



WHEN RECORDED RETURN TO:  
JM Rusnak Construction, Co.  
6951 Edin Farms Ln.  
Lynden, WA 98264

Document Title: Declaration of Covenants, Conditions, Reservations & Restrictions of the Rusnak Long Plat.  
Declarant: JM Rusnak Construction Company  
Legal Description: Rusnak Long Plat  
Assessor's Tax Parcel ID#: 390219 197351 0000/390219 217327 0000

**DECLARATION OF COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS OF THE PLAT OF RUSNAK LONG PLAT**

**A. RECITALS**

1. The undersigned Declarant is the Owner in fee simple of the following described real property located in the County of Whatcom, State of Washington:

LOT B OF THE FOX COVE LOT LINE ADJUSTMENT, ACCORDING TO THE MAP THEREOF, AS RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE No. 2110500975,  
AND

THAT PORTION OF THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 39 NORTH, RANGE 2, EAST OF W.M., LYING SOUTH OF THE PLAT OF THE EMERALD TERRRACE RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE No. 940215180.

Situate in Whatcom County, Washington.

Hereinafter referred to as the "subdivision"

2. Declarant desires to provide the means to enforce the rights, reservations, easements, fens and charges provided in this Declaration, to provide for necessary maintenance and enhancement of the Subdivision

3. Any restrictions on design and development are not intended to prevent or impair innovative or creative design. The restrictions are intended to require uniform quality with flexible design done in a tasteful manner.

**B. DECLARATION**

The Declarant hereby certifies and declares that the following covenants, conditions,

reservations and restrictions shall inure and be binding upon the respective Owners of each Lot or parcel within the Subdivision, and the Declarant further declares that all of the property within the Subdivision described herein is held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, reservations and restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision and every part thereof. All of the following covenants, conditions, reservations and restrictions shall run with the land and shall be binding upon all parties having or acquiring my right title or interest in the Subdivision or any part thereof.

## 1. LAND CLASSIFICATION AND DEFINITIONS

The following words and classifications of land shall have the following meanings under this Declaration:

1.1 Lot: Any parcel of real property within the boundaries of the Subdivision Identified by Arabic numerals and designated for the location and construction of a single-family residence.

1.2 Tract or Parcel: Any parcel of real property within the boundaries of the Subdivision not consisting of a Lot or real property dedicated to the City of Ferndale.

1.3 Person: Any individual, firm, corporation, partnership, association, unincorporated association or other legal entity.

1.4 Owner: Any person holding either fee title or a vendee's interest under a Real Estate Contract as shown by the records of the Auditor of Whatcom County, Washington, in a Lot or in a parcel.

1.5 Declarant: JM Rusnak Construction Company, a Washington corporation, together with any successor in interest thereto.

1.6 Committee: The Design Review Committee as further defined in Section 5 of this Declaration.

1.7 Improvements: Improvements shall mean and include, without limitation, any buildings, out-buildings, private roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and any other structure or landscaping.

1.8 Resident:

1.8.1 Each person lawfully residing on or in any Lot; and

1.8.2 Members of the immediate family of each such person actually living in the same household with such person.

1.9 Wetland Areas: Those areas delineated as protected wetlands and identified on the face of Plat Map for the Rusnak Long Plat

1.10 Stormwater Facilities: Stormwater Facilities are those facilities used for the transmission, treatment and/or detention of storm water constructed for the Rusnak Long Plat.

## 2. RESERVATIONS

2.1 Reservation of Easements. Easements for drainage, sewers, water pipes and utilities, facilities and services (including, but not limited to, water supply, electricity, gas, telephone and television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon, in and through those certain portions of Lots or parcels as shown on the final plat maps of the Subdivision in which are and/or shall be installed, laid, constructed, repaired, renewed, operated, maintained and inspected underground pipes, sewers, conduits, cables, wires and any and all necessary facilities and equipment for the purpose of serving the Subdivision, together with the right to enter upon said easement areas, Lots, parcels, roads and walkways for or pertaining to the aforesaid. This reservation of easements is for the benefit of the Declarant and its successors in interest, as well as for the benefit of the City of Ferndale, Puget Sound Energy, Cascade Natural Gas Company, Verizon, Comcast Cablevision, and any other purveyors of such services as herein before described, as well as any of their successors in interest

2.2 Reservation of Drainage Easement and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any Lot or Parcel within the Subdivision where water might take a natural course after the grading of such Lot or Parcel. This easement includes stormwater transmission occurring through the Stormwater Facilities located on any Lot. Each Lot Owner shall be responsible for the maintenance and repair of Stormwater Facilities located within that Owner's Lot, however, any repair or maintenance required as a result of damage caused by another Owner or other party shall be the responsibility of that Owner or third party. The Operation and Maintenance Plan for Stormwater Facilities dated October 23, 2012 shall dictate maintenance and operation procedure for the Stormwater Facilities. There shall be no excavation allowed within the stormwater facility easement unless required to make repairs.

2.3 Ingress, Egress and Utilities Easement A non-exclusive easement for ingress, egress, and utilities is hereby granted, reserved and conveyed over and across that area of land as shown on Rusnak Long Plat recorded under Whatcom County AF# 2140100492 the purpose of this easement is to provide access and utilities to Lots 1-6 of the Subdivision.

Easement maintenance and repair shall be conducted pursuant to section 6 of this Declaration.

### 3. GENERAL USE RESTRICTIONS AND REQUIREMENTS

3.1 Permanent Residential Purposes. All Lots within the Subdivision shall be used exclusively for permanent residential purposes.

3.2 Recreational Vehicles. All boats, utility trailers, trucks of more than one-ton rating, campers, recreational vehicles, travel trailers, motor homes and similar items or vehicles maintained or kept upon any Lot within the Subdivision shall at all times be enclosed within a garage or otherwise neatly stored behind the front wall line of the residence and reasonably screened from view from the street or driveway running in front of said Lot, nor shall any such items or vehicles be parked on any street or driveway within the Subdivision overnight; provided, that out-of-county resident guests of an Owner may, with such Owner's permission, park a recreational vehicle or travel trailer on an Owner's Lot for up to a maximum of four weeks within any calendar year without being in violation of this subparagraph.

3.3 Explosives. No firearms or explosives shall be discharged within the boundaries of the Subdivision.

3.4 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

3.5 Signs. No signs or billboards shall be placed on any Lot, except that one identification sign bearing the Owner's name and address may be placed upon the Owner's Lot. Irrespective of the foregoing, the Declarant may display post signs, billboards or other advertising materials on or about any unsold Lot or Lots until all Lots within the Subdivision have been sold by Declarant. In addition thereto, the Declarant, and any Owner or such Owner's agent, may subsequently advertise any Lot for sale, and, furthermore, an Owner may display signs of a political nature, promoting a candidate or a political proposition, during periods of political campaigns.

3.6 Garbage/Refuse. No Owner shall deposit or permit the accumulation of any trash,

ashes, garbage or other refuse or debris on or about such Owner's Lot or any other property within the Subdivision, except in appropriate covered trash receptacles. Each Owner shall keep such Owner's Lot neat and orderly in appearance and shall not cause or permit any noxious or odorous conditions to exist, nor maintain any tangible objects which are unsightly in appearance to exist, on any Lot or parcel within the Subdivision.

3.7 Vehicles. All automobiles and all other permitted vehicles, if kept or parked on any Lot or otherwise within the Subdivision, shall be in good order and in working condition. Partially wrecked vehicles, discarded vehicles, unlicensed vehicles or vehicles which are in a state of disrepair shall not be kept on any Lot nor shall they be maintained within the Subdivision, unless enclosed in a garage or otherwise completely screened from view from outside the Lot. No Owner shall park any more than three vehicles upon any Lot outside of a garage.

3.8 Antennas. No television or radio antenna of any kind which extends more than ten feet above the roof line of the residence.

3.9 Manufactured/Mobile Homes. Manufactured and mobile homes are prohibited on any lot within the Property.

3.10 Retaining Walls. Retaining walls shall not exceed a height of four (4) feet unless they are designed and installed consistent with plans produced by a licensed civil engineer. Retaining walls shall be constructed only of the following materials: stone, concrete with brick, stone facing or concrete with high quality exposed aggregate finish. No retaining wall shall be constructed until it has received all required permits from the City of Ferndale. All retaining walls shall be approved by the Committee.

3.11 Roof Materials. The color, pitch and roofing type for all roofs shall be approved by the Committee.

3.12 Chimney Design. Exposed metal chimneys are not permitted except as approved by the Committee.

3.13 Clothesline Restrictions Clotheslines are prohibited

3.14 Fencing.

3.14.1 No fencing shall be erected in the front yard street side of the building set back line or within the flanking side yard except for decorative purposes such as a picket split rail or decorative screening or background fence approved by the Committee. In no case may fencing be constructed or placed in a manner inconsistent with City of Ferndale requirements.

3.14.2 Fencing or landscaping shall be installed to visually screen areas that serve as service yards in which garbage receptacles, fuel tanks, gas and electric meters, mechanical equipment, vehicles, materials supplies and equipment are stored outside. The screening shall substantially conceal such service yards from view from the road and adjacent properties. Fencing to accomplish this purpose shall be approved by the Committee.

3.15 Wire/Chain Link Fences. All wire and/or chain link fences are prohibited except in common areas, where already installed by developer.

3.16 Surface Water Run-Off. No Lot shall be improved in such a way as to cause excess surface water runoff that may damage or inconvenience other Lots or contiguous properties and the Owner thereof.

3.17 Damaged Improvements. No improvement which has been partially or totally

destroyed by fire, earthquake or any other cause shall be allowed to remain in a state of disrepair for a period in excess of four months from the date of such partial or total destruction. Corrective construction or reconstruction shall be required to commence within such four month period and shall be completed in accordance with the provisions of Paragraph 4.1 hereof; provided, however, that four month period shall be extended for a reasonable period thereafter in the event that corrective construction or reconstruction has not commenced as a result of factors beyond the control of the subject Owner and in the event that the subject Owner has exercised and does thereafter continue to exercise due diligence in an effort to eliminate such factors causing such delay in commencement.

3.18 Child Care Facilities No Owner or third party shall operate any business involving child care, day care or preschool on any Lot within the Subdivision.

3.19 Landscaping. All lots within eighteen (18) months after commencement construction of other improvements thereon shall be fully landscaped. All landscaping shall be subject to approval from the Committee.

3.20 Garage. All houses shall have a minimum two (2) car garage. Detached garages are permitted, subject to approval by the Committee.

3.21 Exterior Appliances. No heating, air conditioning or other mechanical appliances may be located on any roof, unless completely screened from view of other lots. Heating, air conditioning units and other appliances located outside of the house or structure shall be screened such that they are not visible and sound generated by them does not reach neighboring lots.

3.22 Outdoor Lighting. All outdoor lighting shall be directional and shall, in all instances, be directed away from the street and neighboring lots.

3.23 Parking. All parking shall be within lots. There shall be no long-term parking, except within garages.

3.24 Residential Structures. There shall be permitted only one (1) residential structure within any lot except an accessory dwelling unit as may be approved by City of Ferndale under the applicable zoning ordinance.

3.25 Siding. No T-1-11 siding, comparable panel siding or metal siding material may be used on any structure except as an architectural feature; provided it is installed as a board and batten style. The determination as to whether or not a material satisfies this condition shall be made by the Committee.

3.26 Out-buildings. Out-buildings proposed within the stormwater facility must be constructed without excavation. Proposed out-buildings outside stormwater facility may be pole construction. Out-buildings must be architecturally designed to appear to be the same style as the primary residence located on the same lot and must be approved by the Committee. Out-buildings existing at the time of execution of this Declaration are exempt from this provision. The Committee shall consider and approve the location of any out-building in addition to the design in order to preserve the views of affected lots.

3.27 Vacant Lots. Vacant lots shall be kept free of unsightly debris and shall not be used for storage or parking or any other purpose until commencement of construction on

the Lot. Lots shall be regularly mowed and all young trees, shrubs, grasses and weeds shall be kept at a height of 18 inches or less.

3.28 Public Trail. A public trail easement has been planned within the western portion of lots 1-4. No alteration to this trail may be permitted without written approval of Home Owner's Association.

3.29 Schell Creek is a protected area and no dumping or disturbance of any kind is permitted without prior approval of City of Ferndale.

#### 4. CONSTRUCTION

4.1 Time for Completion. Construction of all improvements shall be prosecuted diligently from the date of commencement of work until the exterior is completed and painted or finished and all sanitation and health requirements have been fulfilled. Furthermore, the maximum time limit for the completion of construction of an improvement shall be twelve months from the date construction commences, which is defined as the date building materials are first delivered to the Lot for such purpose. Construction shall not be deemed to be completed until the improvement is finished, the Lot has been cleaned of construction debris and the Lot has been landscaped.

4.2 Height Restrictions. The height of structural improvements erected on Lots shall be restricted as follows or pursuant to the terms of any applicable ordinance of the City of Ferndale in effect at the time of application for a building permit therefor, whichever is more stringent. No structural improvement shall exceed thirty-five (35) feet in height (or per City of Ferndale Zoning Code) measured by the vertical distance from the average finished grade of the Lot on which the structural improvement is constructed to the average height of the highest gable of a pitch or hip roof.

4.3 Minimum Building Size The minimum building size for a rambler shall be 1,400 square foot excluding garages. The minimum building size for two-story buildings shall be 1,800 square feet excluding garages.

4.4 Color Colors shall be limited to whites, grays and earth tones approved by the Committee. The Committee may also grant variances from this restriction for trim or accent colors.

4.5 Driveways. Full width, triple car garage driveways shall be avoided through use of a transition from double car garage width driveways within twenty feet (20') of the garage opening.

4.6 Foundation. Exposed concrete foundation walls on any dwelling shall not exceed two (2) feet in height except as approved by the Committee

#### 4.7 Landscaping.

4.7.1 The front yard area from the street to the front of building(s) on each Lot shall be covered with lawns, landscaping and solid surfaces within six (6) months of the date of commencement of construction of the dwelling.

4.7.2 Where construction is not commenced within three (3) months after owner acquires a Lot, the Owner shall cut weeds on the Lot and shall keep the Lot free of garbage or other debris and shall otherwise maintain the Lot in reasonable condition so not as to detract from the neighboring Lots.

4.7.3 Flanking side yards shall be covered with lawns, landscaping or solid

surfaces within six (6) months of the date of commencement of construction of the dwelling. Flanking side yards are that portion of a corner Lot that is designated as the side yard between the building set back line and the street it is the intent of this provision to keep these areas which are typically outside of the fence line consistent with the other landscaping within the Subdivision.

4.8 Maintenance and Repair. Landscaping, sidewalk planting strips, curbs and gutters in front of each Lot shall at all times be kept and maintained in good order, repair, condition and free of debris.

5. DESIGN REVIEW COMMITTEE

5.1 General. Construction of Improvements, except as specifically required in this Declaration, on any Lot within the Subdivision shall be subject the prior approval of a Design Review Committee (herein the "Committee"), which shall be composed of one(1) representative of, and chosen by, the Declarant. No fees for participation shall be charged by the members of the Committee. No improvements shall be erected, placed or altered on any Lot until the construction plans, specifications and a site plan showing the location of all proposed improvements on the Lot have been approved by the Committee. The approval or disapproval of the Committee as to such construction plans, specifications and site plan shall be based upon the quality materials to be utilized in construction, the harmony of the external design and color scheme of the proposed improvements with other existing improvements within the Subdivision and the location and bulk of the improvements with respect to topography and finished grade elevation.

5.2 Approval / Disapproval. The Committee shall approve or disapprove the construction plans, specifications and site plan, including specified color finish, within fifteen (15) days following receipt of a complete duplicate set thereof from the submitting Owner or prospective Owner. Any complete submission of construction plans, specifications and site plan on which no action is taken by the Committee for fifteen (15) days following the date of receipt thereof shall be deemed approved as submitted, unless within such fifteen (15) day period the Committee has sought in writing, clarifying information concerning the same. Two sets of construction plans, specifications (including exterior color finish detail), site plan and a one hundred dollar (\$100.00) processing fee must be submitted to the Committee. One such complete set shall be returned to the submitting Owner or prospective Owner with the approval or disapproval endorsed upon such complete set by the Committee. The other complete set shall be retained by the Committee for its permanent files.

The Committee shall have the right to disapprove any construction plans, specifications and/or site plan in the event the same are not in accordance with the provisions of this Declaration, if the design or exterior color scheme of the proposed Improvements is not In harmony with the general surroundings of the Subdivision or with the adjacent Improvements, if the construction plans, specifications and site plan are incomplete, or if the Committee determines that the construction plans, specifications and site plan, or any portion of them, are contrary to the interest, welfare and/or rights of the Owners of other Lots within the Subdivision. Any such decision reached by the Committee shall be final and non-appealable to any forum, body or court.

The Declarant or LLC members of the Declarant shall not be required to comply with the requirements of this; Section 5. All Improvements made by the Declarant or entities controlled by the Declarant shall be deemed to comply with all requirements set forth in

Section 4 of this Declaration.

Conditional Approval. Any approval given by the Committee may be conditioned upon compliance by the applicant with any reasonable condition which the Committee deems appropriate, including, without limitation, the posting of bonds or other acceptable security in order to insure performance by the applicant in accordance with the construction plans, specifications and site plan being approved.

5.3 No Liability. Neither the Committee, nor any member thereof nor any successor thereto, shall be liable to any person for any action taken by the Committee or for any failure to act by it under or pursuant to the provisions of this Declaration, so long as the Committee, the members thereof and any successors thereto act in good faith and without malice.

5.4 Expiration. Neither the Committee nor any members appointed to it shall have any responsibility with regard to this Declaration after seven (7) years from the date hereof or upon the sale by the Declarant of the last Lot owned by it, or by its successor in interest, in the Subdivision, whichever event occurs later.

## 6. INGRESS, EGRESS AND UTILITIES EASEMENT MAINTENANCE

6.1 Application of this Section. The provisions of this section shall apply only to the Ingress, Egress and Utilities Easement

6.2 Responsibilities of Owners. The Ingress, Egress and Utilities Easement and all improvements thereto shall at all times be kept in neat, clean and orderly condition and any landscaping or other improvements shall be kept in good repair and condition. At no time shall any Owner park vehicles or otherwise obstruct access over and across the easement. In the event any Owner causes damage to the Ingress, Egress and Utilities Easement improvements, then such owner shall be solely responsible for the cost and expense of repair.

6.3 Maintenance and Repair. If any Owner believes that maintenance or repair of the Ingress, Egress and Utilities Easement is required, that Owner shall provide written notice to all of the other affected Owners identifying the repairs believed to be necessary, with a bid or estimate for the costs for such repairs. Any affected Owner objecting to such maintenance, or to *the* costs thereof, must provide written notice of its objection to all other parties within seven (7) days of actual receipt of the notice. Repairs shall commence no less than thirty (30) days after the date that notice was delivered. If no objection is provided by any of the other affected Owners, each of the other affected Owners shall be obligated to pay their pro rata share of the cost of repairs within thirty (30) days after the repair or maintenance has been completed and billed to each Owner. Any maintenance and repair of the Ingress, Egress and Utilities Easement improvements shall be done in a prompt and workmanlike manner.

6.4 Lien Rights. If any Owner pays for the cost of maintenance or repair and is not reimbursed by the other Owners as provided herein, then the amount due shall become a lien upon the Lot of the Owner failing to make the required payment. Such lien shall be evidenced by an instrument recorded in the Auditor's Office of Whatcom County, Washington, and may be foreclosed like a mortgage pursuant to the laws of the State of Washington. The amount due shall bear interest at the rate of twelve percent (12%) per annum from the date it is due.

6.5 Dispute Resolution. In the event the Owners cannot reach an agreement on any of the matters contained in this maintenance provision, then the matter shall be submitted to



binding arbitration pursuant to RCW 7.04A. The arbitration shall be conducted by an arbitrator appointed jointly by the parties. If the Owners cannot agree upon an arbitrator, then the arbitrator shall be selected by the presiding judge of Whatcom County Superior Court. In the event of litigation, the prevailing party shall be entitled to recover their costs and attorney's fees. The arbitrator shall have the power to allocate the arbitration costs in a manner the arbitrator deems fair and equitable.

7. ENFORCEMENT

The Declarant and any Owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions, restrictions, reservations, liens and charges now or hereafter imposed by this Declaration. The failure of the Declarant or of any Owner to enforce any rights hereunder shall not be deemed to constitute a waiver of the right to do so thereafter. The prevailing party in any litigation involving the enforcement of any provision of this Declaration shall be entitled to judgment for the reasonable attorney's fees and costs incurred in such litigation by such prevailing party.

8. GRANTEE'S ACCEPTANCE

The grantee of any Lot subject to this Declaration shall, by the acceptance of a deed conveying title thereto or by the execution of any contract for the purchase thereof, whether from Declarant or any subsequent Owner of such Lot accept such deed or contract upon, and subject to, each and every provision of this Declaration and the provisions contained herein, including the jurisdiction, rights and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant and to and with the grantees and subsequent Owners of each of the Lots within the Subdivision, to keep, observe, comply with and perform all obligations set forth herein.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant its successors or assigns, all of the risks and hazards of ownership and occupancy attendant to such Lot including, but not limited to, its proximity to any public roads, power lines, and wetlands.

9. AMENDMENT TO DECLARATION

This Covenant may be amended or terminated by an instrument signed by the Owner who own at least seventy-five percent (75%) of lots within the Subdivision. Such amendment shall take effect upon recording with the Whatcom County Auditor.

Amendments to IF termination of this Declaration will in no way affect any of the easements described in Section 2 herein.

10. DECLARANT ASSIGNMENT

The Declarant reserves the right to assert the status of Declarant under this Declaration.

11. SEVERABILITY

In the event that any provision hereof is deemed by proper judicial decree to be invalid, then the remaining portion of this Declaration shall in no way be affected.

12. PARAGRAPH HEADINGS

The paragraph headings in this Declaration are for convenience only and shall not be considered in construing this Declaration.

13. NO WAIVER

The failure of any party entitled to enforce any provision hereof to take steps to enforce such provision shall not, in any fashion, operate or be deemed to be a waiver of any such provision or any other provision hereof.

Dated this 7 day of January 2014

JM RUSNAK CONSTRUCTION COMPANY

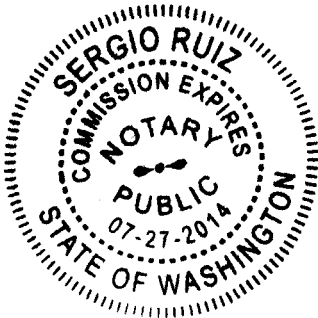
BY [Signature]  
JOSEPH M RUSNAK, PRESIDENT

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

On this 7 day of JANUARY, 2014, before me personally appeared JOE RUSNAK, to me known to be the President of the corporation that executed the within and foregoing instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument

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

Notary Public in and for the State of Washington,  
residing at LYNDEN  
My Commission Expires: 07-27-14



[Signature]