

Filed For Record At Request Of:

Jonson & Jonson, P.S.
701 5th Avenue, Suite 7121
Seattle, WA 98104-7015

Document Title: AMENDED AND RESTATED GRANT OF EASEMENT AND
AGREEMENT CONCERNING ROAD BUILDING AND TREE REMOVAL

Reference Numbers of Related Documents
Assigned or Released: _____

Additional reference numbers on page ____ of documents:

Grantors

1. KIRK, PHILIP and KIRK, ELIZABETH d/b/a Evergreen
Investment Company

Grantees

1. ARGENT VENTURES CORPORATION

Legal description (abbreviated form, i.e., lot, block, plat or
section, township, range): _____

Additional legal is on page ____ of documents.

Assessor's Property Tax Parcel/Account Number(s): _____

THIS AMENDED AND RESTATED AGREEMENT is entered into this
____ day of _____, 1997, between PHILIP KIRK and
ELIZABETH KIRK, husband and wife, d/b/a Evergreen Investment
Company ("Kirk") and ARGENT VENTURES CORPORATION ("Argent").

This Agreement amends and restates in its entirety that certain
Grant of Easement and Agreement Concerning Road Building and Tree
Removal dated June 19, 1993, executed by Kirk and Argent and
recorded under King County Records and Elections No. 9308272030
("Agreement") as amended by unrecorded Amendment to Grant of

Easement and Agreement Concerning Road Building and Tree Removal dated October 11, 1995 ("Amendment") and Memorandum Concerning Grant of Easement and Agreement Concerning Road Building and Tree Removal dated December 1, 1995 and recorded under King County Records and Elections No. 9605220724 ("Memorandum"). Modifications to such Agreement, Amendment and Memorandum are necessary due to changes in circumstances including changes to the construction plans and cost sharing amounts identified therein and Kirk's inability to install a road and utilities by the agreed upon due date.

Therefore, the Agreement, Amendment and Memorandum are hereby amended and superseded in their entirety by this Amended and Restated Agreement as follows:

R E C I T A L S:

- A. Argent owns a parcel of unimproved real property consisting of 20.35 acres ("Argent Parcel") which is described on Exhibit A attached hereto and incorporated by reference.
- B. Kirk owns a parcel of unimproved real property consisting of 5.05 acres ("Kirk Building Site") which is adjacent to the Kirk Development Parcel (as defined below) and the Argent Parcel and is described on Exhibit B attached hereto and incorporated by reference.
- C. Kirk also owns a parcel of unimproved real property consisting of 9.4 acres ("Kirk Development Parcel") which is described on Exhibit C attached hereto and incorporated by reference. Such parcel has access to a public street and is adjacent to the Kirk Building Site. Kirk has filed an application with King County to subdivide such parcel into four separate parcels.
- D. Kirk has prepared a plan and survey map ("Plans") for the installation of utilities ("Utilities") and a private road ("Access Road") to provide access to the Kirk Development Parcel,

the Kirk Building Site, and to the Argent Parcel. The Plans are attached hereto as Exhibit D and are incorporated by reference.

E. Kirk desires to cut and prune certain trees on the Argent Parcel to establish a view corridor ("View Corridor") to Lake Sammamish for the future home to be built on the Kirk Building Site. Argent will allow cutting and pruning for such purpose subject to the terms and conditions stated herein. A sketch of the View Corridor showing its approximate location and width is attached hereto as Exhibit E which is incorporated by reference.

F. The Estate of Henry A. Hieb and Corrine R. Hieb ("Hieb") own a parcel of real property ("Hieb Parcel") which is described on Exhibit F attached hereto and incorporated by reference which is adjacent to the Argent Parcel and the Kirk Building Site. Hieb is granted an option to acquire a right to use the access and utility easement created by this Agreement subject to the terms and conditions set forth herein.

G. Hieb has granted Argent an easement ("Hieb Easement") so that a portion of the Access Road and Utilities described in the Plans may be constructed on the Hieb Parcel. Now, therefore,

IN CONSIDERATION of the mutual benefits herein set forth, the parties hereby agree as follows:

1. Grant of Easement. Kirk hereby grants, transfers, conveys and warrants to Argent an easement ("Easement") over the Kirk Development Parcel and Kirk Building Site for access and utilities to the Argent Parcel as follows:

a. Present Location. The Easement location is shown in the Plans.

b. Width. The width of the Easement shall be thirty (30) feet for its entire length from Point A to Point D as shown in the Plans.

c. Limits on Access. The parties agree that the maximum number of parcels which may use the Access Road for access and utilities shall be no more than eight (8) consisting of the following:

Kirk Development Parcel - four (4) parcels;
Kirk Building Site - one (1) parcel;
Argent Parcel - two (2) parcels; and
Hieb Parcel - one parcel, provided that Hieb exercises its option pursuant to the next section hereof on or before _____.

The parties agree that no further parcels may use the Access Road or connect to the utilities located therein and no party shall grant, convey or otherwise permit any use thereof.

d. Hieb Option. By separate document, Hieb shall be given the option of acquiring an interest in the Easement subject to the terms and conditions thereof, which if exercised, shall entitle the owner of the Hieb Parcel the right to shared use of the Access Road and Utilities pursuant to the terms hereof. Such option shall be null and void unless Hieb issues written notice of exercise hereof to Argent and Kirk on or before _____ to their last know address along with a certified or cashier's check made payable to Kirk and Ernest A. Jonson, Jr. or his assigns ("Jonson") in the total amount of Seventeen Thousand Five Hundred Dollars (\$17,500). Such payment shall be payable one-sixth (1/6) to Jonson and five-sixths (5/6) to Kirk, provided that, if construction of the Access Road and utilities is not completed by the exercise date, the entire amount shall be paid to Jonson. In addition, all such amounts payable by Hieb as a requirement in exercising this option shall be increased by the rate of inflation as evidenced by the Consumer Price Index published by the United States Department of Labor applicable to the area of the properties described herein from January 1, 1997 to the date of payment. Upon the complete exercise of this

option by Hieb, Kirk and Argent shall record a notice thereof with the King County Department of Records and Elections.

e. Warranty. Kirk warrants and represents to Argent that (a) Kirk is vested with title to the Kirk Development Parcel and Kirk Building Site free and clear of liens and encumbrances except easements and covenants of record; (b) that none of such liens and encumbrances interfere with or prohibit the provisions of this Agreement or all necessary consents thereto have been obtained with respect thereto; and (c) Kirk has the right, power and authority to carry out and perform all of his obligations hereunder.

f. Future Additional Easements. If Kirk has or obtains easements for alternate access to public streets from third parties for the benefit of the Kirk Development Parcel or Building Site, then Kirk shall include Argent's Parcel (and Hieb's parcel, if applicable) as a benefited parcel to such easements.

g. Consideration. Except as expressly provided herein, no further consideration shall be required from either party.

2. Road Building/Utilities.

a. Access Road. Kirk shall install the Access Road on the Easement pursuant to the Plans and the terms set forth below. The Access Road shall be built to a width necessary to provide access to the parties' parcels from Point A to Point C (as shown in the Plans) in accordance with King County Standards for platted property. From Point C to Point D, the Access Road shall be not less than eleven (11) feet (subject to widening as shown on the Plans in one or more locations so that two cars may pass one another) and shall contain not less than three (3) inches of two (2) inch - four (4) inch rock base and three (3) inches of one and one-half (1½) inch gravel (or equivalent to be mutually agreed upon).

b. Utilities. Kirk shall install the Utilities pursuant to the Plans and terms set forth below within the Easement consisting of power, potable water, sewer, cable, telephone, and if both parties agree, natural gas. The Utilities shall be stubbed to a point approximately one hundred fifty (150) feet south of the property line between the Argent Parcel and the Kirk Building Site to enable Argent to conveniently continue the installation thereof to the Argent Parcel.

c. Payment. Kirk hereby acknowledges payment in full from Argent for Argent's share of the costs of installing the Access Road and Utilities.

d. Agreement to Complete. Kirk shall, by no later than July 31, 1997, complete the construction of the Access Road and Utilities.

e. Sale of Kirk Building Site. If the Kirk Building Site is sold prior to the completion of the construction of the Access Road and Utilities, then the sum of One Hundred and Twenty Five Thousand Dollars (\$125,000) shall be deducted at closing from Kirk's sale proceeds of such property and held by the escrow agent or trustee to be jointly appointed by Kirk and Argent as security to ensure Kirk's full performance of his obligations hereunder, provided that, subject to the written approval of each disbursement by Argent, Kirk may disburse such funds to pay the costs of construction of the Access Road and Utilities. Upon completion of the Access Road and Utilities, the trustee shall be instructed by Argent and Kirk to release the balance of funds, including any interest to Kirk.

f. Assumption of Duties of Constructing Party. If the installation of the Utilities and Access Road are not completed by July 31, 1997, Argent may at its sole discretion elect to complete the construction of the Access Road and Utilities utilizing all remaining funds in the account described in the section above. In such event, Argent may withdraw funds

from such account with its sole signature. In addition, Argent may charge a fee of five percent (5%) of such expenditures which shall be immediately due and payable upon each expenditure. If insufficient funds remain in the above described account to complete the construction, Kirk shall promptly pay the shortfall. If such amount is not paid within ten (10) days from the date billed, Argent may file a lien or encumbrance on the Kirk Development Parcel and the Kirk Building Site for the unpaid amount plus attorney fees and interest at the statutory rate. Kirk hereby grants and conveys Argent a mortgage on the Kirk Development Parcel and Kirk Building Site for such purpose. Such mortgage may be foreclosed in the manner provided by RCW 61.12.

g. Survey/Adjustment of Location. The Plans have been prepared by a licensed surveyor which show the location of the Access Road and Utilities. The parties agree that reasonable modifications to the Plans may be made during the course of construction. In the event of any material modifications, the parties shall modify the Plans accordingly and record such modification.

h. Engineering/Administration. Kirk shall procure all engineering services necessary for the design of the Access Road and Utilities.

i. Permits. Kirk shall procure all permits and approvals necessary for the installation of the Access Road and Utilities.

j. Bids. Bids for the construction work contemplated by this Agreement shall not be required. The party ordering the work may negotiate a price therefore with a qualified contractor selected to perform the work.

k. Inspection/Supervisor. Kirk shall construct and install the Access Road and Utilities in a good and workmanlike manner in accordance with good construction standards and the terms and conditions of all permits.

3. Repairs and Maintenance.

a. Damage or Excessive Wear. Any party or his or her agent or contractor who damages or causes excessive wear to the Access Road or Utilities shall promptly repair and restore it to its prior condition or better.

b. Maintenance.

(i) Points A through C. Each parcel which is entitled to share in the use of the Access Road and Utilities shall share ratably in the costs of maintaining the portion thereof from the point A through C (as shown in the Plans). For example, if the Hieb option is exercised, the Kirk Development Parcel is subdivided into four (4) lots and the Argent Parcel remains as one lot and the Kirk Building Site remains as one lot, then the owners shall each pay one-seventh (1/7) of the cost.

(ii) Points C to D. With respect to the Access Road and Utilities from Point C and Point D, the costs of maintenance shall be borne equally by the owners of the Kirk Building Site, the Argent Parcel and the Hieb Parcel if the Hieb option is exercised.

c. Liens. The owner of any parcel who pays their proportionate share of a maintenance or repair cost may file a lien or encumbrance for any unpaid share plus interest and attorney fees against the parcel whose owner fails to pay his or her share within sixty (60) days of the billing date. Each party hereto grants every other party a mortgage for such purpose. Such lien may be foreclosed in the same manner as provided for mortgages under RCW 61.12.

4. Tree Cutting. Kirk (and his successor in interest with to the Kirk Building Site) may cut, prune and top trees on the Argent Parcel for the purpose of creating the View Corridor to Lake Sammamish for a future home to be constructed on the southeast corner of the Kirk Building Site, subject to the following requirements:

a. Term. This right shall expire on June 19, 2004, provided that, once the View Corridor is established, Kirk shall have the right to cut, top and prune deciduous trees on Argent's Parcel necessary to maintain the View Corridor.

b. Type of Trees. Only deciduous trees on the Argent Parcel may be cut, topped and/or pruned. No evergreen trees on the Argent Parcel may be cut, topped or pruned without Argent's specific prior written approval, which may be withheld for any reason. Argent shall not allow any additional evergreen trees to grow in excess of ten (10) feet in height within the View Corridor.

c. Privacy. The privacy to any residence constructed on the Argent Parcel shall be preserved and the View Corridor shall not be wider than is reasonably necessary.

d. Notice. Kirk may not enter Argent's Property for the purpose of performing any cutting, topping or pruning within the View Corridor except upon ten (10) days written notice to Argent.

e. Tree Service. All cutting, topping and pruning shall be performed in a diligent and competent manner solely at the expense of Kirk.

f. Permits. Kirk shall obtain all permits necessary for such work at his expense and shall comply with all permit conditions.

g. Cleanup. Kirk shall remove all branches, trunks, stumps and debris created by such work and shall repair all cuts, fills, ruts, scarring, etc. Kirk shall use due care to not damage Argent's Parcel, including trees, landscaping and improvements located thereon. No burning or dumping may be performed on Argent's Property.

h. Earth Movement. If any slides or earth movement occur on the Argent Parcel in the vicinity where Kirk has

performed any cutting, pruning or other work in relation to this section 4, Kirk shall promptly repair the damage at his expense.

1. Indemnity. Kirk hereby agrees to indemnify, defend and hold Argent harmless from any and all damage to persons and property, liabilities, claims, demands, obligations, fines and penalties that arise through such work.

5. Land Use Appeals/Dedication. The parties agree that they shall not protest, in any manner, the proposed or actual subdivision or development of the parcels described on Exhibits A and C attached hereto, or any part thereof, and further waive their right of appeal with respect thereto, provided that Kirk Development Site shall be limited to four (4) lots, the Kirk Building Site shall be limited to one (1) lot, the and the Argent Parcel shall be limited to two (2) lots. The parties agree that the Points C to D of the Access Road shall remain a private easement and shall not be dedicated to King County for a public road under any circumstance.

6. Miscellaneous.

a. Binding on Successors/Non-Recourse Provisions.

This Agreement shall be recorded with the Department of Records and Elections of King County, Washington and all of its provisions shall constitute a covenant running with the land described herein which shall be binding upon and inure to the benefit of the parties and their heirs, successors and assigns. All funds payable hereunder to any party or person constitutes an individual right to receive such amounts. Unless otherwise agreed in writing by any such party, the assignment of easement rights hereunder by deed, conveyance or operation of law shall not constitute an assignment of the right to receive such funds.

b. Entire Agreement/Amendments. This Agreement supersedes prior agreement of the parties, written or oral, and represent the entire agreement between the parties hereto concerning the subject matter hereof. This Agreement may be

SENT BY:Xerox Telecopier 702

3-14-97 : 11:09 :

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49-Ernie Jonson-Bellevue#18

amended only by a written document signed by all parties hereto and recorded in the same manner that this Agreement is recorded.

C. Attorney Fees/Specific Performance. In the event any party hereto engages counsel to enforce his rights hereunder, the non-prevailing party in any resulting litigation shall pay the reasonable attorney fees and costs incurred by the prevailing party. Any party shall be entitled to specific performance of the terms hereof.

Executed at Redmond, Washington as of the date first appearing above.

Argent Ventures Corporation

by: _____
President

Philip Kirk

Elizabeth Kirk