

WAIVER OF RIGHTS TO REMONSTRANCE  
FOR STREET IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS, that the City of Newberg, a municipal corporation of the State of Oregon, hereinafter known as "City", and Georgie Wilson, the owners of the real property herein described, hereinafter referred to as "Owners", make the following agreement. The real property located in the City of Newberg, Yamhill County, Oregon is more fully described as follows:

Description of real property as in Exhibit "A" which is hereby attached and by this reference incorporated.

The City and Owners agree that the above-described real property is held and shall be transferred, sold, and conveyed upon the condition that in the event any street or future street, or any part thereof abutting upon said property or lots created therefrom, or improved and/or paved in accordance with the practices and procedures of the City, no remonstrances to said proposed improvements shall be made and such right to remonstrate is hereby waived.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

This agreement shall be binding upon the undersigned, who are the legal owners of the real property described above, and shall binding upon their heirs, assigns, and legal representatives.

IN WITNESS WHEREOF, we have executed said document on this 11<sup>th</sup> day of DECEMBER, 199 1.

OWNERS:  
By: Georgie Wilson

CITY OF NEWBERG:  
By: Deane R. Cole  
City Manager

By: Bill K. Dean, Trustee

STATE OF OREGON )  
City of Newberg ) ss.  
COUNTY OF YAMHILL )

On the 11<sup>th</sup> day of DECEMBER, 199 1, personally appeared the above-named individual(s) and acknowledged the foregoing instrument to be his/their voluntary act and deed.

(SEAL) 012587

Christina Weber  
Notary Public for Oregon  
My Commission Expires 6-5-97  
NOTARY PUBLIC - OREGON

Grantor: Georgie Wilson  
1308 N. College  
Newberg OR 97132

Grantee: City of Newberg  
414 E. First Street  
Newberg OR 97132

Return to Grantee after recording  
c/o Newberg City Attorney  
File No: 8-19-91

STATE OF OREGON  
COUNTY OF YAMHILL

I hereby certify that this instrument was received and duly recorded by me in Yamhill County records.

Instrument #  
T. Fuller  
CHARLES STERN,  
COUNTY CLERK

at Caldwell Banker

AGREEMENT  
FOR ACCESS AND MAINTENANCE  
OF COMMON DRIVEWAY  
PARTITION PLAT NUMBER 91-74

DATE OF AGREEMENT: December 7, 1991

OWNER: Georgie Wilson  
1308 N. College  
Newberg, Oregon 97132

PROPERTY: The property located in the City of  
Newberg, Yamhill County, Oregon, which  
is divided into 3 parcels by partition  
plat number 91-74 recorded on Yamhill  
County Deed Records at Film 3, Page  
162.

RECITALS:

1. The City of Newberg (City) has granted minor partition approval upon condition that access be from a common driveway, and that common driveway shall be maintained for that purpose.
2. The common driveway shall be 20 feet wide across Parcel 1, narrowed to 12 feet wide across Parcel 2 and paved prior to final occupancy of any building on Parcels 1 or 2.
3. This agreement shall meet the approval of the City.

OWNERS AGREE AS FOLLOWS:

1. Easement: The owners are the owners of the properties served by the easement shown on the plat as a 30 foot wide easement for access purposes, beginning at the initial point being 22 rods West and 220 feet North of the intersection of the South line of said Walker Claim as shown in County Survey 5184, with the line between Sections 17 and 18; thence West 133 feet to the true point of beginning of this easement; thence North 30 feet; thence West 230 feet to the center line of State Highway 219; thence South 30 feet; and thence East 230 feet to the said point of beginning. Said easement is for the benefit of Parcels 1 and 2, and for Lot 6402 at the end of said easement.
2. Duration and nature of agreement: This agreement shall continue in perpetuity and act as a covenant and restriction which attaches to and runs with the property. It is the intent to create a continuing obligation and right for subsequent owners of the property including owners of any parcels derived therefrom.

AGREEMENT FOR ACCESS AND  
MAINTENANCE OF COMMON  
DRIVEWAY - Page 2

3. Construction: The owner or owners of Parcels 1 and 2 shall construct the common driveway at his/their expense. Said construction shall be done at, or prior to, the time residence or building construction is done on parcels 1 or 2. Parcels 1 and 2, and Lot 6402 will have access to State Highway 219 only through the common driveway, once the common driveway is constructed.
4. Maintenance: The common driveway shall be maintained in a good and workman-like manner. The owners of each parcel accessing said driveway are jointly and severably responsible for the maintenance and repair of the entire driveway. Provided that if any individual owner, by any act or omission, causes damages to the common driveway, that owner shall be responsible for the repair to the improvement. Each owner shall bear an equal portion of the cost of any maintenance or repair. Provided that if any additional parcels are hereinafter created, owner of said parcel shall bear an equal portion as owner of other parcels.
5. Maintenance obligation: The owners of the parcels shall confer from time to time concerning the required maintenance. The owners shall agree to the cost and each owner's consent shall be obtained to perform the necessary work provided that such consent cannot be unreasonably withheld.
6. Arbitration: If disagreement occurs as to the need, cost, or method of repair of common driveway, the owners may seek arbitration to resolve such disagreement upon consent of all owners. The arbitrator must be agreed upon.
7. Enforcement of agreement: This Agreement may be enforced by any owner in the appropriate court in Yamhill County of the State of Oregon.
8. Additional parcels: In the event any additional parcels are hereinafter created from the existing property by legal division, the owners of newly created parcels shall possess a right to use of said common driveway, and shall participate in and be equally bound by this agreement.

AGREEMENT FOR ACCESS AND  
MAINTENANCE OF COMMON  
DRIVEWAY - Page 3

9. Indemnification: The owners shall hold harmless, defend, and indemnify the City of Newberg and the City's officers, agents, and employees against all claims, demands, actions or suits brought against any of them arising out of failure to properly maintain the common driveway. Each owner agrees to release and indemnify other owners for all liability for injury to themselves or damage to their property when such injury or damage shall result from the construction, maintenance, or repair undertaken pursuant to this agreement.

10. Notices: Any notice, demand, or report required under this agreement shall be sent to each owner in the care of the street address of owner's parcel or in the event that the owner does not reside on said property, in care of the current property tax notification address of the parcel. Any required notice or demand shall be made by certified mail or hand delivery and shall be deemed received on actual delivery or mailing, whichever occurs first.

11. Termination: The owners may not withdraw from or dissolve the agreement without written approval of the City.

12. Attorney's fees: If any of the owners take action concerning any matter pertaining to this agreement against any other owner, the prevailing party is entitled to reasonable attorney's fees as set by the appropriate court and to any additional attorney's fees if appeal is undertaken. In addition, the party is entitled to actual attorney's fees if a party is required to appear in any other procedure to protect the rights under this agreement, such as bankruptcy or foreclosure procedures.

APPROVED, as to form and content:



Dennis Egner, Planning Director,  
City of Newberg

AGREEMENT FOR ACCESS AND MAINTENANCE OF COMMON DRIVEWAY - Page 4

IN WITNESS HEREOF, the owners have executed this Maintenance Agreement.

Georgie Wilson  
Georgie Wilson, Owner

Billy K. O'Connor Trustee  
Billy K. O'Connor,  
Trustee

Gary Townsend  
Gary Townsend, Owner  
Lot 6402

Janelle Townsend  
Janelle Townsend, Owner  
Lot 6402

STATE OF OREGON,  
County of Yamhill) ss.  
On December 11, 1991, personally appeared the above named individuals and acknowledged the foregoing instrument to be their voluntary act and deed.

Christina Weber  
Notary Public for the State of Oregon  
Commission Expires: 1-1-94  
**NOTARY PUBLIC - OREGON**  
My Commission Expires 1-1-94

012586

STATE OF OREGON )  
COUNTY OF YAMHILL ) ss.

After recording, return to:  
K.C. Mann  
COLDWELL BANKER, Roger Veatch & Associates, Inc.  
2117 Portland Road  
Newberg, Oregon 97132

I hereby certify that this instrument was received and duly recorded by me in Yamhill County records.

Instrument #  
T. Fuller  
CHARLES STERN,  
COUNTY CLERK

2000  
1000

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By: Georgie Wilson

CITY OF NEWBERG:
By: Diane R. Cole
City Manager

By: Bill K. Dean, TRUSTEE

STATE OF OREGON )
City of Newberg ) ss.
COUNTY OF YAMHILL )

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(SEAL) 012537

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1308 N. College
Newberg OR 97132

Grantee: City of Newberg
414 E. First Street
Newberg OR 97132

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c/o Newberg City Attorney
File No: P-19-91

Notary Public for Oregon
CRISTINA WEBER
NOTARY PUBLIC - OREGON
Commission Expires 6-5-94

COUNTY OF YAMHILL

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Instrument #

T. Fuller
CHARLES STEPHENSON

Richard Old Banker