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Skagit County Auditor

9/2/2005 Page

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8 9:50AM

WHEN RECORDED RETURN TO:

Marion J. Larkin
19737 Trophy Lane
Mount Vernon, WA 98274

Document Title: Declaration of Covenants, Conditions and Restrictions Covenants

Grantor/Borrower: Marion J. Larkin

Grantee Public

Legal Description: Additional on Exhibit "A" and "B"

Assessor's Parcel No.: P115737/330429-1-002-0200 P17403/330428-2-004-0007

Tr 1 SP 34-86 28-33-4

DECLARATION OF AGREEMENT AND RESTRICTIVE COVENANTS

THIS DECLARATION OF AGREEMENT AND RESTRICTIVE COVENANTS is made by MARION J. LARKIN, a married man as his separate estate, hereafter referred to as "Declarant", as follows:

RECITALS

WHEREAS, Declarant is the owner of the real property more particularly described as Tract 1 of Short Plat No. 34-86 under Auditor's file No. 861120004, records of Skagit County, Washington and more fully described in Exhibit "A", which is attached hereto and incorporated herein and referred to herein as the "Property".

WHEREAS, Declarant is also the owner of real property more particularly described on the attached Exhibit "B," which is referred to herein as the "Airport Property."

WHEREAS, Declarant desires to subject the Property to the provisions of this Declaration.

NOW THEREFORE, Declarant hereby declares that the Property, including the improvements constructed on or to be constructed thereon is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied and mortgaged as otherwise encumbered subject to the covenants, conditions,

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restrictions, and easements hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall be binding on all persons having any right, title, or interest in all or any portion of the Property now or hereafter, their respective heirs, legal representatives, successors, successor-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

DECLARANT GRANTS, DECLARES AND COVENANTS as follows:

1. AIRPORT PROPERTY USE. Use of the Airport Property as an aircraft landing field pursuant to Skagit County Special Use Permit 88-018 is hereby ratified and affirmed.

2. NO OBJECTION TO LAWFUL OPERATION OF AIRCRAFT LANDING FIELD. Declarant hereby grants, declares and covenants that neither he, nor his heirs, successors and/or assigns, including the Benefited Owners, will take any action to restrict, terminate or object to the lawful use, maintenance, construction or reconstruction of the aircraft landing field located on the Airport Property. This provision constitutes an irrevocable waiver of any objections to the operation of the Airport Property as an airport.

3. PROTECTION OF FLIGHT OPERATIONS. The flight operations on the Airport Property are hereby protected by limitations on the Property, as follows:

a. Property Restrictions. No device, appurtenance, mechanism or system which interferes with the safe operation of aircraft, or which interacts or affects in any manner with aircraft is allowed on the Property. This includes, but is not limited to, lighting, electronics or other electrical devices.

b. Clear Fly Zone Limitations.

(1) Clear Fly Zone Defined. The clear fly zone is designated as that portion of the Property lying southerly of a line established from a point on the west property line which is located 388.41 feet from the northwest corner of the Property and extending east, paralleling the south property line of the Property, 200 feet in width throughout, to the intersection of the east property line of the Property. The clear fly zone is depicted on the attached Exhibit "C."

(2) Within the westerly 200 feet no buildings, structures or vegetation of any kind are permitted, except pasture grasses or similar types of vegetation. The ground surface

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shall be maintained for utilization for aircraft in the event of an emergency with no grading or excavation allowed which does not improve the ground surface for that purpose.

(3) In the Remainder of the Clear Fly Zone. In the clear fly zone beyond the westerly 200 feet, buildings, structures and vegetation are permitted provided they do not intersect or penetrate the air space above the incline plane described as follows: A plane, the easterly lowest edge of which is five feet in height along the western edge of the Property, based on the elevation of the surface Trophy Lane adjacent to the Property, and which then rises at a three percent (3%) grade to the highest point over the southeasterly property line for the Property.

(4) Animal fencing. The building of animal fencing on the perimeter of the clear fly is permitted provided: along the west boundary of the clear fly zone, fencing is restricted to a height of less than four (4) feet, based on the elevation of the surface of Trophy Lane, adjacent to the Property. Fence material of 4 strands, or less, of smooth wire smaller than 20 gauge in diameter, fence post material less than two and one half inches in diameter, of wood or similar material easily broken at the ground level is permitted.

4. **GENERAL PROVISIONS:** Enforcement. Declarant agrees that money damages for breach of this covenant will be difficult or impossible to assess and will not afford a full and adequate remedy to the injured party. The owner of the property benefited by this Declaration shall have the right and power to enjoin any breach or threatened breach of this covenant, as well as recover damages for such breach, and shall have the right and power to compel specific performance of the terms thereof. In any action to enforce the provisions of this covenant not to compete, the defending party hereby waives for themselves and for their successors any claim or defense that monetary damages sufficiently remedies the injury suffered by such violation.

a. Binding Effect/Covenants run with the land. The provisions of this Declaration shall be construed and interpreted as covenants which run with and are appurtenant to the land of the Declarant above described, and shall be binding upon and insure to the benefit of his heirs, assigns, successors to and personal representatives.

b. No Waivers. Failure to enforce any provision of this document shall not operate as a waiver of such provision.

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c. Entire Agreement. This Declaration contains all representations and is the entire understanding hereto with respect to the subject matter hereof.

d. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as be effective and valid. If the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provisions or application, and to this end, the provisions of the Declaration are declared to be severable.

e. Attorneys' Fees. In the event of a breach of any provision of this Declaration, the breaching party shall pay to the non-breaching party all actual and reasonable attorneys' fees and other costs and expenses incurred by the non-breaching party in enforcing this Declaration or preparing for legal or other proceedings, regardless of whether suit is instituted. If it becomes necessary for a person to employ legal counsel or to bring an action at law or other proceeding to enforce any of terms, covenants or conditions of this Declaration, the prevailing party in any such action or proceeding shall be entitled to recover its costs and expenses incurred in such action from the other party, including, but not limited to, reasonable attorneys' fees set by the court, both trial and appellate levels, and if any judgment is obtained by the prevailing party, also its costs, expenses and fees shall be included in the judgment.

f. Governing Law. This agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any action brought to interpret or enforce any provisions of this Declaration, or otherwise relating to or arising from this Declaration, shall be commenced and maintained in the Superior Court for the State of Washington in and for the County of Skagit.

g. Enforcement. In the event of a default on any of the provisions of this Declaration, damages for such default will be difficult or impossible to assess and will not afford a full and adequate remedy to the injured party. One of the properties benefited by this covenant (that is the "Airport Property") shall have the right and power to enjoin any breach or threatened

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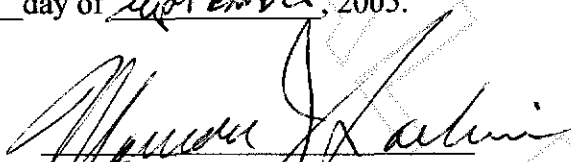


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breach of this covenant as well as recover damages for such breach and shall have any and all remedies available to him at law or equity, including specific performance and injunction. In any action to enforce the provisions of this covenant not to compete, the defending party hereby waives for themselves and for their successors any claim or defense that monetary damages sufficiently remedies the injury suffered by such violation.

h. Notices. All notices or demands to be given by each party to the other under this agreement and all sums to be paid by each party shall be deposited in the United States mails, postage prepaid, by certified or registered mail, return receipt requested. Notices and demands sent by mail shall be deemed to have been given and delivered when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

IN WITNESS WHEREOF, The Declarant has executed this Declaration on this 1st day of September, 2005.


MARION J. LARKIN

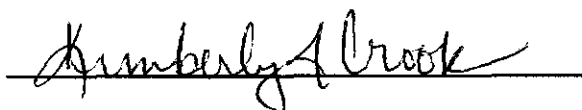
STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that MARION J. LARKIN is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

SUBSCRIBED to before me this 1st day of September, 2005.

Notary Public in and for the State of Washington, residing at Mount Vernon.

My Commission Expires 12/15/07.



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Exhibit A – The “Property”

Tract 1 of Short Plat No. 34-86, located in the northwest ¼ of the northwest ¼ of Section 28, Township 33 North, Range 4 East, W.M. , approved November 19, 1986 and recorded in Volume 7 of Short Plats, page 136, under Auditor’s file No. 861120004, records of Skagit County, Washington

Short Plat 34-86 - That portion of the northwest quarter of the northwest quarter of Section 28, Township 33N, Range 4 E, W. M. lying southwesterly of Bulson Road, EXCEPT the west 25 feet of the northwest quarter of the northwest quarter of said section 28.

Situate in the County of Skagit, State of Washington.



Exhibit "B" – "Airport Property"

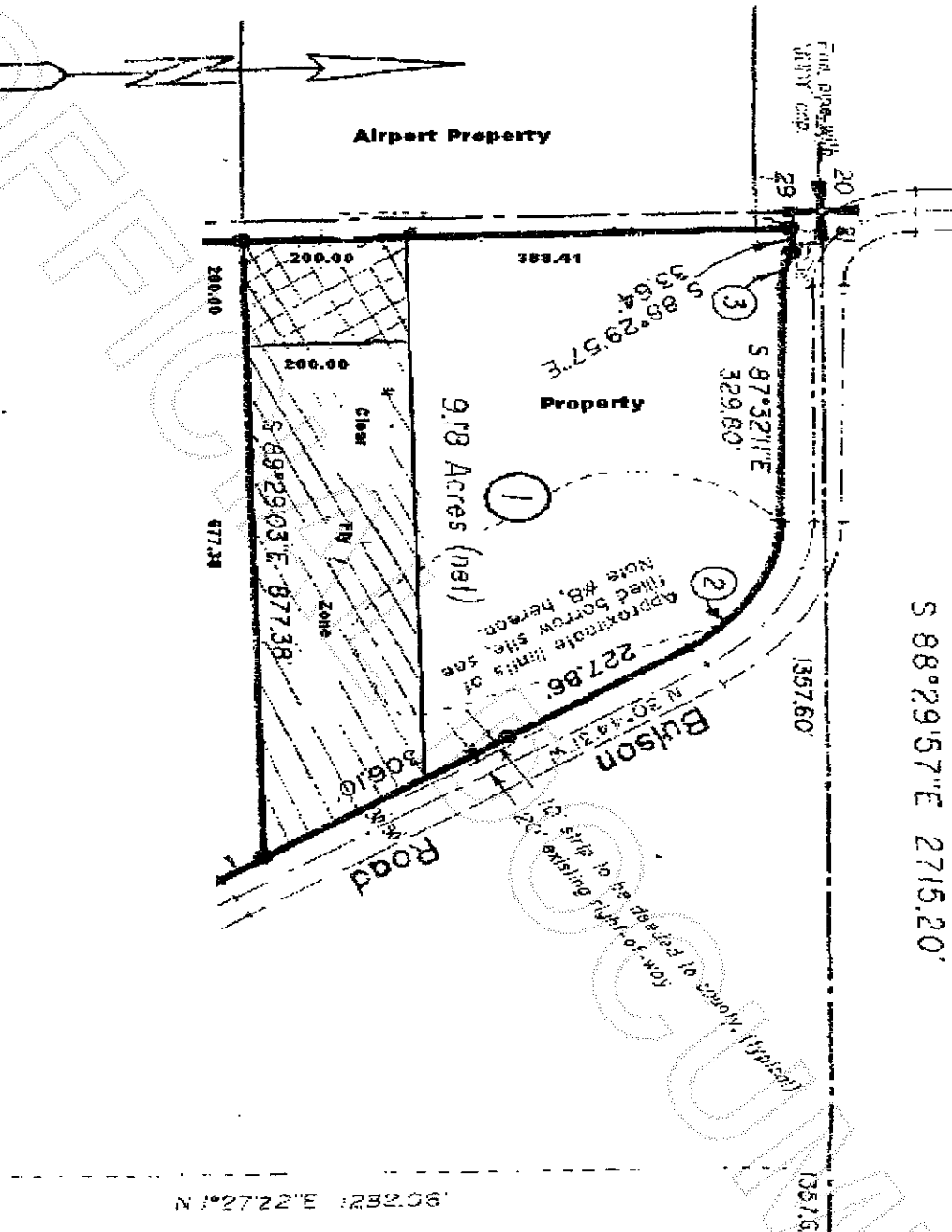
The North $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 29, Township 33 North, Range 4 East, W.M., EXCEPT the North 60 feet thereof, AND EXCEPT that portion of the West 813.25 feet of said subdivision, lying North of the South 150 feet thereof.

Including Lot 1, Short Plat 97-0041 AF#199908130025 filed August 13, 1999, Short Plat records of Skagit County, WA.

Situated in the County of Skagit, State of Washington.



Exhibit "C" - Clear Fly Zone



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