



208 W. 9<sup>th</sup>, Suite 6  
Ellensburg, WA 98926  
(509) 933-4324 Phone ♦ (509) 933-4329 Fax  
(888) 444-9962 Toll Free

Title Officer: Terry Jausoro or Steve Locati  
Reference: Triple L

Order Number: 24468

**SCHEDULE A**

1. **Effective Date:** February 19, 2008 at 8:00 a.m.

2. **Policy Or Policies To Be Issued:**

- ALTA Owner's Policy (6/17/06)
- Standard  Extended  
Builder/Subdivider Rate

<b>Amount:</b>	To Be Determined
<b>Premium:</b>	
<b>Tax:</b>	
<b>Total:</b>	\$ 0.00

**Proposed Insured:** To Be Determined

- ALTA Loan Policy (6/17/06)

<b>Amount:</b>	
<b>Premium:</b>	
<b>Tax:</b>	
<b>Total:</b>	\$ 0.00

3. **The estate or interest in the land described or referred to in this Commitment and covered herein is:**

Fee Simple Estate

4. **Title to said estate or interest in said land is at the effective date hereof vested in:**

Triple L, LLC, a Washington limited liability company

5. **The land referred to in this commitment is described in Exhibit A**



## EXHIBIT "A"

Lot 4A of TRIPLE L PLAZA, SP 07-02, recorded August 29, 2007, in Book 1 of Short Plats at Page(s) 233 through 234, under recording number 200708290017, Being a portion of North Half of Section 33, township 18 North, Range 18 East, W.M., records of Kittitas County, State of Washington.

**Abbreviated Legal:** Lot 4A of TRIPLE L PLAZA, SP 07-02

**Purported Address:**

2708 Triple L Loop  
Ellensburg, Washington 98926

## COMMITMENT FOR TITLE INSURANCE

### SCHEDULE B

#### Part I

**Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:**

#### GENERAL EXCEPTIONS

- A. Taxes or assessments, which are not shown as existing liens by the public records.
- B. (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (iii) water rights, claims or title to water; whether or not the matters described (i), (ii) & (iii) are shown in the public records; (iv) Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.
- C. Extended coverage exceptions, as follows:
  - (1) Rights or claims of parties in possession not shown by the public records.
  - (2) Easements, claims of easement or encumbrances, which are not shown by the public records.
  - (3) Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey and inspection of the premises and which are not shown by the public records.
  - (4) Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- D. Any service, installation, connection, maintenance, tap, capacity, construction or reimbursement charges for sewer, water, electricity or other utilities, or for garbage collection and disposal.
- E. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
- F. Any titles or rights asserted by anyone, including but not limited to persons, corporations, governments, or other entities, to tidelands, or lands comprising the shores or bottoms of navigable rivers, lakes, bays, ocean or gulf, or lands beyond the line of the harbor or bulkhead lines as established or changed by the United States Government, or riparian rights, if any.

#### SPECIAL EXCEPTIONS FOLLOW

## COMMITMENT FOR TITLE INSURANCE

### SCHEDULE B

#### Part I

#### SPECIAL EXCEPTIONS

1. LIEN OF THE REAL ESTATE EXCISE SALES TAX and surcharge upon any sale of said premises, if unpaid. As of the date herein, the excise tax rate is 1.53% and an additional County Real Estate Excise Tax Affidavit processing fee of \$5.00.
2. FACILITY CHARGES, if any, including but not limited to hook-up, or connection charges and latecomer charges for water or sewer facilities of Ellensburg as disclosed by instrument recorded under recording number 420037.
3. FUTURE FACILITY CHARGES, if any, including but not limited to hook-up, or connection charges and latecomer charges for water or sewer facilities of Ellensburg as disclosed by instrument recorded under recording number 420037.
4. LIABILITY, IF ANY, TO ASSESSMENTS levied by Ellensburg Water District.
5. FUTURE LIABILITY, IF ANY, TO ASSESSMENTS levied by Ellensburg Water District.
6. LIABILITY, IF ANY, TO ASSESSMENTS levied by The Mill Ditch Company.
7. FUTURE LIABILITY, IF ANY, TO ASSESSMENTS levied by The Mill Ditch Company
8. GENERAL TAXES. The first half becomes delinquent after April 30<sup>th</sup>. The second half becomes delinquent after October 31<sup>st</sup>.

Year:	<b>2008</b>
Amount billed:	\$886.39
Amount paid:	\$0.00
Amount due:	\$886.39
Levy code:	18
Map number:	18-18-33079-0001
Parcel number:	953287
Assessed value of land:	\$89,420.00
Assessed value of improvement:	\$0.00
9. EVIDENCE SHOULD BE SUBMITTED PRIOR TO CLOSING of the authority of the officers, if other than Randy H. Lamb as Manager of Triple L. LLC, to execute the forthcoming instrument.
10. ACCORDING TO THE APPLICATION FOR TITLE INSURANCE, title is to vest in persons not yet revealed and when so vested will then be subject to matters disclosed by a search of the records against their names.

11. PERMANENT EASEMENT OVER A PORTION of the Southeast Quarter of the Northwest Quarter and the Southwest Quarter of the Northeast Quarter of Section 33, as acquired by the United States of America by Declaration of Taking filed September 23, 1965 in United States District Court Eastern District of Washington/Southern Division, Civil No. 2130.
12. DECLARATION OF NON-EXCLUSIVE EASEMENTS AND COVENANTS and the terms and conditions contained therein:  
 Recorded: November 7, 2001  
 Recording No.: 200111070037
13. TERMS, COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN INSTRUMENT:  
 Recorded: February 15, 2002  
 Recording Number: 200202150052  
 Including, but not limited to the following:  
  
 “No portion of the Affected Property, or any of it, shall be used for a Commercial Truck Wash, including: truck and RV washing, pallet sales, trailer washouts and truck/RV/auto detailing facilities; provided, however, Lot 1 of the Triple L Short Plat shall be allowed to install a Commercial truck Wash and Lots 2 and 3 of the West Park Short Plat shall be allowed to install vehicle washing and detailing facilitated; and provided further, however upon receipt of a request in writing, the then-current owners of any like-kind business located on the Affected Property may, but shall not be required to, waive this restriction on an individual basis.”
14. RESTRICTIONS, CONDITIONS, DEDICATIONS, NOTES, EASEMENTS AND PROVISIONS contained and/or delineated on the face of the short plat recorded October 13, 2001, in Book F of Short Plats under Kittitas County Auditors file no. 200110310024.
15. RESTRICTIONS, CONDITIONS, DEDICATIONS, NOTES, EASEMENTS AND PROVISIONS contained and/or delineated on the face of the short plat recorded August 19, 2007, in Book 1 of Short Plats under Kittitas County Auditors file no. 200708290017.
16. PENDENCY OF YAKIMA COUNTY SUPERIOR COURT CAUSE NUMBER 77-2-01484-5, State of Washington Department of Ecology, plaintiff vs. James J. Acquavella, et al, defendants; notice of which is given by Lis Pendens recorded on October 14, 1977 under Auditor’s file number 417302 and by supplemental notice of Lis Pendens recorded on June 4, 1980 under Auditor’s file number 442263; being an action for the determination of the rights to divert, withdraw, or otherwise make use of the surface waters of the Yakima River Drainage Basin, in accordance with the provisions of Chapters 90.03 and 90.44, Revised Code of Washington.

Attorney for plaintiff: Charles B. Roe, Jr., Senior Assistant Attorney General

NOTE: The policy/policies to be issued include as one of the General Exceptions “Water rights, claims or title to water”, the action referred to herein involves such water rights and so will not appear on said policy/policies as a Special Exception.

**See next page for notes**

**NOTES:**

NOTE 1: A fee will be charged upon the cancellation of this commitment or guarantee in the amount of \$50.00, plus sales tax of \$3.85.

NOTE 2: The following charges are for endorsements commonly requested. Should said endorsements be requested these charges will apply and should be collected at the time of closing.

Foundation Endorsement:	\$50.00
Tax:	\$ 3.85
Total:	\$53.85

Datedown Endorsement:	\$50.00
Tax:	\$ 3.85
Total:	\$53.85

**END OF SPECIAL EXCEPTIONS**

COMMITMENT FOR TITLE INSURANCE  
SCHEDULE B  
Part II

**The following are the requirements to be complied with:**

ITEM (A) Payment to or for the account of the grantors or mortgagors of the full consideration for the estate or interest to be insured.

ITEM (B) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record

NOTE: Effective January 1, 1997, and pursuant to amendment of Washington state statutes relating to standardization of recorded documents, the following format and content requirements must be met. Failure to comply may result in rejection of the document by the recorder.

**FORMAT:**

Margins to be 3" on top of first page, 1" on sides and bottom, 1" on top, sides and bottom of each succeeding page.

Font size of 8 points or larger and paper size of no more than 8 ½" by 14".

No attachments on pages, such as stapled or taped notary seals, pressure seals must be smudged.

**INFORMATION WHICH MUST APPEAR ON THE FIRST PAGE:**

Title or titles of document. If assignment or reconveyance reference to auditor's file number or subject deed of trust.

Names of grantor(s) and grantee(s) with reference to additional names on following page(s), if any.

Abbreviated legal description (lot, block, plat name or section, township, range and quarter quarter section for unplatted).

Assessor's tax parcel number(s)

Return address which may appear in the upper left hand 3" top margin

COMMITMENT FOR TITLE INSURANCE

Issued by



Stewart Title Guaranty Company, a Texas Corporation ("Company"), for a valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the Requirements; all subject to the provisions of Schedules A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate six months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

This commitment shall not be valid or binding until countersigned by a validating officer or authorized signatory.

IN WITNESS WHEREOF, Stewart Title Guaranty Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

Countersigned by:

*[Handwritten signature]*

Authorized Countersignature

Stewart Title of Kittitas County

Company

Ellensburg, ,

City, State



*[Handwritten signature]*

Senior Chairman of the Board

*[Handwritten signature]*

Chairman of the Board

*[Handwritten signature]*

President

Stewart Title of Kittitas County  
Ellensburg, Washington



## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at < <http://www.alta.org/>>.*



All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at P.O. Box 2029, Houston, Texas 77252.



208 West 9th Avenue, Suite 6  
Ellensburg, WA 98926  
Phone: (509) 933-4324 ♦ Fax: (509) 933-4329

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**Title Officers:** Terry Jausoro

**Your Reference:** Triple L

**Order Number:** 24468

**Date:** February 29, 2008

**To:** ReMax Community Realty  
700 Mt. View Ave. Ste. 504  
Ellensburg, WA 98926  
ATTENTION: Bob Hansen

### **SUPPLEMENTAL NO. 1**

**The following information affects the title to the property covered by our Preliminary Commitment, but is not intended to represent a complete report to date:**

**The following paragraph number(s) 17 has(have) been added to our report:**

17. DECLARATION OF RECIPROCAL EASEMENTS FOR THE TRIPLE L PLAZA:  
Between: Triple L, LLC, a Washington limited liability company  
And: Present and Future Owners  
Recorded: September 19, 2007  
Recording Number: 200709190002

N12  
DRB74

33

Recorded in the County of Kittitas WA  
Beverly S. Allenbaugh, Auditor  
11.00  
9905230038 3:28pm 06/23/98  
001 481006 04 04  
001 4 3566 8.00 3.00

AFTER RECORDING MAIL TO:  
CONS, GILKREATH, ELLIS & COLE  
PO BOX 499  
ELLENDSBURG WA 98926

Document Title(s) for transactions contained therein:

1. Quit Claim Deed
- 2.

Reference Number(s) of Document(s) assigned or released:

Real Estate Equalized Tax  
Exempt  
SALLY SCHORNBACH, TREAS.  
KITTITAS COUNTY TREASURER  
By S. SCHORNBACH  
Att = 09/16  
W. 2/5/98

Additional numbers on page \_\_\_ of document

Grantor(s): (Last name first, then first name and initials)

1. Lamm, Betsy H. Lamm
2. Lamm, Frank C.
3. Eriksson, Claudia J.
4.  Additional names on page \_\_\_ of document

Grantee(s): (Last name first, then first name and initials)

1. Triple L, L.L.C., a Washington limited liability company
- 2.
3.  Additional names on page \_\_\_ of document

Abbreviated Legal Description as follows: (i.e. lot/block/pt of quarter/quarter section/township/longitude/quarter/quarter)

W 1/2 NE 1/4 and portion E 1/2 NW 1/4, Section 33, Township 18 N., Range 18 E.W.M.  
Kittitas County, WA

Complete legal description is on page \_\_\_ of document

Assessor's Property Tax Parcel/Account Number(s):  
181A12100002

Note: The auditor/recorder will rely on the information on the forms. The staff will not read the documents to verify the accuracy or completeness of the indexing information provided herein.

15990

149606230038

QUIT CLAIM DEED

THE GRANTORS, RANDY H. LAMB, FRANK C. LAMB and CLAUDIA J. LOPSTRÖM, each as their sole and separate property, convey and quit claim to TRIPLE L, L.L.C., a Washington limited liability company, the Grantee, the following described real estate, situated in Kittitas County, State of Washington, together with all after acquired title of the Grantor therein:

Tract 1:

The West 1/2 of the Northeast 1/4 and that portion of the East 1/2 of the Northwest 1/4 which lies East of the existing county road running north and south through said Sections All in Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.

EXCEPT: That portions taken by the United State of American by declaration of taking in Kittitas County Superior Court Cause No. 2130, for Interstate Highway Project 7-90-2(45)97.

TOGETHER WITH all water and water rights, if any, ditches, appropriations, franchises, privileges, permits, licenses, and easements that are on, connected with, or usually had an adjoining connection with the property.

DATED this 19<sup>th</sup> day of June 1998.

Randy H Lamb  
Randy H. Lamb

Frank C Lamb  
Frank C. Lamb

Claudia J. Lopstrom  
Claudia J. Lopstrom

GRANTOR

LAW OFFICE OF  
CONS. GILBERT, EGLES & CHASE  
P.O. Box 44 - 200 1st Fl. East Tower  
Spokane, Washington 99201  
PHONE 324-1211

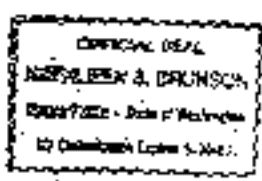
15391

9: 19980623-038

STATE OF WASHINGTON )  
County of ) ss.

On this day personally appeared before me RANDY B. LAMB, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes mentioned in the instrument.

DATED this 3rd day of June 1998.



*Kathleen S. Brunson*  
Printed Name: Kathleen S. Brunson  
NOTARY PUBLIC for the State of  
Washington  
My appointment expires: 5/30/01

STATE OF WASHINGTON )  
County of FRANKLIN ) ss.

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

DATED this 11 day of June 1998.



*Lynette M. Gibson*  
Printed Name: Lynette M. Gibson  
NOTARY PUBLIC for the State of  
Washington  
My appointment expires: 6/27/00

1998060730039

STATE OF WASHINGTON

County of Benton

On this day personally appeared before me CLAUDIA J. LOPSTROM, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes mentioned in the instrument.

DATED this 19<sup>th</sup> day of June, 1998.

Claudia J. Lopstrom  
Printed Name: Claudia J. Lopstrom  
NOTARY PUBLIC for the State of  
Washington  
My appointment expires: 6-30-2002









230111072037  
 Page: 1 of 13  
 11/07/2001 04:33P  
 SALE: 28.00

After recording return to:

F. STEVEN LATHROP  
 Lathrop, Winbauer, Hartzel & Siskower L.L.P.  
 PO Box 1088  
 Ellensburg, WA 98926

Real Estate Excise Tax  
 Exempt  
 Kittitas County Treasurer  
 By *S. Givanni*  
 11-11-01

28-  
 AMT 877245

DOCUMENT TITLE: DECLARATION OF NON-EXCLUSIVE EASEMENTS AND COVENANTS

GRANTOR: TRIPLE L, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY

GRANTEE: PUBLIC

LEGAL DESCRIPTION: West Park Short Plat, Book F of Short Plats, page 185  
 Section 33, Township 18 N, Range 28 E, Pto North Half

ASSESSOR'S TAX PARCEL NO.: 18-18-33074-0001, 18-18-33074-0002, 18-18-33074-0003, 18-18-33074-0004

## DECLARATION OF NON-EXCLUSIVE EASEMENTS AND COVENANTS

THIS DECLARATION OF NON-EXCLUSIVE EASEMENTS AND COVENANTS (hereinafter referred to as the "Declaration") is made this 7<sup>th</sup> day of November, 2001, by and between TRIPLE L, L.L.C., a Washington limited liability company (hereinafter referred to as "Triple L").

WHEREAS, Triple L owns fee title to the real property located in Kittitas County, Washington legally described as follows:

Lot 1, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185

Page 1 of 13

Lathrop, Winbauer, Hartzel, Siskower & Denton, L.L.P.  
 Attorneys at Law  
 201 West Seventh Avenue  
 Post Office Box 1088  
 Ellensburg Washington 98926  
 Telephone 509-925-8916  
 Fax 509-962-8093



and 185, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.  
 (hereinafter "Lot 1")

AND

Lot 2, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.  
 (hereinafter "Lot 2")

Solely for ease and convenience of description herein, said Lot 2 is assumed to be comprised of the southwesterly portion which is described as follows and hereinafter referred to as "Lot 2A", and the northeasterly portion which is described as follows and is hereinafter referred to as "Lot 2B":

That portion of Lot 2, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, which lies southwesterly of a line which is described as follows:

Beginning at the northeasterly corner of said Lot 2;  
 thence South 43°52'49" West, along the southeasterly boundary line of said Lot 2, 389.00 feet to the true point of beginning of said described line;  
 thence North 65°05'32" West, 497.16 feet, more or less, to the northwesterly boundary line of said Lot 2 and the end of said described line.  
 (hereinafter "Lot 2A")

That portion of Lot 2, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, which lies northeasterly of a line which is described as follows:

Beginning at the northeasterly corner of said Lot 2;  
 thence South 43°52'49" West, along the southeasterly boundary line of said Lot 2, 389.00 feet to the true point of beginning of said described line;



thence North 45°05'32" West, 487.16 feet, more or less, to the northwesterly boundary line of said Lot 2 and the end of said described line.  
(hereinafter "Lot 2B")

AND

Lot 3, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.  
(hereinafter "Lot 3")

AND

Lot 4, of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.  
(hereinafter "Lot 4")

(hereinafter collectively, the "Property"); and

WHEREAS, Triple L desires to create and does hereby declare and establish certain easements which are described hereinbelow; and

WHEREAS, Triple L is selling Lot 2A to another party (hereinafter the "Purchaser of Lot 2A"), and intends to sell Lot 1, Lot 2B and Lot 3; and

WHEREAS, Lot 2A, Lot 2B and Lot 3 are adjacent to one another making it advantageous to establish and provide for common access and shared utility corridors; and

WHEREAS, Lot 1, Lot 2A and Lot 2B are adjacent to one another making it advantageous to establish and provide for common access and shared utility corridors; and

WHEREAS, Lot 3 and Lot 4 are adjacent to one another making it advantageous to establish and provide for common access and shared utility corridors; and

WHEREAS, Triple L desires to establish the property benefited by the Easements, burdened by the Easements, and establish create certain covenants, conditions and restrictions for the use and maintenance of the Easements; and



20011072037  
 Page: 4 of 13  
 11/07/2001 04:03P  
 MS: 22.00

WHEREAS, Triple L desires to establish and set forth certain provisions related to the construction of the Easement(s).

NOW, THEREFORE, in consideration of the benefits contained and derived hereunder, Triple L, for and on behalf of itself and its respective successors in interest and assigns, does hereby grant, declare, convey and establish the following:

1. Easement No. 1. Easement No. 1 as set forth herein is created as a permanent, non-exclusive, reciprocal easement for ingress, egress and utilities on, under, over and across its described area as follows:

A non-exclusive easement for ingress, egress and utilities, being forty (40.00) feet in width, being 20.00 feet on either side of the boundary line common to Lot 1 and Lot 2 of the WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

EXCEPT those portions of said Lots 1 and 2 which lie within the Irrigation Easement as illustrated along the westerly boundaries of said Lots 1 and 2 on said West Park Short Plat.

The sidelines of said easement to be lengthened or shortened to intersect the said illustrated Irrigation Easement boundary and the southwesterly right of way boundary of SR 97.

(hereafter "Easement No. 1").

Easement No. 1 shall burden Lot 1 and shall be appurtenant to Lot 2A and Lot 2B; shall burden Lot 2A and shall be appurtenant to Lot 1 and Lot 2B; and shall burden Lot 2B and shall be appurtenant to Lot 1 and Lot 2A. No structures, obstructions, or parking, temporary or otherwise, shall be erected or allowed within Easement No. 1, and, except for its construction and maintenance and the installation and maintenance of below ground utilities, Easement No. 1 shall remain unobstructed for vehicular traffic; provided, however, that any area of such easement not currently required for ingress, egress and/or utilities may be temporarily utilized by the burdened property for vehicular parking, landscaping, storm water retention, lighting and signage; and provided further, that such temporary use shall be terminated at the cost of the burdened property if and when reasonably required for the ingress, egress and utility easement as granted herein. Except in the event of an emergency, all work to be performed on Easement No. 1 shall be undertaken expeditiously, at reasonable times, and in a fashion reasonably contemplated to be as least disruptive as possible.

1.1 Term of Agreement. The easements, benefits, burdens, obligations and restrictions set forth herein shall be perpetual.

1.2 Improvements. Improvements shall include, but not be limited to, the construction of roadway, curbs, gutters, sidewalks, utility lines, lighting, traffic controls and other signage.



20011270237

Page: 5 of 13  
11/07/2001 04:03P  
MAL: 28.00

**1.3 Cost of Improvements.** The Purchaser of Lot 2A and Lot 2B shall bear no part of the cost of the construction or installation of Improvements to be made to Easement No. 1 which shall be borne by Lot 1.

**1.4 Maintenance of the Easement.**

**1.4.1** Except for the initial construction or installation of any Improvements, maintenance of Easement No. 1 including, but not limited to, paving, lighting, striping, landscaping, signage, cleaning and snow removal shall be based upon proportionate usage. For example, in the event the Purchaser of Lot 2A and/or 2B elect to utilize Easement No. 1, the cost of maintenance shall be divided between the parcels: Lot 1 shall pay one-half (1/2), Lot 2A shall pay one-quarter (1/4), Lot 2B shall pay one-quarter (1/4). No maintenance work shall be undertaken, except for emergencies, without reasonable notification to the other parcel owners of the nature of the work and its anticipated cost. Absent agreement to the contrary, all contracted work shall be paid for in full by the party arranging for such work, and the pro-rated share of such costs shall be reimbursed by the other parcel owner(s) within thirty (30) days of receipt of appropriate invoices, documentation and evidence of payment. Past due amounts shall bear interest at the rate of twelve percent (12%) per annum. All guarantees or warranties for work done or materials provided to Easement No. 1 shall be to the benefit of all parcel owners. In the event Lot 2A and Lot 2B elect to not use Easement No. 1, they shall not be obligated to share in the maintenance of said easement.

**1.4.2** In the event the parcels described herein are further subdivided or are developed in such fashion as to materially increase the traffic volume using Easement No. 1, then the maintenance sharing provided for in subparagraph 1.4.1 shall be adjusted so that such additional development shares in the maintenance costs based upon the proportionate additional traffic volume caused by the new development.

**1.4.3** The parcel owner(s) paying for maintenance of Easement No. 1 shall have a lien against the other parcels and shall, in addition, have the right to proceed against the record title owner of such other parcels. The lien for payment of common expense shall have priority over all other liens and encumbrances except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A certificate executed and acknowledged by a parcel owner stating the indebtedness secured by the lien upon any parcel created hereunder may be recorded and shall be conclusive as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any parcel owner or any encumbrancer or prospective encumbrancer of a parcel within 15 days after request, in recordable form, at a reasonable fee, not to exceed Fifty Dollars (\$50.00). Any encumbrancer holding a lien on a parcel may pay any unpaid common expenses payable with respect to such unit and upon such payment such encumbrance shall have a lien on such unit for the amount paid of the same rank as the lien of his encumbrance. The parcel owner filing a lien may initiate



action to foreclose the lien of any Easement maintenance costs. In any action to foreclose a lien for nonpayment of delinquent maintenance costs, any judgment rendered against the non-paying parcel owner(s) shall include a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law. A lien for unpaid maintenance costs is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the amount of the costs sought to be recovered become due.

2. Easement No. 2. Easement No. 2 as set forth herein is created as a permanent, non-exclusive, reciprocal easement for ingress, egress and utilities on, under, over and across its described area as follows:

A non-exclusive easement for ingress, egress and utilities, being forty (40.00) feet in width, being 20.00 feet on either side of the boundary line common to Lot 2 and Lot 3 of the WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 20010310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

EXCEPT those portions of said Lots 2 and 3 which lie within the Irrigation Easement as illustrated along the southwesterly boundaries of said Lots 2 and 3 on said West Park Short Plat.

The sidelines of said easement to be lengthened or shortened to intersect the said illustrated Irrigation Easement boundary and the southwesterly right of way boundary of SR 97.

(hereafter "Easement No. 2").

Easement No. 2 shall burden Lot 3 and shall be appurtenant to Lot 2A and Lot 2B; shall burden Lot 2A and shall be appurtenant to Lot 3 and Lot 2B; and shall burden Lot 2B and be appurtenant to Lot 3 and Lot 2A. No structures, obstructions, or parking, temporary or otherwise, shall be erected or allowed within Easement No. 2, and, except for its construction and maintenance and the installation and maintenance of below ground utilities, Easement No. 2 shall remain unobstructed for vehicular traffic; provided, however, that any area of such easement not currently required for ingress, egress and/or utilities may be temporarily utilized by the burdened property for vehicular parking, landscaping, storm water retention, lighting and signage; and provided further, that such temporary use shall be terminated at the cost of the burdened property if and when reasonably required for the ingress, egress and utility easement as granted herein. Except in the event of an emergency, all work to be performed on Easement No. 2 shall be undertaken expeditiously, at reasonable times, and in a fashion reasonably contemplated to be as least disruptive as possible.

2.1 Term of Agreement. The easements, benefits, burdens, obligations and restrictions set forth herein shall be perpetual.

2.2 Initial Improvements. The initial improvements for Easement No. 2 shall consist of the engineering site work and construction of a hard surfaced roadway 30 feet in width,



curbs and gutters on both sides; underground municipal 6" water and 8" sewer lines; and gas and electrical service sufficient to allow for the full development of Lots 2A, 2B and 3 (hereinafter collectively the "Improvements"). All Improvements shall be designed and constructed consistent with all applicable codes and with the requirements of the City of Ellensburg.

**2.3 Cost of Improvements.** The cost of the Improvements to be made to Easement No. 2 shall be defined as their actual cost to the Purchaser of Lot 2A as evidenced by paid invoices to third parties together with lien releases in recordable form; shall not include any costs or fees for any services provided or work done by the Purchaser of Lot 2A; and shall include interest in favor of the Purchaser of Lot 2A at the annual rate of 2% over US Bank's Prime Interest Rate from October 31, 2002, compounded annually, until reimbursement (hereinafter collectively the "Costs"). The Purchaser of Lot 2A shall not incur any Costs prior to providing Triple L with appropriate bids for its approval and shall further provide the Purchaser of Lot 3, the Purchaser of Lot 2B and Triple L with an itemized and complete accounting of the Cost of the Improvements. The Purchaser of Lot 2A shall do everything within its power to assure the Costs of the Improvements as actually constructed are fair and reasonable. In the event the Purchaser of Lot 2A has not been reimbursed for the proportionate share of Costs incurred for Lots 2B and 3 as provided for in Paragraph 5.10a or before October 31, 2007, Triple L shall pay the remaining balance.

**2.3.1** Subject to Paragraph 2.2, the Cost of the construction of the Improvements shall be borne by the Purchaser of Lot 2A; provided, however, that upon sale or transfer of Lot 3, and subject to paragraph 2.4.1 herein, one-half (1/2) of the Cost shall be reimbursed by the Purchaser of Lot 3 to the Purchaser of Lot 2A; and provided further, however, that in the event Lot 2B is sold to any party other than the Purchaser of Lot 2A, upon sale or transfer of said Lot 2B, and subject to paragraph 2.4.1 herein, one-quarter (1/4) of the Cost shall be reimbursed by the Purchaser of Lot 2B to the Purchaser of Lot 2A. Said reimbursements shall be due and payable in full upon closing of the sale or transfer of the described lots and the Purchaser of Lot 2A is granted a lien on the other said lots until reimbursed.

**2.4 Construction of Improvements.** The Purchaser of Lot 2A shall have the right and the responsibility for the construction of the Improvements, as well as the restoration of any properties not lying within Easement No. 2 and damaged by the construction project.

**2.4.1** In constructing, or causing to have the Improvements constructed, the Purchaser of Lot 2A shall meet all conditions and requirements as set by the City of Ellensburg to provide ingress, egress and Improvements to serve the Property in a manner that allows for the full development, access, and utilization of the Property.

**2.5 Maintenance of the Easement.**

**2.5.1** Except for initial construction and subject to the provisions of subparagraph 2.5.2, the maintenance of Easement No. 2 including, but not limited to, paving, lighting, striping, landscaping, signage, cleaning and snow removal and any improvements



subsequently constructed or installed, shall be divided between the parcels, with Lot 2A paying one-quarter (1/4), Lot 2B paying one-quarter (1/4) and Lot 3 paying one-half (1/2). Pending the actual improvement of Lot 2B and/or Lot 3, Lot 2A (or all lots improved from time to time as the case may be) shall pay all costs of maintenance without reimbursement from unimproved lots. Triple L shall have no personal obligation for maintenance of said Easement No. 2. No maintenance work shall be undertaken, except for emergencies, without reasonable notification to the other parcel owners of the nature of the work and its anticipated cost. Absent agreement to the contrary, all contracted work shall be paid for in full by the party arranging for such work, and the pro-rated share of such costs shall be reimbursed by the other parcel owner(s) within thirty (30) days of receipt of appropriate invoices, documentation and evidence of payment. Past due amounts shall bear interest at the rate of twelve percent (12%) per annum. All guarantees or warranties for work done or materials provided to Easement No. 2 shall be to the benefit of all parcel owners.

2.5.2 In the event the parcels described herein are further subdivided or are developed in such fashion as to materially increase the traffic volume using Easement No. 2, then the maintenance sharing provided for in subparagraph 2.5.1 shall be adjusted so that such additional development shares in the maintenance costs based upon the proportionate additional traffic volume caused by the new development.

2.5.3 The parcel owner(s) paying for maintenance of Easement No. 2 shall have a lien against the other parcels and shall, in addition, have the right to proceed against the record title owner of such other parcels. The lien for payment of common expense shall have priority over all other liens and encumbrances except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A certificate executed and acknowledged by a parcel owner stating the indebtedness secured by the lien upon any parcel created hereunder may be recorded and shall be conclusive as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any parcel owner or any encumbrancer or prospective encumbrancer of a parcel within 15 days after request, in recordable form, at a reasonable fee, not to exceed Fifty Dollars (\$50.00). Any encumbrancer holding a lien on a parcel may pay any unpaid common expenses payable with respect to such unit and upon such payment such encumbrance shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance. The parcel owner filing a lien may initiate action to foreclose the lien of any Easement maintenance costs. In any action to foreclose a lien for nonpayment of delinquent maintenance costs, any judgment rendered against the non-paying parcel owner(s) shall include a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law. A lien for unpaid maintenance costs is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the amount of the costs sought to be recovered become due.

3. Easement No. 3. Easement No. 3 as set forth herein is created as a permanent, non-exclusive, reciprocal easement for ingress, egress and utilities on, under, over and across its





described area as follows:

A non-exclusive easement for ingress, egress and utilities, being forty (40.00) feet in width, being 20.00 feet on either side of the boundary line common to Lot 3 and Lot 4 of the WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

EXCEPT those portions of said Lots 3 and 4 which lie within the Irrigation Easement as illustrated along the southwesterly boundaries of said Lots 3 and 4 on said West Park Short Plat.

The sidelines of said easement to be lengthened or shortened to intersect the said illustrated Irrigation Easement boundary and the southwesterly right of way boundary of SR 97.

(hereafter "Easement No. 3").

Easement No. 3 shall burden Lot 3 and shall be appurtenant to Lot 4; and shall burden 4 and shall be appurtenant to Lot 3. No structures, obstructions, or parking, temporary or otherwise, shall be erected or allowed within Easement No. 3, and, except for its construction and maintenance and the installation and maintenance of below ground utilities, Easement No. 3 shall remain unobstructed for vehicular traffic; provided, however, that any area of such easement not currently required for ingress, egress and/or utilities may be temporarily utilized by the burdened property for vehicular parking, landscaping, storm water retention, lighting and signage; and provided further, that such temporary use shall be terminated at the cost of the burdened property if and when reasonably required for the ingress, egress and utility easement as granted herein. Except in the event of an emergency, all work to be performed on Easement No. 3 shall be undertaken expeditiously, at reasonable times, and in a fashion reasonably contemplated to be as least disruptive as possible.

3.1 Term of Agreement. The easements, benefits, burdens, obligations and restrictions set forth herein shall be perpetual.

3.2 Improvements. Improvements shall include, but not be limited to, the construction of roadway, curbs, gutters, sidewalks, utility lines, lighting, traffic controls and other signage.

3.3 Cost of Improvements. The Purchaser of Lot 3 shall bear no part of the cost of the construction or installation of Improvements to be made to Easement No. 3 which shall be borne by Lot 4.

3.4 Maintenance of the Easement.

3.4.1 Except for the initial construction or installation of any Improvements, maintenance of Easement No. 3 including, but not limited to, paving, lighting, striping, landscaping,



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signage, cleaning and snow removal shall be based upon proportionate usage. For example, in the event the Purchaser of Lot 3 elects to utilize Easement No. 3, the cost of maintenance shall be divided between the parcels: Lot 3 shall pay one-half (1/2); and Lot 4 shall pay one-half (1/2). No maintenance work shall be undertaken, except for emergencies, without reasonable notification to the other parcel owners of the nature of the work and its anticipated cost. Absent agreement to the contrary, all contracted work shall be paid for in full by the party arranging for such work, and the pro-rated share of such costs shall be reimbursed by the other parcel owner(s) within thirty (30) days of receipt of appropriate invoices, documentation and evidence of payment. Past due amounts shall bear interest at the rate of twelve percent (12%) per annum. All guarantees or warranties for work done or materials provided to Easement No. 3 shall be to the benefit of all parcel owners. In the event Lot 3 elects to not use Easement No. 3, it shall not be obligated to share in the maintenance of said easement.

3.4.2 In the event the parcels described herein are further subdivided or are developed in such fashion as to materially increase the traffic volume using Easement No. 3, then the maintenance sharing provided for in subparagraph 3.4.1 shall be adjusted so that such additional development shares in the maintenance costs based upon the proportionate additional traffic volume caused by the new development.

3.4.3 The parcel owner(s) paying for maintenance of Easement No. 3 shall have a lien against the other parcels and shall, in addition, have the right to proceed against the record title owner of such other parcels. The lien for payment of common expense shall have priority over all other liens and encumbrances except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the unit. A certificate executed and acknowledged by a parcel owner stating the indebtedness secured by the lien upon any parcel created hereunder may be recorded and shall be conclusive as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any parcel owner or any encumbrancer or prospective encumbrancer of a parcel within 15 days after request, in recordable form, at a reasonable fee, not to exceed Fifty Dollars (\$50.00). Any encumbrancer holding a lien on a parcel may pay any unpaid common expenses payable with respect to such unit and upon such payment such encumbrance shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance. The parcel owner filing a lien may initiate action to foreclose the lien of any Easement maintenance costs. In any action to foreclose a lien for nonpayment of delinquent maintenance costs, any judgment rendered against the non-paying parcel owner(s) shall include a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in preparation for or in the prosecution of said action, in addition to taxable costs permitted by law. A lien for unpaid maintenance costs is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the amount of the costs sought to be recovered become due.

4. **Irrigation Easement.** The Irrigation Easement as set forth herein is created as a permanent, non-exclusive, easement for an irrigation ditch known as the Mill Ditch on, under, over



and across its described area as follows:

A non-exclusive easement for Mill Ditch, as illustrated and delineated on and identified as "Irrigation Easement" on the WEST PARK SHORT PLAT, City of Ellensburg Short Plat No. SP-00-05, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 31, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington; (hereafter "Irrigation Easement").

The Irrigation Easement shall burden Lots 1, 2, 3 and 4 as illustrated on said West Park Short Plat. No structures, obstructions, or parking, temporary or otherwise, shall be erected or allowed within the Irrigation Easement, and, except for construction and maintenance, the Irrigation Easement shall remain unobstructed; provided, however, that any area of such easement not currently required for the intended use may be temporarily utilized by the burdened property for vehicular parking, landscaping, storm water retention, lighting and signage; and provided further, that such temporary use shall be terminated at the cost of the burdened property if and when reasonably required for the Irrigation Easement as granted herein. Except in the event of an emergency, all work to be performed on Mill Ditch or within the Irrigation Easement shall be undertaken expeditiously, at reasonable times, and in a fashion reasonably contemplated to be as least disruptive as possible.

4.1 Term of Agreement. The easements, benefits, burdens, obligations and restrictions set forth herein shall be perpetual.

5. Use. The easements created hereunder may be used by the owners of the Property, and their respective heirs, successors, assigns, lessees, sublessees, tenants, subtenants, customers, suppliers, employees, invitees, and agents, and the right of access to the Easement shall be free and unrestricted. As used herein, the word "access" shall also mean and include the right of pedestrian ingress and egress.

6. Binding Effect; Runs with the Land. The easements benefits, burdens, obligations and restrictions created hereunder shall create covenants, benefits and servitudes upon the properties set forth herein and shall run with the land and shall bind and be obligatory upon the Property; provided, that anything herein to the contrary notwithstanding, no rights in or to the general public are created hereby. No dedication to the Public for public use shall be made as to any of the easements described herein unless and until the owners of all of the Property shall agree.

7. Eminent Domain. If the Easements, or any part thereof, are taken by any governmental agency in the exercise of its power of eminent domain, the award granted under such proceedings, or any settlement in lieu thereof, for the taking of such property shall be payable to the fee owner of the portion of the Easement which is taken and any award for the taking of any of the rights hereunder granted to the party to whom said portion of the award is granted. If less than all of the Easement is taken, this Declaration shall continue to full force and effect with respect to the



portion of the Easement not taken unless this Declaration is terminated by unanimous consent of the fee owners of the Property. If all of the Easement is taken, this Declaration shall terminate and the obligations hereunder of the then owners of the Easement area shall automatically cease and terminate when possession is transferred to the condemning agency; provided, however, that nothing herein prevents the owner(s) of the property benefited by the Easements from seeking compensation from the condemning agency, only, for loss of the Easement.

8. **Reciprocal Indemnification.** Owners of the Property, now or in the future, shall indemnify, protect and hold each other harmless from and against any and all claims, causes of action, or other assertion of liability, including attorney fees and costs, arising out of any of their respective negligence, intentional acts or omissions.

9. **Remedies for Violation or Breach.**

9.1 **Arbitration.** Except as set forth in Section 11.2 below, the sole and exclusive procedure to resolve any and all disputes or disagreements between the parties hereto shall be by binding arbitration. Such arbitration shall be before one (1) disinterested arbitrator if one can be agreed upon; provided, that if an arbitrator cannot be agreed upon, said arbitrator shall be appointed by the presiding judge of the Kootenai County Superior Court upon motion of any parcel owner. A "disinterested arbitrator" shall be a person who shall not have a direct or indirect financial interest in the decisions to be made and who has not ever represented or acted on behalf of any of the parcel owners. The arbitrator shall determine the controversy in accordance with the laws of the State of Washington as applied to the facts found by them, and in accordance with the rules of the Uniform Arbitration Act. All arbitration proceedings hereunder shall be conducted in the City of Ellensburg, Washington. The appointment of an arbitrator shall be signified in writing by each party to the others. The arbitrator, after being duly sworn to perform his or her duties with impartiality and fidelity, shall proceed to determine the question or questions submitted. The decision of the arbitrator shall be rendered within thirty (30) days after his or her appointment, and such decision shall be in writing and in duplicate, one counterpart thereof to be delivered to each of the parcel owners. The decision of the arbitrator shall be binding and final and conclusive on the parties. Fees of the arbitrator or arbitrators and the expenses incident to the proceedings shall be borne equally between the parcel owners. Fees of the respective counsel engaged by the parties, and the fees of expert witnesses or other witnesses called by the parties shall be paid by the respective party engaging such counsel or calling or engaging such witness, provided that the arbitrator shall have the discretion to award such fees to the substantially prevailing party.

9.2 **Equitable Actions.** Notwithstanding anything contained herein to the contrary, at the election of any parcel owner, a claim or cause of action in equity or seeking primarily equitable relief, including but not limited to an action for specific performance, shall not be submitted to arbitration.

10. **Notices.** Any notice required or permitted to be given hereunder must be in writing and may be given by personal delivery or by mail, and if given by mail shall be deemed sufficiently





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 Page: 1 of 3  
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APR 75

**AFTER RECORDING MAIL TO:**

Name Triple L LLC  
 Address 4815 RD 6.5 NE  
 City/State Moses Lake, WA 98837

AMT 895326  
 11-

- Document Title(s): (see transaction card for details)
1. Amendment/Addendum to Vacant Land Purchase & Sale Agreement
  - 2.
  - 3.
  - 4.

Real Estate Excise Tax  
 Exempt  
 Klitsch County Treasurer  
 By K. Hill  
02-15-02  
(Use space for date stamping use only)

Reference Number(s) of Documents assigned or released:

Additional numbers on page \_\_\_\_\_ of document

- Grantor(s): (last name first, then first name and initials)
1. Triple L, LLC, a Washington limited liability
  - 2.
  - 3.
  - 4.
  5.  Additional names on page \_\_\_\_\_ of document

- Grantee(s): (last name first, then first name and initials)
1. Patterson, Steve
  2. Patterson, Dina
  - 3.
  - 4.
  5.  Additional names on page \_\_\_\_\_ of document

Abbreviated Legal Description as follows: (do not omit & / plat or words like "more or less" or "approximately")

Lots 1, 2, 3 and 4, Triple L Short Plat, Book P of Short Plats, pages 223 and 224; Portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M.

Complete legal description is on page \_\_\_\_\_ of document

Assessor's Property Tax Parcel / Account Number(s):

18.18.33010.0002

NOTE: The auditor/acceptor will rely on the information on this form. The staff will not read the document to verify the accuracy or completeness of the listing information provided herein.



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 Page: 2 of 3  
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 ASR 11.00

Amendment / Addendum to Vacant Land Purchase & Sale Agreement

Dated 1-3-02 # N/A

Seller: Triple L, LLC, a Washington limited liability agreement

Purchaser: Steve Patterson and Dina Patterson, husband and wife

IT IS AGREED BETWEEN THE SELLER AND BUYER AS FOLLOWS:

Subsequent to closing of the pending transaction, Seller shall proceed with establishing a recorded document of covenants, conditions and restrictions, which shall affect the following described property:

ALL # 8

Lot 1, Lot 2, Except that portion of Lot 2 conveyed by deed recorded under Kittitas County Auditor's File No. 20011070038, ~~Lot 3~~ and Lot 4, all of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

AND

Lot 1, Lot 2, Lot 3 and Lot 4, all of the TRIPLE L SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-02-01, as recorded February 13, 2002, in Book I of Short Plats, pages 223 and 224, under Auditor's File No. 200102130027, records of Kittitas County, State of Washington; being a portion of the North Half of Section 33, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

(The property described and conveyed herein shall hereinafter collectively be referred to as the "Affected Property").

Said covenants shall include, but not be limited to, the following use restriction:

"No portion of the Affected Property, or any of it, shall be used for a Commercial Truck Wash, including: truck and RV washing, pallet sales, trailer washouts and truck/RV/auto detailing facilities; provided, however, Lot 1 of the Triple L Short Plat shall be allowed to install a Commercial Truck Wash and Lots 2 and 3 of the West Park Short Plat shall be allowed to install vehicle washing and detailing facilities; and provided further, however, upon receipt of a request in writing, the then-current owners of any like-kind business located on the Affected Property may, but shall not be required to, waive this restriction on an individual basis."

Buyer agrees to join in and be bound by said restriction. Buyer further agrees to cooperate with Seller in the establishment of such other reasonable covenants, conditions and restrictions as Seller shall determine to be in the best interest of full development of the Affected Property, and agrees to be bound by and join in the execution of such document.



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This provision shall survive Closing and shall continue to be an obligation of Seller and Buyer until such time as said covenants are completed, executed and recorded with the Kittitas County Auditor, which shall occur no later than Feb 15, 2003 *2/15/02*

Until such time as the covenants are completed and recorded, Seller agrees that it shall not sell or offer for sale any of the Affected Property without incorporating the above language into any purchase and sale agreement.

Listing Agent: *[Signature]*

Date: 02/15/02

Selling Agent: \_\_\_\_\_

Date: \_\_\_\_\_

Seller:  
Triple L, LLC, a Washington limited liability company

*[Signature]*  
By: Randy Lamb, managing member

Date: 2/15/02

Purchaser:  
*[Signature]*  
Steve Patterson

Date: 2/15/02

*[Signature]*  
Dina Patterson

Date: 2/15/02

\_\_\_\_\_

Date: \_\_\_\_\_





SECRET  
NO FOREIGN DISSEM  
NO UNCLASSIFIED DISSEM

SP-07-02

### TRIPLE I. PLAZA SHORT PLAT Located in the N 1/2 of Section 33, Township 13 North, Range 13 East, W.M.

**NOTE:**  
1. THE SHORT PLAT WAS FILED UNDER A RECORD ON DECEMBER 15, 1954. THE ORIGINAL RECORD WAS DESTROYED IN 1964. THE RECORD WAS REPRODUCED FROM A COPY OF THE ORIGINAL RECORD WHICH WAS FILED IN THE RECORDS OF THE BUREAU OF LAND MANAGEMENT, DENVER, COLORADO, ON DECEMBER 15, 1954.  
2. THE SHORT PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ.

THE PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ. THE PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ. THE PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ.

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
DENVER, COLORADO

*Richard J. ...*  
Special Agent in Charge

RECEIVED  
BUREAU OF LAND MANAGEMENT  
DENVER, COLORADO

THIS PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ. THE PLAT IS SUBJECT TO THE PROVISIONS OF THE FEDERAL LAND MANAGEMENT ACT, 43 U.S.C. 1601 ET SEQ., AND THE REGULATIONS THEREUNDER, 43 C.F.R. 15.000 ET SEQ.

*John ...*  
Special Agent in Charge



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TRIPLE I. PLAZA SHORT PLAT

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STATUS THAT NO CONSIDERATION IS BEING PAID

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WASHINGTON STATE RECORDER'S COVER SHEET (RCW 65.04)

<p><b>DOCUMENT TITLE(S)</b> (or transactions contained therein):</p> <p>Declaration of Reciprocal Easements for the Triple L Plaza</p>
<p><b>REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:</b></p> <p>N/A</p> <p><input type="checkbox"/> Additional reference #s on page ___ of document(s)</p>
<p><b>GRANTOR(S)</b> (Last name first, then first name and initials)</p> <p>TRIPLE L, LLC, a Washington limited liability company</p> <p><input type="checkbox"/> Additional names on page ___ of document</p>
<p><b>GRANTEE(S)</b> (Last name first, then first name and initials)</p> <p>TRIPLE L, LLC, a Washington limited liability company</p> <p><input type="checkbox"/> Additional names on page ___ of document</p>
<p><b>LEGAL DESCRIPTION</b> (abbreviated: i.e., lot, block, plat or section, township, range)</p> <p>Being a portion of the North 1/2 of Section 33, Township 18N, Range 18E, W.M.</p> <p><input checked="" type="checkbox"/> Additional legal is on <u>Exhibit A</u> of document</p>
<p><b>ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER</b></p> <p>Tax Parcel No. 1818-33074-0064</p> <p><input type="checkbox"/> Assessor Tax # not yet assigned</p>



**DECLARATION OF RECIPROCAL EASEMENTS FOR THE TRIPLE L PLAZA**

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## DECLARATION OF RECIPROCAL EASEMENTS FOR THE TRIPLE L PLAZA

THIS DECLARATION OF RECIPROCAL EASEMENTS FOR THE TRIPLE L PLAZA (the "Declaration") is made by TRIPLE L, LLC, a Washington limited liability company ("Developer") as of the 18<sup>th</sup> day of September, 2007.

### WITNESSETH

WHEREAS, Developer is the owner of a certain tract of land, legally described in Exhibit A attached hereto and made a part hereof (the "Commercial Center"), and as shown on Exhibit B attached hereto and made a part hereof (the "Site Plan"); and

WHEREAS, the Developer intends to develop the Commercial Center and have successor owners operate their respective Lots in conjunction with each other as integral parts of a commercial complex, and in order to effectuate the common use and operation thereof, Developer wishes to subject the Commercial Center to certain covenants and agreements as a part of a general plan, and to grant certain reciprocal easements, in, to, over, and across the Lots as defined and set forth below;

NOW, THEREFORE, Developer declares that the Commercial Center 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 Commercial Center, and which shall be binding on all parties having any right, title, or interest in the Commercial Center or any portion thereof, and their respective legal representatives, heirs, successors and assigns, and shall inure to the benefit of each owner thereof for the term set forth below.

### ARTICLE I. DEFINITIONS

#### 1.1 ACC

"ACC" shall mean the Architectural Control Committee, a committee of the Association, referenced in Article 7.

#### 1.2 Association

"Association" shall mean the Triple L Plaza Owners' Association, a Washington nonprofit corporation, its successors and assigns.

#### 1.3 Association Maintenance Areas

"Association Maintenance Areas" shall mean those areas, which the Association is responsible for improving and maintaining, specifically the: (i) Wetlands Tract; (ii) Surplus Tract; (iii) Sign Easement Area; and (iv) Loop Road.







1.12 Monument Sign Easement Area

"Monument Sign Easement Area" shall mean that certain easement area located on Lot 4A, as shown on the Site Plan.

1.13 Occupant

"Occupant" shall mean any Person from time to time entitled to the use and occupancy of any portion of a building on a Lot under an ownership right or any lease, sublease, license, concession, or other similar agreement.

1.14 Owner

"Owner" shall mean the Person who is the owner from time to time of record title to a Lot.

1.15 Person

"Person" shall mean any individual, partnership, firm, association, corporation, trust, or any other legal entity.

1.16 Permittee

"Permittee" shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of a Lot. Among others, Persons engaging in the following activities outside a building constructed on any Lot will not be considered to be Permittees:

- (i) Exhibiting any placard, signs or notice, except as permitted by the ACC pursuant to Section 7.2A;
- (ii) Distributing any circular, handbill, placard, or booklet;
- (iii) Soliciting memberships or contributions;
- (iv) Parading, picketing, or demonstrating; and
- (v) Failing to follow applicable laws or regulations relating to the use of the Commercial Center.

1.17 Regulations

"Regulations" shall mean any and all present and future laws, statutes, ordinances, codes, rules, regulations, orders and other requirements of any federal, state, local or other



governmental authority or similar entity, or any department or agency thereof, which are applicable to or affect all or any portion of the Commercial Center, a Lot, the improvements thereon or the use thereof.

#### 1.18 Sign Easement Area

"Sign Easement Area" shall mean that certain easement area located on Lot 4C, as shown on the Site Plan.

#### 1.19 Surplus Tract

The "Surplus Tract" shall mean Tract Y as shown on the Site Plan.

#### 1.20 Transition Date

"Transition Date" shall have the meaning prescribed in Section 3.8.

#### 1.21 Wetlands Tract

"Wetlands Tract" shall mean Tract X as shown on the Site Plan.

### ARTICLE 2. OWNERSHIP BY ASSOCIATION

#### 2.1 Granting of Easements; Abandonment or Transfer by Association

It is anticipated that the Developer will convey the Wetlands Tract and the Surplus Tract to the Association. Upon such conveyance, the Association may grant easements over, under and across the Surplus Tract for utilities, or for any other purpose consistent with this Declaration. The Association may not abandon, partition, subdivide, sell or transfer the Wetlands Tract, provided that, fee title to the Wetlands Tract may be conveyed to a third party, such as a nonprofit corporation, or a public agency, authority or utility, so long as the conveyance is in compliance with City regulations and the transferee agrees to assume the responsibilities under that certain mitigation plan referenced in Section 8.5. The Association may not abandon, partition, subdivide, sell or transfer the Surplus Tract, provided that, the Association may convey the Surplus Tract to a third party, so long as the proceeds are applied to the Association Maintenance Costs that would otherwise be assessed to all of the Owners. Upon conveyance of either the Wetlands Tract or the Surplus Tract, such property will no longer be subject to the provisions of this Declaration.

#### 2.2 Alteration by Association

Nothing shall be altered or constructed in or removed from the Wetlands Tract, except upon prior written consent of the Board and in compliance with the Regulations.



### ARTICLE 3. OWNERS' ASSOCIATION

#### 3.1 Function and Form of Association

The Association is to own and maintain the Wetlands Tract and the Surplus Tract; to maintain the Sign Easement Area and the Loop Road; and to enforce the provisions of this Declaration. The Owners shall constitute the members of the Association. The rights and duties of the members and of the Association shall continue to be governed by the provisions of this Declaration, and the Association's Articles of Incorporation and Bylaws.

#### 3.2 Board of Directors

The affairs of the Association shall be governed by the Board. The initial Board shall be as described in the Articles of Incorporation of the Association and shall serve until the Transition Date. After the first annual meeting held after the Transition Date, the duties of the Board shall be assumed by the Board elected at such meeting. After the Transition Date, the Board shall consist of such numbers of members as provided for in the Articles of Incorporation and Bylaws of the Association. Subject to any specific requirements herein, the Board shall have authority to establish operating rules and procedures. In the event of death or resignation of any member or members of the Board, the remaining member or members, if any, shall have full authority to appoint a successor member or members. Members of the Board shall not be entitled to any compensation for services performed as directors pursuant to this Declaration. Upon the Transition Date and without further action by any person or persons, (i) the term of the initial directors or their successors shall end, and (ii) the initial directors and their then successors shall be released from any and all liability whatsoever for claims arising out of or in connection with this Declaration, excepting only claims arising prior to the Transition Date.

#### 3.3 Qualification for Membership

Each Owner of all or a portion of the fee interest in a Lot (including Developer) shall be a member of the Association. Ownership of a Lot shall be the sole qualification for membership in the Association. Membership shall be appurtenant to and may not be separate from ownership of any Lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the persons constituting the new Owners.

#### 3.4 Voting Rights

The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to a certain number of votes based upon the area of land located in the Owner's Lot, divided by the total land area of the Commercial Center minus the land

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areas owned by the Association. If a Lot has been sold on contract, the contract purchaser shall exercise the rights of an Owner. Except with respect to contract purchasers, when more than one person holds an interest in any Lot, all such persons shall be members.

Class B: Class B members shall be the Developer and shall be entitled to three (3) times the number of votes that would be allocated to Developer under the calculation for Class A membership. The Class B membership shall cease and be converted to Class A membership effective on the Transition Date.

### 3.5 Voting

If a Lot is owned by more than one person and only one of them is present or represented at a meeting, the one who is present or represented will represent the Owner. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. If joint owners are unable to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question. An Owner may, by written notice to the Board, designate a voting representative for the Lot. The designated voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a Person having an ownership interest in a Lot, or by actual notice to the Board of the death or judicially declared incompetence of any Person with an ownership interest in the Lot, except in cases in which the Person designated is a mortgagee of the Lot. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact for the Owner under a durable power of attorney, and the administrator or executor of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Lot shall be the group composed of all of its Owners. Unless otherwise expressly provided in this Declaration, a quorum is present throughout any meeting of the Association if the Owners to whose thirty-four percent (34%) of the votes of the Association are allocated are present in person or by proxy at the beginning of the meeting.

### 3.6 Annual and Special Meetings

Within one year following the Transition Date, on a date selected by the initial Board, there shall be a meeting of the members of the Association and thereafter there shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than 30 days before the meeting. Until the Transition Date, the initial Board appointed by the Developer shall govern the Board and the Association. At the first meeting after the Transition Date, and at each annual meeting thereafter, the Owners shall elect by majority vote individuals to serve as directors until a successor is elected at the next annual meeting. Each Lot shall be entitled to one vote for each director and the voting for directors shall be non-cumulative. The financial statement for the preceding fiscal year (if any) and the budget the Board has adopted for the pending fiscal year shall be presented at the annual meeting for ratification by the members, as more specifically provided in Article 5. Special meetings of the members of the Association may be called at any time upon not less than 14 days prior written

VOID AFTER THE 15th DAY OF OCTOBER 2007

notice to all Owners, for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any first mortgagee of a Lot may attend or designate a representative to attend the meetings of the Association.

### 3.7 Books and Records

The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures (if any) of the Association, in a form that complies with generally kept standards of similar property owners' associations. The books and records, authorizations for payment of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for examination by the Owners, mortgagees, and the agents or attorneys of either of them, during normal business hours and at any other reasonable time or times.

### 3.8 Transition Date

The "Transition Date" shall be the date control of the Board passes from the initial Board to the Association. Prior to the Transition Date, the initial Board shall be entitled to exercise all rights and powers of the Board and the Association. The Transition Date will be the earlier of: (i) the date designated by Developer in a written notice to the Owners, which date may be by Developer's election any date after this Declaration has been recorded; (ii) the 120th day after Developer has transferred to third party purchasers title to all Lots in the Commercial Center (not including an assignment by Developer under Section 10.5); or (iii) five years from the closing date of the sale of the first Lot by Developer to a third party.

## ARTICLE 4. AUTHORITY OF THE BOARD

### 4.1 Adoption of Rules and Regulations

The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration, to promote the use and enjoyment of the Commercial Center and to govern the operation and procedures of the Association. The rules and resolutions may, without limitation, authorize voting by proxy or mail, or both, on Association matters. The rules and regulations of the Association shall be binding upon all Owners and Occupants and all other Persons claiming any interest in the Commercial Center.

### 4.2 Enforcement of Declaration, Rules and Regulations

The Board shall have the power to enforce the provisions of this Declaration, and the rules and regulations of the Association for the benefit of the Association. The failure of any Owner to comply with the provisions of this Declaration, or the rules and regulations of the Association will give rise to a cause of action in the Association (acting through the Board) and any aggrieved Owner for recovery of damages, or injunctive relief, or both, as more particularly described in Section 10.1.

#### 4.3 Goods and Services

The Board shall acquire and pay for all goods and services reasonably necessary or convenient for the efficient and orderly functioning of the Association and maintenance of all Association Maintenance Areas that are not maintained by public utility companies or a governmental entity. The goods and services shall include (by way of illustration and not limitation) irrigation systems for landscaping maintenance, utility services, and maintenance, repair and general upkeep of the Association Maintenance Areas. The Board may hire such employees and/or contractors as it considers necessary.

#### 4.4 Maintenance and Protection by the Association

The Board may spend such funds and take such action as it may from time to time deem necessary to preserve and maintain the Association Maintenance Areas, as more particularly described in Section 8.5, and to settle claims, or otherwise act in what it considers to be the best interests of the Association.

#### 4.5 Limitation of Liability

So long as a director, or Association member, or Developer, acting on behalf of the Board or the Association, has acted in good faith, without willful or intentional misconduct, upon the basis of such actual information as is then possessed by such Person, then no such Person shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such Person; provided that this Section shall not apply to the extent the liability of such Person for such act, omission, error, or negligence is covered by any insurance actually obtained by the Board.

#### 4.6 Indemnification

Each director, and the Developer, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which such Person may be a party, or in which such Person may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not such Person holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liabilities are covered by insurance actually obtained by the Board and except in such cases wherein such director or Developer is adjudged guilty of willful misfeasance in the performance of his or her duties.

#### 4.7 Insurance



At such times as the Board deems appropriate, the Board shall cause the Association to purchase and maintain as a common expense a policy or policies, which the Board deems necessary or desirable, to provide casualty insurance and comprehensive liability insurance, with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's directors and representatives from personal liability in the management of the Association's affairs; and such other insurance as the Board deems advisable. The Board shall review the adequacy of the Association's insurance coverage at least annually.

#### ARTICLE 5. BUDGET AND ASSESSMENT

##### 5.1 Fiscal Year; Preparation of Budget

A. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year.

B. As soon as the Board in its discretion deems advisable after formation of the Association, and prior to the expiration of each fiscal year thereafter, the Board shall establish a budget for the Association. The budget proposed by the Board shall only be for costs associated with the improvement and maintenance of the Association Maintenance Areas, as more particularly described in Section 8.5 (the "Association Maintenance Costs"), and for the provision of other goods and services as described in Section 4.3, including without limitation the amount of all taxes and assessments levied against, and the cost of liability and other insurance on, the Wetlands Tract and the Surplus Tract; the cost of utilities and other services for the Association Maintenance Areas; and the cost of funding all reserves established by the Board, including, when appropriate, a general operating reserve and a reserve for replacements of improvements in the Association Maintenance Areas. For the purpose of this Declaration, Association Maintenance Costs shall not include:

- (i) any late charges or fees;
- (ii) any costs to clean up or repair the Association Maintenance Areas resulting from construction, maintenance or replacement of buildings on individual Lots;
- (iii) real property taxes and assessments other than those applicable to the Wetlands Tract or the Surplus Tract; and
- (iv) entertainment, transportation, meals and lodging of anyone.

C. The Board shall mail a summary of the budget to all of the Owners. If within thirty days from mailing of the Budget by the Board, at least three or more Owners reject the budget and request a meeting, in writing to the Board, the Board shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen nor more than sixty days after receipt of the third rejection and request for meeting. Unless at that meeting the Owners of



a majority of the votes in the Association, or any larger percentage specified in the Articles of Incorporation or Bylaws reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. In the event that the requisite number of owners do not reject the budget and request a meeting, the budget is deemed ratified by all Owners.

D. Upon ratification of the budget, the Board shall then assess each Owner's share of the budget, which shall be a sum equal to the total budget multiplied by a fraction, the numerator of which is the area of land located in an Owner's Lot, and the denominator of which is the total area of land located in the Commercial Center minus the areas owned by the Association. Each Owner of a Lot shall pay to the Association its share, on the first day of each calendar month (or other period or billing practice as the Association may determine from time to time), in installments equal to one-twelfth of the estimated budget amount. Any amount not paid to the Association within thirty days of the date due shall accrue interest in accordance with Section 10.2 until paid in full, and the Association may avail itself of such remedies as provided for in Section 10.1.

E. Within forty-five (45) days after the end of each calendar year, the Association shall provide all Owners with a certified statement, together with supporting material upon specific request, as to the actual amounts paid by the Association for the operation and maintenance of such Association Maintenance Areas, including any costs for goods and services as provided for in Section 4.3, together with an accounting for all funds received by the Association for such purpose. If the amount paid by an Owner for such calendar year shall have exceeded its share, the Association shall refund the excess at the time such certified statement is delivered, or if the amount paid by an Owner for such calendar year is less than its share, that Owner shall pay the balance of its share to the Association within thirty (30) days after receipt of such certified statement.

F. Within three (3) months after receipt of any such certified statement from the Association, an Owner shall have the right to audit the Association's books and records for the calendar year covered by such statement. In the event that such audit shall disclose any error in the determination of the costs of operating and maintaining such Association Maintenance Areas or the payment of other goods and services as provided for in Section 4.3, or in calculating any Owner's share thereof, an appropriate adjustment shall be made forthwith. The cost of any such audit shall be assumed by the Owner requesting the audit unless said Owner shall be entitled to a refund in excess of five percent (5%) of the amount calculated by the Association as its share of such costs for such calendar year, in which case the Association shall pay the cost of such audit.

5.2 Certificate of Unpaid Assessments. Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any fiscal year for the ensuing fiscal year shall not be deemed a waiver or modification in any respect of the provisions





of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the assessment amount and payment method established for the preceding fiscal year (if any) shall continue until a new assessment is established. Upon the request of any Owner, mortgagee or prospective purchaser, the Board will furnish a statement of the amount, if any, of unpaid assessments charged to the Lot. All assessments and other receipts received by the Association shall belong to the Association.

5.3 Initial Contribution, Annual Assessments. Each Owner, at the time of purchase of its Lot, shall pay an initial annual assessment of \$500 per year, which shall be prorated for any partial year at the time of purchase of the Lot.

## ARTICLE 6. EASEMENTS

### 6.1 Ingress and Egress; Parking

The Developer hereby establishes, grants and conveys for the benefit of each Owner and Occupant, for their use and for the use of their Permittees, in common with others entitled to use the same, a perpetual non-exclusive easement for ingress, egress and the passage of vehicles and pedestrians, as well as for parking of vehicles, over and across the Common Areas as the same may from time to time be constructed and maintained. Such easement rights shall be subject to the following reservations as well as other provisions contained in this Declaration:

(i) Except for situations specifically provided for in the following subparagraphs, no fence or other barrier, which would unreasonably prevent or obstruct the passage of pedestrian or vehicular travel for the purposes herein permitted shall be erected or permitted within or across the Common Areas; provided, however, that the foregoing provision shall not prohibit the installation of convenience facilities (such as mailboxes, public telephones, benches or public transportation shelters), of landscaping, berms or planters, nor of limited curbing, speed bumps and other forms of traffic controls.

(ii) In connection with any construction, reconstruction, repair or maintenance on its Lot, each Owner reserves the right to create a temporary staging and/or storage area in the Common Areas on its Lot at such location as will not unreasonably interfere with access between such Lot and the other Lots in the Commercial Center.

(iii) Each Owner further reserves the right to temporarily close off that portion of the Common Areas on its Lot for such reasonable period of time as may be legally necessary, in the opinion of such Owner, to prevent the acquisition of





forth in a separate agreement between those cooperating Owners. Each grantee Owner agrees to defend, indemnify and hold harmless each grantor Owner and the Association from all claims, actions, proceedings, losses, damages, expenses and costs (including reasonable attorneys' fees and costs of suit) incurred in connection with or otherwise resulting from any of the foregoing utility work on the Lot of a grantor Owner, including any accident, injury or loss or damage whatsoever occurring to any Person or to the property of any Person arising out of or resulting from the performance of any such construction activities performed or authorized by such indemnifying Owner, including mechanics' liens.

C. Each Owner shall have the right at any time and from time to time to relocate a utility line on its Lot and, if such utility line serves any other Owner(s), then only upon thirty (30) days' prior written notice to the other Owner(s) benefited thereby, provided that such latter relocation:

- (i) shall not interfere with or diminish the utility services to the grantee;
- (ii) shall not reduce or unreasonably impair the usefulness or function of such utility;
- (iii) shall be performed without cost or expense to grantee;
- (iv) shall be completed using materials and design standards which equal or exceed those originally used; and
- (v) shall have been approved by the utility company and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover.

Documentation of the relocated easement area shall be the cost and expense of the relocating Owner and shall be accomplished as soon as possible. Grantee shall have a right to require that an as-built survey of such relocated utility be delivered to it at the relocating Owner's expense.

### 6.3 Project Signs

Developer shall establish the size and placement of a single sign structure with multiple displays in the Sign Easement Area, and shall determine which Lots will be granted easements to the displays within the single sign structure. The size and placement allocations of the multiple displays shall be appurtenant easements to the respective Lots, once they are established by Developer. Until such time as Developer has transferred to third party purchasers title to all of the Lots (not including any assignment by Developer under Section 10.2), any changes to the size or placement of the single sign structure and its multiple displays in the Sign Easement Area must be approved by Developer. This approval right may







E. Any agent or officer of the Association may, during regular business hours, and upon twenty-four (24) hours' prior notice, enter and inspect any Lot, including any Common Areas, and the improvements thereon to determine compliance with the provisions of this Declaration or the Architectural Guidelines. The Association, and any of its agents and officers, shall not be deemed guilty of trespass or liable for any reason for such entry or inspection.

F. The ACC shall have no authority, power or jurisdiction whatsoever over any Lots owned by the Developer. This Section shall not be amended without the Developer's written consent set forth in the amendment.

G. Upon request, the ACC must review the plans and specifications of a prospective purchaser of a Lot to determine compliance with this Section in the timeframe provided for in Section 7.2A.

## 7.2 General Requirements for Lots

### A. Initial Construction

(i) No clearing, grading, construction or placing of any building, fence, wall, substantial landscaping or other improvement shall be commenced or executed upon any Lot, including any Common Areas, until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the ACC, in its sole discretion, as to harmony of external design and location in relation to surrounding structures and topography, as well as compliance with Regulations and the landscaping standards, attached hereto as Exhibit D ("Landscaping Standards"), and any policies or guidelines promulgated by the ACC pursuant to this Section. In the event the ACC fails to approve or disapprove of such design and location within thirty (30) days after such plans and specifications are submitted to it for approval, approval is deemed granted pursuant to Section 10.5. Notwithstanding the foregoing, any and all construction of improvements performed by Developer shall not be subject to this provision.

(ii) Each Owner agrees that all construction activities performed by it within the Commercial Center shall be performed in compliance with the Regulations affecting improvements constructed within the Commercial Center, as well as the Architectural Guidelines.

(iii) Each Owner further agrees that its construction activities shall not:

(a) cause any unreasonable increase in the cost of constructing improvements upon another Owner's Lot;

ARTICLE 10. COMMERCIAL CENTER DEVELOPMENT REGULATIONS

(b) result in total or partial failure of any contiguous lateral and subjacent support for any other Owner's property;

(c) unreasonably interfere with construction work being performed on any other part of the Commercial Center;

(d) unreasonably interfere with the use, occupancy or enjoyment of any part of the remainder of the Commercial Center by any other Owner or its Permittees; or

(e) cause any other Owner to be in violation of any Regulations or Architectural Guidelines.

(iv) Any improvement placed on any Lot shall be completed as to external appearance within twelve (12) months from the date construction is started, however, with good cause shown, the ACC may extend this term.

(v) Each Owner may, at its sole cost and expense, construct and maintain any monument or other signage required or desired on its Lot so long as such construction and maintenance are approved by the ACC and are in accordance with the sign criteria set forth in the Architectural Guidelines.

(vi) Each Owner agrees to defend, indemnify and hold harmless each other Owner, the Association or the ACC from all claims, actions, proceedings, losses, damages, expenses and costs incurred in connection therewith (including reasonable attorneys' fees and costs of suit) resulting from any accident, injury or loss or damage whatsoever occurring to any Person or to the property of any Person arising out of or resulting from the performance of any construction activities performed or authorized by such indemnifying Owner.

(vii) Each Owner hereby grants and conveys to each other Owner and to its respective contractors, materialmen and laborers a temporary license for access and passage over and across the Common Areas of the grantor's Lot as shall be reasonably necessary for the grantee to construct and/or maintain improvements upon the grantee's Lot; provided, however, that such license shall be in effect only during periods when actual construction and/or maintenance is being performed and provided further that the use of such license shall not be exercised so as to unreasonably interfere with the use and operation of the Common Areas by others. Prior to exercising the rights granted herein, the grantee shall first provide the grantor with a written statement describing the need for such license, and shall furnish a certificate of



insurance showing that its contractor has obtained the minimum insurance coverage required by Section 9.2B. Any Owner availing itself of the temporary license shall promptly pay all costs and expenses associated with such work, shall diligently complete such work as quickly as possible, and shall promptly clean the area and restore any damage to the areas accessed pursuant to this Section to a condition which is equal to or better than the condition which existed prior to the exercise of such license rights. Notwithstanding the foregoing, in the event a dispute exists between the contractors, laborers, suppliers and/or others connected with construction activities, each Owner shall have the right to prohibit the contractors, laborers, suppliers and/or others working for another Owner from using the Common Areas or any other portion of its Lot for any purpose other than ingress and egress.

B. Remodeling

Any exterior addition to or change or alteration to improvements do not require the approval of the ACC, so long as such alteration or change does not either substantially enlarge an existing structure, or substantially change an existing structure.

7.3 Common Areas

Upon its election to construct a Building Area upon its Lot, each Owner shall cause the Common Areas on its Lot to be improved no later than the date the first business on such Lot opens for business with the public. Such work shall be done in a good and workmanlike manner and in accordance with good engineering standards, the Regulations and the Architectural Guidelines; provided, however, the following minimum general design standards shall be complied with:

A. Each Owner shall submit such plans and specifications to the ACC pursuant to the provisions of Section 7.2.

B. The lighting system shall be designed to produce a minimum maintained lighting intensity measured at grade at all points in the Common Areas of 1.5 foot candle; provided however, that the extreme edge of the parking or drive areas may have not less than a minimum maintained lighting intensity measured at grade of 0.5 foot candle, and provided further that the drive areas immediately in front of the entrance to any building shall have not less than a minimum maintained lighting intensity measured at grade of 5.0 foot candles. Each Owner shall control the light standards located on its Lot. The type and design of the light standard shall be approved by the ACC and shall comply with the Regulations and the design standards set forth in the Architectural Guidelines.

C. All paved areas, including, but not limited to, parking areas, drive aisles and sidewalks, shall be of material approved by the ACC and in accordance with the Regulations.





D. Utilities that are placed underground shall be at depths designated by the applicable utility company or the Regulations. Design and working drawings may be prepared by the utility company providing the service.

E. No construction or alteration shall result in the relocation of the portion of the Loop Road that is on each respective Owner's Lot.

F. Until such time as Developer has transferred to third party purchasers (title to all) of the Lots (not including any assignment by Developer under Section 10.5), no Owner may relocate a curb cut, driveway or other access to the Loop Road from the location depicted on the Site Plan without Developer's prior written consent. Upon the transfer by Developer of title to all of the Lots, an Owner may only relocate a curb cut, driveway or other access to the Loop Road from the location depicted on the Site Plan, or as later approved by the Developer, with the prior written consent of any Owner who's access or circulation may be affected by such relocation.

G. The parking area on each Lot shall contain sufficient ground level, standard automobile size, parking spaces in order to comply with the following minimum requirements:

(i) for retail uses, five (5) parking spaces for each one thousand (1,000) square feet of Building Area;

(ii) for each motel or hotel, one (1) parking space for each motel or hotel residential unit;

(iii) for each residential building, two (2) parking spaces for each dwelling unit;

(iv) for each professional office or medical center, five (5) parking spaces for each one thousand (1,000) square feet of Building Area;

(v) for each restaurant, ten (10) parking spaces for each one thousand (1,000) square feet of Building Area; except that the first two thousand four hundred (2,400) square feet of restaurant use located in a multi-tenanted retail building may be reduced to five (5) spaces per each one thousand (1,000) square feet of Building Area; or

(vi) for any other use, five (5) parking spaces for each one thousand (1,000) square feet of Building Area.



## ARTICLE 8. MAINTENANCE AND REPAIR

### 8.1 Utilities

A. Each Owner shall repair and maintain in first-class condition all utility facilities, lines, and systems located on its Lot that serve only its Lot unless the same are maintained by a public or quasi-public utility or authority.

B. The grantee of a utility easement referred to in Section 6.2 shall maintain and repair at its cost any facilities installed pursuant to such grant which exclusively serve such grantee's Lot unless the same are granted or dedicated to and accepted by a utility or a governmental agency which agrees to maintain and replace the same. Any maintenance and repair of non-dedicated utilities located on another Owner's Lot shall be performed only after two (2) weeks' notice to the grantor (except in an emergency the work may be initiated with reasonable notice) and shall be done after normal business hours whenever possible and shall otherwise be performed in such a manner as to cause as little disturbance in the use of the grantor's Lot as is practicable under the circumstances. Any Owner performing or causing to be performed maintenance or repair work agrees to promptly pay all costs and expenses associated therewith, to diligently complete such work as quickly as possible and to promptly clean the area and restore the affected portion of the Lot to a condition equal to or better than the condition which existed prior to the commencement of such work.

C. All service and other charges related to lighting for the Sign Easement Area shall be allocated among the Owners as provided for in Section 6.3.

### 8.2 Lots and Common Areas

A. Each Owner shall cause all Common Areas (including, but not limited to, drive aisles, sidewalks and parking areas) located on its Lot, other areas of its Lot, and the facilities and landscaping thereon to be maintained in good order, condition and repair. The Owners of one or more Lots may, from time to time, select a third party to maintain the Common Areas located on their Lots, provided that such Owners shall remain responsible at all times for the maintenance of the Common Areas. If one or more Owners select a third party to maintain such Common Areas, such Person shall be a reputable professional for the work or services to be performed.

B. The minimum standard of maintenance for the improved Common Areas and Lots shall be comparable to the standard of maintenance followed in other first-class commercial developments of comparable size in Kittitas County, Washington, and in any event in compliance with all Regulations and the provisions of this Declaration. All improvements shall be repaired or replaced with materials at least equal to the quality of the materials being repaired. The maintenance and repair obligation of each Owner for their respective Lots, in any event shall include but not be limited to the following:

**REQUIREMENTS FOR THE COMMON AREAS**

(i) Drive aisles and parking areas (not including the Loop Road). Maintaining all paved surfaces and curbs in a smooth and evenly covered condition, which maintenance work shall include, without limitation, cleaning, sweeping, restriping, snow removal, repairing and resurfacing. (For the purpose of this Section, an overlay of the drive and parking area shall be considered a repair or maintenance item.)

(ii) Debris and refuse. Periodic removal of all papers, debris, filth, refuse, ice and snow, including sweeping to the extent necessary to keep the Lots in a first-class, clean and orderly condition. All sweeping shall be at appropriate intervals during such times as shall not interfere with the conduct of business or use of the Lots by persons intending to conduct business with Occupants of the Commercial Center. Notwithstanding the above, each Owner shall be responsible for removal and the cost of such removal of debris and trash from the Commercial Center resulting from the business operation conducted on its Lot.

(iii) Signs and markers. Placing, keeping in repair, replacing and repainting any directional signs or markers installed on any Lot by the Owner thereof.

(iv) Landscaped area. Cleaning and maintaining all landscaping, planters, weeding, pruning, fertilizing and replacing shrubs and other landscaping in accordance with the landscaping standards as set forth in Exhibit C attached hereto and made a part hereof.

(v) Utilities. Maintaining, cleaning, and repairing any and all storm drains, utility lines, sewers and other utility systems and services located on such Owner's Lot, and the maintenance and replacement of the trunk line (defined as any line with more than one user that has not otherwise been dedicated to a utility provider) portion of utility lines.

(vi) Sidewalks. Cleaning (including washing, snow removal and/or steam cleaning), maintenance and repair of all sidewalks, including those adjacent and contiguous to buildings located on the Lot. Sidewalks shall be cleaned at appropriate intervals during such time as shall not interfere with the conduct of business or use of the Common Areas by persons intending to conduct business with the Occupants of the Commercial Center.



Notwithstanding anything to the contrary, each Owner shall maintain at its sole cost in a clean, sightly and sanitary condition all areas on its Lot.

C. No Owner shall make any material adverse change to the size, location, or elevation of any improved Common Areas on its Lot without the approval of the ACC, except that each Owner hereby reserves the right, from time to time without obtaining the consent or approval of the ACC, to make at its own expense any insignificant change, modification or alteration in its portion of the Common Areas, provided that:

- (i) the accessibility of such Common Areas for pedestrian and vehicular traffic (as it relates to the remainder of the Commercial Center), is not unreasonably restricted or hindered;
- (ii) there shall be maintained at all times on such Owner's Lot a sufficient number of vehicular parking spaces to meet the parking requirements of the applicable codes or ordinances of the City, and all parking lot driving aisles and other vehicular traffic lanes shall remain generally as shown on the Site Plan;
- (iii) compliance is made with all applicable Regulations as a result of such action, and such action shall not result in any other Owner being in violation of any Regulations;
- (iv) at least thirty (30) days prior to making any such change, modification or alteration, the Owner desiring to do such work shall deliver to the ACC a written statement describing (1) the nature and duration of the work and alternative temporary access, if any, which is requested, and (2) if such work requires the approval of the Association, as provided above, then the requesting Owner also shall furnish copies of the plans therefor.

D. In the event any of the Common Areas, parking stalls or parking lot landscaping on a Lot is damaged or destroyed during the term of this Declaration, the Owner upon whose Lot such improvements are located shall repair or restore such improvements at its initial cost and expense with all due diligence; provided, however, that except to the extent limited by Section 9.2C, in the event such damage or destruction is caused in whole or in part by another Owner or their Permittee or Occupant, the Owner obligated to make such repair or restoration reserves and retains the right to proceed against such other Owner (who shall be liable for the negligent acts and omissions of its employees, agents, contractors, Permittees and Occupants) for indemnity, contribution or damages.

### 8.3 Lighting

After completion of the Common Area lighting system on its Lot, each Owner hereby covenants and agrees to keep its Lot fully illuminated each day from dusk until at least



10:30 p.m., and further agrees to keep any exterior building security lights and internal access roadway lights on from dusk until dawn. All lighting must be in compliance with applicable Regulations.

#### 8.4 Building Improvements

A. After completion of construction, each Owner covenants and agrees to maintain and keep all improvements located on its Lot (exclusive of the Association Maintenance Areas which the Association is responsible to maintain) in first-class condition and state of repair comparable to the standard of maintenance followed in other first-class retail developments of comparable size in Kittitas County, Washington, in compliance with all Regulations and in compliance with the provisions of this Declaration. Each Owner further agrees to store all trash and garbage in adequate containers, to locate such containers so that they are not readily visible from the parking area, and to arrange for periodic removal of such trash or garbage so as to prevent any accumulation thereof outside of such containers.

B. In the event any of the improvements are damaged by fire or other casualty (whether insured or not), the Owner upon whose Lot such improvements are located promptly shall remove the debris resulting from such event and provide a safety barrier and within a reasonable time thereafter shall either (i) repair or restore the improvements so damaged, such repair or restoration to be performed in accordance with all provisions of this Declaration, or (ii) erect other improvements, provided all provisions of this Declaration and applicable Regulations are complied with, or (iii) demolish the damaged portion of such improvements and restore the area to an attractive condition until such time as a replacement building may be erected. Such Owner shall have the option to choose which of the foregoing alternatives to perform, but such Owner shall be obligated to perform one of such alternatives. Such Owner shall give notice to the Association within ninety (90) days from the date of such casualty of which alternative it elects.

#### 8.5 Association Maintenance Areas

The Association shall maintain all Association Maintenance Areas in first class condition and state of repair comparable to the standard of maintenance followed in other first-class retail developments of comparable size in Kittitas County, Washington. The Association reserves the right to construct, reconstruct, and repair such improvements in the Association Maintenance Areas as are ratified by the Owners in the annual budget. The Wetlands Tract shall be maintained in accordance with the requirements provided for in that certain Wetlands Mitigation Plan, prepared by Wilterwood Associates, dated October 2000. The Association may fence off any portions of the Wetlands Tract or the Surplus Tract, or otherwise prohibit public access to such areas. The Association may, from time to time, select a third party to maintain the Association Maintenance Areas, provided that such Person is a reputable professional for the work or services to be performed.

**ARTICLE 9. OPERATION OF THE COMMERCIAL CENTER****9.1 Uses**

A. No part of the Commercial Center shall be used for a purpose that is in violation of applicable City zoning ordinances or other applicable Regulations currently in effect, and as amended from time to time.

B. The following uses shall not be permitted:

(i) Any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any building in the Commercial Center; provided, however, that this prohibition shall not prohibit a paging system within a building, nor normal cooking odors from a restaurant;

(ii) Any operation primarily used as a warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation;

(iii) Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);

(iv) Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located in the rear of any building);

(v) Any fire sale, flea market, swap market, bankruptcy sale (unless pursuant to a court order) or auction house operation;

(vi) Any central laundry, dry cleaning plant, or laundromat; provided, however, this prohibition shall not be applicable to on-site service oriented to pickup and delivery by the ultimate consumer, including nominal supporting facilities, as the same may be found in first-class retail commercial districts in the metropolitan area where the Commercial Center is located;

(vii) Any automobile, truck, trailer, boat or recreational vehicle or accessory sales, leasing, display or repair;

(viii) Any veterinary hospital or animal raising facilities (except that this prohibition shall not prohibit pet shops);

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- (ix) Any mortuary or funeral parlor;
- (x) Any establishment selling or exhibiting "adult" or pornographic materials;
- (xi) Any flea market or car wash;
- (xii) Any unlawful or illegal purpose; or
- (xiii) Any use that is a public or private nuisance.

C. In addition to the foregoing, until the earlier of: (i) such time in which a hotel or motel is not operating on Lot 4G, or (ii) four (4) years from the date of this Declaration, no hotel or motel shall be located or operated on any Lot other than Lot 4G in the Commercial Center.

D. No Permittee shall be charged for the right to use the Common Areas.

#### 9.2 Insurance

A. Each Owner (as to its Lot) shall maintain or cause to be maintained in full force and effect Comprehensive Public Liability Insurance with a combined single limit of liability of not less than Three Million Dollars (\$3,000,000.00) for bodily or personal injury or death, and for property damage, arising out of any one occurrence. Such insurance shall include the following provisions:

- (i) shall provide that the policy may not be cancelled or materially reduced in amount or coverage without at least thirty (30) days prior written notice by the insurer to each insured and any additional insureds;
- (ii) shall name the other Owners and the Association as additional insureds;
- (iii) shall provide for severability of interests;
- (iv) shall provide that an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other additional insureds of the insured, respectively; and
- (v) shall provide for contractual liability coverage with respect to the indemnity obligation set forth below, subject, however, to the limits of coverage set forth above.





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If the construction activity involves the use of another Owner's Lot or the Association Maintenance Areas, then the Owner of such other Lot or the Association, as applicable, shall be an additional named insured, and such insurance shall provide that the same shall not be canceled without at least thirty (30) days prior written notice to the named insureds. If such insurance is canceled or expires, then the constructing Owner shall immediately stop all work on or use of another Owner's Lot or the Association Maintenance Areas until either the required insurance is reinstated or replacement insurance obtained.

C. Effective upon the commencement of construction of improvements, the constructing Owner will carry or cause to be carried, fire insurance with an extended coverage endorsement with a financially responsible insurance company or companies, in an amount at least equal to eighty percent (80%) of the replacement cost (exclusive of the cost of excavation, foundations, and footings) of the buildings and improvements, such coverage extending at least to the following perils: Loss or damage by fire, windstorm, cyclone, tornado, hail, explosion, riot, riot attending a strike, civil commotion, malicious mischief, vandalism, aircraft, vehicle, smoke damage, and sprinkler leakage.

Each Owner (the "Releasing Owner") hereby releases and waives for itself and on behalf of its insurer, any other Owner and the Association (collectively, the "Released Owner") from any liability for any loss or damage to all property of such Releasing Owner located upon any portion of the Commercial Center and from any liability for injury or death to any Person, which loss or damage is covered or required to be covered by insurance hereunder, irrespective either of any negligence on the part of the Released Owner which may have contributed to or caused such loss, injury or death, or of the amount of such insurance required or actually carried. Each Owner agrees to use its best efforts to obtain, if needed and at commercially reasonable rates, appropriate endorsements to its policies of insurance with respect to the foregoing release; provided, however, that failure to obtain such endorsements shall not affect the release hereinabove given; and provided further that for as long as any Owner is unable to obtain such endorsements, each other Owner shall not be obligated to do so.

D. All insurance required by Section 9.2 shall be procured from companies licensed in the state where the Commercial Center is located and shall be rated by Best's Insurance Reports not less than A/X, the limits of such policies shall be reviewed by the Owners and approved as to sufficiency at least every five (5) years. The insurance may be carried under (i) an individual policy covering this location, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such party, (iii) a plan of self-insurance, provided that the Owner so self-insuring has and maintains twenty-five million dollars (\$25,000,000) or more of net current assets as evidenced by such Owner's annual report that is audited by an independent certified public accountant, or (iv) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by an Owner in compliance with Section 9.2, such Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided however, that in no event shall any deductible exceed one



hundred thousand dollars (\$100,000.00) unless such Owner qualifies for self-insurance pursuant to (ii) above. Each Owner agrees to furnish to any Owner requesting the same, copies of the insurance policies evidencing that the insurance required to be carried by such requested Owner is in full force and effect:

#### 9.3 Taxes and Assessments

Each Owner shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to its Lot, the buildings, and improvements located thereon and any personal property owned or leased by such Owner in the Commercial Center, provided that if the taxes or assessments or any part thereof may be paid in installments, the Owner may pay each such installment as and when the same becomes due and payable. The Association shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to the Wetlands Tract and the Surplus Tract, and improvements located thereon, provided that if the taxes or assessments or any part thereof may be paid in installments, the Association may pay each such installment as and when the same becomes due and payable.

Nothing contained in this subsection shall prevent any Owner or the Association from contesting at its cost and expense any such taxes and assessments with respect to its Lot or Association Maintenance Areas in any manner such Owner or the Association elects, so long as such contest is maintained with reasonable diligence and in good faith. At the time as such contest is concluded (allowing for appeal to the highest appellate court), the contesting Owner or the Association shall promptly pay all such taxes and assessments determined to be owing, together with all interest, penalties and costs thereon.

#### 9.4 Liens

In the event any mechanic's lien is filed against a Lot or the Association Maintenance Areas (the "Liened Lot") as a result of services performed or materials furnished by or at the request of another Owner or its authorized agent (collectively, the "Lien Defaulting Party"), the Lien Defaulting Party shall cause such lien to be discharged prior to entry of final judgment (after all appeals) for the foreclosure of such lien and shall indemnify, defend, and hold harmless the Owner of the Liened Lot against liability, loss, damage, costs or expenses (including reasonable attorneys' fees and cost of suit) on account of such claim of lien. Upon written request of the Owner of the Liened Lot, the Lien Defaulting Party shall promptly (and in all events within thirty (30) days after such request) cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting bond or other security as shall be required by law to obtain such release and discharge. Nothing herein shall prevent a Lien Defaulting Party from contesting the validity thereof in any manner permitted by the Regulations so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), the Lien Defaulting Party shall promptly pay in full the required amount, together with any interest, penalties, costs, or other charges necessary to release such lien.

## ARTICLE 10. MISCELLANEOUS

### 10.1 Default

A. If any Owner fails to comply with any nonmonetary provision herein ("Defaulting Owner"), then the Association or another Owner (the "Nondefaulting Party") may, upon thirty (30) days' prior written notice to the Defaulting Owner, proceed to cure the default (and shall have a right, but not the obligation to do so) by the payment of money or performance of some other action for the account of the Defaulting Owner. The foregoing right to cure shall not be exercised if within the thirty (30) day notice period (i) the Defaulting Owner cures the default, or (ii) if the default is curable, but cannot reasonably be cured within that time period, the Defaulting Owner begins to cure such default within such time period and diligently and continuously pursues such cure to completion. The thirty (30) day notice period shall not be required if, using reasonable judgment, the Nondefaulting Party deems that an emergency exists which requires immediate attention. In the event of such an emergency, the Nondefaulting Party shall give whatever notice to the Defaulting Owner as is reasonable under the circumstances. The Defaulting Owner hereby grants to the Nondefaulting Party a non-exclusive easement over, across and under any and all parts of the Lot(s) owned by the Defaulting Owner for all purposes reasonably necessary to enable the Nondefaulting Party (and its agents, contractors, or subcontractors) to perform any of the terms, provisions, covenants or conditions of this Declaration that the Defaulting Owner is obligated to perform but has failed to perform after notice and the opportunity to cure pursuant to this Section 10.1.

B. Within ten (10) days of written demand (including providing copies of invoices reflecting costs), the Defaulting Owner shall reimburse the Nondefaulting Party for any sum reasonably expended by the Nondefaulting Party to cure the default, together with interest thereon. The Nondefaulting Party shall have a lien upon the Defaulting Owner's right, title and interest in and to the Lot(s) owned by the Defaulting Owner to secure payment of all amounts due to the Nondefaulting Party hereunder. The Nondefaulting Party shall have the right, but not the obligation, to record its lien, but at all times its lien pursuant to this Section shall be subject and subordinate to (i) the lien of any mortgage or deed of trust held by any institutional lender or any extension, renewal, modification or refinancing thereof, in an amount now or hereafter placed on the Defaulting Owner's interest in the Lot(s) in question; (ii) the leasehold estate created by any lease of all or any part of Lot(s) owned by the Defaulting Owner; (iii) any other lien of record against the Defaulting Owner's property as of the date that the Nondefaulting Party's lien is recorded. The Defaulting Owner shall execute such instruments and documents as the Nondefaulting Party may reasonably request to permit the recordation of such lien. The Defaulting Owner hereby irrevocably designates the Nondefaulting Party as the Defaulting Owner's attorney in fact for the purpose of recording its lien pursuant to this Section. The Nondefaulting Party shall have the right to foreclose such lien by judicial or nonjudicial procedures, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount owed.

C. If any Owner fails to pay any assessment levied pursuant to this Declaration within thirty (30) days after the due date, such assessment shall bear interest from the due date at the rate set forth in Section 10.2. Such assessment, together with interests and costs incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot. The Association may take such actions with respect to such lien as provided for in Section 10.1B.

D. In the event the Association or an Owner shall institute any action or proceeding against an Owner or Occupant pursuant to the provisions of this Declaration for any default hereunder by such Owner or Occupant, or to collect any amounts owing hereunder, or if an arbitration proceeding is commenced by agreement of the parties to any dispute, the unsuccessful party in such action or proceeding shall reimburse the successful party for costs and expenses incurred by the successful party in connection with such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs.

E. All remedies are cumulative and shall be deemed additional to any and all other remedies to which the Association or an Owner may be entitled in law or in equity. The Association or an Owner shall also have the right to restrain by injunction any violation or threatened violation by any Owner or Occupant of any of the terms, covenants, or conditions of this Declaration, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.

#### 10.2 Interest

Whenever and as often as one Owner shall not have paid any sum payable hereunder to the Association within five (5) days of the due date, such delinquent Owner shall pay interest on such amount from the due date to and including the date such payment is received by the Association, at the lesser of:

A. The highest rate permitted by law to be paid on such type of obligation by the Owner obligated to make such payment; or

B. Five percent (5%) per annum in excess of the prime rate from time to time in effect at Bank of America, N.A. or its successor, at its main office in Seattle, WA.

#### 10.3 Transfer of Ownership

Promptly upon the conveyance of all or any portion of an Owner's record title interest in a Lot owned by it, such selling Owner shall comply with the notice requirement set forth below. Each Owner shall be liable for the performance of all covenants, obligations and undertakings herein set forth with respect to the Lot(s) owned by it which accrue during the period of its ownership. The liability of a transferring Owner shall terminate as to the interest

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in a Lot conveyed upon the effective date of the conveyance of record title (or its ownership interest in all or a portion of a Lot to the extent conveyed). The transferee of an Owner shall automatically become liable for all obligations, performance requirements and amounts which arise subsequent to the conveyance of record title (or any ownership interest of the transferring Owner) to the Lot in question. An Owner transferring all or any portion of its interest in a Lot shall give notice to all other Owners of record of the other Lots of such transfer and shall include therein at least the following information:

- (i) the name and address of the transferor; and
- (ii) a copy of the legal description of the portion of the Lot transferred.

Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien permitted hereunder which is placed upon the transferred Lot prior to receipt of the notice.

#### 16.4 Notices

All notices, demands, statements, and requests (collectively, the "Notice") required or permitted to be given under this Declaration must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the Person to whom the Notice is addressed or (if such Person is not available the date such Notice is left at the address of the Person to whom it is directed, (ii) on the date the Notice is postmarked by the United States Post Office, provided it is sent prepaid, certified mail, return receipt requested, and (iii) on the date the Notice is delivered by a nationally recognized overnight courier service (including Federal Express, Express Mail or similar operation) to the addressee, provided it is sent prepaid, return receipt requested. Unless a different address is provided by written Notice to all Owners in accordance with this Section, the address of each Owner shall be the address shown on the real property tax records in Kittitas County, Washington for the applicable Lot. The address of the Association is set forth below:

Association: Triple J Plaza Owners' Association  
4815 Road 6.5 NE  
Moses Lake, WA 98837-8930

Each Owner shall have the right from time to time and at any time, upon prior Notice thereof in accordance with the provisions herein, to change its address and to specify any other address or copy address within the United States of America to which Notices to it shall be sent; provided, however, notwithstanding anything herein contained to the contrary, no change of address Notice shall be effective unless and until actually delivered. Refusal to accept delivery of a Notice or the inability to deliver a Notice because of an address change which was not properly communicated shall not defeat or delay the giving of a Notice.



10.5 Assignment of Developer's Rights

Developer may assign, and its assignees may further assign, Developer's rights under this Declaration, provided that only one party shall hold the Developer rights at any point in time. Such assignment is not effective until Developer provides to the Association and all other Owners a written notice of the transfer of the Developer's rights, together with the contact information of the assignee.

10.6 Approval and Consent Rights

Unless otherwise specifically herein provided to the contrary, whenever any approval or consent of an Owner, the Association or the ACC is required, such approval or consent shall be made or denied in writing and shall not be unreasonably withheld, conditioned or delayed by the party from whom it is sought. Unless provision is made for a specific time period, approval or consent shall be given or denied within thirty (30) days of the receipt of the request therefor. If a written disapproval is not given within the required time period, the party to whom the request was directed shall be deemed to have given its approval or consent. If an Owner, the Association or the ACC shall disapprove, the reasons therefor shall be stated in the notice of disapproval. Except with respect to an approval or consent given as a result of lapse of time, all approvals, consents and disapprovals shall be in writing.

10.7 Condemnation

In the event any portion of the Commercial Center shall be condemned, the award shall be paid to the Owner owning land or the improvement taken, except that (i) if the taking includes improvements belonging to more than one Owner and/or the Association, such as utility lines or signs, the portion of the award allocable thereto shall be used to relocate, replace or restore such jointly owned improvements to a useful condition, and (ii) if the taking includes easement rights, the portion of the award allocable to each such easement right shall be paid to the respective grantee thereof. In addition to the foregoing, if a separate claim can be filed for the taking of any other property interest existing pursuant to this Declaration which does not reduce or diminish the amount paid to the Owner owning the land or the improvement taken, then the owner of such other property interest shall have the right to seek an award for the taking thereof.

10.8 Additional Developer Rights

A. So long as Developer owns a Lot, the configuration of the Common Areas and Lots owned by the Developer and shown on the Site Plan are preliminary and subject to change. Proposed changes to the Site Plan by Developer are not subject to the approval of any other Owner so long as: (i) such changes do not materially diminish the visibility, access and circulation of another Owner's Lot; (ii) the Loop Road is not relocated; and (iii) such changes otherwise conform to the requirements of this Declaration. Developer may record such amendments to this Declaration as are necessary. In addition, it may be necessary for Developer to submit boundary line adjustments, plat revisions, or other subdivision



#### 10.13 Excusable Delays

Whenever performance is required of any Owner or the Association hereunder, that Owner or the Association shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God or another Owner, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any cause beyond the reasonable control of an Owner or the Association, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. The provisions of this Section shall not operate to excuse any Owner or the Association from the prompt payment of any monies required to be paid by this Declaration.

#### 10.14 Severability

Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions herein or the application thereof to any other person and the same shall remain in full force and effect.

#### 10.15 Amendments

Unless otherwise specifically provided for herein, notice of the subject matter of the proposed amendment and a resolution adopting the proposed amendment shall be delivered to each member of the Association. Such amendment shall not be approved unless all members of the Association execute the resolution. Upon full execution of the resolution by all of the members, the Board shall take such steps as are necessary to record the amendment in the real property records. Prior to the Transition Date, such amendment must also be approved by the Developer. Notwithstanding the foregoing, the easements granted herein are in perpetuity.

#### 10.16 Captions and Capitalized Terms

The captions preceding the text of each article and section are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of the Declaration. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Declaration.

#### 10.17 Minimization of Damages

In all situations arising out of this Declaration, all Owners and the Association shall attempt to avoid and minimize the damages resulting from the conduct of any other Owner or the Association. Each Owner and the Association shall take all reasonable measures to effectuate the provisions of this Declaration.



1-10-13 10:11 AM 10/19/2007 09:42:15 AM 200709190002

#### 10.18 Declaration Shall Continue Notwithstanding Breach

It is expressly agreed that no breach of this Declaration shall (i) entitle any Owner to cancel, rescind or, otherwise terminate this Declaration, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Commercial Center. However, such limitation shall not affect in any manner any other rights or remedies which an Owner may have hereunder by reason of any such breach.

#### 10.19 Time

Time is of the essence of this Declaration. If the time for performance of any obligation or condition shall occur on a Saturday, Sunday or legal holiday, the time for such performance shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

#### 10.20 Non Waiver

The failure of any Owner or the Association to insist upon strict performance of any of the terms, covenants or conditions herein shall not be deemed a waiver of any rights or remedies, which that Owner or the Association may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

### ARTICLE 11. TERM

#### 11.1 Term of this Declaration

This Declaration shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on December 31, 2081, after which time this Declaration shall be automatically extended for successive periods of 10 years each, unless terminated, modified or otherwise amended in writing by the Association, provided, however, that the easements granted herein are perpetual and shall continue in force and effect. Upon termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of the Declaration, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that an Owner or the Association may have against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.



IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed effective as of the day and year first above written.

Triple L, LLC,  
a Washington limited liability company

By: Randy H. Lamb  
Name: Randy H. Lamb  
Its: Manager

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Kittitas )

I certify that I know or have satisfactory evidence that Randy H. Lamb is the person who appeared before me, and said person acknowledged that he/she signed this instrument, or oath stated that he/she was authorized to execute the instrument and acknowledged it as Manager of TRIPLE L, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 17 day of September, 2007.



J. D. Slothower  
[Signature of Notary]  
JEFFREY D. SLOTHOWER  
[Print Name of Notary]  
Notary Public in and for the State of  
Washington, residing at Kittitas, WA  
My commission expires 3.9.10





## A.1 LEGAL DESCRIPTION OF COMMERCIAL CENTER

For a WEST BARK SHEET 21, 21, 21, as evidenced and/or Johnson, in City of Ellensburg, State of Washington, as recorded October 27, 2000 in assessor's Plat Book pages 85 and 86, under And to a File No. 2001-010024 recorded in Kittitas County, State of Washington, being a portion of the North Half of Section 33 Township 12 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.

Excepting therefrom that portion of Lot 4 of the West Bark Sheet 21 of City of Ellensburg State of Washington, as per said plat (been recorded in Book of State Plats, pages 85 and 86 under And to a File No. 2001-010024, recorded in Kittitas County, Washington, which is shown as follows:

Beginning on the Southeast corner of said Lot 4

Thence Nor 71° 50' 07" 24" West, along the East boundary of said Lot 4, 74.39 feet more or less to a point of beginning of said described parcel;

Thence continuing North 00° 07' 20" West, along said East boundary, 34.76 feet to an existing fence line;

Thence along said fence line, the following line of courses: North 46° 11' 45" West, 13.77 feet; South 26° 08' 39" East, 18.09 feet; North 7° 24' 13" East, 8.45 feet; and South 65° 42' 47" West, 23.87 feet to the true point of beginning and end of said described parcel.

Abbreviated Legal description of the North 1/2 of Sec. 33, Twp. 12N., Rge. 18E.





UNRECORDED COPY OF THIS DOCUMENT IS FILED IN THE PUBLIC RECORDS OFFICE OF KILLING COUNTY, OHIO

EXHIBIT C ; ARCHITECTURAL GUIDELINES

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**TRIPLE**  
SHOPPING CENTER



## C | ARCHITECTURAL GUIDELINES

### STYLE OVERVIEW

Triple L Shopping Center is located in Ellensburg, WA, which is located in the heart of Central Washington's sunny agricultural country surrounded by sprawling farms and ranches along the dry east end of the Cascade Range.

The design for the Triple L Shopping Center reflects a rural, rustic ranch motif.

The following design elements are encouraged:

- English cottages, particularly carriages, recessed and projections
- Natural materials and finishes such as, cedar, wood, stone, and metal
- Textured masonry, cast piers and accents
- Art hardware, lighting, and accents that help to enhance the overall mood

The following design elements are discouraged:

- Severe, repetitive structures
- Large, blocky, articulated wall surfaces
- Highly reflective or glossy surfaces
- Smooth face painted concrete block walls
- Asphalt Shingles

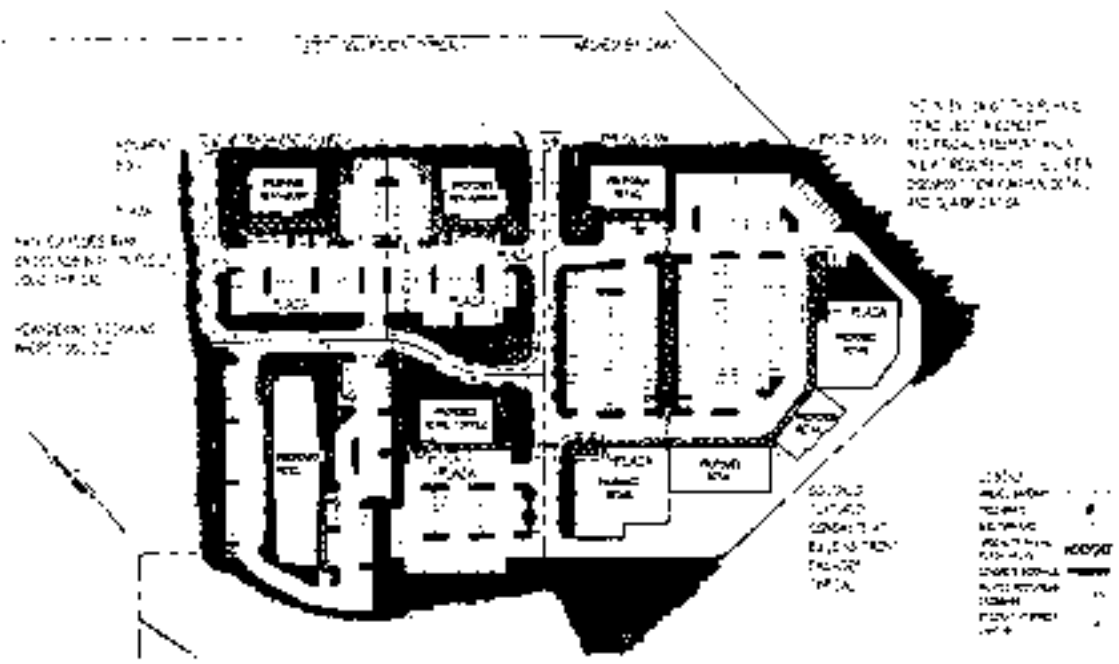
The following design elements are not allowed:

- Plastic siding
- Primary bright, or fluorescent colors



! 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

# C | PLAZA CONCEPT SITE PLAN



STEWART TITLE

## C | ARCHITECTURAL GUIDELINES

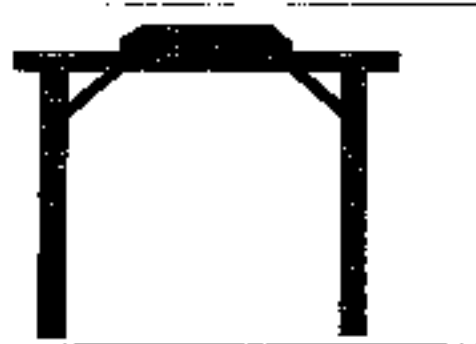
### ENTRANCE GATEWAYS

Major roads or shopping areas (C01) will incorporate a gateway along with the sign. Include extended use of encouraged design elements including:

- Metal silhouette sculpture (C01)
- Ranch archway and gate (C02)
- Pedestal or Level Lighting (See Lighting Pg. 47)
- Pillar, Monument Signage (See Signage/Identification Pg. 47)



(C01)



(C02)

11229 JUDICIAL DISTRICT COURT ROAD, SUITE 100, DALLAS, TEXAS 75243

## C | ARCHITECTURAL GUIDELINES

### HARDSCAPE PAVING

Walkways between buildings or around the sides of buildings shall be standard gray basalt or light concrete walks but to include an organic element.

At the connection of access ways these areas shall contain patterns of colored and textured treatment. Specifically, this treatment shall be given to store frontage and pedestrian plaza areas with path areas used to signal entrance. Examples: (C.03) (C.05).

Pedestrian lines that do provide through parking lots with one-way pavement stripes shall have a consistent color or raised pavement with a grooved pedestrian lighting, landscaping and street furniture.

Enhanced sidewalk pavement and pedestrian crossings will meet or exceed required parking lot landscaping (up to 25% of required area).

### PEDESTRIAN PLAZAS (EXAMPLE C.05)

Plazas should be located pedestrian plaza related with respect to the site and design of the particular use.

When defining the best area for pedestrian plazas, internal locations, edge locations and corner locations should all be considered. The best area for enhanced pedestrian space should be the area that provides the greatest benefit to the most users and improves the functional relationship and linkages to adjoining areas.

Plaza areas are required throughout each developed parcel in the general development of 20% of paved space per total building area (40,000 sq. ft. or 23,000 SF building would require 8,000 sq. ft. of plaza). Plaza areas shall consist of the following approved elements:

- Color and textured concrete (Examples: C.03) (C.05)
- Low walls in street or column footings to define space
- Columns or poles
- Shaded Areas
- Seating/Benches
- Public art or fountain receptacle
- (See Site Plan Page 73 (C.05))
- Pedestrian level lighting (See Lighting Page C.07)

Other pedestrian plaza elements as approved by the ADC may include but are not limited to:

- Plazas
- Shade structure or umbrellas
- Water features



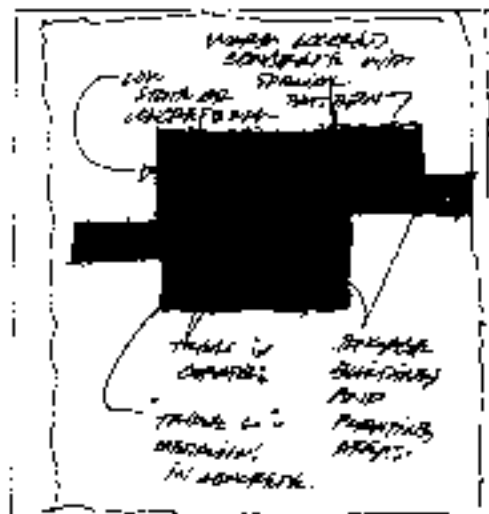
(C.03)



(C.04)



(C.05)



(C.06)



## C : ARCHITECTURAL GUIDELINES

### TRANSIT FACILITIES

Transit facilities include bus stops, train stops, etc.

Transit facility areas shall consist of the following:

- Colored restricted concrete. (Examples C-C3 - C-C5)
- Low walls or screens or colored concrete caulked space
- Benches with shelter
- Bike racks, trash receptacles
- Reflective level lighting (See Lighting Pg. 4-7)
- Seating furnishings (Pg. C-6)

Other transit facility amenities as approved by the ALG may include:

- Signs
- Information kiosk
- Shade structures or trellis

### REUSE AREAS

Reuse areas include trash and recycle containers. All containers must be completely screened from view using approved enclosure materials and finishes. Trash collection zones and loading areas should be separated from main circulation and parking areas.

Screening and enclosures of nearby buildings should be cleared together when possible.

Reuse areas shall consist of the following:

- Integral colored concrete masonry or stone accent walls
- Steel frame and metal panel doors and entries
- Concrete slab floor surface

**ARCHITECTURAL GUIDELINES**

**C | ARCHITECTURAL GUIDELINES**

**SITE FURNISHINGS**

Exterior furnishings shall be as follows:

**BENCHES**

For Weather Site furnishings | Plaza Series PL-5  
Color: Flat Black (008)



(007)



(008)

For Weather Site furnishings | Plaza Series PL-13  
Color: Flat Black (008)



(009)



(010)

Circular bench mounted on sidewalk (009)

**TABLES (010)**

For Weather Site furnishings | Table 17  
Cover: Matte Black

**COLUMNS (011)**

For Weather Site furnishings | Pollard 8.6  
Metal Color: Matte Black (side Panel), Clear Red Cedar



(011)



(012)

**TREE GRATES (012)**

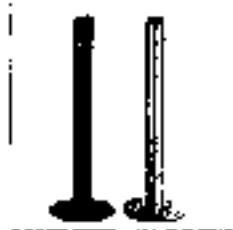
For Weather Site furnishings | Tree Grate S2C Series  
Color: Matte Black

**TRASH RECEPTACLES (013)**

For Weather Site furnishings | Receptacle TR-12  
Top: Single Flat Color: Black Matte



(013)



(014)

**ASHTRAYS (014)**

Basco Cigarette Cigarette Baseplate DC 710001  
Color: Black

**PLANTERS (015)**

For Weather Site furnishings | Planter P18.5  
Color: Black Matte

**BIKE RACKS (016)**

For Weather Site furnishings | Bike Rack BR-2  
Color: Black Matte

Bike Racks shall be permanently mounted on sidewalk. There shall be one bike rack per building placed in a minimum 4 feet of setback from the building's side building at a rate of one bike rack per 1000 SF of retail space up to a maximum of two racks.



(015)



(016)

**SEE APPENDIX FOR PRODUCT CATALOGS**

\\0011\apps\mkt\proj\070919\0709190002\0709190002.dwg (9/19/07 11:28)

### C | ARCHITECTURAL GUIDELINES

#### PEDESTRIAN LEVEL LIGHTING

Pedestrian level lighting shall be as follows:

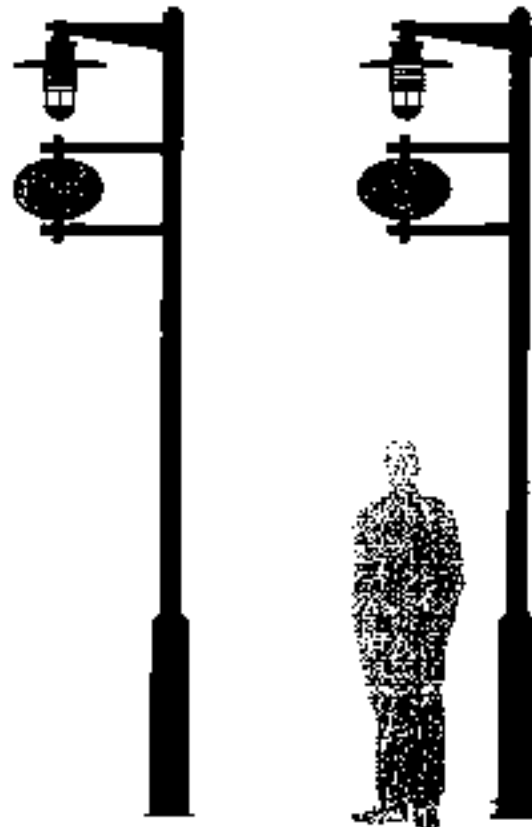
POCS LIGHTS (0.45)

Height: 6'0" - 6'6" Pole: Black

(SIGN SEE FIG. C-13)



(C-17)



## C | ARCHITECTURAL GUIDELINES

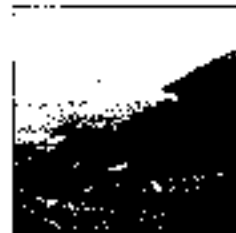
### MASS & SCALE

The design of a building should reduce its perceived height by dividing the building mass into smaller scale components. One way to achieve this breakdown is to provide a well-defined base, middle and top of the building.

A solid base may be achieved by elements such as low planes, solid walls, base planting, a base architectural wall or banding (e.g. stone) and treatments achieved by a different material, stone or color.

A solid building base (and, in an articulated building, mass) may be achieved by the addition of covered walkways, terraces or architectural overhangs that provide a deep shadow to ground level.

Using textures with a distance and multiple architectural forms, create permeable spaces and distinct pattern designs, and provide treatments that achieve a well-defined building top.



The design of a building should reduce its apparent bulk by dividing the building into smaller masses. Large, one distinct mass of a building should be broken into the masses of the building. The apparent mass of a building may be reduced by the following techniques:

- Variations in roof heights, parapet heights
- Incorporating clearly pronounced overhangs and projections
- Introduction of wall plane offsets (distances established by the building's) eave
- Use of overhangs and projections and setbacks to create a texture and depth of walls and faces
- Use of deep set windows with niches
- Use of ground level canopies
- Use of protruded and recessed entries
- Use of vertical accents or focal points

Structures or sections of building mass over 50 feet wide are encouraged to divide their elevations into smaller parts. A pronounced change in massing, pronounced changes in wall planes and introducing significant variations in the central building are possible methods to accomplish the desired effect of dividing mass into smaller parts.

## C | ARCHITECTURAL GUIDELINES

### ENTRIES & FRONTAGES

Building frontages and sides of buildings oriented to the street or other public areas should incorporate combinations of materials, pedestrian-level display windows, storefronts, and recessed entries.

Consider the following approaches for entries as they may apply to form to enhance the pedestrian experience, and the resulting character of building frontages:

In large storefronts, for expressing external functions, the door, door, and porch) as a main statement.

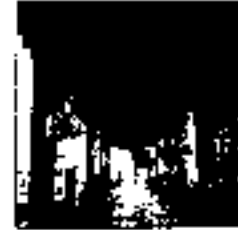
In openings, such as (new) openings along the front of multiple uses.

If two adjacent buildings possess, consider partially wrapping the front of a larger use with smaller features.

None of the conditions above are required; storefronts should incorporate design features which address the impacts to the pedestrian resulting from extensive inactive pedestrian frontage. Options may include:

- Specialty columns & pedestrian plazas
- Generous landscaped trees
- Side walks or raised planters
- Variations in planes
- Materials and colors or elements that support the merit.

Entry overhangs and awnings should be designed for pedestrian protection, to reduce the building scale and enhance the overall merit. Canopies and overhangs are encouraged in residential developments with strong connections with the conditions of signage and historical evaluations.





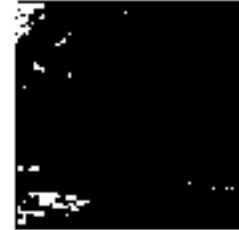


## C | ARCHITECTURAL GUIDELINES

### COLORS & MATERIALS

Building materials and a variety of materials is desirable to both the rural parks, roads, and general plane. Material suggestions include:

- Wood
- Stone/rock
- Metal with a stock paint finish



If stone or alternative rock textures are not preferred, the neutral should be used to highlight significant building features and masonry elements.

Building colors should employ neutral earth tones. The use of highly reflective or glossy materials should be limited and are not appropriate in all contexts.

#### Some Suggestions

- Blue and Blue - Cape Country Building (0.18)
- Saddleback Rustic Lodge (0.20)
- Moore Hollow (0.20)



(0.18)



(0.19)

(0.20)



(0.21)

RECORD OF DEEDS FOR KILLBUCK COUNTY, OHIO, 200709190002, 09/19/2007, 09:42:15 AM

## C : ARCHITECTURAL GUIDELINES

### DETAILS

All sides of a building should express consistent architectural detail and character. A system of windows, screen walls should be architecturally integrated with the building or as approved as part of an overall massing plan.

Screening devices, site walls, and enclosure for loading and delivery areas should be designed to be an integral part of the building architecture.

Bold lines, color and material connections are encouraged to express the overall design intent and attention to detail at pedestrian areas and other focal points of the building. Hardware should incorporate a standard black finish, as dictated in the colors and materials section Pg. C-10.







## C | ARCHITECTURAL GUIDELINES

### SIGNAGE CRITERIA: BUILDING SIGNS

#### PROHIBITED SIGNAGE TYPES

Exposed or surface mounted neon or illuminated type signs, or any signage with external wiring, ballast boxes, or transformers at other equipment.

Parade signs exhibiting but not limited to auto, truck, or trailer related signs and sandwich board type signs.

Moving, rotating, flashing, noise making or other distracting signs.

Real-estate signs.

Signs on driving lanes, or areas deemed to be safety critical.

Signs that are not professional in appearance.

Clash, papers, utility and other large stickers, decals, or other temporary looking signs on or around the storefront surfaces.

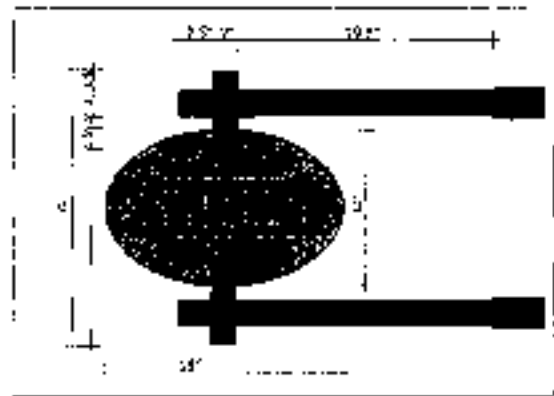
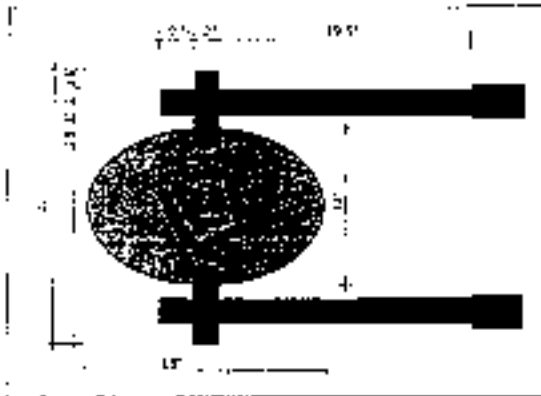
Signs exhibiting the names, logos or details of the sign manufacturer or installer.



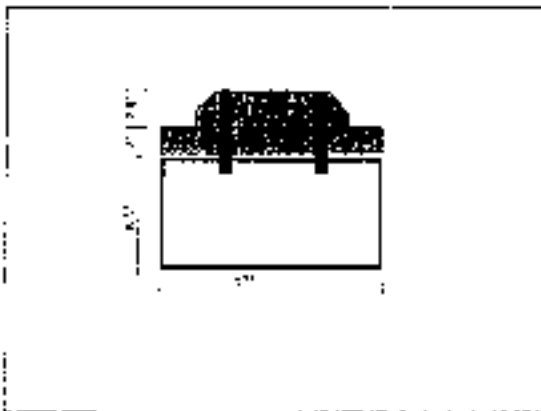


# C | ARCHITECTURAL GUIDELINES

## SIGNAGE CRITERIA | POLE LIGHT & BLADE SIGNS



### POLE LIGHT SIGNS



### BLADE SIGN



EXHIBIT D | LANDSCAPING STANDARDS

---

**TRIPLE**  
SHOPPING CENTER



## D | LANDSCAPING STANDARDS

### INTRODUCTION

The City of Ellensburg is a growing regional community. Development adjacent to Interstate 90 is essential.

The land use vision for Ellensburg is an economically viable, sustainably planned, pedestrian friendly, regional shopping complex including a mixture of uses necessary to meet the needs of the growing and continuing city of Ellensburg. The pattern of land use in this area will evolve, with small to mid-size business serving the immediate pedestrian area. Larger shopping centers and other commercial developments



(D.01)

### SCOPE OF REQUIREMENTS

This document addresses the following elements:

- Exterior landscape treatment, plants, form of site
- Interior Property Facade, Perimeter Landscaping
- Parking lot landscaping
- Fences, signs, lighting and Screening
- Required plant palette
- Hardscape and Pedestrian Amenities
- Irrigation
- Landscape Maintenance
- Pedestrian amenities: benches, trash receptacles, etc.

### PURPOSE/USE OF REQUIREMENTS

The goal of this document is to strengthen the overall attractiveness of the development. The document is intended as a guide for the design of buildings, property owners, developers, and design professionals for the exterior, new building construction in City of Ellensburg that the overall landscape theme is represented, and that the landscape is functional, healthy, and free serving leading to an overall unified and aesthetically pleasing regional commercial center. (See Section D.02)



## LANDSCAPING STANDARDS

### VISION

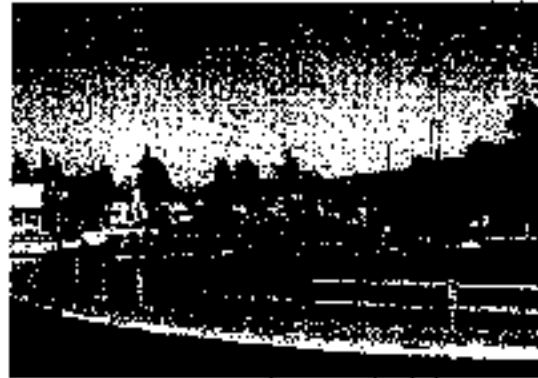
The design vision for this development includes a mix of the "natural" world (i.e. use of plants). Large ornamental use of well-tended, gently sloping lawns, and use of water elements are design elements that are encouraged. As well as land and post marking and signage that are consistent with the design vision are to be employed. (See Photos D-02)

The information contained herein is intended as a supplement to existing city-wide standards and ordinances. All detailed landscape plans designed by a licensed landscape architect shall be stamped and approved by the city. If cost of 5000 or more dollars, it will be handled by the applicant. The plan is to accurately depict type, size, and spacing of all plant material, tree quantities, quantity, and location. Scale of drawings shall be no larger than 1/8" = 1'-0". A scale of 1/4" = 1'-0" is preferred. Submitted plans shall receive a response generally within 14 days. If the plan is not approved, the drawing will be returned "Not Approved" with a detailed explanation.

Each of the specific design elements will be discussed in detail in the following sections of this document.

### CITY OF EASTHAM LANDSCAPE TREATMENT

The City of Eastham Municipal Code section specifies as related to Landscape treatment: It is the intent of following sections are to provide a more specific direction for streetscape, interior property lines, perimeter, parking lot, foundation and screening landscapes.

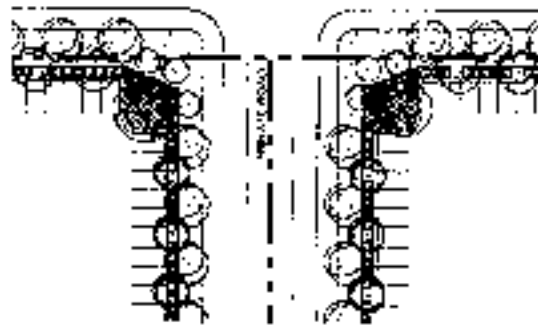


D-02

### STREETSCAPE TREATMENT

Landscaping installation within the public right-of-way shall be the responsibility of the City, LLC and shall not require additional landscape treatment. Individual lot owners shall provide street landscaping along all private property streets that located on their parcels as required herein, and shall provide landscape treatment in front yards of yards as per 2007 and the following criteria:

Permits for residents within three feet of the street face by the City provided at 30' or more and located within the complement street landscaping within the City right-of-way. (See Sketch D-03)



D-03



## D LANDSCAPING STANDARDS

Groundcover shall be well maintained and landscape trees analyzed. Along the public street frontages, 20% bermed areas are to be provided. Private development shall maintain trees that would grow in order for screening parking areas and to facilitate planting adjacent retail building. (See Picture 0-04)

Signage treatment shall include decorative rock, rock features, ornamental grasses, and/or perennial plants plantings. (See Picture 0-05)

### INTERIOR PROPERTY LINE/PERIMETER PLANTING

Interior property line planting is adjacent to adjacent parking areas and to be maintained to provide landscaping, unless a shared parking lot and access easement exists between the property owners. All other interior property line barriers shall be a minimum of 3' in height. Perimeter areas showing boundaries of the development shall be planted with a mix of evergreen (40%) and deciduous trees (60%) and accompanying shrubs at the rate of 4 shrubs per twenty feet and five ground cover.



0-04



0-05



## D | LANDSCAPING STANDARDS

### PARKING LOT LANDSCAPING

Parking areas shall be landscaped to provide shade and visual relief of vehicle maintenance and lines of sight. Off-street areas shall be landscaped throughout the parking areas and the tree species shall have a moderate to broad spreading canopy. All shrubs shall be kept less than three (3) feet in height, except in construction areas.

Landscaping shall be provided for all areas containing all outdoor parking lots containing ten (10) or more parking stalls. Landscaping shall be provided at a rate of twenty-four (24) square feet per parking stall. Other required landscaping may not be created in lieu of this total. All minimum landscaping shall consist of ground cover and shade trees with a minimum canopy spacing spread of fifteen feet (15'). Ground covers to be planted so that they will cover 90% of the ground within one year.

(See Plan at 2-66)

The minimum area per planter shall be one hundred (100) square feet.

The minimum distance between the trunk of a shade tree and any parking stall shall be no more than one foot (1'). One tree is required for each (100) square feet of required landscape area or fraction thereof.

Perimeter curbs are required to be provided to protect the landscape plantings from vehicle overhang.

Trees shall be planted at least three feet (3') from the outside edge of the planting area.

No plant material greater than twelve (12') in height shall be used within five (5') of the edge of a landscape area adjacent to parking stalls.

All landscaping must be located between parking stalls at the end of parking or between stalls and the property line, except as required by other laws.

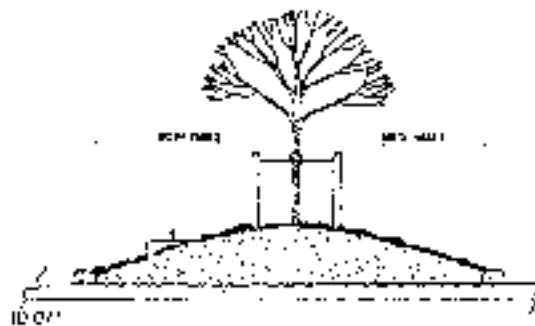
Grass and landscape mulch materials shall be maintained at approximately 4:1 slope to create sight triangles for pedestrian travel. (See Sketch 007)

Areas with levels or grades be provided in parking planters larger than 100 sq ft, e.g. using larger size landscape areas in trees 15-30 feet tall. (Sketch Design Review 007) shall receive the right-of-way specific requirements of height of shrubs and visual relief of the parking lot is not.

015



006



015

LANDSCAPING STANDARDS

## D. LANDSCAPING STANDARDS

### FOUNDATION PLANTING SCREENING

Landscaping treatment around buildings shall be designed to camouflage the base and soften building materials. Buildings with vertical window building mass of 50' in length or greater than 20' in height shall create self-maintaining planting areas or permanent building envelopes to the sky line and areas of mass culture. Use includes trees with a tree grade, hanging baskets, or raised planter areas and elements in a landscape to soften building exterior. One (1) tree, 6" cal. (20' in height) or 2" cal. length or width shall be provided. Trees may be spaced irregularly and closer rather than uniformly spaced. Screening of dumpsters, mechanical equipment and trailers shall be required. Use of walls, fences, trellis and plantings shall be used to screen objects from public view. (See Annex D.03)



10.08.

### PLANT PALETTE

#### STREET PARKING LOT TREES

Please refer to City of Elkhart's Street Tree List for eligible deciduous tree species. All trees shall be branched at 4', columnar species at 8', and shall be a minimum of 10" cal. to 6" cal. evergreen tree. (See Street Tree List in Appendix)

#### COMMERCIAL TREES (minimum size 5-7' in height)

*Ficus purpurea* Colonial fig tree  
*Ficus religiosa* Fig tree  
*Ficus palmata* Fig tree  
*Ficus pumila* Fig tree  
*Ficus religiosa* Fig tree  
*Ficus religiosa* Fig tree  
*Ficus religiosa* Fig tree  
*Ficus religiosa* Fig tree  
*Ficus religiosa* Fig tree

#### COMMERCIAL SHRUBS (minimum to large - 5 gallon container size)

*Amelanchier grandiflora* Spice bush  
*Berberis thunbergii* Barberry  
*Berberis thunbergii* Barberry  
*Wiburnum australe* Carolina bush  
*Cornus stolonifera* Dogwood  
*Syringa* Syringa  
*Eucalyptus* Eucalyptus  
*Rhus typhina* Flame tree

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## D. LANDSCAPING STANDARDS

### PERENNIAL SHRUBS (low - small, 10' height - 2 gal container size)

Banksia laevis, a small, bushy shrub  
Citrus catharticus, Citrus  
Ceanothus americanus, 'Coral Beauty', Coral Beauty, ornamental  
Dyckia sp., Bromeliad  
Spartanum sp., Grass  
Artemisia ludoviciana, Shrub  
Rosa rugosa, Rose  
Rosa carolina, Rose  
Lambdula sp., Lavender

### EVERGREEN SHRUBS (medium to large, 5 gallon container size)

Camellia japonica, Camellia  
Ficus umbellata, Japanese Holly  
Mahonia aquifolium, Dogwood  
Ficus japonica, Japanese Holly  
Prunella laevis, Flowering  
Ilex pedunculata, Skunkbush  
Taxus canadensis, Eastern White Pine  
Yucca sp., Yucca

### EVERGREEN SHRUBS

Flowery shrub, 10' height, 2 gallon container  
Abies balsamea, Christmas Tree  
Ceanothus americanus, Blueberry  
Pinus strobus, White Pine  
Juniperus sp., Juniper  
Thuja occidentalis, Arborvitae

### GROUND COVER PERENNIALS OR GRASS PERENNIALS (1 gallon container size)

#### GROUND COVER

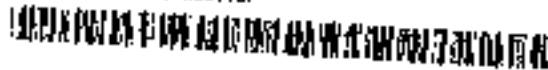
Artemisia vulgaris, Wormwood  
Lupinus albus, Lupine  
Ceanothus americanus, Blueberry  
Ilex pedunculata, Skunkbush  
Ceanothus americanus, Blueberry

#### ORNAMENTAL GRASSES

Alpaca grass, Ornamental  
Calm grass, Ornamental  
Miscanthus sinensis, Japanese Grass  
Pennisetum alopecuroides, Hairgrass  
Panicum virgatum, Switchgrass

#### PERENNIALS

Hemerocallis, Daylily  
Lilium, Lily  
Muhlenbergia, Grass  
Salvia, Sage  
Sedum, Stonecrop



## D | LANDSCAPING STANDARDS

### MULCH

Landscape beds shall receive a minimum 2" depth of river rock (1/2" size or larger) or equivalent equal throughout all landscape bed areas and shall be replenished as needed.

### IRRIGATION

GENERAL: All landscape bed and turf areas are required to have an approved irrigation system with an automatic controller and watering mechanism.

IRRIGATION PLAN REQUIREMENTS: The irrigation system shall be designed to waste the least amount of water. Watering shall be in accordance with the needs of the plant material used. The applicant shall submit a site irrigation plan drawn to the same scale as the landscape development plan and shall contain the following information:

- Spatial layout of piping
- Pipe size and type
- Source of water and static pressure
- Size and location of water meter(s)
- Type of pipe, size and length of service line
- Type and location of drain, shut-off, and control valves, controller(s) and backflow preventer(s)
- Valve/zone controller showing type, series, and hydraulic characteristics of sprinkler heads
- Hydraulic circuit analysis chart showing volume flow per valve

### LANDSCAPE MAINTENANCE

Maintenance of the landscaping and irrigation system installed within Triple L Plaza shall be the responsibility of each property owner. Maintenance shall not include installation or replacement of the controller at a contractor's discretion by the City of Killbuck. The maintenance work shall conform to the following requirements:

#### GENERAL LANDSCAPING

Landscape maintenance shall include necessary watering, fertilization, weeding, pruning, removal of disease and insect pest control, protective covering labor for replacement of dead plant material, straightening plants, weeding or weeding adjacent to plants, weeding or weeding adjacent to plants, mowing, replacement of mulch that has become displaced, watering and reshaping of shrubs, and testing and repair of these areas affected. Remove debris, waste, tools, and equipment used at end of each working day. Other, good housekeeping with good best practices as necessary to ensure vigorous, healthy growth of plant material to be maintained. Maintenance of contract.

Removal and disposal of plant material of the same size and variety shall be the responsibility of contractor, only owner.

If a landscape maintenance contractor is hired, such firm shall purchase and maintain Contractor's general liability insurance in amount of \$1,000,000 for protection from Contractor's operations under Maintenance Contract. Certification of such insurance shall be filed with Triple L Plaza Owners Association prior to commencement of work.

#### WATERING

The irrigation system shall be used by landscape maintenance contractor for watering. Failure of system does not relieve landscape maintenance Contractor's responsibility of maintaining desired level of moisture necessary to maintain vigorous, healthy growth.

Water shall be applied in quantities sufficient to penetrate soil to minimum depth of 6 inches in turf beds, and 8 inches in turf areas at rate that will require no significant loss.



## D | LANDSCAPING STANDARDS

### WEEDING

Landscaping materials and containers shall keep areas free from weeds and undesirable grasses by improved methods and materials.

Tree Weed Control: Develop and maintain a biennial weed and brush grass control program consisting of both pre and pre-emergent chemical control. Maintain tall grasses in a weedy free condition.

### DISEASE AND INSECT PEST CONTROL

Inspect plant material at least once each month to locate any disease or insect pest infestations. Upon discovery of infestation, initiate a species of infestation shall be identified. Control measures shall be immediately implemented.

### FERTILIZING

Develop a maintenance program for all fertilizers regularly scheduled program to fit requirements of plant material to maintain vigorous healthy growth. Spillage or excess fertilizer shall be swept and properly disposed. Fertilizing into storm sewers is prohibited.

### TURF FERTILIZATION

Application of slow release or immediate release fertilizer on a regular basis. Adjust type, frequency, and quantity of fertilizer to provide best and health turf conditions. Spillage or excess fertilizer shall be swept and properly disposed. Fertilizing into storm sewers is prohibited.

### PRUNING AND REPAIR

Amount of pruning shall be limited to minimum necessary to remove dead, damaged, and diseased branches to compensate for loss of canopy as result of transplanting operation, and to maintain safety in crowded areas. Pruning shall not change the natural habit or attractive, balanced shape of the plant. Cuts shall be made flush to growing branches. Remove all rise stakes and wires one year after final transplant.

### MOWING

Mow grass areas at regular intervals to keep grass height at 4 inches to 5 inches. Mow in such manner as to avoid clipping from blowing into paved areas and sidewalks. Commercial mowing shall include sweeping or blowing to clear blowing debris.

### CLEAN UP

Discard or reuse of trimmings, excess and waste materials shall be done neatly and properly to avoid clutter on workday.

### TRIMMING

Trim grass around shrubs, bushes, vines, and other structures with a proper trimmer. Do not trim grass around tree trunks with mechanical trimmer. Remove grass and weeds from tree trunks by methods that will not cause damage to trees.

### EDGING

Mechanically edge and areas adjacent to sidewalks, curbs and other paved surfaces with a blade type edger. Perform edging with each mowing operation.



## D | LANDSCAPING STANDARDS

### GENERAL IRRIGATION

Owners shall maintain irrigation systems in good operating condition through monthly inspections of system components and make repairs as necessary. This includes checking and repairing operation of each zone, alignment of heads, rain sensors, controller, and checking leaks.

Landscape maintenance contractor shall make every effort to conserve water by adjusting programming to allow for weather changes and grow through seasons. Adjustments shall be conducted between 7:00 a.m. and 6:00 p.m. unless requested by Triple L Plant Owners Association.

Supplemental hand irrigation system as required for provide adequate water for vigorous and healthy growth of trees.

### WINTERIZATION

When cold weather approaches and chance for freezing conditions exist, the irrigation system shall be drained and winterized.

Winterization procedure shall include the following:

- Shut water off at main water valve
- Open manual drain valves
- Flow air through system until each zone is purged out

Set controller to cycle through all sections minimum 1 hour available once each day through winter months.

Spring Start-Up/Spring start-up procedure shall include the following:

- Close manual drain valves
- Slowly turn water on
- Check for leaks and proper alignment of heads
- Repair and adjust system as required for proper operation





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**CITY OF ELLENSBURG STREET TREE LIST**

This is a list of trees approved for City Street Tree use and does not include all tree species which will grow in the Ellensburg area. Please consult the City Auditor, your local Cooperative Extension Office or Master Gardeners for additional tree species which are suitable in the area. Some tree species are not approved for planting in the City Right of Way. The priority in Japan should be the right tree in the right place.

MAPLES	Comments
<i>Acer palmodes</i>	Many different cultivars, with different growing habits, leaf colors, etc.
* <i>Acer brachycarpum</i>	
* <i>Acer glabrum</i>	
<i>Acer rubrum</i>	Many different cultivars; generally have vibrant fall color
<i>Acer saccharum</i>	Several different cultivars; generally have vibrant fall color
<b>OAKS</b>	
* <i>Quercus garryana</i>	Blooms fall color.
<i>Quercus parvifolia</i>	Lower branches drop a most to the ground; pruned/pruned and changed; Rusty orange to red fall color.
<i>Quercus macrocarpa</i>	Columnar when young, becoming pyramidal at maturity, Yellow brown fall color.
<i>Quercus rubra</i>	Deep red brown fall color
<b>FLOWERING CHERRY &amp; PLUMS</b>	
<i>Prunus sp.</i>	Many varieties of different sizes, shapes and colors. Carefully to make tree characteristics before planting. Possible street tree
* <i>Prunus pennsylvanica</i>	Small native tree with a narrow, rounded crown. Fast growing and usual level. Good middle tree, possible street tree
* <i>Prunus virginiana</i>	Small native tree with an irregular rounded crown. Good middle tree, possible street tree.
<b>MISCELLANEOUS TREE VARIETIES</b>	
<i>Cytisus sp.</i>	Several different cultivars, with different growth habits. Only fall color



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- varieties are approved for Street Tree use.
- Tree with a broad rounded crown. An eastern and southern tree in the U.S.
- Small tree with attractive orange tint that attracts large numbers of birds in our area. Possible street tree, but it may cause some clean-up.
- Some of its species a hard native tree being smaller in size.
- Medium sized tree with a broad and round crown. Seeds are flat, dry and winged. Good street tree native to the eastern U.S.
- Medium sized tree with a broad and round crown. Seeds are flat, dry and winged. Good street tree, native to the eastern U.S.
- Medium tree with a columnar or spreading pendulous form, depending upon the variety. Female trees produce a very attractive smelling fruit and should be avoided. Native to this area during the Jurassic period.
- Small to medium tree with a spreading, upright form.
- Small column tree with an upright regular crown. Possible street tree. Very drought resistant.
- Large wide shaped upright tree. Formed of a variety of varieties including pollution. Several cultivars available. Mung bean leaf plant.
- Medium pyramidal tree.
- Medium to large, rounded single stemmed tree similar to T. cordata.
- Small, upright, rounded, rounded tree with showy white flowers and purple reddish fruit. Good walk in tree.

Original list compiled by the Consultants in Commission for amended September 1, 2004

<i>Liriodendron styraciflua</i>	Swamp gum - 25 to 46'
<i>Salix alba</i>	European White Willow - 15 to 40'
<i>Salix alba</i>	White Willow - 10 to 30'
<i>Salix alba</i>	White Willow - 30 to 50'
<i>Fraxinus pennsylvanica</i>	Green Ash - 30 to 40'
<i>Fraxinus</i>	Green Ash - 30 to 45'
<i>Cornus occidentalis</i>	Koeleria - 30 to 40'
<i>Cornus</i>	Red Dogwood - 15 to 30'
<i>Gladiolus</i>	Honey Locust - 30 to 45'
<i>Taxus</i>	White leaf Linden - 30 to 50'
<i>Thuja</i>	American Linden - 35 to 50'
<i>Amelanchier</i>	Western Service Berry - 25 to 30'

**APPLE & CRABAPPLE & HAWTHORNE**

Most varieties of these tree families are bear fruit and are hosts to the Apple Maggot, and are not approved for City Street Tree use.

\* *Indicatum* tree native to the Klatskan Valley.

YOUR PRINTED PROPERTY TAX STATEMENT IS VALID FOR 90 DAYS FROM THE DATE OF PRINTING.

FairWeather standard spec features

http://www.fairweather.com/standard.html

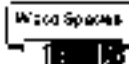
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**FairWeather Standard Product Information**

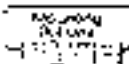
A FairWeather™ Standard product is any finished item that is cataloged as a stock item. For catalog and pricing information, see the FairWeather™ product manual.



All steel parts are galvanized, drilled and formed for quick assembly and shall conform to ASTM A36 hot rolled steel. All steel hardware and fasteners for steel shall be 304 stainless steel. All steel hardware shall be galvanized steel, depending on the model. Other steel items shall be double coated.



For all models, FairWeather uses a standard powder coated system. The protective color coating is either polyurethane or polyurethane/epoxy. Steel is coated by the dry electrodeposition process. Following application, the metal parts are baked using a curing cycle. The typical curing will be a minimum of four hours, once on all surfaces.



Paints, primers, rollers, brushes and edwell covers are for do-it-yourself after installation.

Wood materials may be fabricated from a variety of wood species. The wood used after specified by FairWeather™. The wood may be oak, a hard wood that works well for both wet or dry climates and the softwoods - pine or spruce. Douglas fir and clear Red Cedar. Other hard woods can be specified, subject to availability.

Protective coatings for wood: If wood specified for interior use to be treated with a clear wood preservative or other chemical product. For exterior use wood elements shall be treated with Durox™.

Except where noted, an alternative or a ready alternative to wood is a strong maintenance free and will maintain its color and appearance for years. Our composite plastic is made from purified high-density polyethylene, such as in a composite, and is made up in various colors. It will not rot, warp, swell or split. It is made in a variety of colors, and weathered wood and solid oak.

1. See 190728190002 manual for more product information.

<a href="#">WWW</a>	<a href="#">PRODUCTS</a>	<a href="#">POLLARNS</a>	<a href="#">ACCESSORIES</a>
<a href="#">FIELD ACCESS</a>	<a href="#">TRAMP GRATES</a>	<a href="#">PIEDMONT GRATES</a>	<a href="#">TRUCK GRATES</a>
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

FairWeather BR-2 Ballard Bike Rack

http://www.fairweather.com/brack/brack\_pages/br-2.html

# FairWeather

2 to 4' Furniture & Accessories

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## BIKE RACKS



### Model BR-2

The BR-2 is our popular pre-baked bike rack. Its available with 2 or 3 bike capacity.

#### Specifications

21" x 24" x 32" (H) x 18" (W) x 18" (D)  
Powder Coated Steel  
18" x 18"

#### Options

Painting - Surface is white

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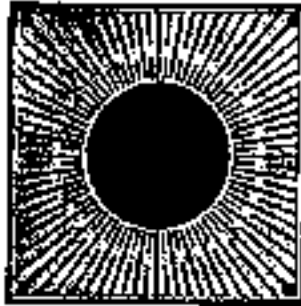
SLC Series Tree Grates

[http://www.fairweather.com/tee\\_grates\\_page/00\\_tee\\_grates.htm](http://www.fairweather.com/tee_grates_page/00_tee_grates.htm)

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**TREE GRATES**  
**SLC SERIES**



Weight: 10.00 lbs  
Material: Cast Iron  
Finish: Painted

Size	Net Weight	Gross Weight	Volume
18" Dia	10.00	12.00	0.01
24" Dia	15.00	18.00	0.01
30" Dia	20.00	24.00	0.01

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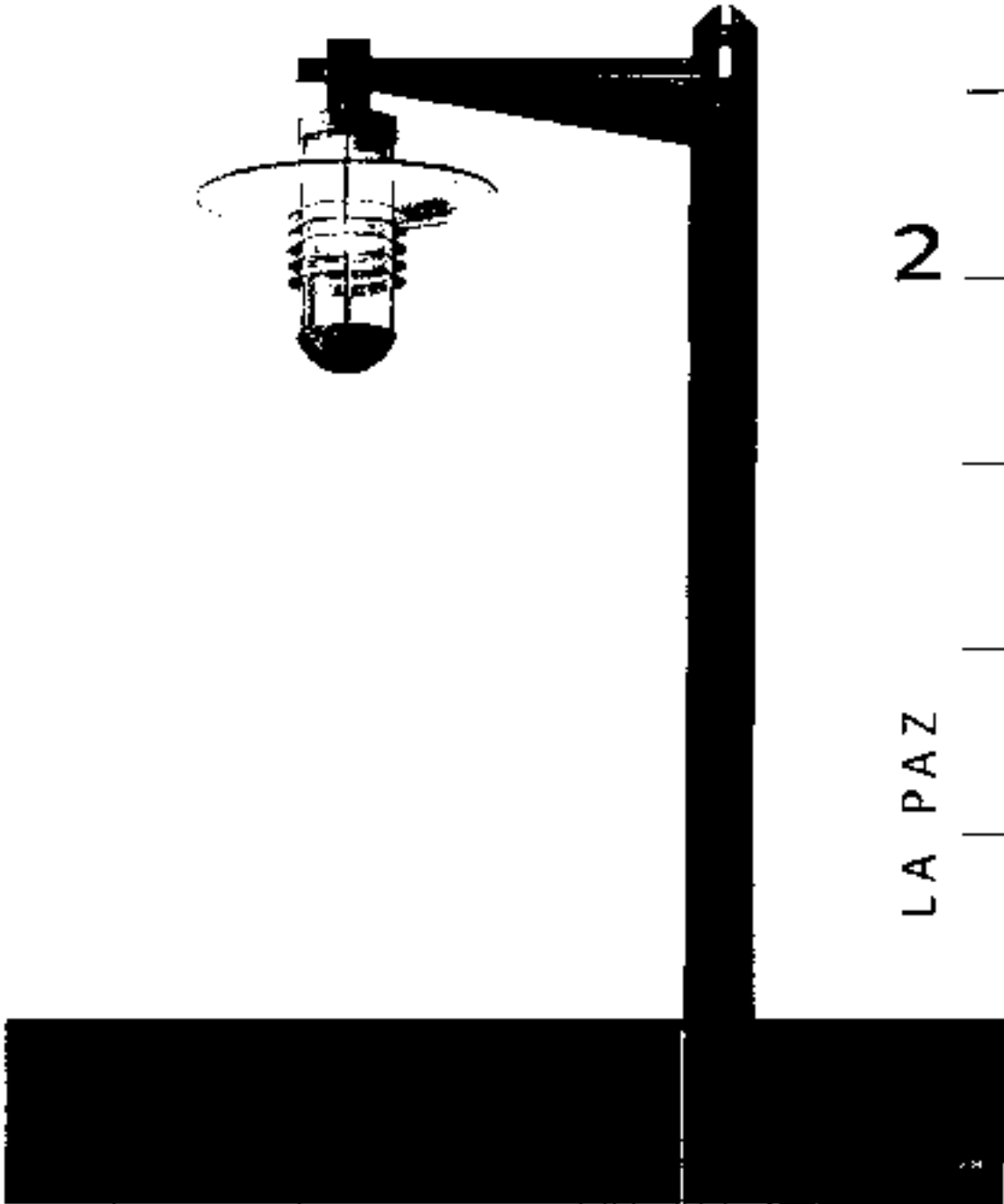
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INVESTIGATION OF THE COUNTY OF KITTITAS



PROPERTY TAX MAP



LA PAJ

Site Mounted

LA PAJ is a single phase and  
three phase combined with  
the system and the meter is  
mounted on the pole. The  
meter is mounted on the  
pole and the meter is

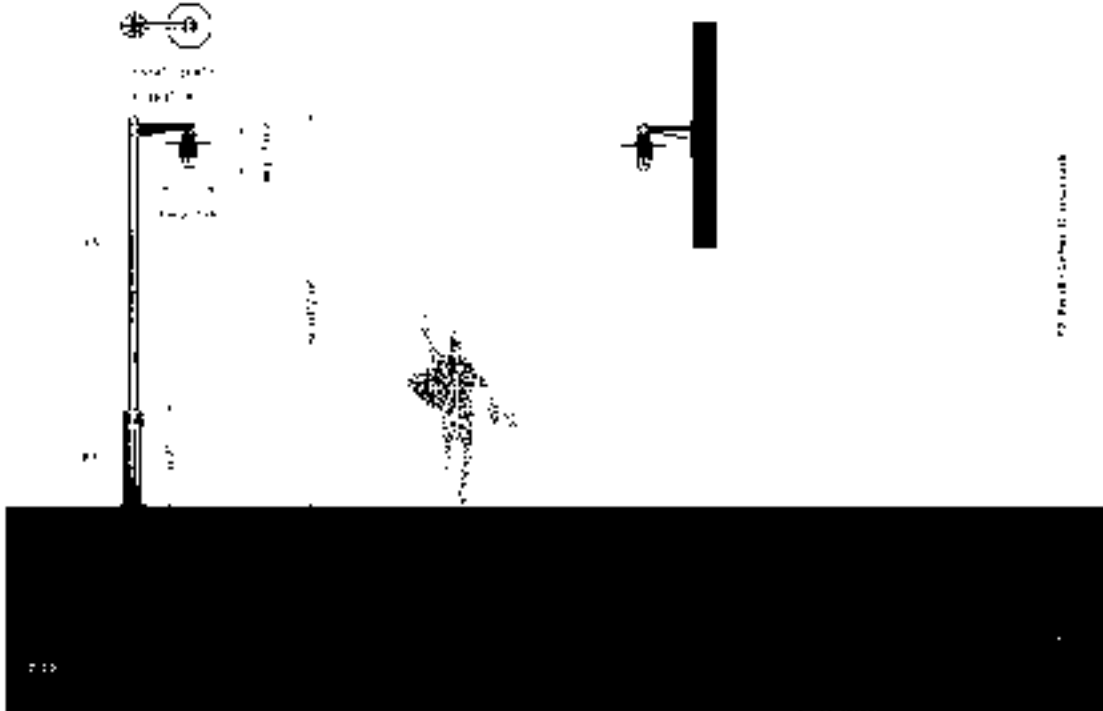
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LA PAJ is a single phase

Model	Type	Notes
LA PAJ	LA PAJ	LA PAJ is a single phase
LA PAJ	LA PAJ	LA PAJ is a single phase
LA PAJ	LA PAJ	LA PAJ is a single phase

Property Tax Map



Property Tax Map





KITKITAS Co Auditor    OPER:TITLE    WOOD

Upon Recording Return to  
 Jon Mentor, Jr.  
 Mentor Law Group, PLLC  
 2025 First Avenue, Suite 1100  
 Seattle, WA 98121

DEPOSIT TO TAX PAID  
 70,325.36.73  
 WOOD  
 ASSESSOR'S NO. 2004-2613  
 KITTITAS COUNTY TREASURER  
 By DD SIZEMORE  
April 16, 2007

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**DOCUMENT TITLE:**    WATER RIGHT STATUTORY WARRANTY DEED  
**GRANTOR:**            TRIPLE L, LLC  
**GRANTEE:**            SUNCADIA, LLC  
**PARTIAL LEGAL DESCRIPTION:**    E1/2E1/2NW1/4 AND W1/2NE1/4 OF SECTION 33, TOWNSHIP 18 N., RANGE 18 E.W.M.  
**ASSESSOR'S TAX PARCEL NOS.:**    18-18-33074-0001, 18-18-33074-0002, 18-18-33074-0003, 18-18-33074-0004, 18-18-33075-0002, 18-18-33075-0003, AND 18-18-33075-0004

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**WATER RIGHT  
 STATUTORY WARRANTY DEED**

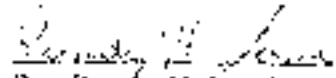
THE GRANTOR, Triple L, LLC, a Washington Limited Liability Company, for and in consideration of Ten and no/100 Dollars (\$10.00) and other valuable consideration in hand paid, conveys and warrants to Suncadia, LLC, a Delaware **limited liability company (Suncadia)**, Grantee, a partial interest in Grantor's right, title, interest and beneficial use of, in and to the water rights arising under or related to Claim No. 00908 as confirmed in Conditional Final Order re Subbasin No. 7 (Rever) on October 25, 2001 in *State of Washington v. Acquacella, et al*, Yakima County Superior Court Cause No. 77-2 01484-5. The portion of the water rights conveyed under this Statutory Warranty Deed are more fully described on Exhibit A attached hereto and incorporated herein by reference, which water rights are appurtenant to the real property situated in the County of Kittitas, State of Washington, legally described on Exhibit B attached hereto and incorporated herein by reference. The portion of the water rights conveyed under this Statutory Warranty Deed constitutes the right to irrigate 70 acres, as described on Exhibit C attached hereto and incorporated by reference.

Abbreviated Legal: E1/2E1/2NW1/4 AND W1/2NE1/4 of Section 33, Township 18 N., Range 18 E.W.M.

Tax Parcel Numbers: 18-18-33074-0001, 18-18-33074-0002, 18-18-33074-0003, 18-18-33074-0004, 18-18-33075-0002, 18-18-33075-0003, and 18-18-33075-0004

Dated this 1<sup>st</sup> day of October, 2006

TRIPLE E, LLC


  
By: Randy H. Lamb  
Its: Managing Member

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF YAKIMA )

I certify that I know or have satisfactory evidence that RANDY H. LAMB is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it as the MANAGING MEMBER of TRIPLE E, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated this 1<sup>st</sup> day of October, 2006.



  
Notary name: Schiree Sullivan  
Notary Public in and for the State of Washington  
Residing at 1000 1<sup>st</sup> St  
My appointment expires:



**Exhibit A: Description of the Triple L, LLC as Confirmed**

**Water Right Number:** Court Claim 00908

**Source:** Yakima River

**Current Use:** Irrigation of 85 acres

**Period of Use:** April 1 through October 15

**Place of Use:** E1/2E1/2NW1/4 east of Desmond Road and the W1/2NE1/4 of Section 33, Township 18 N., Range 18 E.W.M.

**Point of Diversion:** (Mill Ditch) 300 feet north & 200 feet east of the center of Section 29, being within the SE1/4SW1/4NE1/4 of Section 29, Township 18 N., Range 18 E.W.M.

**Priority Date:** May 20, 1885

**Annual Quantity** 1,054.0 AF

**Instantaneous Quantity** 4.0 cfs

**Description of the Triple L, LLC Water Right to be Conveyed**

**Water Right Number:** Court Claim 00908

**Source:** Yakima River

**Current Use:** Irrigation of 70 acres

**Period of Use:** April 1 through October 15

**Place of Use:** See Exhibit C

**Point of Diversion:** (Mill Ditch) 300 feet north & 200 feet east of the center of Section 29, being within the SE1/4SW1/4NE1/4 of Section 29, Township 18 N., Range 18 E.W.M.

**Priority Date:** May 20, 1885

**Annual Quantity** 868.0 AF

**Instantaneous Quantity** 3.29 cfs

Exhibit B: Description of Triple L, LLC Property

Lots 1, 2, 3 and 4 of WEST PARK SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-00-06, as recorded October 31, 2001, in Book F of Short Plats, pages 185 and 186, under Auditor's File No. 200110310024, records of Kittitas County, State of Washington, being a portion of the North Half of Section 33, Township 18 North, Range 18 E.W.M. in the County of Kittitas, State of Washington.

Lots 2, 3 and 4 of TRIPLE L SHORT PLAT, as described and/or delineated on City of Ellensburg Short Plat No. SP-02-01, as recorded February 13, 2002, in Book F of Short Plats, pages 223 and 224, under Auditor's File No. 200202130027, records of Kittitas County, State of Washington, being a portion of the North Half of Section 33, Township 18 North, Range 18 E.W.M. in the County of Kittitas, State of Washington.



Exhibit C: Division of Water Right among Triple L, LLC Parcels

	Triple L, LLC	acres	Irrigated Acres (est.)	Water Retained (acres)	Water Conveyed (acres)
		<b>91.27</b>	<b>85.00</b>	<b>15.00</b>	<b>70.00</b>
WP Lot 1	18-18-33074-0001	6.99	6.51	1.00	5.51
WP Lot 2	18-18-33074-0002	10.36	9.65	1.94	7.71
WP Lot 3	18-18-33074-0003	10.58	9.85	4.00	5.85
WP Lot 4	18-18-33074-0004	14.76	13.75	2.30	11.45
TL Lot 2	18-18-33075-0002	3.75	3.49	0.50	2.99
TL Lot 3	18-18-33075-0003	3.24	3.02	0.50	2.52
TL Lot 4	18-18-33075-0004	41.59	38.73	4.76	33.97