

When recorded return to:



200712200068

Skagit County Auditor

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**The San Juan Preservation Trust  
Box 327  
Lopez Island WA 98261**

**DOCUMENT TITLE: GRANT DEED OF CONSERVATION EASEMENT**  
**GRANTOR: WERNER LIVING TRUST**  
**GRANTEE: THE SAN JUAN PRESERVATION TRUST**  
**ABBREVIATED LEGAL: ORCHARD BEACH TRS TDLNDS INFR OF & TRS 20 & 21;  
 ORCHARD BEACH TRS TDLNDS INFR OF & TR 22;  
 ORCHARD BEACH TRS BAT SWLY C TR 22 SD PLT TH S  
 37-24 E AL GSWLY LI TR 22 219.83FT TO SE C THOF THE  
 W609.56FT TO E LI CO RD TH N 1-25-30 E ALG CO RD LI  
 20.0FT TH E 270.47FT TH N 52-36 E 254.6FT TPB;  
 ORCHARD BEACH TRS TR 29 LESS RD; ORCHARD  
 BEACH TRS TR 30; ORCHARD BEACH TRS TR 31 & 32  
 TAX 2 THAT PART OF TRS 31 & 32 LYING N'LY FROM A  
 STRAIGHT LINE FR THE SE COR OF LOT 29 TO THE  
 MOST S'LY COR OF LOT 20 EXC. RDS & STS. ALL IN  
 SEC31 T36N R2E W.M. SKAGIT COUNTY, WASHINGTON  
 EXHIBIT "A"**  
**FULL LEGAL:**  
**TAX PARCEL NUMBER: P67732; P67733; P67741; P67747; P67748; P67750**

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

DEC 20 2007

Amount Paid By  
Skagit Co. Treasurer  
By *MF* Deputy

**GRANT DEED OF CONSERVATION EASEMENT**

This Grant Deed of Conservation Easement, by and between **WERNER LIVING TRUST**, (hereinafter referred to as "Grantor"), and **THE SAN JUAN PRESERVATION TRUST**, a Washington non-profit corporation (hereinafter referred to as "Grantee"), is made with reference to the following facts:

Werner Shoreline Conservation Easement

**1 RECITALS.**

**1.1** Grantor is the owner in fee of that certain real property (hereinafter the "Property"), situated on Guemes Island in Skagit County, State of Washington, more particularly described in Exhibit "A" and shown on Exhibit "B", both of which are attached and made a part hereof by this reference.

**1.2** The Property is part of a significant coastal ecosystem, the San Juan Islands, which is relatively intact and undeveloped. The Property consists of approximately 19.68 acres, including 545 feet of shoreline, tidelands, and woodlands that provide wildlife habitat for native birds and mammals and possess ecological, scenic, forest, and open-space values. Prominent attributes of the Property are the mixed Douglas fir, shore pine, and deciduous forest that contribute to the open, natural and rural character on the northeastern shoreline of Guemes Island.

**1.3** The Property enhances the rural character and wildlife habitat of Guemes Island, and the Property's ecological, scenic, forest, and open-space values are of major importance to Grantor, Grantee, and the people of Guemes Island, Skagit County, and the State of Washington. The Property can be viewed by the public from Section Avenue and from Padilla Bay.

**1.4** The goals and policies of the Skagit County Zoning Ordinance provide for the conservation of natural resources and value of property. The Skagit County Countywide Comprehensive Plan encourages the retention of open space and wildlife habitat by conservation easements.

**1.5** The legislatively declared policies of the State of Washington, in Chapter 84.34 Revised Code of Washington (hereinafter "RCW"), provide that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence, adequate open-space lands and to assure the use and enjoyment of natural resources, and scenic beauty for the economic and social well-being of the state and its citizens.

**1.6** The Property would also be extremely desirable property for substantial residential and other development because of its location and orientation. In the absence of this Grant Deed of Conservation Easement, the Property could be developed in the future for additional residential and other uses in a manner which would destroy the forest, open-space, natural shoreline, and scenic character of the Property and its ecological value.

**1.7** Grantor, as the owner of the Property, possesses the affirmative right to identify, preserve, and protect in perpetuity the natural elements and processes and the ecological, forest, scenic, open-space and natural values of the Property, and desires to transfer such rights to the Grantee.

**1.8** Grantee is a "non-profit nature conservancy corporation" as defined by Chapters 64.04.130 RCW and 84.34.250 RCW, and described in Section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986 (hereinafter "IRC"), and Grantee is authorized to accept the Conservation Easement.

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**2 CONVEYANCE AND CONSIDERATION.**

**2.1** For the reasons stated above, and in consideration of the mutual covenants contained herein, the Grantor does hereby grant, convey, and warrant to Grantee, and Grantee hereby accepts, a perpetual Conservation Easement, consisting of the rights in the Property hereinafter enumerated, subject only to the restrictions set forth herein.

**2.2** This conveyance is a conveyance of an interest in real property under the provisions of 64.04.130 RCW, and is made as an absolute, unconditional, unqualified, and completed gift subject only to the mutual covenants and restrictions hereinafter set forth, and for no other consideration whatsoever.

**3 PURPOSE.**

**3.1** It is the exclusive purpose of this Conservation Easement to protect and preserve the ecological, forest, open-space, natural shoreline, tidelands, wildlife habitat and scenic values (hereinafter the "Conservation Values") of the Property; to limit residential development of the Property to two (2) single-family residences and appurtenant structures, including guest houses, and associated activities within the designated "Structures Area" (as shown in Exhibit "B") on the Property; to preserve the natural, scenic, and open space qualities of the "No Structures Conservation Area" (as shown in Exhibit "B"); and to protect the land in perpetuity. The existing beach stairs shall be identified in the Baseline Present Conditions Report and allowed to be used, maintained, and replaced. To this end, Grantor and Grantee agree that the Baseline Present Conditions Report consisting of maps, photographs, and other documentation on file at the offices of Grantee and already provided to Grantee by Grantor provide, collectively, an accurate representation of the Property at the time of this Grant and are hereby incorporated by this reference. Grantor and Grantee further agree that within twelve (12) months of the execution hereof, a collection of additional Baseline Data may be compiled by Grantee, attached hereto as an exhibit, and incorporated herein by this reference. The Baseline Present Conditions Report shall be relied upon by the Grantor and the Grantee as the descriptive base to establish the present condition and guide in the future uses of the Property. Failure to timely compile the additional Baseline Data shall not affect the enforceability or validity of any other provision hereof.

**3.2** Grantor intends that the Property shall not be converted nor directed to any uses other than those provided herein.

**3.3** Preservation of the Property will protect the general public's visual access to open space and forested habitat.

**3.4** Unless specifically provided, nothing contained herein shall be construed as affording to the general public access to any portion of the Property subject to this Conservation Easement.



**4 GRANTEE'S RIGHTS.**

**4.1** The rights conveyed to Grantee by this Conservation Easement are the following:

**4.1.1** The Grantee shall have the right to identify, preserve, and protect, in perpetuity, the woodlands, natural shoreline, and open-space character of the Property for public benefit and scenic enjoyment by the general public.

**4.1.2** The Grantee shall have the right to enter upon the land of the Property annually, upon prior notice to the Grantor, for the purpose of making a general inspection of the land to assure compliance with this Conservation Easement.

**4.1.3** The Grantee and other persons approved by the Grantor may enter upon the Property, upon prior arrangement with Grantor, for educational, scientific and biological purposes to observe and study the Property, or for other purposes allowed by Grantor consistent with this Conservation Easement.

**4.1.4** The Grantee shall have the right to enter upon the Property with prior notice, at such other times as are necessary if there is reason to believe that a violation of this Conservation Easement is occurring, for the purposes of enforcing the provisions of this Conservation Easement.

**4.1.5** The Grantee shall have the right to enjoin any activity on, or use of, the Property that is inconsistent with this Conservation Easement, and undertake, cause to be undertaken, or enjoin the restoration of such areas or features of the Property as may be damaged by activities contrary to the provisions hereof.

**4.1.6** The Grantee shall have the right, during the annual inspection, to place and replace small markers to identify the boundaries and corners of the Property.

**4.1.7** The Grantee shall be notified by Grantor, in writing, before Grantor exercises any reserved right, the exercise of which may have an adverse impact on the conservation interests associated with the Property.

**4.1.8** The Grantor hereby grants to Grantee all development rights, except as reserved in Section 5 below, that are now or hereafter allocated to, implied, reserved, or inherent in the Property; and Grantor and Grantee agree that such rights are terminated and extinguished, and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, nor used for the purpose of calculating permissible lot yield of the Property or any other property.

**4.2** Enforcement of the terms and conditions of this Conservation Easement shall be at the discretion of the Grantee, in accordance with Section 7 below. Any forbearance on its behalf to exercise its rights hereunder in the event of any breach of this Conservation Easement by Grantor, its heirs, successors or assigns, or any

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other person or entity, shall not be deemed or construed to be a waiver of the Grantee's rights hereunder in the event of any subsequent breach.

**5 PERMITTED AND RESERVED USES AND ACTIVITIES.**

**5.1 General.** Grantor reserves for itself and its personal representatives, heirs, successors, and assigns, all rights accruing from ownership of the Property, including the right to engage in, or permit or invite others to engage in, any use of, or activity on, the Property that is consistent with the Conservation Purposes of the Conservation Easement and that is not otherwise prohibited by this Conservation Easement. Without limiting the generality of this subsection, Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities:

**5.2 Structures Area.** To a) use, maintain, repair, expand, reconstruct, relocate, or replace the two (2) existing single-family residences along with their appurtenant structures including guest houses, access driveways, landscaping, ponds, gardens, fences and other structures reasonably appurtenant to a single-family residence subject to compliance with federal, state, and local regulations, within the four (4) acre "Structures Area" defined as tax parcel numbers P67750 & P67732 inland of the 200 ft. shoreline management jurisdiction as shown in Exhibit "B".

**5.3 No Structures Conservation Area(s).** To manage the "No Structures Conservation Area(s)" of the Property, as shown on Exhibit "B", for limited uses consistent with the terms of this Conservation Easement.

**5.4 Ponds.** To construct and maintain ponds in the Structures Area only.

**5.5 Utilities.** To install, use, maintain, repair, reconstruct, relocate or replace utilities to serve the Structures Area, including, but not limited to water wells for use on site, pump houses, septic systems, electricity, natural gas, telephone, and associated underground utility lines in either the Structures Area or the No Structures Conservation Area(s).

**5.6 Fences.** To construct, maintain, repair or replace fences in the Structures Area.

**5.7 Roads.** To build, use, maintain, repair, reconstruct, or replace the existing driveway within a 30 ft. easement as measured 15ft. either side of the existing driveway centerline as shown in Exhibit "B" to serve the residences and appurtenant structures in the "Structures Area" as shown in Exhibit "B".

**5.8 Noxious Weeds/Introduced Species.** To remove and control noxious, introduced, and invasive weed species and introduced animal species on the Property.

**5.9 Forest Management-Noncommercial Purposes.** To manage forested land in the No Structures Conservation Area by selective thinning, pruning, and planting of native species of tree and understory plants for noncommercial purposes, which may include forest management for safety of users of the Property; for control of active fires, and prevention of fire and disease, including

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exotic intrusion; for restoration or enhancement of wildlife habitat subject to the general maintenance of the high scenic character and healthy wildlife habitat of the Property. Trees within 200 ft. of the shoreline may be selectively trimmed to maintain marine views from permitted residential structures provided the trimming is done in a manner which does not significantly reduce natural screening. Outside of the Structures Area described in Section 5.2 where forest clearing associated with the construction and maintenance of the two single-family residences and their appurtenant structures is allowed, no new openings greater than 1/10<sup>th</sup> acre in the forest canopy or understory are permitted for such noncommercial purposes, unless approved in advance and in writing by Grantee as necessary to prevent or mitigate greater harm to the Conservation Values of the Property.

**5.10 Recreation.** To provide for and conduct *de-minimis* non-commercial recreational activities, including the ability to create, walk on, and maintain walking trails and paths no greater than 4 ft. in width and one beach access structure, including one set of beach stairs, on the Property.

**5.11 Archaeological Investigations.** To undertake legally permitted archaeological excavations with the oversight of a professional archaeologist, provided that any such activity shall be conducted so that interference with the Conservation Values of the Property is avoided.

**5.12 Public Health and Safety.** To undertake other activities necessary to protect public health or safety of the Property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity, provided that any such activity shall be conducted so that interference with the Conservation Values of the Property is avoided to the greatest extent possible.

## 6 PROHIBITED USES.

**6.1 General.** Any use of, or activity on, the Property inconsistent with the Conservation Purposes of this Conservation Easement is prohibited, and the Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. The following uses and practices on the Property are inconsistent with the purposes of this Conservation Easement and shall be prohibited; however, this is not an exhaustive recital of all of those uses and practices which are prohibited as inconsistent with the purposes of the Conservation Easement:

**6.2 Structures.** The construction or placement of any buildings or structures on the Property, except as expressly provided in Section 5 herein.

**6.3 Subdivision.** The division, subdivision or *de facto* subdivision of the Property. This restriction shall not be interpreted to prohibit lot line revisions.

**6.4 Alteration of Land.** Change in the topography of the land or shoreline alteration through the excavation or placing of soil, dredging spoils, armoring, or



other material or through new pond construction on the Property, except in conjunction with a use or activity expressly permitted under Section 5 herein.

**6.5 Mining.** The exploration for or extraction of sand, gravel, minerals, hydrocarbons, soils, or other materials, except water for use on the property, on or below the surface of the Property.

**6.6 Signs.** The construction or placement of commercial signs, billboards, or other commercial advertising material on the Property. This provision shall not be interpreted to prohibit Grantor from placing small signs on the Property to state the conservation status of the Property, to restrict hunting, to indicate the name(s) of the owner or its occupants, or to advertise the sale of agricultural products produced on the Property, provided that such signs are designed and located so as to avoid any impact on the Conservation Values of the Property.

**6.7 Dumping.** The dumping of used vehicles, old machinery, rubbish, garbage, debris, hazardous materials, or other unsightly or offensive material on the Property.

**6.8 Commercial Recreation.** Other than *de minimis* use of the Property for commercial recreational activities, as such terms are defined by Section 2031(c)(8)(B) of the IRC and the applicable Treasury Regulations.

**6.9 Development Rights.** The use or transfer of any development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property to any other property.

**6.10 Docks/Boat Ramps/Beach Access Structures.** The use, construction or placement of any docks; boat ramps; or more than one beach access structure, including one set of beach stairs, on the Property. This is not intended to prohibit mooring buoys.

**6.11 Fences.** The construction or placement of any fences on the Property, except as expressly provided in Section 5 herein.

**6.12 Roads/Trails.** Construction of any roads or trails for vehicular use, except as expressly provided for in Section 5.

**6.13 Camping.** Public camping, commercial camping, or development of permanent campsites on the Property.

**6.14 Utilities.** The placement of new above-ground or overhead utility lines, pipes or wires or new underground fuel storage tanks on the Property, except as specifically allowed in Section 5.

**6.15 Tree Harvesting or Removal.** The removal or destruction of trees, including clear-cutting or any other form of commercial logging or gathering of wood, except for uses as provided in Section 5 herein.

**6.16 Water Resources/Wetlands.** The manipulation or alteration of any marshes or wetlands by filling or draining, or the pollution, degradation, or export of water for use off the Property of any surface or subsurface waters on or under the Property.



**6.17 Agriculture.** Agricultural activities in the No Structures Conservation Area on the Property. This restriction does not prohibit forest management and harvest activities as allowed in Section 5.

**6.18 Night Lighting.** The use of any continuous type of night lighting outside the Structures Area, on the Property. This restriction does not prohibit downward directed night illumination for safety.

**7 REMEDIES.**

**7.1** If a dispute arises between the Grantor and the Grantee concerning either the consistency of any proposed action, activity, or use with the purpose of this Conservation Easement or any other circumstances not provided for in Section 7.2 below, the parties shall meet together to discuss the dispute and attempt resolution. Thereafter, either party may refer the dispute to arbitration by request made in writing upon the other. Within thirty (30) days of receipt of such a request, the parties shall select a single arbitrator to hear the matter. If the parties are unable to agree on the selection of the arbitrator, then the presiding judge of Skagit County Superior Court shall appoint one. The matter shall be settled in accordance with RCW 7.04 or the state arbitration statute then in effect, and a judgment on the arbitration award may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for all its costs and expenses, not including attorney's fees, related to such arbitration which shall be determined by the arbitrator and any court of competent jurisdiction that may be called upon to enforce or review the award. The parties agree not to proceed with the proposed action, activity, or use pending resolution of the dispute.

**7.2** Irrespective of any other remedies provided for Grantee, Grantee may, following reasonable written notice to Grantor, institute suits or actions to enjoin any violation by Grantor of this agreement by injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the premises to the condition and appearance required under this Conservation Easement. Further, as permitted by law, representatives of Grantee may, following reasonable notice to Grantor, enter upon the Property and correct any violations and hold Grantor, its successors and assigns, responsible for the cost thereof.

**7.3** Should any person or entity, including the Grantor, its heirs, successors or assigns, undertake any activity in violation of the terms of this Conservation Easement, the Grantee shall have the right to force the restoration of that portion of the Property affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the costs of such restoration and the Grantee's expenses shall be borne by Grantor or those of its heirs, successors, or assigns against whom a judgment is entered, or, in the event that the Grantee secures redress without initiating or completing a judicial proceeding, by Grantor or those of its heirs, successors, or assigns who are otherwise determined to be responsible for the unauthorized activity.

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**SUCCESSION.** The benefits of this Conservation Easement shall be assignable but only to a qualified organization within the meaning of Section 170(h)(3) of the IRC which is organized or operated primarily or substantially for one of the conservation purposes specified in Section 170(h)(4)(A) of the IRC. Any assignment of benefits by the Grantee (or successors) must require the transferee to carry out the purposes of this Conservation Easement. The Grantee shall notify the Grantor, in writing, at the Grantor's last known address, in advance of such assignment. If at any time it becomes impossible for the Grantee to ensure compliance with the covenants contained herein and the Grantee has not named a successor or successor organization, or the Grantee shall cease to exist, then its rights and duties hereunder shall become vested in and fall upon the following-named entities provided that such entities accept this Conservation Easement and are then organizations meeting the requirements of Section 170(h)(3) of the IRC (or its successor statute), in the following order:

- (1) The Nature Conservancy, a District of Columbia non-profit corporation, having its principal office at 4245 North Fairfax Drive, Suite 100, Arlington, VA 22203;
- (2) Such other entity as may have been formed for purposes similar to The San Juan Preservation Trust, constituting a "qualified organization" within the meaning of the Internal Revenue Code of 1986 (or its successor provision).

9 **TAXES AND EXPENSES.**

9.1 Grantor agrees to pay any and all real property taxes and/or assessments levied by competent authority on the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor shall reimburse Grantee for the same.

9.2 Grantor shall bear all the costs of maintenance of the Property, and does hereby indemnify the Grantee therefrom.

10 **PROPORTIONATE VALUE; EMINENT DOMAIN.**

10.1 The Grantor and the Grantee agree that the donation of the Conservation Easement gives rise, for purposes of this paragraph, to a property right immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that the Conservation Easement, determined at the time of the gift, bears to the value of the Property at that time as determined by the appraisal used by Grantor for federal income tax purposes, or, if there is no said appraisal, then the parties shall designate such proportionate value by exhibit to this easement prior to execution. That proportionate value of the Grantee's property rights shall remain constant. Grantor hereby agrees to and shall provide Grantee with copy of said appraisal. If a change in conditions surrounding the Property makes impossible or impracticable the continued use of the Property for conservation purposes, and gives rise to extinguishment of this Conservation Easement by judicial proceedings, the Grantee, on a subsequent sale, exchange or

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involuntary conversion of the Property, shall be entitled to a portion of the proceeds at least equal to that proportionate value of the Conservation Easement. The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein.

**10.2** If ever all or part of the Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation Easement, the Grantor and the Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, the proceeds of which shall be allocated in accordance with Section 10.1 above; all expenses incurred by the Grantor and the Grantee in this action shall be paid out of the recovered proceeds.

- 11 HOLD HARMLESS.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the negligence of any of the Indemnified Parties; and (2) the obligations specified in paragraphs 9.1 and 9.2; and (3) the existence or administration of this Conservation Easement.
- 12 ENVIRONMENTAL LIABILITY.** Grantor is solely responsible and Grantee has no responsibility whatsoever for the operation of the Property or the monitoring of hazardous and other conditions thereon. Notwithstanding any other provision of this easement to the contrary, the parties do not intend, and this easement shall not be construed, such that: (1) it creates in the Grantee the obligations or liabilities of an "owner" or "operator" as those words are defined and used in the environmental laws, including without limitations the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USCA §§9601 *et seq.*) or any successor or related law; (2) it creates in the Grantee obligations or liabilities of a person described in 42 U.S. Code §9607(a)(3) or any successor or related law. The term "environmental laws" includes, without limitation, any federal, state, local, or administrative agency statute, regulation, rule, ordinance, order, or requirement relating to environmental conditions or hazardous substances.
- 13 COVENANTS.** It is the express intent of the Grantor and Grantee that the provisions of this Conservation Easement shall run with the land and burden title to the Property in perpetuity, and shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties hereto.

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**14 "GRANTOR" - "GRANTEE".** The terms "Grantor" and "Grantee", wherever used herein, and any pronouns used in place thereof, shall be held to mean and to include, respectively the above-named Grantor, and heirs, successors, personal representatives, and assignees of said Grantor, and each of them, and the above-named Grantee, its successors and assigns.

**15 SEVERABILITY.** In the event that any provision of this grant or the application thereof to any person or circumstance shall be determined to be invalid or unenforceable, the remainder of the provisions hereof, and the application of such provisions to persons or circumstances other than those as to which it is determined to be invalid, shall not be affected thereby.

**16 SUBSEQUENT TRANSFERS; NO MERGER.**

**16.1** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property, including without limitation, a leasehold interest, and shall notify Grantee in writing of any transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

**16.2** In the event that Grantee acquires the fee title to the real estate covered by this Conservation Easement, it is the intent of the parties, both Grantor and Grantee, that no merger of title shall take place which would merge the restrictions of the Conservation Easement with fee title to the Property and thereby eliminate them, as the parties intend that no such merger take place and that the restrictions on the use of the real estate, as embodied in this Conservation Easement shall, in the event title becomes vested in Grantee, become and remain permanent and perpetual restrictions on the use of the Property and that merger, which would eliminate such restrictions, shall not take place.

**17 NOTICES.** All notices required or permitted to be given under the terms of this Conservation Easement shall be in writing, sent as first-class mail, and addressed as set forth below:

**17.1** All notices to be given to Grantor shall be addressed as follows:

Sarah R. Werner, Trustee  
Werner Living Trust  
P.O. Box 503  
Bellevue, WA 98009

**17.2** All notices to be given to the Grantee shall be addressed as follows:

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The San Juan Preservation Trust  
Box 327  
Lopez Island, WA 98261

Either Grantor or Grantee may, by proper notice to the other, designate another address for the giving of notices. All notices shall be deemed given on the third day following the day the notice is mailed in accordance with this Section 17.

**18 LIBERAL CONSTRUCTION.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement and the policy and purpose of RCW 64.04.130 and RCW 84.34. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

**19 AMENDMENTS.** Grantor and Grantee recognize that circumstances could arise that justify amendment of certain of the terms, covenants, or restrictions contained in this Conservation Easement, and that some activities may require the discretionary consent of the Grantee. To this end, the Grantor and Grantee have the right to agree to amendments and discretionary consents to this Conservation Easement without prior notice to any other party, provided that in the sole and exclusive judgment of the Grantee, such amendment or discretionary consent furthers or is not inconsistent with the purpose of this Conservation Easement. This Conservation Easement shall not be amended, modified, or terminated except in writing in a document signed by the Grantor and Grantee. No amendment shall be allowed that would adversely affect the qualifications of this Conservation Easement as a charitable gift or the status of the Grantee under any applicable laws. Any such amendment shall be consistent with the Purpose of this Conservation Easement, shall not affect its perpetual duration, shall not permit additional development other than development permitted by this Conservation Easement on its effective date and shall not permit any impairment of the significant Conservation Values of the Property. Any amendment shall be consistent with Grantee's Conservation Easement Amendment Policy. Any such amendment shall be recorded in the land records of Skagit County of Washington. Nothing in this section shall require Grantor or Grantee to agree to any amendment.

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UNOFFICIAL DOCUMENT

IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 14<sup>th</sup> day of DECEMBER, 2007.

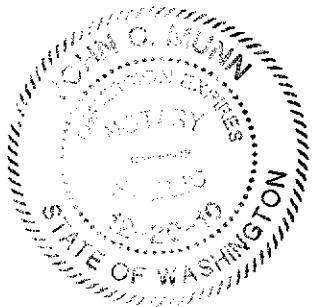
Sarah R Werner  
SARAH R. WERNER, TRUSTEE  
WERNER LIVING TRUST

STATE OF WASHINGTON )  
  )        SS  
COUNTY OF King )

On this day, personally appeared before me Sarah R. Werner, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 14 day of DECEMBER, 2007.

Notary Public in and for said state, residing  
at SEATTLE, WA  
[Signature]  
My commission expires: 12-20-10



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**THE SAN JUAN PRESERVATION TRUST**

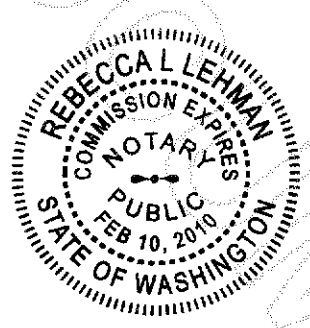
By JR Seifer  
Its Executive Director

STATE OF WASHINGTON )  
  }           SS  
COUNTY OF SAN JUAN )

On this 18<sup>th</sup> day of DECEMBER 2007, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared TIMOTHY R SEIFERT, to me known to be the EXECUTIVE DIRECTOR of **THE SAN JUAN PRESERVATION TRUST**, the Washington nonprofit corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Rebecca L Lehman  
Notary Public in and for said state, residing  
at LOREZ ISLAND  
My commission expires: 2-10-10  
Print Name: REBECCA L LEHMAN



## EXHIBIT "A"

### Legal Description of the Property

Tract 22, Plat of ORCHARD BEACH TRACTS, as per plat recorded in Volume 4 of Plats on page 45, records of Skagit County: ALSO beginning at the Southwest corner of said Tract 22; thence South 37°24' East along the Southwest line of said Tract 22, 219.83 feet to the Southeast corner thereof; thence West 609.56 feet to the East line of the County Road; thence North 1°25'30" East along said County Road 20 feet; thence East 270.47 feet; thence North 52°36' East 254.6 feet to the Point of Beginning, situate in the County of Skagit, State of Washington.

AND Lots 20, 21 and 29, "Plat of Orchard Beach Tracts," according to the plat recorded in volume 4 of plats, page 45, records of Skagit County, Washington, EXCEPT the west 40 feet of said Lot 29, conveyed to Skagit County for road purposes by deed recorded January 20, 1947, under Auditor's file No. 400177. TOGETHER WITH the tidelands of the second class, situated in front of, adjacent to and abutting upon the above described premises. ALSO, all of that portion of lots 31 and 32 of "Plat of Orchard Beach Tracts," according to the plat recorded in volume 4 of Plats, page 45, records of Skagit County, Washington, lying northwesterly of a line drawn from the southeast corner of lot 29 to the most southerly corner of lot 20 of said Orchard Beach Tracts. SUBJECT TO Easements, right of way, Exceptions and reservations and Restrictive covenants of records.

AND Tract 30, PLAT OF ORCHARD BEACH TRACTS, as per plat recorded in Volume 4 of plats, page 45, records of Skagit County, EXCEPT the West 40 feet for County road; situate in the County of Skagit, State of Washington

SUBJECT TO easements and restrictions of record.

Werner Shoreline Conservation Easement

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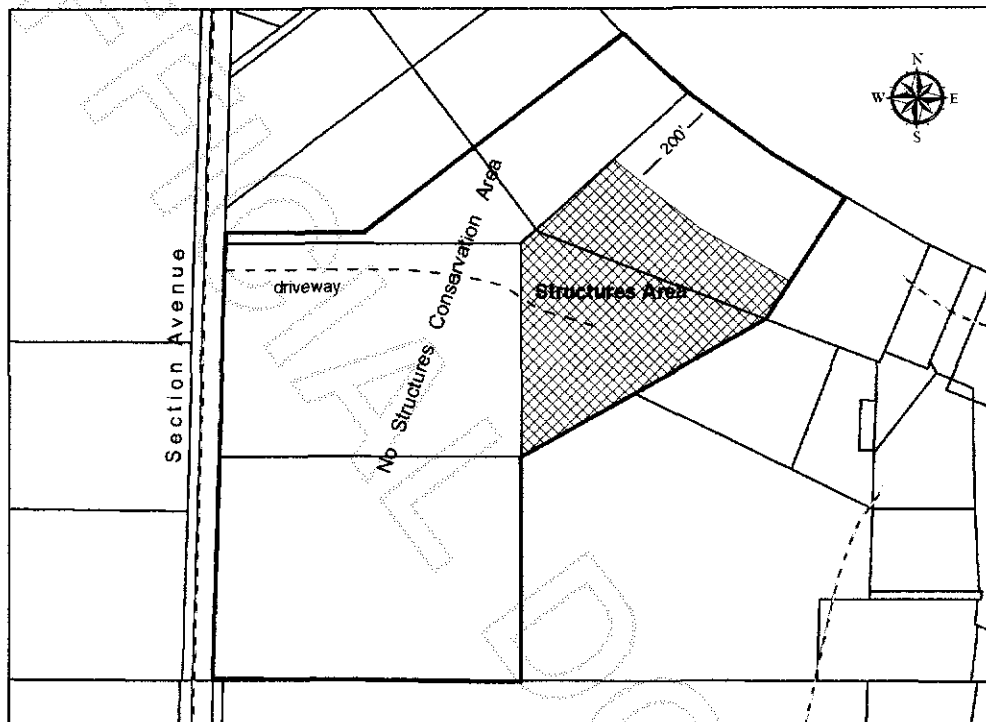


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**EXHIBIT "B"**

**Map of Property Protected by this Conservation Easement**



500 250 0 500 Feet

Werner Shoreline Conservation Easement

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