEPTING THEREFROM the following parcels, to-wit:

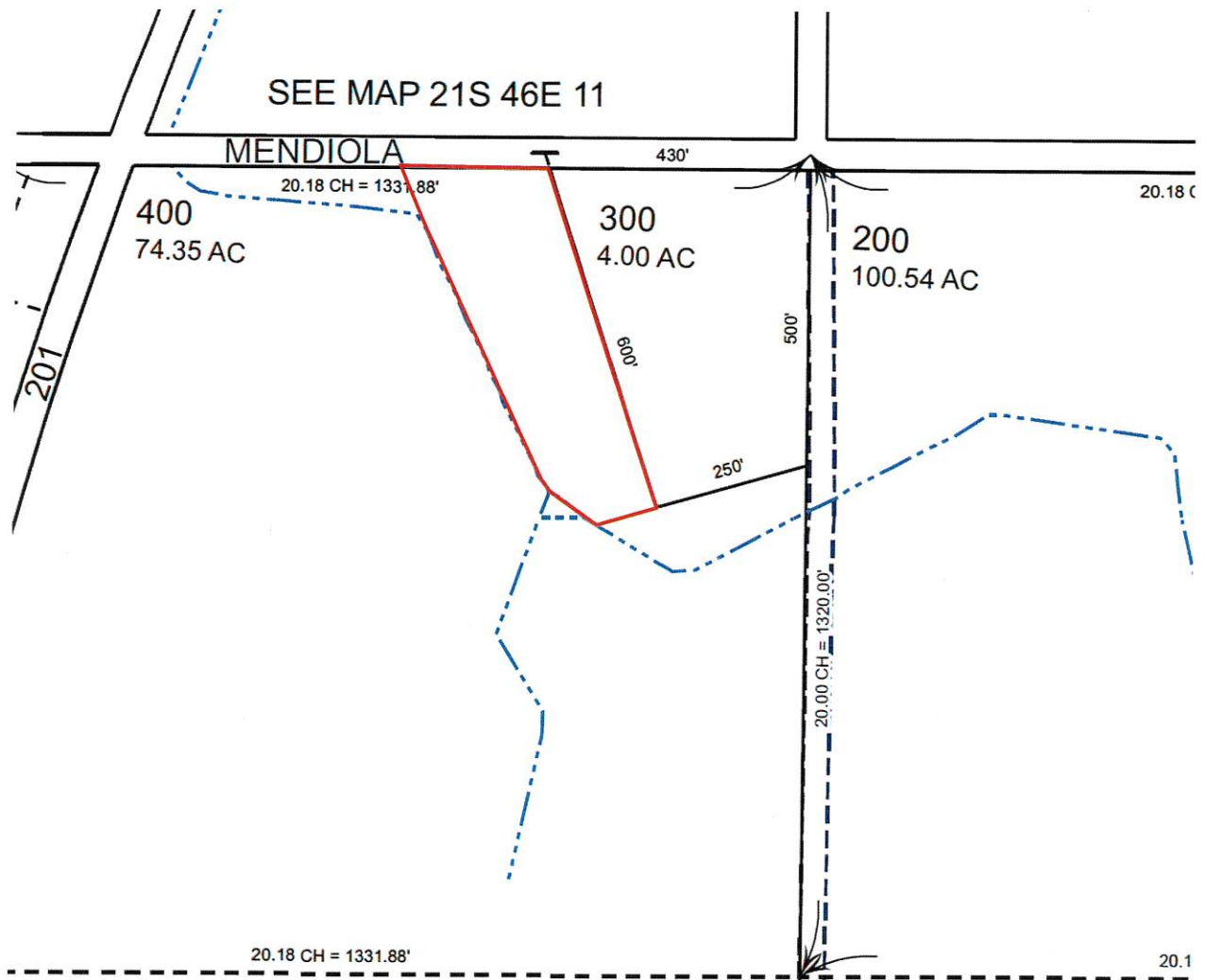
Parcel No. 1: Commencing at the Northeast corner of the NE1/4NE1/4, Sec. 14, T. 21S., R. 46E., W.M.; thence West 680 feet; thence Southeasterly 650 feet to a point 600 feet South and 400 feet West of points of beginning; thence East 400 feet; thence North 500 feet to the place of beginning.

Parcel No. 2: All that part of the E1/2NW1/4 lying North and West of the railroad right of way, as now located and surveyed over and across said lands.

Parcel No. 3: All that portion of the NE1/4NW1/4 as conveyed to the Oregon Short Line Railroad Company by Deed recorded Sept. 1, 1911, Book Y, Page 144 for railroad right of way.

Maps of Proposed Partition

- Approximate Remaining Parcel
- Approximate Proposed Partition



WARRANTY DEED

INSTRUMENT NO - 126
PAGE 1 OF 2 PAGES

FOR VALUE RECEIVED DALE A. GILBERT and FERN J. GILBERT
husband and wife,

the Grantor S, do hereby grant, bargain, sell and convey unto MELVON S. DAVIS and
MYRNA L. DAVIS, husband and wife,

the Grantee S, whose address is _____

the following described premises, to-wit:

Township 21 South, Range 46 East, W.M., Malheur County,
Oregon, Section 14:
E 1/2 of the NW 1/4, EXCEPTING THEREFROM:

Tract One:

Commencing at the NE corner in the NE 1/4 NE 1/4, Sec. 14,
T. 21S., R. 46E., W.M.; thence West 430 feet; thence South-
easterly 6001 feet to a point 500 feet South and 250 feet West
of points of beginning; thence East 250 feet; thence North
500 feet to the real place of beginning.

Tract Two:

All that part of the E 1/2 NE 1/4 of Sec. 14, T. 21S., R. 46E.,
W.M., lying North and West of the Railroad right-of-way located
and surveyed over and across said land.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee S,
their heirs and assigns forever. And the said Grantor S do hereby covenant to
and with the said Grantees, that they are the owners in fee simple of said premises; that
said premises are free from all encumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: September 16, 1975.

Dale A. Gilbert
Fern J. Gilbert

STATE OF IDAHO, COUNTY OF ADA
On this 16 day of September, 1975,
before me, a notary public in and for said State, personally
appeared
DALE A. GILBERT and FERN J.
GILBERT, husband and wife,

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

W. M. Jensen
Notary Public

Residing in Boise, Idaho
Comm. Expires 9 May 1975

MAIL TAX NOTICE TO:

Name *Melvon S. Davis*
Address *Box 202*
City & State *Adrian, Or.* Zip *97901*

MAIL DEED TO:

Melvin S. Davis
Box 202
Adrian, Or. 97901

Capitol Title Company
BOISE, IDAHO

NOT RECORDED
APR 30 2009
INSTRUMENT 88-126
PAGE 2 OF 2 PAGES

Inst. No. 98-126
I certify that the within instrument of
writing was received for record on
the 7 day of Apr 1998
at 4:12 o'clock P.M.
STATE OF OREGON)
County of Malheur) ss
DEBORAH R. DeLONG
County Clerk
By: [Signature] Deputy

WARRANTY DEED

No. _____

- TO -

DATED _____, 19____

STATE OF IDAHO

County of _____ } ss.

I hereby certify that this instrument was
filed for record at request of _____

at _____ minutes past _____
o'clock _____ M., this _____ day
of _____, A.D. 19____
in my office, and duly recorded in Book _____
of _____ at page _____

Ex-Officio Recorder.

By _____ Deputy.

Fees, \$ _____

Capitol Title Company
BOISE, IDAHO

Declaration of Trust

INSTRUMENT NO. 81-2485

WHEREAS, I, Melvon Scott Davis
City/Town of Adrian, County of Malheur, State of Oregon
am the holder of a ~~mortgage, first trust deed~~ or real estate sales contract on certain real property located at (also known as) Rt. 1 Nyssa, Oregon in the town of Adrian, State of Oregon
in the City/Town of Adrian, State of Oregon, which property is described more fully in such ~~mortgage, first trust deed~~ or real estate sales contract as that certain piece or parcel of land with any buildings thereon standing, located in said Malheur County, being

Tax Lot 8000
Map number 2146A

In twp. 21 S., R. 46 E., W.M.
Sec. 14: E $\frac{1}{2}$ NW $\frac{1}{4}$

EXCEPTING THEREFROM the Following 3 described parcels, to-wit:

PARCEL NO. 1: Commencing at the Northeast corner of NE $\frac{1}{4}$ NW $\frac{1}{4}$ of said Sec. 14: thence West 430 feet; thence in a Southeasterly direction 600 feet to a point 500 feet South and 250 feet West of the point of beginning; thence East 250 feet; thence North 500 feet to the place of beginning.

PARCEL NO. 2: All that part of the E $\frac{1}{2}$ NW $\frac{1}{4}$ lying North and West of the railroad right of way, as now located and surveyed over and across said lands.

PARCEL NO. 3: All that portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ as conveyed to the Oregon Short Line Railroad Company by Deed recorded Sept. 1, 1911, Book Y, Page 144, for railroad right of way.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that I do hereby acknowledge and declare that I hold and will hold said mortgage, first trust deed or real estate sales contract and all my right, title and interest in and to said mortgage, first trust deed or real estate sales contract IN TRUST

1. For the use and benefit of the following (5) five persons, in equal shares, or the survivor of them, and their heirs and assigns:

Monte S. Davis
Madelyne LaVerne Culbertson
Monique Denelle Culbertson
Marchelle L. Davis Culbertson
Betty Lou Wilmoth

Said beneficiary first name in left column to be handed down in line to last beneficiary in left hand column.

If because of my physical or mental incapacity certified in writing by a physician, the Successor Trustee hereinafter named shall assume active administration of this trust during my lifetime, such Successor Trustee shall be fully authorized to pay or disburse on my behalf such sums from income or principal as appear necessary or desirable for my comfort or welfare; and upon my death, unless all of the beneficiaries shall predecease me or unless we all shall die as a result of a common accident or disaster, my Successor Trustee is hereby directed forthwith to transfer the trust property and all right, title and interest in said property unto the beneficiaries absolutely and thereby terminate this trust; provided, however, that if any beneficiary hereunder shall not have attained the age of 21 years, the Successor Trustee shall hold such beneficiary's share of the trust property in continuing trust until such beneficiary shall have attained the age of 21 years. During such period of continuing trust the Successor Trustee, in his absolute discretion, may retain the specific trust property herein described if he believes it to be in the

best interests of the beneficiary so to do, or he may sell or otherwise dispose of it, investing and reinvesting the proceeds as he may deem appropriate. Prior to the date upon which such beneficiary attains the age of 21 years, the Successor Trustee may apply or expend any or all of the income or principal directly for the maintenance, education and support of the beneficiary without the intervention of any guardian and without application to any court. Such payments of income or principal may be made to the parents of such beneficiary or to the person with whom the beneficiary is living without any liability upon the Successor Trustee to see to the application thereof. If such beneficiary survives me but dies before attaining the age of 21 years, at his or her death the Successor Trustee shall transfer, pay over and deliver the trust property being held for such beneficiary to such beneficiary's personal representative, absolutely.

2. Each beneficiary hereunder shall be liable for his proportionate share of any taxes levied upon the Settlor's total taxable estate by reason of the Settlor's death.

3. All interests of a beneficiary hereunder shall be inalienable and free from anticipation, assignment, attachment, pledge or control by creditors or a present or former spouse of such beneficiary in any proceedings at law or in equity.

4. I reserve unto myself the power and right to collect any interest or payments constituting amortization which may accrue from the trust property and to pay such income to myself as an individual. I shall be exclusively entitled to all income accruing from the trust property during my lifetime, and no beneficiary named herein shall have any claim upon any such income distributed to me.

5. I reserve unto myself the power and right at any time during my lifetime to amend or revoke in whole or in part the trust hereby created without the necessity of obtaining the consent of the beneficiaries and without giving notice to the beneficiaries. The transfer of the trust property by me to another person shall constitute a revocation of this trust.

6. The death during my lifetime, or in a common accident or disaster with me, of all of the beneficiaries designated hereunder shall revoke such designation, and in the former event, I reserve the right to designate a new beneficiary. Should I for any reason fail to designate such new beneficiary, this trust shall terminate upon my death and the trust property shall revert to my estate.

7. In the event of my physical or mental incapacity or my death, I hereby nominate and appoint as Successor Trustee the beneficiary named first above, unless such beneficiary shall not have attained the age of 21 years or is otherwise legally incapacitated in which event I hereby nominate and appoint as Successor Trustee the beneficiary named second above, unless such beneficiary named second above shall not have attained the age of 21 years or is otherwise legally incapacitated, in which latter event I hereby nominate and appoint

(Name) Monte S. Davis, Second, Betty Lou Wilmoth
(Address) P.O. Box 202 Adrian Oregon 97901
Number Street City State Zip

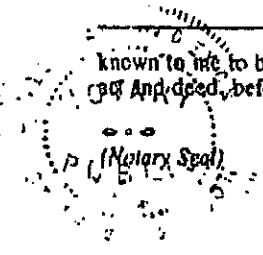
to be Successor Trustee.
8. This Declaration of Trust shall extend to and be binding upon the heirs, executors, administrators and assigns of the undersigned and upon the Successors to the Trustee.
9. The Trustee and his successors shall serve without bond.
10. This Declaration of Trust shall be construed and enforced in accordance with the laws of the State of

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 19____
(Settlor sign here) Monte S. Davis

I, the undersigned legal spouse of the above Settlor, hereby waive all community property rights which I may have in the hereinabove-described trust property and give my assent to the provisions of the trust and to the inclusion of the trust property.
STATE OF OREGON)
County of Malheur)
(Spouse sign here) _____

Witness: (1) Hubert V. Dixon Witness: (2) Larry Edwards
STATE OF Oregon City Adrian
COUNTY OF Malheur Town Adrian
On the 10 day of May, 1980, personally appeared

known to me to be the individual(s) who executed the foregoing instrument, and acknowledged the same to be his or her act and deed, before me.



Michael M. Dignard
Notary Public
My Commission Expires 2/28/82