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Easements & Rights of Way

by Leigh Karr, SR/WA



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Ownership Types

General Principles

- Easements
- Right of Way

HOW THEY APPLY TO LAND ACQUISITION

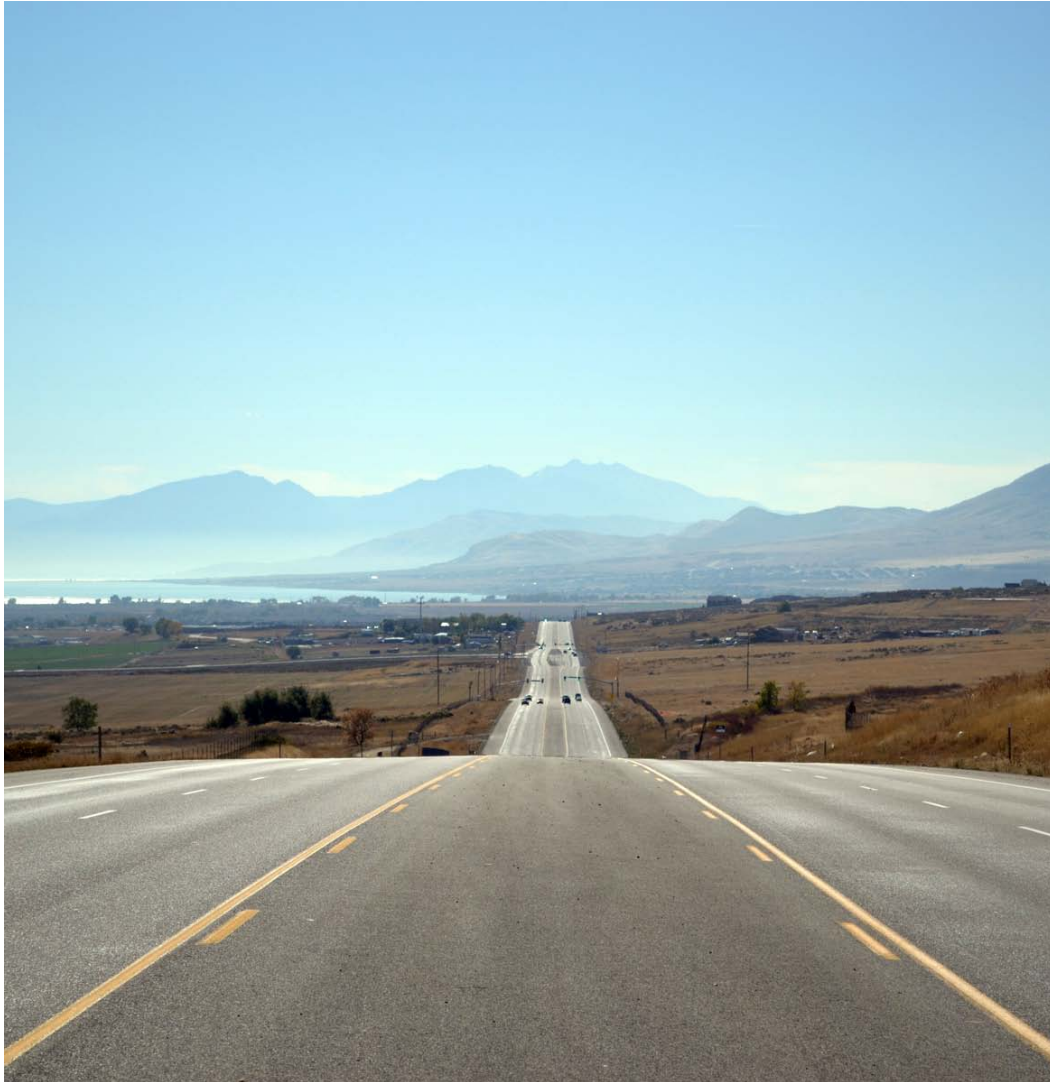
Bundle of Rights

Air

Surface

Subsurface

Easement



- Right or privilege
- Not ownership
- Use of property owned by second party
- Specific purpose.
- Acquire only certain rights of the bundle of rights

Easement Types



- **Public Easements**
 - Public entity

- **Private Easements**
 - Two or more private entities

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Drainage Easement



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Drainage Easement



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Storm Sewer Easement



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Detention/Retention Easement



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Utility Easement



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Utility Easement



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Access Easement



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Access Easement



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Natural Easement



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Street Light Easement



Creation of Easements

- **Plat Dedication**
 - **Prescription**
 - **Necessity**

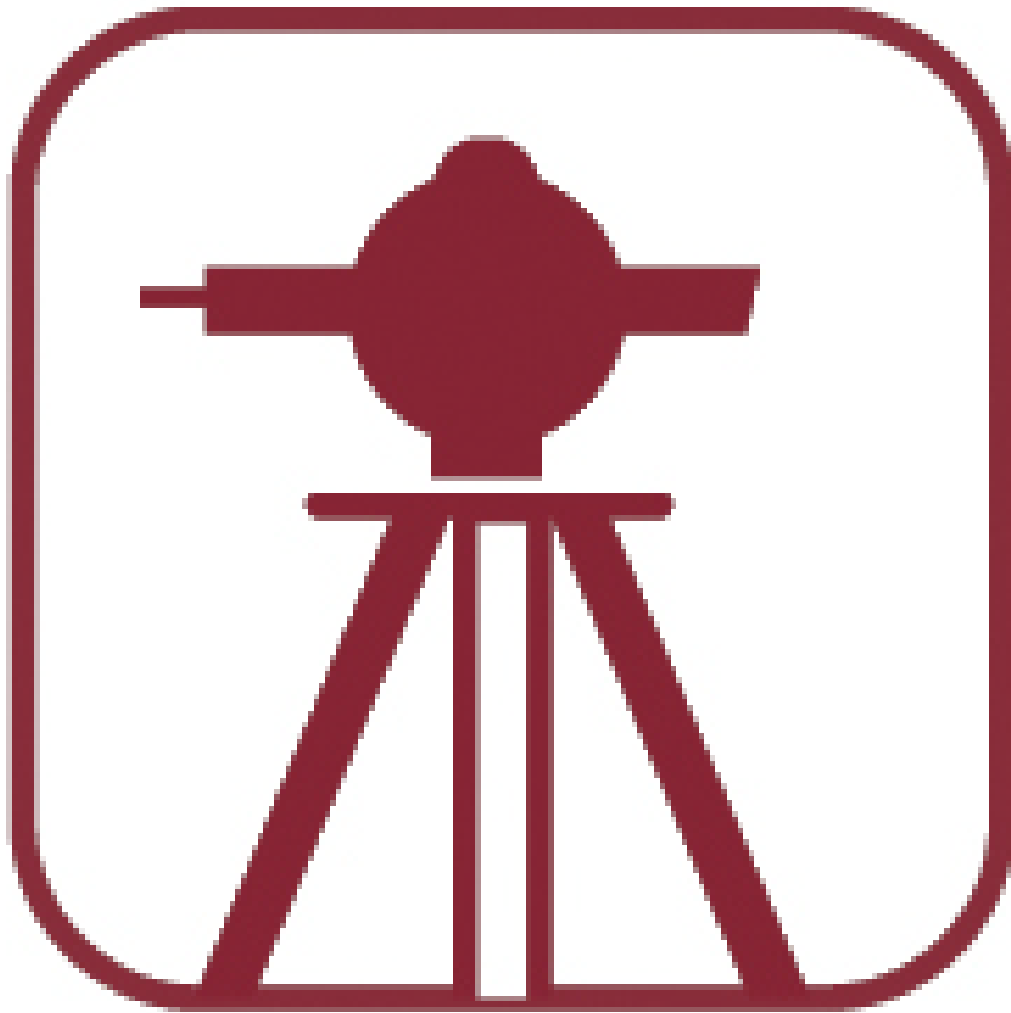
Termination of an Easement

- **Created by Plat or Deed**
 - Deed of release

Termination of Easement

- **Creation Type**
 - Prescription
 - Necessity

- **Termination Equals**
 - Abandonment
 - Overburdening



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Section 2

- Surveyor bound by more stringent standard of practice
- Standard established by
 - Agency
 - Owner
 - Contract
 - Professional Land Surveyor



Sample Plat Note

- Previous Application to Property
 - Easements
 - Conditions
 - Restrictions
 - *Written or Unwritten*
- Remains in effect, still applies

Descriptions for Easements

- **Description**
 - Ties to existing parent property corner
 - Easement becomes traceable for future

- **Describe by metes and bounds**
 - Perimeter
 - Centerline



What is a Right of Way?

- Fee simple ownership
- All ownership rights are acquired

Creation of Rights of Way

- **Dedication by plat**
- **Acquired by deed**
- **Created by prescription or necessity**



ROW Termination

- Created by deed or plat
 - Termination = deed
- Created by prescription or necessity
 - Termination = reverts to original owner when ROW abandoned

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Types of Right of Way

- Public
 - Public use

- Private
 - Use by private companies with eminent domain rights

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Sanitary Sewer Pump Station



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Pedestrian Bridge



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Power Sub-Station



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Water Tank Supply



Right of Way vs. Easement

- **Right of way**
 - Public acquisition plat
 - Meets the land surveying minimum standards

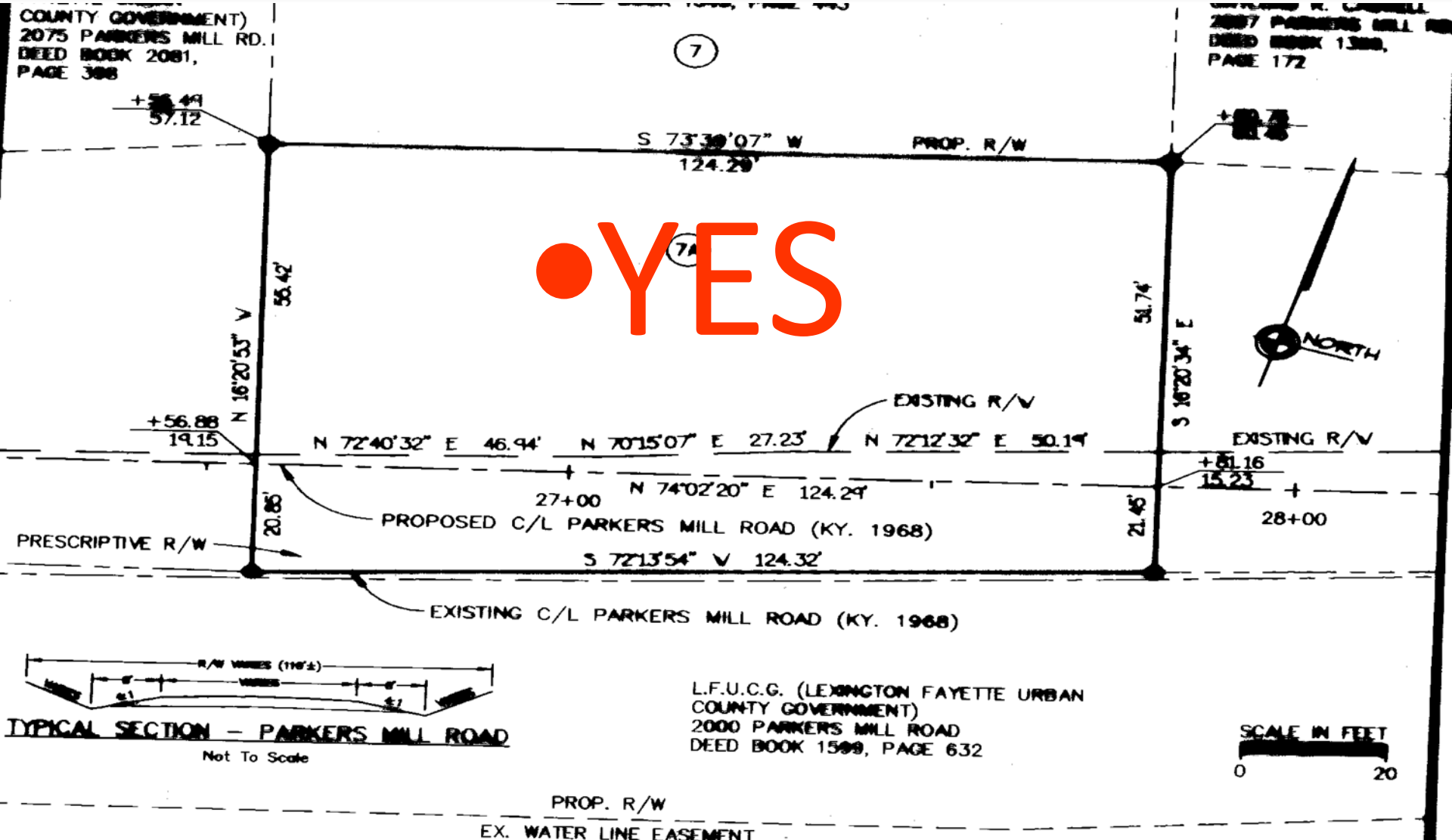
- **Easement**
 - Shown on plat
 - Acquired by deed

PLATS: ROW Acquisition vs. Subdivision

- **Public acquisition plats**
 - Parcel sizes less than the minimum lot size required for a subdivision plat
- **Subdivision plats**
 - Parcel sizes are dictated by local Planning and Zoning

Does a Public Acquisition plat require a boundary survey?

● YES



Interpretation of Surveying Standards for Right of Way



Plat Mandatory

- Retraced boundary survey
 - Newly boundary line
- Previously established boundary line
- By Professional Land Surveyor

“Partial Survey” Language

- **Severance of lot or tract from parent tract**
 - Partial survey?
 - Not a partial survey?

What is a Partial Survey

The survey of some portion of the boundary of an existing parcel.



Field Survey for Design Plans

- Contents of
 - Plan sheets (design plans)
 - Summary sheets

Field Surveying for Design Plans

- **Plan sheet contents**
 - Existing easements
 - Existing Rights of Way
 - Proposed easements
 - Proposed Rights of Ways
 - Landscaping
 - Structures
 - Fences

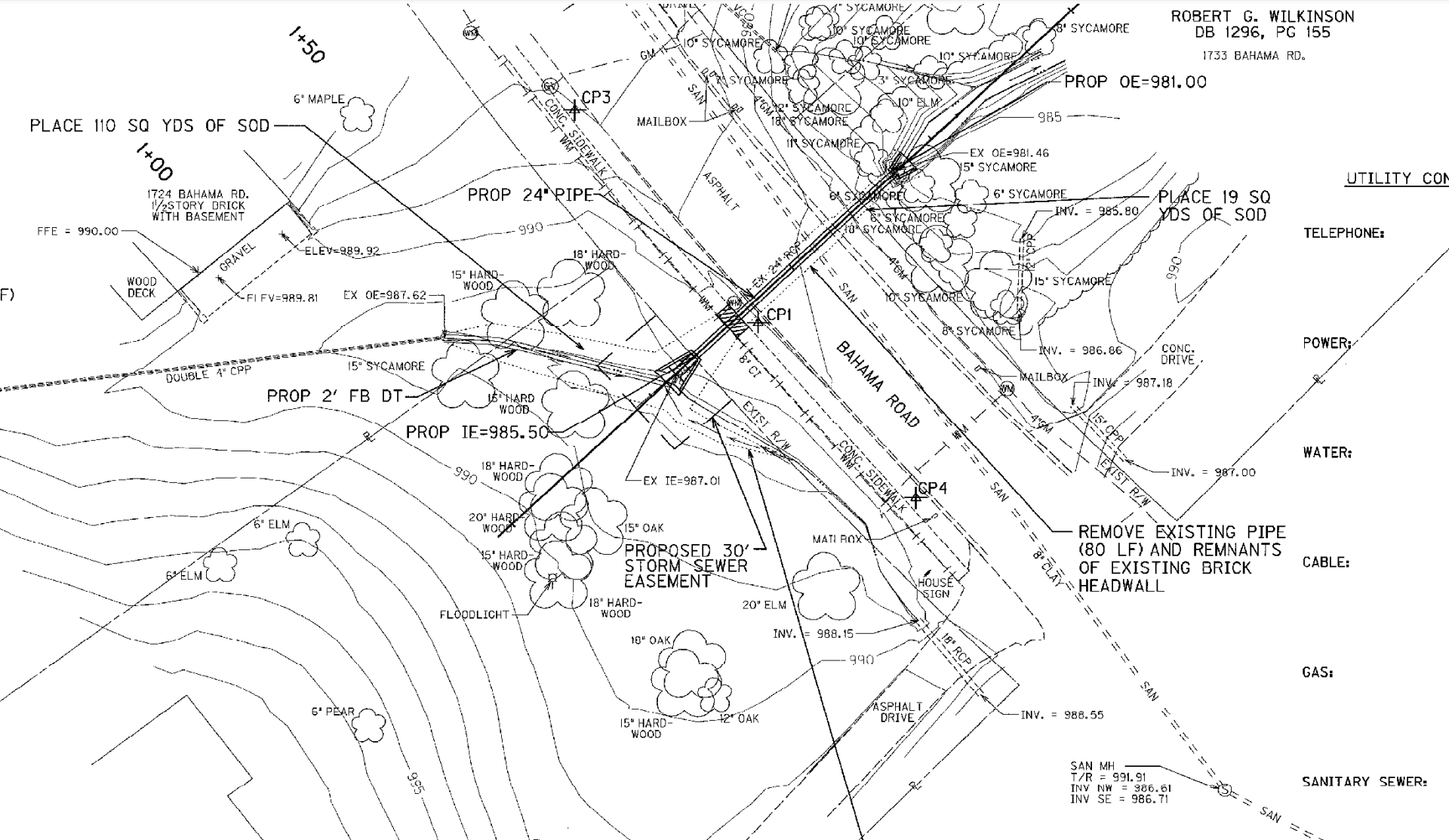
Anything in construction area

Field Surveying for Design Plans

- **ROW summary sheets**
 - Included with all plan
- **Contents**
 - **Owner Name**
 - **Recording/Research Documents**
 - **DB/PG**
 - **Will Book**
 - **Plat**
 - **Chain of Title**

Example Plan Sheet

ROBERT G. WILKINSON
DB 1296, PG 155
1733 BAHAMA RD.



UTILITY CON

TELEPHONE:

POWER:

WATER:

CABLE:

GAS:

SANITARY SEWER:

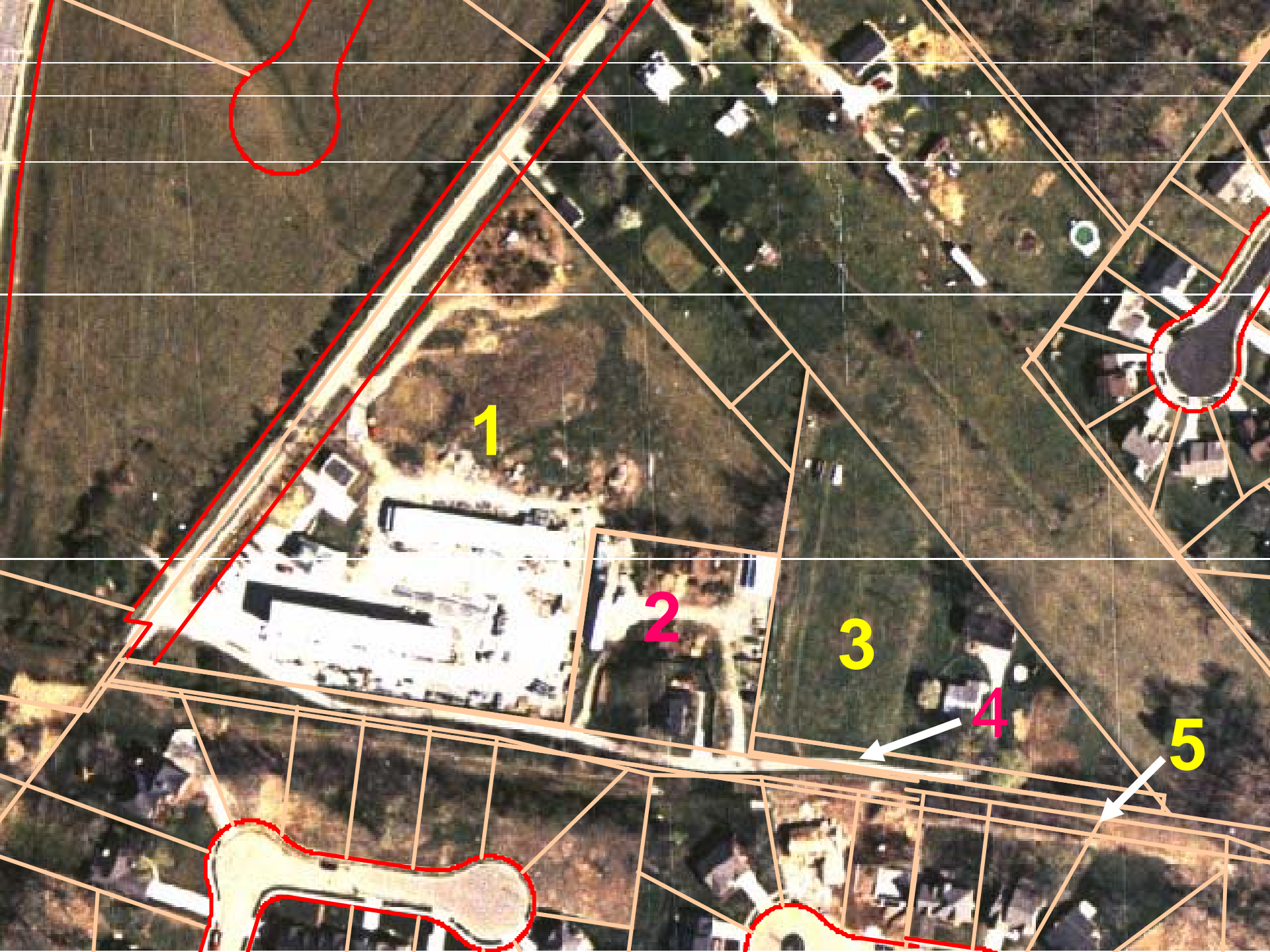
Common Mistakes

- **Assumptions**
 - Two adjoining properties
 - Owned by same person

= Assumption of Consolidation

DON'T MAKE THE ASSUMPTION!

- Only done via consolidation plat



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2

3

4

5

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Comments or Questions?

