

# CITY OF LYNDEN



Mayor  
Scott Korthuis

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

Online (Microsoft Teams) City Council Meeting  
City Hall - 300 Fourth Street  
November 15, 2021

Unscheduled public comment will not be taken at online council meetings. To schedule time to address council, contact the city clerk at 360-255-7085 before 12:00 noon on the day of the council meeting. You will be asked to provide your name, address, and a brief description of your topic for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Members of the public may choose to join the city council meeting telephonically by dialing 1-253- 948-9362. You will then be prompted to enter the Conference ID 338 604 61 # . It is necessary to enter the # symbol.

## **Call to Order**

**Pledge of Allegiance - Not at this time.**

## **Roll Call**

**Oath of Office- None**

## **Approval of Minutes**

**1.** Draft Council Minutes- November 1, 2021

## **Items from the Audience**

### ***Scheduled***

### ***Unscheduled (20 Minutes)***

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

**Consent Agenda**

- [2.](#) Approval of Payroll and Claims
- [3.](#) Set Date for the Final Public Hearing on the 2022 Preliminary Budget
- [4.](#) Nooksack Valley Disposal Rate Increase
- [5.](#) Interlocal Agreement – Whatcom Conservation District
- [6.](#) 8200 Double Ditch Road, Olivarez Lease-2021

**Public Hearing**

- [7.](#) Public Hearing for Ordinance No. 1638 Real Estate Property Tax for 2022
- [8.](#) Public Hearing for the 2022 Budget

**Unfinished Business - None**

**New Business**

- [9.](#) Ordinance No. 1638 – Real Estate Property Tax for 2022
- [10.](#) Alliance Freeze Dry Conditional Use Permit
- [11.](#) Duffner MHP Expansion Conditional Use Permit

**Other Business**

- [12.](#) Draft PW Committee Minutes October 6, 2021
- [13.](#) Public Safety Draft Minutes- November 4, 2021
- [14.](#) Calendar

**Executive Session**

**Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Draft Council Minutes- Regular Meeting	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<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	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft Council Minutes- Regular Meeting	
<b>Summary Statement:</b>	Draft Council Minutes- Regular Meeting	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



November 1, 2021

### 1. CALL TO ORDER

Mayor Korthuis called to order the November 1, 2021 regular session of the Lynden City Council at 7:00 p.m., which was held online, via Microsoft Teams.

### ROLL CALL

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

Members absent: None.

Staff present: Finance Director Anthony Burrows, Parks Director Vern Meenderinck, Parks Maintenance Supervisor Brent DeRuyter, City Administrator John Williams, and City Clerk Pam Brown.

**OATH OF OFFICE- None**

### APPROVAL OF MINUTES

***Councilor Bode moved and Councilor Wohlrab seconded to approve the October 18, 2021, regular council minutes as presented. Motion approved on a 7-0 vote.***

### ITEMS FROM THE AUDIENCE

**Scheduled: None**

**Unscheduled: None**

# CITY OF LYNDEN



CITY COUNCIL  
MINUTES OF REGULAR MEETING

## 2. CONSENT AGENDA

### Payroll Liability to October 16 through October 31, 2021

#### **EFT & Other Liabilities**

##### **Non-L&I Liabilities**

Monthly EFT .....	\$372,062.92
Check Liability .....	\$108,138.86
Total Non-L&I Liabilities .....	\$480,201.78
Quarterly Liabilities .....	\$11,762.86
<b>Total EFT &amp; Other Liabilities</b>	<b>\$494,964.64</b>

### Approval of Claims – October 19, 2021

<b>Manual Warrants No.</b>	=	-	=		<b>\$0.00</b>
<b>EFT Payment Pre-Pays</b>					<b>\$53,585.32</b>
				<b>Sub Total Pre-Pays</b>	<b>\$53,585.32</b>
<b>Voucher Warrants No.</b>	<b>23168</b>	-	<b>23196</b>		<b>\$308,699.21</b>
<b>EFT Payments</b>					<b>\$0.000</b>
				<b>Sub Total</b>	<b>\$308,699.21</b>
				<b>Total Accts. Payable</b>	<b>\$362,284.53</b>

### Ordinance No. 1637-Parks Exclusion Ordinance

The City passed an ordinance addressing prohibited uses and activities in City Parks but provided no process for law enforcement to follow to exclude persons from the parks. This ordinance will allow any law enforcement officer of the City of Lynden to temporarily exclude from city parks anyone who violates provisions of the City code or any park rules.

Parks Committee reviewed the ordinance at their meeting on October 18 and agreed to forward the ordinance to full council for approval.

### Set Public Hearing for the 2022 Property Tax Levy

On Monday, October 18, 2021 the mayor introduced the 2022 preliminary budget to the city council and the public. As required by the budget process, in order to receive public comments before adoption, a public hearing is required for consideration of any public commentary regarding the property tax levy. This request is to set the property tax levy on Monday, November 15, 2021 at 7:00PM.

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



### 2020 Berthusen Park Annual Report

As stipulated in the Berthusen Will granting Berthusen Park to the City of Lynden, an annual financial report needs is reviewed by the City Council.

### Set Public Hearing Date- December 6, 2021 to Hear Comment on Revisions to the Engineering Design and Development Standards Project Manual

The Engineering Design and Development Standards Project Manual was originally adopted by City Council on April 5, 2004 and was last updated in January 2021. These standards are required by the City's Growth Management Act and include street, water, sewer, and storm drainage standards.

In response to inquiries, changes in technology, and the feedback from customers, additions, deletions and/or clarifications have been made to the project manual. The manual also addresses access issues, permitting processes and procedures, and includes various forms necessary in the development process.

Staff is updating the Manual annually and presents Resolution No. 1042 along with a list of revisions for Council review.

The Public Works Committee reviewed the updates at their October 6, 2021 meeting and recommended that they be forwarded to City Council for consideration.

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

### **3. PUBLIC HEARING**

#### Public Hearing for the 2022 Budget

As published, 7:00PM on November 1, 2021 is the time and date set for the first Public Hearing on the 2022 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 18, 2021 City Council meeting.

Mayor Korthuis opened the Public Hearing at 7:05

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:05

***Councilor Wohlrab read a written statement concerning the city's 2022 draft budget as it relates to staffing of personnel specifically police officer positions with the Lynden Police Department. Councilor Wohlrab then agreed to bring the staffing request to the next Public Safety committee meeting so that it could be more thoroughly discussed.***

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



### 4. UNFINISHED BUSINESS- None

### 5. NEW BUSINESS- None

### 6. OTHER BUSINESS

Council is meeting in a closed-door session to discuss labor negotiations issues immediately following the council meeting.

### 7. EXECUTIVE SESSION

Council did not hold an executive session.

### 8. ADJOURNMENT

The November 1, 2021, regular session of the Lynden City Council adjourned at 7:15 p.m.

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Pam Brown, MMC  
City Clerk

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Scott Korthuis  
Mayor

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Set Date for the Final Public Hearing on the 2022 Preliminary Budget	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	As published, 7:00PM on December 6, 2021 is the time and date set for the Final Public Hearing on the 2022 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.	
<b>Recommended Action:</b>	Set the date and conduct the required public hearing.	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY – City Council



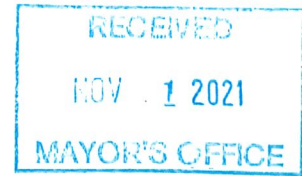
<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Nooksack Valley Disposal Rate Increase	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Nooksack Valley Disposal Request for 2022 Rate Increase and Franchise Agreement Rate Adjustment		
<b>Summary Statement:</b>		
<p>Nooksack Valley Disposal (NVD) is requesting a rate increase, effective January 1, 2022, for their services due to their increasing disposal fees. NVD currently has a 20-year franchise agreement with the City of Lynden (through 2036) for curbside garbage pickup and recycling program services.</p> <p>After reviewing the proposed rate increase, the Public Works Committee concurred to recommend approval to City Council. If approved, these rates will become part of the existing Franchise Agreement.</p>		
<b>Recommended Action:</b>		
That City Council approve the Franchise Agreement Rate Adjustment and authorize the Mayor's signature.		

# NOOKSACK VALLEY

## D • I • S • P • O • S • A • L

P.O. Box 267 250 Birch Bay-Lynden Rd. Lynden, WA 98264 (360) 354-3400

Mayor Scott Korthuis  
Lynden City Council  
Lynden, WA 98264



Dear Mayor Scott and Council Members,

Nooksack Valley Disposal has been happy to provide both garbage and recycling services to the City of Lynden for over 40 years. Because of increasing disposal fees, we are coming to the City with a rate increase request, to become effective January 1, 2022.

Recycling and Disposal Services has announced they will be increasing our garbage tip fees effective January 1 2022. Our last increase was three years ago. Our cost per ton will be increased by 11%, or \$11.45 per ton more than we are currently charged. We are requesting a 4.5% increase in our garbage rates, which will go to paying this increase in our disposal fees.

Green Earth Technology has also informed us that they will be increasing our yard waste tip fees effective January 1, 2022. Our cost per ton to compost yard and food waste will be 17% higher since our rates last changed 3 years ago. We are requesting a \$1.00 per month increase for this optional collection of yard waste, to cover the higher tip fees. Even with the increase, our rates will still be substantially lower than anywhere in Whatcom County.

As outlined in our Municipal Solid Waste Agreement with the City of Lynden, Section 7A, we are giving request to revise our rates for residential and commercial services at least 60 days prior to their implementation. We have included a schedule with the current and proposed rates. The average household set out 2.6 carts of garbage per month this past year. The proposed increase would raise the average residential bill by \$0.78 per month in total for garbage and recycling.

We continue to strive to provide excellent customer service, while maintaining our position as one of the lowest priced and most efficient providers of garbage and recycling pickup in Northwest Washington. We will continue to have some of the lowest prices of any of the comparable nearby cities. We look forward to continuing our good relationship with the City and to providing clean, safe, and dependable garbage and recycling services in the years ahead.

Sincerely,

Dan Leidecker, President

Calvin Den Hartog, General Manager

*"Our business is picking up."*

 Printed on Recycled Paper

# NOOKSACK VALLEY D I S P O S A L

P.O. Box 267 250 Birch Bay-Lynden Rd. Lynden, WA 98264 (360) 354-3400

The following is a comparison of garbage/recycling rates from cities in the area. The rates compare what a 60-68 gallon cart emptied every-other-week or weekly would cost. Every-other-week recycling is included in all prices. Some cities do not offer carts, so an equivalent volume using a 32-gallon container is used for comparison.

<u>City</u>	<u>EOW</u>	<u>Weekly</u>	<u>2-yd Dumpster</u>
Lynden (current)	\$18.80 per month	\$31.80 per month	\$34.95 per dump
Lynden (proposed)	\$19.40 per month	\$33.00 per month	\$36.45 per dump
Anacortes	\$23.47 per month	\$34.94 per month	\$62.56 per dump
Bellingham	\$27.37 per month	\$50.13 per month	\$38.05 per dump
Duvall	\$31.32 per month	\$41.91 per month	\$43.75 per dump
Everett	\$26.03 per month	\$33.54 per month	\$33.36 per dump
Ferndale	\$20.56 per month	\$36.62 per month	\$50.30 per dump
Friday Harbor	\$36.00 per month	\$68.00 per month	\$100.00 per dump
Marysville	\$24.61 per month	\$41.07 per month	\$44.43 per dump
Monroe	\$21.99 per month	\$32.19 per month	\$43.74 per dump
Mt. Vernon	\$29.70 per month	\$45.95 per month	\$33.02 per dump
Oak Harbor	\$21.79 per month	\$36.52 per month	\$64.08 per dump
Sedro-Wooley	\$27.50 per month	\$37.76 per month	\$55.88 per dump

*The typical household in Lynden sets out an average of 2.6 carts per month.*

**Lynden Yardwaste Rates** proposed are \$8.50 for EOW cart, \$11.50 for weekly cart, compared to \$12.12 for EOW and \$24.24 for 2 carts EOW in Bellingham and \$12.25 for EOW and \$24.50 for 2 carts EOW in Ferndale.

*"Our business is picking up."*



**Nooksack Valley Disposal and Recycling  
Current and Proposed Rates  
2021 and 2022**

<b><u>Residential</u></b>	<b><u>Current</u></b>	<b><u>Proposed</u></b>
Base Fee	\$ 6.00	\$ 6.00 per month
Per Cart	\$ 6.40	\$ 6.70 per dump
Optional Yardwaste	\$ 10.50	\$ 11.50 per month

**Commercial**

Can	\$ 3.95	\$ 4.15
Cart	\$ 7.40	\$ 7.70
1-yard	\$ 20.80	\$ 21.75 per dump
1.5 yard	\$ 26.90	\$ 28.10
2-yard	\$ 34.95	\$ 36.55

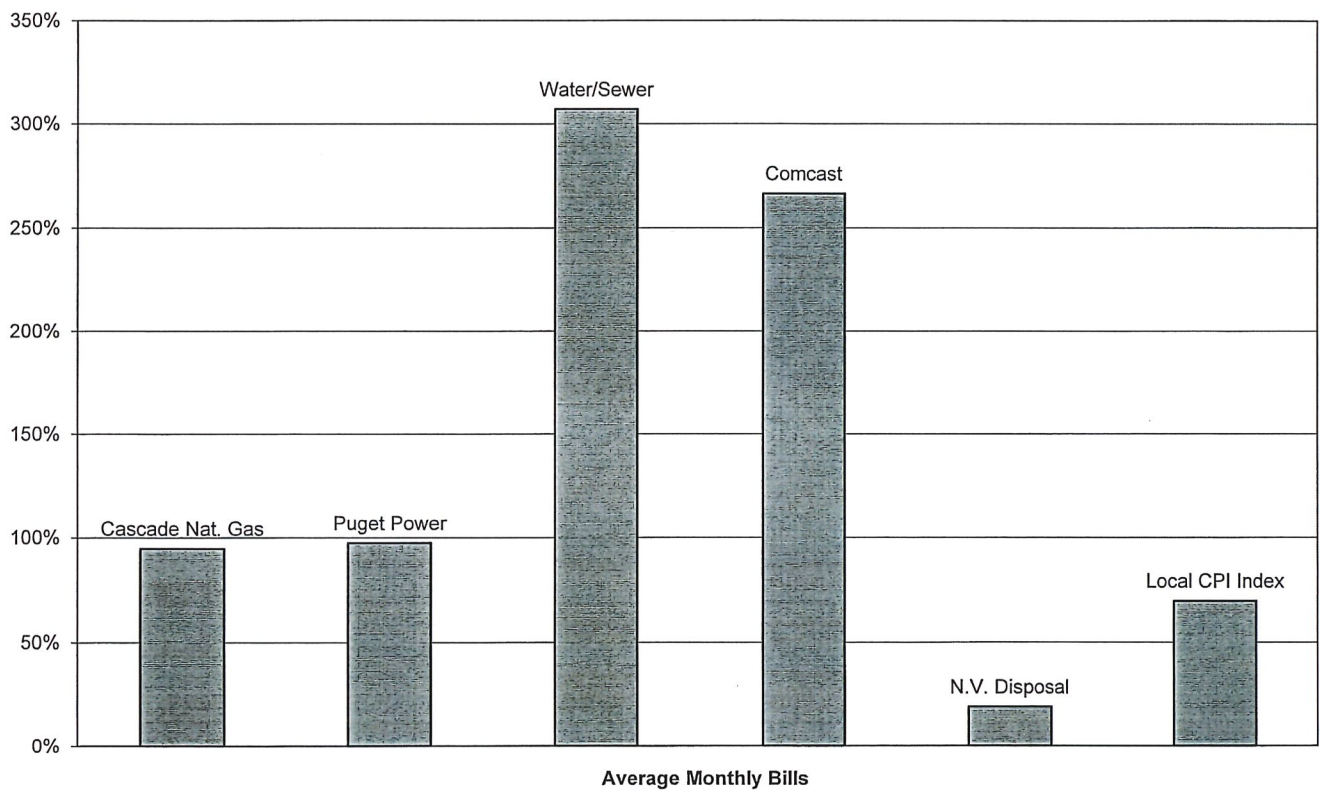
**Schools and Rest Homes**

1-yard	\$ 18.80	\$ 19.75 per dump
1.5 yard	\$ 24.90	\$ 26.10
2 yard	\$ 32.95	\$ 34.55

**Dumpster Rental Fees**

1-yard	\$ 10.00	\$ 10.00 per month
1.5 yard	\$ 11.00	\$ 11.00
2-yard	\$ 12.00	\$ 12.00

### 1998-2021 Rate Changes



# CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Interlocal Agreement – Whatcom Conservation District	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Interlocal Agreement	
<b>Summary Statement:</b>	<p>Staff is recommending another Interlocal Agreement with the Whatcom Conservation District (WCD) for a Stormwater and Water Conservation Community Education and Outreach Program in 2022. Some of their work scope fulfills certain City requirements under its NPDES Phase II Stormwater Permit. Their water conservation efforts fulfill certain Water Use Efficiency requirements from the State Department of Health. This year’s scope of work includes supporting the construction of stormwater improvements at the Northwest Washington Fair under a Department of Ecology grant obtained by the City.</p> <p>Additionally, through this agreement, the City participates in the Nooksack Basin Water Quality studies that evaluate results of fecal coliform testing to identify sources of contamination. This aids Whatcom County’s Portage Bay Shellfish District.</p> <p>The term of this agreement is January 1, 2022 through December 31, 2022. The Whatcom Conservation District Board approved this Interlocal Agreement at their November meeting. The Public Works Committee reviewed this agreement at their meeting on November 3, 2021 and concurred to recommend approval by City Council.</p>	
<b>Recommended Action:</b>	That City Council approve the Interlocal Agreement with the Whatcom Conservation District and authorize the Mayor’s signature on the agreement.	

**INTERLOCAL AGREEMENT  
CITY OF LYNDEN - WHATCOM CONSERVATION DISTRICT**

Stormwater and Water Conservation Community Education and Outreach Program

This Agreement is made and entered into by the City of Lynden, a Washington municipal corporation, hereinafter referred to as the “City”, and the Whatcom Conservation District, a Washington governmental subdivision, hereinafter referred to as the “WCD”, collectively referred to as “Parties”, to establish an arrangement pursuant to RCW Chapter 39.34 wherein the City will provide funding to the WCD to provide community education and outreach to the mutual advantage of each jurisdiction.

WHEREAS, Whatcom County and WCD are currently working together on a Pollution Identification and Correction (PIC) program as high priority focus under the Portage Bay Shellfish Recovery Plan; and

WHEREAS, a PIC program is a data-driven program guiding pollution tracking activities to areas with the greatest water quality problems to improve and protect water quality; and

WHEREAS, the Fishtrap Creek Watershed has been identified as a contributing source of bacteria within the Portage Bay Shellfish Protection District; and

WHEREAS, the City operates a Municipal Separate Storm Sewer System (MS4) under an NPDES Phase II Stormwater Permit issued by the Washington State Department of Ecology, which includes fecal coliform monitoring to address Total Maximum Daily Load (TMDL) limits on the Nooksack River; and

WHEREAS, the City’s MS4 discharges stormwater into Fishtrap Creek, which discharges into the Nooksack River, and fecal coliform counts taken by Whatcom County at various locations on Fishtrap Creek within the City limits exceed Washington Department of Health (DOH) shellfish standards; and

WHEREAS, the sampling methodology and the public information materials that have been developed under the existing Whatcom County and WCD partnership could be easily extended and adapted to serve the needs of the City; and

WHEREAS, the most efficient use of resources is to have the WCD expand its outreach and education programs consistent with the specific needs of the City to help improve and protect water quality and quantity in Fishtrap Creek and the Nooksack River; which are part of the Portage Bay Shellfish Protection District; and

WHEREAS, the City is expanding its water conservation program to include educational outreach on conservation within the public schools; and

WHEREAS, the WCD is equipped to provide the additional water conservation public outreach services needed by the City; and

WHEREAS, it is in the best interest of each party to enter into this Interlocal Agreement; and

WHEREAS, the recitals herein are a material part of this agreement;



NOW THEREFORE, the WCD and City agree as follows:

- I. *Purpose:* The purpose of this Agreement is to set the terms whereby the City will make available funds to the WCD to implement a community education and outreach program for stormwater pollution prevention and water conservation to residents within the City of Lynden.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to provide services as described in Exhibit A, Scope of Work, attached hereto.
- IV. *City Responsibilities:* The City hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs in providing and performing the services stated in the scope of work.
- V. *Payment:* The WCD shall submit itemized invoices in a format approved by the City. Each request for payment shall include invoices which detail work performed and supplies or materials purchased. The City agrees to pay WCD on a monthly basis, commensurate with portions of the work completed, for performing the work outlined in the scope of work (Exhibit A). WCD's compensation shall be paid monthly on account, for the services performed during that month, with payment due within 30 days of the invoice date. The City of Lynden Finance Department must receive invoices from WCD by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second Council meeting of the month (third Monday) before payment can be rendered. All invoices must include the services rendered, according to the scope of work (Exhibit A) for which payment is to be rendered. WCD is also responsible for providing a cost tracking report for declining budget balances on invoices. Invoices will be reviewed for completeness before payment will be authorized. The City will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective from January 1, 2022 through December 31, 2022; however, this agreement may be extended an additional year if both parties agree to the terms.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the City of Lynden Public Works Department Director and the WCD District Manager, or their respective designees.
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- IX. *Relationship of the Parties:* The Parties are separate entities organized under the laws of the State of Washington and this Agreement is not intended to create any new legal or corporate

entity. No agent, employee, servant, or representative of any party shall be deemed to be an employee, agent, servant, or representative or any other party for any purpose. Each party will be solely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement.

- X. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- XI. *Non-discrimination in Employment and Client Services:* Neither Party shall discriminate against any person on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental or physical handicap. No Party shall discriminate against any employee or applicant for employment because of handicap; provided that, this provision shall not apply if the particular disability prevents proper performance of the work involved.
- XII. *Termination:* This Agreement may be terminated by either party effective upon sixty (60) days written notice, mailed postage pre-paid by certified mail, return receipt requested, to the other party's last known address for the purposes of giving notice under this section. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- XIII. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XIV. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising here from shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XV. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XVI. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XVII. *Counterparts:* This Agreement may be executed in multiple counterparts and each shall be deemed an original, but all of which together constitute a single instrument.

XVIII. *Effective Date:* This Agreement shall be in full force and effect upon filing with the Whatcom County Auditor or upon listing by subject on the City’s web site, whichever method of filing is chosen.

IN WITNESS WHEREOF, the Parties have signed this Agreement this \_\_\_\_ day of \_\_\_\_\_, 2021.

WHATCOM CONSERVATION DISTRICT

CITY OF LYNDEN

By: \_\_\_\_\_  
Heather Christianson, WCD Chair

By: \_\_\_\_\_  
Scott Korthuis, Mayor

Approved as to form:

\_\_\_\_\_  
Bob Carmichael, City Attorney

\_\_\_\_\_  
Steve Banham Director of Public Works

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM ).

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

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at\_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM ).

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

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at\_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A - SCOPE OF WORK**

**Task 1: Program Administration**

The WCD will track and report education and outreach activities and landowner assistance provided as part of the Community Education and Outreach Program.

**Deliverables:**

1. Invoices will be submitted by the 5<sup>th</sup> of every month or quarterly if no work was performed in a given month.
2. A short progress report summarizing work performed during the invoice period will be included.
3. Annual written reports to include a summary of outreach & education efforts
4. Attend City of Lynden Stormwater meetings when needed

**Task 2: Stormwater Education and Outreach**

WCD will collaborate with the City to implement a community education and outreach program for stormwater pollution prevention to residents within the City of Lynden.

**Tasks include, but are not limited to the following:**

- Develop and distribute education materials on Stormwater
- Implement, monitor and support of pet waste educational campaign
- Coordinate and evaluate Septic Smart initiative
- Coordinate and evaluate school-based Stormwater
- Coordinate public participation activities
- Coordinate water quality sampling efforts to identify areas of concern
- Partner with other organizations to amplify efforts
- Assist with developing supplemental funding proposals as needed

**Deliverables:**

1. Educational materials generated
2. Report on number of students, teachers and classrooms visited
3. Water Quality data will be compiled and reported to City
4. Document response procedure for water quality reporting
5. Reports on other jurisdictions efforts in Stormwater
6. Other projects for specific audiences as needed

**Task 3: Water Conservation Education and Outreach**

WCD will collaborate with the City to implement a community education and outreach program for water conservation to residents within the City of Lynden.

**Tasks include, but are not limited to the following:**

- Develop and distribute education materials on Water Conservation
- Coordinate and evaluate school-based Water Conservation education program
- Coordinate and administer water conservation rebate program and home audit
- Partner with other organizations to amplify efforts
- Assist with developing supplemental funding proposals as needed

**Deliverables:**

1. Educational materials generated (CCR, web design, print materials)
2. Report on number of students, teachers and classrooms visited
3. Report on number of rebate applications and home audits completed
4. Other projects for specific audiences as needed

**EXHIBIT B - BUDGET**

Item	Documentation needed with invoice	Budget
<b>Task 1: Administration</b>	Timesheet	\$ 3,952.90
<b>Task 2: Stormwater Education</b>	Timesheet	\$ 26,657.40
<b>Task 3: Water Conservation</b>	Timesheet	\$ 13,728.65
Total Salary/Benefits	Timesheet	\$44,338.95
Overhead (30% of salaries/benefits)		\$13,301.69
Materials/Lab Fees/Printing	Receipts or invoices	\$3,000.00
Mileage	Mileage log or travel voucher	\$250.00
<b>Contract Total</b>		<b>\$60,890.64</b>

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Olivarez lease agreement 2021	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Parks	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Olivarez Lease agreement		
<b>Summary Statement:</b>		
<p>The house at 8200 Double Ditch Road has been vacated by the Dickinson's and is available for rent. The Parks Department advertised to City employees.</p> <p>The Parks Department is requesting to fill the vacancy with a city employee in order to provide better security, to have a physical presence at the locations, and to maintain the grass areas around the house and roadways.</p> <p>Kyle Olivarez has agreed to lease the house for a period of 1 year, and agrees to the conditions set forth in the lease regarding maintaining the area. The rental shall be \$2,000 per month inclusive of the leasehold excise tax required.</p> <p>The Parks Committee has reviewed the lease agreement and recommended bringing it to full council for approval.</p>		
<b>Recommended Action:</b>		
Motion to approve the lease agreement between the City of Lynden and Kyle Olivarez and authorize the mayors signature.		

**LEASE AGREEMENT**

This Lease Agreement (“Agreement” or “Lease”) is made this the 15th day of November, 2021, by and between the **City of Lynden** (hereinafter called “Lessor” or “City”), and **Kyle Olivarez** (hereinafter called “Lessee” or “Olivarez”). City and Olivarez may be referred to individually as “Party” and collectively as “Parties” herein.

**WHEREAS**, the City owns the real property located at 8200 Double Ditch Road, Lynden, Washington, depicted as **Lot C** in **Exhibit A** (“**Property**” or “**Leased Premises**”); and

**WHEREAS**, the City has agreed to lease the Property together with access thereto over an existing paved drive as shown on **Exhibit A** to Lessee on the terms and conditions set forth herein; and

**WHEREAS**, a portion of the Property is a public park and shall be used for public park purposes during the term of this Lease; and

**WHEREAS**, the foregoing recitals are a material part of this Agreement;

**NOW THEREFORE**, in recognition of the foregoing recitals, and in consideration of the covenants and agreements hereinafter contained, the Parties agree as follows:

**1. Premises Leased and Consideration:**

The City hereby leases the Property to Lessee. Lessee is authorized to possess the Property pursuant to this Agreement commencing on **November 15, 2021**.

Lessee shall pay to the City as rent for the Property the sum of **\$2,000.00** per month inclusive of leasehold excise tax, in advance or on the first day of each calendar month. Rent will be prorated if the term does not start on the first day of the month or for any other partial month of the term. The first monthly payment will be prorated and shall be due upon execution of the Lease. Any rental payment not received by the City by the 10<sup>th</sup> day of each month shall give rise to a late charge of \$10.00 per day from the first day rent is late, which shall be due and payable immediately as rent hereunder. If a personal check is dishonored, a \$40.00 returned check charge will be assessed, and thereafter Lessee must pay by money order or cashier’s check.

Notwithstanding, the foregoing, the City shall not charge or impose any late fees or other charges against Lessee for the nonpayment of rent that became due prior to six (6) months following the expiration of the Governor’s eviction moratorium (State of Washington Governor’s Proclamation 20-19.6) on June 30, 2021.



**2. Term:**

The term of this Lease shall be **one (1) year**, beginning on the **November 15, 2021** and ending on **November 15, 2022**, with an option for an additional year. Lessee may exercise the option to renew the lease for an additional year by providing to the City at least twenty (20) days' written notice prior to the end of the lease term of Lessee's intent to exercise the option.

**3. Termination:**

Lessee may terminate this Lease at the end of the lease term by giving the City at least twenty (20) days' written notice prior to the end of the lease term. During the lease term, the City may terminate this Lease only due to a material breach by Lessee or if the Property becomes unsafe for residential use. The City may also terminate Lessee's tenancy at the end of the lease term by giving Lessee at least sixty (60) days' written notice prior to the end of the lease term that Lessee's tenancy will be deemed expired (and thus terminated) at the end of the lease term. The City shall serve said notice in a manner consistent with RCW 59.12.040.

**4. Insurance:**

Lessee is encouraged to obtain a renters policy of insurance to insure the value of his personal property located on the Property.

**5. Exclusive Access Areas:**

Lessee shall have exclusive access to the residence on the Property and its immediate grounds, all appurtenances to the residence, and the two lower lawn areas (the "Exclusive Access Area"), subject to lawful entry by the City or its agents. Outside of the Exclusive Access Area, remainder of the Property is a public park. The Parties agree that during the term of this Lease a legal description and depiction of the Exclusive Access Area may be prepared by Lessor to more precisely define the entire Exclusive Access Area, which description and depiction shall be made an addendum to this Agreement.

**6. Lessee Access to Areas Outside of Exclusive Access Areas:**

Lessee shall have non-exclusive access no greater and no less than any other member of the public to the Property outside the Exclusive Access Area. Outside the Exclusive Access Area, Lessee shall not trim or remove vegetation, cut down trees,

construct permanent or semi-permanent structures or other improvements, or engage in excavation or fill work.

**7. Stormwater Discharge Element:**

The City reserves the right to construct a stormwater discharge element on the Property for the Pepin Creek development project or Double Ditch overflow. In no event shall the City place the stormwater discharge element in a place or manner such that it prevents Lessee's residential use of the Property while this Lease is active. The City may prohibit Lessee from entering the area around the stormwater discharge element if required for safety or insurance purposes.

**8. Utilities and Fees:**

Lessee shall be solely responsible for all charges for light, heat, water, telephone, cable, sanitary services and other utilities which shall be charged against the Property during the full term of this Lease. In the event the City establishes utility service(s) outside the Exclusive Access Area, those costs and charges of utilities used outside of the Exclusive Access Area shall be borne by the City.

**9. Repairs, Maintenance, and Improvements – General Terms:**

The Property is accepted by Lessee in its present condition. Lessee shall, at his own expense and at all times, keep the Exclusive Access Area neat, clean and in a sanitary condition, and keep and use the Exclusive Access Area in accordance with applicable laws, ordinances, rules, regulations and requirement of governmental authorities. Lessee shall permit no waste, damage or injury to the Exclusive Access Area; all waste and junk shall be removed promptly. No hazardous materials of any kind shall be brought on the Property by Lessee, other than normal cleaning products, lawn care maintenance products and products typically stored at a person's place of residence primarily used for maintenance and repair. Lessee shall maintain the Exclusive Access Area in as good condition as they now are, reasonable use and wear excepted, and damage by fire and other casualty excepted.

**10. Repairs, Maintenance, and Improvements – Specific Terms:**

- a. Written Permission of City Required.** Prior to undertaking any major maintenance or improvements in the Exclusive Access Area, the Lessee shall obtain the written permission of the City detailing the work to be performed. Lessee shall not undertake any maintenance or improvement activity outside the Exclusive Access Area.

- b. Residence.** Lessee shall be solely responsible for maintenance of the interior and exterior of the residence. This responsibility extends to elements of the residence including, but not limited to exterior walls and siding, roofs, foundations, decks, plumbing and electrical elements located inside of the residence, interior walls, flooring, all appliances, and all other interior or attached exterior fixtures. The Lessee may maintain and improve these elements in any way such that the value or safety of the Property is not greatly diminished, subject to Section 10(a) above.
- c. Outdoor Exclusive Access Area.** Lessee shall be responsible for mowing the two lower lawn areas, and maintenance of the grounds in the immediate vicinity of the residence, and all other outdoor portions of the Exclusive Access Area. The City shall supply Lessee with a suitable lawn mower for mowing the lawns.
- d. City Maintenance and Improvements.** The City shall maintain all areas of the Property outside of the Exclusive Access Area. The City may make improvements to these areas of the Property, including but not limited to adding park-like features such as on-site parking, playground equipment, trails, and other amenities. Lessee acknowledges that some or all of these improvements may take place while he resides on the Property.
- e. Capital Improvements.** Any capital improvements required to the Property shall be at the sole cost and expense of the City. The City need not make any needed capital improvements if it determines in its sole and absolute discretion that such capital improvements do not make economic sense. In such an event, Lessee shall have the option to terminate the Lease on five (5) days notices if the needed capital improvements injure their reasonable use and enjoyment of the Property.

**11. No Commercial Use by Lessee:**

Lessee shall not operate a commercial venture of any kind on the Property.

**12. Subletting or Assignment:**

Lessee shall not sublet, or through any other process, transfer to any other person rental of the Property, or any other right or privilege, without written permission of the City.

**13. Right of Access:**

The City shall have the right to enter the Exclusive Access Area at all reasonable times for the purpose of inspection or of making excavations, surveys, design reviews, repairs, additions or alterations. Unless an emergency situation exists, all access by the City to the Exclusive Access Area shall require no less than twenty-four (24) hour prior written notice. The City shall have the right to enter areas on the Property other than the Exclusive Access Area at any time, with or without notice to Lessee.

**14. Default:**

Material breaches of this Lease by Lessee shall constitute default and be grounds for termination of the Lease. In the event of a default by Lessee, the City may terminate this Lease and seek removal of Lessee from the premises, upon providing written notice as required by law.

**15. Accidents and Non-Liability:**

Lessee agrees that the City shall not be liable for loss arising out of damage to or destruction of stored material goods and chattels or livestock resulting from any defect in the Property or from any other cause, while in the possession of Lessee. This Agreement shall be binding whether or not such damage or destruction be caused by the neglect of the City or its, agents, servants, or employees, and further, any and all right of subrogation by any insurance carrier is hereby waived, except as herein described.

**16. Abandoned Property:**

Upon termination of Lease and surrendering possession of the Property to the City by the Lessee, or at the completion of the rental term or by any other means, any property remaining in or about the Property shall be assumed by the City to be abandoned property and may be disposed of in accordance with the laws of the State of Washington.

**17. Relationship of the Parties:**

The Parties agree that they are each independent entities operating pursuant to the terms and conditions of this Agreement. No agent, employee, servant or representative of any Party shall be deemed to be an employee, agent, servant or representative of any other Party for any purpose. Each Party will be solely and

entirely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement.

**18. Indemnification and Hold Harmless:**

Lessee shall indemnify, defend and hold harmless the City from any and all claims, suits, actions, damage awards, fee awards, fines, or penalties, whether to person or property, or expense of any type or nature which may occur to the City including reasonable attorneys' fees, expert's fees and other costs, based upon the intentional or negligent acts or omissions of Lessee, its agents and/or employees in the performance of this Agreement. In any case in which suit or action is instituted against the City by reason of damages or injury caused in whole or in part by the gross negligence or intentional misconduct of Lessee, its agents and/or employees, the City shall cause written notice thereof to be given to Lessee and Lessee thereupon shall have the duty to appear and defend in any such suit or action, without cost or expense to the City. For purposes of carrying out this indemnification and hold harmless provision, Lessee expressly waives any immunity it may otherwise have pursuant to Title 51, Industrial Insurance provisions of the Revised Code of Washington.

**19. Costs and Attorneys' Fees:**

In the event any unlawful detainer action, lawsuit, or other legal proceeding is commenced pertaining to this Lease, the prevailing party shall be entitled to recover all of its reasonable legal costs and attorney's fees incurred from the other party.

**20. Extent of Agreement:**

This Agreement contains all of the terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of the Agreement.

**21. Notice and Rent Payment.**

Any rent, notice, declaration, demand or communication to be given by a Party to this Agreement to the other shall be in writing and transmitted to the other Party by personal service or certified U.S. mail, return receipt requested, postage fully prepaid, addressed as follows:

**City of Lynden:**

**Lessee:**

\_\_\_\_\_  
Mayor Scott Korthuis

\_\_\_\_\_  
Kyle Olivarez

Date: \_\_\_\_\_

Date: \_\_\_\_\_

The mailing and certifying of any such notice as herein provided shall be sufficient service thereof. All notices given in compliance with this section shall be deemed effective two (2) business days following the deposit thereof in the U.S. mail, irrespective of the date of actual receipt of such notice by the addressee. Either Party may, by notice, change its address for notice.

**22. Recording.**

Either Party may choose to record this Lease with the Whatcom County Auditor’s Office. The recording Party shall be responsible for the costs of recording and shall provide the other Party a copy of the recorded Lease.

**23. Entire Agreement.**

This Lease Agreement contains the entire agreement of the Parties hereto and supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. Neither the City nor Lessee shall be liable to the other for any representations made by any person concerning the Property or regarding the terms of this Agreement, except to the extent that the same are expressed in this Agreement. This Agreement may be amended only by written instrument executed by the City and Lessee or their lawful successors and assigns subsequent to the date hereof.

**24. Governing Law and Venue Stipulation:**

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by the parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit in equity, or judicial proceeding, for the enforcement of the Agreement, or any of the provisions contained therein, shall be instituted and maintained only in the Whatcom County Superior Court, Bellingham, Washington.

**IN WITNESS WHEREOF**, the Parties have hereto set their hands and seals the date first above written.

LESSOR:  
THE CITY OF LYNDEN

LESSEE:

By \_\_\_\_\_  
Scott Korthuis, Mayor

\_\_\_\_\_  
Kyle Olivarez

STATE OF WASHINGTON    )  
  ) §  
COUNTY OF WHATCOM    )

I certify that I know or have satisfactory evidence that SCOTT KORTHUIS, the Mayor of the City of Lynden, signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument and acknowledged that he had the authorization to sign said instrument on behalf of the Lessor herein.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, NOTARY PUBLIC  
in and for the State of WA. My commission  
expires \_\_\_\_\_.

STATE OF WASHINGTON    )  
  ) §  
COUNTY OF WHATCOM    )

I certify that I know or have satisfactory evidence that KYLE OLIVAREZ signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument and acknowledged that he had the authorization to sign said instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_, NOTARY PUBLIC  
in and for the State of WA. My commission  
expires \_\_\_\_\_.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Public Hearing for Ordinance No. 1638 Real Estate Property Tax for 2022	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
Ordinance No. 1638 – Real Estate Property Tax for 2022		
<b>Summary Statement:</b>		
<p>As published, 7:00PM on November 15, 2021 is the time and date set for the Public Hearing on the 2022 Property Tax Levy as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting. Upon completion of the public hearing with no items outstanding the 2022 Property Tax Levy will be presented to the City Council for adoption.</p>		
<b>Recommended Action:</b>		
Conduct the required Public Hearing and consider any commentary by the public regarding the 2022 Property Tax Levy.		



ORDINANCE NO. 1638

AN ORDINANCE FOR THE CITY OF LYNDEN  
AMENDING ORDINANCE NO. 1571 LEVYING TAXES FOR  
GENERAL MUNICIPAL PURPOSES FOR  
TAXES COLLECTIBLE AND PAYABLE IN 2022  
IN THE CITY OF LYNDEN, WASHINGTON

The City Council of the City of Lynden does ordain as follows:

Section A. The City of Lynden hereby levies, for 2022 taxes, for the purpose of meeting the expenditures of the City of Lynden, Washington, for the year 2022, the following specific sums:

CURRENT EXPENSE FUND	\$3,026,336
BERTHUSEN PARK	\$65,000
2012 LTGO REFUNDING BOND DEBT	<u>\$546,050</u>
TOTAL	\$3,637,386

Section B. In order to raise said specific sums, there is needed a levy of \$1.42126 per thousand dollars of assessed valuation of the property in the City of Lynden as shown by the assessment roll for the year 2021.

Section C. Any ordinance or parts of ordinances in conflict herewith are hereby amended.

Section D. This ordinance amends Ordinance No. 1571 and shall take effect and be in force from and after its passage by the City Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.

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

MAYOR

\_\_\_\_\_  
Scott Korthuis

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Pam Brown  
City Clerk

\_\_\_\_\_  
Robert Carmichael  
City Attorney

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Public Hearing for the 2022 Budget	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
None		
<b>Summary Statement:</b>		
Per State law this would be the second of the two required hearings for public commentary on the 2022 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.		
<b>Recommended Action:</b>		
Conduct the required Public Hearing and consider any commentary by the public regarding the 2022 Preliminary Budget.		

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Ordinance No. 1638 – Real Estate Property Tax for 2022	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance No. 1638 – Real Estate Property Tax for 2022		
<b>Summary Statement:</b>		
<p>The City of Lynden is required by State regulations to adopt the proposed 2022 property tax levy. Attached is a copy of the proposed Ordinance. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor's Office. When comparing preliminary 2020 levy assessment rates to 2021 levy assessment rates, the decrease is estimated at 0.154 cents per mil to a mil rate of 1.42126.</p> <p>The final figures for the assessed valuation of the city's tax base are not yet available. Once those are provided by the County Assessor, an ordinance setting the final, exact levy will be provided in January 2022 for consideration.</p> <p>At today's Finance Committee meeting the draft ordinance was discussed and approved for review by the full Council.</p>		
<b>Recommended Action:</b>		
To adopt Ordinance No. 1638 and authorize the Mayor's signature.		

ORDINANCE NO. 1638

AN ORDINANCE FOR THE CITY OF LYNDEN  
AMENDING ORDINANCE NO. 1571 LEVYING TAXES FOR  
GENERAL MUNICIPAL PURPOSES FOR  
TAXES COLLECTIBLE AND PAYABLE IN 2022  
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BERTHUSEN PARK	\$65,000
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TOTAL	\$3,637,386

Section B. In order to raise said specific sums, there is needed a levy of \$1.42126 per thousand dollars of assessed valuation of the property in the City of Lynden as shown by the assessment roll for the year 2021.

Section C. Any ordinance or parts of ordinances in conflict herewith are hereby amended.

Section D. This ordinance amends Ordinance No. 1571 and shall take effect and be in force from and after its passage by the City Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.

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

MAYOR

\_\_\_\_\_  
Scott Korthuis

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Pam Brown  
City Clerk

\_\_\_\_\_  
Robert Carmichael  
City Attorney

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Alliance Freeze Dry Conditional Use Permit	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<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: _____
<b>Legal Review:</b>	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	PC Reso 21-08, Draft PC Minutes, Final Staff Report and Recommendations, TRC Report and Applicant Response, CUP Application 21-03, Written Public Comment	
<b>Summary Statement:</b>	<p>Alliance Freeze Dry, Inc., through their agent, Tony Freeland, has applied for a Conditional Use Permit to allow the use of food processing to occur on property with a zoning designation of Industrial Business Zone (IBZ). The subject location is the southeast corner of Main St. and Berthusen Rd. but addressed to the eastern frontage as 675 Redwood Rd. The proposal details the construction of a 220,000 square foot facility which would receive frozen raw meat, fish, vegetables and fruit to be processed and packaged as freeze-dried pet food.</p> <p>The Conditional Use Permit also requests the ability to exceed a maximum building height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet to allow for the mechanized stacking of product.</p> <p>The application came before the Planning Commission as a virtual open public hearing on October 21<sup>st</sup>. The resulting resolution recommended approval per the following conditions:</p> <ol style="list-style-type: none"> <li>1. Those conditions identified in the final Technical Review Report.</li> <li>2. That the applicant demonstrate compliance with noise performance standard, per LMC 19.25.040 prior to issuance of the final building occupancy.</li> <li>3. That the Conditional Use Permit be evaluated annually as described by code, for compliance with the performance standards of LMC 19.25.040, especially as it relates to noise and smell.</li> <li>4. That only 7.5% of the total building area is permitted to reach a height of 75 feet.</li> <li>5. That the additional height is located in the northeast portion of the building as shown in CUP Application 21-03.</li> </ol> <p>The Planning Commission Resolution and staff review documents are attached for Council review.</p>	
<b>Recommended Action:</b>	Motion to approve Conditional Use Permit 21-03 which authorizes the use of food processing on an IBZ zone and permits additional building height subject to the conditions outlined in the Planning Commission Resolution 21-08. This motion also authorizes the mayor's signature on the Findings of Fact and Conclusion of Law.	

# CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE  
Conditional Use Permit Application

October 15, 2021

## CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

### STAFF REPORT

Re: The application of Freeland and Associates, Inc. for a Conditional Use Permit Application.

CUP #21-03 Alliance Freeze Dry  
FINDINGS, CONCLUSIONS, AND  
RECOMMENDATION

#### I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a Conditional Use Permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which processes, and packages freeze-dried pet food.

Conditional Use Permit approval is also required to exceed building heights of more than 45 feet. The proposal includes a request to build a portion of the building to a height of 75-feet.

Recommendation: Staff recommends approval of the Conditional Use Permit (CUP), subject to the conditions of approval.

#### II. PRELIMINARY INFORMATION

Applicant: Tony Freeland, Freeland and Associates, Inc.

Property Owner: PeaceHealth

Property Location: 675 Redwood Road, Lynden WA

Parcel Number: 400224-037346 and 400224-037380

Legal Description: LOT 1 AND 2 WEST LYNDEN BUSINESS PARK SBSP NO. 1, RECORDED UNDER AUDITOR'S FILE NO. 2071000873, RECORDS OF WHATCOM COUNTY, WASHINGTON

Alliance Freeze Dry Conditional Use Permit – TRC Report

<u>Notice Information:</u>	Application Submitted:	August 16, 2021
	Notice of Application:	September 8, 2021
	Notice of SEPA determination:	September 22, 2021
	Notice of Hearing:	September 8, 2021
	Comment Period Ending:	September 22, 2021

SEPA Review: Lynden SEPA #21-15. Mitigated Determination of Non-Significance (MDNS) issued September 20, 2021

Authorizing Codes, Policies, and Plans:

- LMC Chapter 16 Environmental Policy
- LMC Chapter 17 Land Development
  - LMC Chapter 17.09, Review and Approval Process
    - LMC Chapter 17.09.040, Planning Commission Review and Recommendation
- LMC Chapter 18 Subdivisions
- LMC Chapter 19 Zoning Code
  - LMC Chapter 19.25, Industrial Zone
    - LMC Chapter 19.25.030, Primary Permitted Uses
    - LMC Chapter 19.25.040,
    - LMC Chapter 19.25.050, Performance Standards
    - LMC Chapter 19.25.060, Required Bulk Regulations, Height Limits and Setbacks
    - LMC 19.25.070, Landscaping requirements
  - LMC Chapter 19.49, Conditional Use Permits
    - LMC Chapter 19.49.020, Standards and Criteria for Granting a Conditional Use Permit
    - LMC Chapter 19.49.040 Special Conditions for the Approval of a Conditional Use Permit within the West Lynden Sub Area.
- International Building Code
- City of Lynden Manual for Engineering Design and Development Standards
- RCW 197-11-340(2)

**III. PROJECT DESCRIPTION**

The request is for a conditional use permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which produces and packages freeze-dried pet food. The processing plant site is approximately 9.93 acres and located at the southeast corner of

Alliance Freeze Dry Conditional Use Permit – TRC Report

the intersection of Main Street and Berthusen Road. The parcel has frontage on, and is addressed from Redwood Road.

The proposal also includes a request to build a portion of the building to 75-foot height. Most of the building will fall below the permitted maximum height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet in height to allow for the mechanized stacking of product.

**IV. PUBLIC NOTICE AND COMMENT**

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on September 8, 2021

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on September 22, 2021 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on October 6, 2021.

Public Comment Received:

The comments are summarized, with City response, below:

- 1) Thomas VanBerkum - Submitted a letter (included in the PC package) citing concerns related to the height of the proposed building and its impact on views, storm drainage challenges in this area, and other impacts including additional traffic, odors, noise and light.
- 2) Greg Dykstra - Email (included in the PC package) citing concerns related to storm water runoff, odors that would be created from the processing plant, the noise associated with the facility, and the potential for views to be blocked by the 75 foot tall portion of the building.
- 3) Randy Korthus – Letter submitted (included in the PC package) which details concerns related to drainage along Berthusen Road and the West Lynden Business Park, building height and consistency with other buildings in the area, and snow drifting on the west side of the proposed building negatively affecting Berthusen Road.



Alliance Freeze Dry Conditional Use Permit – TRC Report

*City's response:* The subject property is slated for industrial development. The proposed facility is a large-scale industrial building that will be highly visible from Main Street and Berthusen Road. However, landscape buffers and street trees along public road frontages are required. Architecture includes the screening of roof-top mechanical equipment.

Buildings in this zoning category are permitted to reach heights of 45 feet and most of the building will be within this height limitation with the top of wall reaching about 41 feet. Only 7.5% of the building footprint will be constructed to a 75-foot height. The extra height portion is designed to create an efficient warehousing system within the building. This taller portion will not cast a shadow on adjoining ag or residential properties as it is separated by wide street right-of-ways. The scale of the site and surrounding properties will accommodate this additional height without significant impact on views.

Similar requests for additional height have been granted to Preferred Freezer on Curt Mayberry Drive (although granted, this additional height was not utilized by the freezer), as well as on two structures for Darigold on Depot Road. For reference the Darigold tower at Main and Depot is 145 feet tall.

Lighting on the site can and will be directed downward and shielded so as not to cast light on surrounding properties. The applicant has agreed that site lighting will be shielded to avoid light trespass.

Noise and odor impacts are subject to performance standards referenced in LMC 19.25. Adjacent agriculturally zoned properties are not subject to these same standards.

Regarding snow closures. Travel lanes on Berthusen Road are about 75 feet away from the western wall of the Alliance facility. Alliance will be motivated to keep snow from drifting over the access lane along the western façade in order to maintain day-to-day function.

The Conditional Use Permit is not focused on stormwater review. However, it should be noted that the stormwater management plan for this site will be held to the strict standard of the Western Washington Stormwater Manual. It will be designed to accommodate the stormwater that falls on this site and properly address downstream impacts. Development here will include a storm water management system where there is currently none in place.

**V. ANALYSIS AND CONSISTENCY WITH REGULATIONS**

The application is reviewed in accordance with the LMC 19.49.020 and the criteria listed for land use application review in LMC 17.09.040(C) “Planning Commission Review and Recommendation; Required Findings”.

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
- 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - a. Traffic and pedestrian circulation;
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
  - c. Building and site design; and
  - d. The physical characteristics of the subject property.

Alliance Freeze Dry Conditional Use Permit – TRC Report

- 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
- 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

**VI. TECHNICAL REVIEW COMMITTEE COMMENTS**

Planning and Development Department

- *Modification of Specific Binding Site Plan Required:* As this area was previously slated to become a medical facility, the Specific Binding Site Plan, by which the subject lots were created, currently requires that the property be developed per the City’s medical services overlay. The applicant has acknowledged that the SBSP must be modified. The process for modifying a SBSP is detailed in LMC 18.24.110.
- *Landscape Buffer and Screening:* Landscape buffer areas are currently indicated on the Specific Binding Site Plan in widths that exceed the typical standard. Per LMC 19.25.070, landscape enhancement is required along all streets in an industrial zone. The applicant has acknowledged that this is to include a minimum 10 foot, Type I landscape buffer which consists of “a combination of trees, shrubs and other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it.” (LMC 19.61.070). A landscape plan must be included in the civil plan set which verifies compliance.

## Alliance Freeze Dry Conditional Use Permit – TRC Report

- *Street Trees:* The applicant has acknowledged that the installation of street trees along all public street frontages will be required. Code requires that trees be planted a minimum of 30 feet on center or averaged to reach an equivalent quantity. Minimum caliper at the time of planting is 1.5 inches. A landscape plan must be included in the civil plan set which verifies compliance.
- *Building and Siting Requirements:* After reviewing the proposed site plan, the building official has noted that the setback for “unlimited area buildings” on the south property line should be addressed per 2018 IBC section 507.2.1. This will require that a “no-build” easement be secured or that the building size be reduced to accommodate a 60-foot setback from the south property line. Applicant has acknowledged and is addressing through the establishment of a “no build” easement. No building permit will be issued until this easement is in place.
- *Building Height and Construction Methods:* The applicant has acknowledged that per International Building Code and Fire Code standards the building, as currently designed, shall not exceed 75 feet in height. Heights beyond this limit would trigger additional building and fire code requirements.
- *Screening of Condenser Units:* Consistent with the City’s design standards in commercial zones, staff strongly recommends, and the applicant has agreed that all roof-mounted condenser units be screened from view so that this mechanical equipment is not visible from public streets.
- *Building Finish:* Applicant has indicated that the building will be metal wall panels that are a white color. An online link to the material supplier was provided.
- *Site Lighting:* Public comment has raised concerns related to site lighting specifically light pollution that may disturb nearby residences. The applicant has agreed that site lighting will be shielded to avoid light trespass.

### **Public Works Department**

- *Access Points:* The applicant has acknowledged that no vehicular access is permitted on Berthusen Road or Main Street. Emergency access locations which are gated to day-to-day use may be approved by Public Works and the Fire Chief. Access to these gated entrances must be coordinated with the Lynden Fire Department.
- *Stormwater Infrastructure:* Staff has acknowledged that the applicant has submitted a Preliminary Stormwater Design Memo, written by Freeland and Associates and

## Alliance Freeze Dry Conditional Use Permit – TRC Report

dated September 10, 2021. The memo identifies the property soils, the project details and the expected methods for treating and detaining stormwater. Additionally, the memo addresses the 9 Minimum Requirements (2014 DOE Manual) and associated stormwater management BMPs and concludes that the project, as preliminarily proposed, can comply with stormwater management regulations. The applicant has acknowledged that approval of final civil plans is required prior to issuance of building permit.

The applicant has acknowledged that a stormwater management plan including pipe sizing prepared by a professional engineer and meeting the requirements of the City's Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required. This plan must be approved by the City of Lynden prior to final approval of the project plans. Additionally, applicant has acknowledged that groundwater is high in this area. A groundwater investigation shall be incorporated into this design.

- **Stormwater Pollution Prevention Plan:** The applicant has acknowledged that a final Stormwater Pollution Prevention Plan (SWPPP) (erosion control and sediment plan) must be included in the drainage plan and construction plans. This must be designed by a professional engineer and constructed in compliance with the Department of Ecology's Best Management Practices (including all known and reliable technologies) and the standards approved in the Manual for Engineering Design and Development Standards.
- **Utilities – Water and Sanitary Sewer:** The applicant has acknowledged that water hookup fees and sanitary sewer fees shall be paid as established by City Code. If future structure increases/changes demand for water or sewer capacity, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection. Sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
- **Street Improvements – Dedication Required:** The applicant has acknowledged that the City is coordinating the improvement of the Berthusen and Main Street intersection with the construction of a round-about. This improvement will be designed for truck movement and will improve safety at this location. The City will require the dedication of property necessary to facilitate the round-about. The applicant has indicated that they will seek compensation for the property dedicated to this street project. The City can provide compensation in the form of credit toward Transportation Impact Fees in the amount equal to the assessed value of the land dedicated.

Alliance Freeze Dry Conditional Use Permit – TRC Report

Fire Department

- *Permit Review:* The applicant has acknowledged that due to the complexity of this type of facility, and the on-site storage of hazardous materials, the City will coordinate 3<sup>rd</sup> party review of building and fire code requirements.
- *Hydrants:* The applicant has acknowledged that additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete Fire review will occur at the time of building permit.

Parks Department – had no comments on this application.

**VII. RECOMMENDATION**

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 2) The proposed conditional use permit shall be consistent with the scope of the proposal as provided in Conditional Use Application #21-03. The application was supplemented by the applicant’s October 7, 2021 responses and updated building elevations which demonstrated the screening of roof-top mechanical equipment. Additionally, site layout was subsequently updated in coordination with the planned intersection improvements at Berthusen and Main Street. Any changes to the proposal may require additional review and approval by City staff and/or City Council.
- 3) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.





Freeland and Associates, Inc.

220 W. Champion St., Suite 200  
Bellingham, Washington  
(360) 650-1408

October 7, 2021

City of Lynden  
300 4<sup>th</sup> Street  
Lynden, WA 98264

Attention: Korene Samec  
Email: *Sameck@lyndenwa.org*

Subject: Response to Technical Review Committee Report  
CUP #21-03, Alliance Freeze Dry

Dear Ms. Samec:

We have received the Technical Review Committee Report for the Alliance Freeze Dry project dated October 4, 2021. We offer the following response to staff comments received:

**Planning Department Comments:**

- 1. Existing Lot Lines: The subject property consists of two lots. Lot line revision is necessary to avoid siting the proposed building on top of the property line. A lot line adjustment or modification of the Specific Binding Site Plan are options for revision. Please address.

**Response: Acknowledged.**

- 2. Modification of Specific Binding Site Plan Required: As this area was previously slated to become a medical facility, the Specific Binding Site Plan, by which the subject lots were created, currently requires that the property be developed per the City’s medical services overlay. If the site is to be developed otherwise the SBSP must be modified. The process for modifying a SBSP is detailed in LMC 18.24.110.

**Response: Acknowledged.**

- 3. Performance Standards: This facility is expected to comply with performance standards detailed in LMC 19.25.040 and 19.25.050. This includes, but is not limited to, emissions of smoke, dust and other particulate matter, and of toxic and noxious gases. All discharge must meet or exceed standards set by Northwest Clean Air Authority and all Washington State and federal standards. Note that



emissions which do not meet performance standards and are offensive or regularly prevent the enjoyment of surrounding properties may be considered an unlawful nuisance. Public comment has raised concerns related to noise and odors. Please describe the measures that will be taken to reduce noise and odors associated with this facility.

**Response:** The plant will only utilize frozen raw materials that meet food standards, and will not carry out any slaughtering, cutting, cleaning and cooking during the entire production process. The whole process is simply physical mixing, forming, freeze-drying, packaging and storage onsite. The plant will include a designated low-temperature waste room to temporarily keep the organic waste generated in the process, and will be recycled promptly by a professional waste recycling company. The process will not produce offensive odors.

The hot water boilers will meet the State of Washington air quality emissions requirements.

OTR (Over the Road) Trucks could produce some noise, but this would generally be on the east side of the Facility which faces the Industrial Park. The expected traffic is less than 9 OTR trucks daily during the daytime generally. City waste trucks or recycling trucks, could also produce some noise on a limited basis – possibly 5 trips per week.

The mechanical refrigeration equipment will also produce some noise inside the building which are generally confined inside the building. There could be some indication of equipment running at the exterior of the building. We would expect the level to be similar to or less than the existing freezer which now resides in the Industrial Park and will satisfy the requirements of the Washington Department of Ecology.

4. Landscape Buffer and Screening: Landscape buffer areas are currently indicated on the Specific Binding Site Plan in widths that exceed the typical standard. Per LMC 19.25.070, landscape enhancement is required along all streets in an industrial zone. This is to include a 10-foot, Type I landscape buffer which consists of “a combination of trees, shrubs and other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it.” (LMC 19.61.070). A landscape plan must be included in the civil plan set which verifies compliance.

**Response: Acknowledged.**

5. Street Trees: Be advised, the installation of street trees along all public street frontages will be required. Code requires that trees be planted a minimum of 30 feet on center or averaged to reach an equivalent quantity. Minimum caliper at the time of planting is 1.5 inches and the species theme consistent with existing trees on Main Street. A landscape plan must be included in the civil plan set which verifies compliance.

**Response: Acknowledged.**

6. Building and Siting Requirements: After reviewing the proposed site plan, the building official has noted that the setback for the unlimited area buildings on the south property line should be addressed per 2018 IBC section 507.2.1. This will require that a “no-build” easement be secured or that the building size be reduced to accommodate a 60-foot setback from the south property line. Please address.

**Response: A “no build” easement is being prepared in associated with the adjoining property owner.**

- 7. Building Height and Construction Methods: Per International Building Code and Fire Code standards the building, as currently designed, shall not exceed 75 feet in height. Heights beyond this limit would trigger additional building and fire code requirements.

**Response: Acknowledged.**

- 8. Building Height and Impacts: The IBZ zoning allows for a maximum building height of 45 feet but specifically allows for a Conditional Use Permit, rather than a variance, to act as a tool for requesting additional height. The applicant has requested that a portion of the building be permitted to reach a height of 75 feet. It appears that much of the building will be 30-32 feet in height. Please provide the final “top of wall” height for the majority of the building as well as the percentage of the building which would be reaching (or nearly reaching) the 75 foot mark.

**Response: Top of wall for the majority of the building will be +/- 41' AFF (above finished floor). The area approximately 75' in height is +/- 7.5% of the total building area.**

- 9. Screening of Condenser Units: Consistent with the City’s design standards in commercial zones, staff strongly recommends that all roof-mounted condenser units be screened from view so that this mechanical equipment is not visible from public streets. Please revise building elevations to include condenser screening.

**Response: Condenser screening provided on Drawing A9.1 [Dated 10.5.21].**

- 10. Building Finish: Please provide the anticipated color palette of the completed building.

**Response: The anticipated color palette is Imperial White. See Kingspan color palate attached below; <https://www.kingspan.com/us/en-us/product-groups/insulated-metal-panels/wall-panel-systems/ks-series>**

MP (Modified Polyester)

Imperial White  
SR:0.62 E:0.86 SRI:74

- 11. Site Lighting: Public comment has raised concerns related to site lighting – specifically light pollution that may disturb nearby residences. Please provide more information about how the site will be lit and what will be done to prevent the spread of light to residential areas to the west.

**Response: Site Lighting will be shielded to avoid light trespass.**

- 12. Public Comment: The public comment period associated with the SEPA has not yet completed. Additional comment on the SEPA may generate additional staff comments in the final TRC report.

**Response: Acknowledged.**

**Public Works Department**

- 13. Access Points: No vehicular access is permitted on Berthusen Road or Main Street. Emergency access locations which are gated to day-to-day use may be approved by Public Works and the Fire Chief. Access to these gated entrances must be coordinated with the Lynden Fire Department.

**Response: Acknowledged.**

- 14. Stormwater: The proponent has submitted a Preliminary Stormwater Design Memo, written by Freeland and Associates and dated September 10, 2021. The memo identifies the property soils, the project details and the expected methods for treating and detaining stormwater. Additionally, the memo addresses the 9 Minimum Requirements (2014 DOE Manual) and associated stormwater management BMPs and concludes that the project, as preliminarily proposed, can comply with stormwater management regulations. Approval of final civil plans is required prior to issuance of building permit.

**Response: Acknowledged.**

- a. A stormwater management plan including pipe sizing prepared by a professional engineer and meeting the requirements of the City's Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required. This plan must be approved by the City of Lynden prior to final approval of the project plans. Groundwater is high in this area. A groundwater investigation shall be incorporated into this design.

**Response: Acknowledged.**

- b. A final Stormwater Pollution Prevention Plan (SWPPP) (erosion control and sediment plan) must be included in the drainage plan and construction plans. This must be designed by a professional engineer and constructed in compliance with the Department of Ecology's Best Management Practices (including all known and reliable technologies) and the standards approved in the Manual for Engineering Design and Development Standards.

**Response: Acknowledged.**

- 15. Utilities - Water: Water hookup fees shall be paid as established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes demand for water, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection.

**Response: Acknowledged.**

- 16. Utilities - Sanitary Sewer: Fees are established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.

**Response: Acknowledged.**

- 17. Easements:

- 18. ROW Improvements: The City is coordinating the improvement of the Berthusen and Main Street intersection with the construction of a round-about. This improvement will be designed for truck movement and will improve safety at this location. The City will require the dedication of property necessary to facilitate the round-about.

**Response: Acknowledged. AFD will require financial compensation from the City for the dedication of right-of-way.**

**Fire and Life Safety**

- 19. Permit Review: Be advised, due to the complexity of this type of facility, and the on-site storage of hazardous materials, the City will coordinate 3<sup>rd</sup> party review of building and fire code requirements.

**Response: Acknowledged.**

- 20. Hydrants Required: Additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete Fire review will occur at the time of building permit.

**Response: Acknowledged.**

**Parks and Recreation**

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

**Response: Acknowledged.**

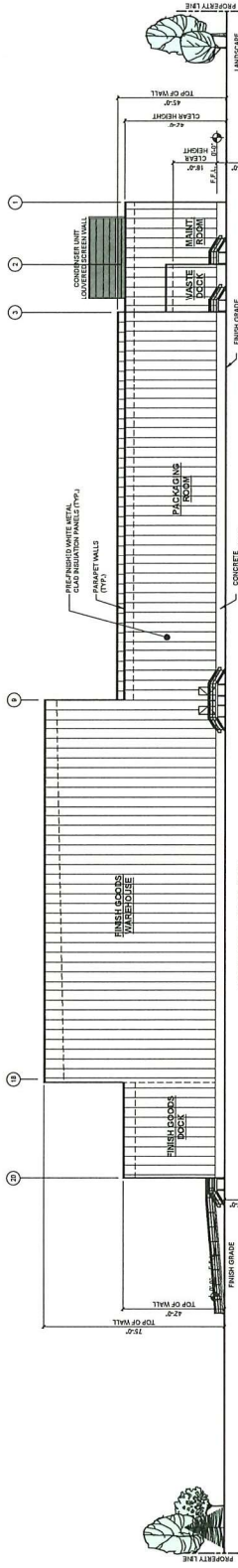
Sincerely,

Freeland and Associates, Inc.

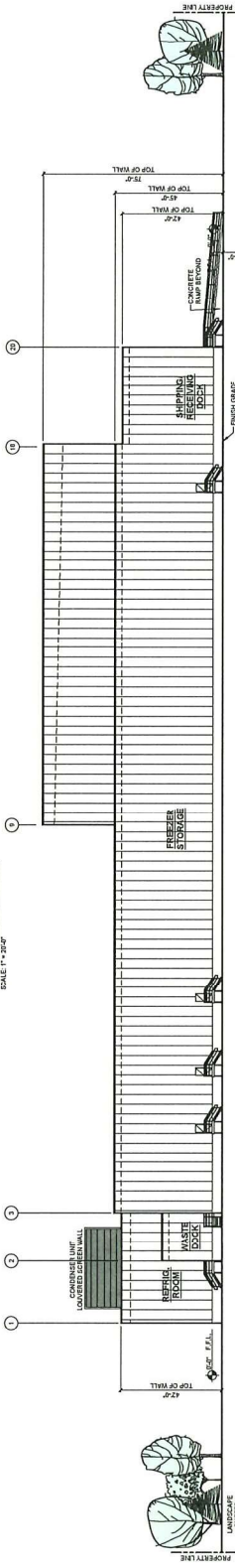


Tony Freeland, PE

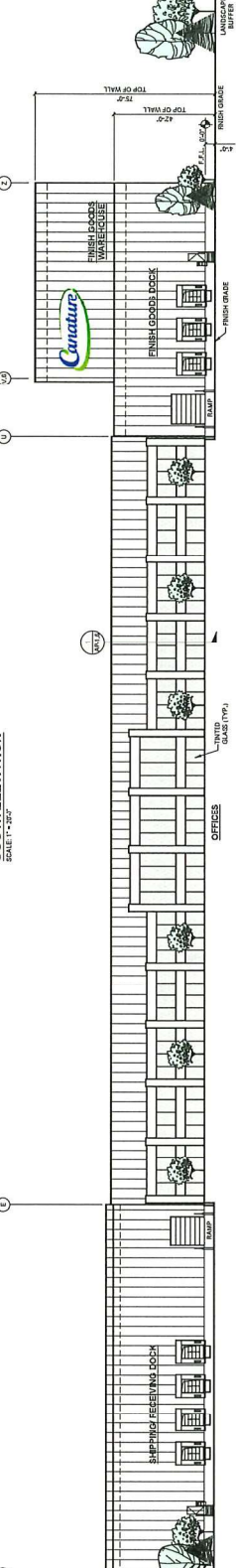
Encl.            Drawing A9.1



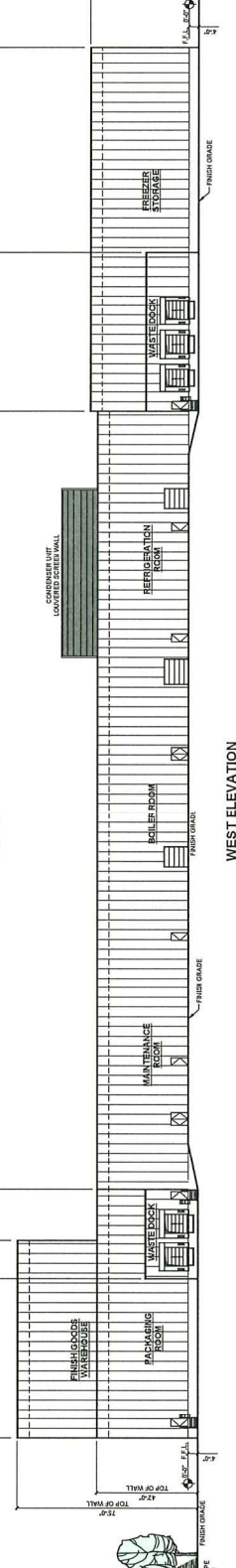
**NORTH ELEVATION**  
SCALE 1" = 32'-0"



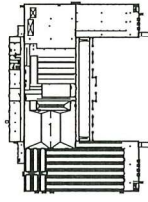
**SOUTH ELEVATION**  
SCALE 1" = 32'-0"



**EAST ELEVATION**  
SCALE 1" = 32'-0"



**WEST ELEVATION**  
SCALE 1" = 32'-0"



**KEY PLAN**

DATE	2/25	DESCRIPTION	INSURANCE
BY	ENR		
CHECKED BY	ENR		
SCALE	AS SHOWN		
PROJECT NO.		A8.1	
DRAWING NO.		01	

ALL SERVICES AND EQUIPMENT, UNLESS OTHERWISE SPECIFIED, SHALL BE PROVIDED BY THE CLIENT. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
THIS DOCUMENT IS PRELIMINARY AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

REVISIONS

GENERAL NOTES:

DATE: 2/25  
DESCRIPTION: INSURANCE  
BY: ENR  
CHECKED BY: ENR  
SCALE: AS SHOWN  
PROJECT NO.: A8.1  
DRAWING NO.: 01

53



CUP# 21-03



# City of Lynden

## Conditional Use Permit Application

**General Information:**

**Property Owner**

Name: Alliance Freeze Dry (USA) Inc (Guang Xu)  
Address: 5292 272 Street Langley BC V4W 1S3 Canada  
Telephone Number: 1-778-223-8683 Alt Number: \_\_\_\_\_  
E-mail Address: gary@canature.ca

**Applicant (Agent, Land Surveyor or Engineer)**

Name: Freeland and Associates, Inc. (Tony Freeland)  
Address: 220 West Champion Street, Suite 200, Bellingham, WA 98225  
Telephone Number: 360-650-1408 Cell Number: 360-739-1589  
E-mail Address: tfreeland@freelandengineering.com

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

**Property Information**

Project Location (street address / block range): Redwood Road  
Legal Description (attach if necessary): Lot 1 and Lot 2 West Lynden Business Park SBSP No. 1  
Assessor's Parcel Number: 400224 037346; 400224 037380 Zoning Designation: IBZ  
Parcel Square Footage: 9.93 acres Property Dimensions: 665' x 635'  
Applicable Sub-Area: West Lynden Building/Structure Size: \_\_\_\_\_  
Height of Structure: \_\_\_\_\_ Addition Size: \_\_\_\_\_

**Please describe request in detail:**  **CUP Criteria must be attached**

The proposed project includes construction of a 220,000 square foot pet food freeze dry processing plant in an industrial business zone. The proposal includes a request to build the warehouse portion of the building to 75 feet in height.

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: Tony Freeland, Freeland and Associates, Inc. DATE: 08/23/2021

PROPERTY OWNER SIGNATURE: [Signature] DATE: 08/23/2021

PROPERTY OWNER PRINTED NAME: Guang Xu DATE: 08/23/2021

**Agent Authorization**

If you are authorizing an agent to apply for permits on your behalf you must complete this form, which will provide authorization for a designated agent to apply for a Conditional Use Permit ("CUP") and documentation related to the State of Washington Environmental Policy Act ("SEPA") process, (each an "Application") on your behalf.

I/we, PeaceHealth, the owner(s) of the subject property, understand that by completing this form I hereby authorize Alliance Freeze Dry (USA) Inc and their agents to act as my agent for the limited purposes described above. I understand that said agent will be authorized to submit Applications, and that any associated fees are due by the said agent. I also understand that once an Application has been submitted that all future correspondence on that Application will be directed to the agent.

Redwood Road, Lynden, Washington  
Property Address

400224 037346, 400224 037380  
Parcel Number(s)

PeaceHealth  
Property Owner Printed Name

[Handwritten Signature]  
Property Owner Signature

August 16, 2021  
Date

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

Dated August 16, 2021



Notary Signature: [Handwritten Signature]  
Printed Name: Rebecca Tapley  
Notary Public in and for the State of Washington  
Residing at Cowlitz  
My appointment expires: 12/30/2024



**Excerpts from Chapter 19.49 of the Lynden Municipal Code**

Standards and criteria for granting a Conditional Use Permit (CUP)

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this ordinance, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

**Response:** *The proposed use is not detrimental to the surrounding area or a liability to adjacent uses. Instead, the proposed use will provide new employment and business opportunities for residents and their businesses.*

- *Alliance Freeze Dry (USA) Inc will construct a new 220,000 square foot freeze dry pet food plant on a 9.93-acre property within West Lynden Business Park. The designed processing capacity will be 17,000 metric-tons frozen raw materials (fruits/vegetables/meats) which will produce 3,600 metric-tons of pet food and pet treat final products, and 5,000 mixed material semi-final products.*
- *The freeze dry pet food plant will create new employment opportunities. This plant operation will employ approximately 77 staff.*
- *The current zoning is Industrial Business (IBZ) per Lynden Municipal Code 19.25.030. The proposed use is consistent with the specification for Food and Pharmaceutical Processing Plants under Lynden Municipal Code 19.25.030. The Conditional Use Permit application is made based on the said IBZ zoning ordinance to add the pet food free dry processing, frozen raw material processing and final product packaging operations.*
- *The proposed facility will be built to comply the applicable safety and environmental standards.*

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

**Response:** *The current zoning is Industrial Business (IBZ) per Lynden Municipal Code 19.25.030. The proposed use is consistent with the specification for Food and Pharmaceutical Processing Plants under Lynden Municipal Code 19.25.030. The CUP application is made based on the said IBZ zoning ordinance to add the pet food free dry processing, frozen raw material processing and final product packaging operations under the CUP permit.*

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a Conditional Use Permit application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and



criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings:

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district;

**Response:** *The proposed use in the proposed location will not be detrimental to surrounding uses. The current zoning for the proposed location is for Industrial Business uses (IBZ). The proposed use will be designed, constructed, and operated to meet the IBZ with CUP requirements. Surrounding uses are agriculture and industrial business. The proposed project is a mix of agriculture and industrial use.*

- 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:
  - i) traffic and pedestrian circulation,
  - ii) noise, smoke, fumes, glare or odors generated by the proposed use,
  - iii) building and site design,
  - iv) the physical characteristics of the subject property

**Response:**

- *The proposed facility will have fire lanes, truck access, and employee access using pre-planned access connections.*
- *The proposed use in the proposed location will not be detrimental to surrounding uses.*
- *The noise and odors generated will be enclosed in the proposed structure.*
- *The proposed plant will be an integrated freeze dry pet food plant which will be environment friendly, and comply to applicable safety and environmental standards.*
- *The plant operation will not generate extraordinary traffic load since the plant will be highly automated with advanced technologies. The plant will operate with 45 employees for the largest day shift and 8 employees for the night shift.*
- *The new plant will be designed, constructed, and operated with the state-of-the-art technologies and solutions and will meet the state and federal building code and environmental standards for the controls of noise, glare and odor*
- *The new facility will be designed with state-of-the-art technologies and meet state and federal building codes. The plant will only accept and use frozen raw materials which meet the food safety standards. There will be no slaughtering, unfrozen raw materials processing and slicing, raw material cleaning, or cooking in this factory. This plant will simply perform physical mixing/forming/freeze drying/packaging/warehousing on site. The final products are always referred to as dried fresh food.*
- *The proposed plant's building design, exterior appearance, and overall site design will be a high-scale modern manufacturing facility with an emphasis on blending into the local*

*community and environment.*

- *The proposed plant's exterior will be constructed with industrial standard high quality building materials similar to other existing structures within the business park currently. The office will be constructed using a "high-tech" appearance with glass and landscaping.*
- *The site will be landscaped to meet City of Lynden requirements and make efforts to enhance the aesthetics of the vicinity.*
- *The property is generally flat matching physical characteristics of surrounding properties.*

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; and

**Response:**

- *The proposed use is supported by adequate public facilities and utility services described below:  
Electric - Puget Sound Energy  
Water - City of Lynden  
Sanitary Sewer - City of Lynden  
Natural Gas - Cascade Natural Gas  
Refuse Service-Nooksack Valley Disposal  
Telephone - Zply, Century Link  
Internet - Comcast*
- *The stormwater management solution is being developed by civil engineers working with affected property owners and the City of Lynden.*

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.

**Response:**

- *The proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service. The project will use existing access driveways established by the Binding Site Plan.*
- *The plant operation will be highly automated and will not generate extraordinary traffic load with 45 employees for the largest day shift and 8 employees for the night shift.*
- *Trip generation estimates for this project are based on average trip rates summarized in the Institute of Transportation Engineers' (ITE) Trip Generation Manual, 10th Edition (2017). The trip rates for the proposed project were based on ITE's Manufacturing (LU #140) land uses.  
Daily trips=190 trips    AM peak=28 trips    PM Peak=25 trips*

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.

**Response:**

- *The performance of the noise, smoke, fumes, glare or odors generated by the proposed use will be designed, constructed and controlled to meet the applied standards.*
- *The proposed parking, building height, setbacks, and lot coverage for the proposed use will comply with the provisions of the Lynden Municipal Code and Conditional Use Permit requirements.*
- *The proposed use will be landscaped to meet City of Lynden requirements and make efforts to enhance the aesthetics of the vicinity. Landscaping will be established in the areas recorded on the Binding Site Plan.*
- *The project will provide parking for each employee on the largest shift.*
- *The maximum building height will be 75 feet.*
- *The building will be setback from all easements and property lines.*

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.

**Response:** *The proposed plant will provide an adequate buffering area and solution which comply to the City of Lynden requirements to protect the adjacent properties from adverse impacts of the proposed use. Wide landscape buffers will be maintained on all sides of the property.*

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

**Response:** *The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance, as none of such items have been identified on the site.*

8. The proposed use is generally consistent with the purposes and objectives of the City Comprehensive Plan and applicable Sub-Area Plan.

**Response:** The project site is located within the West Lynden Sub-Area. The objectives for Industrial developments within the West Lynden Sub Area include the following:

*“Economic diversity and growth are the key components in Lynden’s Comprehensive Plan. The City adopted the Comprehensive Economic Development Plan in September 1998,*



which outlines the need and desire for family wage jobs within the community. It also expresses the benefits of a healthy economy as a method to support the services that the community values and the quality of life that is important to Lynden residents.”

- **The proposed facility will provide economic growth and new job opportunities for the local Lynden community.**

“The preference for growth in this area includes “high-tech” development or other types of industrial growth that makes the most effective use of the community’s water and wastewater treatment resources. Effective use may be defined as providing both quality (wages and benefits) jobs as well as quantity of jobs. The input of the Economic Development Team will be sought and considered when proposals for industrial development are brought before the Planning Commission and City Council.”

- **The proposed freeze dry plant includes highly automated systems with advanced technologies. The designed processing capacity will be 17,000 metric-tons frozen raw materials (fruits/vegetables/meats) which will produce 3,600 metric-tons of pet food and pet treat final products, and 5,000 mixed material semi-final products. The plant will provide high quality job opportunities for up to 77 people.**

“Opportunities to incorporate agricultural related business and industry in the development of the West Lynden Sub-Area should be explored. These opportunities may include value added food products, an agricultural research or tourist facility, or customs clearing station.”

- **The proposed freeze dry pet food facility is considered an agricultural/industrial related business.**

“Land west of the Duffner Ditch, north of Birch Bay Lynden Road, and south of West Main Street is to be developed into a region of business and industrial growth. This area will support the development of a variety of industrial uses.”

- **The project site is located in the West Lynden Business Park. The project includes developing a currently vacant 9.93-acre property for industrial use.**

“The development of this area should be undertaken in a manner that is consistent with aesthetic standards of the community. These standards include the building design, attractive signage, landscaping and the overall site design together with the building’s setback from the street and well-designed parking areas. The standards are more completely defined within the City’s Design Review Guidebook.”

- **The proposed freeze dry plant’s building design, exterior appearance, and overall site design will be a high-scale modern manufacturing facility with an emphasis on blending into the local community and environment. The proposed plant will be landscaped to meet City of Lynden requirements and make efforts to enhance the aesthetics of the vicinity.**

“Improvements required under the adopted Development Standards, including curbs,

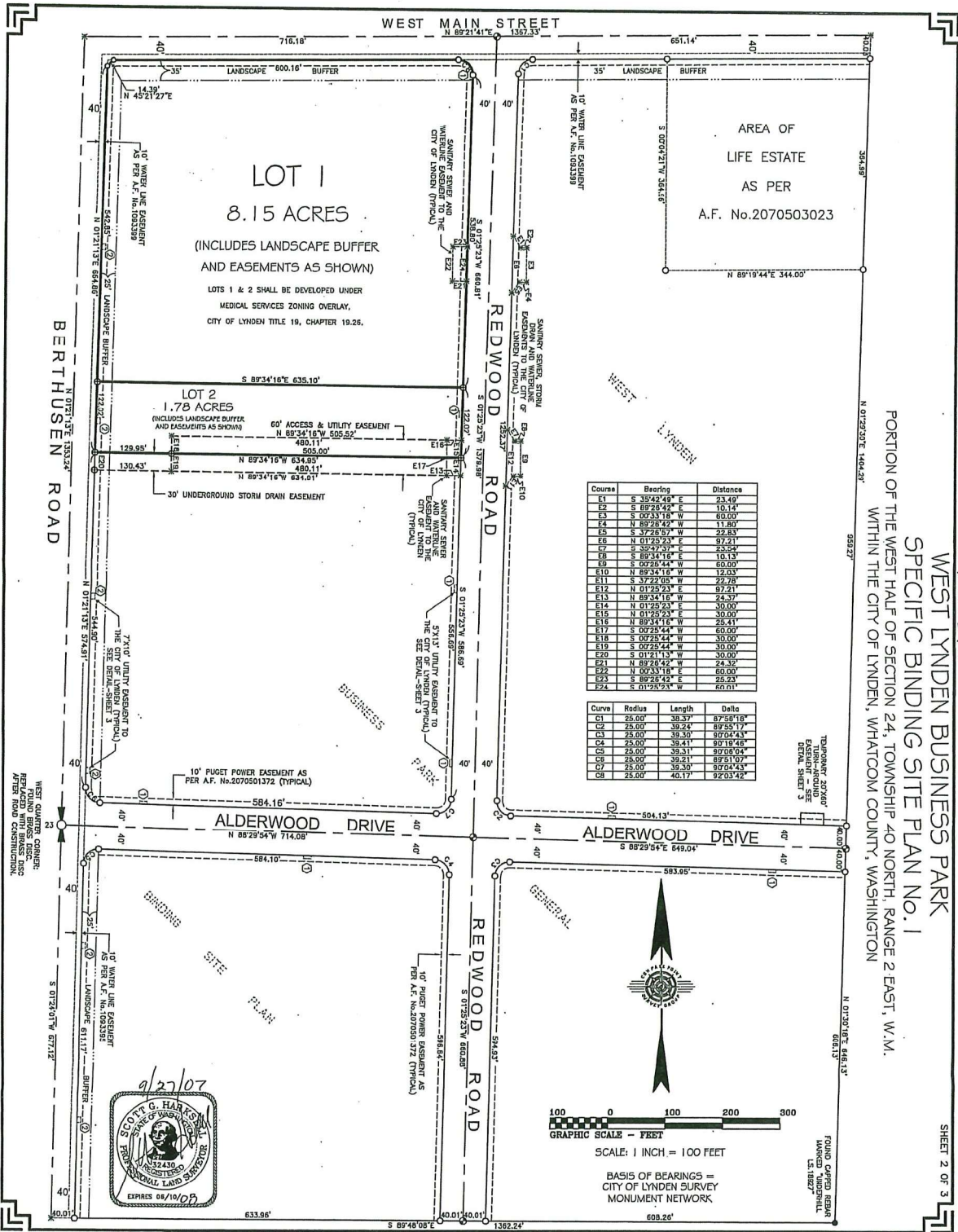


*gutters, sidewalks and landscaping could be phased to allow the proponent the opportunity to invest in the business prior to the completion of these improvements. Bonding will be required to guarantee the completion of these improvements within a specified time period, but not to exceed three years from time of final occupancy.”*

- ***The project will complete any required frontage improvements.***

“The Lynden Economic Development Team as created under the Comprehensive Economic Development Plan should coordinate economic development efforts.”

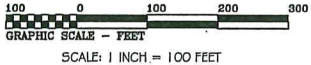
- ***The proposed use will provide new employment and business opportunities for the area.***



Course	Bearing	Distance
E1	S 39°24'48" E	23.48'
E2	S 89°28'42" W	10.14'
E3	S 00°33'18" W	60.00'
E4	N 89°28'42" E	13.86'
E5	S 37°28'57" W	22.83'
E6	N 01°25'23" E	87.21'
E7	S 32°43'39" E	23.54'
E8	S 89°34'18" E	10.13'
E9	S 09°28'44" W	60.00'
E10	N 89°34'18" W	12.03'
E11	S 37°28'57" W	22.78'
E12	N 01°25'23" E	87.21'
E13	N 89°34'18" W	24.37'
E14	N 01°25'23" E	30.00'
E15	N 01°25'23" E	30.00'
E16	N 89°34'18" W	25.41'
E17	S 07°25'44" W	60.00'
E18	S 07°25'44" W	30.00'
E19	S 07°25'44" W	30.00'
E20	S 01°21'13" W	30.00'
E21	N 89°28'42" W	24.32'
E22	N 00°33'18" E	60.00'
E23	S 89°28'42" E	22.23'
E24	S 01°25'23" W	60.01'

Curve	Radius	Length	Delta
C1	25.00'	38.37'	87°58'18"
C2	25.00'	39.24'	89°55'17"
C3	25.00'	39.50'	90°04'43"
C4	25.00'	39.41'	89°19'48"
C5	25.00'	39.31'	89°08'04"
C6	25.00'	39.11'	89°51'09"
C7	25.00'	39.30'	89°24'43"
C8	25.00'	40.17'	92°03'42"

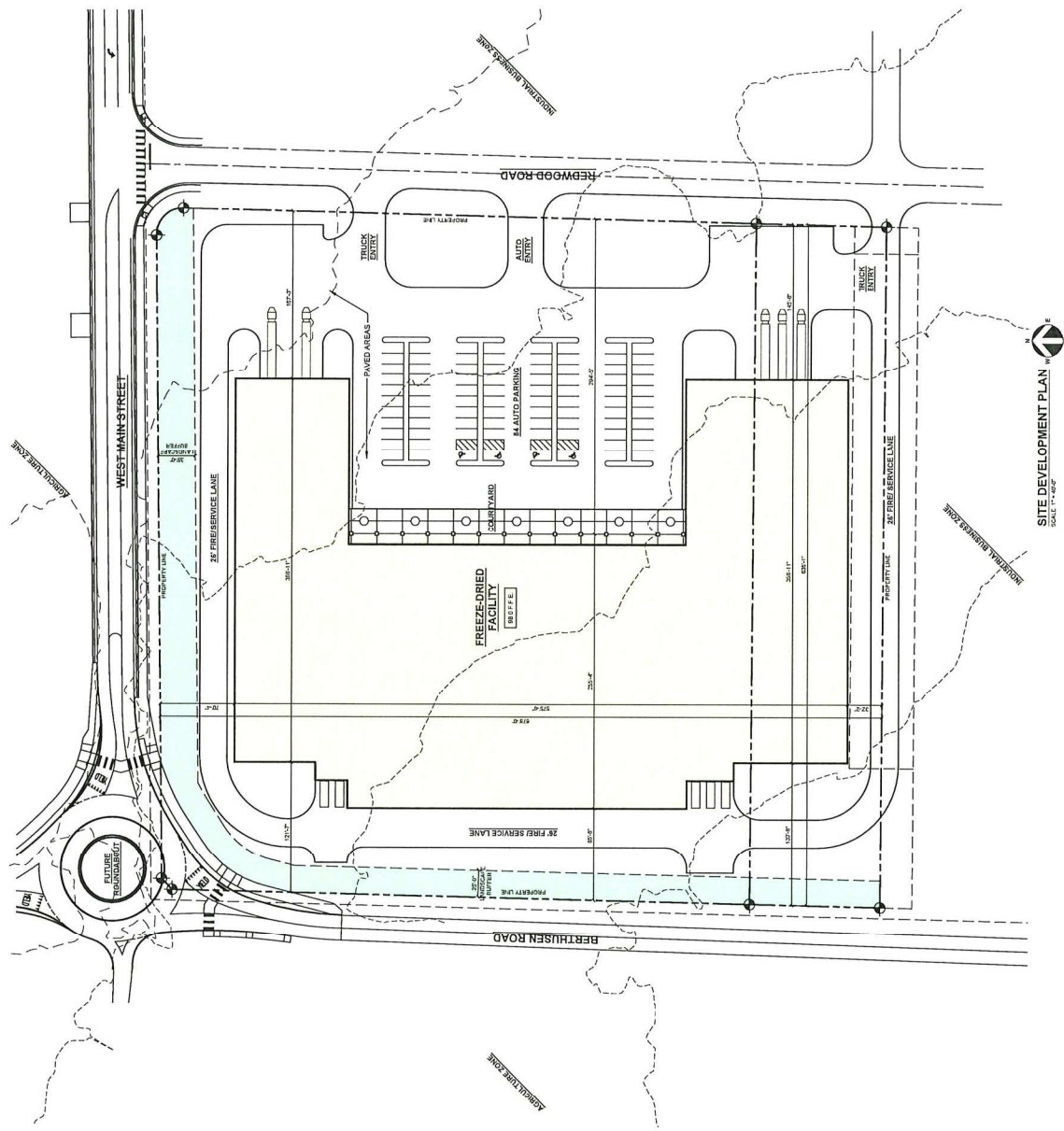
2071000 & 73  
 WEST LYNDEN BUSINESS PARK  
 SPECIFIC BINDING SITE PLAN NO. 1  
 PORTION OF THE WEST HALF OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 2 EAST, W.M.  
 WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON



BASIS OF BEARINGS =  
 CITY OF LYNDEN SURVEY  
 MONUMENT NETWORK



SHEET 2 OF 3



**GENERAL NOTES:**

**REVISIONS:**

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08/13/21  
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AND SEALED DOCUMENT.

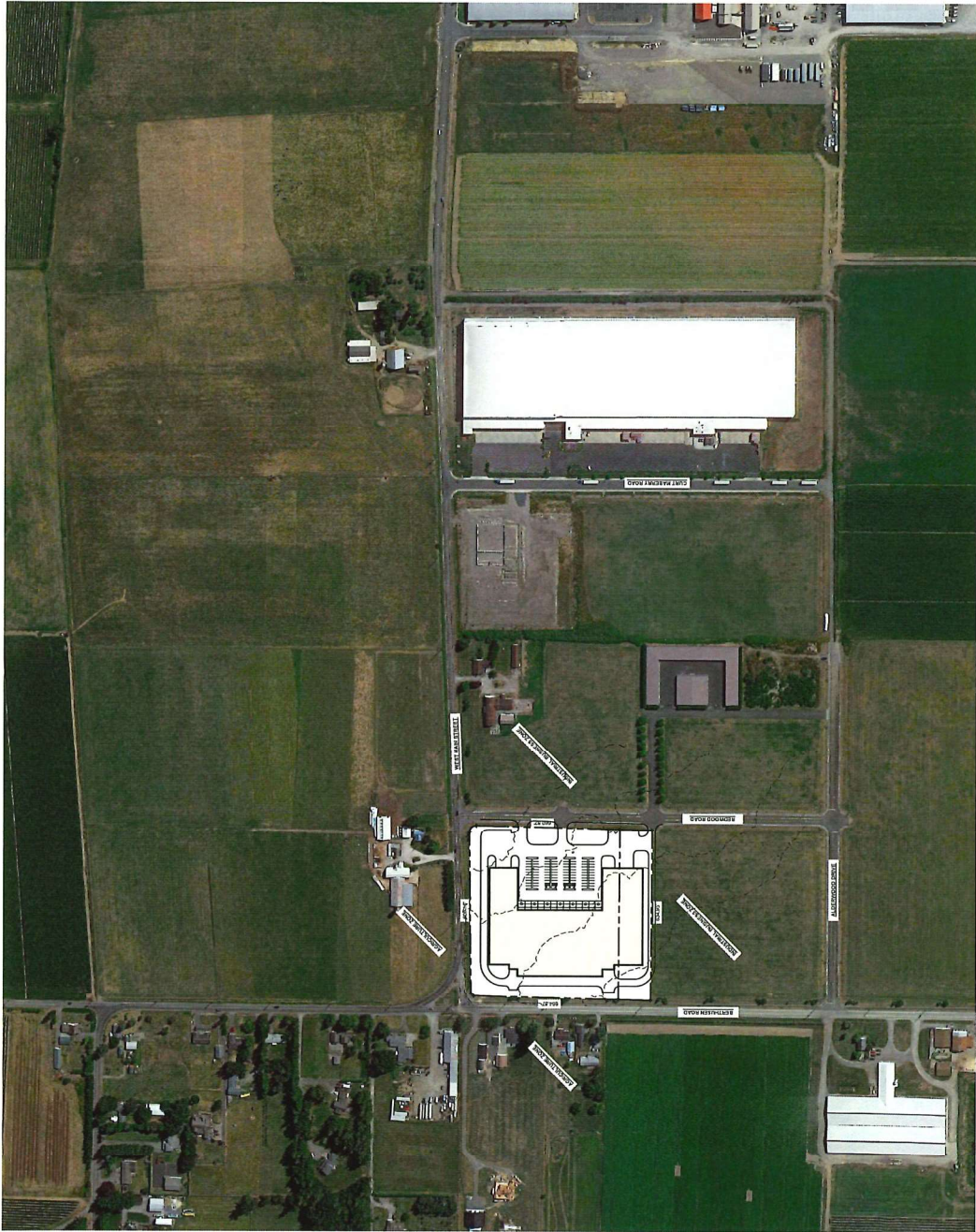
All contours and elevations indicated are provided by the surveyor. The owner and engineer shall be responsible for verifying the accuracy of the survey data. The engineer shall be responsible for verifying the accuracy of the design data. The engineer shall be responsible for verifying the accuracy of the design data. The engineer shall be responsible for verifying the accuracy of the design data.

**Canature**  
Lynchburg, Virginia

**FOOD FACILITY ENGINEERING, INC.**  
2200 UNIVERSITY DRIVE, SUITE 200  
LYNCHBURG, VIRGINIA 24502  
TEL: 434-946-1000  
WWW.FFE-ENGINEERING.COM

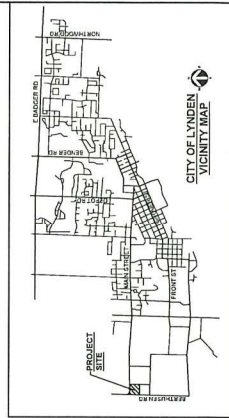
PROJECT NO:	2108
CITY:	WASHINGTON
DATE:	AP-1
TITLE:	SITE DEVELOPMENT PLAN





AREA MAP  
SCALE: 1" = 100'

**LEGAL DESCRIPTION**  
 LOTS 1 & 2 OF WEST LYNDEN BUSINESS PARK SPECIFIC BINDING SITE P.A.N.  
 RECORDED ON OCTOBER 5, 2007, UNDER AUDITOR'S FINE NO. 2071000873  
 SITUATE IN WHATCOM COUNTY, WASHINGTON.



DATE	2/10/08
PROJECT	AP-2
SCALE	AS SHOWN
CITY OF LYNDEN	WASHINGTON
PROJECT	AP-2
SCALE	AS SHOWN
CITY OF LYNDEN	WASHINGTON

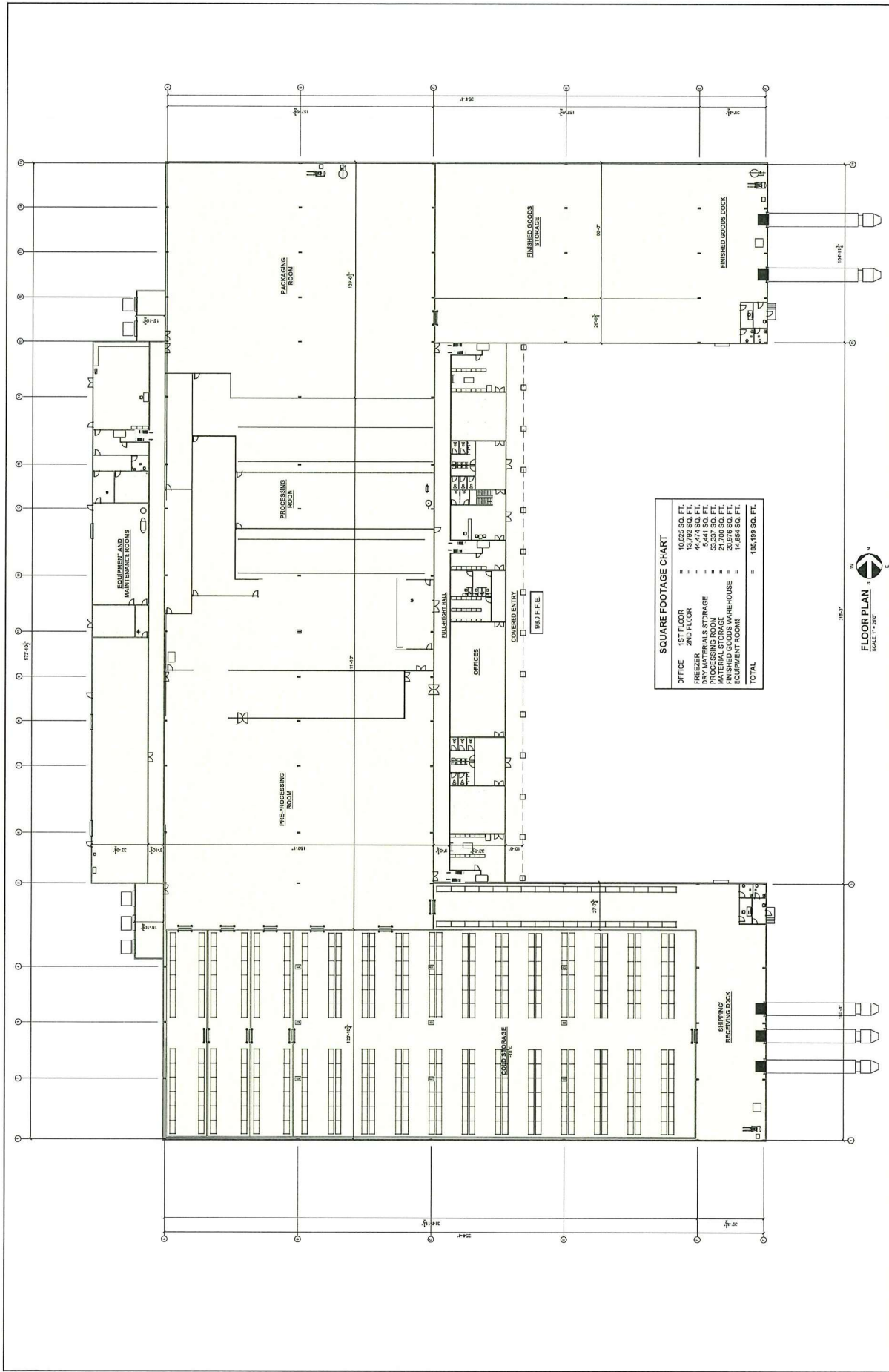
**Caiculture**  
**ENGINEERING, INC.**  
 2000 UNIVERSITY BLVD., SUITE 100, WAVERLY, WA 98155  
 PHONE: (360) 871-1111 FAX: (360) 871-1112  
 WWW.CAICULTURE.COM

**REVISIONS**

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All symbols and arrangements included or presented herein are the property of Caiculture Engineering, Inc. These documents are prepared by Caiculture Engineering, Inc. for the use of the client and are not to be used for any other purpose without the written consent of Caiculture Engineering, Inc. The client is responsible for obtaining all necessary permits and approvals from the appropriate authorities. The client is responsible for obtaining all necessary permits and approvals from the appropriate authorities. The client is responsible for obtaining all necessary permits and approvals from the appropriate authorities.



**SQUARE FOOTAGE CHART**

OFFICE	10,625 SQ. FT.
FREEZER	13,792 SQ. FT.
DRY MATERIALS STORAGE	5,441 SQ. FT.
PROCESSING ROOM	55,337 SQ. FT.
FINISHED GOODS WAREHOUSE	20,976 SQ. FT.
EQUIPMENT ROOMS	14,864 SQ. FT.
TOTAL	185,119 SQ. FT.



**GENERAL NOTES:**

REVISIONS

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08/13/21**

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CONTRACT NUMBER: PFE-2020-001-001  
PROJECT: LINDEN WAREHOUSE  
DATE: 08/13/21

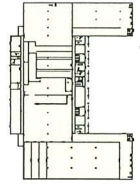
**FFFE ENGINEERING, INC.**  
2075 WASHINGTON ST., SUITE 200  
LINDEN, NJ 07036  
TEL: 908-529-9900  
WWW.FFE-ENGINEERING.COM

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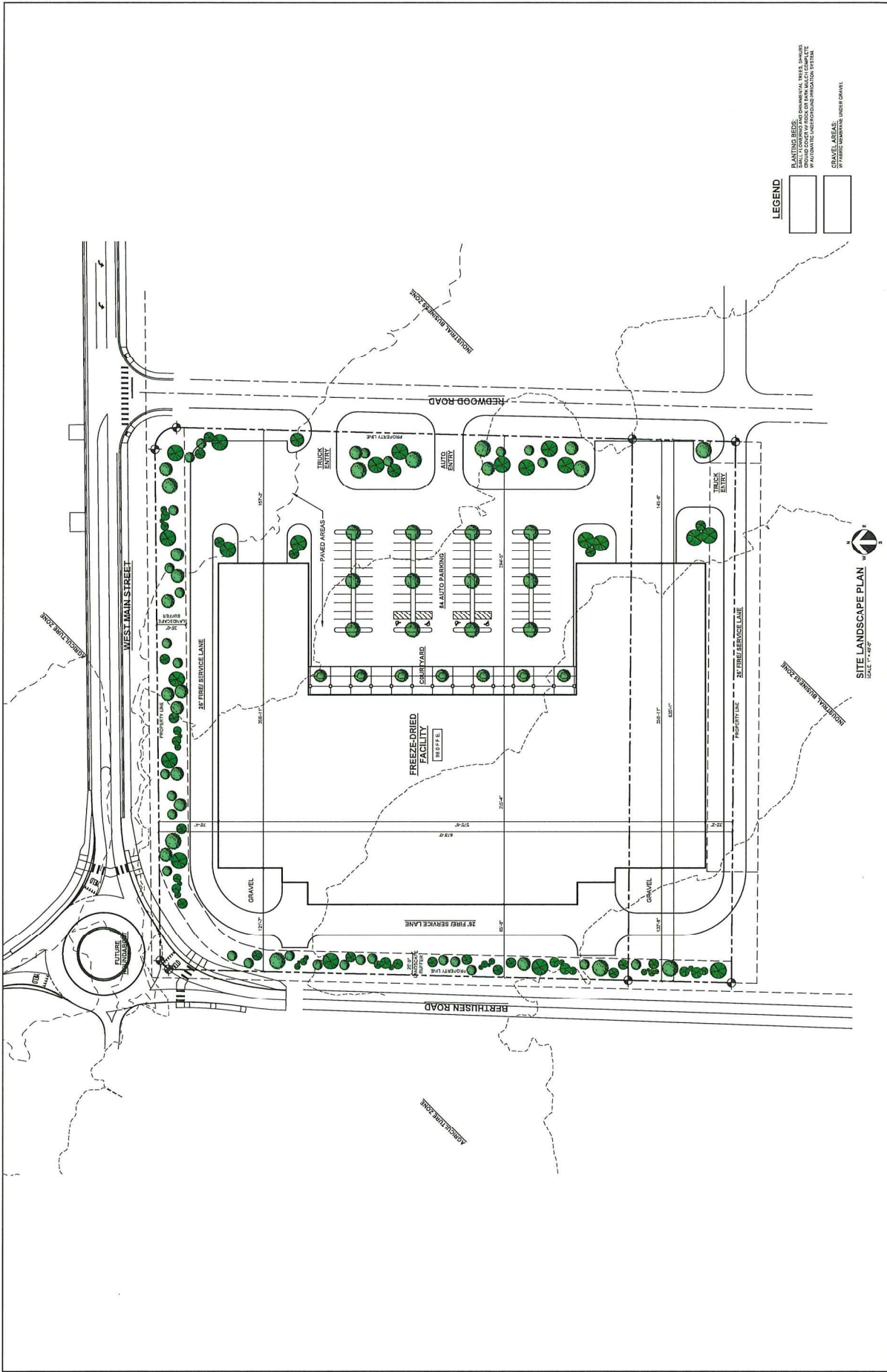
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<p><b>GENERAL NOTES:</b></p>	<p>REVISIONS</p> <p>08/24/21 AS NOTED PREFERRED HEIGHTS OF SEES BUILDING</p> <p><b>PRELIMINARY</b></p> <p><b>NOT FOR CONSTRUCTION</b></p> <p>08/24/21</p> <p>THIS DOCUMENT IS UNCONTROLLED AND SHOULD BE USED AS A FINAL, ISSUED AND SEALED DOCUMENT.</p>	<p>OWNER: CANATURE FOOD FACILITY FOR CANATURE</p> <p>DATE: 2/10/20</p> <p>PROJECT: CANATURE</p> <p>LOCATION: WASHINGTON</p> <p>SCALE: AP-4</p> <p>DATE: 8/24/21</p>
	<p>DESIGNER: FFE ENGINEERING, INC.</p> <p>1000 WASHINGTON AVENUE, SUITE 1000              WASHINGTON, DC 20004-4400              TEL: (202) 462-1100              FAX: (202) 462-1101              WWW.FFEENGINEERING.COM</p>	<p>KEY PLAN</p>
	<p>ALL WORK AND MATERIALS SHALL BE IN ACCORDANCE WITH THE 2018 INTERNATIONAL BUILDING CODE (IBC) AND THE 2018 INTERNATIONAL MECHANICAL AND ELECTRICAL CODE (IMC). THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT.</p>	



**LEGEND**

PLANTING BEDS  
 ALL PLANTING BEDS SHALL BE CONSTRUCTED WITH 2" GRANULAR FILL, 4" TOPSOIL, 4" MULCH, AND 4" FINISH SOIL. TREES, SHRUBS AND PERENNIALS SHALL BE PLANTED IN ACCORDANCE WITH THE CITY OF SEASIDE PLANTING SPECIFICATIONS.

GRAVEL AREAS  
 2" FINISH GRANULAR UNDER GRAVEL

<p>GENERAL NOTES:</p> <p>REVISIONS</p>	<p><b>PRELIMINARY</b>                  NOT FOR CONSTRUCTION                  08/13/21</p> <p>THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT TO BE CONSIDERED A CONTRACT DOCUMENT.</p>	<p>ALL PLANTING, INCLUDING PLANTING, SHALL BE PROVIDED BY THE CONTRACTOR. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SEASIDE AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.</p>	<p>DATE: 08/13/21</p> <p>SCALE: 1" = 40'-0"</p>
			<p>PROJECT: FREEZE-DRIED FACILITY</p> <p>CLIENT: FFE ENGINEERING, INC.</p> <p>DESIGNER: FFE ENGINEERING, INC.</p> <p>DATE: 08/13/21</p> <p>SCALE: 1" = 40'-0"</p>

**FFE ENGINEERING, INC.**  
 2000 W. MAIN STREET, SUITE 200  
 SEASIDE, CALIFORNIA 92081  
 TEL: 951-755-1111  
 WWW.FFEENGINEERING.COM

CALIFORNIA REGISTERED PROFESSIONAL LANDSCAPE ARCHITECT  
 LICENSE NO. 11008  
 OFFICE: SEASIDE, CALIFORNIA  
 FEE: \$1,000.00  
 EXPIRES: 08/31/2022

PROJECT: FREEZE-DRIED FACILITY  
 CLIENT: FFE ENGINEERING, INC.  
 DESIGNER: FFE ENGINEERING, INC.  
 DATE: 08/13/21  
 SCALE: 1" = 40'-0"

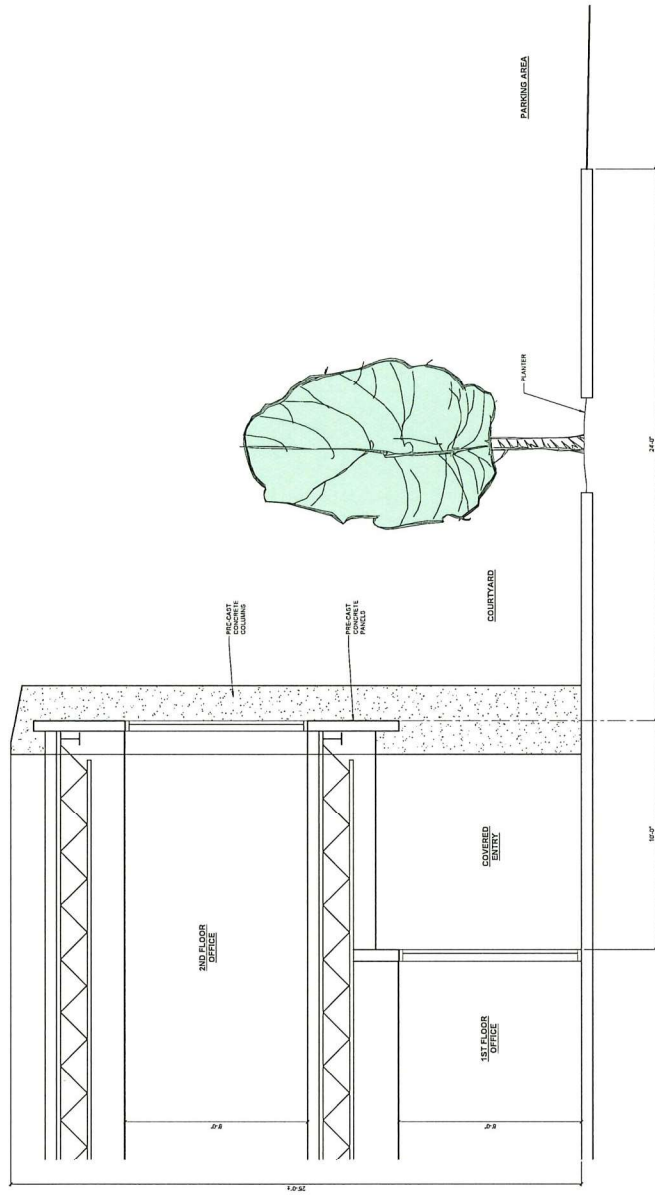
SITE LANDSCAPE PLAN  
 SCALE: 1" = 40'-0"

PLANTING BEDS  
 GRAVEL AREAS

LEGEND

PRELIMINARY  
 NOT FOR CONSTRUCTION  
 08/13/21

GENERAL NOTES:  
 REVISIONS



1 BUILDING SECTION - OFFICE ENTRY  
SCALE OF 1/4" = 1'-0"

GENERAL NOTES:

REVISIONS

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All materials and workmanship shall conform to the specifications of the International Building Code, Inc. The contractor shall be responsible for obtaining all necessary permits and approvals for construction. The contractor shall be responsible for obtaining all necessary permits and approvals for construction. The contractor shall be responsible for obtaining all necessary permits and approvals for construction.

OWNER: <b>UNITED STATES GOVERNMENT</b>		DATE: 08/13/21	
ARCHITECT: <b>Calcutt Inc.</b>		PROJECT: <b>WASHINGTON</b>	
DESIGNER: <b>ENGIN</b>		SHEET: <b>AP-6</b>	
ENGINEER: <b>FFE ENGINEERING, INC.</b>		DATE: 08/13/21	
PROJECT: <b>BUILDING SECTION - OFFICE ENTRY</b>			



Freeland and Associates, Inc.

220 West Champion Street  
Suite 200  
Bellingham, Washington  
(360) 650-1408

September 10, 2021

City of Lynden  
Public Works  
300 4<sup>th</sup> Street  
Lynden, WA 98264

Attention: Mr. Mark Sandal

Subject: Alliance Freeze Dry (USA), Inc.  
675 Redwood Road  
Preliminary Stormwater Design Letter  
F&A Project No. 21129

Dear Mr. Sandal:

This letter serves as a preliminary stormwater design narrative for the industrial development proposed at 675 Redwood Road in Lynden, Washington 98264. The project will develop two tax parcels that occupy a combined 9.93 acres of land. The site is bound by West Main Street to the north, Berthusen Road to the west, and Redwood Road to the east. Figure 1 provides a vicinity map of the proposed project site. The project site is currently undeveloped and maintained with grass and a few trees. Figure 2 provides an aerial photograph of the recent ground cover conditions on site.

Soils on the site are mapped by the NRCS as Edmonds-Woodlyn loams #45, 0 to 2 percent slopes. The Edmonds-Woodlyn loams series are dually classified as hydrologic group B/D. The first letter applies to the drained and the second to the undrained condition. Hydrologic group B soils have moderate infiltration rates when thoroughly wetted and consisting chiefly of moderately fine to moderately coarse textures. Hydrologic group D High runoff potential and very slow infiltration rates when thoroughly wetted. Figure 3 provides a regional soils map. A site-specific soils evaluation by a geotechnical professional is in progress.

A new 220,000 square foot freeze dry pet food processing plant will be constructed on the property. Included with the processing plant, parking and truck loading facilities will be included. Preliminary stormwater design includes enhanced stormwater treatment, underground detention system, and pump station to lift stormwater due to shallow outfall.

With more than 5,000 square feet of combined hard surfacing, the project will be subject to Minimum Requirements #1 through #9 as provided in the 2014 DOE Manual. Minimum Requirements #1 through #9 are addressed as follows:

***Minimum Requirement #1 Preparation of Stormwater Site Plans***

This letter serves as a preliminary Stormwater Site Plan (SSP). All stormwater management systems have been designed according to Department of Ecology (DOE) and City of Lynden standards. A construction Stormwater Pollution Prevention Plan (SWPPP) has also been prepared and is included with this letter.

***Minimum Requirement #2 Construction Stormwater Pollution Prevention (SWPPP)***

A construction SWPPP will be prepared and included with in construction documents.

***Minimum Requirement #3 Source Control of Pollutants***

The proposed industrial project is not expected to create any unusual sources of stormwater pollutants. Pollutant sources include vehicular traffic, fertilizers, and other detergents or chemicals typical to building maintenance activities. These sources will be controlled at the source to the maximum extent possible. All known, available, and reasonable source control BMPs will be applied to the design and layout of the site plans and stormwater plans. Per the DOE Manual, land use controls that emphasize prevention of water quality impacts are preferred over treatment strategies. Therefore, clearing areas will be limited to the minimum areas necessary for construction.

***Minimum Requirement #4 Preservation of Natural Drainage Systems and Outfalls***

Currently, the entire project site is contained within a single regional basin. During summer months, while the regional groundwater table is low, stormwater appears to completely infiltrate on site. As the regional groundwater table increases during the winter months, stormwater likely runs off to the southwest. Stormwater from the developed site will be controlled on site through engineered systems and no significant stormwater diversions are proposed as a part of this project.

***Minimum Requirement #5 On-Site Stormwater Management***

As a project that is expected to trigger Minimum Requirements #1 through #9, this project will be required to demonstrate compliance with the LID Performance Standard or shall use BMPs from List #2 in the 2014 DOE Manual. This project is expected to comply with List #2.

Projects choosing to utilize List #2 of the 2014 DOE Manual to meet the requirements of Minimum Requirement #5 – On-site Stormwater Management must consider the BMPS in the order listed for each type of surface. The first BMP that is considered feasible must be used on the site. No other

On-site Stormwater Management BMPs are necessary for that surface. The following table identifies all of the required BMPs in List #2 and if they are feasible or infeasible.

TABLE 3 - MINIMUM REQUIREMENT #5				
LIST #2				
Minimum Requirement		Feasible	Infeasible	Criteria Comments
#	<b>Lawn &amp; Landscaped Area</b>			
1	Post-Construction Soil Quality and Depth - BMP T5.13	✓		This BMP will be applied to all areas outside of roofs or hard surfaces disturbed during construction.
#	<b>Roofs</b>			
1	Full Dispersion - BMP T5.30 Full Infiltration - BMP T5.10A		✓	Infeasible due to impervious surface coverage and lack of suitable vegetated areas to accommodate dispersion. High groundwater renders infiltration systems infeasible.
2	Bioretention – BMP T5.70		✓	Infeasible due to impervious surface coverage and high groundwater.
3	Downspout Dispersion BMP T5.10B		✓	Infeasible due to insufficient vegetated flow path length and high groundwater.
4	Perforated Stub-out Connection BMP T5.10C		✓	Infeasible due to impervious surface coverage and high groundwater.
#	<b>Other Hard Surfaces</b>			
1	Full Dispersion BMP T5.30		✓	Infeasible due to impervious surface limits.
2	Permeable Pavement - BMP T5.15		✓	Infeasible due to the type of project (i.e. manufacturing plant with potential for heavy equipment/vehicle loading) and high groundwater.
3	Bioretention – BMP T5.70		✓	Infeasible due to impervious surface coverage and high groundwater.
4	Sheet Flow Dispersion BMP T5.12 Concentrated Flow Dispersion BMP T5.11		✓	Infeasible due to insufficient vegetated flow path length on site.



**Preliminary Stormwater Management Summary**

Stormwater runoff from the project will be managed on site with an underground detention system and pump station to lift stormwater due to shallow outfall. BMP T5.13 will be applied to all areas outside of roof or hard surfaces disturbed during construction.

***Minimum Requirement #6 Runoff Treatment***

New pollution-generating hard surface (PGHS) areas are expected to exceed 5,000 square feet. Therefore, this project will exceed thresholds set forth in Section 2.5.6 in Volume I of the 2014 DOE Manual and enhanced stormwater treatment BMPs will be required.

***Minimum Requirement #7 Flow Control***

The proposed project will create more than 10,000 square feet of hard surfacing and will exceed flow control thresholds in Section 2.5.7 in Volume I of the 2014 DOE Manual. Stormwater flow control will be provided with a new underground detention system.

***Minimum Requirement #8 Wetlands Protection***

No existing wetlands have been identified on site or in the immediate vicinity. Therefore, no further wetland protection measures are required.

***Minimum Requirement #9 Operation and Maintenance***

A separate operations and maintenance manual will be prepared for the proposed stormwater management facilities. The manual will contain a description of the facilities, what the facilities do, and how they work. The manual will also identify and describe maintenance tasks for each component of the facilities and the required frequency of each task.

As shown above, this project can comply with current stormwater management requirements in place for the City of Lynden. Please contact us with any questions or concerns regarding these observations.

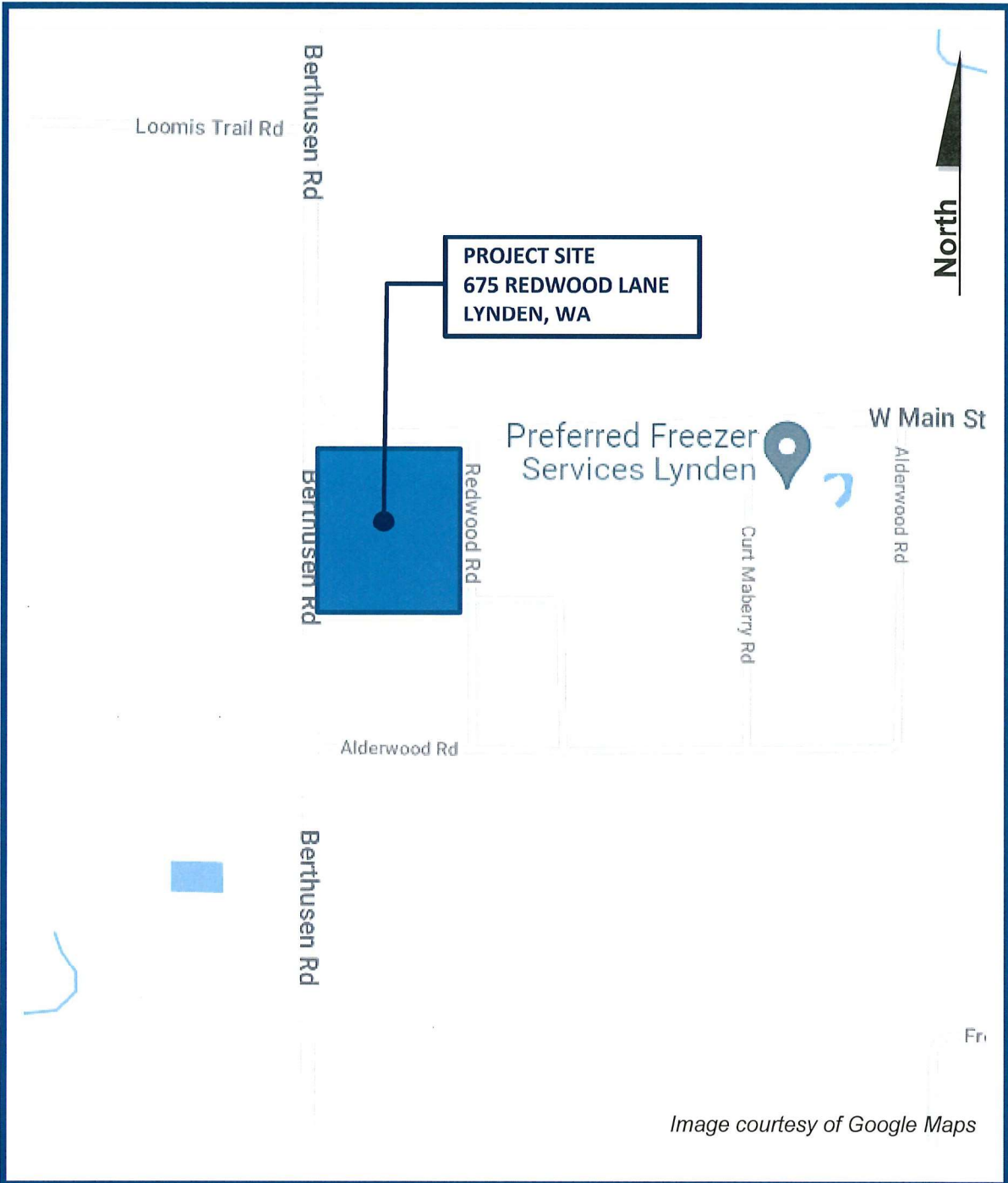
Sincerely,  
Freeland and Associates, Inc.



Tony Freeland, PE  
Principal Engineer

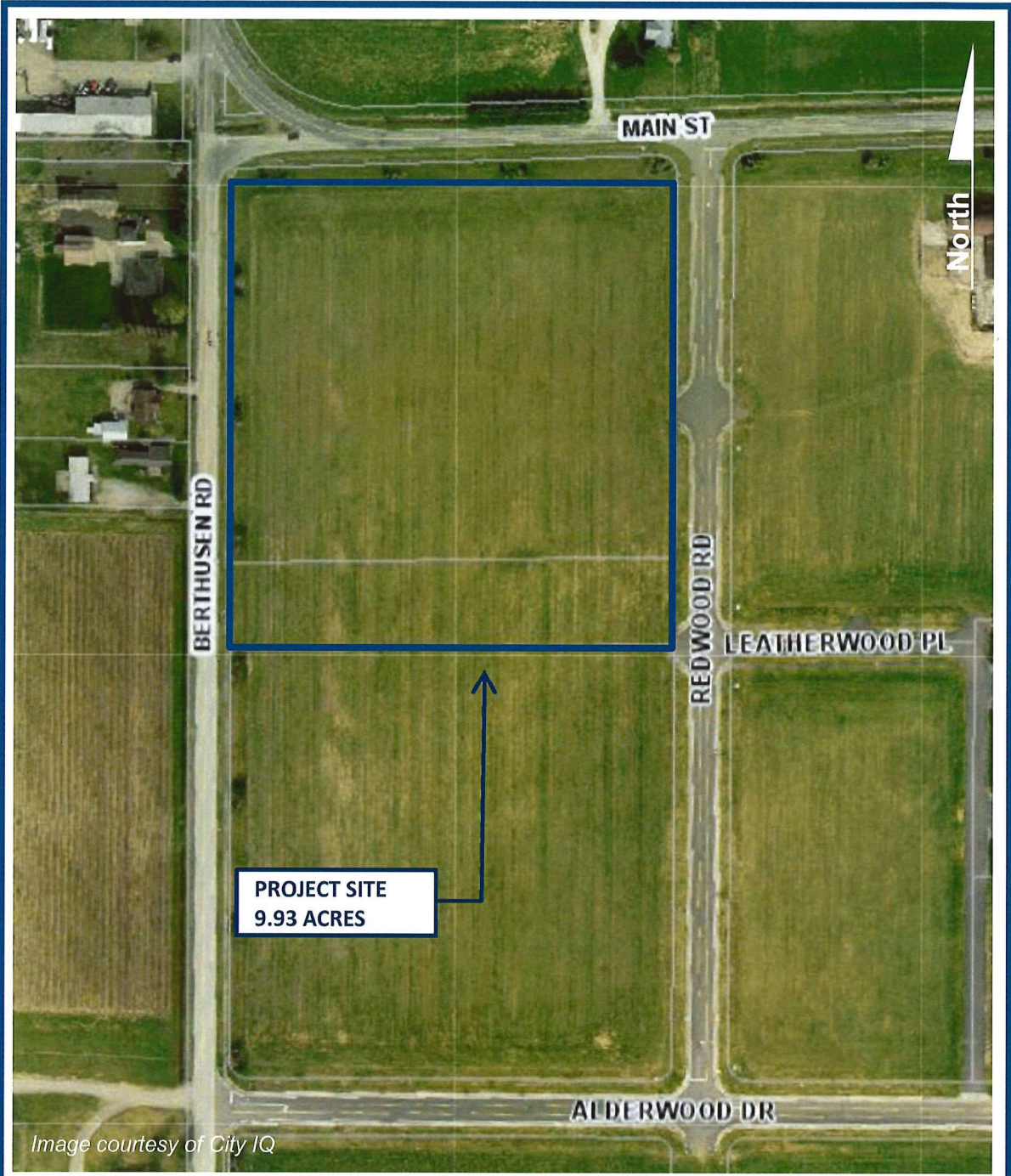
**Attachments**

- Fig. 1 Vicinity Map*
- Fig. 2 Aerial Photograph of Site*
- Fig 3. Soils Map*
- Preliminary Site Plans*
- Stormwater Pollution Prevention Plan (SWPPP)*



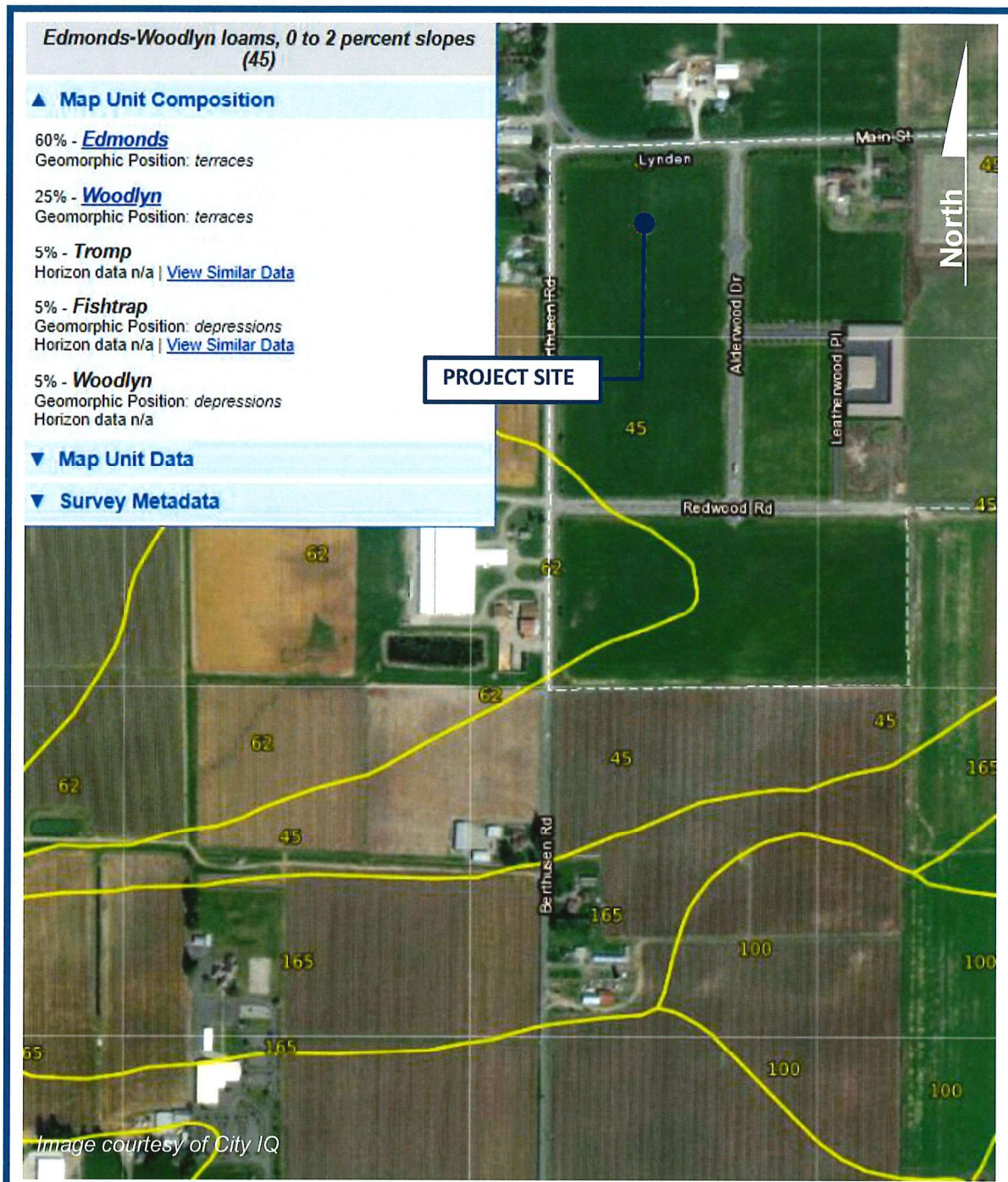
Vicinity Map

Figure 1



**Aerial Photograph of Site**

**Figure 2**

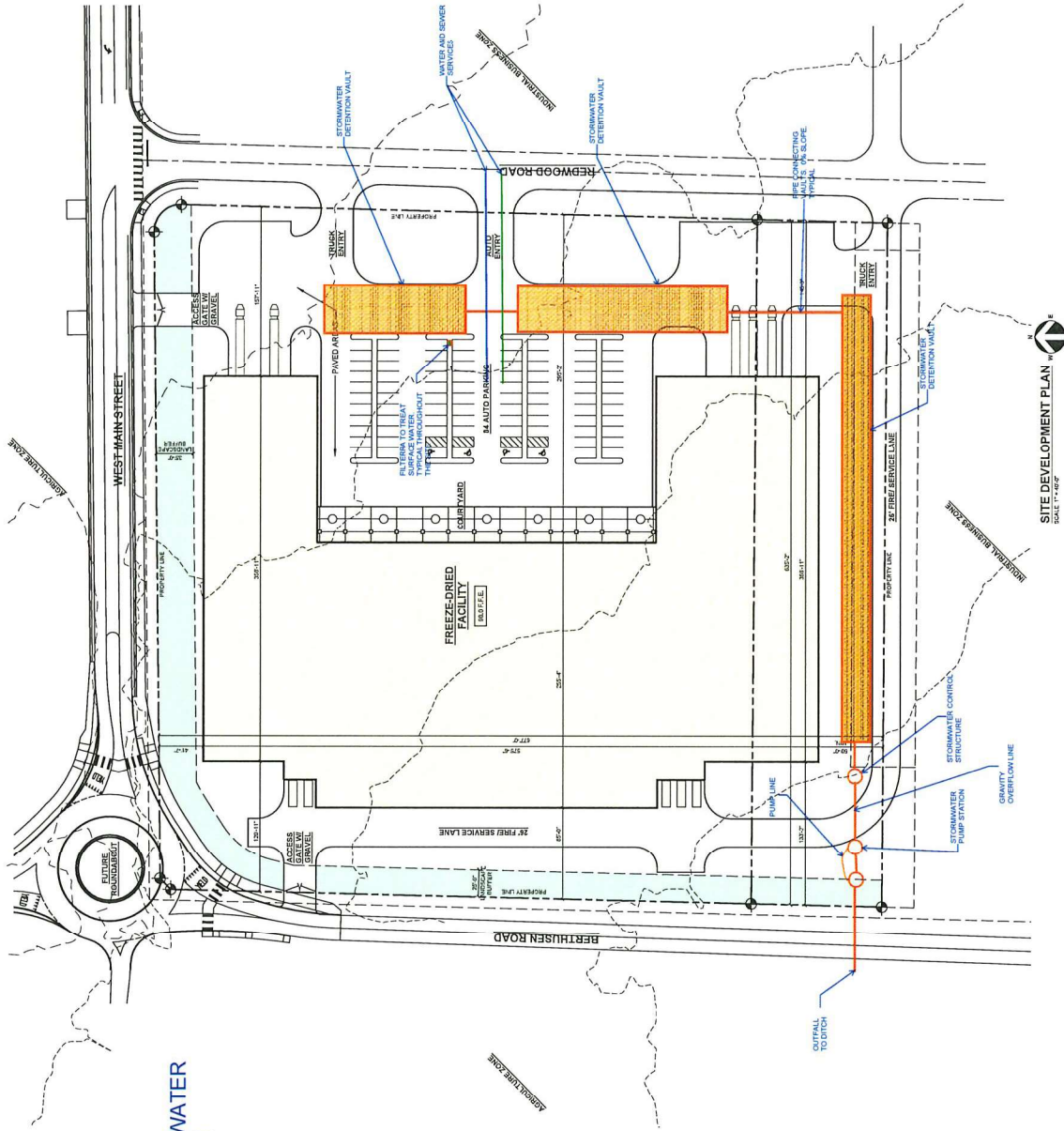


Soils Map

Figure 3

**Preliminary Site Plans**

**SCHEMATIC STORMWATER  
MANAGEMENT PLAN**



**SITE DEVELOPMENT PLAN**  
SCALE: 1" = 40'-0"

<p>GENERAL NOTES:</p>	<p>REVISIONS</p>	<p><b>PRELIMINARY NOT FOR CONSTRUCTION</b> 09/01/21 THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT TO BE USED FOR PERMITS AND SEALED DOCUMENT.</p>	<p>OWNER: CHATELIERE WEST-CENTRE CITY FOOD FACTORY</p> <p>DATE: 2/10/21</p> <p>PROJECT: WASHINGTON</p> <p>AP-1A</p>
	<p>CONTRACTOR: CURATORS</p> <p>DESIGNER: FFE ENGINEERING, INC.</p> <p>SCALE: 1" = 40'-0"</p> <p>DATE: 09/01/21</p> <p>PROJECT: WASHINGTON</p> <p>AP-1A</p>	<p>ALL RIGHTS AND EMPLOYMENT RESERVED BY FFE ENGINEERING, INC. THIS DOCUMENT IS THE PROPERTY OF FFE ENGINEERING, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF FFE ENGINEERING, INC.</p>	<p>FF E ENGINEERING, INC. 2000 WASHINGTON ST., SUITE 100 WASHINGTON, MO 64791 TEL: 660-866-1111 WWW.FFEENGINEERING.COM</p>

## **Stormwater Pollution Prevention Plan (SWPPP)**

### ***Element #1 Preserve Vegetation/Mark Clearing Limits***

The project site has been cleared and maintained with grass for many years. No new tree clearing will be required. However, existing vegetation on site shall be retained as much as possible during construction. The contractor shall clearly delineate the work limits prior to construction.

### ***Element #2 Establish Construction Access***

Construction traffic will access the site from Redwood Road. All construction traffic, such as personal vehicles, work trucks, etc. that will routinely leave the site shall remain on existing paved surfaces or stabilized temporary parking areas as much as possible. Construction traffic may only leave the existing stabilized surfaces if necessary for equipment or material transfers. Construction personnel, vehicles, and equipment shall not block or obstruct access to any existing, developed residential lots. Vehicles and equipment shall not block travel lanes without a traffic control plan. Paved roads will be cleaned at the end of each day and sediment transported to roads will be swept and disposed of at a controlled disposal area.

### ***Element #3 Control Flow Rates***

Stormwater flow control facilities are required for the project. An underground stormwater detention facility is proposed to control stormwater runoff rates. The risk of construction stormwater leaving the site is also low due to the sandy soils found on site. See *Element #13 Protect Low Impact Development BMPs* for additional guidance.

### ***Element #4 Install Sediment Controls***

Sediment controls work in conjunction with BMPs in *Element #5 Soil Stabilization* to retain sediment on site to the maximum amount practicable. The duff layer, native topsoil, and natural vegetation or grasses on site will be retained in an undisturbed state to the maximum extent practicable. Silt fence will be installed along the work limits. Also, if excavated material is placed within the project site such that runoff from the material would flow off site, then sediment controls, such as temporary berms or silt fence, must be installed downhill from the newly graded material. Any temporary drainage channels that may be required during construction will be stabilized with linings and check dams.

### ***Element #5 Stabilize Soils***

Construction erosion control BMPs shall be installed prior to soil-disturbing activities to the maximum extent practicable. Any BMPs that cannot be installed prior to grading or soil disturbance shall be installed and made operable immediately after installation is made possible. Disturbed soils will be permanently stabilized on site with pavement or with permanent plantings and seeding. All exposed and unworked soil will be temporarily stabilized with seeding, mulch, straw, nets and blankets, or plastic covering per DOE standards. No soil will be exposed and unworked for more than seven days between May 1 and



September 30. No soil will be exposed and unworked for more than two days between October 1 and April 30. In addition, weather conditions shall be monitored (including before holidays and weekends) for purposes of preparing the site for predicted weather conditions at all times during the year.

***Element #6 Protect Slopes***

Minor grading and shaping will be performed on site. This work will not result in significantly tall cut or fill slopes. Any slopes that are created as part of the project will be stabilized with retaining walls or with soil covering per *Element #5 Stabilize Soils*.

***Element #7 Protect Drain Inlets***

All drainage inlets made operable during construction will be protected so that no stormwater may enter the conveyance systems without filtration or other treatment for sediment. In addition, existing drainage inlets near the work area will also be fitted with temporary filter inserts or another applicable inlet protection. Additional inlet protection may be required if sediment is tracked onto pavement beyond the catch basins that are identified on the plans. These inlet protections are extremely important since they drain to underground infiltration facilities.

***Element #8 Stabilize Channels and Outlets***

No open channels or outlets are proposed as part of this project. If any open channels are used during construction, the channels and their outlets shall be thoroughly stabilized per guidelines in the current Stormwater Management Manual for Western Washington.

***Element #9 Control Pollutants***

All pollutants, including waste materials and demolition debris, that occur on site during construction shall be handled and disposed of in a manner that does not contaminate or cause the contamination of stormwater. Clearing and land-disturbing activities will also be limited to the minimum area necessary in a further effort to minimize sediment transport off site. Concrete trucks and equipment shall not be washed off into the street or into existing or proposed drainage systems. Maintenance of heavy equipment involving oil changes, hydraulic system drain down, solvent and de-greasing clearing and/or other activities that may result in discharge or spillage of pollutants to the ground or into stormwater runoff will be conducted with spill prevention measures in place, including the use of drip pans and conducting maintenance on a temporary pad that can be used to capture large spills.

***Element #10 Control De-Watering***

No dewatering is anticipated for this project. If dewatering does become necessary during construction, the contractor shall prepare a dewatering plan in accordance with City of Lynden standards and Department of Ecology requirements.

***Element #11 Maintain BMPs***

All temporary and permanent erosion and sedimentation control BMPs shall be inspected by a certified erosion and sedimentation control lead (CESCL) and shall be repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with BMP specifications.

All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal of BMPs or vegetation shall be permanently stabilized.

***Element #12 Manage the Project***

Phasing of Construction

This project will be built in a single phase. To the extent practicable, site disturbance, clearing, and construction will be scheduled appropriately to minimize the time that soil may be exposed. Clearing and grading activities will occur after the applicable permits have been obtained. When establishing clearing and grading areas, consideration will be given to minimizing removal of existing vegetation and minimizing disturbance and compaction of native soils except as needed for building purposes.

Seasonal Work Limitations

From October 1 through April 30, soil will not remain exposed and unworked for more than 2 days. From May 1 through September 30, soil will not remain exposed and unworked for more than 7 days. In addition, weather conditions shall be monitored (including before holidays and weekends) for purposes of preparing the site for predicted weather conditions at all times during the year. BMPs that are effective in stabilizing soils and protecting them from exposure to rain and wind or other climatic conditions will be implemented throughout the project. Inspection and evaluation of the effectiveness of the BMPs will occur on a daily basis. In the event of a forecasted precipitation event, the contractor shall evaluate existing BMPs on site and shall implement additional BMPs if the existing site conditions are inadequate to prevent rainfall from contacting unstabilized surfaces.

Inspection and Monitoring

As previously mentioned, all BMPs will be inspected, maintained, and repaired as needed to assure continued performance of their intended function. In the event that inspection and/or monitoring reveals that BMPs identified in the construction SWPPP are inadequate due to the actual discharge or potential to discharge a significant amount of any pollutant, this SWPPP shall be appropriately modified in a timely manner. The City of Lynden requires a CESCL to perform erosion control inspections and to provide recommendations for this project during construction. The contractor shall provide the name and valid certification for the project CESCL to the City of Lynden.

Maintenance of the Construction SWPPP

The construction SWPPP will be retained on site and will be updated on a regular basis. A log will be attached to the construction SWPPP to facilitate regular updates. Modifications to the construction SWPPP will be made whenever there is a significant change in the design, construction, operation, or maintenance of any BMP. If the contractor does not implement BMPs specified on these plans and if site conditions do not require the BMPs, the contractor shall provide written justification in the SWPPP for why the BMP is unnecessary.

***Element #13 Protect Low Impact Development BMPs***

No Low Impact Development BMPS are proposed.

ORIGINAL

CITY OF LYNDEN  
PLANNING COMMISSION RESOLUTION #21-08

**A resolution of recommendation for the approval of  
Conditional Use Permit 21-03, Alliance Freeze Dry**

WHEREAS, Tony Freeland, Freeland and Associates, Inc, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which processes, and packages freeze-dried pet food. The applicant is also requesting to exceed building heights of more than 45 feet. The proposal includes a request to build a portion of the building to a height of 75-feet.

WHEREAS, the application was determined to be complete on August 27, 2021, and the notice of application was published in the Lynden Tribune on September 8, 2021; 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 virtual public hearing on October 21, 2021, to accept public testimony on the proposed conditional use permit request, and that meeting was duly recorded;

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 October 15, 2021,

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 of the Lynden Municipal Code.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - a. Traffic and pedestrian circulation;
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
  - c. Building and site design;.
  - d. The physical characteristics of the subject property

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

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 19.49.040 of the Lynden Municipal Code.

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 through 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest.
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in

place to complete the improvements or strategies within six years of approval of the development.

- 6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.

**NOW THEREFORE, BE IT RESOLVED** by the Lynden Planning Commission to recommend approval by a vote of 4-0, to the Lynden City Council, of Conditional Use Permit #21-03, Alliance Freeze Dry, subject to conditions of the Technical Review Committee Report dated October 15, 2021 and further subject to the following conditions:

- 1. The applicant demonstrates compliance with noise performance per LMC 19.25.040 prior to issuance of the final building occupancy.
- 2. That the Conditional Use Permit be evaluated annually as described by code, that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it relates to noise and smell.
- 3. Only 7.5% of the total building area is permitted to reach a height of 75-feet. The additional height is located as shown in CUP application 21-03.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 4-0, at their regular meeting held on the 21<sup>st</sup> day of October 2021.

  
 \_\_\_\_\_  
 Tim Faber, Chair  
 Lynden Planning Commission

  
 \_\_\_\_\_  
 Heidi Gudde  
 Planning Director

# CITY OF LYNDEN



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

## PLANNING COMMISSION MEETING

7:00 PM October 21, 2021  
Microsoft Teams Meeting

### 1. CALL TO ORDER

### 2. ROLL CALL

Commissioners Present: Blair Scott, Tim Faber, Hollie Lyons and Darren Johnson

Commissioners Absent with Notice: Bryan Korthuis

Staff: Heidi Gudde and Korene Samec

### 3. APPROVAL OF THE MINUTES OF September 9, 2021

Scott approved as presented. Johnson seconded.

### 4. DECLARATION OF CONFLICT

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

### 5. PUBLIC HEARINGS TO CONSIDER:

#### A. CPA #21-02 & RZ #21-01, Vander Giessen Nursery, 315 E Grover St and 205 Hawley Street, Lynden

Gudde summarized the proposed Comprehensive Plan Amendment and Rezone Application for Vander Giessen Nursery.

Applicant is requesting a Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by Vander Giessen Nursery from Residential to Industrial. It would specifically change the zoning of the subject parcels from Residential Single Family 7,200 (RS-72) to Industrial Business Zone (IBZ).

The first step in evaluating this application is to determine whether or not the Comprehensive Plan should be amended. The application materials included in the package provide a number of questions relating to consistency with the Growth Management Act, the City's Comprehensive Plan and the change within the community that could necessitate such a change in the City's plan. The second step in the process will be to evaluate the rezone request.

**Public Comment**

David Vos, Owner, Vander Giessen Nursery, Inc., 401 E Grover Street, Lynden

Vos stated 205 Hawley Street has been use by the by the nursery since the 50's. This request is more to correct the zoning as it has been used in that manner for many years.

For 315 Grover Street, the plan is not to make any immediate changes, however, would like more flexibility in the future to grow the nursery. There is a family renting the property at this time. When it comes time to convert, the property will likely be a display yard / space.

**Questions or Comments from the Commissioners**

- Faber, the property to the west is still currently single family. Wondered about a buffer along the north side.
- The current residence is still planning to stay a residential use.
- Lyons, no immediate need to rezone 315 Grover. Once it is rezoned, other industrial buildings could be built there if the nursery chooses not to expand the nursey. Will there be any stipulations placed on the approval as a protection? Gudde stated that it is difficult to put conditions on a rezone as it is hard to track. At the time of development any construction would need City review through the permitting process.
- If a new industrial building was built. There would be landscape buffers and enhancements required by code.
- Lyons asked if there was a timeframe for the industrial use of 315 Grover Street? Vos replied, maybe 2-5 years. The family that is renting the home is happy there.

**Questions or Comments from the public - None**

Scott motioned to close the public portion of the hearing. Seconded by Lyons and the motion passed 4-0.

The Commission agrees that the request is reasonable.

**Criteria for Approval:** Applicant has responded the following questions and statements with written justifications for the proposed CPA and Rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. See meeting packet for detailed response

To grant this request, the Planning Commission and City Council must also 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; **Yes, the nursery has been there for 70 years.**
- b. The proposed site-specific rezone is consistent with the City’s comprehensive plan and applicable sub-area plan(s); **Agreed.**
- c. The project proposal is consistent with the City’s development codes and regulations for the zoning proposed for the project. **Agreed.**
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; **Agreed.**
- e. The proposed site-specific rezone will promote the health, safety and general welfare of the community. **Agreed.**

**In addition, the Commission must review the 6 criteria listed under 17.09.040 (C).**

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **N/A.**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No changes being made, no impacts.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **N/A. No impacts created as there is no development.**

**Scott made a motion to recommend approval to the City Council of Comprehensive Plan Amendment #21-02, Rezone #21-01, Vander Giessen Nursery subject to the Technical Review Committee Report dated October 8, 2021. Seconded by Johnson and the motion passed 4-0.**

**B. CUP #21-03, Alliance Freeze Dry, 675 Redwood Road, Lynden**

Gudde summarized the proposed Conditional Use Permit Application.

The request is for a conditional use permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which produces, and packages freeze-dried pet food. The processing plant site is approximately 9.93 acres and located at the southeast corner of the intersection of Main Street and Berthusen Road. The parcel has frontage on and is addressed from Redwood Road.

The proposal also includes a request to build a portion of the building to 75-foot height. Most of the building will fall below the permitted maximum height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet in height to allow for the mechanized stacking of product which is more efficient and allows for a smaller building footprint.

Gudde stated that in the past the City has looked at other CUP for additional height. Preferred Freezer was granted the request for additional height, however, did not use it. Darigold was granted additional height as well with a tower at 150-feet.

There are specific criteria that needs to be met and the applicant has addressed those in their application, also in the meeting packet.

Gudde stated that there were a few letters of concern received which are also in the Planning Commission Packet this evening.

Lyons referenced the Preferred Freezer CUP and asked what the height approval was for their application. Preferred Freezer was granted 75-feet in height, however, did not end up using it. The building was built at 45-feet high.

Gudde stated that the majority of the Alliance Freeze Dry building will be at 41-feet, with a 7.5% portion at 75-feet. There will be some mechanical equipment which will be screened.

### **Public Comment**

Tony Freeland, Freeland and Associates, 220 West Champion, Bellingham, Applicant.

Freeland is the project engineer and is representing Alliance Freeze Dry. Freeland introduced Dennis Wu, owner of Alliance to make a brief statement. Freeland will follow with technical issues.

Dennis Wu, Owner, Alliance Freeze Dry, 5292 272<sup>nd</sup> Street Langley, BC

Wu thanked the Commission for meeting with them. Looking forward to bringing a very good project to Lynden. Alliance Freeze Dry Group was established in 2010 in Langley BC. Over the past 10 years has become the largest pet food and treats freeze drive manufacturer and supplier in North America. Products can be found in many big box stores, such as Costco, Walmart, Pet Smart as well as online.

Pets are our family members. Want to provide the best pet food and treats for them by using the best materials for those family members making every effort to use extra care and use of innovative ideas. Excited to locate in Lynden.

City of Lynden is the sister City of Langley. Alliance feels as if Lynden is our new home and will gladly contribute to the community and help support the wellbeing of the neighborhood. The new facility will generate new employment and bring new business opportunities to the neighbors.

Freeland addressed the Commission and stated that he will address some of the comments received from the neighborhood. The Team met with most of the neighbors that commented and have greatly taken into consideration their concerns.

Odors: Emphasize that the facility uses raw frozen products and that the organic waste is stored inside the building and then picked up and taken from the site. It is a very clean business.

Traffic: The facility will have approximately 9 truck trips per day.

Noise: The only producer of noise at the facility would be the mechanical and refrigeration units which are regulated in accordance with the noise codes.

Lighting: Lights will be shielded to protect light pollution to the neighbors. As the sun rises in the sky the shadow will be smaller. 7% of the building. It allows for a more efficient use of space.

Stormwater: This is the former PeaceHealth site. This property is not part of the drainage system within the West Lynden Business Park that has drawn quite a bit of attention in the past. Much of the concern is how the stormwater will be managed on site? Historically on this site, including Preferred Freezer and the parking lot within the Park, infiltration is what has been used. That strategy is not what this project intends to do. This project will not rely on ground water infiltration. The project will construct a underground vault, approximately 1 million gallons in size with storage capacity to hold a 100 year storm event. The water will be stored in the vault and pumped into the Berthusen Ditch at a very small rate. The rate will mimic the rate as if the property was forested. Very different approach than what has been used in other areas of the neighborhood. This will greatly address the concerns of the neighbors of peak storms and flooding events. This system will be by far the most conservative and reliable system. This system is a major investment for Alliance. The concrete vault will be located under the parking areas and is 12 feet deep, 100 feet x 150 feet. The water will leave the site at a lower rate than it does now.

Height: The goal was to have a building at 45-feet and to have all storage within that height, however, a condition was to dedicate land to the City for the purposes of constructing a round-a-bout which in turn caused the footprint of the building to be reduced. To maintain the storage requirements the elevation just limited to the storage area of the building had to be increased. By increasing the height, the storage system is using an automated storage system, which takes advantage of height. The facility has a generator along with two pumps.

Another concern related to height was the shadow that the building will cast. Freeland showed a shadow study that was prepared using the longest day of the year starting at 7 am. The shadow does not leave the site. As the sun rises in the sky the shadow will become smaller. Again, the increased height is only 7.5% of the building.

The discharge will be on the south side of the building into the ditch on the west side of Berthusen. There will be no additional waters discharging the site. This will not exacerbate the existing condition. This vault will be greatly oversized.

What is the timing of the round-about? Freeland, likely next summer (2022)

Gudde, addressed Freeland and stated that the CUP relates specifically to food processing. There are other uses that are permitted outright that would not require a CUP. If this was a warehouse or office of the same square footage and same parking area, is there a different stormwater standard that you would be held to? Freeland, no, it would be exactly the same requirements and solution. The owner wanted to take the most conservative approach with regard to stormwater because they do recognize the current impacts and historical impacts. It is an opportunity to share this with the community and public.

Johnson asked, how many people will be employed? 80 employees. Scott asked what type of jobs will be offered? Alliance replied, labor, maintenance, technical positions.

Lyons asked if Alliance has other US companies for manufacturing or processing? No, this is our first?.

Lyons asked if the PW Department is aware of the underground storage solution? Gudde, replied, yes they are. They have met regarding this topic many times?

Has there been any odor complaints from neighbors surrounding the factory in Canada? No complaints on smell from the Canadian neighboring properties.

#### • **Questions or Comments from the Public**

- Jerry Hemple, 8371 Berthusen Road, Lynden. Hemple is opposed to the project. Has lived here for 20-years. Moved here because of the quiet location and the view. The view is beautiful. The building will take away the entire viewshed. There are several families in this area. Believes there will be odors unless you have an abatement system. The ditch in front of his house cannot handle anymore water. Lives with a 37-decibel hum in his ear from the recently constructed freezer plant. Traffic is terrible with all of the 18 wheelers driving past his house. Hemple hopes that Alliance chooses another location.
- Lesa Starkenburg, 10.21.21 letter received from Lesa Starkenburg on behalf of Curt Maberry Farms regarding building height and stormwater concerns regarding the request (in file). The properties in the area will be agriculture for years to come. CMF wants to ensure that their farm is not negatively impacted or impacted to a greater extent than necessary. They understand that it is zoned for industrial uses, just wants to make sure that it is done in a way that other parcels can still maintain. The biggest issue for CMF is the drainage. Yes, the CUP is about the use inside of the building. However it is also time to discuss whether or not this use is compatible with the surrounding uses. Stormwater is a concern. How do we make sure that this project adequately addresses stormwater?
- Kelly Dykstra 8393 Berthusen Road, Lynden, The Dykstra's bought their property 3-4 years ago. Always knew that eventually there would be a building in front of them but was told that there was a height restriction. The view is part of the reason they moved there. Concerned with the water, view and traffic that will be added to the area.
- Laurel Oval, 8431 Berthusen Road, Lynden, Moved to Lynden to serve in local schools. Concerned for when it snows, decreasing property values, also concerned with the underground vaults. The recent road construction has now caused their home

to shake when large trucks drive by. Concerned with what the underground vault might do?

Freeland responded that he expected to hear those types of comments, understands their concerns. This is typically what happens when industrial and residential are close. The underground vault will not negatively impact any off-site property.

Faber asked, if the height was not granted is there another option? Freeland stated for the facility to function properly it cannot be done without the additional height. If there were no request for a roundabout dedication, the building could be larger and constructed within the 45-feet. Otherwise it is be a no-go.

Public comments received as noted below. City response in meeting packet and in file.

- 1) Thomas VanBerkum - Submitted a letter (included in the PC package) citing concerns related to the height of the proposed building and its impact on views, storm drainage challenges in this area, and other impacts including additional traffic, odors, noise and light.
- 2) Greg Dykstra - Email (included in the PC package) citing concerns related to storm water runoff, odors that would be created from the processing plant, the noise associated with the facility, and the potential for views to be blocked by the 75-foot tall portion of the building.
- 3) Randy Korthus – Letter submitted (included in the PC package) which details concerns related to drainage along Berthusen Road and the West Lynden Business Park, building height and consistency with other buildings in the area, and snow drifting on the west side of the proposed building negatively affecting Berthusen Road.

**Johnson motion to close the public portion of the hearing. Seconded by Scott 4-0.**

There was discussion regarding Chapter 19.25 – specifically relating to performance standards. CUP's are to be reviewed every year. The nuisance code will also apply. The Commission asked if the CUP could be conditioned regarding noise / decibel levels to meet standards prior to issuing the final occupancy of the building. Yes, performance standards related to noise must demonstrate compliance with allowable levels.

Scott is concerned with comments that truck traffic on Berthusen Road is shaking homes. Is there something that should be reviewed? Faber stated that the best way to mitigate that would be to slow the speed of the traffic. Johnson stated that the roundabout will also slow the speed.

The Commission reviewed the required criteria as outlined in 19.49.020 (C). The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **Freeland is correct that the overall building at 41-feet will be what most obscures the views not the small percentage at 75-foot height. Adding a condition that performance standards as to noise, smell, would have to be met at the edge of the property corners would be a good idea. Commission Agreed.**
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; **may be improved with the round-about.**
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **as long as the City requires compliance with the performance standards.**
  - c. Building and site design; **no concerns.**
  - d. The physical characteristics of the subject property **no concerns.**
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. **Agreed.**
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. **Agreed.**
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. **Other than the height, there is no concern. If we approve the request for 7.5% of the building at 75 feet this item would be met.**

- 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. **Agreed.**
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Standing at Berthusen, one may not even notice the increased height in the back corner. Agreed.**
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed. Smells will be evaluated if there are any concerns.**

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes. Addressed during permitting.**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it will bring jobs.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No issues with level of service associated with the CUP.**
- 6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Only land dedicated will be for a much needed round-about. Agreed.**



Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.

**Scott made a motion to recommend approval to the City Council of the Alliance Freeze Dry Conditional Use Permit #21-03, subject to the following:**

- 1. Those identified in the Technical Review Committee Report dated October 15, 2021.**
- 2. The applicant demonstrates compliance with noise performance per LMC 19.25.040 prior to issuance of the final building occupancy.**
- 3. That the Conditional Use Permit be evaluated annually as described by code, that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it relates to noise and smell.**
- 4. Only 7.5% of the total building area is permitted to reach a height of 75-feet. The additional height is located as shown in CUP application 21-03.**

**Seconded by Johnson and the motion passed 4-0.**

**C. CUP #21-01, Duffner Mobile Home Park, 2010 Front Street, Lynden**

Gudde summarized the proposed Conditional Use Permit Application for the Duffner Mobile Home Park. The request is for a conditional use permit to allow the expansion of the existing non-conforming use of a manufactured home community (mobile home park) on a commercially zoned property. Note that a recent code amendment allowed for additional units to be added if approved through a Conditional Use Permit. Boundaries of the community are not proposed to expand.

*LMC 19.23.020(11) "The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone."*

The subject property is located on the north side of Front Street near the intersection of Front Street and the Guide Meridian. The 32-unit manufactured home community (MHC) is

300 4<sup>th</sup> Street, Lynden, WA 98264  
www.lyndenwa.org

commonly known as the Duffner Mobile Home Park. Its boundaries encompass 4 different parcels with a westerly parcel which currently include 2 additional homes for a total of 34 existing residences.

This MHC is considered a non-conforming use because the underlying property is zoned for commercial uses, specifically Commercial Services – Regional (CSR). However, this use was in place when the property was annexed into the City and therefore allowed to continue operation. Non-conforming uses are generally not permitted to expand or increase in intensity. However, recognizing the value of having affordable housing options which provides workforce housing to ag and industrial industries in the Lynden area, the City Council approved a code amendment which now allows some expansion. Specifically, MHCs located within CSR zoned properties may intensify (add units) if permitted through a Conditional Use Permit.

The pending proposal requests the addition of 14 units. New units would be mostly clustered at center of the property with several other units added throughout. The applicant has acknowledged the need to establish frontage improvements in the form of landscape buffers, additional community lighting, critical area protection, and street improvements.

**Public Comment**

Lesla Starkenburg PO Box 231, Lynden,

Starkenburg is representing the 4 “S” Group.

This project has had several steps. The non-conforming use will continue regardless. However, allowing the addition of units within the pre-existing park would alleviate some of the affordable housing opportunities in the community.

The applicant is looking for additional investment. This is a way for people to secure a place in the housing market.

There is a long list of conditions from the City located in the Staff Report. Met with the applicant to review. Of course the applicant is looking to find a balance as there becomes a point when they will be close to tipping the scale, however, the applicant is comfortable with moving forward as the Staff Report is written.

**Questions or Comments from the Commissioners**

Faber asked about the letter from Starkenburg regarding the landscape plan. It appears to be different from the Staff recommendation. Starkenburg stated that the landscape plan in the PC packet is what they are working toward. The only change would be to plant availability.

Faber asked, how many parcels are included in the park and should they be combined? Starkenburg noted that there at 3 different parcels. No reason to combine parcels.

Scott agrees with the basic concept that we need affordable housing. The City seems to have put a number of conditions in the Staff Report that will cover the need.

Lyons asked who maintains the property? Starkenburg replied, the owner of the land owns the property, the individuals own their unit. It is the responsibility of the lessee to maintain the property around their unit? Who will maintain the roads and landscaping? Starkenburg replied, the owner.

Johnson, no concerns. It is infill on what is already there.

**Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.**

19.49.020 (C). The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **The added 13 units are mostly on the interior. Agreed.**
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; **no concern.**
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **no concern.**
  - c. Building and site design; **no concern.**
  - d. The physical characteristics of the subject property **no concern.**
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. **No concern.**

- 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. **No concern.**
- 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. **No concern. Staff Report covers a lot.**
- 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. **No concern. Neighbors are higher use.**
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Agreed.**
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed.**

**The Commission reviewed the 6 criteria listed under 17.09.040 (C).**

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes..**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it provides housing.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to

complete the improvements or strategies within six years of approval of the development.  
**No issues with level of service associated with the CUP.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Agreed.**

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) Final unit count to be limited to 47 residential units. This represents the addition of 13 units. Units 33-41, and 43, as shown on the proposed plan, as well as the addition of 2082, 2084, and 2086 East Front St units. Staff does not support the addition of proposed unit #42. This unit would be disconnected from the community and highly exposed to the intersection of the Guide Meridian and Front Street. It is not an appropriate location for a home.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening as well as flowering shrubs at community entrances. Landscape material to meet applicable size and quality standards described in LMC 19.61. Streetscape plan developed with staff (attached) to be considered the minimum standard for street buffering.
- 3) Continue the installation of a hedge buffer / landscaping along east boundary where unit #42 was proposed.
- 4) Discontinue use of the eastern most access point (previously used by Scholten's Equipment).
- 5) As indicated on the site plan, relocate central access point to align with Duffner Drive. Proposed site plan does not appear to be aligned with Duffner consistent with safety standards. Location of access to be approved by the Public Works Department. This may alter the location of proposed units. All construction within the right-of-way to meet City standard and bonded according to City requirements. Encroachment permit required.
- 6) Fence (such as split rail) or hedge installed at top of bank along Duffner Creek unless otherwise approved by the Planning Department. This is to deter degradation of the critical area. No construction, sheds, or units placed within the critical area buffer of Duffner Creek. Fence installation required prior to issuance of building permits for units 34-47.

- 7) All trash and debris must be removed from the Duffner Creek bank prior to unit addition.
- 8) All stormwater drained away from bank of Duffner Creek. Stormwater plan required for proposed new pavement.
- 9) Vegetation planted to minimize erosion along the bank. Provide planting plan prior to issuance of building permits for units 34-47.
- 10) Lighting and addressing within the community required. To be installed prior to issuance of building permits for units 34-47. Final design must meet the approval of the Lynden Fire Department and Public Works Department.
- 11) Community sign(s) must be replaced at the time of landscape improvements.
- 12) Sewer easement recorded prior to building permits for units 34-47.
- 13) Provide evidence of decommission of on-site septic systems prior to issuance of building permits for units 34-47.
- 14) Provide stormwater report and fill and grade permit for new paved areas. This is required prior to commencement of work and prior to issuance of building permits for units 34-47.
- 15) A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement unless an alternate agreement is reached with the Public Works Department.
- 16) ROW improvements as required per recorded agreement filed under Whatcom County Auditor's File Number #2070202655. Plan review, approval and improvement construction required prior to issuance of building permits for units 34-47.
- 17) Installation of fire hydrants as required by the Fire Chief prior to issuance of building permits for units 34-47.
- 18) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 19) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

**Johnson made a motion to recommend approval to the City Council of the Duffner Mobile Home Park Conditional Use Permit #21-01, subject to the Technical Review Committee Report dated October 15, 2021, including that the 19 conditions identified in the Final TRC Report are met. Seconded by Scott and the motion passed 4-0.**

Next Planning Commission will be held on November 18, 2021 at 7:00 PM.

**6. ADJOURNMENT**

**Motion to adjourn by Scott at 10:05 pm. Seconded by Scott.**

DRAFT

**Heidi Gudde**

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**From:** Heidi Gudde  
**Sent:** Thursday, September 23, 2021 1:32 PM  
**To:** Dykstra, Greg; Korene Samec  
**Subject:** RE: Pet Food Freeze Dry Plant  
**Attachments:** 2021-09-10 Alliance Freeze Dry Prelim Stormwater Narrative.pdf

Hi Greg,

Thank you for your comments. We will include them in the application as it moves forward to public hearing and the Council’s decision.

I’ve attached some information about the project. Apologies if you have already received / reviewed this information. The stormwater narrative and plans illustrate the design that they are currently developing. Right now the 9+ acres site does not have a stormwater system so water is not being detained as it runs-off – they may contribute to the full ditches you mentioned although I’m sure other properties are also draining to the ditches. Once developed the site will meet the stormwater standards of the Western Washington Stormwater Manual which allows run-off only at a rate equal to that of an old-growth forest.

The noise and odors emissions must meet the performance standards set in LMC 19.25. Here is a link to that section: [19.25.040 - Performance standards. | Code of Ordinances | Lynden, WA | Municode Library](#)

The comment period for the Conditional Use Permit is just ending but the environmental review comment period is just beginning so feel free to take a little more time to submit comments or concerns as these issues overlap.

Let me know if you have any questions.

Regards,

Heidi Gudde

**Heidi Gudde, AICP**  
*Planning & Community Development Director*

City of Lynden  
(360) 354-5532

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**From:** Mark Sandal <SandalM@LYNDENWA.ORG>  
**Sent:** Wednesday, September 22, 2021 5:55 PM  
**To:** Heidi Gudde <GuddeH@lyndenwa.org>  
**Cc:** Dykstra, Greg <greg.dykstra@bp.com>; Korene Samec <SamecK@LYNDENWA.ORG>  
**Subject:** Fwd: Pet Food Freeze Dry Plant

Heidi  
I think Greg may have gotten your email wrong, so I thought I should forward to you

Mark



**From:** Dykstra, Greg <[greg.dykstra@bp.com](mailto:greg.dykstra@bp.com)>  
**Sent:** Wednesday, September 22, 2021 5:24:55 PM  
**To:** Mark Sandal <[SandalM@LYNDENWA.ORG](mailto:SandalM@LYNDENWA.ORG)>; [Hgudde@lyndenwa.org](mailto:Hgudde@lyndenwa.org) <[Hgudde@lyndenwa.org](mailto:Hgudde@lyndenwa.org)>  
**Subject:** Pet Food Freeze Dry Plant

Heide and Mark,

Looks like today is the last day to submit written comments on the application for the pet food freeze dry processing plant. There are a few things I'm worried about.

- What effects will the project have on water run off and how will they be mitigated? Water already backs up in the ditches along Berthusen.
- If the plant processes pet food, what type of odors or smells will that produce?
- How loud will the plant be, especially during the night?
- With a 75' portion of the building, it may impede on multiple residences view of Mt. Baker.

Thanks,  
Greg Dykstra  
8393 Berthusen Road  
360-319-5439

Thomas VanBerkum  
8637 Berthusen Road  
Lynden, WA 98264  
9/22/2021

Heidi Gudde, Planning Director  
300 4<sup>th</sup> Street  
Lynden, WA 98264

My home is directly across the Berthusen Road from the proposed building site at 675 Redwood Road. We purchased our property because of the location, being close to town, schools and work but in the County where it has been relatively quiet. We have a great view of Mt Baker and we would like to build a home on our parcel.

My primary concern with the project is the height and size of the proposed building. When we purchased our property it was with the understanding that whatever was developed across the street would be limited in height, I ask that you not make exceptions to height restrictions that are in place for this parcel. The impacts of a building of the proposed size will be extremely detrimental to the views and the feel of the entire area.

Another significant concern of mine is the impact on drainage for my property and for the area in general. The ditch along the Berthusen Road fills to capacity and struggles to keep up with a heavy rain or snow event as is. The City has done a good job of maintaining the ditch itself (mowing & clearing snow) but I am concerned about future flooding issues if this project is allowed to move forward. I expect the project will add significantly to existing drainage challenges.

Other concerns I have for the project include implications for traffic in the area and potential smells, odors, noise and bright light that the pet food facility might generate. I ask that you consider the impacts of all of these in reviewing the proposal and any information that can be provided on these issues will be appreciated.

Thank you in advance,



Thomas VanBerkum

RECEIVED

OCT 05 2021

10-4-2021

City of Lynden  
Planning Department

ATTN: Heidi Cudde

I Am writing this letter in concern about  
The Alliance Pet Food Plant. Address of 675  
Redwood Rd,

The engineering and design of the west Lynden  
Business Park and rejoining of Berthussen Rd  
was to handle the storm water issues.  
The ditch on the west side of Berthussen Rd  
was to continue handling the drainage of  
homes, businesses and the over 160 acres  
of property north of Main St and east of  
Berthussen Rd.

Lynden's Planning and Engineering chose too  
close the ditch on the east side of  
Berthussen Rd that drained this property and  
that took overflow from the north side  
of Main St. This water went south  
to the south side of Brent Claiborn's home  
west to Berthussen Creek. Ditches, Culverts  
are still in place and you must have  
a file of photos from, soil conservation and  
myself showing you this drainage.

This summer, very quickly a Bioswale has been  
dug draining 3 parcel of the development and  
now will drain water to the west Berthussen  
ditch. This 24 inch culvert not only blocks  
flow but will also limit water movement  
from the north. This was not designed or  
engineered for this purpose, also lowering  
of the road took the highest water

Carrying Capacity of The Ditch.

IN VISITING WITH Tony Ireland, THIS Past week ABOUT HIS "Bullet Proof" ENGINEERING Plan, I am remembering The Preferred Freezer Plan, which he now admits Did NOT work. (NOTE exhibit A) Dan Sorenson of Geo Test was also on record. The Storm water Plan was TO take a 100 Year flood, was 1.5 times larger than need be etc. Yet did NOT work. The 1.5 million gallon vault, will only take less than 5 inches of moisture from this site. IS that enough ?? Has enough planning and thought been given TO the Drainage of the business Park and Surrounding area, with input from all ??

2 The building height is also one of question. The Cold Storage was limited, and is consistent with The Surrounding buildings (Cooled door, Pate, etc) You are most all aware why public works installed snow fences on this property. You are all aware that Benthused Road is impassable most snow storms. Living here for over 40 years, I can only image, the drifts filling the Road, Ditch and Homes ON THE West side of this Building. Who will take the responsibility of Keeping clear for the many employees getting to work?

Sincerely

Randy Runtz

**LEGAL NOTICE OF  
STATE ENVIRONMENTAL POLICY ACT  
MITIGATED DETERMINATION OF  
NON-SIGNIFICANCE**

**NOTICE IS HEREBY GIVEN** that on August 23, 2021, the City of Lynden received a SEPA checklist from Tony Freeland, agent for Alliance Freeze Dry (USA) Inc, regarding the project described below.

**Description of Proposal:** Alliance Freeze-Dried Pet Food Plant - The construction of a new 220,000 sq ft freeze dried pet food processing plant on 9.93 acres in the West Lynden Business Park. The new plant will include freezer storage, pre-processing, freeze drying, packaging, and warehouse storage of the product.

**Parcels, Common Address and Abbreviated Legal Descriptions:**

Parcel #: 4002240373460000; 4002440373800000

Address: 675 Redwood Road, Lynden WA 98264

Legal Description: LOT 1 AND LOT 2 WEST LYNDEN BUSINESS PARK  
SPECIFIC BINDING SITE PLAN NO. 1

After reviewing the environmental checklist and other information on file with the agency, the City of Lynden has determined that this proposal will not have a probable significant adverse impact on the environment should standard conditions and mitigating measures be met. Copies of the MDNS are available from the City of Lynden, 300 4th St., WA. The public is invited to comment on this MDNS by submitting written comments to Heidi Gudde, Planning Director, no later than October 6, 2021, at 300 4<sup>th</sup> Street, Lynden, WA 98264.

Lynden Tribune  
September 22, 2021

*T. Draughton*

*Snow*

A1



220 W. Champion St.; Ste. 200  
Bellingham, Washington  
360.650.1408

August 28, 2015

City of Lynden  
300 4th Street  
Lynden, WA 98264

Attention: Ms. Amy Harksell  
  
Subject: Chill Build II  
Stormwater Management

Dear Ms. Harksell:

The drainage facility for Chill Build I was designed and built to accommodate the stormwater runoff from the proposed Chill Build II project.

Sincerely yours,



8-28-15

Tony Freeland, P.E.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Duffner MHP Expansion Conditional Use Permit	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<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: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Planning Commission Resolution 21-09, Final Staff Report and Recommendations, Technical Review Committee Report and Applicant Response, Conditional Use Permit Application 21-01		
<b>Summary Statement:</b>		
<p>Conditional Use Permit 21-01 is a request to allow the addition of 14 manufactured home units to the existing non-conforming use of a manufactured home community on a Commercially zoned property. This request comes on the heels of a recent code amendment which allows units to be added if approved through a Conditional Use Permit. Although intensification of the use may be permitted through this action it should be noted that the boundaries of the community are not permitted to expand.</p> <p>The application came before the Planning Commission as a virtual open public hearing on October 21<sup>st</sup>. The resulting resolution recommended approval but confirmed 19 specific conditions that were assembled by staff from all city departments during the Technical Review process. The result would be the addition of <u>13</u> housing units in association with the completion of street frontage improvements, the coordination of access points, and the cleanup of natural areas on the western property edge. The recommendations would also require additional lighting, landscaping, and addressing which are meant to improve the safety and aesthetics of the community.</p> <p>The Planning Commission Resolution and staff review documents are attached for Council review.</p>		
<b>Recommended Action:</b>		
Motion to approve Conditional Use Permit 21-01 which authorizes the addition of 13 housing units to the Duffner Manufactured Home Community subject to the conditions outlined in the Planning Commission Resolution 21-09. This motion also authorizes the mayor’s signature on the Findings of Fact and Conclusion of Law.		

# CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE  
Conditional Use Permit Application

October 15, 2021

## CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

Re: The application of Lesa Starkenburg-Kroontje on behalf of Four "S" Investments U.S. Inc., for a Conditional Use Permit Application.

CUP #21-01 Duffner Mobile Home Park FINDINGS, CONCLUSIONS, AND RECOMMENDATION

### I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a Conditional Use Permit which would allow the addition of 14 units to the existing non-conforming use of a manufactured home community (mobile home park) on a Commercially zoned property. Note that a recent code amendment allowed units to be added if approved through a Conditional Use Permit. Boundaries of the community are not permitted to expand.

Recommendation: Staff recommends addition of a maximum of 13 units and subject to very specific conditions of approval through the Conditional Use Permit.

### II. PRELIMINARY INFORMATION

Applicant: Lesa Starkenburg-Kroontje

Property Owner: Four "S" Investments U.S., Inc.

Property Location: 2010 Front Street, Lynden

Parcel Number: 4003224-502162, 400224-509149 and 400224-462156

Legal Description: See Application

<u>Notice Information:</u>	Application Submitted:	June 28, 2021
	Notice of Application:	July 14, 2021
	Notice of SEPA determination:	July 20, 2021
	Notice of Hearing:	September 23, 2021



Duffner Mobile Home Park Conditional Use Permit – TRC Report

Comment Period Ending: October 20, 2021

SEPA Review: Lynden SEPA #21-10. Mitigated Determination of Non-Significance (MDNS) issued August 18, 2021

Authorizing Codes, Policies, and Plans:

- LMC Chapter 16 Environmental Policy
- LMC Chapter 17 Land Development
  - LMC Chapter 17.01.030 Definitions
  - LMC Chapter 17.09, Review and Approval Process
    - LMC Chapter 17.09.040, Planning Commission Review and Recommendation
- LMC Chapter 18 Subdivisions
  - LMC Chapter 18.22.020 Definitions
- LMC Chapter 19 Zoning Code
  - LMC Chapter 19.23.020(11) Permitted Commercial Uses
  - LMC Chapter 19.35 Nonconforming Uses
  - LMC Chapter 19.49, Conditional Use Permits
    - LMC Chapter 19.49.020, Standards and Criteria for Granting a Conditional Use Permit
- International Building Code
- City of Lynden Manual for Engineering Design and Development Standards

**III. PROJECT DESCRIPTION**

The request is for a conditional use permit to allow the expansion of the existing non-conforming use of a manufactured home community (mobile home park) on a commercially zoned property. Note that a recent code amendment allowed for additional units to be added if approved through a Conditional Use Permit. Boundaries of the community are not proposed to expand.

*LMC 19.23.020(11) “The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone.”*

## Duffner Mobile Home Park Conditional Use Permit – TRC Report

The subject property is located on the north side of Front Street near the intersection of Front Street and the Guide Meridian. The 32-unit manufactured home community (MHC) is commonly known as the Duffner Mobile Home Park. Its boundaries encompass 4 different parcels with a westerly parcel which currently include 2 additional homes for a total of 34 existing residences.

This MHC is considered a non-conforming use because the underlying property is zoned for commercial uses, specifically Commercial Services – Regional (CSR). However, this use was in place when the property was annexed into the City and therefore allowed to continue operation. Non-conforming uses are generally not permitted to expand or increase in intensity. However, recognizing the value of having affordable housing options which provides workforce housing to ag and industrial industries in the Lynden area, the City Council approved a code amendment which now allows some expansion. Specifically, MHCs located within CSR zoned properties may intensify (add units) if permitted through a Conditional Use Permit.

The pending proposal requests the addition of 14 units. New units would be mostly clustered at center of the property with several other units added throughout. The applicant has acknowledged the need to establish frontage improvements in the form of landscape buffers, additional community lighting, critical area protection, and street improvements.

### **IV. PUBLIC NOTICE AND COMMENT**

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on October 6, 2021.

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on September 22, 2021 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on August 4, 2021.

Public Comment Received:

No written public comments were submitted in response to this Conditional Use Permit application or the SEPA notice.

**V. ANALYSIS AND CONSISTENCY WITH REGULATIONS**

The application is reviewed in accordance with the LMC 19.49.020 and the criteria listed for land use application review in LMC 17.09.040(C) "Planning Commission Review and Recommendation; Required Findings".

A. Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
- 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - a. Traffic and pedestrian circulation;
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
  - c. Building and site design; and
  - d. The physical characteristics of the subject property.

Duffner Mobile Home Park Conditional Use Permit – TRC Report

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

**VI. TECHNICAL REVIEW COMMITTEE COMMENTS**

Planning and Development Department

- *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. Subsequent to application submission the applicant was asked to elaborate on Criteria #4 and #7.

Criteria 4 relates to impacts to traffic. Staff agreed that additional traffic will not decrease the level of service (LOS) below standards outlined in the Comprehensive Plan but has concerns about how additional units will be accessing Front Street. In response the applicant has agreed to close the most eastern access point and relocate one of the existing internal access points further to the west to line up with Duffner Drive to the south.

Criteria 7 relates to detriment to natural, scenic or historic feature of major importance. Site conditions of the western and northwestern property line of Duffner

## Duffner Mobile Home Park Conditional Use Permit – TRC Report

MHP are poor. This bank of Duffner Creek includes litter and other refuse. As a result the applicant has agreed to implement the following protections:

- a. All trash and debris will be removed from the bank area at, or prior to the time of granting this CUP
  - b. Fencing or a vegetated deterrent will be installed near the top of the bank to deter close access.
  - c. All water will be routed away from the bank.
  - d. Vegetation will be incorporated to minimize erosion.
- *Critical Areas:* The “ditch” noted on the west side of the property is part of Duffner Creek and classified as a critical area. Note that the ordinary highwater mark (OHWM) on the Duffer Creek and associated 100-foot buffer must be delineated by a registered surveyor and included on the record of survey before any homes can be placed in this area. The final location of the critical area buffer of 100-feet may impact the ability of the property owner to place homes along the western property line. The applicant subsequently provided a site plan that includes the OHWM.
  - *Landscape Buffer and Screening:* An improved appearance of the Duffner MHP including the addition of a landscape buffer is an important component to staff support of the Conditional Use Permit. For comparison, the City’s standard for the layout of new manufactured home communities, as described in LMC 18.22, requires a Type V landscape buffer 30 feet in width (see LMC 19.61.070 for landscape buffer types). The applicant has initially provided information which indicates that a row of Excelsa Cedar will be used as a hedge along the Front Street sidewalk and portions of the western property line. Staff noted concerns with this plan. As a result, Kevin Vander Veen, agent for the property owner, has worked with staff to develop an alternate plan.
  - *Community Signage:* The existing sign for the community is in poor condition. The applicant has agreed to replace community signage with an illuminated sign that meets the City’s sign code.
  - *Building and Siting Requirements:* The applicant has been advised that building permits are required for every new home placed on this site or the alteration of existing units. All buildings must meet the building code standards including spacing requirements regardless of the unit count presumed with the CUP proposal.
  - *Unit Count:* The applicant has acknowledged that a maximum unit count will be established as a condition of the CUP. These units shall be shown/designated on the record of survey. This total should be noted after the required revisions to the site are completed as noted in this staff report.

## Duffner Mobile Home Park Conditional Use Permit – TRC Report

### **Public Works Department**

- *Access Points:* The site plan originally submitted with the application appeared to suggest the continued use of 5 or 6 driveway cuts accessing Front Street. The resulting spacing of these cuts exceeded what is permitted by the City's Engineering and Design Standards. Staff does not support the continued use of the driveway cut accessing the center of the community. The applicant has agreed to eliminate the eastern access point as well as shift one access point from the center of the frontage to align with Duffner Drive.
- *Sewer Extension and Easement:* Applicant will be required to provide evidence of the final recorded sewer easement. The public sewer easement must be extended to the north property line and depicted on the record of survey.
- *Decommissioning of Septic:* Applicant will be required to provide evidence that all septic systems have been decommissioned meeting Whatcom County standards since connecting to City sewer service.
- *Stormwater Infrastructure:* Applicant has been advised that the site is located within the West Lynden Regional storm water facility which could be utilized as part of the required stormwater report. The pond facility provides primary treatment only and detention for 85% parcel impervious. Depending on use, additional onsite treatment, and detention may be needed.
- *Utilities - Water:* The applicant has been advised that water hookup fees shall be paid per mobile home unit. Additionally, if future structure increases/changes demand for water, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection.
- *Utilities - Sanitary Sewer:* Applicant has been advised regarding sanitary sewer connection fees. Additionally, if future structure increases/changes sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
- *Easement:* Sewer easement to be recorded providing for sewer main extension from Front Street to northern property line for the extensions to the proposed units. The trunk main easement to be stubbed to the north must be 20 feet in width, recorded, and shown on the record of survey.

Duffner Mobile Home Park Conditional Use Permit – TRC Report

- *ROW Improvements:* Applicant has been informed that participation in Front Street improvements is required as per the recorded agreement filed under Whatcom County Auditor’s File Number #2070202655.

Fire Department

- *Addressing:* The applicant has acknowledged that prior to issuance of the first building permit for the first unit, the addressing in the park must be reviewed on site by a representative of the Lynden Fire Department or Police Department to ensure that homes within the community are appropriately addressed. Improvements must include a consistent and highly visible numbering of each unit.
- *Hydrants:* The applicant has acknowledged that additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete *Fire review will occur at the time of building permit.*
- *Site Lighting:* The applicant has agreed that in order to provide a safer environment, interior street lighting must be installed prior to issuance of the first building permit. The site lighting plan must be reviewed and approved by the Public Works Department.

Parks Department – had no comments on this application.

**VII. RECOMMENDATION**

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) Final unit count to be limited to 47 residential units. This represents the addition of 13 units. Units 33-41, and 43, as shown on the proposed plan, as well as the addition of 2082, 2084, and 2086 East Front St units. Staff does not support the addition of proposed unit #42. This unit would be disconnected from the community and highly exposed to the intersection of the Guide Meridian and Front Street. It is not an appropriate location for a home.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening as well as flowering shrubs at community entrances. Landscape material to meet applicable size and quality

Duffner Mobile Home Park Conditional Use Permit – TRC Report

standards described in LMC 19.61. Streetscape plan developed with staff (attached) to be considered the minimum standard for street buffering.

- 3) Continue the installation of a hedge buffer / landscaping along east boundary where unit #42 was proposed.
- 4) Discontinue use of the eastern most access point (previously used by Scholten's Equipment).
- 5) As indicated on the site plan, relocate central access point to align with Duffner Drive. Proposed site plan does not appear to be aligned with Duffner consistent with safety standards. Location of access to be approved by the Public Works Department. This may alter the location of proposed units. All construction within the right-of-way to meet City standard and bonded according to City requirements. Encroachment permit required.
- 6) Fence (such as split rail) or hedge installed at top of bank along Duffner Creek unless otherwise approved by the Planning Department. This is to deter degradation of the critical area. No construction, sheds, or units placed within the critical area buffer of Duffner Creek. Fence installation required prior to issuance of building permits for units 34-47.
- 7) All trash and debris must be removed from the Duffner Creek bank prior to unit addition.
- 8) All stormwater drained away from bank of Duffner Creek. Stormwater plan required for proposed new pavement.
- 9) Vegetation planted to minimize erosion along the bank. Provide planting plan prior to issuance of building permits for units 34-47.
- 10) Lighting and addressing within the community required. To be installed prior to issuance of building permits for units 34-47. Final design must meet the approval of the Lynden Fire Department and Public Works Department.
- 11) Community sign(s) must be replaced at the time of landscape improvements.
- 12) Sewer easement recorded prior to building permits for units 34-47.
- 13) Provide evidence of decommission of on-site septic systems prior to issuance of building permits for units 34-47.



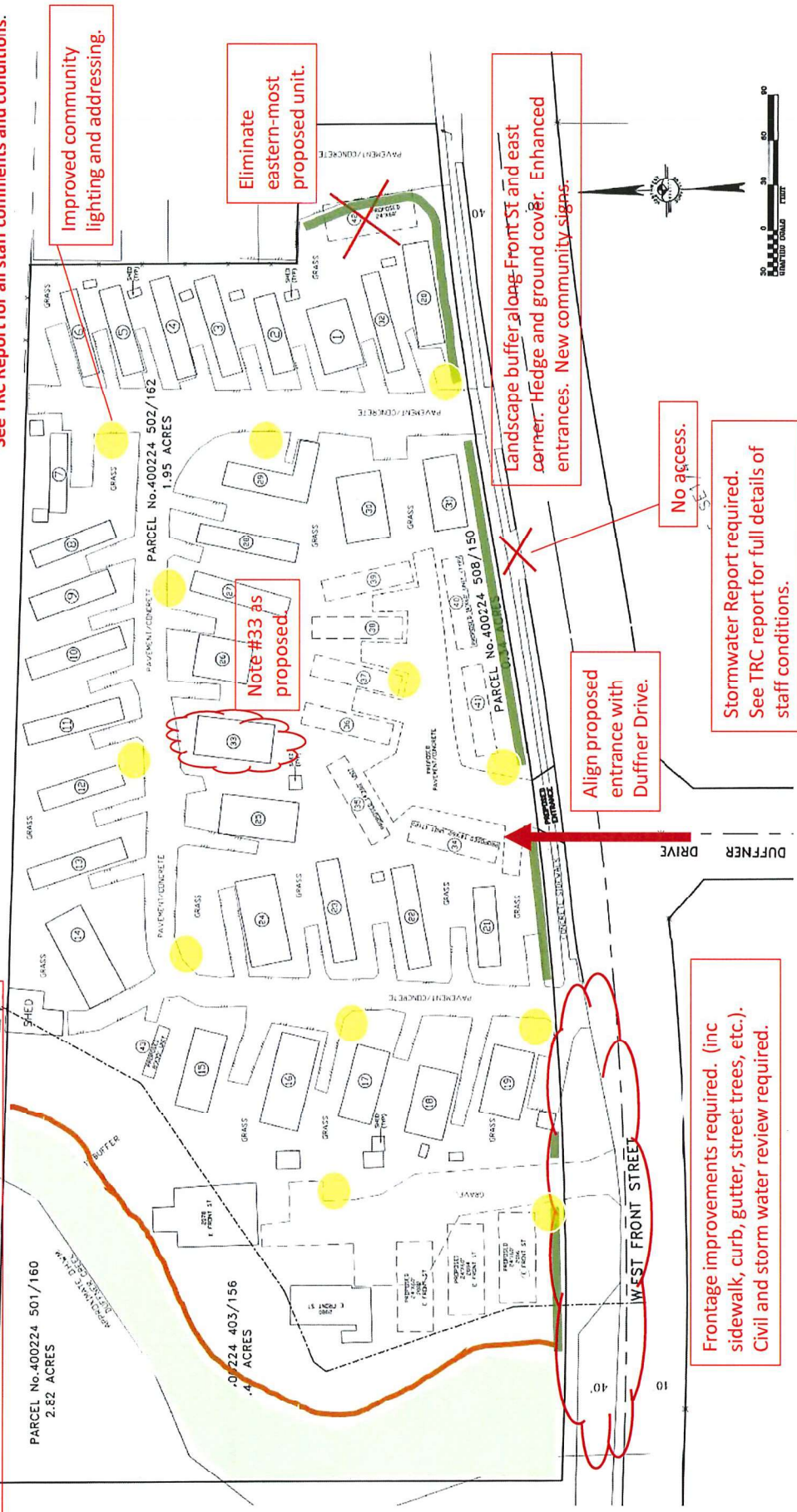
Duffner Mobile Home Park Conditional Use Permit – TRC Report

- 14) Provide stormwater report and fill and grade permit for new paved areas. This is required prior to commencement of work and prior to issuance of building permits for units 34-47.
- 15) A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement unless an alternate agreement is reached with the Public Works Department.
- 16) ROW improvements as required per recorded agreement filed under Whatcom County Auditor's File Number #2070202655. Plan review, approval and improvement construction required prior to issuance of building permits for units 34-47.
- 17) Installation of fire hydrants as required by the Fire Chief prior to issuance of building permits for units 34-47.
- 18) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 19) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.

Technical Review Committee – Required and Recommended Conditions Exhibit 10-4-2021

See TRC Report for all staff comments and conditions.

Split rail fence and critical area signs at top of bank. Clean up of refuse. Erosion control planting on creek bank.



Frontage improvements required. (inc sidewalk, curb, gutter, street trees, etc.). Civil and storm water review required.

Stormwater Report required. See TRC report for full details of staff conditions.

No access.

Align proposed entrance with Duffner Drive.

Landscape buffer along Front St and east corner. Hedge and ground cover. Enhanced entrances. New community signs.

Eliminate eastern-most proposed unit.

Note #33 as proposed.

Improved community lighting and addressing.



# CITY OF LYNDEN



## TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	July 29, 2021
Project Name:	CUP #21-01, Duffner Mobile Home Park
Applicant:	Lesa Starkenburg-Kroontje
Property Owner:	Four "S" Investments U.S., Inc.
Site Address:	2010 Front Street, Lynden
Parcel Number	4003224-502162, 400224-509149 and 400224-462156
Zoning Designation:	CSR
Application Type:	Conditional Use Permit (CUP)
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:	June 28, 2021
Date of Publication:	July 14, 2021
SEPA Determination:	July 20, 2021
Project Description:	The applicant is requesting a conditional use permit to allow additional mobile units to infill areas within the existing park. Up to 14 new sites will be prepared.

### **Notification Requirements:**

The applicant submitted a complete Conditional Use Permit application on May 26, 2021, which was subsequently reviewed by staff. The City also received proof of public notices via certified mailing and the affidavit of posting in accordance with the City's requirements.

**Project Summary:**

The subject property is zoned Regional Commercial Services (CSR)

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

In February 2021, Council approved Ord 1616 permitting the expansion of the nonconforming use of a mobile home park within the Commercial Services-Regional (CSR) Zoning category only as a conditional use and subject to appropriate setback and buffering requirements that may result as a review of the conditional use permit application.

**Applicant – Please provide written responses to staff comments below and revised information as requested. Advisory comments should be noted as acknowledged or understood. Note that without revised information the application may not be able to proceed to public hearing or could proceed without a staff recommendation for approval.**

**Planning Department Comments:**

*Site Plan and Survey of Record:* Staff found that the site plan provided was not scaled or proportioned consistent with the actual layout of the community. For example, many lots are shown as square but are actually long and narrow. Before the application can move forward to the Planning Commission hearing, a more accurate depiction of the park layout will be required. Additionally, prior to the installation of any new unit the property owner must submit to staff a record of survey for review of the following items. The record of survey must also be recorded prior to the issuance of a permit to add units. In the meantime, the application site plan must include:

- i. Continuation of the lot numbering system so that each unit is numbered on the plan. Also, include existing pad numbers or addresses as available.
- ii. Proportionate depiction of existing home sites.
- iii. Accurate depiction of the property line in relation to the sidewalk and street.
- iv. Staff is aware of the fact that the park is made up of multiple parcel lines. Please show parcel lines and parcel numbers on the site plan. This shall include any additional parcel numbers above the number of lots.
- v. Indication of existing and proposed surfaces, for example “asphalt” internal road, “landscaped” or “grass” common area. The proposed site plan currently includes some areas that are unlabeled and probably disproportionately depicted. Please revise.

2. *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. Before the application can move forward to the Planning Commission hearing please provide written responses which elaborate on Criteria #4 and #7.

Criteria 4 relates to impacts to traffic. While staff agrees that additional traffic will not decrease the level of service (LOS) below standards outlined in the Comprehensive Plan, please address how additional units will be accessing Front Street. See also Public Works staff comments related to access points.

Criteria 7 relates to detriment to natural, scenic or historic feature of major importance. Please address this criteria as it relates to Duffner Creek critical area. Site conditions of the western and northwestern property line of Duffner MHP are poor. This bank of Duffner Creek includes litter and other refuse. Additional housing units in this vicinity are not likely to improve this condition. Please address.

3. *Critical Areas:* The “ditch” noted on the west side of the property is part of Duffner Creek and classified as a critical area. Staff acknowledges that the applicant has filed a SEPA checklist and supporting information for the project. Additional information can be found in SEPA file # 21-10. Note that the ordinary highwater mark on the Duffer Creek and associated 100-foot buffer must be delineated by a registered surveyor and included on the record of survey before any homes can be placed in this area. The final location of the critical area buffer of 100-feet may impact the ability of the property owner to place homes along the western property line.
4. *Landscape Buffer and Screening:* An improved appearance of the Duffner MHP including the addition of a landscape buffer is an important component to staff support of the Conditional Use Permit. For comparison, the City’s standard for the layout of new manufactured home communities, as described in LMC 18.22, requires a Type V landscape buffer 30 feet in width (see LMC 19.61.070 for landscape buffer types). The applicant has provided information which indicates that a row of Excelsa Cedar will be used as a hedge along the Front Street sidewalk and portions of the western property line. Before the application can move forward to the Planning Commission hearing, provide to staff a revised detailed landscape plan which accurately shows the property line in relation to the public sidewalk and street and addresses the following concerns:
- a. Excelsa Cedar (or similar Cedar species) will grow too large for the space provided and are not appropriate to be placed so close to a public sidewalk. Note also that the property line lies north of the public sidewalk.
  - b. Smaller landscape material such as small shrubs and ground covers must be provided at the entrances so as not to block the view of drivers pulling out onto Front Street. Staff recommends the use of attractive landscape materials here to enhance the communities entrance points.

- c. Western property line likely falls with a critical area or critical area buffer. Any planting here must be species which are native to the region and, prior to planting, reviewed for potential impacts to the critical area.
  - d. Show existing street trees on the revised landscape plan. Replace street trees which are missing or damaged.
5. *Community Signage:* The existing sign for the community is in poor condition. Staff recommends that a new sign meeting current standards/codes with street addressing clearly illuminated, be a condition of approval for the CUP and incorporated into the landscape plan for the Front Street frontage. Sign must meet code standards delineated in LMC 19.33. Show location on the revised landscape plan.
  6. *Building and Siting Requirements:* Be advised, building permits are required for every new home placed on this site or the alteration of existing units. All buildings must meet the building code standards including spacing requirements regardless of the unit count presumed with the CUP proposal.
  7. *Unit Count:* Staff recommends that a maximum unit count be established as a condition of the CUP. These units shall be shown/designated on the record of survey. This total should be noted after the required revisions to the site are completed as noted in this staff report.

### **Public Works Department**

8. *Access Points:* Site plan appears to suggest the continued use of 5 or 6 driveway cuts accessing Front Street. The resulting spacing of these cuts exceeds what is permitted by the City's current Engineering and Design Standards. Staff does not support the continued use of the driveway cut accessing the center of the community. This access point must be eliminated and the central core of the park accessed internally.
9. *Sewer Extension and Easement:* Provide evidence of the final recorded sewer easement. The public sewer shall be extended to the north property line per City standards. This must have a 20 foot utility easement on it and depicted on the record of survey.
10. *Decommissioning of Septic:* Provide evidence that all septic systems have been decommissioned meeting Whatcom County standards since connecting to City sewer service.
11. *Stormwater Infrastructure:* Site is located within the West Lynden Regional storm water facility. Facility provides primary treatment only and detention for 85% parcel impervious. Depending on use, additional onsite treatment, and detention may be needed.

8. *Utilities - Water:* Water hookup fees shall be paid per mobile home unit. Fees are established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes demand for water, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection.
12. *Utilities - Sanitary Sewer:* Fees are established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
13. *Water:* A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement.
14. *Easement:* Sewer easement to be recorded providing for sewer main extension from Front Street to northern property line for the extensions to the proposed units. The trunk main easement to be stubbed to the north must be 20 feet in width, recorded, and shown on the record of survey.
15. *ROW Improvements:* Participation in Front Street improvements is required as per the recorded agreement filed under Whatcom County Auditor's File Number #2070202655.

### **Fire and Life Safety**

16. *Hydrants Required:* Additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete Fire review will occur at the time of building permit.
17. *Addressing:* Prior to issuance of the first building permit for the first unit, the addressing in the park must be reviewed on site by a representative of the Lynden Fire Department or Police Department to ensure that homes within the community are appropriately addressed. Improvements must include a consistent and highly visible numbering of each unit.
18. *Site Lighting:* To provide a safer environment, interior street lighting must be installed prior to issuance of the first building permit. The site lighting plan must be reviewed and approved by the Public Works Department.

### **Parks and Recreation**

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



All of the access points noted on the site plan are existing access points. As a result of the additional traffic that will access the site from the new homes the applicant is willing to close the most eastern access point. In addition, the applicant is willing to relocate the "internal" access point further to the west to line up with the Duffner Drive to the south. The applicant is willing to discuss this at the TRC.

Criteria 7 relates to detriment to natural, scenic or historic feature of major importance. Please address this criteria as it relates to Duffner Creek critical area. Site conditions of the western and northwestern property line of Duffner MHP are poor. This bank of Duffner Creek includes litter and other refuse. Additional housing units in this vicinity are not likely to improve this condition. Please address.

The City of Lynden does note the presence of Duffner Creek at the northwestern portion of the site. This natural feature will not be altered by this permit request. To further enhance and protect this feature the following protections will be implemented.

- a. All trash and debris will be removed from the bank area at, or prior to the time of the granting of this CUP.
- b. Fencing or a vegetated deterrent will be installed near the top of the bank to deter close access.
- c. All water will be routed away from the bank.
- d. Vegetation will be incorporated to minimize erosion.

3. **Critical Areas:** The "ditch" noted on the west side of the property is part of Duffner Creek and classified as a critical area. Staff acknowledges that the applicant has filed a SEPA checklist and supporting information for the project. Additional information can be found in SEPA file # 21-10. Note that the ordinary highwater mark on the Duffer Creek and associated 100-foot buffer must be delineated by a registered surveyor and included on the record of survey before any homes can be placed in this area. The final location of the critical area buffer of 100-feet may impact the ability of the property owner to place homes along the western property line.

The surveyor will note the OHWM on the record of survey.

4. **Landscape Buffer and Screening:** An improved appearance of the Duffner MHP including the addition of a landscape buffer is an important component to staff support of the Conditional Use Permit. For comparison, the City's standard for the layout of new manufactured home communities, as described in LMC 18.22, requires a Type V landscape buffer 30 feet in width (see LMC 19.61.070 for landscape buffer types). The applicant has provided information which indicates that a row of Excelsa Cedar will be used as a hedge along the Front Street sidewalk and portions of the western property line. Before the application can move forward to the Planning Commission hearing, provide to staff a revised detailed landscape plan which accurately shows the property line in relation to the public sidewalk and street and addresses the following concerns:

- a. Excelsa Cedar (or similar Cedar species) will grow too large for the space provided and are not appropriate to be placed so close to a public sidewalk. Note also that the property line lies north of the public sidewalk.
  - b. Smaller landscape material such as small shrubs and ground covers must be provided at the entrances so as not to block the view of drivers pulling out onto Front Street. Staff recommends the use of attractive landscape materials here to enhance the communities entrance points.
  - c. Western property line likely falls with a critical area or critical area buffer. Any planting here must be species which are native to the region and, prior to planting, reviewed for potential impacts to the critical area.
  - d. Show existing street trees on the revised landscape plan. Replace street trees which are missing or damaged.
5. *Community Signage:* The existing sign for the community is in poor condition. Staff recommends that a new sign meeting current standards/codes with street addressing clearly illuminated, be a condition of approval for the CUP and incorporated into the landscape plan for the Front Street frontage. Sign must meet code standards delineated in LMC 19.33. Show location on the revised landscape plan.

*The applicant will design a new sign to incorporate into the park at the time of the first building permit.*

6. *Building and Siting Requirements:* Be advised, building permits are required for every new home placed on this site or the alteration of existing units. All buildings must meet the building code standards including spacing requirements regardless of the unit count presumed with the CUP proposal.
7. *Unit Count:* Staff recommends that a maximum unit count be established as a condition of the CUP. These units shall be shown/designated on the record of survey. This total should be noted after the required revisions to the site are completed as noted in this staff report.

*The applicant agrees to this recommendation.*

**Public Works Department**

8. *Access Points:* Site plan appears to suggest the continued use of 5 or 6 driveway cuts accessing Front Street. The resulting spacing of these cuts exceeds what is permitted by the City's current Engineering and Design Standards. Staff does not support the continued use of the driveway cut accessing the center of the

community. This access point must be eliminated and the central core of the park accessed internally.

*The applicant would like to discuss this at the TRC.*

*Sewer Extension and Easement:* Provide evidence of the final recorded sewer easement. The public sewer shall be extended to the north property line per City standards. This must have a 20 foot utility easement on it and depicted on the record of survey.

*The applicant would like to discuss this at the TRC.*

- 9. *Decommissioning of Septic:* Provide evidence that all septic systems have been decommissioned meeting Whatcom County standards since connecting to City sewer service.
- 10. *Stormwater Infrastructure:* Site is located within the West Lynden Regional storm water facility. Facility provides primary treatment only and detention for 85% parcel impervious. Depending on use, additional onsite treatment, and detention may be needed.
- 8. *Utilities - Water:* Water hookup fees shall be paid per mobile home unit. Fees are established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes demand for water, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection.
- 11. *Utilities - Sanitary Sewer:* Fees are established by City Code. Please contact the Building Division for a fee estimate. Be advised, if future structure increases/changes sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
- 12. *Water:* A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement.

*The applicant would like to discuss this at the TRC.*

- 13. *Easement:* Sewer easement to be recorded providing for sewer main extension from Front Street to northern property line for the extensions to the proposed units. The trunk main easement to be stubbed to the north must be 20 feet in width, recorded, and shown on the record of survey.

*The applicant would like to discuss this at the TRC – the applicant will grant an easement but the new units will likely connect to the existing lines that are not within the proposed easement.*

- 14. *ROW Improvements:* Participation in Front Street improvements is required as per the recorded agreement filed under Whatcom County Auditor's File Number #2070202655.

*The applicant would like to discuss this at the TRC.*

**Fire and Life Safety**

- 15. *Hydrants Required:* Additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete Fire review will occur at the time of building permit.
- 16. *Addressing:* Prior to issuance of the first building permit for the first unit, the addressing in the park must be reviewed on site by a representative of the Lynden Fire Department or Police Department to ensure that homes within the community are appropriately addressed. Improvements must include a consistent and highly visible numbering of each unit.

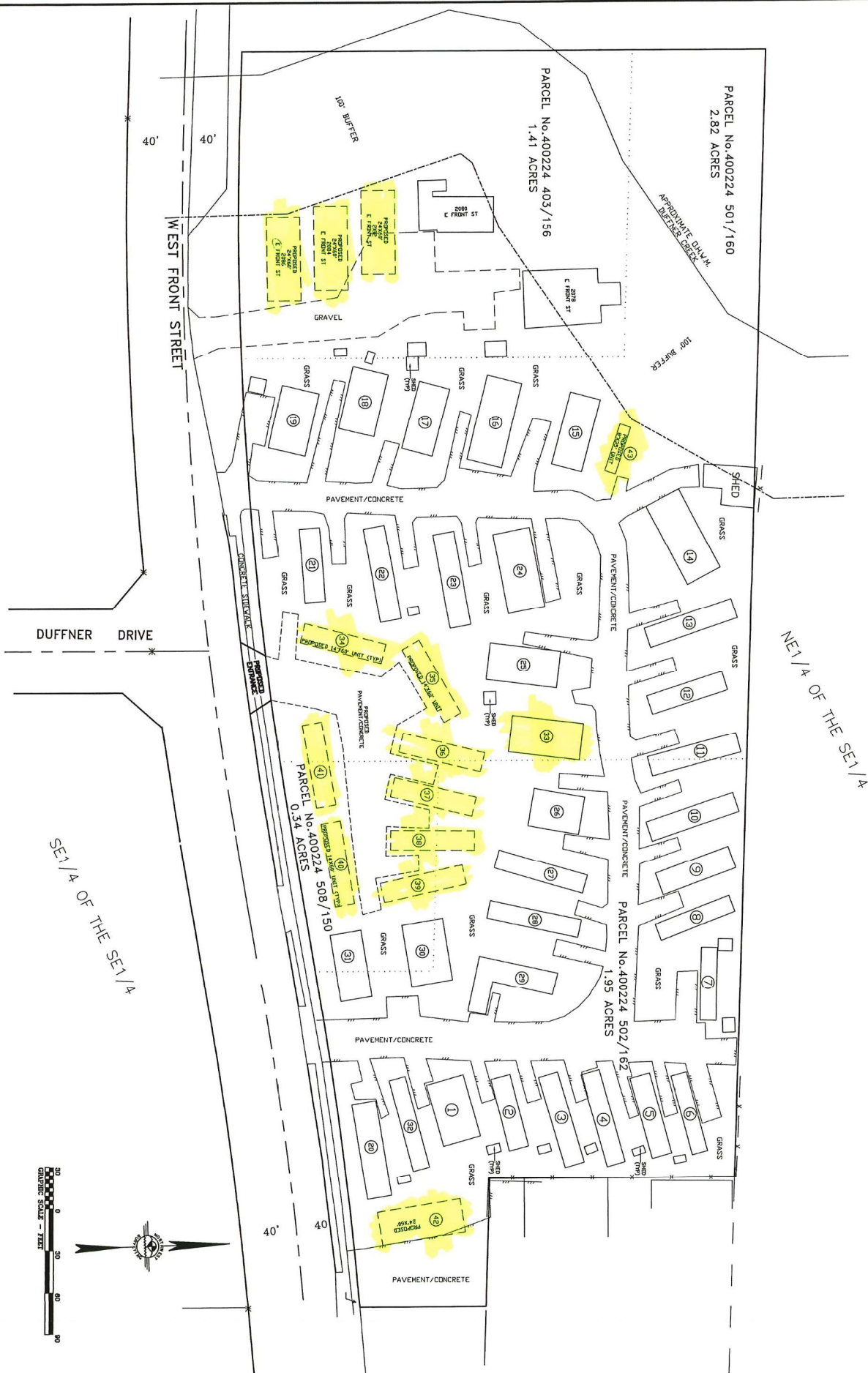
*The applicant agrees to this requirement.*

- 17. *Site Lighting:* To provide a safer environment, interior street lighting must be installed prior to issuance of the first building permit. The site lighting plan must be reviewed and approved by the Public Works Department.

*The applicant agrees to this requirement.*

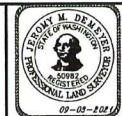
**Parks and Recreation**

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



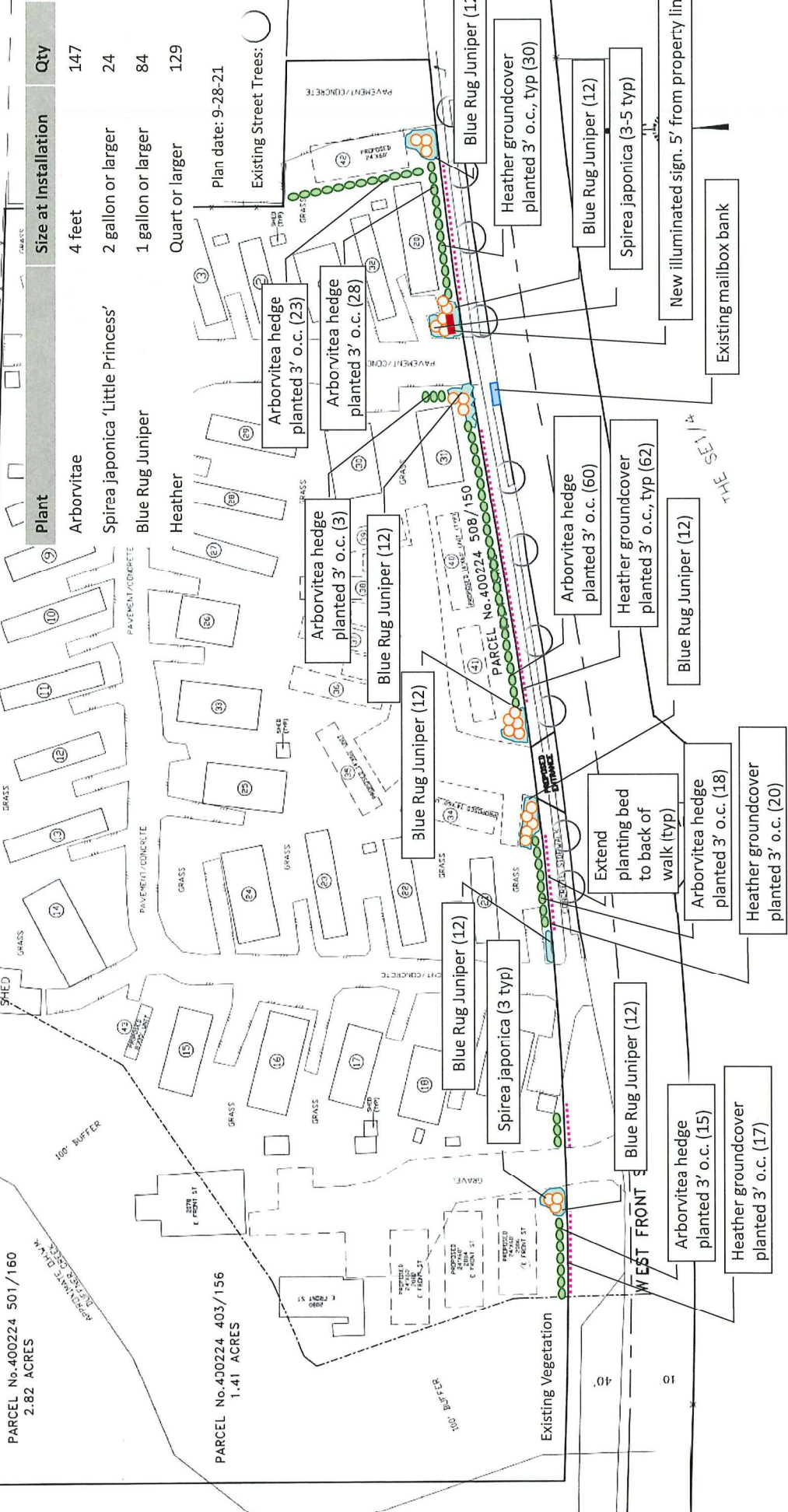
**NORTHWEST SURVEYING & GPS, INC.**  
 407 5TH STREET, LYNDEN, WA 98264  
 PH. (360) 354-1950 NWSURVEY.COM

**SITE MAP**  
**FOR FOUR S INVENTMENTS**  
 PORTION OF THE NE 1/4, SE 1/4 AND SE 1/4, SECTION 26,  
 TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M.  
 WHATCOM COUNTY, WASHINGTON



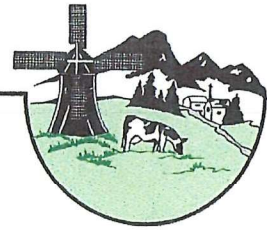
SHEET 1 OF 1  
 DATE: 09-03-21  
 DWR: 40-02-00020  
 CDR: BBLM-gp  
 DRAWN BY: JEROME  
 REVIEWED BY: JEROME

# Duffner Court Landscape Plan



# CITY OF LYNDEN

## TECHNICAL REVIEW COMMITTEE Development Project Report



### Planning Department Comments:

*Site Plan and Survey of Record:* Staff found that the site plan provided was not scaled or proportioned consistent with the actual layout of the community. For example, many lots are shown as square but are actually long and narrow. Before the application can move forward to the Planning Commission hearing, a more accurate depiction of the park layout will be required. Additionally, prior to the installation of any new unit the property owner must submit to staff a record of survey for review of the following items. The record of survey must also be recorded prior to the issuance of a permit to add units. In the meantime, the application site plan must include:

- i. Continuation of the lot numbering system so that each unit is numbered on the plan. Also, include existing pad numbers or addresses as available.
- ii. Proportionate depiction of existing home sites.
- iii. Accurate depiction of the property line in relation to the sidewalk and street.
- iv. Staff is aware of the fact that the park is made up of multiple parcel lines. Please show parcel lines and parcel numbers on the site plan. This shall include any additional parcel numbers above the number of lots.
- v. Indication of existing and proposed surfaces, for example "asphalt" internal road, "landscaped" or "grass" common area. The proposed site plan currently includes some areas that are unlabeled and probably disproportionately depicted. Please revise.

*The applicant has requested that their surveyor provide a base site map that can then be incorporated into a survey to be filed following the granting of the conditional use permit.*

2. *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. Before the application can move forward to the Planning Commission hearing please provide written responses which elaborate on Criteria #4 and #7.

Criteria 4 relates to impacts to traffic. While staff agrees that additional traffic will not decrease the level of service (LOS) below standards outlined in the Comprehensive Plan, please address how additional units will be accessing Front Street. See also Public Works staff comments related to access points.







# City of Lynden

## Conditional Use Permit Application

### General Information:

#### Property Owner

Name: Four 'S' Investments U.S., Inc.  
 Address: 7062 Guide Meridian, Lynden WA 98264  
 Telephone Number: 604-835-6696 Fax Number: N/A  
 E-mail Address: sangha275@hotmail.com

#### Applicant (Agent, Land Surveyor or Engineer)

Name: Lesa Starkenburg-Kroontje  
 Address: PO Box 231, Lynden WA 98264  
 Telephone Number: 360-354-7822 Fax Number: 360-354-6929  
 E-mail Address: starkenburgkroontje@msn.com

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

#### Property Information

Project Location (street address / block range): 2010 Front Street, Lynden WA  
 Legal Description (attach if necessary): See attached  
 Assessor's Parcel Number: 400224502162, 400224509149 & 400224462156 Zoning Designation: CSR  
 Parcel Square Footage: 6.52 acres Property Dimensions: \_\_\_\_\_  
 Applicable Sub-Area: West Lynden Building/Structure Size: N/A  
 Height of Structure: N/A Addition Size: \_\_\_\_\_  
N/A

#### Please describe request in detail:

**CUP Criteria must be attached**

SEE ATTACHED

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

SUBMITTED BY: Lesa Starkenburg DATE: 5/22/21  
 PROPERTY OWNER SIGNATURE: [Signature] DATE: 5/22/21  
 PROPERTY OWNER PRINTED NAME: 4 "S" Investments US Inc DATE: 5/22/21

This proposal will allow additional mobile home units to infill areas within the Duffner Mobile Home Park. Up to 14 new sites will be prepared. All sites will be connected to public utilities. The access points will be to West Front Street through existing access points. Trees and a landscape buffer will be placed along West Front Street.

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 property has been operating as a mobile home park for decades. This proposal merely adds in additional units to vacant spots within the park. As each unit is added in a building permit will be issued. There will be minimal impact to any adjoining neighbor.
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:
  - i) traffic and pedestrian circulation,
 

The traffic pattern for the existing park is well established and will not be altered by this proposal.
  - ii) noise, smoke, fumes, glare or odors generated by the proposed use,
 

There will not be a noticeable increase in any impact.
  - iii) building and site design,
 

A building permit will be issued for each unit located in the park.
  - iv) the physical characteristics of the subject property
 

There will be no noticeable change to the property.
3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services; and
 

There are adequate public facilities and services unless conditions.
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.
 

The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
 

The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
 

The surrounding uses are high intensity commercial type uses that will have little impact from this proposal.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
 

There are no natural, scenic or historic feature of major importance.

8. The proposed use is generally consistent with the purposes and objectives of the City Comprehensive Plan and applicable Sub-Area Plan.

The Lynden City Council just recently agreed that a text amendment, authorizing the expansion of the non-conforming mobile home park was consistent with the Comprehensive Plan.

**Excerpts from Chapter 19.49 of the Lynden Municipal Code**  
**Standards and criteria for granting a CUP**

- A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this ordinance, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.
- C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings:
1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district;
  2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
    - i) traffic and pedestrian circulation,
    - ii) noise, smoke, fumes, glare or odors generated by the proposed use,
    - iii) building and site design,
    - iv) the physical characteristics of the subject property
  3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services; and
  4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
  5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
  6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
  7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
  8. The proposed use is generally consistent with the purposes and objectives of the City Comprehensive Plan and applicable Sub-Area Plan.

See Attached



Scholten Equip.

Scholten Equip.

GUIDE MERIDIAN RD

Front ST West Front ST East

560-312-4217 - Brent

JRT Nursery

Hedging Availability	Size	Available	Price
----------------------	------	-----------	-------

1  
3 High  
Plants

Thuja plicata 'Northern Spire'	#2	4,000	\$8.70
--------------------------------	----	-------	--------

Thuja plicata 'Excelsa'	#2	5,000	\$8.70
-------------------------	----	-------	--------

We will plant them  $2\frac{1}{2}$ ' apart  
 For nice cedar hedge along front ST + where  
 ever else recommended. Norm Sangha

604 835 6696

**RECEIVED**  
 JUN 29 2021  
 City of Lynden  
 Planning Department

**RECEIVED**  
 JUN 29 2021  
 Planning Department

TOWNSHIP: 40  
 RANGE: 02  
 SECTION: 24  
 MAP NO.: 01

KEY MAP:

14	13	18
23	24	19
26	25	30



	Tax Parcels
	Plats
	Lots
	Section Lines
	Qtr. Section Lines
	City Limits
	Annexations
	Railroads
	Pipelines
	Waterlines
	Waterbodies*

Whatcom County  
 Assessor's Office  
 Mar. 29, 2021

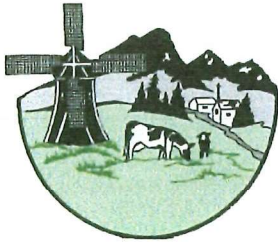
This map is for assistance in property location and not guaranteed for accurate measurements.

Copyright: The Public Map(s) (S) are a 1:48000 scale map derived from a combination of the Township, Range and Section, plus the XY coordinates. The map is not intended to be used for any other purpose. The map is not intended to be used for any other purpose. The map is not intended to be used for any other purpose.

For information on reader maps, visit our website: [whatcomcounty.us/177Assessor](http://whatcomcounty.us/177Assessor)







# City of Lynden

## Critical Areas Checklist

400224 502162  
400224 509149  
400224 462156

Section: 24 Township: 40N Range: 02E Parcel Number: \_\_\_\_\_

Site Address: 2010 Front Street, Lynden WA

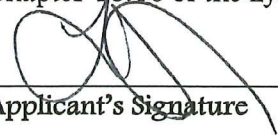
Proposed Uses: expansion of mobile home park

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

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

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

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

  
\_\_\_\_\_  
Applicant's Signature

3-21-21  
\_\_\_\_\_  
Date

**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Whatcom, State of Washington, described as follows:

**Parcel A:**

A tract beginning at a point 40 feet North and 549 feet West of the Southeast corner of the Northeast quarter of the Southeast quarter of Section 24, Township 40 North, Range 2 East of W.M.; thence West 410 feet; thence North 396 feet; thence East 410 feet; thence South 396 feet to the point of beginning; and a tract beginning 40 feet North and 959 feet West of the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 24; thence West to a point 220 feet East of the West line of the Northeast quarter of the Southeast quarter of said Section 24; thence North 24 rods; thence East to a point due North of the point of beginning; thence South 24 rods; thence East to a point due North of the point of beginning; thence South 24 rods to the point of beginning; LESS roads;

EXCEPT a portion described as follows: Beginning at a point 440 feet East and 40 feet North of the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 24; thence North 300 feet; thence West 220 feet; thence South 300 feet; thence East 220 feet to the point of beginning; and a tract beginning 40 feet North and 108 feet West of the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 24; thence West 441 feet; thence North 400 feet; thence East 311 feet; thence South 176 feet; thence East 130 feet; thence South to the point of beginning; LESS roads.

AND EXCEPT a portion described as follows: Beginning 40 feet North and 549 feet West of the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 24; thence North 175 feet; thence East 150 feet; thence South 175 feet; thence West 150 feet to the point of beginning;

AND EXCEPT the East 50 feet; and EXCEPT the North 176 feet thereof;

AND EXCEPT parcels C, F, H and I as delineated on a survey recorded under Auditor's File No. 1990303598, records of Whatcom County, Washington.

**Parcel B:**

That part of the Northeast quarter of the Southeast quarter of Section 24, Township 40 North, Range 2 East of W.M., described as follows: Beginning at a point 440 feet East and 40 feet North of the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 24; thence North 300 feet; thence West 220; thence South 300 feet; thence East 220 feet to the point of beginning;

EXCEPT a portion to the City of Lynden for street, described under Auditor's File No. 1990900125 and as delineated as parcel A on a survey recorded under Auditor's File No. 1990900125, records of Whatcom County, Washington.

**Parcel C:**

**That part of the Northeast quarter of the Southeast quarter of Section 24, Township 40 North, Range 2 East of W.M., described as follows: Beginning at a point 40 feet North and 549 feet West of the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 24; thence North 175 feet; thence East 150 feet; thence South 175 feet; thence West 150 feet to the point of beginning.**

**EXCEPT parcels D and E as delineated on a survey recorded under Auditor's File No. 1990303598, records of Whatcom County, Washington.**

# CITY OF LYNDEN



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

## PLANNING COMMISSION MEETING

7:00 PM October 21, 2021  
Microsoft Teams Meeting

### 1. CALL TO ORDER

### 2. ROLL CALL

Commissioners Present: Blair Scott, Tim Faber, Hollie Lyons and Darren Johnson

Commissioners Absent with Notice: Bryan Korthuis

Staff: Heidi Gudde and Korene Samec

### 3. APPROVAL OF THE MINUTES OF September 9, 2021

Scott approved as presented. Johnson seconded.

### 4. DECLARATION OF CONFLICT

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

### 5. PUBLIC HEARINGS TO CONSIDER:

#### A. CPA #21-02 & RZ #21-01, Vander Giessen Nursery, 315 E Grover St and 205 Hawley Street, Lynden

Gudde summarized the proposed Comprehensive Plan Amendment and Rezone Application for Vander Giessen Nursery.

Applicant is requesting a Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by Vander Giessen Nursery from Residential to Industrial. It would specifically change the zoning of the subject parcels from Residential Single Family 7,200 (RS-72) to Industrial Business Zone (IBZ).

The first step in evaluating this application is to determine whether or not the Comprehensive Plan should be amended. The application materials included in the package provide a number of questions relating to consistency with the Growth Management Act, the City's Comprehensive Plan and the change within the community that could necessitate such a change in the City's plan. The second step in the process will be to evaluate the rezone request.

## Public Comment

David Vos, Owner, Vander Giessen Nursery, Inc., 401 E Grover Street, Lynden

Vos stated 205 Hawley Street has been use by the by the nursery since the 50's. This request is more to correct the zoning as it has been used in that manner for many years.

For 315 Grover Street, the plan is not to make any immediate changes, however, would like more flexibility in the future to grow the nursery. There is a family renting the property at this time. When it comes time to convert, the property will likely be a display yard / space.

## Questions or Comments from the Commissioners

- Faber, the property to the west is still currently single family. Wondered about a buffer along the north side.
- The current residence is still planning to stay a residential use.
- Lyons, no immediate need to rezone 315 Grover. Once it is rezoned, other industrial buildings could be built there if the nursery chooses not to expand the nurseury. Will there be any stipulations placed on the approval as a protection? Gudde stated that it is difficult to put conditions on a rezone as it is hard to track. At the time of development any construction would need City review through the permitting process.
- If a new industrial building was built. There would be landscape buffers and enhancements required by code.
- Lyons asked if there was a timeframe for the industrial use of 315 Grover Street? Vos replied, maybe 2-5 years. The family that is renting the home is happy there.

## Questions or Comments from the public - None

Scott motioned to close the public portion of the hearing. Seconded by Lyons and the motion passed 4-0.

The Commission agrees that the request is reasonable.

**Criteria for Approval:** Applicant has responded the following questions and statements with written justifications for the proposed CPA and Rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. See meeting packet for detailed response

To grant this request, the Planning Commission and City Council must also 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; **Yes, the nursery has been there for 70 years.**
- b. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); **Agreed.**
- c. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project. **Agreed.**
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; **Agreed.**
- e. The proposed site-specific rezone will promote the health, safety and general welfare of the community. **Agreed.**

**In addition, the Commission must review the 6 criteria listed under 17.09.040 (C).**

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **N/A.**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No changes being made, no impacts.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **N/A. No impacts created as there is no development.**

**Scott made a motion to recommend approval to the City Council of Comprehensive Plan Amendment #21-02, Rezone #21-01, Vander Giessen Nursery subject to the Technical Review Committee Report dated October 8, 2021. Seconded by Johnson and the motion passed 4-0.**

**B. CUP #21-03, Alliance Freeze Dry, 675 Redwood Road, Lynden**

Gudde summarized the proposed Conditional Use Permit Application.

The request is for a conditional use permit to allow the use of food processing to occur within the Industrial Business Zone (IBZ). The proposal details the construction of a 220,000 square foot facility which produces, and packages freeze-dried pet food. The processing plant site is approximately 9.93 acres and located at the southeast corner of the intersection of Main Street and Berthusen Road. The parcel has frontage on and is addressed from Redwood Road.

The proposal also includes a request to build a portion of the building to 75-foot height. Most of the building will fall below the permitted maximum height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet in height to allow for the mechanized stacking of product which is more efficient and allows for a smaller building footprint.

Gudde stated that in the past the City has looked at other CUP for additional height. Preferred Freezer was granted the request for additional height, however, did not use it. Darigold was granted additional height as well with a tower at 150-feet.

There are specific criteria that needs to be met and the applicant has addressed those in their application, also in the meeting packet.

Gudde stated that there were a few letters of concern received which are also in the Planning Commission Packet this evening.

Lyons referenced the Preferred Freezer CUP and asked what the height approval was for their application. Preferred Freezer was granted 75-feet in height, however, did not end up using it. The building was built at 45-feet high.

Gudde stated that the majority of the Alliance Freeze Dry building will be at 41-feet, with a 7.5% portion at 75-feet. There will be some mechanical equipment which will be screened.

### **Public Comment**

Tony Freeland, Freeland and Associates, 220 West Champion, Bellingham, Applicant.

Freeland is the project engineer and is representing Alliance Freeze Dry. Freeland introduced Dennis Wu, owner of Alliance to make a brief statement. Freeland will follow with technical issues.

Dennis Wu, Owner, Alliance Freeze Dry, 5292 272<sup>nd</sup> Street Langley, BC

Wu thanked the Commission for meeting with them. Looking forward to bringing a very good project to Lynden. Alliance Freeze Dry Group was established in 2010 in Langley BC. Over the past 10 years has become the largest pet food and treats freeze drive manufacturer and supplier in North America. Products can be found in many big box stores, such as Costco, Walmart, Pet Smart as well as online.

Pets are our family members. Want to provide the best pet food and treats for them by using the best materials for those family members making every effort to use extra care and use of innovative ideas. Excited to locate in Lynden.

City of Lynden is the sister City of Langley. Alliance feels as if Lynden is our new home and will gladly contribute to the community and help support the wellbeing of the neighborhood. The new facility will generate new employment and bring new business opportunities to the neighbors.

Freeland addressed the Commission and stated that he will address some of the comments received from the neighborhood. The Team met with most of the neighbors that commented and have greatly taken into consideration their concerns.

Odors: Emphasize that the facility uses raw frozen products and that the organic waste is stored inside the building and then picked up and taken from the site. It is a very clean business.

Traffic: The facility will have approximately 9 truck trips per day.

Noise: The only producer of noise at the facility would be the mechanical and refrigeration units which are regulated in accordance with the noise codes.

Lighting: Lights will be shielded to protect light pollution to the neighbors. As the sun rises in the sky the shadow will be smaller. 7% of the building. It allows for a more efficient use of space.



Stormwater: This is the former PeaceHealth site. This property is not part of the drainage system within the West Lynden Business Park that has drawn quite a bit of attention in the past. Much of the concern is how the stormwater will be managed on site? Historically on this site, including Preferred Freezer and the parking lot within the Park, infiltration is what has been used. That strategy is not what this project intends to do. This project will not rely on ground water infiltration. The project will construct a underground vault, approximately 1 million gallons in size with storage capacity to hold a 100 year storm event. The water will be stored in the vault and pumped into the Berthusen Ditch at a very small rate. The rate will mimic the rate as if the property was forested. Very different approach than what has been used in other areas of the neighborhood. This will greatly address the concerns of the neighbors of peak storms and flooding events. This system will be by far the most conservative and reliable system. This system is a major investment for Alliance. The concrete vault will be located under the parking areas and is 12 feet deep, 100 feet x 150 feet. The water will leave the site at a lower rate than it does now.

Height: The goal was to have a building at 45-feet and to have all storage within that height, however, a condition was to dedicate land to the City for the purposes of constructing a round-a-bout which in turn caused the footprint of the building to be reduced. To maintain the storage requirements the elevation just limited to the storage area of the building had to be increased. By increasing the height, the storage system is using an automated storage system, which takes advantage of height. The facility has a generator along with two pumps.

Another concern related to height was the shadow that the building will cast. Freeland showed a shadow study that was prepared using the longest day of the year starting at 7 am. The shadow does not leave the site. As the sun rises in the sky the shadow will become smaller. Again, the increased height is only 7.5% of the building.

The discharge will be on the south side of the building into the ditch on the west side of Berthusen. There will be no additional waters discharging the site. This will not exacerbate the existing condition. This vault will be greatly oversized.

What is the timing of the round-about? Freeland, likely next summer (2022)

Gudde, addressed Freeland and stated that the CUP relates specifically to food processing. There are other uses that are permitted outright that would not require a CUP. If this was a warehouse or office of the same square footage and same parking area, is there a different stormwater standard that you would be held to? Freeland, no, it would be exactly the same requirements and solution. The owner wanted to take the most conservative approach with regard to stormwater because they do recognize the current impacts and historical impacts. It is an opportunity to share this with the community and public.

Johnson asked, how many people will be employed? 80 employees. Scott asked what type of jobs will be offered? Alliance replied, labor, maintenance, technical positions.

Lyons asked if Alliance has other US companies for manufacturing or processing? No, this is our first?.

Lyons asked if the PW Department is aware of the underground storage solution? Gudde, replied, yes they are. They have met regarding this topic many times?

Has there been any odor complaints from neighbors surrounding the factory in Canada? No complaints on smell from the Canadian neighboring properties.

#### • **Questions or Comments from the Public**

- Jerry Hemple, 8371 Berthusen Road, Lynden. Hemple is opposed to the project. Has lived here for 20-years. Moved here because of the quiet location and the view. The view is beautiful. The building will take away the entire viewshed. There are several families in this area. Believes there will be odors unless you have an abatement system. The ditch in front of his house cannot handle anymore water. Lives with a 37-decibel hum in his ear from the recently constructed freezer plant. Traffic is terrible with all of the 18 wheelers driving past his house. Hemple hopes that Alliance chooses another location.
- Lesa Starkenburg, 10.21.21 letter received from Lesa Starkenburg on behalf of Curt Maberry Farms regarding building height and stormwater concerns regarding the request (in file). The properties in the area will be agriculture for years to come. CMF wants to ensure that their farm is not negatively impacted or impacted to a greater extent than necessary. They understand that it is zoned for industrial uses, just wants to make sure that it is done in a way that other parcels can still maintain. The biggest issue for CMF is the drainage. Yes, the CUP is about the use inside of the building. However it is also time to discuss whether or not this use is compatible with the surrounding uses. Stormwater is a concern. How do we make sure that this project adequately addresses stormwater?
- Kelly Dykstra 8393 Berthusen Road, Lynden, The Dykstra's bought their property 3-4 years ago. Always knew that eventually there would be a building in front of them but was told that there was a height restriction. The view is part of the reason they moved there. Concerned with the water, view and traffic that will be added to the area.
- Laurel Oval, 8431 Berthusen Road, Lynden, Moved to Lynden to serve in local schools. Concerned for when it snows, decreasing property values, also concerned with the underground vaults. The recent road construction has now caused their home

to shake when large trucks drive by. Concerned with what the underground vault might do?

Freeland responded that he expected to hear those types of comments, understands their concerns. This is typically what happens when industrial and residential are close. The underground vault will not negatively impact any off-site property.

Faber asked, if the height was not granted is there another option? Freeland stated for the facility to function properly it cannot be done without the additional height. If there were no request for a roundabout dedication, the building could be larger and constructed within the 45-feet. Otherwise it is be a no-go.

Public comments received as noted below. City response in meeting packet and in file.

- 1) Thomas VanBerkum - Submitted a letter (included in the PC package) citing concerns related to the height of the proposed building and its impact on views, storm drainage challenges in this area, and other impacts including additional traffic, odors, noise and light.
- 2) Greg Dykstra - Email (included in the PC package) citing concerns related to storm water runoff, odors that would be created from the processing plant, the noise associated with the facility, and the potential for views to be blocked by the 75-foot tall portion of the building.
- 3) Randy Korthus – Letter submitted (included in the PC package) which details concerns related to drainage along Berthusen Road and the West Lynden Business Park, building height and consistency with other buildings in the area, and snow drifting on the west side of the proposed building negatively affecting Berthusen Road.

**Johnson motion to close the public portion of the hearing. Seconded by Scott 4-0.**

There was discussion regarding Chapter 19.25 – specifically relating to performance standards. CUP's are to be reviewed every year. The nuisance code will also apply. The Commission asked if the CUP could be conditioned regarding noise / decibel levels to meet standards prior to issuing the final occupancy of the building. Yes, performance standards related to noise must demonstrate compliance with allowable levels.

Scott is concerned with comments that truck traffic on Berthusen Road is shaking homes. Is there something that should be reviewed? Faber stated that the best way to mitigate that would be to slow the speed of the traffic. Johnson stated that the roundabout will also slow the speed.

The Commission reviewed the required criteria as outlined in 19.49.020 (C). The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **Freeland is correct that the overall building at 41-feet will be what most obscures the views not the small percentage at 75-foot height. Adding a condition that performance standards as to noise, smell, would have to be met at the edge of the property corners would be a good idea. Commission Agreed.**
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; **may be improved with the round-about.**
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **as long as the City requires compliance with the performance standards.**
  - c. Building and site design; **no concerns.**
  - d. The physical characteristics of the subject property **no concerns.**
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. **Agreed.**
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. **Agreed.**
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. **Other than the height, there is no concern. If we approve the request for 7.5% of the building at 75 feet this item would be met.**

- 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. **Agreed.**
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Standing at Berthusen, one may not even notice the increased height in the back corner. Agreed.**
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed. Smells will be evaluated if there are any concerns.**

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes. Addressed during permitting.**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it will bring jobs.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development. **No issues with level of service associated with the CUP.**
- 6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Only land dedicated will be for a much needed round-about. Agreed.**

Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.

**Scott made a motion to recommend approval to the City Council of the Alliance Freeze Dry Conditional Use Permit #21-03, subject to the following:**

- 1. Those identified in the Technical Review Committee Report dated October 15, 2021.**
- 2. The applicant demonstrates compliance with noise performance per LMC 19.25.040 prior to issuance of the final building occupancy.**
- 3. That the Conditional Use Permit be evaluated annually as described by code, that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it relates to noise and smell.**
- 4. Only 7.5% of the total building area is permitted to reach a height of 75-feet. The additional height is located as shown in CUP application 21-03.**

**Seconded by Johnson and the motion passed 4-0.**

**C. CUP #21-01, Duffner Mobile Home Park, 2010 Front Street, Lynden**

Gudde summarized the proposed Conditional Use Permit Application for the Duffner Mobile Home Park. The request is for a conditional use permit to allow the expansion of the existing non-conforming use of a manufactured home community (mobile home park) on a commercially zoned property. Note that a recent code amendment allowed for additional units to be added if approved through a Conditional Use Permit. Boundaries of the community are not proposed to expand.

*LMC 19.23.020(11) "The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone."*

The subject property is located on the north side of Front Street near the intersection of Front Street and the Guide Meridian. The 32-unit manufactured home community (MHC) is

300 4<sup>th</sup> Street, Lynden, WA 98264  
www.lyndenwa.org

commonly known as the Duffner Mobile Home Park. Its boundaries encompass 4 different parcels with a westerly parcel which currently include 2 additional homes for a total of 34 existing residences.

This MHC is considered a non-conforming use because the underlying property is zoned for commercial uses, specifically Commercial Services – Regional (CSR). However, this use was in place when the property was annexed into the City and therefore allowed to continue operation. Non-conforming uses are generally not permitted to expand or increase in intensity. However, recognizing the value of having affordable housing options which provides workforce housing to ag and industrial industries in the Lynden area, the City Council approved a code amendment which now allows some expansion. Specifically, MHCs located within CSR zoned properties may intensify (add units) if permitted through a Conditional Use Permit.

The pending proposal requests the addition of 14 units. New units would be mostly clustered at center of the property with several other units added throughout. The applicant has acknowledged the need to establish frontage improvements in the form of landscape buffers, additional community lighting, critical area protection, and street improvements.

**Public Comment**

Lesa Starkenburg PO Box 231, Lynden,

Starkenburg is representing the 4 “S” Group.

This project has had several steps. The non-conforming use will continue regardless. However, allowing the addition of units within the pre-existing park would alleviate some of the affordable housing opportunities in the community.

The applicant is looking for additional investment. This is a way for people to secure a place in the housing market.

There is a long list of conditions from the City located in the Staff Report. Met with the applicant to review. Of course the applicant is looking to find a balance as there becomes a point when they will be close to tipping the scale, however, the applicant is comfortable with moving forward as the Staff Report is written.

**Questions or Comments from the Commissioners**

Faber asked about the letter from Starkenburg regarding the landscape plan. It appears to be different from the Staff recommendation. Starkenburg stated that the landscape plan in the PC packet is what they are working toward. The only change would be to plant availability.

Faber asked, how many parcels are included in the park and should they be combined? Starkenburg noted that there at 3 different parcels. No reason to combine parcels.

Scott agrees with the basic concept that we need affordable housing. The City seems to have put a number of conditions in the Staff Report that will cover the need.

Lyons asked who maintains the property? Starkenburg replied, the owner of the land owns the property, the individuals own their unit. It is the responsibility of the lessee to maintain the property around their unit? Who will maintain the roads and landscaping? Starkenburg replied, the owner.

Johnson, no concerns. It is infill on what is already there.

**Johnson motioned to close the public portion of the hearing. Seconded by Scott and the motion passed 4-0.**

19.49.020 (C). The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **The added 13 units are mostly on the interior. Agreed.**
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; **no concern.**
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use; **no concern.**
  - c. Building and site design; **no concern.**
  - d. The physical characteristics of the subject property **no concern.**
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. **No concern.**



- 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. **No concern.**
- 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. **No concern. Staff Report covers a lot.**
- 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. **No concern. Neighbors are higher use.**
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Agreed.**
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed.**

**The Commission reviewed the 6 criteria listed under 17.09.040 (C).**

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Yes.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes..**
- 4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes, it provides housing.**
- 5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to

complete the improvements or strategies within six years of approval of the development.  
**No issues with level of service associated with the CUP.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **Agreed.**

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) Final unit count to be limited to 47 residential units. This represents the addition of 13 units. Units 33-41, and 43, as shown on the proposed plan, as well as the addition of 2082, 2084, and 2086 East Front St units. Staff does not support the addition of proposed unit #42. This unit would be disconnected from the community and highly exposed to the intersection of the Guide Meridian and Front Street. It is not an appropriate location for a home.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening as well as flowering shrubs at community entrances. Landscape material to meet applicable size and quality standards described in LMC 19.61. Streetscape plan developed with staff (attached) to be considered the minimum standard for street buffering.
- 3) Continue the installation of a hedge buffer / landscaping along east boundary where unit #42 was proposed.
- 4) Discontinue use of the eastern most access point (previously used by Scholten's Equipment).
- 5) As indicated on the site plan, relocate central access point to align with Duffner Drive. Proposed site plan does not appear to be aligned with Duffner consistent with safety standards. Location of access to be approved by the Public Works Department. This may alter the location of proposed units. All construction within the right-of-way to meet City standard and bonded according to City requirements. Encroachment permit required.
- 6) Fence (such as split rail) or hedge installed at top of bank along Duffner Creek unless otherwise approved by the Planning Department. This is to deter degradation of the critical area. No construction, sheds, or units placed within the critical area buffer of Duffner Creek. Fence installation required prior to issuance of building permits for units 34-47.

- 7) All trash and debris must be removed from the Duffner Creek bank prior to unit addition.
- 8) All stormwater drained away from bank of Duffner Creek. Stormwater plan required for proposed new pavement.
- 9) Vegetation planted to minimize erosion along the bank. Provide planting plan prior to issuance of building permits for units 34-47.
- 10) Lighting and addressing within the community required. To be installed prior to issuance of building permits for units 34-47. Final design must meet the approval of the Lynden Fire Department and Public Works Department.
- 11) Community sign(s) must be replaced at the time of landscape improvements.
- 12) Sewer easement recorded prior to building permits for units 34-47.
- 13) Provide evidence of decommission of on-site septic systems prior to issuance of building permits for units 34-47.
- 14) Provide stormwater report and fill and grade permit for new paved areas. This is required prior to commencement of work and prior to issuance of building permits for units 34-47.
- 15) A 12-inch water line shall be installed to the north property line per City standards and as-built drawings provided to the City prior to the issuance of a building permit for any additional unit placement unless an alternate agreement is reached with the Public Works Department.
- 16) ROW improvements as required per recorded agreement filed under Whatcom County Auditor's File Number #2070202655. Plan review, approval and improvement construction required prior to issuance of building permits for units 34-47.
- 17) Installation of fire hydrants as required by the Fire Chief prior to issuance of building permits for units 34-47.
- 18) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 19) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed development.

The Commission agreed that the application meets the 6 criteria listed under 17.09.040 (C).

**Johnson made a motion to recommend approval to the City Council of the Duffner Mobile Home Park Conditional Use Permit #21-01, subject to the Technical Review Committee Report dated October 15, 2021, including that the 19 conditions identified in the Final TRC Report are met. Seconded by Scott and the motion passed 4-0.**

Next Planning Commission will be held on November 18, 2021 at 7:00 PM.

**6. ADJOURNMENT**

**Motion to adjourn by Scott at 10:05 pm. Seconded by Scott.**

DRAFT

CITY OF LYNDEN  
PLANNING COMMISSION RESOLUTION #21-09

**A resolution of recommendation for the approval of  
Conditional Use Permit 21-01, Duffner Mobile Home Park**

WHEREAS, Lesa Starkenburg-Kroontje hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow additional mobile units to infill areas within the existing park. Up to 14 new sites will be prepared.

WHEREAS, the application was determined to be complete on June 28, 2021, and the notice of application was published in the Lynden Tribune on July 14, 2021; 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 virtual public hearing on October 21, 2021, to accept public testimony on the proposed conditional use permit request, and that meeting was duly recorded;

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 October 15, 2021,

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 of the Lynden Municipal Code.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - a. Traffic and pedestrian circulation;
  - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
  - c. Building and site design;
  - d. The physical characteristics of the subject property
3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

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

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 19.49.040 of the Lynden Municipal Code.

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 through 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest.
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.
6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.

**NOW THEREFORE, BE IT RESOLVED** by the Lynden Planning Commission to recommend approval by a vote of 4-0, to the Lynden City Council, of Conditional Use Permit #21-01, Duffner Mobile Home Park, subject to conditions of the Technical Review Committee Report dated October 15, 2021, including that the 19 conditions identified in the Final TRC Report are met.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 4-0, at their regular meeting held on the 21<sup>st</sup> day of October 2021.

  
\_\_\_\_\_  
Tim Faber, Chair  
Lynden Planning Commission

  
\_\_\_\_\_  
Heidi Gudde  
Planning Director

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Public Works Committee Meeting Minutes October 6, 2021	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
November 3, 2021 Draft Public Works Committee Meeting Minutes		
<b>Summary Statement:</b>		
Draft minutes for the November 3, 2021 Public Works Committee meeting.		
<b>Recommended Action:</b>		
For Review		



## CITY OF LYNDEN

PUBLIC WORKS DEPARTMENT  
Main Number: (360) 354-3446



### Public Works Committee Meeting Minutes

City Hall - 300 4th Street  
4:00 PM November 03, 2021

#### Roll Call

Members Present: Mayor Scott Korthuis, Councilors Gary Bode, Ron De Valois, and Jerry Kuiken

Staff Present: City Administrator John Williams, Public Works Director Steve Banham, Sr.  
Admin. Assistant Miriam Kentner

Public Present: Gary Vis, Mark Dahlgren, Tim Faber, Charles (Chuck) Boies

#### Action Items

##### 1. **Approve Minutes from October 6, 2021**

De Valois motioned to approve the minutes and Bode seconded the motion.

**Action:**

***The minutes from October 06, 2021, were approved.***

##### 2. **Whatcom Conservation District – 2022 Interlocal Agreement**

Banham presented the 2022 Interlocal Agreement with the Whatcom Conservation District, noting that the agreement includes provisions for stormwater and water education and requirements of the City's NPDES permit. This agreement does not include support during construction for the fairgrounds; however, this may be added once the grant agreement with Ecology is finalized.

**Action:**

***The Public Works Committee concurred to recommend forwarding the Interlocal Agreement to City Council for approval.***

##### 3. **Water / Wastewater Maintenance / Storage Building**

Banham stated he would like to provide better facilities for maintenance personnel at the Water and Wastewater Treatment Plants. The initial focus was on making improvements to the former operations building at the wastewater treatment plant. The addition of the new building will provide a better maintenance space than the old operations building. It will potentially replace the two older buildings off Judson Alley used for storage by the Chamber of Commerce and offer storage for the Museum.

The Committee discussed the land parcel and facility use in depth.

**Action:**

***The Public Works Committee concurred to support additional design efforts with the intent of having a construction proposal for the 2023 budget.***

#### 4. **Unauthorized Use of Unopened Right-of-Way**

Banham introduced Mark Dahlgren who lives at 8591 Bonanza Drive. Dahlgren asked for assistance from the Committee on how to reduce unwanted access to an unopened City-owned right-of-way he maintains.

The Committee spoke at depth on the best ways to accommodate the property and suggested City staff install signs stating no vehicular access. Staff also suggested Dahlgren explore the option of asking the City to vacate the property. Dahlgren expressed reluctance based on the cost and having to contact adjacent property owners about participation.

**Action:**

***The Public Works Committee concurred to support staff to a) install signs on either end of the unopened right-of-way, and b) consult with the City attorney about options for vacation and to discuss code amendments to address unopened rights-of-way.***

#### 5. **Approve Resolution – State Revolving Fund Loan for Judson Street Phase 1 (8th Street)**

Banham presented a Resolution which would authorize the City to use a 20-year Drinking Water State Revolving Fund (SRF) Loan in the amount of \$214,986.00 for improving the Judson Street Phase 1. The 20-year SRF loan, offered by the Department of Ecology (DOE), has a 1.2% interest rate.

**Action:**

***The Public Works Committee concurred to recommend forwarding the Resolution to City Council for approval.***

#### 6. **Request Authorization to Bring Bids for Industrial Condensate – Riverview to Outfall – Directly to City Council**

Banham stated that the Industrial Condensate Project – Riverview to Outfall is currently being advertised, with bids due November 23<sup>rd</sup>, 2021.

**Action:**

***The Public Works Committee concurred to recommend forwarding the bid results for the Industrial Condensate Pipeline – Riverview to Outfall directly to City Council for approval after final review is complete and after notifying the Public Works Committee of staff's recommendation to award.***

### **Information Items**

#### 7. **Complete Streets Ordinance**

Staff is working on a Complete Streets Ordinance for inclusion in Title 12 of the Lynden Municipal Code. A Complete Streets Ordinance is required for certain grant funding applications. Complete streets are designed and operated to enable safe multimodal use.

#### 8. **Projects Update**

##### **Main Street Roundabout at Berthusen Road**

Staff is continuing coordination efforts with a planned industrial development in the southeast quadrant of this intersection and with property owners on the west side of Berthusen Road. Staff is working with Whatcom County, which owns the north half of the intersection.

Bradley Road

Banham stated that the Mayor and staff have met with the school district on improvements abutting the high school. The school district suggested the installation of a roundabout at Vinup Road, possibly using the unused school property in the southeast quadrant. Discussions are ongoing.

Managed Aquifer Recharge

Banham stated that the preliminary Feasibility Reports for the two sites on the Nooksack River middle and south forks have been approved by Ecology. Staff has had conversations with both tribes about cultural resources.

Pepin Creek Main Street Bridge

Advertisement for bids will occur in early 2022. Banham explained that contractors are seeing significant lag times between order and delivery for bridge girders which may impact the 2022 construction schedule.

West Front Street

The City has secured additional right-of-way at the Tromp Road intersection and is working to secure stormwater easements from Lynden Door.

Benson Waterline

Staff received emergency authorization from the Mayor for Excel Pacific to extend the waterline from the PeaceHealth boundary north to Badger Road (\$75,000). AC waterline repairs were budgeted but not designated for a specific project.

**New Business**

**9. Lions Club Seeking Permission to Place Flags on City Sidewalk**

Chuck Boies with Lynden Lions is asking the Committee to allow flags to be placed at the intersection of Kok Rd and Guide Meridian Rd. Chief Taylor suggested permission would be needed from the Committee. Boies explained the flags will be on a standard 8-foot pole. Twelve flags in total, three flags on each corner of the intersection, placed and removed on Federal holidays. The Committee discussed concerns about visibility and advised that the vision triangle would need to be maintained.

**10. Nooksack Valley Disposal Request for Rate Increase**

Staff received a request from Nooksack Valley Disposal for a 4.5% increase in garbage rates beginning January 1, 2022. Per the request, the proposed increase would raise the total average residential bill by \$0.78 per month.

**11. Request for Bench and Dog Waste Bag Dispenser at United Methodist Church**

Staff received a request from Paula Hardman with United Methodist Church (500 14<sup>th</sup> Street) to place a bench and dog waste bag dispenser in the parking strip/planting area adjacent to the church.

**12. Downtown Mural**

The Mayor indicated that the property owner of the newly renovated mixed-use building at 606 Front Street asked if the City could help pay for the mural on his building. The determination was that this would be a gifting public funds.

**13. Mixed-Use Development South of Bay Lyn Drive on Guide Meridian**

Korthuis presented the Committee with a photo-realistic rendering of some of the concepts being considered for development at the intersection of Bay Lyn Drive and Guide Meridian. This discussion arose from a conversation with the property owner regarding easements the City will need to construct a sewer pump station on the southwest corner of this property.

**Adjournment:** The meeting was adjourned at 5:40 PM

**Next Meeting:** December 8, 2021

DRAFT

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Public Safety Draft Minutes- November 4, 2021	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Police	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Public Safety Draft Minutes- November 4, 2021	
<b>Summary Statement:</b>	Public Safety Draft Minutes- November 4, 2021 attached for review.	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN

## POLICE DEPARTMENT

Steve Taylor, Police Chief

(360) 354-2828



### **Public Safety Committee Meeting Minutes**

Police Department - 203 19th Street

4:00 PM November 04, 2021

#### **Call to Order**

#### **Roll Call**

Members Present: Mayor Scott Korthuis and Councilors Mark Wohlrab, Brent Lenssen and Gerald Kuiken

Staff Present: Chief Mark Billmire, Assistant Chief Ryan Yoshimoto, Chief Steve Taylor, Lieutenant Jeremy Bos, HR Manager Kim Clemons, Support Services Manager Holly Vega

#### **Approval of Minutes**

##### **1. Approval of October 7, 2021 meeting minutes**

The minutes from the October 7, 2021 meeting were approved.

#### **Items from the Audience**

##### **2. Golf Cart Discussion - Sarah Burns**

Sarah Burns, 104 S 8<sup>th</sup> St, Lynden, requested consideration of making Lynden a golf cart friendly community. Chief Taylor noted a few items including street and speed limit restrictions, signage and equipment requirements, and licensed driver requirements. The committee will review the documents S.Burns provided and readdress at the next meeting.

#### **Committee Items**

##### **3. Public Safety Overtime - October 2021**

Police Department overtime was at 370 hours for October, the bulk of which was for shift coverage. There is 1 vacancy, 2 officers out on FMLA, and 1 off for COVID related leave.

Fire Department overtime was at 386 hours for October, down significantly from last month. Parttime hours were at 256.

#### **Fire Department Items**

##### **4. Fire Monthly Report - October 2021**

Chief Billmire presented the monthly report for October, 162 total calls, 77% were EMS, 41 transports, 43 overlapping calls. Aid given 12 times; aid received 8 times. Response time decreased to just over 5 minutes. Assistant Chief Yoshimoto spoke about the recent training, including a live fire training drill hosted by District-1.

Councilor Wohlrab inquired if Lynden is experiencing an increase in calls related to recent legislative change in HB 1310. Chief Billmire expressed that although there has been an increase in call volume, there is not currently a system in place to track or report those calls affected by HB 1310 by category.

#### **5. Station Update**

Final meetings are scheduled next week for the installation of the alerting system. Packing up the temporary station will begin Nov 12<sup>th</sup>, moving in between Nov 15<sup>th</sup>-16<sup>th</sup>. The ribbon cutting ceremony is scheduled for December 3<sup>rd</sup> at 3:00pm.

#### **Police Department Items**

#### **6. Police Monthly Report - October 2021**

Chief Taylor presented the monthly report for October. Call volume and activity stayed within average ranges. Domestic violence incidents were down, but misdemeanor assaults were up.

#### **7. Hiring Update**

A conditional offer has been made to a lateral candidate from the WA State Patrol, contingent on the completion of the background investigation, psychological, medical and polygraph exams. Chief Taylor hopes to have him onboard on December 1<sup>st</sup>.

#### **Added Items**

#### **8. Proposal for Additional Police Officers**

Councilor Wohlrab brought forward the proposal to follow the Chief's recommendation for 2 additional positions (18<sup>th</sup> and 19<sup>th</sup> officer positions) in the 2022 budget. Discussion ensued on crime statistics, officers per capita, and comparable cities.

Chief Taylor expressed the need for the 18<sup>th</sup> position to even out the patrol squads and help reduce overtime, and the 19<sup>th</sup> position to add an additional detective to help with the increasing investigative case load currently handled by 1 detective.

Councilor Lenssen made a motion that the public safety committee recommend hiring the 18<sup>th</sup> and 19<sup>th</sup> officer positions in 2022 (the 19<sup>th</sup> position hired after 6 months in 2022). Councilor Kuiken supports the motion. Councilor Wohlrab notes to move forward with the recommendation to full council.

#### **Adjournment**

Meeting adjourned at 5:25 p.m.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 15, 2021	
<b>Name of Agenda Item:</b>	Calendar	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<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
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Outlook Calendar	
<b>Summary Statement:</b>	See next page.	
<b>Recommended Action:</b>	None	



3:00 PM - 4:00 PM

**Finance Committee Meeting -- Microsoft Teams Meeting**  
**Finance Committee Meeting**

~~UPDATE: beginning June 21<sup>st</sup> the location will return to the City Hall 1<sup>st</sup> Floor Large Conference room~~

**UPDATE: beginning September 20<sup>th</sup> the Finance committee meetings will return online via TEAMS**

Thank you!

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4:00 PM - 5:00 PM

**Parks Committee -- City Hall 1st Floor Large Conference Room**

**November 15, 2021 Continued**

Monday

7:00 PM - 9:00 PM

Online City Council Meeting -- ONLINE Microsoft Teams Meeting  
I will re-send this meeting notice on the day of council.

Please reach out if I can assist further.

Thank you.

Pam

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**November 17, 2021**

Wednesday

All Day

Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

4:00 PM - 5:30 PM

Community Development Committee Mtg -- TBD

7:00 PM - 9:00 PM

Berthusen Advisory Meeting -- Annex South East Conference Room

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

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7:00 PM - 9:30 PM

Planning Commission Meeting -- Microsoft Teams Meeting

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**November 18, 2021 Continued**  
Thursday

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**November 25, 2021**  
Thursday

All Day                      Thanksgiving Holiday

**November 26, 2021**  
Friday

All Day                      Day After Thanksgiving Holiday

**December 1, 2021**  
Wednesday

All Day                      Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

**December 2, 2021**  
Thursday

2:00 PM - 4:00 PM                      Technical Review Committee -- Microsoft Teams Meeting

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4:00 PM - 5:00 PM

**Public Safety Committee Meeting -- Microsoft Teams Meeting**

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