

Return to:
Town of La Conner
PO Box 400
La Conner, WA 98257



200701300188

Skagit County Auditor

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COVENANT NOT TO SUE

I. RECITALS

WHEREAS, Richard B. Stackhouse ("Stackhouse"), owns real property legally described in Exhibit A hereto ("Stackhouse Property"). A portion of the Stackhouse improvements encroach upon the sidewalk of South First Street, a dedicated public right of way within the corporate limits of the Town of La Conner, a Washington municipal corporation, ("Town"). The legal description of the encroaching improvements is attached as Exhibit B and depicted in Exhibit C hereto ("Stackhouse's Encroachments"); and

WHEREAS, Stackhouse has agreed to pay for a public seating area adjacent to his property in a Town-owned park, which seating will be beneficial to the public; and

WHEREAS, Stackhouse's encroachments at this time do not impose a substantial impediment to use of the South First Street sidewalk by the general public. The payment for the seating area herein will substantially Benefit the Town, its citizens and visitors by allowing for much needed public seating; and

WHEREAS, the parties have, by soliciting a written opinion of value from a licensed real estate professional with years of experience in the La Conner real estate market, determined that the fair market value (\$30 per square foot x 183.2 square feet of encroachment) of the property occupied by Stackhouse's Encroachments on First Street is five thousand four hundred ninety-six and no/100 dollars (\$5,496.00) (the "Payment amount"); and

WHEREAS, the Town Council has determined that upon payment of the Payment amount, the Town will receive adequate and sufficient consideration to refrain from taking action to remove the Grantor's encroachments.

PTN Morris St & First St Town of LaConner

II. AGREEMENT

P74454

NOW THEREFORE, in light of the foregoing recitals:

1. Grantee, Town of La Conner, in consideration of the Payment received, hereby agrees and covenants that it shall bring no lawsuit, cause of action, or claim, against Grantor or his successors in interest to the real property legally described in Exhibit A hereto based on or seeking compensation for or removal of the Grantor's Encroachments as set forth in Exhibits B and C hereto; *provided*, that should the improvements encroaching into the area set forth in Exhibits B and C 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").

2. 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.

GRANTOR:

Richard B. Stackhouse 1/4/07
Richard B. Stackhouse DATE

California
STATE OF ~~WASHINGTON~~)
COUNTY OF Santa Barbara) ss.

On this 4th day of January, 2007, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Richard B. Stackhouse, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged it, to be his 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.



Lorie White
Notary Public in and for the State of Washington California
Residing at Santa Barbara
Printed Name: Lorie White



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GRANTEE:

Wayne Everton 1/9/07
Wayne Everton, Mayor DATE
Town of La Conner

Attestation:

Debby Malarchick
Debby Malarchick, Town Clerk

Approved as to form:

Bradford E. Furlong
Bradford E. Furlong, Town Attorney

STATE OF WASHINGTON)

) ss.

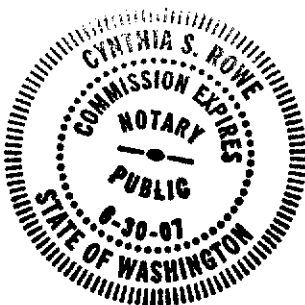
COUNTY OF SKAGIT)

On this 9th day of January, 2007, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared WAYNE EVERTON, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged it, as the Mayor of the Town of La Conner to be the free and voluntary act of such entity for the uses and purposes mentioned in this instrument.

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

Cynthia S. Rowe
Notary Public in and for the State of Washington
Residing at La Conner

Printed Name: CYNTHIA S. ROWE



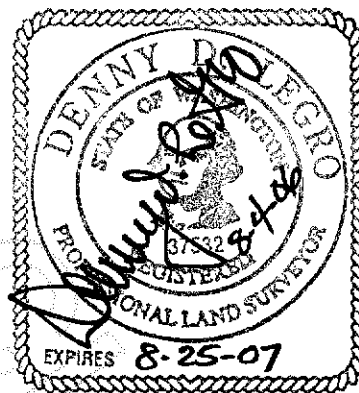
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TOWN OF LA CONNER
Exhibit 'A'
LEGAL DESCRIPTION

That portion of Morris Street and of First Street, in the Town of La Conner, abutting Lot 2, Block 1, "CALHOUN ADDITION TO THE TOWN OF LA CONNER", as per plat recorded in Volume 1 of Plats, page 14, records of Skagit County, Washington, lying beneath an existing building described as follows:

Beginning at the Northeast corner of said Lot 2, Block 1, "Calhouns Addition To The Town of La Conner", thence N 88°23'43" W along the North line of said Lot 2, a distance of 20.68 feet, more or less, to the West wall of said existing building; thence N 1°49'16" E along the West wall of said building a distance of 2.52 feet, more or less, to a Northwest corner thereof; thence S 88°19'41" E along the North wall, a distance of 24.26 feet to the Northeast building corner; thence S 24°26'15" W along the East wall of said building, a distance of 40.23 feet to a Southeast corner of said building; thence N 87°42'31" W, a distance of 2.93 feet, more or less, to the East line of said Lot 2, Block 1, "Calhouns Addition To The Town of La Conner", thence N 1°28'17" E along the East line of said Lot 2 a distance of 37.68 feet, more or less, to the point of beginning, and containing 183.2 square feet, more or less.



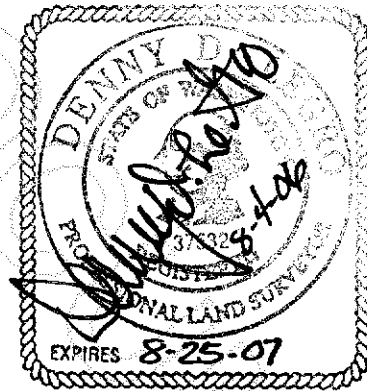
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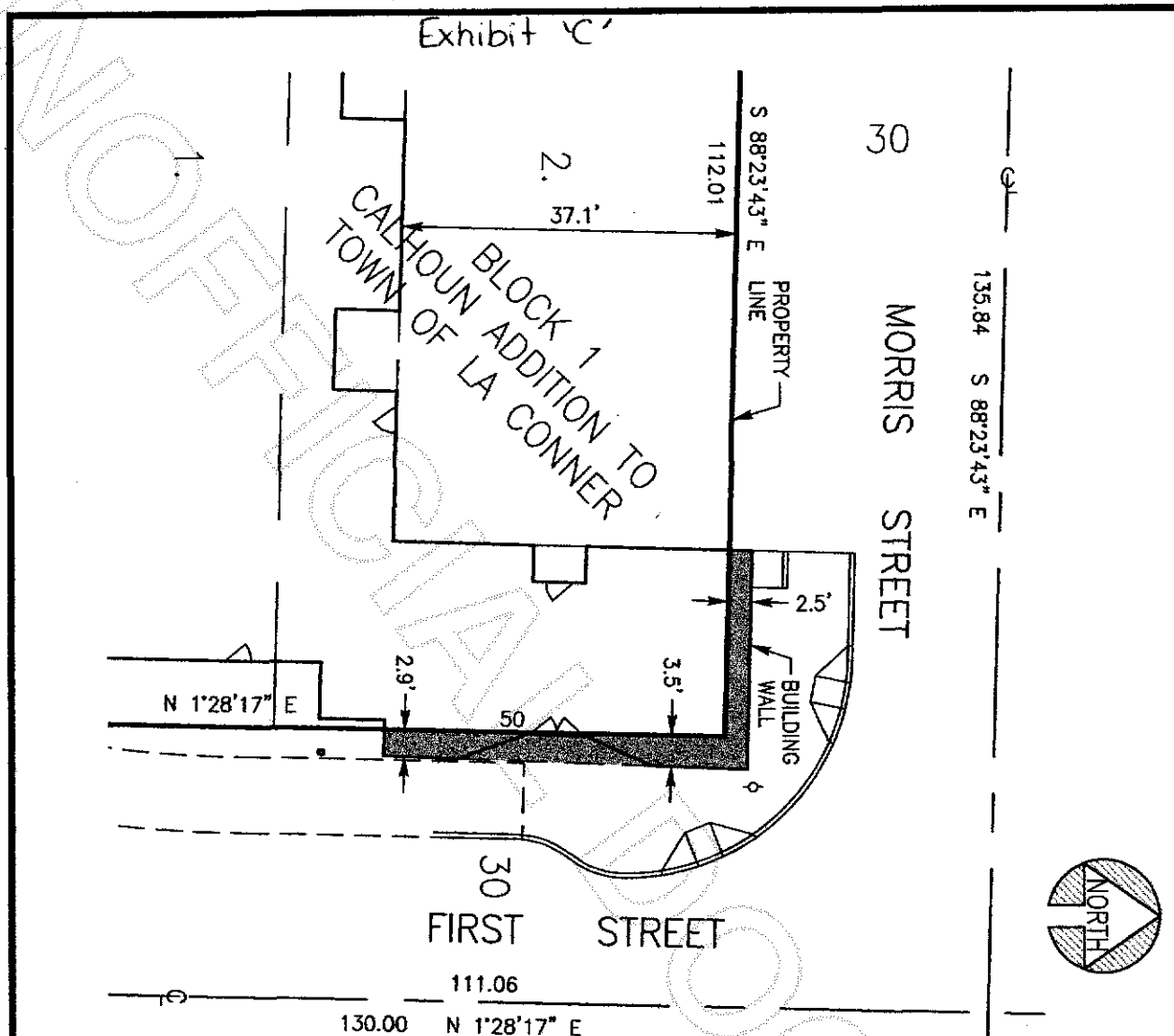
TOWN OF LA CONNER
Exhibit 'B'
LEGAL DESCRIPTION

That portion of Morris Street and of First Street, in the Town of La Conner, abutting Lot 2, Block 1, "CALHOUN ADDITION TO THE TOWN OF LA CONNER", as per plat recorded in Volume 1 of Plats, page 14, records of Skagit County, Washington, lying beneath an existing building described as follows:

Beginning at the Northeast corner of said Lot 2, Block 1, "Calhouns Addition To The Town of La Conner", thence N 88°23'43" W along the North line of said Lot 2, a distance of 20.68 feet, more or less, to the West wall of said existing building; thence N 1°49'16" E along the West wall of said building a distance of 2.52 feet, more or less, to a Northwest corner thereof; thence S 88°19'41" E along the North wall, a distance of 24.26 feet to the Northeast building corner; thence Southerly along the East wall of said building on the following courses and distances: S 2°24'47" W along, a distance of 10.50 feet; S 24°26'15" W, a distance of 8.00 feet; S 2°24'47" W, a distance of 6.65 feet; S 19°36'40" E, a distance of 8.00 feet; S 2°24'47" W, a distance of 8.25 feet to a Southeast corner of said building; thence N 87°42'31" W, a distance of 2.93 feet, more or less, to the East line of said Lot 2, Block 1, "Calhouns Addition To The Town of La Conner", thence N 1°28'17" E along the East line of said Lot 2 a distance of 37.68 feet, more or less, to the point of beginning, and containing 141.0 square feet, more or less.

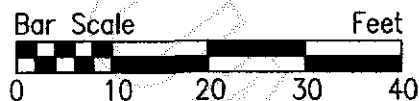


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PLAN

Scale: 1" = 20'



THIS SKETCH IS BASED UPON TOPOGRAPHIC SURVEY
FIELD DATA COLLECTED ON JULY 21, 2003 BY
LEGRO & ASSOCIATES AND INFORMATION TAKEN FROM
THE MORRIS STREET IMPROVEMENTS PLANS BY
SKAGIT COUNTY PUBLIC WORKS DATED 2/02 AND
REVISED THROUGH 5/27/03.

TOWN OF LA CONNER MORRIS AND FIRST STREETS BUILDING ENCROACHMENT SKETCH SECTION 36, T. 34 N., R 2 E.W.M.

MAY 16, 2006
REV. AUG. 04, 2006

PREPARED FOR:
JOHN DOYLE, TOWN PLANNER
TOWN OF LA CONNER
P.O. BOX 400
LA CONNER, WA 98257

PREPARED BY:
LEGRO & ASSOCIATES
ENGINEER & LAND SURVEYORS
815 CLEVELAND AVENUE
MOUNT VERNON, WA 98273
PHONE: (360) 336-3220



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