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, Skagit County Auditor

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Return to: Skagit Surveyors & Engineers
806 Metcalf Street
Sedro-Woolley, WA 98284
Phone: (360) 855-2121

COVER SHEET
PROTECTED CRITICAL AREA AGREEMENT

GRANTOR: J. Stephen Brown & Joan E. Brown

GRANTEE: Skagit County

LEGAL DESCRIPTION

That portion of Government Lot 1, Section 23, Township 36 North, Range 1 East, W.M. described as follows:

Beginning at the south quarter section corner of said Section 23; thence N88°48'30"W along the south line of said Section 23, a distance of 1057 feet to the southwest corner of said Government Lot 1; thence northerly, northeasterly, easterly along the northwesterly line of said Government Lot 1, a distance of 1505 feet, more or less, to a point which lies N05°12'25"E, a distance of 827 feet, more or less, from the point of beginning of this description; thence S05°12'25"W a distance of 827 feet, more or less, to the point of beginning of this description.

TOGETHER WITH tidelands of the second class, above the line of mean low tide, situated in front of, adjacent to, or abutting on the above described portion of Government Lot 1 in said Section 23.

ASSESSOR'S PROPERTY TAX PARCEL NUMBER: P46506; 360123-0-001-0009

PROTECTED CRITICAL AREA EASEMENT AGREEMENT

In consideration of Skagit County Code (SCC) 14.24.170, requirements for recording of Protected Critical Area easements (PCA) and mutual benefits herein Grantor(s) does hereby grant, convey and warrant to Skagit County, a political subdivision of the State of Washington, a non-exclusive perpetual easement establishing a PCA over, along and across that portion of the project, denoted as PCA and described, hereinafter together with the right of ingress and egress to and from these easements for the sole purpose of monitoring and enforcing proper operation and maintenance of the PCA described herein.

These easements are granted subject to and conditioned upon the following terms, conditions and covenants:

1. The PCA is established as shown on the attached Protected Critical Area Site Plan. There are two types of PCAs depicted on the drawing. A Geo-Hazard Protection area has been identified as the area extending from a point 50 feet south southeast of the top of bank to the ordinary high water line of Bellingham Channel. A Fish & Wildlife Habitat Protection area extends in an arc 128 feet from the identified eagle-nesting tree to the point that it meets the Geo-Hazard Protection area.
2. Grantor(s) shall here after be responsible for maintaining and repairing PCA areas as described herein and is hereby required to leave the PCA undisturbed in a natural state. No clearing, grading, filling, logging or removal of woody material, building construction or road construction of any kind or planting of non-native vegetation is allowed within the PCA's except as currently exists, is noted in "3." herein or is specifically permitted by Skagit County on a case-by-case basis consistent with SCC 14.24.
3. Grantor(s) and Skagit County agree to the following special conditions requested by the Grantor(s) or required as part of mitigation pursuant to SCC 14.24.
 - a. Permit the continuation of the existing uses within the buffer area. A path along the bluff is located within the PCA the Grantor(s) intends to continue to use the path and to maintain and repair it as necessary. An existing footpath (approximately 3 feet wide) leads from the top of the bluff to the beach area. The Grantor(s) intends to use the path and to maintain and repair it as necessary.
 - b. Permit the use of the buffer area along the bluff for recreation, including pedestrian trail. Where the trail does not currently exist, allow the clearing of underbrush and dead trees to provide for this activity.
 - c. It is the intent of the grantor at some future date to construct a viewing platform within the PCA buffer. That construction will require approval of Skagit County. Appropriate mitigation measures will be established at the time the platform is constructed. Nothing in this agreement shall be interpreted to preclude construction of the platform as long as the grantor complies with appropriate mitigation and other County Codes governing viewing platform construction.
 - d. The activities allowed in the Fish & Wildlife Habitat Protection area are governed by a Bald Eagle Nest Site Management Plan (RCW 77.12.655, WAC 232-12-292). That plan includes the following provisions:



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1. No tree removal, site preparation, clearing burning, grading or external construction will occur between February 1 and July 15 or until any young fledge from the nest tree. If the nest is inactive, clearing and external construction activities may begin on June 15 with written permission from WDFW.
 2. All construction and clearing will occur outside the 128' fall line of the nesting tree. There will be no large trees removed as part of this entire construction project. A 50' wide Protected Critical Area buffer is established adjacent to the top of the bank and a 25' wide building setback area is established adjacent to the PCA. All construction footprints, leave trees, setbacks and PCA's are shown on plan JN-200280, dated March 20, 2001.
 3. There will be no deviation from the building site footprints without a review and amendment to this plan.
 4. This plan applies to the landowner who signs the Plan. Since eagles return to the same traditional use areas each year, the conditions of this Plan shall apply indefinitely, unless a breeding territory has been unoccupied for 5 consecutive years. Please contact WDFW if the eagles change the location of their nest. Do not assume that the conditions of this Plan no longer apply.
 5. This plan will be subject to the following review and amendment procedures. The plan may be reviewed periodically by the Department and the landowner to determine whether 1) the Plan requires amendment in response to changing eagle and landowner circumstances; or 2) the terms of the Plan comply with applicable laws and regulations; or, 3) the parties to the Plan are complying with its terms.
 6. Except for a tree that presents imminent danger to the safety or property of individuals, a report from a professional forester/arborist indicating the need to remove the tree, shall be submitted to WDFW prior to cutting the danger tree.
- e. In the event the Bald Eagle Nest Site Management Plan is amended, the conditions of the amended plan shall supercede conditions 1 through 5 listed previously.
- f. The following recommendations are included in the July 28, 2000 report prepared by GeoEngineers:
1. Maintain a 50 foot buffer and 75 foot building setback from the bluff top: We recommend that no buildings be constructed within 75 feet of the bluff top and that vegetation be maintained within 50 feet of the bluff top.
 2. Maintain vegetation at the bluff top: Damage to or removal of vegetation within the buffer at the bluff top should be kept to a minimum. Normal non-destructive pruning and trimming of vegetation for maintenance purposes and thinning of tree limbs to provide a view corridor can be completed within the buffer. Dead trees and leaning trees that could topple and remove soil from the top of the bluff should be removed except when prohibited by the Bald Eagle Nest Site Management Plan.
 3. Maintain slope vegetation. We recommend that vegetation on the bluff face not be removed. If it becomes necessary to remove hazardous trees or other vegetation, we recommend that slope disturbance be kept to a minimum, that vegetation is immediately replaced and proper erosion control measures be implemented to the extent that is practical.
 4. Install appropriate drainage controls: All sources of surface water discharge should be tightlined to an appropriate discharge point away from the bluff along



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north and west edges of the property. This includes roof drains, footing drains and any other sources of water. We recommend that the surface water be discharged into a dry well or other type of infiltration system far from the bluff. Surface water should not be allowed to discharge within the erosion gully observed on the bluff near the east property line. If water from runoff is observed discharging into the erosion gully, the water should be collected and tightlined to the beach.

- g. Except in the case of an emergency, where a critical area or its buffer is threatened with immediate harm, as determined by the County, access to exercise the easement rights granted herein shall be only upon seven (7) days prior written notice by certified mail to the Grantors, their successors and assigns.
- h. Grantor(s) shall be held harmless from any damage or injury to any property or person by any person entering the easement areas not expressly authorized to do so by the Grantor(s).

4. Grantor(s) retains the right to the use and possession of the real property over which the easements are granted to the extent permitted by Skagit County. Low impact uses and activities, which are consistent with the purpose and function of the PCA and do not detract from its integrity, may be permitted in the PCA depending on the sensitivity of the habitat involved. Examples of uses and activities which may be permitted in appropriate cases, with prior County written approval separate from this agreement, include pedestrian trails, viewing platforms, stormwater management facilities and utility easements. Provided further that the grantor(s) agrees not to interfere with, obstruct or endanger Skagit County's use of the easement.

5. Should any human disturbance of the PCA occur, the fee owners shall have the obligation to restore and return the affected area to its natural state immediately, under the provisions of a County approved mitigation plan.

6. The parties recognize that this easement is created, granted and accepted for the benefit of the inherent natural functions provided by the PCA. It shall not be construed to provide open or common space for owners within the project or members of the public. By acceptance of the easement for the purposes described, Skagit County does not accept or assume any liability of acts or omissions of the fee owners, his or her invitees, licenses or third parties within the easement areas. Grantor(s) holds Skagit County harmless from any damage or injury to any property or person by any person entering the easement areas not expressly authorized to do so by Skagit County.

7. Grantor(s) agrees that these easements shall run with the land and that the rights and obligations of Grantor(s) and Skagit County shall inure to the benefit of each and shall be binding upon their respective heirs, successors and assigns.

8. Grantor(s) covenants that they own the property legally described herein and has lawful right to convey the above described PCA interest in the property to Skagit County for the benefit of the public forever.



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Skagit County:

John T. Coates

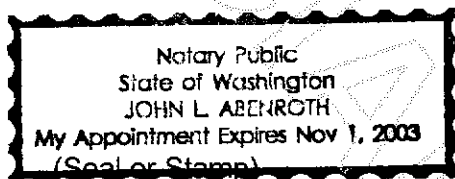
Owner:

J. Stephen Brown

Joan E. Brown

State of Washington
County of Skagit

I certify that I know or have satisfactory evidence that J. Stephen Brown is the person who appeared before me that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.



Dated 7/19/01

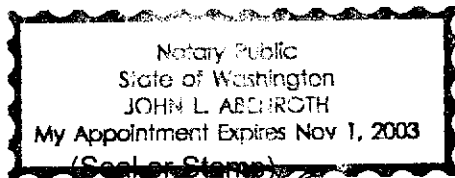
[Signature]
Signature

Title Notary

My appointment expires Nov. 1, 2003

State of Washington
County of Skagit

I certify that I know or have satisfactory evidence that Joan E. Brown is the person who appeared before me that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.



Dated 7/19/01

[Signature]
Signature

Title Notary

My appointment expires Nov. 1, 2003

Basement Agreement
SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

JUL 19 2001

Amount Paid \$ 0
Skagit County Treasurer
By: man Deputy



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