

Recorded: 11/16/2023 at 10:10:27.0 AM
County Recording Fee: \$32.00
Iowa E-Filing Fee: \$3.00
Combined Fee: \$35.00
Revenue Tax:
Delaware County, Iowa
Daneen Schindler RECORDER
BK: 2023 PG: 2894

Prepared by & Return to: Carolyn Davis, Locher & Davis, PLC, 225 1st Ave. East, Dyersville, Iowa 52040 Phone: 563-875-9112

DRIVEWAY EASEMENT, PARTY WALL, AND
COMMON ROOF AGREEMENT

This Party Wall and Common Roof Agreement is made and entered into this 6th day of November, 2023, by and between Lost Mountain Properties, LLC of Delhi, Delaware County, Iowa (hereinafter referred to as "LMP") and Lost Mountain Properties, LLC of Delhi, Delaware County, Iowa, (hereinafter referred to as "LMP").

WHEREAS, LMP is presently the owner of the following described real estate located in Delaware County, Iowa, legally described as and hereinafter referred to as "Lot 1":

Lot One (1) of the Replat Of Lot 1, Lot 2, & Lot 3 Of Lost Beach Valley Subdivision In The NW 1/4 Of The SE 1/4 , Sec. 19, T88N, R4W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2022, Page 3817,

WHEREAS, LMP is presently the owner of the following described real estate located in Delaware County, Iowa, which lies adjacent to LMP's Lot 1, legally described as and hereinafter referred to as "Lot 2":

Lot Two (2) of the Replat Of Lot 1, Lot 2, & Lot 3 Of Lost Beach Valley Subdivision In The NW 1/4 Of The SE 1/4 , Sec. 19, T88N, R4W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2022, Page 3817,

WHEREAS, a building is located upon Lot 1 and upon Lot 2 which consists of two separate residential units. The residential unit on Lot 1 lies solely upon Lot 1 and the residential unit on Lot 2 lies solely upon Lot 2 except the two residential units share a driveway, common roof, and a party wall connecting the two residential units that lie upon the common boundary line between the Lot 1 and the Lot 2.

WHEREAS, by this Agreement the parties wish to define their respective rights, duties and obligations with respect to the shared driveway, party wall, common roof and other matters pertaining to the real estate which they respectively own.

NOW AND THEREFORE, for valuable consideration, the parties agree as follows:

1. SHARED DRIVEWAY. LMP and LMP acknowledge that Lot 1 and Lot 2 are served by a shared driveway. The owner of Lot 1 grants to the owner of Lot 2 a permanent mutual access easement for ingress and egress over and across Lot 1 in the location of the existing driveway for purposes of ingress and egress.

The right for ingress and egress granted to Lot 2 shall include the right of the lot owner and his or her tenants, visitors and licensees, with or without automobile or other vehicles or on foot, for the purposes of ingress and egress to Lot 2, to go across the shared driveway twenty (20) feet wide, extending from 255th Street, located at the South corner of Lot 1, onto Mariner Road and northwest to the southern border of Lot 2, as shown on Exhibit A.

Barriers. Except as may be reasonably necessary on a temporary basis, no walls, fences, gates, barriers, or other improvements of any sort or kind shall be constructed or maintained in or on the Easement or any part thereof, which shall prevent or impair the use or exercise of the Easement provided in this Agreement, or the free access and movement, including without limitation, pedestrian and vehicular traffic, over the Easement over Parcel 1.

Maintenance. The parties agree that each owner shall bear 50% of the cost, unless another agreement is made, of any maintenance, upkeep, or repairs related to ordinary wear and tear or sudden damage to the Easement Area. Each owner shall bear 50% of the cost of snow removal over the driveway.

The owner of Lot 1, at the owner of Lot 1's sole expense, shall have the right to relocate the driveway around current and future structures, trees, and other natural barriers to prevent excessive grading or the removal of trees. In the event of relocation, notice shall be given to the owner of Lot 2 of the request to relocate and the proposed relocation of the driveway.

2. PARTY WALL. LMP and LMP acknowledge that Lot 1 and Lot 2 are separated by a common party wall which is located upon the common boundary line between Lot 1 and Lot 2. It is agreed by the parties that said party wall shall be used jointly by them. Lot 1 Owner shall be responsible for the repair and replacement, if necessary, of that portion of the party wall located on the Lot 1. Lot 2 Owner shall be responsible for the repair and replacement, if necessary, of that portion of the party wall located on the Lot 2.

The costs of rebuilding and repairing said party wall on both Lot 1 and Lot 2, if necessary, shall be shared equally by the parties. However, the cost of rebuilding and repairing either side of the party wall resulting solely from the negligence or intentional

actions of a party (hereinafter referred to as "Negligent Party") or any guests or invitees of the Negligent Party, shall be the sole responsibility of the Negligent Party.

Encroachment. To the extent that said common party wall used by Lot 1 encroaches upon the Lot 2, Lot 2 Owner does hereby grant and convey unto Lot 1 Owner a perpetual easement over Lot 2 for the purpose of allowing such encroachment. To the extent that said common wall used by Lot 2 encroaches upon the Lot 1, Lot 1 Owner does hereby grant and convey unto Lot 2 Owner a perpetual easement over Lot 1 for the purpose of allowing such encroachment.

3. COMMON ROOF. LMP and LMP acknowledge that Lot 1 and Lot 2 are served by a common roof. It is agreed by the parties that said common roof shall be used jointly by them. Lot 1 Owner shall be responsible for the repair and replacement, if necessary, of that portion of the roof located on the Lot 1. Lot 2 Owner shall be responsible for the repair and replacement, if necessary, of that portion of the roof located on the Lot 2. In the event the entire roof requires replacement, the cost of said replacement shall be shared equally by Lot 1 and Lot 2.

Partial Repairs. In the event that only a part of the roof requires replacement and replacement materials are unavailable or other circumstances dictate that the entire roof needs to be replaced, the cost of said replacement shall be shared equally by Lot 1 and Lot 2. Neither party shall change the color or type of roof without the consent of the other party.

Insurance. Each party shall obtain and maintain a policy of insurance coverage for an amount equal to 100% of the estimated insurance replacement value of their portion of the common roof at any given time.

4. CHANGES TO BUILDING EXTERIOR. Any material changes to the exterior of the residential building located upon Lot 1 and Lot 2, including, without limitation, color changes on the doors, shall require the mutual consent of both parties.
5. SHARED USE. Neither party hereto shall interfere with the reasonable use of the easements herein described by another party or by their tenants, visitors and licensees.
6. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall run with the land and shall bind upon and inure to the benefit of the parties and their respective heirs, executors, administrators, agents, successors or assigns.
7. AMENDMENTS. The provisions of this Agreement shall not be amended or modified except by written instrument executed by all of the then respective owners of the lots identified herein and filed for record with the Delaware County Recorder.

Dated this 17th day of November, 2023.

LOST MOUNTAIN PROPERTIES, LLC

By: [Signature]
Mitchell W. Tanner, Member

By: [Signature]
Emily N. Tanner, Member

By: _____
Brian C. Milbert, Member

By: _____
Crystal B. Milbert, Member

STATE OF IOWA, COUNTY OF Delaware

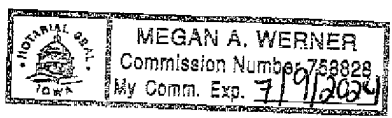
This record was acknowledged before me this 6th day of November, 2023, by Mitchell W. Tanner, Member of Lost Mountain Properties, LLC.



[Signature]
Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF Delaware

This record was acknowledged before me this 6th day of November, 2023, by Emily N. Tanner, Member of Lost Mountain Properties, LLC.



[Signature]
Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me this ____ day of _____, 2023, by Brian C. Milbert, Member of Lost Mountain Properties, LLC.

Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me this ____ day of _____, 2023, by Crystal B. Milbert, Member of Lost Mountain Properties, LLC.

Notary Public in and for the State of Iowa

Dated this 27th day of October, 2023.

LOST MOUNTAIN PROPERTIES, LLC

By: _____
Mitchell W. Tanner, Member

By: _____
Emily N. Tanner, Member

By: [Signature]
Brian C. Milbert, Member

By: Crystal B. Milbert
Crystal B. Milbert, Member

STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me this ____ day of _____, 2023, by Mitchell W. Tanner, Member of Lost Mountain Properties, LLC.

Notary Public in and for the State of Iowa

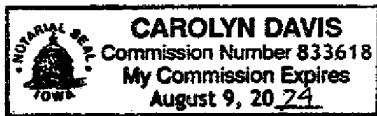
STATE OF IOWA, COUNTY OF _____

This record was acknowledged before me this ____ day of _____, 2023, by Emily N. Tanner, Member of Lost Mountain Properties, LLC.

Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF Dubuque

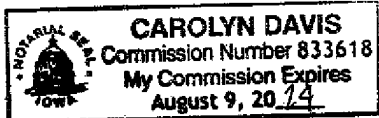
This record was acknowledged before me this 27th day of October, 2023, 2023, by Brian C. Milbert, Member of Lost Mountain Properties, LLC.



[Signature]
Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF Dubuque

This record was acknowledged before me this 27th day of October, 2023, 2023, by Crystal B. Milbert, Member of Lost Mountain Properties, LLC.



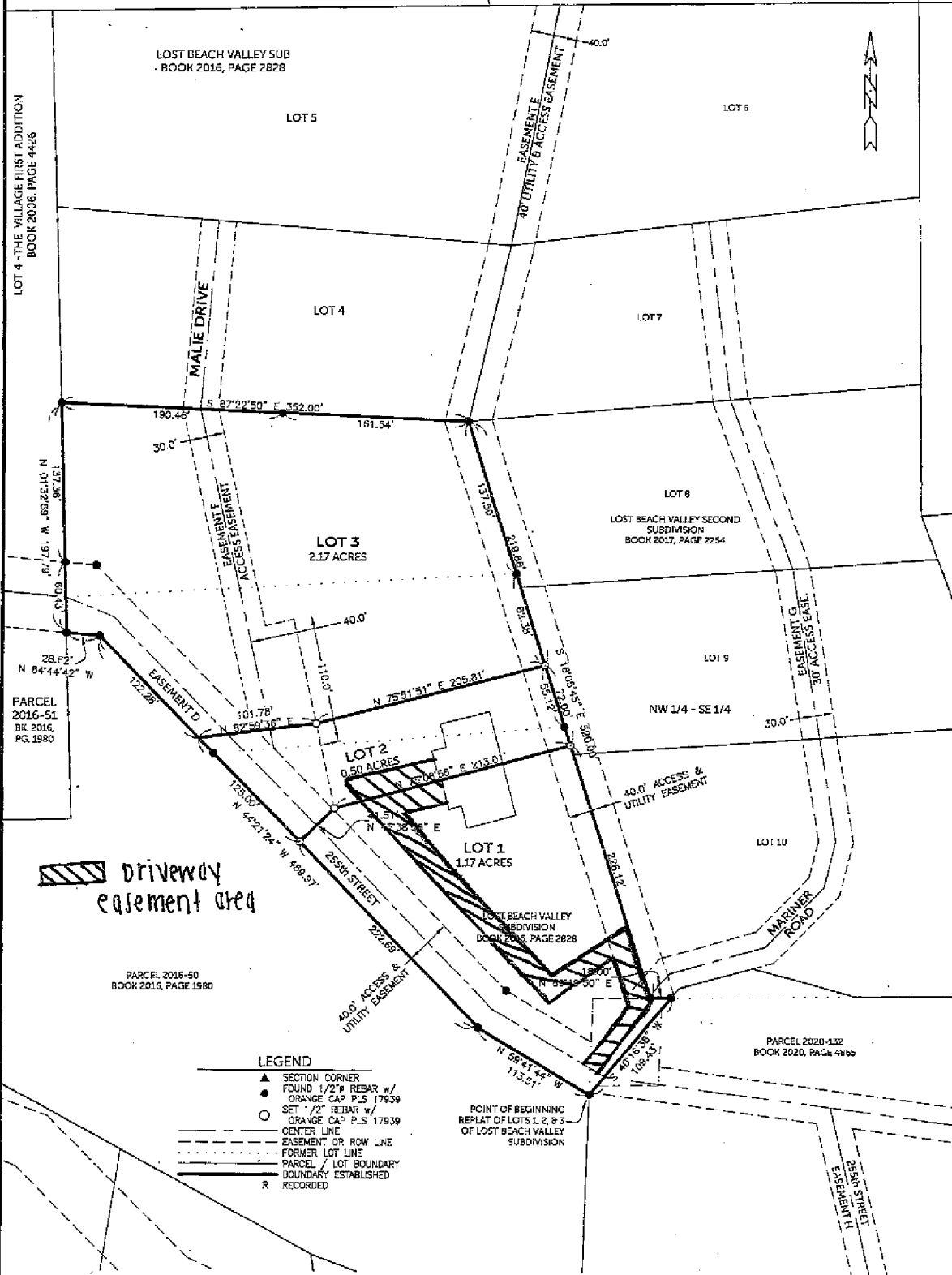
[Signature]
Notary Public in and for the State of Iowa

REPLAT OF LOT 1, LOT 2, & LOT 3 OF LOST BEACH VALLEY SUBDIVISION
 IN THE NW 1/4 OF THE SE 1/4, SEC. 19, T8&N, R4W OF THE FIFTH P.M., DELAWARE COUNTY, IOWA

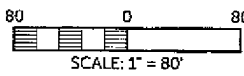
PARCEL 2014-76
 BOOK 2014, PAGE 2632

EXHIBIT "A"

PARCEL 2014-75
 BOOK 2014, PAGE 2632



- LEGEND**
- ▲ SECTION CORNER
 - FOUND 1/2" REBAR w/ ORANGE CAP PLS 17839
 - SET 1/2" REBAR w/ ORANGE CAP PLS 17839
 - CENTER LINE
 - - - EASEMENT OR ROW LINE
 - · · FORMER LOT LINE
 - PARCEL / LOT BOUNDARY
 - BOUNDARY ESTABLISHED RECORDED



BURRINGTON GROUP, INC.
 Civil Engineering | Land Surveying
 105 W. Main Street Manchester, Iowa 52057

SHEET 2

Phone 563-927-2434 burringtongroup.com