

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
Annex - 205 Fourth Street
December 19, 2022

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Summary Reports and Presentations

Approval of Minutes

1. Draft Council Minutes- December 5, 2022

Citizen Comment

Consent Agenda

2. Approval of Payroll and Claims
3. Approval to Purchase Pierce 107' Quint Fire Truck
4. Award Contract for Janitorial Services
5. Award Welch Ecological Services Agreement (2023)
6. Interlocal Agreement with Whatcom County Health Department for Source Control Inspections
7. Re-Appointment to Design Review – Aaron Apps
8. Award Bid for NWWA Fairgrounds Stormwater Improvements

Public Hearing

9. Ord 1655 - Comprehensive Plan Amendment (CPA) 22-02 JD Bargaen
10. Ord 1656 – City-led CPA 22-01 and Rezone
11. Ordinance No. 1657 - Mixed-Use Overlay and Amendments to LMC 17, 18, and 19

Unfinished Business - None

New Business

- [12.](#) Ordinance No. 1655– JD Bergen Comprehensive Plan Amendment 22-02 and Rezone 22-01
- [13.](#) Project Zebra / Premier Packing Conditional Use Permit

Other Business

- [14.](#) Draft Parks Committee Minutes November 21, 2022
- [15.](#) Public Works Committee Meeting Minutes December 7, 2022
- [16.](#) Calendar

Executive Session**Adjournment**

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EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Draft Council Minutes- December 5, 2022	
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



December 5, 2022

1. CALL TO ORDER

Mayor Korthuis called to order the December 5, 2022 regular session of the Lynden city council at 7:00 p.m. at the city's council chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

Members present: Councilors Gary Bode, Ron De Valois, Gerald Kuiken, Nick Laninga, and Kyle Strengholt.

Members absent: Councilors Lenssen and Wohlrab absent with notice.

Staff present: Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Brent DeRuyter, Planning Director Heidi Gudde, Police Chief Steve Taylor, City Administrator John Williams, City Clerk Pam Brown, and City Attorney Bob Carmichael.

OATH OF OFFICE – None

SUMMARY REPORTS AND PRESENTATIONS – None

APPROVAL OF MINUTES

Councilor Kuiken moved, and Councilor Strengholt seconded to approve the November 21, 2022, regular meeting minutes. Motion approved on 5-0 vote.

CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

- Cynthia commended the Lynden police officers for their cordial and polite response to a well-check request she called in for a woman appearing to be struggling with mental health issues.

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CITY COUNCIL MINUTES OF REGULAR MEETING

- She also commented on how well behaved the children attending the Christmas Lighted parade were.
- She also voiced her opposition to the Lynden Library's events that feature supernatural and demonic themes.

Lynden Chamber Director, Gary Vis, Front Street, Lynden

- Mr. Vis thanked the city PW crew, staff, police, fire, and council for their participation (including funding) for the Christmas Lighted parade. He estimates there were approximately 10-12 thousand attendees and shared that local businesses were pleased with the sales generated on Saturday.

2. CONSENT AGENDA

Payroll Liability to November 6 through November 19, 2022

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$390,493.43
Check Liability	\$0.00
Total Non-L&I Liabilities	\$390,493.43
Quarterly Liabilities	\$13,550.42
Total EFT & Other Liabilities	\$404,043.95

Payroll Liability to November 20 through December 3, 2022

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$559,678.66
Check Liability	\$0.00
Total Non-L&I Liabilities	\$559,678.66
Quarterly Liabilities	\$13,500.11
Total EFT & Other Liabilities	\$573,178.77

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CITY COUNCIL MINUTES OF REGULAR MEETING

Approval of Claims – December 6, 2022

Manual Warrants No.	<u>26152</u>	through	<u>26154</u>		\$3,258.88
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$3,258.88
Voucher Warrants No.	<u>26157</u>	through	<u>26224</u>		\$1,128,391.79
EFT Payments					\$1,160,304.09
				Sub Total	\$2,288,695.88
				Total Accts. Payable	\$2,291,954.76

Appoint Mayor Korthuis to the 2023 Board of the Whatcom Council of Governments (WCOG) and appoint Gary Bode to act as alternate

Appoint Mayor Korthuis to the 2023 Whatcom Transportation Authority (WTA) Board of Directors

Set Public Hearing- Ordinance No. 1655- Comprehensive Plan Amendment (CPA) 22-02 JD Bargaen

Set Public Hearing- Ordinance No. 1656- City-led Comprehensive Plan Amendment 22-01

Set Public Hearing- Ordinance No. 1657- Amendment to LMC 17, 18, and 19

Resolution No. 1059- Agreement with Washington State Community Economic Revitalization Board (CERB)- West Main Street & Berthusen Park Project

The City of Lynden recently applied for and was awarded a \$4.5 Million loan by the Community Economic Revitalization Board (CERB). CERB funds are available to support economic development projects which are ready to implement, and which create or retain jobs. Resolution No. 1052, Authorizing Submission of a CERB Loan Application, was passed at the September 19, 2022, Council meeting.

Staff presented project information to the CERB Board on Thursday, November 17th which resulted in their vote to award funds. Resolution No. 1059 authorizes and directs the Mayor to enter into Final Contract agreement between CERB and the City of Lynden for a 20-year, 3% annual interest rate, loan to finance the West Main Street and Berthusen Road Roundabout Project. The Finance Committee reviewed this resolution at their meeting on November 21st and concurred to recommend approval by City Council.

Motion made by Councilor Bode, seconded by Councilor De Valois to approve the consent agenda as presented. Motion approved 5-0.

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CITY COUNCIL MINUTES OF REGULAR MEETING



3. PUBLIC HEARING

Final Public Hearing on the Year 2023 Budget

As published, 7:00PM on December 5, 2022 is the time and date set for the Final Public Hearing on the 2023 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 17th City Council meeting.

Mayor Korthuis opened the hearing at 7: 09 P.M.

There were no comments.

Mayor Korthuis closed the hearing at 7:09 P.M.

Ordinance No. 1662- Adoption of the Year 2023 Budget

The Preliminary 2023 Budget was presented to the City Council by Mayor Korthuis at the October 17, 2022 City Council meeting. The first public hearing for the 2023 Budget was held on November 7, 2022. The final RCW required budget hearing was held earlier this evening, December 5, 2022.

Ordinance No. 1662 represents the results of the budget process. Passage of this ordinance will finalize and adopt the 2023 budget; and is compliant with RCW deadlines. The Finance Committee has been presented with this information for their review throughout the budget process, as has Council.

Motion made by Councilor Strengholt, seconded by Councilor Kuiken to approve Ordinance No. 1662, and authorize the Mayor's signature adopting the 2023 Budget. Motion approved 5-0.

Ordinance No. 1661- Substitute Interim Zoning Ordinance regarding Community Residential Facilities

The City Council has recently adopted Ord 1658, an emergency interim zoning ordinance pertaining to the prohibition of the establishment of community residential facilities within 500 feet of the City's schools and within 300 feet of other community residential facilities. Continued legal review has resulted in a refinement of the interim zoning regulations as reflected in the substitute Ordinance 1661.

Drafting and review of the final ordinance on community residential facilities which will amend LMC Chapter 19 continues with Committee review expected in mid-November and early December. Public hearing with the Planning Commission is slated for December 15th. A sixty-day comment period with the State's Department of Commerce will occur

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CITY COUNCIL MINUTES OF REGULAR MEETING



prior to a public hearing in early March.

Mayor Korthuis opened the hearing at 7:12 P.M.

Public members speaking in favor of Ordinance No. 1661:

James Rogers, Westview, Lynden
Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden
Nick Sawka, Village Drive, Lynden
Robert Rinehart, Benson Road, Lynden
Stephanie Rogers, Westview, Lynden
Tessa Garcia, 17th Street, Lynden
Tiffany Kingery, Westview Place, Lynden
Travis Krueger, Westview Place, Lynden
Alan ??, Skagit County
Nathan Libolt, 17th Street, Lynden

Public members speaking in opposition of Ordinance No. 1661

Mark Nelson, Lynden
Alan xxx, Mt. Vernon, Lynden

Public member undeclared:

Miles Davis, Judson Street, Lynden

Police Chief Steve Taylor clarified for the record, that he was not the one that notified the surrounding neighbors of the transitional housing application through Department of Corrections (DOC). The DOC's application process generated notification to surrounding neighbors and the police department.

Mayor Korthuis closed the hearing at 7:45 P.M.

Motion made by Councilor Bode, seconded by Councilor Strengholt to approve Substitute Interim Zoning Ordinance No. 1661 regarding Community Residential Facilities and authorize the Mayor's signature on the ordinance. Motion approved 5-0.

4. UNFINISHED BUSINESS

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CITY COUNCIL
MINUTES OF REGULAR MEETING



5. NEW BUSINESS

Select Mayor Pro Tem for 2023

Each year council selects a Mayor Pro Tem to conduct the business of presiding over council meetings and other regularly conducted business in the Mayor's absence. Currently that position is held by Councilor Gary Bode.

Councilor Laninga moved, and Councilor Kuiken seconded to approve Councilor Gary Bode as Mayor Pro Tem for the year 2023. Approved on 4-0 vote.

6. OTHER BUSINESS

Committee Assignments for 2023-2024

Council approved by common consent, to continue the current appointment of council members to council committee representation just as it for 2023 and 2024.

7. EXECUTIVE SESSION

Council met in executive session to discuss with legal counsel representing the city matters relating to agency enforcement actions, under RCW 42.30.110(1)(i). Council expects to be in executive session until 8:06 p.m. with potential action to follow. Council reconvened at 8:06 p.m. without a decision.

8. ADJOURNMENT

The December 5, 2022, regular session of the Lynden City Council adjourned at 8:06 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
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:	December 19 th , 2022	
Name of Agenda Item:	Approval to Purchase Quint Fire Truck	
Section of Agenda:	Consent Agenda	
Department:	Lynden Fire Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____	Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Hughes Fire Equipment Quote for Quint Ladder Truck built by Pierce, example photo.	
Summary Statement:	On 12/01/2022, during the Public Safety Committee Meeting, a motion was made, seconded, and approved to bring the purchase of a new Pierce 107' Quint Ladder truck to full Council for vote and approval.	
Recommended Action:	Council approval to accept the quote from Hughes Fire Equipment to build a Pierce 107' Quint Ladder Truck for the City of Lynden Fire Department.	



November 2, 2022

Lynden Fire Department, WA
One (1) Enforcer 107' Ascendant Aerial JK339
Build Location: Appleton, WI

Proposal Price	\$1,507,856.00	
Washington State sales tax @ 8.70%		131,183.47
Washington State motor vehicle tax @ 0.30%		4,523.57
Total Bid Price Including Sales Tax		\$1,643,563.04
Less chassis progress payment discount	(16,191.00)	
Less aerial device progress payment discount	(6,396.00)	
Less payment upon completion @ factory discount	(16,744.00)	
Less 100% pre-payment discount	(61,208.00)	
Subtotal including all pre-pay discounts	\$1,407,317.00	
Washington State sales tax @ 8.70%		122,436.58
Washington State motor vehicle tax @ 0.30%		4,221.95
Total Bid Price Including Pre-Pay Discounts & Sales Tax		\$1,533,975.53

\$1,533,975.53

Terms:

Price Expiration: The above pricing is valid for 60 days.

Component Price Volatility: Company shall not be responsible for any unforeseen price increase enacted by the suppliers of major components of the Product (including but not limited to engine, transmission, and fire pump) after the execution of contract. Any price increase major components of the product will be passed through to the Customer and will be documented on a Change Order.

Delivery: Based on Pierce's current delivery schedule the apparatus would be ready for delivery from factory within 32 to 38 months after contract execution. Delivery is subject to change pending Pierce's delivery schedule at time of order. This time does not include any possible delays that may be caused by national disasters or pandemic.

Payment Terms:

a. If pre-payment discount options are elected, the following terms will apply:

i. **Chassis Progress Payment Discount:** The chassis progress payment in the amount of **\$539,710.00** will be due three (3) months prior to the ready for pick up from the factory date. If elected, an invoice will be provided 30 days prior to the chassis payment due date. If payment is not made when due the discount total will be added back to the final invoice.

ii. **Aerial Device Progress Payment Discount:** The aerial device payment in the amount of **\$319,784.00** will be due two (2) months prior to the ready for pick up from the factory date. If elected, an invoice will be provided 30 days prior to the aerial device due date. If payment is not made when due the discount total will be added back to the final invoice.

iii. **Payment Upon Completion at Factory Discount:** If elected, final payment is due prior to apparatus leaving the factory for delivery. If payment is not processed upon receipt of invoice the discount total will be required in addition to the invoice amount.

iv. **100% Pre-Payment Discount:** If elected, an invoice will be provided upon order processing for the 100% pre-payment. Upon receipt of invoice, payment must be made within thirty (30) days. If this option is elected, the discount is in addition to the chassis progress payment discount, aerial device progress payment discount, and the payment upon completion at the factory discount. If payment is not made when due, the above mentioned pre-payment discounts or a portion thereof, will be added back to the final invoice. Final payment, including any changes made during manufacturing, is due upon completion of the Product at the factory and prior to delivery from the factory. The 100% pre-payment discount is valid for 90 days from quote unless interest rates change; at which time a notification of change will be given and a new quote will be issued.

b. If pre-payment discount options are not elected standard payment terms will apply: Final payment will be due 30 days after the apparatus leaves the factory for delivery. If payment is not made at that time a late fee will be applicable.

c. Payments made for apparatus using a credit card will be applicable to a credit card convenience fee.

Consortium Purchase: The proposal is based on the unit being purchased through H-GACBuy (Houston-Galveston-Area-Council Cooperative Purchasing Program) utilizing contract FS12-19 valid until 5/31/2023 with a registered End User member Interlocal Contract. It is the purchaser's responsibility to determine if the use of consortiums meets their purchasing requirements. More information can be found at hgacbuy.org.

Performance Bond: A performance bond is included in the above price and will be provided after order placement. Due to global supply chain constraints, any delivery date contained herein is a good faith estimate as of the date of this order/contract, and merely an approximation based on current information. Delivery updates will be made available, and a final firm delivery date will be provided as soon as possible. If customer elects to remove the performance bond **\$4,028.00** may be deducted from the purchase price.

Transportation: Transportation of the apparatus to be driven from the factory to the customers location is included in the above pricing. However, if permits are not obtainable, due to the weight of the apparatus, and the apparatus must be transported on a flat bed, additional Transportation charges will be the responsibility of the customer. We will provide pricing at that time if necessary. If customer elects to drive the apparatus from the factory, **\$5,800.00** may be deducted from the purchase price. If this option is elected payment in full and proof of insurance must be provided prior to leaving the factory and the customer is responsible for compliance with all state, local and federal DOT requirements including the driver possessing a valid CDL license.

Inspection Trips: Two (2) factory inspection trips for two (2) customer representatives is included in the above pricing. The inspection trips will be scheduled at times mutually agreed upon between the manufacture's representative and the customer, during the window provided by the manufacturer. Airfare, lodging and meals while at the factory are included. In the event the customer is unable to travel to the factory or the factory is unable to accept customers due to the restrictions caused by a national disaster or pandemic then the Dealership reserves the right to use forms of electronic media to accomplish the intention of the inspection trips. Every effort will be made to make the digital media as thorough as possible to satisfy the expectations of the of the customer. If the customer elects to forgo an inspection trip \$2,025.00 per traveler (per trip) will be deducted from the final invoice.

Acceptance of Proposal: If the customer wishes to purchase the proposed apparatus Hughes Fire Equipment will provide the Customer its form of Purchase Agreement for the Customer's review and signature. If the Customer desires to use its standard form of purchase order as the Purchase Agreement, the purchase order is subject to review for any required revisions prior to acceptance. **All purchase orders shall be made out to Hughes Fire Equipment Inc.**



CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Award Contract for Janitorial Services	
Section of Agenda:	Consent	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Janitorial Bid Tabulation		
Summary Statement:		
<p>Bids for Janitorial Services (2023) were recently solicited with some modification to the service requested. City Hall and Annex cleaning will be reduced to two days per week, down from three days per week, and the City Shop facility was added for one day per week. The contract is for one year with the option for four additional one-year extensions, potentially extending the contract to the end of 2027.</p> <p>Two bids were received on November 15, 2022. The City’s current janitorial service provider, Management Services Northwest (MSNW), was the lowest bid.</p> <p>The Public Works Committee reviewed bids at their meeting on December 7, 2022 and concurred to recommend that City Council award the bid to MSNW.</p>		
Recommended Action:		
That City Council award the bid for janitorial services to Management Services Northwest, the lowest responsive and responsible bidder, and authorize the Mayor’s signature on the contract.		

**City of Lynden
Janitorial (2023)
Bid Comparison**

Bid Item	Location	Days of Cleanings	Monthly		
			Current	MSNW	Action Cleaning
1	City Hall	T/F (was previously MWF)	\$ 3,220.00	\$ 2,630.00	\$ 2,680.00
2	Annex	W/F (was previously MWF)	\$ 515.00	\$ 830.00	\$ 1,444.00
3	Police Department	MWF	\$ 1,545.00	\$ 1,995.00	\$ 1,899.00
4	Downtown Restrooms	MWThFSaSu	\$ 1,020.00	\$ 1,225.00	\$ 4,170.00
5	Shop	W	\$ -	\$ 660.00	\$ 720.00
TOTAL BID AMOUNT (Items 1-5 above):			\$ 6,300.00	\$ 7,340.00	\$ 10,913.00

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Award Welch Ecological Services Agreement (2023)	
Section of Agenda:	Consent	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	Legal Review: <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Contract		
Summary Statement:		
<p>Welch Ecological Services has provided support for the City’s National Pollution Discharge Elimination System (NPDES) stormwater permit since the City was reclassified to Phase II in 2014. The contract for 2023 includes support to the City for the following:</p> <ol style="list-style-type: none"> Administration of the Municipal Stormwater Management Program, including annual reporting; Stormwater Management Planning; Education, Outreach and Public Involvement; Illicit Discharge Detection and Elimination; Controlling Runoff form New Development, Redevelopment, and Construction Sites; Operations and Maintenance Stormwater Protocols; Source Control Program; Grant Funding Application and Administration; Industrial Stormwater Permits for the Airport and Wastewater Treatment Plant. <p>The Public Works Committee reviewed this contract at their meetings in November and December and concurred to recommend renewing the contract with Welch Ecological Services. The funding for this contract is included in the 2023 Stormwater (Fund 410) Budget which includes grant funding from the Department of Ecology.</p>		
Recommended Action:		
That City Council approve the contract with Welch Ecological Services and authorize the Mayor’s signature on the contract.		

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

**CITY OF LYNDEN
300 4TH STREET
LYNDEN, WASHINGTON 98264**

AND

**WELCH ECOLOGICAL SERVICES
1155 NORTH STATE ST #411
BELLINGHAM, WASHINGTON 98225**

SERVICES: NPDES Phase II Stormwater Permit Compliance Support

THIS AGREEMENT combines all understanding between the Parties regarding services for the Project named above and supersedes all prior proposals, quotations, solicitations, negotiations, representations, agreements, or understandings, whether written or oral.

The performance of the services described here, as well as payment for such services, shall be on the terms and conditions presented in this Agreement and the following Sections which are attached and incorporated by reference which, taken together, shall constitute the whole Agreement.

- Section 1 - Relationship of the Parties
- Section 2 - Compensation
- Section 3 - General Provisions
- Section 4 - Scope of Services
- Section 5 - Extent of Agreement

SECTION 1: RELATIONSHIP OF THE PARTIES

The City of Lynden hereby contracts with Welch Ecological Services ("Consultant") to perform the services described in Exhibit A of this Agreement.

This Agreement shall inure to the benefit of and be binding upon the successors, assigns, and legal representatives of each of the Parties hereto. The Consultant may use subconsultants and will notify and obtain approval from the City prior to contracting with a subconsultant(s). Any other assignment or transfer of an interest in this Agreement, by either Party, without the written consent of the other shall be void.

SECTION 2: COMPENSATION

Compensation to the Consultant shall be in accordance with the Consultant's budget for the Scope of Work described in Exhibit A.

The budgeted total cost for each requested service shall be a "not to exceed" cost. The City shall pay all the Consultant's invoices in accordance with Section 3.2 of this Agreement.

SECTION 3: GENERAL PROVISIONS

3.1 SERVICES

The Consultant shall be consultant and advisor to the City and shall not be agent or representative of the City. The Consultant represents that the studies, projections, plans, reports, design drawings, specifications, cost estimates, and all other engineering, consulting, and analytical services furnished under this Contract will be in accordance with generally accepted practices. The

Consultant hereby agrees to exercise usual and customary care in efforts to comply with all federal; state and local laws, rules and ordinances applicable to the work and to this Agreement in force at the time of Consultant's performance of the work hereunder.

The Consultant makes no other representation or warranty, express or implied.

3.2 PAYMENT CONDITIONS

The City agrees to pay the Consultant on a monthly basis, during the term of the project, commensurate with portions of the work completed. The Consultant's compensation shall be paid monthly on account, for the services performed during that month, with payment due within 30 days of the invoice date. The City of Lynden, Finance Department, must receive invoices from vendors by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second City Council meeting of the month (third Monday) before payment can be rendered. **All invoices must include the Project name and number and the services rendered, according to the approved scope of work, for which payment is to be rendered. Consultant is responsible for providing a cost tracking report for fund allocations and for declining budget balances on invoices. Invoices and supporting documentation will be reviewed for completeness before payment will be authorized.**

The Consultant will not incur any liability for damages of any type or nature when the performance is stopped as a result of stopping performance of services due to the failure of the City to pay for services rendered.

3.3 GENERAL CITY RESPONSIBILITIES

The City shall provide full information regarding its requirements for the services to be performed by the Consultant, and any circumstances known to the City that would hinder the Consultants performance or make performance by the Consultant more difficult or expensive than would ordinarily be expected. The City shall furnish any required information and services, and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Consultant's services. If the City observes or otherwise becomes aware of any fault or defect in the services performed by the Consultant, the City shall promptly give written notice thereof to the Consultant.

3.4 RESPONSIBILITY

The Consultant represents that the services shall be performed within the limits prescribed by this Agreement in a manner consistent with that type of care and skill ordinarily exercised by other consultants under similar circumstances. No other representations to the City, express or implied, and no warranty or guarantee is included or intended in the Agreement, or in any report, opinion, document, or otherwise. The Consultant shall not accept other tasks, within the City of Lynden, that could be viewed as a conflict of interest.

3.5 LIABILITY FOR CLAIMS

The City shall, to the extent of its negligence and/or the negligence of its agents or employees, defend and indemnify the Consultant against any and all liability for personal injury (including death resulting therefrom) or property damage of any kind, sustained by any person and caused by or resulting from the concurrent negligence of the City, its agents, or employees, and the

Consultant, its agents, or employees. Likewise, the Consultant, shall, to the extent of its negligence and/or the negligence of its agents or employees, defend and indemnify the City against any and all liability for personal injury (including death resulting therefrom) or property damage of any kind, sustained by any person and caused by or resulting from the concurrent negligence of the Consultant, its agents, or employees, and the City, its agents, or employees. For purposes of this provision, the City and Consultant agree to waive the statutory immunity under Title 51 of the Revised Code of Washington, and the parties, by this Agreement, certify and warrant that its waiver of statutory immunity was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

3.6 INDEMNIFICATION

The City agrees that the following language shall be included in any agreement between the City and any third person and/or any third person and fourth person ("Subconsultant") for work of any kind or nature to be performed in connection with the Project, including without limitation, construction services.

"The Consultant shall defend, indemnify, and hold harmless the City and its respective officers, agents, and employees, from and against all damages, claims, losses, demands, suits, judgments, actions, and costs, including reasonable attorney's fees and expenses, arising out of or resulting from the performance of the work, provided that any such damages, claim, loss, demand, suit, judgment, cost, or expense:

- (1) Is attributable to bodily injury, sickness, disease, or death or to injury to, or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom or to purely economic loss; and
- (2) Is caused in whole or in part by any negligent act or omission on the part of the Subconsultant, anyone directly or indirectly employed by any one of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.
- (3) It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Consultant and City. The provisions of this section shall survive the expiration or termination of this Agreement."

3.7 INSURANCE

The Consultant as co-owner of Welch Ecological Services does not require insurance coverage for claims under the Workmen's Compensation Act and claims for bodily injury, death, or property damage, which might arise from the performance of their services under this Agreement. Limits of liability shall be as follows:

Professional Liability/ Errors & Omissions	\$1,000,000	each occurrence
Professional Liability/Errors & Omissions	\$1,000,000	annual aggregate
Comprehensive General	\$1,000,000	each occurrence
Liability	\$2,000,000	annual aggregate
Automobile Liability	N/A	No commercial vehicles
Worker's Compensation	N/A	No Employees

The City of Lynden shall be listed as additional insured on all applicable certificates of insurance. Consultant will provide City with current insurance certificate upon request.

3.8 OPPORTUNITY TO REMEDY

The parties agree that in the event of alleged error or omission by the Consultant in performance of services under the Scope of Services, the City shall notify the Consultant promptly in writing of that fact and allow the Consultant a reasonable time to remedy the problem. Upon notice the Consultant shall promptly review and remedy the problem at the cost of the Consultant. Where responsibility for a problem may be shared by the Consultant and others, the Consultant shall endeavor to remedy the Consultant's share, at the cost of the Consultant, and to cooperate with others involved. If the Consultant demonstrates that it is not at fault, for a problem identified by the City under this Section, the City shall reimburse the Consultant for its costs of investigating the problem.

3.9 CONTRACT TERM AND TERMINATION

- A. This Agreement shall have a term of one (1) year ("Term"), commencing on January 1, 2023, through December 31, 2023, and may be extended by mutual written agreement of the Parties. Nothing in this section shall prohibit or otherwise restrict the City's ability to terminate this Agreement at any time for convenience or for cause as set forth in Section 3.
- B. **Termination Without Cause.** Either Party may, at its sole discretion, terminate this Agreement by giving the other Party a 60-day written Notice of Termination. The City shall pay the Consultant for services rendered under the Scope of Work up to the date such written Notice of Termination is issued, and for such services provided in good faith thereafter up to the effective termination date; provided that, the City shall have the authority to require the Consultant to stop work at any time following issuance of the Notice of Termination by providing such additional written notice.
- C. **Termination with Cause.** If the Consultant fails to perform the Scope of Services in the manner called for in this Agreement, or unreasonably delays, postpones, or abandons performance thereof, or if the Consultant fails to comply with any other provision of this Agreement and fails to correct such noncompliance within five (5) business days of receiving the City's written notice thereof, the City may immediately terminate this Agreement for cause by providing written notice thereof. If payment due from City to Consultant becomes delinquent by more than sixty (60) days, the Consultant may terminate this Agreement.

3.10 OWNERSHIP AND USE OF DOCUMENTS

- A. Drawings, specifications, documents, and electronic files prepared by the Consultant pursuant to this Agreement shall become the property of the City upon final payment to the Consultant. The Consultant may retain copies, including reproducible copies of drawings and specifications for information and reference. The Consultant does not intend or represent such drawings and specifications to be suitable for reuse by the City or others for purposes beyond the Scope of Work. The City shall retain copyrights to any and all documents produced by it during the course of this Agreement. The City shall indemnify, hold harmless, and defend the Consultant from and against any and all claims asserted by any party in any manner resulting from unauthorized use by the City, of the Consultant-prepared drawings, specifications, or other documents.

- B. The Consultant shall maintain books, records, and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as necessary to ensure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other government officials authorized by law to monitor this Agreement.
- C. The Consultant shall retain all books, records, documents, and other material relevant to this Agreement for six (6) years following its expiration or termination. The Consultant agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

3.11 DISPUTE RESOLUTION

Any dispute arising out of the terms and conditions of this Agreement shall be subject to the following mediation process, as a condition precedent to filing any legal cause of action. If a dispute shall arise, a meeting shall be held promptly between the Parties to attempt in good faith to negotiate a resolution to the dispute. For purposes of this Section 12, "promptly" shall mean within fourteen (14) calendar days of a Party requesting a meeting to resolve a dispute. If within ten (10) days after such meeting the Parties have not succeeded in resolving the dispute, the dispute shall be mediated. Either Party may provide written notice to the other that the dispute shall be submitted to mediation and a mediator shall be selected. In the event that within seven (7) days of receipt of said written notice the Parties are unable to agree on a mediator, either Party may request appointment of a mediator by any Judge of the Whatcom County Superior Court, sitting in Chambers, and the Judge is hereby authorized to select a mediator. Both Parties shall cooperate to assure that mediation occurs in a timely manner and both Parties shall supply all materials provided to the mediator to the other Party at least two (2) days before mediation. Engaging in mediation shall not affect any claim, right, remedy, or defense of either Party. Should mediation prove unsuccessful, all claims, rights, remedies and defenses of each Party shall be preserved. Mediation shall be terminated upon (a) successful resolution of the dispute; (b) written declaration by the mediator of an impasse between the Parties; or (c) following completion of two or more mediation sessions held on separate days, written declaration by one of the Parties of an impasse. Each Party shall share equally in the fees and expenses associated with mediation, including fees and expenses of the mediator; provided that, each Party shall bear its own costs, including witness fees, and costs, associated with mediation.

3.12 CLAIMS AND DISPUTES

At the City's request, and only if the City and the Consultant first agree on compensation to the Consultant, the Consultant will assist the City in reviewing and evaluating claims and disputes, preparing information for the City's legal counsel, providing services as witness in litigation or arbitration to which the City is a party, and providing other services in connection with actual or potential claims or disputes, regardless of whether or not the Consultant is named in such legal action. In no case shall the Consultant be obligated to provide such services until the method of compensation therefore is agreed.

3.13 COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION

The Consultant agrees to comply with all federal, state, and local laws governing equal opportunity employment. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, marital status, national origin, or the presence of any sensory, mental, or physical handicap, unless based on a bona fide occupational qualification. Such action includes, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training, including apprenticeship. The Consultant further agrees to maintain notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause.

The Consultant will ensure that applicants for employment, and all employees during their employment, are treated without regard to race, creed, color, sex, age, marital status, national origin, or the presence of any sensory, mental, or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees, agents, and subconsultants adhere to this provision.

The Consultant will make positive efforts to utilize small businesses and minority-owned business sources of supplies and services. Efforts will allow these sources the maximum feasible opportunity to compete for sub-agreements and contracts to be performed utilizing federal grant funds.

3.14 REFERENCE INFORMATION

If the Consultant is required by the City to rely upon information provided by or through the City or a third party to perform the Consultant's services, the Consultant shall not be liable for errors or omissions in the Consultant's services caused by errors or omissions in said information.

3.15 ADDITIONAL TAXES

Since the Consultant's costs can be adversely affected through the application of new, additional, or retroactive taxes or charges (for instance, a sales tax on services or a new income tax), amounts due to the Consultant shall be increased equitably to compensate for any additional taxation charges, over those currently in effect, or for taxes retroactively determined to be due on services rendered, or on products delivered by the Consultant to the City.

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

3.16 SUBCONTRACTING OR ASSIGNMENT.

The Consultant shall not subcontract or assign any portion of this Agreement beyond what is addressed in the attached Scope of Work without prior written approval of the City. All terms and conditions of this Agreement shall apply to any approved subcontract or assignment made

pursuant to this Agreement and Consultant shall incorporate by reference this Agreement in its contracts with its subconsultant(s) or assignees.

3.17 FORCE MAJEURE.

Neither Party shall be liable to the other Party for failure or delay in performance of this Agreement due to acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either Party or as otherwise defined by law, provided the delayed Party shall make reasonable efforts to avoid or mitigate such delay and shall promptly notify the other Party in writing of the cause of the delay and its extent.

SECTION 4: SCOPE OF SERVICES

The Consultant agrees to perform the services requested per the attached Exhibit A Scope of Services.

The Consultant will make every attempt to complete the work within the estimated budget. However, should changes in the Scope of Service require the Consultant to expend more time or incur more expenses than anticipated, the Consultant will notify the City, and upon concurrence by the City, an amendment to the Agreement will be prepared and executed.

SECTION 5: EXTENT OF AGREEMENT

This Agreement contains all of the terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. This Agreement may only be amended by written agreement of the parties.

SECTION 6: NOTICES

In every case where, under any of the provisions of this Agreement or in the opinion of either the City or the Consultant or otherwise, it shall or may become necessary or desirable to make, give, or serve any declaration, demand, or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the Public Works Director, if given by the Consultant, or to the President or Secretary of the Consultant personally, if given by the City; or (2) mail the same or a copy thereof by registered or certified mail, postage prepaid, addressed to the other party at such address as may have theretofore been designated in writing by such party, by notice served in the manner herein provided, and until some other address shall have been so designated, the address of the City for the purpose of mailing such notices shall be as follows:

Public Works Director
CITY OF LYNDEN
300 4th Street
Lynden, Washington 98264

and the address of the Consultant shall be as follows:

Welch Ecological Services LLC
Karen F. Welch, M.E.M.
Principal Hydrologist
1155 North State St. #411
Bellingham WA 98225

SECTION 7: ATTORNEY’S FEES

The parties agree that in the event a civil action is instituted by either party to enforce any of the terms and conditions of this Agreement or to obtain damages or other redress for any breach hereof, the prevailing party shall be entitled to recover from the other party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.

SECTION 8: SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of the applicable law.

SECTION 9: NONWAIVER OF BREACH

Failure of either party to require performance of any provision of this Agreement shall not limit such party’s right to enforce such provision, nor shall a 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.

SECTION 10: COUNTERPARTS

This Agreement may be executed in counterparts and each shall be deemed an original, but all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written below.

CONSULTANT:

WELCH ECOLOGICAL SERVICES, LLC

CITY OF LYNDEN

_____ Date:

_____ Date:

STATE OF WASHINGTON)
) ss
COUNTY OF)

I certify that I know or have satisfactory evidence that Karen F. Welch signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: _____

NOTARY PUBLIC in and for the State of Washington,
Residing at _____.
My commission expires _____.

STATE OF WASHINGTON)
) ss
COUNTY OF)

I certify that I know or have satisfactory evidence that Steve Banham signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in this instrument.

DATED: _____

NOTARY PUBLIC in and for the State of Washington,
Residing at _____.
My commission expires _____.

EXHIBIT A

**Scope of Work
NPDES Phase II Stormwater Permit
Compliance Support for the City of Lynden**

Welch Ecological Services, LLC has prepared this Scope of Work to provide compliance support to the City of Lynden for meeting the terms and conditions of its Western Washington Phase II Municipal Stormwater (NPDES) Permit requirements for calendar year 2023. Welch Ecological will work in conjunction with subconsultants Peak Sustainability Group (formerly Kulshan Services, LLC), and Worthen Consulting. Also, included in this scope of work is support for tasks related to grant funding opportunities and the industrial stormwater permits for the Lynden Municipal Airport and the Wastewater Treatment Plant.

NPDES Phase II Permit Tasks:

Task 1: Provide support for continuing to develop a Municipal Stormwater Management Program

Welch Ecological Services will provide support for continued development and implementation of the City of Lynden’s municipal stormwater management program (SWMP). The SWMP shall include ongoing tasks for gathering, tracking, maintaining, and using information to evaluate the efficacy of the overall program. This scope outlines tasks associated with completing the requirements of the current permit effective August 1, 2019 through July 31, 2024. The 2023 tasks will remain focused on documenting development and implementation of program elements, annual reporting, and recordkeeping. Specifically, work will continue to support ongoing program elements and concentrate effort on the new requirements under all program elements, and in particular, completing a Stormwater Management Action Plan and implementing the Source Control for Existing Development program.

We will continue to revise cost tracking procedures. Training of staff on new LID code, IDDE, pollution source control, and O&M procedures will occur through stormwater committee meetings and crew safety meetings. Illicit Discharge Detection and Elimination Water quality hot spot trending response sampling will be undertaken. We will work with Whatcom Conservation District and the regional educational group to cover further development of social marketing strategies and effectiveness monitoring. On-call response and compliance documentation will also continue and the annual report and TMDL report will be submitted per Appendix 2 of the permit. We will support the City in meeting the monitoring and reporting requirements for the BC Avenue fecal sampling program and alert the City of due dates for notification of Status & Trends water quality monitoring option and Effectiveness & Source Identification studies options and associated pay-in due dates.

Additionally, we will continue participation in the North Sound NPDES Coordinators group where source control program development items are often on the agenda. We will work toward forming a Whatcom County regional group to address sharing lessons learned and resources will continue and particular emphasis will be on a regional approach to addressing pollutant generation from and inspection of mobile businesses. Staff training will be provided.

The following sections of this scope detail the tasks by permit element. This scope outlines two additional tasks: providing support for positioning the City for grant funding, and aiding the City on reporting requirements associated with their industrial stormwater permits (the Airport, and the Wastewater Treatment Plant).

Task 2: Provide support to the City on Stormwater Management Planning

Support will be provided to the City on continued Stormwater Management Planning including coordination with other NPDES permittees. The main focus of this years’ effort will be to document coordination with

long-range planning efforts and complete the development of a Stormwater Management Action Plan (SMAP) per the new permit requirements.

Coordinating with long-range plan updates

Welch Ecological Services will summarize water quality and watershed protection policies, strategies, codes, and other measures to protect and improve local receiving water through planning efforts. We will report to Ecology on how planning efforts (Comprehensive Plan, Growth Management, transportation plans etc.) addressed water quality improvements and watershed protection assessments over both permit terms.

Stormwater Management Action Plan (SMAP)

This plan began with a study assessing the state of receiving waters within the City’s jurisdiction, a watershed inventory of basin characteristics, and then presented a prioritized ranking of areas where receiving waters will benefit most from stormwater retrofits and management actions to reduce pollutant loading. The SMAP will summarize findings from the previous assessments and build upon program elements to develop a SMAP specific to the selected high priority sub-basin, #9 the Historic Business District. Using these background assessments, the goal is to develop a plan to address the following

- Identify specific stormwater management actions to protect water quality in the Historic Business District Sub-basin including:
 - a. *A description of the stormwater facility retrofits needed for the area, including the BMP types and preferred locations.*
- *Land management/development strategies identified for water quality management which includes a proposed implementation schedule and budget sources for:*
 - a. *Short-term actions (i.e., actions to be accomplished within six years), and*
 - b. *Long-term actions (i.e., actions to be accomplished within seven to 20 years).*
- *A process and schedule to provide future assessment and feedback to improve the planning process and implementation of procedures or projects and employ adaptive management techniques.*

The final SMAP developed for the priority basin will be submitted by March 31, 2023 along with the Annual Report submission.

Task 3: Provide support to the City on Education and Outreach and Public Involvement

Welch Ecological Services will continue to coordinate with Whatcom County and Whatcom Conservation District (WCD) on stormwater water quality issues. We will coordinate with WCD and provide oversight on their tasks developing the education and outreach arm of the Stormwater Management Program. This will include developing and launching new campaigns (such as behavior change monitoring, youth programs, and social marketing campaigns) as well as managing the overall extent of their efforts to ensure compliance with and timelines specified in the permit are met.

Task 4: Provide support to the City on Illicit Discharge Detection and Elimination

Welch Ecological Services will provide the City with Illicit Discharge Detection and Elimination (IDDE) support for program implementation and additional program development including spill response documentation, outfall monitoring, hot spot trending response, tracing sources of illicit discharges, and building on the procedures for eliminating discharges and connections. This includes on-call response, follow up and documentation of spill reports and filing ERTS to Ecology or responding to ERTS referred from Ecology. The program to detect and identify non-stormwater discharges and illicit connections will continue to ensure that the efforts cover at a minimum of => 12% of the MS4 as required by the permit and field screening methods

will be documented. We will continue to track the effectiveness of the septic to sewer program and work with the WCD on the Lynden Septic Smart Campaign.

All data collected on spills, illicit discharges, illicit connections will be recorded in Ecology’s WQWebIDDE system. Staff training will continue and consultants will employ updated methods using the current IC/ID Ecology approved manual (Herrera and Aspect, 2020).

Task 5: Provide support to the City on Controlling Runoff from New Development, Redevelopment, and Construction Sites

Welch Ecological Services will provide the City with support on runoff control code revisions to provide clearer regulatory mechanisms for legal authority to inspect stormwater facilities and include Appendix 10 of the 2019 NPDES Permit and review new development using procedures as documented in the most current version of Ecology’s Stormwater Management Manual for Western Washington (2019).

Documentation of the City procedures for site plan review and construction site inspections will continue. City runoff development standards and code revisions will be drafted to continue to encourage Low impact development (LID) techniques and barriers to its use will be identified. The Engineering Design and Development Standards will be updated as needed to reflect the current Ecology 2019 Stormwater Manual. Staff training will continue.

Task 6: Provide support to the City on Operations and Maintenance Stormwater Protocols

Welch Ecological Services will provide support for implementing policies, protocols, and outlining good housekeeping procedures for municipal activities. Municipal O&M plan, maintenance standards and protocol review will address activities on land managed or maintained by the City including streets, parking lots, roads, highways, buildings, parks, open space, road right-of-ways, maintenance yards, and stormwater facilities. The public catchbasin inspection and cleaning and regulated private stormwater facility inspection programs will continue. Recordkeeping protocols will be re-visited to streamline the tracking of individual inspection and status thereof. Staff training on pollution prevention will be conducted. In addition, as part of the Business inspection program, we will continue to work with City staff to reduce stormwater impacts from City facilities including maintenance shops and Fire, Police and WWTP sites.

Task 7: Source Control Program for Existing Development

Provide support for building, managing and implementing a Source Control Program for existing development. Welch Ecological Services will continue to develop, document, manage and implement the standard operating procedures of the newly developed pollutant source control program for existing development. This task was begun in 2022 and includes adopting an ordinance requiring the application of source control Best Management Practices (BMPs) for pollutant generating sources associated with existing land uses and tracking the evolution of the inventory. Part of the SOPs will address the evolving / shifting nature of the pared down inventory of businesses that meet the potential pollutant generator status including businesses closing, periods of inactivity, redevelopment under a new sector, information gleaned through windshield surveys etc. Ecology is well aware that the number of active pollutant-generating businesses is a moving target and gives flexibility but guidance on how to address this uncertainty. We have chosen to track changes on a site-by-site basis as information becomes available during the year and conduct an annual re-assessment of the inventory. The result of the re-assessment is to settle on the new count or number of businesses that will require inspections in 2024. A clear cutoff date will be set to allow for expectations and planning of each year’s effort.

The City entered into an interlocal agreement with the Whatcom County Health Department to partner on business inspections as part of the Source Control Program. County Health is under contract with the Department Ecology to perform a Pollutant Prevention Assistance program in Whatcom County and has agreed to conduct source control inspections for a selected set of potential pollutant generating business within the City of Lynden. These inspections will be a component of the City’s new program.

Educational and outreach materials will be compiled on a sector basis with specific source Control BMPs identified. Business Inspections will be conducted at a rate equal to 20% of current businesses listed as potential pollutant generating enterprises and 100% of complaints. The count of source control regulated businesses for 2023 is 290; 20% of which is 58 establishments that require inspections. We will coordinate with City Staff, County Health, and subconsultant inspectors to meet this target and continue code review and clarification of enforcement policy. Recordkeeping of the Business Inspection program will follow standard operating procedures. City staff will be trained on source control BMPs.

Other Tasks not related to the NPDES permit:

Task 8: Provide support for submitting application for Grant Funding

Welch Ecological Services will provide support to position the City for grant funding and consultation as needed on existing grants and grant agreement negotiations. Documentation for quarterly reports will be completed as requested to meet the capacity grant reporting requirements.

Task 9: Provide support to the City on the Industrial Stormwater permits for the Airport and Wastewater Treatment Plant

Subtask 9a: Welch Ecological Services will provide the City support on the Airport Industrial Stormwater permit water quality monitoring and annual report submittal.

Subtask 9b: Welch Ecological Services will continue follow-up with the Wastewater Plant Superintendent to and work towards reporting water quality records per the Quality Assurance Project Plan (QAPP) addressing dissolved oxygen.

SCHEDULE

Welch Ecological Services will begin work once we have authorization to proceed.

COST ESTIMATE

The cost for our proposed Scope of Services has been prepared based the following rates applicable from January 1, 2023 to December 31, 2023:

<u>Labor Category</u>	<u>Billable Rate per Hour</u>
Karen F. Welch, WES*	\$125.00
Reid Armstrong, PSG*	\$105.00
Carol Worthen, WC*	\$125.00

*WES is Welch Ecological Services, LLC; PSG is Peak Sustainability Group (formerly Kulshan Services, LLC); WC is Worthen Consulting.

Following is a breakdown of fees by task and firm.

ESTIMATED FEES

Task #	Description of Scope	WES	PSG	CW	Task Total
Task 1.	Provide support for developing a Municipal Stormwater Program.	\$35,625	\$2,100	\$ -	\$37,725
Task 2.	Provide support on continued development of a Stormwater Management Planning efforts including coordination with long-range plans and stormwater management action plan (SMAP).	\$41,250	\$1,680	\$ -	\$42,930
Task 3.	Provide support for coordinating with Whatcom Conservation District on the Education and Outreach portion of the Stormwater Program.	\$4,500	\$1,680	\$ -	\$6,180
Task 4.	Provide support to the City on Illicit Discharge Detection and Elimination.	\$12,000	\$13,230	\$ -	\$25,230
Task 5.	Provide support on Controlling Runoff from New Development, Redevelopment, and Construction Sites.	\$4,500	\$ -	\$ -	\$4,500
Task 6.	Provide support to the City on Operations and Maintenance Protocols to reduce stormwater impacts.	\$12,000	\$4,725	\$ -	\$16,725
Task 7.	Provide support on the Source Control Program development, management, and implementation. Conduct inspections of 20% of identified pollutant generating businesses; 100% of complaints.	\$13,500	\$3,780	\$22,750	\$40,030
Task 8.	Provide support to the City to position for grant funding	\$2,000		\$ -	\$2,000
Task 9.	Industrial Stormwater Permit support				
	Subtask 9a: Provide support to the City on the industrial stormwater permit for the Airport	\$2,000		\$ -	\$2,000
	Subtask 9b: Provide support to the City on the industrial stormwater permit for the wastewater treatment plant	\$3,000		\$ -	\$3,000
Expenses	Lab Analyses				\$3,000
	Lodging				\$1,410
	18 trips to Lynden				\$ 600
Total Budget					\$185,330

We will not exceed the total fee for this Scope of Work without prior authorization. If project requirements change or unforeseen conditions are encountered that will require services beyond the scope outlined above, we will bring these to your attention and seek approval for modification to the scope of services and budget as appropriate.

Please provide us with authorization to proceed by signing in the space provided below and returning a copy for our files. If any questions arise regarding this proposal, please do not hesitate to give me a call (360-303-1051) or send me an email (karenfwelch@comcast.net) so that I can help clarify your questions.
Sincerely,

WELCH ECOLOGICAL SERVICES, LLC

AUTHORIZATION TO PROCEED



Karen F. Welch, MEM
Principal Hydrologist

Client: Steve Banham
Public Works Director

Date: 9/23/2022

Date:

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Interlocal Agreement with Whatcom County Health Department for Source Control Inspections	
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:	Interlocal Agreement	
Summary Statement:	<p>The City of Lynden is required, per the requirements of the City’s National Discharge Elimination System (NPDES) Phase II stormwater permit, to develop and implement a Source Control Program by January 2023. Lynden has over 1,600 businesses within the City’s jurisdiction. 290 of these were identified as potential pollutant generating businesses per the NPDES permit. The City is required to annually inspect 20% of these businesses, which equates to conducting at least 58 site inspections in 2023.</p> <p>The City plans to complete some of inspections by partnering with Whatcom County Health to perform 20 of the required inspections to augment inspection by City and contract staff. The County receives state funding to do inspections like this, so it represents the lowest cost alternative while keeping overall control of the program under City staff. All inspection reports are provided by Whatcom County Health to the City for any potential follow-up or enforcement.</p> <p>The two-year Interlocal Agreement allow for an additional two-year extension or termination within 60 days if the services are not satisfactory.</p> <p>The Public Works Committee reviewed this agreement at their meetings in October, November, and December 2022, and recommended forwarding to City Council for approval.</p>	
Recommended Action:	That City Council approve the Interlocal Agreement for Source Control Inspections with the Whatcom County Health Department and authorize the Mayor’s signature on the Interlocal Agreement.	

INTERLOCAL AGREEMENT

CITY OF LYNDEN AND WHATCOM COUNTY HEALTH DEPARTMENT

Source Control Business Inspections in Lynden as part of the Pollution Prevention Assistance Program

This Interlocal Agreement is made and entered into by the City of Lynden herein referred to as the “City” and the Whatcom County Health Department herein referred to as “County Health”, collectively referred to as “Parties”, to establish an arrangement pursuant to RCW Chapter 39.34 wherein County Health will provide pollution prevention assistance to potential pollutant generating businesses within the jurisdictional limits of the City. County Health is under contract with the Department of Ecology through the Pollution Prevention Assistance (PPA) program to provide support promoting pollution source control to businesses located in Whatcom County jurisdiction. This Interlocal Agreement sets the stage for County Health to conduct selected business inspections within the City limits to fulfill a part of the City’s Western Washington Phase II Municipal Stormwater Permit (NPDES Phase II Permit) requirement to develop and implement a Source Control Program for Existing Development (Section S5.C8) to the mutual advantage of the Parties.

As a PPA contractor, County Health will provide technical assistance site visits and pollutant prevention education to Small Quantity Generators (SQGs) of dangerous waste (like smaller businesses, organizations, and nonprofits). Technical assistance and education efforts are designed to reduce or eliminate hazardous waste and other pollutants at the source through best management practices that prevent spills and discharges to ground, air, and water (especially to industrial wastewater and stormwater).

WHEREAS, County Health is equipped to provide business inspections for pollution prevention assistance; and

WHEREAS, County Health is under grant contract with Department of Ecology to conduct inspections of potential pollutant generating enterprises within Whatcom County, and

WHEREAS, the City is required to inspect annually a percentage of businesses with the potential to pollute stormwater runoff to Waters of the State, and

WHEREAS, it is in the best interest of each party to enter into this Agreement; and
WHEREAS, the recitals herein are a material part of this Agreement;

NOW THEREFORE, the City and County Health agree as follows:

The purpose of this Agreement is to set the terms whereby County Health will be a partner with the City in regard to the development and implementation of a stormwater source control program intended to satisfy the requirements of the City’s NPDES Phase II Permit, as provided herein. In accordance with the terms of this Agreement, County Health shall conduct business inspections and specific source control program activities related to stormwater management within the City limits as specified in Exhibit A (attached hereto and incorporated by reference). The purpose of the business inspections is to reduce or eliminate pollutants at the source through best management practices that prevent spills and discharges to stormwater.

- I. *Administration:* No new or separate legal or administrative entity is created to administer

the provisions of this Agreement.

- II. *Whatcom County Health Department Responsibilities:* County Health agrees to provide services as described in Exhibit A, Scope of Work, attached hereto.
- III. *City Responsibilities:* The City hereby agrees to work with County Health where they exceed the responsibilities as stated in section II above.
- IV. *Payment:* As a PPA contractor, County Health will use their inspections within the City limits to partially fulfill their agreement with the Department of Ecology. Therefore, the City is not required to provide payment for these inspections.
- V. *Term:* This Agreement shall be effective from January 1, 2023, through December 31, 2024; however, this Agreement may be extended by two additional years if both parties agree to the terms.
- VI. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the City of Lynden Public Works Director and the Whatcom County Health Department Director, or their respective designees.
- VII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- VIII. *Relationship of the Parties:* The Parties are separate entities organized under the laws of the State of Washington and this Agreement is not intended to create any new legal or corporate entity. No agent, employee, servant, or representative of any party shall be deemed to be an employee, agent, servant, or representative of any other party for any purpose. Each party will be solely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- X. *Non-discrimination in Employment and Client Services:* Neither Party shall discriminate against any person on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental or physical handicap. No Party shall discriminate against any employee or applicant for employment because of handicap; provided that, this provision shall not apply if the particular disability prevents proper performance of the work involved.
- XI. *Termination:* This Agreement may be terminated by either party effective upon sixty (60) days written notice, mailed postage pre-paid by certified mail, return receipt requested, to the other party's last known address for the purposes of giving notice under this section. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

XII. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

XIII. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising here from shall be in the Superior Court of the State of Washington in and for Whatcom County.

XIV. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

XV. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

XVI. *Counterparts:* This Agreement may be executed in multiple counterparts and each shall be deemed an original, but all of which together constitute a single instrument.

XVII. *Effective Date:* This Agreement shall be in full force and effect on January 1, 2023.

IN WITNESS WHEREOF, the Parties have signed this Agreement this _____ day of _____ 2022.

WHATCOM COUNTY HEALTH DEPARTMENT

CITY OF LYNDEN

By: _____
Title: _____

By: _____
Title: _____

Approved as to form:

Approved as to form:

Whatcom County Health Dept. Attorney



City Attorney

WHATCOM COUNTY HEALTH DEPARTMENT

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this ___ day of _____, 2022, before me personally appeared _____ to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

NOTARY PUBLIC, in and for the
State of Washington, residing at:

My Commission Expires: _____

CITY OF LYNDEN

STATE OF WASHINGTON)
)ss.
COUNTY OF WHATCOM)

On this ___ day of _____, 2022, before me personally appeared Scott Korthuis to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

NOTARY PUBLIC, in and for the
State of Washington, residing at:

My Commission Expires: _____

Exhibit A
Whatcom County Source Control Program
Scope of Work

The tasks outlined below describe the services to be performed by County Health for the City pursuant to this Agreement.

With the full cooperation of the City, the County shall be responsible for the completion of business inspections as part of a mutually beneficial NPDES II source control program, including the provision of Permit services.

The City recognizes and agrees that the services provided by County Health for the City herein (regarding the City's Permit terms and conditions, as required and directed by Ecology) represent and provide an anticipated significant savings in time, costs, expenses, and other resources for the City. Furthermore, the City is and would otherwise be solely and separately liable and responsible for full compliance with the terms and conditions of the City's Permit as required by Ecology. The parties recognize and agree that the County PPA program has finite and limited resources to provide the services for the City, and that the County provides no guarantees, representations, or warranties (express or implied) concerning the services provided by County Health per the terms of this Agreement.

The City recognizes and agrees that County Health's is not obligated or otherwise responsible for undertaking any specific Permit enforcement action(s) on behalf of the City as part of the services to be performed by County Health as described herein, and County Health shall not be responsible or liable for any alleged failure to identify (or timely identify) and communicate any potential Permit enforcement matters, for any Permit enforcement outcomes by the City, and/or for other costs and expenses incurred by the City arising from or related to the services to be provided by County Health unless such costs and expenses result from County Health's sole negligence.

Source Control Program for Existing Development for the City's Municipal Stormwater Permit (NPDES Phase II Permit) Compliance

Task 1.0 - Source Control Program for Existing Development

This Agreement is intended to establish a partnership with County Health regarding completion of business inspections as part of the City's NPDES Phase II source control program ("program"), as provided per the terms of this Agreement. The City generated an inventory of publicly and privately owned institutional, commercial, and industrial sites, which have the potential to generate pollutants to the Municipal Separate Storm Sewer System (MS4). As a component of the program, County Health will conduct a portion of the inspections that constitute twenty percent (20%) of the City's total inventory annually. The portion of the inspections to be conducted by County Health will be set from between 30 and 35% of the City's required inspections each year that this Agreement is in effect.

Per the Permit, permittees (including the City) are not required to inspect one hundred percent (100%) of their inventory over a 5-year period, but permittees are required to conduct inspections at a rate equal to one hundred percent (100%) of their inventory over a 5-year period of site visits equal to twenty percent (20%). The services involving source

control inspection will include prescribing Best Management Practices (BMPs), as mandated by the Permit. The BMPs and the sources they address are provided in Ecology's most current version of the Stormwater Management Manual for Western Washington (SWMMWW). The City is and will continue to be solely and separately responsible and liable for updating its own site inventories and for separately and independently responding to and adequately addressing all referrals or demands for Permit enforcement, as received from the County and/or Ecology.

Task 1.1 Outreach

County Health, with City assistance, shall contribute to the creation of educational materials and methods that will be made available to publicly and privately owned institutional, commercial, and industrial sites, which have the potential to generate pollutants to the MS4 identified in the City's inventory, and to meet the conditions of the Permit. The essential goals include improving public knowledge of local stormwater issues, receiving public input, and working to build support for the source control program from business owners and the public.

Required Tasks and Deliverables:

County Health, as a part of the Program, shall provide education and outreach materials for selected sites in the City's inventory to support the work of the source control inspection program.

Task 1.2-Site Inventory

The City is responsible for at least one (1) annual update to its inventory of all publicly and privately owned institutional, commercial, and industrial sites, which have the potential to generate pollutants to the MS4. County Health may assist in this effort when staff becomes aware of any changes in the inventory, including inactive sites or newly discovered, qualifying sites, that are not part of the inventory.

Required Tasks and Deliverables:

The City will provide annual updates of its site inventory to County Health no later than January 1 each year.

Task 1.3-Annual Inspection Rate

The Permit requires an annual inspection rate equal to twenty percent (20%) of the total inventory number annually. Each individual site visit, including multiple visits to one (1) site or a site visit in response to a credible complaint, count towards that twenty percent (20%) rate.

Required Tasks and Deliverables:

County Health will document and make available, the total number of inspections conducted in the previous year no later than March 1 each year. The City shall respond to its Annual Report questions due March 31 each year.

Task 1.4-Inspection of All Credible Complaints

County Health will reasonably consult with the City regarding any credible Permit related complaint received by the County to allow the City to determine the best course of action to take concerning such complaints, including, but not limited to potential Permit enforcement

actions by the City.

Required Tasks and Deliverables:

County Health will notify the City regarding all credible Permit related complaints received by the County located in the City's jurisdiction.

Task 1.5- Progressive Enforcement Actions

If County Health determines a site in the City's jurisdiction is in danger of being out of compliance with source control program Permit requirements, as mandated by the State (via Ecology), the County will reasonably inform the City about the site so that the City may determine and undertake potential appropriate actions, as may be required by the Permit.

Required Tasks and Deliverables:

Upon determination of potential Permit compliance, County Health will reasonably document sites potentially in need of Permit enforcement action by the City and refer such information to the City, which is and shall continue to be separately liable and responsible for the City's own enforcement of Permit violations per the source control program.

Task 1.6 - Maintenance of Records

County Health will reasonably maintain a database on each site visit conducted by County Health that will include general site information, date and time of inspection, contact information, any issues identified, appropriate BMPs prescribed, communications, and any other information deemed necessary by County staff. County Health will assure that the City will have access to such information.

Task 1.7- Ecology Referrals

The City **will be** solely and separately responsible for any referrals to Ecology regarding sites in the City's jurisdiction.

Required Tasks and Deliverables:

County Health will refer sites with compliance issues to the City for enforcement actions. Ecology referrals will be the responsibility of the City.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Re-Appointment to Design Review – Aaron Apps	
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 Nikki Turner		
Summary Statement:		
<p>Aaron Apps has agreed to serve an additional term on the City’s Design Review Board. This reappointment is being brought forward to the City Council for confirmation.</p> <p>The Mayor and staff appreciate Aaron’s willingness to serve another term with the Design Review Board and request that the City Council confirm his appointment.</p>		
Recommended Action:		
<p>Motion to confirm the reappointment of Aaron Apps to the Lynden Design Review Board for a term beginning January 2023 and expiring December 2026.</p>		

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Award Bid for NWWA Fairgrounds Stormwater Improvements	
Section of Agenda:	Consent	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
1) Certified Bid Tabulation 2) Herrera - Recommendation to Award		
Summary Statement:		
<p>Staff recently solicited bids for the Northwest Washington Fairgrounds (Fair) Stormwater Improvements. The project includes the installation of approximately 1,000 feet of new storm pipe, two large infiltration facilities, and other conveyance components on the Fair property at 1775 Front Street. All work occurs within the private parcel, within City-owned easements. This project is being primarily funded through a State Department of Ecology (Ecology) Grant.</p> <p>19 bids were received on November 17, 2022, as shown on the attached Bid Tabulation prepared by Hererra Environmental Consultants. There was some question about bids including a list of Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) subcontractors the bidder anticipates using for the project, per an Ecology bid insert. There is no requirement to use any MBE/WBE subcontractors, and the City's agreement with Ecology prohibits awarding the contract based on MBE/WBE participation. This list was not included by 16 of the 19 bidders, including the three lowest. Upon review by the City attorney, it was determined that this irregularity was "not material" and so the City has the authority to award to the lowest bidder.</p> <p>At the Public Works Committee meeting on November 9, 2022, the committee concurred that the bid results could be forwarded directly to City Council after being informed of the results. Based on the engineer recommendation and legal review staff is recommending waiving the possible irregularity and award to DeKoster Excavating, the lowest responsive and responsible bidder, in the amount of \$660,000.23, including Washington State Sales Tax.</p>		
Recommended Action:		
That City Council award the contract for the Northwest Washington Fairgrounds Stormwater Improvements to DeKoster Excavating in the amount of \$660,000.23 including Washington State Sales Tax and authorize the Mayor to sign the contract.		



December 14th, 2022

City of Lynden
300 Front Street
Lynden, WA 98264

Subject: Northwest Washington Fairgrounds Stormwater Improvements
Bid Award Recommendation

Attn: Steve Banham, PE
Public Works Director

Dear Steve:

We have reviewed all construction bid proposals for the above reverence project. DeKoster Excavating provided the lowest bid for the project at \$660,000.23. DeKoster Excavating did not submit a Minority and Women Business Enterprises (MBE/WBE) subcontractor list as required by Ecology’s Stormwater Facility Specifications Insert included in Appendix B of the specifications.

However, we understand that the City’s legal counsel has determined, as documented in a memorandum dated December 14, 2022, that ‘the City may accept the low bid because not including the list of MBE/WBE subcontractors does not result in a “substantial advantage or benefit not enjoyed by other bidders.”’ With this determination DeKoster Excavating is the lowest responsive bidder, and therefore we recommend the City award the contract to DeKoster Excavating subject to the following:

- Required project funds are available.

Sincerely,
Herrera Environmental Consultants, Inc.

Colleen E. Mitchell, PE
Associate Engineer



Certified Tabulation of Bids Received

Project Name: Northwest Washington Fairgrounds Stormwater Improvements
Project Number: 18-06852-001
Client: City of Lynden
City Project Number: 2022-09 Ecology Agreement No. WQC-2022-LyndPW-00001
QA Review
 Completed By: Emily Follansbee, EIT
 Completed On: 11/29/2022
 Approved By: Colleen Mitchell, PE
 Approved On: 12/1/2022

Item No.	Spec Sect. / Std. Item No.	Spec Division	Item Description	Qty	Unit	16 J Ritter Dirt & Asphalt		17 New X		18 Faber Construction		19 Granite Construction		Average	Std. Deviation
						Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	(Excl. EE)	(Excl. EE)
Div 1			General Requirements												
1	1-04		Minor Changes	1	FA	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ -
2	1-09		Mobilization	1	L.S.	\$ 53,000.00	\$ 53,000.00	\$ 110,000.00	\$ 110,000.00	\$ 67,183.00	\$ 67,183.00	\$ 86,000.00	\$ 86,000.00	\$ 63,364.52	\$ 27,633.78
3	1-10		Project Temporary Traffic Control	1	L.S.	\$ 5,000.00	\$ 5,000.00	\$ 15,000.00	\$ 15,000.00	\$ 13,684.00	\$ 13,684.00	\$ 1,900.00	\$ 1,900.00	\$ 4,070.68	\$ 4,276.06
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 2			Earthwork												
4	2-02		Removal of Structures and Obstructions	1	LS	\$ 5,000.00	\$ 5,000.00	\$ -	\$ -	\$ 11,563.00	\$ 11,563.00	\$ 15,000.00	\$ 15,000.00	\$ 9,858.61	\$ 4,850.19
5	2-03		Gravel Borrow Incl. Haul	430	Ton	\$ 15.50	\$ 6,665.00	\$ 70.00	\$ 30,100.00	\$ 24.00	\$ 10,320.00	\$ 40.00	\$ 17,200.00	\$ 17,359.10	\$ 20,950.65
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 4			Bases												
6	4-04		Crushed Surfacing Top Course	130	Ton	\$ 71.50	\$ 9,295.00	\$ 70.00	\$ 9,100.00	\$ 30.00	\$ 3,900.00	\$ 65.00	\$ 8,450.00	\$ 7,599.66	\$ 4,122.60
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 5			Surface Treatments and Pavements												
7	5-04		Commercial HMA	150	Ton	\$ 225.00	\$ 33,750.00	\$ 320.00	\$ 48,000.00	\$ 172.00	\$ 25,800.00	\$ 210.00	\$ 31,500.00	\$ 28,254.47	\$ 7,151.64
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 6			Structures												
8	6-02		Vault Presettling Basin	2	Each	\$ 13,259.00	\$ 26,518.00	\$ 16,500.00	\$ 33,000.00	\$ 20,282.00	\$ 40,564.00	\$ 26,000.00	\$ 52,000.00	\$ 35,206.33	\$ 10,808.71
9	6-21		Cattle Guard	1	L.S.	\$ 21,310.00	\$ 21,310.00	\$ 20,539.20	\$ 20,539.20	\$ 31,965.00	\$ 31,965.00	\$ 34,000.00	\$ 34,000.00	\$ 26,218.19	\$ 7,191.18
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 7			Drainage Structures, Storm Sewers, Sanitary Sewers, Water Mains, and Conduits												
10	7-01		Infiltration Facility #1	1	L.S.	\$ 128,350.00	\$ 128,350.00	\$ 85,426.31	\$ 85,426.31	\$ 126,534.00	\$ 126,534.00	\$ 144,000.00	\$ 144,000.00	\$ 101,627.27	\$ 26,488.42
11	7-01		Infiltration Facility #2	1	L.S.	\$ 240,198.00	\$ 240,198.00	\$ 146,144.29	\$ 146,144.29	\$ 291,383.00	\$ 291,383.00	\$ 285,000.00	\$ 285,000.00	\$ 195,852.24	\$ 52,109.31
12	7-04		Corrugated Polyethylene Storm Sewer Pipe 6 In. Diam.	100	L.F.	\$ 62.50	\$ 6,250.00	\$ 65.00	\$ 6,500.00	\$ 44.00	\$ 4,400.00	\$ 45.00	\$ 4,500.00	\$ 6,315.74	\$ 2,729.40
13	7-04		Corrugated Polyethylene Storm Sewer Pipe 8 In. Diam.	590	L.F.	\$ 56.61	\$ 33,399.90	\$ 82.00	\$ 48,380.00	\$ 47.00	\$ 27,730.00	\$ 55.00	\$ 32,450.00	\$ 33,824.39	\$ 7,761.75
14	7-04		Corrugated Polyethylene Storm Sewer Pipe 12 In. Diam.	300	L.F.	\$ 90.91	\$ 27,273.00	\$ 72.00	\$ 21,600.00	\$ 57.00	\$ 17,100.00	\$ 90.00	\$ 27,000.00	\$ 23,834.05	\$ 7,701.14
15	7-04		Corrugated Polyethylene Storm Sewer Pipe 24 In. Diam.	30	L.F.	\$ 560.00	\$ 16,800.00	\$ 130.00	\$ 3,900.00	\$ 158.00	\$ 4,740.00	\$ 220.00	\$ 6,600.00	\$ 9,174.19	\$ 13,404.03
16	7-04		Pipe Presettling Basin	1	L.S.	\$ 12,571.00	\$ 12,571.00	\$ 11,500.00	\$ 11,500.00	\$ 10,370.00	\$ 10,370.00	\$ 23,000.00	\$ 23,000.00	\$ 12,313.33	\$ 4,389.30
17	7-05		Catch Basin Type 2 48 In. Diam.	7	Each	\$ 5,100.00	\$ 35,700.00	\$ 7,250.00	\$ 50,750.00	\$ 4,622.00	\$ 32,354.00	\$ 6,500.00	\$ 45,500.00	\$ 38,064.21	\$ 6,986.19
18	7-05		Catch Basin Type 2 72 In. Diam. with Baffle	1	Each	\$ 15,836.00	\$ 15,836.00	\$ 15,000.00	\$ 15,000.00	\$ 11,168.00	\$ 11,168.00	\$ 13,000.00	\$ 13,000.00	\$ 11,247.01	\$ 2,036.59
19	7-05		Connection to Drainage Structure	6	Each	\$ 544.00	\$ 3,264.00	\$ 3,000.00	\$ 18,000.00	\$ 2,258.00	\$ 13,548.00	\$ 1,400.00	\$ 8,400.00	\$ 6,695.57	\$ 3,945.53
20	7-08		Plugging Existing Pipe	1	Each	\$ 1,050.00	\$ 1,050.00	\$ 3,500.00	\$ 3,500.00	\$ 874.00	\$ 874.00	\$ 900.00	\$ 900.00	\$ 804.70	\$ 701.62
21	7-19		Storm Drain Cleanout 6 In. Diam. With Downspout Adapter	5	Each	\$ 1,270.00	\$ 6,350.00	\$ 3,575.00	\$ 17,875.00	\$ 441.00	\$ 2,205.00	\$ 1,900.00	\$ 9,500.00	\$ 6,074.13	\$ 3,474.40
22	7-19		Storm Drain Cleanout 8 In. Diam.	6	Each	\$ 1,441.00	\$ 8,646.00	\$ 6,500.00	\$ 39,000.00	\$ 856.00	\$ 5,136.00	\$ 1,900.00	\$ 11,400.00	\$ 7,417.62	\$ 7,847.18
						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -		
Div 8			Miscellaneous Construction												
23	8-01		Erosion Control and Water Pollution Prevention	1	L.S.	\$ 18,000.00	\$ 18,000.00	\$ 2,800.00	\$ 2,800.00	\$ 17,713.00	\$ 17,713.00	\$ 15,000.00	\$ 15,000.00	\$ 9,683.26	\$ 6,924.81
24	8-02		Sod Installation	960	S.Y.	\$ 16.50	\$ 15,840.00	\$ 15.50	\$ 14,880.00	\$ 30.00	\$ 28,800.00	\$ 18.00	\$ 17,280.00	\$ 15,688.42	\$ 5,574.59
25	8-02		Topsoil Type A	213	C.Y.	\$ 72.94	\$ 15,536.22	\$ 65.00	\$ 13,845.00	\$ 90.00	\$ 19,170.00	\$ 60.00	\$ 12,780.00	\$ 14,869.19	\$ 3,368.24
26	8-04		Extruded Cement Concrete Curb	660	L.F.	\$ 15.82	\$ 10,441.20	\$ 15.00	\$ 9,900.00	\$ 18.00	\$ 11,880.00	\$ 15.00	\$ 9,900.00	\$ 11,330.12	\$ 1,218.97
Construction Subtotal						\$ 781,043.32		\$ 799,739.80		\$ 855,084.00		\$ 937,260.00			
Submitted Bid Subtotal (with error)								\$ 799,659.80							
Tax						\$ 68,731.81		\$ 70,377.10		\$ 75,247.39		\$ 82,478.88			
Construction Total (with Tax)						\$ 849,775.13		\$ 870,116.90		\$ 930,331.39		\$ 1,019,738.88			
Submitted Bid Total (with error)						\$ 849,774.78		\$ 870,029.86							

Corrected Math Error/Omission

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Ord 1655 - Comprehensive Plan Amendment (CPA) 22-02 JD Bargaen	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	Planning Commission Resolution, CPA Staff Report, CPA Application	
Summary Statement:	<p>The proposal for Comprehensive Plan Amendment 22-02 is brought forward by Lesa Starkenburg-Kroontje representing JD Bargaen Industries, LLC.</p> <p>On September 22, 2022 the Planning Commission held a public hearing to consider the application. Subsequent to the hearing, the amendment was sent to the Department of Commerce for review. That comment period has expired without remark.</p> <p>The application details the desire to shift a portion of a vacant property, adjacent to the affiliated Lynden Door manufacturing campus from a commercial to an industrial land use category. This shift would be consistent with the parcels to the north and east. A corresponding rezone application is moving through the approval process with this Comprehensive Plan Amendment. If approved the Amendment and the Rezone applications would eliminate the split zoning currently on the subject parcel and create a cohesive Industrial (ID) zoning throughout. The application details why the ID zoning is the best fit for the future expansion of the Lynden Door operations. Staff and the Planning Commission have recommended approval of this map amendment.</p> <p>Tonight, public comment will be taken regarding the shift in land use from commercial to industrial. The corresponding site-specific rezone request is also being considered on the Council's new business agenda. No additional public comment is taken specifically on the rezone as that record is closed.</p>	
Recommended Action:	Public hearing on the Comprehensive Land Use Amendment. Action to occur in new business section of the agenda.	

ORDINANCE NO. 1655

**AN ORDINANCE REZONING CERTAIN REAL PROPERTY
IN THE CITY OF LYNDEN, FROM COMMERCIAL (CSR) AND INDUSTRIAL (IBZ) TO
INDUSTRIAL (CSR) AND AMENDING THE COMPREHENSIVE PLAN THEREOF**

WHEREAS, on December 5, 2022, the Lynden City Council considered an application for a site-specific rezone and comprehensive plan amendment for the following property from the from commercial (CSR) and industrial (IBZ) to industrial (ID).

LOT 1, BEDLINGTON-BARGEN LOT LINE ADJUSTMENT, RECORDED UNDER AUDITOR’S FILE NUMBER 2018-0300567, RECORDS OF WHATCOM COUNTY WASHINGTON. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON

COMMONLY DESCRIBED AS: 2122 Front Street, Lynden.

WHEREAS, the property currently maintains split land use and zoning designations of both Commercial with a zoning of CSR, and industrial with a zoning IBZ; and

WHEREAS, the property owner desires to create uniform land use and zoning across the parcel; and

WHEREAS, the property owner intends to add the subject property to the existing campus of the Lynden Door, Inc manufacturing facility; and

WHEREAS, the requested land use designation of Industrial and the proposed zoning of Industrial District (ID), which allows for uses such as manufacturing and trucking, is consistent with surrounding property uses, and appropriate for the expansion of the Lynden Door facility; and

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

WHEREAS, the City's Technical Review Committee has reviewed the request for the Comprehensive Plan Amendment and Rezone and has provided findings, conditions and recommendations to the Planning Commission in a report dated September 12, 2022; and

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed amendment of the comprehensive plan and site-specific rezone, and that meeting was duly recorded; and

WHEREAS, the Planning Commission found that both the application for the amendment to the Land Use Map of the Comprehensive Plan application 22-02 and the Site Specific

Rezone application 22-01 satisfies the criteria listed within Section 17.09.040(C) and 17.19.050 of the Lynden Municipal Code in that:

1. The proposal is consistent with the Comprehensive Plan and the West Lynden Sub-area which has been recognized as the City's primary location for industries such as manufacturing. Access to truck routes from this site are efficient and safe.
2. Industrial infrastructure expansion into this area including streets, water supply, and sanitary waste disposal is feasible. Additionally, construction on the subject property will trigger the payment of impact fees related to parks and fire services.
3. Future development on the subject property will be held to the City's development standards as outlined in LMC Chapters 16-19.
4. The proposal, which clears the path for additional industrial growth, is not detrimental to public health in that it promotes industrial use in the area best suited for the associated impacts and will not significantly impact residential neighborhoods or environmentally sensitive areas.
5. The development of the subject property will mitigate for transportation, fire, and park impacts through roadway improvements and/or the payment of impacts fees.
6. Any impacts created by future develop can be reasonably mitigated by onsite improvements; and

WHEREAS, the Planning Commission found that both the application for Site Specific Rezone application 22-01 satisfies the criteria listed within Section 17.19.050 of the Lynden Municipal Code in that:

1. A significant change in circumstances related to the need for commercially zoned properties warrants reclassification of the subject property as proposed. In addition, since its original zoning assignment, nearby properties have successfully developed with industrial uses such as the Lynden Door facility.
2. The proposed site-specific rezone is consistent with the City Comprehensive plan as the West Lynden Sub-Area, where the subject property is located, is recognized as the primary location for industrial growth.
3. The proposal is consistent with the City's development codes a no
4. The proposed site-specific rezone is compatible with the existing land uses which are primarily other industrial uses, agriculture, or large-scale retail.
5. The proposal will promote the health, safety, and general welfare of the community in that it facilitates the continued expansion of the City's infrastructure per the engineering design standards, it provides industrial job opportunities, and it supports industrial growth in an area that avoids conflict with residential and more sensitive uses.

WHEREAS, the Planning Commission recommended approval by a vote of 6-0, to the Lynden City Council of Comprehensive Plan Amendment #22-02 and Rezone #22-01,

Lynden Door / JD Barga Industries LLC, subject to the Technical Review Committee Report dated September 12, 2022.

WHEREAS, the Washington State Department of Commerce held a 60-day review period from September 23, 2022, to November 22, 2022, to gather state input regarding the proposed amendments and received no objections; and

WHEREAS, on December 19, 2022, the Lynden City Council considered the proposed amendment to the comprehensive plan and rezone, and by motion on vote of 7-0, determined to grant the same; and

WHEREAS, the City Council found that the proposal meets the criteria for approval of an amendment to the Comprehensive Plan’s Land Use Map and a corresponding site-specific rezone.

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

Section 1. Land Use Map within the City of Lynden Comprehensive Plan is hereby amended to reflect the subject property entirely within the Industrial Land Use category.

Section 2: The zoning map of the City of Lynden and Ordinance No. 1655 adopting the zoning map are hereby amended to rezone the Property to Industrial (ID).

Section 3. This ordinance shall be in full force and effect on January 1, 2023.

PASSED by the City Council this _____ day of December, 2022 and signed by the Mayor on the _____ day of December, 2022.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED AS TO FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #22-04

A resolution of recommendation for approval of Comprehensive Plan Amendment #22-02 and Rezone #22-01, Lynden Door / JD Bargaen Industries LLC to the Lynden City Council.

WHEREAS, Lesa Starkenburg-Kroontje on behalf of JD Bargaen Industries, LLC, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for a Comprehensive Plan Amendment and Rezone requesting to change the zoning designation from Regional Commercial Services (CSR) and Industrial Business Zone (IBZ) to Industrial District (ID) at 2122 Front Street, Lynden, Washington; and

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

WHEREAS, the application was determined to be complete on August 23, 2022, and the notice of application was published in the Lynden Tribune on September 7, 2022; and

WHEREAS, the subject parcel totals approximately 22.79 acres and has property zoned Industrial (ID) to the north and east, commercial (CSR) to the south and the Urban Growth Area (UGA) to the west; and

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed Comprehensive Plan Amendment and Rezone, and that meeting was duly recorded; and

WHEREAS, the City's Technical Review Committee has reviewed the request for the Comprehensive Plan Amendment and Rezone and has provided findings, conditions, and recommendations to the Planning Commission in a report dated September 12, 2022.

WHEREAS, to grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code.

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 - 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest

5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code.

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

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

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

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the City Council Comprehensive Plan Amendment #22-02 and Rezone #22-01, Lynden Door / JD Bargaen Industries LLC, subject to the Technical Review Committee Report dated September 12, 2022.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 22nd day of September 2022.



 Tim Faber, Chairperson,
 Lynden Planning Commission



 Heidi Gudde, AICP
 Planning Director

CITY OF LYNDEN

PLANNING DEPARTMENT
360-354-5532



PLANNING COMMISSION MEETING MINUTES 7:00 PM September 22, 2022 City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Khush Brar, Bryan Korthuis, Darren Johnson, and Hollie Lyons.

Absent:

Staff Present: Gudde, Planning Director, Timmer, City Planner and Samec, City Planner

3. APPROVAL OF MINUTES

A. September 8, 2022, Scott / Kaemingk 2nd 5-0

4. DECLARATION OF CONFLICT

Korthuis asked to recuse himself from the Lynden Door CPA / Rezone. Korthuis stated that the company he works for does significant business for Lynden Door and JD Bargaen. None of the other Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARINGS

A. CPA #22-02 and RZ #22-01, JD Bargaen / Lynden Door, 2122 Front Street

Gudde addressed the Commission and stated that the application is for a Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Bargaen Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

The subject property currently has a split land use designation. The northern portion adjacent to the existing Lynden Door campus has an industrial designation and the southern portion has a commercial designation. The request to shift the entire property into an industrial land use would eliminate the split land use designation which tends to be difficult to regulate.

The commercial market has changed significantly since the land use and zoning designation was assigned to the subject property in 1994 with annexation Ordinance 943. The existing commercial designation was likely put into place along Front Street because commercial uses desire visibility from roadways to facilitate retail development. However, the demand for commercial / retail spaces has dropped significantly and the City's existing supply of commercial spaces has been adequate. Meanwhile, the call for large scale industrial properties has increased with millions of dollars of investment anticipated in this area of the City in the next five years.

Compatibility of the proposed industrial use within the West Lynden Sub-Area is high. Staff review does not anticipate a conflict with existing uses.

The City Council previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east, was successfully shifted from a commercial land use to an industrial land use with Comprehensive Plan Amendment 18- 01. The applicant's response to the criteria is located in the packet.

Lesla Starkenburg PO Box 231, Lynden

Starkenburg addressed the Commission. The proposed plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses.

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and may facilitate infrastructure development in this area for the City sooner rather than later.

The site is located adjacent to the Applicant's existing property, which is used for industrial purposes. The site is contiguous to the parcel re-designed by the City under a previous request in 2018. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site. In addition, commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth.

The proposal will create a land use pattern very similar to what exists currently except that it will be consistent to the ownership of the site and the Applicant's adjacent land use. In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate. Starkenburg asked for the Commission to please recommend approval to the City Council.

Questions or Comments from the Commissioners- none

Speaking in opposition

Letter from Glen Tromp dated September 12, 2022. Letter is in the PC meeting packet.

Scott motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 6-0.

Lyons asked why the zoning change now, do they have plans for development? Gudde replied, not at this time, however, the zoning change is a better fit for the area.

Criteria for Approval:

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

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria

No further comments from the Commission. The Commission agreed that the request is reasonable.

Scott motioned to recommend approval to the Lynden City Council of the Lynden Door Rezone #22-01 and Comprehensive Plan Amendment #22-02 subject to the Technical Review Committee Report dated September 12, 2022. Seconded by Johnson, and the motion passed 6-0, with Korhuis abstaining.

B. CPA #22-01 and RZ #22-02, City of Lynden Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, and text Amendment

Gudde addressed the Commission and stated that the application is for a Comprehensive Plan Amendment and Rezone. The City is proposing several updates to the Lynden Municipal Code that are seeking to foster the appropriate development of mixed-use areas (Residential/Commercial) within the City.

The proposed updates will change the current mixed-use allowance (60:40 GFA ratio as determined in LMC 19.23.020) to a mixed-use overlay that can be activated within commercial zones under established criteria. These updates to the City’s development code also necessitate amendments to the City's Comprehensive Plan, specifically the Comp Plan maps - the Zoning Map, the Future Land Use Map, and the City's Subarea Map. A related text amendment will update language to reflect changes to the City’s subareas.

In December 2021, City Council passed Ordinance No. 1642 which established a moratorium on residential development within the City’s CSL zone. This moratorium was a

reaction to somewhat unsuccessful results being witnessed on mixed use development projects undertaken in the City’s CSL zone. Achieved mixed use development has been focused on maximizing residential units, which it has done, but has struggled to develop effective commercial space. With the moratorium, Council asked staff to consider a new model for mixed use development that still supports residential use but, effectively, promotes more cooperative commercial uses for that residential development.

Since Ordinance 1642 was adopted, staff has worked with relevant interest groups, property owners, and policy makers to propose a new mixed-use overlay (LMC 19.23.110 Mixed Use Overlay) to the existing Chapter 19 of the Lynden Municipal Code. Discussion regarding the new overlay resulted in supplementary updates to other LMC sections, a change to Lynden’s defined subareas, zoning changes for certain commercial zoned properties, changes to the City’s Future Land Use map, and related code housekeeping updates.

A complete list of the proposal is located within the Commissioners packet.

Questions or Comments from the Commissioners

- When will the properties in the UGA come into the City? Gudde, it is usually up to the property owners and not City lead. In order to move forward with an annexation request, you need the signatures of at least 60% of the assessed property value of the proposed area.

Questions or Comments from the public.

West Lynden Future Zoning

- Garth Kooy, 331 Birch Bay Lynden Road
Regarding West Lynden Future Zoning Map, the residential area is being squeezed. Birch Bay Lynden Road should be a line in the sand for the zoning border. Keep the land south as residential, with the exception of the grandfathered in existing commercial uses. It’s a great place for residential development.

Think of the families that live in the area with small residential properties. Open space taxation needs to continue.

In support of removing the current commercial and the proposed industrial designation south of Birch Bay Lynden Road to residential, it is a better use.

- Steve Schuyleman, 371 Birch Bay Lynden Road
I favor of moving from red to white on the existing futures land use map. Low density residential. Schuyleman stated that they have the biggest farm in that area, how would coming into the city affect that? Gudde stated, as those uses come into the city you can continue to use your property as you use it today. Once you develop you will be required to comply.

• Joe King, 849 Flynn Road

Asked for explanation of the low vs. medium density residential. In favor of keeping the zoning as medium density.

The current petition that Council has authorized in my area has not yet come back. Is there a time frame? Gudde stated that she is not aware of a time frame.

Brief discussion regarding annexing the floodplain.

Scott asked King what his zoning preference was. King stated that there needs a place for people to live. He prefers the property to be zoned residential medium density.

Scott motioned to close the public hearing. Seconded by Korthuis and the motion passed, 7-0.

Commissioner discussion:

Johnson likes the idea of keeping residential south of Birch Bay Lynden Road with no industrial zoning. Existing businesses could remain, however, there could be no new development of commercial. There are several existing homes just beyond that zoning line in the county.

What about a mix of single family and multi-family?

Kaemingk, residential medium density makes more sense over industrial.

Kush, can we have both medium and low density in that area. Gudde replied, yes. Kush stated that we are pushing the limits in the northeast portion of town, this is a good area for development and a good idea.

Lyons in favor of residential instead of industrial.

Korthuis, if this is changed, it can always be brought back to the PC for a rezone if a property owner was interested.

Looking at the map and seeing a lot of industrial come into the area. Korthuis is hesitant to zone residential for the long run if we are building so much industrial. Can see a potential for residential, but if so, it should be a higher density. When weighing both ideas, Korthuis likes it better as proposed. Industrial fits the overall general area. The big picture goal is better off to set zoning as Industrial for the future.

Johnson, Kaemingk, Scott, Faber, Lyons and Brar would like to see residential in place of industrial in the West Lynden Future Map proposal. Korthuis prefers Industrial.

East and North Lynden Zoning

Discussion regarding the zoning proposed for the east and north Lynden areas.

Letter submitted dated September 21, 2022, from Mike Kooy (sent to PC): regarding Skyview SP No 2 Lot 4. City proposal is to rezone to RM-3 and his group would like RM-4.

Faber asked the commission if there is any discussion on changing the zoning to RM-4? The Commission agreed, no, keep it as RM-3, it is the best fit. Not supportive of the City's highest density category in that area.

Brief discussion regarding WSDOT access permits on E Badger Road. Could WSDOT reduce the unit count? No, however, they would require access improvements.

Staff is supportive of what has been brought forward this evening. RM-3 not RM-4.

Criteria for Approval:

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

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

No further comments from the Commission.

Kaemingk motioned to recommend approval to the Lynden City Council of CPA #22-01 and RZ #22-02, for the City of Lynden, regarding Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, Sub-Area Map and Text Amendment as proposed and further subject to the following condition:

- 1. That the 40 acres south of Birch Bay Lynden Road shown on the proposed future land use map as industrial land use be changed to residential, low-density land use.**

Seconded by Scott, and the motion passed, 6-1, with Korthuis in opposition.

C. LMC Code Amendments: Mixed Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19

Gudde addressed the Commission and stated this is the public hearing for the workshop that was held with the Planning Commission on September 8, 2022. This agenda item includes several LMC Code amendments relating to the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19. The proposed redlined updates to the LMC chapters are separately attached in the application packet.

Proposed Code Updates: The full list of proposed code updates is listed below.

LMC 17.01.030 Definitions: The addition of Storage – “Mini” and Storage – “Large Scale”. *PC support.*

LMC 18.22 Manufactured Home Park Subdivision Standards: Updates to “Siting Criteria” to allow increased density, and landscaping requirements. *Kush asked about keeping the perimeter buffer at 30-feet. 30-feet is greater than other areas in the city. The PC supported the proposed 20 feet.*

LMC 19.11 Districts Established: Housekeeping updates and the reduction of RM4 maximum density. *PC support.*

LMC 19.17 Multifamily Zones: Housekeeping updates and added requirements for open space / residential amenities for developments of 8 or more units. *Brief discussion regarding 19.17.100 and why the change to the DRB review vs approval. Faber, DRB provides review for compliance not approval. PC Support*

LMC 19.19 Manufactured Home Zone: Increased density allowances, prohibit site-built homes within MH park. *No Comments*

LMC 19.20.040 – ADU permitting and Enforcement- *PC Support.*

LMC 19.22 Design Standards: Housekeeping updates. Also included in the update is the proposed deletion of the minimum roof pitch requirement. Acceptance of this change was not unanimous; however, the PC did agree to the addition to 19.45.035 that allows a design criteria waiver that could allow a different roof pitch once reviewed by the DRB. *PC Supports.*

LMC 19.23 Commercial Zoning: Removed the existing mixed-use allowances (60:40 and North Lynden Subarea), strengthen site design requirements, and added the Mixed Use Center Overlay (19.23.110), small-scale downtown Mixed Use, and the related zoning language to support that overlay.

Gudde stated that the Finance / Council Committee would like to recommend that body piercing and tattoo studios be its own line item and not included in with personal services. That the use only be allowed in the CSR zone. PC Support.

Discussed the revised language outlined in 19.23.090 (F)(2)(B) regarding CMU Blocks. PC Support.

Discussion regarding the removal of the Dutch/Northern European design outlined within 19.23.090 for Mixed-Use Center Overlay and for retail stores great than fifty thousand square feet.

Gudde replied, the Dutch them is still required within the HBD. Over the years it has become watered down outside of the downtown core. Arguments indicate that modern / contemporary Dutch varies and changes with time. Faber stated that the Dutch Theme has not been used in the outskirts of downtown for years. Supports the requirement only in the HBD.

Brar wanted to be certain that Lynden was not losing its identity. The HBD should still require the Dutch standard.

Scott stated that the HBD looks more Dutch today than it did 20 years ago, and the outskirts were not Dutch.

Korthuis stated that the Dutch should be a requirement for the HBD, not necessarily for the rest of the town.

Faber asked the Commission if the requirement should be changed as proposed or remain. The Commission agreed that it should be changed as proposed.

19.23.110 (C) – Small scale Mixed-Use within the Central Lynden Sub-Area. Brief discussion regarding the design review standards for new multi-family construction, and clarification on existing commercial uses that would be permitted to transition into residential use according to the standards. Commission is good as proposed.

19.23.110 – Mixed Use Overlay Development Standards

- *Discussion regarding max Height- 52 / 60 feet at 4 floors? Should 5 stories be allowed with a CUP?*
- *Open space requirements? Create spaces large enough for people to use. Also look to walkability of parks etc.*
- *Required Commercial Area. CS use within Mixed Use Overlay requires ground floor to be at least 60%. Parking on ground floor does not count as commercial.*
- *Flex Space - Flex space must equal 20% of the net lot area.*

- Design Review Board – Discussion regarding DRB approval requirements including the Dutch themed architecture requirements for the HBD only, and/or to recognize, restore, pay tribute to the historic structure and architecture of the building.

The Commission was satisfied with 10% open space, 20% flex space and keeping at 4 floors max. The PC was also supportive of the amendment to the Design Review Board requirements and theme.

• LMC 19.29 Planned Residential Development: Housekeeping updates. *Commission had no concerns.*

• LMC 19.45 Design Review:

- Housekeeping updates.
- Clarification of a process that already exists regarding determining review.

The Commission reviewed David Vos’ letter regarding concerns with Staff authority specifically relating to the DRB. The Commission discussed the importance of staff, in the interest of process efficiency, having the ability to make judgement calls on “minor” proposals. Ultimately the Planning Commission concluded that they would support the proposed language as written without any revisions.

• LMC 19.51 Off-street Parking: Significant rewrite completed to clarify section of code.

- Increased requirements for large MF projects,
- Decreased standard parking size from 9 x 21 to 9 x 19.
- Discussion regarding a parking requirement of 1.5 stalls for a studio unit.

Commission had no concerns.

• 19.51.160 Parking exception will extend as follows: from Judson Street Alley to Grover Street between 2nd Street and 8th Street. *Commission Support.*

• LMC 19.63 Fence Permits: Housekeeping updates. *Commission Support.*

No comment from the public.

Scott motioned to close the public hearing. Motion passed, 7-0.

No further comments from the Commission.

Korthuis motioned to recommend approval to the Lynden City Council of the

proposed LMC Code Amendments and Updates to Titles 17, 18, and 19, including; the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates subject to the following conditions:

- **19.22.030 (C) (4) - That the Residential Design Criteria requirement for a 4:12 roof pitch remain with the option to seek a waiver with the Design Review Board.**
- **19.51.040 - That the parking requirements for studio apartments be added to reflect 1.5 parking stalls per unit.**
- **19.23.020 - That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone.**

Seconded by Johnson and the motion passed 7-0.

6. ADJOURNMENT

Motion to adjourn by Scott / Second by Kaemingk. Meeting adjourned at 10:20 pm.



September 12, 2022

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

STAFF REPORT

Re: The application of JD Bargaen Industries, LLC for a Comprehensive Plan Amendment and Rezone of two Lynden parcels.

CPA #22-02, RZ #22-01 Lynden Door Rezone and Comprehensive Plan Amendment

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: A Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Bargaen Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

Recommendation: Staff recommends approval of the CPA and Rezone.

II. PRELIMINARY INFORMATION

Applicant: JD Bargaen Industries, LLC

Property Owner: JD Bargaen Industries, LLC.

Property Location: 2122 Front Street, Lynden

Parcel Number: 400224-332215

Legal Description: LOT 1, BEDLINGTON-BARGEN LOT LINE ADJUSTMENT, RECORDED UNDER AUDITOR'S FILE NUMBER 2018-0300567, RECORDS OF WHATCOM COUNTY WASHINGTON. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON.

<u>Notice Information:</u>	Application Submitted:	June 29, 2022
	Notice of Application:	September 7, 2022
	Notice of SEPA determination:	August 31, 2022
	Notice of Hearing:	September 7, 2022
	Comment Period Ending:	September 21, 2022

JD Barga Comprehensive Plan Amendment and Rezone – TRC Report

SEPA Review: Lynden SEPA #22-10. Determination of Non-Significance (DNS) issued August 26, 2022

Authorizing Codes, Policies, and Plans:

- RCW 35A.63.073 Comprehensive Plan – Amendments and Modifications
- RCW 36.70A Growth Management
 - RCW 36.70A.130 Comprehensive Plans
- LMC Chapter 2.08.140 Plan adoption – Amendment authorized
- LMC Chapter 19 Zoning
 - LMC 19.03 Comprehensive Plan
 - LMC 19.09 Maps and District Boundaries
- LMC Chapter 17.09.030 – Legislative Decisions
 - LMC 17.19 – Site Specific Rezones

III. PROJECT DESCRIPTION

A Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Barga Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on September 7, 2022

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on August 31, 2022 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on September 14, 2022.

Public Comment Received: None to date.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

The **first step** in evaluating this application is to determine whether or not the Comprehensive Plan should be amended. The application materials included in the package provide a number of questions relating to consistency with the Growth

JD Barga Comprehensive Plan Amendment and Rezone – TRC Report

Management Act, the City’s Comprehensive Plan and the change within the community that could necessitate such a change in the City’s plan.

The subject property currently has an undesirable split land use designation. That is the northern portion adjacent to the existing Lynden Door campus has an industrial designation and the southern portion has a commercial designation. The request to shift the entire property into an industrial land use would eliminate the split land use designation which tends to be difficult to regulate. Zoning designations preferably follow parcel lines. Given the scale of industrial development in this area, subdivision to create a lot line at the existing zoning line is likely unnecessary.

The commercial market has changed significantly since the land use and zoning designation was assigned to the subject property in 1994 with annexation Ordinance 943. The existing commercial designation was likely put into place along Front Street because commercial uses desire visibility from roadways to facilitate retail development. However, the demand for commercial / retail spaces has dropped significantly and the City’s existing supply of commercial spaces has been adequate. Meanwhile, the call for large scale industrial properties has increased with millions of dollars of investment anticipated in this area of the City in the next five years.

Compatibility of the proposed industrial use within the West Lynden Sub-Area is high. Staff review does not anticipate a conflict with existing uses. Furthermore, the development of properties along this portion of Front Street will support and facilitate roadway and utility improvements – some of which have already begun with funding support from the Whatcom County Economic Development Investment Program.

The City Council has previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east of the subject property, was successfully shifted from a commercial land use to an industrial land use with Comprehensive Plan Amendment 18-01.

The **second step** in the process will be to evaluate the rezone request.

COMPREHENSIVE PLAN AMENDMENT – FIRST STEP

A. This question in the Comprehensive Plan Amendment application asks the proponent to describe how the proposal is consistent with the Growth Management Act and the City’s Comprehensive Plan.

The applicant has provided the following response: *The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses. The property included in this*

JD Bargaen Comprehensive Plan Amendment and Rezone – TRC Report

application is adjacent to both commercial and industrial uses. Through their planning process the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden's Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later.

The proposed amendment meets the following specific goals and policies:

1.1. Establish standards for infill development that ensure compatibility with the character of existing neighborhoods.

1.3. Provide buffers, including landscaping, between commercial, industrial, or higher density land uses and existing residential neighborhoods.

5B. The City of Lynden is promoting economic development by zoning land suitable for commercial and industrial development west of the Guide Meridian.

5C. The City will encourage employment opportunities for the increasing population, unemployed and disadvantaged persons, and replace those jobs lost due to the changing needs of the agricultural industry.

5D. The City of Lynden will ensure that the location and character of land uses optimize the potentials for economic benefit, as well as protecting the City's open space and natural resources.

5G. The City will work to maintain a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.

2.4.1 Commercial and Industrial Use

The City's current actual land use acreages show commercial and industrial uses occupying 335.9 and 61.6 acres, respectively. The City actively pursues opportunity to increase the commercial and industrial zoned land being utilized for economic development.

B. This question involves a change in circumstances within the community since the adoption of the comprehensive plan that would justify the proposed request.

The applicant has provided the following response: *The site has been purchased by the Applicant. The site is located adjacent to Applicant's existing property, which is used for industrial purposes. The site is contiguous to the parcel re-designed by the City under a*

JD Barga Comprehensive Plan Amendment and Rezone – TRC Report

previous request in 2018. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

In addition, commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth.

C. This question relates to assumptions that were made during the past comprehensive planning cycle.

The applicant has provided the following response: *Same as Section B above.*

D. Does the proposed amendment promote a more desirable land use pattern as stated in the goals and policies of the comprehensive plan.

The applicant has provided the following response: *Yes, the proposal will create a land use pattern very similar to what exists currently except that it will be consistent to the ownership of the site and the Applicant's adjacent land use.*

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

E. This question within the application materials asks about the impacts to current uses in the area and measures to ensure compatibility within the area.

The applicant has provided the following response: *Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the northwest is zoned Industrial Business Zone and the area directly to the west is outside of Lynden City limits.*

F. How will the public interest be served by this amendment?

The applicant has provided the following response: *The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate.*

REZONE- SECOND STEP

The rezone request of the proposed property includes two changes.

1. The northern half of the property would shift from the existing Industrial Business Zone (IBZ) to a heavier industrial classification of Industrial District (ID).
2. The southern half of the property, if shifted from Commercial Services-Regional (CSR) zoning, is proposed to be assigned an industrial zoning of Industrial District (ID).

Staff review of the application resulted in a high level of confidence that the criteria for rezone are met by this application. Changes to the commercial market and the development that has occurred within the West Lynden Sub-area constitute a significant change in circumstances since approval of the current zoning and warrants reclassification of the subject property. Industrial development here is consistent with the goals of the City’s Comprehensive Plan, can be done consistent with development standards, and supports community welfare by enabling the growth of job-producing industry as well as facilitating the expansion of the community’s utility and transportation network through road improvements.

Notably, the City Council has previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east of the subject property, was successfully shifted from a commercial land use to an industrial land use and rezoned to Industrial District (ID) with Comprehensive Plan Amendment 18-01 and Rezone Application 18-01.

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

Applicants Narrative: The property was purchased by the Applicant with its current zoning designation in place. The site is located adjacent to Applicant's existing property, which is used for industrial purposes. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the north west is zoned

JD Bargaen Comprehensive Plan Amendment and Rezone – TRC Report

Industrial Business Zone and the area directly to the west is outside of Lynden City limits.

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

Additional industrial property in this area is warranted given the build out of the industrial facility. Commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth. Commercial property continues to be readily available in the West Lynden area.

The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses. The property included in this application is adjacent to both commercial and industrial uses. Through their planning process, the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden's Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later

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

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

JD Barga Comprehensive Plan Amendment and Rezone – TRC Report

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

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning Department Comments

- 1. *Transportation:* Be advised, future development will be required to provide access to existing public rights of way in a method which does not unduly burden the existing surrounding properties. Participation in the mitigation of transportation impacts will be required at the time of development.
- 2. *Proposed Uses:* Be advised, future industrial uses are subject to the provision of LMC 19.25 which include, but are not limited to, permitted uses, setbacks, and height limits.
- 3. *Industrial Performance Standards:* Be advised, industrial uses are subject to performance standards as outlined in LMC 19.25.040 and 19.25.050.

Public Works Department Comments

- 4. *Public Improvements:* Be advised, that at the time of future development, all public improvements must be constructed as required in the Lynden Municipal Code.
- 5. *Development Standards:* Be advised, that at the time of future development, all plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
- 6. *Stormwater Management:* Be advised, at the time of future development, a stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.

Fire and Life Safety Comments

JD Bergen Comprehensive Plan Amendment and Rezone – TRC Report

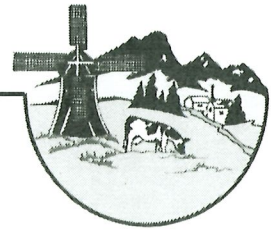
- 7. *Fire Standards:* Be advised, future development will require full compliance with the Fire Code.

Parks and Recreation Comments – The Parks Department has no comments on this application.

VII. RECOMMENDATION

Based on the above findings, staff recommends approval of the Comprehensive Plan Amendment and Rezone without associated conditions of approval.

CITY OF LYNDEN



COMPREHENSIVE PLAN AMENDMENT APPLICATION

<i>City of Lynden use only:</i>	
CPA # <u>11-02</u>	Staff Initials: _____

I. Applicant Information

Name: JD Barga Industries, L.L.C.

Address: c/o Lesa Starkenburg-Kroontje, P.O. Box 231, Lynden, WA 98264

Telephone Number: (360) 354-7822 E-mail Address: starkenburgkroontje@msn.com

II. Check the appropriate boxes

- Comprehensive Plan Map Amendment
- Comprehensive Text Amendment

III. Summarize the changes you are proposing

This proposal will create an industrial designation for the subject property.

IV. For Map Amendments

A. Tax Parcel Number(s): 400224 332215 0000

Site Address: 0 Front Street, Lynden, WA 98264

Total Acreage: 22.79 acres

Property Owner(s): JD Barga Industries, L.L.C.

Mailing Address: P.O. Box 528

City, State & Zip Code: Lynden, WA 98264

Telephone Number: (360) 354-5676

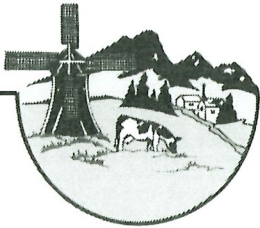
Please attach additional sheets if more than one parcel is involved.

B. Existing Comprehensive Plan Designation:
Commercial & Industrial

C. Existing Zoning Designation:
Regional Commercial Services & Industrial Business Zone

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



- D. Proposed Comprehensive Plan Designation:
Industrial

- E. Proposed Zoning Designation:
Industrial District

- F. The present use of the property is:
The property is vacant.

- G. The intended future use of the property is:
The site will be used as part of a manufacturing facility.

- H. Surrounding land uses are:
The surrounding property is used for agriculture, vacant land and a manufacturing facility. There are a couple nearby residential units.

V. For Text Amendments

Identify the section(s) of the Comprehensive Plan that you are proposing to amend, and provide the proposed wording (attach additional sheets as needed):

Not Applicable.

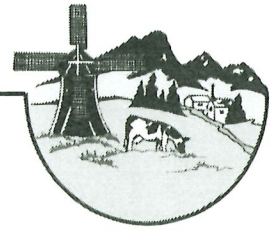
VI. For All Amendments

A. Describe how the proposed amendment to the plan is supported by or consistent with the existing goals and policies of the comprehensive plan and the State Growth Management Act?

See Attached.

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



- B. Have circumstances changed sufficiently since the adoption of the comprehensive plan to justify the proposed change? If so, the circumstances that have changed should be described in sufficient detail so that a finding of changed circumstances can be made and a decision as to appropriateness of the proposed plan amendment can be reached.

See Attached.

- C. Have the underlying assumptions found in the comprehensive plan upon which the land use designation, density or other provisions are based changed, or is new information available which was not considered at the time the plan was adopted? If so, the changed assumptions or new information should be described in sufficient detail to enable the Planning Commission and City Council to find that the land use designation or other sections of the plan should be changed. Examples of the underlying assumptions include expected population growth, utility or roadway capacities, available land supply, or demand for land with the existing or proposed land use designation.

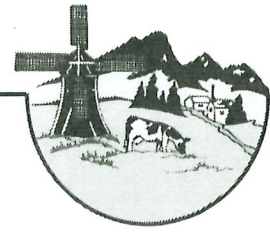
See Attached.

- D. Does the proposed amendment promote a more desirable land use pattern for the community as stated in the goals and policies in the comprehensive plan? Are there environmental constraints (such as wetlands, steep slopes, significant stands of trees, etc.) present on the site to such a degree that development of the site is economically or physically unfeasible under the existing land use designation? If so, a description of the qualities of the proposed plan amendment that would make the land use pattern more desirable and/or would result in less environmental impact should be provided in sufficient detail to enable the Planning Commission and City Council to find that the proposed amendment is in the community's long term best interest.

See Attached.

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



E. What impacts would the proposed amendment to the plan have on the current use of other properties in the vicinity? What measures should be taken to ensure compatibility with the uses of other property in the area?

See Attached.

F. How will the public interest be served by this amendment?

See Attached.

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

Applicant's Signature: _____ **Date:** 6/28/22

Property Owner's Signature: _____ **Date:** _____

Attachment
to
Comprehensive Plan Amendment Application

VI. For All Amendments:

A. Describe how the proposed amendment to the plan is supported by or consistent with the existing goals and policies of the comprehensive plan and the State Growth Management Act?

The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses. The property included in this application is adjacent to both commercial and industrial uses. Through their planning process the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden’s Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later.

The proposed amendment meets the following specific goals and policies:

1.1. Establish standards for infill development that ensure compatibility with the character of existing neighborhoods.

1.3. Provide buffers, including landscaping, between commercial, industrial, or higher density land uses and existing residential neighborhoods.

5B. The City of Lynden is promoting economic development by zoning land suitable for commercial and industrial development west of the Guide Meridian.

5C. The City will encourage employment opportunities for the increasing population, unemployed and disadvantaged persons, and replace those jobs lost due to the changing needs of the agricultural industry.

5D. The City of Lynden will ensure that the location and character of land uses optimize the potentials for economic benefit, as well as protecting the City’s open space and natural resources.

5G. The City will work to maintain a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.

2.4.1 Commercial and Industrial Use

The City's current actual land use acreages show commercial and industrial uses occupying 335.9 and 61.6 acres, respectively. The City actively pursues opportunity to increase the commercial and industrial zoned land being utilized for economic development.

B. Have circumstances changed sufficiently since the adoption of the comprehensive plan to justify the proposed change? If so, the circumstances that have changed should be described in sufficient detail so that a finding of changed circumstances can be made and a decision as to appropriateness of the proposed plan amendment can be reached.

The site has been purchased by the Applicant. The site is located adjacent to Applicant's existing property, which is used for industrial purposes. The site is contiguous to the parcel re-designed by the City under a previous request in 2018. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

In addition, commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth.

C. Have the underlying assumptions found in the comprehensive plan upon which the land use designation, density or other provisions are based changed, or is new information available which was not considered at the time the plan was adopted? If so, the changed assumptions or new information should be described in sufficient detail to enable the Planning Commission and City Council to find that the land use designation or other sections of the plan should be changed. Examples of the underlying assumptions include expected population growth, utility or roadway capacities, available land supply, or demand for land with the existing or proposed land use designation.

See answer to Section B above.

D. Does the proposed amendment promote a more desirable land use pattern for the community as stated in the goals and policies in the comprehensive plan? Are there environmental constraints (such as wetlands, steep slopes, significant stands of trees, etc.) present on the site to such a degree that development of the site is economically or physically unfeasible under the existing land use designation? If so, a description of the qualities of the proposed plan amendment that would make the land use pattern more desirable and/or would result in less environmental impact should be provided in sufficient detail to enable the Planning Commission and City Council to find that the proposed amendment is in the community's long term best interest.

Yes, the proposal will create a land use pattern very similar to what exists currently except that it will be consistent to the ownership of the site and the Applicant's adjacent land use.

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

E. What impacts would the proposed amendment to the plan have on the current use of other properties in the vicinity? What measures should be taken to ensure compatibility with the uses of other property in the area?

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the northwest is zoned Industrial Business Zone and the area directly to the west is outside of Lynden City limits.

F. How will the public interest be served by this amendment?

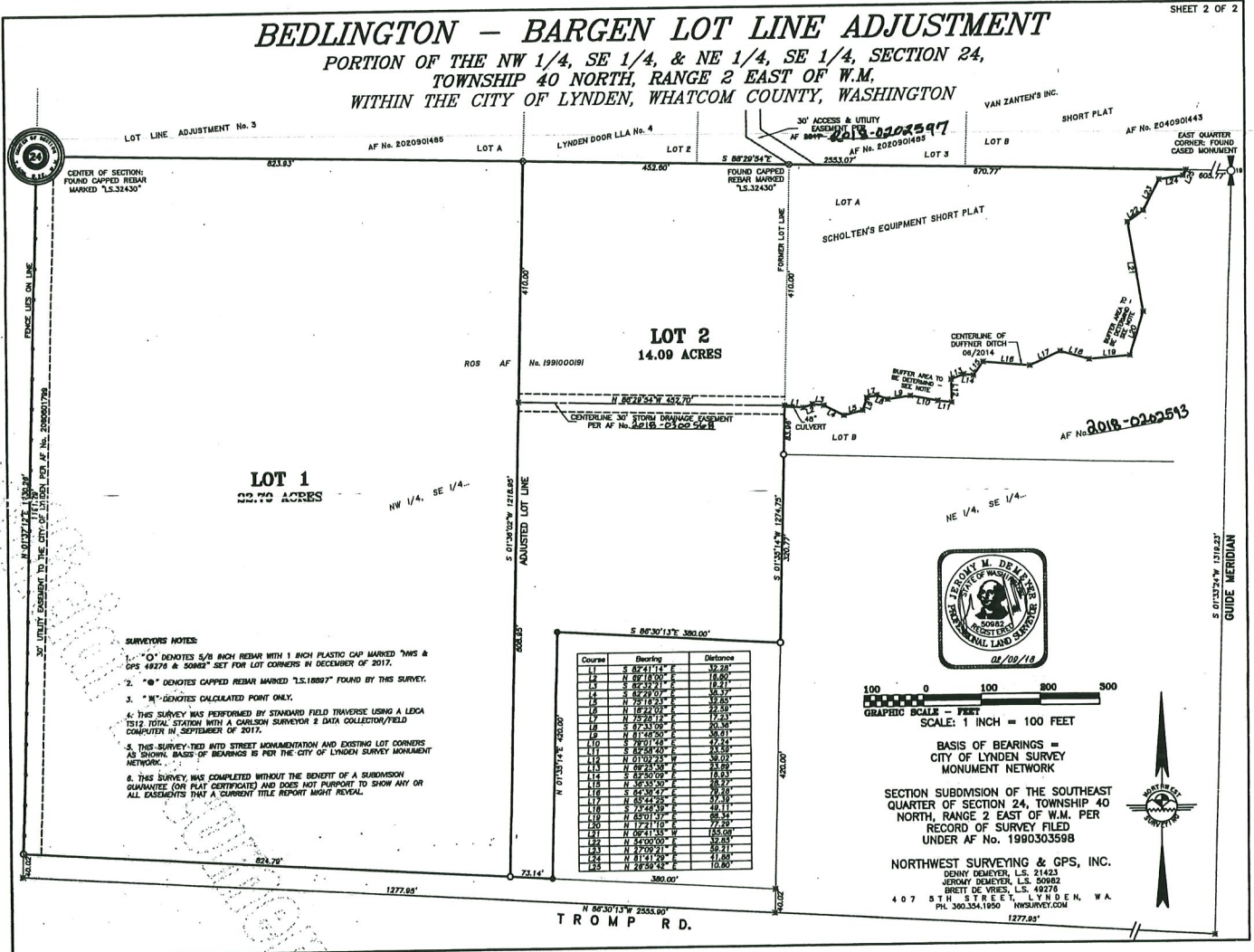
The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate.

2018-0300567

BEDLINGTON - BARGEN LOT LINE ADJUSTMENT

PORTION OF THE NW 1/4, SE 1/4, & NE 1/4, SE 1/4, SECTION 24,
TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M.
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

SHEET 2 OF 2





TOWNSHIP
40

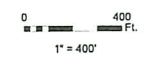
RANGE
02

SECTION
24

MAP NO.
01

KEY MAP:

14	13	18
23	24	19
26	25	30



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

Whatcom County Assessor's Office

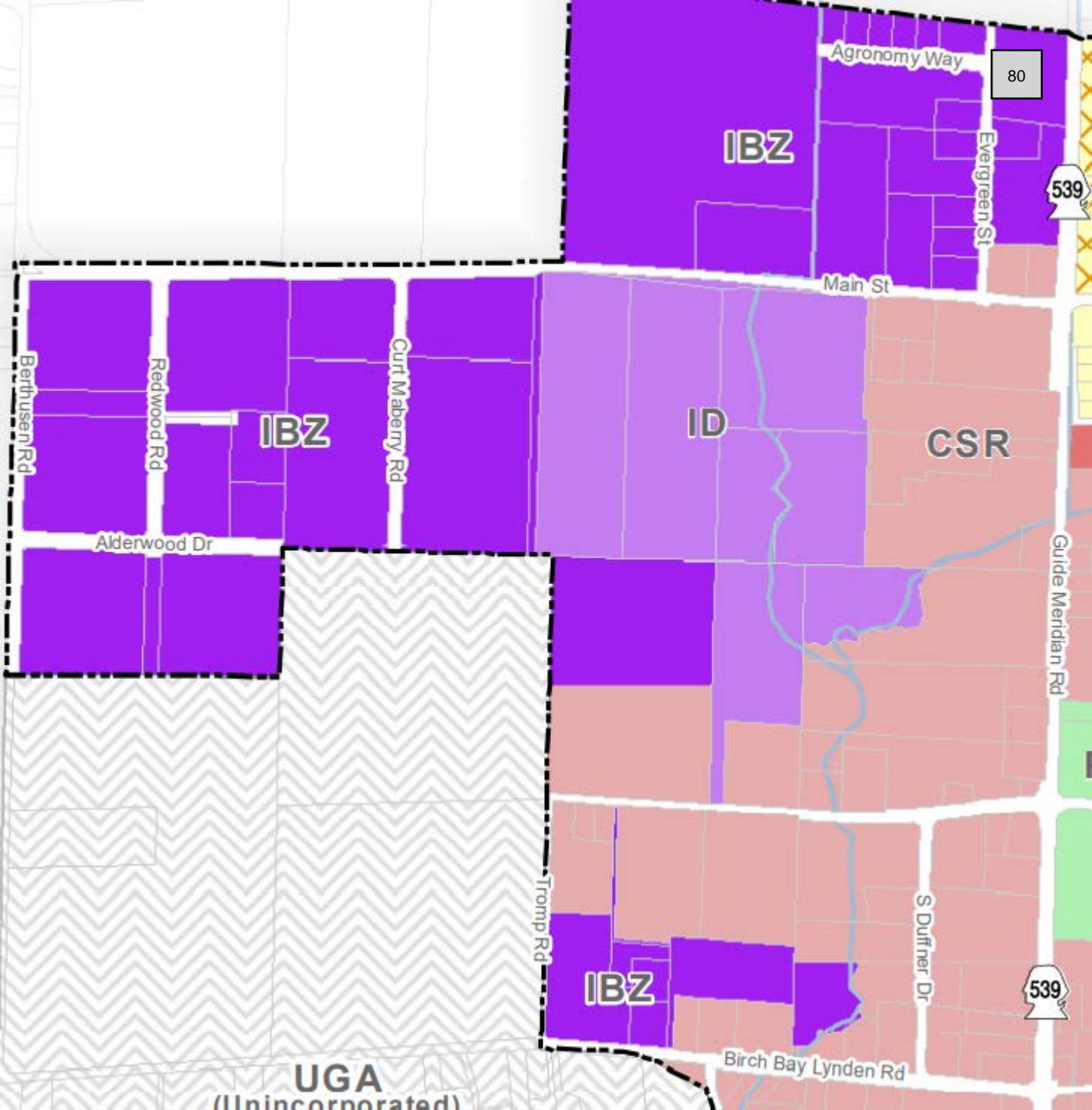
Apr. 01, 2022

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

Geographic Tax Parcel Numbers (GID) are a 10-digit number derived from a combination of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four trailing zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as, a condo unit or a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor

For information on reading maps visit our website whatcomcounty.us/17748assessor



80

IBZ

Evergreen St

539

Main St

IBZ

ID

CSR

Berthusen Rd

Redwood Rd

Curt Maberry Rd

Alderwood Dr

Guide Meridian Rd

Tromp Rd

IBZ

S Duffner Dr

539

Birch Bay Lynden Rd

UGA
(Unincorporated)

DATE: September 12, 2022

TO: CITY OF LYNDEN – Planning Department
Attn: Heidi Gudde, Planning Director
300 4th St.
Lynden, WA 98264

FROM: GLEN TROMP
7682 Terrace St.
Ferndale, WA 98248-9715

RE: **Comment on DNS
Comment on Comprehensive Plan Amendment/Rezone
2122 Front Street, Lynden, from CSR & IBZ to ID zoning designation**

COMMENT(S): I own the property identified as Whatcom County APN 4002242041940000, PID 125570, and commonly known as 300 Tromp Road, Lynden. My 40 acre agricultural parcel lies to the immediate West of the parcel for which a rezone has been requested (the Bargaen Property).

A presently undefined line through the subject property determines whether surface and ground waters on the Bargaen Property drain to the East (ultimately to Duffner Ditch>Fishtrap Creek>Nooksack River) or to the West (ultimately to Bertrand Creek>Nooksack River). The City has already mishandled drainage issues during the permit process for the development of the Preferred Freezer Property to the North and West. In that permit process the City summarily ignored my and other comments and chose to succumb to facially “expert” opinion that the proposed Preferred Freezer drainage provisions would accommodate that huge project (and its immediate expansion).

The “experts” were wrong.

I was (and remain) right.

As a result, my property now suffers the incursion of seasonal excess surface drainage and water table upsurge directly and indirectly encroaching from the Preferred Freezer property. These additional waters substantially interfere with the agricultural utility of my farm, and also impact its appeal as future development property, not only on account of the seasonal inundation, but also by reason that the sequential approval of projects without a comprehensive drainage solution leaves to its victims the cost of future design and implementation of retro facilities with no apparent expectation of financial contribution from the very properties that sent the drainage deficit into crisis mode.

Comment(s) of Glen Tromp re 2122 Front Street Rezone

I write today to remind the City that, while the actual rezone under consideration does not of itself exacerbate area drainage issues, it sets the stage for physical development on property clearly positioned to do so, and the Comprehensive Plan aspect of the instant application is and remains woefully inadequate if it does not.

Present drainage facilities westward from the Borgen Property are insufficient to handle surface and ground waters from currently improved properties. Since at many times the water table can at or near the ground surface level, any artificially exacerbated upsurge in ground water negatively affects my property in much the same manner as does its inundation by neighboring surface waters, the City must not permit additional westward drainage from the Borgen Property without simultaneously and comprehensively ensuring the capacity of the destination drainage facilities to handle such waters.

Please take this opportunity to make the Comprehensive Plan a bit more comprehensive.

Glen I. Tromp

Heidi Gudde

From: Keith Bode <Keith@Bode.net>
Sent: Monday, September 12, 2022 4:59 PM
To: Heidi Gudde; Esq_Starkenburg-Kroontje, Lesa
Subject: Comment on 2122 Front Street Zoning Designation Change(s)
Attachments: Tromp-MEMO to City.pdf

Heidi:

Attached are comments of Glen Tromp regarding the pending JD Borgen Industries, LLC, application to change the zoning designation for 2122 Front Street. Would you be so kind as to return the functional equivalent of a "Copy Received" stamp?

Lesla:

Attached FYI are comments of Glen Tromp regarding the pending JD Borgen Industries, LLC, application to change the zoning designation for 2122 Front Street. All efforts of your client to [ultimately] direct drainage from future reconfiguration/improvement of the property Eastward to Duffner Ditch would be sincerely appreciated.

Please call with any questions.

KAB

Keith A. Bode
Attorney at Law
P.O. Box 688
Lynden, WA 98264-0688
TEL 360-354-5021
ELM Keith@Bode.net

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Ord 1656 – City-led CPA 22-01 and Rezone	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Draft Ord 1656, PC Resolution, CPA and Rezone Staff Report, CPA and Rezone App and Materials		
Summary Statement:		
<p>The proposal for CPA 22-02 represents an initiative brought forward by the Planning Department primarily in response to the moratorium on mixed-use development. It captures a number of updates to the Comp Plan which can be briefly summarized as follows:</p> <p>Zoning Map Updates: 1. Recognizing a new overlay category of “Mixed-Use”. 2. Revising 6 parcels in the East Lynden Sub-area from a Commercial designation to a Residential designation. 3. Shifting the zoning of 3 North Lynden Sub-area parcels from Commercial to Residential designations. 4. Shifting 7 parcels in the West Lynden Sub-area from commercial designation to an industrial designation.</p> <p>Future Land Use Map Updates: Revision to Future Land Use designations within the Urban Growth Area (UGA) south of the Birch Bay Lynden Rd. This would affect the zoning options for these parcels <i>when, and if, they come into the City via annexation</i>. It would <u>not</u> have an immediate effect (rezone) the properties at this time.</p> <p>Sub-Area Map and Text Amendment: In support of the new Mixed-Use provisions, this is a proposal to alter the boundaries of some sub-areas located on the western end of the City and to create a new sub-area called the “West Lynden Gateway Sub-Area”.</p> <p>On September 22, 2022, the Planning Commission held a public hearing to consider these amendments. The Commission recommended approval of the amendment but asked that the Council consider revising the proposal to the Future Land Use map so that all of the privately owned UGA property south of the Birch Bay Lynden Rd be brought into the City with a low-density residential designation and that no industrial zoning be assigned in this area. Based on property owner feedback and existing industry in this area, staff continues to recommend the proposal as presented with approximately 40 acres (8 parcels) of industrial land use near the intersection of Berthusen and Birch Bay Lynden Rds. The Council will be asked to make a final determination on this point.</p>		
Recommended Action:		
Motion to approve Ord 1656 amending the City’s sub-areas, the zoning map, and the Comprehensive Plan text to accommodate a mixed-use planning initiative; and additionally amending the Future Land Use Map with designations of privately owned UGA properties, south of the Birch Bay Lynden Road, shifting to low density residential (with / or without) the most western 40 acres assuming an industrial land use designation.		

ORDINANCE NO. 1656

AN ORDINANCE AMENDING SECTION 2.3 AND 2.5 OF THE CITY OF LYNDEN COMPREHENSIVE PLAN AND CORRESPONDING UPDATES TO THE ZONING MAP, SUB-AREA MAP, AND FUTURE LAND USE MAP

WHEREAS, on December 20, 2021, in recognition of the need to address the City’s mixed-use code provisions to better serve the good of the community and the original intent of the code, the City Council passed Ordinance 1642 which established a moratorium on residential development within the City’s Commercial Services - Local (CSL) zone and temporarily halted the development of mixed-use projects; and

WHEREAS, the City of Lynden’s Planning Department has since advanced an initiative to update the City’s ordinance associated with mixed-use provisions with the intent of locating mixed-use developments, which often feature high density housing options, in areas near public transportation and commercial development to encourage more viable opportunities for new and existing commercial uses within the mixed-use developments; and

WHEREAS, the Comprehensive Plan Amendment identifies a Mixed Use Overlay zone and identifies existing commercial centers as Qualifying Commercial Centers, and in recognition of changing market conditions, the initiative also modifies the zoning designation of multiple commercial properties within the City of Lynden, revises the boundaries shown in the City’s Subarea Map, updates text, and revises the Future Land Use Map of Urban Growth Area properties south of the Birch Bay Lynden Road; and

WHEREAS, staff has worked with relevant interest groups, property owners, and policy makers to construct the development standards associated with the new mixed-use overlay (LMC 19.23.110 Mixed Use Overlay) to the existing Chapter 19 of the Lynden Municipal Code which are represented in Ordinance 1657; and

WHEREAS, the mixed-use initiative increases the housing densities near commercial centers, the changes proposed to the Future Land Use Map correspondingly decreases medium-density residential properties south of Birch Bay Lynden Road to low-density residential and revises approximately 40 acres of commercial designation to an industrial land use designation in response to changes in market demand; and

WHEREAS, to provide incentive to define and delineate the appropriate future development in these areas, consistent with the mixed-use initiative, the Subarea Map revisions realign the boundaries of the West Lynden Subarea and creates a new West Lynden Gateway Subarea, and a new West Lynden Commerce Subarea; and

WHEREAS, a related Text Amendment to Section 2.5.5 of the Comprehensive Plan describes the Subarea Map changes; and

WHEREAS, the Zoning Map revisions reflect the changes associated with the Rezone Application to change the zoning designation of certain commercial properties to residential and industrial zoning designations. The proposed zoning changes seek to change unviable commercial properties, which due to scale and/or distance from an established commercial center will not be eligible for the Mixed-Use Overlay; and

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed amendment of the comprehensive plan and site-specific rezone, and that meeting was duly recorded; and

WHEREAS, the Planning Commission found that the application satisfies the criteria listed within Section 17.09.040 (C) and Section 17.09.050 of the Lynden Municipal Code.

WHEREAS, the Planning Commission recommended approval by a vote of 6-1, to the Lynden City Council of Comprehensive Plan Amendment 22-01 and Rezone 22-02, for the City of Lynden, regarding Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, Subarea Map and Text Amendment as proposed and further recommended that the 40 acres south of Birch Bay Lynden Road shown on the proposed future land use map as industrial land use be changed to residential, low-density land use; and

WHEREAS, the Washington State Department of Commerce held a 60-day review period from September 23, 2022, to November 22, 2022, to gather state input regarding the proposed amendments and received no objections; and

WHEREAS, on December 19, 2022, the Lynden City Council considered an application brought forward by the Planning Department for a text amendment to Sections 2.3 and 2.5 of the City of Lynden Comprehensive Plan and corresponding updates to the zoning map, sub-area map, and future land use map;

WHEREAS, the Lynden City Council considered the proposed amendment to the comprehensive plan and rezone, and by motion on vote of 7-0, determined to grant the same, as presented, with the west 40 acres of private UGA property south of the Birch Bay Lynden Road receiving a Future Land Use designation of "Industrial"; and

WHEREAS, the City Council determined that the proposal was in the public interest and promoted the health, safety, and general welfare.

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

Section 1: Amendment to the City of Lynden Comprehensive Plan, Section 2.3 – “UGA existing conditions: The Built Environment” to recognize the newly created Mixed-Use Overlay and identify Qualifying Commercial Centers as described in Exhibit A.

Section 2: Repeal and replace Section 2.5.5 – “City of Lynden Sub-Areas” of the City of Lynden Comprehensive Plan to update text on sub-area descriptions, accommodate a new sub-area called the “West Gateway Subarea” and revise the boundaries of the existing sub-areas as described in Exhibit B1 and B2.

Section 3: Amend the zoning map of the City of Lynden consistent with the mixed-use overlay initiative as depicted in Exhibit C.

Section 4: To revise Figure 2.5.4 - “Future Land Use in Lynden’s UGA” of the Comprehensive Plan to revise the assigned future land use categories of privately owned properties south of the Birch Bay Lynden Road from Medium-Density Residential and Commercial to Low-Density Residential and Industrial as depicted in Exhibit D.

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

Section 6. This ordinance shall be in full force and effect on January 1, 2023.

PASSED by the City Council this _____ day of December, 2022 and signed by the Mayor on the _____ day of December, 2022.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED AS TO FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

**Ord 1656
Exhibit A**

CHAPTER 2 – The Land Use Element

2.3 UGA Existing Conditions: THE BUILT ENVIRONMENT

2.3.1 Zoning and Land Use

Since the 2004 Comprehensive Plan Update, the City has adjusted its zoning code to remain relevant with modern zoning codes and plans. It dropped the RM-5 zone. It updated the Industrial Zone changing the I-1 and I-2 to an ID (Industrial District) and IBZ (Industrial Business Zone). Finally, it updated the Commercial Zone, dropping the CS-1, CS-2, CS-3 and adding the CSL (Local Commercial Services) and CSR (Regional Commercial Services). The land use plan and zoning ordinance are used to guide orderly development of land based on projected growth and population estimates for the City.

The City of Lynden has existing policies surrounding the use of public lands for utility and transportation corridors, sewage treatment and stormwater management facilities, as well as for schools, recreation, and other public uses. These policies can be found in various elements of the City's Comprehensive Plan, as well as in separate management/land use plans and regulations, and in local ordinances for the community.

This Comprehensive Plan establishes a range of Future Land Use (FLU) designations that reserve land within the UGA for a variety of land uses, including agriculture, residential, commercial, industrial, and public. Under each FLU designation, one or more zoning designations may be established by the Lynden Municipal Code (LMC), which contains development regulations specifying allowed uses, density, setbacks, building heights, and other building and site design requirements. Table 2.3 below summarizes the FLU designations and corresponding zoning, as well as a summary of the total existing zoned acreage for each category within the City Limits (excluding the unincorporated UGA). Note that FLU designations apply to all areas within the UGA.

Table 2.3 Future Land Use and Zoning Designations

Future Land Use (FLU)	Description	Zoning	Description	Existing Acreage in City Limits
AG (Agriculture)	Reserved for agricultural land uses within the City and Urban Growth Area until other land uses are planned with the necessary extension of streets and public utilities.	A-1	Zoned for agricultural land uses within the City and Urban Growth Area until other land uses are planned with the necessary extension of streets and public utilities.	-
RL (Low Density Residential)	Maintains stable, low-density, largely single-family neighborhoods, while providing a range of housing types and prices.	RS-100	Requires a minimum lot area of 10,000 sq. ft. and allows for 4 D.U./acre.	1,935.0
		RS-84	Requires a minimum lot area of 8,400 sq. ft. and allows for 4.5 D.U./acre.	
		RS-72	Requires a minimum lot size of 7,200 sq. ft. and allows for 5 D.U./acre.	
		RMD	A zoning designation that allows up to a maximum of 8 units/acre and encourages the integration of single family and multi-family homes within neighborhoods.	
RM (Medium Density Residential)	Provides higher density housing options and a range of housing types to accommodate future growth.	RM-1	Up to 2 units/building, with a development density of 8 D.U./acre.	441.5
		RM-2	Up to 4 units/building, with a development density of 12 D.U./acre.	

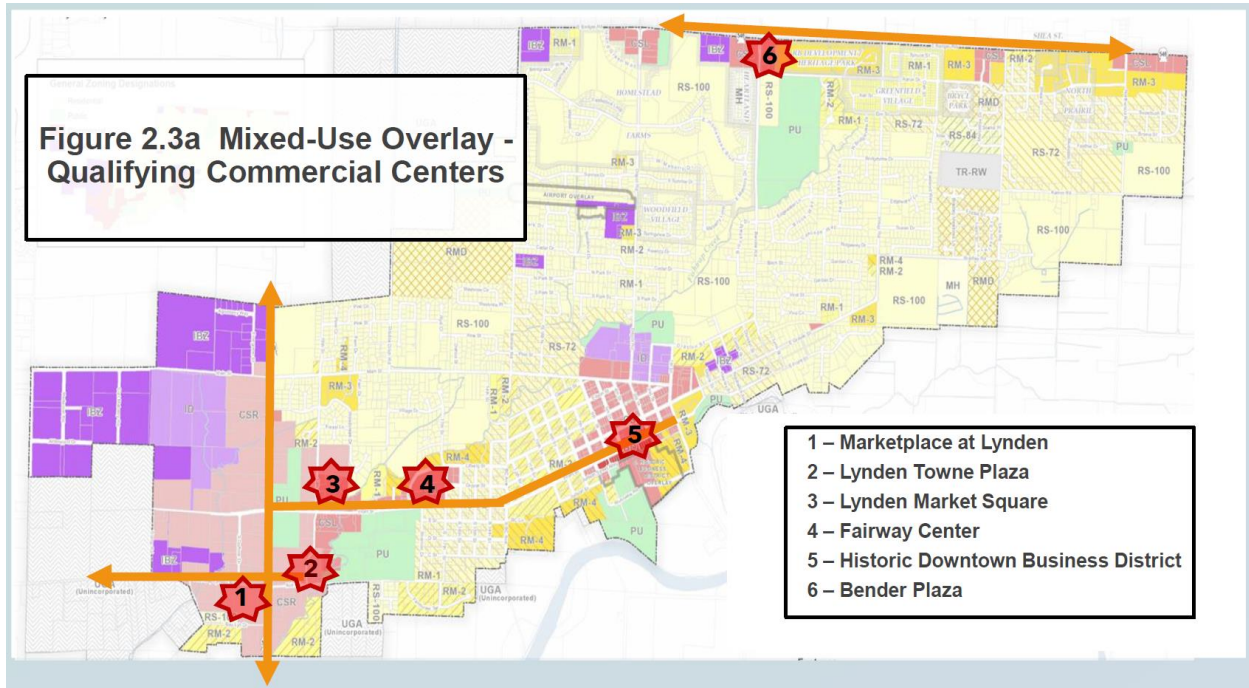
Future Land Use (FLU)	Description	Zoning	Description	Existing Acreage in City Limits
		RM-3	Up to 12 units/building, with a development density of 16 D.U./acre.	
		RM-4	Up to 50 units/building, with a development density of 24 D.U./acre.	
		MH	The primary use is modular and mobile homes, but also includes mobile home parks that meet or exceed the minimum requirements of RS-72 zone.	
		TR	Provides and regulates buildings and/or structures where travel trailers and recreational vehicles are permitted. This zone may also be used for travel trailer and recreational vehicle camping, tent camping and camping cabins.	
<u>MU (Mixed Use Overlay)</u>	<u>Provides a compatible mix of multifamily housing, neighborhood commercial business, and semi-public opens spaces on eligible commercial zoned properties.</u>	<u>In COM zones that meet the MU criteria</u>	<u>The Mixed-Use Overlay can be activated on Commercial zoned properties that are at least 1 acre and within ¼ mile of a qualifying Commercial Center.</u> <u>*See Figure 2.3a for the location of qualifying Commercial Centers.</u>	

Future Land Use (FLU)	Description	Zoning	Description	Existing Acreage in City Limits
COM (Commercial)	Provides for commercial activity and employment growth including office and retail uses.	HBD	This is the zone of the City’s original economic activity. It is an active mix of professional offices and residences, personal services and small retail.	482.4
		CSL	Local scale retail development (stores less than 65,000 square feet), medical, professional and financial services.	
		CSR	Primary location for businesses that support both the local and regional trade through the development of large format retail and regional commercial stores.	
IND (Industrial)	Provides employment growth for industrial and some commercial uses.	ID	This industrial zone permits a variety of industrial uses, controlled primarily by performance standards.	331.8
		IBZ	A light industrial zone that permits a mixture of industrial and commercial uses.	
PUB (Public)	Provides public land needed to supply public facilities, services, and public open space.	PU	Regulates public and quasi-public areas such as parks, open space areas, public buildings, and the Northwest Washington Fairgrounds.	183.7

Figure 2.3 Current Lynden Zoning Map

See Figure 2.3 Lynden Zoning Map that is included at the end of this chapter.

Figure 2.3a Mixed Use Overlay – Qualifying Commercial Centers



This figure shows the location of the 6 qualifying commercial centers in Lynden. These centers meet the criteria listed in LMC 19.23.110(B). The Mixed Use Overlay is eligible to be activated within ¼ mile of these centers subject to the Mixed Use Overlay standards in LMC 19.23.110.

Ord 1656

Exhibit B1

2.5.5 City of Lynden Sub-Areas

The City of Lynden currently has eight different sub-areas as shown in Figure 2.5.5 below. Each possesses a unique character and serves a unique function in the City’s vision. As such, each sub-area may benefit from specific goals and requirements associated with growth and development. Implementing these goals and requirements may warrant unique sub-area ordinances.

Figure 2.5.5. Sub-Areas of the City of Lynden – Updated per Ord 1656 – Exhibit B

East Lynden Sub-Area

The East Lynden Sub-Area, approximately 473 acres in size, encompasses the City’s eastern urban growth area. It is bounded on the north by the East Badger Road and extends from a line a quarter mile east of Vinup Road to a quarter mile east of Northwood Road. The southern boundary follows a combination of property lines, section lines and the floodplain to include the most developable land within the area.

In 1999, an annexation petition was filed to incorporate approximately half of this sub-area into the City of Lynden. The petition was postponed for over a year after receiving Planning Commission recommendation due to issues pertaining to the City’s water supply and the review of the impacts of this area on existing City services. It was brought into the City in February 2001.

Since 2004 the East Lynden Sub-Area has seen significant residential growth. As of the 2016 Comprehensive Plan update, this has included 366 single family units and 36 multi-family units (Figure 1.3.2). Additional residential construction has continued throughout 2017 with the approval of more than 120 additional single-family lots and several multi-family buildings.

Although approximately 48 acres of the East Lynden Sub-Area have historically held a commercial land use designation, the sub-area includes minimal commercial presence. Commercial entities include the Northwood Market and Badger Storage (east of Northwood Rd). Mixed use development has been constructed along Mercedes Drive which utilizes self-storage as the commercial entity on the first floor with residential use dominating the remainder of the building. A number of landowners with commercial

designations have requested a shift to residential use given the seemingly low viability of commercial entities within this sub-area.

In 2017, the Planning Department was directed by the City Council to review and revise the East Lynden sub-area to consider a shift in land use from commercial to residential.

The resulting land use map amendment, approved by the City Council in December 2017, resulted in a shift of 12 commercial properties (26.87 acres) to residential land use with corresponding zoning designations ranging from RM-3 to RS-72. The removal of commercial land in this subarea should result in the City seeking to preserve existing commercial nodes at the main intersections to Badger Road including Bender Road and the Northwood Road and, to a lesser degree, on the west side of Line Road.

It is essential that the sub-area, in serving a growing residential base, include a significant effort to make trail connections and build upon the current existing public space. Pursuant to Policy 1B of Goal LU-5 of Chapter 2 The Land Use Element, and as a condition of CPA #17-01 which changed land use designations on 12 commercial zoned properties in the East Lynden Sub-area to residential zones, the City will require future development in East Lynden to facilitate better pedestrian movement. The requirement will obligate residential developers throughout the sub-area to provide trail connections and sidewalks. Specifically, a multimodal trail will be required along Badger Road (WA-546) in the East Lynden Sub-area and the East Lynden Loop Trail. These requirements are indicated in the 2020 update to the City’s Park and Trail Master Plan which outlines specific trail and multimodal routes that make build on the City’s trail network across the city.

Pepin Creek Sub-Area

The Pepin Creek Sub-Area (PCSA) is an approximately 460-acre sub-area including the northwestern Lynden city limits and urban growth area (UGA). Approximately 24 percent of the sub-area, or 110 acres, is within city limits and the remaining 76 percent or 350 acres are in the UGA.

155 acres of what is now the Pepin Creek Sub-area was added to Lynden’s UGA as part of the Whatcom County Comprehensive Plan Update and the City’s Comprehensive Plan Update adopted in 2016. Lynden is projected to grow by about 6,403 new residents between 2013 and 2036. Although there is capacity for some of this growth in other parts of the city, the Pepin Creek Sub-area has been identified as a primary area for future residential development over the next 20 years.

The addition of the 155 acres into the City’s UGA, the concurrent Pepin Creek Relocation Project and the expectation that this area will receive a majority of the City’s population growth prompted the city to develop the Pepin Creek Sub-Area Plan. This plan lays out future land use and zoning, traffic circulation patterns, as well as design standards for neighborhood development while taking into account the need for flood mitigation and the

potential re-channelization of Pepin Creek. Refer to the Pepin Creek Subarea Plan for more detailed information.

North Lynden Sub-Area

The North Lynden sub-area is approximately 675 acres in size. The southern portion of this sub-area was incorporated into the City in the 1960s or before. Annexations in 1991 brought the lands north of Sunrise Drive into the City limits and began the development of Homestead Northwest.

The northern boundary of the North Lynden Sub-area is the heavily traveled State Route 546 (East Badger Road). The western boundary for the North Lynden Sub-area is Benson Road. Fishtrap Creek and Main Street are the southern boundaries. The Sub-area relative to the rest of Lynden is located north of downtown.

Land use in the North Lynden Sub-area is characterized by established residential developments as well as long standing commercial and industrial use. Some of Lynden’s earliest residential development projects (Cedar and Kwanza Drive), and the Planned Residential Development projects of Homestead Farms and Woodfield Village and Heartland are in the North Lynden Subarea. The headquarters of Lynden Transport, Incorporated is located here. As is Flora, Inc., VanderPol Building Components, Inc., Martin’s Feed, Inc., Kulshan Veterinary Services and Daritech, Inc. Additionally, the Lynden Municipal Airport, and Homestead Farms Golf Club are in the North Lynden Subarea.

The City’s 2022 Comprehensive Plan Amendment made changes to the City’s subarea boundaries particularly in west Lynden. The changes include the creation of a new subarea, the West Gateway Subarea. The corresponding new subarea boundaries resulted in shifting approximately 90 acres of the North Lynden Subarea (the portion that was west of Benson Road) into the West Lynden Residential Subarea.

West Lynden Commerce Subarea

The West Lynden Commerce Sub-Area, approximately 530 acres in size, includes the commercially and industrially zoned land within the city west of the Guide Meridian and north of Birch Bay Lynden Road. The significant transportation corridors in this subarea, the Guide Meridian (SR539) and Birch Bay Lynden Road, accommodate shipping traffic and provide economic opportunity for both commercial and industrial land uses. As such, Industrial use is prevalent. Lynden Door, Inc, Preferred Freezer, Oxbo International Corp., Westside Lumber and Nooksack Valley Disposal are located here.

Much of the unincorporated UGA and significant portions of industrial and commercial zoned land in this subarea are agricultural (pasture, field crops, and berries). When annexation eventually occurs, the unincorporated areas of the UGA in this subarea are designated for industrial uses. Properties in this subarea are not eligible for the Mixed Use Overlay.

West Lynden Residential Subarea

The West Lynden Residential Subarea directly borders the West Lynden Commerce Subarea. It is dominated by residential subdivisions that were generally built in the late 20th century. These subdivisions contain some of the notable multifamily developments (Oakwood, Woodcreek, Forest Circle) that were built out in the 1980s and 90s.

This subarea also contains the Bogaard Hay Company, the Ridnour Athletic Complex, two elementary schools (Isom and Fisher), and Dickinson Park. The City expects to continue extension of the Jim Kaemingk Jr trail into this subarea as it makes its way westward along the Fishtrap Creek corridor.

West Gateway Subarea

The defining features of this subarea are the primary entrances to the city from the west, on Birch Bay Lynden Road, and from the south, on the Guide Meridian (SR 539). Residents and travelers entering Lynden from these locations, leave the distinct agricultural landscapes (the vast berry fields west of town and pasture and field crops in the Nooksack River floodplain to the south) and enter the “city” along these busy commercial corridors.

The primary landuse in this subarea is commercial, with a mix of large-scale farm implement dealers, grocery stores, and “chain” restaurants. This subarea contains 3 (Safeway, Food Pavilion, Fairway Center) of the 6 established “Commercial Centers” on which the Mixed Use Overlay is centered.

As mentioned above, the Fairway Center, along Front St is located in this subarea. This “strip” mall houses several retail, dining, and commercial establishments, as well as a large church campus (North County Christ the King). South of Front St is the Northwest Washington Fairgrounds which, besides hosting the NW Washington Fair each summer, also hosts a variety of entertainment events throughout the year.

The unincorporated portion of the UGA, west of Flynn Road and south of the Birch Bay Lynden Road, contains agricultural uses (pasture and berries), the City’s West Lynden Regional Storm Pond, multiple large parcel single family lots, and 2 industrial businesses (Whatcom Manufacturing, and the Skagit Farmers Supply store).

Central Lynden

The Central Lynden Subarea is characterized by downtown Lynden, the Historic Business District, and the City’s oldest residential construction that radiates from downtown. This subarea, in many ways, gives Lynden its unique charm and identity. Front Street, with its the remarkable tree lined right-of-way leads into the downtown commercial core which has a diversity of retail and professional offices, dining establishments, a hotel, the Pioneer Museum, and the Jansen Art Center. The residential neighborhoods to the west, northwest and east of downtown are characterized by the traditional street grid with varying lot sizes and a diversity of architecture. The commercial / residential area to the north of downtown has a mix of single family and multifamily structures throughout with

small scale commercial buildings that generally house professional offices and small non-retail businesses.

This subarea also contains the historic industrial area which was located here because of Lynden’s once heavily trafficked rail spur that shipped lumber and agricultural products out of Lynden. The 100+ year old Darigold plant is located here, as well as the Versacold facility, a lumberyard and agricultural warehouses. The Lynden Christian Schools campus (including an elementary, middle and high school) are found in this subarea, as is the former Lynden Middle School property.

The Central Lynden subarea also contains much of the City’s public facilities. City Hall, the Lynden Public Library, the Fire Station, the Community Center, the YMCA, the Lynden Water Plant and the Wastewater Treatment Plant are located here. Furthermore, the City Park, Centennial Park, Patterson Park, and portions of the Jim Kaemingk trail are found in this subarea.

South Historic Business District

The South Historic Business District is a distinct subarea located south of the downtown commercial core. In 2007 the city adopted the South HBD subarea plan that specifically focused on planning the future of this subarea. The award-winning document lays out plans for transportation, public use and private land use, as well as concepts for pedestrian focused building layout and design. This area has significant development potential as it will be an extension of Lynden’s commercial downtown with mixed residential space. Development here will likely be stimulated by the 2019 completion of Riverview Road which will provide easy access to this area from Front Street as well as Hannegan Road.

Northeast Lynden

The Northeast Lynden Subarea is predominately residential, containing some of Lynden’s oldest subdivisions (Garden Drive, Edgewater Lane). In the north are two Planned Residential Developments, Heritage Park and Greenfield Village. Heritage Park houses the Christian Health Care Center and the Lynden Manor, both are significant assisted living facilities that provide housing and health care for Lynden’s senior residents. Limited commercial land use is found in the Northeast Lynden Subarea, except for Bender Plaza on the corner of Badger and Bender Roads. Bender Plaza contains a gas station, restaurants, and professional offices.. Finally, this subarea contains the Lynden High School campus and Bernice Vossbeck Elementary school, Bender Fields Park, which provides recreational opportunities for thousands of residents every year, and portions of the Jim Kaemingk Trail run through this subarea.

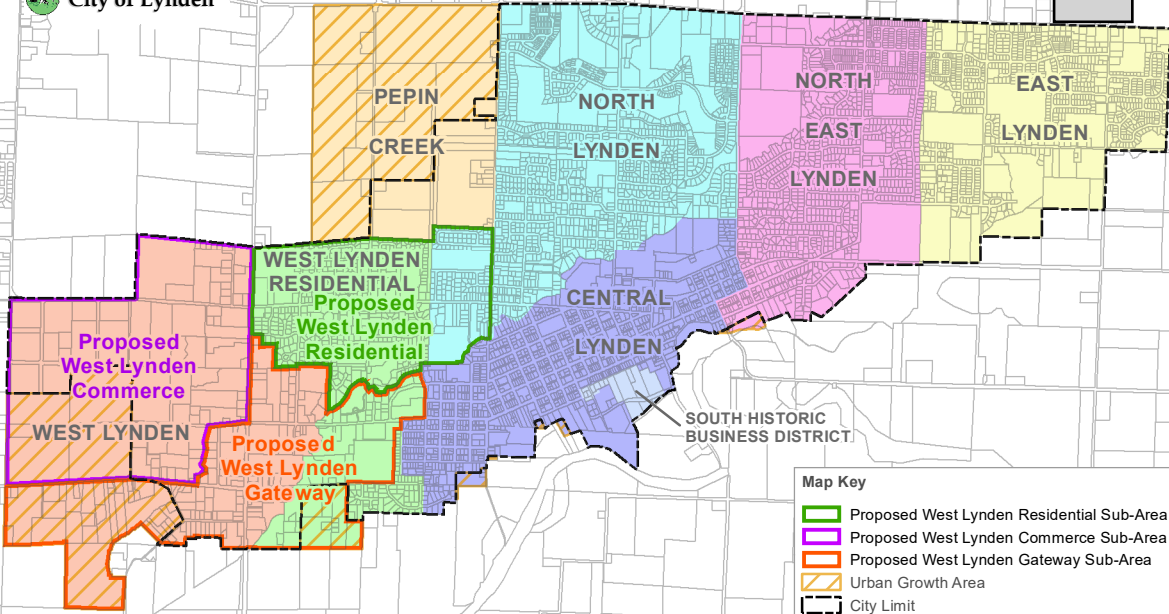
Ord 1656
Exhibit B2
Sub-Area Map Revisions

Sub-Areas Changes



City of Lynden

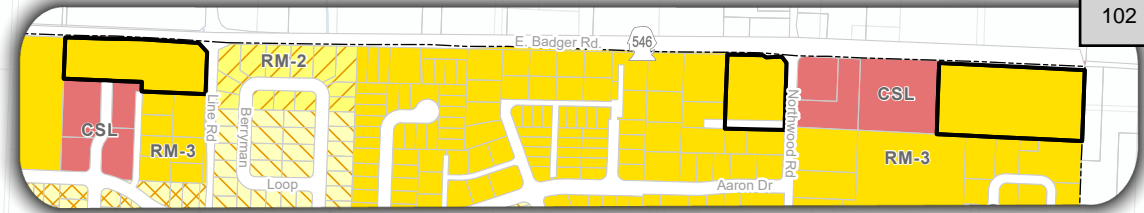
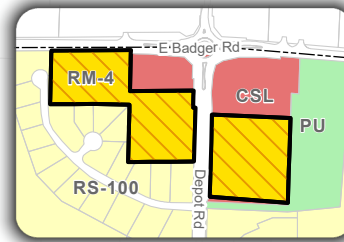
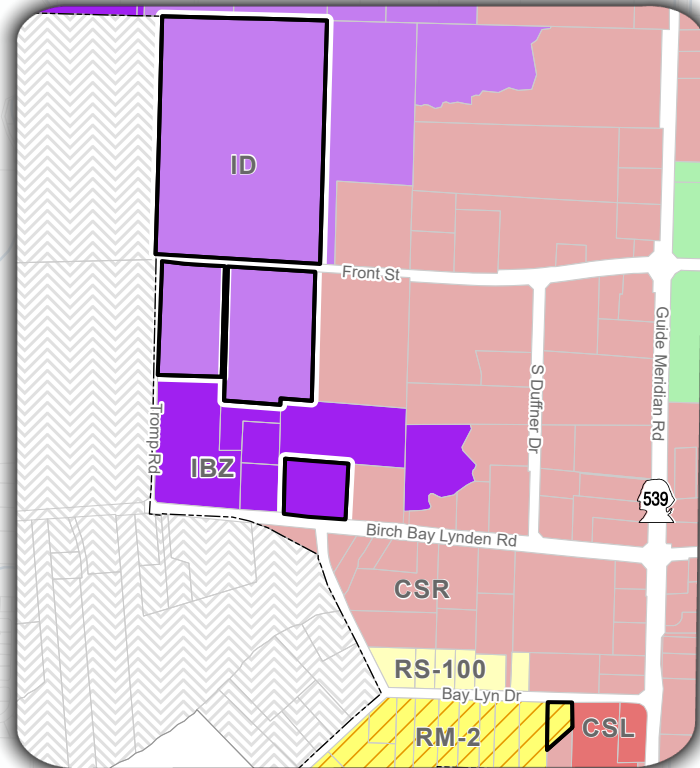
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Ord 1656
Exhibit C
Zoning Map Revisions

Proposed Zoning Changes, 2022

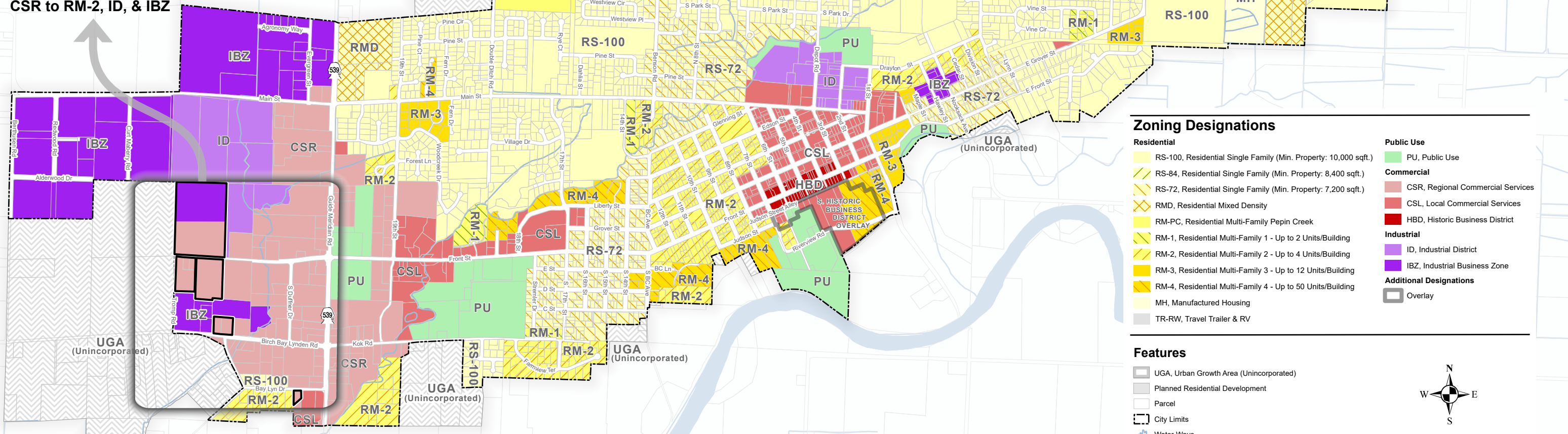
City of Lynden



CSL to RM-2, ID, & IBZ

CSL to RM-4

CSL to RM-3



Zoning Designations

- | | |
|---|-----------------------------------|
| Residential | Public Use |
| RS-100, Residential Single Family (Min. Property: 10,000 sqft.) | PU, Public Use |
| RS-84, Residential Single Family (Min. Property: 8,400 sqft.) | Commercial |
| RS-72, Residential Single Family (Min. Property: 7,200 sqft.) | CSR, Regional Commercial Services |
| RMD, Residential Mixed Density | CSL, Local Commercial Services |
| RM-PC, Residential Multi-Family Pepin Creek | HBD, Historic Business District |
| RM-1, Residential Multi-Family 1 - Up to 2 Units/Building | Industrial |
| RM-2, Residential Multi-Family 2 - Up to 4 Units/Building | ID, Industrial District |
| RM-3, Residential Multi-Family 3 - Up to 12 Units/Building | IBZ, Industrial Business Zone |
| RM-4, Residential Multi-Family 4 - Up to 50 Units/Building | Additional Designations |
| MH, Manufactured Housing | Overlay |
| TR-RW, Travel Trailer & RV | |

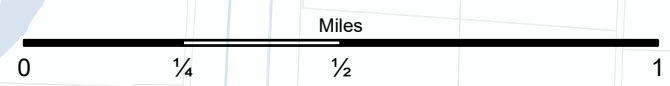
Features

- UGA, Urban Growth Area (Unincorporated)
- Planned Residential Development
- Parcel
- City Limits
- Water Ways



Date: Tuesday, July 19, 2022

The City of Lynden has compiled this information for its own use and is not responsible for any use of this information by others and disclaims any warranty of merchantability or warranty of fitness for any particular purpose, either express or implied. The information found herein is provided simply as a courtesy to the public and is not intended for any third party use in any official, professional or other authoritative capacity. Persons using this information do so at their own risk and by such use agree to defend, indemnify and hold harmless the City of Lynden as to any claims, damages, liability, losses or suits arising out of such use. Contact the Whatcom County Assessor's Office (360-676-6790) for the most up to date parcel information.



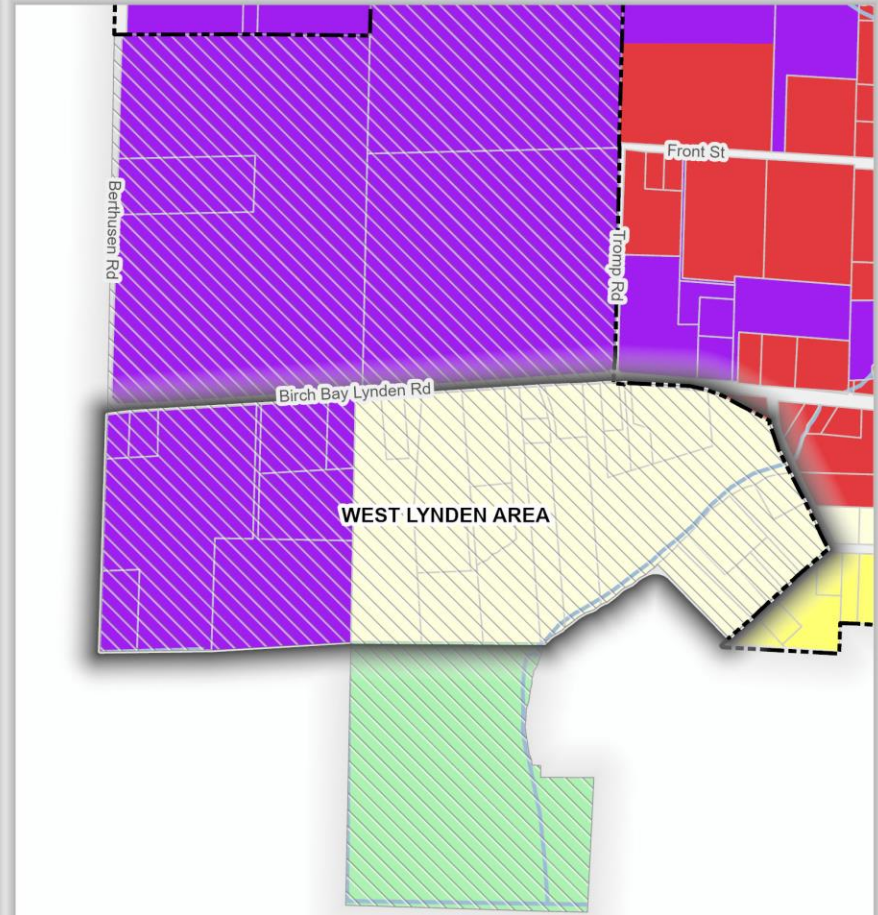
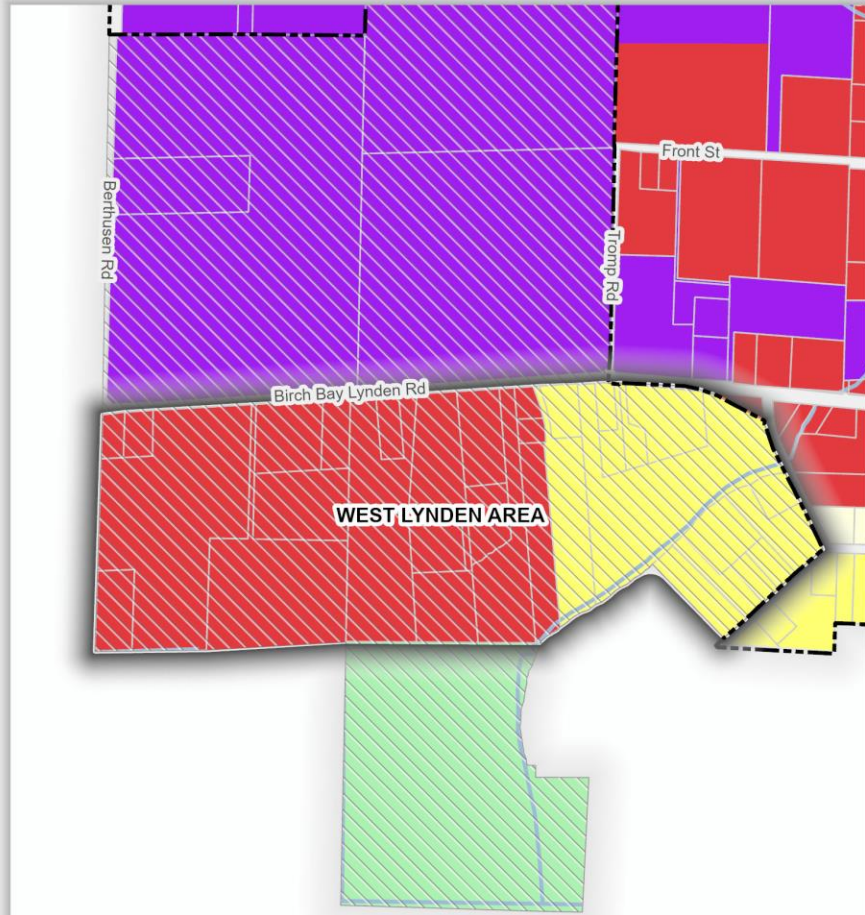
Ord 1656
Exhibit D
Future Land Use Map Revisions



Proposed Changes to Future Land Use

West Lynden

Currently Planned Future Land Use

Proposed Future Land Use



Features		Future Land Use Categories					
	Lynden City Limits		Residential, Low Density		Public		Commercial
	Urban Growth Area		Residential, Medium Density		Industrial		



CITY OF LYNDEN



COMPREHENSIVE PLAN AMENDMENT APPLICATION

<i>City of Lynden use only:</i>	
CPA # <u>22-01</u>	Staff Initials: <u>dt</u>

I. Applicant Information

Name: Dave Timmer, City Planner, City of Lynden Planning Department
 Address: 300 4th St, Lynden WA 98264
 Telephone Number: 360-354-5532 E-mail Address: timmerd@lyndenwa.org

II. Check the appropriate boxes

- Comprehensive Plan Map Amendment
 Comprehensive Text Amendment

III. Summarize the changes you are proposing

The City is proposing amendments to the Comprehensive Plan that are seeking to foster the appropriate development of mixed-use areas (Residential/Commercial) within the City. The amendment will change the current mixed use allowance (LMC 19.23.020) to a mixed use overlay that can be activated within commercial zones under established criteria. Subsequent to this mixed-use overlay amendment are updates to other portions of the LMC (Off-street parking, multifamily open space requirements), and associated zoning changes to commercial properties that would not meet the criteria for the overlay.

IV. For Map Amendments

- A. Tax Parcel Number(s): See attached table and map which describes the parcels involved in this Map Amendment
 Site Address: _____
 Total Acreage: _____
 Property Owner(s): _____
 Mailing Address: _____
 City, State & Zip Code: _____
 Telephone Number: _____

Please attach additional sheets if more than one parcel is involved.

- B. Existing Comprehensive Plan Designation:
 The current Comp Plan designation on these parcels is **Commercial**
- C. Existing Zoning Designation:
 CSL - Local Commercial Services, CSR - Regional Commercial Services

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



D. Proposed Comprehensive Plan Designation:

Residential and Industrial

E. Proposed Zoning Designation:

Multifamily Residential, specifically RM3 and RM4 for those parcels in North and East Lynden. Industrial (IBZ) and Residential (RM2) for those parcels in West Lynden.

F. The present use of the property is:

The current use of the subject parcels is multifamily residential, single family residential, Industrial and vacant.

G. The intended future use of the property is:

Residential, and Industrial

H. Surrounding land uses are:

Residential, Commercial, Agricultural (including unincorporated County)

V. For Text Amendments

Identify the section(s) of the Comprehensive Plan that you are proposing to amend, and provide the proposed wording (attach additional sheets as needed):

See attached Text Update to section 2.5.5 City of Lynden Subareas, of the Comprehensive Plan.

VI. For All Amendments

A. Describe how the proposed amendment to the plan is supported by or consistent with the existing goals and policies of the comprehensive plan and the State Growth Management Act?

See Proposal Narrative attached

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



- B. Have circumstances changed sufficiently since the adoption of the comprehensive plan to justify the proposed change? If so, the circumstances that have changed should be described in sufficient detail so that a finding of changed circumstances can be made and a decision as to appropriateness of the proposed plan amendment can be reached.

See Proposal Narrative attached

- C. Have the underlying assumptions found in the comprehensive plan upon which the land use designation, density or other provisions are based changed, or is new information available which was not considered at the time the plan was adopted? If so, the changed assumptions or new information should be described in sufficient detail to enable the Planning Commission and City Council to find that the land use designation or other sections of the plan should be changed. Examples of the underlying assumptions include expected population growth, utility or roadway capacities, available land supply, or demand for land with the existing or proposed land use designation.

See Proposal Narrative attached

- D. Does the proposed amendment promote a more desirable land use pattern for the community as stated in the goals and policies in the comprehensive plan? Are there environmental constraints (such as wetlands, steep slopes, significant stands of trees, etc.) present on the site to such a degree that development of the site is economically or physically unfeasible under the existing land use designation? If so, a description of the qualities of the proposed plan amendment that would make the land use pattern more desirable and/or would result in less environmental impact should be provided in sufficient detail to enable the Planning Commission and City Council to find that the proposed amendment is in the community's long term best interest.

See Proposal Narrative attached

CITY OF LYNDEN

COMPREHENSIVE PLAN AMENDMENT APPLICATION CONTINUED



E. What impacts would the proposed amendment to the plan have on the current use of other properties in the vicinity? What measures should be taken to ensure compatibility with the uses of other property in the area?

See Proposal Narrative attached

F. How will the public interest be served by this amendment?

See Proposal Narrative 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: Dave Timmer Digitally signed by Dave Timmer
Date: 2022.07.01 09:48:30 -07'00' **Date:** 6/30/2022

Property Owner's Signature: _____ **Date:** 6/30/2022

CITY OF LYNDEN



CRITICAL AREAS CHECKLIST

Section: _____ Township: _____ Range: _____ Parcel Number: _____

Site Address: _____

Proposed Uses: _____

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

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

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

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

Applicant's Signature

Date

CITY OF LYNDEN

PLANNING DEPARTMENT
(360) 354 - 5532



2022 Comprehensive Plan Amendment, Proposal Narrative

Mixed Use Development Updates Proposed by: *City of Lynden Planning Department*

Introduction:

The City is proposing several updates to the Lynden Municipal Code that are seeking to foster the appropriate development of mixed-use areas (Residential/Commercial) within the City. These updates will change the current mixed-use allowance (60:40 GFA ratio as determined in LMC 19.23.020) to a mixed-use overlay that can be activated within commercial zones under established criteria. These updates to the City’s development code also necessitate amendments to the City’s Comprehensive Plan, specifically the Comp Plan maps - the Zoning Map, the Future Land Use Map, and the City’s Subarea Map. A related text amendment will update language to reflect changes to the City’s subareas.

Background:

In December 2021, City Council passed Ordinance No. 1642 which established a moratorium on residential development within the City’s CSL zone. This moratorium was a reaction to somewhat unsuccessful results being witnessed on mixed use development projects undertaken in the City’s CSL zone. Achieved mixed use development has been focused on maximizing residential units, which it has done, but has struggled to develop effective commercial space. With the moratorium, Council tasked staff to consider a new model for mixed use development that still supports residential use but, effectively, promotes more cooperative commercial uses for that residential development.

Since Ordinance 1642 was adopted, staff has worked with relevant interest groups, property owners, and policy makers to propose a new mixed-use overlay (LMC 19.23.110 Mixed Use Overlay) to the existing Chapter 19 of the Lynden Municipal Code. Discussion regarding the new overlay resulted in supplementary updates to other LMC sections, a change to Lynden’s defined subareas, zoning changes for certain commercial zoned properties, changes to the City’s Future Land Use map, and related code housekeeping updates.

Proposed Code Updates:

The full list of proposed code updates is listed below:

- LMC 18.22 Manufactured Home Park Subdivision Standards: Updates to “Siting Criteria” to allow increased density, and landscaping requirements.
- LMC 19.11 Districts Established: Housekeeping updates and the reduction of RM4 maximum density.
- LMC 19.17 Multifamily Zones: Housekeeping updates and added requirements for open space / residential amenities for developments of 8 or more units.

- LMC 19.19 Manufactured Home Zone: Increased density allowances, prohibit site-built homes within MH park.
- LMC 19.22 Design Standards: Housekeeping updates. Note the proposed deletion of the minimum pitch requirement.
- LMC 19.23 Commercial Zoning: Removed the existing mixed-use allowances (60:40 and North Lynden Subarea), strengthen site design requirements, and added the Mixed Use Center Overlay (19.23.110), small-scale downtown Mixed Use, and the related zoning language to support that overlay.
- LMC 19.29 Planned Residential Development: Housekeeping updates
- LMC 19.45 Design Review: Housekeeping updates and removed the city-wide Dutch themed architecture to HBD only (or to recognize historic architecture of downtown).
- LMC 19.51 Off-street Parking: Significant rewrite for clarifying items. Increased requirements for large MF projects, standard parking size of 9 x 19.
- LMC 19.63 Fence Permits: Housekeeping updates

The proposed redlined updates to the LMC chapters are separately attached in this application.

The new Mixed-Use Overlay being proposed (LMC 19.23.110) and supporting updates resulting from the corresponding discussion, have necessitated related amendments to the Comprehensive Plan – the Zoning Map, Future Land Use Map, Subarea Map, and a corresponding text update to the subarea descriptions.

2022 Comprehensive Plan Map Updates:

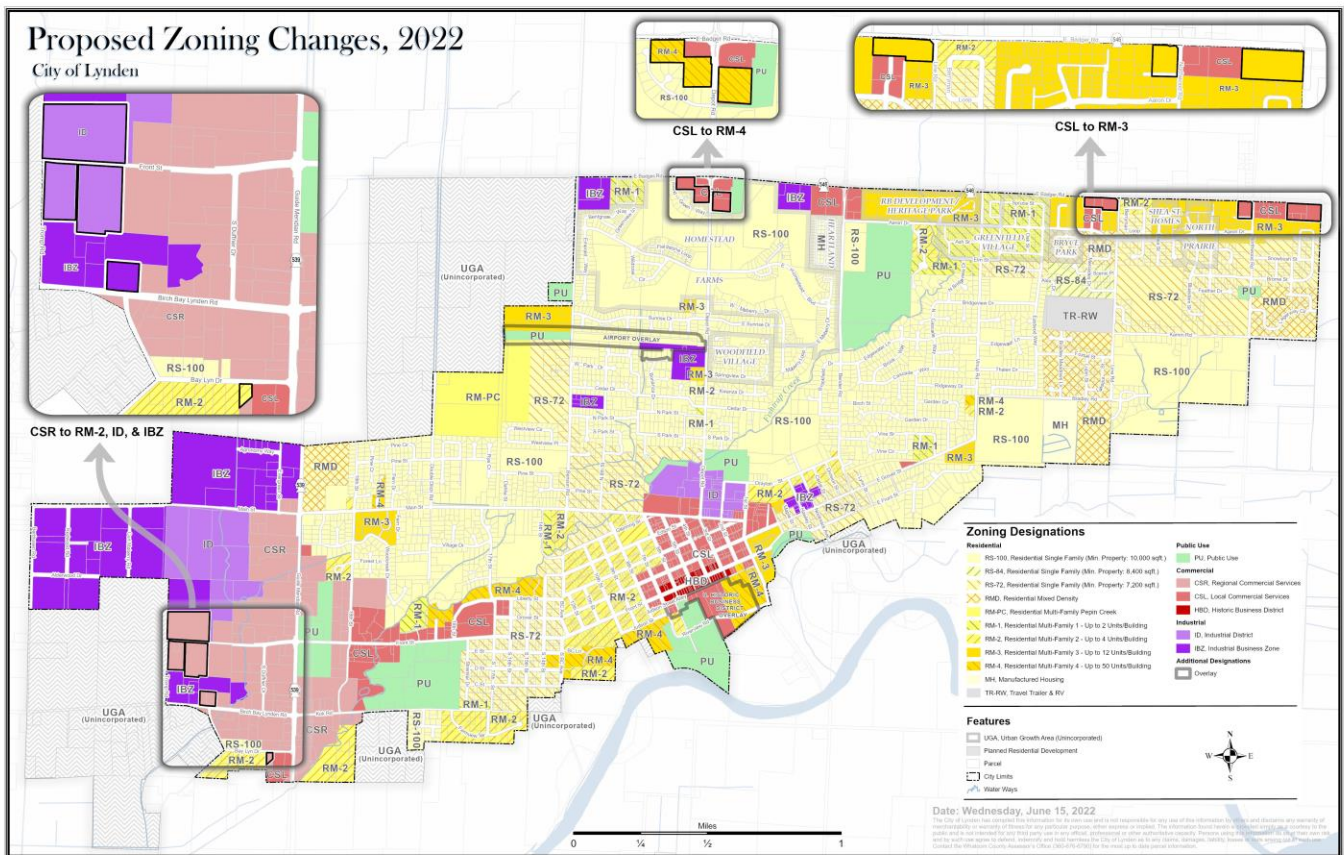
Zoning Map: The Mixed-Use Overlay focuses residential development within commercial zones on those parcels that meet established criteria: more than 1 acre and close (within ¼ mile) to designated commercial centers. The discussion surrounding these criteria brought up rezone questions for commercial zoned parcels across the city that will not meet the criteria for a mixed-use project. The commercial zoned parcels which are proposed to be rezoned to residential land uses (specifically RM3) are minimally commercially viable and, therefore, should be rezoned to appropriate new designations (either multifamily or industrial).

East Lynden Subarea: Six (6) East Lynden Subarea parcels that front Badger Road are proposed to amend their land use designation from Commercial to Residential – specifically rezoned from CSL to RM-3. These parcels are not eligible for the Mixed-Use Overlay due to size or distance from an established Commercial Center. The location on the edge of town with limited access from Badger Road, make them largely non-viable for successful commercial enterprise.

North Lynden Subarea: Four (4) North Lynden Subarea parcels, 3 which are currently built out with multifamily buildings, the 4th which is going through the permit process for 46 new units, are proposed to be rezoned from CSL to RM4. These were permitted in the CSL under a 2015 Ordinance 1477 that allowed multifamily development on these CSL parcels around the intersection of Depot Rd and Badger, with limited commercial protection right at the corner. Subsequently, they have been built out at high density (RM4 standards). It makes sense to align their built-out use with the zoning category in which they fit – RM4.

West Lynden Subarea: Seven (7) commercial West Lynden parcels which are currently zoned CSR are proposed to be changed to Industrial and Residential classifications. Six of those parcels are near W Front and Tromp Rd and are surrounded by industrial type uses. These are proposed to be reclassified as Industrial, specifically zoned to IBZ. One parcel south of Bay Lyn Road is currently zoned CSR and is proposed to be reclassified as Residential to align with its current residential use, and specifically rezoned to RM2 to align with the neighboring RM2 parcels to the west. These parcels are not eligible for the Mixed-Use Overlay due to size or location. *Take note, Lynden Door, Inc is concurrently proposing a land use change and rezone to their property north of W Front St.

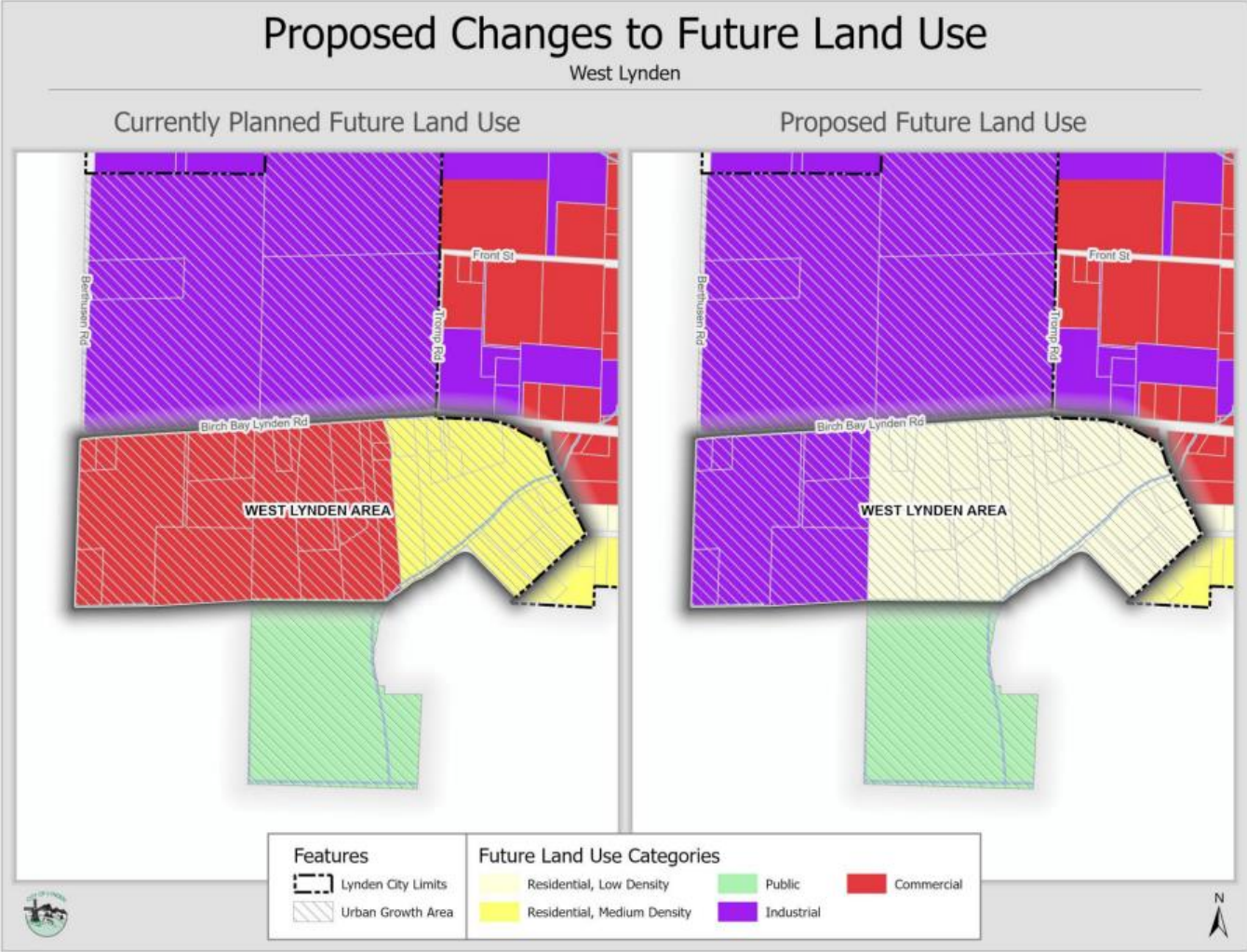
See the attached Proposed Zoning Changes, 2022 map and Table 1 showing the affected parcels.



Future Land Use Map: Residents in the unincorporated UGA west of the City Limits have recently requested the initiation of annexation. This request, as well as persistent interest in viable industrial land, along with the move to accommodate higher density residential near established commercial centers, began a closer look at what some of those future annexation parcels would be zoned when they come into the city. The City's Future Land Use map indicates commercial and

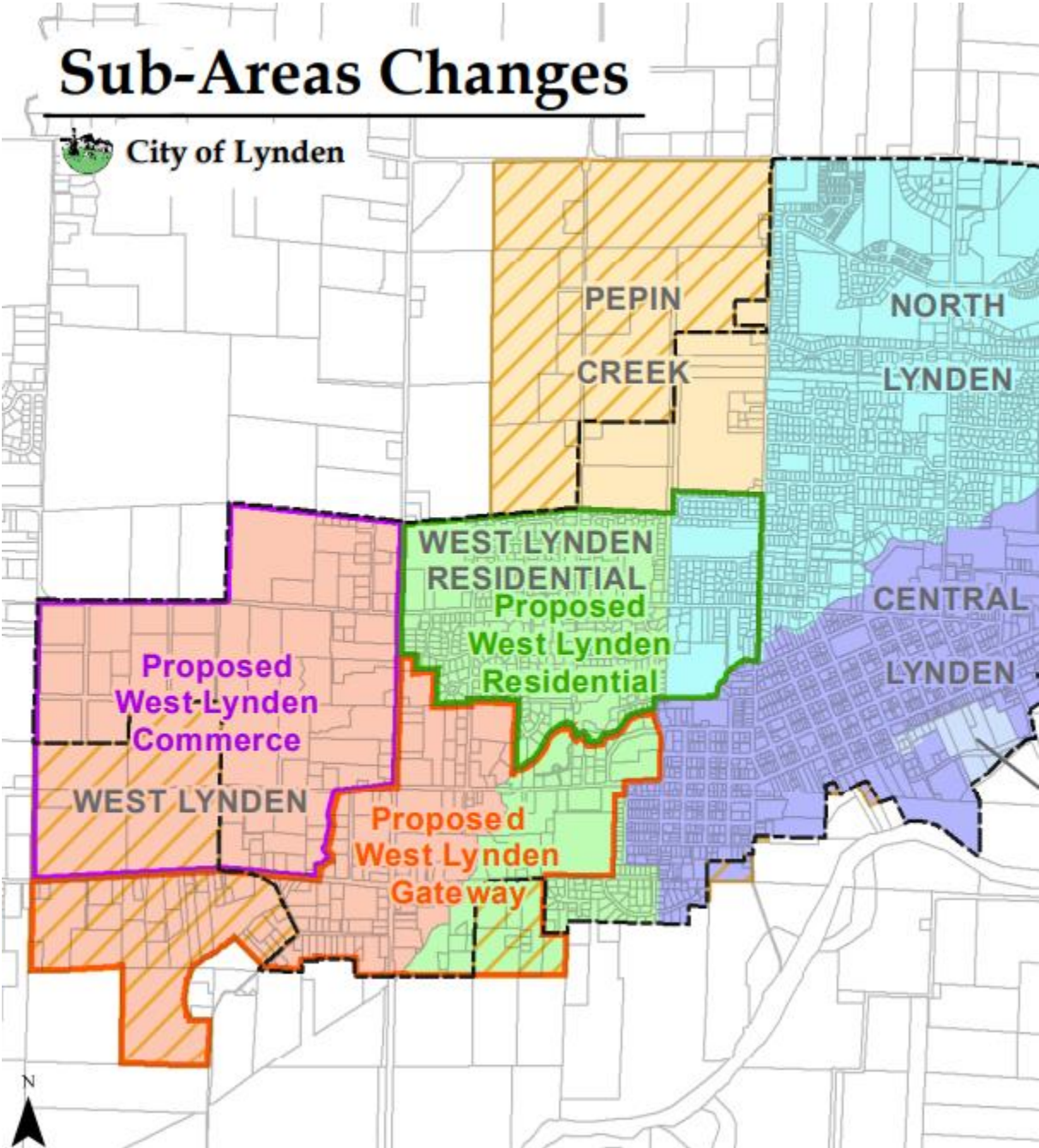
multifamily zoning for parcels south of Birch Bay Lynden Road. Those properties will be difficult to redevelop and the demand for commercial property is lacking. As such, the City is proposing redesignation of the eastern parcels to Low Density Residential and Industrial for the western parcels. North of the Birch Bay Lynden Road will remain Industrial, as is designated on the current Future Land Use Map.

See Future Land Use map changes below for their location and the proposed change.



Lynden Subareas: Map and Text Amendment: The City is proposing changes to the City’s subarea boundaries in west Lynden – these include altering the boundaries of the West Lynden Residential subarea, adding a new subarea (West Lynden Gateway), and changing the West Lynden subarea to a newly designated West Lynden Commerce subarea. The West Lynden Commerce Subarea will be ineligible for the Mixed-Use Overlay. The text amendment reflects these changes and updates the subarea descriptions in Chapter 2.5.5 of the Lynden Comprehensive Plan.

See the attached Revision to West Lynden Subareas map for and the attached text amendment proposal.



CPA Application Narrative Questions (Section VI of application):

A. Describe how the proposed amendment to the plan is supported by or consistent with the existing goals and policies of the comprehensive plan and the State Growth Management Act?

The GMA establishes 13 goals that set the standard for City Comprehensive Plans and the subsequent accommodations for projected growth. Lynden, like most western Washington cities, has seen significant growth over the past couple decades. The proposed Mixed-Use overlay, and the corresponding Comp Plan Amendments, are a managed effort to accommodate more residential (multifamily) development in areas of the city with already established commercial centers. As the proposed LMC 19.23.110(A) states, the purpose of the Mixed-Use Overlay is to accommodate mixed use projects that are efficient, compact, and compatible with surrounding uses.

The corresponding Comprehensive Plan Amendments (Land Use and Zoning Changes, Subarea Changes, and shifting Future Land Use designations) work to support the viability of the proposed Mixed-Use Overlay.

B. Have circumstances changed sufficiently since the adoption of the comprehensive plan to justify the proposed change? If so, the circumstances that have changed should be described in sufficient detail so that a finding of changed circumstances can be made and a decision as to appropriateness of the proposed plan amendment can be reached.

Yes, much has changed since the adoption of the 2016 Comp Plan. Housing costs continue to rise, demand for families renting multifamily space (larger units for longer period of time) has increased, commercial/retail space tends to be in less demand, industrial property is in demand, much of the city’s outlying multifamily zones (ie. RM3 zones in East Lynden) have been built out, and the city (except in the HBD) has seen several unsuccessful mixed use building projects (using the traditional CSL 60:40 ratio). These projects have produced a relatively segregated, or vacant, commercial product that provides little service or amenity to the surrounding residential uses.

The proposed Mixed-Use Overlay takes a focused approach on accommodating mixed use projects in areas of the city where active commercial/retail uses already exist, permitting commercial uses intended to serve the surrounding residential use, and providing standards that improve quality of life (pedestrian amenities, attractive streetscapes, open space, and neighborhood commercial).

The corresponding Comprehensive Plan Amendments (Land Use and Zoning Changes, Subarea Changes, and shifting Future Land Use designations) work to support the viability of the proposed Mixed-Use Overlay.

- C. Have the underlying assumptions found in the comprehensive plan upon which the land use designation, density or other provisions are based changed, or is new information available which was not considered at the time the plan was adopted? If so, the changed assumptions or new information should be described in sufficient detail to enable the Planning Commission and City Council to find that the land use designation or other sections of the plan should be changed. Examples of the underlying assumptions include expected population growth, utility or roadway capacities, available land supply, or demand for land with the existing or proposed land use designation.*

No, the underlying assumptions upon which the Comprehensive Plan was adopted have not changed. The Mixed-Use Overlay is a characteristic adaptation, by a growing City, to encourage and facilitate smart, well-planned growth. The changes to the City's current mixed-use allowance are proposed as a reaction to the way that mixed use projects in Commercial zones have been built. This overlay and the subsequent amendments to the Comp Plan seek to foster a more viable, efficient, mixed use development projects that support existing commercial centers, and provide a compatible mix of multifamily housing, neighborhood commercial uses, and semi-public open spaces. It will provide prospects for increasing residential opportunities, as part of a well-planned mixed-use development, in areas of the city which are currently not available.

- D. Does the proposed amendment promote a more desirable land use pattern for the community as stated in the goals and policies in the comprehensive plan? Are there environmental constraints (such as wetlands, steep slopes, significant stands of trees, etc.) present on the site to such a degree that development of the site is economically or physically unfeasible under the existing land use designation? If so, a description of the qualities of the proposed plan amendment that would make the land use pattern more desirable and/or would result in less environmental impact should be provided in sufficient detail to enable the Planning Commission and City Council to find that the proposed amendment is in the community's long term best interest.*

Yes, the Mixed-Use Overlay proposal is a City action to provide a better mixed-use product as has been seen within the City. As such, it seeks to promote a more desirable land use pattern. The overlay is broad in targeted areas across the City, that can be activated by the landowner if they choose and can meet the underlying criteria for activation. Environmental constraints will be regulated as normal.

The corresponding Comprehensive Plan Amendments (Land Use and Zoning Changes, Subarea Changes, and shifting Future Land Use designations) work to support the viability of the proposed Mixed-Use Overlay.

- E. What impacts would the proposed amendment to the plan have on the current use of other properties in the vicinity? What measures should be taken to ensure compatibility with the uses of other property in the area?*

The Mixed-Use Overlay and the corresponding Comp Plan Amendments are specifically an attempt to foster a mix of compatible residential and neighborhood commercial uses in areas of the City that already have established commercial use. This development, if done correctly, will support those existing commercial uses.

The developments will be subject to Design Review, landscape buffering, and other regulations that the city already employs to ensure the ongoing compatibility of uses with surrounding properties.

F. How will the public interest be served by this amendment?

Zoning Changes: The proposed zoning changes seek to change unviable commercial properties, which due to scale and/or distance from an established commercial center will not be eligible for the Mixed-Use Overlay, to multifamily residential uses. These zone changes (CSL to RM3) are in the East Lynden Subarea. The North Lynden Subarea properties are already built out as high density residential. This zone change will align that use with the proper zone (CSL to RM4). The west Lynden zone changes (CSR to IND) seek to provide more industrial space in West Lynden, in the vicinity of existing industrial zones and productive Industrial uses. They are also parcels that would not be eligible for the Mixed Use overlay – as they are located in the new West Lynden Commerce Subarea.

Subarea Revisions: The Subarea Revision realign the boundaries of West Lynden subareas and create a new Gateway Subarea. This provides incentive to define and delineate the appropriate future development of this area. The West Lynden Commerce Subarea, also a new subarea, focuses on the industrial and larger-scale commercial opportunities in west Lynden. These subarea changes serve the public good by further defining and focusing on what is appropriate for those areas. It also creates an opportunity to highlight the benefits and positives of doing business there.

Future Land Use Map: These changes are prompted by an interest in the West Lynden unincorporated UGA area, to seek annexation. On further examination, and as the interested parties seek to secure signatures for annexation, several existing properties are not interested in being annexed as the future land use map designates. The current future land use map does not align well with an ongoing interest in industrial lands. And there is decreased demand for CSR zoned properties in the City. The changes proposed to the Future Land Use map increase Industrial Zoned properties and align the section south of Birch Bay Lynden Road, which are currently mostly larger single-family parcels to align with a lower density residential zone.

Table 1: 2022 Zone Change Proposal – Parcel Information

<u>Property Address</u>	<u>Property Owner</u>	<u>Owner Address</u>	<u>Parcel ID</u>	<u>Size (acres)</u>	<u>Land Use</u>	<u>Current Zoning</u>	<u>Proposed Change</u>
<u>East Lynden Subarea (CSL to RM3)</u>							
1257 E Badger Rd	David J Climer	Same	4003164765180000	0.87	Residential	CSL	RM-3
1271 E Badger Rd	Lance and Bobbi Nieuwma	Same	4003164945180000	0.64	Mixed Use	CSL	RM-3
8885 Line Road	O&S Farms	PO Box 1015, Lynden WA 98264	4003165125160000	1.63	Residential - underutilized	CSL	RM-3
1483 E Badger Road	Douglas Andress	Same	4003152485080000	2.13	Residential - underutilized	CSL	RM-3
1546 E Badger Road	TMI Holdings LLC, Halo Holdings LLC	PO Box 467, Lynden WA	4003153505080000	2.86	Residential - underutilized	CSL	RM-3
1583 E Badger Road	Badger North, LLC	5052 Samish Way Bellingham, WA 98229	4003154185490000	2.24	Residential - underutilized	CSL	RM-3
<u>North Lynden Subarea (CSL to RM4)</u>							
665 E Badger Road	TMI Holdings LLC	PO Box 467, Lynden WA	4003172145100000	1.98	Residential – 46 units	CSL	RM-4
8883 Depot Road	T&S Investments Trust, LLC	485 E Wisner Lake Road, Lynden WA	4003172505270000	1.12	Residential – 24 units	CSL	RM-4
8881 Depot Road	T&S Investments Trust, LLC	485 E Wisner Lake Road, Lynden WA	4003172505180000	1.01	Residential – 20 units	CSL	RM-4
8876 Depot Road	Depot Villas, LLC	1195 Linda Vista Dr Ste H, San Marcos, CA 92078	4003173055110000	2.0	Residential – 40 units	CSL	RM-4

CPA #22-01 Land Use Designation and Zoning Map Changes							
<u>Property Address</u>	<u>Property Owner</u>	<u>Owner Address</u>	<u>Parcel ID</u>	<u>Size (acres)</u>	<u>Land Use</u>	<u>Current Zoning</u>	<u>Proposed Change</u>
West Lynden Subarea (CSR to ID, IBZ, RM2)							
135 Bay Lyn Drive	Darrell & Laurie Hagerty	Same	4002254894550000	0.29	Single Family	CSR	RM-2
230 Birch Bay Lynden Rd	Berk & Mary Likkel Revocable Trust	948 19 th St, Lynden, WA	4002243900190000	1.22	Industrial	CSR	IBZ
240 Birch Bay Lynden Rd	Ratz Holdings, LLC	5955 Guide Meridian, Bellingham WA 98226	4002243730190000	0.81	Industrial	CSR	IBZ
2149 Front St	Dirk Investments, LLC	19720 NE 148 th St, Woodinville, WA 98077	4002243580950000	6.68	Vacant	CSR	ID
2197 Front St	Boneyard LLC	19720 NE 148 th St, Woodinville, WA 98077	4002243190880000	3.17	Vacant	CSR	ID
2185 Front St	Boneyard LLC	19720 NE 148 th St, Woodinville, WA 98077	4002243211290000	0.46	Single Family	CSR	ID
2181 Front St	Baldovinos 2G, LLC	3028 St Paul St, Bellingham, WA 98226	4002243311290000	0.46	Single Family	CSR	ID

CITY OF LYNDEN

PLANNING DEPARTMENT
(360) 354 - 5532



August 3, 2022

Re: 2022 City of Lynden Comprehensive Plan Amendment and Rezone Proposals

Dear Property Owner:

You are receiving this letter as an owner of a property which may be affected by an upcoming land use development code revision. The City of Lynden is proposing several updates to the Lynden Municipal Code in order to foster the development of mixed-use areas (residential and commercial) within the most appropriate locations. These updates propose to create a new Mixed-Use Overlay that can be activated by property owners within commercial zones under specific determined criteria. The Overlay, if activated, can bring new opportunities to CSL (Commercial Services – Local) and CSR (Commercial Services – Regional) zoned properties that are located near existing commercial centers.

Simultaneously, the new overlay has also focused on the potential of commercial properties being rezoned to fully residential properties in areas where commercial activity appears to be less viable. The City is taking the lead on proposing rezones to these properties so it is critical that you are aware of how your property may be affected. The parcels identified for rezone to residential are either:

1. Already built out as multi-family residential developments, or
2. On parcels where commercial activity remains unviable, or
3. On commercial properties that will not meet the criteria to activate the Mixed-Use Overlay.

You are receiving this letter as the owner of one of these properties. See the attached “**Proposed Zoning Changes, 2022**” map that is included with this letter. This map identifies the zoning changes that are being proposed.

With this letter, we are seeking your input. Please contact the Planning Department with questions regarding the specifics of the proposed *Mixed-Use Overlay*, proposed rezones, and how the updates may affect your property. You are also invited to a September 8 Planning Commission meeting to informally discuss and review this proposal. Your input at this meeting is welcome. Public hearings with the Planning Commission and City Council will follow before the close of this calendar year.

Prior to the September 8 meeting, we’d like to hear from you. Please contact the Planning Department at (360) 354-5532 to let us know what you think of this rezone proposal or schedule a meeting with Planning staff. We’d like to incorporate your feedback into the proposal and we aim to address any concerns that you might have prior to the September 8 meeting.

Sincerely,

Dave Timmer
City Planner

Table 1: 2022 Zone Change Proposal – Parcel Information

<u>Property Address</u>	<u>Property Owner</u>	<u>Owner Address</u>	<u>Parcel ID</u>	<u>Size (acres)</u>	<u>Land Use</u>	<u>Current Zoning</u>	<u>Proposed Change</u>
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8881 Depot Road	T&S Investments Trust, LLC	485 E Wisner Lake Road, Lynden WA	4003172505180000	1.01	Residential – 20 units	CSL	RM-4
8876 Depot Road	Depot Villas, LLC	1195 Linda Vista Dr Ste H, San Marcos, CA 92078	4003173055110000	2.0	Residential – 40 units	CSL	RM-4

CPA #22-01 Land Use Designation and Zoning Map Changes							
<u>Property Address</u>	<u>Property Owner</u>	<u>Owner Address</u>	<u>Parcel ID</u>	<u>Size (acres)</u>	<u>Land Use</u>	<u>Current Zoning</u>	<u>Proposed Change</u>
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CITY OF LYNDEN

PLANNING DEPARTMENT
(360) 354 - 5532



September 12, 2022

Re: 2022 City of Lynden Comprehensive Plan Amendments (Future Land Use Map)

Dear Property Owner:

The City is proposing changes to its Future Land Use Map for areas of its Urban Growth Area (UGA) west of the established city limits. As you may know, the UGA is non-incorporated land adjacent to an established City. It is from this area that property owners can request annexation to the City.

The Future Land Use Map determines what the future land use designation of that UGA property will be *if and when* annexation eventually occurs. The general land use categories are: Industrial, Commercial, and Residential (low density and medium density).

Currently, the future land use in the west Lynden UGA contains a mix of Industrial, Commercial, and Medium Density Residential designations. The proposed change is to shift the Commercial designation area to Industrial and Low Density Residential designations, and to shift the Medium Density Residential designation area to Low Density Residential.

See the attached map. Feel free to contact our office with questions that you might have.

Changing these designations requires the approval of a Comprehensive Plan Amendment. A public hearing with the Lynden Planning Commission is scheduled for September 22, 2022, beginning at 7pm at the City Hall Annex building (205 4th Street). There are multiple items related to this Comprehensive Plan Amendment proposal – the Future Land Use Map is one of the items on the agenda. The Planning Commission will make a recommendation for approval or denial, which will then go before the Lynden City Council (for a decision) before the end of the year.

Sincerely,

Dave Timmer

City Planner
360-354-5532

Heidi Gudde

From: Mike Kooy <mikekooy@windermere.com>
Sent: Wednesday, September 21, 2022 5:10 PM
To: Heidi Gudde; Korene Samec; Dave Timmer
Cc: VanRy, Ian; Tyler Bajema
Subject: Skyview SP No.2 - Lot 4 - Formal Comment for Rezone Consideration

Hi Heidi,

I would like this to be considered our formal comment for Skyview SP No.2 - Lot 4 (aka Skyview North) rezone.

Per the City rezone master plan it appears the City recommended zoning of Lot 4 be revised from CSL to RM3. As a member of the ownership group here we would prefer a higher density of multifamily, perhaps RM4.

Thoughts on this area and reasons to support a higher density:

1. Near other multi-family and mini-storage fitting into surrounding and abutting uses.
2. Quick connected access to E. Badger Rd which could serve residents living and working in north county.
3. Near Northwood Grocery Store for vital needs within walking distance.
4. One of the last parcels to get developed on the edge of town, I understand the idea is to have most density near City Centers however this location will be serviced by people driving into town and work. This is an outlier parcel whether it is RM3 or RM4 it's use will remain similar with a similar level connectivity to Lynden.

We would also like to request any development here be allowed per the new zoning, outright, with no further approvals from council. As you know there is a recorded development agreement attached to this parcel. The intent of the development agreement was to fulfill the current CSL zoning requirement of commercial use on the remainder of the property which was not built out as multi-family. The new zoning would expunge the development agreement.

Thank you for your consideration.



Mike Kooy, Broker
 Windermere Real Estate Whatcom Inc.
 p: 360.739.0869 | a: 8071 WA-539 Suite 105,
 Lynden, WA 98264
mikekooy@windermere.com

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 19, 2022	
Name of Agenda Item:	Ord 1657 – Mixed-Use Overlay and Amendments to LMC 17, 18, and 19	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes – Reviewed - portions <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Draft Ord 1657 and Exhibit A – Code Revisions, Planning Commission Resolution		
Summary Statement:		
<p>Ord 1657 represents a response to the City’s moratorium on residential construction within CSL zoning categories, otherwise known as mixed-use development, which was enacted on December 20, 2021 with Ord 1642. Over the course of the last year, Planning staff have worked with stakeholders, the Community Development Committee and the Planning Commission to develop mixed-use provisions which consider scale and location of mixed-use developments to better serve the good of the community and the original intent of the mixed-use code. This initiative also captures other Planning Department initiatives with updates to the parking code, the manufactured home zone, as well as various housekeeping and clarifications throughout Chapters 17, 18, and 19.</p> <p>On September 22, 2022, the Planning Commission held a public hearing to consider these amendments. The Commission recommended approval of the amendment with three suggested revisions:</p> <ol style="list-style-type: none"> 1. That the Residential Design Criteria requirement for a minimum 4:12 pitched roof remain with the option to seek a waiver with the Design Review Board rather than be deleted as a residential standard as proposed. LMC 19.22.030(C)(4). 2. That a parking requirement for studio apartments be added at a rate of 1.5 parking stalls per unit rather than 2 stalls as currently proposed. LMC 19.51.040. 3. That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone. LMC 19.23.020. <p>Staff has amended the proposed ordinance to include recommendations 1 and 3 but, per the feedback from the Community Development Committee, has not incorporated recommendation number 2.</p>		
Recommended Action:		
Motion to approve Ord 1657, amending Chapters 17, 18, and 19 with the inclusion of PC recommendations 1 and 3 as previously described, with an effective date of January 1, 2023 and authorize the Mayor’s signature on the document.		

Ordinance No. 1657

**AN ORDINANCE OF THE CITY OF LYNDEN AMENDING TITLE 17, TITLE 18
AND TITLE 19 OF THE LYNDEN MUNICIPAL CODE**

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

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

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

WHEREAS, on December 20, 2021, in recognition of the need to address the City's mixed-use code provisions to better serve the good of the community and the original intent of the code, the City Council passed Ordinance 1642 which established a moratorium on residential development within the City's Commercial Services-Local (CSL) zone and temporarily halted the development of mixed-use projects; and

WHEREAS, for the purposes of this resolution, mixed-use is considered a blend of residential and commercial uses in a shared building or on a shared property; and

WHEREAS, since Ordinance 1642 was adopted, staff has advanced an initiative and worked with relevant interest groups, property owners, and policy makers on a new mixed-use proposal; and

WHEREAS, the revision seeks to locate mixed-use developments, which often feature high density housing options, in areas near public transportation and existing commercial development; and

WHEREAS, locating mixed-use developments in these locations serves to support existing business and create more viable opportunities for new commercial uses within the mixed-use developments; and

WHEREAS, if a mixed-use development opts not to construct a commercial component the Mixed-Use Overlay standards will require that the developer provide semi-public open space which is meant to serve the greater community as well as the residents of that development; and

WHEREAS, the Mixed-Use provisions allow for high density residential development and must be mitigated by the use of pedestrian oriented design and, when developed, commercial uses which are amenities to the local user rather than regional in nature; and

WHEREAS, the initiative now proposes a new mixed-use overlay, LMC 19.23.110 Mixed Use Overlay, to the existing Chapter 19 of the Lynden Municipal Code and a corresponding Comprehensive Plan Amendment 22-01, and Rezone 22-02; and

WHEREAS, discussion regarding the new overlay resulted in supplementary corrections and amendments to other sections of the Lynden Municipal Code in support of a variety of planning initiatives including affordable housing provided by Manufactured Home Parks, provisions for open space within multi-family developments, clarifying the review process of the Design Review Board and of Planned Residential Developments, and amending the parking code to meet observed demand; and

WHEREAS, the following workshops have been held to review the proposed code amendments: Planning Commission workshop on March 24, 2022, Special Joint Community Development Committee and Planning Commission Workshop on May 18, 2022, and a Planning Commission workshop on September 8, 2022; and

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on September 22, 2022, to accept public comments on the proposed regulations and recommended adoption to the City Council which resulted in Resolution 22-06 which included the following recommended modifications:

1. 19.22.030 (C) (4) - That the Residential Design Criteria requirement for a 4:12 roof pitch remain with the option to seek a waiver with the Design Review Board.
2. 19.51.040 - That the parking requirements for studio apartments be added to reflect 1.5 parking stalls per unit.
3. 19.23.020 - That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone.

WHEREAS, on September 23, 2022, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed updates to Title 17, Title 18 and Title 19 of the Lynden Municipal Code and,

WHEREAS, the proposed regulations were introduced to the Lynden City Council on November 21, 2022, and a date for a public hearing was set; and

WHEREAS, on December 19, 2022, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments and to consider the matters of record to that date; and

WHEREAS, Council has indicated support for the Planning Commission’s recommendations numbers 1 and 3 but has voted not to include recommendation number 2 regarding a parking ratio for studio apartments, and the code has been subsequently updated to reflect the supported recommendations.

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

SECTION A Title 17, amended as follows and detailed in Exhibit A Attached

- 1. Amend LMC 17.01.030 to add reference to three terms relating to the use of commercial storage facilities.

SECTION B Title 18 Amended as follows and detailed in Exhibit A Attached

- 1. Repeal and replace LMC 18.22 in its entirety with updates to the code which allow for increased density within Manufactured Home Parks and maintain this zoning category exclusively for manufactured homes.

SECTION C Title 19 Amended as follows and detailed in Exhibit A Attached

- 1. Repeal and replace LMC 19.11.020 to include reference to the newly created Mixed-Use Centers Overlay.
- 2. Repeal and replace LMC 19.17 in its entirety to update the methods by which setbacks are applied to multi-family buildings and to require common recreational amenities for developments with more than 8 dwelling units.
- 3. Repeal and replace LMC 19.19 to update the code to allow for increased density within Manufactured Home Parks and maintain this zoning category exclusively for manufactured homes and RVs.
- 4. Repeal and replace LMC 19.20-Accessory Dwelling Units in its entirety to revise the methods for reviewing detached accessory dwelling units.

5. Repeal and replace LMC 19.22-Residential Design Standards in its entirety to correct formatting errors and to incorporate clarifications of some standards applied to residential construction.
6. Repeal and replace LMC 19.23-Commercial Zoning in its entirety to, update and consolidate the permitted uses table, to address accessory structures within commercial zones, to clarify the need for review by the Design Review Board, and to incorporate new language, Section 19.23.110, pertaining to new zoning provisions called Mixed-Use Centers.
7. Repeal and replace LMC 19.29 in its entirety to incorporate a consolidation of the Master Planned Residential Development (MPRD) standards and Planned Residential Development (PRD) provisions, which were nearly identical, and to update City standard on the review of homeowners' association's covenants, conditions and restrictions (CCRs).
8. Repeal and replace LMC 19.45 in its entirety to incorporate amendments which clarify the scope of the Design Review Board and codify the City's policies on the Design Review process.
9. Repeal and replace LMC 19.51 in its entirety to generally update on-site parking requirements and specifically to increase on-site parking requirements for multi-family developments, to remove parking reductions for senior housing, to reduce the minimum length of a parking stall from 21 feet to 19 feet, and to ensure continuity between the code and the City's Engineering and Design Standards.
10. Repeal and replace LMC 19.63 in its entirety to incorporate minor updates and clarifications to the process and permitted standards related to fence permits.

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

SECTION F Effective Date. This ordinance shall be effective on January 1, 2023. All development applications received after that date shall be reviewed under the provisions of this ordinance.

PASSED by the City Council this _____ day of _____, 2022. Signed by the Mayor on this _____ day of _____, 2022.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED TO AS FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

Ordinance No. 1657

Exhibit A

Chapter 17.01.030 Definitions

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

“Mini-storage” see “Storage”

“Storage, mini-“ also known as self-storage means a facility containing separate storage spaces of varying sizes that are leased or rented on an individual basis for the storage of household goods where storage, retrieval and transport are the responsibilities of the renter or lessee.

“Storage, large scale” means a facility designed to accommodate the storage needs of business and industry or for the indoor storage of recreational vehicles or other equipment. Spaces may be leased, rented, or sold as condominiums. A majority of storage spaces in these facilities are generally greater than 200 square feet and may include plumbing to accommodate restrooms or other finished spaces for accessory office use.

Chapter 18.22 MOBILE / MANUFACTURED HOME PARK AND SUBDIVISION STANDARDS

18.22.010 - Purpose.

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

18.22.020 - Definitions. (See LMC 17.01.030)

18.22.030 - Requirements for a completed application.

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

18.22.040 - Type of approval required.

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

18.22.050 - Siting criteria.

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

- A. Minimum site development area: Two (2) acres
- B. Maximum site development area: Twenty (20) acres
- C. Minimum perimeter buffer: Twenty (20) feet of Type V landscape buffer adjacent to residentially zoned properties. Six foot privacy fence or wall adjacent to properties zoned for commercial or industrial use, or public-use. Use of chain link fence is not permitted in this application.
- D. Minimum unit site area: Three thousand six hundred (3,600) square feet.
- E. Minimum common open space area: Ten percent (10%) of gross site area. Common open space consists of either an active or passive recreational area accessible and useable to all tenants within the park. Common open space is exclusive of the required perimeter buffers.

F. Maximum density: Eight (8) units per acre.

G. Unit type:

1. Recreational vehicles which meet fire and safety regulation; hook up to utilities in a way that meets code; are appropriately skirted; and contain at least one toilet and at least one shower or that these amenities are provided to the residents of the MH community (RCW 35A.21.312(3)),
2. Single, double or triple wide configuration.
3. Modular homes.

Chapter 19.11 – Districts Established

Section:

19.11.020 Zones designated—Essential use, maximum coverage, and density.

There are established the classifications of the essential land uses for all residential, business and industrial zones to be known by the zone symbols shown as follows:

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density
A-1	Agricultural	0.10		1 D.U./20 Acres
RS-100	Single Family Dwellings	0.35	0.60	4 D.U./Acre
RS-84	Single Family Dwellings	0.35	0.60	4.5 D.U./Acre
RS-72	Single Family Dwellings	0.35	0.60	5.0 D.U./Acre
RMD	Residential Mixed Density	0.35	0.80	8.0 D.U./Acre
MH	Mobile and Modular Home	0.40	0.80	8.0 D.U./Acre
TR	Travel/Recreational Vehicle	0.65		
RM-1	Single Family and two Family Dwellings/bldg.	0.35	0.70	8.0 D.U./Acre
RM-2	Up to 4 Dwellings/bldg.	0.40	0.70	12 D.U./Acre
RM-3	Multiple Dwellings	0.40	0.75	16 D.U./Acre
RM-4	Multiple Dwellings	0.45	0.75	20 D.U./Acre
RM-PC	Detached Single Family Dwellings	0.35	See Open Space Requirements	12 D.U./Acre
	Attached Single Family Attached	0.50		
	Multi-family Dwellings	0.40		

HBD	Historic Business District			
CN Overlay	Commercial Neighborhood Overlay in the Pepin Creek Subarea	N/A		
CSL	Local Commercial Services	N/A		
CSR	Regional Commercial Services	N/A		
MU Overlay	Mixed-Use Centers Overlay		See Open Space Requirements	28 D.U. Acre
ID	Industrial District	N/A		
IBZ	Industrial Business Zone	N/A		
PU	Public Use	N/A		

D.U. = Dwelling Unit

(Ord. 1000 § A(part), 1995).

(Ord. No. 1390, § D, 2-22-2011; Ord. No. 1547, § 4, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

Chapter 19.17 RM MULTIFAMILY BUILDING ZONES

Sections:

- 19.17.010 Purpose and Zones Established
- 19.17.020 Primary Permitted Uses
- 19.17.030 Accessory Permitted Uses
- 19.17.040 Secondary Permitted Uses
- 19.17.050 Conditional Property Uses
- 19.17.060 Height, Area, Setback, and Bulk Requirements
- 19.17.070 (Reserved)
- 19.17.080 (Reserved)
- 19.17.090 (Reserved)
- 19.17.100 Design Review Board

19.17.010 Purpose and zones established.

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

Five multi-family zones are established:

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

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

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

RM-4, Residential Multi-Family 4 zone; (up to 30 units/building)

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

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

4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

19.17.020 Primary permitted uses.

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

	ZONE				
	RM-1	RM-2	RM-3	RM-4	RM-PC
Single Family Dwelling Unit	P	P	P	P	P
Duplex Units	P	P	P	P	P
Three or Four units per building	N	P	P	P	P
More than four units per building	N	N	P	P	P(1)
New manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	P
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N	N

P = Permitted Use; N = Not Allowed

(1) Buildings with more than four units are permitted within the RM-PC zone in certain situations. Refer to LMC 19.18.030 for details.

(Ord. No. 1581, § B, 6-3-2019)

19.17.030 Accessory permitted uses.

Accessory permitted uses in the Multi - Family Zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- E. Accessory dwelling unit (ADU), per LMC 19.20.,
- F. Recreation areas for occupants.

- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

(Ord. No. 1581, § B, 6-3-2019)

19.17.040 Secondary permitted uses.

Secondary permitted uses in the multi family zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.
- H. Adult family homes and residential care facilities, up to eight adults, when approved by the Washington State Department of Social and Health Services (DSHS).

(Ord. No. 1581, § B, 6-3-2019)

19.17.050 Conditional property uses.

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the planning commission and approved by the city council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.

- E. Bed and breakfast establishments and short term rentals (See Section 19.49.030).
- F. House of worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.
- H. Community service facilities operated by a registered non-profit organization providing services to the community such as food banks, outpatient counseling services, and church related or outreach ministries. This use is subject to the following conditions in addition to the conditional use criteria established under Section 19.49.020.
 - 1. The use is limited to the RM-4 zones.
 - 2. This use specifically excludes retail sales and any facilities offering in-patient treatment, inpatient counseling, or inpatient rehabilitation.
 - 3. The maximum lot coverage for the proposed facility shall not exceed thirty percent.
 - 4. All parking and landscaping requirements shall be met.

(Ord. No. 1581, § B, 6-3-2019)

19.17.060 Height, area, setback and bulk requirements.

A. The following table provides regulations for height, area, setback and bulk requirements:

Zone	Min. Lot Size (sq. ft.)	Lot Coverage	Open Space Required	Height in Feet
RM-1	7,200	35%	7.5%	32
RM-2	7,200	40%	7.5%	32
RM-3	7,200	40%	7.5%	32
RM-4	1 Acre	45%	7.5%	32

Minimum Building Setback				
Zone	A building's front elevation, or a side elevation that is oriented toward	A building's rear elevation.	Minimum side setback for a side elevation not oriented toward	Total minimum setbacks of side not oriented toward the primary street frontage.

	the primary street frontage.		the primary street frontage.	
RM-1	20	30	7	22
RM-2	20	30	7	22
RM-3	20	30	12	27
RM-4	20	30	15	32

B. The following table provides regulation regarding the maximum density allowable in each zone:

Zone	Square Feet Required for First Unit	Square Feet Required for Additional Units	Maximum Units/Bldg.
RM-1	6,000	2,000	2
RM-2	6,000	2,000	4
RM-3	6,000	2,500	12
RM-4	6,000	1,650 for units 2—24 1,400 for each additional unit	30

C. For the purposes of this chapter open space is as defined in Section 19.29.080(3) of the Lynden Municipal Code.

D. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

(Ord. No. 1581, § B, 6-3-2019)

19.17.070 Required Residential Amenities

A. Multi-family residential developments that include 8 or more units must provide shared on-site residential amenities.

B. Shared community areas must include amenities that provide outdoor recreational / leisure spaces such as playgrounds, picnic or patio areas, sports courts, off-leash dog areas, or similar. Private spaces such as rear yard patios and balconies shall not be counted toward this requirement.

C. These community open spaces will be reviewed and approved through Design Review Board approval process. The Board will review for the following criteria:

1. Size of the area must be 60 square feet per unit;

2. The calculated area does not include private patios or balconies which are oriented toward specific residential units;
3. The area is safe in that it is visible, protected from vehicular traffic, and illuminated as needed for its intended use;
4. The area is easily accessible via pedestrian walkways to all residents living within the development;
5. The area is equipped with amenities such as permanent site furniture, shade structures, pavilions, and / or playground equipment so as to serve its purpose of providing recreational or leisure opportunities;
6. The area is attractively landscaped;
7. Any proposed structures are consistent with the architecture of the primary structure(s).

19.17.080 (Reserved)

19.17.090 (Reserved)

19.17.100 Design review board

All multi-family developments with attached units will be subject to review by the design review board per LMC 19.45.030.

(Ord. No. 1581, § B, 6-3-2019)

Chapter 19.19 MH MANUFACTURED HOME ZONE

Sections:

- 19.19.010 Manufacture Home (MH) Zone Established
- 19.19.020 (Reserved)
- 19.19.030 Primary Permitted Uses
- 19.19.040 Accessory Permitted Uses
- 19.19.050 Secondary Permitted Uses
- 19.19.060 Maximum Density
- 19.19.070 Minimum Width of Individual Space
- 19.19.080 Manufactured Home Construction Requirements
- 19.19.090 Height, Area, Setback, and Bulk Requirement
- 19.19.100 Manufactured Home Park – Individual Space Boundary
- 19.19.110 Manufactured Home Park – Automobile Parking Requirements
- 19.19.120 Manufactured Home Park – Development Standards
- 19.19.130 (Reserved)
- 19.19.140 (Reserved)
- 19.19.150 Manufactured Home Park – Landscaping

19.19.010 Manufacture Home (MH) Zone Established.

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

(Ord. No. 1581, § B, 6-3-2019)

19.19.030 Primary permitted uses.

- A. The primary uses permitted in the MH—Manufactured Home Zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single family dwelling units are also considered a permitted use within the MH zone if originally constructed prior to January 1, 2023.
- C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

(Ord. No. 1581, § B, 6-3-2019)

19.19.040 Accessory permitted uses.

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

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

(Ord. No. 1581, § B, 6-3-2019)

19.19.050 Secondary permitted uses.

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

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

(Ord. No. 1581, § B, 6-3-2019)

19.19.060 Maximum density.

The maximum density of a manufactured home park or development in the MH Zone shall not exceed eight (8) units per acre.

(Ord. No. 1581, § B, 6-3-2019)

19.19.070 Minimum width of individual space.

No manufactured home space in the MH Zone shall be less than forty-five (45) feet in width.

(Ord. No. 1581, § B, 6-3-2019)

19.19.080 Manufactured home construction requirements.

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

(Ord. No. 1581, § B, 6-3-2019)

19.19.090 Height, area, setback and bulk requirements.

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

Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet			
		Feet	Story	Front	Rear	Side Yard	
						Minimum	Total
3,600	40%	25	2	15	15	7	15

(Ord. No. 1581, § B, 6-3-2019)

19.19.100 Manufactured home park—Individual space boundary requirements.

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

(Ord. No. 1581, § B, 6-3-2019)

19.19.110 Manufactured home park—Automobile parking requirements.

There shall be provided at least two (2) automobile parking spaces for each manufactured home space, plus one (1) additional automobile parking space for every five (5) manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the park.

(Ord. No. 1581, § B, 6-3-2019)

19.19.120 Manufactured home park—Development standards.

See Chapter 18.22 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.150 Manufactured home park—Landscaping.

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

(Ord. No. 1581, § B, 6-3-2019)

Chapter 19.20 ACCESSORY DWELLING UNITS

19.20.010 Purpose.

It is the provision of this chapter to implement the goals and policies as identified under the housing element of the City of Lynden Comprehensive Plan.

- A. The City of Lynden will encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage the preservation of existing housing.
- B. To consider other creative methods, such as cluster housing, cottage housing, accessory housing, and transfer of development rights to increase density and promote the opportunity for ownership of single-family homes.
- C. The city will also look to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the accessory dwelling unit or principal unit of the single-family dwelling.
- D. To provide a place to facilitate the care of family members who are unable to live independently.

19.20.020 Accessory Dwelling Unit.

Accessory dwelling unit (ADU) is a subordinate, complete living unit which includes permanent kitchen and sanitary facilities, that is secondary to a single-family home located on the same lot as defined in LMC Section 17.01.030 and further subject to the following requirements:

- A. ADU's are permitted in all residential zones including planned residential developments provided that only one ADU is allowed per lot as an accessory use to a single-family home. ADU's are permitted in multi-family zones only on lots which are restricted, by lot area, to a single-family residence.
- B. ADU's can be attached as a separate unit within the existing home or an addition to the home, or detached as a separate structure on the lot.
- C. Only one ADU per detached single-family residence. ADU's are not permitted as part of any other housing type. Accessory Dwelling Units are exempt from the density limitations of the underlying zone.
- D. An attached ADU is limited to a maximum of one thousand square feet and two bedrooms. A detached ADU is limited to a maximum of eight hundred square feet and one bedroom.
- E. A detached ADU, or ADU addition, must be of the same construction type as the primary structure. The exterior finish, material, trim, and roof pitch for the ADU must be similar in type and size of the primary structure.
- F. Only one entrance for the entire primary structure and ADU combined shall be visible from the primary street. A detached ADU shall not be forward to the primary unit in relation to the front yard.

- G. One parking space per ADU bedroom, in addition to those required for the single-family residence, will be required for the ADU's. All parking spaces for the primary structure and the ADU must be located on site.
- H. If necessary based on building location, landscaping shall be installed to provide privacy and screening of the adjacent properties. A landscape plan must be approved by the planning director.
- I. Utilities. All utilities servicing the site may require upgrades based on the project size. Any utilities installed on site must meet the requirements of the City of Lynden Manual for Engineering Design and Development Standards.
- J. The primary residence or the ADU must be owner occupied. A perpetual covenant against the property, approved by the planning department must be signed by the owner and recorded with the Whatcom County Assessor's Office which specifies this requirement.
- K. The ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

(Ord. No. 1547, § 9, 12-4-2017)

19.20.030 Setback and height requirements.

The following text provides regulations for height and setback requirements:

- A. All setbacks are measured from the property line to the building foundation. It is the property owner's responsibility to have the property lines clearly marked for inspection.
- B. An attached ADU may be built as close as seven (7) feet to the side property line provided that the living area setbacks total the minimum required within the underlying zone.
- C. A detached ADU may be built as close as ten (10) feet to the rear property line and shall follow the side setbacks in accordance with the requirements of the underlying zone.
- D. An existing non-conforming building shall not be used for an ADU unless the structure is brought into conformance with City Code.
- E. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five (25) feet.
- F. On corner lots in all residential zones, the side yard setback adjacent to the street must reflect the minimum side yard of that zone.
- G. Only one driveway access is allowed per lot.
- H. Detached ADU's may not be located forward of the primary residential structure.

- I. To be considered a "detached" structure, the minimum distance between two structures shall be six (6) feet measured from foundation to foundation with no projections greater than eighteen (18) inches.
- J. The maximum height of any detached structure housing an ADU shall be eighteen (18) feet.
- K. The maximum lot coverage is subject to the associated zone. Thirty-five percent (35%) is all RS zones, thirty-five percent (35%) in the RMD zone, thirty-five percent (35%) in the RM-1 zone, forty percent in the RM-2 and RM-3 zones and forty-five percent (45%) in the RM-4 zone. For lot coverage requirements within a PRD check with the PRD contract.

19.20.040 Permitting and enforcement.

- A. Application. The property owner shall apply for an ADU permit with the planning department. Application must meet all requirements as listed above.
- B. Applicable Codes. The accessory dwelling unit shall comply with all construction codes set forth in the City of Lynden Engineering Design and Development Standards and the Lynden Zoning Code.
- C. A detached ADU must be reviewed consistent with applicable portions of LMC Section 19.22 Residential Design Requirements as they relate to accessory structures.
- D. Inspection. Prior to the approval of an ADU, the city may inspect the property to confirm that all applicable requirements of this code and other codes have been met.
- E. Recording Requirements. Prior to a request for final building inspection for either an attached or detached accessory dwelling unit, the property owner shall file with the Whatcom County Assessor an accessory dwelling unit covenant with all conditions and restrictions as provided by the city.
- F. The covenant is binding upon any successor in ownership of the property. Lack of compliance shall cause for the city to revoke the occupancy or accessory dwelling unit permit.
- G. Any variances to this section will be subject to Chapter 19.47 of the Lynden Municipal Code.

Chapter 19.22 RESIDENTIAL DESIGN STANDARDS

19.22.010 Establishment, relief, and purpose.

- A. Establishment and Relief. There is established therein residential design standards and regulation by which residential structures may be permitted and maintained.
 - 1. Relief from the required standards must be sought through the variance process.
 - 2. Variance requests which relate specifically to site design development standards described in Section 19.22.020, building setbacks, or building height shall be submitted to the Hearing Examiner consistent with Chapter 19.47 LMC.
 - 3. Waiver requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050 and do not relate to building setbacks or building height shall be submitted to the Design Review Board consistent with LMC 19.45.035.

- B. Purpose.
 - 1. The essential purpose of the residential design standards to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and protect and enhance property values for the community as a whole.
 - a. To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.
 - b. To create high-quality communities that have variation of architectural style and durable materials.
 - c. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.
 - d. To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.
 - 2. Residential design standards also seek to encourage low impact design (LID) techniques such as rain gardens, xeriscape, or pervious pavement to minimize adverse impacts on the natural environment.

(Ord. No. 1582, § A, 6-3-2019)

19.22.020 Site design—Setbacks, yards, building orientation, and pedestrian connections.

Objective - To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.

- A. Lot coverage.
 - 1. Lot coverage is limited by zoning category.
 - 2. Lot coverage may be increased by one percent (1%) for each ten percent (10%) of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.
- B. Building Orientation.
 - 1. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen (15) feet from property line to living area.
 - 2. The side yard used for a driveway shall not be less than ten (10) feet in width.
 - 3. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance is obvious from the street or access easement which serves as its primary point of access.
- C. Setbacks. Minimum setbacks are outlined in each zoning category.
 - 1. All setbacks are measured from the property line to the foundation.
 - 2. Eaves and cantilevered architectural features such as bay windows may encroach into the setback a maximum of two (2) feet.
 - 3. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
 - 4. Additional fire protection may be required for structures located within ten (10) feet of each other.
 - 5. It is the property owner's responsibility to have the property lines clearly marked for inspection.
 - 6. On corner lots in the RS-72 zone, one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten (10) feet.
 - 7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen (15) feet.
- D. Garage Setbacks from Property Lines.

1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five (25) feet.
2. In all residential zones an attached garage may be built as close as the minimum zoning allowance to the side property line provided the living area setbacks total the requirement for that zoning category.

E. Pedestrian Connection.

1. Sidewalk connections must be provided in all residential zones.
2. In all RM zones, primary sidewalks must be a minimum of five (5) feet clear width without encroachment of vehicle overhang.
3. In RM zones sites must include pedestrian walkways which provide connection to common green spaces and public sidewalks. Cross walks provided as needed in parking areas and along streets.

(Ord. No. 1582, § A, 6-3-2019)

19.22.030 Residential architecture and attached garages.

Objective - To create high-quality communities that have variation of architectural style and durable materials. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

A. Residential Structure.

1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
2. Eaves and gable ends must be a minimum of twelve (12) inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

1. Building height is regulated by zoning category.
2. On lots greater than ten thousand (10,000) square feet in size, the height of a residential structure may be increased one (1) foot for every two (2) feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five (5) feet, or total height of thirty-seven (37) feet.

C. Roofs.

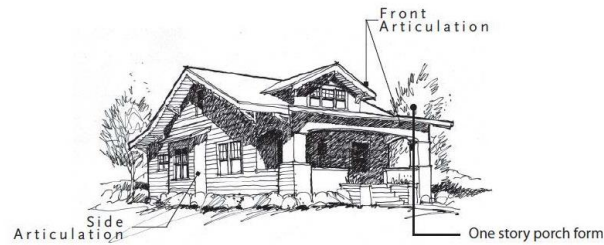
1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.

- 3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.
- 4. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

D. Building Elevations and Finishes.

1. Residential Elevations.

- a. The same architectural elevation shall be separated by a minimum of two (2) other homes and may not be located directly across the street from each other.
- b. An articulation is an architectural element such as a one-story porch or bay window. One such element shall be used on all sides of the building that face toward a public street, shared access easement, or common green. The articulation shall be offset a minimum of twelve (12) inches. A garage setback shall not count as an articulation.

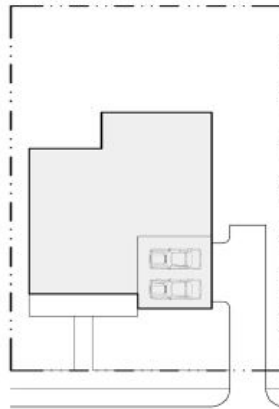


2. Garage Elevations. To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front elevation of the building, with garage doors oriented toward the street or a shared parking lot of a multi-family complex are subject to the following standards:

- a. At the ground level, the garage façade shall not extend forward of the living space by more than twelve (12) feet. Porches are not considered living space.
- b. The lineal frontage of the building elevation which can be occupied by garage doors is limited.
 - 1. In RS zones, no more than fifty percent (50%) of the building elevation can be garage doors.
 - 2. In RMD and RM zones, no more than sixty percent (60%) of the total first floor building elevation length can be garage doors.
- c. Attached garages or attached carports which provide a third covered or enclosed space (all adjacent to one another) must be offset a minimum of two (2) feet from the first two covered or enclosed spaces.

3. Exterior Finishes.

- a. The exterior of the home must be finished with a minimum of two types of materials or variation in reveals.
- b. Exposed fastener metal siding is prohibited on residential buildings.
- c. Exposed ends of stone and masonry façades are not permitted and must be finished with trim or end caps.
- d. All garage sides that are visible from streets or shared access easements shall provide architectural details and trim consistent with the design of the home.



Side Loaded Garage

E. Porches, Stoops, Decks, and Patios.

1. Porches and stoops.

- a. Architecture of the primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
- b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
- c. Stairs with open risers are not permitted on front porches or stoops.

2. Decks and patios.

- a. Uncovered wood decks and raised concrete patios not over twenty-four (24) inches above grade at any point may be permitted within eighteen (18) feet of the rear property line and five (5) feet of the side property line.
- b. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - (1) Remains open on three sides and is not enclosed in any way;
 - (2) Does not come within eighteen (18) feet of the rear property line;

- (3) Does not encroach more than two (2) feet into the side yard setbacks of the underlying zone; and,
- (4) The addition does not exceed the permitted lot coverage.
- c. Deck or patio privacy screening or fencing which is located more than six (6) feet from the property line, may be up to eighty-four (84) inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six (6) feet above grade.

(Ord. No. 1582, § A, 6-3-2019)

19.22.040 Detached garages and accessory structures.

Objective - To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

To be considered a "detached" structure, the minimum distance between two structures shall be six (6) feet measured from foundation to foundation with no projections greater than twenty-four (24) inches. Additional fire protection may be required for structures located within ten (10) feet of each other.

A. General Requirements.

- 1. All accessory structures, whether defined in this title or not, shall conform to the requirements of the International Building Code. (Currently appears in MH bulk standards)
- 2. Architectural style of a detached garage, shop, or shed must match the style of the primary structure. However, agriculturally themed structures such the roofline of a traditional barn may be permitted. Also, this standard is not applicable to greenhouses or open-sided structures intended only to cover recreational vehicles.
- 3. All accessory structures, including carports, must utilize roofing material which is compatible with the primary structure.
- 4. Any structure intended to be established and remain for more than seventy-two (72) hours and, as outlined in LMC 15.04.010, exceeds one hundred twenty (120) square feet in area must obtain a building permit.

B. Accessory Structure Setbacks.

- 1. Detached garages may be located a maximum of twelve (12) feet forward of the first floor living space of the home but are subject to front setback required by the underlying zone. Storage sheds or other accessory structures not used as a garage are not permitted forward of the front façade of the home.
- 2. A detached accessory structure or garden shed located in a rear may not be built closer than six (6) feet to the side or rear property line including property

lines abutting alleys with a maximum eave of twenty-four (24) inches. Structures less than one hundred and twenty (120) square feet must be setback a minimum of three (3) feet from the side and rear property line.

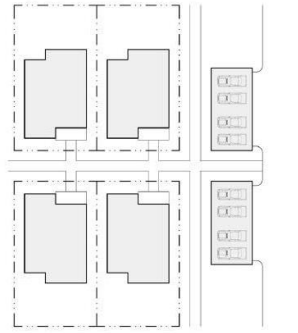
3. Accessory structures on corner lots shall not be permitted nearer than fifteen (15) feet to the side property line adjacent to the street.
4. Garages accessed from alleys with garage doors facing the alley must be setback a minimum of twenty-one (21) feet in all RM zones and setback twenty-five (25) feet in all RS zones.

C. Accessory Structure Height.

1. The maximum height for all accessory structures shall be twelve (12) feet, except for detached garages, shops, and detached accessory dwelling units (ADU) as noted below.
2. The maximum height of any detached garage that is serving as the primary garage, a secondary garage, shop with an overhead door, or detached ADU shall be eighteen (18) feet, provided however that
 - a. The setback shall be a minimum of six (6) feet from the side and rear property line,
 - b. Structures serving as secondary garages or shops are set behind the rear line of the house,
 - c. The roof pitch and siding shall be consistent with the primary structure on the lot,
 - d. There is no living space within the building except as permitted with a legal accessory dwelling unit (ADU) and larger setbacks as outlined in Chapter 19.20, and
 - e. The height of the building does not exceed the height of the primary structure.

D. Accessory Structure Area.

1. In MH zones, no detached garage shall exceed one thousand (1,000) square feet of inside floor area or exceed square footage of the primary structure.
2. In RMD and RS zones, no detached garage or accessory building footprint shall exceed one thousand (1,000) square feet or ten percent (10%) of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive
3. Shared attached garages and carports are permitted in RM zones. Shared garages shall have a maximum of four (4) parking stalls and not exceed forty-four (48) feet in width. (see graphic)



Shared Garage

3. Detached carports are permitted to accommodate no more than four (4) vehicles and are limited to a maximum of forty-four (48) feet in width.

(Ord. No. 1582, § A, 6-3-2019)

19.22.050 Landscape, fences, screening, and lighting.

Objective – To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

A. Landscape, Fences and Screening.

1. Landscape. Refer to Chapter 19.61 for full description of Residential Landscape Requirements.
2. Fences.
 - a. Fences shall not be built closer than three (3) feet to the property owner’s side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three (3) feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this three (3) foot setback.
 - b. Refer to Chapter 19.63 for full description of Residential Fence Standards.
3. Screening.
 - a. In RS zones, trash and recycling containers shall be stored within side or rear yards or within enclosed garages.
 - b. In RM zones, trash and recycling containers shall be stored within side or rear yards, or within enclosed garages, or in screened enclosures as approved by the design review board during site plan review.
 - c. Except for public utilities, mechanical equipment shall not be located in front yards.

- d. All mechanical equipment, including roof mounted, must be screened so as not to be visible from the street, shared access easement, or common green spaces. Screening can be accomplished by fencing, architectural screening, or evergreen landscape material. Equipment to be screened includes, but is not limited to, heating and air conditioning units, venting associated with commercial grade cooking facilities, and any mechanical equipment associated with pools or hot tubs.
- e. In RS zones, the base of exterior mechanical equipment must not exceed a height of more than eighteen (18) inches above the finished exterior grade.
- f. Recreational vehicles may only be stored on RS zoned properties consistent with LMC 19.15.030.

B. Street trees.

- 1. Street trees are required at the time of plat as outlined in Chapter 18. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
- 2. Street trees must be from the city's approved street tree list or an approved alternative.
- 3. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
- 4. Street trees must be installed with root barrier protection as specified in the Engineering Design Standards.
- 5. Street trees shall be a minimum caliper of one and one half (1 ½) inch at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of one (1) inch. Refer to the city of Lynden Engineering Design Standards for a full description of street tree requirements.

C. Lighting.

- 1. All front entry ways shall have an exterior light.
- 2. In multi-family housing projects exterior lighting must be installed with a timer or sensors so that it operates automatically regardless of occupancy.
- 3. Light that is broadcast beyond the intended area and illuminates neighboring windows or beyond the lot boundary is not permitted.

D. Addressing. To facilitate first responders in the event of an emergency, address numerals on all residential structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.

E. Front and Side Yard Uses.

- 1. Front yards, not part of a paved driveway or designated parking area, shall be used for ornamental purposes only.

- a. No storage sheds, portable storage tents, temporary canopies or other similar structures may be located within the front yard; provided however that portable canopies or tent structures may be used during events or yard sales but must be removed within seventy-two hours of the sale or other event.
- b. Parking of vehicles or utility trailers on lawn or landscape areas of a front yard or a side yard adjacent to a public right-of-way is not permitted.
- 2. Front yards may be used for low impact development (LID) infiltration best management practices (BMPs).
- 3. Front yard setbacks may not be used for the storage of boats, campers, or any recreational vehicle. Refer to 19.31.020.
- 4. To reduce the visual impact of parking areas in RM zones, including RMD, a minimum setback of three (3) feet is required between any property line and the surface of a parking lot. This setback must be lawn or landscaped area. This applies to rear, side, and front yards.

(Ord. No. 1582, § A, 6-3-2019)

Chapter 19.23 COMMERCIAL ZONING

Sections:

- 19.23.010 Zones Defined
- 19.23.020 Permitted Uses
- 19.23.030 Accessory Permitted Uses
- 19.23.040 Secondary Permitted Uses
- 19.23.050 Setbacks, Access, and Queuing Requirements
- 19.23.060 Design Review Approval Required
- 19.23.070 Projections into Public Right-of-Way
- 19.23.080 Special Development Conditions for all Stores Greater than Twenty-five Thousand Square Feet GFA.
- 19.23.090 Special Development Conditions for Projects Utilizing the Provisions of the Mixed Use Center Overlay and for Retail Stores greater than Fifty Thousand Square Feet GFA.
- 19.23.100 Special Conditions for Automobile Service Stations
- 19.23.110 Mixed-Use Centers Overlay

19.23.010 Zones defined.

The following commercial zones are hereby established and defined:

1. Historic business district (HBD): The historic business district is the zone where the city's economic activity originated. This zone is intended to be an active mix of professional offices and residences, personal services and small retail establishments serving the employees and residents of the area. Emphasis on the city's cultural history is anchored by the Pioneer Museum on 3rd Street and the Dutch Village Mall on 7th Street. Storefronts and streetscapes shall encourage pedestrian activity.
2. Local commercial services (CSL): The purpose of the CSL zone is to provide a location for local scale retail development (stores less than sixty-five thousand square feet), medical, professional and financial services. Development within this zone should focus on pedestrian connectivity to the surrounding area. Residential development is also permitted in CSL areas that qualify for the Mixed-Use Centers Overlay and, on a limited scale, in the Central Lynden Sub-

Area. This zone, together with the historic business district, provides the primary location for civic and social activities within the community.

3. Regional commercial services (CSR): The purpose of the CSR zone is to support the development of large format retail and regional commercial development. In addition, this zone may support commercial establishments which require a retail contact with the public together with professional offices, storage and warehousing, or light manufacturing. This zone is located where larger parcels and arterial streets are available to support the traffic and land needs for these types of uses. This zone provides the primary location for businesses serving both the local and regional trade area. Residential development is permitted in CSR areas that qualify for the Mixed-Use Centers Overlay.
4. Mixed-Use Centers (MUC) Overlay: The purpose of the MUC Overlay is to identify specific areas of the City within walking distance of existing commercial centers, where a mix of multi-family residential and compatible commercial use is appropriate. The overlay fosters a development pattern with direct, convenient pedestrian, bicycle, and vehicular access between residences and businesses. It promotes a compact growth pattern that is scaled and designed to be compatible with surrounding land uses and strives to provide sensitive transitions between different land uses.

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

19.23.020 Permitted uses.

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

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

Land Use	HBD	CSL	CSR	MUC Overlay (1)
Adult entertainment uses	N	C(4)	N	N
Agricultural product and/or equipment parts sales	N	C	P	N
Animal auction barn	N	N	N	N

Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C	N
Auction facilities for equipment or goods (not animals or livestock)	N	P	P	N
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P	N
Banks and financial institutions with drive-thrus	P	P	P	N
Banks and financial institutions without drive-thrus	P	P	P	P
Bed and breakfast, short term rentals	P	P	N	N
Body piercing and tattoo studios	N	N	P	
Business Parks where at least 20% of the total GFA of the park is related to onsite retail, showroom, or office use.	N	N	P(8)	N
Business schools	P	P	P	P
Car wash	N	P	P	N
Clubs and lodges	P	P	N	P
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P	P
Commercial sporting events	C(7)	N	C(7)	N
Construction material sales with outdoor yards	N	C	P	N
Contractors and construction services with equipment, fleet, or materials storage, or warehouse or shop space.	N	C	P	N
Convention center, including banquet facilities and/or meeting halls	C	P	P	N
Day care facilities	P	P	PA	P
Eating / drinking establishments without drive-thrus including	P	P	P	P

restaurants, cafes, bars, taverns, tasting rooms and microbreweries				
Eating / drinking establishments with drive-thrus including restaurants, cafes, and coffee shops	N	P	P	P(6)
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P	N
Fitness facilities	P	P	P	P
Food trucks	P	P	P	P
Fueling stations (may include convenience store)	N	P(2)	P(2)	N
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P	N
Grocery store, food market	P	P	P	P
Home furnishings stores, flooring, lighting, window showrooms	P	P	P	P
Home improvement and hardware stores with no outdoor yards	P	P	P	N
Hospitals	N	N	N	N
Hotels, motels — includes indoor restaurants, gift shops and other businesses associated with a hotel or motel	P	P	P	N
House of Worship	N	P	P	N
Laundry and dry cleaning facilities	P	P	P	P
Landscape plants and landscape materials for retail sales	N	P	P	N
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P	N
Liquor sales	P	P	P	P
Manufacture, fabrication, assembly, woodworking and metal working shops, where at least 20% of the GFA is related to on-site retail or office space. All uses subject to the	N	C(9)	P	N

performance standards of Chapter 19.25 of LMC				
Manufactured home parks	N	N	N	N
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N	N
Medical services overlay	N	N	P	N
Motor vehicle and recreational vehicle sales and service	N	C	P	N
Multi-family residences	P(5)	P(5)	P(5)	P(5)
Non-retail communications services	P	P	P	N
Non-profit offices that include warehousing	C	C	P	N
Offices – business and professional	P	P	P	P
Offices – medical, dental, and physical therapy (see also Surgical centers)	P	P	P	P
On-site hazardous waste treatment (no treatment allowed in HBD) and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.	N	PA	PA	N
Personal services such as barber, salon, day spa.	P	P	P	P
Pet supply store and grooming (no boarding)	P	P	P	P
Pharmacy with drive-thru	N	P	P	N
Postal / shipping services	P	P	P	P (no drive-thrus)
Printing and duplicating shops	P	P	P	P
Public use facilities	P	P	P	P

Research and development facilities	N	P	P	N
Retail (general retail) not otherwise defined	P	P	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P	N
Retail feed and seed stores	N	P	P	N
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P	N
Retail stores greater than 65,000 square feet	N	N	P(1)	N
Sign design, fabrication, and installation companies	N	C	P	N
Single-family residences existing prior to 1992	N	P	N	N
Skilled nursing and assisted living facilities	N	P	N	N
Storage facilities – Mini-storage	N	P	P	P(10)
Storage facilities – Large scale	N	N	P	N
Studios for art, photography, dance, martial arts, or fitness classes.	P	P	P	P
Surgical centers	N	C	P	N
Theaters and movie theaters	P	P	P	P
Truck and trailer sales and service	N	C	P	N
Undertaking establishments	N	P	P	N
Utility facilities	C	C	P	N
Video arcades	P(3)	P(3)	P(3)	P(3)
Warehousing, including open to the public	N	N	C	N
Wholesaling, including open to the public	N	N	C	N
Temporary Uses: All temporary uses which occupy more than 200 sf must secure a Special Event Permit	HBD	CSL	CSR	MUC Overlay

Farmers markets or seasonal sales (produce or flower stands, landscape plants, pumpkins, Christmas trees)	P	P	P	P
Outdoor art and craft shows	P	P	P	P
Outdoor sale of new or second-hand items (flea markets, antiques, swap meets, yard or garage sales)	P	P	P	P

- (1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses and all uses within the Mixed-Use Centers Overlay.
- (2) See Section 19.23.100, Special Conditions for Automobile Service Stations.
- (3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
- (4) These uses may not be located within three hundred from Front Street, or two hundred feet from a residentially zoned area, or within two hundred feet from the fairgrounds, or five hundred feet from a church or school.
- (5) This use is permitted only as described in LMC 19.23.110.
- (6) Eating and drinking establishments on properties utilizing the provision of Mixed-Use Overlay Centers must restrict drive-thrus to one lane per establishment and orient drive-thrus in such a way as to not interfere with pedestrian connectivity within the site. Drive-thru areas must be heavily landscaped. Drive-thrus may split into two lanes as long as the entrance and exit of the drive-thru narrow to a single lane.
- (7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone and Mixed-Use Centers Overlay under the following conditions:
 - a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the finance director.
 - b. Off-street parking is provided and monitored to ensure emergency access at all times;
 - c. Police and fire departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.
 - d. No alcohol may be sold, distributed or consumed on site.
 - e. Mixed martial arts, boxing, wrestling or other “fight-type” events must meet the requirements of RCW 67.08.

- (8) Business parks are required to formalize a development agreement with the city council after receiving a recommendation from the planning commission which:
 - a. Specifies a list of permitted, conditional, and prohibited uses with the business park.
 - b. Outlines a parking and loading standards which anticipates the uses permitted.
 - c. Creates standards for and screening of outdoor storage and refuse areas.
 - d. Addresses unique signage requirements.
 - e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.
- (9) Manufacture, fabrication, assembly, woodworking and metal working shops locating within a CSL zoning category must acquire a conditional use permit if the subject property is located within three hundred feet of a residentially zoned property.
- (10) Storage facilities within a development utilizing Mixed-Use provisions may provide storage as an amenity to the on-site residents or as a commercial entity for off-site customers but it cannot be counted toward the minimum commercial space requirement as it does not support the goals of the Mixed-Use Overlay. Additionally, flex space must not be used as or converted to storage facilities of any type. If storage facilities are included within a Mixed-Use Overlay development it shall not occupy the primary street frontage of the development.

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

19.23.030 Accessory permitted uses.

Accessory uses permitted shall include such functions as repair and service relating to the essential uses, and are as follows:

- A. Operation of motors and other equipment relating to the function of the essential use;
- B. Food preparation and other material or service preparation relating to the primary use, but not conducted;
- C. Business and advertising signs, providing such signs conform to the sign regulations of this chapter.

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

19.23.040 Secondary permitted uses.

The permitted secondary uses, when permitted outright or after receiving a conditional use permit, are as follows:

- A. The servicing of new passenger cars, trucks, recreation vehicles and farm implementing machinery as a condition to the operation of a sales function only;
- B. The storage of delivery trucks relating to the use of the retail and commercial property;
- C. The storage of materials or commodities to be used and/or sold in the conduct of the retail business functions.

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

19.23.050 Commercial Development Standards

- A. Setbacks. Setbacks are established to ensure adequate circulation and access for emergency services. All setbacks are measured from the property line to the foundation. The setback requirements shall be as follows:

	HBD	CSL	CSR	MUC
Rear setback	20 ft. (1)	10 ft.	25 ft.	Per LMC 19.23.110
Front setback (2)	0 ft.	10 ft.	20 ft.	
Side setback (3)	0/10 ft.	0/10 ft.	0/10 ft.	
Maximum building height	48 ft.	48 ft.	48 ft.	

- (1) May be located closer if parking is available underground with access to Judson Alley.
- (2) When adjacent to Badger Road, front setback shall be one hundred feet from Highway Center line. When adjacent to the Guide Meridian Highway the front setback shall be one hundred feet from the center of the highway on the east side and one hundred and ten feet from the center of the highway on the west side. Once the required right-of-way for planned improvements has been acquired through dedication or WSDOT indicates it is not to be needed, setbacks shall be consistent with the setback requirements listed above.
- (3) Where construction types and the International Building Code allow, the side yard setback in any commercial zone may be zero; provided, however, that the setback between a building and a right-of-way will not be less than ten feet.

- B. Highway Frontage: All development located on state highways must comply with the access requirements of the Washington State Department of Transportation in addition to the City of Lynden Manual for Engineering Design and Development Standards.
- C. Drive-Thrus: All businesses with a drive-thru window must have a minimum queue length of sixty feet. This is a cumulative total but does not include the vehicle at the drive-thru window. Businesses generating more than twenty-five p.m. peak hour trips must include queuing in the required traffic analysis checklist.
- D. Accessory Structures: Structures are considered accessory when they are incidental or clearly subordinate to the primary use. Structures may be considered accessory when they do not house the primary functions of the use of the property or are scaled so that the area of the structure equals only 20% or less of the gross floor area of the primary structure. Commercial properties are permitted accessory structures according to these standards:
 - 1. Building permits are required for all structures greater than 120 square feet;
 - 2. Building permits are required for all structures intended to remain on the property for more than 72 hours;
 - 3. Design Review Board approval is required for commercial accessory structures which have a floor area greater than twenty percent (20%) of the primary commercial structure and are visible from street rights-of-way;
 - 4. Front and rear setbacks may be reduced by half for accessory structures with a gross floor area of 120 square feet or less.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018; Ord. No. 1574, § C, 3-4-2019)

19.23.060 Design review approval required.

Design review is a tool to direct development in the City of Lynden to be of high quality, well designed and to produce projects that reflect the values and character of the Lynden community. Development plans reviewed administratively or by the Design Review Board must maintain compliance with design guidelines adopted by the Lynden City Council. These guidelines address site design, building design and features, streetscapes, trash and mechanical areas, and signage.

- A. New commercial structures which are visible from street right-of-way are subject to review and approval by the Design Review Board according to the City of Lynden Design Review Guidelines except that some accessory structures are exempt from Design Review Board approval per LMC 19.23.050(D).
- B. Commercial exterior remodels will be evaluated by the Planning Director to determine if review and approval of the Design Review Board is required. Board review will be prioritized for existing structures and sites which have historically never received approval. All commercial remodels are required to address

aspects of site design such as lighting, landscape, street trees and the screening of mechanical equipment and trash disposal areas.

- C. The Historic Business District (HBD) of the City of Lynden has a number of historic buildings which are more than 50 years old and play a role in the history of the City. Additionally, an aesthetic character based on the Dutch and European background of the founders of the community was also established in this area. To preserve this character and the community’s unique identity, all new construction within the HBD shall reflect a historic Dutch and European aesthetic. Alternately, exterior remodels within the HBD may be designed to restore or pay tribute to the structure’s historic architecture. Designs are subject to review and approval by the design review board.

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

19.23.070 Projections into public right-of-way.

Decorative additions to the fronts of buildings currently existing within the historic business district and CSL zone are allowed to extend into the public right-of-way as described here.

- A. Projections may be made on the side of the building facing the street only, no overhang may occur in the alleys.
- B. Materials used for decorative additions to buildings must be non-combustible, except for limited wood trim which may be approved by the building official, subject to building codes.
- C. Signs, marquees, canopies, or awnings with less than 15 feet clearance above a sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. A minimum height clearance of eight feet is required.
- D. Projections into public right-of-way that have more than 15 feet of clearance above the sidewalk are subject to the provisions of the International Building code and the approval of the Building Official.

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

19.23.080 Special development conditions for all stores greater than twenty-five thousand square feet GFA.

- A. Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the planning department for the continued maintenance of the site which addresses how the owner or operator will avoid any nuisance violations and the removal or proposed reuse of the facility. This plan must be submitted within twelve

months of the vacancy; provided however, the time limit may be extended by the city council upon showing of good cause.

- B. Restrictive covenant required: Lease agreements containing provisions which limit, preclude or restrict the marketing, leasing or renting of retail building space greater than twenty-five thousand square feet to future lessees or future lessees operating a certain business, tend to prolong vacancy, are found to be detrimental to the public health, safety and welfare of the city, and shall not be permitted. The owner of any property for which a permit is granted authorizing an individual building or lease space greater than twenty-five thousand square feet for retail store purposes shall execute a restrictive covenant against the property for the benefit of the city. Said restrictive covenant shall:
 - 1. Preclude entry into any agreement which contains a provision preventing, restricting or limiting the marketing, leasing, or renting of the building or property to future lessees, including future lessees which may be competitors of any tenant or owner of the building.
 - 2. Require continuous occupancy of the leased premises and operation of a retail business on the leased premises during the term of any lease or rental agreement
 - 3. This restrictive covenant is required regardless of the time remaining on any marketing, lease or rental agreement and regardless of whether such future marketing, lease or rental agreement is a competing business with that of the owner, operator or landlord or of any past or prospective lessee. This restrictive covenant shall be approved by the city attorney and must be recorded at the time of permit approval.

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

19.23.090 Special development conditions for projects utilizing the provisions of the Mixed-Use Center Overlay and for retail stores greater than fifty thousand square feet GFA.

Provisions described within this section do not apply to Small Scale Mixed-use Projects described in LMC 19.23.110(B).

- A. The costs of all studies and investigations reasonably necessary to grant approval of a building permit shall be borne by the applicant. If it becomes necessary for the city to hire outside professionals to review reports or studies, the cost of hiring the consultant(s) shall be borne by the applicant.
- B. All buildings are encouraged to achieve LEED certification.
- C. Parking:
 - 1. Minimum parking area per LMC 19.51.
 - 2. Maximum parking area 6.0 stalls per one thousand square feet GFA.

3. Development proposed under the provisions of the Mixed-Use Centers Overlay may be eligible for shared parking per LMC 19.23.110 or LMC 19.51.
- D. Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the Planning Department for the continued maintenance of the site which addresses how the owner or operator will avoid any nuisance violations and the removal or proposed reuse of the facility. Said plan must be submitted within twelve months of the vacancy; provided however, the time limit may be extended by the City Council upon showing of good cause. The plan shall include the following details:
1. The owner or operator’s proposed marketing efforts for obtaining an occupant for its facility.
 2. An executed maintenance contract for the site including landscaping, parking lot cleaning and site lighting.
 3. The requirements under this Section 19.23.090.D will be subject to enforcement under the provisions of Chapter 17.13 of the Lynden Municipal Code.
- E. Restrictive covenant required: Lease agreements containing provisions which limit, preclude or restrict the marketing, leasing or renting of retail stores greater than fifty thousand square feet to future lessees or future lessees operating a certain business, tend to prolong vacancy, are found to be detrimental to the public health, safety and welfare of the city, and shall not be permitted. The owner of any property for which a permit is granted authorizing an individual building or lease space greater than fifty thousand square feet for retail store purposes shall execute a restrictive covenant against the property for the benefit of the city as a condition of permit issuance. This restrictive covenant shall:
1. Preclude entry into any agreement which contains a provision preventing, restricting or limiting the marketing, leasing, or renting of the building or property to future lessees, including future lessees which may be competitors of any tenant or owner of the building.
 2. Require continuous occupancy of the leased premises and operation of a retail business on the leased premises during the term of any lease or rental agreement.
 3. In addition to other remedies, be enforceable by the remedy of specific performance and injunctive relief; and provide for award of reasonable costs and attorney’s fees to the prevailing party in the event of enforcement of the restrictive covenant.
 4. The restrictive covenant referred to in this section shall be approved by the city attorney and must be recorded with the Whatcom County Auditor at the time of permit approval.
- F. Design guidelines: All large format retail buildings and developments utilizing the provisions of the Mixed-Use Centers Overlay must meet the following site and

building design standards as part of compliance with the city’s design review requirements.

Section I -Aesthetic Character

Intent: Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities that reflect the character of the community.

1. Facades and Exterior Walls. Intent: Facades must be articulated to reduce scale and avoid the potential of uniform, impersonal appearance of large, retail or residential buildings. Facades must provide visual interest that is consistent with the community’s identity, character, and scale.

- a. Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade. The cumulative length of the recess or projection must be a minimum of twenty percent of the length of the façade, but should not be more than sixty percent of the façade length.
- b. Ground floor facades that face public streets shall have arcades, entry areas, awnings or other such features along no less than sixty percent of their horizontal length. Display windows are encouraged as a design feature at entrances (see Section II.C.3).
- c. The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is required.

2. Detail Features. Intent: Buildings should have architectural features and patterns that provide visual interest, accommodate the scale of pedestrians at the ground level, provide architectural transitions such as a stepped approach to reaching the full height of the building, and recognize local character. The elements in the following standards should be integral parts of the building’s architecture, and not superficially applied trim or graphics, or paint. Additional guidelines may be found in the City of Lynden Design Review Guidelines.

- a. Building facades must include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty feet, either horizontally or vertically. Elements include: color change, texture change, material module change, and expression of architectural or structural bay through a change in plan no less than twelve inches in width, such as an offset, reveal, or projecting rib.
- b. Building materials may not include unfinished CMU blocks. This does not prohibit the use of ground face, scored, or split face architectural CMU blocks.
- c. The use of a combination of architectural elements is required. These elements may include but are not limited to the following:

- i. Roof line with a steep pitch and gables or a façade replicating that appearance.
- ii. Decorative gable ends, stepped with ornamental detail.
- iii. Narrow and vertical emphasis on fenestration. Windows are often highlighted in a contrasting color and are multi-paned.
- iv. Quoins, corbels and corbelling.
- v. Cornice detail.
- vi. Use of brick masonry materials.
- vii. Use of color to highlight ornamentation.

3. Roofs. Intent: Variations in roof lines should be used to add interest and to reduce the scale of the buildings.

- a. Rooflines should be varied with a change in height every one-hundred linear feet in building length. Parapets, mansard roofs, gable roofs, hip roofs or dormers shall be used to conceal flat roofs and roof top equipment from public view.
- b. The average height of parapets or other roof treatments shall not exceed fifteen percent of the height of the supporting wall and such parapets may not exceed one-third of the height of the supporting wall at any time. Parapets shall feature three dimensional cornice treatments. Parapets and facades of varying heights and widths to approximate the appearance of several smaller buildings or storefronts are encouraged.

4. Materials and colors. Intent: Exterior building materials and colors comprise a significant part of the visual impact of a building and should be reflective of the community's character, and surrounding neighborhood.

- a. Predominant exterior building materials shall be high quality materials that are easily maintainable, and graffiti resistant. Material suggestions include without limitation; brick, wood or fiber cement siding, and tinted and textured concrete masonry units.
- b. The use of metallic colors, black or fluorescent colors as a building's primary color is prohibited.
- c. Predominant exterior materials shall not include the following items, unless they are manufactured to meet the other design criteria: unfinished concrete blocks, smooth faced tilt-up concrete panels, and pre-fabricated steel panels.

5. Entryways. Intent: Entryway design elements and variations should give orientation and character to a building as well as enhance the pedestrian scale.

- a. Each building on a site shall have clearly defined, highly visible entrances featuring no less than three of the following design elements:
 - i. Arcades, plazas or porticos.

- ii. Raised parapets over the door.
 - iii. Arches.
 - iv. Display windows.
 - v. Outdoor patios.
 - vi. Peaked roof forms.
 - vii. Recesses or projections.
- b. Where additional stores will be located in the principal building, each store shall have at least one exterior customer entrance that conforms to the above requirements.
 - c. Entry ways and their adjoining sidewalk, may not exit directly onto a travel lane or parking aisle. Pedestrian traffic must be directed to pedestrian walkways (refer to II. C. 1.).
6. Back and Side Facades. Intent: All facades of a building which are visible from adjoining properties and/or public streets must be attractive and include elements from the preceding sections.
- a. The side and rear of a building visible from any public street or adjoining property must incorporate at least one design element from Sections A and B above.

Section II - Site Design

7. Entrances. Intent: Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access and provide convenience. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. It is desirable for large retail buildings to feature multiple entrances.
- a. All entrances shall be architecturally prominent and clearly visible from the abutting public street. Large format retail stores must locate public entrances on all sides that include public parking located on at least two sides of the building unless the Design Review Board determines it is unsafe or infeasible to do so.
8. Parking Lot Orientation. Intent: Parking lots should not overpower the visual impact of any site. They should provide safe, convenient and efficient access for vehicles and pedestrians. Bus stops, drop-off/pick-up locations, and loading areas must be considered as integral parts of the site configuration.
- a. Large parking lots should be visibly and functionally segmented into several smaller lots with the use of landscaping, and pedestrian walkways.
 - b. At least one pedestrian walkway shall be provided within the parking lot from each abutting street to the pedestrian walkway abutting the building.
 - c. Parking lot landscaping shall meet or exceed the requirements of Section 19.61.100 of the Lynden Municipal Code.

- d. Retail stores of 50,000 sf or more that provide customers with shopping carts must also provide outdoor cart corrals. Corrals must be located throughout the parking areas in convenient and sufficient numbers and must be easily accessible.
 - e. All lighting in the parking lot shall be directed downward to minimize glare on neighboring properties.
 - f. Inclusion of bicycle parking is required for every Mixed-Use Center and retail store greater than 50,000 sf.
9. Pedestrian Flows. Intent: Pedestrian accessibility provides multi-modal access to nearby neighborhoods, reducing traffic impacts and enabling the development to project a friendlier more inviting image.
- a. Pedestrian walkways must be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls and other architectural elements that define circulation ways and outdoor spaces.
 - b. Continuous internal pedestrian walkways, no less than eight feet in width, shall be provided from the public sidewalk or right-of-way to the customer and residential entrances of all buildings on the site. Pedestrian walkways that traverse the parking lot may be five feet in width. Walkways shall connect pedestrian activity such as, but not limited to transit stops, street crossings, buildings and store entry points, and central features and community spaces. Walkways shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty percent of their length.
 - c. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Pedestrian walkways must also be protected from the driving lanes by curb stops, bollards, or other features that restrict vehicular access, while continuing to provide access for shopping carts.
 - d. No parking stall shall be located further than one hundred thirty feet from an internal pedestrian walkway.
 - e. Sidewalks.
 - i. Sidewalks, no less than eight feet in width, shall be provided along the full length of commercial buildings along any façade featuring a customer entrance and along any façade abutting public parking areas.
 - ii. Sidewalks, no less than seven feet in width, shall be provided along the full length of residential building developed utilizing the provisions of the Mixed-Use Centers overlay.

- iii. All sidewalks along building facades shall be located at least six feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade.
- f. Internal pedestrian walkways provided in conformance with the section above, shall provide weather protection features such as awnings or arcades within thirty feet of all customer entrances. The extent of the covered area should be proportionate to the height of the building (i.e. the taller the building, the wider the covered pedestrian area).
- g. In no instance shall outdoor displays of merchandise or shopping cart storage impede the pedestrian movement at the entrance of the store.

10. Outdoor Storage, Trash Collection and Loading Areas

Intent: Loading areas and outdoor storage areas exert visual and noise impact on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, must be screened, recessed, or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate, or difficult to maintain screening materials can exacerbate the problem.

- a. Areas for permanent outdoor storage, trash collection or compaction, loading, or other such uses shall be screened from the public and private rights-of-way.
- b. No areas for outdoor storage, trash collection or compaction, loading or other such uses that exceed 800 square feet shall be located within twenty feet of any public street or sidewalk or internal pedestrian walkway that is used by the general public.
- c. Loading docks, truck parking, outdoor storage, HVAC equipment, trash dumpsters and compactors, and other service functions shall be incorporated into the overall design of the building and the site so that the visual and acoustic impacts of the functions are fully contained and out of view from adjacent properties and public streets. Public access to these areas should be restricted.
- d. Use of portable, metal storage containers or truck trailers as a permanent storage solution is not permitted. Temporary use, less than three months per calendar year, of these storage methods is permitted.
- e. Non-enclosed areas for the sale of seasonal inventory shall be clearly defined and may not infringe on any required parking or pedestrian walkway. Materials, colors and design of any screening walls and/or fences shall conform to those used as predominant materials and colors on the building.

11. Signage

Intent: Signage should enhance the character of the building and should help the public find their way to where they need to go. Signage should be attractive, well-lit and consistent with the design of the building and surrounding neighborhood.

- a. Building signage should be proportionate to the size of the wall.
- b. Exposed neon tubing is not permitted.
- c. Sign design, review, and installation must be consistent with standards of LMC 19.33.

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

19.23.100 Special conditions for automobile service stations.

The purpose of this section is to promote the health, safety and general welfare in the city by establishing standards for the site design and the operation of vehicular service stations. The need for such standards is created by the high volume of traffic and the frequency with which vehicles enter and leave the sites. By establishing these standards, it is intended that the smooth flow of traffic will be facilitated and greater safety will be provided for the residents of Lynden, automobile passengers, and pedestrians.

- A. Code compliance: All service stations shall be in conformance and compliance with all federal, state and local statutes, laws and ordinances.
- B. Traffic study: A traffic impact analysis will be required for any new fueling station and the expansion of existing fueling stations.
- C. Development standards: Development standards and criteria of the zoning district/subzone shall apply unless otherwise noted in this section.
 - 1. Minimum lot size shall be fourteen thousand four hundred square feet.
 - 2. Ingress and egress must conform to the requirements of the City of Lynden Engineering Design and Development Manual.
 - 3. On-site lighting shall be located, directed, and/or shielded in a manner which reduces light glare or spill onto adjacent properties or rights-of-way.
 - 4. Separate public restrooms shall be provided for male and female and shall be barrier-free in conformance with WAC 51-20.
 - 5. A dumpster enclosure containing a dumpster shall be located strategically on the site in sufficient size and/or number to reduce off-site litter.
 - 6. Trash receptacles shall be located strategically and in sufficient number to reduce off-site litter.
 - 7. All portions of a service station site not utilized for landscaping or for other open space shall be paved. All perimeters shall be landscaped.
 - 8. No gasoline service station shall be located less than three hundred feet from any park, playground, church, school or public place of assemble. No

service station shall be located closer than six hundred feet from the nearest property line of another service station unless the station is an accessory to a planned development or shopping center.

D. Operational standards:

1. No operation, service, or activity shall be permitted which would constitute a legal nuisance.
2. A formal litter control program, as approved by the city, shall be implemented.
3. Accessory truck, trailer and vehicle rental or sales shall be permitted where allowed by zoning.
4. A policy manual for the management of hazardous material incidents is to be submitted to the city for review and approval prior to occupancy of the facility.

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

19.23.110 Mixed-Use Centers Overlay

A. Purpose

The primary purposes of mixed-use projects the Mixed-Use Centers Overlay is to:

1. Provide for a compatible mix of multifamily housing, neighborhood commercial businesses, and semi-public open spaces
2. Foster a development pattern offering direct, convenient pedestrian, bicycle, and vehicular access between residences and businesses;
3. Promote a compact growth pattern to efficiently use developable land, and to enable the cost-effective extension of utilities, services, and streets; frequent transit service; and to help sustain neighborhood businesses;
4. Foster the development of mixed-use areas that are arranged, scaled, and designed to be compatible with surrounding land uses and which provide sensitive transitions between different land uses;
5. Ensure that buildings and other development components are arranged, and designed, and oriented to facilitate pedestrian access.

B. Establishment, Scope, and Criteria for Approval of a Mixed-Use Overlay Assignment

Mixed Use Overlay is established in Chapter 2 of the City of Lynden Comprehensive Plan. Locations of the Overlay are identified within the City of Lynden Comprehensive Plan land use element according to the criteria described below.

The Mixed-Use Overlay is assigned to key locations within the City of Lynden which are within one quarter of a mile of existing commercial centers.

Properties are eligible to utilize the provisions within the Mixed-Use Overlay when the following criteria are met:

1. Sub-Area: Properties located within the West Lynden Commerce Subarea are not eligible for mixed-use overlay provisions.
2. Zoning: The property zoned Commercial Services – Local (CSL) or Commercial Services - Regional (CSR)
3. Scale: The property or contiguous group of subject properties applying to construct a project using the provisions of the Mixed-Use Overlay at least one acre in size.
4. Location: The subject property(s) is within walking distance of a Qualifying Commercial Center.
 - a. Walking distance is one quarter mile or less as measured from the edge of the subject property to the geometric center of the qualifying commercial center following a walkable path.
 - b. Qualifying Commercial Centers are identified in the Land Use Element of the City’s Comprehensive Plan. These centers have at least 17,000 square feet of gross floor area dedicated to general retail uses and at least 6 tenants which provide goods or services to the general public.
 - c. New commercial centers can be added to the City’s list of qualifying commercial centers through an amendment to the Land Use Element of the City’s Comprehensive Plan.

C. Small Scale Mixed-Use within the Historic Business District (HBD) and Commercial Services – Local (CSL) Zones of the Central Lynden Sub-area

1. Applicability within the Historic Business District (HBD).
 - a. Properties within the HBD that do not meet the criteria to utilize Mixed-Use Center provisions due to the scale of the property / development site are permitted to establish residential uses on upper stories.
 - b. Ground level space is limited to commercial (non-residential) uses permitted within the HBD except that up to forty percent (40%) of the ground level may be utilized for Type A and Type B adaptable residential dwelling units as defined by the International Building Code in order to facilitate the creation of accessible units for individuals with disabilities.
 - i. Commercial space used to fulfill the commercial component must equal sixty percent (60%) of the gross ground floor(s) of the building(s) constructed.

- ii. The minimum area dedicated to the commercial component shall not include parking garage, mechanical rooms, riser rooms, or storage facilities. Refer to LMC 19.23.020 for permitted Mixed-Use Overlay commercial uses and special requirements regarding storage facilities.

- 2. Applicability within the Central Lynden Sub-Area. The Central Lynden Sub-Area includes commercially zoned properties that have traditionally included a wide variety of uses. The Sub-area, as a whole, represents a mixed-use district. To continue to facilitate this mixed-use identity, properties located in the Central Lynden Sub-Area that are zoned CSL but are not within the Historic Business District (HBD) and do not qualify for Mixed-Use Centers provisions due to the scale of the property are permitted to establish new residential uses in the following situations:
 - a. Mixed Use within a Single Building. Residential units are permitted in the CSL zone, in the Central Lynden Sub-area, on the upper floors of a building which features commercial space on the first floor but overall building height is limited to thirty-two (32) feet.
 - b. Conversion of an Existing House.
 - i. A second residential attached unit is permitted within or by adding onto structures that were constructed as single family homes prior to 1992. All renovations and additions are subject to building permit approval. Additional unit may also require utility upgrades.
 - ii. If the net lot area is 8,000 sq ft or greater, up to three attached units are permitted through the renovation of an existing structure subject to the standards and design criteria listed in this sub-section.
 - c. New Construction.
 - i. New duplex structures are permitted on CSL zoned properties within the Central Lynden Sub-area subject to the design criteria listed in this sub-section.
 - ii. If the net lot area is 8,000 sq ft or greater, up to three attached units are permitted as new construction subject to the standards and design criteria listed in this sub-section.

- 3. Design Standards for Small Scale Mixed-Use within the Central Lynden Sub-area: Commercial Services – Local (CSL) Zone

	Max Lot Coverage	Max Height of a Building that includes Residential Units	Front Setback	Rear Setback	Side Setback
	60%%	32 feet	15 feet	20 feet	7 feet

- a. Design Review: New multifamily residential construction with the Central Lynden Sub-Area CSL zone requires Design Review Board approval when exterior changes are proposed. In addition to the City’s Design Guidelines the following criteria must be met:
 - i. New construction must match the scale of the surrounding structures. Applicants must supply images of adjacent structures when submitting an application to the Design Review Board.
 - ii. Although multiple units are accommodated, the architectural styles of new construction must mimic that of a single-family home if the adjoining properties were constructed as single-family homes.
 - iii. Garage access, if proposed, must be from the alley if alley access is available so as to limit garage doors along street frontages.
 - iv. Front entry must be shared between units or distributed to different facades of the building so as to appear as a single-family home.
- b. Residential Parking Standards within the CSL zones of the Central Lynden Sub-area: Two (2) parking spaces are required for the first residential unit, one space per every additional unit.

D. Separation of Uses/Transition Buffers.

To ensure that different land uses are adequately separated, landscape buffers shall be instituted as detailed in LMC 19.61.090. Additionally, setbacks immediately adjacent to residentially zoned properties increase in association with greater building heights as described within this subsection.

E. Mixed-Use Overlay Development Standards

- 1. A project developing within a Mixed-Use Overlay, that is not meet the description of Small Scale Mixed-Use as described in LMC 19.23.110(C), is subject to the following development standards:

	Flex Space: Semi-public Open Space or Neighborhood Commercial Requirement	Residential Recreational Open Space	Multi- Family Housing and Parking	Max building stories	Max Residential Bldg Height	Max Commercial Bldg Height
	20% of net lot area as flex space or 60% of cumulative first floor area as commercial use. See LMC 19.23.110(H).	10% of net lot area	70% of lot area	4 floors	52 feet (60 feet with a CUP)	48 feet

2. The maximum height of residential building may be increased to up to 60 feet through the successful approval of a Conditional Use Permit. Additional height proposals must demonstrate how the extra height is appropriate to the scale of the site and how it is mitigated to be cohesive with other buildings on the site and the surrounding land uses. A stepped-back façade or additional architectural articulation may be required.

3. Setbacks: If an adjacent property has a residential zoning, the setbacks along that property line must be a minimum of 20 feet or half of the proposed mixed-use overlay building height, whichever is greater.

Setbacks from adjacent properties with commercial, industrial, or public use zoning must be a minimum of 15 feet.

Setbacks from street frontage must be consistent with the front setbacks of the underlying CSL or CSR zoning.

4. Building articulation and façade treatment. Refer to LMC 19.23.090 for specific design requirements affecting building articulation and façade treatments.

F. Shared Parking Opportunities in Mixed-Use Commercial Centers

A mix of non-residential and residential uses provide an opportunity to share parking resources as peak demand times for these uses vary.

1. Parking for residential uses must be provided consistent with LMC 19.51 or as established through a Planned Residential Development contract.
2. Parking for non-residential uses may be reduced by 25% when developed in conjunction with the Mixed-Use Center provisions on a shared site.
3. Mobile or seasonal commercial uses such as food trucks or fruit stands that are set up within semi-public flex spaces are not required to provide parking in association with their use.
4. Parking counts may be further reduced from the allowance described in this section only if a parking study demonstrates feasibility. In order for a parking study to be considered, the following standards apply:
 - i. The parking study must be prepared by a professional engineer using industry accepted practices and methodologies.
 - ii. The study shall use acceptable data sources and the data shall be comparable with the uses and intensities proposed for the proposed development activity.
 - iii. If the director determines that the independent parking study more accurately captures the parking need, he or she may adjust the parking requirement in accordance with said study.
 - iv. If the director determines, in his or her sole discretion, that the independent fee calculation study is not accurate, reliable, or sufficient, the director may reject the said study and requirement parking capacity consistent with that outlined in LMC 19.51.
 - v. The director may require the applicant to submit additional or different documentation for consideration at any time. If the director decides that third-party engineers are needed to review the calculation and related documentation, the applicant shall pay for the reasonable cost of a review by such engineers.
 - vi. Determinations made by the Planning Director pursuant to this section may be appealed to the Hearing Examiner subject to the procedures set forth in LMC 17.11.

G. Residential Open Space Requirements

Shared open space is required when residential components are introduced to a commercial property through the Mixed-Use Centers Overlay. The open space must include functional amenities that provide outdoor recreational / leisure spaces such as playgrounds, picnic or patio areas, sports courts, off-leash dog areas, or similar. These community open spaces will be reviewed and approved through Design Review Board (DRB) approval process. The DRB will review for the following criteria:

1. Minimum size of the open space is ten percent (10%) of the net lot area. Net lot area, in this case, is calculated by removing the area dedicated to public right-of-way, critical areas and protected critical area buffers from the gross lot area.
2. The minimum open space calculation cannot indoor common areas such as party rooms. Shared, outdoor patios or balconies may be included in the open space calculation but private patios or balconies that are specific to a residential unit may not be included.
3. Inclusion of critical areas in the open space requirement only equal to the space dedicated to a recreational trail or other accessible amenity that has been established via the appropriate permitting process. Proposed improvements for active use within a critical area and/or its buffer are subject to critical area review (LMC 16.16.150).
4. The recreational portions of the open space must be readily accessible and visible to residents. This can include trails, playground, dog park, courts, or similar functional space that is proportionally scaled to the number of residents who will be using the amenity.
5. Open spaces may be gated or otherwise restricted so that only residents can access.
6. Lighting and landscape must be utilized to create safe and attractive spaces.

H. Required Commercial Area or Flex Space

A priority of the Mixed-Use Centers Overlay is to facilitate pedestrian-oriented development and street-level activity. This serves to benefit residents within the development, nearby businesses, and the greater Lynden community.

Commercial properties which utilize the provisions of the Mixed-Use Centers Overlay must include neighborhood-oriented commercial uses or reserve space on site called Flex Space.

1. Required interior commercial component.
 - a. If an interior commercial space will be used to fulfill the commercial component, it must equal sixty percent (60%) of the gross ground floor(s) of the building(s) constructed.
 - b. The minimum area dedicated to the commercial component shall not include parking garage, mechanical rooms, riser rooms, or storage facilities. Refer to LMC 19.23.020 for permitted Mixed-Use Overlay commercial uses and special requirements regarding storage facilities.
2. Flex space. If interior commercial uses are not established prior to, or simultaneously with residential components of the Mixed-Use Centers

Overlay the project must reserve a portion of the property as Flex Space as described in this section.

- a. Flex space must equal twenty percent (20%) of the net lot area. Net lot area, in this case, is calculated by removing the area dedicated to public right-of-way, critical areas and protected critical area buffers from the gross lot area.
- b. A public access easement must be recorded which addresses policing and posting of permitted hours of access.
- c. A pedestrian oriented plaza or irrigated lawn areas that are visible and easily accessible to the public as well as onsite residents.
- d. Outdoor seating.
 - i. At least one sitting space for each two hundred fifty (250) square feet of flex space shall be included in the plaza or lawn areas.
 - ii. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30").
 - iii. Half of the seating must be located in areas that would experience seasonal shade.
- e. Trash receptacles must be provided in pedestrian areas. These are to be maintained by the property management / owner / association
- f. Trees and landscape. Trees in proportion to on-site plaza and sidewalk space at a minimum of one tree per eight hundred (800) square feet, at least two (2") caliper when planted.
- g. Accommodations for outdoor vending and food trucks must be included. This includes water and electrical hook-up locations.
- h. Stormwater facilities or critical area buffers that prevent pedestrian access may be included under the following provisions:
 - i. Inaccessible areas shall encompass no more than forty percent (40%) of the required semi-public area.
 - ii. Inaccessible areas must act as amenities to the accessible portion of the required area by being visually appealing, providing landscape variety or natural habitat in a way that enhances the pedestrian experience within the remainder of the semi-public area.
 - iii. Additionally, privately-owned public spaces shall include at least three (3) of the six (6) following elements:
 - a. Covered seating options;
 - b. Water features or public art;
 - c. Outdoor dining areas; and
 - d. Decorative pedestrian lighting;

- e. Children’s play structures. This may include interactive sculpture, or traditional playground equipment;
 - f. Other amenities not listed above that provide a public benefit.
- I. Flex Space Conversion. The portion of the property designated as flex space semi-public open space may be converted into commercial use. When this occurs, shared parking provisions described in LMC 19.23.110(F) may be utilized. Pedestrian connections must be maintained from the residential structures to any commercial use. Design must be consistent with LMC 19.23.090 and is the development is subject to Design Review.

Chapter 19.29 PLANNED RESIDENTIAL DEVELOPMENT OVERLAY

19.29.010 Purpose.

The primary purpose of a planned residential development (PRD) is to promote creativity in site layout and design, allowing flexibility in the application of the standard zoning requirements and development standards. More specifically, it is the purpose of this chapter to:

- A. Permit developers to use innovative methods including low impact development (LID) techniques and approaches not available under conventional zoning methods to facilitate the construction of a variety of housing types and densities serving the housing needs of the Lynden community and meeting the goals and policies of the comprehensive plan;
- B. Provide for the economic provision of public facilities and services by allowing choices in the layout of streets, utility networks and other public improvements through superior site design and the use of clustering;
- C. Allow development of land with physical constraints while preserving the natural characteristics of the site, including topography, native vegetation, critical areas and other natural amenities of value to the community;
- D. Encourage infill within areas of the city which are characterized by existing development;
- E. Create and/or preserve open space for recreation and the aesthetic enjoyment of residents; and
- F. Provide for the management and control of stormwater under current state and local regulations.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.020 Scope.

The provisions of this chapter shall apply to all single family residential zones, the RMD (residential mixed density) zone and all residential multi-family zones, provided that the project design includes areas of density within the overall project that are consistent with the density allowances of the multi-family zones.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § A, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.030 Definitions.

- A. Active Recreation: Active recreation includes "recreation, outdoor" defined in LMC 17.01.030 and trails and garden areas.
- B. Planned Residential Development: A planned residential development, (PRD), is a tract of land which is to be developed as a coordinated unit according to a detailed plan within the scope of zones permitted by this chapter to allow greater flexibility and creativity in site design.
- C. Major Community Facility: A major community facility includes recreational facilities for use by the approved planned residential development.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.040 Minimum size.

The minimum area required for a PRD shall be one (1) acre.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.050 Allowable uses.

All uses that are permitted outright or as a conditional use within the underlying zone are permitted within a PRD; provided that, for development of single family residences within an RS zone, at least twenty-five percent (25%) of the dwelling units within the PRD shall be detached single family units.

Commercial uses which are found to be accessory and compatible with the proposed PRD may be permitted in areas specifically designated areas of the PRD.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.060 Minimum development standards for PRD.

While development under a PRD provides measures for flexibility and creativity in the development of new home sites, there are certain minimum standards that must be met to protect Lynden's character, aesthetic values and health and safety. Additional conditions or requirements more stringent than these minimum standards may be imposed as a condition of approval. The following are minimum standards applicable to all PRD proposals; provided that, said minimum standards may be reduced subject to subsection J herein:

- A. Density: The density shall be the same as the density for the underlying zone; except where the application qualifies for a density bonus under Section 19.29.070. The area included in a floodplain or floodway identified by FEMA shall not be included in the gross land area for the calculation of density. The base density for projects that include land in two (2) or more zoning designations shall be calculated for the land area in each zone and added together for the total number of units.
- B. Height: Maximum height of structures when the underlying zoning is a single family or mixed density zone is thirty-five (35) feet. The maximum height of structures when the underlying zone is a multi-family zone is forty-five (45) feet. Building height may be extended above these limits under a master planned residential development when approved in the PRD agreement. Considerations for approval of extension of the height limit include the size of the parcel, the character and scale of the surrounding parcel(s) and neighborhood, protection of view corridors and the existence of adequate infrastructure to supply necessary services.
- C. Parking requirements: Parking must be provided consistent with LMC 19.51. Alternate parking ratios or flexible configurations may be proposed in association with a PRD.
- D. Building setbacks: All PRD's are subject to the following minimum setbacks:
 - 1. Fifteen (15) feet between the front of the house and the front property line;
 - 2. Twenty-five (25) feet between garage doors and the front property line;
 - 3. There is no minimum building separation, except as provided by the International Building and Fire Codes, but such separation may be required as a condition of approval.
 - 4. Other setbacks may be required as a condition of approval.

For purposes of this section, where the "front property line" borders on a public right-of-way, said "front property line" shall be the edge of the public right-of-way or the edge of shared access easement if public right-of-way is not established.
- E. Street widths: Arterial or collector streets or streets shown within the transportation plan must be constructed to full city standards. Within a PRD, a reduced street section for a residential access street that is not included in the transportation plan may be permitted as follows:
 - 1. Thirty (30) feet from face of curb to face of curb, allowing two driving lanes and room for on-street parking on one side of the street.
 - 2. A minimum five (5) foot sidewalk fronting all residences with a four (4) foot buffer or planting strip between the curb and sidewalk.
 - 3. Rolled curbs are not allowed adjacent to pedestrian walkways.
- F. Pedestrian Connectivity: In addition to sidewalks fronting residential lots, there must be logical pedestrian connections throughout the project including trails within or adjacent to open space areas.

- G. Maximum lot coverage: There is no maximum lot coverage established by this overlay zone; provided that, a maximum lot coverage limitation may be imposed as a condition of approval based on consideration of the size of the parcel, the character of the surrounding parcel(s) and neighborhood, protection of view corridors and the existence of adequate infrastructure to supply necessary services.
- H. Unit Distribution: When a PRD is used in a single family zone a mix of housing types is permitted, however, at least twenty-five percent (25%) of the dwelling units must be detached single family units.
- I. Minimum lot size: For detached single family residences within a PRD, the minimum lot size shall be no less than five thousand (5,000) square feet; provided that, smaller lots or detached condominiums may be approved subject to consideration of the factors identified in subsection J herein.
- J. Where the applicant seeks to depart from the above minimum standards in the PRD process, the planning commission and council shall consider the following factors and the council may in its sole discretion approve departure from one or more of said minimum standards upon finding that the PRD proposal clearly satisfies one or more of these factors:
 1. The modification of minimum standards protects or improves the character of the surrounding neighborhood in terms of architectural scale, view corridors, the aesthetic character or provision of services;
 2. The modification of minimum development standards protects critical areas and the environmental quality of the parcel(s) to be developed;
 3. The modification of minimum standards is necessary to permit reasonable development as a result of unique characteristics of the property or the proposed uses;
 4. The modification of building height (subject to Section 19.29.060(2)) or building setbacks where reasonably necessary due to arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection A herein;
 5. The modification of minimum standards is adequately mitigated by reasonably related public improvements proposed in connection with the planned development.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § B, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.070 Density bonus.

Density bonuses shall be allowed for planned residential developments and master planned residential developments according to the following provisions:

- A. When at least ten percent (10%) of the land is set aside in common open space satisfying the requirements of Section 19.29.080, a five percent (5%) bonus to the base density is allowed.
- B. When twenty percent (20%) of the land is set aside in common open space and major community facilities, as approved by the city council (i.e. a swimming pool, or club house) are constructed on the remaining land, a ten percent (10%) bonus to the base density is allowed.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § C, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.080 Open space standards.

A PRD shall set aside a minimum of seven and one-half (7.5%) percent of the gross land area or four thousand (4,000) square feet, whichever is greater, for active recreational uses. For purposes of this chapter, a "set aside" of open space shall require:

- (a) 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; or
 - (b) a permanent dedication of property to the City, which is accepted by the City, to hold and maintain as open space consistent with the purposes of this chapter.
- A. Location: The area proposed for open space within the PRD shall be within reasonable walking distance of all dwelling units within the development. The minimum open space requirement of four thousand (4,000) square feet must be met with an open space set aside at one location which shall be suitable for active recreational uses. Where the minimum requirement is greater than four thousand (4,000) square feet, at least one contiguous area meeting the minimum size requirement must be set aside at one location for common open space. Any remaining open space set aside may be otherwise distributed according to the requirements of this section.
 - B. Access: All dwelling units within the PRD must have legal access to the proposed open space. Open space set aside for active recreational open space shall have reasonable access from street frontages. Design measures should accomplish the purposes of access and security.
 - C. Types of Open Space: Land dedicated for open space shall be used for at least one of the following purposes:
 - 1. Greenbelts that serve as a buffer between land uses (greenbelts do not include yard areas privately owned, nor do they include required landscaping surrounding a building or parking area). Open space that preserves existing native vegetation is encouraged;

2. Low impact development (LID) stormwater best management practice (BMP) facilities;
 3. Active recreational uses, including trails and garden areas;
 4. Protecting environmentally sensitive areas.
- D. Use of Open Space: Except as provided below, a minimum of thirty percent (30%) of the required open space shall be suitable for active recreational purposes. The topography, soils, hydrology and other physical characteristics shall be of such quality as to provide an area suitable for recreation. These areas may be used for low impact development (LID) facilities.
1. The percentage of open space required to be suitable for active recreational uses may be increased to as high as fifty percent (50%) if it is determined that anticipated recreational needs will require a larger percentage.
 2. The percentage of open space required to be suitable for active recreational uses may be decreased to as low as ten (10%) percent, if it is determined that the inclusion of the buffers or environmentally sensitive areas such as wetlands would better meet the needs of residents and/or the surrounding community.
- E. Qualification for a density bonus: The provision of improved recreational or park facilities including "recreational facilities" and "outdoor recreation" such as improved playfields, basketball and tennis courts, trails, playground facilities or picnic areas or the preservation of unique natural features such as habitats of threatened or endangered wildlife or plant species, wetlands, and environmentally sensitive areas shall qualify for a density bonus, so long as the requirements described in Section 19.29.070 are fully satisfied.
- F. Implementation: The property proposed for open space shall be shown on the PRD's master plan and shall be set aside for management by the homeowner's association or dedicated to the City for public use only if acceptable to the City. Maintenance and operation of open space set aside to the homeowner's association shall be the responsibility of the homeowner's association. A set aside of open space is not eligible for credit against the assessment of impact fees for parks or public recreation facilities unless it meets each of the following criteria: (a) the open space is dedicated and accepted by the city for public use; and (b) the proposed location of the dedicated open space is included in the city's adopted capital facilities plan for city park acquisition. The City, at its sole discretion may choose to accept a dedication of open space as city park property, including the maintenance and operation thereof, when the property proposed for dedication meets the following criteria as outlined in the park and trail master plan:
1. Minimum park dedication of one-half acre in size. Developments that include ten acres or more would require a minimum park dedication of one acre in size.

2. The proposed dedication is at least one-quarter mile away from a similar facility. If the proposed facility is greater than two acres in size, it should be located at least one-half mile from another park facility.
 3. There are opportunities for expansion of smaller park areas into larger park areas as adjoining parcels develop.
 4. The proposed dedication is geographically located in an area that is projected for substantial growth during the planning period (six years) and is consistent with the provisions of the park and trail master plan.
 5. The proposed dedication has safe and convenient access from the surrounding neighborhood and parking as necessary for public use.
 6. Drainage for the proposed site is adequate.
 7. Parcel size and shape is appropriate to park development. Oddly shaped "remainders" are discouraged.
 8. There are open lines of sight at the facility for security purposes.
 9. The proposed site meets the needs and desires of the community and considers the specific needs of the surrounding neighborhood.
 10. The proposed site meets state and federal accessibility requirements.
- G. Stormwater Detention Facilities: Stormwater detention facilities including low impact development (LID) facilities may be included by the City as part of the open space necessary for a density bonus, but not as part of the minimum required open space, subject to LMC Chapter 13.24 and satisfaction of the following criteria:
1. The detention facility does not provide drainage for public facilities including public streets unless all easements and drainage releases are approved.
 2. The detention facility shall be constructed so as to drain fully when precipitation is not occurring (i.e. no standing water shall be left) unless the facility is a pond designed as an aesthetic amenity.
 3. The side slope of the detention facility shall not exceed thirty-three (33) percent, unless such slopes already exist naturally and are covered with vegetation. Where the facility has a hard surface wall or slope, the vertical drop shall not exceed twenty-four (24) inches without fencing appropriate to the site conditions to protect public safety.
 4. If detention facilities are located adjacent to or near a natural, year-round stream or wetland, these systems shall be left in a natural or near natural condition.
 5. The detention area shall be landscaped both in a manner consistent with maintaining high aesthetic standards and is able to withstand the inundation expected.

- 6. Use of property set aside as open space area for both detention and recreation purposes shall not be acceptable if the detention area must be rendered unsuitable or unavailable for recreation use during dry weather.
 - 7. In the case of joint use of open space set aside (not dedicated to the City) for detention and recreation, the homeowner's association shall be responsible for the maintenance in perpetuity of the facilities in the condition approved under the development contract.
- H. Rights and Duties: The owners of the private open space shall have the following rights which may be exercised in respect of such land, subject to restrictive covenants, development agreements, critical areas regulations, or other restrictions:
- 1. The right to locate recreational facilities such as tennis courts, basketball courts, swimming pools, picnic tables designed to be used exclusively for the use of the residents of the development and their guests.
 - 2. The right to locate pedestrian and bicycle paths or trails.
 - 3. The right to take whatever lawful measures are reasonably necessary to protect and maintain such land, or property adjacent thereto, or to correct a hazardous condition posing a threat to life or limb.
 - 4. The right to locate and operate community gardens.
 - 5. The right to regulate access to or entry on the open space land and duty to maintain such land.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.090 Submittal requirements.

- A. Submittal of an application is required per the minimum development standards as noted in Section 19.29.060 above and LMC Chapter 13.24. An applicant may submit application when approval of a development concept is desired and the planned residential development will be reviewed and approved in phases as noted in Section 19.29.100 below. In order to be determined complete, an initial application for approval of a PRD shall, at a minimum, include the information listed below:
- 1. A consolidated legal description of all parcels to be included in the master plan.
 - 2. A map, prepared by a qualified professional, showing the following:
 - a. The primary transportation and utility corridors,
 - b. The location of common open space, and
 - c. The distribution of housing types and densities.

3. A narrative description of the project. Narrative must indicate the scope of private infrastructure which would become the responsibility of the homeowners association. If the application seeks to modify the minimum development standards, each modification must be identified and a detailed explanation of how the development will meet the criteria listed in Section 19.29.060.10 and other applicable criteria shall be included.
 4. A completed SEPA Checklist, prepared as part of a phased environmental review under WAC 197-11-060(5).
 5. A phasing plan if one is proposed.
- B. To be determined complete, an application for a Planned Residential Development seeking a one-step approval or the second step of a two-step approval per Section 19.29.100 must include all of the information listed below. This information may be submitted for a portion of a project with the approval of a phased two-step PRD. This information shall be submitted for the entire development proposal for a project that does not use the two-step approval procedure.
1. One map showing street systems, location of utilities, preliminary plat designs and contours at five (5) foot or less intervals;
 2. Watercourses, natural drainage patterns, unique and sensitive natural features, forest cover, and critical areas;
 3. Locations and sizes of areas proposed to be set aside for common open space as required in Section 19.29.080, any public buildings, and similar public and semi-public uses;
 4. A map which clearly demonstrates how infrastructure, natural features and critical areas, and common areas relate to one another.
 5. Areas designated for recreational buildings, clubhouses, country club facilities and the nature and extent of such facilities;
 6. Proposed building areas or phases, housing types, densities, setbacks and height.
 7. A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin;
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - c. The anticipated rate of development;
 - d. The approximate dates when the development of each of the stages in the development will be completed;
 - e. The area and location of common open space that will be provided at each stage;

8. The existing and proposed utility systems including sanitary sewers, storm sewers, water lines, electric lines, gas lines and telephone lines.
9. The existing and proposed circulation system of arterial, collector and residential access streets including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way. Notations of proposed ownership, public or private, should be included where appropriate.
10. The existing and proposed pedestrian circulation system, including interrelationships with the vehicular circulation system. Any special engineering features and traffic regulation devices needed to facilitate or ensure the safety of this circulation pattern must be shown.
11. A general landscaping and tree planting plan including the proposed treatment of the perimeter of the PRD, including materials and techniques used such as screens, fences and walls.
12. An economic feasibility report or market analysis and a statement substantiating how the proposed PRD will be superior and provide benefit to the public beyond what is available through conventional development.
13. The names and addresses of all persons, firms, and corporations holding interest in the property, including easement rights and drainage structures.
14. Information on a map which shows the development in relation to the surrounding area and its uses, both existing and proposed, including land uses, zoning classifications, densities, circulation systems, public facilities and unique and sensitive natural features of the landscape.
15. A complete environmental review package including a complete SEPA Checklist, engineered traffic impact analysis, a narrative from the project's engineer describing the proposed stormwater management system, critical areas preliminary review and other studies as required during the pre-application meeting or master plan approval.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.100 Approval process.

- A. Applications for a PRD shall follow the review and approval process listed in Chapter 17.09 of the Lynden Municipal Code. The PRD shall be overlaid on the underlying zoning district.
- B. An applicant may elect to undergo either a one step or a two-step approval process for a PRD.
 1. A one step process requires concurrent review and consideration of the general project concept, including its density and overall design, and of all specific site and development regulations associated with the proposed

development. This process entails review under the requirements of LMC Chapter 17.09.

2. In a two-step process, the applicant must receive two separate city approvals under LMC Chapter 17.09. The applicant first seeks approval of a master plan and general project concepts before expending the time and resources in developing the specific site and development features of the proposal. The second approval relates to the specific site design and development requirements defined by the approved of the conceptual plan and be filed with the Whatcom County Auditor's Office as noted above. Approval of a PRD constitutes the city's acceptance of a project design and concept. Once the conceptual plan component of the PRD is approved for the site, the applicant may proceed to begin the second step: submittal of the specific components of its development outlined in Section 19.29.090(B) and Section 19.29.110 and as required during approval of the master plan. These specific design components are subject to City approval under LMC Chapter 17.09.

The intent in establishing a two-step process is to ensure consistency with the city's comprehensive plan, decrease the applicant's expenditure of time and resources and promulgate a cohesive community and neighborhood aesthetic based upon the city's present and future needs.

- C. The final development contract, with all exhibits, must be submitted to the Planning Department within six months of preliminary approval of an approved PRD utilizing the one-step procedure in subsection (B)(1) above or within six months following approval of the proposal in the second-step stage of an PRD utilizing the twostep approval procedure in subsection (B)(2) above.
- D. The development contract must include specific development requirements based on the PRD approval and all special conditions and approvals applied to the property within the PRD. This development contract, related exhibits, and any amendment approved pursuant to Section 19.29.120 shall be recorded in the Whatcom County Auditor's Office. The PRD shall constitute a limitation on the use and design of the site. If full build-out of the site is not achieved upon expiration of a development contract, the provisions of the underlying zoning category apply except that reconstruction of damaged or destroyed property may be done consistent with the original contract.
- E. In the event there is to be a subdivision of property, dedication of streets, parks or other public lands, the final plan and approval thereof shall be subject to all ordinances and laws regulating subdivisions including Chapter 18.18 LMC, and any additional requirements therein. In the event of a specific irreconcilable conflict between this chapter and other ordinances, the provisions of this chapter shall apply to PRD proposals.
- F. Covenants, Conditions, and Restrictions (CCRs) must be submitted to the Planning Department in conjunction with the request for final plat approval to provide staff and legal counsel the opportunity to comment. A recorded copy of the

CCRs must be provided to the Planning Department prior to issuance of building permits on the site.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.110 Criteria for approval.

In addition to the findings of fact required for approval within Section 17.09.040, the following criteria shall be met for approval of a PRD.

- A. Design Criteria: The design of the PRD shall achieve two (2) or more of the following results:
 - 1. High quality architectural design, placement, relationship or orientation of the structures;
 - 2. Achieving the allowable density for the subject property;
 - 3. Providing housing types that effectively serve the affordable housing needs of the community;
 - 4. Improving circulation patterns;
 - 5. Minimizing the use of impervious surfacing materials;
 - 6. Increasing open space or recreational facilities on-site;
 - 7. Preserving, enhancing or rehabilitating the natural features of the property such as significant woodlands, or critical areas;
- B. Perimeter Design. The perimeter of a PRD shall be appropriate in design, character and appearance with the existing or intended character of the development adjacent to the subject property and with the physical characteristics of the property.
- C. Streets and Sidewalks. Existing and proposed streets and sidewalks within a PRD shall be suitable to carry the anticipated traffic within the proposed development and the vicinity. The design of the circulation system shall be consistent with the requirements of Chapter 18.14 LMC.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.120 Amendment or modification of an approved PRD.

- A. The final PRD development plan may be amended administratively without notice if the application does not involve a change which would cause one or more of the following to occur:
 - 1. Violation of any provisions of this chapter;

2. Varying the lot area requirements by more than ten (10%) percent;
 3. A reduction of more than ten (10%) percent of the area set aside for common open space and/or usable open space;
 4. An increase in the total ground area covered by buildings by more than five (5%) percent; or
 5. The applicant seeks to change the housing type from a multi-family designation to a single family designation.
 6. Additionally, the modification must be consistent with the final PRD development contract.
- B. The final development plan may be amended through the process described in Section 19.29.100 in the following circumstances and if the amendment meets the requirements of Section 19.29.110:
1. Land may be added to the overall development plan if:
 - a. The land to be added is within the same underlying zoning; and
 - b. The addition is a logical extension of services and development and the infrastructure developed for the original development can be shown adequate to serve the additional land; and
 - c. The addition will meet the minimum standards for PRD development set forth in Section 19.29.060; and
 - d. The final PRD development contract has not yet expired.
 2. Changes in the parcel development requirements such as setbacks, lot coverage or other similar changes which exceed the minor modification limits in subsection 1 above.
 3. Any change in infrastructure development requirements must be listed within the final development contract.
- C. The final development plan may not be amended in the following manners unless explicitly permitted within the final PRD development contract:
1. To transfer unused density from one area of the final PRD to another;
 2. To change the housing type from single family to multi-family;
 3. To remove land from a PRD.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.130 Requirement for homeowner's association and restrictive covenants.

To preserve and maintain community facilities and open space, every PRD shall have a homeowner's association and agreements and enforceable covenants to fund and effectively collect funds for such an organization. Said agreements and enforceable

covenants shall apply to all property within the PRD, shall be recorded and shall run with the land, and shall be consistent with The Washington Uniform Common Interest Ownership Act (WUCIOA) as required per RCW 64.90.

- A. The restrictive covenants and/or homeowner's association intended to be used by the applicant in a PRD, which purports to restrict the use of land, the location or character of buildings or other structures thereon, set aside open space, and establish provisions for the perpetual maintenance of common grounds, must be submitted to the Planning Department in conjunction with the final development contract to provide the technical review committee and city attorney an opportunity to comment.
- B. The homeowner's association authority shall be established in restrictive covenants applicable to all property within the PRD. Said restrictive covenants shall provide, inter alia, for the assessment, collection and enforcement of collection of such homeowner's dues as are necessary for adequate maintenance of open space, common grounds and stormwater facilities, any private roads or utilities, and for performance of any other association obligations.
- C. At the time of final plat the developer must record on the title of each lot the restrictive covenants or a notice thereof regarding the obligations of common ownership within the PRD. If a PRD is not associated with a platting action, the restrictive covenants must be recorded on the title of the property prior to issuance of a building permit.
- D. The restrictive covenants recorded against each lot shall contain at least one provision stating that it is the policy of the City of Lynden never to acquire or maintain common elements or limited common elements of a homeowners association, including community facilities and open space, unless the City chooses to accept a dedicated open space under Section 19.29.080. This provision shall be set apart in some way as to be eye-catching, for example, in its own paragraph in large, bold, or all caps font. The same provision should be included with the description of the common elements and/or limited common element in the public offering statement required under RCW 64.90.610, as amended.
- E. Subsequent amendments to restrictive covenants do not supersede the requirements of the PRD final development contract and all associated develop standards. Upon expiration of a development contract the provisions of the underlying zoning category apply except that reconstruction of damaged or destroyed property may be done consistent with the original contract.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.140 Construction start and completion limits.

If substantial construction has not commenced within twenty-four (24) months from the time of final approval of the PRD contract, the permit shall lapse. The City Council may extend this time limit by up to twelve (12) months if the request is made in writing to the Planning Director prior to the expiration of said twenty-four (24) months following final approval. Any extension of time may be conditioned on the requirement to post a performance bond as required in Section 18.06.010(5), for one hundred fifty percent (150%) of the engineer's estimate for the completion of the infrastructure.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.150 Construction of improvements—Guarantee.

- A. All improvements which are to be made to City owned property or which are to become the property of the City must be either completed or bonded for completion in the manner provided in Sections 18.06.010(5) and 18.06.010(6) LMC. No sales of property in the PRD may be made until such improvements are so bonded or completed and approved by the City. The City may allow the construction of such improvements, or the bonding thereof, in phases, if the PRD is to be developed in phases and if each phase can logically be utilized independently or in conjunction with previously completed phases. In case the PRD is to be developed in phases, and construction of City owned improvements is to be allowed in phases, the plan submitted and approved shall state with particularity which improvements are to be made in conjunction with each phase.
- B. All improvements to be owned in common by persons purchasing property rights in the PRD must be either completed or bonded for completion in the manner provided for in Section 18.06.010(5) and 18.06.010(6). No sales of property in the PRD may be made until such improvements are so bonded or completed and approved by the City. The City may allow the construction of such improvements, or the bonding thereof, in phases, if the PRD is to be developed in phases and if each phase can logically be utilized on its own or in conjunction with previously completed phases. In case the PRD is to be developed in phases, and construction of improvements to be owned in common is to be allowed in phases, the plan submitted and approved shall state with particularity which improvements are to be made in conjunction with each phase.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

Chapter 19.45 DESIGN REVIEW

Sections:

- 19.45.010 Intent
- 19.45.015 Design Review Board Establishment and Scope
- 19.45.020 Design Review Board Membership
- 19.45.030 Design Review Board Notice and Meeting
- 19.45.035 Design Waiver Criteria
- 19.45.040 Decision by the Design Review Board
- 19.45.050 Administrative Design Review

19.45.010 Intent.

The intent in conducting design review and establishing a Design Review Board is to ensure that new development will enhance the character of the commercial and multi-family areas. Site design and architecture must create spaces which are readily accessible to pedestrian and vehicular traffic, allow for the function of service vehicles, minimize pedestrian and vehicular conflicts, maximize personal comfort and safety, soften the built environment with landscaped areas, and enhance the character and aesthetic appearance of neighborhoods.

The guidelines adopted by the Design Review Board and the City Council are considered a tool for the implementation of the Lynden Municipal Code and the Comprehensive Plan.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.015 Design Review Board establishment and scope.

An advisory board known as the Design Review Board is established to provide recommendations on subjects as defined in Chapter 17.03.060 which typically includes: exterior design of buildings proposed for construction of multi-family dwellings, the construction, significant reconstruction, or remodeling of commercial buildings in all commercial zones, and signs as required in Chapter 19.33 of this Code. The Design Review Board makes a final determination on applications to waive adopted design standards.

The Planning Director will determine when review or re-review (in the event of an amended design) is required by the Design Review Board. The Planning Department shall prepare a staff report on the design proposal summarizing requirements and

conditions of permit approval. The staff report shall include findings, conclusions, and conditions for disposition of the design application.

Qualifications. Those appointed should be capable of the following:

- A. Reading and understanding building design drawings.
- B. Having an appreciation of architecture and landscape architecture.
- C. Having an understanding and appreciation of historic architecture and the "European/Dutch" theme applicable to the Historic Business District.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 1, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

19.45.020 Design Review Board membership.

The design review board shall consist of five (5) members, all of whom shall serve without salary. The members shall be appointed by the Mayor with the consent of the Council.

In case any vacancy should occur in the membership of the Board, for any cause, the Mayor shall fill such vacancy by making an appointment with the consent of Council. The members of the Design Review Board may be removed by the Mayor, subject to the approval of the Council, for such causes as he/she deems sufficient, which shall be set forth in a letter filed with the Council. The membership shall consist of a four (4) year appointment. Each appointment hereafter shall also be for four years.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.030 Design Review Board Notice and Meeting.

Meetings of the Design Review Board shall be held as needed to accommodate design review applications within a reasonable amount of time or as the Planning Director deems necessary. There shall be a fixed place of meeting or virtual application, and all regular Design Review Board meetings shall be open to the public.

A. Notice Requirements.

- 1. The City shall publish notice of all public hearings at least ten (10) days in advance of the meeting date.
- 2. In some cases, the owner of the property for which the review is sought shall notify all adjacent property owners accordingly:
 - a. In the case of review of construction, or remodel within the Historical Business District, notice shall be given to all property owners along Front Street within the block where construction is proposed.

- b. In the case of review of construction of four (4) or more attached units in one structure, notice shall be given to all property owners within three hundred (300) feet of the property on which construction is proposed.
- c. Notification, in all cases, shall be by certified mail, and satisfactory evidence of such notice must be provided prior to the hearing date.

B. Proceedings. The Design Review Board shall adopt its own rules or procedures and keep a record of its proceedings, findings and action in each case, and the vote of each member on each question considered in the proceedings. The presence of three (3) members shall be necessary to constitute a quorum.

(Ord. 1292 § E, 2007; Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

19.45.035 Design waiver criteria.

Plans submitted to the Design Review Board for a waiver to the residential design criteria, processed as noted in Chapter 19.47 of the Lynden Municipal Code must meet the following criteria:

- A. Granting the waiver would not be inconsistent with privately recorded covenants, conditions or restrictions;
- B. The proposed structure would meet all building and fire codes as determined by the Building Official;
- C. The applicant is not varying more than two (2) of the design criteria.
- D. Granting the waiver does not negatively impact the integrity of the overall design; Or, permanent mitigating elements will be included in the design to offset impacts created by the waiver. Mitigating elements must not include feature which could be easily altered or removed or considered temporary in nature such as finish color or landscape.

(Ord. 1292 § F, 2007).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.040 Decision by the Design Review Board.

The design review board shall review each application referred to the Board by the Planning Director to determine if the design meets the guidelines as adopted in the design review guidebook for signs, and commercial and multi-family construction. It shall develop a recommendation to:

- A. Grant approval of the proposed exterior design or sign, or

- B. Deny the proposed design, or
- C. Approve the exterior design with conditions, which shall be noted by the Building Official.

Planning staff and the Building Official shall enforce the final conclusions of design review when granting a building permit. All designs shall be subject to the International Building Code as well as all Lynden Municipal Codes. Equivalent substitutions and minor alterations which follow a Design Review Board recommendation may be approved by the Planning Director.

The design review board shall not recommend conditions which are contrary to the requirements of any applicable development standards or building codes.

The waiver decision of the Design Review Board shall be final, unless appealed within fourteen (14) days to the Lynden City Council.

(Ord. 1292 § G, 2007; Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.050 Administrative design review.

Administrative design review will be conducted for all commercial, sign, or multi-family projects or remodels even if they do not trigger an application to the Design Review Board such as minor exterior updates, commercial additions, or accessory structures.

1. Authority. The Planning Director shall review the building permit for compliance with the Lynden Municipal Code and design guidelines related to site layout, architecture, lighting, screening, and landscape.
2. Decision. The Planning Director may grant, deny, or conditionally approve a building permit based on compliance with the design guidelines.

Chapter 19.51
OFF STREET PARKING

Sections:

- 19.51.010 Requirements.
- 19.51.020 Ingress and Egress Provisions.
- 19.51.030 Location of Parking Spaces.
- 19.51.040 Off-street parking spaces required.
- 19.51.050 Parking Lot Design and Parking Standards
- 19.51.060 (Reserved)
- 19.51.070 Reduction of Required Spaces
- 19.51.080 Mixed Occupancy.
- 19.51.090 Joint Uses
- 19.51.100 Conditions for Joint Use.
- 19.51.110 Loading Space.
- 19.51.120 (Reserved)
- 19.51.130 Illumination.
- 19.51.140 Landscaping Requirements.
- 19.51.150 Handicapped Parking
- 19.51.160 Special Conditions for Downtown Off-Street Parking

19.51.010 Requirements.

Every building hereafter erected, moved, reconstructed, or structurally altered shall be provided with parking areas as provided in this chapter, and such parking areas shall be made permanently available and shall be maintained for parking purposes.

No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved as conforming to the standards of this chapter. The primary users of the building shall first utilize the off-street parking in lieu of parking on the street.

19.51.020 Ingress and Egress Provisions.

Ingress and egress of a site must comply with the City's Engineering Design and Development Standards. The Public Works Director, in conjunction with the Police Chief and Fire Chief, shall have authority to fix the location, width and manner of approach of vehicular ingress or egress from a building or parking area to a public street and to order alteration of existing ingress and egress as may be required to control traffic in the interest of public safety and general welfare.

19.51.030 Location of Parking Spaces.

Off-street parking spaces shall be located as specified herein. Where a distance is specified, the distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building which it serves.

- A. Parking for single and multiple family dwellings shall be on the same lot or building site with the building it serves unless a parking agreement is approved by the Planning Director and recorded against the applicable properties;
- B. Parking shall not be over three hundred (300) feet from the building / use that it serves;
- C. The availability of on-street parking may not count toward the parking requirements listed below.

19.51.040 Off-street Parking Spaces Required.

The required number of off-street parking spaces shall be as follows. Any proposed use not listed but similar to a use listed below shall meet that requirement. If nothing similar is apparent, the Planning Director shall determine the requirement.

Land Use	Parking Requirement
Residential Uses	
Single-family units and manufactured home units	2 per dwelling unit (1)
Duplex, Multi-family, Townhomes	2 per dwelling unit up to 2 bdrms. 1 space per bdrm for units with more than 2 bdrms. plus any handicapped stalls required per LMC 19.51.150 (1)(2)
Assisted Living	1 per dwelling unit plus 1 per employee
Accessory Dwelling Unit	1 per bdrm in addition to the single-family requirement
Adult Residential Care Facilities	2 per home plus 1 guest stall

	Community Residential Facilities, such as Transitional or Emergency Housing	Facilities for Adults: 1 stall per bdrm Facilities for Families: 2 stalls for each family unit
	Juvenile Group Homes	2 per home plus 1 guest stall
Commercial Uses		
	Commercial Recreation (bowling alley, sport courts, skating rink, public swimming pool, arcade)	<ul style="list-style-type: none"> • 2 per bowling lane • 2 per tennis, racquetball, pickleball court, etc • 1 per 40 sq ft of assembly area. • 1 per 150 sq ft GFA for skating rink, video arcade, etc • 1 per 10 swimmers of standard pool capacity
	Commercial Schools for Adults	1 per 4 seats plus 1 per employee ⁽³⁾
	Eating and Drinking Establishments	1 per 100 sq ft of floor area open to the public plus 1 per 300 sq ft of area dedicated to outdoor service
	Funeral Parlors, Mortuaries	1 per 4 seats or 8 ft of bench or pew or 1 per 40 sq ft of assembly room
	General Business, Retail, Personal Services (not including shopping centers greater than 20,000 sq ft)	1 per every 250 sq ft of floor area open to the public
Health Care:		
	Hospitals and Emergency Medical Clinics	1 per 2 beds plus 1 per employee on shift with greatest number of employees

	Medical Care Facilities (Nursing homes, Institutions for the aged or children)	1 per 4 beds plus 1 per employee on shift with greatest number of employees
	Animal Hospitals, Veterinary Clinics	1 per 500 sq ft of GFA
Hotels, Motels, Bed and Breakfast		1 per room plus the required spaces for accessory uses
Motor Vehicle Services		
	Commercial Garages and Repair	1 per 200 sq ft of GFA
	Service/Fueling Stations	4 spaces plus 1 space per service bay or fueling station
	Passenger Vehicle Sales	1 per 1000 sq ft GFA plus 1 per 1500 sq ft of outdoor display area
	RV, Agricultural Vehicle Sales	1 per 6000 sq ft of outdoor display area plus 1 per employee.
Offices: (not including Medical and Dental)		1 per 350 sq ft of GFA
Offices: (Medical and Dental)		1 per 200 sq ft of GFA
Shopping Centers and Food Markets		1 per 200 sq ft of GFA
Studios (Dance, Art, Martial Arts, etc)		1 per 100 sq ft of studio floor area
Public and Semi-Public Assembly Places		
	Assembly Places with fixed or unfixed seating in rows (churches, stadiums, theaters, auditoriums, etc)	1 per 4 seats or 8 ft of pew or bench space
	Bus Stations, Passenger Terminals	1 per 100 sq ft of floor area open to the public

Community Centers, Convention Halls, Private Clubs/Lodges	1 per 400 sq ft of GFA
Libraries, Museums, Art Galleries	1 per 200 sq ft of floor area open to the public
Pre-school, Elementary, and Middle Schools (public and private)	1 per 12 seats in auditorium or large assembly room plus 1 space per employee, plus bus loading space (off street)
Secondary Schools (public and private)	1 space/employee plus 1 space/each 4 students or 1 space/4 seats or 8 feet of bench length in the auditorium, whichever is greater
Industrial Uses	
Manufacturing, Contractor Shops (Additional parking required for office space if included. See "Offices" above.)	1 per 1000 GFA or 1 per employee on largest shift – whichever is greater
Mini-Storage (see "Warehousing" for large scale storage)	1 per 50 storage units equally distributed plus 3 spaces for office space ②
Utility and communications establishments without regular employment	1 space
Warehousing, Large Scale Storage Units, and Wholesale (additional parking required for office space if included, see "Offices" above.)	1 per 2000 sq ft of GFA or 1 per employee – whichever is greater ②

① If an enclosed single car garage is provided per dwelling unit, a minimum of two outside parking spaces must be provided. If an enclosed garage for two or more vehicles is provided, a minimum of one outside parking space must be provided. Open carports may be counted as parking spaces to meet parking requirements,

provided they shall not be enclosed. If enclosed, additional parking spaces shall be provided as required.

- ② Multi-family development may request a parking reduction if it can be demonstrated that there is adequate off-street parking available on public streets within 300 feet of residential units. On-street parking will only be counted on streets with sidewalks that are improved to City standard. If demonstrated, the required parking for units greater than 2 bedroom can be reduced to 2 spaces per unit. In no case may the number of spaces reduced be more than the number of spaces available on-street. This must be approved by the Planning Director.
- ③ In order not to block public streets in Lynden, it is mandatory for each service station operator to provide off-street waiting facilities for customers. No on street waiting for gasoline sales is allowed
- ④ The Planning Director may require that uses which rely on the number of employees as part of the calculation of required parking spaces to agree at the time of parking approval, to provide additional parking stalls if there is insufficient parking for the number of employees.

19.51.050 Parking Lot Design and Parking Space Standards.

- A. All storage complexes shall be designed with access lanes not less than twenty-eight (28) feet in width, within which loading areas, access and fire lanes, and any parking shall be located.
- B. Setback: The surface of a commercial or multi-family parking lot must be setback a minimum of 3 feet from any property line.
- C. Access.
 - 1. Lanes within parking lots shall be designed to provide logical vehicular movement through the site.
 - 2. Dead end access lanes must provide a minimum of a 5 foot stub from the last parking stall to allow vehicles to back out of end stalls.
- D. Compact Stalls: When parking standards require ten (10) or more parking spaces, up to thirty (30) percent may be designated compact cars. Such compact car spaces shall be marked on the parking plan and each constructed parking stall be signed or surface marked as compact.
- E. Landscape, internal to the parking lot, is required per LMC 19.61.100.
- F. Surfacing
 - a. Parking lot surface must meet the requirements of Section 4.4 of the City’s Engineering and Design Standards.
 - b. Before an occupancy permit is issued, All required off-street parking areas, not including vehicle or agricultural implement display areas, shall

be graded. Before occupancy permit for the building use is issued, surfaced to standards for permeable pavement, asphaltic concrete, or other surfacing material sufficient to eliminate dust or mud.

- c. All parking and display areas must provide for proper storm drainage and allow for making of stalls and installation of other traffic control devices as set forth by the City’s Engineering and Design Standards.
- d. All traffic control devices such as parking strips designating car stalls, directional arrows or signs, curbs, and other developments shall be installed and completed as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate parking stalls and directional arrows.
- e. Pedestrian walks shall be curbed or raised six inches above the lot surface.

G. The parking space standards are shown in the table below.

Standard stall size is 9 ft x 19 ft. When required, wheel stops shall be located 2 ft from the head of the parking stall. Compact stalls are 8.5 ft x 18 ft. Refer to Division 4 of the City’s Engineering and Design Standards for figures related to implementation of the minimum parking standards.

	Parallel	45 degree	60 degree	90 degree
Stall Width	9 ft	Refer to Division 4 of the City’s Engineering and Design Standards		9 ft
Stall Length	21 ft			19 ft
Aisle Width for 1-way traffic	12 ft	13 ft	15 ft	22 ft
Aisle Width for 2-way traffic	12 ft	13 ft	18 ft	24 ft

19.51.070 Reduction of Required Spaces

- A. Mixed Occupancy and Shared Parking.
 - 1. In the case of mixed occupancies in the building or of a lot, the total requirements for off-street parking shall be the sum of the requirements for the various uses unless provisions for shared parking are utilized.
 - 2. The amount of off-street parking required by this chapter may be reduced by an amount determined by the director when shared parking facilities for

two or more uses are proposed, provided the following requirements are met:

- a. Parking for each use is utilized at different times of the day;
- b. The shared parking facility is within 300 feet of the use(s) deficient in parking as measured by a pedestrian walkway between the shared parking facility and generator;
- c. The total number of parking spaces is not less than the minimum required spaces for any single use;
- d. The applicant submits a parking generation study demonstrating to the director's satisfaction that the resultant parking will be adequate for the anticipated uses; and
- e. A shared parking agreement specifying respective rights and/or operating times is signed by all participants and the director and filed in the county auditor's office.

19.51.110 Loading Space.

Commercial and industrial uses that require delivery, shipping and/or the loading and unloading of goods and materials shall provide adequate on-premise loading areas which do not project into the public right-of-way.

- A. The loading areas shall be at least 10 ft by 25 ft with 14 ft of clearance, for every 20,000 sq ft, or fraction thereof, of gross building area.
- B. Loading areas shall not be used to meet general parking requirements.
- C. Loading areas shall be striped or signed as loading areas.

19.51.120 (Reserved)

19.51.130 Illumination.

Any lights to illuminate any public parking area, any semi-public parking area, or car or equipment sales area shall be arranged so as to reflect the light away from any dwelling unit and the public right-of-way. Approval shall be obtained from the State of Washington Department of Transportation and/or the Director of Public Works for any lights which flash or blink, simulating traffic signals.

19.51.140 Landscaping Requirements for Parking Areas.

Landscape plans for parking areas shall conform to applicable sections of LMC 19.25.070 and LMC 19.61 and are to be approved by the Planning Department.

19.51.150 Handicapped Parking.

Handicapped parking shall be installed in accordance with the "Regulations for Barrier-Free Facilities" as adopted by the Washington State Building Code Advisory Council or two percent (2%) of the required parking stalls, whichever is greater. Handicapped parking stalls do not count toward the total required parking stalls for multi-family residential development except the stalls associated with a unit or units which are constructed, at the time of final occupancy, as Type A – ADA compliant per Chapter 10, Section 1003 of the Accessible and Usable Buildings and Facilities portion of the International Building Code.

19.51.160 Special Conditions for off-street parking in Downtown Lynden.

The Historic Business District (HBD) and downtown Lynden represent a special district that was initially developed when there were few parking requirements. To encourage remodeling and site improvements, it is recognized that special considerations are required. The following parking exceptions are made for the area between Judson Alley and the alley north of Grover Street spanning from 2nd Street and 8th Street:

- A. Renovation of any building in the HBD and downtown Lynden, shall be exempt from meeting the parking requirements of Section 19.51.030. However, if the renovation adds gross floor area to the building, the additional gross floor area shall be subject to the parking requirements listed in section 19.51.160(B) and (C) below. Renovations which decrease gross floor area shall not be eligible for any parking credit or reimbursement.
- B. The parking requirement for all new commercial construction within this area shall be one off-street parking stall per 500 square feet of gross floor area, or any fraction thereof.
 - 1. Instead of providing the required off-street parking, the owner may, by the discretion of City Council be permitted to pay a fee for every parking stall required by this ordinance that cannot be supplied. The fee may be established by the City’s unified fee schedule and may be placed in a special fund by the City of Lynden for the purchase and/or development of additional off-street parking facilities, or for repair or alteration of existing city owned off-street parking.
 - 2. All new residential construction in the area defined in this subsection shall be required to provide one off-street parking space per residential unit. Off-street parking for new residential uses shall be located within three hundred (300) feet of the dwelling unit.
- D. Any new building in the HBD that replaces an existing building shall receive a credit for the parking requirements that were in place for the existing building. The credit shall be determined by subtracting the gross floor area of the previous existing building from the gross floor area of the new building constructed on the same lot, provided that the new building is not smaller than the old building.

Chapter 19.63 FENCE PERMITS AND REQUIREMENTS

Sections:

- 19.63.010 Fence Permit Required.
- 19.63.020 Fence Permit Fee.
- 19.63.030 Utilities Location.
- 19.63.040 Fence Location.
- 19.63.050 Fence on Public Right-of-Way - Conditions
- 19.63.060 Fence Requirements
- 19.63.070 Privacy Fencing
- 19.63.080 Nonresidential Zone Fences

19.63.010 Fence permit required.

No fence shall be erected in the city limits unless a permit for construction of the fence is first obtained.

(Ord. 1292 § H(part), 2007).

19.63.020 Fence permit fee.

The fee for obtaining a fence permit shall be set by resolution.

(Ord. 1292 § H(part), 2007).

(Ord. No. 1441, § 1, 3-18-2013)

19.63.030 Utilities location.

It shall be the responsibility of any person placing a fence in the city limits to determine the location of all underground utilities and to take measures to avoid interfering with them.

(Ord. 1292 § H(part), 2007).

19.63.040 Fence location.

Fences shall not be built closer than three (3) feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three (3) feet from the front property line and the street side property line on corner lots. Fences erected by owners of private property shall not be erected so that they encroach on any city-owned

property, including street and alley, rights-of-way, except as provided in Section 19.63.050.

(Ord. 1292 § H(part), 2007).

19.63.050 Fences on public right-of-way—Conditions.

Private fences may be built within the public right-of-way, on the property owner's side of the sidewalk on a city street that has an overall right-of-way of more than sixty (60) feet as follows:

- A. If there is no curb and/or sidewalk, the public works department shall determine fence location, which may be on city-owned property.
- B. Within a residential zone or for residential uses within a nonresidential zone a fence may be built as close as three (3) feet to the sidewalk.
- C. Fences shall not be allowed on city property for nonresidential uses permitted within a residential zone.
- D. Fences will not be allowed on city-owned property unless the owner agrees to remove the fence at the owner's expense upon request of the city. The owner must sign an agreement which will be recorded with the Whatcom County auditor, evidencing such agreement and agreeing that if the owner does not remove the fence upon the city's request, the owner will reimburse the city for the cost of removal. The owner shall pay for the cost of recording the agreement with the Whatcom County auditor.

(Ord. 1292 § H(part), 2007).

19.63.060 Fence requirements.

Fences shall be built to the following specifications:

- A. Electric, razor, and barbed wire fences are not permitted in residential zones.
- B. All gates shall swing into the owner's property.
- C. A clear vision triangle as defined in Section 17.01.030 shall be maintained on all corner lots at the street intersection. A ten (10) foot clear vision triangle shall be maintained at all alley, railroad, and driveway intersections with streets and all driveway/alley intersections. The driveway vision triangle shall be measured from the paved driveway sides or five (5) feet each way from the driveway center, whichever is more restrictive. Fences of three (3) feet or less in height, measured from curb height, are allowed in all vision triangles. Clear vision triangle is defined in Chapter 17.01 of this code and within the adopted engineering design and development standards.
- D. Fence heights for residential uses will be as follows:

1. Reduced fence heights along the front and sides of a front yard must extend five feet behind the front corner of the house. The maximum fence height in this location shall be forty-two (42) inches.
2. From thirty (30) feet from the front property line, or five (5) feet behind the corner of the house as noted above, to the rear property line, the maximum height of any fence shall be seventy-two (72) inches.
3. Side yard fences where the side yard is the rear yard for the adjacent property may be seventy-two (72) inches in height, on that side only, provided that there is a minimum setback of fifteen (15) feet from the front property line and does not extend beyond the front of the house, whichever is more restrictive. No vision triangle may be obstructed and the opposing side must comply with all other setback and height requirements.

Fence height is determined by measuring from the natural ground level adjacent to the fence to the top of the fence structure, including all latticework or other decorative features allowing a maximum of two inches for ground clearance. The Design Review Board may grant, or grant with conditions, a waiver to this height limit for no more than eighteen (18) inches upon the following conditions:

1. The neighboring property owner(s) does not object;
2. If the side or rear yard is located immediately adjacent to a city street right-of-way, but not an alley right-of-way, the fence may not be parallel to the city street or sidewalk;
3. That in accordance with the requirements of the International Building Code the applicant will submit a construction permit with complete structural detail to the building official and other applicable departments for approval. The cost for such permit is based on the cost of the fence and such permit replaces the fence permit required by this chapter;
4. The fence is in the rear or side yard;
5. The replacement of an existing fence that is nonconforming as to the maximum height, and is not located in the front yard, may be exempt from the variance process described above. However, the applicant must obtain all required construction permits.

E. Fence heights for property in a residential zone being used for nonresidential permitted uses shall be subject to the requirements of Section 19.63.080.

(Ord. 1292 § H(part), 2007).

19.63.070 Privacy fencing.

Patio and courtyard privacy fencing is allowed up to a maximum height of seventy-two (72) inches, and an overall combined length of twenty-five (25) feet. Privacy fences shall be considered part of the residential structure and shall meet all structure setbacks for front, rear and side yards; provided, however, that rear and side yard setbacks may be

waived by the planning department if, in their opinion, there is no apparent conflict with adjoining property uses.

(Ord. 1292 § H(part), 2007).

19.63.080 Nonresidential zone fences.

Fences in the industrial and commercial zones and for nonresidential uses in the RS zone are allowed subject to the following conditions:

- A. Maximum height for solid fencing on all non-residential properties is eighty-four (84) inches.
- B. Wire fencing may be allowed up to eighty-four (84) inches on properties with a non-residential zoning except that a maximum height of one hundred and forty-four (144) inches is permitted on industrially zoned properties.
- C. Street, alley, railroad and vision triangle requirements of Section 19.63.060(C) shall apply, provided, however, that higher wire fencing may be allowed, if, in the opinion of the public works director, the fence will not obstruct vision in the vision triangle.

(Ord. 1292 § H(part), 2007).

ORIGINAL

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #22-06

**A resolution of recommendation for approval of LMC Code Amendments:
Mixed Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC
17, 18, and 19**

WHEREAS, on December 20, 2021, in recognition of the need to address the City’s mixed-use code provisions to better serve the good of the community and the original intent of the code, the City Council passed Ordinance 1642 which established a moratorium on residential development within the City’s Commercial Services-Local (CSL) zone and temporarily halted the development of mixed-use projects; and

WHEREAS, for the purposes of this resolution, mixed-use is considered a blend of residential and commercial uses in a shared building or on a shared property; and

WHEREAS, since Ordinance 1642 was adopted, staff has advanced an initiative and worked with relevant interest groups, property owners, and policy makers on a new mixed-use proposal; and

WHEREAS, the revision seeks to locate mixed-use developments, which often feature high density housing options, in areas near public transportation and existing commercial development; and

WHEREAS, locating mixed-use developments in these locations serves to support existing business and create more viable opportunities for new commercial uses within the mixed-use developments; and

WHEREAS, the initiative now proposes a new mixed-use overlay, LMC 19.23.110 Mixed Use Overlay, to the existing Chapter 19 of the Lynden Municipal Code and a corresponding Comprehensive Plan Amendment 22-01, and Rezone 22-02; and

WHEREAS, discussion regarding the new overlay resulted in supplementary updates to other sections of the Lynden Municipal Code including the Parking Code in LMC 19.51 and general housekeeping updates throughout LMC 19; and

WHEREAS, the following workshops have be held to review the proposed code amendments: Planning Commission workshop on March 24, 2022, Special Joint Community Development Committee and Planning Commission Workshop on May 18, 2022, and a Planning Commission workshop on September 8, 2022; and

WHEREAS, the following sections of the Lynden Municipal Code (LMC) have been updated to reflect the proposed changes. Full scope is attached as Exhibit A.

- LMC 18.22 Manufactured Home Park Subdivision Standards: Updates to “Siting Criteria” to allow increased density, and landscaping requirements.
- LMC 19.11 Districts Established: Housekeeping updates and the reduction of RM4 maximum density.

- LMC 19.17 Multifamily Zones: Housekeeping updates and added requirements for open space / residential amenities for developments of 8 or more units.
- LMC 19.19 Manufactured Home Zone: Increased density allowances, prohibit site-built homes within MH park.
- LMC 19.22 Design Standards: Housekeeping updates. Note the proposed deletion of the minimum pitch requirement.
- LMC 19.23 Commercial Zoning: Removed the existing mixed-use allowances (60:40 and North Lynden Subarea), strengthen site design requirements, and added the Mixed-Use Center Overlay (19.23.110), small-scale downtown Mixed Use, and the related zoning language to support that overlay.
- LMC 19.29 Planned Residential Development: Housekeeping updates
- LMC 19.45 Design Review: Housekeeping updates and removed the city-wide Dutch themed architecture to HBD only (or to recognize historic architecture of downtown).
- LMC 19.51 Off-street Parking: Significant rewrite for clarifying items. Increased requirements for large MF projects, standard parking size of 9 x 19.
- LMC 19.63 Fence Permits: Housekeeping updates

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed LMC Code Amendments, and that meeting was duly recorded;

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 7-0, to the City Council of the proposed LMC Code Amendments and Updates to Titles 17, 18, and 19, including; the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates subject to the following conditions:

- 19.22.030 (C) (4) - That the Residential Design Criteria requirement for a 4:12 roof pitch remain with the option to seek a waiver with the Design Review Board.
- 19.51.040 - That the parking requirements for studio apartments be added to reflect 1.5 parking stalls per unit.
- 19.23.020 - That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 22nd day of September 2022.



 Tim Faber, Chairperson,
 Lynden Planning Commission



 Heidi Gudde, AICP
 Planning Director

CITY OF LYNDEN

PLANNING DEPARTMENT
360-354-5532



PLANNING COMMISSION MEETING MINUTES

7:00 PM September 22, 2022
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Khush Brar, Bryan Korthuis, Darren Johnson, and Hollie Lyons.

Absent:

Staff Present: Gudde, Planning Director, Timmer, City Planner and Samec, City Planner

3. APPROVAL OF MINUTES

A. **September 8, 2022, Scott / Kaemingk 2nd 5-0**

4. DECLARATION OF CONFLICT

Korthuis asked to recuse himself from the Lynden Door CPA / Rezone. Korthuis stated that the company he works for does significant business for Lynden Door and JD Bargaen. None of the other Commissioners reported any ex-parte contact or conflict of interest.

5. PUBLIC HEARINGS

A. **CPA #22-02 and RZ #22-01, JD Bargaen / Lynden Door, 2122 Front Street**

Gudde addressed the Commission and stated that the application is for a Comprehensive Plan Amendment to change the Comprehensive Plan designation of two parcels owned by JD Bargaen Industries, LLC from Commercial (CSR) and Industrial (IBZ) to Industrial (ID).

The subject property currently has a split land use designation. The northern portion adjacent to the existing Lynden Door campus has an industrial designation and the southern portion has a commercial designation. The request to shift the entire property into an industrial land use would eliminate the split land use designation which tends to be difficult to regulate.

The commercial market has changed significantly since the land use and zoning designation was assigned to the subject property in 1994 with annexation Ordinance 943. The existing commercial designation was likely put into place along Front Street because commercial uses desire visibility from roadways to facilitate retail development. However, the demand for commercial / retail spaces has dropped significantly and the City's existing supply of commercial spaces has been adequate. Meanwhile, the call for large scale industrial properties has increased with millions of dollars of investment anticipated in this area of the City in the next five years.

Compatibility of the proposed industrial use within the West Lynden Sub-Area is high. Staff review does not anticipate a conflict with existing uses.

The City Council previously supported a similar application in this area. In 2018 the adjacent parcel, immediately east, was successfully shifted from a commercial land use to an industrial land use with Comprehensive Plan Amendment 18- 01. The applicant's response to the criteria is located in the packet.

Lesa Starkenburg PO Box 231, Lynden

Starkenburg addressed the Commission. The proposed plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land uses.

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and may facilitate infrastructure development in this area for the City sooner rather than later.

The site is located adjacent to the Applicant's existing property, which is used for industrial purposes. The site is contiguous to the parcel re-designed by the City under a previous request in 2018. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site. In addition, commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth.

The proposal will create a land use pattern very similar to what exists currently except that it will be consistent to the ownership of the site and the Applicant's adjacent land use. In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

The proposal will result in economic development, employment opportunities for the increasing population, and will maintain a positive business climate. Starkenburg asked for the Commission to please recommend approval to the City Council.

Questions or Comments from the Commissioners- none

Speaking in opposition

Letter from Glen Tromp dated September 12, 2022. Letter is in the PC meeting packet.

Scott motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 6-0.

Lyons asked why the zoning change now, do they have plans for development? Gudde replied, not at this time, however, the zoning change is a better fit for the area.

Criteria for Approval:

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

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria

No further comments from the Commission. The Commission agreed that the request is reasonable.

Scott motioned to recommend approval to the Lynden City Council of the Lynden Door Rezone #22-01 and Comprehensive Plan Amendment #22-02 subject to the Technical Review Committee Report dated September 12, 2022. Seconded by Johnson, and the motion passed 6-0, with Korhuis abstaining.

B. CPA #22-01 and RZ #22-02, City of Lynden Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, and text Amendment

Gudde addressed the Commission and stated that the application is for a Comprehensive Plan Amendment and Rezone. The City is proposing several updates to the Lynden Municipal Code that are seeking to foster the appropriate development of mixed-use areas (Residential/Commercial) within the City.

The proposed updates will change the current mixed-use allowance (60:40 GFA ratio as determined in LMC 19.23.020) to a mixed-use overlay that can be activated within commercial zones under established criteria. These updates to the City’s development code also necessitate amendments to the City's Comprehensive Plan, specifically the Comp Plan maps - the Zoning Map, the Future Land Use Map, and the City's Subarea Map. A related text amendment will update language to reflect changes to the City’s subareas.

In December 2021, City Council passed Ordinance No. 1642 which established a moratorium on residential development within the City’s CSL zone. This moratorium was a

reaction to somewhat unsuccessful results being witnessed on mixed use development projects undertaken in the City’s CSL zone. Achieved mixed use development has been focused on maximizing residential units, which it has done, but has struggled to develop effective commercial space. With the moratorium, Council asked staff to consider a new model for mixed use development that still supports residential use but, effectively, promotes more cooperative commercial uses for that residential development.

Since Ordinance 1642 was adopted, staff has worked with relevant interest groups, property owners, and policy makers to propose a new mixed-use overlay (LMC 19.23.110 Mixed Use Overlay) to the existing Chapter 19 of the Lynden Municipal Code. Discussion regarding the new overlay resulted in supplementary updates to other LMC sections, a change to Lynden’s defined subareas, zoning changes for certain commercial zoned properties, changes to the City’s Future Land Use map, and related code housekeeping updates.

A complete list of the proposal is located within the Commissioners packet.

Questions or Comments from the Commissioners

- When will the properties in the UGA come into the City? Gudde, it is usually up to the property owners and not City lead. In order to move forward with an annexation request, you need the signatures of at least 60% of the assessed property value of the proposed area.

Questions or Comments from the public.

West Lynden Future Zoning

- Garth Kooy, 331 Birch Bay Lynden Road
Regarding West Lynden Future Zoning Map, the residential area is being squeezed. Birch Bay Lynden Road should be a line in the sand for the zoning border. Keep the land south as residential, with the exception of the grandfathered in existing commercial uses. It’s a great place for residential development.

Think of the families that live in the area with small residential properties. Open space taxation needs to continue.

In support of removing the current commercial and the proposed industrial designation south of Birch Bay Lynden Road to residential, it is a better use.

- Steve Schuyleman, 371 Birch Bay Lynden Road
I favor of moving from red to white on the existing futures land use map. Low density residential. Schuyleman stated that they have the biggest farm in that area, how would coming into the city affect that? Gudde stated, as those uses come into the city you can continue to use your property as you use it today. Once you develop you will be required to comply.

• Joe King, 849 Flynn Road

Asked for explanation of the low vs. medium density residential. In favor of keeping the zoning as medium density.

The current petition that Council has authorized in my area has not yet come back. Is there a time frame? Gudde stated that she is not aware of a time frame.

Brief discussion regarding annexing the floodplain.

Scott asked King what his zoning preference was. King stated that there needs a place for people to live. He prefers the property to be zoned residential medium density.

Scott motioned to close the public hearing. Seconded by Korthuis and the motion passed, 7-0.

Commissioner discussion:

Johnson likes the idea of keeping residential south of Birch Bay Lynden Road with no industrial zoning. Existing businesses could remain, however, there could be no new development of commercial. There are several existing homes just beyond that zoning line in the county.

What about a mix of single family and multi-family?

Kaemingk, residential medium density makes more sense over industrial.

Kush, can we have both medium and low density in that area. Gudde replied, yes. Kush stated that we are pushing the limits in the northeast portion of town, this is a good area for development and a good idea.

Lyons in favor of residential instead of industrial.

Korthuis, if this is changed, it can always be brought back to the PC for a rezone if a property owner was interested.

Looking at the map and seeing a lot of industrial come into the area. Korthuis is hesitant to zone residential for the long run if we are building so much industrial. Can see a potential for residential, but if so, it should be a higher density. When weighing both ideas, Korthuis likes it better as proposed. Industrial fits the overall general area. The big picture goal is better off to set zoning as Industrial for the future.

Johnson, Kaemingk, Scott, Faber, Lyons and Brar would like to see residential in place of industrial in the West Lynden Future Map proposal. Korthuis prefers Industrial.

East and North Lynden Zoning

Discussion regarding the zoning proposed for the east and north Lynden areas.

Letter submitted dated September 21, 2022, from Mike Kooy (sent to PC): regarding Skyview SP No 2 Lot 4. City proposal is to rezone to RM-3 and his group would like RM-4.

Faber asked the commission if there is any discussion on changing the zoning to RM-4? The Commission agreed, no, keep it as RM-3, it is the best fit. Not supportive of the City’s highest density category in that area.

Brief discussion regarding WSDOT access permits on E Badger Road. Could WSDOT reduce the unit count? No, however, they would require access improvements.

Staff is supportive of what has been brought forward this evening. RM-3 not RM-4.

Criteria for Approval:

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

To grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

To grant this request, the Planning Commission and City Council must also find that the application satisfies each of the criteria listed within Section **17.19.050** of the Lynden Municipal Code. The Commission agreed that the application meets the required criteria.

No further comments from the Commission.

Kaemingk motioned to recommend approval to the Lynden City Council of CPA #22-01 and RZ #22-02, for the City of Lynden, regarding Mixed Use Development Updates, Land Use Map, Future Land Use Map, Zoning Map, Sub-Area Map and Text Amendment as proposed and further subject to the following condition:

- 1. That the 40 acres south of Birch Bay Lynden Road shown on the proposed future land use map as industrial land use be changed to residential, low-density land use.**

Seconded by Scott, and the motion passed, 6-1, with Korthuis in opposition.

C. LMC Code Amendments: Mixed Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19

Gudde addressed the Commission and stated this is the public hearing for the workshop that was held with the Planning Commission on September 8, 2022. This agenda item includes several LMC Code amendments relating to the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates – LMC 17, 18, and 19. The proposed redlined updates to the LMC chapters are separately attached in the application packet.

Proposed Code Updates: The full list of proposed code updates is listed below.

LMC 17.01.030 Definitions: The addition of Storage – “Mini” and Storage – “Large Scale”. *PC support.*

LMC 18.22 Manufactured Home Park Subdivision Standards: Updates to “Siting Criteria” to allow increased density, and landscaping requirements. *Kush asked about keeping the perimeter buffer at 30-feet. 30-feet is greater than other areas in the city. The PC supported the proposed 20 feet.*

LMC 19.11 Districts Established: Housekeeping updates and the reduction of RM4 maximum density. *PC support.*

LMC 19.17 Multifamily Zones: Housekeeping updates and added requirements for open space / residential amenities for developments of 8 or more units. *Brief discussion regarding 19.17.100 and why the change to the DRB review vs approval. Faber, DRB provides review for compliance not approval. PC Support*

LMC 19.19 Manufactured Home Zone: Increased density allowances, prohibit site-built homes within MH park. *No Comments*

LMC 19.20.040 – ADU permitting and Enforcement- *PC Support.*

LMC 19.22 Design Standards: Housekeeping updates. Also included in the update is the proposed deletion of the minimum roof pitch requirement. Acceptance of this change was not unanimous; however, the PC did agree to the addition to 19.45.035 that allows a design criteria waiver that could allow a different roof pitch once reviewed by the DRB. *PC Supports.*

LMC 19.23 Commercial Zoning: Removed the existing mixed-use allowances (60:40 and North Lynden Subarea), strengthen site design requirements, and added the Mixed Use Center Overlay (19.23.110), small-scale downtown Mixed Use, and the related zoning language to support that overlay.

Gudde stated that the Finance / Council Committee would like to recommend that body piercing and tattoo studios be its own line item and not included in with personal services. That the use only be allowed in the CSR zone. PC Support.

Discussed the revised language outlined in 19.23.090 (F)(2)(B) regarding CMU Blocks. PC Support.

Discussion regarding the removal of the Dutch/Northern European design outlined within 19.23.090 for Mixed-Use Center Overlay and for retail stores great than fifty thousand square feet.

Gudde replied, the Dutch them is still required within the HBD. Over the years it has become watered down outside of the downtown core. Arguments indicate that modern / contemporary Dutch varies and changes with time. Faber stated that the Dutch Theme has not been used in the outskirts of downtown for years. Supports the requirement only in the HBD.

Brar wanted to be certain that Lynden was not losing its identity. The HBD should still require the Dutch standard.

Scott stated that the HBD looks more Dutch today than it did 20 years ago, and the outskirts were not Dutch.

Korthuis stated that the Dutch should be a requirement for the HBD, not necessarily for the rest of the town.

Faber asked the Commission if the requirement should be changed as proposed or remain. The Commission agreed that it should be changed as proposed.

19.23.110 (C) – Small scale Mixed-Use within the Central Lynden Sub-Area. Brief discussion regarding the design review standards for new multi-family construction, and clarification on existing commercial uses that would be permitted to transition into residential use according to the standards. Commission is good as proposed.

19.23.110 – Mixed Use Overlay Development Standards

- *Discussion regarding max Height- 52 / 60 feet at 4 floors? Should 5 stories be allowed with a CUP?*
- *Open space requirements? Create spaces large enough for people to use. Also look to walkability of parks etc.*
- *Required Commercial Area. CS use within Mixed Use Overlay requires ground floor to be at least 60%. Parking on ground floor does not count as commercial.*
- *Flex Space - Flex space must equal 20% of the net lot area.*

- Design Review Board – Discussion regarding DRB approval requirements including the Dutch themed architecture requirements for the HBD only, and/or to recognize, restore, pay tribute to the historic structure and architecture of the building.

The Commission was satisfied with 10% open space, 20% flex space and keeping at 4 floors max. The PC was also supportive of the amendment to the Design Review Board requirements and theme.

• LMC 19.29 Planned Residential Development: Housekeeping updates. *Commission had no concerns.*

• LMC 19.45 Design Review:

- Housekeeping updates.
- Clarification of a process that already exists regarding determining review.

The Commission reviewed David Vos’ letter regarding concerns with Staff authority specifically relating to the DRB. The Commission discussed the importance of staff, in the interest of process efficiency, having the ability to make judgement calls on “minor” proposals. Ultimately the Planning Commission concluded that they would support the proposed language as written without any revisions.

• LMC 19.51 Off-street Parking: Significant rewrite completed to clarify section of code.

- Increased requirements for large MF projects,
- Decreased standard parking size from 9 x 21 to 9 x 19.
- Discussion regarding a parking requirement of 1.5 stalls for a studio unit.

Commission had no concerns.

• 19.51.160 Parking exception will extend as follows: from Judson Street Alley to Grover Street between 2nd Street and 8th Street. *Commission Support.*

• LMC 19.63 Fence Permits: Housekeeping updates. *Commission Support.*

No comment from the public.

Scott motioned to close the public hearing. Motion passed, 7-0.

No further comments from the Commission.

Korthuis motioned to recommend approval to the Lynden City Council of the

proposed LMC Code Amendments and Updates to Titles 17, 18, and 19, including; the Mixed-Use Overlay, Parking Code, and Associated Housekeeping Updates subject to the following conditions:

- **19.22.030 (C) (4) - That the Residential Design Criteria requirement for a 4:12 roof pitch remain with the option to seek a waiver with the Design Review Board.**
- **19.51.040 - That the parking requirements for studio apartments be added to reflect 1.5 parking stalls per unit.**
- **19.23.020 - That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone.**

Seconded by Johnson and the motion passed 7-0.

6. ADJOURNMENT

Motion to adjourn by Scott / Second by Kaemingk. Meeting adjourned at 10:20 pm.

To: City of Lynden Planning Commission
From: David Vos, 213 Cedar Dr, Lynden
Date: September 22, 2022
Re: Proposed changes to Lynden Municipal Code

Members of Planning Commission,

I'm writing to express my serious concern with one of the proposed revisions to the Lynden Municipal Code that you will be discussing at tonight's meeting. As a member of the Design Review Board, I take my job seriously to provide oversight to the aesthetics of commercial and multi-family construction as well as signage around Lynden. I appreciate the opportunity to serve on the committee and in my role, I seek to ensure that Lynden remains an attractive place to live and do business.

When the Design Review Board (DRB) was established, my dad, Alvin Vos, was part of the original committee, and the board was set up to provide citizen oversight to both the aesthetics of construction and signage and in doing so, be a check on City Planner authority in such matters. Knowing the history of the DRB, I find the proposed addition of paragraph 2 under the revised LMC 19.45.015 particularly concerning, as it fundamentally changes the role of the DRB. The proposed wording states,

The Planning Director will determine when review or re-review (in the event of an amended design) is required by the Design Review Board. The Planning Department shall prepare a staff report on the design proposal summarizing requirements and conditions of permit approval. The staff report shall include findings, conclusions, and conditions for disposition of the design application.

[Emphasis mine]

Having served on the DRB for the last few years, I've seen instances where Heidi has summarily approved projects that should have brought before the DRB, and I'm deeply concerned that this proposed change will gut what little authority our board has, further putting control of aesthetic design approval in the hands of the Planning Director.

In lieu of the proposed wording, I would recommend that all signs and new commercial and multi-family construction must be brought to DRB for review and approval, and for minor remodels that may or may not require design review, a brief e-mail to the committee members to determine our preference for reviewing would be a fast and easy way to proceed with the design review process.

Those of us who serve on the DRB are happy to give of our time to see that the aesthetics of Lynden are appealing, but why should we waste our time serving on a committee that only serves at the Planning Director's bidding? Again, this committee was set up to provide citizen oversight, not further centralize control within the Planning Department.

Thank you for your consideration in this matter.

Sincerely,

David Vos

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 19, 2022	
Name of Agenda Item:	Ord 1655 – JD Bargaen Comprehensive Plan Amendment 22-02 and Rezone 22-01	
Section of Agenda:	Public Hearing	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Ord 1655, Planning Commission Resolution, Rezone 22-01 Application		
Summary Statement:		
<p>The proposal for Rezone 22-01 is brought forward by Lesa Starkenburg-Kroontje representing JD Bargaen Industries, LLC in cooperation with Comprehensive Plan Amendment (CPA) 22-02. This property is located north of Front Street and south of the existing Lynden Door campus (Parcel 400224 332215 0000).</p> <p>The details of this application and the Planning Commission’s recommendation were described in association with the Public Hearing for CPA 22-02.</p>		
Recommended Action:		
Motion to approve, and authorize the Mayor’s signature on, Ord 1655 which amends the Land Use Map within the City’s Comprehensive Plan and rezones the subject parcel from CSR and IBZ zoning to an ID zoning category.		

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #22-04

A resolution of recommendation for approval of Comprehensive Plan Amendment #22-02 and Rezone #22-01, Lynden Door / JD Bargaen Industries LLC to the Lynden City Council.

WHEREAS, Lesa Starkenburg-Kroontje on behalf of JD Bargaen Industries, LLC, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for a Comprehensive Plan Amendment and Rezone requesting to change the zoning designation from Regional Commercial Services (CSR) and Industrial Business Zone (IBZ) to Industrial District (ID) at 2122 Front Street, Lynden, Washington; and

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

WHEREAS, the application was determined to be complete on August 23, 2022, and the notice of application was published in the Lynden Tribune on September 7, 2022; and

WHEREAS, the subject parcel totals approximately 22.79 acres and has property zoned Industrial (ID) to the north and east, commercial (CSR) to the south and the Urban Growth Area (UGA) to the west; and

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed Comprehensive Plan Amendment and Rezone, and that meeting was duly recorded; and

WHEREAS, the City's Technical Review Committee has reviewed the request for the Comprehensive Plan Amendment and Rezone and has provided findings, conditions, and recommendations to the Planning Commission in a report dated September 12, 2022.

WHEREAS, to grant this request, the Planning Commission must find that the application satisfies the criteria listed within Section **17.09.040 (C)** of the Lynden Municipal Code.

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 - 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest

5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code.

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

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

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

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the City Council Comprehensive Plan Amendment #22-02 and Rezone #22-01, Lynden Door / JD Bargaen Industries LLC, subject to the Technical Review Committee Report dated September 12, 2022.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 22nd day of September 2022.



 Tim Faber, Chairperson,
 Lynden Planning Commission



 Heidi Gudde, AICP
 Planning Director

CITY OF LYNDEN



REZONE APPLICATION

City of Lynden use only:
 RZ # 22-01 Staff Initials: _____

Applicant Information

Name: JD Bargaen Industries, L.L.C.
 Address: c/o Lesa Starkenburg-Kroontje, P.O. Box 231, Lynden, WA 98264
 Telephone Number: (360) 354-7822 E-mail Address: starkenburgkroontje@msn.com

Application is hereby made for a rezone as follows:

Type of Rezone Requested:

Current Zoning Designation: CSR & IBZ

Proposed Zoning Designation: Industrial District

Attach narrative explaining the reason for the request / zoning change

Property Information

Address: 0 Front Street, Lynden, WA 98264

Legal Description: (Attach Additional Sheets if Necessary)
 Lot 1, Bedlington-Bargaen Lot Line Adjustment, recorded at Auditor's File No. 2018-0300567, records of Whatcom County, Washington. Situate in Whatcom County, Washington.
 Parcel Number: 400224 332215 0000

Property Size: Varies- x See Map

Total Square Footage: 992,732.4 Total Acreage: 22.79 acres

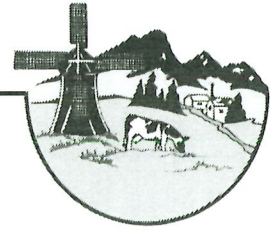
By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Submitted By: [Signature] Lesa Kroontje Date: 8-24-22

Property owner signature: _____ Date: _____

Property owner printed name _____ Date: _____

CITY OF LYNDEN



CRITICAL AREAS CHECKLIST

Section: 24 Township: 40 Range: 2E Parcel Number: 400224 332215 0000

Site Address: 0 Front Street, Lynden, WA 98264

Proposed Uses: Rezone to Industrial

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

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

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

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

[Signature]
Applicant's Signature

U/28/22
Date

Attachment
to
Rezone Application

Supplemental Information for Application numbers 9-11:

9. A narrative regarding the background, the reason for seeking the proposed rezone, and the effect of the proposal on adjacent areas.

The property was purchased by the Applicant with its current zoning designation in place. The site is located adjacent to Applicant’s existing property, which is used for industrial purposes. The site is tucked behind existing industrial development. Therefore, industrial development is more appropriate for this site.

Changing this site to an industrial designation is compatible with the current uses surrounding the site. The property to the east has already been rezoned and re-designated to industrial use. Now the subject site has been purchased by an industrial user and the use and designation should be consistent with the land to the east. The site is screened by the many buildings consisting of the Lynden Door campus to the north. The only real visibility is from the west. However, the area to the northwest is zoned Industrial Business Zone and the area directly to the west is outside of Lynden City limits.

In addition, West Front Street is a logical boundary for the industrial designation. Also, West Front Street does not have commercial visibility compared to other nearby tracts. In addition, the adjacent Tromp Road is a rural standard road that is not ideal for commercial traffic.

10. A statement explaining changed circumstances in the area since adoption of the current zoning or mistake in current zoning.

See answer above to #9. Additional industrial property in this area is warranted given the build out of the industrial facility. Commercial use has been slow to develop in Lynden and the COVID pandemic and increase in online shopping will continue to have an impact on commercial growth. Commercial property continues to be readily available in the West Lynden area.

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

The plan amendment is consistent with the Lynden Comprehensive Plan. The West Lynden Sub-Area is primarily zoned for a combination of industrial and commercial land

uses. The property included in this application is adjacent to both commercial and industrial uses. Through their planning process, the City predicted which lands could develop in which manner but the exact lines were not set to achieve specific goals. This property was purchased by an industrial user and therefore, the requested amendment to the Comprehensive Plan will result in additional infilling within the City limits of Lynden which is consistent with the Growth Management Act and Lynden's Comprehensive Plan. As a result of the current ownership of the parcel, infill will occur more quickly if the property is designated industrial versus commercial and therefore, may facilitate infrastructure development in this area for the City sooner rather than later.

The proposed amendment meets the following specific goals and policies:

1.1. Establish standards for infill development that ensure compatibility with the character of existing neighborhoods.

1.3. Provide buffers, including landscaping, between commercial, industrial, or higher density land uses and existing residential neighborhoods.

5B. The City of Lynden is promoting economic development by zoning land suitable for commercial and industrial development west of the Guide Meridian.

5C. The City will encourage employment opportunities for the increasing population, unemployed and disadvantaged persons, and replace those jobs lost due to the changing needs of the agricultural industry.

5D. The City of Lynden will ensure that the location and character of land uses optimize the potentials for economic benefit, as well as protecting the City's open space and natural resources.

5G. The City will work to maintain a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.

2.4.1 Commercial and Industrial Use

The City's current actual land use acreages show commercial and industrial uses occupying 335.9 and 61.6 acres, respectively. The City actively pursues opportunity to increase the commercial and industrial zoned land being utilized for economic development.



TOWNSHIP
40
RANGE
02
SECTION
24
MAP NO.
01

KEY MAP:

14	13	18
23	24	19
26	25	30

0 400
1" = 400'



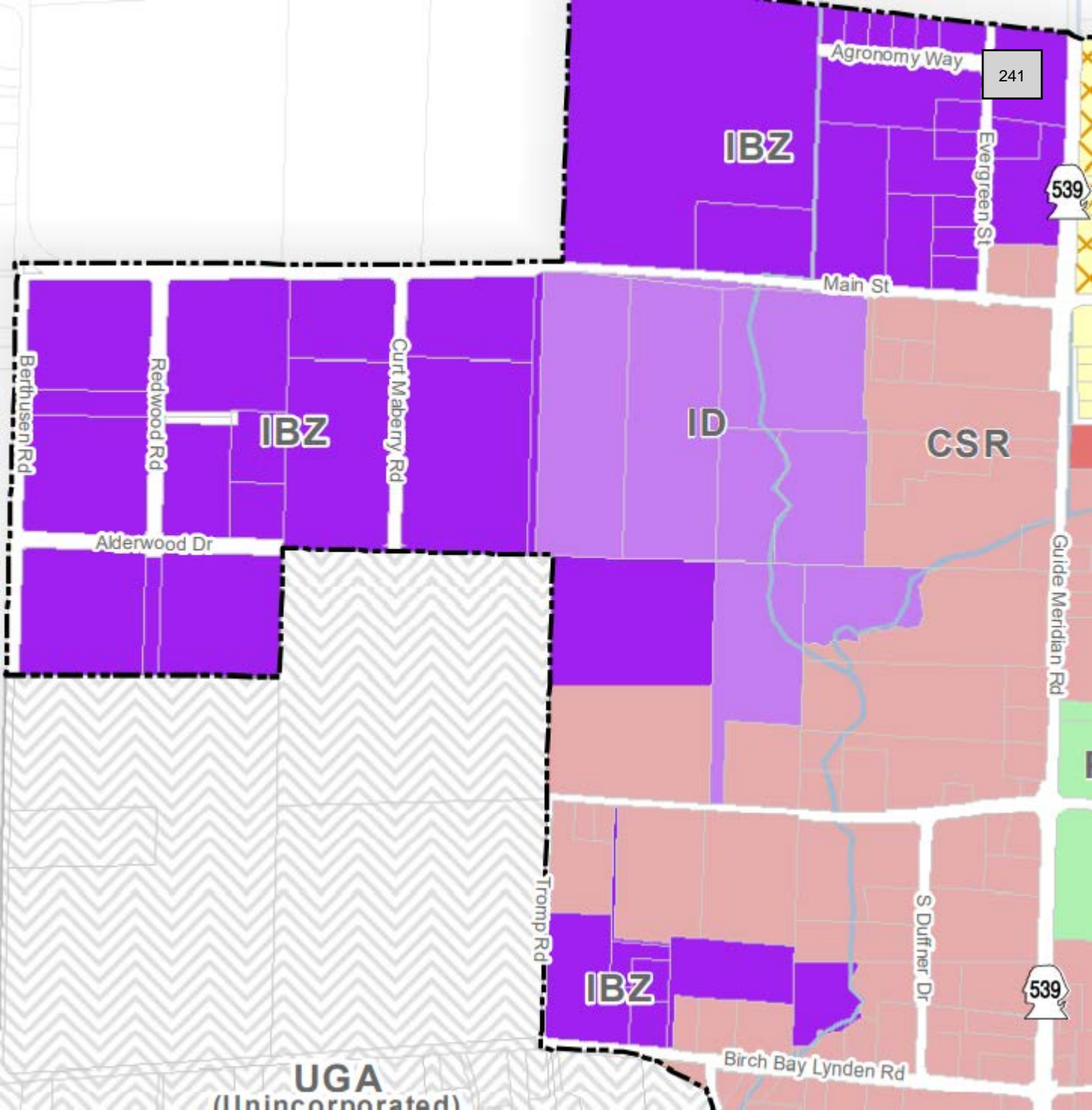
- Tax Parcels
- Plats
- Lots
- Section Lines
- Qtr. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies*

Whatcom County Assessor's Office
Apr. 01, 2022

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

Geographic Tax Parcel Numbers (GID) are a 16-digit number derived from a concatenation of the Township, Range and Section, plus the XY coordinates of the theoretical center of the parcel, plus four leading zeroes. The trailing zeroes are used where an auxiliary tax parcel exists at the same location as the primary parcel, such as, a condo unit or, a mobile home.

*Waterbodies provided for reference only; has not been verified by Assessor.
For information on reading maps visit our website: whatcomcounty.us/177/assessor



241

IBZ

Agronomy Way

Evergreen St

539

Main St

IBZ

ID

CSR

Berthusen Rd

Redwood Rd

Curt Maberry Rd

Alderwood Dr

Guide Meridian Rd

Tromp Rd

IBZ

S Duffner Dr

539

Birch Bay Lynden Rd

UGA
(Unincorporated)

ORDINANCE NO. 1655

**AN ORDINANCE REZONING CERTAIN REAL PROPERTY
IN THE CITY OF LYNDEN, FROM COMMERCIAL (CSR) AND INDUSTRIAL (IBZ) TO
INDUSTRIAL (CSR) AND AMENDING THE COMPREHENSIVE PLAN THEREOF**

WHEREAS, on December 5, 2022, the Lynden City Council considered an application for a site-specific rezone and comprehensive plan amendment for the following property from the from commercial (CSR) and industrial (IBZ) to industrial (ID).

LOT 1, BEDLINGTON-BARGEN LOT LINE ADJUSTMENT, RECORDED UNDER AUDITOR’S FILE NUMBER 2018-0300567, RECORDS OF WHATCOM COUNTY WASHINGTON. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON

COMMONLY DESCRIBED AS: 2122 Front Street, Lynden.

WHEREAS, the property currently maintains split land use and zoning designations of both Commercial with a zoning of CSR, and industrial with a zoning IBZ; and

WHEREAS, the property owner desires to create uniform land use and zoning across the parcel; and

WHEREAS, the property owner intends to add the subject property to the existing campus of the Lynden Door, Inc manufacturing facility; and

WHEREAS, the requested land use designation of Industrial and the proposed zoning of Industrial District (ID), which allows for uses such as manufacturing and trucking, is consistent with surrounding property uses, and appropriate for the expansion of the Lynden Door facility; and

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

WHEREAS, the City's Technical Review Committee has reviewed the request for the Comprehensive Plan Amendment and Rezone and has provided findings, conditions and recommendations to the Planning Commission in a report dated September 12, 2022; and

WHEREAS, the Lynden Planning Commission held a public hearing on September 22, 2022, to accept public testimony on the proposed amendment of the comprehensive plan and site-specific rezone, and that meeting was duly recorded; and

WHEREAS, the Planning Commission found that both the application for the amendment to the Land Use Map of the Comprehensive Plan application 22-02 and the Site Specific

Rezone application 22-01 satisfies the criteria listed within Section 17.09.040(C) and 17.19.050 of the Lynden Municipal Code in that:

1. The proposal is consistent with the Comprehensive Plan and the West Lynden Sub-area which has been recognized as the City's primary location for industries such as manufacturing. Access to truck routes from this site are efficient and safe.
2. Industrial infrastructure expansion into this area including streets, water supply, and sanitary waste disposal is feasible. Additionally, construction on the subject property will trigger the payment of impact fees related to parks and fire services.
3. Future development on the subject property will be held to the City's development standards as outlined in LMC Chapters 16-19.
4. The proposal, which clears the path for additional industrial growth, is not detrimental to public health in that it promotes industrial use in the area best suited for the associated impacts and will not significantly impact residential neighborhoods or environmentally sensitive areas.
5. The development of the subject property will mitigate for transportation, fire, and park impacts through roadway improvements and/or the payment of impacts fees.
6. Any impacts created by future develop can be reasonably mitigated by onsite improvements; and

WHEREAS, the Planning Commission found that both the application for Site Specific Rezone application 22-01 satisfies the criteria listed within Section 17.19.050 of the Lynden Municipal Code in that:

1. A significant change in circumstances related to the need for commercially zoned properties warrants reclassification of the subject property as proposed. In addition, since its original zoning assignment, nearby properties have successfully developed with industrial uses such as the Lynden Door facility.
2. The proposed site-specific rezone is consistent with the City Comprehensive plan as the West Lynden Sub-Area, where the subject property is located, is recognized as the primary location for industrial growth.
3. The proposal is consistent with the City's development codes a no
4. The proposed site-specific rezone is compatible with the existing land uses which are primarily other industrial uses, agriculture, or large-scale retail.
5. The proposal will promote the health, safety, and general welfare of the community in that it facilitates the continued expansion of the City's infrastructure per the engineering design standards, it provides industrial job opportunities, and it supports industrial growth in an area that avoids conflict with residential and more sensitive uses.

WHEREAS, the Planning Commission recommended approval by a vote of 6-0, to the Lynden City Council of Comprehensive Plan Amendment #22-02 and Rezone #22-01,

Lynden Door / JD Bargaen Industries LLC, subject to the Technical Review Committee Report dated September 12, 2022.

WHEREAS, the Washington State Department of Commerce held a 60-day review period from September 23, 2022, to November 22, 2022, to gather state input regarding the proposed amendments and received no objections; and

WHEREAS, on December 19, 2022, the Lynden City Council considered the proposed amendment to the comprehensive plan and rezone, and by motion on vote of 7-0, determined to grant the same; and

WHEREAS, the City Council found that the proposal meets the criteria for approval of an amendment to the Comprehensive Plan’s Land Use Map and a corresponding site-specific rezone.

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

Section 1. Land Use Map within the City of Lynden Comprehensive Plan is hereby amended to reflect the subject property entirely within the Industrial Land Use category.

Section 2: The zoning map of the City of Lynden and Ordinance No. 1655 adopting the zoning map are hereby amended to rezone the Property to Industrial (ID).

Section 3. This ordinance shall be in full force and effect on January 1, 2023.

PASSED by the City Council this _____ day of December, 2022 and signed by the Mayor on the _____ day of December, 2022.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED AS TO FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 19, 2022	
Name of Agenda Item:	Project Zebra / Premier Packing Conditional Use Permit	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
PC Reso 22-07, Draft PC Minutes, Final Staff Report and Recommendations, CUP Application 21-03		
Summary Statement:		
<p>Premier Packing through their agent, JP Slagle, has applied for a Conditional Use Permit (CUP) to allow the use of food processing to occur on property with a zoning designation of Industrial Business Zone (IBZ). (Initially this project was submitted under the name "Project Zebra"). The subject property is 11.8 acres located at 603 Curt Maberry Drive. Surrounding properties are utilized for similar industrial uses and agriculture. The proposal details the construction of a 194,250 square foot facility which would receive frozen fish and seafood to be processed and packaged for retail sale.</p> <p>The Conditional Use Permit also requests the ability to expand to include an additional 74,000 square feet in the future and to exceed a maximum building height of 45 feet by five feet to allow the building to reach a maximum building height of 50 feet.</p> <p>The application came before the Planning Commission as an open public hearing on November 17, 2022. The resulting Commission resolution recommended approval per the following conditions:</p> <ol style="list-style-type: none"> 1. Prior to issuance of the building permit, a sewer discharge study to the City's system is required to verify impact, treatment loads, and pipe size. (Be advised, this study will require 3rd party review.) 2. Roof-mounted condenser units must be screened from view so that mechanical equipment is not visible from public streets. 3. That the Conditional Use Permit be evaluated annually as described by code, for compliance with the performance standards of LMC 19.25.040, especially as it relates to noise and smell. <p>The Planning Commission Resolution and staff review documents are attached for Council review.</p>		
Recommended Action:		
Motion to approve Conditional Use Permit 22-02 which authorizes the use of food processing on an IBZ zone and permits additional building height subject to the conditions outlined in the Planning Commission Resolution 22-07. This motion also authorizes the mayor's signature on the Findings of Fact and Conclusion of Law.		

Premier Packing (Project Zebra) Vicinity Map: City of Lynden CUP #22-02



CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #22-07

**A resolution of recommendation for the approval of
Conditional Use Permit 22-02, Project Zebra / Premier Packing**

WHEREAS, JP Slagle, Freeland and Associates, Inc, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow food processing within the Industrial Business Zone (IBZ). The application details construction of a 194,250 square foot seafood processing facility with associated truck access, employee parking, and utility infrastructure. The proposal also includes a request to build an additional 5 feet in height for the freezer portion of the structure to a maximum of 50-feet. Additionally, the facility may expand an additional 74,000 square feet as shown within the application.

WHEREAS, the application was determined to be complete on September 20, 2022, and the notice of application was published in the Lynden Tribune on October 12, 2022; and

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

WHEREAS, the Lynden Planning Commission held a public hearing on November 17, 2022, to accept public testimony on the proposed conditional use permit request, and that meeting was duly recorded;

WHEREAS, the City's Technical Review Committee has reviewed the request for the conditional use permit and has provided comments and recommendations to the Planning Commission in a report dated November 14, 2022,

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

WHEREAS, the proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district as seafood processing, freezing, and storing is consistent with surrounding industrial property uses such as freezer storage and pet food manufacturing; and

WHEREAS, the proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to traffic and circulation as property development will include improvements to Alderwood Street and the payment of traffic, fire, and park impact fees as well as the installation of landscape buffers adjacent to public streets; and

WHEREAS, noise, smoke, fumes, glare, or odors will not exceed the required performance standards associated with industrial uses. Site lighting will be directed

downward to prevent glare and the use is anticipated to create little to no impact to adjacent industrial uses. Additionally, the city will monitor these standards annually especially as it relates to noise and smell and will require mitigation if standards are not met; and

WHEREAS, the building and site design will be consistent with other industrial development nearby and, in addition, this project will orient parking areas and truck traffic to the interior of the site with the perimeter buffered by landscaping. Screening of rooftop equipment is recommended, and

WHEREAS, the proposed use is supported by adequate public facilities and services and the traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service; and

WHEREAS, the proposed use must comply with the industrial performance standards of LMC 19.25.040 and 19.25.050, the site is proposed with adequate parking, the additional height provision of 5 feet is requested, industrial setbacks and lot coverage requirements are met, landscaping standards and other provisions of the Lynden Municipal Code with adequate buffering to enhance the public streetscape and to protect the adjacent properties from adverse impacts of the proposed use; and

WHEREAS, the proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance as it is proposed on vacant property which is industrially zoned; and

WHEREAS, the proposed use of seafood processing and frozen storage is consistent with the purposes and objectives of the City's Comprehensive Plan and West Lynden Sub-Area; and

WHEREAS, the Lynden Planning Commission also reviewed the conditional use permit request and has found that the application meets the similar criteria for granting a recommendation of a land use action under Chapter 19.49.040 of the Lynden Municipal Code.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 6-0, to the Lynden City Council, of Conditional Use Permit #22-02, Project Zebra / Premier Packing, for a 194,250 square foot seafood processing facility including the potential future addition of up to 74,000 square feet and granting a maximum building height of 50 feet. This approval is subject to the conditions of the Technical Review Committee Report dated November 14, 2022, and further subject to the following conditions:

- 1) Prior to issuance of the building permit, a sewer discharge study to the city's system is required to verify impacts, treatment loads and pipe size. Be advised, this study will require 3rd party review.**
- 2) Roof-mounted condenser units must be screened from view so that this mechanical equipment is not visible from public streets.**

3) The Conditional Use Permit will be evaluated annually to ensure that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it related to noise and smell.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 6-0, at their regular meeting held on the 17th day of November 2022.



Tim Faber, Chair
Lynden Planning Commission



Heidi Gudde
Planning Director

CITY OF LYNDEN



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

PLANNING COMMISSION MEETING

7:00 PM November 17, 2022

Lynden City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Jim Kaemingk, Khush Brar, Bryan Korthuis, and Darren Johnson.

Absent: Hollie Lyons

Staff Present: Gudde, Planning Director, Samec, City Planner

3. APPROVAL OF MINUTES

A. September 22, 2022, Korthuis / Brar 2nd 6-0

4. DECLARATION OF CONFLICT

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

A. CUP #22-02, Project Zebra / Premier Packing, 603 Curt Maberry Road, Lynden

Gudde summarized the proposed Conditional Use Permit Application.

This request facilitates the relocation of an existing Lynden business from the industrial area near Main and Depot Streets to the west Lynden industrial area. Although the zoning is industrial the use of food processing requires additional review to consider the potential impacts to the surrounding properties. Specifically, the request is for a Conditional Use Permit to allow the following:

- Construction of a 194,250 square foot seafood processing facility with associated truck access, employee parking, and utility infrastructure.
- The proposal also includes a request to build an additional 5 feet of building height for the freezer portion of the structure. This would result in a maximum height of 50-feet rather than 45 as permitted outright by code.
- Additionally, the facility may expand an additional 74,000 square feet as shown within the application (see site plan).
- The access for this site will be from Curt Maberry Road and Alderwood Road.

Gudde reminded the PC that a Conditional Use Permit is for a use that could possibly have an impact on the surrounding properties. CUP's are reviewed against the criteria found in

LMC 19.49.020. The applicant has addressed those in their application and can also be found in the meeting packet.

Scott asked about building heights of other CUP's in the area. Gudde replied and stated that the building heights for Alliance Freeze Dried – approval for 75-feet and Project Berry approval for 75-feet. The request this evening is for 50-feet.

JP Slagle, Freeland and Associates, 220 West Champion, Bellingham, Applicant.

Slagle is the project engineer and is representing Premier Packing. Slagle stated that Gudde summed up the CUP request. As mentioned, this will be a relocation of an existing Lynden business from the industrial area near Main Street and Depot Street. The business has been very successful and has outgrown its current location. The request for an additional 5-feet in building height will cover what we need for the freezer and is much lower than other freezers in the area. Slagle introduced Doug Jay, owner of Premier Packing.

Doug Jay, Owner, Premier Packing.

Jay stated that they are very excited about the new facility. We are currently operating out of 8000 sq ft. The new proposed facility is 194,000 sq ft. The business has grown so quickly and has more than outgrown our current location. With a 30% annual growth rate, the company has a very bright outlook. Our products are sold US wide and in Canada by Costco, Whole Foods and many more companies.

Jay stated that the new location will allow us the ability to use state of the art automation and processing equipment. We currently have 200 employees and will likely increase that number by 25% to accommodate growth. Our goal is to build a facility that will last long into the future. Our business has been a solid fixture in Lynden for many years and will continue to be for many years to come.

Scott asked if the downtown location will be closed? Jay replied, the downtown location will still be used for storage, however, the truck traffic in that area will be greatly reduced as most of the truck traffic will be now focused on the West Lynden location.

Regarding the new location, Faber asked about the disposal of the waste products that are generated during processing. How is it stored, is there any outside evidence, odor? Jay replied, there is zero evidence outside, it is 100% contained inside. Waste goes from the production line and is then frozen into block form. The waste is trucked out daily to Burlington where it is ground and sold to pet food companies. Jay stated that Alliance is a customer of theirs and will now be located next door.

There was discussion regarding wastewater and discharge. Jay stated, the new system provides a more sophisticated process, the wastewater will be much cleaner than what it is today.

Questions or Comments from the Public

- Glen Tromp, Lynden. Mr. Tromp stated that his family owns the farm just south of the proposal. Tromp expressed concern regarding stormwater and asked what the plans are to keep the water off of his property. Slagle addressed Mr. Tromp and stated that the plan is for conveyance of stormwater through a pipe into the City's West Lynden Regional Stormwater Pond. Mr. Tromp thanked Slagle for the explanation and then left the meeting.

While there were no comments from the public regarding the CUP (prior to the hearing), the City did receive comments regarding the SEPA / environmental review for this proposal. Below is a brief summary of those comments.

Whatcom County: Expressed concerns about traffic impacts of the proposal to nearby County roads and intersections (Birch Bay Lynden Road and Berthusen Road). The applicant is currently working with Transpo to produce a traffic impact assessment report that will identify any deficiencies to the local transportation system that would result from this proposal.

Northwest Clean Air Agency: Requested that the applicant confirm registration and clean air permit requirements for this proposal. Applicant will secure any required permits prior to construction.

Lummi Tribe: Reiterated the SEPA condition of having appropriate Inadvertent Discovery Protocol in place prior to ground disturbing activity.

Glen Tromp: The property owner to the south, Glen Tromp, has visited City Hall and met with Planning and Public Works staff. He requested information about the subject property's stormwater plans as it relates to potential impacts to his property.

There was brief discussion regarding stormwater options. Slagle and Gudde addressed the potential stormwater plan. A preliminary Stormwater Design Memo was submitted on October 21, 2022. The memo identifies the property soils, the project details and proposes the two options below:

Plan A, is conveyance of stormwater to the City's West Lynden Regional Stormwater Pond. Applicant must provide proof of available pipe conveyance, pond capacity and adequate allowance for this parcel's use of that capacity prior to approval of building permits.

Plan B, proposed only if applicant is not able to secure allocation to the Regional Pond, is basin diversion to the west of the parcel through existing infrastructure or with upgrades to existing infrastructure. The details of the proposed diversion will need to

be approved prior to issuance of any building permit and must meet the requirements of the Dept of Ecology Stormwater Manual.

Slagle stated that Plan A is preferred as infiltration is always the best option if possible. The applicants are looking to purchase credits from other property owners who did not use their allocated space in the pond. The goal is to secure the credits and take the water directly from the site through a pipe out to the pond.

Additional topics:

Odors: No odors

Traffic: Alderwood Road dedication and frontage improvements are required to a ¾ street standard along the south edge of this parcel.

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

Lighting: Lights will be shielded to protect light pollution to the neighbors.

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

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

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district. **The Commission agreed as it is consistent with the existing surrounding freezer / manufacturing uses.**
- 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:

a. Traffic and pedestrian circulation; **The Commission agreed it would be better with the improvements to Alderwood Street as well as the installation of landscape buffers.**

- b. Noise, smoke, fumes, glare or odors generated by the proposed use; **Improvement with the use of state of the art equipment.**
- c. Building and site design; **No concerns.**
- d. The physical characteristics of the subject property; **No concerns.**
- 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services. **Agreed.**
- 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service. **Agreed.**
- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code. **Agreed.**
- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use. **Agreed.**
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. **Agreed.**
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan. **Agreed.**

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

- 1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes.**
- 2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **Brief discussion regarding improvements to Berthusen Road - once annexed into the City, improvements could be made as it will become a City Road.**
- 3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes.**

4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes.**

5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. **No issues with level of service associated with the CUP.**

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

The Commission asked Slagle when the expected start date will be for the construction of the new facility? Slagle replied, Summer 2023.

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

Faber asked the Commission if there were any concerns regarding the height request of 50-feet? None. The Commissioners agreed that the request of 50-feet is lower than other buildings in the area.

No further comments from the Commissioners.

Korthuis made a motion to recommend approval to the Lynden City Council of Conditional Use Permit #22-02 for Project Zebra / Premier Packing, subject to the Technical Committee Report dated November 14, 2022, and further subject to the following conditions:

- 1. Prior to issuance of the building permit, a sewer discharge study to the city’s system is required to verify impacts, treatment loads and pipe size. Be advised, this study will require 3rd party review.**
- 2. Roof-mounted condenser units must be screened from view so that this mechanical equipment is not visible from public streets.**
- 3. The Conditional Use Permit will be evaluated annually to ensure that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it relates to noise and smell.**

Seconded by Scott and the motion passed 6-0.

Gudde gave an overview regarding the November 16th CDC/PC meeting regarding Community Residential Facilities. Gudde stated, if interested, the Public Safety Committee

will be holding another meeting on this topic. The meeting will be held on December 1st at 4:00 PM at the Police Department.

The next Planning Commission meeting will be held on Wednesday, December 15, 2022, at 7:00 PM.

5. ADJOURNMENT

Motion to adjourn by Korthuis at 8:15 pm. Seconded by Scott 6-0.

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE
Conditional Use Permit Application

November 14, 2022

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

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

CUP #22-02, Project Zebra
FINDINGS, CONCLUSIONS, AND
RECOMMENDATION

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request facilitates the relocation of an existing Lynden business from the industrial area near Main and Depot Streets to the west Lynden industrial area. Specifically, the request is for a Conditional Use Permit to allow food processing to occur with the City’s Industrial Business Zone (IBZ). The application details construction of a 194,250 square foot seafood processing facility with associated truck access, employee parking, and utility infrastructure. The proposal also includes a request to build an additional 5 feet of building height for the freezer portion of the structure. This would result in a maximum height of 50-feet rather than 45 as permitted outright by code. Additionally, the facility may expand an additional 74,000 square feet as shown within the application.

Recommendation: Staff recommends approval of the Conditional Use Permit (CUP), subject to the conditions of approval described in the conclusions of this document.

II. PRELIMINARY INFORMATION

Applicant: Tony Freeland, Freeland and Associates, Inc.

Property Owner: Chill Build Lynden III, LLC

Property Location: 603 Curt Maberry Road, Lynden WA

Parcel Number: 400221-416131

Project Zebra Conditional Use Permit – TRC Report

Legal Description: LOT 1 WEST MAIN STREET SHORT PLAT, AS RECORDED UNDER AUDITOR'S FILE NO. 2150500587, RECORDS OF WHATCOM COUNTY, WASHINGTON

Notice Information: Application Submitted: September 13, 2022
Notice of Application: October 12, 2022
Notice of SEPA determination: November 2, 2022
Notice of Hearing: October 12, 2022
Comment Period Ending: October 26, 2022

SEPA Review: Lynden SEPA #22-09. Mitigated Determination of Non-Significance (MDNS) issued October 28, 2022

Authorizing Codes, Policies, and Plans:

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

III. PROJECT DESCRIPTION

A seafood processing facility, currently located within the central industrial code of the City is proposing to relocate to the west Lynden industrial area. The relocation will allow this company to modernize and expand their current operation.

The request is for a Conditional Use Permit (CUP) to allow food processing to occur within the City’s Industrial Business Zone (IBZ). Specifically, the construction of a 194,250 square foot seafood processing facility with associated truck access, employee parking, and utility infrastructure. In the future the facility may grow to include an additional 74,000 square feet as shown within the application. Cold storage, a component of the application is permitted within the IBZ but the food processing aspect requires additional review through the CUP process.

The proposal also includes a request to build the freezer portion of the building to a maximum of 50-feet in height. Buildings in this zoning category are permitted to reach heights of 45 feet and most of the building will be within this height limitation with the exception of the freezer portion of the facility. Similar requests for additional height have been granted to Preferred Freezer and Alliance Freeze Dry, as well as on two structures for Darigold on Depot Road. For reference the Darigold tower at Main and Depot is 145 feet tall.

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on October 12, 2022

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on November 2, 2022 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on November 16, 2022.

Public Comment Received:

Comments specific to the CUP application for food processing: None at this time.

The City received comments regarding the environmental review and SEPA determination (MDNS) for this proposal. They are summarized below:

Whatcom County: Expressed concerns about traffic impacts of the proposal to nearby County roads and intersections (Birch Bay Lynden Road and Berthusen Road). The

Project Zebra Conditional Use Permit – TRC Report

applicant is currently working with Transpo to produce a traffic impact assessment report that will identify any deficiencies to the local transportation system that would result from this proposal.

Northwest Clean Air Agency: Requested that the applicant confirm registration and clean air permit requirements for this proposal. Applicant will secure any required permits prior to construction.

Lummi Tribe: Reiterated the SEPA condition of having appropriate Inadvertent Discovery Protocol in place prior to ground disturbing activity.

Glen Tromp: The property owner to the south, Glen Tromp, has visited City Hall and met with Planning and Public Works staff. He requested information about the subject property’s stormwater plans as it relates to potential impacts to his property.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

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

- A. *Certain uses may be allowed by a CUP granted by the City Council, after it receives a recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this review, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.*
- B. *An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.*
- C. *The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.*
 - 1. *The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.*

Project Zebra Conditional Use Permit – TRC Report

- 2. *The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:*
 - a. *Traffic and pedestrian circulation;*
 - b. *Noise, smoke, fumes, glare or odors generated by the proposed use;*
 - c. *Building and site design; and*
 - d. *The physical characteristics of the subject property.*
- 3. *The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.*
- 4. *The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.*
- 5. *The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.*
- 6. *There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.*
- 7. *The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.*
- 8. *The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.*

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning and Development Department

- 1. *Landscape Buffer and Screening:* Per LMC 19.25.070, landscape enhancement is required along all streets in an industrial zone. This is to include a minimum 10-foot, Type I landscape buffer which consists of “a combination of trees, shrubs and

Project Zebra Conditional Use Permit – TRC Report

other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it.” (LMC 19.61.070). The current plan has noted this requirement. Detailed planting plans will be required within the civil plan set and at the time of building permit.

- 2. *Landscaped Entrance:* Industrial properties must include entrance landscaping. This would be applied to the site entrance off of Curt Mayberry Drive. The current plan has noted this requirement. Detailed planting plans will be required within the civil plan set and at the time of building permit.
- 3. *Street Trees:* The installation of street trees along all public street frontages will be required. Code requires that trees be planted a minimum of 30 feet on center or averaged to reach an equivalent quantity. Minimum caliper at the time of planting is 1.5 inches. Detailed planting plans will be required within the civil plan set and at the time of building permit.
- 4. *Building Height and Construction Methods:* The applicant has acknowledged that per International Building Code and Fire Code standards the building, as currently designed, shall not exceed 50 feet in height. Nearby industrial facilities have been granted additional height through the Conditional Use Process including Alliance Freeze Dry with permissions to build to 74 feet in height. The property is surrounded by industrial properties within the City limits. Residential structures outside of the City limits are more than 1000 feet away from the proposed building.
- 5. *Screening of Condenser Units:* Be advised, consistent with the City’s design standards in commercial zones, staff will be recommending, and the applicant has agreed, that all roof-mounted condenser units be screened from view so that this mechanical equipment is not visible from public streets.
- 6. *Building Finish:* Applicant has indicated that the building’s exterior will consist of industrial standard high quality building material, white insulated metal panels.
- 7. *Site Lighting:* To reduce impact to surrounding properties, on-site lighting shall be located, directed, and/or shielded in a manner which reduces light glare or spill onto adjacent properties. Standards recommend that fixtures be glare-free and shielded from the sky and adjacent properties. The site plan has indicated compliance with this recommendation.
- 8. *Performance Standards:* Be advised, the facility is expected to comply with performance standards detailed in LMC 19.25.040 and 19.25.050. This includes,

Project Zebra Conditional Use Permit – TRC Report

but is not limited to, emissions of smoke, dust, and other particulate matter, and of toxic and noxious gases. All discharge must meet or exceed standards set by Northwest Clean Air Agency and all Washington State and federal standards. Emissions permits are likely to be required by the Northwest Clean Air Agency. It is up to the applicant to ensure that they meet the requirements of those permits. Adjacent agriculturally zoned properties are not subject to these same standards.

Public Works Department

- 1. *Access Points:* Be advised, if implemented, emergency access locations which are gated for day-to-day use must be approved by Public Works and the Fire Chief. Access to these gated entrances must be coordinated with the Lynden Fire Department.
- 2. *Transportation:* **Be advised:** Alderwood St dedication and frontage improvements are required to a ¾ street standard along the south edge of this parcel. All public improvements must be constructed to the standards as noted in the current City of Lynden Manual for Engineering Design and Development Standards. A full engineered traffic study is required for this proposal, prior to the approval of future building permits.

Staff note: Stormwater planning does not relate specifically to the Conditional Use Permit for food processing as it is required based on the development of the site regardless of the use requested. However, the following has been included to provide additional information to the reviewing bodies.

- 3. *Stormwater Infrastructure:* The applicant has acknowledged that a stormwater management plan including pipe sizing prepared by a professional engineer and meeting the requirements of the City’s Manual for Engineering Design and Development Standards and the approved Department of Ecology Stormwater Manual is required.
- 4. *Stormwater Planning:* The proponent has submitted a Preliminary Stormwater Design Memo, written by Freeland and Associates and dated October 21, 2022. The memo identifies the property soils, the project details, and proposes Plan A (preferred) and Plan B for managing stormwater.
 - a. Plan A is conveyance of stormwater to the City’s West Lynden Regional Stormwater Pond. Applicant must provide proof of available pipe conveyance, pond capacity and adequate allowance for this parcel’s use of that capacity prior to approval of building permits.

Project Zebra Conditional Use Permit – TRC Report

- b. Plan B, proposed only if applicant is not able to secure allocation to the Regional Pond, is basin diversion to the west of the parcel through existing infrastructure or with upgrades to existing infrastructure. The details of the proposed diversion will need to be approved prior to issuance of any building permit and must meet the requirements of the Dept of Ecology Stormwater Manual.
5. *Stormwater Planning*: This plan must be approved by the City of Lynden prior to final approval of the project plans. Additionally, applicant has acknowledged that groundwater is high in this area. A groundwater investigation shall be incorporated into this design. Please note that this drainage plan needs to address the existing 10-foot emergency overflow for Curt Maberry.
6. *Stormwater Pollution Prevention Plan*: The applicant has acknowledged that a final Stormwater Pollution Prevention Plan (SWPPP) (erosion control and sediment plan) must be included in the drainage plan and construction plans. This must be designed by a professional engineer and constructed in compliance with the Department of Ecology's Best Management Practices (including all known and reliable technologies) and the standards approved in the Manual for Engineering Design and Development Standards.
7. *Utilities – Water and Sanitary Sewer*: The applicant has acknowledged that water hookup fees and sanitary sewer fees shall be paid as established by City Code. If future structure increases/changes demand for water or sewer capacity, studies may be required to see if impacts to the City system require remediation. Applicant must demonstrate the capacity of the existing service line prior to water connection. Sewer discharge quantity and/or concentration studies may be required to see if impacts to the City system require remediation.
8. *Water Pressure*: Be advised, development may require a fire booster pump depending on system requirements.
9. *Sewer Discharge Study*: Prior to issuance of the building permit, a sewer discharge study to the city's system is required to verify impacts, treatment loads and pipe size. Be advised, this study will require 3rd party review.

Fire Department

1. *Permit Review*: The applicant has acknowledged that due to the complexity of this type of facility, and the on-site storage of hazardous materials, the City will coordinate 3rd party review of building and fire code requirements.

Project Zebra Conditional Use Permit – TRC Report

- 2. *Fire Suppression System:* Be advised, buildings 50,000 square feet and larger require an ESFR (Early Suppression, Fast Response) pump system. For more detail, see Sections 910.2.1, 910.3.2 and 910.3.3 of the 2018 International Building Code.
- 3. *Hydrants:* The applicant has acknowledged that additional hydrants may need to be installed to meet required 300-foot clear access spacing between hydrants. Complete Fire review will occur at the time of building permit.

Parks Department – had no comments on this application.

VII. RECOMMENDATION

The proposed conditional use permit shall be consistent with the scope of the proposal as provided in Conditional Use Application #22-02. Any changes to the proposal may require additional review and approval by City staff and/or City Council. Issuance of this Conditional Use Permit does not release the applicant from any other local, State, or Federal statutes or regulations applicable to the proposed development.

Staff recommends the approval of the 194,250 square foot seafood processing facility including the potential future addition of up to 74,000 square feet and granting a maximum building height of 50 feet subject to the following conditions meant to address potential impact of the processing use:

- 1) **Prior to issuance of the building permit, a sewer discharge study to the city’s system is required to verify impacts, treatment loads and pipe size. Be advised, this study will require 3rd party review.**
- 2) **Roof-mounted condenser units must be screened from view so that this mechanical equipment is not visible from public streets.**
- 3) **The Conditional Use Permit will be evaluated annually to ensure that compliance with the performance standards as described in LMC 19.25.040 are met, especially as it related to noise and smell.**

CITY OF LYNDEN



CONDITIONAL USE PERMIT APPLICATION

City of Lynden use only:
CUP # 22-02 **Staff Initials:** KS 09.13.22

Property Owner

Name: Chill Build Lynden III, LLC
 Address: 6831 E 32nd Street, Indianapolis, IN 46226
 Telephone Number: (317) 491-2449 E-mail Address: cgooding@DEEMFIRST.com

Applicant (Agent, Land Surveyor or Engineer)

Name: J.P. Slagle, Freeland & Associates, Inc.
 Address: 220 West Champion Street, Suite 200, Bellingham, WA 98225
 Telephone Number: (360) 650-1408 E-mail Address: jpslagle@freelandengineering.com

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

Property Information

Project Location (street address / block range): 603 Curt Maberry Road
 Legal Description (attach if necessary): LOT 1 WEST MAIN STREET SHORT PLAT NO 2 AS REC AF 2150500587
 Assessor's Parcel Number: 400224161310000 Zoning Designation: IBZ
 Property Dimensions: 534 X 959 Parcel Square Footage: 512,106 SF
 Applicable Sub-Area: West Lynden Building/Structure Size: 194,250 SF
 Height of Structure: 50' Addition Size: _____

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

The project includes development of a seafood processing facility with associated truck access, employee parking, and utility infrastructure. The proposal includes a request to build the freezer portion of facility to 50 feet in height.

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

Submitted by: J.P. Slagle, Freeland & Associates, Inc. **Date:** 09/07/2022
Property owner signature: *Gary Edwards* **Date:** 9-8-22
Property owner printed name: GARY EDWARDS **Date:** 9-8-22

CITY OF LYNDEN



CONDITIONAL USE PERMIT CRITERIA WORKSHEET

A Conditional Use Permit (CUP) will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

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

Proposed Use: Seafood Processing Facility
Building Size: 194,250 SF, Max. Building Height 50'
Hours of Operation: 6 am to 2 am, 6 days per week
Proposed Parking: 150 spaces
Number of Employees: 220-240 employees over two shifts
Traffic: 220-240 employee trips, 12 to 15 trucks trips per day

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

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

The current zoning is Industrial Business (IBZ) per Lynden Municipal Code 19.25.030. The proposed use is consistent with the specification for Food and Pharmaceutical Processing Plants under LMC 19.25.030. The site is located within the West Lynden Business Park, and neighboring properties are developed with similar uses.

- 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:

- a. Traffic and pedestrian circulation;

The proposed facility will include fire lanes, truck access, loading areas, and employee parking using pre-planned access connections.

- b. Noise, smoke, fumes, glare or odors generated by the proposed use;

The proposed facility will meet the state and federal building code and environmental standards for the controls of noise, glare, and odor. Operation of the facility occurs indoors.

- c. Building and site design; and

The proposed facility's exterior will be constructed with industrial standard high quality building materials (white insulated metal panels) similar to other existing structures within the business park. The proposal includes a request to build the freezer portion of facility to 50 feet in height.

- d. The physical characteristics of the subject property.

The site will be landscaped to meet City of Lynden requirements in order to make efforts to enhance the aesthetics of the vicinity.

CITY OF LYNDEN



CONDITIONAL USE PERMIT CRITERIA WORKSHEET CONTINUED

- 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.

The site will be supported by municipal water and sewer service connections. Electricity, natural gas, and refuse service will be supplied by private providers. Fire protection infrastructure and security systems will be installed onsite to reduce impacts on fire and police protection services. Impact fees will also be paid to mitigate impacts to public services.

- 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

The proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service. The project will use existing access driveways established by the Binding Site Plan.

- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.

The proposal includes a request to build the freezer portion of facility to 50 feet in height. The proposed parking, setbacks, and lot coverage for the proposed use will comply with the provisions of the Lynden Municipal Code and Conditional Use Permit requirements. The project will provide parking for each employee on the largest shift. The site will be landscaped to meet City of Lynden requirements and make efforts to enhance the aesthetics of the vicinity.

- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.

In compliance with City of Lynden requirements, a buffering area will be installed to protect adjacent properties from adverse impacts of the proposed use.

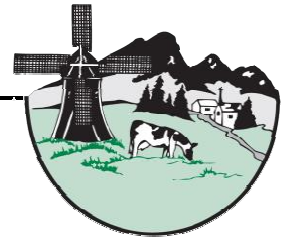
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

No features of major importance have been identified on or near the project site. Therefore, the proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

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

The project site is located within the West Lynden Sub-Area. The objectives for industrial developments within the West Lynden Sub Area include the following: "Economic diversity and growth are the key components in Lynden's Comprehensive Plan. The City adopted the Comprehensive Economic Development Plan in September 1998, which outlines the need and desire for family wage jobs within the community. It also expresses the benefits of a healthy economy as a method to support the services that the community values and the quality of life that is important to Lynden residents." The proposed seafood processing facility will provide economic growth and new job opportunities for the local Lynden community.

CITY OF LYNDEN



CRITICAL AREAS CHECKLIST

Section: 24 Township: T40N Range: R02E Parcel Number: 4002241613100000

Site Address: 603 Curt Maberry Road

Proposed Uses: Seafood Processing Facility

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

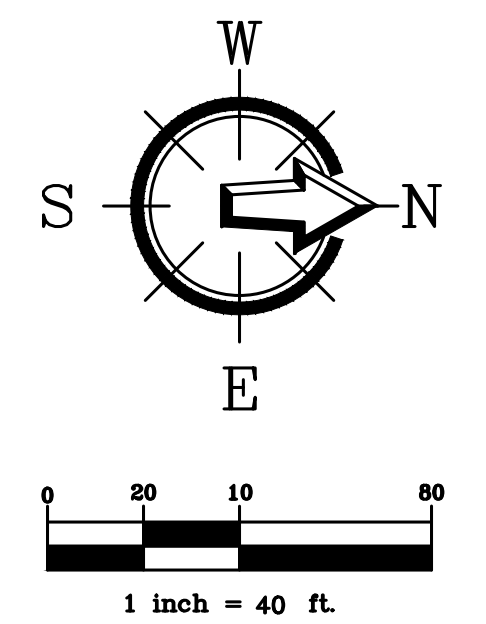
- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).
 Yes No Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?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

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

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

J.P. Slagle
Applicant's Signature

08/16/2022
Date



LAND DESCRIPTION:

LOT 1, WEST MAIN STREET SHORT PLAT No. 2, ACCORDING TO THE PLAT THEREOF, RECORDED MAY 6, 2015 UNDER AUDITOR'S FILE No. 2150500587, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SUBJECT TO WHATCOM COUNTY, WASHINGTON.

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

SURVEYOR'S NOTES:

- "●" DENOTES REBAR AND CAP MARKED "NWS & GPS 49276 & 50982" FOUND BY THIS SURVEY.
- "●" DENOTES REBAR AND CAP MARKED "CPSG LS. 32430" FOUND BY THIS SURVEY.
- "*" DENOTES CALCULATED POINT ONLY.
- THIS SURVEY WAS PERFORMED BY USING A BRX7+ GNSS RECEIVER WITH A CARLSON SURVEYOR 2 COLLECTOR/FIELD COMPUTER IN JULY OF 2022. ACCURACY EXCEEDS 1:10000.
- THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT PURPORT TO SHOW ANY OR ALL EASEMENTS THAT A CURRENT TITLE REPORT MIGHT REVEAL.
- VERTICAL DATUM = NGVD29.
- CONTOUR INTERVALS ARE 1 FOOT. CONTOURS ARE COMPUTER GENERATED FROM GROUND FIELD TOPOGRAPHY GATHERED FOR THIS SURVEY.
- NORTHWEST SURVEYING & GPS INC. ASSUMES NO LIABILITY FOR ANY SUBSURFACE CONDITIONS OR UTILITIES NOT SHOWN HEREON. UNDERGROUND UTILITIES ARE KNOWN TO EXIST WITHIN THE AREA OF CONSTRUCTION. THE LOCATION OF EXISTING UTILITIES SHOWN ARE BASED UPON FIELD SURVEY AND VISUAL IDENTIFICATION. ALL EXISTING UTILITIES MAY NOT BE INDICATED WITHIN THE CONSTRUCTION DOCUMENTS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO FIELD VERIFY ANY AND ALL UNDERGROUND UTILITY LOCATIONS PRIOR TO CONSTRUCTION AND TO ALERT THE ENGINEER AND OWNER PROMPTLY IN CASE OF CONFLICT.



BY:	
REV:	
DATE:	
DESCRIPTION:	

CLIENT:
DEEM, LLC.
6831 E 32ND STREET, SUITE 200
INDIANAPOLIS, IN 46226

FOR BURIED UTILITY LOCATIONS
CALL BEFORE YOU DIG
1-800-424-5655

PROJECT LOCATION:
PROJECT ZEBRA
603 CURT MABERRY RD
LYNDEN, WA 98264

DRAWN BY: CLK
CHECKED BY: JPS

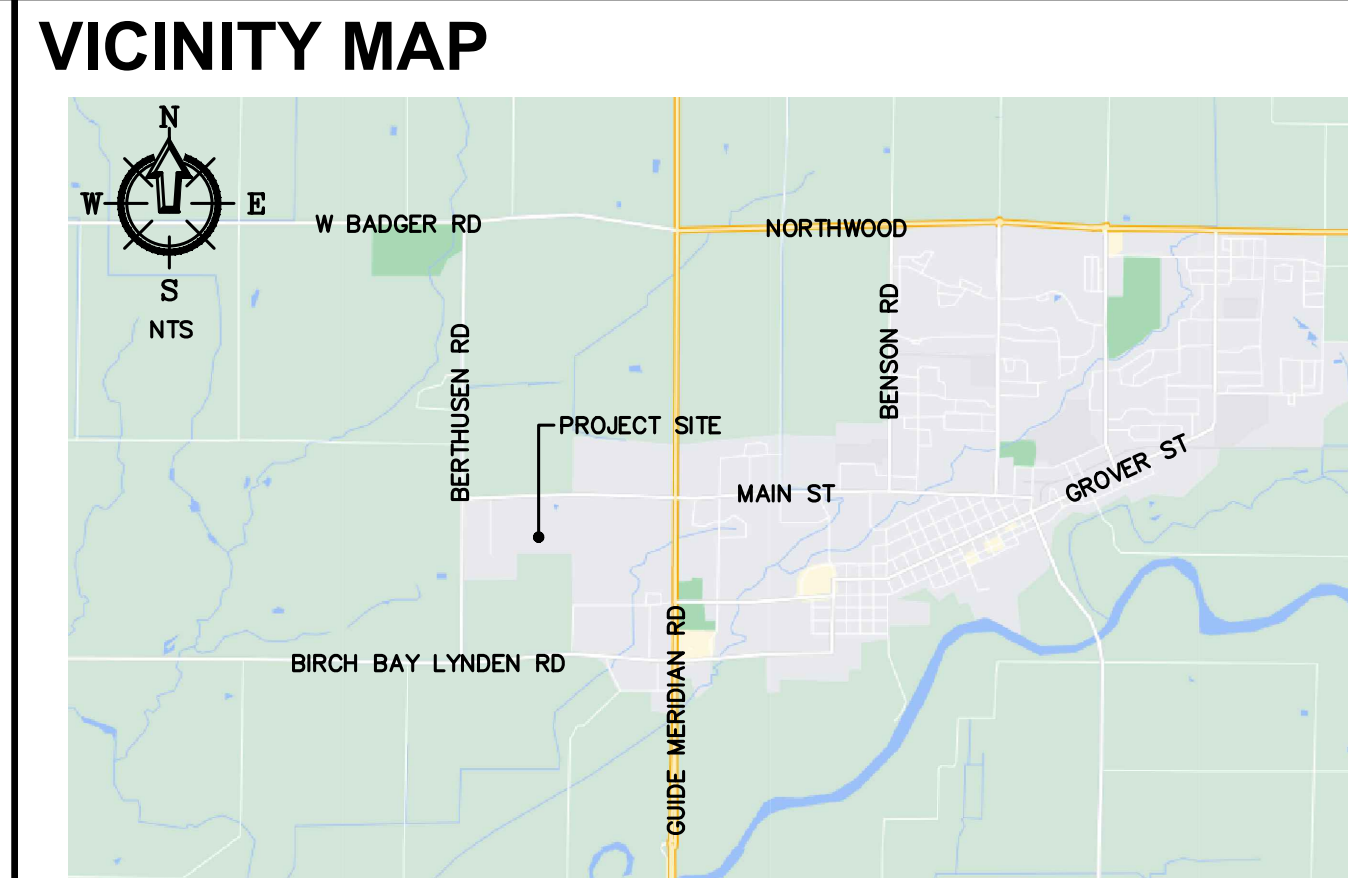
SHEET CONTENTS:
COVER SHEET & EXISTING CONDITIONS

SHEET INDEX

C1	COVER SHEET & EXISTING CONDITIONS
C2	SITE & UTILITY SCHEMATIC PLAN
C3	PRELIMINARY LANDSCAPE PLAN

LEGEND

	= EXISTING STORM DRAIN CATCH BASIN (TYPE 1)		= EXISTING WATER LINE
	= PROPOSED STORM DRAIN CATCH BASIN		= PROPOSED WATER LINE
	= EXISTING SANITARY SEWER CLEANOUT		= EXISTING SANITARY SEWER LINE
	= EXISTING SANITARY SEWER MANHOLE		= PROPOSED SANITARY SEWER LINE
	= PROPOSED SEWER CLEANOUT		= EXISTING STORM DRAIN LINE
	= EXISTING FIRE HYDRANT		= PROPOSED STORM DRAIN LINE (SOLID WALL)
	= PROPOSED FIRE HYDRANT		= EXISTING TOP OF BANK
	= PROPOSED FIRE DEPARTMENT CONNECTION		= EXISTING TOE OF BANK
			= PROPOSED ASPHALT PAVEMENT



CONTACT INFORMATION

CIVIL ENGINEER
FREELAND & ASSOCIATES, INC.
JEAN-PAUL SLAGLE, PE
GABBY KINNEY, EIT
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BELLEVUE, WA 98005
(360) 650-1408
jslagle@frelandengineering.com
gkinney@frelandengineering.com

CLIENT
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CHAD GOODING
6831 E 32ND STREET
SUITE 200
INDIANAPOLIS, IN 46226
(317) 860-2959
cgooding@DEEMFIRST.com

SURVEYOR
NORTHWEST SURVEYING & GPS, INC.
JEREMY DEMEYER
407 5TH STREET
LYNDEN, WA 98264
(360) 354-1950

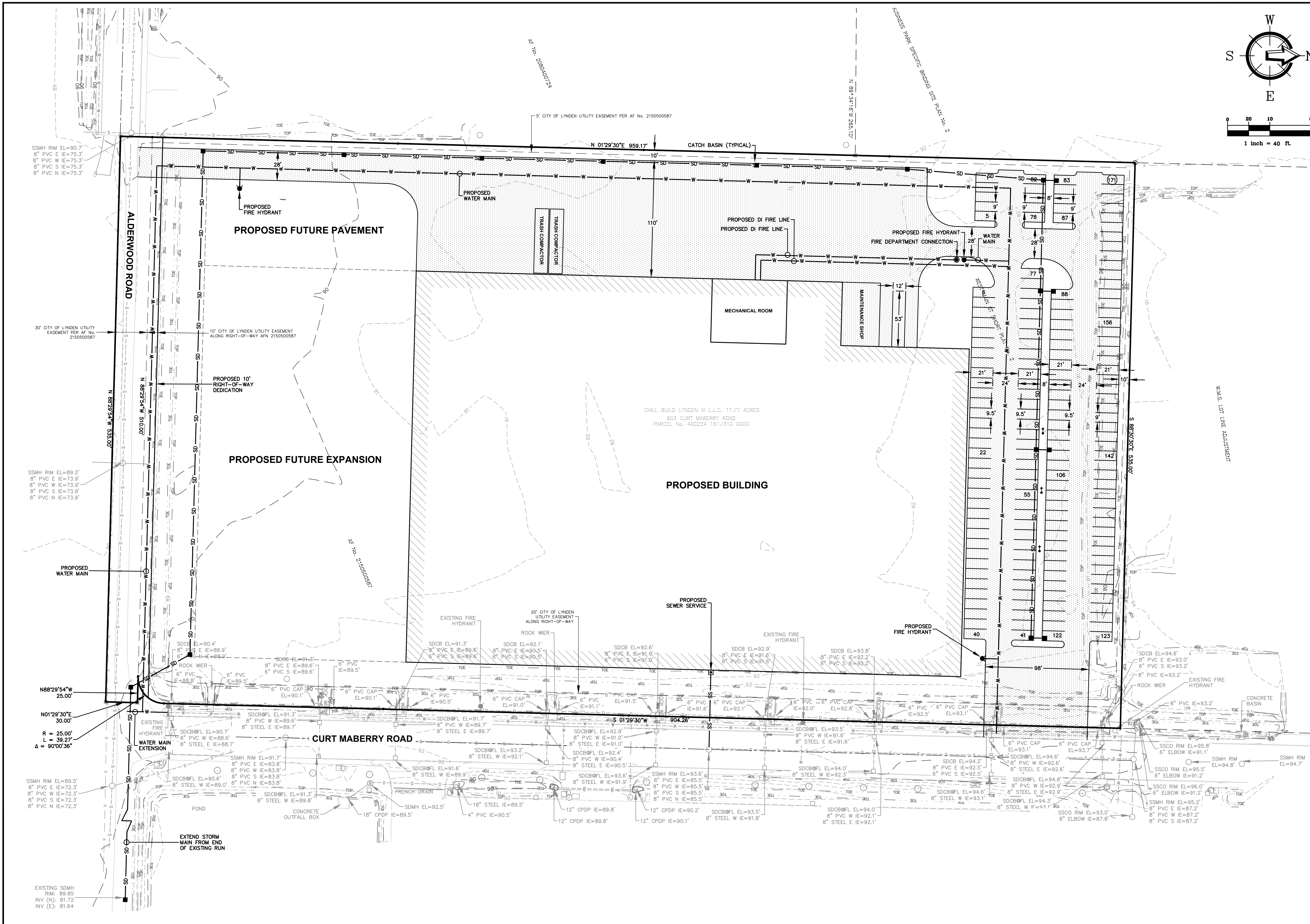
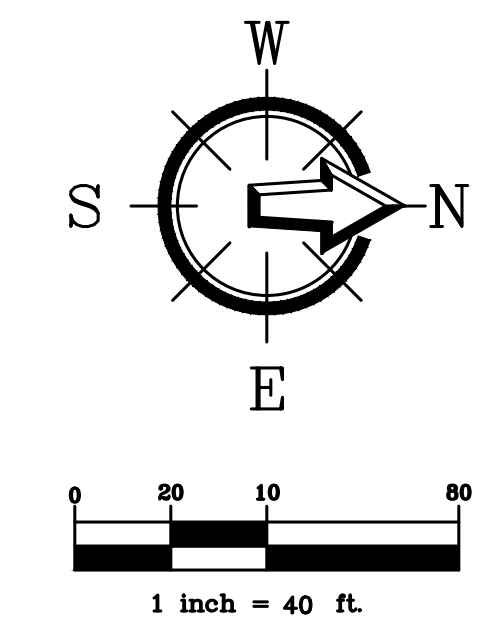


JOB #:	21212	DATE:	11-10-2022
SHEET:			



220 West Champion Street, Suite 200
Bellevue, WA 98005
T: 360.650.1408
F: 360.650.1401

FREELAND & ASSOCIATES



REV.	DATE	DESCRIPTION

CLIENT:
DEEM, LLC.
6831 E 32ND STREET, SUITE 200
INDIANAPOLIS, IN 46226

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1-800-424-5655

PROJECT LOCATION:
PROJECT ZEBRA
603 CURT MABERRY RD
LYNDEN, WA 98264

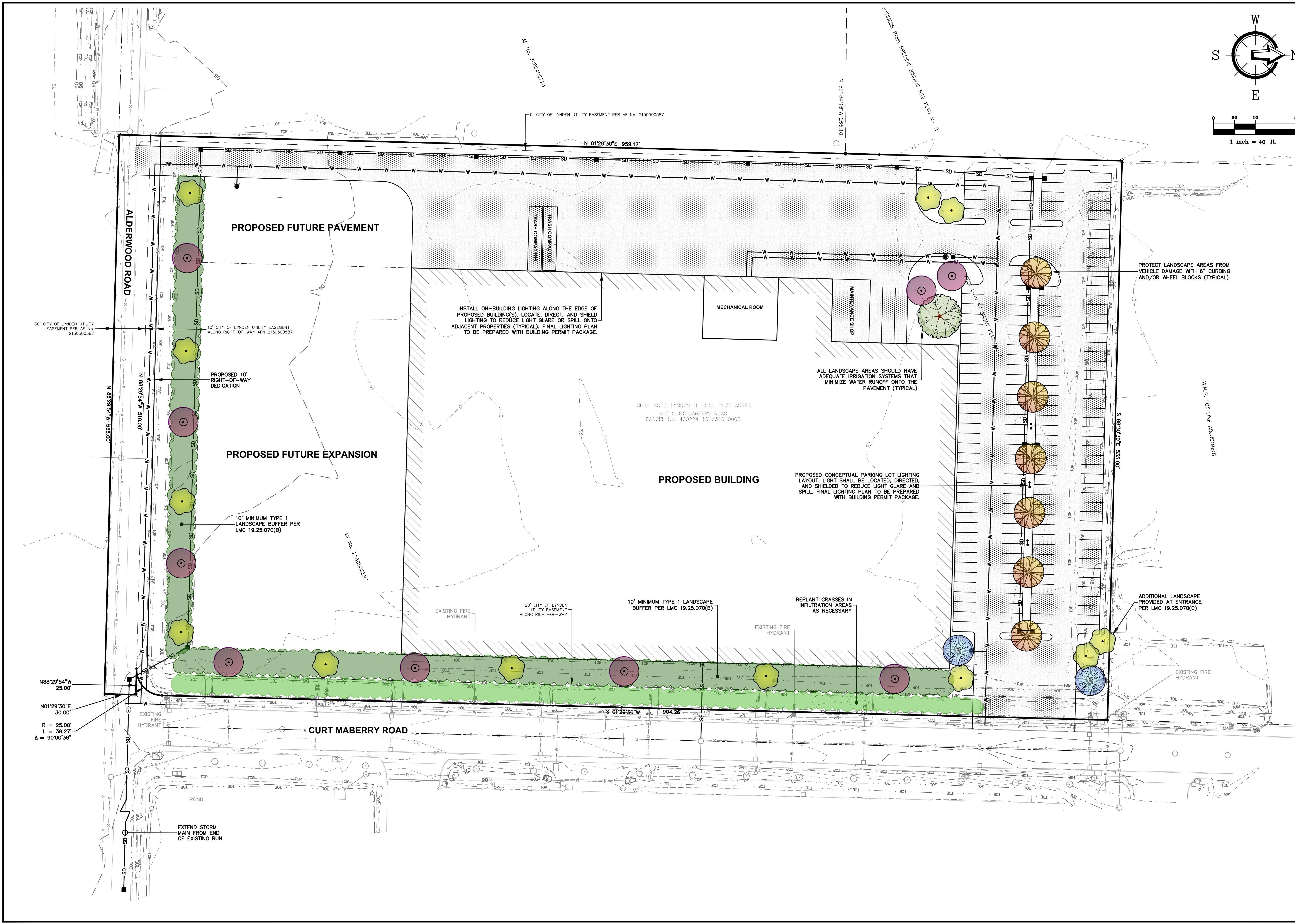
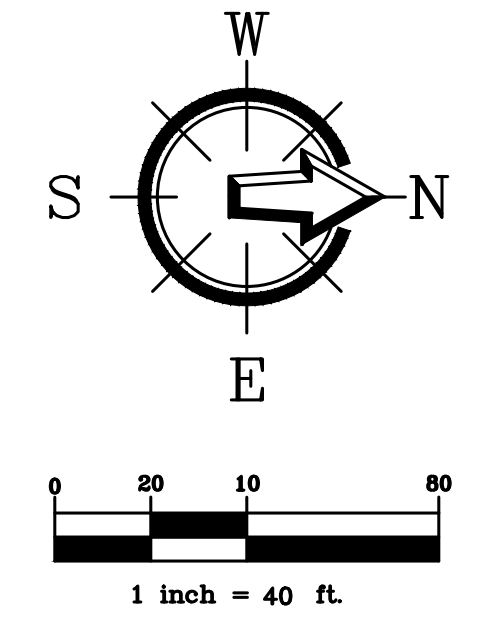
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CHECKED BY: JPS

SHEET CONTENTS:
SITE & SCHEMATIC UTILITY PLAN



JOB #: 21212
DATE: 11-10-2022

SHEET: C2



REV.	DATE	DESCRIPTION

CLIENT: **DEEM, LLC.**
 6831 E 32ND STREET, SUITE 200
 INDIANAPOLIS, IN 46226
 CALL BEFORE YOU DIG
 FOR BURIED UTILITY LOCATIONS
 1-800-424-5655

PROJECT LOCATION: **PROJECT ZEBRA**
 603 CURT MABERRY RD
 LYNDEN, WA 98264
 DRAWING BY: GJK
 CHECKED BY: JPS
 DRAWING #: 21212SP2.DWG
 DESIGNED BY: JPS

SHEET CONTENTS: **PRELIMINARY LANDSCAPE PLAN**

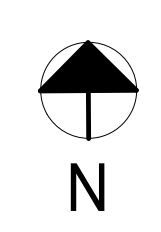


JOB #: 21212 DATE: 11-10-2022
 SHEET: **C3**



BUILDING CHARACTERISTICS

- 1. 22' CLEAR HEIGHT IN MAIN PRODUCTION AREA
- 2. 36' CLEAR HEIGHT IN FREEZER
- 3. 10' CEILING HEIGHTS OFFICE AREAS
- 4. WALKABLE IMP IN THE PRODUCTION AREA
- 5. 50' MAX BUILDING HEIGHT IN FREEZER





PROJECT NUMBER: U1R-21181
 PROJECT NAME: Project Zebra
 PROJECT LOCATION: Lynden, WA COUNTY: Whatcom
 CUSTOMER: H&H Steel Erectors Lake Stevens, WA



PROJECT LOADS

DESIGN CODE: IBC 2018 BUILDING END USE: 38
 ROOF LIVE LOAD: 20 PSF MBMA OCC. CLASS: II - Standard Buildings
 NOT REDUCIBLE PER CODE
 GROUND SNOW LOAD: 25 PSF SNOW EXP. FACTOR, Ce: 1
 SNOW IMPORTANCE FACTOR, Is: 1
 WIND: 110 WIND IMPORTANCE FACTOR, Iw: 1
 EXPOSURE: C WITHIN HURRICANE COASTLINE YES NO
 UL 90 YES NO RAIN INTENSITY (in/hr) 4

SEISMIC INFORMATION Ss:0.943, S1:0.331
 Design Sds/Sd1: Site Class: D
 Seismic Imp. Factor Ie: 1 Seismic Design Category:
 Analysis Procedure: Equivalent Lateral Force Method
 Basic SFRS:

NOTES:
 1) COLLATERAL DEAD LOADS, UNLESS OTHERWISE NOTED, ARE ASSUMED TO BE UNIFORMLY DISTRIBUTED. WHEN SUSPENDED SPRINKLER SYSTEMS, LIGHTING, HVAC EQUIPMENT, CEILING, ETC., ARE SUSPENDED FROM ROOF MEMBERS, CONSULT THE M.B.S. IF THESE CONCENTRATED LOADS EXCEED 200 POUNDS, OR IF INDIVIDUAL MEMBERS ARE LOADED SIGNIFICANTLY MORE THAN OTHERS.
 2) THE DESIGN OF STRUCTURAL MEMBERS SUPPORTING GRAVITY LOADS IS CONTROLLED BY THE MORE CRITICAL EFFECT OF ROOF LIVE LOAD OR ROOF SNOW LOAD, AS DETERMINED BY THE APPLICABLE CODE.

	BUILDING		
	Main	Loading Dock	High Bay
ROOF DEAD (PSF):	5	5	5.9
PRI. COL. (PSF):	5	5	5
SEC. COL. (PSF):	5	5	5
SNOW Ct:	1.2	1.2	1.2
SNOW Cs:			
ROOF SNOW (PSF):	25	25	25
WIND ENCLOSURE:	Enclosed	Enclosed	Enclosed
GCp:			
SEISMIC R:			
SEISMIC Cs:			
BASE SHEAR (KIPS):			

GENERAL NOTES

1. MATERIALS	ASTM DESCRIPTION	MATERIALS	ASTM DESCRIPTION
STRUCTURAL STEEL PLATE	A529 / A572 / A1011	ROOF AND WALL SHEETING	A653 / A792
HOT ROLLED MILL SHAPES	A36 / A529 / A572 / A500	BOLTS	A307 / A325 / A490
HSS ROUND	A500	CABLE	A475
HSS RECTANGULAR	A500	RODS	A529 / A572
COLD FORM SHAPES	A653 / A1011		

2. STRUCTURAL PRIMER NOTES:
 SHOP COAT PRIMER IS INTENDED TO PROTECT THE STEEL FRAMING FOR A SHORT PERIOD OF TIME. STORAGE IN EXTREME COLD TEMPERATURES OR WINTER SNOW CONDITIONS, INCLUDING TRANSPORTATION ON SALTED OR CHEMICALLY TREATED ROADS WILL ADVERSELY AFFECT THE DURABILITY AND LONGEVITY OF THE PRIMER. THE COAT OF SHOP PRIMER DOES NOT PROVIDE THE UNIFORMITY OF APPEARANCE, OR THE DURABILITY AND CORROSION RESISTANCE OF A FIELD APPLIED FINISH COAT OF PAINT OVER A SHOP PRIMER. MINOR ABRASIONS TO THE SHOP COAT PRIMER CAUSED BY HANDLING, LOADING, SHIPPING, UNLOADING AND ERECTION ARE UNAVOIDABLE AND ARE NOT THE RESPONSIBILITY OF THE METAL BUILDING MANUFACTURER. METAL BUILDING MANUFACTURER IS NOT RESPONSIBLE FOR THE DETERIORATION OF THE PRIMER OR CORROSION THAT MAY RESULT FROM ATMOSPHERIC AND ENVIRONMENTAL CONDITIONS NOR THE COMPATIBILITY OF THE PRIMER TO ANY FIELD APPLIED COATING.

3. BUILDING ERECTION NOTES:
 THE GENERAL CONTRACTOR AND/OR ERECTOR IS RESPONSIBLE TO SAFELY AND PROPERLY ERECT THE METAL BUILDING SYSTEM IN CONFORMANCE WITH THESE DRAWINGS, OSHA REQUIREMENTS AND EITHER MBMA OR CSA S16 STANDARDS PERTAINING TO PROPER ERECTION. TEMPORARY SUPPORTS SUCH AS GUYS, BRACES, FALSEWORK, CRIBBING OR OTHER ELEMENTS FOR ERECTION ARE TO BE DETERMINED, FURNISHED AND INSTALLED BY THE ERECTOR. THESE SUPPORTS MUST SECURE THE STEEL FRAMING, OR PARTLY ASSEMBLED STEEL FRAMING, AGAINST LOADS COMPARABLE IN INTENSITY TO THOSE FOR WHICH THE STRUCTURE WAS DESIGNED IN ADDITION TO LOADS RESULTING FROM THE ERECTION OPERATION. SECONDARY WALL AND ROOF FRAMING (PURLINS, GIRTS AND/OR JOIST) ARE NOT DESIGNED TO FUNCTION AS A WORKING PLATFORM OR TO PROVIDE AS AN ANCHORAGE POINT FOR A FALL ARREST /SAFETY TIE OFF. IP

4. A325 & A490 BOLT TIGHTENING REQUIREMENTS:
 IT IS THE RESPONSIBILITY OF THE ERECTOR TO ENSURE PROPER BOLT TIGHTNESS IN ACCORDANCE WITH APPLICABLE REGULATIONS. FOR PROJECTS IN THE UNITED STATES SEE THE RCSC SPECIFICATION FOR STRUCTURAL JOINTS USING A325 OR A490 BOLTS OR FOR PROJECTS IN CANADA, SEE THE CAN/CSA S16 LIMIT STATES DESIGN OF STEEL STRUCTURES FOR MORE INFORMATION.
 THE FOLLOWING CRITERIA MAY BE USED TO DETERMINE THE BOLT TIGHTNESS (I.E., "SNUG-TIGHT" OR "FULLY-PRE-TENSIONED"), UNLESS REQUIRED OTHERWISE BY LOCAL JURISDICTION OR CONTRACT REQUIREMENTS:
 A) ALL A490 BOLTS SHALL BE "FULLY-PRE-TENSIONED".
 B) ALL A325 BOLTS IN PRIMARY FRAMING (RIGID FRAMES AND BRACING) MAY BE "SNUG-TIGHT", EXCEPT AS FOLLOWS: "FULLY-PRE-TENSION" A325 BOLTS IF:
 a) BUILDING SUPPORTS A CRANE SYSTEM WITH A CAPACITY GREATER THAN 5 TONS.
 b) BUILDING SUPPORTS MACHINERY THAT CREATES VIBRATION, IMPACT OR STRESS-REVERSALS ON THE CONNECTIONS.
 THE ENGINEER-OF-RECORD FOR THE PROJECT SHOULD BE CONSULTED TO EVALUATE FOR THIS CONDITION.
 c) THE PROJECT SITE IS LOCATED IN A HIGH SEISMIC AREA. FOR IBC-BASED CODES, "HIGH SEISMIC AREA" IS DEFINED AS "SEISMIC DESIGN CATEGORY" OF "D", "E", OR "F". SEE THE "BUILDING LOADS" SECTION OF THIS PAGE FOR THE DEFINED SEISMIC DESIGN CATEGORY FOR THIS PROJECT.
 d) ANY CONNECTION DESIGNATED IN THESE DRAWINGS AS "A325-SC". "SLIP-CRITICAL (SC)" CONNECTIONS MUST BE FREE OF PAINT, OIL, OR OTHER MATERIALS THAT REDUCE FRICTION AT CONTACT SURFACES. GALVANIZED OR LIGHTLY RUSTED SURFACES ARE ACCEPTABLE.
 C) IN CANADA, ALL A325 AND A490 BOLTS SHALL BE "FULLY PRE-TENSIONED", EXCEPT FOR SECONDARY MEMBERS (PURLINS, GIRTS, OPENING FRAMING, ETC.) AND FLANGE BRACES.
 SECONDARY MEMBERS (PURLINS, GIRTS, OPENING FRAMING, ETC.) AND FLANGE BRACE CONNECTIONS MAY ALWAYS BE "SNUG-TIGHT", UNLESS INDICATED OTHERWISE IN THESE DRAWINGS.

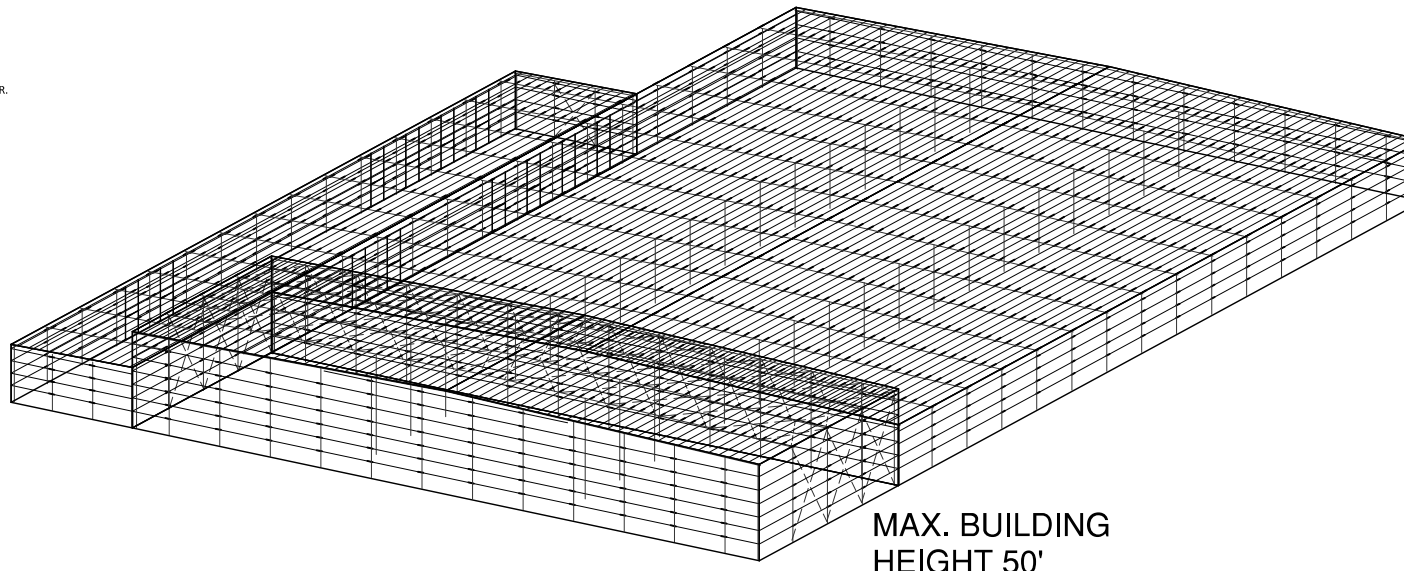
5. GENERAL DESIGN NOTES:
 1) ALL STRUCTURAL STEEL SECTIONS AND WELDED PLATE MEMBERS ARE DESIGNED IN ACCORDANCE WITH ANSI/AISC 360 "SPECIFICATIONS FOR STRUCTURAL STEEL BUILDINGS" OR THE CAN/CSA S16 "LIMIT STATES DESIGN OF STEEL STRUCTURES", AS REQUIRED BY THE SPECIFIED BUILDING CODE.
 2) ALL WELDING OF STRUCTURAL STEEL IS BASED ON EITHER AWS D1.1 "STRUCTURAL WELDING CODE - STEEL" OR CAN/CSA W59 "WELDED STEEL CONSTRUCTION (METAL ARC WELDING)", AS REQUIRED BY THE SPECIFIED BUILDING CODE.
 3) ALL COLD FORMED MEMBERS ARE DESIGNED IN ACCORDANCE WITH ANSI/AISI 100 OR THE CAN/CSA S136 "SPECIFICATIONS FOR THE DESIGN OF COLD FORMED STEEL STRUCTURAL MEMBERS", AS REQUIRED BY THE SPECIFIED BUILDING CODE.
 4) ALL WELDING OF COLD FORMED STEEL IS BASED ON AWS D1.3 "STRUCTURAL WELDING CODE - SHEET STEEL" OR CAN/CSA W59 "WELDED STEEL CONSTRUCTION (METAL ARC WELDING)", AS REQUIRED BY THE SPECIFIED BUILDING CODE.
 5) THIS MANUFACTURING FACILITY IS IAS AC-472 ACCREDITED AND CAN/CSA A660 AND W47.1 CERTIFIED (IF APPLICABLE) FOR THE DESIGN AND MANUFACTURING OF METAL BUILDING SYSTEMS.
 6) IF JOISTS ARE INCLUDED WITH THIS PROJECT, THEY ARE SUPPLIED AS A PART OF THE SYSTEMS ENGINEERED METAL BUILDING AND ARE FABRICATED IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1926.758 OF OSHA SAFETY STANDARDS FOR STEEL ERECTION, DATED JANUARY 18, 2001.

6. GLOSSARY OF ABBREVIATIONS:

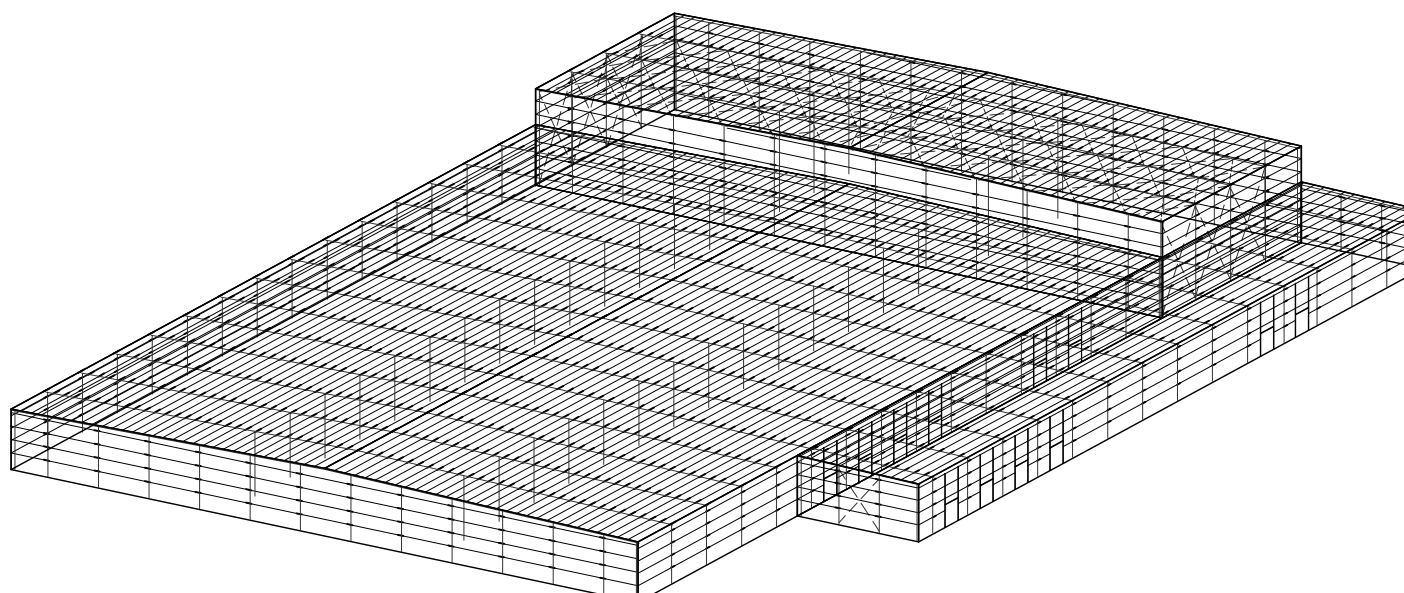
A.B. = ANCHOR BOLTS	Max = MAXIMUM	Req'd = REQUIRED
BS = BOTH SIDES	M.B. = MACHINE BOLTS	Rev. = REVISION
B.U. = BUILT-UP	MBS = METAL BUILDING SUPPLIER	SIM = SIMILAR
Di = DIAMETER	Min = MINIMUM	SL = STEEL LINE
Fg = FLANGE	N/A = NOT APPLICABLE	SLV = SHORT LEG VERTICAL
F.S. = FAR SIDE	NIC = NOT IN CONTRACT	TBD = TO BE DETERMINED
Ga. = GAUGE	N.S. = NEAR SIDE	Typ = TYPICAL
H.S.B. = HIGH STRENGTH BOLTS	O.A.L. = OVERALL LENGTH	U.N.O. = UNLESS NOTED OTHERWISE
Ht. = HEIGHT	O.C. = ON CENTER	
LLV = LONG LEG VERTICAL	BS = BOTH SIDES	

?? = PART MARK TO BE DETERMINED AND WILL BE UPDATED ON FOR CONSTRUCTION DRAWINGS

REW/ BSW



LEW/ FSW



PRELIMINARY COVERSHEET DRAWING

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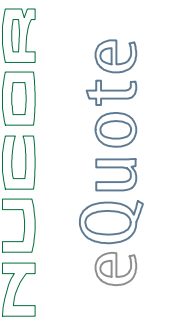
NUCOR BUILDING SYSTEMS GROUP
 1050 North Watery Lane
 Brigham City, UT 84302
 Phone: (435) 919-3100
 Fax: (435) 919-3101
 www.nucorbuildingsystems.com

PROJECT NAME: PROJECT ZEBRA
 LYNDEN, WA

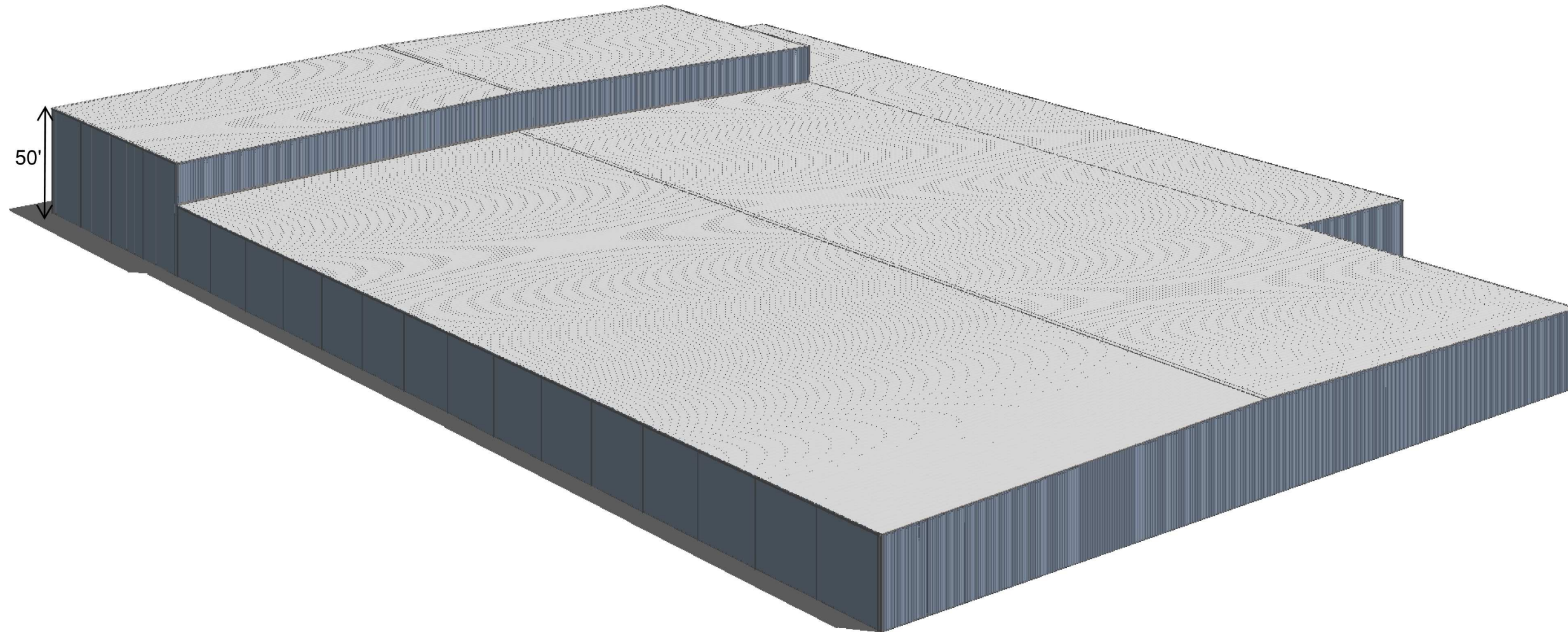
CUSTOMER: H&H STEEL ERECTORS
 LAKE STEVENS, WA

QUOTE NUMBER: U1R-21181

SHEET NUMBER: CV-1



Preliminary for Review
 Information found herein, such as clearances, depths, connections, details, etc., have not been finalized and are subject to change based on final design.



**Preliminary
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11/04/2021

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SHEET NUMBER:
CV-2

QUOTE NUMBER:
U1R-21181

PROJECT NAME:
PROJECT ZEBRA
LYNDEN, WA
CUSTOMER:
H&H STEEL ERECTORS
LAKE STEVENS, WA

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Brigham City, UT 84302
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PRELIMINARY PERSPECTIVE RENDERING
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PRELIMINARY FLOOR PLAN
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PROJECT NAME:
PROJECT ZEBRA

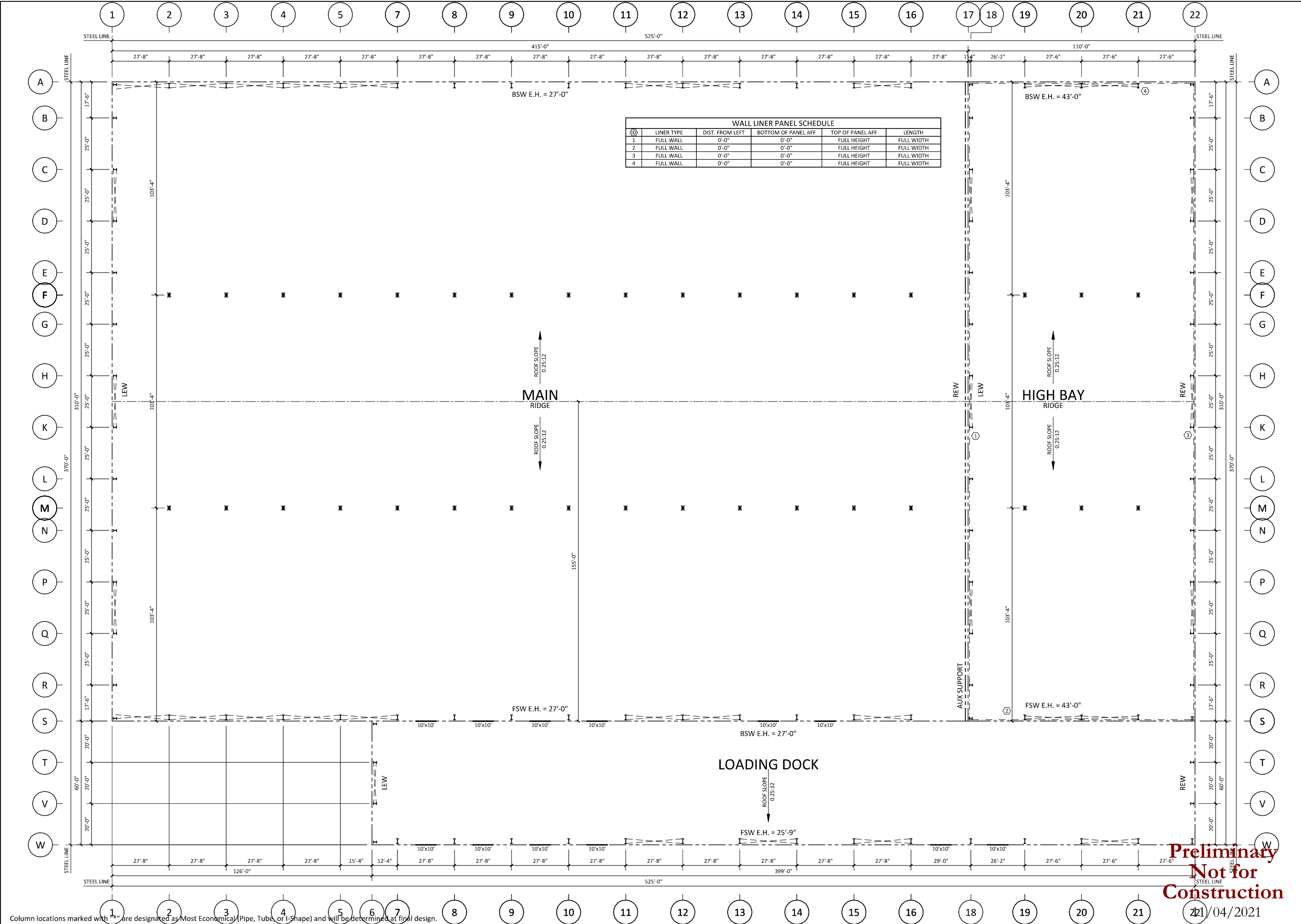
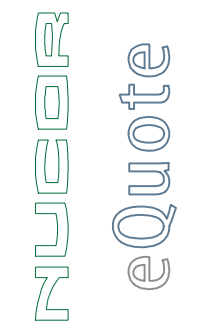
LYNDEN, WA

CUSTOMER:
H&H STEEL ERECTORS

LAKE STEVENS, WA

QUOTE NUMBER:
U1R-21181

SHEET NUMBER:
FP-1



WALL LINER PANEL SCHEDULE

ID	LINER TYPE	DIST. FROM LEFT	BOTTOM OF PANEL AFF	TOP OF PANEL AFF	LENGTH
1	FULL WALL	0'-0"	0'-0"	FULL HEIGHT	FULL WIDTH
2	FULL WALL	0'-0"	0'-0"	FULL HEIGHT	FULL WIDTH
3	FULL WALL	0'-0"	0'-0"	FULL HEIGHT	FULL WIDTH
4	FULL WALL	0'-0"	0'-0"	FULL HEIGHT	FULL WIDTH

Column locations marked with * are designated as Most Economical (Pipe, Tube, or I-Shape) and will be determined at final design.

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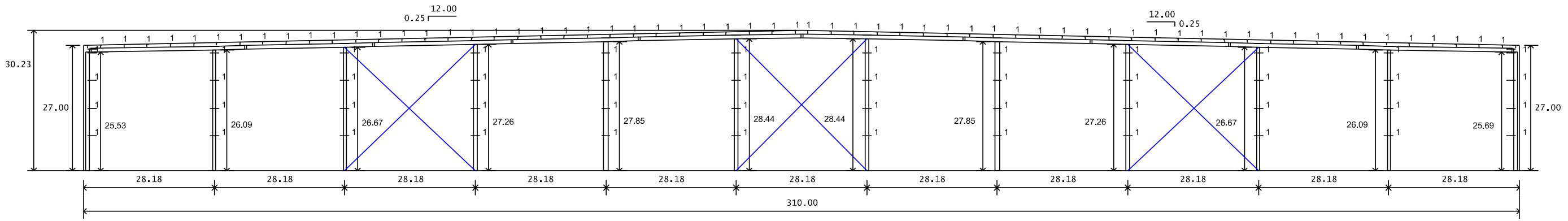
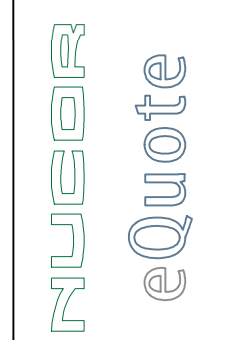
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PROJECT NAME: PROJECT ZEBRA
LYNDEN, WA
CUSTOMER: H&H STEEL ERECTORS
LAKE STEVENS, WA

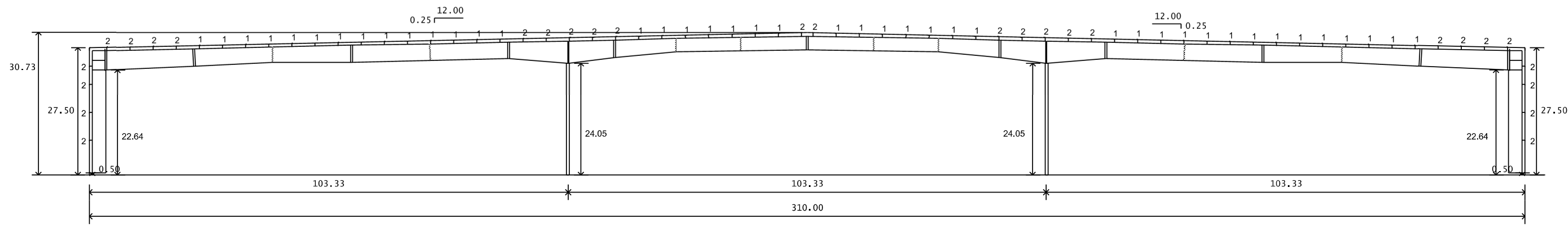
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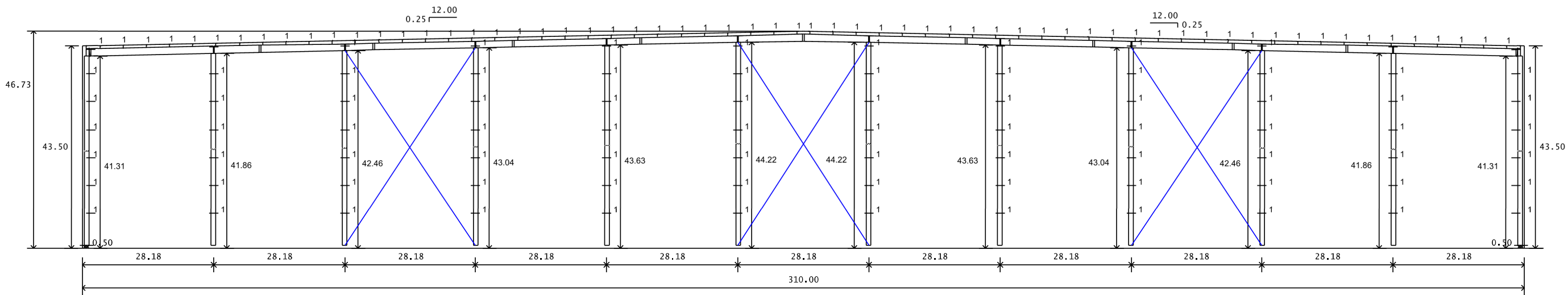
FRAME @ LINE 1

*ALL CLEAR DIMENSIONS ARE SUBJECT TO CHANGE AT TIME OF FINAL DESIGN, UNLESS NOTED OTHERWISE IN THE SPECIAL USER NOTES SECTION.



FRAME @ LINES 2-16

*ALL CLEAR DIMENSIONS ARE SUBJECT TO CHANGE AT TIME OF FINAL DESIGN, UNLESS NOTED OTHERWISE IN THE SPECIAL USER NOTES SECTION.



FRAME @ LINES 18,22

*ALL CLEAR DIMENSIONS ARE SUBJECT TO CHANGE AT TIME OF FINAL DESIGN, UNLESS NOTED OTHERWISE IN THE SPECIAL USER NOTES SECTION.

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AIA
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www.nucorbuildingssystem.com

PROJECT NAME:
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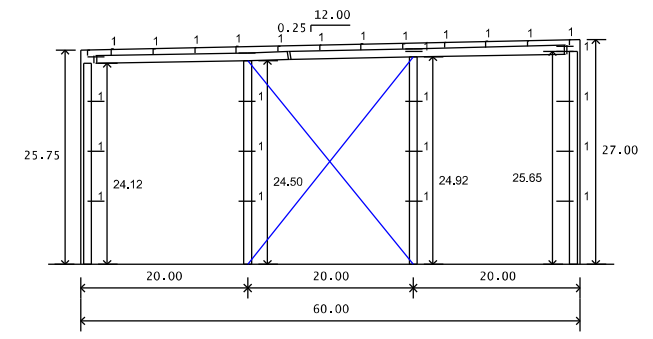
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LAKE STEVENS, WA

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FX-1

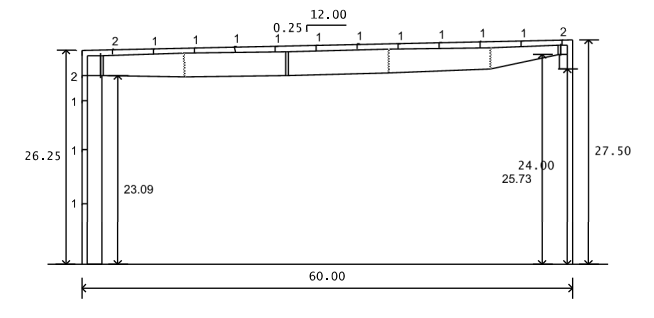


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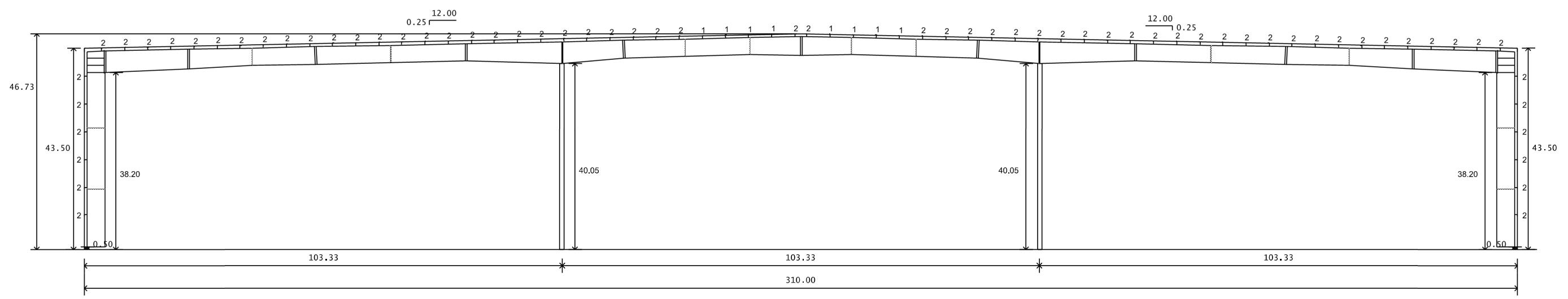
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*ALL CLEAR DIMENSIONS ARE SUBJECT TO CHANGE AT TIME OF FINAL DESIGN, UNLESS NOTED OTHERWISE IN THE SPECIAL USER NOTES SECTION.



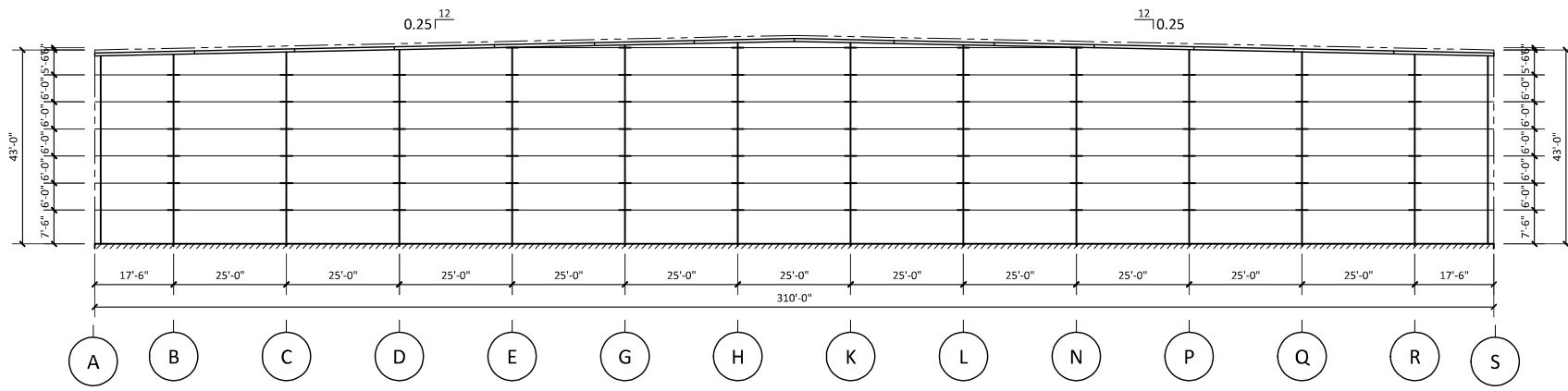
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*ALL CLEAR DIMENSIONS ARE SUBJECT TO CHANGE AT TIME OF FINAL DESIGN, UNLESS NOTED OTHERWISE IN THE SPECIAL USER NOTES SECTION.

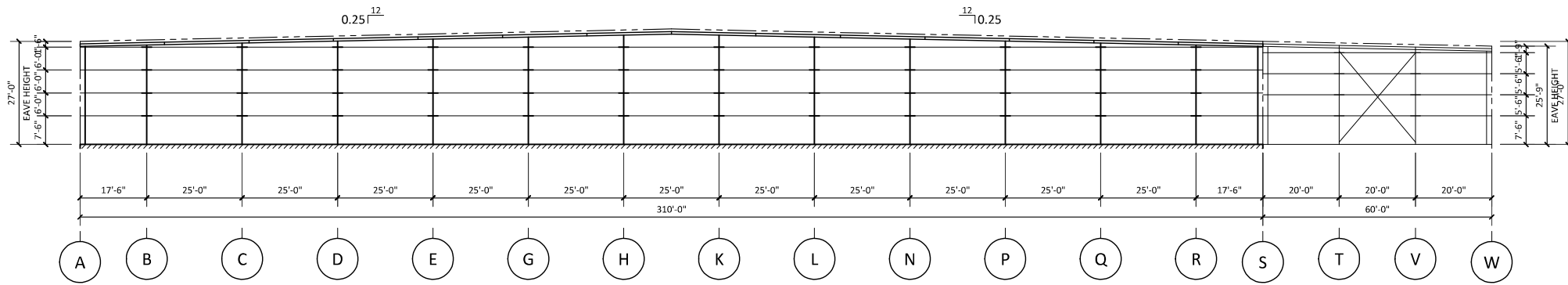


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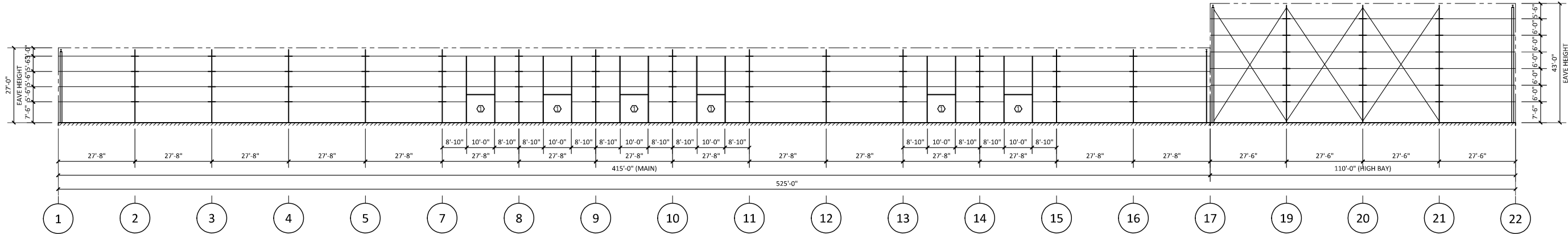


ELEVATION AT LINE 17

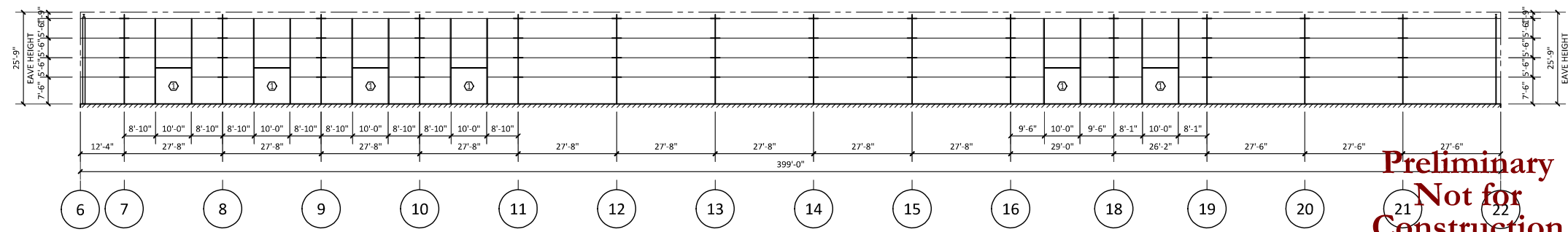


ELEVATION AT LINE 1

ELEVATION AT LINE 6



ELEVATION AT LINE S



ELEVATION AT LINE W

FRAMED OPENING SCHEDULE				
ID	QTY	WIDTH	HEIGHT	LOCATED
1	12	10'-0"	10'-0"	FACTORY

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PRELIMINARY STRUCTURAL ELEVATIONS
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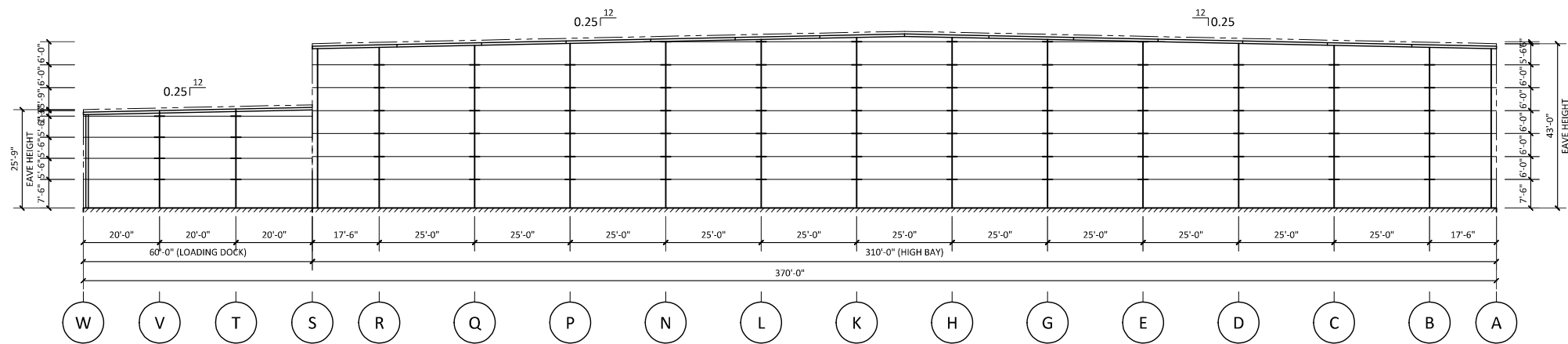
PROJECT NAME:
PROJECT ZEBRA
LYNDEN, WA
CUSTOMER:
H&H STEEL ERECTORS
LAKE STEVENS, WA

QUOTE NUMBER:
U1R-21181

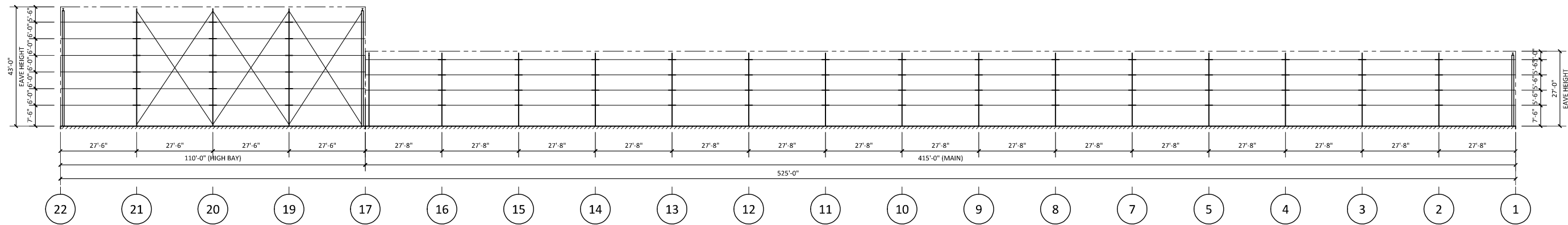
SHEET NUMBER:
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eQuote



ELEVATION AT LINE 22



ELEVATION AT LINE A

**Preliminary
Not for
Construction**
11/04/2021

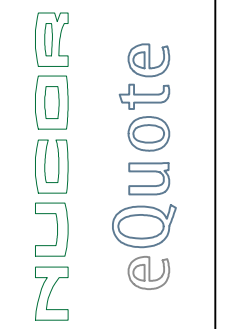
PRELIMINARY STRUCTURAL ELEVATIONS
DO NOT USE FOR
FINAL CONSTRUCTION
11/4/2021 4:44 PM

NUCOR
BUILDING SYSTEMS GROUP
1050 North Watery Lane
Brigham City, UT 84302
Phone: (435) 919-3100
Fax: (435) 919-3101
www.nucorbuildingsystems.com

PROJECT NAME:
PROJECT ZEBRA
LYNDEN, WA
CUSTOMER:
H&H STEEL ERECTORS
LAKE STEVENS, WA

QUOTE NUMBER:
U1R-21181

SHEET NUMBER:
ST-2





Freeland and Associates, Inc.

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

October 21, 2022

City of Lynden
Public Works
300 4th Street
Lynden, WA 98264

Attention: Mr. Mark Sandal

Subject: Preliminary Stormwater Design
Project Zebra - 603 Curt Maberry Road
Lynden, Washington
F&A Project No. 21212

Dear Mr. Sandal:

Deem, LLC plans to develop the property located at 603 Curt Maberry Road, Lynden, Washington 98264. Refer to *Figure 1 – Vicinity Map* for the project location. This letter serves as a preliminary stormwater design proposal for the project.

The subject property includes a single tax parcel (APN 400224-161310) occupying approximately 11.77-acres of land to the west of Curt Maberry Road and north of Alderwood Drive. The site is located in the West Lynden Subarea and zoned Industrial Business Zone (IBZ). Adjacent properties within the vicinity of the site are developed with industrial uses or are undeveloped at this time. The property directly to the east is under the same property ownership and developed as a large-scale cold-storage facility.

The existing site is an undeveloped grass field forming a rectangular shape. Topography of the site is generally flat with grades averaging between 0-2%. Access to the site is provide from Curt Maberry Road to the east. Municipal water and sewer connections and private utility services (power, natural gas, cable) are available to the site from the adjacent right-of-ways. Refer to *Figure 2 – Aerial Photograph* for the existing site conditions.

Soils on the site are mapped by the Natural Resources Conservation Service (NRCS) as Edmonds-Woodlyn loams #45, 0 to 2 percent slopes. The Edmonds-Woodlyn loams series are dually classified as hydrologic group B/D. The first letter applies to the drained and the second to the undrained condition. Hydrologic group B soils have moderate infiltration rates when thoroughly wetted and consisting chiefly of moderately fine to moderately coarse textures. Hydrologic group D High runoff potential and very slow infiltration rates when thoroughly wetted. Refer to *Figure 3 – Soils Map* for the regional soils map. Soil reports within areas surrounding this project have shown consistent high

groundwater elevations throughout the winter months and it is anticipated that this site will as well. A site-specific soils evaluation by a geotechnical professional is in progress.

The project includes construction of a 194,250-square foot seafood processing facility with associated access, parking, and utilities. Access to the site will be provided from Curt Maberry Road to the east with secondary access from Alderwood Drive to the south. Truck access, loading areas, and employee/visitor parking will be located to the north and west of the building. Municipal water and sewer service connections in addition to private utilities (power, natural gas, cable) are planned to support the facility. The developed site will be enhanced with exterior building lighting and landscaping. Future plans may include a building expansion to the south of the proposed facility. Preliminary Site Plans have been prepared and are attached with this letter.

Stormwater management has been considered with development of the existing plan. Two parallel plans are being evaluated and the final plan will be determined during the building permit process.

Plan A:

The preferred option for stormwater management will be to convey all stormwater runoff from the site to the existing West Lynden Regional stormwater facility. However, the subject property is not currently contained within the pond's design contributing basin. To move forward with this plan, the ownership group will need to secure credits from other landowners within the pond's design basin. Currently, preliminary discussions with both the City of Lynden and property owners with available credits are ongoing.

Plan B:

An alternative option to using the West Lynden Regional stormwater pond will be to provide onsite stormwater management with an underground stormwater detention and treatment system. As there are no outfalls on the site within the basin, a basin diversion is being explored to provide a safe outfall for the development. Additional discussion on the outfall is in Minimum Requirement #4.

With more than 5,000 square feet of combined hard surfacing, the project will be subject to Minimum Requirements #1 through #9 as provided in the 2019 DOE Manual. Minimum Requirements #1 through #9 are addressed below. Where applicable, each of the plans identified above will be addressed in greater detail.

Minimum Requirement #1 Preparation of Stormwater Site Plans

This letter serves as a Preliminary Stormwater Site Plan (SSP). All stormwater management systems have been designed according to Department of Ecology (DOE) and City of Lynden standards.

Minimum Requirement #2 Construction Stormwater Pollution Prevention (SWPPP)

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

Minimum Requirement #3 Source Control of Pollutants

The proposed processing facility project is not expected to create any unusual sources of stormwater pollutants. Seafood processing operations will occur indoors and are not a stormwater pollution concern. Pollutant sources include vehicular traffic, fertilizers, and other detergents or chemicals typical to building maintenance activities. These sources will be controlled at the source to the maximum extent possible. All known, available, and reasonable source control BMPs will be applied to the design and layout of the site plans and stormwater plans.

Per the DOE Manual, land use controls that emphasize prevention of water quality impacts are preferred over treatment strategies. Therefore, clearing areas will be limited to the minimum areas necessary for construction.

Minimum Requirement #4 Preservation of Natural Drainage Systems and Outfalls

Currently, the entire project site is contained within a single regional basin. cursory review of aerial topography shows that stormwater runoff from the site generally is conveyed south/southeast.

Plan A:

Stormwater from the developed site will be conveyed to the West Lynden Regional Pond detention facility. No significant stormwater diversions are proposed as part of this project.

Plan B:

There are no adequate stormwater outfalls for this project located within the project's basin. The project is located near the highpoint of the basin and currently stormwater runoff flows overland to the south. Per the 2019 DOE SWMM, when no conveyance systems exist at the abutting downstream property line and the natural discharge is unconcentrated, there are three potential solutions that are as follows:

- a. If the 100-year peak discharge, as estimated using an approved continuous runoff model using 15-minute time steps, is less than or equal to 0.3 cfs under existing conditions and will remain less than or equal to 0.3 cfs under developed conditions, then the concentrated runoff may be discharged onto outlet protection with riprap, such as those described in [V-1.4.3 Outfall Systems](#), or to any other system that serves to disperse flows.
- b. If the 100-year peak discharge, as estimated using an approved continuous runoff model using 15-minute time steps, is less than or equal to 0.75 cfs under existing conditions and will remain less than or equal to 0.75 cfs under developed conditions, then the concentrated runoff may be discharged through a dispersal trench, such as those described in [V-1.4.3 Outfall Systems](#), or other dispersal system, provided the applicant can demonstrate that there will be no significant adverse impact to downhill properties or drainage systems.
- c. If the 100-year peak discharge, as estimated using an approved continuous runoff model using 15-minute time steps, is greater than 0.75 cfs for either existing or developed conditions, or if a significant adverse impact to downgradient properties or drainage systems is likely, then a conveyance system must be provided to convey the concentrated runoff across the downstream properties to an acceptable discharge point (i.e., an enclosed drainage system or open drainage feature where concentrated runoff can be discharged without significant adverse impact).

Both (a) and (b) were evaluated with preliminary WWHM modeling of the site and were determined to be unfeasible. Although the 100-year storm event for the developed conditions could be reduced to less than 0.75 cfs through over-detaining of flows, the predevelopment exceeds 0.75 cfs. Item (c) is also not practical as the nearest potential outfall is almost 0.5 miles away.

Since there are no practical outfalls within the basin, the project is proposing a basin diversion to the west. Although both the drainage basin that the project is in and the one to the west are subbasins of the Nooksack River, the immediate subbasins are separate. Two potential routes will be evaluated: (1) Stormwater will be

pumped to the ditch in Main Street with an overflow dispersion trench at the south property line to account for power outages or (2) upgrade of a shared conveyance system with the neighboring property to the west.

Minimum Requirement #5 On-Site Stormwater Management

As a project that is expected to trigger Minimum Requirements #1 through #9, this project will be required to demonstrate compliance with the LID Performance Standard or shall use BMPs from List #2 in the 2019 DOE Manual. This project is expected to comply with List #2.

Projects choosing to utilize List #2 of the 2019 DOE Manual to meet the requirements of Minimum Requirement #5 – On-site Stormwater Management must consider the BMPs in the order listed for each type of surface. The first BMP that is considered feasible must be used on the site. No other On-site Stormwater Management BMPs are necessary for that surface. The following table identifies all of the required BMPs in List #2 and if they are feasible or infeasible.

TABLE 3 - MINIMUM REQUIREMENT #5 LIST #2				
Minimum Requirement		Feasible	Infeasible	Criteria Comments
#	Lawn & Landscaped Area			
1	Post-Construction Soil Quality and Depth - BMP T5.13	✓		This BMP will be applied to all areas outside of roofs or hard surfaces disturbed during construction.
#	Roofs			
1	Full Dispersion - BMP T5.30 Full Infiltration - BMP T5.10A		✓	Infeasible due to impervious surface coverage and lack of suitable vegetated areas to accommodate dispersion. High groundwater renders infiltration systems infeasible.
2	Bioretention – BMP T5.70		✓	Infeasible due to proposed impervious surface coverage and high groundwater.
3	Downspout Dispersion BMP T5.10B		✓	Infeasible due to insufficient vegetated flow path length and high groundwater.
4	Perforated Stub-out Connection BMP T5.10C		✓	Infeasible due to impervious surface coverage and high groundwater.
#	Other Hard Surfaces			
1	Full Dispersion BMP T5.30		✓	Infeasible due to impervious surface limits.

2	Permeable Pavement - BMP T5.15		✓	Infeasible due to the type of project (i.e. processing plant with potential for heavy equipment/vehicle loading) and high groundwater.
3	Bioretention – BMP T5.70		✓	Infeasible due to impervious surface coverage and high groundwater.
4	Sheet Flow Dispersion BMP T5.12 Concentrated Flow Dispersion BMP T5.11		✓	Infeasible due to insufficient vegetated flow path length on site.

Preliminary Stormwater Management Summary

Proposed impervious surface coverage and high groundwater render the use of dispersion and infiltration systems on the project site. Therefore, the preliminary stormwater management solution includes utilizing the West Lynden Regional Stormwater Pond through purchase of stormwater credits from another property. Stormwater generated by building roofs and paved surfaces will be collected in engineered conveyance systems and conveyed to the regional facility for flow control and treatment. Alternatively, onsite stormwater management will occur in an underground detention system with onsite stormwater treatment. BMP T5.13 will be applied to all areas outside of roof or hard surfaces disturbed during construction.

Minimum Requirement #6 Runoff Treatment

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

Minimum Requirement #7 Flow Control

The proposed project will create more than 10,000 square feet of hard surfacing and will exceed flow control thresholds in Section 2.5.7 in Volume I of the DOE Manual. Stormwater flow control will be provided with conveyance to the West Lynden Regional Stormwater Pond or provided onsite with an underground stormwater facility.

Minimum Requirement #8 Wetlands Protection

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

Minimum Requirement #9 Operation and Maintenance

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

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

Sincerely,
Freeland and Associates, Inc.

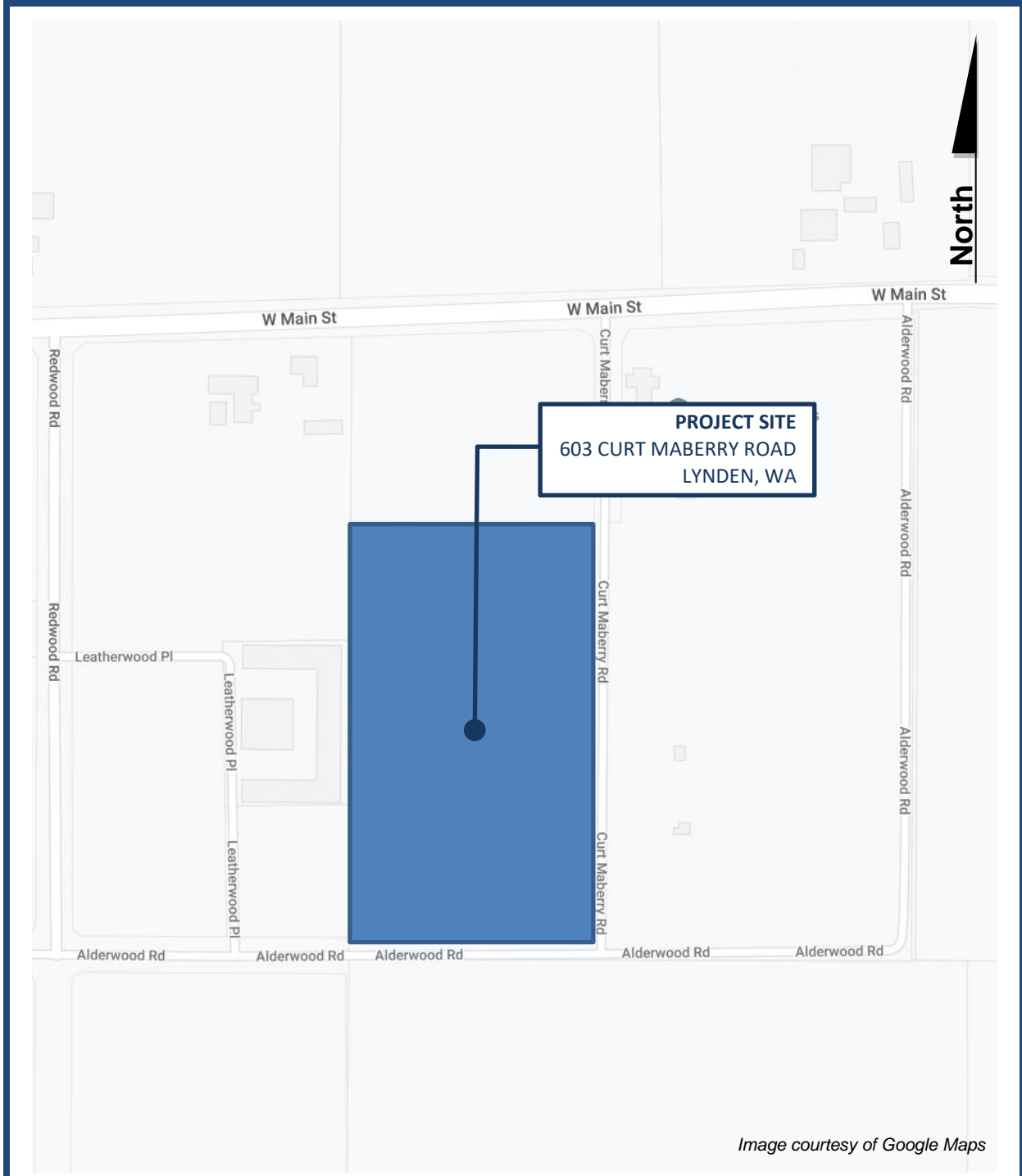


Jean-Paul (J.P.) Slagle, PE



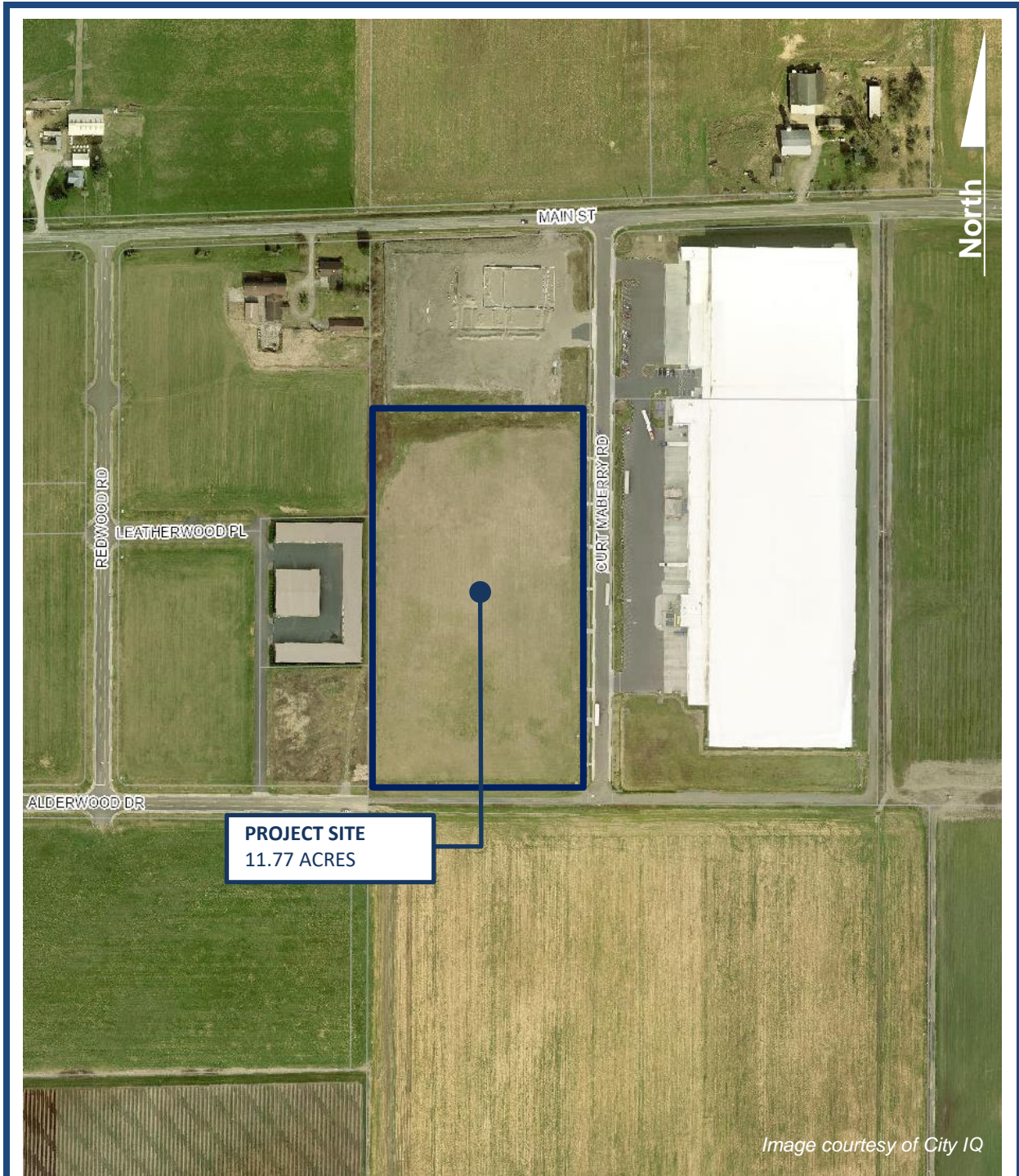
Attachments

- Fig. 1 Vicinity Map*
- Fig. 2 Aerial Photograph of Site*
- Fig. 3 Soils Map*
- Preliminary Site Plans*



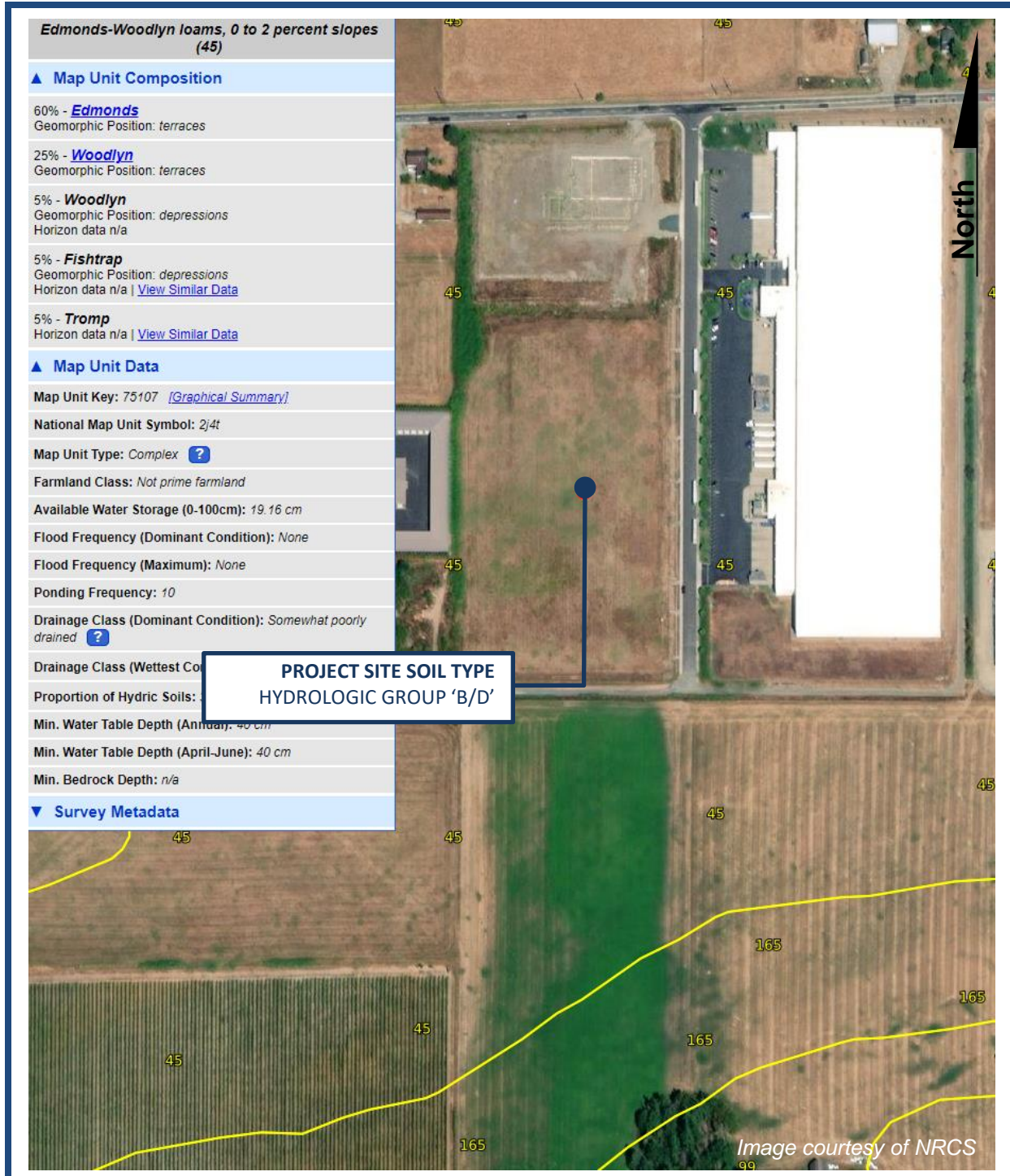
Vicinity Map

Figure 1



Aerial Photograph of Site

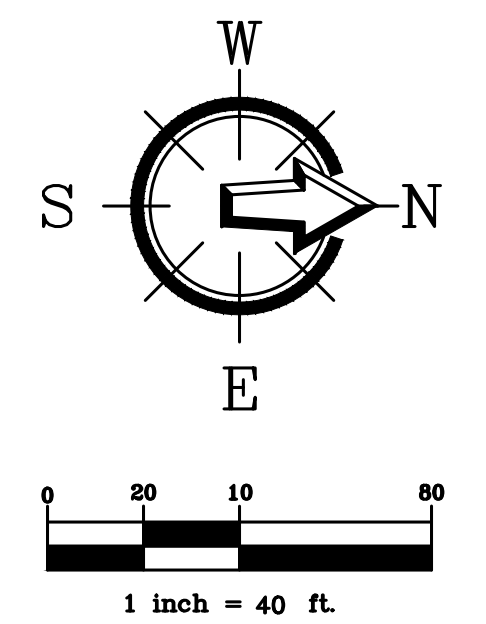
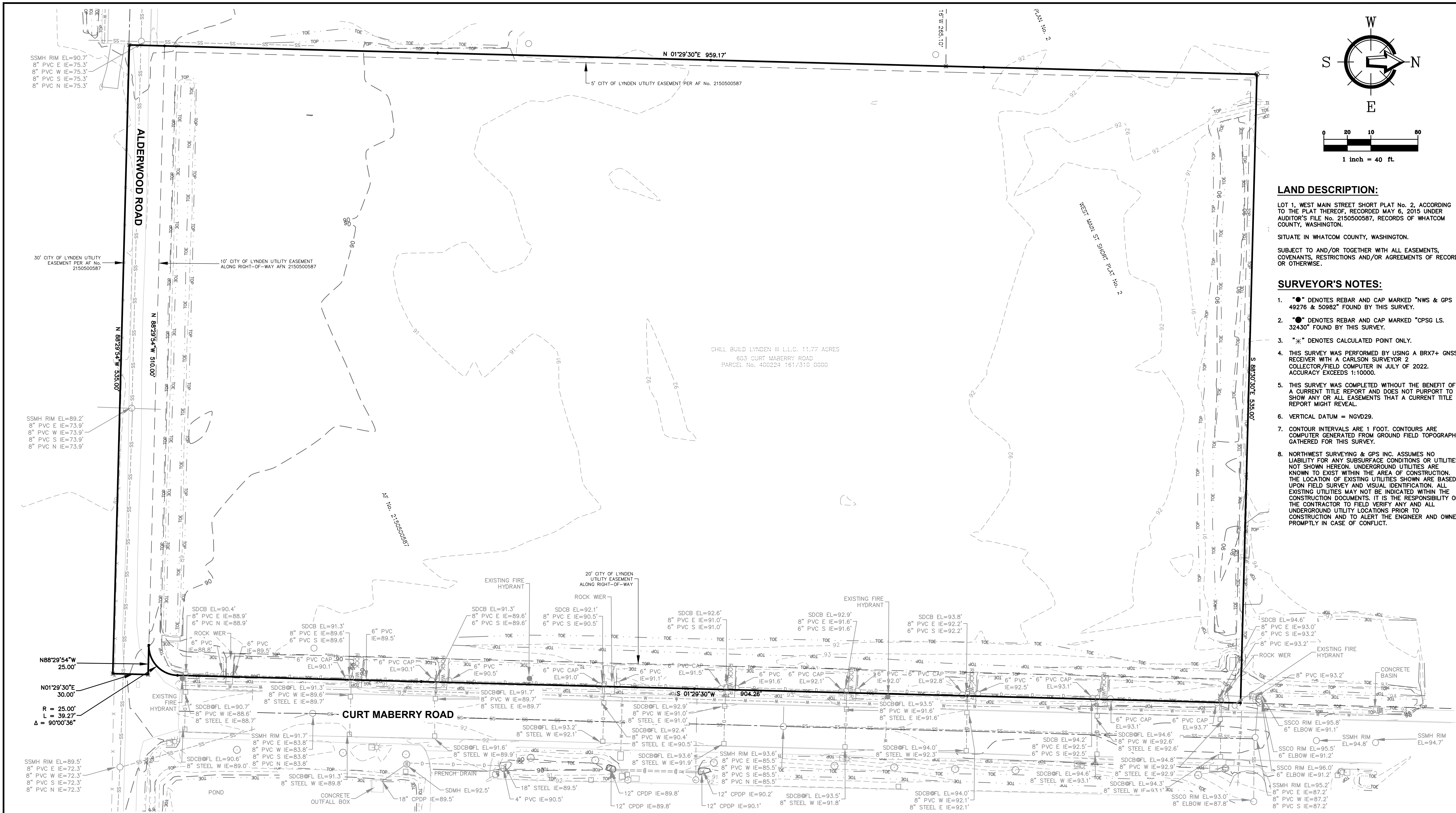
Figure 2



Soils Map

Figure 3

Preliminary Site Plans



LAND DESCRIPTION:

LOT 1, WEST MAIN STREET SHORT PLAT No. 2, ACCORDING TO THE PLAT THEREOF, RECORDED MAY 6, 2015 UNDER AUDITOR'S FILE No. 2150500587, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SUBJECT TO WHATCOM COUNTY, WASHINGTON.

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

SURVEYOR'S NOTES:

1. "●" DENOTES REBAR AND CAP MARKED "NWS & GPS 49276 & 50982" FOUND BY THIS SURVEY.
2. "●" DENOTES REBAR AND CAP MARKED "CPSG LS. 32430" FOUND BY THIS SURVEY.
3. "*" DENOTES CALCULATED POINT ONLY.
4. THIS SURVEY WAS PERFORMED BY USING A BRK7+ GNSS RECEIVER WITH A CARLSON SURVEYOR 2 COLLECTOR/FIELD COMPUTER IN JULY OF 2022. ACCURACY EXCEEDS 1:10000.
5. THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT PURPORT TO SHOW ANY OR ALL EASEMENTS THAT A CURRENT TITLE REPORT MIGHT REVEAL.
6. VERTICAL DATUM = NGVD29.
7. CONTOUR INTERVALS ARE 1 FOOT. CONTOURS ARE COMPUTER GENERATED FROM GROUND FIELD TOPOGRAPHY GATHERED FOR THIS SURVEY.
8. NORTHWEST SURVEYING & GPS INC. ASSUMES NO LIABILITY FOR ANY SUBSURFACE CONDITIONS OR UTILITIES NOT SHOWN HEREON. UNDERGROUND UTILITIES ARE KNOWN TO EXIST WITHIN THE AREA OF CONSTRUCTION. THE LOCATION OF EXISTING UTILITIES SHOWN ARE BASED UPON FIELD SURVEY AND VISUAL IDENTIFICATION. ALL EXISTING UTILITIES MAY NOT BE INDICATED WITHIN THE CONSTRUCTION DOCUMENTS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO FIELD VERIFY ANY AND ALL UNDERGROUND UTILITY LOCATIONS PRIOR TO CONSTRUCTION AND TO ALERT THE ENGINEER AND OWNER PROMPTLY IN CASE OF CONFLICT.



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

BY:	
REV:	
DATE:	
DESCRIPTION:	

CLIENT:
DEEM, LLC.
 6831 E 32ND STREET, SUITE 200
 INDIANAPOLIS, IN 46226
CALL BEFORE YOU DIG
FOR BURIED UTILITY LOCATIONS
 1-800-424-5655

PROJECT LOCATION:
PROJECT ZEBRA
 603 CURT MABERRY RD
 LYNDEN, WA 98264
DRAWN BY: CLK
CHECKED BY: JPS

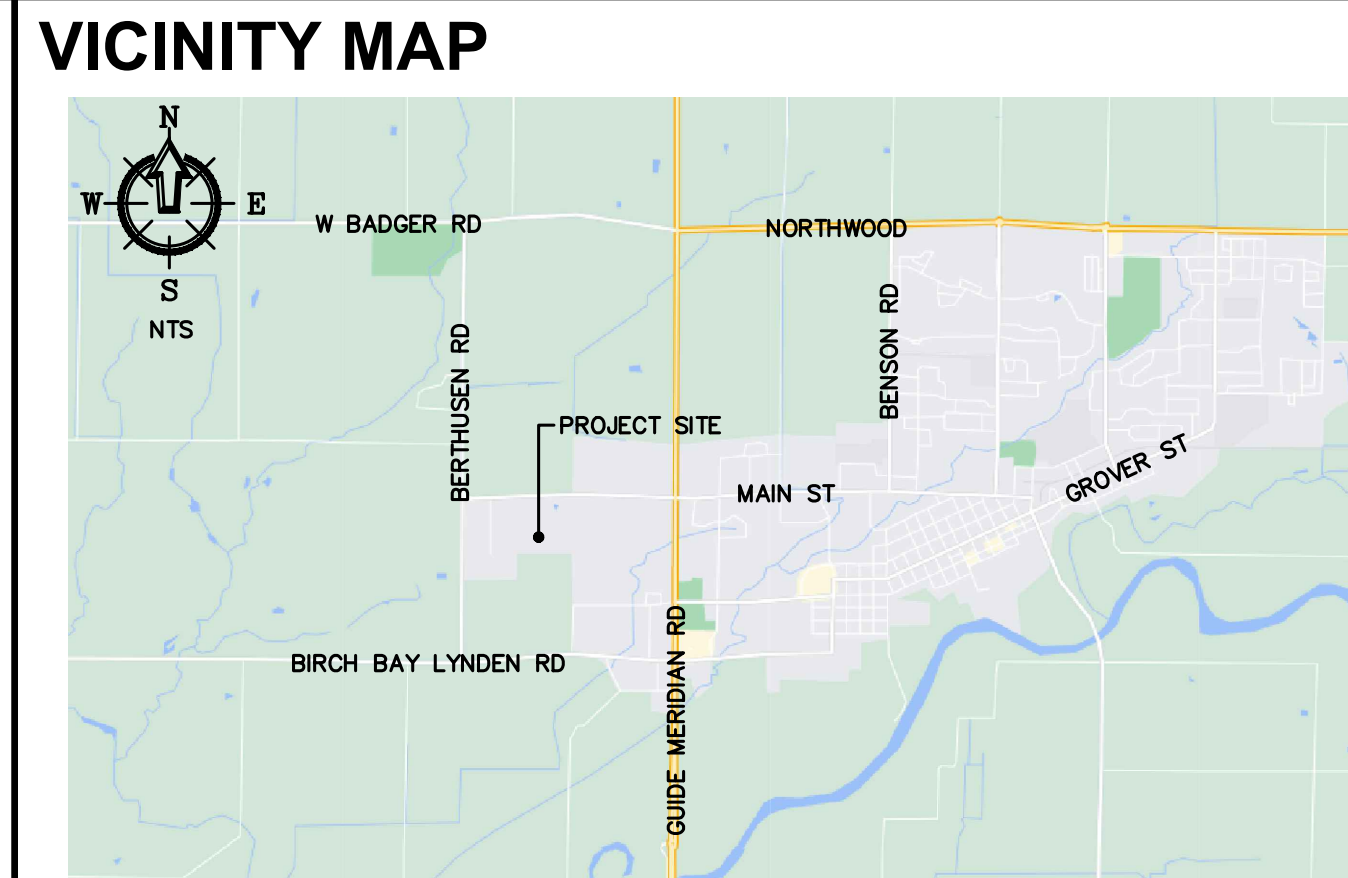
SHEET CONTENTS:
COVER SHEET & EXISTING CONDITIONS

SHEET INDEX

C1	COVER SHEET & EXISTING CONDITIONS
C2	SITE & UTILITY SCHEMATIC PLAN
C3	PRELIMINARY LANDSCAPE PLAN

LEGEND

	= EXISTING STORM DRAIN CATCH BASIN (TYPE 1)		= EXISTING WATER LINE
	= PROPOSED STORM DRAIN CATCH BASIN		= PROPOSED WATER LINE
	= EXISTING SANITARY SEWER CLEANOUT		= EXISTING SANITARY SEWER LINE
	= EXISTING SANITARY SEWER MANHOLE		= PROPOSED SANITARY SEWER LINE
	= PROPOSED SEWER CLEANOUT		= EXISTING STORM DRAIN LINE
	= EXISTING FIRE HYDRANT		= PROPOSED STORM DRAIN LINE (SOLID WALL)
	= PROPOSED FIRE HYDRANT		= EXISTING TOP OF BANK
	= PROPOSED FIRE DEPARTMENT CONNECTION		= EXISTING TOE OF BANK
			= PROPOSED ASPHALT PAVEMENT



CONTACT INFORMATION

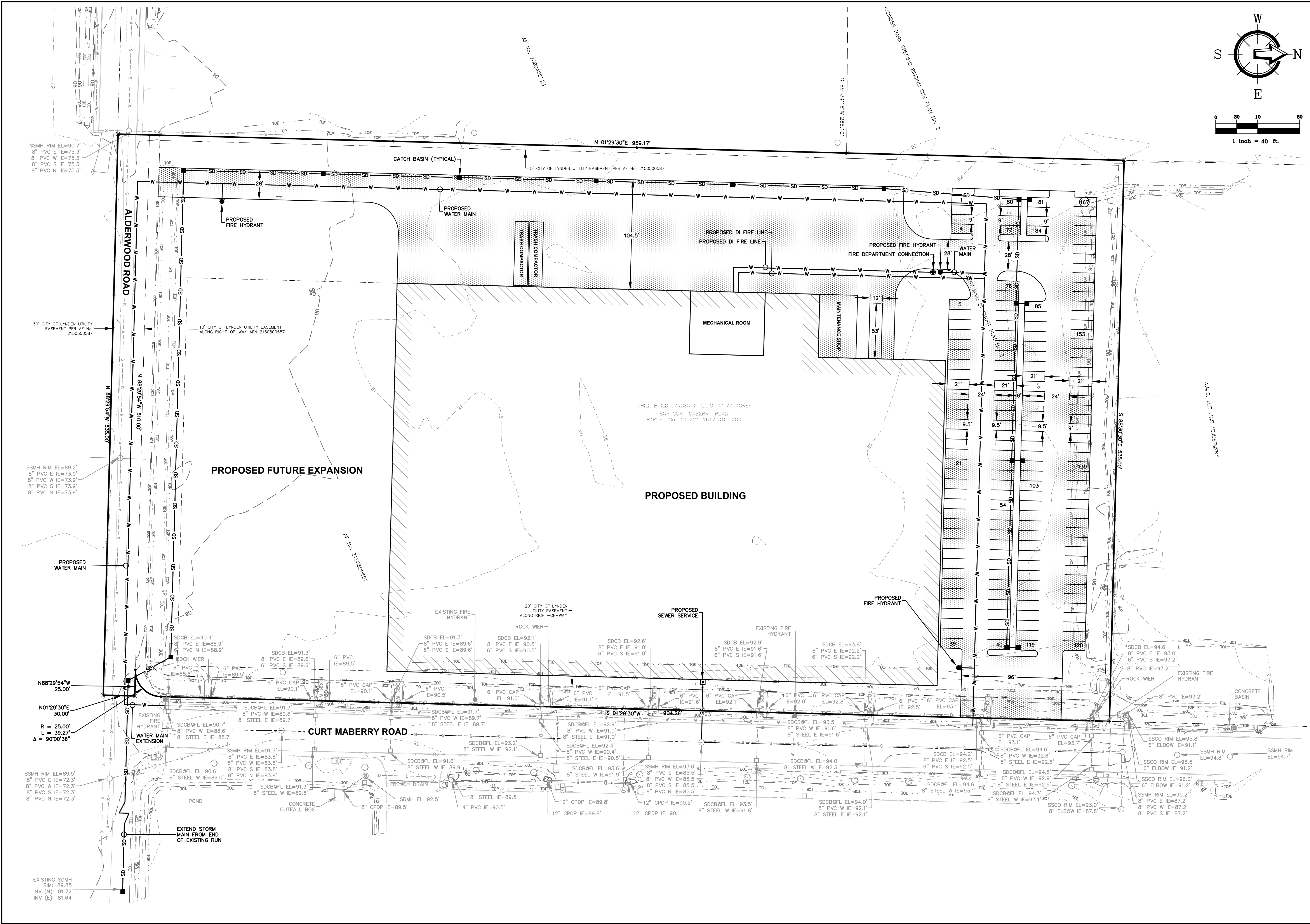
CIVIL ENGINEER
 FREELAND & ASSOCIATES, INC.
 JEAN-PAUL SLAGLE, PE
 GABBY KINNEY, EIT
 220 W CHAMPION STREET
 SUITE 200
 BELLINGHAM, WA 98225
 (360) 650-1408
 jsalagie@frelandengineering.com
 gkinney@frelandengineering.com

CLIENT
 DEEM, LLC
 CHAD GOODING
 6831 E 32ND STREET
 SUITE 200
 INDIANAPOLIS, IN 46226
 (317) 860-2959
 cgooding@DEEMFIRST.com

SURVEYOR
 NORTHWEST SURVEYING & GPS, INC.
 JEREMY DEMEYER
 407 5TH STREET
 LYNDEN, WA 98264
 (360) 354-1950



JOB #:	21212	DATE:	8-30-2022
SHEET:			



REV.	DATE	DESCRIPTION

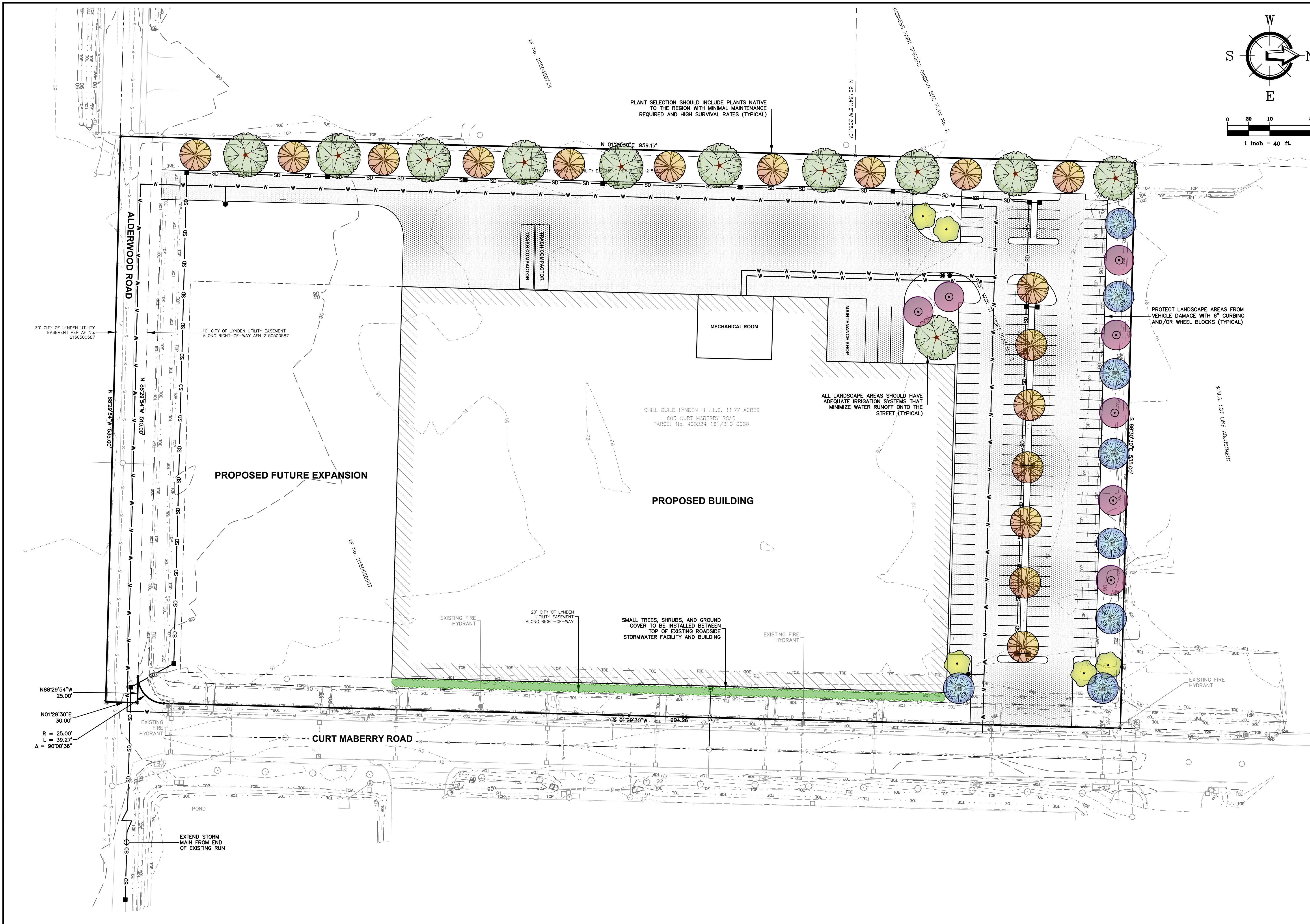
CLIENT: **DEEM, LLC.**
 6831 E 32ND STREET, SUITE 200
 INDIANAPOLIS, IN 46226
 CALL BEFORE YOU DIG
 FOR BURIED UTILITY LOCATIONS
 1-800-424-5655

PROJECT LOCATION: **PROJECT ZEBRA**
 603 CURT MABERRY RD
 LYNDEN, WA 99264
 DRAWING #: 21212SP1.DWG
 DESIGNED BY: JPS
 DRAWN BY: CLK
 CHECKED BY: JPS

SHEET CONTENTS: **SITE & SCHEMATIC UTILITY PLAN**



JOB #: 21212 DATE: 8-30-2022
 SHEET: **C2**



PLANT SELECTION SHOULD INCLUDE PLANTS NATIVE TO THE REGION WITH MINIMAL MAINTENANCE REQUIRED AND HIGH SURVIVAL RATES (TYPICAL)

ALL LANDSCAPE AREAS SHOULD HAVE ADEQUATE IRRIGATION SYSTEMS THAT MINIMIZE WATER RUNOFF ONTO THE STREET (TYPICAL)

PROTECT LANDSCAPE AREAS FROM VEHICLE DAMAGE WITH 6" CURBING AND/OR WHEEL BLOCKS (TYPICAL)

CHILL BUILD LYNDEN III L.L.C. 11.77 ACRES
603 CURT MABERRY ROAD
PARCEL No. 400224 161/310 0000

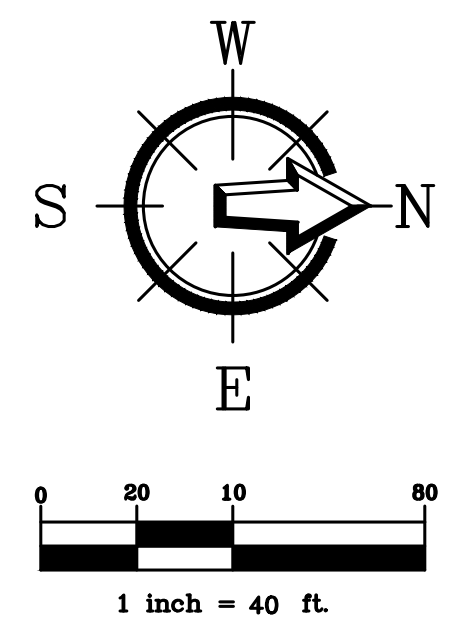
PROPOSED FUTURE EXPANSION

PROPOSED BUILDING

CURT MABERRY ROAD

ALDERWOOD ROAD

FREELAND & ASSOCIATES
220 West Champion Street, Suite 200 | 360.650.1408
Bellevue, WA 98225 | 360.650.1401



BY:	
DESCRIPTION:	
REV:	
DATE:	

CLIENT: **DEEM, LLC.**
6831 E 32ND STREET, SUITE 200
INDIANAPOLIS, IN 46226
CALL BEFORE YOU DIG
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PROJECT LOCATION: **PROJECT ZEBRA**
603 CURT MABERRY RD
LYNDEN, WA 98264
DRAWING #: 21212SP1.DWG
DESIGNED BY: JPS
DRAWN BY: GJK
CHECKED BY: JPS

SHEET CONTENTS: **PRELIMINARY LANDSCAPE PLAN**



JOB #: 21212 DATE: 8-30-2022
SHEET:

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Draft Parks Committee Minutes November 21, 2022	
Section of Agenda:	Other Business	
Department:	Parks	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
ES-Draft Parks Committee Minutes November 21, 2022		
Summary Statement:		
See Next page		
Recommended Action:		
For Council Review		



PARKS COMMITTEE MINUTES

November 21, 2022

1. ROLL CALL:

Members Present: Mayor Korthuis, Councilors Ron DeValois, Nick Laninga and Mark Wohlrab

Staff Present: City Administrator John Williams, Parks Director Brent DeRuyter; and Parks Admin. Assistant Nancy Norris

Guest: Park & Rec. Commissioner Bob Johnson

2. ACTION ITEMS:

A. **Approval of Parks Committee Minutes- October 17, 2022**

Wohlrab motioned to approve the October 17, 2022, minutes Laninga approved the motion.

Action: *The Parks Committee Minutes from October 17, 2022, were approved.*

B. **Approval of Security Solutions Monthly Agreement for Automated Doors.**

The monthly service fee for monitoring the automatic locking restroom door is \$70 for all park sites.

Action: *The Parks Committee recommends to City Council to approve the monthly service fee contract with Security Solutions to monitor the new automatic locking restroom doors.*

3. INFORMATION ITEMS:

A. **SHKS Presentation on the Benson Barn Project**

- Modified Task Schedule has been given and bi-weekly check-ins occurring. SHKS is currently behind schedule, they hope to have an update by the December Parks Committee, if not for sure by January.

B. **Updates on Parks and Trails projects**

- **Benson Park**
Meeting with Chris Overdorf and a partner from SCJ Alliance on 11/23 postponed until Dec.
- **Dickinson**
Roof and gutters are completed. Gate installed and working with fire to attach a "Knox-box".
- **Glennig**
Public meeting held 11/15 and signage to be put up on property.

CITY OF LYNDEN

PARKS DEPARTMENT



Parks Committee approved the motioned to adopt the concept plan for this park.

Discussion on a name for the park. ***Suggested Name: "Schoolyard Park". Laninga and DeValois supports the motion to name the Glenning property "Schoolyard Park".***

Action: Parks Committee recommends to City Council the naming of this park property.

- **Bender Fields**
Topdressing on fields to begin soon.
- **Trails**
A few "trial" paintings were done along the trail posting the speed limit

C. Berthusen Advisory Committee met October 25 and was very productive

The new Berthusen Sign is to be installed hopefully this month. BAC recommends a wider entrance apron and pull out after the gate for vehicles to safely enter and exit the park. WTA and Back Country Horsemen did more trail improvement Nov. 5 and 6. Budgeted items improve the older restrooms and re-roof the open shelter.

D. Parks Rules Signs

The new signs are being drilled and prepared to put on existing signs

E. Budget Updates Discussion, no further discussion.

4. ITEMS ADDED

- A.** A Windmill is currently being stored in the Benson Park barn and being rebuilt. It will be moved to the Museum for their 50th anniversary.

Meeting Adjourned 4:49PM.

NEXT MEETING-December 19, 2022—4:00 PM

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
Name of Agenda Item:	Public Works Committee Meeting Minutes December 7, 2022	
Section of Agenda:	Other Business	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
December 7, 2022 Draft Public Works Committee Meeting Minutes		
Summary Statement:		
Draft minutes for the December 7, 2022 Public Works Committee meeting.		
Recommended Action:		
For Review		



PUBLIC WORKS COMMITTEE MINUTES

4:00 PM December 7, 2022
City Hall 2nd Floor Large Conference Room

CALL TO ORDER

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

Staff Present: City Administrator John Williams; Public Works Director Steve Banham; Programs Manager Mark Sandal; and Sr. Admin. Assistant Jessica King

Public Present: Angie Estey (Trane), Karen Welch (City Consultant), Arend Meijer (Whatcom Co. Health)

ACTION ITEMS

1. Approve Minutes from November 9, 2022

DeValois noted that Item #3 for “Stormwater Source Control Inspection Options” should read 290 instead of 209.

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

Action

The minutes from November 9, 2022, were approved as amended.

2. Stormwater Source Control Inspections

Banham discussed the attached scope of work with the County to assist with Source Control Inspections required by the City’s Stormwater NPDES Permit. The alternative discussed at the last meeting was to increase funding to Welch under her City contract for additional inspections or to hire additional inhouse.

Sandal said that the City’s Fats Oils & Greases (FOG) inspections currently performed by City staff can be counted towards the City annual inspection requirements under the Permit.

Arend Meijer, from the Whatcom County Health Department, discussed their pollution prevention program and voluntary compliance. The purpose of the program is to identify areas of environmental concern. Under this agreement, the County would forward any issues found to the City for follow-up. The County uses these visits to inform business about incentive programs, nonhazardous material substitution programs, spill kits and to help with spill plans. Any enforcement would be done by the City. The initial types of

businesses inspected are those that have a higher potential as a source. Examples of these include gas stations, auto repair and manufacturing.

Welch added that the City’s own oil and grease program focuses on voluntary compliance and any enforcement is done by the City.

Bode expressed initial concerns about enforcement from the inspections based on recent experience with the Health Department (COVID) and wanted to avoid similar financial peril for small business owners. He would prefer Lynden being able to maintain their own autonomy with this program.

Banham said that the City can terminate the agreement if the City does not like how things are proceeding once the program and inspections have started. Bode expressed interest in having staff review that provision.

Welch said that the County will only inspect businesses from the list of 290 provided by the City. Additionally, Meijer said that the City of Lynden would be able to have a representative from the City come along on the inspections.

Action

The Public Works Committee concurred to recommend forwarding the Interlocal Agreement with the Whatcom County Health Department to City Council for approval.

3. Wastewater Treatment Plant Maintenance Building Design-Build Process

Bode introduced Angie Estey from Trane. Estey presented the Trane/Omnia Partners program in which state and public entities utilize Request for Proposal (RFP) contract processes (preferential pricing interlocal program) with fixed pricing. This is similar to the pricing and timeline of the Department of Enterprise Services (DES) process. Trane is one of approximately a dozen of firms in Washington that are under contract with the State DES to perform this design-build process.

Estey discussed the benefits of design-build, collaboration, and next steps.

Banham said that building suppliers and contractors would work with Trane to provide the finalization of design and construction. The City would work with Trane on the preliminary elements and design review.

Kuiken asked Estey if she would come and do a presentation when the item goes to Council, and she agreed to come.

Action

The Public Works Committee concurred to recommend forwarding the contract with Trane and Omnia to City Council for approval.

4. Award Janitorial Bids (2023)

Two bids were received November 15, 2022. Staff recommends awarding to MSNW Group, the lowest responsive and responsible bidder. MSNW has been the City’s janitorial service provider since 2009.

Action

The Public Works Committee concurred to recommend forwarding the contract with MSNW Group to City Council for approval.

5. Role of City with WID FEMA-Funded Ditch Cleaning

Sumas is assisting surrounding Water Improvement Districts (WIDs) with contracting for flood-related ditch cleaning services to be funded by FEMA. The City has an Interlocal Agreement with surrounding WIDs. Banham posed the question to the Committee “What role does City of Lynden want to have?”

Bode said that the Sumas’ ditches are filled with silt from 2021 flooding. Banham said WIDs identified that this silt is from the 2021 flooding and will use FEMA money from the 2021 Federal flood event (WA-4635DR).

Korthuis and Bode said that it would be beneficial to work with the farmers on this project. DeValois pointed out that cooperating with local agriculture is included in the City’s Comprehensive Plan.

Action

The Public Works Committee concurred to recommend that staff pursue working with local Water Improvement Districts for FEMA-funded ditch cleaning.

6. Recommendation to Award Bid – Northwest Washington Fairgrounds

19 bids were received for this project. The Certified Bid Tabulation was presented at the meeting. This project is funded by Ecology and City ARPA funds.

Banham discussed that the bids are under review by the City attorney for a possible bid irregularity associated with some of the Ecology requirements.

Additionally, staff is in the process of finalizing an easement with the fairgrounds as required by the Department of Ecology.

Action

The Public Works Committee recommended forwarding the bids to City Council to award to the lowest responsive and responsible bidder based on the determination of the City Attorney Bob Carmichael.

INFORMATION ITEMS

7. Annual Supplies/Services Bids to be Awarded

- 1) Rocks, Gravel, Materials
- 2) Chemicals
- 3) Lab Analysis (no bids received)
- 4) Grease Traps
- 5) Mowing
- 6) Pest Control

King presented the bid tabs for the above projects. Low bidders for each item will be notified next week. No bid was received for lab analysis, so the City will continue using the certified labs they already use.

8. Fishtrap Creek Bank Erosion at South Park and Parkview Streets

Sandal explained the eroding location for this and that it's affecting a City right of way area. He said that Dave Timmer met with Darrel Gray with Nooksack Salmon Enhancement (NSEA) to inspect this area. The adjoining properties may have some responsibility for erosion repair.

Bode asked what the next step is and asked whether staff will apply to Washington State Department of Fish and Wildlife (WDFW) to help repair this. Sandal said plans will be drafted and that permits will need to be issued by WDFW that will identify what type of work could be done to enforce the bank and that the City could work with NSEA repair this.

9. Projects Update

East Front Street Stabilization – Emergency Repair

DeKoster was scheduled to start December 5; however, Sandal said the weather has not been good for paving, so they did not start project yet. Banham reminded the Committee that this is a temporary solution to the stabilization.

Pepin Creek Main Street Bridge

Sandal said that Interwest Construction will be paving or placing gravel on the bridge approaches so the road can be opened by Friday, December 23rd. Bode asked if asphalt grindings could be used instead of gravel. Sandal explained that the gravel will act like the grindings would.

De Valois asked if it would be one way traffic. Sandal explained there would be two narrow lanes. One-way traffic may be needed during some phases of paving. The final asphalt lift will likely be applied next spring.

Pepin Creek Relocation and Street Infrastructure

Banham said City is pursuing a Federal Rebuilding American Infrastructure with Sustainability and Equity (RAISE) planning grant of \$2 million in 2023. The grant application is due at the end of February.

West Main Street - Berthusen Roundabout

Banham stated that \$4.5 million in Community Economic and Revitalization Board (CERB) funding was received. The pre-contract conditions must be met by May 18, 2023, after which time the contract will be signed. Bode asked if this was on a 20-year loan. Banham confirmed that it was. Korthuis said the initial offer letter was signed following City Council approval of the Resolution to Accept Funding on Monday night.

South 6th Street CIPP

Banham said Iron Horse is finishing construction. The City is working with Western Refinery Services to replace manhole rings and covers that were identified as needing replacement during the project.

Guide Meridian Pump Station

Banham said that the precast base has been set for the wet well and Colacurcio is working on the gravity sewer line to the west.

South Park Water/Street/Sidewalk Improvements

Sandal and Banham said that the community coordination has been excellent on this project. The project has been suspended due to weather with the contractor keeping the street in a travelable condition. The contractor will not be charged working days during this suspension.

Bradley Road Complete Street Improvement

The City is seeking a Congressional earmark for the roundabout portion of this project. The State funding is currently in the third phase of a 16-year funding program.

Cedar Drive Utility and Street Improvements

Banham said that since the last Public Works Committee meeting, staff has been looking into the possibility of providing a sidewalk on one side of Cedar Drive.

8691 Benson Road

Banham stated that the City has hired a contractor for asbestos abatement. The training burn will occur in early 2023.

Wastewater Treatment Plant Expansion

Banham said that completion of the SEPA and the Engineering Report makes the project eligible for an Ecology grant/loan, which was applied for in September. Staff expects to hear results of the application in January 2023.

Jim Kaemingk Trail Extension - Depot to 8th

Banham stated that United States Fish and Wildlife comments were received by the Army Corps of Engineers (ACOE), but the ACOE is still waiting for National Marine Fisheries Service comments. Staff is asking for assistance from the lobbyist with Congressional delegation.

Bode asked if an agreement had been reached for the Top family yet. Banham said this is still being discussed with the attorneys.

Community Center Renovation

Banham stated that interviews are scheduled with two firms on December 8. He added that the intent is to repair the exterior envelope of the building, including roofing, HVAC, and seismic upgrades. Staff may pursue a future grant if additional needed renovations are identified.

Pine Street Bridge

The City received a \$5.5M Public Works Trust Fund loan (20 years, 1.39%). Sandal said the loan interest rate of 1.39% will drop by one-quarter percent if project finished within four years and one-half percent if finished in three years.

Banham said that box culverts are expected to be used for this project.

10. New Vector Truck Received by Systems Crew

Banham said the Systems crew received their new vector and the old one will also be kept in service.

11. Truck Parking on Front Street

The Committee reviewed an email from a resident regarding extended-length truck parking on Front Street. Banham explained that City code already has a section that addresses vehicle length for the downtown corridor.

Bode said that the decision to include angle parking on Front Street was to provide more parking than parallel parking would allow. The Committee discussed that the existing angle parking encourages slower speeds.

The Committee agreed that the existing code is adequate and does not need to be changed.

NEW BUSINESS:

12. Concern about Location of South B.C. Avenue and Front Street Crosswalk

Location

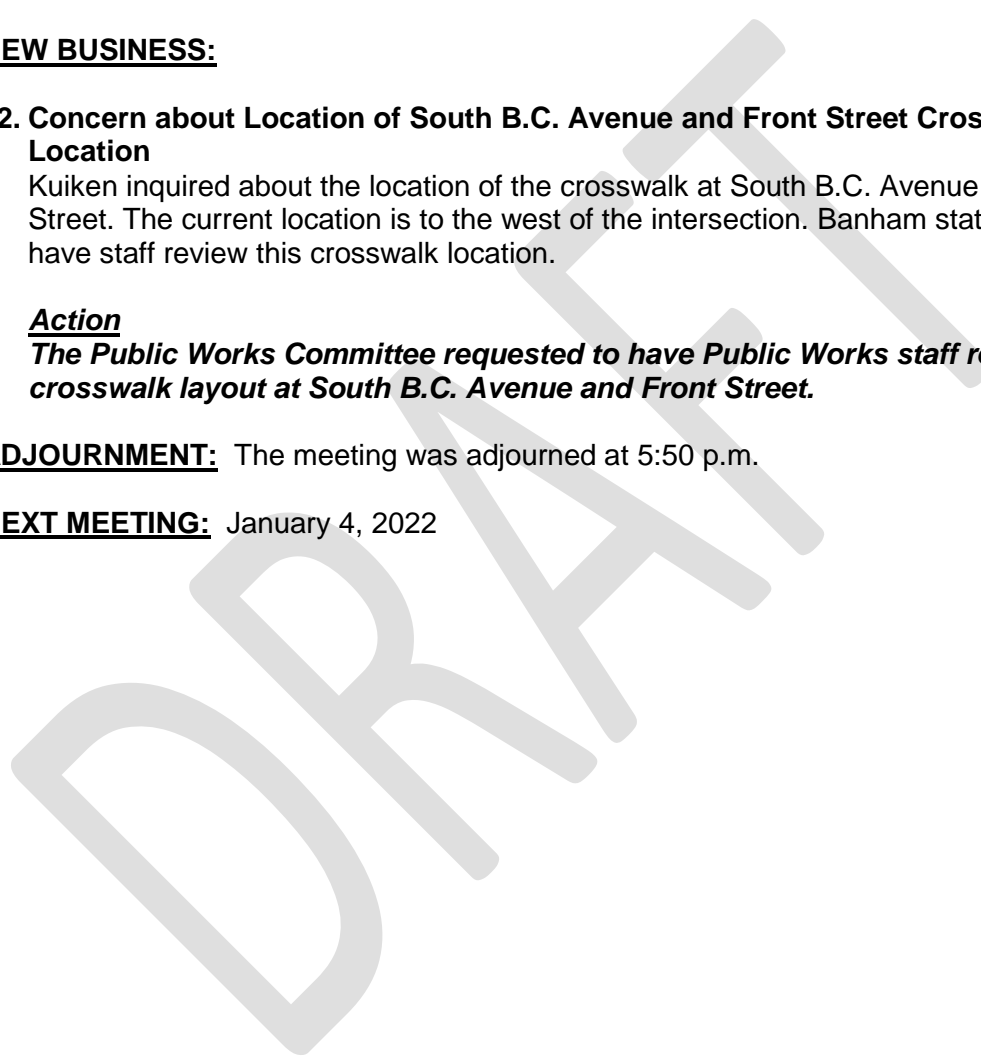
Kuiken inquired about the location of the crosswalk at South B.C. Avenue and Front Street. The current location is to the west of the intersection. Banham stated that he will have staff review this crosswalk location.

Action

The Public Works Committee requested to have Public Works staff review the crosswalk layout at South B.C. Avenue and Front Street.

ADJOURNMENT: The meeting was adjourned at 5:50 p.m.

NEXT MEETING: January 4, 2022



CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 19, 2022	
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: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Summary Statement:		
Recommended Action:		

December 19, 2022
Monday

4:00 PM - 5:00 PM Parks Committee Meeting -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM Copy: Council Meeting -- Annex Council Chamber

December 20, 2022
Tuesday

9:00 AM - 11:00 AM Copy: Small Cities Meeting -- City Hall 1st Floor Large Conference Room

10:00 AM - 11:00 AM Copy: Airport Board Meeting -- City Hall 2nd Floor Large Conference Room
Welcome Board Members & Guests,

The Airport board meeting will be in person at City Hall, 2nd Floor Conference room. The meeting takes place the third Tuesday of each month at 10:00 A.M.

December 21, 2022
Wednesday

4:00 PM - 5:30 PM Community Development Committee Mtg -- City Hall 2nd Floor Conf Rm

December 22, 2022
Thursday

7:00 PM - 9:00 PM Planning Commission -- TBD: Virtual Meeting or Annex Council Chamber

December 23, 2022
Friday

All Day PAYDAY
PAYDAY

December 26, 2022

Monday

306

All Day

Christmas Holiday (Observed) -- United States