

CITY OF LYNDEN

CITY COUNCIL



City Council - Regular Meeting
City Hall - 300 Fourth Street
August 21, 2023

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Summary Reports and Presentations

Approval of Minutes

- [1.](#) Draft Council Minutes – August 7, 2023

Citizen Comment

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Award Bid for 3rd and Main Street Intersection Overlay

Public Hearing

- [4.](#) RES-23-1079 Agreement to Exchange Property for Pepin Creek Pkwy ROW
- [5.](#) RES-23-1078-Design Standards Variance 23-01 - Walnut Street

Unfinished Business

- [6.](#) RES-23-1076-Reconsideration of Text Amendment to LMC 19.22.030 re Enclosing Patios

New Business

- [7.](#) RES-23-1077-Support of Whatcom County Initiative Sales and Use Tax Proposition (Jail)
- [8.](#) ORD-23-1672-Fire Station LTGO Bond 2023

Reports

- [9.](#) Presentation of Award- Lynden Wastewater Treatment Plant
- [10.](#) Draft Public Works Committee Meeting Minutes August 9, 2023

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Draft Council Minutes – August 7, 2023	
Section of Agenda:	Approval of Minutes	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: N/A
		Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft Council Minutes – August 7, 2023	
Summary Statement:	Draft Council Minutes for Council review and possible approval.	
Recommended Action:	Review and approve draft minutes.	

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

August 7, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the August 7, 2023 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

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

Members absent: None.

Staff present: Community Development Director Heidi Gudde, Fire Chief Mark Billmire, Police Chief Steve Taylor, City Clerk Pam Brown, and City Administrator John Williams.

OATH OF OFFICE – None.

SUMMARY REPORTS AND PRESENTATIONS – None.

APPROVAL OF MINUTES

Councilor Kuiken moved, and Councilor Strengholt seconded to approve the July 17, 2023, regular council meeting minutes. Motion approved on 7-0 vote.

CITIZEN COMMENT

Mary Lou Childs, Benson Road, Lynden

Ms. Childs stated that she is not in favor of a total ban on fireworks but would like the City to consider reducing the number of days that fireworks can legally be set off. Another idea would be for the City to host a family-friendly fireworks event at the NW Fairgrounds.

Jean Holterman, Emerald Way, Lynden

Ms. Holterman stated that she is not in favor of a total ban on fireworks and noted that on her street, the debris created from setting off fireworks is cleaned up afterwards. She doesn't want Lynden to become like Bellingham.

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

Ms. Ripke-Kutsagoitz spoke to a several items:

- Thanked the Lynden Police Chief for the safety in Lynden.
- She hopes that the Lynden police department would begin to focus their efforts on the sex trafficking issues.
- She stated that people need a strong constitutional sheriff.

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

Steve Jilk, Brook Way, Lynden

Mr. Jilk stated that he does not support a full ban on fireworks, but he would like to start the discussion on a reduction of how many days the City allows legal fireworks to be set off. He also recognizes that it's almost impossible for police and fire staff to fully enforce the ordinance. He stated that fireworks were being set off outside of the dates and times parameters defined in the fireworks ordinance and there is a perception that the City is not concerned about how much, when and where the fireworks are set off.

Cesar Luna, Cascade Way, Lynden

Mr. Luna stated his hope that the fireworks ordinance dates and times would not be amended. He believes the community as a whole should not have to stop using fireworks because of the complaints of the few. He wants his children to be able to experience 4th of July with fireworks and is more concerned with the amount of government involvement.

2. CONSENT AGENDA

Payroll Liability to July 16 through July 29, 2023

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$582,139.80
Check Liability	\$0.00
Total Non-L&I Liabilities	\$582,139.80
Quarterly Liabilities	\$13,924.36
Total EFT & Other Liabilities	\$596,064.16

Approval of Claims – August 8, 2023

Manual Warrants No.	<u>27985</u>	through	<u>24985</u>		\$13,750.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$13,750.00
Voucher Warrants No.	<u>27999</u>	through	<u>28112</u>		\$317,107.58
EFT Payments					<u>\$54,482.49</u>
				Sub Total	\$371,590.07
				Total Accts. Payable	\$385,340.07

Set the Public Hearing for Design Standards Variance 23-01

Set the Public Hearing for Agreement to Exchange Property for Pepin Creek Parkway ROW

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



ORD-23-1671-Setting Salaries for Elected Officials (2026-2032)

In light of the current election, the current salary schedule for elected officials will expire during the term of those newly elected. Thus, a new table was created that follows the same format and continues through 2032. This new table begins on January 1, 2026. The Finance Committee reviewed this ordinance at its June 19th meeting and July 17th meeting and recommended taking ORD-23-1671 to City Council for approval.

Motion made by Councilor De Valois, seconded by Councilor Kuiken to approve the consent agenda as presented. Motion approved 7-0.

3. PUBLIC HEARING - None

4. UNFINISHED BUSINESS - None

5. NEW BUSINESS - None

6. REPORTS

Councilor Lenssen, Community Development Committee, reported discussion of the following:

- Issues/solutions regarding downtown parking.
- Continued discussion of patio screening.
- Community Development & Planning proposals for the Year 2024 Budget.

7. EXECUTIVE SESSION

The council did not hold an executive session.

8. ADJOURNMENT

August 7, 2023, regular session of the Lynden city council adjourned at 7:28 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Approval of Payroll and Claims	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	None	
Summary Statement:	Approval of Payroll and Claims	
Recommended Action:	Approval of Payroll and Claims	

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Award Bid for 3 rd and Main Street Intersection Overlay	
Section of Agenda:	Consent	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<u>Legal Review:</u>	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	1) Certified Bid Tabulation 2) Reichhardt & Ebe - Recommendation to Award	
Summary Statement:	<p>Staff recently solicited bids for the 3rd and Main Street Intersection Overlay for the structural overlay of the intersection, extending down each intersection leg, and minor pedestrian ramp reconstruction. Work to be performed under this contract shall include the grinding and fiber reinforced asphalt overlay of the existing roadway, installation of traffic loops, and the replacement of pedestrian ramps. Three bids were received on July 27, 2023, as shown on the attached Bid Tabulation prepared by Reichhardt & Ebe.</p> <p>The Public Works Committee at their August 9th meeting concurred to recommend award to Granite Construction Company, the lowest responsive and responsible bidder, in the amount of \$324,192.50, including Washington State Sales Tax. The Engineer's Estimate was \$386,536.50.</p>	
Recommended Action:	<p>That City Council award the contract for the 3rd and Main Street Intersection Overlay to Granite Construction Company in the amount of \$324,192.50 including Washington State Sales Tax and authorize the Mayor to sign the contract.</p>	



July 27, 2023

City of Lynden
300 4th Street
Lynden, WA 98264

Attn: Mark Sandal
Programs Manager

Re: City of Lynden
3rd & Main Overlay
Recommendation to Award

Dear Mark Sandal,

We have reviewed all construction bid proposals for the above-referenced project. Granite Construction provided the lowest responsive bid at \$324,192.50.

We recommend that you award the contract to Granite Construction, subject to the following:

1. Required project funds are available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Buys', written over a horizontal line.

Tyler Buys, P.E.
Reichhardt & Ebe Engineering, Inc.

Called By:	City of Lynden	Bidder's Name Address	Engineer's Estimate	1		2		3		Average (Excluding Engineer's Estimate)	Standard Deviation (Excluding Engineer's Estimate)
For:	3RD AND MAIN OVERLAY 300 4th Street Lynden, WA 98264			Granite Construction 7017 Everson Goshen Road Everson, WA 98247	Colacurcio Brothers, Inc. 3287 H Street Road Blaine, WA 98230	JB Asphalt 22228 95th Place West Edmonds, WA 98020					
By:	CERTIFIED TABULATION OF BIDS RECEIVED										
Date:	Tyler Buys, P.E. / Grace Melorango, E.I.T. July 27, 2023										



Schedule A - TIB Eligible													
Item No.	Item Description	Quantity	Unit	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount		
1	Mobilization	1	LS	\$ 35,000.00	\$ 35,000.00	\$32,000.00	\$ 32,000.00	\$ 38,000.00	\$ 38,000.00	\$55,000.00	\$ 55,000.00	\$41,666.67	\$ 9,741.09
2	SPCC Plan	1	LS	\$ 750.00	\$ 750.00	\$2,500.00	\$ 2,500.00	\$ 200.00	\$ 200.00	\$400.00	\$ 400.00	\$1,033.33	\$ 1,040.30
3	Project Temporary Traffic Control	1	LS	\$ 15,000.00	\$ 15,000.00	\$40,000.00	\$ 40,000.00	\$ 46,000.00	\$ 46,000.00	\$80,000.00	\$ 80,000.00	\$55,333.33	\$ 17,613.13
4	Portable Changeable Message Sign	2,700	HR	\$ 10.00	\$ 27,000.00	\$1.00	\$ 2,700.00	\$ 1.00	\$ 2,700.00	\$2.50	\$ 6,750.00	\$1.50	\$ 0.71
5	Removal of Structures and Obstructions	1	LS	\$ 10,000.00	\$ 10,000.00	\$25,200.00	\$ 25,200.00	\$ 3,000.00	\$ 3,000.00	\$1,750.00	\$ 1,750.00	\$9,983.33	\$ 10,771.90
6	Sawcut ACP	335	LF-IN	\$ 1.50	\$ 502.50	\$0.25	\$ 83.75	\$ 1.00	\$ 335.00	\$3.00	\$ 1,005.00	\$1.42	\$ 1.16
7	Water	15	M GAL.	\$ 100.00	\$ 1,500.00	\$76.00	\$ 1,140.00	\$ 30.00	\$ 450.00	\$35.00	\$ 525.00	\$47.00	\$ 20.61
8	HMA Cl. 1/2" PG 58H-22	750	TON	\$ 130.00	\$ 97,500.00	\$84.00	\$ 63,000.00	\$ 123.00	\$ 92,250.00	\$120.00	\$ 90,000.00	\$109.00	\$ 17.72
9	Crack Sealing	1	EST	\$ 9,000.00	\$ 9,000.00	\$9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$9,000.00	\$ 9,000.00	\$9,000.00	\$ -
10	Planing Bituminous Pavement	6,390	SY	\$ 5.00	\$ 31,950.00	\$1.60	\$ 10,224.00	\$ 5.00	\$ 31,950.00	\$5.50	\$ 35,145.00	\$4.03	\$ 1.73
11	Adjustments to Finished Grade	1	LS	\$ 4,900.00	\$ 4,900.00	\$12,300.00	\$ 12,300.00	\$ 25,000.00	\$ 25,000.00	\$8,500.00	\$ 8,500.00	\$15,266.67	\$ 7,055.18
12	Inlet Protection	15	EA	\$ 150.00	\$ 2,250.00	\$98.00	\$ 1,470.00	\$ 40.00	\$ 600.00	\$100.00	\$ 1,500.00	\$79.33	\$ 27.82
13	Erosion/Water Pollution Control	1	EST	\$ 2,500.00	\$ 2,500.00	\$2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$2,500.00	\$ 2,500.00	\$2,500.00	\$ -
14	Recessed Pavement Marker	0.40	HUN	\$ 25,000.00	\$ 10,000.00	\$22,000.00	\$ 8,800.00	\$ 23,000.00	\$ 9,200.00	\$23,000.00	\$ 9,200.00	\$22,666.67	\$ 471.40
15	Induction Loop Type 1	8	EA	\$ 4,500.00	\$ 36,000.00	\$2,250.00	\$ 18,000.00	\$ 2,300.00	\$ 18,400.00	\$2,300.00	\$ 18,400.00	\$2,283.33	\$ 23.57
16	Induction Loop Type 3A	5	EA	\$ 2,300.00	\$ 11,500.00	\$2,900.00	\$ 14,500.00	\$ 2,600.00	\$ 13,000.00	\$3,000.00	\$ 15,000.00	\$2,833.33	\$ 169.97
17	Paint Line	6,250	LF	\$ 1.50	\$ 9,375.00	\$1.00	\$ 6,250.00	\$ 0.90	\$ 5,625.00	\$0.92	\$ 5,750.00	\$0.94	\$ 0.04
18	Plastic Stop Line	100	LF	\$ 20.00	\$ 2,000.00	\$22.00	\$ 2,200.00	\$ 23.00	\$ 2,300.00	\$23.00	\$ 2,300.00	\$22.67	\$ 0.47
19	Plastic Crosswalk Line	504	SF	\$ 12.00	\$ 6,048.00	\$14.00	\$ 7,056.00	\$ 14.00	\$ 7,056.00	\$14.00	\$ 7,056.00	\$14.00	\$ -
20	Plastic Traffic Arrow	8	EA	\$ 350.00	\$ 2,800.00	\$280.00	\$ 2,240.00	\$ 285.00	\$ 2,280.00	\$290.00	\$ 2,320.00	\$285.00	\$ 4.08
21	Temporary Pavement Marking - Short Duration	4,520	LF	\$ 1.50	\$ 6,780.00	\$0.45	\$ 2,034.00	\$ 0.50	\$ 2,260.00	\$0.75	\$ 3,390.00	\$0.57	\$ 0.13
22	Temporary Misc Pavement Marking - Short Duration	8	EA	\$ 25.00	\$ 200.00	\$80.00	\$ 640.00	\$ 10.00	\$ 80.00	\$230.00	\$ 1,840.00	\$106.67	\$ 91.77
23	Temporary Stop Line - Short Duration	100	LF	\$ 4.00	\$ 400.00	\$6.00	\$ 600.00	\$ 1.00	\$ 100.00	\$3.50	\$ 350.00	\$3.50	\$ 2.04
24	Temporary Crosswalk Line - Short Duration	504	SF	\$ 4.00	\$ 2,016.00	\$1.50	\$ 756.00	\$ 1.00	\$ 504.00	\$1.50	\$ 756.00	\$1.33	\$ 0.24
25	Repair Existing Public and Private Facilities	1	EST	\$ 20,000.00	\$ 20,000.00	\$20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$20,000.00	\$ 20,000.00	\$20,000.00	\$ -
Total Schedule A					\$ 344,971.50	\$ 285,193.75	\$ 332,790.00	\$ 378,437.00					

Schedule B - TIB Ineligible													
Item No.	Item Description	Quantity	Unit	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount		
26	Sawcut ACP	150	LF-IN	\$ 1.50	\$ 225.00	\$0.25	\$ 37.50	\$ 1.00	\$ 150.00	\$2.50	\$ 375.00	\$1.25	\$ 0.94
27	Sawcut PCC	545	LF-IN	\$ 2.00	\$ 1,090.00	\$0.25	\$ 136.25	\$ 1.50	\$ 817.50	\$2.50	\$ 1,362.50	\$1.42	\$ 0.92
28	HMA Fiber Reinforcement	750	TON	\$ 20.00	\$ 15,000.00	\$13.50	\$ 10,125.00	\$ 15.00	\$ 11,250.00	\$20.00	\$ 15,000.00	\$16.17	\$ 2.78
29	Commercial HMA	5	TON	\$ 400.00	\$ 2,000.00	\$80.00	\$ 400.00	\$ 500.00	\$ 2,500.00	\$550.00	\$ 2,750.00	\$376.67	\$ 210.77
30	Landscape Restoration	1	EST	\$ 5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$5,000.00	\$ 5,000.00	\$5,000.00	\$ -
31	Cement Conc. Sidewalk	50	SY	\$ 95.00	\$ 4,750.00	\$210.00	\$ 10,500.00	\$ 170.00	\$ 8,500.00	\$350.00	\$ 17,500.00	\$243.33	\$ 77.17
32	Cement Conc. Curb Ramp Type Perpendicular A	1	EA	\$ 3,500.00	\$ 3,500.00	\$2,800.00	\$ 2,800.00	\$ 4,850.00	\$ 4,850.00	\$10,500.00	\$ 10,500.00	\$6,050.00	\$ 3,256.02
33	Repair Existing Public and Private Facilities	1	EST	\$ 10,000.00	\$ 10,000.00	\$10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$10,000.00	\$ 10,000.00	\$10,000.00	\$ -
Total Schedule B					\$ 41,565.00	\$ 38,998.75	\$ 43,067.50	\$ 62,487.50					

Total Schedules A & B					\$ 386,536.50	\$ 324,192.50	\$ 375,857.50	\$ 440,924.50					
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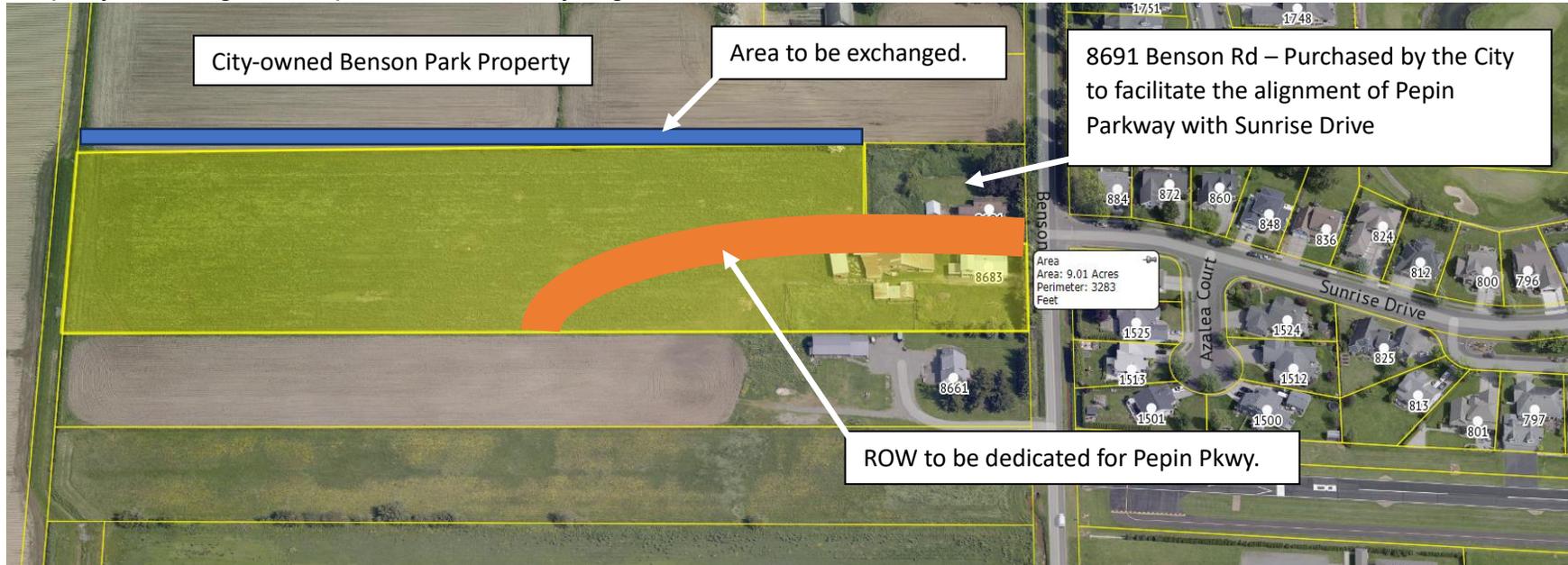
CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Res 23-1079 Agreement to Exchange Property for Pepin Creek Pkwy ROW	
Section of Agenda:	Public Hearing	
Department:	Planning & Community Development Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Parks <input type="checkbox"/> Other: _____	Legal Review:
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Res 23-1079, Draft Agreement and exhibits, vicinity map.		
Summary Statement:		
<p>Mountain Summit Ventures, LLC is proposing to develop approximately 9 acres of property with RM-3 zoning into townhomes. This property is the first in the Pepin Creek Subarea to come forward for development after the approval of the Pepin Creek Subarea Plan. The property is also pivotal in that it provides the opportunity for the alignment and initial construction of Pepin Creek Parkway at Benson Road. This alignment is consistent with the option that instigated the city purchase of 8691 Benson Road.</p> <p>As the subject property is relatively small and narrow and the 80-foot right-of-way for the Parkway is wider than a typical city street, staff and the developer are proposing a property exchange which would mitigate disproportional impacts by exchanging city owned property at the northern edge of the subject property for the right-of-way needed for Pepin Creek Parkway. The city-owned property consists of a 48-foot-wide strip of the Benson Park property. Notably, this strip includes the intercept ditch which is used to protect the subject property from overland flow during specific wet-season weather events.</p> <p>An agreement has been drafted for the Council to consider. It details the right-of-way dedication and property exchange and associated actions including the rezone of the exchanged property and the right-of-way grant.</p>		
Recommended Action:		
<p>Motion to approve Resolution 23-1079 and the associated agreement with Mountain Summit Ventures, LLC for the right-of-way dedication and property exchange needed for Pepin Creek Parkway running west and south from the intersection of Benson Road; and to authorize the Mayor's signature on the documents.</p>		

Property Exchange for Pepin Creek Parkway Right-of-Wa



Mountain View Summit, LLC property located at 8683 Benson Road is proposing to right-of-way dedication in exchange for city-owned property along the southern edge of Benson Park. This would provide a critical link in the establishment of Pepin Creek Parkway.

CITY OF LYNDEN
CITY COUNCIL RESOLUTION NO. 23-1079

**A resolution of the Council of the City of Lynden, Washington,
to approve a Lot Line Adjustment of City Property and Accept a Right of Dedication
for a Portion of Pepin Creek Parkway facilitating the alignment of Pepin Parkway
with Sunrise Drive**

WHEREAS, the City owns the following-described parcel of real property, both situated in Whatcom County, Washington, Tax Assessor Parcel No. 400318 461331 0000, commonly known as the Benson Park property, herein referred to together as the “City Property;” and

WHEREAS, the Owner owns one parcel of real property, situated in Whatcom County, Washington, Tax Parcel No. 400318 477250 0000, addressed as 8683 Benson Road, herein referred to as the “Owner Property”; and

WHEREAS, the Owner Property is located in such as way as to facilitate the alignment of Pepin Creek Parkway with Sunrise Drive; and

WHEREAS, the Owner Property is also south of and directly abutting the City Property; and

WHEREAS, the Parties intend that as a condition of development, and at no cost to the City, the Owner will grant an exclusive right-of-way easement, eighty (80) feet in width, curving through and bisecting part of the Owner Property and occupying approximately 1.21 acres of the Owner Property, for the future construction of a new street called Pepin Parkway including city utilities and franchise utilities; and

WHEREAS, the specific design and associated square footage need for the Pepin Parkway right-of-way has been determined by the City Engineer consistent with the long-range transportation plan for this area; and

WHEREAS, the Owner Property, being approximately 332 feet wide from north to south, is significantly impacted by the right-of-way grant due to its width and location within the Owner Property; and

WHEREAS, to maintain the development opportunities of the Owner Property while facilitating access and the expansion of the City’s transportation network, the City will exchange, in return for said right-of-way grant, an approximately equal-sized portion of the City Property; and

WHEREAS, the Owner shall complete a Lot Line Adjustment (“LLA”) in which the north boundary of the Owner Property (also the south boundary of the City Property) will be shifted north approximately 48feet such that approximately 1.21 acres of land will be added to the Owner Property as a fair and equitable equal exchange of land; and

WHEREAS, the LLA must depict the dedication of right-of-way; and

WHEREAS, city Planning Staff shall file an application for a site-specific rezone of the portion of City Property that is added to the Owner property, shifting it from a Public Use (PU) designation to a Residential Multi-family 3 (RM-3) designation to match that of the Owner Property, within six (6) months of the recordation of the LLA; and

WHEREAS, pursuant to the terms of the Development Agreement, any major modification of the terms of the Agreement must be processed in the manner in which the Agreement was processed and approved, and

WHEREAS, on August 21, 2023, the City Council held a public hearing regarding this agreement which was duly noticed.

NOW THEREFORE, BE IT RESOLVED by the Lynden City Council to approve the Lot Line Adjustment and Right of Way Dedication Agreement as attached, hereto.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF _____ IN FAVOR, _____ AGAINST, SIGNED THIS 21ST DAY OF AUGUST 2023.

MAYOR

Scott Korthuis

ATTEST:

Pam Brown, City Clerk

APPROVED AS TO FORM:

Bob Carmichael, City Attorney

LOT LINE ADJUSTMENT AND RIGHT OF WAY DEDICATION AGREEMENT

This LOT LINE ADJUSTMENT AND RIGHT OF WAY DEDICATION AGREEMENT (“Agreement”) is made this _____ day of _____, 2023, by and between MOUNTAIN SUMMIT VENTURES LLC., a Washington limited liability corporation (“Owner”) and the CITY OF LYNDEN, a Washington Municipal Corporation (“City”). The City and Owners may be referred to individually as “Party” or collectively, “Parties” in this Agreement.

RECITALS

WHEREAS, the City owns the following-described parcel of real property, both situated in Whatcom County, Washington, Tax Assessor Parcel No. 400318 461331 0000, legally described in **Exhibit A**, herein referred to together as the “City Property;” and

WHEREAS, the Owner owns one parcel of real property, situated in Whatcom County, Washington, Tax Parcel No. 400318 477250 0000, legally described in **Exhibit B**, herein referred to as the “Owner Property”; and

WHEREAS, the Owner Property is south of and directly abuts the City Property; and

WHEREAS, the Parties intend that as a condition of development, and at no cost to the City, the Owner will grant an exclusive right-of-way easement, eighty (80) feet in width, curving through and bisecting part of the Owner Property and occupying approximately 1.21 acres of the Owner Property, for the future construction of a new street called Pepin Parkway including city utilities and franchise utilities; and

WHEREAS, the specific design and associated square footage need for the Pepin Parkway right-of-way has been determined by the City Engineer consistent with the long-range transportation plan for this area; and

WHEREAS, the Owner Property, being approximately 332 feet wide from north to south, is significantly impacted by the right-of-way grant due to its width and location within the Owner Property; and

WHEREAS, to maintain the development opportunities of the Owner Property while facilitating access and the expansion of the City’s transportation network, the City will exchange, in return for said right-of-way grant, an approximately equal-sized portion of the City Property; and

WHEREAS, the Owner shall complete a Lot Line Adjustment (“LLA”) in which the north boundary of the Owner Property (also the south boundary of the City Property) will be shifted north approximately 48feet such that approximately 1.21 acres of land will be added to the Owner Property as a fair and equitable equal exchange of land; and

WHEREAS, the LLA must depict the dedication of right-of-way; and

WHEREAS, City staff shall file an application for a site-specific rezone of the portion of City Property that is added to the Owner property, shifting it from a Public Use (PU) designation to a Residential Multi-family 3 (RM-3) designation to match that of the Owner Property, within six (6) months of the recordation of the LLA; and

WHEREAS, all of the foregoing provisions are a material part of this Agreement.

AGREEMENT

NOW THEREFORE, for good and valuable consideration arising from the mutual commitments herein, the Parties hereby agree as follows:

1. Lot Line Adjustment (LLA)

The Owner desires to adjust the northern property line of the Owner Property so that an approximately equal exchange of property occurs.

- a. The Lot Line Adjustment shall be in substantially the same form as the attached Exhibit C.
- b. Not later than twelve (12) months after execution of this Agreement, the Owner will have completed the LLA process.
- c. The completed LLA will depict the right-of-way grant intended for the construction of Pepin Parkway as determined by the City Engineer and described in Exhibit D.
- d. Concurrent with or immediately following approval of the LLA, the City shall convey the approximately 48 feet of the City Property described herein by quit claim deed to Owner and the Owner shall accept same, subject to the terms and reservations set forth in Section 2.

2. Right-of-Way Grant and No Subdivision of Property

- a. The area depicted on the LLA for the right-of-way grant must be determined by the City Engineer as shown in Exhibit D. The right-of-way grant shall be executed and recorded concurrent with the recording of the LLA.
- b. The right-of-way grant will be recorded across the Owner Property as an exclusive easement for street and utility purposes including utilities under franchise to the City. The grant will not subdivide the Owner Property, nor will it cause a subdivision of the Owner Property to be required.

3. Rezone

a. Not later than six (6) months after returning a recorded copy of the LLA to the City of Lynden Planning Staff, the City will apply for a site-specific rezone for that portion of the City Property that is quitclaimed to the Owner.

b. The rezone application will propose a shift the exchanged property from a zoning category of Public Use (PU) to Residential Multi-family-3 (RM-3) to be consistent with the existing zoning category of the Owner Property.

c. City staff will diligently follow the site-specific rezone process described in Ch. 17.19 LMC to ensure expeditious processing of the rezone.

d. The Owner acknowledges that site-specific rezones are ultimately approved by ordinance after significant public review, and that the success of the site-specific rezone application cannot be guaranteed. While City staff will apply for the site-specific rezone, the City planning commission may recommend denial and the City Council may choose not to approve the site-specific rezone. The entry of this Agreement in no way obligates the planning commission or City Council to approve the re-zone. The Owner willingly enters into to this Agreement fully aware of this risk.

e. Failure of Rezone. In the event that the rezone as described herein is not approved by the City Council within 180 days, or in the event that such re-zone is determined to be invalid by a court of competent jurisdiction, the LLA described in Paragraph 1 and the right-of-way dedication described in Paragraph 2 shall be reversed. This shall be accomplished by subsequent lot line adjustment and quitclaim deeds restoring the property lines and ownership as they existed at the time this Agreement was executed. The Parties shall fully cooperate in all such efforts. Each Party shall bear its own costs. The Parties also acknowledge that in such an event, any pending plats or other approvals sought by the Owner contingent on the rezone may be denied.

f. The City and the Owner agree that no public roadway construction will be initiated within the area of right-of-way dedication until after a successful rezone of the exchanged property so as to provide for a reversal of the dedication in the event of an unsuccessful rezone. Similarly, the City and the Owner agree that no actions shall be taken while the rezone application is under review to modify the area of right-of-way dedication so as to complicate, impede, or add expense to the future construction of a public roadway within this area.

4. Future Development

a. This Agreement does not limit the City’s ability to require additional developer agreements, dedications, impact fees, development standards, specific project elements, mitigation, or any other development requirements or development procedures as conditions of future development of the Owner Property, except that

once the right of way grant described in Paragraph 2 and the rezone described in Paragraph 3 are completed, no further right of way dedications shall be required.

b. This Agreement creates no vesting right and does not vest the Owner to any particular version of the City’s development code or state or federal laws or regulations.

5. General Provisions

a. Notice. If any notice is required related to this Agreement, all required notices under this Agreement shall be delivered as follows:

Owner:	City:	
Dean Francis	Parks Dept Director	Public Works Director
Mountain Summit Ventures, LLC	City of Lynden Parks Dept	City of Lynden Public Works
_____	300 4 th Street	300 4 th Street
_____	Lynden, WA 98264	Lynden, WA 98264

Notice may be made by US First Class Mail and shall be considered effective the business day following the date the notice was mailed. Alternatively, notice may be made by email, read receipt requested, and shall be considered effective the date of sending.

b. Severance. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, that provision shall be deemed to be severed and deleted, and neither that provision nor its severance shall affect the validity of the remaining provisions.

c. Amendment. This Agreement may not be altered, amended, modified or otherwise changed in any respect or particular whatsoever except in writing executed by all Parties or their representatives.

d. Governing Law and Venue. This Agreement shall be construed under the laws of the State of Washington. The venue of any legal action brought under the terms of this Agreement shall be in the Superior Court for Whatcom County, State of Washington.

e. Expenses and Attorneys’ Fees. The prevailing Party in any action brought to enforce any terms and conditions of this Agreement shall be entitled to the recovery of their reasonable attorney’s fees, costs and expenses.

f. No Third-Party Beneficiaries. No right, privilege, or immunity of any Party hereto shall inure to the benefit of any third party, nor shall any third party be a beneficiary of any of the provisions of this Agreement, except as may be specifically provided herein.

g. Additional Development Requirements. Owner understands and acknowledges that this Agreement is not intended to define or limit in any way requirements that will be applicable to the Owner Property or the City Property after acquisition by Developer, in the course of development of Owner’s Property or any other property.

h. Indemnification. To the extent permissible by law, all Parties indemnify, defend and hold the other Parties, their employees, officers, guests, invitees, partners, or licensees harmless for any injuries, damage to, or claims against the Parties or their employees, officers, guests, invitees, partners, or licensees or the properties referenced herein or structures thereon, arising in relation to a Party’s negligent acts or omissions relating to the exercise of its rights under this Agreement, including but not limited to, claims made by any third party or any Party herein, and their employees, officers, and agents. It is further specifically and expressly understood that the indemnification provided herein constitutes each Party’s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

i. Nonwaiver of Breach. Failure of any Parties at any time to require performance of any provision of this Agreement shall not limit such Party’s right enforce such provision. Waiver of any breach of any provision of this Agreement does not constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

j. Counterparts. This Agreement may be executed in counterparts and as so executed shall constitute one Agreement and shall be binding upon all Parties hereto notwithstanding that all signatory Parties do not appear on the same page.

k. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the matters contained herein. No oral or written statements made by the Parties prior to or following entry of this Agreement shall be considered a part of this Agreement unless expressly incorporated herein in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Owner:

City:

By: Dean Francis, Owner
Mountain Summit Ventures LLC

By: Scott Korthuis
Its: Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 20____, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, the _____ of the **CITY OF LYNDEN**, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

Print Name: _____
Notary Public in and for the
State of Washington. Residing at: _____
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 20____, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, the _____ of the **MOUNTAIN SUMMIT VENTURES, LLC**, a Washington limited liability corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

Print Name: _____
Notary Public in and for the
State of Washington. Residing at: _____
My commission expires: _____

EXHIBIT A
City Property Description

Insert legal description of City Property (Parcel 400 318 461 331 0000)

EXHIBIT B
Owner Property Description

Insert legal description of Owner Property (parcel 400 318 477 250 0000)

EXHIBIT C
Lot Line Adjustment Map

Insert lot line adjustment including property to be deeded to Owner as described and depicted by surveyor for the Property Owner

EXHIBIT D
Legal Description and Depiction of Right-of-Way Grant

Insert legal description and depiction of ROW grant as determined by the City Engineer

CITY OF LYNDEN/FRANCIS LOT LINE ADJUSTMENT

A PORTION OF THE SE 1/4 NE 1/4 AND NE 1/4 SE 1/4, SECTION 18,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

N 89°13'15"E 1350.37'
1320.33'

SURVEYOR'S NOTES:

- "O" DENOTES 5/8 INCH REBAR WITH 1 INCH PLASTIC CAP MARKED "NWS & GPS 49276 & 50982" SET BY THIS SURVEY.
- "●" DENOTES REBAR AND CAP MARKED "NWS & GPS 49276 & 50982" FOUND BY THIS SURVEY.
- "□" DENOTES HUB AND LATH SET FOR POINTS ON LINE BY THIS SURVEY.
- "*" DENOTES CALCULATED POSITION ONLY.
- THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A GEOMAX ZOOM90 TOTAL STATION WITH A CARLSON SURVEYOR 2 COLLECTOR/FIELD COMPUTER IN APRIL OF 2022 ACCURACY EXCEEDS 1:10000.
- THIS SURVEY TIED INTO THE EAST QUARTER CORNER, STREET MONUMENTATION AND DEED CORNERS AS SHOWN AND RELIED UPON RECORD OF SURVEY FILED UNDER AF No. 2021-1204261 AND THE CITY OF LYNDEN SURVEY MONUMENT NETWORK FOR BASIS OF BEARINGS.
- THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT PURPORT TO SHOW ANY OR ALL EASEMENTS THAT A CURRENT TITLE REPORT MIGHT REVEAL.

OCCUPATION NOTES:

- Ⓐ FENCE CORNER LIES 3.5' EAST OF DEED LINE.
- Ⓑ FENCE LINE LIES 2.4' EAST OF DEED CORNER.
- Ⓒ FENCE CORNER LIES 0.4' SOUTH OF DEED LINE.
- Ⓓ FENCE CORNER LIES 1.3' NORTH OF DEED LINE.
- Ⓔ TREE LINE LIES 0.8' SOUTH OF DEED LINE.

IMPERVIOUS SURFACE CALCULATIONS:

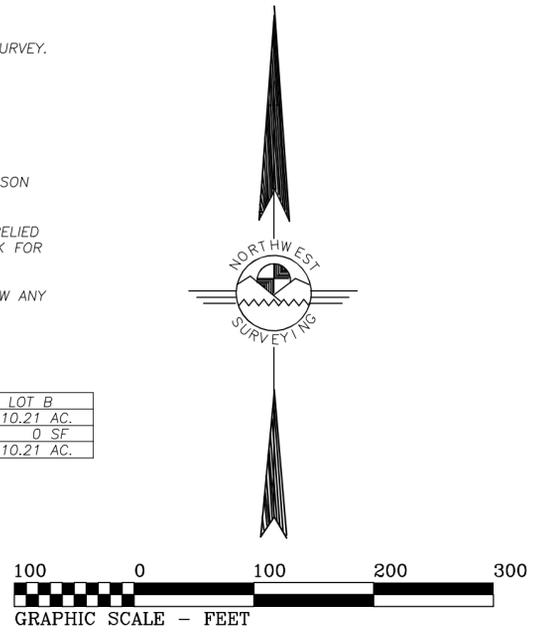
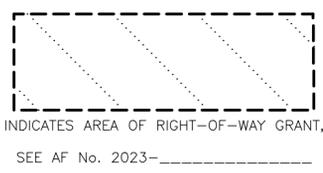
LOT NUMBER	LOT A	LOT B
TOTAL AREA	34.86 AC.	10.21 AC.
EXISTING IMPERVIOUS SURFACE AREA	0 SF	0 SF
EXISTING PERVIOUS SURFACE AREA	34.86 AC.	10.21 AC.

Course	Bearing	Distance
L1	N 02°05'52" E	80.46'
L2	N 24°28'05" W	62.32'
L3	S 88°42'26" W	323.62'
L4	R= 380.00' Tan: 48.88" CA: 14°39'31"	A= 97.22'
L5	R= 380.00' Tan: 55.79" CA: 16°42'13"	A= 110.78'
L6	R= 380.00' Tan: 59.98" CA: 17°56'20"	A= 118.98'
L7	R= 460.00' Tan: 78.45" CA: 19°21'27"	A= 155.41'
L8	R= 460.00' Tan: 70.88" CA: 17°31'13"	A= 140.66'
L9	R= 460.00' Tan: 82.78" CA: 20°24'13"	A= 163.81'
L10	N 88°42'26" E	169.64'

Curve	Radius	Length	Delta
C1	380.00'	326.99'	49°18'11"
C2	460.00'	459.89'	57°16'57"

LOT B ADJUSTED AREA CALCULATIONS:

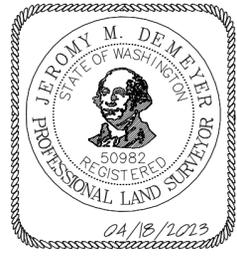
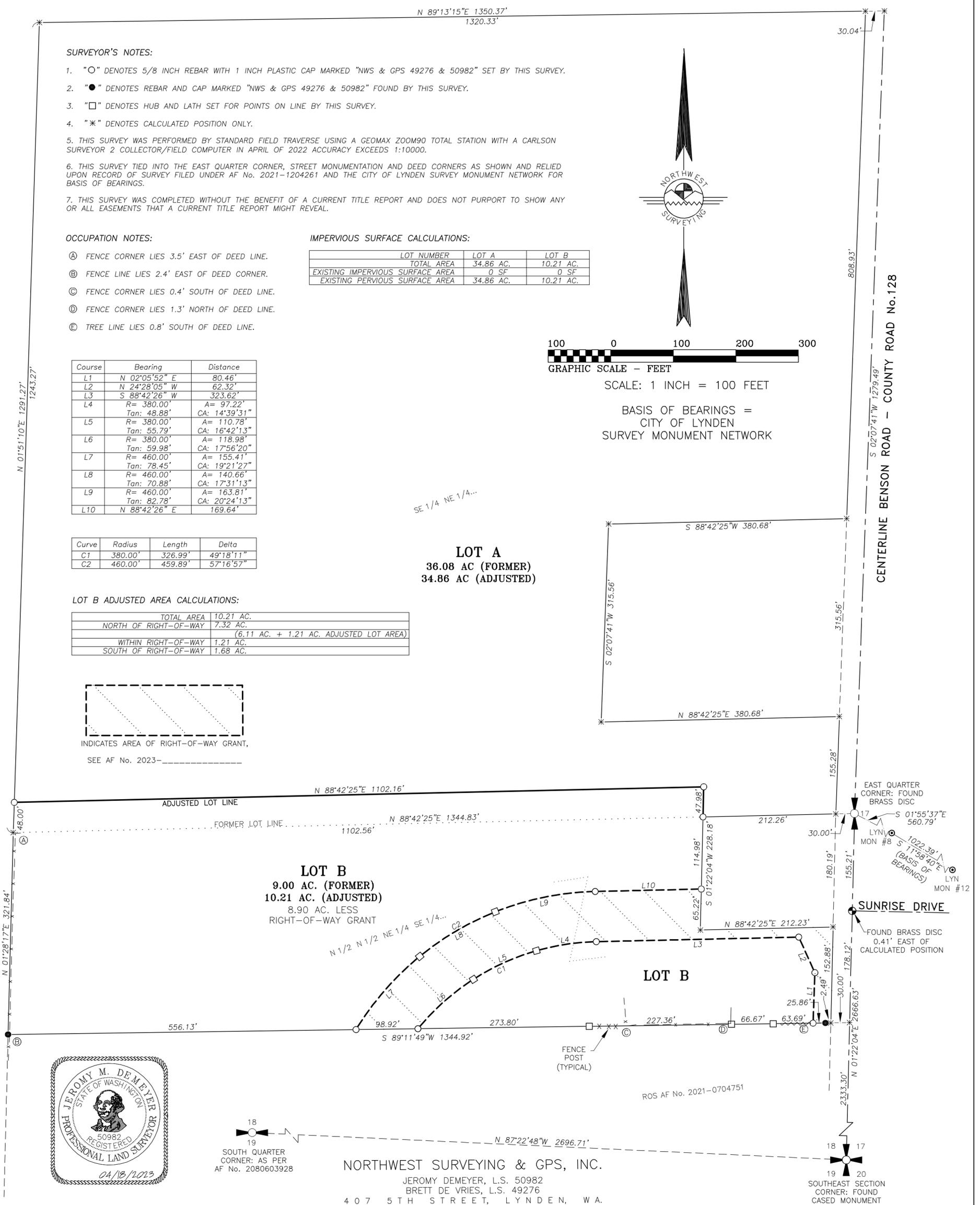
TOTAL AREA	10.21 AC.
NORTH OF RIGHT-OF-WAY	7.32 AC.
(6.11 AC. + 1.21 AC. ADJUSTED LOT AREA)	
WITHIN RIGHT-OF-WAY	1.21 AC.
SOUTH OF RIGHT-OF-WAY	1.68 AC.



SE 1/4 NE 1/4...

LOT A
36.08 AC (FORMER)
34.86 AC (ADJUSTED)

LOT B
9.00 AC. (FORMER)
10.21 AC. (ADJUSTED)
8.90 AC. LESS
RIGHT-OF-WAY GRANT



18
19
SOUTH QUARTER CORNER: AS PER AF No. 2080603928

NORTHWEST SURVEYING & GPS, INC.
JEROMY DEMEYER, L.S. 50982
BRETT DE VRIES, L.S. 49276
407 5TH STREET, LYNDEN, WA.
PH. 360.354.1950 NWSURVEY.COM

18 17
19 20
SOUTHEAST SECTION CORNER: FOUND CASED MONUMENT (2021)

ROS AF No. 2021-0704751

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	August 21, 2023	
Name of Agenda Item:	Res 23-1078 Design Stds Variance 23-01 – Walnut Street	
Section of Agenda:	Public Hearing	
Department:	Planning & Community Development Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft Res 23-1078, TRC Report and Recommendation, REVISED Application for Design Standards Variance 23-01 – Walnut Street	
Summary Statement:	<p>JWR Design, on behalf of Pacific Edge Builders, has applied for a Design Standards Variance related to improvements to a public right-of-way. Pacific Edge, a local developer / contractor, desires to construct a commercial building on a vacant lot at the terminus of Walnut Street, adjacent to the railroad tracks, addressed as 315 Walnut Street.</p> <p>Development here triggers a requirement to improve street frontage at the project’s address that would include curb, gutter, sidewalk and paving of drive aisles. However, because the entire dead-end street is relatively unimproved the applicant is proposing an alternate standard. The application proposes to pave approximately 440 linear feet at 20 feet wide, centered on the 60-foot public right-of-way. This project would provide improvement along the entire street rather than meet a ¾ street standard improvement exclusively along the 70 feet of the property’s frontage as required by code (Engineering Design and Development Standards Div 4.3 (C) and Table 4-1.).</p> <p>The project will preserve parking on both sides of the street and will not hinder existing access points. Initially a gravel pedestrian walkway was proposed with the variance application but this was removed as it would be impractical and difficult to maintain with truck and vehicle traffic crossing and parking in the same area. The applicant also provided a cost estimate which indicated the varied standard would actually cost considerably more than the code-required standard.</p> <p>The Technical Review Committee has completed a final report and recommendation to approve with specific clarifications and conditions as detailed in Res 23-1078.</p>	
Recommended Action:	Motion to approve Resolution 23-1078 granting a Design Standards Variance 23-01 with specific conditions regarding paving and maintenance of Walnut Street and to authorize the Mayor’s signature on the document.	

CITY OF LYNDEN
CITY COUNCIL RESOLUTION 23-1078

**A resolution of the Council of the City of Lynden, Washington,
to approve Development Standards Variance 23-01 regarding Walnut Street
Standards**

WHEREAS, Pacific Edge Builders, LLC, the owner of a vacant property located at 315 Walnut Street, Tax Assessors Parcel Number 4003204274620000 (the Property), desires to construct a commercial structure on the Property; and

WHEREAS, the development of the Property as proposed, triggers the requirement to improve the property’s frontage to a ¾ street standard per City of Lynden Design Standards Division 4.3(C) and Table 4-1; and

WHEREAS, the Property has approximately 70 feet of frontage and is located at the north terminus of Walnut Street, which is a dead-end street adjacent to the railroad corridor approximately 440 feet in length; and

WHEREAS, the 60-foot wide right of way of Walnut Street is relatively unimproved consisting primarily of uneven chip-sealed surface in poor condition; and

WHEREAS, the property owner has submitted an application to vary the engineering design standard related to frontage improvements so that rather than improve the Property’s 70 feet of frontage the Owner will instead pave the length of Walnut Street, approximately 440 linear feet, at a width of 20 feet; and

WHEREAS, the proposed variance is more costly than the code-required frontage improvements; and

WHEREAS, the proposed variance would benefit all property owners on Walnut Street and is a more practical improvement than frontage improvements along the last 70 feet of the street, and

WHEREAS, the City Council has the authority to vary an Engineering Design Standard when the proposal meets the criteria of LMC 17.17.040, that practical difficulties render it difficult (and impractical) to carry out the provisions of the standards; and

WHEREAS, granting the variance would be in harmony with the general purpose of the intent of the provisions. Public safety would be secured, the spirit of the standards observes, and substantial justice done; and

WHEREAS, the City Council held a public hearing on August 21, 2023, to accept public comment regarding the proposed variance to the Engineering Design Standard.

NOW THEREFORE, BE IT RESOLVED by the Lynden City Council to approve Development Standards Variance 23-01 concerning improvements to Walnut Street under the following conditions:

Section 1: Conditions of Approval

1. Specifications: Paving on Walnut Street must substantially match the drawing submitted with the variance application on August 14, 2023 detailing 20 feet of pavement centered on the 60 foot right-of-way and preservation of parking areas.
2. Timeline: The paving of Walnut Street must be completed prior to the issuance of occupancy for the proposed commercial structure at 315 Walnut Street.
3. Potential Impact Fee Credit is Acknowledged: Contributions made to the Walnut Street paving project which exceed the cost of code-required ¾ street improvement at the property’s frontage may be credited toward the commercial structure’s traffic impact fees. Actual costs of the paving project must be provided to the City prior to application of the credit.
4. Agreement: The Public Works Department will require the applicant to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) as part of future application requests.
5. Stormwater: A street encroachment permit is required for the proposed paving project. The permit plans must indicate the slope and grading of the new paving project so that stormwater is not directed toward Grover Street and is retained within the street right-of-way boundaries. It is likely the application could demonstrate exemption to minimum requirements per I-3.2 of the 2019 Stormwater Management Manual for Western Washington as a pavement maintenance project consistent with overlaying asphalt pavement which does not expand the area of coverage.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF _____ IN FAVOR,
_____ AGAINST, SIGNED THIS _____ DAY OF AUGUST 2023.

MAYOR

Scott Korthuis

ATTEST:

Pam Brown, City Clerk

APPROVED AS TO FORM:

Bob Carmichael, City Attorney

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	August 16, 2023
Project Name:	DSV #23-01, Walnut Street / Pacific Edge DSV
Applicant:	JWR Design
Property Owner:	Pacific Edge Properties LLC
Site Address:	315 Walnut Street, Lynden
Zoning Designation:	CSL
Application Type:	Development Standards Variance
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Development Standards Variance meets the criteria found within Section 17.17.040 of the Lynden Municipal Code.
Date application determined complete:	July 24, 2023
Date of Publication:	August 2, 2023
SEPA Determination:	N/A
Project Description:	Applicant is requesting a Development Standards Variance requesting to vary the requirement outlined in Section 4.3 (C) and Table 4-1 of the City of Lynden Design and Development Standards. The applicant is proposing to improve Walnut Street with a maintenance project of 440 linear feet of asphalt paving (at a 20-foot width) instead of a code-required frontage improvement of 70 linear feet at a 3/4 street standard.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on July 24, 2023. The notice of application was published on August 2, 2023. After initial staff review a revised application and drawing was submitted on August 14, 2023 which is the proposal which is being brought forward for Council consideration and public hearing.

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

Project Summary

The property owners, Pacific Edge Builders, are proposing to build a new office building at the terminus of Walnut Street at 315 Walnut Street. Per code, development of the site triggers the requirement to improve the property's 70-foot frontage to a minimum $\frac{3}{4}$ Street standard. This would include 70 feet of curb, gutter, and sidewalk on the west side of the street as well as the paving of drive lanes. As the property in question is located at the end of Walnut Street, which is a relatively unimproved dead-end road, that abuts a portion of the unused Burlington Northern Railroad Track the applicant is proposing a more practical improvement that would improve the entire 440 feet of street length rather than the final 70 feet.

Walnut Street at the intersection of Grover Street



The estimated cost of work for the variance option is considerably higher than the cost of the code-required $\frac{3}{4}$ street improvement for 70 linear feet but the applicant desires to provide a more practical improvement to the neighborhood rather than an isolated improvement at the terminus of the street.

The variance details a maintenance project of paving approximately 440 linear feet from the intersection of Walnut and Grover Streets to the terminus of the street where the applicant is proposing to construct at 315 Walnut Street. The variance does not include dedicated pedestrian accommodation but would preserve existing conditions for parking on both sides of the Walnut Street right-of-way and will not prevent the usage of current access points. Dust and gravel tracking onto Grover Street will be reduced by the improvement and stormwater run-off more controlled than the current condition which is a primarily chip-sealed surface in poor condition.

Development Standards Variance

LMC 17.17.040 states, where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done.

Recommendation

The Technical Review Committee (TRC) acknowledges that the applicant has provided a response to each of the development standards variance criteria submitted with the DSV application dated July 12, 2023, but then updated on August 14, 2023 after initial staff review.

The TRC staff agrees that the improvement will benefit neighboring properties and public welfare and meets the criteria of LMC 17.17.040 because of practical difficulties that render it difficult (and impractical) to carry out the provisions of the standards. Granting the variance would be in harmony with the general purpose of the intent of the provisions. Public safety would be secured, the spirit of the standards observes, and substantial justice done.

The TRC recommends approval of the variance under the following conditions and clarifications listed below:

Recommended Conditions of Approval

1. Specifications: Paving on Walnut must substantially match the drawing submitted with the variance application on August 14, 2023.
2. Timeline: The paving of Walnut Street must be completed prior to the issuance of occupancy for the proposed commercial structure at 315 Walnut Street.
3. Potential Impact Fee Credit: Contributions made to the Walnut Street paving project which exceed the cost of code-required ¾ street improvement at the property’s frontage may be credited toward the commercial structure’s traffic impact fees. Actual costs of the paving project must be provided to the City prior to application of the credit.
4. Agreement: The Public Works Department will require the applicant to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) and any required bonding as part of future application requests.
5. Stormwater: A street encroachment permit is required for the proposed paving project. The permit plans must indicate the slope and grading of the new paving

project so that stormwater is not directed toward Grover Street and is retained within the street right-of-way boundaries. It is likely the application could demonstrate exemption to minimum requirements per I-3.2 of the 2019 Stormwater Management Manual for Western Washington as a pavement maintenance project consistent with overlaying asphalt pavement which does not expand the area of coverage.

City of Lynden Technical Review Committee Project Comment Sheet

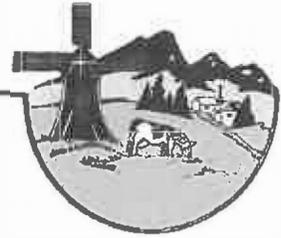
Department:	
Reviewer:	
Review Time in hours	
Date Due:	July 24, 2023
TRC Meeting Date:	August 3 rd (w/proponent)
Date Reviewed:	
Applicant:	JWR and behalf of Pacific Edge Properties LLC
Project Name:	DSV #23-01, Walnut Street DSV
Location:	315 Walnut Street
Project Description:	Applicant is requesting a Development Standards Variance to the requirement outlined in Section 4.3 (C) and Table 4-1 of the City of Lynden Design and Development Standards. The applicant is proposing to improve Walnut Street with a new 20-foot asphalt roadway and a 6-foot pedestrian walkway in place of the typical street standard.

Shaded areas are for Planning Department use only.

Please submit your department’s comments in the space provided below. Please attach additional sheets, sketches or other information necessary and pertinent to the project. Comment sheets should be returned to the Planning Department by the due date noted above, and must include the following:

- 1. The Reviewer’s name and initials;**
- 2. The Department’s list of comments, requests for additional information and proposed conditions for the specific project. These conditions will be used in the report provided to the proponent for the TRC meeting, the Planning Commission and City Council.**

CITY OF LYNDEN



DEVELOPMENT STANDARDS VARIANCE APPLICATION

City of Lynden use only:
DSV # 23-01 Staff Initials: KS

Property Owner

Name: Pacific Edge Properties LLC
 Address: PO Box 467 Lynden WA 98264
 Telephone Number: _____ E-mail Address: 360-739-6836 Ian

Applicant (Agent, Land Surveyor or Engineer)

Name: JWR Design
 Address: 104 Front St. Lynden WA 98264
 Telephone Number: 360-354-0333 E-mail Address: permits@jwrdesign.com

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

Property Information

Project Location (street address / block range): 315 Walnut St.

Variance Request:

Section of the Municipal Code or Engineering Design and Development

Standards to be varied:

Engineering Design Standards Division 4.3 (C) and Table 4-1. New Construction standards.

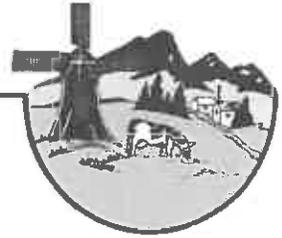
Identify Desired Result:

Allow improvement of Walnut St. with a new 20' asphalt roadway and a 6' pedestrian walkway in place of the typical new construction engineering design standards.

DSV Criteria must be attached

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

Submitted By: Emily G. Riddle Date: 7/10/2023
 Property owner signature: [Signature] Date: 7/10/2023
 Property owner printed name: _____ Date: _____



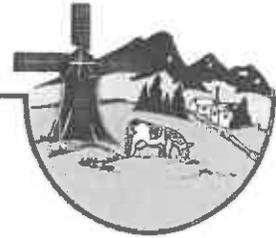
17.17.040 Standards and Criteria for Granting a Variance

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

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;
- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;
- C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.
- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.

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

CITY OF LYNDEN



CRITICAL AREAS CHECKLIST

Section: _____ Township: _____ Range: _____ Parcel Number: 4003204274620000

Site Address: 315 Walnut St.

Proposed Uses: New Office Building

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

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

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

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


Applicant's Signature

7/10/2023
Date

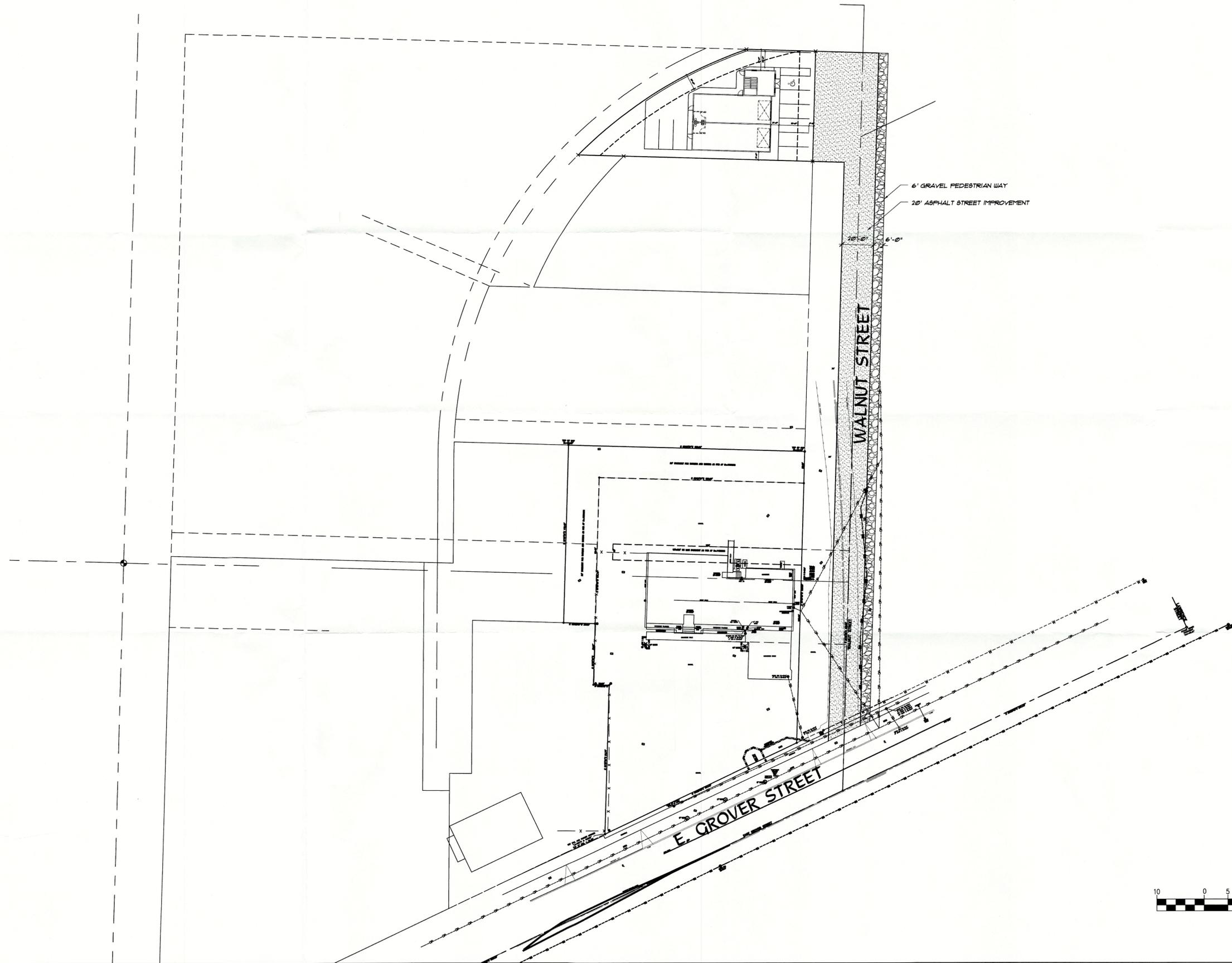
PROJECT NARRATIVE

Pacific Edge Builders is proposing to build a new office building on 315 Walnut St. With the development of this new building, city code requires that the section of the road in front of the new office building, meet city private street minimum requirements, which includes improving the street with sidewalks, curbs, and gutters along the property frontage. According to section 4.3(C), the City can approve a ¾ street section for the improvement of abutting off-site roadways. Walnut St. is an unimproved dead-end street and therefore, no other properties in the vicinity would enjoy the frontage improvement. The owners are requesting to instead, improve all Walnut St. with a 20’ paved roadway with a 6’ pedestrian walkway alongside the paved roadway. There are very few properties that use this street as access, any improvement project here will not complete well with other roadway projects in the City which serve more property owners. The improvement of Walnut St. would not negatively impact neighboring properties or cause any harm to them or the public welfare. The addition of the paved road would greatly improve the gravel/dirt path that is currently serving as Walnut St.

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located.
 - a. This variance being approved will not grant special privilege to the owner and will instead benefit all property owners and civilians who will use Walnut St. Walnut St. is currently old concrete, that is in rough shape, now has gravel over it. Paving this street and placing a walkway along the side, it will be beneficial to all who use and will be using Walnut St.
- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located:
 - a. Due to the property being on the end of Walnut St., a dead-end road, improving only the property frontage will not improve the section of Walnut St. that will be used by other owners. The request to improve the whole street will benefit many more property owners and the city in general.
- C. That the granting of such a variance will not be materially detrimental to the public health, safety, and general welfare; and

- a. This will not cause any harm to public health or safety. The construction of this road will be a quick and simple project to complete. During construction, the area will be blocked off from the public for safety purposes.
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.
 - a. This project will not harm any projects or properties in the vicinity. As I mentioned, this will be blocked off to the public during the short construction period.
- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.
 - a. We believe that this will overall benefit the public as other property owners in the vicinity. Once this project is approved, if required, we will bring on a civil engineer to verify the existing grading and engineer accordingly.

315 WALNUT STREET
 LYNDEN, WA 98264
 PARCEL #4003204274620000



6' GRAVEL PEDESTRIAN WAY
 20' ASPHALT STREET IMPROVEMENT

WALNUT STREET

E. GROVER STREET

REVISIONS	DATE	BY

PLAN#
23-024

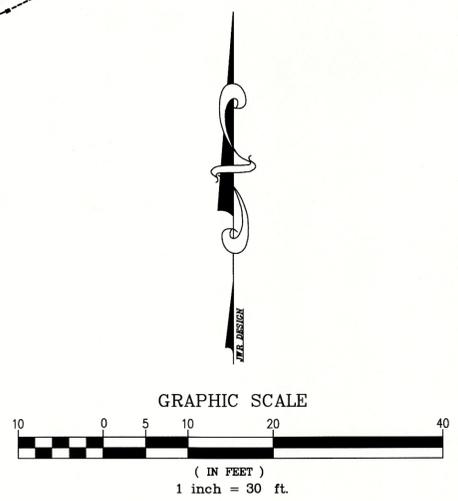
PACIFIC EDGE
 SITE PLAN
 315 WALNUT ST.

JWR Design, Inc.
 104 Front Street
 Lynden, WA, 98264
 (360) 354-0333



DRAWN
JSLB
 DATE
6-26-23
 SCALE
1" = 30'-0"
 CHECKED
FWR
 SHEET

C1
 OF
 C1



CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	August 21, 2023	
Name of Agenda Item:	Res 23-1076 Reconsideration of Text Amendment to LMC 19.22 re Patio Screening and Enclosure	
Section of Agenda:	Unfinished Business	
Department:	Planning & Community Development Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Draft Res 23-1076, Excerpt of the Current City Code LMC 19.22.030	
Summary Statement:	<p>At the June 19 meeting the City Council heard but did not take action on an amendment to LMC 19.22 regarding the screening of covered patios. The Council indicated that additional review may be needed to reach a solution which would allow for a higher degree of enclosure while ensuring adequate ventilation. The Council voted to have the item reconsidered.</p> <p>At the June 21 Community Development Committee meeting this directive was discussed and the Committee concluded that the reconsideration could be reviewed by the Community Development Committee after staff edits. This item is slated to return to the Community Development Committee in September and subsequently to the City Council for review and decision.</p> <p>Resolution 23-1076 documents this decision.</p>	
Recommended Action:	Motion to approve Resolution 23-1076 detailing reconsideration steps of a text amendment to LMC 19.22 regarding the screening and enclosing of covered residential patios within rear setbacks and to authorize the Mayor's signature on the document.	

CITY OF LYNDEN
CITY COUNCIL RESOLUTION NO. 23-1076

**A resolution of the Council of the City of Lynden, Washington,
requesting Planning Staff and the Community Development Committee
to reconsider a proposed amendment to LMC 19.22 regarding
enclosure and screening of patios.**

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

WHEREAS, a proposal was brought forward to amend Lynden Municipal Code (LMC) Title 19, Section 19.22 regarding patio enclosures and screening in order to provide better clarification on the options for securing covered patios with railings or sheltering from sun, wind or visibility; and

WHEREAS, the Lynden Planning Commission held an open record public hearing on May 11, 2023, to accept public comments on the proposed amendment; and

WHEREAS, the Planning Commission recommended adoption of the amendment as described in Resolution No. 23-04; and

WHEREAS, on June 19, 2023, the Lynden City Council held a public hearing to accept public testimony on the proposed amendment to LMC 19.22 and to consider the matters of record to that date; and

WHEREAS, following the public hearing, the City Council did not approve the recommended amendment to LMC 19.22 regarding enclosure and screening of patios⁰ but requested that the Planning Commission reconsider the amendment to allow options by which residents can achieve a higher degree of enclosure for patios; And

WHEREAS, on June 21, 2023, the Community Development Committee discussed the potential edits to the code to allow for additional enclosure while still providing substantial ventilation; and

WHEREAS, the Committee clarified that the edits be reconsidered by Planning, Fire, and Building Staff rather than the Planning Commission and that, upon concluding edits to the language of LMC 19.22 the item would be returned to the Community Development Committee at their September meeting and, if appropriate, slated for return to the City Council for a final decision.

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

- 1) The proposed amendment to LMC 19.22 regarding the screening and enclosing of outdoor patios which was removed from Ord 23-1669 by Council action on June 19,

2023, shall be returned to the Community Development Committee (CDC) for reconsideration within 60 days of the date this resolution.

- 2) The CDC meeting must be open to the public. The CDC may consider additional public comment but is not required to do so for this reconsideration.
- 3) Planning Staff is asked to draft, and the CDC is asked to consider additional options by which residents can achieve a higher degree of enclosure while still allowing for substantial ventilation for patios than allowed in current code or under the prior proposed amendment to LMC 19.22. These standards would then apply to patios that meet the minimum rear setback required for covered patios as described in LMC 19.22.030(E).

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF _____ IN FAVOR, _____ AGAINST, SIGNED THIS _____ DAY OF _____ 2023.

MAYOR

Scott Korthuis

ATTEST:

Pam Brown, City Clerk

APPROVED AS TO FORM:

Bob Carmichael, City Attorney

CITY OF LYNDEN



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

LMC 19.22.030 – Residential architecture and attached garages.

Current Lynden Municipal Code Chapter 19.22.030(E)

E. Porches, Stoops, Decks, and Patios.

1. Porches and Stoops.

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

2. Decks and Patios.

- a. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line.
- b. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - i. Remains open on three sides and is not enclosed in any way;
 - ii. Does not come within eighteen feet of the rear property line;
 - iii. Does not encroach more than two feet into the side yard setbacks of the underlying zone; and,
 - iv. The addition does not exceed the permitted lot coverage.
- c. Deck or patio privacy screening or fencing which is located more than six feet from the property line, may be up to eighty-four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six feet above grade.

(Ord. No. 1657, § C(Exh. A), 12-19-2022)

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Resolution of Support for County Jail Proposition	
Section of Agenda:	New Business	
Department:	Executive	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Resolution 23-1077	
Summary Statement:	<p>On Tuesday, November 7, 2023, Whatcom County voters will vote on an initiative to fund a new jail and behavioral health services. The proposition titled "PUBLIC HEALTH, SAFETY, AND JUSTICE SALES AND USE TAX," on the November 2023 general election ballot, would authorize a sales and use tax of two-tenths of one percent (20 cents per \$100) for costs associated with a new Whatcom County jail and other behavioral health, supportive housing, public safety, and criminal justice services. The city would commit a portion of its revenue from this sales tax to the construction of the new facility.</p>	
Recommended Action:	Adopt the resolution and authorize the Mayor to sign Resolution 23-1077.	

RESOLUTION NO. 23-1077

A RESOLUTION IN SUPPORT OF PROPOSITION NO. _____,* “PUBLIC HEALTH, SAFETY, AND JUSTICE SALES AND USE TAX”

WHEREAS, The Lynden City Council recognizes that there are multiple deficiencies with Whatcom County’s existing public safety facility (“jail”), including life-safety issues; and

WHEREAS, on Tuesday, November 7, 2023, Whatcom County voters will vote on an initiative to fund a new jail and behavioral health services; and

WHEREAS, in August of 2019, the Whatcom County Council passed Resolution 2019-036, which identified the need to strive for conditions where the cycle of incarceration is broken rather than perpetuated, with continued support and focus on mental health and substance use disorder treatment and diversion rather than incarceration; and

WHEREAS, Resolution 2019-036 established a workplan to develop a public health, safety, and justice facility needs assessment (“Justice Project”) and prioritized community engagement to guide its development and established a Stakeholder Advisory Committee (“SAC”) to guide the development of the needs assessment; and

WHEREAS, Resolution 2019-036 concluded that “all parties believe there is a need for an improved County jail, and that voters will approve a proposal that addresses the communities’ full range of needs and values with a combined public health and public safety initiative that focuses on reducing our need for jail by funding treatments options first, and is built with community input”; and

WHEREAS, on July 14, 2022, the Whatcom County Council received a letter from the mayors of Whatcom County's seven cities requesting that the County “dramatically accelerate” plans to build a new jail facility; and,

WHEREAS, on February 21, 2023, the Whatcom County Council approved Resolution 2023-006, accepting the SAC's Justice Project Needs Assessment Report and identifying the next steps to create a Justice Project Implementation Plan; and

WHEREAS, on June 6, 2023, the Whatcom County Council received a letter from the mayors of Whatcom County's seven cities recognizing the role and responsibility of the cities in supporting this effort, and collectively calling on the County to place a sales tax measure to support the effort on the November 2023 ballot; and

WHEREAS, on July 11, 2023, the Whatcom County Council approved Ordinance No. 2023-039, providing for submission of a proposition to the qualified electors of Whatcom County, pursuant to the requirements of RCW 82.14.450, authorizing the collection of a local sales and use tax of two-tenths of one percent for the purpose of providing funds for costs associated with public health, safety, and justice facilities and services, including behavioral health, supportive housing, public safety, and criminal justice facilities and programs, and

WHEREAS, Ordinance No. 2023-039 adopts the Justice Project Implementation Plan, which was developed with extensive community input and participation; and

WHEREAS, Ordinance No. 2023-039 indicates that adequate funding should be provided to accomplish the goals established in the Justice Project Implementation Plan, such as

construction of a new jail, construction of new behavioral health facilities, and investment in behavioral health, re-entry, supportive housing, and diversion facilities and services; and,

WHEREAS, Ordinance No. 2023-039 acknowledges the cities' request to (1) eliminate booking restrictions through the construction of a new, appropriately-sized jail facility based on a fair analysis of jail use, bookings, and population growth (taking into consideration strategic investments to avoid unnecessary incarceration), and (2) identify and develop a mechanism to allow for additional bed capacity if the jail facility reaches 85% of operational capacity; and

WHEREAS, Ordinance No. 2023-039 establishes accountability, transparency, and oversight mechanisms that include the participation of a broad spectrum of local elected leaders, justice system officials, individuals who have direct experience in the criminal justice system and community-based behavioral health services, and other experts; and

WHEREAS, the Justice Project Implementation Plan strikes a balance between criminal justice facility needs and ongoing investments in incarceration prevention and community health; and

WHEREAS, the Whatcom County Council and Whatcom County Executive have agreed that voter approval of the proposed local sales and use tax of two-tenths of one percent for the purposes listed above will benefit the safety and welfare of the residents of Whatcom County; and

WHEREAS, the Lynden City Council agrees that the construction of a new jail facility and increased investment in community-based behavioral health services is in the best interest of Lynden and its citizens.

NOW, THEREFORE, BE IT RESOLVED by the Lynden City Council that it supports the passage of Proposition No. _____ * "PUBLIC HEALTH, SAFETY, AND JUSTICE SALES AND USE TAX," on the November 2023 general election ballot, which would authorize a sales and use tax of two-tenths of one percent (20 cents per \$100) for costs associated with a new Whatcom County jail and other behavioral health, supportive housing, public safety, and criminal justice services.

*Proposition number to be determined once filed and accepted by Whatcom County Elections Office

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, ____ IN FAVOR ____ AGAINST AND SIGNED BY THE MAYOR THIS 21st DAY OF AUGUST, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY - FINANCE



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Ord-23-1672 Fire Station LTGO Bond 2023	
Section of Agenda:	New Business	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Ord-23-1672 Fire Station LTGO Bond 2023		
Summary Statement:		
<p>Resolution No. 1032 was approved by Council on February 16, 2021. It provided for the establishment of an inter-fund loan from the Water Fund (F401) as interim financing for the Fire Station remodel project. The terms of Resolution No. 1032 stated that the City, within three years, would need to establish a commercial loan as permanent funding and re-pay the inter-fund loan.</p> <p>Ordinance No. 23-1672 establishes a longer-term Limited Tax General Obligation Bond (LTGO) through Peoples Bank here in Lynden as the long term funding source required by Resolution No. 1032. The amount of the Bond is for \$2,200,000 for a term of 15 years at a fixed rate of 5.18%. The City's Bond Counsel K&L Gates and Finance Director have reviewed the terms of the Bond prior to its review by the Finance Committee on August 21, 2023.</p> <p>The Finance Committee agreed to the approval of the Bond in their August 21, 2023 meeting and has forwarded the Ordinance to the full Council.</p>		
Recommended Action:		
That the Council approve Ord-23-1672 as presented and authorize the Mayor's signature.		

CITY OF LYNDEN, WASHINGTON

LIMITED TAX GENERAL OBLIGATION BOND, 2023

ORDINANCE NO. 23-1672

AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,200,000 TO PROVIDE FUNDS TO COMPLETE CAPITAL PROJECTS OF THE CITY; AND ACCEPTING THE OFFER OF PEOPLES BANK TO PURCHASE THE BOND.

APPROVED ON AUGUST 21, 2023

PREPARED BY:

K&L GATES LLP

CITY OF LYNDEN, WASHINGTON
ORDINANCE NO. 23-1672

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Exhibit A – Term Sheet

* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

ORDINANCE NO. 23-1672

AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A LIMITED TAX GENERAL OBLIGATION BOND IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$2,200,000 TO PROVIDE FUNDS TO COMPLETE CAPITAL PROJECTS OF THE CITY; AND ACCEPTING THE OFFER OF PEOPLES BANK TO PURCHASE THE BOND.

WHEREAS, the City of Lynden, Washington (the “City”) is in need of funds to complete a construction project (the “Project”); and

WHEREAS, the City is authorized by Title 35 and ch. 39.46 to issue general obligation bonds payable from, *inter alia*, regular tax levies of the City; and

WHEREAS, the City Council (the “Council”) has determined that all or a portion of the costs of the Project should be financed through the issuance of a limited tax general obligation bond of the City in the principal amount of not to exceed \$2,200,000 (the “Bond”); and

WHEREAS, the City has received the offer of the Peoples Bank to purchase the Bond in a commitment letter dated July 25, 2023 (the “Term Sheet”) which offer this Council wishes to accept and approve;

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

Section 1. Definitions. As used in this ordinance, unless a different meaning clearly appears from the context:

Bank means Peoples Bank, Lynden, Washington

Bond means the City of Lynden, Washington Limited Tax General Obligation Bond, 2023, to be issued in the aggregate amount of not to exceed \$2,200,000 issued pursuant to this ordinance.

Bond Counsel means K&L Gates LLP.

Bond Fund means the Limited Tax General Obligation Bond Redemption Fund, 2023 created pursuant to Section 9 of this ordinance.

Bond Register means the registration records maintained by the Bond Registrar for the purpose of identifying ownership of the Bond.

Bond Registrar, initially, means the Finance Director. At any time following the issuance of the Bond, however, the Finance Director may determine to appoint a different Bond Registrar, including, but not limited to the fiscal agent of the State of Washington. The term **Bond Registrar** also shall include any successor Bond Registrar appointed by the Finance Director as permitted by law.

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

City Administrator means the duly qualified, appointed and acting City Administrator of the City, or any other officer who succeeds to the duties now delegated to that office.

Closing Date means the date of issuance and delivery of the Bond to the Bank.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Council means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

Designated Representative means any of the following: (a) the Mayor and/or (b) the Finance Director or (c) any official or employee of the City designated in writing by any of the foregoing.

Final Maturity Date means December 1, 2038.

Finance Director means the duly qualified, appointed and acting Finance Director of the City, or any other officer who succeeds to the duties now delegated to that office.

Interest Rate means 5.18%.

Mayor means the duly qualified, elected and acting Mayor of the City, or any other person who succeeds to the duties now delegated to that office.

Project means the remodeling of the fire station.

Project Fund means the fund maintained pursuant to Section 7 of this ordinance.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register.

Rule means the SEC's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

SEC means the United States Securities and Exchange Commission.

Term Sheet means the Term Sheet from the Bank dated July 25, 2023 and attached hereto as Exhibit A.

Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this ordinance;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Project; Authorization of Bond and Bond Details.

(a) *Project.* The City is remodeling its fire station. It is anticipated that the entire proceeds of the Bond will be used for completing the remodeling project. Nevertheless, in the event that Bond proceeds remain unspent upon completion of the remodeling project, the proceeds may be used for other capital purposes approved by the Council (collectively, with fire station project, the “Project”). The proceeds of the Bond shall be used to fund or reimburse the City for the costs of the Project and for the costs of selling the Bond.

(b) *Authorization of Bond and Bond Details.* For the purpose of funding or reimbursing the costs of the Project and paying the costs of issuance related thereto, the City shall issue its limited tax general obligation bond in the principal amount of not to exceed \$2,200,000 (the “Bond”).

The Bond shall be designated as the “City of Lynden, Washington, Limited Tax General Obligation Bond, 2023,” shall be dated as of the Closing Date, shall be fully registered as to both principal and interest, shall be issued as a single fully registered

bond, and shall be numbered in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification.

The Bond shall bear interest at the per annum Interest Rate, payable on the date(s) and maturing in principal amount(s) set forth in the form of the Bond (set forth in Section 5 of this ordinance. The Bond shall be payable in annual installments of interest and principal, with the first payment due on December 1, 2024 and the final payment due on the Maturity Date.

Section 3. Registration, Exchange and Payments. The City’s Finance Director shall act as Bond Registrar. The duties of the Bond Registrar hereunder shall be limited to authenticating the Bond and to remitting money to the Bank on the payment dates as provided therein. Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Installments of principal of and interest on the Bond shall be paid by check, wire, or electronic transfer on the date due to the Bank; *provided, however,* upon final payment of all installments of principal and interest thereon, the Bond shall be submitted to the Bond Registrar for cancellation and surrender.

The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond and to carry out all of the Bond Registrar’s powers and duties under this ordinance.

The Bond shall not be transferable, except in whole to a financial institution subject to the further limitations set forth in the Term Sheet.

Section 4. Prepayment. The Bond shall be subject to prepayment, if any, commencing after December 1, 2028, as provided in the Term Sheet.

Section 5. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

[\$2,200,000]

STATE OF WASHINGTON

CITY OF LYNDEN

LIMITED TAX GENERAL OBLIGATION BOND, 2023

INTEREST RATE: 5.18% per annum

FINAL MATURITY DATE: December 1, 2038

REGISTERED OWNER: PEOPLES BANK
P.O. BOX 233
LYNDEN, WA 98264

TAX IDENTIFICATION #: _____

PRINCIPAL AMOUNT: TWO MILLION TWO HUNDRED THOUSAND] AND NO/100 DOLLARS

THE CITY OF LYNDEN, WASHINGTON, a municipal corporation organized and existing under and by virtue of the laws and Constitution of the State of Washington (the "City"), hereby acknowledges itself to owe, and for value received promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount specified above, together with interest thereon, at the Interest Rate, payable in annual installments as set forth below:

AMORTIZATION SCHEDULE

Principal \$2,200,000.00	Loan Date 08-10-2023	Maturity 12-01-2038	Loan No 5012601-201	Call / Coll A	Account 14959	Officer 1124	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "*****" has been omitted due to text length limitations.							

Borrower: CITY OF LYNDEN
300 4th STREET
LYNDEN, WA 98264-1905

Lender: PEOPLES BANK
LYNDEN OFFICE
418 GROVER STREET
PO BOX 233
LYNDEN, WA 98264
(800) 584-8859

Disbursement Date: August 10, 2023
Interest Rate: 5.180

Repayment Schedule: Installment
Calculation Method: 365/365 U.S. Rule

Payment Number	Payment Date	Payment Amount	Interest Paid	Principal Paid	Remaining Balance
1	12-01-2024	217,811.36	149,267.21	68,544.15	2,131,455.85
2	12-01-2025	217,811.36	110,383.79	107,427.57	2,024,028.28
3	12-01-2026	217,811.36	104,844.66	112,966.70	1,911,061.58
4	12-01-2027	217,811.36	98,992.99	118,818.37	1,792,243.21
5	12-01-2028	217,811.36	92,859.74	124,951.62	1,667,291.59
6	12-01-2029	217,811.36	86,345.66	131,465.70	1,535,825.89
7	12-01-2030	217,811.36	79,555.78	138,255.58	1,397,570.31
8	12-01-2031	217,811.36	72,394.14	145,417.22	1,252,153.09
9	12-01-2032	217,811.36	64,876.58	152,934.78	1,099,218.31
10	12-01-2033	217,811.36	56,926.29	160,885.07	938,333.24
11	12-01-2034	217,811.36	48,605.66	169,205.70	769,127.54
12	12-01-2035	217,811.36	39,840.81	177,970.55	591,156.99
13	12-01-2036	217,811.36	30,629.04	187,182.32	403,974.67
14	12-01-2037	217,811.36	20,921.03	196,890.33	207,084.34
15	12-01-2038	217,811.36	10,727.02	207,084.34	0.00

TOTALS: 3,267,170.40 1,067,170.40 2,200,000.00

NOTICE: This is an estimated loan amortization schedule. Actual amounts may vary if payments are made on different dates or in different amounts.

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Interest shall be calculated on the basis of a 365 day year and actual days elapsed.

Both principal of and interest on this bond are payable in lawful money of the United States of America. Payments made to the Registered Owner shall be applied first to accrued interest and then to principal as of the date such payment is actually received by the Registered Owner. Installments of the principal of and interest on this bond shall be paid by check or draft of the Finance Director of the City (the "Bond Registrar") mailed on

the date such principal and interest is due or by electronic funds transfer made on the date such interest is due to the Registered Owner at the address appearing on the Bond Register. Upon final payment of all installments of principal and interest thereon, this bond shall be submitted to the Bond Registrar for cancellation and surrender.

This bond may be prepaid in accordance with the terms set forth in the Term Sheet included as Exhibit A to Ordinance No. 23-1672 of the City Council adopted on August 21, 2023 (the "Bond Ordinance).

This bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and the Bond Ordinance. Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar.

This bond is issued pursuant to the Bond Ordinance for providing funds to complete the fire station remodeling project and for other capital projects of the City.

By the Bond Ordinance, the City has irrevocably covenanted that, unless the principal of and interest on this bond are paid from other sources, it will make annual levies of taxes without limitation as to rate or amount upon all of the property in the City subject to taxation for the payment of debt service on the Bond in amounts sufficient to pay such principal and interest as provided in the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and for the payment of such principal and interest.

This bond has been designated by the City as a "qualified tax-exempt obligation" for investment by financial institutions under Section 265(b) of the Code.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Lynden, Washington, has caused this bond to be signed on behalf of the City with the manual or facsimile signature of the Mayor, to be attested by the manual or facsimile signature of the Clerk of the City, and a facsimile of the seal of the City to be impressed, imprinted or otherwise reproduced hereon, as of this ____ day of _____, 2023.

[SEAL]

CITY OF LYNDEN, WASHINGTON

By /s/ manual or facsimile signature
Mayor

ATTEST:

 /s/ manual or facsimile signature
City Clerk

The Certificate of Authentication for the Bond shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is the bond described in the within-referenced Bond Ordinance as the City of Lynden, Washington Limited Tax General Obligation Bond, 2023, dated _____, 2023.

FINANCE DIRECTOR OF THE CITY
OF LYNDEN, as Bond Registrar

By _____
Authorized Signer

Section 6. Execution of Bond. The Bond shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk, and the seal of the City shall be impressed, imprinted or otherwise reproduced thereon. The Bond shall not be valid or obligatory for any purpose or entitled to the benefits of this ordinance unless and until a Certificate of Authentication, in the form hereinbefore recited, has been manually executed by or on behalf of the Bond Registrar or its duly designated agent.

In case either of the officers who shall have executed the Bond shall cease to be an officer or officers of the City before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, the Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Bond may be signed and attested on behalf of the City by such persons who at the date of the actual execution of the Bond are the proper officers of the City, although at the original date of the Bond any such person shall not have been such officer of the City.

Section 7. Project Fund; Disposition of Bond Proceeds. The proceeds of the Bond shall be deposited into a project account and used to pay or reimburse the City for the costs of the fire station remodeling project and, if unspent funds remain, other capital projects of the City and to pay costs of issuance of the Bond.

The Finance Director shall invest the net proceeds of the Bond in such obligations as may now or hereafter be permitted to cities of the State of Washington by law and that will mature prior to the date on which such money shall be needed. Earnings on such investments, except as may be required to pay rebatable arbitrage pursuant to the Federal Tax Certificate, if any, may be used for City purposes or transferred to the Bond Fund for the uses and purposes therein provided.

Section 8. Tax Covenants; Special Designation.

(a) *Arbitrage Covenant.* The City hereby covenants that it will not make any use of the proceeds of sale of the Bond or any other funds of the City which may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code which will cause the Bond to be an “arbitrage bond” within the meaning of said section and said regulations. The City will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the Bond) and the applicable regulations thereunder throughout the term of the Bond.

(b) *Designation under Section 265(b) of the Code.* The City hereby designates the Bond as a “qualified tax-exempt obligation” for purchase by financial institutions pursuant to Section 265(b) of the Code. The City does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during the year 2023 (excluding obligations permitted by the Code to be excluded for purposes of the City’s qualification as a qualified small issuer).

Section 9. Bond Fund and Provision for Tax Levy Payments. A special fund of the City known as the “Limited Tax General Obligation Bond Redemption Fund, 2023” which fund or account may be designated or re-designated in accordance with the practices of the City from time to time (the “Bond Fund”), is hereby authorized to be established and maintained in the office of the Finance Director of the City. The taxes hereafter levied for the purpose of paying principal of and interest on the Bond and other funds to be used to pay the Bond shall be deposited in the Bond Fund no later than the date such funds are required for the payment of principal of and interest on the Bond. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City funds.

The City hereby irrevocably covenants and agrees for as long as the Bond is outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with all other revenues and money of the City legally available for such

purposes, to pay the principal of and interest on the Bond as the same shall become due. All of such taxes so collected and any other money to be used for such purposes shall be paid into the Bond Fund.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bond will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bond. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bond as the same shall become due.

Section 10. Sale of the Bond The City Council hereby ratifies and confirms its acceptance of the Bank’s Term Sheet and to issue the Bond on the terms specified therein and in this resolution. The proper officials of the City are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Bond and the items required to be delivered to the Bank under the terms of the Term Sheet and for proper use and application of the proceeds of sale thereof. The City shall pay \$5,500 (.25% of the initial principal amount of the Bond) as a loan origination fee.

Section 11. Undertaking to Provide Information. The City is exempt from the ongoing disclosure requirements of the Rule by reason of the exemption set forth in subsection (d)(1) of that Rule with respect to the issuance of securities in authorized denominations of \$100,000 or more. The City may undertake to provide certain City operational or financial information to the Bank during the term of the Bond.

Section 12. Ordinance and Laws a Contract with the Bank. This ordinance is adopted under the authority of and in full compliance with the Constitution and laws of the State of Washington. In consideration of the loan made by the Bank, evidenced by the Bond, the provisions of this ordinance and of said laws shall constitute a contract with the Bank, and the obligations of the City and its Council under said laws and under this ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein and in the Bond set forth shall be for the equal benefit of the Bank and any permitted transferee or assignee.

Section 13. Ratification; General Authorization. The Mayor and Finance Director and other appropriate officers of the City are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 14. Severability. If one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement

or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bond.

Section 15. Effective Date. This ordinance shall be effective five days from its passage and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, BY AN AFFIRMATIVE VOTE _____ IN FAVOR, _____ AGAINST, AND SIGNED BY THE MAYOR THIS _____ DAY OF AUGUST, 2023.

CITY OF LYNDEN, WASHINGTON

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

SUMMARY

ORDINANCE NO. 23-1672

AN ORDINANCE of the City of Lynden, Washington, providing for the issuance and sale of a Limited Tax General Obligation bond in the principal amount of not to exceed \$2,200,000 to provide funds to complete capital projects of the City; and accepting the offer of Peoples Bank to purchase the bond.

The full text of this ordinance will be mailed upon request. Contact _____, _____ at _____.

CERTIFICATE

I, the undersigned, City Clerk of the City of Lynden, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 23-1672 of the City Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 21st day of August, 2023.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of August, 2023.

City Clerk

EXHIBIT A

Peoples Bank | P.O. Box 233
 Lynden, WA 98264-0233
 (360) 354-4044
 www.peoplesbank-wa.com
 24-Hour Bankline: (800) 807-3777

July 25, 2023

City of Lynden
 300 4th Street
 Lynden, WA 98264
 Attention: Anthony Burrows Finance Director

Re: Commercial Loan Commitment

Dear Mr. Burrows,

We are pleased to inform you that Peoples Bank is offering to purchase a General Obligation Bond from the City, subject to the following terms and conditions. These terms and conditions may not be all-inclusive but are intended to generally describe this conditional commitment provided to you.

1. **ISSUER:** City of Lynden
2. **AMOUNT:** \$2,200,000.00
3. **PURPOSE OF BOND:** Establish a Term loan in exchange for the City’s limited tax general obligation bond.
4. **COLLATERAL:** The General Obligation Bond (Loan) will be secured by the full faith and credit of the City of Lynden.
5. **TERM:** A maximum 15 years plus 4 months (184 months).
6. **INTEREST RATE:** A fixed rate of interest, for the full term, based upon the 15-year FHLB fully amortizing rate (index) + 0.5% (the margin). The indicative rate today is 5.15%. It is anticipated that the rate will be set at the time the Bank draws documents prior to closing. Closing is anticipated to be on or before September 1st, 2023. Closing is the date of issuance and delivery of the Bond to the Bank.
7. **LOAN FEES:** An origination fee of 0.25% or \$5,500.00 is due upon closing (purchase).
8. **REPAYMENT TERMS:** Fully amortizing payments of principal and accrued interest are to be made annually. The first payment will be due 12/1/2024, and all subsequent payments are due on the first day of December after that. The final payment will be due at maturity on 12/1/2038, for all principal and accrued interest and all charges not yet paid.

9. **PREPAYMENT PREMIUM:** The City will not have the right to prepay principal of this bond in advance of the scheduled payments until after 12/1/2028. After 12/1/28 the City may pay down additional principal without penalty, subject to:
 - a) If the principal is prepaid in full, a penalty will be assessed based on the original principal (\$2,200,000) amount; 5% on or before 12/1/2029, 4% on or before 12/1/2030, 3% on or before 12/1/2031, 2% on or before 12/1/2032, and 1% on or before 12/1/2033. No prepayment penalty will be assessed after 12/1/2033.
 - b) The Bank will re-amortize the subsequent required annual payment(s) of principal and interest following any partial prepayment, based upon the remaining term to maturity.
 - c) At maturity (12/1/2038) the remaining principal and interest and charges (if any) is all due and payable.

10. **SPECIAL TERMS and CONDITIONS:**
 - a) Cynthia Weed of K&L Gates LLP (Bond Council) will provide the Bond upon receiving the approved Ordinance/Resolution from the City, in conformance with the terms set forth by the Bank.
 - b) Provide a legal opinion from Bond Counsel (Cynthia Weed) at closing that this Bond is:
 - i) Legally issued and constitutes a valid and binding general obligation of the City.
 - ii) The City has designated the Bond as a “qualified tax-exempt obligation”.
 - c) It is anticipated that the fixed interest rate will be set before closing, so that an amortization schedule can be provided to bond counsel, who will incorporate that information into the bond.

11. **ACCEPTANCE:** This commitment is not binding unless signed by Issuer and received by us by 5:00 p.m. on August 25th, 2023 at which time the commitment will expire without notice if not so accepted. If, after acceptance, the bond purchase has not closed by September 1st, 2023 this commitment will expire without notice.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

If this conditional commitment is acceptable to you, please sign and return the enclosed copy of this letter prior to the final date of acceptance indicated in Acceptance paragraph above.

We look forward to working with you!

Sincerely,



Peoples Bank

By: Jeffrey H. Jansen

Its: VP/ CLO

Acknowledged and accepted this 27 day of July.

Borrower CITY OF LYNDEN

By: 

Its: FINANCE DIRECTOR

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Presentation of Award- Lynden Wastewater Treatment Plant	
Section of Agenda:	Reports	
Department:	Admin	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: None
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	No Attachments	
Summary Statement:	No Attachments	
Recommended Action:	None	

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	August 21, 2023	
Name of Agenda Item:	Public Works Committee Meeting Minutes August 9, 2023	
Section of Agenda:	Other Business	
Department:	Public Works	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
August 9, 2023 Draft Public Works Committee Meeting Minutes.		
Summary Statement:		
Draft minutes for the August 9, 2023 Public Works Committee meeting.		
Recommended Action:		
For Review		



PUBLIC WORKS COMMITTEE MINUTES

4:00 PM August 9, 2023
City Hall 2nd Floor Large Conference Room

CALL TO ORDER

- Members Present: Councilor Gary Bode, Ron DeValois and Jerry Kuiken
- Council Present: Kyle Strengholt
- Staff Present: Mayor Scott Korthuis; City Administrator John Williams; Public Works Director Jon Hutchings; Programs Manager Mark Sandal; and Sr. Admin. Assistant Jessica King
- Public Present: Marty Gehring, David Vos

ACTION ITEMS

1. **Review Minutes from June 7, 2023**
Action
The minutes from June 7, 2023, were recognized and accepted by the Committee.
2. **Review Minutes from July 5, 2023**
Action
The minutes from July 5, 2023, were recognized and accepted by the Committee.
3. **Recommendation to Award Bid - 3rd and Main Street Intersection Overlay**
Bids were solicited for the 3rd and Main Street Intersection that includes the intersection and extending down each intersection leg, with minor pedestrian ramp reconstruction. This project will be funded in part by a grant from the Transportation Improvement Board. Granite Construction Company was the lowest bidder in the amount of \$324,192.50.
Action
The Committee concurred with the staff recommendation that City Council award the bid for the 3rd and Main Street Intersection Overlay project to Granite Construction Company in the amount of \$324,192.50.
4. **Request to Bring Guide Meridian Sewer Extension Project Directly to September 5 City Council Meeting**
Hutchings explained that staff would like to open and approve bids before the next Public Works Committee meeting. Bid advertisements are August 9th and 16th with the bid opening scheduled for August 24th.

Action

The Committee concurred to have the Guide Meridian Sewer Extension Project bids brought directly to the September 5 City Council meeting for approval if the bids can be offered to Public Works Committee members by email for review prior.

INFORMATION ITEMS

5. Wastewater Treatment Plant Capacity Upgrade Project Update

Hutchings reminded the Committee that pros and cons for the design-build process were presented at the July 5th meeting, with the Committee concurring in preference of the traditional design-bid-build delivery for the maintenance building relocation phase of the project.

He explained that the main body of the project is now ripe for decision about delivery. To that end, the project team reviewed the preliminary engineering analyses to date and verified that (1) the original scope of improvements is still optimal for the desired increase in capacity, (2) the project elements can be most cost effectively delivered using a mix of design-build and design-bid-build options, and (3) retaining a prime contractor for the highest-risk improvements is clearly in the City’s best interest. The team refined the phasing and delivery plan accordingly. The next phase to contract will be the MLE retrofits using a progressive-design-build delivery contract managed by the Washington Division of Enterprise Services at \$12- to \$15 million. Construction of this phase will rely on a State Revolving Fund loan (\$1.9M is already borrowed to finance design). With the committee’s affirmation, the team will (1) amend BHC’s consultant contract to submit a SRF application in September and (2) bring a contract to the full Council to secure a prime contractor to prepare a 50%-design Investment Grade Audit/Construction Cost Estimate. The next decision point for this project phase will be a construction contract in Spring 2024 and followed by construction in 2025-2026.

Sandal clarified that under the design-build process, the prime contractor has a financial liability/responsibility to maintain uninterrupted operation of the plant.

Hutchings noted that this progressive-design-build process delivers a guaranteed maximum construction cost based on 50% design. That cost is the basis for the construction contract. There is a third-party manager from the Department of Enterprise Services to oversee and help administer the contract, offering additional comfort and protection for the customer.

6. Projects Update

The Committee briefly reviewed the current projects.

NEW BUSINESS:

7. Cedar Drive Project Update

Residents from Cedar Drive attended the meeting. Hutchings observed that the City is working through the various sewer utility questions, including the unresolved property boundary where a sewer pump station was proposed. At question is whether the pump station solution makes sense given the \$1.5M cost estimate and property question. Given those constraints, it is likely that the City will resort to repairing and continuing to use the existing pipe that currently crosses the creek in this area. He noted that if it is

determined that a pump station is not needed, then the project will go to construction in early 2024.

Vos asked about the previous minutes' reference to a 30% design completion. Korthuis explained how that reference was based on a typical design time frame. Unfortunately, the City's engineering firm has been backlogged which has delayed the process. He expressed disappointment that the project has been delayed further.

Bode said the City shouldn't place the pump station cost burden on the taxpayers.

Gehring asked what the City needed from Washinton Department of Fish and Wildlife (WDFW) to move forward with the project and what the timeframe would be, and if the design would be complete by Spring 2024. Bode explained that the City must wait for WDFW approval first and isn't sure of the timeframe for that. Hutchings added that the WDFW participation is the determining factor in proceeding before getting a clear timeframe to deliver the project.

8. Fallen Tree in Fishtrap Creek

Bode asked the status of removing the tree from Fishtrap Creek. Sandal said he surveyed the problem and that he is hoping to meet at the site with the engineer working the bank stabilization for the trail project to investigate options. Korthuis asked if the tree could be removed from the creek behind VanderGriend Lumber so that the affected homeowner's property is not eroded more. Sandal responded that he believes that a solution along those lines is forthcoming.

9. DNA Testing for High Fecal Coliform Counts near Fairgrounds

Strengholt asked if testing had been completed. Korthuis said that testing was done but was not sure what samples were tested recently. Hutchings added that additional testing has been done by the County but had not been given the results on that yet. He explained that there are DNA nuances that can determine whether the contamination is due to wildlife, but not specifically what type of animal. DeValois asked what control the City has if it's wildlife contamination. Hutchings said that there is no way to regulate this.

10. Fluoride Water Testing

Bode said he had asked Mike Kim at the Water Treatment Plant to see how much natural fluoride is occurring in the water before the water is treated. He was provided with test result of a .07-.10 ppm of naturally occurring fluoride. The target for finished water is 0.7 ppm. The naturally occurring amount of fluoride is approximately 1/10 of final fluoride level.

Bode said that there is state law for proposing fluoride change requiring a 90-day delay to notify people. Korthuis suggested more internal research before starting the 90-day window. Williams said that the City attorney has been conferred with for the correct process of proceeding with the new law based on the 90-day period.

Action

The Public Works Committee acknowledged that more educational research should be done.

11. Crosswalk Safety

Committee members expressed concern about crosswalks on City streets. Kuiken asked about crosswalks on Bender Road and Strengholt asked about crosswalks on 19th Street. Williams said he spoke with the police chief and that there will be crossing enforcement starting soon.

ADJOURNMENT: The meeting was adjourned at 5:20 pm.

NEXT MEETING: September 6, 2023

DRAFT