

## ADAMSKI MOROSKI MADDEN CUMBERLAND & GREEN LLP

ATTORNEYS AT LAW

1948 Spring Street  
Paso Robles, California 93446-1620  
T 805-238-2300 • F 805-238-2322 • [www.ammcglaw.com](http://www.ammcglaw.com)

February 8, 2023

Paso Robles Planning Commission  
Attn: Warren Frace and Darren Nash  
1000 Spring Street  
Paso Robles, CA 93446

**Re: Andrew Brown- Nutwood Circle**

Dear Mr. Frace and Mr. Nash:

Mr. Brown is requesting condition item number 16 requiring Mr. Brown to enter into a road maintenance agreement with his neighbors, be removed at your February 16<sup>th</sup>, 2023, Planning Commission meeting.

Following the conditioning by the City of Paso Robles of Mr. Brown's project requiring that the Walnut Hills Homeowners Association ("WH"), Mr. Archer, Mr. Ayers, and Mr. Brown enter into a road maintenance agreement for the maintenance of the City portion of Nutwood Circle, Mr. Brown initiated discussions with the parties and retained our firm to draft a road maintenance agreement that would share the responsibility of road maintenance with Mr. Archer, Mr. Ayers, Mr. Brown and WH. The road maintenance agreement ("Agreement") was circulated to the responsible parties in late December 2022. Mr. Ayers and Mr. Brown immediately agreed with the terms and conditions of the road maintenance agreement. Mr. Archer and the WH folks have proposed various changes to the Agreement which significantly alter the spirit of the draft Agreement.

Mr. Brown has complied with all of the City's requirements related to his building project on Nutwood Circle. Mr. Brown has had multiple discussions with Mr. Archer and the WH folks, but no agreement has been concluded. Mr. Brown does not believe it is reasonable for his building permit to be held up due to circumstances completely outside of his control.

Mr. Archer believes he should not be required to pay for any portion of the maintenance of Nutwood Circle lying westerly of his west property line even though Mr. Archer owns fee interest in the land beneath Nutwood Circle. The WH folks are now fixated upon getting Mr. Archer, Mr. Ayers, and Mr. Brown to waive all of their rights to that portion of Nutwood Circle lying outside of the City of Paso Robles. A copy of the latest draft of the Agreement and an email dated today showing WH's proposed changes are attached to this letter as Attachment "1".

The bottom line is that all grievances are now floating to the surface and Mr. Brown is prevented from moving forward with his project due to circumstances completely outside of his

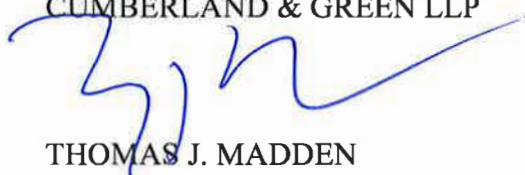
Page 2  
February 8, 2023

control. For these reasons, Mr. Brown requests that condition 16 to his conditions of approval be removed so Mr. Brown can move forward with his project.

Please contact our office should you have any questions.

Sincerely,

ADAMSKI MOROSKI MADDEN  
CUMBERLAND & GREEN LLP



THOMAS J. MADDEN

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

Thomas J. Madden, Esq.  
Adamski Moroski Madden  
Cumberland & Green LLP  
1948 Spring St.  
Paso Robles, CA 93446

-----Space Above This Line For Recorder's Use-----

ROAD MAINTENANCE AGREEMENT

This Road Maintenance Agreement ("**Agreement**") is entered into this day of \_\_\_\_\_ 2022 ("**Effective Date**"), by and between Walnut Hills Ranch Owners Association ("**Walnut Hills**"), Andrew W. Brown and Michelle E. Brown (collectively "**Brown**"), Archer Paso Robles, LLC, a California limited liability company ("**Archer**") and DRA Commercial, LLC, a California limited liability company (collectively "**DRA**"). Brown, Archer, DRA are sometimes referred to in this Agreement as a "**Parcel Owner**", or collectively as the "**Parcel Owners**".

RECITALS

A. Walnut Hills is an association of homeowners whose real property is situated in the County of San Luis Obispo Assessor Parcel No's 040-135-013 through 040-135-028 consisting of lots 7 through 22, inclusive of Tract No. 1699, according to the Map that was recorded in Book 21 of Pages 43-52 of Maps, in the ~~Office of the~~ County Recorder of San Luis Obispo County, California and more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference ("**Walnut Hills**").

B. Brown is the owner of that certain parcel of real property situated in the City of Paso Robles, County of San Luis Obispo, State of California, commonly known as San Luis Obispo County Assessor's Parcel No: 009-851-016, consisting of approximately ~~two~~ (2) +/- acres of commercial real property, and more particularly described in **Exhibit "B"**, attached hereto and incorporated herein by this reference ("**Brown Parcel**").

C. Archer is the owner of that certain parcel of real property situated in the City of Paso Robles, County of San Luis Obispo, State of California, commonly known as San Luis Obispo County Assessor's Parcel No's: 009-851-022 and ~~009-851-017~~, consisting of approximately seven (7) +/- acres, and more particularly described in **Exhibit "C"**, attached hereto and incorporated herein by this reference ("**Archer Parcel**").

D. DRA is the owner of that certain parcel of real property situated in the County of San Luis Obispo, State of California, commonly known as San Luis Obispo County Assessor's Parcel ~~No: 009~~ 851-023, consisting of approximately five (5) +/- acres, and more particularly described in **Exhibit "D"**, attached hereto and incorporated herein by this reference ("**DRA Parcel**").

# Attachment 1

Walnut Hills, Archer, DRA, and Brown desire to set forth the maintenance and repair obligations for that portion of the roadway known as Nutwood Circle lying wholly within the Archer Parcel and within the City of Paso Robles, all as set forth in this Agreement.

Walnut Hills, Archer, DRA, and Brown desire to set forth the maintenance and repair obligations for that portion of the roadway known as Nutwood Circle lying wholly within the Archer Parcel and within the City of Paso Robles, all as set forth in this Agreement

E. The Brown Parcel, the Archer Parcel, and the DRA Parcel are herein collectively referred to as the "**Parcels**", and the Walnut Hills Parcels shall be referred to as the "**Walnut Hills Parcels**". The Parcels and the Walnut Hills Parcels have utilized a roadway known as Nutwood Circle constructed upon a private right of way across the Archer Parcel, and which is appurtenant to the Parcels and the Walnut Hills Parcels, and which serves as access from Theatre Drive to each of the Parcels.

F. Nutwood Circle extends through the Archer Parcel from Theater Drive in the City of Paso Robles. At the western boundary of the Archer Parcel which contains Nutwood Circle, and also at the western boundary of the DRA Parcel and the Brown Parcel is the westerly boundary for the City of Paso Robles. Only the Archer Parcel, the DRA Parcel and the Brown Parcel are within the city limits of the City of Paso Robles.

G. The Walnut Hills Parcels are located in the County of San Luis Obispo immediately west of the city limits for the City of Paso Robles. Nutwood Circle continues from the boundary of the City of Paso Robles and the County of San Luis Obispo in a loop to service the Walnut Hills Parcels. That portion of Nutwood Circle lying outside of the City of Paso Robles and wholly within the County of San Luis Obispo shall not be included in the repair and maintenance obligations set forth in this Agreement as the Walnut Hills Parcels share the repair and maintenance obligations of the County of San Luis Obispo portions of Nutwood Circle.

H. Walnut Hills, Archer, DRA, and Brown desire to set forth the maintenance and repair obligations for that portion of the roadway known as Nutwood Circle lying wholly within the Archer Parcel and within the City of Paso Robles, all as set forth in this Agreement.

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## AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals and the mutual covenants, terms and conditions contained in this Agreement, the sufficiency of which are hereby agreed, the parties hereto agree as follows: \_\_\_\_\_

1. Archer, DRA and Brown acknowledge they do not maintain and repair that portion of the roadway known as Nutwood Circle which lies outside the Archer Parcel and outside the City of Paso Robles; therefore, no customers, employees, vendors or any other person or entity associated with the Parcels, or their successors in interest, may use that portion of Nutwood Circle that lies within Walnut Hills development and within the County of San Luis Obispo

1. Condition of Nutwood Circle. Nutwood Circle is a paved roadway which shall always be maintained with a reasonably flat and even surface and surfaced with asphalt. All Parcel Owners and Walnut Hills shall be required to pay for maintenance of that portion of Nutwood Circle, constructed upon the Archer Parcel in the City of Paso Robles, pursuant to Section 3 below.

# Attachment 1

2. Supervision of Maintenance and Repair. As long as Brown owns the Brown Parcel, Brown shall oversee the maintenance and repair of that portion of Nutwood Circle constructed upon the Archer Parcel in the City of Paso Robles. When Brown ceases to own the Brown Parcel, the Parcel Owners and Walnut Hills shall vote to designate a Parcel Owner or owners as the responsible party to oversee the maintenance and repair of Nutwood Circle. Each Parcel Owner shall be entitled to one (1) vote and Walnut Hills shall be entitled to one (1) vote, and a majority of the Parcel Owners and Walnut Hills vote shall control. In the absence of a responsible party selected by vote, all Parcel Owners and Walnut Hills together shall be the responsible party for the repair and maintenance of Nutwood Circle.



# Attachment 1

The responsible party shall ensure that Nutwood Circle is maintained and/or restored in the condition described in Section 1. above. All Parcel Owners have the right to request road repair and shall work together to coordinate their maintenance and repair activities so as to perform the work as economically as possible and to minimize the interference with the other Parcel Owners' and Walnut Hills Parcels' use of Nutwood Circle. All work shall be performed with reasonable dispatch. All Parcels shall provide reasonable rights of access and passage for the purpose of conducting maintenance and repair of Nutwood Circle.

4. Construction Period. Each of Archer, DRA and Brown anticipate building commercial structures upon their respective Parcels within a reasonable period of time following the execution of this Agreement. Archer, DRA, and Brown acknowledge that there will be heavy traffic upon Nutwood Circle during construction of their respective projects. Archer, DRA and Brown agree that following the completion of the last of the three (3) projects to be completed, which completion shall be evidenced by a Certificate of Occupancy, that Archer, DRA and Brown shall each pay one-third (1/3) of the cost to restore Nutwood Circle to the condition that exists as of the date of execution of this Agreement. It is acknowledged that a watermain and other utilities and fire hydrants will need to be installed within Nutwood Circle during the construction process, and the pavement upon Nutwood Circle shall be restored as close as possible to the condition that presently exists following the installation of the watermain and any other utilities and fire hydrates. The Archer, DRA and Brown parcels shall complete their respective projects within five (5) years from the date of execution of this Agreement. ~~This restoration shall not include a complete repaving of Nutwood Circle or even an overlay over all of Nutwood Circle.~~

At no time during this construction period shall construction impede access to the residents of the Walnut Hills Parcels, or emergency vehicles.

6. Costs and Expenses for Maintenance and Repair. Following the restoration of Nutwood Circle by Archer, DRA, and Brown, all future repairs and maintenance to Nutwood Circle shall be paid one-fourth (1/4) by the owner of the Archer Parcel, one-fourth (1/4) by the owner of the DRA Parcel, one-fourth (1/4) by the owner of the Brown Parcel and one-fourth (1/4) by Walnut Hills. However, if future use of any of the three commercial parcels is determined to exceed 1/4 of the wear and tear on Nutwood Circle, then the Parties shall reassign the allocation of repair and maintenance costs accordingly.

Notwithstanding any other term or condition of this Agreement, if the use of Nutwood Circle, or any maintenance, repair or replacement work, by any Parcel Owner or Walnut Hills, causes damage (ordinary wear and tear excepted) to the surface of Nutwood Circle, or causes damage to (ordinary wear and tear excepted) or destruction of any improvements located on or under Nutwood Circle, such Parcel Owner or Walnut Hills shall repair and/or restore such surface or improvements to the condition existing immediately prior to the event of damage or destruction. All such work shall be performed with reasonable dispatch.

4. Subdivision. Should any Parcel be subdivided (or lot line adjusted) and a portion be sold, the owner of any newly created parcel shall pay his or her share of the costs for maintenance and repair of Nutwood Circle. For example, if the Brown Parcel is subdivided into two (2) parcels, the costs of maintenance and repair of Nutwood Circle would now be divided five (5) ways rather than four (4) ways, with each of the two (2) parcels resulting from the subdivision of the Brown Parcel, the DRA Parcel, the Archer Parcel and Walnut Hills each paying twenty percent (20%) of such costs of maintenance and repair.

5. ~~Gates and Signs. No gates shall be installed upon Nutwood Circle.~~

6. Notice. No Parcel Owner shall be required to contribute to the cost of maintenance or repair of Nutwood Circle unless the work was reasonably necessary in order to maintain or restore the

# Attachment 1

# Attachment 1

road to the condition described in Section 42 above, and he or she was provided thirty (30) days prior written notice of the work to be performed and a reasonably accurate estimate of the anticipated cost. Notice shall not be required in cases of emergency. Notice shall be given to any Parcel Owners and Walnut Hills at their address of record with the San Luis Obispo County Recorder, unless written notice of a different address is provided to all other Parcel Owners and Walnut Hills.

7. Notification of Expenditures. To the extent reasonably possible, a Parcel Owner performing any maintenance or repairs shall obtain competitive bids for the purpose of cost comparison before entering into any binding obligation for the work. In no event shall any Parcel Owner or Walnut Hills commit to a total repair cost in excess of Ten Thousand Dollars (\$10,000.00) without a majority approval of those Parcel Owners and Walnut Hills responsible for the cost and maintenance of Nutwood Circle. Any Parcel Owner and Walnut Hills expending money on a reimbursable cost for maintenance or repair of Nutwood Circle pursuant to the terms of this Agreement shall promptly bill the other Parcel Owners and Walnut Hills their share of the costs, providing documentation of the work performed and cost incurred sufficient for the Parcel Owners and Walnut Hills being billed for reimbursement to understand how the reimbursement amount billed was calculated.

8. Payment. All Parcel Owners and Walnut Hills shall pay any sums appropriately billed to them within thirty (30) days following the billing. Each Parcel Owner and Walnut Hills, ~~and each Parcel and Walnut Hills~~ shall be released from liability for the costs billed upon total payment of all amounts due and owing. No Parcel Owner nor Walnut Hills shall have any personal obligation to pay any cost for maintenance or repair performed after the sale or other conveyance of 100% of his or her interest in the Parcel or Parcels owned by him, her or it.

9. Failure to Timely Pay. If a Parcel Owner fails to pay his or her respective share of costs incurred within thirty (30) days after billing, the amount billed shall accrue interest at the maximum rate of interest allowed by law at such time, per annum for the date of the billing, plus any attorney's fees reasonably necessary for collection of the billing.

10. Term. The obligations set forth in this Agreement shall continue in full force and effect in perpetuity from the date of recordation hereof, unless otherwise revoked pursuant to the terms of this Agreement.

11. Attorneys' Fees. In the event any controversy, claim or dispute arises relating to this Agreement, the prevailing party in such action shall be entitled to recover from the losing party, reasonable attorneys' fees, costs, and expenses. "Prevailing party" shall include, without limitation, a party who brings an action after the other's breach or default and such action is dismissed upon the other party's payment of the sum allegedly due or performance of the covenant allegedly breached or the non-defaulting party obtains substantially the relief sought by it in the action.

12. Covenants Running with the Land. The covenants herein contained shall be equitable servitudes and covenants running with the land pursuant to the applicable law of the State of California.

13. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue for any action shall be in San Luis Obispo County, California.



# Attachment 1

14. Entirety of Agreements. This Agreement constitutes the entire agreement and understandings of the parties hereto and contains all representations between the parties with respect to the subject matter hereof.

15. Successors and Assigns. All of the provisions, agreements, rights, powers, covenants and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, successors, assigns, devisees, administrators, representatives, lessees, and all other persons acquiring any interest in the Parcels, whether by operation of law or any manner whatsoever unless and until terminated.

16. Exhibits. All exhibits attached hereto and referenced in this Agreement are hereby incorporated by this reference as though they were fully set forth herein.

17. Cumulative Rights and Remedies. The rights and remedies of the parties hereto are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

*[SIGNATURES ON THE FOLLOWING PAGE.]*

# Attachment 1

IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Reciprocal Grant of Easements and Road Maintenance Agreement as of the Effective Date.

**BROWN:**

Andrew W. Brown

Michelle E. Brown

**ARCHER:**

ARCHER PASO ROBLES LLC, a California  
limited liability company

By: \_\_\_\_\_

Its \_\_\_\_\_

**DRA:**

DRA Commercial, LLC, a California limited  
liability company

By: \_\_\_\_\_

Its \_\_\_\_\_

**WALNUT HILLS:**

Walnut Hills Ranch Owners Association

By: \_\_\_\_\_

Its \_\_\_\_\_

# Attachment 1

*A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN LUIS OBISPO )

On December 15, 2022, before me, \_\_\_\_\_, Notary Public, personally appeared **ANDREW W. BROWN** and **MICHELLE E. BROWN**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

---

Notary Public

(Seal)

*A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF )

On 2022, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

~~Notary Public~~

(Seal)

# Attachment 1

*A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2022, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(Seal)

*A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.*

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF )

On \_\_\_\_\_, 2022, before me, - Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

(Seal)

# Attachment 1

Exhibit "A" Map

of Tract 1699

Walnut Hills Lots 7 through 22, APN's 040-135-013 through 040-135-028

Page 1 of 2







# Attachment 1

## Exhibit "B"

### Legal Description of Brown Parcel

The following described property in the City of Paso Robles, County of San Luis Obispo, State of California:

LOT 2 OF TRACT 1699-PHASE 3, IN THE COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP RECORDED DECEMBER 23, 2002 IN BOOK 21, PAGES 43 TO 52, INCLUSIVE OF MAPS.

EXCEPT THEREFROM AN UNDIVIDED 1/2 OF ALL OIL, GAS, MINERALS, AND OTHER HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE ABOVE A DEPTH OF 500 FEET, TO TAKE, MARKET, MINE, EXPLORE, OR DRILL FOR SAME, AS RESERVED BY EARL E. KARNER AND EDITH A. KARNER, HUSBAND AND WIFE, IN DEED RECORDED OCTOBER 5, 1973 IN BOOK 1747, PAGE 794 OF OFFICIAL RECORDS.

A.P.N. 009-851-016

# Attachment 1

## Exhibit "C"

### Legal Description of Archer Parcel

The following described property in the City of Paso Robles, County of San Luis Obispo, State of California:

PARCEL 1 OF PARCEL MAP PR 04-0471, IN THE CITY OF PASO ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP RECORDED DECEMBER 29, 2004 IN BOOK 63 OF PARCEL MAPS AT PAGES 22 THROUGH 24.

EXCEPT THEREFROM AN UNDIVIDED 1/2 OF ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE ABOVE A DEPTH OF 500 FEET, TO TAKE, MARKET, MINE, EXPLORE OR DRILL FOR SAME, AS RESERVED BY EARLE. KARNER AND EDITH A. KARNER, HUSBAND AND WIFE, IN DEED RECORDED OCTOBER 5, 1973 IN BOOK 1747, PAGE 794 OF OFFICIAL RECORDS.

A.P.N. 009-851-002 and 009-851-017

# Attachment 1

## Exhibit "D"

### Legal Description of DRA Parcel

The following described property in the City of Paso Robles, County of San Luis Obispo, State of California:

PARCEL 2 OF PR 04-0471, IN THE CITY OF PASO ROBLES, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, ACCORDING TO MAP RECORDED DECEMBER 29, 2004 IN BOOK 63, PAGES 22 THROUGH 24 OF PARCEL MAPS.

EXCEPT THEREFROM AN UNDIVIDED 1/2 OF ALL OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES LYING BELOW A DEPTH OF 500 FEET FROM THE SURFACE OF SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY UPON ANY PORTION OF THE SURFACE ABOVE A DEPTH OF 500 FEET, TO TAKE, MARKET, MINE, EXPLORE OR DRILL FOR SAME, AS RESERVED BY EARL E. KARNER AND EDITH A. KARNER, HUSBAND AND WIFE, IN DEED RECORDED OCTOBER 5, 1973 IN BOOK 1747, PAGE 794 OF OFFICAL RECORDS.

A.P.N. 009-851-023

## Elora Hartmann

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**From:** Elora Hartmann  
**Sent:** Wednesday, February 8, 2023 2:55 PM  
**To:** Elora Hartmann  
**Subject:** FW: Road Maintenance Agreement

**From:** Casie Hill <[casiehill@me.com](mailto:casiehill@me.com)>  
**Sent:** Wednesday, February 08, 2023 2:03 PM  
**To:** Andy Brown <[andy@abiengineering.com](mailto:andy@abiengineering.com)>  
**Cc:** Jack Vail <[jack@drymaxsports.com](mailto:jack@drymaxsports.com)>; Joanna Smith <[jolusm@aol.com](mailto:jolusm@aol.com)>; [Joanna.Smith@dsh.ca.gov](mailto:Joanna.Smith@dsh.ca.gov)  
**Subject:** Re: Road Maintenance Agreement

Andy,

Thank you for your help.

First point: I agree this is a road maintenance agreement but the homeowners are also concerned with the extra traffic these new commercial properties and the impacts to the non-city road that we maintain. With that said, I think it would be important as we join in this agreement to some how be mindful of the extra impacts to the homeowner side. Having this in the agreement will give us something to refer back to.

Second point: If access is already addressed, then no including it is fine as long as all the commercial property owners and their construction crews are aware of the homeowners and impact beyond the commercial property sites.

Third point: You are correct, we should not have ambiguity in the document. What suggestion might you propose that can take into consideration the extra use that we should not pay for? This relates back to #1 as well...If the homeowners did not pay for any road maintenance on the straightaway then we would not expect the commercial property owners to pay for use of the "circle". If the homeowners pay for 1/4 then we want the reduction of use on the "circle". It is all about wear and tear on the road (entire Nutwood Circle). We are open to suggestions.

Fourth point: Can we just redact the entire gate statement. I understand it is important to the City to clearly state they will not permit a gate, but this is not their agreement. Are they mandating that language? If not, I would like it redacted.

I will be reachable after 5pm tonight if you want to talk in more detail. I am glad we are making progress and getting close.

Have a great day!  
Casie

Sent from my iPad

On Feb 7, 2023, at 4:37 PM, Andy Brown <[andy@abiengineering.com](mailto:andy@abiengineering.com)> wrote:

# Attachment 1

Casie,

Thank you for the reply and information.

I have outlined some things below, remember that this agreement is for road maintenance nothing else. I want everyone to remember it's not just between us, we have the

City and two other parcel owners involved and working with five different entities is somewhat challenging for me but I am trying my best. I think we need to remember this

is going to help us all and in the end will save your homeowners association money. I am a very reasonable person and have no intention of making anyone pay for something

that is not fair and reasonable.

Andy

**From:** Casie Hill <[casiehill@me.com](mailto:casiehill@me.com)>

**Sent:** Monday, February 06, 2023 7:26 PM

**To:** Andy Brown <[andy@abiengineering.com](mailto:andy@abiengineering.com)>

**Cc:** Jack Vail <[jack@drymaxsports.com](mailto:jack@drymaxsports.com)>; Joanna Smith <[jolusm@aol.com](mailto:jolusm@aol.com)>;

Joanna@WalnutHills <[Joanna.Smith@dsh.ca.gov](mailto:Joanna.Smith@dsh.ca.gov)>

**Subject:** Re: Road Maintenance Agreement

Andy,

Thank you for your patience and we finally received a revised copy of the agreement from Mark IV's attorney (attached). She did indicate that this version might not be the most recent agreement.

With that said, please look it over and let me know if you want to discuss in detail. I will be home tomorrow and available to talk if you want.

The board's big concerns, as we previously mentioned on our call last week are as follows:

1. Discourage/prevent customers and employee traffic through the circle part of Nutwood Circle (she added this as a new section 1) I understand this but would not be part of a road maintenance agreement at this time. There is really no clear way to stop cars from coming up Nutwood without a gate at the City limits. I do not see any of my clients driving past my entrance.
2. During and after construction, all residents and/or emergency vehicles will not be denied/blocked access (section 4) I am not sure why this would be in this draft, no one is blocking Nutwood during construction nor can they, it is already dealt with in the encroachment permit conditions and is a City standard. Legally we couldn't do it if we want to.
3. If the maintenance of the straightaway portion of the road has a noticeable wear from the commercial properties, then the 1/4 split will be revisited for a reassessment of the allocation. (section 6) In agreements like this nothing can



# Attachment 1

be open ended. If we were to install this language who would be the referee or deciding factor for costs? It leads to speculation none of us can be the judge without prejudice . We just have to keep it at 25%. If we were to go on a traffic index for % I would only pay less than everyone else it may be an idea if we cannot agree on the straight 25%. I am the only one who would win in that situation but I don't think it is fair to you.

4. Redacting the gate statement. We might not get a gate but we do not want it in the document stating we cannot get a gate. (section 5) This agreement only pertains to the City limits of Nutwood, we can clarify the words "Inside the City Limits" if this helps.

The attorney incorporated these changes in her attached document and highlighted the changes. We are flexible on the wording of the above statements.

Again, sorry this took so long and we thank you for your patience.

Please feel free to call me at 805-286-6808 to discuss.

Casie