



200309240045

Skagit County Auditor

9/24/2003 Page 1 of 12 9:34AM

RETURN TO:

LAW OFFICE

of

BRADFORD E. FURLONG, P.S.
825 CLEVELAND AVENUE
MOUNT VERNON, WASHINGTON 98273
(360) 336-6508

Document Title: Dedication of Public Right of Way/Covenant Not to Sue

Reference number of documents assigned or released: N/A

Grantors: Keith H. and Catherine Wyman, a married couple

Grantee: Town of LaConner, a Washington municipal corporation

Partial Legal Description: (Full legal attached as Exhibit A.)

ptn of Tract "A", LaConner Short Plat No. 88-1; being a ptn of Block 2 "CALHOUN ADDITION TO THE TOWN OF LACONNER"; and being a ptn of Block "V", "MAP OF LACONNER, WHATCOM COUNTY, WASH. TERRY., 1872"; and being a ptn of Government Lots 2 and 3, 36-34-2 E W.M.

Assessor's Parcel/Tax I.D. Number: P74115

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

4716

SEP 23 2003

Amount Paid \$ 50³⁰
Skagit Co. Treasurer
By  Deputy

**DEDICATION OF PUBLIC RIGHT OF WAY/
COVENANT NOT TO SUE**

I. RECITALS

WHEREAS, Grantors, Keith H. Wyman and Catherine Wyman, a married couple, ("Grantors") own real property legally described in Exhibit A hereto ("Grantors' Property"). A portion of the Grantors' improvements encroach upon South First Street, a dedicated public right of way within the corporate limits of the Town of LaConner, a Washington municipal corporation, ("Grantee"). The legal description of the encroaching improvements is attached as Exhibit B and depicted in Exhibit C hereto ("Grantors' Encroachments"); and

WHEREAS, Grantors have agreed to dedicate a portion of their real property, legally described in Exhibit D and depicted in Exhibit E hereto, for use as public right of way adjacent to Morris Street, a dedicated right of way within the corporate limits of Grantee and to grant to Grantee an easement for public access and underground utilities over, across and under a portion of their property legally described in Exhibit F and depicted in Exhibit G hereto ("Easement Area"). The amount of property that Grantors have agreed to dedicate to public right of way and within the Easement Area exceeds in quantity the area of South First Street encroached upon by the Grantors' Encroachments; and

WHEREAS, Grantors' Encroachments, at this time, do not impose a substantial impediment to use of South First Street by the general public. The grant of dedicated right of way by Grantors to Grantee on Morris Street and grant of easement herein will substantially Benefit the Grantee, its citizens and visitors by allowing for much needed public parking and public right of way improvements; and

WHEREAS, the parties agree that the estimated fair market value of the property occupied by Grantors' Encroachments on First Street is two thousand six hundred seventy and no/100 dollars (\$2,670.00), (\$30 per square foot x 89 square feet of encroachment). The parties further agree that the approximate value of the land dedicated herein by Grantor and with the Easement Area is eighteen thousand ninety and no 100/dollars (\$18,090), (\$30 per square foot x 603 square feet of dedicated property); and

WHEREAS, Grantor wishes to receive and Grantee is willing provide a two thousand six hundred seventy and no/100 dollars (\$2,670.00) credit to Grantor to be used against the price for any property adjacent to Grantors' Property levied by the Town of LaConner pursuant to RCW 35.79.030 now or as hereafter amended. Further, Grantor desires to donate, for no compensation, the remaining value of the dedicated property (after subtracting the value of the aforementioned credit) to Grantee in the amount of fifteen thousand four hundred twenty and no/100 dollars (\$15,420.00),



II. AGREEMENT

NOW THEREFORE, in light of the foregoing recitals:

1. Grantors, Keith H. Wyman and Catherine Wyman, husband and wife, doing business as Wyman Park Investments, hereby dedicate in perpetuity to the Town of LaConner and the public at large for use as a right of way, that certain real property described in Exhibit C hereto.

2. Grantors hereby grant, convey and quit claim to Grantee a non-exclusive easement for public access, including the construction and maintenance of sidewalk and related necessary improvements and for the installation and maintenance of underground utilities over, across and under that certain portion of Grantors' real property legally described in Exhibit F hereto. Grantee shall promptly return Grantors' property to its pre-existing condition following the installation or repair of any underground utilities and shall reimburse Grantor for the cost to repair any damage to Grantors' building due to failure of lateral support directly attributable to such utility installation or repair. Maintenance of sidewalk and related improvements shall be at Grantee's sole expense. This easement shall be appurtenant to and run with the land.

3. The foregoing grants are made in consideration of Grantee's Covenant set forth in paragraph 4 below. Grantor shall, in the event Grantee vacates South First Street adjacent to Grantor's Property, receive a future credit of two thousand six hundred seventy and no/100 dollars (\$2,670.00) against any amounts Grantors, or its successors in interest, may be charged by the Town of LaConner for its portion of vacated First Street west of that real property legally described in Exhibit A hereto, pursuant to RCW 35.79.030 now or as hereafter amended. Grantors donate the remaining value of the dedicated property and Easement Area, fifteen thousand four hundred twenty and no/100 dollars (\$15,420.00), to the Town of LaConner and the public large.

4. Grantee, Town of LaConner, hereby agrees and covenants that it shall bring no lawsuit, cause of action, or claim, against Grantors or their successors in interest to the real property legally described in Exhibit A hereto based on seeking compensation for or removal of the Grantors' Encroachments as set forth in Exhibit B hereto; *provided*, that should the improvements encroaching into the area set forth in Exhibit B be destroyed by fire, wind, or other casualty, such that the cost of reconstruction thereof would exceed fifty percent (50%) of the assessed value of the damaged portion of such improvements, such improvements shall not be reconstructed within the right of way of First Street and/or this covenant not to sue shall be void ("Grantor's Covenant").

5. The parties agree that any suit to enforce this agreement shall be exclusively commenced in Skagit County Superior Court. The prevailing party in any such action shall receive an award of its attorney's fees and costs, including those incurred in any appeals. This agreement constitutes the full and entire understanding between the parties and any prior writings or oral discussions shall not be considered part of this agreement.

Town of LaConner-Wyman
Dedication of Public Right of Way/ Page 2 of 4
Easement/Covenant not to Sue



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GRANTORS:

Keith H. Wyman 8/12/03
KEITH H. WYMAN DATE

Catherine Wyman 8/12/03
CATHERINE WYMAN DATE

Approved as to form:

Gary T. Jones
Gary T. Jones, Attorney for Grantors

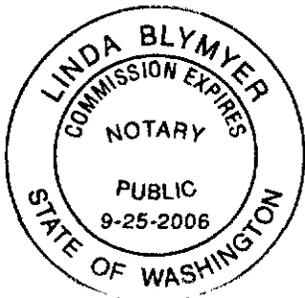
STATE OF WASHINGTON)

) ss.

COUNTY OF Skagit)

On this 12th day of August, 2003, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared KEITH H. WYMAN and CATHERINE WYMAN, husband and wife, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged it, to be their free and voluntary act of for the uses and purposes mentioned in this instrument.

Witness my hand and official seal hereto affixed the day and year first above written.



Linda Blymyer
Notary Public in and for the State of Washington
Residing at Mount Vernon

Printed Name: Linda Blymyer

Town of LaConner-Wyman
Dedication of Public Right of Way/
Easement/Covenant not to Sue



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Skagit County Auditor

Exhibit "A"
Grantors' Property

LEGAL DESCRIPTION

Tract "A", LaConner Short Plat No. 88-1, approved October 3, 1988, and recorded October 14, 1988 in Volume 8 of Short Plats, pages 76 and 77, records of Skagit County, Washington, under Auditor's File No. 8810140055; being a portion of Block 2, "CALHOUN ADDITION TO THE TOWN OF LACONNER," as per plat recorded in Volume 1 of Plats, page 14, and being a portion of Block "V", "MAP OF LACONNER, WHATCOM COUNTY, WASH. TERRY., 1872, "as per plat recorded in Volume 2 of Plats, page 49, and being a portion of Government Lots 2 and 3 in Section 36, Township 34 North, Range 2 East, W.M.

Situate in the Town of LaConner, County of Skagit, State of Washington.



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Exhibit "B"

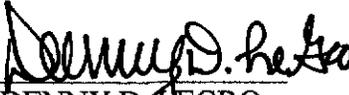
That portion of the WYMAN PARK INVESTMENTS
building and ramp encroaching onto First Street

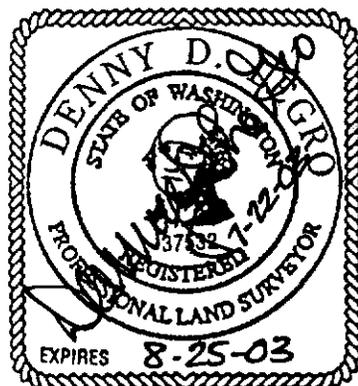
LEGAL DESCRIPTION

That portion of First Street adjacent Tract "A", La Conner Short Plat No. 88-1, approved October 3, 1988 and recorded October 14, 1988, in Volume 8 of Short Plats, pages 76 and 77, records of Skagit County, Washington, under Auditor's File No. 8810140055; being a portion of Block 2, "CALHOUN ADDITION TO THE TOWN OF LA CONNER", as per plat recorded in Volume 1 of Plats, page 14, and being a portion of Block "V", "MAP OF LACONNER, WHATCOM COUNTY, WASH. TERRY, 1872", as per plat recorded in Volume 2 of Plats, page 49, and being a portion of Government Lots 2 and 3 in Section 36, Township 34 North, Range 2 East, W.M., described as follows:

Commencing at the Northwest corner of Tract "A" of said La Conner Short Plat No. 88-1; thence S 0°07'36" E along the West line of said Tract "A", said line being also the East right of way line of First Street, a distance of 21.26 feet, more or less, to the point of intersection with an existing Northerly exterior East-West wall to the Wyman-Park building, and which point is the TRUE POINT OF BEGINNING of this property description; thence continuing S 0°07'36" E along the West line of said Tract "A" and through the interior of said building and contiguous pedestrian ramp, a distance of 32.75 feet, more or less, to the South side of said existing pedestrian ramp serving the Wyman-Park building; thence S 89°52'24" W along the Southerly side of said ramp, a distance of 3.35 feet, more or less, to the Southwest corner thereof; thence N 0°07'36" W along the most Westerly portion of said pedestrian ramp, a distance of 7.25 feet to the Southwest corner of the existing Wyman-Park building as it exists on this date; thence along the Westerly and Northerly exterior wall of said building on the following courses and distances: N 0°07'36" W, a distance of 9.0 feet; N 89°52'24" E, a distance of 1.27 feet; N 0°07'36" W, a distance of 16.5 feet; N 89°52'24" E, a distance of 2.08 feet, more or less to the True Point of Beginning, and containing 89 square feet, more or less.

Situate in the Town of La Conner, County of Skagit, State of Washington.

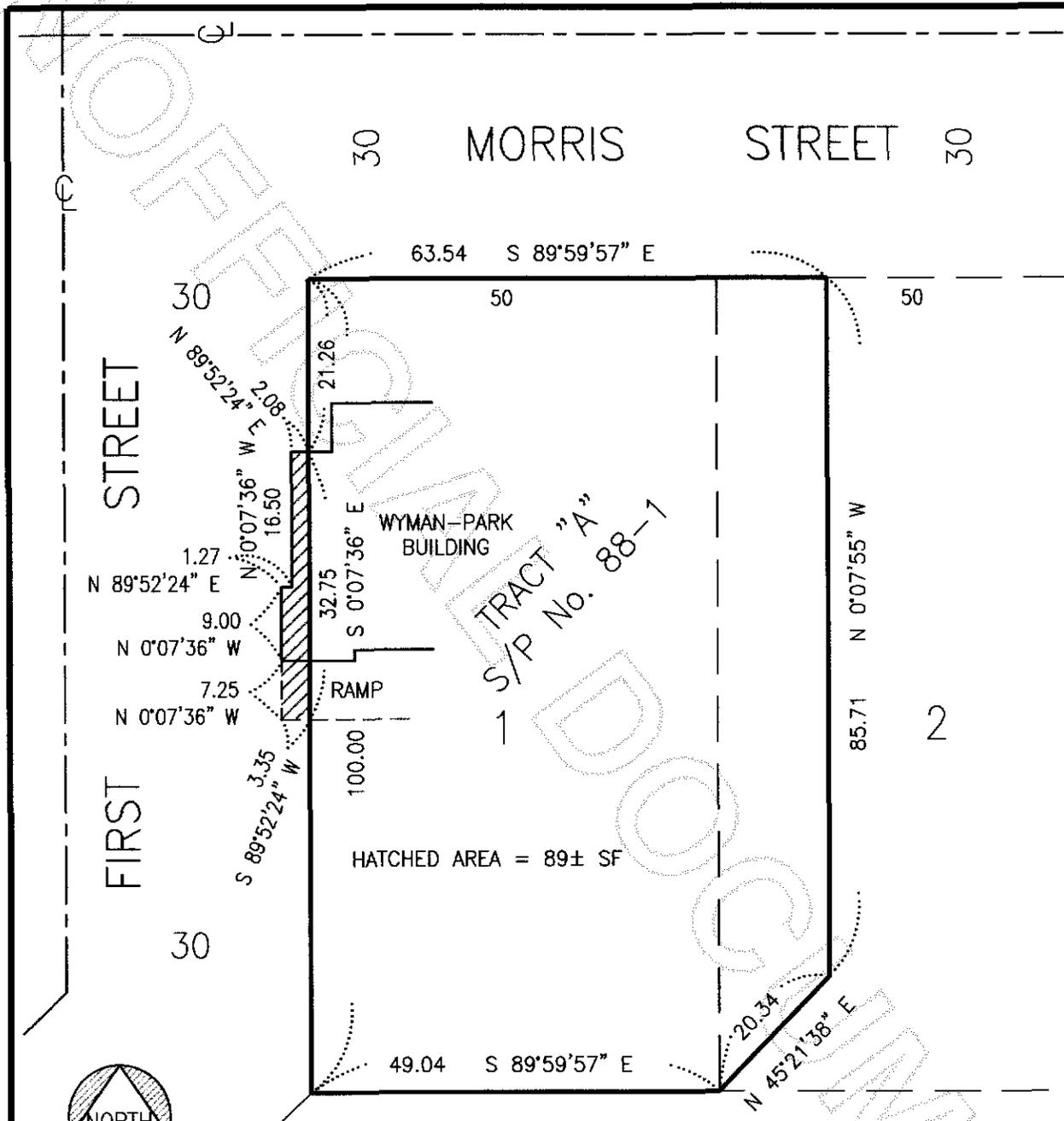

DENNY D. LEGRO
Registered Professional
Land Surveyor
License No. 37532
Date: July 22, 2003



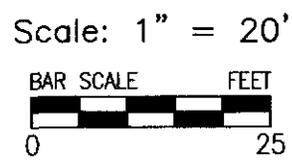
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EXHIBIT "C"



PLAN



Prepared For:
 KEITH & CATHERINE WYMAN
 20200 Cook Road
 Burlington, WA 98233
 Phone: (360) 466-4148
DATE: 7-22-03

Prepared By:
 LEGRO & ASSOCIATES
 Engineer & Land Surveyors
 815 Cleveland Avenue
 Mount Vernon, WA 98273
 Phone: (360) 336-3220



Exhibit "D"

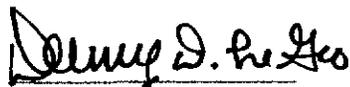
Parcel Being Dedicated to the Town of La Conner, Grantee
by Keith H. Wyman and Catherine L. Wyman, h & w,
dba WYMAN PARK INVESTMENTS, Grantor's
(ptn. of 4 public diagonal parking stalls and curbing adjacent Morris Street)

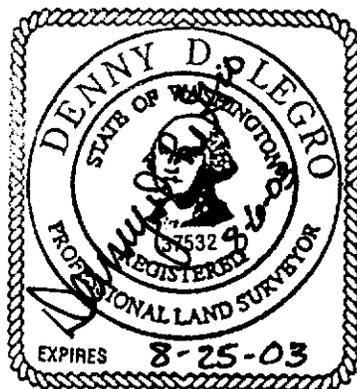
LEGAL DESCRIPTION

That portion of Tract "A", La Conner Short Plat No. 88-1, approved October 3, 1988 and recorded October 14, 1988, in Volume 8 of Short Plats, pages 76 and 77, records of Skagit County, Washington, under Auditor's File No. 8810140055; being a portion of Block 2, "CALHOUN ADDITION TO THE TOWN OF LA CONNER", as per plat recorded in Volume 1 of Plats, page 14, and being a portion of Block "V", "MAP OF LACONNER, WHATCOM COUNTY, WASH. TERRY., 1872", as per plat recorded in Volume 2 of Plats, page 49, and being a portion of Government Lots 2 and 3 in Section 36, Township 34 North, Range 2 East, W.M., described as follows:

Commencing at the Northwest corner of Tract "A" of said La Conner Short Plat No. 88-1; thence S 89°59'57" E along the North line of said Tract "A", said line being also the South right of way line of Morris Street, a distance of 50.59 feet, more or less, to a point at the intersection of the back or Easterly face of the proposed new 6" (inch) wide concrete curb bounding four diagonal parking stalls, and which point is the TRUE POINT OF BEGINNING of this property description; thence along the Easterly, Southerly and Westerly back edge of said proposed new 6" wide concrete curb along the following courses and distances: S 30°00'03" W, 6.12 feet; N 89°59'57" W along a line which is parallel to and 5.30 feet distant from when measured at right angles to the North line of said Tract "A", a distance of 42.72 feet; N 30°00'03" E, 6.12 feet, more or less, to a point on the North line of said Tract "A", which point bears S 89°59'57" E, a distance of 7.87 feet from the Northwest corner of said Tract "A"; thence S 89°59'57" E along the North line of said Tract "A", a distance of 42.72 feet to the True Point Of Beginning, and containing 226.4 square feet, more or less.

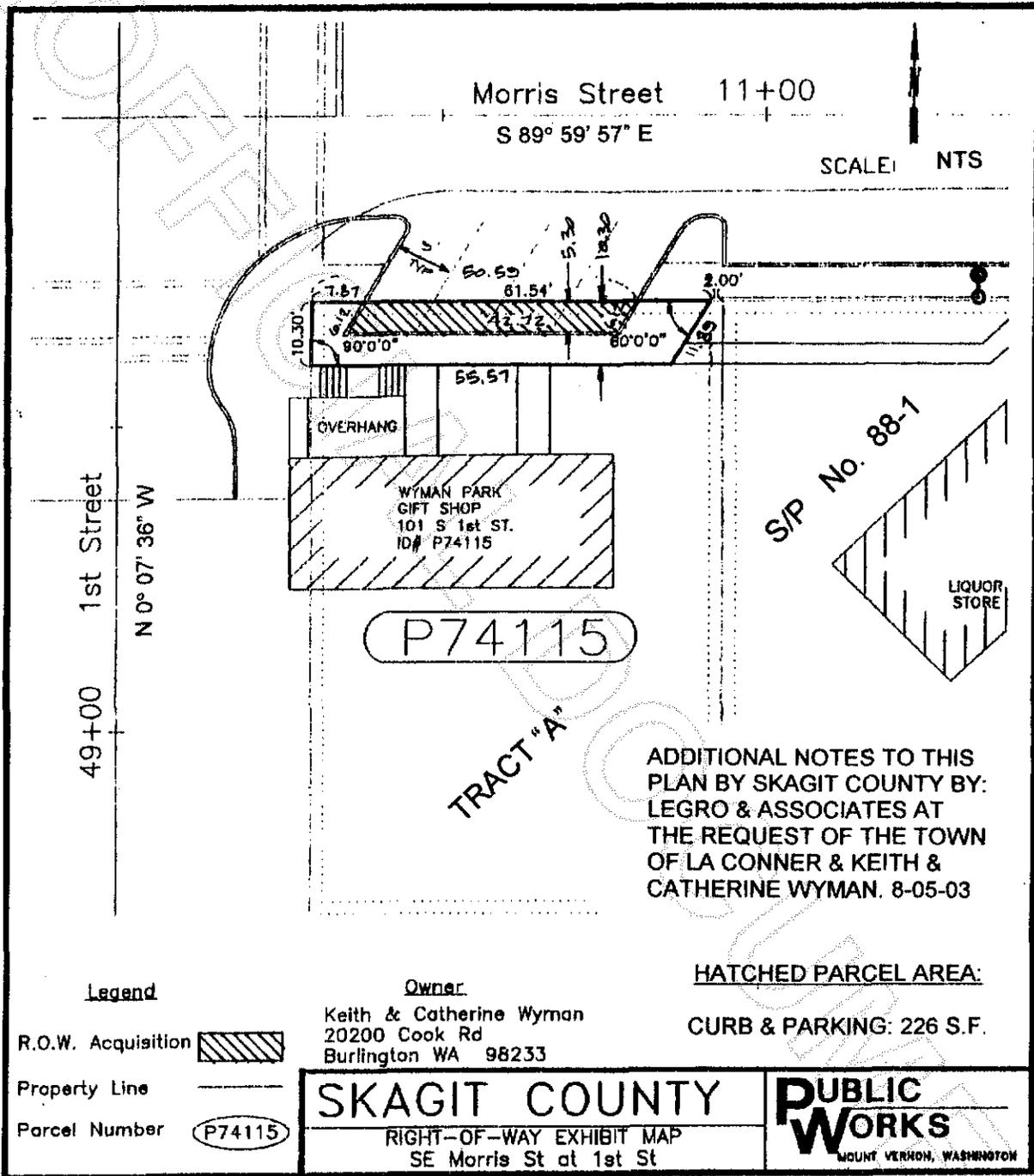
Situate in the Town of La Conner, County of Skagit, State of Washington.


DENNY D. LEGRO
Registered Professional
Land Surveyor
License No. 37532
Date: August 6, 2003



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Skagit County Auditor

EXHIBIT "E"



200309240045
Skagit County Auditor

Exhibit "F"

Sidewalk and Utility Easement to the Town of La Conner
from Keith H. Wyman and Catherine L. Wyman, h & w,
dba WYMAN PARK INVESTMENTS, Grantor's

EASEMENT DESCRIPTION

The North 10.30 feet of Tract "A", La Conner Short Plat No. 88-1, approved October 3, 1988 and recorded October 14, 1988, in Volume 8 of Short Plats, pages 76 and 77, records of Skagit County, Washington, under Auditor's File No. 8810140055; being a portion of Block 2, "CALHOUN ADDITION TO THE TOWN OF LA CONNER", as per plat recorded in Volume 1 of Plats, page 14, and being a portion of Block "V", "MAP OF LACONNER, WHATCOM COUNTY, WASH. TERRY., 1872", as per plat recorded in Volume 2 of Plats, page 49, and being a portion of Government Lots 2 and 3 in Section 36, Township 34 North, Range 2 East, W.M.;

EXCEPT that portion thereof lying Easterly of the following described line: Commencing at the Northeast corner of Tract "A" of said La Conner Short Plat No. 88-1; thence N 89°59'57" W along the North line of said Tract "A", said line being also the South right of way line of Morris Street, a distance of 2.00 feet, more or less, to a point at the intersection of the back or Easterly face of the proposed new public sidewalk and which point is the TRUE POINT OF BEGINNING of this property line description; thence S 30°00'03" W, along the Easterly edge of said sidewalk a distance of 11.89 feet to a point on the South line of the North 10.30 feet of said Tract "A", and which point is the terminus of this property line description.

AND EXCEPT the following described tract of land to be dedicated to the Town of La Conner: Commencing at the Northwest corner of Tract "A" of said La Conner Short Plat No. 88-1; thence S 89°59'57" E along the North line of said Tract "A", said line being also the South right of way line of Morris Street, a distance of 50.59 feet, more or less, to a point at the intersection of the back or Easterly face of the proposed new 6" (inch) wide concrete curb bounding four diagonal parking stalls, and which point is the TRUE POINT OF BEGINNING of this property description; thence along the Easterly, Southerly and Westerly back edge of that proposed new 6" wide concrete curb along the following courses and distances: S 30°00'03" W, 6.12 feet; N 89°59'57" W along a line which is parallel to and 5.30 feet distant from when measured at right angles to the North line of said Tract "A", a distance of 42.72 feet; N 30°00'03" E, 6.12 feet, more or less, to a point on the North line of said Tract "A", which point bears S 89°59'57" E, a distance of 7.87 feet from the Northwest corner of said Tract "A"; thence S 89°59'57" E along the North line of said Tract "A", a distance of 42.72 feet to the True Point Of Beginning, and containing 226.4 square feet, more or less.

Situate in the Town of La Conner, County of Skagit, State of Washington.


DENNY D. LEGRO

Registered Professional
Land Surveyor
License No. 37532
Date: August 6, 2003



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Skagit County Auditor

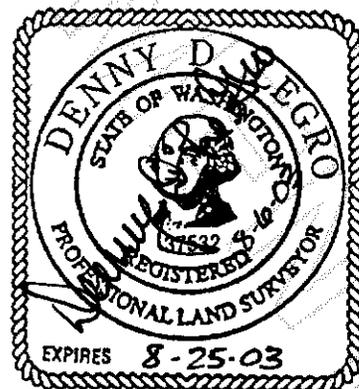
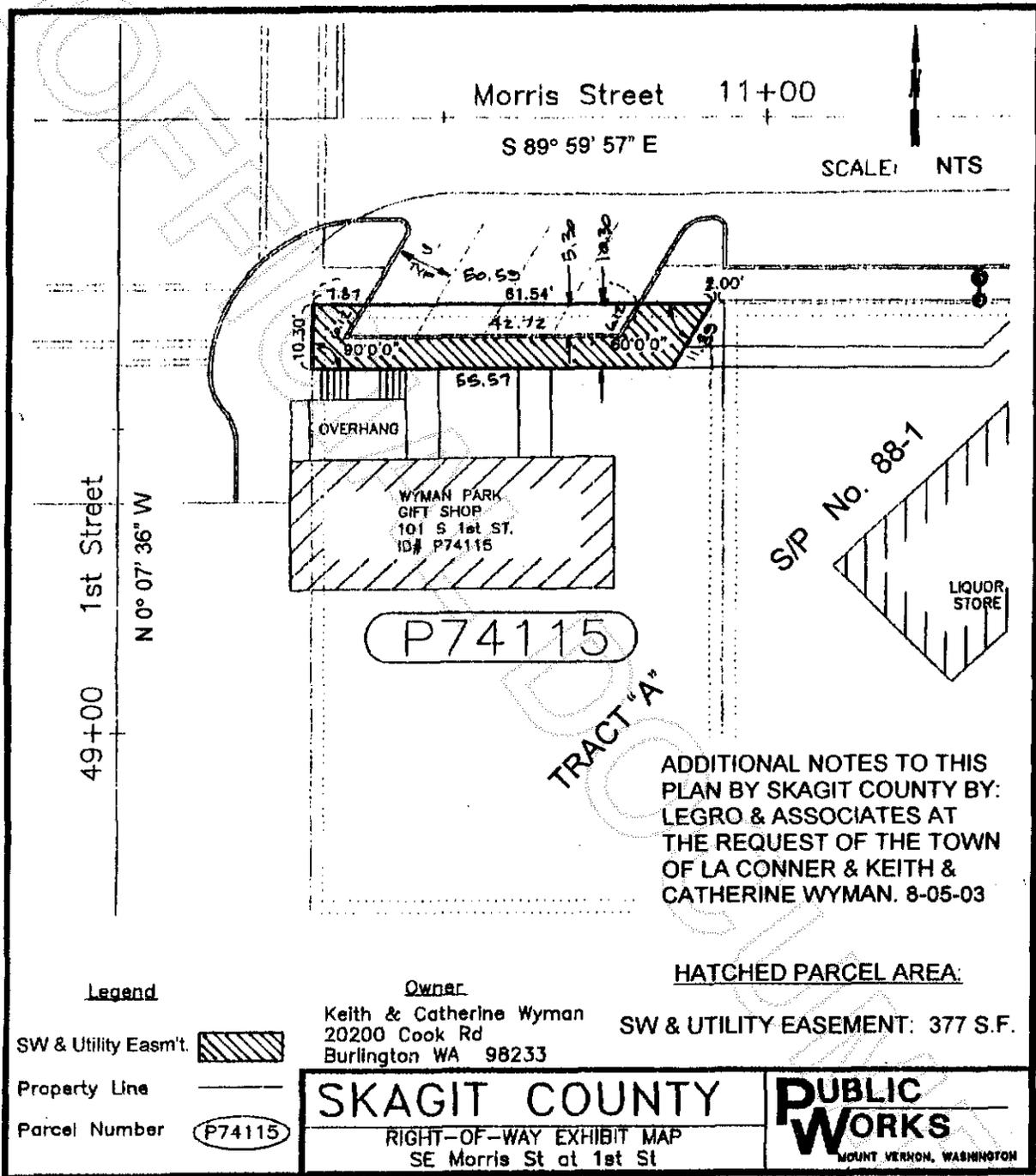
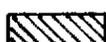
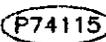


EXHIBIT "G"



ADDITIONAL NOTES TO THIS PLAN BY SKAGIT COUNTY BY: LEGRO & ASSOCIATES AT THE REQUEST OF THE TOWN OF LA CONNER & KEITH & CATHERINE WYMAN. 8-05-03

- Legend**
- SW & Utility Easmt. 
 - Property Line 
 - Parcel Number  P74115

Owner
 Keith & Catherine Wyman
 20200 Cook Rd
 Burlington WA 98233

HATCHED PARCEL AREA:
 SW & UTILITY EASEMENT: 377 S.F.

SKAGIT COUNTY
 RIGHT-OF-WAY EXHIBIT MAP
 SE Morris St at 1st St

PUBLIC WORKS
 MOUNT VERNON, WASHINGTON



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