

FILED FOR RECORD AT THE
REQUEST OF/RETURN TO:

Sydney Stapleton
10438 Halloran Road
Bow, WA. 98232



200411080191
Skagit County Auditor

11/8/2004 Page 1 of 4 2:20PM

**DECLARATION AND AGREEMENT FOR ROAD,
DRAINAGE, AND UTILITIES MAINTENANCE
SKAGIT COUNTY SHORT PLAT No. PL04-0147**

Grantor (s): Sydney R. Stapleton and Anne Chase-Stapleton, husband and wife
Grantee (s): The General Public
Additional Grantor (s) on page (s):
Additional Grantee (s) on page (s):
Abbreviated Legal: ptn NE ¼ NW ¼, 35-36-2 E W.M.
Additional Legal on page (s):
Assessor's Tax Parcel No.'s: P47433, 360235-2-001-0109

THIS DECLARATION AND AGREEMENT shall affect the owners of Lot 1, 2, 3, and 4 identified in Short Plat No. PL04-0147, as recorded in Vol. _____ of Short Plats at pages _____ and _____, under Auditor's File No. 200411080189, records of Skagit County, Washington. The Declarants and owners of the aforesaid property are Sydney R. Stapleton and Anne Chase-Stapleton, husband and wife.

RECITALS

- A. Access from Halloran Road to the individual residential lots in the above-referenced Short Plat No. PL04-0147 shall be by means of a common, private easement road depicted in the plat map. The access road as constructed may require future improvements and continued maintenance. Further, certain common utilities will be shared along the access road, and these may require future improvements and continued maintenance.
- B. Following the initial installation by the Declarants of the access road, open ditch, and common utilities, it is intended that the cost of maintaining the access road, open ditch, and common utilities shall be borne equitably by the owners of the lots served by the same. Furthermore, it is intended that Lot 1 of this Short Plat shall be excluded here from if not directly benefited thereby.
- C. It is further intended by the Declarants that this Declaration and Agreement for Road, Drainage, and Utilities Maintenance shall be a perpetual covenant running with the land as to the aforesaid owners, successors, or assigns.

Now, therefore, the Declarants hereby declare that the lots above-described shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions:

1. **Private Road/Utilities Maintenance.** The record owner of a fee simple title to any of the four (4) lots in the aforesaid Short Plat No. PL04-0147, including persons or entities having an interest by virtue of a real estate contract, but excluding those having an interest merely as security for the performance of an obligation (hereinafter "owner" or "owners"), shall be responsible for the maintenance of the private road including open ditch, and utilities in accordance with the terms and conditions herein. Any private road name and/or stop signs shall be installed and maintained in a manner consistent with Skagit County Standards for such private roads and/or signs. The duty to maintain as described herein shall be perpetual.
2. **Ongoing Roadway Maintenance.** The surface of the roadway shall be maintained so as to allow free and reasonable passage of such vehicular traffic as may be reasonable and necessary in order that the owners may enjoy full and free use of their respective lot(s). The owners shall review the road maintenance annually, or more frequent as may be necessary, and shall determine the maintenance to be done over the next twelve (12) months, or sooner if necessary. The owners shall elect one person to coordinate and arrange for said maintenance. Each lot ownership shall provide one (1) vote to the owner thereof for purpose of determining the maintenance program and election of said coordinator. In the event of a deadlock, the owners shall, by majority agreement, choose an independent contractor to assess the required maintenance and this assessment shall determine the maintenance to be done.
3. **Ongoing Utilities Maintenance.** The owners shall be responsible to maintain the utilities (electric power line, telephone lines, water lines, and cable television lines) to a common point of connection, that is, the point at which the main service will terminate and the service to the individual lots will commence. Maintenance shall be determined and completed as in paragraph 2 above. All costs of installation and maintenance of utilities past the common point of connection shall be paid by the owner of the respective lot being served by such installation.
4. **Cost of Maintenance; Lien for Failure to Pay.** The cost of maintaining the roadway, open ditches, and utilities described herein in the manner set forth in paragraphs 2 and 3 above shall be borne in equal shares by the owner of each lot of real property affected hereby. In the event any owner fails to pay, within thirty (30) days of receiving a bill for their portion of the expense, then the other owner may file a lien, substantially in the form of labor and material lien. The lien shall be a lien against the property of the non-paying owner and forecloseable in the same manner as a real estate mortgage. The unpaid balance shall bear interest at the statutory legal rate until paid and the non-paying owner shall be liable for actual costs and reasonable attorney's fees expended in any collection action including, but not limited to, the foreclosure of the lien. Sale or transfer of any lot shall not affect the assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof.
5. **Extraordinary Use-Costs Enforcement.** In the event that an owner of a lot affected hereby should by its use of their lot, roadway, or utilities cause them to be subjected to other than reasonable wear and tear and should such roadway, open ditch, or utilities be damaged by such use, the owner subjecting the roadway, open ditch, or utilities to such extraordinary use shall have the obligation to repair such damage



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upon demand by any property owner affected hereby and to restore said roadway, open ditch, or utilities to the condition existent prior to such use and all expenses therefore shall be borne by such owner. In the event that such owner fails to repair and pay the cost thereof, then the other owner may bring action to enforce the provisions of this agreement. The prevailing owner is entitled to all costs incurred in bringing an action for enforcement, including reasonable attorney's fees incurred, and including consultation preceding legal action.

6. Termination of Obligation. Should any owner sell a lot that is benefited by the terms of this Declaration, that person shall no longer be bound by the terms of this Declaration, except for any default in obligations incurred prior to sale, if any.
7. Benefit of Covenant. The rights and obligations set forth herein shall inure to and be binding upon the Declarants, all subsequent owners, successors or assigns, and shall constitute a covenant running with the parcels of real estate affected hereby.
8. Amendment; Revision. These declarations, agreements, and covenants may be supplemented, relaxed, revoked, or amended in whole or in part at any time by an instrument signed by all owners of the lots of the aforesaid short plat, provided the change does not conflict with any other regulation or requirement affecting the owners' obligation to maintain the common access road, drainage, and/or common utilities as described herein.



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DATED this 6TH day of August, 2004.

DECLARANTS:

Sydney R. Stapleton
Sydney R. Stapleton

Anne Chase-Stapleton
Anne Chase-Stapleton

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

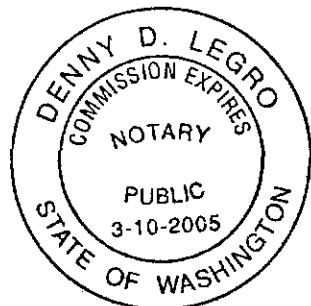
NOV 03 2004

STATE OF WASHINGTON }
 } S.S.
County of Skagit }

Amount Paid \$ 0
Skagit Co. Treasurer
By DC Deputy

On this day personally appeared before me Sydney R. Stapleton and Anne Chase-Stapleton, husband and wife, to me known to be the individuals described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 6TH day of August, 2004.



Denny D. Legro
Notary Public in and for the State of Washington
Residing at Mount Vernon
My commission expires: 3-10-05

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