

WHEN RECORDED RETURN TO:

City of Anacortes City Attorney's Office
904 6th Street
Anacortes, WA 98221



Skagit County Auditor
12/13/2017 Page

1 of

\$80.00
7:10:06AM

DOCUMENT TITLE: COVENANT AND AGREEMENT
GRANTOR(S): Tim Schmidt and Elizabeth Scholze
GRANTEE(S): City of Anacortes, a Washington municipal corporation.
ABBREVIATED LEGAL: Lts 3-5 Bldg 204 City of Anacortes etal
ASSESSOR PARCEL / TAX ID NUMBER: P133015 / 3772-204-005-1003

**COVENANT AND AGREEMENT REGARDING
ALLEYWAY IMPROVEMENTS**

THIS COVENANT AND AGREEMENT is made and entered into by and between the City of Anacortes, a Washington municipal corporation, hereinafter "City", and Timothy Schmidt and Elizabeth Scholze, hereinafter "Owners".

RECITALS

WHEREAS, Owners are the owners of real property in the City of Anacortes, Washington, more particularly described within the attached Exhibit A, with an address of 2209 12th St (hereinafter "subject property"); and

WHEREAS, Owners desire to acquire a Certificate of Occupancy from the City for the improvements constructed on the above-described real property, as described in Anacortes Building Permit Number BLD-2016-1341; and

WHEREAS Owners' application for said building permit was deemed complete and vested on June 16, 2016; and

WHEREAS Owners' property is adjacent to a classified arterial street; and

WHEREAS Anacortes Municipal Code (AMC) section 15.20.050 requires that, prior to issuance of a building permit for a building site that abuts an existing arterial street, the public streets and alleys and the storm sewer system abutting such property must be improved in accordance with city design standards; and

WHEREAS, the Anacortes Public Works Department has determined that the alley way will act as the frontage road for access to the property and Owners can satisfy their requirements under Section 15.20.050 AMC by improving that portion of the alleyway running east to west from D Avenue to C Avenue between 12th Street and 13th Street that abuts the subject property; and

WHEREAS, the parties hereby acknowledge that completion of alleyway improvements are necessary to protect the public health, safety, morals, and welfare; and

WHEREAS, Owners have requested additional time to complete the required improvements to the alleyway; and

WHEREAS, the City is prepared to issue a certificate of occupancy for Owners' new building on the condition that this covenant be executed by Owners and that all improvements be completed as laid out herein.

NOW, THEREFORE,

FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED IN THIS AGREEMENT AND THE MUTUAL BENEFITS DERIVED THEREFROM, THE SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

SECTION ONE. City agrees to issue the Owners a certificate of occupancy for the building located upon the subject property, provided that the owner complies with all conditions and obligations set forth in this Agreement and Covenant and in Section 15.20.050 AMC.

SECTION TWO.

- A. Owners agree, and with the recording of this Agreement provides notice to future owners, that the owner of the subject property is required to complete all improvements required by Section 15.20.050 AMC.
- B. The following improvements will satisfy Owners' requirements pursuant to Section 15.20.050 AMC:
 - a. All Construction and required alley and storm improvements shall be done in accordance with City Design Standards.
 - b. Owners must pave that portion of the alleyway running east to west from D Avenue to C Avenue between 12th and 13th Streets which abuts the subject property.

- c. Owners must begin paving at the southeast corner of their property at the edge of the existing blacktop pavement and continue west to the drip line of the trees located in the City right-of-way along the western edge of the subject property. All improvements required under this section shall be extended as necessary to provide a smooth transition with existing improvements both laterally across the alley and longitudinally up and down the alley for drainage, vehicular, and pedestrian traffic.
- d. Construction must meet 2011 EDS Standards, Section STR-15 minimum requirements for alley cross-section to be 2-inches of Asphalt over 2-inches of Crushed Surfacing Top Course or Asphalt Treated Base over 6-inches Gravel Borrow.
- e. Owners must comply with all stormwater requirements required by the City Public Works Department.

SECTION THREE. Term. Owners will complete all improvements described in Section Two above and secure City approval no later than two years from the date of execution of this Agreement. The parties hereby acknowledge that the City will not issue permits for any future improvements on the premises until the alleyway improvements described in Section Two have been completed and approved.

SECTION FOUR. Owners hereby provide notice that should the subject property be sold to a different owner, that subsequent owner will take title to the property subject to this Covenant and Agreement and will be bound by all terms and conditions provided herein. This Covenant and Agreement runs with the land.

SECTION FIVE. This Agreement shall be recorded in the Office of the Skagit County Auditor upon execution.

SECTION SIX. Bond. Within sixty days of execution of this Covenant and Agreement, Owners will provide the City with a performance bond in the amount of 150% of the cost of the improvements required herein, including tax, unless all work required under this Covenant and Agreement has already been completed and accepted by the City. The bond must name the City as the obligee, be properly executed, and issued by a surety authorized to do business in the State of Washington and which has an AM Best Rating A-7 or better.

SECTION SEVEN. Default. If Owners fail to complete all required improvements described in this Agreement within the time described in Section Three, the parties hereby acknowledge that the City will complete the required improvements and secure payment from the bond required in Section Six. Additionally, the parties acknowledge that the City may take any and all enforcement actions against Owners as provided in the Anacortes Municipal Code and the Revised Code of Washington, up to and including administrative orders, completion of work and collection efforts for the cost, and a lien on the property.

SECTION EIGHT. Notices, demands, correspondence to the City and Owners shall be sufficiently given if dispatched by either pre-paid first class mail to the addresses of the parties as designated in this section, or by email to the contact listed. The parties hereto may advise the other of new addresses for such notices, demands, or correspondence.

CITY NOTICES:
City of Anacortes

OWNER NOTICES:
Tim Schmidt and Elizabeth Scholze

Attn: Planning Director
P.O. Box 547
Anacortes, WA 98221
donm@cityofanacortes.org

2203 12th Street
Anacortes, WA 98221
escholze.schmidt@yahoo.com

SECTION NINE. Applicable Law and Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. If litigation is initiated to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys fees and costs from the non-prevailing party. Venue for any action shall lie in Skagit County Superior Court or the U.S. District Court for Western Washington.

IN WITNESS WHEREOF, the parties hereto have caused this Covenant and Agreement to be executed as of the dates set forth below:

SIGNED AND APPROVED this 21st day of November, 2017.

Owners:

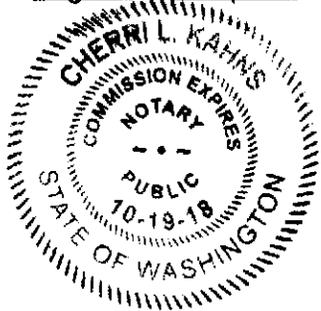
[Signature]
Tim Schmidt

[Signature]
Elizabeth Scholze

STATE OF WASHINGTON)
)ss.
COUNTY OF SKAGIT)

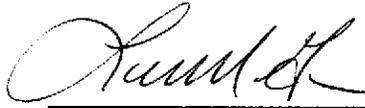
On this 21st day of November, 2017, before, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Tim Schmidt and Elizabeth Scholze, to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledged said instrument to be his/her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF I have hereunto given my hand and official seal this 21st day of November, 2017.

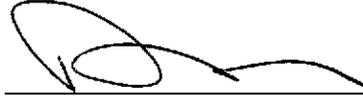


[Signature]
Notary Public in and for the State of Washington
Residing at Mount Vernon
My appointment expires 10-19-18

City of Anacortes:



Laurie Gere, Mayor



Don Measamer, Planning Director

Attest:



Steve Hogle, Finance Director

Approved as to Form:



Darcy Swetnam, City Attorney

UNOFFICIAL DOCUMENT

EXHIBIT A

ADDRESS

2209 12th Street

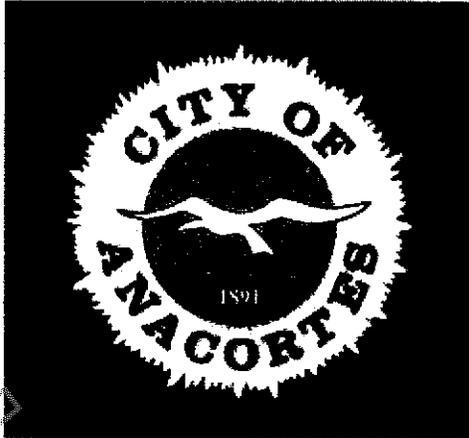
LEGAL DESCRIPTION

Lots 3, 4 and 5, Block 204, "MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON," as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

EXCEPT that portion of said Lot 3 described as follows:

COMMENCING at the Northeast corner of said Lot 1; Thence North 89°25'42" West, 74.95 feet along the North boundary of said Block 204 to the POINT OF BEGINNING; thence South 0°34'20" West, 33.00 feet; thence North 89°25'42" West, 2.00 feet; thence South 0°34'20" West, 14.79 feet; thence North 89°25'42" West, 2.00 feet; thence South 0°34'20" West, 33.00 feet; thence South 89°25'42" East, 2.00 feet; thence South 0°34'20" West, 19.05 feet to the South boundary of said Block 204; thence South 89°25'42" East along the South boundary of Block 204, 14.99 feet to the East boundary of Lot 3, thence North 0°34'20" East along the East boundary of Lot 3, 99.84 feet to the Northeast corner of Lot 3; thence North 89°25'42" West, 14.99 feet along the North boundary of Block 204 to the POINT OF BEGINNING.

Situate in the City of Anacortes, County of Skagit, State of Washington.



CERTIFICATE OF OCCUPANCY

This is to certify that the below listed building or structure has been inspected and occupancy is hereby authorized:

Description: **New Single Family Residence**

Location: **2209 12th St.**

Owner: **Elizabeth Scholze**

Constructed by: **CC&D Construction**

Building Permit #: **BLD-2016-1195**

Date issued: **04/20/2016**

Use Zone: **R2**

Dated: **November 21 2017**

Authorizing Official: _____

A handwritten signature in black ink, consisting of a large loop and a trailing flourish, is written over a horizontal line.