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STATE OF OREGON } ss.  
County of Lincoln

9 Pages

I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon. WITNESS my hand and seal of said office affixed.

  
DANA W. JENKINS, Lincoln County Clerk

Doc : 200415078  
Rect: 407152 66.00  
10/04/2004 01:09:57pm



## DECLARATION OF ANNEXATION TO BELLA BEACH AND FIRST AMENDMENT OF THE DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BELLA BEACH

BELLA BEACH HOMEOWNERS' ASSOCIATION, an Oregon non-profit corporation, makes this Declaration of Annexation to annex additional property to Bella Beach, and this First Amendment of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach, in Lincoln County, Oregon, which declaration was recorded November 2, 2000. The properties described in the attached Exhibits "B", "C" and "D", which are incorporated by this reference herein, are hereby annexed to Bella Beach. The property described in Exhibit "B" is described as Bella Beach Phase 3 and Bella Beach Phase 4, and contains 20 lots, numbered 56 through 75. The lots described in Exhibits "C" and "D" are individual lots on property located adjacent to Bella Beach.

As part of the Phase 3 and 4 development, additional common area and parking are being provided.

### Section 1. The Terms of the Annexation Are as Follows:

A. Application of the Bella Beach Covenants. The property described in Exhibits "B", "C" and "D" are held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to The Bella Beach Covenants, as the same may be modified by any additional or different limitations, restrictions, covenants or conditions contained herein.

B. Owners' Easements and Rights. The Owners of Lots 56 through 75 of Bella Beach Phases 3 and 4 and the owners of the other lots being annexed, shall have the following easements of enjoyment and rights:

(1) Owners' Easements of Enjoyment. Subject to the provisions of these declarations, every Owner and every Owner's family, tenants, guests and invitees, shall have a right and easement of enjoyment in and to the Common Area and Private Ways. Casey Roloff, doing business as Current Development, has recorded plats known as Bella Beach Phase 3 and Bella Beach Phase 4, which dedicate common area within the plat. Phase 3 and Phase 4 of Bella Beach are by this document annexed to Bella Beach, and references hereinafter to "Bella Beach" are intended to refer to all phases. Casey Roloff, doing business as Current Development, has reserved a non-exclusive access and utilities easement unto himself, heirs, and assigns, over Kinnikinnik Way.

(2) Extent of Owners' Rights. The rights and easements of enjoyment in the Common Area and Private Ways created by these Covenants shall be subject to the following and all other provisions of these Covenants:

(a) Easements. Declarant reserves to itself and grants to the Association for the benefit of Declarant, the Association and all Owners of Lots within Bella Beach, the following easements:

(i) An easement for the Common Area and Private Ways for installation and maintenance of power, water, storm drainage, and other utility services;

(ii) An easement on all Private Ways for access within Bella Beach and to adjacent areas;

(iii) An easement for construction, maintenance, repair and use of the Common Area and Private Ways; and

(iv) An easement for the purpose of making repairs to existing structures and carrying out sales activities necessary or convenient for the sale of Lots.

Declarant or the Association may grant or assign such easements to municipalities or other utilities performing utility services, and Declarant and the Association intend to grant free access thereon to police, fire and other public officials and to employees of utility companies serving Bella Beach.

(b) Use of the Common Areas. The use of the Common Areas shall be governed by the Bella Beach Declaration of Protective Covenants, Conditions and Restrictions and Easements, and the Bylaws of the Bella Beach Homeowners' Association.

C. Consent to Annexation. By signature on the Declaration of Protective Covenants, Conditions and Easements for Lots 56 Through 75, Bella Beach Phase 3 and Bella Beach Phase 4, in Lincoln County, Oregon, recorded on September 17, 2003 at Doc: 200315607, Rect: 307082, the Declarant consented to annexation of Bella Beach Phase 3 and Bella Beach Phase 4 by Bella Beach Homeowners' Association. Such annexation is contingent upon the Declarant retaining the easement rights reserved herein and the adoption by Bella Beach Homeowners' Association of use restrictions as set forth in this First Amendment to the Declaration of Protective Covenants, Conditions, Restrictions and Easements. By their signatures on Exhibits "C" and "D", the owners of those properties consent to their annexation.

D. Repeal of Previously Adopted CC&R's for Bella Beach Phase 3 and Phase 4. The Declaration of Protective Covenants, Conditions, Restrictions and Easements for Lots 56 through 75, Bella Beach Phase 3 and Phase 4 that were recorded on September 17, 2003, as Document: 200315607, Receipt: 307082, are hereby repealed. By signature on this Declaration the Declarant for the covenants referenced herein does repeal said Declaration of Protective Covenants, Conditions, Restrictions and Easements for Lots 56

through 75 Bella Beach Phase 3 and Phase 4. The repeal shall be effective upon the recording of this Declaration of Annexation and First Amendment of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach.

**Section 2. First Amendment of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach.** The original declaration is hereby amended as follows:

A. The cover sheet and heading of the original declaration shall be revised to read:

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR LOTS 1 THROUGH 75, BELLA BEACH AND FOR THOSE LOTS DESCRIBED IN EXHIBITS A, B, C, AND D, IN LINCOLN COUNTY, OREGON**

B. The phrase: "*of fifty-five (55) lots*", in the sentence: "**Bella Beach is a planned subdivision of fifty-five (55) lots with common area.**", shall be stricken from the introductory paragraphs in the declaration which precede Article I of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach.

C. Section 1.12 is amended to read:

**1.12 Lot: shall mean and refer to each and any lot which is shown on the plat or described in Exhibits "A", "B", "C" and "D" and which is subject to this declaration, provided however that lot shall not include any lot or tract that is designated for use as common area on the plat or in the declaration.**

D. Section 1.16 is amended to read:

**1.16 Plat: shall mean and refer to the plats for Bella Beach, including all phases thereof, which have been recorded in Lincoln County and which depict the Lots and Common Area.**

E. Section 1.17 is amended to read:

**1.17 Property shall mean and refer to all real property that is subject to this declaration, including lots, the common area and all improvements located thereon, as more particularly set forth on Exhibits "A", "B", "C" and "D".**

F. Section 1.20 is amended to read:

**1.20 Bella Beach shall mean the lots and common area described on Exhibits "A", "B", "C" and "D".**

G. Article 2 is amended to read:

**Property Subject to this Declaration**

**The real property that is and that shall be held, transferred, sold, conveyed, occupied and improved subject to this declaration is located in an unincorporated area of Lincoln County, Oregon and is shown on the plat for Bella Beach, which has been filed in the plat records of Lincoln County, Oregon and includes additional lots annexed to Bella Beach and is described on Exhibits "A", "B", "C" and "D".**

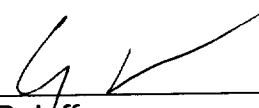
H. Article 4, Section 4.1 is amended to read:


4.1 Use Restrictions. The following use restrictions shall apply to the following lots as specified herein.

**4.1.1 Use Restrictions for Lots 1 through 74. Lots 1 through 74 are to be used for only residential purposes. Except with the consent of the Board, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any residential lot; nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit (a) activities relating to the sale of residences, (b) the right of Declarant or any contractor or homebuilder to construct residences on any Lot, to store construction materials and equipment on such Lots in the normal course of construction, and to use any residence as a sales office or model home for purposes of sales in Bella Beach, and (c) the right of the Owner of a Lot to maintain his professional or personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls or confer with business or professional associates, clients or customers in his residence. The Declarant or Board shall not approve commercial activities otherwise prohibited by this paragraph for residential properties unless the Declarant or Board determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of Lincoln County ordinances. In determining whether such activity would comply with Lincoln County ordinance requirements, the Board will review and apply the standards for home occupations set forth in Lincoln County Code Section 1.1620(6).**

**4.1.2 Use Restrictions for Lot 75.** Lot 75 has been designated for commercial or retail use. Such uses would include, but not be limited to a café, grocery, jewelry store, barbershop, ice cream shop, snack shop, bookstore, general mercantile, fitness center, recreation center, or professional offices.

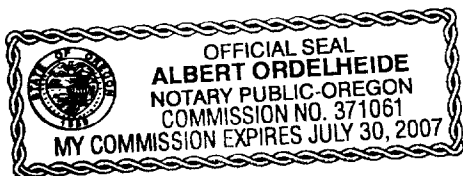
IN WITNESS WHEREOF, the Declarant of Phase 3, 4 and Bella Beach has executed this stipulation and repeal of the Declaration of Protective Covenants, Conditions and Easements for Lots 56 Through 75, Bella Beach Phase 3 and Phase 4, in Lincoln County, Oregon, which were recorded on September 17, 2003 as Doc: 200315607, Rect: 307082, this 20 day of August, 2004.

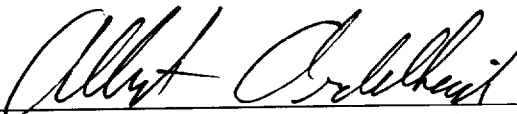
  
\_\_\_\_\_  
Casey Roloff  
CURRENT DEVELOPMENT COMPANY

By:   
\_\_\_\_\_  
Casey Roloff

STATE OF OREGON        )  
                                  ) ss.  
County of Lincoln        )

This instrument was acknowledged before me on this 20<sup>th</sup> day of August, 2004, by Casey Roloff, individually and by Casey Roloff on behalf of Current Development.



  
\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7-30-07

The President and Secretary of the Bella Beach Homeowners' Association do hereby certify and acknowledge that this Declaration of Annexation to Bella Beach and First Amendment of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach is an amendment adopted in accordance with Subsection 11.6 of the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach, which was originally recorded on November 2, 2000, in Book 410, at page 1360 of the Lincoln County records and this First Amendment has been adopted by affirmative vote of 75% or more of all owners of lots within Bella Beach in accordance with the declaration and the provisions of ORS 94.590(3).

*Patrick Corcoran*  
President

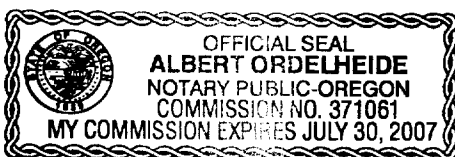
Personally appeared before me on the 20 day of August, 2004, James P. Corcoran and acknowledged the foregoing instrument to be his/her voluntary act and deed.



*Mary Hurst*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: May 20, 2006

*Darci Kreefer*  
Secretary

Personally appeared before me on the 24<sup>th</sup> day of September, 2004, Darci Kreefer and acknowledged the foregoing instrument to be his/her voluntary act and deed.



*Albert Ordelheide*  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 7-30-07

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Exhibit "B"

BELLA BEACH, PHASE 3, and BELLA BEACH, PHASE 4, in Lincoln County, Oregon

Exhibit "B"

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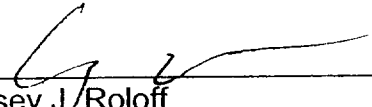
CONSENT TO ANNEXATION

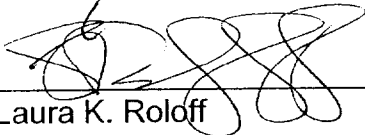
By signature on this Consent to Annexation, the undersigned property owner consents to annexation of the property described as:

Lot 2, PELICAN BEACH, a Replat of Lots 4 and 5, Block A of Belle Mer, in Lincoln County, Oregon. TOGETHER WITH non-exclusive easements for access and utilities as set forth on the recorded plat of Pelican Beach, recorded May 29, 2001 in Plat Book 17, page 1, Lincoln County Plat Records

by the Bella Beach Homeowners Association. Annexation of this property will subject the property to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach including dues and assessments.

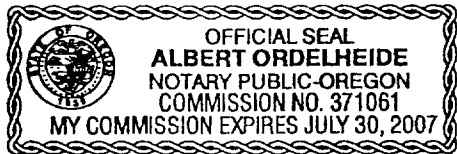
The properties described above shall be held, conveyed, hypothecated, encumbered, used, occupied and improved, subject to the Bella Beach covenants, as the same may be modified by any additional and different limitations, restrictions, covenants or conditions contained herein. The owner and the owner's family, tenants, guests and invitees shall have the right and easement of enjoyment in and to the common area and private ways of Bella Beach.

  
\_\_\_\_\_  
Casey J. Roloff

  
\_\_\_\_\_  
Laura K. Roloff

STATE OF OREGON        )  
                                  ) ss.  
County of Lincoln        )

Personally appeared before me the above named Casey J. Roloff and Laura K. Roloff on the 6th day of April, 2004, and acknowledged the foregoing instrument to be their voluntary act and deed.



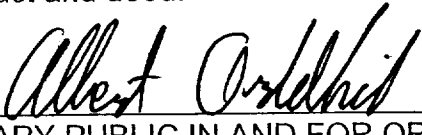
  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR OREGON  
My Commission Expires: 7-30-07

Exhibit "C"



CONSENT TO ANNEXATION

By signature on this Consent to Annexation, the undersigned property owner consents to annexation of the property described as:

That portion of Lot 8, Block B, BELLE MER, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the Southeast corner of said Lot 8; thence Westerly along the South line of said Lot 8 a distance of 100.00 feet; thence Northerly parallel to and 100.00 feet distant from the East line of said Lot 8 a distance of 50.0 feet; thence Easterly parallel to the South line of said Lot 8 a distance of 100.00 feet to said East line; thence Southerly along said East line 50.0 feet to the point of beginning

by the Bella Beach Homeowners Association. Annexation of this property will subject the property to the Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach including dues and assessments.

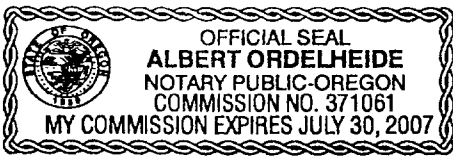
The properties described above shall be held, conveyed, hypothecated, encumbered, used, occupied and improved, subject to the Bella Beach covenants, as the same may be modified by any additional and different limitations, restrictions, covenants or conditions contained herein. The owner and the owner's family, tenants, guests and invitees shall have the right and easement of enjoyment in and to the common area and private ways of Bella Beach.

  
\_\_\_\_\_  
Casey Roloff

  
\_\_\_\_\_  
Laura Roloff

STATE OF OREGON        )  
                                  ) ss.  
County of Lincoln        )

Personally appeared before me the above named Casey Roloff and Laura Roloff on the 6th day of April, 2004, and acknowledged the foregoing instrument to be their voluntary act and deed.




  
\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR OREGON  
My Commission Expires: 7-30-07

Exhibit "D"