

CITY OF LYNDEN



Mayor
Scott Korthuis

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

Regular City Council Meeting - Online (Microsoft Teams)
City Annex- 205 Fourth Street
September 07, 2021

For the foreseeable future, city council meetings will be held online. **Unscheduled** public comment will not be taken at these 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 and address 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 647 498 193# . It is necessary to enter the # symbol. For those that prefer to join via [Microsoft Teams click here.](#)

Call to Order

Pledge of Allegiance- None

Roll Call

Oath of Office- None

Approval of Minutes

1. Draft Council Minutes- August 16, 2021

Items from the Audience

Scheduled- None

Unscheduled (20 Minutes) - Unscheduled public comment will not be taken at these 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 and address for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Appoint Representative for WTA Review Committee
- [4.](#) License Agreement for Shared Parking between City of Lynden and Upper End, LLC
- [5.](#) Ordinance No. 1634 – Amendatory Ordinance to Increase the Line of Credit Limit
- [6.](#) TRC Report Revision - Kamm Creek MPRD – Application 20-02
- [7.](#) Set a Public Hearing date of September 20, 2021, to Hear Comments on Amending Lynden Municipal Code Section 12.28 Sidewalk Obstructions
- [8.](#) Ordinance No. 1635 - Set Public Hearing Date of September 20, 2021, to Hear Comments on Franchise Agreement with Sound Internet Services dba Pogozone for Transmission of Telecommunications
- [9.](#) Set the Public Hearing date for Development Standards Variance 21-01 – Lot Design of the Cedarbrook Short Plat

Public Hearing - None**Unfinished Business - None****New Business**

- [10.](#) Request to Petition for Annexation of the West Lynden UGA
- [11.](#) Appointment to Planning Commission – Hollie Lyons

Other Business

- [12.](#) Community Development Committee Minutes of 7-21-21
- [13.](#) Calendar

Executive Session**Adjournment**

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EXECUTIVE SUMMARY



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

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CITY COUNCIL MINUTES OF REGULAR MEETING



August 16, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the August 16, 2021, regular session of the Lynden City Council at 7:00 p.m., held at the City Annex.

ROLL CALL

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

Members absent: Councilor Lenssen absent with notice.

Staff present: Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael.

OATH OF OFFICE - None

APPROVAL OF MINUTES

Councilor De Valois moved and Councilor Wohlrab seconded to approve the August 2, 2021, regular council minutes as presented. Motion approved on a 6-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled- None

Unscheduled

Danielle Groeneweg, 8802 Northwood Road, Lynden

Ongoing struggle in Lynden with parents and the Lynden School board pertaining to Governor Inslee's mandate that children must wear masks while at school for this upcoming school year. She estimated that there are approximately 1,300 parents that are opposed to enforcing masks in school. Ms. Groeneweg stated that we live in a free country and that everyone should be able to make the choice whether or not to wear a mask. She also stated that she has hundreds of scientific articles to support the fact that children are least likely to spread or contract COVID.

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CITY COUNCIL MINUTES OF REGULAR MEETING

She also stated that she is not asking that masks be banned but that everyone just have a choice.

Mayor Korthuis stated his belief that mostly the members of the city council generally agree with her. Unfortunately, public health is not within the council’s constitutional arena; therefore, they are unable to make those kinds of decisions. He did encourage Ms. Groeneweg to continue working with the Lynden School board while also putting pressure on state legislators and the governor.

Council Bode commended everyone involved and encouraged everyone to continue to advocate for their children.

2. CONSENT AGENDA

Payroll Liability to August 1 through August 15, 2021

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$383,915.25
Check Liability	\$12,765.54
Total Non-L&I Liabilities	\$396,680.79
Quarterly Liabilities	\$11,896.39

Total EFT & Other Liabilities \$408,577.18

Approval of Claims – August 17, 2021

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$163,740.21
				Sub Total Pre-Pays	\$163,740.21
Voucher Warrants No.	<u>22631</u>	through	<u>22756</u>		\$960,734.75
EFT Payments					<u>\$0.000</u>
				Sub Total	\$960,734.75
				Total Accts. Payable	\$1,124,474.96

Councilor Kuiken moved and Councilor Strengholt seconded to approve the Consent Agenda. Motion approved on a 6-0 vote.

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CITY COUNCIL MINUTES OF REGULAR MEETING



3. PUBLIC HEARING

Continuation of the Public Hearing to Amend LMC Titles 16 and 19 regarding SEPA thresholds and Minimum Density- Ordinance No. 1627

On June 7, 2021, the City Council held a hearing to take comment and review proposed amendments to LMC 16 and 19. The primary objectives of the amendment are to:
Lowers the SEPA threshold within the Pepin Creek Sub-Area.

- Specifically references the Pepin Creek Sub-Area Plan in LMC 16.05.160.
- Implements a minimum density requirement for new development within the Pepin Creek Sub-Area.
- Deletes a code section to a Senior Overlay as this was not adopted in the Sub-area Plan

The Council tabled this decision for additional research into the minimum density issues and subsequently the Community Development Committee met on June 16 and July 21 with landowners and staff to discuss implications of the code and potential revisions.

Staff worked with legal counsel to revise as requested. The resulting code now includes the following:

- Clarifies the definitions of net and gross density.
- Includes a “farmstead exemption” which allows existing homes in the Pepin Subarea to remain on parcels of up to 5 acres in size without being counted toward the minimum density calculation. Minimum density would be applied to new parcels only.

The intent of the ordinance is to ensure that new development within the Pepin Creek Subarea is reviewed and assessed for impacts with the goal of recouping costs associated with infrastructure improvement in this area.

The Planning Commission held a public hearing on this item on March 25, 2021, which concluded with a recommendation for approval. Staff, also recommending approval, is bringing this item forward as Ordinance No. 1627.

Mayor Korthuis opened the Public Hearing at 7:09 p.m.

No public comment.

Mayor Korthuis closed the Public Hearing at 7:09 p.m.

Councilor Bode moved and Councilor Strengholt seconded to approve Ordinance No. 1627 and authorize the Mayor’s signature on the document to amend LMC 16 and 19 which implements changes to SEPA authority, SEPA thresholds, and minimum density requirements within the Pepin Creek Sub-Area. Motion approved on a 6-0 vote.

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CITY COUNCIL MINUTES OF REGULAR MEETING



Ordinance No. 1632- Amending the Comprehensive Plan and Pepin Subarea Plan

The implementation of Pepin Lite has been summarized to include 13 infrastructure projects. Nine of the projects directly serve the development within the Pepin Creek Sub-Area. Another 4 projects are identified as providing benefit to existing neighborhoods or the general community.

Steps have been taken through Ordinances No. 1631 and No. 1627 to fairly allocate the costs associated with Pepin Lite. The amendment to portions of the City's Comprehensive Plan, including the Pepin Creek Subarea Plan and Transportation Element, reflects the transportation system improvement projects associated with the Pepin Lite plan. Amending the Comprehensive Plan as well as the development code (see Ordinance No. 1627) assures alignment among the City's documents and standards.

On June 10, 2021, the Planning Commission held a public hearing on the item. The Commission concluded the hearing and review with a recommendation to approve the Amendment. The amendment was also sent to the Department Commerce (DOC) for review. The allotted 60-day comment period has closed without comment from the DOC. As this is a legislative item, a second public hearing is scheduled here tonight before the City Council to accept public testimony on the item.

Mayor Korthuis opened the Public Hearing at 7:12 p.m.
No public comment.
Mayor Korthuis closed the Public Hearing at 7:12 p.m.

Councilor Bode moved and Councilor Laninga seconded to approve Ordinance No. 1632, amending the City's Comprehensive Plat to accommodate the Pepin Lite transportation system improvement plan. Motion approved on a 6-0 vote.

Ordinance No. 1631 Updating Transportation Impact Fees (TIF)

On March 1, 2021, the City Council adopted a Resolution of Intent (Reso 1031) which outlines the path forward to lifting the moratorium on the Pepin Creek Sub-Area and implementing the infrastructure associated with the Pepin Lite Plan. The mechanism that showed the most merit is the use of Transportation Impact Fees (TIF) administered in the form of a SEPA mitigation fee or adopted as a TIF overlay.

City staff has engaged with our consultant Transpo to revise the City's TIF project list to include the 13 infrastructure projects identified in Pepin Lite include creek and reflect the associated funding sources. Transpo has also adjusted their City-wide trip analysis to reflect the growth

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CITY COUNCIL MINUTES OF REGULAR MEETING



that will occur in Pepin Creek as laid out in the Pepin Creek Subarea. This is the addition of approximately 1550 housing units over the next 15 years.

Revisions to the TIF will also remove what is known as the West Lynden discount. This has been a 50% discount in transportation and park impact fees for specific areas west of the Guide Meridian based on Council Resolution 709. It was established in 2005 with the understanding that outside funding sources would subsidize the remaining half of the impact fees. Outside support for roadway projects has since declined and the City has been unable to secure the expected funding.

The Community Development Committee discussed the removal of the discount at an April meeting and asked that staff draft Council action which would remove the fee beginning in January 2022. To summarize, Ordinance No. 1632 proposes to:

1. Implement a TIF Overlay on the Pepin Creek Sub-area which will enable the City to collect a fee of \$17,328 per trip specifically to fund projects within the Pepin Subarea. This is proposed to be effective immediately upon approval.
2. Increase the City-wide TIF from \$2,111 per trip to \$2,168 per trip. Effective Jan. 1, 2022.
3. Remove the west Lynden 50% discount of transportation and park impact fees. Effective Jan. 1, 2022.

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

No public comment.

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

Councilor Bode moved and Councilor De Valois seconded to approve Ordinance No. 1631 and authorize the Mayor's signature to amend the City's Transportation Impact Fees (TIF), establish a Pepin Creek Sub-Area TIF Overlay, and rescind the west Lynden TIF and park impact fee discounts. Motion approved on a 6-0 vote.

4. UNFINISHED BUSINESS- None

5. NEW BUSINESS - None

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6. OTHER BUSINESS

Council Committee Updates

Councilor Bode reporting for the Public Works Committee stated discussion of the following:

- Siding the Forge Fitness building
- POGO Zone Franchise
- Sidewalk obstruction ordinance revision
- Parking arrangements at the old telephone building
- Darigold expansion of their treatment processes, redesign, and capacity

Councilor Strengholt reporting for the Finance Committee stated discussion of the following:

- Payroll and Claims
- OT hours by Fire and Police
- Sales tax revenue remains strong
- Benefits to the city when residents shop local and online

7. EXECUTIVE SESSION

Council did not hold an executive session.

8. ADJOURNMENT

The August 16, 2021, regular session of the Lynden City Council adjourned at 7:28 p.m.

Pam Brown, MMC
City Clerk

Scott Korthuis
Mayor

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EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Approval of Payroll and Claims	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
None		
Summary Statement:		
Approval of Payroll and Claims		
Recommended Action:		
Approval of Payroll and Claims		

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EXECUTIVE SUMMARY



Meeting Date:	9-7-2021	
Name of Agenda Item:	Appoint Representative for WTA Review Committee	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: None
	Legal Review:	
	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	RCW 36.57A.055 WTA Board Composition Review Notice	
Summary Statement:	<p>Every four years a member of the county legislative authority and an elected representative from each city within the boundaries of the Public Transportation Benefit Area shall meet and review the composition of the WTA governing body. The Commission Review Committee may change the composition of the Board if change is deemed appropriate.</p> <p>Pursuant to RCW 36.57A.055, the County Council will designate the County Council's member to serve on the Composition Review Committee, and the Bellingham, Lynden, Ferndale, Blaine, Everson, Nooksack, and Sumas City Councils will each designate one of their City's elected officials to serve on the Committee. Each respective Council may choose to appoint the present WTA Board member representing their jurisdiction to serve on the Committee, or they may choose another council member.</p>	
Recommended Action:	Appoint Councilor Kuiken to the WTA Board Composition Review committee for a meeting to be held October 14, 2021, at 9:45 a.m.	



Whatcom Transportation Authority

August 13, 2021

Mayor Scott Korthuis
City of Lynden
300 4th Street
Lynden, WA 98264

Re: Four-Year Review of Whatcom Transportation Authority Board Composition

Dear Mayor Korthuis:

As the General Manager of the Whatcom Transportation Authority (WTA), I am giving notice in accordance with RCW 36.57A.055 (attached) that on Thursday, October 14, 2021 at 9:45 a.m. in the Board Room at WTA, 4011 Bakerview Spur, Bellingham, a meeting will be held to review the composition of the WTA Board of Directors. A virtual participation option will be made available as well.

The above noted statute provides that every four years a member of the county legislative authority and an elected representative from each city within the boundaries of the Public Transportation Benefit Area shall meet and review the composition of the WTA governing body. The Composition Review Committee may change the composition of the Board if change is deemed appropriate.

Pursuant to RCW 36.57A.055, the County Council will designate the County Council's member to serve on the Composition Review Committee, and the Bellingham, Lynden, Ferndale, Blaine, Everson, Nooksack, and Sumas City Councils will each designate one of their City's elected officials to serve on the Committee. Each respective Council may choose to appoint the present WTA Board member representing their jurisdiction to serve on the Committee, or they may choose another council member.

I would appreciate it if your Council Clerk would notify my assistant and Clerk of the Board, Vicki Esser, by e-mail at vickie@ridewta.com, of the designated representative who will be serving on the Committee by October 1, 2021. Additional background material will be provided to the designated representatives in advance of the meeting.

Very truly yours,

Les Reardanz
General Manager

cc: WTA Board of Directors
Pam Brown, City Clerk

RCW 36.57A.055

Governing body—Periodic review of composition.

After a public transportation benefit area has been in existence for four years, members of the county legislative authority and the elected representative of each city within the boundaries of the public transportation benefit area shall review the composition of the governing body of the benefit area and change the composition of the governing body if the change is deemed appropriate. When determining if a change to the composition of the governing body is appropriate, the proportional representation requirements of RCW 36.57A.050 must be taken into consideration if the population of the county in which the public transportation benefit area is located is more than four hundred thousand and the county does not also contain a city with a population of seventy-five thousand or more operating a transit system pursuant to chapter 35.95 RCW, and the composition of the governing body must be changed if necessary to meet this requirement. The review shall be at a meeting of the designated representatives of the component county and cities, and the majority of those present shall constitute a quorum at such meeting. Twenty days notice of the meeting shall be given by the chief administrative officer of the public transportation benefit area authority. After the initial review, a review shall be held every four years.

If an area having a population greater than fifteen percent, or areas with a combined population of greater than twenty-five percent of the population of the existing public transportation benefit area as constituted at the last review meeting, annex to the public transportation benefit area, or if an area is added under RCW 36.57A.140(2), the representatives of the component county and cities shall meet within ninety days to review and change the composition of the governing body, if the change is deemed appropriate. This meeting is in addition to the regular four-year review meeting and shall be conducted pursuant to the same notice requirement and quorum provisions of the regular review.

[2018 c 154 § 2; 1991 c 318 § 16; 1983 c 65 § 4.]

NOTES:

Effective date—2018 c 154: See note following RCW 36.57A.050.

Intent—1991 c 318: See note following RCW 36.57A.040.

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	September 7, 2021	
Name of Agenda Item:	License Agreement for Shared Parking between City of Lynden and Upper End, LLC	
Section of Agenda:	Consent	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<u>Legal Review:</u>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
License Agreement for Shared Parking		
Summary Statement:		
<p>The owner of 110 5th Street, Upper End LLC, is remodeling this building which is adjacent to the downtown Historic Business District. There are five existing angled parking spaces located on the north side of the Upper End property. These spaces are partially on the City Community Center parking lot owned by the City. These parking spaces have historically been used for parking by 110 5th Street and are accessed from the Community Center parking lot. The License Agreement provides for the continued shared use of these five parking spaces and reservation of the spaces for nighttime use by residents in the mixed use building.</p> <p>The Public Works Committee discussed the License Agreement for Shared Parking at their August 4, 2021, meeting and concurred to recommend approval to City Council.</p>		
Recommended Action:		
That City Council authorize the Mayor’s signature on the License Agreement for Shared Parking between the City of Lynden and Upper End LLC.		

After recording return document to:

City of Lynden
Planning Department
300 4TH Street
Lynden WA 98264

DOCUMENT TITLE:
LICENSE AGREEMENT FOR PARKING

REFERENCE NUMBER OF RELATED DOCUMENT:
N/A

GRANTORS:
CITY OF LYNDEN, a municipal corporation

GRANTEES:
UPPER END, LLC

ABBREVIATED LEGAL DESCRIPTION:
LYNDEN NWLY 94 FT OF LOTS 1-2 BLK 11

ASSESSOR'S TAX PARCEL NUMBER(S):
4003202543280000

LICENSE AGREEMENT FOR SHARED PARKING

THIS LICENSE AGREEMENT FOR SHARED PARKING (“Agreement” or “License”) is made and entered into this ____ day of _____, 2021, by and between the City of Lynden, a municipal corporation organized under the laws of the state of Washington (“City” or “Lynden”) and Upper End, LLC, a limited liability company organized under the laws of the state of Washington (“Upper End”) (individually, “Party,” together, “Parties”).

WHEREAS, the Vision Statement for the City Comprehensive Plan promotes cooperation between business owners, citizens and city officials to encourage economic vitality in the City; and

WHEREAS, the City Downtown Development Plan calls for economic enhancement of the Historic Business District of Lynden by encouraging diversity and mixed uses, improving

economics for business owners, encouraging joint public/private partnerships, making the Historic Business District attractive to visitors, and increasing the community’s tax base; and

WHEREAS, Upper End recently acquired and is in the process of renovating the building/property at 110 5th Street, legally described at Exhibit B (“Upper End Property”), which is the benefitted property under this Agreement; and

WHEREAS, the Upper End Property is adjacent to the downtown Historic Business District; and

WHEREAS, there are five (5) existing angled parking spaces located on the north side of the building located at the Upper End Property which are partially on the City Community Center parking lot owned by the City; and

WHEREAS, the legal description of said City Community Center parking lot parcel inclusive of the parking lot is set forth at Exhibit A (“City Parking Lot”), which is the burdened property under this Agreement; and

WHEREAS, the five (5) angled parking spaces immediately north of the building on the Upper End Property and partially within the City Parking Lot have historically been used for parking by businesses located on the Upper End Property; and

WHEREAS, said five (5) angled parking spaces are depicted on Exhibit C (“Five Parking Spaces”) and are accessed from the City Community Center Parking Lot by its driveway access; and

WHEREAS, the portion of the City Parking Lot burdened by this Agreement consist of the Five Parking Spaces depicted on Exhibit C; and

WHEREAS the Parties desire to provide for mutual parking for the various uses of their respective properties identified herein; and

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

NOW THEREFORE IN CONSIDERATION of the mutual benefits to them, the Parties come now and agree as follows:

1. Grant of License. The City grants Upper End a license for purposes of ingress, egress, and nonexclusive possession for standard sized automobile parking purposes in the Five Parking Spaces at the City Parking Lot (“License”). The rights set forth in this License for non-exclusive use of the Five Parking Spaces does not guarantee such parking will be available at any given time, particularly during special events, nor does it provide Upper End the right to modify the spaces or remove or cause the removal of vehicles parked in the Five Parking Spaces. This License does allow for the Upper End to place signage on their property in front of these Five Parking Spaces that indicates that they are reserved daily from 5:00 pm to 8:00 am for use of the Upper End Property residents. The License shall be terminable or revocable only as set forth herein and shall be assignable by Upper End only as set forth herein.

2. Scope. The scope of the License is to allow Upper End patrons to park in the Five Parking Spaces as described herein.

3. This License shall automatically terminate upon the Upper End Property no longer being substantially used for business purposes. In addition, the City may terminate or revoke this License at any time in its sole discretion during the term of this License by providing not less than one hundred eighty (180) days prior written notice.

4. Indemnification. Upper End shall fully indemnify and hold the City harmless from any claims, losses, liabilities, damages, and expenses (including reasonable attorney’s fees) arising out of ingress, egress, use or occupation of one or more of the Five Parking Spaces by an owner, employee, guest, invitee of a guest, agent, contractor, or subcontractor of the owner or operator of the Upper End Property or by any person doing business with the Upper End Property or other commercial or non-profit tenant located at the Upper End Property.

5. Insurance. Upper End shall maintain, at its own expense, for the benefit of itself and the City, insurance against liability for property damage or loss and against liability for personal injury or death, arising from acts or omissions of Upper End, its owners, agents, subcontractors, employees, guests, invitees of guests or person doing business with the Upper End Property or other commercial or non-profit tenant located at the Upper End Property. Prior to the commencement of this Agreement, Upper End shall deliver to the City certificates or binders evidencing the existence of the insurance required herein. Such policy or policies shall name the City as an additional insured and shall contain a provision whereby the City must receive at least

thirty (30) days' prior written notice of any cancellation or reduction in Upper End insurance coverage. In addition, should Upper End be notified or have reason to expect a termination or cancellation action by its insurance company, Upper End will provide the City with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Agreement and cause for termination.

Upper End shall possess the following insurance with coverage amounts not less than as specified below:

<u>Type</u>	<u>Amount</u>
Worker's Compensation	Statutory
Professional Liability	\$ One Million (errors and omissions) (On a claims-made, annual aggregate basis)
General and Excess Liability	\$ One Million per occurrence/ \$ Two Million aggregate

6. Non-Waiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

7. Governing Law and Venue. Any dispute arising out of this Agreement shall be governed by the laws of the State of Washington. Venue shall be in Whatcom County Superior Court.

8. Attorney's Fee and Costs. In the event of any cause of action or litigation arising out of an alleged breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs from the other Party.

9. Modification in Writing. This Agreement may not be modified or amended except by the written agreement of the Parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at Lynden, Washington, Whatcom County.

CITY OF LYNDEN:

UPPER END

By Scott Korthuis
Its Mayor

By Wes Herman
Its Owner

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that 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.

Dated: _____, 2021.

NOTARY PUBLIC in and for the State of
Washington. My Commission expires _____.

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

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

Dated: _____, 2021.

NOTARY PUBLIC in and for the State of
Washington. My Commission expires _____.

EXHIBIT A
CITY PARKING LOT
(Community/Senior Center Lot)

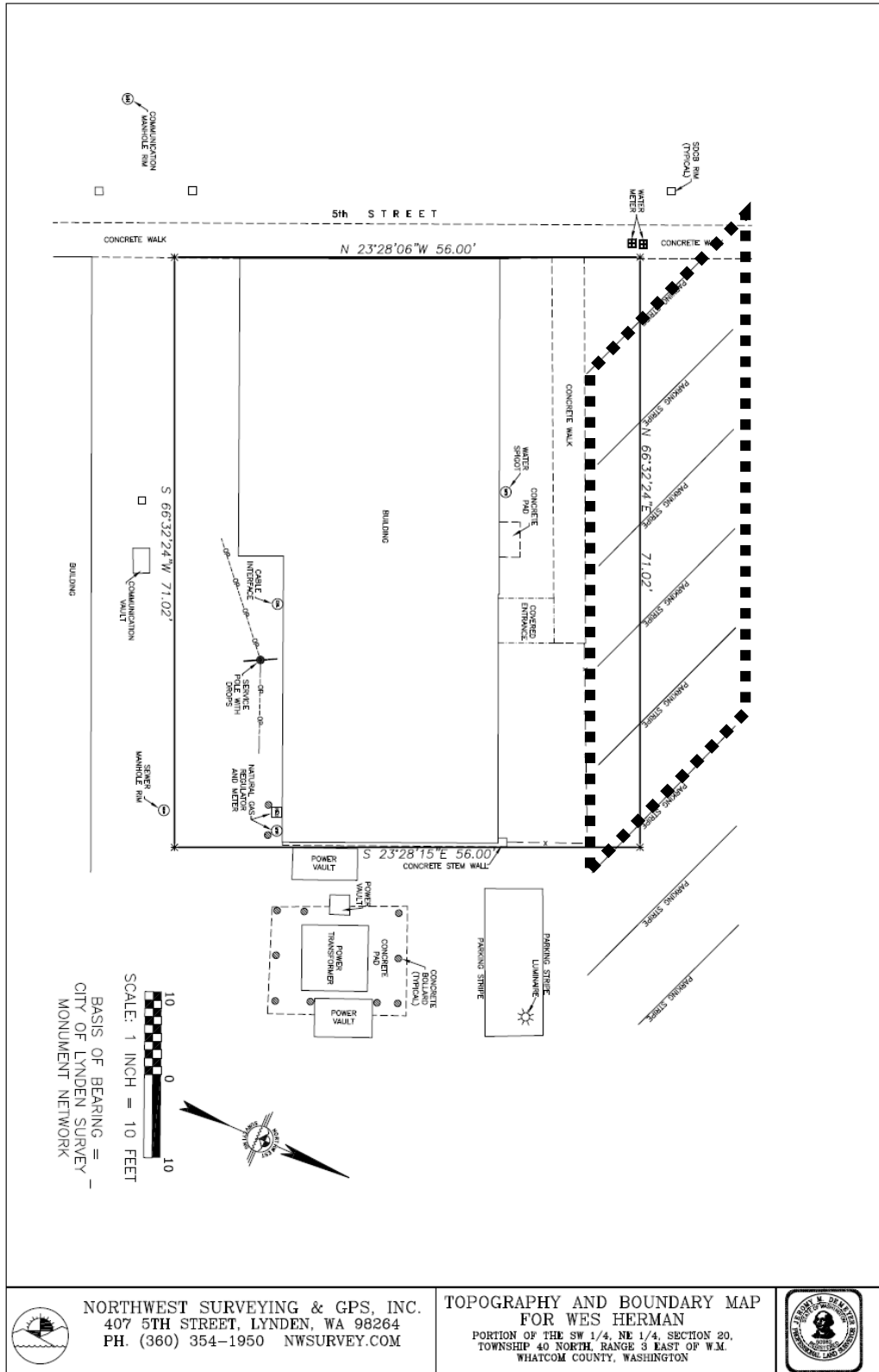
401 Grover Street: Parcel Number 400320 254328

The northwesterly 94 feet of lots 1 and 2; the easterly 29 feet of the southerly 56 feet of the northerly half of Lot 2; and the northerly half of lots 3, 4 and 5 all of Block 11 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

EXHIBIT B
UPPER END PROPERTY

The south half of Lots 1 and 2 in Block 11 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

EXHIBIT C - FIVE PARKING SPACES DEPICTED



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

**TOPOGRAPHY AND BOUNDARY MAP
 FOR WES HERMAN**
 PORTION OF THE SW 1/4, NE 1/4, SECTION 20,
 TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.
 WHATCOM COUNTY, WASHINGTON



CITY OF LYNDEN

EXECUTIVE SUMMARY - FINANCE



Meeting Date:	Sept 7, 2021	
Name of Agenda Item:	Ordinance No. 1634 – Amendatory Ordinance to Increase the Line of Credit Limit	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: _____
		Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Ordinance No. 1634 – Amendatory Ordinance to Increase the Line of Credit Limit		
Summary Statement:		
<p>Ordinance No. 1231 was approved by council on May 2, 2005. It allowed the city to have a revolving line of credit. The notes have provided interim financing for capital projects such as the Water Reservoir project (for DWSRF reimbursement), Arterial Street capital improvements, Police Station Acquisition/Remodel (prior to issuance of permanent financing), and East Lynden Sewer Sub-Basin improvement projects.</p> <p>Presently, outstanding balances on the line of credit consist of several funds awaiting reimbursement money from State and Federal Grants. The line of credit is available to provide interim financing for Street Capital Construction projects. These projects are secured by grant and/or other intergovernmental funding on a reimbursement basis.</p> <p>The current Line of Credit Limit is set at \$2,100,000. The level of funding required on current projects is going to exceed the current limit. Ordinance No. 1634 is an amendatory Ordinance that would increase the current \$2,100,000 line of credit limit up to \$3,000,000. The City's Bond Counsel and Finance Director have reviewed this proposal.</p> <p>The Finance Committee was notified of the requested increase prior to the September 7th, 2021 City Council meeting.</p>		
Recommended Action:		
That the Council approve Ordinance No. 1634 as presented and authorize the Mayor's signature.		

ORDINANCE NO. 1634

AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON, FURTHER AMENDING ORDINANCE NO. 1231 TO INCREASE THE MAXIMUM AMOUNT AVAILABLE FOR DRAWS ON THE CITY'S REVENUE BOND ANTICIPATION NOTE, 2005A (REVOLVING) AND ITS LIMITED GENERAL OBLIGATION BOND AND GRANT ANTICIPATION NOTE, SERIES 2005B (REVOLVING).

WHEREAS, the City of Lynden, Washington (the "City") adopted Ordinance No. 1231 on May 2, 2005, providing for the issuance of the City's Revenue Bond Anticipation Note, Series 2005A (Revolving) ("Note-2005A") and its Limited Tax General Obligation Bond and Grant Anticipation Note, Series 2005B (Revolving) ("Note-2005B" and together with the Note-2005A, the "Notes"), originally issued on May 13, 2005 and both having an original date of May 13, 2006, in the aggregate principal amount of not to exceed \$5,000,000 for the purpose of making improvements to facilities of the City, in anticipation of loans and grants specified therein; and

WHEREAS, subsequent to May 13, 2005, the City passed Ordinance No. 1261 extending the maturity and changing the interest rate, Ordinance No. 1295 increasing the maximum amount, extending the maturity and changing the interest rate, Ordinance No. 1319 extending the maturity and changing the interest rate, Ordinance No. 1355 extending the maturity and changing the interest rate, Ordinance No. 1376 extending the maturity and changing the interest rate, Ordinance No. 1400 extending the maturity and changing the interest rate, Ordinance No. 1420 extending the maturity and changing the interest rate, Ordinance No. 1444 extending the maturity and changing the interest rate, Ordinance No. 1467 decreasing the maximum amount, extending the maturity and changing the interest rate; Ordinance No. 1485 extending the maturity; Ordinance No. 1510 extending the maturity and changing the interest rate, Ordinance No. 1534 extending the maturity and changing the interest rate, Ordinance No. 1558 extending the maturity and changing the interest rate, Ordinance No. 1588 extending the maturity, Ordinance No. 1606 increasing the maximum amount, extending the maturity and changing the interest rate; and Ordinance No. 1629 extending the maturity and changing the interest rate; and

WHEREAS, the Notes were reissued on July 30, 2021 to Banner Bank, Burlington, Washington, as successor to Skagit State Bank (the "Bank"); and

WHEREAS, the City has received a proposal from the Bank dated August 30, 2021 (the "Proposal") to increase the maximum principal amount available for draws upon certain conditions; and

WHEREAS, it is now in the best interests of the City to accept the Bank's Proposal;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, DOES ORDAIN, as follows:

Section 1. Amendment to Ordinance No. 1231. Section 3 of Ordinance No. 1231 as amended by Ordinance Nos. 1261, 1295, 1319, 1355, 1376, 1400, 1420, 1444, 1467, 1485, 1510, 1534, 1558, 1588, 1606 and 1629 is hereby further amended to read as follows (additions are underscored and deletions are shown as stricken):

(c) *Terms of the Note-2005A.* The Note-2005A shall be designated as the “City of Lynden, Washington Revenue Bond Anticipation Note, 2005A (Revolving),” shall be dated as of the date of its original issuance, shall be issued as a single instrument, fully registered as to both principal and interest, shall be in the denomination of not to exceed ~~\$2,100,000~~ \$3,000,000; subject, however, to the further limitation that the aggregate principal amount outstanding of the Note-2005A and the Note-2005B (hereinafter authorized) may not at any time exceed the sum of ~~\$2,100,000~~ \$3,000,000, shall be numbered N-1A and shall bear interest at fixed interest rate of 2.85% to May 13, 2006 and delivery, the fixed rate of 4.16% from May 13, 2006 through May 11, 2007 and the fixed rate of 3.95% from May 12, 2007 to May 13, 2008 and the fixed rate of 2.90% from May 13, 2008 to May 13, 2009 and the fixed rate of 2.75% from May 13, 2009 to May 13, 2010 and the fixed rate of 2.75% from May 13, 2010 to June 22, 2011 and the fixed rate of 2.25% from June 23, 2011 to June 26, 2012 and the fixed rate of 2.15% from June 27, 2012 to June 23, 2013 and the fixed rate of 2.05% from June 24, 2013 to July 23, 2014 and the fixed rate of 2.15% from July 24, 2014 to July 24, 2016 and the fixed rate of 2.31% from July 25, 2016 to July 27, 2017 and the fixed rate of 2.81% from July 28, 2017 to July 30, 2018 and the fixed rate of 3.75% from July 31, 2018 to July 30, 2020 and the fixed rate of 3.64% from July 31, 2020 to July 30, 2021 and the fixed rate of 2.85% from July 31, 2021 to final maturity (computed on the basis of the actual number of days elapsed over a year of 360 days) on the unpaid principal balance and the outstanding principal balance and all unpaid and accrued interest shall be payable in full at maturity on July 31, 2022. The interest rate on Note-2005A is subject to adjustment as follows: if the interest on Note-2005A is subsequently determined to be no longer federally tax-exempt, then the interest rate on Note-2005A shall be adjusted to 3.61% effective as of the date of loss of tax-exempt status.

(d) *Terms of the Note-2005B.* The Note-2005B shall be designated as the “City of Lynden, Washington Limited General Obligation Bond and Grant Anticipation Note, 2005B (Revolving),” shall be dated as of the date of its original issuance, shall be issued as a single instrument, fully registered as to both principal and interest, shall be in the denomination of not to exceed ~~\$2,100,000~~ \$3,000,000; subject, however, to the further limitations that the aggregate principal amount outstanding of the Note-

2005A and the Note-2005B may not at any time exceed the sum of ~~\$2,100,000~~ \$3,000,000 and that the aggregate principal amount outstanding of the Note-2005B may not exceed LGO Capacity as of the date of any Draw made thereunder, shall be numbered N-1B and shall bear interest at the fixed rate of 2.85% to May 13, 2006, the fixed rate of 4.16% from May 13, 2006 through May 11, 2007 and the fixed rate of 3.95% from May 12, 2007 to May 13, 2008 and the fixed rate of 2.90% from May 13, 2008 to May 13, 2009 and the fixed rate of 2.75% from May 13, 2009 to May 13, 2010 and the fixed rate of 2.75% from May 13, 2010 to June 22, 2011 and the fixed rate of 2.25% from June 23, 2011 to June 26, 2012 and the fixed rate of 2.15% from June 27, 2012 to June 23, 2013 and the fixed rate of 2.05% from June 24, 2013 to July 23, 2014 and the fixed rate of 2.15% from July 24, 2014 to July 24, 2016 and the fixed rate of 2.31% from July 25, 2016 to July 27, 2017 and the fixed rate of 2.81% from July 28, 2017 to July 30, 2018 and the fixed rate of 3.75% from July 31, 2018 to July 30, 2020 and the fixed rate of 3.64% from July 31, 2020 to July 30, 2021 and the fixed rate of 2.85% from July 31, 2021 to final maturity (computed on the basis of the actual number of days elapsed over a year of 360 days) on the unpaid principal balance, and the outstanding principal balance and all unpaid and accrued interest shall be payable in full at maturity on July 31, 2022. The interest rate on Note-2005B is subject to adjustment as follows: if the interest on Note-2005B is subsequently determined to be no longer federally tax-exempt, then the interest rate on Note-2005B shall be adjusted to 3.61% effective as of the date of loss of tax-exempt status.

(e) *Draws.* The Notes are intended to be revolving obligations; however, the principal amount outstanding under the Notes may never exceed ~~\$2,100,000~~ \$3,000,000, and, provided, further, the aggregate principal amount of any Draw made under the Note-2005B (together with all other principal amounts then outstanding under the Note-2005B) may never exceed LGO Capacity as of the date of the Draw. The available principal of the Notes shall be disbursed as borrowings and re-borrowings from time to time by the Bank upon request from the City (each such disbursement herein referred to as a “Draw”). Draws shall be recorded on the Loan Draw Record attached to the respective Note, or in such other form as the City and the Bank may agree. Interest on each Draw shall accrue from the date of that Draw and shall be computed on the basis as described above on the principal amount of the Draw outstanding for the actual number of days the principal amount of the Draw is outstanding. The City hereby covenants that it will never request a Draw under the Note-2005B if the amount of that Draw, together with the principal balance then outstanding would exceed LGO Capacity. The LGO Capacity as of the date of this ordinance, pledged and committed to be available for the Note-2005B is \$24,170,868, and the Bank may rely upon this representation until the City delivers written notice of a change in LGO Capacity.

Section 2. Bank Proposal. The City hereby approves and accepts the Bank Proposal.

Section 3. Information to be Provided to Bank. As long as the Notes are outstanding, the City will provide to the Bank the financial information of the City as the Bank from time to time may reasonably request, including the City's annual financial statements/reports, audit reports, and audited financial statements, as available.

Section 4. Ordinance and Laws a Contract with the Bank. Ordinance No. 1231, as amended, and as further amended by this amendatory ordinance is passed under the authority of and in full compliance with the Constitution and laws of the State of Washington, including Title 35 of the Revised Code of Washington, as amended and supplemented. In consideration of the loans made by the Bank, evidenced by the Notes, the provisions of Ordinance No. 1231, as amended, and as further amended by this amendatory ordinance, and of said laws shall constitute a contract with the Bank, and the obligations of the City and its City Council under said laws and under Ordinance No. 1231, as amended, and as further amended by this amendatory ordinance, shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein and in the Notes set forth shall be for the equal benefit of the Bank and any permitted transferee or assignee.

Section 5. Confirmation of Ordinance No. 1231, as amended. Ordinance No. 1231, as amended by Ordinance Nos. 1261, 1295, 1319, 1355, 1376, 1400, 1420, 1444, 1467, 1485, 1510, 1534, 1558, 1588, 1606, 1629 and as further amended by this amendatory ordinance is hereby ratified and confirmed.

Section 6. Authorization of City Officials. The proper City officials are authorized to deliver new Notes to the Bank reflecting the terms of this amendatory ordinance.

Section 7. Effective Date. This ordinance shall be in effect five days after its publication as provided by law.

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

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

503321850 v1

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	TRC Report Revision - Kamm Creek MPRD – Application 20-02	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Revised Findings of Fact for the Kamm Creek MPRD (changes tracked)		
Summary Statement:		
<p>On November 16, 2020 the City Council granted preliminary approval to the Kamm Creek MPRD application. On December 7, 2020 the City Council confirmed the findings of fact related to this approval. The Council may recall that the MPRD concept for the 20-acre property located on the west side of Northwood Road includes 40 lots.</p> <p>Design of infrastructure for the project has advanced since the preliminary approval. However, the property owner has raised a concern related to one staff comment on the Technical Review Committee’s (TRC) report. This relates to the presence of a mineral rights claim on the property dating back to 1962. The TRC report required that this claim be cleared from the property prior to commencement of construction. While State law provides a pathway for clearing claims that are more than 20 years old the process is time consuming and tedious. Properties throughout Whatcom County are frequently developed with a mineral right still in place.</p> <p>The property owner has asked that staff revise the TRC report to remove this requirement. The City’s legal counsel has agreed that the presence of a mineral right claim poses little risk to the City. As such, staff has agreed that the comment be revised to be advisory in nature. As TRC report conditions are part of the preliminary approval’s findings of fact, the revised findings of fact are being brought forward for City Council approval and the Mayor’s signature.</p>		
Recommended Action:		
Motion to approve the revised findings of fact, and authorize the Mayor’s signature on the document, which now <u>advises</u> the developer of Kamm Creek PRD of a 1962 mineral rights claim but no longer <u>requires</u> the claim to be cleared from the property prior to development.		

CITY OF LYNDEN
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE APPLICATION OF Bob Libolt on behalf of Kamm Creek Investments, LLC, TO SUBDIVIDE PROPERTY	MPRD #20-02
Petitioner	FINDINGS OF FACT, CONCLUSIONS OF LAW, CONDITIONS and DECISION on Master Planned Residential Development #20-02

Kamm Creek Investments, LLC, owners of the premises known as:

PARCEL A:
THE EAST 5 ACRES OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M., EXCEPT NORTHWOOD ROAD ALONG THE EASTERLY BOUNDARY THEREOF.

PARCEL B:
THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M., EXCEPT THE EAST 5 ACRES THEREOF. SITUATE IN WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 8585 Northwood Road, Lynden

Has applied for a Master Planned Residential Development requesting to develop approximately 20 acres into 40 residential lots within the RS-100 zone. The Lynden Planning Commission held a public hearing on October 8, 2020, and recommended approval to the City Council. Said request having come before the Lynden City Council on November 16, 2020, and the Lynden City Council having fully and duly considered the request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 1.01 Application. Kamm Creek Investments, LLC, (“Agent”) filed an application for a Master Planned Residential Development which was accepted by the City as complete and containing all information required by LMC 17.19.010 on August 28, 2020.
- 1.02 Location. The property is located at 8585 Northwood Road, Lynden.
- 1.03 Ownership. Kamm Creek Investments, LLC is the Property Owner.

1.04 Request. To allow the MPRD / subdivision of property into 40 residential lots within the RS-100 zone.

1.05 Reason for Request. To make effective use of land within the existing city limits where all urban services are available.

1.06 Planning Commission Recommendation. As outlined in Planning Commission Resolution #20-08, the Lynden Planning Commission recommended approval of the Master Planned Residential Development Concept application.

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

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

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

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

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

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

1.13 Potable Water Supplies, Sanitary Wastes and Drainage Ways. The application makes appropriate provisions for public drainage ways, potable water supplies and sanitary wastes.

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

1.15 Critical Area Review. The applicant has submitted a Critical Areas Detailed Study that analyzes proposed impacts to the wetlands and regulated streams and their buffers. The Critical Areas Report dated June 29, 2020 is considered preliminary and subject to necessary revisions based on subsequent Army Corps and WDFW permits.

1.16 SEPA Determination. Environmental review of the proposal has been made under the requirements of WAC 197-11 and a mitigated determination of non-significance has been made.

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

CONDITIONS

Any approval of the Petitioner’s application shall be subject to the conditions as listed below:

Lynden Municipal Code (LMC) 19.29 guides the development standards and criteria for approval for Master Planned Residential Developments (MPRDs). The Kamm Creek proposal appears to meet the following requirements consistent with the LMC:

Intent: The primary purpose of a Master Planned Residential Development (MPRD) is to promote creativity in site layout and design by allowing flexibility in the application of the standard zoning requirements and development standards.

The overall intent of the Kamm Creek MPRD appears mostly consistent with the purpose of Planned Residential Developments as outlined in LMC 19.29.010.

Minimum Lot Size: Per LMC 19.29.060(I) the minimum lot size for single family homes within a PRD is 5,000 square feet. The lots proposed in this PRD exceed this minimum. As proposed, the residential parcels range from 5,237 square feet to 10,228 square feet with ten parcels exceeding 9,000 square feet. In addition, the PRD provides common open space. Due to critical areas on the subject property the average area per residence, when divided equally is over 21,000 square feet per home.

Specific Project Comments from the Technical Review Committee:

The application was reviewed against the applicable chapters of the LMC and the Engineering Design and Development Standards and the comments generated have been included below.

Planning Department

1. *Approval Process:* Applicant has acknowledged that the process for this approval includes staff review, a public hearing before the Planning Commission and a decision by the City Council. Please note that a decision by the City Council is equivalent to the preliminary approval of a long plat. When given, this initial approval would authorize the applicant to move forward with infrastructure improvements but return to the Council for final approval. Per LMC 19.29.100 the final development contract, with all exhibits including the final Covenants,

Conditions and Restrictions for the Kamm Creek development must be presented to the Planning Commission for review and the City Council for approval. Final approval by the City Council and completion of any associated punch lists and as-built drawings would then authorize the property to be officially divided, recorded and lot numbers assigned.

2. Density: LMC 19.29.060(1) states that floodplain shall not be included in the gross land area for the calculation of density in a PRD. The project narrative indicates that of the 20 acres on the subject property, 5.2 are within the floodplain. This means that the final density of the PRD is 2.7 units per acre when up to 4 units per acre are permitted (consistent with the underlying RS-100 zoning). Applicant has provided a break-down of density calculations. These must appear in table form on the final drawings.

3. Setbacks: *The applicant has indicated that the standard PRD front setback of 15 feet will be met.* Staff recommends that the final development agreement also include rear setbacks and side setbacks although. LMC 19.29 does not require specific side and rear setbacks other than the required 25 foot PRD boundary. Lot 11 would require a site-specific standard as the less than the 25 foot perimeter in order to maintain an adequate buildable area. Staff recommends the following:
 - a. PRD perimeter of 25 feet.
 - b. Rear setback of 20 feet on lots less than 7,000 sf. Rear setback of 30 feet on lots greater than 7,000. Open sided patio / deck roofs allowed to encroach up to 12 feet into the rear setbacks.
 - c. Side setbacks of 7 feet. Except, lot 11 – Site specific standard of a reduced PRD perimeter on the eastern property line. Minimum setback of 7 feet consistent with underlying zoning.
 - d. Front setbacks of 15 feet.
 - e. Garage door setback of 24 feet.

4. Lot Coverage: Applicant has indicated that lot coverage is “not expected to exceed 40%”. Staff recommends that language be modified so that a specific maximum lot coverage of 40% be indicated in the final development agreement. Given the amount of common open space, staff is supportive of a 40% lot coverage.

5. Critical Areas: The applicant has submitted a Critical Areas Detailed Study that analyzes proposed impacts to the wetlands and regulated streams and their buffers. The Critical Areas Report dated June 29, 2020 is considered preliminary and subject to necessary revisions based on requested information, subsequent plat design alterations, and Army Corps and WDFW permits.

Proposed wetland fill will require Army Corps permits. Stream crossing work will require a WDFW HPA permit. Staff expects that details of the proposed

mitigation plan will require revisions subject to these permits prior to final plat approval.

- 6. Floodplain: The FEMA designated floodplain and elevation for the Nooksack River shall be indicated on the final plat. Applicant shall confirm the BFE for the subject property and locate and adequately delineate that elevation on the ground. Any approved alterations that would change the on-site location of the BFE will require a LOMA and/or a LOMR-F prior to final plat approval.

Proposed development of the floodplain shall comply with FEMA regulations and LMC 16.12 Floodplain Management. Approval of floodplain development is subject to cut and fill analysis, compensatory storage, and a biological assessment. All of the analysis must occur prior to commencement of work / fill within the flood plain.

Future parcels that contact the floodplain or that are directly adjacent to the floodplain will require an elevation certificate at final occupancy to ensure 2 feet of freeboard above BFE.

- 7. Open Space Standards: An MPRD shall set aside a minimum of seven and one-half percent (7.5%) of the gross land area or 4,000 square feet, whichever is greater, for active recreational uses. The percentage of area set aside for active uses may be reduced per LMC 19.29.080(D)(2) in association with environmentally sensitive areas. The proposal includes 64% open space. Active open space is included in the form of trails.
- 8. Open Space Covenant: Consistent with LMC 19.29 the applicant has agreed to provide LMC 19.29 open a recorded deed restriction or restrictive covenant which runs with the land and assures that said property will remain in open space in perpetuity, consistent with the terms of this chapter, and which shall be held and maintained for such purposes for the common benefit of residents of the development by a homeowner’s association.
- 9. Pedestrian Connections: As noted in LMC 19.29.060(6), in addition to sidewalks fronting residential lots, there must be logical pedestrian connections throughout the project including paved pathways to front doors, and trails within or adjacent to open space areas.

- a. Per staff’s recommendation the applicant has also included an asphalt pedestrian path and public access easement parallel to Northwood Road, west of the existing ditch. A path of this nature is preferred as it will be some time before full roadway improvements will occur on Northwood Road – especially since the property to the east is not within the City’s Urban Growth Area.
- b. Additionally, this development will accommodate the construction of and/or dedication of property for future public use connections to the East Lynden Loop Trail with access provided to the west.

- 10. Mineral Rights: ~~Be advised,~~ a 1962 real estate contract on the property appears to show that CV Wilder and Ella Wilder maintained ½ of all oil, gas and mineral rights on the subject property. ~~Applicant has been advised that prior to commencement of construction the developer must demonstrate that the title has been cleaned of this claim or verified through the City attorney that work can begin through alternate means.~~ (Findings of Fact revised to alter this comment to advisory - Council action on September 7, 2021).

- 11. Residential Design Standards: Applicant has been advised that homes proposed within the MPRD will be subject to the design standards of LMC 19.22. These also include articulations on building elevations that face toward public streets or shared green spaces, exterior finish details, porches and stoops, and the screening of mechanical equipment.

- 12. Traffic Study: A traffic study has been submitted with the PRD application. However, the study was conducted with the assumption of 35 homes rather than the 40 proposed in the application. The applicant will be required to provide an updated traffic study that is consistent with the final lot count prior to preliminary approval by the City Council. The applicant will be required to present the findings to the City Council at the time of preliminary approval. It is important to note that the private street standard proposed by the applicant is typically reserved for developments that do not exceed 150 average daily trips (ADT). The traffic study, although only analyzing 35 lots, already reaches 330 average daily trips. Per Division 4.3(B) of the City’s Engineering Design Standards, the private street standard for developments exceeding 150 ADTs calls for parking on both sides of the street and sidewalks on both sides of the street.

Although staff recognizes that development near critical areas may warrant a reduction in paved areas and a de-emphasis of auto dependency, the applicant should be aware that the Council may not support the reduced street standard on this scale of a development given that the Kamm Creek PRD is disconnected from other pedestrian networks and bus lines within the City and clearly will require daily use of automobiles.

- 13. Street Design: City of Lynden Engineering Design Standards describe a private street standard in Division 4.3(B) that can be used in PRDs that generate less than 150 average daily vehicle trips. This includes a minimum roadway width of 30 feet that allows for parking on one side and a 5 foot sidewalk on one side. The standard also requires that the roadway be constructed with a vertical curb and gutter.

The applicant has requested that this private street standard be used although the development will generate more than 330 average daily trips.

The applicant has also proposed an alternate design that includes a concrete walkway that is flush with the surface of the street.

Given that many lots exceed 7,000 square feet and can provide on-site parking. And, given that much of the property is constrained by critical areas and flood plain. And, given that the applicant has designed a pedestrian trail system that can take the place of some sidewalk amenities, staff will support the private street standard that calls for parking on one side and sidewalk on one side. However, given the scale of the community and amount of traffic generated, staff cannot support a pedestrian walkway that is not separated from the street. Separated walkways provide a safer environment for pedestrians, especially small children. Staff recommends that vertical curb on the sidewalk side be required. Staff also recommends that a 3-4 foot vegetated parking strip be required to avoid abrupt vertical changes in the sidewalk at each driveway cut. As a result, lots 35-38 may need to be enlarged to accommodate this separated walkway and planting strip and lot 40 may possibly need to be eliminated.

Staff is supportive of the proposed reduced roadway width of 24 feet only in areas within the critical areas and their associated buffers.

14. Posting of Private Streets: Streets within the Kamm Creek PRD must be posted as private. The CC&Rs must address methods of parking enforcement and street maintenance, cleaning, snow clearing, and repair.
15. Driveways: City of Lynden code requires that driveways measure a minimum of 25 feet in depth to accommodate parked vehicles without blocking sidewalks. The PRD originally proposed 20 foot driveways but later, given staff concerns regarding parking, revised the proposal to 24 feet. The applicant has indicated that the proposal will meet the parking standard typical of single family development. Staff is supportive of the 1 foot reduction of driveway length if on-street parking is provided as per the private street standard.
16. Street Design – Pervious Pavement: The communities CC&Rs must specifically address the use of pervious pavement, the need for maintenance, and the responsibility of the HOA of this infrastructure.
17. Street Design – Hydrant Access: If a hydrant is located in an area of the development where streets measure 24 feet in width. It is important to note that it must be expanded to a minimum of 26 feet in width for a minimum distance of 20 feet at the hydrant location. Specifically, for 10 feet on each side of the hydrant. No parking is permitted adjacent to fire hydrants. This restriction must be adequately signed and/or painted on the pavement.
18. Area Break-down: Whatcom County and the City of Lynden have been mandated to participate in an annual report provided to the State which tracks achieved housing density. In an effort to track accurate data for this program all plats and lot line adjustments will be required to provide supporting data. Please provide on the face of the drawing a table which breaks down the total area of the plat drawing after the lot line adjustment into the categories shown below.

Note that in some instances the area may be zero and that “other infrastructure” could refer to area used for sewer pump station, stormwater ponds, etc.

	Plat Area (in sq ft)
Gross plat area	
Reserve tracts	
Critical areas (including buffers)	
Right of ways (ROWs)	
Other infrastructure	
Net developable	
Percent ROW and Infrastructure	%

19. Utility Easements: Per 18.14.075, of the LMC requires 5-foot utility easements around the interior property line of all residential lots. If a deviation to this requirement is requested, it must be included in the future development agreement.

20. Street Trees: The applicant has been advised that, per Sec. 18.14.120, the developer will be required to provide street trees within the dedicated public utility easement adjacent to the street. Without blocking view triangles, there shall be a minimum of one tree per lot with a maximum of fifty feet between trees. Vegetated parking strips are not an adequate location for street trees unless they are 4 feet in width or greater. Maintenance of street trees shall be the responsibility of the adjoining property owner or, if indicated in the CC&R's, the homeowners association. Please address in CC&R's.

21. Homeowners Association Required: Be advised, per LMC 19.29.130 the MPRD shall have a homeowner's association and enforceable covenant to fund and effectively collect fund for such and organization. Associated agreements and covenants shall apply to all the property with the PRD, shall be recorded and shall run with land. Within one year of preliminary approval the final development contract and the community's covenants, conditions and restrictions (CC&R's) must be presented to the Planning Commission for review and City council for approval. CC&R's must include a management plan for common open space, trails, alleys, mitigated areas, and conservations easements if utilized.

Public Works

22. Public Improvements: Be advised, all public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards or an equivalent approved through the Planned Residential Development process. A Development Contract to construct will be required prior to any construction. This may be combined with the PRD Contract. Both contracts require Council approval.

23. Plat/Interior Street Improvements: If the applicant proposes an alternate frontage improvement plan different than City standard for approval it must provide adequate turn-around within public right-of-way and address the needs of the proposed development (ex. parking, life safety, delivery, waste collection etc.) Any proposed alley shall be private with a minimum clear width of 24-feet. The City’s PRD code standard is a street width of 30 feet curb-to-curb with sidewalks on both sides. Staff is concerned that proposed street layout indicates access will be limited to one access during flood events. Maintaining the private street standard is recommended.

24. Off-site Street Improvements: Proponents traffic study must address all phases/impacts of the proposed project. Traffic study must meet requirements of City standards. Additional right-of-way may be needed to address west bound right turn movements. The applicant has agreed to dedicate 10 feet of right-of-way to the City along the full frontage of Northwood Road as required by Public Works consistent with the City’s transportation plan. A 10-foot utility easement behind the right-of-way shall be dedicated. Northwood frontage improvements are required to the extent they provide for safe ingress and egress from the project. This will also include street lighting and pedestrian connections (see pedestrian connection comment above).

25. Stormwater

- a. A stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. This must also address any impacts from seasonal high groundwater and flooding. Prior to site plan and/or preliminary plat approval, a Stormwater Site Plan Narrative per the City’s Manual for Engineering Design and Development Standards. addressing all Stormwater minimum requirements shall be submitted. An erosion control plan must be included in the drainage plan and construction plans as necessary.
- b. All plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.

- c. Stormwater from public streets may be infiltrated within the dedicated right-of-way, or within a separate dedicated tract, if approved/accepted by the City, but may not be within the street prism. Infiltration areas and street trees should have adequate separation to insure the proper functioning of the drainage system and survival of the tree.
- d. A Construction National Pollutant Discharge Elimination System (NPDES) permit may be needed.
- e. Be advised, proposed lot sizes may make it difficult for any form of onsite facilities to be installed on the lots unless rear setbacks are required.

26. Water

- a. As per 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards.
- b. As per LMC 18.14.150, the main water line shall be extended to the furthest extent of all properties of this PRD unless it is determined that services, including life-safety are adequately provided elsewhere. Applicant has requested, and staff recommends that water extension beyond the south entrance to Kamm Creek PRD is unnecessary as property beyond the development drops into the floodplain and is not part of the City's Urban Growth Area.
- c. A 20-foot utility easement is required if only water is located within it. If two public utilities are in an easement the minimum width is 30 feet equally spaced.
- d. Each house and/or unit within this plat must be individually metered. Water meters must be located within the City right-of-way or unit / access easement.
- e. If located within the Nooksack Floodplain, water services shall have backflow prevention to protect the City system.
- f. Twelve (12) inch water shall be extended from the current dead end location on Kamm Road east to Northwood and then south on North to the edge of the plat. Water line looping may be necessary to meet fire flow requirements (1500 gpm).

27. Sanitary Sewer

- a. Sanitary sewer and water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.

- b. The sewer line must be extended to the furthest extend of all properties per City development standards of the proposed development unless it is determined that services are adequately provided elsewhere.
- c. A sewer easement of 20 feet is required for all public systems. If more than one public utility is within the easement the easement shall be 30 feet.
- d. The existing sewer easement shall not be impacted. Any changes to the current sewer access road shall provide an equal or greater access.
- e. Proposal has more units that was anticipated per sewer comprehensive plan and will need to be reviewed for impacts that may require offsite improvements.

Fire and Life Safety

- 28. Minimum Street Width: The private roadway must be expanded to a minimum of 26 feet in width for a minimum distance of 20 feet at the hydrant location. Specifically, for 10 feet on each side of the hydrant.
- 29. Hydrant Requirements: The installation of fire hydrants will be required. Code requires that fire hydrants be installed at intervals not to exceed 500-feet in single family areas and 300-feet in multi-family areas. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.
- 30. Street Addressing: Addresses that cannot be seen from the city street must be posted at both the access easement and on the house.
- 31. Fire Code: Future Development will require full compliance with the Fire Code.
- 32. Fire Impact Fees: Be advised, half of fire impact fees will be due at the time of final development approval (subdivision and half of the fire impact fee will be due at the time of building permit. The current rate of this fee is \$389.00 per multi-family unit and \$517.00 per single family home.

Parks and Recreation

- 33. Trail Dedication: Be advised, dedication of a public trail easement or the granting of public access on trails through an associated restrictive covenant will be required as a condition of the final Master Planned Residential Development approval.
- 34. Park Impact Fees: Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$546.00 per multi-family unit and \$936.00 for single family home.

Advisory Requirements

- 35. Civil Drawings: The construction drawings for any civil and utility improvements must be submitted for review and approval prior to construction. These drawing must illustrate that the utility improvements and extensions meet the standards listed within the Project Manual for Engineering Design and Development Standards, unless they have been specifically varied by the approval of the plat. It is the project engineer’s responsibility to be aware of these standards.
- 36. Civil Review Deposit Required: Be advised, a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat / PRD construction inspection deposit of \$350 per lot, \$5,000 minimum, is due prior to review and construction respectively.
- 37. Bonding Requirements: A post construction maintenance bond in the amount of 10% of the construction costs for public facilities will be required prior to final plat approval. A Performance Bond is required for all work within City right of way. This bond shall be for 150 % of the approved engineer’s estimate for the work.
- 38. Surveying: All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City’s control monuments is available to the project consultant for their use.
- 39. Expiration of Preliminary Approval: Petitioner shall record the final subdivision, PRD and Development Agreement with the County in conformance with LMC 18.06.010.2, 18.06.020 and 18.06.030 within five (5) years of the date this preliminary approval becomes final, after which City approval of this application shall become void; provided that, this one year deadline may be extended for up to one (1) additional year upon application to and approval by the City Council.
- 40. Property Addressing: Be advised, all street addressing must follow the requirements of the Lynden Municipal Code. Addresses will be assigned by the Public Works Department prior to final PRD approval.

II. DECISION

Petitioner’s application to subdivide the parcel described herein into 40 lots known as the “Kamm Creek MPRD”, for future development is hereby **Preliminarily Approved** subject to the conditions set forth in this document.

DATED: _____

Scott Korthuis
Mayor

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Set a Public Hearing date of September 20, 2021 to Hear Comments on Amending Lynden Municipal Code Section 12.28 Sidewalk Obstructions	
Section of Agenda:	Consent	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<u>Legal Review:</u>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Ordinance No. 1633		
Summary Statement:		
<p>The City has received requests from dining establishments to use portions of the City sidewalk for outdoor dining. There have also been previous requests for additional clarification on the use of sidewalks for other purposes.</p> <p>The proposed code amendment clarifies which obstructions require permits and which are exempt from permit requirements. Provisions have been included for outdoor dining facilities. The permitted uses are required to preserve a five-foot continuous strip of sidewalk for pedestrian movement.</p> <p>The Public Works Committee reviewed these revisions at their June 9, 2021 and August 4, 2021 meetings and concurred to recommend setting a Public Hearing date of September 20, 2021.</p>		
Recommended Action:		
That City Council set a Public Hearing date of September 20, 2021 to hear comments on amending Lynden Municipal Code Section 12.28 Sidewalk Obstructions.		

ORDINANCE NO. 1633

AN ORDINANCE OF THE CITY OF LYNDEN, AMENDING SECTION 12.28
SIDEWALK OBSTRUCTIONS

WHEREAS, Section 12.28 of the Lynden Municipal Code regulates sidewalk obstructions and use of planting strips, including infractions for violations; and

WHEREAS, The City has determined that additional guidance is required to identify which obstructions are allowed without permits and which obstructions require permits; and

WHEREAS, The City of Lynden seeks to provide opportunity for outdoor dining areas to be placed on sidewalks adjacent to, and operated by the restaurants provided that safe pedestrian access can be maintained; and

WHEREAS, The City seeks to provide clarification on the permit application process required for sidewalk obstructions that require permits;

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

Section 1. Section 12.28 of the Lynden Municipal Code is hereby repealed and replaced as follows:

Chapter 12.28 - SIDEWALK OBSTRUCTIONS

12.28.010 - Sidewalk obstructions prohibited—When.

Nothing shall be placed on any sidewalk in the city which either partially or totally obstructs or impedes the flow of pedestrian traffic except as specifically permitted in this chapter.

(Ord. 812 § A(part), 1989).

12.28.020 - Sidewalk Obstructions – Exceptions without permit.

The following obstructions shall be permitted on public sidewalks, provided that a minimum continuous unobstructed width of 5 feet is maintained for pedestrian use and the vision triangles at intersections are unaffected.

- A. Fire hydrants.
- B. Landscaping, traffic-control devices, streetlights, public art, and other objects and items placed permanently or temporarily by the city.
- C. Utility poles and boxes pursuant to franchise, permit, or contract granted by the city.
- D. Flagpoles or standards therefor placed by community business groups recognized by the city.
- E. Refuse containers where the location of the container is on a sidewalk or planting strip as required by the city.
- F. Postal boxes, either individual or group, erected according to city and post office specifications.
- G. Public art placed by community business groups working with the city.
- H. New awnings or canopies that comply with the provisions of LMC 19.23.070.
- I. Hanging planters overhanging the sidewalk with a minimum clearance of seven feet above sidewalks.
- J. Merchandise being moved into or out of an adjacent business; provided, that such merchandise does not remain on the sidewalk or planting strip for more than 30 minutes.
- K. Merchandise located within thirty-two (32) inches of the building façade.
- L. Sandwich board signs or similar less than thirty-six (36) inches tall placed by the owner or lessee of adjacent property.

12.28.020 – Sidewalk Obstructions and Encroachments – Permit required.

Obstructions of and encroachments onto public sidewalks not covered by section 12.28.010 may be placed by private parties only if a permit is obtained from the city public works department. Obstructions and encroachments may only occur on sidewalks with sufficient width to allow a continuous minimum of width of 5 feet to remain unobstructed for pedestrian travel. The following encroachments or obstructions may be permitted:

- A. Merchandise displays, limited to special sales events of no more than seven days continuously abutting the business offering such merchandise in such a way that an unobstructed pedestrian corridor is maintained at a minimum width of five feet;
- B. Façades for buildings built up to the right-of-way line of the public street; provided, that such addition shall not exceed six (6) inches in depth over the sidewalk as measured perpendicular to the existing façade.
- C. Temporary obstructions occurring as part of a city permitted special event. A description of the obstruction must be included with the special event permit request and reviewed by the public works department.
- D. Outdoor dining areas, if all of the following conditions are met:
 - a. The dining area must be adjacent to the permit applicant's property.
 - b. Business must utilize sturdy furniture and provide trash receptacles of good quality and attractive appearance consistent with the streetscape and adjacent architecture.
 - c. No elements including railings, tables, signs, or umbrellas may be permanently affixed to the sidewalk.
 - d. Patio-style umbrellas should be placed within an outdoor dining table and not protrude into the unobstructed sidewalk area outlined in this section.
 - e. Outdoor railings, partitions, or fences may not be taller than forty-two (42) inches in height.
 - f. If alcohol is to be served, the applicant must have a liquor license and comply with all provisions of WAC 314-02-125.
 - g. Written concurrence must be obtained from the immediately adjacent businesses.
 - h. Applications for outdoor dining shall include:
 - i. Proof of insurance and covenant. The business must continually maintain during the term of the permit, a certificate of insurance naming the City as an additional insured, with respect to liability, and providing that it shall be primary as to any other policy of insurance. The policy must contain the additional insured statement, coverage amounts of no less than \$1,000,000 and cancellation notification.
 - ii. A copy of City of Lynden business license.
 - iii. A copy of Whatcom County Health Department approval.
 - iv. If alcohol is to be served, a copy of approval by the Washington State Liquor and Cannabis Board per WAC 314-02-125.
 - v. The proposed site plan, that shows the location, number, and dimension of all seating, dining, signs, and barriers, such as

railings or planters within the dining area and the dimension of clear zone(s) which are contiguous with the clear zones or the adjacent properties.

vi. Statement of concurrence from the immediately adjacent businesses.

i. The applicant shall sign a covenant to hold harmless and indemnify the City to be retained by the City for the duration of the business activity.

E. Term. All permits approved under this chapter shall be temporary and shall vest no permanent right. The term of each permit shall be clearly stated on its face.

F. Revocation

a. All permits approved under this chapter may in any case be revoked at the sole discretion of the City upon 30 days' notice. Such permits may also be revoked without notice in the event any such use or occupation shall become dangerous; any structure or obstruction so permitted shall become insecure or unsafe; shall become a public nuisance; or shall not be constructed, maintained or used in accordance with the provisions of this chapter or the application materials submitted for review. The determination by the City Building Official that a structure is dangerous, insecure, unsafe, a nuisance or has not been constructed, used or maintained in accord with this chapter and applicable codes and standards shall be conclusive.

b. Permits shall also be revoked if:

- i. Following written notice of the lapse of an insurance policy required to be maintained by LMC 12.28.020, the permittee fails to supply a valid certificate of insurance; or
- ii. Following written notice of the lapse of the annual renewal, or any associated renewal fee, or fees for the exclusive use of the right-of-way, the permittee fails to bring fees current.

c. If any such obstructions, or use occupancy is not discontinued on notice to do so by the City and with the time period designated, the City may remove any structure or obstruction, or make such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, at the expense of the permittee, or his successor, and such expense may be recorded as a lien and otherwise collected in the manner provided by law.

G. Denial

a. The Public Works Director or their designee may reject or deny an Outdoor Dining Permit application when he/she determines, in his or her sole discretion, that any of the following apply:

- i. Encroachment into the public right-of-way at the location proposed is prohibited by recorded documents associated with the property;
- ii. The Lynden Municipal Code, the Lynden Development Standards

and/or other adopted codes, regulations and standard prohibit encroachment of the type and/or quality proposed.

- iii. Insufficient area exists to preserve a five-foot clear zone and automobile ingress/egress.
- iv. The proposed obstruction would result in a threat to life or safety.
- v. The proposed encroachment would result in an undue financial burden for the City, such as due to increased maintenance costs.
- vi. The permit application includes information that is false, misleading, or is intentionally erroneous.
- vii. The encroachment proposed is within a right-of-way not controlled by the City at the time of application, either as the result of separate ownership or as part of an ongoing project in which state or federal control supersedes.
- viii. An alternative design or location is available to the applicant that would reduce or eliminate potential impacts to the City, and would not cause a hardship to the applicant.
- ix. The encroachment will be otherwise detrimental to the public interest.

H. Appeal. Final decisions of the Public Work Director or their designee may be appealed to the hearing examiner pursuant to Chapter 17.11 LMC.

I. Violation. Nothing in this chapter shall be construed as limiting or prohibiting the city from enjoining the obstruction of or encroachment upon any street or sidewalk or other public place in the city, or the right of the city to seek a writ for the removal of any such encroachment or obstruction which is now or may hereafter be authorized by the general laws of the state of Washington. Enforcement procedures and penalties resulting from violations of this chapter shall be administered pursuant to LMC 12.28.060.

J. Fees. All application fees for sidewalk obstruction permits shall be established by the City Council and shall be paid prior to issuance of any permit

12.28.040 - Use of planting strips.

Sandwich board signs, garbage cans, merchandise, flower containers, benches and/or newspaper stands may be placed on a planting strip between the street and sidewalk in CS, CSC, RS and I zones; provided, that they are at least twenty feet from any street intersection, are less than fifty inches high and do not constitute a safety hazard in the opinion of the Lynden police and public works departments. No fee shall be charged for the permit which is issued by public works. Use of the planting strip shall not interfere with city stormwater facilities or infiltration functions.

(Ord. 812 § A(part), 1989).

12.28.050 Reserved

(Ord. 812 § A(part), 1989).

12.28.060 - Penalty.

The penalty per violation of this chapter shall be at the rates set forth in the adopted annual budget:

(Ord. 812 § A(part), 1989).

Section 2 – Severability.

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

Section 3 – Effective Date.

This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, otherwise as provided by law, five 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 _____,
2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Set Public Hearing Date of September 20, 2021 to Hear Comments on Franchise Agreement with Sound Internet Services dba Pogozone for Transmission of Telecommunications	
Section of Agenda:	Public Hearing	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<u>Legal Review:</u>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Ordinance No. 1635	
Summary Statement:	<p>Sound Internet Services dba Pogozone would like to enter into a Franchise Agreement with the City to operate and maintain telecommunications (phone and high-speed internet) systems within City right-of-way. They are in the process of seeking franchise agreements from other local jurisdictions as they expand beyond Bellingham and into Whatcom County.</p> <p>Facilities will be placed on existing infrastructure where it makes sense, which could mean using existing telephone poles (hanging lines from Puget Sound Energy poles) and/or utilizing existing towers as well. However, there may be cases where new infrastructure is needed. In these cases, a permit will be required.</p> <p>The request for a franchise agreement was introduced at the Public Works Committee meeting on August 4, 2021 and will be discussed at the Public Works Committee meeting on September 8, 2021.</p>	
Recommended Action:	That City Council set a Public Hearing date of September 20, 2021 to hear comments on the Pogozone Franchise Agreement.	

ORDINANCE 1635

AN ORDINANCE OF THE CITY OF LYNDEN GRANTING SOUND INTERNET SERVICES, INC. (DBA POGOZONE) A NON-EXCLUSIVE FRANCHISE FOR THE TRANSMISSION OF TELECOMMUNICATIONS IN, THROUGH, OVER AND UNDER THE RIGHTS-OF-WAY OF THE CITY OF LYNDEN.

WHEREAS, Sound Internet Services, Inc., a Washington for-profit corporation, dba PogoZone, ("Grantee") has requested that the City of Lynden, a Washington municipal corporation ("City") grant it the right to install, construct, erect, operate, maintain, repair, relocate and remove its Facilities in, upon, along and/or across those Rights-of-Way for purposes of offering and providing Telecommunications Services utilizing said Facilities ("Grantee Services"); and

WHEREAS, pursuant to RCW 35A.47.040, the City is authorized to grant one or more non-exclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for railroads and other routes and facilities for public conveyances, for poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for the transmission and distribution of electrical energy, signals and other methods of communication; and

WHEREAS, the City, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to construct and operate Grantee's Services to meet the future needs of the community; and

WHEREAS, the City has afforded the public adequate notice and opportunity for comment, and now desires to enter into this Franchise with Grantee for the construction, maintenance and operation of Grantee's Services as provided herein; and

WHEREAS, the City Council finds it desirable for the welfare of the City and its residents that such a non-exclusive franchise be granted to Grantee; and

WHEREAS, the City Council has the authority under state law to grant franchises for the use of its Rights-of-Way; and

WHEREAS, the City is willing to grant the rights requested by Grantee subject to certain terms and conditions.

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

Section 1. Definitions. Where used in this Ordinance and the franchise granted hereby (the "Franchise") these terms have the following meanings:

A. "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

B. "City" means the City of Lynden, a municipal corporation of the State of Washington.

C. "Emergency Situation" means a condition of imminent danger to the health, safety and welfare involving likely loss of life or substantial property damage located within the City including without limitation, damage to persons or property from natural consequences, riots, acts of terrorism or wars and as determined by the City in good faith.

D. "Facilities" means Grantee's fiber optic cable system constructed and operated within the City's Rights-of-Way, and shall include all cables, wires, conduits, ducts, pedestals and any associated converter, equipment or other facilities within the City's Rights-of-Way, designed and constructed for the purpose of providing Telecommunications Service and other lawful services not prohibited by this Ordinance.

E. "Franchise" shall mean the initial authorization or renewal thereof, granted by the City, through this Ordinance, or a subsequently adopted Ordinance, which authorizes construction and operation of the Grantee's Facilities for the purpose of offering Telecommunications Service and other lawful services not prohibited by this Ordinance.

F. "Franchise Area" means the present municipal boundaries of the City, and shall include any additions thereto by annexation or other legal means.

G. "Person" means an individual, partnership, association, joint stock company, trust, corporation, limited liability company or governmental entity.

H. "Rights-of-Way" means the surface and the space above and below City streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, rights of way and similar public areas within the City.

I. "Telecommunications Service" means any telecommunications service as defined in RCW 82.04.065, telecommunications capacity, or dark fiber, provided by the Grantee using its Facilities, either directly or as a carrier for its Affiliates, including, but not limited to, the transmission of voice, data or other electronic information, facsimile reproduction, burglar alarm monitoring, meter reading and home shopping, or other subsequently developed technology that carries a signal over fiber optic cable. Telecommunications Service shall also include non-switched, dedicated and private line, high capacity fiber optic transmission services to firms, businesses or institutions within the City and other lawful services not prohibited by this Ordinance. However, Telecommunications Service shall not include the provision of "cable services", as defined by 47 U.S.C. §522, as amended, for which a separate franchise would be required.

J. "Telephone Service" means any telephone business as defined in RCW 82.16.010, which is the business of providing network telephone service. It includes cooperative or farmer line telephone companies or associations operating an exchange.

Section 2. Franchise Area and Authority Granted.

A. Facilities within Franchise Area. The City does hereby grant to Grantee a non-exclusive franchise, subject to the terms of this ordinance between the City and the Grantee. The Grantee is authorized to construct, support, attach, connect and stretch Facilities between, maintain, repair, replace, enlarge, operate and use Facilities in, upon, over, under, along and across Rights-of-Way in the Franchise Area for purposes of Telecommunications Service as defined above.

B. Permission Required to Enter Onto Other City Property. Nothing contained in this Ordinance is to be construed as granting permission to Grantee to go upon any other public place other than Rights-of-Way within the Franchise Area in this Ordinance. Permission to go upon any other property owned or controlled by the City must be sought on a case by case basis from the City.

C. Compliance with WUTC Regulations. At all times during the term of the Franchise, Grantee shall fully comply with all applicable regulations of the Washington Utilities and Transportation Commission.

D. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights of way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain.

E. City reserves the right to change, regrade, relocate, abandon, or vacate any Right-of-Way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee's Facilities, City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which Grantee may continue to operate any existing Grantee's Facilities under the terms of this Franchise for the remaining period set forth under Section 8.

F. Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to City and the general public's need for municipal infrastructure, travel, and access to the Franchise Area, as applied in a non-discriminatory manner, except as may be otherwise required by law.

Section 3. Construction and Maintenance.

A. Grantee's Facilities shall be located, relocated and maintained within the Rights-of-Way in accordance with City Engineering Design and Development Standards (hereafter, Standards) and any applicable Lynden Municipal Codes (hereafter, LMC), including but not limited to Chapter 13.16, so as not to unreasonably interfere with the free and safe passage of pedestrian and vehicular traffic and ingress or egress to or from the abutting property and in accordance with the laws of the State of Washington. Whenever it is necessary for Grantee, in the exercise of its rights under the Franchise, to make any excavation in the Rights-of-Way, Grantee shall obtain prior approval from the City of Lynden Public Works Department, pay the applicable permit fees, and obtain any necessary permits for the excavation work. Upon completion of such excavation, Grantee shall restore the surface of the Rights-of-Way to the specifications established within the City's Standards and / or the LMC. If Grantee should leave any portion of the excavation in a condition that does not meet the City's specifications per the Standards or the LMC, the City may, on five (5) days' notice to Grantee, which notice shall not be required in case of an Emergency Situation, cause all work to occur necessary to restore the excavation to a safe condition consistent with the City's Standards. Grantee shall pay to the City the reasonable cost of such work; which shall include, among other things, the City's overhead in obtaining completion of said work, and any engineering, planning, consulting and / or legal fees incurred (provided that in no event shall such overhead exceed 5% of the total costs, fees and expenses of third parties).

B. Any surface or subsurface failure occurring during the term of this Franchise caused by any excavation by Grantee shall be repaired to the City's specifications, within thirty (30) days, or, upon five (5) days written notice to Grantee, the City may order all work necessary to restore the damaged area to a safe and acceptable condition and Grantee shall pay the reasonable costs of such work to the City, including City overhead (provided that in no event shall such overhead exceed 5% of the total costs, fees and expenses of third parties).

C. In the event of an Emergency Situation, Grantee may commence such emergency and repair work as required under the circumstances, provided that Grantee shall notify the City Public Works Director in writing as promptly as possible before such repair or emergency work commences, or as soon thereafter as possible, if advanced notice is not reasonably possible. The City may act, at any time, without prior written notice in the case of an Emergency Situation but shall notify Grantee in writing as promptly as possible under the circumstances.

D. Grantee agrees that if any of its actions under the Franchise materially impair or damage any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, the impaired or damaged property to the same condition as existed prior to such action. Such repair work shall be performed and completed to the reasonable satisfaction of the Public Works Director.

Section 4. Location and Relocation of Facilities.

A. Grantee shall place any new Facilities underground where existing telecommunications and cable facilities are located underground. Any new Facilities to be located above-ground shall be placed on existing utility poles. Most utility poles in the City are owned and maintained by Puget Sound Energy. Attachment to existing poles must be documented by a pole attachment agreement. No new utility poles shall be installed in connection with placement of new above-ground Facilities.

B. Grantee recognizes the need for the City to maintain adequate width for installation and maintenance of sanitary sewer, water and storm drainage utilities owned by the City and other public utility providers. Thus, the City reserves the right to maintain clear zones within the Right-of- Way for installation and maintenance of said utilities. The clear zones for each Right-of-Way segment shall be noted and conditioned with the issuance of each permit necessary for Grantee’s installation of maintenance of said utilities (“Street Obstruction/Excavation Permit”). If adequate clear zones are unable to be achieved on a particular Right-of-Way, Grantee shall locate in an alternate Right-of-Way, obtain easements from private property owners, or propose alternate construction methods which maintain and/or enhance the existing clear zones.

C. Except as otherwise required by law, Grantee agrees to relocate, remove or reroute its Facilities as ordered by the City, at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Pursuant to the provisions of Section 5, Grantee agrees to protect and save harmless the City from any third-party claims for service interruption or other losses in connection with any such change or relocation except to the extent caused by the City’s negligence or willful misconduct.

D. If the City determines that a project necessitates the relocation of the Grantee’s existing Facilities, then:

1. Within a reasonable time, which shall be no less than sixty (60) days prior to the commencement of the project, the City shall provide the Grantee with written notice requiring relocation; provided that in the event of an Emergency Situation, the City shall give the Grantee written notice as soon as practicable;

2. The City shall provide the Grantee with a proposed location for the Grantee’s Facilities so that Grantee may relocate its Facilities in other Rights-of-Way in order to accommodate the project; and

3. The Grantee shall complete relocation of its Facilities at no charge or expense to the City so as to accommodate the project at least ten (10) days prior to commencement of the project. In the event of an Emergency Situation as described in this Section, the Grantee shall relocate its Facilities within the reasonable time period specified by the City.

E. The Grantee may, after receipt of written notice requesting a relocation of its Facilities, promptly submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise the Grantee in writing if one or more of the alternatives are suitable to accommodate the project, which would otherwise necessitate relocation of the Facilities. If so requested by the City, the Grantee shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by the Grantee full and fair consideration, within a reasonable time, so as to allow for the relocation work to be performed in a timely manner. In the event the City, in its sole discretion, ultimately decides against any other proposed alternative, the Grantee shall relocate its Facilities as otherwise provided in this Section.

F. The provisions of this Section shall in no manner preclude or restrict the Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any Person or entity other than the City, where the Facilities to be constructed by said Person or entity are not or will not become City-owned, operated or maintained Facilities; provided, that such arrangements shall not unduly delay a City construction project.

G. The Grantee shall indemnify, hold harmless and pay the costs of defending the City against any and all third party claims, suits, actions, damages, or liabilities for delays on City construction projects caused by or arising out of the failure of the Grantee to relocate its Facilities in a timely manner; provided, that the Grantee shall not be responsible for damages due to delays caused by the City or circumstances beyond the reasonable control of the Grantee, such as natural weather related disasters, acts of God, fire, or emergencies relating to war or terrorism.

H. In the event that the City orders the Grantee to relocate its Facilities for a project which is primarily for private benefit, the private party or parties causing the need for such project shall reimburse the Grantee for the cost of relocation in the same proportion as their contribution to the total cost of the project.

I. In the event of an unforeseen Emergency Situation that creates a threat to public safety, health or welfare, the City may require the Grantee to relocate its Facilities at its own expense, any other portion of this Section notwithstanding.

Section 5. Indemnification.

A. Grantee shall indemnify, defend and hold the City, its agents, officers, employees, volunteers and assigns harmless from and against any and all third party claims, demands, liability, loss, cost, damage or expense of any nature whatsoever, including all costs and reasonable attorney's fees made against them on account of injury, sickness, death or damage to persons or property which is caused by or arises out of, in whole or in part, the willful, tortious or negligent acts, failures and/or omissions of Grantee or its agents, servants, employees, contractors, subcontractors or assigns in the construction, operation or maintenance of Grantee's Facilities or in exercising the rights granted Grantee in the Franchise; *provided, however*, such indemnification shall not

extend to injury or damage to the extent caused by the negligence or willful misconduct of the City, its agents, officers, employees, volunteers or assigns.

B. In the event any such claim or demand be presented to or filed with the City, the City shall promptly notify Grantee thereof (and in any event prior to the date that Grantee’s rights to defend such claim or demand would be prejudiced), and Grantee shall have the right, at its election and at its sole cost and expense, to settle and compromise such claim or demand, provided further, that in the event any suit or action be begun against the City based upon any such claim or demand, it shall likewise promptly notify Grantee thereof, and Grantee shall have the right, at its election and its sole cost and expense, to settle and compromise such suit or action, or defend the same at its sole cost and expense, by attorneys of its own election. Prior to entering into a settlement or compromise, Grantee shall notify the City and the City shall have the right to, at its election and at its sole cost and expense, to settle and compromise the claim, demand, suit or action, or defend the same at its sole cost and expense, by attorneys of its own election.

Section 6. Default.

A. If Grantee shall fail to comply with any of the provisions of the Franchise, unless otherwise provided in the Franchise, the City will serve upon Grantee a written order to comply within thirty (30) days from the date such order is received by Grantee. If Grantee is not in compliance with the Franchise after expiration of the thirty (30) day period, the City may act to remedy the violation and may charge the reasonable costs and expenses of such action to Grantee which shall be the responsibility of the Grantee. The City may act without the thirty (30) day notice in case of an Emergency Situation. If any failure to comply with the Franchise by Grantee cannot be corrected with due diligence within said thirty (30) day period, then the time within which Grantee shall so comply may be extended for such time as may be reasonably necessary and so long as Grantee works promptly and diligently to effect such compliance. During such a period, if Grantee is not in compliance with the Franchise, and is not proceeding with due diligence in accordance with this section to correct such failure to comply, then the City may in addition, by ordinance and following written notice to Grantee, declare an immediate forfeiture of the Franchise and all of Grantee’s rights and obligations thereunder.

B. In addition to other remedies provided in this Franchise or otherwise available at law, if Grantee is not in compliance with requirements of the Franchise, and if a good faith dispute does not exist concerning such compliance, the City may place a moratorium on issuance of pending Grantee Street Obstruction/Excavation Permits until compliance is achieved.

Section 7. Nonexclusive Franchise. The Franchise granted by this Ordinance is not and shall not be deemed to be an exclusive franchise. The Franchise granted by this Ordinance shall not in any manner prohibit the City from granting other and further franchises over, upon, and along the Franchise Area. The Franchise granted by this Ordinance shall not prohibit or prevent the City from using the Franchise Area or affect the jurisdiction of the City over the same or any part thereof.

Section 8. Franchise Term.

Unless earlier terminated by Grantee upon notice to the City, the Franchise is and shall remain in full force and effect for a period of twenty-five (25) years from and after the effective date of this Ordinance; provided however, Grantee shall have no rights under the Franchise nor shall Grantee be bound by the terms and conditions of the Franchise unless Grantee shall, within thirty (30) days after the effective date of this Ordinance, file with the City its written acceptance of the Franchise, in a form acceptable to the City Attorney.

Section 9. Compliance with Codes and Regulations.

A. The rights, privileges and authority herein granted are subject to and governed by this Ordinance, the applicable laws of the State of Washington and the applicable laws of the United States, and all other applicable ordinances and codes of the City of Lynden, as they now exist or may hereafter be amended, including the City's Public Works Policies and Standards. Nothing in this Ordinance limits the City's lawful power to exercise its police power to protect the safety and welfare of the general public. Any location, relocation, erection or excavation by Grantee shall be performed by Grantee in accordance with applicable federal, state and city rules and regulations, including the City's Public Works Policies and Standards, and any required permits, licenses or posted fees, and applicable safety standards then in effect.

B. In the event that any territory served by Grantee is annexed to the City after the effective date of the Franchise, such territory shall be governed by the terms and conditions contained herein upon the effective date of such annexation.

C. The Grantee shall be subject to taxes of general applicability including without limitation the City Utility Tax. City acknowledges that Washington law currently limits the tax the City may impose on Grantee's activities hereunder to 6% of revenue derived from the provision of network Telephone Service (i.e., "telephone business" as defined in RCW 82.16.010) and that the federal Internet Tax Freedom Act prohibits the imposition of a tax or other fee on revenue derived by Grantee from Grantee's provision of Internet access services. Grantee agrees that if federal or Washington law is changed, Grantee, following not less than ninety (90) days written notice from the City, will negotiate in good faith with the City to amend the Franchise to expand the revenue base on which such tax is applied. Grantee agrees that should Washington law increase the tax the City may impose on Grantee's activities hereunder applicable to network telephone service, City may in its discretion, increase the tax it imposes for such service.

Section 10. Undergrounding. New Facilities shall be installed underground pursuant to Section 4 of the Franchise. Grantee acknowledges the City's policy of undergrounding of Facilities within the Franchise Area. Grantee will cooperate with the

City in the undergrounding of Grantee's existing Facilities within the Franchise Area. If, during the term of the Franchise, the City shall direct Grantee to underground Facilities within any Franchise Area, such undergrounding shall be at no cost to the City except as may be provided in RCW Chapter 35.99. Grantee shall comply with all federal, state, and City regulations on undergrounding. If the City undertakes any street improvement which would otherwise require relocation of Grantee's above-ground Facilities, the City may, by written notice to Grantee, direct that Grantee convert any such Facilities to underground Facilities.

Section 11. Record of Installations and Service.

A. With respect to excavations by Grantee and the City within the Franchise Area, Grantee and the City shall each comply with its respective obligations pursuant to RCW Chapter 19.122 and any other applicable state or federal law.

B. Upon written request of the City, Grantee shall provide the City with the most recent update available of any plan of potential improvements to its Facilities within the Franchise Area; provided, however, any such plan so submitted shall be for informational purposes within the Franchise Area, nor shall such plan be construed as a proposal to undertake any specific improvements within the Franchise Area.

C. As-built drawings and maps of the precise location of any Facilities placed by Grantee in any Rights-of-Way shall be made available by Grantee to the City within ten (10) working days of the City's written request. The Grantee shall provide an updated system map showing the general location of all facilities located on City property annually each December. These plans and maps shall be provided at no cost to the City and shall include hard copies and/or digital copies in a format commonly used in the telecommunications industry.

Section 12. Shared Use of Excavations and Trenches.

A. If either the City or Grantee shall at any time after installation of the Facilities plan to make excavations in the area covered by the Franchise and as described in this Section, the party planning such excavation shall afford the other, upon receipt of written request to do so, an opportunity to share such an excavation, *provided that*: (1) such joint use shall not unreasonably delay the work of the party causing the excavation to be made or unreasonably increase its costs; (2) such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties. In addition, pursuant to RCW 35.99.070, the City may request that Grantee install additional conduit, ducts and related access structures for the City pursuant to contract, under which Grantee shall recover its incremental costs of providing such facilities to the City.

B. The City reserves the right to not allow open trenching for five years following a street overlay or improvement project. Grantee shall be given written notice at least ninety (90) days prior to the commencement of the project. Required trenching due to an emergency will not be subject to the above limit of five (5) year street trenching.

C. The City reserves the right to require Grantee to joint trench with other franchisees if both entities are anticipating trenching within the same franchise area and provided that the terms of this Section are met.

Section 13. Insurance.

A. Grantee shall procure and maintain for the duration of the Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of work under the Franchise by Grantee, its agents, representatives or employees in the amounts and types set forth below.

1. Commercial General Liability insurance with limits no less than \$5,000,000 combined single limit for bodily injury (including death) and property damage, including premises operation, products and completed operations and explosion, collapse and underground coverage extensions;

2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of \$3,000,000 for each accident for bodily injury and property damage; and

3. Worker’s compensation within statutory limits and employer’s liability insurance with limits of not less than \$1,000,000 for each accident/disease/policy limit or as required by law.

B. Grantee’s insurance coverage shall be primary insurance as respects the City. The policies mentioned above shall name the City, its officers, boards, commissions, agents and employees, as additional insureds. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be in excess of Grantee's insurance and shall not contribute with it.

C. Grantee shall furnish the City with certificates of the foregoing insurance coverage or a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement. A certificate of insurance acceptable to the City shall be filed with the City Clerk. The insurance company shall be approved by the state Insurance Commissioner pursuant to RCW 48, and have at least an A- Best Rating.

D. Grantee shall have the right to self-insure any or all of the above-required insurance, subject to approval by the City, in City’s sole discretion.

E. Grantee’s maintenance of insurance as required by the Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit City’s recourse to any remedy to which the City is otherwise entitled at law or in equity. Grantee shall promptly deliver to the City written notice of cancellation or reduction in coverage thirty (30) days in advance of the effective date thereof.

Section 14. Assignment.

A. All of the provisions, conditions, and requirements herein contained shall be binding upon Grantee, and no right, privilege, license or authorization granted to Grantee hereunder may be assigned or otherwise transferred without the prior written authorization and approval of the City, which the City may not unreasonably withhold. Notwithstanding the foregoing, Grantee, without the consent of, but upon notice to the City, may assign this agreement in whole or in part to: (a) an Affiliate (as defined in this Ordinance); or (b) a lender for security purposes only provided that, in the event of such an assignment Grantee shall retain exclusive control over its Facilities and remain fully responsible for performance of all terms and conditions of this Franchise.

B. Grantee may lease the Facilities or any portion thereof to another or provide capacity or bandwidth in its Facilities to another, *provided that*: Grantee at all times retains exclusive control over such Facilities and remains responsible for locating, servicing, repairing, relocating or removing its Facilities pursuant to the terms and conditions of the Franchise.

Section 15. Abandonment and Removal of Facilities. Upon the expiration, termination, or revocation of the rights granted under the Franchise, the Grantee shall remove all of its Facilities from the Rights-of-Way of the City within ninety (90) days of receiving notice from the City’s Public Works Director; *provided however*, that the City may permit the Grantee’s improvements to be abandoned in place in such a manner as the City may prescribe. Upon permanent abandonment, and Grantee’s agreement to transfer ownership of the Facilities to the City, the Grantee shall submit to the City a proposal and instruments for transferring ownership to the City. Nothing contained within this Section shall prevent the City from compelling the Grantee to remove any such Facilities through judicial action when the City has not permitted the Grantee to abandon said Facilities in place.

Section 16. Records Inspection.

A. Grantee agrees to supply, upon written request, at no cost to City, any information reasonably requested by the City to coordinate municipal functions with Grantee activities and fulfill any municipal obligations under State law. Said information shall include, at a minimum, as-built drawings of Grantee’s Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within City. Said information may be requested either in hard copy and/or electronic format, if reasonably possible in a format compatible with City's database system, as now or hereinafter existing, including City's geographic information Service (GIS) data base.

B. Any information submitted shall be for informational purposes only and shall not obligate Grantee to undertake any specific improvement, nor shall such plan be construed as a proposal to undertake any specific improvements. Grantee shall use its

commercially reasonable efforts to keep the City informed of its long-range plans for coordination with City's long-range plans.

C. The City agrees not to disclose the information described in this Section to third parties unless required to do so pursuant to the Washington Public Records Act, RCW Chapter 42.56. The City agrees to notify Grantee of the anticipated disclosure of such information at least five (5) days prior to such disclosure and provide Grantee the opportunity to prevent the disclosure via court order.

Section 17. Miscellaneous.

A. If any term, provision, condition or portion of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance which shall continue in full force and effect. The headings of sections and paragraphs of this Ordinance are for convenience of reference only and are not intended to restrict, affect, or be of any weight in the interpretation or construction of the provisions of such sections or paragraphs.

B. Grantee shall pay for the City's reasonable administrative costs including without limitation, legal review, in drafting and processing this Ordinance and all work related thereto, which payment shall not exceed \$2,000. Grantee shall further be subject to all published permit fees associated with activities and the provisions of any such permit, approval, license, agreement or other document related to this Franchise. In the event of a conflict between said permit, approval, license, agreement or other document, with the provisions of this Franchise, this Franchise shall control.

C. Failure of the City to declare any breach or default under this Franchise or any delay in taking action shall not waive such breach or default, but the City shall have the right to declare any such breach or default at any time. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default of the same or unrelated type or nature.

D. Notwithstanding anything to the contrary herein, any determination by the City with respect to matters contained in this Ordinance and matters related to the Franchise shall be made in accordance with applicable federal law, including without limitation any applicable rules and regulations promulgated by the Federal Communications Commission, applicable state law and in a reasonable and non-discriminatory manner.

E. Dispute Resolution, Venue and Applicable Law – In the event of a dispute arising hereunder, venue for such disputes shall solely be the Whatcom County Superior Court. The applicable governing law shall be the Laws of the State of Washington.

Section 18. Notice. Any notice or information required or permitted to be given to the parties under this Franchise may be sent to the following addresses unless otherwise specified:

City: Public Works Director City of Lynden 300 4th St Lynden, WA 98264	Grantee: Sound Internet Services, Inc. dba: PogoZone Internet 114 W. Magnolia St. Suite 400-147 Bellingham, WA 98225 Attn: JD Sinclair
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Notice shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the United States Mail in the case of regular mail, or the next day in the case of overnight delivery.

Section 19. Effective date. This Ordinance, being in compliance with RCW 35A.47.040, shall be in force and effect five (5) days from and after its passage, approval and publication, but only if the Grantee has endorsed this ordinance and accepted the terms and conditions thereof.

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

MAYOR SCOTT KORTHUIS

Attest:

Approved as to Form:

City Clerk Pamela D. Brown

City Attorney Robert A. Carmichael

Acceptance:

Sound Internet Services, Inc. dba PogoZone for itself, its successors and assigns, accepts and agrees to be bound by all lawful terms, conditions, and provisions of the Franchise.

By: _____
Name: JD Sinclair
Title: President

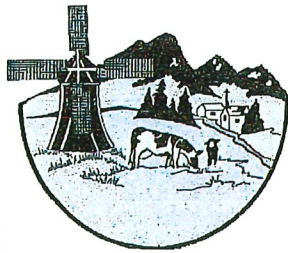
Date: _____

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Set the Public Hearing date for Development Standards Variance 21-01 – Lot Design of the Cedarbrook Short Plat	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Proposed plat map, Application the design standards variance and supporting information	
Summary Statement:	<p>A Development Standards Variance application has been brought forward by Cedarbrook Partners LLC to vary a subdivision standard that relates to the proportions of residential lots. Specifically, LMC 18.14.020(A) states that no residential lot shall be created deeper than three times its width.</p> <p>The request to vary this standard comes forward as part of a Shoreline Substantial Development (SSD) Permit and a Short Plat application. The Hearing Examiner held a public hearing regarding the Shoreline permit on August 26, 2021. The final determination of this hearing is pending but will be available prior to the Council’s hearing on this variance. The short plat determination will be made subject to the outcome of the Shoreline permit and the Council’s decision on the Variance request.</p> <p>The subject property is unique in that the Fishtrap Creek runs along its eastern boundary. The creek and associated critical areas limit the development along this eastern half of the property. As such, the 4 lots that are proposed to be created are accessed from the western edge. Three of the lots run lengthwise west to east across the 3-acre parcel so the lot depth is more than three times the lot width. The variance does not seek to reduce the minimum size of the lots as each is over 20,000 square feet, well above the 10,000 square foot minimum.</p> <p>Variance requests must be brought forward to a public hearing. At this time staff is requesting that the public hearing be set for September 20, 2021.</p>	
Recommended Action:	Motion to set a public hearing date of September 20, 2021 for variance application #21-01 – Cedarbrook Short Plat.	



City of Lynden

Development Standards Variance Application

2101

Property Owner

Name: CADAR BROOK PARTNERS (SHANE BASUMA / BOB LIBOLT)
 Address: 131 E CADAR DRWA, LYNDEN, WA 98264
 Telephone Number: 360 410 1554 Fax Number: _____
 E-mail Address: bajemashane@gmail.com

Applicant (Agent, Land Surveyor or Engineer)

Name: SHANE BASUMA / BOB LIBOLT
 Address: 5 Apple
 Telephone Number: _____ Fax Number: _____
 E-mail Address: _____

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

Property Information

Project Location (street address / block range): 131 E CADAR DR, LYNDEN, WA

Variance Request:

Section of the Municipal Code or Engineering Design and Development Standards to be varied: _____

LMC 18.14.020 A - SEAMING VARIANCE

Identify Desired Result: DESIRED RESULT IS TO ALLOW FOR THE 3 NEW LOTS BEING DESIGNED TO BE CREATED DEAPER THAN 3 TIMES ITS WIDTH.

DSV Criteria must be attached

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

Applicant's Signature: [Signature] Date: 4/30/2021

PRE-APPLICATION MEETING DATE: _____ HEARING DATE: _____

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

FEE'S (DSV \$300.00 BASE FEE OR FINAL REVIEW COST) DATE PAID: 5-17-21 RECEIPT # _____

350.00 paid 5-17-21

§ 17.17.040. Standards and criteria for granting a variance. _

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

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

Criteria applied: This request is not a special privilege, given other vicinity properties are not typically developed in a shoreline condition. The use of vicinity properties is primarily unrestricted by shoreline setbacks and other critical area limitations nor do they have the responsibility for care and upkeep. In this case, allowing for the variance affords practically adding limited use areas within shoreline buffer and watershed to lots rather than awkwardly leaving them associated with the original home and lot which is impractical and unnecessary. Further, the usable portion of space on each new lot is similar in shape, and proportions to vicinity properties. In essence, the unusual "extra" length being proposed allows for inclusion of the limited use portions to the logical lots near and associated with the space and does not constitute a "special privilege" .but rather mitigates unnecessary difficulty in maintaining the resultant spaces.

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

Criteria applied: The addition of extra length beyond 3 times is necessary due to the special circumstance of surroundings being that each lot is part of and would otherwise only be beside a large portion of shoreline land. Given this extra land is limited in use, it remains to be important however it be associated with its logical nearby lot for care, maintenance and security. Leaving this land associated with another lot such as the original home exposes the new lots to not being able to manage their own surroundings. Examples such as overgrowth in shoreline view corridors, managing invasive species spread and a limit to their ability to maintain a safe perimeter to the east end of the three lots to name a few.

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

Criteria applied: Not only will the granting of such a variance be void of any material detriment to the public health, safety and welfare it actually significantly enhances by contrast the public health, safety and general welfare. Adding the extra length to the lots allows for the eventual owners to responsibly maintain the spaces being added. Such maintenance affords aesthetic, preventative, safe and overall positive care along the Kaemingk trail which is a high use easement across each added portion of the lots. Without adding this to personal property most proximate, one could argue the northern and eastern most portions of the overall plat might be neglected and could foster less than ideal public health and safety concerns along the included trail easement.

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

Criteria applied: Again, the granting of requested extra length to each lot has the opposite effect on the property being injured by the variance approval. Existing improvements such as the trail easement / lease area will benefit from having the proximate lot owners care for the space rather than alternatively leaving the space to the not so proximate original residence and owner. I cannot think of any injury to vicinity properties associated with the variance approval.

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

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

Criteria applied: According to a Critical Areas report written August 19, 2019 by Miller Environmental Services, the area associated with the "extended lots" is all within shoreline and critical area. Essentially within the Fishtrap Creek watershed. Pairing the lots with the area within watershed affords sound judgement and specific accountability for monitoring and maintaining the spreading of non-native invasives such as primarily cutleaf and Himalayan blackberries and reed canarygrass identified in this area in the Miller report. These existing conditions grow out of control if they are not maintained and could not only overcome the existing trail easement but also further unwanted impact to the watershed ecology. I would offer that as a condition of variance approval the development process include a one-time requirement to remove the above named invasive species associated with the expanded lot lengths area.

CEDARBROOK SHORT PLAT

PORTION OF THE SE 1/4, SE 1/4 OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

LAND DESCRIPTION AS PER A.F. No. 2019-0501031:

LOT 1, VAN DYKEN SHORT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED UNDER WHATCOM AUDITOR'S FILE No. 2000201901, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND TOGETHER WITH ALL EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED DO HEREBY DECLARE THIS SHORT PLAT IS MADE WITH OUR FREE CONSENT AND IN ACCORDANCE WITH OUR WISHES AND DO HEREBY GRANT, RESERVE AND AMEND ANY EASEMENTS SHOWN HEREON FOR THE USES INDICATED HEREON.

SHANE BAJEMA, AUTHORIZED MEMBER
CEDARBROOK PARTNERS LLC

ACKNOWLEDGEMENT:

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT ROBERT D. LIBOLT IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE IS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

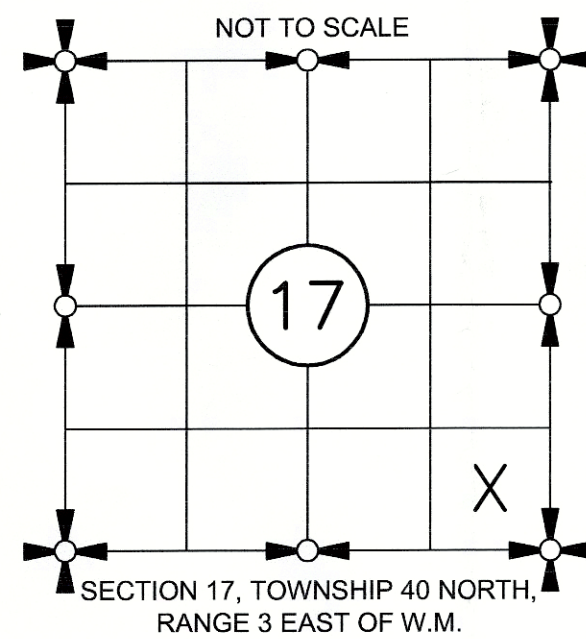
THIS _____ DAY OF _____, 2021.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON.

RESIDING AT _____ WASHINGTON

MY COMMISSION EXPIRES _____

SURVEYOR NOTES: SEE SHEET 2



FINANCE DIRECTOR APPROVAL:

I, ANTHONY BURROWS, FINANCE DIRECTOR OF THE CITY OF LYNDEN, WASHINGTON, DO HEREBY CERTIFY THAT I AM THE OFFICER IN CHARGE OF COLLECTIONS OF SPECIAL ASSESSMENTS LEVIED BY THE CITY OF LYNDEN ON ALL LAND EMBRACED IN THIS SHORT PLAT AND THAT ALL CITY ASSESSMENTS FOR WHICH THE PROPERTY EMBRACED IN THIS SHORT PLAT MAY BE LIABLE AT THIS DATE AND THAT ALL SPECIAL CITY OF LYNDEN ASSESSMENTS ASSESSED AGAINST THE PROPERTY IN THIS SHORT PLAT WHICH UNDER SAID SHORT PLAT BECOMES STREETS, ALLEY AND OTHER PUBLIC PLACES, HAVE BEEN PAID.

THIS _____ DAY OF _____, 2021.

ANTHONY BURROWS, FINANCE DIRECTOR OF THE CITY OF LYNDEN

PUBLIC WORKS DEPARTMENT APPROVAL:

EXAMINED AND APPROVED BY THE LYNDEN PUBLIC WORKS DEPARTMENT AS TO THE LAYOUT AND THE DEDICATION OF EASEMENTS AND RIGHTS-OF-WAY ON BEHALF OF THE CITY OF LYNDEN IN ACCORDANCE WITH THE CITY OF LYNDEN DEVELOPMENT STANDARDS.

THIS _____ DAY OF _____, 2021.

STEVE BANHAM, P.E., PUBLIC WORKS DIRECTOR

CITY PLANNING DEPARTMENT APPROVAL:

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS SHORT PLAT FOR CONFORMANCE WITH APPLICABLE STATE STATUTES AND CITY SUBDIVISION AND ZONING ORDINANCES

AND HEREBY APPROVE THE SAME THIS _____ DAY OF _____, 2021.

HEIDI GUDDE, AICP, CITY OF LYNDEN PLANNING DIRECTOR

RIGHT TO FARM DISCLOSURE STATEMENT:

THE SUBJECT PROPERTY IS WITHIN OR NEAR DESIGNATED AGRICULTURE LANDS ON WHICH A VARIETY OF COMMERCIAL ACTIVITIES MAY OCCUR THAT ARE NOT COMPATIBLE WITH RESIDENTIAL DEVELOPMENT FOR CERTAIN PERIODS OF LIMITED DURATION. YOU MAY BE SUBJECT TO INCONVENIENCES OR DISCOMFORTS ARISING FROM SUCH OPERATIONS, INCLUDING BUT NOT LIMITED TO NOISE, ODORS, INSECTS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY OF ANY KIND DURING ANY 24-HOUR PERIOD (INCLUDING AIRCRAFT), THE STORAGE AND APPLICATION OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. THE CITY OF LYNDEN AND WHATCOM COUNTY HAS DETERMINED THAT THE USE OF REAL PROPERTY FOR AGRICULTURAL OPERATIONS IS A HIGH PRIORITY AND FAVORED USE AND WILL NOT CONSIDER TO BE A NUISANCE THOSE INCONVENIENCES OR DISCOMFORTS ARISING FROM FARM OPERATIONS, IF SUCH OPERATIONS ARE CONSISTENT WITH COMMONLY ACCEPTED GOOD MANAGEMENT PRACTICES AND OTHERWISE COMPLY WITH LOCAL, STATE, AND FEDERAL LAWS.

RIGHT TO FARM COVENANT:

THIS PROPERTY IS LOCATED WITHIN ONE-HALF MILE OF AN OPERATING FARM, AGRICULTURE OR RURAL DISTRICT. THE DEVELOPER AND ANY SUBSEQUENT PURCHASER OR SUCCESSORS IN INTEREST OF ALL OF THE LOTS WITHIN THIS SHORT PLAT WILL REFRAIN FROM ANY LEGAL ACTION TO RESTRAIN OR COLLECT DAMAGES FROM OWNERS OR OPERATORS OF SUCH SAID AGRICULTURAL LANDS; FROM THE CITY OF LYNDEN; OR FROM WHATCOM COUNTY, ARISING OUT OF ANY REASONABLE AND LAWFUL FARM OPERATIONS ON SAID AGRICULTURAL LANDS WHICH OCCURS IN THE NORMAL COURSE OF THEIR ESTABLISHED USE. UPON SALE OF EACH LOT, THE SELLER SHALL REQUIRE THAT THE "DISCLOSURE STATEMENT" AS SET FORTH IN CHAPTER 17.23.040 SECTION B, LYNDEN MUNICIPAL CODE BE SIGNED BY THE PURCHASER AND RECORDED IN THE COUNTY AUDITOR'S OFFICE IN CONJUNCTION WITH THE DEED CONVEYING SAID LOT. THIS COVENANT SHALL RUN WITH THE LAND.

AUDITOR'S CERTIFICATE
FILED FOR THE RECORD THIS _____ DAY OF _____, 2021 AT _____ IN BOOK _____ OF SURVEYS ON PAGE _____ AT THE REQUEST OF COMPASS POINT SURVEY LLC.

COUNTY AUDITOR _____ DEPUTY _____

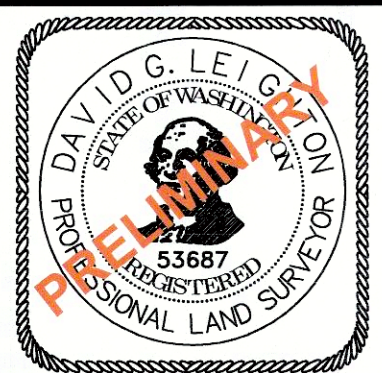
AUDITOR'S FILE No. _____

SURVEYOR'S CERTIFICATE
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF _____ SHANE BAJEMA _____ IN _____ MAY _____ OF 2021.

DATE _____ CERTIFICATE No. 53687

CEDARBROOK SHORT PLAT
WITHIN THE SE 1/4, SE 1/4, SECTION 17,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.
WHATCOM COUNTY, WASHINGTON

Drawn by: RL	Drawing: CEDARBROOK-062419.dwg	Date: 05/10/21	Field Book: XX
Reviewed by: RL & DL	Dir: G:\174003\CEDARBROOK Crd:174003-LIBOLT CEDAR ST-2019.CRD	Sheet: 1 of 2	PAGE: XX-XX



COMPASS POINT SURVEY, LLC
523 FRONT STREET, LYNDEN, WA 98264
PH. 360-354-8320 FAX. 360-354-8321

CEDARBROOK SHORT PLAT

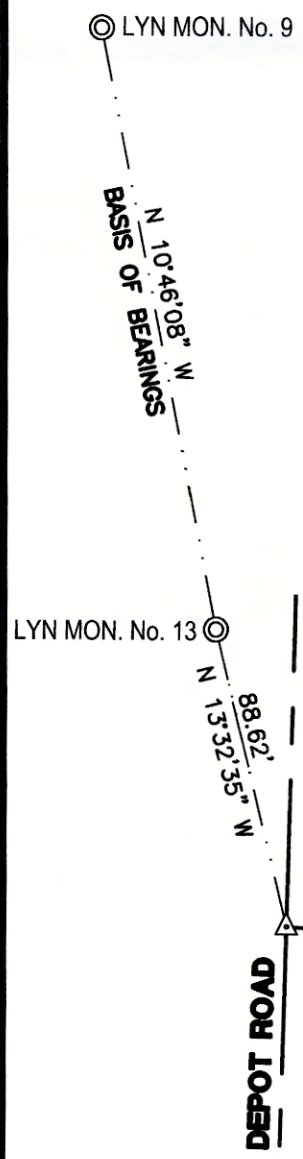
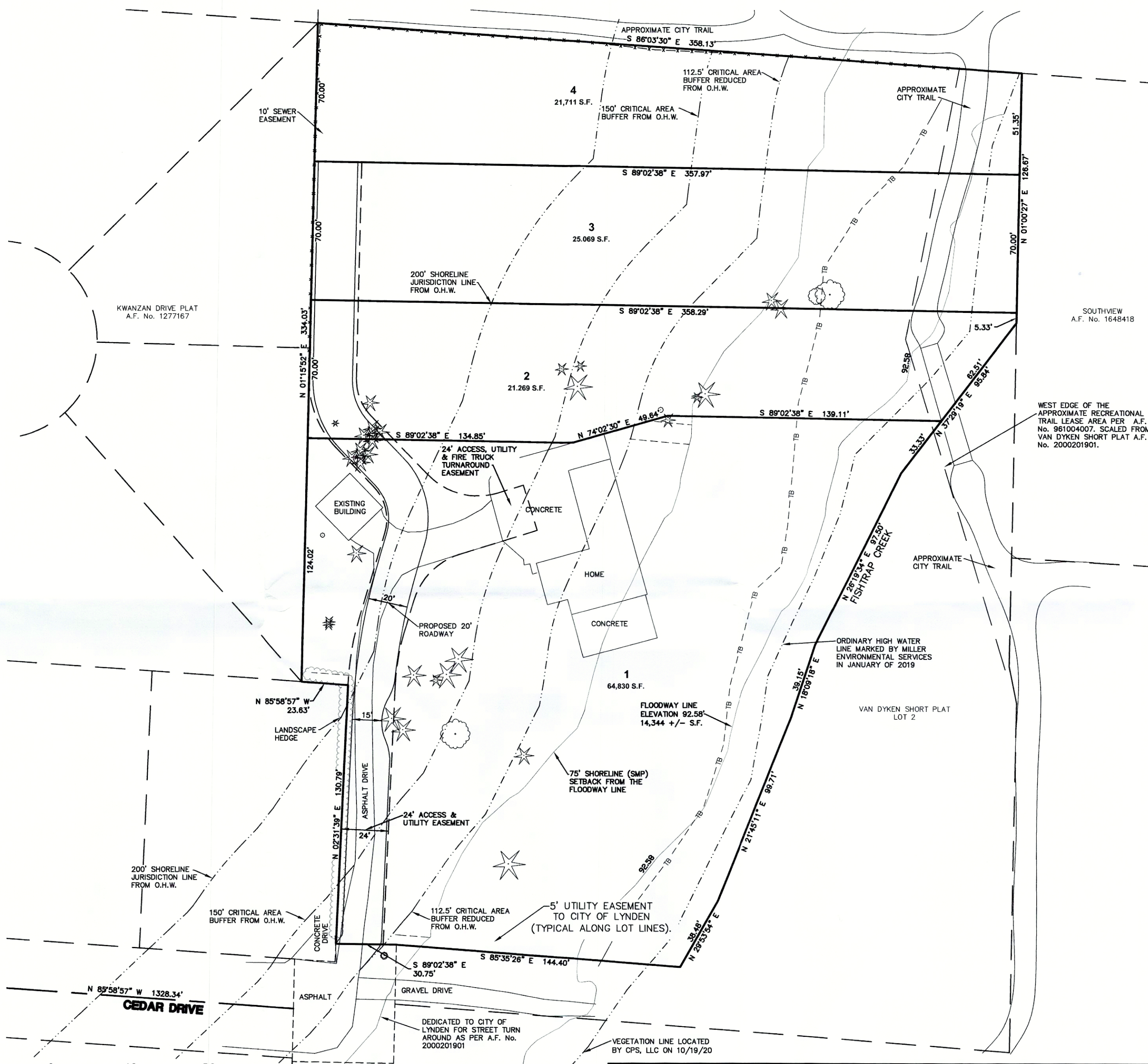
PORTION OF THE SE 1/4, SE 1/4 OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

SURVEYOR'S NOTES:

- "O" DENOTES 5/8 INCH REBAR WITH PLASTIC CAP MARKED "CPS PLS 53687" SET BY THIS SURVEY IN XXXX OF 2019.
- "●" DENOTES 5/8 INCH REBAR WITH PLASTIC CAP MARKED "XXXXXX" OR OTHERWISE NOTED FOUND BY THIS SURVEY IN XXXX OF 2019.
- "⊕" DENOTES BRASS DISC IN CONCRETE FOUND BY THIS SURVEY IN XXXX OF 2019 AND HELD FOR STREET INTERSECTION MONUMENTS.
- "□" DENOTES HUB AND LATH SET ON PROPERTY LINE BY THIS SURVEY IN XXXX OF 2019.
- "*" DENOTES CALCULATED POINT ONLY.
- THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A GEOMAX ZOOM 90 TOTAL STATION WITH A CARLSON SURVEYOR 2 DATA COLLECTOR/FIELD COMPUTER IN XXXX OF 2019.
- THIS SURVEY WAS PERFORMED USING A LEICA RX1250T GPS SYSTEM IN XXXX OF 2019.
- THE PURPOSE OF THIS SURVEY IS TO SUBDIVIDE LOT 1 OF VAN DYKEN SHORT PLAT INTO THREE LOTS. COMPASS POINT SURVEY, LLC ASSUMES NO LIABILITY IF THIS SURVEY IS USED FOR ANY PURPOSE OTHER THAN STATED ABOVE.
- THIS SURVEY TIED INTO STREET MONUMENTATION AS SHOWN. THE BASIS OF BEARINGS FOR THIS SURVEY IS VAN DYKEN SHORT PLAT FILED UNDER A.F. No. 2000201901. THIS SURVEY RELIED UPON SAID SURVEY FOR SECTION SUBDIVISION AND LOT DIMENSIONS.
- THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ALL EASEMENTS THAT A CURRENT TITLE REPORT MIGHT REVEAL.

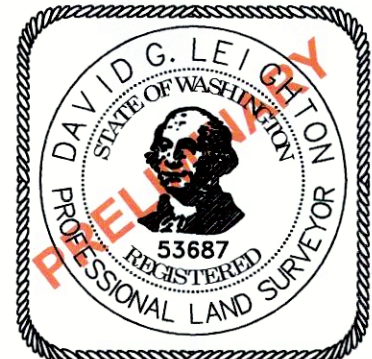
PLAT AREA BREAKDOWN TABLE

	ACRES & SQUARE FOOTAGE	PERCENTAGE
GROSS PARCEL AREA	3.05 AC. / 132,879 S.F.	100%
RESERVE TRACTS	0.00 AC. / 0 S.F.	0%
CRITICAL AREAS	0.17 AC. / 7,685 S.F.	6%
RIGHT OF WAYS (ROWS)	0.00 AC. / 0 S.F.	0%
OTHER INFRASTRUCTURE	0.00 AC. / 0 S.F.	0%
NET DEVELOPABLE	2.88 AC. / 125,194 S.F.	94%
PERCENT ROW & INFRASTRUCTURE	0.00 AC. / 0 S.F.	0%



0 40 80
SCALE: 1 INCH = 40 FEET

BASIS OF BEARINGS =
VAN DYKEN SHORT PLAT
A.F. No. 2000201901
(CITY OF LYNDEN MONUMENT NETWORK)



Sheet: 2 of 2	Date: 05/10/21
Drawn by: RL	Drawing: CEDARBROOK- 062419.dwg
Reviewed by: RL & DL	Dir: G:\174003- LIBOLT CEDAR ST Crd:174003-LIBOLT CEDAR ST.CRD



COMPASS POINT SURVEY, LLC
523 FRONT STREET, LYNDEN, WA 98264
PH. 360-354-8320 FAX. 360-354-8321

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Request to Petition for Annexation of the West Lynden UGA	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: <u> Mayor </u>
	Legal Review:	
	<input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Request to petition from property owners Vander Hage and Rutgers, West Lynden UGA Property List, Proposed Petition Format		
Summary Statement:		
<p>Property owners Bill and Frances Vander Hage, and Dale and Femmie Rutgers have submitted a request to petition for the annexation of their property and others within the City’s western Urban Growth Area (UGA).</p> <p>The proposed annexation action would include the entirety of the UGA located at the southwestern edge of the City. This extends to the intersection of Birch Bay Lynden Road and Berthusen Road and encompasses approximately 277 acres. The City’s Comprehensive Plan assigns land use with UGA areas and specific zoning categories are usually designated at the time of annexation. If annexed, the area would add Industrial, Commercial, and Medium-density Residential properties to the City. It would also include the City-owned parcel that contains the West Lynden Pond which is zoned Public Use.</p> <p>As required by code, the assessed value of the property represented by the Vander Hages and Rutgers is at least 10% of the total assessed value. In order to move forward with the next stage of the annexation process, the petitioners will need to acquire signatures from property owners representing at least 60% of the assessed value of the area.</p> <p>The west Lynden area represents opportunities for growth near the commerce and transportation corridor of the Guide Meridian. Annexation of an area this size also facilitates comprehensive and proactive planning of infrastructure and stormwater facilities. The Community Development Committee expressed support for the circulation of a petition at the May 2021 meeting.</p>		
Recommended Action:		
Motion to approve the request to petition for the annexation of the west Lynden Urban Growth Area.		



PETITION FOR ANNEXATION TO THE CITY OF LYNDEN

To the Honorable City Council of Lynden, Washington: We, the undersigned, being the owners of the lands described below, and being the registered voters residing in the area for which the annexation is petitioned, which property is contiguous and adjacent to the incorporated City of Lynden, Washington, do hereby request that the Lynden City Council incorporate the real estate described below into the City of Lynden and annex the same thereto as part of the City of Lynden.

Legal Description: See Exhibit A for outline of property (inside shaded area) and Exhibit B for all the parcels in the outlined zone

Containing approximately 277 acres.

The request to circulate this Petition for Annexation was presented to the Lynden City Council at their regularly scheduled meeting held on September 7,2021 and the request was favorably granted;

We further petition that the property to be annexed be designated in the City of Lynden Comprehensive Plan as _____ in its zoning ordinance and that the property to be annexed be required to assume the existing city indebtedness.

We, the undersigned, have subscribed our names hereto and request that the Lynden City Council annex the above described property to the City of Lynden, Whatcom County, Washington.

Warning

Every person who signs this petition with other than his or her true name, or who knowingly signs more than one of these petitions seeking an election when he or she is not a legal voter, or signs when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

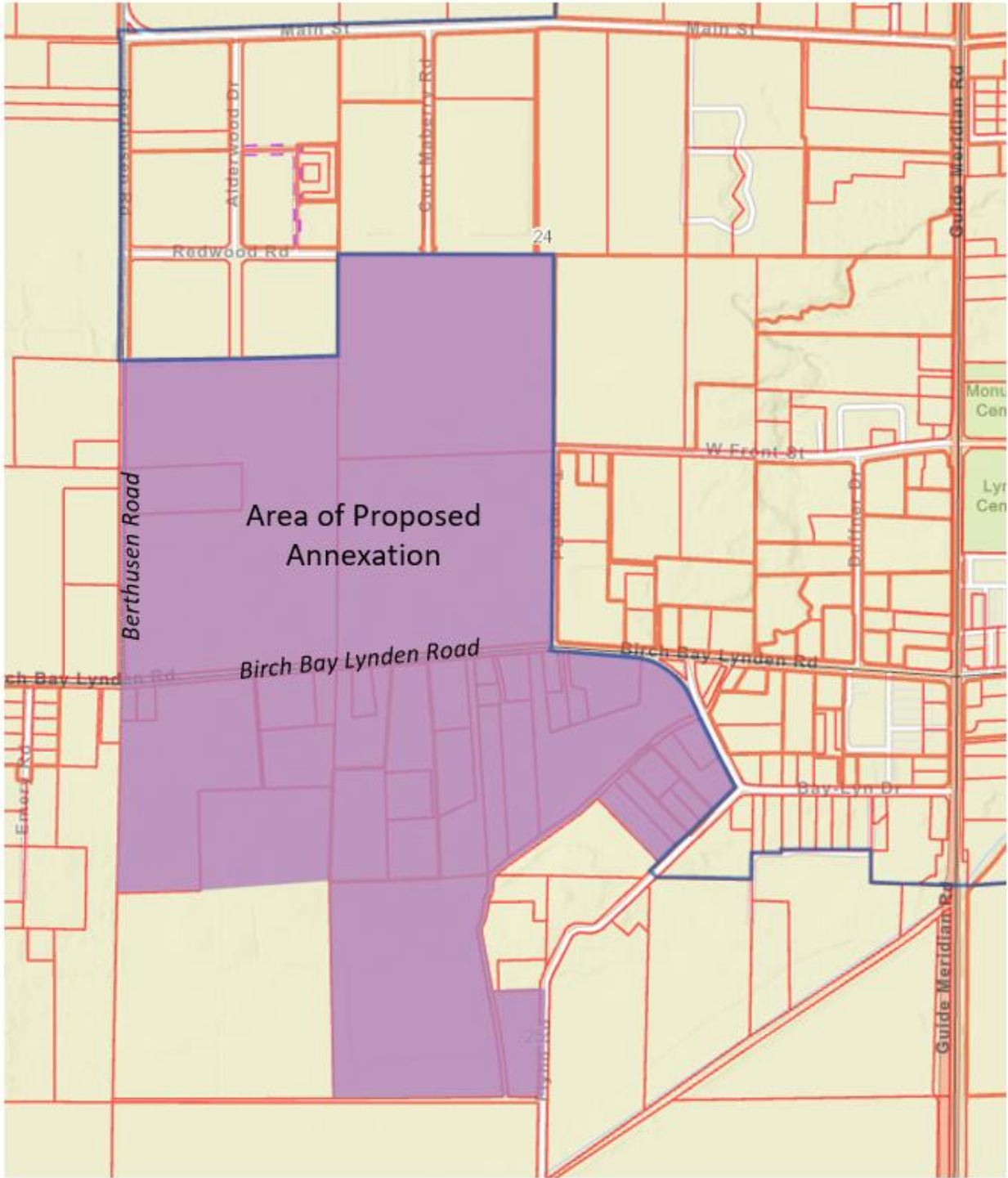
Address: _____

Parcel #: _____

Printed Name(s) _____

Signature(s) _____ Date _____

Exhibit A



Proposed Southwest Lynden Annexation

Exhibit B

Geo ID	Assessed Value	Address	Owner	Zoning Category	Area (acres)
4002253744910000	581,426	237 BAY LYN DR	B & H VAVRA & C SEUTZ JT	Residential	1.35
4002253764670000	404,772	219 BAY LYN DR	LEONARD VAN BEEK	Residential	3.54
4002253684550000	380,845	8057 FLYNN RD	KR PARTLOW & LM GUSTAFSON	Residential	0.70
4002253624480000	339,112	8049 FLYNN RD	JOSEPH M & RENEE M KING	Residential	0.70
4002253444720000	180,275	8053 FLYNN RD	NJR & JC BYMA	Residential	1.35
4002253414530000	368,792	8045 FLYNN RD	PETER J & BONITA C DEBRUIN	Residential	1.48
4002253274380000	574,494	8033 FLYNN RD	NELVA M BOUMA	Residential	1.99
4002252073350000	230,489	FLYNN RD	CITY OF LYNDEN	Public Use	32.61
4002253175360000	598,628	285 BIRCH BAY LYNDEN RD	MATT & SARAH ROOSMA	Residential	3.10
4002252995240000	408,531	291 BIRCH BAY LYNDEN RD	ALEXANDER J PFISTER	Residential	0.82
4002252875210000	470,870	293 BIRCH BAY LYNDEN RD	PAUL S & CARISSA L HIEMSTRA	Residential	0.87
4002252845420000	34,670	BIRCH BAY LYNDEN RD	MK & MC VANDERMAY	Residential	0.57
4002253134890000	395,975	301 BIRCH BAY LYNDEN RD	MK & MC VANDERMAY	Residential	13.77
4002252605410000	581,724	315 BIRCH BAY LYNDEN RD	ROBERT JR & DEBORAH COSTON	Residential	0.90
4002252574790000	704,863	321 BIRCH BAY LYNDEN RD	DUANE & ARLENE SCHOLTEN	Residential	4.62
4002252425280000	579,535	BIRCH BAY LYNDEN RD	GARTH E & ANDREA KOOY	Commercial	2.99
4002252314450000	69,651	BIRCH BAY LYNDEN RD	THOMAS S & MARLA M ENTRIKIN	Commercial	4.71
4002252415410000	453,176	339 BIRCH BAY LYNDEN RD	BRUCE A & TERESA L ISOM	Commercial	0.47
4002252055270000	377,809	351 BIRCH BAY LYNDEN RD	JERALD R & HATTIE RAMERMAN	Commercial	2.34
4002252084830000	228,613	345 BIRCH BAY LYNDEN RD	THOMAS S & MARLA M ENTRIKIN	Commercial	2.12
4002251825110000	437,686	371 BIRCH BAY LYNDEN RD	SM & JA SCHUYLEMAN	Commercial	4.41
4002251934650000	418,709	357 BIRCH BAY LYNDEN RD	357 BBL LLC	Commercial	2.00
4002251874300000	5,580	BIRCH BAY LYNDEN RD	SM & JA SCHUYLEMAN	Commercial	2.79
4002251604490000	343,407	359 BIRCH BAY LYNDEN RD	DENNIS J SCHUYLEMAN	Commercial	5.60
4002251655040000	239,652	385 BIRCH BAY LYNDEN RD	E TERRY BOSMAN	Commercial	1.00
4002251665280000	297,583	387 BIRCH BAY LYNDEN RD	E TERRY BOSMAN	Commercial	3.77
4002251375250000	280,047	405 BIRCH BAY LYNDEN RD	WILLIAM J VANDER HAGE	Commercial	1.00
4002251135220000	340,119	417 BIRCH BAY LYNDEN RD	LEROY A KORNELIS	Commercial	2.73
4002251194850000	487,850	423 BIRCH BAY LYNDEN RD	WJ & FM VANDER HAGE	Commercial	4.16
4002250783460000	769,136	439 BIRCH BAY LYNDEN RD	RUTGERS (8.98 acres of 50.08)	Commercial	8.98
4002250524750000	663,811	455 BIRCH BAY LYNDEN RD	JOHN S CLARK	Commercial	19.25
4002250285220000	111,206	BIRCH BAY LYNDEN RD	JOHN S & BARBARA J CLARK	Commercial	0.81
4002250155220000	288,770	491 BIRCH BAY LYNDEN RD	RICHARD E EDDY	Commercial	0.73
4002240850990000	976,521	8174 BERTHUSEN RD	VELLEMA FAMILY LLC	Industrial	55.17
4002240401240000	407,136	8188 BERTHUSEN RD	VELLEMA FAMILY LLC	Industrial	5.01
4002242041940000	570,720	TROMP ROAD	GLEN I & CLAUDIA TROMP	Industrial	40.00
4002242110870000	489,952	TROMP ROAD	GLEN I & CLAUDIA TROMP	Industrial	39.04
Total Assessed	\$15,092,135				277.45 ac



REQUEST TO CIRCULATE
PETITION OF ANNEXATION
TO THE CITY OF LYNDEN

To: The Honorable City Council of Lynden, Washington

We, the undersigned being the owners of more than ten percent (10%) in value according to the assessed valuation for general taxation of the property hereinafter described, and which property is contiguous and adjacent to the incorporated City of Lynden, Washington, do by these presents, request that the Lynden City Council allow us to circulate a petition of annexation to incorporate said real estate in to the city limits of the City of Lynden and annex the same thereto as part of the City of Lynden.

The legal description of the property which we request the ability to circulate the petition of annexation is as follows:

~~-Insert legal description here-----~~

Southwest urban growth area of Lynden

We have subscribed our names hereto and request that the Lynden City Council allow us to circulate a Petition of Annexation to the City of Lynden, Whatcom County, Washington, that is consistent with the request made herein.

Dated this 8th day of August, 2021.

By: 4002251375250000

Will Vanderhage
Print Name

4002251194850000
Property Parcel Number

Will Vanderhage
Signature



REQUEST TO CIRCULATE
PETITION OF ANNEXATION
TO THE CITY OF LYNDEN

To: The Honorable City Council of Lynden, Washington

We, the undersigned being the owners of more than ten percent (10%) in value according to the assessed valuation for general taxation of the property hereinafter described, and which property is contiguous and adjacent to the incorporated City of Lynden, Washington, do by these presents, request that the Lynden City Council allow us to circulate a petition of annexation to incorporate said real estate in to the city limits of the City of Lynden and annex the same thereto as part of the City of Lynden.

The legal description of the property which we request the ability to circulate the petition of annexation is as follows:

~~Insert legal description here~~-----

Southwest urban growth area of Lynden

We have subscribed our names hereto and request that the Lynden City Council allow us to circulate a Petition of Annexation to the City of Lynden, Whatcom County, Washington, that is consistent with the request made herein.

Dated this 12 day of aug, 2021

By:

125896

Dale Ratgers
Print Name

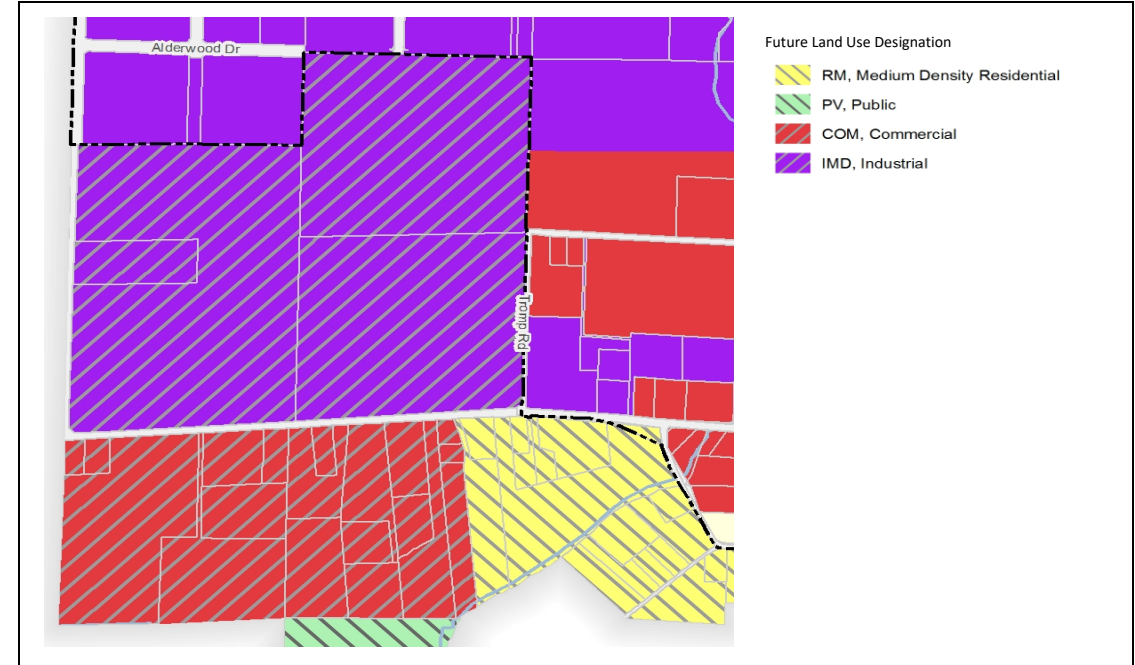
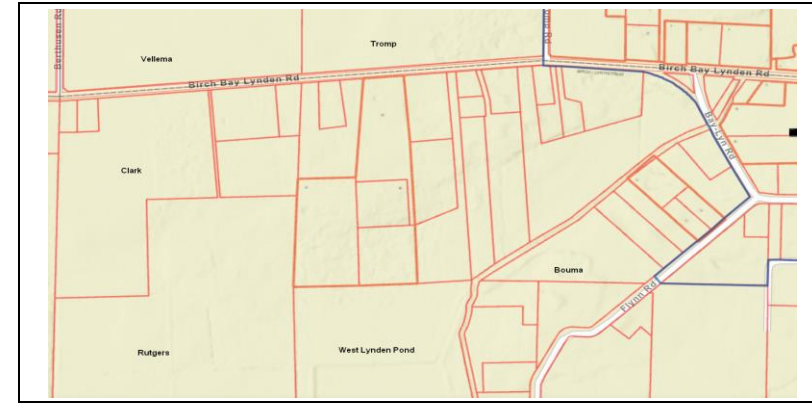
4002250783460000
Property Parcel Number

Dale Ratgers
Signature

West Lynden Annexation Proposal

9/7/2021

Geo ID	Assessed Value	Address	Owner	Signed Petition?	Zoning Category	Acres
4002253744910000	581,426	237 BAY LYN DR	BRANDON & HOLLY M VAVRA & CRAIG SEUTZ JT		Residential	1.35
4002253764670000	404,772	219 BAY LYN DR	LEONARD VAN BEEK		Residential	3.54
4002253684550000	380,845	8057 FLYNN RD	K REID PARTLOW & LYNN M GUSTAFSON		Residential	0.70
4002253624480000	339,112	8049 FLYNN RD	JOSEPH M & RENEE M KING		Residential	0.70
4002253444720000	180,275	8053 FLYNN RD	NICOLAAS J R & JOANNE C BYMA		Residential	1.35
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4002251194850000	487,850	423 BIRCH BAY LYNDEN RD	WILLIAM J & FRANCES M VANDER HAGE*		Commercial	4.16
4002250783460000	769,136	439 BIRCH BAY LYNDEN RD	DALE W & FEMMIE G RUTGERS (8.98 acres of 50.08)*		Commercial	8.98
4002250524750000	663,811	455 BIRCH BAY LYNDEN RD	JOHN S CLARK		Commercial	19.25
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4002250155220000	288,770	491 BIRCH BAY LYNDEN RD	RICHARD E EDDY		Commercial	0.73
4002240850990000	976,521	8174 BERTHUSEN RD	VELLEMA FAMILY LLC		Industrial	55.17
4002240401240000	407,136	8188 BERTHUSEN RD	VELLEMA FAMILY LLC		Industrial	5.01
4002242041940000	570,720	TROMP ROAD	GLEN I & CLAUDIA TROMP		Industrial	40.00
4002242110870000	489,952	TROMP ROAD	GLEN I & CLAUDIA TROMP		Industrial	39.04
Total Assessed	\$ 15,092,135.00					277.45
10% of assessed	\$ 1,509,213.50					
60% of assessed	\$ 9,055,281.00					
*Petitioners:	\$ 1,537,033.00	Assessed value of petitioners property				



CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Appointment to Planning Commission – Hollie Lyons	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: <u>Mayor</u>
		Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Planning Commission Application of Hollie Lyons		
Summary Statement:		
<p>The Mayor has appointed a new member, Hollie Lyons, to fill a vacancy on the Planning Commission.</p> <p>The Planning Commission consists of seven volunteer members. At the time of appointment and throughout their term of office, the primary residence of each member of the Planning Commission must be within the city limits of Lynden. The term of office for each member is four years unless specifically completing the term of another member.</p> <p>This appointment is being brought forward to the City Council meeting for confirmation. Hollie’s experience as a long-time resident of the Lynden area and her active role in the community will undoubtedly be an asset to the Planning Commission. Hollie also has previous experience serving on the Planning Commission. Hollie will be joining the Planning Commission in October.</p>		
Recommended Action:		
Motion to confirm the appointment of Hollie Lyons to the Lynden Planning Commission for a 4 year term expiring October 2025.		

CITY OF LYNDEN



Mayor
Scott Korthuis

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

Planning Commission Application

Please complete the application below and return to Mayor Scott Korthuis at 300 4th Street, Lynden, WA 98264 or KorthuisS@lyndenwa.org.

Name: Hollie Lyons

Address: [Redacted] Lynden, WA

Phone: [Redacted] E-mail address: [Redacted]

Are you available at work? N/A Phone:

1. How long have you lived within Lynden city limits? 28 years

2. Please tell us why your background and education would be an asset to the Planning Commission. I have served on the Planning Committee in the past when my children were small. I came as a mom and a citizen who cared about Lynden. I had No other motives (realtor, construction, building supplies) . I truly cared about the future of Lynden and would like our children someday to want to live here because of the choices we made as we were growing the community. I have been on different committees with each person coming with their own life experiences and viewpoints. I believe everyone should have a voice and that each unique perspective should be considered in a committee setting.

3. Do you have experience with any community committees? B'ham Community Development , Lynden City Planning, Boy Scouts Committee Member, Moms in Prayer Area Leader, Mother of Preschoolers (MOPS) Leadership Committee

4. If so, what was your role? All above positions were Committee Member with decision and voting responsibilities.

5. How do you view the task of balancing the public good and private property rights? This question is vague and would need the Public Good more defined. I believe Private Property rights should be respected and protected at all costs.

6. How do you view growth within our community?

I was on the Planning Committee when the building Moratorium was lifted. I believe at the time we didn't do a good enough job to account for the growth and amenities such as grocery stores and other services on the Eastside of Lynden where the growth was taking place. We were approving developments and building permits so fast that the trail system/green space initially considered in the overall planning was being ignored and less considered for the variances builders were asking for. I also was deeply concerned that the city at the time did not consider the growth demands on our school system which for years had to play catch up. Today our schools look great but with continued growth it would be nice for the city to work with the schools to see the capacity vs the growth plan of our community. Lynden is and has been a great place to live and raise families. Since I was on the committee so long ago it looks like things have gotten much better. We still need a grocery store on the Eastside of Lynden however. 😊

Thank you for your willingness to serve the Lynden Community. I will contact you to discuss your application.

Scott Korthuis, Mayor
City of Lynden

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 7, 2021	
Name of Agenda Item:	Community Development Committee Minutes of 7-21-21	
Section of Agenda:	Other	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Meeting Minutes of Community Development Committee July 21, 2021		
Summary Statement:		
Draft CDC Minutes of 7-21-2021 attached for review.		
Recommended Action:		
Council review.		



COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

4:00 PM July 21, 2021
2nd Floor Conference Room, City Hall

1. ROLL CALL

Council: Kyle Strengholt, Brent Lenssen, Gary Bode, Mayor Scott Korthuis

Staff: Steve Banham, Heidi Gudde

Community Guests: Mary Lou Childs, Brad Rader, Kathy Stanford

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting 6-16-21 Minutes approved as presented.

3. DISCUSSION ITEMS

- a. Pepin Creek Development Update - Minimum Density Requirements

Gudde reviewed the legal memo that was provided to the CDC by City legal counsel. This relates to the binding of lots within the Pepin Creek Subarea as a way that developers / land owners could divide property to meet minimum density requirements but ultimately construct at a lower density. The memo identified potential issues and risks association with allowing binding include the possibility that TIF refunds would be requested.

It also discussed measuring setbacks on lots that are bound.

Committee determined that, per code and confirmed by Bob Carmichael, if TIF funds are encumbered then refunds do not need to be issued.

Current City code requires that funds be encumbered within 6 years (per RCW this was later updated to 10 years). Banham stated that given the number of ongoing projects within Pepin Creek he was confident that the encumbering of funds would not be an issue. Rather it was the slow collection of funding that would likely be more problematic.

Committee discussed the proposed option of having existing homes / farmsteads be exempted from the minimum density requirement. The maximum size of these exempt farmstead was discussed. Five acres was suggested, or a certain percentage of the parcel was also discussed as a possibility. Committee concluded that a 5 acre minimum was appropriate.

The concept on the exception is that a large lot could be created to preserve an existing home (and typically outbuildings associated with the original farmstead). These large lots, if included as part of the minimum density calculation would make minimum densities difficult to accomplish. With an exception the large lots could be excluded from the minimum density calculation but still be part of a subdivision (plat). This exception would also allow an existing property owner to carve off a new lot – which would be subject to minimum density – but retain the ‘parent’ lot at a larger size.

Property owners that attended the meeting discussed with the Committee the implications of the proposed revision to code. Childs expressed support for the drafted code. The provisions for existing homes would make it easier for her to save the existing home and barn on her property while developing the rest. Rader expressed a desire to have an exception to the requirements. Lenssen responded by explaining the logic of the fees being connected to development impacts and the need to avoid under-collection of fees in this area so that improvements to the transportation network can be realized.

Committee concluded discussion about the binding of lots. Final consensus was that the Committee was comfortable with the risk of refunds potentially be requested in cases where lots were bound together. Refunds would only be due if the TIF funds were not encumbered within 6 years (later updated to 10 years per RCW). Staff to remove the drafted prohibition on the binding of lots.

Next steps – return the code revision to continue the public hearing before Council on August 16th.

Next Meeting Date: August 18, 2021

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	September 6, 2021	
Name of Agenda Item:	Calendar	
Section of Agenda:	Other Business	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	Outlook Calendar	
Summary Statement:	See next page.	
Recommended Action:	None	

September 7, 2021

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- TEAMS

Microsoft Teams meeting

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5:00 PM - 6:30 PM

Design Review Board -- To be determined

7:00 PM - 9:00 PM

City Council Meeting -- Annex Building

September 8, 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 - 6:00 PM

Public Works Committee Meeting -- City Hall 2nd Floor Large Conference Room

Welcome!

Public Works Committee Meeting meets Wednesday at 4:00 pm

We look forward to seeing you in person at City Hall in the 2nd Floor Conference room.

7:00 PM - 9:00 PM

Park and Rec. District Meeting -- Annex South East Conference Room

September 9, 2021

Thursday

2:00 PM - 3:00 PM

City All Staff Meeting -- Annex Council Chamber
Wellness Committee is providing Strawberry Shortcake & Ice Cream after All Staff. Finance & Planning are hosting the meeting.

4:00 PM - 5:00 PM

Public Safety Committee Meeting -- Police Training Room

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

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Phone Conference ID: 954 667 669#

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7:00 PM - 10:00 PM

Planning Commission Meeting -- Annex Council Chamber

September 14, 2021

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- TEAMS

September 15, 2021

Wednesday

All Day

Possible Jury Trial -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

September 15, 2021 Continued

Wednesday

7:00 PM - 9:00 PM

Berthusen Advisory Meeting -- Annex South East Conference Room

September 20, 2021

Monday

3:00 PM - 4:00 PM

Finance Committee Meeting -- City Hall 1st Floor Large Conference Room
Finance Committee Meeting

UPDATE: beginning June 21st the location will return to the City Hall 1st Floor Large Conference room

Thank you!

4:00 PM - 5:00 PM

Parks Committee -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM

City Council Meeting -- City Annex Building
City of Lynden is returning to in-person meetings located at the city Annex building.

For questions/concerns please reach out to me.

Thank you.

Pamela (Pam) D. Brown, MMC, CPRO | City Clerk

City of Lynden

300 4th Street, Lynden, WA 98264

Direct: (360) 255-7085 | Email: brownpa@lyndenwa.org

Our Vision: Cultivating Exceptional Service for Our Extraordinary Community

We Value: Communication – Teamwork – Community – Excellence – Integrity