

CITY OF LYNDEN



Mayor
Scott Korthuis

Council Members
Gary Bode
Ron De Valois
Gerald Kuiken
Nick H. Laninga
Brent Lenssen
Kyle Strengholt
Mark Wohlrab

Online (Microsoft Teams) City Council Meeting
City Hall - 300 Fourth Street
February 16, 2021

Members of the public may join the city council meeting telephonically by dialing 1-253-948-9362. You will then be prompted to enter the Conference ID 647 960 546#. It is necessary to enter the # symbol after entering the numerals.

To join the city council meeting via computer please contact the city clerk at 360-255-7085 before 5 p.m. the day of the council meeting and provide an email address so a meeting invitation can be emailed to you.

If you would like to speak before council, please contact the city clerk before 12:00 noon on Thursday prior to the council meeting so that you can be added to the agenda. The time allotted to speak is up to 4 minutes. You can speak to any topic that is not on that night's agenda.

Unscheduled public comments will not be taken at council meeting until further notice.

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Approval of Minutes

[1.](#) Draft Council Minutes- February 1, 2021

Items from the Audience

Scheduled

Unscheduled (20 Minutes)

Audience members may address the Council on any issue other than those scheduled for a public hearing or those on which the public hearing has been closed. Prior to commenting please state your name, address, and topic. Please keep comments under 4 minutes.

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Award Bid for Public Works Shop – Stormwater Decant Facility
- [4.](#) 17th Street Latecomer Deed Notices
- [5.](#) Interlocal Agreement with City of Bellingham for Vactor Waste Facility Use
- [6.](#) Re-Appointment to Planning Commission – Diane Veltkamp
- [7.](#) Set the Public Hearing to Consider Ord 1621 - Extending the Pepin Creek Moratorium

Public Hearing

- [8.](#) Ordinance No. 1620 Amending Chapter 13.08 of the LMC – Water Project Design Standards
- [9.](#) Ord 1619 - Pepin Area Wide Rezone, Rezone Application #20-02
- [10.](#) Ord 1616 - Zoning Text Amend re Non-Conforming MHCs
- [11.](#) Development Standards Variance 20-01 – Skyview Street Standard Variance
- [12.](#) Public Hearing – Stuit Development Agreement

Unfinished Business

New Business

- [13.](#) Reconsideration of Conditional Use Permit – Dillard Short Term Rental
- [14.](#) Resolution No. 1032 - Interfund Loan for the Fire Station Remodel

Other Business

- [15.](#) Public Safety Draft Minutes- February 4, 2021
- [16.](#) PW Committee Meeting Draft Minutes February 3, 2021
- [17.](#) Calendar

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Draft Council Minutes- Regular Meeting	
Section of Agenda:	Approval of Minutes	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft Council Minutes- Regular Meeting	
Summary Statement:	Draft Council Minutes- Regular Meeting	
Recommended Action:	For Council review.	

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



February 1, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the February 1, 2021 regular session of the Lynden City Council at 7:00 p.m. held through an online web-based meeting platform (Microsoft Teams).

ROLL CALL

Members present: Mayor Scott Korthuis and Councilors, Gary Bode, Ron De Valois, Jerry Kuiken, Brent Lenssen, Nick Laninga, Kyle Strengholt and Mark Wohlrab.

Members absent: None

Staff present: Fire Chief Mark Billmire, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Police Chief Steve Taylor, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator Mike Martin, and City Attorney Bob Carmichael.

OATH OF OFFICE- None

APPROVAL OF MINUTES

Councilor Laninga moved and Councilor Kuiken seconded to approve the January 19, 2021 regular council minutes as presented. Motion approved on a 7-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled-

David and Kathleen Dillard, 422 Woodcreek Drive, asked Council to reconsider the condition of requiring the fence for their Conditional Use Permit approval. Council approved the CUP on January 4, 2021 with the fence condition.

Unscheduled- None

2. CONSENT AGENDA

Payroll information is unavailable at this time because of the finance department's transition to a new payroll system (Caselle)

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



Approval of Claims – February 2, 2021

Manual Warrants No.	<u>21125</u> , <u>21186</u> <u>21340</u>	through	<u>21187</u> <u>21343</u>		\$1,121,589.75
EFT Payment Pre-Pays					\$164,686.03
				Sub Total Pre-Pays	\$1,286,275.78
Voucher Warrants No.	<u>21344</u>	through	<u>21428</u>		\$173,816.38
EFT Payments					<u>\$0.000</u>
				Sub Total	\$173,816.38
				Total Accts. Payable	\$1,460,092.16

Set Public Hearing- Ordinance No. 1620 Amending LMC 13.08-Water Project Design Standards

Set the Public Hearing- Zoning Txt Amendment Re: Manufactured Home Communities

Set the Public Hearing- Pepin Area Wide Rezone, Rezone #20-03

Set the Public Hearing- Stuit Development Agreement

Councilor De Valois moved and Councilor Lenssen seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.

3. PUBLIC HEARING

Ordinance No. 1615-Code Amendment accommodating a Hearing Examiner Role

In 2018 the City of Lynden began researching the use of a hearing examiner after several costly and time-consuming administrative appeals were defended. Benefits of the use of a hearing examiner include an expediency in processing appeals, the unbiased opinion of a professional, removing social/political influence from the process, reducing the City's liability, and decreasing the obligations placed on volunteer boards.

Generally, a hearing examiner could be considered as the reviewer of appeals/applications where specific legal or technical criteria are listed. Feedback regarding this initiative has led to a code amendment drafted to include some appeals and some variance requests. Decisions made by the hearing examiner would go to the City Council if appealed. This code amendment also provides an opportunity to update sections of code to current organizational structure and other improvements.

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



The individual selected for the Hearing Examiner position would be selected by the City Council. A corresponding request for qualifications has been drafted and distributed to Council members.

On December 10, 2020, the Planning Commission held a public hearing on the proposal. Consistent with staff and legal counsel's recommendation the Commission voted to recommend approval of the amendment with the additional of stand-alone Shoreline Permits to the hearing examiner's scope of work Appeal of these Shoreline decisions would continue to be heard by the State's Shoreline Hearings Board as is the current path within the City's development code.

Mayor Korthuis opened the Public Hearing at 7:13

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:13

After an extended discussion council did not make a motion and asked Staff to bring the item back to council at the March 1, 2021 council meeting.

4. UNFINISHED BUSINESS- None

5. NEW BUSINESS-None

6. OTHER BUSINESS

Council Committee Updates

The Public Works Committee and Community Development Committee had a joint meeting with 5 council members in attendance which made a quorum and required that the meeting be noticed as a special council meeting. The minutes of that meeting will be brought before council in a couple of weeks for their review and possible approval.

7. EXECUTIVE SESSION

Council recessed into executive session at 7:37 p.m. to discuss two potential property acquisitions. It was anticipated that the executive session would last approximately 20 minutes total and that a decision would not be made.

The Council meeting reconvened at 7:57 p.m.

CITY OF LYNDEN

CITY COUNCIL
MINUTES OF REGULAR MEETING



8. ADJOURNMENT

The February 1, 2021 regular session of the Lynden City Council adjourned at 7:57 p.m.

Pamela D. Brown, MMC
City Clerk

Scott Korthuis
Mayor

DRAFT

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Approval of Payroll and Claims	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	None	
Summary Statement:	Approval of Payroll and Claims	
Recommended Action:	Approval of Payroll and Claims	

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Award Bid for Public Works Shop – Stormwater Decant Facility	
Section of Agenda:	Consent	
<u>Council Committee Review:</u>	<u>Legal Review:</u>	
<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety	<input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input type="checkbox"/> Other: _____	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks		<input checked="" type="checkbox"/> Review Not Required
Attachments:		
Certified Bid Tabulation PACE Engineers letter – Recommendation to Award		
Summary Statement:		
<p>Staff recently solicited bids for the Public Works Shop Stormwater Decant Facility project. This project will construct a stormwater decant facility located on the City's existing Public Works maintenance yard. Ten bids were received on January 28, 2021. PACE Engineers prepared the attached Bid Tabulation. The Engineer's Estimate was \$1,278,867.02.</p> <p>The Public Works Committee at their February 3rd meeting concurred to recommend the bid be awarded to Colacurcio Brothers Construction Company, Inc., the lowest responsible and responsive bidder, in the amount of \$1,188,649.94 including Washington State Sales Tax.</p>		
Recommended Action:		
<p>That City Council award the contract for the Public Works Shop Stormwater Decant Facility project to Colacurcio Brothers Construction Company, Inc. in the amount of \$1,188,649.94, including Washington State Sales Tax, and authorize the Mayor to sign the contract.</p>		

BID TABULATION

Owner: City of Lynden
 Project: Decant Facility
 Engineers: PACE Engineers, Inc.

Bid Date: 01/28/2021
 Bid Time: 10:00 a.m.
 Job No. 19502

ITEM NO.	ITEM OR TASK DESCRIPTION	QTY	UNIT	ENGINEER'S ESTIMATE		Colacurio Brothers		Razz Construction		Fisher Construction		Tiger Construction		McClure & Sons		Granite Construction		Faber Construction		Janicki General Contracting		Oceanside Construction		Premium Services	
				UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
A-1	Minor Changes	1	FA	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00	\$15,000.00	\$ 15,000.00
A-2	Construction Surveying	1	LS	\$5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00	\$8,000.00	\$ 8,000.00	\$6,102.00	\$ 6,102.00	\$3,970.00	\$ 3,970.00	\$4,250.00	\$ 4,250.00	\$6,200.00	\$ 6,200.00	\$4,097.30	\$ 4,097.30	\$6,195.70	\$ 6,195.70	\$5,000.00	\$ 5,000.00	\$5,500.00	\$ 5,500.00
A-3	SPCC Plan	1	LS	\$3,000.00	\$ 3,000.00	\$200.00	\$ 200.00	\$1,000.00	\$ 1,000.00	\$270.00	\$ 270.00	\$244.00	\$ 244.00	\$500.00	\$ 500.00	\$1,500.00	\$ 1,500.00	\$946.57	\$ 946.57	\$902.29	\$ 902.29	\$500.00	\$ 500.00	\$1,000.00	\$ 1,000.00
A-4	Mobilization	1	LS	\$51,795.60	\$ 51,795.60	\$75,000.00	\$ 75,000.00	\$113,000.00	\$ 113,000.00	\$100,753.00	\$ 100,753.00	\$28,980.00	\$ 28,980.00	\$79,815.00	\$ 79,815.00	\$100,000.00	\$ 100,000.00	\$29,500.00	\$ 29,500.00	\$6,015.24	\$ 6,015.24	\$50,000.00	\$ 50,000.00	\$115,000.00	\$ 115,000.00
A-5	Clearing and Grubbing	1	LS	\$3,000.00	\$ 3,000.00	\$2,000.00	\$ 2,000.00	\$5,000.00	\$ 5,000.00	\$4,660.00	\$ 4,660.00	\$970.00	\$ 970.00	\$2,500.00	\$ 2,500.00	\$1,500.00	\$ 1,500.00	\$2,251.00	\$ 2,251.00	\$2,213.61	\$ 2,213.61	\$1,000.00	\$ 1,000.00	\$10,000.00	\$ 10,000.00
A-6	Removal of Structures and Obstructions	1	LS	\$5,000.00	\$ 5,000.00	\$6,000.00	\$ 6,000.00	\$25,000.00	\$ 25,000.00	\$16,299.00	\$ 16,299.00	\$19,700.00	\$ 19,700.00	\$13,000.00	\$ 13,000.00	\$22,000.00	\$ 22,000.00	\$20,813.00	\$ 20,813.00	\$18,707.40	\$ 18,707.40	\$8,800.00	\$ 8,800.00	\$10,000.00	\$ 10,000.00
A-7	Channel Excavation	1	LS	\$6,000.00	\$ 6,000.00	\$2,000.00	\$ 2,000.00	\$10,000.00	\$ 10,000.00	\$5,624.00	\$ 5,624.00	\$4,330.00	\$ 4,330.00	\$3,400.00	\$ 3,400.00	\$6,800.00	\$ 6,800.00	\$2,275.00	\$ 2,275.00	\$8,553.67	\$ 8,553.67	\$15,000.00	\$ 15,000.00	\$10,000.00	\$ 10,000.00
A-8	Roadway Excavation Incl. Haul	600	CY	\$15.00	\$ 9,000.00	\$10.00	\$ 6,000.00	\$30.00	\$ 18,000.00	\$28.06	\$ 16,836.00	\$4.40	\$ 2,640.00	\$32.00	\$ 19,200.00	\$26.00	\$ 15,600.00	\$16.28	\$ 9,768.00	\$35.41	\$ 21,246.00	\$17.00	\$ 10,200.00	\$45.00	\$ 27,000.00
A-9	Structure Excavation Class A Incl. Haul	1,100	CY	\$20.00	\$ 22,000.00	\$11.00	\$ 12,100.00	\$1.00	\$ 1,100.00	\$21.17	\$ 23,287.00	\$4.40	\$ 4,840.00	\$35.00	\$ 38,500.00	\$26.00	\$ 28,600.00	\$20.70	\$ 22,770.00	\$42.05	\$ 46,255.00	\$20.00	\$ 22,000.00	\$12.00	\$ 13,200.00
A-10	Shoring or Extra Excavation Class A	1	LS	\$10,000.00	\$ 10,000.00	\$500.00	\$ 500.00	\$2,500.00	\$ 2,500.00	\$1,620.00	\$ 1,620.00	\$12,250.00	\$ 12,250.00	\$5,000.00	\$ 5,000.00	\$1,000.00	\$ 1,000.00	\$2,223.00	\$ 2,223.00	\$2,406.10	\$ 2,406.10	\$1,000.00	\$ 1,000.00	\$1,000.00	\$ 1,000.00
A-11	Crushed Surfacing Base Course	740	TN	\$30.00	\$ 22,200.00	\$27.50	\$ 20,350.00	\$31.00	\$ 22,940.00	\$33.10	\$ 24,494.00	\$25.70	\$ 19,018.00	\$34.00	\$ 25,160.00	\$30.00	\$ 22,200.00	\$22.35	\$ 16,539.00	\$40.90	\$ 30,266.00	\$40.00	\$ 29,600.00	\$40.00	\$ 29,600.00
A-12	HMA Sawcut and Seal	290	LF	\$30.00	\$ 8,700.00	\$3.00	\$ 870.00	\$6.00	\$ 1,740.00	\$9.72	\$ 2,818.80	\$3.00	\$ 870.00	\$10.00	\$ 2,900.00	\$2.00	\$ 580.00	\$5.61	\$ 1,626.90	\$1.20	\$ 348.00	\$1.00	\$ 290.00	\$1.00	\$ 290.00
A-13	HMA Cl. 1/2 In. PG 64-22	460	TN	\$135.00	\$ 62,100.00	\$100.00	\$ 46,000.00	\$105.00	\$ 48,300.00	\$100.44	\$ 46,202.40	\$103.25	\$ 47,495.00	\$108.00	\$ 49,680.00	\$93.00	\$ 42,780.00	\$106.64	\$ 49,054.40	\$114.29	\$ 52,573.40	\$111.00	\$ 51,060.00	\$107.00	\$ 49,220.00
A-14	Concrete Foundation and Slab for Decant Facility	1	LS	\$280,000.00	\$ 280,000.00	\$344,000.00	\$ 344,000.00	\$355,000.00	\$ 355,000.00	\$293,751.00	\$ 293,751.00	\$320,000.00	\$ 320,000.00	\$268,000.00	\$ 268,000.00	\$326,000.00	\$ 326,000.00	\$247,186.71	\$ 247,186.71	\$386,977.38	\$ 386,977.38	\$400,000.00	\$ 400,000.00	\$450,000.00	\$ 450,000.00
A-15	Gravel Backfill for Wall	100	TN	\$30.00	\$ 3,000.00	\$18.50	\$ 1,850.00	\$31.00	\$ 3,100.00	\$32.29	\$ 3,229.00	\$29.50	\$ 2,950.00	\$378.00	\$ 37,800.00	\$14.00	\$ 1,400.00	\$20.42	\$ 2,042.00	\$34.89	\$ 3,489.00	\$30.00	\$ 3,000.00	\$22.00	\$ 2,200.00
A-16	Metal Roof/Walls, Doors and Support System (Decant Facility)	1	LS	\$200,000.00	\$ 200,000.00	\$200,000.00	\$ 200,000.00	\$130,000.00	\$ 130,000.00	\$129,663.00	\$ 129,663.00	\$280,500.00	\$ 280,500.00	\$160,000.00	\$ 160,000.00	\$218,000.00	\$ 218,000.00	\$307,997.76	\$ 307,997.76	\$247,768.13	\$ 247,768.13	\$200,000.00	\$ 200,000.00	\$300,000.00	\$ 300,000.00
A-17	Corrugated Polyethylene Storm Sewer Pipe, 8-In. Diam.	450	LF	\$40.00	\$ 18,000.00	\$21.00	\$ 9,450.00	\$27.00	\$ 12,150.00	\$51.00	\$ 22,950.00	\$23.70	\$ 10,665.00	\$13.00	\$ 5,850.00	\$21.00	\$ 9,450.00	\$32.34	\$ 14,553.00	\$24.60	\$ 11,070.00	\$55.00	\$ 24,750.00	\$30.00	\$ 13,500.00
A-18	Sch 40 PVC, 4-in. Diam.	135	LF	\$35.00	\$ 4,725.00	\$15.50	\$ 2,092.50	\$19.00	\$ 2,565.00	\$41.86	\$ 5,651.10	\$19.75	\$ 2,666.25	\$9.00	\$ 1,215.00	\$21.00	\$ 2,835.00	\$29.48	\$ 3,979.80	\$20.88	\$ 2,818.80	\$17.00	\$ 2,295.00	\$30.00	\$ 4,050.00
A-19	Testing Storm Sewer Pipe	895	LF	\$50.00	\$ 44,750.00	\$2.00	\$ 1,790.00	\$2.50	\$ 2,237.50	\$3.06	\$ 2,738.70	\$1.20	\$ 1,074.00	\$3.10	\$ 2,774.50	\$1.00	\$ 895.00	\$1.08	\$ 966.60	\$4.81	\$ 4,304.95	\$1.00	\$ 895.00	\$1.00	\$ 895.00
A-20	Trench Drain	125	LF	\$50.00	\$ 6,250.00	\$150.00	\$ 18,750.00	\$165.00	\$ 20,625.00	\$79.14	\$ 9,892.50	\$185.00	\$ 23,125.00	\$283.00	\$ 35,375.00	\$88.00	\$ 11,000.00	\$358.17	\$ 44,771.25	\$156.40	\$ 19,550.00	\$85.00	\$ 10,625.00	\$85.00	\$ 10,625.00
A-21	Catch Basin Type 1	9	EA	\$4,500.00	\$ 40,500.00	\$1,400.00	\$ 12,600.00	\$1,750.00	\$ 15,750.00	\$1,306.68	\$ 11,760.12	\$1,525.00	\$ 13,725.00	\$1,100.00	\$ 9,900.00	\$1,500.00	\$ 13,500.00	\$1,553.00	\$ 13,977.00	\$762.46	\$ 6,862.14	\$900.00	\$ 8,100.00	\$1,200.00	\$ 10,800.00
A-22	Manhole 48-In. Diam. Type 1	1	EA	\$5,000.00	\$ 5,000.00	\$3,500.00	\$ 3,500.00	\$5,200.00	\$ 5,200.00	\$3,867.00	\$ 3,867.00	\$3,350.00	\$ 3,350.00	\$2,900.00	\$ 2,900.00	\$3,800.00	\$ 3,800.00	\$3,802.00	\$ 3,802.00	\$2,980.89	\$ 2,980.89	\$3,600.00	\$ 3,600.00	\$3,500.00	\$ 3,500.00
A-23	Connection to Drainage Structure	1	EA	\$1,000.00	\$ 1,000.00	\$700.00	\$ 700.00	\$490.00	\$ 490.00	\$559.00	\$ 559.00	\$1,265.00	\$ 1,265.00	\$2,000.00	\$ 2,000.00	\$200.00	\$ 200.00	\$1,608.00	\$ 1,608.00	\$1,203.05	\$ 1,203.05	\$100.00	\$ 100.00	\$500.00	\$ 500.00
A-24	Infiltration Facility	1	LS	\$20,000.00	\$ 20,000.00	\$5,500.00	\$ 5,500.00	\$11,000.00	\$ 11,000.00	\$12,474.00	\$ 12,474.00	\$9,010.00	\$ 9,010.00	\$7,200.00	\$ 7,200.00	\$7,000.00	\$ 7,000.00	\$7,672.00	\$ 7,672.00	\$11,705.66	\$ 11,705.66	\$16,000.00	\$ 16,000.00	\$20,000.00	\$ 20,000.00
A-25	Decant Effluent Pretreatment System	1	LS	\$28,000.00	\$ 28,000.00	\$23,000.00	\$ 23,000.00	\$25,000.00	\$ 25,000.00	\$34,722.00	\$ 34,722.00	\$20,400.00	\$ 20,400.00	\$23,000.00	\$ 23,000.00	\$35,000.00	\$ 35,000.00	\$24,097.00	\$ 24,097.00	\$31,946.95	\$ 31,946.95	\$33,000.00	\$ 33,000.00	\$35,000.00	\$ 35,000.00
A-26	Aluminum Slide Gates	7	EA	\$1,500.00	\$ 10,500.00	\$1,000.00	\$ 7,000.00	\$3,733.00	\$ 26,131.00	\$2,721.60	\$ 19,051.20	\$2,300.00	\$ 16,100.00	\$3,900.00	\$ 27,300.00	\$3,500.00	\$ 24,500.00	\$3,150.00	\$ 22,050.00	\$2,817.71	\$ 19,723.97	\$2,500.00	\$ 17,500.00	\$2,484.00	\$ 17,388.00
A-27	Connect to Sanitary Sewer Structure	1	EA	\$2,000.00	\$ 2,000.00	\$800.00	\$ 800.00	\$490.00	\$ 490.00	\$559.00	\$ 559.00	\$1,360.00	\$ 1,360.00	\$2,100.00	\$ 2,100.00	\$450.00	\$ 450.00	\$1,608.00	\$ 1,608.00	\$1,203.05	\$ 1,203.05	\$100.00	\$ 100.00	\$800.00	\$ 800.00
A-28	Polyethylene (PE) Pipe for Water Main, 2-In. Diam.	250	LF	\$25.00	\$ 6,250.00	\$37.00	\$ 9,250.00	\$37.00	\$ 9,250.00	\$61.34	\$ 15,335.00	\$62.00	\$ 15,500.00	\$39.00	\$ 9,750.00	\$65.00	\$ 16,250.00	\$54.79	\$ 13,697.50	\$20.79	\$ 5,197.50	\$38.00	\$ 9,500.00	\$40.00	\$ 10,000.00
A-29	Post Hydrant	5	EA	\$150.00	\$ 750.00	\$1,300.00	\$ 6,500.00	\$1,325.00	\$ 6,625.00	\$1,219.32	\$ 6,096.60	\$1,230.00	\$ 6,150.00	\$4,500.00	\$ 22,500.00	\$1,400.00	\$ 7,000.00	\$1,542.00	\$ 7,710.00	\$7,341.68	\$ 36,708.40	\$1,500.00	\$ 7,500.00	\$1,000.00	\$ 5,000.00
A-30	Hose Rack Including Hose and Fittings	4	EA	\$200.00	\$ 800.00	\$880.00	\$ 3,520.00	\$720.00	\$ 2,880.00	\$763.83	\$ 3,055.32	\$790.00	\$ 3,160.00	\$1,400.00	\$ 5,600.00	\$850.00	\$ 3,400.00	\$1,014.00	\$ 4,056.00	\$1,208.32	\$ 4,833.28	\$700.00	\$ 2,800.00	\$1,000.00	\$ 4,000.00
A-31	Bollards	5	EA	\$500.00	\$ 2,500.00	\$180.00	\$ 900.00	\$1,629.00	\$ 8,145.00	\$902.88	\$ 4,514.40	\$925.00	\$ 4,625.00	\$700.00	\$ 3,500.00	\$1,300.00	\$ 6,500.00	\$977.40	\$ 4,887.00	\$451.14	\$ 2,255.70	\$900.00	\$ 4,500.00	\$1,000.00	\$ 5,000.00
A-32	Ductile Iron Sewer Pipe, 8-in. Diam.	310	LF	\$65.00	\$ 20,150.00	\$37.40	\$ 11,594.00	\$50.00	\$ 15,500.00	\$58.74	\$ 18,209.40	\$43.25	\$ 13,407.50	\$48.00	\$ 14,880.00	\$48.00	\$ 14,880.00	\$52.16	\$ 16,169.60	\$35.60	\$ 11,036.00	\$76.00	\$ 23,560.00	\$55.00	\$ 17,050.00
A-33	Bioretention Soil	100	CY	\$25.00	\$ 2,500.00	\$44.50	\$ 4,450.00	\$98.00	\$ 9,800.00	\$124.43	\$ 12,443.00	\$93.50	\$ 9,350.00	\$290.00	\$ 29,000.00	\$70.00	\$ 7,000.00	\$169.86	\$ 16,986.00	\$42.08	\$ 4,208.00	\$100.00	\$ 10,000.00	\$55.00	\$ 5,500.00
A-34	Stormwater Pollution Prevention Plan (SWPPP)	1	LS	\$2,000.00																					

BID TABULATION

Owner: City of Lynden
 Project: Decant Facility
 Engineers: PACE Engineers, Inc.

Bid Date: 01/28/2021
 Bid Time: 10:00 a.m.
 Job No. 19502

		ENGINEER'S ESTIMATE	Colacurio Brothers	Razz Construction	Fisher Construction	Tiger Construction	McClure & Sons	Granite Construction	Faber Construction	Janicki General Contracting	Oceanside Construction	Premium Services
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SCHEDULE B																									
ITEM NO.	ITEM OR TASK DESCRIPTION	QTY	UNIT	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
B-1	Clearing and Grubbing	1	LS	\$1,000.00	\$ 1,000.00	\$400.00	\$ 400.00	\$100.00	\$ 100.00	\$4,090.00	\$ 4,090.00	\$975.00	\$ 975.00	\$210.00	\$ 210.00	\$1,500.00	\$ 1,500.00	\$2,475.00	\$ 2,475.00	\$1,202.17	\$ 1,202.17	\$1,000.00	\$ 1,000.00	\$2,000.00	\$ 2,000.00
B-2	Structure Excavation Class A Incl. Haul	340	CY	\$20.00	\$ 6,800.00	\$11.00	\$ 3,740.00	\$1.00	\$ 340.00	\$23.84	\$ 8,105.60	\$4.40	\$ 1,496.00	\$31.00	\$ 10,540.00	\$26.00	\$ 8,840.00	\$20.71	\$ 7,041.40	\$42.02	\$ 14,286.80	\$36.00	\$ 12,240.00	\$12.00	\$ 4,080.00
B-3	Shoring or Extra Excavation Class A	1	LS	\$2,000.00	\$ 2,000.00	\$500.00	\$ 500.00	\$1.00	\$ 1.00	\$918.00	\$ 918.00	\$1,600.00	\$ 1,600.00	\$500.00	\$ 500.00	\$500.00	\$ 500.00	\$741.00	\$ 741.00	\$601.09	\$ 601.09	\$6,000.00	\$ 6,000.00	\$100.00	\$ 100.00
B-4	Concrete Foundation and Slab for Vehicle Storage	1	LS	\$70,000.00	\$ 70,000.00	\$75,000.00	\$ 75,000.00	\$34,000.00	\$ 34,000.00	\$68,363.00	\$ 68,363.00	\$32,500.00	\$ 32,500.00	\$36,000.00	\$ 36,000.00	\$89,000.00	\$ 89,000.00	\$109,447.05	\$ 109,447.05	\$41,420.92	\$ 41,420.92	\$92,000.00	\$ 92,000.00	\$62,000.00	\$ 62,000.00
B-5	Metal Roof/Walls, Doors and Support System for Vehicle Storage	1	LS	\$100,000.00	\$ 100,000.00	\$76,000.00	\$ 76,000.00	\$42,500.00	\$ 42,500.00	\$70,986.00	\$ 70,986.00	\$81,150.00	\$ 81,150.00	\$85,000.00	\$ 85,000.00	\$62,000.00	\$ 62,000.00	\$114,197.04	\$ 114,197.04	\$83,831.22	\$ 83,831.22	\$118,000.00	\$ 118,000.00	\$80,000.00	\$ 80,000.00
B-6	Seeding, Fertilizing & Mulch	322	SY	\$5.00	\$ 1,610.00	\$4.85	\$ 1,561.70	\$5.00	\$ 1,610.00	\$9.34	\$ 3,007.48	\$4.90	\$ 1,577.80	\$13.00	\$ 4,186.00	\$5.00	\$ 1,610.00	\$11.23	\$ 3,616.06	\$17.86	\$ 5,750.92	\$5.00	\$ 1,610.00	\$5.00	\$ 1,610.00
B-7	Arborist Wood Chip Mulch	20	CY	\$10.00	\$ 200.00	\$91.00	\$ 1,820.00	\$95.00	\$ 1,900.00	\$81.00	\$ 1,620.00	\$91.35	\$ 1,827.00	\$80.00	\$ 1,600.00	\$106.00	\$ 2,120.00	\$112.25	\$ 2,245.00	\$76.46	\$ 1,529.20	\$98.00	\$ 1,960.00	\$100.00	\$ 2,000.00
B-8	Fine Compost	20	CY	\$5.00	\$ 100.00	\$104.00	\$ 2,080.00	\$109.00	\$ 2,180.00	\$81.00	\$ 1,620.00	\$104.40	\$ 2,088.00	\$50.00	\$ 1,000.00	\$120.00	\$ 2,400.00	\$112.25	\$ 2,245.00	\$71.65	\$ 1,433.00	\$112.00	\$ 2,240.00	\$100.00	\$ 2,000.00
B-9	PSIPE "Arbor Vitae (Min. 5 ft. height)"	123	EA	\$10.00	\$ 1,230.00	\$60.00	\$ 7,380.00	\$62.00	\$ 7,626.00	\$131.76	\$ 16,206.48	\$59.80	\$ 7,355.40	\$410.00	\$ 50,430.00	\$65.00	\$ 7,995.00	\$196.45	\$ 24,163.35	\$41.48	\$ 5,102.04	\$64.00	\$ 7,872.00	\$60.00	\$ 7,380.00
SUBTOTAL				\$ 182,940.00		\$ 168,481.70		\$ 90,257.00		\$ 174,916.56		\$ 130,569.20		\$ 189,466.00		\$ 175,965.00		\$ 266,170.90		\$ 155,157.36		\$ 242,922.00		\$ 161,170.00	
8.7% SALES TAX				\$ 15,915.78		\$ 14,657.91		\$ 7,852.36		\$ 15,217.74		\$ 11,359.52		\$ 16,483.54		\$ 15,308.96		\$ 23,156.87		\$ 13,498.69		\$ 21,134.21		\$ 14,021.79	
TOTAL SCHEDULE B				\$ 198,855.78		\$ 183,139.61		\$ 98,109.36		\$ 190,134.30		\$ 141,928.72		\$ 205,949.54		\$ 191,273.96		\$ 289,327.77		\$ 168,656.05		\$ 264,056.21		\$ 175,191.79	

SCHEDULE A	\$ 1,080,011.24	\$ 1,005,510.33	\$ 1,118,869.21	\$ 1,040,318.72	\$ 1,092,005.36	\$ 1,100,750.01	\$ 1,143,110.94	\$ 1,092,147.37	\$ 1,222,617.88	\$ 1,170,237.03	\$ 1,406,032.33
SCHEDULE B	\$ 198,855.78	\$ 183,139.61	\$ 98,109.36	\$ 190,134.30	\$ 141,928.72	\$ 205,949.54	\$ 191,273.96	\$ 289,327.77	\$ 168,656.05	\$ 264,056.21	\$ 175,191.79
TOTAL BID	\$ 1,278,867.02	\$ 1,188,649.94	\$ 1,216,978.57	\$ 1,230,453.02	\$ 1,233,934.08	\$ 1,306,699.55	\$ 1,334,384.90	\$ 1,381,475.14	\$ 1,391,273.93	\$ 1,434,293.24	\$ 1,581,224.12

Error in Bid

I hereby certify that this tabulation represents all bids received and that the total bid prices have been checked or corrected based on the unit prices provided in the bids. Corrections did not change the order of the bids, unless noted otherwise.



EXPIRES: 11/14/21



February 1, 2021

Steve Banham
City of Lynden
300 4th Street
Lynden, WA 98264

**Subject: *City of Lynden – Decant Facility
Agreement #WQC-2020-LYNDPW-00067
Recommendation of Bid Award***

Dear Steve:

This letter is to advise you that on January 28, 2021, at 10:00 AM local time, the City of Lynden opened bids at City Hall for the above-referenced project. A total of ten (10) bids were received, opened, and read aloud ranging from \$1,188,649.94 to \$1,581,224.12 (including tax). The engineer's estimate for this project was \$1,278,867.02.

The apparent low bidder, Colacurio Brothers Construction Company, Inc., submitted a complete bid proposal and no errors were found. Supplemental information relating to the subcontractor list and performance of the structural steel and rebar work was received at 11AM on January 29, 2021 at 11:00AM local time. The contractor's references are satisfactory and given their ability to bond this project, we hereby recommend that the project be awarded to Colacurio Brothers Construction Company, Inc., in the amount of \$1,188,649.94, which includes state sales tax. Enclosed herewith is a copy of the certified bid tabulation for your reference and files.

If you have any questions regarding this matter please feel free to contact Robin Nelson, PACE Engineers, at 425.827.2014.

Sincerely,

PACE Engineers, Inc.

A handwritten signature in blue ink, appearing to read "Robin Nelson, P.E.", is written over the typed name.

Robin Nelson, PE
Vice President

Attachments: Certified Bid Tabulation

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	February 16, 2021	
Name of Agenda Item:	17 th Street Latecomer Deed Notices	
Section of Agenda:	Consent	
<u>Council Committee Review:</u>		<u>Legal Review:</u>
<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
<p>Notices of Assessment for: Lot 3, Timmermans Short Plat AF No. 1530446 Lot C, Timmermans Lot Line Adjustment, AF No. 2021003073 Lot A, Timmermans Lot Line Adjustment, AF No. 2021003073</p>		
Summary Statement:		
<p>Staff is seeking authorization to record Notices of Assessment on three parcels adjacent to the newly extended 17th Street. The lots created will be subject to a latecomer assessment for City sidewalk improvements and water and sewer utility improvement costs at the time of development. The existing property owner was notified in writing of the proposed assessments and elected not to request a Public Hearing after communication with staff regarding the calculation of the latecomer costs.</p> <p>The Public Works Committee at their February 3rd meeting concurred to recommend approval of the latecomer assessments.</p>		
Recommended Action:		
<p>That City Council authorize the Mayor’s signature on these notices to be recorded on the properties that identify the assessments due at the time of development.</p>		

RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot 3, Timmermans SP, AF. No. 1530446

ASSESSOR'S TAX PARCEL NUMBERS:

400319 406430 0000

NOTICE OF ASSESSMENT FOR CITY SIDEWALK IMPROVEMENTS

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapter 35.72 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city sidewalk improvements which benefit Whatcom County Parcel Number 4003194064300000 (hereinafter "Benefited Property") and which were completed with the construction of an extension to 17th Street as of the 26th day of January, 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180 and RCW 35.72.040, to recover costs associated with street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed city sidewalk improvements to 17th Street (hereinafter "Sidewalk Improvements") and has created a corresponding assessment reimbursement area (hereinafter "17th Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot A" on Exhibit A) is one of three (3) parcels which are benefited by the Sidewalk Improvements and which fall within the 17th Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property at the time of application for a building permit for their share of the cost to City incurred to construct the Sidewalk Improvements; and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Sidewalk Improvements (hereinafter "Notice") are as follows:

1. **Assessment.** The total Assessment amount is **\$31,818.20**. This amount reflects the actual costs to City for the Sidewalk Improvements constructed within the 17th Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.
2. **Assessment Share.** The Benefited Property shall be assessed the amount of **\$3,982.60** (hereinafter "Assessment Share") which is the Benefited Property's equitable share of the Assessment as based on the Benefited Property's 112.9 feet (including one driveway entrance) of street frontage along 17th Street.
3. **Collection of Assessment Share.** City shall collect the Assessment Share from the

owner(s) of the Benefited Property as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on street frontage. All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. City Authority; Effective Date; Assessment Duration. City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180 and RCW 35.72. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. Recording. This Notice shall be recorded in the Whatcom County Auditor's Office, Whatcom County, Washington, immediately upon execution by City.

IN WITNESS WHEREOF, City has approved and executed this Notice on this ____ day of _____, 2021.

CITY OF LYNDEN

By: Scott Korthuis
Its: Mayor

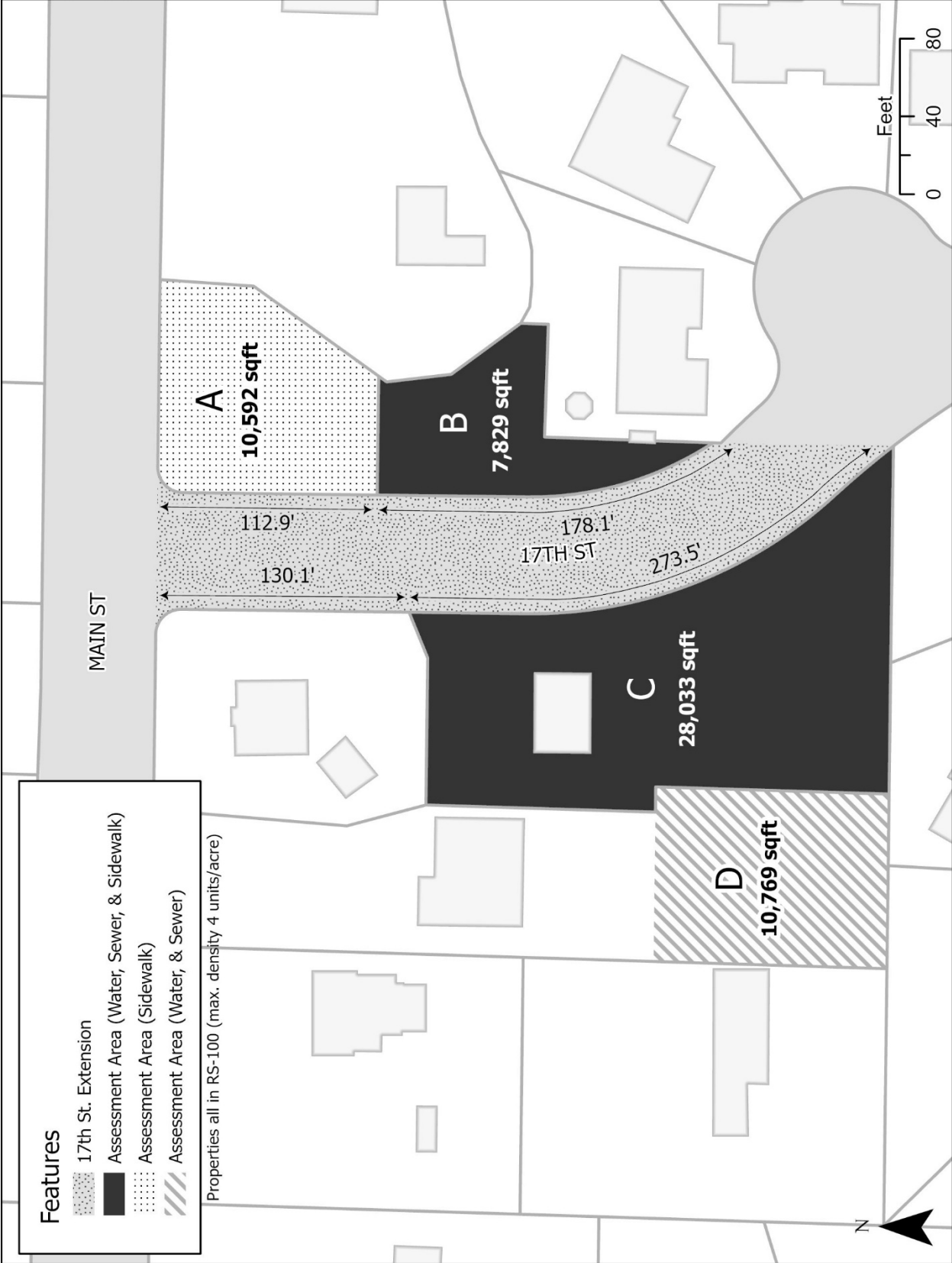
STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Scott Korthuis, the Mayor of the **CITY OF LYNDEN**, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

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

Notary Public in and for the State of Washington
Residing at: _____
My commission expires: _____

Exhibit A: Depiction of 17th Street Assessment Reimbursement Area



RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY WATER, SEWER, AND SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot C, Timmermans LLA, AF. No. 2021003073

ASSESSOR'S TAX PARCEL NUMBERS:

400319 396411 0000

**NOTICE OF ASSESSMENT FOR CITY WATER, SEWER,
AND SIDEWALK IMPROVEMENTS**

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapters 35.72 and 35.91 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city water, sewer, and sidewalk improvements which benefit Whatcom County Parcel Number 4003193964110000 (hereinafter "Benefited Property") and which were completed with the construction of an extension to 17th Street as of the 26th day of January 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180, RCW 35.72.040 and RCW 35.91.060, to recover costs associated with water and sewer facility improvements and street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed water, sewer, and sidewalk improvements as part of the construction of an extension to 17th Street (hereinafter "Utility and Sidewalk Improvements") and has created a corresponding assessment reimbursement area (hereinafter "17th Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot B" and "Lot C" on Exhibit A) is one of three (3) parcels which are benefited by the Utility and Sidewalk Improvements and which fall within the 17th Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property for their share of the cost to City incurred to construct the Utility and Sidewalk Improvements at such time as they seek connection to or use said improvements (for water and sewer improvements) and/or make application for a building permit (for sidewalk improvements); and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Water, Sewer, and Sidewalk Improvements (hereinafter "Notice") are as follows:

1. **Assessment.** The total Assessment amount for sewer improvements is **\$17,888.32**. The total Assessment amount for water improvements is **\$22,296.98**. The total Assessment amount for sidewalk improvements is **\$31,818.20**. These amounts reflect the actual costs to City for the Utility Improvements constructed within the 17th Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.

2. **Assessment Share.** The Benefited Property shall be assessed an equitable share of the

Assessment (hereinafter "Assessment Share") as follows:

a) Sidewalk Improvements

- i. Lot B: **\$11,008.10** as based on 178 feet of street frontage, including one driveway entrance, along the east side of 17th Street.
- ii. Lot C: **\$16,827.50** as based on 274 feet of street frontage, including two driveway entrances, along the west side of 17th Street.

b) Sewer Improvements:

- i. Lot B: **\$6,381.96** as based on square footage.
- ii. Lot C: **\$8,312.92** as based on square footage.

c) Water Improvements:

- i. Lot B: **\$3,743.50** as based on square footage.
- ii. Lot C: **\$13,404.20** as based on square footage.

3. Collection of Assessment Share. City shall collect the Assessment Share from the owner(s) of the Benefited Property as a condition of approval of an application to connect to or use the water improvements and/or sewer improvements, and/or as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of utility service or building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on square footage (for water or sewer improvements) or street frontage (for sidewalk improvements). All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. City Authority; Effective Date; Assessment Duration. City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180, RCW 35.72, and RCW 35.91. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. Recording. This Notice shall be recorded in the Whatcom County Auditor's Office, Whatcom County, Washington, immediately upon execution by City.

IN WITNESS WHEREOF, City has approved and executed this Notice on this ____ day of _____, 2021.

CITY OF LYNDEN

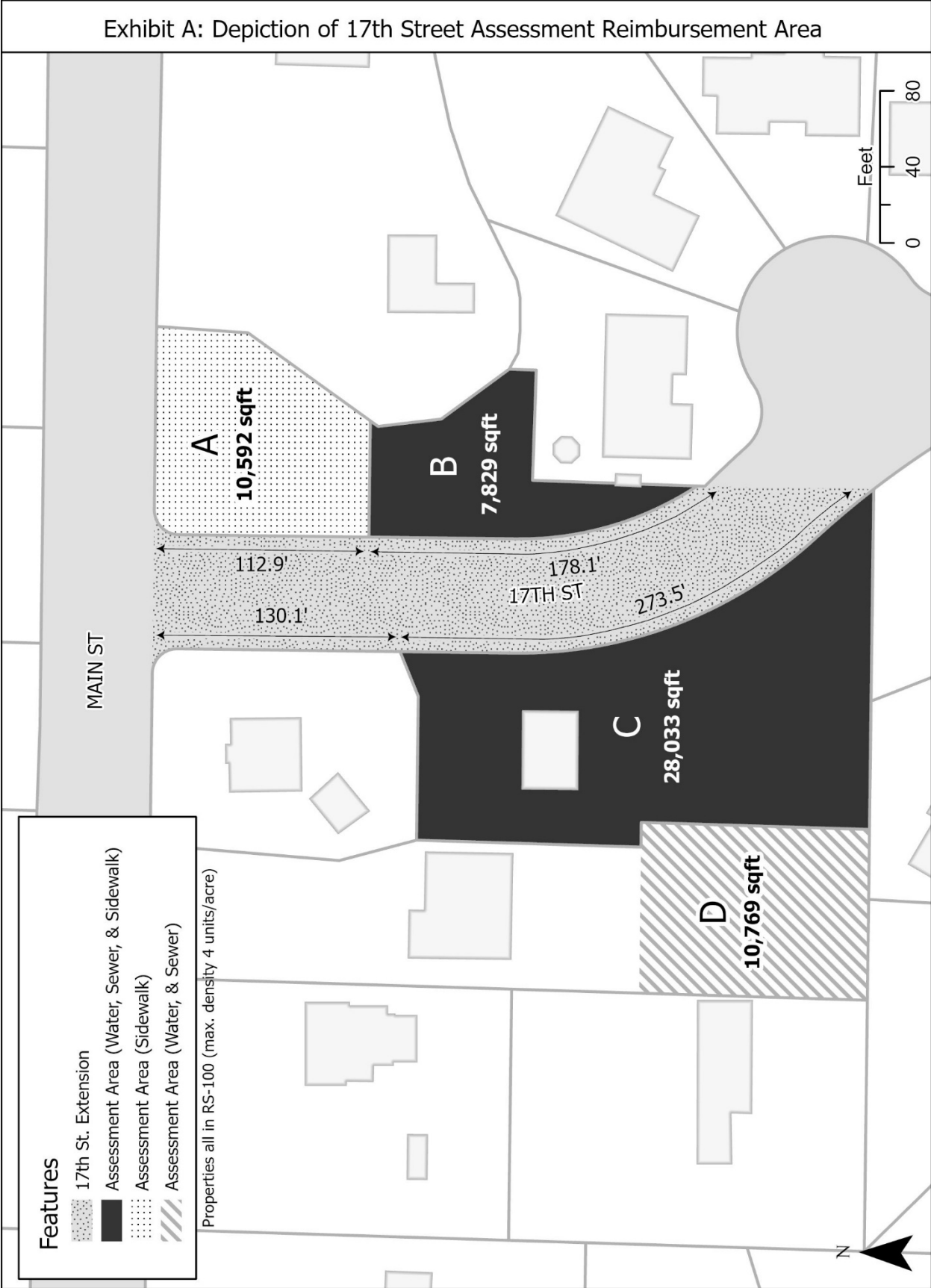
By: Scott Korthuis
Its: Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Scott Korthuis, the Mayor of the **CITY OF LYNDEN**, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

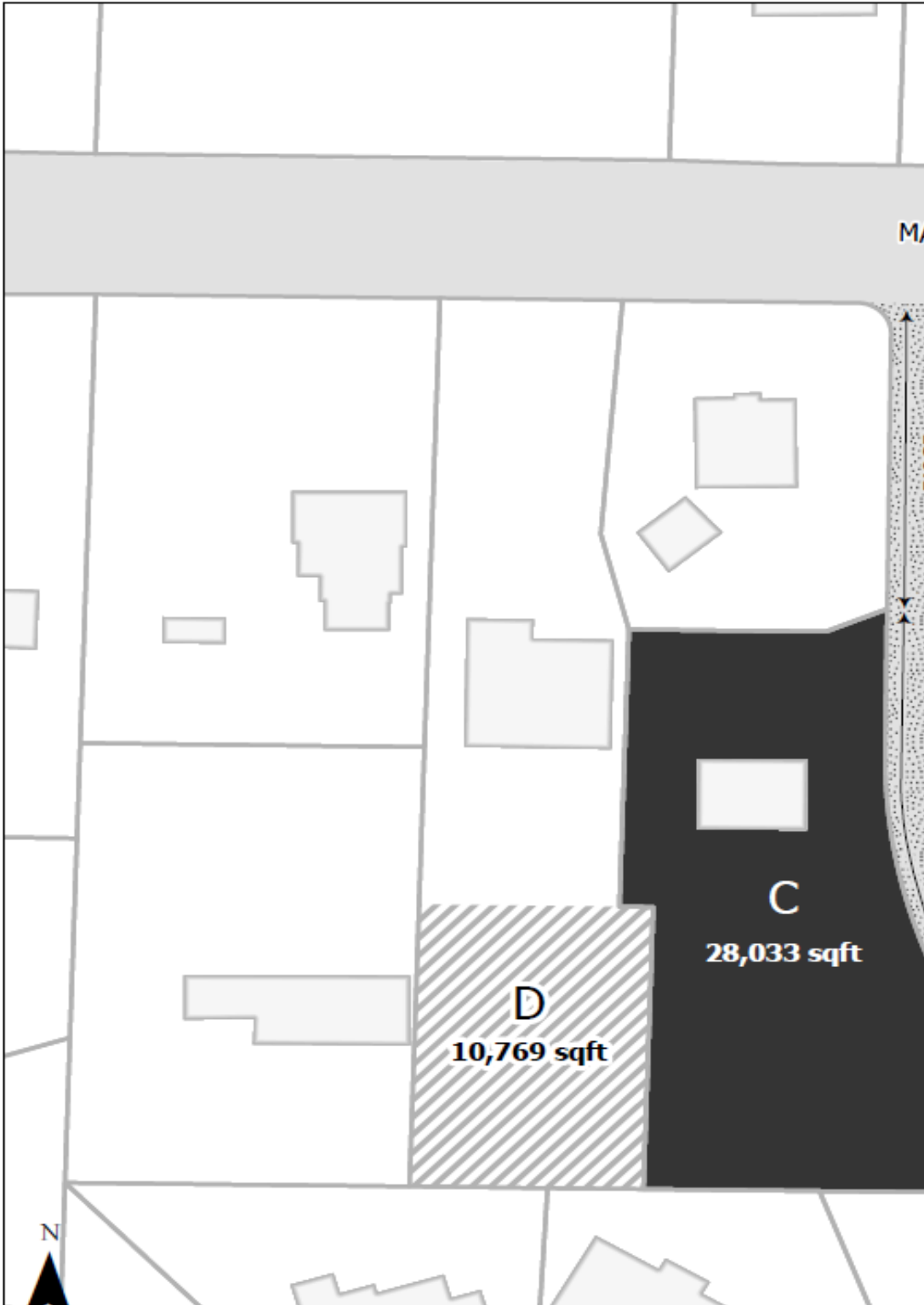
WITNESS my hand and official seal hereto affixed the day and year first written above.

Notary Public in and for the State of Washington
Residing at: _____
My commission expires: _____

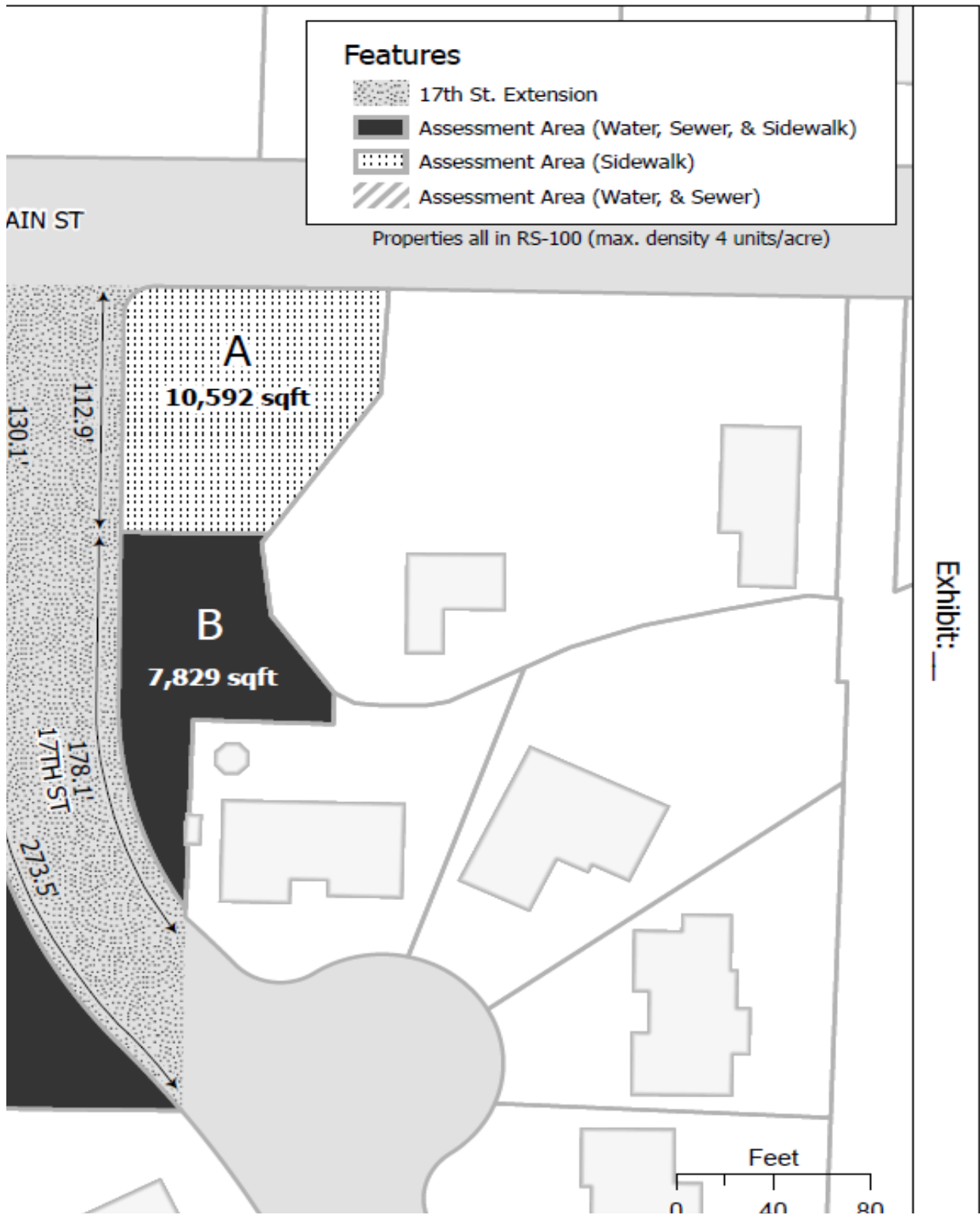


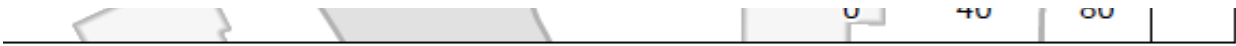
17th Street Extension
Preliminary Assessment Roll
 Revised December 11, 2020

Parcel #	Tax ID No.	Lot	Owner	Address 1	Address 2	Parcel Size (acres)	Parcel Size (sqft)	Frontage (feet)	Sidewalk (per LF)	Water (per Area)	General Sewer (per Area)	Sewer (per Area)	Total Sewer (per Area)	TOTAL ASSESSMENT	Notes
				<u>East Side of 17th Street</u>											
1	400319 406430 0000	A	William R. & Adria E. Cummins	1711 Main St.	Lynden, WA 98264	0.243	10592 (not incl.)	112.9	\$3,982.60	NA	NA	NA	NA	\$3,982.60	(1)
2	400319	B	Marina A. Timmermans (ESTATE)	1703 Main St	Lynden, WA 98264	0.180	7,829	178.1	\$11,008.10	\$3,743.50	\$1,870.91	\$4,511.05	\$6,381.96	\$21,133.56	
				<u>West Side of 17th Street</u>			7,829					4,511.05			
3	400319 396411 0000	C	Marina A. Timmermans (ESTATE)	1703 Main St	Lynden, WA 98264	0.644	28,033	273.5	\$16,827.50	\$13,404.20	\$6,699.09	\$1,613.83	\$8,312.92	\$38,544.62	
4	400319 384418 0000	D	William R. & Adria E. Cummins	1711 Main St.	Lynden, WA 98264	0.247	10,769	NA	NA	\$5,149.28	\$2,573.49	\$619.96	\$3,193.44	\$8,342.72	subtracted .01 because rounding error hcs 1/26/2021
							38,802					2,233.79			
						TOTAL	1.314	46,631	\$31,818.20	\$22,296.98			\$17,888.32	\$72,003.49	
													check:	\$72,003.50	
				Construction Costs Incurred by City - 17th Street Extension Project											
				Bid Item	Unit Price	Units	Cost per LF	Cost Each							
				46	Sidewalk	\$51.00	SY	\$34.00							
				42	Curb & Gutter	\$27.00	LF	\$27.00							
				43	Driveways (30') (A, B, C lots)	\$65.00	SY	20	\$144.00						
				Bid Item	Water	Unit Price	Units	Qty	Cost						
				66	12" Water Main (17th St)	\$56.00	LF								
					2/3 Adjustment to 8"	\$37.33	LF	173	\$6,462.40						
				72	12" Gate Valve (installed)	\$2,800.00	each								
				71	8" Gate Valve (adjusted)	\$1,600.00	each	3	\$4,800.00						
				74	Hydrant	\$4,750.00	each	1	\$4,750.00						
				75	Service - 1 inch diameter	\$1,500.00	each	3	\$4,500.00						
								Subtotal:	\$20,512.40						
								Tax:	8.7%	\$1,784.58					
										\$22,296.98					
				Bid Item	Sewer	Unit Price	Units	Qty	Cost						
				82	PVC Sewer Pipe - 8 inch diameter	\$46.00	LF	157	\$7,226.60						
				79	Manhole	\$3,025.00	each	1	\$3,025.00						
								Subtotal:	\$10,251.60						
								Tax:	8.7%	\$891.89					
										\$11,143.49					
				Bid Item	East Side Sewer Only	Unit Price	Units	Qty	Cost						
				80	PVC Sewer Pipe - 4 inch diameter	\$35.00	LF	30	\$1,050.00						
				81	PVC Sewer Pipe - 6 inch diameter	\$50.00	LF	35	\$1,750.00						
				83	Cleanout	\$675.00	each	2	\$1,350.00						
								Subtotal:	\$4,150.00						
								Tax:	8.7%	\$361.05					
										\$4,511.05					
				Bid Item	West Side Sewer Only	Unit Price	Units	Qty	Cost						
				82	PVC Sewer Pipe - 8 inch diameter	\$46.00	LF	30	\$1,380.00						
				83	Cleanout	\$675.00	each	1	\$675.00						
								Subtotal:	\$2,055.00						
								Tax:	8.7%	\$178.79					
										\$2,233.79					
											Check				
											17,888.32				









CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Interlocal Agreement with City of Bellingham for Vector Waste Facility Use	
Section of Agenda:	Interlocal Agreement with City of Bellingham	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Interlocal Agreement		
Summary Statement:		
<p>Staff would like to renew this Interlocal Agreement with the City of Bellingham (COB) for vector waste disposal. The COB accepts street sweepings and vector waste materials and disposes of them in compliance with Department of Ecology (DOE) and Department of Health rules and regulations. Public Works would use this disposal site as an alternative to disposal at RDS which is currently less expensive.</p> <p>This would be a fifth term renewal through December 31, 2021 at the same price of \$147.56 per ton. All other terms remain the same.</p> <p>Once the City’s Stormwater Decant project is complete, the interlocal agreement will not be renewed as the service will no longer be needed.</p> <p>The Public Works Committee reviewed this agreement at their February 3rd meeting and concurred to recommend approval to City Council.</p>		
Recommended Action:		
Approve the 2021 renewal to Interlocal Agreement with the City of Bellingham for Vector Waste Facility Use and Authorize the Mayor’s signature.		

**MEMORANDUM FOR ANNUAL RENEWAL
City of Bellingham Interlocal Agreement #2016-0221
City of Bellingham – City of Lynden
Vactor Waste Facility Use - January 1, 2021 through December 31, 2021**

WHEREAS, the City of Bellingham and the City of Lynden are parties to that certain City of Bellingham Interlocal Agreement #2016-0221, effective January 1, 2016, for vactor waste facility use; and

WHEREAS, the Interlocal Agreement included an initial one-year term, expiring December 31, 2016, plus five one-year renewal options exercisable upon written agreement of both parties; and

WHEREAS, both parties desire to exercise the fifth and final renewal option, with the fifth and final renewal period commencing on January 1, 2021 and terminating on December 31, 2021.

NOW, THEREFORE, the parties hereby agree as follows:

The parties hereby exercise the fifth and final one (1) year renewal option. This fifth and final renewal term shall commence on January 1, 2021 and terminate on December 31, 2021 ("Fifth and Final Renewal Term"). Cost of Service will be \$147.56/ton during the Fifth and Final Renewal Term. See Exhibit "A" attached and incorporated herein. All other terms and conditions, shall remain unchanged and in full force and effect.

CITY OF LYNDEN

Dated this _____ day of _____, 2021.

Department Approval:

Scott Korthuis, Mayor

Steve Banham, Public Works Director

Approved as to Form:

Office of the City Attorney

CITY OF BELLINGHAM

Dated this _____ day of _____, 2021.

Department Approval:

Seth Fleetwood, Mayor

Eric C. Johnston, Public Works Director

Attest:

Approved as to Form:

Andrew D. Asbjornsen, Finance Director

Office of the City Attorney

EXHIBIT A

2021 Vactor Waste Facility Use Permit

In consideration for the use of the City of Bellingham’s (“City”) Vactor Waste Facility (“Facility”), City of Lynden, located at 300 4th Street, Lynden, Washington, (hereinafter the “User”), covenants and agrees to comply with the following terms and conditions of this Use Permit (“Permit”):

User’s:

Contact Person: DALE TEVELDE

Phone Number: (360) 815-5753

Email Address: tevelded@lyndenwa.org

Section 1 – Purpose

The purpose of this Permit is to allow non-public, private sector use of the Facility. As further described herein, User’s ability to use the Facility requires full compliance with this Permit’s terms and conditions, including but not limited to:

- Dumping only “ACCEPTABLE WASTE” (Section 2 – ACCEPTABLE WASTE)
- Dumping in an appropriate manner (Section 3 – DUMPING OPERATION)
- Obtaining Training (Section 4 – REQUIRED TRAINING)
- Complying with Safety Rules and Regulations (Section 5 – SAFETY)
- Payment (Section 6 – COST OF SERVICE)
- Such other terms and conditions as contained herein.

Section 2 – Acceptable Waste

2.1 User shall be solely responsible to insure that only Acceptable Waste is deposited at the facility. For purposes of this Permit “Acceptable Waste” is defined herein as:

- Street sweepings are wastes collected by utilizing a street sweeper to collect grit, dirt, vegetative waste and litter from roadway surfaces.
- Vactor wastes includes, grit, dirt and vegetative waste collected by an eductor truck during the cleaning of storm water catch basins.

2.2 Any materials that are odorous or are from a chemical spill are specifically not considered Acceptable Waste products and shall not be deposited at the Facility.

2.3 In the event unacceptable waste or materials are dumped at the Facility, the responsible party shall pay all costs associated with the proper removal and deposition of the contaminated materials. Removal and deposing of unacceptable waste or materials shall be in accordance with the approved practices and regulations of the State of Washington, including but not limited to the Washington State Department of Ecology, and the Whatcom County Health Department.

- 2.4 The City reserves the right to find any waste or material unacceptable in its sole discretion. Disposing of unacceptable materials may result in the loss of the privilege to use the Facility.

Section 3 – Dumping Operation

- 3.1 The Facility has a limited capacity to accept Acceptable Waste products and User acknowledges that the City, State of Washington and Whatcom County, as public users, have preference over non-public, private users. In the event that the Facility capacity should become an issue, non-public, private users will be directed to cease usage of the site. The City shall have no obligation or duty to provide advance warning of this circumstance or to provide alternate dumping facilities. This contract is in no way a guarantee of service. The City of Bellingham may at any time and for any reason cease to offer this service to any and all users.
- 3.2 When depositing Acceptable Waste at the Facility, User agrees to follow the following “dumping operation”:
- 3.2.1 Eductor vehicles shall back into the Facility to decant excess water into the settling trough;
- 3.2.2 After excess water is removed, the truck shall be weighed to obtain the net weight of the material. A copy of the weight slip shall be placed in the drop box of every load dumped at the facility. Weight slips shall clearly identify: gross weight, tare weight, and billable weight. Weight slips will be checked against the gate entry log. If there is no slip, the customer will be charged for a full load based upon the capacity of the vehicle. Users are not to use the site other than to dump. Gate access shall be monitored for billing purposes. If a user accesses the facility and there is no weight slip present for that access the user will be billed for a full load of the vehicle assigned to that access card; AND
- 3.2.3 After weighing the remaining portion of the load, it shall be dumped, as far back in the facility as is practical to limit the amount of material that may spew out into the parking lot.
- 3.3 In addition to any other remedies that may be available to the City, the City may terminate this Permit and bar User from any future use of the Facility for failure to follow the procedures outlined in Section 3.2.

Section 4 – Required Training

In order to insure the proper and safe use of the Facility, training is required prior to use of the Facility. Training consists of a walkthrough of the Facility with a representative of the City to explain how the Facility operates and what is expected from those who use the Facility. The City shall issue a letter of fulfillment (“Letter”) that documents that the User has completed the training requirement. User shall not be allowed to use the Facility until completing this training and receiving the Letter. Further, User shall not allow any of its employees or agents to use the Facility without receiving the training and Letter required hereunder.

Section 5 – Safety

All personal injury, including first aid incidents, or damage to vehicles or buildings must be reported immediately to the Safety Specialist at Bellingham Public Works (360-778-7700). Users shall follow all Washington State safety policies and regulations while inside the Facility. It is encouraged that a ground guide be used whenever operating a vehicle inside the Facility. The City shall not be responsible in any manner for User’s use of the Facility, except to the extent of the City’s sole negligence.

Section 6- Cost for Service

The cost of depositing one ton of Acceptable Wastes is \$147.56 for 2021. This amount is subject to change at the end of the term of the Permit. The User will be billed monthly and User agrees to pay the bill in full within 30 calendar days of the date of the bill. Late payments will be charged a late fee of \$25 and returned checks are subject to a \$20 fee. In addition to any other remedies that may be available, User’s failure to pay the bill after 60 calendar days shall automatically terminate this Permit and cause User to forfeit the privilege to use the Facility.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Re-Appointment to Planning Commission – Diane Veltkamp	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: <u>_Mayor_</u>
		Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
none		
Summary Statement:		
<p>Diane Veltkamp has agreed to serve an additional term on the City’s Planning Commission. This reappointment is being brought forward to the City Council meeting for confirmation.</p> <p>The Mayor thanks Diane for her continued service on the Planning Commission and request the City Council confirm her appointment.</p>		
Recommended Action:		
<p>Motion to confirm the reappointment of Diane Veltkamp to the Lynden Planning Commission for a term beginning January 2021 and expiring December 2024.</p>		

CITY OF LYNDEN

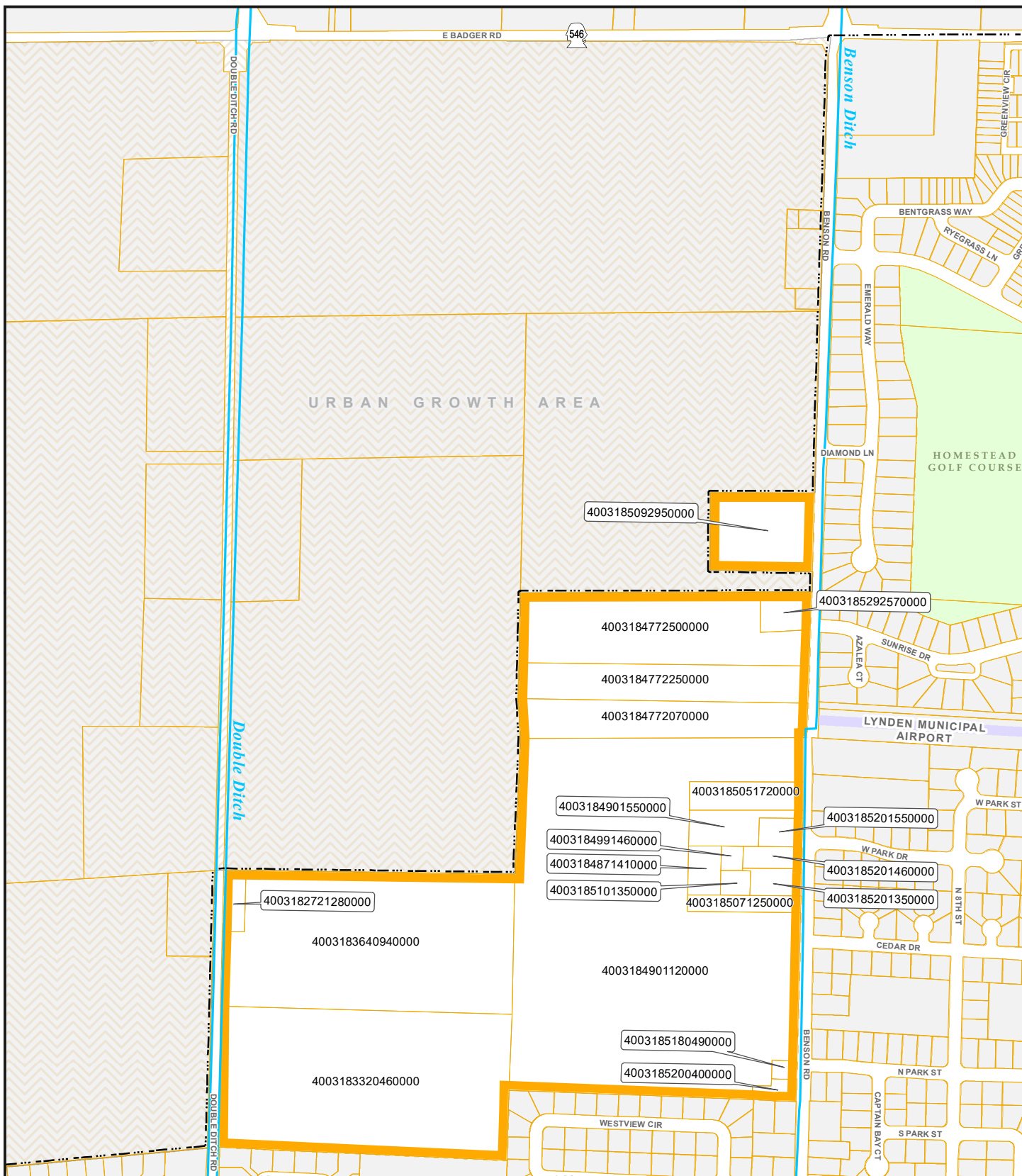
EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Set the Public Hearing to Consider Ord 1621 - Extending the Pepin Creek Moratorium	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Map of the Pepin Creek Sub-Area parcel currently under moratorium.		
Summary Statement:		
<p>The Pepin Creek moratorium has been in place since September of 2016. It was established in recognition of development constraints associated with what is now known as the Pepin Creek Sub-area. The City has undertaken significant efforts to examine these constraints and develop solutions which would allow for growth in this area.</p> <p>Since then, the City Council approved the Pepin Creek Sub-Area Plan that addresses circulation, open space and assigned land use and zoning within the area. Additionally, because of the significant infrastructure improvements associated with the creek re-alignment and the improvement of Benson and Double Ditch Roads, Council has since recognized that work must be undertaken in a reduced or phased approach. The engineering team, Public Works, and Planning departments have developed a plan which decreases the overall infrastructure cost associated with the creek realignment, is largely consistent with the concepts of the approved sub-area plan and focuses first on portions of the sub-area already within the City and under moratorium.</p> <p>The financial mitigation study has concluded with a SEPA mitigation fee showing merit for use in allocation of infrastructure costs. The Planning Department has subsequently drafted a Resolution of Intent which outlines the required steps toward lifting the moratorium and will be circulated to the City Council prior to the February 16 Council meeting. It is anticipated that these next steps will require a short extension of the moratorium. As a result, City staff recommends that the Council set a public hearing date of March 1st to consider extending the moratorium through June 30, 2021. The current date of expiration is March 9, 2021.</p>		
Recommended Action:		
Motion to set a public hearing date of March 1, 2021 to consider an extension of the existing moratorium of development on those properties previously identified within the Pepin Creek Sub-area.		

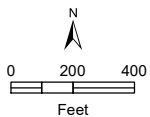
Exhibit A

Properties Located within Pepin Creek Project Area



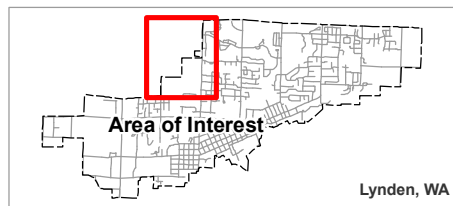
Map Key

- Properties in Pepin Creek Project Area
- Property Boundaries
- City Limit
- Urban Growth Area (Unincorporated)
- Waterway



Updated: September 19, 2016

Doc. Path: \\Saturn\gis\Projects\Public Works\PeppinCreek\ExhibitA\COPY2.mxd



Lynden, WA

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Public Hearing for Ordinance No. 1620 Amending Chapter 13.08 of the Lynden Municipal Code – Water Project Design Standards	
Section of Agenda:	Public Hearing	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<u>Legal Review:</u>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Draft Ordinance No. 1620		
Summary Statement:		
<p>The newest update of the Project Manual for Engineering Design and Development Standards was adopted by City Council on December 21, 2020. Ordinance No. 1620 updates Chapter 13.08 of the Lynden Municipal Code to remove outdated material and to revise language to reference and compliment the new Standards update.</p> <p>The Public Works Committee reviewed this Ordinance at their February 3, 2021 meeting and concurred to recommend approval to the City Council.</p>		
Recommended Action:		
That City Council adopt Ordinance No. 1620 Amending Chapter 13.08 of the Lynden Municipal Code – Water Project Design Standards and authorize the Mayor’s signature on the Ordinance.		

ORDINANCE 1620

**AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON
AMENDING ORDINANCE 560
AND CHAPTER 13.08 OF THE LYNDEN MUNICIPAL CODE
WATER PROJECT DESIGN STANDARDS**

WHEREAS The City of Lynden recently adopted the 2021 Engineering and Development Design Standards and published those standards to the City website; and

WHEREAS Chapter 6 of those newly adopted standards provides specific Water Design Standards applicable to those constructing improvements or connections to the City Water System; and

WHEREAS Chapter 13.08 of the Lynden Municipal Code (LMC) currently contains outdated and incomplete standards for City water system facilities and appurtenances which have not been updated since 1977 by Ordinance 560; and

NOW, THEREFORE, The City Council of the City of Lynden does hereby ordain as follows:

Section 1. LMC Chapter 13.08, inclusive of title, are hereby either amended or repealed and shall hereafter read as follows:

Chapter 13.08 – WATER PROJECT DESIGN STANDARDS

13.08.010 - General Standards – Developer Requirements

All work shall comply with the latest edition of the City of Lynden Engineering and Development Design Standards Project Manual.

- A. Mains shall be laid only in dedicated streets or in easements which have been granted to the city. A street is normally not considered dedicated until the plat which created it has been filed with the Whatcom County auditor.
- B. The developer shall obtain all necessary easements without cost to the city. Whenever a main is to be laid other than in a public street, a permanent easement of not less than ten feet on each side of the centerline shall be provided. The developer shall supply the city engineer with the supporting data necessary to verify the location of the easement. If legal services are required by the city in connection with the easement, other than formal review, the cost of such services shall be reimbursed by the developer to the city on demand and before acceptance of the extension.
- C. The developer shall pay for permits as may be required for the work, and shall pay for all surveys, easements, rights-of-way, and franchises required for the work. The developer shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work.

13.08.020 - New materials and equipment required - Continuity of manufacturer.

All materials and equipment shall be new and undamaged. Where possible, the same manufacturer of each item shall be used throughout the job.

13.08.030 - Backflow prevention devices.

Where the possibility of contamination of the water supply exists, the city will require that certain service be equipped with a back-flow prevention device per Chapter 13.10 of this title. The determination as to the need, size and location of a backflow device shall be solely determined by the Public Works Department.

13.08.040 - Inspections.

All water lines and mains shall be inspected by a Public Works Department inspector before they are covered. The developer shall notify the city at least twenty-four hours in advance for a water line inspection.

Section 2. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. This Ordinance shall be in force and effect five (5) days from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN BY AN AFFIRMATIVE VOTE, _____ IN FAVOR _____, AGAINST, AND SIGNED BY THE MAYOR THIS _____ DAY OF FEBRUARY, 2021.

MAYOR SCOTT KORTHUIS

Attest:

City Clerk Pamela D. Brown

Approved as to Form:

City Attorney Robert A. Carmichael

Chapter 13.08 - WATER PROJECT DESIGN STANDARDS

Sections:

13.08.010 - General standards—Developer requirements.

All work shall ~~comply with the latest edition of the City of Lynden Engineering and Development Design Standards Project Manual. be done in accordance with plans and specifications. As a preliminary guide to the developer, the following general standards of construction and materials are set forth:~~

- ~~A. Pipe shall be either cast iron or asbestos cement.~~
- ~~B. Fittings must be cast iron or brass.~~
- ~~C. Standard five inch MVO fire hydrants are required approximately every five hundred feet in residential areas. Standard five inch MVO hydrants or larger are required every three hundred feet in commercial areas.~~
- ~~D. Pipe runs from main line to hydrants must be a minimum of six inches.~~
- ~~E. Normal minimum pipe size will be eight inches.~~
- ~~F. Two inch air and vacuum release valves shall be installed as principal high points in the system, if directed by the city.~~
- ~~G. Dead end lines are only permitted where there is a cul de sac, or it is not possible to make a loop, in which case blowoffs shall be provided.~~
- ~~H. In estimating cost, the developer should generally assume, in residential areas, eight inch mains, hydrants every five hundred feet and valving every five hundred feet.~~
- ~~I. Work shall be done only by contractors experienced in laying public water mains.~~
- J. Mains shall be laid only in dedicated streets or in easements which have been granted to the city. A street is normally not considered dedicated until the plat which created it has been filed with the Whatcom County auditor.
- K. The developer shall obtain all necessary easements without cost to the city. Whenever a main is to be laid other than in a public street, a permanent easement of not less than five feet on each side of the centerline, and a construction easement of not less than ten feet on each side of the centerline, shall be provided. The developer shall supply the city engineer with the supporting data necessary to verify the location of the easement. If legal services are required by the city in connection with the easement, other than formal review, the cost of such services shall be reimbursed by the developer to the city on demand and before acceptance of the extension.
- L. The developer shall pay for permits as may be required for the work, and shall pay for all surveys, easements, rights-of-way and franchises required for the work. The developer shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work.

~~(Ord. 560 § 1, 1977).~~

13.08.020 - New materials and equipment required—Continuity of manufacturer.

All materials and equipment shall be new and undamaged. Where possible, the same manufacturer of each item shall be used throughout the job.

(Ord. 560 § 2.1, 1977).

13.08.030 - ~~Cast iron pipe and fittings.~~ Backflow prevention devices.

~~A. Cast iron pipe shall conform to AWWA standards. Joints shall conform to AWWA standards. Push-on joints, such as Tyton or Bel tite, or mechanical joints known as M.J. pipe shall have a cement mortar lining conforming to AWWA standards.~~

~~B. Cast iron fittings shall conform to AWWA Standard C111-71. Mechanical or push-on joints shall conform to AWWA Standard C111-72. Flanged joints shall conform to ASA Standard B16.1, Class 125. Flange gaskets shall be ring type, cloth insert rubber, one sixteenth inch thick, equal to Rainbow or Durable Garlock.~~

~~(Ord. 560 § 2.2, 1977). Where the possibility of contamination of the water supply exists, the city will require that certain service be equipped with a back-flow prevention device per Chapter 13.10 of this title. The determination as to the need, size and location of a backflow device shall be solely determined by the Public Works Department.~~

13.08.040 - ~~Ductile cast iron pipe.~~ Inspections

~~Ductile cast iron pipe shall conform to AWWA Standard C151-71 thickness, class shall be indicated on the drawings; linings shall be the same as specified for cast iron. All water lines and mains shall be inspected by a Public Works Department inspector before they are covered. The developer shall notify the city at least twenty-four hours in advance for a water line inspection.~~

~~(Ord. 560 § 2.3, 1977).~~

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	February 16, 2021	
Name of Agenda Item:	Ord 1619 - Pepin Area Wide Rezone, Rezone Application #20-02	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Proposed Ord 1619, Planning Commission Resolution 21-01, Planning Commission Minutes and Meeting Pkg of 1-14-20 including staff's Technical Review Committee Report		
Summary Statement:		
<p>In March of 2020 the City of Lynden adopted the Pepin Creek Sub-Area plan. This document is a guide for an area slated to accommodate a majority of residential growth in the next 15 years. The proposed rezone action would officially shift the properties within the City's boundaries to the zoning categories described in the plan. It is an action that is required so that the City's zoning map and comprehensive plan are not in conflict. It is important to complete this step before the moratorium on development is lifted from these properties.</p> <p>The parcels affected by the rezone actions are detailed in the application. These property owners have been involved in the sub-area planning process and were contacted about the January 14th hearing before the Planning Commission. Properties outside of the City, but within the planned sub-area, will retain their zoning categories as assigned by Whatcom County until they are annexed into the City. However, anticipating these future zoning assignments allows the City to more accurately predict and plan for development in these areas.</p> <p>On January 14, the Planning Commission held a public hearing to consider the area wide rezone and recommended approval to the City Council. Changes to the sub-area plan are likely to occur in the future in response to a revised project scope for the creek realignment. However, the proposed zoning categories within the moratorium remain a good fit for the sub-area and staff will be asking that the Council review and approve the rezone request at the February 16th hearing.</p>		
Recommended Action:		
Motion to approve, and authorize the Mayor's signature, on Ordinance 1619 which revises the residential zoning categories for properties within the City limits and in the Pepin Creek Sub-Area, and establishes prospective zoning categories for the Pepin Creek Sub-area properties within the Urban Growth Area.		

ORDINANCE NO. 1619

**AN ORDINANCE TO REZONE
PROPERTY WITHIN THE PEPIN CREEK SUBAREA AND
IN THE CITY LIMITS OF LYNDEN**

WHEREAS, on December 17, 2018 the City Council adopted Ordinance 1569 establishing the Pepin Creek Subarea, which comprises approximately 460 acres, 110 acres of which are within the Lynden city limits; and

WHEREAS, on March 2, 2020, after intensive planning, gathering public input, and work sessions with the Lynden Planning Commission and City Council, the City Council approved Ordinance 1600, which adopted the Pepin Creek Subarea Plan and is established to guide the logical development of land use within the Pepin Creek Subarea; and

WHEREAS, the adopted Pepin Creek Subarea Plan proposes future land use and zoning designations, intending to accommodate much of the City’s forthcoming residential growth while fostering a diversity of housing types and recreational opportunities; and

WHEREAS, in December 2020, the City of Lynden Planning Department, submitted a complete application for an area-wide rezone of those parcels of the Pepin Creek Subarea that are already within the city limits, to align with the zoning designations that were determined by the adopted Pepin Creek Subarea Plan; and

WHEREAS, the Lynden Planning Commission held a public hearing on January 14, 2021 to accept public testimony on the proposed Pepin Creek Subarea rezone and recommended approval to align the zoning designations of those parcels as determined by the Pepin Creek Subarea Plan; and

WHEREAS, Lynden City Council held a public hearing on February 16, 2021 to further seek additional public input on the rezone proposal; and

NOW, THEREFORE, The City Council of the City of Lynden does ordain, as follows:

Section 1 The City’s Zoning Map is hereby amended to change the zoning designations of those parcels in the Pepin Creek Subarea and already within the city limits to line up with the established zoning categories as determined by Exhibit 24 in the Pepin Creek Subarea Plan.

Section 2 This rezone proposal is granted on the following conditions:

- a. These conditions shall run with the land and be binding upon the property owner, their successors and/or assigns.

Section 3 Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 4 Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5 Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 6 This ordinance shall be in force and effect, five (5) days after its passage, approval and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN BY AN
AFFIRMATIVE VOTE, _____ IN FAVOR _____ AGAINST AND SIGNED BY THE
MAYOR on the _____ day of _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

ORIGINAL

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #21-01

**A resolution of recommendation for approval of the Pepin Creek Subarea
Rezone proposal #20-01, to the Lynden City Council.**

WHEREAS, on December 17, 2018 the City Council adopted Ordinance 1569 establishing the Pepin Creek Subarea, which comprises approximately 460 acres, 110 acres of which are within the Lynden city limits; and

WHEREAS, on March 2, 2020, after intensive planning, gathering public input, and work sessions with the Lynden Planning Commission and City Council, the City Council approved Ordinance 1600, which adopted the Pepin Creek Subarea Plan and is established to guide the logical development of land use within the Pepin Creek Subarea; and

WHEREAS, the adopted Pepin Creek Subarea Plan proposes future land use and zoning designations, intending to accommodate much of the City’s forthcoming residential growth while fostering a diversity of housing types and recreational opportunities; and

WHEREAS, in December 2020, the City of Lynden Planning Department, submitted a complete application for an area-wide rezone of those parcels of the Pepin Creek Subarea that are already within the city limits, to align with the zoning designations that were determined by the adopted Pepin Creek Subarea Plan; and

WHEREAS, the Lynden Planning Commission held a public hearing on January 14, 2021 to review the proposal and accept public testimony on the proposed Pepin Creek Subarea rezone; and

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 5-0, to the Lynden City Council, of the Pepin Creek Subarea Rezone #20-02, to align the zoning of the subject parcels within the city limits with the zoning map designated by the adopted Pepin Creek Subarea Plan.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 14th day of January 2021.



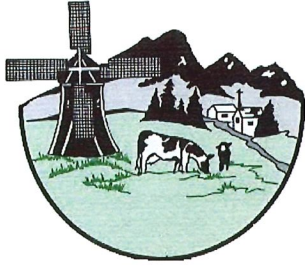
Diane Veltkamp, Chairperson,
Lynden Planning Commission



Heidi Gudde, AICP
Planning Director



Meeting Date:	January 14, 2021
Name of Agenda Item:	Public Hearing for the Rezone of Pepin Creek Sub-Area Properties (within COL)
Type of Hearing:	Legislative
Attachments:	
City-initiated Rezone Application, Proposed Zoning Map, Letter to land owners, See also Pepin Creek Sub-Area Plan, Memo regarding unit counts associated with the zoning assignment	
Summary Statement:	
<p>In March of 2020 the City of Lynden adopted the Pepin Creek Sub-Area plan. This document is a guide for an area slated to accommodate a majority of residential growth in the next 15 years.</p> <p>The proposed rezone action would officially shift the properties within the City’s boundaries to the zoning categories described in the plan. It is an action that is required so that the City’s zoning map and comprehensive plan are not in conflict. It is important to complete this step before the moratorium on development is lifted from these properties.</p> <p>The rezone applies to properties within the City limits and these are detailed in the application. These property owners have been involved in the sub-area planning process and contacted about the hearing planned for January 14th. Properties outside of the City, but within the planned sub-area, will retain their zoning categories as assigned by Whatcom County until they are annexed into the City. However, anticipating these future zoning assignments allows the City to more accurately predict and plan for development in these areas.</p> <p>Changes to the sub-area plan may be warranted given a phased or reduced scale of the Pepin creek relocation project which is currently being studied by City staff. These revisions will be brought to the Planning Commission for review as part of a sub-area plan amendment when they are ready to move forward.</p> <p>At this time staff is asking that the Planning Commission review the rezone request in light of the current Pepin Creek Sub-Area plan.</p>	
Recommended Action:	
Motion to recommend to the City Council the approval of the Pepin area-wide rezone consistent with map described in the Pepin Creek Sub-area Plan.	



City of Lynden

Rezone Application

Applicant Information

Name: Dave Timmer, City Planner, COL Planning Dept

Address: 300 4th St, Lynden WA 98264

Telephone Number: (360) 354-5532 **Fax Number:** _____

E-mail Address: timmerd@lyndenwa.org

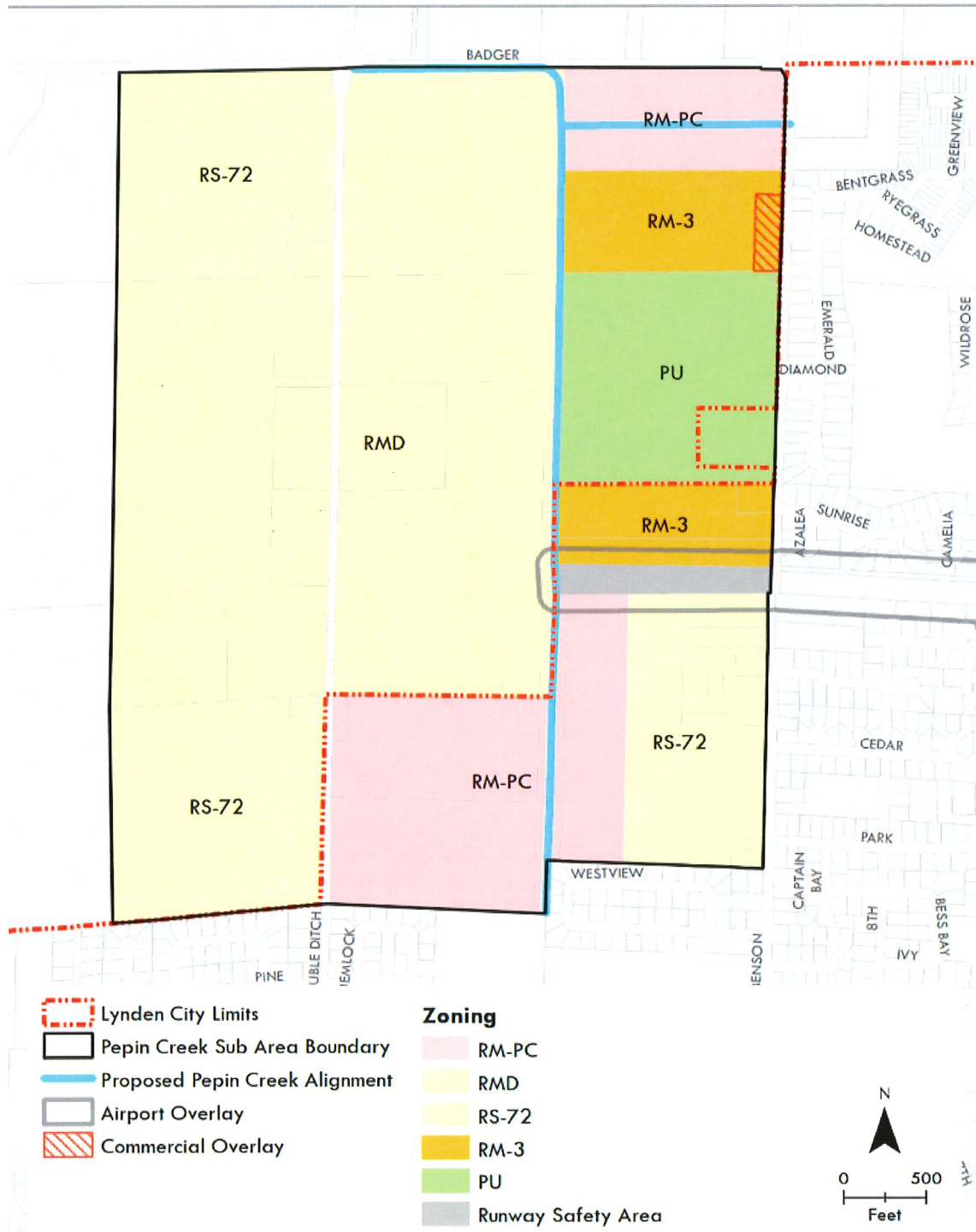
Application is hereby made for a rezone as follows:

Type of Rezone Requested:

Current Zoning Designation: RMD Proposed Zoning Designation: RM-PC, RS-72, RM-3

This rezone request only applies to those parcels of the Pepin Creek Subarea that are within the current City Limits. They are listed below. Those parcels outside of the City limits would be zoned according to the Pepin Creek Subarea zoning map at the time of their annexation. On the below map, the dotted red line indicates the current City limits. This zoning map for the Pepin Creek Subarea was approved and adopted by City Council in February 2020.

Map A: Pepin Creek Subarea Zone Map



Attach narrative explaining the reason for the request / zoning change

This proposed rezone is the result of the continued planning efforts for the Pepin Creek subarea. In February 2020, the City adopted the Pepin Creek Subarea Plan (PCSA) which reflected a desire by policy makers to balance the need to accommodate projected growth, to protect existing land uses, and to work toward financing the relocation of Pepin Creek in order to allow residential development to occur in this area. The PCSA Plan provides guidelines for the development of residential neighborhoods, recreational opportunities and to connect the new neighborhoods into the fabric of this growing city.

The road to adopting the PCSA Plan included rewrites and additions to the City's zoning code, a new code chapter (LMC 19.22) that firmed up the City's residential design standards, multiple public hearings and intensive public involvement and feedback. The level of planning involved with this Subarea is unprecedented in the City's history and was done in an effort to meet the goals and policies of the City's Comprehensive Plan and take the City's welfare, safety and character into account. The product of those efforts, the Pepin Creek Subarea Plan, will guide the City's residential growth in this area for decades.

This rezone proposal is essentially a housekeeping effort to officially rezone those properties that are within the current City limits to line up with the approved and adopted Pepin Creek Subarea Plan.

Property Information

Pepin Creek Subarea Rezone - 2020						
<u>Address</u>	<u>Parcel No.</u>	<u>Property Owner</u>	<u>Size</u>	<u>Current Zoning</u>	<u>Proposed Zoning</u>	
8594 Double Ditch Rd	4003182721280000	R and L McCollister Trust	0.6	RMD	RM-PC	
8594 Double Ditch Rd	4003183640940000	R and L McCollister Trust	17.99	RMD	RM-PC	
8500 Double Ditch Rd	4003183640320000	Vander haak and Bouma	18.59	RMD	RM-PC	
Benson Rd	4003184901120000	Frazier, Davis, Rack and Cordell	38.54	RMD	RM-PC, RS-72	
8593 Benson Rd	4003185071250000	Randal Reimer	0.89	RS-100	RS-72	
8595 Benson Rd	4003185201350000	Bryan and Sandra Cobb	0.69	RS-100	RS-72	
8597 Benson Rd	4003185101350000	John and Mary Martin	0.34	RS-100	RS-72	
8601 Benson Rd	4003184871410000	Jayson and Stacy Van Mersbergen	0.77	RS-100	RS-72	
8603 Benson Rd	4003184991460000	Joshua and Jennifer Dyck	0.26	RS-100	RS-72	
8605 Benson Rd	4003185201460000	Marcia Crabtree	0.62	RS-100	RS-72	
8617 Benson Rd	4003185201550000	Robert and Norma Siguaw	0.6	RS-100	RS-72	
Benson Rd	4003184901550000	Brad and Kari Rader	1.37	RS-100	RS-72	
8629 Benson Rd	4003185051720000	Brad and Kari Rader	1.5	RS-100	RS-72	
8600 Benson Rd	4003184772070000	City of Lynden	4.95	RS-100	RS-72	
8661 Benson Rd	4003184772250000	Gary and Cynthia Witman	4.94	RS-100	RM-3	
8683 Benson Rd	4003184772500000	Anthony Bovenkamp C/o Linda Bishop	8.9	RS-100	RM-3	
8691 Benson Rd	4003185292570000	Ken and Barbara Vander Veen	0.88	RS-100	RM-3	
8727 Benson Rd	4003185092950000	City of Lynden	2.75	RS-100	PU	
Pepin Channel Parcels						
Non-addressed	4003184310320000	City of Lynden	1.11	RMD	RM-PC	
Non-addressed	4003184310960000	City of Lynden	1.11	RMD	RM-PC	
Non-addressed	4003184381120000	City of Lynden	2.77	RMD	RM-PC	

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

SUBMITTED BY: David R Timmer DATE: 12/01/20

APPLICANT SIGNATURE: [Signature] DATE: 12/01/20

APPLICANT PRINTED NAME _____ DATE: _____

Pre-application meeting date: _____

(Applications will not be accepted without a pre-application meeting)

Fee's (RZ \$450.00) date paid: _____ receipt # _____

CITY OF LYNDEN

PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354-5532



PLANNING COMMISSION Minutes

7:30 PM January 14, 2021
Microsoft Teams Meeting

1. CALL TO ORDER

2. ROLL CALL

Bryan Korthis absent with notice.

Staff: Heidi Gudde and Dave Timmer

Public: Some members of the public virtually attended the meeting.

3. APPROVAL OF THE MINUTES OF December 10, 2020

Motion to approve minutes by Gerald V with a second by Blair Scott.

Minutes approved 5-0

4. PUBLIC HEARING:

a. Pepin Area-wide Rezone #20-05, Pepin Creek Sub-Area

Planning Director Gudde gave an overview of the Pepin Creek Subarea. Future residential growth, a portion is in the current City limits, while a majority is still within the County (the City’s UGA). Double Ditch is a substandard road. The properties that are in the City are currently under a development moratorium.

Gudde gave a brief summary of the following components of the approved Pepin Creek Subarea Plan:

- Vision and Guiding principles
- The public input and feedback, planning commission, city council and land use and hydrological consultants collected when developing the sub-area plan.
- Transportation corridors and open space
- Housing types
- Future Land Use
- Design Review Standards
- Zoning – which included a new zone category RM-PC

The zoning map from Exhibit 24 of the PCSA plan is what is being proposed for tonight’s meeting. It is important to confirm the zoning categories as the City discusses removing the moratorium because the Sub-Area Plan within the City’s Comprehensive Plan must be consistent with the City’s Zoning Map.

Blair Scott asks how the zoning might change in the parcels outside the City limits when they come in. Gudde explained that, at this point, we expect them to be zoned as shown unless conditions change until the time of annexations. That specific discussion can occur, based on the best information at the time that those parcels are designated for annexation.

Diane Veltkamp asks about Pepin Lite and the recent design work and discussion to decrease the cost of the Creek relocation project. Changing the location of the creek - different than what was presented while the PCSA plan was being reviewed and approved - may require adjustments to other parts of the plan, including to the zoning.

Gudde gave an overview of the discussion regarding Pepin Lite as well as the hydrology of the area – the intercept ditch, the WSDOT culvert at Badger/Double Ditch, the way water moves and drains through here is dynamic, but developers will have to deal with the stormwater onsite as is required by DOE stormwater regulations. Furthermore, they will have to build with the appropriate separation from groundwater which may require elevation based on the specific ground water conditions of the parcel.

Tim Faber asks about the future of the channel as the remaining portions of the subarea are annexed and built out. He assumes that the goal is to build the full channel. What about Benson Road?

Heidi describes additional possibilities for Pepin Lite, options of what might happen to Double Ditch Road. Also, Benson ditch may stay as is. Improvements can occur on the side of Benson that does not include the ditch. Also, Pepin Parkway and the internal street network will alleviate pressure on Benson and Double Ditch. The future zoning, again, as annexation occurs might need to be re-looked at when that time comes. That discussion will have to happen with the best information that is available at that time. Changes to the Sub-Area plan may be warranted depending on Council direction.

Several of the Planning Commissioners express concern about the continuing evolving nature of the sub area and creek relocation. Is the zoning as presented in the Plan still appropriate even in the channel is not down the center?

Gudde explains that she is confident that the zoning on the parcels currently within the City, as presented, even with changes to the channel, is appropriate at this time. She is looking forward to seeing how the RM-PC zone starts to develop, the single-family zoning (RS-72) around the existing single-family parcels along Benson Rd will be consistent with those properties, and the RM3 zoning near the park gives higher density housing types easy access to that open space amenity. Staff is not proposing making adjustments to the presented zoning for those parcels within the current City limits or anticipating that the adoption of Pepin Lite designs would warrant a change to the zoning categories of the parcel already within the City.

Tim Faber asks about the Pepin Lite unit count. How is that different than the approved plan? Pepin lite allows more units within the Sub-area because of land in the north area of the subarea which would not then be encumbered by the new channel.

Gudde gives a brief overview of the financial assessment work / review that is still ongoing. The City is working with a consultant to develop an appropriate financial assessment option to recover some of the costs of the channel relocation project. One option is a SEPA mitigation which bases fees on the impacts of development. Other option is a Local Improvement District (LID) which bases the financial assessment on the increase to the assessed value of the properties within that defined district.

No questions from the public.

Blair moves to close the public portion of the hearing. Tim seconds and motion passes 5-0

Commissioners are comfortable with the zoning as presented. It gives some direction.

Tim Faber motions to recommend to City Council the approval of Rezone #20-02 Pepin Creek Subarea as presented in the Pepin Creek Subarea Plan. Second by Blair Scott. Motion passes 5-0.

5. ADJOURNMENT

Heidi gives a brief intro to the next meeting - Lagerway property rezone and long plat.

Diane asks about time of meetings (7 or 7:30?) Commissioners are interested in 7:00 meetings. Heidi says that we will plan on 7:00pm start for the next Planning Commission meeting on January 26 and stick with that unless there are objections.

Meeting adjourned at 8:30pm.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Ord 1616 - Zoning Text Amend re Non-Conforming MHCs	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Proposed Ordinance 1616, Planning Commission Minutes and Meeting Pkg of 12-10-20 including staff's Technical Review Committee Reports and code <u>redlined revisions</u>		
Summary Statement:		
<p>Lesa Starkenburg-Kroontje, representing her client Four 'S' Investments, has applied for a Zoning Text Amendment regarding the expansion of the nonconforming use of a mobile home park within the Commercial Services-Regional (CSR) Zoning category. The request is somewhat focused on the Duffner Mobile Home Park located on Front Street just west of the Guide Meridian. However, the amendment would apply to any other mobile home communities (MHCs) within the CSR zoning category. (Staff believes this is limited to one other circumstance – the unit pads located at the Windmill Inn Motel located at 8022 Guide Meridian.) Non-conforming uses are addressed in LMC 19.35. A use, like the Duffner Mobile Home Park, which is brought into the City and does not match the permitted uses of its zoning category is considered a legal nonconforming use. Although a legal nonconforming use can continue to operate, it is not permitted to expand.</p> <p>The Duffner Mobile Home Park was recently able to connect to City sewer services and decommission aging septic systems. This available connection has also initiated the applicant's opportunity to request additional housing units be placed on the property as each would be able to connect to sewer services. The amendment application describes the potential benefits that additional stock of affordable housing could provide to the City.</p> <p>Staff review, with the assistance of the City's legal counsel, has concluded with a recommendation to approve the expansion of MHCs in the City's CSR zones only as a conditional use and subject to appropriate setback and buffering requirements that may result as a review of the conditional use permit application. To be consistent with State Statues, staff also recommends that the City's definitions related to MHCs in Chapter 17 be updated as attached and the corresponding text amendments to Chapters 18 and 19 be made in accordance with these updates.</p>		
Recommended Action:		
Motion to approve Zoning Text Amendment 20-02 and authorized the Mayor's signature on the corresponding Ordinance 1616.		

CITY OF LYNDEN



PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354-5532

PLANNING COMMISSION AGENDA

7:30 PM December 10, 2020
Microsoft Teams Meeting

1. CALL TO ORDER

2. ROLL CALL

Commissioners Present: Bryan Korthuis, Blair Scott, Diane Veltkamp, Gerald Veltkamp, Tim Faber, Karen Timmer and Nikki Turner.

Commissioners Absent with Notice: None

Staff: Mike Martin, Heidi Gudde and Korene Samec

3. APPROVAL OF THE MINUTES OF November 12, 2020

Faber approved as presented. Turner seconded.

4. DECLARATION OF CONFLICT

None of the Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARINGS TO CONSIDER:

A. Dillard Conditional Use Permit #20-03, 422 Woodcreek Drive

Gudde summarized the proposed Conditional Use Permit Application. The City of Lynden’s zoning code provides residents, who meet specific performance criteria, the opportunity to use their homes as short-term vacation rentals. These are regulated per the City’s code section on Bed and Breakfast Establishments.

Prior to operation, the homeowner must be granted a Conditional Use Permit (CUP) as a short-term rental may have an impact on the surrounding properties. The CUP process includes notifying property owners within 300 feet and demonstrating that the property will meet the criteria outlined in LMC 19.49.020 and can meet the operational regulations of LMC 19.49.030 (attached).

The pending CUP application has been submitted by David and Kathleen Dillard; who’s property is located at 422 Woodcreek Drive. The attached application includes an aerial map of the neighborhood and a floor plan of the residence. The Dillard’s already have a legal Accessory Dwelling Unit, located in the basement floor of their residence. This ADU has been used for both long-term and short-term rentals. With this CUP proposal they are seeking to make the short-term rental option legal. They are not proposing to make physical changes to the home. Consistent with code, the property owner is intending to remain onsite when the property is being used as a short-term rental. The property will provide adequate on-site

parking and landscape buffers/fence are in place to reduce impacts to others. The request is also consistent with similar requests approved elsewhere within the City.

Staff has received concerns regarding increased parking impacts due to the fact that the Dillard’s have two driveways off of Woodcreek Drive and about the approved building permit that allows the Dillard’s to construct a shop in the rear yard. Gudde noted that the conditions in the Staff Report for the CUP specifically state that the ADU / Air B&B can only be located within the approved ADU not the proposed detached shop. Gudde also mentioned the possibility of installing a privacy fence along the northern property line to provide a buffer.

Public Comment

Dave Dillard, applicant spoke and stated that the proposed shop, currently under construction will help relieve some of the parking concerns as some vehicles will be parked inside the shop which will move parking off of the street.

Dillard stated that for the last three years we have rented the unit as a full-time rental which had a vehicle in driveway all of the time. The parking will actually be reduced as there will no longer be someone residing in the unit fulltime.

Linda Sharp, 450 Woodcreek Drive. Sharp asked if the CUP states that the ADU will be located in the existing home and will not be in the proposed shop. Gudde replied, yes. Sharp also asked about a privacy fence constructed on the Dillard’s property line. D. Veltkamp stated, that was a recommendation from Staff.

Questions or Comments from the Commissioners

- Faber asked what is the time frame for the construction of the shop? Dillard replied, next summer.
- K Timmer asked if the shop will be completed next summer or just in the process of being completed? Dillard replied, completed.
- Faber asked about screening on the property lines. Gudde replied, that the south side of property appears to be adequately screened, however, screening on the north property line is recommended. Faber questioned the screening on the north side as the ADU exists on the other side of the property. Gudde stated that the recommendation came out of discussions regarding privacy and parking concerns with the neighbor.
- Linda Sharp stated that there is a lot of traffic generated from the Dillard family and the Sharps would like some additional privacy between the properties and to better designate the property lines. In addition, the Dillard’s park a freightliner in the driveway between the two homes. along the northern property line.

- The Dillard's state that the driveway on the northside has never been used by renters. It is a private driveway only.
- Timmer asked if the north driveway is currently used? The Dillard's replied, yes, it is our private driveway.

Scott motion to close the public portion of the hearing. Seconded by Korthuis and the motion passed 6-0

The Commission had no concerns with the CUP criteria. The buffering issue is not due to the CUP request.

K Timmer stated that a nightly rental can have more impact than a monthly rental. The City needs to tread carefully. Maybe a buffer is not out of the question as the neighbors could be negatively impacted.

G Veltkamp has concerns regarding forcing the Dillard's to put up a fence. A fence or buffering is not required for the shop building. The screening on the north property line is a separate issue.

Faber agrees with G. Veltkamp and stated that the parties involved need to work together for a solution. The fence is a different issue than the CUP request. Faber has no concerns with the CUP criteria.

Brief discussion regarding annual review of the CUP.

Faber made a motion to recommend to the City Council the approval of the proposed Dillard Conditional Use Permit to allow short-term rentals as proposed at their property at 422 Woodcreek Drive, subject to annual review as written in code. Seconded by Blair Scott and the motion passed 6-0.

B. KODA Rezone #20-03, 295 S BC Avenue

Gudde summarized the request. The property owner is seeking to rezone this property from Multi-Family Residential (RM-4) to Multi-Family (RM-2). The subject property has unique characteristics that have led to the owner’s decision to pursue a down zone.

The Planning Department is tasked with keeping up to date on Growth Management Policies and staying on task with City’s Comprehensive Plan goal to seek / maintain higher density opportunities. This is especially important for those located relatively near commercial services such as shopping and the downtown core.

It should be noted that constraints of the critical areas support the need for medium to higher density housing to more thoroughly utilize building areas. Additionally, higher density development would not be out of character for the neighborhood as multi-family buildings, the relatively large scale of the New Hope Center, and cluster developments are all located in close proximity to this property. Considering these factors, the request to downzone this area should be considered carefully in light of the City’s growth management goals.

While the applicant has expressed an openness to an RM-3 zoning the primary reason that RM-2 was pursued was because the smaller setbacks associated with RM-2 were a better fit for the housing types they have planned for the property. Staff also recognizes that parking requirement and building height limits within the City’s development code may also restrict the actual achievable density on this property. For these reasons, and other described in the TRC report, staff supports the property owners request to rezone to an RM-2 designation

Public Comment

Roger Anderson and Ray Kornelis, applicants spoke. Anderson and Kornelis are joint partners in the proposed rezone. Plans include making two lots on-site for single family homes. We could build a home under RM-4, however, achieving the setbacks in that zone is a bit more difficult than in RM-2. We have no intent of building multi-family.

Questions or Comments from the Commissioners

- D Veltkamp asked about the access point to the property. Would additional property be needed if it was zoned RM-2? Gudde stated that the size really depends on the density, not necessarily the zoning.
- Discussion about buffer / buildable area. Building would need to be in front of the 50-foot buffer shown on the map in the packet. Questions on the validity of the map with regards to buffer lines etc.
- Anderson stated that the map is correct, and the buffer zone is accurate. Northwest Ecological prepared the wetland study in 2019.

- Faber asked how much acreage would be left outside of the wetlands. Roger said just over an acre up on the ridge of which we have plans to divide into two lots.
- Turner asked how the property would be divided? Heidi stated that there is not a subdivision plan submitted at this point. One lot would be close to the existing barn with the second lot being south of that area. As you head east, the property is not buildable.
- K Timmer confirmed that the future plan is to create two additional lots, correct?. Yes, 2 new lots for a total of three.

K. Timmer motion to close the public portion of the hearing. Seconded by G. Veltkamp and the motion passed 6-0

Other Commissioner Comments:

- The Commission agreed that it is a reasonable request.
- Faber stated that the access does not lend itself to multi-family development.
- Korthuis stated that the crunch of the wetland does not make sense for multi-family development.

The Commission reviewed the criteria associated with a site-specific rezone and agreed that things have changed in the area since the current zoning was established and at that time, the rezone did not take in consideration the topography of the land / wetland which would greatly limit the density of units allowed.

In addition, other properties in the area are zoned RM-2.

Faber made a motion to recommend to the City Council the approval of the KODA Rezone request from an RM-4 to an RM-2 designation, Application #20-03, According to the Staff Report dated December 1, 2020. Seconded by Bryan Korthuis. Motion passed unanimously.

C. Zoning Text Amendment – Hearing Examiner

Planning Commission met with the Community Development Committee several months ago to discuss the introduction of a hearing examiner.

Gudde gave an overview of the amendment. In 2018 the City of Lynden began researching the use of a hearing examiner after several costly and time-consuming administrative appeals were defended. Use of a hearing examiner, typically an experienced land use attorney, could provide multiple benefits to the City. These include an expediency in processing applications, the unbiased opinion of a professional, removing social/political influence from the process, reducing the City’s liability, and decreasing the obligations placed on volunteer boards.

A hearing examiner could be considered as the reviewer of appeals/applications where specific legal or technical criteria are listed. Feedback regarding this initiative has led to a code amendment drafted to include some appeals and some variance requests. Decisions made by the hearing examiner would go to the City Council if appealed. This code amendment also provides an opportunity to update sections of code to current organizational structure and other improvements. In summary, the attached draft ordinance proposes:

- To remove an unusual and glaring liability found in Chapter 17.13.060(B) which allows any three property owners or three residents of the City to petition for the review of any permit issued under the development code without indicating a specific appeal period.
- That a hearing examiner would hear some administrative appeals.
- That a hearing examiner would hear variances from Chapter 19. These variance applications are currently heard by the Board of Adjustments. This change would eliminate the need for a Board of Adjustments.
- That a hearing examiner would hear appeals of the Building Official’s decisions that are currently directed to the Board of Appeals (described in Chapter 15.14), which has never been created.

Previous drafts of the code amendment had shifted the review of Conditional Use Permits and Shoreline Permit to the hearing examiner as well. After feedback from the last workshop, the attached ordinance does not include these applications in the hearing examiner’s scope of work. However, staff and legal counsel urge the Planning Commission and the City Council to reconsider the issue of shoreline permits. The City’s Shoreline Master Plan is over 100 pages of shoreline specific code. Mitigation work and compliance is often highly dependent on work from certified biologists and the best available science related to shoreline / riparian mitigation. Staff’s recommendation is to send shoreline permits to a hearing examiner for a decision. Appeal of these decisions would be heard by the State’s Shoreline Hearings Board as is the current path within the City’s development code.

Gudde stated, for SEPA Appeals, they would be handled first with the Hearing Examiner, and the project associated with it would come forward to the Commission after the SEPA appeal was decided on.

For Variance and Shoreline applications not associated with land use applications, they would go to the hearing examiner for a decision.

For consolidated land use applications that include Shoreline permits, they would still go before the Planning Commission.

There are two Hearing Examiner options; the structure that the City is proposing is to allow a dispute to be heard by City Council, another option would be to appeal to the Superior Court.

Mike Martin, this is his 5th City he has worked for of which many used a hearing examiner. Over the years, Martin has heard many concerns from leaders thinking that with a hearing examiner, they will lose local control. Let me assure you that local control remains with the City Council.

The need for a hearing examiner boils down to the fact that the review will be handled by an unbiased, highly trained person to review and decide on an issue.

At anytime, the City Council can revisit the hearing examiner chosen.

The City often has 4-5 attorneys working on the same issued at one time. We are trying to make this a more efficient and a less expensive process. The City has no plans to hire additional planners, we punch above our weight and make use of the people we have.

A lot of Cities use a hearing examiner for many more items than what we are proposing. This is a modest way of trying out this need. We can always add to the list as time goes on.

Faber appreciates and stands behind the proposal for a hearing examiner whole heartedly. Faber can get behind the Shoreline recommendation as well. It is very technical and having a someone who specializes in that area makes good sense. No problem at all with the hearing examiner reviewing the specific applications as proposed.

G. Veltkamp concurs with Faber. You need to trust the professionals. This is above the PC's pay grade. It is very specific and technical and it is important to have the professionals review the applications.

B Korthuis, the blue-line document is pretty much what was explained to us at our joint meeting in July, which he appreciated very much. Having a hearing examiner is definitely something that the City should acquire.

Public Comment - None

Scott motioned to close the public portion of the hearing. Seconded by K. Timmer and the motion passed 6-0.

No additional comments were brought forward from the Commissioners.

Faber made a motion to recommend to the City Council the approval of Ord 1615 with the revision to include the hearing examiner’s review of shoreline permits. Seconded by Bryan Korthuis. Motion passed unanimously.

D. Zoning Text Amendment #20-02 – Mobile Home Parks

Gudde addressed the text amendment. Lesa Starkenberg-Kroontje, representing her client Four ‘S’ Investments, has applied for a Zoning Text Amendment regarding the expansion of the nonconforming use of a mobile home park within the Commercial Services-Regional (CSR) Zoning category. The request is somewhat focused on the Duffner Mobile Home Park located on Front Street just west of the Guide Meridian. However, it is important to keep in mind that the amendment would apply to any other mobile home communities (MHCs) within the CSR zoning category. Staff believes this is limited to one other circumstance – the unit pads located at the Windmill Inn Motel located at 8022 Guide Meridian.

Non-conforming uses are addressed in LMC 19.35. A use, like the Duffner Mobile Home Park, which is brought into the City that does not match the permitted uses of its zoning category is considered a legal nonconforming use. This is referred to as times as a use that is “grandfathered”. Although a legal nonconforming use can continue to operate, it is not permitted to expand.

The Duffner Mobile Home Park was recently able to connect to City sewer services and decommission aging septic systems. This available connection has also initiated the applicant opportunity to request additional housing units be placed on the property as each would be able to connect to sewer services.

In the attached applicant explores the potential benefits that additional stock of affordable housing can provide to the City. Staff review can be found in two TRC reports – the final report dated December 4, 2020.

Staff review, with the assistance of the City’s legal counsel, has concluded with a recommendation to approve the expansion of MHCs in the City’s CSR zones only as a conditional use and subject to appropriate setback and buffering requirements that may result as a review of the conditional use permit application. To be consistent with State Statues, staff also recommends that the City’s definitions related to MHCs in Chapter 17 be updated as attached and the corresponding text amendments to Chapters 18 and 19 be made in accordance with these updates.

Public Comment

Lesa Starkenburg, Agent for Applicant, spoke. Starkenburg stated that she is speaking on behalf of the owners of the Duffner Mobile Home Park. This request ended up being more work than originally thought. That was not the intent in the beginning, so thank you to Staff for the hard work. Starkenburg stated that many inconsistencies were found once the process was started.

Allowing this amendment would provide more affordable housing in the City as well as the use of surplus land. It allows for continued property income while the owners wait for the commercial development to take off in the area. The concept originally came up a year ago in

a council committee meeting where we were discussing the property and its connections to the sewer line. The idea for a ZTA was brought forward as her client's property is considered a non-conforming use as it is not allowed to intensify. Council members at that time indicated that a text amendment was a good idea.

Commissioner Comments

- Scott, the request sounds reasonable, however, when I think of the concept of a manufactured home it seems like something with more permanence, not an RV. Concern if we open this up. Starkenburg stated, at this location we are looking to add 4-5 units in the middle of the property. This ZTA would only apply to a couple of parcels in town. The impact would be minimal and it would require a conditional use permit approval and building permit. Bringing in units would require compliance with the code.
- G Veltkamp agrees that it is affordable housing. What would stop someone from placing 4 mobile homes and then renting them out for rental income? Lesa stated that there is a separate landlord CCR's that need to be met. K Timmer stated that she cannot see an investor buying and renting it for income.
- Timmer stated that this is another form of affordable housing which is really needed in Lynden.
- Veltkamp asked, if they added 4 units, would they be held to meeting development standards for streets similar to houses. Gudde stated that it would be unreasonable to make them meet street standards, they would however, need to apply for a CUP which would come before the Planning Commission and the City Council. The Fire Department would also have the opportunity to weigh in. Staff would recommend buffering, site lighting and that the parking code is met.
- Faber, how many additional units can fit on this specific property? Lesa stated about 4-5. Can multiple units be brought in under one CUP? Lesa does not see why not. A site plan can show the delineated area and associated buffering etc. under one CUP. After that each unit would require its own building permit.
- Gudde stated that a distinguishing difference between this property and the Windmill is that sewer is at this site and there are no flood plain concerns. At the windmill, there is no sewer and there are considerable flood plain issues that would need to be dealt with.

Scott motioned to close the public portion of the hearing. Seconded by G. Veltkamp and the motion passed 6-0.

Scott has no objections as any additional units would need to come before the Commission through a conditional use permit. Korthuis stated that it seems like an over-do amendment that needs to be cleaned up.

Faber likes the checks and balances for review.

Faber made a Motion to recommend to the City Council the approval of the proposed zoning text amendment, ZTA 20-02 as conditioned by staff. The amendment would allow nonconforming mobile / manufactured home communities, through the approval of a conditional use permit, to expand by adding additional pads / units within existing community boundaries. And further recommend to Council the approval of code updates to applicable definitions and affected code sections within Chapters 17, 18 and 19. Seconded by Bryan Korthuis and the motion passed 6-0.

The Commission thanked Lesa Starkenburg and Staff for their work on this amendment.

6. ADJOURNMENT

Motion to adjourn by Scott at 9:35 pm. Seconded by Turner.

Ordinance No. 1616

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING CHAPTERS 17, 18 AND 19 OF THE LYNDEN MUNICIPAL CODE REGARDING NON-CONFORMING MOBILE AND MANUFACTURED HOME COMMUNITIES

WHEREAS, the City is responsible for enacting regulations that protect the health, safety and general welfare of the citizens of Lynden; and

WHEREAS, the Growth Management Act requires that local governments planning under the Act must adopt regulations which implement adopted comprehensive plans; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time ensure orderly review of zoning regulations within the City.

WHEREAS, The City's Comprehensive Plan is supportive of a variety of housing types and encourages development which may assist in the affordability of housing, including Manufactured Home Communities (MHCs); and

WHEREAS, Definitions related to the mobile and manufactured homes currently appear in conflict with each other as they appear in both LMC 18.22 and LMC 17.01.030. The City's definitions may not be consistent with the State of Washington definitions and provisions. Legal review has resulted an update and consolidation of the City's definitions related to MHCs; and

WHEREAS, on July 10, 2020, the City issued a SEPA Determination of Non-Significance related to this Ordinance; and

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on December 10, 2020, to accept public comments on the proposed regulations and recommended adoption to the City Council.

WHEREAS, on December 22, 2020, the City provided notification to the State's Department of Commerce pursuant to RCW 36.70A.106 regarding the proposed update to Chapters 17, 18 and 19 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on February 1, 2021, and a date for a public hearing was set; and

WHEREAS, on February 16, 2021, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments and to consider the matters of record to that date; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

SECTION A Title 17, Title 18 and Title 19 amended as follows:

Title 17

Excerpt of 17.01.030 – Definitions

The following definitions shall apply to Titles 16 through 19; other definitions may be found in individual titles. The definitions set forth in this chapter shall apply to the terms used in this title. Those terms not defined in this chapter, shall be as defined in the 1991 Uniform Zoning Code.

"Manufactured home, Designated" A designated manufacture home means a single-family home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes which: (a) is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long; (b) was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 4:12 pitch; and (c) has exterior siding similar in appearance to siding materials commonly used on site-built, single-family homes according to the International Building Codes.

"Manufactured home" means a single-family dwelling required to be built in accordance with the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976 under the national Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

"Mobile home" means a factory-built dwelling constructed prior to the implementation of the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since June 15, 1976.

"Mobile home awning" means a stationary structure, permanent or demountable, used in conjunction with a mobile home, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituted for a wall.

"Mobile / manufactured home community" or "MHC" means mobile or manufactured home parks or subdivisions.

"Mobile / manufactured home park" means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.

"Mobile/manufactured home subdivision" means two or more mobile/manufactured homes on separate lots developed under the provisions of Title 18 LMC where mobile/manufactured homes are permanently installed for residential use on individually owned lots.

"Modular home" means a home built in a factory in modules that is then transported and set up on a parcel of land.

"New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser and is not a "used manufactured home" as defined in RCW 82.45.032(2).

"Nonconforming building" means a building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the district in which it is located.

"Nonconforming lot" means a lawfully established lot which does not conform to the provisions of the development code.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use and zoning regulations.

"Permitted use" means the specific purpose for which land and/or a building is designed, arranged and intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

"Plat" means a map or representation of a subdivision showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

"Recreational vehicle" means a vehicular unit, other than a mobile home, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer or van.

Title 18

Excerpt of 18.22 – Mobile Home/Manufactured Home Park and Subdivision Standards

18.22.010 - Purpose.

The purpose of this chapter is to establish the standards and criteria by which mobile/manufactured home subdivisions and parks may be sited and developed within the city. These standards are necessary to ensure the uniform, coordinated

development of the community and to assure the general health, welfare and safety of the occupants of the mobile/manufactured homes that are located within a subdivision or park developed under these standards. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.020 - Definitions. (See LMC 17.01.030)

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.030 - Requirements for a completed application.

An application must submit the information as stated in 18.16.010 LMC for preliminary plats. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.040 - Type of approval required.

- A. All mobile home parks shall be processed in the same manner as a binding site plan.
- B. All mobile/manufactured home subdivisions shall be processed in the same manner as subdivisions in this title. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.050 - Siting criteria.

The following minimum criteria apply to the siting of mobile/manufactured home parks and subdivisions.

- A. Minimum site development area: Five acres
- B. Maximum site development area: Twenty acres
- C. Minimum perimeter buffer: Thirty feet of Type V landscape buffer.
- D. Minimum unit site area: Four thousand two hundred square feet.
- E. Minimum common open space area: Ten percent of gross site area. Common open space consists of either an active or passive recreational area accessible and useable to all tenants within the park. Common open space is exclusive of the required perimeter buffers.
- F. Maximum density: Six units per acre.
- G. Unit type:
 - 1. Recreational vehicles which meet fire and safety regulation; hook up to utilities in a way that meets code; are appropriately skirted; and contain at least one toilet and at least one shower or that these amenities are provided to the residents of the MH community (RCW 35A.21.312(3),

- 2. Single, double or triple wide configuration.
- 3. Modular homes.

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.060 - Development standards.

All plans for improvements listed below shall be designed and stamped by a professional engineer:

- A. Easements for electric, telephone, telecommunications, water, storm and sanitary sewer, gas and similar utilities shall be a minimum of ten feet to assure future maintenance.
- B. Subdivisions shall provide underground utility lines, including, but not limited to those for electricity, communications, cable TV and street lighting.
- C. All streets, curbs, gutters, sidewalks, bridges, drains, culverts, and related structures and facilities shall be constructed in accordance with the other chapters of the LMC, city's design and development standards and applicable state and federal requirements; provided however:
 - 1. Private roads within a mobile/manufactured home park shall be privately owned. Interior roads must have a minimum surface width of twenty-four feet with a rolled edge curb on both sides of the street. Interior roads must meet the construction requirements of the project manual for engineering design and development standards for the street section. No on-street parking will be permitted.
 - 2. Public roads. Roads within a mobile/manufactured home subdivision must be public streets, meeting the requirements of the City of Lynden Project Manual for Engineering Design and Development Standards for a residential access street.
- D. Water supply facilities adequate to provide potable water from a public supply to each lot within a subdivision shall be installed in conformity with the city's design and development standards. Each lot shall be provided with a connection to the city's sanitary sewer, water and stormwater system in conformity with the city's design and development standards.
- E. Prior to construction of any structures within the subdivision, all public utilities shall be installed in conformance with the city's design and development standards.
- F. Parking. Parking shall be as required per Chapter 19.51 LMC. One additional off-street parking space will be required for every five mobile/manufactured home site within a mobile/manufactured home park. These parking areas shall

be spaced through the park conveniently to the homes they are intended to serve.

G. Outdoor lighting. Outdoor lighting shall be provided to adequately illuminate pedestrian walkways as required in the city's design and development standards. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise.

H. Landscaping. Landscaping shall be as provided in Chapter 19.61 LMC for mobile home parks or subdivisions.

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

Title 19

Excerpt of LMC 19.15 – RS Single-Family Building Zones

19.15.010 - Purpose and zones established.

A. Three single family zones are established:

Zone	Minimum Lot Size	Maximum Density
RS-100	10,000 square feet	4 DU/acre
RS-84	8,400 square feet	4.5 DU/acre
RS-72	7,200 square feet	5 DU/acre

Existing lots may be developed with single family homes even though they do not meet the size requirements of single-family zones. Future land divisions must meet the area requirements specified in the zone; provided however, that Title 18, subdivisions, provides for methods of subdivision resulting in lots of different sizes.

The goal of this title is to: protect the character and the social and economic stability of all parts of the community and to encourage the orderly and beneficial development of the community through appropriate growth management techniques; to assure proper urban form and open space separation of urban areas; to protect environmentally critical areas and allow flexibility in site and design standards while promoting infill projects compatible with existing single-family developments.

- B. Use of Low Impact Development Techniques. When an application for single family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, as applicable, is authorized to approve land divisions even though they may not meet the lot size requirements of single-family zones presented in this Title under the following conditions:
 1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
 2. Site planning and design documents are completed by a licensed engineer in the State of Washington;
 3. The proposed development integrates with the character of the neighborhood;
 4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
 5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

19.15.020 - Primary permitted uses.

- A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.
- B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.
- C. Personal services are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.
- D. Sales of general consumer goods are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the planning director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.
- E. Restaurants and cafes are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only.

F. Professional offices, banks and financial institutions in the neighborhood commercial overlay in the Pepin Creek Subarea only.

(Ord. No. 1581, § B, 6-3-2019)

Excerpt of 19.16 – Residential Mixed Density (RMD) Zone

19.16.010 - Purpose and intent.

The purpose of creating the residential mixed density zone (RMD) is to meet the stated goals of the comprehensive plan by allowing increased residential density to be integrated within single family neighborhoods within the community.

The intent in the creation of this zone is to allow a creative mixture of single-family and duplex housing styles and types. Development of this area should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping and open space and making low impact development (LID) the preferred and commonly used approach to site development.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

19.16.020 - Permitted uses.

Permitted uses in the residential mixed density zone are as follows:

- A. Single-family dwelling units, including detached site built single family dwellings, and new designated manufactured homes as defined in Section 17.01.030 LMC. This includes types such as large lot single family and small lot single family units. Mobile homes as defined in Section 17.01.030 LMC are prohibited.
- B. Two single-family attached dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

Excerpt of Chapter 19.17 – RM Multifamily Building Zones

19.17.010 - Purpose and zones established.

The goal is to allow flexibility in site and design standards while promoting infill projects compatible with existing multi-family developments.

Six multi-family zones are established:

- RM-1, Residential Multi-Family 1 zone; (up to 2 units/building)
- RM-2, Residential Multi-Family 2 zone; (up to 4 units/building)
- RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)
- RM-4, Residential Multi-Family 4 zone; (up to 50 units/building)
- RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 units/building)

A. Use of Low Impact Development Techniques. When an application for multi-family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:

1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size.
2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington.
3. The proposed development integrates with the character of the neighborhood.
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body.
5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

19.17.020 - Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE			
	RM-1	RM-2	RM-3	RM-4
Single Family Dwelling Unit	P	P	P	P

Duplex Units	P	P	P	P
Three or Four units per building	N	P	P	P
More than four units per building	N	N	P	P
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N

P = Permitted Use; N = Not Allowed

(Ord. No. 1581, § B, 6-3-2019)

Chapter 19.19 - MH MANUFACTURED HOME ZONE

Footnotes:

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Editor's note— Ord. No. 1581, § A, adopted June 3, 2019, repealed Ch. 19.19., §§ 19.19.010—19.19.170, and enacted a new Ch. 19.19 as set out herein. The former Ch. 19.19 pertained to similar subject matter. Please refer to the Code Comparative Table for full derivation.

19.19.010 - Established.

There is established the MH—Manufactured Home Zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. No. 1581, § B, 6-3-2019)

19.19.030 - Primary permitted uses.

- A. The primary uses permitted in the MH—Manufactured Home Zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site-built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

(Ord. No. 1581, § B, 6-3-2019)

19.19.040 - Accessory permitted uses.

- A. Private garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. A maintenance building containing equipment and tools for owners of manufactured homes that are necessary for the repair and preservation of a manufactured home.

(Ord. No. 1581, § B, 6-3-2019)

19.19.050 - Secondary permitted uses.

- A. Community laundry facilities used by the residents of the park or development.
- B. Community buildings for the residents of the park or development. These buildings may contain offices, recreational facilities and meeting halls.
- C. Private swimming pools, as provided in Chapter 15.16 in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.

(Ord. No. 1581, § B, 6-3-2019)

19.19.060 - Maximum density.

The maximum density of a manufactured home park or development in the MH Zone shall not exceed six units per gross acre.

(Ord. No. 1581, § B, 6-3-2019)

19.19.070 - Minimum width of individual space.

No manufactured home space in the MH Zone shall be less than forty-five feet in width.

(Ord. No. 1581, § B, 6-3-2019)

19.19.080 - Manufactured home construction requirements.

- A. Manufactured homes must meet or exceed all Federal and/or State requirements.
- B. Manufactured homes placed within the city of Lynden must meet the definition of a manufactured home as defined in Section 17.01.030 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.090 - Height, area, setback and bulk requirements.

The following provides regulations for height, area, setbacks & bulk requirements:

Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet			
		Feet	Story	Front	Rear	Side Yard	
						Minimum	Total
4,200	40%	25	2	20	20	7	17

(Ord. No. 1581, § B, 6-3-2019)

19.19.100 - Manufactured home park—Individual space boundary requirements.

The boundaries of each manufactured home space in a manufactured home park shall be clearly defined and marked by a fence, planting or other suitable means approved by the planning director, or by clearly visible, permanent markers at each corner of the space. For the purposes of this code, this boundary will be considered a property line.

(Ord. No. 1581, § B, 6-3-2019)

19.19.110 - Manufactured home park—Automobile parking requirements.

There shall be provided at least two automobile parking spaces for each manufactured home space, plus one additional automobile parking space for every five manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the park.

(Ord. No. 1581, § B, 6-3-2019)

19.19.120 - Manufactured home park—Development standards.

See Chapter 18.22 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.150 - Manufactured home park—Landscaping.

Privacy landscape buffers shall be required around the entire perimeter of the manufactured home park as required under Chapter 19.61 - Landscaping and Chapter 18.22-Manufactured Home Park and Subdivision Standards.

(Ord. No. 1581, § B, 6-3-2019)

Excerpts of 19.21 – TR – Travel Trailer and Recreational Vehicle Zone

19.21.010 - Established.

There is established the TR travel trailer and recreational vehicle zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. 1000 § A(part), 1995).

19.21.020 - Purpose.

The essential purpose of the TR travel trailer and recreational vehicle zone is to provide for uses, buildings and/or structures in which travel trailers and recreational vehicles may be located with restrictions for their uses.

(Ord. 1000 § A(part), 1995).

19.21.060 - Special property uses—Travel trailer and recreational vehicles—
Regulations authorized.

Travel trailer and recreational vehicles may be permitted in travel trailer and recreational vehicle zones as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter.

Recreational vehicles and travel trailers may be permitted for permanent, residential use within mobile home parks including those located within the CSR zone, provided that appropriate skirting and other performance standards are met for the recreational vehicles and travel trailers and provided that the provision of the underlying zone are met.

(Ord. 1000 § A(part), 1995).

Excerpt of 19.23 - Commercial Zoning

19.23.020 - Permitted uses.

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CSR
Adult entertainment uses	N	C(4)	N
Agricultural product and/or equipment parts sales	N	C	P
Animal auction barn	N	N	N
Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C
Auction facilities for other goods	N	P	P
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P

Banks and financial institutions	P	P	P
Barber shops, beauty salons	P	P	P
Bed and breakfast	P	P	N
Body piercing and tattoo studios	N	N	P
Business Parks where at least 20% of the total GFA of the park is related to onsite retail, showroom, or office use.	N	N	P(9)
Business schools	P	P	P
Car wash	N	P	P
Carpet sales	P	P	P
Clubs and lodges	P	P	N
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P
Commercial sporting events	C(7)	N	C(7)
Construction material sales	N	C	P
Contractors and construction services	N	C	P
Convention center, including banquet facilities and/or meeting halls	C	P	P
Day care facilities	P	P	PA
Day spas	P	P	P
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P
Fitness facilities	P	P	P

Fueling stations (may include convenience store)	N	P(2)	P(2)
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P
Grocery store	P	P	P
Home furnishings stores	P	P	P
Home improvement and hardware stores	P	P	P
Hospitals	N	N	N
Hotels, motels — includes indoor restaurants, gift shops and other businesses associated with a hotel or motel	P	P	P
House of Worship	N	P	P
Laundry and dry cleaning facilities	P	P	P
Landscape plants and landscape materials for retail sales	N	P	P
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P
Liquor sales	P	P	P
Manufacture, fabrication, assembly, woodworking and metal working shops, where at least 20% of the GFA is related to on-site retail or office space. All uses subject to the performance standards of Chapter 19.25 of LMC	N	C(10)	P
Manufactured home parks	N	N	N
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N

Martial arts or dance schools	P	P	P
Medical and dental clinics (see Surgical Centers below)	P	P	P
Medical services overlay	N	N	P
Mini-storage facilities	P(6)	P	P
Mobile / Manufactured Home Communities established prior to annexation and considered an Existing Nonconforming Use	N	N	C(11)
Motor vehicle and recreational vehicle sales and service	N	C	P
Multi-family residences	P(5)	P(5), (8)	N
Non-retail communications services	P	P	P
Non-profit offices that include warehousing	C	C	P
On-site hazardous waste treatment (no treatment allowed in HBD) and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.	PA	PA	PA
Pet supply store and grooming (no boarding)	P	P	P
Pharmacy	P	P	P
Photography studio	P	P	P
Printing and duplicating shops	P	P	P
Professional and business offices	P	P	P
Public use facilities	P	P	P

Research and development facilities	N	P	P
Restaurant — with drive thru	N	P	P
Restaurants and cafés	P	P	P
Retail (general retail) not otherwise defined	P	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P
Retail feed and seed stores	N	P	P
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P
Retail shopping center or mall	P	P	P
Retail stores greater than 65,000 square feet	N	N	P(1)
Sign design, fabrication, and installation companies	N	C	P
Single-family residences existing prior to 1992	N	P	N
Skilled nursing and assisted living facilities	N	P	N
Surgical centers	N	C	P
Theaters and movie theaters	P	P	P
Truck and trailer sales and service	N	C	P
Undertaking establishment	N	P	N
Utility facilities	C	C	P
Video arcades	P(3)	P(3)	P(3)

Warehousing, including open to the public	P(6)	N	C
Wholesaling, including open to the public	N	N	C

- (1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses.
- (2) See Section 19.23.100, Special Conditions for Automobile Service Stations.
- (3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
- (4) These uses may not be located within three hundred from Front Street, or two hundred feet from a residentially zoned area, or within two hundred feet from the fairgrounds, or five hundred feet from a church or school.
- (5) This use is permitted as part of a mixed use development, where at least sixty percent of the ground floor area is a permitted commercial use. This is calculated based on the ground floor area of all the buildings on the site where there are multiple buildings proposed.
- (6) The use is permitted under the following conditions. These conditions may be varied through the receipt of a conditional use permit.
 - a. The use must take place in an existing building. The building may be modified for warehousing or mini-storage purposes, but construction of a new facility will require a conditional use permit. New construction must meet all Dutch/European design requirements for the CSL zone.
 - b. Primary access to these facilities may not be from Front Street or Grover Street, nor may a new facility front on either of these streets, and existing pedestrian access to Front Street, Grover Street, Riverview Road or 7th Street may not be closed.
 - c. Off-street loading and truck parking facilities must be available at the site and may not abut Front Street or Grover Street without a landscape buffer as required in Section 19.61.090.A. All off-street parking requirements must be met on site.
 - d. The site must meet the requirements of the engineering design and development standards and the Uniform Building Code and Uniform Fire Code.
- (7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone under the following conditions:
 - a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the finance director.
 - b. Off-street parking is provided and monitored to ensure emergency access at all times;

- c. Police and fire departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.
 - d. No alcohol may be sold, distributed or consumed on site.
 - e. Mixed martial arts, boxing, wrestling or other "fight-type" events must meet the requirements of RCW 67.08.
- (8) Multi-family development is permitted within the CSL zone under the following conditions:
- a. This use is permitted only within the North Lynden Sub-Area;
 - b. No residential development will be permitted at the intersections of arterial streets and/or state highways in the area determined by measuring two hundred feet along both front and side property lines and diagonally connecting the ends of the two lines.
 - c. Minimum density: Eight units per acre.
 - d. Maximum density: Twenty-four units per acre.
 - e. Off-street parking: As required by Chapter 19.51 LMC.
 - f. Height: As per Section 19.23.050.
 - g. Setbacks: As per Section 19.17.060.A.
 - h. Minimum lot size: Based on number of units and calculated under Section 19.17.060.B.
 - i. Lot coverage and open space: As per Section 19.17.060.A.
- (9) Business parks are required to formalize a development agreement with the city council after receiving a recommendation from the planning commission which:
- a. Specifies a list of permitted, conditional, and prohibited uses with the business park.
 - b. Outlines a parking and loading standards which anticipates the uses permitted.
 - c. Creates standards for and screening of outdoor storage and refuse areas.
 - d. Addresses unique signage requirements.
 - e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.
- (10) Manufacture, fabrication, assembly, woodworking and metal working shops locating within a CSL zoning category must acquire a conditional use permit if the subject property is located within three hundred feet of a residentially zoned property.

- (11) The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1477, § A, 2-17-2015; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

Chapter 19.35 – Nonconforming Uses

This chapter shall apply to all land, all land uses and development, and all structures and facilities with the City of Lynden.

19.35.010 - Existing nonconforming uses—Continuation authorized.

Any nonconforming use, as defined in the definitions of Chapter 17.01, which lawfully existed at the time of the final passage of the ordinance codified in this title, is permitted to continue and to be maintained and operated.

(Ord. 1000 § A(part), 1995).

19.35.020 - Essential use alteration—Limitation.

A nonconforming use may be changed or altered only to uses within the same classification or to a use in a classification of higher priority in accordance with the essential use classification established in the established districts of the ordinance codified in this title.

(Ord. 1000 § A(part), 1995).

19.35.030 - Nonconforming bulk only—Alteration—Variance required.

A nonconformer as to bulk, but not as to use, may be substantially altered, renovated, enlarged or reconstructed only through the granting of a variance as provided in this title.

(Ord. 1000 § A(part), 1995).

19.35.040 - Enlargement or expansion—Conformance required.

A building or structure containing a nonconforming use shall not be enlarged or expanded unless the use is brought into conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995). 19.35.050 - Maintenance not to be construed as alteration.

Regular and ordinary maintenance shall not be construed as enlargement, expansion, change, alteration, renovation or reconstruction as used in this chapter.

(Ord. 1000 § A(part), 1995).

19.35.060 - Vacancy—Use discontinuance when.

A nonconforming use which has been discontinued for a period of one year or more shall not be reactivated nor operated, nor shall an occupancy permit be granted to such discontinued use. In such instances, an occupancy permit shall be granted only when the use has been brought into conformity with the provisions of this title. When a building or structure is vacant, the use therein shall be deemed discontinued.

(Ord. 1000 § A(part), 1995).

19.35.070 - Deterioration or destruction—Use discontinuance when.

When a building or structure containing a nonconforming use is destroyed or deteriorates to the extent to fifty percent or more, as determined by the building inspector, such nonconforming use shall be discontinued and any subsequent use of the property shall be in conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995).

SECTION B. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION C. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION D. This ordinance shall take effect on February 16, 2021.

PASSED by the City Council this _____ day of _____, 2021.

Signed by the Mayor on this _____ day of _____, 2021.

MAYOR (Scott Korthuis)

ATTEST:

CITY CLERK (Pamela Brown)

APPROVED TO AS FORM:

CITY ATTORNEY (Robert Carmichael)



EXECUTIVE SUMMARY - PLANNING COMMISSION

Meeting Date:	December 10, 2020 (Continued from the November 12 th PC Meeting)
Name of Agenda Item:	Public Hearing for Zoning Text Amendment re Mobile Home Communities
Type of Hearing:	Legislative
Attachments:	
December 4 th Final TRC Report, Staff-proposed Code Redlines, Revised text amendment request, August 3 rd TRC Report, Original ZTA Application and Supporting Information	
Summary Statement:	
<p>Lesla Starkenberg-Kroontje, representing her client Four ‘S’ Investments, has applied for a Zoning Text Amendment regarding the expansion of the nonconforming use of a mobile home park within the Commercial Services-Regional (CSR) Zoning category. The request is somewhat focused on the Duffner Mobile Home Park located on Front Street just west of the Guide Meridian. However, it is important to keep in mind that the amendment would apply to any other mobile home communities (MHCs) within the CSR zoning category. Staff believes this is limited to one other circumstance – the unit pads located at the Windmill Inn Motel located at 8022 Guide Meridian.</p> <p>Non-conforming uses are addressed in LMC 19.35. A use, like the Duffner Mobile Home Park, which is brought into the City that does not match the permitted uses of its zoning category is considered a legal nonconforming use. This is referred to as times as a use that is “grandfathered”. Although a legal nonconforming use can continue to operate, it is not permitted to expand.</p> <p>The Duffner Mobile Home Park was recently able to connect to City sewer services and decommission aging septic systems. This available connection has also initiated the applicant opportunity to request additional housing units be placed on the property as each would be able to connect to sewer services.</p> <p>In the attached applicant explores the potential benefits that additional stock of affordable housing can provide to the City. Staff review can be found in two TRC reports – the final report dated December 4, 2020.</p> <p>Staff review, with the assistance of the City’s legal counsel, has concluded with a recommendation to approve the expansion of MHCs in the City’s CSR zones only as a conditional use and subject to appropriate setback and buffering requirements that may result as a review of the conditional use permit application. To be consistent with State Statues, staff also recommends that the City’s definitions related to MHCs in Chapter 17 be updated as attached and the corresponding text amendments to Chapters 18 and 19 be made in accordance with these updates.</p>	
Recommended Action:	
<p>Motion to recommend to the City Council the approval of the proposed zoning text amendment, ZTA 20-02 as conditioned by staff. The amendment would allow nonconforming mobile / manufactured home communities, through the approval of a conditional use permit, to expand by adding additional pads / units within existing community boundaries. And further recommend to Council the approval of code updates to applicable definitions and affected code sections within Chapters 17, 18 and 19 as attached.</p>	

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	December 4, 2020
Project Name:	ZTA #20-02, Four "S"
Applicant:	Four "S" Investments, US., Inc.
Property Owner:	Lesa Starkenburg Agent for, Four "S" Investments
Site Address:	N/A
Parcel Number	N/A
Zoning Designation:	CSR
Application Type:	Zoning Text Amendment
Parcel Size:	N/A
Hearing Type:	Legislative
Hearing Objective:	The objective of this public hearing is to determine whether the proposed amendment to Section 19.23.020 and 19.21.060 of the Municipal Code furthers the intent and purpose of the CSR zoning designation and is consistent with the Comprehensive Plan
Date application determined complete:	June 17, 2020
Date of Publication:	August 19, 2020
SEPA Determination:	N/A
Project Description:	The applicant is requesting a Zoning Text Amendment to Section 19.23.020 and 19.21.060 of the Lynden Municipal Code regarding permitted uses and special property uses within the CSR (Regional Commercial Services) zone.

Background and Notification Requirements:

In accordance with Chapter 17.15 LMC, the proposed action was reviewed for concurrency and should the conditions listed within this report be met, a finding of concurrency will be made in accordance with Section 17.15.060(C)(3).

As with all Zoning Text Amendments, any changes to such text could affect all properties within that zoning designation.

The applicant has met the minimum submittal requirements and the application was determined to be complete on July 17, 2020. The notice of application was published on that same date.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City’s requirements.

Summary:

The applicant is requesting a zoning text amendment to the following Sections of the Lynden Municipal Code:

19.23.020-Permitted Uses. The expansion of existing, legal nonconforming mobile home parks shall be a permitted use in the CSR zone, provided the expansion meets the current setback requirements and other use and bulk requirements. The expansion may increase the number of units on the site but shall not expand the nonconforming use beyond the property boundaries that existed at the time the use became nonconforming.

The applicant has withdrawn the request related to the residential use of travel trailers on the subject property. (i.e. revisions to 19.21.060-Special Property Uses -Travel Trailer and Recreational Vehicles -Regulations Authorized) in response to staff’s initial review however further study of the issue has shown that the State code, RCW 35A.21.312(3) limits a city’s authority to prohibit the use of recreational vehicles within established mobile / manufactured home communities (MHCs) (subject to some conditions). As such, the addition of “units” to this and other MHCs within the City should be assumed to be either RV’s, or manufactured homes which are single, double, or triple-wide in size.

Staff review and comment related to the proposed zoning text amendment is as follows:

Planning Department Comments:

1. *Housing Types:* The City’s comprehensive plan is supportive of a variety of housing types and encourages development which may assist in the affordability of housing. The applicant has provided a summary of rents and / or purchase price for homes within mobile home parks within the City to give context to this issue.

2. *Use Intensification or Expansion:* Legal counsel has interpreted the addition of new housing pads / units to the MHC as an expansion of a nonconforming use rather than an intensification. This is due to the nature of the development as it existing when the MHC became nonconforming. And, due to the impact that

additional units would have on the surrounding property owners in both visual appearance and increased traffic demand.

3. *Development Standards:* While staff agrees that it would be unreasonable to expect a nonconforming MHC to meet all of the development and siting standards related to MHCs as listed in LMC 18.22, the impacts of additional units must be considered when proposed. Staff recommends that the addition of units to an existing MHC within the CSR (Commercial Services -Regional) be listed as a Conditional Use Permit (CUP). And, that the approval of the CUP be conditioned on meeting setback, providing buffers, and other appropriate design standards as determined during the review of the CUP. Connecting to City utilities is required.

Resulting redlines of the staff recommendation are attached.

4. *City Definitions:* Definitions related to the mobile and manufactured homes currently appear in conflict with each other as they appear in both LMC 18.22 and LMC 17.01.030. Additionally the City's definitions may not be consistent with the State of Washington definitions and provisions. Initial legal review has resulted in the attached redlines which reflect an update and consolidation of the City's definitions related to MHCs.

Fire and Life Safety

1. *Life and Safety Standards:* Be advised that the expansion of existing mobile home parks must provide adequate life and safety access throughout the park consistent with LMC 18.22.

Parks and Recreation

The Parks Department has reviewed the application and has no comment.

Excerpt of 17.01.030 – Definitions related to ZTA 20-02.

The following definitions shall apply to Titles 16 through 19; other definitions may be found in individual titles. The definitions set forth in this chapter shall apply to the terms used in this title. Those terms not defined in this chapter, shall be as defined in the 1991 Uniform Zoning Code.

.....

"Manufactured home, Designated" A designated manufacture home means a single-family home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes which: (a) is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long; (b) was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 4:12 pitch; and (c) has exterior siding similar in appearance to siding materials commonly used on site-built, single-family homes according to the International Building Codes.

"Manufactured home" means a single-family dwelling required to be built in accordance with the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976 under the national Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

~~"Manufactured home park (or subdivision)" means the development of property for the purpose of placing two or more manufactured homes under the provisions of Chapters 18.22 and 19.19 of the Lynden Municipal Code.~~

.....

~~"Mobile home" means a transportable, factory-built home designed and intended to be used as a year-round dwelling, and built prior to the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974. A factory-built dwelling constructed prior to the implementation of the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobil homes have not been built since June 15, 1976.~~

"Mobile home awning" means a stationary structure, permanent or demountable, used in conjunction with a mobile home, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituted for a wall.

"Mobile / manufactured home community" or "MHC" means mobile or manufactured home parks or subdivisions.

~~"Mobile / manufactured home park" means a plot or tract of land divided into lots, under the ownership or management of one person, firm or corporation for the purpose of locating two or more mobile homes to be used for human occupancy. Individual lots may be sold within the mobile home park, but the mobile home park must still have a mobile home manager. means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.~~

"Mobile/manufactured home subdivision" means two or more mobile/manufactured homes on separate lots developed under the provisions of Title 18 LMC where mobile/manufactured homes are permanently installed for residential use on individually owned lots.

.....

"Modular home" means a home built in a factory in modules that is then transported and set up on a parcel of land.

.....

"New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used manufactured home" as defined in RCW 82.45.032(2).

"Nonconforming building" means a building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the district in which it is located.

"Nonconforming lot" means a lawfully established lot which does not conform to the provisions of the development code.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use and zoning regulations.

.....

"Permitted use" means the specific purpose for which land and/or a building is designed, arranged and intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

.....

"Plat" means a map or representation of a subdivision showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

.....

"Recreational vehicle" means a vehicular unit, other than a mobile home, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer or van.

Excerpt of 18.22 – Revisions related to ZTA 20-02.

18.22.010 - Purpose.

The purpose of this chapter is to establish the standards and criteria by which mobile/manufactured home subdivisions and parks may be sited and developed within the city. These standards are necessary to ensure the uniform, coordinated development of the community and to assure the general health, welfare and safety of the occupants of the mobile/manufactured homes that are located within a subdivision or park developed under these standards.

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

18.22.020 - Definitions. (See LMC 17.01.030)

- ~~A. "Mobile/manufactured home park" means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.~~
- ~~B. "Mobile/manufactured home subdivision" means two or more mobile/manufactured homes on separate lots developed under the provisions of Title 18 LMC where mobile/manufactured homes are permanently installed for residential use on individually owned lots.~~
- ~~C. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.~~
- ~~D. "Mobile home " means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures that meet the above requirements and with respect to which the manufacturer voluntarily complies with the standards set forth in Part 3280 by HUD. WAC 296-150B-015(28).~~

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

18.22.030 - Requirements for a completed application.

An application must submit the information as stated in 18.16.010 LMC for preliminary plats.

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

18.22.040 - Type of approval required.

- A. All mobile home parks shall be processed in the same manner as a binding site plan.
- B. All mobile/manufactured home subdivisions shall be processed in the same manner as subdivisions in this title.

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

18.22.050 - Siting criteria.

The following minimum criteria apply to the siting of mobile/manufactured home parks and subdivisions.

- A. Minimum site development area: Five acres
- B. Maximum site development area: Twenty acres
- C. Minimum perimeter buffer: Thirty feet of Type V landscape buffer.
- D. Minimum unit site area: Four thousand two hundred square feet.
- E. Minimum common open space area: Ten percent of gross site area. Common open space consists of either an active or passive recreational area accessible and useable to all tenants within the park. Common open space is exclusive of the required perimeter buffers.
- F. Maximum density: Six units per acre.
- G. Unit type:
 - 1. Recreational vehicles which meet fire and safety regulation; hook up to utilities in a way that meets code; are appropriately skirted; and contain at least one toilet and at least one shower or that these amenities are provided to the residents of the MH community (RCW 35A.21.312(3)).
 - 2. Single, double or triple wide configuration, including
 - 3. Modular units/homes.

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

18.22.060 - Development standards.

All plans for improvements listed below shall be designed and stamped by a professional engineer:

- A. Easements for electric, telephone, telecommunications, water, storm and sanitary sewer, gas and similar utilities shall be a minimum of ten feet to assure future maintenance.
- B. Subdivisions shall provide underground utility lines, including, but not limited to those for electricity, communications, cable TV and street lighting.
- C. All streets, curbs, gutters, sidewalks, bridges, drains, culverts, and related structures and facilities shall be constructed in accordance with the other chapters of the LMC, city's design and development standards and applicable state and federal requirements; provided however:
 - 1. Private roads within a mobile/manufactured home park shall be privately owned. Interior roads must have a minimum surface width of twenty-four feet with a rolled edge curb on

both sides of the street. Interior roads must meet the construction requirements of the project manual for engineering design and development standards for the street section. No on-street parking will be permitted.

- 2. Public roads. Roads within a mobile/manufactured home subdivision must be public streets, meeting the requirements of the City of Lynden Project Manual for Engineering Design and Development Standards for a residential access street.
- D. Water supply facilities adequate to provide potable water from a public supply to each lot within a subdivision shall be installed in conformity with the city's design and development standards. Each lot shall be provided with a connection to the city's sanitary sewer, water and stormwater system in conformity with the city's design and development standards.
- E. Prior to construction of any structures within the subdivision, all public utilities shall be installed in conformance with the city's design and development standards.
- F. Parking. Parking shall be as required per Chapter 19.51 LMC. One additional off-street parking space will be required for every five mobile/manufactured home site within a mobile/manufactured home park. These parking areas shall be spaced through the park conveniently to the homes they are intended to serve.
- G. Outdoor lighting. Outdoor lighting shall be provided to adequately illuminate pedestrian walkways as required in the city's design and development standards. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise.
- H. Landscaping. Landscaping shall be as provided in Chapter 19.61 LMC for mobile home parks or subdivisions.

(Ord. 1194 §§ 1, 10, 2004).

(Ord. No. 1546, § 9, 12-4-2017)

Excerpt of LMC 19.15 – RS Single-Family Building Zones

19.15.010 - Purpose and zones established.

A. Three single family zones are established:

Zone	Minimum Lot Size	Maximum Density
RS-100	10,000 square feet	4 DU/acre
RS-84	8,400 square feet	4.5 DU/acre
RS-72	7,200 square feet	5 DU/acre

Existing lots may be developed with single family homes even though they do not meet the size requirements of single-family zones. Future land divisions must meet the area requirements specified in the zone; provided however, that Title 18, subdivisions, provides for methods of subdivision resulting in lots of different sizes.

The goal of this title is to: protect the character and the social and economic stability of all parts of the community and to encourage the orderly and beneficial development of the community through appropriate growth management techniques; to assure proper urban form and open space separation of urban areas; to protect environmentally critical areas and allow flexibility in site and design standards while promoting infill projects compatible with existing single-family developments.

B. Use of Low Impact Development Techniques. When an application for single family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, as applicable, is authorized to approve land divisions even though they may not meet the lot size requirements of single-family zones presented in this Title under the following conditions:

1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
2. Site planning and design documents are completed by a licensed engineer in the State of Washington;
3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body
5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

19.15.020 - Primary permitted uses.

A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.

- B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.
- C. Personal services are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.
- D. Sales of general consumer goods are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the planning director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.
- E. Restaurants and cafes are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only.
- F. Professional offices, banks and financial institutions in the neighborhood commercial overlay in the Pepin Creek Subarea only.

(Ord. No. 1581, § B, 6-3-2019)

Excerpt of 19.16 – Residential Mixed Density (RMD) Zone

19.16.010 - Purpose and intent.

The purpose of creating the residential mixed density zone (RMD) is to meet the stated goals of the comprehensive plan by allowing increased residential density to be integrated within single family neighborhoods within the community.

The intent in the creation of this zone is to allow a creative mixture of single-family and duplex housing styles and types. Development of this area should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping and open space and making low impact development (LID) the preferred and commonly used approach to site development.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

19.16.020 - Permitted uses.

Permitted uses in the residential mixed density zone are as follows:

- A. Single-family dwelling units, including detached site built single family dwellings, and new designated manufactured homes as defined in Section 17.01.030 LMC. This includes types such as large lot single family and small lot single family units. Mobile homes as defined in Section 17.01.030 LMC are prohibited.
- B. Two single-family attached dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

Excerpt of Chapter 19.17 – RM Multifamily Building Zones

19.17.010 - Purpose and zones established.

The goal is to allow flexibility in site and design standards while promoting infill projects compatible with existing multi-family developments.

Six multi-family zones are established:

RM-1, Residential Multi-Family 1 zone; (up to 2 units/building)

RM-2, Residential Multi-Family 2 zone; (up to 4 units/building)

RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)

RM-4, Residential Multi-Family 4 zone; (up to 50 units/building)

RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 units/building)

~~SO, Senior Overlay zone; (up to 30 units/acre)~~

- A. Use of Low Impact Development Techniques. When an application for multi-family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:
 1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
 2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
 3. The proposed development integrates with the character of the neighborhood;
 4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
 5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

19.17.020 - Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE			
	RM-1	RM-2	RM-3	RM-4
Single Family Dwelling Unit	P	P	P	P
Duplex Units	P	P	P	P

Three or Four units per building	N	P	P	P
More than four units per building	N	N	P	P
New-Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N

P = Permitted Use; N = Not Allowed

(Ord. No. 1581, § B, 6-3-2019)

Chapter 19.19 - MH MANUFACTURED HOME ZONE^[4]

Footnotes:

--- (4) ---

Editor's note— Ord. No. 1581, § A, adopted June 3, 2019, repealed Ch. 19.19., §§ 19.19.010—19.19.170, and enacted a new Ch. 19.19 as set out herein. The former Ch. 19.19 pertained to similar subject matter. Please refer to the Code Comparative Table for full derivation.

19.19.010 - Established.

There is established the MH—Manufactured Home Zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. No. 1581, § B, 6-3-2019)

19.19.030 - Primary permitted uses.

- A. The primary uses permitted in the MH—Manufactured Home Zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

(Ord. No. 1581, § B, 6-3-2019)

19.19.040 - Accessory permitted uses.

The accessory uses permitted in the MH zone are as follows:

- A. Private garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. A maintenance building containing equipment and tools for owners of manufactured homes that are necessary for the repair and preservation of a manufactured home.

(Ord. No. 1581, § B, 6-3-2019)

19.19.050 - Secondary permitted uses.

The secondary uses permitted in the MH manufactured home zone are as follows:

- A. Community laundry facilities used by the residents of the park or development.
- B. Community buildings for the residents of the park or development. These buildings may contain offices, recreational facilities and meeting halls.
- C. Private swimming pools, as provided in Chapter 15.16 in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.

(Ord. No. 1581, § B, 6-3-2019)

19.19.060 - Maximum density.

The maximum density of a manufactured home park or development in the MH Zone shall not exceed six units per gross acre.

(Ord. No. 1581, § B, 6-3-2019)

19.19.070 - Minimum width of individual space.

No manufactured home space in the MH Zone shall be less than forty-five feet in width.

(Ord. No. 1581, § B, 6-3-2019)

19.19.080 - Manufactured home construction requirements.

- A. Manufactured homes must meet or exceed all Federal and/or State requirements.
- B. Manufactured homes placed within the city of Lynden must meet the definition of a manufactured home as defined in Section 17.01.030 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.090 - Height, area, setback and bulk requirements.

The following provides regulations for height, area, setbacks & bulk requirements:

Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet			
				Side Yard			
		Feet	Story	Front	Rear	Minimum	Total
4,200	40%	25	2	20	20	7	17

(Ord. No. 1581, § B, 6-3-2019)

19.19.100 - Manufactured home park—Individual space boundary requirements.

The boundaries of each manufactured home space in a manufactured home park shall be clearly defined and marked by a fence, planting or other suitable means approved by the planning director, or by clearly visible, permanent markers at each corner of the space. For the purposes of this code, this boundary will be considered a property line.

(Ord. No. 1581, § B, 6-3-2019)

19.19.110 - Manufactured home park—Automobile parking requirements.

There shall be provided at least two automobile parking spaces for each manufactured home space, plus one additional automobile parking space for every five manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the park.

(Ord. No. 1581, § B, 6-3-2019)

19.19.120 - Manufactured home park—Development standards.

See Chapter 18.22 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.150 - Manufactured home park—Landscaping.

Privacy landscape buffers shall be required around the entire perimeter of the manufactured home park as required under Chapter 19.61 - Landscaping and Chapter 18.22-Manufactured Home Park and Subdivision Standards.

(Ord. No. 1581, § B, 6-3-2019)

Excerpts of 19.21 – TR – Travel Trailer and Recreational Vehicle Zone

19.21.010 - Established.

There is established the TR travel trailer and recreational vehicle zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. 1000 § A(part), 1995).

19.21.020 - Purpose.

The essential purpose of the TR travel trailer and recreational vehicle zone is to provide for uses, buildings and/or structures in which travel trailers and recreational vehicles may be located with restrictions for their uses.

(Ord. 1000 § A(part), 1995).

19.21.060 - Special property uses—Travel trailer and recreational vehicles—Regulations authorized.

Travel trailer and recreational vehicles may be permitted ~~only~~ in travel trailer and recreational vehicle zones as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter.

Recreational vehicles and travel trailers may be permitted for permanent, residential use within mobile home parks including those located within the CSR zone, provided that appropriate skirting and other performance standards are met for the recreational vehicles and travel trailers and provided that the provision of the underlying zone are met.

(Ord. 1000 § A(part), 1995).

Excerpt of 19.23 - Commercial Zoning

19.23.020 - Permitted uses.

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CSR
Adult entertainment uses	N	C(4)	N
Agricultural product and/or equipment parts sales	N	C	P
Animal auction barn	N	N	N
Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C
Auction facilities for other goods	N	P	P
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P
Banks and financial institutions	P	P	P
Barber shops, beauty salons	P	P	P
Bed and breakfast	P	P	N
Body piercing and tattoo studios	N	N	P
Business Parks where at least 20% of the total GFA of the park is related to onsite retail, showroom, or office use.	N	N	P(9)
Business schools	P	P	P
Car wash	N	P	P
Carpet sales	P	P	P

Clubs and lodges	P	P	N
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P
Commercial sporting events	C(7)	N	C(7)
Construction material sales	N	C	P
Contractors and construction services	N	C	P
Convention center, including banquet facilities and/or meeting halls	C	P	P
Day care facilities	P	P	PA
Day spas	P	P	P
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P
Fitness facilities	P	P	P
Fueling stations (may include convenience store)	N	P(2)	P(2)
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P
Grocery store	P	P	P
Home furnishings stores	P	P	P
Home improvement and hardware stores	P	P	P
Hospitals	N	N	N
Hotels, motels — includes indoor restaurants, gift shops and other businesses associated with a hotel or motel	P	P	P
House of Worship	N	P	P
Laundry and dry cleaning facilities	P	P	P

Landscape plants and landscape materials for retail sales	N	P	P
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P
Liquor sales	P	P	P
Manufacture, fabrication, assembly, woodworking and metal working shops, where at least 20% of the GFA is related to on-site retail or office space. All uses subject to the performance standards of Chapter 19.25 of LMC	N	C(10)	P
Manufactured home parks	N	N	N
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N
Martial arts or dance schools	P	P	P
Medical and dental clinics (see Surgical Centers below)	P	P	P
Medical services overlay	N	N	P
Mini-storage facilities	P(6)	P	P
<u>Mobile / Manufactured Home Communities established prior to annexation and considered an Existing Nonconforming Use</u>	<u>N</u>	<u>N</u>	<u>C(11)</u>
Motor vehicle and recreational vehicle sales and service	N	C	P
Multi-family residences	P(5)	P(5), (8)	N
Non-retail communications services	P	P	P
Non-profit offices that include warehousing	C	C	P
On-site hazardous waste treatment (no treatment allowed in HBD) and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.	PA	PA	PA

Pet supply store and grooming (no boarding)	P	P	P
Pharmacy	P	P	P
Photography studio	P	P	P
Printing and duplicating shops	P	P	P
Professional and business offices	P	P	P
Public use facilities	P	P	P
Research and development facilities	N	P	P
Restaurant — with drive thru	N	P	P
Restaurants and cafés	P	P	P
Retail (general retail) not otherwise defined	P	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P
Retail feed and seed stores	N	P	P
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P
Retail shopping center or mall	P	P	P
Retail stores greater than 65,000 square feet	N	N	P(1)
Sign design, fabrication, and installation companies	N	C	P
Single-family residences existing prior to 1992	N	P	N
Skilled nursing and assisted living facilities	N	P	N
Surgical centers	N	C	P
Theaters and movie theaters	P	P	P

Truck and trailer sales and service	N	C	P
Undertaking establishment	N	P	N
Utility facilities	C	C	P
Video arcades	P(3)	P(3)	P(3)
Warehousing, including open to the public	P(6)	N	C
Wholesaling, including open to the public	N	N	C

- (1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses.
- (2) See Section 19.23.100, Special Conditions for Automobile Service Stations.
- (3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
- (4) These uses may not be located within three hundred feet from Front Street, or two hundred feet from a residentially zoned area, or within two hundred feet from the fairgrounds, or five hundred feet from a church or school.
- (5) This use is permitted as part of a mixed use development, where at least sixty percent of the ground floor area is a permitted commercial use. This is calculated based on the ground floor area of all the buildings on the site where there are multiple buildings proposed.
- (6) The use is permitted under the following conditions. These conditions may be varied through the receipt of a conditional use permit.
 - a. The use must take place in an existing building. The building may be modified for warehousing or mini-storage purposes, but construction of a new facility will require a conditional use permit. New construction must meet all Dutch/European design requirements for the CSL zone.
 - b. Primary access to these facilities may not be from Front Street or Grover Street, nor may a new facility front on either of these streets, and existing pedestrian access to Front Street, Grover Street, Riverview Road or 7th Street may not be closed.
 - c. Off-street loading and truck parking facilities must be available at the site and may not abut Front Street or Grover Street without a landscape buffer as required in Section 19.61.090.A. All off-street parking requirements must be met on site.
 - d. The site must meet the requirements of the engineering design and development standards and the Uniform Building Code and Uniform Fire Code.
- (7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone under the following conditions:
 - a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the finance director.

- b. Off-street parking is provided and monitored to ensure emergency access at all times;
 - c. Police and fire departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.
 - d. No alcohol may be sold, distributed or consumed on site.
 - e. Mixed martial arts, boxing, wrestling or other "fight-type" events must meet the requirements of RCW 67.08.
- (8) Multi-family development is permitted within the CSL zone under the following conditions:
- a. This use is permitted only within the North Lynden Sub-Area;
 - b. No residential development will be permitted at the intersections of arterial streets and/or state highways in the area determined by measuring two hundred feet along both front and side property lines and diagonally connecting the ends of the two lines.
 - c. Minimum density: Eight units per acre.
 - d. Maximum density: Twenty-four units per acre.
 - e. Off-street parking: As required by Chapter 19.51 LMC.
 - f. Height: As per Section 19.23.050.
 - g. Setbacks: As per Section 19.17.060.A.
 - h. Minimum lot size: Based on number of units and calculated under Section 19.17.060.B.
 - i. Lot coverage and open space: As per Section 19.17.060.A.
- (9) Business parks are required to formalize a development agreement with the city council after receiving a recommendation from the planning commission which:
- a. Specifies a list of permitted, conditional, and prohibited uses with the business park.
 - b. Outlines a parking and loading standards which anticipates the uses permitted.
 - c. Creates standards for and screening of outdoor storage and refuse areas.
 - d. Addresses unique signage requirements.
 - e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.
- (10) Manufacture, fabrication, assembly, woodworking and metal working shops locating within a CSL zoning category must acquire a conditional use permit if the subject property is located within three hundred feet of a residentially zoned property.
- (11) The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1477, § A, 2-17-2015; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

Chapter 19.35 – Nonconforming Uses

This chapter shall apply to all land, all land uses and development, and all structures and facilities with the City of Lynden.

19.35.010 - Existing nonconforming uses—Continuation authorized.

Any nonconforming use, as defined in the definitions of Chapter 17.01, which lawfully existed at the time of the final passage of the ordinance codified in this title, is permitted to continue and to be maintained and operated.

(Ord. 1000 § A(part), 1995).

19.35.020 - Essential use alteration—Limitation.

A nonconforming use may be changed or altered only to uses within the same classification or to a use in a classification of higher priority in accordance with the essential use classification established in the established districts of the ordinance codified in this title.

(Ord. 1000 § A(part), 1995).

19.35.030 - Nonconforming bulk only—Alteration—Variance required.

A nonconformer as to bulk, but not as to use, may be substantially altered, renovated, enlarged or reconstructed only through the granting of a variance as provided in this title.

(Ord. 1000 § A(part), 1995).

19.35.040 - Enlargement or expansion—Conformance required.

A building or structure containing a nonconforming use shall not be enlarged or expanded unless the use is brought into conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995).

19.35.050 - Maintenance not to be construed as alteration.

Regular and ordinary maintenance shall not be construed as enlargement, expansion, change, alteration, renovation or reconstruction as used in this chapter.

(Ord. 1000 § A(part), 1995).

19.35.060 - Vacancy—Use discontinuance when.

A nonconforming use which has been discontinued for a period of one year or more shall not be reactivated nor operated, nor shall an occupancy permit be granted to such discontinued use. In such instances, an occupancy permit shall be granted only when the use has been brought into conformity with the provisions of this title. When a building or structure is vacant, the use therein shall be deemed discontinued.

(Ord. 1000 § A(part), 1995).

19.35.070 - Deterioration or destruction—Use discontinuance when.

When a building or structure containing a nonconforming use is destroyed or deteriorates to the extent to fifty percent or more, as determined by the building inspector, such nonconforming use shall be discontinued and any subsequent use of the property shall be in conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995).

Chapter 19.49 - CONDITIONAL USE PERMITS

Footnotes:

--- (8) ---

Prior ordinance history: Ords. 1000 and 1002.

19.49.010 - Purpose.

The purpose of the conditional use permit (CUP) is to allow the proper integration of specific land uses which may be suitable only under certain conditions in specific locations in a zoning district, or when the site is regulated in a particular manner. It is the intent of this section to allow certain uses which, because of their usual size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses.

(Ord. 1080 § D, 1999).

19.49.020 - Standards and criteria for granting a CUP.

- A. Certain uses may be allowed by a CUP granted by the city council, after it receives the recommendation of the planning commission. The planning commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.
- C. The planning commission and council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
 - 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
 - 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
 - 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.

- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

(Ord. 1112 § C, 2001; Ord. 1080 § E, 1999).

19.49.030 - Special conditions for the approval of a bed and breakfast establishment.

Bed and breakfast establishments require a CUP in all single-family zones and the RM-3 and RM-4 zones and are permitted within the RM-1, RM-2, HBD and CSL zones. All proposed bed and breakfast establishments, regardless of zone, shall be required to show compliance with the standards listed below. Bed and breakfast establishments proposed within an area requiring a CUP will be required to meet the standards and criteria listed in Section 19.49.020 as well as those conditions listed below:

- A. A bed and breakfast establishment shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding sixteen square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.
- B. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.
- C. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.
- D. Proprietors of the bed and breakfast establishment shall follow health guidelines and regulations of the Whatcom County department of health and Washington State regulations.
- E. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.
- F. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden city council, shall accompany each application and renewal. The public works director, building inspector or fire chief may require inspections.
- G. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144, WAC TRANSIENT ACCOMMODATIONS.
- H. The operator of the bed and breakfast shall reside on the premises. Owner and operator quarters and guest-rooms shall be in the same building.
- I. No other business, service or commercial activity may be conducted on the premises. Breakfast only may be served and no meals may be served to the general public.

(Ord. 1080 § F, 1999).

(Ord. No. 1390, § D, 2-22-2011)

19.49.040 - Special conditions for the approval of CUP within West Lynden sub-area.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden sub-area shall also meet the below listed criteria:

- A. Multitenant buildings with separate entrances for each tenant shall not be oriented to the guide meridian.
- B. Any retail establishment, or combination of retail establishments, in a single building greater than fifteen thousand square feet shall incorporate the following elements in the design:
 - 1. Facades in excess of one hundred horizontal feet shall incorporate recesses and projections.
 - 2. Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.
 - 3. Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured up concrete panels, and prefabricated steel panels are discouraged.

Restaurants, cafes, and service stations within the CS-3 zone must be located within seven hundred feet of the guide meridian and have frontage on West Main Street.

(Ord. 1080 § G, 1999)

19.49.045 - Special conditions for approval of CUP for assembly and distribution of products.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria below:

- A. The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use;
- B. A complete selection of the products assembled must be prominently displayed and offered for retail sale on-site;
- C. All storage of supplies and materials must be enclosed or screened from view;
- D. Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.

(Ord. 1112 § D, 2001).

(Ord. No. 1390, § D, 2-22-2011)

19.49.050 - Maximum coverage and minimum lot size for certain conditional uses.

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000

Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

(Ord. 1080 § H, 1999)

19.49.060 - Content—Violations.

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the planner. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter. Remedies of the city may include criminal enforcement and/or revocation of the conditional use permit.

(Ord. 1080 § I, 1999).

19.49.070 - One-year validity.

- A. Conditional use permits shall expire twelve months after issuance unless construction or the establishment of the use has commenced. The planner may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

(Ord. 1080 § J, 1999).

19.49.080 - Modification of or addition to, existing conditional uses.

- A. Modifications of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit; provided that, in lieu of a new application the planner may administratively consider, approve or disapprove a one-time addition or modification to an approved conditional use when such addition or modification meets the following criteria:
 - 1. The addition or modification to the building(s) shall constitute less than ten percent of the total floor area originally approved; and
 - 2. The addition or modification is determined by the planner not to have a significant impact beyond the site based on the criteria listed Section 19.49.020 above or the criteria specific to the sub-area.
- B. Such additions or modifications approved administratively shall be recorded by the planner on the CUP record.

(Ord. 1080 § K, 1999).

19.49.090 - Application process.

See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code.
(Ord. 1080 § L, 1999).

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OCT 22 2020

City of Lynden
Planning Department

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October 21, 2020

Via Delivery

City of Lynden Planning Department
Attn: Heidi & Korene
300 4th Street
Lynden, WA 98264

Re: Four ‘S’ Investments U.S., Inc. / Text Amendment Application

Dear Heidi & Korene:

In response to your draft Staff Report and the questions we discussed on the processing of this text amendment application, please find attached on behalf of Four ‘S’ Investments U.S., Inc., an updated Attachment to Text Amendment Application.

At this time, to streamline the approval process, we removed the entire proposed section regarding use of recreational vehicles. In addition, to ensure that the site development standards are consistent with the as built environment, I inserted new proposed language regarding standards for nonconforming mobile home parks under Section 19.23.020.

The Applicant agrees with the City of Lynden’s definitions in LMC 17.01.030 should control and that the definitions in LMC 18 should be updated to be consistent with LMC 17.

Thank you for your assistance. Should you have any questions, please feel free to contact my office.

Sincerely,

Lesla Starkenburg-Kroontje

enc.
cc: client

Attachment
to
Text Amendment Application

Re: Four ‘S’ Investments U.S., Inc.

*** Please state the changes you are proposing:**

The Applicant is proposing two additions to the code, as follows:

- 1) **Section 19.23.020 – Permitted Uses.** The expansion of existing, legal nonconforming mobile home parks shall be a permitted use in the CSR zone, provided the expansion meets the standards contained below. The expansion may increase the number of units on the site but shall not expand the nonconforming use beyond the property boundaries that existed at the time the use became nonconforming.

- 2) **Section 18.22.070 – Nonconforming Mobile Home Parks under Section 19.23.020.** For nonconforming mobile home parks, no subdivision or binding site plan is required so long as the property is utilized for rental spaces and is not separately condominiumized or transferred. In addition, the balance of the provisions contained in Section 18 are not applicable; provided, however, the following standards shall apply:
 - A. Connection to the City of Lynden sewer system;
 - B. Connection to the City of Lynden water supply;
 - C. The parking requirements contained in Section 18.22.060.F.; and
 - D. In the event it abuts the exterior property line then screening may be required through the building permit process.

*** Please state the reason(s) why the above section(s) of the Lynden Zoning Ordinance should be amended. Please note the potential benefits and the potential negative impacts of the amendment:**

Potential Benefits:

This amendment would allow additional affordable housing in the Lynden community. Lynden has a shortage of small, affordable dwelling units and struggles to provide options to residents. This shortage can be seen by low vacancy rates and long wait lists.

The proposed amendments are limited to the CSR zoning district. In order to utilize existing mobile home parks at a greater capacity and to their highest and best land use potential the addition of more units should be allowed. As mobile homes are temporary in nature the removal of the structures can easily be accommodated when the site is ready to convert to a commercial use.

Potential Negative Impacts:

A potential negative impact is that there may be less incentive for a nonconforming mobile home park to convert to a different commercial use. However, this potential negative impact is outweighed by the interim benefits to the City from this proposal.

STARKENBURG – KROONTJE
Attorney at Law, P.S.
313 4th Street
P.O. Box 231
Lynden, WA 98264
(360) 354-7822
Fax: (360) 354-6929
Email: starkenburgkroontje@msn.com

August 18, 2020

Via Email

City of Lynden Planning
Attn: Korene & Heidi
300 4th Street
Lynden, WA 98264

Re: Four 'S' Investments U.S., Inc.
Zoning Text Amendment

Dear Korene and Heidi:

Please find attached additional information regarding the impact of this text amendment on affordable housing as requested in the draft TRC Report dated August 3, 2020 regarding the Zoning Text Amendment for Four 'S' Investments U.S., Inc.

I have included various rental rates and comparisons for your review.

Should you have any questions or require any additional information, please feel free to contact my office.

Sincerely,

Lesla Starkenburg-Kroontje

enc.

Mobile Home's within City Limits

Duffner Mobile Home Park:

Rental Rate per month for land space: \$500
Rental Rate per month for land & trailer: \$850
Value of trailers recently sold: \$10,000 - \$25,000

Dodson Mobile Home Park – 1245 Bradley Road

Rental Rate per month: \$450 - \$500
Value of trailers recently sold: \$95,000 - \$110,000

Windmill Inn – 8022 WA539, Lynden

Rental Rate per month for a 5th Wheel land space: \$500

Just Outside City Limits

7343 Hannegan Road

Rental Rate for land space per month: \$425

Hidden Village Mobile Home Park – 7062 Guide Meridian

Rental Rate for land space per month: \$475

Lynden KOA – Called for inquiries, no response.

In comparison the average rent rate in Lynden for a 2 bedroom apartment is approximately \$1,200.00.

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	August 3, 2020
Project Name:	ZTA #20-02, Four "S"
Applicant:	Four "S" Investments, US., Inc.
Property Owner:	Lesa Starkenburg Agent for, Four "S" Investments
Site Address:	N/A
Parcel Number	N/A
Zoning Designation:	CSR
Application Type:	Zoning Text Amendment
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed amendment to Section 19.23.020 and 19.21.060 of the Municipal Code furthers the intent and purpose of the CSR zoning designation and is consistent with the Comprehensive Plan
Date application determined complete:	June 17, 2020
Date of Publication:	August 19, 2020
SEPA Determination:	N/A
Project Description:	The applicant is requesting a Zoning Text Amendment to Section 19.23.020 and 19.21.060 of the Lynden Municipal Code regarding permitted uses and special property uses within the CSR (Regional Commercial Services) zone.

Background and Notification Requirements:

In accordance with Chapter 17.15 LMC, the proposed action was reviewed for concurrency and should the conditions listed within this report be met, a finding of concurrency will be made in accordance with Section 17.15.060(C)(3).

As with all Zoning Text Amendments, any changes to such text could affect all properties within that zoning designation.

The applicant has met the minimum submittal requirements and the application was determined to be complete on July 17, 2020. The notice of application was published on that same date.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City's requirements.

Summary:

The applicant is requesting a zoning text amendment to the following Sections of the Lynden Municipal Code:

19.23.020-Permitted Uses. The expansion of existing, legal nonconforming mobile home parks shall be a permitted use in the CSR zone, provided the expansion meets the current setback requirements and other use and bulk requirements. The expansion may increase the number of units on the site but shall not expand the nonconforming use beyond the property boundaries that existed at the time the use became nonconforming.

19.21.060-Special Property Uses -Travel Trailer and Recreational Vehicles -Regulations Authorized. Recreational vehicles and travel trailers may be permitted for permanent, residential use within mobile home parks located within the CSR zone, provided the appropriate skirting and other performance standards are met for the recreational vehicles and travel trailers and provided that the provisions of the underlying zone are met.

Staff review is as follows:

Planning Department Comments:

1. *Housing Types:* The City's comprehensive plan is supportive of a variety of housing types and encourages development which may assist in the affordability of housing. Please provide a summary of rents and / or purchase price for homes within mobile home parks within the City to give context to this issue.
2. *Recreational Vehicles:* The City of Lynden includes a zoning category (Travel Trailer & RV – TR-RW) which permits the use of recreational vehicles. This is done expressly with these three uses in mind: Travel trailer and RV camping, tent camping, and camping cabins. All uses are recreational in nature. Additionally, travel trailer and recreational vehicle zone is established for short term use. No travel trailer or recreational vehicle shall remain longer than ninety days. (LMC 19.21.015).

LMC 19.22 identifies residential design standards expected of residential areas with the purpose of protecting and enhancing property values for the community as a whole. This specifically includes creating high quality communities that have variation of architectural style and durable materials (LMC 19.22.010(B)(1)(b)).

Due to the transitory nature of RV living, the inconsistencies such a provision would add to code, and the lack of architectural style and durability called for in the City's design standards, staff does not support the use of RV's within any residential community including mobile home parks. Although the applicant may opt to retain the request, staff will not support the approval of the RV provision of the zoning text amendment.

3. *City Definitions:* Be advised, the Lynden Municipal Code (LMC) includes discrepancies in the definitions listed below. These may have bearing on the understanding and approval of the proposed zoning text amendment. Staff recommends that the definitions of LMC 17 be updated and the definitions in LMC 18 refer to LMC 17.
 - a. **Per LMC 17.01.030 “Manufactured home”** means a single-family home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes which: (a) is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long; (b) was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 4:12 pitch; and (c) has exterior siding similar in appearance to siding materials commonly used on site-built, single-family homes according to the International Building Codes.
 - b. **Per LMC 18.22.020 “Manufactured home”** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.
 - c. **Per LMC 17.01.030 “Mobile home”** means a transportable, factory-built home designed and intended to be used as a year-round dwelling, and built prior to the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974.

put all definitions in chapter 17.

- d. **Per LMC 18.22.020 “Mobile home”** means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. This term includes all structures that meet the above requirements and with respect to which the manufacturer voluntarily complies with the standards set forth in Part 3280 by HUD. WAC 296-150B-015(28).
 - e. **Per LMC 17.01.030 “Mobile home park”** means a plot or tract of land divided into lots, under the ownership or management of one person, firm or corporation for the purpose of locating two or more mobile homes to be used for human occupancy. Individual lots may be sold within the mobile home park, but the mobile home park must still have a mobile home manager.
 - f. **Per LMC 18.22.020 “Mobile home park”** means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.
 - g. **“Recreational vehicle”** means a vehicular unit, other than a mobile home, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer or van.
4. *Permitted Uses:* To provide context to uses permitted within the City, please note that mobile homes are not permitted in any of the residential multi-family (RM) or commercial (CSL, CSR) zones within the City. However, manufactured homes are permitted in all RM zones within the City. In this case, per LMC 17.01.030, these manufactured homes are defined to be consistent with what is commonly known as a “double-wide” but does not include a “single wide” manufactured home in that definition.

Mobile homes and mobile home parks are prohibited in all zones. Manufactured home zone (MH), a zoning category that is specific to communities of manufactured homes also prohibit mobile homes. Manufactured homes in MH zoning categories must be “double-wide” and not “single-wide”.

That said, staff recommends a more through crafting of the zoning text amendment that fits the specifics of the request. This will include, at a minimum, revisions to have consistent definitions of mobile home and mobile home parks.

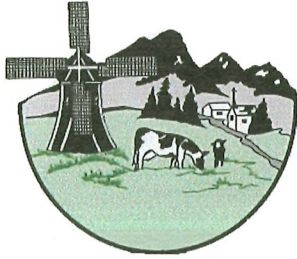
5. *Approval Process:* Be advised, all mobile home parks shall be processed in the same manner as a binding site plan. And, all mobile home subdivisions shall be processed in the same manner as plats. See LMC 18.22.040.
6. *Development Standards:* LMC 18.22 includes minimum criteria that apply to the siting of mobile homes within a mobile home park. Be advised, these are the standards which would apply to the expansion of an existing park. Applicable codes related to site development including, but not limited to, minimum parking requirements, landscaping, outdoor lighting will be applicable and may affect existing private roadways.

Fire and Life Safety

1. Be advised that the expansion of existing mobile home parks must provide adequate life and safety access throughout the park consistent with LMC 18.22.

Parks and Recreation

1. The Parks Department has reviewed the application and has no comment.



ZTA# 20-02

City of Lynden

PLND 9308

Zoning Text Amendment Application

General Information:

Applicant / Agent

Name: Four 'S' Investments U.S., Inc.

Address: c/o Starkenburg-Kroontje Attorney at Law PO Box 231, Lynden, WA 98264

Telephone Number: (360) 354-7822 Fax Number: (360) 354-6929

E-mail Address: starkenburgkroontje@msn.com

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner Applicant

Section(s) to amend: 19.23.020 & 19.21.060

Please state the changes you are proposing:

See Attached.

Please state the reason(s) why the above section(s) of the Lynden Zoning Ordinance should be amended. Please note the potential benefits and the potential negative impacts of the amendment: (Attach additional sheets as necessary)

See Attached.

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Applicant's Signature: [Signature] Date: 5/28/2020

Property Owner's Signature: [Signature] Date: 5/28/2020

Property Owner's Printed Name: Four "S" Investments Date: 5/28/2020

US, Inc

Pre-application meeting date: _____

(Applications will not be accepted without a pre-application meeting)

Fee's (ZTA \$300.00) date paid: _____ Receipt # _____

Attachment
to
Zoning Text Amendment Application

Re: Four ‘S’ Investments U.S., Inc.

*** Please state the changes you are proposing:**

The Applicant is proposing two additions to the zoning code, as follows:

- 1) **Section 19.23.020 – Permitted Uses.** The expansion of existing, legal nonconforming mobile home parks shall be a permitted use in the CSR zone, provided the expansion meets the current setback requirements and other use and bulk requirements. The expansion may increase the number of units on the site but shall not expand the nonconforming use beyond the property boundaries that existed at the time the use became nonconforming.

- 2) **Section 19.21.060 – Special Property Uses – Travel Trailer and Recreational Vehicles – Regulations Authorized.** Recreational vehicles and travel trailers may be permitted for permanent, residential use within mobile home parks located within the CSR zone, provided the appropriate skirting and other performance standards are met for the recreational vehicles and travel trailers and provided that the provisions of the underlying zone are met.

*** Please state the reason(s) why the above section(s) of the Lynden Zoning Ordinance should be amended. Please note the potential benefits and the potential negative impacts of the amendment:**

Potential Benefits:

This amendment would allow additional affordable housing in the Lynden community. Lynden has a shortage of small, affordable dwelling units and struggles to provide options to residents. This shortage can be seen by low vacancy rates and long wait lists.

The use of recreational vehicles for permanent, residential use will also help provide additional affordable housing in the Lynden community. There is a demand in our community for flexible, mobile and affordable housing.

The proposed amendments are limited to the CSR zoning district. In order to utilize existing mobile home parks at a greater capacity and to their highest and best land use potential the addition of more units should be allowed. As mobile homes and recreational vehicles are temporary in nature the removal of the structures can easily be accommodated when the site is ready to convert to a commercial use.

Potential Negative Impacts:

A potential negative impact is that there may be less incentive for a nonconforming mobile home park to convert to a different commercial use. However, this potential negative impact is outweighed by the interim benefits to the City from this proposal.

STARKENBURG – KROONTJE
Attorney at Law, P.S.
313 4th Street
P.O. Box 231
Lynden, WA 98264
(360) 354-7822
Fax: (360) 354-6929
Email: starkenburgkroontje@msn.com

MEMO

TO: City of Lynden
Korene Samec

FROM: Lesa Starkenburg-Kroontje

DATE: June 3, 2020

RE: Duffner Court

Please find enclosed a check in the amount of \$450.00 for the additional fees due in regards to the Zoning Text Amendment application and SEPA submitted on behalf of Four ‘S’ Investments Duffner Court Mobile Home Park.

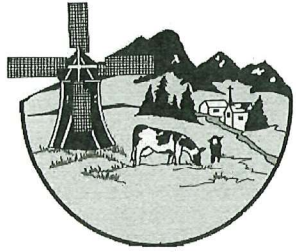
If you have any questions, or require additional information, please feel free to contact my office.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Development Standards Variance 20-01 – Skyview Street Standard Variance	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Technical Review Committee Report, Application for Design Standards Variance and supporting information		
Summary Statement:		
<p>A Development Standards Variance application has been brought forward by Mike Kooy to vary the required right-of-way (ROW) dedication and some aspects of the street section which would be used to access a future residential project called Skyview. This property is zoned for multi-family development and is located at the north terminus of Currant Street (north of the North Prairie Phase 7 development). It connects to the north end of Brome Street – which was previously granted a similar variance.</p> <p>A private street of reduced size is an option but not encouraged at this location as it is the terminus of an existing public street network. Additionally, due to maintenance and jurisdictional concerns, streets that have the appearance of being public but are actually private are discouraged. At the same time, staff recognizes that providing a standard 60-foot-wide ROW would significantly constrain development due to the shape and size of the subject property. (Building setbacks are measured from the edge of dedicated ROW).</p> <p>The applicant is requesting a variance to dedicate a ROW which is 41 feet in width rather than 60 feet. The resulting <u>North-South</u> portion of the street will include <u>all elements</u> of a standard City street including a 36-foot curb-to-curb width however one sidewalk will be located outside of the ROW. Pedestrian access on this sidewalk will be protected through an access easement. The <u>East-West</u> portion of the street will include parking on only one side of the street, a curb-to-curb width of 30 feet to match the adjoining property to the east, and one sidewalk which will be located on private property with access protected by an access easement. It is anticipated that most traffic created by new development in this area will be utilizing the wider north-south portion of the roadway. (See attached drawing.)</p> <p>While there is support for the variance, staff is concerned that a reduced street standard could create parking shortages that would negatively affect the adjacent North Prairie Phase 7 neighborhood. As such, staff recommends that future development which is adjacent to the varied public street, provide an additional 20% on-site parking to accommodate for the on-street parking that is lost in the revised standard.</p>		
Recommended Action:		
Motion to approve Variance 21-02 as described in the TRC report on the condition that development fronting the varied street sections provide all code required on-site parking plus an additional 20%, and authorize the Mayor’s signature on the Findings of Fact.		



City of Lynden

Development Standards Variance Application

DSV #
20-01

RECEIVED

DEC 10 2020
City of Lynden
Planning Department

Property Owner

Name: SKYVIEW TOWNHOMES
Address: 1709 KOK RD. LYNDEN WA 98264
Telephone Number: 360-739-0869 Fax Number: _____
E-mail Address: MIKE KOOY@WINDERMERE.COM

Applicant (Agent, Land Surveyor or Engineer)

Name: MIKE KOOY
Address: 1709 KOK RD. LYNDEN WA 98264
Telephone Number: 360-739-0869 Fax Number: _____
E-mail Address: MIKE KOOY@WINDERMERE.COM

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner Applicant

Property Information

Project Location (street address / block range): 1573 E. BADGER RD.

Variance Request:

Section of the Municipal Code or Engineering Design and Development

Standards to be varied: ENGINEERING DESIGN & DEV. STDS, DIV 4, STREET DESIGN STANDARDS, ACCESS ST. MIN. STDS AND LMC 18.14.030 REGARDING ROW REQUIREMENTS.

Identify Desired Result: WE WOULD LIKE TO MATCH THE STREET DESIGN TO THE EAST WHICH WE ARE TIEING INTO. THIS REQUIRES BUILDING A PUBLIC ACCESS STREET TO PRIVATE MINIMUM STANDARDS.

DSV Criteria must be attached

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Applicant's Signature: [Signature] Date: 12/9/20

Pre-application meeting date: _____ Hearing date: _____

(Applications will not be accepted without a pre-application meeting)

Fee's (DSV \$300.00 Base Fee or Final Review Cost) Date paid: _____ Receipt # _____

111034
300.00 received
Need 50.00 more

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	February 1, 2021 <i>Updated February 3, 2021</i>
Project Name:	DSV #20-01, Skyview Townhomes
Applicant:	Mike Kooy
Property Owner:	Skyview Townhomes
Site Address:	1573 E Badger Road, Lynden
Zoning Designation:	RM-3 Residential Multi-Family
Application Type:	Development Standards Variance
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Development Standards Variance meets the criteria found within Section 17.17.040 of the Lynden Municipal Code.
Date application determined complete:	January 7, 2021
Date of Publication:	January 27, 2021
SEPA Determination:	N/A
Project Description:	Applicant is requesting a Development Standards Variance to allow the construction of a public access street at a reduced standard.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on January 7, 2021. The notice of application was published on January 27, 2021.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City's requirements.

Project Summary

Subdivision and / or site development of the subject property requires that right-of-way be dedicated consistent with City standards (LMC 18.14.030) and constructed consistent with Engineering standards of Division 4 of the Engineering Design and Development Standards.

In some instances, property owners have requested to create private roads and seek alternate standards for development. Staff does not support an extension of Currant as a private street as it is the terminus of an existing public street network that will provide direct access to the Skyview townhome development. However, staff recognizes that providing a standard 60-foot-wide right-of-way (ROW) could significantly constrain development due to the size and shape of the property (setbacks are measured from the edge of ROW).

The requested right-of-way width variance seeks alternate design specifications to Table 4-1 and Figure 4-3 of the Engineering Design and Development Standards. The street design and requested ROW width, which is typically 60 feet, varies in this proposal.

- The north-south extension of Currant Street to a reduced right-of-way width of 41 feet with a standard 36-foot-wide roadway (curb to curb). As a result, the westerly sidewalk would fall on private property rather than within the ROW.
- The requested street width variance for the east-west connection to Brome is also 41 feet of ROW but with a 30-foot roadway (curb to curb). This east-west segment matches the variances granted to the adjoining property. The narrow street section eliminates parking on the south side of the street (a significant portion of this area is on a curve).

The resulting design includes all of the typical roadway elements except for on-street parking on the east-west segment of the project. It also means that sidewalks will, in most areas, be located on private properties. As a condition of approval staff would require public access easements on sidewalks which do not fall within public right-of-way.

LMC 17.17.040 states, where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;

- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;
- C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.
- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.”

Variance Application Comments from the Technical Review Committee:

Planning and Development

1. *Variance and Design Justification:* Staff acknowledges that the applicant has provided a response to each of the development standards variance criteria in a document dated December 10, 2020 and a revised document dated February 1, 2021.
2. *Right-of-Way and Street Requirements:* The requested right-of-way reduction to 41 feet still allows the extension of Currant to meet City standard width of 36 feet curb to curb with most of the east sidewalk located within right-of-way and within a public access easement on the other. The request for a right-of-way width of 41 feet and street width of 30 feet for the east-west connection of Currant to Brome matches the recently approved Brome extension. Staff has concluded that these street standards are able to support the anticipated traffic volumes.
3. *Sidewalks:* Coordination and/or design revision will be required to ensure that an efficient and continuous sidewalk connection is made with the property to the east on the south side of the new street.
4. *Parking:* All development on the subject property will be required to provide the minimum number of on-site parking spaces as dictated by LMC 19.51. Additionally, staff has recommended that the housing units located on the “varied” public streets provide an additional 20% parking capacity. Staff acknowledges that this additional parking has been provided.

- 5. *No Parking:* Developer will be required to denote that no parking is permitted on the narrowed portion of the street with signs. Painted curb within the no parking area may also be required by the Public Works Department.
- 6. *Mixed Use:* Be advised, a development agreement will be required for the portion of the Skyview Townhome project that will be part of a mixed-use project on a commercially zoned parcel of property. The agreement must address the ratio of commercial to residential use and the timing of build-out of these elements.

Public Works

- 7. *Agreement:* Applicant will be required to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) as part of future application requests.
- 8. *Water:* Be advised that future water system improvements shall meet City standards for extension to and through the property.
- 9. *Sewer:* Be advised that future sewer system improvements shall meet City standards for extension to and through the property.
- 10. *Stormwater:* Be advised, all improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
- 11. *Bonding:* Be advised, a post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City’s right-of-way or on city owned property.
- 12. *Review Deposit:* Be advised, there is a review deposit of \$400 per lot, \$4,000 minimum, to review the construction plans and a plat construction inspection deposit of \$500 per lot, \$10,000 minimum, due prior to review and construction respectively.

Fire Department

- 13. The Fire Department has reviewed the request and supports the staff recommendation to require a 36 foot roadway on the north-south portion.

APPROVED
NEIGHBORING VARIANCE

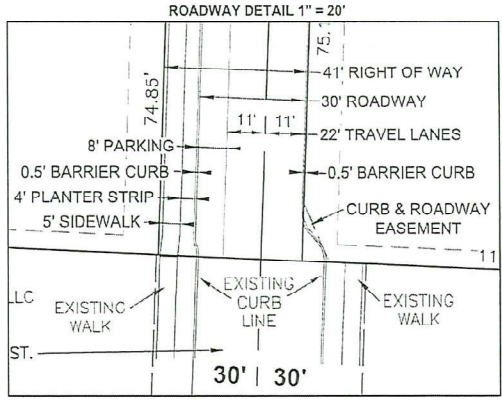
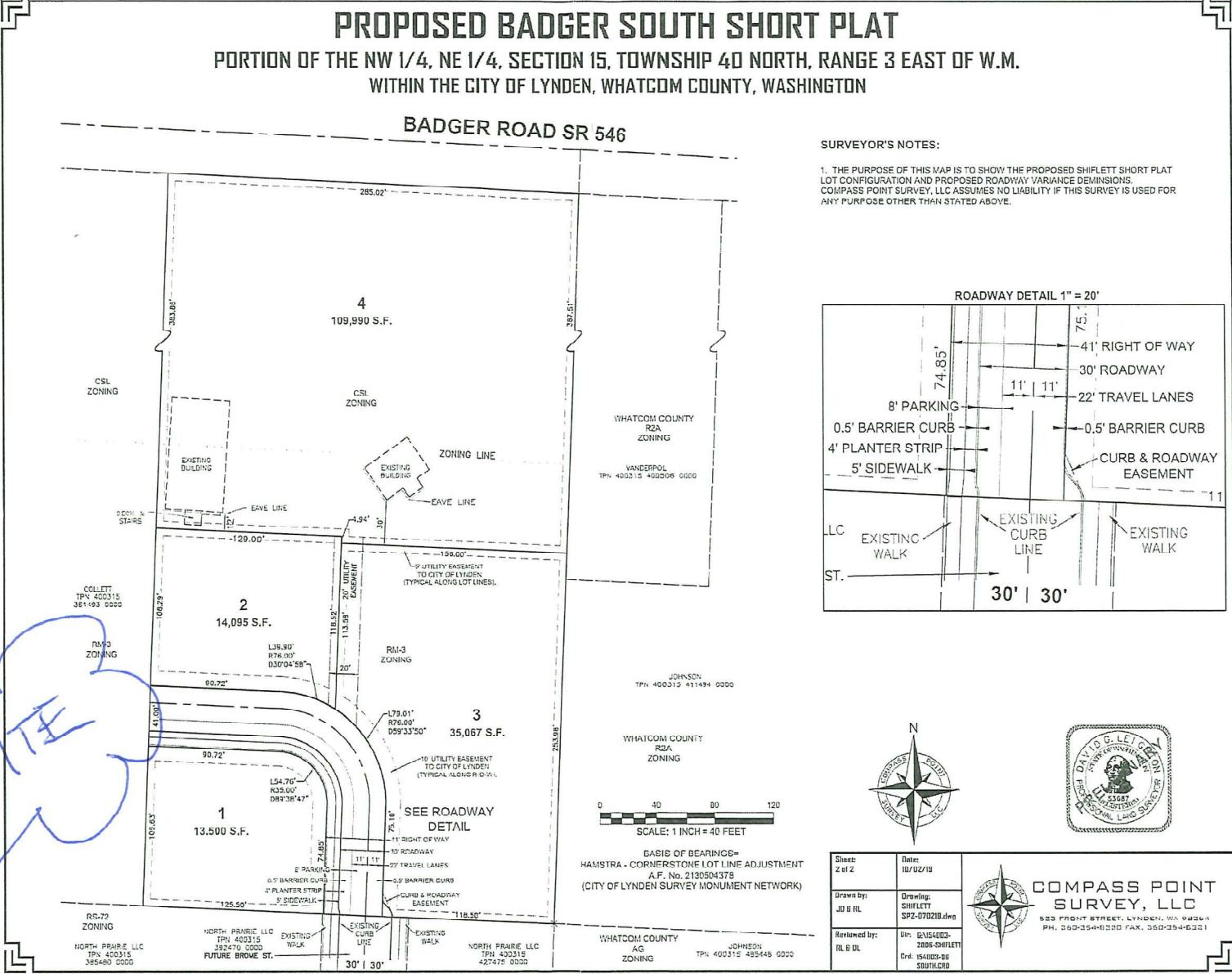
PROPOSED BADGER SOUTH SHORT PLAT

PORTION OF THE NW 1/4, NE 1/4, SECTION 15, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

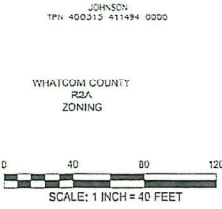
BADGER ROAD SR 546

SURVEYOR'S NOTES:

1. THE PURPOSE OF THIS MAP IS TO SHOW THE PROPOSED SHIFLETT SHORT PLAT LOT CONFIGURATION AND PROPOSED ROADWAY VARIANCE DIMENSIONS. COMPASS POINT SURVEY, LLC ASSUMES NO LIABILITY IF THIS SURVEY IS USED FOR ANY PURPOSE OTHER THAN STATED ABOVE.



SITE

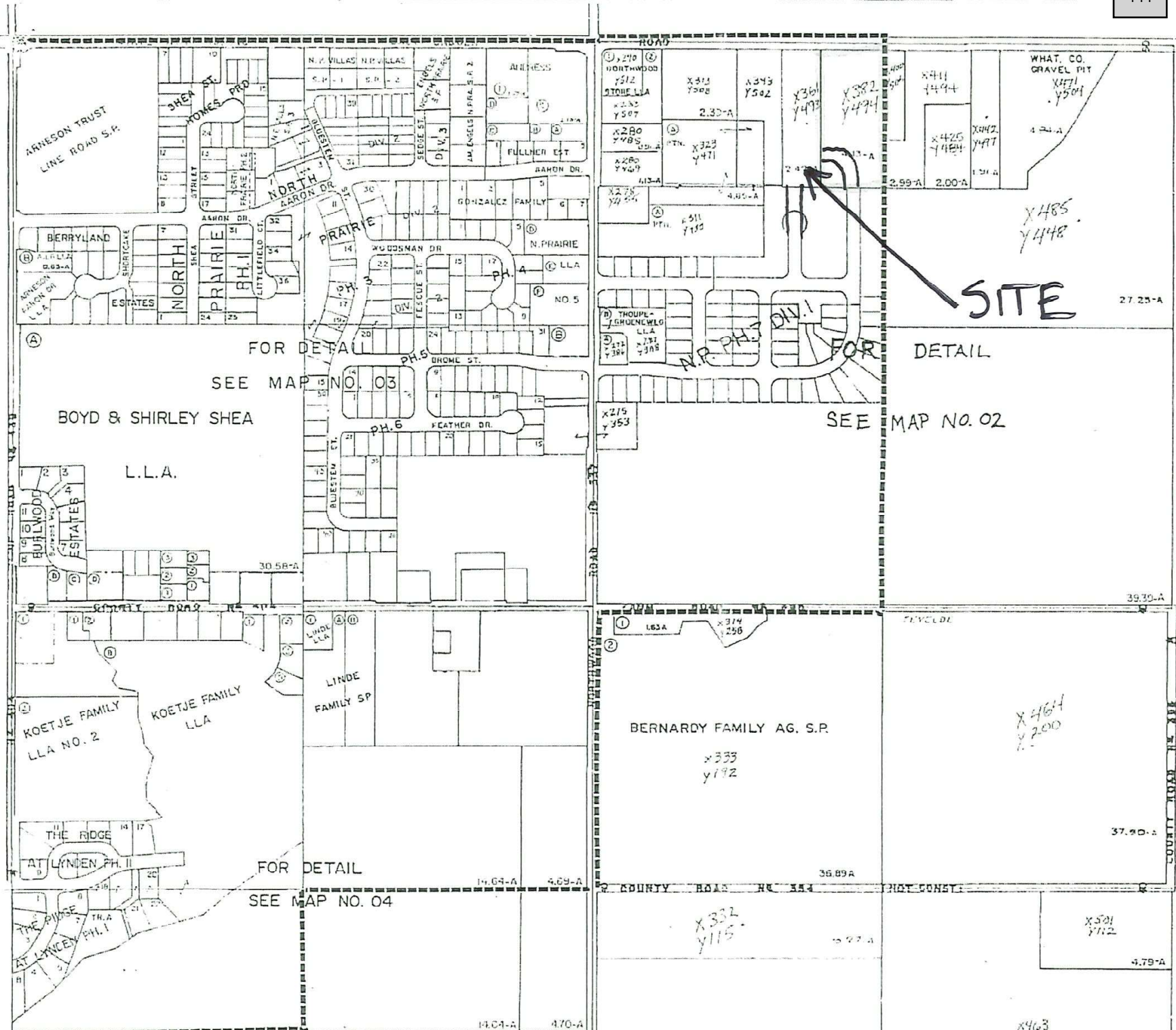


BASIS OF BEARINGS - HAMSTRA - CORNERSTONE LOT LINE ADJUSTMENT
A.F. No. 2130504378
(CITY OF LYNDEN SURVEY MONUMENT NETWORK)

Sheet: 2 of 2	Date: 10/02/19
Drawn by: JUB RL	Drawing: SHIFLETT SPZ-070218.dwg
Reviewed by: RLB DL	Dir: DAUSA002- 2808-SHIFLETT Dir: 154005-06 SOUTHCR0



COMPASS POINT SURVEY, LLC
523 FRONT STREET, LYNDEN, WA 98264
PH. 360-354-8220 FAX. 360-394-6221



17.17.040 Standards and Criteria for Granting a Variance

Where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards of the City of Lynden as listed in Section 17.17.010, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;

This variance does not constitute a grant of special privilege inconsistent with the limitation upon uses of the other properties in the vicinity because normally multifamily housing projects similar to this project are already accessing off of easements and or private road standards. The offsite project to the east known as “Badger North LLC” has recently been approved to the same design standards requested herein. The proposed road will tie in to that project which was approved at a reduced width. The road will then widen at the corner and extend to the south at full width to connect into existing Currant Street. We also propose to match the approved reduced 41’ right of way width to the property to the east and extend this right of way width around the corner and to the south. These widths and roadway sections are detailed in the attached exhibits. Additional 20% parking will also be incorporated into the design to allow extra room for vehicles to help reduce any unlawful parking and roadway obstructions.

B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;

This variance is necessary because of special circumstances relating to the size and shape, topography and location to provide it with the rights and privileges permitted to other properties in the area. The site is located at the end of Currant Street and will tie into the proposed road connecting to Brome Street matching both the existing widths of each street. This is a terminus street which will have minimal through traffic. Road widths proposed are tying into existing roadways widths already constructed. The proposed roadway is in the RM-3 zoning.

C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare;

The granting of this variance will not be materially detrimental to the public health, safety, and general welfare. Private road standards still require 22 feet of travel lanes, 8 feet of parking and a side walk on one side, which is normally what is required for this type of multifamily project.

D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.

The granting of this variance will not be injurious to the property improvements in the area. This piece of roadway will complete the loop between Brome and Currant Streets and will match the previously granted variance to the east. This will provide a fluid street section through the entirety of this loop.

E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.

Additional parking in excess of 20% greater than minimum standard for the two buildings units along this loop. Pedestrian connectivity will be integrated into the plan and allow full access of pedestrian movement along this corridor.

Findings shall include a report which may contain pertinent information regarding any existing conditions relating to topography, geology, utilization of property, and such conditions set forth by the official plans, development plans, and the comprehensive plans.



220 West Champion Street, Suite 200
Bellingham, WA 98225
F: 360.650.1408
T: 360.650.1401
FREELAND & ASSOCIATES

REV.	DATE	DESCRIPTION

CLIENT:
TMI LLC
 8071 GUIDE MERIDIAN, UNIT 105
 LYNDEN, WA 98264
CALL BEFORE YOU DIG
 FOR BURIED UTILITY LOCATIONS
 1-800-424-6655

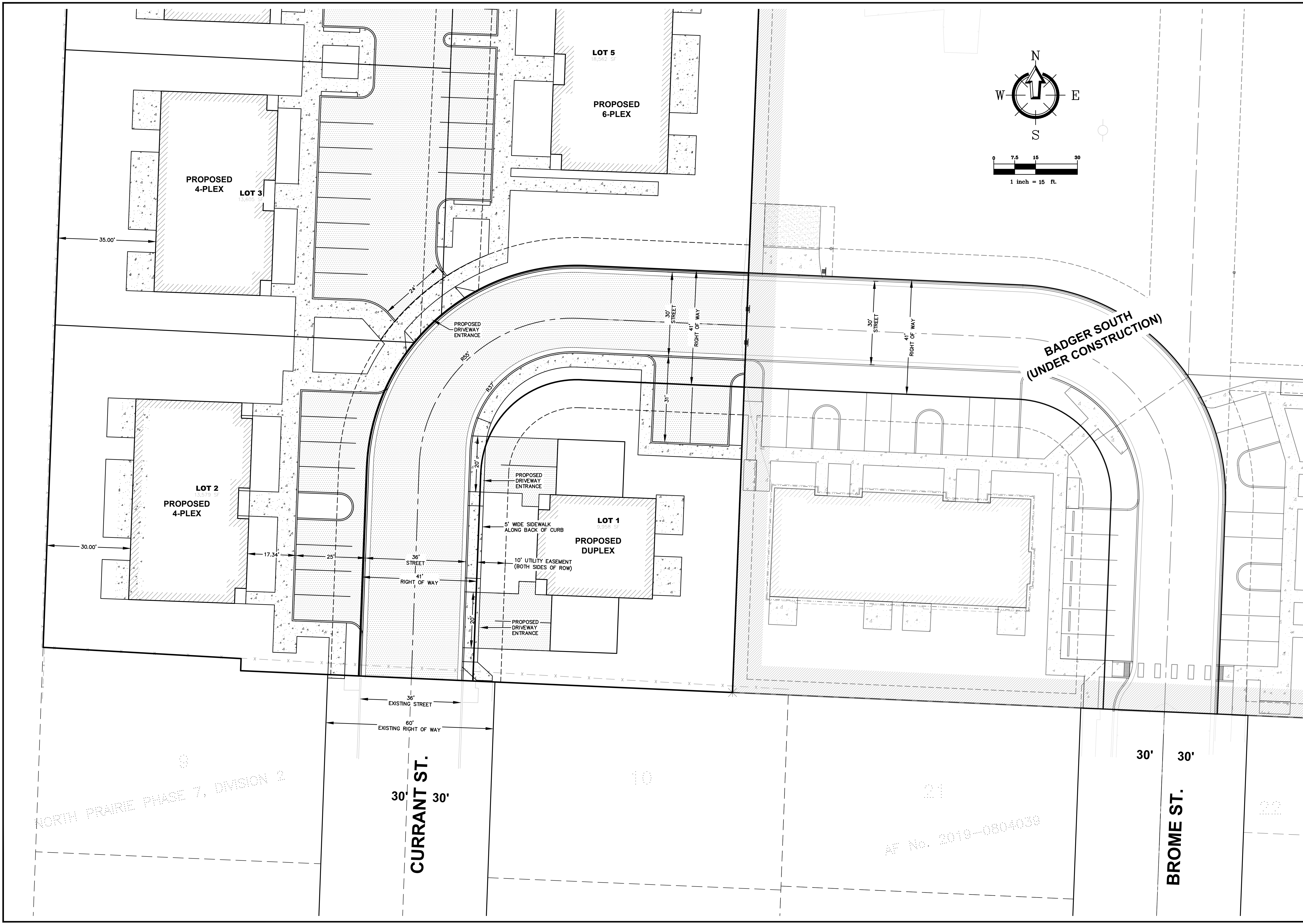
PROJECT LOCATION:
SKYVIEW TOWNHOMES
 CURRANT STREET
 LYNDEN, WA 98264

DRAWING #: 2012853.DWG
DESIGNED BY: MDB
DRAWN BY: MPM
CHECKED BY: MDB

SHEET CONTENTS:
PRELIMINARY SITE PLAN

PRELIMINARY

JOB #: 20128
DATE: 02-02-2021
SCALE:
HORIZ: 1"=15'
VERT: N/A
RD1





CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Public Hearing – Stuit Development Agreement	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Proposed Stuit Development Agreement and No Build Covenant, Proposed Short Plat, Letter to Vacate Findings, 10-22-19 Findings of Fact, Original Short Plat Application (subsequent resolution to be included at next meeting if agreement is approved by Council)		
Summary Statement:		
<p>Dannon Traxler, representing her clients Ben and Lindy Stuit, has proposed a development agreement that outlines an alternate schedule for infrastructure build-out on a proposed short plat located on Flynn Road (Bay Lyn Road). The Stuits seek to construct a single-family home on Lot A of the short plat, maintain the existing home on Lot B, and burden the remaining undeveloped portion of the short plat, Lot C, with water and roadway improvements, and the City with sewer extension to collect allocated shares via ERUs. Staff originally issued short plat findings with the intent to approve the 4-lot short plat. These findings were later vacated at the request of Ms. Traxler so that the Stuits could propose the alternate development schedule. All parties have collaborated to create the draft agreement and associated no-build covenant.</p> <p>The development agreement revises the short plat to 3 lots. The entire plat would connect to the City sewer network which the City is advancing in this area while development of Lot C must include the extension of City-standard water lines and road frontage improvements.</p> <p>Staff is conflicted regarding the recommendation of this development agreement. Although cognizant of the applicant’s personal goals for the property, from a municipal perspective, staff has concerns related to two issues within the development agreement. One is the underdevelopment of the property. The short plat creates 2 lots for single family homes which are over 24,000 square feet each but located in a multi-family zone that can support many more additional units. The proposed development on Lots A and B represent 2 ERUs toward the new sewer system when, if developed per zoning, many more ERUs would be collected. Secondly, there is the potential that the infrastructure burden and constraints of the floodplain on Lot C will make it such that it will not be financially feasible to develop in the near term. However, the Stuits are selling the City an easement for the sewer network to reach Bay Lyn Road and provide additional service.</p> <p>A subsequent resolution documenting the agreement, the administrative approval of the short plat and associated conditions will hinge on the Council’s decision related to development agreement.</p>		
Recommended Action:		
(Staff recognizes the proposed development agreement as a policy decision to be made by the City Council and has not included a recommended action.)		

After Recording Return to
Langabeer & Traxler, PS
2701 Meridian Street
Bellingham, WA 98225

DEVELOPMENT AGREEMENT

Grantors:	<u>BENJAMIN STUIT and LINDY STUIT</u>
Grantee:	<u>CITY OF LYNDEN</u>
Legal Description (Abbreviated):	<u>PTN NW¹/₄ NE¹/₄ §25 TWP 40 N R 2 E.W.M. (Full Legal on Exhibit A, Page ___)</u>
Assessor's Tax Parcel ID#:	<u>4002253884230000 / 125969</u>
Reference Number of Related Document(s):	<u>N/A</u>

THIS DEVELOPMENT AGREEMENT (Agreement) is entered into by and between the CITY OF LYNDEN, a Washington municipal corporation (City) and BENJAMIN AND LINDY STUIT, a married couple (Stuits or Developer) (collectively, the Parties). This Agreement is effective upon approval of this Agreement by the Parties (herein Effective Date).

RECITALS:

A. This Agreement is for the purposes of setting forth certain development standards and other provisions related to the Stuits' subdivision of land and the Parties' respective rights and obligations pertaining to the provision of City utility services and the required road improvements to serve the property, described herein, and pursuant to the authority provided in RCW 36.70B.170 et. seq.

B. The Stuits own land within the City of Lynden at 8036 Flynn Road that is identified and legally described on the attached Exhibit A (the Property).

C. In 2019, the City approved the Stuits' short plat application SP #18-03 (the Short Plat) to subdivide the Property into three lots. The Technical Review Committee indicated the Stuits had the ability to install an on-site septic system in lieu of connecting to City sewer. The remaining conditions requiring, among other things, improvement of Flynn Road up to City Development Standards, the extension of water, future extension of sewer to the furthest extent of all properties within the Short Plat, and post-construction maintenance bonding, were not

feasible for the Stuits scope of development which included only one new single-family home despite the capacity of the Property for additional density.

D Subsequently, the Stuits formally requested that the City vacate the Findings of Fact and Determination on the Short Plat, which the City did via letter from Planning Director Heidi Gudde on November 5, 2019, so that the Parties could work together on alternative infrastructure installation and bonding requirements.

E. Since that time, the Parties have had ongoing discussions related to alternative infrastructure installation and other requirements for the development of the Property.

F. Additionally, the City’s Public Works Department was advancing the design and development of sewer infrastructure to this area of the City. This advancement warranted coordination with the Stuits development plan to avoid the installation of a new onsite septic system which would then be abandoned with City sanitary sewer service.

G. On December 2, 2020 the Stuits submitted a revised short plat design, attached as Exhibit B, which depicts 3 lots: Lots A and B, and Reserve Tract C (collectively, the Lots). This development agreement is intended to set forth the Parties’ respective rights, obligations, timing, and costs related to the development of the Lots.

H. Pursuant to RCW 36.70B.170(4), the Parties recognize and agree that the execution of a development agreement is a proper exercise of the City’s police power and contract authority, that a development agreement may obligate a party to fund or provide services, infrastructure, or other facilities, and that a development agreement shall reserve to the City the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

I. Pursuant to RCW 36.70B.200, on February 16, 2021, the City held a public hearing regarding the form and substance of this Development Agreement before the City Council, and the City Council has approved a resolution authorizing the Mayor to enter into this Development Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Authority for Development Agreement. The State legislature, through the enactment of RCW 36.70B.170 through .210, has granted the City the authority to enter into a development agreement with a person or entities having ownership or control of real property within its jurisdiction.

2. Conformance with Code. Short Plat approval and development of the Property shall conform to all terms and conditions of Short Plat approval. Development of the Property

shall also be consistent with all provisions of the Lynden Municipal Code and development standards, subject to the terms herein.

3. Latecomers' Agreement for City Sewer Extension. Public sewer will be extended by the City to serve the Lots. This sewer extension shall be completed in association with a City-created Assessment Reimbursement Area under the provisions of Section 13.28.180 of the Lynden Municipal Code, and as may be hereafter amended. Per those provisions, the Lots will be included within the Assessment Reimbursement Area. Each Lot shall be assessed an added facility charge per Equivalent Residential Unit (ERU) based on the cost of public sewer extension at the time of connection. The cost of sewer connection will include an ERU surcharge adopted by the City Council for the Assessment Reimbursement Area.

4. Conditions for Onsite Septic Systems. Septic systems will be allowed to serve single-family residential development on Lots A and B until such time as public sewer is extended and available for connection in the abutting right-of-way. Upon said extension of public sewer, the owners of Lots A and B shall, within sixty (60) days of such public sewer becoming available for connection, abandon any septic systems in place and connect to public sewer. The City intends to extend sewer service in advance of development of Lot B so that it may be connected to public sewer and avoid the cost of onsite septic system construction; provided that, public sewer connection will not be a condition of development of Lot B. In the event development of Lot B precedes said public sewer extension, the City shall not be liable under any circumstances for the costs of installation and removal of any septic system installed to serve Lot B. No septic system is allowed on Reserve Tract C.

5. No-Build Covenant for Reserve Tract C. The Stuits will execute and record a "no build" covenant (Covenant) (attached hereto as Exhibit D) concurrent with the execution and recording of this Agreement, which will bind Reserve Tract C so that it may not be further divided or built upon until such time as all road and utility improvements as specified herein are installed and accepted by the City. Following installation and acceptance of the road and all utilities, the Parties agree to extinguish the Covenant.

6. Future Obligations of Reserve Tract C.

6.1 It shall be the sole responsibility of the owner of Reserve Tract C (Owner) to construct and extend an 8-inch water line to serve Reserve Tract C as described herein, and make City-required improvements to Flynn Road. These road and utility improvements must be completed prior to the issuance of any building permit, lot line adjustment, future plat approval, or any other development approval for construction on Reserve Tract C. The Owner shall construct the road and upgrade the water line, all in accordance with City Development Standards, except as specified in Section 7, herein.

6.2 Any latecomer agreement pertaining to road and water line construction costs shall be determined per City code at that time.

6.3 The Owner shall install and dedicate to the City an 8” water line along the entire Property frontage abutting Flynn Road, including the entire frontage of Lots B and A, as a prerequisite condition of City issuance of a building permit, lot line adjustment, future plat approval, or any other development approval for Reserve Tract C, whichever comes first. Said 8” water line shall be conveyed to the City by instrument acceptable to the City, after City approval and acceptance thereof in accordance with city standards.

6.4 Road improvements to Flynn Road and water main shall be extended by the Owner at the time of development of Reserve Tract C. Road improvements shall be made over the top of the new water main extension and extend along the entire Property frontage, including Lots B and A. Said road improvements shall be dedicated to the City by instrument acceptable to the City, after City approval and acceptance thereof in accordance with city standards. The foregoing requirements are a prerequisite condition of City issuance of a building permit, lot line adjustment, future plat approval, or any other development approval for Reserve Tract C.

6.5 Notwithstanding the restrictions set forth in 6.3 and 6.4, Owner may obtain a fill and grade permit or official modification of the FEMA mapped floodplain for Reserve Tract C.

6.6 The Owner may enter into a separate Latecomer Agreement with the City for cost reimbursement, in accordance with state law and city ordinances, by other private properties on the west side of Flynn Road for the waterline extension described in Section 6.3 and any road improvement beyond the ¾ Street Improvements per the provisions of Lynden Municipal Code (LMC) 13.28. Improvements must be designed and constructed to City of Lynden Engineering Design and Development Standards unless granted a variance to those standards by the City Council.

6.7 Consistent with Section 3, herein, the Owner shall fund its proportional share of the City’s construction of the sewer line extension.

6.8 Payment by Reserve Tract C of its assessment for its proportional share of the sewer line extension shall be held in trust in the City’s construction fund designated for the purpose of paying sewer installation and connection costs for the sewer extension project. The foregoing requirement is a prerequisite condition of City issuance of a building permit.

6.9 Payment of its proportional share of the sewer extension cost and all connection fees due, including Seattle area Consumer Price Index (CPI) increases, shall be a condition of City issuance of a building permit or future plat approval for Reserve Tract C. The foregoing requirement is a prerequisite condition of City issuance of a building permit.

6.10 Completion of sewer extension shall be a prerequisite to City issuance of a building permit or future plat approval for Reserve Tract C.

6.11 Consistent with section 4, herein, no onsite septic system will be allowed to serve Reserve Tract C, which will be required to connect to City sewer and water service.

7. Right to Variance from City Road Standards. At any time prior to submitting a building permit application, the Owner shall have the right to apply for a variance from City road standards.

7.1 Construction of ¾ Street. Without a variance, the Owner’s minimum road construction responsibility shall be for a ¾ street (sidewalk, curb, gutter, widened shoulder/bike lane, and both travel lanes on side of the right-of-way abutting the Property, but no responsibility for a sidewalk, curb or bike lane on the opposite side) to be accomplished prior to issuance of a building permit or plat approval on Reserve Tract C.

7.2 Timing of the Variance. Owner may apply for a variance from road standards at the time of building permit application for Reserve Tract C.

7.3 Application Process. Any variance application must be brought to City Council for approval. The Owner shall be responsible for associated application fees and the City Council retains final authority to issue a final determination approving or denying any variance request.

8. No Protest. Lots A and B shall not protest a Local Improvement District or Utility Local Improvement District for road and/or water line improvements.

9. Other Road and Utility-Related Requirements for the Lots.

9.1 Lots A, B, and Reserve Tract C shall grant the City a sewer easement at no cost as a condition of City approval of the current (Stuit) Short Plat; provided that, the value of said easement shall be credited against the respective sewer facility assessment for each lot, identified in Section 3. The value of the easement for purposes of said credit shall be equal to the County assessed fee value of that portion of each Lot encumbered by the easement, multiplied by 0.5. Said sewer easement grant shall be made prior to recording the Short Plat or shall appear on the face of the Short Plat, at discretion of the City.

9.2 Lots A, B, and Reserve Tract C will dedicate to the City any necessary additional right-of way (30 feet from centerline) for the new road as a condition of City approval of the Stuit Short Plat. Said dedications shall be made prior to recording the Short Plat or shall appear on the face of the Short Plat, at discretion of the City. The water main improvements will be constructed within the City right of way concurrent with the road improvements.

10. Duration. This agreement shall expire upon the earliest of the following; (a) thirty (30) years from the effective date of this Agreement; (b) the date upon which the Property, including Reserve Tract C, has been fully developed as described herein and all Developer

obligations in connection therewith are satisfied as determined by the City; (c) the Short Plat does not receive final plat approval and expires; or (d) upon mutual agreement of the Parties.

11. Satisfaction of Preliminary Short Plat Condition. City Council approval of this Development Agreement shall be a condition precedent to City issuance of a Notice of Intent to Approve approving the Short Plat, for the purpose of obtaining Final Plat Approval.

12. Miscellaneous.

12.1 Time Is of the Essence. Time is of the essence in each and every covenant and condition of this Development Agreement.

12.2 Entire Agreement; Modifications. This Development Agreement consists of nine (9) pages exclusive of exhibits and represents the entire agreement of the Parties with respect to the subject matter thereof. There are no other agreements, oral or written, except as expressly set forth herein. This Development Agreement may not be altered, changed, modified, or amended except by an instrument in writing signed by all Parties hereto.

12.3 Benefit. The provisions in this Agreement shall inure to the benefit of and be binding upon the successors, assigns and personal representatives of the Parties hereto.

12.4 No Impairment of City Regulatory Discretion. Nothing in this Agreement shall limit the City’s exercise of its lawful regulatory discretion in approving pending or new applications in accordance with applicable ordinances, so long as such discretion is exercised consistent with the terms of this Agreement.

12.5 Reservation of Authority. The City reserves the authority to impose new or different regulations on the Property to the extent required by a serious threat to public health and safety. This reservation is intended to comply with RCW 36.70B.170(4). If such authority is exercised, the remaining provisions of this Agreement shall remain in full force and effect to the extent the new regulations are not inconsistent therewith and do not undermine achievement of the fundamental purposes of this Agreement.

12.6 Notices. All notices or demands to be given by each party to the other under this agreement and all sums to be paid by each party shall be deposited in the United States mails, postage prepaid, by certified or registered mail, return receipt requested, and addressed as follows:

BENJAMIN and LINDY STUIT
8036 Flynn Road
Lynden, WA 98264

CITY OF LYNDEN
300 4th Street
Lynden, WA 98264

Notices and demands sent by mail shall be deemed to have been given and delivered when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

12.7 Authority. The individuals executing this Development Agreement represent and warrant that they have the authority to execute this Agreement and bind their respective principals.

12.8 Execution of Documents. The Parties agree to expeditiously execute any documents which may be necessary, appropriate or convenient to carry out the intent of the transaction contemplated by this agreement.

12.9 Transfer of Ownership. A conveyance of all or any portion of the Property through any means shall not impair, extinguish or otherwise affect any right, obligation, duty, term or provision of this Development Agreement. Any purchaser and/or assignee of all or any portion of the Property shall have the same rights, obligations and/or duties under this Development Agreement as the Party, person or entity from which it purchased or otherwise obtained an interest in all or a portion of the Property and shall have the right to enforce this Development Agreement against the City.

12.10 Attorney's Fees. In the event either Party shall institute suit to enforce any rights hereunder, the substantially prevailing party shall be entitled to court costs and reasonable attorney's fees against the losing party.

12.11 Covenant Running with the Land. It is the Parties' intent that this Development Agreement, so long as it is in force, be considered, interpreted and regarded as a covenant running with the Property.

12.12 Recording. Per RCW 36.70B.190, this Development Agreement shall be recorded with the Whatcom County Auditor.

12.13 Severability. If any provision of this agreement is deemed void or unenforceable by the action of a court of law, such provision shall be severable and not affect the balance of this agreement, which shall remain in full force and effect.

12.14 Construction. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Development Agreement or any amendments thereto, and the same shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the Parties.

12.15 Applicable Law. This agreement shall be construed, interpreted and enforced pursuant to the laws of the State of Washington, and the Parties agree that the Superior

Court of Whatcom County shall be the appropriate venue of any suit or proceeding brought with respect to this agreement or the Property.

12.16 Effective Date of Agreement. This Agreement shall not be binding on either Party until such time as it is executed by both Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates noted below.

Benjamin Stuit

Dated: _____

Lindy Stuit

Dated: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me personally appeared BENJAMIN STUIT, to me known to be the person that executed the within and foregoing instrument to be his free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

PRINTED NAME: _____
Notary Public in and for the State of
Washington, residing at _____.
My Commission Expires _____.

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me personally appeared LINDY STUIT, to me known to be the person that executed the within and foregoing instrument to be her free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

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

PRINTED NAME: _____
Notary Public in and for the State of
Washington, residing at _____.
My Commission Expires _____.

CITY OF LYNDEN

By: _____

City of Lynden _____

Dated: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument, and acknowledged it as the _____ of the City of Lynden to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this ____ day of _____, 2021.

PRINTED NAME: _____
Notary Public in and for the State of
Washington, residing at _____.
My Commission Expires _____.

EXHIBIT A

Legal Description

All that portion of the Northwest Quarter of the Northeast Quarter of Section 25, Township 40 North, Range 2 East of W.M., lying South and East of the county road, except that portion described as follows: Beginning at the intersection of the South Line of Bay Lyn Drive and the East of the Northwest Quarter of the Northeast Quarter of said Section; Thence South 230 feet; thence West 138 feet; thence North 187 feet, more or less, to the South line of Flynn Road; thence Easterly along said boundary to the Point of beginning.

DRAFT



City of Lynden

SHORT PLAT APPLICATION

SP# 18-08

General Information:

PLN09228

Property Owner

Name: Benjamin Stuit

Address: 8036 Flynn Road, Lynden, WA 98246

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Applicant (Agent, Land Surveyor or Engineer)

Name: Jeromy DeMeyer of Northwest Surveying & GPS, Inc.

Address: 407 5th Street, Lynden

Telephone Number: 360-354-1950 Fax Number: 354-7644

E-mail Address: jeromy@nwsurvey.com

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner Applicant

Application is hereby made for a short plat as follows:

Property Information

A. LOCATION:

Address: 8036 Flynn Road, Lynden, WA

Legal Description (attach if necessary): See deed

B. DESCRIPTION OF SUBDIVISION:

Current property size: 590' x 463' Total square footage: 27,318

Total acreage: 3.38 Zoning classification: RS-100 RM-2

Number of new lots: three

Minimum lot size: 110.06' x 135.96' Minimum square footage: 14,984 SF

BY SIGNING THIS APPLICATION, I CERTIFY THAT ALL THE INFORMATION SUBMITTED IS TRUE AND CORRECT. I ALSO UNDERSTAND THAT NO FINAL APPROVAL WILL BE ISSUED UNTIL ALL FINAL REVIEW COSTS ARE PAID IN FULL.

Applicant's Signature: [Signature] Date: 9/14/18
Property Owner [Signature] 9-21-18

PRE-APPLICATION MEETING DATE: _____ HEARING DATE: _____

(APPLICATIONS WILL NOT BE ACCEPTED WITHOUT A PRE-APPLICATION MEETING)

FEE'S (SHORT PLAT \$250.00 + \$100.00 PER LOT) DATE PAID: _____ RECEIPT # _____



City of Lynden

Critical Areas Checklist

Section: 22 Township: 40 Range: 2E Parcel Number: 400225 388/423 0000

Site Address: 8036 Flynn Road

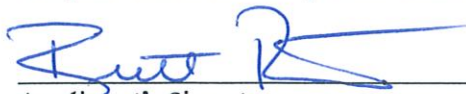
Proposed Uses: residential 4 Lot Short Plat

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area:*

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).
 Yes No Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?
 Yes No Unknown
- c. Is there vegetation that is associated with wetlands?
 Yes No Unknown
- d. Have any wetlands been identified?
 Yes No Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?
 Yes No Unknown
- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?
 Yes No Unknown
- g. Are there slopes of 15% or greater?
 Yes No Unknown
- h. Is the project located within a Flood Hazard Zone?
 Yes No Unknown
- i. Do you know of any landslide hazard areas?
 Yes No Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.


Applicant's Signature

2/14/18
Date

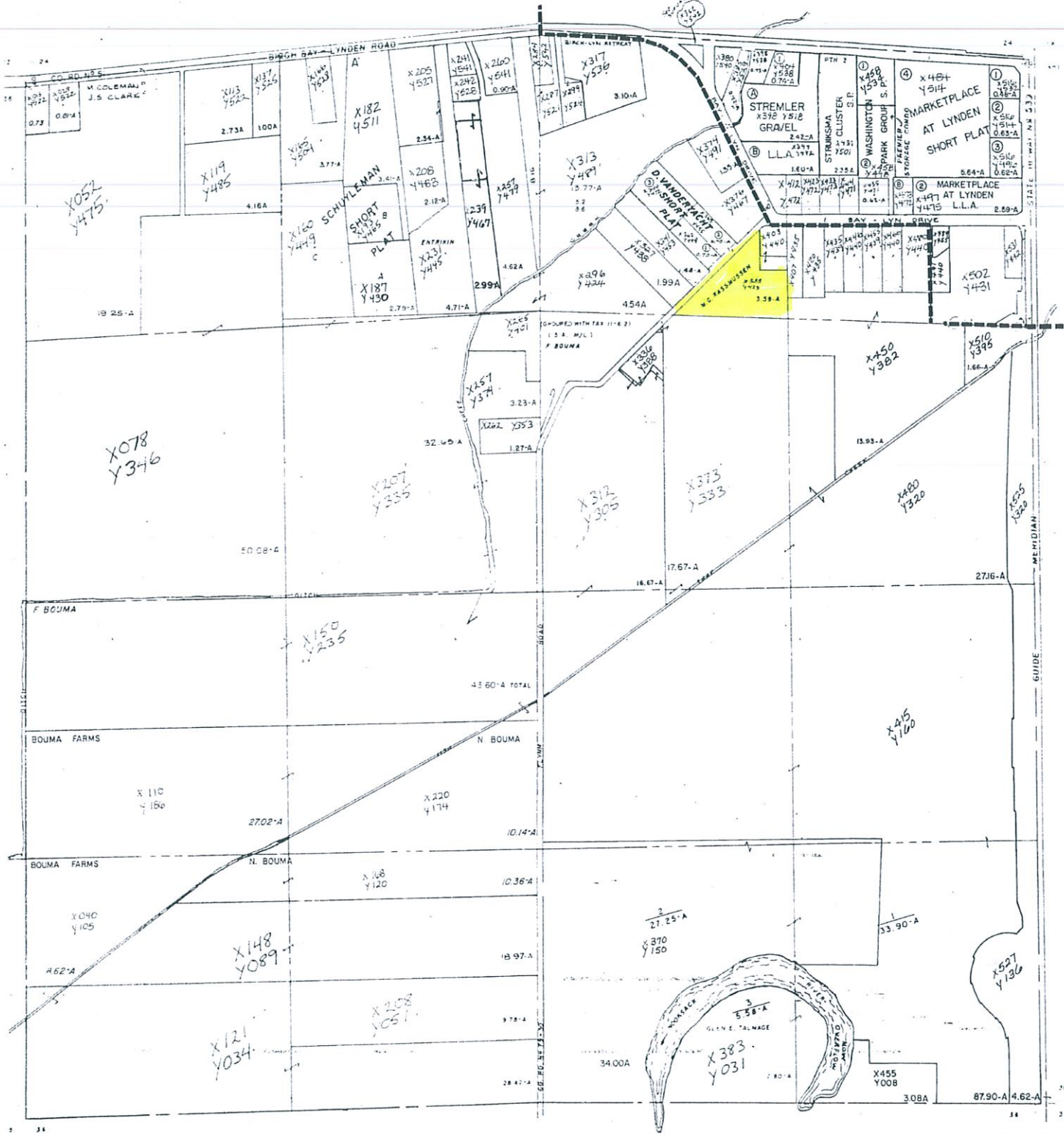
DATE 10/14/57

SCALE 1"=400'

SECTION 25

TOWNSHIP 40
DELTA

RANGE 2 EAST



THIS MAP IS FOR
 ASSISTANCE IN
 DETERMINING
 AND NOT GUARANTEEING
 THE ACCURACY
 OF THE INFORMATION
 HEREON.

REVISED
 11 July 2016
 Assessor's Dept.
 Wisconsin Co.

10/4/57

DATE

1"=400'

SCALE



01

MAP NO.

SECTION
25

RANGE
2 E

TOWNSHIP
40

When recorded return to:
Benjamin L. Stuit
8036 Flynn Road
Lynden, WA 98264



2120601346
Page: 1 of 2
6/12/2012 3:21 PM
DEED \$63.00
Whatcom County, WA
Request of: CHICAGO TITLE INSURANCE

Filed for record at the request of:



CHICAGO TITLE
COMPANY

607 Front Street
Lynden, WA 98264

Escrow No.: 245347427

QUIT CLAIM DEED

THE GRANTOR(S)

Lindy S. Stuit, spouse of Benjamin L. Stuit

for and in consideration of to establish separate property in hand paid, conveys and quit claims to Benjamin L. Stuit, a married man as his sole and separate property

the following described real estate, situated in the County of Whatcom, State of Washington together with all after acquired title of the grantor(s) herein:

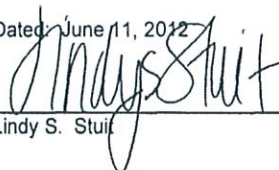
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Abbreviated Legal: (Required if full legal not inserted above.)

Ptn NW NE Sec 25, Twn 40 N, R2E Tax/Map ID(s): 400225 388423 0000

Tax Parcel Number(s): 125969, 400225 388423 0000

Dated June 11, 2012



Lindy S. Stuit

State of WA

COUNTY of WHATCOM

I certify that I know or have satisfactory evidence that Lindy S. Stuit is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 6-11-12


Name: _____
Notary Public in and for the State of WA
Residing at: B. H. 111
My appointment expires: 3-17-15

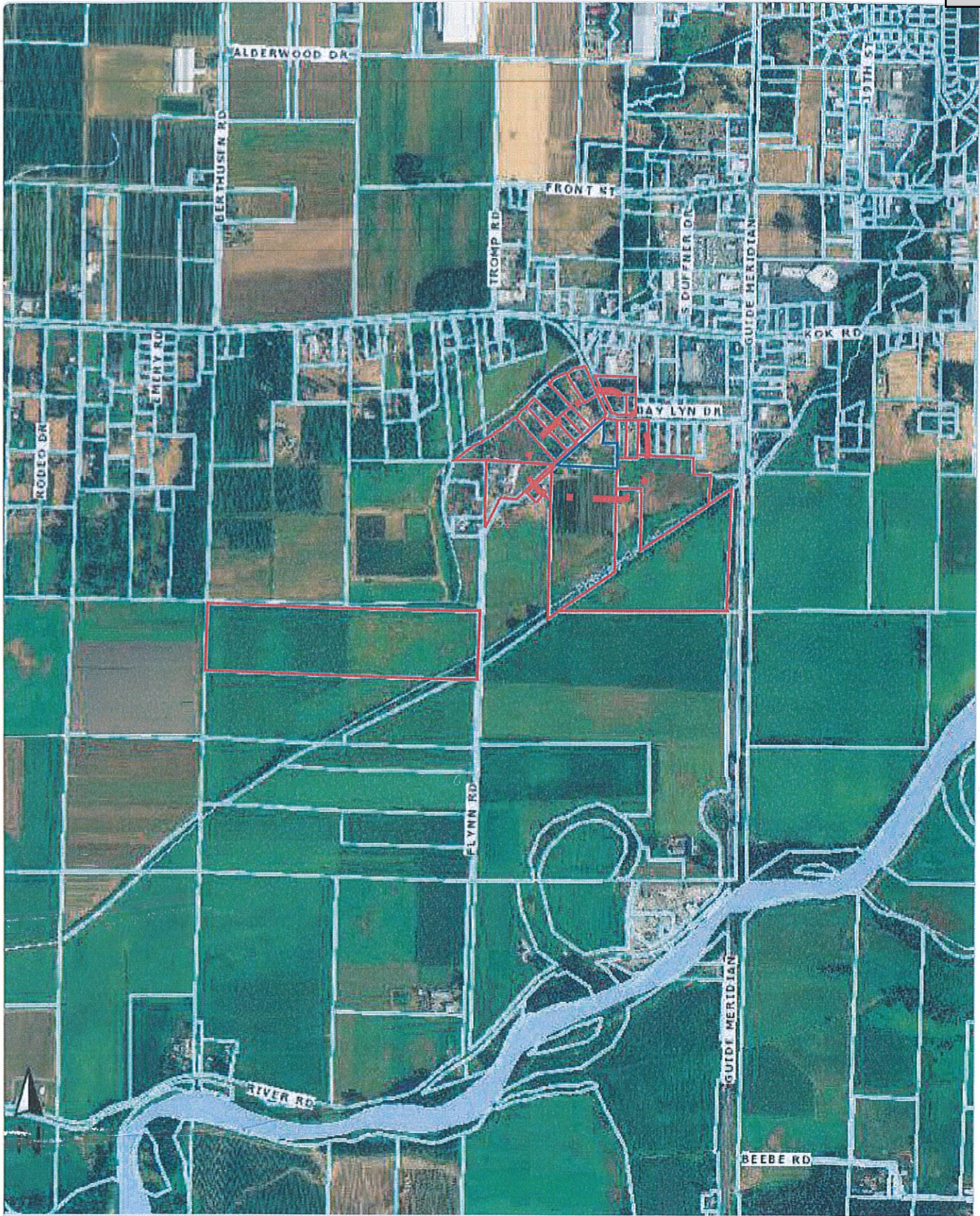
MARLIN DU BOIS
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
03-17-15

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 125969
Tax Map ID(s): 400225 388423 0000

All that portion of the Northwest Quarter of the Northeast Quarter of Section 25, Township 40 North, Range 2 East of W.M., lying South and East of the county road (Schuleyman Road) as at present laid out and established, except beginning on the East line of said tract 317 feet North of the Southeast corner thereof; thence West 138 feet; thence North to the county road (Schuleyman Road); thence Northeasterly and East along said Schuleyman Road and county road to the East line of said Northwest Quarter of the Northeast Quarter; thence South along said East line to the true point of beginning; subject to boundary line agreement recorded under Auditor's File No. 1307170, less roads.

Situate in Whatcom County, Washington



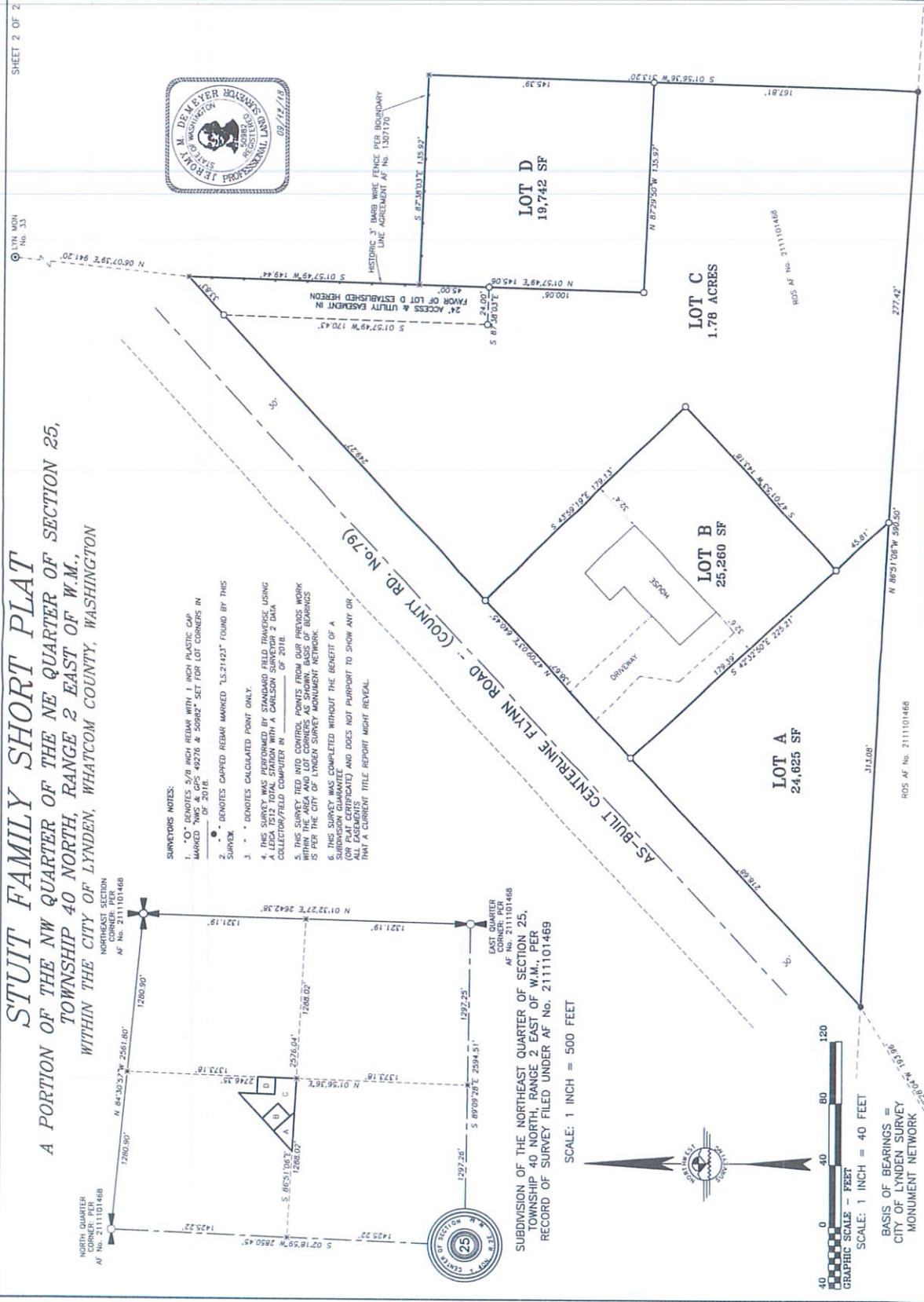
Whatcom Land Title

2011 Young Street Bellingham, WA 98225
Ph: (360) 676-8484 Toll Free: (800) 334-6314

This map/plat is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

SHEET 2 OF 2

STUIT FAMILY SHORT PLAT
 A PORTION OF THE NW QUARTER OF THE NE QUARTER OF SECTION 25,
 TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M.,
 WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON



- SURVEYOR'S NOTES:**
1. "O" DENOTES 5/8" INCH REBAR WITH 1 INCH PLASTIC CAP MARKED "NWS & GPS 49276 & 50992" SET FOR LOT CORNERS IN 09/2016.
 2. "S" DENOTES CHIPPED REBAR MARKED "S-21437" FOUND BY THIS SURVEYOR.
 3. "C" DENOTES CALCULATED POINT ONLY.
 4. THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A LEICA 1512 TOTAL STATION WITH A CARLSON SURVEYOR 2 DATA COLLECTOR/FIELD COMPUTER IN 09/2016.
 5. THIS SURVEY TIED INTO CONTROL POINTS FROM OUR PREVIOUS WORK (OR PLAT CERTIFICATE) AND DOES NOT PURPORT TO SHOW ANY OR THAT A CURRENT TITLE REPORT MIGHT REVEAL.
 6. THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A SUBDIVISION GUARANTEE.

AS-BUILT CENTERLINE FLYNN ROAD
 (COUNTY RD. No. 79)

SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 25,
 TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M., PER
 RECORD OF SURVEY FILED UNDER AF No. 2111101469

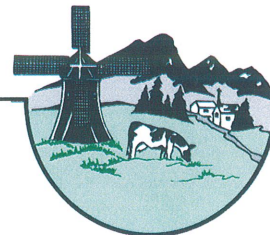
SCALE: 1 INCH = 500 FEET



SCALE: 1 INCH = 40 FEET
 BASIS OF BEARINGS =
 CITY OF LYNDEN SURVEY
 MONUMENT NETWORK

		NORTHWEST SURVEYING & GPS, INC. Jeromy M. DeMeyer, L.S. No. 50092 Brett W. DeWitt, L.S. No. 49276 407 5TH STREET, LYNDEN WASHINGTON, 98564 PH: (509) 354-1950 NWSURVEY.COM	DRAWN BY: BRETT	DATE: 09/12/18	JOB NO.: 18-372
		REVISION BY: JEROMY			
		DR: J25-002\J2500A CRD: 25-4002DP.CHD	SHEET: 2 OF 2		

CITY OF LYNDEN



Heidi Gudde, Planning Director
PLANNING DEPARTMENT
(360) 354 - 5532

November 5, 2019

Jeromy DeMeyer
Northwest Surveying & GPS, Inc
407 5th Street
Lynden, WA 98264

RE: Vacate of Findings of Fact and Determination - SP #18-03, Stuit Family Short Plat

Dear Mr. DeMeyer:

I am writing to formally vacate the Findings of Fact and Conclusions of Law (the Findings) and determination, dated October 22, 2019, which are associated with the Stuit Family Short Plat, City of Lynden application SP #18-03.

Dannon Traxler, attorney for the Stuit family, has formally requested this action so that the property owners can continue to work with the City on an alternative to infrastructure installation and bonding requirements. As a result, revised findings may be issued.

The property owner has waived the applicable timeframe for the City's application review and it will remained stayed until such time that the parties agree that the short plat should proceed or be withdrawn.

If you have questions regarding this action, please feel free to contact me directly.

Sincerely,

Heidi Gudde, AICP
Planning Director

cc. Ben and Lindy Stuit
Dannon Traxler, Langabeer & Traxler, P.S.

Record & Return to:
City of Lynden
300 4th Street
Lynden, WA 98264

AGREEMENT AND NO-BUILD COVENANT

Grantors:	<u>BENJAMIN STUIT and LINDY STUIT</u>
Grantee:	<u>CITY OF LYNDEN</u>
Legal Description (Abbreviated):	<u>PTN NW¼ NE¼ §25 TWP 40 N R 2 E.W.M. (Full Legal on Exhibit A, Page ____)</u>
Assessor’s Tax Parcel ID#:	<u>4002253884230000 / 125969</u>
Reference Number of Related Document(s):	<u>Development Agreement</u>

GRANTORS BENJAMIN and LINDY STUIT, a married couple (the Stuits), hereby grant and enter into this AGREEMENT AND NO-BUILD COVENANT (the Agreement) in favor of the CITY OF LYNDEN, a Washington Municipal Corporation (the City) (collectively, the Parties), as set forth herein. This Agreement is effective upon approval by the Parties (herein Effective Date).

RECITALS

- A. The Stuits owns land within the City of Lynden at 8036 Flynn Road that is identified and legally described above and on the attached Exhibit A (the Property).
- B. In 2019, the City approved the Stuits’ short plat application SP #18-03 (the Short Plat) to subdivide the Property into three lots. The Technical Review Committee indicated the Stuits had the ability to install an on-site septic system in lieu of connecting to City sewer. The remaining conditions requiring, among other things, improvement of Flynn Road up to City Development Standards, the extension of water, future extension of sewer to the furthest extent of all properties within the Short Plat, and post-construction maintenance bonding, were not feasible for the Stuits scope of development which included only one new single-family home despite the capacity of the Property for additional density.
- C. Subsequently, the Stuits formally requested that the City vacate the Findings of Fact and Determination on the Short Plat, which the City did via letter from Planning Director Heidi Gudde on November 5, 2019, so that the Parties could work together on alternative infrastructure installation and bonding requirements.
- D. Since that time, the Parties have had ongoing discussions related to alternative infrastructure installation and other requirements for the development of the Property.
- E. Additionally, the City’s Public Works Department was advancing the design and development of sewer infrastructure to this area of the City. This advancement warranted coordination with the Stuits development plan to avoid the installation of a new onsite septic system, which would be abandoned with City sanitary sewer service.

F. On December 2, 2020, the Stuits submitted a revised short plat design, attached as Exhibit B, which depicts 3 lots: Lots A and B, and Reserve Tract C (collectively, the Lots).

E. The Stuits also submitted a Development Agreement setting forth the Parties' respective rights and obligations pertaining to the provision of City utility services and the required road improvements to serve the Property, described herein, and pursuant to the authority provided in RCW 36.70B.170 et. seq. The Development Agreement is being executed simultaneously with this Agreement and No-Build Covenant.

F. This Agreement is intended to set forth the Stuits' rights and obligations specifically related to the development of Reserve Tract C.

THEREFORE, for and in consideration of the City's issuance of preliminary approval of SP #18-03 and the Parties' joint execution of the Development Agreement, the Stuits hereby convey, covenant, grant and reserve as follows:

1. Establishment of No-Build Covenant. Reserve Tract C shall not be further divided or built upon until such time as all road and utility improvements as specified in the Development Agreement are installed and accepted by the City.

2. Development/Improvement Obligations. Specific rights and obligations of the Stuits and their successors-in-interest related to the development of Reserve Tract C and the installation of improvements are set forth in the Development Agreement.

3. Term/Termination. This Agreement shall be binding upon the Parties until such time as all rights and obligations set forth in the Development Agreement are satisfied, including completion of installation and City acceptance of all road, water, and sewer improvements as they relate to Reserve Tract C, at which time, at the Stuits request the City shall execute and record a termination notice extinguishing this Agreement.

4. No Hindrance on Conveyance. Nothing in this Agreement should be construed as preventing Reserve Tract C from being conveyed/transferred/sold separately from Lots A and B, subject hereto, or to burden the conveyance/transference/sale of Lots A and B.

5. Amendment. This Agreement shall not be amended except by a written instrument signed by the Stuits and approved by the City.

6. Construction. The normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments thereto, and the same shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the Parties.

7. Applicable Law. This agreement shall be construed, interpreted and enforced pursuant to the laws of the State of Washington, and the Parties agree that the Superior Court of Whatcom County shall be the appropriate venue of any suit or proceeding brought with respect to this agreement or the Property.

8. Not a Public Dedication. Nothing in this Agreement shall be considered a gift or dedication of any real property to the general public, or for any public use or purpose whatsoever.

9. Obligations Run With the Land. The rights and obligations contained in this Agreement shall run with the land and be binding upon and inure to the benefit of all assignees, devisees, or transferees of the Stuits.

10. Entire Agreement; Severability. This Agreement represents the entire agreement with respect to the subject matter hereof. Should any provision of this Agreement be found to be void or otherwise unenforceable, all other provisions shall remain enforceable and binding.

11. Governing Law. This Agreement shall be construed under the laws of the state of Washington.

12. Attorney's Fees. In any litigation arising out of this Agreement, including appeals, the prevailing party shall be entitled to recover from the other party all costs and attorney's fees.

We, the undersigned owners of the above-described Property do hereby agree to the above terms.

Executed this _____ day of _____, 2021.

For BENJAMIN AND LINDY STUIT
Property Owners

I certify that I know or have satisfactory evidence that _____
and _____ are the person(s) who appeared before me, and said persons acknowledged it to be their free and voluntary act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Signature: _____

Printed Name: _____

Residing at: _____

My appointment expires: ___/___/___

Approved by City of Lynden:

Dated this _____ day of _____, 2021.

I certify that I know or have satisfactory evidence that _____
_____ is the person who appeared before me, and said person acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Dated _____

Notary Signature: _____

Printed Name: _____

Residing at: _____

My appointment expires: ___/___/___

DRAFT

ORIGINAL

vacated

CITY OF LYNDEN
ADMINISTRATIVE DECISION

REGARDING THE APPLICATION OF
**Northwest Surveying & GPS, Inc. on
behalf of Benjamin Stuit**, TO SHORT
PLAT

NO. 18-03

FINDINGS OF FACT, CONCLUSIONS
OF LAW, CONDITIONS and
DECISION on SHORT PLAT
APPLICATION

Petitioner

City of Lynden, owner of the premises known as:

ALL THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M., LYING SOUTH AND EAST OF THE COUNTY ROAD, (SCHULEYMAN ROAD, NOW KNOWN AS FLYNN ROAD) AS AT PRESENT LAID OUT AND ESTABLISHED, EXCEPT BEGINNING ON THE EAST LINE OF SAID TRACT 317 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE WEST 138 FEET; THENCE NORTH TO THE COUNTY ROAD (SCHULEYMAN ROAD, NOW KNOWN AS FLYNN ROAD); THENCE NORTHEASTERLY AND EAST ALONG SAID SCHULEYMAN ROAD (NOW KNOWN AS FLYNN ROAD) AND COUNTY ROAD TO THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH ALONG SAID EAST LINE TO THE TRUE POINT OF BEGINNING; SUBJECT TO BOUNDARY LINE AGREEMENT RECORDED UNDER AUDITOR'S FILE NO. 1307170, LESS ROADS. ALL SITUATE IN WHATCOM COUNTY WASHINGTON.

COMMONLY DESCRIBED AS: 8036 Flynn Road, Lynden

for a short subdivision of the above-described parcel of approximately 3.38 acres into 4 parcels, with a minimum lot size of 14,984 square feet in size within the RM-2 zone. Said application having come before the Technical Review Committee on November 1, 2018, and the Planning Director having fully and duly considered said application, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Northwest Surveying and GPS, Inc on behalf of Benjamin Stuit, filed a short plat application which was accepted by the City as complete and containing all information required by LMC 18.12.010 on September 20, 2018.

1.02 Location. The Property is located at 8036 Flynn Road in Lynden, Whatcom Co., Washington.

1.03 Ownership. Benjamin Stuit.

1.04 Request. To create 3 additional (4 total) parcels for future development at the above noted location.

1.05 Conformance with Zoning and Comprehensive Plans. The short subdivision of the Property proposed in the application is in conformity with City zoning ordinances, comprehensive plans, and all other applicable City development regulations including Chapter 17.15 LMC.

1.06 Compliance with General Requirements for Subdivision Approval. The application complies with Chapter 18.06 LMC, General Requirements for Subdivision Approval, as applicable.

1.07 Compliance with Lot and Plat Design Standards. The application complies with lot and plat design standards as required under Chapter 18.14 LMC, as applicable.

1.08 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in Title 18 LMC and with the Project Manual for Engineering Design and Development Standards, as applicable.

1.09 Appropriate Provisions for Promoting Health, Safety and General Welfare. The application makes appropriate provisions for public health, safety and general welfare.

1.10 Open Spaces, Streets, Roads, Sidewalks and Alleys. The application makes appropriate provisions for public open spaces, roads, streets, sidewalks and alleys.

1.11 Potable Water Supplies, Sanitary Wastes and Drainage Ways. The application makes appropriate provisions for public drainage ways, potable water supplies and sanitary wastes under the conditions listed below.

1.12 Public Interest. The application results in additional infilling within the City consistent with the City's comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application.

1.13 Critical Area Review. The Critical Area Checklist submitted for this project found this application to have no immediate impact on Lynden's identified critical areas.

1.14 Floodplain. The Nooksack River floodplain impacts these proposed lots.

1.15 SEPA Determination. This short plat is exempt from further SEPA review under WAC 197-11-800(6). Be advised that SEPA review may be required under other project activities such as fill and grade and building permits.

The foregoing Findings of Fact and Conclusions of Law are not labeled. Those sections which are most properly considered Findings of Fact are hereby designated as such. Those sections which are most properly considered Conclusions of Law are also designated as such. From the foregoing Findings of Fact and Conclusions of Law, the Director establishes the following conditions:

CONDITIONS

Any approval of the Petitioner's application shall be subject to the following conditions. Be advised, many plat conditions / improvements are triggered by development. For the purposes of this document, development shall mean the issuance of the first building permit for a new residential structure. This does not preclude the existing home from adding accessory structures to Lot B, adding to, or modifying the home as permitted per the Building Code:

Standard Conditions

2.01 All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City.

- 2.02 Petitioner shall record the final short plat with the County in conformance with LMC 18.06.010.2, 18.06.020 and 18.06.030 within one (1) year of the date this preliminary approval becomes final, after which City approval of this application shall become void; provided that, this one-year deadline may be extended for up to one (1) additional year upon application to and approval by the City Council.
- 2.03 The construction drawings for any improvements will be submitted for review and approval prior to construction. These drawing must illustrate that the utility improvements and extensions meet the standards listed within the Project Manual for Engineering Design and Development Standards, unless they have been specifically varied by the approval of the plat. It is the project engineer's responsibility to be aware of these standards.
- 2.04 There is a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.
- 2.05 A post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
- 2.06 Prior to final short plat approval, the developer will be required to pay final plat fees. In addition, at the time of development, transportation, park and fire mitigation fees will be due in full.
- 2.07 All improvements and development must meet the City of Lynden and current Department of Ecology requirements for Stormwater / drainage management.

Planning Conditions

- 2.08 Be advised, this property is zoned RM-2 (Residential Multi-Family) and allows up to 4-units per building as outlined in Section 19.17.010 of the Lynden Municipal Code.
- 2.09 Multi-family construction is subject to Design Review Board approval. Properties developed with multi-family units will be required to demonstrate compliance with the City's Design Standards including provision for pedestrian access.
- 2.10 Utility Easements: Per 18.14.075, the proposed plat shall identify the required 5-foot utility easements around the interior property line of all lots.
- 2.11 Access Easement: The short plat as submitted includes one access easement which is permitted as per 18.14.080.
- 2.12 Delineation of the Special Flood Hazard Area must be shown on the plat.
- 2.13 Be advised, fill and grade, or building proposals that impact the floodplain are subject to meeting the requirements of FEMA and the specific building requirements in LMC 16.12.
- 2.14 Per Section 18.14.120, each lot with street frontage will be required to provide street trees at the time the lot is developed. Trees shall be located within the dedicated public

utility easement adjacent to the street. There shall be a minimum of one tree per lot with a maximum of one hundred feet between trees. Maintenance of street trees shall be the responsibility of the adjoining property owner.

- 2.15 Prior to issuance of a certificate of occupancy, residential structures must provide clearly marked address numbers at the street for emergency location.
- 2.16 Lynden Municipal Code Section 18.12.040 prohibits further short platting of these parcels in any manner for a period of five years from the date this plat is recorded.

Public Works Conditions

- 2.17 At the time of development, Flynn Road must be improved to City Standards. At the time of plat, a 10-foot right-of-way dedication is required along the full frontage of Flynn Road which would provide a 30-foot right-of-way on the southeast side.
- 2.18 A sewer connection is not currently available in close proximity to the subject property. All development or future land action will require connection to the City's sanitary sewer with the exception of one additional septic system for the entirety of the plat. This system shall not be designed to service more than one single-family residence. The septic system must meet all requirements of the Whatcom County Health Department including, but not limited to, the avoidance all well head protection areas.
- 2.19 A 10-foot utility easement is required, for the full frontage of Flynn Road, to be shown on the face of the plat.
- 2.20 A 20-foot sanitary sewer easement is required along the entire southern portion of the plat to allow for future sewer connection of lots A, B, C and D. Show on the face of the plat.
- 2.21 As per LMC 18.14.150, at the time of development both water and sewer shall be extended to the furthest extent of all properties of this short plat and shall participate in sewer extension and required pump station costs and connect to sewer when available.
- 2.22 Connection to city water is required for all new construction.
- 2.23 At the time of development the watermain on Flynn Road shall be upsized to an 8-inch line from Bay-Lyn Drive to the south end of the plat.
- 2.24 When installed, all water meters to have traffic rated meter boxes and must be sized for the maximum number of units.
- 2.25 All adjacent well and well head protection areas must be shown on the plat.
- 2.26 Be advised, fire sprinklers may be required for multi-family units. City system protection will be required.

DECISION

Petitioner's application to subdivide the parcel described herein into four lots is hereby **Preliminarily Approved** subject to the conditions set forth in this document.

This Preliminary Approval shall become the Final Approval of the City, subject to the conditions herein, upon (1) the Petitioner's completion and filing of proof of completion of the notice required by LMC 17.07.020; and (2) the expiration of the 14-day appeal period established therein if no appeal is timely filed.

DATED: 10.22.2019



Heidi Gudde, Planning Director

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	February 16, 2021	
Name of Agenda Item:	Reconsideration of Conditional Use Permit – Dillard Short Term Rental	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Request for Reconsideration of Council conditions place on Conditional Use Permit 20-03		
Summary Statement:		
<p>On Jan. 4, 2021 the City Council approved a Conditional Use Permit (CUP) for applicants David and Kathleen Dillard to operate a short-term rental (vacation rental) out of their home at 422 Woodcreek Dr. The Dillard’s already have a legal Accessory Dwelling Unit (ADU), located in the basement floor of their residence. This ADU has been used as a rental. The CUP proposal sought to make the short-term rental a legal option for this space.</p> <p>On Dec. 10, 2020 the Planning Commission recommended approval of the CUP. They conditioned their recommendation on an annual review of the Permit. Staff also recommended approval but, after public comment from 2 neighbors along this street, staff additionally recommended that the Dillard’s install a 6’ privacy fence on the north property line between the homes (48 feet of fencing) due to parking pressures placed on the residence by the ADU rental which causes both the north and south driveways of the Dillard residence to act as parking areas and impacts the privacy of the adjacent neighbor to the north.</p> <p>Council approved the short-term rental with the condition to install privacy fencing. The Dillard’s have since requested in writing that Council reconsider the condition of the fence. At this time Council has the option of:</p> <ul style="list-style-type: none"> • Denying the request for reconsideration, or • Reconsidering the issue immediately or at another date. <p>It is important to note that new testimony or information cannot be submitted without a fair opportunity for the public to also be notified and submit testimony and / or information.</p> <p>Staff continues to assert that fence is an appropriate condition to aid in mitigating the impacts of a commercial operation in a residential neighborhood especially as the neighborhood is already familiar with the parking situation related to a rental of the ADU at the Dillard home. Public comment regarding the issue did not call for a denial of the request but simply that considerations to be made.</p>		
Recommended Action:		
Motion to deny the request for reconsideration of the fence condition placed on CUP #20-03.		

Dave and Kathy Dillard

February 5, 2021

Reconsideration request of CUP #20-03, Dillard Air BNB

Dear City Council,

This is in reference to the letter dated February 2, 2021 and the additional conditions of the CUP #20-03, Dillard Air BNB.

We humbly request you to reconsider the additional conditions and instead use the conditions recommended by the planning commission.

For reference:

12/10/20: Planning commission recommends to the City Council the approval of the proposed Dillard Conditional Use Permit to allow short-term rentals as proposed at their property at 422 Woodcreek Drive, subject to annual review as written in code.

1/4/21: Lynden City Council approved Conditional Use Permit #20-03, requesting a conditional use permit to allow short term Air BNB rentals at 422 Woodcreek Drive, as recommended by the Planning Commission and further subject to the condition to install a 48-foot privacy fence along the northern property line.

We would like to make the following remarks in the hope you can include these as part of your reconsideration of the permit conditions.

1. We believe the CUP process was not followed and we were not given adequate opportunity to challenge a recommendation we did not agree with.
 - a. We did not receive notice of planning committee recommendation.
 - b. We were not notified additional conditions from the planning department would be added to the city council vote following finalization of the commission vote.
2. We also believe the recommendation of the planning commission along with their review and reasoning of their recommendation was not adequately presented to the city council. During the planning commission meeting the neighbors' concerns along with the city planning departments recommendation was heard. The commission voted unanimously and believe the screening [fence] on the north property line is a separate issue, and the fence is a different issue than the CUP request

Thank you for taking the time and effort to reconsider my decision.

Sincerely,

Dave and Kathy Dillard

422 Woodcreek Drive

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Resolution No. 1032 – Interfund Loan for the Fire Station Remodel	
Section of Agenda:	New Business	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Resolution No. 1032 – Interfund Loan for the Fire Station Remodel		
Summary Statement:		
<p>The City of Lynden after considering the emergent needs of the City seeks to improve its fire-fighting capability through infrastructure improvements by remodeling and expanding the City of Lynden Fire Station.</p> <p>Resolution No.1027 which was passed by the City Council on November 16th, 2020 provided the overall funding plan to achieve the needed fire infrastructure improvements. Resolution 1027 provided for the establishment of an interfund loan from the Water Fund (F401) to the General Fund (F001) in the amount of \$2.8M dollars to cover the remodel expenditures.</p> <p>Resolution No.1032 is the resolution to establish the actual \$2.8M interfund loan and initiate the Fire Station remodel financing. The interfund loan would be a short-term three year loan to cover the remodel. The attached Resolution provides the details of the complete loan.</p> <p>The Finance Committee reviewed this resolution earlier today and approved it for review by the full Council.</p>		
Recommended Action:		
To adopt Resolution No. 1032 and authorize the Mayor’s signature.		

RESOLUTION NO. 1032

A RESOLUTION ESTABLISHING AN INTERFUND LOAN FROM THE WATER FUND (F401) TO THE GENERAL FUND (F001) FOR THE FIRE STATION REMODEL PROJECT CITY OF LYNDEN, WASHINGTON

WHEREAS, the City of Lynden after considering the emergent needs of the City seeks to improve its fire-fighting capability through infrastructure improvements by remodeling and expanding the City of Lynden Fire Station; and

WHEREAS, this modification will require substantial City resources to perform the needed improvements; and

WHEREAS, Resolution No. 1032 puts forth the details of the interfund loan;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lynden, Washington the following proposed establishment of an interfund loan to finance the Fire Station Remodel Project:

Section A: That an amount not to exceed the sum of \$2,800,000.00 is hereby available to be transferred from the City's Water Fund (F401) to the General Fund (F001) as a three-year capital interfund loan, to be transferred this year when needed.

Section B: The borrowing fund shall make interest only payments to the lending fund at a simple interest rate that is based at the time the loan is originated on the one-year U.S. Treasury rate combined with a one percent premium. The intention is to make the interest only payments for the three-year duration of the interfund loan, then seek a commercial loan to make repayment in full the amount of the loan to the Water Fund (F401). The commercial loan payments will start in 2025 and be paid with the money that is redirected from the 2005 LTGO Bond that will be retired that same year.

Section C: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section D: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this resolution. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this resolution should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section E: This resolution shall take effect and be in force from and after its passage by the Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, _____ IN FAVOR _____ AGAINST AND SIGNED BY THE MAYOR THIS _____ DAY OF FEBRUARY 2021.

MAYOR

Scott Korthuis

ATTEST:

Pam Brown
City Clerk

APPROVED AS TO FORM:

Robert Carmichael
City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Public Safety Draft Minutes- February 4, 2021	
Section of Agenda:	Other Business	
Department:	Police	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Public Safety Draft Minutes- February 4, 2021	
Summary Statement:	Public Safety Draft Minutes- February 4, 2021 attached for review.	
Recommended Action:	For Council review.	

CITY OF LYNDEN

POLICE DEPARTMENT

Steve Taylor, Police Chief

(360) 354-2828



Public Safety Committee Meeting Minutes

Online (Microsoft Teams)

4:00 PM February 04, 2021

Call to Order

Roll Call

Members present: Mayor Scott Korthuis and Councilors Mark Wohlrab, Brent Lenssen and Gerald Kuiken.

Staff present: City Administrator Mike Martin, Chief Mark Billmire, Chief Steve Taylor, Lieutenant Jeremy Bos, Lieutenant Russ Martin, and Support Services Manager Holly Vega

Approval of Minutes

1. **Approval of January meeting minutes**

The minutes from the January 7, 2021 meeting were approved.

Items from the Audience

None

Unscheduled (20 Minutes)

None

Committee Items

2. **2021 Public Safety Committee Meeting Schedule**

The Committee approved the 2021 Public Safety meeting schedule.

3. **Public Safety Overtime - December 2020**

Police Dept overtime in December was a combination of holiday hours, range training, shift coverage and the lighted parade event.

Fire Dept overtime was mostly coverage for Kelly days and vacation leave.

Fire Department Items

4. **Fire Station Renovation Update**

The first phase of demolition and abatement is finishing up; framing should start next week. Everything is on schedule and going well.

5. Assistant Chief Recruitment Update

The position was re-posted after the initial advertisement yielded few applicants. The new due date for applications is February 8th, virtual interviews on February 16th, and final interviews scheduled for February 25th-26th.

6. Fire Monthly Report - January 2021

Chief Billmire overviewed the monthly report for January noting 34% of calls were overlapping (back-to-back) calls. There were nine possible COVID related responses. Moving to the temporary station on Badger Road added approximately one minute to the average response time.

7. Fire Annual Report - 2020

Chief Billmire presented an annual report for 2020. Call volume was down slightly, specifically between May – July.

Police Department Items**8. Police Monthly Report - January 2021**

Chief Taylor overviewed the monthly report for January. Most statistics are within a normal range except for domestic violence calls, which is most likely due to stress caused by the pandemic. Two officers had been quarantined at home with family members who tested positive for COVID. Another officer is currently out on a long-term medical condition.

The two police vehicles that arrived last month are now complete with equipment and are on the street. Two additional vehicles in the 2021 budget have been ordered.

Adjournment

Meeting adjourned at 4:31 p.m.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Public Works Committee Meeting Minutes February 3, 2021	
Section of Agenda:	Approval of Minutes	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
February 3, 2021 Draft Public Works Committee Meeting Minutes		
Summary Statement:		
Draft minutes for the February 3, 2021 Public Works Committee meeting.		
Recommended Action:		
For Review		



PUBLIC WORKS COMMITTEE MINUTES

4:00 PM February 3, 2021
Microsoft Teams Virtual Meeting
City Hall 2nd Floor Large Conference Room

1. ROLL CALL

Members Present: Mayor Scott Korthuis; Councilors Gary Bode, Ron De Valois, Jerry Kuiken

Staff Present: City Administrator Mike Martin; Public Works Director Steve Banham, Programs Manager Mark Sandal, Sr. Admin. Assistant Miriam Kentner

Public Present: Gary Vis, Tom Perkow, Laura McLaughlin, Derek Pell, Dave Olson, Ron Hansen

2. ACTION ITEMS

A. **Proposed Revision to Lynden Municipal Code - Water Project Design Standards**

Banham presented the proposed revisions to Chapter 13.08 of the Lynden Municipal Code as a result of adopting the 2021 Engineering and Development Design Standards on December 21, 2020.

At the City Council meeting on February 1, staff set a Public Hearing of February 16 to review comments on the Code changes.

Action

The Public Works Committee concurred and recommended approval of the proposed revisions to Lynden Municipal Code Chapter 13.08 by City Council at the February 16 regular meeting.

B. **Recommendation to City Council to Award Bid for Public Works Shop - Stormwater Decant Facility**

Bids for the Stormwater Decant Facility were opened on January 28, 2021. There was a total of ten bidders. Colacurcio Brothers Construction Company, Inc is the lowest responsive and responsible bidder with a bid of \$1,188,649.94 including Washington State Sales Tax. The engineer's estimate was \$1,278,867.02 (including sales tax).

Action

The Public Works Committee concurred to recommend that City Council award the bid for the Stormwater Decant Facility to Colacurcio Brothers

C. **Water Service to Kon Tree Aire Apartments**

The State Department of Health has asked the City, in the interest of public health, to supply water to Kon Tree Aire Apartments on Birch Bay Lynden Road. Kon Tree Aire Apartments' water system is currently contaminated with nitrates and other agriculture byproducts and under a consent decree with the Department of Health. The Department

of Ecology has recommended the City apply for a temporary change of use for 20-acre feet of the 70-acre feet EDB water right based on OCPI (overriding considerations of public interest). The City would be reimbursed by Kon Tree Aire Apartments for all its costs. Representatives of the Department of Ecology has also met with tribal officials, explained Dave Olson, who represents Kon Tree.

Action

The Public Works Committee concurred to recommend that staff proceed with an application to Ecology that would add the Kon Tree Aire Apartments as a temporary user of the EDB water right and as an outside City limits customer.

D. 17th Street Latecomer Deed Notices

Staff is seeking a recommendation from the Committee to forward the Notices of Assessment for city sidewalk improvements and for water and sewer utility improvements to Council. The costs assessed would be due at the time of development.

Action

The Public Works Committee concurred to recommend forwarding the 17th Street Latecomer Deed Notices to City Council for approval.

3. INFORMATION ITEMS

A. 7th Street Parking Lot issues

1) Fire Exit Door – Mural Building

Ron Hanson, owner of the Mural Building at 610 Front Street is asking for approval to install a five-foot exit door in the wall displaying the Mural on 7th Street. This exit door is required because Mr. Hanson is planning to remodel the first floor of the building into a restaurant. Mr. Hanson stated that his architect has identified that a second egress is required to meet building code, for the type of commercial remodel he is planning. He is proposing a door would need to open on to a five-foot-wide landing to satisfy current fire access and egress codes. The Committee supported trying to find a viable solution that would allow the remodeling to meet code requirements. Staff suggested that the original agreement for use of the parking lot and the no-build easement would need to be reviewed to determine how best to address this required access. The Committee also expressed concern that the access door be coordinated carefully with the mural so that it blends into the mural. Mr. Hanson indicated that he is working closely with the mural painters.

2) Temporary Seasonal Outdoor Seating in Parking Lot

Hanson also asked for temporary use on an “on trial basis” to set up tables for dining (about 3 parking spaces) in the parking lot at 7th Street on weekends (Friday night thru Sunday night) in July and August 2022. Bode expressed concern that the use of the public parking lot could set a precedent. Vis stated he would like to make sure it does not impact the Northwest Raspberry Festival that usually occurs in mid-July. It was mentioned that this would require a Special Event Permit.

Hanson also mentioned he will be joining a future Community Development Committee meeting to discuss the plans and seek their input as well.

3) Power supply panel access

Staff indicated that the power supply panel to the 7th Street parking lot (for lighting and event use) is located next to the Mural building at the northernmost parking space. The panel installation meets code requirements, but there is the possibility

that a car’s bumper could hit the panel. Sandal suggested a bollard could be installed in front of the Power Supply Pole for safety reasons. The Committee discussed whether a bollard or wheel stop would be best and ended up settling on the bollard.

B. 2020 Public Works Accomplishments

Banham briefly presented the 2020 Public Works Accomplishments, noting that 2020 was a very productive year, despite COVID-19 limitations.

C. DOE Grants

- 1) Banham presented the grant agreement for the Managed Aquifer Recovery Storage project (\$4.7M to be used through 2025) and is planning to bring the finalized agreement to the Mayor for signature. The Committee noted that this one of the largest if not the largest grant received by the City in its history.
- 2) Banham also noted that the City is on the draft list with the Department of Ecology to receive stormwater grant funding for two other City projects if approved by the state legislature during the 2021 session: Judson Street LID Phase 1 – 8th Street and alley between 7th and 9th (\$214,986 Loan / \$644,959 Grant - \$859,945 Total)
- 3) NWWA Fairgrounds Stormwater Low Impact Development (\$660,224 Grant)

D. PROJECT – Industrial Condensate Pipeline, Including CIPP and Manholes

Banham has stated that the permit is still on hold waiting for additional signatures.

E. PROJECT – Jim Kaemingk Trail - Depot to 8th Street

The Committee discussed the Jim Kaemingk Trail and staff is continuing to work on design, land acquisition and on preparing application materials for SEPA and shoreline permits for this trail extension.

F. PROJECT – Guide Meridian Pump Station

Banham stated that staff is meeting with property owners to discuss the easements required for this area. The 90% design submittal is expected soon. Staff is also coordinated with the Planning Department and the City Attorney on the developer agreement with the Stuitts that will be coming to City Council, which includes connection easements to connect to this new pump station.

G. PROJECT – Foxtail Street Extension

The plat has been approved, which dedicated the right-of-way to the City. Staff is working on a latecomer agreement for cost reimbursement for curb, gutter, sidewalk, sewer, and water, similar to the 17th Street latecomer agreement. Banham stated this project is scheduled to go out to bid on February 17, 2021 with bids due on March 4. The intent is to award the bid at the March 15, 2021 City Council meeting.

NEW BUSINESS

1. Vactor Waste Renewal Option with City of Bellingham

Banham advised the Committee that a renewal memorandum to the Interlocal Agreement with the City of Bellingham for the use of their Vactor Waste Facility will be brought to the next City Council meeting which extends this as an option for vactor waste disposal through December 31, 2021.

Action

The Public Works Committee concurred to recommend to the City Council approval of the City of Bellingham Interlocal agreement (#2016-0221) extending the rates for use of their Vactor Waste Facility through December 31, 2021.

2. Covid-19 Reporting information

Vis brought up the Covid-19 reporting information and how the data is being shared. The committee encouraged the Mayor and the Chamber of Commerce to provide current wastewater testing results and to promote community safety.

The meeting was adjourned at 5:28 p.m.

DRAFT

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	February 16, 2021	
Name of Agenda Item:	Calendar	
Section of Agenda:	Other Business	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	Outlook Calendar	
Summary Statement:	See next page.	
Recommended Action:	None	

3:00 PM - 4:00 PM

Finance Committee Meeting -- Microsoft Teams Meeting
Finance Committee Meetings are being held via Teams due to COVID precautions

Microsoft Teams meeting

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Or call in (audio only)

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4:00 PM - 5:00 PM

Parks Committee -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM

City Council Meeting -- Online
Tuesday night meeting because of Presidents Day holiday.

Microsoft Teams meeting

Join on your computer or mobile app

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February 16, 2021 Continued

Tuesday

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February 17, 2021

Wednesday

4:00 PM - 5:30 PM

Community Development Committee Mtg -- Virtual and City Hall 2nd Floor Conf Room

7:00 PM - 8:30 PM

Board of Adjustment -- City Hall 2nd Floor Large Conference Room

February 18, 2021

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

Microsoft Teams meeting

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February 18, 2021 Continued
Thursday

February 22, 2021
Monday

9:00 AM - 10:00 AM Meeting: Vern/Mike -- Mike's Office

February 23, 2021
Tuesday

8:30 AM - 9:30 AM Leadership Team Meeting -- To Be Determined

February 24, 2021
Wednesday

All Day Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

9:00 AM - 10:00 AM Meeting: Mark/Mike -- Mike's office

February 25, 2021
Thursday

10:00 AM - 11:00 AM Meeting: Heidi/Mike -- Mike's Office

7:30 PM - 10:00 PM Planning Commission Meeting -- Microsoft Teams Meeting

Microsoft Teams meeting

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February 25, 2021 Continued

Thursday

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February 26, 2021

Friday

10:00 AM - 11:00 AM

Meeting: Steve/Mike -- Mike's Office

March 1, 2021

Monday

7:00 PM - 9:00 PM

City Council Meeting -- To Be Determined