



200401270107

Skagit County Auditor

1/27/2004 Page 1 of 7 4:04PM

LAND TITLE OF SKAGIT COUNTY

ROAD MAINTENANCE AGREEMENT

Government Lot 1 and Government Lot 2 in Sections 20 and 29, Township 35 North, Range 10 East, W.M.

ABBREVIATED LEGAL: GOVERNMENT LOT 2 SECTION 20 AND PTN NW $\frac{1}{4}$ OF SE $\frac{1}{4}$, 20-35-10 E W.M.

PARCEL NUMBERS BURDENED: P45618, P45379, P45378, P45382 P45617 P45374 P45373
BENEFITED: P45618, P45379, P45378, P45382, P108987 P45617,
P45374, P45375, P45373, P45372, P45390, P45391,
P45388, P109226. P45389, P45387, P109420

This is a private road maintenance agreement (hereinafter "Agreement") by and among the benefited property owners, their successors and assigns, who share use of a nonexclusive easement over, along, under and across burdened land situate in Skagit County, State of Washington, a portion of Southeast $\frac{1}{4}$ of Section 20, Township 35 North, Range 10 East, W.M. and Government Lot 1 and 2 of Section 29, Township 35 North, Range 10 East, W.M. Northerly of State Route 20. The road easement as it exists and as it may be improved by extension to benefited land provides ingress, egress and utility easement access to three (3) additional separate parcels, two (2) owned by EUGENE B. KAHN, 29 acres in a portion of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 20, Township 35 North, Range 10 East W.M. Skagit County and Tract 1 of Short Plat 96-054 Approved July 23, 1996 recorded Auditor's File No. 9608280066; Tract 2 of said Short Plat 96-054 owned by JAMES MEYER and HARLYN MEYER, husband and wife.

EUGENE B. KAHN, an unmarried man, RUSSELL JOHNSON and TAMMY JOHNSON, husband and wife, and SMALL PLANET FOODS, INC., a Washington corporation as owners of the above-described road property intending to establish an unincorporated owners association under Chapter 64.38 RCW, do hereby declare covenants, conditions, restrictions, rules, and regulations regarding the administration of a private short plat road and join with JAMES MEYER and HARLYN MEYER, husband and wife.

WITNESS:

1. Government Lots 1 and 2 of Section 29, Township 35 North, Range 10 East, W.M. Northerly of State Route 20 and the Southeast ¼ of Section 20, Township 35 North, Range 10 East, W.M., shall have ingress, egress, and utility easements over, under, and upon the private road serving lots as shown in Skagit County Short Plat No. 96-054 and the grant of Easements in that certain deed between Russell Johnson and Tammy Johnson, husband and wife as Grantors and Small Planet Foods, Inc. and Eugene B. Kahn, Grantee, the said Short Plat having identified this private road.

2. Each benefited owner shall have the nonexclusive right at their sole expense to construct, improve, repair, and use the road for ingress, egress, and utility purposes. In the event that an owner enters this private road for construction, improvement, repair, logging, or maintenance, they shall leave the property and roadway in as good a condition as it was before entering it and shall at all times allow passage to benefited premises. Any member of the Association who initiates development or subdivision of benefited land shall be individually responsible for all permits, traffic studies, engineering, surveying, and fees associated with the development or subdivision. Members agree to inform other owners prior to initiating development or subdivision and to disclose all plans and specifications for road improvements required to meet applicable laws and regulations. It is agreed that owners share construction costs for road improvements on the jointly used road at the rate of one share per certified lot.

3. Lot owners are restricted from parking on the easement in such a way as to interfere with the reasonable use of the access by others, and no recreational vehicles, trailers, commercial vehicles, construction equipment, or boats shall be parked on it.

4. Owners are required to keep drainage ditches clean, mowed, and clear of debris adjacent to their lot(s).

5. It is the intention of the parties that these covenants, conditions, and restrictions regulate the maintenance of the roadway, culverts, drainage ditches, and utilities situated on and under the road in a good state of repair. Chuckholes shall be repaired, and if the roadway is paved, the roadway shall be repaved as necessary to maintain its integrity as a continuous driving surface. It is the intention of this declaration that lot owners remove material which may, from time to time, build up under and around the culverts and other drainways which protect the roadway. Owners agree to repair any damage to the roadway which may occur due to flooding or erosion. Although owners anticipate reasonable wear and tear in the use of their rights to the common easement, all parties agree to refrain from misuse of the roadway, damage to, or waste of the improvements.

6. A speed limit may be established by the owners at any annual or special meeting of the Association. The Association shall purchase appropriate signage for speed limit and parking violations. Towing of vehicles under state and local laws may be posted at the road entry and cul de sac terminus at the expense of the Association in order to provide appropriate signage to support towing of unauthorized vehicles.

7. On February 1, 2004, or such later date as may be set by agreement, and on each succeeding February 1st thereafter, all benefited owners shall convene an annual meeting to elect a



Road Supervisor and establish a budget for the costs incurred by the Association to exercise its powers over the common expenses incurred to maintain the private road. The Road Supervisor or a concerned owner may call a special meeting at any time with notice as provided hereinafter.

Not less than fourteen (14) days, nor more than sixty (60) days in advance of any annual or special meeting, any owner, or thereafter, the Road Supervisor elected as an officer of the Association, shall cause notice to be hand delivered or sent postage prepaid by first class mail, United States Postal Service, to the mailing address of each owner, or to such other mailing address designated in writing by the owner, stating the time and place of the meeting and the business to be on the agenda for a vote by the owners, including the general nature of any proposed amendment to this Agreement, any budget or changes to previously approved budgets which may cause a change in assessment obligation, and any proposal to remove an officer. All meetings shall be open for observation by owners of record and their authorized agents. Minutes of all actions taken at the annual meeting shall be available to owners.

8. The annual budget adopted at the annual meeting of the Association shall establish a dollar amount for each owner to be assessed in proportion to use of the road "Proportionate Share". The parties to this Agreement hereby allocate for Calendar 2004 a Proportionate Share based on 2003 experience. In Calendar 2004 the initial Proportionate Share shall be allocated 80% to Small Planet Foods, Inc. or its successor, 10% to Eugene B. Kahn and 10% to James Meyer and Harlyn Meyer. No assessment will be charged to Russell Johnson and Tammy Johnson or their successor(s) until such time as they make use of the road or request allocation to accommodate plans for use and development of their benefited property. At the annual meeting, owners will review and approve the annual budget and Proportionate Share to be applied to the then current year's annual assessment. Each owner shall receive notice of the assessment at the time of the annual meeting, or by mailing within ten (10) days after the annual meeting to the owner's last known address. Failure to contribute the assessed amount within forty-five (45) days of the notice of assessment, or such later date as may be set by agreement, shall be a default, and the Association shall have the right to file a lien for the unpaid assessment, plus interest at the rate of twelve (12%) percent per annum and all costs of enforcement, including reasonable attorney's fees may be added to principal and interest. Each owner of each lot shall be personally liable for each assessment coming due or remaining unpaid after purchase of a lot.

9. The Association's annual budget shall include a premium for a standard form Homeowners Association Policy of Liability insurance coverage, as well as allowances for maintenance of the private road and a sinking fund for any approved improvements, deferred maintenance, or depreciation of improvements.

10. Each owner shall be allowed to cast one ballot per certified lot, in person or by written proxy, to elect a Road Supervisor and for or against all other business coming before the meeting. The Road Supervisor shall establish an interest-bearing savings account at the Concrete State Bank, under the name of the Association. The designated account shall receive and disburse all funds of the Association, and the Road Supervisor shall secure a taxpayer identification number for the Association from the United States Treasury Department, Internal Revenue Service.



11. Any work undertaken by the Road Supervisor which is not covered by the budget and annual assessment of the Association, may be undertaken only with the written consent of all owners who are users of the road property who contribute to the annual assessment. All property owners shall be entitled to a copy of any contract for special assessment work upon request. Notice shall be by personal service or United States Mail, postage prepaid, to the last known address of the lot owner. This procedure shall not prevent the Road Supervisor from taking emergency measures in the interest of the Association.

12. In the event that one (1) or more lot owners fails to abide by terms of this governing document of the Association, then other lot owners shall have the right to bring an action against the person, firm, or corporation responsible for the violation. No owner or contract purchaser shall be relieved of any liability for the obligations established by this governing document through nonuse or abandonment of a lot or parcel.

13. Each lot owner shall be individually responsible for the collection and proper disposition of garbage, hazardous substances, rubbish, waste, and noxious weeds. Junk cars shall not be allowed in the view of other lot owners.

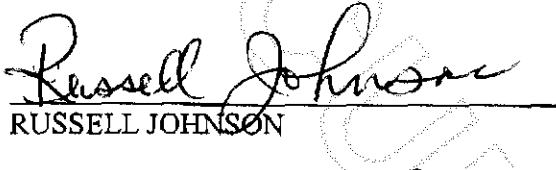
14. The lots served by the road are intended for natural resource, forest, and agricultural use, and such accessory uses as may be allowed by Skagit County under its comprehensive plan and zoning code, including transportation, washing, cutting, processing, packing, storage, and sale of agricultural products, home occupations and bed and breakfast establishments.

15. This Agreement shall constitute a covenant running with the land and shall be binding upon the respective lot owners, the signatories, their heirs, successors, and assigns.

16. This Agreement may be executed in one or more counterparts, which together shall be deemed one instrument.

DATED this 22 day of December, 2003.

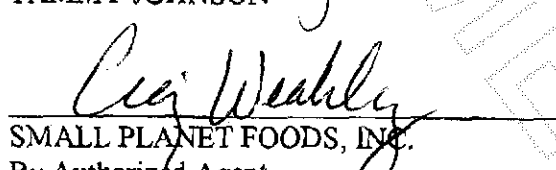

JAMES MEYER


RUSSELL JOHNSON


HARLYN MEYER


TAMMY JOHNSON


EUGENE B. KAHN


SMALL PLANET FOODS, INC.
By Authorized Agent



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me RUSSELL JOHNSON, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

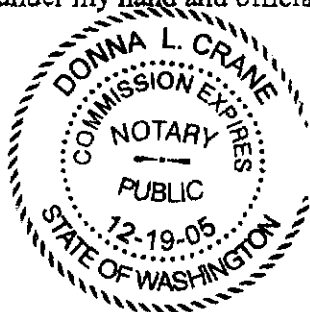
GIVEN under my hand and official seal this 22 date of December, 2003.

Carol Storch
Notary Public, State of Washington
Residing at: Rockport
My Commission Expires: 6/2004

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me TAMMY JOHNSON, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 23rd date of December, 2003.



Donna L. Crane
Notary Public, State of Washington
Residing at: Skagit County
My Commission Expires: 12/19/05



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me JAMES MEYER, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 22 date of December, 2003.

Carol Starch
Notary Public, State of Washington
Residing at: Rockport
My Commission Expires: 6/2004



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me HARLYN MEYER, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 22 date of December, 2003.

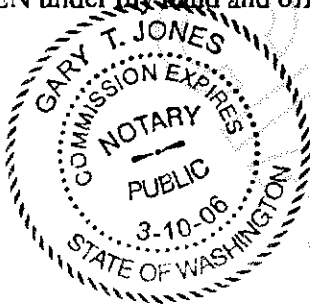
Carol Starch
Notary Public, State of Washington
Residing at: Rockport
My Commission Expires: 6/2004



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me EUGENE B. KAHN , to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 8th date of December, 2003.



Eugene B. Kahn
Notary Public, State of Washington

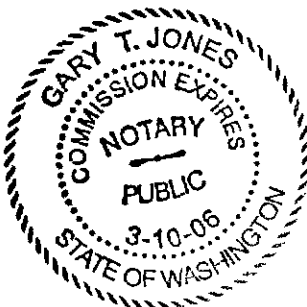
Residing at: Mount Vernon

My Commission Expires: 3/10/2006

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me CRAIG WEAKLEY as an authorized agent for SMALL PLANET FOODS, INC., to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 27th date of January, 2003.



Eugene B. Kahn
Notary Public, State of Washington

Residing at: Mount Vernon

My Commission Expires: 3/10/2006

