

# **MORRIS**

# **315**

Feb. 11, 87

Mrs. Mary Lam, Mayor of La Conner  
Mr. Gary Gidley, Town Planner  
Planning Commission of La Conner

Mr. John Thayer, Environmental officer, Health Dept.  
Dept. of Ecology, Olympia, Wa.

Dear Ladies & Gentlemen,

I have been told that it is necessary for me to put this in writing to you all, therefore this letter. It is not something I want to do because friendships with my neighbors are involved.

When the Blades 'contract rezone' was granted many statements were made that the storage tanks were to be removed, and the rezone was granted on that basis. Since they had been abandoned, the pre-existing non-conforming use should not have been started up again without it being examined for compliance to the contract rezone. These tanks are being used now daily, and the use is not the same as it historically was. Tanker trucks, double & single are pumping oil in and out of them for as long as three hours a day. They are parked 30 feet from my house which is zoned residential, with their engines & pumps running, hour after hour. This creates noise which is not customary in the area in violation of zoning ordinance 1.05.26- on page 5 (definitions) & 3.09.03.10 on page 25 of zoning ordinances.

It is not compatible with a residential area. Double tanker trucks cannot negotiate the corners. The equipment is ancient and the concrete bulkhead which contains the tanks is cracked which allow any spillage or leakage to seep into the ground water table, affecting public safety, and killing any trees in the area.

Since I helped the Blades to get their rezone I feel betrayed and worry what will happen to my property value if this continues. Please can we get a FIRM answer on how long this is going to continue as I have been unable to. My response to the situation really depends on the length of time I must endure it.

Thank you,

Betty Batchelor

116 Third

La Conner

466-3063

See definitions for commercial, industry, and nuisances in our zoning ordinances

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February 25, 1988

RECEIVED  
FEB 29 1988

BISAGNA & GODDARD  
ATTORNEYS AT LAW

Ms. Betty Batchelor  
116 Third Street  
LaConner, Washington 98257.

Re: Vintage Oil, Inc.;  
Our File No. 8929

Dear Ms. Batchelor:

I have been asked to write to you on behalf of Vintage Oil, Inc. and Jerry and Donna Blades.

In response to your complaints, the City of LaConner has contacted my clients concerning possible violations of the LaConner zoning code. I have reviewed the codes as well as the contract rezone and I am convinced that the present use of the facilities by Vintage Oil is a "grandfathered" use. Apparently the City of LaConner has agreed with my analysis since they have taken no further action.

Vintage Oil has a contractual relationship with the Blades. Vintage Oil also has a contractual relationship with its suppliers. You have attempted to interfere with these contractual relations.

This letter is to advise you that unless the interference ceases at once, Vintage Oil intends to seek damages from you for tortious interference with a contractual relationship and for defamation. If you do not believe that Vintage Oil has such a right, I would suggest that you consult with an attorney.

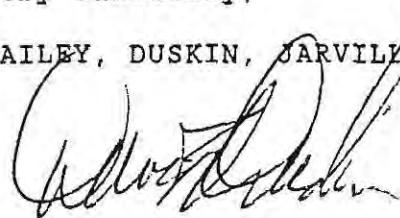
Vintage Oil is attempting to be as good of a neighbor as possible. The use they are putting the property to is the same use that the property was being used for when you elected to move to the area.

Ms. Betty Batchelor  
February 25, 1988  
Page 2

I assume that you will heed the above warning and  
will cease the tortious conduct.

Very sincerely,

BAILEY, DUSKIN, JARVILL & PEIFFLE



David E. Duskin

DED/tdk  
cc: Vintage Oil

# Town of La Conner



February 29, 1988

TO: DIANNE GODDARD, TOWN ATTORNEY  
FROM: BUD MOORE, MAYOR

The problem of using the Blades' oil storage tanks as a transfer station is still unresolved. Several weeks ago, after being called to Betty Batchelor's home to witness an oil loading operation, I contacted Vintage Oil, Inc. The removal of their operation to a new facility, originally scheduled for last September, has been delayed. Vintage Oil is "convinced" that their present use of the tanks is grandfathered and they have responded with the enclosed letter to Ms. Batchelor.

Referring to your letter of July 24, 1987 to the Blades' attorney, David Duskin, it appears that the Town should take some action to terminate the oil transfer activities. Complaints of noise and potential hazards continue to be voiced by nearby neighbors.

Time may not provide a solution to this problem. Please advise what legal recourses we have.

Sincerely yours,

A handwritten signature in cursive ink that appears to read "Bud Moore".

BUD MOORE  
Mayor

kae  
enc  
cc Betty Batchelor

# MUNICIPAL RESEARCH AND SERVICES CENTER OF WASHINGTON

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SEATTLE, WASHINGTON 98105

TELEPHONE 206-543-9050

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*General Counsel*

## EMERITUS

ERNEST H. CAMPBELL  
*Municipal Law Specialist Emeritus*

**RECEIVED**

MAR 10 1988

**BISAGNA & GODDARD  
ATTORNEYS AT LAW**

March 9, 1988

Ms. Dianne Edmonds Goddard  
Bisagna & Goddard,  
Attorneys at Law  
105 Broadway  
Mount Vernon, Washington 98273

re: Town of LaConner

Dear Ms. Goddard:

Your March 1, 1988 letter asked for assistance in answering two questions. First, you asked about the legality of a proposal to enter into a lease/purchase of equipment by the town, whereby the town would lease the equipment for a period of time and then, at the end of that time, receive ownership for a nominal residual payment.

On that question, the best information we can give you is contained in two papers presented at the Washington State Association of Municipal Attorneys' 31st Annual Conference, June 18-19, 1987, contained in MRSC Information Bulletin No. 446. Copies of those two papers, by attorneys Daniel S. Gottlieb and James A. Greenfield, are enclosed for your reference (Information Bulletin No. 446, "Legal Notes", pages 151-162).

Your second question concerns the appropriate classification, under LaConner's current zoning ordinance, of some storage tanks that are used by a company for the purpose of storing used oil. The oil is not resold on a retail basis. Specifically, you asked whether the use of the storage tanks as a repository for used fuel oil constitutes a "commercial" use or an "industrial" use.

There may be Washington cases which define those terms for various purposes. Probably however, the best information we can give you is as follows:

**CLIENT'S COPY**

Ms. Dianne Edmonds Goddard  
March 9, 1988

Page 2

A copy of Section 23.84.006 of Seattle's Land Use Code which defines "commercial use." See also the connected definition of "business establishment" in the enclosed copy of Seattle's Land Use Code, Section 23.84.004

A copy of Bellevue's Land Use Code, Section 20.10.300 defining "light industrial district" and Section 20.10.320 defining "general commercial district." Note the similarity between the definitions in those two sections

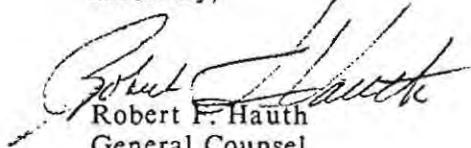
A copy of Section 35-2, Yokley, Zoning Law and Practice, indicating that the word "industrial" includes primarily manufacturing

Based upon those definitions and general usage, I believe that the term "commercial" would include the use of the leased oil tanks in question for storage of used oil. However, in final analysis, the question is one of local legislative intent, based upon usual rules of construction, and we cannot give you a firm answer.

Your letter indicates that the town has received assurances from the oil company in question, that the company plans to move its storage operation in the near future. Otherwise, if the problem cannot be resolved by an application of the zoning code, it may be wise to look into the possibility of a nuisance abatement suit.

We trust that this information will be of assistance to you.

Sincerely,



Robert F. Hauth  
General Counsel

RFH/tmc

Enclosures

BISAGNA & GODDARD  
ATTORNEYS AT LAW  
105 BROADWAY  
MOUNT VERNON, WASHINGTON 98273

DONALD J. BISAGNA  
DIANNE EDMONDS GODDARD

(206) 336-6675

March 14, 1988

Bud Moore  
Mayor, Town of LaConner  
Town Hall  
LaConner, WA 98257

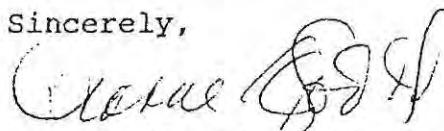
Dear Bud:

In response to your letter of February 29th concerning Betty Bachelor's complaints about the Vintage Oil operation, I have requested some information from Municipal Research on distinctions between industrial and commercial zones. Then, once we have a new planner hired, a thorough investigation needs to be completed setting forth the exact use for those tanks over the years. We need to pinpoint when those tanks were last used for oil storage prior to Vintage's use and how Vintage's use of the tanks has changed or increased since 1984 when they claim their lease and current use began. This can be accomplished through interviews with witnesses and reviewing any Town records. I understand the County Health Department has taken noise level readings which could be the basis additional action against Vintage in addition to the zoning violation claims.

Once all our investigations are completed, we can cite them for violation of our zoning ordinance and also any other ordinances which apply. The investigation will have to be completed before we cite them, however. The Police Department may be able to help with the investigation.

We should also have Kathy or Patty transcribe the hearings which were conducted during the Blades' rezone request.

Sincerely,



Dianne Edmonds Goddard

6-16-88

Dear Nancy

I have been doing my homework this past week and here is what I discovered:

Of the 4 tanks, one holds dirty oil and 3 hold the oil that has been "Cooked" and is waiting to be shipped out.

So in effect La Conner has become a part of this refinery without any ones knowledge or any proposal being made. Each tank holds 587 gals per foot, approx 17,000 gals each.

There are not "7 or 8" little trucks per week as they stated in their letter but 28 at least. I have observed 5 at one time, & 3 double tank trucks all lined up.

I am enclosing a copy of the UFC Unifire

Code which states there must be 30 feet between the tank and the property line. There is only 14 feet from my bedroom wall to the tanks. I do not see how the fire marshall can waive such a vital requirement, esp. without my consent. And as we know their "grand-fathering" argument is hogwash, and we can prove that. This UFC is yet another angle to work from.

At any rate, Nancy, win, lose or draw I would like to thank you for assisting me so courteously and professionally.

Betty.

I will try to stop in next Monday

# Town of LaConner

Phone 466-3125

July 13, 1988

Mr. Russ Gibbons  
Vintage Oil Company  
1404 McLean Road  
Mount Vernon, Washington 98273

Dear Mr. Gibbons:

The July 12, 1988 oil spill at your oil transfer facility at Blades' Chevron Station in La Conner has prompted the need for a safety review of this activity. Effective immediately, no additional petroleum products should be placed in the subject tanks, until you have a qualified mechanical engineer complete a structural survey and safety assessment of the tanks and containment area. This report should be forwarded to our office.

Zoning compliance is also an issue that must be resolved before the operation is allowed to continue. In addition, proof of liability insurance will be required.

I trust that you will understand the need for these precautions, in light of the problems associated with petroleum storage, residential proximity, and neighborhood complaints.

Sincerely,

*Bud Moore*

BUD MOORE  
Mayor

kae  
cc Department of Emergency Management  
Donna Blades  
Betty Batchelor

LaConner, Washington 98257 P.O. Box 400



JUL 15 REC'D

La Conner Town Council  
cc: Bud Moore  
cc: Channel Town Press

July 14, 1988

Dear People:

We are writing about the waste oil storage tanks on Centre St., leased to Vintage Oil Co. by Jerry and Donna Blades. The recent oil spill there re-emphasizes the concerns we have had as adjacent property owners and neighbors.

We urge you to instruct Vintage Oil Co. and the Blades to dis-continue operations immediately and permanently for the following reasons:

1. This property is zoned "commercial". Although the business itself may be deemed commercial, the substances dealt with here make it clearly an industrial operation, thus in violation of zoning.
2. After several inquiries, no agency has assured us that the tanks were inspected prior to the current use by Vintage Oil Co.
3. The concrete retaining wall is not of sufficient size to hold the amount of oil if one of the tanks were to leak unattended or burst open.
4. Although we have been told that the substance is used motor oil and considered safe, used motor oil is a toxic waste according to Washington State D.O.E. The fumes of the oil do indicate some kind of solvent is included, which could be highly flammable.
5. In a letter dated June 5, 1987, to Mr. Gary Gidley, then La Conner Town Planner, W.L. Briggs of Vintage Oil Co. assured the town that there would be only 2 double off-loading trucks per week and 7 or 8 smaller trucks pumping in oil per week, operating between 7:30 a.m. and 6 p.m. Monday through Friday. The facts are that there are 6 to 8 trucks pumping oil and 1 to 2 double tank trucks off-loading oil per day, anytime between 6 a.m. and 9 p.m.. The noise is sufficient to make conversation difficult and sleep impossible for the adjacent neighbor. This letter also assures that there was a plan to discontinue the use of the tanks by the end of 1987. It is July of 1988 and the trucks have been as frequent as ever.

6. The oil spill points out the casual handling of a potentially dangerous accident that could kill or maim, destroy a home, damage personal property or seriously pollute. It was noted during the actual spill of oil that the attendant's attitude showed little concern for potential and actual property damage; he was more worried about his own bad luck. This same attendant was smoking cigarette during the mopping up, standing next to the retaining wall, near the flammable substance.

7. According to the town's Comprehensive Plan, neighborhoods adjacent to commercial use areas are to be protected. Our neighborhood is not being protected from noise pollution, air pollution, a potentially large explosion, a possible toxic waste spill, and tank trucks driving dangerously fast on 3rd, 4th and Centre streets.

Please consider this request. We would appreciate a reply.  
Thank you for your attention.

Sincerely,

Georgie Johnson  
P.O. BOX 792  
Betty Bateclow Miles  
Gary Miles  
RAY Foster  
Burke Crockett

Catherine Lundwall-Charles  
Dean Flood  
Floyd Trefton  
Maggie Wieder

Attachment

JUL 27 1988

7/23/88

To: Major Bud Moore  
LaConner Town Council

Gentlemen,

Although the Oil Tanks at Blodas' Station are directly behind my store, I have tried to be a good neighbor, and not get "caught up" in the controversy. Now, however, I feel I must express my concerns.

True! The tanks have been in place for some forty years. That may grandfather their use, but not their safety. Safety takes precedent over pre-established use.

I had a conversation with a retired refinery worker from Texaco this past week. He expressed amazement that we didn't have regulations for these tanks. He said that the refinery is required to maintain containment requirements around above ground storage tanks that will hold 110% of tank capacity. He also indicated that they are required to have the tanks inspected

regularly for weld integrity, leaks, etc. Furthermore, each addition and withdrawal of petroleum from the tanks are sampled and tested.

Forty years ago not many people were that concerned about environmental impact. Things are different now! I'm sure such tanks would never be allowed now in that location.

I'm all for protecting the rights of individuals and free enterprise, but there comes a time when Community and Environmental considerations take precedence. I think that time has come in this situation.

Respectively

Jim Reeuwijk

AUG 1 - REC'D

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Mr. Bud Moore, Mayor  
Town of LaConner  
P.O. Box 400  
LaConner, Washington 98257

July 25, 1988

Dear Mayor Moore:

As one of the owners of Vintage Oil and four other used-oil re-refineries and other related collection operations in Oregon and Washington, I would like to appologize to Mrs. Batchelor and thank those who helped with the overfill of the Blades' tank in your city. We believe it is fully cleaned up and the driver, after considerable discussion, has been terminated, as he had been trained to prevent this type of happening.

As an environmentalist dealing with thousands of gallons of slops that our citizens dispose of in every conceivable method -- mixing, in sewers and waterways, down the storm drains, dust oiling, in empty milk jugs, in garbage cans, etc. -- we often wonder if anyone cares.

Most citizens have little or no understanding of the economic problems, dangers, and environmental and personal risks in the reclaiming and recycling business.

People seem to feel that it is someone elses problem and it should be anywhere but in their "backyard."

There is little help from governmental agencies; insurance companies will not provide coverage in many cases at any price; generators, a number within your own community, put their old oils in barrels outdoors with loose bungs allowing rain water to displace the oil, allowing it to seep into the ground and water, or they put solvents, rags, sandblasting sands from leaded paint removal, etc. in the barrels for us to deal with. The moorage tanks overflow and are often over 50% water, and yet everyone objects to paying for the service that deals with all of these problems.

I could go on and on with examples, but the point is that until citizens take responsibility for all of the chemicals, oils, etc. around them and are willing to handle them properly and pay for the best service and facilities, we should be thankful that someone makes the best efforts to limit the problems.

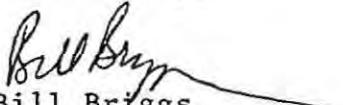
You are welcome to tour our new re-refinery on March Point Road when it is completed in the next 60-days and where we plan to move the LaConner tanks shortly thereafter.

Mr. Bud Moore, Mayor  
July 25, 1988  
Page 2

In your 7-13-88 letter you request a safety assessment and structural survey and to stop using the tanks. I have reviewed our operation and can find no reason to cease using the tanks. I'm also practical enough to know that any governmental agency has ways to make our lawfull use difficult, and with the normal fear of the citizens, it is not practical to try to continue. However, since this will cause us considerable expense, we believe it is reasonable to request \$2,800 for our extra costs from you and/or your city so we can get underway. In the meantime, we are slowly reducing our inventory so that the tanks can be moved.

I would be happy to meet with you at anytime.

Yours truly,

  
Bill Briggs  
President

WLB:mb

AUG 16 REC'D

La Connor Station  
315 Morris Street P.O. Box C.  
La Connor, Wa. 98257  
8-15-88

Bud Moore  
Mayor

Dear Bud,

We had the engineer study done and am enclosing a copy of that report. On several of the items the engineer and I talked about what we could do as alternate things to solve any problem you may have in this report.

We feel we have done what we can to clean up this unnecessary shut down of work.

We have lost rent income as well as substantial gas sales coming in from Vintage Oil.

Mr. Mayor, would you like to meet with us, the Bladex and Vintage Oil representatives or with our lawyers? Thank you.

Sincerely,  
Annay Bladex  
Gerald Bladex



# STURDY ENGINEERING

AUG 16 REV'D

August 15, 1988

La Conner Station  
P.O. Box 482  
La Conner, WA 98257

Attn: Donna & Jerry Blades

Ref: Assessment of the tanks & containment area  
located at La Conner Station.

I have completed a review of the subject property and offer  
the following information for your review and consideration.

The four steel tanks were strapped for volume. The results  
are listed on the attached drawing. Each tank was visually  
inspected and hammer tapped for soundness of materials. All  
tanks, although showing some minor signs of rust, have no  
significant signs of detrimental deterioration. Each of  
the tanks vented to the atmosphere directly or through  
breather caps to prevent pressuring during filling or  
collapse during draw-down. It is my opinion that these four  
tanks are capable of carrying the commodity for which they  
were intended.

The containment area was found to be deficient to contain a  
100 % spill. The total available containment volume less  
the three smaller tanks is 2,070 cubic feet. The volume of  
the largest tank is 2,631 cubic feet or a deficiency of 561  
cubic feet. The existing containment wall would have to be  
extended to the south sixteen feet at a height of two feet  
in order to contain a 100% spill from the largest tank.

The area east the tanks has been graded to collect all  
excess spillage from the tanks or loading rack. This area  
must not be filled in unless other arrangements have been  
made for the entire containment of the largest tank. The  
low area should be inspected on a regular basis to ensure  
that any spilled material is disposed of properly.

I did not notice any posting of telephone numbers for the  
notification of spills. Telephone numbers of the Department  
of Ecology, Fire Department, Department of Emergency  
Services and Police should be posted in a conspicuous place.

The area inside the concrete containment area is partially covered with concrete. The remainder of the flooring consists of rock rubble and soils. The non concreted areas should be excavated and replaced with a nine inch layer of clay to provide an impermeable layer through which products can not seep.

I did not locate any property corners at this time. The tanks are approximately seven feet from the west most retaining wall. The property line appears to be at least six feet west of the retaining wall. However the line must be established by survey before an accurate determination can be made. I highly recommend that the land owner to the west remove the burning barrel adjacent to the west most retaining wall.

With the minor corrections listed above the facility should be allowed to operate for the storage and transfer of spent oils with a flash point above 200 degree F. Chemicals should not be allowed to be mixed with the spent oil products.

I trust this information will be turned over to the city for their review and consideration. If you or the city have any questions please feel free to contact me at 855-2121.

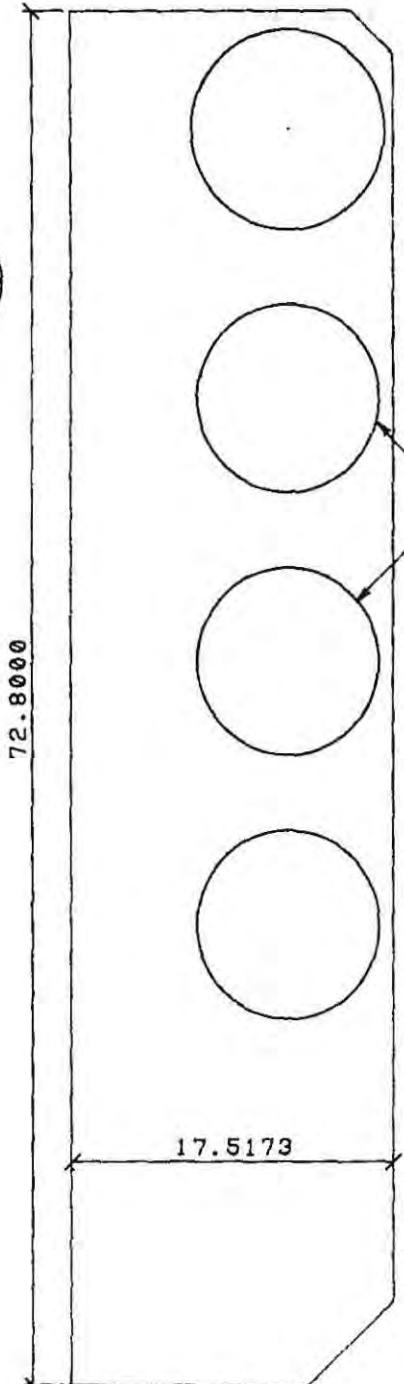
Sincerely,

*Gary Sturdy*

Gary Sturdy, P.E.

attech.





D = 10.57'  
A = 87.70 FT<sup>2</sup>  
V = 19,682 GAL

D = 9.93'  
A = 77.46 FT<sup>2</sup>  
V = 15,335 GAL

D = 9.96'  
A = 77.96 FT<sup>2</sup>  
V = 15,512 GAL

VOLUME OF LARGEST TANK = 2631 CF  
VOLUME OF CONTAINMENT DIKE = 2536 CF  
LESS VOLUME OF TANKS INSIDE CONTAINMENT AREA = 466  
NET VOLUME AVAILABLE FOR CONTAINMENT = 2070 CF  
CONTAINMENT VOLUME DEFICIENT = 561 CF

AUG 30 REC'D

VINTAGE OIL and  
LaCONNER STATION  
315 Morris Street  
La Conner, Wa. 98257  
August 25, 1988

To: Bud Moore  
Mayor of La Conner  
and Nancy Noe  
Town Planner

Dear Bud and Nancy,

As per our agreement 8-22-88, between the Town of La Conner, Russ Gibbons of Vintage Oil, and the Blades, Gerald and Donna at La Conner Station, that Vintage Oil is to resume the Transfer and Oil Storage business at reasonable business hours - 7 A.M. to 6 P.M., for (6) six months starting the first day of September 1988, to and thru the last day of February 1989, or sooner if possible.

At the end of the six month time, we Vintage Oil feel that we will be established enough in the Anacortes plant to not use the La Conner location from that time on.

As soon thereafter as is possible, and not to exceed one year from September 1, 1989, we Vintage Oil agree to remove the four large above ground tanks that we are renting from La Conner Station, at our (Vintage Oil) expense, free of cost to the Blades as previously agreed. At that time the tanks will belong to Vintage Oil free and clear of any encumbrances, given willingly to Vintage Oil by the Blades for the cost only of the removal of all four tanks.

IN WITNESS WHEREOF the parties here to have hereunto set their hands and seals the date first above written.

  
\_\_\_\_\_  
Vintage Oil

\_\_\_\_\_  
Vintage Oil

STATE OF WASHINGTON  
COUNTY OF SKAGIT

On this six day of August, 1988, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally came Russ Gibbons and \_\_\_\_\_, to be known to be individuals described in and who executed the within instrument and acknow-

AUG 30 REC'D

ledged to me that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned. Witness my hand and official seal hereto affixed the day and year first above written.

*Dr. G. Lucy*  
Notary Public in and for the  
State of Washington, residing  
at Mercy Clinic  
My commission expires: 3-30-92

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals the date first above written.

Donna Blades  
Donna Blades

Gerald Blades  
Gerald Blades

STATE OF WASHINGTON  
COUNTY OF SKAGIT

On this 30<sup>th</sup> day of August, 1988, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally came Gerald Blades and Donna Blades, to be known to be individuals described in and who executed the within instrument and acknowledged to me that they signed and sealed the same as their free and voluntary act and deed for the uses and purposeses therein mentioned. Witness my hand and official seal hereto affixed the day and year first above written.

*Nancy E Jan Wiesinger*  
NOTARY PUBLIC in and for the  
State of Wash, residing  
at La Conner  
My commission expires: 3-31-92

# Town of LaConner

Phone 466-3125

September 7, 1988

TO: Vintage Oil and Donna & Gerald Blades

This agreement is made between parties to resolve problems associated with Vintage Oil's use of the storage tanks located on the Blades' property and to phase out the current operation in a mutually acceptable manner.

At our meeting on August 22, 1988, with Russ Gibbons of Vintage Oil, Donna and Gerald Blades, and the Town of La Conner, it was agreed that Vintage Oil may resume the oil transfer storage operation with the following conditions:

1. On site transfer activities are limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Operations at other times must be specifically approved by the Town Planner.
2. All transfer operations and use of the storage tanks will cease no later than six months from the date of this agreement.
3. Tanks will not be filled above the capacity of the containment area, per Sturdy Engineering letter dated August 15, 1988.
4. It is further understood that six (6) months after the termination of transfer and storage operations, but not later than September 30, 1989, the said tanks (4 of them) will be removed from the Blades' property.

In witness whereof the parties have hereunto set their hands and seals the date first above written.

Bud Moore

BUD MOORE, MAYOR

STATE OF WASHINGTON }  
COUNTY OF SKAGIT } SS

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 7th DAY OF September 1988

Nancy  
NANCY NOE, TOWN PLANNER

Nancy E VanWinkle  
NOTARY PUBLIC IN AND FOR THE STATE OF  
WASHINGTON, RESIDING AT LaConner

LaConner, Washington 98257 P.O. Box 400



SUMMARY OF FILE/BLADE REZONE - OIL STORAGE TANKS

RIGHT SIDE

July 5, 1985/Stephen Ladd to LaConner Town Council

Memo regarding "grandfather clause" rights for commercial use of north half of Blade's property. Bulk station ceased to be used for its original purpose in 1981. Still used in a less intensive way to store fuel. A "grandfather right" may exist for use of above ground tanks for fuel storage in the manner in which that operation has existed since 1981. Blades had not indicated what the tanks were being used for at that time.

July 9, 1985/Minutes of Town Council meeting/ "Blades' Zoning Clarification Request"/ Discussion about the non-conforming status of the north portion of the Blade property. Claims of continuous use for business purposes by the Blades and previous owner. Matter was tabled until next meeting.

July 23, 1985/Minutes of Town Council Meeting/ "Blades' Zoning Clarification on North Half of Property. Dianne Goddard explained the legal status of non-conforming uses. The non-conforming use rights do not include expansion of the use, or intensification. A municipality can deny a request to expand such a use, or change from one commercial use to another, and will likely be upheld on appeal. Discussion about the plans that had been submitted showing additional parking for the storage building. Previous uses had been an upholstery shop, storage for antiques and general storage. On a 2-1 vote, the council moved to grant a non-conforming use of existing uses of the property. NOTE: Nothing in the minutes indicates the then current use of the storage tanks, if any.

October 13, 1986/SEPA checklist/rezone request - residential to commercial. Under question 7, regarding future additions, expansion or further activity planned in connection with the proposal, the answer was: "Finish remodeling garage building for up-graded rental units". Under question 11, asking for a complete description of the proposal, including the proposed uses and size of the project site, the answer was: "Return commercial zone so commercial buildings can be rented out." Under question 7.a., regarding environmental health hazards, exposure to toxic chemicals, including risk of fire and explosion, spill, or hazardous waste....the answer was: "N/A" (Not applicable). And yet, under question 8a., for current uses, the answer is: "Bulk oil loading platform, commercial tanks and commercial building on adjacent property". and under 8c, describing structures on the site, the answer is: "four-truck bay garage, bulk oil loading platform and four large above-ground fuel storage tanks approximately 20,000 gallons each." Under question 15 f., How many vehicular trips per day would be generated .." the answer is: "N/A", and no measures to reduce or control transportation impacts were proposed.

Under 16 a., concerning the increased need for public services - such as fire protection, health care, police..etc., the answer is: "No" Under D 1, answer is "No change - no project at this time ~ rezone only."

It is apparent from the answers given that there was no specific use of the oil tanks at that time, or considered at the time of the zone change

request, thus the answers of "N/A" would be appropriate. Clearly this SEPA checklist did not cover the change of use of the storage tanks that has taken place.

October 29, 1986/Determination of Nonsignificance made by Mary Lam.

October 14, 1986/Application for rezone from Donna Blades.

November 17, 1986/ Staff report to Planning Commission. Based on 8 findings, the staff recommended denial of the rezone request.

Not dated/Petition from citizens supporting the change in zone to commercial to the Mayor, the Town Council and the Planning Commission.

November 17, 1986/ Public Hearing - Planning Commission

November 20, 1986/ Recorded motion on rezone request #86-1. Based on 4 findings the Planning Commission recommended approval of the request.

December 21, 1986/ Contract Rezone. Conditions of approval include the requirement that any development or improvement of .. the property be subject to the requirements of the Historic Preservation District as though it were located therein. If this condition is not met the zoning would revert back to residential.

February 11, 1987/ Letter to Gary Gidley; Mary Lam; Dept of Ecology; John Thayer, Environmental Health; and Town of LaConner Planning Commission from Betty Batchelor (116 Third) .."When the Blades 'contract rezone' was granted many statements were made that the storage tanks were to be removed, and the rezone was granted on that basis. Since they had been abandoned, the pre-existing non-conforming use should not have been started up again without it being examined for compliance to the contract rezone. These tanks are being used now daily, and the use is not the same as it historically was. Tanker trucks, double and single are pumping oil in and out of them for as long as three hours a day. They are parked 30 feet from my house which is zoned residential, with their engines and pumps running, hour after hour. This creates noise ....in violation of zoning ordinance 1.03.26 on page 5 and 3.09.03.10 on page 25.." She further states that the use is not compatible with the area, that the trucks cannot negotiate the corners, the equipment is ancient, the bulkhead around the tanks is cracked which allows spillage to seep into the ground water affecting public safety. Further... She requests a FIRM answer on how long this is going to continue.

NOTE: There is no written response to Betty Batchelor in the file from the Town, The County or DOE. However, she did receive a letter from Vintage Oil attorney, dated February 25, 1988. (See in sequence in this summary)

April 4, 1987/ Letter from Vince Sellen to Mayor Lam concerning complaints from members of the community about activities, uses and/or safety and environmental hazards associated with the Blades property. Questions about materials being stored in the tanks; concerns about the condition of the tanks and pumping equipment; noise level; industrial use in commercial district; rumors concerning a "50 gallon spill"; use of

travel trailers; when is property going to be cleaned up; when are tanks going to be removed (wasn't that the intention?)

April 20, 1987/ Memo to Mary Lam from Tom Sheahan, Skagit County Dept of Emergency Management.

This letter reports Mr Sheahan's investigation into the use of the tanks on the Blade property. The owner is John Laxdal, Vintage Oil in Mt Vernon (phone: 424-6403). He spoke with Laxdal - tanks being used to store used motor oil (waste oil) as a "temporary operation" until completion of refinery at 763 Marches Point, Anacortes. In sixth paragraph he states: "it is my opinion that the use of the facility is clearly a change of use, and you could require them to submit a change of use to the property (maybe check with City Attorney)." and on page 2 he goes on to say: "The operator of that facility is required by federal law to have a Spill Counter Control Plan (SCCP). This facility should have the plan in place, especially because of the number of contacts at the facility increases the chances of a problem or spill." Copies sent to Jerry Blades, John Laxdal, John Glynn (DOE)

May 14, 1987/ Letter to Donna Blades regarding zoning violations and change of use at "The Station" at 313 Morris Street. Letter relates three complaints regarding the property: 1. Change of use of the tanks; 2. Use of travel trailer as residence/using required parking space; and 3. Parking lot signs advertising parking for a fee, which was not part of the original approval.

May 14, 1987/ Response from Donna Blades regarding above letter and complaints. On the issue of the storage tanks, Donna Blades responded that the tanks had been used historically for petroleum products, and that the "tanks have never been empty nor unused. She further claimed that the noise level "is not too different from trucks that run on Third Street, Morris Street, Maple Street..." She goes on to give examples of other businesses that have truck traffic. Referring to the oil spill, she said "Mr Gibbons .... have taken away all the old gravel and soil that had any oil in it and have replaced it with crushed rock. As per Mr Gibbons conversation with me, he is to send you what they will be doing to make the corrections".

June 5, 1987/ Response from W.L. Briggs, Vintage Oil to conversation with Gary Gidley. Includes the following: "Each time we have a hose drip or a careless driver, we have and will continue to clean up the oil. One should be reminded that the State of Washington still allows dust control with used oil, and unless the oil is running into the waterways, there is no rule to prevent the use of used oil on ones property." Addressing noise.."we have been trying to work only within the hours of 7:30 a.m. and 6:00 p.m. Monday through Friday, and will continue to do so for the two large trucks per week and the 7 or 8 times the little trucks off-load each week" And finally "Our plan is to move the tanks and all of the operation to March Point Road before the end of this year, with luck by the end of September."

NOTE: There is a recurring theme in the file - that they will be moving the operation out of LaConner to Marsh Point. This fact (?) or promise tended to appease the Town to some extent. The most recent information is that some of the tanks are now being used to store the processed oil

from Marsh Point, thus making their claim that this is temporary less believable since their operation is even more dependent on the ability to use these tanks.

July 8, 1987/ Letter to W.L. Briggs from Kathleen Earnst informing Mr Briggs that their operation requires a business license. This letter was signed for by Russ Gibbons on July 10, 1987. I don't know if they ever got the required business license (Kathy is on vacation this week)

July 9, 1987/ Letter to Mr. and Mrs Blades from Gary Gidley informing the Blades that one of their tenants, Vintage Oil, does not have a license to do business in town. Letter also indicates need to get a Conditional Use Permit and Historic District Certification of Authorization. Orders Vintage Oil to immediately cease operations, no later than July 15, 1987 until the necessary permits are obtained.

"Violation or failure to comply with this order shall constitute a misdemeanor" (copy to Vintage Oil) Sent by certified mail.

July 24, 1987/ Letter from Dianne Goddard to David Duskin. Refers to a letter dated July 21st which is not in the file(?) Clarifies that the rezone of the property granted to the property owners was to Commercial, not Industrial - and was granted on a contract basis. "In receiving that contract rezone, the Blades represented to the Town of LaConner that they planned to remove the oil storage tanks. Those tanks had not been used for many years, and hence any prior permissible non-conforming use is no longer permissible under the LaConner Zoning Ordinance. There is no 'grandfather' use issue here." She goes on to say "Based on my involvement in the contract rezone hearings and based on my review of LaConner's zoning ordinance, the use of those tanks for oil storage is not permitted in a commercial zone. That type of use is reserved for industrial zones. The Town is adamant that Vintage Oil cease using those tanks immediately. If Vintage Oil entered into some lease arrangement with the Blades, then it would appear the Blades have leased the tanks in violation of the present zoning and in violation of the contract rezone."

NOTE: There are copies of newspaper articles in which the Blades are supposed to have said that they would be removing the storage tanks if they received a rezone on the property. However, ...there appears to be some inconsistency here since the Blades apparently entered their agreement with Vintage Oil in 1984 - before the property was rezoned at all.

August 14, 1987/ Letter to Dianne Goddard from David Duskin. "I am advised..that the contract rezone has no language in it which would support your view that a grandfather use would be extinguished." Further.. "The Blades can document the fact that the property was used for an auto dealership and for fuel storage and sales long before the City had ever enacted its zoning Code. Through some mistake at the time...the Zoning Code failed to recognize the fact that the property was being used for commercial purposes. ...The present lease goes back to 1984. the contract rezone was not until 1986. It is still my continued belief that the use is valid and that no permits are required. If you can document or provide additional authority for your position, I would be happy to consider same. In the meantime, I am advising my

clients that their use of the property is not in violation of the City of LaConner's Zoning Code".

NOTE: Here Duskin has turned the tables on the Town and placed our attorney on the defensive - and asserted himself as the authority on LaConner's Zoning Code.

August 18, 1987/ Letter to Dianne Goddard from David Duskin. The Blades "have furnished me with a copy of the Contract Rezone with the Town of LaConner dated December 21, 1986. There is nothing in the agreement to change the view I expressed in my letter of August 14. ....The tanks at issue have been used and have existed since 1904. There has never been a lapse in the use of the tanks. In June of 1984, they were leased to the principals of Vintage Oil. The use is clearly a 'grandfathered' use. ...You have said nothing more to me about the business permit and, therefore, I assume you have concluded the same is not applicable."

NOTE: He fails to distinguish between different uses of these tanks - is any use of them grandfathered?? Also, no hard evidence regarding the continuous use of the tanks has ever been presented. No specific references are made to the relevant sections of the zoning ordinance. He summarily dismisses the Town's business license requirements as "not applicable" - on what grounds??

February 9, 1988/ Note in file from Mayor Bud Moore regarding oil transfer at Blades and Betty Batchelor's complaint. He spoke with John Lazdal of Vintage Oil on the telephone. Lazdal indicated that there plans to move the operation to Marches Point has been delayed - now estimating that it will be June, 1988 before changing LaConner operation. Their lawyer claims that their right to continue using the Blade tanks was "Grandfathered". The truck drivers have been polite, but the whole operation does not appear compatible with nearby residences or rezone. Should the Planning Commission review?

February 25, 1988/ Letter to Betty Batchelor from David Duskin, attorney representing Vintage Oil and the Blades. "In response to your complaints, the City of LaConner has contacted my clients concerning possible violations of the LaConner zoning code. I have reviewed the codes as well as the contract rezone and I am convinced that the present use of the facilities by Vintage Oil is a "grandfathered" use. Apparently the City of LaConner has agreed with my analysis since they have taken no further action" .."Vintage Oil has a contractual relationship with the Blades....You have attempted to interfere with these contractual relations...This letter is to advise you that unless the interference ceases at once, Vintage Oil intends to seek damages from you for tortious interference with a contractual relationship and for defamation. If you do not believe that Vintage Oil has such a right, I would suggest that you consult with an attorney." ...I assume that you will heed the above warning and will cease the tortious conduct".

February 29, 1988/ Memo from Bud Moore to Dianne Goddard regarding the unresolved problems with the Blade storage tanks. ..."The removal of their operation to a new facility, originally scheduled for last September, has been delayed. Vintage Oil is 'convinced' that their present use of the tanks is grandfathered and they have responded with the enclosed letter to Betty Batchelor." "Referring to your letter of

July 24, 1987, to the Blades attorney...it appears that the Town should take some action to terminate the oil transfer activities. Complaints of noise and potential hazards continue to be voiced by nearby neighbors." "Time may not provide a solution to this problem. Please advise what legal recourse we have."

March 9, 1988/ Letter to Dianne Goddard from Municipal Research. This letter discusses the question of appropriate classification of storage tanks that are used for the purpose of storing used oil, where the oil is not resold on a retail basis. Several documents are attached. Robert Hauth believes that the word "commercial" could include the use of the leased oil tanks..for storage of used oil. "However, in final analysis, the question is one of local legislative intent, based upon usual rules of construction, and we cannot give you a firm answer." ".if the problem cannot be resolved by an application of the zoning code, it may be wise to look in to the possibility of a nuisance abatement suit."

July 13, 1988/ Letter to Russ Gibbons, Vintage Oil, from Mayor Bud Moore regarding the July 12th oil spill. This accident .."has prompted the need for a safety review of this activity. Effective immediately, no additional petroleum products should be placed in the subject tanks, until you have a qualified mechanical engineer complete a structural survey and safety assessment of the tanks and containment area. This report should be forwarded to our office.".."Zoning compliance is also an issue that must be resolved before the operation is allowed to continue. In addition, proof of liability insurance will be required." "I trust you ..understand the need for these precautions, in light of the problems associated with petroleum storage, residential proximity, and neighborhood complaints." cc Dept Emergency Management; Donna Blades; Betty Batchelor

NOTE: A new Town Planner and new Attorney arrived on the scene in May.

# Town of LaConner

Phone 466-3125

July 13, 1988

Mr. Russ Gibbons  
Vintage Oil Company  
1404 McLean Road  
Mount Vernon, Washington 98273

Dear Mr. Gibbons:

The July 12, 1988 oil spill at your oil transfer facility at Blades' Chevron Station in La Conner has prompted the need for a safety review of this activity. Effective immediately, no additional petroleum products should be placed in the subject tanks, until you have a qualified mechanical engineer complete a structural survey and safety assessment of the tanks and containment area. This report should be forwarded to our office.

Zoning compliance is also an issue that must be resolved before the operation is allowed to continue. In addition, proof of liability insurance will be required.

I trust that you will understand the need for these precautions, in light of the problems associated with petroleum storage, residential proximity, and neighborhood complaints.

Sincerely,

*Bud Moore*  
BUD MOORE  
Mayor

kae  
cc Department of Emergency Management  
Donna Blades  
Betty Batchelor

LaConner, Washington 98257 P.O. Box 400



check with Nancy.

Should we insert  
something in this regard?  
But only in 1 general section

February 6, 1989

-Bud

To: The Mayor, Town Council and Planner

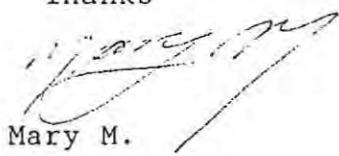
Subject: Flood Plain Information Requirements as part of Section 401.07 D; 401.05 B (should also include accessory buildings if required to meet flood plain levels); 401. 06 D; 501.05 H; 601.05 G; 701.03 D; 1100.30;1201 B 2 and C 3.

I would like to see inserted in each of the following sections as required information supplied by the applicant to the Town of LaConner prior to any permit or hearing the flood plain information (elevation) on the proposed site. This information should be provided by a licensed engineer or surveyor. Also a plan to mitigate the impacts of fill on the adjoining property owners during placement of the fill, construction and completion.

Right now, individuals in the flood plain are required to bring the first floor elevation to 9 feet above flood plain. In most cases this can be achieved through fill and building up the foundation, but its not until you look at your setbacks does the full impact of surface water runoff (as well as roof drains) on neighboring property become apparent. If a side yard set back of 5 feet (pg 17) allows a primary structure requiring 4 feet of fill and 3 feet of foundation what do you think is going to happen next door? By requiring this information along with a drainage mitigation plan would go a long way in stopping a lot of unpleasant surprises once construction begins.

I know this letter is particularly clear, I will try to be there to answer any questions.

Thanks



Mary M.

STAFF REPORT

DATE: February 27, 1989

APPLICANT: Rich Wells

REQUEST: Change in occupancy from retail to restaurant in the east side of the La Conner Station at 315 Morris Street. Adjust parking plan to accommodate needs.

COMMENTS: The plot plan presented by the applicant indicates that 31 parking spaces can be provided on the site, which is the required number for all uses in the building. However, a site inspection reveals a number of constraints to the use of the parking spaces. There are travel trailers parked between the buildings, behind the proposed pub area, which block access to the parking spaces. There is a concrete foundation remnant on the west side of the property which would have to be removed to allow the proposed angle parking. The gravel area of the site needs additional gravel, and asphalt parking areas are not currently striped.

RECOMMENDATION: Approval, subject to the following conditions:

*still  
pending  
as of 4/1*

1. THirty-one (31) parking spaces shall be provided on site, and shall be accessible at all times: These spaces shall be identified with striping in asphalt areas, and with railroad ties or concrete bumpers in the gravel areas. Additional gravel shall be added and graded, as necessary.
2. Travel trailers and other vehicles and equipment shall not be stored in the parking areas, or in areas which block access or egress from parking stalls shown on the site plan.
3. *modified - relocate parking*  
~~The partial foundation on the west side of the property shall be removed.~~  
The west area of the site shall be graveled or paved for parking purposes, except on the southwest corner which shall be landscaped.
4. The new occupancy shall satisfy all Uniform Building and Fire Codes.
5. All of the above requirements shall be satisfied prior to occupancy of the restaurant/pub.

and this is not Mr. Wells responsibility but the screening is necessary.

Councilmember Don Wright moved to accept Mr. Well's proposal for screening. Councilmember Dave Alvord seconded the motion which failed with Councilmembers Vince Sellen, Michael Hood and Tony Morefield voting nay. Councilmember Tony Morefield asked about new screening if any development occurs on the back of the property, if the present screening is accepted. No comment. Appeal is upheld and Mr. Wells was directed back to the Planner to try to work this out. Councilmember Vince Sellen moved to accept Mr. Wells permit with the addition of adequate screening on Centre Street and on that section of 4th that is adjacent to residential property. Councilmember Michael Hood seconded the motion which carried with Councilmembers Don Wright and Dave Alvord voting nay.

Upon motion by Councilmember Don Wright, second by Councilmember Dave Alvord, the bills were approved for payment.

#### MISCELLANEOUS/CORRESPONDENCE:

A letter signed by some residents was read asking for a moratorium on all permits. Town Attorney Brad Furlong told Mayor Moore that if this was acted upon at all, it should be for an extremely short time and the zoning ordinance is progressing. The council set another zoning workshop for Monday, April 17 at 5:30 and Mayor will contact Georgia Johnson and tell her about progress on the new zoning ordinance.

Councilmember Vince Sellen wants the Town Attorney present at any public hearing.

The council announced a 15 minute executive session to discuss the lease negotiations. The council reconvened and there being no further business, the meeting was adjourned.

STAFF REPORT

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2. Travel trailers and other vehicles and equipment shall not be stored in the parking areas, or in areas which block access or egress from parking stalls shown on the site plan.
3. ~~The partial foundation on the west side of the property shall be removed. The west area of the site shall be graveled or paved for parking purposes, except on the southwest corner which shall be landscaped.~~
4. The new occupancy shall satisfy all Uniform Building and Fire Codes.
5. All of the above requirements shall be satisfied prior to occupancy of the restaurant/pub.

Condition added at Council approval

Install screening along Center and 4th Streets

THE Honorable Mayor and Town Council,

I am appealing the permit issued to Rich Wells by the Planning Commission to operate a restaurant/pub at 315 Morris Street on property woned by Donna and Gerald Blades. The object of my appeal is not to prevent Rich Wells from operating his business, nor to prevent the Blades from using their commerciallly zoned property for commercial uses. It is rather to-~~request~~ that the town council require the owners or the applicant to screen that portion of the property which is adjacent to residential uses. Such screening will in no way prevent the owner or qpplicant from the full use of the property, but it will give protection to the adjacent residentially zoned and used properties on Fourth and on Center. Thje pictures in the Blades file will show the council the condition of the property several years past, ~~the site has deteriorated since then~~. The Fewncing would also give some much needed protection to the adjacent neighbors when Mr. Wells' customers and employees leave. Mr Well's use will be open much later than the current businesses located along Morris with the possible exception of Atsa Pizza which has its back lot fenced next to a residential use. There is also the question of whether or not the five parking spaces backing out on 4th street are fully within the Blade;s property. Measurements taken by the town crew from the retaining wall at Janet Houston's gallery measuring out 150'6" should settle this question.

You have my letter of march 28, 1989 which gives the foundation for my  *appeal*.

THE following excerpt from the comp plan, zoning ord, rezone app, council minutes, LC Realty appraisal plot drawings , i believe allow the council to take action and require the screening.

1. front sheet from rezone report: Note description of ADJACENT zones & uses

2. Drawing from Blades file: Note location of building on 4th street

3. Plat map from Blade's file

4.12-8-86 Council minutes: Note Mayor's assurance fencing and screening provisions of zoning ordinance will be followed should development occur and the motion to approve with HPC restrictions

5. Comp Plan: Sec A: 2 & 3 page 11

6. Comp Plan: page 12, Sec 5 a

7. Comp Plan: page 14 top sec b

8.Zoning Ordinance:

17.04.020; Purpose A & B & C

17.08.370: a thru c

17.08.430 & 17.08.440 Parking Space and Stall

17.08.480: Right-of-way

17.08.330-360: Lots

Page 24 at top of page statement concerning "Appropriate screening SHALL be provided if any of these uses & zones are adjacent to residential uses and zones as directed by the Planning Commission" . Shall is ~~is~~ mandatory requirement language as provided in 17.08.010 C., page 5

17.020.040: D. Setbacks

17.32.020: Visibility at intersections

17.36. Parking

17.36.010, .030, 040-A, D thru F

17.36.060: A & B

17.52.010: HPC

Re quiring screening in the form of fencing will allow the applicant & owners full use of their Property, as well as ~~protecting~~ <sup>allowing</sup> the abutting and adjacent residential neighbors the privacy and enjoyment of their property.

thank you M. Larr

Sorry about typos but form is nagging me  
to continue yesterday

March 9, 1989

RECEIVED MAR - 9 1989

To the Mayor and Town Planner,

I am writing to express the following concerns about the permit issued to Rich Wells to operate a cafe/pub on the current LaConner Station property. I understand that the owners of the property must comply with certain conditions set forth by the planner and the planning commission. If it is necessary for me to exercise my right to appeal of this permit, then this is my official notice. I am hoping that some of the questions that I am going to raise can be addressed and action taken without going through the appeal process.

1. Parking

a. Compact spaces are shown as part of the 32 required parking spaces for the entire LaConner Station. I cannot find in Ordinance 506 any discussion of compact spaces. Section 17.08.440 defines the dimensions of a parking stall. I think that if compact spaces are to be allowed under the Ordinance 506 a variance is required. The planner and planning commission are not empowered to grant variances. The new zoning ordinance allowing compact parking spaces is not in effect.

b. Were the existing businesses--video store, canvass shop, Exxon office, and hair parlor customer, employee and loading requirements included in the parking computation?

c. Five of the spaces back out onto Fourth Street. Fourth Street is a narrow, unimproved street which will now see a substantial increase in use due to the senior housing as well as this new venture. What considerations were taken into account to promote pedestrian safety and to lessen the impacts on the adjoining residential uses and zones? Was the applicant asked to contribute to sidewalk improvements along Fourth Street? Was the applicant requested to improve a confusing front pedestrian walkway? Was the applicant required to gate the north access road which will empty commercial traffic squarely in the middle of a residential neighborhood? Was the applicant required to prove by survey that all of the property designated as parking is actually privately held and not portions of public right-of-way?

2. Screening: Section 17.20, page 24 at top of page stipulates that appropriate screening may be required by the planning commission if these uses abut residential uses and zones.

a. No screening is required even though this new use will be open far later than any other use on Morris Street. There is a distinct possibility that on weekends this business will stay open until 2 A.M. and the patrons will be turning on their lights and as it now stands exiting on to a residential street. A good fence or thick, tall planting would certainly help preserve the early morning hours of this neighborhood.

b. Will the dumpster for this food service establishment be screened? Or is the neighborhood to be treated to the delightful sight of garbage spewing out of a dumpster to be spread throughout the neighborhood by stray dogs? Where will the dumpster be placed to best control odors, etc.?

3. Noise Abatement: Is the applicant required to install soundproofing so that in the event music is featured, the neighbors will not be forced to enjoy late night concerts?

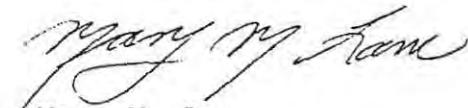
4. Off-street parking lot improvements--Section 17.36.060:

Was the applicant required to place drains in the parking lot as part of the parking lot improvements? Was the applicant required to hook these drains into the drainage catch basin at Third and Center? A walk down north Fourth Street will surely impress upon anyone the need to deal with these questions before a project goes in, not after.

I would appreciate a reply, so that I may know if these concerns are being met, or if this letter must serve as a notice of appeal of this permit?

Also if the applicant is allowed to proceed, will the debris, old trucks, cars and travel trailers be removed as part of the permit requirements?

Thank you,



Mary M. Lam

310 North Third

LaConner, WA. 98257

466-3722

March 15, 1989

RECEIVED MAR 15 1989

To the LaConner Town Council:

Last week the Planning Commission approved a plan to build a tavern and restaurant at Blades gas station on Morris Street, also known as LaConner Station.

I wish to appeal that decision for the following reasons.

1. The site of the proposed tavern/restaurant is in a mixed residential and commercial neighborhood. The light, the noise, and the traffic generated by a tavern that will be open until 2 a.m. on weekends will be a great disturbance to the neighborhood.
2. Disturbances and the necessity for police intervention are an infrequent but predictable occurrence at establishments that serve liquor in LaConner. Presently all the liquor licenses are located in a solidly commercial area of town where this type of activity is appropriate. The town of LaConner should not deviate from this pattern.
3. If it was going to be a neighborhood tavern I wouldn't object, but it will draw quite a lot of evening traffic, which is a burden on everyone.
4. Establishments that serve alcohol put great demands on the police department and its budget. I don't want to pay for that.
5. I urge the town council to put a moratorium on the granting of all liquor licenses, and to consider putting a limit on the number of licenses in this town. The new hotel, planned by Richard Thompson, will probably want a liquor license too. LaConner is now known throughout the region for its gift and antique shops, its art, and its history. But if the number of liquor licenses is increased, it will also become known for its "nightlife," which will bring a whole new crowd into town. If this town serves enough booze, LaConner will become known as the "place to go on Saturday night." I think the services of the town are pretty well strained as it is. This town has gotten crazy enough.

I urge the town council to either overrule the planning commission or to send the plan back to the commission for another hearing and a chance for more input from people in the neighborhood.

Sincerely,



Fred Owens  
608 Morris St.

March 20, 1989

Mary M. Lam  
310 N. Third  
LaConner, WA 98257

RE: Rich Wells, Certificate of Authorization/New Occupancy

Dear Mary:

I have reviewed your letter of March 9, 1989 regarding the permit for a cafe/pub to be located in the LaConner Station. I have also reviewed your concerns with Rich Wells, the operator of the cafe/pub. The following responses are in the order of your questions:

1. Parking

a. You are correct. The existing ordinance does not provide for "compact" spaces. Rich Wells is reviewing the site plan and will be submitting revisions to insure that the parking spaces provided will comply with the existing dimensional standards.

b. Yes, the existing uses in the LaConner Station were included in the parking computation. The total number of spaces required for the uses, including the cafe/pub are 31.

c. The site plan presented to me was one that had been previously approved in conjunction with the Blade's remodeling project. The area of that previously approved site plan which was changed was on the west side of the site. No changes from the previous parking layout, as it affects Fourth Street, were proposed. If head-in parking had been proposed off Morris Street in conjunction with this application, I would not have approved it. However, the previous site plan approval is binding on the Town as well as on the applicant and there was little I could do to change it. Generally, although not always, sidewalk and street improvements can be required as a condition of new development, or a change in type of occupancy such as when a residence is converted to Commercial. While I agree that sidewalks are needed in the area as a convenience to pedestrians, I question whether the Town can make Mr. Wells install sidewalks on Fourth and Morris Streets as a condition of a change of use from one commercial tenant to another.

As to the question of blocking access onto Center Street, this was discussed at the Planning Commission and it was agreed by the applicant and property owner that if traffic onto Center Street becomes a problem, the Town may require that traffic control signs and devices be installed to discourage that route. The applicant's site plan was superimposed on a survey map of the property. All parking spaces are located on the property, although five spaces do access directly from Fourth, as you observed.

2. Screening. Again, we are not dealing with new development,

but a change in occupancy only. The portion of the building occupied is surrounded by commercially zoned property. a. To screen this use effectively from the residential area to the north of Center would require a fence or hedge on the portion of the Blades property which is not a part of this permit. b. The garbage dumpster area is within the building and thus well-screened from surrounding properties.

3. Noise Abatement: At this time there are no plans to have live music in the pub due to size constraints. The Jukebox volume will be controlled by the management, and noise levels must comply with State as well as local noise ordinances.

4. Off-Street Parking Lot Improvements: The owners of the property were required to install storm drains as part of the previous review. Currently the drainage facilities on Center are too high to collect the water from this site. This situation will be improved with the installation of new storm drainage lines on Center as part of the Senior Housing project. Until that occurs, the Town will not require paving of the back portion of the site since such would only make the current situation worse.

I hope that this has served to answer your questions and concerns. I appreciate the concerns about the impacts on the residential area and will attempt to have future developments provide better screening of commercial sites, including better screening of this site when the north portion of the site is redeveloped or occupied.

If you have further questions, please don't hesitate to call me on Monday.

Sincerely,

Nancy Noe  
Planning Director

March 29, 1989

To the Town Council:

RECEIVED MAR 29 1989

I wish to withdraw my appeal  
of Rick Well's Restaurant and  
Taproom on Morris Street.

Sincerely,

Fred Owens

March 28, 1989

To the Mayor and Town Council,

Dear Sirs,

This letter is to inform you that my appeal of a permit issued to Rich Wells for a restaurant/pub located at 315 Morris Street, LaConner, which is owned by Gerald and Donna Blades still stands.

The planner and I had the opportunity to discuss my letter dated March 9, 1989 and we resolved all of my questions about this permit except those relating to parking shown on the Fourth Street side of the property and the lack of screening adjacent to residential properties on Fourth and on Centre Street.

Parking shown on the Fourth Street side of the Blades building:

1. The drawings submitted by the Blade's in August of 1984 and by Rich Wells earlier this year show that these five parking spaces are within the boundaries of the Blade's property. However, a plat map drawing used extensively by the Blade's in their 1986 rezone application for the back 100 feet of their property indicates that the diesel pumps are located within the right-of-way and that the eastern portion of the Blade's building is on the property line. These drawings are also used as a part of the appraisal prepared by Darrel Sisson of LaConner Realty in January of 1979 and also as part of the DNS prepared and signed off by the Town of LaConner. I would request that the owners of this property provide the town with documentation proving that the five parking spaces do not project into the public right-of-way as prohibited in Ordinance 506.

Screening:

1. The original permit issued to the Blade's on 9-17-84 and reaffirmed on 10-15-1984 shows the parking spaces in the back of the Exxon Station. However, at that time the back half of this property was zoned Residential and the Blade's were unable to develop these spaces which are within the back 100 feet of their property. At that time they had enough parking for the uses developed within the properly zoned area in the commercially zoned front 100 feet.

The Blade's were granted a rezone for the back 100 feet of their property on 12-21-86.

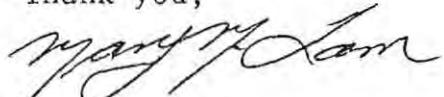
In early March of 1989 Rich Wells applied for a permit for a restaurant/pub which utilized the parking shown on the Blade's permit application of August 1984. Since the parking spaces needed to meet Mr. Wells parking requirements are located on the back 100 feet of property which was not rezoned commercial until 12-21-86, I think that the screening option afforded the planning commission for the protection of residential properties adjacent to commercial development should be applied towards this permit. The council also needs to take into consideration that driveway access to this parking must also be provided from Fourth Street. This access will also be an additional use of the back 100 feet of this property.

If all of the parking was within the front 100 feet of the Blade's property which was zoned commercial in 1984 at the time the original permit was given, I would agree with the planner that the town would be unable to require screening.

If the owners of this property or the applicant would voluntarily install screening which meets the conditions of their rezone contract and the requirements of Ordinance 506, as well as, prove to the town that the parking on Fourth Street is within the boundaries of their property, I will withdraw my appeal of the permit issued to Rich Wells in early March of this year.

If the applicant or owners of this property are unwilling to do this, then I ask that the council set a date for a hearing on my appeal.

Thank you,



Mary M. Lam

read  
in C.M.

RECEIVED APR 10 1989

I like Rick Wells personally and hope he does well in his new enterprise, but I suppose it is necessary to express my two areas of concern:

1. I hope I don't hear the music from this tavern in my yard
2. I wish the parking would be screened from the surrounding residential properties, mine included.

Good luck Rick.

Betty (Bachelor) Miles

# Town of La Conner



## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a Public Hearing will be held on Tuesday, April 11, 1989 at 7 p.m. in the Council Chambers, Second & Douglas, La Conner, Washington to hear comments on an appeal of an approval of a permit for Rich Wells to operate a restaurant/pub at 313-315 Morris Street.

Interested citizens are invited to speak for or against this appeal.

Dated this 3rd day of April, 1989.

*Kathleen A. Lantz*  
TOWN CLERK



Date Rec'd \_\_\_\_\_  
SIGN OTHER \_\_\_\_\_  
IN H.P.D. \_\_\_\_\_  
NOT IN H.P.D. \_\_\_\_\_

TOWN OF LA CONNER

CERTIFICATE OF AUTHORIZATION TO ISSUE BUILDING PERMIT

NAME Richard Wetts and gerard Blade ADDRESS 1854 N. Pull & be Damned  
Laconnee, WA PHONE 466-4638

Contractor if different from above

315 Morris Street - Laconnee Station

Address of Property (if different)

LEGAL DESCRIPTION

the E. 3 ft of lot 1, lot 2 less w. 47 ft, all of lot  
3-4-5-6-7-8- All in block 9, Colhams addition LaConner.

DESCRIPTION OF PROPOSAL See Procedure Sheet Interior Remodel to restaurant use

Change use designation of eastern portion of building  
to food service, adjust parking plan to needs.

SIGNATURE Ron Wetts DATE 2/27/89

\*\*\*\*\*

FOR OFFICE USE ONLY

ZONING

Commercial

Zone

✓

Use Permitted

Variance or Conditional Use Permit  
Granted

HISTORIC PRESERVATION

Not in Historic Preservation District

Certificate of Approval

Date

SHORELINE MANAGEMENT

Outside of Jurisdiction

within jurisdiction but  
exempt

substantial development permit  
granted

SEPA

Exempt from Environmental  
Checklist

Declaration of Non-  
Significance

Environmental Impact  
Statement Completed

COMPREHENSIVE PLAN

Approved subject to staff report/recommendation and Planning Commission action, as per  
REMARKS: Not Applicable In Compliance  
attached report, and the addition of a decorative fence/plantings as a screen along Center  
street and fourth street across from the residential district. Design of fence/screen  
to be approved by the Town Planning Director, as per Town Council Action  
AUTHORIZATION: In checking the applicable box in each of the above categories, the Town of  
La Conner finds the proposed work to be in compliance with those regulations and authorizes  
issuance of a building permit, subject to requirements and conditions noted and review by  
the County for compliance with Floodplain Management regulations.

Date: 4-20-89 Nancy Nee

(Packing - 33 provided) Title Planning Director

Matheson - 2 required.  
Ed Welton - 1 required

# Town of La Conner



May 31, 1989

RE: Site Inspection Report - Rich Wells Occupancy Permit  
FROM: Nancy Noe, Town Planner

I drove through the site and then met with Rich Wells and we walked around the site. I noted the following deficiencies and requirements that need to be met before occupancy:

1. Planters on both sides of driveway (westside) need to be planted. Rich indicated that a hole will be made in concrete in planter closest to building. Top soil will be added, and small shrubs and bedding plants installed in both planters.
2. Parking spaces need to be striped on both sides of driveway. Gravel will be added along west property line to give full width to parking aisle. The walled in area cannot be removed due to underground tanks. One space along building should be marked for loading zone.
3. Maintain 24' aisle width between the tank containment wall and the parking space in the back.
4. Rich is having gravel delivered and spread in the back area and 4th Street parking area on Monday. I told him I was not sure this delay would be acceptable.
5. Bumpers need to be installed to define parking on north and east side of building. Also a barrier planter is to be provided on the east end of the parking area to define driveway access and get people headed in the right direction into the parking spaces.
6. The area between the two buildings needs to be cleared of vehicles and debris so that it can be used for parking and driveway.
7. The fence was partially installed. The support posts need to be gravelled or cemented in. The support posts need to be cut even with the top of the fence. There is to be a plant installed between each fence section, and a row of plants installed across the corner of the property for screening.
8. The old Chevron tanker truck next to the loading platform is to be removed as it is occupying a parking space.

LaConner, Washington 98257 P.O. Box 400 Phone 206-466-3125

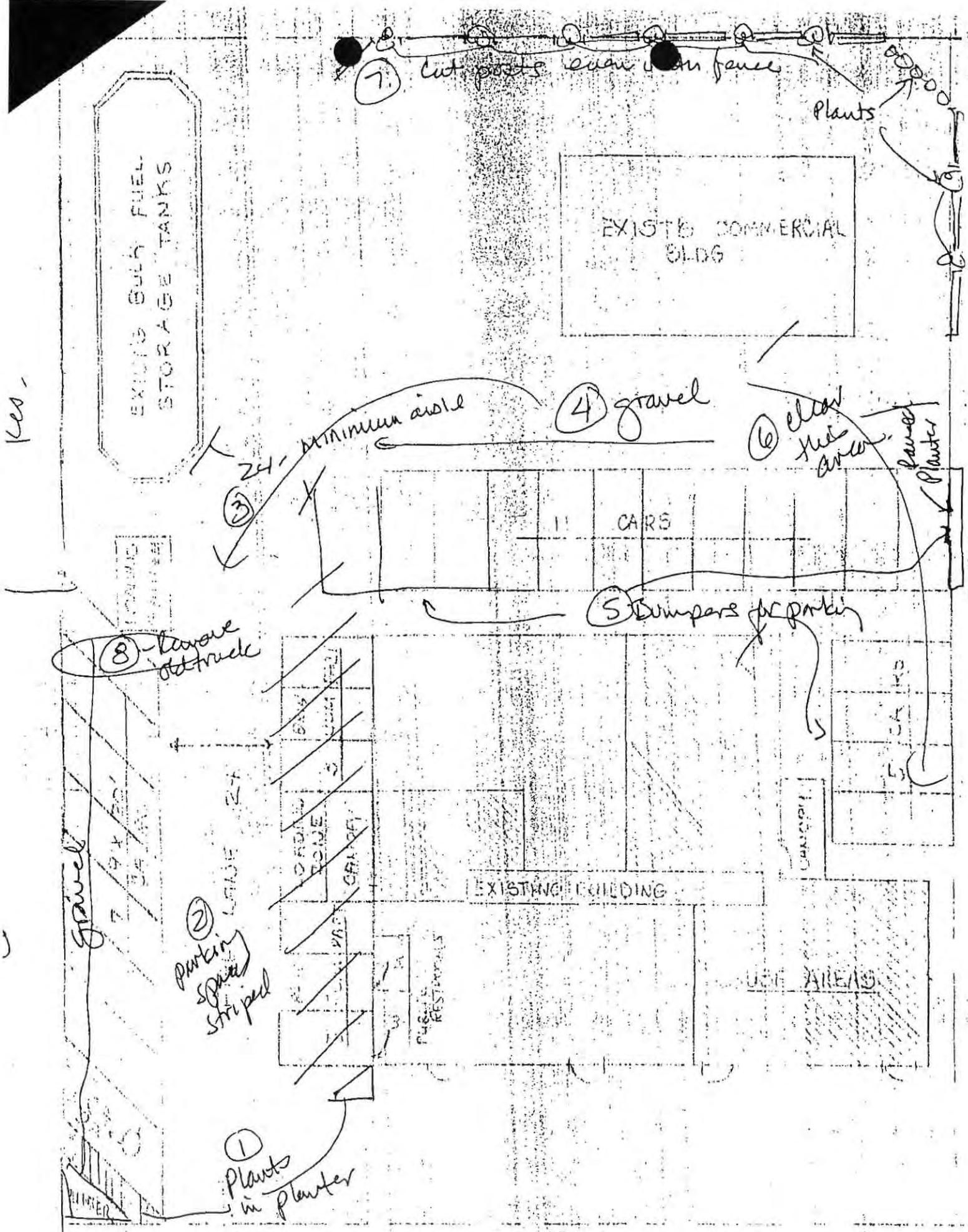
Rich indicated that he would prefer (request) that Don Wright- as Mayor Pro Tem and senior council member - be the one elected to do the inspection.

Site Inspection Report - Rich Wells Occupancy Permit  
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1. Planters on both sides of driveway (west side) need to be planted. Rich indicated that a hole will be made in concrete in planter closest to building. Top soil will be added, and small shrubs and bedding plants installed in both planters.
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3. ~~Maintain a~~ 24' aisle width between the tank containment wall and the parking space in the back
4. Rich is having gravel delivered and spread in the back area and the street parking area on Monday. I told him I was not sure this delay would be acceptable.
5. Bumpers need to be installed to define parking on north and east sides of building. Also a corner planter is to be provided on the east end of the parking area to define driveway access and get people headed in the right direction into the parking spaces.

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8. An old Chevron tanker truck next to the loading platform is to be removed - It is occupying a parking space

Rick indicated that he would proper (request) that Dan Wright as Mayor for town and Senior council member - be the one selected to do the inspecting.



MARKET STREET

## AFFIDAVIT OF PUBLICATION

### • Legal Notice •

#### NOTICE OF PUBLIC HEARING

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Interested citizens are invited to speak for or against this appeal.

Dated this 3rd day of April, 1989.

Kathleen A. Ernst  
Town Clerk

Published in Channel Town Press,  
April 5, 1989.

No. 832

STATE OF WASHINGTON,  
County of Skagit  
ss.

Pattie A. Gustafson, being first duly sworn

on oath deposes and says that she is the bookkeeper of CHANNEL TOWN PRESS, a weekly newspaper. That said newspaper is a legal newspaper which has been approved by order of the Superior Court in Skagit County May 27, 1977 in compliance with Chapter 213 of Washington Laws of 1941, and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continually as a weekly newspaper in LaConner, Skagit County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a true copy of a Town of LaConner-Notice of P.H.

Appeal of permit/Rich Wells as it was published in regular issues (and not in supplement form) of said newspaper once each week for a period of one consecutive weeks,

commencing on the 5th day of April, 1989.

and ending on the --- day of ---, 1989, both dates inclusive, and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged

for the foregoing publication is the sum of \$ 6.40, which amount has been paid in full.

Pattie A. Gustafson

Subscribed and sworn to before me this 13th day of

April, 1989

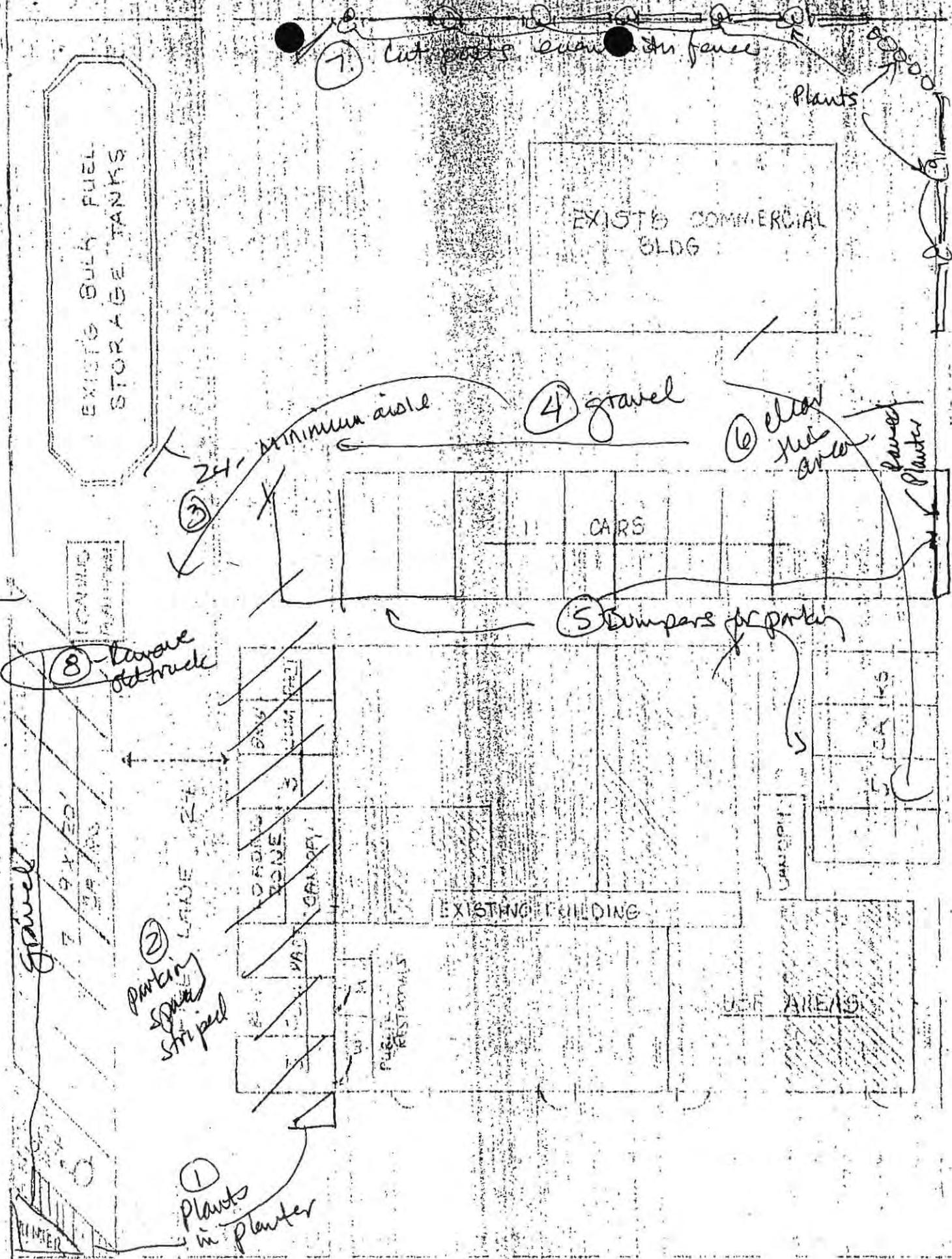
Chuck Duran

Notary Public in and for the State of Washington.  
Residing at LaConner



Res.

Conc.



REVISED SITE PLAN

Mrs. Donna Blade  
LaConner Station  
LaConner, Wa. 98253

March 1, 1990

Dear Donna,

I wanted to confirm the conversation we had on Wed., Feb. 28, 1990 after walking around the site with you and Mr. Rich Wells.

As we noted, 34 parking spaces are required for the retail and restaurant/pub use at the LaConner Station Mall. These spaces can be obtained as seen in the attached drawing. After reviewing the option for 45 degree parking on the west side of the building, I have found that the adequate amount of driveway space is not present. However, three (3) spaces are available after relocating the planter. These will then be parellel spaces along with a loading zone. This still allows for the stained glass shop to add any features by their door without obstructing any parking.

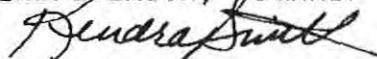
Grading and graveling of the parking lot shall begin by March 15, 1990 so that the parking area will be able to hold the required number of cars by the Tulip Festival Week. Designating the actual parking spaces needs to be completed by April 15, 1990. As indicated on the May 31, 1989 report from Nancy Noe the spaces need to be marked with railroad ties and striped, except on the west side of the building where the spaces are parellel and they do not require the ties. The railroad ties need to be placed at a 60 degree angle for the 60 degree spaces and shall remain continuous where 90 degree parking is designated. Aluminum flashing on the ties was suggested as a way to mark the 90 degree spaces. The loading area should be marked.

Parking needs to be eliminated from the front for safty. Immediate action is needed for the corner and action within the month for the remaing area. A device needs to be installed to stop vehicles i.e. a grouping of planter barrels which would also delineate the sidewalk.

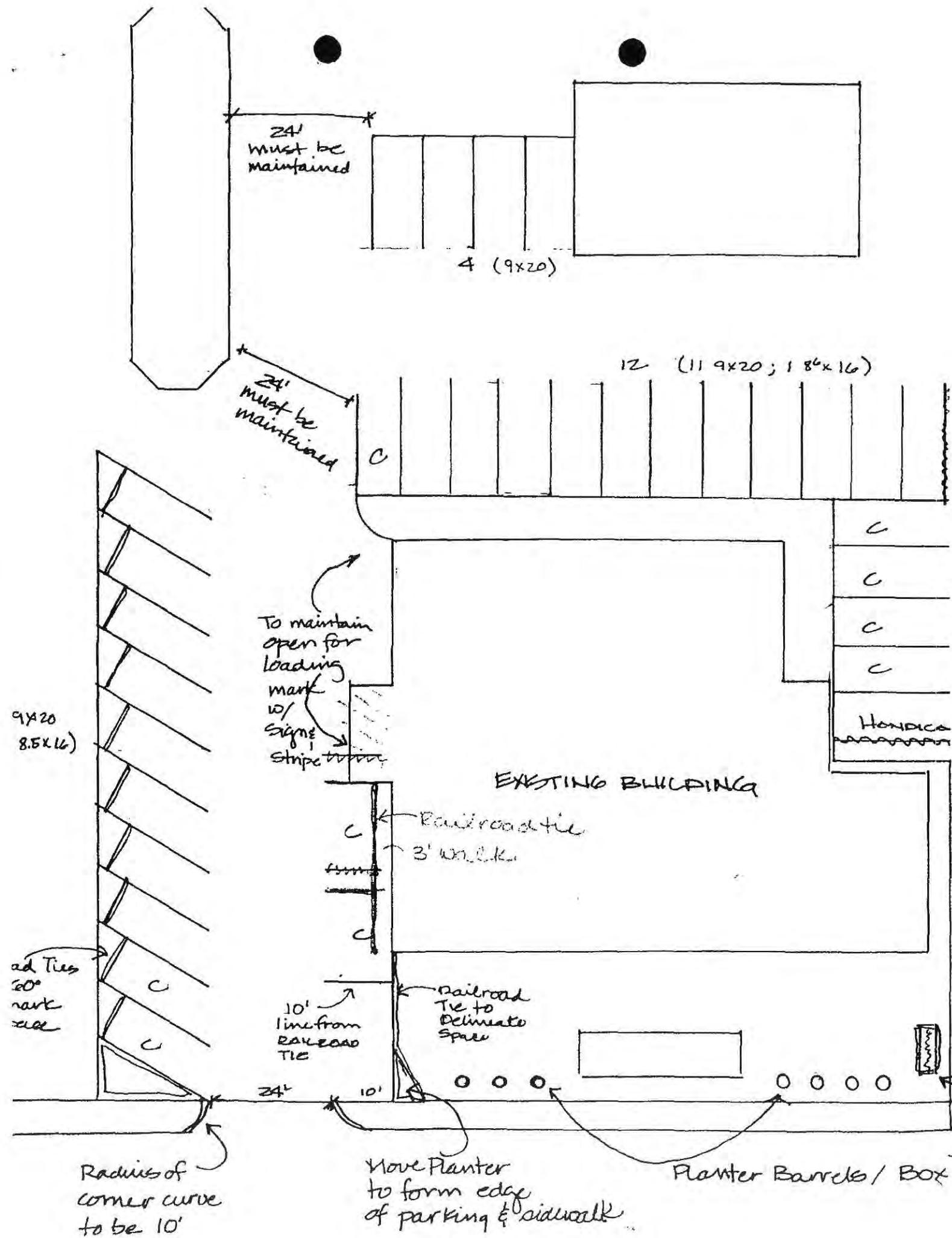
Thank you for meeting me at the site yesterday. I know the Planning Commission as well as you will be glad to have the parking problem solved.

Most sincerely,

Kendra Smith, Planner



cc: Rich Wells  
Planning Commission, La Conner



## STAFF REPORT

DATE: March 1, 1990

STAFF: Kendra Smith

re: LaConner Station Parking Requirements

BACKGROUND: As requested by the Planning Commission, the Town Planner was to check into the number of parking spaces available verses the number of spaces required for the LaConner Station Mall retail shops and restaurant before issuing a sign permit to the new T-Shirt shop.

There is currently 1035sf of retail and 2700sf of restaurant/pub space being utilized with 480sf available for future occupancy.

The Town of LaConner Zoning Ordinance under 1002.60 C requires retail "1 (space) per 200 (sf) for the first 1000 square feet of usable retail floor area, and 1 per 400 square feet of unusable floor area over 1000sf." Eating and drinking establishments are required "1 per 100 square feet of gross floor area, or portion thereof.

Before the enlargement of the Pub by 500sf, the required number of spaces were 31. The increase in the Pub required the addition of 5 spaces, however this decreased the amount of available retail by 500sf which eliminates 2 spaces. This then brings the requirement to 34 parking spaces.

FINDINGS: 1.) The parking lot in question has recently had underground tanks removed creating unusable spaces. 2.) There are no markings to indicate individual spaces, thus there is little possibility to utilize the area to the maximum extent intended. 3.) Parking is now occurring in an area which is dangerous in relationship to an intersection. 4.) There is enough room for the required parking. 5.) Parking should be discouraged from backing directly onto Morris Street if possible.

ACTION TAKEN: The Planner Met with Donna Blade and Rich Willis to discuss the situation and find a solution to the parking problem.

A plan was discussed which would place all 34 spaces in the rear and sides of the building requiring the parking. It would eliminate parking in the front of the building entirely. (It was agreed that some sort of feature would be provided to discourage cars from driving in the front - preferably a landscape feature, subject to approval.)

There was agreement on the need to mark spaces. It was proposed to use railroad ties as bumpers. These could then

be turned 60 degrees for angled parking to mark the space and be placed in a continuous line for 90 degree parking, and then striped with aluminum flashing to delineate each space. The loading zone should be marked with paint as well as the other spaces which will be parallel parking.

Grading and graveling need to be done on the side and back portions. The side is where tanks were recently removed, the back has eroded due to drainage problems.

Two dates were set for completion. Grading would be started by March 15, 1990 to ensure room for the required parking spaces by Tulip Festival Week. Completion of parking stall delineation by April 15, 1990. Parking in the front area where visibility is impaired at the intersection needs to be stopped immediately. This is in reference to the Zoning Ordinance 901.20 'visability At Intersections'.

By removing all parking in the front it allows for ''streetscaping'', more than ample space for pedestrians and bicycle parking, and four (4) new on-street parking spaces.

~~Replaced the 1988 plan by removing the 1988 plan by~~  
~~We have to do a better job with visibility~~

# Town of La Conner



March 27, 1990

TO: Honorable Mayor and Town Council Members  
FROM: Kendra Smith, Town Planner  
RE: Additional on-street parking

Four additional on street parking spaces have been created on Morris Street on the North side, west of Third Street.

This is due to the closing of the service station and the removal of any on-site parking in the front of the building, La Conner Station. A new on-site parking scheme was developed.

New signage should be added to the street to enforce "No Parking Within 15' of the Corner and the driveway entrance."

There should never be parking on the corner of the site due to safety. It creates a visibility problem.

# Town of La Conner



## STAFF REPORT

TO: PLANNING COMMISSION  
FROM: KENDRA SMITH  
DATE: MAY 14, 1990  
APPLICANT: BLADES - LA CONNER STATION  
SUBJECT: WINDOW ENLARGEMENT/DOOR CHANGE

The applicant is requesting two minor remodeling changes to their existing building on Morris Street. It is located in the commercial and historic zones.

They wish to enlarge an existing window on the east side of the building to accommodate a retail space. The window is presently three (3) feet by seven (7) feet and the increase would extend the window down two (2) additional feet, which would allow for greater visibility. The window is currently too high for the average person to have comfortable viewing.

The door is currently solid wood and the request is for a door which will be primarily glass thus allowing more exposure.

This building has no historic preservation value.

RECOMMENDATION: Approval. The sign needs to come in as a separate application.

Date Rec'd \_\_\_\_\_  
SIGN \_\_\_\_\_ OTHER \_\_\_\_\_  
IN H.P.D. \_\_\_\_\_  
NOT IN HPD \_\_\_\_\_

TOWN OF LA CONNER

CERTIFICATE OF AUTHORIZATION TO ISSUE BUILDING PERMIT

NAME Blades, Donna & Jerry ADDRESS 315 Macris St. PHONE 466-4536

Contractor if different from above \_\_\_\_\_

Address of Property (if different) \_\_\_\_\_

LEGAL DESCRIPTION \_\_\_\_\_

DESCRIPTION OF PROPOSAL See Procedure Sheet

See attached forms

SIGNATURE Donna M. Blades DATE 5-11-90

\*\*\*\*\*  
FOR OFFICE USE ONLY

ZONING

Commercial

Use Permitted

Variance or Conditional Use Permit  
Granted

HISTORIC PRESERVATION

Not in Historic Preservation District

Certificate of Approval

Date

SHORELINE MANAGEMENT

Outside of Jurisdiction

within jurisdiction but  
exempt

substantial development permit  
granted

SEPA

Exempt from Environmental  
Checklist

Declaration of Non-  
Significance

Environmental Impact  
Statement Completed

COMPREHENSIVE PLAN

Not Applicable

In Compliance

REMARKS:

AUTHORIZATION: In checking the applicable box in each of the above categories, the Town of La Conner finds the proposed work to be in compliance with those regulations and authorizes issuance of a building permit, subject to requirements and conditions noted and review by the County for compliance with Floodplain Management regulations.

Date: May 21, 1990

Donna M. Blades  
Title

# LA CONNER STATION

1-11-90

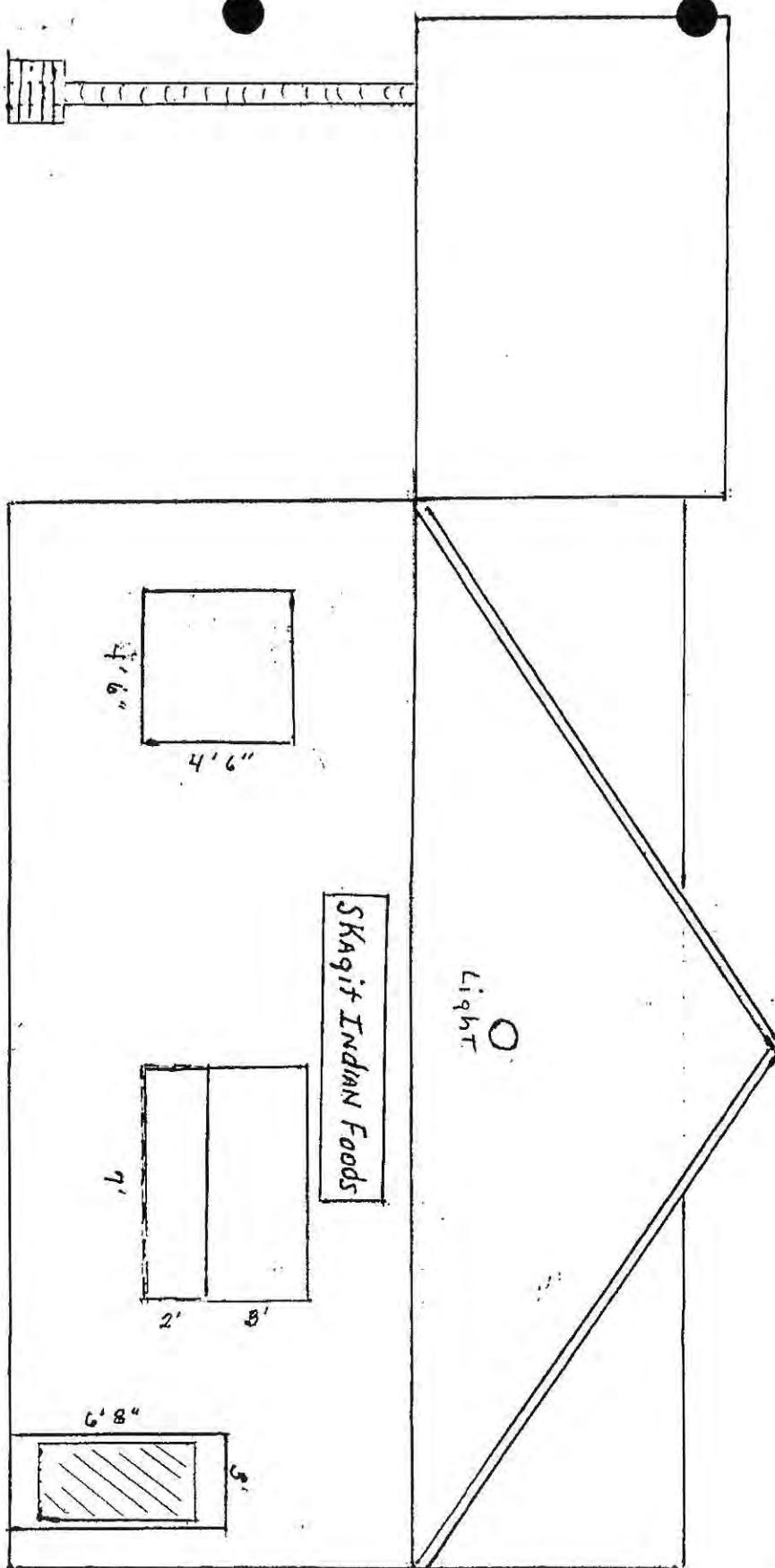
1. ENLARGE WINDOW ON EAST END of  
*parking lot* LA CONNER STATION Building for a  
Retail SPACE EXPOSURE. (Lower 2ft.)
2. CHANGE wood door for a glass  
exposure door for a Retail SPACE
3. SIGN for Retail SPACE - ADDITIONAL  
INFORMATION to be presented.

*need  
a separate  
application*

described real estate, in Skagit County, State of Washington:  
Lots 3 thru 8, inclusive, and the East 3 feet of Lots  
1 and 2, in Block 9, CALHOUN ADDITION to the TOWN OF  
LA CONNER, as per plat recorded in Volume 1 of Plats,  
page 14, records of Skagit County, situated in the  
County of Skagit, State of Washington.

## LA CONNER STATION BUILDING

4th Street./East End



Blades  
128 So. First Street  
La Conner, Wa. 98257  
04-01-93

Dear Tenants,

Late this past fall, December 8th, 1992, a new restriction sign ordinance was put into effect in which the building owners of "Multiple - Tenant buildings" were made responsible for all signs of the Tenants of that particular building.

In order to get a uniform sign ordinance the planning commission gave each building 20 square feet of signage or 7% of an established facade, whichever is the larger.

"Multiple - Tenant buildings" were different from "Single - Business buildings". If the 7% of a facade is larger than 20 sq.ft., that amount of square foot must be divided among all the tenants of that building.

There is a \$25.00 sign permit fee, and also a penalty if you put up a sign before or without authorization. On our building we have some "Grandfathered" signs that may be repaired or refurbished with permission thru the building owner and the planning commission. See section 1003.50 part B of the sign ordinance #622. We reserve the right to look over your plans and give you a written o.k. before you go to the Planner or Planning Commission. We'll try to be of help to you since we've been thru all these meetings. There are standards and other businesses to be considered in the square foot allowances of each building.

To new and old applicants, there are a lot of answers to fill out on the forms concerning other signs and square foot measurements. We're happy to assist you with those answers and even by going to the Planner and Planning Commission with you. Give us a call, we may be able to save you time, stress and money.

Sincerely,  
Donna and Jerry Blades  
Pier 7 and  
La Conner Station Bldgs.

P.S. A copy of the ordinance #622 and permit forms can be obtained at the city hall to help you plan your signs.

PC 12.21.93

when it is installed in that area; 3. The applicant shall submit any revisions to the plans to the Planning Commission or designee before any construction is begun; and 4. The applicant shall submit paint color chips to the Planner for approval prior to repainting the structure in a different color. Motion carried. Vice-Chair Halverson voted as part of the quorum.

4. OLD BUSINESS:

A. Continuation of Public Hearing - Amend Section 1202.10, #4 of Zoning Ordinance No. 568/570. The Planner commented that one way to control primary use in an area was to raise Conditional Use Permit fees and primary was interpreted by other planners as 50 plus 1.

PUBLIC HEARING OPEN - There were two members of the public present - Donna Blades and Bill Reynolds of the Channel Town Press.

Donna Blades commented that she would not like to see the commercial area displaced by residential.

Commissioners Solie and Robinson thought condition #4 should apply to individual buildings and not to the whole zone. The Planner suggested applying the criteria to the entire zone, i.e., commercial, but that meant having to keep track of cumulative conditional use permits. Commissioner Robinson pointed out it was important to clarify ordinances as more development occurred in the town. The Planner would come up with some language to address the application of "primary use" and define "primary".  
PUBLIC HEARING CLOSED.

Commissioner Wilbur moved, seconded by Commissioner Solie, to table the public hearing to amend Section 1202.10, #4 of Zoning Ordinance 568/570 until the next meeting. Motion Carried.

b. Continuation of Public Hearing - Revise Floodplain Ordinance No. 609. The Planner pointed out the comments received from Marcia Melvin, FEMA, in response to the commissioners questions at the last public hearing. The commissioners reviewed the revisions page by page beginning with Section 3.0 General Provisions and discussed definitions of "market value" and "substantial development".

PUBLIC HEARING OPEN.

Section 2.0 DEFINITIONS:

Under the definition for "Substantial Improvement", "market value" was retained as advised by Ms. Melvin, FEMA.

"Market Value" was added as a definition - language to be determined by the Planner.

Definition of "Water Dependent" was deleted - not used in the document.

Section 4.1 DEVELOPMENT PERMIT REQUIRED. #4 - changed to "Any fill".

Donna Blades commented that it wasn't fair to the property owner to allow only one truckload of fill to cover several lots - she has six that could use fill. The Planner pointed out the

concern with adding fill without a permit was due to the Town's drainage problems.

Section 4.2 APPLICATION FOR DEVELOPMENT PERMIT. #9 - add "No fee for fill of 10 cubic yards or less per lot".

Section 5.1.3 Utilities. #3 - Change to read "New and replacement stormwater drainage systems shall be designed to accommodate flood conditions expected during a 100-year storm event".

PUBLIC HEARING CLOSED.

Commissioner Solie moved, seconded by Commissioner Wilbur, to recommend that the Town Council adopt Floodplain Ordinance No. 609 as revised by the Planning Commission. Motion carried.

5. MISCELLANEOUS/CORRESPONDENCE:

None.

Commissioner Robinson moved, seconded by Commissioner Solie, to adjourn. Motion carried.

Meeting adjourned at 9:05 p.m.

• Legu

NOTICE OF  
PUBLIC HEARING FOR A  
CONDITIONAL USE PERMIT  
NOTICE IS HEREBY GIVEN That  
the La Conner Planning Commission  
will hold a Public Hearing on Tuesday,  
October 4, 1994 at the hour of 7 p.m.,  
at La Conner Council Chambers, 204  
Douglas Street to hear an application for  
a Conditional Use Permit for Donna  
Blades at 315 Morris Street for Tem-  
porary Use of a Mobile Home/Trailer as  
an office and residence in a commercial  
zone.

Legal description is as follows: Block  
9, Lots 4, 5, and 8, Calhoun's Addition  
to La Conner.

More commonly known as: 315  
Morris Street, La Conner, Washington.

Any person wishing to comment on  
said proposal may do so at the hearing  
or by sending written comments to La  
Conner Planning Commission, P.O.  
Box 400, La Conner, Washington  
98257. Written comments must be  
submitted by 3 p.m. the day of the  
hearing.

Dated this 14th day of September,  
1994.

Cherri L. Kahns,  
Assistant Town Clerk

Published in Channel Town Press,  
September 21, 1994.

MEMORANDUM

Date: October 4, 1994  
From: Brad Furlong, LaConner Town Attorney  
To: Barbara Vibbert, LaConner Town Planner  
Subject: Conditional Use Permit No. 94-1109C/Blades

I received this date your September 28, 1994 staff report with respect to this application. I also understand that you and the Mayor met with Mr. and Mrs. Blades and their attorney, David Day this day at Town Hall.

I understand that the Blades' attorney, Mr. Day, has taken the position that the unit which has been placed on the Blades' property is not manufactured housing, but is a travel trailer or other recreation vehicle. He further claims that because the unit is a travel trailer, it is not regulated under the LaConner Zoning Ordinance and a Conditional Use Permit is not required.

LaConner Ordinance #625 repealed Section 1002 (Parking) and added new language to the zoning ordinance within Chapter 1002. Thus, all definitions contained in the zoning ordinance apply to ordinance #625.

Ordinance #625 states, in part, that "recreation vehicles shall be used only for supplemental dwelling purposes. Dwelling use shall be limited to 30 days per year except as listed below." §1002.40(C)(2). According to the definitions in the zoning ordinance, a "RECREATION VEHICLE" means "a recreational vehicle is any portable, temporary dwelling used for travel, recreation and vacation purposes, and includes travel trailers ...". (emphasis supplied). There is no independent definition of a "vehicle" within the zoning ordinance.

Meanwhile, Chapter 1005 (Temporary Structures and Open Air Vending) defines "TEMPORARY STRUCTURES" as "any structure or vehicle which is designed to be easily transported or dismantled after its function has been fulfilled, and which is used for residential, Commercial or office purposes ...". (emphasis supplied). §1005.01(A). Further, "temporary use" is defined as "those uses of land or existing structures and improvements which do not require permanent changes, or the permanent commitment of the land or existing structure to the proposed use." §1005.01(B).

The placement of the unit on the property therefore requires a conditional use permit pursuant to §1005.02 which states that "temporary structures shall require a conditional use permit in accordance with Chapter 1202 [for a time] not to exceed 180 days."; and a temporary use permit pursuant to §1005.01(B)(1) "for a period of not to exceed six (6) months for a use not otherwise allowed in the zone ...". In other words, the placement of the travel trailer requires both a conditional use permit pursuant, while the use of the trailer for residential purposes in the commercial zone requires a temporary use permit.

Memorandum to Barbara Vibbert

October 4, 1994

Page Two

Contrary to the assertions of the Blades' attorney, both the travel trailer and the use being made of it are directly governed by the LaConner Zoning Code and amendments thereto. Further, the Planning Commission may not grant a conditional use permit for placement of the unit for longer than 180 days with no option for renewal and can only grant the temporary use permit for six (6) months, although that particular permit may be extended pursuant to §1202 and §1005.01(B)(2).

I trust that the foregoing gives adequate information to you and the Planning Commission. If you have any questions, please feel free to give me a call.

# Town of La Conner



## NOTICE OF APPEAL

The La Conner Hearing Examiner will hold a closed record hearing for the appeal on the below described project on March 17, 1998. This hearing will be held at the La Conner Council Chamber, 204 Douglas Street, at 5:00 p.m. The role of the Hearing Examiner shall be to hear the appeal and make a final decision on the project.

**Project No:** 98-0019A

**Applicant:** Linda Bina

**Project Location:** 315 Morris Street

**Description of Appeal:** The applicant, Linda Bina is appealing the Planning Department's decision to deny the request for a piano player to play live music outside the existing structure in the outdoor dinning area from 11:00 a.m. to 5:00 p.m. at the property located at 315 Morris Street. The Planning Department's decision was based on the LCMC Section 7.05.010(4)(6) *Public nuisance and disturbance noises.*

Published March 4, 1998, Channel Town Press

Gina Estep  
Assistant Planner

- Legal Notice

NOTICE OF APPEAL

**NOTICE OF APPEAL**  
**NOTICE IS HEREBY GIVEN** That the La Conner Hearing Examiner will hold a closed record hearing for the appeal on the below described project on March 17, 1998. This hearing will be held at the La Conner Council Chamber, 204 Douglas Street; at 5 p.m. The role of the Hearing Examiner shall be to hear the appeal and make a final decision on the project.

Project No.: 98-0019A.

Applicant: Linda Bina.

Project Location: 315 Morris Street.

**Description of Appeal:** The applicant, Linda Bina, is appealing the Planning Department's decision to deny the request for a piano player to play live music outside the existing structure in the outdoor dining area from 11 a.m. to 5 p.m. at the property located at 315 Morris Street. The Planning Department's decision was based on the LCMC Section 7.05.010(4)(6) *Public nuisance and disturbance noises.*

**Gina Estep,  
Assistant Planner**

Published in Channel Town Press,  
March 4, 1998.

## Affidavit of Publication

No. 1919

STATE OF WASHINGTON  
County of Skagit  
ss.

PATTIE A. JOHNS, being duly sworn on oath deposes and says that she is the bookkeeper of CHANNEL TOWN PRESS, a weekly newspaper which has been approved by order of the Superior Court in Skagit County, May 27, 1977 in compliance with Chapter 213 of Washington Laws of 1941, and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continually as a weekly newspaper in LaConner, Skagit County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a true copy of a

**Town of LaConner - Hearing Examiner - Notice of Appeal -  
Linda Bina**

as it was published in regular issues (and not in supplement form) of said newspaper once each

week for a period of one consecutive weeks, commencing on the

4th day of Mar. 19 98, and ending on the --- day of

--- 19 --, both dates inclusive, and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is

the sum of \$ 16.00, which amount has been paid in full.

By Pattie A. Johns

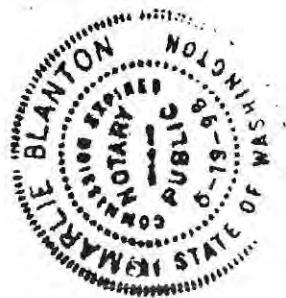
Subscribed and sworn to before me this

22 day of April 1998

Marie Blaster  
Native Daughter of the State of Washington

*Notary Public in and for the State of Washington.*

Residing at: Camano Island



# Town of La Conner



## OFFICE OF THE HEARING EXAMINER

RE: Appeal From Administra- ) File No. H.E. 98-0019A  
tive Determination of ) Permit No. 98-0013RM  
La Conner's Planning ) FINDINGS OF FACT,  
Department (LINDA BINA) ) CONCLUSIONS OF LAW  
) AND DECISION  
)

---

### SUMMARY OF APPEAL AND DECISION

#### **Appeal Summary**

On February 24, 1998, appellant Linda Bina timely filed and paid the appeal fee for an appeal from the February 6, 1998 denial by the Planning Department of that part of her application for a building permit in the Commercial - Historic Preservation Overlay District proposing live piano music in the outdoor dining area of the Station House Bar & Grill at 315 E. Morris Street. Ms. Bina challenges the Planning Department's interpretation of La Conner's Noise Control Ordinance (Municipal Code § 7.05.010(4) and (6) to prohibit her proposed outdoor piano music.

#### **Decision Summary**

Based on the entire record, although the Planning Department's denial is not shown to be arbitrary or capricious, the Examiner is left with a definite and firm conviction that a mistake was made. Therefore, Ms. Bina's appeal is GRANTED and the decision of the Planning Department is REVERSED.

#### FINDINGS OF FACT

1. On January 29 1998, Linda Bina submitted site drawings proposing to define by posts and rope a 45-foot by

25-foot outdoor dining area at the existing Station House Bar and Grill at 315 E. Morris Street. By so defining the dining area, appellant Bina intended to be able to serve alcoholic beverages in compliance with State Liquor Control Board regulations.

2. The proposed outdoor dining area is covered by an overhang of the roof and has been used in the past for a dining area. (A March 1996 inventory lists four resin tables and eight chairs "...for outdoor dining.") Ms. Bina's application proposed to use posts and double marine lines with some planter boxes to set-off the dining area from the remainder of the sidewalk. The site drawing shows the piano placed against the wall of the Station House: about 25 feet from the existing sidewalk.

3. On February 6, 1998, the Planning Department issued Ms. Bina a Certificate of Authorization subject to four conditions requiring that only planter boxes be used to separate the area from the public street and that those boxes totally surround the outdoor dining area. Another condition required full compliance with Liquor Control Board regulations. The fourth condition denied the proposed outdoor piano music.

4. On February 17, the Planning Department issued a notice of violation to Ms. Bina, pointing out that she had not complied with the two conditions concerning planter boxes. Within two days thereafter, Ms. Bina had amended her drawings to comply with the corrective order. In summary, the only issue on appeal is whether the proposed piano music should have been allowed.

5. The testimony in the record of the March 17, 1998 appeal hearing before the Examiner shows that Ms. Bina proposes light classical and ragtime piano music from 11:00 A.M. to 5:00 P.M. daily. She proposes to use an upright piano rather than a baby grand or grand piano. The piano will have no electronic sound amplification. No electronic speakers will be used. No singing is proposed.

CONCLUSIONS OF LAW

Based on the Findings of Fact entered above, the following Conclusions of Law are entered.

1. The Noise Control Ordinance (LCMC § 7.05.020) establishes only "public disturbance (nuisance) noise" as unlawful noise. At § 7.05.010, that unlawful noise is defined as:

"...any sound which unreasonably [impacts] three or more persons residing within separate residences in the same community or neighborhood..."

2. No complaint was filed in this matter by three or more people who reside in separate residences in the same community as the Station House. Absent any such complaint, a noise is not unlawful unless listed in one of the seven categories of noise specified at § 7.05.010. Two of those seven categories could arguably apply here. One of those is use of a sound amplifier for the purpose of commercial advertising or sales or for attracting public attention. Here, no electronic amplification is proposed. The piano is for the enjoyment of patrons, not for the purpose of attracting patrons. The other category of noise arguably applicable here is the sound of a musical instrument to produce "... loud and raucous sounds...such as from a band session..."

3. It is concluded that a piano used as proposed herein is not creating unlawful public disturbance noise. If the piano causes patrons to rise up in boisterous song and if passing crowds join in the singing and if some in that throng dash to fetch their own musical instruments, the term "loud and raucous" might be used to control the noise. Until then, or until the requisite three or more complaints, anticipatory denial of a land use application is not acceptable.

4. It is noteworthy that the application of Ms. Bina is for a bar and grill permitted outright in the Commercial zone. No conditional use application is at issue here. If it were a conditionally permitted use, the noise standard

in the Commercial District is as follows at LCMC 15.35.030:

(3)(c) "There shall be no production of noise at any property line of any use in the Commercial District in excess of the average intensity of street and traffic noise found in the district;".

5. Ms. Bina argues on the record that traffic sounds on busy Morris Street (at times warranting a piano) will make the piano nearly inaudible. Time will tell. The enforcement provisions of LCMC § 7.05.070 provide for a monetary fine and a day in jail for a noise violation. That section also provides that a sound meter reading is not needed in order to establish that a public nuisance exists.

DECISION

For all of the above reasons, the decision of the Hearing Examiner on the appeal is as follows:

The appeal is **GRANTED** and the determination of the Planning Department is **REVERSED** in order to permit the use of a piano subject to consistency with all findings and conclusions entered herein.

NOTICE OF APPEAL PROCEDURES FROM THIS FINAL DECISION  
OF THE TOWN OF LA CONNER HEARING EXAMINER

This action of the Hearing Examiner is final. The following review procedure is available and may be taken by any party of record, including any department of the Town of La Conner.

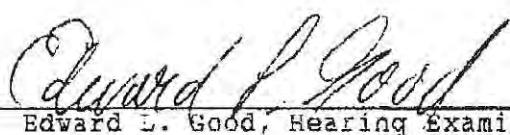
Any party of record may request reconsideration in writing within three (3) days of the date of issuance of this decision. The request for reconsideration must be based upon error or omission in fact or law. Although the Examiner is not required to modify the original decision, the Examiner may initiate whatever action is deemed appropriate by the Examiner. When the Examiner decides that the grounds cited for reconsideration do not warrant modification

of this decision, the Examiner shall provide the requesting party with written notice of the Examiner's determination before the expiration of the time set out herein for filing an appeal.

A request for reconsideration must be addressed to the Town Clerk at 204 Douglas, La Conner, mailing address P. O. Box 400, La Conner, WA 98257.

Within twenty one (21) calendar days from the date of this decision by the Hearing Examiner, any party of record may take action pursuant to the Land Use Petition Act or within ten (10) calendar days of the date of the decision by the Hearing Examiner, may file a Writ of Review with the Skagit County Superior Court.

Dated and entered this 31st day of March 1998.



---

Edward L. Good, Hearing Examiner

Attachment: Technical Summary

**TECHNICAL SUMMARY**  
**BACKGROUND INFORMATION**  
**Appeal for Linda Bina**

**Applicant:** Linda Bina  
POB 238  
La Conner, Washington 98257

**Requested action:** : The applicant Linda Bina, submitted plans (Exhibit I) on January 29, 1998 to section off the existing outdoor dinning area to allow for the service of alcoholic beverages. Included in these plans was the request for a piano player to play live music within the sectioned off outdoor dinning area.

**Property Location:** 315 Morris Street

**Zoning:** Commercial / Historic Preservation District Overlay

**Comprehensive Plan:** Commercial

**Environmental Review:** None needed for an Appeal.

**Legal Notices:** Published in the Channel Town Press, March 4, 1998.

**Hearing Date:** March 17, 1998

# EXHIBIT I

## **EXHIBIT II**

# Town of La Conner



## CERTIFICATE OF AUTHORIZATION

February 6, 1998  
File No. 98-0013B

To: Linda Bina  
PO Box 238  
La Conner, WA 98257

Authorization is hereby granted to Linda Bina, under the provisions of the La Conner Uniform Development Code, to add additional planter boxes around the existing outdoor dinning area to allow for the service of alcoholic beverages. The request for a piano player to play music outside the Station House has been denied per *Section 7.05.010(4)(6) Public nuisance and disturbance noises*. This work is a portion of that described by the proposed application dated January 29, 1998, with following conditions:

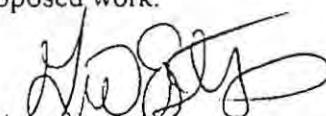
1. Planter boxes shall be used for the separation boundary instead of the proposed steal post and rope.
2. The planter boxes shall totally surround the 45'x25' outdoor dinning area.
3. The applicant shall comply with all Liquor Control Board regulations.
4. This Certificate of Authorization does not approve the request for an outdoor piano player. See Notice of Denial.

The work shall be in accordance with the approved plans and drawings dated January 29, 1997 which are incorporated in and made a part of this Certificate of Authorization.

Any revisions to the authorized work must be submitted to the Planning Department for review and approval pursuant to the 1995 Uniform Development Code (UDC).

Non compliance with the Uniform Development Code could result in enforcement action. Revisions implemented without authorization could result in the issuance of a Stop Work Order.

Nothing in this authorization shall be construed as excusing you from compliance with any other local, state or Federal statutes, ordinances or regulations which may affect the proposed work.

  
GINA ESTEP  
Assistant Planner

# **EXHIBIT III**

# Town of La Conner



## NOTICE OF DENIAL

February 6, 1998  
File No. 98-0013B

To: Linda Bina  
PO Box 238  
La Conner, WA 98257

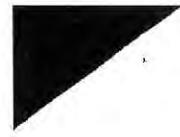
As part of permit number 98-0013B a request by Linda Bina for a piano player to play light classical and rag time music within the outdoor dinning area of the Station House has been denied per *Section 7.05.010(4)(6) Public nuisance and disturbance noises.* This decision is a portion of that described by the proposed application dated January 29, 1998, player.

Non compliance with Section 7.05.010(4)(6) could result in enforcement action. Revisions implemented without authorization could result in the issuance of a Stop Work Order.

Nothing in this authorization shall be construed as excusing you from compliance with any other local, state or Federal statutes, ordinances or regulations which may affect the proposed work.

Procedure for appeals of a land use decision by the planning director may be made to the hearing examiner; provided the appeal is submitted, in writing to the below reference address, and a fee paid to the town clerk within 10 days of the decision. The decision of the hearing examiner is final.

GINA ESTEP  
Assistant Planner



● ●

## EXHIBIT IV

# Town of La Conner



## NOTICE OF VIOLATION

February 17, 1998

TO: Lina Bina  
PO Box 238  
La Conner, WA 98257

Violation Location: 315 E. Morris Street

### Violation Description:

On February 6, 1998, Linda Bina received a Certificate of Authorization to add additional planter boxes to form a separation boundary around the existing outdoor dinning area to allow for the service of alcoholic beverages. The Certificate of Authorization consists of four conditions, two of which the applicant has not complied with.

The separation boundary which has been placed around the existing outdoor dinning consists of white wood lattice, cement blocks with small planters placed on top, a purple wind mill, a purple bench and small single planters placed along the Station House exterior wall. All the items that are not planter boxes are in violation of the Certificate of Authorization.

Ms. Bina, the Certificate of Authorization that was granted to you for the separation boundary on February 6, 1998 consisted of four conditions. I have listed the conditions, the related violations and the required corrections for compliance.

*1. Planter boxes shall be used for the separation boundary instead of the proposed steal post and rope.*

**Violation** - Planter boxes were not used for the separation boundary by the applicant. White wood lattice, a purple bench, a purple wind mill and cement blocks were used to separate the outdoor dinning area from the general public. This is a direct violation of condition 1.

**Required Corrections for Compliance** - The white wood lattice, purple bench, purple wind mill, cement blocks and any other item that is not a planter box shall be removed immediately and replaced with planter boxes.

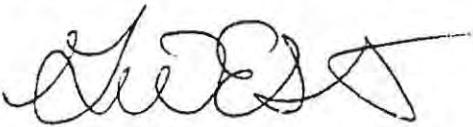
*2. The planter boxes shall totally surround the 45'x25' outdoor dinning area.*

**Violation** - Again white wood lattice, a purple bench, a purple wind mill and cement blocks surround the outdoor dinning area, this is a direct violation to condition 2 of the Certificate of Authorization.

**Required Corrections for Compliance** - The white wood lattice, purple bench, purple wind mill, cement blocks and any other items that is not a planter box shall be removed and replaced with planter boxes. These planter boxes shall totally surround the outdoor dinning area. NO OTHER ITEM SHALL BE USED OTHER THAN PLANTER BOXES TO SEPARATE THE OUTDOOR DINNING FROM THE GENERAL PUBLIC.

3. *The applicant shall comply with all Liquor Control Board regulations.*
4. *This Certificate of Authorization does not approve the request for an outdoor piano player. See Notice of Denial.*

Thank you in advance for prompt correction of the violation by removing any object that is not a planter box and replace it with planter boxes. Again, these planter boxes shall totally surround the outdoor dinning area, creating a distinct separation boundary complying with all Liquor Control regulations.



Gina Estep  
Assistant Planner

# **EXHIBIT V**

# Town of La Conner



## CERTIFICATE OF AUTHORIZATION

February 20, 1998

File No. 98-0013B (Revised 2/19/98)

To: Linda Bina  
PO Box 238  
La Conner, WA 98257

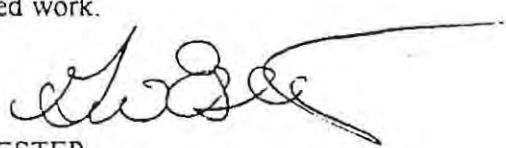
Authorization is hereby granted to Linda Bina, under the provisions of the La Conner Uniform Development Code, to place 4x4 wooden posts, bolted to pier blocks and placed in planter boxes to hide the pier block around the existing outdoor dining area. Rope will connect the wood posts to allow for the service of alcoholic beverages within the outdoor dining area. This work is a portion of that described by the proposed application dated January 29, 1998, and revised on February 19, 1998.

The work shall be in accordance with the approved plans and drawings dated January 29, 1997 and revised on February 19, 1998 which are incorporated in and made a part of this Certificate of Authorization.

Any revisions to the authorized work must be submitted to the Planning Department for review and approval pursuant to the 1995 Uniform Development Code (UDC).

Non compliance with the Uniform Development Code could result in enforcement action. Revisions implemented without authorization could result in the issuance of a Stop Work Order.

Nothing in this authorization shall be construed as excusing you from compliance with any other local, state or Federal statutes, ordinances or regulations which may affect the proposed work.

  
GINA ESTEP  
Assistant Planner

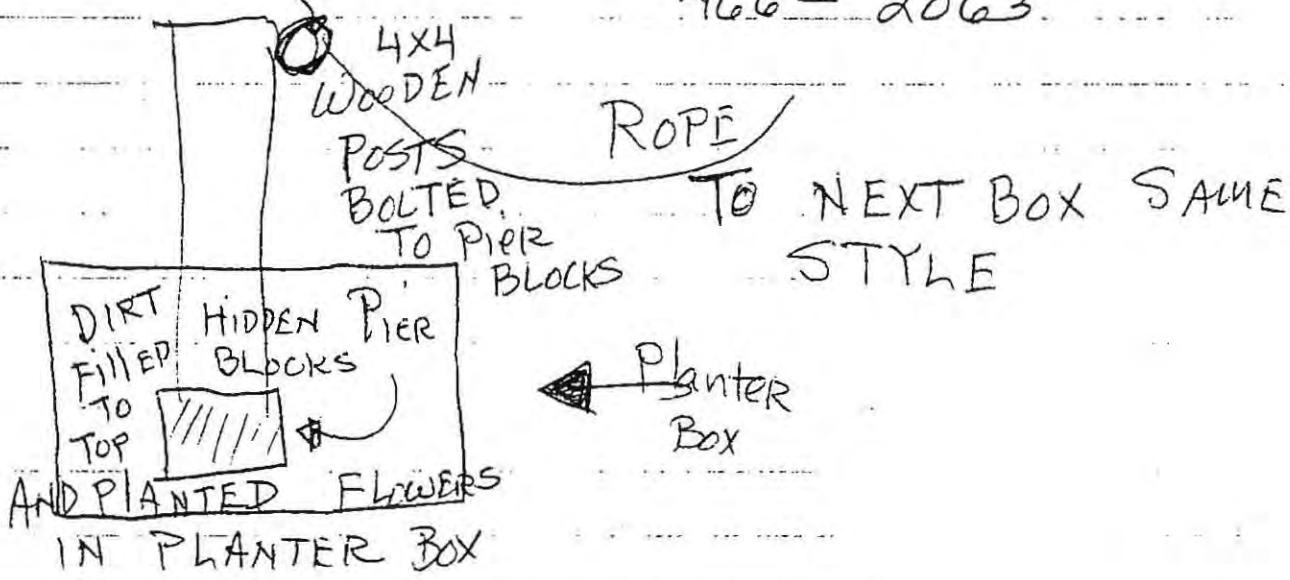
Town of Sonnen

2-19-98

FEB 19 1998

To: Elizabeth / Gina  
Planning Dept

From: Linda / Station House  
315 E. Morris St  
466-2063



I like this -

Elizabeth

Exhibit VI

No Money for appeal  
Was ever received.  
2/20/98

Fee Received 2/24/98

February 13, 1998

Linda Bina, Owner  
Station House Bar & Grill  
P.O. Box 238  
LaConner, WA 98257  
(360) 466-2063

Town of LaConner  
Hearing Examiner  
File No.: 98-0013B  
P.O. Box 400  
LaConner, WA 98257

I received the 2/6/98 Notice of Denial for a piano player to play light classical and ragtime music for our outdoor dining area from 11:00 a.m. to 5:00 p.m. The denial listed Section 7.05.00 (4)(6) public nuisance and disturbance noises.

I appeal the denial for the following reasons: number (4) would not apply because the piano has no speakers, no sound amplifier and, in fact, no microphone either. Number (6) the piano is not a band session, nor does it produce loud and raucous sounds. Vehicle street noise is noticeably louder than any piano.

Webster's Dictionary defines loud as: "Strong or powerful in sound". A piano without speakers or any sound amplifier or microphone cannot, in any way, be strong, loud or powerful in sound. It is also not a baby grand or grand piano. It is an old upright antique piano.

Webster's Dictionary defines raucous as: "Horse, harsh, as the voice." The piano player would not be singing, only playing the piano.

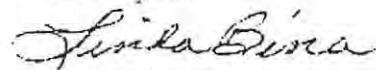
I would also like to mention that many businesses during the Tulip Festival and the Smelt Derby and also during warm summer days have radios and CDS playing in their establishments. With business doors open, the sounds of radios, tape players and CDS would be heard outside the stores on the sidewalks. This is no different than what I proposed and certainly no louder.

The paper says on 2/21/98 from 10:00 a.m. to 2:00 p.m. Maple Center will be alive with the sounds of laughter and fun. Won't this be noisy?

I attempted to deliver this to Town Hall on Monday, but it was closed for the holiday. I will hand deliver it Tuesday and pay the fee to the Town Clerk.

Please allow me consideration in this matter and advise me as soon as possible. The Smelt Derby is 2/21/98 and a considerable loss of income could result from denial.

Thank you,

  
Linda Bina

Linda Bina, Owner

# TOWN OF LA CONNER LAND USE APPLICATION

<input type="checkbox"/> Annexation	<input type="checkbox"/> Planned Unit Residential Dev.
<input type="checkbox"/> Pre Application	<input type="checkbox"/> Rezone
<input type="checkbox"/> Design Review	<input type="checkbox"/> Shoreline Permit
<input type="checkbox"/> Grade & Fill Permit	<input type="checkbox"/> Sign Permit
<input type="checkbox"/> Change of Use	<input type="checkbox"/> Street Development/Vacation
<input type="checkbox"/> Comp Plan Change	<input type="checkbox"/> Subdivision
<input type="checkbox"/> Conditional Use Permit	<input type="checkbox"/> Variance
<input type="checkbox"/> Home Occupation	<input type="checkbox"/> Tree Removal Permit
<input type="checkbox"/> Lot Line Adjustment	

Applicant Linda Bina - STATION HOUSE,  
BAR & GRILL  
Address 315 E. MORRIS ST

Property Address or Location Same

Property Owner Donna & Jerry Blues Phone 466 - 4534

Address \_\_\_\_\_

Tax Account # \_\_\_\_\_

Legal Description \_\_\_\_\_

Description of Project Have Aman playing classical  
Ragtime music OUTDOORS from 11AM  
to 5PM

The undersigned applicant and his/her/its heirs and assigns, in consideration of the processing of this application agrees to release, indemnify, defend and hold the Town of La Conner harmless from any and all damages, including reasonable attorney's fees arising from any action or infraction based in whole, or in part, upon false, misleading, inaccurate or incomplete information furnished by the applicant, his/her/its agents or employees.

The undersigned applicant grants his/her/its agents permission for public officials and the staff of the Town of La Conner to enter subject property for the purpose of inspection and posting, attendant to this application.

SIGNATURE OF APPLICANT/OWNER/AGENT Linda Bina

98-0013B		FOR OFFICIAL USE ONLY	
File # <u>98-0019A</u>		Zone <u>Commercial / Historic</u> Date <u>2/24/98</u>	
Fee <u>150<sup>+</sup> H/E fee</u>		Rec'd By <u>Chern Lutris</u> Receipt # <u>35051</u>	
Hearing Date _____		HE, Staff, PC, BA, TC	
Action Taken <u>Approved, <input checked="" type="checkbox"/> Denied, <input checked="" type="checkbox"/>Appealed, <input type="checkbox"/>Appealed</u>		Appeal # <u>98-0019A</u>	
		PL-98-0013B H/E 98-0019A	

## Exhibit VII

# Town of La Conner



## NOTICE OF APPEAL

The La Conner Hearing Examiner will hold a closed record hearing for the appeal on the below described project on March 17, 1998. This hearing will be held at the La Conner Council Chamber, 204 Douglas Street, at 5:00 p.m. The role of the Hearing Examiner shall be to hear the appeal and make a final decision on the project.

**Project No:** 98-0019A

**Applicant:** Linda Bina

**Project Location:** 315 Morris Street

**Description of Appeal:** The applicant, Linda Bina is appealing the Planning Department's decision to deny the request for a piano player to play live music outside the existing structure in the outdoor dinning area from 11:00 a.m. to 5:00 p.m. at the property located at 315 Morris Street. The Planning Department's decision was based on the LCMC Section 7.05.010(4)(6) *Public nuisance and disturbance noises.*

Published March 4, 1998, Channel Town Press

Gina Estep  
Assistant Planner

## **SITE SPECIFIC HEALTH AND SAFETY PLAN**

### **315 MORRIS STREET / CITY OF LACONNER ROW LACONNER, WASHINGTON**

Prepared For:

Jerry Blades  
PO Box C-2102  
LaConner, Washington 98257

Prepared By:

ADEPT Geoscience & Environment, Inc.  
PO Box 1328  
Everett, Washington 98206-1328

ADEPT PROJECT NUMBER: 3.209

April, 2003

ADEPT Geoscience & Environment

ENVIRONMENTAL  
ENGINEERING GEOLGY  
HYDROGEOLOGY

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## 1.0 PROJECT SUMMARY

**Site Name** – Station House / City of LaConner Right-Of-Way

**Location** – 315 Morris Street, LaConner, Washington

**Land Use of Area Surrounding Facility** – Commercial and residential

**Project Activities** – UST removal, soil excavation and soil sample collection

**Potential Site Contaminants** – Semi-volatile total petroleum hydrocarbons (TPH), volatile TPH, lead

**Routes of Entry** – Skin contact with soil; incidental ingestion of soil; and inhalation of airborne droplets, dusts, or vapors

**Protective Measures** – Safety glasses, gloves, and protective clothing

**Monitoring Equipment** – Photo-ionization detector, combustibility meter

## 2.0 INTRODUCTION

This site-specific Health and Safety Plan (HSP) provides procedures to minimize the risk of environmental contamination, as well as the risks to on-site workers from chemical exposure and physical accidents.

Adept Geoscience & Environment, Inc., (AGE) its subcontractors, and clients do not guarantee the health or safety of any person entering this site. Because of the nature of this site and the activity occurring there, it is not possible to discover, evaluate, and provide protection for all possible hazards that may be encountered. Strict adherence to the health and safety guidelines in this plan will reduce, but not eliminate, the potential for injury at this site. The health and safety guidelines in this plan were prepared specifically for this site and should not be used on any other site without prior research and evaluation by trained health and safety specialists.

### 2.1 PROJECT DESCRIPTION

Three old underground storage tanks (USTs) were recently lying partly within private property at 315 Morris Street and partly within the adjacent City of LaConner right-of-way. The 315 Morris Street property was a gas station in the past. The site is now used for a café and antique fishing equipment sales. Five registered UST's were removed in the 1990's. The site ID on the UST list is #6918.

The three USTs in question were discovered during the installation of new utilities adjacent to Morris Street, and appear to be old, perhaps dating back to the 1950's or earlier. All three tanks are 500-gallons in size. One tank

was dry, the other two contained a few inches of gasoline. No water was found in any of the tanks.

Two soil samples were collected from adjacent to the tanks on April 7, 2003 by AGE personnel. Chemical analysis revealed that the soil samples contained volatile TPH (gasoline) and BTEX components in excess of cleanup levels defined in the Model Toxics Control Act (WAC 173-340, Table 740-1). Based on these results, it was apparent that some cleanup will be required. The purpose of this project is to remove the USTs and the contaminated soil.

This Health & Safety Plan (HSP) addresses field activities entailed in completing the following planned work tasks:

- UST removal
- Excavation of contaminated soil;
- Loading of contaminated soil into trucks;
- Collection of soil samples using hand implements or other appropriate equipment; and
- Site security.

A summary of the potential hazards associated with each of these activities is provided in Table 1.

## 2.2 HSP DISTRIBUTION

The HSP will be made available to all personnel and subcontractors involved in the project. This HSP represents minimum safety procedures for the UST removal contractor. The UST removal contractor is responsible for all of the safety guidelines addressed in this HSP, as well as any other project specific safety and health practices related to UST removal not addressed in this HSP.

The consultants and contractors are independently responsible for the health and safety of their own employees on the project; however, contractor employees will be required to review this plan.

## 2.3 ORGANIZATIONAL STRUCTURE

All employees and workers on this project are expected to maintain vigilance at all times to ensure that the work is conducted in a safe and efficient manner. To provide an organizational structure that supports this objective, the following individuals are assigned specific responsibilities and lines of communication for the duration of this project.

### 2.3.1 Project Manager

Dr. Jon Einarsen of Adept Geoscience & Environment, Inc. is the designated Project Manager for this project. He is responsible for overall administration of the project. His duties include project planning, budgeting, communications, and coordination. He is also responsible for ensuring that adequate personnel and equipment are available to complete the project safely. The Project Manager may delegate all or part of his authority and responsibility to other designated field representatives.

For this project, responsibility for safe removal of the USTs is designated to Jim Ingram of Team Construction Services, Inc.

### 2.3.2 Project Health and Safety Manager

Dr. Jon Einarsen of Adept Geoscience & Environment, Inc. is the Project Health and Safety Manager (HSM), and has the responsibility and authority to oversee the development, revision, and approval of this site HSP and to audit implementation of the plan in the field. The HSM is also responsible for reviewing health and safety issues that may arise during the project, coordinating changes in personal protective equipment (PPE) requirements, conducting major accident investigations, and conducting periodic site audits and inspections. The HSM or his designated representative has discretionary authority to shut down this project. This project may not start until the HSM has approved this site-specific HSP.

### 2.3.3 Site Safety Officer

Dr. Einarsen is also the designated Site Safety Officer (SSO). He is responsible for verification and overall compliance with this HSP. His duties include, but are not limited to 1) on-site monitoring to determine appropriate levels and use of PPE; 2) site surveillance, hazard identification, and health risk analysis; 3) implementation of procedures and programs to eliminate risk to site personnel, including initiating changes to the HSP; 4) implementation of site control measures; 5) assisting in conducting and documenting daily health and safety briefings; 6) maintaining health and safety field log books; 7) providing summaries of field operations and progress to HSM; 8) instructing all site personnel on the content of this HSP; 9) ensure that all operational aspects of the HSP are implemented; and 10) maintain the site logbook, which will serve as the official record of daily site activities.

## 3.0 CHEMICAL HAZARD EVALUATION

Based on existing site information, volatile TPH may be present at the site above human health risk-based criteria as determined for a conservative residential exposure setting for unrestricted land use.

Human health hazards of volatile TPH are discussed below. This information covers potential toxic effects that might occur if relatively significant acute and/or chronic exposure were to happen. This information does not mean that such effects will occur from the planned site activities. In general, the chemicals that may be encountered at this site are not expected to be present in concentrations that would produce significant exposures. The types of planned work activities, established safe work practices, and personal protective equipment will limit potential exposures at this site.

The standards governing potential exposure to the chemicals of concern are presented using the following abbreviations:

REL-TWA	Time-weighted average exposure limit for any 8-hour work shift.
STEL	Short-term exposure limit expressed as a 15-minute time-weighted average and not to be exceeded at any time during a work day.
IDLH	Immediately dangerous to life and health
TLV	Threshold Limit Value. The time-weighted average concentration for an 8-hour work day and a 40-hour work week, to which nearly all workers may be repeatedly exposed, day after day, without adverse effect.

### 3.1 VOLATILE TPH

Volatile TPH (gasoline) is a complex manufactured mixture. Gasoline is produced from petroleum in the refining process, and typically contains more than 150 chemicals including small amounts of benzene, toluene, ethyl benzene, and xylene (BTEX), and sometimes lead. How the gasoline is made determines which chemicals are present in the gasoline mixture and how much of each is present. The actual composition varies with the source of the crude petroleum, the manufacturer, and the time of year. Gasoline is very flammable; it catches on fire quite easily, evaporates quickly, and forms explosive mixtures with air. Most people can begin to smell gasoline at 0.25 parts of gasoline per million parts of air (ppm).

Symptoms of exposure to gasoline include nose and eye irritation, confusion, blurred vision, slurred speech, dizziness, and headache. The target organs of gasoline include the eyes, skin, respiratory system, central nervous system, liver and kidneys.

Standard exposure limits have not been defined for gasoline due to the complex nature of the chemical mixture comprising gasoline. However, the Occupational Safety and Health Administration (OSHA) has set a legal limit of 300 ppm gasoline for workroom air.

## 3.2 POTENTIAL EXPOSURE ROUTES

### 3.2.1 Inhalation

Volatile TPH has high volatility, and there is a risk of vapor inhalation. Additionally, inhalation of dust with adsorbed TPH is a potential concern for soils. In either case, the monitoring specified in this plan will prevent exposure to dangerous levels of these contaminants.

### 3.2.2 Skin Contact

Exposure via this route could occur if contaminated soil contacts the skin or clothing. Protective clothing and decontamination activities specified in this plan will minimize the potential for skin contact with the contaminants. At a minimum, modified Level D (see Section 7.1) will be used during all sampling collection and handling activities.

### 3.2.3 Ingestion

Exposure via this route could occur if individuals eat, drink, or perform other hand-to-mouth contact in the contaminated (exclusion) zones. Decontamination procedures and exclusion zones established in this plan will minimize the inadvertent ingestion of contaminants.

## 4.0 OTHER HAZARDS

### 4.1 PHYSICAL HAZARDS

**Trips/Falls** - As with all field work, caution will be exercised to prevent falls and injuries caused by rain slick surfaces, icy surfaces, cluttered work spaces, exposed sharp objects, etc. Work will not be performed on elevated platforms without fall protection. Preventive measures will include wearing non-skid shoes and keeping active areas clear of clutter. Icy conditions may require the use of sand or de-icing materials on flat, hard surfaces.

**Head Hazards** - Hazards include falling objects, overhead work, and bump hazards. Hard hats will be worn by all personnel on site whenever heavy equipment is being used or overhead hazards are present.

**Foot and Ankle Hazards** - Hazards include sharp objects, uneven or slippery walking surfaces, hazardous materials, and dropped heavy objects. When working around heavy equipment or on construction sites, all personnel will wear rugged steel-toed safety boots designed for construction-type activities.

**Eye Hazards** - Eye protection is required in order to prevent eye injuries from contact with chemical or physical agents. Safety glasses will be worn at all times when working around heavy equipment or on construction sites or with hazardous or potentially hazardous materials.

**Mechanical Hazards** - This includes heavy equipment and motor vehicles such as drilling rigs, backhoes, and excavators. All workers will be aware of the risks of serious injury or death potential associated with working around heavy equipment. All workers shall be alerted to the potential of trauma from moving parts on equipment. Personnel will remain in visual contact with the operator of motorized equipment at all times during which the equipment is operational and there is the possibility of injury due to operation of the equipment. Personnel will not walk in the track of, or downhill from moving motorized equipment. While motorized equipment, such as a backhoe, are excavating, sampling personnel will remain outside the working radius of the excavator bucket, or, the personnel will stand behind an imaginary 45 degree line that extends towards the rear of the backhoe from the point where the excavator arm attaches to the body of the machine. Workers shall be instructed to avoid loose clothing so hands and arms won't be pulled into moving parts. All new workers will have three days of documented experience with an experienced worker on drill rigs and backhoe jobs. All workers should know where the automatic shut-off switch is located on drill rigs.

**Excavation Hazards** - Prior to opening or excavating a trench or boring a hole, efforts shall be made to determine whether underground installations of utilities will be encountered. The minimum clearance for direct burial cable is two feet.

No excavation or drilling should be performed that will operate within 10 feet of electric wiring.

Excavation trenches greater than four feet deep will not be entered unless adequate safety precautions as specified in Chapter 296-155 Part N, Excavation, Trenching, and Shoring (WAC 296-155-650 through WAC 296-155-665) are followed. Personnel on-site will not put their heads below the upper edge of a trench. Any variance from this plan must be discussed with and agreed to by the Safety Officer.

Workers should remain alert to the danger of the sidewalls of the excavation collapsing.

**Motor Vehicles** - One of the leading causes of worker injury is automobile accidents. All workers will have a valid drivers licenses and follow all applicable driving laws. All drivers will wear seat belts at all times.

**Electrical Hazards** - All electrical equipment will be checked prior to commencing operations by site personnel familiar with equipment.

**Lighting** - Field activities performed at night will use adequate lighting for the particular task. Flashlights should be kept in all vehicles to ensure that employees will have light for moving between lighted work areas and for emergency purposes.

**Confined Space Entry** - Personnel will not enter any confined space, such as the active or abandoned storm drain systems or storage tanks without the specific approval of the Project Manager. A specific confined space entry health and safety plan will be written for any confined space entry, and must be reviewed by all top management personnel.

**Lightning** - Work will stop and all personnel will exit the field work site when heavy equipment is in use in the event of a thunderstorm within one mile of the site.

**Plants and Animals** - Outdoor work locations often contain irritant plants and wild animals that may present hazards to workers. When identified at a job site all workers will be informed of these hazards prior to going out on the site. Examples of hazards that have been encountered in the past are wasp nests in ground water monitoring wells and various thorny plants including stinging nettles and devils club.

**Noise** - It is anticipated that personal noise exposure during excavation may exceed the allowed 85 db level at any time, and therefore hearing protection will be required while the excavator is operating.

## 4.2 HEAT STRESS

Use of impermeable clothing reduces the cooling ability of the body because of evaporation reduction. This may lead to heat stress. If such conditions occur during site activities, appropriate work-rest cycles and electrolyte-rich fluids (Gatorade® or equivalent) will be used to minimize the effects of heat stress on site personnel. Heat stress monitoring (pulse rates) will be conducted when ambient temperatures exceed 70°F during work activities requiring Levels C and D PPE.

Each employee will check his or her own pulse rate at the beginning of each break period. Take the pulse at the wrist for 6 seconds, and multiply by 10. If the pulse rate exceeds 110 beats per minute, then reduce the length of the next work period by one-third. For example, if after a one-hour work period at 80 degrees a worker has a pulse rate of 120 beats per minute, the worker must shorten the next work period by one-third, resulting in a work period of 40 minutes until the next break.

#### 4.3 HYPOTHERMIA

Hypothermia can result from abnormal cooling of the core body temperature. It is caused by exposure to a cold environment and wind chill. Wetness or water immersion can also result in hypothermia.

Typical warning signs of hypothermia include fatigue, weakness, lack of coordination, apathy, and drowsiness. A confused state is a key symptom of hypothermia. Shivering and pallor are usually absent, and the face may appear puffy and pink. Body temperatures below 90° F require immediate treatment to restore temperature to normal.

Current medical practice recommends slow rewarming as the treatment for hypothermia, followed by professional medical care. This can be accomplished by moving the person into a sheltered area and wrapping him or her with blankets in a warm room. In emergency situations, when a person's body temperature falls below 90° F and heated shelter is not available, use a sleeping bag, blankets, and body heat from another individual to help restore normal body temperature.

### 5.0 UST REMOVAL

#### 5.1 PREPARATION

Remove remaining product from tank and all lines. Disconnect all fills, gauges, product, and vapor recovery lines. Keep the existing vent pipe in place. Remove all piping that is not to be used or continued in service. Use only non-sparking tools for this work.

#### 5.2 TANK CLEANING

All underground tanks should be cleaned prior to removal or closure-in-place by the following method (other methods may be acceptable with pre-approval):

- Remove all product/waste from the tank bottom by using a hand pump to evacuate the remaining few inches. An explosion proof pump can be used if it is grounded and bonded properly.
- The tank shall then be triple rinsed with an appropriate solution to remove the remaining sludge, and/or scale from the interior of the tank.
- The resulting rinseate generated from the cleaning process must be removed from the tank and handled as contaminated. It is acceptable to store the rinseate in secure, covered 55 gallon drums if it is picked up within seven days by a licensed hauler and disposal contractor.

### 5.3 TANK INERTING

The inerting process replaces the oxygen and some of the flammable vapors within the tank with an inert gas such as carbon dioxide, using the following procedure:

- Solid carbon dioxide of "dry ice" shall be placed into a cleaned tank at a minimum ratio of 3.0 pounds per 100 gallons of tank volume, distribute the CO<sub>2</sub> evenly over the tank bottom.
- The goal of inerting is to reduce the level of oxygen in the tank below 10%. A meter reading of 6-7% O<sub>2</sub> is considered safe. Oxygen concentrations will be measured with an O<sub>2</sub> meter.
- All openings on the tank shall then be tightly sealed except for a 1/8 inch vent hole which allows for temperature expansion.

**CAUTION:** The atmosphere within the tank may again reach the explosive limit after initially being inerted, therefore an approved and properly calibrated hydrocarbon detector with an oxygen meter shall be utilized and maintained on-site.

### 5.4 TANK EXTRACTION

Remove the backfill from around the tank and sides. All excavated materials and soil suspected of contamination as detected by analysis, instrumentation, odor, or discoloration shall be excavated, separated, and stockpiled on the site or loaded onto trucks for direct delivery to a licensed disposal facility.

Utilizing adequate heavy equipment and safety precautions, the tank(s) shall then be removed from the excavation to a secure inspection area. Tanks should not be dragged at any time. The tanks must be examined for leaks and structural integrity.

### 5.5 TANK DISPOSAL

Clean tanks can typically be disposed at metal recycling facilities.

## 6.0 SOIL EXCAVATION

Contaminated soil will be removed with an excavator. Modified Level D protection equipment will be utilized by the excavator operator and sampling personnel who potentially may come in contact with waste materials. The purpose of this protection is to minimize potential contact with contaminated soil. In addition, hearing protection and safety glasses will be utilized as appropriate during the excavation operations.

## 6.1 AIR MONITORING

Air monitoring and visual observations of the site are required to determine the effectiveness of engineering controls, to re-evaluate levels of protection and determine if site conditions have changed. At minimum, monitoring will be done at the beginning of the work shift and periodically throughout the work. Specific monitoring locations and frequencies are given below.

Each piece of monitoring equipment will be inspected and calibrated prior to work start-up. Failure of any of the equipment listed below to work properly must be reported to the Site Health and Safety Supervisor immediately. Work in the exclusion zone is not to continue beyond the monitoring cycle if equipment is not working properly.

Personnel air monitoring will be conducted to determine the breathing zone concentrations of chemical compounds to the workers. Air monitoring will be conducted using a photoionization detector.

**Photoionization Detector** – The photoionization detector (PID) will be calibrated daily prior to beginning field activities. Calibration will be conducted according to manufacturer's instructions and be recorded in the health and safety log book. Air monitoring in the breathing zone should be conducted every 30 minutes during excavation and field operations, and the results recorded in the log book. Monitoring is to be conducted continuously if on-site personnel detect odors/taste.

### Action Levels:

- Less than 5 parts per million (ppm) on the PID above background levels at the breathing zone height (averaged over a 1-minute period): Respiratory protection is not required at this level.
- 5 to 10 ppm continuous readings in the breathing zone (averaged over a 1-minute period) requires crew to wear Level C PPE with a half mask respirators with combination high efficiency dust filters/organic vapor cartridges in addition to the protective clothing. Fans shall be employed to vent vapors away from workers.
- 10 to 50 ppm continuous readings in the breathing zone (for 1 minute) requires the workers to wear full-face respiratory protection with combination high efficiency dust filters/organic vapor cartridges in addition to the protective clothing. Fans shall be employed to vent vapors away from workers.
- Levels greater than 50 ppm for a one-minute average requires an evacuation of the work area. Work should not continue until additional readings have been obtained by the Site Health and Safety Supervisor in an appropriate level of protection. Additional ventilation at the work site shall be employed to reduce levels to < 50 ppm. Approximately 5-minute sampling intervals shall elapse to allow gases to vent.

## 7.0 SOIL SAMPLING

### 7.1 AIR MONITORING

Due to the potential for exposure to TPH during soil sampling, the PID will also be used to monitor the air in the work zone during soil sampling events. The action levels shall be the same as described in Section 6.1.

## 8.0 PERSONNEL PROTECTIVE EQUIPMENT

Work for this project will be conducted in Level D or modified Level D PPE. Situations requiring Level A, B, or C protection (i.e., respirators or supplied air respirators) are not anticipated for this project. If situations are encountered that require these levels, then engineering controls will be initiated to maintain work in Level D or modified Level D. If these engineering controls prove to be ineffective, then work will stop and the HSP will be consulted and the HSM notified in order to devise new strategies for controlling site exposure hazards.

### 8.1 MODIFIED LEVEL D ACTIVITIES

Workers performing site activities where skin contact with heavily contaminated materials is possible will wear chemical-resistant gloves (nitrile, neoprene, or other appropriate outer gloves and nitrile or non-powdered latex inner gloves) and chemical-resistant suits such as Tyvek® or rain gear. Use face shields or goggles as necessary to avoid splashes to the eyes or face.

A summary of modified Level D protection includes the following:

- Hard hats (near excavator or if overhead hazard exists);
- Rain gear or Tyvek®;
- Eye protection;
- Chemical-resistant boots;
- Nitrile or non-powdered latex inner gloves; and
- Nitrile, neoprene, or equivalent outer gloves.

All sampling and handling activities for this project are expected to be modified Level D.

### 8.2 SAFETY EQUIPMENT LIST

The following Safety Equipment must be available on site:

- First aid kit;
- Eye wash kit;
- Mobile telephone;
- Waterproof, chemical-resistant boots;
- Chemical-resistant gloves (inner—nitrile or non-powdered latex; outer—either nitrile, neoprene, or approved alternate);
- Safety glasses;
- Fire extinguishers;
- Rain gear or polycoated Tyvek®;
- Hardhat;
- PID and O<sub>2</sub> meters or other approved monitoring device; and

## 9.0 SITE CONTROL

Three different site control zones will be established at the jobsite—an exclusion zone, a contaminant reduction zone, and a support zone. The exclusion zone is defined as the area where contamination and other site hazards are either known or are likely to be present. The contamination reduction zone is where hazardous substances are removed from site personnel and their equipment as they exit the exclusion zone. The support zone is a non-contaminated area where support services, equipment storage, and administrative activities occur. There will be no smoking, eating, or drinking within the exclusion or contaminant reduction zones. Control zones will be configured as described below. However, it is possible that the zone locations may be changed due to work plan revisions as the cleanup proceeds.

### 9.1 EXCLUSION ZONE

Exclusion zones will be established within that part of the project where contaminated soil excavation is occurring. Only persons with appropriate training, PPE, and authorization from the SSO will enter this perimeter while work is being conducted there. The zone boundaries will be explained to all persons onsite.

## 9.2 CONTAMINANT REDUCTION ZONE

A contaminant reduction zone will contain a decontamination station that must be used to exit the exclusion zone. The contaminant reduction zone will be located in the parking area north of the USTs. The station will have stiff brushes which will be used to brush soil from personnel and equipment leaving the exclusion zone. Care will be taken to prevent the spread of contamination from this area. The soil will be collected on plastic sheeting laid on the ground. The collected soil will be disposed in trucks along with the excavated soil on a daily basis. The plastic sheeting will be disposed in the trash.

## 9.3 SUPPORT ZONE

Support zones will be located in an uncontaminated area of the site adjacent to the exclusion zone and contaminant reduction zone. Site access and the majority of site operations will be controlled from this location. The support zone will contain provisions for team communications and serve as a staging area for equipment and emergency response resources. Safety equipment such as emergency eyewash, fire extinguisher, first aid kit, air horns, and other equipment will be stored in the support zone and transported to work areas as necessary. No contaminated personnel or contaminated materials will be allowed in this zone except for appropriately packaged environmental samples. Exceptions may be made for medical emergencies.

# 10.0 CONTAMINATION

## 10.1 MINIMIZATION OF CONTAMINATION

To make the work zones function effectively, the amount of equipment and number of personnel allowed in contaminated areas must be minimized. In addition, the amount of soil collected should not exceed what is needed for laboratory analysis and quality control. Use plastic drop cloths and equipment covers where appropriate to minimize hand-to-mouth transfer of contaminated materials. Eating, drinking, chewing gum, smoking, or using smokeless tobacco are forbidden in the exclusion zone.

## 10.2 DECONTAMINATION

Decontamination is necessary to limit the migration of contaminants from the site into the surrounding environment. Table 2 presents a summary for conducting decontamination within the site zones previously discussed.

Equipment and personnel decontamination are discussed in the following sections, and the following types of equipment will be available to perform these activities:

- Stiff bristle scrub brushes (long handled);
- Plastic sheeting (10 mil);
- Plastic garbage bags (10 mil); and
- 5-gallon buckets.

### **10.3 EQUIPMENT DECONTAMINATION**

Proper decontamination procedures will be employed to ensure that contaminated materials do not contact individuals and are not spread from the site. These procedures will also ensure that contaminated materials generated during site operations and during decontamination are managed appropriately.

All non-disposable equipment will be decontaminated in the contamination reduction zone.

### **10.4 PERSONNEL DECONTAMINATION**

Personnel working in exclusion zones will perform a mini-decontamination in the contaminant reduction zone prior to taking rest breaks, drinking liquids, etc. They will decontaminate fully before eating lunch or leaving the site. The following describes the procedures for mini-decon and full decon activities.

#### **Mini-Decontamination Procedure**

1. Brush soil off of clothing, gloves, and boots in the contamination reduction zone.
2. Inspect protective outer suit, if worn, for severe contamination, rips, or tears.
3. Remove outer gloves. Inspect and discard if ripped or damaged.
4. Replace outer gloves before returning to work.
5. If suit is highly contaminated or damaged, full decontamination as outlined below will be performed.

#### **Full Decontamination Procedure**

1. Brush soil off of clothing, gloves, and boots in the contamination reduction zone.

2. Remove outer gloves and rain gear/protective suit and deposit in labeled container for disposable PPE if they are unsuitable for additional use. Rain gear, which will be reused, should be placed or hung up within the decon zone.
3. Remove work boots without touching exposed surfaces, and put on street shoes. Put boots in individual plastic bag for later reuse (only when leaving the site).
4. Remove inner gloves and discard into labeled container for disposable clothing.
5. Immediately wash hands and face using clean water and soap or towelettes.
6. Shower as soon after work shift as possible.

#### **10.5 DISPOSAL OF CONTAMINATED MATERIALS**

All disposable sampling equipment and PPE will be brushed to remove gross contamination, and placed inside of a 10 mil polyethylene bag or other appropriate containers. These disposable supplies and containers will be removed from the site when personnel leave the area and will be disposed of in a normal refuse container (dumpster) and/or solid waste landfill.

#### **10.6 SITE SECURITY AND CONTROL**

Site security and control will be the responsibility of the SSO. The "buddy-system" will be used when working in designated hazardous areas. Any security or control problems will be reported to the client or appropriate authorities.

#### **10.7 SPILL CONTAINMENT**

Bulk chemicals subject to spillage are not expected to be used in this project; therefore, a detailed spill containment plan is not required for this project.

Soil will be sampled and handled within their respective exclusion zones. Areas outside of the exclusion zone affected by spills will be decontaminated.

### **11.0 EMERGENCY RESPONSE PLAN**

This emergency response plan outlines procedures for appropriate response to emergency situations that could occur on this project. Table 3 lists potential emergency hazards associated with this project and immediate responses that should be followed.

Site personnel, including consultants and subcontractors, will be expected to identify an emergency situation, notify the appropriate personnel or agency, evacuate the hazardous area, and attempt to control only readily manageable hazards. Site personnel will not be responsible for handling reportable or threatening emergencies.

## 11.1 PLAN CONTENT AND REVIEW

The principal hazards addressed by the emergency response plan include fire or explosion, medical emergencies, uncontrolled contaminant releases, and other situations such as the presence of chemicals above exposure guidelines or inadequate PPE for the hazards present. However, to help anticipate potential emergency situations, field personnel shall always exercise caution and look for signs of potentially hazardous situations, including the following examples:

- Visible or odorous chemical contaminants;
- Drums or other containers;
- General physical hazards (traffic, moving equipment, sharp or hot surfaces, slippery or uneven surfaces, etc.);
- Live electrical wires or equipment; and
- Poisonous or dangerous animals.

These and other potential problems should be anticipated and steps taken to prevent problems before they occur.

The emergency response plan shall be reviewed and rehearsed prior to site activities, as necessary, during the on-site health and safety briefing. This ensures that all personnel will know what their duties are should an actual emergency occur.

## 11.2 PLAN IMPLEMENTATION

The SSO shall act as the lead individual in the event of an emergency. He will determine the need to implement the emergency procedures in concert with other project personnel. Other on-site field personnel will assist the SSO and FOL as required during the emergency.

In the event that the Emergency Response Plan is implemented, the SSO or designees are responsible for alerting all personnel in the affected area by use of a signal device (such as a hand-held air horn) or by visual or shouted instructions, as appropriate. Three blasts of the air horn will initiate an emergency evacuation.

Emergency evacuation routes and safe assembly areas shall be identified and discussed in the on-site health and safety briefing. The "buddy-system" will be employed during evacuation to ensure safe escape, and the SSO shall be responsible for roll call to account for all personnel.

### **11.3 EMERGENCY RESPONSE CONTACTS**

Site personnel must know emergency contacts in the event of Emergency Response Plan implementation. The following information will be readily available at the site in a location known to all workers:

- Emergency telephone numbers (Table 4);
- Route to nearest hospital (Figure 1); and
- Site descriptions.

If a significant environmental release of contaminants occurs, the federal, state, and local agencies noted in this plan must be notified within 24 hours. Contact the Project Manager as soon as possible, and he will be responsible for notifying the agencies listed in Table 4. If significant release of contaminants occurs to navigable waters, the Coast Guard and National Response Center must be notified.

In the event of an emergency situation requiring implementation of the emergency response plan (fire or explosion, serious injury, tank leak or other material spill, presence of chemicals above exposure guidelines, inadequate personnel protection equipment for the hazards present, etc.) cease all work immediately. Offer whatever assistance is required, but do not enter work areas without proper protective equipment. Workers not needed for immediate assistance will decontaminate per normal procedures (if possible) and leave the work area until authorized to reenter by the SSO's approval for re-start of work. The following general emergency response safety procedures should be followed.

### **11.4 FIRES**

Field personnel will attempt to control only very small fires. If an explosion appears likely, evacuate the area immediately. If a fire occurs that cannot be controlled with a 10-pound ABC fire extinguisher, then immediate intervention by the local fire department or other appropriate agency is imperative. Use these steps:

- Abandon the site and head toward a previously agreed upon upwind location;
- Contact fire agency identified in the site-specific plan; and

- Inform Project Manager or HSM of the situation.

## 11.5 MEDICAL EMERGENCIES

Contact the agency listed in Table 4 if a medical emergency occurs. If a worker leaves the site to seek medical attention, another worker should accompany the patient. When in doubt about the severity of an accident or exposure, always use a conservative approach and seek medical attention. Notify the Project Manager of the outcome of the medical evaluation as soon as possible. For minor cuts and bruises, an on site first-aid kit will be available.

If a worker is seriously injured or becomes ill or unconscious, immediately request assistance from the emergency contact sources noted in the site-specific plan. Do not attempt to assist an unconscious worker in an untested or known dangerous confined space without applying confined space entry procedures, or without using proper respiratory protection such as a self-contained breathing apparatus (SCBA).

In the event that a seriously injured person is also heavily contaminated, use clean plastic sheeting to prevent contamination of the inside of the emergency vehicle. Less severely injured individuals may also have their protective clothing carefully removed or cut off before transport to the hospital. If it is deemed appropriate to transport the victim to the hospital, follow the route identified on Figure 1.

## 11.6 PLAN DOCUMENTATION AND REVIEW

The SSO will notify the HSM as soon as possible after the emergency situation has been stabilized. The Project Manager or HSM will notify the appropriate client contacts and regulatory agencies, if applicable. If an individual is injured, the SSO or her designee will file a detailed Accident Report with the Corporate H&S Manager within 24 hours.

The Project Manager and the SSO, HSM, and Corporate H&S Managers will critique the emergency response action following the event. The results of the critique will be used in follow-up training exercises to improve the Emergency Response Plan.

## 12.0 TRAINING REQUIREMENTS

All site personnel potentially exposed to hazardous substances, health hazards, or safety hazards and those entering the exclusion zones will have received hazardous waste operation and emergency response training as required by 29 CFR 1910.120(e). The minimum required training is summarized by the following matrix:

Personnel

All potentially exposed site personnel

Requirements

40-Hour HAZWOPER

8-Hour Refresher

**Figure 1A.** Route to Nearest Hospital

**Skagit Valley Hospital**

1. Proceed east on Morris Street / Chilberg Road
2. Turn **left** onto Whitney-LaConner Road
3. Turn **right** onto McLean Road
4. Turn **left** onto Curtis Street
5. Turn **right** onto Memorial Highway (West Division Street) and cross the river
6. Turn **left** on Kincaid Street and cross under the freeway
7. Turn **left** on S 15<sup>TH</sup> Street
8. Continue on S 15<sup>TH</sup> Street to Kincaid Street and watch for signs for Skagit Valley Hospital Emergency Room.

**OTHER HOSPITALS**

St. Joseph Hospital  
2901 Squalicum Parkway  
**Bellingham, WA**  
(360) 734-5400

Island Hospital  
1211 24th Street  
**Anacortes, WA**  
(360) 299-1300

Providence Hospital  
14<sup>th</sup> & Colby  
**Everett, WA**  
(425) 261-3000

Harborview Medical Center  
325 9<sup>th</sup> Ave  
**Seattle, WA**  
(206) 364-0500

Skagit Valley Hospital  
1415 East Kincaid Street  
**Mount Vernon, WA**  
(360) 424-4111

Cascade Valley Hospital  
330 S. Stillaguamish  
**Arlington, WA**  
(360) 435-2133

Stevens Hospital  
21601 76<sup>th</sup> Ave W.  
**Edmonds, WA**  
(425) 640-4000

Swedish Medical Center  
747 Broadway  
**Seattle, WA**  
(206) 386-6000

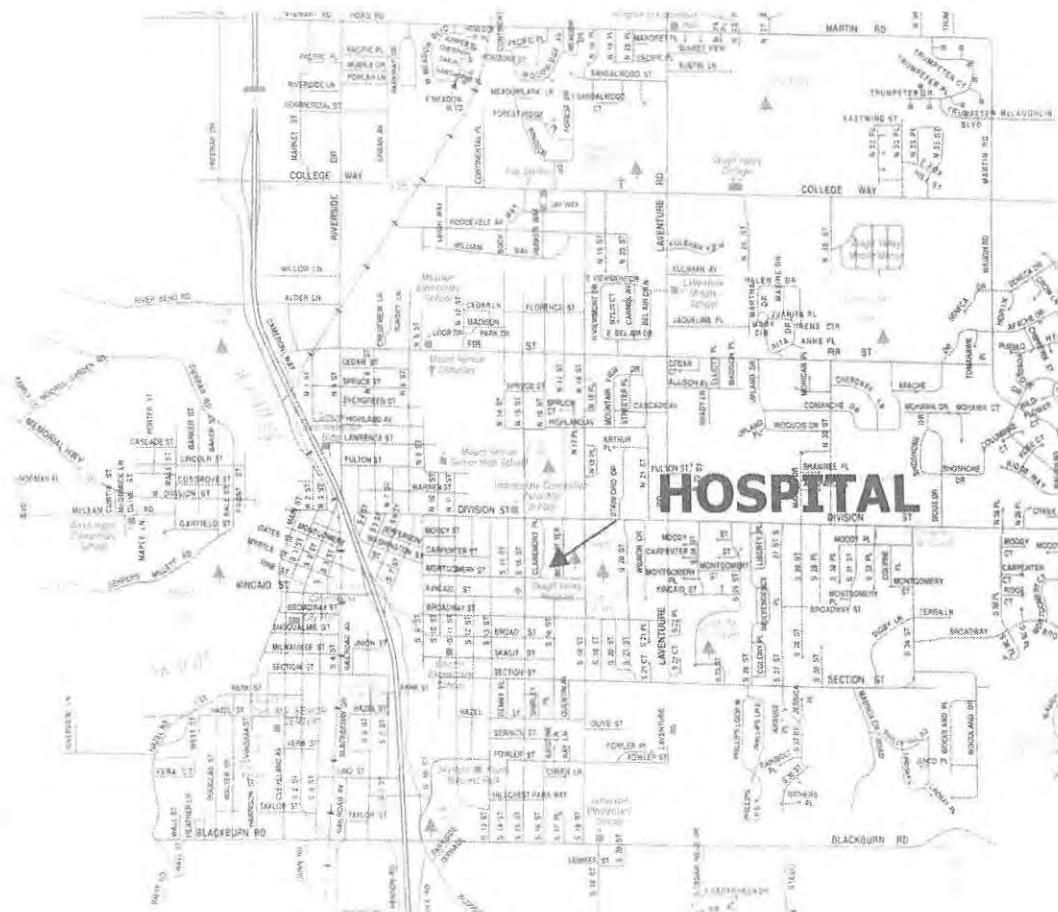
United General Hospital  
1971 Highway 20  
**Sedro Woolley, WA**  
(360) 856-6021

Whidbey General Hospital  
101 North Main  
**Coupeville, WA**  
(360) 678-5151

Group Health Eastside  
2700 152<sup>nd</sup> Ave N.E.  
**Redmond, WA**  
(425) 883-5151

Valley General Hospital  
14701 178<sup>th</sup> Ave S.E.  
**Monroe, WA**  
(360) 794-7497

**Figure 1B.** Route to Nearest Hospital



**Figure 2.** Record of Health and Safety Communication

\* Project Manager: Please route a copy of this form to the corporate H&S Manager when completed.

**Table 1.** Activity Hazard Analysis

Activity	Hazard	Control
UST removal	Explosion Struck by tanks	Inert tanks and confirm with O <sub>2</sub> meter Use proper lifting and tank blocking techniques
Decontamination of equipment	Inhalation or eye contact with airborne mists or vapors. Skin contact with contaminated soil. Accidental ingestion of contaminants.	Wear safety glasses and respirators, if necessary. Wear modified Level D personal protection (PPE). Follow heat stress precautions in Section 3.3.1. Decontaminate clothing and skin prior to eating, drinking, smoking, or performing other hand-to-mouth contact activities.
Collection of soil samples by hand	Skin contact with contaminated soils.	Follow safety procedures outlined in Sections 4.1, 5.1 and 5.2.
Sample handling, packaging, and processing	Skin contact with contaminated soils.	Wear modified Level D PPE.
Soil excavation	Striking overhead obstructions and powerlines. Contact with mechanical equipment (exposed gears, pulleys, etc.). Struck by moving vehicles. Noise. Heavy lifting. Contact with contaminated soil.	Remove or avoid overhead obstructions, maintain minimum 15' clearance from power lines. Install guards on all exposed gears and pulleys; inspect equipment; control work areas. Ensure vehicles have back-up alarms; establish traffic zones in work area; chalk all parked vehicles; driver training. Wear hearing protection when noise level exceeds 85 dB. Use mechanical lifting devices; use proper lifting techniques. Wear modified Level D PPE.

**Table 2.** Decontamination When Exiting the Exclusion Zone

Action	Contaminant Control
Step 1: Brush boots and clothing	Waste soil collected on plastic and disposed in trash
Step 2: Remove and dispose of disposable clothing	Place in plastic bags for transport or disposal
Step 3: Remove respirator (if worn)	Place in plastic bags for cleaning and reuse
Step 4: Remove boots (only when leaving the site)	Place in plastic bags for cleaning and reuse

**Table 3.** Potential Emergency Hazards and Responses

Potential Emergency Hazard	Response
Fire or Explosion	If manageable, attempt to put out a small fire with a fire extinguisher. Otherwise, call 911 and evacuate the area and meet at designated area. SSO will take roll call to make sure everyone was evacuated safely. Emergency meeting places will be determined in the field during the tailgate meetings.
Medical Emergency/Personal Injury	At least one person with current first aid/CPR training will be on-site at all times. This person will attempt to assess the nature and critical path of the injury, call 911 immediately, and apply first aid/CPR if necessary. Stop work and wait for medical personnel to arrive. Fill out a site accident report.
Hydraulic Oil Spill or Leak	If the leak/spill is small, immediately apply absorbent pads to control the leak and continue work. If the leak/spill is uncontrollable, stop work, call 911 immediately, and wait for assistance.
Collision	Stop work and call 911 for assistance. SSO will assess damage and potential hazards.

**Table 4.** Emergency Contingency Information

Subject	Information
Site Location	315 Morris Street, LaConner, Washington
Nearest Hospital	Skagit Valley Hospital 1415 East Kincaid Street Mount Vernon, WA (360) 424-4111
	The route from the facility to the hospital is described in Figure 1.
Emergency Responders	Police, Fire, and Ambulance..... 911 National Response Center ..... 800-424-8802 USEPA ..... 908-321-6660 Department of Ecology – Northwest Region Spill Response (24-hour emergency response line)..... 206-649-7000
Emergency Contacts	Jon Einarsen, Adept Geoscience & Environment..... 425-418-4951 Jim Ingram, Team Construction Services..... 425-508-7872
In Emergency, call for help as soon as possible	Give the following information: <b>Where you are</b> (address, cross streets, or landmarks) <b>Phone number</b> you are calling from <b>What happened</b> —type of injury, accident <b>How many persons</b> need help <b>What is being done</b> for the victim(s) <b>You hang up last</b> —let whomever you called hang up first