


When recorded return to:
Law Office of Alan R. Souders
913 7th Street
Post Office Box 1950
Anacortes, WA 98221


200512090199
Skagit County Auditor
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DECLARATION OF AGREEMENT OF COVENANTS, CONDITIONS & RESTRICTIONS

Reference Number(s): Auditor's file numbers 198912190053, and 199009120079.

Grantor(s): Jay J. Lund

Grantee(s): The Pointe at San Juan Homeowners Association

Abbreviated Legal Description: Ptn Lt 4 SP 10-89, Lt 4 SP 19-85 and NW ptn of 35-35-1
(See full legal description in Exhibit A.)

Assessor's Tax Parcel Number(s): 350135-2-001-1539 / P32593, formerly assigned as:
350135-3-001-0106

RECITALS

Grantor, Jay J. Lund, hereafter "the Declarant" is the owner of certain real property in Skagit County, Washington, described in Exhibit A (hereafter "the Property").

Grantee, the Pointe at San Juan Homeowners Association ("the Association") is an association of homeowners formed under a Declaration of Covenants, Conditions & Restrictions of the Pointe, recorded on December 19, 1989 under Skagit County Auditor's file number 198912190053 at Volume 863, page 404 ("the Pointe Declaration"). The Pointe Declaration initially applied to Division 1, Division 2, and Rock Pointe of the Pointe at San Juan.

Division 3 of the Pointe at San Juan became subject to the Covenants, Conditions & Restrictions of Division 1, Division 2 and Rock Pointe, of the Pointe at San Juan, (under the Pointe Declaration mentioned in the above paragraph) per the "First Supplement" which was recorded under Skagit County Auditor's file number 199009120079. Together, the Pointe Declaration and First Supplement are hereinafter referred to as, "The Pointe CC&R's."

Declarant wishes to subject the Property and any and all subsequent subdivisions of the Property to the Pointe CC&R's and to the provisions of this Declaration.

AGREEMENTS

Declarant and the Association (Grantor and Grantee, respectively) hereby agree to the terms cited within this Declaration of Agreement of Covenants, Conditions & Restrictions, for the purpose of enhancing and protecting the value, desirability, character and attractiveness of the properties affected by this document, and to bring the Property subject to the Covenants, Conditions & Restrictions laid out herein, and to the Pointe CC&R's. Other than the Special Terms cited below in this Declaration, nothing within this document shall change, delete or modify any of the existing terms of the Covenants, Conditions & Restrictions cited in the documents recorded under Skagit County Auditor file numbers 198912190053 and 199009120079. Further, except for the Special Terms laid out below, in the event that anything within this document may be interpreted to be in conflict with the Declarations recorded under Skagit County Auditor file numbers 198912190053 and 199009120079, those earlier-recorded documents shall take precedence. Declarant hereby agrees to adopt the following Covenants, Conditions & Restrictions that shall run with the land described in Exhibit A from this date forward:

1. Covenants of the Pointe at San Juan Homeowners Association Division 3, and all Covenants, Conditions & Restrictions that are incorporated by reference within that "First Supplement" recorded under Skagit County Auditor's file number 199009120079.
2. Declaration of Covenants, Conditions & Restrictions of the Pointe, recorded under Skagit County Auditor's file number 198912190053.

Special Terms.

The Property of the Declarant specified in Exhibit A to this Declaration, and all parts thereof, regardless of how the Property may be subdivided, and regardless of the size, location and/or quantity of lots, even if such divisions shall deviate from the special terms cited below, shall be subject to the above mentioned Declarations of Covenants, Conditions & Restrictions and to the following special terms:

- a. Declarant may subdivide the Property into four lots - a northerly lot, two middle lots, and a southerly lot. All such lots, regardless of size or quantity, shall be subject to the terms of this Declaration, and each lot so created shall have one membership in the Association. Until such subdivision, the Property shall be considered as one lot.
- b. The Property owner(s) shall have the right to establish view corridors within the Property. Recognizing the developmental nature of the Property, the Association hereby irrevocably approves any tree removal plans to establish said corridors, regardless of any restrictions described in Declarations recorded under Skagit County Auditor file numbers 198912190053 and 199009120079. The foregoing shall not be interpreted to in any way limit the lawful removal of alder and or cottonwood trees whether within or without the view corridors.
- c. Access for ingress and egress to the Property within the northerly lot and the two middle lots is private, and may be gated at some future date, with the then current owner(s) having access.



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d. Any roads constructed within the boundaries of the Property shall remain private roads, owned and maintained by the then current owner(s) of the Property. However, members of the Association shall have and maintain the right to use the cul-de-sac located at the present end of San Juan Boulevard for turn-around purposes, if and when at some future date the Association [as Grantee] provides written notice to Grantor that Grantee will commence such use. If the Association thereafter desires to pave said cul-de-sac, the Association shall bear the expense of such paving, and the then-current owner(s) of the Property shall not bear any of the expense of paving the cul-de-sac, except as such owner(s) may have become (a) member (s) of the Association, subject to paying regular dues and assessments to the Association.

e. Except as additionally provided in item (f) below, Declarant shall not be obligated to pay any annual dues to the Association, nor shall the Declarant be obligated for any assessments normally collected by the Association, until such time as the Declarant transfers ownership or a majority ownership interest of any part of the Property, even if later subdivided. At such time, the subsequent owners, heirs, successors, or assigns shall be bound by all the aforementioned and subsequently cited Association covenants and restrictions, including regular Association dues and assessments.

f. At such time as the Declarant applies for a building permit, chooses to construct a single-family residence on any portion of the Property, or undertakes to construct a single-family residence on the northerly lot (if the Property is later subdivided), the Declarant or then-current owner of the single-family residence (and all subsequent owners) shall be bound by all the aforementioned covenants and restrictions, and these covenants and restrictions, including regular Association dues and assessments.

g. The property includes a certain detention/retention pond, subject to Skagit County Code Chapter 12.19 as a Drainage Facility. The Declarant and Association agree that to the extent maintenance of said pond is not accomplished by Skagit County, the costs of such maintenance shall be borne equally by (1) the Association and (2) the owner(s) of the Property (that is, the Declarant and successor owners). Annual maintenance shall include cleaning of the pond to remove debris, actions to kill vegetative growth, spraying of foliage and other vegetative growth, cutting or removal of shrubs or saplings which may appear in the pond, and other such similar actions necessary on a recurring basis to keep the pond clear of unintended objects. The Association shall be responsible to define and contract for such maintenance work as may be required, and then shall bill the Declarant [or successor owners] after the work has been completed for half the cost. Such bill shall be due and payable to the Association within forty-five (45) days of its submission to the Declarant [or successor owners]. Any bill for such maintenance work shall include a copy of the itemized bill or invoice from the contractor that did the maintenance work and shall be delivered by mail to Declarant [or successor owners] at the address specified by Declarant [or successor owners] for this purpose. Such address may be changed by written notice given to the other at least five (5) days in advance of such maintenance work being performed.

Assimilation.

Upon recordation hereof, the Declarant affirms that the Property will hereafter be subject to and



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brought within the jurisdiction and controls of this Declaration, and all the other Declarations of Covenants, Conditions & Restrictions that are incorporated by reference in this Declaration. Such jurisdiction and control shall run with the land, and the present and future owner(s) of any or all portions of the Property, regardless of size, location and/or quantity of lots, shall be bound by the terms thereto, including their heirs, successors and assigns, who shall also become AOwners≡ thereunder subject to the Association in all respects.

Opportunity to Consult with Independent Legal Counsel.

The signatures below signify that both the Declarant and the Association Board Members have had ample opportunity to consult with independent legal counsel for the interpretation of this document, and the terms cited herein are mutually agreed upon by both parties.

Attorney's Fees.

In the event that there is a dispute between the Declarant (and/or any successors, assigns or heirs to the Property) and the Association regarding any of the provisions of this Declaration or the other documents that are incorporated by reference herein, the prevailing party in such dispute shall be entitled to reimbursement from the other party for costs and reasonable attorney's fees. Reimbursement shall be enforced regardless of whether a lawsuit is filed, or the matter goes to trial, is resolved beforehand, or is subsequently assigned to appeal.

Severability.

Invalidation of any one or more clauses within this Declaration of Agreement of Covenants, Conditions & Restrictions, or provisions by judgment or court order shall in no way affect the remainder of the Declaration.

No Public Rights.

Nothing herein contained shall be deemed to be a gift or dedication of any portion of the right to Grantor=s property to the general public, or for the general public, or for any public purposes whatsoever, it being the intention of the Grantor that this Declaration shall be strictly limited to the purposes expressed herein.

Enforcement.

The Grantor and Grantee shall have the right to enforce by any appropriate proceeding at law or in equity all covenants, conditions and restrictions, set forth herein or hereafter adopted by the Grantor and Grantee. Failure or forbearance by any person or entity so entitled to enforce the provisions of this Declaration to pursue enforcement shall in no way be deemed a waiver of the right to do so thereafter.

Effective Date.

This Declaration of Agreement of Covenants, Conditions & Restrictions shall become binding and effective upon the date of the signatures set forth below, but shall not be binding upon third parties without knowledge thereof until recorded with the Skagit County Auditor.

Applicable Law.

This Declaration shall be construed in all respects under the laws of the State of Washington.



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ACKNOWLEDGEMENTS

I have read and understand the terms stated above, and hereby agree to be bound by such terms.

DATED this 8 day of DECEMBER, 2005.

Jay J. Lund

JAY J. LUND,
Grantor / Declarant

STATE OF WASHINGTON)

) ss.
COUNTY OF Whatcom

On this day personally appeared before me, Jay J. Lund, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that he signed the same as his free and voluntary act and deed for the purposes therein mentioned.

Given under my hand and seal this 8th day of December, 2005.



Lynn E. Baur

Notary Public in and for the State of
Washington, residing at Bellingham WA
My commission expires 5/19/09

I, Richard Frase, as President of the Pointe at San Juan Homeowners Association (Grantee/Association), affirm that I executed this Declaration with the approval and authority of the members of the Association, and by my signature below, represent that the Association shall be bound by its terms. I have read and understand the terms stated above, and as President and a representative of the Association, hereby agree that the Association shall be bound by such terms.

DATED this 5 day of December, 2005.

Richard Frase

PRESIDENT,
The Pointe at San Juan Homeowners Association



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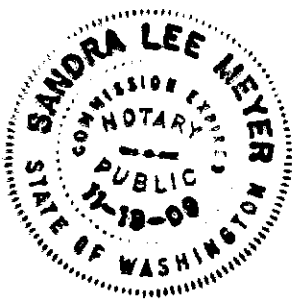
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STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

On this day personally appeared before me, Richard Pease, to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged to me that s/he signed the same as her/his free and voluntary act and deed for the purposes therein mentioned.

Given under my hand and official seal this 5th day of December, 2005.



Sandra Lee Meyer
Notary Public in and for the State of
Washington, residing at Abbots
My commission expires 19 Nov 2009



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EXHIBIT A
(Legal Description)

The attached legal description which follows is from Exhibit A to that certain deed recorded in Skagit County, Washington under Auditor's file number 199911010172,

EXHIBIT "A"

PARCEL A:

All that portion of Lot 4, Short Plat No. 10-89, approved June 27, 1989, as recorded in Volume 8 of Short Plats, page 150, under Auditor's File No. 8908020066, records of Skagit County, Washington, lying West of the Plat of the Pointe Div. No. 3, as per plat filed in Volume 14 of Plats, pages 151 through 153, records of Skagit County, Washington.

PARCEL B:

All that portion of the South 200 feet of the East 980 feet of the Northwest Quarter of the Northwest Quarter of Section 35, Township 35 North, Range 1 East of the Willamette Meridian lying West of the following described tract of land:

All that portion of the Northwest Quarter of Section 35, Township 35 North, Range 1 East of the Willamette Meridian, Skagit County, Washington, being more particularly described as follows;

Beginning at the Southwest corner of the North Half of the Northwest Quarter of Section 35, as said point is shown on Short Plat No. 10-89, recorded August 2, 1989 in Book 8 of Short Plats at page 150, in the Auditor's office of said county and state; thence North 89°35'35" East, along the South line of said North Half, for a distance of 348.48 feet to the Southwest corner of the East 980 feet of the Northwest Quarter of the Northwest Quarter of Section 35;

thence North 00°56'08" East along the West line of said East 980 feet for a distance of 200.00 feet to the Northwest corner of the South 200 feet of said East 980 feet;

thence North 89°35'35" East along said North line of said South 200 feet for a distance of 343.17 feet to the true point of beginning;

thence continuing North 89°35'35" East along said North line for a distance of 408.22 feet to the Northwest corner of that certain tract of land conveyed to Kevin P. Welch and Jenny Welch, husband and wife, by instrument dated December 19, 1995 and recorded under Auditor's File No. 9512290137, records of said county and state;

thence South 03°40'59" West along the West line of said Welch tract for a distance of 120.79 feet to the most Northeasterly corner of Lot 38, Plat of the Point Div. No. 3, as per plat recorded in Volume 14 of Plats, pages 151, 152, and 153, records of said county and state;

thence North 68°13'31" West along the most Northerly line of said Lot 38 for a distance of 22.31 feet;

thence North 85°13'37" West, continuing along said most Northerly line for a distance of 68.92 feet;

continued



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EXHIBIT "A"
Parcel B, continued
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thence South 85°54'47" West, continuing along said most Northerly line for a distance of 88.21 feet;
thence South 51°04'22" West, continuing along the most Northwesterly line of said Lot 38 for a distance of 166.06 feet to the most Northerly corner of Lot 36, said Plat of the Point Dive. No. 3;
thence South 50°44'21" West along the most Northwesterly line of said Lot 36 for a distance of 23.52 feet;
thence North 40°21'05" West for a distance of 102.80 feet;
thence North 03°27'30" West for a distance of 151.07 feet, more or less, to the true point of beginning;

PARCEL C:

All that portion of Lot 4, Short Plat No. 19-85, approved June 7, 1985, as recorded in Volume 7 of Short Plats, pages 24 and 25, under Auditor's File No. 8506100021, records of Skagit County, Washington, lying Northeasterly of Marine Drive, lying West of the Plat of the Pointe Division No. 3, as per plat recorded in Volume 14 of Plats, at pages 151, 152 and 153, records of Skagit County, Washington, and lying North of that certain tract of land described by instrument filed under Auditor's File No. 553733, records of Skagit County, Washington.

PARCEL D:

All that portion of the North Half of the Northwest Quarter of Section 35, Township 35 North, Range 1 East of the Willamette Meridian, Skagit County, Washington, more particularly described as follows:

Beginning at the Southwest corner of said North Half of the Northwest Quarter of Section 35, as said point is shown on Short Plat No. 10-89, as recorded August 2, 1989 in Book 8 of Short Plats at page 150, in the Auditor's office of said county and state;
thence North 89°35'35" East, along the South line of said North Half, for a distance of 348.48 feet to the Southwest corner of the East 980 feet of the Northwest Quarter of the Northwest Quarter of Section 35;
thence North 00°56'08" East along the West line of said East 980 feet for a distance of 200.00 feet to the Northwest corner of the South 200 feet of said East 980 feet;
thence North 89°35'35" East along said North line of said South 200 feet for a distance of 343.17 feet;
thence North 03°27'30" West for a distance of 138.08 feet;
thence North 75°52'50" West for a distance of 564.22 feet;

continued



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EXHIBIT "A"
Parcel D, continued
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thence South $80^{\circ}37'47''$ West for a distance of 130.28 feet to the West lipe of said North Half of the Northwest Quarter of Section 35;
thence South $01^{\circ}20'28''$ West along said West line for a distance of 459.35 feet, more or less, to the point of beginning.

Situated in Skagit County, Washington.

- END OF EXHIBIT "A" -



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