

20190308024

THE GREENS AT LODWIS TRAIL  
 A PORTION OF THE SW QUARTER OF THE NW QUARTER AND  
 THE NORTH HALF OF THE SW QUARTER OF THE NW  
 SECTION 17, TOWNSHIP 40 NORTH RANGE 1 EAST OF THE WM  
 WHATCOM COUNTY, WASHINGTON

LSS 1994-00004

LEGAL DESCRIPTION:

PART: A

THE WEST HALF OF GOVERNMENT LOT 1, AND THE NORTH 44 PORTS OF SECTION 17, TOWNSHIP 40 NORTH RANGE 1 EAST OF THE WM WHATCOM COUNTY, WASHINGTON, AND THE SOUTH 56 PORTS OF SECTION 17, TOWNSHIP 40 NORTH RANGE 1 EAST OF THE WM WHATCOM COUNTY, WASHINGTON, MORE OR LESS BY THE SURVEY, TOGETHER WITH ANY INTERESTS THEREIN, TOGETHER WITH ANY RIGHTS AND EASEMENTS IN CONNECTION THEREWITH, AS FOLLOWS:

PART: B

THE EAST HALF OF GOVERNMENT LOT 1, SECTION 17, TOWNSHIP 40 NORTH RANGE 1 EAST OF THE WM WHATCOM COUNTY, WASHINGTON, MORE OR LESS BY THE SURVEY, TOGETHER WITH ANY INTERESTS THEREIN, TOGETHER WITH ANY RIGHTS AND EASEMENTS IN CONNECTION THEREWITH, AS FOLLOWS:

STANDARD EASEMENT PROVISION:

TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 2, SECTION 17, TOWNSHIP 40 NORTH RANGE 1 EAST OF THE WM WHATCOM COUNTY, WASHINGTON, MORE OR LESS BY THE SURVEY, TOGETHER WITH ANY INTERESTS THEREIN, TOGETHER WITH ANY RIGHTS AND EASEMENTS IN CONNECTION THEREWITH, AS FOLLOWS:

GRANTORS CERTIFICATE

COUNTY AUDITORS OFFICE:

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE CLERK'S OFFICE OF WHATCOM COUNTY, WASHINGTON, AND THAT THE SAME IS CORRECT AND ACCURATELY REFLECTS THE CONTENTS OF THE RECORDS OF SAID COUNTY, WASHINGTON.



DECLARATION AND PEDIATION:

WE, THE UNDERSIGNED ENGINEERS AND SURVEYORS OF THE LAND HEREIN PLATTED, HEREBY DECLARE AND ACKNOWLEDGE THIS PLAT AND INDICATE TO THE PUBLIC AND TO THE STATE OF WASHINGTON THAT WE ARE REGISTERED ENGINEERS AND SURVEYORS IN THE STATE OF WASHINGTON AND WE HAVE CONDUCTED THIS SURVEY IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF ENGINEERS AND SURVEYORS OF THE STATE OF WASHINGTON. WE HAVE ALSO CONDUCTED THIS SURVEY IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF ENGINEERS AND SURVEYORS OF THE STATE OF WASHINGTON. WE HAVE ALSO CONDUCTED THIS SURVEY IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF ENGINEERS AND SURVEYORS OF THE STATE OF WASHINGTON.

ACKNOWLEDGEMENT:

I CERTIFY THAT I, THE SIGNER, APPEARED BEFORE ME AND PERSONALLY ACKNOWLEDGED THAT HE HAD EXECUTED THE INSTRUMENT ON THE DATE AND AT THE PLACE INDICATED AND THAT HE WAS FULLY COMPETENT TO EXECUTE THE SAME AND THAT HE WAS NOT UNDER ANY UNLAWFUL INFLUENCE AT THE TIME HE EXECUTED THE SAME.

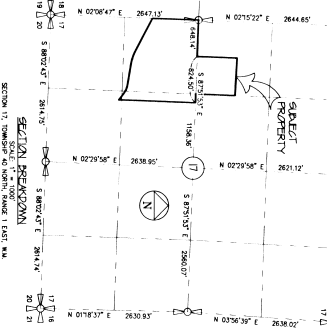
WITNESSED MY HAND AND THE SEAL OF SAID COUNTY, WASHINGTON, THIS 31st DAY OF MARCH, 2024.

SURVEY METHOD:

THIS SURVEY WAS ACCOMPANIED BY FIELD TRAVELER

RESTRICTIVE COVENANTS:

SET OF RESTRICTIVE COVENANTS SHALL BE GOVERNED BY THE RESTRICTIVE COVENANTS SET FORTH IN THE INSTRUMENT BEING REFERENCED ON ANY CONVEYANCE OR INSTRUMENT OF JUDICIAL RECORD AND HEREON FILED FOR RECORD IN THIS OFFICE.



HEARING EXAMINER APPROVAL:

EXAMINED AND APPROVED BY THE WHATCOM COUNTY HEARING EXAMINER

COUNTY TREASURER'S CERTIFICATE:

EXAMINED AND APPROVED BY THE COUNTY TREASURER OF WHATCOM COUNTY, WASHINGTON

COUNTY ENGINEER APPROVAL:

EXAMINED AND APPROVED BY THE COUNTY ENGINEER OF WHATCOM COUNTY, WASHINGTON

WHATCOM COUNTY HEALTH DEPARTMENT:

EXAMINED AND APPROVED BY THE HEALTH DEPARTMENT OF WHATCOM COUNTY, WASHINGTON

WHATCOM COUNTY COUNCIL APPROVAL:

EXAMINED AND APPROVED BY THE COUNTY COUNCIL OF WHATCOM COUNTY, WASHINGTON

STORMWATER FACILITY ACCESS:

ACCESS TO STORMWATER FACILITIES TO BE MAINTAINED FOR THE BENEFIT OF THE PROPERTY OWNERS OF THE LOT HEREIN PLATTED

DRAINAGE FACILITIES:

THE PROPERTY OWNERS OF THIS ASSOCIATION HAS THE OBLIGATION TO MAINTAIN DRAINAGE FACILITIES NOT WITHIN THE BOUNDARIES OF SAID PROPERTY

JOINT ROAD MAINTENANCE AGREEMENT:

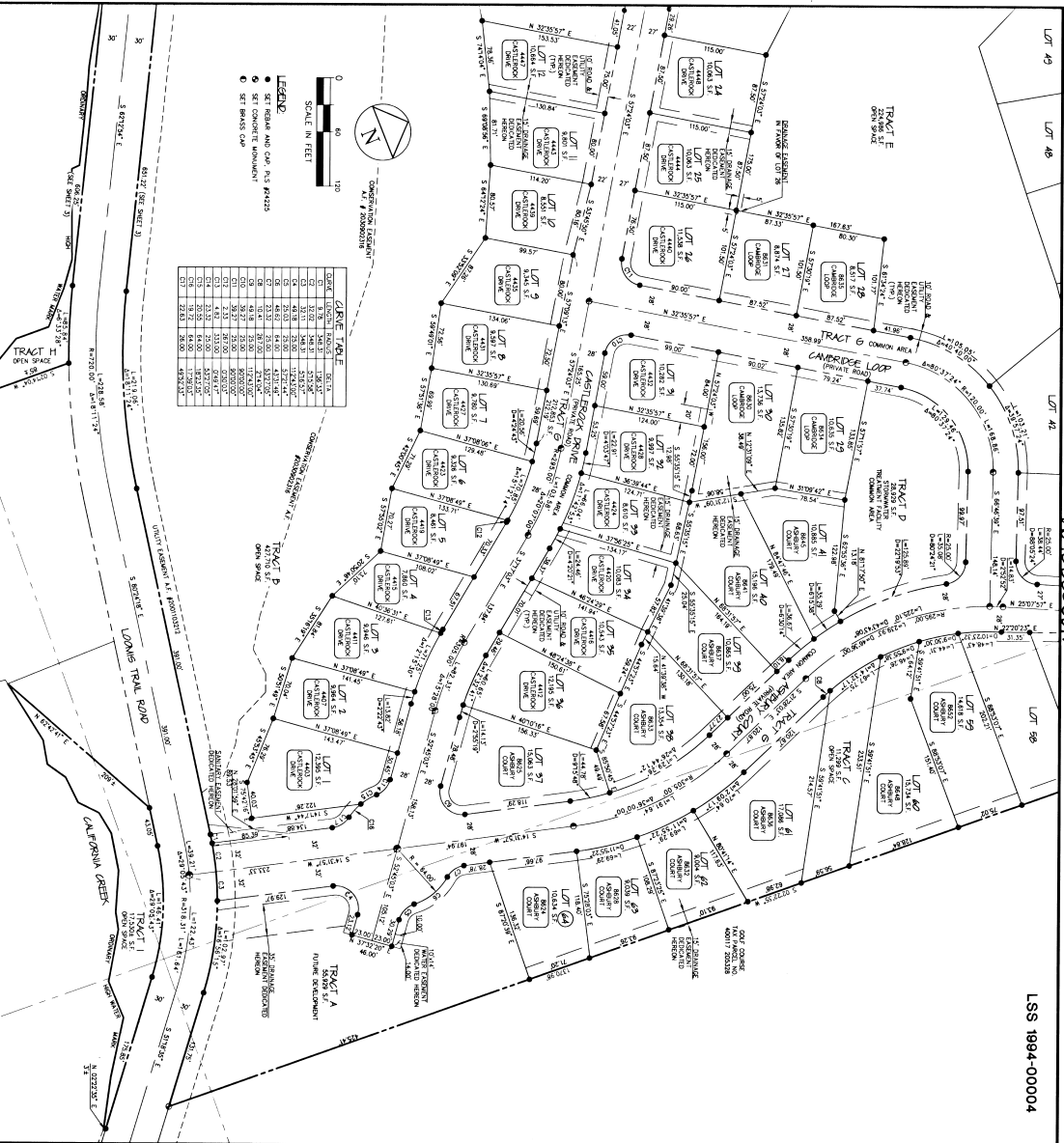
WITHIN THE BOUNDARIES OF THIS ASSOCIATION, THERE IS A JOINT ROAD MAINTENANCE AGREEMENT BETWEEN THE PROPERTY OWNERS OF THIS ASSOCIATION

**DAVID EVANS ENGINEERS AND SURVEYORS**  
 1111 N. WADE AVENUE, SUITE 100  
 SPASANO, WASHINGTON 98052  
 PHONE: (360) 831-4422  
 FAX: (360) 831-4423  
 WWW.DAVIDEVANSENGINEERS.COM

SHEET 1 OF 4  
 SCALE: N.T.S.  
 DATE: 3/20/24  
 JOB NO.: JNK02021

2010305824

LSS 1994-00004



**LEGEND**

- ROAD AND CURB R/S WIDTH
- SET POINT NUMBER
- SET BRACKS CAP

**GRADE TABLE**

GRID	GRADE	TABLE
01	9.75	3.825
02	9.75	3.825
03	9.75	3.825
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05	9.75	3.825
06	9.75	3.825
07	9.75	3.825
08	9.75	3.825
09	9.75	3.825
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30	9.75	3.825
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32	9.75	3.825
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36	9.75	3.825
37	9.75	3.825
38	9.75	3.825
39	9.75	3.825
40	9.75	3.825

THE GREENS AT LOOMIS TRAIL  
 A PORTION OF THE SW QUARTER OF THE NW QUARTER AND  
 SECTION 17, TOWNSHIP 40 NORTH, RANGE 1 EAST OF THE WM,  
 WHATCOMB COUNTY, WASHINGTON

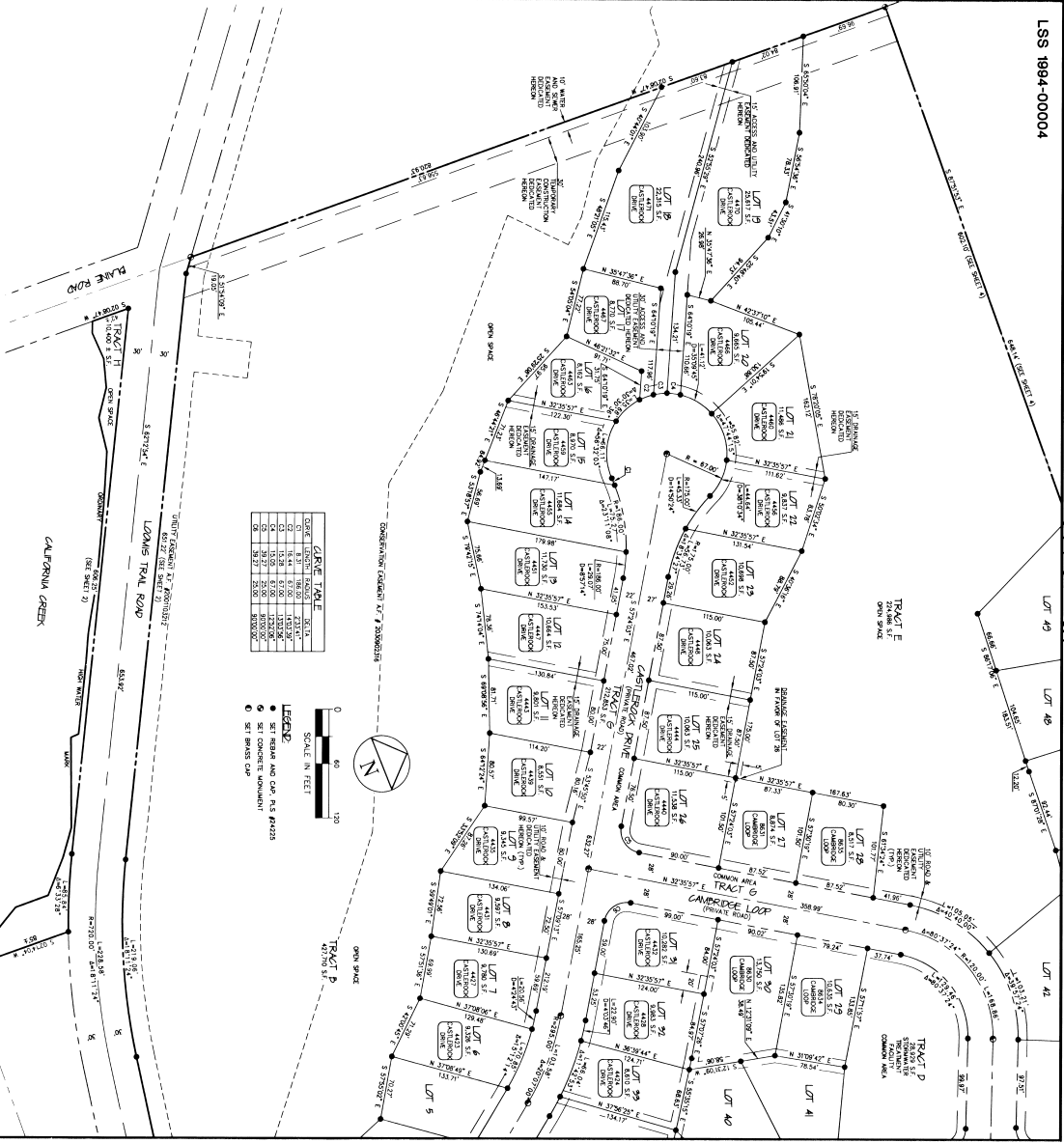


**DAVID EVANS**  
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 FAX: 602.497.7125  
 JOB NO. JNK10201

SHEET 2 OF 4

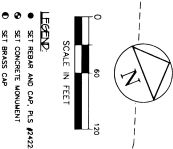
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 DATE: 2/7/04

2049305824



**CLIMATE TABLE**

CLIMATE	TEMPERATURE	WIND	PRECIPITATION
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3	20.0	20.0	20.0
4	25.0	25.0	25.0
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6	35.0	35.0	35.0
7	40.0	40.0	40.0
8	45.0	45.0	45.0
9	50.0	50.0	50.0
10	55.0	55.0	55.0
11	60.0	60.0	60.0
12	65.0	65.0	65.0
13	70.0	70.0	70.0
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20	105.0	105.0	105.0
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22	115.0	115.0	115.0
23	120.0	120.0	120.0
24	125.0	125.0	125.0
25	130.0	130.0	130.0
26	135.0	135.0	135.0
27	140.0	140.0	140.0
28	145.0	145.0	145.0
29	150.0	150.0	150.0
30	155.0	155.0	155.0
31	160.0	160.0	160.0
32	165.0	165.0	165.0
33	170.0	170.0	170.0
34	175.0	175.0	175.0
35	180.0	180.0	180.0
36	185.0	185.0	185.0
37	190.0	190.0	190.0
38	195.0	195.0	195.0
39	200.0	200.0	200.0
40	205.0	205.0	205.0
41	210.0	210.0	210.0
42	215.0	215.0	215.0



- LEGEND**
- SET REBAR AND CUR. P.S. RAZES
  - SET CONCRETE MOUNTING
  - SET BRASS CAP

THE GREENS AT LOOMIS TRAIL  
 A PORTION OF THE SW QUARTER OF THE NW QUARTER AND  
 THE NORTH HALF OF THE SW QUARTER OF  
 SECTION 17, TOWNSHIP 40 NORTH, RANGE 1 EAST OF THE WM  
 WHATCOM COUNTY, WASHINGTON



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**ASSOCIATES INC.**  
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SHEET 3 OF 4  
 SCALE: 1" = 80'  
 DESIGNED: JLG  
 CHECKED: GSK  
 DATE: 3/20/24

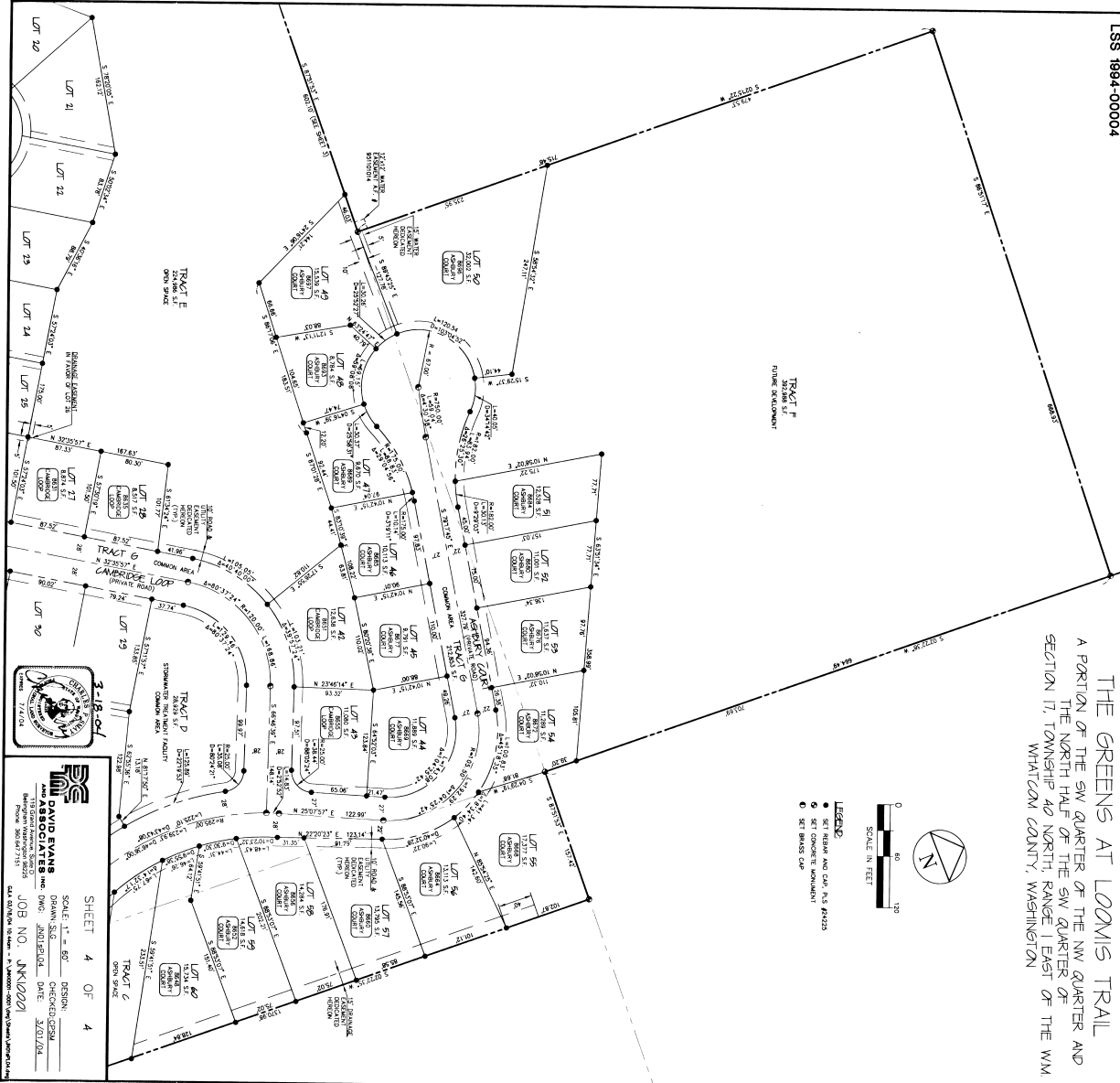
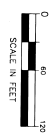
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THE GREENS AT LOOMIS TRAIL  
 A PORTION OF THE SW QUARTER OF THE NW QUARTER AND  
 THE NORTH HALF OF THE SW QUARTER OF  
 SECTION 17, TOWNSHIP 40 NORTH, RANGE 1 EAST OF THE WM  
 WHATCOMB COUNTY, WASHINGTON

TRACT F  
SUBDIVISION OF  
PLANNED DEVELOPMENT

- LEGEND**
- SET IRRAWAY AND CAP. AS FOLLOWS
  - SET CONCRETE MONUMENT
  - SET BRASS CAP



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 JOB NO.: NK10201

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Bellingham, WA 98226



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D/RC \$62.00  
Whatcom County, WA

Request of: DAVID EVANS & ASSOC

DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS  
FOR  
THE GREENS AT LOOMIS TRAIL  
PHASE I

TITLE OF DOCUMENT:

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
RESERVATIONS FOR THE GREENS AT  
LOOMIS TRAIL PHASE I

GRANTOR:

JAPEG, LLC

GRANTEE:

THE GENERAL PUBLIC

ABBREV. LEGAL DESCRIPTION:

A PORTION OF THE SW QUARTER OF  
THE NW QUARTER AND THE NORTH  
HALF OF THE SW QUARTER OF  
SECTION 17, TOWNSHIP 40 NORTH,  
RANGE 1 EAST OF THE W.M., WHATCOM  
COUNTY WASHINGTON, PER PLAT AT  
AF# 2040305824

TAX PARCEL NUMBERS:

400117 051232, 400117 111191

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Whatcom County, WA



## ARTICLE I

### IDENTIFICATION OF DECLARANT AND PROPERTY; PURPOSE; DEVELOPMENT IN PHASES

#### 1.1. Identification of Declarant and Property.

JAPEG, LLC a Washington limited liability company, hereinafter referred to as the "Declarant," is the owner in fee simple of the land described in Section 1.2 hereof, together with all improvements, easements, rights and appurtenances thereunto belonging (all collectively referred to hereinafter as "the Property"). Declarant has submitted the Property to the provisions of Chapter 21.06, Whatcom County Code (hereinafter referred to as the "Ordinance"), and has thus created from such Property a Subdivision known as "The Greens at Loomis Trail".

The Property is part of the Loomis Trail Homeowners Association (the "Association"), and shall be subject to this Declaration of Covenants, Conditions, and Restrictions for The Greens at Loomis Trail, when recorded with the Auditor of Whatcom County, Washington.

#### 1.2. Reference to Subdivision Plat.

The Declarant has recorded with the Auditor of Whatcom County, Washington a certain subdivision plat map showing the location and dimensions of various lots and/or tracts and Common Areas within the Subdivision, together with other necessary information; this subdivision plat map is hereinafter referred to as the "Subdivision Plat"; the Subdivision Plat is recorded at Auditor's File No. 2040305824

#### 1.3. Purpose.

This Declaration, together with the Subdivision Plat referred to herein, state covenants, conditions, restrictions and reservations intended by the Declarant to affect a common plan for the development of the Property mutually beneficial to all of the described Lots. These covenants, conditions, restrictions, reservations and plat are intended to become, and by the recordation of this instrument shall be conclusively deemed to be legal and equitable servitudes which shall run with the land of the Property and shall be binding upon the entire Property and upon each such Lot therein as a parcel of realty, and upon its Owners, their family members, their heirs, personal representatives, successors and assigns, and their tenants, licensees and other lawful occupants, through all successive transfers of all or part of the Property or any security interest therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture,

foreclosures, or sales of Lots under security instruments, or of any forfeiture, foreclosures, or sales instituted for nonpayment of government tax, levy or assessment of any kind.

#### 1.4 Development in Phases

Declarant proposes to develop the Property in three (3) phases, the first phase on the Area described on the Subdivision Plat, Area A, and the remaining two phases on Area B and Area C of the Loomis Trail Planned Unit Development, a copy of which is attached as Exhibit 1. The first phase, consisting of sixty-four (64) Lots within Area A in the Loomis Trail Planned Unit Development only, is the initial phase.

##### 1.4.1 Expansion into Subsequent Phases

Declarant expects to expand the Property by adding Area B and Area C, but is not required to do so and shall in no way be obligated to add all or any portion of Area B and/or Area C to the Property or to construct thereon any improvements of any nature whatsoever. If Declarant elects to so expand the Property, it may do so by recording a certificate ("Subsequent Phase Certificate") signed by Declarant only, which specifies that Area B and/or Area C is/are being added to the Property. Upon the recording of a Subsequent Phase Certificate, the Property shall be merged into and become a part of Area B and/or Area C as a single, unified property, and this Declaration, and rules, and regulations of the Loomis Trail Homeowners Association shall immediately become applicable to the Area(s) added by the Subsequent Phase Certificate.

##### 1.4.2 Subsequent Phase Development

The number of Lots in Area A that constitutes the initial phase is sixty-four (64) and, if the Property is expanded to add all or a portion of Area B and/or Area C or other reserved Tracts, the maximum number of additional Lots that may be added is fifty-nine. The number of Lots that may be constructed is one hundred and twenty three (123) in total for all Areas.

##### 1.4.3 Joint Maintenance of Easement Area

When (and if) the Property is expanded to add Area B and/or Area C or any other Tract reserved for future development, any easements or Common Areas of Areas B and/or C and/or other Tracts will be for the enjoyment of the entire Property and all of the Lot Owners in the Property shall share in the subsequent expenses of maintaining, repairing, and replacing it as may be necessary.

#### 1.4.4 Election Not to Expand to Subsequent Phases

If Declarant does not add all or any of Area B or Area C to the Property, or any other Tract reserved for future development, Area A shall constitute a complete, fully operational development and any parcel of land not encompassed by the Property may be used for any lawful purpose that is allowed by the zoning and other applicable land use laws and regulations.

## ARTICLE II

### DEFINITIONS

2.1. "Assessment" means all sums chargeable by the Association against a Lot including, without limitation: (a) Regular and Special Assessments for Common Expenses, charges, and fines imposed by the Association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent Owner's account.

2.2. "Association" or "Owners Association" means the nonprofit corporation incorporated at the direction of the Declarant to manage the Common Areas of this Subdivision and enforce the provisions of the Governing Documents.

2.3. "Board of Directors" means the body with primary authority to manage the affairs of the Association.

2.4. "Checklist" means the Loomis Trail Homeowners Association Architectural Control Standards Checklist used by the Board of Directors to assess Lot Owners' submitted drawings and specifications for proposed improvements to Lots. It is included as Addendum A to this Declaration.

2.5. "Common Areas" means those portions of the property within the Subdivision so designated on the Subdivision Plat, along with any other real property owned by the Association or for which the Association has maintenance responsibilities under this Declaration. Common Areas are further defined and described in Article V hereof.

2.6. "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves; without limitation, such

expenses include those necessary or desirable for maintaining, repairing, replacing, insuring or managing the Common Areas, along with taxes, other insurance, professional services and all other goods and services provided by the Association to its members.

2.7. "Common Expense liability" means the liability for Common Expenses allocated to each Lot pursuant to Section 10.6 of this Declaration.

2.8. "Community" means all the Property within the Subdivision, along with all the improvements constructed therein, the Association, and all other institutions and things serving the Owners of Lots therein.

2.9. "Conveyance" means any transfer of the ownership of a Lot, including a transfer by deed or by real estate contract, but shall not include a transfer solely for security.

2.10. "Declarant" means the entity, person or group of persons acting in concert who (a) executes this Subdivision Declaration, or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

2.11. "Declarant Control" means the right of the Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board of Directors or to veto or approve a proposed action of the Board or Association pursuant to Sections 8.1 and 16.6 of this Declaration.

2.42. "Declaration" means this document, which facilitates the creation of this Subdivision; the term also includes any lawful amendments to this document.

2.13. "Design Guidelines" means the standards developed by the Board of Directors pursuant to Article IX hereof, and any standards established by the Declarant.

2.14. "Development Plan" means any formal plan of development, however termed under the Ordinance, approved by Whatcom County. The term also includes any amendments thereto approved by applicable governmental entities.

2.15. "Foreclosure" means a forfeiture or judicial or non-judicial foreclosure of a mortgage or a deed in lieu thereof.

2.16. "Governing Documents" means the Declaration, the Subdivision Plat, the Bylaws of the Association along with any Rules and Regulations adopted by the Board of Directors.

2.17. "Limited Common Expenses" are portions of the Common Expenses for which one or more, but fewer than all Lot Owners may become liable under the terms of the Governing Documents.

2.18. "Lot" means a physical portion of the Subdivision designated for separate ownership, the boundaries of which are depicted on the Subdivision Plat.

2.19. "Lot Owner" means the Declarant or any other person who owns a Lot, but does not include a person who has an interest in a Lot solely as security for an obligation. "Lot Owner" means the vendee, not the vendor, of a Lot under a real estate contract.

2.20. "Mortgage" means a mortgage, deed of trust or real estate contract.

2.21. "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entity.

2.22. "Property" or "the Property" means all the real property described as being contained within the Subdivision Plat and, where appropriate, includes all real property which may be from time to time either added to the Subdivision by the Declarant or acquired by the Association pursuant to Section 8.3.3 hereof.

2.23. "Purchaser" means any person, other than the Declarant or a dealer, who by means of a disposition acquires a legal or equitable interest in a Lot other than (a) a leasehold interest, including renewal options, of less than twenty years at the time of creation of the Lot, or (b) as security for an obligation.

2.24. "Real Property" means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Real property" includes Lots and other parcels within the Property, with or without upper or lower boundaries, and spaces that may be filled with air or water.

2.25. "Lot Owner Purposes" means use for dwelling or recreational purposes, or both.

2.26. "Special Declarant Rights" means rights reserved for the benefit of the Declarant to: (a) Complete improvements indicated on the Subdivision Plat; (b) maintain sales offices, management offices, signs advertising the Subdivision, and models; (c) use easements through the Common Areas for the purpose of making improvements

within the Subdivision; (d) appoint or remove any officer of the Association or any member of the Board of Directors; or (e) to veto or approve a proposed action of the Board or Association during any period of Declarant Control reserved in this Declaration. In this Subdivision, Special Declarant Rights are described in Section 16.6 hereof.

2.27. "Upkeep" means any care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction that is required to maintain property in a decent, safe and sanitary condition, in keeping with the standards of the Community.

### ARTICLE III

#### DESCRIPTION OF LAND AND AMENITIES

##### 3.1. Land.

The land on which the Lots, Common Areas and other improvements of this Subdivision are located is situated in Whatcom County, Washington, and is more particularly described on the Subdivision Plat.

##### 3.2. Amenities.

The Subdivision contains open space areas as depicted on the Subdivision Plat.

### ARTICLE IV

#### LOTS

##### 4.1. Number, Location, and Use.

The Greens at Loomis Trail Phase I Subdivision contains sixty-four (64) Lots, which are depicted on the Subdivision Plat. The location of those Lots and their dimensions are shown on the Subdivision Plat.

##### 4.2. Lot Boundaries.

The boundaries of each Lot are as depicted on the Subdivision Plat.

4.3. Height Restrictions, View Covenants, Building Setbacks.

4.3.1. Height Restrictions.

The height of structural improvements erected on Lots shall be restricted to the lower limit of that required under applicable County ordinances, any applicable building code or other ordinance in effect at the time of application for a building permit therefore, or the following: As provided in Article IX herein, no structural improvement shall exceed thirty-five (35) feet in height measured by the vertical distance from the average finished grade of the Lot, measured from the front lot line or finished curb, on which the structural improvement is constructed to the height of the highest gable of a pitch or hip roof.

4.3.2. Setback Requirements. No improvements or structures, other than sidewalks, driveways, landscaping, mailboxes and retaining walls approved by the Declarant, may be constructed within Building Setbacks. As described below, Building Setbacks are established for the Front Yard, Side Yard and Rear Yard of each Parcel.

4.3.2.1. Front Yard Setbacks. The minimum Building Setback for the Front Yard, as measured from the Front Parcel Line, shall be twenty (20) feet, except as follows:

1. Ten (10) feet for lot 17;
2. Twenty-five (25) feet for lots 18 and 19;
3. Fifty (50) feet for lot 49; and
4. Sixty (60) feet for lot 60.

Notwithstanding the foregoing, the minimum Front Yard Building Setback for a garage shall be reduced by five (5) feet if the main garage entrance is perpendicular to the road and shall be increased by five (5) feet if the main garage entrance is parallel to the road. Setbacks for garages shall remain unchanged if the main garage entrance is diagonal to the road.

4.3.2.2. Side Yard Setbacks. The minimum Building Setback for the Side Yards, as measured from the Lot boundary lines adjoining each Side Yard, shall be ten (10) feet unless Lot Owner specifically petitions for a variance based on specific lot geometry and extraordinary circumstances. Such petition shall be submitted to and approved in writing by the Declarant.

4.3.2.3. Rear Yard Setbacks. The minimum Building Setback for the Rear Yard, as measured from the center of the Rear Parcel Line, shall be five (5) feet, except as follows:

1. Ten (10) feet for lots 20, 26, 31, 42 through 46, 49, and 51 through 54.
2. Fifteen (15) feet for lots 3 and 32
3. Twenty (20) feet for lots 1, 2, 38, and 55 through 64.
4. Twenty-five (25) feet for lots 33 and 39.
5. Thirty (30) feet for lots 18, 19, 29, 30, 34 through 36, 41 and 50;
6. Fifty (50) feet for lot 37; and
7. Sixty-five (65) feet for lot 40.

4.4. Construction on Lots.

4.4.1. Environmental Controls.

The following covenants, conditions and restrictions are intended to help protect the unique environmental characteristics of The Greens at Loomis Trail. These will assist in controlling erosion, sedimentation and otherwise protect the slopes and water quality of The Greens at Loomis Trail and surrounding properties:

(a) All geotechnical issues associated with the Lots shall be governed by the Whatcom County Land Use Department pursuant to its ordinances and regulations.

(b) In order to preserve and protect all remaining indigenous trees and plants of The Greens at Loomis Trail, no Owner other than the Declarant may remove any trees or plants from any of the Lots without notification of and approval by the Declarant.

(c) To control erosion and sedimentation during construction, disturbed areas must be re-vegetated as soon as practical and in any event not later than on the date of occupancy.

(d) No soil disturbance, grading, excavation, debris or fill placement, or construction activity shall be permitted except as temporarily required during construction under a valid fill and grade permit.

(e) To minimize impacts to water quality:

(i) No fungicide or other chemical deleterious to plants, wildlife or water quality may be used on roofs, provided, however factory-applied fire-treating as approved by the Declarant will be permitted. Roof cleaning shall only be permitted by mechanical means; no chemical-cleaning agents may be used.



(ii) Only slow release fertilizer will be allowed on Lots and no high phosphate or super phosphate fertilizers shall be used.

(f) Landscape and storm water plans shall satisfy the following requirements:

(i) Any plan for landscape shall show the size and location of all irrigated areas.

(ii) Use of drought tolerant and native plants shall be encouraged.

#### 4.4.2. Maximum Impervious Coverage.

Total impervious coverage, including areas under all roof overhangs and waterproof decks, shall generally not exceed forty-five percent (45%) of the total Lot area. Declarant, in its sole discretion, may increase the allowable impervious coverage on a case-by-case basis, upon application by a Lot Owner and consistent with the provisions of Article IX, section 9.2.5.

#### 4.4.3. Maximum Building Footprint.

The total building footprint, including the area under all decks, roof eaves and architectural projections more than three feet above grade, shall be as set forth on the Subdivision Plat.

#### 4.4.4. Approval by Board of Directors Required.

No person other than the Declarant shall make any addition, alteration or improvement in or to any Lot, other than for normal upkeep or natural landscaping, which is visible from the exterior of the Lot (excluding areas within a building's building envelope which are visible from the exterior only because of the transparency of glass doors, walls or windows), without the prior written consent of the Loomis Trail Homeowners Association Board of Directors or Declarant. No Person shall paint or otherwise alter the exterior of any improvement, including the windows but excluding the main front entryway door, if such exterior is visible from another Lot or the Common Areas, without the prior written consent of the Declarant or the Loomis Trail Homeowners Association's Board of Directors. The Declarant shall have the right to construct improvements, make alterations or subdivisions without the consent of the Loomis Trail Homeowners Association or the Association's Board of Directors, and an authorized Officer of the Declarant shall execute any such application required. Any addition, alteration or improvement upon any Lot existing in violation of the Association Documents shall be removed or altered, at the Lot Owner's

expense, to conform to the Governing Documents (including the Design Guidelines) within thirty days after notice from the Board of Directors of the violation. See Section 9.2 hereof for further details.

#### 4.4.5. Governmental Permits.

Approval by the Board of Directors or Declarant shall not relieve an Owner from the obligation to obtain any required governmental permits. The Owner shall deliver all approvals and permits required by law to the Board of Directors, as appropriate, prior to the commencement of any construction requiring such approval or permit. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement to any Lot or improvement located on any Lot requires execution by the Association, and provided consent has been given by the Board of Directors, then the application shall be executed on behalf of the Association by an Officer or Board Member. There shall be no liability on the part of the Board of Directors or the Association to any contractor, subcontractor or materialman because of such addition, alteration or improvement, or to any person having a claim for personal injury or property damage arising therefrom.

#### 4.4.6. Timing of Construction.

Any person obtaining approval of the Board of Directors as required by Section 9.2 hereof shall commence construction or alteration, in accordance with approved plans and specifications, within six months after the date of approval and shall complete any construction or alteration within eighteen months after the date of approval, or within such other period as specified in the approval. Construction shall not be deemed to be completed until the improvement is finished, the Lot has been cleaned of construction debris and the Lot has been landscaped. Notwithstanding the foregoing, the Board of Director's approval may provide for a different period during which to commence or complete construction. If any such person does not commence work within six months after approval, or such other time determined by the Committee, then approval shall lapse.

#### 4.4.7. No Deviation from Plans.

Any person obtaining approval of the Board of Directors shall not deviate materially from the approved plans and specifications without the prior written consent of the Board of Directors. Such person shall notify the Board when the alterations or improvements are complete. Approval of any particular plans and specifications or design does not waive the right of the Board to disapprove such plans and specifications, or any elements or features thereof, if such plans and specifications are subsequently submitted for use in any other instance or by any other person.

#### 4.5. Upkeep of Lots.

Each Lot Owner shall, at his or her sole expense, have the right and the duty to keep the Lot and any improvements in good order, condition and repair and shall do all decorating, landscaping and painting at any time necessary to maintain its good appearance and condition. Each Owner shall perform this Upkeep in such manner as shall not unreasonably disturb or interfere with the other Owners.

#### 4.6. Damaged Improvements.

If a building or other major improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either (i) by repairing or reconstructing such building or improvement or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Property, provided however, that any material alteration of the repaired or restored building or improvement shall be approved by the Board of Directors as set forth in Section 9.2. Unless the Board of Directors permits a longer period, such work must be commenced within four months after the casualty and be completed within twelve months after the casualty. The four-month period may be extended for a reasonable period thereafter in the event that repairs or reconstruction have not commenced because of factors beyond the control of the Owner, provided that the Owner has exercised and does thereafter continue to exercise due diligence in an effort to commence required work.

### ARTICLE V

#### COMMON AREAS

##### 5.1. Common Areas.

Each Lot is burdened by an easement for streets for ingress and egress, and/or areas of common use, areas designated as open space for the enjoyment of all Lot Owners, areas designated as storm water drainage facilities including without limitation the bio-swale and water quality ponds, areas designated as roads and road rights of way, and any other Common Areas so designated on the Subdivision Plat.

##### 5.2. Common Area Purposes

The Common Areas of the Subdivision are designated on the Subdivision Plat as Tracts A, B, C, D, E, F, G, H, and I. Tract A is reserved for future development. Tract B is a dedicated Conservation Easement, recorded at auditor's file number 2030902316. Tract C is open space. Tract D is the stormwater treatment facility. Tract E is open space. Tract

F is reserved for future development. Tract G is the common area dedicated for roads and road rights of way. Tract H is open space. Tract I is open space.

5.3. No Partition.

The Common Areas shall remain undivided and shall not be abandoned by act or omission. No Lot Owner or other person may bring any action for partition or division of the Common Areas. Portions of the Common Areas which are not necessary for the habitability of a Lot may be conveyed or subjected to a security interest by the Association if the Owners of Lots to which at least eighty percent (80%) of the votes in the Association are allocated, including eighty percent (80%) of the votes allocated to Lots not owned by the Declarant or an affiliate of the Declarant, so approve. Proceeds of the sale or financing of Common Areas are an asset of the Association.

5.4. Maintenance, Repair and Replacement.

The Association, through its Board of Directors, is responsible for maintenance, repair, and replacement of the Common Areas. The use and maintenance of any Common Area shall be the responsibility of the Loomis Trail Homeowners Association as determined by the ownership of such Common Area. The rights of use and maintenance responsibilities of those Common Areas now or hereafter owned by the Loomis Trail Homeowners Association shall be as described in The Greens at Loomis Trail Phase I Declaration. The rights of use and maintenance responsibilities of those Common Areas owned by the Loomis Trail Homeowners Association shall be as described herein, provided, the Loomis Trail Homeowners Association shall be authorized to promulgate reasonable rules and regulations not inconsistent herewith so as to ensure the common welfare and safety of the Owners. Such rules and regulations may include, but shall not be limited to the following:

(a) The use of any Common Area owned by the Loomis Trail Homeowners Association shall be subject to access and public and private utility easements from time to time granted, conveyed or reserved by the Declarant or the Loomis Trail Homeowners Association.

(b) Nothing that in any way alters any Common Area owned by the Loomis Trail Homeowners Association from its existing state shall be permitted except as contemplated by this Declaration or approved by Declarant or the Loomis Trail Homeowners Association.

(c) There shall be no use of any Common Area owned by the Loomis Trail Homeowners Association that injures or scars the Common Area or the vegetation, increases the cost of maintenance, or causes unreasonable disturbance or annoyance to Owners in their enjoyment of their Lots, or in their enjoyment of the Common Area. All use of any Common Area owned by the Loomis Trail Homeowners Association shall be subject

to the Loomis Trail Homeowners Association Rules (as defined below) in effect from time to time.

5.5. Maintenance, Repair and Replacement - Right of Access.

Each Lot Owner shall afford to the Association, and to its agents or employees, access through the Owner's Lot as may be reasonably necessary for the purposes of maintenance, repair and replacement of the Common Areas. If damage is inflicted on the Lot or its any improvements or appurtenances because of such activities, the Association shall be liable for the repair thereof.

5.6. Joint Road Maintenance Agreement

All costs of maintaining, repairing, improving, or otherwise connected with Common Area Tract G, roadways and easements within the Greens at Loomis Trail Long Plat, shall be borne equally by the respective Lot owners as necessary to preserve the condition of all roads within the Property. Said costs shall therefore become an enforceable lien against any Lot Owner who refuses to participate in the maintenance, repairs, or improvements made by agreement of the other Owners. These provisions shall be construed as a covenant running with the Property.

5.7. Stormwater Treatment Common Areas Maintenance

All costs associated with the Stormwater treatment facility maintenance will be borne equally by all Lot Owners in the Greens at Loomis Trail Long Plat. Said costs shall become an enforceable lien against any Lot Owner who refuses to participate in the maintenance or repairs that are necessary to maintain the stormwater treatment common areas, which areas include the water quality pond and bio-swales.

(a) Maintenance Plan

1. The stormwater treatment common areas shall be inspected a minimum of once per year during the month of September, in addition to periodic inspection after heavy rain periods, as may be necessary.
2. The inspections shall include an inspection of the grassy swales and other bio-filters, catch basins, and manholes for rodent holes or other damage. In addition, the annual inspection shall note the amount of accumulated sediment in the common areas.
3. Debris and garbage shall be removed from the stormwater treatment common areas as necessary or at an interval of no less than once per month.
4. Vegetation, including grass, shall be cut to a height of not less than 4-5 inches. Vegetation shall be maintained and replaced to ensure continuous cover.

5. Maintenance shall include replacement of missing rock in the spillway and culvert inlet and outlets.
6. The access to the stormwater treatment common areas shall be kept free of obstruction.
7. Trees and vegetation that interferes with access, function, or maintenance of the stormwater treatment common areas shall be removed or otherwise maintained as required.
8. Following each inspection or maintenance activity, with the exception of mowing activity and garbage removal, records shall be completed noting the inspection results and detailing the activity taken.
9. The Declarant, during the Control Period, and the Board, following the Control Period, shall appoint and confirm on an annual basis the person responsible for the maintenance provisions and record maintenance of the stormwater treatment common areas.
10. The records maintained in accordance with these provisions shall be made available to Whatcom County upon request.

(b) Additional Maintenance Requirements

1. Every three years beginning from the date of recordation of the final plat, the Owners shall have the stormwater treatment common areas inspected by a third-party professional, who possesses sufficient and requisite skill to properly make such an inspection. This professional will conduct such inspection and complete a report documenting necessary repairs or maintenance to assure the system is functioning properly in accordance with the Washington State Department of Ecology Stormwater Management Manual of August 2001.
2. Copies of said report shall be made available to Whatcom County upon request.

ARTICLE VI

USE OF RECREATIONAL AREAS

Deleted.

## ARTICLE VII

### OWNERS ASSOCIATION

#### 7.1. Name and Form of Association.

The name of the Association shall be the "Loomis Trail Homeowners Association." The Association has been or will be incorporated by the Declarant as a non-profit corporation under the laws of the State of Washington. The provisions of the Homeowners Association Act and of this Declaration shall govern the rights and duties of the shareholders, officers, members, and employees, if any, of said corporation. The Association shall remain organized as a nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Homeowners Association Act, Chapter 64.38 RCW, the Homeowners Association Act shall control.

#### 7.2. Powers of Association.

The Association shall have, through its Board of Directors, all powers available to homeowners associations under the Homeowners Association Act, and such additional powers as may be prescribed in the Bylaws of the Association.

#### 7.3. Membership and Voting Rights.

Membership and voting rights are specified in the Bylaws of the Association

#### 7.4. Bylaws of Association.

Bylaws for the administration of the Association and the Property, and for other purposes not inconsistent with the Homeowners Association Act and this Declaration have been or will be prepared by the Declarant, subject to the approval of the initial Board of Directors of the Association.

## ARTICLE VIII

### MANAGEMENT OF ASSOCIATION

#### 8.1. Management by Declarant.

The Declarant reserves the rights to (a) appoint and remove the Officers and members of the Board of Directors of the Association, and (b) veto or approve a proposed action of the Board or the Association, for a period known as the "Declarant Control

Period." The Declarant Control Period shall terminate no later than sixty days after conveyance of seventy-five percent of the Lots included in the Subdivision to Owners other than the Declarant. The Declarant Control Period is established in order to assure that the property and Condominium will be adequately administered in the initial phases of development, and to assure an orderly transition of Association operations.

8.2. Professional Management.

Provisions for professional management of the Association are made in Section 8.2 of the Bylaws.

8.3. Authority of the Board.

8.3.1. General Authority.

The Board, for the benefit of the Subdivision and the Owners, shall enforce the provisions of the Governing Documents and shall have all powers and authority granted to the Board or the Association under the Homeowners Association Act and this Declaration which are not expressly subject to the approval of the Owners.

8.3.2. Incurring and Payment of Common Expenses.

The Board shall acquire and shall pay for, as Common Expenses, all goods and services deemed necessary or desirable for the proper functioning of the Association.

8.3.3. Acquisition of Property.

The Board may acquire and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interests therein, and may dispose of the same by sale or otherwise. Such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct.

8.3.4. No Business Authority.

Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

8.3.5. Board as Attorney in Fact.

Each Owner, by the act of becoming an Owner of a Lot, shall be deemed to have irrevocably appointed the Board of Directors as his or her attorney-in-fact, with full power of substitution, to take such actions as are reasonably necessary to perform the



duties of the Association and Board hereunder, including, but not limited to, the duties to maintain, repair and improve the Property, to grant licenses and easements, and to secure and distribute condemnation awards and/or insurance proceeds affecting the Common Areas.

## ARTICLE IX

### PERMITTED USES; ARCHITECTURAL UNIFORMITY

#### 9.1. Permitted Uses.

##### 9.1.1. Lot Owner Use.

The Lots in this Subdivision shall be used for Lot Owner purposes only, whether on an ownership, rental or lease basis and for common social, recreational or other reasonable uses normally incident to such purposes. The Board may also permit the use of all or part of a Lot for a professional office, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority. As a condition to consenting to such office use, the Board may require the Lot Owner to pay any increase in the rate of insurance for the Subdivision that may result from such office use, and to provide proof of adequate personal/business liability insurance coverage.

##### 9.1.2. Commercial Use.

Other than the professional office use authorized in Section 9.1.1 hereof, there shall be no commercial uses permitted on the property.

##### 9.1.3. Temporary and Permanent Structures.

No structure of a temporary character, and no trailer, shack, work shed or other temporary accessory buildings shall be erected, used or maintained on any Lot except in connection with construction activities, and then only during such time periods for construction as provided in Section 4.4 hereof. Guest cottages, children's' playhouses, gardening sheds, dog runs, and fenced enclosures shall be permissible if constructed to standards similar with construction in The Greens at Loomis Trail and consistent with the standards established in this Article at 9.2, Architectural Control. The Board of Directors must approve all such structures in advance, and the owner proposing such structure must provide the Board with three sets of construction drawings, where appropriate, that accurately describe the materials, colors, dimensions, and details of the structure. Declarant or the Board shall timely review the drawings and notify the landowner of approval or rejection within 30 days after submission. Declarant's or Board's decision shall

be final. No other outbuildings or other buildings of a similar nature shall be erected, used or maintained on any Lot except in connection with construction as provided in Section 4.4.

9.1.4. Vehicle Parking and Use.

9.1.4.1. General Restrictions.

The parking of up to two vehicles in driveways shall be permitted. Driveway areas are restricted to use for parking of operable, properly registered automobiles, light trucks and family vans; other items and equipment may be parked or kept therein only if expressly permitted by Rules and Regulations and only in such areas, if any, as may be designated for such purpose by the Board of Directors. Garage parking spaces are restricted to use for parking of automobiles, motorcycles, light trucks, family vans and other similar vehicles, and for storage of such other items that pose no unreasonable health, safety or fire risks to persons or property. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

9.1.4.2. Recreational and Junk Vehicles.

Except as hereinafter provided, junk vehicles (as defined in RCW 46.55.010), large commercial-style vehicles (including without limitation trucks, tractors, large vans or other types of vehicles or equipment which either require a commercial vehicle operator's license) or any other type of vehicle, except recreational vehicles as described herein, or equipment which exceeds 20 feet in length may not be stored, kept or maintained anywhere on the Property. Recreational vehicles (including without limitation camper-trailers, mobile homes, motor homes, "fifth-wheels", off-road vehicles, boats, airplanes or etc. may not be stored on Lot Owners' property, but may be garaged as described below. Lot Owners are expected to store recreational vehicles off-site, but may park recreational vehicles in the parking lot for up to 24 hours for purposes of loading and unloading same, in such fashion as will not impede or block other vehicles. Guests of Lot Owners may park camper-trailers or motor homes while visiting Lot Owners, but only for periods not exceeding two weeks in duration, with each such period separated from another by not less than six months. The Board may require removal of any such vehicle or equipment if not authorized by this Section; if it is not removed from the Property, the Board may cause its removal at the risk and expense of the owner thereof, under such reasonable procedures as may be consistent with the provisions of RCW 46.55. Failure of an Owner or other occupant to remove such a vehicle or equipment from may result in any or all the procedures and/or remedies available under the Governing Documents. Recreational vehicles may be garaged on any Lot Owner's property, if the garage is constructed to standards similar with construction in The Greens at Loomis Trail and consistent with the standards established in this Article at 9.2, Architectural Control. Each Lot Owner proposing construction of such a garage must follow, and shall be subject to, all the submittal and approval requirements detailed at Section 9.2.3. Such garage must be a

part of the Lot Owner's dwelling, not a separate structure, and the garage must be of similar construction and aesthetically and architecturally consistent with the Lot Owner's dwelling.

9.1.5. Use of Common Areas.

The Common Areas shall be used only for the furnishing of such services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Areas shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents or Rules and Regulations adopted by the Board, no Owner shall make any private, exclusive or proprietary use of any of the Common Areas.

9.1.6. Interference with Common Areas.

No Lot Owner shall obstruct any of the Common Areas nor shall any Lot Owner place or cause or permit anything to be placed on or in any of the Common Areas (except those areas, if any, designated for storage by the Governing Documents) without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Areas except with the prior written consent of the Board of Directors.

9.1.7. Interference with Association Personnel.

No person shall engage or direct any employee of the Association on any private business of the Owner or otherwise direct, supervise or in any manner attempt to assert control over such employee during the hours such employee is employed by the Association.

9.1.8. Effect on Insurance.

Nothing shall be done or maintained in any Lot or in the Common Areas that will increase the rate of insurance on the Common Areas or Lots without the prior written consent of the Board. No Owner shall permit anything to be done or maintained in his or her Lot or in the Common Areas that will result in the cancellation of insurance on any Lot or any part of the Common Areas.

9.1.9. Surface Water Run-Off.

No Lot shall be improved in such a way as to cause excess surface water run-off that may damage or inconvenience other Lots or contiguous properties or the owners thereof.

9.1.10. Signs.

Initially, no sign of any kind shall be displayed to the public view on or from any Lot or the Common Areas without the prior consent of the Board; provided that this section shall not apply to Declarant or Declarant's agents, nor shall it be deemed to prohibit the Owner of a Lot from displaying a sign for a period of time in which the Lot is for sale or rent. The Board may by resolution establish further policies regarding signs. The Board's judgment in such matters shall be conclusive.

9.1.11. Animals.

The ownership and keeping of well-behaved dogs, cats and other limited types of species of animals which do not normally leave a Lot is permitted, subject to Rules and Regulations which may be adopted by the Board of Directors. The owner of any animal maintained within the Community shall keep such animal properly attended and under such owner's control, and shall clean up after such animal and shall not permit deposits of fecal matter, urinary residue or foodstuffs from or for such animal to accumulate anywhere on the Common Areas. Any person who keeps or maintains any animal upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each Lot Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Subdivision. The Board may at any time require the removal of any animal that it finds is or has become an unreasonable source of annoyance, and may exercise this authority for specific animals even though other animals are permitted to remain.

9.1.12. Offensive or Illegal Activity.

No noxious, offensive or illegal activity shall be carried on in any Lot or Common Areas, nor shall anything be done therein which may be or become an unreasonable source of annoyance or nuisance to other Owners.

9.1.13. Compliance with Environmental Laws.

Use of the Lots and Common Areas of this Subdivision may be subject to various federal, state and local laws, regulations and guidelines now in effect and/or hereafter enacted, relating to or affecting the Property, concerning the impact on the environment of construction, land use, and the maintenance and operation of structures located thereon. No Lot Owner shall cause, or permit to be caused, any act or practice by negligence, or omission, or otherwise, that would adversely affect the environment or do anything or permit anything to be done that would violate any of the said laws, regulations or guidelines. The foregoing shall cover all requirements whether or not foreseeable now and regardless of their expense.

9.1.14. Hazardous Substances.

A person shall maintain or store on or in the Property only such property and materials which may be legally possessed by such person. No person shall improperly store within or release from a Lot or into the Common Areas any petroleum distillates, liquid or aromatic hydrocarbons, medical wastes or infectious biological agents, acids, caustics, carcinogens, mutagens, heavy metals, or any other inflammable, toxic, explosive, radioactive, or other type of substance which may be hazardous to either the Community or to the public health or safety, or the health or safety of any lawful occupants of the Community, any and all such substances being known herein as Hazardous Substances.

9.1.15. Noise.

No person shall cause any unreasonably loud noise anywhere on the Property, nor shall any person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

9.1.16. Mining.

No Lot shall be used for the purposes of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth except with the prior written approval or the Board of Directors.

9.1.17. Trash.

Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot. Any such burning shall be conducted only in accordance with the terms of any governmental regulations or required permit. Trash containers shall be stored on either side of Lot Owner's house and screened from view from neighboring properties, the street front, and from Common Areas. Trash containers shall be subject to regulation by the Board of Directors. No incinerator shall be kept or maintained upon any Lot.

9.1.18. Open Fires.

Open burning is not permitted on the Property, except that outdoor fireplaces, grills and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

9.1.19. Lighting.

No exterior lighting shall exceed 65 watts in output per fixture or be directed outside the boundaries of a Lot. Declarant shall establish Common area lighting fixtures that, in Declarant's sole discretion, add to the safety, aesthetic value, or appearance of The Greens at Loomis Trail. Such fixtures shall not be controlled by these provisions.

9.1.20. Mailboxes and Newspaper Tubes.

Only mailboxes and newspaper tubes approved by the Board of Directors are permitted.

9.1.21. Television and Radio Antennas, Dishes.

Satellite TV antennas/dishes no greater than eighteen (18) inches in diameter may be installed within a Lot. Larger satellite dishes and other types of reception or transmission antennas may be installed within a Lot only if completely screened from view from other Lots and the Common Areas, and such installation is approved in advance of installation by the Board of Directors. Ham radio and "citizens band" antennas may be used for transmission purposes only so long as they do not cause interference with electronic equipment of neighboring property owners. No reception or transmission devices may be located within the Common Areas unless expressly permitted by the Board of Directors.

9.1.22. Construction Activities.

This Section shall not be construed as forbidding any work involved in the construction or Upkeep of any portion of the Property so long as such work is undertaken and carried out in a workmanlike manner (i) with the minimum practical disturbance to persons occupying other portions of the Property; (ii) in such a way as does not violate the rights of any person under other provisions of this Declaration; and (iii) in accordance with all applicable restrictions in the Rules and Regulations, the resolutions of the Board of Directors and the other provisions of this Declaration. The Board of Directors may approve temporary structures for construction purposes that may otherwise be in violation of the Governing Documents or the Rules and Regulations.

9.1.23. Uses by Declarant.

Nothing in the Governing Documents shall be construed to prohibit the Declarant or its designees from using any Lot owned by the Declarant (or any other Lot with the permission of the Owner thereof) or any portion of the Common Areas for promotional, marketing, display or customer service purposes (such as a visitors' center) or for the closing of sales of Lots. Further, the Declarant specifically reserves the right to

operate a construction office or a rental, brokerage and management office at any time on Lots owned or leased by the Declarant (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Areas, to the extent permitted by law. The Declarant may assign its rights under this subsection to or share such rights with one or more other persons, exclusively, simultaneously or consecutively with respect to the Common Areas and Lots owned or leased by the Declarant or such persons.

9.1.24. Lease Restrictions.

With the exception of an institutional lender in possession of a Lot following a default under a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Lot Owner shall be permitted to lease all or any portion of a Lot for periods of less than thirty days. Any lease arrangement shall require a written lease agreement. The written lease must include terms making the lease subject in all respects to the provisions of this Declaration, the Bylaws and Rules and Regulations, and that any failure by the Lessee to comply with such provisions shall be a default under the lease, entitling the Association to enforce such provisions as a real party in interest. A lease, as defined herein, shall include month-to-month rentals. Any tenant, subtenant or licensee of an Owner is bound by all portions of the Governing Documents that are binding upon the Owner, with the exception of the obligation to pay the dues, assessments and other charges owing by the Owner to the Association.

9.1.25. Assignment or Subleasing.

The assignment or subleasing of a Lot shall be subject to the same limitations as are applicable to the leasing or renting thereof. An Owner or tenant may not exempt himself or herself from any liability under this Declaration or the Bylaws or Rules and Regulations by assigning or subleasing the occupancy rights to his or her Lot.

9.2. Architectural Control.

9.2.1 General Authority of Board of Directors.

To assure the health, safety and enjoyment of persons lawfully using any portion of this Subdivision, and to promote visual harmony within the project, the Loomis Trail Homeowners Association, through its' Board of Directors, shall have the power and the duty to enforce architectural control over the improvements constructed within the Subdivision in the manner hereafter provided and as provided in the Governing Documents. Lot Owners are required to submit all plans for the approval to the Board of Directors of the Loomis Trail Homeowners Association prior to commencement of any construction on any Lot by an Owner. The Board must approve all such improvements in advance, consistent with the provisions at section 9.2.3.

### 9.2.2 Permitted Improvements

No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any Lot or any part of the Development, except (i) for dwellings and other improvements that are constructed by Declarant, (ii) such improvements as are approved by the Declarant and/or Board of Directors, or (iii) improvements that do not require the consent of the Board under this Article. Any improvements not specifically exempted herein and constructed on the Property without first obtaining all appropriate approvals and/or following all requirements under Article 9 shall be subject to enforcement proceedings by the Board of Directors as permitted under applicable Washington State law and under the Governing Documents.

### 9.2.3 Architectural Approval and Control Standards Checklist

No construction of improvements of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant, with respect to the construction of exterior of any dwelling or structure or with respect to any other portion of the Development, including without limitation, the construction or installation of sidewalks, stairways, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest cottages or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made unless and until three (3) copies of the plans and specifications and related data showing the nature, color, type, shape, floor plan, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relations to surrounding structures and topography by the Board of Directors. The plans and specifications submitted to the Board shall be prepared to the degree of detail, precision and completeness required for building permit issuance. The Board shall timely review the drawings and specifications and notify the landowner of approval or rejection within 30 days after submission. The Board shall use the Association Architectural Control Standards Checklist for each Owner's submission, which shall document the basis for the Board's approval or rejection of each submitted set of drawings and specifications. The Checklist may be modified by Declarant from time to time, with no notice given to Owners, at the Declarant's sole discretion. The Checklist is included with this Declaration, attached as **Addendum A**. The Board's decision shall be final. Owners contemplating construction should also take into consideration the design guidelines set forth below as these design guidelines may be considered in evaluating a submitted design or plan.

### 9.2.4 Approval Not a Guarantee

No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Neither Declarant,



the Association, nor the Board of Directors shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article, nor any defects in construction undertaken pursuant to such plans and specifications.

#### 9.2.5 Construction of Improvements

(a) All buildings, structures, or other improvements on or with respect to any Lot shall be located only within the setback lines detailed at section 4.3.2 and as specified on the Site Plan. To assure that dwellings and other structures will be located so that the maximum view, privacy, and solar exposure will be available to each dwelling or structure, dwellings and structures will be located with regard to the topography of each Lot taking into consideration the location of trees and vegetation and other aesthetic and environmental considerations, as well as the location of any other dwellings or structures within the Development. No dwelling or other structure shall be constructed on a Lot that has a height to roof peak exceeding thirty-five (35) feet above the average finished grade measured at the Lot front property line or curb. All dwellings, except approved guest cottages or servants quarters, constructed on Lots shall have a minimum of one thousand seven hundred and fifty (1,750) square feet of living space and a minimum two-car attached garage. Total impervious site development shall not exceed forty-five percent (45%) lot coverage, and each Lot Owner shall be responsible for providing a calculation of their Lot impervious surface square footage, such calculation prepared by a licensed Professional Engineer and provided to the Board as required by section 9.2.3. In addition, all dwellings and other improvements may be subject to specific restrictions relating to the Community as may be promulgated by the Board of Directors, the Declarant, or both. The Board of Directors shall be empowered to grant variances with respect to setback, lot coverage, height, and bulk restrictions contained herein because of extraordinary circumstances, provided that such variances shall not violate local zoning or land use regulations, shall not be granted on an arbitrary basis, shall not unfairly discriminate between Owners and shall further the common purposes of the Community.

(b) No construction of improvements on any Lots shall be undertaken or conducted on any Sundays or holidays as established by the Board or Directors or Declarant, except for (i) construction activities of Declarant, (ii) emergency situations involving the potential loss, injury, or damages to persons or property, and (iii) as otherwise permitted by the Board of Directors.

(c) Dwellings may not be occupied either temporarily or permanently until the exteriors thereof have been completed. No temporary house, shack, tent, barn, or other outbuilding shall be permitted on any Lot at any time, except as provided in this Article and except for temporary structures for social functions as may be permitted by the Board. No stable, poultry house or yard, rabbit hut, or other similar yard structure shall be constructed or allowed to remain on any Lot.

(d) All construction of improvements shall conform in all respects with local, state, and federal land use, building, mechanical, electrical, plumbing, and environmental codes and regulations, as applicable. During the continuance of construction by a Lot Owner, the Lot at all times shall be maintained in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, all equipment, tools, and construction materials and debris shall be removed from the Lot.

(e) Each Lot Owner is responsible for landscaping his lot using native and/or non-invasive plantings that enhance the overall community appearance. Any hardscape structures such as retaining walls, trellises, or decorative ponds must be approved by the Board prior to construction. Each Lot Owner shall submit three (3) copies of a landscape plan that includes hardscape structures to the Board prior to construction, consistent with the requirements provided at section 9.2.3. The front yard of each home (from the street to the building face) shall be covered with lawns, landscaping, decking and/or paving within thirty (30) days after occupancy, and all remaining landscaping must be completed within twelve (12) weeks after occupancy.

#### 9.2.6 Design Regulations; Building Materials

All roofs shall have no less than a minimum 4:12 slope and no more than a maximum 12:12 slope, and only 25% of the plan area of a roof may be flat. Roof surface material on all sloped roofs shall be either slate, tile, high-quality asphalt shingles, such as Architect 80, or natural wood shingles or shakes treated with an approved fire retardant. Metal roofing shall not be allowed. No roof top mechanical equipment shall be allowed except flues and vent stacks less than six inches in diameter, and solar collectors and skylights mounted in the roof surface plane. Any such solar collector shall be visually screened so that it is not directly visible from the Lot front property line. Exterior wall materials shall be restricted to high quality cementitious products that have no present or historical problems with premature decay, warping, or other defects, or tight-knot or clear cedar lap materials, 8 inch bevel with a 6-inch weather reveal, provided that brick, stone, and stucco accents and architectural details shall be permitted. Exterior finish shall be of natural tones and hues. Natural aluminum glazing shall not be permitted. Foundation shall not be exposed more than 6 inches above grade.

#### 9.2.7 Service Yards, Driveways, and Parking

Each Lot shall provide visually screened areas to serve as service yards in which garbage receptacles, fuel tanks, gas and electric meters, mechanical equipment, and vehicles, materials, supplies, and equipment which are stored outside must be placed or stored in order to conceal them from view from roads and adjacent properties. Such service yards that are on a Lot must be enclosed and contiguous to the dwelling.

Development of each Lot shall include a provision for parking of two cars per dwelling within the building lot setback lines, unless otherwise specified by local zoning or land use regulations. Driveway material shall only be brushed concrete, stamped or exposed aggregate concrete, brick, or cement pavers; gravel or other surface driveways are not permitted. Retaining walls shall be constructed from placed stone, landscaping timbers, or be surfaced in wood siding.

#### 9.2.8 Fencing and Exterior Appearance

No perimeter fence or other permanent fencing shall be allowed in the Lots' front yards, and no fencing of any kind shall be allowed on Lots 54 through 64, inclusive. Where permitted, fencing five (5) feet in height may be installed in the side and back yards only. An additional one (1) foot lath or lattice accent may be added to the fencing as a decorative detail, for a total of six (6) feet in total fence height. No unsightly items may be hung on any fencing. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or other purposes. No window mounted air-conditioners or heating units shall be permitted.

#### 9.2.9. Time for Response; Variances.

Upon presentation of a complete application by a Lot Owner, the Board of Directors shall have the authority, either by act or omission, to waive enforcement of or grant variances from any written Design Guidelines without a specific finding that enforcement of such guidelines would impose an unfair burden on such Owner, but describing the variance and the reasons therefore in a written instrument which shall be part of the records of the Association. Upon such written approval of any specific variance or exception from the requirements of the Design Guidelines, all development conforming to such variance or exception shall be deemed to comply. The Board of Directors shall act on all such matters, except those otherwise provided in this Article, that are properly before it within forty-five days after submission of a complete application, in such form as may be prescribed by the Board of Directors; failure to do so within the stipulated time shall constitute an automatic approval by the Board of Directors.

## ARTICLE X

### ASSESSMENTS AND LIENS FOR COMMON EXPENSES

#### 10.1. Assessments for Common Expenses.

##### 10.1.1. Liability of Lots.

The total amount of the estimated funds required to pay the Common Expenses of the Association set forth in the Annual Budget adopted by the Board of Directors for the fiscal year shall be assessed equally against the Lots, provided that the Association may, by resolution supported by greater than 50% of the votes in the Association, require that any Common Expense or portion thereof benefiting fewer than all of the Lots shall be assessed exclusively against the Lots benefited; such an assessment may be termed a "Limited Common Expense".

#### 10.1.2. Timing of Payments.

Until changed by resolution of the Board of Directors, the annual Assessment against each Lot for its share of the Common Expenses shall be due and payable on the first day of the month of February of each year. The Board may adopt further payment policies that permit payment in installments under conditions to be determined by the Board.

#### 10.1.3. Owners Personally Liable for Common Expenses.

Each Assessment shall be the joint and several obligation of the Owner(s) of the Lot to which the same are assessed as of the time the Assessment is due. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums. No Lot Owner may exempt himself or herself from liability with respect to the Common Expenses by waiver of the enjoyment of the right to use any of the Common Areas or by leasing, rental or abandonment of his or her Lot or otherwise. The failure or delay of the Board of Directors to adopt the Annual Budget for any year shall not constitute a waiver or release in any manner of a Lot Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided, and in the absence of an Annual Budget or adjusted Annual Budget, each Owner shall continue to pay (with or without notice) an Assessment at the rate established for the preceding fiscal year until an Assessment is made under a current Annual Budget or adjusted Annual Budget and notice thereof has been sent to the Lot Owner.

#### 10.2. Liability Following Conveyance of Lot.

A selling Lot Owner shall not be liable for the payment of any part of the Common Expenses assessed against his or her Lot subsequent to a sale, transfer or other conveyance by him of such Lot. The purchaser of a Lot shall be jointly and severally liable with the selling Lot Owner for all unpaid Assessments against the Lot up to the time of the conveyance without prejudice to the purchaser's right to recover from the selling Lot Owner the amounts paid by the purchaser therefore. Such unpaid Assessments shall be deemed Common Expenses collectible from all the Lot Owners, including such mortgagee or other purchaser of the Lot. Foreclosure of a mortgage does not relieve the prior Owner of

personal liability for Assessments accruing against the Lot prior to the date of such sale as provided above.

10.3. Statement of Unpaid Assessments.

The Association, upon written request, shall furnish to a Lot Owner or a mortgagee a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid Assessments against that Lot.

10.4. Lien for Assessments.

The Association shall have a lien on a Lot for any unpaid Assessments levied against a Lot from the time the Assessment is due. If an Assessment is payable in installments, the Association has a lien for the full amount of the Assessment from the time the first installment thereof is due.

10.5. Perfection of Lien.

Recording of this Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessments shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this section in the real property records of the county in which the Subdivision is located.

10.6. Priority of Lien.

A lien under this Section shall be prior to all other liens and encumbrances on a Lot except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the Lot.

10.7. Enforcement of Lien.

The lien arising under this section shall be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW. The Association or its authorized representative shall have the power to purchase the Lot at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

10.8. Limitation of Lien Enforcement.

A lien for unpaid Assessments and the personal liability for payment thereof is extinguished unless proceedings to enforce the lien are instituted within six years after the amount of the Assessments sought to be recovered becomes due.

10.9. Rent Subject to Lien for Assessments.

From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Lot that is not occupied by the Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Lots as and when due. If the rental is not paid, the receiver may obtain possession of the Lot, refurbish it for rental up to a reasonable standard for rental Lots in this type of project, rent the Lot or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Lot, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Lot.

10.10. Remedies Cumulative.

The remedies provided are cumulative and the Board may pursue them concurrently, along with any other remedies that may be available under the law although not expressed herein.

ARTICLE XI

INSURANCE MATTERS

11.1. Authority, Name of Insured.

The Board of Directors may obtain and maintain directors and officers' coverage, and casualty and liability insurance under such terms and for such amounts as shall be deemed necessary by the Board of Directors.

11.2. Deductible.

The deductible, if any, on any policy of insurance purchased by the Board of Directors, shall be paid by the Association as a Common Expense. Funds to cover the deductible should be included in the Association's operating reserve account.

#### ARTICLE XII

#### CONDEMNATION

In the event that Common Areas of the Subdivision are become subject to eminent domain proceedings, the Association shall be a necessary party to such proceedings.

#### ARTICLE XIII

#### COMPLIANCE WITH LAW AND COVENANTS

##### 13.1. Compliance by Owners and Occupants.

Each Owner and occupant of a Lot shall comply strictly with the provisions of the Governing Documents. All remedies provided the Association in this Article may be enforced against any tenant or other occupant of a Lot.

##### 13.2. Enforcement by Association.

The Board of Directors shall have primary responsibility for maintaining and enforcing compliance with the covenants, conditions and restrictions contained in the Governing Documents. Without limiting the authority and powers conferred upon the Board by the Homeowners Association Act, the Board shall have the rights and powers described in Section 7 of the Bylaws.

#### ARTICLE XIV

#### LIMITATION OF LIABILITY

##### 14.1. No Liability for Equipment Failure, Etc.

Except to the extent covered by insurance obtained by the Board pursuant to Article XI, neither the Association nor the Board nor the Declarant shall be liable for any failure of any equipment or services obtained by the Board, or for injury or damage to person or property caused by the elements, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of liability for Common Expense Assessments shall be claimed or allowed for any such injury or damage, or for such inconvenience or discomfort.

14.2. No Bailment.

Neither the Board of Directors, the Association, any Owner nor the Declarant shall be considered a bailee of any personal property stored or placed on the Common Areas (including property located in vehicles parked on the Common Areas), whether or not exclusive possession of the particular area is given to an Owner for parking or otherwise, nor shall they be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

ARTICLE XV

MORTGAGEE PROTECTION

Any representative of a Mortgagee or the institutional insurer of any mortgage may attend and address any meeting that a Lot Owner may attend.

ARTICLE XVI

EASEMENTS AND SPECIAL DECLARANT RIGHTS

16.1. Easements for Lots and Lot Owners.

16.1.1. In General.

Each Lot has an easement in and through each other Lot and the Common Areas for utilities and for lateral and/or subjacent support.

16.1.2. Specific Easement Shown on Subdivision Plat.

Easements shown on the Subdivision Plat, including the Conservation Easement, are hereby dedicated, declared and established. Any easement shown on the Subdivision Plat which benefits one or more Lots in the Project, or which benefits any third parties or any real property not included within the Project, confers various rights and benefits upon such third parties or owner(s) of any such real property, and may also impose obligations upon the Association. Without limitation, each Lot is burdened with an easement for common open space and utilities, including a storm water drainage and maintenance.



16.2. Easement for Association Functions.

There is hereby granted and reserved to the Association, or its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Declaration, the Bylaws, or the Rules and Regulations.

16.3. Easement for Utilities.

Non-exclusive easements are reserved as shown in the Subdivision Plat of The Greens at Loomis Trail for all franchised utilities, including Birch Bay Water and Sewer utilities, and their respective successors and assigns, under and upon the exterior ten (10) feet parallel with and adjacent to the street frontage (as determined from the back of the curb) and varying strips along the common borders of certain Lots, as shown in the Subdivision Plat, in which to install, lay, construct, renew, operate and maintain facilities and other equipment for the purposes of serving the subdivision and other property, together with the right to enter upon the Lots at all times for the purposes herein stated.

16.4. Easement for Emergency Access.

A non-exclusive perpetual easement is hereby granted on, over, under and across the Common Areas to all police, fire, ambulance and other rescue personnel for the lawful performance of their functions during emergencies.

16.5. Easements for Declarant and the Loomis Trail Homeowners Association

The Declarant reserves to itself and its any lawful successors an easement through the Common Areas for any and all activities necessary or desirable to complete the development of the Community or for exercising Special Declarant Rights. The Loomis Trail Homeowners Association and/or their respective agents shall have the right, without any liability to any Owner, of ingress/egress through any Lot (other than any portion thereof upon which a structure has been erected) for the purpose of maintaining any and all Common Areas and utility easement corridors, including, but not limited, to easements for utilities, storm sewer, power, water, telephone service, cable television and gas, owned by the Association, and for the purpose of enforcing any restrictions contained in this Declaration. Declarant may develop other developments, including any Subsequent Phases not added to the Property, as separate developments, and in connection with such separate development, Declarant may grant such separate development(s) easements and other rights of ingress and egress along existing roads within the Property and easements and other rights to install, operate, maintain and repair utilities within existing utility easement areas in the Property, provided the owners of individual lots (other than

Declarant) within such separate developments are obligated under the restrictive covenants governing their separate development(s) to contribute their equitable share of the cost of maintenance, repair and replacement of those roads and utilities used by such separate development(s).

16.6. Special Declarant Rights.

The Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Subdivision: To complete any improvements indicated on the Subdivision Plat or described earlier in the Declaration; to maintain sales offices, management offices, signs advertising the Subdivision, and models on the Property, all in such location or locations as the Declarant may unilaterally determine; to use easements through the Common Areas for the purpose of making improvements within the Subdivision; and to appoint or remove any officer of the Association or any member of the Board of Directors, or to veto or approve a proposed action of the Board or Association during the Declarant Control Period described in Section 8.1 hereof; the Declarant shall be deemed to hold a proxy from all Lot Owners during the Declarant Control Period for such purposes. All Declarant Rights granted hereunder the Declaration, with the exception of amendment to this Declaration, shall be transferred to the Board of Directors upon the expiration or termination of the Declarant Control Period.

ARTICLE XVII

AMENDMENT OF DECLARATION

17.1. Procedure for Amendment of Declaration.

Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by the Board prior to its adoption by the Owners. Except in cases of amendments that may be adopted by the Declarant unilaterally pursuant to Section 17.3 hereof, amendments may be adopted only at a meeting of the Owners if at least sixty-seven percent (67%) of the votes in the Association are cast for such amendment, or without any meeting if all Owners have been duly notified and Owners holding at least sixty-seven percent (67%) of the votes in the Association consent in writing to such amendment. In all cases, the amendment when adopted shall bear the acknowledged signature of the Plot Owner of the Association, who shall certify that the amendment was properly adopted.

17.2. Recordation Required.

Every amendment to the Declaration must be recorded with the County Auditor and is effective only upon recording. An amendment shall be indexed in the name of the

Subdivision and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto.

17.3. Amendments by Declarant.

The Declarant may unilaterally adopt and file amendments to the Declaration and to the Subdivision Plat for so long as the Declarant is the Owner of any Lot in the Subdivision or until the expiration of the time limit for the exercise of any Development Rights or Special Declarant Rights reserved by the Declarant, in order to conform them to the actual location of any of the constructed improvements and to establish, vacate and relocate utility easements, access road easements and parking areas, to satisfy the requirements of any title insurance company or institutional lender, or to correct any nonmaterial technical errors contained in the Subdivision Instruments or clarify provisions of same.

ARTICLE XVIII

MISCELLANEOUS

18.1. Notices for All Purposes, Delivery.

18.1.1. Any notice permitted or required to be delivered under the provisions of the Declaration or the Bylaws may be delivered either personally or by mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board in writing, or to the most recent address known to the Board. Notice to the Owner of any Lot shall be sufficient if mailed to his or her Lot if no other mailing address has been given to the Board. Mailing addresses may be changed from time to time by notice in writing to the Board. Notice to be given to the Association may be given to Declarant until the initial Board has been constituted and thereafter shall be given to the Plot Owner or Secretary of the Association, or to its Registered Agent.

18.1.2. New Lot Owners must supply their names and addresses, along with the names and addresses of their respective Mortgagees, to the Secretary of the Association promptly after conveyance.

18.2. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the Act and furthers the common plan of this Subdivision

18.3. No Right of First Refusal.

There is no right of first refusal in the Association limiting or restricting the right of any Lot Owner to sell, transfer or convey his or her Lot.

18.4. Effective Date.

This Declaration shall take effect upon recording.

DATED this 31<sup>st</sup> day of March, 2004.

DECLARANT:  
JAPEG, LLC



By \_\_\_\_\_

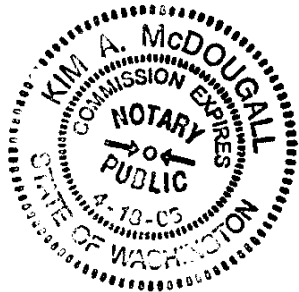
Its: Managing Partner

~~~~~

STATE OF WASHINGTON        )  
                                          ) ss.  
COUNTY OF WHATCOM        )

I hereby certify that I know or have satisfactory evidence that Rob Sackie is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MANAGING DIRECTOR of the Declarant, JARCUS, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: March 31, 2004.



K. McDougall  
NOTARY PUBLIC for the State of  
Washington. My Commission  
expires 4/10/05



ADDENDUM A
THE GREENS AT LOOMIS TRAIL
ARCHITECTURAL CONTROL STANDARDS CHECKLIST

APPLICANT: \_\_\_\_\_

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE: \_\_\_\_\_

LOT NO. \_\_\_\_\_

To be furnished by applicant:

For Coordinating Architect Use:

PRELIMINARY REVIEW

APPROVAL

- Three Sets of Plans & Specifications Received
Exterior Elevation or Picture
First Floor Dimensions
Site Plan Sketch

- Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_

FINAL REVIEW

SITE PLAN

APPROVAL

- 1. Property boundaries and dimensions
2. Building and deck dimensions
3. Existing trees to remain
4. Existing trees to be removed
5. Existing and finished grades shown
6. Total Lot square footages
7. Front, side and rear setbacks
8. Easements shown
9. Location of driveways, walks, fences, Service yards
10. Roof overhangs shown
11. Site and footing drainage shown
12. Utility locations shown
13. Impervious lot coverages
14. Final floor elevations

- Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
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Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
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Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_
Yes \_\_\_ No \_\_\_ Comments \_\_\_\_\_

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Whatcom County, WA

Request of: DAVID EVANS & ASSOC



THE GREENS AT LOOMIS TRAIL
ARCHITECTURAL CONTROL STANDARDS CHECKLIST – Page 2

To be furnished by Applicant:

For Coordinating Architect Use:

LANDSCAPE PLAN

- 1. Materials, colors and specs – hardscaping
2. Location, details and specs – plantings
3. Other landscape features
4. Landscaping in non-required areas shown
5. Front yard landscaping
6. Fences – Materials, design and heights

APPROVAL

- Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments

ELEVATION DRAWINGS

- 1. Siding type and color
2. Exposed foundations
3. Trim and fascia material and color
4. Roof material – color and sample
5. Skylights shown – height above roof
6. Doors – entry & garage, material & color
7. Windows & Glazing – material & color
8. Side yard windows
9. Entry Porch
10. Decks
11. Chimneys
12. Railings
13. Exterior lighting shown
14. Building height
15. Building square footage
16. Garage
17. Driveway – materials & parking

APPROVAL

- Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
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Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments

CROSS SECTION DRAWING (S)

- 1. Foundation design
2. Exterior wall design, colors & materials
3. Roof design, pitch & materials

- Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments

FLOOR PLANS

- 1. Internal layout and dimensions each room
2. Total square footage of each floor
3. Location and size of doors and windows
4. HVAC location

APPROVAL

- Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments
Yes \_\_\_ No \_\_\_ Comments

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Page: 43 of 44
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Request of: DAVID EVANS & ASSOC







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Page: 1 of 6  
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AMRC \$37.00  
Whatcom County, WA

Request of: chmelik sitkin davis

AFTER RECORDING RETURN TO:  
HUGH LEWIS, ATTORNEY AT LAW, P.C.  
2200 RIMLAND DRIVE, SUITE 220  
BELLINGHAM, WA 98226

TITLE OF DOCUMENT: FIRST AMENDMENT TO DECLARATION OF COVENANTS FOR THE GREENS AT LOOMIS TRAIL  
AF# OF AFFECTED DOCUMENT: AF # s 2040305825 and 2050804977  
GRANTOR: THE LOOMIS TRAIL HOMEOWNERS ASSOCIATION  
GRANTEE: THE GENERAL PUBLIC

**FIRST AMENDMENT TO DECLARATION OF COVENANTS  
FOR THE GREENS AT LOOMIS TRAIL**

PURPOSE: TO CONFIRM BINDING EFFECT OF DECLARATION OF COVENANTS  
ON ALL LAND CONTAINED WITHIN THE PLAT OF  
THE GREENS AT LOOMIS TRAIL, DIVISION 2

THIS AMENDMENT is made this 5<sup>th</sup> day of April, 2007, by THE LOOMIS TRAIL HOMEOWNERS ASSOCIATION, a Washington Nonprofit Miscellaneous and Mutual Corporation ("Association" or "Division 1 Association").

WITNESSETH THAT:

WHEREAS, a subdivision plat map establishing a Subdivision known as The Greens at Loomis Trail (the "Subdivision", or "Division 1") was recorded by JAPEG, LLC, (the "Declarant") among the land records of Whatcom County, Washington, at Auditor's File No. 2040305824, along with a certain "Declaration of Covenants, Conditions, Restrictions and Reservations for The Greens at Loomis Trail, Phase 1" (the "Covenants" or "Division 1 Covenants") benefitting and burdening all the Lots in the first Phase of development of the Subdivision, which Covenants were recorded at Auditor's File No. 2040305825.

WHEREAS, pursuant to Section 17.1 of the Covenants, the Covenants may be amended by the vote or agreement of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated;

WHEREAS, in Section 1.4 of the Covenants, the Subdivision's Declarant reserved development rights to develop the Subdivision in up to three "Phases" by adding to the Subdivision certain additional real property [the "Additional Land"] described on Whatcom County's Map of the Loomis Trail Planned Unit Development, and by creating additional Lots within the Additional Land through the County's subdivision platting process.

WHEREAS, the Declarant failed to exercise its development rights with respect to the Additional Land, but an unrelated party, Loomis Trail Partners LLC (the "Subsequent Developer") platted portions of the Additional Land into what is now known as the Plat of The Greens at Loomis Trail, Division 2 ["Division 2"]. The Subsequent Developer also caused certain covenants [the "Division 2 Covenants"] to be recorded, binding all Lots within Division 2, and caused a homeowners association [the "Division 2 Association"] known as The Greens at Loomis Trail Community Association, to be incorporated to govern the Lots in Division 2 and to maintain, repair, replace, manage and insure the Common Areas in Division 2.

WHEREAS, the Lot Owners in Division 2, through a formal vote taken in the Division 2 Association, have agreed to become members of the Association, and to become bound by the Division 1 Covenants, to the same extent as if the Declarant for Subdivision had exercised development rights to add all of the land within Division 2 into the original Subdivision; the Division 2 Covenants have been modified to so provide, by an Amendment thereto recorded at Auditor's File No. 2070403616, records of Whatcom County, Washington.

WHEREAS, the Lot Owners in the Subdivision, through a formal vote taken in the Division 1 Association, have also agreed to permit the Lots in Division 2 to become bound by the Division 1 Covenants and to become members of the Association, to the same extent as if the Declarant had exercised development rights to add all the land within Division 2 into the Subdivision.

WHEREAS, because the Division 1 Covenants do not expressly permit the merger of the Lots in Division 2 into the Subdivision under the present circumstances, nor the joinder of the Lot Owners in Division 2 into membership in the Association, it is necessary to amend the Division 1 Covenants to formalize such merger and joinder.

NOW, THEREFORE, having obtained the necessary consent of the requisite percentage of Owners prior to the date of this Amendment, the Association now amends the following Sections of the Division 1 Covenants, as follows:

1.2. Reference to Subdivision Plats.

1.2.1 Reference to Plat of the Greens at Loomis Trail.

The Declarant for Division 1 recorded with the Auditor of Whatcom County, Washington a certain subdivision plat map showing the location and dimensions of various lots and/or tracts and Common Areas within the Subdivision, together with other necessary information; this subdivision plat map is hereinafter referred to as the "Division 1 Plat" and the land within said Plat may be referred to herein as "Division 1"; the Division 1 Plat is recorded at Auditor's File No. 2040305824.

1.2.2 Reference to Plat of the Greens at Loomis Trail, Division 2.

The Subsequent Developer recorded with the Auditor of Whatcom County, Washington the Plat of The Greens at Loomis Trail, Division 2, showing the location and dimensions of the new Lots and other improvements to be constructed within said Division 2, together with other information required by law; this plat map is hereinafter referred to as the "Division 2 Plat" and the land within said Plat may be referred to herein as "Division 2"; this new Plat is recorded at Auditor's File No. 2050804976, records of Whatcom County, Washington.

\*\*\*\*\*

1.4.1 Expansion into Subsequent Phase - Whole Community.

The Lots within Division 2 shall be and are hereby merged with the Lots in Division 1 so that both Divisions shall henceforth be treated as a single, unified property; this Declaration of Covenants, as amended, and the Bylaws and rules and regulations of The Loomis Trail Homeowners Association shall immediately become applicable to and binding upon all Lots and Common Areas in Division 2. The aggregate of all Lots and Common Areas in both Divisions shall be known herein as the "Community".

\*\*\*\*\*

1.4.2 Subsequent Phase Development.

The maximum number of Lots in the Community shall be one hundred twenty-three (123) Lots.

\*\*\*\*\*

1.4.3 Joint Maintenance of Common Areas and Easement Areas.

All Common Areas of Division 1 and Division 2, and all easements serving the Lots and Common Areas in both Division 1 and Division 2 shall exist for the mutual use, enjoyment and benefit of all Lots and other property in the Community, and of all Lot Owners in both Divisions. The Association shall immediately assume all responsibility for maintaining, repairing, replacing, managing and insuring all the Common Areas and easement areas within or serving Division 2.

\*\*\*\*\*

ARTICLE III

DESCRIPTION OF LAND AND AMENITIES

3.1 Land.

The land on which the Lots, Common Areas and other improvements of this Community are located is situated Whatcom County, Washington, and is more particularly described on the Division 1 Plat and the Division 2 Plat.

3.2 Amenities.

The Community contains open space areas depicted on the Division 1 Plat and the Division 2 Plat, along with the private roads serving both Division 1 and Division 2, their associated drainage facilities and private entrance gates and community signage facilities.

\*\*\*\*\*

4.1 Number & Location of Lots.

The number of Lots in the Subdivision, as expanded hereby, is ninety-five (95) Lots, which are depicted on the Division 1 Plat and on the Division 2 Plat. The location of those Lots and their dimensions are shown on the Division 1 Plat and on the Division 2 Plat, collectively.

\* \* \* \* \*

4.2 Lot Boundaries.

The boundaries of each Lot are as depicted on the Division 1 Plat and on the Division 2 Plat.

\* \* \* \* \*

ARTICLE V

COMMON AREAS

5.1 Description.

The Common Areas of the Community consist of various Tracts shown on the Division 1 Plat and the Division 2 Plat, along with facilities associated with and serving such tracts. Such areas are designed to be used for ingress and egress, open space, storm water drainage and other common purposes.

5.2 Common Area Purposes.

5.2.1 Division 1.

The Common Areas of Division 1 are designated on the Division 1 Plat as Tracts A, B, C, D, E, F, G, H, and I. Tract A is now part of Division 2. Tract B is an area dedicated to a Conservation Easement, recorded at Auditor's file No. 2030902316. Tract C is reserved for open space. Tract D is the stormwater treatment facility for Division 1. Tract E is reserved for open Space. Tract F is reserved for future development. Tract G is the common area dedicated for roads and road rights of way.

5.2.1 Division 2.

The Common Areas of Division 2 are designated on the Division 2 Plat as Tracts A, B, C and D. In general, such areas are described as follows: (i) Tract D [portions of the access and utility easement providing access to the golf course; (ii) private roads known as Castlerock Drive and Siena Court [collectively, "Tract C"], their associated drainage areas and street-lighting; the entrance gate, the Community Signage facilities, and associated equipment and landscaping; and (iii) wetland and open space Tracts A & B which are to be maintained in accordance with protocols appearing in Section 5.7 of the Declaration of Covenants.

\* \* \* \* \*

7.3 Membership and Voting Rights.

Each Lot Owner in the Community shall be a Member of the Association and each Lot shall have one vote in the Association. Other attributes of membership and voting rights are specified in the Bylaws of the Association.

\* \* \* \* \*

10.1 Assessments for Common Expenses.

-----

10.1.2.1 Timing of Payments.

Effective as of the date that this Amendment to Declaration of Covenants is recorded, the Lot Owners in Division 2 shall become liable to pay assessments to the Division 1 Association, pro-rated as of such recordation date.

\* \* \* \* \*

16.1.3 Grant of Easements for Lots in Division 2 and Tract F.

Each and every Lot in Division 2 and Tract F is hereby granted a perpetual, nonexclusive easement to use all the Common Areas depicted on the Division 1 Plat, including without limitation the private roadways and entrance gates. It is intended that the rights of use granted herein to Lots in Division 2 be coextensive with the rights that Lots in Division 1 enjoy under the terms of the Division 1 Plat and the Division 1 Covenants, for normal vehicular and pedestrian ingress, egress and utilities. All Common Areas in Division 1, including without limitation the private roadways and entrance gates, shall remain unobstructed and available for such use by all Lot Owners and occupants of the Community.

\* \* \* \* \*

18.4 Effective Date - Conditions to Recording.

This Amendment to the Declaration of Covenants shall take effect upon recording. This Amendment shall not be recorded unless and until the Amendment to the Declaration of Covenants for Division 2 referenced on page 2 of this instrument has been concurrently recorded.

\* \* \* \* \*

EXCEPT as modified by this Amendment, all of the terms and provisions of the Declaration of Covenants are hereby expressly ratified and confirmed and shall remain in full force and effect so as to benefit, burden, bind and run with the land with respect to all of the Lots in the Community, including the Lots in Division 2.

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed as of the date first written above.

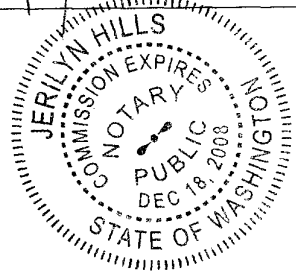
THE LOOMIS TRAIL HOMEOWNERS ASSOCIATION

BY: [Signature]  
Loomis Trail Homeowners Assn Its President

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that Wolfgang Franz Sellinger is the person who appeared before me, and said person acknowledged that (s)he signed this instrument, on oath stated that (s)he was authorized to execute the instrument and that (s)he acknowledged it as the President of THE LOOMIS TRAIL HOMEOWNERS ASSOCIATION to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: 2/19, 2007.

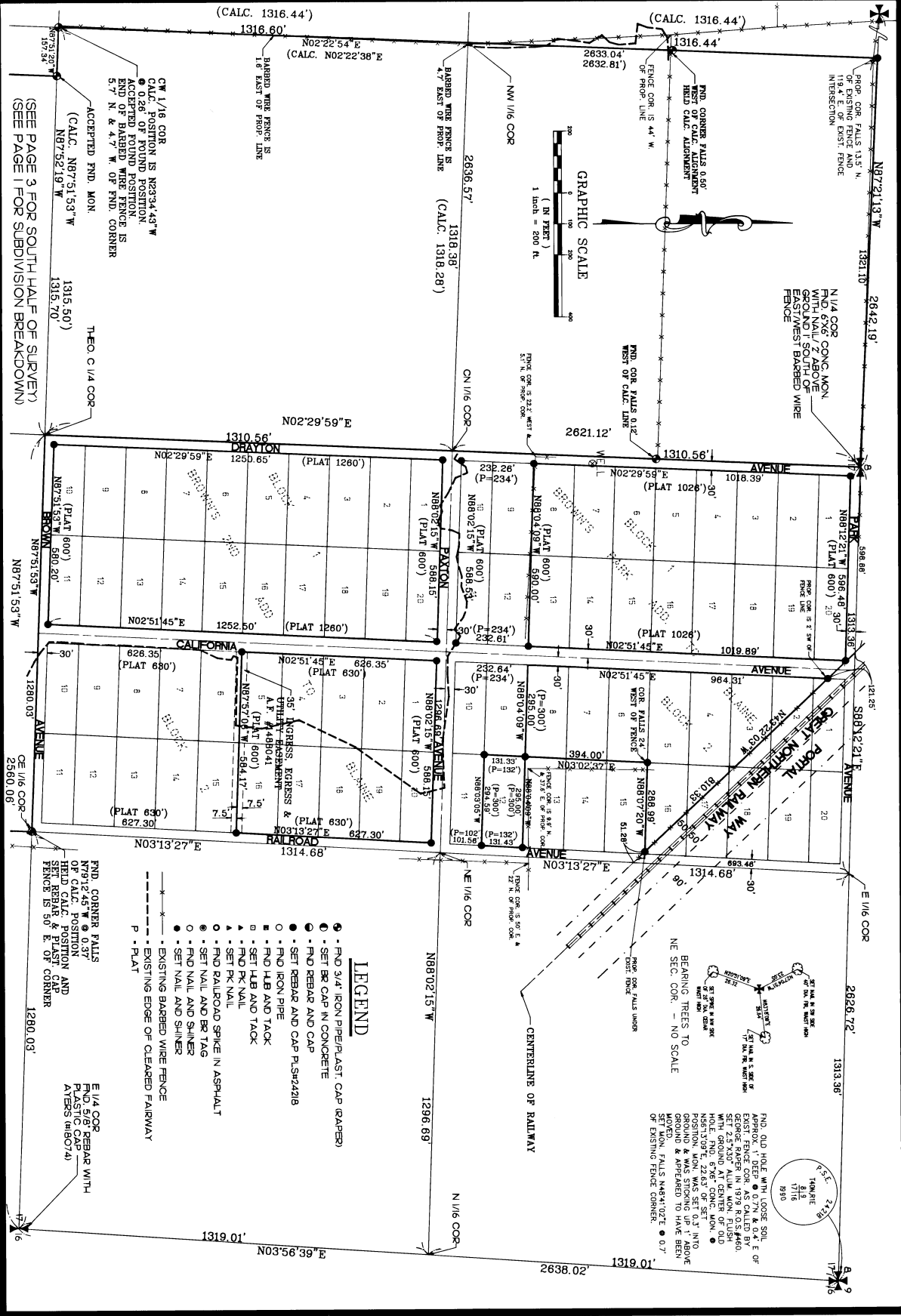


[Signature]  
NOTARY PUBLIC in and for the State of Washington. My commission expires: 12/18/08



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(CALC. 1316.44')  
 1316.60'  
 N02'22'54"E  
 (CALC. N02'22'38"E)  
 BARBED WIRE FENCE IS  
 18' EAST OF FENCE LINE

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 N02'51'45"E  
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 N02'22'54"E  
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AUDITOR'S CERTIFICATE  
 Filed for record this 18th day of May 1992 at 1:35 PM  
 In book 171 of County Plat page 2438 at the request of  
 PACIFIC SURVEYING/ENGINEERING SERVICES INC.  
 Shelly Fletcher Rte. 10000  
 Vol 1 Pa 18 County Auditor

SURVEYOR'S CERTIFICATE  
 This map correctly represents a survey made by  
 me or under my direction in conformance with the  
 requirements of the Survey Recording Act of the  
 request of CHRIS FLETCHER in SECT. 1990  
 Certificate No. 24218

PACIFIC SURVEYING & ENGINEERING  
 INCORPORATED  
 215 WEST HOLY LAKE BLVD. SUITE 101  
 BELLEVUE, WASHINGTON 98005  
 PHONE: 621-7189 FAX: 621-9689

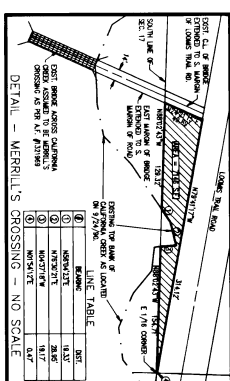
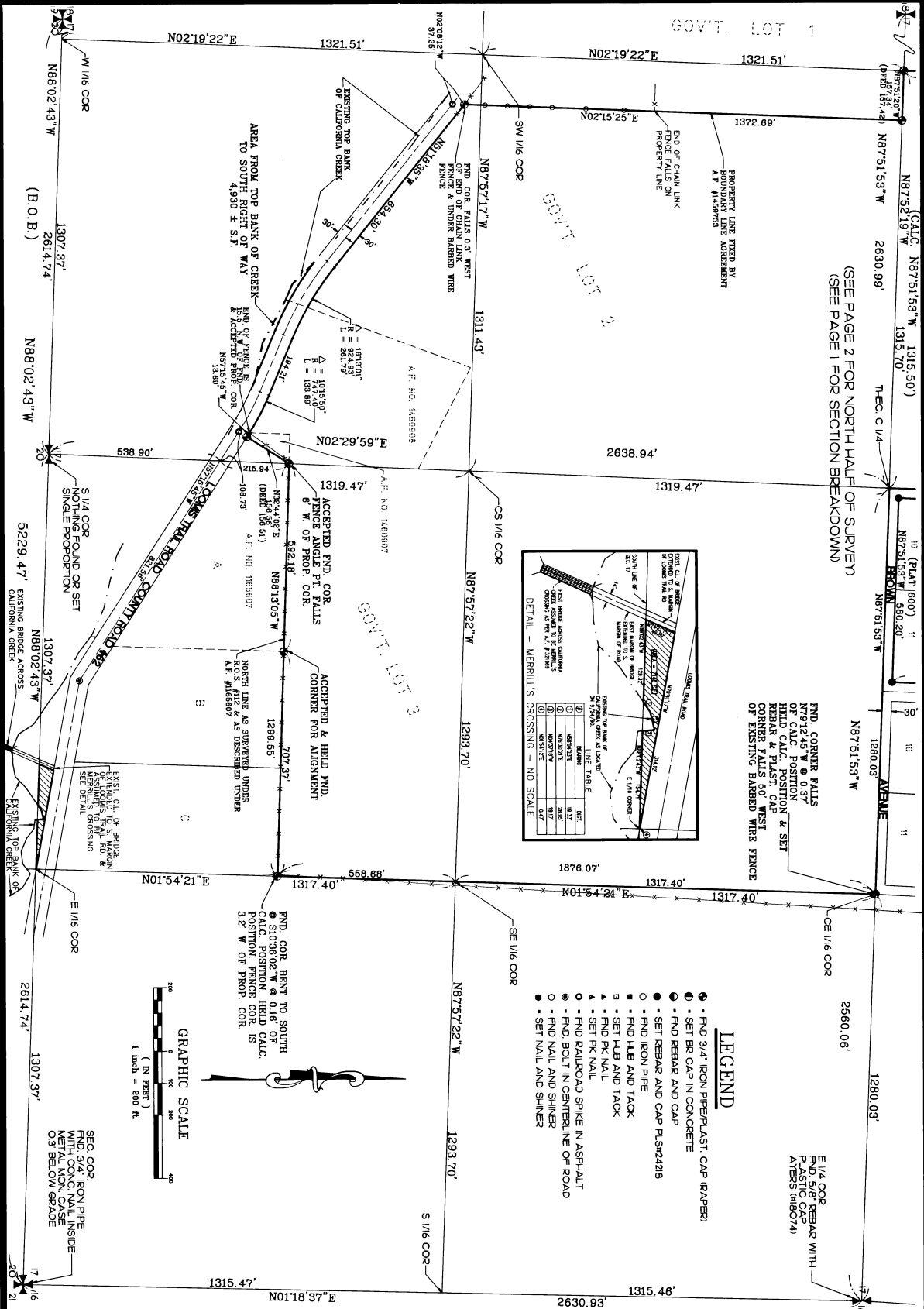
RECORD OF SURVEY FOR:  
 CHRIS FLETCHER  
 OF A PORTION OF SECTION 17, TOWNSHIP 40 NORTH,  
 RANGE 1 EAST OF W.M., WHATCOM COUNTY, WASHINGTON

DRAWN BY: AMM DATE: 12/14/90 JOB #: 90093  
 CHECK BY: KTL F.B.#: 22 SHEET NO. 2 OF 3

3003



901218074



**LEGEND**

- PND 3/4" IRON PIPE/PLAST. CAP (2AP2)
- SET BE CAP IN CONCRETE
- PND REBAR AND CAP
- SET REBAR AND CAP P.S#24218
- PND IRON PIPE
- PND HLB AND TACK
- SET HLB AND TACK
- ▲ SET PK NAIL
- PND RAILROAD SPIKE IN ASPHALT
- PND BOLT IN CENTERLINE OF ROAD
- PND NAIL AND SHINER
- SET NAIL AND SHINER



SEC. COR.  
PND 3/4" IRON PIPE  
PND 3/4" REBAR WITH  
METAL MON. CASE  
0.3' BELOW GRADE

AUDITOR'S CERTIFICATE  
Filed for record this 16<sup>th</sup> day of Dec., 1990 at 1:35 PM.  
In book 172 of Survey of page 233 at the request of  
PACIFIC SURVEYING/ENGINEERING SERVICES, INC.  
*Shirley Thrall, P.E. Designer*  
County Auditor

SURVEYOR'S CERTIFICATE  
This map correctly represents a survey made by  
me or under my direction in conformance with the  
requirements of the Survey Recording Act at the  
request of CHRIS FLETCHER in SEPT 1990  
*Chris Fletcher*  
Certificate No. 24218



**PACIFIC**  
SURVEYING & ENGINEERING  
INCORPORATED  
215 1/2 W. 4th Ave., Ste 525, Edm 87.1  
Bellevue, Washington 98003  
Phone 671-1387  
Fax 671-4685

RECORD OF SURVEY FOR:  
**CHRIS FLETCHER**  
OF A PORTION OF SECTION 17, TOWNSHIP 40 NORTH,  
RANGE 1 EAST OF W.M., WHATCOM COUNTY, WASHINGTON  
DRAWN BY: AMM DATE: 12/14/90 JOB # 90093  
CHK. BY: KTH F.B.# 22 DWG. # 90093P3DWG  
SHEET NO. 3 OF 3

