



PLANNING COMMISSION

AGENDA

June 24, 2014

CITY OF OAK HARBOR
PLANNING COMMISSION
REGULAR MEETING
CITY HALL

AGENDA
June 24, 2014
7:30 P.M.

ROLL CALL: FAKKEMA _____ WASINGER _____
 JENSEN _____ PETERSON _____
 FIKSE _____ FREEMAN _____
 SCHLECHT _____

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1. **Approval of Minutes – May 27, 2014**
2. **Public Comment** – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.

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3. **COMPREHENSIVE PLAN LAND USE MAP AMENDMENT – Public Meeting**
Staff will introduce the topic and provide background information on the Comprehensive Plan Land Use Map amendment proposed for 1000 City Beach Street. The property is owned by the City and is currently designated as High Density Residential. The proposal is to change the land use designation to Public Facilities.

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4. **2014 COMPREHENSIVE PLAN AMENDMENT – SCENIC VIEWS – Public Meeting**
Staff will continue the discussion related to Scenic Views within Oak Harbor. Staff will present various goals and policies currently within the Comprehensive Plan that either support or conflict with ideas surrounding the preservation of scenic views.

MINUTES

May 27, 2014

**PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
May 27, 2014**

ROLL CALL: Present: Keith Fakkema, Bruce Freeman, Sandi Peterson, Greg Wasinger and Kristi Jensen

Absent: Ana Schlecht and David Fikse

Staff Present: Development Services Director, Steve Powers; Assistant City Attorney, Nikki Esparza; Senior Planners, Cac Kamak and Ethan Spoo and Project Engineer, Arnie Peterschmidt

Chairman Fakkema called the meeting to order at 7:30 p.m.

PUBLIC COMMENT:

No comments.

MINUTES: MR. FREEMAN MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO APPROVE THE APRIL 22, 2014 MINUTES AS PRESENTED.

BECKETT LANDING SUBDIVISION – Public Hearing

Mr. Powers reported for the record that last week the City was informed of a law suit by Oak Harbor West View Apartments LLC against Seattle Pacific Development, LLC (PC Attachment 1).

A copy of the suit was provided to the City and copies were provided to the Planning Commission at the request of Mr. Jacob Cohen who is representing Oak Harbor West View Apartments. Oak Harbor West View Apartments are an adjacent property to the west and their septic facilities that serve their property are located on the Beckett Landing Subdivision property. Mr. Cohen notes in his cover letter his intention to ask the Planning Commission to either continue the matter pending a judicial outcome or to recommend denial of the preliminary plat pending a judicial outcome. Planning and legal staff have reviewed this matter and are recommending that the Planning Commission proceed with the public hearing as scheduled. The basis for the recommendation is that the City should not and cannot adjudicate disputes between private property owners. The City's obligation is to process the submitted preliminary plat application. Any action by the Planning Commission other than the continued processing of the preliminary plat application may be viewed as the City interjecting itself into a private property matter.

Mr. Powers noted that this is a quasi-judicial matter and there are questions the Assistant City Attorney will ask the Planning Commission in order to meet the "Appearance of Fairness Doctrine". Assistant City Attorney, Nikki Esparza asked the following questions:

Question No. 1

Does any member of this Commission have any knowledge of or conducted business with either of the proponents or the opponents of this preliminary plat application?

Planning Commission Member Fakkema – No

Planning Commission Member Wasinger – No

Planning Commission Member Freeman – No

Planning Commission Member Jensen – Commissioner Jensen stated that she has sold Seattle Pacific Homes as a real estate agent, but believed she could fairly and impartially make a decision in this matter.

Planning Commission Member Peterson – Commissioner Peterson stated she lived in Crosby Commons which is now owned by Seattle Pacific and the homeowners association is having discussions with Seattle Pacific about a water bill that the homeowners association believes that Seattle Pacific should pay and Seattle Pacific believes they should not, but believed she could fairly and impartially make a decision in this matter.

Assistant City Attorney Esparza asked if anyone in the audience thought that Commissioner Peterson and Jensen needed to recuse themselves. There were none.

Question No. 2

Does any member of this Commission have any pecuniary or non-pecuniary interest in the outcome of this proceeding?

Planning Commission Member Fakkema – No
Planning Commission Member Wasinger – No
Planning Commission Member Freeman – No
Planning Commission Member Jensen – No
Planning Commission Member Peterson – No

Question No. 3

Does any member of this Commission know whether or not their employer has a financial interest in the property or area which will be impacted by the decision in this proceeding?

Planning Commission Member Fakkema – No
Planning Commission Member Wasinger – No
Planning Commission Member Freeman – No
Planning Commission Member Jensen – No
Planning Commission Member Peterson – No

Question No. 4

Does any member of this Commission live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?

Planning Commission Member Fakkema – No
Planning Commission Member Wasinger – No
Planning Commission Member Freeman – No
Planning Commission Member Jensen – No
Planning Commission Member Peterson – No

Question No. 5

Does any member of this Commission have any special knowledge of the substance of the merits of this proceeding which would or could cause the Commissioner to prejudice the outcome of this proceeding?

Planning Commission Member Fakkema – No
Planning Commission Member Wasinger – No
Planning Commission Member Freeman – No
Planning Commission Member Jensen – No
Planning Commission Member Peterson – No

Question No. 6

Does any member of this Commission who believes that he or she cannot sit and hear this matter fairly and impartially, both as to the positions of the proponents and the opponents of this proceeding?

Planning Commission Member Fakkema – Can hear this matter fairly and impartially
Planning Commission Member Wasinger – Can hear this matter fairly and impartially
Planning Commission Member Freeman – Can hear this matter fairly and impartially
Planning Commission Member Jensen – Can hear this matter fairly and impartially
Planning Commission Member Peterson – Can hear this matter fairly and impartially

Question No. 7

Has any Commissioner had any ex parte contact regarding this matter?

Planning Commission Member Fakkema – No ex parte contacts
Planning Commission Member Wasinger – No ex parte contacts
Planning Commission Member Freeman – No ex parte contacts
Planning Commission Member Jensen – No ex parte contacts
Planning Commission Member Peterson – No ex parte contacts

Question No. 8

Is there any member of the audience who believes because of the “Appearance of Fairness Doctrine” that any member should be disqualified?

There were no comments from the audience.

Senior Planner Ethan Spoo gave a PowerPoint presentation (PC Attachment 2) which gave an overview of the subdivision, review criteria, conditions of approval and staff recommendations.

Mr. Spoo reported that the applicant is proposing a north/south street and an east/west street which would extend Prow Street and connect on the southern property boundary to Island Place development. The development will be connected to both the Meadow Ridge and Island Place developments. There will also be an eventual connection to NW Upsala Street. In the interim there will be a temporary turn around area. There are 22 lots proposed and there is a wetland on the southwest portion of the property and the applicant is proposing to preserve the wetland and a pedestrian connection that would connect to a public ally in the Island Place development. The wetland is protected under state and local law which requires a standard 70 foot buffer width. The applicant is proposing to reduce the wetland buffer from 70 feet to 40 feet.

Mr. Spoo explained that the application review before the Planning Commission contains the two applications, the Preliminary Plat and a Critical Areas Permit.

The purpose of the preliminary plat is to confirm that the zoning regulations are met prior to allowing the applicant to submit detailed construction plans or a final plat application.

Mr. Spoo read the following criteria from the code:

- (a) Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.*

(b) Whether the public use and interest will be served by the platting of the subdivision and dedications(s)

Mr. Spoo stated that this is the criteria that the Planning Commission will be basing their recommendations to the City Council on.

Mr. Spoo reported that the Critical Areas Permit pertains to the wetland on the property. The purpose of the permit is to protect the functions and the values of the wetland which is required by both state and City of Oak Harbor adopted law. The applicant has submitted a Wetland Report an Addendum to Wetland and Buffer Enhancement Reports, and a Buffer Enhancement Plan. Together, these documents demonstrate compliance with the City's critical areas code and show how the applicant will enhance the wetland buffer with additional native species, maintain these plantings, and monitor them for success. Staff is recommending approval of the applicant's critical areas permit request.

Mr. Spoo reviewed some of the unique conditions of approval below. The conditions of approval are meant to cover the things that are not shown on the plans to make sure that in the project continues to meet the criteria for preliminary plat.

9. Prior to approval of final plat, the applicant shall delete the existing language on the face of the plat referencing maintenance by the City of the pedestrian trail easement in Tract 999 and replace it with the following language: "The pedestrian bike connection is contained within a publicly accessible easement. All improvements and landscaping within the easement shall be maintained by the homeowners association. If fencing is installed along the length of the pedestrian bike connection it shall be no more than 6 feet high when adjacent to the side yard areas of adjacent lots and no more than 3 feet high adjacent to front yard areas of adjacent lots. Fencing shall not be installed within 10 feet of the terminus of the pedestrian/bike connection at either end."
15. Prior to final plat approval, the applicant shall install a 6-foot high solid fence along the proposed buffer perimeter line to block noise and light and provide added protection from humans and pets.

Conditions 17. through 20. pertain with the temporary turnaround for emergency vehicles and the traveling public by establishing an easement. Number 18 requires the applicant to install improvements for the temporary turnaround. Number 19 requires that the alignment of the turnaround only affect lots 7 and 8. Number 20 is a condition discusses how the temporary turnaround improvements will be removed and who will remove them.

21. The applicant must decommission or abandon in-place the existing private septic pressure line and drain field on the property in accordance with Island County Health Department and State of Washington Department of Health requirements prior to the issuance of construction permits on the subject site.

Mr. Spoo noted that Condition number 21 is the subject of the lawsuit.

Mr. Spoo stated that staff recommends that the Planning Commission conduct the public hearing and forward a recommendation to the City Council for approval of the preliminary plat and critical areas permit subject to the conditions of approval in Attachment B and to adopt the Planning Commission Findings of Fact in Attachment H.

The public hearing was opened at 7:52 p.m.

Jacob Cohen (PO Box 1602, Oak Harbor) commented on condition of approval number 21 pertaining to the private septic facilities located on the Beckett Landing property serving the Heathrow Apartments on land to the west owned by his client, West View Apartments, LLC. Mr. Cohen posited that the City should revise condition of approval number 21 to include language reflecting that West View Apartments, LLC and the applicant must come to a mutual agreement regarding decommissioning or abandonment of the septic facilities or a judicial agreement be reached prior to construction permits being issued.

Ry McDuffy (Everett WA) commented on two issues: (1) the presence of the private septic facilities on the Beckett Landing property and (2) requested revisions to the conditions of approval. Mr. McDuffy supported condition of approval number 21 regarding the septic facilities as written and proposed by staff. However, Mr. McDuffy commented that conditions of approval numbers 9, 10, and 15 be modified or deleted as follows:

- Condition of approval number 9: The applicant prefers to that the City own and maintain the pedestrian connection in Tract 999 rather than it being owned and maintained by the City as proposed by staff and required by the City's subdivision code.
- Condition of approval number 10: The applicant does not agree that bollard lighting needs to be provided at both ends of the pedestrian connection and prefers that this condition be deleted. Staff notes that bollard lighting is required by the City's subdivision code.
- Condition of approval number 15: The applicant prefers a split rail fence, rather than a solid fence along the boundary of the wetland buffer. The applicant's wetland professional recommended that a solid fence be provided to shield the wetland from noise, light, and intrusion by pets and humans, hence staff's condition to this effect.

The public hearing was closed at 8:05 p.m.

Planning Commission Discussion

Commissioners had questions about the reduction of the standard 70 foot wetland buffer to 40 feet and how they can achieve the reduction. Mr. Spoo explained that reductions can be allowed by using the following methods, low impact land use credits, restoration credits and buffer averaging. In this case the applicant is using all three methods.

Ms. Peterson expressed concerns about taking the drain field from the apartments and encumbering another land owner with having to spending a significant amount of money to hook up to City sewer when they have a sufficient system.

Ms. Jensen was concerned with the language in condition number 21. She believed that the term "construction permits" was not clear and should be changed to "civil permits. She was also concerned the financial burden on the apartments who have been in existence for a long time. She didn't think condition number 21 was detailed enough even with changing the language to "civil permits".

Mr. Powers explained that the condition of approval was not in any way related to whether or not the existing improvements were permitted or not. From the City's perspective that is immaterial. Staffs review of the preliminary plat application including the title documents that were submitted did not leave us any information that there was an easement so staff crafted a condition of approval that acknowledges that there are improvements on the property that serves another property but it isn't clear as to the means by which the improvements are located

on the property and the City is working very hard not to be in between two parties in a private land use private property issue. Or focus is on what is the logical thing for to put a condition of approval on from a preliminary plat approval perspective and from a construction perspective. So staff's recommendation is that there should be no construction that takes place on this site until those facilities are taken care of in an appropriate and approved fashion.

Mr. Wasinger agreed that condition number 21 says that no construction will take place until the situation is resolved.

Mr. Fakkema said that Seattle Pacific has submitted an application and under the requirements of the City code we have to recommend approval or denial of the application based on the code requirements and not on what is going on behind the scenes. We recognize that there are some other issues at play which will be resolve later in one way or the other and it doesn't matter to us which way they get resolved as long as they get resolved. Until that happens nothing is going to happen other than the approval of the preliminary plat. The burden is on Seattle Pacific to correct the situation. The worst we can do is nothing and have Seattle Pacific having resolved the situation come back later asking why we wasted years of their time.

Assistant City Attorney Esparza confirmed that it is the legal opinion of the City's council that this is not a proper basis for an extension of this particular timeframe without the consent of Seattle Pacific and Seattle Pacific has not given consent.

Mr. Freeman said this is the first step in a long process and the 21 conditions to address the concerns are sufficient and nothing will happen until the problem is resolved.

ACTION: MR. FREEMAN MOVED, MR. WASINGER SECONDED A MOTION TO RECOMMEND THAT THE CITY COUNCIL APPROVE THE PRELIMINARY PLAT AND CRITICAL AREAS PERMIT FOR BECKETT LANDING SUBJECT TO THE CONDITIONS OF APPROVAL IN ATTACHMENT B AS WRITTEN, MOTION CARRIED BY A VOTE OF 3 IN FAVOR (FAKKEMA, WASINGER AND FREEMAN) AND 2 OPPOSED (JENSEN AND PETERSON).

ACTION: MR. FREEMAN MOVED, MR. WASINGER SECONDED A MOTION TO APPROVE THE PLANNING COMMISSION'S FINDING OF FACT, CONCLUSIONS OF LAW RECORD OF DECISION. MOTION CARRIED BY A VOTE OF 4 IN FAVOR AND 1 OPPOSED (JENSEN).

WATER SYSTEM PLAN – Public Hearing

Senior Planner Ethan Spoo gave a PowerPoint presentation (PC Attachment 3) which gave an overview of what the Water Plan is, why it is important to the Planning Commission, the required public outreach.

Project Engineer Arnie Peterschmidt covered the portion of the PowerPoint presentation that discusses the Water Use Efficiency Goals.

Mr. Spoo recommended that Planning Commission conduct the public hearing and invite comments from the public and consumers on the Water System Plan and the Water Efficiency Use Goals and then forward a recommendation for approval to the City Council.

Planning Commission Discussion

Planning Commission questioned Mr. Peterschmidt about the project schedule, wells, and the Campbell Lake project.

The public hearing was opened at 9:05 p.m. Seeing none the public hearing was closed.

ACTION: MS. JENSEN MOVED, MS. PETERSON SECONDED A MOTION TO FORWARD A RECOMMENDATION FOR APPROVAL OF THE DRAFT WATER PLAN AND THE WATER USE EFFICIENCY GOALS. MOTION CARRIED.

2014 COMPREHENSIVE PLAN AMENDMENT – SCENIC VIEWS – Public meeting

Mr. Kamak asked the Commission to continue this item to the next Planning Commission meeting. Planning Commission agreed.

MEDICAL MARIJUANA – Public meeting

Mr. Powers reported that there was nothing new to report since last month.

Ms. Jensen asked if there were any applications. Mr. Powers said there was a moratorium for medical marijuana. There were a couple of application in the greater community area for recreational marijuana uses and one in the city limits that was in a location that was not zoned according to the City's rules and the City has submitted information back to the Liquor Control Board indicating that we oppose a retail license application at that location because it doesn't meet the zone that our community has established. The other location is in our Urban Growth Area but not in the City limits.

ADJOURN: 9:10 p.m.

Minutes submitted by: Katherine Gifford

PC ATTACHMENT 1

Summons and Complaint filed by

Oak Harbor West View Apartments LLC

against

Seattle Pacific Development LLC

Memo

To: Planning Commission Members
From: Steve Powers, Director *RSP*
CC: Larry Cort, City Administrator
Date: May 23, 2014
Re: Beckett Landing Preliminary Plat Application – Additional Information

Attached to this memo for your information is a copy of a Summons and Complaint filed by Oak Harbor West View Apartments, LLC against Seattle Pacific Development, LLC concerning the proposed Beckett Landing Preliminary Plat. Oak Harbor West View Apartments, LLC owns the property immediately to the west of the proposed subdivision. This information is being forwarded to you at the request of Mr. Jacob Cohen who represents Oak Harbor West View Apartments.

Staff will be prepared to speak to this matter at the Commission's meeting on May 27, 2014.

COHEN, MANNI, THEUNE & MANNI LLP
ATTORNEYS AT LAW

Jacob Cohen
Kenneth A. Manni
Mark D. Theune
Nathan M. Manni

Post Office Box 889
Oak Harbor, Washington 98277
Phone (360) 675-9088
Fax (360) 679-6599

Associate: David M. Manni

May 22, 2014

RECEIVED

MAY 22 2014

**CITY OF OAK HARBOR
Development Services Department**

Mr. Steve Powers
Director of Development Services
City of Oak Harbor
Via Hand Delivery

RE: Agenda Item for Oak Harbor Planning Commission Meeting
at 7:30 pm on May 27, 2014 Concerning Preliminary Subdivision
of Beckett Landing

Dear Steve:

I represent Oak Harbor West View Apartments, LLC with regard to the above Agenda item. You will find enclosed eight copies of the Summons and Complaint filed by Oak Harbor West View Apartments, LLC against Seattle Pacific Development, LLC concerning the real property which is proposed to be subdivided into the Plat of Beckett Landing. The Complaint alleges that a large portion of the proposed property owned by Seattle Pacific is subject to an easement by implication by prior use for a septic system and off-site drain field in favor of Oak Harbor West View Apartments, LLC. It is the position of Oak Harbor West View Apartments, LLC that before the property should be considered by the Planning Commission for subdivision that there first be a judicial determination as to whether the lots subject to the service lines and septic drain field should be subdivided for resale as residential lots. My client is requesting that the matter either be continued by the Planning Commission until a judicial determination has been made, or in the alternative, that the Preliminary Plat be rejected at this time until a judicial determination has been made as to which lots are eligible to be subdivided as residential lots.

Please keep one copy of the Summons and Complaint for your file and distribute the remaining seven copies to the members of the Planning Commission.

Mr. Steve Powers
Director of Development Services
City of Oak Harbor
May 22, 2014
Page Two

I will be appearing at the hearing on behalf of my client to address the Planning Commission on the issues contained in the Complaint.

Sincerely,



Jacob Cohen

JC/ddw
Enclosures

FILED-COPY

MAY 22 2014

DEBRA VAN PELT
ISLAND COUNTY CLERK

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR ISLAND COUNTY

OAK HARBOR WEST VIEW)
APARTMENTS, LLC, a Washington)
limited liability company,)
)
Plaintiff,)
)
vs.)
)
SEATTLE PACIFIC DEVELOPMENT,)
LLC, a Washington limited)
liability company,)
)
Defendant.)

NO. 14 2 00327 1

SUMMONS

TO THE DEFENDANT: A lawsuit has been started against you in the above-entitled Court by Oak Harbor West View Apartments, LLC, Plaintiff. Plaintiff's claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serving a copy upon the person signing this Summons within twenty (20) days after the service of this Summons, or within sixty (60) days if this Summons was served outside the state of Washington, excluding the date of service, or a default judgment may be entered against you without notice. A default judgment is one where the Plaintiff is entitled to what he asks for because you have not responded. If you serve a notice of appearance upon the undersigned person, you are entitled to notice before a default judgment can be entered.

SUMMONS – Page 1

COHEN, MANNI, THEUNE & MANNI
LLP
Attorneys at Law
P O Box 889
Oak Harbor, WA 98277
Phone: 360/675-9088, Fax: 360/679-6599

1 Court has jurisdiction over this matter. Since the real properties are located in Island
2 County, the correct venue for this action is Island County, Washington.

3
4 II.

5 At all times material hereto, OAK HARBOR WEST VIEW APARTMENTS,
6 LLC, was a Washington limited liability company doing business in Island County,
7 Washington and has paid all fees to the Washington Secretary of State to be entitled
8 to the privilege of operating as a limited liability company within the State of
9 Washington. Said Plaintiff is hereinafter referred to as "West View Apartments".

10 III.

11 At all times material hereto, the Defendant SEATTLE PACIFIC
12 DEVELOPMENT, LLC was a Washington limited liability company doing business in
13 Island County, Washington. Said Defendant is hereinafter referred to as "Seattle
14 Pacific".

15 IV.

16 On or about July 3, 2006, Marie E. Toikka, as Trustee of the Robert S.
17 Wilcoxon Trust, dated June 29, 2001, acting as Grantor, executed and delivered a
18 Statutory Warranty Deed to Homestar Northwest, LLC, a Washington limited liability
19 company, as Grantee, for five parcels of real property in Island County, Washington.
20 A copy of the said deed recorded under Island County Auditor's File No. 4175053 on
21 July 3, 2006 is attached hereto as **Exhibit A** and incorporated herein by reference as
22

1 if fully set forth herein, including incorporating herein the said legal descriptions by
2 reference. The five parcels of real property are referred to in the said deed and in
3 this Complaint as Parcel A, Parcel B, Parcel C, Parcel D and Parcel E.

4
5 V.

6 Homestar Northwest, Inc., as Grantor, executed and delivered to Frontier Bank, as
7 Grantee, a Construction Deed of Trust recorded under Island County Auditor's File
8 No. 4175054 on July 3, 2006, encumbering the said Parcels A, B, C, D and E to the
9 said Construction Deed of Trust. A copy of said Construction Deed of Trust is
10 attached hereto as **Exhibit B** and is incorporated herein by reference as if fully set
11 forth herein.

12 VI.

13 Homestar Northwest, LLC, as Grantor, executed and delivered a Statutory
14 Warranty Deed to PCM Holdings, LLC, as Grantee, recorded under Island County
15 Auditor's File N. 4222737 on February 28, 2008 conveying to said Grantee Parcels
16 A, B, C and D, but not Parcel E. A copy of said Statutory Warranty Deed is attached
17 hereto as **Exhibit C** and is incorporated herein by reference as if fully set forth
18 herein.

19
20 Parcels A, B, C and D were released from the Construction Deed of Trust by
21 means of a Partial Reconveyance from the Deed of Trust recorded under Island
22 County Auditor's File No. 4223869 on March 13, 2008. A copy of said Partial

1 Reconveyance is attached hereto as **Exhibit D** and incorporated herein by reference
2 as if fully set forth herein.

3 VII.

4 At the time that Homestar Northwest, LLC conveyed Parcels A, B, C and D to
5 PCM Holdings, LLC, there was located on said Parcels A, B, C and D multiple
6 buildings containing multiple apartments. The buildings on said parcels of property
7 were serviced for sewage purposes by an off-site service lines and septic drain field
8 located on Parcel E. Service lines for the septic system ran from Parcels A, B, C and
9 D through service lines that went into Parcel E with said service lines terminating in
10 an off-site drain field on Parcel E.
11

12 Even though Homestar Northwest, LLC owned Parcel E at the time that
13 Parcel E was severed from Parcels A, B, C and D, and it was known to both
14 Homestar Northwest, LLC and PCM Holdings, LLC that the sewage system for the
15 apartments was off site on Parcel E, no recorded easement for the service lines and
16 off-site septic drain field was granted by Homestar Northwest, LLC to PCM Holdings,
17 LLC.
18

19 VIII.

20 PCM Holdings, LLC, as Grantor, executed and delivered a Quit Claim Deed to
21 Oak Harbor West View Apartments, LLC, a Washington limited liability company, as
22 Grantee, recorded under Island County Auditor's File No. 4298867 on August 1,

1 2011 conveying a portion of Parcels A, B, C and D to Oak Harbor West View
2 Apartments, LLC. A copy of said Quit Claim Deed is attached hereto as **Exhibit E**
3 and is incorporated herein by reference as if fully set forth herein.

4 At the time of the said conveyance from PCM Holdings, LLC to Oak Harbor
5 West View Apartments, LLC, PCM Holdings, LLC retained a portion of the original
6 Parcels A, B, C and D, consisting of vacant, unimproved real property, and conveyed
7 the balance of the original Parcels A, B, C and D, containing the apartment houses,
8 to Oak Harbor West View Apartments, LLC. At the time of the said conveyance by
9 Quit Claim Deed from PCM Holdings, LLC to Oak Harbor West View Apartments,
10 LLC of the apartment houses, said apartment houses were still being provided septic
11 service by the service lines and drain fields on the original Parcel E.
12

13 The legal descriptions for the apartment houses described in **Exhibit E** are
14 hereinafter referred to as the "Dominant Estate".

15 IX.

16 As a result of Homestar Northwest, LLC defaulting under the terms of the
17 aforesaid Construction Deed of Trust, a Notice of Trustee's Sale for the foreclosure
18 and sale of the original Parcel E was recorded under Island County Auditor's File No.
19 4293158 on April 4, 2011, a copy of said Notice of Trustee's Sale being attached
20 hereto as **Exhibit F** and incorporated herein by reference as if fully set forth herein.
21

1 The Trustee's sale of the original Parcel E occurred on October 14, 2011 as set forth
2 in **Exhibit G** attached hereto.

3 X.

4 The original Parcel E, which was severed from Parcels A, B, C and D by the
5 Statutory Warranty Deed attached hereto as **Exhibit C**, was conveyed by a
6 Trustee's Deed upon Sale by Grantor MTC Financial, Inc. d/b/a Trustee Corps., to
7 Union Bank, N.A., successor in interest to the FDIC as Receiver for Frontier Bank,
8 as Grantee, due to the foreclosure of the Deed of Trust described in **Exhibit B**
9 attached hereto. Said conveyance was by means of a Trustee's Deed upon Sale
10 recorded under Island County Auditor's File No. 4303271 on October 24, 2011, a
11 copy of said Trustee's Deed upon Sale being attached hereto as **Exhibit G** and
12 incorporated herein by reference as if fully set forth herein.
13

14 XI.

15 Union Bank, N. A., as Grantor, by means of a Special Warranty Deed
16 recorded under Auditor's File No. 4324942 on October 11, 2012, conveyed the
17 original Parcel E to the Defendant Seattle Pacific. A copy of said Deed is attached
18 hereto as **Exhibit H** and is incorporated herein by reference as if fully set forth
19 herein.
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XII.

At the time of the conveyance of the original Parcel E by MTA Financial, Inc. to Union Bank, and the conveyance by Union Bank to Seattle Pacific, the original Parcel E still contained the sewage septic service lines and septic drain field which was and still is serving the apartment houses presently owned by the Plaintiff West View Apartments. An Assessor's map showing the relationship of the Seattle Pacific original Parcel E and the West View Apartment lots is attached hereto as **Exhibit I** and incorporated herein by reference as if fully set forth herein. The West View Apartment property is shown on **Exhibit I** under the name "WV Property".

XIII.

Seattle Pacific has submitted to the City of Oak Harbor for plat approval a subdivision of the original Parcel E to be known as "Beckett Landing". On **Exhibit J**, there is outlined the location of the septic service lines and the septic drain field, which is located on the original Parcel E in the proposed Plat of Beckett Landing. Moving from west to east on the said plat map, the Plaintiff alleges and asserts that the service lines and septic drain field encumber and use the proposed Lots 6, 5, 4, 3, 1, 22, 20, 19, 18, 17, 16, 15 and 14 of the proposed Preliminary Subdivision of Beckett Landing. Said lots as identified on **Exhibit J** are hereinafter referred to as the "Servient Estate". **Exhibit J** is incorporated herein by reference as if fully set forth herein.

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XIV.

As of the date of the filing of this Complaint, the Dominant Estate is using the Servient Estate to provide septic service lines and a septic drain field for the benefit and use of the Dominant Estate.

XV.

The factors relevant to establish an implied easement are (A) former unity of title and subsequent separation; (B) prior apparent and continuous quasi-easement for the benefit of one part of the estate to the detriment of another; and (C) a certain degree of necessity for the continuation of the easement.

Plaintiff alleges that the facts and the law support an implied easement based upon prior use in favor of the Dominant Estate against the Servient Estate. There was former unity of title of original Parcels A, B, C, D and E in Homestar Northwest, LLC. There was subsequent separation of original Parcels A, B, C, D from original Parcel E. At the time of separation, it was known to all parties involved in the separation that the service lines and septic drain field on original Parcel E serviced the apartment houses on Parcels A, B, C and D. Since the time of the separation of the said parcels, Parcel E has provided continuous septic service to the apartment houses. The necessity exists for the continuation of the implied easement as the apartment houses cannot function as living units without a septic drain field.

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WHEREFORE, the Plaintiff prays for judgment against the Defendant as follows:

1. Enter a declaratory judgment in accordance with RCW 7.24 quieting title in the Plaintiff as against the Defendant for an easement by implication for sewer service lines and a septic drain field on the real property described as the original Parcel E herein.
2. Award the Plaintiff judgment against the Defendant for statutory attorney's fees and court costs.
3. For such other and further relief as the Court deems and equitable.



JACOB COHEN, WSBA #5070
Attorney for Plaintiff

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR ISLAND COUNTY

OAK HARBOR WEST VIEW)
APARTMENTS, LLC, a Washington)
limited liability company,)

NO. 14 2 00327 1

Plaintiff,)

LIS PENDENS

vs.)

SEATTLE PACIFIC DEVELOPMENT,)
LLC, a Washington limited)
liability company,)

Defendant.)

NOTICE IS HEREBY GIVEN that an action has been instituted and is now pending in the Superior Court of the State of Washington for Island County upon the Complaint of the Plaintiff herein, against the above named Defendant, and that the object of the action is a Complaint for Declaratory Action and Quiet Title to Establish Easement by Implication from Prior Use, and that the action affects title to the following described real property situated in Island County, Washington, to wit:

LIS PENDENS – Page 1

COHEN, MANNI, THEUNE & MANNI LLP
Attorneys at Law
P O Box 889
Oak Harbor, WA 98277
Phone: 360/675-9088, Fax: 360/679-6599

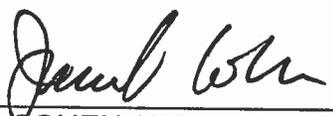
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That portion of the South 276 feet of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, as measured parallel to the South line of the following-described line:

The West 773.95 feet of the East 1033.95 feet as measured from the center of Heller Road in that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, lying south of Crosby Road.

Tax Parcel Account No. R13334-277-0660.

and all persons in any manner dealing with the real estate subsequent to the filing hereof will take subject to the rights of the Plaintiff as established in that action.



JACOB COHEN, WSBA No. 5070
Attorney for Plaintiffs

LIS PENDENS – Page 2

COHEN, MANNI, THEUNE & MANNI LLP
Attorneys at Law
P O Box 889
Oak Harbor, WA 98277
Phone: 360/675-9088, Fax: 360/679-6599



AFTER RECORDING MAIL TO:

JACOB COHEN
Post Office Box 889
Oak Harbor, WA 98277

Document Title(s):

Lis Pendens

Reference No. of Documents assigned or released:

N/A

Grantor(s): (Last name first, then first and initial)

Seattle Pacific Development, LLC

Grantee(s): (Last name first, then first and initial)

Oak Harbor West View Apartments, LLC

Abbreviated legal description:

62 - IN SW NW:S276' OF W773 .95' OF E1033.95' SW NW MEAS FR CLN HELL RD

Assessor's Property Tax Parcel/Account Number:

R13334-277-0660

EXHIBIT "A"



ISLAND COUNTY AUDITOR WD

When Recorded Return to:
HOMESTAR NORTHWEST, LLC
P.O. Box 409
Lynden, WA 98264

ISLAND COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUL 08 2006

AMOUNT PAID \$ 33820
LINDA E. NIEME
ISLAND COUNTY TREASURER

Chicago Title Company - Island Division
Order No: IS96354 KMH Title Order No: IS98354

STATUTORY WARRANTY DEED

\$ 36-

THE GRANTOR MARIE E. TOIKKA, as trustee of the ROBERT S. WILCOXON TRUST, dated June 29, 2001

for and in consideration of One Million Nine Hundred Thousand and 00/100...(\$1,900,000.00) DOLLARS

in hand paid, conveys and warrants to

HOMESTAR NORTHWEST, LLC, a Washington Limited Liability Company

the following described real estate, situated in the County of Island, State of Washington:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, more particularly described in Exhibit "A" attached hereto and made a part hereof.

Seller's warranty under this deed expressly excludes any warranty as to the location of any boundary line or ownership in the vicinity of any boundary line. Any warranty, express or implied, is merged into this deed and does not survive the granting of this deed, which constitutes the full agreement between the parties.

Tax Parcel Number(s): R13334-275-0220/R13334-313-0211/R13334-343-0080/R13334-340-0200/R13334-284-0080/R13334-304-0230/R13334-313-0050/R13334-289-0230/R13334-320-0230/R13334-277-0660

Subject to: Restrictions, reservations and easements of record.

Dated: June 27, 2006

ROBERT S. WILCOXON TRUST

MARIE E. TOIKKA
Trustee



4175053

Page: 2 of 5

37/03/2006 03:37P

ISLAND COUNTY AUDITOR

WD

STATE OF WASHINGTON
COUNTY OF

I certify that I know or have satisfactory evidence that Marie E. Tolka, Trustee of the ROBERT S. WILCOX TRUST, is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they was/were authorized to execute the instrument and acknowledge it as of to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 6-29-06

Cheri L. King
Notary Public in and for the State of Washington
Residing at 310
My appointment expires: 6-19-07



LPS 10-03



ISLAND COUNTY AUDITOR

WD

EXHIBIT "A"

PARCEL A:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof, a distance of 507.81 feet;
thence South 88°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 85°00'22" West 115.21 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 88°31'17" West from the point of beginning;
thence North 86°31'17" West to a point 145.08 feet West from the true point of beginning;
thence South 1°31'49" West 358.88 feet;
thence Southeasterly in a straight line to a point which is South 88°02'13" East 290.00 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter;
thence North 1°31'49" East 507 feet, more or less to the true point of beginning;

EXCEPT the following described tracts;

1.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and an initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 89°11'47";
thence South 88°28'11" East 98.95 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

PARCEL B:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 537.87 feet to the true point of beginning;
thence North 1°31'49" East 477.74 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence North 85°00'22" West 115.21 feet to the true point of beginning.

LFB 10-05



PARCEL C:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81 feet to the true point of beginning;
thence South 88°31'17" East 290.16 feet;
thence North 1°31'49" East to the center of Crosby Road;
thence Westerly along said centerline 290.50 feet to the West line of said Southwest Quarter of the Northwest Quarter;
thence South 1°31'49" West along said West line to the true point of beginning;

EXCEPT Crosby Road;

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line thereof a distance of 290 feet to the true point of beginning;
thence North 88°02'13" West 290 feet;
thence North 1°31'49" East along the West line of said subdivision a distance of 507.81 feet;
thence South 88°31'17" East 145.08 feet;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to the true point of beginning;

EXCEPT the following described tracts;

A.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 586.71 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of South 20°40'45" West;
thence along said curve Southerly 83.58 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

B.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81 feet;
thence South 88°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 88°31'17" West from the true point of beginning;
thence South 88°31'17" East to the true point of beginning.

C.) Beginning at the West Quarter of corner of Section 34, Township 33 North, Range 1 East of the Willamette Meridian;
thence North 1°31'49" East 947.81 feet along the West line of said Section;
thence South 85°00'22" East 145.25 feet to the true point of beginning of this description;
thence North 1°31'49" East 77.80 feet to the South boundary of the County Road;
thence along County Road Boundary South 85°00'22" East 145.25 feet;



ISLAND COUNTY AUDITOR

WD

thence South 1°31'49" West 77.80 feet;
thence North 85°00'22" West 145.25 feet to the true point of beginning.

PARCEL D:

Thos portions of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

1.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 88.97 feet;
thence South 85°00'22" East 115.21 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of South 20°40'48" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East 290 feet;
thence North 1°31'49" East 530.23 feet to the true point of beginning;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence South 85°00'22" East 115.21 feet to the true point of beginning.

3.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest Quarter;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 98.95 feet to the true point of beginning.

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said Subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

PARCELE:

That portion of the South 276 feet of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, as measured parallel to the South line of the following described tract;

The West 773.95 feet of the East 1033.95 feet as measured from the center of Heller Road in that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, lying South of Crosby Road.

LPB 10-05

EXHIBIT "B"



ISLAND COUNTY AUDITOR

DT

RETURN ADDRESS:

Frontier Bank
Downtown Bellingham
128 E. Holly Street
P.O. Box 5481
Bellingham, WA 98227

CONSTRUCTION DEED OF TRUST

\$ 45

DATE: June 27, 2006

Reference # (if applicable): DTBEXX1779-NO. IS96354

Additional on page _____

Grantor(s):

- 1. HOMESTAR NORTHWEST LLC.

Grantee(s)

- 1. Frontier Bank
- 2. CHICAGO TITLE , Trustee

Legal Description: PTN, SW NW 34-33-1E

Additional on page 2

Assessor's Tax Parcel ID#: R13334-275-0220; R13334-313-0211; R13334-343-0060;
R13334-340-0200; R13334-284-0080; R13334-304-0230; R13334-313-0050;
R13334-288-0230; R13334-320-0230 AND R13334-277-0660

THIS DEED OF TRUST is dated June 27, 2006, among HOMESTAR NORTHWEST LLC., a Washington Limited Liability Company, whose address is 505 W GROVER ST , LYNDEN , WA 98264 ("Grantor"); Frontier Bank, whose mailing address is Downtown Bellingham, 128 E. Holly Street, P.O. Box 5481, Bellingham, WA 98227 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and CHICAGO TITLE , whose mailing address is P.O. BOX 1050, OAK HARBOR, WA 98277 (referred to below as "Trustee").



**DEED OF TRUST
(Continued)**

CONVEYANCE AND GRANT. For valuable consideration, Grantor conveys to Trustee in trust with power of sale, right of entry and possession and for the benefit of Lender as Beneficiary, all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in ISLAND County, State of Washington:

See EXHIBIT A, which is attached to this Deed of Trust and made a part of this Deed of Trust as if fully set forth herein.

The Real Property or its address is commonly known as PROPERTY LOCATED ON WILCOXON AND CROSBY ROAD, OAK HARBOR, WA 98277. The Real Property tax identification number is R13334-275-0220; R13334-313-0211; R13334-343-0080; R13334-340-0200; R13334-284-0080; R13334-304-0230; R13334-313-0050; R13334-288-0230; R13334-320-0230 AND R13334-277-0660.

Grantor hereby assigns as security to Lender, all of Grantor's right, title, and interest in and to all leases, rents, and profits of the Property. This assignment is recorded in accordance with RCW 65.08.070; the lien created by this assignment is intended to be specific, perfected and choate upon the recording of this Deed of Trust. Lender grants to Grantor a license to collect the Rents and profits, which license may be revoked at Lender's option and shall be automatically revoked upon acceleration of all or part of the indebtedness.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS ALSO GIVEN TO SECURE ANY AND ALL OF GRANTOR'S OBLIGATIONS UNDER THAT CERTAIN CONSTRUCTION LOAN AGREEMENT BETWEEN GRANTOR AND LENDER OF EVEN DATE HEREWITH. ANY EVENT OF DEFAULT UNDER THE CONSTRUCTION LOAN AGREEMENT, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Grantor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Grantor's obligations under the Note, this Deed of Trust, and the Related Documents.

CONSTRUCTION MORTGAGE. This Deed of Trust is a "construction mortgage" for the purposes of Sections 9-334 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of Washington.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property (this privilege is a license from Lender to Grantor automatically revoked upon default). The following provisions relate to the use of the Property or to other limitations on the Property. The Real Property is not used principally for agricultural purposes.

Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Deed of Trust.

Compliance with Governmental Requirements. Grantor shall promptly comply, and shall promptly cause compliance by all agents, tenants or other persons or entities of every nature whatsoever who rent, lease or otherwise use or occupy the Property in any manner, with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

Construction Loan. If some or all of the proceeds of the loan creating the indebtedness are to be used to construct or complete construction of any improvements on the Property, the improvements shall be completed no later than the maturity date of the Note (or such earlier date as Lender may reasonably establish) and Grantor shall pay in full all costs and expenses in connection with the work. Lender will disburse loan proceeds under such terms and conditions as Lender may deem reasonably necessary to insure that the interest created by this Deed of Trust shall have priority over all possible liens, including those of material suppliers and workmen. Lender may require, among other things, that disbursement requests be supported by receipted bills, expense affidavits, waivers of liens, construction progress reports, and such other documentation as Lender may reasonably request.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, (A) declare immediately due and payable all sums secured by this Deed of Trust or (B) increase the interest rate provided for in the Note or other document evidencing the indebtedness and impose such other conditions as Lender deems appropriate, upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the



**DEED OF TRUST
(Continued)**

conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Washington law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Deed of Trust:

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property, and Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Deed of Trust, except for the lien of taxes and assessments not due and except as otherwise provided in this Deed of Trust.

Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Deed of Trust.

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Trustco and Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, automobile, interruption, and boiler insurance, as Lender may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Lender and issued by a company or companies reasonably acceptable to Lender. Grantor, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least thirty (30) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Deed of Trust. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Deed of Trust, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid without interest to Grantor as Grantor's interests may appear.

Grantor's Report on Insurance. Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Deed of Trust or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Deed of Trust or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Deed of Trust also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Deed of



**DEED OF TRUST
(Continued)**

Trust:

Title. Grantor warrants that (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Deed of Trust, and (b) Grantor has the full right, power, and authority to execute and deliver this Deed of Trust to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Trustee or Lender under this Deed of Trust, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Deed of Trust shall survive the execution and delivery of this Deed of Trust, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Deed of Trust:

Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice at Grantor's expense, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Trustee or Lender in connection with the condemnation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Deed of Trust:

Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in addition to this Deed of Trust and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Deed of Trust, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Deed of Trust.

Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Deed of Trust or upon all or any part of the indebtedness secured by this Deed of Trust; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Deed of Trust; (3) a tax on this type of Deed of Trust chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Deed of Trust, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Deed of Trust as a security agreement are a part of this Deed of Trust:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Real and Personal Property. In addition to recording this Deed of Trust in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Deed of Trust as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Deed of Trust may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Deed of Trust.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Deed of Trust:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Deed of Trust, and the Related Documents, and (2) the liens and security interests created by this Deed of Trust as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.



**DEED OF TRUST
(Continued)**

FULL PERFORMANCE. If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Deed of Trust, Lender shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Any reconveyance fee shall be paid by Grantor, if permitted by applicable law. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto", and the recitals in the reconveyance of any matters or facts shall be conclusive proof of the truthfulness of any such matters or facts.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Deed of Trust:

Payment Default. Grantor fails to make any payment when due under the Indebtedness.

Other Defaults. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Deed of Trust or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

Compliance Default. Failure to comply with any other term, obligation, covenant or condition contained in this Deed of Trust, the Note or in any of the Related Documents.

Default on Other Payments. Failure of Grantor within the time required by this Deed of Trust to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the Indebtedness or perform their respective obligations under this Deed of Trust or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Deed of Trust or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Defective Collateralization. This Deed of Trust or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Creditor or Foreclosure Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any Indebtedness or other obligation of Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Deed of Trust within the preceding twelve (12) months, it may be cured if Grantor, after receiving written notice from Lender demanding cure of such default: (1) cures the default within ten (10) days; or (2) if the cure requires more than ten (10) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. If an Event of Default occurs under this Deed of Trust, at any time thereafter, Trustee or Lender may exercise any one or more of the following rights and remedies:

Election of Remedies. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Deed of Trust, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

Accelerate Indebtedness. Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

Foreclosure. With respect to all or any part of the Real Property, the Trustee shall have the right to exercise its power of sale and to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Grantor to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.



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Appoint Receiver. Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding or pending foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

Other Remedies. Trustee or Lender shall have any other right or remedy provided in this Deed of Trust or the Note or by law.

Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshalled. In exercising its rights and remedies, the Trustee or Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Deed of Trust, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings; (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

Rights of Trustee. Trustee shall have all of the rights and duties of Lender as set forth in this section.

POWERS AND OBLIGATIONS OF TRUSTEE. The following provisions relating to the powers and obligations of Trustee (pursuant to Lender's instructions) are part of this Deed of Trust:

Powers of Trustee. In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the written request of Lender and Grantor: (a) join in preparing and filing a map or plat of the Real Property, including the dedication of streets or other rights to the public; (b) join in granting any easement or creating any restriction on the Real Property; and (c) join in any subordination or other agreement affecting this Deed of Trust or the interest of Lender under this Deed of Trust.

Obligations to Notify. Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Lender, or Trustee shall be a party, unless required by applicable law, or unless the action or proceeding is brought by Trustee.

Trustee. Trustee shall meet all qualifications required for Trustee under applicable law. In addition to the rights and remedies set forth above, with respect to all or any part of the Property, the Trustee shall have the right to foreclose by notice and sale, and Lender shall have the right to foreclose by judicial foreclosure, in either case in accordance with and to the full extent provided by applicable law.

Successor Trustee. Lender, at Lender's option, may from time to time appoint a successor Trustee to any Trustee appointed under this Deed of Trust by an instrument executed and acknowledged by Lender and recorded in the office of the recorder of ISLAND County, State of Washington. The instrument shall contain, in addition to all other matters required by state law, the names of the original Lender, Trustee, and Grantor, the book and page or the Auditor's File Number where this Deed of Trust is recorded, and the name and address of the successor trustee, and the instrument shall be executed and acknowledged by Lender or its successors in interest. The successor trustee, without conveyance of the Property, shall succeed to all the title, power, and duties conferred upon the Trustee in this Deed of Trust and by applicable law. This procedure for substitution of Trustee shall govern to the exclusion of all other provisions for substitution.

NOTICES. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, any notice required to be given under this Deed of Trust, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addressee shown near the beginning of this Deed of Trust. All copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust shall be sent to Lender's address, as shown near the beginning of this Deed of Trust. Any party may change its address for notices under this Deed of Trust by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Subject to applicable law, and except for notice required or allowed by law to be given in another manner, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Deed of Trust:

Amendments. This Deed of Trust, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Deed of Trust. No alteration or amendment to this Deed of Trust shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Deed of Trust are for convenience purposes only and are not to be used to interpret or define the provisions of this Deed of Trust.



**DEED OF TRUST
(Continued)**

Merger. There shall be no merger of the interest or estate created by this Deed of Trust with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Governing Law. This Deed of Trust will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions. This Deed of Trust has been accepted by Lender in the State of Washington.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Whatcom County, State of Washington.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Deed of Trust unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Deed of Trust shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Deed of Trust. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Deed of Trust, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Deed of Trust to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Deed of Trust. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Deed of Trust shall not affect the legality, validity or enforceability of any other provision of this Deed of Trust.

Successors and Assigns. Subject to any limitations stated in this Deed of Trust on transfer of Grantor's interest, this Deed of Trust shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Deed of Trust and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Deed of Trust or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Deed of Trust.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Washington as to all indebtedness secured by this Deed of Trust.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Deed of Trust. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Deed of Trust shall have the meanings attributed to such terms in the Uniform Commercial Code:

Beneficiary. The word "Beneficiary" means Frontier Bank, and its successors and assigns.

Borrower. The word "Borrower" means HOMESTAR NORTHWEST LLC, and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Deed of Trust. The words "Deed of Trust" mean this Deed of Trust among Grantor, Lender, and Trustee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Default. The word "Default" means the Default set forth in this Deed of Trust in the section titled "Default".

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Deed of Trust in the events of default section of this Deed of Trust.

Grantor. The word "Grantor" means HOMESTAR NORTHWEST LLC.

Guarantor. The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the indebtedness.

Guaranty. The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

Improvements. The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

Indebtedness. The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Trustee or Lender to enforce Grantor's obligations under this Deed of Trust, together with interest on such amounts as provided in this Deed of Trust.

Lender. The word "Lender" means Frontier Bank, its successors and assigns.

Note. The word "Note" means the promissory note dated June 27, 2006, in the original principal amount of \$1,235,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all issues and profits thereon and proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Deed of Trust.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, guarantee, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness; provided, that the environmental indemnity agreements are not "Related Documents" and are not secured by this Deed of Trust.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other

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benefits derived from the Property.

Trustee. The word "Trustee" means CHICAGO TITLE, whose mailing address is P.O. BOX 1050, OAK HARBOR, WA 98277 and any substitute or successor trustees.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS DEED OF TRUST, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

HOMESTAR NORTHWEST LLC.

HOMESTEAD NORTHWEST, INC., Member of HOMESTAR NORTHWEST LLC.

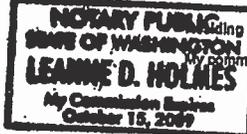
By *James A. Wynstra*
JAMES A. WYNSTRA, President of HOMESTEAD NORTHWEST, INC.

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington)
)
COUNTY OF Whatcom) SS
)

On this 28th day of June, 2006, before me, the undersigned Notary Public, personally appeared JAMES A. WYNSTRA, President of HOMESTEAD NORTHWEST, INC., and personally known to me or proved to me on the basis of satisfactory evidence to be a member or designated agent of the limited liability company that executed the Deed of Trust and acknowledged the Deed of Trust to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Deed of Trust and in fact executed the Deed of Trust on behalf of the limited liability company.

By *Leanne D. Holmes*
Notary Public in and for the State of WA



Lynden
Commission expires 10-15-09

REQUEST FOR FULL RECONVEYANCE

To: _____, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by this Deed of Trust. You are hereby requested, upon payment of all sums owing to you, to reconvey without warranty, to the persons entitled thereto, the right, title and interest now held by you under the Deed of Trust.

Date: _____ Beneficiary: _____
By: _____
Its: _____



EXHIBIT "A"

PARCEL A:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof, a distance of 507.81 feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 85°00'22" West 115.21 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 86°31'17" West from the point of beginning;
thence North 86°31'17" West to a point 145.08 feet West from the true point of beginning;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to a point which is South 88°02'13" East 290.00 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter;
thence North 1°31'49" East 507 feet, more or less to the true point of beginning;

EXCEPT the following described tracts;

1.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and an initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

continued



EXHIBIT "A"

EXHIBIT "A" - Continued
Page 2

PARCEL B:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 537.87 feet to the true point of beginning;
thence North 1°31'49" East 477.74 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence North 85°00'22" West 115.21 feet to the true point of beginning.

PARCEL C:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81 feet to the true point of beginning;
thence South 86°31'17" East 290.16 feet;
thence North 1°31'49" East to the center of Crosby Road;
thence Westerly along said centerline 290.50 feet to the West line of said Southwest Quarter of the Northwest Quarter;
thence South 1°31'49" West along said West line to the true point of beginning;

EXCEPT Crosby Road;

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line thereof a distance of 290 feet to the true point of beginning;
thence North 88°02'13" West 290 feet;
thence North 1°31'49" East along the West line of said subdivision a distance of 507.81 feet;
thence South 86°31'17" East 145.08 feet;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to the true point of beginning;

continued

EXHIBIT "A"

EXHIBIT "A" - Continued
Page 3, Parcel C continued

EXCEPT the following described tracts;

A.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 566.71 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course
of South 20°40'45" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

B.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81
feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet
and North 1°31'49" East 530.23 feet from the Southwest corner of said
Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through
an arc of 40°15'58" to a point North 86°31'17" West from the true point of
beginning;
thence South 86°31'17" East to the true point of beginning.

C.) Beginning at the West Quarter of corner of Section 34, Township 33 North,
Range 1 East of the Willamette Meridian;
thence North 1°31'49" East 947.81 feet along the West line of said Section;
thence South 85°00'22" East 145.25 feet to the true point of beginning of this
description;
thence North 1°31'49" East 77.80 feet to the South boundary of the County
Road;
thence along County Road Boundary South 85°00'22" East 145.25 feet;
thence South 1°31'49" West 77.80 feet;
thence North 85°00'22" West 145.25 feet to the true point of beginning.

continued

EXHIBIT "A"

EXHIBIT "A" - Continued
Page 4

PARCEL D:

Thos portions of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

1.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 88.97 feet;
thence South 85°00'22" East 115.21 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of South 20°40'48" West;
thence along said curve Southerly 83.56 feet through an arc of 36°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East 290 feet;
thence North 1°31'49" East 530.23 feet to the true point of beginning;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence South 85°00'22" East 115.21 feet to the true point of beginning.

3.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest Quarter;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said Subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

continued



EXHIBIT "A"

EXHIBIT "A" - Continued
Page 5

PARCEL E:

That portion of the South 276 feet of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, as measured parallel to the South line of the following described tract;

The West 773.95 feet of the East 1033.95 feet as measured from the center of Heller Road in that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, lying South of Crosby Road.

- END OF EXHIBIT "A" -

EXHIBIT "C"

02/28/2008 11:08:30 AM
Recording Fee \$47.00 Page 1 of 6
Warranty Deed
Island County Washington

4222737

When Recorded Return to:
PCM HOLDINGS, LLC
33345 SR 20
Oak Harbor, WA 98277



ISLAND COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

FEB 28 2008

AMOUNT PAID \$ 21360 -
LINDA E RIFFE
ISLAND COUNTY TREASURER

Chicago Title Company - Island Division
Order No: IS104232 KMH Title Order No: IS104232

STATUTORY WARRANTY DEED *B47*

THE GRANTOR HOMESTAR NORTHWEST, LLC, a Washington Limited Liability Company

for and in consideration of One Million Two Hundred Thousand and 00/100...(\$1,200,000.00) DOLLARS

In hand paid, conveys and warrants to

PCM HOLDINGS, LLC, a Washington Limited Liability Company

the following described real estate, situated in the County of Island, State of Washington:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, more particularly described in Exhibit "A" attached hereto and made a part hereof.

Abbreviated Legal: (Required if full legal not inserted above.)

Tax Parcel Number(s): R13334-284-0080; R13334-313-0050; R13334-288-0230; R13334-304-0230; R13334-320-0230; R13334-340-0200; R13334-275-0220; R13334-313-0211; R13334-343-0060;

Subject to: Restrictions, reservations and easements of record.
Also subject to Exhibit "B" attached hereto and made a part hereof.

Dated: February 26, 2008

TREASURER

HOMESTAR NORTHWEST, LLC

James A. Wynstra 2/26/08
HOMESTAR NW, LLC. By JAMES A. WYNSTRA, President Date

LPB 10-05

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

STATE OF WASHINGTON
COUNTY OF

I certify that I know or have satisfactory evidence that JAMES A. WYNSTRA is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument, on oath stated that he is / she is / they are authorized to execute the instrument and acknowledged it as the President of Homestead Northwest, Inc., a Washington corporation (Member) of HOMESTAR NORTHWEST LLC to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: February 26, 2008



Notary Public in and for the State of Washington
Residing at Lynden
My appointment expires: Oct. 15, 2009

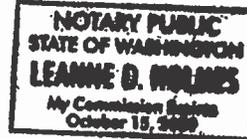




EXHIBIT "A"

PARCEL A:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof, a distance of 507.81 feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 85°00'22" West 115.21 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 86°31'17" West from the point of beginning;
thence North 86°31'17" West to a point 145.08 feet West from the true point of beginning;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to a point which is South 88°02'13" East 290.00 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter;
thence North 1°31'49" East 507 feet, more or less to the true point of beginning;

EXCEPT the following described tracts;

1.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and an initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

PARCEL B:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 537.87 feet to the true point of beginning;
thence North 1°31'49" East 477.74 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence North 85°00'22" West 115.21 feet to the true point of beginning.

PARCEL C:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81 feet to the true point of beginning;
thence South 86°31'17" East 290.16 feet;
thence North 1°31'49" East to the center of Crosby Road;

thence Westerly along said centerline 290.50 feet to the West line of said Southwest Quarter of the Northwest Quarter;
thence South 1°31'49" West along said West line to the true point of beginning;

EXCEPT Crosby Road;

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line thereof a distance of 290 feet to the true point of beginning;
thence North 88°02'13" West 290 feet;
thence North 1°31'49" East along the West line of said subdivision a distance of 507.81 feet;
thence South 86°31'17" East 145.08 feet;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to the true point of beginning;

EXCEPT the following described tracts;

A.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 566.71 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of South 20°40'45" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

B.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81 feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 86°31'17" West from the true point of beginning;
thence South 86°31'17" East to the true point of beginning.

C.) Beginning at the West Quarter of corner of Section 34, Township 33 North, Range 1 East of the Willamette Meridian;
thence North 1°31'49" East 947.81 feet along the West line of said Section;
thence South 85°00'22" East 145.25 feet to the true point of beginning of this description;
thence North 1°31'49" East 77.80 feet to the South boundary of the County Road;
thence along County Road Boundary South 85°00'22" East 145.25 feet;
thence South 1°31'49" West 77.80 feet;
thence North 85°00'22" West 145.25 feet to the true point of beginning.

PARCEL D:

Thos portions of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

1.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;

APPROXIMATE TO BE TAKEN INTO ACCOUNT WITH ANY OTHER SURVEY DATA FOR THE SAME PROPERTY AND PROPERTY ADJACENT

thence North 1°31'49" East 88.97 feet;
thence South 85°00'22" East 115.21 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of South 20°40'48" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East 290 feet;
thence North 1°31'49" East 530.23 feet to the true point of beginning;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence South 85°00'22" East 115.21 feet to the true point of beginning.

3.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest Quarter;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34,
Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said Subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

ALL situated in Island County, Washington

EXHIBIT B

Exhibit B

Island County has established a policy for unincorporated areas to protect and encourage agriculture and forestry operations. If your real property is located near an agriculture or forestry operation, you may be subject to inconvenience or discomfort arising from such operations, including but not limited to, noise, odors, fumes, dust, flies, and other associated pests, the operation of machinery of any kind during any 24-hour period, the storage and disposal of manure, and the application of fertilizers, soil amendments, and pesticides. If conducted in compliance with local, state, and federal laws, these inconveniences or discomforts are hereby deemed not to constitute a nuisance as provided in Chapter 7.48 RCW for purposes of the Island County Code and shall not be subject to legal action as a public nuisance.

EXHIBIT "D"



Order No.: IS104232

EXHIBIT "A"

PARCEL A:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34,
Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof, a distance of 507.81 feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North
1°31'49" East 530.23 from the Southwest corner of said Southwest Quarter of the
Northwest Quarter of said Section 34;
thence North 85°00'22" West 115.21 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc
of 40°15'58" to a point North 86°31'17" West from the point of beginning;
thence North 86°31'17" West to a point 145.08 feet West from the true point of
beginning;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to a point which is South 88°02'13" East 290.00
feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter;
thence North 1°31'49" East 507 feet, more or less to the true point of beginning;

EXCEPT the following described tracts;

1.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this
description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a
radius of 50.00 feet and an initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said subdivision 290.00
feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

continued . . .



Order No.: IS104232

EXHIBIT "A"

EXHIBIT "A" continued
Page 3
PARCEL C continued

EXCEPT the following described tracts;

A.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 566.71 feet;
thence South 85°00'22" East 115.21 feet;
thence South 1°31'49" West 477.74 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course
of South 20°40'45" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

B.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof a distance of 507.81
feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet
and North 1°31'49" East 530.23 feet from the Southwest corner of said
Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through
an arc of 40°15'58" to a point North 86°31'17" West from the true point of
beginning;
thence South 86°31'17" East to the true point of beginning.

C.) Beginning at the West Quarter of corner of Section 34, Township 33 North,
Range 1 East of the Willamette Meridian;
thence North 1°31'49" East 947.81 feet along the West line of said Section;
thence South 85°00'22" East 145.25 feet to the true point of beginning of this
description;
thence North 1°31'49" East 77.80 feet to the South boundary of the County
Road;
thence along County Road Boundary South 85°00'22" East 145.25 feet;
thence South 1°31'49" West 77.80 feet;
thence North 85°00'22" West 145.25 feet to the true point of beginning.

continued . . .



Order No.: IS104232

EXHIBIT "A"

EXHIBIT "A" continued.
Page 4 .

PARCEL D:

Thos portions of the Southwest Quarter of the Northwest Quarter of Section 34,
Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

1.) Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East 448.90 feet to the true point of beginning;
thence North 1°31'49" East 88.97 feet;
thence South 85°00'22" East 115.21 feet;
thence along a curve to the left with a radius of 125.00 feet and an initial course of
South 20°40'48" West;
thence along said curve Southerly 83.56 feet through an arc of 38°17'58";
thence North 88°28'11" West 115.00 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East 290 feet;
thence North 1°31'49" East 530.23 feet to the true point of beginning;
thence North 1°31'49" East 65.76 feet;
thence North 85°00'22" West 115.21 feet;
thence South 1°31'49" West 65.76 feet;
thence South 85°00'22" East 115.21 feet to the true point of beginning.

3.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest
Quarter;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius
of 50.00 feet and initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

ALSO that portion of the Southwest Quarter of the Northwest Quarter of Section 34,
Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

continued . . .



Order No.: IS104232

EXHIBIT "A"

EXHIBIT "A" continued
Page 5
PARCEL D continued

Beginning at the Southwest corner of said subdivision;
thence South 88°02'13" East along the South line of said Subdivision 290.00 feet;
thence North 1°31'49" East 337.69 feet to the true point of beginning;
thence North 88°28'11" West 115.00 feet;
thence North 1°31'49" East 113.40 feet;
thence South 88°28'11" East 115.00 feet;
thence South 1°31'49" West 113.40 feet to the true point of beginning.

ALL situated in Island County, Washington

- END OF EXHIBIT "A" -

EXHIBIT "E"

AFTER RECORDING MAIL TO:

Land Title Company
1080 NE 7th Ave.
Oak Harbor WA 98277

Filed for Record at Request of

Land Title and Escrow of Island Co.
Escrow Number: E12163-PCF
Title Order Number: LT-101236

QUIT CLAIM DEED

Grantor: PCM Holdings, LLC, a Washington Limited Liability Company
Grantee: Oak Harbor West View Apartments, LLC, a Washington Limited Liability Company
Abbreviated Legal: Ptn SW ¼ - NW ¼, Sec 34-33N-R-1 EWM

Tax Parcel Number(s): See Attached for complete parcel numbers affected

THE GRANTOR PCM HOLDINGS, LLC, A WASHINGTON LIMITED LIABILITY COMPANY for and in consideration of WAC 458-61A-211 (2) (b) conveys and quit claims to Oak Harbor West View Apartments LLC, a Washington Limited Liability Company the following described real estate, situated in the County of Island State of Washington, together with all after acquired title of the Grantor therein:

PARCEL A:

That portion of the Southwest Quarter of the Northwest Quarter of Section 34, Township 33 North, Range 1 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said subdivision;
thence North 1°31'49" East along the West line thereof, a distance of 507.81 feet;
thence South 86°31'17" East 290.16 feet to the true point of beginning;
thence North 1°31'49" East to a point which is South 88°02'13" East 290 feet and North 1°31'49" East 530.23 from the Southwest corner of said Southwest Quarter of the Northwest Quarter of said Section 34;
thence North 85°00'22" West 115.21 feet;
thence Southerly along a curve to the right with a radius of 125.00 feet through an arc of 40°15'58" to a point North 86°31'17" West from the point of beginning;
thence North 86°31'17" West to a point 145.08 feet West from the true point of beginning;
thence South 1°31'49" West 358.98 feet;
thence Southeasterly in a straight line to a point which is South 88°02'13" East 290.00 feet from the Southwest corner of said Southwest Quarter of the Northwest Quarter;
thence North 1°31'49" East 507 feet, more or less to the true point of beginning;

EXCEPT the following described tracts:

1.) Beginning at the West Quarter corner of said Section 34;
thence South 88°02'13" East 290.00 feet along the South line of said Northwest;
thence North 1°31'49" East 132.26 feet to the true point of beginning of this description;
thence continue North 1°31'49" East 205.43 feet;
thence North 88°28'11" West 115.00 feet;
thence South 1°31'49" West 151.60 feet to a point on a curve to the right with a radius of 50.00 feet and an initial course of South 51°35'59" East;
thence Southerly 60.39 feet along said curve through an arc of 69°11'47";
thence South 88°28'11" East 96.95 feet to the true point of beginning.

2.) Beginning at the Southwest corner of said subdivision;



Tax Account No.:

Key 41010, Tax code 100
Total Assessed: \$725,308.00
R13334-288-0230
Key 41029, Tax code 100
Total Assessed: \$303,303.00
R13334-304-0230
Key 555474, Tax code 100
Total Assessed: \$209,634.00
R13334-313-0211
Key 41083, Tax code 100
Total Assessed: \$91,322.00
R13334-313-0050
Key 41074, Tax code 100
Total Assessed: \$107,359.00
R13334-320-0230
Key 41127, Tax code 100
Total Assessed: \$115,852.00
R13334-275-0220
Key 40967, Tax code 100
Total Assessed: \$9,750.00

EXHIBIT "F"



RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

MTC FINANCIAL Inc., dba Trustee Corps
17100 Gillette Ave
Irvine, CA 92614

245333592

#666

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TS No: WA01000030-11

Loan No. 3409401779

Order No: 776563

**NOTICE OF TRUSTEE'S SALE
PURSUANT TO THE REVISED CODE OF WASHINGTON
CHAPTER 61.24 ET. SEQ.**

I. NOTICE IS HEREBY GIVEN that on July 1, 2011, 10:00 AM, at the main entrance to Oak Harbor City Hall located at 865 S.E. Barrington Drive, Oak Harbor, WA, MTC Financial Inc., dba Trustee Corps, the undersigned Trustee will sell at public auction to the highest and best bidder, payable, in the form of cash, or cashiers' check or certified checks from federally or State chartered banks, at the time of sale the following described real property, situated in the County of Island, State of Washington, to-wit:

THAT PORTION OF THE SOUTH 276 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, AS MEASURED PARALLEL TO THE SOUTH LINE OF THE FOLLOWING DESCRIBED TRACT.

THE WEST 773.95 FEET OF THE EAST 1033.95 FEET AS MEASURED FROM THE CENTER OF HELLER ROAD IN THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LYING SOUTH OF CROSBY ROAD.

APN: R13334-277-0660

which is subject to that certain Construction Deed of Trust dated June 27, 2006, recorded on July 3, 2006, as Instrument No. 4175054 of Official Records in the office of the Recorder of Island County, Washington from HOMESTAR NORTHWEST LLC., A WASHINGTON LIMITED LIABILITY COMPANY as Grantor(s), to CHICAGO TITLE, as Trustee, to secure an obligation in favor of FRONTIER BANK, as the original Beneficiary.

More commonly known as **WILCOXON AND CROSBY ROAD, OAK HARBOR, WA 98277**, as referenced on said Deed of Trust; said property is also commonly known as **Approximately 4.91 acres west of Heller Street, south of Crosby Road and adjacent to the north of island Place Residential Development, Oak Harbor, Washington.**



II. No action commenced by the current Beneficiary, **UNION BANK, N.A., SUCCESSOR IN INTEREST TO THE FDIC AS RECEIVER FOR FRONTIER BANK** of the Deed of Trust is now pending to seek satisfaction of the obligation in any Court by reason of the Borrowers' or Grantor's default on the obligation secured by the Deed of Trust/Mortgage.

**Current Beneficiary: UNION BANK, N.A.,
SUCCESSOR IN INTEREST TO THE FDIC AS RECEIVER FOR FRONTIER BANK
Contact Phone No.: (858) 496-5484
Address: P.O. BOX 85416, SAN DIEGO, CA 92186**

III. The default(s) for which this foreclosure is made is/are as follows: FAILURE TO PAY PRINCIPAL BALANCE AND / OR INTEREST PLUS IMPOUNDS AND / OR ADVANCES WHICH BECAME DUE PURSUANT TO THE TERMS OF THE NOTE AND/OR DEED OF TRUST PLUS LATE CHARGES, AND ALL SUBSEQUENT INSTALLMENTS OF INTEREST, BALLOON PAYMENT(S), PLUS IMPOUNDS AND/OR ADVANCES AND LATE CHARGES THAT BECOME PAYABLE PURSUANT TO THE NOTE, THE DEED OF TRUST AND ALL RELATED LOAN DOCUMENTS when due; the following amounts which are now in arrears:

DELINQUENT PAYMENT INFORMATION				
From	To	Number of Payments	Delinquent payment	Total
September 27, 2009	March 29, 2011	1	\$459,145.01	\$459,154.01
PREVIOUSLY ACCRUED LATE CHARGE				
September 27, 2009	March 29, 2011	1	\$1,611.34	\$1,611.34
DELINQUENT INTEREST				
September 27, 2009	March 29, 2011	1	\$71,958.53	\$71,958.53
PROMISSORY NOTE INFORMATION				
Note Dated:	June 27, 2006			
Note Amount:	\$1,235,000.00			
Interest Paid To:	September 27, 2009			
Next Due Date:	September 27, 2009			

IV. The sum owing on the obligation secured by the Deed of Trust is: The principal sum of \$459,154.01, together with interest as provided in the Note from the September 27, 2009, and such other costs and fees as are provided by statute.

V. The above described real property will be sold to satisfy the expense of sale and the obligation secured by the Deed of Trust as provided by statute. Said sale will be made without warranty, expressed or implied, regarding title, possession or encumbrances on **July 1, 2011**. The defaults referred to in Paragraph III must be cured by **June 20, 2011**, (11 days before the sale date) to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time before **June 20, 2011** (11 days before the sale) the default as set forth in Paragraph III is cured and the Trustee's fees and costs are paid. Payment must be in cash or with cashier's or certified checks from a State or federally chartered bank. The sale may be terminated any time after the **June 20, 2011** (11 days before the sale date) and before the sale, by the Borrower or Grantor or the holder of any recorded junior lien or encumbrance by paying the principal and interest, plus costs, fees and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust.



VI. A written Notice of Default was transmitted by the current Beneficiary, **UNION BANK, N.A., SUCCESSOR IN INTEREST TO THE FDIC AS RECEIVER FOR FRONTIER BANK** or Trustee to the Borrower and Grantor at the following address(es):

ADDRESS

506 Grover St., Ste. 101 983 Van Dyk Road P.O. Box 409 7159-A Guide Meridian Rd.
LYNDEN, WA 98264 Lynden, WA 98264 Lynden, WA 98264 Lynden, WA 98264

1101 Terrace Drive 8858 Depot Road
Lynden, WA 98264 Lynden, WA 98264

by both first class and certified mail on **October 29, 2010**, proof of which is in the possession of the Trustee; and the Borrower and Grantor were personally served, if applicable, with said written Notice of Default or the written Notice of Default was posted in a conspicuous place on the real property described in Paragraph I above, and the Trustee has possession of proof of such service or posting.

VII. The Trustee whose name and address are set forth below will provide in writing to anyone requesting it, a statement of all costs and fees due at any time prior to the sale.

VIII The effect of the sale will be to deprive the Grantor and all those who hold by, through or under the Grantor of all their interest in the above described property.

IX. Anyone having any objections to this sale on any grounds whatsoever will be afforded an opportunity to be heard as to those objections if they bring a lawsuit to restrain the sale pursuant to RCW 61.24.130. Failure to bring such a lawsuit may result in a waiver of any proper grounds for invalidating the Trustee's sale.

NOTICE TO OCCUPANTS OR TENANTS - The purchaser at the Trustee's Sale is entitled to possession of the property on the 20th day following the sale, as against the Grantor under the deed of trust (the owner) and anyone having an interest junior to the deed of trust, including occupants who are not tenants. After the 20th day following the sale the purchaser has the right to evict occupants who are not tenants by summary proceedings under the Unlawful Detainer Act, Chapter 59.12 RCW. For tenant-occupied property, the purchaser shall provide a tenant with written notice in accordance with RCW 61.24.060;

04/04/2011 11:49:07 AM
Recording Fee \$65.00 Page 5 of 5
Notice Of Trustee Sale
Island County Washington

4293158



Re: TS#: WA01000030-11

RESIDENT OF PROPERTY SUBJECT TO FORECLOSURE SALE

The foreclosure process has begun on this property, which may affect your right to continue to live in this property.

Ninety days or more after the date of this notice, this property may be sold at foreclosure.

If you are renting this property, the new property owner may either give you a new rental agreement or provide you with a sixty-day notice to vacate the property.

You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have."

EXHIBIT "G"



RECORDING REQUESTED BY:

WHEN RECORDED MAIL DEED
AND TAX STATEMENT TO:

UNION BANK
P.O. BOX 85416
SAN DIEGO, CA 92186

Trustee Sale No: WA01000030-11

APN R13334-277-0660

1001294
Title Order No.: 776563

TRUSTEE'S DEED UPON SALE

THE GRANTOR, MTC FINANCIAL INC. dba TRUSTEE CORPS, as present Trustee under that Deed of Trust, as hereinafter particularly described, in consideration of the premises and payment recited below, hereby grants and conveys, without warranty to UNION BANK, N.A., SUCCESSOR IN INTEREST TO THE FDIC AS RECEIVER FOR FRONTIER BANK, GRANTEE, that real property, situated in the County of Island, State of Washington, described as follows:

THAT PORTION OF THE SOUTH 276 FEET OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, AS MEASURED PARALLEL TO THE SOUTH LINE OF THE FOLLOWING DESCRIBED TRACT;

THE WEST 773.95 FEET OF THE EAST 1033.95 FEET AS MEASURED FROM THE CENTER OF HELLER ROAD IN THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, LYING SOUTH OF CROSBY ROAD.
SITUATE IN ISLAND COUNTY, WASHINGTON.

APN: R13334-277-0660

RECITALS:

1. This conveyance is made pursuant to the powers, including the power of sale, conferred upon said Trustee by that certain Construction Deed of Trust dated June 27, 2006, executed by HOMESTAR NORTHWEST LLC., A WASHINGTON LIMITED LIABILITY COMPANY, as Grantor, to CHICAGO TITLE, as Trustee, in favor of FRONTIER BANK, as original Beneficiary recorded on July 3, 2006, as Instrument No. 4175054, of official records in the Office of the County Auditor of Island County, Washington.
2. Said Deed of Trust was executed to secure, together with other undertakings, the payment of one Promissory Note in the sum of \$1,235,000.00 with interest thereon, according to the terms thereof, in favor of FRONTIER BANK and to secure any other sums of money which might become due and payable under the terms of said Deed of Trust.
3. The described Deed of Trust provides that the real property conveyed therein is not used principally for agricultural or farming purposes.
4. Default having occurred in the obligations secured and/or covenants of the Grantor, as set forth in Notice of Trustee's Sale described below, which by the terms of the Deed of Trust make operative the power to sell, the thirty-day advance Notice of Default was transmitted to the Grantor, or his successor in interest, and a copy of said Notice was posted or served in accordance with law.



5. UNION BANK, N.A., SUCCESSOR IN INTEREST TO THE FDIC AS RECEIVER FOR FRONTIER BANK, being then the holder of the indebtedness secured by said Deed of Trust, delivered to said Trustee a written request directing said Trustee or his authorized agent to sell the described property in accordance with law and the terms of said Deed of Trust.

6. The defaults specified in the "Notice of Default" not having been cured, the Trustee, in compliance with the terms of said Deed of Trust, a "Notice of Trustee's Sale" of said property recorded on April 4, 2011 as Auditor's File No. 4293158 in the Office of the Auditor of Island County, Washington.

7. The Trustee, in its aforesaid "Notice of Trustee's Sale," fixed the place of sale as at the main entrance to Oak Harbor City Hall located at 865 S.E. Barrington Drive, Oak Harbor, WA, a public place, on 10/14/2011 at 10:00 AM, and in accordance with law caused copies of the statutory "Notice of Trustee's Sale" to be transmitted by mail to all persons entitled thereto and either posted or served prior to 90 days before the sale; further, the Trustee caused a copy of said "Notice of Trustee's Sale" to be published once between the thirty-fifth and twenty-eighth day before the date of sale, and once between the fourteenth and seventh day before the date of sale in a legal newspaper in each county in which the property or any part thereof is situated; and further, included in this Notice, which was transmitted to or served upon the Grantor or his successor in interest, a "Notice of Foreclosure" in substantially the statutory form.

8. During foreclosure, no action was pending on an obligation secured by said Deed of Trust.

9. All legal requirements and all provisions of said Deed of Trust have been complied with, as to acts to be performed and notices to be given, as provided in Chapter 61.24 RCW.

10. The defaults specified in the "Notice of Trustee's Sale" not having been cured eleven days prior to the date of Trustee's Sale and said obligations secured by said Deed of Trust remaining unpaid, on 10/14/2011, the date of sale, which was not less than 190 days from the date of default in the obligation secured, the Trustee then and there sold at public auction to said Grantee, the highest bidder therefore, the property hereinabove described, for the sum of \$232,500.00, by the satisfaction in full of the obligation then secured by said Deed of Trust, together with all fees, costs and expenses as provided by statute.

Dated: 10/14/2011

TRUSTEE CORPS, as Duly Appointed Substitute Trustee

By: Rande Johnsen, President

State of CALIFORNIA
County of ORANGE

On 10-19-11 before me, Claudio Martinez, a Notary Public, personally appeared Rande Johnsen who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Notary Public in and for said County and State

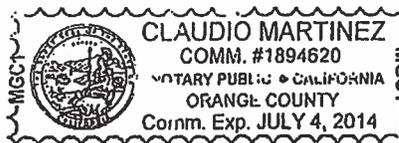


EXHIBIT “H”



Filed for Record at Request of:

Seattle Pacific Development LLC
120 SE Everett Mall Way #100
Everett Wa 98204

Document Title: Special Warranty Deed (Not Statutory)
Reference Nos. of Documents Affected:
Grantor: Union Bank, NA, successor in interest to the FDIC as Receiver for Frontier Bank,
Grantee: Seattle Pacific Development LLC, a Washington Limited Liability Company
Assessor Parcel ID No.: R13334-277-0660
Legal Description: Ptn. SW NW 34-33-1E W.M., Island County, Washington

SPECIAL WARRANTY DEED (Not Statutory)

245351141 \$73

THE GRANTOR, Union Bank, NA, successor in interest to the FDIC as Receiver for Frontier Bank,
for and in consideration of \$10.00 and other good and valuable consideration, in hand paid, grants and conveys to
the Grantee, Seattle Pacific Development LLC, a Washington Limited Liability Company
all interest in the real property (the "Property") more particularly described as:

That portion of the South 276 feet of the Southwest Quarter of the Northwest
Quarter of Section 34, Township 33 North, Range 1 East of the Willamette
Meridian, as measured parallel to the South line of the following described tract;

The West 773.95 feet of the East 1,033.95 feet as measured from the center of
Heller Road in that portion of the Southwest Quarter of the Northwest Quarter
of Section 34, Township 33 North, Range 1 East of the Willamette Meridian,
lying South of Crosby Road.

Situate in Island County, Washington.

The Grantor, for itself and for its successors in interest: (1) expressly limits the covenants of this Deed to those
herein expressed; (2) excludes all covenants arising or to arise by statutory or other implications; but (3) does
covenant, unless limited by express words contained in this Deed, that against all persons whomsoever lawfully

claiming or to claim by, through or under the Grantor, and not otherwise, Grantor will warrant and defend the title to the above-described Property.

Dated this 5th day of October, 2012

Grantor: Union Bank NA

By Robert Purser

Robert Purser

Its Vice President, OREO

STATE OF WASHINGTON

ss.

COUNTY OF SNOHOMISH

I certify that I know or have satisfactory evidence that Robert Purser is the person who appeared before me, and said person acknowledged that he/she signed this instrument and on oath stated that he/she is authorized to execute the instrument and acknowledged it as the Vice President of Union Bank to be free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 10-05-12

Anne Scott
Notary name printed or typed: 10-19-13 Anne Scott
Notary Public in and for the State of Washington
Residing at Everett, WA
My appointment expires: 10-19-13

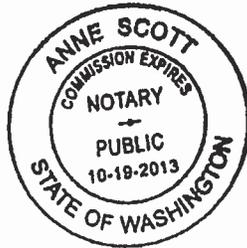
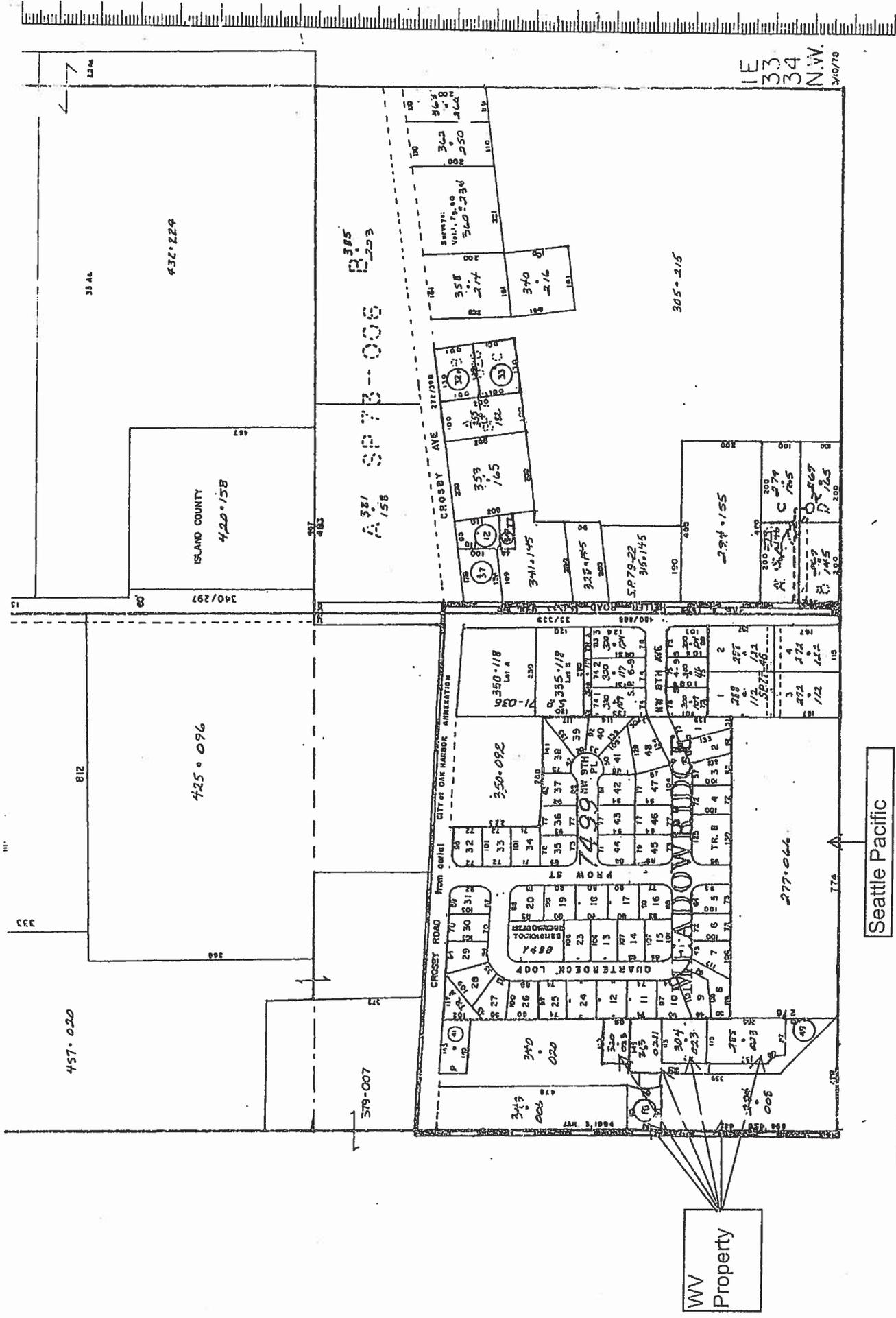


EXHIBIT “I”



1E
33
34
N.W.
3/0/78

Seattle Pacific

WV
Property

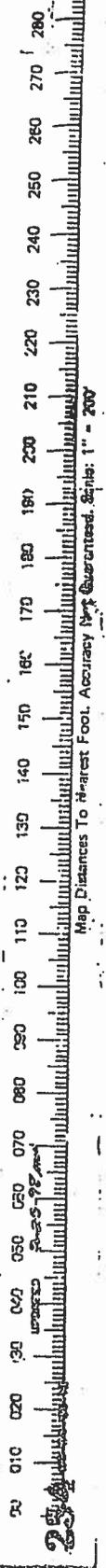
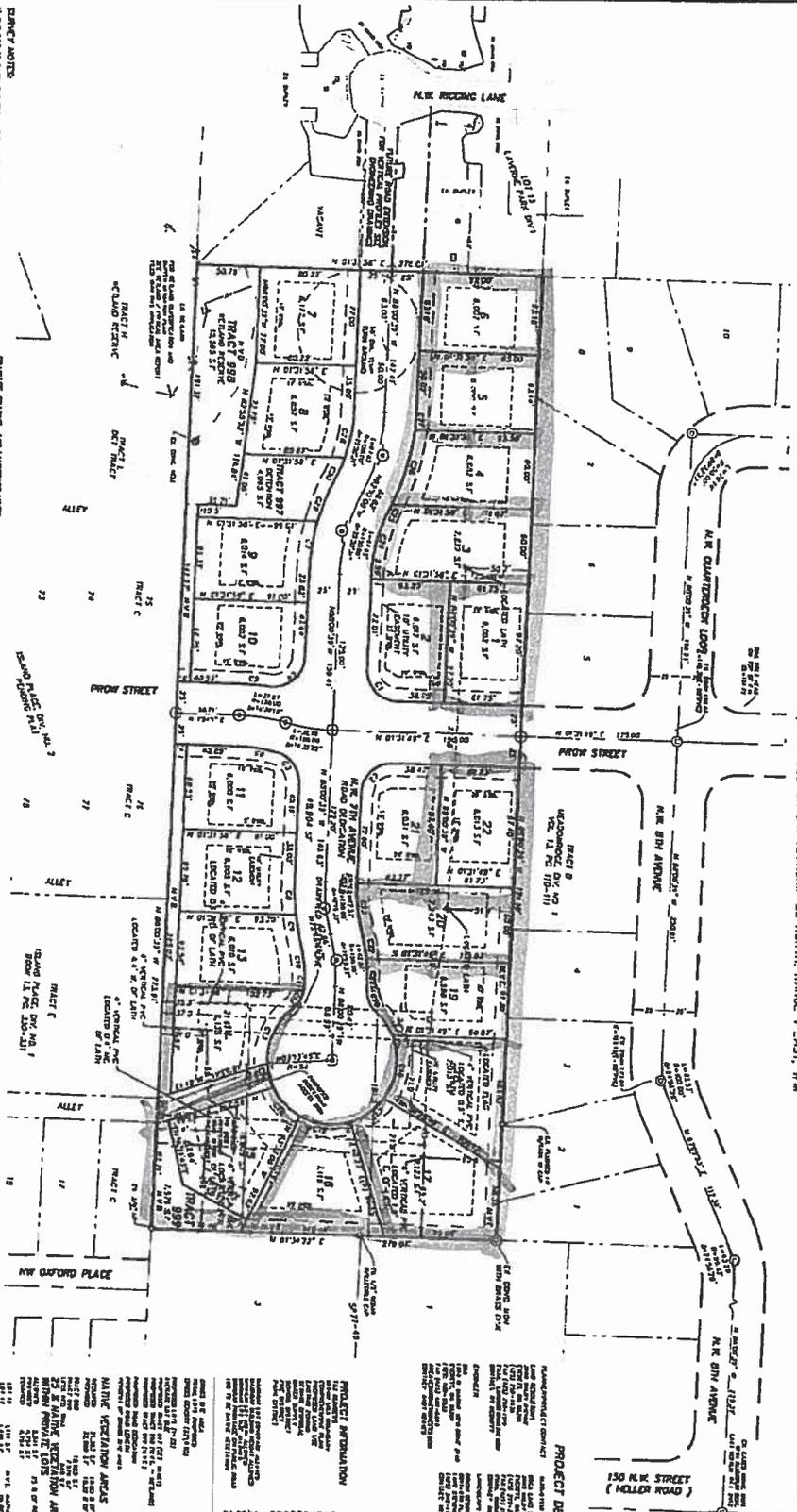


EXHIBIT “J”

IN THE S.W. 1/4 OF THE NW 1/4 OF SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST, W.M.



PROPERTY NOTES:
 1) All lots shown on this plan are subject to the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 2) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 3) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 4) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 5) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 6) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 7) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 8) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 9) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 10) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.

PLANNING, DESIGN AND CONSTRUCTION:
 1) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 2) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 3) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 4) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 5) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 6) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 7) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 8) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 9) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 10) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.

TRACT	AREA (SQ. FT.)	AREA (ACRES)
TRACT 1	10,000	0.23
TRACT 2	10,000	0.23
TRACT 3	10,000	0.23
TRACT 4	10,000	0.23
TRACT 5	10,000	0.23
TRACT 6	10,000	0.23
TRACT 7	10,000	0.23
TRACT 8	10,000	0.23
TRACT 9	10,000	0.23
TRACT 10	10,000	0.23
TRACT 11	10,000	0.23
TRACT 12	10,000	0.23
TRACT 13	10,000	0.23
TRACT 14	10,000	0.23
TRACT 15	10,000	0.23
TRACT 16	10,000	0.23
TRACT 17	10,000	0.23
TRACT 18	10,000	0.23
TRACT 19	10,000	0.23
TRACT 20	10,000	0.23
TRACT 21	10,000	0.23
TRACT 22	10,000	0.23
TRACT 23	10,000	0.23
TRACT 24	10,000	0.23
TRACT 25	10,000	0.23

PROJECT NOTES:
 1) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
 2) The owner of any lot shown on this plan shall be deemed to have agreed to accept the same restrictions, easements, and covenants as are shown on the original plat for this subdivision.
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ORCA Land Surveying
 12345 Main Street
 Anytown, CA 90000
 Phone: (555) 123-4567
 Fax: (555) 987-6543
 Website: www.orcasurveying.com

LAND RESOLUTIONS
 PRELIMINARY SUBDIVISION
 BECKETT LANDING
 SECTION 34, TOWNSHIP 33 NORTH, RANGE 1 EAST, W.M.
 PREPARED BY: ORCA LAND SURVEYING
 DATE: 12-15-2024

PROJECT DESIGN TEAM

ROLE	NAME	COMPANY
PROJECT MANAGER	John Doe	ORCA Land Surveying
DESIGNER	Jane Smith	ORCA Land Surveying
CHECKER	Mike Johnson	ORCA Land Surveying
PLANNING	Sarah Lee	ORCA Land Surveying
CONSTRUCTION	David Kim	ORCA Land Surveying

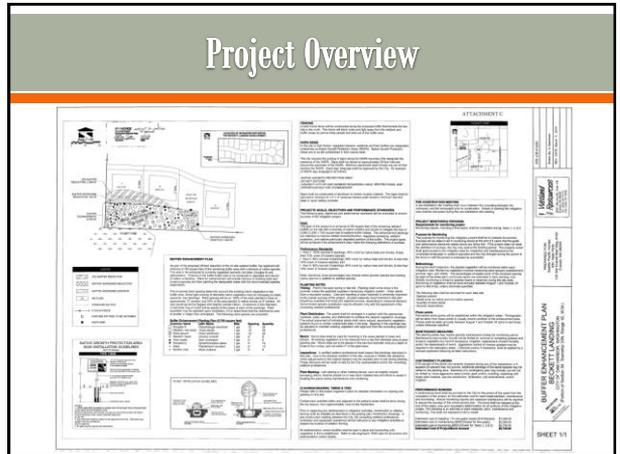
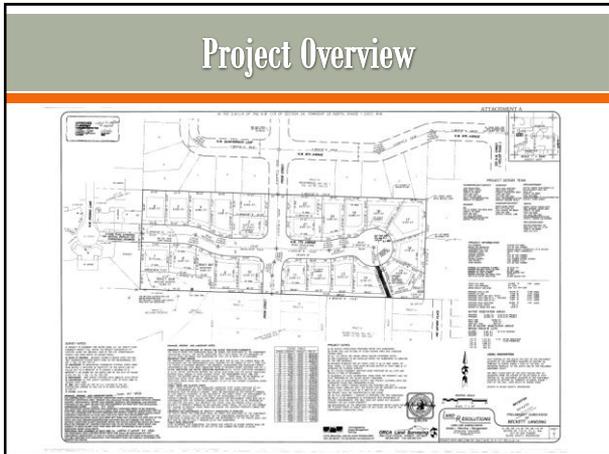
PROJECT INFORMATION

PROPERTY	OWNER	ADDRESS
TRACT 1	John Doe	1000 Main St
TRACT 2	Jane Smith	2000 Main St
TRACT 3	Mike Johnson	3000 Main St
TRACT 4	Sarah Lee	4000 Main St
TRACT 5	David Kim	5000 Main St



Outline

- Overview
 - Project
 - Applications
- Review Criteria
- Conditions of Approval
- Recommendation



Overview - Applications

- Preliminary Plat
 - Same as a subdivision
 - Purpose: confirm that zoning regulations are met prior to detailed construction drawings
 - Criteria
 - “Whether appropriate provisions have been made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, transit stops, potable water supplies sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for student who walk to and from school.”
 - Whether the public use and interest will be served by the platting of the subdivision and dedication(s)

Overview - Applications

- Critical Areas Permit
 - Def: in this case a wetland
 - Purpose: protect the functions and values of the wetland. Required by State and local law
 - Applicant proposal: reduce buffer width from 70’ to 40’ using low impact land use credits, restoration credits and buffer averaging
 - Trigger for critical areas permit: buffer reductions
 - Criteria
 - Preserve functions and values of the wetland = wetland is no worse off
 - Habitat, water quality, recreation, vegetation, soils, flood attenuation, food chain support, ground water recharge and discharge, erosion control, etc.
 - Wetland Report: “It is our professional opinion that the buffer averaging plan will achieve a no net loss of buffer functions.”

Conditions of Approval

- Purpose: subsequent plans (construction & final plat) must comply
- Major Categories (Exhibit B)
 - General, Landscaping, Plat Drawing, Critical Areas, Engineering

Conditions of Approval

- Selected Conditions
 - Some standard, some not
 - **#9:** replace language to require HOA to maintain pedestrian/bike connection
 - **#15:** install 6’ high solid fence next to wetland buffer
 - **#17 - #20:** pertain to temporary turnaround establishment and conversion to permanent road
 - **#17:** establish access easement
 - **#18:** install improvements
 - **#19:** alignment
 - **#20:** removal of temporary improvements and installation of permanent
 - **#21:** decommission or abandon the septic drain field and force main prior to issuance of construction permits

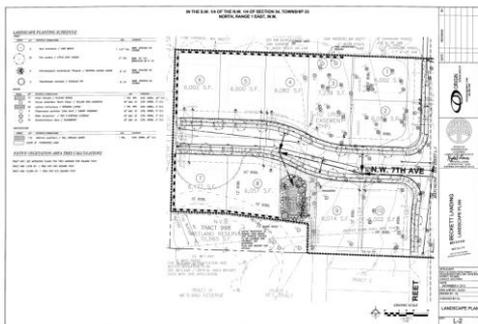
Recommendations

- Conduct the public hearing
- Forward a recommendation to the City Council for approval of the preliminary plat and critical areas permit subject to the conditions of approval in Attachment B
- Adopt the findings of fact per Attachment H

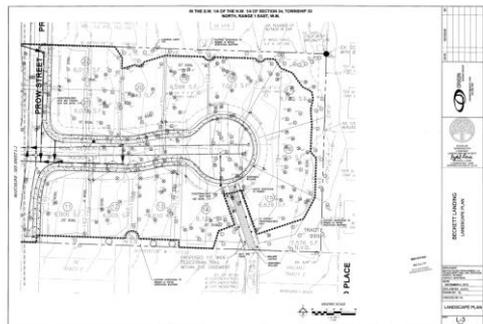
Landscape Plan – L1



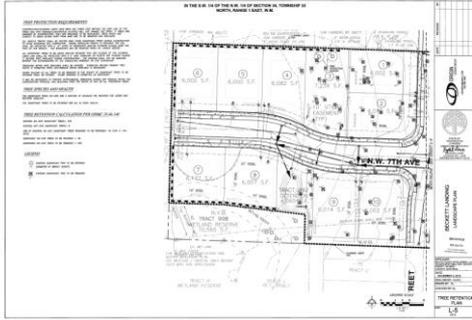
Landscape Plan – L2



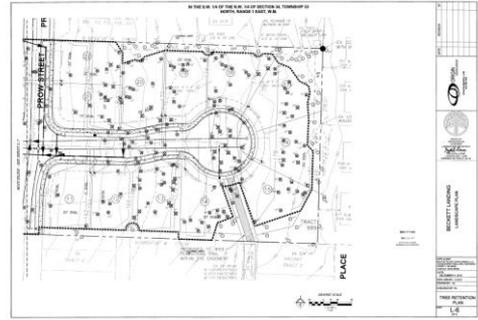
Landscape Plan – L3



Landscape Plan — L5



Landscape Plan — L5



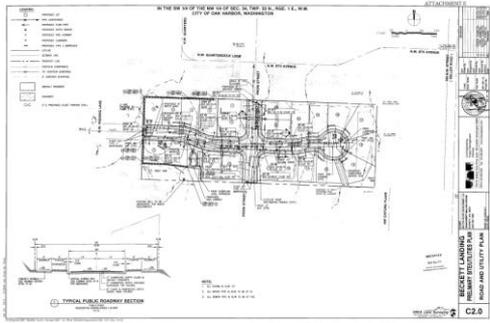
Site Utilities Plan — Cover Sheet



Site Utilities Plan — Site Plan



Site Utilities Plan — Road and Utility Plan



Plat with Septic Drain Field



Comprehensive Plan Land Use Amendment

Public Meeting

CITY OF OAK HARBOR PLANNING COMMISSION

TO: PLANNING COMMISSION
FROM: CAC KAMAK, SENIOR PLANNER
SUBJECT: COMPREHENSIVE PLAN AMENDMENT - LAND USE CHANGE –
1000 SE CITY BEACH STREET
DATE: JUNE 24, 2014
CC: STEVE POWERS, DEVELOPMENT SERVICES DIRECTOR

PURPOSE:

The purpose of this memo to introduce the Comprehensive Plan Amendment to change the land use designation for 1000 SE City Beach Street from High Density Residential to Public Facilities. This item was first placed on the Comprehensive Plan Docket in 2013. The intent of the change was to designate the property to allow use of the site as a private burial ground/cemetery for the Swinomish Indian Tribal Community.

PROCESS:

The process to amend the Comprehensive Plan is regulated by OHMC 18.15. This land use amendment was placed on the preliminary docket in 2013 by the Development Services Director in accordance with OHMC 18.15.030(1)(d) and approved by the City Council on March 5, 2013. Public notification on the project will be in accordance to the requirements set forth in OHMC 18.20.380(5). The land use change along with the other comprehensive plan amendments will be reviewed by the applicable criteria established under OHMC 18.15.080.

BACKGROUND

The property at 1000 SE City Beach Street is owned by the City and designated as High Density Residential. The property was placed on the 2013 docket for a land use change since the City determined that the current High Density Residential land use designation will never be realized under City ownership. A more appropriate designation would be Public Facilities since most land owned by the City is designated as Public Facilities and used as such.

At the time this property was placed on the Comprehensive Plan Amendment Docket, the property was under consideration to be used as a private burial ground/cemetery to accommodate the cultural resources that were uncovered with the construction of Pioneer Way. Work on recovering the cultural resources was still in progress at that time and no firm decision was made on whether this land may be needed for that purpose. Since a Memorandum of Settlement has now been reached between the City and the Swinomish Indian Tribal Community, this property is slated to accommodate the archaeological and cultural resources uncovered during the Pioneer Way project.

DISCUSSION

Now that the City has reached a settlement with the Swinomish Indian Tribal Community, the property is slated to be used as a private burial ground/cemetery for the Swinomish Indian Tribal Community. The Memorandum of Settlement also includes provisions for the City to deliver a quitclaim deed for the property to the Swinomish Indian Tribal Community after an action is taken on the amendment. If the Comprehensive Plan Amendment is approved, the site will be exclusively used for spiritual and cultural purposes, including the burial ground/cemetery and if the Tribe elects, a cultural center and/or memorial.

From a Comprehensive Plan Land Use designation perspective, the intended use of the property can be broadly categorized under a burial ground/cemetery use which fits with the Public Facilities designation. Existing cemeteries (Maple Leaf and Fircrest) within Oak Harbors Urban Growth Area are designated as Public Facilities, and therefore it is logical to designate 1000 SE City Beach Street as such.

Cemeteries are passive uses and are compatible with most land uses. Existing cemeteries in Oak Harbor are surrounded by low density residential and high density residential uses and have not generated any negative impacts. 1000 SE City Beach Street is surrounded by a mixture of High Density Residential, Commercial and Residential Office designations (see attached map).

ACTION

No action on this item is required at this time. This memo is intended to introduce the topic and initiate discussion. Property owners within 300 feet of the property have been notified of this item on the Planning Commission's agenda. If members of the public would like to comment on the topic, the Planning Commission is encouraged to accept public comments. A formal public hearing for this Comprehensive Plan Amendment will be scheduled at an upcoming Planning Commission meeting.

2014 Comprehensive Plan

Amendment

Scenic Views

Public Meeting

CITY OF OAK HARBOR PLANNING COMMISSION

TO: PLANNING COMMISSION
FROM: CAC KAMAK, SENIOR PLANNER
SUBJECT: COMPREHENSIVE PLAN AMENDMENT – SCENIC VIEWS
DATE: JUNE 24, 2014
CC: STEVE POWERS, DEVELOPMENT SERVICES TEAM

The Scenic View discussion was postponed at the last meeting to the June 24, 2014 meeting. Staff will provide a short presentation on the topic at the meeting. Please refer to the materials provided with the May 27, 2014 staff report. If you would like copies of the report, please contact Kathy Gifford at 360-279-4512.