

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 - Regular Meeting
City Hall - 300 Fourth Street
January 04, 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 241 022 188# . 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- Regular Meeting

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.

Public Hearing- None

Consent Agenda

- [2.](#) Resolution No. 1029 – Real Estate Property Tax Levy Increase 2021
- [3.](#) Appoint Mayor Korthuis to the 2021 Board of the Whatcom Council of Governments and appoint Councilor Gary Bode to act as alternate.
- [4.](#) Appoint Mayor Korthuis to the 2021 Whatcom Transportation Authority (WTA) Board of Directors.

Unfinished Business-None

New Business

- [5.](#) Conditional Use Permit – Dillard Short Term Rental
- [6.](#) Ordinance 1617 - Rezone of Koda Property (Site Specific Rezone #20-03)

Other Business

- [7.](#) Calendar

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | January 4, 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



December 21, 2020

1. CALL TO ORDER

Mayor Korthuis called to order the December 21, 2020 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 Wohrab.

Members absent: None

Staff present: Finance Director Anthony Burrows, Fire Chief Mark Billmire, HR Manager Kim Clemons, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, City Planner Dave Timmer, 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 De Valois moved and Councilor Strengholt seconded to approve December 7, 2020 regular council minutes as presented. Motion approved on a 7-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled- None

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 – December 23, 2020

| | | | | | |
|----------------------|--------------|---------|--------------|----------------------|-----------------------|
| Manual Warrants No. | <u>20856</u> | through | - | | \$61.25 |
| EFT Payment Pre-Pays | | | | | \$479,671.93 |
| | | | | Sub Total Pre-Pays | \$479,733.18 |
| Voucher Warrants No. | <u>20819</u> | through | <u>20848</u> | | \$1,554,363.47 |
| EFT Payments | | | | | \$0.000 |
| | | | | Sub Total | \$1,554,363.47 |
| | | | | Total Accts. Payable | \$2,034,096.65 |

Award Bid for Fire Station Renovation
Re-Appointment of Mike Kooy to the Design Review Board
Resolution No. 1026- Approve the 2021 Updated Engineering Design and Development Standards Project Manual

Councilor Kuiken moved and Councilor Strengholt seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.

Mayor Korthuis thanked Mike Kooy for his re-appointment to the Design Review Board and his service to the community.

3. PUBLIC HEARING

Ordinance No. 1613- Vacate Application 20-02

The City of Lynden Public Works Department has initiated the vacation of a portion of right-of-way located on Bradly Meadows Lane. The curved portion of property to be vacated was originally dedication to accommodate a cul-de-sac but became unnecessary when the street was designed as a through street. The area in question significantly affects the single-family residential property owned by Larry and Diane Haak, located at 1519 Bradley Meadows Lane.

It is unclear as to how the dedication for the cul-de-sac remained in place although the design of the Bradley Meadows Lane was altered to accommodate the plat to the north. The issue was discovered when Mr. Haak, in coordination with a City street improvement, began to pursue a short plat which will dedicate the extension of the cross street, Foxtail Street. The Public Works Director agreed to initiate a City-led vacate of the area. Vacation of this unused right-of-way can then be accurately reflected on the subsequent short plat. Necessary utility easements will be retained per typical right-of-way design.

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



Mayor Korthuis opened the Public Hearing at 7:05 p.m.

There were no public comments received.

Mayor Korthuis closed the Public Hearing at 7:05 p.m.

Councilor Bode moved and Councilor De Valois seconded to approve Ordinance No. 1613 which is proposed to vacate a portion of Bradley Meadows Lane which corrects an inaccurate dedication and to authorize the Mayor's signature on the document. Motion approved on a 7-0 vote.

Ordinance No. 1610- 2020 Park and Trail Master Plan Update

At the November 12 meeting, the Planning Commission recommended approval of the proposed Park and Trail Master Plan update with conditions/suggestions for additional consideration prior to the City Council hearing.

City Planner Dave Timmer discussed with Council the conditions and considerations provided through public input in the Planning Department's executive summary which is included in the council packet.

Public Hearing at 7:16 p.m.

There were no other public comments received.

Mayor Korthuis closed the Public Hearing at 7:16 p.m.

Councilor De Valois moved and Councilor Laninga seconded to adopt the proposed 2020 update to the Park and Trail Master Plan, Ordinance No. 1610. Motion approved on a 7-0 vote.

Councilor De Valois thanked City Planner Dave Timmer for his work with the Park and Trail Master Plan. He stated that the Plan will serve the City and its residents well.

4. UNFINISHED BUSINESS - None

5. NEW BUSINESS

Resolution No. 1028- Amendment to the Countywide Planning Policies

The Washington State Growth Management Act (GMA) requires the County to adopt county-wide planning policies (CWPP) to establish a framework for developing city and county

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



comprehensive plans, and ensuring those plans are consistent. The County Council originally adopted CWPPs in the early 1990's and the policies underwent revisions in 1997 and 2005.

In March 2020, the Lynden City Council voted to approve an interlocal agreement which outlines how CWPP will be amended. Consistent with that agreement, Resolution 1028 has been brought forward to seek the City's approval on the latest proposed amendment.

These changes add Sections Q and R to the CWPP. They focus on two issues:

1. Reference to a state mandated review and evaluation program known as the "Buildable Lands Program"
2. Procedures for dispute resolution between jurisdictions within the county.

The Buildable Lands Program has been in place for some time, but Whatcom County was only recently added to the roster of participating counties. The amendments to the CWPP have been developed by the City/County Planner Group. They were subsequently reviewed by the City's Community Development Committee and the Small Cities Caucus and initially approved by the County Council on October 13, 2020. The Cities of Blaine and Ferndale have adopted as presented.

Councilor Lenssen moved and Councilor Kuiken Motion to approve Resolution 1028 and authorize the Mayor's signature on the document which indicates City of Lynden support for the proposed amendments to the County-wide Planning Policies. Motion approved on a 7-0 vote.

Consideration of the final plat approval for the Young's Long Plat

On August 5, 2019, the City Council granted preliminary approval of the Young's Lot Plat. The application was made at the request of Joan Kayser, on behalf of the Jack and Josephine Young Living Trust. The plat is a subdivision of 3.35 acres located at 8323 Double Ditch Road. The proposed long plat includes 7 single family lots within an RS-100 zoning designation.

As part of the Long Plat request, the applicants were also granted a Development Standards Variance to allow a cul-de-sac which exceeds the maximum cul-de-sac length of 450-feet. Since approval, the infrastructure improvements have been made on the plat and final development fees have been paid in full.

Staff recommends granting final approval based on the following conditions:

1. Completion of all punch list items.
2. Submittal and acceptance of required maintenance bonds and any necessary performance bonds.
3. Payment of final inspection fees for plat construction.

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



4. Submittal of final as-built drawings.
5. Submittal of final plat mylars.

Councilor Strengholt moved and Councilor Lenssen seconded to grant final plat approval of the Young's Long Plat and authorize the Mayor's signature on the plat documents. Motion approved on a 7-0 vote.

6. OTHER BUSINESS

Council Committee Updates

Mayor Korthuis advised Council of the plan to combine the Community Development and Public Works committee meetings to discuss matter related to Pepin Creek. The joint committee meeting is scheduled for January 20, 2021. The meeting will have a quorum of council members and notices as a special council meeting.

Councilor Bode for the Public Works Committee reported discussion of:

- Northwood Road water line extension
- New software for meter reading (Radio Read)
- Awarded contract to Honcoop for Fire Station remodel
- Annual bids for supplies and professional services
- Badger Road water pipe replacement
- DOE request for city to take on water service and the availability of water rights for the city
- 17th Street Latecomers Agreement for utilities
- Truck route bypass

Councilor Strengholt for the Finance Committee reported discussion of:

- Review OT and sales tax
- Police OT down and Fire OT up
- Sales tax revenue remains robust, highest single month since October 2017

7. EXECUTIVE SESSION

Council did not hold an executive session.

CITY OF LYNDEN

CITY COUNCIL
MINUTES OF REGULAR MEETING



8. ADJOURNMENT

The December 21, 2020 regular session of the Lynden City Council adjourned at 7:50 p.m.

Pamela D. Brown, MMC
City Clerk

Scott Korthuis
Mayor

DRAFT

CITY OF LYNDEN



EXECUTIVE SUMMARY

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| Meeting Date: | January 4, 2021 | |
| Name of Agenda Item: | Resolution No. 1029 – Real Estate Property Tax Levy Increase 2021 | |
| Section of Agenda: | Consent | |
| Department: | Finance | |
| 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: | | |
| Resolution No. 1029 – Real Estate Property Tax Levy Increase 2021 | | |
| Summary Statement: | | |
| <p>All taxing jurisdictions are required, due to the passage of Referendum 47 in 1997, to pass a resolution specifically indicating the increase in tax levy if any, from the previous year, excluding the increase due to new construction, improvements to property, or any increase in the value of state assessed property.</p> <p>The limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation. Given the current rate of inflation (0.602%) the City is allowed by statute RCW 84.55.005 to increase the Levy 0.602% or bank this capacity for future use.</p> <p>The City Council has deemed it necessary due to the City’s funding requirements to increase the regular property tax levy by the full 0.602%% allowed.</p> <p>Resolution No. 1029 (attached) reflects the City Council's requirement to not "bank" any real property taxes in 2021 and approve the legally allowed 0.602% increase in the 2021 real property taxes.</p> | | |
| Recommended Action: | | |
| For the City Council to approve Resolution No. 1029 and authorize the Mayor’s signature. | | |

RESOLUTION NO. 1029

A RESOLUTION
INCREASING THE REAL PROPERTY TAX LEVY
FOR THE CITY OF LYNDEN, WASHINGTON

WHEREAS, the Lynden City Council has properly given notice of the public hearing held November 16, 2020 to consider the City of Lynden Property Tax Levy for the 2021 calendar year, pursuant to RCW 84.55.120; and

WHEREAS, the Council, after hearing, and after duly considering all relevant evidence and testimony presented, have determined that the City of Lynden requires an increase in property tax levy from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, to discharge the expected expenses and obligations of the City of Lynden.

WHEREAS, under statute RCW 84.55.005(2) (c), the limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation; and

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12 month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable; and

WHEREAS, "inflation" for September 2020 is 0.602%, meaning the taxes levied in the City of Lynden in 2020 for collection in 2021 by statute are allowed to increase 0.602% except for the amounts resulting from new construction and improvements to property, and any increase in the value of state assessed utility property; and

NOW THEREFORE, BE IT RESOLVED, the Lynden City Council authorizes a 0.602% (\$20,600.44) increase in the 2021 regular property tax levy, in addition to the increase resulting from new construction and improvements to property and any increase in the value of state-assessed property. The Lynden City Council does not wish to "bank" any additional capacity.

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

MAYOR

Scott Korthuis

ATTEST:

Pam Brown
City Clerk

APPROVED AS TO FORM:

Robert Carmichael
City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|---|
| Meeting Date: | January 4, 2021 | |
| Name of Agenda Item: | Appoint Mayor Korthuis to the 2021 Board of the Whatcom Council of Governments and appoint Councilor Gary Bode to act as alternate. | |
| Section of Agenda: | Consent | |
| 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: _____ | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required |
| Attachments: | N/A | |
| Summary Statement: | Mayor Korthuis acted as the city's representative to the Board of the WCOG and Councilor Bode acted as the alternate. Each are willing to continue in this capacity for 2021. | |
| Recommended Action: | Re-appoint Mayor Scott Korthuis to the 2021 Board of the Whatcom Council of Governments and Councilor Gary Bode to act as alternate. | |

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | January 4, 2021 | |
| Name of Agenda Item: | Appoint Mayor Korthuis to the 2021 Whatcom Transportation Authority (WTA) Board of Directors. | |
| Section of Agenda: | Consent | |
| 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: | N/A | |
| Summary Statement: | Each year council appoints someone to represent the city's interests on the Whatcom Transportation Authority (WTA) Board of Directors. Currently Mayor Korthuis is the WTA representative. | |
| Recommended Action: | Re-appoint Mayor Scott Korthuis to serve as Lynden's representative on the WTA Board of Directors. | |

CITY OF LYNDEN

EXECUTIVE SUMMARY



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| Meeting Date: | January 4, 2021 | |
| Name of Agenda Item: | 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 type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Planning Commission Resolution and Meeting Minutes from Dec. 10, 2020, TRC Report, Application Package | | |
| Summary Statement: | | |
| <p>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 (LMC 19.49.030). Prior to operation, the homeowner must be granted a Conditional Use Permit (CUP) because a short-term rental may have an impact on the surrounding properties.</p> <p>The pending CUP application has been submitted by David and Kathleen Dillard; who’s property is located at 422 Woodcreek Drive. 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. With this CUP proposal they are seeking to make the short-term vacation rental a legal option for the space. Consistent with code, the property owner is intending to remain onsite when the property is being used as a short-term rental.</p> <p>On December 10, 2020 the Planning Commission recommended approval of the Conditional Use Permit. They conditioned their recommendation on an annual review of the Conditional Use Permit.</p> <p>Staff also recommends approval but, after feedback from 2 neighbors along this street, staff additionally recommends that the Dillards install a 6’ privacy fence on the north property line between the homes (48 feet of fencing). This is 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. Staff asserts that the parking demand will remain regardless of if the ADU is used for short- or long-term rental.</p> | | |
| Recommended Action: | | |
| Motion to approve Conditional Use Permit 20-03 allowing a short-term rental at 422 Woodcreek Drive (with or without the condition to install 48 feet for privacy fencing on the north property line) and authorize the Mayor’s signature on the Finding of Fact and Conclusions of Law. | | |

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #20-09

**A resolution of recommendation for the approval of
Conditional Use Permit 20-03, Dave and Kathleen Dillard**

WHEREAS, Dave and Kathleen Dillard, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow short term rentals at their home located within the RS-100 zone; and

WHEREAS, the City of Lynden regulates short term rentals consistent with LMC Chapter 19.49 - Conditional Use Permits and Bed and Breakfast Establishments; and

WHEREAS, the application was determined to be complete on October 9, 2020, and the notice of application was published in the Lynden Tribune on November 4, 2020; and

WHEREAS, the Proponent has provided the City with receipts for the certified mailing of all required notices to all property owners within three hundred feet of the subject property together with the affidavits of posting said notices; and

WHEREAS, the Lynden Planning Commission held a public hearing on December 10, 2020, at the City of Lynden, City Hall Annex, 205 4th Street, Lynden, Washington, to accept public testimony on the proposed conditional use permit request, and that meeting was duly documented; and

WHEREAS, the City's Technical Review Committee has reviewed the request for the conditional use permit and has provided comments and recommendations to the Planning Commission in a report dated November 12, 2020 and during the Planning Commission hearing; and

WHEREAS, the Lynden Planning Commission has reviewed the conditional use permit request and has found that the application meets the criteria for granting a conditional use permit under Chapter 19.49.020 and 19.49.030 of the Lynden Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the Lynden City Council, of Conditional Use Permit #20-3, Dave and Kathleen Dillard, subject to conditions of the Technical Review Committee Report dated November 12, 2020, and further subject to the following conditions:

1. That there be a 1-year review of the conditional use permit.

PASSED a recommendation of approval by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 6-0, at their regular meeting held on the 10th day of December 2020.

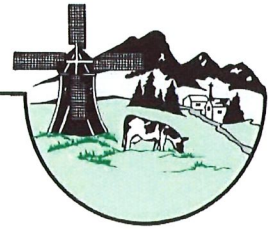
Diane Veltkamp, Chair
Lynden Planning Commission



Heidi Gudde
Planning Director

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.

CUP 20-03
Dillard Residence

Driveway #1

Driveway #2
North property line



North
→

CUP 20-03
Dillard Residence

North
property
line



North



| | |
|---|---|
| Meeting Date: | December 10, 2020 |
| Name of Agenda Item: | Public Hearing for Dillard Conditional Use Permit (CUP) to allow short-term rentals |
| Type of Hearing: | Quasi-Judicial |
| Attachments: | |
| <ul style="list-style-type: none"> • Technical Review Committee Report • Dillard Conditional Use Permit application • Excerpt of LMC Chapt 19.49 regarding Conditional Use Permits | |
| Summary Statement: | |
| <p>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.</p> <p>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).</p> <p>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.</p> <p>The vicinity of the proposed establishment is the Woodcreek Drive neighborhood, where there are several abutting neighbors. Neighbors may have concerns about how this use might impact the neighborhood, specifically in regard to parking and noise.</p> <p>Technical Review Committee concluded that the application appears to meet the criteria associated with the applicable Conditional Use Permit. 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.</p> | |
| Recommended Action: | |
| <p>Motion to recommend to the City Council approval of the proposed Dillard Conditional Use Permit to allow short-term rentals as proposed at their property at 422 Woodcreek Drive.</p> | |

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

| | |
|---------------------------------------|--|
| Date Issued: | November 12, 2020 |
| Project Name: | CUP #20-03, Dillard Air BNB |
| Applicant: | David and Kathleen Dillard |
| Property Owner: | David and Kathleen Dillard |
| Site Address: | 422 Woodcreek Drive |
| Parcel Number | 400319-189237 |
| Zoning Designation: | RS-100 |
| Application Type: | Conditional Use Permit |
| Parcel Size: | N/A |
| Hearing Type: | Quasi-Judicial |
| Hearing Objective: | The objective of this public hearing is to determine whether the proposed Conditional Use Permit meets the criteria found within Section 19.49.020 of the Lynden Municipal Code. |
| Date application determined complete: | October 9, 2020 |
| Date of Publication: | November 4, 2020 |
| SEPA Determination: | N/A |
| Project Description: | The applicant is requesting a conditional use permit to allow short term rentals, through an Air BNB unit, at their home located within the RS-100 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).

The City of Lynden regulates short term rentals (such as Air BNB and VRBO) consistent with code provisions for bed and breakfast establishments. This is done recognizing that establishments which offer short term lodging accommodations *could* have an

impact on a neighborhood if certain conditions are not met. As such, a Conditional Use Permit is required as established in LMC Chapter 19.49 - Conditional Use Permits and Bed and Breakfast Establishments.

The applicant has met the minimum submittal requirements and the application was determined to be complete on October 9, 2020. The notice of application was published on November 4, 2020.

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

Chapter 19.49.020 (C) states that a Conditional Use Permit will be granted only if the proposed use complies with the standards and criteria listed below. The applicant’s response to the criteria have been provided and included in the application package.

Planning Department Comments:

- 1. *Accessory Dwelling Unit:* The ADU must be used as previously permitted and located within the single-family home. There may be no living space / ADU activities located within the detached shop building on site.
- 2. *Designated Parking:* Code requires that one parking space be provided for each rentable bedroom in addition to the surface parking required for the home. The applicant has indicated that additional parking is available next to the existing driveway. Parking on the street is permitted within residential areas however staff recommends that visitors be required to park in the designated parking area on the property rather than the street.
- 3. *Advisory Regulations:* Be advised, in addition to the criteria listed in Section 19.49.020, all proposed establishments shall be required to show compliance with the standards listed under Section 19.49.030 as follows:
 - a. A bed and breakfast establishment shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 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.

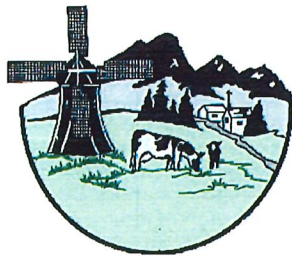
- e. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties
 - f. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany 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 guestrooms 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.
4. *Business License Required:* Be advised, the establishment must obtain a business license from the City of Lynden as well as any State of Washington permits.

Fire and Life Safety

- 5. The Fire Department has reviewed the application and has no comment.

Parks and Recreation

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



City of Lynden

Conditional Use Permit Application

General Information:

Property Owner

Name: David and Kathleen Dillard
 Address: 422 Woodcreek Drive Lynden, Wa. 98264
 Telephone Number: 360-815-3834 Fax Number: _____
 E-mail Address: ddillardbigdog@yahoo.com

Applicant (Agent, Land Surveyor or Engineer)

Name: same as above
 Address: _____
 Telephone Number: _____ Fax Number: _____
 E-mail Address: _____

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): 422 Woodcreek drive
 Legal Description (attach if necessary): Lot 2 Vissers Woodcreek short plat
 Assessor's Parcel Number: AF2051100538 or 4003191892370000 Zoning Designation: RS100
 Parcel Square Footage: 10,032 sq. ft. Property Dimensions: _____
 Applicable Sub-Area: 956 sq. ft. ADU Area Building/Structure Size: 1436 sqft plus
 Height of Structure: 18 ft. Addition Size: 1383 sqft basement

Please describe request in detail: CUP Criteria must be attached

To make ADU available as short term rental as well as long term rental that it currently is.

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: Kathleen Dillard DATE: Aug. 10 - 2020
 PROPERTY OWNER SIGNATURE: [Signature] DATE: Aug. 10 - 2020
 PROPERTY OWNER PRINTED NAME Kathleen Dillard DATE: Aug. 10 - 2020

PRE-APPLICATION MEETING DATE: Oct. 3, 2019 HEARING DATE: _____
(APPLICATIONS WILL NOT BE ACCEPTED WITHOUT A PRE-APPLICATION MEETING)
 FEE'S (CONDITIONAL USE PERMIT \$400.00 BASE FEE OR FINAL REVIEW COST) DATE PAID: Aug. 10, 2020 RECEIPT # _____

Date: Aug. 10, 2020 Project: 422 Woodcreek



**City of Lynden
Planning Department
Conditional Use Permit (CUP) - Criteria Worksheet**

A Conditional Use Permit (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.

Please describe the proposed use. Relevant information may include hours of operation, parking requirements, anticipated traffic to the site, and how the site will be developed and used. Attach additional information and plans as needed.

Respond to each of the criteria below with the specifics of the proposed use in mind. (per LMC 19.49) Identify nearby streets and the uses surrounding the site.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
The proposed use is not detrimental to any of the above. The new use would only ~~be~~ be a different vehicle in the driveway each rental period.
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;
The new use would be better for traffic and pedestrian as it would not be a ~~fully~~ continually rented area as it is now. there are 2 parking spaces provided for the rentals use.
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
The new use would have non of these issues. ^{current} The full time use also has non of these issues
 - c. Building and site design; and
There are no changes to the current building and site design which will be caused by the nightly rental versus the monthly rental it currently is.
 - d. The physical characteristics of the subject property.
There will be only 1 small change from being a monthly rental to a nightly rental. That would be to have a small address parking sign for renters parking area set off of street 20ft. to direct them to there designated space.

Date: Aug. 10, 2020 Project: 422 Woodcrest

- 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.

there will be no changes to the properties use except to have a different vehicle nightly instead of the same vehicle monthly in the driveway designated parking spot.

- 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.

There will be less traffic in the nightly rental, as it will not be rented every night.

- 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.

All of these requirements have been met under the current ADU permit and will not change in anyway by the new proposed use.

- 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.

All of these requirements have been met under the current ADU permit. The new use, because it will not have full time rentals, will be less impactful than current use.

- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

The new use will not affect these areas in anyway. The only public evidence of the change from an ADU to a nightly rental will be less people, less traffic, less parking.

- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

The new use meets the purpose and guidelines for the city and also fills the need for flexible living spaces that don't have an impact change for there area. We have found there to be a great need in our area for a nightly lodging area that is also a self serviced living environment,

meaning, it has its own kitchen and laundry, keeping aways private from surrounding neighbors.

29

we have connected with Law enforcement, Home land security judges and safety inspectors who have a need for this type of lodging on a ~~and~~ regular basis. We have also connected with travelling nurses and first responders who just want a quiet place to stay during there contracted work in this area.

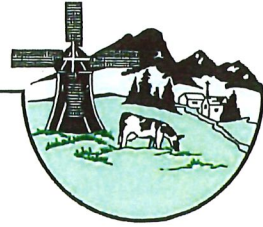
All the standards and conditions for a CUP have been met as a bed & breakfast establishment. We will not be serving any food to our guests as we are going to be hosting guests who would like privacy during there stay with us. We have hosted many of these guests as I've described above, in the past 3 yrs. and I have included with my application a report from the Hynden Police department ~~to~~ to support my claims, to not having any extra or detrimental impact to our surrounding area by operating as a nightly rental. We have currently been operating as a nightly rental for the last 3 years because of the need for this type of lodging, we were made aware of the need by law enforcement who knew we had a rental and needed a private rental in our area for there specific need. We hope to continue to serve our community with our rental and feel we need to do so in a more legal way than our current Adu allows, that is why we are applying for a CUP.

Thank you,

~~Kurt J. Danner~~

CITY OF LYNDEN

POLICE DEPARTMENT
Office of the Chief of Police
(360) 354 - 2828



August 12, 2019

Ms. Kathleen F. Dillard
422 Wood Creek Drive
Lynden, WA 98264

Re: Response to request for records

Dear Ms. Dillard:

In response to your request for records regarding complaints concerning your Air BNB guests, or parking, from September 15, 2017 through August 9, 2019 we made a thorough search of Lynden PD records and did not find any reports that are responsive to your request and, therefore, have nothing to release to you.

This request is now closed.

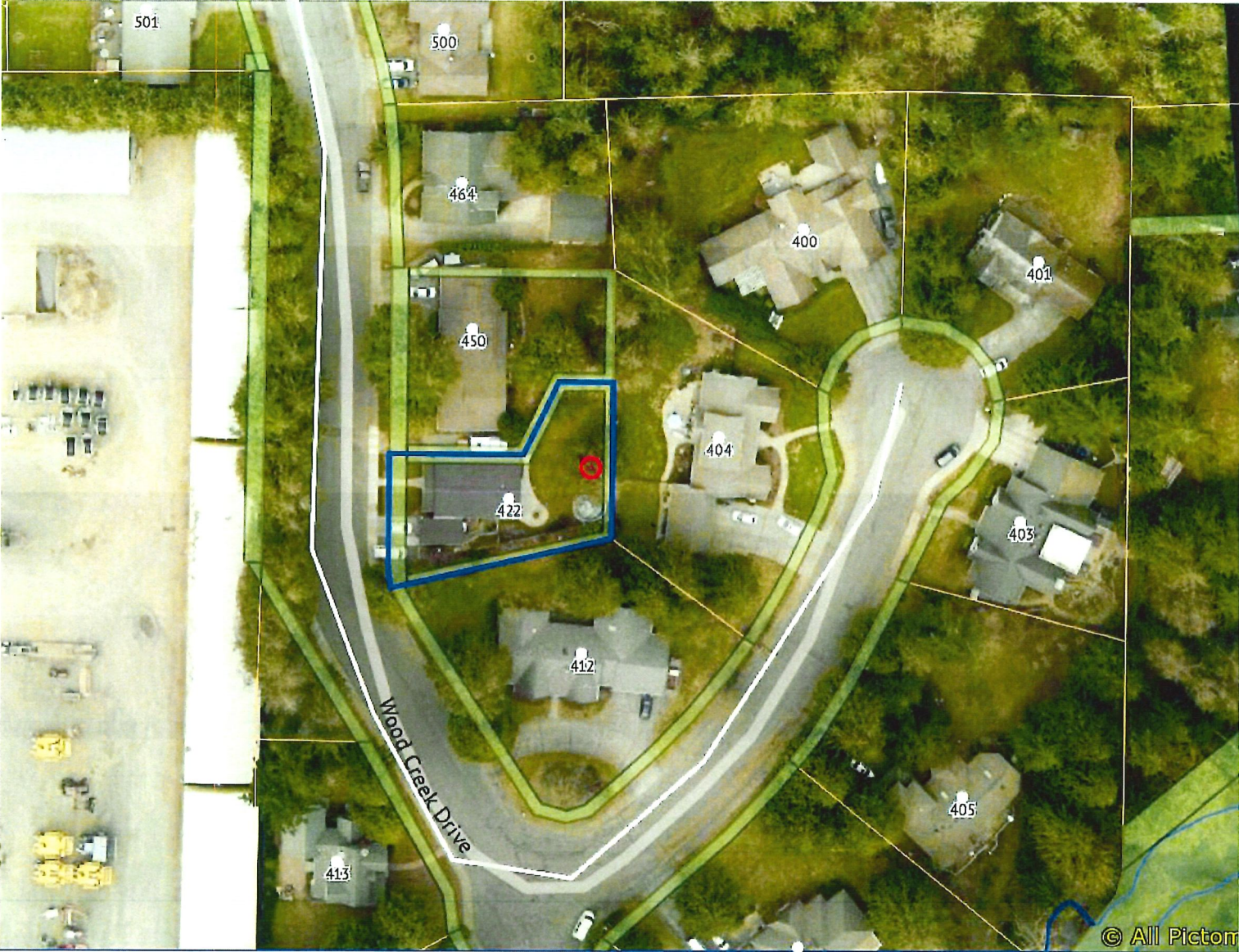
Sincerely,

Michal Knapp
Chief of Police

A handwritten signature in blue ink that reads "Dawn M. Castle". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Dawn M. Castle
Records/Communications Specialist

/dmc



CONSTRUCTION SPECIFICATIONS

1. GENERAL NOTES

- A. WIND EXPOSURE AND SPEED 90 MPH, EXPOSURE B
- B. ROOF LOAD 40 LB PSF (20-70-80)
- C. RAIN 24 PER HOUR FOR ROOF DRAINAGE DESIGN
- D. FLOOR LOAD 50 LB PSF (40 LIVE LOAD, 10 DEAD LOAD)
- E. DECK LOAD 50 PSF
- F. SOILS PER IRC TABLE R405.1, IRC SECTION 1804
- G. FROST DEPTH 10"
- H. SOIL BEARING PRESSURE 2,000 PSF
- I. SOIL CLASSIFICATION TYPE GROUP IV
- J. ALL GLASS IN DOORS, SIDELIGHTS, AND BATHROOMS, TO BE TEMPERED GLASS

2. FOUNDATION

- A. FOOTING SHOWN ON PLAN AS MINIMUM AND TO BE POURED ON CENTER OF WALL DIMENSIONS. FOOTINGS ARE TO BE POURED ON UNDISTURBED OR PROPERLY COMPACTED SOILS. A 4" PERFORATED IRON PIPE IS TO BE LAID AROUND PERIMETER OF FOOTING AND OVERLAP WITH 1/2" TO 2" WASHED DRAIN ROCK
- B. FOUNDATION WALLS TO BE BUILT TO SOIL SPECIFIED ON DRAWINGS AND THICKNESS SPECIFIED IS MINIMUM REQUIREMENTS. FRAMED IN ACCORDANCE WITH FOUNDATION PLAN
- C. REINFORCEMENT STEEL TO BE AS SPECIFIED THICKNESS CALLED OUT ON DRAWINGS AND TO BE DETAILED AND PLACED IN ACCORDANCE WITH BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE, AND TO BE REFORCED STEEL BARS CONFORMING TO ASTM A603, GRADE 60
- D. CONCRETE SHALL BE "READY-MIXED CONCRETE" AND SHALL CONFORM TO ASTM C94 IS SACK OR BELTED

3. FRAMING

- A. FLOOR TO BE FRAMED IN ACCORDANCE WITH SPECIFICATIONS OF DRAWINGS
 - 1. TO HAVE A LIVING FLOOR LOAD IN ACCORDANCE WITH IBC
 - 2. ALL STRUCTURAL MEMBERS OF FLOOR TO BE PROPERLY SET AND FASTENED IN ACCORDANCE WITH IRC
 - 3. STRUCTURAL LUMBER TO BE #2 S-P OR BETTER

B. WALLS

- 1. EXTERIOR WOOD FRAMED WALLS TO BE 2"x4" DF-L #2 WITH STUDS AT 16" O.C. HEIGHT OF EXTERIOR WALLS TO BE AS SHOWN
- 2. ALL EXTERIOR WALLS TO BE SHEATHED WITH 1/2" STRUCTURAL PLYWOOD OR 7/16" OSB IF PROPER LET-IN BRACING IS TO BE USED IT WILL BE DETAILED IN PLAN
- 3. ALL WINDOW HEADERS AND BEARING WALL BEAMS TO BE 2"x4" UNLESS SPECIFIED ON DRAWINGS
- 4. INTERIOR WALL TO 2"x4" CONSTRUCTION PLACED AT 16" O.C. STUD HEIGHT TO BE AS SHOWN
- 5. INTERIOR BATHROOM WALLS WITH EXTENSIVE PLUMBING FIXTURES MAY HAVE 2"x6" FRAMED WALLS TO BE PROVIDED CLEARANCE AND COMPARTMENT WIRING SPACE
- 6. BATHROOM WALL COVERINGS SHALL BE MOISTURE RESISTANT GYPSUM BOARD OR APPROVED EQUAL TO 7/8" INCHES ABOVE BATH AT SHOWERS OR TUB WITH SHOWERS

C. ROOF'S DRAWINGS WILL SPECIFY TRUSS OR RAFTER CONSTRUCTION

- 1. ENGINEER TRUSS DETAIL TO BE CHECKED BY GENERAL CONTRACTOR OR BUILDING DEPARTMENT BEFORE INSTALLATION
- 2. STANDARD ROOF LOAD TO APPLY TO DRAWINGS TO BE 40 PSF TOTAL LOAD UNLESS SPECIFIED OTHERWISE ON DRAWINGS
- 3. ROOF SHEATHING TO BE 1/2" CDX STANDARD, OR 7/16" OSB AND ROOFING PRODUCTS USED

D. CONNECTIONS

- ALL CONNECTIONS ARE SPECIFIED AS SIMPDEX CONNECTORS OR EQUIVALENT. NAILING SCHEDULE TO BE IN ACCORDANCE WITH TABLE 23-1.0, IBC

4. ENERGY CODE

- COMPLY WITH WASHINGTON STATE ENERGY CODE
- A. ALL WINDOWS AND DOORS TO BE SEALED INTO WALL WITH PROPERLY INSTALLED WINDOW WRAP AND FLASHING
- B. ALL FRAMING INTERSECTIONS BETWEEN CONDITIONS TO UNCONDITIONED WALLS AND FOUNDATIONS TO BE CAULKED TO STOP AIR LEAKAGE
- C. ALL PENETRATIONS FOR PLUMBING, WIRING, AND DUCTING TO BE SEALED
- D. VENTILATION DUCTS SHALL HAVE R-4 INSULATION OVER WRAP
- E. INSULATION
 - A. ROOF/CEILING TO HAVE MINIMUM OF R-38 BLDVN INSULATION
 - B. FLOOR R-30 10" BATT INSULATION
 - C. WALLS R-21 1/2" BATT INSULATION
 - D. ALL EXTERIOR WALLS TO HAVE EITHER OF THE FOLLOWING TYPES OF VAPOR BARRIERS
 - 1. TYPEX HOUSE WRAP (PREFERABLE)
 - 2. TYFAR HOUSE WRAP
 - 3. 10 LB. DR 7 LB. FELT PAPER

MECHANICAL SPECIFICATIONS

- 1. CLOTHES DRYER LOCATED IN AN AREA THAT IS HABITABLE OR CONTAINING OTHER FUEL BURNING APPLIANCES SHALL BE EXHAUSTED TO THE OUTSIDE. EXHAUST DUCT LENGTH IS LIMITED TO 25 FT. WITH 2 ELBOWS
- 2. ELEMENTS OF APPLIANCES WHICH CREATE A GLOW, SPARK, OR FLAME SHALL BE LOCATED A MINIMUM OF 18" ABOVE THE GARAGE FLOOR
- 3. EXHAUST DUCTS TO BE CONSTRUCTED OF SMOOTH-BORE, NONCOMBUSTIBLE MATERIALS. APPROVED FLEXIBLE CONNECTIONS NOT EXCEEDING 6 FT. IN LENGTH MAY BE USED IN CONNECTION WITH DOMESTIC DRYER EXHAUST. HOT WATER TANKS HAVING FLEXIBLE PIPE CONNECTIONS AND OVER FOUR FEET TALL SHALL BE STRAPPED DOWN TO PREVENT OVERTURN IN AN CASE OF EARTHQUAKE.

PLUMBING SPECIFICATIONS

- 1. PROVIDE PRESSURE RELIEF VALVE FOR HOT WATER TANK DRAIN TO THE OUTSIDE OF THE BUILDING WITH DRAIN END NOT MORE THAN TWO FEET NEAR LESS THAN 18" ABOVE THE GROUND, POINTING DOWN
- 2. PROVIDE AN AIR GAP FOR THE DISHWASHER IF PROVIDED
- 3. PROVIDE AN APPROVED BACK FLOW PREVENTION DEVICE AT ALL HOSE BIBS
- 4. PROVIDE A CLEAN-OUT WHERE BUILDING DRAIN AND BUILDING SEWER LINES CONNECT
- 5. EACH HORIZONTAL DRAINAGE PIPE SHALL BE PROVIDED WITH A CLEANOUT AT ITS UPPER TERMINAL

DISCLAIMER

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CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB, AND LIBLOTT RESIDENTIAL DRAFTING, INC. MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN ON THESE DRAWINGS. SHOP DETAILS SHOULD BE SUBMITTED TO LIBLOTT RESIDENTIAL DRAFTING, INC. FOR REVIEW BEFORE PROCEEDING WITH FABRICATION.

THESE PLANS ARE TO BE USED ONLY FOR THE CONSTRUCTION OF THIS PROJECT. ANY USE OF THESE PLANS FOR ANY OTHER PROJECT OR ON ANY OTHER SITE, BY THIS CLIENT OR ANY OTHER CLIENTS, WITHOUT NOTIFICATION AND HOMEWORK COMPENSATION SHALL BEHEMED A BREACHMENT TO LIBLOTT RESIDENTIAL DRAFTING INC..

Owner Info:

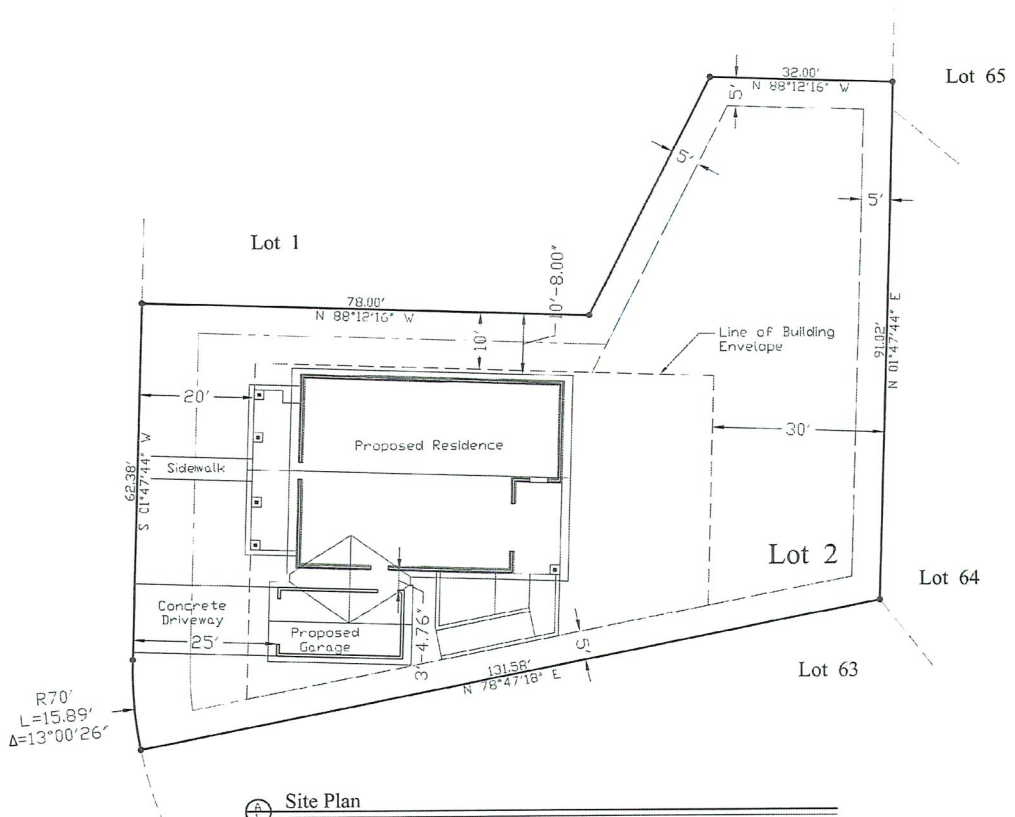
Dave & Kathy Dillard
1644 Liberty St. #102
Lynden, Washington 98264

Site Info:

422 Wood Creek Drive
Visser's Wood Creek Short Plat Lot 2
Lynden, of Whatcom County, Washington
Parcel # 400319 189237 0000
10,034 Sq. Ft.



Wood Creek Drive



Site Plan
1" = 10' Scale

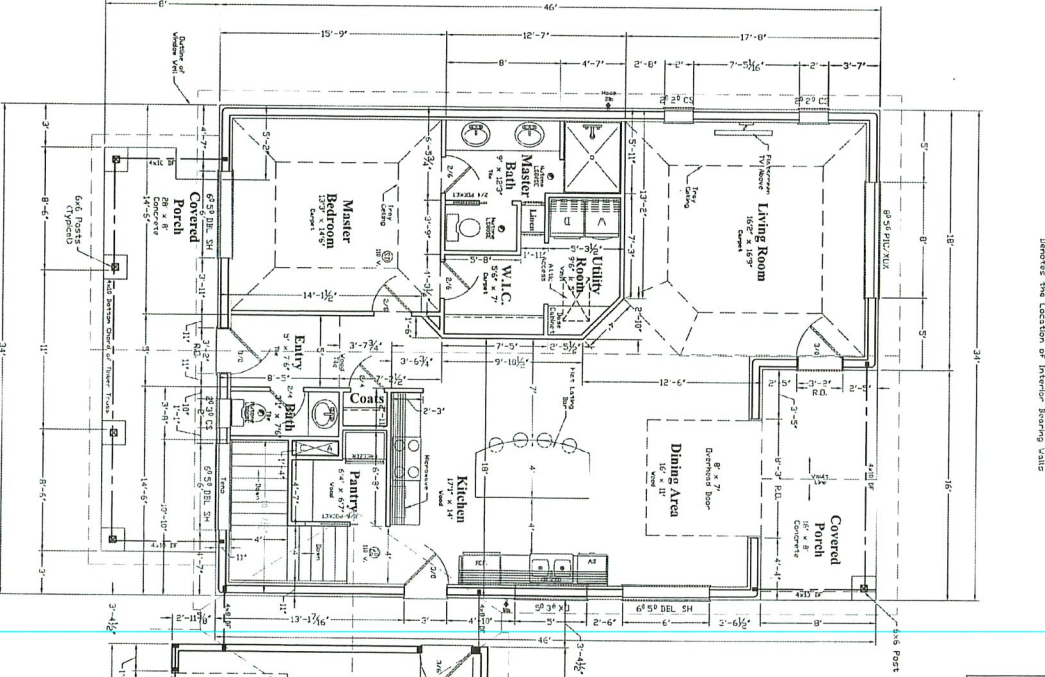
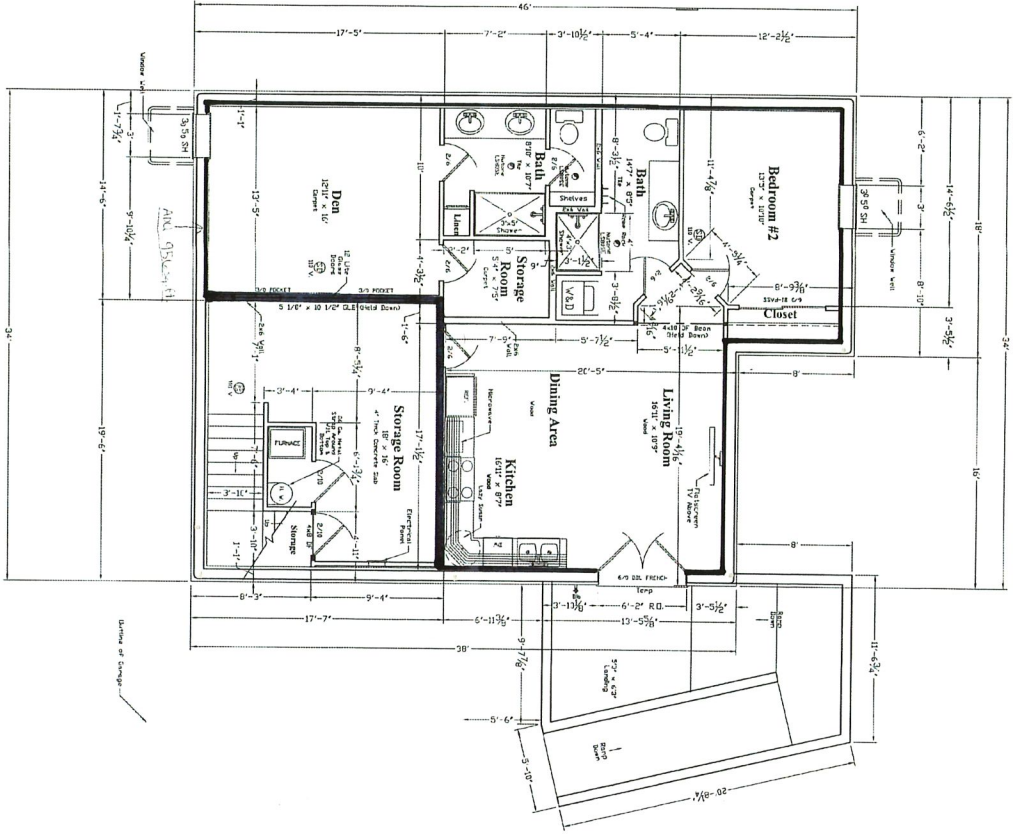


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|--------------|--------------|
| Plan Number: | Dillard, D&K |
| 1st Draft: | 7/27/12 |
| 2nd Draft: | 10/26/12 |
| 3rd Draft: | 11/21/12 |
| 4th Draft: | 12/16/12 |
| 5th Draft: | 2/22/13 |
| Revised: | 2014.5 |

DAVE & KATHY DILLARD



Liblott Residential Drafting
110 Park View Dr.
Lynden, VA 98264
Phone: 933-1102
Fax: 933-1103



Note: All doors and bearing wall locations are to be 4x10 gl. Unless otherwise noted.

Indicates the location of interior bearing walls

LEGEND

- Bearing Wall Location
- Smoke Detector
- Exhaust Fan
- Indicates bearing point loads
- Indicates bearing point loads
- Approach to this room
- Here the location

Fox Block Detail
 3/4" = 1'-0" Scale



| ROOM | FINISH | CEILING | FLOOR | WALL | DOOR | WINDOW |
|----------------|------------|----------|------------|------------|-------------|-------------|
| BEDROOM | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| BATH | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| KITCHEN | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| LIVING ROOM | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| DINING AREA | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| MASTER BEDROOM | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| UTILITY ROOM | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| W.I.C. | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| ENTRY | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |
| COVERED PORCH | 1/2" PLANK | 9'0" PL. | 1/2" PLANK | 1/2" PLANK | 6'0" x 8'0" | 6'0" x 8'0" |

Libolt Residential Drafting
 1111 S. W. 2nd Ave., Suite 201
 Ft. Lauderdale, FL 33304
 Phone: 754-561-1111
 Fax: 754-561-1112
 Email: info@liboltdrafting.com



DAVE & KATHY DILLARD

Nov. 18, 2020

Heidi Gudde
Planning Director
300 4th St.
Lynden, WA 98264

We are interested in attending
the virtual public hearing to be
held at 7:30 pm. December 10, 2020.
Regarding Willard's application.

Thank you,
Michael & Linda Sharp
450 Woodcreek Dr.
Lynden, WA 98264

cell phone 928-863-0341
email - L1.Sharp@comcast.net

CITY OF LYNDEN



EXECUTIVE SUMMARY

| | | |
|--|--|--|
| Meeting Date: | January 4, 2021 | |
| Name of Agenda Item: | Ord 1617 - Rezone of Koda Property (Site Specific Rezone #20-03) | |
| 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 type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required |
| Attachments: | | |
| Proposed Ord 1617, Planning Commission Resolution, Minutes and Meeting Pkg of 12-10-20 including staff's Technical Review Committee Report | | |
| Summary Statement: | | |
| <p>Koda Investments LLC, represented by Ray Kornelis and Roger Anderson, is seeking to rezone a 5.67 acre property from Multi-Family Residential (RM-4) to Multi-Family (RM-2). The subject property, accessed from the south end of BC Avenue, has unique characteristics that have led to the owner's decision to pursue a down zone (reduction in development density). The primary reason is that the current zoning requires a minimum lot size of one acre. Wishing to maintain the existing home on a lot that is less than one acre, the property owner is pursuing a zoning category which allows for a smaller minimum lot size such as RM-3 or RM-2. This and other aspects of the request, such as property access, have been described in the attached Technical Review Committee (TRC) Report.</p> <p>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. The request to downzone this area should be considered carefully in light of the City's growth management goals. However, staff recognizes that parking requirements and building height limits within the City's development code may also restrict the actual achievable density on this property. For these reasons, and others described in the TRC report, staff supports the property owners request to rezone to an RM-2 designation.</p> <p>On December 10, 2020 the Planning Commission held a public hearing on the rezone request. The conclusion of this hearing resulted in a recommendation to approve the rezone request from RM-4 to RM-2 zoning.</p> | | |
| Recommended Action: | | |
| Motion to approve Rezone Application 20-03 and the corresponding Ord 1617 which shifts the multi-family residential zoning of the subject property from a RM-4 designation to a RM-2 designation and to authorize the Mayor's signature on the document. | | |

ORDINANCE NO. 1617

**AN ORDINANCE REZONING CERTAIN PROPERTY
IN THE CITY OF LYNDEN, WASHINGTON**

WHEREAS, the City of Lynden fixed the 4th day of January, 2021, as the date to consider the Koda Investments, LLC site specific rezone for the following property from Multi-Family Residential (RM-4) to Residential Multi-Family (RM-2).

THE SOUTH 7 ACRES OF THE FOLLOWING DESCRIBED TRACT: THE NORTH HALF OF THE SOUTHWEST THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M. EXCEPT THE NORTH 22 FEET OF THE WEST 430 FEET THEREOF; AND EXCEPT THE EAST 250 FEET OF THE WEST 430 FEET OF THE SOUTH 20 FEET OF THE NORTH 42 FEET OF THE SOUTH 7 ACRES AND EXCEPT THE SOUTH 60 FEET OF THE NORTH 82 FEET OF THE WEST 180 FEET THEREOF; AND EXCEPT THE SOUTH 110 FEET OF THE WEST 150 FEET OF THAT PORTION THEREOF LYING EASTERLY OF B.C. AVENUE. EXCEPT THE EAST 264 FEET THEREOF; LESS ROADS. SITUATE IN WHATCOM COUNTY, WASHINGTON. SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

COMMONLY DESCRIBED AS: 295 S BC Ave, Lynden

WHEREAS, the Proponents have provided the City with an affidavit for the posting of the notice of application and public hearing in three locations near the Property, and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the Property; and

WHEREAS, the Lynden Planning Commission held a public hearing on December 10, 2020, to accept public testimony on the proposed rezone, and that meeting was duly recorded; and

WHEREAS, Planning Commission Resolution #20-10, outlines the Commission’s recommendation of approval for the proposed Koda Investments Rezone.

WHEREAS, on January 4, 2021, the Lynden City Council did convene and inquire into the proposed change of zone, and has determined to grant the rezone request as submitted; and

WHEREAS, after careful consideration of the record for the Koda Investment Rezone request, the Lynden City Council enters the following Findings of Fact regarding the proposed rezone, provided the conditions set forth in Section 2 herein are met;

1. Notice. Proper notices of the hearing were published and posted within the vicinity of the property as required by law.
2. Location. The subject property is located at 295 S BC Avenue, Lynden, in Whatcom County, Washington.

3. Ownership. Petitioner, Koda Investments, LLC. is the owner of the subject property.
4. Request. Petitioner requests that the subject property be granted a site-specific rezone from Multi-Family Residential (RM-4) to Residential Multi-Family (RM-2).
5. Reason for Request. The rezone will provide an opportunity for the subdivision of the property, preservation of an existing home, and infill on the vacant portion of the property.
6. Change in Conditions: Development constraints relating to property access and with critical areas found on the site are inconsistent with a development density that would be permitted under the RM-4 zoning designation.
7. Comprehensive Plan and City Code. The proposed rezone is consistent with the Comprehensive Plan land use designation for the property; it is consistent with and satisfies applicable city codes, including LMC 17.09.040 (C); and it will further the goals of the Lynden Comprehensive Plan.
8. Public Health and Safety. The proposed rezone will promote the health, safety, and welfare of the community by reducing development density on property with limited access and environmentally sensitive critical areas.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Lynden, Washington, as follows:

Section 1: The zoning map of the City of Lynden and Ordinance No. 1617 adopting said zoning map are hereby amended to rezone the Property to RM-2 (Residential Multi-Family).

Section 2: This rezone is granted subject to the following conditions:

1. Approval of the Koda Investments Rezone is subject to the findings, conditions and recommendations of the Technical Review Committee Report dated December 1, 2020.

Section 3: 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, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 4: Any ordinance or parts or ordinances in conflict herewith are hereby repealed.

Section 5: This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, if approved, and acknowledgment by the Petitioner, otherwise as provided by law, five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR on the _____ day of _____, 2021

M A Y O R, Scott Korthuis

ATTEST:

CITY CLERK, Pamela Brown

APPROVED AS TO FORM:

CITY ATTORNEY, Robert Carmichael

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #20-10

A resolution of recommendation for approval of the Koda Investments Rezone #20-03, to the Lynden City Council.

WHEREAS, Ray Kornelis, on behalf of Koda Investments, LLC, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for a Site-Specific Rezone requesting to change the zoning designation of Residential Multi-Family (RM-4) to Residential Multi-Family (RM-2) at 295 S BC Avenue in Lynden, Washington; and

WHEREAS, the Proponents have provided the City with an affidavit of posting for the notice of application and public hearing in three locations near the subject property, and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, in addition to the notification requirements listed above, site-specific rezones that result in a density of five or more residential units per acre must install a 4-foot X 8-foot sign on site providing project and meeting details; and

WHEREAS, the application was determined to be complete on October 8, 2020, and the notice of application was published in the Lynden Tribune on November 4, 2020; and

WHEREAS, the subject parcel totals approximately 5.67 acres and have property zoned RM-4 to the north, RS-72 to the west and the city limits and flood plain to the east and south; and

WHEREAS, the Lynden Planning Commission held a virtual public hearing via Microsoft Teams on December 10, 2020, to accept public testimony on the proposed Site-Specific Rezone request, and that meeting was duly documented;

WHEREAS, the City's Technical Review Committee has reviewed the request for the Site-Specific Rezone and has provided findings, conditions and recommendations to the Planning Commission in a report dated December 1, 2020; and

WHEREAS, Site-specific rezones shall be reviewed in light of the City's Comprehensive planning goals. To grant this request, the Planning Commission and City Council must find that the application satisfies the criteria listed within Section 17.09.050 of the Lynden Municipal Code.

- a. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and
- b. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); and

- c. The project proposal is consistent with the City’s development codes and regulations for the zoning proposed for the project.
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and
- e. The proposed site-specific rezone will promote the health, safety, and general welfare of the community; and

WHEREAS, the Lynden Planning Commission has reviewed the request adequately defended and has specifically concluded that:

- 1. The rezone will provide an opportunity for the subdivision of property, preservation of an existing home, and infill on the vacant portion of the property.
- 2. That development constraints relating to property access and with critical areas found on the site are inconsistent with a development density that would be permitted under the RM-4 zoning designation.
- 3. The proposed rezone is consistent with the Comprehensive Plan land use designation for the property; it is consistent with and satisfies applicable city codes, including LMC 17.09.040 (C); and it will further the goals of the Lynden Comprehensive Plan.
- 4. The proposed rezone will promote the health, safety, and welfare of the community by reducing development density on property with limited access and environmentally sensitive critical areas.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the Lynden City Council, of the Koda Investments Rezone #20-03, subject to the Technical Review Committee Report dated December 1, 2020.

PASSED a recommendation of approval by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 10th day of December 2020.

Diane Veltkamp, Chairperson,
Lynden Planning Commission

Heidi Gudde, AICP
Planning Director

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.

KODA Site Specific Rezone, Application 20-03

Vicinity Map





| | |
|--|--|
| Meeting Date: | December 10, 2020 |
| Name of Agenda Item: | Public Hearing for the KODA Site Specific Rezone, Application #20-03 |
| Type of Hearing: | Quasi-Judicial |
| Attachments: | |
| TRC Report, Vicinity Map, Rezone Application | |
| Summary Statement: | |
| <p>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 (reduction in development density). These aspects have been described in the attached Technical Review Committee (TRC) Report.</p> <p>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 where those located relatively near commercial services such as shopping and the downtown core.</p> <p>It should be noted that constraints of the critical areas <u>support</u> the need for medium to higher density housing to more thoroughly utilize building areas (ie. more units are permitted in a single building with and RM-3 or RM-4 designation than the requested RM-2 designation). 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.</p> <p>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.</p> | |
| Recommended Action: | |
| 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. | |

KODA Site Specific Rezone, Application 20-03

Vicinity Map



CITY OF LYNDEN

TECHNICAL REVIEW COMMITTEE Development Project Report



| | |
|---------------------------------------|--|
| Date Issued: | December 1, 2020 |
| Project Name: | Rezone – Koda Investments |
| Project Description: | The applicant is requesting a rezone from Multi-Family Residential (RM-4) to Multi-Family (RM-2) |
| Applicant: | Ray Kornelis, Agent for Koda Investments, LLC |
| Property Owner: | Koda Investments, LLC |
| Site Address: | 295 S BC Avenue, Lynden |
| Parcel Number: | 400320-065090 |
| Parcel Size and Zoning Designation: | 5.67 acres currently zoned single-family RM-4 |
| Hearing Objective: | To determine whether the proposal meets the criteria listed for a site specific rezone. |
| Date application determined complete: | October 8, 2020 |
| Date of Publication: | November 4, 2020 |
| SEPA Determination: | DNS Issued October 23, 2020 |

Summary:

The property owner is seeking to rezone this property from Multi-Family Residential (RM-4) to Multi-Family (RM-2).

Staff recognizes the subject property has unique characteristics that have led to the owner’s decision to pursue a down zone (reduction in development density). These aspects have been summarized below.

Existing Uses: One factor to request the rezone is the existing home, constructed in 1924, which the owner wishes to retain. The current zoning of RM-4 requires that minimum lot size be no less than one acre. However, the division of this home from the remainder of the property could appropriately be done on less than an acre. Division of property into a lot less than an acre is possible in any other residential zoning category including RM-2 and RM-3.

Property Access: The property is accessed via BC Avenue on a 28 foot wide stem. While this width can easily accommodate 2 drive lanes and a pedestrian sidewalk, it is only a single entry / exist point for a relatively large property. Developing at a lower

density would put less strain on this single access point and the adjoining public street, South BC Avenue.

Property Constraints and Realistic Density and Maximizing Buildable Area: Staff is aware that multiple factors affect the final realistic density on a property. Gross density calculations do not reflect constraints associated with critical areas or the realities of required parking areas and building height constraints.

However, the Planning Department reminds the applicant that Growth Management Policies and the City’s Comprehensive Plan seek to maintain higher density opportunities especially those located relatively near commercial services such as shopping and the downtown core.

Constraints of the critical areas support the need for medium to higher density housing as more units are permitted in a single building with and RM-3 or RM-4 designation. 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. Additionally, any proposed development would benefit from the adjacent open space provided by the critical areas. Considering these factors, the request to downzone this area should be considered carefully in light of the City’s growth management goals.

Staff review generated the following comments – many of which are advisory in nature.

Planning Department Comments

- 1. *Criteria for Approval:* **Applicant has responded to this comment with written justifications for the proposed rezone.** Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed.

To grant this request, the Planning Commission and City Council must find that the application satisfies each of the criteria listed within Section 17.09.050 of the Lynden Municipal Code:

- a. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and
- b. The proposed site-specific rezone is consistent with the City’s comprehensive plan and applicable sub-area plan(s); and
- c. The project proposal is consistent with the City’s development codes and regulations for the zoning proposed for the project.
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

- e. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

Provide a written response to each of these criteria. Responses will be included in the application package reviewed by Planning Commissioners and the City Council.

Advisory Comments – Planning Department

- 2. *Zoning Designation - Permitted Uses:* Be advised, Residential Multi-Family (RM-2) allows up to 4-units per building and is subject to the permitted uses and standards as described in LMC 19.17 including a maximum building height of 32 feet. Also, be advised, RM-2 does not include the flexibility of establishing non-profit community service facilities as is currently allowed under the RM-4 designation.
- 3. *Maximizing Buildable Area:* Constraints of critical areas may warrant the located of more units to a single structure. This would be more likely in a zoning category such as RM-3 where 12 units are permitted per building than RM-2 where only 4 units are permitted per building. As a result the applicant may want to consider a zoning designation of RM-3 if more than 4 units per building could better utilize the buildable area on the property.
- 4. *Design Review:* Be advised, multi-family construction is subject to Design Review Board approval prior to permit approval.
- 5. *Street Trees:* Future development will require compliance with Chapter 18.14.130 regarding street trees and planting strips. These aspects of design must appear in the Design Review Board submittal package.
- 6. *Transportation Impact Fees:* Be advised, transportation impact fees will be due at the time of permit. The current rate of this fee is \$1309.00 per multi-family unit.
- 7. *Landscape Bonding:* Be advised, performance and maintenance bonding will be required for the landscape installed at the time of development. This relates to street trees and any required landscape buffer. Bonds are due prior to issuance of final building occupancy.
- 8. *Environmental Review:* Conditions associated with the SEPA review (SEPA 20-11) which was conducted concurrently with this application will apply to the proposed development.

Advisory Comments - Public Works Department

- 9. *Infrastructure Improvements:* Be advised, at the time of future development, all public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards.
- 10. *Stormwater Management:* At the time of future development, all plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards. Storm drainage report per the City of Lynden and the Department of Ecology standards required.
- 11. *Stormwater Management:* Be advised, at the time of future development, a stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.
- 12. *Access:* The width of the existing access will likely not accommodate the design of a standard driveway access for most multi-family development. Applicant will need to acquire an additional 1.2 feet to meet the minimum private street standards as outlined in LMC 18.14 080 and in the City of Lynden’s Engineering Design and Development Standards or secure a Engineering Design variance.
- 13. *Water:* If future plans include the creation of condominiums, the City recommends that each unit must be individually metered.

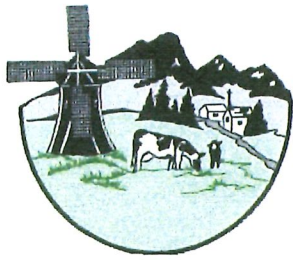
Advisory Comments - Fire and Life Safety

- 14. *Fire Code:* Future Development will require full compliance with the Fire Code.
- 15. *Fire Impact Fees:* Be advised, fire impact fees will be due at the time of permit. The current rate of this fee is \$389.00 per multi-family unit.

Advisory Comments - Parks and Recreation

- 16. *Park and Trail Amenities:* Future development may require participation and or easements for trail system and parks. Connections to trails and parks will be reviewed at the time of Design Review Board approval.
- 17. *Park Impact Fees:* Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$546.00 per multi-family unit.

RZ# 20-03



City of Lynden

Rezone Application

Applicant Information

Name: KODA INVESTMENTS LLC

Address: 1354 Pacific Place #102 Ferndale, WA 98248

Telephone Number: 360-303-4200 **Fax Number:** 360-671-0221

E-mail Address: roger@expresselectric.com / ncnty53@live.com

Application is hereby made for a rezone as follows:

Type of Rezone Requested:

Current Zoning Designation: RM-4 Proposed Zoning Designation: RM-2

Attach narrative explaining the reason for the request / zoning change

Property Information

**See Below*

Address: 295 South British Columbia Avenue

Legal Description: (Attach Additional Sheets if Necessary)

S 7 ACRES OF N 1/2 SW SW-EXC E 264 FT THEROF-LESS RD- SUBJ TO POWER LI ESMT REC AF
783956-EXC W 150 FT OF N 123 FT OF S 183 FT LY E OF BRITISH COLUMBIA AVE-SUBJ TO SEWER LI
ESMT TO CITY OF LYNDEN REC AF 808909-EXC N 22 FT OF W 430 FT THEROF-EXC S 60FT

Property Size: _____ **X** _____

Total Square Footage: _____ **Total Acreage:** 5.67

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: Raymond Kornelin **Date:** 8-20-2020

Pre-application meeting date: 11-22-2019

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

Fee's (RZ \$375.00 or Final Review Cost) date paid: _____ receipt # _____

460.00

***We wish to create a subdivision that would include a parcel of less than 1 acre, not allowed under the RM-4 Zone.**

- 6: S 7 ACRES OF N 1/2 SW SW-EXC E 264 FT THEROF-LESS RD- SUBJ TO POWER LI ESMT REC AF 783956-EXC W 150 FT OF N 123 FT OF S 183 FT LY E OF BRITISH COLUMBIA AVE-SUBJ TO SEWER LI ESMT TO CITY OF LYNDEN REC AF 808909-EXC N 22 FT OF W 430 FT THEROF-EXC S 60FT

- 7: KODA INVESTMENTS LLC: 1354 Pacific Place #102 Ferndale, WA 98248
Roger Anderson: 851 Abner Lane Lynden, WA 98264
Ray Kornelis 301 So. B.C. Avenue Lynden, WA 98264

- 8: SEPA Checklist included.

- 9: We would like to be able to divide the parcel at 295 So B. C. Ave into two lots where one of the lots would be less than 1 acre which is the minimum lot size in the current zoning of RM-4. There should be no effect on the adjacent properties with this zone change.

- 10: Changes in the area have been negligible over the past several decades. A church has been replaced by a multi unit apartment complex just west of the site the building that was used by the Christian Health Care Center has been re-purposed as the non-profit Project Hope and a small cluster housing condominium group has been built just east of the Project Hope site on Rosemary Way. None of the changes would reflect an impact either way on our request for rezoning 295 from RM-4 to RM-2.

- 11: Changes made through this rezone would be in the potential density of the site and the setbacks of future buildings from property lines. Based on the scope of this plot and the size of the buildable area and limitations of the wetlands the total impact to these concerns would be minimal.

- 12: Attached as final page.



City of Lynden

Critical Areas Checklist

Section: 20 Township: T40N Range: R03E Parcel Number: 4003200650900000

Site Address: 295 South British Columbia Ave

Proposed Uses: Rezone from RM4 to RM2

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.

Raymond Cornelis
Applicant's Signature

8-20-2020
Date

KODA INVESTMENTS, L.L.C. REZONE MAP

PTN: SW 1/4, SW 1/4 OF SECTION 20,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

KODA INVESTMENTS, L.L.C.:

THE SOUTH 7 ACRES OF THE FOLLOWING DESCRIBED TRACT:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.

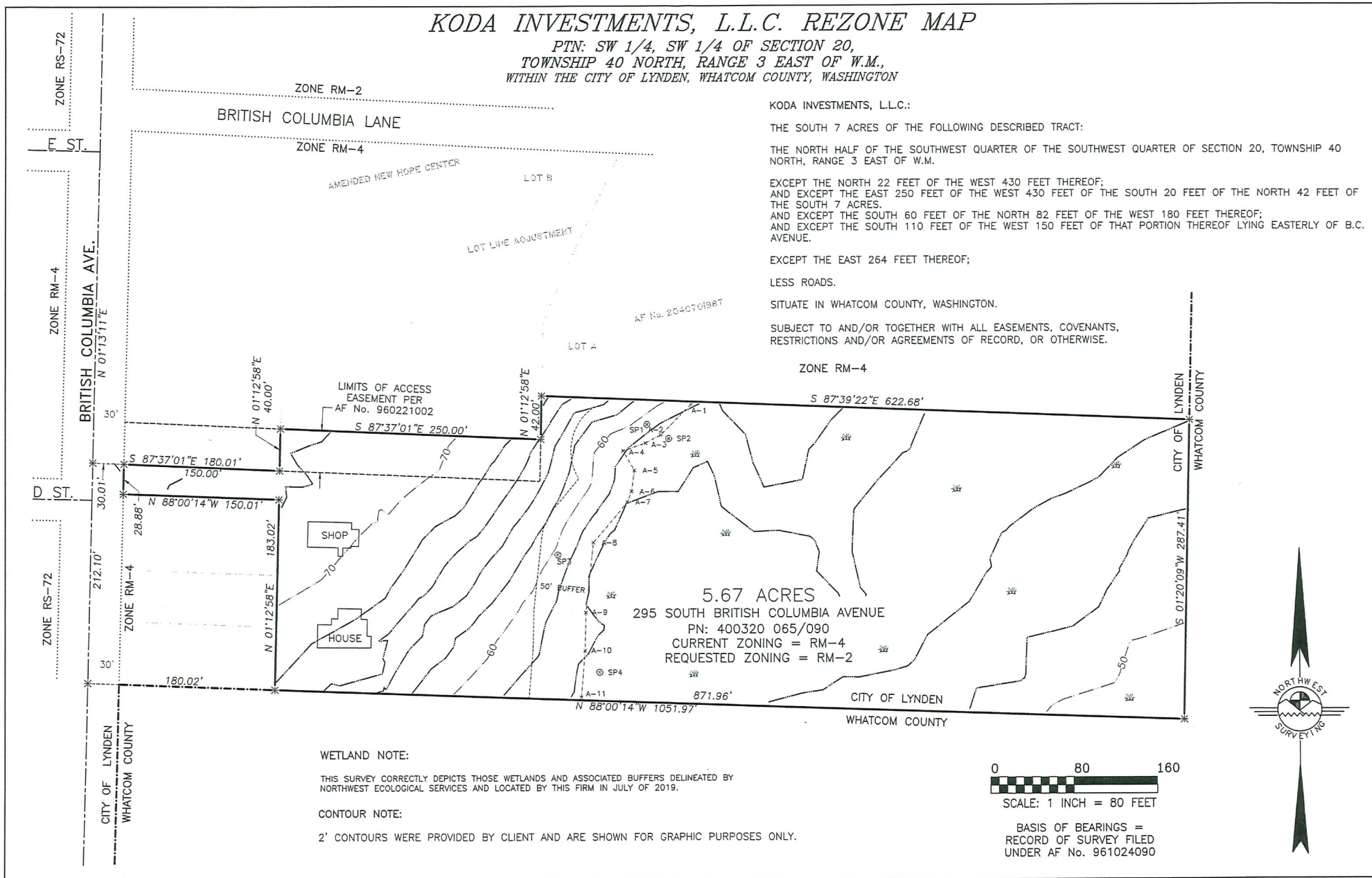
EXCEPT THE NORTH 22 FEET OF THE WEST 430 FEET THEREOF;
AND EXCEPT THE EAST 250 FEET OF THE WEST 430 FEET OF THE SOUTH 20 FEET OF THE NORTH 42 FEET OF THE SOUTH 7 ACRES.
AND EXCEPT THE SOUTH 60 FEET OF THE NORTH 82 FEET OF THE WEST 180 FEET THEREOF;
AND EXCEPT THE SOUTH 110 FEET OF THE WEST 150 FEET OF THAT PORTION THEREOF LYING EASTERLY OF B.C. AVENUE.

EXCEPT THE EAST 264 FEET THEREOF;

LESS ROADS.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

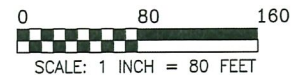


WETLAND NOTE:

THIS SURVEY CORRECTLY DEPICTS THOSE WETLANDS AND ASSOCIATED BUFFERS DELINEATED BY NORTHWEST ECOLOGICAL SERVICES AND LOCATED BY THIS FIRM IN JULY OF 2019.

CONTOUR NOTE:

2' CONTOURS WERE PROVIDED BY CLIENT AND ARE SHOWN FOR GRAPHIC PURPOSES ONLY.



BASIS OF BEARINGS =
RECORD OF SURVEY FILED
UNDER AF No. 961024090



17.19.010 Contents of Application.

A complete application for a site-specific rezone must be acknowledged by the property owner and shall include the following information:

- A. A completed application form provided by the Planning Department and all applicable fees;
- B. The legal description of the boundaries of the area proposed for rezoning;
- C. A statement regarding the background, the reason for seeking the proposed rezone, and the effect of the proposal on adjacent areas;

The current zoning for the property, RM-4, has a minimum lot size of 1 acre. We would like to be able to divide the property into lots of less than 1 acre. There should be no effect on adjacent areas as they are a developed blend of single family residence in the RS-72 zone on the west side of BC Avenue, small and large apartment lots and the New Hope building which includes a church inside of the existing RM-4 zone and the Planned Residential Community of Rosemary Way. The lot we would like to create at this time, at less than 1 acre, includes a single family residence and shop building that have been on the site as far back as 1924.

- D. A statement explaining changed circumstances in the area since adoption of the current zoning or a mistake in the current zoning;

I've not been able to determine when the current zoning was adopted but expect that it was around the time the property was annexed into the city. This may have been in the mid 1980's. At that time the designation of RM-4 would have been used to accommodate the existing Heather Square Apartments and the Christian Health Care Center. The fact that these established uses would require the RM-4 zone and the adjacent location of the newly annexed property could have been the determining factor in simply expanding that zone rather than using a different zone designation.

There are two conditions that exist that would justify a change in zone designation. First is the limiting effect of the 28' pipestem access to BC Avenue. A larger development typical of the RM-4 zone would easily surpass the Average Daily Trips element in the City of Lynden Street Design Standards. Second is the actual available space of the property for building. With the presence of wetlands and the required buffer from development taking up over 70% of the area there is less than two acres left of buildable area to develop. With the minimum lot size of 1 acre in an RM-4 zone it would not be possible to achieve more than 1 lot of buildable area.

- E. A statement explaining how the proposed rezone is consistent with the City’s comprehensive plan, applicable sub-area plans, and with protecting the public health, safety, and welfare;

Changing the zone designation from RM-4 to RM-2 would not preclude future multifamily development in this location. It would however bring the potential development more in line with the current mix of residential use in the neighborhood and stay within the city’s future designation of Medium Density Residential.

To the issue of protecting the public health, safety and welfare topic, there may not be opportunity for improvement in an area of this scale but there would be no reason to think that the public interest in these areas would be diminished with this change in zone designation.

- F. A reproducible vicinity map, designating the area of the proposed rezone, together with all significant geographic features, including bodies of water, major streets and highways and boundaries of all units of government in the area as they presently exist.
- G. A reproducible map showing the area of the proposed rezone together with the zoning of all adjacent parcels.
- H. A development proposal showing the following information: a) all proposed streets and right-of-ways, b) topography, and c) development concept illustrating the proposed density and type of development.
- I. An environmental checklist;

17.19.050 Criteria for Approval of Site-Specific Rezone

Site-specific rezone requests must satisfy the requirements established for development proposals in LMC 17.09.040C. In addition, no application for a site-specific rezone shall be approved unless the applicant demonstrates that each of the following criteria is satisfied:

- A. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and

As pointed out in item D above, it seems the use of RM-4 for this property was more a matter of convenience than practicality. The Heather Square Apartments and the Christian Health Care Center would indicate the need for this designation but access to buildable area from the current pipestem will limit the ability to fully develop the property to the RM-4 potential.

- B. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); and

Using the RM-2 zone designation would be consistent with the City's comprehensive plan of Medium Density Residential as indicated in the Future Land Use Map p.46 of the City of Lynden Comprehensive Plan 2016 Update.

- C. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project.

At this time the proposal would be to retain the existing buildings, the single family residence and shop, on one lot and one other single family residence would be built on the second site. This would be consistent with the City's development codes and regulations for an RM-2 zone designation.

- D. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

The surrounding area would include the existing RM-4 zone as well as the RS-72 zone on the west side of BC Avenue. Also, to the south and east is outside of the City limits and part of Whatcom County. An RM-2 designation should not conflict with these uses and zoning.

- E. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

As stated above in item E of 17.19.010 there may not be opportunity for improvement in a proposal of this scale but there would be no reason to think that the public interest in these areas would be diminished with this change in zone designation.

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | January 4, 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 | |

January 4, 2021

Monday

7:00 PM - 9:00 PM

City Council Meeting -- Online Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 253-948-9362,,241022188#](#) United States, Tacoma

Phone Conference ID: 241 022 188#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

January 5, 2021

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- To Be Determined: May be Teams Meeting

5:00 PM - 6:30 PM

Design Review Board -- To be determined

January 7, 2021

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 253-948-9362,,832433768#](#) United States, Tacoma

Phone Conference ID: 832 433 768#

[Find a local number](#) | [Reset PIN](#)

January 7, 2021 Continued

Thursday

[Learn More](#) | [Meeting options](#)

January 8, 2021

Friday

10:00 AM - 11:00 AM

Meeting: Steve/Mike -- Mike's Office

January 11, 2021

Monday

9:00 AM - 10:00 AM

Meeting: Vern/Mike -- Mike's Office

January 12, 2021

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- To Be Determined

January 13, 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

7:00 PM - 9:00 PM

Rec. District Meetings -- Annex South East Conference Room

January 14, 2021

Thursday

10:00 AM - 11:00 AM

Meeting: Heidi/Mike -- Mike's Office

January 14, 2021 Continued

Thursday

7:30 PM - 10:00 PM

Planning Commission Meeting -- Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

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January 18, 2021

Monday

8:00 AM - 8:30 AM

Martin Luther King Jr. Holiday -- City Offices Closed

January 19, 2021

Tuesday

7:00 PM - 9:00 PM

Council Meeting -- To Be Determined