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11/26/2008 Page 1 of 19 11:32AM

Document Title: Declaration and Covenants, Conditions, Restrictions,
Easements and Reservations for San Juan Passage

Reference Number :

Grantor(s): additional grantor names on page ___.

1. GP Anacortes, LLC by Gilbane Development Company
- 2.

Grantee(s): additional grantee names on page___.

1. Public
- 2.

Abbreviated legal description: full legal on page(s) ___.

Portion of Government Lot 2, SE SW and SW SE, Sec. 22, T. 35N, R. 1E, WM

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ___.

P31572

UNOFFICIAL DOCUMENT

**DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS AND RESERVATIONS
SAN JUAN PASSAGE
ANACORTES, WA**

THIS DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS (this "Declaration") is made by GP ANACORTES, LLC ("Declarant") as of the 26th day of November, 2008.

RECITALS

Declarant is the owner of certain real property (the "Property") in Skagit County, Washington, legally described on Exhibit "A" hereto.

The Property is subdivided as SAN JUAN PASSAGE PUD (the "Plat") recorded 2008, under Auditor's File No. 200811260099, records of Skagit County, Washington, and any amendments, corrections or addenda thereto subsequently recorded from time to time.

Declarant wishes to subject the Property to this Declaration.

NOW, THEREFORE, Declarant declares that the Property subject to all restrictions and easements of said Plat, shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, restrictions, easements, assessments and liens hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1
DEFINITIONS**

Section 1.1 Words Defined. For the purpose of this Declaration and any amendments hereto, the following terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

1.1.1 "Association" shall mean SAN JUAN PASSAGE HOMEOWNERS' ASSOCIATION, as described in Article 4 of this Declaration, its successors and assigns.

1.1.2 "Board" shall mean the board of directors of the Association.

1.1.3 "Common Area" and "Common Area Improvements" shall each have the meaning set forth in Section 2.1.

1.1.4 "Construction" and "Constructed" shall mean any construction, reconstruction, erection or alteration of an Improvement, except wholly interior alterations to a then existing Structure.

1.1.5 "Declarant" shall mean GP ANACORTES, LLC, a Rhode Island Limited Liability Company registered to do business in the State of Washington.



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1.1.6 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Easements and Reservations for SAN JUAN PASSAGE PUD as it may from time to time be amended.

1.1.7 "First Mortgage" and "First Mortgagee" shall mean, respectively,
(a) a recorded Mortgage on a Lot that has legal priority over all other Mortgages thereon, and
(b) the holder of a first mortgage.

For purposes of determining the percentage of First Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds First Mortgages on more than one Lot, such Mortgagee shall be deemed a separate Mortgagee for each such First Mortgage so held.

1.1.8 "Lot" shall mean any one of the numbered Lots shown on the Plat as of the date hereof or in the future, including, without limitation, numbered Phase One Final Plat Lots 11 through 15, Lots 23 and 24, Lots 35 and 36, Lots 53 through 60, and Lots 90 through 97 shown on the Plat as of the date hereof and up to 75 additional Lots that have been approved by the City of Anacortes and which may be added to the Plat at some future time, together with the Structures and other improvements located thereon.

1.1.9 "Mortgage" shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and shall also mean a real estate contract for the sale of a Lot.

1.1.10 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.

1.1.11 "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to a Lot within the Property, including a contract seller except those having such interest merely for the performance of an obligation.

1.1.12 "Person" shall mean an individual, corporation, partnership, association, trustee or other legal entity.

1.1.13 "Plat" shall have the meaning set forth in the Recitals.

1.1.14 "Property" shall mean the land described on Exhibit "A" and such additions thereto as may hereafter be subjected to the terms of the Declaration, and all improvements and structures now or hereafter placed on the land.

1.1.15 "Structure" shall mean any building, fence, wall, patio, swimming pool, or other improvements of any kind or nature.

1.1.16 "Transition Date" is defined in Section 4.3.

Section 1.2 Forms of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine and neuter pronouns shall be used interchangeably.



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ARTICLE 2
COMMON AREAS AND EASEMENTS

Section 2.1 Common Areas. The "Common Areas" shall include labeled Tracts B, F, G, H, I, K, U and V on the Plat. Said areas shall be open to all Lot Owners and the general public, but shall be maintained by the Association, at the Association's sole cost and expense. In addition to the foregoing, labeled Tracts B, K, U and V on the Plat are reserved for park purposes and shall include, without limitation, a Community Water Viewing Area, a shelter with picnic tables and seating areas, a play area for small children, benches at a minimum 800 ft. intervals along the trails located thereon and ten (10) off-street parking spaces shall be provided in conjunction with the parks located on labeled Tracts U and V on the Plat. Labeled Tracts B, K, F, G, H and I on the Plat shall be landscaped and maintained in such a way that passersby on Oakes Avenue have a clear view of the water for the full width of the public right-of-way across Edwards Way. If the Association fails to maintain the Common Areas in accordance with this provision, the City of Anacortes shall have the right to enforce such obligations.

Section 2.2 Oakes Avenue Landscape Buffer. Until such time that the Oakes Avenue right-of-way is fully developed, the Association shall maintain, at the sole cost and expense of the Association, a landscaped buffer within the unused right-of-way area on the north side of Oakes Avenue as it borders the Property (the "Oakes Avenue Landscape Buffer"). Such landscaping shall be maintained with sufficient plantings to substantially obscure the homes located on the Property along Oakes Avenue from viewing from Oakes Avenue; provided, however, at maturity such plantings shall not exceed 30 feet in height.

Section 2.3 Alteration of Common Area. Nothing shall be altered or constructed upon or removed from the Common Areas except upon the prior written consent of the Board.

Section 2.4 Easements for Utilities and Drainage. Declarant does hereby establish, create and reserve for the benefit of itself, the Association and all Owners, and their respective heirs and assigns, an easement (the "Utilities and Drainage Easement") for the installation and maintenance of master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water and sewer drainage systems and electrical, gas, telephone, water and sewer lines over the area designated for easements and shown on the Plat. No Lot Owner shall allow or permit any structure or landscaping to be located, installed or grow upon the area subject to the Utilities and Drainage Easement which might in any way damage or interfere with the installation and operation of such utilities and systems. Each person utilizing the Utilities and Drainage Easement areas located on another's Lot shall promptly restore such area to a condition as close to its original condition as reasonably practical after making such use. Each Lot Owner shall maintain the area of his Lot subject to the Utilities and Drainage Easement in a condition which will not interfere with the operation and maintenance of said utilities and systems.

Section 2.5 Maintenance of Entry. The landscaped entry to the Property shall be maintained by the Association, at the sole cost and expense of the Association, including, without limitation, all signs and the land located within the right-of-way.

Section 2.6 Common Areas to be Available for Easements. The Common Areas shall be available as deemed necessary by the Declarant and/or the Board for additional easements for drainage and utility purposes.



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Section 2.7 Oakes Avenue Planting Easement. All Owners of Lots located along Oakes Avenue shall maintain, at such Owners' sole cost and expense, a 10-foot planting easement within the area labeled 10.0' Planting Easement on the Plat. Such landscaping shall be in addition to, and complimentary with, the landscaping contained in the Oakes Avenue Landscape Buffer and shall be maintained with sufficient plantings to substantially obscure the homes within San Juan Passage along Oakes Avenue from viewing from Oakes Avenue; however, at maturity these plantings shall not exceed 30 feet in height.

Section 2.8 Portalis Planting Easement. All Lots located within labeled Tract P on the Plat as of the date hereof and abutting the property located southwest and adjacent to the Property shall maintain a 20-foot planting easement within the 20-foot rear yard setbacks of such Lots.

Section 2.9 Native Growth Protection Easement. Lots 11 and 12 as shown on the Plat as of the date hereof and any future Lots located in Tract L are subject to a Native Growth Protection Easement located 100-foot landward of the Ordinary High Watermark, as described in ASTI report dated March 10, 2005. Such area, together with the face of the bluff, shall remain undisturbed and no cutting or clearing in such area shall be permitted without the expressed written permission of the City of Anacortes.

Section 2.10 Access and Utility Easements. Two private alleyways will be constructed by the Declarant within the 20-foot Access and Utility Easement areas shown on the Plat, and (i) Lots 35 and 36, as shown on the Plat; and (ii) the land contained within the property designated as Lots 28 - 34, 37 and 41 - 44 on Exhibit "B" attached hereto (collectively, the "Section 2.10 Lots"), shall be subject to such 20-foot Access and Utility Easement. Until the Transition Date, the Declarant shall conduct the necessary maintenance, repairs and replacements of the alleyway and utilities located within the 20-foot Access and Utility Easement area, and the costs and expenses related thereto shall be shared equally by each of the owners of the Section 2.10 Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Section 2.10 Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement. After the Transition Date, the Association shall conduct the necessary maintenance, repairs and replacements of the alleyway and utilities located within the 20-foot Access and Utility Easement area, and the costs and expenses related thereto shall be shared equally by each of the owners of the Section 2.10 Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Section 2.10 Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement.

Section 2.11 Retaining Walls.

2.11.1. Street Retaining Walls. Retaining walls are located along the street line on the land contained within the property designated as Lots 28, 29 and 37 on Exhibit "B" (collectively, the "Street Retaining Wall Lots"). The approximate location of such retaining walls is as shown on Exhibit "B". Until the Transition Date, the Declarant shall conduct the necessary maintenance, repairs and replacements of the retaining walls on the Street Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by each of the owners of the Street Retaining Wall Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Street Retaining Wall Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement. After the Transition Date, the Association shall conduct the necessary maintenance, repairs and replacements of the



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retaining walls on the Street Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by each of the owners of the Street Retaining Wall Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Street Retaining Wall Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement.

2.11.2. Rear Retaining Walls. Retaining walls will be constructed by the Declarant along the rear property lines of (i) Lots 23 and 24, as shown on the Plat; and (ii) the land contained within the property designated as Lots 25 – 27 and 38 – 40 on Exhibit “B” (collectively, the “Rear Retaining Wall Lots”) for the benefit of the Rear Retaining Wall Lots and the Section 2.10 Lots. The approximate location of such retaining walls is as shown on Exhibit “B”. Until the Transition Date, the Declarant shall conduct the necessary maintenance, repairs and replacements of the retaining walls on the Rear Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by each of the owners of the Rear Retaining Wall Lots and the Section 2.10 Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Rear Retaining Wall Lot or any Section 2.10 Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement. After the Transition Date, the Association shall conduct the necessary maintenance, repairs and replacements of the retaining walls on the Rear Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by each of the owners of the Rear Retaining Wall Lots and the Section 2.10 Lots; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Rear Retaining Wall Lot or any Section 2.10 Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement.

2.11.3. Oakes Avenue Retaining Walls. One or, in the case of the land designated as Lots 61 – 69 on Exhibit “C” attached hereto, two retaining walls are or will be located in the approximate locations shown on Exhibit “C” on (i) Lots 53 – 60, as shown on the Plat; and (ii) the land contained within the property designated as Lots 48 – 52 and 61 – 71 on Exhibit “C” (collectively, the “Oakes Avenue Retaining Wall Lots”) for the benefit of all Lots. Until the Transition Date, the Declarant shall conduct the necessary maintenance, repairs and replacements of the retaining walls on the Oakes Avenue Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by all Lot Owners; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement. After the Transition Date, the Association shall conduct the necessary maintenance, repairs and replacements of the retaining walls on the Oakes Avenue Retaining Wall Lots, and the costs and expenses related thereto shall be shared equally by all Lot Owners; provided, however, that, if any such maintenance, repair or replacement is required as a result of the acts or omissions of the owner of any Lot (or the acts or omissions of anyone or whom such owner is responsible), such owner shall be solely responsible for the costs and expenses related to such maintenance, repair or replacement.

2.11.4. Easement. The Street Retaining Wall Lots, Rear Retaining Wall Lots and Oakes Avenue Retaining Wall Lots are hereby subject to an easement for the benefit of the Declarant and the Association for the purpose of conducting their respective maintenance, repair and replacement obligations under this Section 2.11.



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**ARTICLE 3
CONSTRUCTION ON LOTS AND USE OF LOTS**

Section 3.1 Uniformity of Use and Appearance. One of the purposes of this Declaration is to assure within the Property a uniformity of use and quality of workmanship, materials, design, maintenance and location of Structures with respect to topography and finish grade elevation. It is the best interests of each Owner that such uniformity of use be maintained as herein provided. No building (except for accessory structures) shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling. Accessory structures, including carports and storage buildings, are permitted as allowed by the provisions contained herein. Notwithstanding anything herein set forth, the Construction of any Structure shall comply with the more restrictive of either

(a) the terms and conditions of this Declaration or
(b) the laws, codes, ordinances and regulations of any governmental entity having jurisdiction.

Section 3.2 Submission of Plans. At least thirty (30) days before commencing Construction of any Structure on any Lot, the Owner shall submit to the Board three (3) complete sets of detailed building, Construction, surface water run-off control and landscaping plans and specification and a site plan showing the location of all proposed Structures (the plans, specifications and site plans are individually and collectively referred to herein as the "Plans"). The Plans shall be submitted in a form satisfactory to the Board, which may withhold its approval by reason of its reasonable dissatisfaction with the location of the Structure on the Lot, color scheme, finish, architecture, height, impact on view from another Lot or Lots, appropriateness of the proposed Structure, materials used therein, or because of its reasonable dissatisfaction with any other matter which, in the reasonable judgment of the Board, would render the proposed Structure inharmonious with the general plan of development of the Property or other Structures nearby. The Board's approval or disapproval of Plans shall be in writing and approval shall be evidenced by written endorsement on such Plans, two (2) copies of which shall be delivered to the Owner of the Lot upon which the Structure is to be constructed. This section shall not apply to Declarant or any business owned by Declarant.

Section 3.3 Construction. No Structure shall be Constructed or caused to be Constructed on any Lot unless the Plans for the Structure, including landscaping, have been approved in writing by the Board. The Board's review and approval or disapproval of Plans on the basis of cost, aesthetic design, and harmony with previously approved Structures on or about other Lots in the Property, and location, shall be absolute and enforceable in any court of competent jurisdiction. The Board's approval of any Plans, however, shall not constitute any warranty or representation whatsoever by the Board or any of its members that such Plans were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations, and each Owner hereby releases any and all claims or possible claims against the Board or any of them, and their heirs, successors and assigns, or of any nature whatsoever, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations. This section shall not apply to Declarant or to any business owned by Declarant.

Section 3.3.1 Power of the Board to Grant a Variance. The Board shall have the power to grant a variance to an Owner, who, at the time the Owner submits his Plans for approval, also submits a request for a variance. The variances which may be allowed by the Board shall be limited to those matters herein covered by Section 3.4 (garage size and parking requirements), and Section



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3.6.13 (setbacks). The granting of the request for a variance shall be in writing and shall also be entered in the minutes of the Board.

Section 3.4 Garage Size and Parking Requirements. Each home located on a Lot must have a garage which shall be of such size as to accommodate at least one full size automobile. The Board is authorized to grant a variance as to these size requirements upon receiving an application from the Owner of a Lot showing that the grade of the Lot will not reasonably accommodate those size requirements. Each Lot must provide parking for a minimum of two (2) vehicles which may be satisfied by the driveway and/or the garage.

Section 3.5 Maximum Height. All buildings or Structures shall be no higher than 35-feet in height, measured using the formulas provided in the City of Anacortes Zoning ordinance pertaining to this project, except for Lots 11 through 15 and future Lots in Tract L where structures shall be no higher than 20-feet in height, measured from the average curb elevation between lot lines along Cutter Drive to the highest point of the roof ridge of a sloping roof of minimum slope of 4:12. Flat roofs are not permitted. Detached garages on any lot will not exceed 16-feet to the highest portion of the ridge using the formulas provided in the City of Anacortes Zoning ordinance. All buildings will be constructed in accordance with the laws of the City of Anacortes and other applicable codes, and in conformance with all restrictions contained therein.

Section 3.6 Use Restrictions.

3.6.1 "Residential Use". The structures located on the Lots are intended for and restricted to use as single family residences only, on an ownership, rental, or lease basis, and for social, recreational or other reasonable activities normally incident to such use. In addition to the foregoing, Declarant and may use residential structures it owns as sales offices and models for sales of other Lots.

3.6.2 "Maintenance of Buildings and Lots". Each Owner shall, at the Owner's sole expense, keep the interior and exterior of the Structures on the Owner's Lot, as well as the Lot, in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair and shall do all redecorating, painting, landscaping and maintenance at any time necessary to maintain the appearance and condition of the Structure and the Lot. The landscaping shall be maintained to the curb on the edge of the street.

3.6.3 "Completion of Construction". Any Structure erected or placed on any Lot shall be completed as to external appearance within eight (8) months from the date Construction is started; however, with good cause shown, the Board may extend this term. All yards and landscaping must be completed within three (3) months from the date of completion of the Structure; however, with good cause shown, the Board may extend this term. All Lots shall be maintained in a neat and orderly condition during Construction. This section shall not apply to Declarant or to any business owned by Declarant.

3.6.4 "Garages". Unless waived by the Declarant in writing, the building plans for each of the Lots shall include a garage designed to hold at least one (1) car, and said garage shall be built at the same time as the dwelling. All garage plans must be approved by the Declarant in writing prior to the start of construction.

3.6.5 "Parking". No junk or inoperable vehicle or any part thereof shall be parked or permitted to remain on any Lot, unless the same is stored in a garage. No such vehicles



shall be parked on any street adjoining any Lot. The Board may establish such other parking regulations as it may deem necessary and appropriate.

3.6.6 "Signs". No sign of any kind shall be displayed to the public view on or from any Lot without the prior written consent of the Board, except for "For Rent" or "For Sale" signs of not more than three square (3 sq. ft.) feet in size in a form not prohibited by any rules and regulations of the Board. This Section shall not apply to the Declarant.

3.6.7 "Animals". Animals, including horses, livestock, poultry, reptiles or pigs, shall not be kept on any Lot. Household pets shall not exceed three (3) in number; provided that unweaned puppies or kittens may be kept. All animal enclosures must be kept in a clean, neat and odor free condition at all times. All animals must be kept within Lot at a distance of not less than 10 feet from property line or as required by the Board. The Board may at any time require the removal of any pet which it finds is disturbing other Owners or tenants unreasonably, in the Board's determination, and may exercise this authority for specific pets even though other pets are permitted to remain. Notwithstanding anything set forth herein all Owners shall comply with all applicable governmental laws, codes, ordinances and regulations pertaining to animals. Any animal enclosures, pens, or runs shall be erected within the construction envelope in accordance with a landscaping plan approved by the Declarant in writing. All animal enclosures, pens, or runs shall be screened from streets or abutting property by vegetation, shrubs, or fencing so as to conceal the same from view. No dogs shall be allowed on the roadways, streets, pathways or open spaces, excepting that the same may enter the said specified area so long as they are maintained on a leash not to exceed six (6) feet in length. Under no circumstances shall dogs be allowed to run free and must at all times be either leashed or confined to their owner's Lot by an invisible electronic fence and any Lot owner permitting a dog to run free, while the same shall be under his or her care, custody, or control, shall be deemed to be in violation of the covenants, conditions and restrictions of the said property.

3.6.8 "Temporary Structures". No Structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be installed, placed or used on any Lot as a residence, either temporarily or permanently.

3.6.9 "Clothes Lines". No washing, rugs, clothing apparel or any other article shall be hung from the exterior of any Structure or on a Lot so as to be visible from the streets and roadways adjoining the Lots.

3.6.10 "Radio and Television Aerials". No television or radio aerial and no satellite receiving dish or other electronic receiving device in excess of 12 inches in diameter shall be placed or erected outside of any building on any Lot and must be installed below the lowest ridge line of the house.

3.6.11 "Trash Containers and Debris". All trash shall be placed in sanitary containers either buried or screened so as not to be visible from adjoining Structures or streets or roadways. No Lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind. Yard rakings, dirt and debris resulting from landscaping work or Construction shall not be dumped onto adjoining Lots or streets or roadways. Compost piles may be kept upon the Lots provided they are kept in a clean, neat and sanitary condition and out of view from the street.

3.6.12 "Offensive Activity". No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind, including day



schools, nurseries or church schools shall be conducted or permitted on any Lot, nor shall goods, equipment, vehicles or materials used in connection therewith be kept, parked, stored, dismantled or repaired outside of any Lot or any street with the Property. No noxious or offensive activity, including but not limited to the creation of excess levels of noise, shall be carried on in any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners or tenants.

3.6.13 "Setbacks". All Structures shall be set back from the Lot boundaries such distances as provided in the Plat. Each residential Lot has a building construction envelope, which consists of zoning setbacks and/or easements as shown on said Plat. All improvements must be constructed within the Building Construction Envelope designated from time to time by the Declarant subject to zoning setbacks, except for detached garages, which are allowed to encroach on the rear yard setback, and front porches, which are allowed to encroach on the front yard setbacks, and accessory structures which are allowed within zoning setbacks. On Lots 11 through 13 and future Lots in Tract L as shown on the Plat, house foundations shall be setback a minimum of 40 feet from the top of the slope. The setback can be reduced to 30 feet for decks with post and pad foundations or 25 feet for decks with foundations consisting of poles installed on concrete sono tubes (as designed by an approved geo-technical engineer) per Geo-Engineers report dated May 10, 2005.

3.6.14 "Excavating." All construction performed on each Lot shall hereafter be maintained so that the natural character of the land and the existing ecology shall, insofar as possible, be preserved and enhanced. The Lot owner shall utilize best efforts, including taking of desirable affirmative action and forbearance from acting where desirable, to insure that the particular Lot and the surrounding environs shall be and remain free from air pollution, water pollution, noise pollution and other like environmental hazards. No excavation for stone, gravel, or earth shall be made, except that as shall be necessary to erect walls, basements, cellars, or foundations, as preapproved by Declarant in writing provided, however, that Declarant may, at any time, prior to the conveyance of each and every Lot as owned by Declarant excavate, grade, remove or deposit material within or in connection with the laying out and improving the property. Unless approved by the Declarant in writing, neither a Lot owner nor any person or persons claiming through or under him or her shall or will at any time raise the grade of any Lot or Lots above the grade established by Declarant prior to conveying such Lot. The Lot owner or his agent shall be responsible for cleanup of any soil erosion onto the roads due to the removal of vegetation from said Lots. Any removal of vegetation is to be replaced by grass, shrubs, other mulch or other finished landscaping within one (1) year to insure that soil erosion is kept to a minimum. A continuous line of hay bales or siltation fence shall be placed along all Lot lines and conservation and open space easement lines of each respective Lot during construction. During the period of excavation, construction and landscaping the Lot shall be kept clean by the use of trash receptacles or by the daily removal of all debris from the Lot. No tracked vehicles are to be unloaded, kept or used on the paved roadways.

3.6.15 "Landscaping and Irrigation". Any landscaping plan included in the Plans submitted to the Declarant for approval shall contain an irrigation system for (i) the Lot; (ii) any planted public or private right-of-way areas between sidewalks and the street curb in front of its Lot; and (iii) any other public or private right-of-way or easement area which abuts the Lot and which is located between the boundary line of the Lot and the paved area of any street, alleyway, sidewalk or similar area, unless such an irrigation system for the Lot has already been installed and approved by the Declarant. No planting shall be done, and no fences, hedges, or walls and no statues or lawn ornaments shall be erected or maintained upon any Lot, except in accordance with a landscaping plan included in the Plans approved by the Declarant in writing. All landscaping shall be maintained so as not to obstruct the views from the abutting Lots to the Common Areas, conservation easement and/or surrounding waters. Landscaping shall meet the standards established in the zoning code for the City



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of Anacortes for residential zones. Further, each Lot Owner shall keep all shrubs, trees, hedges, grass and other plantings or landscaping of any type or kind whatsoever located on (i) its Lot (including set back areas); (ii) planted public or private right-of-way areas between sidewalks and the street curb in front of its Lot, if any; (iii) any other public or private right-of-way or easement area which abuts the Lot Owner's Lot and which is located between the boundary line of its Lot and the paved area of any street, sidewalk or similar area; and (iv) any non-street public or private right-of-way or easement area adjacent to its Lot, neatly trimmed, and shall keep all such areas properly cultivated and free of trash, weeds and other unsightly material; provided, however, that any of the areas described above which are owned by the Association or subject to any easement rights granted to the Association, whether as of the date hereof or in the future, shall be maintained by the Association and the cost of such maintenance shall be included as a common expense charge pursuant to the By-Laws of the Association. In addition to the foregoing, each Lot Owner shall keep all irrigation facilities, sidewalks, driveways, easement areas and other similar areas located on (i) its Lot (including set back areas); and (ii) any public or private right-of-way or easement area which abuts the Lot Owner's Lot and which is located between the boundary line of its Lot and the street curb in front of its Lot, if any, in good condition and, in the case of irrigation facilities and driveways, in good repair, and shall keep all such facilities and areas free of snow, ice, trash, weeds and other unsightly material.

3.6.16 "Fences". No fence shall be constructed on any Lot without the prior written approval of the Board, which approval may be granted or denied in the Board's sole discretion. All fences shall be constructed in a good and workman-like manner of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of any adjacent Structures. All fences shall comply with the design adopted by the Board. To allow for wildlife movement there shall be no continuous fence along the perimeter of the development; however, individual property owners may fence their own yards.

3.6.17 "Exterior Lighting". No exterior lighting fixture (other than standard fixtures approved by or installed by Declarant) shall be installed within or upon any Lot without adequate and proper shielding of the fixture. No lighting fixture shall be installed that may become an annoyance or nuisance to owners or occupants or adjacent properties. All installations and modifications of exterior lighting must be approved by the Declarant in writing.

3.6.18 "Underground Utilities". All utility lines located outside a dwelling unit shall be in conduits attached to such units or underground.

3.6.19 "Drainage". Any and all drainage from a Lot, which in the reasonable opinion of the Board causes erosion problems, shall be piped at the Lot Owner's expense to the nearest underground public storm sewer line, street ditch or dry well. All roof drains shall be connected to public storm sewer system. Absolutely no dumping of any pollutants into the storm sewer systems shall be permitted. Stormwater will not be allowed to flow across the future shoreline trail path.

3.6.20 "Tree Cutting". The cutting of any trees within any common area is strictly prohibited unless approved by the Board. Trees within a natural growth or buffer area may be cut only with permission of the City of Anacortes.

3.6.21 "Damage". All Lot Owners constructing improvements on their Lots shall post performance and public improvement damage bonds of \$7,500.00 each, payable to the Association prior to commencing any work. Any damage to streets, Plat improvements, entry structure, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired by such Owner



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within twelve (12) days from the occurrence of such damage and/or at the option of the Association repairs will be made and a lien placed on the Lot in question until the cost of the damage is repaid.

3.6.22 "Driveways". All driveways shall be paved with Portland cement concrete paving from the edge of the paved street to connect with the paved surface of the floor of the carport or the garage. Exceptions can be made with permission of, and where deemed appropriate, by the Board

3.6.23 "Mailboxes". All mailboxes must be of a standard accepted by the U.S. Postal Authorities and must be located in those areas so designed by the U.S. Postal Department. Structures containing mailboxes must be approved by the Board. Newspaper boxes are not allowed.

3.6.24 "Environmental". Lot owners shall not use fertilizers, chemical pesticides, or herbicides which negatively impact the watershed of the surrounding waterways or wetlands. No Lot owner shall use his or her Lot for any purpose or in any manner that will result in pollution of the groundwater or otherwise impair the ecological balance of the surrounding land. Further, no Lot owner shall take any action, during or after construction of buildings or structures which will alter the hydrological character or drainage patterns which existed at the time of conveyance of the Lot by Declarant unless approved by the Board.

3.6.25 "Hunting and Fishing". There shall be no hunting, fishing or trapping of any kind whatsoever and no activity shall be undertaken, other than as permitted in this Declaration of Covenants, Conditions and Restrictions, which shall in any way interfere with the natural activities or movement of wildlife within said property.

3.6.26 "Commercial and Recreational Vehicles". No commercial or recreational vehicles, specifically including RV's, trucks, tractors (excepting lawn and garden type tractors), and machinery for the primary purposes of transporting goods and materials, shall be parked, stored, or kept on any Lot, nor shall the same be parked on any street or roadway abutting any Lot, or the spaces abutting any common area, excepting for the purpose of making reasonable deliveries to the premises. Notwithstanding the foregoing, any Lot owner may keep on the Lot owned by him or her any "panel-body," "van" or "pickup truck," so-called, which vehicle has, as its primary purpose, non-commercial use. Only one unregistered motor vehicle is allowed on any Lot, and it must be kept concealed from public view in the Lot owner's garage.

3.6.27 "Boats". No commercial or recreational boat, fishing gear, machinery, or rigging shall be stored on any Lot. Additionally, no more than one (1) watercraft or vessel boat or vessel of a length not to exceed 20 (twenty) feet is allowed on any Lot, and it and its accompanying trailer must be kept concealed from public view in the Lot owner's garage.

3.6.28 "Bikes". No recreational use of motorized or non-motorized "dirt-bikes," "motocross bikes," "unmuffled motorcycles," "all terrain vehicles," or "ski mobiles" shall be allowed on Association trails or easements or other common open space.

3.6.29 "Play and Exercise Equipment". No play or exercise equipment shall be erected upon Lots 1 - 100 except in accordance with a plan approved by the Declarant in writing for a temporary period of not more than five years, at which time it shall be removed from the Lot unless granted a renewal of not more than another five years by the Declarant in writing.

3.6.30 "Native American Midden". Any clearing, grading, or excavation undertaken within 200-feet of an Native American Midden (as mapped by the Washington State



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Department of Archeology) shall only occur in the presence of an archeologist approved by the Samish Indian Nation. In the event that any artifacts are encountered the appropriate State law and Tribal guidelines shall be followed.

3.6.31 "Compliance with Laws". Notwithstanding anything to the contrary set forth herein, each Owner and the Association shall comply with the more restrictive of either
(a) the terms and conditions of this Declaration, or
(b) the laws, codes, ordinances and regulations of any governmental entity having jurisdiction.

ARTICLE 4 SAN JUAN PASSAGE HOMEOWNERS ASSOCIATION

4.1 Membership. Every person or entity who is a record owner of a fee or undivided fee interest in a Lot on the Plat shall be a member of the Association, subject to the provisions of its By-Laws.

4.2 Covenant for Homeowners Association Assessments. Each Owner of any Lot, by acceptance of a deed therefor, shall be deemed to covenant and agree to pay the Association assessments and special assessments levied against the Lot by the Association, and said amounts shall be a charge upon the land and shall be a continuing lien upon the Lot against which each such assessment or special assessment is made.

4.3 Acceptance of Property and Easements. The Declarant shall have the right, at any time and from time to time, to convey portions of the Property to the Association and/or to grant certain easements to the Association and the Association shall accept such conveyances and easements.

4.4 Transition Date. Upon conveyance by Declarant of all Lots on the Property, including any future Lots within Tracts L, M, N, O, P, Q, R, S, T and W shown on the Plat (the "Transition Date"), all approvals reserved to the Declarant referenced herein shall become the responsibility of the Association or its designee.

ARTICLE 5 GRANTEE ACCEPTANCE

Acceptance of a deed to a building Lot shall constitute an agreement by the grantee under such deed to fully comply with all applicable terms and conditions set forth in this Declaration and any rules and regulations promulgated by the Association from time to time.

ARTICLE 6 ANNEXATION AND SUBDIVISION

Prior to the Transition Date, Declarant shall have the right to annex residential property to the Property and/or to subdivide portions of the Property for the creation of new Lots in its sole discretion. Further, the Declarant, on behalf of all Lot Owners in the Association, is hereby authorized to execute and to have recorded any required amendments to the Plat as a result of the foregoing. All Lot Owners hereby grant to Declarant a full and complete power of attorney to take any and all actions necessary



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to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and upon them and their heirs, personal representatives, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot Owners hereby acknowledge and agree that the power of attorney granted herein shall be deemed coupled with an interest and shall be irrevocable. After the Transition Date, (i) residential property other than Common Areas may be annexed or added to the Property only with the consent of two-thirds of the Association and (ii) no Lot shall be subdivided or combined without the approval of all Lot Owners.

ARTICLE 7 DURATION

The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owners, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded, after which time the covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the Lot Owners has been recorded agreeing to terminate the covenants, conditions and restrictions.

ARTICLE 8 RESERVATION OF DECLARANT'S RIGHT TO AMEND

Section 8.1 Amendment by Declarant. The Declarant reserves and shall have the sole right to amend these covenants and restrictions as the Declarant deems appropriate in its sole discretion, to amend these covenants and restrictions for the purpose of curing any ambiguity in or any inconsistency between these provisions, and to release any Lot from any part of these covenants and restrictions which have been violated if the Declarant in its sole judgment determines such violation to be a minor or insubstantial violation.

Declarant also reserves the right to amend the Declaration as may be necessary to comply with Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) or Federal Housing Administration (FHA) regulations or requirements as necessary to enable the holders of first mortgages or deeds of trust to sell first mortgages or deeds of trust to FHLMC or FNMA or if such amendment is necessary to secure funds or financing provided by, through or in conjunction with FHLMC, FNMA or FHA.

Section 8.2 Authorization to Amend. If Declarant, at its option, determines that it is necessary to so amend the Declaration, then Declarant, on behalf of all Lot Owners in the Association, is hereby authorized to execute and to have recorded (or filed, in the case of the Articles) said required amendment or amendments. All Lot Owners hereby grant to Declarant a full and complete power of attorney to take any and all actions necessary to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and upon them and their heirs, personal representatives, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot Owners hereby acknowledge and agree that the power of attorney granted herein shall be deemed coupled with an interest and shall be irrevocable.



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Section 8.3
Transition Date.

Duration. Declarant's rights under this Article shall exist only until the

**ARTICLE 9
AMENDMENTS TO DECLARATION
AFTER TRANSITION DATE**

After the Transition Date, any Lot Owner may propose amendments to the Declaration to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of the Lots; then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of Persons entitled to vote, after notice has been given to all Persons entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners shall be required for adoption of either:

- (a) an amendment changing the voting power or portion of assessments appurtenant to each Lot, or
- (b) an amendment of this Article 9.

All other amendments shall be adopted if approved by 70% of the Lot Owners. Once an amendment has been adopted by the Association, the amendment will become effective when a certificate of the amendment, executed by a member of the Board, has been recorded in the real property records of Skagit County, Washington.

**ARTICLE 10
SEVERABILITY**

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remainder affects the common plan.

**ARTICLE 11
EFFECTIVE DATE**

This Declaration shall be effective upon recording.

**ARTICLE 12
ASSIGNMENT BY DECLARANT**

Declarant reserves the right to assign, transfer, sell, lease or rent all or any portion of the Property and reserves the right to assign all or any of its rights, duties and obligations created under this Declaration.



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DATED this day of , 2008

GP ANACORTES, LLC,
a Rhode Island Limited Liability Company

By: Gilbane Development Company
Its: Managing Member

By: *Robert V. Gilbane*
Its: *CEO, President*

STATE OF RHODE ISLAND

County of Providence

On this 21st day of November, 2008, before me, the undersigned notary public, personally appeared Robert V. Gilbane, as President of Gilbane Development Company, the Managing Member of GP Anacortes, LLC, proved to me through satisfactory evidence of identification, which was PERSONAL KNOWLEDGE, to be the person whose name is signed above, and acknowledged to me that he signed it voluntarily for its stated purpose.

D. D. P.
Notary Public [Affix Seal]
My commission expires: 3/11/12



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EXHIBIT "A"

All property included in SAN JUAN PASSAGE PUD, according to the plat thereof recorded under Auditor's File No. _____, records of Skagit County, Washington;

Situated in Skagit County, Washington.

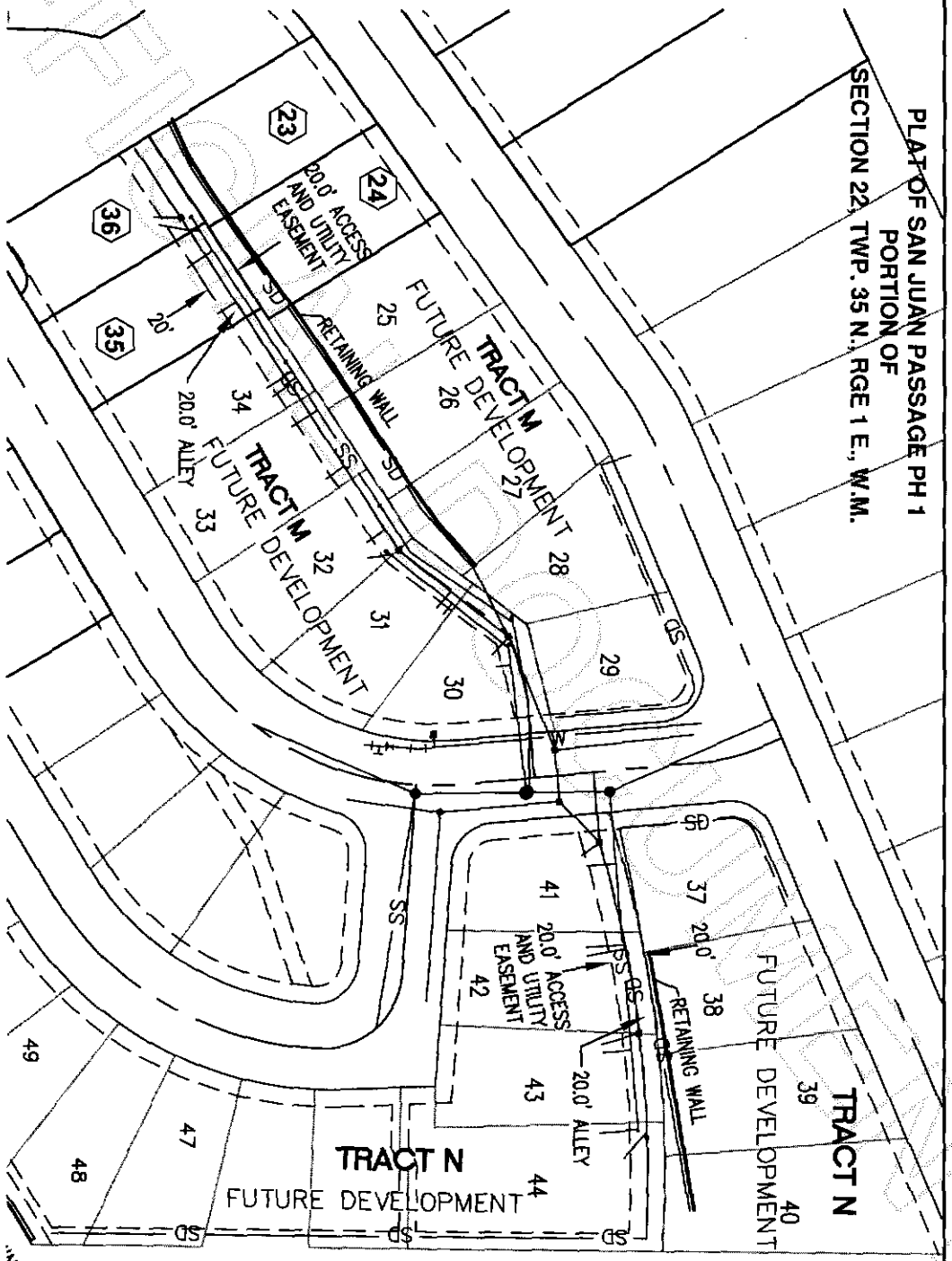
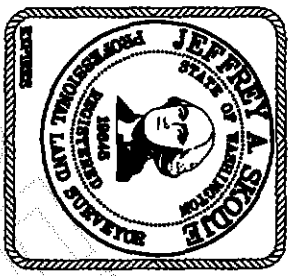
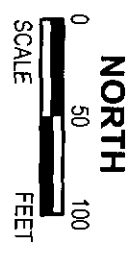
UNOFFICIAL DOCUMENT



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Exhibit B

PLAT OF SAN JUAN PASSAGE PH 1
 PORTION OF
 SECTION 22, TWP. 35 N., RGE 1 E., W.M.



2003\03123\03123-PLAT\SUR\CC&R EXHIBIT
Leonard, Boudinot & Skodje Inc.
 PROFESSIONAL ENGINEERS & LAND SURVEYORS
 603 South First Street, P.O. Box 1328
 Mount Vernon, WA, 98273
 Tel: 360-336-5791 Fax: 360-336-3981

UTILITIES AND WALLS
 ALLEYS AND EASEMENTS
 PHASE I, TRACTS M AND N

EXHIBIT MAP
 FOR
 GP ANACORTES L.L.C.

SHEET 1 OF 2
 DATE
 11-11-2008
 SCALE
 1"=50'



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PLAT OF SAN JUAN PASSAGE PH 1, A PORTION OF SECTION 22, TWP. 35 N., RGE. 1 E., W.M.

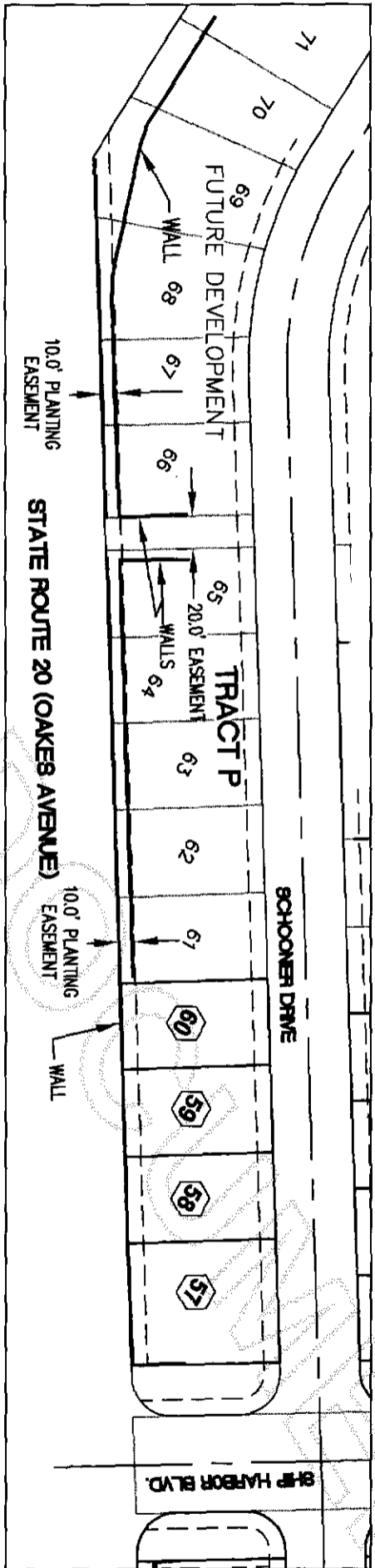
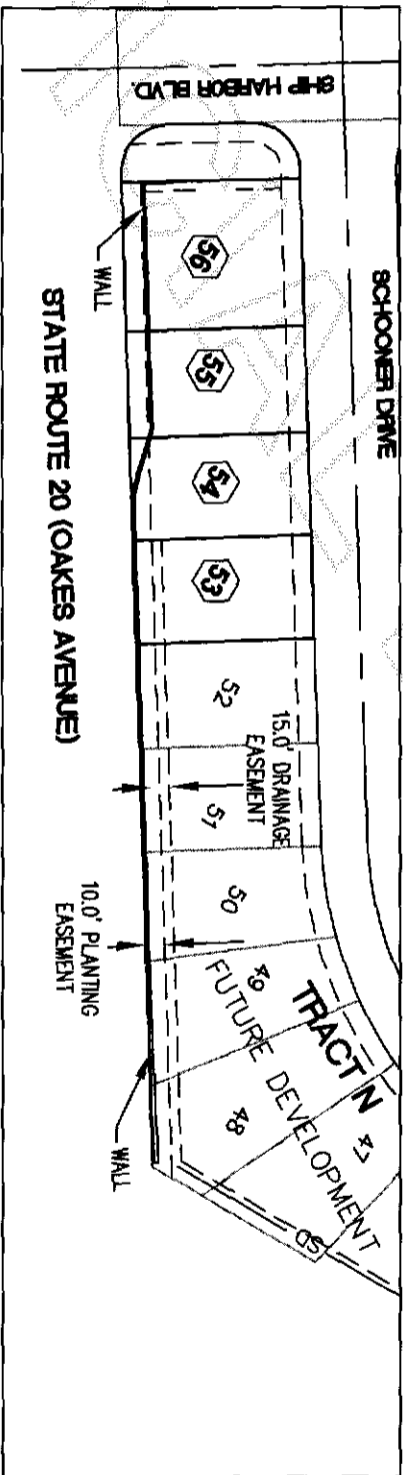
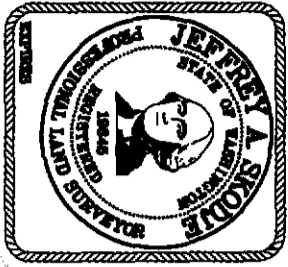


Exhibit C



Leonard, Boudinot & Skodje Inc.
PROFESSIONAL ENGINEERS & LAND SURVEYORS
603 South First Street, P.O. Box 1228
Mount Vernon, WA 98275
Tel: 360-338-0751 Fax: 360-338-3981

2003\03123\03123-PLAT\ SUR\CC&R EXHIBIT

WALLS AND EASEMENTS
PHASE I, TRACTS N AND P

EXHIBIT MAP
FOR
GP ANACORTES L.L.C.

DATE
11-11-2008
SCALE
1"=50'

SHEET 2 OF 2



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Skagit County Auditor