

When recorded return to:

Craig Sjostrom
411 Main Street
Mount Vernon, Washington 98273



200410260143
Skagit County Auditor

10/26/2004 Page 1 of 8 3:26PM

Grantor: (1) Eric D. Jensen
(2) Nora J. Jensen
(3) James A. Cook
(4) Terri E. Cook

Grantees: The Public

Legal Description: SP 97-0034, ptn SW $\frac{1}{4}$ NE $\frac{1}{4}$ & NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 11 Twn. 35N Rng 4EWM

Additional Legal Description Located on Page 2

Assessor's Property Tax Parcel or Account No.: P36173, P36175

Reference Nos of Documents Assigned or Released: N/A

Conveyance: Maintenance Declaration

MAINTENANCE DECLARATION

THIS DECLARATION is made and executed effective 9/1/04, by Eric D.

Jensen & Nora J. Jensen, h/w, and James E. Cook & Terri E. Cook, h/w ("Declarants"), the owners of the following described real property which is the subject hereof, located in Skagit County, Washington:

Lots 1, 2 & 3 of Short Plat 97-0034, approved 10/22/04, recorded on 10/26/04 under Skagit County Auditor's File No. 200410260142, being a portion of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, and the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$, of Section 11, Township 35 North, Range 4 East, W.M.

TOGETHER WITH easements for ingress and egress thereto as per instruments recorded under Skagit County Auditor's File Nos. 9601170041 and 200301020112.

- A. The Declarants do hereby establish of record a maintenance agreement for roads created or maintained pursuant to the easements as established by instruments recorded under Skagit County Auditor's File Nos. 9601170041 and 200301020112, as well as for roads created or maintained over and across the 60 foot wide strip of land and 90 foot wide cul-de-sac, and the 30 foot wide access and utility easement serving Lot 3, as established and shown on the Short Plat. These easements benefit the present and future owners of the three lots contained within the Short Plat.
- B. The Declarants do further hereby establish of record a maintenance agreement for the sediment pond as shown on the Short Plat, for the benefit of the present and future owners of the lots within the Short Plat.

IT IS FURTHER DECLARED AND AGREED AS FOLLOWS:

2. The provisions and requirements of the Short Plat shall be fully incorporated herein by reference, to the extent the same are not inconsistent with the provisions of this Declaration.
3. The sediment pond was originally designed for a water depth of 2 feet below the overflow spillway. When there is a buildup of 6 inches of sediment in the pond bottom it is to be cleaned out to restore the 2 feet of pond depth. When cleaning, the 6 inches of sand in the bottom of the berm on the creek side is to be exposed to ensure that the pond can drain.



The depth of the pond is to be checked at least once per year and after every heavy rainstorm to verify that there is at least 18 inches of storage depth. All removed sediment is to be properly disposed of and not allowed to erode into Thomas Creek.

4. All expenses and responsibility for maintenance of the sediment pond shall be shared equally amongst the owners of the lots within the Short Plat. Expenses and responsibility for maintenance of any of the roads that are the subject herein, as well as the road crossing Lot 4 of Short Plat 90-65 to the North of the subject property, shall be divided amongst the lot owners as set forth herein.
5. For purposes of this Declaration, there are five road segments which serve the lots within the Short Plat, as follows:
 - a. Road Segment A shall be defined as the road located within the easement running North and South across the west 60 feet of Lot 4, Short Plat 90-65, as set forth in the instrument recorded under Skagit County Auditor's File No. 9601170041.
 - b. Road Segment B shall be defined as the road located within the easement located within a portion of the South 80.37 feet of the said Lot 4, as set forth in the instrument recorded under Skagit County Auditor's File No. 200301020112.
 - c. Road Segment C shall be defined as that portion of the 60' roadway crossing Lot 1 of the subject Short Plat.
 - d. Road Segment D shall be defined as that portion of the 60' roadway crossing Lot 2 of the subject Short Plat.
 - e. Road Segment E shall be defined as the 30' access and utility easement as set forth on the Short Plat, over Lot 2 and providing access to Lot 3.
6. Responsibility for maintenance, including the costs thereof, of the various road segments shall be allocated as follows:
 - a. Responsibility for Road Segment A shall be shared equally by all of the lot owners. With respect to Road Segment A only, the owner of Lot 4 of Short Plat 90-65 shall be counted as a lot owner and will be benefitted by and subject to the provisions of this Declaration, as will the owner of Lot 3 of Short Plat 90-65 in the event such lot is benefitted by the Road Segment A easement.
 - b. Responsibility for Road Segment B shall be shared equally by the owners of Lots 1, 2 and 3 of the subject Short Plat.



- c. Responsibility for Road Segment C shall be shared equally by the owners of Lots 1, 2 and 3 of the subject Short Plat.
- d. Responsibility for Road Segment D shall be shared equally by the owners of Lots 2 and 3 of the subject Short Plat.
- e. Responsibility for Road Segment E shall be borne solely by the owner of Lot 3 of the subject Short Plat.
7. No improvements to the roads or to the sediment pond shall be made by any person without the approval of all of the lot owners responsible for the portion(s) of the roadways involved. No significant repair or maintenance expense shall be incurred, nor shall commitments (contractual or otherwise) be made to third parties, without the consent of all of the lot owners responsible for the portion(s) of the roadways involved, provided that such consent shall not be unreasonably withheld.
8. The lot owners shall meet at least biannually to determine the nature and extent of any repairs or maintenance required to be performed to the roads or sediment pond. Lot owners not participating in such meeting(s) will be deemed to have waived their voting rights for the meeting(s) in which they did not participate, and their lots will not be counted with respect to voting at such meeting(s). Lot owners may participate in such meetings by proxy, mail, telephone, or other appropriate manner as unanimously agreed to by the remaining lot owners.
9. Potholes and/or ruts shall be graded to provide a uniform and smooth roadway surface. Periodically, and especially after every severe rainstorm, the roadway is to be inspected for washouts and repaired as necessary, and roadside ditches shall be inspected for excessive erosion or siltation. Eroded areas shall be repaired and filled with an appropriate erosion-resistant material. Accumulated silt shall be removed to restore proper ditch depth and stormwater flow. Vegetation in the ditches shall be maintained in such a manner so as to enhance storm water quality and the elimination of trees and brush that would impede stormwater flow.
10. All lots in the Short Plat are subject to their proportionate share of the expenses of maintaining or repairing the roads and/or the sediment pond, whether or not the owners thereof consented to a particular expense or action in connection therewith. Each lot shall be subject to the imposition of a lien for that lot's proportionate share of an expense or expenses incurred in connection with any road or the sediment pond, such lien to be placed of record and foreclosed in the manner provided by law for the foreclosure of mechanic's or materialman's liens. No lien shall be placed of record until a period of 30 days has elapsed following the mailing of a demand for payment by registered or certified mail, return receipt requested, to each lot owner who has failed to pay his or her proportionate share. Only one copy of the demand need be mailed, and shall be sent to the

relevant lot owner(s) at the address to which that lot's County property tax statements are sent. The costs of placing the lien of record and enforcing the same, including reasonable attorney's fees, shall be added to the amounts due thereunder.

11. For purposes of this Declaration, the following definitions shall apply:

- a. The term "maintenance" shall include the costs of restoring the roadway surface to its approximate original condition; removing brush, trees, or other vegetation which may encroach onto the roadway; cleaning or restoring ditches, culverts, or other drainage systems such that runoff does not undermine or erode the roadway; repairing or replacing such gates, fences or other access control devices as may be installed; and other tasks appropriate to keeping the roadway open and available to the lots benefitted thereby. The term "maintenance" shall not include paving, upgrading, widening, re-routing, or decommissioning the roadway.
- b. The term "Short Plat" shall mean the Short Plat that is the subject of this Declaration, described above and known as Short Plat 97-34.
- c. The term "lot owner" shall mean all persons holding a legal or beneficial ownership interest in any of the lots contained within the Short Plat. "Lot owner" shall also include owners of Lots 3 and/or 4 of Short Plat 90-65 as provided in paragraph 6(a) above, and/or owners of other lots subject to this Declaration as provided for herein. "Lot owner" shall not include persons holding non-ownership interests in a lot, such as security interests, easements, etc. If a lot is owned jointly by more than one person, such ownership shall be treated as a single ownership for purposes of this Declaration.
- d. The term "undeveloped lot" shall mean any lot within the Short Plat upon which no house, shed, garage, barn, and/or other permanent structure (other than roads, septic or sewer lines, utility lines, wells, or other such installations) has been wholly or partially erected or located.

12. Notwithstanding any other provisions of this Declaration, any undeveloped lot in the Short Plat shall not be counted for purposes of allocating maintenance responsibility or costs, either for the roads or for the sediment pond, except that during periods of time that all of the lots within the Short Plat are undeveloped, all such lots shall be so counted.

13. Notwithstanding any other provisions of this Declaration, any damage to the road(s) resulting from any action or omission of any of the owners of property benefitted by the road(s), including actions or omissions of such party's agents, invitees, guests, servants or employees, shall be repaired at that party's sole cost and expense. If such party fails to take appropriate action, within a reasonable time, then the remaining lot owners may do so and in that event the provisions of paragraph 6 above concerning the imposition of a lien



shall apply.

14. Any utility easement set forth on the Short Plat or benefitting the lots created therein shall be in favor of the lot owners benefitted thereby and also in favor of any electric, telephone, gas, TV cable, water, or sewer company or utility, public or private, or their respective successors, to install, construct, operate, maintain, alter or repair their respective utilities, together with the right of ingress and egress for said purposes; provided that any ditching or other construction shall be promptly restored at the conclusion of such work at the sole expense of the said utility or owner performing the work.
15. The provisions set forth herein shall touch, concern, and run with the land. Any or all of the lot owners subject to the provisions of this Declaration are specifically given the right to enforce this Declaration via any proceedings, whether sounding in law, in equity, or some combination thereof, against any person or persons violating or threatening to violate any of the provisions herein set forth, and to recover from such person(s) any damages suffered by them and resulting from such violation(s). If any legal action or proceeding is brought arising from this Declaration or the duties or obligations imposed herein, including but not limited to the imposition and/or enforcement of a lien as set forth in paragraph 10 above, then the prevailing party in such action or proceeding shall be entitled to its reasonable attorney's fees and costs.
16. No waiver of a breach of any of the provisions hereof shall be construed as a waiver of any other breach of the same, nor shall failure to enforce or insist on the strict compliance with any of the provisions of this Declaration, either by forfeiture or otherwise, be construed as a waiver of that or any other provision herein set forth. The provisions herein set forth are to be construed as separate and independent of one another. The plural or singular forms of terms used in this Declaration are to be applied when the context requires it.
17. The provisions of this Declaration are to be perpetual in nature and cannot be modified or abrogated except by the unanimous written and acknowledged consent of all of the lot owners subject hereto. This Declaration shall be binding upon all present and future lot owners, and their heirs, successors and assigns, and all persons claiming under or through them, for the benefit of all future lot owners. This Declaration shall be fully enforceable against each lot that is the subject hereof as it is presently constituted, and shall in addition apply equally to all portions of each such lot in the event such lot is subdivided, partitioned or otherwise physically divided, and shall further fully apply to any property adjacent to any lot in the Short Plat coming into common ownership with any such lot.



EXECUTED effective on the date first set forth above.

Eric D. Jensen
ERIC D. JENSEN (date)

Nora J. Jensen 9/1/04
NORA J. JENSEN (date)

James A. Cook
JAMES A. COOK (date)

Terri E. Cook
TERRI E. COOK (date)

STATE OF WASHINGTON)

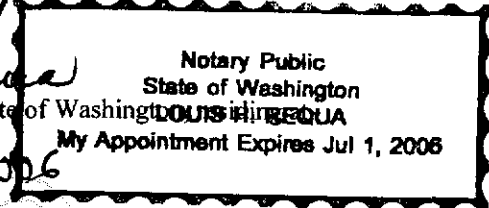
:SS

COUNTY OF SKAGIT)

On this day personally appeared before me Eric D. Jensen, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged 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 1st day of Sept., 2004.

Louis H. Requa
NOTARY PUBLIC in and for the State of Washington
Sedro-Woolley
My commission expires: July 1, 2006
Name: Louis H. Requa



STATE OF WASHINGTON)

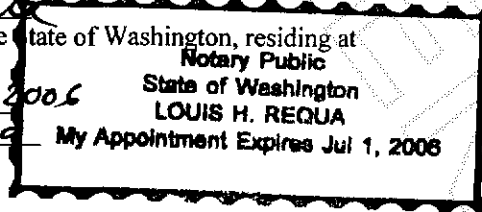
:SS

COUNTY OF SKAGIT)

On this day personally appeared before me Nora J. Jensen, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged 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 1st day of Sept., 2004.

Louis H. Requa
NOTARY PUBLIC in and for the State of Washington, residing at
Sedro-Woolley
My commission expires: July 1, 2006
Name: Louis H. Requa



MAINTENANCE DECLARATION

Page 6 of 7



200410260143
Skagit County Auditor

10/26/2004 Page

7 of

8 3:26PM

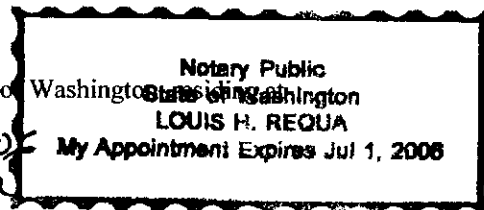
STATE OF WASHINGTON)
)
) :ss
COUNTY OF SKAGIT)

On this day personally appeared before me James A. Cook, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged 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 9 day of October, 2004.

Louis H. Regua
NOTARY PUBLIC in and for the State of Washington,
Sedro-Walley

My commission expires: July 1, 2006
Name: Louis H. Regua



STATE OF WASHINGTON)
)
) :ss
COUNTY OF SKAGIT)

On this day personally appeared before me Terri E. Cook, to me known to be one of the individuals described in and who executed the within and foregoing instrument, and acknowledged 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 9 day of October, 2004.

Louis H. Regua
NOTARY PUBLIC in and for the State of Washington, residing at
Sedro-Walley

My commission expires: July 1, 2006
Name: Louis H. Regua

