

WHEN RECORDED RETURN TO:

Alston, Courtage & Bassetti LLP
1420 Fifth Avenue, Suite 3650
Seattle, WA 98101
Attn: Charles E. Shigley



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Skagit County Auditor

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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS**

Grantor:

Roeter Cook Road LLC

Larson Cook Road LLC

Bissell Real Estate Holdings, LLC

Grantee:

Roeter Cook Road LLC

Larson Cook Road LLC

Bissell Real Estate Holdings, LLC

**Abbreviated Legal
Description:**

Lots 1, 2 and 3 of Binding Site Plan No. PL07-0601
Complete legal description contained in Exhibit A

**Assessor's Property
Tax Parcel Account
Numbers:**

8075-000-001-0000

8075-000-002-0000

8075-000-003-0000

**Reference Numbers of
Documents Assigned
or Released:**

N/A

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUN 16 2014

Amount Paid \$
Skagit Co. Treasurer
By *mb* Deputy

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS ("*Declaration*") is made and declared as of Thursday, June 12, 2014, by LARSON COOK ROAD LLC, a Washington limited liability company, as to an undivided one-third (1/3) interest, ROETER COOK ROAD LLC, a Washington limited liability company, as to an undivided one-third (1/3) interest, and BISSELL REAL ESTATE HOLDINGS LLC, a Washington limited liability company, as to an undivided one-third (1/3) interest, as tenants-in-common ("*Declarant*"). Declarant and its successors and assigns are from time to time referred to herein individually as an "*Owner*" and collectively as the "*Owners*".

RECITALS

A. Declarant is the owner of those certain parcels of real property situated in the City Burlington, Skagit County, Washington, more particularly described on Exhibit A attached hereto (the "*Project*").

B. The Project consists of three separate parcels identified on the site plan attached hereto Exhibit B (the "*Site Plan*"). The parcels depicted on the Site Plan are referred to herein collectively as the "*Lots*" and individually a "*Lot*" or "*Lot 1*", "*Lot 2*" or "*Lot 3*", as applicable.

C. Declarant makes this Declaration to create certain covenants, conditions, restrictions and easements over and for the benefit of the Lots.

AGREEMENT

IN CONSIDERATION of the recitals, grants and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby grants, covenants and declares as follows:

1. Definitions. The following terms shall have the meanings set forth below:

"*Driveway*": The shared driveway located between Lot 2 and Lot 3 as shown on the Site Plan.

"*Driveway Maintenance*": Collectively, the following: (a) maintaining, repairing, and replacing the Driveway including, without limitation, removal of snow and ice, restriping, and repairs or resurfacing resulting from normal usage, and (b) keeping the Driveway free of debris and rubbish. In no event shall Driveway Maintenance include maintaining, repairing or replacing any sidewalks, curbing or other improvements located on any Lot.

"*Driveway Maintenance Costs*": All costs and expenses incurred by the Operator in performing any Driveway Maintenance.



"Maintenance Costs": Collectively, all Driveway Maintenance Costs and Storm Facility Maintenance Costs.

"Permitted Persons": Each Owner and its respective tenants, subtenants, successors, and assigns; the employees, representatives, agents, licensees, business visitors, customers and invitees of the Owner; and the tenants of the Owner and employees, representatives, agents, licensees, business visitors, customers and invitees of such tenants.

"Storm Facilities": Collectively, the underground pipeline, catch basins and related improvements on the Lots to convey storm water and surface water collected from the Lots and discharge it in the drainage easement. The general location of the Storm Facilities is depicted on the Site Plan.

"Storm Facility Maintenance": Collectively, maintaining, repairing, and replacing the Storm Facilities including, without limitation, removing sediment and debris from the catch basins and any other work required to ensure normal use and operation.

"Storm Facility Maintenance Costs": All costs and expenses incurred by the Operator in performing any Storm Facility Maintenance.

2. Easements. Declarant does hereby grant and declare the following easements over and across the Lots:

2.1 Access. A perpetual non-exclusive easement over each Lot for: (a) ingress and egress of Permitted Persons and their vehicles to and from any portion of the Project and public streets adjacent to the Project; and (b) movement of pedestrian and vehicular traffic of Permitted Persons from any part of the Project to any other part of the Project.

2.2 Utilities. A perpetual non-exclusive easement to construct, maintain, repair, and replace utility lines within, beneath, or over each Lot, including natural gas, water, sewer, electrical power lines, telephone, cable, and any other utilities. If required by a utility provider or applicable law, the Owner of a given Lot may locate utility meters on the portions of another Lot fronting on Old Highway 99 North. Any Owner constructing, maintaining, repairing or replacing utility lines within another Owner's Lot shall, at its sole cost and expense, restore such Lot and any landscaping or other improvements within such Lot to the as good a condition as they were in prior to such activity.

2.3 Driveway. As between the Owners of Lot 2 and Lot 3, a perpetual non-exclusive easement to construct maintain, repair, and replace the Driveway.

2.4 Storm Facilities. A perpetual non-exclusive easement over each Lot to construct, use, maintain and repair the Storm Facilities. Each Owner shall have the right to collect storm water and surface runoff from its Lot and connect to the Storm Facilities. No Owner shall permit materials to be discharged into the Storm Facilities in violation of applicable law, or which would interfere with or impair the operation of Storm Facilities.



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3. Maintenance and Maintenance Costs.

3.1 Operator. Initially, the Declarant shall be the "Operator" and shall continue to serve as Operator until such time as the Declarant either resigns or no longer owns a Lot. The Operator may resign at any time upon thirty (30) days written notice to the other Owners. The Operator may be removed and a new Operator may be appointed at any time subject to the approval of the Owner(s) of a majority of the Lots (*i.e.*, one vote per Lot).

3.2 Driveway Maintenance. The Operator shall perform or cause to be performed all Driveway Maintenance. If the Operator determines that Driveway Maintenance is necessary which will interfere with the use of the Driveway, the Operator shall notify the Owners of Lot 2 and Lot 3 as to the scope, cost and the estimated schedule for completion of the Driveway Maintenance identified in the notice, at least thirty (30) days before any such work is undertaken. Notwithstanding the foregoing, in the event that the Operator determines, in its reasonable discretion, that an emergency exists and that the condition of the Driveway is in danger of becoming impassable, then the Operator shall be entitled to proceed immediately, without prior notice to the Owners of Lot 2 and Lot 3 to effect any Driveway Maintenance necessitated thereby, and shall notify the Owners of Lot 2 and Lot 3 of the nature and scope of the work performed as soon as reasonably possible under all of the circumstances.

3.3 Driveway Maintenance Costs. Initially, all Driveway Maintenance Costs shall be allocated to the Owner of Lot 3. Upon the issuance of a building permit with respect to Lot 2, all Driveway Maintenance Costs shall be allocated 50/50 between Lot 2 and Lot 3. No Driveway Maintenance Costs shall be allocated to Lot 1. The Operator shall be entitled to submit invoices for Driveway Maintenance Costs to the Owners of Lot 2 and Lot 3. Each Owner shall pay for its allocated share of any Driveway Maintenance Costs within thirty (30) days after receipt of an invoice showing a total amount for such costs.

3.4 Storm Facility Maintenance. Each Owner shall be responsible for repairing any damage to the Storm Facilities resulting from the negligent or intentional acts or omissions of such Owner or its employees, contractors, or agents. All other Storm Facility Maintenance shall be performed by the Operator. If the Operator determines that Storm Facility Maintenance is necessary which will interfere with the use of the Storm Facilities, the Operator shall notify all Owners as to the scope, cost and the estimated schedule for completion of the Storm Facility Maintenance identified in the notice, at least thirty (30) days before any such work is undertaken. Notwithstanding the foregoing, in the event that the Operator determines, in its reasonable discretion, that an emergency exists and that the condition of the Storm Facilities is in danger of failing, then the Operator shall be entitled to proceed immediately, without prior notice to the Owners to effect any Storm Facility Maintenance necessitated thereby, and shall notify the Owners of the nature and scope of the work performed as soon as reasonably possible under all of the circumstances.

3.5 Storm Facility Maintenance Costs. All Storm Facility Maintenance Costs shall be allocated equally among the Lots (*i.e.*, 1/3 to each Lot). The Operator shall be entitled to submit invoices for Storm Facility Maintenance Costs to the Owners. Each Owner shall pay for



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its allocated share of any Storm Facility Maintenance Costs within thirty (30) days after receipt of an invoice showing a total amount for such costs.

3.6 Non-Payment of Maintenance Costs. Failure of an Owner to pay its allocated share of Maintenance Costs within thirty (30) days after written notice from the Operator shall constitute a default hereunder by the non-paying Owner. In the case of Maintenance Costs, to the extent allowed by law, the Operator shall be entitled to advance such sums after the expiration of the 30-day notice and cure period. In addition to such cost, there shall be assessed reasonable attorneys' fees if the services of an attorney are required, together with taxable costs and interest from the date that the obligation becomes delinquent at the rate of twelve percent (12%) per annum until paid, together with any actual damages incurred by reason of such failure on the part of the defaulting Owner. Such attorneys' fees, interest and other costs shall be due whether or not suit is actually instituted in order in all circumstances to shift the burden for failure to comply with this Declaration to the defaulting Owner.

3.7 Assessment Liens. Any claim for non-payment of Maintenance Costs, including interest, and all costs and expenses (including reasonable attorneys' fees incurred by the Operator in collection such amounts shall be assessed against the defaulting Owner in favor of the Operator) shall constitute a lien (the "Assessment Lien") against the Lot of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the real property records of Skagit County, Washington; provided, however, that any such Assessment Lien shall be subject and subordinate to (a) liens for taxes and other public charges which by applicable law are expressly made superior, and (b) all liens recorded in the real property records of Skagit County, Washington, prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of an Assessment Lien described herein shall be junior and subordinate to the Assessment Lien. Upon the payment in full by the defaulting Owner of all amounts for which a notice of Assessment Lien was recorded, the Operator shall record an appropriate release of such notice of lien and Assessment Lien.

3.8 Foreclosure. Any Assessment Lien recorded against a Lot may be enforced judicially by the Operator or its authorized representative in the manner set forth in Chapter 61.12 RCW. The Operator or its authorized representative shall have the power to purchase the encumbered Lot at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Nothing in this Section 3.8 shall prohibit the Operator from taking a deed in lieu of foreclosure.

4. Restrictions.

4.1 Starbucks Exclusive. As of the date of this Declaration, a portion of Lot 3 is leased to Starbucks Corporation pursuant to that certain Commercial Lease dated May 2, 2008 (the "Starbucks Lease"). During the term of the Starbucks Lease (including any extensions thereof), no portion Lot 1 or Lot 2 shall be used for the sale of (a) whole or ground coffee beans, (b) espresso or espresso-based drinks, or coffee-based drinks, (c) tea or tea-based drinks, (d) brewed coffee, or (e) blended beverages that contain coffee or espresso. Nothing in this



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Section 4.1 shall prohibit a restaurant on Lot 1 or Lot 2 from serving unbranded drip coffee and tea as part of a full restaurant menu.

4.2 General Restrictions on Use. No part of the Project shall be used or occupied for purposes other than Retail Services. The Project shall not be leased, subleased, operated or otherwise used for: (a) the display, distribution or sale of any "adult" books, "adult" films, "adult" periodicals or "adult" entertainment; (b) the establishment or maintenance of a massage parlor (except that this provision shall not prohibit day spas and medical offices and massages in connection with such day spas, or medical offices), gambling operation, "adult" theater, "adult" bookstore, "sex" shop, "peep show" or bawdy house or brothel, or any use with topless or nude performers or any use in violation of applicable zoning and other governmental laws and regulations; (c) any use which emits an obnoxious odor, noise or sound which can be heard or smelled outside of any building in the Project, or which is a public or private nuisance, or which is likely to generate public protests or controversy interfering with the operation of the Project as a retail center; (d) any refining, smelting, agricultural, animal raising or boarding (other than consumer pet shops), or mining operation; (e) any short or long term residential use; (f) any primary use as a warehousing, assembling, manufacturing, waste processing or other industrial operation; (g) the outdoor display of motor vehicles, trucks, trailers, recreational vehicles or boats either for sale or lease; (h) any place for public assembly (such as a church, mortuary or meeting hall), (i) flea markets, fire, bankruptcy or liquidation sales, or sales of "second-hand" or "surplus" merchandise; (j) laundry or dry cleaning plants or laundromats (provided, however, that drop-off locations for such services shall be permitted); (k) training or educational facilities (other than on-site employee training by an occupant incidental to the conduct of its business); and (l) movie theaters, bowling alleys, skating rinks, game parlors, pool or billiard halls, dance halls, video arcades or other entertainment facilities.

4.3 Acceptance of Restrictions. Any lease or occupancy agreement subsequently entered into with respect to a Lot will require that the tenant's use (and any changes to the original use by the tenant) must comply with applicable laws and recorded easements and restrictions affecting the property (including this Declaration). In acquiring a Lot, an Owner shall automatically be deemed to acknowledge that the restrictions set forth in this Declaration are an essential part of the particular transaction covering Owner's Lot and, further, that the restrictions set forth in this Declaration are fair and reasonable to assure all Owners of Lots of their expected benefits and the orderly and beneficial development of the Project and the Lots.

5. Parking. Each Owner shall maintain on such Owner's Lots sufficient parking spaces to meet the needs of such Owner's Permitted Persons, and to satisfy requirements of the City of Burlington codes. Parking stalls located within each Lot are exclusively and solely for the use of the Owner of such Lot and its Permitted Persons. Notwithstanding anything herein to the contrary, the Owners of two or more Lots may (in their sole discretion) enter into a separate agreement with respect to the common use of parking stalls located on their respective Lots.

6. Indemnification. Each Owner agrees to defend, indemnify and hold harmless the other Owners and their successors and assigns from and against all claims, losses, liabilities and expenses (including attorneys' fees and court costs) incurred by or asserted against them or their



successors and assigns as a result of any negligent or wrongful acts or maintenance and repair to the Driveway by the indemnifying Owner or its employees, agents, tenants, contractors, successors or assigns. This indemnity shall run with the land and shall inure to the benefit of the Owner of any portion of any Lot following any subdivision thereof.

7. Insurance. Prior to performing any construction activity within the Driveway permitted hereunder, the Owner performing such work shall obtain, or cause to be obtained by its contractor(s) commercial general liability insurance coverage with a limit of not less than Two Million Dollars (\$2,000,000) naming the other Owners shall be additional insureds. All construction activities shall be required to utilize licensed and bonded contractor(s).

8. Mechanic's Liens. In the event any mechanic's lien is recorded against an Owner's Lot as a result of services performed or materials furnished for the use of another Owner, the Owner permitting or causing such lien to be so recorded agrees to cause such lien to be discharged within fifteen (15) days after the entry of a final judgment (after all appeals) for the foreclosure of such lien. Notwithstanding the foregoing, upon request of the Owner whose Lot is subject to such lien, the Owner permitting or causing such lien to be recorded agrees to promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting bond or other security as shall be required by law to obtain such release and discharge. Nothing herein shall prevent the Owner permitting or causing such lien to be recorded from contesting the validity thereof in any manner such Owner chooses so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), such Owner shall promptly pay in full the required amount, together with any interest, penalties, costs, or other charges necessary to release such lien of record. The Owner permitting or causing such lien agrees to defend, protect, indemnify and hold harmless the other Owner and its Lot from and against all claims and demands, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from such lien.

9. Severability. The invalidation by any court of any reservation, covenant, restriction, limitation or agreement herein contained shall in no way affect any of the other provisions hereof and the same shall remain in full force and effect.

10. Runs With the Land. This Declaration constitutes a covenant running with the land affecting the Lots and shall be binding upon and inure to the benefit of the respective Owners, and their successors and assigns.

11. Amendment. No amendment to this Declaration will be binding on any of the parties hereto unless such amendment is in writing and is executed by all of the Owners.

12. Continuation Following Breach. It is expressly agreed that no breach of this Declaration shall (a) entitle any Owner to cancel, rescind, or otherwise terminate this Declaration, or (b) defeat or render invalid the lien of any mortgage or trust deed made in good faith and for value as to any Lot or portion thereof. However, such limitation shall not affect in



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any manner any other rights or remedies which an Owner may have hereunder by reason of any such breach.

13. Time. Time is of the essence of this Declaration.

14. Attorneys' Fees. If any Owner brings a legal proceeding to enforce or obtain a declaration of its rights under this Declaration, the prevailing party in such legal proceeding shall be entitled to recover its reasonable costs and attorneys' fees from the non-prevailing party.

15. Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Lot, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that may not be rejected, in whole or in part, by the bankrupt Owner.

16. Unity of Title. It is the intention of the parties that the rights and obligations hereunder shall not be extinguished or terminated solely by reason of existing or future common ownership of the Lots.

[Signature on following page]



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IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date and year first above written.

LARSON COOK ROAD LLC,
a Washington limited liability company

By: _____

Name: Linden E. Larson

Title: Member

LARSON COOK ROAD LLC,
a Washington limited liability company

By: _____

Name: Diane M. Larson

Title: Member

ROETER COOK ROAD LLC,
a Washington limited liability company

By: _____

Name: Michael J. Roeter

Title: Member

ROETER COOK ROAD LLC,
a Washington limited liability company

By: _____

Name: Catherine O. Roeter

Title: Member

BISSELL REAL ESTATE HOLDINGS, LLC,
a Washington limited liability company

By: _____

Name: Eric Bissell

Title: Member



IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date and year first above written.

LARSON COOK ROAD LLC,
a Washington limited liability company

By: _____
Name: Linden E. Larsen
Title: Member

LARSON COOK ROAD LLC,
a Washington limited liability company

By: _____
Name: Diane M. Larsen
Title: Member

ROETER COOK ROAD LLC,
a Washington limited liability company

By: _____
Name: Michael J. Roeter
Title: Member

ROETER COOK ROAD LLC,
a Washington limited liability company

By: _____
Name: Catherine O. Roeter
Title: Member

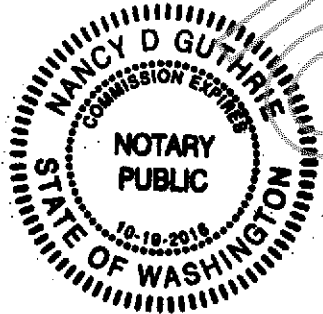
BISSELL REAL ESTATE HOLDINGS, LLC,
a Washington limited liability company

By: _____
Name: Eric Bissell
Title: Member

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Linden E. Larson, to me known to be a member of LARSON COOK ROAD LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16th day of June, 2014.



Nancy Guthrie
Signature
Nancy Guthrie
Print Name
NOTARY PUBLIC in and for the State of
Washington, residing at Seattle
My commission expires 10/19/16

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Diane M. Larson, to me known to be a member of LARSON COOK ROAD LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16th day of June, 2014.



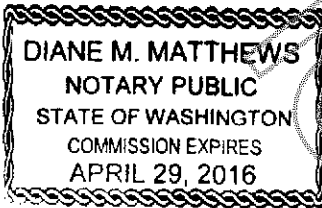
Nancy Guthrie
Signature
Nancy Guthrie
Print Name
NOTARY PUBLIC in and for the State of
Washington, residing at Seattle
My commission expires 10/19/16



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Michael J. Roeter, to me known to be a member of ROETER COOK ROAD LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16TH day of June, 2014.



Diane M. Matthews
Signature

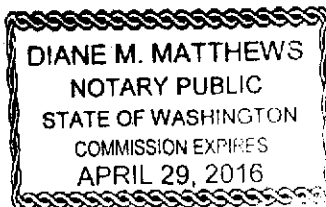
DIANE M. MATTHEWS
Print Name

NOTARY PUBLIC in and for the State of
Washington, residing at WOODINVILLE
My commission expires 4/29/16.

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Catherine O. Roeter, to me known to be a member of ROETER COOK ROAD LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16TH day of June, 2014.



Diane M. Matthews
Signature

DIANE M. MATTHEWS
Print Name

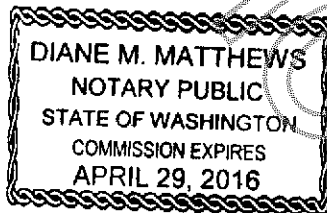
NOTARY PUBLIC in and for the State of
Washington, residing at WOODINVILLE
My commission expires 4/29/16.



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Eric Bissel, to me known to be a member of BISSELL REAL ESTATE HOLDINGS, LLC., the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 16TH day of June, 2014.



Signature

Print Name

NOTARY PUBLIC in and for the State of
Washington, residing at WOODINVILLE

My commission expires 4/29/16.



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EXHIBIT A

LEGAL DESCRIPTION

Lots 1, 2 and 3 of Binding Site Plan No. PL07-0601 recorded March 3, 2008, under Auditor's File No. 200803030109, records of Skagit County, Washington; being a portion of the Northeast Quarter of Southwest Quarter of Section 19, Township 35, Range 4 East of the Willamette Meridian.

Situated in Skagit County, Washington.

4440/003 05/07/14
cshigley\alliance management\cook road



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Skagit County Auditor

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SITE PLAN

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