

Type: CONSOLIDATED REAL PROPERTY
Recorded: 10/28/2016 12:40:29 PM
Fee Amt: \$26.00 Page 1 of 6
Revenue Tax: \$0.00
Granville County, NC
Kathy M. Taylor Reg of Deeds

BK 1617 PG 22 - 27

Instrument prepared by and return to Stephen D. Lowry, 8358-104 Six Forks Rd., Raleigh, NC 27615

**DECLARATION OF DRIVEWAY EASEMENT AND
DRIVEWAY MAINTENANCE AGREEMENT AND
SEWER/WATERLINE EASEMENT**

This **DECLARATION OF DRIVEWAY EASEMENT AND DRIVEWAY MAINTENANCE AGREEMENT AND SEWER/WATERLINE EASEMENT** is made this 14 day of October, 2016, by and between **MAXINE ROGERS AIKEN** (the "Lot 4 Owner"), and **ERNEST L. BREEDLOVE, JR.** (the "Lot 3 Owner").

RECITALS:

WHEREAS, the Lot 4 Owner is the owner of property on West Lake Road, Creedmoor, NC described as follows ("Lot 4"):

Being all of Lot 4 Revised, containing 0.5034 acres, more or less, as shown on that map recorded in Plat Book 29, Page 151, Granville County Registry

WHEREAS, the Lot 3 Owner is under contract to acquire the property on West Lake Road, Creedmoor, NC described as follows ("Lot 3"):

Being all of Lot 3 Revised, containing 0.7225 acres, more or less, as shown on that map recorded in Plat Book 29, Page 151, Granville County Registry

WHEREAS, there is a driveway currently constructed on Lot 4 which provides access to West Lake Road for both Lots 3 and 4, and the parties wish to provide for the continued use of such driveway, and to set forth their respective rights and obligations with respect to such use and maintenance, effective upon the recording of the deed conveying title to Lot 3 to the Lot 3 Owner; and

WHEREAS, the Lot 4 Owner and the Lot 3 Owner have agreed to provide for a common, shared driveway facility serving both properties and uses and, to that end, the establishment of driveway easement from Lot 4 to Lot 3 for such purpose; and

WHEREAS, this agreement establishes the mutual rights, entitlements, and responsibilities of the parties regarding the common driveway and this easement; and

WHEREAS, there currently are waterlines and sewer lines running on Lot 4 for the benefit of Lot 3, and the parties wish to memorialize the right to such utility lines;

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows, but effective only upon the recording of the deed conveying title to Lot 3 to the Lot 3 Owner:

1. Establishment of Driveway Easement.

The Lot 4 Owner hereby grants and conveys to the Lot 3 Owner, its successors and assigns, the non-exclusive right, title, and easement of ingress, egress, and regress over the Easement Area (described below) for common use for vehicular and pedestrian ingress, egress, and regress, in and over that property and area hereinafter described. Said easement shall be for the mutual and non-exclusive use of the Lot 4 Owner and the Lot 3 Owner, their successors and assigns, and their respective guests, tenants, invitees, and permittees, as incidental and convenient to the ongoing occupancy, use and operation of their respective lots. No structures, buildings, obstructions, or other encroachments shall be located or allowed to be located in the Easement area, nor shall any activity be conducted or allowed, which prohibits, restricts, or otherwise interferes with the free and unrestricted use of the easement area for vehicular and pedestrian access purposes.

2. Location and Extent. The easement area shall be that area where the driveway is currently located on Lot 4, which are is generally located in the area described as follows:

*Beginning at an iron pipe set in the northern right of way boundary of West Lake Road marking the common corner of Lots 3 and 4, as shown on that plat recorded in plat Book 29, Page 151, Granville County Registry (the "Plat"); thence running along the common boundary line of said Lots 3 and 4 N 26° 31' 17" E 1458.37' to an 18" Maple, marking the northwestern corner of said Lot 4, as shown on the Plat; running thence S 63° 22' 39" E 19.22' to an existing iron pipe marking the former northwestern corner of said Lot 4 as previously depicted in that plat recorded in Plat Book 13, page 46, Granville County Registry, and as shown on the Plat; running thence along the former common boundary line of said Lots 3 and 4 as shown on that Prior Plat and as depicted on the Plat, S 26° 19' 59" W 200.20' to an existing iron pipe in the northern right of way boundary of said West Lake Street; running thence along said northern right of way boundary of West Lake Street S 62° 51' 10" W 19.88' to an iron pipe set, and **BEING THE POINT AND PLACE OF BEGINNING**, and being all of that area containing 0.0898 acres, more or less, added to Lot 4 pursuant to the Plat.*

For all purposed hereof, the "Easement Area" shall mean the area described above, and, to the extent the driveway currently located on Lot 4 extends beyond that area, the area where the driveway is currently located.

Further, the Parties hereto do further covenant and agree for themselves, their successors and assigns, that the cost of maintenance and repair of said driveway shall be shared by the Parties as described herein.

3. **Utility Line Easement.** The Lot 4 Owner hereby conveys to Grantee the following easement rights upon, over, and through the Easement Area: A perpetual, nonexclusive utility and pipeline easement, together with a perpetual right of ingress and egress over such easement (collectively, the "Utility Easement"), for the following purposes: (a) to construct, install, operate, maintain, repair, reconstruct, replace, and/or remove such facilities, fixtures, equipment, markers, and appurtenances as may be necessary or desirable for water, sewer, utility and pipeline purposes (collectively, the "Facilities") for the benefit of Lot 3; and (b) to cut and/or clear any or all vegetation and debris from the Easement Area as Grantee deems reasonably necessary in exercising the rights granted hereunder. The parties acknowledge and agree that the Utility Easement shall also extend and benefit any public utility providing such utility services to Lot 3 across the Easement Area, including without limitation the City of Creedmoor, the County of Granville, and the South Granville Water and Sewer Authority.

TO HAVE AND TO HOLD the above-described easements as an appurtenance to all of the property, which easement shall run with said lands forever.

4. **Covenants and Driveway Maintenance Agreement.** The Parties, their heirs, assigns and successors hereby agree to the following terms of use and maintenance:

- a. The private driveway shall only be used for ordinary residential use and neither party shall cause any extraordinary wear and tear by building, drilling, or heavy use of the same. If there is any damage to said private driveway as a result of extraordinary wear and tear, the responsible Party shall bear all costs associated with repair of the same in accordance with this Agreement;
- b. All expenses for ordinary maintenance and agreed upon improvements, including adequate pavement and/or cover, graded shoulders, grass cuts, and any necessary repairs, all of which shall be shared equally between the Parties on an annual basis; notwithstanding the foregoing, the Lot 3 Owner shall be responsible for all expenses associated with the portion of the driveway that extends beyond the turnoff on the driveway to the improvements located on Lot 4, and the Lot 4 Owner shall be responsible for all expenses associated with the portion of the driveway extending from said turnoff to the improvements located on Lot 4.
- c. In advance of contracting for ordinary repairs or maintenance on an annual basis, the Parties shall notify all owners of the written estimate and costs associated with the same and shall agree upon the selection of a contractor to perform said maintenance. If any Party fails to object to the selection of

the contractor and recommended maintenance after having at least ten (10) days' notice of the estimate, the other Party may proceed with the proposed contractor and the Parties shall split the costs associated with said ordinary repairs and maintenance reflected in the written estimate in accordance with their respective shares;

- d. Any damage caused to the driveway by any owner, guest, invitee, or agent beyond ordinary wear and tear ("extraordinary damage"), including damage to the driveway caused by construction shall be immediately repaired by the responsible owner so as not to cause any inconvenience of the other owners. If repairs are not completed within seven (7) days of the occurrence of extraordinary damage, written notice may be given to any responsible owner to rectify the damage. In the event the extraordinary damage is not rectified within fourteen (14) days after demand and written notice of the same, the non-responsible Party may repair the extraordinary damage and may forward the invoice for all reasonable costs associated with repair of the same with demand for payment or reimbursement within thirty (30) days;

5. **Temporary Construction Easements.** The Lot 4 Owner grants unto the Lot 3 Owner a nonexclusive, temporary access easement across in the Easement Area for (i) the purpose of constructing, operating, maintaining, and rebuilding or replacing the portion of the driveway in the area of the Easement Area that extends beyond the current turnoff on the currently existing driveway to the improvements located on Lot 4, in order to allow desired access to Lot 3 in the Easement Area, and (ii) for the purpose of installing and maintaining the Utility Easement and Facilities in good working order and repair and in accordance with all applicable laws, statutes, ordinances, regulations, and orders of all applicable governmental authority(ies).

6. **Amendment; Termination.** It is understood and agreed that this Easement agreement may not be amended or terminated except by written instrument executed by both parties and recorded in the Granville County Registry.

7. **Benefits and Binding Effects.** This easement agreement shall benefit and be binding upon the parties, and their respective successors and assigns. The rights and obligations granted and created hereunder are perpetual, run with title to the properties described herein, and can be terminated only as provided herein.

8. **Assignment.** Each Party shall have the right to transfer or assign the Easement Area as collateral or otherwise, provided that the continued use of the Easement Area is consistent with the terms and conditions of this conveyance.

9. **Indemnification.** This Agreement is conditioned upon each Party indemnifying the other Party and such Party's heirs, successors and assigns (collectively, the "Indemnified Party") from any and all losses, costs, damages, expenses, including, without limitation, attorneys' fees, and any other liability any Indemnified Person may

suffer as a proximate result of the use of the Easements by such first Party and its members or managers, or the tenants, customers, guests, employees, invitees, or licensees of such first Party on the portion of the Easements located on the parcel of land owned by the Indemnified Party; provided, however, that the Indemnified Party shall give written notice to the indemnifying Party of its request for indemnification within 30 days of any loss which may entitle the Indemnified Party to indemnification as provided herein.

IN WITNESS WHEREOF, the parties have executed the foregoing under signature of their duly authorized officers, acting with proper authority, under seal, the day and year first above written.

LOT 4 OWNER:

Maxine Rogers Aiken by Karen W. Brown (SEAL)
Maxine Rogers Aiken, by Karen W. Brown, her attorney-in-fact

NORTH CAROLINA

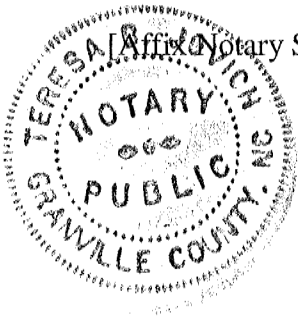
COUNTY OF GRAVILE

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Karen W. Brown, as attorney-in-fact for Maxine Rogers Aiken

Date: 10-12-2016

My Commission Expires:
5-18-2018

Teresa B. Jovich
Notary Public
Print Name: Teresa B. Jovich



[Affix Notary Stamp or Seal]

LOT 3 OWNER:

Ernest L. Breedlove, Jr. (SEAL)
Ernest L. Breedlove, Jr.

NORTH CAROLINA

COUNTY OF Granville

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Ernest L. Breedlove, Jr.

Date: 10-12-2016

My Commission Expires:
5-18-2018

Teresa B. Jovich
Notary Public
Print Name: Teresa B. Jovich

[Affix Notary Stamp or Seal]

