

After recording return to:
Morris & Nancy Findley
13555 NE Worden Hill Road
Newberg, OR 97132

OFFICIAL YAMHILL COUNTY RECORDS
REBEKAH STERN DOLL, COUNTY CLERK

2012-10304



\$01.00

07/23/2012 03:46:41 PM

DMR-ASRONIR CHIEF SHERZ ANITA
\$30.00 \$5.00 \$11.00 \$15.00

ROAD MAINTENANCE AND SHARED DRIVEWAY AGREEMENT

This DRIVEWAY EASEMENT AND MAINTENANCE AGREEMENT is established this ____ day of July, 2012, between the following two parties: Charles M. Findley and Nancy L. Findley, Trustees, or their successors in trust, under the Findley Living Trust dated May 29, 2008, and any amendments thereto, for the benefit of Charles M. Findley and Nancy L. Findley (hereinafter "Grantor") and Gregg Stevens and Angela Stevens, (hereinafter "Grantee") and subsequent owner of lot 201.

RECITALS

A. Charles M. Findley and Nancy L. Findley, Trustees, or their successors in trust, under the Findley Living Trust dated May 29, 2008, and any amendments thereto, are the owners of real property located at 13555 Worden Hill Rd, Newberg, OR 97132 (T3S, R3W, Section 17 Tax Lot 200). This parcel is the servient estate of the Easement set forth on Partition Plat 2007-18, recorded March 30, 2007, Instrument No. 200707048. This parcel is referred to herein as Parcel A.

B. Gregg and Angela Stevens are the owners of real property located at 13479 NE Worden Hill Rd, Newberg, OR 97132 (T3S, R3W, Section 17 Tax Lot 202). This parcel is the one of the dominant estates of the Easement set forth on Partition Plat 2007-18, recorded March 30, 2007, Instrument No. 200707048. This parcel is referred to herein as Parcel B.

C. The subsequent owners of the real property located at 0 NE Worden Hill Road, (T3S R3W, Section 17 Tax lot 201). This parcel is one of the dominant estates of the Easement set forth on Partition Plat 2007-18, recorded March 30, 2007, Instrument No. 200707048. This parcel is referred to herein as Parcel C.

D. Grantor recently obtained approval to build a single family dwelling on Parcel B and C, pursuant to Measure 49 (2007). The Parties agree that while there may be other access to Parcel B and C available, the most practical way to access the new dwelling on Parcel B is via the existing driveway that serves Parcel A and C. Grantees agree to participate in the maintenance of the driveway located in the existing Easement Area.

E. The Parties desire to execute this Maintenance Agreement on the terms and conditions hereinafter set forth. The Parties do not intend via the recordation of this Agreement to in any way limit the development potential of the servient estate.

FIRST AMERICAN TITLE 1905112 (6)

If Grantor constructs a gate on or within the portion of the Easement Area actually in use by the Grantee, it shall provide Grantee with an electronic mechanism to remotely open and close the gate. Grantor shall prohibit any of its guests, invitees, licensees, agents or contractors from parking within the Easement Area in a manner that unreasonably hinders Grantee from achieving convenient access to Parcel B.

3. Duration and Nature of Agreement and Grants of Easement. This Agreement and all grants of Easement shall continue in perpetuity. This Agreement and all grants of Easement are a covenant which is intended to attach to and run with the land affected herein.

4. No Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of Easement created hereunder to the general public, for the general public or for any public use or purpose whatsoever.

5. No Effect on Development Potential of Servient estate. To the extent that the signature of the Grantee of this easement is required on any development permit allowed as of right or conditionally in the zone, that Grantee agrees to promptly provide the required signatures

6. Maintenance Costs. Except as otherwise provided above, the Parties shall equally bear all costs and expenses associated with the periodic maintenance and repair of the gravel surface of the driveway within the Easement Area caused as a result of normal wear and tear. If, however, the act of a Party, or the Party's guest, invitee, licensee, contractor, or agent causes damage to the driveway surface within the Easement Area, that Party shall be responsible for the entire cost of any required repairs needed to restore the Easement Area to the condition it was in prior to the act causing the damage.

7. Maintenance Obligations and Arbitration. The Parties shall confer from time-to-time regarding the performance of required maintenance under this Agreement. In the event of a disagreement concerning maintenance obligations and payment thereof, the Parties shall agree upon an arbitrator, and the matter shall be decided by that arbitrator. If an arbitrator cannot be agreed upon, the presiding judge of the Circuit Court of Oregon for Yamhill County shall appoint an arbitrator. The decision of the arbitrator shall be final and binding on all parties and the arbitrator's fee shall be borne equally by the owners.

8. Notice and Approval of Activities. A Party shall notify the other Party at least five (5) days before commencing any work within the Easement Area. Notification under this paragraph may be accomplished verbally or by telephone, as long as notice is given directly to the other Party. Written notice must follow within two days of the verbal or telephone notification. Each Party shall have the right to disapprove the scheduling of any work that they believe would unreasonably interfere with their use or enjoyment of the Easement, or the use and enjoyment of their property, but, in exercise of this right, the objecting Party shall propose reasonable alternative days in which the work may be completed.

9. Compliance with Laws. The Parties, their invitees, licensees, contractors, and agents shall strictly comply with all applicable statutes, regulations, ordinances and codes in conducting any work within the Easement Area.

10. Indemnity. A Party who initiates any maintenance or repair activity within the easement area shall indemnify, defend and hold harmless all other Parties, their representatives and agents, from and against any and all claims, demands, fines, damages, losses, obligations, liabilities, costs and expenses caused by or arising from the Party's maintenance and activities within the Easement Area, including activities of his agents, contractors or consultants. All contractors undertaking any maintenance and repair work within the Easement Area shall have all required licenses and shall have general liability insurance in a reasonable amount from a reputable insurance company which protects each owner individually. Grantee agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the easement strip or use of the easement strip by Grantee's invitees. Grantee assumes all risk arising out of use of the easement strip and Grantor shall have no liability to Grantee or Grantee's invitees or others accessing Grantee's property through the easement strip for any condition existing thereon.

11. Grantor's Right to Relocate Road. Grantor reserves the right to relocate the road at any time and in such case shall reconstruct the road at such new location in as good or better condition as existed at the prior location. If the road is relocated, Grantor may record an instrument indicating the relocated road centerline and such instrument shall serve to amend this easement strip. Such amendment of the description shall be effective whether or not signed by Grantee, but Grantee shall execute it or such other document necessary to indicate relocation of the easement strip when and if requested by Grantor.

12. Attorney's Fees. In the event any arbitration, action, suit or legal proceeding is instituted by any party subject to this Agreement, or any future grant of easement, the prevailing party shall be entitled to recover from the losing party both reasonable attorney fees and reasonable expert witness fees as determined by the court or arbitration panel, both at trial and on appeal or review and in bankruptcy, whether or not the matter in dispute involves an issue peculiar to federal bankruptcy law. Attorney fees and expert witness fees shall be in addition to other costs and disbursements allowed by law. "Prevailing party" shall be determined by the arbitrator, or any court, as the true prevailing party (not statutorily prevailing party) after taking into consideration any settlement offers made by the parties and the number and importance of issues to be determined.

13. Waiver. The failure by an Party subject to this Agreement to require performance by another Party of any provision of this Agreement shall in no way affect the rights of an Party to enforce the same, nor shall any waiver of any breach of this Agreement be construed as a waiver of any other breach of this Agreement or a waiver of this non-waiver provision.

14. Applicable Law. The rights of the parties under this Agreement shall be governed by the laws of the State of Oregon.

15. Notices. Any notice, demand or report required under this Agreement shall be sent to the other Party in care of the street address of each parcel, or, in the event the other Party does not reside on the property, in care of the current property tax notification address of the property; provided, however, that a Party may change their notification address by written notice to each Party. Any required notice

or demand shall be made by hand delivery or certified mail, and shall be deemed received on actual receipt or 48 hours after being mailed, whichever first occurs.

16. Neutral Interpretation. This Agreement constitutes the product of negotiations of the parties hereto and any enforcement hereof will be interpreted in a neutral manner and not more strongly for or against any Party based upon the source of the draftsmanship thereof.

17. Integration. This Agreement constitutes the entire agreement relating to the maintenance and repair of the Easement area and supersedes any and all prior agreements or understandings relating thereto.

18. Binding Effect. The provisions of this Agreement shall extend to, bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto, but their respective heirs, executors, administrators, personal representatives, successors-in-interest and assigns.

19. Severability. Should any provision of this Agreement at any time conflict with any law, ruling or regulation and be unenforceable, then that provision shall continue in effect only to the extent that it remains valid. In the event any provision of this Agreement becomes thus inoperative, the remaining provisions shall remain fully effective.

20. Authorized Representative. Each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

IN WITNESS WHEREOF, the parties hereto have executed this Driveway Easement and Maintenance Agreement as of the day and year first above written.

GRANTOR:

By: Charles M. Fuller, Jr., trustee By: Nancy Andley, trustee

Dated: 7-20-12

Dated: 7/20/12

GRANTEE:

By: _____

Dated: _____

[Signature]

7/20/12

By: _____

Dated: _____

[Signature]

7/12/12

STATE OF OREGON,)

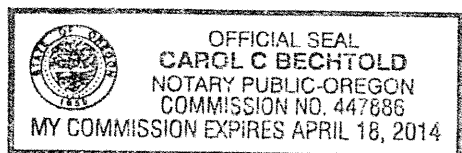
County of Yamhill)ss.

Personally appearing this 20th day of July, 2012, the above named Charles M. Findley and Nancy L. Findley, Trustees of the Findley Living Trust, and acknowledged this foregoing instrument to be their voluntary act and deed.

[Signature]

Notary Public for Oregon

My commission expires: 4/18/14



Personally appearing this 20 day of July, 2012, the above named Gregg Stevens and Angela Stevens, and acknowledged this foregoing instrument to be their voluntary act and deed.

[Signature]

Notary Public for Oregon

My commission expires: 1/10/2016

