



Mayor  
Scott Korthuis

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

City Council Agenda - Regular Meeting  
City Hall Annex, 205 4<sup>th</sup> Street  
March 02, 2020

## **Call to Order**

## **Pledge of Allegiance**

## **Roll Call**

## **Oath of Office**

- [1.](#) Oath of Office for Officer Pluschakov

## **Approval of Minutes**

- [2.](#) Draft Council Minutes- Regular Meeting
- [3.](#) Draft Special Council Meeting (CDC Meeting) Minutes of 2-19-2020

## **Items from the Audience**

### ***Scheduled***

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

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

## **Consent Agenda**

- [4.](#) Approval of Payroll and Claims
- [5.](#) Resolution No. 1019 Authorizing the Acceptance of Whatcom County Economic Development Investment Program Grant and Loan Funds to Improve West Front Street to City Arterial Standards

**Public Hearing**

- [6.](#) Ordinance No. 1604 - Extension of the Pepin Creek Moratorium

**Unfinished Business**

- [7.](#) Ordinance No. 1601 – Comprehensive Plan Amendment 19-01 (Pepin Creek)
- [8.](#) Ordinance No. 1600 - Pepin Creek Subarea Plan

**New Business**

- [9.](#) Amendment to Downtown Residential Parking Agreement – 610 Front Street
- [10.](#) Air Space Encroachment Easement Agreement – 610 Front Street

**Other Business**

- [11.](#) Draft Public Works Committee Meeting Minutes February 13, 2020
- [12.](#) Outlook Calendar

**Executive Session**

**Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Oath of Office for Officer Alex Pluschakov	
<b>Section of Agenda:</b>	Oath of Office	
<b>Department:</b>	Police	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
Oath of Office – Officer Pluschakov		
<b>Summary Statement:</b>		
Oath of Office Ceremony for Officer Alex Pluschakov		
<b>Recommended Action:</b>		
Mayor Korthuis to swear in Alex Pluschakov as a Lynden Police Officer.		

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



## Police Officer Oath of Office

I, \_\_\_\_\_ , do solemnly swear to perform my duties as Police Officer for the City of Lynden to the best of my ability; to serve the citizens of the City of Lynden with compassion, courage and integrity; and to uphold the laws and constitutions of the United States of America, the State of Washington, and the City of Lynden; so help me God.

\_\_\_\_\_  
Police Officer Signature Date

\_\_\_\_\_  
Mayor Signature Date

\_\_\_\_\_  
Chief Steve Taylor Date



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Draft Council Minutes- Regular Meeting	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft Council Minutes- Regular Meeting	
<b>Summary Statement:</b>	Draft Council Minutes- Regular Meeting	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN



## CITY COUNCIL MINUTES OF REGULAR MEETING

February 18, 2020

### 1. CALL TO ORDER

Mayor Korthuis called to order the February 18, 2020 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

### ROLL CALL

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

Members absent: Councilor Kuiken absent with notice.

Staff present: Finance Director Anthony Burrows, Parks Director Vern Meenderinck, Police Chief Steve Taylor, Planning Director Heidi Gudde, Public Works Director Steve Banham, City Clerk Pam Brown, and City Administrator Mike Martin.

**OATH OF OFFICE - None**

### APPROVAL OF MINUTES

*Councilor De Valois moved and Councilor Wohrab seconded to approve the regular council minutes of February 3, 2020. Motion approved on a 6-0 vote.*

### ITEMS FROM THE AUDIENCE

Scheduled: None

Unscheduled: None

### 2. CONSENT AGENDA

#### **Approval of Payroll Disbursed – February 1 through February 15, 2020**

Paychex EFT .....	\$283,034.20
City of Lynden EFT.....	\$63,445.29
Warrant Liability .....	\$59,940.76
<b>Subtotal</b>	<b>\$406,420.25</b>
Paychex EFT Liability	\$6488.05
<b>Total EFT &amp; Other Liabilities</b>	<b>\$412,908.30</b>



CITY COUNCIL  
MINUTES OF REGULAR MEETING

**Approval of Claims – February 21, 2020**

Manual Warrants No.	<u>74719</u>	through	<u>74721</u>		\$8,335.06
EFT Payment Pre-Pays					\$156,778.39
				Sub Total Pre-Pays	\$165,113.45
Voucher Warrants No.	<u>74722</u>	through	<u>74849</u>		\$652,750.11
EFT Payments					\$26,373.60
				Sub Total	\$679,123.71
				Total Accts. Payable	<b>\$844,237.16</b>

Re-appointment of Historic Preservation Commissioners – Patricia Leach, Troy Luginbill and Karin Schulhauser

Set the Public Hearing Date (March 2, 2020) to Consider Extension of the Pepin Creek Moratorium

Whatcom County Jail Use Agreement – Amendment #1

The Amendment adds Kittitas County Jail (and removes Yakima County Jail) as a correctional facility to utilize in the event of overflow at the Whatcom County Jail.

Amending Addendum C of the 2020 Budget

On December 2, 2019 the City Council approved the 2020 Annual Budget complete with addendums. Addendum C to the 2020 Budget lists the Sewer rates by consumer category. A correction to that addendum has been requested by Public Works changing the addendum to set rates for additional Mobile Home units at a monthly base charge of \$28.03 under the Multi-Family Consumer Category.

A mobile home park was recently connected to the City sanitary sewer system and since this is the first park to be connected a rate had not been established and was requested by the Public Works Committee at their January 8th meeting. This new rate would be retroactive to January 1, 2020.

The Public Works Committee reviewed this new rate at their meeting on February 13th and recommended approval by Consent. The Finance Committee reviewed this issue at their committee meeting on February 18, 2020 and gave approval for submittal as a Consent item for the full City Council.



## Chamber of Commerce 2020 Events

***Councilor Bode moved and Councilor DeValois seconded to approve the Consent Agenda. Motion approved on a 6-0 vote.***

Mayor Korthuis thanked the members of the Historic Preservation Commission for their service.

### **3. PUBLIC HEARING**

#### Resolution No. 1013 Public Hearing for Water System Plan

The City of Lynden has developed an updated Water System Plan referenced in the City's overall Comprehensive Plan (Chapter 5, Section 5.2.1), as required under the State's Growth Management Act.

The primary purpose of the City of Lynden Water System Plan (WSP) is to identify and schedule water system improvements that correct existing system deficiencies and ensure a safe and reliable supply of water to current and future customers. This WSP complies with Washington State Department of Health (DOH) regulations under Chapter 246-290 Washington Administrative Code (WAC), which was revised in 2017 to require water purveyors to update their water system plans every 10 years. The City's previous WSP was prepared in November 2009.

This updated 2019 WSP reflects 2040 population projections and the City's current Urban Growth Area (UGA), which are consistent with the City's Comprehensive Plan and Whatcom County's Comprehensive Plan. The WSP also reflects improvements and changes to the water system since the completion of the 2009 WSP.

The WSP presents a description of the existing water system and service area, a forecast of future water demands, policies and design criteria for water system operation and improvements, the operations and maintenance program, staffing requirements, a schedule of improvements, and a financial plan to accomplish the improvements. It also includes several ancillary elements that include a water use efficiency plan, a water quality monitoring plan, watershed control information, a cross-connection control program and an emergency response plan.



The WSP was submitted to the Department of Health and approval was received on January 15, 2020. The full document is available upon request and is posted to the City's website.

Mayor Korthuis opened the Public Hearing at 7:06.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 7:06.

***Councilor Bode moved and Councilor DeValois seconded to approve the City's Water System Plan through Resolution No. 1013 and authorize the mayor's signature on the document.***

#### 4. UNFINISHED BUSINESS -None

#### 5. NEW BUSINESS

##### Preliminary Plat Approval – DeJong Long Plat 19-02

The DeJong family and their agent, Jerry Blankers, are requesting preliminary plat approval for the DeJong long plat. This long plat is located north of Aaron Drive near Line Road. The property is approximately 9.44 acres in size and is zoned as residential multi-family, RM-3. The plat does not propose specific housing types but divides the property into 23 lots accommodating a maximum capacity of 102 multi-family units. The proposed street has been designed to meet City standards and the two access points on Aaron Drive. The development of the plat is proposed in two phases. Phase 2 will include lots 12-23 and the completion of the internal street loop (see plat drawings for more detail). The application went to a public hearing before the Planning Commission on January 23 where a recommendation for approval was given with conditions. The conditions which affect the plat design, outside of typical engineering standards, include: a prohibition of driveways along Aaron Drive, the requirement that balconies on second floors, if proposed, be appropriately screened from Aaron Drive, and that the plat continue the establishment of a pedestrian trail at its north property line. The Council is being asked to consider preliminary approval for the DeJong Long Plat. Final plat approval for each phase will return to Council following infrastructure improvements.

***Councilor Lenssen moved and Councilor Wohlrab seconded to grant preliminary approval of the DeJong Long Plat 19-02 consistent with Planning Commission Resolution 19-02, and to authorize the mayor's signature on the Findings of Fact of Fact and Conclusions of Law. Motion approved on a 6-0 vote.***



## 6. OTHER BUSINESS

### Council Committee Updates

Councilor Wohlrab reporting for the Public Safety Committee which involved discussion of:

- Welcome Chief Steve Taylor
- Chamber of Commerce 2020 Events
- Lynden Watch program
- Fire Dept. Monthly report
- Fire Dept. Hiring of firefighter
- RFQ for fire station remodel
- Fire Marshall responsibilities
- Jail Use agreement with Whatcom County
- Lynden City Park shooting

Councilor De Valois reporting for the Parks Committee which involved discussion of:

- Hiring Maintenance Supervisor in place of 2 seasonal hires
- Hiring 2 seasonal hires
- POW flags required by state law
- Bender Park restroom upgrades
- Replace lawnmower
- King Architects project for Benson Road Barn
- Benson Road land lease
- Park Impact Fees

Councilor Strengholt reporting for the Finance Committee which involved discussion of:

- Payroll and Claims
- Overtime hours for police and fire
- Sales tax is down
- Clothing allowance
- Offering life insurance for city employees
- Dept. of Revenue sales tax data

Mayor reminded council that the Community Development Committee meeting was noticed as a special council meeting due to the possible quorum of council members expected to be in attendance. The meeting is scheduled at 4:00 p.m. in the 1<sup>st</sup> floor conference room and the

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



public is invited to attend. The topic of discussion is the Pepin Creek Project which is being referred to as Pepin Lite.

### **7. EXECUTIVE SESSION**

Council did not have an executive session.

### **8. ADJOURNMENT**

The February 18, 2020 regular session of the Lynden City Council adjourned at 7:23 p.m.

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Pamela D. Brown, MMC  
City Clerk

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Scott Korthuis  
Mayor

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Special Council Meeting (CDC Meeting) Minutes of 2-19-2020	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Draft Special Council Meeting Minutes (Community Development Committee) of February 19, 2020		
<b>Summary Statement:</b>		
Draft Special Council Meeting (CDC) Minutes of 2-19-2020 attached for review. These minutes pertain to a meeting that focused on a phasing plan for the Pepin Sub-area.		
<b>Recommended Action:</b>		
Council review and approval.		



# CITY OF LYNDEN



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

## **CITY COUNCIL SPECIAL MEETING & COMMUNITY DEVELOPMENT COMMITTEE MEETING MINUTES**

4:00 PM February 19, 2020  
1<sup>st</sup> Floor Conference Room, City Hall

**A. Mayor Korthuis called the meeting to order - 3:59pm**

**B. ROLL CALL**

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

**Staff:** Mike Martin, Heidi Gudde, Steve Banham

**Residents / Public / Press also in attendance** – no public comment taken

**C. DISCUSSION ITEMS: Pepin Lite Concepts**

Presentation of the Pepin Lite Concept given by Planning Director, Heidi Gudde (see attached presentation handout). It outlined the goals for what has been dubbed, Pepin Lite.

- Reduction in infrastructure costs
- Lifting the moratorium
- Focusing on transportation network improvements with ancillary benefits of flood protection and habitat improvement.

The presentation began by taking a high-level look at what we know about the Pepin Creek Sub-Area:

- The City has identified a potential area of benefit. Has purchase property within the sub-area and downstream. Has placed a moratorium on 85 acres of the sub-area.
- The adopted sub-area plan calls for a replacement of the existing arterial network. That is a focus on using Pepin Parkway as the transportation spine of the area rather than Double Ditch Road and Benson Road.

- The City also has a number of great amenities in the area that should be kept in mind as planning continues. This included Benson Park, Dickenson Park, and Isom Elementary.
- The City has observed, and modeled, the fact that in a flood stage not all water goes south into the Pepin and Fishtrap channels and that if all flood water was directed to the south (the downstream reach) there is an increased risk of property damage due to erosion of the creek banks and flooding of property.

Pepin Lite concept strives to anticipate the future growth of the moratorium area and the next logical annexation area by improving roads and constructing creek channel in these areas. This includes moving Pepin creek away from the southern end of Double Ditch Road and improving this area. Building the Main Street bridge over the Pepin channel.

These improvements set the stage for developer-built, or fee funded improvements that would create Pepin Parkway and additional portions of the creek channel.

Later, improvements to Benson Road can be done using only the ROW that can be dedicated without moving the adjacent ditch. The southern portion of Benson can be improved to the standard of a narrower neighborhood road with frequent stop conditions and / or traffic calming devices added to discourage the use of this street. This reduction in through traffic improves the safety of both the airport runway and the frontage of Isom Elementary.

It's likely that intersection improvements at Badger and Benson as well as Double Ditch and Main Street may need to be implemented as the Pepin Parkway route begins to handle the bulk of regional traffic through the area.

Beyond the next logical annexation there remains a number of unknowns. The presentation included a couple ideas for the future of this area but noted that questions remain.

**Questions:** Staff fielded a number of questions from Council members including those related to costs, classification of roadways, and financial strategies.

Staff anticipates that cost estimates for the steps outlined as "Pepin Lite" will be available at the end of March.

**D. Meeting Adjourned - 4:58pm**

COMMUNITY DEVELOPMENT COMMITTEE MEETING / SPECIAL COUNCIL  
MEETING MINUTES

**Special Council Meeting**

4:00 PM February 19, 2020

1st Floor Conference Room, City Hall

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Heidi Gudde, Planning Director

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Scott Korthuis, Mayor

*Next CDC Meeting Date: Rescheduled from March 18 to March 26, 2020*

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 3, 2020	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Resolution No. 1019 Authorizing the Acceptance of Whatcom County Economic Development Investment Program Grant and Loan Funds to Improve West Front Street to City Arterial Standards	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Resolution No. 1019	
<b>Summary Statement:</b>	<p>The City of Lynden is pursuing a combination grant/loan from Whatcom County’s Economic Development Investment (EDI) Fund for the reconstruction of west Front Street to City arterial standard. This street is a federally classified street and identified as a City “impact fee funded” street. Local governments may apply to Whatcom County for EDI funds to construct publicly owned infrastructure, facilities, and related improvements. EDI funds are intended to encourage the creation or retention of private sector businesses and jobs in Whatcom County. Staff believes EDI funding is an appropriate source for the west Front Street improvements since there is planned development in 2020 on this substandard street per the development agreement recently approved for Front Street Station. Resolution No. 1019 will demonstrate to the Whatcom County Council the support of the Lynden City Council for this street improvement project and the City’s commitment to repay the loan using a combination of TBD, Impact Fees and General Funds.</p>	
<b>Recommended Action:</b>	That City Council authorize the Mayor Pro-Tem’s signature, in lieu of the Mayor’s due to his recusal, on Resolution No. 1019.	

**RESOLUTION NO. 1019**

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF WHATCOM COUNTY ECONOMIC DEVELOPMENT INVESTMENT PROGRAM GRANT AND LOAN FUNDS TO IMPROVE WEST FRONT STREET TO CITY ARTERIAL STANDARDS**

**WHEREAS**, the City identified west Front Street as an impact fee street in the adopted Transportation Element of the 2016 approved Comprehensive Plan; and

**WHEREAS**, the current street between Duffner Ditch and Tromp Road was never constructed to all-weather street standards, is in poor condition, and does not provide for freight mobility or non-motorized use normally associated with commercial activity; and

**WHEREAS**, the City requested and Whatcom Council of Governments (WCOG) recommended adding west Front Street to the list of Federally Classified streets in the County stating that it would “improve safety, efficiency and mobility in this increasingly important commercial industrial section of the City”; and

**WHEREAS**, Washington State Department of Transportation concurred with the WCOG recommendation and whereas Federal Highway Administration (FHWA) approved the addition of west Front Street as an Urban Minor Arterial (route 8169); and

**WHEREAS**, improvements to west Front Street are consistent with the concurrency provisions of the City of Lynden’s Capital Facility Plan Element of the Comprehensive Plan; and

**WHEREAS**, Whatcom County has established the Economic Development Investment (EDI) Program which uses a rebate of locally collected sales taxes to finance a revolving loan and grant program to encourage creation or retention of private sector jobs; and

**WHEREAS**, local governments are eligible to apply for EDI funds for the construction and rehabilitation of publicly owned infrastructure including streets and utilities which enable or encourage the creation or retention of private sector businesses and jobs in Whatcom County; and

**WHEREAS**, the improvement of west Front Street is consistent with the criteria of the EDI funding program guidelines and will facilitate the growth of both established and prospective industries and jobs in the area; and

**WHEREAS**, City of Lynden applied for Whatcom County (EDI) Funds to finance west Front Street Arterial Standard improvements and the EDI Board has recommended funding in the form of a twenty-year (20) loan of \$2,000,000 at a 1% interest rate along with a grant of \$1,000,000.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Lynden, Whatcom County, Washington that:

Section 1: The Lynden City Council does hereby authorize the application and acceptance of Whatcom County Economic Development Investment (EDI) grant and loan funds to finance the west Front Street Arterial Improvements project and further authorizes the City to enter into an agreement with Whatcom County for project funding.

Section 2: The City agrees that the use of EDI Funds will improve west Front Street to City Arterial Street Standards allowing the full development of commercial business-zoned land to expand along this important corridor.

Section 3: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this code and each section, regardless of whether any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if for any reason this Resolution is declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 4: This Resolution shall be in full force and effect on \_\_\_\_\_, 2020.

**PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF \_\_\_ IN FAVOR AND \_\_\_ IN OPPOSITION, AND SIGNED BY THE MAYOR THIS \_\_\_ DAY OF \_\_\_\_\_, 2020.**

\_\_\_\_\_  
Mayor Pro-Tem Gary Bode

ATTEST:

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

APPROVED AS TO FORM:

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

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Public Hearing for Ord 1604, Extension of the Pepin Creek Moratorium	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Moratorium Area Map, Ordinance 1604 Extending the Moratorium (to September 2020)		
<b>Summary Statement:</b>		
<p>The Pepin Creek moratorium has been in place since September of 2016. It was established in recognition of significant constraints associated with what is now known as the Pepin Creek Sub-area. The City has undertaken significant efforts to examine these constraints and develop solutions which would allow for growth in this area.</p> <p>Since then the City Council approved the Pepin Creek Sub-Area Plan and Comprehensive Plan amendment that addresses circulation, open space and assigned land use and zoning within the area.</p> <p>Additionally, because of the significant infrastructure improvements associated with the creek re-alignment and the improvement of Benson and Double Ditch Roads, Council has recognized that work must be undertaken in a phased approach and planning efforts continue.</p> <p>As these final elements are defined and executed, City staff recommends that the Council extend the moratorium an additional 6 months from March 9, 2020 to September 2020.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1604, extending by 6 months, the existing moratorium of development on those properties previously identified within the Pepin Creek Sub-area.		



**ORDINANCE NO. 1604****INTERIM ORDINANCE EXTENDING THE MORATORIUM ON SUBDIVISION AND PLANNED RESIDENTIAL DEVELOPMENT APPLICATIONS AND CERTAIN BUILDING PERMIT APPLICATIONS FOR PROPERTY LOCATED WITHIN THE PEPIN CREEK PROJECT AREA**

**WHEREAS**, on August 19, 2013, the City of Lynden (“City”) adopted the April 2009 Amendment to the January 1992 Stormwater Management Plan identifying the “Pepin Creek” project (“Pepin Creek Project” or “Project”); and

**WHEREAS**, the Pepin Creek Project includes the relocation and combination of surface water flows from Double Ditch and Benson Ditch between Badger Road and Main Street into one “new” watercourse known as Pepin Creek; and

**WHEREAS**, the general vicinity of the Pepin Creek Project has experienced instances of extreme flooding in recent years, causing hundreds of thousands of dollars in property damage, closing and damaging public roads and infrastructure, cutting residents off from emergency access, and damaging agricultural land; and

**WHEREAS**, the Pepin Creek Project is designed to implement a new drainage pattern to protect public roads and public road infrastructure, substantially reduce flooding, facilitate improved storm water control, and provide the ancillary benefit of natural fish and wildlife habitat; and

**WHEREAS**, the City has completed acquisition of several properties necessary to accommodate the new Pepin Creek corridor; and

**WHEREAS**, the City must continue to undertake numerous complex and detailed planning, funding, design, permitting, construction and other associated issues to complete the Pepin Creek Project (“Pepin Creek Project Issues”); and

**WHEREAS**, Pepin Creek Project Issues include without limitation:

- corridor design and permitting for the Pepin Creek Project;
- locating and increasing stormwater capacity and coordinating the associated street and utility infrastructure locations;
- design and permitting options associated with necessary downstream bank stabilization associated with the Pepin Creek Project;
- identifying financing and equitable allocation of system construction costs; and

**WHEREAS**, the Council has adopted, on October 16, 2017, Resolution No. 975, which is a Resolution of Intent outlining the strategies and corresponding timeline to resolve Pepin Creek Project Issues; and

**WHEREAS**, that area of the city believed to be affected by Pepin Creek Project Issues at this time and for purposes of this Ordinance include without limitation the area shown on Exhibit A (“Pepin Creek Project Area”), which is incorporated herein; and

**WHEREAS**, Ordinance No. 1509, *An Ordinance of the City of Lynden to provide Annexation to the City of Lynden* adopted on June 6, 2016 (“Ordinance No. 1509”), annexed property in the Pepin Creek Project Area into the City of Lynden; and

**WHEREAS**, Ordinance No. 1509 included a clause stating that the “City has identified the need for the completion of the Pepin Creek project prior to development” of the property annexed into the City; and

**WHEREAS**, except as set forth herein, property development within the Pepin Creek Project Area will likely disrupt the City’s ability to effectively address Pepin Creek Project Issues; and

**WHEREAS**, the adoption of land use and zoning regulations is a valid exercise of the City's regulatory authority and is specifically authorized by RCW 35A.63.100; and

**WHEREAS**, Ordinance No. 1513, *Ordinance Establishing an Emergency Moratorium on Subdivision and Planned Residential Development Applications and Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on September 19, 2016; and

**WHEREAS**, Ordinance No. 1514, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on October 17, 2016; and

**WHEREAS**, Ordinance No. 1525, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on April 17, 2017; and

**WHEREAS**, Ordinance No. 1538, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on October 16, 2017; and

**WHEREAS**, Ordinance No. 1555, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on May 7, 2018; and

**WHEREAS**, Ordinance No. 1562, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building*

*Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on September 17, 2018; and

**WHEREAS**, Ordinance No. 1577, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on March 4, 2019; and

**WHEREAS**, Ordinance No. 1591, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on September 3, 2019; and

**WHEREAS**, the City held a public hearing on this proposed Ordinance 1604 on the 2nd day of March 2020; and

**WHEREAS**, a continuation of the moratorium on development in the Pepin Creek Project Area is required to allow for proper planning and implementation of the Pepin Creek Project; and

**WHEREAS**, adoption of this ordinance extending the moratorium to assure that Pepin Creek Project Issues are resolved consistent with the Project addresses a public emergency and shall qualify as a public emergency ordinance; and

**WHEREAS**, the public emergency ordinance is necessary to protect the public health, safety, and welfare of the community, and public property; and

**WHEREAS**, this public emergency moratorium ordinance, as provided in RCW 35.A.12.130, when passed by a majority plus one of the whole membership of the council, is effective upon adoption; and

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

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

Section 1. Findings of Fact. The City Council adopts the above “WHEREAS” recitals as findings of fact in support of this Ordinance. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Moratorium Established For New Subdivisions. The City shall not accept applications for any new subdivisions (including both short plats and long plats) or for any new planned residential developments for property located in whole or in part in the Pepin Creek Project Area, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Moratorium Established For Certain Building Permit Applications. The City shall not accept building permit applications in the Pepin Creek Project Area for new structures intended for human occupancy or for additions to existing residential structures of more than fifty percent (50%) in square footage, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 4. Resolution of Pepin Creek Project Issues. During the term of this interim ordinance the City shall work on resolving the following issues.

- A. Corridor Design. The Pepin Creek Project Area has demonstrated stormwater capacity deficiencies. The City must complete an analysis and design of a new stormwater system with adequate capacity to fully accommodate basin flow. This would also include locating the street and utility infrastructure to function with that new system.
- B. Downstream Stabilization. The existing Double Ditch channel downstream from Main Street to the confluence with Fishtrap Creek presently has unstable banks. The City intends to identify corrective options, including necessary design, permitting, and funding, and consider construction implementation of corrective options.
- C. Financial Strategy. The City must develop a financing plan and method for equitable allocation of system construction costs and responsibilities among property owners in the Pepin Creek Project Area.

Section 5. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this Ordinance shall control.

Section 6. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR on the \_\_\_\_\_ day of March 2020,

\_\_\_\_\_  
MAYOR

ATTEST:

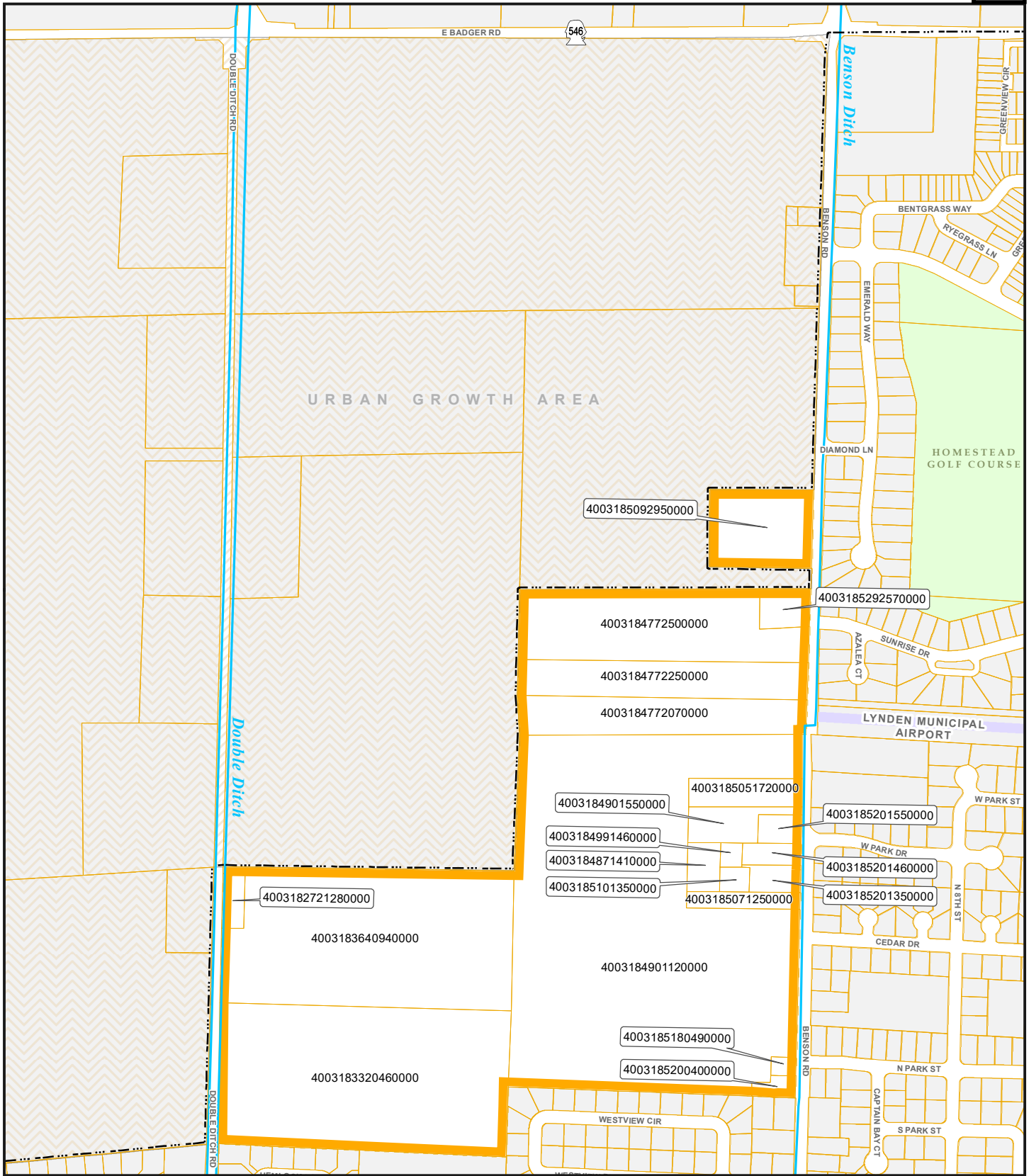
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CITY CLERK

APPROVED AS TO FORM:

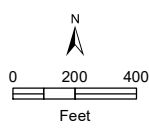
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CITY ATTORNEY

# Exhibit A

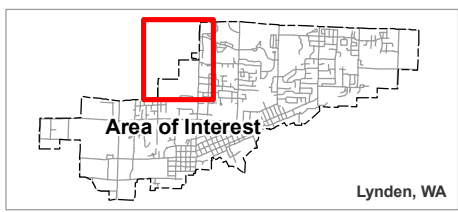
## Properties Located within Pepin Creek Project Area



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



Updated: September 19, 2016  
 Doc. Path: \\Saturn\gis\Projects\Public Works\PeppinCreek\ExhibitA\COPY2.mxd



Lynden, WA

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Ord 1601 – Comprehensive Plan Amendment 19-01 (Pepin Creek)	
<b>Section of Agenda:</b>	Unfinished Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<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: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance 1601, Summary of Comprehensive Plan Amendment approved 12-16-2019		
<b>Summary Statement:</b>		
<p>The City of Lynden amended its Comprehensive Plan in December of 2018 to create the Pepin Creek Sub-Area.</p> <p>At that time the Future Land Use Map was also amended to reflect the arrangement of low and medium residential development proposed within the draft of the Pepin Creek Sub-Area Plan.</p> <p>Since that time the zoning layout of the Pepin Creek Sub-Area was altered. The amendment to the Comprehensive Plan proposed at the end of 2019 updates the Future Land Use Map to correspond with these revisions. On December 16, 2019 the City Council reviewed the Planning Commission’s recommendation and took public comment on the amendment. The Council subsequently voted to approve the change.</p> <p>Since then the review period with the Department of Commerce has concluded without comment and Planning staff has drafted the attached Ordinance 1601.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1601 amending the City’s Comprehensive Plan to reflect land use changes consistent with the Pepin Creek Sub-Area plan as presented and authorize the Mayor’s signature on the document.		

**ORDINANCE NO. 1601****AN ORDINANCE AMENDING  
THE CITY OF LYNDEN'S  
FUTURE LAND USE MAP**

WHEREAS, the City of Lynden's Comprehensive Plan, which was updated in 2016, established categories and locations for expected Future Land Use, through its Future Land Use Map; and

WHEREAS, on December 17, 2018 the City Council adopted Ordinance 1569 to amend the Future Land Use Map to identify the Pepin Creek Subarea and the its future land uses, and

WHEREAS, on December 16, 2019, after intensive planning, gathering public input, and work sessions with the City Planning Commission and City Council, the City Council adopted the Pepin Creek Subarea Plan which guides the logical development of land use within the Pepin Creek Subarea; and

WHEREAS, the adopted Pepin Creek Subarea plan proposed future land uses which reflected an alternate arrangement of residential densities within the Pepin Creek Subarea than adopted in 2018 with Ordinance 1569; and

WHEREAS, in 2019 the City of Lynden Planning Department, hereinafter called the "City," submitted a complete application for a Comprehensive Plan Amendment requesting to update the Future Land Use Map for parcels consistent with the Pepin Creek Subarea; and

WHEREAS, the Lynden Planning Commission held a public hearing on November 21, 2019 to accept public testimony on the proposed Comprehensive Plan Amendment and have recommended approval of the amendment; and

WHEREAS, the Washington State Department of Commerce review period of the Comprehensive Plan Amendment concluded without comment; and

WHEREAS, Lynden City Council held a public hearing on December 16, 2019 to further seek public input regarding the Amendment; and

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

Section 1 The City's Future Land Use Map, and exhibit of the of Lynden Comprehensive Plan is hereby amended to change the arrangement of the Low Density Residential and Medium Density Residential categories within the Pepin Creek Subarea to line up with the established zoning categories determined by the Pepin Creek Subarea Plan.

Section 2 The Future Land Use Map, as amended, is attached as Exhibit A.

Section 3 This Comprehensive Plan Amendment is granted on the following conditions:

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

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

Section 5 Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 6 Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 7 This ordinance shall be in force and effect on January 1, 2020.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR \_\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
**MAYOR**

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_



CITY ATTORNEY



# City of Lynden

## Comprehensive Plan Amendment Application

### I. APPLICANT INFORMATION

Name: Dave Timmer, City Planner, COL Planning Dept

Address: 300 4<sup>th</sup> St, Lynden WA

Telephone Number: 360-354-5532 Fax Number: \_\_\_\_\_

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 of Lynden is proposing revisions to its Future Land Use Map, specifically in regard to the Pepin Creek Subarea, thereby amending its Comprehensive Plan. The revisions adjust the locations of Medium Density Residential and Low Density Residential that were established in the 2018 CPA to reflect proposed changes to the Pepin Creek Subarea that have occurred as the Pepin Creek Subarea planning efforts have moved forward.

Additionally, the city is proposing a change to Table 2.3 Future Land Use and Zoning Designations in the Land Use Element chapter of the Comprehensive Plan. This change would add the RM-PC zoning designation and description to the RM (Medium Density Residential) category of that table.

### IV. FOR MAP AMENDMENTS:

A. Tax Parcel Number(s): NA

Site Address: \_\_\_\_\_

Total Acreage: \_\_\_\_\_

Property Owner(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

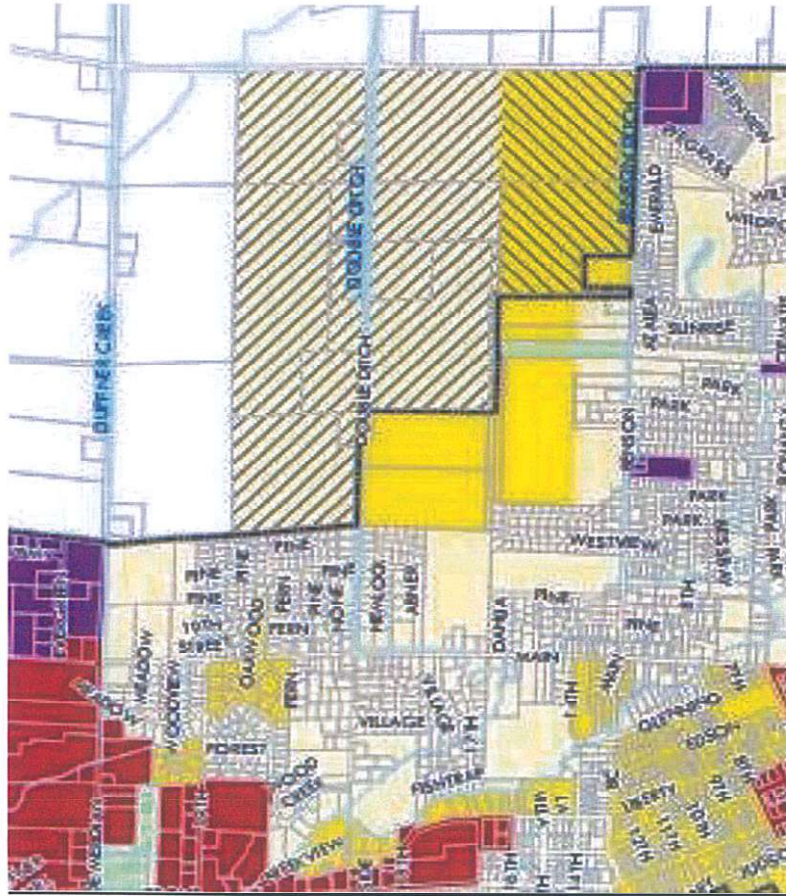
City, State & Zip Code: \_\_\_\_\_

Phone Number: (     ) \_\_\_\_\_

Please attach additional sheets if more than one parcel is involved

*Existing Comprehensive Plan Designation:*

**For Pepin Creek Subarea:** The adopted 2018 CPA changed the Future Land Use map for the Pepin Creek Subarea to look like this:



B. *Existing Zoning Designation:*

**Pepin Creek Subarea:**

County jurisdiction (in Lynden UGA but not city limits): zone AG

The portion in the City Limits is zoned: Residential Mixed Density and some RS-100. The forthcoming Subarea plan is proposing adjusting this zoning.

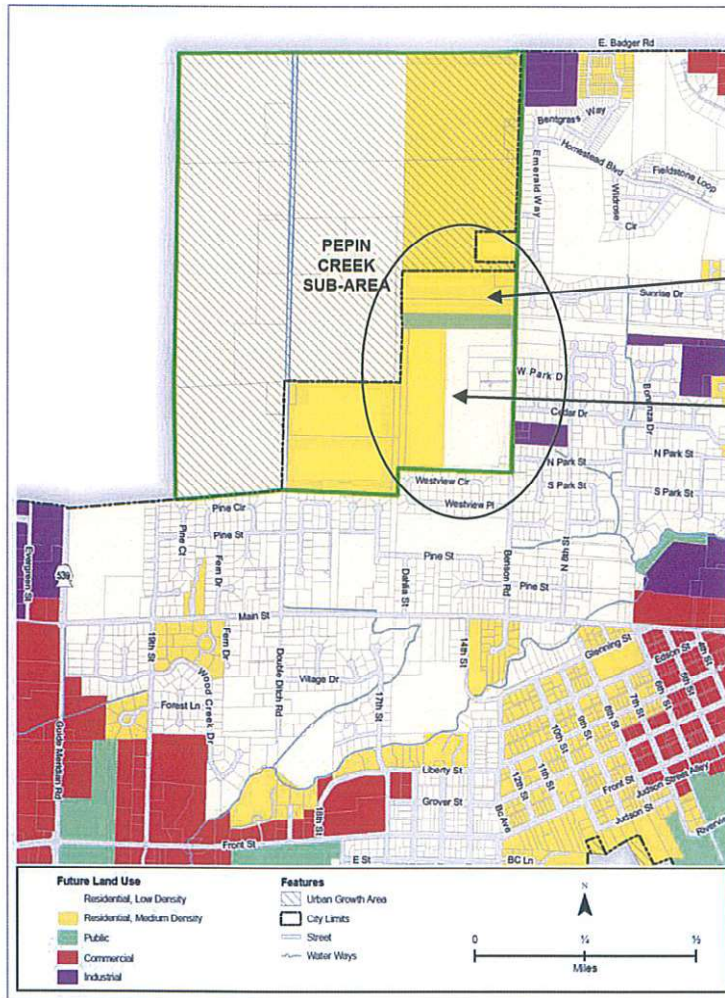
C. *Proposed Comprehensive Plan Designation:*

**Pepin Creek Subarea:**

This proposal simply rearranges the Low Density Residential and Medium Density Residential locations within the Pepin Creek Subarea



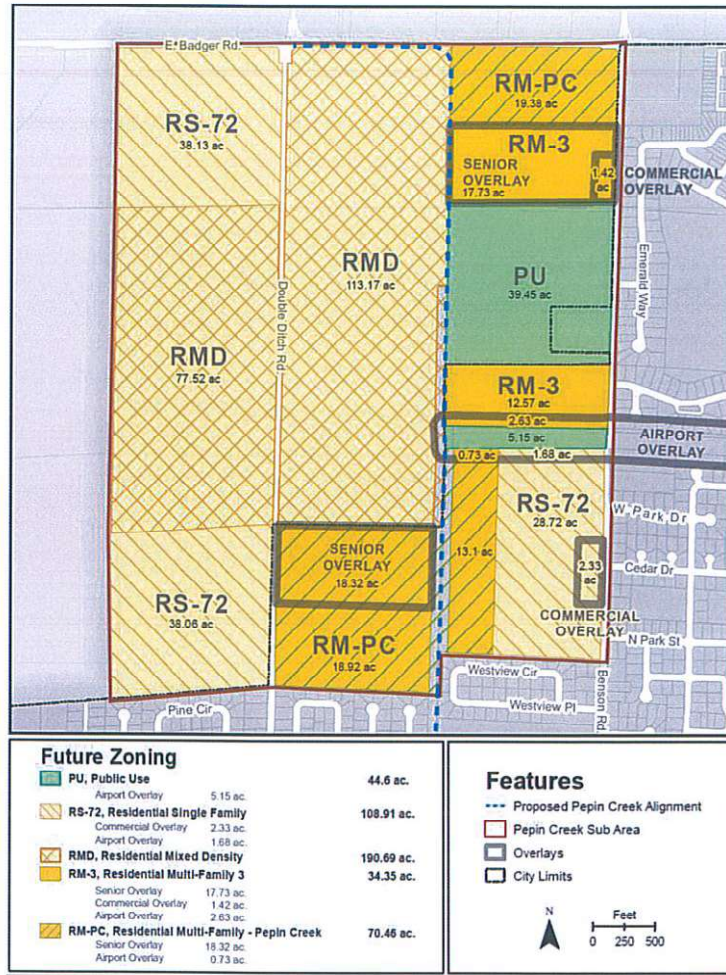
in two locations. These changes are a result of City Council review of the Pepin Creek Subarea over the past year as further information regarding the cost of development and growth planning have occurred. The proposed arrangement is:



The above arrow/circle indicates the location of the proposed change. It creates a larger buffer of Low Density Residential around the existing large single family lots off Benson Rd and increases the Medium Density Residential on the 2 parcels north of the Airport buffer.

D. *Proposed Zoning Designation:*

**Pepin Creek Subarea:**



E. *The present use of the property is:*

**Pepin Creek Subarea:**

Primarily agricultural use (dairy, pasture, field crops, blueberries).  
Some farmhouse structures throughout and single family residential along Benson.

F. *The intended future use of the property is:*

**Pepin Creek Subarea:**

Residential neighborhoods, park and multimodal trail, potential small-scale commercial.

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Ord 1600 - Pepin Creek Subarea Plan	
<b>Section of Agenda:</b>	Unfinished Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance 1600, Pepin Creek Subarea Plan revised as conditioned by City Council on 12-16-2019, Minutes of the 12-16-19 City Council meeting.		
<b>Summary Statement:</b>		
<p>In September of 2018 the City released a draft of the Pepin Creek Subarea Plan (PCSA). The intent of the plan is to develop a guide for future growth patterns appropriate for the Lynden community.</p> <p>Given the projected costs of infrastructure in the Pepin Creek Subarea, City staff explored alternate circulation routes and conducting traffic studies to test alternate designs. As a result, the draft Subarea plan was revised. Revisions included a new street layout and adjustments consistent with zoning code amendments adopted in March of 2019.</p> <p>On November 21, 2019 a public hearing was held before the Planning Commission. The resulting recommendation from the Commission was for approval with specific considerations outlined for the City Council.</p> <p>On December 12, 2019 the City Council reviewed the Commission’s recommendation and heard public testimony. The hearing concluded with a vote to approve the Sub-Area plan with specific conditions related to the area’s circulation pattern. The attached plan reflects these revisions.</p> <p>Subsequently, the review period with the Department of Commerce has since concluded without comment on the document and Ordinance 1600 has been drafted as attached.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1600 adopting of the Pepin Creek Sub-Area Plan as presented and authorizing the Mayor’s signature on the document.		

**ORDINANCE NO. 1600**

**AN ORDINANCE ADOPTING THE CITY OF LYNDEN'S  
PEPIN CREEK SUB-AREA PLAN**

WHEREAS, in the mid-1990's, to address the historical drainage patterns that now contribute to unique flooding issues in the northwest portion of the City, the City has identified the "Pepin Creek Project" which would relocate the creek channel in such a way to protect public roads and infrastructure, alleviate flooding concerns and provide beneficial fish habitat; and

WHEREAS, in the City's update to its Comprehensive Plan in 2016, the City added 155 acres of its Urban Growth Reserve to its Urban Growth Area (UGA) the area west of Double Ditch Road and identified this area of the UGA west of Benson Rd, north of Main, and South of the Badger Road as its next area of residential growth; and

WHEREAS, on September 19, 2016 the City established a moratorium on development for recently annexed area in the northwest portion of its city limits so that design work for the Pepin Creek Project and additional land use planning could occur in this area before development progressed; and

WHEREAS, on October 17, 2017 the City Council passed Resolution 975, a Resolution of Intent to adopt a Pepin Creek Subarea Plan; and

WHEREAS, the City subsequently embarked on an intensive planning project to create a subarea boundary and develop a comprehensive plan for the future development of the area under moratorium and the adjacent Urban Growth Areas; and

WHEREAS, the Pepin Creek Subarea Plan is a 20-year plan for the growth and development of the Pepin Creek Subarea and the goal of the plan is to provide guidance on zoning, circulation, public space and housing design for this subarea; and

WHEREAS, in September of 2018, after multiple public meetings, workshops and surveys with the public, City Council and Planning Commission to gather input and feedback, the City released a draft of the Pepin Creek Subarea Plan to gather additional public comment; and

WHEREAS, on December 17, 2018 the City Council adopted Ordinance 1569 to officially amended the City's Comprehensive Plan to identify the Pepin Creek Sub-Area; and

WHEREAS, on March 4, 2019 the City Council adopted Ordinances 1574, 1575, and 1576 to amend the land use development code to identify specific development standards for the Pepin Creek Subarea and accommodate the housing types planned there; and

WHEREAS, at a public hearing on November 21, 2019 the Planning Commission recommended approval of the Pepin Creek Subarea with a condition that the City Council further examine the proposed layout of Pepin Parkway so that it avoids bisecting the City-owned Benson property.

WHEREAS, at a public hearing on December 16, 2019 the Lynden City Council reviewed and considered the entire Pepin Creek Subarea Plan, including multiple circulation routes and unanimously voted to adopt the Plan as long as it reflected a specific circulation plan indicated by Council; and

WHEREAS, the State Department of Commerce review period of the Pepin Creek Subarea Plan concluded without comment on January 27, 2020; and

Based on the foregoing proceedings and record thereof the City Council hereby enters the following findings:

- 1. The public has had the opportunity to be informed on the proposed Plan through the development of a stakeholder contact list, numerous public workshops, meetings and the publication of legal notice of public hearings; and
- 2. The Plan provides a compelling and positive vision for the future development of the Pepin Creek Subarea; and

NOW THEREFORE, BE IT RESOLVED that the Lynden City Council hereby approves the Pepin Creek Subarea Plan as completed and recommended by the Lynden Planning Commission, attached hereto as Exhibit A.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
MAYOR

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
CITY ATTORNEY



# Pepin Creek Subarea Plan

Planning Commission Draft | City of Lynden | January 2020

---



Prepared for:

Planning & Community Development Department  
City of Lynden  
300 4<sup>th</sup> Street  
Lynden, WA 98264

Prepared by:

BERK Consulting, Inc.  
Herrera Environmental Consultants

Under the direction of:

Communita Atelier

# Table of Contents

<b>Table of Contents</b> .....	<b>1</b>
<b>Table of Exhibits</b> .....	<b>2</b>
<b>Introduction</b> .....	<b>3</b>
<b>Vision and Guiding Principles</b> .....	<b>6</b>
<b>Public Input and Outreach</b> .....	<b>7</b>
<b>Subarea Plan Concepts</b> .....	<b>9</b>
<b>Goals and Policies</b> .....	<b>34</b>
<b>Implementation</b> .....	<b>37</b>
<b>References</b> .....	<b>48</b>
<b>Appendix A – Existing Conditions Report</b> .....	<b>49</b>
<b>Appendix B – Council Workshop</b> .....	<b>120</b>
<b>Appendix C – Transportation Analysis</b> .....	<b>121</b>
<b>Appendix D – Financial Analysis</b> .....	<b>124</b>
<b>Appendix E – Flood Hazards</b> .....	<b>127</b>

# Table of Exhibits

- Exhibit 1. The Pepin Creek Subarea in Context ..... 4
- Exhibit 2. Future Land Use in Lynden and its Urban Growth Area ..... 10
- Exhibit 3. Future Land Use in the Pepin Creek Subarea ..... 12
- Exhibit 4. Water Resources in the Pepin Creek Subarea and Vicinity..... 15
- Exhibit 5. Circulation in the Pepin Creek Subarea ..... 18
- Exhibit 6. Non-motorized Circulation ..... 19
- Exhibit 7. Conceptual Benson and Double Ditch Roads Cross Sections ..... 21
- Exhibit 8. Conceptual Pepin Parkway Cross Section ..... 22
- Exhibit 9. Conceptual Neighborhood Roads Cross Section ..... 22
- Exhibit 10. Conceptual Village or Cluster Access Street Cross Section..... 23
- Exhibit 11. Conceptual Alley Cross Section ..... 23
- Exhibit 12. Conceptual Parks and Open Space Framework..... 24
- Exhibit 13. Conceptual City Park Layout ..... 25
- Exhibit 14. Conceptual Pepin Creek Corridor Cross Section..... 26
- Exhibit 15. Conceptual Drawing of a Neighborhood Park ..... 27
- Exhibit 16. Conceptual Drawing of a Pocket Park..... 27
- Exhibit 17. Conceptual Standard Lot Site Plan..... 29
- Exhibit 18. Conceptual Small Lot Site Plan with Alley Access ..... 30
- Exhibit 19. Conceptual Small Lot Site Plan with Front Access ..... 30
- Exhibit 20. Conceptual Cottage Site Plan..... 31
- Exhibit 21. Conceptual Attached Cluster Home Site Plan..... 32
- Exhibit 22. Conceptual Site Plan - Townhomes Built with Pocket Parks ..... 33
- Exhibit 23. Conceptual Site Plan - Multi-family Housing..... 33
- Exhibit 24. Zoning in the Pepin Creek Subarea..... 39
- Exhibit 25. Land Capacity Ranges in the Pepin Creek Subarea..... 40
- Exhibit 26. Pepin Creek Subarea Phase 1 ..... 41
- Exhibit 27. Improvements Needed to Support Development in the PCSA ..... 44
- Exhibit 28. Whatcom County Transportation Analysis Map..... 122
- Exhibit 29. Housing Units, Households and Trips..... 123
- Exhibit 30. Cost per Square Foot of Developable Land ..... 125
- Exhibit 31. Per Square Foot Land Values for Comparable Developments in Whatcom County ..... 126
- Exhibit 32. Comparison of PCSA Developable Land Costs to Land Values in Comparable Developments ..... 126

## Introduction

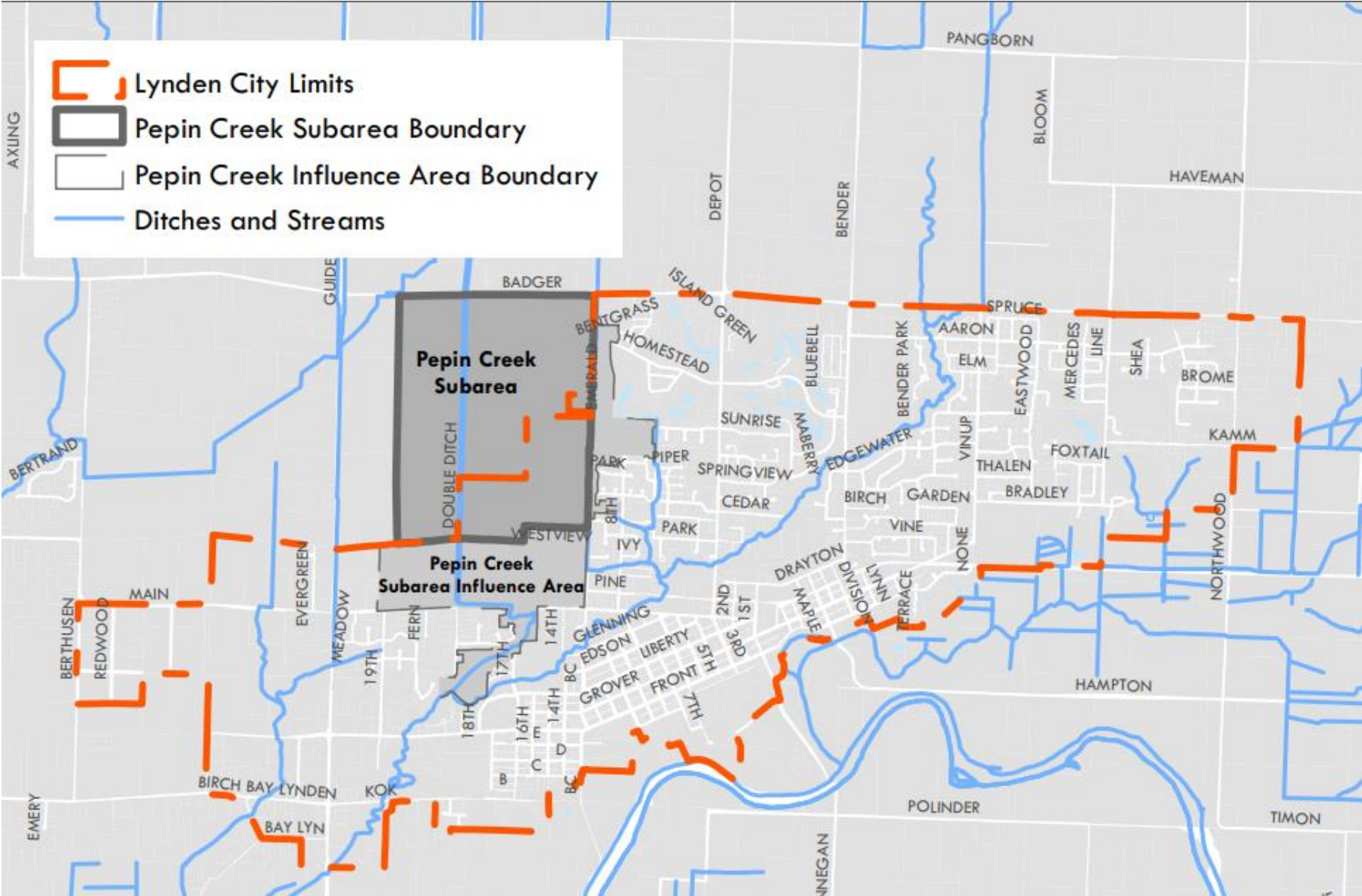
### THE PEPIN CREEK SUBAREA PLAN

The Pepin Creek Subarea Plan is a 20-year plan for growth and development in the City of Lynden, identified as part of Lynden's 2016 Comprehensive Plan. Development here helps achieve multiple goals of the City, including providing a diversity of housing types to meet the needs of everyday Lynden households, promoting a small-town community character, fostering an active lifestyle with recreation amenities, and improving environmental sustainability. The subarea is the site for the restoration of Pepin Creek which involves the realignment of the creek from drainage channels along Double Ditch Road and Benson Road into a more natural channel that provides better wildlife habitat, flood control, and a recreational amenity. While future development can be accomplished in the subarea without the Pepin Creek Realignment project, subarea development in tandem with the Pepin Creek realignment provides the opportunity to create a distinctive, amenity rich neighborhood that adds greater value to the city.

### THE PEPIN CREEK SUBAREA

The Pepin Creek Subarea (PCSA) is approximately 460 acres and includes the northwestern Lynden city limits and urban growth area (UGA). Approximately 110 acres is currently within city limits and the remaining 350 acres are in the UGA as shown in Exhibit 1. This Exhibit shows the PCSA and its influence area in relation to Lynden city limits and the surrounding unincorporated area.

Exhibit 1. The Pepin Creek Subarea in Context



Source: BERK, 2018.

The PCSA 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 (Whatcom County, 2016). Although there is capacity for some growth in other parts of the city, the PCSA has been identified as a primary area for future residential development over the next 20 years.

The PCSA has areas of high-water table and has experienced flooding. In the late 1800s and early 1900s, settlers rerouted the original Pepin Creek to allow farming in this area. Remnants of the historic creek were moved into the “ditches” along Double Ditch Road and Benson Road. They also collected stormwater from adjacent farmlands and an upstream tributary area in Whatcom County and Canada. During periods of heavy rain, these waterways would overflow onto the adjacent roads and land. This resulted in property impacts, safety problems, and road closures. The presence of fish, including salmon spawning grounds, constrain the roads under normal conditions, preventing roadway improvements on Benson Road and Double Ditch Road. In reaction to these conditions, the City of Lynden initiated the Pepin Creek Realignment project to restore Pepin Creek and modify the ditches. The Pepin Creek Realignment Project was also anticipated to prevent downstream flooding impacts in the Pepin Creek Subarea Influence Area.

Additional information about the PCSA can be found in the Existing Conditions report in Appendix A

### Frequently Used Terms

- **Pepin Creek Subarea Plan.** This document, which establishes goals and policies for the development of the subarea.
- **Pepin Creek Subarea.** The geography that is included in the Pepin Creek Subarea Plan.
- **Pepin Creek Realignment Project.** The engineering and environmental project that is moving the East and West ditches on Double Ditch Road into a consolidated Pepin Creek.
- **Pepin Creek Subarea Area of Influence.** The area downstream of Main Street that is influenced by the hydrology changes associated with the Pepin Creek Realignment Project.
- **Pepin Creek Project.** All the work to address environmental and land use considerations related to Pepin Creek. It includes the Pepin Creek Subarea Plan and the Pepin Creek Realignment Project.

# Vision and Guiding Principles

## VISION

The Pepin Creek Subarea allows Lynden to grow sustainably while preserving the community spirit, small town atmosphere, and connection to its agricultural roots that make Lynden unique.

## GUIDING PRINCIPLES



Downtown Lynden. Photo: Bill Kreager



Pangborn Raspberry Farm. Photo Credit: Whatcom Business Alliance website

- **Small-Town Character.** Planning for growth in the PCSA, means Lynden can preserve the character of its existing neighborhoods and ensure that development within the subarea is designed to maintain community character.
- **Connection to Agriculture.** Lynden’s history, social networks, and economy have connections to farming and agriculture. Coordinated growth within Lynden’s city limits and UGA helps to prevent the conversion of farmland in the rural area and maintain the community’s connections to an agricultural lifestyle.
- **Housing for the Whole Family.** As a multi-generational community, Lynden needs housing that meets the needs of the whole family. PCSA provides housing that meets the needs of people throughout their lifecycle, including housing that is affordable to those who work in Lynden.
- **Sustainable.** The restoration of Pepin Creek provides an enhanced, natural habitat for the fish and wildlife that live in this area. It also safely and effectively manages flooding and surface water impacts that affect property in the PCSA and its influence area.
- **Healthy.** Residents enjoy healthy lifestyles with plenty of access to open space and the ability to walk and bike safely throughout the PCSA.
- **Financially Feasible.** Development is an attractive investment for private developers and helps offset the costs of the Pepin Creek Restoration for the City. Ongoing maintenance associated with new development in the PCSA pays for itself.



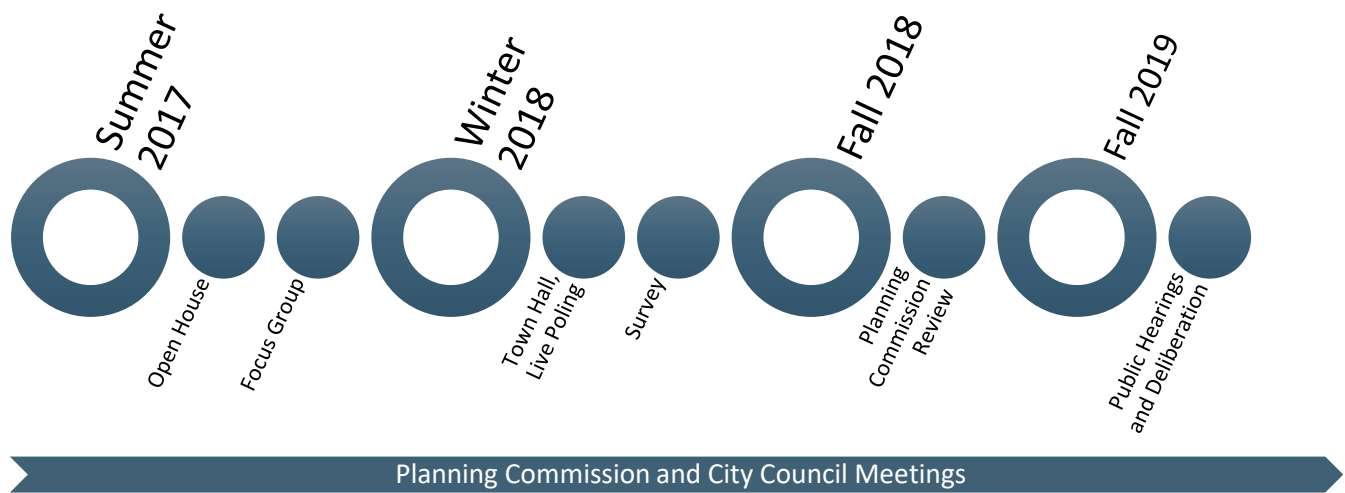
# Public Input and Outreach

The PCSA plan was developed with input from the community. Outreach efforts were designed to get a broad range of responses, including from those who may not regularly engage in civic decision-making, and to hear from people who may be uniquely affected by the decisions made in the PCSA. This approach resulted in a large volume of input that represented many different viewpoints in the community.



Town Hall Meeting, January 2018.

Broad engagement consisted of a town hall meeting and an online survey, both taking place in January 2018. Approximately 80 people attended the town hall meeting where planners gave a short presentation on the PCSA and the policies of the Comprehensive Plan. Attendees participated in a live polling exercise that reviewed housing types and densities under consideration in the PCSA and allowed them to express whether they liked or disliked various concepts. There was also opportunity to make comments and ask questions in an open format. The online survey reached approximately 640 people, about 90% of whom live in Lynden and included those who work, go to school, or attend church or social groups in town. Similar to the live polling exercise, the survey asked people about housing types and densities, and asked what people value about living in Lynden and what they might like to see changed.







Resident and Property Owner Open House, July 2017.

Targeted engagement was aimed at reaching those that may be particularly affected by the changes in the PCSA. This includes nearby residents and the development community, including developers, builders, and real estate brokers. A meeting with 35 nearby residents and property owners was held in July 2017 at the start of the planning process. This was an open house where planners presented on existing conditions and the purpose of the

PCSA planning process and offered opportunity for comments and questions. To get the perspectives of the development community that might invest in the PCSA, City staff held focus groups and interviews and offered an online survey. Approximately 23 professionals participated in these engagements. These groups were asked about their preferences for investing in the PCSA and for information about the local housing market.

City Council and the Planning Commission also conducted a series of open public meetings where they received briefings, workshopped ideas, or provided direction for the PCSA. This series of meetings included sessions in July 2017, November 2017, and April 2018. At the November 2017 workshop, Council and Planning Commission participated in a live polling exercise that guided the development of the Plan, the results of the polling can be found in Appendix B. The direction of City Council and input from the public engagements drove the development of the concepts, vision, guiding principles, and policies of the PCSA plan.

# Subarea Plan Concepts

## LAND USE

### Citywide Future Land Use

The City of Lynden Comprehensive Plan identifies the PCSA for urban growth. Whatcom County expects approximately 6,400 new people to live in Lynden and its UGA by 2036, which would grow the city to a total population of about 19,725. With an average of about 2.57 persons per household according to the Lynden Comprehensive Plan, the City needs to plan for nearly 2,500 new homes.

To meet this need, the Comprehensive Plan targets an average residential density of five units per acre within the city and UGA. In order to achieve that citywide average, new development areas need to be developed at a slightly higher density, averaging approximately seven units per acre. This is consistent with Goal 2P of the Whatcom County Comprehensive Plan that encourages an average density of 6-10 units per acre in Lynden. A mix of single-family and smaller-scale multi-family uses in the PCSA will meet this target density and help to preserve community character within existing neighborhoods in Lynden. It is estimated that development in the Pepin Creek Subarea could accommodate approximately 1,200 to 2,000 new homes. This allows most of Lynden to keep its Low Density Residential land use as shown in Exhibit 2. In addition, the provision of new housing within the UGA helps prevent the expansion of residential development into rural lands, helping to preserve the social, economic, and historical connections to agriculture that are important to Lynden’s character and community values.

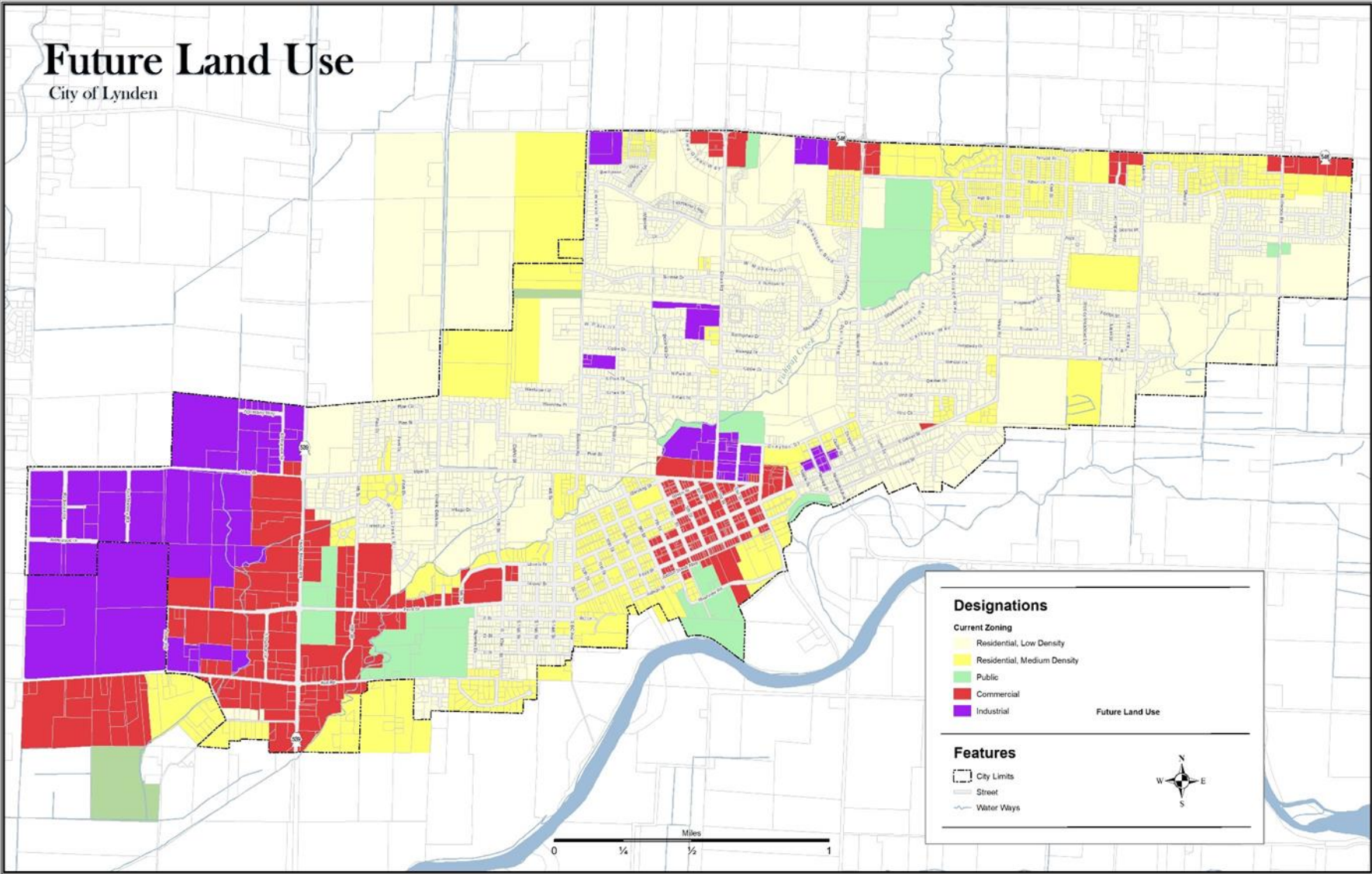
### Pepin Creek Subarea Future Land Use

The PCSA is primarily a residential environment that supports Lynden families throughout their lifetime. Whether someone is starting out in life, building a family, or enjoying retirement, Pepin Creek residents can find a home that matches their needs in a community that maintains its small-town character with plenty of green spaces, fresh air, and in developments built to encourage social interactions between neighbors. The residential area is separated into two main categories: Low Density Residential land use and Medium Density land use as shown in Exhibit 3.

#### Low Density Residential Land Use

The purpose of the Low Density Residential land use district is to maintain “*stable, low density, largely single-family neighborhoods, while providing a range of housing types and prices,*” as described in the Comprehensive Plan. Low Density Residential land use makes up the majority of the study area. It is expected that within the PCSA Low Density Residential land use district there will be a mix of traditional large lot single-family homes as well as smaller lot single-family homes. Smaller lot single-family homes should be located near public green space, such as the Pepin Creek corridor, to give a feeling of openness. Small lot developments in this zone may also be designed in a clustered pattern to create shared green space. It is implemented by the RS-72 and RMD zones in the Pepin Creek Subarea.

Exhibit 2. Future Land Use in Lynden and its Urban Growth Area\*



Source: Lynden GIS, 2019 \*Shows land use designations prior to adoption of the Pepin Creek Subarea Plan



*Medium Density Land Use*

Medium Density Residential land use “provides higher density housing options and a range of housing types to accommodate future growth,” according to the Comprehensive Plan. This designation is placed near public open spaces to support residential styles that need less individual open space. Cottage housing, townhomes, and zero lot line housing is built at higher densities than single-family housing by producing smaller units on smaller lots and efficiently providing shared open spaces such as pocket parks and courtyards. This type of housing is often attractive to first time homebuyers, young adults just starting out, and seniors. It is located along the Pepin Creek corridor and adjacent to areas of the future City Park to maximize access to public open space. In areas where the Medium Density district abuts a lower intensity residential district, a transition area will be provided. The Medium Density Land Use Designation is implemented by RM-PC and RM-3 zones in the Pepin Creek Subarea. Small neighborhood commercial nodes may be allowed as secondary uses.



*Public Use*

There are about five acres of land set aside for Public Use for the airport runway protection area.

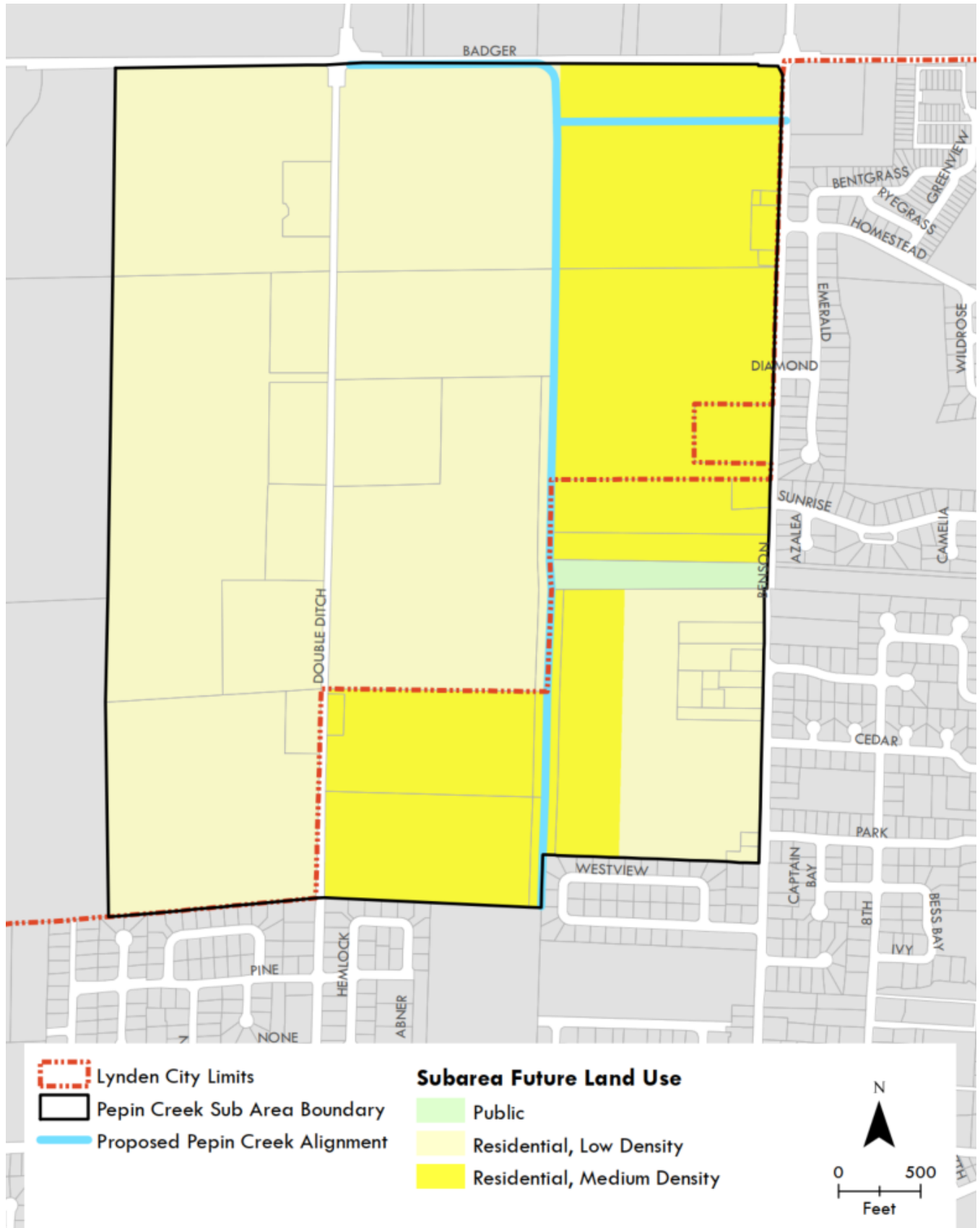
**Airport Compatible Land Use**

Lynden Municipal Airport, also called Jansen Field, sits on about 12 acres outside the PCSA to the east. There is small strip of land (approximately five acres) in the PCSA that the City purchased as a safety area and to prevent future development that might interfere with airport operations. This strip of land will be preserved as open space and will not be developed. Activity at the airport is generally limited to the smallest class of aircraft weighing less than 12,500 pounds with wingspans less than 49 feet. With a runway of only 2,425 feet, Jansen Field can accommodate approximately 70% of the smallest class of aircraft. The airport accommodates recreational flying and some business aircraft operations. (Airside, 2008).

Land use around the airport includes a mix of uses, including residential use as shown in Exhibit 3. Residences and the Homestead development lie to the north and a mix of residences, churches, commercial, and industrial areas lie to the south. To date, airport compatibility has not been a problem. New residential development in the PCSA may increase the potential for land use conflicts or compatibility issues. More frequent use of the Airport, as other local airstrips shutdown or limit small craft operations, could also increase the potential for land use compatibility issues.

Lynden does not have an airport compatibility land use plan. The Comprehensive Plan briefly mentions the airport as a regional transportation facility. Whatcom County’s Comprehensive Plan includes policies for compatibility. Lynden does have an Airport Overlay zoning district that protects the area adjacent to the runway from hazards and allows some aviation-related uses. The Airport Overlay is extended to include the five-acre safety area in the PCSA as shown in Exhibit 3. In addition, the City should require new residential development in the PCSA to sign a covenant that acknowledges the potential for noise and other impacts related to airport operations as part of its platting process.

Exhibit 3. Future Land Use in the Pepin Creek Subarea



Source: BERK, 2019.



## ENVIRONMENT

The PCSA lies within the Nooksack River Water Resources Inventory Area 1. The PCSA and most of the city are outside the mapped Nooksack River's FEMA 100-year floodplain. Existing surface water resources in the PCSA include Pepin Creek, which is conveyed by Double Ditch East and Double Ditch West within the PCSA, Benson Ditch, and several lateral ditches (as shown in Exhibit 4). Pepin Creek drains to Fishtrap Creek, a tributary of the Nooksack River.

As part of the Pepin Creek Realignment Project, the City is planning to reconstruct the creek corridor through the subarea to reduce flooding. The creek realignment work is occurring separately from the planning for this subarea. To date, work has already begun on the Pepin Creek Realignment project:

- A local engineering firm, Reichhardt & Ebe Engineering, Inc. (R&E), has been working on the preliminary investigation and design of the new creek corridor that runs north-south at the mid-point between Double Ditch Road and Benson Road. Two significant design scenarios for the new Pepin Creek corridor have been analyzed. Additional environmental review and collaboration with outside agencies is expected to begin in early 2020.
  - **Realignment:** One design is anticipated to accommodate the existing water in the roadside ditches both at ordinary and flood stages. This design includes provisions to reinforce creek shorelines in the downstream reach south of Main Street where highly erosive soils and high stream flows threaten existing development. This design is expected to provide flood protection, improve water quality and fish habitat, provide a recreational amenity, and function as the downstream receiving water body for managed stormwater in the subarea.
  - **Stormwater By-Pass:** The second design scenario anticipates that the new creek corridor will accommodate creek flows adequate for fish habitat while higher capacity flows, including flood stages, would be by-passed into a stormwater (pipe) system and discharged into Fishtrap Creek. This system reduces the risk to the downstream reach of Pepin Creek, south of Main Street, by re-directing high water flows rather than physical reinforcement of shorelines. A sophisticated fish exclusion system is included in this scenario to ensure fish are kept within the creek channel and not swept into the by-pass system. The by-pass pipes would be located within the Double Ditch right-of-way corridor.
- The City has acquired most of the land needed for a 75 to 150-foot-wide creek corridor, and acquired another 40 acres, a portion of which will be used for new city park land in the subarea. Preliminary site investigation and design work have been completed. The engineering team has also begun design a new Main Street Bridge which is needed in both the realignment and by-pass scenarios. BERK Consulting is supporting financial tools, which aim to collect development's contribution to the creek realignment project.

The PCSA is relatively flat, subject to wintertime flooding, and has seasonal high groundwater. Drainage in the PCSA is provided primarily by the roadside ditches along Benson Road and Double Ditch Road. Both ditches originate north of the City of Lynden and drain areas of Whatcom County north of Lynden and into Canada. Both ditches discharge to Fishtrap Creek and the subject of planned reroute project that is currently in the design and permitting process.

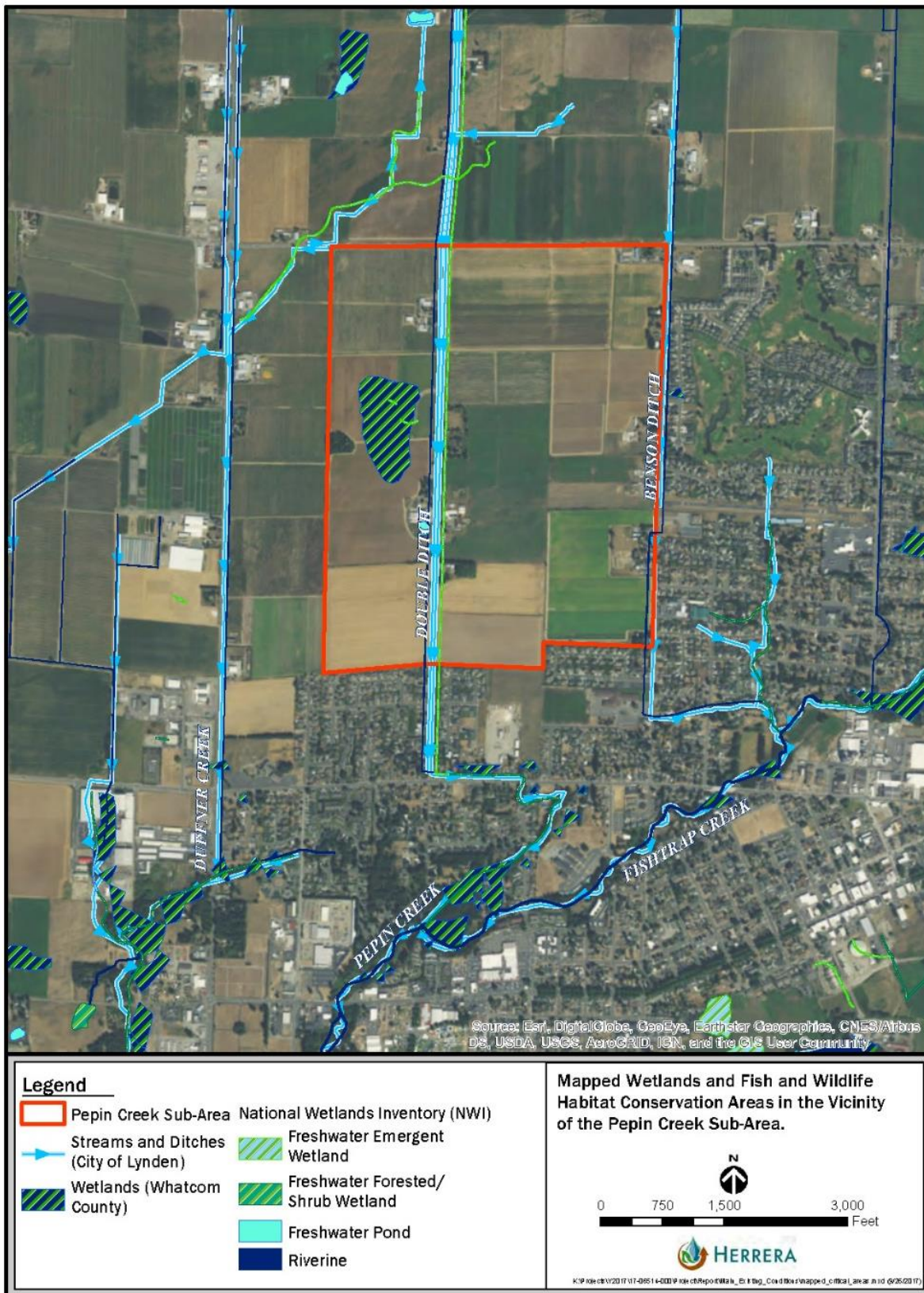
The PCSA is actively farmed and ditches on private property, beyond the roadway right-of-way, are present throughout. Within the agricultural portion of the PCSA there is an informal network of drain tile

and ditches which provide drainage to the agricultural fields. There are reports of extensive forested wetlands historically occurring in the area. However, soil survey maps show the soils as drained, indicating that they may not support wetlands today.

The Fish and Wildlife Habitat Conservation Areas within the PCSA include the Double Ditch Road and Benson Road ditch systems. They are Washington Department of Fish and Wildlife priority habitats for federal and state listed salmonid species and documented habitat for locally important species (WDFW 2017a). Fish and Wildlife Habitat Conservation Areas are subject to the standard buffer widths established in the Lynden Municipal Code (LMC 16.16.380).

Wetlands within the PCSA are subject to the wetland requirements established in the Lynden Municipal Code as well (LMC 16.16.260 through 16.16.320). The terrestrial habitats in the study area consist of agriculture, grassland, and pasture. They provide habitat for a variety of bird species but are not documented Washington Department of Fish and Wildlife Priority Habitats or habitats for species of local importance, therefore they are not designated as Fish and Wildlife Habitat Conservation Areas.

Exhibit 4. Water Resources in the Pepin Creek Subarea and Vicinity



Source: Herrera, 2017.



As the subarea develops, formal critical area delineations and adherence to required buffers and setbacks will be necessary, including an evaluation of potential impacts and required mitigation. Stormwater management will also be required to meet City codes and to ensure consistency with the current Ecology stormwater manual for Western Washington. Ideally, there will be opportunities to integrate low impact development stormwater management into other subarea plan features and roads.

## Flood Hazard Mitigation

The Flood Hazard Mitigation Overlay is applicable to the entire PCSA and recognizes the hazards associated with surface flow flooding, ground water, drainage, and downstream constraints within the subarea. Overlay requirements will be included in an implementing ordinance. The requirements will ensure development in the subarea is designed and mitigated to prevent cumulative negative impacts to the surrounding community to avoid flooding of residential neighborhoods, life safety issues associated with road closures, and significant property damage.

## TRANSPORTATION

### Road System Capacity

Successfully accommodating new growth and development in the PCSA requires attention to the circulation system that connects the subarea to the rest of Lynden and the surrounding region, as well as the connections within the subarea itself. As identified in the Existing Conditions Report in Appendix A, there are few roads serving the PCSA because of its current agricultural, low intensity development pattern. The Lynden Comprehensive Plan anticipates the need for transportation improvements in the PCSA due to growth. The Transportation Element forecasts growth of up to 1,096 households in the subarea, which will require roadway improvements that support cars, bicycles, and pedestrians. Some of these road improvements are currently listed in Lynden's Transportation Improvement Plan. Lynden's Transportation Element is focused on intersection operations though adequate road extensions and design are also considered.

As part of the 2016 Comprehensive Plan update process, Whatcom County studied different growth scenarios for the PCSA ranging from 578-1,433 new households and published an Environmental Impact Statement (EIS) with the results, see the details in Appendix C (Whatcom County, 2015). The analysis was based on a transportation model developed by the Whatcom Council of Governments (WCOG) that focused on the volume and capacity of roadways at a countywide scale. The model showed that traffic would be within adopted level of service standards for roadways per Whatcom County standards, except in two areas. Guide Meridian Road between the existing city limits and East Badger Road would likely experience some slowdowns in afternoon peak traffic and there would be additional delays on East Badger Road between Guide Meridian Road and the existing city limits.

Once the City began more focused planning for the PCSA, the City asked the WCOG to apply its model to study the effect of a greater number of households on traffic. The WCOG tested the effect of 1,559 households in the PCSA. It assumed development of Pepin Parkway as an extension of Homestead Boulevard, connecting to Double Ditch Road. Overall, the study found that traffic impacts would be consistent with the projected results from the County's 2015 EIS. Predictably, the presence of the Pepin Parkway reduces traffic flows on the southern portion of Benson road and increases traffic on Double Ditch Road south of the parkway to Main. Despite the difference in traffic flow, this indicates that the

Pepin Creek road system should be able to handle the transportation needs that accompany growth, although modifications to the Transportation Improvement Program are needed to account for the changes in traffic flow related to Pepin Parkway.

After the WCOG studied this option, the City shifted the proposed location of Pepin Parkway as shown in Exhibit 5. Instead of extending from Homestead Boulevard, Pepin Parkway is proposed to begin at Benson Road near Sunrise Drive. After a brief review of this change, the WCOG concluded it would not significantly alter the results of their previous analysis. As a result, the traffic impacts should still be consistent with the projected results from the County's 2015 EIS.

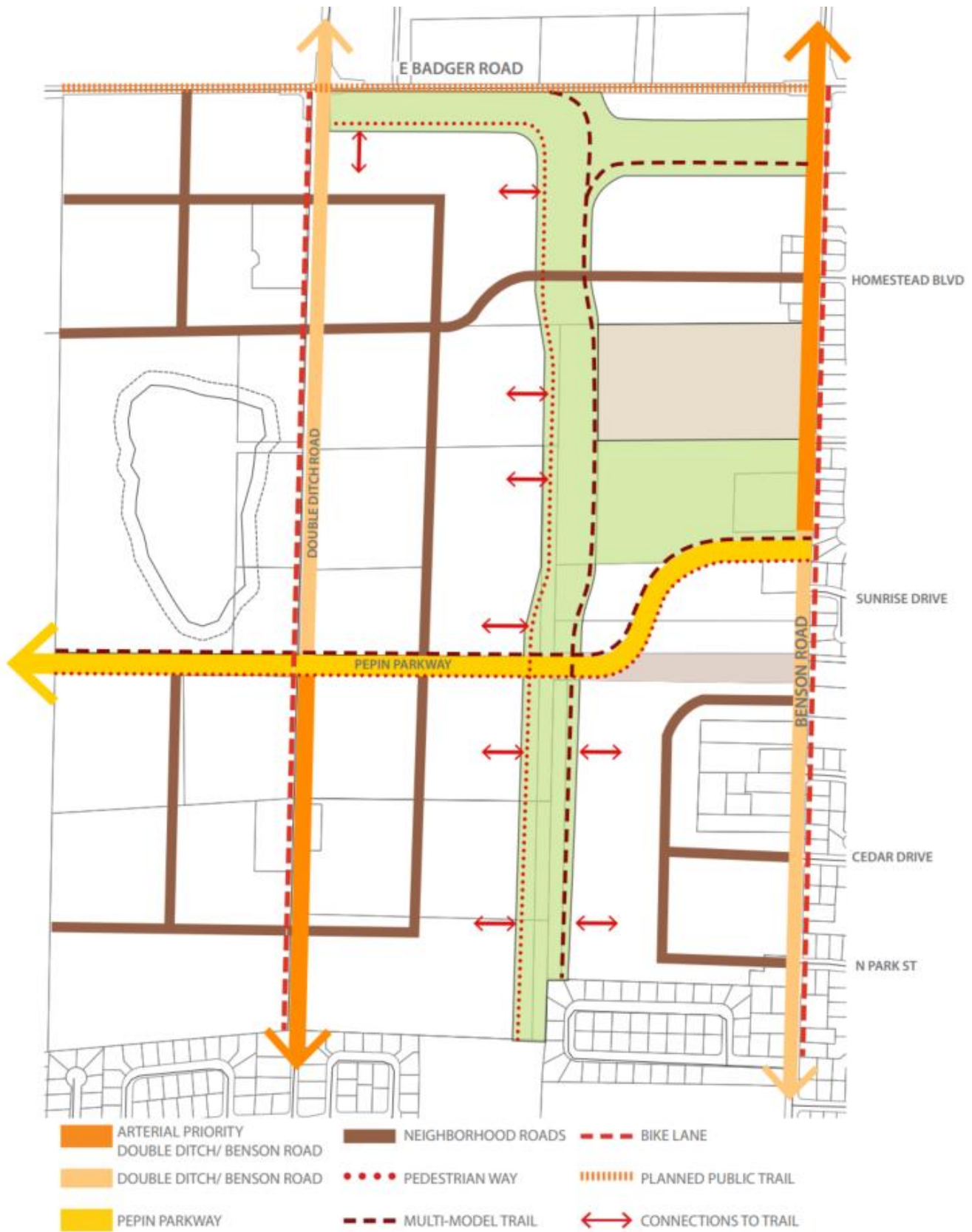
## Circulation

The road system in the PCSA creates a hierarchy of streets that maximizes connectivity within the subarea and within the individual neighborhoods as shown in Exhibit 5. This hierarchy is designed to provide connectivity between the neighborhoods and the surrounding City of Lynden and incorporates low impact development practices into the street design to allow for sustainable drainage techniques. To make this system work, there are a variety of streets and alleyways that accommodate a full range of development types and road functions. These roadways are designed to provide a safe and inviting environment for pedestrians with sidewalks and curbs along all new streets. This type of circulation system is easily navigated and encourages physical activity throughout the community.

In addition to the road system, the PCSA vision includes a network of connected trails and pathways throughout the community that are separated from the vehicle network, including a regional multi-modal trail along the Pepin Creek realignment corridor. These trails and pathways will safely accommodate a variety of users and provide connections between homes, local amenities, and regional destinations such as: neighborhood retail, schools, parks, natural and open spaces, and downtown Lynden. By connecting trails and pathways to the road system at key points and along Pepin Parkway, the non-motorized circulation system shown in Exhibit 6 encourages safe and healthy transportation and recreational activities such as walking, running and biking.

City engineering standards will be updated to reflect the planned cross-sections. The City may implement its desired cross section with its land use and environmental permit authorities, consistent with Policy PC 6.6, until city standards are amended.

Exhibit 5. Circulation in the Pepin Creek Subarea



Source: Communita, 2020.

Exhibit 6. Non-motorized Circulation



Source: Communita, 2020.

*Benson Road and Double Ditch Road*

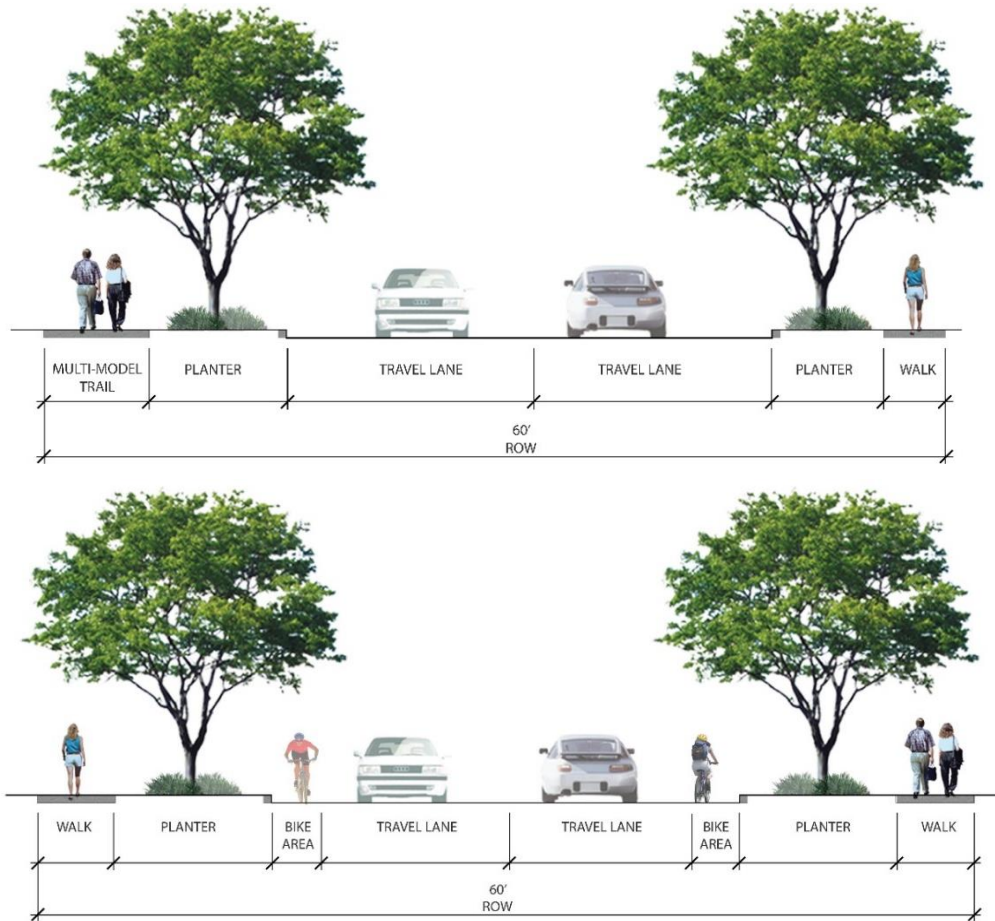
Currently, three existing public roads serve the PCSA and connect it to downtown Lynden and surrounding areas as show in Exhibit 5. East Badger Road runs along the northern edge of the PCSA. Benson Road and Double Ditch Road run north-south through the subarea with Benson Road located along the eastern edge of the PCSA and Double Ditch in the western half of the subarea. Double Ditch includes the channels that currently contain the waters of Pepin Creek. Likewise, Benson Road includes a ditch containing a fish bearing waterway and stormwater damage. The waters of Pepin Creek and potentially the Benson Road ditch will be redirected toward the new channel through the realignment process. This process, as well as the anticipated growth in the PCSA, will require that the roadway network is redesigned and improved.

Benson and Double Ditch roads will likely be improved in phases while the construction of Pepin Parkway will become a priority to facilitate regional traffic and accommodate growth. Pepin Parkway represents a safer transportation corridor than the existing conditions on Benson and Double Ditch roads. Pepin Parkway will have limited intersections, no driveway access, and no parking. There will be a sidewalk and a wide planting strip provided on each side of the street between the curb and the sidewalk to provide a safe pedestrian environment. The roads will also include either a dedicated bike lane on the shoulder of the vehicular travel lane, or a combined bike and pedestrian travel lane that is wide enough to safely accommodate both modes. Traffic calming strategies should be included in the final design of these roads to ensure safety and reduce speeds along these straight roads. Benson and Double Ditch Road will be improved to an alternate standard which could include the concepts illustrated in Exhibit 7.

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## Exhibit 7. Conceptual Benson and Double Ditch Roads Cross Sections



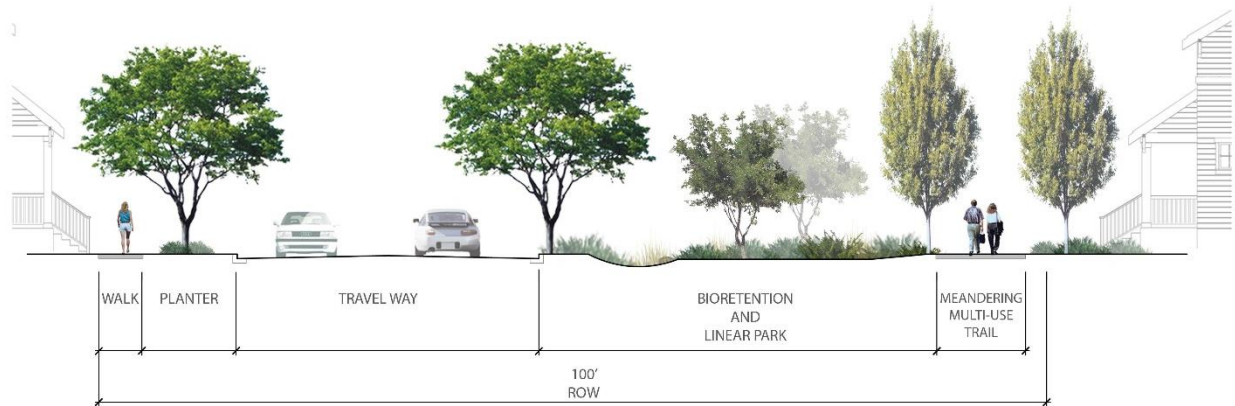
Source: Herrera and Communita, 2018.

### *Pepin Parkway*

Pepin Parkway will run east/west through the subarea, starting on the southern edge of the City owned Benson Park property, approximately midway along Benson Road in the subarea. The Parkway will provide an additional park entrance. Crossing the creek channel at the end of the airport safety zone, the proposed path of the Parkway once again takes advantage of property already owned by the City. On the west side of the new creek channel Pepin Parkway will connect to future city roads. Pepin Parkway will include a sidewalk and a large planting strip on both sides of the road that can accommodate large trees. A multi-modal trail will be on one side, separated from the vehicles by a wide landscaped area. Parking may be provided in parking pockets where needed. The parkway should act as part of the neighborhoods rather than a barrier.

Pepin Parkway will serve as a linear park that integrates different housing developments into a neighborhood by limiting intersections and incorporating a multi-modal trail that meanders through a park-like setting. Where feasible, the parkway will include bio-retention and natural drainage, which will help with stormwater control and provide landscaping to enhance the feeling of comfort for pedestrians. Ideally, homes will front or side onto Pepin Parkway. When this is not possible, a heavy landscape buffer will be provided.

### Exhibit 8. Conceptual Pepin Parkway Cross Section

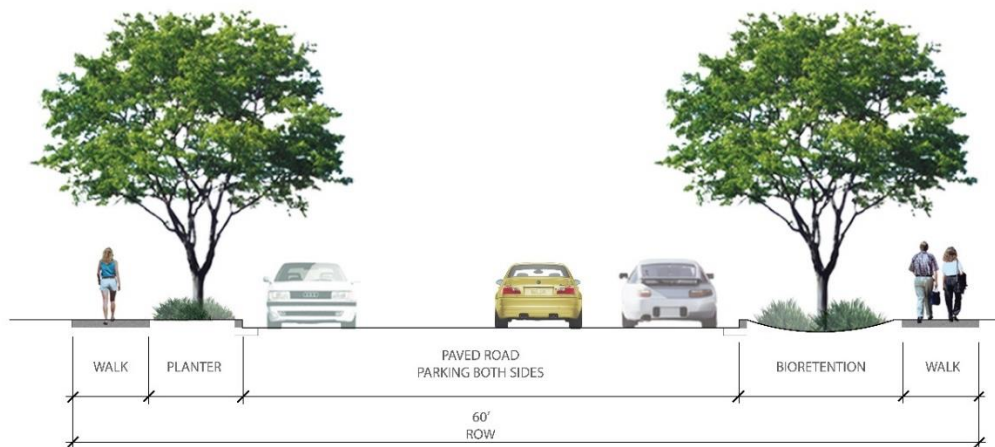


Source: Herrera and Communita, 2018.

### Neighborhood Roads

Neighborhood Roads are a secondary system of roads that provide connectivity between individual developments and the PCSA as shown in Exhibit 5. They connect developments to the Pepin Parkway, Benson Road, Double Ditch Roads, E. Badger Road, and Homestead Boulevard. Homes will feature porches and stoops that front or side on Neighborhood Roads to create a feeling of community. Trees and sidewalks will be provided on both sides of the street to enhance the pedestrian-friendly streetscape. Natural drainage systems may be integrated into the planting strip to carry stormwater to the Pepin Parkway drainage system. Parking will be provided on both sides of the street to allow space for residents and the guests, as well as to calm traffic moving through the area (see Exhibit 9).

### Exhibit 9. Conceptual Neighborhood Roads Cross Section

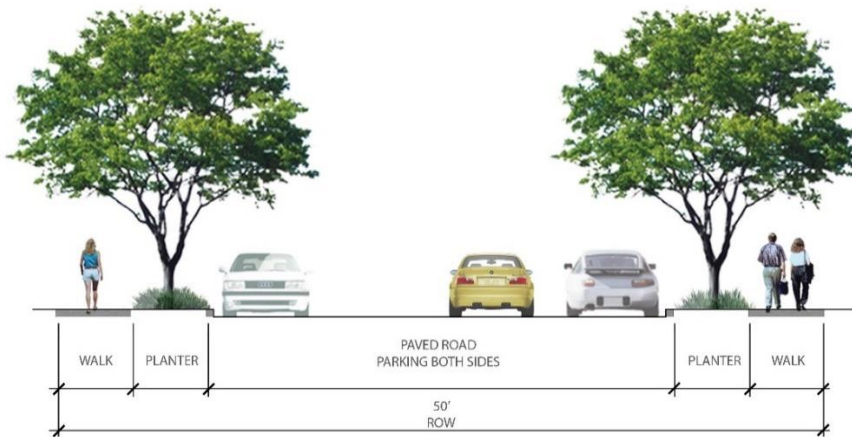


Source: Herrera and Communita, 2018.

### Village or Cluster Access

Village and Cluster Access streets are intended to be public streets with a right-of-way width of only 50 feet (see Exhibit 10). This street type is intended to provide vehicular access to a maximum of eight units. It will also provide pedestrian connectivity with a planting strip and sidewalk on both sides of the street. The access roads include parking on both sides of the street for residents and guests and where possible, front porches will face the street to encourage social interaction amongst residents.

**Exhibit 10. Conceptual Village or Cluster Access Street Cross Section**

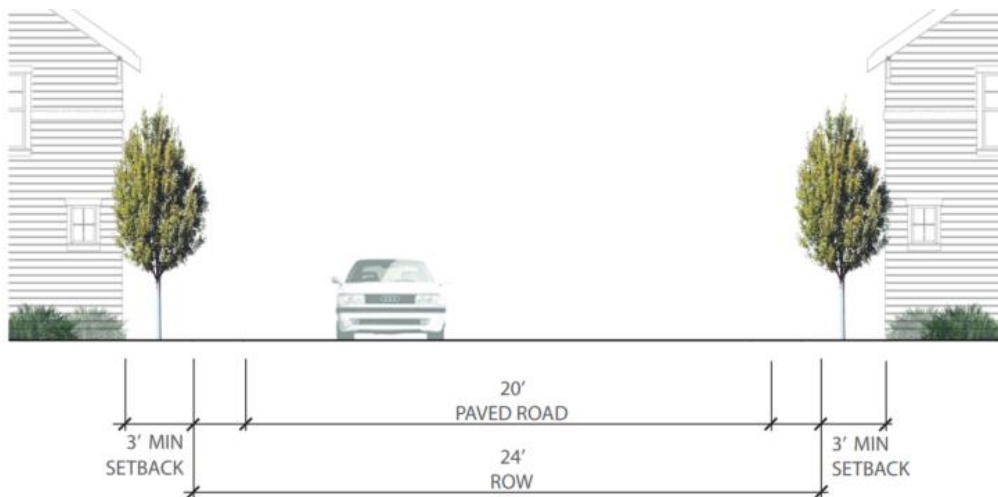


Source: Herrera and Communita, 2018.

### Alleys

The use of private alleys in the PCSA is permitted. Alleys can be used to create a pedestrian friendly streetscape and eliminate pedestrian and vehicular conflicts. The use of alleys also minimizes curb cuts and allows for better social interaction and encourages walking and health in a safe pedestrian environment. Alleys in the PCSA will be 24' ROW in which 20' will be paved (see Exhibit 11).

**Exhibit 11. Conceptual Alley Cross Section**



Source: Herrera and Communita, 2019.



# OPEN SPACE

Open space in the PCSA includes a diversity of parks and an interconnected trail system to meet a wide variety of recreational needs and encourage healthy activity. This framework of parks, open spaces, and trails is shown in Exhibit 12. Parks facilities range from a large city park to smaller pocket parks and open spaces. All parks are in close proximity to residents and connected through a network of trails and sidewalks. Parks serve several functions in the PCSA: to provide community space, to support a sense of neighborhood identity, to minimize the impacts of density, and to create a sense of place. Public streets will be located at the edges of parks and open spaces in the PCSA to help keep them feeling open and safe. Rear yards and privacy fences as borders to parks and open spaces should be avoided.

**Exhibit 12. Conceptual Parks and Open Space Framework**



Source: Communita, 2020.

### City Park

A 15-20 acre city park is planned in the PCSA on the southern half of the City-owned property along Pepin Parkway and Benson Road where it will be easily accessible to all Lynden residents. The northern half of the property will be reserved for future park space or community uses. A conceptual park layout with elementary school concept is shown in Exhibit 13. An existing barn on the property is proposed to remain as a community gathering place and to host community events. Restoration of the barn meets one of the PCSA Guiding Principles by reflecting Lynden’s agricultural connections and history. The park will include both active uses such as sports fields, as well as passive uses such as picnic tables and trails. A trailhead will provide easy access to the trail system throughout the PCSA, which provides access for nearby residents to get to the park and allows visitors to experience the Pepin Creek corridor. Parking could be shared with other uses on the site.

**Exhibit 13. Conceptual City Park Layout**



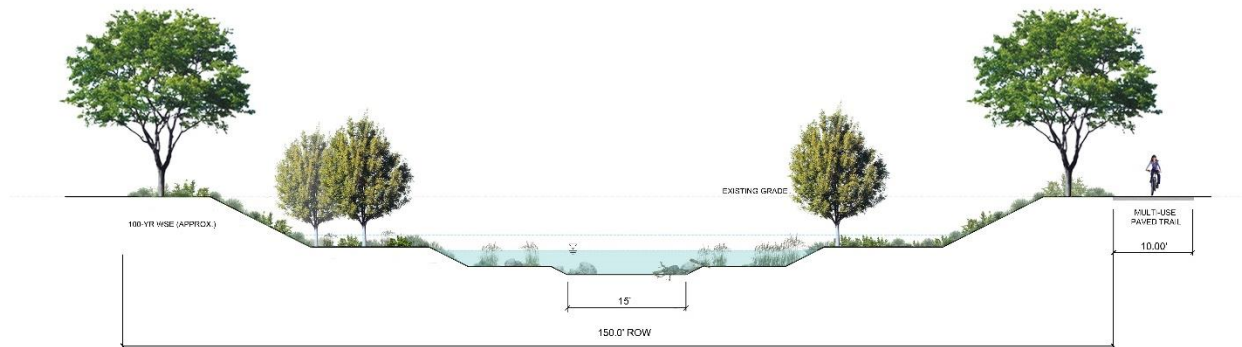
Source: Communita, 2019.

### Pepin Creek Corridor

The Pepin Creek Corridor provides a linear open space through the site that connects to the city park and to the roadway network where it intersects with Pepin Parkway. This open space corridor will range from 75 feet to 150 feet wide. A multi-modal trail will sit on one side of the creek and a pedestrian trail on the other side of the creek as shown in Exhibit 14. Trail connections from adjacent developments will link to the Pepin Creek corridor. Restoration of Pepin Creek will provide an enhanced, more natural habitat for fish and wildlife as well as a recreational amenity for residents. It will also mitigate the impacts of

local flooding by accommodating Pepin Creek during high water conditions.

#### Exhibit 14. Conceptual Pepin Creek Corridor Cross Section



Source: Herrera and Communita, 2018.



*Integrated stormwater and pathway create a park-like atmosphere.*

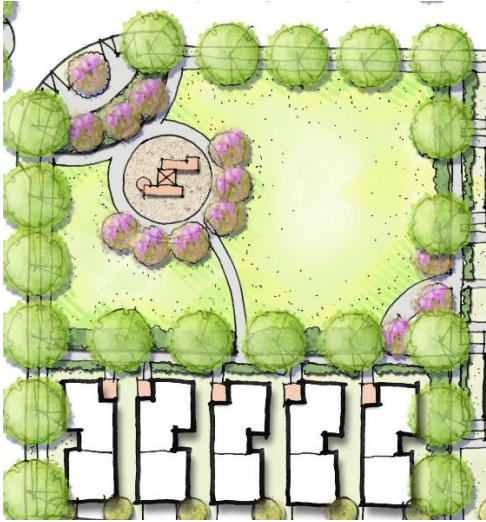
Pepin Parkway is designed as a linear park and will provide a multi-modal trail in a park like setting on one side of the road and a sidewalk on the other side as shown in Exhibit 8. Pepin Parkway provides opportunities for transportation and recreation for bikers and pedestrians. Limited intersections on Pepin Parkway will reinforce the park like atmosphere and will be used to pull the developments in the PCSA into a cohesive neighborhood.

### Neighborhood Parks

Neighborhood parks are encouraged in residential areas and provide active play areas for residents within a half mile walking distance. These parks may also be used passively as open space and to provide outdoor recreation space for denser housing. Larger than a pocket park, neighborhood parks are a hub for resident gatherings and provide neighborhood identity. All neighborhood parks are easily accessible from a public street and connected to the trail and sidewalk network of the community (see Exhibit 15).



### Exhibit 15. Conceptual Drawing of a Neighborhood Park



Source: Communita, 2018.

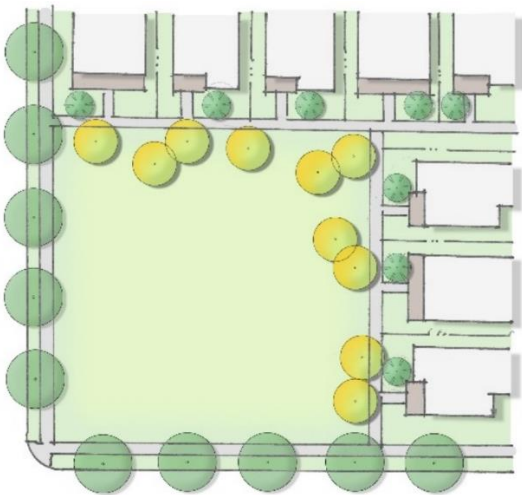


*Example of a Neighborhood Park with small play structure.*

### Pocket Parks

Pocket parks are small parks that are less than half an acre in size and provide a community focal point for adjacent homes that front on the park and nearby homes within walking distance. Typically maintained by the surrounding homeowner's association, they are especially important in denser residential areas where adjacent residents rely on them as outdoor living spaces that serve as flexible play areas, recreational activity space, and community gathering places. Pocket parks can provide a safe place for kids to play in areas where private yard space is limited. Pocket Parks are highly visible, connected to the network of community trails and sidewalks, and accessible from a public street. They also provide access to homes that are oriented with the front doors facing the pocket park (see Exhibit 16.)

### Exhibit 16. Conceptual Drawing of a Pocket Park



Source: Communita, 2018



*Example of homes fronting on a pocket park.*

## HOUSING

The Housing Element of the Comprehensive Plan presents a demographic profile of Lynden compared to Whatcom County and Washington state. Lynden's household size is 2.57 persons per household, slightly higher than Whatcom County at 2.5 and Washington state at 2.54. The Census Bureau estimates that in 2016 the population of Lynden had a median income of \$61,828, which is about 14% higher than the median income of \$54,207 for Whatcom County. Median home value in Lynden was \$287,200, slightly above that of Whatcom County at \$283,000. In Lynden, 69% of homes are owner-occupied, compared to 63% in the county and the state.<sup>1</sup>

Compared to the other geographies Lynden has a higher median age and larger population of residents over age 65. A relatively high percentage of households, 17% are people age 65 and older who live alone, compared to under 10% in the other geographies. Census information shows that approximately one third of Lynden's population is under age 18, compared to about a quarter of the population in Whatcom County.

This demographic profile aids in understanding the type of housing that might be needed in the PCSA. Based on the age profile, housing is needed for families and older adults. Older adults may be looking to move to smaller housing units with less yard space to maintain as their children establish their own families or after the loss of a spouse. These needs may range from smaller single-family homes to cottage units to senior apartments. Families with children need housing that they can afford with ample places for children to play, whether it is in private yards or nearby parks and open space. The size and type of housing needed varies by family. Young families starting out often need smaller "starter homes" that provide entry into the housing market.

Housing affordability is also an issue for families looking to buy a home. With a median income of \$61,828, new single-family homes are out of reach for many.<sup>2</sup> People working in healthcare, retail, or as teachers make about 70% of the area median income, or about \$43,000. The purchase of a new single-family home requires an income of approximately \$75,000 or more, or approximately 120% of the area median income. This would likely be a home on a lot under 6,000 square feet for entry level buyers, which could include a smaller single-family home, a townhome, a cottage, or other more compact housing type. Providing a range of unit types provides alternatives for homeownership at a variety of price points in the market.

## COMMUNITY CHARACTER

The PCSA will become a new neighborhood designed to preserve essential elements of Lynden's character, including its connection to its agricultural roots, its small-town atmosphere, and its community spirit. The network of parks, trails, open spaces, streets and sidewalks work together to create a community feeling. Homes with porches and stoops facing this network encourage community interaction.

<sup>1</sup> See the Lynden Comprehensive Plan Housing Element, Table 1 for the comparison between Lynden, Whatcom County, and Washington state. Census information comparing Lynden and Whatcom County can be found at:

<https://www.census.gov/quickfacts/fact/table/whatcomcountywashington,lyndencitywashington/PST045217>.

<sup>2</sup> Housing affordability was analyzed by looking at both a 5% and 10% down mortgage and looking at the cost of new single-family home comparables in Homestead.

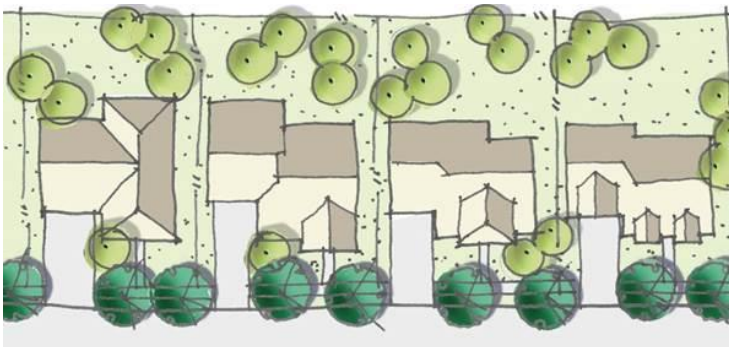
Ample gathering spaces help a community thrive by giving places for formal and informal get togethers. The availability of recreational amenities encourages healthy lifestyles and makes it easy for people to get around the subarea to visit with neighbors and participate in civic life. Lynden also strives to provide housing for family members in all stages of life. The planned land use and zoning in the PCSA hopes to achieve these goals by allowing a variety of home types to be built in the subarea such as: large single-family lots, small lots, attached homes, cottages, and senior housing.

The Design Standards created for residential areas of the city help guide the new community in preserving Lynden’s community character and reflect its heritage as a small, agricultural town. This is accomplished through guidance on site planning and layout, architectural design, and landscaping. Standards help avoid a monotonous neighborhood by requiring quality materials and a variety of architectural styles. Required parks and open spaces in the medium density areas maintain an uncrowded feeling of a small town and are particularly important in areas of higher density. The necessary elements of design for each of the housing types are shown below.

### Standard Lots

Standard lots are allowed throughout the PCSA. This housing type primarily serves established families and professionals. The lots are larger ranging in size from 7,200-12,000 square feet. The homes are also larger ranging from 3,000-4,200 square feet. All standard lots are detached homes and will reflect the character of existing Lynden homes. These lots have larger yards for children and pets. The design of the homes will meet the community needs and the design of the neighborhoods and homes will be controlled by the City’s Residential Design Standards. The City’s Residential Design Standards require that the homes have obvious front entries, garage doors that are less than 50% of the façade of the home, and not more than 12 feet forward of the living space. These standards help create a pedestrian friendly streetscape. The site plan in Exhibit 17 shows how standard lots may be laid out on a site. The architectural design shall be a variety of styles and have an illuminated front porch or stoop.

#### Exhibit 17. Conceptual Standard Lot Site Plan



Source: Communita, 2018.



*Standard, or “large lot” single-family home.*



### Small Lots

The small lots serve the market needs of first-time homebuyers, young professionals, and young families and are allowed throughout the PCSA. Homes in this category are detached and sit on lots ranging from 4,000-7,200 square feet. These are typically 3-4 bedrooms homes between 2,000-3,000 square feet. Smaller lots can work well with front or alley access. Each home has a back yard for children and pets and a front porch that faces the street or a common open space. Homes with alley access can be situated on a park or open space, providing extra amenity, as shown in Exhibit 18. Design standards emphasize variations in materials and styles to prevent a monotonous appearance. The front porch of each home could also face a landscaped street or pocket park as shown in Exhibit 18 and Exhibit 19.



*Small-lot single family home.*

### Exhibit 18. Conceptual Small Lot Site Plan with Alley Access



Source: Communita, 2018.



*Above: Small-lot single-family home with alley access that fronts on a park.*

*Below: Small-lot single-family home with front access.*

### Exhibit 19. Conceptual Small Lot Site Plan with Front Access



Source: Communita, 2018.



## Cottages

Cottages meet the market needs of active seniors, first time homebuyers, professional couples and empty nesters. These homes may be attached or detached, are typically clustered around pocket parks, and would be allowed in medium density areas. Each home has a smaller private open space but will share a common open space with the other homes in the neighborhood. Cottage residents do not need to maintain a larger yard. The City’s Residential Design Standards and Zoning Code will control how much common open space is required and the location of it. The minimum lot size of a detached cottage is 4,000 square feet. The minimum lot size of an attached cottage is 3,000 square feet. Cottage homes can be accessed from an alley, shared auto court, or a street. The homes will be 1,400-2,400 square feet with 2-3 bedrooms. All homes have a front porch or stoop facing the street or a pocket park to encourage social interaction. The City Residential Design Standards will provide guidance on the design of the homes and require high quality materials and provide variety of architectural character (see Exhibit 20 for a conceptual plan).

### Exhibit 20. Conceptual Cottage Site Plan



Source: Communita, 2019.



*Cottage housing fronting on a street.*

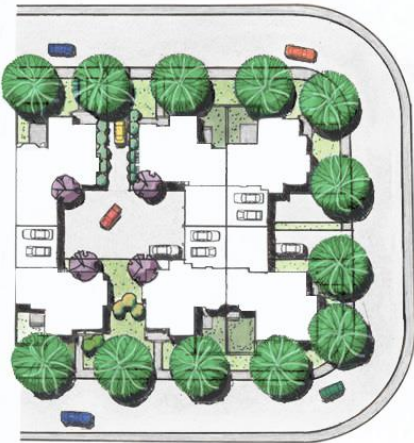




## Attached Cluster Homes

Cluster homes are a style of single-family home that are attached at the garage or in the rear of the lot for efficient site planning (see Exhibit 21). This efficiency lowers the cost of the home. Attached cluster housing meets the market needs of empty nesters, professional couples, and households that are downsizing. Each of the cluster homes are located on their own lots and can be as small as 3,000 square feet. There is a small private yard on each lot. The Zoning Code and the City's Residential Design Standards will require a common open space. The homes will be 2-3 bedrooms and range from 1,600-2,400 square feet. High quality architectural design will be controlled by the City's Residential Design Standards which includes standards that require a variety of architectural styles and materials. Attached cluster homes would be allowed in RM-PC zone.

### Exhibit 21. Conceptual Attached Cluster Home Site Plan



Source: Communita, 2018.

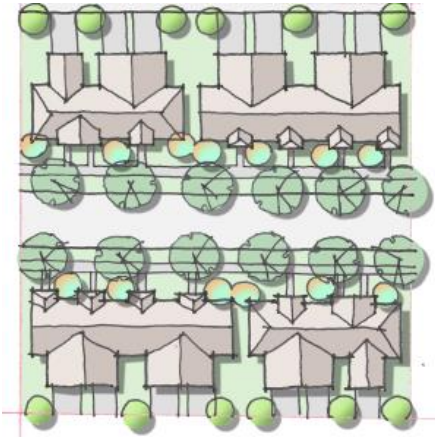


*Attached single-family home clusters.*

## Townhomes

Townhomes are attached single-family homes that serve the market for first time homebuyers, young professionals, and young families. Each townhome is on its own fee simple lot, meaning that the owners have complete ownership of the land and the home, but are subject to a maintenance agreement or association covenants. Lots will range from 1,600-2,100 square feet and each will have a small private courtyard or small yard in addition to shared common open space. Whether townhomes take their access from the alley or the front, each unit will have a front porch or stoop facing a common open space or the street (see Exhibit 22). The City's Residential Design Standards and Zoning require that common open space be provided. The townhomes will be 2-3 bedrooms and range in size from 1,200-2,000 square feet. The City's Residential Design Standards provide for variety in the elevations, materials, colors, and styles to prevent a monotonous appearance and create a high-quality streetscape. Townhomes would be allowed in medium density areas.

## Exhibit 22. Conceptual Site Plan - Townhomes Built with Pocket Parks



Source: Communita, 2019

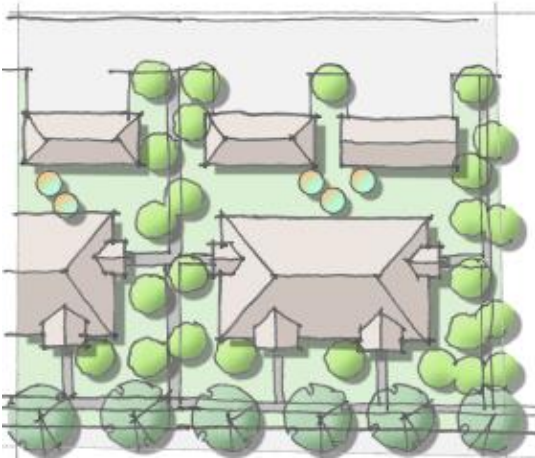


*Townhomes with garages on an alley.*

## Multi-family Housing

Multi-family housing is allowed in the PCSA in the RM-PC and the RM-3 zones and will serve the rental market. This housing will include a maximum of 12 units in small multi-family buildings. Developments will reflect the character of the surrounding neighborhood, while providing housing for a variety of residents. Units will range from studio units up to three-bedroom units and approximately 500-1,400 square feet. Common open space will be integrated into each site as well as private open space for each unit. Parking shall be located behind or to the side with main entries facing the street or common open spaces and create a pedestrian friendly streetscape. The City's Residential Design Standards require variations in materials and modulation of the building which helps integrate the larger building into the surrounding neighborhood.

## Exhibit 23. Conceptual Site Plan - Multi-family Housing



Source: Communita, 2019.



*Multi-family Housing.*

# Goals and Policies

## LAND USE AND HOUSING

PC-1: New growth in the PCSA supports the character, development pattern, and densities in and around Lynden.

PC 1.1 Accommodate most of Lynden’s 20-year growth projection in the Pepin Creek Subarea to use land efficiently and avoid future conversion of designated agricultural lands to urban residential uses.

PC 1.2 Plan development in the PCSA at an overall net density of at least seven units per acre to allow continued low density residential development in the rest of Lynden.

PC 1.3 Develop moderate density housing near public parks and open spaces to give a feeling of openness.

PC-2: The housing choices in the PCSA meet the needs of people in different stages of life.

PC 2.1 Allow a variety of lot sizes for single-family housing to accommodate families with different needs and preferences.

PC 2.2 Encourage a variety of unit types at moderate densities to provide housing that meets the needs of younger adults, older adults, singles, and couples.

PC 2.3 Provide opportunities for assisted living in the PCSA.

PC 2.4 Provide opportunities for homeownership by supporting housing that is affordable to households at a variety of incomes and with a variety of needs.

PC-3: Land use in the PCSA is compatible with adjacent uses.

PC 3.1 Ensure land use compatibility by applying a transition area to the Residential Medium Density district where it is adjacent to a Low Density Residential district.

PC 3.2 Allow for neighborhood commercial uses where Pepin Parkway intersects Benson Road.

PC 3.3 Recognize the Lynden Municipal Airport as an essential public facility by requiring new development to sign a covenant acknowledging noise and other potential impacts related to normal airport operations.

## ENVIRONMENT

PC-4: The Pepin Creek realignment reduces flooding, improves habitat, and serves as a community amenity for the residents of Lynden.

PC 4.1 Provide fish and wildlife habitat within the Pepin Creek corridor.

PC 4.2 Increase drainage functionality and reduce flooding in the subarea.

PC 4.3 Serve as a recreational amenity by including a trail.

PC-5: Environmental stewardship is integrated into the landscape of the PCSA.

PC 5.1 Protect wetlands in accordance with the City's critical area regulations.

PC 5.2 Identify opportunities to enhance wetlands as part of the environmental restoration of the PCSA.

PC 5.3 Require natural stormwater management that is integrated with or mimics natural systems.

PC 5.4 Regulate development design and location in the Flood Hazard Mitigation Overlay to prevent cumulative negative impacts to the surrounding community and avoid flooding of residential neighborhoods, life safety issues associated with road closures, and significant property damage.

## CIRCULATION

PC-6: The PCSA connects seamlessly with motorized and non-motorized transportation networks.

PC 6.1 Apply a hierarchy of streets that safely accommodate cars, bicycles, and pedestrians at each level.

PC 6.2 Encourage streets with the least amount of paved area for their class and function to help calm traffic, lower construction and maintenance costs, and provide environmental benefits.

PC 6.3 Efficiently address motorized circulation by ensuring that the road network is well connected to downtown Lynden.

PC 6.4 Plan for future roadway connections on arterial and collector roads to ensure the completion of an efficient and effective road network.

PC 6.5 Develop a network of multi-use trails, sidewalks, and bike lanes to ensure that people can travel safely by foot and by bicycle.

PC 6.6 Ensure that individual developments within the PCSA are linked by roadways and multi-use trails. Require developments to provide street and trail extensions and frontage improvements to be designed consistent with Subarea Plan cross sections and city standards.

PC 6.7 Accommodate changes to the runway and taxi area at Lynden Municipal Airport with improvements to Benson Road.

## OPEN SPACE

PC-7: All developments in the PCSA are connected to a network of open spaces.

PC 7.1 Utilize the Pepin Creek corridor as a recreational amenity.

PC 7.2 Ensure that all housing units have easy access to open space whether the space is a private yard; shared park, courtyard, or green space; or public park or open space.

PC 7.3 Require development to provide plentiful green space to give a feeling of openness.

PC 7.4 Ensure safe and healthy places for children to play in all residential developments.

## COMMUNITY CHARACTER

PC-8: The PCSA maintains Lynden's small-town character and feeling of community.

PC 8.1 Design residential areas to welcome community interaction by providing porches, stoops, and other semi-private space along landscaped street frontages.

PC 8.2 Scale single-family housing in proportion to its lot to avoid a feeling of overcrowding.

PC 8.3 Apply size restrictions to moderate density housing to ensure it is developed at a scale that feels consistent with small-town character.

PC 8.4 Apply design standards that encourage housing that looks distinctive and attractive and avoids the repetition of housing forms that give a mass-produced look.

## PUBLIC FACILITIES AND INFRASTRUCTURE

PC-9: The PCSA is efficiently served by public services and infrastructure.

PC 9.1 Require development to pay its fair share of costs toward infrastructure and public services.

PC 9.2 Ensure that costs to the City associated with the development of the PCSA and the Pepin Creek Corridor are recovered by the City over a reasonable time.

PC 9.3 Balance the timing and scale of public investment with private investments to ensure that the PCSA is a feasible opportunity for new development.

PC 9.4 Update City Water, Sewer, & Stormwater comprehensive plans to include the PCSA and ensure that primary public infrastructure is well planned and can be built incrementally if needed.

# Implementation

## ZONING

Zoning in the Pepin Creek Subarea is established to produce an average of approximately seven dwelling units per acre using a variety of housing types to meet the needs of families throughout their life. Exhibit 24 shows the zoning classifications for the Pepin Creek Subarea. Uses are primarily residential with allowances for related and compatible uses such as schools, parks, daycares, churches, and limited neighborhood-serving commercial development in the Commercial Overlay areas. Design standards are applied to create a safe, attractive community, with a high quality of life.

### Residential Single Family – 72 (RS-72) Zone

The RS-72 zone is the lowest density zone in the Pepin Creek Subarea, allowing 2-4 units per acre and requiring a minimum lot size of 7,200 square feet. This allows for large lot single-family housing and can be found throughout the city. In the Pepin Creek Subarea, the RS-72 is subject to the City’s Residential Design Standards.

### Residential Medium Density (RMD) Zone

The RMD zone allows for low density housing at densities of up to 4-8 units per acre. A minimum lot size of 6,000 square feet is permitted for detached homes and 4,000 square feet per unit for attached homes are permitted. This zone is used elsewhere within the city and promotes a creative mix of single-family and duplex housing types. Development in this zone is subject to the City’s Residential Design Standards.

### Residential Medium Density – Pepin Creek (RM-PC) Zone

At densities up to 8-12 units per acre, the RM-PC zone allows a variety of housing types, some of which are unique to the Pepin Creek Subarea. The RM-PC allows small lot single-family homes and cottages, with a minimum lot size of 4,000 square feet for detached units. It also allows single-family attached units such as townhouses, duplexes, units attached at the garage, or other housing types with fee-simple ownership and small multi-family buildings. Single-family attached homes are units located on their own lot, which is a minimum of 3,000 square feet. Where the RM-PC zone is adjacent to single-family zoning a transition area will be established to limit height and limit uses to single-family residences.

### Residential Medium Density – Three (RM-3) Zone

The RM-3 zone allows for medium density residential development with a variety of housing types up to 16 dwelling units per acre. This zone sets a minimum lot size of 7,200 square feet and allows, with appropriate square footage, up to 12 units per building. This zone is located near park and trail features which will offer a feeling of openness and provide access to those amenities. .





*Public Use Zone*

The Public Use zone is a citywide zone in Lynden that provides for civic amenities and uses. In the PCSA, the Public Use zone is applied to City-owned property that will be used for a park and potentially another civic use, such as a school. The Public Use zone follows the uses and standards of its zone, not those created especially for the Pepin Creek Subarea. The airport safety area is publicly owned in part and regulatory in part and addressed in overlays below.

*Zoning Overlays*

There are three zoning overlays present in the Pepin Creek Subarea. Every zoning overlay has an underlying zoning designation that establishes the base uses and standards that are in place. The overlay adds additional standards or bonuses that are applied as well.

*Neighborhood Commercial Overlay*

Although future land use in the PCSA is mostly residential, the Neighborhood Commercial Overlay provides opportunities for commercial development at the intersection of Pepin Parkway and Benson Road. If there is a market for small, neighborhood-scale commercial development such as a convenience store or coffee shop, the commercial overlay shows where it could be allowed. Neighborhood commercial allows residents to avoid a trip into town for some basic goods and services, which is convenient for residents and prevents road congestion. If the market does not support commercial development in the Pepin Creek Subarea, the area with the Neighborhood Commercial Overlay can be developed according to the underlying residential land use.

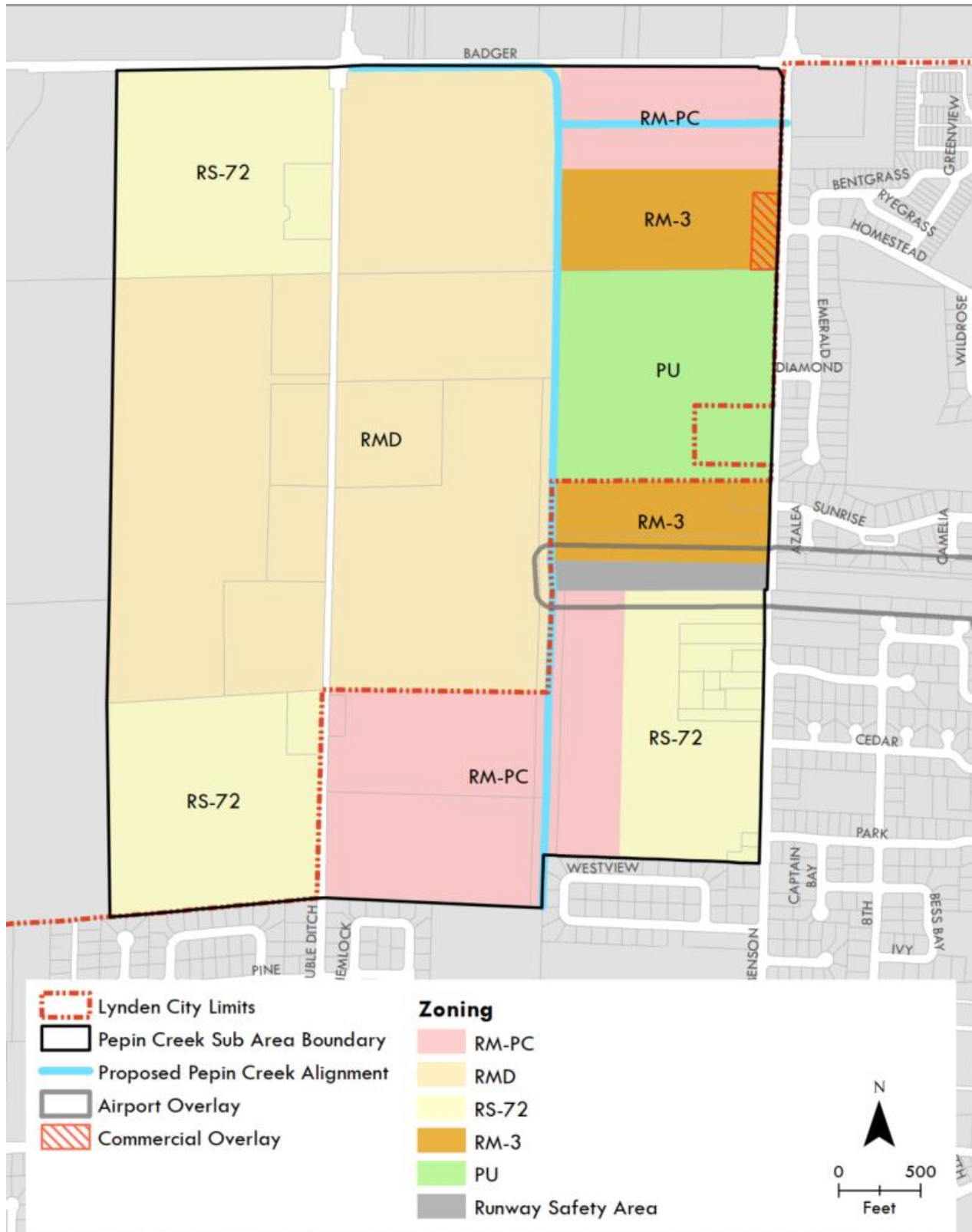
*Airport Overlay*

The Airport Overlay is a special designation on property located adjacent to the airport. The runway and primary facilities of the airport are just outside the PCSA boundary, but the PCSA includes part of the runway safety area. The primary purpose of the Airport Overlay is to prevent airway obstructions and ensure the safety of both airfield users and nearby property owners. The Airport Overlay also allows a few airport-related uses, such as airplane hangars, which are not allowed elsewhere in the underlying zone.

*Flood Hazard Mitigation Overlay*

The Flood Hazard Mitigation Overlay includes the entire PCSA. It primarily recognizes the hazards associated with surface flow flooding, ground water, drainage, and downstream constraints within the subarea. It also recognizes that development in the subarea must be designed and mitigated to prevent cumulative negative impacts to the surrounding community and that development without proper mitigation could result in the flooding of residential neighborhoods, life safety issues associated with road closures, and significant property damage. Additional information about existing flood hazard conditions and flood hazard mitigation can be found in Appendix E. Subsequent study will be needed to further define mitigation strategies and will be conducted along with the finalization of the channel realignment design.

Exhibit 24. Zoning in the Pepin Creek Subarea



Source: BERK, 2019.



## Land Capacity Analysis

The zoning is designed to meet the growth targets established for the City of Lynden and the PCSA at full buildout. This was determined by looking at the theoretical minimum and maximum development potential and identifying two midpoints that are more likely to represent future development. The theoretical limits apply the minimum and maximum densities allowed under the zoning to the developable acreage resulting in 0 to 2,508 units as the minimum and maximum range for development. In practice, development typically occurs somewhere in the middle. The Analysis midpoint of 1,381 is the average of the theoretical minimum and theoretical maximum. The analytical maximum presents a higher limit of 1,902 is set at a development level of 75% of the theoretical maximum for the zoning. For planning and analysis purposes, the range of 1,381 to 1,902 units was used to estimate likely development in the PCSA (see Exhibit 25).

### Exhibit 25. Land Capacity Ranges in the Pepin Creek Subarea

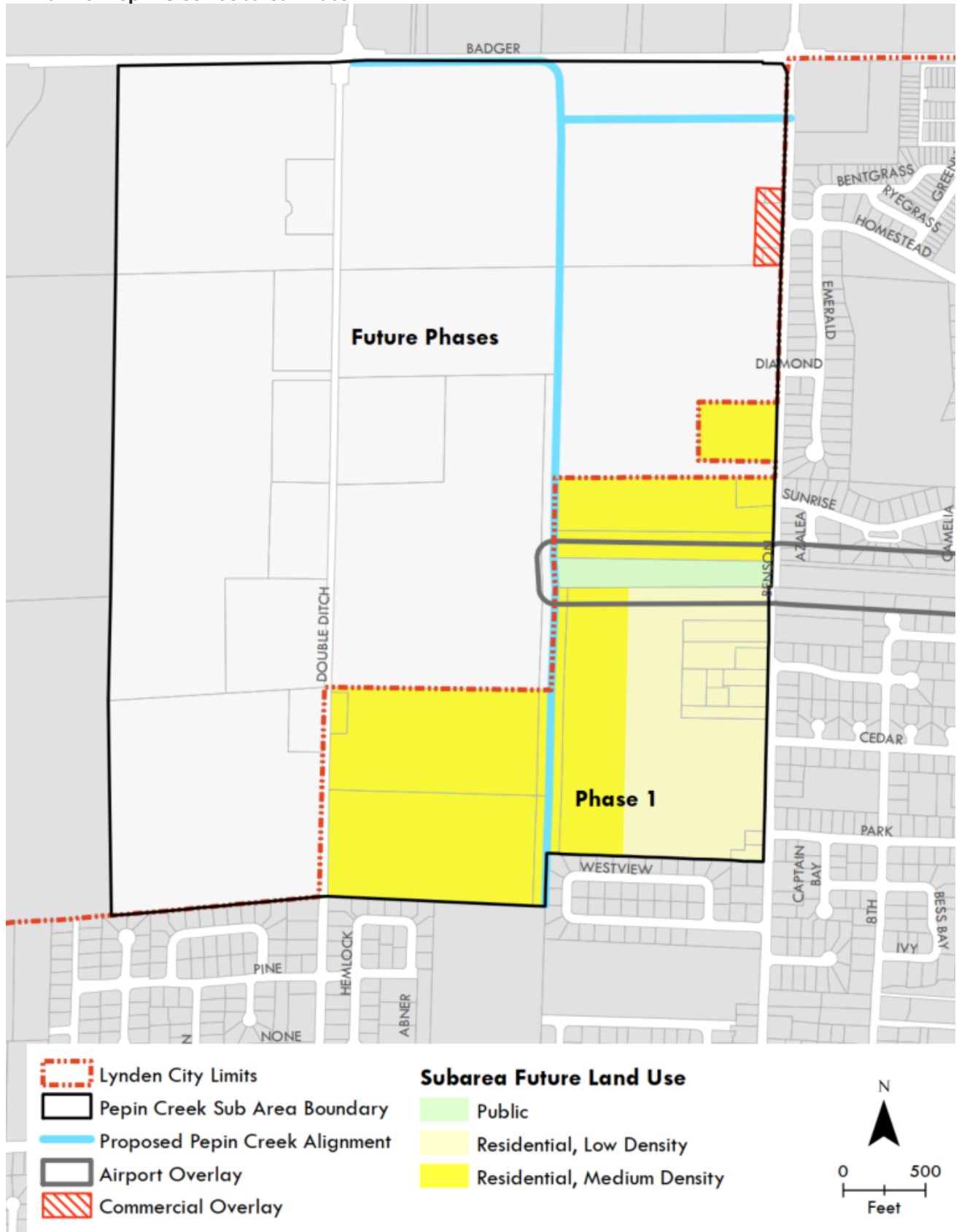
Zone/Overlay	Theoretical Minimum	Theoretical Maximum	Analysis Midpoint	Analysis Maximum
<b>TOTAL units</b>	<b>0</b>	<b>2,508</b>	<b>1,381</b>	<b>1,902</b>

## PHASING

Only about 20% of the PCSA is currently within city limits; the majority is part of Lynden's UGA. Until the land within the UGA is annexed it will be subject to Whatcom County's adopted land use and zoning, which classifies this land for agricultural use. Subarea Plan implementation will occur within city limits during its first phase, as shown in Exhibit 26.

Ideally Pepin Creek Subarea plan phasing will match the progress of the Pepin Creek Realignment Project. An initial phase, known as the intercept ditch, was constructed in 2018 and extended at the end of 2019. The intercept ditch functions as a flood protection measure for existing infrastructure and housing developments by interrupting overland flow of flood waters. The design of the realignment project will be subject to additional environmental review, anticipated in early 2020. Once a specific design is selected the first phase could begin as soon as 2022 in association with planned culvert improvements along Badger Road by the Washington State Department of Transportation. However, this timeline does not account for any significant delays that may be encountered during the design, financing, or construction of these improvements. Phase 1 subarea development will likely occur ahead or in tandem with the development of the first parts of the channel if financial participation in the channel realignment project can be assured.

Exhibit 26. Pepin Creek Subarea Phase 1



Source: BERK, 2019.

Development that gets ahead of the realignment project will need to accommodate space for the future development on the Pepin Creek channel and meet buffer requirements and setbacks from the existing Pepin Creek channel in Benson Road and Double Ditch Road. Until the Pepin Creek Realignment project is completed, the channels on Benson and Double Ditch are unavailable for integration into low impact development stormwater systems. These inefficiencies may limit the development potential of lands that redevelop prior to the completion of the Pepin Creek realignment and are more likely to affect Phase 1 development.

Phase 2 likely occurs when the UGA is annexed and services are extended. Earlier development may occur in the Southwest and Northeast portions of the UGA where road infrastructure is present and proposed for improvement and funding with application of impact fees, e.g. Benson Road and Main Street.

Phase 3 is likely to include areas to the West and Northwest that are currently being farmed, have had recent investments in agricultural production, or where there are more constraints like the wetland/pond. There may be a greater willingness to monitor the Pepin Creek realignment progress, as well as the timing of new or improved roads in these areas, while continuing current agricultural activities.

Annexation of the UGA should consider the ability to implement the PCSA plan. The City has more control over the timing of development in the UGA because it can control annexation in future phases. Annexation and development that occurs prior to realignment of the channel should have a plan for addressing potential development inefficiencies with creative site planning or project phasing.

## CAPITAL FACILITIES PLAN

Development on the PCSA will require substantial investments in infrastructure and capital facilities. Exhibit 27 shows the total costs, by category, of the improvements needed to allow for development in the subarea. It is important to note that these are point-in-time costs that assume this project is completed all at one time, in 2019 dollars. As the work on the infrastructure is phased and completed, cost estimates will need to be updated to reflect inflation and the carrying costs based on the phasing.

The majority of capital facilities expected in the PCSA are related to new development. New development is expected to provide for these capital facilities through direct infrastructure construction and the payment of related fees and charges. The development of new capital facilities and infrastructure will be guided by City of Lynden plans, policies, and regulations as shown in the sections below.

## Transportation

The City of Lynden maintains a Transportation Improvement Plan (TIP) that lists local transportation projects. Each year an updated TIP is submitted to the Whatcom Council of Governments and the Washington State Department of Transportation (WSDOT) to ensure that projects eligible for federal and state funding can compete for funds. Projects listed on the TIP include motorized, non-motorized improvements, on-going maintenance projects, and projects to served new growth. In the most recent TIP (2019-2024) three projects appear on the list for the PCSA. These projects include:

- Pepin Creek – bridges, multi-modal trail, and changes to roads and road drainage associated with the realignment of Pepin Creek.
- Benson Road – safety and capacity improvements.
- SR 546 Intersection with City Arterials – capacity improvements that will be led by WSDOT.

In addition to the TIP, the Comprehensive Plan lists additional projects that will be needed to meet the needs of growth by 2036. These include the extension of safe bicycle connections from Homestead Boulevard and the creation of a multi-modal network of trails, pathways, and sidewalks in the PCSA.

Some of the transportation facilities needed in the PCSA will be constructed by the developer. Title 12 of the Lynden Municipal Code (LMC) specifies the standards and minimum requirements for the construction of streets and sidewalks. It specifically adopts the WSDOT manual for application, design, and construction of improvements. It also applies City of Lynden Engineering Design and Development Standards in LMC 13.24 and Titles 16-19 and the Washington Department of Ecology stormwater manual. The City of Lynden intends to use its established traffic impact fees in place at the time of application as the mechanism to collect a fair share from development for the construction of the regional arterial streets. More information is available in the finance section of this plan.

## Stormwater

The City of Lynden operates its Municipal Separate Stormwater System under a National Pollutant Discharge and Elimination System Phase II permit. Stormwater management is regulated through Chapter 13.24 of the LMC (Lynden Municipal Code). This code section sets forth the minimum requirements for new development and redevelopment, including the use of the 2014 Stormwater Management Manual for Western Washington by the Washington State Department of Ecology. The City operates its Municipal Separate Stormwater System as a stormwater utility.

The City's Stormwater Comprehensive Plan is currently being updated and has not been issued. This subarea was the subject of a 2009 amendment to the current 1992 Stormwater comprehensive plan which described the need for what became the Pepin Creek realignment project (Reichart & Ebe, 2009).

Pepin Parkway is planned to have a continuous open vegetated channel between the proposed roadway and the proposed multi-use trail. This area is sized to provide water quality treatment and detention flow control storage for the public roadway. There are no other planned stormwater facilities and it is assumed that each development project would provide meet its own stormwater management within the project per the current City of Lynden Code.

**Exhibit 27. Improvements Needed to Support Development in the PCSA**

	Total Cost	Existing Developer Commitment	Existing Public Commitment		Unaccounted Funds
			General City Funds	Grants	
Regional Road Improvements	\$15,826,000	\$2,915,291	\$12,910,709		\$0
Road Improvements (planned)	\$11,607,000	\$2,915,291	\$8,691,709		\$0
Road Improvements (additional)*	\$4,219,000		\$4,219,000		\$0
Local Roads (Developer Constructed)	\$9,251,000	\$9,251,000			\$0
Roads & Bridges	\$5,400,000				\$5,400,000
Pepin Parkway	\$1,800,000				\$1,800,000
Pepin Creek Bridges	\$3,600,000				\$3,600,000
Water/Sewer Improvements	\$17,645,000	\$17,645,000			\$0
Water Improvements	\$5,299,000	\$5,299,000			\$0
Sewer Improvements	\$12,346,000	\$12,346,000			\$0
Stormwater Improvements (onsite)	\$5,524,000	\$5,524,000			\$0
Wetland Mitigation	\$600,000				\$600,000
Creek Realignment and Downstream	\$43,983,000			\$3,900,000	\$40,083,000
Utility Connection Fees (Water/Sewer/Storm)		\$17,139,591			\$0
<b>TOTAL</b>	<b>\$98,229,000</b>	<b>\$52,474,882</b>	<b>\$12,910,709</b>	<b>\$3,900,000</b>	<b>\$46,083,000</b>
	<b>\$98,557,882</b>				
<b>DEVELOPER CONTRIBUTION ASSUMING EXISTING CITY COMMITMENTS</b>					

Source: City of Lynden, 2019; Herrera, 2019; and BERK Consulting, 2020.

## Water

The City of Lynden owns and operates a municipal water system that serves retail customers within the city limits and the UGA and provides wholesale supply to several adjacent water associations. An existing 12 inch City of Lynden water main runs along the eastern boundary of the PCSA in Benson Road, and the existing developments within the existing city limits portion of the PCSA are served by City water mains. However, the interior of the PCSA currently in agricultural use is not served by public water mains. These agricultural uses appear to be served by six wells located within the PCSA.

The City of Lynden's Water System Plan (Gray & Osborne, 2009) projects growth in the city overall but does not address the growth of the PCSA specifically; in the next Water System Plan Update, the PCSA should be addressed. The Water System Plan identifies one CIP in Benson Road to upgrade 660 linear feet of 4 inch pipe with 12 inch pipe. To meet the projected demand, it will be necessary to run a new primary water main loop from Main Street Up Double Ditch to Badger Road and then east on Badger Road to Benson Road. Other smaller water mains would be extended into the PCSA as part of land development projects. This new 9,250 linear feet primary loop is assumed to be 12 inch diameter, however, the design of this loop needs to be verified by modelling.

## Wastewater

The City owns, operates, and manages wastewater collection and treatment facilities serving 2,879 acres. The City of Lynden General Sewer Plan Update (BHC, 2016) estimates the City of Lynden's population will grow to 19,000 people by 2036 and expand to serve total of 4,204 acres. The sewer plan does not provide specific plans for serving the PCSA, which is identified as sewer basins "F" and "UGA" in the plan. The plan anticipates that these basins will be upgraded by developer extensions. The existing sewer collection system was modelled at the 20-year planning horizon and three gravity sewer deficiencies were identified. There were no pump station or force main deficiencies identified.

To serve the proposed development in the PCSA a new network of new gravity sewers, pump stations, and force mains will be necessary to collect and convey wastewater from the PCSA to the existing sanitary sewer collection network. The northern edge of the PCSA at Benson Road is approximately 10 feet higher than the southern boundary of the PCSA. It is expected that the northern portion of the PCSA will be filled to facilitate the development; and that one large or several smaller new sanitary sewer pump stations located in the mid to southern portion of the PCSA will be necessary to provide wastewater collection. A new gravity sewer within the PCSA will convey wastewater to the new pump station(s) and discharge via force main(s) to the existing sanitary sewer collection system.

The 20-year full buildout of the PCSA is expected to include about 1,381 units maximum of 1,902 units corresponding to a population of 3,854 to 5,307 residents. Per the sewer plan, the residential wastewater production rate in Lynden for residential is 45 gallons per day per capita. Therefore, the expected wastewater flows range from 173,430 to 238,815 gallons per day. This results in a required total pump station capacity of to 400 to 600 gpm (gallons per minute) in one or more pump stations.



## FINANCE

At this time, the City of Lynden assumes that the infrastructure investments needed to make the overall Pepin Creek Subarea developable (excluding the cost of utility hookups at the parcel-level) will be \$98,229,000, as shown in Exhibit 27. Of these infrastructure costs, the City has committed to paying \$16,810,709. For development to be feasible, the City asserts that developers will be responsible for the remaining cost of all improvements needed to support development of the subarea.

The future subarea developer(s) are already committed to paying for \$35,335,291 of these costs as they will make the improvements (including regional road improvements, construction of local roads and Pepin Parkway, and water, sewer, and stormwater improvements) directly. They are also committed to paying utility connection fees for water, sewer, and stormwater, for a total existing commitment of \$52,474,882.

We completed a financial feasibility analysis, provided in full in Appendix D for two scenarios:

- **Threshold Feasibility.** Developers can buy the land and pay their existing commitments, for a total cost of between \$74,470,000 and \$76,914,000.
- **Full Feasibility.** Developers can buy the land and pay the total infrastructure costs less the existing city commitment, for a total cost of between \$120,553,000 and \$122,997,000.

This analysis shows that the Pepin Creek Subarea developable land value is within the values of comparable developments. It is important to remember that the cost of the land and value of the land are not the same thing, as the former does not account for the developer's profit. For this project to be feasible the future value of the land must be within the values of comparable developments. Profit is not factored into this because developer's expectations for profit for this kind of development are not known.

### Funding and Financing Tools for Subarea Development

The City has committed \$16,810,709 to this effort. \$3,900,000 of that value is grant funded, however the City will need to come up with the remaining \$12,910,709. The City may also fund and finance improvements that are the obligation of developers upfront and recover funds from developers to refund that investment later.

This plan identifies funding and financing mechanisms that can be used to generate City revenues to fund and finance the improvements, either in total or just upfront, and, where developers are responsible for costs.

### *Funding and Financing Mechanisms (Beyond Existing Tools) to Support Expected City Contributions and Upfront Funding of Improvements*

- **Sales Tax generated on development.** Sales tax is generated from the taxable sales of goods occurring within the city's boundaries. Sales tax impacts from potential site development will be generated in two ways:
  - The initial construction of the development will generate sales tax for the full cost of supplies, material, and labor used in construction.
  - Additional residents added to the development will generate ongoing sales and use tax revenues for purchases made in the city limits.

### *Funding and Financing Mechanisms to Recover Funds from Development*

- **State Environmental Policy Act Mitigation Fees.** SEPA grants wide-ranging authority to impose mitigating conditions relating to a project's environmental impacts. A local government's authority under SEPA to mitigate environmental impacts includes the authority to impose impact fees on a developer to pay for the mitigation of impacts on public facilities and services. In this case, the public facility or service being paid for would be the Pepin Creek downstream stabilization and creek realignment.
- **Property Owner and Developer Contributions.** In cases of large developments, the City may work with a developer to enter into a development agreement governing the development. This agreement can include obligations for the developer to pay for infrastructure necessary to support the development.
- **Local Improvement District/Utility Local Improvement District.** Local Improvement Districts (LIDs) are a financing tool used to require benefiting properties to finance needed capital improvements through the formation of special assessment districts. Special assessment districts permit improvements to be financed and paid for over time through assessments on the benefiting properties. Utility Local Improvement Districts (ULIDs) have the additional characteristic of allowing for utility revenue to be pledged to the repayment of the ULID debt in support of the issuance of bonds.

## References

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## Appendix A – Existing Conditions Report

Please note that the information in the Existing Conditions Report presents the best information available at the time it was issued in October 2017. Since that time some details may have changed as additional information became known. For example, the Pepin Creek Area of Influence was modified after further study. In the few areas of inconsistency, the Subarea Plan presents the best and most up-to-date information as of the time of its issuance.



# Existing Conditions Report

Pepin Creek Subarea Plan | City of Lynden | October 2017

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Prepared for:

Planning & Community Development Department  
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## Table of Contents

- 1.0 Project Overview ..... 3**
  - Study Area..... 4
  - 1.2. Area Context..... 4
    - Pepin Creek Subarea Project..... 5
- 2.0 Natural Environment and Infrastructure ..... 6**
  - 2.1. Surface Water Hydrology..... 6
  - 2.2. Critical Areas..... 14
    - Stormwater..... 19
  - 2.4. Utilities ..... 21
- 3.0 Built Environment and Planning ..... 25**
  - 3.1. Land Use..... 25
    - Zoning and Development Standards ..... 29
  - 3.3. Population and Housing..... 32
  - 3.4. Development Potential and Market Considerations..... 33
    - Transportation ..... 37
  - 3.6. Parks and Open Spaces..... 39
- 4.0 References ..... 40**
- 5.0 Abbreviations ..... 42**

## Table of Exhibits

Exhibit 1-1. Pepin Creek Subarea Context Map .....	4
Exhibit 2-1. Mapped Critical Areas in the PCSA and vicinity .....	7
Exhibit 2-2. Proposed Pepin Creek Realignment .....	9
Exhibit 2-3. Estimated Pepin Creek Flows .....	10
Exhibit 2-4. Average Groundwater Depths in the PCSA for April and May 2017 (R&E 2017).....	13
Exhibit 2-5. Federal and State Listing Status of Fish in the Study Area .....	15
Exhibit 2-6. Aerial with LiDAR in the Pepin Creek Project Area.....	18
Exhibit 2-7. Stormwater Facilities in Pepin Creek Subarea .....	20
Exhibit 2-8. Existing Sanitary Sewer Infrastructure in the Pepin Creek Project Area .....	22
Exhibit 2-9. General Sewer Plan Future Sewer Extensions for Pepin Creek Subarea .....	23
Exhibit 2-10. Existing Water Infrastructure in the Pepin Creek Project Area.....	24
Exhibit 3-1. Current Land Use Acreages.....	25
Exhibit 3-2. Pepin Creek Subarea Current Land Use.....	26
Exhibit 3-3. Pepin Creek Subarea Ownership.....	27
Exhibit 3-4. Pepin Creek Subarea Building Footprints.....	28
Exhibit 3-5. Zoning Acreages.....	29
Exhibit 3-6. Pepin Creek Subarea Zoning Map.....	30
Exhibit 3-7. Lynden and Pepin Creek Population Estimates, 2013 & 2036.....	32
Exhibit 3-8. Land Value by Zoning Category in the Pepin Creek Subarea .....	33
Exhibit 3-9. Public Scale Costs of Improving Pepin Creek Subarea.....	35
Exhibit 3-10. Expected Developer Costs of Improving Subarea Land .....	35
Exhibit 3-11. Example Development Comparisons.....	36
Exhibit 3-12. Transportation Improvement Projects Identified in the Lynden Comprehensive Plan.....	38

## Appendix

Critical Areas Memo – June 28, 2017



## 1.0 Project Overview

The Pepin Creek Subarea Plan will examine land use, financial, and environmental strategies and opportunities for the Pepin Creek Subarea, in conjunction with the Pepin Creek Realignment project. The Realignment project is a regional habitat improvement project that will move fish-bearing waters away from Double Ditch and Benson Roads into a new stream channel while increasing flood water capacity along the Creek and integrating recreational opportunities and new development. With the implementation of the Realignment project, it is the goal that drainage, water quality, and habitat will be improved and allow development in the Subarea.

This Existing Conditions Report is a first product of the Subarea Plan process and provides an overview of current conditions, challenges, and opportunities for the area, including the following topics:

1. Project Overview
  - Study Area
  - Area Context
  - Pepin Creek Project
2. Natural Environment and Infrastructure
  - Surface Water Hydrology
  - Critical Areas
  - Stormwater
  - Utilities
3. Built Environment and Planning
  - Land Use
  - Zoning and Development Standards
  - Population and Housing
  - Development Potential and Market Considerations
  - Transportation
  - Parks and Open Spaces

### Frequently Used Terms

▪ **Pepin Creek Realignment project.** The engineering and environmental project that plans to re-route the majority of the flow from the East and West ditches on Double Ditch Road and the Benson Road Ditch into a consolidated channel for Pepin Creek PCSA.

**Pepin Creek Subarea Plan.** The planning project that will establish goals and policies for the development of the subarea.

**Pepin Creek Subarea.** The geography that is included in the Pepin Creek Subarea Plan.

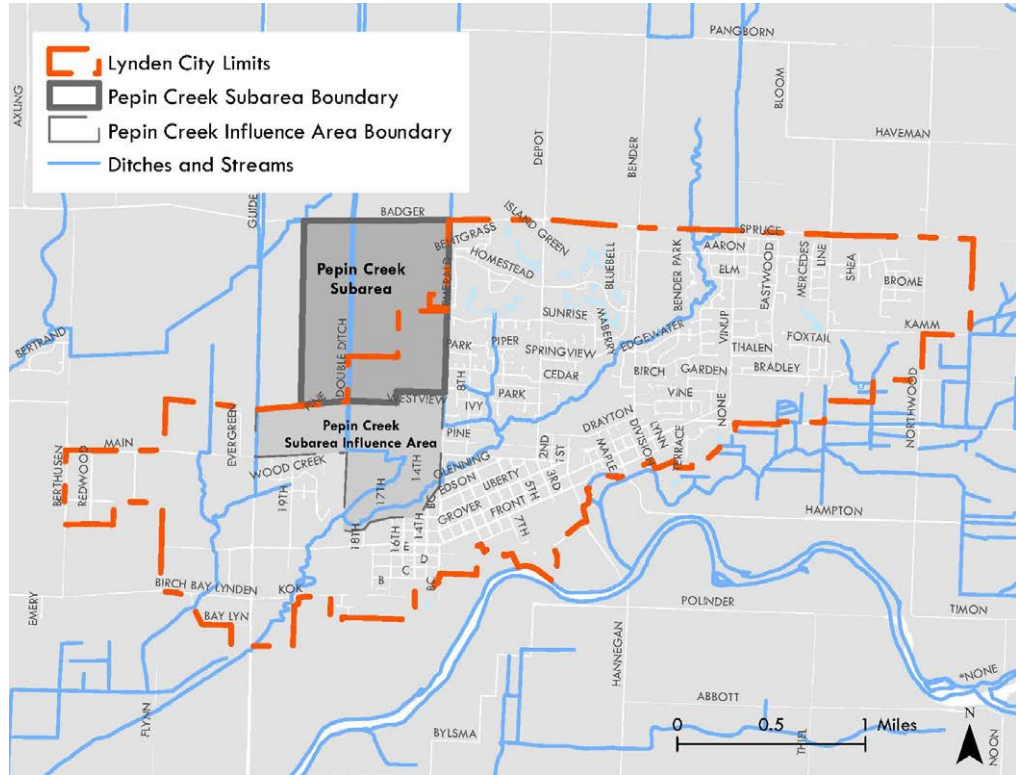
**Pepin Creek Subarea Area of Influence.** The area downstream of Main Street that is influenced by the hydrology changes associated with the Pepin Creek Realignment project.

**Pepin Creek Project.** All the work to address environmental and land use considerations related to Pepin Creek. It includes the Pepin Creek Subarea Plan and the Pepin Creek Realignment project.

### 1.1. STUDY AREA

The Pepin Creek Subarea (PCSA) is an approximately 460-acre area including the northwestern Lynden city limits and urban growth area (UGA). Approximately 24 percent of the Subarea, or 110 acres, is within city limits and the remaining 76 percent, or 350 acres, are in the UGA. Exhibit 1-1 shows the PCSA and its influence area in relation to Lynden city limits and the surrounding unincorporated area.

**Exhibit 1-1. Pepin Creek Subarea Context Map**



Source: City of Lynden, 2017; Herrera, 2017; BERK, 2017

### 1.2. AREA CONTEXT

The PCSA 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 (Whatcom County 2016). Although there is capacity for some of this growth in other parts of the city, the PCSA has been identified as a primary area for future residential development over the next 20 years. Without further planning, the existing conditions in the Subarea may complicate future residential development.

The PCSA has areas of high-water table and has experienced flooding. In the late 1800's and early 1900's, settlers rerouted the original Pepin Creek in order to farm the land in this area. Remnants of the

historic creek were moved into the “ditches” along Double Ditch Road and Benson Road. These ditches still bear fish and are used as salmon spawning grounds. They also collect stormwater from adjacent farmlands and have upstream tributary area in Whatcom County and Canada. During periods of heavy rain, these waterways are inundated with rain and overflow onto the adjacent roads and land, leading to the potential for property impacts and a number of road closures in the last 20 years. The presence of these fish-bearing ditches also constrain the roads under normal conditions, preventing roadway improvements on Benson Road and Double Ditch Road until such time that the existing waterway system can be modified through the Pepin Creek Realignment project.

In September 2016, the City imposed a development moratorium on the PCSA to halt development there until plans for the Pepin Creek project can be completed to address drainage, financial, and flooding concerns. Otherwise, premature development could affect the development of properties in the Subarea, as well as impact properties further downstream.

### 1.3. PEPIN CREEK SUBAREA PROJECT

As part of the Pepin Creek project, the City is planning to reconstruct the creek corridor to reduce flooding and gain other environmental benefits associated with the Pepin Creek Realignment project. As part of the Subarea plan the City will plan for phased improvements, financing, and appropriate development standards to guide residential development in the Pepin Creek Subarea. Work has already begun on the Pepin Creek Realignment project:

- A local engineering firm, Reichhardt & Ebe Engineering, Inc. (R&E), has been working on the preliminary investigation and design of the new creek corridor that runs north-south at the mid-point between Double Ditch Road and Benson Road. The new Pepin Creek corridor will accommodate the existing water in the roadside ditches, provide additional stormwater capacity to control flooding, improve water quality and fish habitat, provide a recreational amenity, and function as the downstream receiving water body for managed stormwater in the Subarea.
- The City has acquired most of the land needed for a 75- to 150 foot-wide creek corridor, and acquired an additional 40 acres, a portion of which will be used for new City parkland in the Subarea. Preliminary site investigation and design work have been completed.
- Downstream (below Main Street, shown as the Influence area in Exhibit 1-1), the City has begun investigation and design work for existing bank stabilization issues with County grant funding to design a new Main Street Bridge.

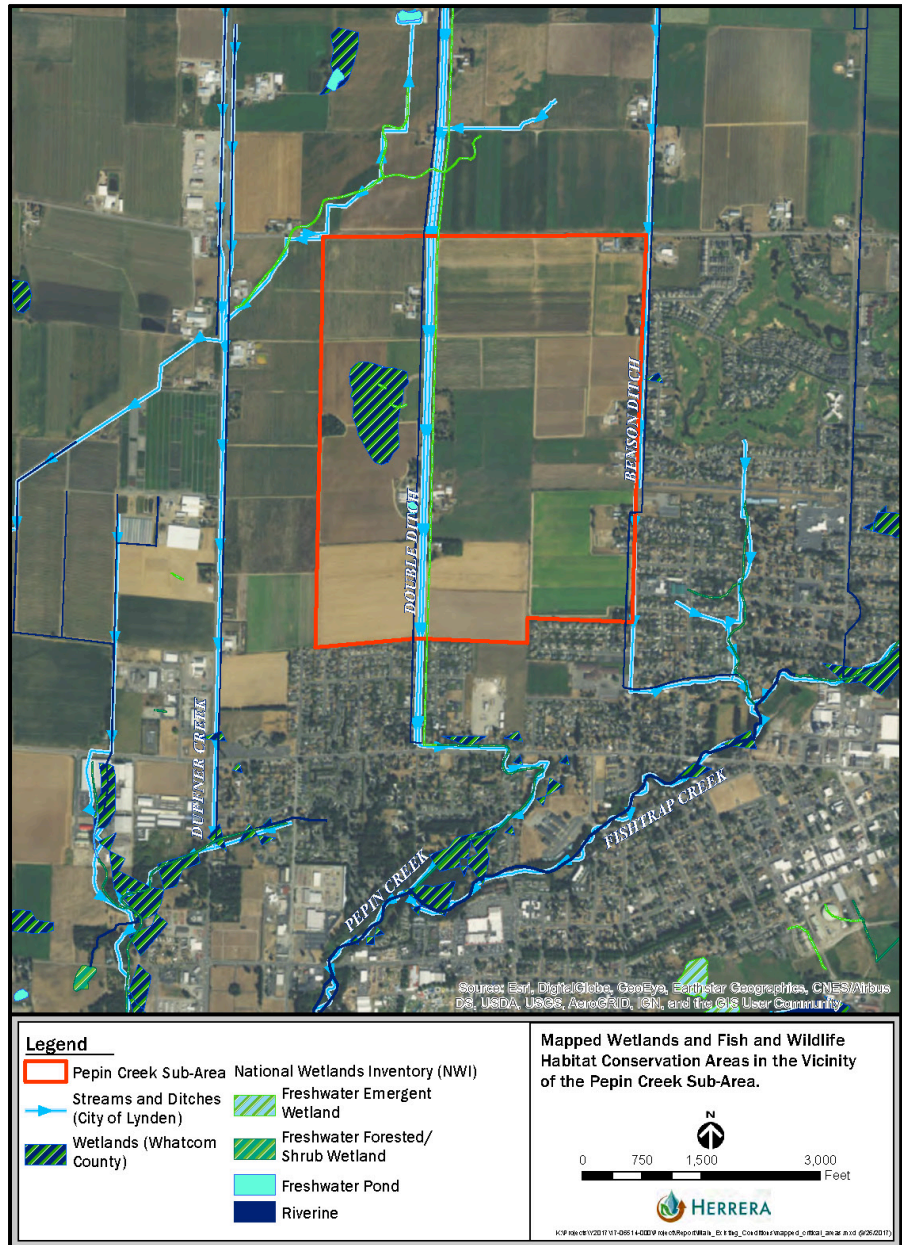
## 2.0 Natural Environment and Infrastructure

### 2.1. SURFACE WATER HYDROLOGY

#### 2.1.1. Existing Conditions

The PCSA lies within the Nooksack River Water Resources Inventory Area 1. The Nooksack River flows east to west just south of the City of Lynden; however, the PCSA and the majority of the City lies outside the mapped Nooksack River's FEMA 100-year floodplain. Existing surface water resources in the PCSA include a number of ditches, such as Double Ditch and Benson Ditch (as shown in Exhibit 2-1), which drain to Pepin Creek and Fishtrap Creek, a tributary of the Nooksack River. Fishtrap Creek bisects the City from northeast to southwest and Pepin Creek flows through the western portion of the City from north to south. Pepin Creek is a natural stream that originates in Canada, where it is referred to as Pepin Brook, and drains farmland and other urban areas along its course. Near the US-Canada border, Pepin Creek is channelized and flows south in two parallel channels, known as West Double Ditch and East Double Ditch, along Double Ditch Road. A flow splitter maintained and operated by Whatcom County splits the flow into the two ditches. West and East Double Ditch flow south through the PCSA and eventually join the more natural drainage course of Pepin Creek south of Main Street. Benson Ditch also originates just north of the US-Canada border and flows south along Benson Road until it reaches Isom Elementary School, where the ditch is directed east towards Fishtrap Creek.

Exhibit 2-1. Mapped Critical Areas in the PCSA and vicinity



### 2.1.2. Proposed Pepin Creek Realignment

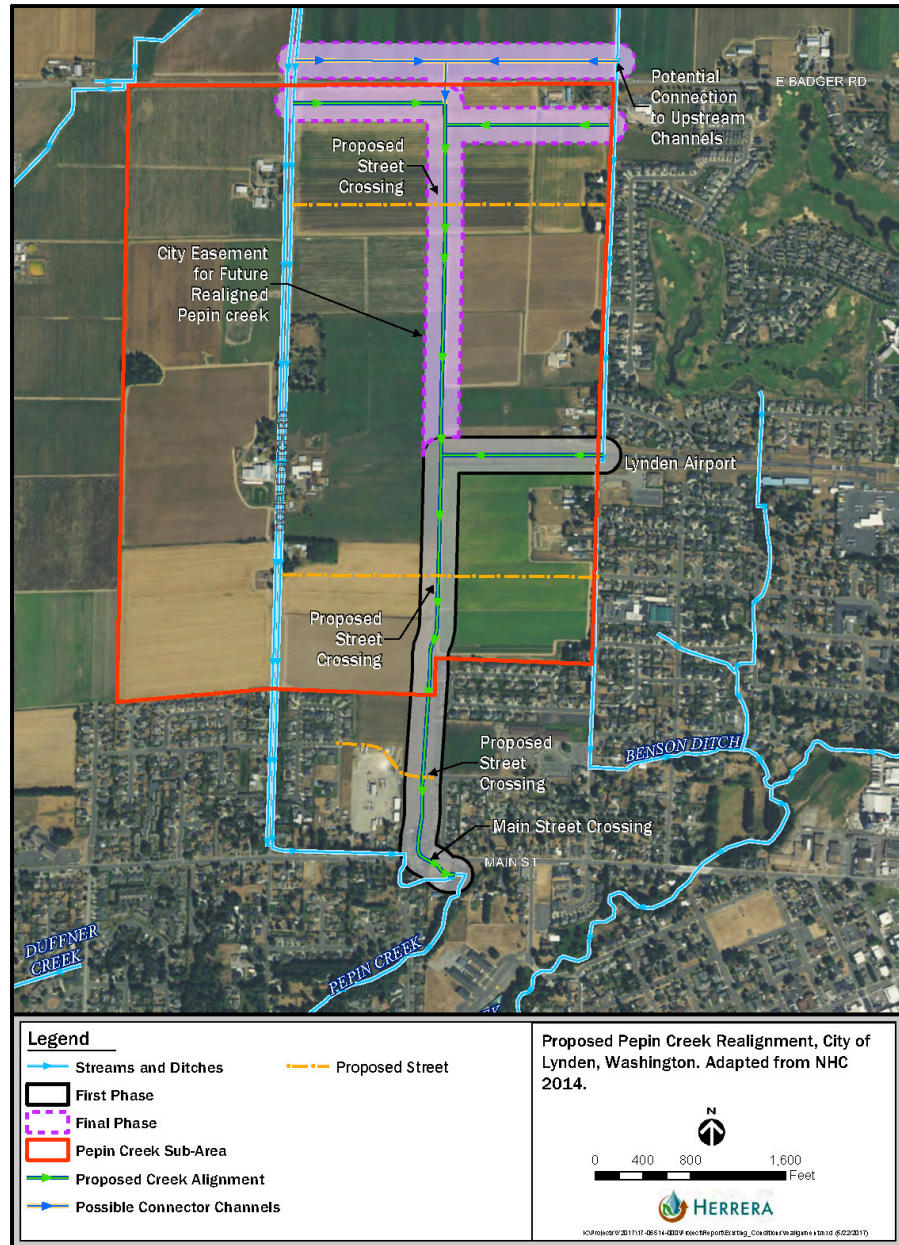
The Pepin Creek Realignment project would realign and join Benson Ditch with West and East Double Ditch to create a restored Pepin Creek through the PCSA (see Exhibit 2-2). The primary goals of the proposed Pepin Creek realignment are to allow the full arterial street construction of Benson and Double Ditch Roads, improve in-channel and riparian habitat, and to provide significant relief from flooding by providing 100-year flood conveyance. The City has secured a majority of a 150-foot wide right-of-way (ROW) easement to serve as the probable corridor for the realigned creek channel, running north to south through the PCSA along the approximate mid-point between Double Ditch and Benson Roads (see Exhibit 2-2).

The Pepin Creek Realignment project is separate from, but interconnected with, the PCSA Plan. The realignment project has received some separate dedicated funding, is being designed by a separate engineering consultant, Reichhardt & Ebe Engineering, Inc. (R&E), and is likely to be phased with the full development of the PCSA. And yet, the new Pepin Creek channel must be integrated within the PCSA and must be sized to convey the runoff from a built-out PCSA without worsening flooding or erosion conditions off-site or downstream. Anticipated project phasing for both the Pepin Creek Realignment project as well as the PCSA will be evaluated and proposed as part of the final PCSA Plan.

Several concepts have been considered for the realignment project, starting with recommendations provided by the Washington Department of Fish and Wildlife (WDFW) in 2012 and further evaluated in 2014 with the Pepin Creek Relocation Feasibility Analysis (Northwest Hydraulic Consultants (NHC) 2014). A final design concept for the realigned Pepin Creek channel is still being developed (Zylstra personal communication September 22, 2017) and is anticipated to be ready in late fall of 2017. This section discusses some anticipated concepts for the realigned channel and riparian corridor, given previous analyses completed by the City and their consultants and based on preliminary information and communications exchanged between the City, their consultants, and this PCSA planning team.



Exhibit 2-2. Proposed Pepin Creek Realignment



### Estimated Pepin Creek Hydrology

Peak flows for Pepin Creek have been estimated based on a flood frequency analysis performed (NHC 2014) on historical data collected from the USGS Fishtrap Creek at Front Street gauge #12212050 and extrapolations based on basin area (North Lynden Watershed Improvement District [NLWID] 2009). Exhibit 2-3 below provides a summary of these estimated flows. Additional flow data collection along Pepin Creek and the Double Ditch and Benson Road drainages has been completed since the NHC 2014 analysis; however, this data was not yet available at the time this report was completed.

**Exhibit 2-3. Estimated Pepin Creek Flows**

RECURRENCE INTERVAL (YEARS)	FISHTRAP CREEK AT FRONT ST (USGS GAGE)	PEPIN CREEK AT BADGER RD	BENSON DITCH AT BADGER RD	PEPIN CREEK AT CONFLUENCE WITH FISHTRAP CREEK (EXISTING BASIN)	PEPIN CREEK AT CONFLUENCE WITH FISHTRAP CREEK (WITH FUTURE BENSON CREEK)
(BASIN AREA, SQ.MI.) <sup>1</sup>	(37.15)	(6.55)	(1.65)	(6.90)	(9.09)
1.01	212	46.4	13.8	48.5	61.8
2	654	143	42.6	149	190
5	853	188	56.3	196	250
10	966	214	64.7	224	285
25	1,095	244	74.3	256	324
50	1,183	265	80.7	277	351
100	1,265	284	86.6	297	376
200	1,342	301	91.9	315	399
500	1,442	324	98.7	338	429

<sup>1</sup> Basin Area is derived from basins delineated for the NLWID Watershed Plan (2009).

One important consideration for the realignment project is the potential for existing bank erosion problems downstream of Main Street to be worsened by increased flows resulting from the realignment project. According to the NHC 2014 analysis, the re-routing of the Benson Ditch drainage into Pepin Creek, combined with the possible loss of upstream flood storage from fields flooding less frequently, could cause the downstream reach of Pepin Creek to experience a 25 to 30 percent increase in the peak annual discharge.

Another important consideration is the need to balance the benefits of upstream conveyance improvements and reduced flooding of fields and roadways upstream with adequate flood retention or energy dissipation somewhere along the new realigned Pepin Creek channel to ensure that flooding or erosion problems are not worsened downstream of Main Street. The downstream preliminary analysis currently being completed by R&E for the realignment project will evaluate this (Zylstra personal communication April 7, 2017).

Because any future development of the PCSA will be subject to the Washington State Department of Ecology's Stormwater Management Manual for Western Washington (Ecology SWMMWW 2012), all stormwater will be managed to provide flow control (in addition to runoff treatment for water quality) consistent with a historical forested land cover condition. As a result, the development of the PCSA should

not increase peak flows and, in fact, decrease peak flows relative to current conditions for that part of the basin being redeveloped from farmland into urban development.

#### *Channel Connections on the North Side of the PCSA*

A challenge for the upstream portion of the realigned channel design involves evaluating how to connect Pepin Creek at Double Ditch Road with the head of the realigned channel that will flow south through the PCSA. Current options being evaluated (see Exhibit 2-2) include routes and culverts connecting the two Double Ditch drainages on either the north or the south side of Badger Road. Previous analyses have recommended that if a north-side route is selected and the two double ditch drainages were connected on the east side of Double Ditch Road, upstream of Badger Road, then a roughly 28-foot-wide (WDFW 2012) to 45-foot-wide (NHC 2014) culvert or bridge would have to be installed under Badger Road approximately mid-way between Badger Road and Double Ditch Road, to convey Pepin Creek into the PCSA. However, if a south-side route is selected, and the two double ditch drainages were connected on the east side of Double Ditch road, downstream of Badger Road, then a roughly 16-foot-wide (WDFW 2012) to 35-foot-wide (NHC 2014) culvert or bridge would have to be installed under Double Ditch Road to convey flows to the east ditch downstream of Badger Road and east towards the realigned creek channel. Ditch flows heading to the east along the south side of Badger Road could be blocked off in order to direct all flow towards the realigned creek channel in the PCSA. The west ditch on the south side of Badger Road would also need to be blocked off to convey all flow through the new culvert to the realigned creek channel. Under the south side scenario, previous recommendations have included the potential installation of overflow culverts under Badger Road as another means of handling peak flood flows.

A new culvert under Benson Road would also be needed to connect the Benson Ditch located on the east side of Benson Road to the selected realigned Pepin Creek Corridor, whether north or south of Badger Road.

#### *Channel Geometry*

The channel geometry for the realigned Pepin Creek channel will need to be designed according to several important design criteria. First, it must achieve the goals of providing adequate conveyance capacity for reduced flooding frequency, and improved channel and riparian habitat. However, the design must also consider several other driving factors including topography, groundwater elevations, and sediment supply.

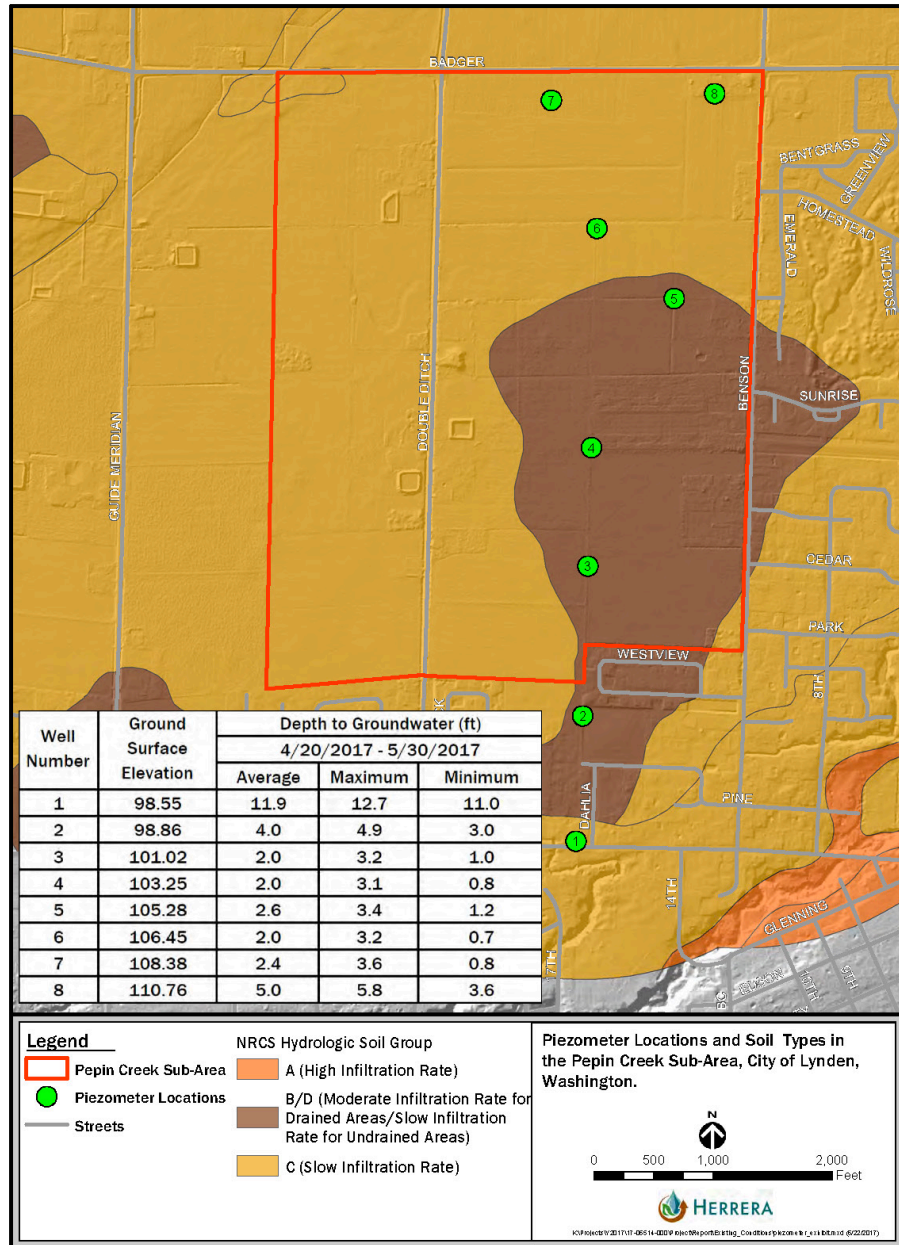
Preliminary hydraulic design calculations have assumed that the new connector and realigned channels would be capable of conveying flows up to and including a 100-year flow without flooding adjacent fields. However, the cross-sectional shape and slope required to achieve this level of conveyance has not been fully studied and may need to change along the realigned channel due to the changes in topography and depth to groundwater. Near Badger Road, the topography is mostly flat, and, according to recent spring 2017 measurements (R&E 2017), groundwater elevations are likely to be just a few feet below the current ground surface (see Exhibit 2-4). Further downstream, near Main Street, Pepin Creek drops into the Fishtrap Creek valley and similarly, groundwater elevations are several feet deeper than the adjacent ground surface (see Exhibit 2-4). As a result, the channel cross section in the northern portion of the PCSA will likely need to be somewhat wider to fully contain flood flows at a shallower depth. As the depth to groundwater increases relative to the adjacent ground, the channel can

deepen. The total channel length of the connector channel at the northern portion of the project is approximately 1,200 feet and has been estimated to have a water surface elevation slope of about 0.1 percent (WDFW 2012).

The realigned channel flowing north to south through the PCSA would be approximately 6,000 feet long and, depending on the cross-section geometry selected and level of excavation below existing ground, could have a water surface elevation slope that ranges from 0.2 percent to 0.23 percent given the local topography and likely channel excavation depths (NHC 2014). Previous analyses estimated that these slopes would correspond to a multistage channel with potentially two or three stages (NHC 2014). A multi-stage channel could be designed with a low-flow channel that has adequate depth for fish passage during low flows and additional bankfull and flood stages that provide additional storage for higher flows. For example, in 2014, NHC estimated that a three-stage channel could have an 8-foot-wide, 2-foot-deep low flow channel, a 32-foot-wide, 3-foot-deep bankfull channel and then a broader 64-foot-wide floodplain (NHC 2014).

Finally, from a habitat and geomorphic perspective, it is likely that the native substrate in the PCSA will contain fine-grained sandy loamy material (NLWID 2009). This, combined with an anticipated lack of bedload sediment supply to the reach, will inform how large wood, vegetation, and other habitat features can be used within the channel design to retain sediment and promote channel and bank stability. The channel design is currently being developed.

Exhibit 2-4. Average Groundwater Depths in the PCSA for April and May 2017 (R&E 2017)





## 2.2. CRITICAL AREAS

### 2.2.1. Wetlands

Several wetlands were previously identified in the PCSA. The National Wetlands Inventory (NWI) identifies emergent wetlands lining the eastern ditch that conveys Pepin Creek (Double Ditch East), and two wetlands located west of Double Ditch Road, including a ponded wetland with aquatic bed vegetation and an emergent wetland within an agricultural field (USFWS 2017). The ponded wetland and wetland west of Double Ditch road are also identified on the Whatcom County critical areas wetland map in the same general locations (Whatcom County 2017).

Soil survey maps show that about two-thirds of the site is rated as 88 percent hydric, corresponding to the Hale silt loam map unit, and about one-third of the site is rated as 34 percent hydric, corresponding to the Edmonds-Woodlyn loams map unit (Natural Resources Conservation Service [NRCS] 2017). Hydric soil mapping indicates a potential for wetlands to occur within the PCSA, as hydric soils are an indicator of wetland presence. However, the NRCS soil mapping also indicates that the Hale silt loam map unit is drained. Therefore, wetland hydrology may not be present within this unit depending on the extent of drained conditions. A formal wetland determination is necessary to confirm wetland presence, including an evaluation of hydric soil, wetland hydrology, and hydrophytic vegetation indicators.

During a reconnaissance-level site visit, the mapped emergent wetland west of Double Ditch Road was confirmed, which resembles a depressional and swale-like feature with saturated soil, localized ponding, and emergent vegetation (Wetland A, see Exhibit 2-1). The swale connects to the western ditch that conveys Pepin Creek. In addition, localized depressions containing surface water and/or saturated soils were observed within agricultural fields, indicating areas of potential wetlands, but a detailed investigation was not possible due to limited access. In addition, wetland habitat conditions were commonly observed along ditches occurring within the PCSA. Based on the potential for a high groundwater table during the early growing season and presence of mapped hydric soils, it is possible that other wetlands are present in the study area. Further investigation and a formal wetland determination followed by delineation is necessary to determine wetland presence.

A preliminary rating of Category IV applies to Wetland A (see Exhibit 2-1) and wetlands lining ditches in the PCSA, based on moderate level of functions for water quality improvement, low to moderate level of hydrologic function and low to moderate level of habitat functions. According to the Hydrogeomorphic Classification system, Wetland A is a depressional wetland and ditch wetlands are either depressional or riverine (Brinson 1993). Wetland A and ditch wetlands are palustrine emergent wetlands according to the USFWS classification system (Cowardin et al. 1979). Standard wetland buffers are based on classification (rating) (Lynden Municipal Code [LMC] 16.16.300). For Category IV wetlands, the standard buffer width is 25 feet.

Additional information on wetlands is provided in the *Critical Areas Memorandum – Wetlands and Fish and Wildlife Habitat Conservation Areas* provided in Appendix A (Herrera 2017).

### 2.2.2. Fish and Wildlife Habitat Conservation Areas

Fish and wildlife habitat conservation areas (FWHCAs) noted during the site reconnaissance include streams and ditches in the PCSA. These aquatic resources include WDFW priority habitats for federal and state listed species (WDFW 2017a), and documented habitat for locally important species according to the Lynden Municipal Code (LMC). Wetland habitats that are also designated as fish and



wildlife habitat conservation areas are subject to the wetland requirements established in LMC 16.16.260 through 16.16.310; they are discussed in the wetland section above.

The terrestrial habitats in the study area are composed of agriculture, grassland, and pasture which provide habitat for a variety of bird species but are not documented WDFW Priority Habitats or habitats for species of local importance according to LMC.

The Double Ditch and Benson Ditch systems generally consist of manmade roadside or farm ditches from the US-Canada border to Main Street in Lynden. These reaches are characterized as straight, prismatic channels with relatively low roughness, typically grass-lined and armored with little or no shading or flow complexity (NLWID 2010). The ditch systems were constructed beginning in the late 19<sup>th</sup> Century to drain wetlands and support agricultural expansion into the area north of the Nooksack River (Hawley 1945 as cited in NHC 2014). The National Wetlands Inventory (NWI) identifies Double Ditch West and Benson Ditch as deep water habitats occurring in the study area (USFWS 2017).

Pepin Creek originates in Canada and flows southwest to the U.S./Canada border. Just south of the border, Whatcom County operates a flow splitter that directs flow into both ditches. Between the border and Lynden’s Main Street, Pepin Creek is conveyed by two parallel farm ditches, referred to herein as Double Ditch West and Double Ditch East. The two ditches join at Main Street and flow along the north side of Main Street before passing through a box culvert. Downstream of Main Street, the stream becomes steeper and more confined before discharging into Fishtrap Creek (NHC 2014). According to the Whatcom County fish habitat conservation areas map, Double Ditch West and Double Ditch East are fish-bearing streams with current know distribution (Whatcom County 2017). Documented presence of salmonids in Double Ditch East includes fall Chinook salmon (spawning), winter steelhead (spawning), coho salmon (rearing), and fall chum salmon (WDFW 2017b). In addition, the presence of bull trout is presumed. Fall chum salmon and bull trout presence is presumed in Double Ditch West; and modeled presence of salmonids includes winter steelhead, bull trout, pink salmon, and fall Chinook salmon (WDFW 2017a). In addition, two species of rare sucker, the Nooksack Dace and Salish Sucker have been observed in Double Ditch (NLWID 2010). Federal and state listing status of these species is shown in Exhibit 2-5.

**Exhibit 2-5. Federal and State Listing Status of Fish in the Study Area**

FISH SPECIES	FEDERAL STATUS	STATE STATUS
Puget Sound Chinook	Threatened	Species of Concern
Puget Sound steelhead	Threatened	none
Bull trout	Threatened	Species of Concern
Coho salmon	none	none
Pink salmon	none	none
Fall chum	none	none
Salish sucker	none	State monitored
Nooksack dace	none	none

Source: WDFW 2017c

Benson Ditch is generally a single roadside ditch along Benson Road that begins south of the U.S./Canada border. Benson Ditch flows south along the east side of Benson Road until just south of the Lynden airport, where it crosses to the west side of the road. The ditch is directed toward Fishtap Creek at Isom Elementary School. According to the Whatcom County fish habitat conservation areas map, Benson Ditch has presumed potential/historic distribution of fish (Whatcom County 2017). Benson Ditch is modeled habitat for winter steelhead, pink salmon, coho salmon, and bull trout (WDFW 2017b). The ditch is typically dry from mid-June to early October (NLWID 2010).

In addition, several agricultural ditches with seasonal flow were observed during the site reconnaissance in Spring 2017 which are tributaries to Double Ditch East and Benson Ditch. Based on the documented, presumed, or modeled presence of fish in Double Ditch East and Benson Ditch, tributary ditches provide potential seasonal habitat for anadromous or resident fish populations. According to LMC 16.16.330, Double Ditch East and Double Ditch West are Class A streams based on documented presence of listed species. Benson Ditch and several of the tributary ditches in the project area are Class B streams based on potentially accessible habitat for fish. Class A and B streams have standard buffer widths of 150 feet and 100 feet, respectively.

Additional information on FWHCAs is provided in the *Critical Areas Memorandum – Wetlands and Fish and Wildlife Habitat Conservation Areas* provided in Appendix A (Herrera 2017).

### 2.2.3. Frequently Flooded Areas

Although there are no mapped FEMA special flood hazard zones for Pepin Creek or Benson Ditch, these areas have recently experienced some overland flow flooding, as described below.

#### *Peak Flood Events*

There have been recent flood events in the Pepin Creek and Benson Ditch basins. Most notably, there were severe rain-on-snow events that occurred in January 2005 and January 2009. The January 2009 flood affected the entire Nooksack River valley and is the flood of record (note, of 18 years of record between 1999 and 2016) for the USGS gauge #12212050 on Fishtap Creek at Front Street. In contrast, flood mapping completed by the Whatcom Conservation District suggests that the 2005 event caused the second greatest extent of flooding for the Pepin Creek subbasin; however, the 2005 event only ranked 5<sup>th</sup> of the recorded peaks at the Fishtap Creek gauge. Anecdotal information suggested that the particular problem faced by the Pepin Creek system is that, unlike Fishtap Creek, Pepin Creek is primarily composed of roadside ditches that fill with snow and then likely receive additional snow cleared from adjacent roadways. The many driveway culverts along Double Ditch Road likely further exacerbate conveyance and flooding problems during any peak rainfall event, not to mention rain-on-snow events.

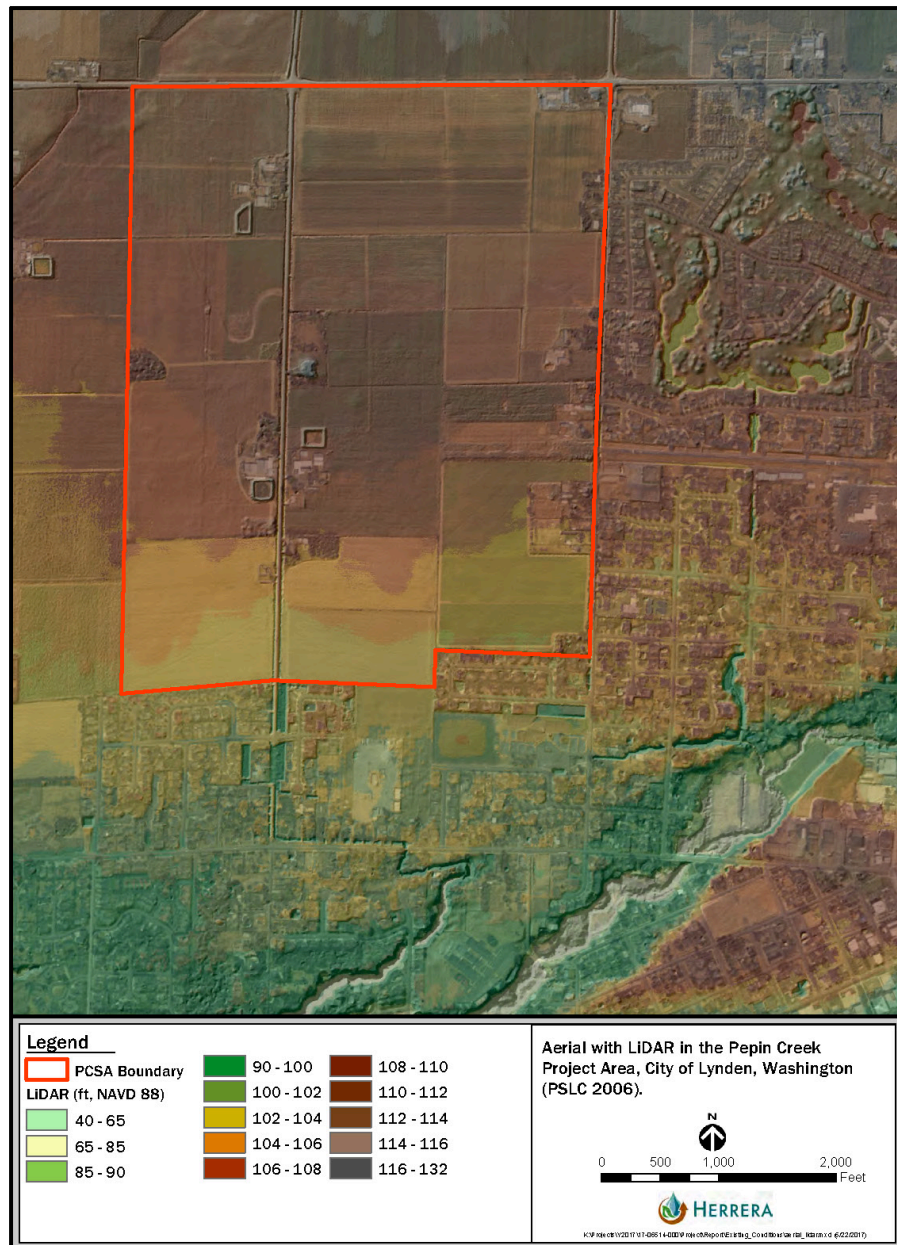
#### *Flooding Patterns*

In their 2014 evaluation, NHC noted many conversations with the City of Lynden, R&E Engineers, and the community, including inundation mapping completed by the Whatcom Conservation District, which describe the flooding patterns of Pepin Creek in the PCSA. During large floods like the 2005 or 2009 events, Pepin Creek overtops its banks at many locations between Main Street and the Canadian border. There are many culvert crossings and reaches with lower banks that experience overtopping. Flood flows from Double Ditch will spread to the east across adjacent fields and join Benson Ditch at Benson Road. As

such, flooding tends to result in an exchange of floodwaters between the Pepin Creek, Benson Road, and Fishtrap Creek basins.

A review of available LiDAR data (Puget Sound LiDAR Consortium [PSLC] 2006) (see Exhibit 2-6) indicates there is a swale remnant heading in the northeasterly to southwesterly direction crossing the area of Double Ditch Road just north of Badger Road that may have conveyed some flood flow to the west away from Double Ditch. However, according to NHC (2014), the general flow direction of Pepin Creek floodwaters in the PCSA vicinity is from West to East, where the farm fields between Double Ditch Road and Benson Road are inundated. From there, some of this flood water heads south towards Pepin Creek at Main Street, while much of it enters Benson Ditch and flows south to a cross-culvert under Benson Road near Diamond Lane. This additional floodwater contribution to Benson Ditch and the cross-culvert under Benson Road can aggravate downstream roadway overtopping and flooding of the area to the south east of the intersection of Benson Road and Badger Road. Further, the low point at the Benson Road ditch near Diamond Lane corresponds to a location where floodwaters can flow through the Homestead Development and pass through the Lynden Airport before returning to Fishtrap Creek between Depot and Benson Roads.

Exhibit 2-6. Aerial with LiDAR in the Pepin Creek Project Area



### *Potential Impact of the Realignment Project on Flooding*

As is typical of agricultural areas where creeks have been straightened and realigned around fields or roadways and ditches have been excavated to drain water away from agricultural fields, the surface hydrologic patterns are complex and difficult to monitor or model. Detailed and precise topographic information would be required to inform a numerical model attempting to evaluate existing flow patterns under various flow conditions, and given the relatively flat topography, fairly small and even localized changes (such as additional ditch maintenance one year, or additional roughness imposed by changing the crop vegetation type another year) can influence flooding patterns.

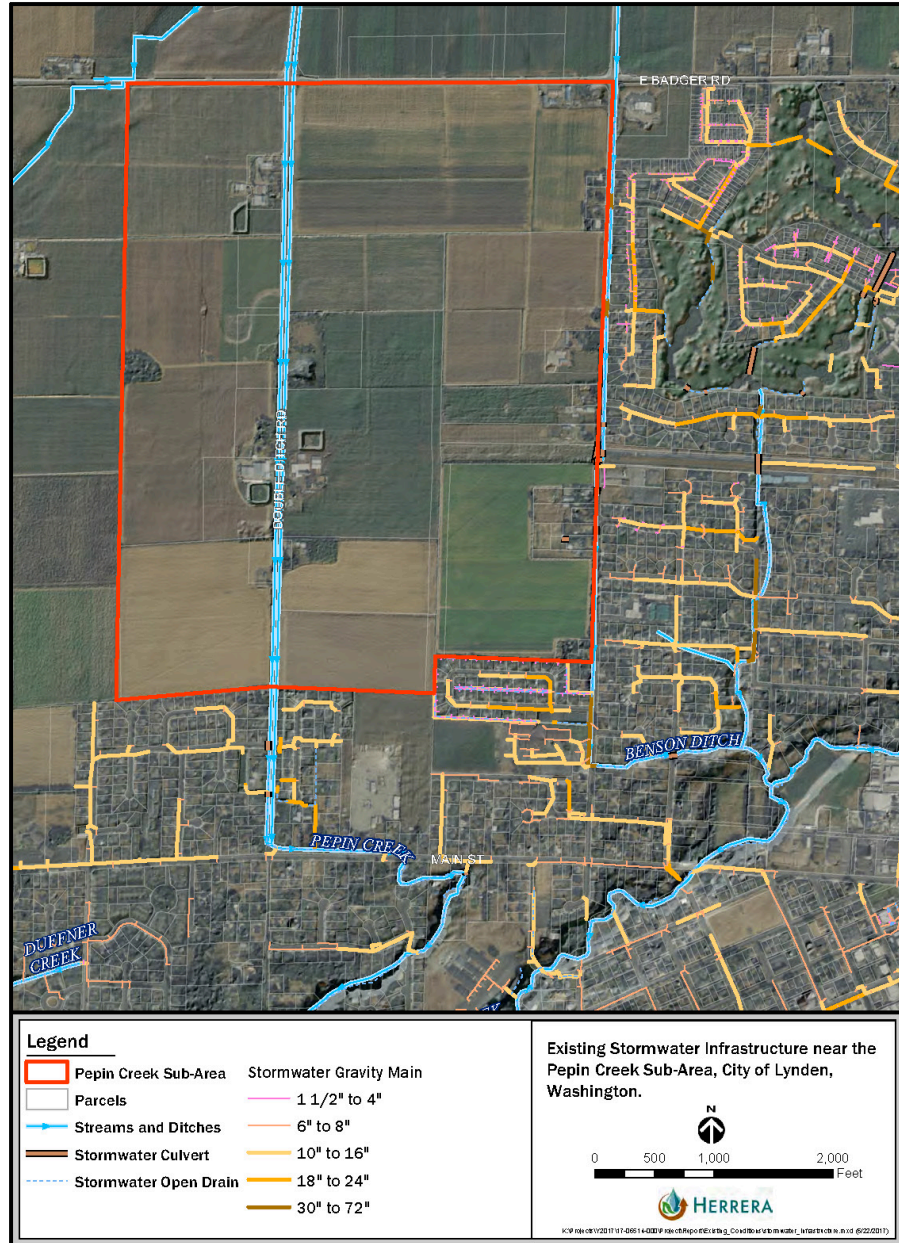
To the extent that the Pepin Creek realignment project can successfully separate creek inflows from roadway runoff downstream of Badger Road, reduce the overtopping problems experienced at low spots and driveway culverts, and provide improved conveyance for Pepin Creek, flooding problems are likely to be reduced. However, flooded agricultural fields could provide significant flood storage during peak rainfall events that may shields downstream areas along Pepin Creek (downstream of Main Street) from experiencing the full force of these peak flows. It will be important for the PCSA planning efforts and the Pepin Creek realignment project to acknowledge and prepare for this possible change, and consider where and how much flood control may be needed

### 2.3. STORMWATER

The City Public Works Department is responsible for the operation and maintenance of the City's public stormwater collection and conveyance system. Stormwater is captured by catch basins distributed across the city and conveyed through a network of ditches and pipes ranging in size from six to 72 inches (see Exhibit 2-7). Outfalls discharge to various water bodies and drainage ditches. There is no City-owned pipe conveyance infrastructure in the PCSA. Within the PCSA, surface drainage and sub-surface drainage (via agricultural drain tiles) is directed to the double ditches of Pepin Creek and Benson Ditch.



Exhibit 2-7. Stormwater Facilities in Pepin Creek Subarea





## 2.4. UTILITIES

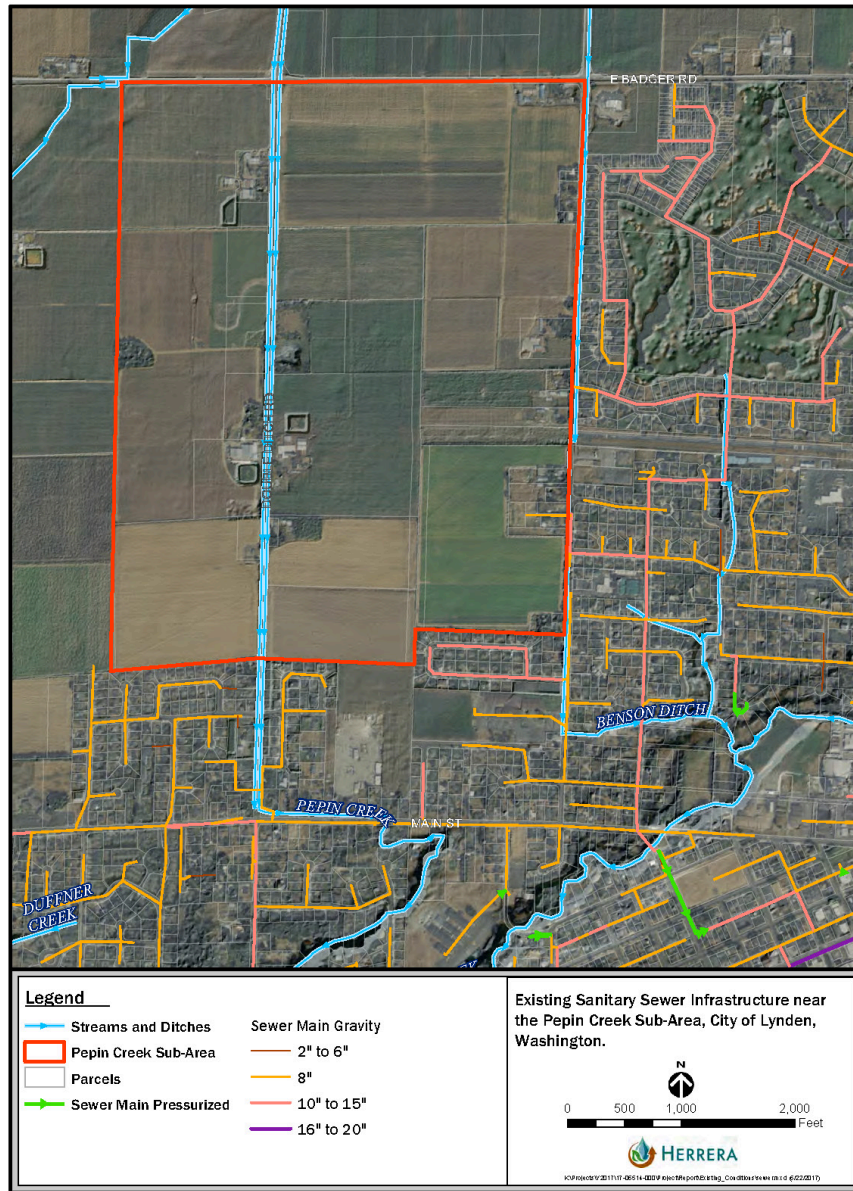
The City Public Works Department is responsible for the operation and maintenance of the City's sanitary sewer and water systems.

### 2.4.1. Sanitary Sewer

Sanitary sewer service is provided by the City via a citywide collection and conveyance system and a wastewater treatment plant (WWTP) located at the end of South 6th Street near the Nooksack River. According to the 2016 General Sewer Plan (BHC Consultants 2016), the existing WWTP was designed for an annual average flow of 1.82 million gallons per day (MGD), a maximum monthly flow of 2.18 MGD, and a peak hourly flow of 6.82 MGD. The WWTP capacity was evaluated at the 6-year (2022) and 20-year (2036) planning horizons to determine its ability to treat incoming wastewater at predicted loadings while meeting effluent limits. While future flow capacity is not expected to be an issue, future projections suggest that total suspended solids (TSS) loadings may exceed design capacity on both an average annual and maximum monthly basis. The Sewer Plan recommends that the City look at re-rating the influent solids loading capacity for the WWTP. This information is important for the PCSA planning effort because it is estimated that the bulk of the City's future growth will occur within the PCSA.

The City owns and operates over four miles of force mains and 57 miles of gravity sewer. Pipe sizes range from three inches to 24 inches and are comprised of polyvinyl chloride (PVC), ductile iron, asbestos cement, and vitrified clay. Due to the relatively flat terrain and Fishtrap Creek, which bisects the city, the sanitary collection system includes 14 pump stations to convey wastewater from more distant areas or areas with lower elevation to the WWTP. There are no sanitary sewer lines that currently service the PCSA. The closest sanitary main is the 12-inch PVC line that runs north-south along North 8<sup>th</sup> St and Emerald Way to the west of the PCSA. See Exhibit 2-8.

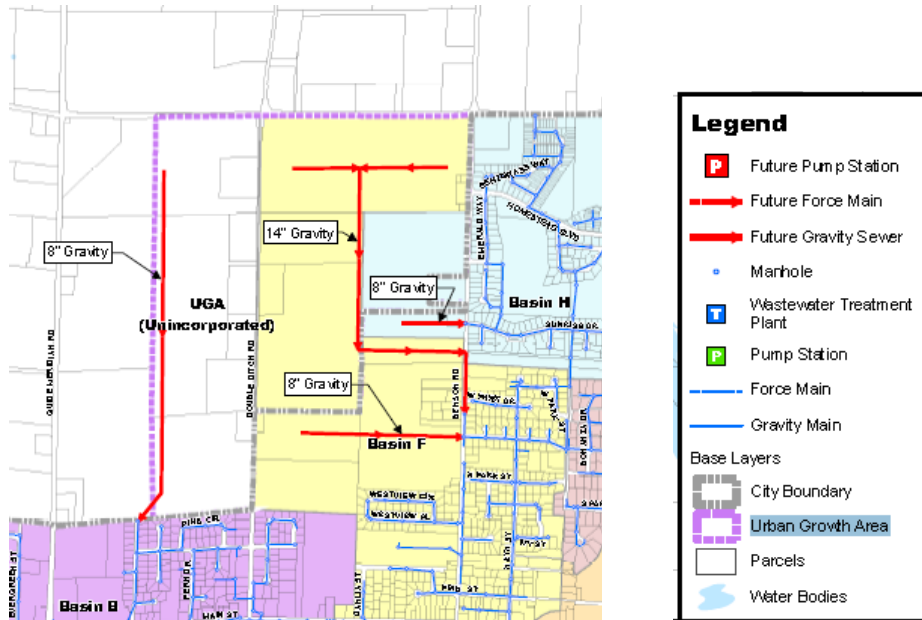
Exhibit 2-8. Existing Sanitary Sewer Infrastructure in the Pepin Creek Project Area



Capital projects for the 20-year planning period include projects to meet projected demand, operational improvements, and refurbishment of existing facilities.

Lynden's 2016 General Sewer Plan's projected domestic wastewater loadings for 2022 and 2036 include the City and UGA population. A portion of the PCSA study area is in Basin H and a portion is in Basin F. The rest of the study area is outside of the service area boundary for the General Sewer Plan 6-Year Capital Improvement Plan (CIP). Future sewer extensions identified in the General Sewer Plan include future gravity sewer lines along the western border of the study area, and within Basin F where it overlaps with the study area (see Exhibit 2-9).

**Exhibit 2-9. General Sewer Plan Future Sewer Extensions for Pepin Creek Subarea**



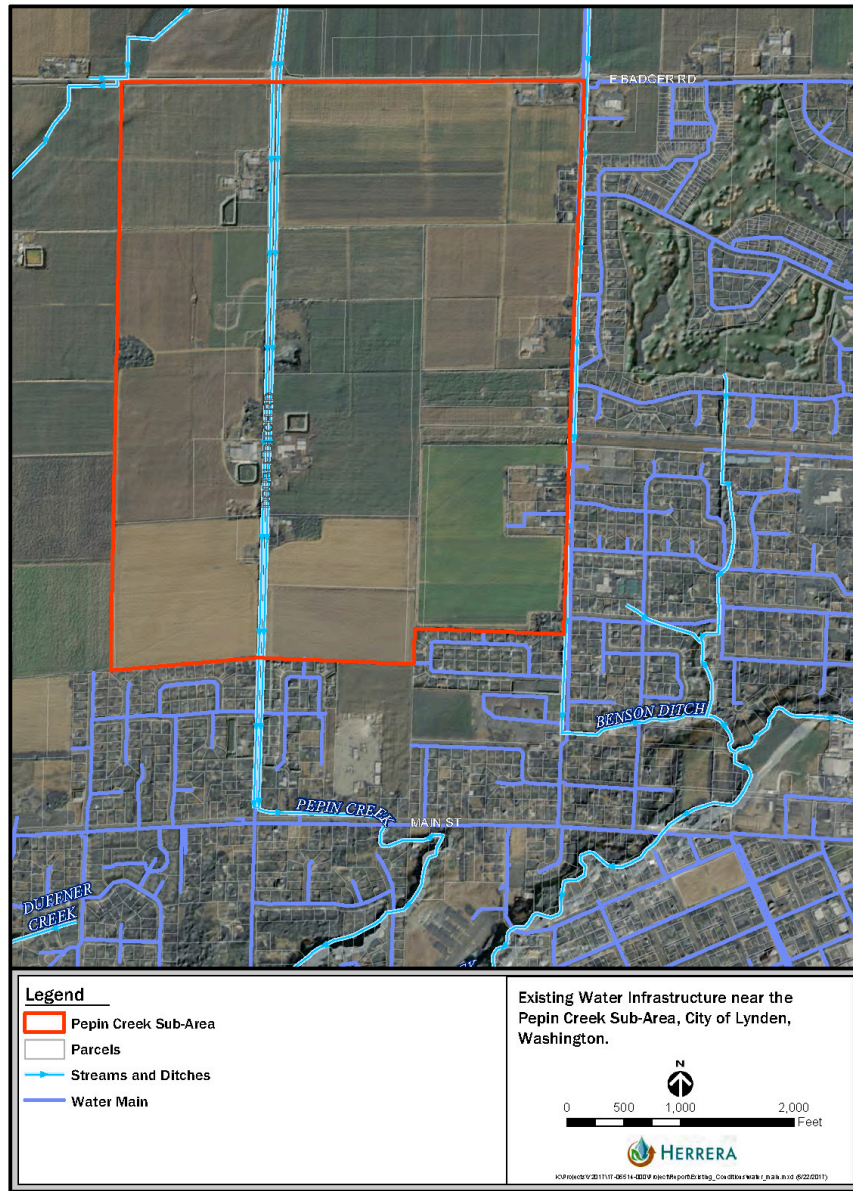
Source: City of Lynden General Sewer Plan, 2016; BHC Consultants, 2016

**2.4.2. Water Service**

Potable water is provided by the City to most residents in Lynden. The City's source of potable water is from an intake on the Nooksack River upstream of the Hannegan Road bridge. There are also several dozen private water supply wells within the city limits, including six wells in the PCSA. These wells are privately owned and are used as irrigation or potable water for residences not yet served by the City.

There are no municipal waterlines that enter the PCSA. The closest main lines are the 12-inch PVC line that runs east-west along Main Street south of the PCSA and the 12-inch PVC and ductile iron line that runs north-south along Benson Road immediately to the west (See Exhibit 2-10).

Exhibit 2-10. Existing Water Infrastructure in the Pepin Creek Project Area



Twenty-year capital planning in the 2017 Comprehensive Plan includes projects to improve the system and acquire additional water rights

### 3.0 Built Environment and Planning

#### 3.1. LAND USE

Land within the PCSA is predominantly in agricultural use for crops and dairy, almost 85 percent, with the remaining land predominantly in single family residential use. Exhibit 3-1 shows acreages by current land use category and Exhibit 3-2 shows the current land uses, reflecting Whatcom County Assessor’s data as adapted by the City of Lynden.

**Exhibit 3-1. Current Land Use Acreages**

LAND USE CATEGORY	ACRES	PERCENTAGE
Agriculture – Crop, Dairy, Ranches	390.46	85.7%
Church	0.02	0.0%
Single Family Residential	65.37	14.3%
<b>TOTAL</b>	<b>455.85</b>	<b>100.0%</b>

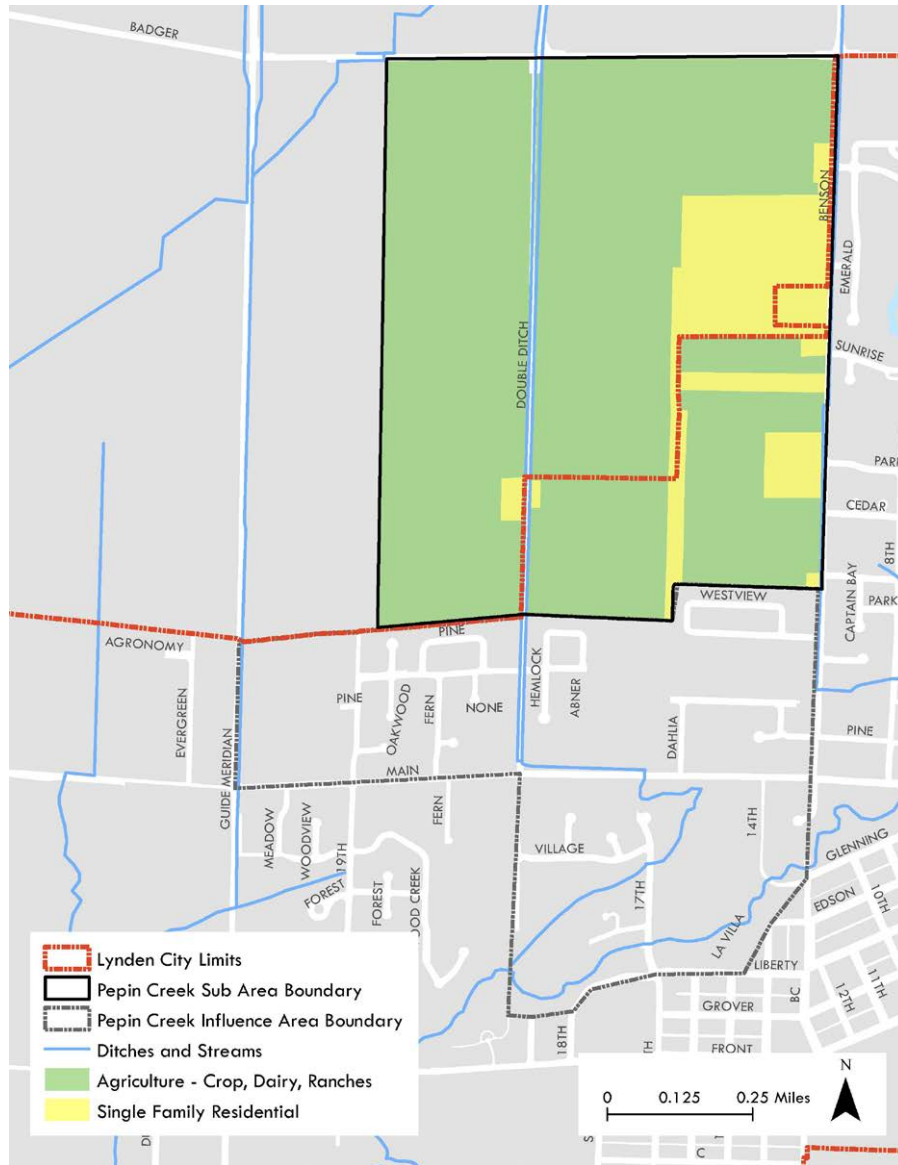
Source: City of Lynden, 2017; Whatcom County, 2017; BERK, 2017.

Within the PCSA, approximately 89% of the land is owned by private landowners, while the remainder is owned by the City of Lynden. Exhibit 3-3 shows the publicly-owned parcels (in blue), owned by the City of Lynden. The large public parcel in the northeast is planned to be a public park and will be incorporated into plans for the Subarea and the Pepin Creek Realignment. Additional public parcels include rights-of-way for utilities and a runout area for the airport located just to the east of the study area (between Sunrise and West Park Drives).

With agricultural uses predominating, the land is largely undeveloped. Exhibit 3-4 shows the footprints of all existing structures in the Pepin Creek Subarea. The structures are predominantly single-family residences and agriculture-related buildings.



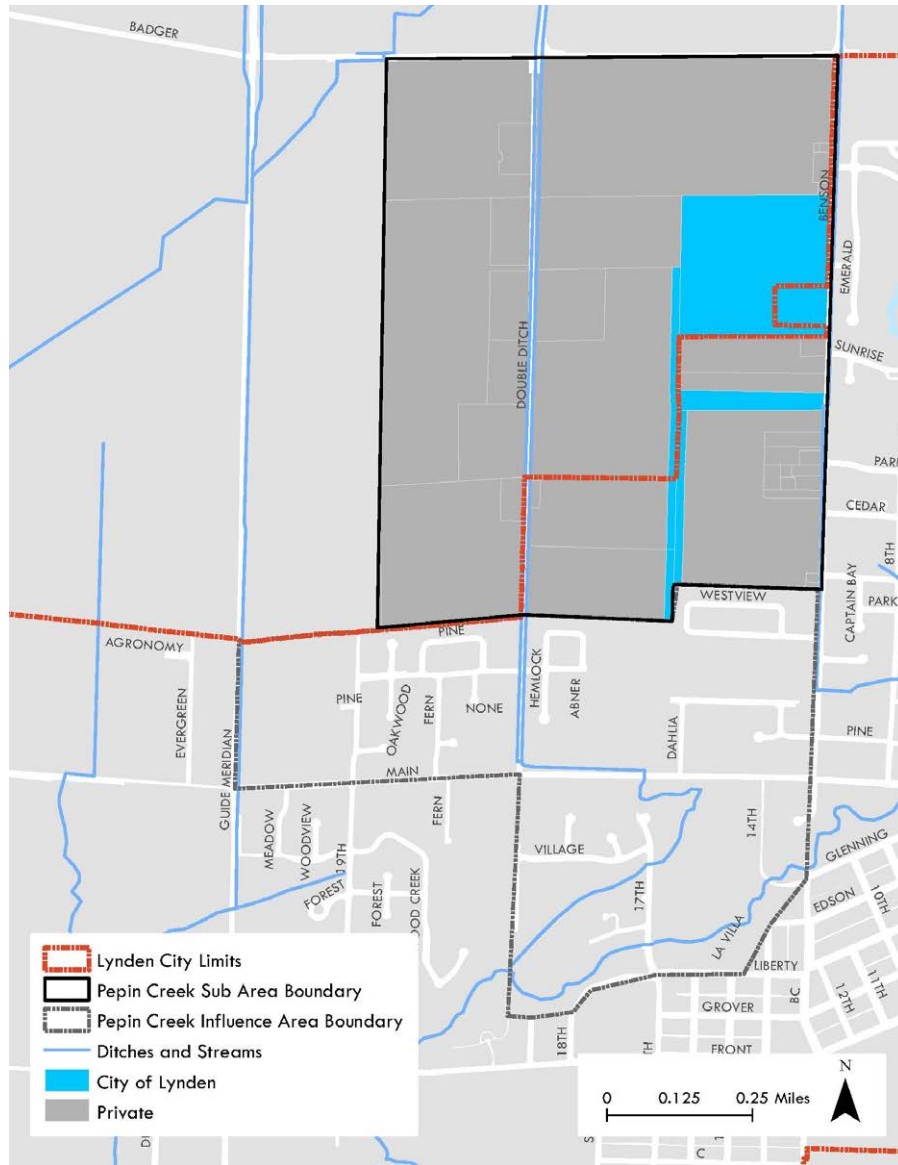
Exhibit 3-2. Pepin Creek Subarea Current Land Use



Source: City of Lynden, 2017; Whatcom County, 2017; BERK, 2017

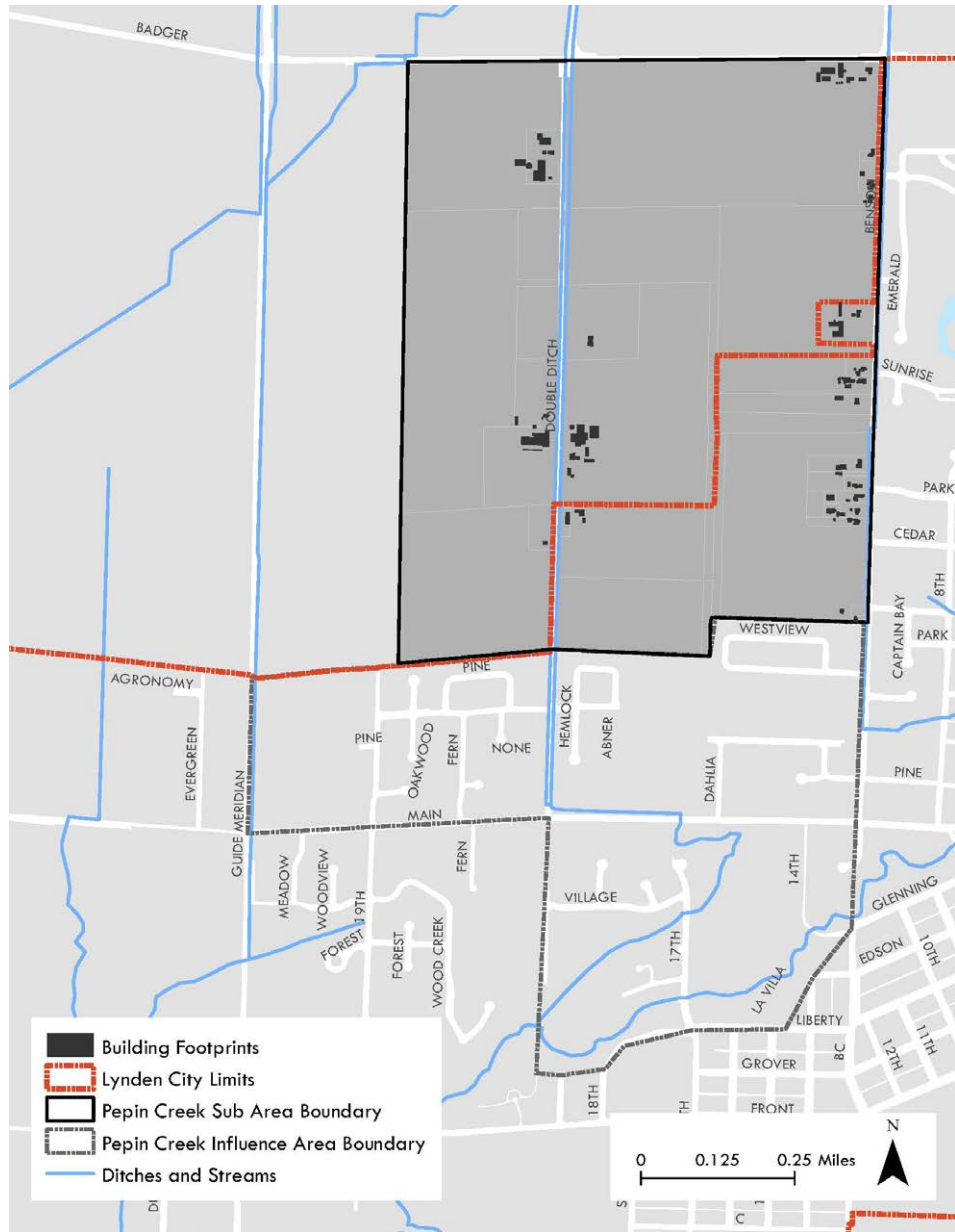


Exhibit 3-3. Pepin Creek Subarea Ownership



Source: City of Lynden, 2017; Whatcom County, 2017; BERK, 2017

Exhibit 3-4. Pepin Creek Subarea Building Footprints



Source: City of Lynden, 2017; BERK, 2017

### 3.2. ZONING AND DEVELOPMENT STANDARDS

#### 3.2.1. Zoning

The UGA land currently regulated by Whatcom County zoning is given a future land use designation of Low Density Residential (RL) and Medium Density Residential (RM) in the City of Lynden Comprehensive Plan. The RL zone typically leads to zoning for a lot area between 7,200 and 10,000 square feet and between four and eight units per acre. The RM zone typically results in zoning that allows for between two and 50 units per building, with development densities between eight and 24 units per acre.

The Whatcom County Comprehensive Plan anticipates residential development; however, the zoning has not been amended yet by the County, and the UGA land is zoned Agricultural (76 percent of the PCSA). Upon annexation, the area would receive a City zone consistent with the guidance of the pending Subarea Plan.

Land in the city limits is subject to City zoning. City territory is zoned predominantly Residential Mixed Density (18 percent of the Subarea), with some single family residential and public use zoning (see Exhibit 3-6).

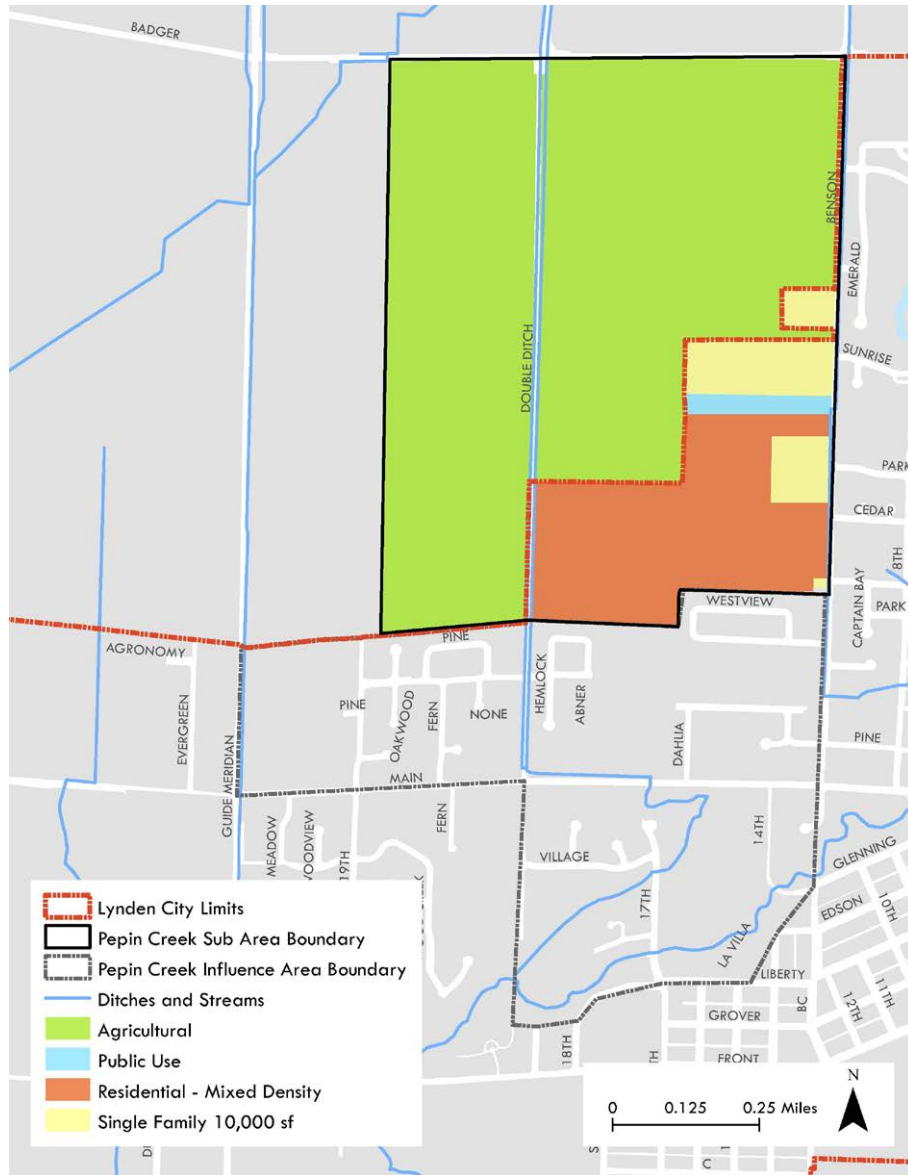
Exhibit 3-5 shows the zoning acreages, and Exhibit 3-6 maps PCSA zoning.

#### Exhibit 3-5. Zoning Acreages

ZONING CATEGORY	ACRES	PERCENTAGE
Agricultural (County)	344.55	75.6%
Public Use (City)	5.15	1.1%
Residential 7,200 sf (City)	0.20	0.0%
Residential 10,000 sf (City)	26.44	5.8%
Residential Mixed Density (City)	79.51	17.4%
<b>TOTAL</b>	<b>455.85</b>	<b>100%</b>

Source: City of Lynden, 2017; Whatcom County, 2017; BERK, 2017

Exhibit 3-6. Pepin Creek Subarea Zoning Map



Source: City of Lynden, 2017; Herrera, 2017; BERK, 2017

### 3.2.2. Existing Plans

The City of Lynden Comprehensive Plan identifies comprehensive planning priorities for the UGA:

- Plan for increased density as expanding into unoccupied portions of the UGA and zone at higher density.
- Plan for more than 6,400 people to be added to the city and UGA by 2036 – including the Pepin Creek Area.
- Do not extend urban services outside the UGA, which would perpetuate urban sprawl, and preserve surrounding agricultural uses.
- Target an average net residential density of five units per acre within the city limits and UGA, while maintaining the small-town atmosphere of Lynden (Goal LU-1, Policy 1B).
- Phase annexations and development within the UGA to ensure consistency with the Comprehensive Plan and prioritize infill development over expansions into agricultural and rural lands (Goal LU-2).
- Encourage the preservation and protection of critical areas within the UGA and advocate the annexation of land that has provided reasonable buffers for sensitive areas (Goal LU-6, Policy 1A).

Current Stormwater Utilities Capital Improvement Projects listed in the Comprehensive Plan include the Pepin Creek Realignment project to be completed within ten years. In 2016, the cost was identified as \$8.2 million with local and state funds as the identified funding sources. In September 2016, the Public Works Department estimated that this cost had grown to \$15 million.

### 3.2.3. Airport

Within the PCSA there is a runout area for the airport located just to the east of the study area (between Sunrise and West Park Drives). The Lynden Municipal Airport to the east hosts small aircraft and a helicopter. It has approximately 5,000 annual operations. The runway is 2,439 feet long, 40 feet wide, has an asphalt surface, and is equipped with non-standard runway lights.<sup>1</sup>

To promote land use compatibility the PCSA Plan should consider the following:

- Protect the runway safety area through traffic calming on Benson Road.
- Protect the airspace in the area west of the airport through an aviation easement.
- Avoid water features to avoid waterfowl near the airport.
- Create an overlay north and south of the runout area addressing potential access to the airport from housing located along the City property, like that currently located along the Airport property.

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<sup>1</sup> WSDOT. 2012. Airport Economic Profile. Available: <https://www.wsdot.wa.gov/NR/rdonlyres/53A01C75-7DB0-4F93-8AFA-57F76FEE15F5/0/2012Lynden.pdf>.

### 3.3. POPULATION AND HOUSING

#### 3.3.1. Population & Employment

The City of Lynden had an estimated population of 12,872 in 2013, including its UGAs. It grew at an average rate of 2.13 percent from 2010 to 2013, higher than Whatcom County's rate of 0.77 percent over the same time period. The County Comprehensive Plan allocated a target growth to the City of 19,725, including its UGAs, by the year 2036. To reach this target, the city and its UGAs would need a projected average annual growth rate of 1.82 percent from 2013 to 2036. The Washington State Office of Financial Management estimated that the April 1, 2017 population of Lynden was 13,620, not including its UGAs.

The population of the PCSA was about 57 in 2013, based on Assessor and permit records developed for the Whatcom County Comprehensive Plan Update and Whatcom Council of Government's transportation model.

Assumptions of different plans and studies regarding future growth are noted below:

#### **Pepin Creek Growth Assumptions in Comprehensive Plan Updates 2016**

SCENARIO	HOUSING UNITS	HOUSEHOLDS	POPULATION
Whatcom County Alternative 1: 2013 No Action	594	578	1,653
Whatcom County Alternative 2: Historic Shares	745	727	2,081
Lynden Transportation Element Whatcom County Alternative 3: Multi-Jurisdictional Resolution	1,124	1,096	3,143
Whatcom County Alternative 4 Targeted Land Use Change	1,470	1,433	4,114
Whatcom County Preferred Alternative 2016	951		2,714

Source: Whatcom County Land Capacity Analysis and Transportation Analysis Zone Assumptions, 2016; Lynden Transportation Element 2016

By 2036, the PCSA population is anticipated to represent 16 percent of Lynden's total population, while it currently represents 0.4 percent.

#### **Exhibit 3-7. Lynden and Pepin Creek Population Estimates, 2013 & 2036**

	2013 POPULATION	PROJECTED 2036 POPULATION
Lynden (with UGAs)	12,872	19,275
Pepin Creek Subarea (PCSA)	57	2,714 to 3,086
PCSA as % of Lynden Total Population	0.4%	Up to 16%

Source: BERK, 2013 & 2017

The PCSA is estimated to have no jobs and is not expected to gain any by 2036, based on current plans.



### 3.3.2. Housing and Capacity for Growth

As discussed previously, only 25 percent of the PCSA is currently zoned residential. As of 2013, there were an estimated 24 housing units in the Subarea. That number is expected to grow to 1,096 in 2036 under City Transportation Element assumptions, which are similar to the County’s range of alternatives tested for the Comprehensive Plan in 2016.

### 3.4. DEVELOPMENT POTENTIAL AND MARKET CONSIDERATIONS

This section provides a high-level, preliminary threshold analysis of the development potential in the PCSA by comparing land values today to land values under future development conditions. In addition, the potential benefits of developing the Subarea are outlined. When a vision, land use concept plan, and engineering and environmental mitigation costs are better understood, this analysis will be updated. At that time, considerations for how responsibility should be apportioned to both public and private stakeholders based on benefit received will be explored.

In the following analysis, the investments required in the PCSA are considered economically feasible under the following conditions.

- From the City of Lynden perspective: funds are available from public sources and private property owners to cover all costs, under a realistic set of assumptions about future development.
- From the private developer perspective: the property owner’s costs are less than the increase in value realized as a result of the improvements.

#### 3.4.1. Land Values

The total current land value in the PCSA is \$0.49/sf according to Whatcom County Assessor market value estimates. This value varies by zoning category, as shown in Exhibit 3-8, with residential zoning in the city limits having the highest value (\$1.50/sf - \$3.89/sf), and agricultural land in unincorporated Whatcom County valued lower, at \$0.40/sf.

**Exhibit 3-8. Land Value by Zoning Category in the Pepin Creek Subarea**

ZONING CATEGORY	LAND VALUE	SQUARE FEET	LAND VALUE/SF
Agricultural (County)	\$6,064,243	14,996,917	\$0.40
Public Use (City)	\$192,060	224,338	\$0.86
Residential 7,200 sf (City)	\$84,640	17,163	\$4.93
Residential 10,000 sf (City)	\$1,747,758	1,241,042	\$1.41
Residential Mixed Density (City)	\$1,686,782	3,533,590	\$0.48
<b>TOTAL</b>	<b>\$9,775,483</b>	<b>20,013,049</b>	<b>\$0.49</b>

Source: City of Lynden, 2017; Whatcom County Assessor Market Value Estimates, 2017; BERK, 2017

#### Infrastructure Improvement Costs

An initial investment is required to make the properties in the PCSA suitable for residential use. The currently anticipated costs associated with these improvements are estimated between \$85 and \$95

million, and are highly dependent on costs associated with anticipated wetland mitigation. (Wetlands are discussed further in Section 2.2.1). Exhibit 3-9 and Exhibit 3-10 below show the current total estimated public and private costs of improving the land. The assumptions used to arrive at these costs are outlined below and may change in the future.

#### Public Improvement Costs

- **Road Improvements** assume the project costs from the Transportation Element for upgrading Double Ditch and Benson Road to City standards (projects R-14 and R-2). To estimate the cost associated with updating the portion of the road currently outside of city limits, the cost of R-2, to improve the length of Benson Road, was doubled.
- **Utility Improvements** use construction costs to estimate the cost of improvements.
  - **Sewer costs** assume a cost of \$670 per lineal foot (similar to lineal foot costs of gravity main projects in the City sewer plan), with the circumference of the PCSA used to estimate the required feet of sewer line. This is a placeholder value and does not include possible needs for a pump station.
  - **Water costs** are estimated from the cost per lineal foot of the City's anticipated Water Project D-12 (which increases the capacity of the water line in Benson Road). This cost per lineal foot was then multiplied by the circumference of the PCSA.
- **Creek Realignment** is estimated to cost \$15 million according to early estimates by the Public Works Department.
- **Downstream Stabilization** is estimated at \$2.1 million per City of Lynden staff.
- **Wetland mitigation** costs are dependent on several factors, such as the portion of the site that is wetlands, the portion that is filled, and whether mitigation is done on or off-site. Assumptions for this analysis include placeholder values for a low and high estimate until more is known about wetland mitigation. See Section 3.2 for more information on wetlands.
  - **Low estimate.** The low estimate, with a total mitigation cost of \$3.7 million, assumes that 25% of the PCSA is wetlands and that 75 acres will be enhanced on-site, leaving 374 acres of net developable land prior to discounts for roads and facilities.
  - **High estimate.** Assumes that 50% of the subarea is wetlands, and 15% will be filled, with 100 acres of on-site enhancement. Though the total mitigation cost does not appear high, the reduced developable land (265 acres before discounts for roads and facilities) in this scenario makes the cost per developed square foot higher.

#### Expected Developer Costs

For the purpose of this initial threshold analysis, the costs of improving the PCSA are based on the addition of approximately 1,096 units. The final master plan may include more units to accommodate more growth.

- **Transportation Impact Fee.** Costs are estimated to be \$2,111 per unit.
- **Stormwater Utility Charge.** Costs are estimated at \$4,000 per unit, per City of Lynden staff.
- **Sewer Facility Charge.** Costs are estimated at \$6,350 per unit.

- **Water Facility Charge.** Costs are estimated from the general facility charge of \$4,590/unit for water, which assumes each single-family home will have a three-quarter-inch meter.
- **Internal Road System** assumes that 10% of the PCSA will be set aside for an internal road network for a total of 7.8375 miles of road at an estimated cost of \$300 per lineal foot.

**Exhibit 3-9. Public Scale Costs of Improving Pepin Creek Subarea**

REQUIRED INVESTMENT	COST	COST PER SQUARE FOOT*
<b>Road Improvements</b>	<b>\$15,750,000</b>	<b>\$0.79</b>
<b>Utility Improvements</b>	<b>\$17,536,553</b>	<b>\$0.88</b>
Sewer	\$12,346,224	\$0.62
Water	\$5,190,329	\$0.26
<b>Creek Realignment</b>	<b>\$15,000,000</b>	<b>\$0.75</b>
<b>Downstream Stabilization</b>	<b>\$2,100,000</b>	<b>\$0.10</b>

Note: Cost per square foot is an estimate based on a subarea of 460 acres.  
Source: BERK 2017

**Exhibit 3-10. Expected Developer Costs of Improving Subarea Land**

REQUIRED INVESTMENT	COST	COST PER SQUARE FOOT
<b>Transportation Impact Fee</b>	<b>\$2,313,656</b>	<b>\$0.12</b>
<b>Stormwater</b>	<b>\$4,384,000</b>	<b>\$0.22</b>
<b>Sewer</b>	<b>\$6,959,600</b>	<b>\$0.35</b>
<b>Water</b>	<b>\$5,030,640</b>	<b>\$0.25</b>
<b>Internal Roads</b>	<b>\$12,414,600</b>	<b>\$0.62</b>

Note: Cost per square foot is an estimate based on a subarea of 460 acres.  
Source: BERK 2017

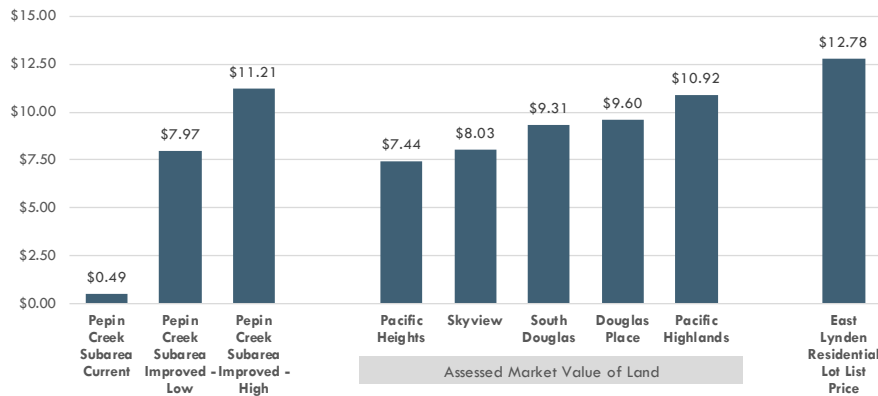
Once a discount is applied for the roads and facilities (assumed at 30% of the remaining net developable land), the current market value of the land plus the investment costs needed to improve the land yields a cost of \$7.97 to \$11.21 per square foot. This represents the “fully burdened” cost of the land.

Comparable single-family communities parcels in Ferndale and East Lynden have assessed market values of land that vary in price from \$7.44 to \$10.92 per square foot, as seen in Exhibit 3-11. Similarly, the market list price for “fully burdened” land in East Lynden is \$12.78 per square foot.

These comparable communities are assumed to be development ready with streets and utilities available at street frontage and no extraordinary site conditions. However, many of the comparable sites have features such as greenways and retention ponds, as seen in Exhibit 3-11.

**Exhibit 3-11. Example Development Comparisons**

**a. PCSA Development Costs compared to Market Value of Land in Comparable Communities**



**b. Example Development Zoning and Features**

HOA	Total Parcels	Zoning	Green Way/Belt	Retention Pond	Percent of Acres not Developable
Skyview	80	RS6.5	13.06	0.00	47%
Pacific Heights	43	RS8.5	0.00	0.44	5%
Douglas Place	19	RS6.5	0.00	0.38	11%
South Douglas	41	RS6.5	0.00	0.52	7%
Pacific Highlands	185	RS10.5	4.62	0.96	16%

Source: Whatcom County Assessor Data, 2017; BERK, 2017

In all cases, the market value of land in the comparable areas is similar to the anticipated costs of land with improvements in the PCSA. The list price for lots in comparable communities in East Lynden exceed the improved value of the land in the Subarea. This suggests that adding the cost of improvements to the very low land values in the Subarea does not push the development economics beyond the current market conditions experienced in other areas, but may indicate a need for more public investment.

It should be noted that this is a simple threshold analysis of potential market considerations and not a detailed development pro-forma analysis designed to assess specific feasibility of any particular development opportunity in the PCSA. Additional analysis will be required to determine the public and

private benefits of redeveloping the Subarea, how to apportion financial responsibility, and what the final land use mix should be.

### 3.4.2. Potential Benefits of Developing the Subarea

A public revenue model to estimate likely tax revenue impacts from new development will be provided later in the PCSA planning process once a vision and land use concepts are further developed, along with methods to apportion public and private responsibility based on benefit received. In the meantime, developing the Subarea is expected to produce, at a minimum, the following public and fiscal benefits:

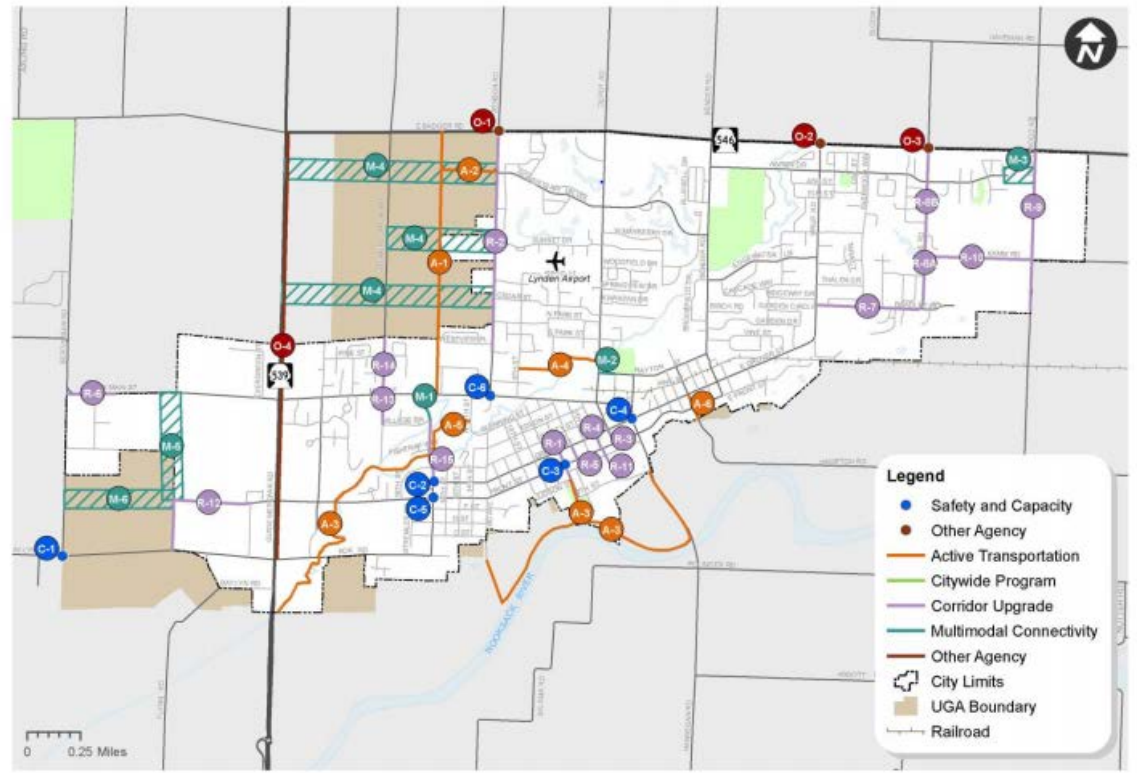
- Increased opportunity for single family residential to accommodate population growth.
- Increased property values and tax base.
- Additional increased tax revenues from property and utility taxes.
- Some offsetting expenditures for public services.
- If a mitigation bank investment is made (instead of purchasing credits from an existing bank) some investment recovery through outside purchases of credits.

## 3.5. TRANSPORTATION

### 3.5.1. Local Circulation

Transportation within in the PCSA is limited to three primary roads that service the area. Badger Road, part of Highway 546, runs east-west along the north side of the Subarea and is a designated Freight Route. Two north-south roads, Double Ditch Road and Benson Road, connect the Subarea to the rest of Lynden where they intersect with Main Street. Benson Road is a designated collector in the Lynden Comprehensive Plan, meaning that it is the primary route for channeling traffic from the Subarea on to arterial routes in the city. Since the PCSA is primarily in agricultural use, documented traffic volumes are low. There are no recognized non-motorized routes or corridors in the Subarea.

Exhibit 3-12. Transportation Improvement Projects Identified in the Lynden Comprehensive Plan



**Transportation Improvement Projects**  
City of Lynden Transportation Element Update

transpogroup  **FIGURE 4-2**



The Lynden Comprehensive Plan anticipates the need for transportation improvements in the PCSA. The Transportation Element forecasts growth of up to 1,096 households in the Subarea, which will require roadway improvements that support cars, bicycles, and pedestrians. These improvements include:

- Project A-1 to build a multi-use path along Pepin Creek between Badger Road and Main Street.
- Project A-2 to build a safe bicycle connection that extends from Homestead Boulevard between Benson Road and Pepin Creek.
- Project M-4 to build a network of multi-modal connections with funds gathered from future development of the Subarea – the location and nature of this network will be identified through the PCSA Plan.
- Project O-1 to build improvements to Highway 546 that will be led by the Washington State Department of Transportation.

Exhibit 3-12 shows the transportation improvements identified in the Lynden Comprehensive Plan.

### 3.6. PARKS AND OPEN SPACES

The City of Lynden's 2014 Park and Trail Master Plan includes priorities for parks and trail corridors in the UGA, when given the opportunity prior to development. The PCSA will include existing plans to improve the park and trail system for the City and the UGA.

## 4.0 References

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## 5.0 Abbreviations

Capital Improvement Plan (CIP)  
Light Detection and Ranging (LiDAR)  
Low Density Residential (RL)  
Lynden Municipal Code (LMC)  
Medium Density Residential (RM)  
Million gallons per day (MGD),  
National Wetlands Inventory (NWI)  
National Wetlands Inventory (NWI)  
Natural Resources Conservation Service (NRCS)  
North Lynden Watershed Improvement District (NLWID)  
Northwest Hydraulic Consultants (NHC)  
Pepin Creek Subarea (PCSA)  
Polyvinyl chloride (PVC),  
Puget Sound LiDAR Consortium (PSLC)  
Reichhardt & Ebe Engineering, Inc. (R&E)  
Right-of-way (ROW)  
Total suspended solids (TSS)  
Urban growth area (UGA)  
Washington Department of Fish and Wildlife (WDFW)  
Wastewater treatment plant (WWTP)  
Water Resources Inventory Area (WRIA)

# Appendix

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FINAL October 2017

# Critical Areas Memorandum



**Wetlands and Fish and Wildlife Habitat Conservation Areas**

**Pepin Creek Sub-Area Plan – City of Lynden – October 10, 2017**

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# Table of Contents

- 1.0 Introduction..... 1**
  - 1.1. Project Purpose and Description ..... 1
  - 1.2. Background ..... 1
  - 1.3. Purpose of Technical Memorandum..... 1
- 2.0 Regulatory Framework ..... 3**
  - 2.1. Federal Regulations..... 3
  - 2.2. Washington State Regulations ..... 4
  - 2.3. Local Code ..... 5
- 3.0 Methods ..... 9**
  - 3.1. Wetlands..... 9
  - 3.2. Fish and Wildlife Habitat Conservation Areas ..... 10
- 4.0 Results ..... 11**
  - 4.1. Wetlands..... 11
  - 4.2. Fish and Wildlife Habitat Conservation Areas ..... 18
- 5.0 References ..... 23**

# Appendices

Appendix A Pepin Creek Relocation Project Plan

### Table of Exhibits

Exhibit 1. Study Area for the Pepin Creek Sub-Area Critical Areas Reconnaissance..... 2

Exhibit 2. Mapped Wetlands and Fish and Wildlife Habitat Conservation Areas in the Vicinity of the Pepin Creek Sub-Area. .... 12

Exhibit 3. Classification of Wetlands and Deepwater Habitats Mapped in the Study Area by the National Wetlands Inventory..... 13

Exhibit 4. Groundwater Monitoring Data for the Study Area, April 20 through May 30, 2017..... 14

Exhibit 5. Mapped Soil Classifications and Groundwater Monitoring Well Locations in the Vicinity of the Pepin Creek Sub-Area. .... 15

Exhibit 6. Wetlands, Streams, and Ditches Observed in the Study Area..... 17

Exhibit 7. Federal and State Listing Status of Fish in the Study Area..... 19

Exhibit 8. Ditch Characterization from North Lynden Watershed Improvement District Drainage and Fish Habitat Management Plan. .... 20

Exhibit 9. Ditches in the Study Area..... 21

Exhibit 10. Preliminary Stream Classes and Standard Buffers for Ditches in the Study Area. .... 22

## 1.0 Introduction

### 1.1. PROJECT PURPOSE AND DESCRIPTION

The City of Lynden (City) is conducting land use planning for the Pepin Creek Sub-Area (PCSA) to facilitate future urban development. The proposed project aims to plan the future development of the PCSA through the creation of a sub-area plan and eventual annexation of the PCSA into the City.

### 1.2. BACKGROUND

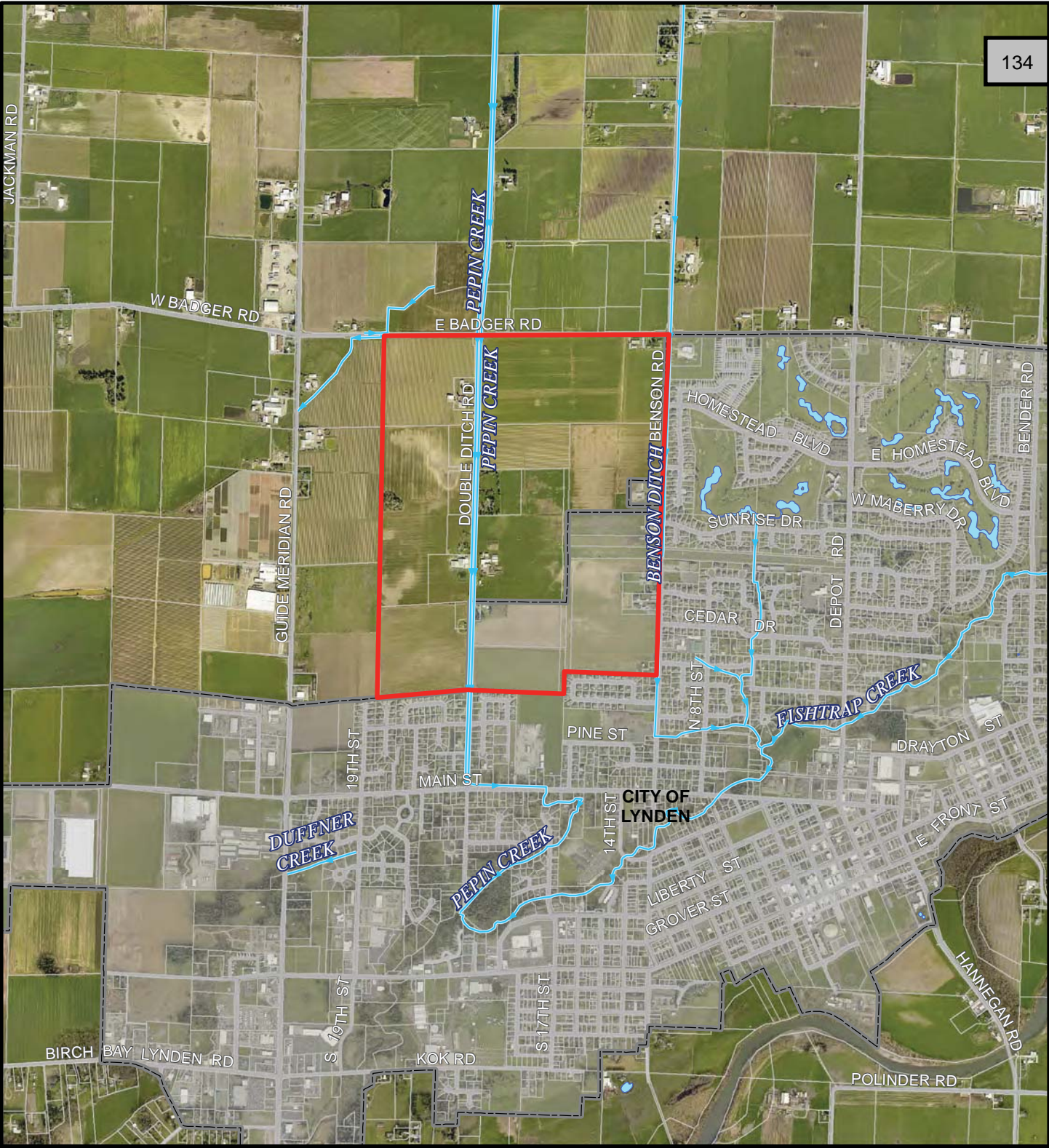
The PCSA planning effort is being closely coordinated with the planning, design, and permitting for two separate, City projects related to relocating Pepin Creek. The first project would relocate and join the roadside ditches along Double Ditch Road and Benson Road within a proposed, restored stream channel corridor within the PCSA (Appendix A). The project would be phased; the first phase would relocate Benson Ditch to the new channel alignment beginning near the Lynden Airport, and the final phase would relocate the ditches along both Double Ditch and Benson Roads just south of Badger Road. The new stream corridor would be oriented from north to south at the midpoint between Double Ditch and Benson Roads. The second project is to design and construct a new bridge on Main Street that would cross the future alignment of Pepin Creek. As part of the bridge project, the City is conducting hydraulic analyses of the current reach of Pepin Creek south of Main Street.

Two ditches, one on each side of Double Ditch Road, convey Pepin Creek, which is called Pepin Brook on the Canadian side of the US-Canada border. Throughout this memorandum, the ditches are referred to as Double Ditch West and Double Ditch East. The ditch along Benson Road is referred to as Benson Ditch.

### 1.3. PURPOSE OF TECHNICAL MEMORANDUM

The City contracted Herrera Environmental Consultants, Inc. (Herrera), as part of a team led by Communita Atelier, to prepare a critical areas memorandum that documents preliminary findings on existing conditions of critical areas occurring within the PCSA study area (Exhibit 1). Critical areas examined include wetlands and fish and wildlife habitat conservation areas regulated by federal and state agencies; and the City of Lynden.

Findings in this technical memorandum are based on a review of background information and a 1-day, reconnaissance-level, site visit. This memorandum includes preliminary mapping of the critical areas within the study area and preliminary analysis of wetland and stream classifications.

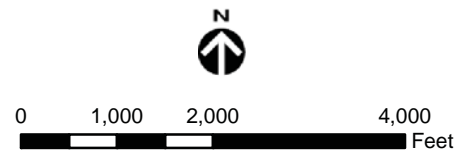


**Legend**

-  Streams and Ditches
-  Parcels
-  City Limits
-  Study Area
-  Streets
-  Lakes



**Exhibit 1.**  
Study Area for the Pepin Creek Sub-Area  
Critical Areas Reconnaissance.



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## 2.0 Regulatory Framework

### 2.1. FEDERAL REGULATIONS

Federal laws regulating habitat and species include Sections 404 and 401 of the Clean Water Act (United States Code [USC], Title 33, Chapter 1344 [33 USC 1344]), the Endangered Species Act (16 USC 1531), the Bald and Golden Eagle Protection Act (16 USC 668-668c), and the Migratory Bird Treaty Act (16 USC 703-712).

#### 2.1.1. Clean Water Act Section 404

Section 404 of the federal Clean Water Act (CWA) regulates the placement or removal of soil or other fill, grading, or alteration (hydrologic or vegetative) in waters of the United States, including wetlands, streams, and ditches. The US Environmental Protection Agency and US Army Corps of Engineers (USACE) recently clarified the definition of waters of the United States in the Clean Water Rule, which became effective on August 28, 2015 (40 CFR Parts 110, 112, 116, et al.). USACE administers the Section 404 permitting program under the CWA. The permits include nationwide (general) permits for projects involving minor fills, grading, or alteration; and individual permits for projects that require larger areas of disturbance to waters of the United States. Under CWA Section 404, USACE issues manuals and technical guidelines for identifying wetlands and delineating wetland boundaries; and has authority to determine the jurisdictional status and approve jurisdictional boundaries of waters of the United States.

USACE's mitigation policy involves avoiding adverse impacts and offsetting unavoidable adverse impacts on existing aquatic resources, including wetlands, by achieving a goal of no overall net loss of values and functions. Compensatory mitigation from the permittee is required for unavoidable impacts. Types of mitigation include: purchasing credits in a mitigation bank; paying in-lieu fees; and restoring, establishing, enhancing, or preserving wetlands.

#### 2.1.2. Clean Water Act Section 401

Section 401 of the CWA is administered in Washington State by the Washington State Department of Ecology (Ecology), as mandated by the Washington State Water Pollution Control Act (Chapter 90.48 Revised Code of Washington [RCW]). Section 401 requires that proposed dredge (removal) and fill activities permitted under Section 404 be reviewed and certified to ensure that such activities meet state water quality standards and protect wetlands. State 401 certification is administered by Ecology for all Section 404 permits. State 401 certification is granted without the need for a separate permit from Ecology for projects that: 1) qualify for a Section 404 nationwide permit, 2) meet specific 401 certification conditions of the nationwide permit, and 3) meet Ecology 401 General Conditions. If a project does not meet those three criteria, an Individual 401 Water Quality Certification permit is required by Ecology.

#### 2.1.3. Endangered Species Act

The Endangered Species Act (ESA) directs the "Services" (i.e., the US Fish and Wildlife Service [USFWS] and National Marine Fisheries Service [NMFS]) to identify and protect endangered and threatened species and their critical habitat, and to provide a means to conserve their ecosystems. Among its other

provisions, the ESA requires the Services to assess civil and criminal penalties for violations of the ESA or its regulations. Section 9 of the ESA prohibits take of federally-listed species. In the ESA, “take” is defined as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct” (16 USC 1532). The term “harm” includes significant habitat alteration that kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering, (50 CFR 17.3). Projects involving federal lands, funding, or authorizations (e.g., Section 404 permit) will require consultation between the federal agency and the Services, pursuant to Section 7 of the ESA.

#### 2.1.4. Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act (BGEPA) of 1940 prohibits the take of any bald eagle (*Haliaeetus leucocephalus*) or golden eagle (*Aquila chrysaetos*) or the parts, nests, or eggs of such birds without prior authorization. In the BGEPA, “take” is defined as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect molest, or disturb.” “Disturb” was defined in 2007 (72 FR 31132) as “to agitate or bother a bald or golden eagle to a degree that causes...injury to an eagle, reduced productivity, or nest abandonment...” Although bald eagles were removed from the ESA listings in 2007, bald and golden eagles are protected under BGEPA and the Migratory Bird Treaty Act. Through recent regulation (50 CFR 22.26), USFWS can authorize take of bald and golden eagles when the take is associated with, but is not the purpose of, an otherwise lawful activity and cannot practicably be avoided.

#### 2.1.5. Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) is the cornerstone of migratory bird conservation and protection in the United States. The MBTA implements four treaties that provide for international protection of migratory birds. It is a strict liability statute, meaning that proof of intent, knowledge, or negligence is not an element of an MBTA violation. The statute’s language is clear that actions resulting in a “taking” or possession (permanent or temporary) of a protected species, in the absence of a USFWS permit or regulatory authorization, are a violation. The MBTA (16 U.S.C. 703) states, “Unless and except as permitted by regulations...it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill...possess, offer for sale, sell ... purchase ... ship, export, import ...transport or cause to be transported...any migratory bird, any part, nest, or eggs of any such bird...”

The word “take” is defined by regulation as “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect” (50 CFR 10.12). USFWS maintains a list of all species protected by the MBTA at 50 CFR 10.13. This list currently includes 1,027 species of migratory birds.

## 2.2. WASHINGTON STATE REGULATIONS

Washington State laws and programs designed to control loss and impacts on habitats and species include the State Environmental Policy Act (Chapter 43.12C Revised Code of Washington [RCW]), Section 401 of the Clean Water Act (a federal law that is implemented in the state by Ecology as noted above), State Hydraulic Code (Chapter 77.55 RCW and Washington Administrative Code [WAC] 220-110), and the Growth Management Act (Chapter 36.70A RCW).



### 2.2.1 State Environmental Policy Act

The Washington State Environmental Policy Act (SEPA) provides a way to identify possible environmental impacts that may result from government decisions including, but not limited to, construction of public facilities. Information provided during the SEPA review process helps agency decision makers, applicants, and the public understand how a proposal will affect the environment including, but not limited to, aquatic resources (e.g., lakes, wetlands), shorelines, earth, plants, and animals. Under SEPA, the City of Lynden is the lead agency for the proposed project and is responsible for identifying and evaluating potential adverse environmental impacts.

#### 2.2.1. State Hydraulic Code

The Washington Department of Fish and Wildlife (WDFW) administers the Hydraulic Project Approval (HPA) program under the state Hydraulic Code, which was specifically designed to protect fish life. An HPA permit is required for projects that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state.

#### 2.2.2. Growth Management Act

The Washington State Growth Management Act (GMA) requires state and local governments to manage growth by identifying and protecting critical areas and natural resource lands, designating urban growth areas, preparing comprehensive plans, and implementing them through capital investments and development regulations.

## 2.3. LOCAL CODE

The study area is in unincorporated Whatcom County, within the City of Lynden urban growth area. It is expected to be annexed in the future, at which time it will be subject to the Lynden Municipal Code (LMC), which includes critical areas regulations required under the GMA that pertain to protection of habitats and species. Critical areas regulated by the City include wetlands; and fish and wildlife habitat conservation areas (e.g., streams). Critical areas regulations specify wetland categories/classes based on ratings, stream types/classes, required buffer widths, development standards, and mitigation requirements. Buffers are required to protect the functions and values of wetlands; and fish and wildlife habitat conservation areas.

### 2.3.1. Wetlands

Wetlands in Lynden are rated based on categories that reflect the functions and values of each wetland. Wetland categories are based on the criteria provided in the most recent version of Ecology's Washington State Wetland Rating System for Western Washington (Hruby 2014), as determined using the appropriate rating forms contained in that publication (LMC 16.16.270). Wetlands are rated as Category I, II, III, or IV according to the functions provided and their score using the Ecology rating system.

Wetland categories are generally defined as follows:

- Category I wetlands are those that: 1) represent a unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological

attributes that are impossible to replace within a human lifetime; or 4) provide a high level of functions.

- Category II wetlands are difficult, though not impossible, to replace and provide high levels of some functions. They occur more commonly than Category I wetlands but still need a relatively high level of protection.
- Category III wetlands are: 1) wetlands with a moderate level of functions (scores between 16 and 19 points), 2) can often be adequately replaced with a well-planned mitigation project, and 3) are interdunal wetlands between 0.1 and 1 acre in size. Wetlands scoring between 16 and 19 points generally have been disturbed in some way, and are often less diverse or more isolated from other natural resources in the landscape than are Category II wetlands.
- Category IV wetlands have the lowest levels of functions (scores less than 16 points) and are often heavily disturbed. They are wetlands that should be able to be replaced and, in some cases, be improved. However, experience has shown that replacement cannot be guaranteed in any specific case. Category IV wetlands may provide some important functions and also need to be protected.

Standard wetland buffer widths are based on the wetland rating and range between 25 and 200 feet, measured horizontally from the wetland edge (LMC 16.16.300). According to the LMC, a regulated wetland or its standard buffer shall not be altered unless a detailed study demonstrates that a proposal will not degrade the functions and values of the subject wetland or will provide compensation adequate to mitigate for impacts to functions and values. Compensatory mitigation requirements involve creating/restoring or enhancing wetlands for proposals that result in wetland losses (LMC 16.16.310) at specified ratios that correspond to the category of the wetland affected.

### 2.3.2. Fish and Wildlife Habitat Conservation Areas

Fish and wildlife habitat conservation areas (FWHCAs) are designated based on meeting any one of the following criteria (LMC 16.16.320):

- Areas with which endangered, threatened, and sensitive species have a primary association;
- Habitats and species of local importance that have been designated by the city at the time of application;
- Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
- Waters of the state as defined by WAC 222-16, including Fishtrap Creek, Duffner Ditch, Double Ditch, Kamm Creek, and their tributaries;
- Areas with which anadromous fish species have a primary association;
- Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- State natural area preserves and natural resource conservation areas.

LMC 16.16.330 defines the following classes of stream habitat:

FINAL October 2017

- Class A river/stream habitat includes those rivers and streams with documented presence of a species listed as threatened or endangered by a state or federal agency.
- Class B river/stream habitat includes those rivers and streams not included in class A that also include:
  - Areas with documented presence of species listed as sensitive by a state or federal agency;
  - Areas that provide habitat for anadromous or resident fish populations; or
  - Areas planted with game fish by a governmental or tribal entity.
- Class C river/stream habitat includes those nonfish-bearing rivers and streams not included in either class A or class B.

Stream buffers reflect the sensitivity of the species or habitat present and the type and intensity of the proposed adjacent human use or activity. Standard buffer widths, measured horizontally in landward direction from the ordinary high water mark, are based on the stream class and range between 50 and 100 feet (LMC 16.16.360). According to the LMC, a regulated FHWCA or its standard buffer shall not be altered unless a detailed study demonstrates that a proposal will not degrade the functions and values of the subject habitat or will provide compensation adequate to mitigate for impacts to functions and values.

## 3.0 Methods

The critical areas assessment provided in this technical memorandum is based on a review of background information, a reconnaissance-level site visit, and regulations pertaining to wetlands and FWHCAs. Herrera biologists conducted the reconnaissance by walking city-owned parcels, the stream corridor easement, and road rights-of-way.

### 3.1. WETLANDS

Herrera collected information on wetlands within and adjacent to the study area by reviewing existing documentation and conducting a reconnaissance-level field investigation. Identification of wetlands is based on a three-factor approach involving indicators of hydrophytic vegetation, hydric soil, and wetland hydrology. Those indicators are defined in the 1987 Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the US Army Corps of Engineers Wetlands Delineation Manual: Western Mountains, Valleys, and Coast Region (USACE 2010). These manuals are collectively referred to herein as the Corps Manual.

#### 3.1.1. Review of Existing Documentation

Herrera evaluated potential wetland areas in the study area by reviewing the following data sources:

- National Wetlands Inventory (USFWS 2017)
- City of Lynden Critical Areas Maps (City of Lynden 2017)
- Whatcom County Critical Area Ordinance maps - Wetlands (Whatcom County 2017)
- Natural Resources Conservation Service online soil survey maps and soil descriptions (NRCS 2017a)
- LiDAR images (PSLC 2017)
- Aerial photographs
- Groundwater monitoring data (R&E 2017)

#### 3.1.2. Reconnaissance-Level Field Investigation

The field investigation was conducted by walking the study area and making observations from publicly accessible lands (e.g., road rights-of-way, City-owned property, the airport easement, and the stream corridor easement). Features observed within the study area that could potentially be defined as wetlands were identified, assigned a preliminary name and classification, and approximately mapped based on aerial photography.

Because land use in the study area consists largely of agricultural fields, Herrera biologists were not able to rely on naturally occurring hydrophytic vegetation indicators to identify potential wetlands. Potential wetland areas were identified primarily based on presence of mapped hydric soils and wetlands, and observations of visible wetland hydrology indicators (e.g., surface water and surface saturation).

FINAL October 2017

Herrera biologists conducted a preliminary soil investigation by digging one soil pit. The soil was characterized by digging a 24-inch deep test pit and documenting the presence of hydric soil and hydrology indicators as defined in the Corps Manual.

Wetland boundaries were not delineated in accordance with Corps Manual protocols, which require a more in-depth analysis including subsurface observations of soils and hydrology. The boundaries of wetlands and potential wetland areas shown on the exhibits in this memorandum are approximate; they are based on field observations and are supported by analysis of existing documentation (e.g., mapped hydric soils and wetlands).

Herrera biologists determined preliminary categories and ratings of wetlands based on field observations augmented by analysis of aerial photographs. However, Ecology rating forms were not completed. Wetlands will be rated according to the Ecology rating system when wetlands are delineated during a future phase of the project.

## 3.2. FISH AND WILDLIFE HABITAT CONSERVATION AREAS

Herrera collected information about FWHCAs within and adjacent to the study area by reviewing existing documentation and conducting a field investigation.

### 3.2.1. Review of Existing Documentation

Herrera reviewed the following data sources:

- City of Lynden critical areas map (City of Lynden 2017)
- Whatcom County Critical Area Ordinance maps – Fish and Wildlife Habitat Conservation Areas (Whatcom County 2017)
- North Lynden Watershed Improvement District Drainage and Fish Habitat Management Plan (NLWID 2016)
- Pepin Creek Relocation Feasibility Analysis (NHC 2014)
- North Lynden Watershed Improvement District Agriculture-Watershed Characterization and Mapping Report (Whatcom County Agriculture-Watershed Project 2016)
- Priority Habitats and Species database (WDFW 2017a)
- SalmonScape mapping database (WDFW 2017b)
- Aerial photographs

### 3.2.2. Reconnaissance-Level Field Investigation

The field investigation was conducted by walking the study area and making observations from publicly accessible lands (e.g., road rights-of-way, City-owned property, the airport easement, and the stream corridor easement). Features observed within the study area that could potentially be defined as FWHCAs were identified. During reconnaissance surveys, dominant riparian vegetation and dominant substrate of streams and ditches, (e.g., sand, gravels, and cobbles) were documented.

## 4.0 Results

### 4.1. WETLANDS

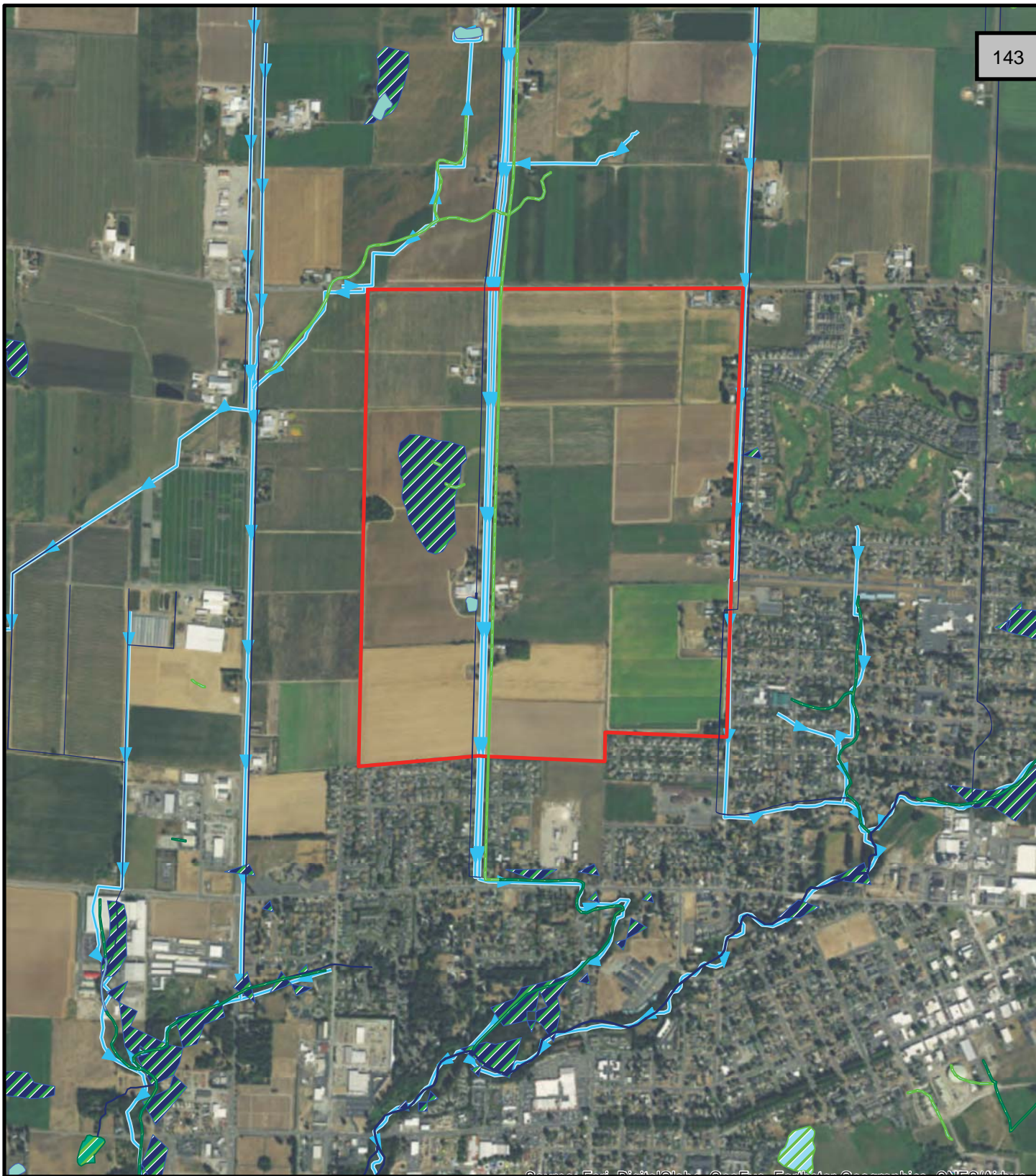
#### 4.1.1. Background Information

The PCSA is currently actively farmed, and ditches are present throughout. There are reports of extensive forested wetlands historically occurring in the Fishtrap Creek drainage. The area around Lynden was described as upland hills with forests of fir, cedar, spruce, and hemlock, and lower ground with cottonwood, alder, maple, birch, spruce, and areas of dense brush (FCW 2012).

#### *Wetland Inventories*

Based on a review of background information, several wetlands were previously identified in the study area. The National Wetlands Inventory (NWI) identifies emergent wetlands lining Double Ditch East as well as two wetlands west of Double Ditch Road, including a ponded wetland with aquatic bed vegetation and an emergent wetland within an agricultural field (Exhibit 2). Exhibit 3 shows the classifications of NWI wetlands in the study area. The wetlands west of Double Ditch Road are identified in the same general locations on the Whatcom County critical areas wetland map (Whatcom County 2017); however, the County map shows the emergent wetland substantially larger than it is shown on the NWI (Exhibit 2).

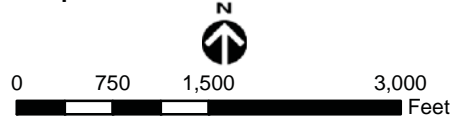




**Legend**

- Study Area
- ▶ Streams and Ditches (City of Lynden)
- Wetlands (Whatcom County)
- National Wetlands Inventory (NWI)
- Freshwater Emergent Wetland
- Freshwater Forested/ Shrub Wetland
- Freshwater Pond
- Riverine

**Exhibit 2.**  
**Mapped Wetlands and Fish and Wildlife Habitat Conservation Areas in the Vicinity of the Pepin Creek Sub-Area.**



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**Exhibit 3. Classification of Wetlands and Deepwater Habitats Mapped in the Study Area by the National Wetlands Inventory.**

LOCATION	CLASSIFICATION	DESCRIPTION
Double Ditch West	R5UBFx	Riverine, unknown perennial, unconsolidated bottom, semipermanently flooded, excavated
Double Ditch East	PEM1Cx	Palustrine emergent wetland, persistent vegetation, seasonally flooded, excavated
Pond west of Double Ditch Road	PABFh	Palustrine aquatic bed wetland, semipermanently flooded, diked/impounded
Wetland west of Double Ditch Road	PEM1C	Palustrine emergent wetland, persistent vegetation, seasonally flooded
Benson Ditch	R5UBFx	Riverine, unknown perennial, unconsolidated bottom, semipermanently flooded, excavated

Source: USFWS 2017

*Groundwater Monitoring*

According to the Corps Manual, the PCSA represents a highly disturbed site due to active agricultural practices that have resulted in disturbance to soil structure, elimination of naturally occurring vegetation communities, and draining of soils (i.e., lowering of groundwater table). In such cases, hydrologic monitoring is useful for determining if wetland hydrology is present. According to the Corps Manual, wetland hydrology requires 14 or more consecutive days of flooding or ponding, or a water table 1 foot or less below the soil surface, during the growing season at a minimum frequency of 5 years in 10 (50 percent or higher probability) (National Research Council 1995).

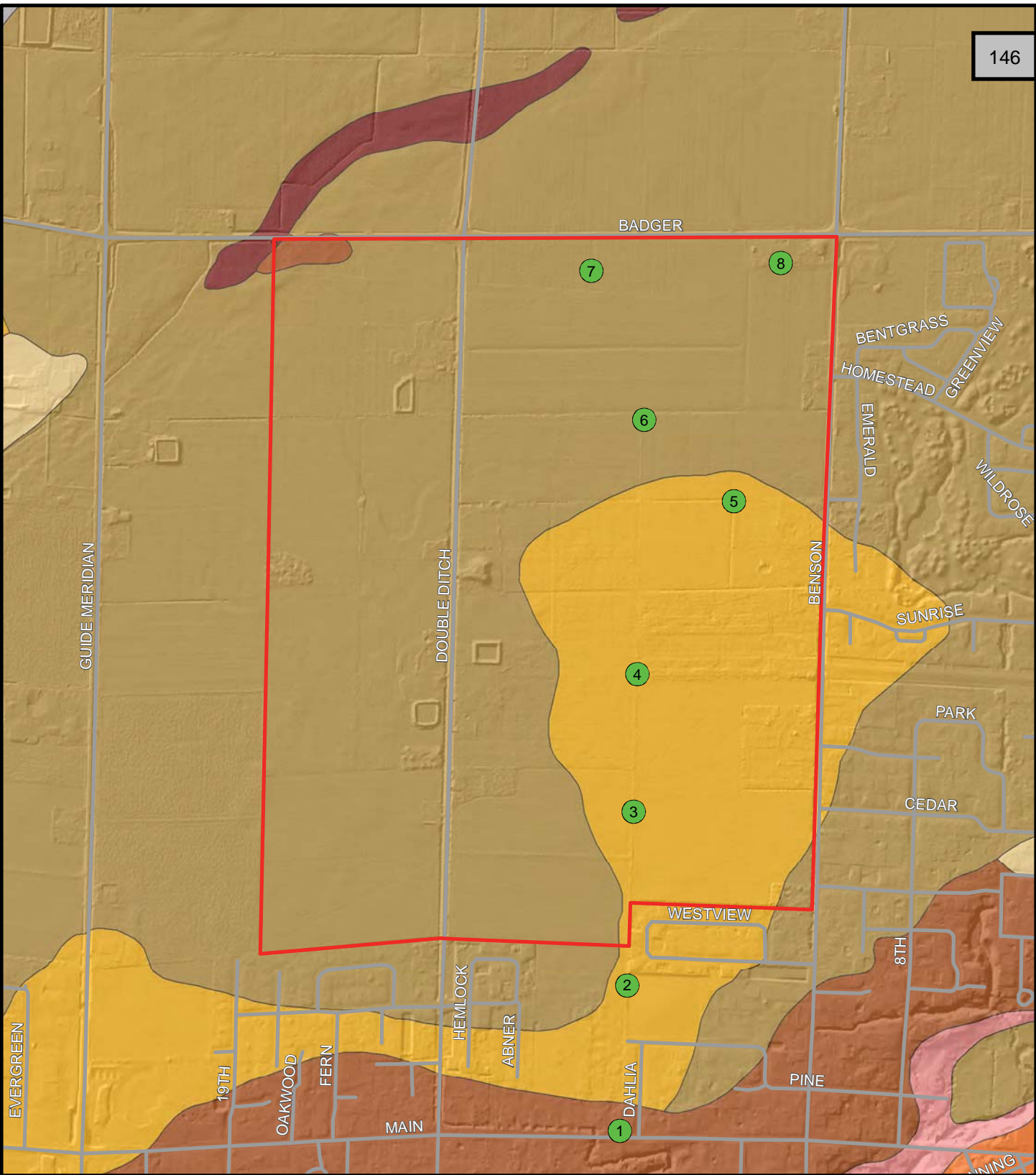
In support of the design of the Pepin Creek and Benson Ditch channel relocation, shallow groundwater wells (i.e., piezometers) were installed on City-owned property and easements. Monitoring of groundwater depth began on April 20, 2017, during the growing season. A partial record through May 30 is provided in Exhibit 4. Locations of the wells are shown on Exhibit 5. The limited available data set indicates that wetland hydrology is not present. However, the data show that groundwater was between 1 and 2 feet below the surface at Wells 3, 4, 6, and 7 on April 20, followed by a gradual decrease in groundwater levels, corresponding to low levels of precipitation. Spikes in groundwater elevation (for example, on May 11) correspond to precipitation events. The data indicate potential for wetland hydrology in the vicinity of monitoring wells to occur earlier in the growing season, when higher levels of precipitation are anticipated.

FINAL October 2017

**Exhibit 4. Groundwater Monitoring Data for the Study Area, April 20 through May 30, 2017**

WATER TABLE DEPTH BELOW GROUND SURFACE (FEET)										
Date	Weather	Precip. (inches)	Well 1	Well 2	Well 3	Well 4	Well 5	Well 6	Well 7	Well 8
4/20/17	Sunny	0.18	11	3	1.167	1.083	--	1.25	1.75	4.5
4/21/17	Sunny	0	11	3	1.167	1.083	--	1.25	1.75	4.5
4/24/17	Sunny	0.13	11.167	3.167	1.083	1.167	--	1.417	1.417	4.25
4/25/17	Sunny	0.01	11.33	3.167	1.25	1.583	2.083	1.417	1.667	4.667
4/27/17	Sunny	0.19	11.5	3.75	1	1.75	2.583	2.25	2.5	5
4/28/17	Sunny	0	11.5	3.583	2.16	2	2.583	2.25	2.75	5.16
5/1/17	Rainy	0.05	11.75	4.083	2.416	2.416	2.83	2.5	2.9166	5.16
5/2/17	Sunny	0	11.83	4.16	2.416	2.416	2.91	2.5	2.916	5.25
5/4/17	Sunny	0.15	11.75	4.083	2.16	2.16	2.583	1.916	2.16	4.83
5/8/17	Sunny	0	12	4.33	2.5	2.416	2.75	2.416	2.583	5.167
5/9/17	Sunny	0	12	4.416	2.5	2.5	2.75	2.416	2.75	5.25
5/11/17	Rainy	0.56	12.16	4.416	2.75	2.66	3.083	2.583	3.083	5.33
5/12/17	Sun/Rain	0	12.25	4.33	2.416	2.5	2.91	2.33	2.583	5.166
5/15/17	Rainy	0.56	12.167	4.25	2.33	2.167	2.416	2.416	2.5	5
5/16/17	Overcast	0.28	12.083	3.583	1.083	0.75	1.16	0.66	0.75	3.583
5/18/17	Sunny	0	12	3.83	1.5	1.33	1.66	1.16	1.5	4.33
5/19/17	Sunny	0	12	3.916	1.83	1.583	2.083	1.5	1.75	4.66
5/22/17	Sunny	0	12.16	4.33	2.33	2.25	2.66	2.16	2.66	5.16
5/25/17	Sunny	0	12.25	4.583	2.66	2.75	3.16	2.66	3.16	5.5
5/26/17	Sunny	0	12.33	4.66	2.66	2.75	3.25	2.75	3.25	5.66
5/30/17	Overcast	0	12.66	4.916	3.16	3.083	3.416	3.16	3.583	5.83

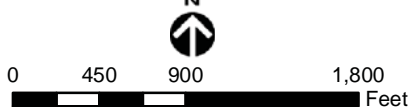




**Legend**

- Study Area
  - Groundwater Monitoring Well
  - Streets
- NRCS Soil Classification**
- Edmonds-Woodlyn loams, 0 to 2 percent slopes
  - Laxton loam, 0 to 3 percent slopes
  - Lynden-Urban land complex, 0 to 3 percent slopes
  - Lynnwood sandy loam, 5 to 20 percent slopes
  - Fishtrap muck, drained, 0 to 2 percent slopes
  - Tromp loam, 0 to 2 percent slopes
  - Hale silt loam, drained, 0 to 2 percent slopes

**Exhibit 5. Mapped Soil Classifications and Groundwater Monitoring Well Locations in the Vicinity of the Pepin Creek Sub-area.**



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### *Topography and Soils*

LiDAR imagery obtained from Puget Sound LiDAR Consortium shows that the study area gradually slopes to the south toward the Nooksack River. Elevation ranges from 65 to 116 feet above sea level (PSLC 2017).

The Natural Resources Conservation Service (NRCS) classifies soils by hydric rating, which is useful in determining the presence of wetland soils in support of wetland determinations. The hydric rating indicates the percent of the map unit that meets the NRCS criteria for hydric soils (NRCS 2017b). Soil survey maps show that about two-thirds of site is rated as 88 percent hydric, corresponding to the Hale silt loam map unit, and about one-third of the site is rated as 34 percent hydric, corresponding to the Edmonds-Woodlyn loams map unit (NRCS 2017a) (Exhibit 5). Hydric soil mapping indicates a potential for wetlands to occur within the PCSA because hydric soils are an indicator of wetland presence. However, the NRCS soil mapping also indicates that the Hale silt loam map unit is drained. Therefore, wetland hydrology may not be present within that map unit, depending on the extent of drained conditions. A formal wetland determination, including an evaluation of hydric soil, wetland hydrology, and hydrophytic vegetation indicators, is necessary to confirm wetland presence.

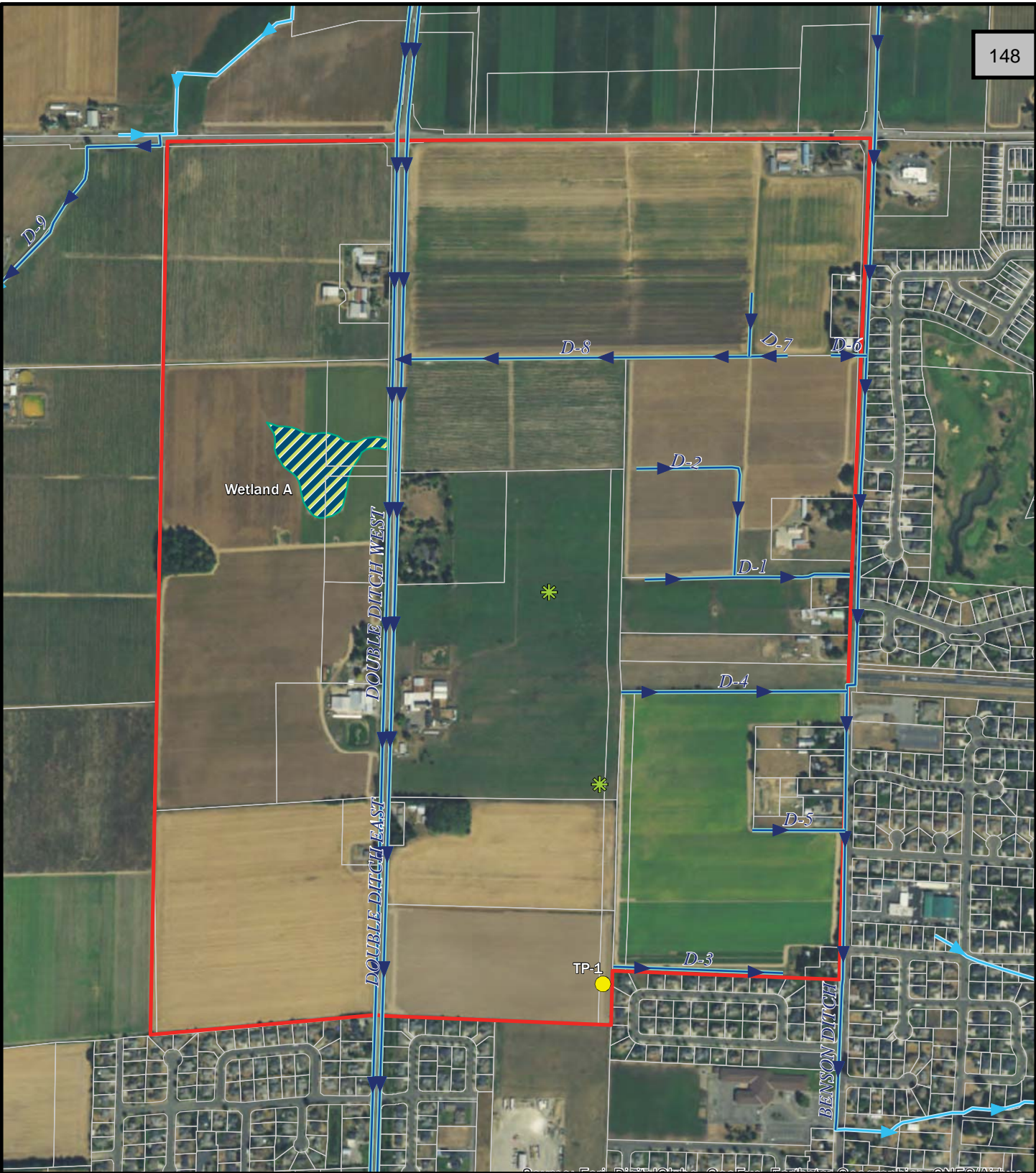
#### 4.1.2. Reconnaissance-Level Field Investigation

##### *Potential Wetland Areas*

Herrera biologists observed a depressional and swale-like feature west of Double Ditch Road with saturated soil, localized ponding, and emergent vegetation; it is shown as Wetland A on Exhibit 6. The area corresponds to the emergent wetland mapped by NWI (USFWS 2017) and Whatcom County (2017). The swale connects to Double Ditch West. In addition, localized depressions containing surface water and/or saturated soils were observed, indicating areas of potential wetlands, but a detailed investigation was not possible due to limited access. In addition, wetland habitat conditions were commonly observed along ditches occurring within the PCSA. Based on the potential for a high groundwater table during the early growing season and presence of mapped hydric soils, it is possible that other wetlands are present in the study area. Further investigation and a formal wetland determination followed by delineation are necessary to confirm wetland presence.

Herrera biologists searched for the ponded wetland that was mapped by NWI and Whatcom County (Exhibit 2) but did not find a pond at that location.

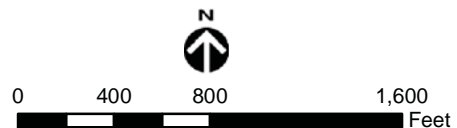




**Legend**

- Study Area
- Parcels
- Observed Wetland
- Observed Streams and Ditches
- Streams and Ditches (City of Lynden)
- TP-1 (Test Pit)
- ✱ Observed Ponding and Surface Soil Saturation

**Exhibit 6.**  
Wetlands, Streams, and Ditches Observed in the Study Area.



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### Soils

The test pit shown on Exhibit 6 was dug in an area that is mapped as Edmonds-Woodlyn loams. The hydric rating for that map unit is 34 percent hydric. Soil in the top 16 inches of the test pit was dark brown (7.5YR 3/2) silt loam. Saturation was present at 6 inches below the surface; however, an underlying water table was not observed in the test pit. From 16 to 24 inches, the soil was brown (7.5YR 5/2) silt loam with 40 percent prominent, strong brown (7.5YR 4/6) redoximorphic features. The soil in the test pit does not meet the criteria for a hydric soil (USACE 2010).

#### 4.1.3. Wetland Classification and Buffers

According to the Ecology wetland rating system (Hruby 2014), a preliminary rating of Category IV applies to Wetland A west of Double Ditch Road and wetlands lining ditches in the PCSA. The rating is based on moderate level of functions for water quality improvement, low to moderate level of hydrologic function, and low to moderate level of habitat functions. According to the Hydrogeomorphic Classification system (Brinson 1993), Wetland A is a depressional wetland and the ditch wetlands are either depressional or riverine. Wetland A and the ditch wetlands are palustrine emergent wetlands according to the USFWS classification system (Cowardin et al. 1979). Standard wetland buffers are based on classification (rating) (LMC 16.16.300). For Category IV wetlands, the standard buffer width is 25 feet.

## 4.2. FISH AND WILDLIFE HABITAT CONSERVATION AREAS

FWHCAs noted during the site reconnaissance include streams and ditches in the study area. Those aquatic resources include WDFW priority habitats for federal and state listed species (WDFW 2017a), and documented habitat for locally important species according to the LMC. Wetland habitats that are also designated as FWHCAs are subject to the wetland requirements established in LMC 16.16.260 through 16.16.310; they are described in the *Wetlands* section, above.

The terrestrial habitats in the study area consist of agriculture, grassland, and pasture. They provide habitat for a variety of bird species but are not documented WDFW Priority Habitats or habitats for species of local importance according to the LMC. Therefore, this section focuses on the Double Ditch and Benson Ditch systems.

### 4.2.1. Background Information

The Double Ditch and Benson Ditch systems generally consist of manmade roadside or farm ditches from the US-Canada border to Main Street in Lynden. The ditches are characterized as straight, prismatic channels with relatively low roughness, typically grass-lined and armored, with little or no shading or flow complexity (NLWID 2010). The ditch systems were constructed beginning in the late 19th Century to drain wetlands and support agricultural expansion into the area north of the Nooksack River (Hawley 1945). There are numerous road and farm access crossings along Double Ditch West, Double Ditch East, and Benson Ditch, many of which act as hydraulic constrictions during periods of high flow (NHC 2014). The NWI identifies Double Ditch West and Benson Ditch as deepwater habitats occurring in the study area (Exhibits 2 and 3).

Pepin Creek originates in Canada and flows southwest to the US-Canada border. Between the border and Main Street in Lynden, Pepin Creek is conveyed by two parallel farm ditches, Double Ditch West and Double Ditch East. The two ditches join at Main Street and flow along the north side of Main Street before passing through a box culvert. Downstream of Main Street, the stream becomes steeper and more confined before discharging into Fishtrap Creek (NHC 2014). According to the Whatcom County fish habitat conservation areas map, Double Ditch West and Double Ditch East are fish-bearing streams with current known distribution (Whatcom County 2017). Documented presence of salmonids in Double Ditch East includes fall Chinook salmon (spawning), winter steelhead (spawning), coho salmon (rearing), and fall chum salmon (WDFW 2017b). In addition, the presence of bull trout is presumed. Fall chum salmon and bull trout presence is presumed in Double Ditch West; and modeled presence of salmonids includes winter steelhead, bull trout, pink salmon, and fall Chinook salmon (WDFW 2017a). In addition, two species of rare sucker, the Nooksack Dace and Salish Sucker, have been observed in Double Ditch (NLWID 2010). Federal and state listing status of fish species are shown in Exhibit 7.

Benson Ditch is generally a single roadside ditch along Benson Road that begins near the US-Canada border. Benson Ditch flows south along the east side of Benson Road until just south of the Lynden airport, where it crosses to the west side of the road. The ditch is directed toward Fishtrap Creek south of Isom Elementary School. According to the Whatcom County fish habitat conservation areas map, Benson Ditch has presumed potential/historical distribution of fish (Whatcom County 2017). Benson Ditch is modeled habitat for winter steelhead, pink salmon, coho salmon, and bull trout (WDFW 2017b). The ditch is typically dry from mid-June to early October (NLWID 2010).

**Exhibit 7. Federal and State Listing Status of Fish in the Study Area.**

FISH SPECIES	FEDERAL STATUS	STATE STATUS
Puget Sound Chinook	Threatened	Species of Concern
Puget Sound steelhead	Threatened	none
Bull trout	Threatened	Species of Concern
Coho salmon	none	none
Pink salmon	none	none
Fall chum	none	none
Salish sucker	none	State monitored
Nooksack dace	none	none

Source: WDFW 2017c

Habitat conditions in Double Ditch and Benson Ditch were assessed for the North Lynden Watershed Improvement District Drainage and Fish Habitat Management Plan (NLWID 2010). Results of those investigations are presented in Exhibit 8.

**Exhibit 8. Ditch Characterization from North Lynden Watershed Improvement District Drainage and Fish Habitat Management Plan.**

	DOUBLE DITCH <sup>1</sup>	BENSON DITCH <sup>2</sup>
Habitat Conditions	Minimal habitat. Long glide sections with minimal riffles. Fine sand and silt substrate. Reed canarygrass encroaches into channel during summer.	Minimal habitat. This reach is usually dry from mid-June to early October.
Riparian Characteristics	Predominately reed canarygrass. Small areas with trees and shrubs associated with home landscaping.	Mostly grasses. Some woody vegetation where the ditch passes by farmsteads and homes.
Fish Passage Barriers	None	None
Spawning Habitat	Very limited due to lack of riffles, poor quality substrate	None
Fish Utilization	Transit, rearing for salmon and trout	Winter rearing for salmon and trout

1 The east and west branches of Double Ditch within the study area

2 Benson Ditch from East Badger Road to East Boundary Road (north of the study area)

**4.2.2. Reconnaissance-Level Field Investigation**

Within the study area, Herrera biologists identified Double Ditch (East and West), Benson Ditch, and nine connecting lateral/tributary ditches (see Exhibit 6). Characteristics of the ditches in the study area are summarized in Exhibit 9.

FINAL October 2017

**Exhibit 9. Ditches in the Study Area.**

NAME	FLOWS TO	WIDTH OF OHWM	FLOW, SATURATION	WETTED DEPTH	NOTES
Benson Ditch	Fishtrap Creek	7 feet	Seasonal	12 inches	Glide habitat, fine substrate, iron bacteria
D-1	Benson Ditch	4.5 feet	Seasonal, saturated	N/A	Wetland fringes, no OHWM west of a concrete culvert that enters south of the barn.
D-2	D-1, Benson Ditch	1.8 feet	Seasonal, saturated	N/A	North-south segment contains wetland fringes, vegetated with pasture grasses and RCG. East-west segment is unvegetated.
D-3	No outlet	No evident OHWM	Seasonal, saturated	N/A	Wetland habitat, vegetated with RCG, one cedar growing in ditch. Eastern end of the ditch is filled in at new housing development.
D-4	Benson Ditch	3 feet	Seasonal, saturated	N/A	Wetland fringes, vegetated with RCG. Width of wetland including ditch is 9 feet near Benson Road.
D-5	Benson Ditch	No evident OHWM	Seasonal, saturated	N/A	Did not have permission to access. Wetland fringes, vegetated with RCG, observed from Benson Road.
D-6	Benson Ditch	No evident OHWM	Seasonal, saturated	N/A	Ditch is filled in except for a small section near Benson Road. There are signs of flooding on adjacent field.
Double Ditch East	Pepin Creek	11 feet	Perennial	16 inches	Wetland fringe is 1 to 2 feet wide on each side. Steep banks.
Double Ditch West	Pepin Creek	6.6 feet	Perennial	26 inches	Wetland fringe is 1 to 2 feet wide on each side. Steep banks.
D-7 north-south segment	Double Ditch East	3.5 feet	Seasonal, saturated	N/A	Wetland fringes, vegetated with RCG, cottonwood saplings.
D-7 east-west segment	Double Ditch	2.5 feet	Seasonal, saturated	N/A	Wetland fringes, vegetated with RCG.
D-8	Double Ditch	5 feet	Seasonal, saturated	N/A	Bare substrate transitioning to RCG-filled ditch to the west. Water observed in ditch near Double Ditch Road.
D-9	Bertrand Creek	6 feet	Seasonal, standing water	3 inches	1- to 2-foot wetland fringe along each site. Substrate is fine sand, small gravel.

N/A = Not applicable, no flow observed during site visit or no access; OHWM = ordinary high water mark; RCG = reed canarygrass

#### 4.2.3. Stream Classification and Buffers

Streams designated as FWHCAs according to LMC 16.16.330 were classified. Stream classes and corresponding standard buffer widths are presented in Exhibit 10.

**Exhibit 10. Preliminary Stream Classes and Standard Buffers for Ditches in the Study Area.**

STREAM/DITCH	STREAM CLASS (CITY OF LYNDEN)	RATIONALE	BUFFER WIDTH (FEET)
Benson Ditch	Class B	Seasonal habitat for anadromous or resident fish populations	100
D-1	Class B	Seasonal habitat for anadromous or resident fish populations. Connects to Benson Ditch, no barriers present	100
D-2	Class B	Seasonal habitat for anadromous or resident fish populations. Connects to Benson Ditch via D-1, no barriers present	100
D-4	Class B	Seasonal habitat for anadromous or resident fish populations. Connects to Benson Ditch, no barriers present	100
D-5	Class B	Seasonal habitat for anadromous or resident fish populations. Connects to Benson Ditch, no barriers present	100
D-6	Class C	Fish presence unlikely, limited habitat	50
Double Ditch East	Class A	Documented fish presence, federally listed species	150
Double Ditch West	Class A	Documented fish presence, federally listed species	150
D-7	Class C	Fish presence unlikely. The ditch is partially filled in, no connection with fish bearing waters.	50
D-8	Class B	Seasonal habitat for anadromous or resident fish populations	100
D-9	Class B	Seasonal habitat for anadromous or resident fish populations. Connects to Bertrand Creek	100

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FINAL October 2017

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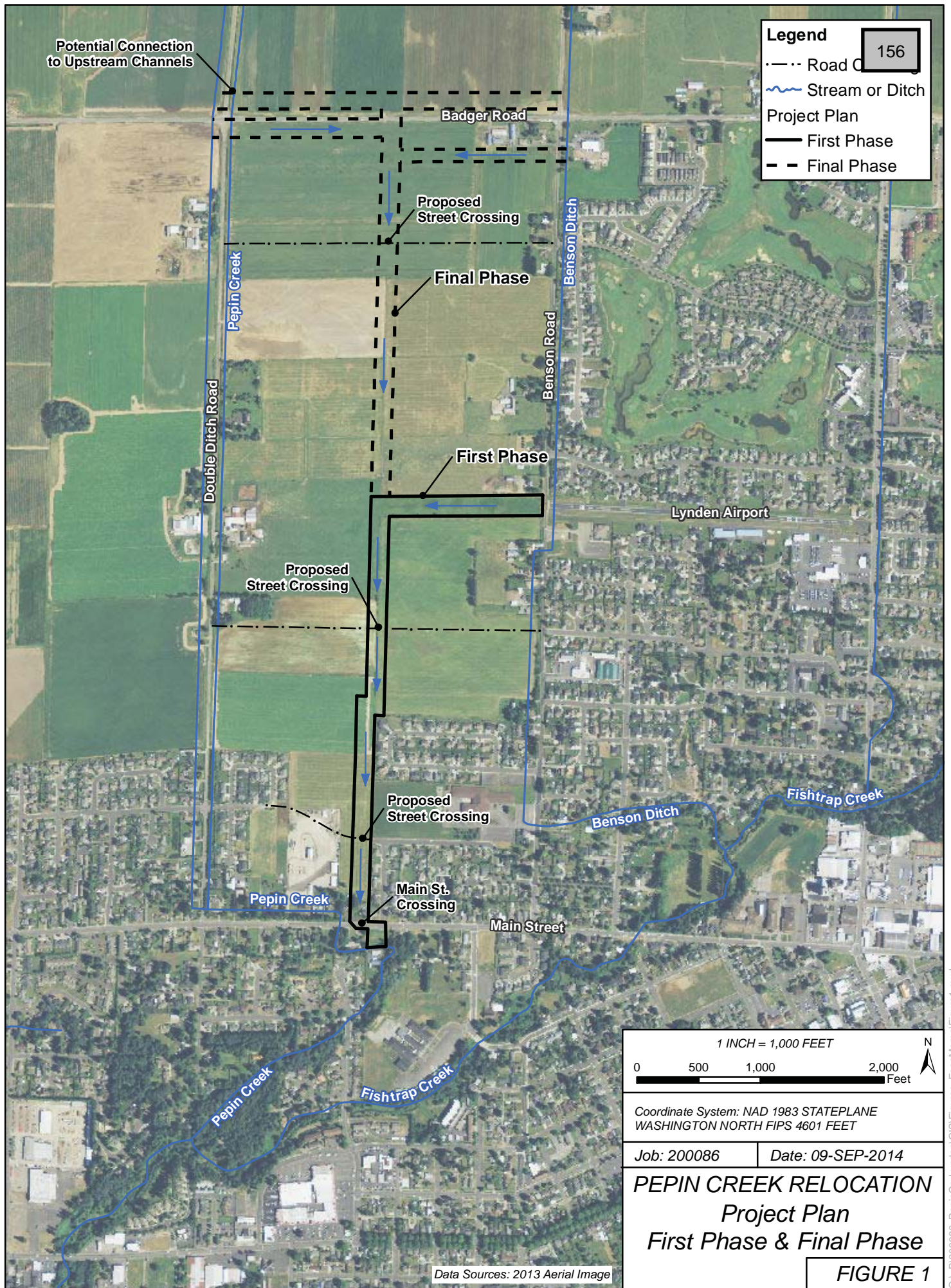
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# Appendix B – Council Workshop

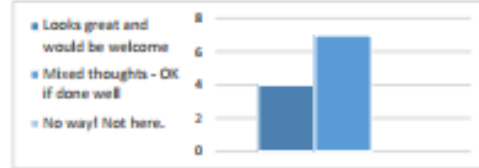
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 Date Created: 11/30/2017 6:48:41 PM

Active Participants: 12 of 12  
 Questions: 7

**Results by Question**

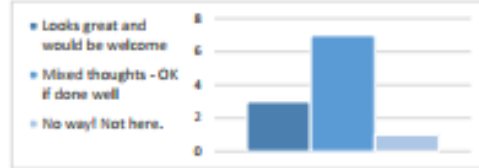
**1. Small Lot Housing (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	36%	4
Mixed thoughts - OK if done well	64%	7
No way! Not here.	0%	0
<b>Totals</b>	<b>100%</b>	<b>11</b>



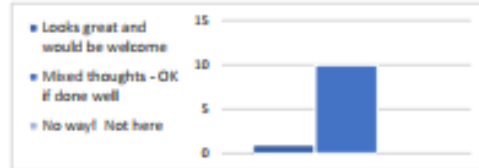
**2. Detached Cottage Lots (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	27%	3
Mixed thoughts - OK if done well	64%	7
No way! Not here.	9%	1
<b>Totals</b>	<b>100%</b>	<b>11</b>



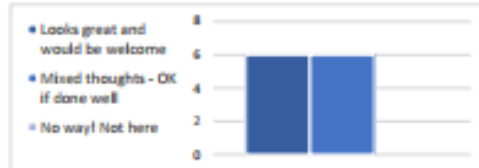
**3. Townhome Lots (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	9%	1
Mixed thoughts - OK if done well	91%	10
No way! Not here	0%	0
<b>Totals</b>	<b>100%</b>	<b>11</b>



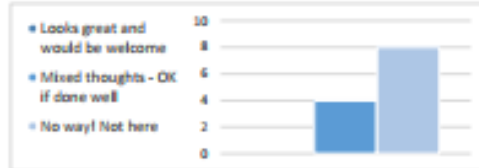
**4. Attached / Clustered (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	50%	6
Mixed thoughts - OK if done well	50%	6
No way! Not here	0%	0
<b>Totals</b>	<b>100%</b>	<b>12</b>



**5. Mixed Housing with Density (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	0%	0
Mixed thoughts - OK if done well	33%	4
No way! Not here	67%	8
<b>Totals</b>	<b>100%</b>	<b>12</b>



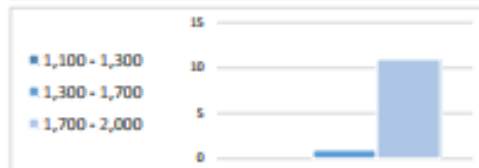
**6. Stacked Units (Multiple Choice)**

	Responses Percent	Count
Looks great and would be welcome	0%	0
Mixed thoughts - OK if done well	9%	1
No way! Not here	91%	10
<b>Totals</b>	<b>100%</b>	<b>11</b>



**7. What unit count should be our goal in Pepin Creek? (Multiple Choice)**

	Responses Percent	Count
1,100 - 1,300	0%	0
1,300 - 1,700	8%	1
1,700 - 2,000	92%	11
<b>Totals</b>	<b>100%</b>	<b>12</b>



## Appendix C – Transportation Analysis

As identified in the Existing Conditions Report in Appendix A, there are few roads serving the study area given its low intensity and agricultural development pattern. The Lynden Comprehensive Plan anticipates the need for transportation improvements in the PCSA. The Transportation Element forecasts growth of up to 1,096 households in the Subarea, which will require roadway improvements that support cars, bicycles, and pedestrians. Lynden’s Transportation Element is focused on intersection operations though adequate road extensions and design are also considered.

The County and cities tested different growth in the PCSA to support Comprehensive Plan Updates in 2016 with results included in an [Environmental Impact Statement \(EIS\)](#). Assumptions of different plans and studies regarding future growth are noted below.

### Pepin Creek Growth Assumptions – Transportation Modeling

Scenario	Households
Whatcom County Alternative 1: 2013 No Action 2016	578
Whatcom County Alternative 2: Historic Shares 2016	727
Lynden Transportation Element 2016 Whatcom County Alternative 3: Multi-Jurisdictional Resolution 2016	1,096
Whatcom County Alternative 4 Targeted Land Use Change 2016	1,433
Whatcom County Preferred Alternative 2016	927
Pepin Creek Subarea Evaluation (WCOG) 2019	1,559

Source: Whatcom County Land Capacity Analysis and Transportation Analysis Zone Assumptions, 2016; Lynden Transportation Element, 2016; WCOG, 2019.

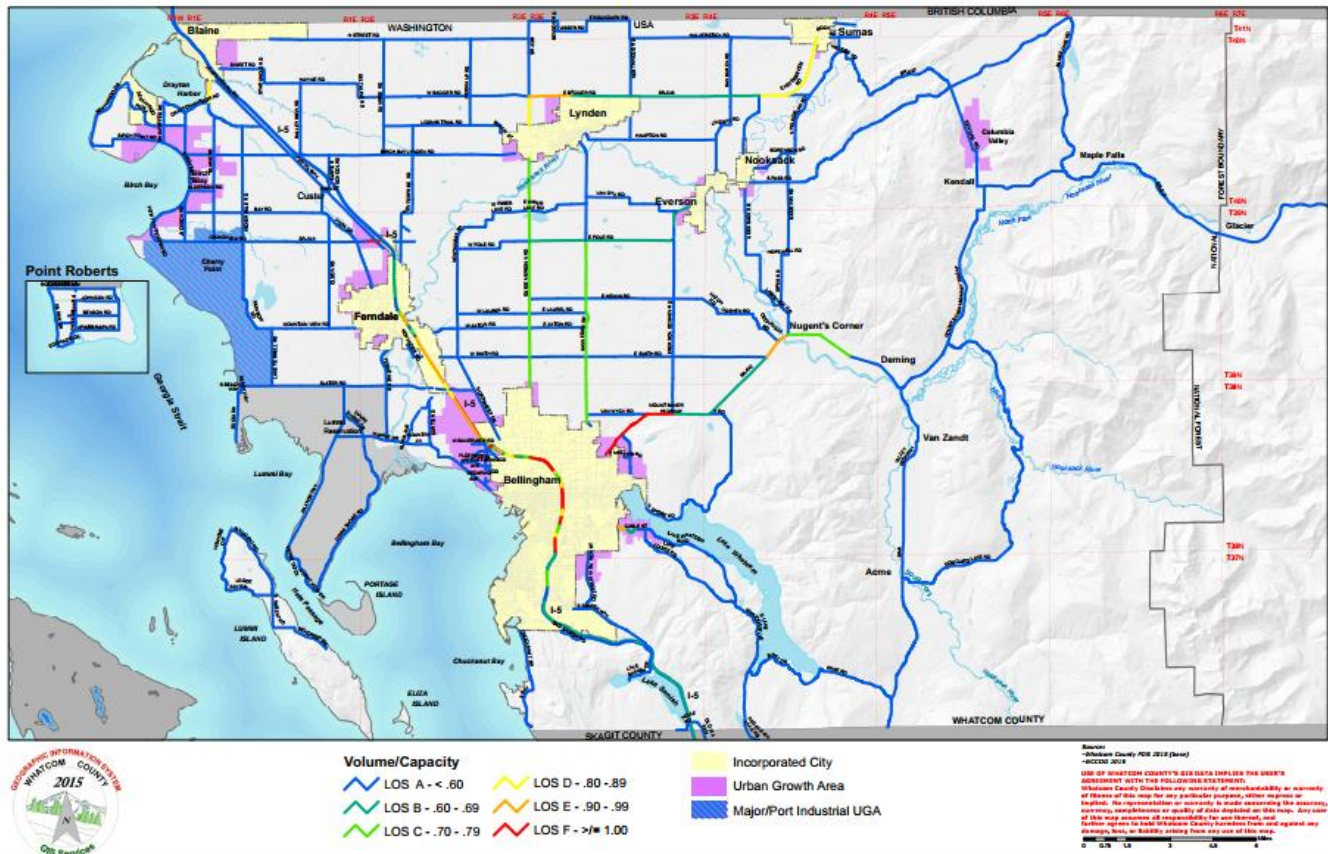
At a countywide scale, the 2016 analysis focused on the volume/capacity (V/C) ratios of roadways. To calculate the V/C of a road segment, projected weekday afternoon peak-hour traffic volume is divided by the road’s hourly carrying capacity. Roadway level of service (LOS) designations range from unrestricted flow of traffic (LOS A) to stop-and-go traffic (LOS F). At LOS C or better, a road segment is less than 80% full (or a V/C less than 0.80). The flow of traffic is generally stable, though individual users are significantly affected by the presence of other vehicles. At LOS D, the volume-to-capacity ratio is greater than or equal to 0.80 but less than 0.90. At LOS D, small increases in flow may cause some delays and decreases in speed during the afternoon peak hour. The adopted level of service is C for rural arterials and collectors, and D for rural primary routes and urban arterials.

Results of the Preferred Alternative tested in 2016 indicated roadway operations at LOS C or better except that Guide Meridian Road functioned at LOS D between the city limits and East Badger Road, and East Badger Road operated at LOS E between Guide Meridian and the city limits as shown below.

Exhibit 28. Whatcom County Transportation Analysis Map

Whatcom County | Comprehensive Plan

Map 6-5  
Level of Service 2013



Additional analysis of other alternatives can be found in the [2016 Comprehensive Plan and Development Regulations Update and Urban Growth Area \(UGA\) Review EIS](#).

Recognizing the more focused subarea planning effort for the PSCA, the City of Lynden engaged the Whatcom Council of Governments (WCOG) to test greater numbers of households, evaluating about 1,969 households, or 1,042 above the Preferred Alternative evaluated in a 2016 Final Environmental Impact Statement. The households tested represent an occupancy rate of 97% of the 2,020 housing units the upper range considered in fall 2017.

The range of units and trips tested in the 2016 EIS and in 2018 for the Subarea Master Plan is listed below.

**Exhibit 29. Housing Units, Households and Trips**

Alternative	Housing Units	Households	Trips
Whatcom County Alternative 1 2013 No Action	594	578	75
Whatcom County Alternative 2 Historic Shares	745	727	101
Whatcom County Alternative 3 Multi-Jurisdictional Resolution (Lynden Transportation Element)	1,124	1,096	156
Whatcom County Alternative 4 Targeted Land Use Change	1,470	1,433	206
Whatcom County Preferred Alternative 2016	951	927	132
Pepin Creek Subarea Master Plan (maximum tested)	1,600	1559	224

Source: WCOG, 2019.

In addition to the regional network tested in the 2016 EIS, WCOG added the effect of additional road extensions including the development of Pepin Parkway from Homestead Blvd and extended through the subarea to Double Ditch Road at the point of the bridge anticipated to cross Pepin Creek. The connection of Double Ditch Road to Badger Road is deleted.

Most of the units were added in the northern half of the study area. The results of the 2019 analysis by the WCOG indicated general consistency with the Preferred Alternative results, and:

- Congestion relief on most of Double Ditch Road
- Congestion relief on most of Benson Road
- Slight volume increase on Benson Road between Badger Road and Homestead Blvd.
- Volume increase on Double Ditch Road between the proposed Pepin Parkway and Main Street.

Overall, the WCOG found the model showed sufficient capacity.



## Appendix D – Financial Analysis

To understand whether development will be feasible under the assumption that developers will pay the remaining cost of all improvements to support development, BERK completed a development feasibility analysis to estimate the level of City investment, if any, that is needed to make development of the Pepin Creek Subarea feasible. Since development feasibility analysis is by nature speculative, it has been completed to an order-of-magnitude precision, with final values rounded to the nearest 1,000. Where per square foot values are estimated, they are rounded to the nearest 0.10.

The subarea is 460 acres of which we expect approximately 270 acres to be developable. The remaining acreage is undevelopable for two reasons:

- Infrastructure to support new development will consume a portion of the acreage.
- Some of the land is unsuitable for development for environmental reasons.

The remaining acreage still must be purchased by the developer(s), as it is either where the necessary transportation and utility infrastructure for the development will be sited or it is, realistically, to be sold part and parcel with the developable land. Additionally, this land is where the environmental improvements needed to make the subarea developable, like the Pepin Creek downstream stabilization and realignment, will occur.

This share of undevelopable land, coupled with the variation in development allowable based on a midrange land use scenario, which assumes 1,381 new housing units for the development, means that not all the land will have the same value. However, as the developer will ultimately be responsible for all the infrastructure, it is to be expected that they will need to factor the cost of all the land into their feasibility assessment. For this reason, the currently undevelopable land is valued as if it is all created equally on a square footage basis.

The total land value per the Whatcom County Assessor is \$9,775,483. The assessor's value for this property is likely to be low for two reasons:

- It is generally accepted that Whatcom County Assessor's property assessments, like all county assessments in Washington state, are conservative. Coupled with the Whatcom County Assessor's assessment, whereby 1/6<sup>th</sup> of County's properties are annually physically inspected, leading to somewhat stale assessment values, it is expected that the assessment would be modestly below market value.
- Both the City of Lynden's 2016 Comprehensive Plan and the forthcoming Pepin Creek Subarea Plan will signal to the market that the Pepin Creek Subarea is the next logical site for development in the City of Lynden. The subarea's updated zoning, which will allow for more intensive development than elsewhere in the city, increases the development potential of the land and its value.

One of the parcels within the subarea, the Bovenkamp property, recently sold for 133% above market value, confirming that the Whatcom County Assessor's assessments for these properties are likely significantly under market value. To account for this potential undervaluing, we assumed that the land will cost between 125% and 150% more than the Whatcom County Assessor estimates, for a total land value (rounded to the nearest \$1,000 of \$21,995,000 to \$24,439,000).

BERK then added the estimated cost of the infrastructure investments needed to make the land developable. The total infrastructure costs are \$98,229,000; developers will also need to contribute up

to \$17,139,591 in utility connection fees for water, sewer, and stormwater to support the development. The desire is that developers will bear these costs fully, except for an already-committed contribution of \$16,810,709 from the City to support the regional and local road improvements, and the creek realignment and downstream stabilization. Because this feasibility assessment seeks to identify the City of Lynden's contributions to those infrastructure costs, if any, that will be necessary to support the development there are two bounds identified for this analysis:

- **Threshold Feasibility.** Developers can buy the land and pay their existing commitments, for a total cost of between \$74,470,000 and \$76,914,000.
- **Full Feasibility.** Developers can buy the land and pay the total infrastructure costs less the existing city commitment, for a total cost of between \$120,553,000 and \$122,997,000.

These analytic bounds and the resulting cost per square foot of developable land are shown in Exhibit 30.

### Exhibit 30. Cost per Square Foot of Developable Land

	Threshold Feasibility (Existing Developer Commitment)		Full Feasibility (Total Infrastructure Costs less Existing City Commitment*)	
	Low	High	Low	High
<b>Total Land Value</b>	\$ 21,995,000	\$ 24,439,000	\$ 21,995,000	\$ 24,439,000
<b>Total Infrastructure Costs</b>	\$ 52,475,000	\$ 52,475,000	\$ 98,558,000	\$ 98,558,000
<b>TOTAL COST</b>	<b>\$ 74,470,000</b>	<b>\$ 76,914,000</b>	<b>\$ 120,553,000</b>	<b>\$ 122,997,000</b>
<b>Cost per Square Foot of Developable Land</b>	<b>\$ 6.40</b>	<b>\$ 6.60</b>	<b>\$ 10.30</b>	<b>\$ 10.50</b>

Source: Whatcom County Assessor's Office, 2018; and BERK Consulting, 2019.

The values above present a range of costs for the developable land. For the project to be feasible under the bounds of the analysis, the value of the land must be greater than its costs, based on the assumption that developers will not pursue a project unless it is profitable. Since the value of the developable land is not known, the analysis compares the cost of the developable land to the value of land in comparable developments. BERK identified six comparable developments for the purposes of this comparison, including:

- Homestead – Lynden, WA
- Pacific Highlands – Ferndale, WA
- Pacific Heights – Ferndale, WA
- Skyview – Ferndale, WA
- Douglas Place – Ferndale, WA
- South Douglas – Ferndale, WA

Whatcom County Assessor's data provides approximate land values for the land in these comparable developments. It is expected that the assessments for these properties also significantly under value the land. Because the land is already developed, it is expected that that undervaluing is not nearly as significant. The Whatcom County Assessor's potential undervaluing of the land is accounted for by adjusting these values upward by a low value of 25% and high of 50%.

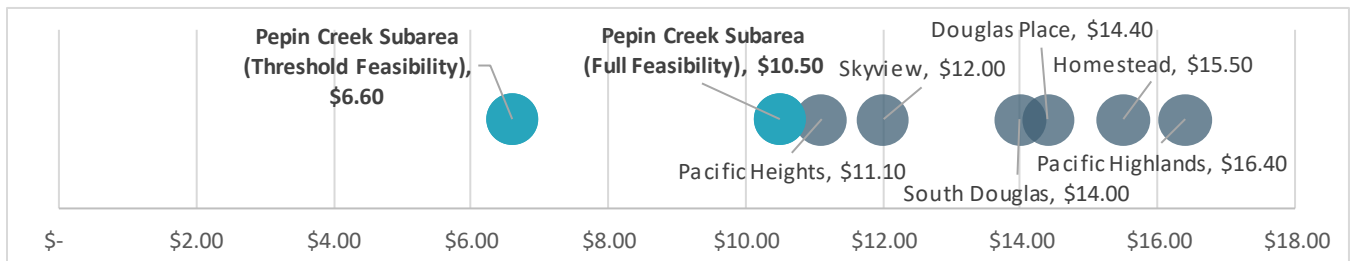
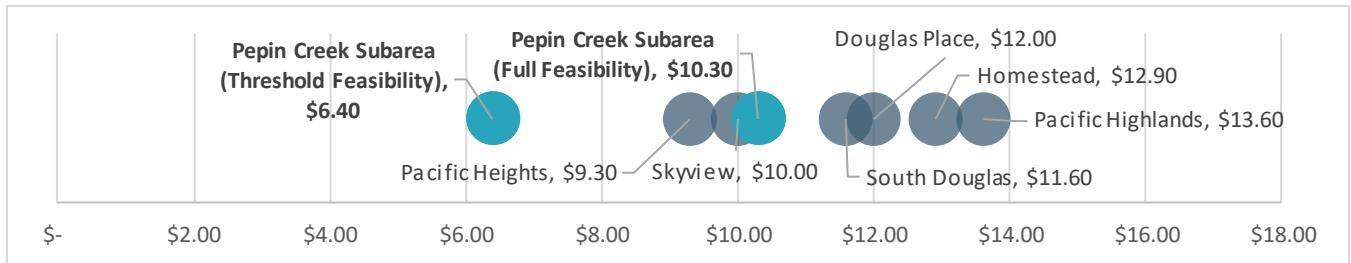
**Exhibit 31. Per Square Foot Land Values for Comparable Developments in Whatcom County**

Comparable Development	City	Per Square Foot Land Value		
		Assessor	Low	High
Pacific Highlands	Ferndale	\$ 10.90	\$ 13.60	\$ 16.40
Pacific Heights	Ferndale	\$ 7.40	\$ 9.30	\$ 11.10
Skyview	Ferndale	\$ 8.00	\$ 10.00	\$ 12.00
Douglas Place	Ferndale	\$ 9.60	\$ 12.00	\$ 14.40
South Douglas	Ferndale	\$ 9.30	\$ 11.60	\$ 14.00
Homestead	Lynden	\$ 10.30	\$ 12.90	\$ 15.50

Source: Whatcom County Assessor’s Office, 2018; and BERK Consulting, 2018.

These potential values can then be compared to the per square foot values estimated for the cost of the Pepin Creek Subarea land, as shown in Exhibit 30.

**Exhibit 32. Comparison of Pepin Creek Subarea Developable Land Costs to Land Values in Comparable Developments (Low (top), based on 25% adjustment to Assessor’s value, and High (bottom), based on 50% adjustment to Assessor’s values)**



The comparison shows that in both feasibility scenarios (threshold and full feasibility), the Pepin Creek subarea developable land value is on the lower end and within the values of comparable developments. It is important to remember that cost of the land and value of the land are not the same thing, as the former does not account for the developer’s profit. It is expected that for this project to be feasible the future value of the land must be within the values of comparable developments. Profit is not factored into this because developer’s expectations for profit for this kind of development are not known.

## Appendix E – Flood Hazards

This appendix contains additional information to document the existing conditions related to flooding and flood hazards in the PCSA. The PCSA has experienced significant flooding and water inundation events in the past, which have endangered public safety and damaged or destroyed property. The most recent events were in 2009 and 2005. In 2005, the area was flooded as a result of heavy rainfall coupled with snow and ice melt and frozen ground.



North Lynden Flooding (looking south)



North Lynden Flooding (looking north)



Flooded fields in the PCSA



During this 2005 event, beginning north of the city and extending into Canada both Double Ditch and the Benson Road ditch systems were over-topped allowing water to sheet flow across roads and onto private properties. The drainage systems in developed areas which received the discharged water were not designed to handle such extreme conditions. The Homestead development on the east side of Benson Road north of the airport and the Dahlia Street and Pine Street areas were inundated with water. This flooding adversely affected emergency response, local traffic, and access to residences. Many insurance claims were filed based on the flooding, however, the City's insurance carrier denied the claims citing that the City's storm water system was adequate for the expected storm water volume and the storm event was far in excess of an expected or normal storm water condition. This left many city residents frustrated and without recourse for addressing their property damage.



Homestead Area (Emerald Way), Lynden (Four Photos)

During the 2009 flood event, the PCSA also experienced property damage and road closures:



Woodcreek Drive East



Pine Street



Double Ditch Road and Main Street Intersection – Looking South

The Washington State Growth Management Act (GMA) requires cities to adopt policies and development regulations based on the best available science to protect critical areas. One such critical area designation required by GMA is “frequently flooded areas.” Lynden regulates frequently flooded areas within the city that are also part of the National Flood Insurance Program or within the 100-year flood plain designations of the Federal Emergency Management Agency. However, based on the known history of flooding in this basin under certain weather conditions, Lynden recognizes the need to address frequently flooded areas not presently captured in Lynden’s current flood management scheme. This need would be addressed through adoption of a flood hazard mitigation overlay.

Lynden is required to consider the impacts of flooding and inundations of water prior to subdivision approval and may deny a subdivision application on based on such concerns. Also, the City may go beyond adopted regulations to ensure safety and prevent flood hazards when it is apparent that the regulations are not adequate to deter the type of flooding and inundations of water which occur in the PCSA. Prior to development, landowners within the Flood Hazard Mitigation Overlay designation will be required to implement mitigation measures to address potentially adverse environmental impacts to the natural and built environment.

A Flood Hazard Mitigation Overlay is recommended to include the entire PCSA. Its purpose is to recognize and manage the flood hazards associated with a combination of surface flows from north of the city, ground water saturation, frozen and impervious soils, drainage limitations, heavy rainfall, and downstream constraints within the subarea. Based on the past history and these more recent flood records, development in the PCSA without proper mitigation will likely result in significant adverse impacts on area land development (housing and related ingress and egress), transportation (street systems, traffic movement, and traffic hazards) and public services and utilities (police, fire, emergency access, communications, and water and sewer).

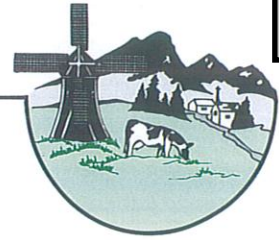


The Flood Hazard Mitigation Overlay is intended to assure that development in the subarea is designed and permitted to prevent cumulative negative impacts within the PCSA and the surrounding community. The City has a strong interest in preventing the future flooding of residential neighborhoods, avoiding the life safety concerns associated with flooded public roads and road closures, and protecting public and private property from flood damage, all of which has occurred in past storm events in the PCSA. The City has been working to design infrastructure which would mitigate these flooding events which has been referred to as the “Pepin Creek Realignment Project”. Acceptable mitigation strategies for the overlay will be further defined by the City and it is recommended that a subsequent study of potential mitigation for development in the PCSA be completed concurrently with the Pepin Creek Realignment Project design.

*Note: A Flood Hazard Mitigation ordinance is likely to be presented for City Council approval concurrently with the Pepin Creek Subarea Plan and will be added to this appendix prior to finalization.*

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



168

December 16, 2019

### 1. CALL TO ORDER

Mayor Korthuis called to order the December 16, 2019 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

### ROLL CALL

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

Members absent: Jerry Kuiken, absent with notice.

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

### OATH OF OFFICE – None

### APPROVAL OF MINUTES

***Councilor De Valois moved and Councilor Strengholt seconded to approve the regular council minutes of December 2, 2019. Motion approved on a 6-0 vote.***

### ITEMS FROM THE AUDIENCE

Mayor Korthuis introduced Lieutenant Russ Martin as the newly appointed Acting Police Chief. Chief Martin will act in this capacity until the recently hired Police Chief Steve Taylor takes office in mid-January.

### Scheduled:

Acting Police Chief Martin then officially recognized the promotion of Randy Humphreys to Police Sergeant. Officer Humphreys was selected after a rigorous testing process and has served the city of Lynden for 27 years.

Mayor Korthuis then congratulated Sergeant Humphreys on his promotion and thanked him for his many years of service.

# CITY OF LYNDEN



CITY COUNCIL  
MINUTES OF REGULAR MEETING

**Unscheduled:**

Cynthia Ripke-Kutsagoitz, 7062 Guider Meridian, #30, Lynden

Cynthia spoke about possible future 911 events hosted by businesses throughout the city. She also thanked the council members for their work and dedication to the community.

Teri Treat, 7183 Dahlberg Road, Ferndale

Teri Treat spoke on behalf of the Downtown Business Association, all of who are 100% in support of the Wayfinding Project proposed for Lynden.

Gary Vis, Chamber of Commerce Director, 518 Front Street

Director Gary Vis thanked council for their support of the NW Lighted Christmas Parade. An estimated 14,000 people attended with 48 floats signed up. Next year with the be 30<sup>th</sup> year of the event. He also thanked the 100 or so volunteers that make the NW Lighted Christmas Parade such a success.

**2. CONSENT AGENDA**

**Approval of Payroll Disbursed – December 1-15, 2019**

Paychex EFT .....	\$291,813.61
City of Lynden EFT .....	\$60,133.95
Warrant Liability .....	\$56,980.38
<b>Subtotal</b>	<b>\$408,927.94</b>
Paychex EFT Liability	\$6,910.82
<b>Total EFT &amp; Other Liabilities</b>	<b>\$415,838.76</b>

**Approval of Claims –December 18, 2019**

Manual Warrants No.	<u>74273</u>	through	<u>74277</u>		\$203,117.46
EFT Payment Pre-Pays					\$20,077.05
				Sub Total Pre-Pays	\$223,194.51
Voucher Warrants No.	<u>74278</u>	through	<u>74445</u>		\$1,474,648.30
EFT Payments					\$27,475.53
				Sub Total	\$1,502,123.83
				Total Accts. Payable	<b>\$1,725,318.34</b>

**Resolution No. 1016-Real Estate Property Tax Levy Banked Capacity 2020**

All taxing jurisdictions are required, due to the passage of Referendum 47 in 1997, to pass a resolution specifically indicating the increase in tax levy if any, from the previous year, excluding the increase due to new construction, improvements to property, or any increase in the value of state assessed property. The limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation. Given the current rate of inflation (1.396%) the City is allowed by statute RCW 84.55.005 to





## CITY COUNCIL MINUTES OF REGULAR MEETING

increase the Levy the full 1% or bank this capacity for future use. The City Council has deemed it necessary due to the City's funding requirements to increase the regular property tax levy by the full 1% allowed.

Resolution No. 1016 reflects the City Council's requirement to not "bank" any real property taxes in 2020 and approve the legally allowed 1% increase in the 2020 real property taxes. The Finance Committee reviewed this Resolution earlier this evening, December 16, 2019 and recommended it be sent to the full Council for approval.

### Resolution No. 1015- Stormwater Comprehensive Plan- Set Public Hearing Date

The City of Lynden has developed an updated Comprehensive Stormwater Plan referenced in the City's overall Comprehensive Plan (Chapter 5, Section 5.2.3), as required under the State's Growth Management Act. Additionally, this plan was revised to meet the terms of the City's Western Washington Phase II National Pollutant Discharge Elimination (NPDES) Permit.

The Comprehensive Stormwater Management Plan offers guidance on ways to minimize the adverse effects of stormwater runoff to receiving water bodies and identifies existing stormwater issues within the system. The Plan provides City staff and policy makers with the background and necessary information to develop and manage the storm drainage system in a cost-effective manner that complies with regulatory stipulations. The objectives are to understand the current conveyance and water quality treatment issues to position the City for effective planning of future improvements. As such, this plan functions as a long-term planning tool that prepares the City for population growth over a 20-year horizon. The Plan outlines methods for meeting regulatory requirements and developing policies and procedures; and defines capital facilities projects for the Stormwater Utility.

The full document is available upon request and will be posted to the City's website. At their December 4th meeting, the Public Works Committee concurred to recommend a public hearing date of January 6th, 2020 to hear comments on the City's Stormwater Comprehensive Plan.

### Ordinance No. 1599- Comcast Franchise Agreement Introduction-Set Public Hearing Date

The City's Franchise Agreement with Comcast Cable Communications Management LLC must be updated. The last agreement adopted by Ordinance 1165 in 2003 expired in 2013. The franchise fee remains at 5% per federal law (47 U.S.C. 542(a) and (b)). Staff and the City Attorney worked with Comcast on the terms of this agreement.

Per RCW 35A.47.040, No granting of any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter....therefore this ordinance is being introduced at this council meeting and Council is asked to set a public hearing date of January 6, 2020 for final approval.

### Approval of Splunk Proposal for 2019-2022

Staff proposes using Splunk as laid out in the attached material to help meet the City's following needs:

- Compliance with CJIS standards for Lynden Police.
- Real-time and historical visibility into all City IT systems.





- Real-time alerting on security and compliance risks.
- Visibility into security incidents for incident response purposes

The payments would be made as described below. The first payment is due upon signature of this agreement. The attached statement of work encompasses the installation and configuration of the Splunk solution.

Payment 1: \$12,670.68 (line items 1 and 2) due Net 30 from the invoice Date  
Payment 2: \$10,723.04 will be invoiced January 15, 2021 and due Net 30 from the invoice Date  
Payment 3: \$10,723.04 will be invoiced January 15, 2022 and due Net 30 from the invoice Date

The finance committee reviewed this item at their December 16th meeting, and recommended review by full council.

### Appoint Mayor Korthuis to the 2020 Board of the Whatcom Council of Governments & Appoint Councilor Gary Bode to act as alternate

Mayor Korthuis acted as the city's representative to the Board WCOG and Councilor Bode acted as the alternate. Each are willing to continue in this capacity for 2020.

***Councilor Bode moved and Councilor Wohlrab seconded to approve the Consent Agenda. Motion approved on a 6-0 vote.***

### 3. PUBLIC HEARING

#### Development Standards Variance 19-02- 1583 East Badger Road

A Development Standards Variance application has been brought forward by Robert Langei for a variance to the required right-of-way (ROW) dedication and resulting street section. The proposed roadway would be used to access the multi-family portion of the property located at 1583 East Badger Road.

In some similar instances, property owners have opted to create private roads with more narrow profiles. However, staff does not support a private street at this location as it is the terminus of an existing public street network. Additionally, due to maintenance and jurisdictional concerns, the City has begun to discourage the development of streets that have the appearance of being public but are actually private.

At the same time, staff recognizes that providing a standard 60-foot-wide right-of-way would significantly constrain development due to the shape and size of the subject property. The applicant is requesting a variance to dedicate a right-of-way which is 41 feet rather than 60 feet. The proposed standard would include on-street parking and a sidewalk on only one side of the street.

Staff is concerned that a reduced street standard could create parking shortages that would negatively affect the adjacent North Prairie Phase 7 neighborhood. As such, staff is supportive of the variance on the condition that future development provide an additional 20% on-site parking to accommodate for the on-street parking that is lost in the revised standard.





Mayor Korthuis opened the Public Hearing at 7:15 p.m.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 7:15 p.m.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Variance 19-02 on the condition that future development provide all code required on-site parking plus an additional 20% and additionally that the minimum street standards for a private street are met and authorize the Mayor's signature on the Finding of Fact. Motion approved on a 6-0 vote.***

### Approve Pepin Creek Sub-Area (PCSA) Plan

In September of 2018 the City released a draft of the Pepin Creek Sub-Area Plan (PCSA). The intent of the plan is to develop a guide for future growth patterns that will be appropriate for the Lynden community. This is a unique area of the City that warrants a thoughtful planning effort.

Given the projected costs of infrastructure in the Pepin Creek Sub-Area the City staff has been exploring alternate circulation routes and conducting traffic studies to test these alternate designs. As a result, the revised 2019 Sub-Area Plan includes a new street layout and adjustments consistent with the code revisions made regarding applicable zoning categories adopted in March of 2019.

It is important to note that the sub-area plan assumes the realignment of Pepin Creek, but it does not decide on the design of this creek realignment project. The Public Works department is heading up environmental review of a couple different realignment options and their associated costs. It is critical to the environmental review process that the PCSA be in a final Council-approved form.

Although the PCSA represents a monumental amount of research, outreach, and staff time it is critical to remember that the document is a plan rather than a contract. The goal of the plan is to guide development and priorities within the sub-area. It can, however, be altered, revised, and improved as we learn more about the channel project, projected costs, and the needs of the City.

At a November 21st hearing the Planning Commission recommended approval with specific considerations outlined for the City Council. Additionally, the comment period with the Department of Commerce, regarding the PCSA plan, has begun but will not officially conclude until early 2020. Based on tonight's outcome Planning staff will be finalizing Ordinance No. 1600 and returning the document at a subsequent council meeting.

***Planning Director Heidi Gudde provided a 20-minute presentation to Council that highlighted some of the background information related to the PCSA and to also touch upon some recent conversations related to the PCSA.***

Mayor Korthuis opened the Public Hearing at 7:38 p.m.

### Jeff Roberts, 1318 W. Park, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and reminded council as to what the property owner wanted for the property when it was sold to the city.





Heather Brown, 863 Main Street, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

Brent Work, 501 Sunrise Drive, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

Gary Vis, 518 Front Street, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street. He also stated that the city doesn't have to do anything with the land right away.

Diane Veltkamp, 705 Birch Street, Lynden

Commented on her understanding of Mr. Heusinkvelds vision of keeping the property for parkland. She also commented on the property that was previously set aside for Bender Park and asked that the council do the right thing.

Bob Weeks, 1501 Lilac Court, Lynden

Commented on the concept of having a parkway on the north side of the existing airport roadway and the possibility of extending the airport runway.

TJ Timmermans, 1804 Fairview Court, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

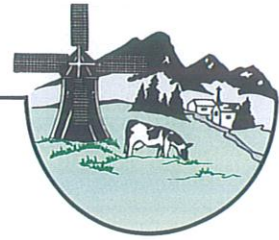
Mayor Korthuis closed the Public Hearing at 7:55 p.m.

***Councilor Lenssen moved and Councilor Laninga seconded to approve Pepin Creek Sub-Area Plan using alternative No. 3 design as the circulation plan that's included and that no concerns are generated during the Department of Commerce review. Motion approved on a 6-0 vote.***

Approve Comprehensive Plan Amendment 19-01 (Pepin Creek)

The City of Lynden amended the Comprehensive Plan in December of 2018 to reflect the creation of the Pepin Creek Sub-Area. At that time the Future Land Use Map was also amended to reflect the arrangement of low and medium residential development proposed within the Sub-Area Plan draft.

Since that time the zoning layout of the Pepin Creek Sub-Area has been altered as reflected in the revised plan. The proposed amendment to the Comprehensive Plan is meant to correspond with these revisions. The comment period on the Amendment from the Department of Commerce has begun but



## CITY COUNCIL MINUTES OF REGULAR MEETING

will not officially conclude until early 2020. Planning staff will be finalizing Ordinance No. 1601 based on the outcome of tonight's meeting and returning the document to the City Council at a subsequent meeting.

Mayor Korthuis opened the Public Hearing at 8:18 p.m.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 8:18 p.m.

***Councilor Strengholt moved and Councilor De Valois seconded to approve Comprehensive Plan Amendment 19-01 on the condition that no concerns are generated by the Department of Commerce's review. Motion approved on a 6-0 vote.***

#### 4. UNFINISHED BUSINESS

##### Interlocal Agreement- Implementation Guidelines for County Wayfinding Signs

The Bellingham Whatcom County Tourism Office has been working cooperatively with the jurisdictions of Whatcom County to develop a regional wayfinding sign program. The program includes coordinating roadway and pedestrian signs for locations throughout the County but includes unique identity icons and signs for Lynden and the other cities. The program is meant to provide continuity and guidance to visitors in support of tourism activities throughout the County and to raise a visitor's awareness to other destinations within the Lynden by directing visitors to downtown from Bender Fields, the Fairgrounds, or Homestead golf course.

In anticipation of this agreement the Lodging Tax Advisory Committee voted to provide funding in the amount of \$22,000. This will be matched by Whatcom County for a total of \$44,000. No additional funding commitments are required at this time.

The Council discussed this agreement at the December 2nd meeting in order to get clarification on a few administrative items. The Mayor has confirmed with the County Executive's office that administrative costs related to sign installation will be covered by the County. The maintenance plan associated with the sign program has not been created but will be done in cooperation with all of the participants. On-going fees associated with the maintenance group are not anticipated.

It has also been confirmed that the City of Lynden is able to select a reduced sign menu from those created by the County's consultant. It is important to note that the attached agreement does not obligate the City of Lynden to install a specific number of signs.

***Councilor Strengholt moved and Councilor De Valois seconded to authorize the Mayor's signature on the Interlocal Cooperation Agreement Amendment between Whatcom County and the Cities of Whatcom County for the purpose of implementing a Countywide Regional Wayfinding and Gateway Program. Motion approved on a 5-1 vote with Councilor Laninga opposed.***





## 5. NEW BUSINESS

### Confirm Police Chief Appointment

Council is aware that the City has undertaken and completed a recruitment process to identify a permanent police chief. Twelve individuals applied for the position. The selection process included a series of interviews, written testing and a community meeting. Mayor Scott Korthuis selected Steve Taylor as the successful candidate. If the City Council confirms his appointment, Chief Taylor will join our Police Department January 16th.

***Councilor Lenssen moved and Councilor Wohlrab seconded to confirm Mayor Korthuis' appointment of Steve Taylor as Lynden's new Police Chief. Motion approved on a 6-0 vote.***

### Agreement for Legal Services with Carmichael Clark P.S.

The City of Lynden has contracted for legal services with the firm Carmichael Clark P.S. for many years. The most recent two-year contract expired in October. The attached agreement is its successor. There are virtually no changes in content or format of between the expired contract and the one you are considering except for Exhibit B, the hourly rate schedule on page six. You will see a comparison of the expired contract to the proposed fees for the next two years. Staff believes these rates are reasonable and recommends approving the contract.

***Councilor Strengholt moved and Councilor Laninga seconded to approve the contract for legal services with Carmichael Clark P.S., and direct the Mayor to sign. Motion approved on a 6-0 vote.***

### Interlocal Agreement with Whatcom Conservation District

The City would like to again enter into an Interlocal Agreement with the Whatcom Conservation District (WCD) for a Stormwater and Water Conservation Community Education and Outreach Program for 2020. The scope of this contract helps fulfill certain City requirements under its NPDES Phase II Stormwater Permit. The Water Conservation efforts support requirements from the State Department of Health for Water Use Efficiency. Staff has been very pleased with the deliverables over the past four years. This year's scope of work includes collaboration with the Northwest Washington Fair for stormwater improvements design through a Department of Ecology grant that the City will administer. The WCD will assist with design and project management and their efforts will provide the required grant match.

Additionally, through this agreement, the City participates in the Nooksack Basin Water Quality studies that investigate fecal coliform testing to identify sources of contamination. This aids the Portage Bay Shellfish District.

The term of this agreement is January 1, 2020 through December 31, 2020. The Whatcom Conservation District Board approved this at their November meeting.



***Councilor Bode moved and Councilor De Valois seconded to approve the Interlocal Agreement with the Whatcom Conservation District and authorize the Mayor's signature on the agreement. Motion approved on a 6-0 vote.***

## 6. OTHER BUSINESS

### Council Committee Updates

Councilor Bode reporting for the Public Works Committee, involving the discussion of:

- Line Road work is nearing completion
- LED signs around Lynden schools
- 17<sup>th</sup> Street design
- TIB grant for E Grover Street
- DOE grant for decontamination facility

Councilor Lenssen reporting for the Community Development Committee, involving the discussion of:

- RV storage code

Councilor De Valois reporting for the Parks Committee, involving the discussion of:

- Staff working with Recreation District concerning Parks Bond
- Berthusen Park restrooms
- Rotary Project at Bender Field
- Reviewing Park Impact Fees
- An Art Wall
- Cameras in the city's parks

Councilor Strengholt reporting for the Finance Committee, involving the discussion of:

- Computer software for security
- Review overtime
- Sales tax is strong but is under projected budget
- General fund cash is healthy
- Departments are within their budgets with exception of Police

## 7. EXECUTIVE SESSION

Council did not have an executive session.

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



177

### 8. ADJOURNMENT

The December 16, 2019 regular session of the Lynden City Council adjourned at 8:40 p.m.

*Pamela D. Brown*

Pamela D. Brown, MMC  
City Clerk

*Scott Korthuis*

Scott Korthuis,  
Mayor



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Amendment to Downtown Residential Parking Agreement – 610 Front Street	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Proposed Amended Downtown Residential Parking Agreement	
<b>Summary Statement:</b>	<p>Property owners of 610 Front Street (the liquor store location), now known as Porch Swing Properties, LLC, are developing plans for a significant renovation of the existing building. Parking requirements have been a concern as the renovation would add two additional floors for residential use to a building that is construction to the property line and located within the Historic Business District.</p> <p>On September 3, 2019 the City Council approved a parking agreement which would provide a parking easement and assigned a value to the necessary code required parking stalls. In addition, the parking agreement offered as many as 6 annual parking passes at a rate set out by the agreement and subject to adjustment.</p> <p>The building owners have continued the planning and design process on this project and found that an additional unit, for a total of 7 units, would fit within the building renovation. Additionally, because the first-floor unit is required to be ADA accessible and provide a handicapped parking space, the three on-site spaces planned for the building's garage was reduced to two.</p> <p>As a result, an amended parking agreement has been proposed which would accommodate a parking easement for 5 parking spaces, rather than 3, and permit the issuance of as many as 7 annual parking permits, rather than 6. All residential parking is to occur within the 3 downtown parking lots noted in the agreement.</p> <p>The City's legal counsel has created the attached parking agreement for the Council's consideration which would replace the previously approved agreement. The property owner has assumed legal costs associated with amending the agreement.</p>	
<b>Recommended Action:</b>	Motion to approve the amended downtown residential parking agreement with Porch Swing Properties, LLC, the owners of 610 Front Street, and to approve the Mayor's signature on the agreement.	

After recording return document to:

City of Lynden  
Planning Department  
300 4<sup>TH</sup> Street  
Lynden WA 98264

**DOCUMENT TITLE:**

AMENDED AGREEMENT FOR SHARED PARKING

**REFERENCE NUMBER OF RELATED DOCUMENT:**

Superseded Agreement: 2019-0900677

**GRANTORS:**

CITY OF LYNDEN, a municipal corporation

**GRANTEES:**

Porch Swing Properties LLC, Washington limited liability company

**ABBREVIATED LEGAL DESCRIPTION FOR 610 FRONT STREET (“Mural Building Property”):**

Lot 3 and ptn Lot 2, Block 9, Supplemental and Corrected Plat of Lynden  
Full legal description on Page \_\_\_\_\_ hereto.

**LEGAL DESCRIPTION FOR CITY PARKING PROPERTIES:**

Lot 1 and ptn Lot 2, Block 9; Ptns Lots 3-4, Block 10; and Lot 1 and ptn Lot 2, Block 12, all of Supplemental and  
Corrected Plat of Lynden  
Full legal description on Page \_\_\_\_\_ hereto.

**ASSESSOR'S TAX PARCEL NUMBER(S):**

400320 202260 0000  
400320 322333 0000  
400320 240304 0000

400320 206263 0000

## AMENDED AGREEMENT FOR SHARED PARKING

THIS AMENDED AGREEMENT FOR SHARED PARKING (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Lynden, a municipal corporation organized under the laws of the state of Washington (“City” or “Lynden”) and Porch Swing Properties LLC (“Porch Swing Properties”), a limited liability company, organized under the laws of the state of Washington (individually, Party; together, “Parties”) formerly known as TWIGA NW LLC & RAH Properties LLC (“TWIGA NW & RAH”).

### RECITALS

**WHEREAS**, this Agreement amends, replaces and supersedes the previous agreement for shared parking which was recorded under auditor file number 2019-0900677 (“Superseded Agreement”); and

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

**WHEREAS**, the City Downtown Development Plan calls for economic enhancement of the Historic Business District of Lynden by encouraging diversity and mixed uses, improving economics for business owners, encouraging joint public/private partnerships, making the Historic Business District attractive to visitors, and increasing the community’s tax base; and

**WHEREAS**, Porch Swing Properties are in the process of adding seven (7) residential units in the downtown Historic Business District at 610 Front St, Lynden, WA (the “Mural Building Property”); and

**WHEREAS**, the Mural Building Property is benefited by this Agreement and is identified and legally described on Exhibit A, attached hereto; and

**WHEREAS**, the Mural Building Property, per Lynden Municipal Code 19.51.160(C), is required to provide one on-site parking stall per residential unit; and

**WHEREAS**, the Mural Building Property is dominated by the existing structure, has limited ability to provide on-site parking, and will only be developed with two (2) parking stalls on-site; and

**WHEREAS**, the Mural Building Property will need an additional five (5) parking stalls to meet the requirements of LMC 19.51.160(C); and

**WHEREAS**, the City and Porch Swing Properties desire to have available seven (7) additional parking stalls beyond the seven (7) stalls required by LMC 19.51.160(C); and

**WHEREAS**, the City owns certain property currently used for parking in the vicinity of the Mural Building Property, for which it has excess capacity; and

**WHEREAS**, City-owned properties currently used for parking in the vicinity of the Mural Building Property and burdened by this Agreement, are legally described in Exhibit B attached hereto and illustrated in Exhibit C (“City Parking Properties”); and

**WHEREAS**, parking for retail and professional services during peak business hours and parking for the residences in off-peak hours can be complementary uses rather than competing uses; and

**WHEREAS**, current use patterns have demonstrated a capacity for additional parking use in off-peak hours; and

**WHEREAS**, the residential units within the Historic Business District will generate additional customers within walking distance of downtown business; and

**WHEREAS**, the redevelopment of the Mural Building Property will create an attractive new entrance to the Historic Business District; and

**WHEREAS**, the redevelopment of the Mural Building Property in the Historic Business District will enable the preservation in perpetuity of a valued installation of public art, the mural located on the west façade of the structure on the Mural Building Property; and

**WHEREAS**, to accommodate the development of the Mural Building Property and financing thereof, the Parties wish to provide (i) an easement for the five (5) parking stalls required by LMC 19.51.160(C), and (ii) a license for seven (7) additional parking stalls; and

**WHEREAS**, the City intends to issue to residents of the Mural Building Property parking permits (“Permits”) to manage and enforce the rights and privileges created by the easement and the license the City grants Porch Swing Properties herein; and

**WHEREAS**, the City intends to issue up to seven (7) Permits pursuant to the license (“License-Based Permits”), up to five (5) Permits issued pursuant to the easement (“Easement-

Based Permits”), and the Parties shall keep track of which Permits are License-Based Permits and which Permits are Easement-Based Permits for purposes of managing rights and responsibilities under this Agreement; and

**WHEREAS**, each Permit shall allow its holder to park one (1) vehicle in one (1) parking space, consistent with the terms herein; and

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

## **AGREEMENT**

**NOW THEREFORE** the Parties agree as follows:

### **I. Easement**

- A. Grant of Easement. The City hereby grants Porch Swing Properties a non-exclusive easement for ingress and egress over City Parking Properties, and nonexclusive possession for purposes of parking, of five (5) automobile parking stalls on City Parking Properties (“Easement”). The Easement shall be terminable or revocable only as set forth herein and shall be assignable by Porch Swing Properties only as set forth herein.
- B. Consideration. Prior to recording the Superseded Agreement, Porch Swing Properties paid to the City Seven Thousand Dollars (\$7,000.00) as consideration for this Easement. As consideration for expansion of the Easement from three (3) to five (5) parking stalls under this Agreement, upon its execution and prior to its recording, Porch Swing Properties shall pay to the City an additional Four Thousand Six Hundred Sixty-Six Dollars and Sixty-Six Cents (\$4,666.66).
- C. Number of Permits. Up to a maximum of five (5) Easement-Based Permits shall be issued pursuant to this Easement.
- D. Termination of Easement-Based Permits. The five (5) Easement-Based Permits issued pursuant to the Easement shall remain in place, consistent with the terms herein, for so long as the Easement remains in effect.

### **II. License**

- A. Grant of License. The City hereby grants Porch Swing Properties a license for ingress and egress over City Parking Properties, and nonexclusive possession for purposes of



- parking, of seven (7) automobile parking stalls on City Parking Properties (“License”). The License shall be terminable or revocable only as set forth herein and shall be assignable by Porch Swing Properties only as set forth herein.
- B. Consideration. The consideration for this License shall be the annual Permit fee described in Section III(C)(ii), which must be timely paid to maintain the Permits in good standing.
  - C. Number of Permits. Up to a maximum of seven (7) License-Based Permits shall be issued pursuant to this License.
  - D. Termination of License and License-Based Permits. The City may, at its sole option, refuse to re-issue or renew some or all of the seven (7) License-Based Permits, without cause, when said Permits become due for annual renewal. If the City intends to exercise this termination option, it shall inform Porch Swing Properties in writing at least one hundred eighty (180) days in advance. If the City refuses to re-issue or renew all seven (7) License-Based, the License granted under subsection A herein shall be terminated.

### III. Additional Terms

- A. Scope. This Agreement allows residents of the Mural Building Property in possession of a valid and unexpired Permit the right to park on City Parking Properties, to accommodate up to seven (7) residential units as described herein:
  - i. Scope of Parking. The Permits will allow residents of the Mural Building Property to park vehicles overnight and as needed on the City Parking Properties for typical residential use. The use of the City Parking Properties by residents is subordinate to the City’s use of the City Parking Properties and may be temporarily suspended on an as-needed basis, such as to accommodate the City’s special event permits which utilize City parking lots, and development, maintenance, repair, or snow clearing of the City Parking Properties. Neither this Agreement nor the Permits are intended grant or assign any particular parking spot(s) on City Parking Properties or provide a right to park on a particular lot designated as one of the City Parking Properties. This Agreement and the Permits do not expand the privileges of the residents of Mural Building Property at any other parking location, including street parking.

- ii. Nonexclusive Use. Subject to the terms herein, this Agreement grants Porch Swing Properties nonexclusive use of the City Parking Properties. The City reserves the right to use the City Parking Properties as it sees fit and reserves the right to grant other licenses, easements, and parking permits for the City Parking Properties without notice to Porch Swing Properties. This Agreement does not guarantee such parking will be available to Permit holders at the designated City Parking Properties at any given time, nor does it provide Porch Swing Properties or their residents with the right to remove or cause the removal of vehicles parked at the City Parking Properties.
  - iii. Lot on 7th and Front Street to be Primary Parking Lot. The City Parking Property on tax parcel number 400320 202260 0000, located on the northeast corner of the intersection of 7<sup>th</sup> and Front Streets, shall be the primary parking for residents of the Mural Building Property with valid Permits. Other City Parking Properties shall be used only when this primary parking lot is in use or otherwise has limited availability. Parking availability may be limited when these parking lots accommodate the City's special event permits, development, maintenance, repair, or snow clearing of City Properties.
  - iv. Applicability of Lynden Municipal Code and Additional Prohibitions. This Agreement and the Permits do not exempt Permit holders from conforming to the Lynden Municipal Code and any other City rules or restrictions on parking on City Parking Properties as they exist now or in the future, except as otherwise specifically stated in this Agreement. Permit holders are prohibited from conducting any type of vehicle cleaning, maintenance, or repair while parked in City Parking Properties.
- B. Addition or Removal of City Parking Properties from this Agreement. The City may permanently remove any one City Parking Property from this Agreement by so notifying Porch Swing Properties in writing. No prior notice of such removal is required. The City may permanently remove a second City Parking Property from this Agreement with one hundred eighty (180) days' prior written notice to Porch Swing Properties. The Parties anticipate that they may amend this Agreement to add additional city-owned parking lots to the City Parking Properties or to swap a city-owned parking lot not included in this Agreement for one of the City Parking Properties.

C. Parking Permits – Issuance, Use, and Termination.

- i. Permits Issued Annually. Upon receipt of the annual fees due, the City shall annually issue the Permits to Porch Swing Properties to distribute to owners and / or renters of units within the Mural Building Property. Prior to issuance of the Permits, Porch Swing Properties shall provide to the City the name of each resident to be issued a License-Based Permit and each resident to be issued an Easement-Based Permit. The City shall mark the Easement-Based Permits by adding a capital “E” in a prominent place on the face of the Permit; Permits without such a mark will be the License-Based Permits.
- ii. Fee for Permits. An annual fee for a Historic Business District residential parking permit, established by City ordinance and subject to annual review and adjustment, will be due at the time of issuance. The initial annual fee will be two hundred and forty dollars (\$240.00) per License-Based Permit and there shall be no annual fee for Easement-Based Permits.
- iii. Permit Use. Valid Permits must be displayed in the vehicles parking overnight in the City Parking Properties. Permits shall only be used by the resident to which it was issued and shall not be used by third parties. Permits found to be used by third parties who are not residents of the Mural Building Property shall be subject to City action under subsections (C)(iii) and (C)(iv) herein. Vehicles displaying expired Permits or vehicles parking overnight in parking areas not included in this Agreement will be subject to parking enforcement.
- iv. Suspension and Revocation of License-Based Permits and Termination of License for Cause. In the event that the City believes Porch Swing Properties or a License-Based Permit holder has improperly used any Permits issued under grant of the License, the City agrees to contact Porch Swing Properties. Should such Permit-related issues not be resolved to the City’s satisfaction, the City may in its sole discretion temporarily suspend or permanently revoke the License-Based Permit(s) without issuing a refund of the Permit fee. In the event of such a Permit revocation, the City may in its discretion terminate the License upon which said Permit was granted, effective upon providing written notice thereof to Porch Swing Properties. Upon termination of the License authorizing

issuance of License-Based Permits, the City may record an extinguishment of the License with the County Auditor.

- v. Improper Use of Easement-Based Permits. In the event that the City believes Porch Swing Properties or an Easement-Based Permit holder has improperly used any Permits issued under grant of the Easement, the City agrees to contact Porch Swing Properties. Should such Permit-related issues not be resolved to the City's satisfaction, the City may in its sole discretion temporarily suspend the Easement-Based Permit until the improper use is resolved, or issue a new Easement-Based Permit for distribution to a different resident of the Mural Building Property.
  - vi. Termination of License-Based Permits Without Cause. The City may in its sole discretion decline to renew or re-issue up to all seven (7) of the Permits issued pursuant to the grant of License, as set forth in Section II.D herein.
  - vii. Termination of Easement and Easement-Based Permits. Subject to conformance with the terms of this Agreement, the Easement and the five (5) Easement-Based Permits issued pursuant hereto shall remain in effect for so long as the Mural Building Property is intended or used for residential purposes. However, notwithstanding an intent to use the Mural Building Property for residential purposes, the Easement shall automatically terminate if the Mural Building Property is not used for residential purposes for twenty-four (24) consecutive months. In this event, the City may record an extinguishment of the Easement and this Agreement with the County Auditor.
- D. Specific to Residential Use at the Mural Building Property. This Agreement is specific to the Mural Building Property for use in association with operation of the residential units located in the Mural Building Property. This Agreement and the License and Easement granted herein run with the land and shall be recorded with the County Auditor's office. This Agreement and the License and Easement granted herein shall also be assignable or transferable to any subsequent owner or operator of the Mural Building Property, provided such assignee or transferee executes such documents reasonably requested by the City confirming such assignee's or transferee's consent to be bound by the obligations of Porch Swing Properties under this Agreement.

- E. Term. The term of this Agreement initiates upon issuance of the initial certificate of occupancy for residential use at the Mural Building Property. This Agreement shall automatically terminate upon termination of the Easement.
  
- F. Indemnification. Porch Swing Properties shall fully indemnify and hold the City harmless from any claims, losses, liabilities, damages, and expenses (including reasonable attorney’s fees) arising out of ingress, egress, use or occupation of one or more of the City Parking Properties by an owner, employee, resident, invitee of a resident, agent, contractor, or subcontractor of the owner or operator of Porch Swing Properties or by any person doing business with the Mural Building Property or other commercial or non-profit tenant located at the Porch Swing Properties Property.
  
- G. Insurance. Porch Swing Properties shall maintain, at its own expense, for the benefit of itself and the City, insurance against liability for property damage or loss and against liability for personal injury or death, arising from acts or omissions of Porch Swing Properties, its owners, agents, subcontractors, employees, tenants, residents, invitees of tenants or residents or persons doing business with the Mural Building Property or other commercial or non-profit tenant located at the Mural Building Property. Prior to the commencement of this Agreement, Porch Swing Properties shall deliver to the City certificates or binders evidencing the existence of the insurance required herein. Such policy or policies shall name the City as an additional insured and shall contain a provision whereby the City must receive at least thirty (30) days' prior written notice of any cancellation or reduction in Porch Swing Properties’ insurance coverage. In addition, should Porch Swing Properties be notified or have reason to expect a termination or cancellation action by its insurance company, Porch Swing Properties will provide the City with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Agreement and be cause for immediate termination of this Agreement and the License and Easement granted herein, and immediate revocation of all Permits issued.

Porch Swing Properties shall possess the following insurance with coverage amounts not less than as specified below:

<u>Type</u>	<u>Amount</u>
-------------	---------------



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

H. Notice. All notices or demands to be given by any Party to any other Party pursuant to this Agreement shall be deposited in the United States mail, postage prepaid, by first-class mail and addressed to the Party at issue. Notices and demands sent by mail shall be deemed to have been given and delivered when properly mailed and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing. Said notices or demands shall be addressed to:

City of Lynden Planning Department 300 4 <sup>th</sup> Street Lynden, WA 98264	Porch Swing Properties LLC 1118 Front Street Lynden, WA 98264
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- I. Non-Waiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- J. Governing Law and Venue. Any dispute arising out of this Agreement shall be governed by the laws of the State of Washington. Venue shall be in Whatcom County Superior Court.
- K. All Remedies at Law and Equity Available. In the event of a breach of this Agreement, all remedies in law and equity shall be available to the Parties, including the remedy of specific performance.

- L. Attorney’s Fees and Costs. In the event of any cause of action or litigation arising out of an alleged breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney’s fees and costs from the other Party.
- M. Previous Agreement Superseded. The Superseded Agreement is replaced in its entirety by this Agreement. The Superseded Agreement shall have no further force or effect.
- N. Complete Agreement; Modification in Writing. This Agreement constitutes the entire agreement as to the matters contained herein. No oral or written statements shall be considered a part of this License unless expressly incorporated herein in writing. This Agreement may not be modified or amended except by the written agreement of the Parties.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Agreement on the date specified above.

CITY OF LYNDEN:

PORCH SWING PROPERTIES LLC:

\_\_\_\_\_  
By: Scott Korthuis  
Its: Mayor

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) §  
COUNTY OF WHATCOM )

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

Dated: \_\_\_\_\_, 2020.

\_\_\_\_\_

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

STATE OF WASHINGTON )  
 ) §  
COUNTY OF WHATCOM )

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

Dated: \_\_\_\_\_, 2020.

\_\_\_\_\_

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

**EXHIBIT A**  
**PORCH SWING PROPERTIES PROPERTY**

610 Front St.: Parcel Number 400320 2062630000

The Northeasterly two feet of Lot 2 and the Southwesterly thirty feet of Lot 3, in Block 9, "Supplemental and Corrected Plat of Lynden," according to the plat thereof, recorded in Volume 3 of Plats, Page 48, records of Whatcom County, Washington.

**EXHIBIT B**  
**CITY PARKING PROPERTIES**

618 Front Street (7<sup>th</sup> Street Parking Lot): Parcel Number 400320 202260

Lots 1 and 2 of Block 9, except the easterly 2 feet of said Lot 2 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M. Together with rights in party wall agreement recorded in Volume 240 of Deeds, Page 79.

324 Front Street (4<sup>th</sup> Street Parking Lot): Parcel Number 400320 322333

All of Lot 1 together with the west half of Lot 2 in Block 12 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

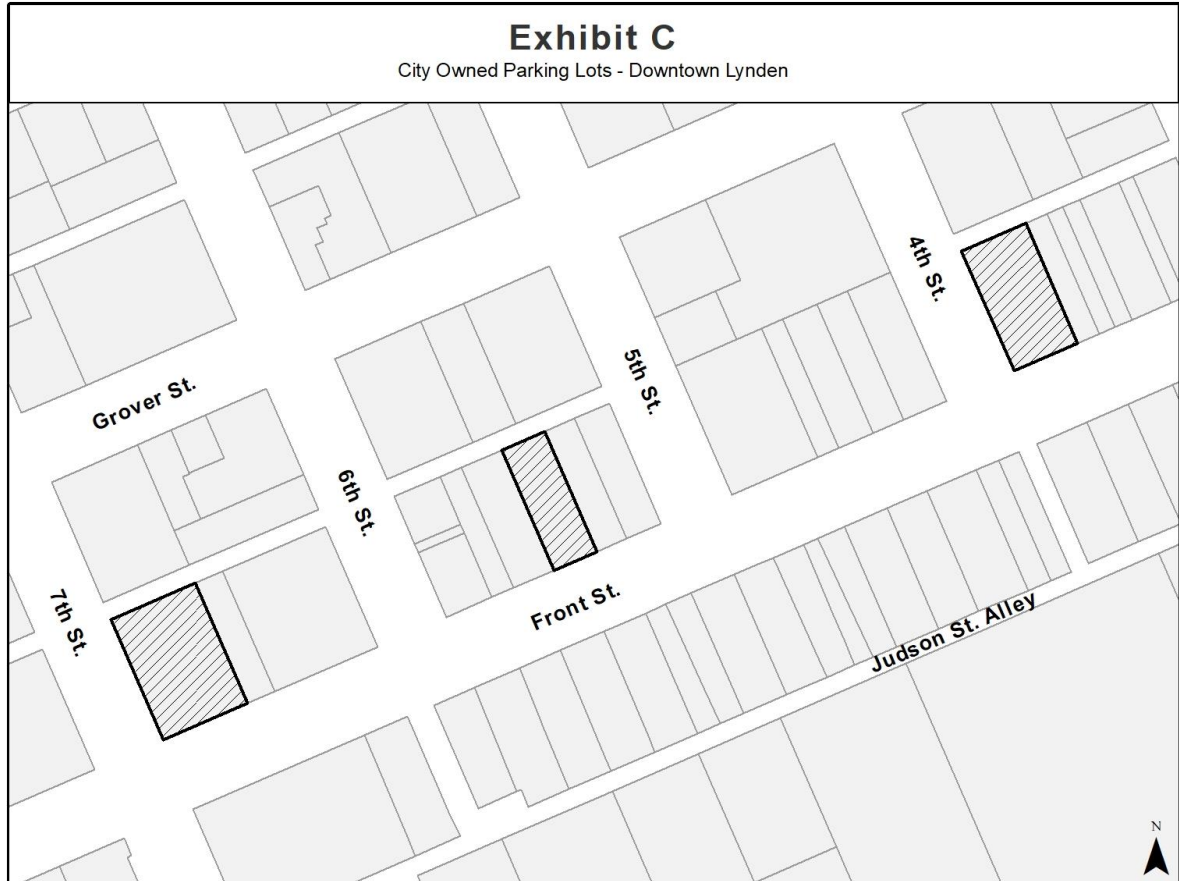
Parking Lot between 5<sup>th</sup> and 6<sup>th</sup> Streets: Parcel Number 400320 240304

The east 25 feet of Lot 3 together with the west 25 feet of Lot 4 in Block 10 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.



EXHIBIT C

DIAGRAM OF CITY OWNED PARKING PROPERTIES DESCRIBED IN EXHIBIT B



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Air Space Encroachment Easement Agreement – 610 Front Street	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Restrictive Covenant	
<b>Summary Statement:</b>	<p>As you are aware, the property owners of 610 Front Street (Front Porch Swing LLC) are developing plans for a significant renovation of the exiting building. The renovation would add two additional floors and 7 residential units.</p> <p>Notably the western façade of this building is the location of a well-known mural sponsored by the Lions Club. The owners seek to preserve / restore this mural, but it is located on the property line in an areas that allows for zero lot line construction. The Council agreed that mural preservation was important and on September 3, 2019 approved a restrictive covenant that affects the City-owned parking lot immediately to the west. The Covenant prevents construction along a 10-foot swath on the City property immediately adjacent to the mural.</p> <p>The building owners have continued the planning and design process on this project and desire that some architectural features of the building addition encroach into the City's property by as much as 12 inches. These encroachments, such as windowsills and parapets, are located on upper stories above the mural. Although a restrictive covenant is in place that prevents adjacent construction, encroachments were not addressed or permitted in the previous agreement.</p> <p>With support from the Community Development Committee the property owner has requested the attached agreement for an air space encroachment. The property owner has assumed legal costs associated with the writing of the agreement.</p>	
<b>Recommended Action:</b>	<p>Motion to approve the air space encroachment agreement with the property owner of 610 Front Street affecting the City's parking lot property located at the intersection of Front and 7<sup>th</sup> Streets and to authorize the Mayor's signature on the document.</p>	

**After recording return document to:**

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

**DOCUMENT TITLE:**

Airspace Encroachment Easement Agreement

**REFERENCE NUMBER OF RELATED DOCUMENTS:**

Restrictive Covenant: 2019-0900678

**GRANTOR:**

City of Lynden, a Washington municipal corporation

**GRANTEE:**

Porch Swing Properties, LLC., a Washington limited liability company

**ABBREVIATED LEGAL DESCRIPTION:**

Lots 1 & 2 & Ptn. Lot 3, Block 9, Supplemental and Corrected Plat of Lynden  
Full legal description on page(s) \_\_\_\_\_

**ASSESSOR'S TAX PARCEL NUMBER(S):**

400320 202260 0000  
400320 206263 0000

## AIRSPACE ENCROACHMENT EASEMENT AGREEMENT

THIS AIRSPACE ENCROACHMENT EASEMENT AGREEMENT ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE GRANTOR, the CITY OF LYNDEN, a Washington municipal corporation ("Grantor" or "City"), and the Grantee, PORCH SWING PROPERTIES, LLC, a Washington limited liability company (collectively, "Grantee") formerly known as TWIGA NW LLC & RAH Properties LLC ("TWIGA NW & RAH").

WHEREAS, the City owns the real property legally described at Exhibit A hereto ("City Property"); and

WHEREAS, Grantee owns the real property legally described at Exhibit B hereto ("Grantee's Property"); and

WHEREAS, on the Grantee's Property, there is an historic one-story building ("Building") that is built on the common property line between the City Property and the Grantee Property; and

WHEREAS, Grantee is in the process of remodeling the Building to add a second and third story, and in order to preserve, maintain and enhance the historical aesthetic of the building, Grantee wishes to build certain encroachments off of the west wall into the airspace above the City Property; and

WHEREAS, said encroachments shall be limited to railings, gutters, down spouts, awning facia, window sills, cornices, and other similar ornamentation, safety measures, or stormwater control, and one air vent ("Encroachments"); and

WHEREAS, the Encroachments will not interfere with the use of the City Property due to the "No Build Zone" created in the restrictive covenant recorded at Whatcom County Auditor's File No. 2019-0900678; and

WHEREAS, the City desires to grant, and Grantee desires to receive, an easement for the purpose of allowing the Encroachments from the west wall into the airspace above the City Property; and

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

NOW THEREFORE, for mutually accepted good and valuable consideration, the City hereby grants and conveys to the Grantee, a non-exclusive easement for the placement of the Encroachments in the Easement Area (defined below), pursuant to the following terms and conditions.

1. Purpose and Scope; Easement Area. The purpose of this Agreement is to allow the Grantee to place the Encroachments on the west wall of the Building, so that the Encroachments occupy the airspace above the City Property within the Easement Area. The Easement Area shall be a three-dimensional rectangular prism. The Easement Area shall be in the eastern-most one (1) foot of the City Property; and in height, shall begin five (5) feet above the ground and extend upwards to the limit of the City's airspace. Encroachments shall not be permitted to extend

outside the Easement Area. However, the Grantee may use the area of the City Property around the Easement Area to construct, operate, maintain, repair, or replace the Encroachments, so long as such use is reasonable and does not interfere with the City's use of the City Property.

2. Payment. As consideration for this Agreement, Grantee shall compensate Grantor in the amount of three hundred dollars (\$300.00) upon Grantee's execution.
3. Commencement of Term and Duration of Agreement. This Agreement shall commence upon execution by both Parties. It shall terminate in the event the Wall Easement described in the covenants recorded at Whatcom County Auditor's File No. 2019-0900678 is terminated.
4. Subordination to City's Construction and Use Needs. The City anticipates reconstructing the City Property. The City reserves the right to temporarily exclude Grantee from the Easement Area and temporarily remove Encroachments in the event it or its contractor(s) requires access to that portion of the City Property in order to redevelop it.
5. Construction, Operation, Maintenance, Repair and Replacement. The Encroachments shall be kept in good repair, at least as well as current building and engineering codes require. The Grantee shall bear all expenses for operation, maintenance, repair, and replacement of the Encroachments.
6. Early Termination. If Grantee's use of the City Property exceeds the purpose and scope of this Agreement, or if any Encroachment, in the City's sole discretion, poses a potential risk to public safety and the Grantee does not correct said risk to the City's satisfaction within thirty (30) days of written notice thereof, then this Agreement shall be terminated and Grantee shall have fifteen (15) days to remove all Encroachments from the Easement Area.
7. Emergency Repair or Removal or Encroachments. If any of the Encroachments, in the City's sole discretion, pose an immediate threat to public safety, the City may cause the Encroachment to be repaired or removed in the manner it best sees fit. The Grantee shall reimburse the City for all costs incurred. The City shall not be responsible for damages to the Building or the Grantee's Property caused during or because of its correction of an emergency situation.
8. Repair Damage. The Grantee shall repair any damage caused to Grantor's Property arising from or related to its use of the Easement Area or the City Property. Grantee shall leave the City Property in a clean and tidy condition, free of refuse of any kind, after installing and maintaining the Encroachments.
9. Run with the Land. This Agreement and all rights and obligations described herein shall be deemed to touch and concern the land, shall run with the land during its entire term, and shall be binding on all parties having or acquiring any right, title, or interest in the land described herein or any part thereof.

10. Insurance. Grantee shall procure and maintain in force, without cost or expense to the City, on or before the commencement date of this Agreement and throughout the term, a broad form comprehensive general liability policy of insurance covering bodily injury and property damage, with respect to the use and occupancy of the Grantor's Property with liability limits of not less than \$1,000,000.00 per occurrence. The City shall be named as additional insured on all such policies, which policies shall in addition provide that they may not be canceled or modified for any reason without fifteen (15) days prior written notice to the City. Grantee shall provide the City with a certificate or certificates of such insurance within ten (10) days of the execution of this Agreement.
11. Hold Harmless. Grantee shall indemnify and hold the City harmless from any and all such damages and litigation expenses resulting from any claims or causes of action for injury to persons or property arising from Grantee's own respective acts or omissions and the acts or omissions of their employees, contractors, residents, or authorized agents, to the extent and in the same proportion as employees, contractors, residents, or authorized agents are determined to be at fault.
12. Assignment. Grantee shall not assign, convey or transfer this Agreement or any interest herein, without prior written consent of the City.
13. Notice. Any notice, declaration, demand or communication to be given by a Party to this Agreement to the other shall be in writing and transmitted to the other Party by personal service or certified U.S. mail, return receipt requested, postage fully prepaid, addressed as follows:

Grantor:  
City of Lynden  
Attn: Steve Banham  
300 Fourth Street  
Lynden, WA 98264

Grantee:  
Porch Swing Properties, LLC  
1118 E. Front Street  
Lynden, WA 98264

14. Complete Agreement/Modification. This Agreement and the terms and conditions herein represents a complete agreement between the Parties. There are no other representations, warranties, covenants, agreements, collateral agreements, or other conditions affecting this Dumpster Easement other than those set forth herein. Modification of this Agreement or any of its terms and conditions shall be binding upon the parties only if they are in writing and fully executed by the Parties.
15. Applicable Law/Construction/Venue. This Agreement shall be governed and interpreted in accordance with the laws of the State of Washington. In the event this Agreement is in conflict with the provisions of any law or statutes governing the subject matter hereof, such law or



statute only to the extent of such conflict shall be controlling. The venue of any action brought to interpret or enforce any provision of this Agreement shall be laid in Whatcom County, Washington.

- 16. Attorney' s Fees and Costs. In the event of any litigation arising under the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing Party its reasonable costs and attorney's fees.
- 17. Nonwaiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party' s right to enforce such provision for the same or similar breach then or in the future, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- 18. Counterparts. This Agreement may consist of two or more separately ratified counterparts, each of which shall constitute a duplicate original of this Agreement and all which together will constitute a single Agreement.
- 19. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, this Agreement is executed on the date first above written.

**GRANTOR:**

**GRANTEES:**

CITY OF LYNDEN

PORCH SWING PROPERTIES, LLC

\_\_\_\_\_  
By Scott Korthuis  
Its Mayor

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*{Notary Signature}*  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the PORCH SWING PROPERTIES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*{Notary Signature}*  
NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_



**EXHIBIT A**

## Legal Description of City Property

400320 202260 0000

All of Lots 1 and 2, except, the Easterly 2 feet of Lot 2 thereof, Block 9, "Supplemental and Corrected Plat of Lynden," as per the plat thereof, recorded in Book 3 of Plats, Page 48, in the Auditor's Office of Whatcom County, Washington.

Situate in Whatcom County, Washington.

**EXHIBIT B**

## Legal Description of Grantee's Property

400320 206263 0000

The Northeasterly two feet of Lot 2 and the Southwesterly thirty feet of Lot 3, in Block 9, "Supplemental and Corrected Plat of Lynden," according to the plat thereof, recorded in Volume 3 of Plats, Page 48, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Public Works Committee Meeting Minutes February 13, 2020	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	February 13, 2020 Draft Public Works Committee Meeting Minutes	
<b>Summary Statement:</b>	Draft minutes for the February 13, 2020 Public Works Committee meeting.	
<b>Recommended Action:</b>	For Review	





## PUBLIC WORKS COMMITTEE MINUTES

4:15 PM February 13, 2020

City Hall 2<sup>nd</sup> Floor Large Conference Room

### 1. ROLL CALL

Members Present: Mayor Scott Korthuis; Councilors Gary Bode, Ron De Valois, and Brent Lenssen

Members Absent: Jerry Kuiken with notice

Staff Present: City Administrator Mike Martin; Public Works Director Steve Banham; Programs Manager Mark Sandal; Administrative Office Manager Heather Sytsma; and Sr. Admin. Assistant Miriam Kentner

Public Present: Gary Vis, Don Korthuis, Steve Moore

### 2. ACTION ITEMS

#### A. **Approve Minutes from January 8, 2020**

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

##### Action

*The minutes from January 8, 2020 were approved.*

#### B. **Revise Sewer Rate Categories to include Mobile Home Parks**

Banham presented 2020 Budget Addendum C – Amended Sewer Rates which has been amended to include a separate rate structure for mobile homes. The rates will be effective retroactively to January 1, 2020. Banham noted that the Finance Department will present this at the Finance Committee and bring to City Council on Tuesday, February 18<sup>th</sup>.

##### Action

*The Public Works Committee concurred with the new rate structure and recommended City Council approval pending Finance Committee concurrence.*

#### C. **West Front Street EDI Presentation to County Council**

Banham stated that Mayor Korthuis presented the City's request for EDI funds to Whatcom County Council Finance Committee and they voted 2 to 1 against awarding the funding to the City of Lynden as presented but indicating they would be open to considering a revised request. As a result of this vote, staff has prepared a resolution which shows the City's intent to use EDI funds to improve West Front Street. Banham stated staff will present another proposal to Whatcom County Council again in March or April.

**Action**

***The Public Works Committee concurred to forward the Resolution supporting the EDI Loan/Grant to City Council with their recommendation for approval and for staff to make another request and presentation to Whatcom County Council with this resolution in support.***

**D. National League of Cities Service Line Project**

Banham presented an NLC Service Line Warranty Program which would allow private property owners to insure their service line beyond the City's water meter. Banham stated this could increase public awareness of what part of sewer and water lines are private owned.

**Action**

***The Public Works Committee concurred to deny support for this service in Lynden and requested that staff work to consider other alternatives for raising public awareness about property owner responsibilities maintenance of sewer laterals and water service lines beyond the sewer main or water meter.***

**E. Faith Community Church (586 Birch Bay Lynden Road) Request for Fire Protection, New Service for Parks and Berthusen Water Association Wholesale Agreement**

Banham explained the request to connect to City water utilities which will allow adequate fire flow for this facility. Banham noted that it will be the church's sole responsibility to obtain permits and easement and to construct a main extension and water service line from the existing City waterline on Berthusen Road to the church.

As a side-note, staff has been notified by the Parks Director that the service line to the house at Berthusen Park repeatedly freezes during cold weather as the exposed water line runs across the bridge in the park. Banham noted that this service is provided by Delta Water Association. However, there is water service available from Berthusen Water Association that is located on the east side of Bertrand Creek and is not exposed to the weather. This line is currently used to serve the Tractor Club facility, and the Parks Director has requested to contact Berthusen Water Association regarding providing a connection for the Berthusen Park house.

**Action**

***The Public Works Committee concurred to support the need for water for fire service at Faith Community Church and for staff to provide a letter to the Church to this effect. The Committee further agreed to support work by staff with Berthusen Water Association to obtain a new water service for the City-owned residence in the Berthusen Park under an updated Wholesale Agreement with the Berthusen Water Association.***

**F. Discuss Using Municode Meetings to Organize and Publish Public Works Committee Agenda and Minutes**

Banham stated that staff is considering, at the request of some Council members, using Municode, an online platform currently used for City Council meeting and agenda management, for Committee meetings. Banham explained that this platform could be accessed Council members using a City-issued tablet.

**Action**

***The Public Works Committee concurred to support the use of Municode for Committee meeting and agenda management.***

**3. INFORMATION ITEMS****A. 2019 Accomplishments Report**

Banham presented the 2019 Accomplishments report highlighting major accomplishment in the past year.

**B. Eastwood Way – Thalen Drive Pedestrian Island – Discuss Removal**

Banham stated the City has received multiple requests to remove the pedestrian island on Thalen Drive. The Public Works Committee concurred to support the removal of the pedestrian island.

**C. Projects:****1. Industrial Condensate- Riverview to Outfall – Draft Easements**

Sandal explained that the SEPA review was submitted to the Planning Department and he is currently working on easement documents. Sandal also received appraisal document back and is waiting for the property owners to review them and provide feedback.

**2. Industrial Condensate - Darigold Stormwater to Fishtrap Creek**

Sandal stated that the Phase 3 project currently being constructed by Faber Construction is progressing slowly and final paving should occur in early March.

**3. 7<sup>th</sup> Street Revitalization Project**

Sandal explained that this project should resume in early March. Sandal noted that the pothole near the post office in the alley was repaired yesterday.

**4. Trails - Washington Recreation and Conservation Office (RCO) – Visiting Site Prior to Next Funding Cycle; Application Due 2020; Contract Execution 2022**

Sandal stated that the RCO held a webinar today highlighting the next funding cycle. Applications are due May 1, 2020, but funding won't be awarded until July 2021.

**5. Lynden Fire Station RFQ**

Banham stated the planned Lynden Fire Station Renovation project was a featured article in the Lynden Tribune. The Request for Qualification was published February 12<sup>th</sup> with a due date of March 4<sup>th</sup>.

**4. ITEMS ADDED:****A. Emergency Declaration**

Banham presented the City's emergency declaration, signed by the Mayor, for the Flood Events that happened on January 31, 2020. The Emergency Declaration will remain in effect until the issuance of a Termination Proclamation.

**B. Pepin Lite Solution**

The Committee briefly discussed the "Pepin Lite" proposal that is an initial phase of construction and will be discussed at the Community Development Committee meeting on February 19<sup>th</sup>.

**C. Winter Storm and Flooding Damage**

Banham stated he is currently compiling preliminary damage estimates from the recent storm events to provide the Whatcom County Emergency Management and plans to bring that information to a future meeting.

**D. Managed Aquifer Recharge Project Proposal**

Banham stated that a "Managed Aquifer Recharge" project is being investigated by staff. This involves moving water from the Nooksack River in the winter and allowing it to permeate into an aquifer where it will slowly move back to the river so that there is more cool water returning during the summer months. Banham and Sandal explained that staff have met with a number of stakeholder including local tribes who appear to support the proposal because it adds water to the river during a season of typically low water levels as well as providing mitigation water for an increased City municipal water right (Qa). Banham stated that staff is still investigating favorable locations for withdrawing the water and areas where the hydrogeology would be correct to absorb the water into the aquifer with sufficient travel time back to the river. The City will be seeking Department of Ecology grant funds for this project and will provide a more extensive presentation to the Committee in March prior to submission of the application at the end of March.

The meeting was adjourned at 6:00 p.m.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 2, 2020	
<b>Name of Agenda Item:</b>	Calendar	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Outlook Calendar	
<b>Summary Statement:</b>	See next page.	
<b>Recommended Action:</b>	None	

**March 2, 2020**

Monday

210

7:00 PM - 9:00 PM

**Council Meeting -- Annex Council Chamber**

**March 3, 2020**

Tuesday

8:30 AM - 9:30 AM

**Leadership Team Meeting -- City Hall 1st Floor Large Conference Room**

5:00 PM - 6:30 PM

**Design Review Board -- Annex South East Conference Room**

**March 4, 2020**

Wednesday

All Day

**Court -- Annex Council Chamber; Annex East Training Room; Annex South East Conference Room; Annex North East Conference Room**

4:15 PM - 6:00 PM

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

**March 5, 2020**

Thursday

9:00 AM - 11:00 AM

**Technical Review Committee Meeting -- City Hall 2nd Floor Large Conference Room**

9:00 AM - 10:00 AM

**Mike/Chief Taylor 1/1 -- Mike's Office**

**March 6, 2020**

Friday

8:30 AM - 9:30 AM

**Check In-Mike/Anthony -- Mike's Office**

**March 9, 2020**

Monday

9:00 AM - 10:00 AM

**Check-In Vern/Mike -- Mike's Office**



**March 9, 2020 Continued**

Monday

**March 10, 2020**

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- City Hall 1st Floor Large Conference Room

**March 11, 2020**

Wednesday

All Day

Court -- Annex Council Chamber; Annex East Training Room; Annex South East Conference Room; Annex North East Conference Room

9:00 AM - 10:00 AM

Check-In Mark/Mike -- Mike's Office

7:00 PM - 9:00 PM

Rec. District Meetings -- Annex South East Conference Room

**March 12, 2020**

Thursday

9:00 AM - 10:00 AM

Mike/Chief Taylor 1/1 -- Mike's Office

4:00 PM - 5:00 PM

Public Safety Committee Meeting -- Police Training Room

7:30 PM - 9:30 PM

Planning Commission -- Annex Council Chamber

**March 13, 2020**

Friday

10:00 AM - 11:00 AM

Check-In Steve/Mike -- Mike's Office

11:00 AM - 12:00 PM

Check-In Heidi/Mike -- Mike's Office

**3:00 PM - 4:00 PM**

**Finance Committee Meeting -- City Hall 1st Floor Large Conference Room**  
Visit [WWW.LYNDENWA.ORG](http://WWW.LYNDENWA.ORG) to view the agenda

**4:00 PM - 5:00 PM**

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

**7:00 PM - 9:00 PM**

**Council Meetings -- Annex Council Chamber**