

Filed for Record at Request of and
After Recording Return to:

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201806210063

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Skagit County Auditor

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND
RESERVATIONS FOR DIVISION I PHASE A OF HIGHLAND GREENS
(ADDING DIVISION I, PHASE B)**

Grantor: Hansell Mitzel, LLC, a Washington limited liability company, d/b/a Hansell Mitzel Homes

Grantee: Hansell Mitzel, LLC, a Washington limited liability company, d/b/a Hansell Mitzel Homes

Tax Parcel No.: 6018-000-999-0000 (P131592)

Legal Description: LOTS 20 – 78 and TRACTS 900, 902, 904 and 906 OF THE PLAT OF
HIGHLAND GREENS DIVISION 1 PHASE B, LU P48-085 AS
RECORDED UNDER SKAGIT COUNTY AUDITORS FILE #
20180621/0063

Related Documents: 200612190063, 200612190064, 200804070155, 201405220062,
201405220063, and 20180621/0063

[Insert recording number for the Division I Phase B Plat Map.]

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR DIVISION I PHASE A OF HIGHLAND GREENS (ADDING DIVISION I, PHASE B) this (“**First Amendment**”) is made by HANSELL MITZEL, LLC, a Washington limited liability company, d/b/a Hansell Mitzel Homes (“**Declarant**”), as of this 21st day of June, 2018, for the purpose of adding Division I Phase B (the “**Phase B Property**”) to the Property subject to the DECLARATION OF

COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR
DIVISION I PHASE A OF HIGHLAND GREENS (the "**Original Declaration**").

RECITALS

A. Declarant is the owner of the Phase B Property in the City of Mount Vernon, Skagit County, Washington, legally described on Exhibit A hereto.

B. The Phase B Property comprises a portion of Division I of the Highland Greens Planned Unit Development recorded under Skagit County Auditor's File Number 200612190063 (the "**Master PUD**"). Phase A of Division 1 (the "**Phase A Property**") received final plat approval in 2014 and is subject to the Original Declaration, which was recorded at Skagit County Auditor's File Number 201405220063.

C. The property comprising the Master PUD is subject to that certain Declaration of Protective Covenants for Highland Greens recorded under Skagit County Auditor's File Number 200612190064 (the "**Master CCRs**"), which contemplate a plan for the phased development of the property within the Master PUD so that the Highland Greens community may grow in an orderly fashion under a rational scheme of development.

D. The Master CCRs contemplate that each Division of the Master PUD will be subject to a more detailed Declaration of Covenants, Conditions, Restrictions, Easements and Reservations which will include the specific easements, restrictions and other covenants applicable to such Division, if required for the final plat approval of each Division, or if otherwise deemed desirable for the efficient functioning of the Division or other property within the Master PUD.

E. Declarant has applied for and received final approval for a Planned Unit Development of Highland Greens Division I Phase B, the map of which is recorded under Skagit County Auditor's File Number 201806210062 (the "**Division I Phase B Plat Map**"). This First Amendment, subjecting the Phase B Property to the Original Declaration (as modified herein) was a requirement of final approval of the Division I Phase B Plat Map.

F. Declarant wishes to subject the Phase B Property to the Original Declaration, subject to the modifications set forth in this First Amendment. Following the recording of this First Amendment, the Original Declaration, as amended herein, shall apply to and govern all of the Division I property, including Phase A and Phase B.

NOW, THEREFORE, Declarant declares that the Phase B Property shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, and restrictions set forth in the Original Declaration and this First Amendment, which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Phase B Property and which shall be binding on all parties having any right, title, or interest in the Phase B 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. In this First Amendment and for purposes of the Original Declaration as amended herein, the terms used shall have the meaning given them in the Original Declaration, except that the following terms shall have the following meanings:

1.1.1. "Amended Declaration" means the Original Declaration, as amended by this First Amendment and as it may be further amended.

1.1.2. "Common Areas" shall hereafter include the real property (including the improvements and facilities thereon) described as all areas of the Phase B Property outside the Lots, including any roadways, walkways, parking areas, parks, open space buffer and landscape areas shown on the Division I Phase B Plat Map, which will be conveyed by Declarant to the Association and held for the common use and enjoyment by the members of the Association, but shall not include any streets or other areas now or hereafter dedicated for public use. Common Areas specifically include Tracts 902 as depicted in Exhibit B-1 and Tract 904 as depicted in Exhibit B-2.

1.1.3. "Other Common Elements" shall hereinafter mean those improvements constructed concurrent with the Divisions I- B Plat Improvements and are herein described as the Division V Tract 900 Community Building (see Exhibit C-1) and the Division VI Tract 906 Park Area (see Exhibit C-2). Even though these tracts are not part of the Division I-B plat, the Home Owners Association that has been formed for Division I-A and Division I-B shall have the use and enjoyment of these Other Common Elements and will be responsible for the cost of maintaining and operating these improvements. Future residential divisions of the Master PUD shall also have the use and enjoyment of these Other Common Elements and shall also be responsible for the future divisions fair share of all maintenance and operations costs for these Other Common Elements

1.1.4. "Division I Phase A Plat Map" means the Planned Unit Development of Highland Greens Division I Phase A, which is recorded under Skagit County Auditor's File Number 201405220063, and any amendments, corrections or addenda thereto subsequently recorded.

1.1.5. "Division I Phase B Plat Map" means the Planned Unit Development of Highland Greens Division I Phase B, which is recorded under Skagit County Auditor's File Number ~~201806210062~~ and any amendments, corrections or addenda thereto subsequently recorded.

1.1.6. "Lot" means any legally platted plot of land shown upon the Division I Phase A Plat Map and the Division I Phase B Plat Map, with the exception of (i) the Common Areas and (ii) any streets or other areas now or hereafter dedicated for public use.

1.1.7. "Master CCRs" means the Declaration of Protective Covenants for Highland Greens recorded under Skagit County Auditor's File Number 200612190064, and any amendments, corrections or addenda thereto subsequently recorded.

1.1.8. "Master PUD" means the Highland Greens Planned Unit Development recorded under Skagit County Auditor's File Number 200612190063, and any amendments, corrections or addenda thereto subsequently recorded.

1.1.9. "Original Declaration" means the Declaration of Covenants, Conditions, Restrictions, Easements and Reservations for Division I Phase A of Highland Greens recorded under Skagit County Auditor's File Number 201405220063.

1.1.10. "Property" means the land described in the Original Declaration together with the Phase B Property inclusive of Tract 900 of Division V and Tract 906 of Division VI and such additions thereto as may hereafter be subjected to the terms of the Amended Declaration, and all improvements and Structures now or hereafter placed on the land.

Section 1.2 Exhibits. The following are exhibits to this Declaration:

Exhibit A - Legal Description of the Division I Phase B Property

ARTICLE 2. COMMON AREAS AND EASEMENTS

Section 2.1 Common Areas. Ownership of the following Common Areas shall remain with Declarant until such time as all landscaping, amenities and/or proposed improvements within these Common Areas are completed. Declarant shall complete such improvements and convey the Common Areas to the Association. The Common Areas shall be operated, used and maintained in accordance with the Master PUD, Article III of the Master CCRs, the Original Declaration, the Division I Phase B Plat Map, and this First Amendment, all as they may be further amended.

Tract 902 and Tract 904, as depicted on the face of the Division I Phase B Plat Map, are designated as the "Village Greens" community tracts for the benefit of all the property in the Master PUD, and shall be improved, operated and maintained in accordance with Article 4 of the Original Declaration as amended herein, and Section 3.6 of the Master CCRs.

Tract 900 of Division V consists of the Community Building that has been constructed for the intended use and enjoyment of the Association Members. Declarant reserves the right until the final transition of control of the Association from Declarant to Association control, to establish, enforce, and periodically change the rules and regulations for the use of the Community Building including the setting of rental fees and cleaning deposit fees for private party use of the Community Building. Upon Transition of Control of the Association from

Declarant to the Members of the Association or at the election of the Declarant, all management control and responsibility shall be transferred to the Association Members.

Tract 906 of Division VI consists of a park areas that is herein designated as a Common Area for the use and enjoyment of all of the Master PUD divisions.

Section 2.2 Sidewalk Easement. Declarant hereby grants a sidewalk easement over the front 7 feet of all Lots within Division I Phase B that abut Loch Ness Loop and Green Way. This sidewalk easement is located within the 7 foot wide utility easement. Minimum setback from the back of the sidewalks is 20 feet from the front property line or 20 feet from the back of the sidewalk, whichever is greater. All members of the public shall have the right at all times to enter upon the sidewalk easement and generally use the easement as a public right-of-way. Grantor shall not interfere in any manner with the easement rights granted to the public. Grantor shall not disturb the lateral and subjacent support of the sidewalks or undertake forms of construction or other activity that may disturb or damage the sidewalks, or plant trees, shrubs, or vegetation having deep root patterns that may cause damage to or interfere with the use of the sidewalk. The sidewalks within this easement area shall be controlled, operated, maintained, repaired, replaced, and reconstructed by the Association. The Association shall have the right to enter onto the easement area and adjacent property as necessary for such purposes.

Section 2.3 Private Drainage Easements. Declarant hereby grants a private drainage easement for the purpose of conveying private local storm water runoff within the Master PUD in favor of all the owners of Lots 20 through 42 in the areas designated as "Private Drainage Areas" on the face of the Division I Phase B Plat Map. The Association shall be responsible for the maintenance of the drainage facilities constructed within the private drainage easements. The City of Mount Vernon and the Association are granted the right to enter onto the Lots burdened by the Private Drainage Easements for purposes of maintenance and emergency purposes at the City's or Associations discretion. No owner of a lot burdened by private drainage easements shall alter or interfere in any way with the function and purpose of the drainage facilities constructed within the Private Drainage Easement. The owners of Lots 19 through 42 shall use the drainage facilities constructed in the Private Drainage Easement as the preferred point of discharge of all roof and yard storm water runoff.

Lots 20 through 28. Easement over, under and across the west 10 feet of Lots 20 through 28, inclusive, as shown on the face of the Division I Phase B Plat Map.

Lots 28 through 42. Easement over, under and across the north 10 feet of Lots 28 through 42, inclusive, as shown on the face of the Division I Phase B Plat Map.

Lots 55 through 60 and Lots 67 through 72. Easement over, under and across the east 5 feet of Lots 55 through 60 and Lots 67 through 72, inclusive, as shown on the face of the Division I Phase B Plat Map.

Lots 49 through 54 and Lots 61 through 66. Easement over, under and across the west 5 feet of Lots 49 through 54 and Lots 61 through 66, inclusive, as shown on the face of the Division I Phase B Plat Map.

Section 2.4 Easements for Utilities. Declarant hereby creates and reserves an easement for the City of Mount Vernon, Skagit County PUD District #1, Puget Sound Energy, Cascade Natural Gas Corporation, and AT&T Broad Band, and their respective successors and assigns, under and upon the exterior seven (7) feet of the Lots abutting all public roads and rights of way, as shown on the face of the Division I Phase B Plat Map, to install, lay, construct, renew, operate, maintain and remove utility systems, lines, fixtures and appurtenances attached thereto, for the purpose of providing utility services to the Phase B Property, together with the right to enter upon the Lots and Common Areas at all times for the purposes stated, with the understanding that any grantee shall be responsible for all damage it caused to any real property owner in the subdivision by the exercise of rights and privileges herein granted.

Section 2.5 Puget Sound Energy Easement. Portions of the Phase B Property are subject to an easement for underground utility systems benefitting Puget Sound Energy, Inc., as set forth in that certain Easement recorded under Skagit County Auditor's File No. 200705030057. The portion of the Property subject to this easement includes, without limitation, the areas identified as "PV Ease." on the face of the Division I Phase B Plat Map.

Section 2.6 Miscellaneous Provisions.

2.6.1 Other Divisions of Highland Greens. The Master PUD depicts a number of Divisions which are reserved for future development by Declarant, its successors or assigns, in accordance with the Master PUD and the Master CCRs ("Permitted Future Development"), and is not included in the Property subject to this Declaration. In connection with final plat approval for any other Division of Highland Greens, Declarant may be required to subject such other Division to a Declaration of Covenants, Conditions, Restrictions, Easements and Reservations, either by (i) amending this Amended Declaration to include the other Division(s); or (ii) recording a separate declaration for such Division. All Lot Owners hereby waive any protest whatsoever with respect to the Permitted Future Development of any other Division of Highland Greens. No Owner shall oppose or appeal any application for permits or any other governmental approvals, including but not limited to SEPA, for the Permitted Future Development of any other Division of Highland Greens. No Owner shall take any other action which might have the effect of stopping or delaying the Permitted Future Development of any other Division of Highland Greens or increase the cost of such development. No Owner shall in any way assist, aid, or cooperate with other persons or entities who oppose or who contemplate opposing the Permitted Future Development of any other Division of Highland Greens. The provisions of this Section 2.6.1 shall be enforceable by Declarant, its successor and assigns, notwithstanding that Declarant (or its successors and assigns) may not own any Lots within the Property at the time development of any other Division of Highland Greens is commenced.

2.6.2 Public Roads. Declarant hereby dedicates to the use of the public forever, the streets, alleys and avenues, if any, shown on the face of the Division I Phase B Plat Map, and the use thereof for all public purposes consistent with the use thereof for public highway purposes, together with the right to make all necessary slopes for cuts and fills upon the adjacent Lots and Common Areas, as shown on the face of the Division I Phase B Plat Map, in the original reasonable grading of all such streets, alleys and avenues.

ARTICLE 3. UNIFORMITY OF APPEARANCE AND USE

Section 3.1 Design Review and Standards. The provisions of Article 3 of the Original Declaration apply to the Phase B Property. Specific design standards for Lots in Division I Phase B are set forth on Sheet 5 of 5 of the Division I Phase B Plat Map. Additional design information and criteria is also included in the Final Plat recorded under AFN 200804070155.

Section 3.2 Completion of Construction. Each alley-accessed Lots and each Lot fronting on the Village Green Tracts of each Division shall be fully landscaped prior to the issuance of a Certificate of Occupancy for such Lot, unless a delay in the completion of the landscaping is approved by the ACC and the City of Mount Vernon Development Services Department. Delays will only be granted as a result of delays related to weather conditions that make the completion of the landscaping impractical in the opinion of the ACC and the City of Mount Vernon Development Services Department.

3.4.1 Parking. No parking of any motor vehicles is permitted within the right-of-ways of the alleys, as shown on the face of any applicable Division Plat, including the Division I Phase B Plat Map, at any time. No commercial-type trucks, campers, trailers, motor homes, boats or motorcycles shall be parked or permitted to remain on any Lot, unless the same is stored or placed in a garage, in a rear yard area screened from adjoining lots, or in a screened carport. No commercial vehicles shall be parked overnight on any street adjoining any Lot; provided that such vehicles belonging to guests may occasionally be so parked. No motor vehicles, inoperative for reasons of mechanical failure, shall be parked and/or stored on any Lot or in the street right-of-way for more than 72 hours.

Section 3.5 Access Restrictions.

3.5.1. Lots 67 through 78. The direct vehicular and driveway access to Lots 67 through 78, inclusive, shall be off of Braeburn Alley, as shown on the face of the Division 1 Phase B Final Plat Map. There shall be no direct vehicular or driveway access to these Lots off of Loch Ness Loop or Green Way.

3.5.2. Lots 55 through 66. The direct vehicular and driveway access to Lots 55 through 66, inclusive, shall be off of Scotland Alley, as shown on the face of the Division 1 Phase B Final Plat Map. There shall be no direct vehicular or driveway access to these Lots off of Loch Ness Loop or Green Way.

3.5.3. Lots 43 through 54. The direct vehicular and driveway access to Lots 43 through 54, inclusive, shall be off of Stone Haven Alley, as shown on the face of the Division 1 Phase B Final Plat Map. There shall be no direct vehicular or driveway access to these Lots off of North 30th Street, Loch Ness Loop or Green Way.

3.5.4. Lots 20 through 42. The direct vehicular and driveway access to Lots 20 through 42, inclusive, shall be off of Loch Ness Loop, as shown on the face of the Division 1 Phase B Final Plat Map. There shall be no direct vehicular or driveway access to these Lots off of North 30th Street or Green Way.

ARTICLE 4. VILLAGE GREENS LANDSCAPING COMMITTEE

Section 4.1 Applicability. The provisions of Article 4 of the Original Declaration apply to the Phase B Property, as amended in this First Amendment.

Section 4.2 Definitions.

4.2.1. "Village Greens" shall include Tract 902 and Tract 904, as depicted on the face of the Division I Phase B Plat Map. Pursuant to Section 2.6 of the Original Declaration, the Village Greens are Common Areas designated as community tracts for the benefit of all the property in the Master PUD.

4.2.2. "Village Greens Group" shall refer to the Owners of Lots 49 through 72, inclusive, as shown on the face of the Division I Phase B Plat Map, which Lots abut the Village Greens in Division I Phase B.

4.2.3. "Village Greens Subgroup" shall refer to the Owners of the Lots abutting each of the Village Greens. Specifically, the Owners of Lots 61 through 72, inclusive, abutting Tract 902, constitute one Village Greens Subgroup; and the Owners of Lots 49 through 60, inclusive, abutting Tract 904, constitute a separate Village Greens Subgroup.

4.2.4. "Village Greens Landscaping Committee" or "VGLC" shall mean the committee established in accordance with Article 4 of the Original Declaration to represent the Village Greens Group with respect to the landscaping and maintenance of the Village Greens.

ARTICLE 5. NOTICES FOR ALL PURPOSES. No modifications.

ARTICLE 6. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY. No modifications.

ARTICLE 7. ENFORCEMENT. No modifications.

ARTICLE 8. TRANSITION DATE.

Declarant shall have the right to designate a Transition Date as to one or more Phases or Divisions of Highland Greens and effect a change in control of such Division(s) and/or Phase(s) to the Association as of the Transition Date, as designated by Declarant in its written notice to the Lot Owners. At the same time, Declarant may retain Declarant's rights with respect to other Phases or Divisions, in Declarant's discretion.

ARTICLE 9. AMENDMENTS OF DECLARATION. No modifications.

ARTICLE 10. ANNEXATION AND SUBDIVISION.

Residential property, including Common Areas, may be annexed or added to the Property by Declarant at any time prior to the Transition Date in accordance with Article 12 of the Original Declaration. Thereafter, residential property other than Common Areas may be annexed or added to the Property only with the consent of sixty-seven percent (67%) of the voting power of the Association, pursuant to an Association Level Amendment adopted in accordance with Section 9.1.1 of the Original Declaration. No Lot shall be subdivided or combined without the approval of all Lot Owners, except that Declarant may combine, divide, or reconfigure Lots and Common Areas as deemed necessary or appropriate by Declarant, in compliance with the requirements of Article 12 of the Original Declaration.

ARTICLE 11. DURATION. No modifications.

ARTICLE 12. RESERVATION OF DECLARANT'S RIGHT TO AMEND. No modifications.

ARTICLE 13. INCORPORATION OF MASTER CCRS; CONFLICT.

The terms and conditions of the Master CCRs are incorporated herein by this reference. In the event of any conflict or inconsistency between the terms of this Declaration, as amended and the terms and conditions of the Master CCRs, the terms of the Amended Declaration shall control.

ARTICLE 14. SEVERABILITY. No modifications.

ARTICLE 15. EFFECTIVE DATE.

This First Amendment shall be effective upon recording.

ARTICLE 16. ASSIGNMENT BY DECLARANT. No modifications.

Signature and Notary on Following Page

EXHIBIT A

Legal Description of the Property

LOTS 20-78 AND TRACTS 902 and 904 OF THE PLAT OF HIGHLAND GREENS DIVISION
1 PHASE B PL18-085 AS RECORDED UNDER SKAGIT COUNTY AUDITORS FILE #

201806210062

