c/s 2310

CERTIFICATE OF SURVEY NO. 2310

TRACT 5; BEING A RETRACEMENT SURVEY OF THE REMAINDER PORTION OF THAT TRACT DESCRIBED AT DEED RECORD VOLUME 115–PAGE 314; LOCATED IN A PORTION OF G.L.O. LOT 2 OF SECTION 19, TOWNSHIP 3 NORTH, RANGE 9 EAST, P.M.M., PARK COUNTY, MONTANA.

LEGEND

- FOUND 1 1/4" AL. CAP ON 5/8" REBAR MARKED RATE 37165
- FOUND 2" AL. CAP ON 5/8" REBAR MARKED SWART 18535
- SET 5/8" x 24" REBAR WITH 2" AL. CAP MARKED WESTERN 83745
- FOUND SET SANDSTONE MONUMENT WITH 1/4" DRILL HOLE SET AT STREET INTERSECTIONS OF ORIGINAL TOWNSITE OF WILSALL (PLAT NO. 158)
- CALCULATED POINT – NO MONUMENT FOUND OR SET
- CCR = CERTIFIED CORNER RECORD
- R = RECORD DISTANCE AS PER PLAT NO. 158
- R_{1762} = RECORD DISTANCE AS PER C.O.S. NO. 1762
- C.O.S. = CERTIFICATE OF SURVEY

BASIS OF BEARING: ASSUMED BEARING OF N 01°27'05"W ALONG THE WESTERLY BOUNDARY OF THE SW1/4 OF SECTION 19 AS MEASURED BETWEEN FOUND MONUMENTS AS PER CCR1–1

TOTAL AREA: 14,700 SQ. FT. OR 0.3375 ACRE

SCALE: 1" = 50'

DESCRIPTION

TRACT 5; BEING A RETRACEMENT SURVEY OF THE REMAINDER PORTION OF THAT TRACT DESCRIBED AT DEED RECORD VOLUME 115 – PAGE 314 AS RECORDED IN THE RECORDS OF THE CLERK AND RECORDER OF PARK COUNTY, MONTANA; LOCATED IN A PORTION OF G.L.O. LOT 2 OF SECTION 19, TOWNSHIP 3 NORTH, RANGE 9 EAST, P.M.M., PARK COUNTY, MONTANA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTER LINES OF ELLIOT STREET AND SACAGAWEA STREET, AS SHOWN ON THE ORIGINAL TOWNSITE OF WILSALL, AS PER PLAT NO. 158, IN SAID RECORDS, FROM WHICH POINT THE INTERSECTION OF SACAGAWEA STREET AND COOPER STREET BEARS N 82°06'45" E, 314.92 FEET AND THE INTERSECTION OF SACAGAWEA STREET AND ORDWAY STREET BEARS S 82°06'45" W, 959.73 FEET AND FROM WHICH POINT THE WESTERLY QUARTER–SECTION CORNER OF SAID SECTION BEARS S 85°09'01" W, 1,231.88 FEET; THENCE ALONG THE CENTER LINE OF SAID ELLIOT STREET N 07°53'15" W, 30.00 FEET TO THE NORTHERLY BOUNDARY OF SAID SACAGAWEA STREET; THENCE CONTINUING ALONG THE PROJECTED CENTER LINE OF SAID ELLIOT STREET, N 07°53'15" W, 430.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT TRACT DESCRIBED AT DEED RECORD VOLUME 48 – PAGE 487, IN SAID RECORDS, N 82°06'45" E, 160.00 FEET; THENCE ALONG THE WESTERLY BOUNDARY OF THAT TRACT DESCRIBED AT DEED RECORD VOLUME 43 –PAGE 601, IN SAID RECORDS, S 07°53'15" E, 60.00 FEET; THENCE ALONG THE NORTHERLY AND WESTERLY BOUNDARIES OF THAT TRACT DESCRIBED AT DEED RECORD ROLL 82 – PAGE 157, IN SAID RECORDS, S 82°06'45" W, 130.00 FEET; AND S 07°53'15" E, 170.00 FEET; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT DEED RECORD VOLUME 115 – PAGE 314, S 82°06'45" W, 30.00 FEET; THENCE ALONG SAID PROJECTED CENTER LINE OF ELLIOT STREET N 07°53'15" W, 230.00 FEET TO THE TRUE POINT OF BEGINNING. SAID TRACT 5 CONTAINS 14,700 SQUARE FEET OF 0.3375 ACRE.

SUBJECT TO AND INCLUDING AN EXISTING EASEMENT FOR STREET PURPOSES AS DESCRIBED AT SAID DEED RECORD VOLUME 115 –PAGE 314; BEING A STRIP OF LAND 30.00 FEET WIDE ALONG AND ADJOINING THE EASTERLY SIDE OF SAID PROJECTED CENTER LINE OF ELLIOT STREET; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT SAID TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHERLY BOUNDARY OF THAT SAID TRACT DESCRIBED AT DEED RECORD VOLUME 48 – PAGE 487, N 82°06'45" E, 30.00 FEET; THENCE S 07°53'15" E, 60.00 FEET; THENCE CONTINUING ALONG THE WESTERLY BOUNDARY OF SAID TRACT DESCRIBED AT DEED RECORD ROLL 82 – PAGE 157, S 07°53'15" E, 170.00 FEET; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT DEED RECORD VOLUME 115 – PAGE 314, S 82°06'45" W, 30.00 FEET; THENCE ALONG SAID PROJECTED CENTER LINE OF ELLIOT STREET, N 07°53'15" W, 230.00 FEET TO THE TRUE POINT OF BEGINNING. SAID ROAD EASEMENT CONTAINS 8,900 SQUARE FEET.

SUBJECT TO AND INCLUDING AN EXISTING EASEMENT FOR ALLEY PURPOSES AS DESCRIBED AT SAID DEED RECORD VOLUME 115 –PAGE 314; BEING A STRIP OF LAND 10.00 FEET WIDE ALONG AND ADJOINING THE WESTERLY SIDE OF THE EASTERLY BOUNDARY OF SAID TRACT 5; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID TRACT 5, THENCE ALONG THE EASTERLY BOUNDARY OF SAID TRACT 5, S 07°53'15" E, 60.00 FEET; THENCE ALONG THE NORTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT DEED RECORD ROLL 82 – PAGE 157, S 82°06'45" W, 10.00 FEET; THENCE N 07°53'15" W, 60.00 FEET; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT DESCRIBED AT DEED RECORD VOLUME 48 – PAGE 487, N 82°06'45" E, 10.00 FEET TO THE POINT OF BEGINNING. SAID ALLEY EASEMENT CONTAINS 600 SQUARE FEET.

SUBJECT TO AND INCLUDING ALL OTHER EXISTING EASEMENTS OF RECORD AND FACT.

ALL ACCORDING TO CERTIFICATE OF SURVEY NO. 2310

SURVEYOR'S NOTES

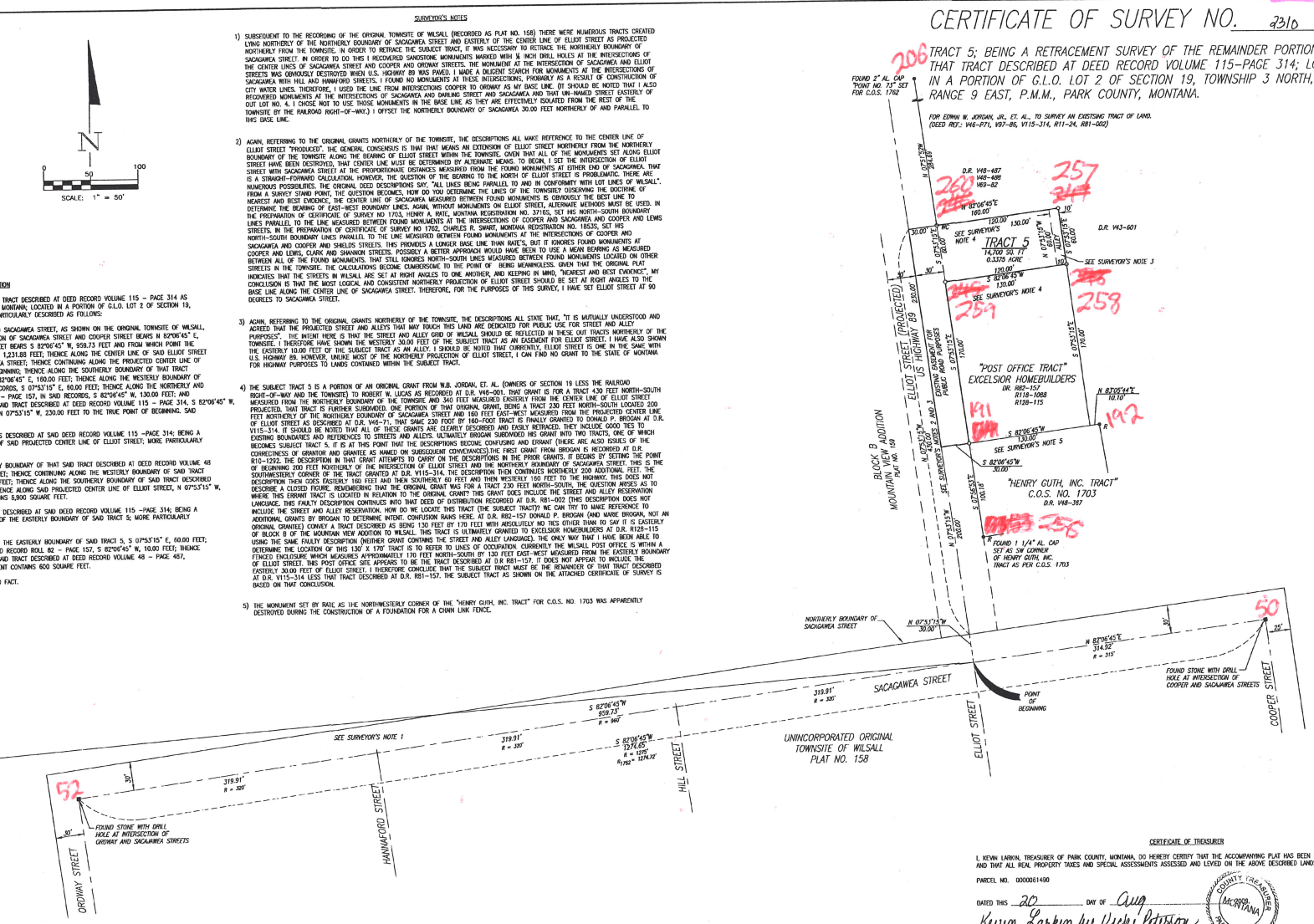
1) SUBSEQUENT TO THE RECORDING OF THE ORIGINAL TOWNSITE OF WILSALL (RECORDED AS PLAT NO. 158) THERE WERE NUMEROUS TRACTS CREATED LYING NORTHERLY OF THE NORTHERLY BOUNDARY OF SACAGAWEA STREET AND EASTERLY OF THE CENTER LINE OF ELLIOT STREET AS PROJECTED NORTHERLY FROM THE TOWNSITE. IN ORDER TO RETRACE THE SUBJECT TRACT, IT WAS NECESSARY TO RETRACE THE NORTHERLY BOUNDARY OF SACAGAWEA STREET. IN ORDER TO DO THIS I RECOVERED SANDSTONE MONUMENTS MARKED WITH ¼ INCH DRILL HOLES AT THE INTERSECTIONS OF SACAGAWEA STREET AND COOPER AND ORDWAY STREETS. THE MONUMENT AT THE INTERSECTION OF SACAGAWEA AND ELLIOT THE CENTER LINES OF SACAGAWEA STREET AND COOPER AND ORDWAY STREETS. THE MONUMENT AT THE INTERSECTION OF SACAGAWEA AND ELLIOT STREETS WAS OBVIOUSLY DESTROYED WHEN U.S. HIGHWAY 89 WAS PAVED. I MADE A DILIGENT SEARCH FOR MONUMENTS AT THE INTERSECTIONS OF SACAGAWEA WITH HILL AND HANAFORD STREETS. I FOUND NO MONUMENTS AT THESE INTERSECTIONS, PROBABLY AS A RESULT OF CONSTRUCTION OF CITY WATER LINES. THEREFORE, I USED THE LINE FROM INTERSECTIONS COOPER TO ORDWAY AS MY BASIC LINE. (IT SHOULD BE NOTED THAT I ALSO RECOVERED MONUMENTS AT THE INTERSECTIONS OF SACAGAWEA AND DARLING STREET AND SACAGAWEA AND THAT UN–NAMED STREET EASTERLY OF OUT LOT NO. 4. I CHOSE NOT TO USE THOSE MONUMENTS IN THE BASE LINE AS THEY ARE EFFECTIVELY ISOLATED FROM THE REST OF THE TOWNSITE BY THE RAILROAD RIGHT–OF–WAY.) I OFFSET THE NORTHERLY BOUNDARY OF SACAGAWEA 30.00 FEET NORTHERLY OF AND PARALLEL TO THIS BASE LINE.

2) AGAIN, REFERRING TO THE ORIGINAL GRANTS NORTHERLY OF THE TOWNSITE, THE DESCRIPTIONS ALL MAKE REFERENCE TO THE CENTER LINE OF ELLIOT STREET "PRODUCED". THE GENERAL CONSENSUS IS THAT THAT MEANS AN EXTENSION OF ELLIOT STREET NORTHERLY FROM THE NORTHERLY BOUNDARY OF THE TOWNSITE ALONG THE BEARING OF ELLIOT STREET WITHIN THE TOWNSITE. GIVEN THAT ALL OF THE MONUMENTS SET ALONG ELLIOT STREET HAVE BEEN DESTROYED, THAT CENTER LINE MUST BE DETERMINED BY ALTERNATE MEANS. TO BEGIN, I SET THE INTERSECTION OF ELLIOT STREET WITH SACAGAWEA STREET AT THE PROPORTIONATE DISTANCES MEASURED FROM THE FOUND MONUMENTS AT EITHER END OF SACAGAWEA. THAT IS A STRAIGHT–FORWARD CALCULATION. HOWEVER, THE QUESTION OF THE BEARING TO THE NORTH OF ELLIOT STREET IS PROBLEMATIC. THERE ARE NUMEROUS POSSIBILITIES. THE ORIGINAL DEED DESCRIPTIONS SAY, "ALL LINES BEING PARALLEL TO AND IN CONFORMITY WITH LOT LINES OF WILSALL". FROM A SURVEY STAND POINT, THE QUESTION BECOMES, HOW DO YOU DETERMINE THE LINES OF THE TOWNSITE? OBSERVING THE DOCTRINE OF NEAREST AND BEST EVIDENCE, THE CENTER LINE OF SACAGAWEA MEASURED BETWEEN FOUND MONUMENTS IS OBVIOUSLY THE BEST LINE TO DETERMINE THE BEARING OF EAST–WEST BOUNDARY LINES. AGAIN, WITHOUT MONUMENTS ON ELLIOT STREET, ALTERNATE METHODS MUST BE USED. IN THE PREPARATION OF CERTIFICATE OF SURVEY NO 1703, HENRY A. BATE, MONTANA REGISTRATION NO. 37165, SET HIS NORTH–SOUTH BOUNDARY LINES PARALLEL TO THE LINE MEASURED BETWEEN FOUND MONUMENTS AT THE INTERSECTIONS OF COOPER AND SACAGAWEA AND COOPER AND LEWIS STREETS. IN THE PREPARATION OF CERTIFICATE OF SURVEY NO 1762, CHARLES R. SWART, MONTANA REGISTRATION NO. 18535, SET HIS NORTH–SOUTH BOUNDARY LINES PARALLEL TO THE LINE MEASURED BETWEEN FOUND MONUMENTS AT THE INTERSECTIONS OF COOPER AND SACAGAWEA AND COOPER AND SHIELDS STREETS. THIS PROVIDES A LONGER BASE LINE THAN RATE'S, BUT IT IGNORES FOUND MONUMENTS AT SACAGAWEA AND COOPER AND LEWIS, CLARK AND SHANNON STREETS. POSSIBLY A BETTER APPROACH WOULD HAVE BEEN TO USE A MEAN BEARING AS MEASURED BETWEEN ALL OF THE FOUND MONUMENTS. THAT STILL IGNORES NORTH–SOUTH LINES MEASURED BETWEEN FOUND MONUMENTS LOCATED ON OTHER STREETS IN THE TOWNSITE. THE CALCULATIONS BECOME CUMBERSOME TO THE POINT OF BEING MEANINGLESS. GIVEN THAT THE ORIGINAL PLAT INDICATES THAT THE STREETS IN WILSALL ARE SET AT RIGHT ANGLES TO ONE ANOTHER, AND KEEPING IN MIND, "NEAREST AND BEST EVIDENCE", MY CONCLUSION IS THAT THE MOST LOGICAL AND CONSISTENT NORTHERLY PROJECTION OF ELLIOT STREET SHOULD BE SET AT RIGHT ANGLES TO THE BASE LINE ALONG THE CENTER LINE OF SACAGAWEA STREET. THEREFORE, FOR THE PURPOSES OF THIS SURVEY, I HAVE SET ELLIOT STREET AT 90 DEGREES TO SACAGAWEA STREET.

3) AGAIN, REFERRING TO THE ORIGINAL GRANTS NORTHERLY OF THE TOWNSITE, THE DESCRIPTIONS ALL STATE THAT, "IT IS MUTUALLY UNDERSTOOD AND AGREED THAT THE PROJECTED STREET AND ALLEYS THAT MAY TOUCH THIS LAND ARE DEDICATED FOR PUBLIC USE FOR STREET AND ALLEY PURPOSES". THE INTENT HERE IS THAT THE STREET AND ALLEY GRID OF WILSALL SHOULD BE REFLECTED IN THESE OUT TRACTS NORTHERLY OF THE TOWNSITE. I THEREFORE HAVE SHOWN THE WESTERLY 30.00 FEET OF THE SUBJECT TRACT AS AN EASEMENT FOR ELLIOT STREET. I HAVE ALSO SHOWN THE EASTERLY 10.00 FEET OF THE SUBJECT TRACT AS AN ALLEY. I SHOULD BE NOTED THAT CURRENTLY, ELLIOT STREET IS ONE IN THE SAME WITH U.S. HIGHWAY 89. HOWEVER, UNLIKE MOST OF THE NORTHERLY PROJECTION OF ELLIOT STREET, I CAN FIND NO GRANT TO THE STATE OF MONTANA FOR HIGHWAY PURPOSES TO LANDS CONTAINED WITHIN THE SUBJECT TRACT.

4) THE SUBJECT TRACT 5 IS A PORTION OF AN ORIGINAL GRANT FROM W.B. JORDAN, ET. AL. (OWNERS OF SECTION 19 LESS THE RAILROAD RIGHT–OF–WAY AND THE TOWNSITE) TO ROBERT W. LUCAS AS RECORDED AT D.R. V46–001, THAT GRANT IS FOR A TRACT 430 FEET NORTH–SOUTH MEASURED FROM THE NORTHERLY BOUNDARY OF THE TOWNSITE AND 340 FEET MEASURED EASTERLY FROM THE CENTER LINE OF ELLIOT STREET PROJECTED. THAT TRACT IS FURTHER SUBDIVIDED. ONE PORTION OF THAT ORIGINAL GRANT, BEING A TRACT 230 FEET NORTH–SOUTH LOCATED 200 FEET NORTHERLY OF THE NORTHERLY BOUNDARY OF SACAGAWEA STREET AND 160 FEET EAST–WEST MEASURED FROM THE PROJECTED CENTER LINE OF ELLIOT STREET AS DESCRIBED AT D.R. V46–71. THAT SAME 230 FOOT BY 160–FOOT TRACT IS FINALLY GRANTED TO DONALD P. BROGAN AT D.R. V115–314. IT SHOULD BE NOTED THAT ALL OF THESE GRANTS ARE CLEARLY DESCRIBED AND EASILY RETRACED. THEY INCLUDE GOOD TIES TO EXISTING BOUNDARIES AND REFERENCES TO STREETS AND ALLEYS. ULTIMATELY BROGAN SUBDIVIDED HIS GRANT INTO TWO TRACTS, ONE OF WHICH BECOMES SUBJECT TRACT 5. IT IS AT THIS POINT THAT THE DESCRIPTIONS BECOME CONFUSING AND ERRANT (THERE ARE ALSO ISSUES OF THE CORRECTNESS OF GRANTOR AND GRANTEE AS NAMED ON SUBSEQUENT CONVEYANCES).THE FIRST GRANT FROM BROGAN IS RECORDED AT D.R. R10–1292. THE DESCRIPTION IN THAT GRANT ATTEMPTS TO CARRY ON THE DESCRIPTIONS IN THE PRIOR GRANTS. IT BEGINS BY SETTING TO THE POINT OF BEGINNING 200 FEET NORTHERLY OF THE INTERSECTION OF ELLIOT STREET AND THE NORTHERLY BOUNDARY OF SACAGAWEA STREET. THIS IS THE SOUTHWESTERLY CORNER OF THE TRACT GRANTED AT D.R. V115–314. THE DESCRIPTION THEN CONTINUES NORTHERLY 200 ADDITIONAL FEET. THE DESCRIPTION THEN GOES EASTERLY 160 FEET AND THEN SOUTHERLY 60 FEET AND THEN WESTERLY 160 FEET TO THE HIGHWAY. THIS DOES NOT DESCRIBE A CLOSED FIGURE. REMEMBERING THAT THE ORIGINAL GRANT WAS FOR A TRACT 230 FEET NORTH–SOUTH, THE QUESTION ARISES AS TO WHERE THIS ERRANT TRACT IS LOCATED IN RELATION TO THE ORIGINAL GRANT? THIS GRANT DOES INCLUDE THE STREET AND ALLEY RESERVATION LANGUAGE. THIS FAULTY DESCRIPTION CONTINUES INTO THAT DEED OF DISTRIBUTION RECORDED AT D.R. R81–002 (THIS DESCRIPTION DOES NOT INCLUDE THE STREET AND ALLEY RESERVATION. HOW DO WE LOCATE THIS TRACT (THE SUBJECT TRACT)? WE CAN TRY TO MAKE REFERENCE TO ADDITIONAL GRANTS BY BROGAN TO DETERMINE INTENT. CONFUSION RAINS HERE. AT D.R. R82–157 DONALD P. BROGAN (AND MARIE BROGAN, NOT AN ORIGINAL GRANTEE) CONVEY A TRACT DESCRIBED AS BEING 130 FEET BY 170 FEET WITH ABSOLUTELY NO TIES OTHER THAN TO SAY IT IS EASTERLY OF BLOCK B OF THE MOUNTAIN VIEW ADDITION TO WILSALL. THIS TRACT IS ULTIMATELY GRANTED TO EXCELSIOR HOMEBUILDERS AT D.R. R128–115 USING THE SAME FAULTY DESCRIPTION (NEITHER GRANT CONTAINS THE STREET AND ALLEY LANGUAGE). THE ONLY WAY THAT I HAVE BEEN ABLE TO DETERMINE THE LOCATION OF THIS 130' X 170' TRACT IS TO REFER TO LINES OF OCCUPATION. CURRENTLY THE WILSALL POST OFFICE IS WITHIN A FENCED ENCLOSURE WHICH MEASURES APPROXIMATELY 170 FEET NORTH–SOUTH BY 130 FEET EAST–WEST MEASURED FROM THE EASTERLY BOUNDARY OF ELLIOT STREET. THIS POST OFFICE SITE APPEARS TO BE THE TRACT DESCRIBED AT D.R R81–157. IT DOES NOT APPEAR TO INCLUDE THE EASTERLY 30.00 FEET OF ELLIOT STREET. I THEREFORE CONCLUDE THAT THE SUBJECT TRACT MUST BE THE REMAINDER OF THAT TRACT DESCRIBED AT D.R. V115–314 LESS THAT TRACT DESCRIBED AT D.R. R81–157. THE SUBJECT TRACT AS SHOWN ON THE ATTACHED CERTIFICATE OF SURVEY IS BASED ON THAT CONCLUSION.

5) THE MONUMENT SET BY RATE AS THE NORTHWESTERLY CORNER OF THE "HENRY GUTH, INC. TRACT" FOR C.O.S. NO. 1703 WAS APPARENTLY DESTROYED DURING THE CONSTRUCTION OF A FOUNDATION FOR A CHAIN LINK FENCE.



CERTIFICATE OF TREASURER

I, KEVIN LARKIN, TREASURER OF PARK COUNTY, MONTANA, DO HEREBY CERTIFY THAT THE ACCOMPANYING PLAT HAS BEEN DULY EXAMINED AND THAT ALL REAL PROPERTY TAXES AND SPECIAL ASSESSMENTS ASSESSED AND LEVIED ON THE ABOVE DESCRIBED LANDS HAVE BEEN PAID.

PARCEL NO. 0000061490

DATED THIS 20 DAY OF Aug

Kevin Larkin by Vicki Peterson

KEVIN LARKIN,
TREASURER OF PARK COUNTY, MONTANA

COUNTY TREASURER MONTANA PARK COUNTY

CERTIFICATE OF CLERK AND RECORDER

I, DENISE NELSON, CLERK AND RECORDER OF PARK COUNTY, MONTANA, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT WAS FILED IN MY OFFICE THIS 4 DAY OF September, 2009, A.D., AT 8:36 A.M., AND RECORDED IN BOOK ____ OF PLATS ON PAGE ____, RECORDS OF THE CLERK AND RECORDER, PARK COUNTY, MONTANA.

DOCUMENT NUMBER 357109

BY: Denise Nelson Fee $550
DEPUTY CLERK AND RECORDER

CERTIFICATE OF SURVEYOR

I, THE UNDERSIGNED, FRED L. HALL, A REGISTERED LAND SURVEYOR, DO HEREBY CERTIFY THAT BETWEEN JUNE 15, 2006, AND JULY 12, 2007, I SURVEYED TRACT 5 AND PLATTED SAME, AS SHOWN ON THE ACCOMPANYING CERTIFICATE OF SURVEY AS DESCRIBED IN ACCORDANCE WITH THE PROVISIONS OF THE MONTANA SUBDIVISION AND PLATTING ACT, SECTION 76–3–101 THROUGH 76–3–625, M.C.A.

DATED THIS 20 TH DAY OF August 2009.

FRED L. HALL
MONTANA REGISTRATION NO. 83745

WESTERN Micro-Line	S.19 | T.3N | R.9E	CERTIFICATE OF SURVEY
FRED L. HALL, L.S. BOX 333 LIVINGSTON, MONTANA 59047 (406) 222–0835	FILENAME: FOWLER JOB NO: 06–119A CALCS BY: F.L.H. BKS 71, 80, 81 DRAWN BY: C.B. DATE: 8–20–09 CHECKED BY: F.L.H. & C.B.	1 of 1

(206) (191–192) (53) (50) 245–248 52