



Mayor  
Scott Korthuis

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

City Council Agenda - Regular Meeting  
City Hall Annex, 205 4<sup>th</sup> Street  
November 18, 2019

**Call to Order**

**Pledge of Allegiance**

**Roll Call**

**Oath of Office**

**Approval of Minutes**

1. Draft Council Minutes- November 4, 2019

**Items from the Audience**

***Scheduled***

***Unscheduled (20 Minutes)***

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

**Consent Agenda**

2. Approval of Payroll and Claims
3. Set the Public Hearing – Ordinance No. 1594- Impact Fee Deferral Program
4. Resolution No. 1010 – Net Increase in the revolving Cash Fund
5. Resolution No. 1012 - Request to Cancel Warrant #73716
6. Set Date for the Final Public Hearing on the 2020 Preliminary Budget

**Public Hearing**

7. Development Standards Variance, #19-03 – Front Street Station Business Park

**Unfinished Business**

**New Business**

- [8.](#) Conditional Use Permit 19-01 – Front Street Station Business Park
- [9.](#) Site Specific Rezone 19-01 – Bouma Property
- [10.](#) Ordinance No. 1595 – Real Estate Property Tax 2020
- [11.](#) Easement Agreement Form for Fence or Vegetation in City Property Located in Pepin Creek Corridor
- [12.](#) Interlocal Agreement with Whatcom County to Establish Cost Sharing Partnership for Licensed Pictometry Imagery and Software

**Other Business**

- [13.](#) Draft Public Works Committee Meeting Minutes - November 13, 2019
- [14.](#) Outlook Calendar

**Executive Session**

**Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Draft Council Minutes- Regular Meeting	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
		<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft Council Minutes- Regular Meeting	
<b>Summary Statement:</b>	Draft Council Minutes- Regular Meeting	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



November 4, 2019

### 1. CALL TO ORDER

Mayor Korthuis called to order the November 4, 2019 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

### ROLL CALL

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

Members absent: None.

Staff present: Finance Director Anthony Burrows, Planning Director Heidi Gudde, City Clerk Pam Brown and City Administrator Mike Martin.

### OATH OF OFFICE - None

### APPROVAL OF MINUTES

***Councilor Wohlrab moved and Councilor Kuiken seconded to approve the regular council minutes of October 21 with the noted correction on page two. Motion approved on a 7-0 vote.***

### ITEMS FROM THE AUDIENCE

**Scheduled: None**

**Nonscheduled:**

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

Cynthia thanked the council members for their work and dedication to the community. She stated that she wished each of them well in the upcoming election. She also discussed Initiative Measure No. 1004 which requires that physicians notify parents or grandparent before performing abortion on minors, with exception for medical emergencies or by court order, and provide criminal penalties for violations.

Nikki Turner, 748 Homestead Blvd, Lynden

Ms. Turner expressed her appreciation to council and staff. She stated that running for elected office has given her a new perspective and better understanding of what council does on behalf of the community.

# CITY OF LYNDEN



## CITY COUNCIL MINUTES OF REGULAR MEETING

### 2. CONSENT AGENDA

#### Approval of Payroll Disbursed – October 16-31, 2019

Paychex EFT .....	\$288,010.45
City of Lynden EFT .....	\$62,198.18
Warrant Liability .....	\$57,897.91
<b>Subtotal</b>	<b>\$408,106.54</b>
Paychex EFT Liability	\$6,278.92
<b>Total EFT &amp; Other Liabilities</b>	<b>\$414,385.46</b>

#### Approval of Claims – November 4, 2019

Manual Warrants No.	<u>74070</u>	through	<u>74071</u>		\$4,477.15
EFT Payment Pre-Pays					\$15,955.93
				Sub Total Pre-Pays	\$20,433.08
Voucher Warrants No.	<u>73915</u>	through	<u>74069</u>		\$73,065.50
EFT Payments					\$0.00
				Sub Total	\$73,065.50
				Total Accts. Payable	<b>\$93,498.58</b>

#### Set the Public Hearing Date for the 2020 Property Taxes

On Monday, October 21, 2019 the 2020 Preliminary Budget was introduced by the Mayor to the City Council and the Public. As required by the budget process, in order to receive public comments before adoption, a public hearing is required for consideration of any public commentary regarding the property tax levy. Staff requests a public hearing date of November 18, 2019 at 7:00 p.m. to be held at the City’s regularly scheduled council meeting.

#### Lynden Municipal Airport Advisory Board Appointment & Term Renewals-2020

The terms for Don Korthuis, Roger Humphreys, and Doug Broersma, who serve on the Airport Advisory Board, expire December 31, 2019. Don Korthuis and Roger Humphreys have agreed to serve another three-year term, but Doug Broersma has declined to renew his term at this time. Corwin McCaig, a new resident at the airport, has requested to serve on the board in his place.

According to Lynden Municipal Code Chapter 2.54.010, the board members shall be appointed by the Mayor with the approval of City Council, each to serve a three-year term. The Airport Board members operate in an advisory capacity to the Lynden City Council to make recommendations concerning the adoption of rules, regulations or policies for the management, operation and use of the airport, and the highways, roads, streets and territories adjacent to the airport.

The Mayor and Public Works Committee reviewed McCaig’s Request for Appointment at their October 9<sup>th</sup> meeting and concurred to forward the request to the full City Council for approval.



***Councilor De Valois moved and Councilor Bode seconded to confirm the Mayor's appointment of Corwin McCaig to the Lynden Municipal Airport Advisory Board for the term January 1, 2020 to December 21, 2022 and the re-appointment of Don Korthuis and Roger Humphreys for renewed three-year terms ending December 31, 2022. Motion approved on a 7-0 vote.***

**Mayor Korthuis thanked the members of the Lynden Municipal Airport Advisory Board for their service to the Lynden community.**

### **3. PUBLIC HEARING**

#### Year 2020 Budget

As published, 7:00 p.m. on November 4, 2019 is the time and date set for the first Public Hearing on the Year 2020 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 21<sup>st</sup> council meeting.

Mayor Korthuis opened the Public Hearing at 7:07 p.m. There were no public comments. Mayor Korthuis closed the Public Hearing at 7:07 p.m.

### **4. UNFINISHED BUSINESS- None**

### **5. NEW BUSINESS**

#### Resolution No. 1011- Decommissioning ADUs

Recently the City of Lynden began charging an Ambulance Fee on residential properties that have accessory dwelling units (ADUs). This was done in recognition of the impact that an additional living unit, although accessory, can have on the City's resources. The fee is roughly \$72 annually (or \$6 monthly). This is the only additional fee that the City currently charges to accessory units.

In response, a few of the properties contacted the City to dispute the fee because they no longer utilize the ADU on their property as a dwelling unit.

Any single-family residence is eligible to have an ADU. ADU's must meet specific design criteria including limitations in size as outlined in LMC 19.20. Property owners must record a covenant with the City which states they will adhere to code requirements. The covenant also provides proof that the ADU was established legally and can continue to operate.



Resolution No. 1011 creates a policy to decommission these units if a property owner desires to remove the ADU and the associated covenant.

Notably the pending 2020 City Budget also includes a Planning Department fee addendum which dictates that a \$100 fee would be collected by the City for both covenants to establish ADUs and covenants to decommission ADUs. This fee will be collected for the first as of January 1, 2020. With the approval of this resolution property owners will have the opportunity to file for ADU decommissioning without this fee for the rest of 2019.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Resolution No. 1011 indicating the City's policy on the decommissioning of accessory dwelling units (ADUs) and authorizing the Mayor's signature on the document. Motion approved on a 7-0 vote.***

## 6. OTHER BUSINESS

### Council Committee Updates

There were no council committee updates.

## 7. EXECUTIVE SESSION

Council did not hold an executive session.

## 8. ADJOURNMENT

The November 4, 2019 regular session of the Lynden City Council adjourned at 7:11 p.m.

\_\_\_\_\_  
Pamela D. Brown, MMC  
City Clerk

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

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
None		
<b>Summary Statement:</b>		
<p>RCW 42.24.180 sets forth the conditions for issuance of warrants or checks before Council approval. The auditing officer and the City officers designated to sign the warrants shall have an official duty for the faithful discharge of his or her duties.</p> <p>The City Council has adopted contracting, hiring, purchasing, and disbursing policies that implement effective internal controls; and shall provide for its review of the documentation supporting claims paid for its approval of all warrants issued in payment of claims and/or payroll at regularly scheduled public meetings within one month of issuance.</p> <p>The City Council shall require that if, upon review, it disapproves some claims and/or payroll, the auditing officer and the officer designated to sign the warrants or checks shall jointly cause the disapproved claims to be recognized as receivables and to pursue collection diligently until the amounts disapproved are collected or until the City Council is satisfied and approves the claims and/or payroll.</p> <p>The Finance Committee and/or full City Council may stipulate that certain kinds or amounts of claims and/or payroll should not be paid before the City Council has reviewed the supporting documents.</p>		
<b>Recommended Action:</b>		
Approve the payment of City Payroll and Claims.		

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Set the Public Hearing – Ord 1594 Impact Fee Deferral Program	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Staff Memo re Impact Fee Deferral, MRSC Article		
<b>Summary Statement:</b>		
<p>In 2015 the State Legislature authorized changes to RCW 82.02 related to the collection of impact fees for single family home development. This was intended to assist in the economic recovery of the building industry.</p> <p>As a result, the City is required to create a program by which home builders may defer the payment of impact fees.</p> <p>The amended code language will propose that impact fees may be delayed until final occupancy but not longer than 18 months. The number of fee deferral requests may not exceed more than 20 units per year per applicant and will be administered at a fee equivalent to 10% of the value of the fees for which deferment is requested.</p> <p>Staff is also using the opportunity to amend Title 3 by formally recognizing the option to have fee credits (construction in lieu of impact fees) and to clean-up other language such as outdated capital improvement references to “Table 8” and indicating park and fire fees by reference instead of within the code.</p> <p>Draft language is currently going through legal review and will be brought forward with the December 2 City Council agenda.</p>		
<b>Recommended Action:</b>		
Motion to set a public hearing date of December 2, 2019 to approve revisions to LMC Title 3 which implements an impact fee deferral program and updates references to fees and fee credits.		



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

## Planning Department Memorandum

**To:** City Council  
**From:** Heidi Gudde, Planning Director  
**Date:** November 5, 2019  
**Re:** Impact Fee Deferral and Chapter 3.46 Clean-up

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**Background:** In 2015 the State Legislature authorized changes to RCW 82.02 related to the collection of impact fees for single family home development. As a result, the City must create a program by which home builders may defer the payment of impact fees. In Lynden impact fees include Transportation, Park, and Fire Impact fees. Residential developers currently pay all transportation fees, half of park fees, and half of fire fees at the time of final plat. Then, the builder pays the balance of park and fire fees at the time of permit.

Legal review of the RCW requirements is currently determining if the deferral program must be offered to both the developer and the builder or could be limited to those fees typically due at the time of building permit.

Per RCW 82.02 includes parameters on the program. Payment of impact fees could be delayed until the time of final inspection, issuance of the certificate of occupancy, or the closing of the first sale of the property. Jurisdictions are given the latitude to decide which option to exercise. They may also limit the number of units with deferred fees to 20 or more and implement administrative fees for the deferral.

**Proposal:** Staff will be bringing forward code language which proposes that impact fees may be delayed until final occupancy, may not exceed more than 20 units per year per applicant, and will be administered at a fee equivalent to 10% of the value of the fees for which deferment is requested. This proposed code is similar to the City of Blaine’s current process.

Staff is also using the opportunity to amend Chapter 3 by formally recognizing the option to have fee credits (construction in lieu of impact fees) and to “clean-up” other language such as outdated capital improvement references to “Table 8”.

**Timing:** Staff is moving this initiative forward in recognition of the State requirement. This process is overdue in that the City was obligated to have the program in place by September 1, 2016. Unfortunately, this comes at a time when the original goal of economic recovery for the building industry, is not a pressing issue. Instead the end results could be a negative effect on housing affordability – one of today’s most pressing land planning issues. Please contact Planning staff if you have questions about this upcoming code amendment.

# Legislature Adopts Changes to Washington's Impact Fee Law

July 7, 2015 by [Steve Butler](#)  
Category: [Impact Fees](#)



After several years of discussion and debate, the 2015 Legislature has enacted changes to how impact fees are to be collected by Washington counties, cities, and towns. [ESB 5923](#) requires counties, cities, and towns to adopt a deferral system for the collection of impact fees for new single-family detached and attached residential construction, a change that developers contended would address the financial burden of paying fees at the early stages of the process, before a development project is generating

any revenues. While many counties and cities were worried that a deferral system would make it harder to collect impact fees and stymie planning for new infrastructure, the lengthy deliberations and revisions over several legislative sessions resulted in a final product that addresses many, if not all, of their concerns.

The deadline for most of the new law's provisions is more than one year away ([September 1, 2016](#)), so local governments have time to develop a deferral system that best meets statutory requirements and local objectives.

## Description of New Law

Under the new law, counties, cities, and towns must adopt a deferral system for the collection of impact fees that, upon developer request, delays payment until the time of:

1. Final inspection;
2. Issuance of the certificate of occupancy or equivalent certification; or
3. The closing of the first sale of the property.

For the first two options, cities are authorized to delay issuance of the certification until the impact fees have been paid. For the third option, the new law states that the seller has strict liability for payment of impact fees and that such payment must be made from the seller's proceeds (unless there is an agreement to the contrary between the seller and the buyer). It is up to each municipality, however, to choose one or more of the three options it wants to use.

Other highlights of the new law include:

- The term of deferral is 18 months from issuance of the building permit.
- The amount of impact fees that may be deferred is determined by the fees in effect at the time the applicant applies for a deferral.
- Deferral of impact fees can be limited to the first 20 single-family residential building permits, annually, per applicant.
- An applicant seeking a deferral must grant and record a lien against the property in favor of the municipality in the amount of the deferred impact fee.
- Municipalities may collect reasonable administrative fees from applicants seeking a deferral.
- To limit the “spin-off LLC” issue, “applicant” is defined to include “an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.”
- Limited grandfathering is authorized for an existing deferral system (in effect on or before April 1, 2015), even if it does not fully match the new state requirements, as long as all impact fees are deferred.
- Municipalities and school districts are authorized to institute foreclosure proceedings if impact fees are not paid.
- The Department of Commerce must develop an annual report, beginning December 1, 2018, on the payment and collection of impact fees from school districts, counties, and cities for single-family residential construction.

The new law also contains provisions where local choices should be made, including but not limited to: (a) at what juncture impact fees are collected; (b) whether to impose a reasonable administrative fee; and (c) whether to limit the deferral to the first 20 building permits or to a greater number of building permits.

The timing of impact fee collection under a deferral system will be the key decision to be made by counties, cities and towns. Presumably, most builders would prefer the “time of sale” option, since it extends out the time when payment would be due. However, local governments have direct involvement with final inspections and certificate of occupancy issuance (the first two options), so choosing either of those points would allow them to know exactly when the deferred payment is due. In addition, under the “time of sale” option, there is the possibility that a newly constructed single-family residence could be rented out and not sold, resulting in no impact fee payment. In the end, the final decision on when to require payment of impact fees is a local one.

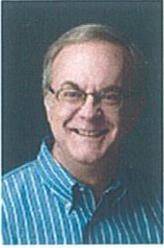
## Tips and Suggested Actions

- Be proactive in preparing your local codes, procedures, and staff for this new change. Take the time necessary to develop and adopt an impact fee deferral system before the statutory deadline of September 1, 2016.
- Decide which local options are best for you, such as:
  - Timing of payment of the deferred impact fee(s).
  - Imposition of an administrative fee.
  - Expansion of deferrals beyond the first 20 building permits (with a decision on expansion to be made only after consultation with any affected school district).
- For those municipalities that already have an impact fee deferral process - Review it carefully for consistency with the new law’s requirements and amend the existing process if needed.

Of course, no action is required for those counties, cities, and towns that don't impose impact fees.

Finally, it should be noted that, while a municipality must adopt and administer an impact fee deferral system 13 is up to the applicant to decide whether or not to use that process.

Photo courtesy of *Dwight Burdette*



## About Steve Butler

Steve joined MRSC in February 2015. He has been involved in most aspects of community planning for over 30 years, both in the public and private sectors. Steve has served as president of statewide planning associations in both Washington and Maine, and was elected to the American Institute of Certified Planner's College of Fellows in 2008.

[VIEW ALL POSTS BY STEVE BUTLER](#) ▶

## Comments

0 comments on Legislature Adopts Changes to Washington's Impact Fee Law

Blog post currently doesn't have any comments.

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Resolution No. 1010 – Net Increase in the revolving Cash Fund	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Resolution No. 1010 – Net Increase in the revolving Cash Fund		
<b>Summary Statement:</b>		
<p>Currently the Lynden Municipal Court (LMC) has a cash fund for the purpose of making change for citizen transactions. The LMC has two cash drawers, each is assigned to an individual with the understanding that they are responsible for the funds as stated in the Resolution. Due to an increase in operational transactions the LMC needs to increase its cash limit in each drawer. Resolution No. 1010 would increase the cash limit of each cash drawer from \$150 to \$300.</p> <p>Resolution No. 1010 would increase the total of the City's revolving cash fund from \$2,000 to \$2,300.</p> <p>The Finance Committee approved the recommended increase in their November 18, 2019 meeting and has forwarded the Resolution to the full Council.</p>		
<b>Recommended Action:</b>		
That the Council approve Resolution No. 1010 as presented and authorize the Mayor's signature.		

RESOLUTION NO. 1010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON,  
REGULATING AN INCREASE TO THE REVOLVING CASH FUND ADMINISTERED BY THE  
FINANCE DIRECTOR

WHEREAS, the City of Lynden deems it necessary to maintain a revolving cash fund for the purpose of making change; and

WHEREAS, the City of Lynden finds it necessary to increase this stated fund from \$2,000 to \$2,300 due to an increase in operational transactions in the Lynden Municipal Court (LMC) requiring the limit of each cash drawer to be increased from \$150 to \$300; and

WHEREAS, the City of Lynden's revolving cash fund will not be used for personal cash advances secured by check or IOU's; and

WHEREAS, The City of Lynden's revolving cash fund will be maintained and administered by the Finance Director or his appointed designee; and

WHEREAS, all Ordinances or Resolutions in conflict herewith are hereby repealed.

NOW THEREFORE, BE IT RESOLVED, the Lynden City Council authorizes that the Lynden Revolving Cash Fund be increased, for the reasons stated above, from \$2,000 to \$2,300. Be it further resolved that this resolution shall be in full force and effect from and after its passage by the City Council and approved by the Mayor.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR \_\_\_\_\_  
AGAINST, AND SIGNED BY THE MAYOR THIS 18th DAY OF NOVEMBER, 2019.

ATTEST:

\_\_\_\_\_  
MAYOR

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

APPROVED AS TO FORM:

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

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Request to Cancel Warrant #73716	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Resolution No. 1012 Copy of Warrant No. 73716; supporting cancellation memos.		
<b>Summary Statement:</b>		
<p>RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and</p> <p>Warrant No. 73716 has not and will not be presented for payment and should be canceled.</p>		
<b>Recommended Action:</b>		
The City Council give consent approval of Resolution No. 1012 and authorize the Mayor's signature.		

A RESOLUTION BY THE CITY OF LYNDEN, WASHINGTON  
REQUESTING THE CANCELLATION  
OF WARRANT NO. 73716

WHEREAS, RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and

WHEREAS, it has been brought to the attention of the City Council that Warrant No. 73716 has not and will not be presented for payment; and

WHEREAS, documentation has been provided that the payment due was paid on an invoice; and

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

Section A: That Warrant No. 73716, in the amount of \$34.78, issued September 17, 2019 from Fund 001 be canceled.

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

Section C: This resolution shall take effect and be in force from and after its passage by the Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_ IN FAVOR \_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY



# Memo

**To:** Anthony Burrows cc: Linde Schreifels  
**From:** Linda Handy  
**Date:** October 15, 2019  
**Re:** VOID Claims Warrant #73716

• **TO BE VOIDED WITH CONSENT OF CITY COUNCIL**

Please void warrant #73716 payable to Security Solutions NW, Inc. (v#2082) dated 9/17/19 in the amount of \$34.78. Both an invoice and a sales order/invoice were submitted to AP at different times for payment. Since the reference numbers were different, Agresso software did not catch the duplication. The first payment was made on 8/20/19, with the duplicate being paid on 9/17/19.

Please void the warrant and transaction # 29185578. (invoice # 262020)

The warrant is being held in the Finance safe until the void request has gone through city council & the process is complete.

Thank you,

LH

# CLAIMS FILE COPY

09/17/2019

\*\*\$34.78\*\*

\*\*Thirty Four DOLLARS Seventy Eight CENTS\*\*

Security Solutions NW, Inc.  
1619 N State St  
Bellingham, WA 98225

NOT NEGOTIABLE

NOT NEGOTIABLE

SECU	2082	7	09/17/2019	00073716	34.78	1/1
REFERENCE NO.	YOUR INVOICE NUMBER		INVOICE DATE	AMOUNT PAID	DISCOUNT	NET AMOUNT
29185578	262020		07/31/2019	34.78	0.00	34.78

COPY

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Set Date for the Final Public Hearing on the 2020 Preliminary Budget	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	As published, 7:00PM on December 2, 2019 is the time and date set for the Final Public Hearing on the 2020 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 21st City Council meeting.	
<b>Recommended Action:</b>	Conduct the required public hearing.	

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Development Standards Variance – Front Street Station Business Park	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Planning Commission Package and Minutes of 10-24-19		
<b>Summary Statement:</b>		
<p>A Development Standards Variance application has been brought forward by Don and Sally Korthuis for a variance to the required right-of-way (ROW) dedication and resulting street section for West Front Street. The Variance would facilitate the development of a business park development called Front Street Station. The proposed project is located on approximately 7 acres of vacant property and would affect approximately 475 feet of frontage along West Front Street.</p> <p>The application requests the dedication of 10 feet rather than 20 feet of additional ROW, which would be required for the full 80' ROW identified in the Development Standards. The 30-foot ROW abutting Front Street Station allows construction of a 44' wide paved street cross-section matching the improved street to the east but reduces sidewalk width from 8 feet to 5 feet, with a small 3' planter strip between, and street trees shifted into parking islands on the property.</p> <p>West Front Street is a considered an impact fee (arterial) street which means that the City assumes responsibility for its improvement using developer impact fees. Currently the City has a pending EDI application for County grant and loan funds to assist in the improvement of this section of roadway.</p> <p>The alternate standard is based on sound engineering and has support from Public Works and Planning staff. The variance also recognizes the burden of pioneering development on a previously unimproved portion of West Front Street. This variance is specific to the frontage of the West Front Street Station.</p>		
<b>Recommended Action:</b>		
Motion to approve the Development Standards Variance allowing for a 10' right-of-way dedication and alternate street standard along the Front Street Station frontage and to authorize the Mayor's signature on the document.		



TECHNICAL REVIEW COMMITTEE  
Development Project Report

Date Issued:	November 12, 2019
Project Name:	DSV #19-03, Front Street Village
Applicant:	Don and Sally Korthuis
Property Owner:	Don and Sally Korthuis
Site Address:	2111 W Front Street
Zoning Designation:	CSR (Regional Commercial Services)
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:	October 31, 2019
Date of Publication:	November 6, 2019
SEPA Determination:	N/A
Project Description:	Applicant is requesting a Development Standards Variance to allow the construction of an arterial street at 60-feet from the required 80-feet.

**Standard Requirements:**

The applicant has met the minimum submittal requirements and the application was determined to be complete on October 31, 2019. The notice of application was published on November 6, 2019.

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

### Specific Project Comments from the Technical Review Committee:

The applicant is requesting a variance to LMC 18.14.030 which requires property dedication for rights-of-way and Table 4-1 (Figure 4-2) of the Engineering Design and Development Standards to allow the construction of an arterial street from the required 80-feet to 60-feet. The variance would reduce the required property dedication from 20 feet in width to 10 feet. The proposed project is located on approximately 7 acres of vacant property and would affect approximately 475-feet of frontage along West Front Street.

A 30-foot ROW abutting Front Street Station allows construction of a 44-foot wide paved street cross-section matching the improved street to the east but reduces sidewalk width from 8-feet to 5-feet, with a small 3-foot planter strip between, and street trees shifted into parking islands on the property.

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. 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.”

## Variance Application Comments from the Technical Review Committee:

### Planning and Development

1. *Variance Justification:* The applicant has provided a response to each of the development standards variance criteria. See attached
2. *Alternate Design Analysis:* The applicant has provided a response to each of the development standards variance criteria. See attached
3. *Street Trees:* Required street trees to be established on private property along the West Front Street frontage. A corresponding development agreement will require perpetual maintenance of the trees by the property owner.

### Public Works

4. Applicant is required to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards).
5. *Water:* At the time of development, water must be extended to the furthest extent of the property. Easements will be needed and must be marked on the face of the plat.
6. *Sewer:* At the time of development, sewer will be required to be extended to meet the service area as identified in the sewer comprehensive plan and the City's Engineering Design and Development Standards. Easements will be needed and must be marked on the face of the plat.
7. *Stormwater:* All improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
8. A post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
9. There is a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.

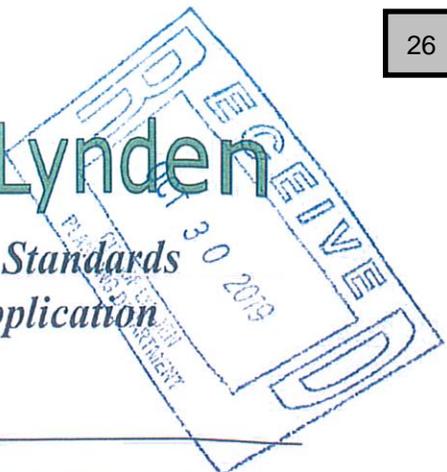
### Fire Department

10. *Variance Request:* The Lynden Fire Department does not have concerns regarding the proposed development standards variance.



# City of Lynden

## Development Standards Variance Application



### Property Owner

Name: Don and Sally Korthuis  
 Address: 1610 Grover St. Suite B-5 Lynden WA 98264  
 Telephone Number: 360-510-4793 Fax Number: 360-354-1080  
 E-mail Address: don@mrlynden.com and/or sally@mrlynden.com

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

Name: same as above  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

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

### Property Information

Project Location (street address / block range): 2111, 2113, 2115, 2117, 2119 W. Front St. Lynden WA Assessors Tax Parcel 4002244050950000

### Variance Request:

**Section of the Municipal Code or Engineering Design and Development Standards to be varied:** Engineering Code: Division 4, figure 4-2 and table 4.1  
Development Standards from Planning Code 18.14.030 Right of Way Requirements

**Identify Desired Result:** We are requesting a right of way standard for an access street (60 feet) on an arterial street which right of way standard is 80 feet.

### DSV Criteria must be attached

BY SIGNING THIS APPLICATION, I CERTIFY THAT ALL THE INFORMATION SUBMITTED IS TRUE AND CORRECT. I ALSO UNDERSTAND THAT NO FINAL APPROVAL WILL BE ISSUED UNTIL ALL FINAL REVIEW COSTS ARE PAID IN FULL.

Applicant's Signature: [Signature] Date: 10/30/19  
 Property Owner's Signature: Sally M. Korthuis Date: 10/30/19

PRE-APPLICATION MEETING DATE: \_\_\_\_\_ HEARING DATE: \_\_\_\_\_  
(APPLICATIONS WILL NOT BE ACCEPTED WITHOUT A PRE-APPLICATION MEETING)  
 FEE'S (DSV \$300.00 BASE FEE OR FINAL REVIEW COSTS) DATE PAID: 10-30-19 RECEIPT # \_\_\_\_\_

## Written Response for Granting a Variance (LMC 17.17.040)

Front Street Station  
 Don and Sally Korthuis  
 Version 3  
 10/30/19

### What we are asking for:

Presently, the city of Lynden has a 40' right of way for West Front Street, west of Duffner Drive to the Tromp Road. Development in this area requires additional roadway dedication. This dedication is addressed in LMC 18.4.030 and specifically in Lynden Public Works Design and Development Standards, Division 4, Section 4.3, table 4.1.

Earlier this year, we were informed that we would need to dedicate an extra 20' of our property, 2111-2119 West Front Street, to build the business park. As we worked on Front Street Station Site plans, we got tight on space. We approached the city with a modified site plan. We worked with staff, and they were great, and came up with a compromise that works for all of us. As a result, all elements of the roadway section have been provided. As LMC 17.17.04 states in the first paragraph, "Such variances may vary the rules, regulations or provisions of the developments standards, *so that the spirit of those standards will be observed...*". This variance meets the financial needs of Front Street Station, and the practical standards of the City of Lynden, albeit in a modified version for both.

### The Variance:

The variance proposal we are requesting is to have the 20' dedicated easement be reduced to 10' dedicated easement. In addition to this dedicated easement, we will give an additional 10' of a utility easement. With 10' of dedicated easement, and by shifting the roadside trees into the parking lot islands, the city will get the function it is looking for. See the enclosed Exhibit E Proposed right of way for detail. The city requires, moving from North to South:

1. A center turn lane, 6' on each side of the center line of West Front Street. That works for us.
2. An 11 foot South lane (West bound traffic). That works for us.
3. A 5' bike lane. That works for us.
4. A 5-8' landscape green buffer. The purpose of this large buffer is twofold. One, people on the sidewalk don't like to walk near busy traffic, and any green buffer gives them a feeling of safety. Secondly, the green buffer has been widened lately, so that the required landscape tree roots don't interfere with the sidewalk, curb, gutter and bike lane.
5. 5' of sidewalk. That works for us.

### Our Proposal and justification is as follows:

1. The previous items, 1, 2, 3 listed above are left alone.
2. The green buffer in number 4 above will be both split up and elongated. Split up into a 3' section adjacent to the bike lane and the sidewalk, and a second green area, "car bumper area" of 2', adjacent to the property line and the sidewalk.

3. The landscape trees, up on the street, can be visual barrier to the view of a passing motorist, to see the development and address numbers clearly. To deal with the landscape trees, we propose making south-facing, elongated island landscape areas every 50' in the parking lot.
4. The trees would be located 10' or more south of the property line, just south of the Utility easement so as not to have the roots cause trouble with the underground utilities. This would also greatly increase safety with egress from the business park. For example, semi-trucks leaving with the trees blocking there view.
5. The tree island landscape beds would be wide enough, possibly 8' wide east/west, so as not to interfere with pavement.
6. There would be even more "green area" with this proposal.
7. With the bike lane, and a 3' landscape area, people on the sidewalk would feel safe.
8. The history of the 80' wide street, assumes parking on the street. Front Street station, has more than adequate parking, inside the side walk.
9. This is the first true business park in Lynden of this type. There are many of these running successful in the Ferndale/Bellingham area. Over the years we have talked to many developers and business people in Whatcom County. The result, it costs more to build in Lynden, with all of the requirements, to make it "Lynden nice". We did an analysis, and found this amount to be approximately \$20 per square foot, additional building cost. Also, Lynden rents are about 10% less, due to the proximity to I-5. This is not a good recipe for commercial success. The numbers are close on this project. We appeal to the council to grant this variance.

#### LMC 17.17.040

With this background, we understand this will require a variance. We will follow the standards set forth in LMC 17.17.040.

- A. The properties around this proposal are largely undeveloped and therefore our proposal would not be inconsistent with the known limits on the surrounding properties. Indeed, the development should improve commercial opportunity in West Lynden, for not only us, but all the surrounding property owners. Our commercial neighbors have encouraged us every step of the way, including this variance.
- B. The variance request reflects a need to fit the site plan on the property. If we were to meet the standard 80 feet requirement for an arterial street, we would lose a full row of parking, to fit in the city required landscaping and sidewalk. If we would simply push everything back we would be forced to take away 2,000-4,000 square feet off the actual commercial buildings up front. This would cause a loss of valuable rentable space, a time delay, and incur considerable architect fees for extensive changes in the final prints.

An additional benefit to the city is the more commercial space the more tax revenue (both sales and property tax) would be seen by the city. Also, removing this space reduces jobs.

This purposed variance would not eliminate any required design elements. The variance simply moves and/or compresses some of the elements and shifts a few street tree requirements a few feet back.

- C. The overall design of this project has been carefully thought through to provide maximum safety and driving ease for renters, their customers, and delivery/public service trucks. It was our goal to provide generous (most spots 10 foot wide) parking spaces, ample turn-in isles, and wide truck turn radiuses. It meets all known codes and government requirements for safety and public welfare.

Sidewalk safety is also maintained with the green barrier between the sidewalk and bike lane. There is no need for street parking with this site plan as proposed. There is ample parking inside the park. Street parking is much more dangerous than in-park parking. With trees moved back, these modifications would add a certain amount of safety to the traffic egressing from the business park.

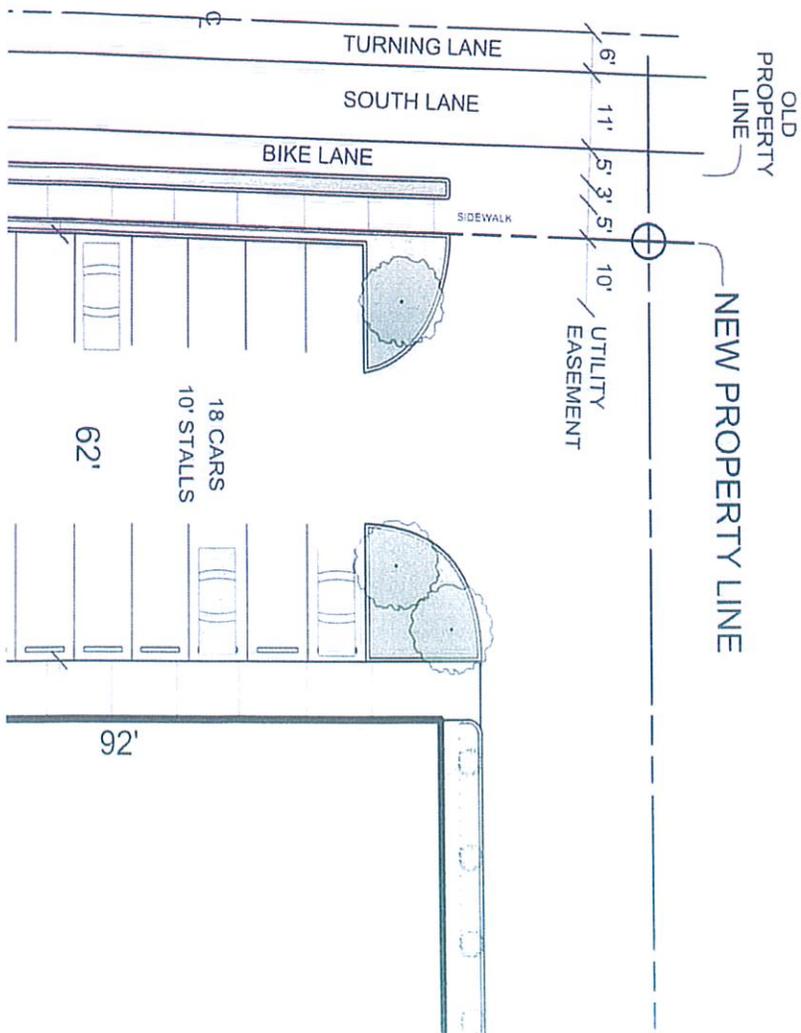
- D. The immediate surrounding properties are empty lots, except for two single family homes on the north side of the street. Since the commercial owners have no improvements at the street front, there would be no harm to their properties. In fact, our proposal would enhance their properties values. Again, the commercial neighbors have all shown encouragement for the property. This will jumpstart a whole new business area in Lynden.
- E. The street in question is in an exciting transition. It is being redesigned even as this is being written. It is a wise time to grant our request as the street changes are being planned. The goal for both the city and Front Street Station is to bring new commerce to the City of Lynden. This variance will help us make that happen.

**Thank you** for your consideration on this matter,

Don and Sally Korthuis

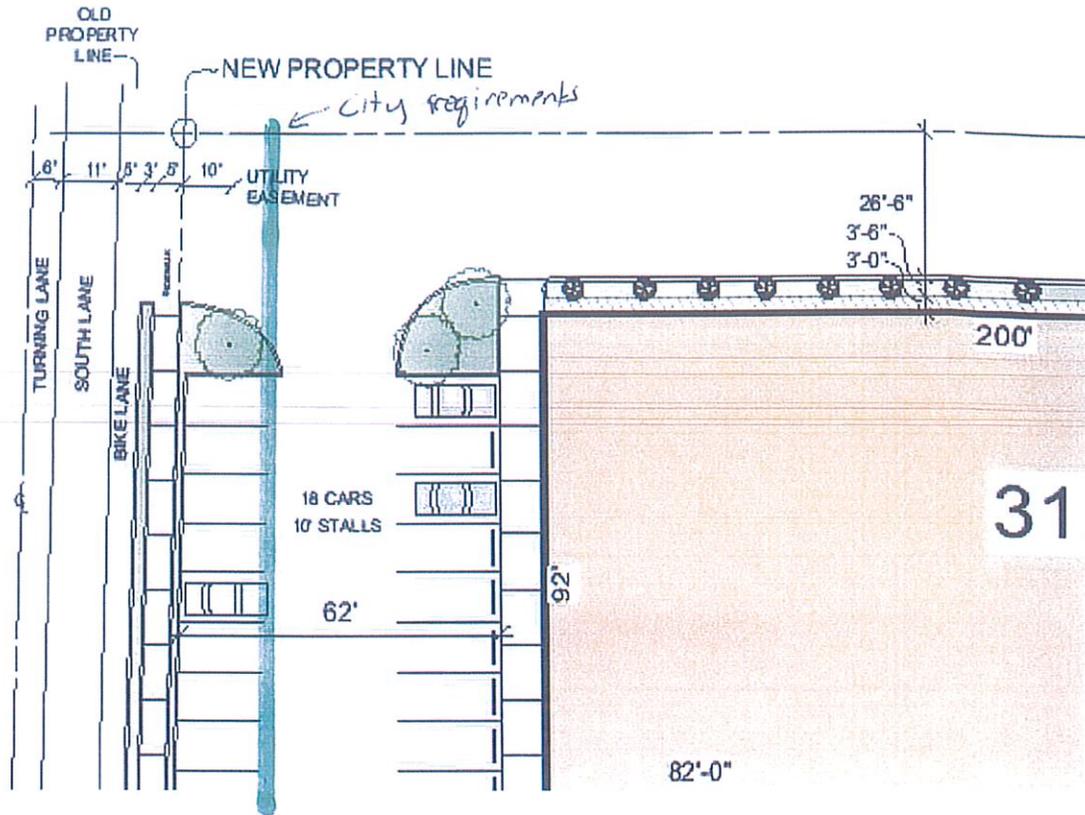
# Proposed Variance

## Proposed Variance

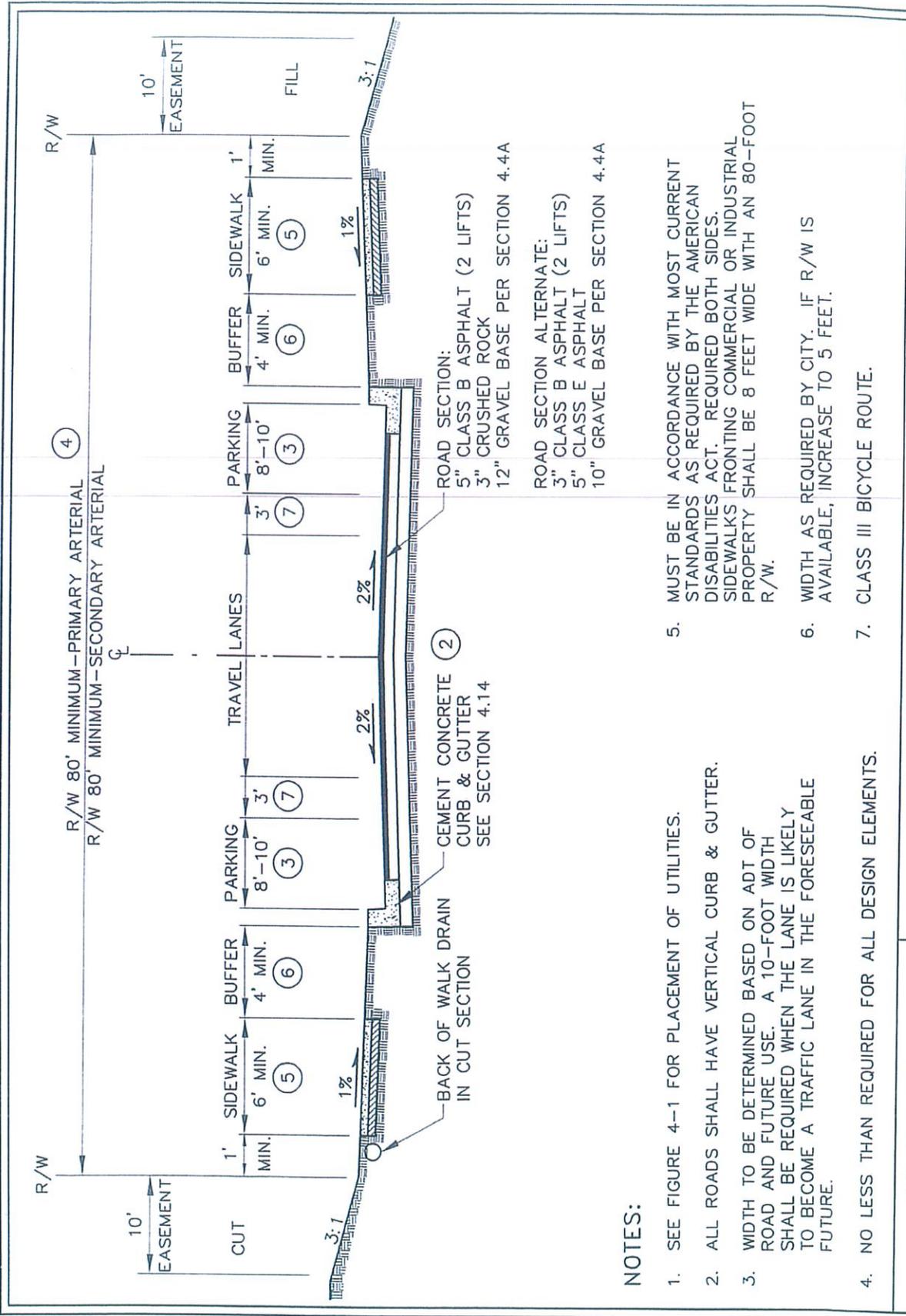


# As Code Would Require

## EXHIBIT E Proposed right of way FSS Development Agreement



~~XXXXXXXXXX~~



**ARTERIAL STANDARD**

FIGURE 4-2

CITY OF LYNDEN  
DESIGN STANDARDS

**NOTES:**

1. SEE FIGURE 4-1 FOR PLACEMENT OF UTILITIES.
2. ALL ROADS SHALL HAVE VERTICAL CURB & GUTTER.
3. WIDTH TO BE DETERMINED BASED ON ADT OF ROAD AND FUTURE USE. A 10-FOOT WIDTH SHALL BE REQUIRED WHEN THE LANE IS LIKELY TO BECOME A TRAFFIC LANE IN THE FORESEEABLE FUTURE.
4. NO LESS THAN REQUIRED FOR ALL DESIGN ELEMENTS.
5. MUST BE IN ACCORDANCE WITH MOST CURRENT STANDARDS AS REQUIRED BY THE AMERICAN DISABILITIES ACT. REQUIRED BOTH SIDES. SIDEWALKS FRONTING COMMERCIAL OR INDUSTRIAL PROPERTY SHALL BE 8 FEET WIDE WITH AN 80-FOOT R/W.
6. WIDTH AS REQUIRED BY CITY. IF R/W IS AVAILABLE, INCREASE TO 5 FEET.
7. CLASS III BICYCLE ROUTE.

ROAD SECTION:  
 5" CLASS B ASPHALT (2 LIFTS)  
 3" CRUSHED ROCK  
 12" GRAVEL BASE PER SECTION 4.4A

ROAD SECTION ALTERNATE:  
 3" CLASS B ASPHALT (2 LIFTS)  
 5" CLASS E ASPHALT  
 10" GRAVEL BASE PER SECTION 4.4A

3-12-10

each lot owner and all subsequent lot owners.

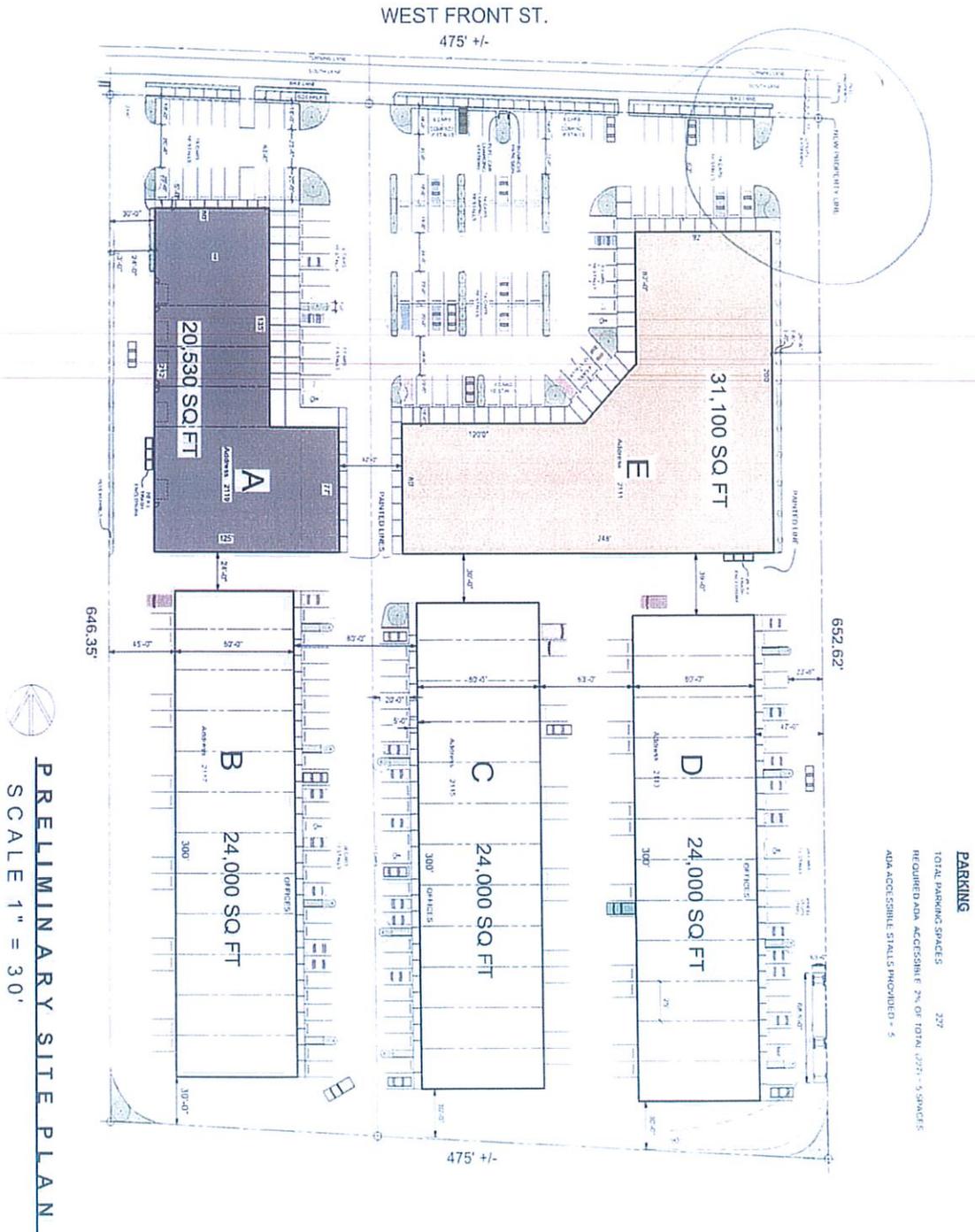
7. Covenants shall be recorded by the Applicant and/or owner, in the land records of Whatcom County.
8. Clearly described on the face of the plat, short plat, or other development authorization and clearly signed as a private road.

**Table 4-1**  
**Geometric Cross-Section for New Construction and Reconstruction**

Design Elements	Arterials (a)	Access Street (a)	Private Roads and Alleys (a)
Right of Way (b)	80' (65' Res.) min	60' minimum	
Minimum Roadway Width (c)	46'	36' (d)	30' (d)
Minimum Lane Width:			
A. Exterior	12'	10'	10'
B. Interior Thru	11'	10'	
C. Two-Way Left-Turn	11'	10'	
D. Exclusive Turn	11'	10'	
E. Parking Each Side	8' (e)	8' (e)	8' (f)
F. Class III Bicycle Lane	3' (k)		
Sidewalks:			
A. Minimum Width	6' (g) (h)	5' (g) (h)	5' (g) (h)(i)
B. Buffer	4' (j)	4' (j)	3' (j)
C. Easement Each Side	10'	10'	10'

- (a) All public and private roads except alleys shall be constructed with vertical curb and gutter.
- (b) No less than required for all design elements.
- (c) Distance from face of curb to face of curb.
- (d) Alleys can be reduced to 24 feet.
- (e) Width to be determined based on ADT of road and future use. A 10-foot width shall be required when the lane is likely to become a traffic lane in the foreseeable future. Increase width of parking lanes on arterials to 10 feet if bicycle lane is not required.
- (f) No parking required for private roads serving 2 lots or less  
Parking required one side only for ADT 30 - 150, minimum roadway width 30 feet  
Parking required both sides for ADT > 150, minimum roadway width 40 feet
- (g) Must be in accordance with most current standards as required by the American Disabilities Act.
- (h) Required both sides.  
Sidewalks fronting commercial property shall be 8 feet wide with a 80-foot or wider R-O-W.
- (i) Sidewalks required one side for ADT 30 - 150.
- (j) If R-O-W is available, increase width to 5 feet.
- (k) May be eliminated if separate detached bicycle path is provided.

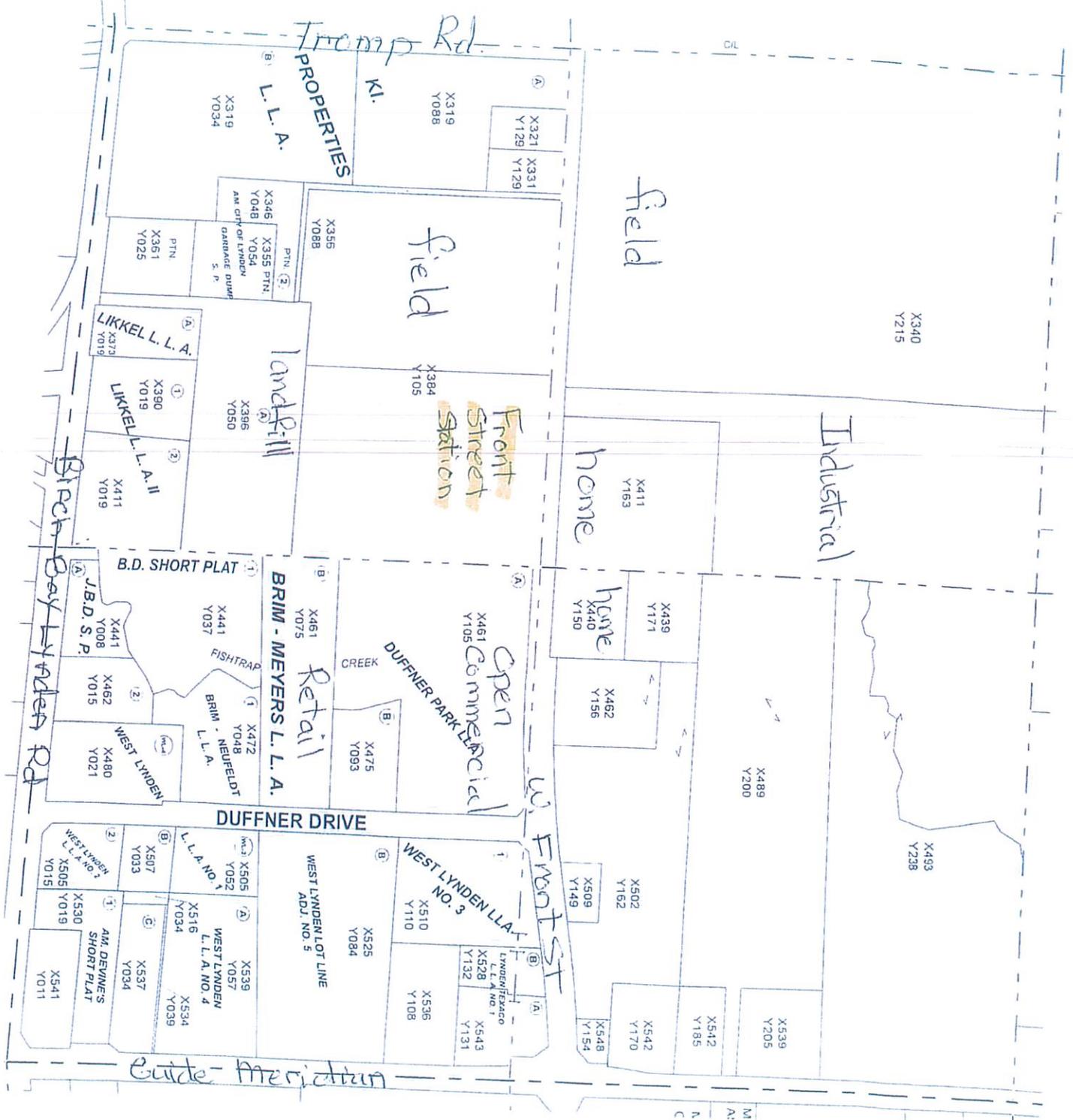
Site Map  
N. point scale



- 1-16-2019 LANDSCAPING
- 1-16-2019 PARKING & CHURNS
- 1-16-2019 EIR
- 2-14-2019 PARKING/PROPERTY LINES
- 1-25-2019 PARKING
- 1-16-2019 BIDDING/CONTRACT
- 3-21-2018

**DOUGLAS LANDEM ARCHITECT AIA**  
LICENSED ARCHITECT IN WASHINGTON, IDAHO, ALASKA, HAWAII  
1407 NORTH FOREST, BELLEVUE, WA 98005 206.753.2566  
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FOR DON AND SALLY KORTHUIS



vacant properties

THIS MAP IS FOR  
ASSESSMENT  
AND NOT GUARANTEED  
FOR EXACTNESS  
BY SURVEYING



ASSESSOR'S OFFICE

14	13	18
23		19
26	25	30

KEY MAP:

DATE:  
Sep. 05, 2019



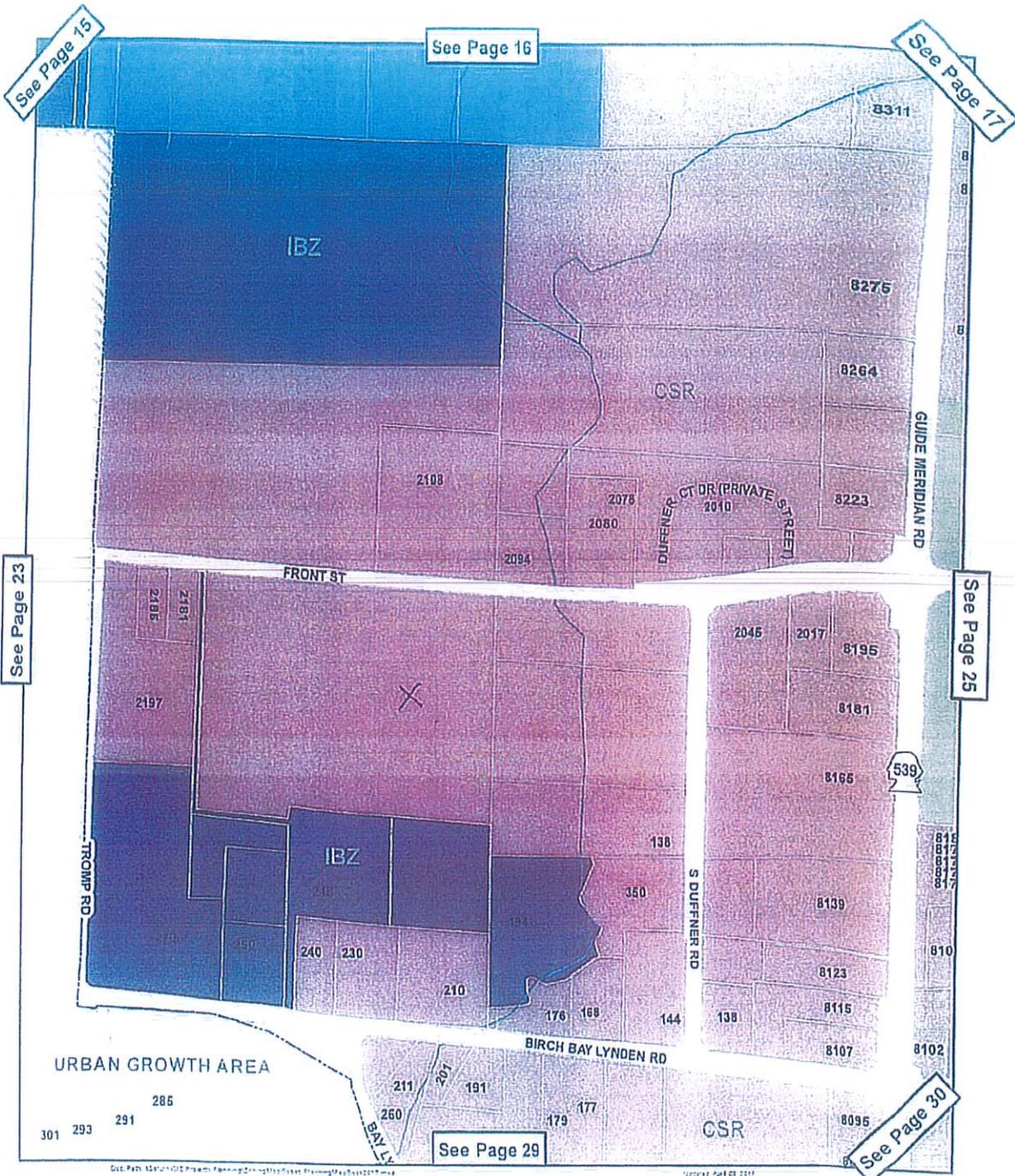
SCALE:  
1" = 200'

MAP NO.:  
05

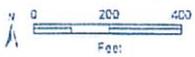
SECTION:  
24

RANGE:  
02

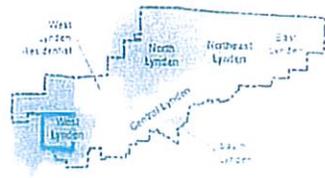
TOWNSHIP:  
40



URBAN GROWTH AREA



Sub-Areas



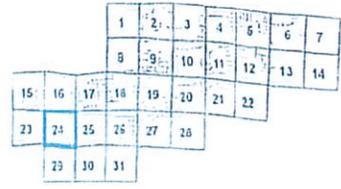
Zoning Designations

- Residential
  - RS-1C2
  - RS-14
  - RS-73
  - RM-1
  - RM-2
  - RM-3
  - RM-4
  - M-1
  - IR-1A2
- Public Use
  - P-1
- Commercial
  - C-1
  - C-2
  - C-3
- Industrial
  - I-1
  - I-2
  - I-3
- Additional Designations
  - IBZ
  - CSR

Features

- Fire Dept
- Police Dept
- Public Tra
- Gar Det
- Railroad
- City Limits
- USA
- RR

Page Index



# CITY OF LYNDEN

PLANNING DEPARTMENT  
360-354-5532



## PLANNING COMMISSION MEETING MINUTES

7:30 PM October 24, 2019  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

Present: Tim Faber, Diane Veltkamp, Gerald Veltkamp, Blair Scott, Lynn Templeton and Brett Kok.

Absent with notice: Bryan Korthuis

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

### 3. APPROVAL OF MINUTES

#### A. October 10, 2019

Scott motioned to approve the October 10, 2019, Planning Commission Minutes as submitted. Seconded by Kok and the motion passed 5-0.

### 4. DECLARATION OF CONFLICT

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

### 5. PUBLIC HEARING

#### A. Conditional Use Permit #19-01, Front Street Station Business Park

Chairperson Veltkamp opened the public hearing.

In 2018 the City of Lynden modified the uses permitted within commercial zoning categories. Most of the revisions focused on the Commercial Services – Regional (CSR). As part of this code amendment the uses of wholesaling and warehousing were added as Conditional Uses which require a Conditional Use Permit (CUP) prior to operation.

The pending CUP application is brought forward by Don and Sally Korthuis for a business park development called Front Street Station. It is located on approximately 7 acres of vacant property on the south side of W. Front Street. The application requests the addition of wholesaling and warehousing as permitted uses within the proposed business park. The business park is not intended to be exclusively wholesaling and

warehousing but a wide variety of uses including retail, showroom, office, and light manufacturing as permitted by code.

No written comment was received concerning this application.

Through separate applications, the property owner is in the process of completing a development agreement, a SEPA environmental review, and acquiring approval from the City’s Design Review Board. Additionally, the City of Lynden Public Works Department has been designing improvements to West Front Street and pursuing funding for the improvements through Whatcom County’s Economic Development Investment (EDI) program.

Don Korthuis, 2151 Stickney Island Road, Everson

Korthuis addressed the Commission and stated that the CUP request is a very critical component that this business park needs. To allow wholesaling and warehousing is very important and will be good for Lynden, good for the economy and good for jobs as well.

Speaking in favor

Clark Vellema, PO Box 453, Snohomish, 98291

Here to support family owned property. The application should be approved. When the city sets forth a matrix it should allow property owners the opportunity to define the use as requested.

Vellema would also like to note that this property is defined as lot 2 of a partition by court order. Vellema owns the other parcel and will likely develop in the future.

Dave Meyers Axton Road, Lynden

Meyers shares a property line with the Korthuis property and would like to speak in favor of the request. It is a good move for the City as far as direction. There is a need for this type of development.

Korthuis referenced his application. Currently the City of Lynden has two specific zoning use classifications relating to the Wholesaling and/or Warehousing of products. Front Street Station desires to have both uses allowable in all the buildings proposed (A-E) in the new commercial business park for the following reasons:

In reference to buildings A, B, C, D, and E.

- At Front Street Station, with its attractive design, more than adequate parking and traffic flow, we will accommodate many such Retailers-Open to the Public in an environmentally pleasing location and safe due to high efficiency exterior lighting to include sufficient parking lot illumination.
- Additionally, the ingress and egress for the both the shopper and businesses will be

not only enhanced but also most accommodating because of the three (3) curb cuts. Since there will also be a multi-tenant business type park in the rear, these 3 curb cuts on Front Street will allow for a more efficient traffic flow, thus mitigating vehicles waiting ON Front Street for safe access into the property.

- While Front Street Station is one block from the Guide Meridian with its retail showrooms and shopping centers, it is still fully compatible with the surrounding area since the businesses that would locate there will still attract all the usual customers.

In reference to buildings A + E.

- While so called Brick & Mortar (B&M) stores are seeing increasing competition from the On- line stores, B&M will always have a very significant place in the overall shopping experience.
- We see many examples not only in Whatcom County, but nationwide as well, where very successful B&M warehouse type stores, and for that matter wholesale stores are seeing an increased presence because of a changing demographic. That change being that it was once thought that the millennial shopper was more prone to use On-Line stores in place of B&M. However, research by shopping center and retail companies show that as those millennia ls have gotten older, they now are shopping with their children IN the B&M stores to provide the "hands on" experience, and to actually demonstrate the product(s) they are considering.
- We see evidence of this in such type stores as Costco, Best Buy, WinCo, etc. for the Big Box stores. However, Front Street Station will not be attracting these stores. We envision stores that warehouse/wholesale such items carpet/floor coverings, for example, Great Floors, Fishtrap Creek Interiors, or Village Lighting, Home products such as doors, windows, (Lynden Door is an example), Furniture stores, etc. These stores are specifically set up to have a retail presence in the front (30% of floor area) while warehousing and/or manufacturing a product in the rear. They also act as wholesalers to the general construction industry as evidenced by what Architects are designing and suggestion for their clients.
- The shoppers experience will be one that they will want to experience again.

In reference to buildings B,C,D.

- In buildings such as these, where the front areas are either office or small retail showrooms, it is not only common but ubiquitous around the country that manufacturing and or wholesaling business are located here.
- Such diverse type businesses would include for example Fastenal (over 1500 "stores" wholesale Open to the Public)) where the front portion is retail and balance is warehouse; small tech companies manufacturing a proprietary product with both offices and warehouse; cabinet/furniture businesses having a small office/showroom while building the product in the warehouse; lighting company catering to the architect/contractor where product is warehoused. The list of all such type users, both

warehouse and wholesale could possibly be endless. It would be difficult to list all such specific users. It is the intent of Front Street Station in buildings B,C, and D to accommodate those businesses not needing any retail presence or even a location that the public can find. It is common that such users only have a very small sign on the glass front door for deliveries and those that have appointments.

Korthuis also provided the following responses to how he believes his application for a Conditional Use Permit meets the following criteria listed under 19.49.020:

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district; *Our goal to blend in with the surrounding businesses. The immediate businesses near this development are industrial and agriculture. Warehousing and Wholesaling are specifically in the definition as a CUP. Our goal is to have high end Warehousing and wholesaling as a part of this development.*

*Lynden's code 9.23.010 has a definition of CSR Commercial Services – Regional (underlying is added to emphasize) which supports our request: "The purpose of the CSR zone is to support the development of large format retail and regional commercial development. In addition, this zone may support commercial establishments which require a retail contact with the public together with professional offices, storage and warehousing, or light manufacturing. This zone is located where larger parcels and arterial streets are available to support the traffic and land needs for these types of uses. This zone provides the primary location for businesses serving both the local and regional trade area."*

*Commission has no concerns.*

2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - i. traffic and pedestrian circulation,
  - ii. noise, smoke, fumes, glare or odors generated by the proposed use,
  - iii. building and site design,
  - iv. the physical characteristics of the subject property

*We believe that the above criteria will be enhanced by FSS. We will not be renting to "dirty" businesses, such as car repair, fiberglass boat repair, etc. It is our goal to promote clean businesses in Lynden providing living wage jobs. Also, to provide incubator location for new business. Lynden is in urgent need for wholesaling and warehousing. See Business development agreement for the building and site plans.*

*The Commission agreed that that the proposed use will enhance the area. Faber stated that this answer needs to be reflected in the Development Agreement as well.*

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services. At this time, adequate utilities are on or near the property for full development. We were very careful that traffic flow throughout FSS was adequate for both car and delivery truck traffic that a Warehouse or Wholesale use would require

*The Commission agreed. Templeton asked if they will be required to install a fire hydrant? Gudde stated that they will have to meet all fire requirements.*

4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service. Wholesaling and Warehousing will see no significant change of traffic versus the allowed business park uses

*Gudde replied that West Front Street is considered a regional road and the city is responsible for it. A traffic study was completed, however, it is not required for the CUP, The city is applying for EDI funds.*

5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code. See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

*The Commission agrees.*

6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use. See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

*D Veltkamp asked if there was a way to mitigate traffic between cars vs. trucks. As retail vehicles come to visit, how do will they circulate? Gudde replied that this topic will be looked at through the Development Agreement.*

*Faber stated that there is plenty of room as there are 3 access. There are plenty of ways to work around that concern. Templeton asked if the truckers will use Tromp Road. Gudde replied, yes, the City prefers that trucks use Tromp. The new design of West Front calls for an all-weather road.*

7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. N/A. There are none on site.

No concern.

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

Yes! We are excited to cooperate with the city goals of this area. Lynden is the only major community in Whatcom County without this sort of facility. It is our goal to make this facility enhance the City.

The Commission had no concern.

D. Veltkamp asked if Korthuis was looking for a CUP for all buildings and phases? Korthuis replied, yes.

**Scott motioned to close the public hearing. Seconded by Kok, and the motion passed 5-0.**

The Commission reviewed the minimum standards outlined in LMC 19.49.040 regarding the Special Conditions for approval of a CUP within the West Lynden Sub-Area and has found that the request meet the criteria

In addition, the Commission reviewed LMC 19.49.020 regarding standards and criteria for granting a Conditional Use Permit and found that the request meets the criteria.

**Faber motioned to recommend approval of the Conditional Use Permit #19-01, for the Front Street Station Business Park as presented, according to the findings, conditions and recommendations of the Technical Review Committee Report dated September 17, 2019 subject to the following condition:**

- 1. That the Conditional Use Permit must meet the conditions outlined in LMC 19.49.040.

**Seconded by Scott, and the motion passed 5-0.**

## **6. NEW BUSINESS**

### **A. Development Agreement, Front Street Station Business Park**

The approval of a Development Agreement does not require a public hearing therefore we will not be accepting comment from the public.

Gudde addressed her memo dated October 21, 2019 and stated that the Lynden Municipal Code Section 19.23.020 notes that Business Parks are permitted in Commercial Services – Regional (CSR) zoning categories where at least 20% of the total gross floor area of the park is related to onsite retail, showroom, or office use. LMC 19.23.020(9) goes on to specify that property owners developing a business park are required to formalize a development

agreement with the City Council after receiving a recommendation from the Planning Commission which:

- a. Specifies a list of permitted, conditional, and prohibited uses within the business park.
- b. Outlines a parking and loading standards which anticipates the uses permitted.
- c. Creates standards for and screening of outdoor storage and refuse areas.
- d. Addresses unique signage requirements.
- e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.

The development agreement attached has been brought forward by Don and Sally Korthuis for a business park development called Front Street Station. The 7-acre project is located on West Front Street. This agreement is moving forward to the Planning Commission with a corresponding Conditional Use request to add wholesaling and warehousing as permitted uses within the business park. If permitted, the uses would be part of a wide variety allowed within the 124,000 square foot park.

Don Korthuis, 2152 Stickney Island Road, Everson

Korthuis addressed the Commission and stated that this has been a good collaborative effort. There have been 6 versions of this Development Agreement and it is now ready to move forward.

Korthuis is excited about the project. The design is going to be classy with a lot of extra little details. We have every intention of making this very nice.

The Commission reviewed the Development Agreement.

D. Veltkamp addressed Article 1 Land Use Setback and Requirements specifically 1.2 (h) *Outdoor storage areas will be allowed for the occupants of Buildings B, C and D. This will be kept clean and can be revoked with a tenant if it is deemed undesirable by FSS regarding outdoor storage.*

Veltkamp asked, what kind of storage will this consist of? Korthuis replied, temporary storage. Gudde referred to item 2.3 as it addresses outdoor storage and refuse areas. *Building A and E will have a designated outdoor area, with screening, for refuse containers. Buildings B, C, D will have refuse stored either inside the building, or near the rear service doors, for example the west side of building B. Outdoor storage will be discouraged and will be less than 30% paved area.*

D. Veltkamp asked, if language should be added to reference temporary storage?

Gudde replied, maybe simply state, inventory of product cannot be stored outside for more than 48-hours without appropriate screening such as a fence or wall.

Moore stated that the lease agreement already has that stated. It is very specific to outdoor storage.

The Commission would like to see the following language added to 2.3. *No product / inventory or refuse may be stored in outdoor parking areas for more than 48 hours. Refuse areas may be permanently added if screened with an appropriate fence or wall.*

Korthuis indicated that they will update section 2.3 to include said language.

D. Veltkamp addressed 1.7 which states that there has to be a minimum of 20% retail at all times. How will you manage this? Korthuis stated that we will be watching that very closely. That is our requirement and we will make sure that it is properly managed.

The Commission reviewed 1.7 (permitted uses table).

D. Veltkamp asked about Farm Implement and Machinery Sales and Service. D Veltkamp would like to add *no outside display of equipment*. Korthuis is okay with that.

*No outside display of equipment* should also be added to retail feed and seed stores.

Faber addressed drive through coffee stands and stated that they *should not be allowed in buildings B, C and D*. Korthuis stated that we can revise to not allow.

In addition, the Commission agreed to add *no overnight boarding except for medical purposes under the* Veterinary Clinics and Laboratories category.

Faber also stated that 2.7 should note *Resolution 709* instead of the "Mayor's letter."

There was brief conversation about signage. Korthuis replied, that there will be a monument sign up front between the two driveways on the east end. We are waiting to see who occupies the building. Park name and addresses will be on the monument sign.

Korthuis stated that they will likely install directional signs that will help direct traffic. Deliveries will happen along the back and the customer traffic will be through the middle.

The Commission asked, while Buildings A & B are under construction what are the plans for maintenance of the vacant property? Korthuis replied, I plan to mow 1-2 times per year. Korthuis will keep it tidy.

Faber noted that the turning radius on building D runs into a few parking stalls. Will there be some reconfiguration? Korthuis yes, absolutely.

The Commission stated that they are looking forward to a quality project.

G. Veltkamp asked how long this project will take to construct? In our SEPA Checklist we indicated 10 years, however, we are hopeful that will be much shorter. There are currently two national tenants looking at Building E.

Gudde, noted that there are aspects of the Development Agreement will need to be reviewed by the City's legal counsel.

The Commission asked if staff was satisfied with the responses to all questions in the staff report. Gudde replied, yes.

**Faber motioned to recommend approval of the Front Street Station Business Park Development Agreement as presented, according to the findings, conditions and recommendations of the Technical Review Committee Report dated September 30, 2019 and further subject to the following conditions:**

1. That the following language be added to Item 2.3: No product / inventory or refuse may be stored in outdoor parking areas for more than 48 hours. Refuse areas may be permanently added if screened with an appropriate fence or wall.
2. That no outside display of equipment be added to Farm Implement and Machinery Sales and Service.
3. That no outside display of equipment be added to retail feed and seed stores.
4. That drive through coffee stands should not be allowed in buildings B, C and D.
5. That no overnight boarding except for medical purposes be added under the Veterinary Clinics and Laboratories category.
6. That Section 2.7 be revised to state Resolution 709 instead of the "Mayor's letter".

Seconded by Kok, and the motion passed 5-0.

## **7. COMMISSIONERS CORNER**

Next meeting will be on November 21st and the agenda will include the Flood Hazard Overlay and the Pepin Creek Sub-Area Plan.

## **8. ADJOURNMENT**

**Motion to adjourn by Kok / Second by Scott. Meeting adjourned at 9:00 pm.**

CITY OF LYNDEN  
LYNDEN CITY COUNCIL

IN RE THE DEVELOPMENT  
STANDARDS VARIANCE REQUEST  
OF Don and Sally Korthuis, Petitioner

NO. 19-03  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Owners of the premises known as:

LOT 2 OF THE PARTITION BY COURT ORDER AS RECORDED ON  
NOVEMBER 19, 2018, UNDER AUDITORS FILE NUMBER 2018-  
1101761, WHATCOM COUNTY, WASHINGTON, SUBJECT TO AND  
TOGETHER WITH ALL EASMENTS, COVENANTS, RESTRICTONS  
AND / OR AGREEMENTS OF RECORD. ALL SITUATE IN WHATCOM  
COUNTY, WASHINGTON.

**COMMONLY DESCRIBED AS:** 2111 W. Front Street, Lynden

Having made application for a for a Development Standards Variance  
requesting to vary the requirement outlined in Division 4, Figure 4-2 / Table 4.1  
of the Engineering Design and Development Standards to allow the construction  
of an arterial street at 60-feet from the required 80-feet at the above noted  
address.

The Lynden City Council held a public hearing on November 18, 2019 and  
considered the consistency of the application under LMC 17.17.040 and has  
determined that the application meets the criteria for granting a development  
standards variance to the findings, conditions and recommendations of the  
Technical Review Committee Report dated November 12, 2019.

Said request having come before the Lynden City Council on November 18,  
2019, and the Lynden City Council having fully and duly considered the  
conditional use permit request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

- 1.01 Application. Don and Sally Korthuis, (“Applicant”) filed a development standards variance application which was accepted by the City as complete on October 31, 2019.
- 1.02 Location. The Property is located 2111 W Front Street in Lynden, Whatcom Co., Washington as described above.
- 1.03 Ownership. Don and Sally Korthuis are the Property Owners.

1.04 Reason for Request. To allow the construction of an arterial street from the required 80-feet to 60-feet. The variance would reduce the required property dedication from 20 feet in width to 10 feet.

1.05 Compliance with Criteria for Granting a Development Standards Variance. The application as presented during the public hearing complies with the criteria listed within Section 17.17.040 of the Lynden Municipal Code.

1.06 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in the Project Manual for Engineering Design and Development Standards, as applicable.

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

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

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

1.10 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application.

1.11 Critical Area Review. Critical areas will be addressed during project development.

1.12 SEPA Determination. A determination will be made in association with the future street construction on West Front Street.

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

## II. CONDITIONS

### **Specific Project Comments from the Technical Review Committee:**

The applicant is requesting a variance to LMC 18.14.030 which requires property dedication for rights-of-way and Table 4-1 (Figure 4-2) of the Engineering Design and Development Standards to allow the construction of an arterial street from the required 80-feet to 60-feet. The variance would reduce the required property dedication from 20-feet in width to 10-feet. The proposed project is located on approximately 7 acres of vacant property and would affect approximately 475-feet of frontage along West Front Street.

A 30-foot ROW abutting Front Street Station allows construction of a 44-wide paved street cross-section matching the improved street to the east but reduces sidewalk width from 8-feet to 5-feet, with a small 3-foot planter strip between, and street trees shifted into parking islands on the property.

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. 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."

**Variance Application Comments from the Technical Review Committee:**

**Planning and Development**

1. *Variance Justification:* The applicant has provided a response to each of the development standards variance criteria. See attached
2. *Alternate Design Analysis:* The applicant has provided a response to each of the development standards variance criteria. See attached
3. *Street Trees:* Required street trees to be established on private property along the West Front Street frontage. A corresponding development

agreement will require perpetual maintenance of the trees by the property owner.

### Public Works

4. Applicant is required to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards).
5. *Water:* At the time of development, water must be extended to the furthest extent of the property. Easements will be needed and must be marked on the face of the plat.
6. *Sewer:* At the time of development, sewer will be required to be extended to meet the service area as identified in the sewer comprehensive plan and the City's Engineering Design and Development Standards. Easements will be needed and must be marked on the face of the plat.
7. *Stormwater:* All improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
8. A post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
9. There is a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.

### Fire Department

10. *Variance Request:* The Lynden Fire Department does not have concerns regarding the proposed development standards variance.

### III. DECISION

Petitioner's application to allow to allow a Development Standards Variance to allow the construction of an arterial street from the required 80-feet to 60-feet, on the property described herein is hereby **Approved**.

DATED: \_\_\_\_\_

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

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Conditional Use Permit 19-01 – Front Street Station Business Park	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Planning Commission Package and Minutes of 10-24-19, Findings of Fact and Conclusions of Law	
<b>Summary Statement:</b>	<p>The Conditional Use Permit application is brought forward by Don and Sally Korthuis for a business park development called Front Street Station. The proposed project is located on approximately 7 acres of vacant property on the south side of West Front Street. The application requests the addition of wholesaling and warehousing as permitted uses within the proposed business park. The business park is not intended to be exclusively wholesaling and warehousing but a wide variety of uses including retail, showroom, office, and light manufacturing as permitted by code.</p> <p>At a public hearing on October 24, 2019 the Planning Commission recommended approval of the proposed conditional uses.</p>	
<b>Recommended Action:</b>	Motion to approve the Conditional Use Permit allowing wholesale and warehouse uses at the Front Street Station business park and to authorize the Mayor's signature on the Findings of Fact.	



# City of Lynden

## Conditional Use Permit Application



### General Information:

#### Property Owner

Name: Don and Sally Korthuis  
 Address: 1610 Grover St Suite B5  
 Telephone Number: 360-354-1545 Fax Number: 360-354-1080  
 E-mail Address: don@mrlynden.com / sally@mrlynden.com

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

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_

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

#### Property Information

Project Location (street address / block range): 2111, 2113, 2115, 2117, 2119 W. Front St, Lynden WA 98264  
 Legal Description (attach if necessary): See attached  
 Assessor's Parcel Number: 4002244050950000 Zoning Designation: ERC SR  
 Parcel Square Footage: 308,840 Property Dimensions: 475' x 650'  
 Applicable Sub-Area: \_\_\_\_\_ Building/Structure Size: 125,210  
 Height of Structure: 25' Addition Size: Ø

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

Warehousing Included open to the public - Permitted  
Wholesaling Included open to the public - ~~Permitted~~  
~~Entry ways~~ - See Redevelopment agreement

BY SIGNING THIS APPLICATION, I CERTIFY THAT ALL THE INFORMATION SUBMITTED IS TRUE AND CORRECT. I ALSO UNDERSTAND THAT NO FINAL APPROVAL WILL BE ISSUED UNTIL ALL FINAL REVIEW COSTS ARE PAID IN FULL.

Applicant's Signature: [Signature] Date: 7/30/19

Property Owner's Signature: [Signature] Date: 7/30/19  
Sally M. Korthuis 5/30/19

PRE-APPLICATION MEETING DATE: \_\_\_\_\_ HEARING DATE: \_\_\_\_\_  
 (APPLICATIONS WILL NOT BE ACCEPTED WITHOUT A PRE-APPLICATION MEETING)

FEE'S (CONDITIONAL USE PERMIT \$350.00 BASE FEE OR FINAL REVIEW COST) DATE PAID: 7-31-19 RECEIPT # \_\_\_\_\_

Don and Sally Korthuis  
 RE: Front Street station CUP  
 Address:  
 2111-2119 Front Street  
 Lynden, WA

Date: 8/23/19



Response to Lynden Ordinance 19.49.020 regarding Front Street Station CUP.

First of all we need to point out that getting the Conditional Use Permit (CUP) for Warehousing and Wholesaling is critical to the Front Street Station (FSS) development. Quite simply, without this, the project cannot proceed. We have toured this type of Business Park throughout the west coast. Every business park of this type has a component of warehousing and wholesaling. Warehousing and Wholesaling are central to the success of this project.

#### **19.49.020 Standards and criteria for granting a CUP**

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

FSS Answer: Not only is our CUP not detrimental, it will enhance the surrounding area. This area of town was zoned Commercial Regional, for example, big box stores. Some of these stores, for example, Costco, are warehouse stores, which will require this change. Examples of a warehouse need would be a fastener company, paint supplier, surveying company, refinery supply co., etc, that will need an office or retail showroom up front, and a warehouse in the rear. Other warehouse needs would be a Canadian company that needs a USA presence, to ship and receive their products.

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

FSS answer: 19.23.020 is the ordinance we are seeking a change. Both Wholesaling and Warehousing are allowed as a Conditional Use. This application is to allow these two uses as part of the Front Street Station (FSS) business development agreement.

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

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

FSS answer: Our goal to blend in with the surrounding businesses. The immediate businesses near this development are industrial and agriculture. Warehousing and Wholesaling are specifically in the definition as a CUP. Our goal is to have high end Warehousing and wholesaling as a part of this development.

Lynden's code 9.23.010 has a definition of CSR Commercial Services – Regional (underlying is added to emphasize) which supports our request: “The purpose of the CSR zone is to support the development of large format retail and regional commercial development. In addition, this zone may support commercial establishments which require a retail contact with the public together with professional offices, storage and warehousing, or light manufacturing. This zone is located where larger parcels and arterial streets are available to support the traffic and land needs for these types of uses. This zone provides the primary location for businesses serving both the local and regional trade area.”

2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - i) traffic and pedestrian circulation
  - ii) noise, smoke, fumes, glare or odors generated by the proposed use,
  - iii) building and site design,
  - iv) the physical characteristics of the subject property

FSS answer: We believe that the above criteria will be enhanced by FSS. We will not be renting to “dirty” businesses, such as car repair, fiberglass boat repair, etc. It is our goal to promote clean businesses in Lynden providing living wage jobs. Also to provide incubator location for new business. Lynden is in urgent need for wholesaling and warehousing;

See Business development agreement for the building and site plans.

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services; and

FSS answer: At this time, adequate utilities are on or near the property for full development. We were very careful that traffic flow throughout FSS was adequate for both car and delivery truck traffic that a Warehouse or Wholesale use would require.

4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

FSS answer: Wholesaling and Warehousing will see no significant change of traffic versus the allowed business park uses.

5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.

FSS answer: See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.

FSS answer: See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

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

FSS answer: N/A. There are none on site.

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

FSS answer: Yes! We are excited to cooperate with the city goals of this area. Lynden is the only major community in Whatcom County without this sort of facility. It is our goal to make this facility enhance the City.

## Conditional Use Permit for Front Street Station Manufacturing and Wholesaling

Currently the City of Lynden has two specific zoning use classifications relating to the Wholesaling and/or Warehousing of products.

Front Street Station desires to have both uses allowable in all the buildings proposed (A-E) in the new commercial business park for the following reasons:

### In reference to buildings A, B, C, D, and E:

1. At Front Street Station, with its attractive design, more than adequate parking and traffic flow, we will accommodate many such Retailers-Open to the Public in an environmentally pleasing location, and safe due to high efficiency exterior lighting to include sufficient parking lot illumination.
2. Additionally, the ingress and egress for the both the shopper and businesses will be not only enhanced but also most accommodating because of the three (3) curb cuts. Since there will also be a multi-tenant business type park in the rear, these 3 curb cuts on Front Street will allow for a more efficient traffic flow, thus mitigating vehicles waiting ON Front Street for safe access into the property.
3. While Front Street Station is one block from the Guide Meridian with its retail, showrooms and shopping centers, it is still fully compatible with the surrounding area since the businesses that would locate there will still attract all the usual customers.

### In reference to buildings A + E:

1. While so called Brick & Mortar (B&M) stores are seeing increasing competition from the On-Line stores, B&M will always have a very significant place in the overall shopping experience.
2. We see many examples not only in Whatcom County, but nationwide as well, where very successful B&M warehouse type stores, and for that matter wholesale stores are seeing an increased presence because of a changing demographic. That change being that it was once thought that the millennial shopper was more prone to use On-Line stores in place of B&M. However, research by shopping center and retail companies show that as those millennials have gotten older, they now are shopping with their children IN the B&M stores to provide the "hands on" experience, and to actually demonstrate the product(s) they are considering.
3. We see evidence of this in such type stores as Costco, Best Buy, WinCo, etc. for the Big Box stores. However, Front Street Station will not be attracting these stores. We envision stores that warehouse/wholesale such items carpet/floor coverings, for example, Great Floors, Fishtrap Creek Interiors, or Village Lighting., Home products such as doors, windows, (Lynden Door is an example), Furniture stores, etc. These stores are specifically set up to

have a retail presence in the front (30% of floor area) while warehousing and/or manufacturing a product in the rear. They also act as wholesalers to the general construction industry as evidenced by what Architects are designing and suggestion for their clients.

4. The shoppers experience will be one that they'll want to experience again.

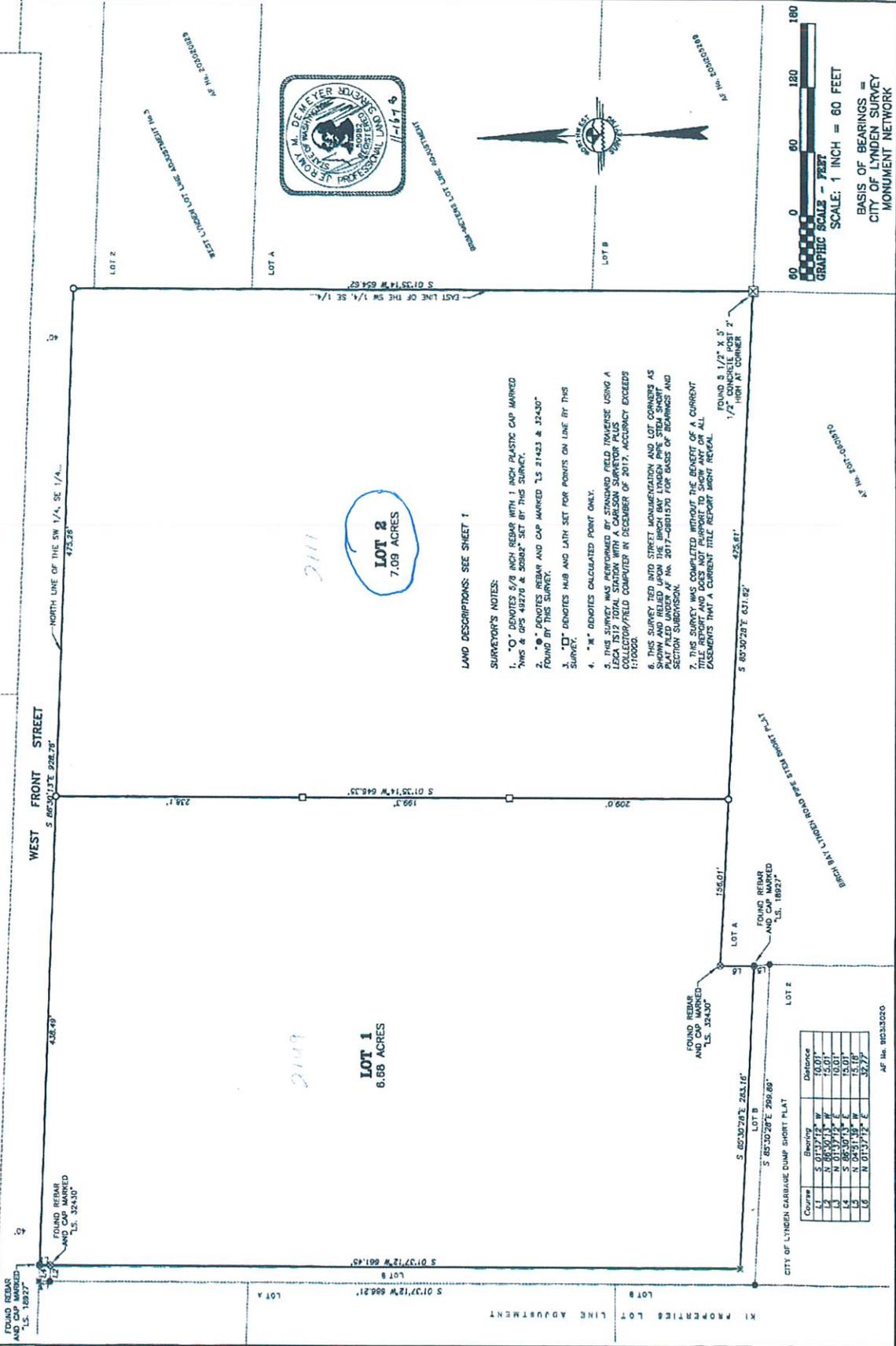
#### **In reference to buildings B,C,D**

- 1 In buildings such as these, where the front areas are either office or small retail showrooms, it is not only common but ubiquitous around the country that manufacturing and or wholesaling business are located here.
- 2 Such diverse type businesses would include for example Fastenal (over 1500 "stores" wholesale Open to the Public)) where the front portion is retail and balance is warehouse; small tech companies manufacturing a proprietary product with both offices and warehouse; cabinet/furniture businesses having a small office/showroom while building the product in the warehouse; lighting company catering to the architect/contractor where product is warehoused. The list of all such type users, both warehouse and wholesale could possibly be endless. It would be difficult to list all such specific users. It is the intent of Front Street Station in buildings B, C, and D to accommodate those businesses not needing any retail presence or even a location that the public can find. It is common that such users only have a very small sign on the glass front door for deliveries and those that have appointments.

2018-1101761

**PARTITION BY COURT ORDER**  
 A PORTION OF THE SW QUARTER OF THE SE QUARTER OF SECTION 24,  
 TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M.  
 WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

SHEET 2 OF 2



**LOT 2**  
7.09 ACRES

**LOT 1**  
6.68 ACRES

LAND DESCRIPTIONS: SEE SHEET 1

SURVEYOR'S NOTES:

- "O" DENOTES 5/8 INCH REDBAR WITH 1 INCH PLASTIC CAP MARKED "NMS 4024270 & 20082" SET BY THIS SURVEY.
- "P" DENOTES REDBAR AND CAP MARKED "S 21423 & J2430" FOUND BY THIS SURVEY.
- "I" DENOTES HUB AND LATV SET FOR POINTS ON LINE BY THIS SURVEY.
- "M" DENOTES CALCULATED POINT ONLY.

THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A LEICA TS12 TOTAL STATION WITH A CARLSON SURVEYOR PLUS 110004. THIS SURVEY/FIELD COMPUTED IN DECEMBER OF 2017, ACCURACY EXCEEDS 1:10000.

SURVEY TIED INTO STREET MONUMENTATION AND LOT CORNERS AS SHOWN AND RELATED TO THE BACKSAY LYNDEN PINK STEEL SHORT PLAT FILED UNDER AF No. 2017-2801570 FOR BASIS OF BEARINGS AND SECTION SUBDIVISION.

THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT INTEND TO SURPASS OR ALL DESIGNERS THAT A CURRENT TITLE REPORT SHOW RECAL.

Course	Bearing	Distance
1-1	S 01°37'12" W	10.01'
1-2	N 89°51'19" W	15.01'
1-3	S 85°30'26" E	15.01'
1-4	S 85°30'26" E	15.01'
1-5	N 08°51'19" W	15.19'
1-6	N 01°37'12" E	35.77'

GRAPHIC SCALE - FEET

0 60 120 180 240

SCALE: 1 INCH = 60 FEET

BASIS OF BEARINGS =  
CITY OF LYNDEN SURVEY  
MONUMENT NETWORK

SP#

**LEGAL DESCRIPTION:**

THE EAST 475.00 FEET OF THE FOLLOWING DESCRIBED PARCEL: THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 2, EAST OF W.M., MORE PARTICULARLY

DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH LINE OF SAID QUARTER QUARTER AT A POINT 364 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE SOUTH 660 FEET; THENCE EAST 282.8 FEET; THENCE SOUTH TO THE NORTH LINE OF THE TRACT OF LAND CONVEYED TO WHATCOM COUNTY, WASHINGTON, BY DEED RECORDED UNDER AUDITORS FILE NO. 637745, RECORDS OF WHATCOM COUNTY, WASHINGTON, WHICH TRACT IS NOW OWNED BY THE CITY OF LYNDEN; THENCE EAST, ALONG THE NORTH LINE OF SAID CITY OF LYNDEN TRACT AND SAID LINE PRODUCED EASTERLY, TO THE EAST LINE OF SAID QUARTER QUARTER; THENCE NORTH, ALONG SAID EAST LINE, TO THE NORTH LINE OF SAID QUARTER QUARTER; THENCE WEST, ALONG SAID NORTH LINE, TO THE POINT OF BEGINNING; EXCEPT THE RIGHT-OF-WAY FOR FRONT STREET/TROMP ROAD LYING ALONG THE NORTHERLY LINE THEREOF.

Lot 2 of Partition by Court Order  
as recorded on November 19, 2018,  
under Auditor's File Number 2018-

Whatcom Cty WA. Subj. to + t/gw  
all easements, cov. rest. +/or agreements  
of record. Acc situ. it wh City WA.

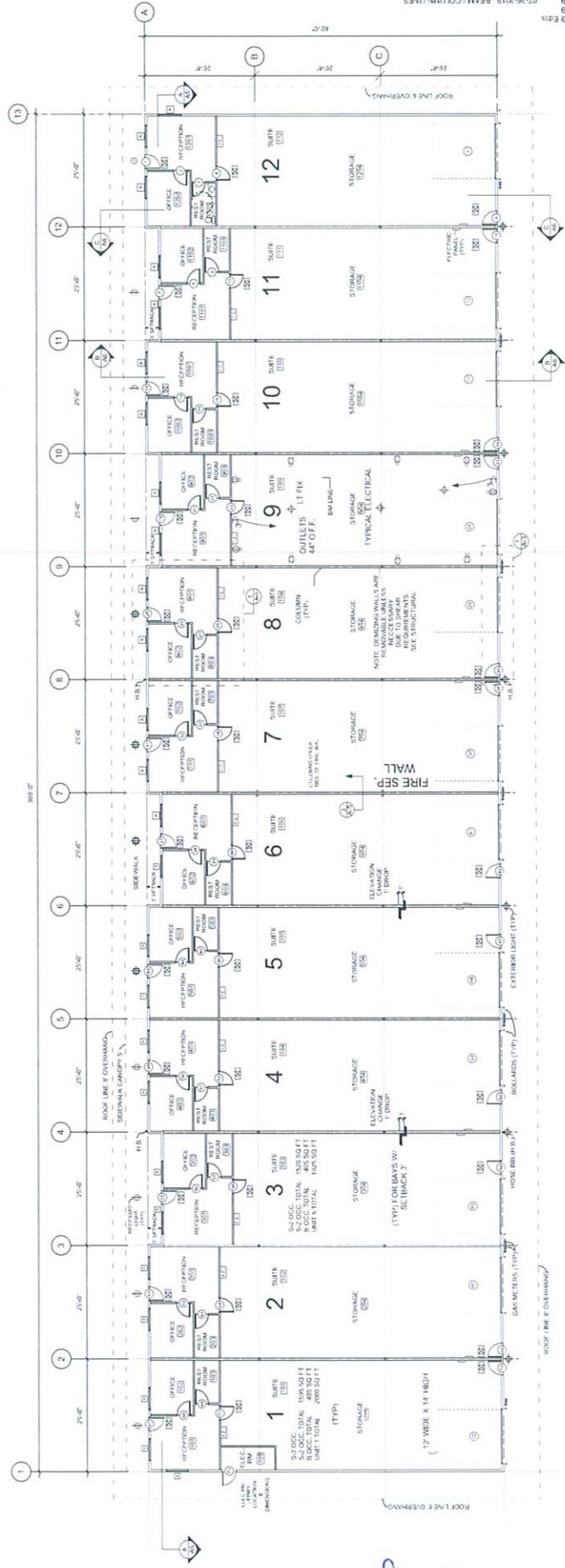


Building A (landscaping not accurate)

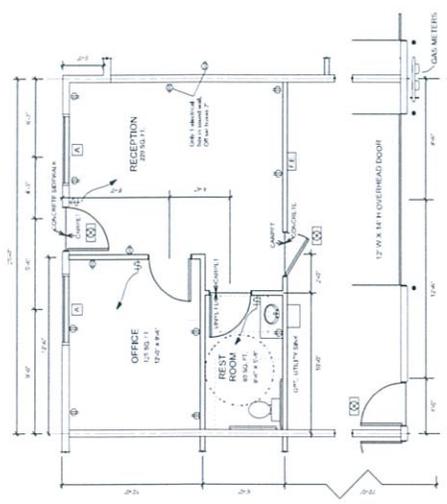


1407 NORTH FOREST, BELLINGHAM, WA 98225  
www.landmarkarchitect.com  
d@landmarkarchitect.com  
602.731.2366  
LICENSED ARCHITECT IN WASHINGTON, IDAHO, ALASKA, HAWAII  
FOR DON & SALLY KORTHUIS  
PROPOSED OFFICE/STORAGE BUILDING "B"  
FRONT STREET STATION

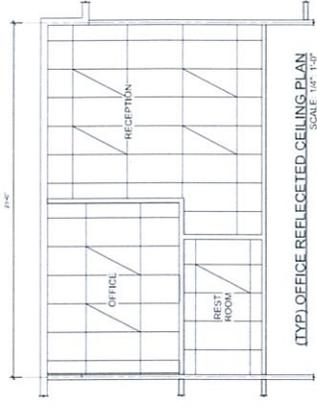
07-10-2019 ERS  
06-25-2019  
07-26-2019 BEAM / COLUMN LINES



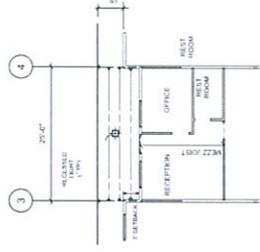
TYPICAL OFFICE FLOOR PLAN  
SCALE 1/4" = 1'-0"



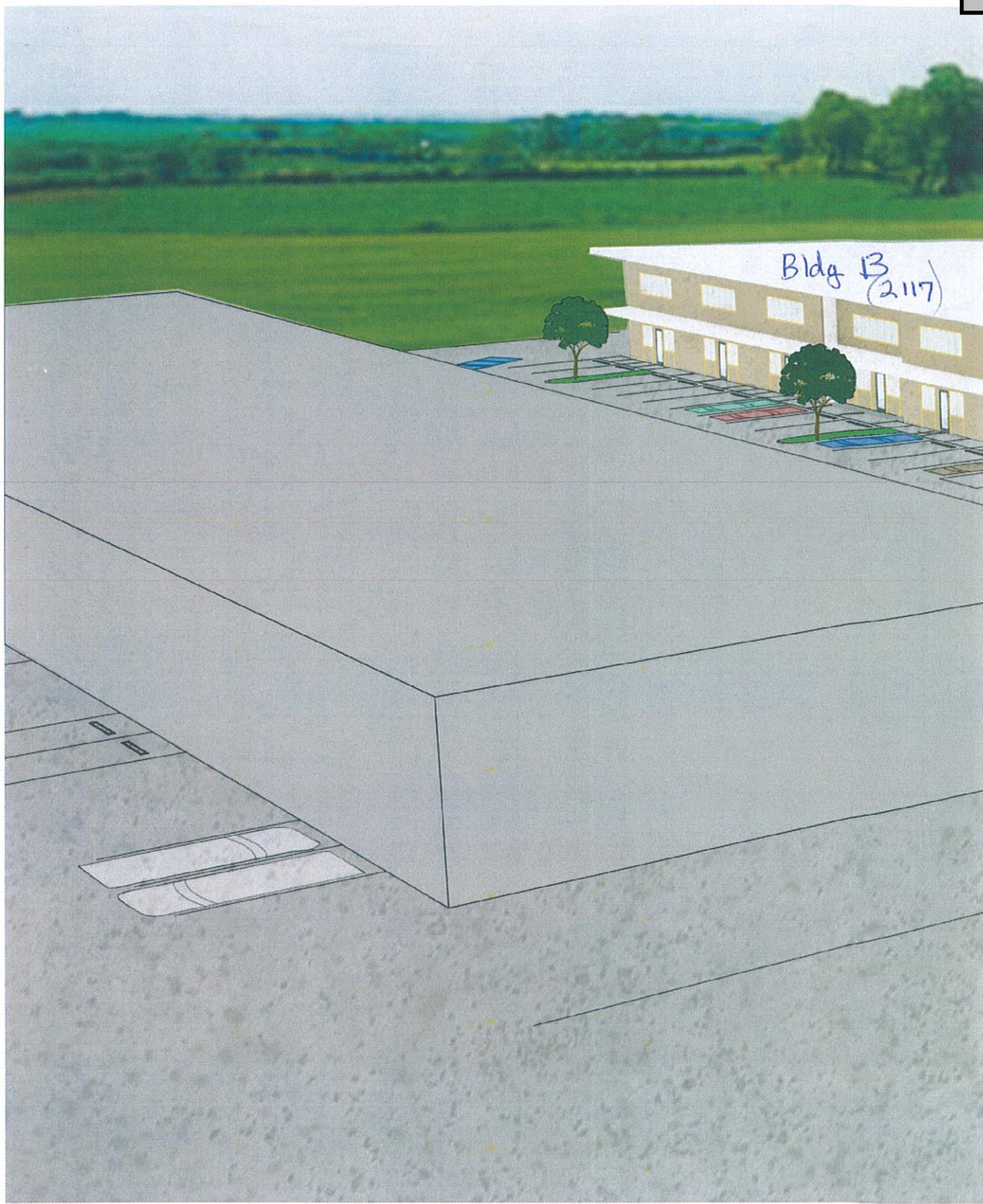
TYPICAL OFFICE REELECTED CEILING PLAN  
SCALE 1/4" = 1'-0"



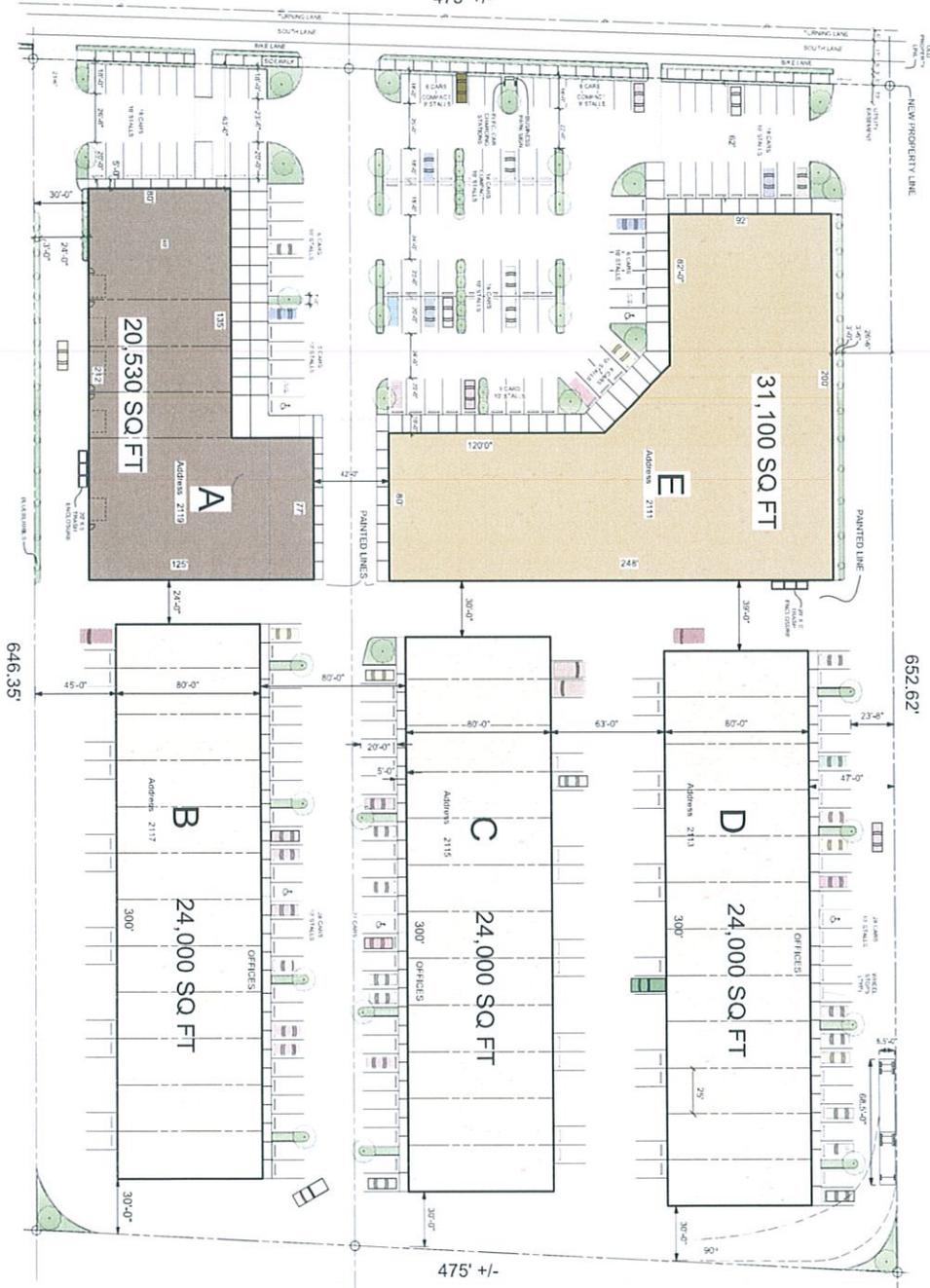
OPTIONAL 5' CANOPY FRAMING



Buildg B



WEST FRONT ST.  
475' +/-



**PARKING**  
 TOTAL PARKING SPACES 227  
 REQUIRED ADA ACCESSIBLE 2% OF TOTAL (277) = 5 SPACES  
 ADA ACCESSIBLE STALLS PROVIDED = 5



**PRELIMINARY SITE PLAN**  
 SCALE 1" = 30'

- 3-13-2019 LANDSCAPING
- 3-07-2019 PARKING BY OH DRS
- 3-05-2019 EOTS
- 2-14-2019 PARKING/ PROPERTY LINES
- 1-23-2019 PARKING
- 1-18-2019 Blog cm, parking lot, move bldg
- 12-21-2018

**DOUGLAS LANSEM ARCHITECT AIA**  
 LICENSED ARCHITECT IN WASHINGTON, IDAHO, ALASKA, HAWAII  
 1407 NORTH FOREST, BELLINGHAM, WA 98225 360.733.2466  
 www.lansemarchitect.com dla@lansemarch.zet

FOR DON AND SALLY KORTHUIS



Date: 5/30/2013  
 Document Path: \\lynden-ch2\proj\Projects\Planning\MISC\Korthuis\Project\Tromp\_Storm.mxd

Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerowise, IGN, Swisstopo, and the GIS User Community

# West Lynden Storm Lines

See Page 15

See Page 16

See Page 17

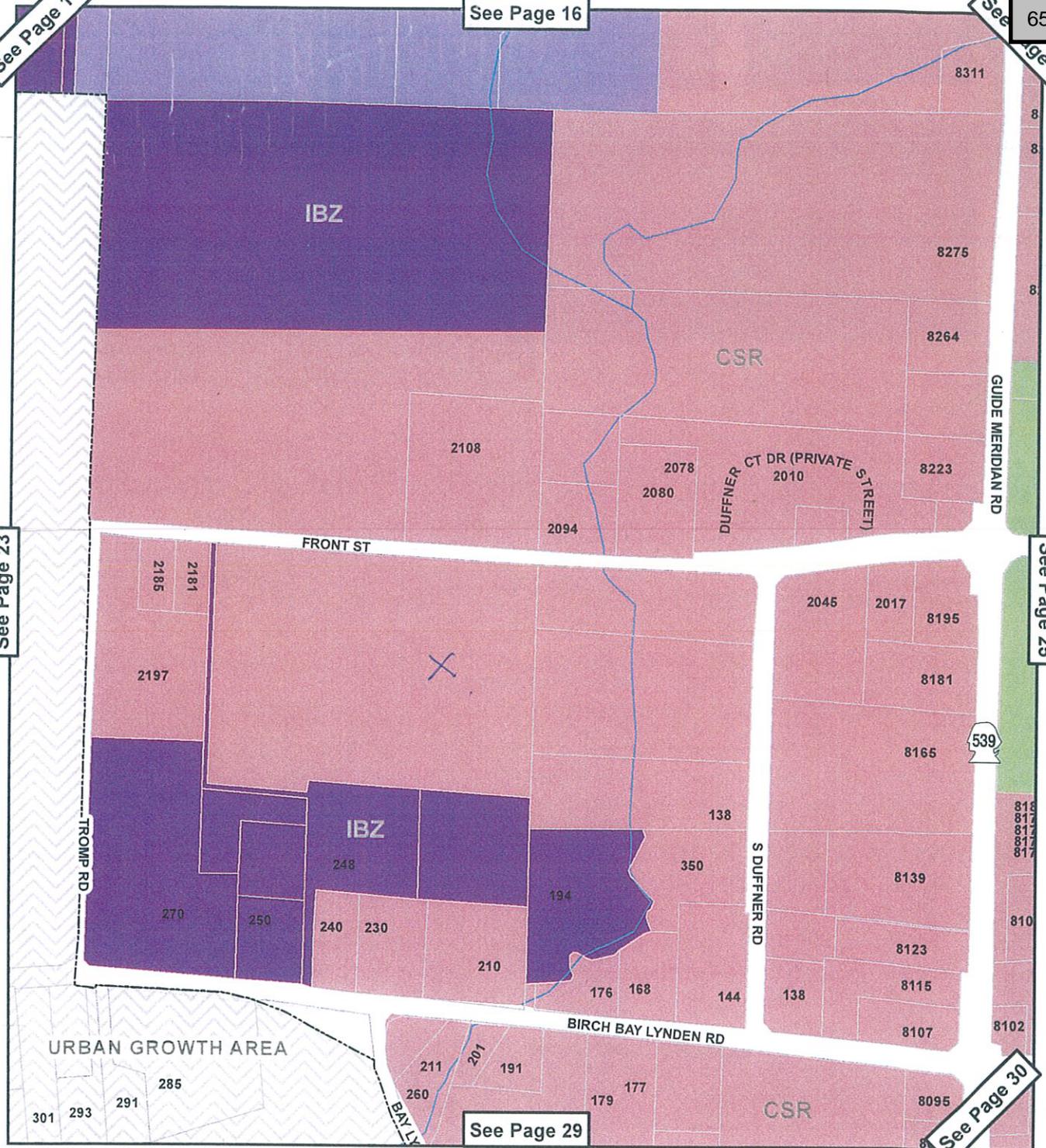
65

See Page 23

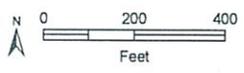
See Page 25

See Page 29

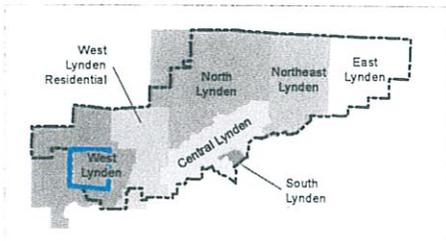
See Page 30



Doc. Path: \\Saturn\GIS\Projects\Planning\Zoning\MapBook\PlanningMapBook2017.mxd Updated: April 03, 2017



### Sub-Areas



Sub-Areas: West Lynden

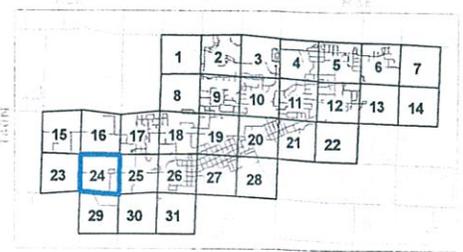
### Zoning Designations

- Residential**
  - RS-100
  - RS-84
  - RS-72
  - RMD
  - RM-1
  - RM-2
  - RM-3
  - RM-4
  - MH
  - TR-RW
- Public Use**
  - PU
- Commercial**
  - CSR
  - CSL
  - HBD
- Industrial**
  - ID
  - IBZ
- Additional Designations**
  - Overlay

### Features

- Fire Dept.
- Police Dept.
- Public Trail
- Golf Trail
- Railroad
- City Limits
- UGA
- PRD

### Page Index



Section 24, Township 40N, Range 2E







# City of Lynden

## Critical Areas Checklist

Section: 24 Township: 40 Range: 2 Parcel Number: 405 095

Site Address: 2111 - 2119 Front St., Lynden

Proposed Uses: Business Park

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

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

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

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

  
Applicant's Signature

7/31/19  
Date

CITY OF LYNDEN  
LYNDEN CITY COUNCIL

IN RE THE CONDITIONAL USE  
PERMIT REQUEST OF Don and Sally  
Korthuis, Petitioner

NO. 19-01  
FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Owners of the premises known as:

LOT 2 OF THE PARTITION BY COURT ORDER AS RECORDED ON NOVEMBER 19, 2018, UNDER AUDITORS FILE NUMBER 2018-1101761, WHATCOM COUNTY, WASHINGTON, SUBJECT TO AND TOGETHER WITH ALL EASMENTS, COVENANTS, RESTRICTONS AND / OR AGREEMENTS OF RECORD. ALL SITUATE IN WHATCOM COUNTY, WASHINGTON.

**COMMONLY DESCRIBED AS:** 2111 W. Front Street, Lynden

Having made application for a Conditional Use Permit to allow warehousing and wholesale uses at the above noted address within the Regional Commercial Services (CSR) zone.

The Lynden Planning Commission held a public hearing on October 24, 2019 and considered the consistency of the application under LMC 19.49.020 and has determined that the application meets the criteria for granting a conditional use permit according to the findings, conditions and recommendations of the Technical Review Committee Report dated September 30, 2019.

Said request having come before the Lynden City Council on November 18, 2019, and the Lynden City Council having fully and duly considered the conditional use permit request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Don and Sally Korthuis, (“Applicant”) filed a conditional use application which was accepted by the City as complete on August 26, 2019.

1.02 Location. The Property is located 2111 W Front Street in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Don and Sally Korthuis are the Property Owners.

1.04 Reason for Request. To allow warehousing and wholesale uses within the Regional Commercial Services (CSR) zone in association with the development of a 125,210 square foot business park.

1.05 Compliance with Criteria for Granting a Conditional Use Permit. The application as presented during the public hearing complies with the criteria listed within Section 19.49.020, Section 19.49.030 and Section 19.49.040 of the Lynden Municipal Code.

1.06 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in the Project Manual for Engineering Design and Development Standards, as applicable.

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

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

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

1.10 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application.

1.11 Critical Area Review. There were no critical areas found to be on the site.

1.12 SEPA Determination. Environmental review of the proposal is not required.

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

## II. CONDITIONS

### **Planning & Community Development Comments:**

1. Extents of Uses: Please clarify the extents of the proposal. The application seems to indicate that the proposed CUP uses of wholesale and warehouse uses will occur only in Phase I of the business park (buildings A and B). Staff understood that these uses were likely to occur throughout all phases of the business park. It is recommended that the application encompass the full scope of the uses even if they may occur in future phases. Revise application information as needed.

2. Context of the CUP: The pending development agreement associated with the proposed business park gives important context to the conditional uses. As such, staff recommends that the execution of the development agreement be considered as a condition of approval for the wholesale and warehouse Conditional Use Permits (CUP). In other words, wholesale and warehouse uses are not permitted outside of the context of the business park unless an alternate CUP application is made.
3. Building Frontage: Staff is concerned that wholesale and warehouse uses may not lend themselves to attractive building facades. Be advised, that if the proposed CUPs are permitted, care should be taken to avoid the negative visual impacts large, blank walls have on the pedestrian environment – specifically, the Front Street frontage. As the supporting application suggests, building facades visible from Front Street should not appear to be warehouses even if warehouse uses are permitted. Staff recommends that building facades be held to this standard when reviewed in more detail by the Design Review Board.
4. Pedestrian Accommodation: Commercial uses are anticipated to accommodate the general public and a variety of transportation methods including pedestrian. Industrial uses can be less accommodating as these sites are designed to accommodate truck traffic. Be advised, the Design Review Board will be reviewing site layout and its accommodations for retail traffic and pedestrian access.
5. Business Licensing: Be advised, entities which operate wholesale or warehouse establishments on the property must secure a business license with the City of Lynden.

## **Public Works**

1. Water:
  - a. Fire hydrant spacing shall be a maximum of 300 feet clear distance.
  - b. All water meters shall have approved backflow prevention installed. Be advised backflow installed may need to change based on future uses.
  - c. Be advised watermains may need to be looped to provide fire flow.
2. Sewer: Be advised, oil/water separators may be needed depending on future uses.
3. Circulation/Access: Proposed uses will require larger turning movements for truck traffic.

4. Storm drainage: Be advised future uses may require enhanced stormwater treatment.

### **Fire and Life Safety**

1. Fire Suppression: Be advised, a fire suppression system may be required in establishments occupying space for warehouse and/or wholesale uses.
2. Inspections Required: Be advised, the City of Lynden conducts regular fire inspections of business establishments including warehouse and wholesale entities.

### **Parks and Recreation**

The Parks Department has reviewed the application and has no comment

### III. DECISION

Petitioner's application to allow to allow warehousing and wholesale uses at the above noted address within the Regional Commercial Services (CSR) zone, on the property described herein is hereby **Approved**.

DATED: \_\_\_\_\_

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



PLANNING DEPARTMENT  
360-354-5532

## PLANNING COMMISSION MEETING MINUTES

7:30 PM October 24, 2019  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

Present: Tim Faber, Diane Veltkamp, Gerald Veltkamp, Blair Scott, Lynn Templeton and Brett Kok.

Absent with notice: Bryan Korthuis

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

### 3. APPROVAL OF MINUTES

#### A. October 10, 2019

**Scott motioned to approve the October 10, 2019, Planning Commission Minutes as submitted. Seconded by Kok and the motion passed 5-0.**

### 4. DECLARATION OF CONFLICT

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

### 5. PUBLIC HEARING

#### A. Conditional Use Permit #19-01, Front Street Station Business Park

Chairperson Veltkamp opened the public hearing.

In 2018 the City of Lynden modified the uses permitted within commercial zoning categories. Most of the revisions focused on the Commercial Services – Regional (CSR). As part of this code amendment the uses of wholesaling and warehousing were added as Conditional Uses which require a Conditional Use Permit (CUP) prior to operation.

The pending CUP application is brought forward by Don and Sally Korthuis for a business park development called Front Street Station. It is located on approximately 7 acres of vacant property on the south side of W. Front Street. The application requests the addition of wholesaling and warehousing as permitted uses within the proposed business park. The business park is not intended to be exclusively wholesaling and

warehousing but a wide variety of uses including retail, showroom, office, and light manufacturing as permitted by code.

No written comment was received concerning this application.

Through separate applications, the property owner is in the process of completing a development agreement, a SEPA environmental review, and acquiring approval from the City’s Design Review Board. Additionally, the City of Lynden Public Works Department has been designing improvements to West Front Street and pursuing funding for the improvements through Whatcom County’s Economic Development Investment (EDI) program.

Don Korthuis, 2151 Stickney Island Road, Everson

Korthuis addressed the Commission and stated that the CUP request is a very critical component that this business park needs. To allow wholesaling and warehousing is very important and will be good for Lynden, good for the economy and good for jobs as well.

Speaking in favor

Clark Vellema, PO Box 453, Snohomish, 98291

Here to support family owned property. The application should be approved. When the city sets forth a matrix it should allow property owners the opportunity to define the use as requested.

Vellema would also like to note that this property is defined as lot 2 of a partition by court order. Vellema owns the other parcel and will likely develop in the future.

Dave Meyers Axton Road, Lynden

Meyers shares a property line with the Korthuis property and would like to speak in favor of the request. It is a good move for the City as far as direction. There is a need for this type of development.

Korthuis referenced his application. Currently the City of Lynden has two specific zoning use classifications relating to the Wholesaling and/or Warehousing of products. Front Street Station desires to have both uses allowable in all the buildings proposed (A-E) in the new commercial business park for the following reasons:

In reference to buildings A, B, C, D, and E.

- At Front Street Station, with its attractive design, more than adequate parking and traffic flow, we will accommodate many such Retailers-Open to the Public in an environmentally pleasing location and safe due to high efficiency exterior lighting to include sufficient parking lot illumination.
- Additionally, the ingress and egress for the both the shopper and businesses will be

not only enhanced but also most accommodating because of the three (3) curb cuts. Since there will also be a multi-tenant business type park in the rear, these 3 curb cuts on Front Street will allow for a more efficient traffic flow, thus mitigating vehicles waiting ON Front Street for safe access into the property.

- While Front Street Station is one block from the Guide Meridian with its retail showrooms and shopping centers, it is still fully compatible with the surrounding area since the businesses that would locate there will still attract all the usual customers.

In reference to buildings A + E.

- While so called Brick & Mortar (B&M) stores are seeing increasing competition from the On-line stores, B&M will always have a very significant place in the overall shopping experience.
- We see many examples not only in Whatcom County, but nationwide as well, where very successful B&M warehouse type stores, and for that matter wholesale stores are seeing an increased presence because of a changing demographic. That change being that it was once thought that the millennial shopper was more prone to use On-Line stores in place of B&M. However, research by shopping center and retail companies show that as those millennia ls have gotten older, they now are shopping with their children IN the B&M stores to provide the "hands on" experience, and to actually demonstrate the product(s) they are considering.
- We see evidence of this in such type stores as Costco, Best Buy, WinCo, etc. for the Big Box stores. However, Front Street Station will not be attracting these stores. We envision stores that warehouse/wholesale such items carpet/floor coverings, for example, Great Floors, Fishtrap Creek Interiors, or Village Lighting, Home products such as doors, windows, (Lynden Door is an example), Furniture stores, etc. These stores are specifically set up to have a retail presence in the front (30% of floor area) while warehousing and/or manufacturing a product in the rear. They also act as wholesalers to the general construction industry as evidenced by what Architects are designing and suggestion for their clients.
- The shoppers experience will be one that they will want to experience again.

In reference to buildings B,C,D.

- In buildings such as these, where the front areas are either office or small retail showrooms, it is not only common but ubiquitous around the country that manufacturing and or wholesaling business are located here.
- Such diverse type businesses would include for example Fastenal (over 1500 "stores" wholesale Open to the Public)) where the front portion is retail and balance is warehouse; small tech companies manufacturing a proprietary product with both offices and warehouse; cabinet/furniture businesses having a small office/showroom while building the product in the warehouse; lighting company catering to the architect/contractor where product is warehoused. The list of all such type users, both

warehouse and wholesale could possibly be endless. It would be difficult to list all such specific users. It is the intent of Front Street Station in buildings B,C, and D to accommodate those businesses not needing any retail presence or even a location that the public can find. It is common that such users only have a very small sign on the glass front door for deliveries and those that have appointments.

Korthuis also provided the following responses to how he believes his application for a Conditional Use Permit meets the following criteria listed under 19.49.020:

- 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district; *Our goal to blend in with the surrounding businesses. The immediate businesses near this development are industrial and agriculture. Warehousing and Wholesaling are specifically in the definition as a CUP. Our goal is to have high end Warehousing and wholesaling as a part of this development.*

*Lynden's code 9.23.010 has a definition of CSR Commercial Services – Regional (underlying is added to emphasize) which supports our request: "The purpose of the CSR zone is to support the development of large format retail and regional commercial development. In addition, this zone may support commercial establishments which require a retail contact with the public together with professional offices, storage and warehousing, or light manufacturing. This zone is located where larger parcels and arterial streets are available to support the traffic and land needs for these types of uses. This zone provides the primary location for businesses serving both the local and regional trade area."*

*Commission has no concerns.*

- 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
  - i. traffic and pedestrian circulation,
  - ii. noise, smoke, fumes, glare or odors generated by the proposed use,
  - iii. building and site design,
  - iv. the physical characteristics of the subject property

*We believe that the above criteria will be enhanced by FSS. We will not be renting to "dirty" businesses, such as car repair, fiberglass boat repair, etc. It is our goal to promote clean businesses in Lynden providing living wage jobs. Also, to provide incubator location for new business. Lynden is in urgent need for wholesaling and warehousing. See Business development agreement for the building and site plans.*

*The Commission agreed that that the proposed use will enhance the area. Faber stated that this answer needs to be reflected in the Development Agreement as well.*

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services. At this time, adequate utilities are on or near the property for full development. We were very careful that traffic flow throughout FSS was adequate for both car and delivery truck traffic that a Warehouse or Wholesale use would require

*The Commission agreed. Templeton asked if they will be required to install a fire hydrant? Gudde stated that they will have to meet all fire requirements.*

4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service. Wholesaling and Warehousing will see no significant change of traffic versus the allowed business park uses

*Gudde replied that West Front Street is considered a regional road and the city is responsible for it. A traffic study was completed, however, it is not required for the CUP, The city is applying for EDI funds.*

5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code. See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

*The Commission agrees.*

6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use. See site plan. Meets or exceeds all city codes for landscaping, parking, traffic flow.

*D Veltkamp asked if there was a way to mitigate traffic between cars vs. trucks. As retail vehicles come to visit, how do will they circulate? Gudde replied that this topic will be looked at through the Development Agreement.*

*Faber stated that there is plenty of room as there are 3 access. There are plenty of ways to work around that concern. Templeton asked if the truckers will use Tromp Road. Gudde replied, yes, the City prefers that trucks use Tromp. The new design of West Front calls for an all-weather road.*

7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance. N/A. There are none on site.

No concern.

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

Yes! We are excited to cooperate with the city goals of this area. Lynden is the only major community in Whatcom County without this sort of facility. It is our goal to make this facility enhance the City.

The Commission had no concern.

D. Veltkamp asked if Korthuis was looking for a CUP for all buildings and phases? Korthuis replied, yes.

**Scott motioned to close the public hearing. Seconded by Kok, and the motion passed 5-0.**

The Commission reviewed the minimum standards outlined in LMC 19.49.040 regarding the Special Conditions for approval of a CUP within the West Lynden Sub-Area and has found that the request meet the criteria

In addition, the Commission reviewed LMC 19.49.020 regarding standards and criteria for granting a Conditional Use Permit and found that the request meets the criteria.

**Faber motioned to recommend approval of the Conditional Use Permit #19-01, for the Front Street Station Business Park as presented, according to the findings, conditions and recommendations of the Technical Review Committee Report dated September 17, 2019 subject to the following condition:**

- 1. That the Conditional Use Permit must meet the conditions outlined in LMC 19.49.040.**

**Seconded by Scott, and the motion passed 5-0.**

**6. NEW BUSINESS**

**A. Development Agreement, Front Street Station Business Park**

The approval of a Development Agreement does not require a public hearing therefore we will not be accepting comment from the public.

Gudde addressed her memo dated October 21, 2019 and stated that the Lynden Municipal Code Section 19.23.020 notes that Business Parks are permitted in Commercial Services – Regional (CSR) zoning categories where at least 20% of the total gross floor area of the park is related to onsite retail, showroom, or office use. LMC 19.23.020(9) goes on to specify that property owners developing a business park are required to formalize a development

agreement with the City Council after receiving a recommendation from the Planning Commission which:

- a. Specifies a list of permitted, conditional, and prohibited uses within the business park.
- b. Outlines a parking and loading standards which anticipates the uses permitted.
- c. Creates standards for and screening of outdoor storage and refuse areas.
- d. Addresses unique signage requirements.
- e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.

The development agreement attached has been brought forward by Don and Sally Korthuis for a business park development called Front Street Station. The 7-acre project is located on West Front Street. This agreement is moving forward to the Planning Commission with a corresponding Conditional Use request to add wholesaling and warehousing as permitted uses within the business park. If permitted, the uses would be part of a wide variety allowed within the 124,000 square foot park.

Don Korthuis, 2152 Stickney Island Road, Everson

Korthuis addressed the Commission and stated that this has been a good collaborative effort. There have been 6 versions of this Development Agreement and it is now ready to move forward.

Korthuis is excited about the project. The design is going to be classy with a lot of extra little details. We have every intention of making this very nice.

The Commission reviewed the Development Agreement.

D. Veltkamp addressed Article 1 Land Use Setback and Requirements specifically 1.2 (h) *Outdoor storage areas will be allowed for the occupants of Buildings B, C and D. This will be kept clean and can be revoked with a tenant if it is deemed undesirable by FSS regarding outdoor storage.*

Veltkamp asked, what kind of storage will this consist of? Korthuis replied, temporary storage. Gudde referred to item 2.3 as it addresses outdoor storage and refuse areas. *Building A and E will have a designated outdoor area, with screening, for refuse containers. Buildings B, C, D will have refuse stored either inside the building, or near the rear service doors, for example the west side of building B. Outdoor storage will be discouraged and will be less than 30% paved area.*

D. Veltkamp asked, if language should be added to reference temporary storage?

Gudde replied, maybe simply state, inventory of product cannot be stored outside for more than 48-hours without appropriate screening such as a fence or wall.

Moore stated that the lease agreement already has that stated. It is very specific to outdoor storage.

The Commission would like to see the following language added to 2.3. **No product / inventory or refuse may be stored in outdoor parking areas for more than 48 hours. Refuse areas may be permanently added if screened with an appropriate fence or wall.**

Korthuis indicated that they will update section 2.3 to include said language.

D. Veltkamp addressed 1.7 which states that there has to be a minimum of 20% retail at all times. How will you manage this? Korthuis stated that we will be watching that very closely. That is our requirement and we will make sure that it is properly managed.

The Commission reviewed 1.7 (permitted uses table).

D. Veltkamp asked about Farm Implement and Machinery Sales and Service. D Veltkamp would like to add **no outside display of equipment**. Korthuis is okay with that.

**No outside display of equipment** should also be added to retail feed and seed stores.

Faber addressed drive through coffee stands and stated that they **should not be allowed in buildings B, C and D**. Korthuis stated that we can revise to not allow.

In addition, the Commission agreed to add **no overnight boarding except for medical purposes under the** Veterinary Clinics and Laboratories category.

Faber also stated that 2.7 should note **Resolution 709** instead of the "Mayor's letter."

There was brief conversation about signage. Korthuis replied, that there will be a monument sign up front between the two driveways on the east end. We are waiting to see who occupies the building. Park name and addresses will be on the monument sign.

Korthuis stated that they will likely install directional signs that will help direct traffic. Deliveries will happen along the back and the customer traffic will be through the middle.

The Commission asked, while Buildings A & B are under construction what are the plans for maintenance of the vacant property? Korthuis replied, I plan to mow 1-2 times per year. Korthuis will keep it tidy.

Faber noted that the turning radius on building D runs into a few parking stalls. Will there be some reconfiguration? Korthuis yes, absolutely.

The Commission stated that they are looking forward to a quality project.

G. Veltkamp asked how long this project will take to construct? In our SEPA Checklist we indicated 10 years, however, we are hopeful that will be much shorter. There are currently two national tenants looking at Building E.

Gudde, noted that there are aspects of the Development Agreement will need to be reviewed by the City’s legal counsel.

The Commission asked if staff was satisfied with the responses to all questions in the staff report. Gudde replied, yes.

**Faber motioned to recommend approval of the Front Street Station Business Park Development Agreement as presented, according to the findings, conditions and recommendations of the Technical Review Committee Report dated September 30, 2019 and further subject to the following conditions:**

- 1. That the following language be added to Item 2.3: No product / inventory or refuse may be stored in outdoor parking areas for more than 48 hours. Refuse areas may be permanently added if screened with an appropriate fence or wall.**
- 2. That no outside display of equipment be added to Farm Implement and Machinery Sales and Service.**
- 3. That no outside display of equipment be added to retail feed and seed stores.**
- 4. That drive through coffee stands should not be allowed in buildings B, C and D.**
- 5. That no overnight boarding except for medical purposes be added under the Veterinary Clinics and Laboratories category.**
- 6. That Section 2.7 be revised to state Resolution 709 instead of the “Mayor’s letter”.**

**Seconded by Kok, and the motion passed 5-0.**

**7. COMMISSIONERS CORNER**

Next meeting will be on November 21st and the agenda will include the Flood Hazard Overlay and the Pepin Creek Sub-Area Plan.

**8. ADJOURNMENT**

**Motion to adjourn by Kok / Second by Scott. Meeting adjourned at 9:00 pm.**

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Site Specific Rezone 19-01 – Bouma Property	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Planning Commission Package and Minutes of July 11, 2019		
<b>Summary Statement:</b>		
<p>Rezone application 19-01 has been brought forward by property owner Gene Bouma. Mr. Bouma is proposing to shift the property from the single-family zoning category of RS-100 to a multi-family zoning category of RM-2. The 30,000 square foot property is located at the northwest corner of Main St. and 19<sup>th</sup> St.</p> <p>The application went to a public hearing before the Planning Commission on July 11<sup>th</sup>. Although public comment included support for nearby multi-family developments such as Woodcreek and Oakwood Apartments, many neighboring property owners spoke against the proposal with concerns related to the proposed housing type and its associated impacts. (Minutes of this meeting are attached. A recording of the meeting is available on the City’s website: <a href="https://www.lyndenwa.org/recorded-meetings/">https://www.lyndenwa.org/recorded-meetings/</a> ).</p> <p>While the Planning Commission agreed that the rezone to RM-2 would be consistent with the City’s Comprehensive Plan they ultimately recommended denial of the rezone stating that this area of the City should be reviewed as a whole rather than specific consideration given to this corner. They concluded that the application did not meet the criteria of “promoting the health, safety and general welfare of the community”.</p> <p>It's clear that nearby residents have strong feelings about a revision to the zone however the proximity of this site to other multi-family zones and its location along the busy corridor of Main Street presents a good opportunity for transitional zoning. Staff believes that concerns related to a decrease in property values, dangerous traffic conditions, and the harsh characterization of renters are unfounded. In this case, staff recommends the City Council review the record and consider approval of the rezone of the Bouma property as presented in Rezone Application 19-01. Findings of Fact which correspond with the Council’s final decision will be brought forward at the December 2 meeting.</p>		
<b>Recommended Action:</b>		
Motion to approve Site Specific Rezone Application #19-01 of the Bouma property.		

# CITY OF LYNDEN



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

## Planning Department Memorandum

**To:** Planning Commission  
**From:** Heidi Gudde, Planning Director  
**Date:** July 3, 2019  
**Re:** Rezone Application 19-01

Rezone application 19-01 has been brought forward by property owner Gene Bouma. Mr. Bouma is proposing to shift the property from the single-family zoning category of RS-100 to a multi-family zoning category of RM-2.



Subject property highlighted in yellow. Easements shown in light green.

The subject property is relatively unique in that it was formerly part of the City Bible Church campus located to the west. A portion of the property is still covered by the church’s parking lot so the property line dividing the two parcels is not obvious. The property is bordered to the north by a City-owned parcel which is used for stormwater management. The southeast corner of the property is constrained by a City of Lynden sewer easement / sewer line which cuts the corner of the property (structures are not permitted within the easement area). Finally, the

# CITY OF LYNDEN

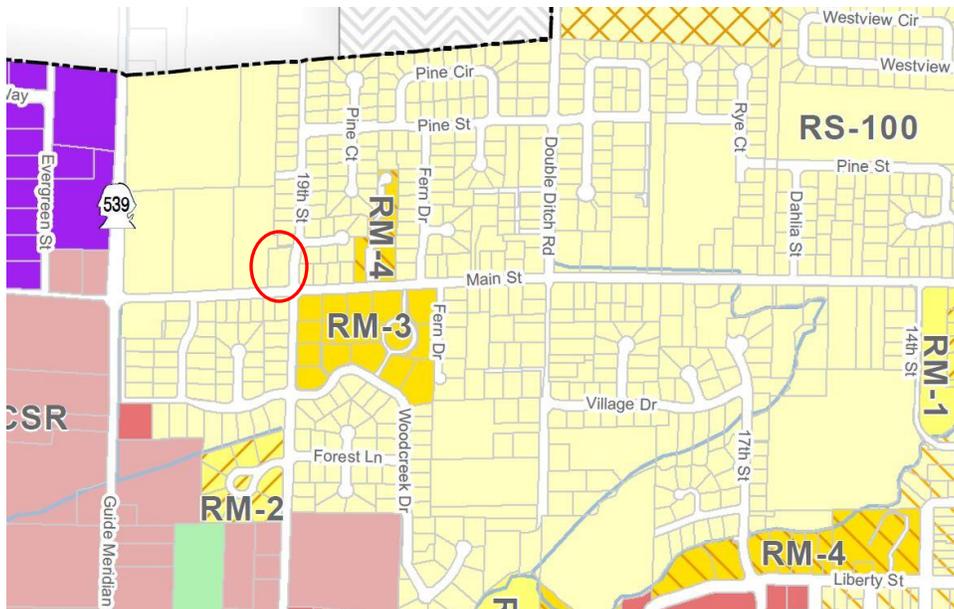


PLANNING DEPARTMENT  
Heidi Gudde, Planning Director  
(360) 354 - 5532

property is located adjacent to Main Street, one of the City’s arterial streets and a significant truck route. The Main Street corridor accommodates a variety of uses including single family homes and relatively large multi-family developments.

As such, staff recognizes the following opportunities associated with the proposed shift from single-family residential to multi-family residential zoning:

1. The rezone action recognizes the unique characteristics of this corner parcel which was formerly part of the adjacent church campus and shares no property lines with lots which are or will be used for a single family home.
2. Consistent with the City’s goal of reaching an overall density of 5 units per acre across the City, the rezone provides an opportunity for infill within the City of Lynden. It offers a housing type which has been successfully integrated into the Main Street corridor. Examples include Wood Creek Manor and Oak Wood Apartments, both of which are in close proximity to the subject property.
3. Establishment of a low density multi-family (RM-2) on this parcel acts as transitional zoning between single-family homes and the adjacent arterial street.
4. Locating multi-family housing on an established transit route (WTA bus route), which runs along Main Street, is supported by the City’s Comprehensive Plan - transportation goals.



*Zoning in the vicinity of the subject property (circled).*

# CITY OF LYNDEN



## PLANNING DEPARTMENT

Heidi Gudde, Planning Director  
(360) 354 - 5532

However, applicants proposing site specific rezones bear the responsibility of demonstrating that the request satisfies the criteria for rezone as outlines in LMC 17.19.050. These are:

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

Mr. Bouma has provided the attached rational for satisfying the criteria for the Planning Commission's review. He has created conceptual drawings which demonstrate how, with the rezone of the property, it could facilitate a project he is calling "Rosewood".

The Rosewood concept includes 2 four-plexes under RM-2 zoning rather than 3 single-family lots which would be accommodated with RS-100 zoning. Height restrictions for both zoning categories is the same, a maximum of 32 feet in height (2 stories). Staff review notes that additional traffic would be generated by a net growth of 5 additional units but would not at a level that would cause a reduction in the level of service on nearby streets. One benefit of the Rosewood concept is that only a single driveway would be cut into 19<sup>th</sup> Street (with no vehicles backing out of this driveway) rather than 3 driveways for single family homes, a condition were vehicles commonly back out onto the street. Also, it may be relevant to note that traffic signal improvements have been made this month at the nearby intersection of Main Street and the Guide Meridian that offer a dedicated left turn signal. These upgrades are expected to alleviate backups which occur during peak hours.

As required, Mr. Bouma has notified residents within 300 feet of the property line of the rezone proposal. In response, some written comments from community members have been submitted to the Planning Department and have been included in the attached package for the Commission's review.

# CITY OF LYNDEN



## PLANNING DEPARTMENT

Heidi Gudde, Planning Director  
(360) 354 - 5532

Consistent with LMC 17.19, the application is seeking the Planning Commission's review in a public hearing. Assuming that adequate information has been provided, the Commission is expected to develop a recommendation to the City Council. The recommendation could be one of approval, approval with conditions, or a recommendation of denial. The application and complete record created during the review and hearing process will move to the City Council for consideration. No additional comment will be added to the record after the Planning Commission closes their public hearing.



TECHNICAL REVIEW COMMITTEE  
Development Project Report

Date Issued:	June 18, 2019, Updated June 24, 2019
Project Name:	Rezone - Rosewood
Project Description:	The applicant is requesting a rezone from Single Family Residential (RS-100) to Multi-Family (RM-2)
Applicant:	Gene Bouma
Property Owner:	Gene Bouma
Site Address:	The northwest corner of 19th Street and Main Street
Parcel Number:	400319-103461
Parcel Size and Zoning Designation:	0.69 acres currently zoned single-family RS-100
Hearing Objective:	To determine whether the proposal meets the criteria listed for a site specific rezone.
Date application determined complete:	May 16, 2019
Date of Publication:	May 29, 2019
SEPA Determination:	MDNS Issued June 14, 2019

## Summary

The property owner is seeking to rezone this property from Single-Family Residential (RS-100) to Multi-Family (RM-2) and has conceptually proposed the construction of two 4-unit multi-family buildings.

Staff recognizes the following opportunities associated with the proposed shift from single-family residential to multi-family residential zoning:

- a. The rezone action would recognize the unique characteristics of this corner parcel which was formerly part of the adjacent church campus and shares no property lines with lots which are or will be used for a single-family home. Additionally, the property is constrained by an existing utility easements.
- b. The rezone provides an opportunity for infill within the City of Lynden and offers a housing type which has been successfully integrated into the Main

Street corridor. Examples include Wood Creek Manor and Oak Wood Apartments, both of which are in close proximity to the subject property.

- c. Establishment of a low-density multi-family (RM-2) on this parcel acts as transitional zoning adjacent to an arterial street.
- d. Locating multi-family housing on an established transit route (WTA bus route) is supported by the City’s Comprehensive Plan - transportation goals.

However, additional information related to the following aspects of the application should be provided:

**Planning Department Comments**

- 1. *Criteria for Approval: 6-24-19 update. Applicant has responded to this comment with written justifications for the proposed rezone. Please see attached.* Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. This includes additional the potential for additional traffic demands, building scale, and potential conflicts in land use.

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

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

Provide a written response to each of these criteria. Responses will be included in the application package reviewed by Planning Commissioners and the City Council.

- 2. *Public Input:* Please note that a number of neighboring property owners have provided written comments on the proposed rezone and are available for review.

Staff recommends the applicant be prepared to respond to these comments at the public hearing.

### **Advisory Comments – Planning Department**

3. *Zoning Designation - Permitted Uses:* Be advised, Residential Multi-Family (RM-2) allows up to 4-units per building and is subject to the permitted uses and standards as described in LMC 19.17 including a maximum building height of 32 feet.
4. *Design Review:* Multi-family construction is subject to Design Review Board approval prior to permit approval.
5. *Zoning Buffers and Street Trees:* Per LMC 19.61 a Type IV landscape buffer, 10 feet in width, is required at the perimeter of multi-family properties which border single-family properties. In addition, future development will require compliance with Chapter 18.14.130 regarding street trees and planting strips. These aspects of design must appear in the Design Review Board submittal package.
6. *Transportation Impact Fees:* Be advised, transportation impact fees will be due at the time of permit. The current rate of this fee is \$1309.00 per unit.
7. *Landscape Bonding:* Be advised, performance and maintenance bonding will be required for the landscape installed at the time of development. This relates to street trees and any required landscape buffer. Bonds are due prior to issuance of final building occupancy.
8. *Environmental Review:* Conditions associated with the SEPA review (SEPA 19-06) which was conducted concurrently with this application will apply to the proposed development.

### **Advisory Comments - Public Works Department**

9. *Infrastructure Improvements:* Be advised, at the time of future development, all public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards.
10. *Stormwater Management:* At the time of future development, all plans must be designed and constructed in compliance with the Department of Ecology's Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards. Storm drainage report per the City of Lynden and the Department of Ecology standards required.
11. *Stormwater Management:* Be advised, at the time of future development, a stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior

to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.

12. *Access:* Access will be permitted to/from 19th Street only. No access on Main Street allowed.
13. *Water:* If future plans include the creation of a condominium, the City recommends that each unit must be individually metered.
14. *Sewer:* The existing sewer easement which cuts diagonally across the corner of the property may not be impacted, obstructed or reduced in any manner.

#### **Advisory Comments - Fire and Life Safety**

15. *Fire Code:* Future Development will require full compliance with the Fire Code.
16. *Fire Impact Fees:* Be advised, fire impact fees will be due at the time of permit. The current rate of this fee is \$389.00 per multi-family unit.

#### **Advisory Comments - Parks and Recreation**

17. *Park and Trail Amenities:* Future development may require participation and or easements for trail system and parks. Connections to trails and parks will be reviewed at the time of Design Review Board approval.
18. *Park Impact Fees:* Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$546.00 per multi-family unit.

**Korene Samec**

**From:** Gene Bouma <boumagene@gmail.com>  
**Sent:** Tuesday, June 18, 2019 2:46 PM  
**To:** gene bouma; Korene Samec  
**Subject:** Re: Emailing: Rosewood TRC Report

Korene,  
This is an outline of my presentation for the Rezone request.  
I have answered your questions of 17.19.050 at the bottom of this page.  
If you need it in any other format or I have overlooked some points, please let me know.

I will stop by soon to look at neighborhood comments and to make sure everything is right in my application.  
Thank for support and help.  
Gene

My name is Gene Bouma  
I have been a real estate developer for over 45 years, beginning with my first duplex at 1711 Front Street. Oakwood Apts was developed by my firm over 35 years ago. Some of you live nearby and I am sure you don't even know it exists. For a number of years it has been one of the most desirable housing projects within the City.  
I have also developed and built numerous single family homes and multifamily projects and subdivisions. An example of my work would be Bellaire Estates, Smith Road; Silverado one- acre estates, Bayview Plaza Blaine, Washington Plaza Ferndale.

I am here tonight requesting the City of Lynden rezone a small parcel of land at the corner of 19th and Main St. The reasons for the rezone are compelling, fitting well into the City's comprehensive plans for housing within the City.

REASON 1  
The parcel is located on a corner with main arterial street to the South, providing natural buffers to the surrounding homes.

REASON 2.  
There is a storm sewer drainage pond to the North providing a buffer to the single family lots to the North. Single family homes to the North and East will not be impacted by the increased density.

REASON 3.  
There are several large and small multifamily units/rezones in the neighborhood, across the street and along Main Street. These multifamily housing projects and rezones have been successfully and deliberately integrated into the single family community throughout the City of Lynden for decades.  
Our project fits exactly into the City's plans and patterns.

REASON 4.  
A large multi-use adjoining property to the West and North contain a Community/Church/School/Service Center. Multifamily is a perfect transition and buffer when adjoining such uses.

REASON 5.

The site has a large sewer easement cutting through the South end, requiring some kind of variance to fully utilize property.

REASON 6.

This is a ideal "in-fill" property for increasing density.

According to the Growth Management Act, the City of Lynden has many mandates to increase densities and development/construction of multifamily units within the City. The city is required to make efforts to increase the "overall" densities within the City, supporting multifamily development. The City is to increase their density goals moving towards 40% multifamily. The UGA ( urban growth area) stated that the City "has capacity to hold that many homes and units." One of the challenges is to attempt to maintain neighborhood character and "promote" increased density. (3.5 Housing density and design). This project meets this goal, providing multi-units and requiring a design that fits in with the neighborhood.

The City of Lynden's Comp Plan also has goals and mandates that the City's overall density is to increase to meet UGA goals.

On page 10 of the Comp Plan the housing goals and policies are set forth. Our project meets nearly all the goals and policies of this plan.

Goal H-1 "Maintain and enhance the quality of existing neighborhoods."while increasing density and the number of units with in the City.

Policy 1.1 Establish standards for "in-fill" development that ensure compatibility with the character of existing neighborhoods.

This project would have very little impact on the surrounding homes. There is NO direct contact with any homes or yards.

Policy 1.3 Provide buffers between commercial, industrial or high density land uses and existing residential neighborhoods.

We have natural buffers such as a pond and streets.

Goal H-2 Provide a mix of single-family and multifamily homes that achieves the density necessary to accommodate the projected population growth over the 20 year planning period. We are adding to the much needed housing supply with this rezone.

Policies

2.1 "Zoning should be applied to ensure that future residential development over the planning period is composed of approx 60% single family and 40% multifamily". This project is helping to accomplish that mandate.

Goal H-3 "Provide for a wide variety of housing types..."

Policy 3.1 "Allow multifamily to be dispersed throughout the City." Our project meets this goal exactly.

Policy 3.3 "Provide zoning that allows for mixed density neighborhoods". Our project meets this goal exactly

Policy 3.4 "adequate reasons for such designation" There are a number of reasons outlined in our application that provides reasons the City should allow the density increase.

Policy 3.9 " Redevelopment or infill development that creates new multifamily housing should be permitted at the fringes of

existing industrial and commercial areas" Our project meets this goal exactly.  
 Goal 4 "Establish standards to ensure its compatibility..."

We will meet this goal and policies by working with the City to develop and design the project to integrate into the neighborhood,  
 provide buffers, fences, green belts and architectural elements that accomplish enhance the neighborhood.

Criteria for approval of Site-specific rezone.

A. The neighborhood has changed since original zoning with the development of the Church/School/Offices complex and the development of the single family near by. The neighborhood has become more of a commercial center and introduction of multi-family housing would be a natural and desirable change.

B. The site is with in the Sub Area planned for residential.

C. The proposal is consistent with the City's development codes and regulations for the zoning proposed. The RM 2, Medium density zone will allow the 2 four-plexes to easily fit on the site with all the building requirements

D. The site-specific rezone is totally compatible with the surrounding commercial uses, adjacent busy streets, drainage pond and other multi-family projects in the neighborhood.

E. The proposed rezone will promote the general welfare of the community by providing much needed multifamily homes on a site that meets all the goals and policies of Urban Growth Area plan and the City's Comprehensive Housing Plan.

On Tue, Jun 18, 2019 at 9:56 AM Korene Samec <[Sameck@lyndenwa.org](mailto:Sameck@lyndenwa.org)> wrote:

Hi Gene,

Here is the TRC Report for your Rosewood Rezone request. Please review and bring with you to TRC on Thursday. Please feel free to call if you have any questions. We can be reached at 354-5532.

Also, you are third on the agenda for Thursday's TRC, so you can show up closer to 9:30-9:40.

Thanks!  
 Korene

Your message is ready to be sent with the following file or link attachments:

Rosewood TRC Report



RZ# 19-01  
RND9262

# City of Lynden

## Rezone Application

### Applicant Information

Name: Gene Bouma  
Address: 4600 Guide Meridian Rd, B'ham, WA  
Telephone Number: 360-220 6508 Fax Number: \_\_\_\_\_  
E-mail Address: boumagene@gmail.com

### Application is hereby made for a rezone as follows:

#### Type of Rezone Requested:

Current Zoning Designation: SF 10K Proposed Zoning Designation: Rm 2

Attach narrative explaining the reason for the request / zoning change  
see attached 'A'

### Property Information

Address: Corner of 19<sup>th</sup> + Main St

Legal Description: (Attach Additional Sheets if Necessary)

# see attached 'B'

Property Size: 100 x 300

Total Square Footage: 30,000 Total Acreage: 3/4 acre 0.69

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

Applicant's Signature: G Bouma Date: 2-20-19

rec.  
4/19/19

Pre-application meeting date: 3-7-19

(Applications will not be accepted without a pre-application meeting)

Fee's (RZ \$375.00 or Final Review Cost) date paid: \_\_\_\_\_ receipt # \_\_\_\_\_

## REASONS FOR REZONE Attachment "A"

The property is ideally located and situated for multifamily property. A drain pond flanks and buffers the property on the North side. Single family owners to the North and East will not be impacted with the increased density.

There are many multifamily units in the immediate neighborhood to the South and East.

A large adjoining property to the North and West contain a large Community/Church/Service Center/School Building. The Commerical/Community use makes multifamily housing an ideal buffer between the single family to the North and West.

A large sewer easement cuts diagonally across the South end of the property requiring some kind of variance to fully utilize the property.

This is an ideal "in-fill" property for high density.

# CITY BIBLE LOT LINE ADJUSTMENT / LOT CONSOLIDATION

A PORTION OF GOVERNMENT LOT 1, SECTION 19, TOWNSHIP 40 NORTH, RANGE 3 EAST OF .W.M. WITHIN THE CITY OF LYNDEN, WASHINGTON

**SURVEYOR'S NOTES:**

1. "O" DENOTES 5/16 INCH REBAR WITH 1 INCH PLASTIC CAP MARKED "COMPASS POINT LS 32430" SET BY THIS SURVEY IN JANUARY OF 2016.
2. "•" DENOTES LOT CORNERS FOUND BY THIS SURVEY IN JANUARY OF 2016.
3. "⊙" DENOTES BRASS DISC IN CONCRETE FOUND BY THIS SURVEY IN JANUARY OF 2016 AND HELD FOR STREET INTERSECTION MONUMENTS.
4. THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A LEICA TCPRP 1203 TOTAL STATION WITH AN ALLEGRO CX DATA COLLECTOR/FIELD COMPUTER IN JANUARY OF 2015.
5. THIS SURVEY TIED INTO STREET MONUMENTATION AS SHOWN AND RELIED UPON "LYNDEN BUSINESS PARK AND WORD OF LIFE SHORT PLAT" FILED UNDER A.F. No. 1488046 AND "O'NEIL'S ADDITION - DIVISION 1" FILED UNDER A.F. No. 901130041 FOR LOT DIMENSIONS. THE BASIS OF BEARING FOR THIS SURVEY IS THE CITY OF LYNDEN SURVEY MONUMENT NETWORK AS PER 19TH STREET LOT LINE ADJUSTMENT FILED UNDER A.F. No. 1980802228.
6. THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT AND MAY NOT SHOW ALL EASEMENTS THAT A CURRENT TITLE REPORT MIGHT REVEAL.



SCALE: 1" = 100'

BASIS OF BEARING =  
CITY OF LYNDEN SURVEY  
MONUMENT NETWORK  
AS PER 19TH STREET LOT LINE ADJUSTMENT  
A.F. No. 1980802228

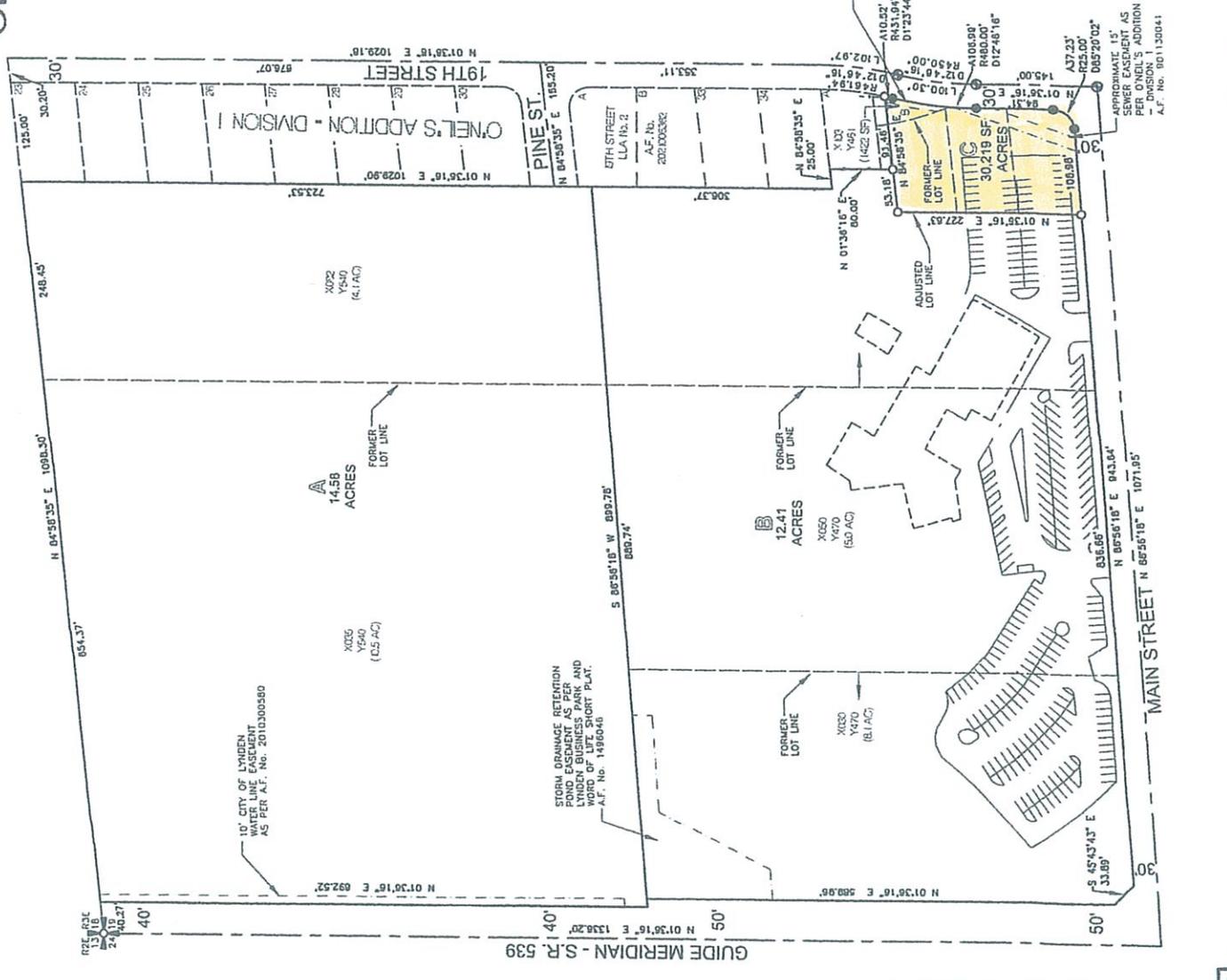
**MAP NOTE:**  
PARKING, EDGE OF ASPHALT AND BUILDINGS ARE SHOWN FOR REVIEW PROPOSE ONLY. THESE ITEMS WILL NOT BE SHOWN ON FINAL RECORDED MAP.



SCOTT HARKSELL, L.S. 32430  
523 FRONT STREET, LYNDEN, WA 98264  
PH. 360.354.8320 FAX. 360.354.8321



Sheet: 2 of 2	Date: 01/04/16
Drawn by: RL	Drawing: CITY BIBLE Lot Line
Reviewed by: SH	Date: 01/04/2016
	By: OTHILLA DHELS.CDD
	Cr. by: DHELS.CDD

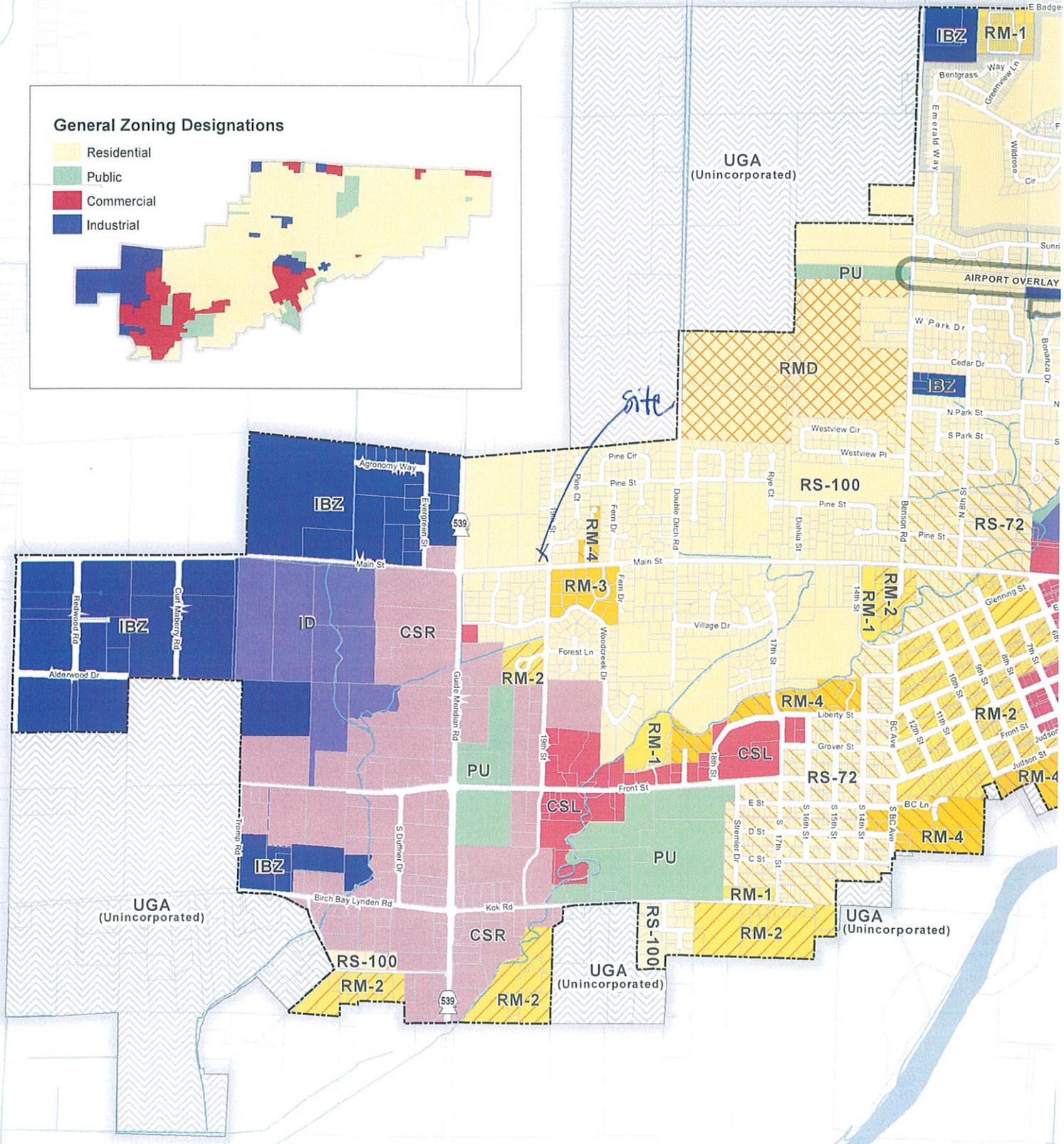
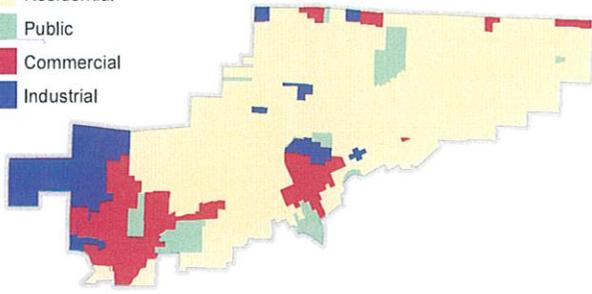


# Zoning

City of Lynden

### General Zoning Designations

- Residential
- Public
- Commercial
- Industrial





### Whatcom Land Title

2011 Young Street Bellingham, WA 98225  
Ph. (360) 676-9484 Toll Free: (800) 334-6314

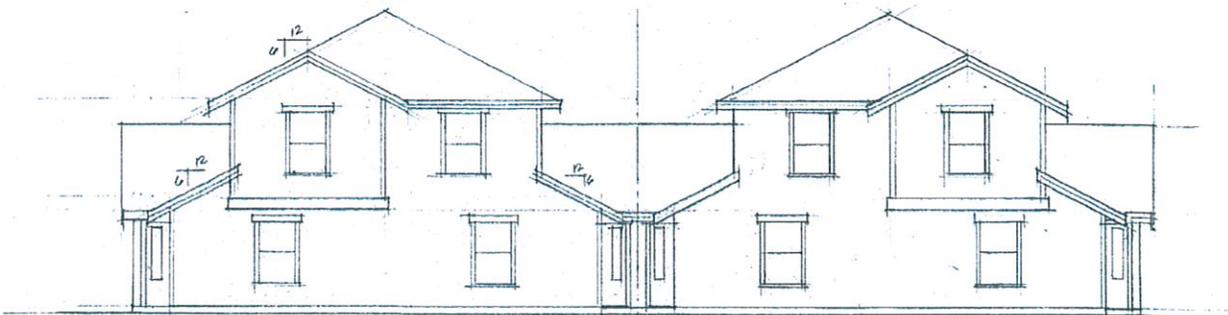
Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

**geoAdvantage**  
www.sentrydynamics.net

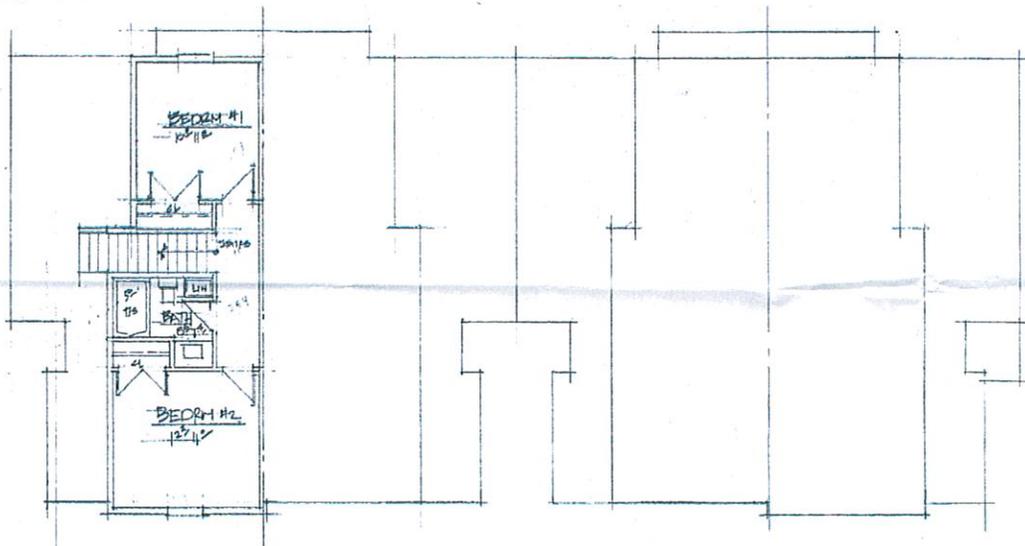
GENE BOUMA 19TH STREET

JOB # 18.116

4.13.19



FRONT ELEVATION



SECOND FLOOR PLAN



6/10/19

Heidi Gudde,  
City of Lynden Planning Director  
300-4th St.  
Lynden, WA 98264



Re: Request of rezone of 19th & Main Sts.

Living in the affected neighborhood, I am opposed to putting the two four-plexes at that corner and would like to see either two single family dwellings or two duplexes.

1. Traffic is already busy at that intersection and 8-16+ more vehicles using that intersection on a regular basis will have a significant impact. Plus single family homes and duplexes are more in keeping with the surrounding neighborhood.
2. City Bible Church will most likely further develop their large property, adding more to traffic and utilities usage.
3. This rezone with subsequent increase in traffic will likely necessitate need for a stop light or expensive roundabout at 19th and Main, especially since Meridian is in such close proximity and cars can easily back up.

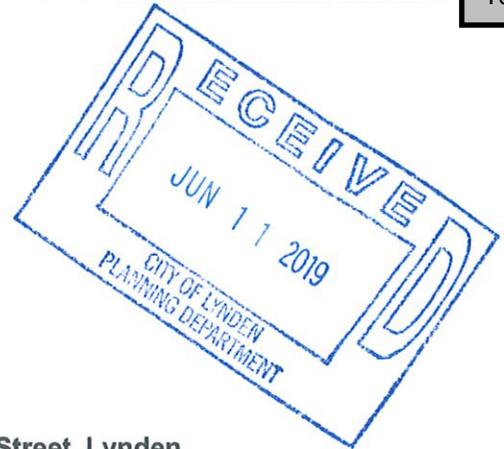
Development in this area, done wisely, can be an asset to our community. I urge caution in keeping density such that expensive traffic and utility adjustments are not required in the near future.

Thank you for your time and efforts on this project.

Sally Mickley  
709 Woodview Ct.  
Lynden, WA 98264

June 9, 2019

City of Lynden  
Heidi Gudde, Planning Director  
300 4th Street  
Lynden, WA 98264



**RE: Rezone of northwest corner of 19th Street and Main Street, Lynden**

I'm writing to express concerns about the proposed rezone of the northwest corner of 19th Street and Main Street.

The provided "project description" is laughable in its lack of detail and in most of the assertions made, specifically that "*The proposed will have minimal impact on neighboring single family homes, due to the buffering by streets, commercial buildings and drainage pond.*"

"Streets" are considered a buffer? The ability of a street to provide the benefits most would desire from a buffer (visual and sound) is negligible. "Commercial buildings" are considered a buffer? One can only assume that the "commercial buildings" in question are the former City Bible Church facility. This is truly a case of grasping at straws as these buildings provide absolutely zero buffer to any of the residential properties in the adjacent neighborhoods. A drainage pond is a buffer? Sadly, the fact that this is the most effective buffer outlined in the project description, yet consists of a seasonal pond surrounded by a short chain link fence, is quite telling.

Further, the assertion that the "*Building design will be in keeping with neighborhood character...*" completely misses the point that very little about the project itself matches the character of the neighborhood in any way.

RM-2 zoned property most commonly results in the construction of rental units and, based on the minimal documentation provided, in this instance it seems likely to entail two-story/apartment-style construction (again, please correct me if I'm wrong on either of these points).

Directly across the street ("buffer") from the property in question is 812 19th Street, currently valued by Zillow at around \$612,000. By contrast, the proposed development on the rezoned property will include, for example, carports - a design feature that's a complete mismatch with this home and even less valuable homes in the surrounding area. Using a rezone to devalue a home that's been part of the neighborhood for a generation to maximize the profit that can be squeezed out of a piece of land isn't right.

Is it a common and accepted practice in city planning to locate two such disparate types of residential properties in such close proximity?

I don't know the people who reside at 812 19th Street but I hope the City of Lynden takes into account the very real negative consequences this rezone will have on their property.

There is much proof in and around Lynden that demand continues to exist for single-family homes on property zoned RS-100, RS-84 and RS-72, including at busier, higher-traffic locations like the northwest corner of 19th Street and Main Street. MORE RM-1, RM-2, RM-3 and RM-4 zoning is not needed in Lynden, especially in established areas of the city. If/when more RM zoning is needed, there is (and will be for decades to come) ample opportunity to put it in areas where it was part of the bigger, long-term plan. Piecemeal changes in zoning result in a piecemeal feeling to a town and there seems to be little need to move further in this direction.

Finally, the increasingly heavy traffic at the intersection of 19th and Main needs to be addressed. Adding eight residences in a space zoned for three puts additional strain on an already overstrained intersection.

The City's clear desire to encourage high-density housing on the property that abuts the 19th Street neighborhood north of Main Street (and also impacting the neighborhood south of Main and West of 19th) is tiring. Penalizing long-time residents of a neighborhood generally made up of owner-occupied single family homes by relentlessly encouraging higher-density housing that's generally not owner-occupied is unfortunate. Even common sense ideas like locating RS zones closest to 19th Street and gradually transitioning to RM zones closer to Guide Meridian seem to have little support.

A more comprehensive and complete approach to the development of ALL of the property between Main, 19th and Guide Meridian would be appreciated by everyone in Northwest Lynden. There are plenty of solutions that could make all parties happy. Rezoning the property at the corner of 19th Street and Main isn't a good start and isn't part of a satisfactory solution.

Thank you for your time and consideration.

Respectfully,

Luke Wyatt  
836 19th Street  
lukewyatt@gmail.com



Mr & Mrs R.J. Tangeman  
1961 Main Street,  
Lynden, Washington  
June 7, 2019

103

Heidi Gudde,  
City of Lynden Planning Director,  
300 4th Street,  
Lynden WA 98264

Regarding the Gene Boma rezoning request for his lot at the corner of 19th & Main Street.

We strongly object to the rezone of this property from RS-100 to RM-2.

Our home is located directly across from the old City Bible Church .We support the existing uses of the old church buildings for school and amateur athletic purposes as this benefits Lynden . However, those uses have greatly increased the traffic flow on Main Street in front our house when school starting and letting out. Adding two 4-Plex's to a lot zoned for 2 single families, at the most, will certainly increase the traffic levels at the already busy intersection at the corner of his property. Getting on to Main street coming from either the North or the South right now can be a real challenge without the additional traffic this rezone would create. This would certainly hurt those of us who live close Mr Boma's lot.

Main Street is busy with a mix of commercial and residential traffic, which by the way may or may not be willing to stop when we cross Main Street on our daily walks. We, and others, walk the roads just east of there almost daily. Because there is no park in this area, these residential streets are used heavily for walking older people like us as well as by runners, and pet walkers. Their safety is important.

This rezone may well set a president for a future rezone of Lot1 City Bible Church Short Plat from RS-100 to RM-2 or RM-3. Such a rezone would certainly greatly increase the traffic load on 19th & Main Streets. driving up the noise level and chance of accidents. At that point traffic lights will be needed at the 19th & Main Street intersection. The safety of the small children who live on either side of us is also a concern to us if the traffic load on Main Street is increased. Also, school busses stop for children all along Main Street and 19th Street and their safety is also a concern to us.

Much work and thought went into Lynden's Comprehensive Zoning Plan and it is wrong to change it just to make it easier for someone to make more money in developing their property. If you do that you will be obligated to do the same thing for anyone who wants a rezone just to make it easier to sell or develop their property.

Thank you for considering our concerns in this rezone request.

*Ronald J. Tangeman*  
*Carolyn J. Tangeman*

Ronald J. & Carolyn J. Tangeman



## PLANNING COMMISSION MEETING MINUTES

7:30 PM July 11, 2019  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

Present: Gerald Veltkamp, Blair Scott, Lynn Templeton, Tim Faber, Brett Kok and Bryan Korthuis

Absent with notice: Diane Veltkamp.

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

The Commission welcomed Bryan Korthuis to the Commission. This is his first meeting with the Planning Commission.

### 3. APPROVAL OF MINUTES

#### A. April 11, 2019

**Minutes approved as presented. Scott motion / G. Veltkamp 2<sup>nd</sup>. Approved unanimously.**

### 4. Declaration of Conflict

Kok will abstain from the Rosewood Rezone discussion and vote. Kok has property close to the proposed parcel and prefers not to be involved in the agenda item. Other than Kok, none of the other Commissioners reported any ex-parte contact or conflict of interest.

### 5. PUBLIC HEARINGS

#### A. Youngs Long Plat and Development Standards Variance #19-01

Chairperson Faber opened the public hearing. Gudde addressed her memo dated July 3, 2019. The application has been brought forward by the Young Family. Located with a single access point at 8323 Double Ditch Road, just south of Village Drive, the property is zoned for single-family use with minimum lot sizes of 10,000 square feet (RS-100). The 3.35 acre plat is proposing the creation of 7 single family lots. The design of the plat is a single stubbed cul-de-sac. To facilitate the plat layout that is proposed, the applicant is requesting that the cul-de-sac exceed the maximum cul-de-sac length of 450 feet.

Development Standards Variance Application 19-01 requesting this exception has also been submitted for the review. Beyond the development standards variance, the long plat application is proposing to meet the plat design criteria described in LMC 18.14.

It should be noted that previous land use actions on this property have resulted in approval conditions related to the existing onsite trees which is discussed in the TRC report. Additionally, LMC 19.61.140 requires that healthy trees greater than 12" in diameter at five feet in height be preserved by every reasonable effort. And, that those trees that are removed be replaced in equal number. As such, the applicant is developing a survey documenting the tree inventory on the property and identifying those trees or stands of trees which can be safely preserved. In the SEPA findings, staff has required that the applicant develop a plan to replace trees which are removed. The mitigation may result in the need for a landscape easement to be placed on the face of the plat.

Speaking in Favor.

Joan Kayser, 8323 Double Ditch Road, Lynden

Kayser addressed the Commission and stated that she is the trustee of the family trust. Kayser is requesting to sub-divide the property into 7 single family lots served by a cul-de-sac that exceeds 450-feet. Their goal is to create large lots and to encourage custom homes and preserve the existing neighborhood. Kayser stated that various plat designs were looked at and the proposed layout is the most straightforward and aesthetically pleasing way to reach their goal.

Kayser addressed the Development Standards Variance criteria (see packet for applicant's complete response) and stated that the variance will not grant *special privilege* as there are several examples of other cul-de-sacs that exceed the 450-foot length requirement.

That the variance is necessary because of *special circumstances* relating to the property. Kayser stated that the proposed layout will allow the subject property to be developed as allowed by code while minimizing the length of road and shared infrastructure, both public and private. Neighboring properties are already developed.

That granting the variance will *not be materially detrimental* to the public. Kayser stated that the Fire Department has reviewed the request and determined that the longer cul-de-sac length can safely be serviced by emergency vehicles. The Kaysers are aware that they will need to install a fire hydrant.

That the variance will *not be injurious* to the property or vicinity. Kayser stated that the proposed plat layout will allow for the creation of residential lots consistent with the character of the residential developments surrounding the site.

That the variance is based on *sound engineering judgement* and includes additional

mitigation sufficient to offset adverse impacts. Kayser stated that the proposed cul-de-sac will create a simple road and utility layout that will minimize stormwater runoff and future maintenance efforts.

With regards to the tree note outlined in number 3 of the TRC Report, Kayser hired an arborist to conduct a Tree Inventory at the City's request. The survey has been submitted to both the Planning Department and the Commissioners. The tree survey recorded 92 trees of 12-inch dbh and larger. Many of the trees show significant damage and or decay. A tree risk assessment was not part of the scope of the tree inventory (survey is in file).

Code states that all trees greater than 12" diameter at breast height (DBH) shall be identified and marked on the plat and a narrative of how those trees will be impacted or preserved shall be provided to the City. Efforts shall be made to preserve healthy large trees on this entire parcel. In addition, the TRC Report also asks that the proponents provide a planting plan for the plat. If those boundary trees are no longer present, applicant will be required to plant additional trees (native conifers) along the boundary.

Kayser stated that they are happy to leave the trees if that is what the Commission prefers. They will do their best to preserve as many trees as they can, however, there are many that need to come down. Kayser would prefer to remove the trees now and plant new trees once the homeowners of each lot decide where to place their homes.

The City has not had a strong preservation stance in the past. Replacement of trees will be difficult to enforce.

Gudde addressed the tree inventory and noted that she circled several trees along the north and south boundaries of the plat, those trees will either need to be preserved or replaced. The SEPA determination for the project also addresses that requirement. Another option could be to leave a majority of trees and have individual lot owners come into the City and indicate their intent.

Templeton stated that the area tends to be wet. Are there wetlands on site? Is there a detention pond proposed? Gudde stated that there are no identified wetlands and each lot is required to handle water on site. Civil plans that address that issue will come once the plat receives preliminary approval.

Templeton also asked if cul-de-sac will have a sidewalk? Gudde replied yes, the plat intends to meet all City standards except for the length of the cul-de-sac.

Kailey and Ryan Bovenkamp, 1632 Liberty Street, Unit 202, Lynden

Bovenkamp stated that her and her husband grew up in Lynden. They are supportive of the request. Ryan grew up on Fern Drive, which directly abuts the proposal. They reached out to Joan Kayser regarding the potential to purchase one of the parcels.

The Bovenkamp's also addressed the trees in the area and stated that they do creak,

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

and some have fallen. They are not in great shape and that is a concern for safety. If they are able to acquire and build on one of the proposed parcels, they would prefer to do their own landscaping and plant their own trees. The Bovenkamp's are hopeful that the Commission votes in favor of the request.

Speaking in Opposition. None

Scott is concerned with leaving the removal of trees to the new homeowner as it will be an additional burden to them. It will be easier to require the developer to remove the trees now. It is more efficient, and it will eliminate concerns of tree removal during the construction phase. Faber agrees.

Kok asked if there is a specific type of tree required if they are required to replant? Gudde stated that the City's replacement code is not specific enough to talk about quality or type of tree. The City and proponent can discuss at that time.

Faber stated that an arborist should be hired to review the health of the trees and that information is what should be used regarding preservation etc.

Korthuis asked if there are any utility conflicts near the trees? No, all utilities come up the street.

G. Veltkamp stated that a professional opinion speaks volumes. There may be some very weak trees that could potentially be a cause for concern.

Faber asked the Commission for plat design comments.

Kok stated that the proposed plat fits in well with the neighborhood and he has no concern with the request for a longer cul-de-sac.

Templeton's only concern with the long cul-de-sac is the amount of speed one could gain while driving down the street. Gudde stated, that the street design for this plat will include on-street parking and studies show that on street parking tends to slow traffic.

G. Veltkamp has no concerns with the variance request. The amount of traffic that will be generated is minimal.

Korthuis agrees, not a concern.

Scott concurs.

**Faber closed the public hearing at 8:10.**

With regards to the trees, Scott would like to see that the developers work out the tree issue so that the new lot owners do not get stuck with the task. The Commission agreed.

**Scott motioned to recommend approval of the Young's Long Plat and Development Standards Variance #19-01 as presented according to the findings, conditions and recommendations of the Technical Review Committee Report dated June 26, 2019, and further subject to the following condition:**

- **That tree numbers 36-43, 44-51 and 90-92 of the Kayser Tree Inventory conducted by Aubrey Stargell, Certified Arborist dated June 24, 2019, be retained unless deemed to be unsafe or in poor health by a licensed arborist. If these trees are removed, they must be replaced with 5-foot to 6-foot native conifers per SEPA Determination #19-05. Seconded by Kok and the motion passed 6-0.**

#### **B. Rosewood / Bouma Rezone #19-01**

Chairperson Faber opened the public hearing. Gudde addressed her memo dated July 3, 2019. Rezone application 19-01 has been brought forward by property owner Gene Bouma. Mr. Bouma is proposing to shift the property from the single-family zoning category of RS-100 to a multi-family zoning category of RM-2.

The subject property is relatively unique in that it was formerly part of the City Bible Church campus located to the west. A portion of the property is still covered by the church's parking lot so the property line dividing the two parcels is not obvious. The property is bordered to the north by a City-owned parcel which is used for stormwater management. The southeast corner of the property is constrained by a City of Lynden sewer easement / sewer line which cuts the corner of the property (structures are not permitted within the easement area). Finally, the property is located adjacent to Main Street, one of the City's arterial streets and a significant truck route. The Main Street corridor accommodates a variety of uses including single family homes and relatively large multi-family developments.

As such, staff recognizes the following opportunities associated with the proposed shift from single-family residential to multi-family residential zoning:

1. The rezone action recognizes the unique characteristics of this corner parcel which was formerly part of the adjacent church campus and shares no property lines with lots which are or will be used for a single family home.
2. Consistent with the City's goal of reaching an overall density of 5 units per acre across the City, the rezone provides an opportunity for infill within the City of Lynden. It offers a housing type which has been successfully integrated into the Main Street corridor. Examples include Wood Creek Manor and Oak Wood Apartments, both of which are in close proximity to the subject property.
3. Establishment of a low density multi-family (RM-2) on this parcel acts as transitional zoning between single-family homes and the adjacent arterial street.

4. Locating multi-family housing on an established transit route (WTA bus route), which runs along Main Street, is supported by the City's Comprehensive Plan - transportation goals.

Applicants proposing site specific rezones bear the responsibility of demonstrating that it satisfies the criteria for a rezone. Mr. Bouma has provided rationale for the Planning Commission's review. He has created conceptual drawings which demonstrate how, with the rezone of the property, it could facilitate a project he is calling "Rosewood".

The Rosewood concept includes 2 four-plexes under RM-2 zoning rather than 3 single-family lots which would be accommodated with RS-100 zoning. Height restrictions for both zoning categories is the same, a maximum of 32 feet in height (2 stories). Staff review notes that additional traffic would be generated by a net growth of 5 additional units but would not at a level that would cause a reduction in the level of service on nearby streets. One benefit of the Rosewood concept is that only a single driveway would be cut into 19<sup>th</sup> Street (with no vehicles backing out of this driveway) rather than 3 driveways for single family homes, a condition where vehicles commonly back out onto the street. Also, it may be relevant to note that traffic signal improvements have been made this month at the nearby intersection of Main Street and the Guide Meridian that offer a dedicated left turn signal. These upgrades are expected to alleviate backups which occur during peak hours.

Faber stated, just to clarify, the site plan that was submitted with the application is not under discussion this evening it is only a concept and the Commissioners should focus on the rezone application.

Speaking in Favor.

Gene Bouma, 4600 Guide Meridian Road, Bellingham

Bouma stated that he is requesting a rezone of a small piece of property from RS-100 to RM-2. The intent is to construct two 4-plex buildings. Bouma stated that he believes there are compelling reasons to approve the rezone.

Bouma is aware that the neighborhood is concerned about multi-family development, however, feels that they are minimal. It is interesting to note that the City of Lynden makes more enforcement calls to single family homes than they do to multi-family. The fear about crime, and the types of people that live in multi-family developments is not accurate. The city needs multi-family property it is important to a community. Many different types of people live in multi-family homes.

The church property located to the west includes a community church, a school and service center. Its use has changed the neighborhood more than anything else over the last 20 years. Multi-family is a perfect transition and buffer when adjoining such uses.

There is also a large sewer easement that restricts the use of the property and with my

proposed design you end up with one road access instead of three (if you had three sf homes). The site is not well designed for a single-family home.

Bouma stated that the impacts are minimal as the property does not abut any single-family homes. It is wrapped by other uses which is a great reason to change to multi-family. There are many examples of multi family mixed with single family throughout the city with several examples in close proximity of this parcel.

With the additional units proposed, traffic will not negatively affect the neighborhood.

The City's Comprehensive Plan goals speak to provide affordable housing, infill and density to existing neighborhoods. This is a classic infill project. According to the Growth Management Act, the City of Lynden has mandates to increase densities within the city, supporting multi-family development. The City is to increase their density goals moving towards 40% multi-family.

Bouma stated that his project meets nearly all of the goals and policies listed on page 10 of the Comprehensive Plan.

Templeton at the beginning of the presentation you mentioned the church property as relating to the subject property. What does the church property have to do with the rezone request? Bouma replied, the church property includes many different uses / commercial uses and typically multi-family is used as a buffer and is often located near commercial zoning.

Templeton questioned the church use as commercial? Gudde stated that the church is located on single family zoned property and is permitted under a conditional use permit.

Is the rezone specific to the applicant or to the property? If Mr. Bouma decides not to build the property will stay RM-2. Correct.

Speaking in Opposition.

Donna Honorof, 1853 19<sup>th</sup> Street Court, Lynden

Honorof stated that she lives two doors away from the request. Several of the windows in her home look out to the proposed site. The property floods every year. Multi-family renters bring drugs and nasty things. Found drug needles at Subway in town. It will be bad for Lynden and will destroy the neighborhood. Honorof does not want to see Lynden change. They have a vested interest in the area.

Ben Honorof, 1853 19<sup>th</sup> Street Court, Lynden

Honorof is opposed to the rezone. Multi-family housing should be called low income housing. Honorof used to live in Renton, it was a nice neighborhood at first and then it went downhill from there because of low income housing and everything that goes with it such as graffiti, drugs, gangs and ISIS flags, etc. Low income housing in our area could bring drug needles to the neighborhood and he would hate to see that.

Judy Smith, 131 South Meadow Lane, Lynden

Smith opposes the rezone. Would strengthen the request for the church to rezone the property to commercial. Anything that weakens this single family neighborhood risks creeping decay house by house. Rental properties are a concern as they are a business in a single family zone.

Smith disagrees with some of the comments of the applicant and staff. The applicant claims that the proposed style of development has been successfully integrated nearby. Smith says that is not the case. The Oakwood Apartments were mentioned however they are largely hidden from view and there are no single family homes across the street. Wood Creek Manor is also mentioned, however has nothing in common with rental 4 plexes as it is an upscale condo development with beautiful landscaping.

The proposed four plexes would sit in full view of 19<sup>th</sup> Street and Main Street and would have few features that would allow it to be successfully integrated in to the neighborhood.

Smith mentioned density and stated, this neighborhood has already done its part. There are currently 98 single family houses in the area and 102 multi-family units which include Oakwood Apartments, Wood Creek Manor and the duplex units along 19th Street. Where is the City on reaching their density goals? It does not feel good that our neighborhood is being described as an opportunity. Homes were purchased as an investment not to deteriorate.

Duana Adams, 860 19<sup>th</sup> Street, Lynden

Adams is opposed to the request. Why would anyone want to come in to our 20 year old plus neighborhood and build two new 4 plex units. Concerned with the safety for the neighborhood as well as for the children, traffic etc. 10-15 more automobile trips will only add to the traffic concerns. Our neighborhood is safe with no need for law enforcement.

This request is not good for our neighborhood. There is flooding in the area and more development will make it worse.

A 4-plex would not fit in with our neighborhood. Please do not downgrade the entire neighborhood for the convenience and wealth of one man. Mr Bouma needs to be responsible to the neighborhood. This is not desired by the neighbors as it does not promote the health, welfare and safety of our neighborhood. The current zoning in the area is not in error and nothing has changed to reclassify it. Mr. Bouma has not met the 5 requirements of the Comprehensive Plan.

Chris Pillar, 872 19<sup>th</sup> Street, Lynden

Looked on the Lynden website and saw that the neighborhood I was interested in was zoned single family. I did not want to live near multi-family housing. I purchased the property and three and a half months later this request is coming forward.

Pillar fired the City of Bellingham to move to Lynden because he got tired of seeing what he was seeing there. Homeless people, sky high prices of homes, apartments being built all over the place, people walking around on drugs yelling and screaming. If the City of Lynden goes bad on me, I will just fire them as well.

Renters like to put sub-woofers in their vehicles. Renters also like to start their cars let them idle with their boom box playing loud.

8 parking stalls provided per 4-plex unit. Not enough parking.

Multi-family means transient. Coming and going, will not care about the units, nor the neighborhood. Will this project require ADA? What about the electrical drain on the system.

Crime is an issue, transients will cause problems and I do not want to live in an area with drugs and crime.

This property floods from time to time, build one 3500 square foot house with a lake in the front it will be a gateway to the neighborhood.

Mike Kirkelie, 884 19<sup>th</sup> Street, Lynden.

Kirkelie does not lock his doors. He concurs with the two ladies who spoke prior to him, they covered it all. Kirkelie addressed the Commission and stated that he does not remember seeing any of them in our neighborhood. Kok stated that he owns a home in the neighborhood.

Kirkelie would be concerned for anyone who would rent in this area as the traffic is getting worse and worse. The new signal at Guide and Main has helped, however, it is still bad. Safety is a concern. A while back the neighborhood said no to a rezone and still feels the same today. I do not believe that the proposed site specific rezone will promote the health, safety and general welfare of the neighborhood. I am opposed to the rezone of the property.

Stephanie Rogers, 1314 Westview Place, Lynden

Traffic is bad, the turn signal has helped. Rogers is opposed to the rezone. Prior to purchasing the property we did look to see what the zoning in the area was. Safety is a concern. Traffic will only get worse. Rogers agrees with most of what was brought up this evening.

June Smith, 837 19<sup>th</sup> Street

Purchased home 27 years ago and recently put in over 100,000 dollars into a renovation. Would not have done that if we knew things would be changing. Strongly agrees with what has been said this evening. Very concerned with the safety of children. Nervous about 19th Street, adding more density will only make it more dangerous.

Flooding is a concern, there is also enough multi-family in the neighborhood. Concerned with having low income housing nearby and does not want to be scared at night.

How many times does this neighborhood have to come back to the Commission asking to preserve our neighborhood. Enough is enough and I hope we do not have to come back.

Sheldon Smith, 837 19<sup>th</sup> Street, Lynden

Smith agrees with the neighbors who did an outstanding job of defining the issues. Smith stated that the 5 criteria required for a rezone has not been satisfied. The zoning was not in error, there have been no significant changes.

Linda Knapp, 812 19<sup>th</sup> Street, Lynden

This request is directly across the street from Knapp. Opposed to the rezone. Has two homes in Lynden and is choosing to live in the home on 19<sup>th</sup> Street. Knapp is selling the other home, however, questioning whether or not she should rethink that decision as she does not want apartments across the street from her home. The area is very busy and we do not need this proposed complex at all. Agrees with the neighborhood.

Dwayne Cole, 812 19<sup>th</sup> Street, Lynden

Cole is the son of Knapp. Cole understands why Mr. Bouma is doing this as he would likely do the same. Cole complimented Bouma on the Oakwood Apartments and stated that they are beautifully done and he is sure the proposed 4 plexes would be of the same standard. With that said, Cole has deep concerns regarding the rezone. There is already a lot of traffic, noise and parking congestion. Concerned that visitors will park on the street in the neighborhood.

Traffic is already dangerous. If the rezone is approved, why not make the traffic outfall go to Main Street instead of 19<sup>th</sup> Street.

Consistency of the single family neighborhood is the main thing. The uniformity of more single family homes would be better and hopes that Mr. Bouma would reconsider.

Faber asked Bouma to speak to the neighbors comments.

Bouma addressed the Commission and stated that he is the original developer of the Oakwood Apartments and has owned them for over 35 years. All of his properties meet his very top standards. Like Bouma's other projects, this project will be tastefully done. No matter what people say, this multi-family project is not low-income housing.

To address the type of people who rent, Bouma stated that he does background checks on everyone he rents to. There are many quality people and a large variety of people who rent. At Oakwood, Bouma rents to disabled people, elderly people, many single mothers,

etc. It is important to note that rentals also happen in single family neighborhoods. People do rent out their homes as well. All throughout the City you have areas where single family and multi-family mix.

Overflow parking and noise – Bouma does control the amount of cars people can have and where they can park as well as the amount of noise they generate. If people do not comply with our rules they can be evicted.

Flooding issues are adequately addressed with City and DOE standards.

Bouma addressed the question “what has changed in the last 20 years?” The neighborhood, the traffic, the use of the church building, the community, the Guide Meridian, the need for more commercial property and multi-family property. Single family development should not happen next to the Guide Meridian. It is the natural evolution of economic development. Yes, Bouma stated that he is in it for the profit but they are also my investments that I take pride in.

Bouma understands some of the neighbors concerns, however, believe that most of the comments are unfounded.

The mandates of the Growth Management Act and the City’s Comprehensive Plan indicate that density and infill should happen. These are the kinds of projects that should be happening in the community whether you want them or not.

This will be a good project with a good builder and owner.

**Faber closed the public hearing at 9:22.**

Scott would like to go through the criteria required for the rezone:

Applicants proposing site specific rezones bear the responsibility of demonstrating that the request satisfies the criteria for rezone as outlines in LMC 17.19.050.

- A. *The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; G. Veltkamp stated that there was not an error in the zoning, circumstances have changed, however, feels that it is a spot zone and cannot warrant reclassification of the zoning. G. Veltkamp may feel different if it was the whole corner and not just one lot. Scott agrees, Korthuis agrees and does not see a significant change to warrant the request.*
- B. *The proposed site-specific rezone is consistent with the city's comprehensive plan and applicable subarea plan(s); G. Veltkamp has no problem with this criteria. Scott agrees and stated that we need to provide for more people. Korthuis concurred.*

- C. *The project proposal is consistent with the city's development codes and regulations for the zoning proposed for the project; Faber states that the City's development code supports infill. The Commission agreed.*
- D. *The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; The Commission indicated that at the present time the rezone is not compatible with the surrounding area.*
- E. *The proposed site-specific rezone will promote the health, safety and general welfare of the community. G. Veltkamp understands that people need a place to live if they cannot afford their own home, however, this area should be looked at in its entirety not as a spot zone. This is not a positive thing.*

Templeton addressed the audience and stated, Lynden has a long standing Christian tradition of "love thy neighbor" and is offended and finds the term typical renters problematic and insulting. A typical renter could mean a young single starting a career, a young couple, a senior that could not afford a single-family home, in 2019 a renter could also mean a teacher, police officer, nurse, pastor, fire fighter.

That aside, there must be a compelling reason to rezone property and I do not see a compelling reason. Single family homes could be built on this parcel.

G. Veltkamp also addressed the audience and stated that he is a little bit disappointed. The reasons that were given tonight are not the correct way of doing it - being down on human kind and looking assuming the worst out of people. People need to act more civil, tonight and at future meetings that have to do with this topic in this particular area. The Commission is here to do the best we can for Lynden and I thank you Commissioner Templeton for what you said. Commissioner Scott concurred.

**Scott motioned to recommend denial of the Rosewood Rezone #19-01, as the application did not adequately meet the criteria outlined in LMC 17.09.050. Seconded by Templeton and the motion passed 4-1, with Kok abstaining.**

Faber thanked everyone for coming out.

## **6. COMMISSIONERS CORNER**

Next PC Meeting is on July 25th and will be a joint public hearing with the Department of Ecology.

## **7. ADJOURNMENT**

**Motion to adjourn by Scott / Second by G. Veltkamp. Meeting adjourned at 10:10 pm.**

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Ordinance No. 1595 – Real Estate Property Tax 2020	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance No. 1595 – Real Estate Property Tax 2020		
<b>Summary Statement:</b>		
<p>The City of Lynden is required by State regulations to adopt the proposed 2020 property tax levy. Attached is a copy of the proposed Ordinance. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor's Office. When comparing preliminary 2018 levy rates to 2019 levy rates, the decrease is estimated at 0.120 cents per mil to a mil rate of 1.67781</p> <p>The final figures for the assessed valuation of the city's tax base are not yet available. Once those are provided by the County Assessor, an ordinance setting the final, exact levy will be provided in January 2020 for consideration.</p> <p>On November 18, 2019 the Finance Committee discussed the draft ordinance and approved the Ordinance for review by the full Council.</p>		
<b>Recommended Action:</b>		
Conduct the required public hearing and if no objections approve Ordinance No.1595 and authorize the Mayor's signature.		

ORDINANCE NO. 1595

AN ORDINANCE FOR THE CITY OF LYNDEN  
AMENDING ORDINANCE NO. 1571 LEVYING TAXES FOR  
GENERAL MUNICIPAL PURPOSES FOR  
TAXES COLLECTIBLE AND PAYABLE IN 2020  
IN THE CITY OF LYNDEN, WASHINGTON

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

Section A. The City of Lynden hereby levies, for 2020 taxes, for the purpose of meeting the expenditures of the City of Lynden, Washington, for the year 2020, the following specific sums:

CURRENT EXPENSE FUND	\$2,772,171
BERTHUSEN PARK	\$65,000
2012 LTGO REFUNDING BOND DEBT	<u>\$550,000</u>
TOTAL	\$3,387,171

Section B. In order to raise said specific sums, there is needed a levy of \$1.67781 per thousand dollars of assessed valuation of the property in the City of Lynden as shown by the assessment roll for the year 2019.

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

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

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR,  
\_\_\_\_\_AGAINST AND SIGNED BY THE MAYOR THIS 18th DAY OF NOVEMBER 2019.

ATTEST:

\_\_\_\_\_  
MAYOR

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

APPROVED AS TO FORM:

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

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Easement Agreement Form for Fence or Vegetation in City Property Located in Pepin Creek Corridor	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Easement Agreement Form	
<b>Summary Statement:</b>	<p>Certain properties in the Bogaard plat would like to place fencing, or vegetation in the Pepin Creek corridor that abuts their properties (see attached Exhibit). The attached agreement prepared by the City Attorney will grant them the right to use the portion of land owned by the City for certain permitted uses, namely installation of a fence or landscaping. This would be until the City, at its sole discretion, needs the area vacated. The property owners would be given 30 days prior written notice of the requirement to vacate.</p> <p>If this agreement form is approved by City Council, the City will enter into separate agreements with each property owner desiring to use the aforementioned City property. Legal descriptions will be incorporated in the final, individual agreements.</p> <p>The Public Works Committee reviewed this at their November 14<sup>th</sup> meeting and concurred to recommend approval to the full City Council.</p>	
<b>Recommended Action:</b>	That City Council approve the Easement Agreement Form for fence or Vegetation in City Property Located in Pepin Creek Corridor; and authorize the Mayor to sign each agreement with individual property owners.	

**After recording, return to:**  
City of Lynden, Public Works  
300 4<sup>th</sup> Street  
Lynden, WA 98264

**DRAFT**

**DOCUMENT TITLE:**  
EASEMENT AGREEMENT

**GRANTOR:**  
City of Lynden, a Washington municipal corporation

**GRANTEE:**

**ABBREVIATED LEGAL DESCRIPTION:**

Full legal description at page(s) \_\_\_\_\_.

**ASSESSOR’S PROPERTY TAX PARCEL NUMBER:**

**EASEMENT AGREEMENT**

This Easement Agreement (“Easement”) is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Lynden, a Washington municipal corporation (“the City” or “Grantor”), and \_\_\_\_\_ (“Grantee”). Grantor and Grantee shall be individually referred to as “Party” or collectively as “Parties.”

**RECITALS**

**WHEREAS**, Grantee desires to build a fence and/or plant vegetation, or install other removable appurtenances (hereafter collectively “improvements”) on the City’s property located at the Pepin Creek Corridor, in Lynden, Washington; and

**WHEREAS**, all or part of the improvements will be located on property owned by the City, described below as City Property; and

**WHEREAS**, Grantee is the owner in fee simple of the real property legally described at **Exhibit A** hereto, commonly known as \_\_\_\_\_, Lynden, Washington, Whatcom County Tax Parcel No. \_\_\_\_\_ (hereafter "Grantee Property"); and

**WHEREAS**, the City is the owner in fee simple of the following real property legally described at **Exhibit B** hereto, commonly known as the Pepin Creek Corridor Property, Lynden, Washington, Whatcom County Tax Parcel No. \_\_\_\_\_ (hereafter "City Property" or "Grantor Property"); and

**WHEREAS**, the City has authority to permit construction of a private fence and other improvements on property over which the City has an interest; and

**WHEREAS**, these recitals are material to this Easement;

**NOW THEREFORE**, the Parties agree as follows:

1. Grant of Easement. The City hereby gives grants and conveys to Grantee the right, until further notice, to use the portion of land owned by the City and labeled as "Easement Area" on the attached **Exhibit C** for the permitted uses described at Paragraph 3 below.
2. Consideration. This Easement is made pursuant to and in consideration of the City issuing a fence permit and in mutual consideration of the terms and conditions established herein. The Parties hereby acknowledge that there is no monetary consideration provided for grant of the Easement.
3. Permitted uses. Grantee may use the Easement Area for installing and maintaining improvements, namely a fence, planting vegetation and engaging in other landscaping, maintaining existing landscaping, installing and maintaining other removable appurtenances, and performing other related tasks in the Easement Area. Grantee may enter the Easement Area at any time without notice to the City. Uses that are in the City's sole judgment inconsistent with the City's ownership of the Easement Area are prohibited.
4. Non-exclusive use. This Easement grants Grantee non-exclusive use of the Easement Area. The City reserves the right to use the Easement Area as it sees fit. The City shall notify Grantee pursuant to Paragraph 14 below if it anticipates that its actions in the Easement Area will interfere with or damage any improvements Grantee has made to the Easement Area. The City reserves the right to grant other easements or legal interests in the Easement Area without notice to Grantee.
5. Termination. This Easement may be terminated by the City at any time in its sole discretion upon providing thirty (30) days prior written notice to Grantee. Notice of such termination

shall be made pursuant to Paragraph 14 below. Grantee agrees to promptly vacate the Easement Area and surrender use thereof within thirty (30) days after delivery of such notice. Any improvements remaining in the Easement Area thirty (30) or more days after the City has given notice of termination of this Easement shall thereupon become the property of the City. If said notice requests the removal of all or a portion of any improvements within the Easement Area, Grantee shall be responsible for complying with the removal request in accordance with Paragraphs 6, 7 and 8 below. Following termination of the Easement, the City may record notice thereof with the Whatcom County Auditor's Office.

6. Removal of improvements. Grantee shall, at Grantee's sole expense, remove all improvements located within the Easement Area as the City demands, doing so within thirty (30) days after written notice requesting such removal is delivered to the Grantee or occupant of the Grantee Property; provided that, in the event of an emergency, the City may immediately remove and possibly damage or destroy any improvements located within the Easement Area without prior notice to the Grantee or occupant of the Grantee Property. Grantee shall have no right to compensation arising from any such removal, damage, or destruction of Grantee's improvements by the City.
7. City's right to remove. In non-emergency situations, if the Grantee fails to remove any improvements within the Easement Area as the City demands within thirty (30) days after written notice requesting such removal is delivered to Grantee or occupant of the Grantee Property, the City may remove and possibly damage or destroy any improvements in order to exercise its right and use of the Easement Area. Grantee shall have no right to compensation arising from any such removal, damage, or destruction of Grantee's improvements by the City.
8. Expenses for removal by City. In the event that the City removes any improvements from the Easement Area, Grantee shall within thirty (30) days of delivery of an invoice from the City, reimburse the City for the cost of removal of any improvements. Late reimbursement of such costs shall accrue interest at a rate of twelve (12) percent per annum. Should the City initiate collection proceedings for delinquent payment, the Grantee shall reimburse the City for its reasonable legal costs and attorney's fees for collection of said funds. All removal and collection costs and fees, together with interest, shall be a lien on the Grantee Property until paid.
9. Replacement of improvements. It shall be the sole responsibility of Grantee to replace any improvements following removal or damage resulting from the City's exercise of its rights under this Easement. Under no circumstances shall the City be responsible for replacement or repair costs associated with removal of any improvements located within the Easement Area, even if such replacement or repair costs are attributable to the negligence of the City or its agents.
10. Run with the Land. This Easement shall run with the land, and shall be binding upon the heirs, successors, and assigns of the Grantee, until terminated as provided herein.

- 11. Indemnification and Hold Harmless. Grantee expressly agrees to appear, defend, indemnify and hold harmless Grantor, its successors in interest, and those persons who were, are now, or shall be contractors, subcontractors, employees or agents thereof (collectively, the "Grantor Indemnitees"), from and against any and all claims, losses, liabilities, judgments and expenses (including reasonable attorney's fees) arising wholly or partially out of any act, action, omission or default on the part of the Grantee, its occupants, contractors, subcontractors, employees and agents which pertain to the use of the Easement Area.
- 12. Release of Liability. Grantee hereby expressly agrees to release the City from any potential present or future liability to Grantee arising from damage to property or injury to persons as a result of Grantee's permissive use or occupancy of the Easement Area.
- 13. Insurance. Grantee shall add Grantor as an additional insured and loss payee on Grantee's homeowner's insurance policy within fifteen days of the recordation of this Easement and shall maintain homeowner's insurance with the City as an additional insured for so long as this Easement remains effective. Failure to maintain City as an additional insured shall result in this Agreement being automatically terminated.
- 14. Notice. All notices or demands to be given by any Party to any other Party pursuant to this Easement shall be deposited in the United States mail, postage prepaid, by first-class mail and addressed to the Party at issue. Notices and demands sent by mail shall be deemed to have been given and delivered when properly mailed and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.
- 15. Governing Law and Venue. This Easement shall be governed in accordance with the laws of the State of Washington. Venue for any legal proceedings shall be Whatcom County Superior Court.
- 16. Complete agreement and amendment. This Easement constitutes the entire agreement as to the matters contained herein. No oral or written statements shall be considered a part of this Easement unless expressly incorporated herein in writing. This Easement may be modified in writing only, upon unanimous agreement of the Parties or the successors in interest.

**IN WITNESS WHEREOF**, the Parties have executed this Easement Agreement on the date first above written.

**GRANTOR**  
City of Lynden

**GRANTEE**

\_\_\_\_\_  
By: Scott Korthuis  
Its: Mayor

\_\_\_\_\_  
By: \_\_\_\_\_

State of Washington )  
 ) §  
County of Whatcom )

I certify that I know or have satisfactory evidence that SCOTT KORTHUIS is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged to me that he signed the same as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

State of Washington )  
 ) §  
County of Whatcom )

I certify that I know or have satisfactory evidence that FIRST M.I. LAST is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged to me that he signed the same as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**Exhibit A**  
Legal Description of Grantee Property

**Exhibit B**  
Legal Description of Grantor Property

**Exhibit C**  
Depiction of Easement Area



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Interlocal Agreement with Whatcom County to Establish Cost Sharing Partnership for Licensed Pictometry Imagery and Software	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Interlocal Agreement with Whatcom County for Pictometry Imagery and Software	
<b>Summary Statement:</b>	<p>Attached for City Council approval is an Interlocal Cooperative Agreement (Amendment) with Whatcom County to cost share 2019 Pictometry aerial images. These updated images are obtained under a Whatcom County Contract with Pictometry International Corporation; and are supplied to other local jurisdictions at a discount through this Interlocal Agreement. Pictometry imagery and software is a patented digital aerial image capture system used by staff for projects and land use planning.</p> <p>The City has used this service for several years and money has been reserved in the 2020 budget. The first payment of \$4,733.94 is due the month after the City receives the Pictometry imagery, and the second payment of \$4,160 is due no later than one year after the first payment is due.</p> <p>The Public Works Committee concurred to recommend approval to City Council at their November 13<sup>th</sup> meeting.</p>	
<b>Recommended Action:</b>	That City Council approve the Interlocal Agreement with Whatcom County for shared costs of Pictometry Software and Image Capturing Services; and authorize the Mayor to sign the agreement.	

**INTERLOCAL COOPERATIVE AGREEMENT  
BETWEEN WHATCOM COUNTY AND  
THE CITY OF LYNDEN  
TO ESTABLISH A COST SHARING PARTNERSHIP  
FOR LICENSED PICTOMETRY IMAGERY AND SOFTWARE**

WHEREAS, Whatcom County and the City of Lynden are authorized to provide cooperative information services under the Interlocal Cooperative Act RCW 39.34; and

WHEREAS, Whatcom County has entered into Amendment 3 to Contract #201210015 with Pictometry International Corporation (hereinafter referred to as "Pictometry") for a third capture planned for Spring 2019 for certain licensed Pictometry products, encompassing, among others, specified aerial images of the County and selected adjacent jurisdictions; and

WHEREAS, the City of Lynden has evaluated the Pictometry products and determined that those products would be beneficial to their operations; and

WHEREAS, Whatcom County, the City of Lynden and other regional partners identified On Page 1, para3(d) of Amendment 3 to Whatcom County Contract #201210015 are interested in developing partnerships and working cooperatively with each other in order to reduce project costs and eliminate duplication of services; and

WHEREAS, the City of Lynden has provided a Letter of Intent (Exhibit B) to participate in the Whatcom Region GIS Imagery Partnership; and

WHEREAS, Whatcom County has identified City of Lynden to be recognized by Pictometry as an Authorized Subdivision of Whatcom County and as such employees of the City of Lynden are Authorized Users and will have access to the Pictometry imagery and software products; and

WHEREAS, the City of Lynden, recognized by Pictometry as an Authorized Subdivision of Whatcom County, shall have a perpetual license of Pictometry imagery and software products per Page 1 para 3(d) of Amendment 3 to Whatcom County Contract #201210015; and

WHEREAS, the public will benefit from both the products received and the cost savings of such partnerships; and

WHEREAS, Whatcom County, the City of Lynden and other regional partners (Exhibit A) benefit from a promotional discount as referenced on page 1, para 3e of Amendment 3 to Whatcom County Contract #201210015.

NOW, THEREFORE, Whatcom County hereinafter "Provider" and the City of Lynden, hereinafter "Customer" agrees as follows:

**1.1. Provider Responsibilities:** Upon completion of the imagery acquisition, signed Interlocal Cooperative Agreement with the Customer, and signed Authorized Subdivision / Authorized Users License Agreement for Pictometry Imagery (Exhibit C) by Customer, the Provider agrees to furnish the Customer the following products and services:

**1.1.1.** Delivery of a portable USB hard drive containing all the licensed Pictometry products which shall include the image library.

**1.1.2.** Annual billing for the use of licensed Pictometry products. This also includes oversight of the financial accounting between the Provider and the Customer(s).

**1.1.3.** Will provide online Pictometry Connect suborganization account(s) for three years for customers that have elected to participate as more fully defined in Exhibit D.

**1.2 Customer Responsibilities:** Upon completion of the imagery acquisition, signed Interlocal Cooperative Agreement with the Provider, and signed Authorized Subdivision / Authorized Users License Agreement for Pictometry Imagery (Exhibit C) by Customer, the Customer agrees to the following:

**1.2.1.** To comply with this Interlocal Cooperative Agreement and the License Agreement between Whatcom County and Pictometry per the Authorized Subdivision / Authorized Users License Agreement for Pictometry Imagery (Exhibit C). This also applies to Pictometry Connect licensing.

**1.2.2.** Designate one employee as a liaison between the Provider and the Customer as a single point of contact for disseminating information to the Customer's end users. The designated Liaison and their contact information shall be reported to the Provider.

**1.2.3.** The Liaison or their designee shall distribute the Pictometry products to the Customer's employees in accordance with both this Interlocal Cooperative Agreement and the Pictometry Software License Agreement contained within the agreement between Whatcom County and Pictometry (Whatcom County Contract #201210015 as amended in Amendment 1).

**1.2.4.** Provide training and technical support to their employees on the use of the Pictometry software and imagery.

## **2.0 SERVICE CONDITIONS AND DATA LIMITATIONS**

**2.1 Acceptance of Completed Work:** The Provider's contract with Pictometry to acquire imagery is scheduled for the Spring of 2019 with the understanding that the imagery shall be captured with less than 30% leaf cover (off), with the exception of designated areas identified in Amendment 3 to Whatcom County Contract

#201210015 which allows for leaf-off flexibility. Imagery acquisition is contingent on favorable weather conditions and aircraft availability. When the image acquisition and processing is complete, Provider, with input from the Whatcom Region GIS Imagery Partnership, will evaluate the overall dataset for acceptance with Pictometry. Once the Provider has received and approved the Pictometry products, a copy of the accepted Pictometry products shall be created on a portable USB hard drive and delivered to the Customer. The Customer has 30 calendar days to inspect the USB hard drive and notify provider of any product errors, omissions, flaws, or incomplete work. Provider will review the original accepted dataset for any problems identified by the Customer and provide a new copy of the original accepted dataset if differences are identified. If no errors are brought to the attention of the Provider within 30 calendar days, the product delivery to Customer shall be considered complete.

- 2.2 Product Archival and Retention:** Provider is not responsible for the backup, retention, or archive of products provided to the Customer. In the event that the Customer requests from the Provider another copy of the Pictometry products, the Provider shall be financially compensated for their actual costs to create and deliver an additional copy of the Pictometry products.
- 2.3 Confidential and Proprietary Information:** The Customer acknowledges that they are a public agency and as such are required to allow members of the public access to certain materials within the Customer's control or possession. In the event the Customer receives a public records request for information or intellectual property belonging to Pictometry, within five days of receiving such request and prior to providing any materials to the Requestor, the Customer will notify both the Provider and Pictometry of such request for information and will make attempts to provide Pictometry with adequate time to seek a protective order under applicable law. Customer shall clearly mark all confidential or proprietary documents.
- 2.4 Data Limitations:** The Provider makes no warranty, expressed or implied, concerning the Pictometry products content, accuracy, currency or completeness, or concerning the results to be obtained from queries or use of the data. All Pictometry products are expressly provided as is and with all faults. The Provider makes no warranty of fitness for a particular purpose, and no representation as to the quality of any Pictometry products. No employee or agent of the Provider or the Customer is authorized nor may waive or modify this paragraph.
- 2.5 Spatial Accuracy:** Electronic spatial data can be printed or represented at various scales other than the original source of the data. Customer is responsible for adhering to industry standard mapping practices, which specify that data utilized in a map or analysis, separately or in combination with other data, will be produced at the largest scale common to all data sets.

### **3.0 DATA LIABILITY AND INDEMNIFICATION**

- 3.1 Liability:** Provider, its elected or appointed officers, employees or agents shall not be liable to Customer (or transferees or vendees of Customer) for damages of any kind, including lost profits, lost savings or any other incidental or consequential damages relating to the providing of the data or the use of it. Customer shall have no remedy at law or equity against the Provider in case the data provided is inaccurate, incomplete or otherwise defective in any way. Customer's only remedies are those specified in this agreement. Provider is supplying this information in good faith and Customer agrees to hold Provider, its elected or appointed officers, employees or agents harmless for any liability incurred as a result of using Pictometry products under this agreement.
- 3.2 Indemnification:** Customer agrees to defend, indemnify and hold Provider, its elected or appointed officers, employees or agents from any and all claims, judgments, settlements, attorney's fees or any costs by reason of any and all claims and demands made against Provider, its elected or appointed officials, or employees, for all damages or loss sustained by any person or persons including third parties, unless such loss or damage is due to the sole gross negligence of Provider, its elected or appointed officers, employees or agents. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.
- 3.3 No Joint Venture or Partnership:** It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.
- 3.4. Non-Conforming Service Remedy:** For any services which fail to conform to the specification of this Agreement, and such failure is caused solely by the negligence of Provider, no charge will be invoiced. If both parties are negligent, they agree to apportion cost between them to the damage attributable to the actions of each.
- 3.5. Equipment Damage:** For any equipment damaged as the result of negligence by either party, that party will be obligated to pay for repair or replacement of that equipment. If both parties are negligent, the parties agree to apportion between them the damage attributable to the actions of each.
- 4.0 TREATMENT OF ASSETS**
- 4.1 Property Title:** The Pictometry products are licensed through Pictometry International Corporation and are subject to the provisions of the Pictometry Delivered Content Terms and Conditions of Use in Amendment 1 to Contract #201210015 between Pictometry and the Provider.
- 4.2 Use of Property:** Any property furnished by Provider to Customer shall, unless otherwise provided in this Agreement, or approved by the owner, be used for the performance of this contract.

4.3 **Notification:** If any Provider property is lost or stolen the Customer shall immediately notify both Pictometry and the Provider and shall take all reasonable steps to protect the property.

4.4 **No Real Property:** It is understood and agreed that no real property will be purchased under this Interlocal Cooperative Agreement.

## 5.0 **SERVICE CHARGES AND PAYMENT PROVISIONS**

5.1 **Pictometry Product Fees:** The Provider is making Pictometry products available to Authorized Subdivisions / Authorized Users identified in Page 1 para. 3(d).of Amendment 3 to Whatcom County Contract #201210015. The Customer is identified as an Authorized Subdivision / Authorized User and therefore is eligible to cost share Pictometry products with the Provider (subject to the requirements outlined in Paragraph 2.1, Acceptance of Completed Work, of this agreement). A tier fee structure has been established to provide a simple and equitable cost plan for the cost sharing of Pictometry products for the Whatcom Region GIS Imagery Partnership. The Customer shall pay a total of \$8,320.00 to use Pictometry software and imagery. The cost of future software updates and technical support is not covered by this agreement.

5.2 **Pictometry Connect Subscription Fees:** Pictometry provides multiple methods to access the aerial image library. This includes EFS software as well as Pictometry Connect web access. EFS is included with the Pictometry Product Fees in Paragraph 5.1. Pictometry Connect has an additional cost. The Customer shall pay a total of \$573.94 for a three-year subscription to the Pictometry Connect online service as in Exhibit D "Pictometry Connect Online Subscription Cost Sharing".

5.3 **Pictometry Payment Dates:** The Customer shall pay a total of \$8,893.94 for the Pictometry product fees and the Pictometry Connect subscription fees if applicable. The first payment of \$4,733.94 is due one month after the Customer has received the Pictometry imagery. The second payment of \$4,160.00 is due no later than one year after the first payment due date.

5.4 **Lower Project Costs:** The primary intention of this Interlocal Cooperative Agreement is to develop partnerships and work cooperatively with other agencies in order to reduce project costs and eliminate duplication of services. In the event that the project costs are lower than expected, an equitable proportioned credit will be applied to the Customer's second year payment.

5.5 **Refunds Due to Uncaptured Areas:** Pictometry shall use commercially reasonable efforts to capture imagery of the areas designated on the Sector Map in Amendment 3 to Whatcom County Contract #201210015. In the event that Pictometry is unsuccessful in capturing certain sectors within the flight area, Provider will receive a credit from Pictometry and an equitable proportioned credit will be applied to the impacted Customer's second year payment.

**5.6 Annual Support and Maintenance:** Pictometry will provide desktop software and imagery maintenance and support for a period of two years from the initial date of shipment. At the end of the two years, an additional annual fee will be required for continued technical support and software updates. Provisions for these costs are beyond the scope of this Interlocal Cooperative Agreement.

## **6.0 AGREEMENT TERM AND TERMINATION**

**6.1 Agreement Term:** This Agreement commences upon execution by signature of both parties and shall terminate three years after the date of product acceptance between Provider and Pictometry.

**6.2 Termination for Public Convenience:** Either party may terminate this Agreement in whole or in part upon 30 days written notice to the other whenever Provider or Customer determines, in its sole discretion that such termination is in their best interests. In the event this Agreement is terminated in accordance with this paragraph, the Provider shall be entitled to full payment for both years of the Pictometry Products.

## **7.0 MISCELLANEOUS AGREEMENT PROVISIONS**

**7.1 Invoices and Late Payment:** Provider will invoice Customer when products are delivered and accepted per the payment provisions in Paragraph 5.0 et. seq. above. Payment is due upon receipt of invoice by Customer and shall be paid 30 days thereafter. A late payment charge may be applied to any remaining balance 60 days after invoice. Late payment charges, if any, will be imposed on the unpaid balance at the rate of 1% per month. Agreements with balances more than 90 days past due may be terminated and services discontinued. Amounts disputed by Customer are not subject to late payment charges.

**7.2 Disputes:** Customer will promptly notify Provider of disputes regarding invoices, or of services which Customer believes do not conform to the agreed upon terms of this Agreement or Work Order.

**7.3 Venue and Choice of Law:** This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed to by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit in equity or judicial proceedings for the enforcement of this Agreement or any provisions thereof shall be instituted and maintained only in the courts of competent jurisdiction in Whatcom County, Bellingham, Washington.

**7.4 Assignment:** This Agreement may not be assigned by either party to a third party without the prior written consent of both Provider and Customer.

- 7.5 Waiver:** If a breach of a provision of this Agreement is waived for a particular transaction or occurrence, waiver for a similar breach in a subsequent similar transaction or occurrence may not be implied.
- 7.6 Severability:** If any term or condition of this Agreement or application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.
- 7.7 Party Representatives:** Listed below are the parties' representatives for purposes of carrying out this Agreement. All notices and communications which may be required by this Agreement shall be in writing and may be given by delivery or by depositing in the U.S. Mail, first class, postage prepaid.

Customer Name: City of Lynden

Customer Address:

Customer City, State, ZIP:

Contact Name:

Contact Title:

Contact Telephone:

Contact E-Mail:

Provider Name: Whatcom County  
 Administrative Services Department  
 Division of Information Technology

Provider Address: 311 Grand Ave, Suite 305  
 Provider City, State, ZIP: Bellingham, WA 98225  
 Contact Name: Mike Pelela  
 Contact Title: GIS Supervisor  
 Contact Telephone: 360-778-5244  
 Contact E-Mail: mpelela@co.whatcom.wa.us





**EXHIBIT A**  
**Whatcom Region GIS Imagery Partnership**

<b>Organization</b>
Bellingham Whatcom County Housing Authorities
Birch Bay Water & Sewer District
City of Bellingham
City of Blaine
City of Everson
City of Ferndale
City of Lynden
City of Nooksack
City of Sumas
Lake Whatcom Water & Sewer District
Lummi Indian Business Council
Nooksack Indian Tribe
Port of Bellingham
Public Utilities District #1
Whatcom Conservation District
Whatcom County
Whatcom Council of Governments
Whatcom Transportation Authority

**EXHIBIT B**  
**Partner Letter of Intent**

**CITY OF LYNDEN**

**PUBLIC WORKS DEPARTMENT**  
Steve Banham, Public Works Director  
(360) 354 - 3446



August 30, 2018

Mike Pelela  
Whatcom County  
GIS Supervisor  
Division of Information Technology  
311 Grand Avenue, Suite #305  
Bellingham, WA 98225

Re: Letter of Intent for 2019/2020 Whatcom Region GIS Imagery Partnership

Mr. Pelela,

Please let this letter serve as confirmation of the City of Lynden's intent to participate in the Whatcom Region Imagery Partnership at the following cost-sharing level:

**Category Three**

\$4,160 in 2019

\$4,160 in 2020

\$8,320 Total

+

\$574 in 2019 for 4 Pictometry Connect Licenses for 3-years (Optional)

\$8,900 Optional Total (Rounded Up)

It is the City of Lynden's intent to enter into an inter-local agreement with Whatcom County and a sub-agency license agreement with our vendor, Pictometry International Corporation in order to take receipt of the entire western Whatcom County imagery dataset with an estimated value of over \$160,000. Our organization is also interested in Pictometry Connect licensing adding to our overall cost per above.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Banham", with a long horizontal flourish extending to the right.

Steve Banham  
Public Works Director

**Authorized Subdivision / Authorized Users License Agreement  
for  
Pictometry Imagery**

The installation and use of Pictometry imagery products and software is governed by a license agreement between Pictometry and Whatcom County ("Licensee"). To use this software and the Pictometry Image Library you agree that your organization is an "Authorized Subdivision" and that you understand and will abide by the terms of the aforementioned license terms contained within Whatcom County Contract #201210015 and any amendments thereto.

Authorized Users shall mean such persons in the employment of the Customer. Customer has agreed: (a) that it will not allow any persons other than designated employees to use or operate, or to have any other access to, any of the Licensed Products, and (b) that it will cause all designated employees to comply with all of the terms, conditions, and limitations applicable to the Licensee under this Agreement, and (c) ortho images may be used in a public-facing website so long as any download feature is disabled and the Pictometry measurement tools are not exposed. Further, you agree that you will use the software and Pictometry Image Library in the conduct of your operations to use and execute the Licensed Products for internal use in pursuit of its or their public responsibilities and no others.

Customer shall remain obligated to the terms of the License Agreement for as long as they continue to use the product, regardless of the continued existence of this Interlocal Cooperative Agreement.

I Agree:

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

**AUTHORIZED SUBDIVISION / AUTHORIZED USERS:** City of Lynden

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

\_\_\_\_\_

Phone: \_\_\_\_\_

## Pictometry Connect Online Subscription

The Whatcom Region GIS Imagery Partnership partners have elected to participate in the Pictometry Connect Online subscription as described below:

Partner	Three Year Subscription Cost Pictometry Connect Online	# of Accounts
Bellingham Whatcom County Housing Authorities	\$143.48	1
Nooksack Indian Tribe	\$143.48	1
Whatcom Conservation District	\$143.48	1
Whatcom Transportation Authority	\$143.48	1
Lake Whatcom Water & Sewer	\$143.48	1
City of Nooksack	\$143.48	1
City of Everson	\$286.96	2
City of Sumas	\$286.96	2
City of Blaine	\$573.92	4
City of Ferndale	\$573.92	4
City of Lynden	\$573.92	4
Port of Bellingham	\$573.92	4
Public Utilities District #1	\$143.48	1
Birch Bay Water & Sewer District	\$573.92	4
Whatcom Council of Governments	\$143.48	1
Lummi Indian Business Council	Not Participating	0
City of Bellingham	Not Participating	0
Whatcom County	\$2,582.64	18
<b>TOTAL</b>	<b>\$7,174.20</b>	<b>50</b>

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Public Works Committee Meeting Minutes November 13, 2019	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	November 13, 2019 Draft Public Works Committee Meeting Minutes	
<b>Summary Statement:</b>	Draft minutes for the November 13, 2019 Public Works Committee meeting.	
<b>Recommended Action:</b>	For Review	



## PUBLIC WORKS COMMITTEE MINUTES

4:15 PM November 13, 2019

City Hall 2<sup>nd</sup> Floor Large Conference Room

### 1. ROLL CALL

Members Present: Mayor Scott Korthuis; Councilors Gary Bode and Ron De Valois

Members Absent: Jerry Kuiken, with notice

Staff Present: Public Works Director Steve Banham and Sr. Admin. Assistant Heather Sytsma

Public Present: Gary Vis, Megan Dickson, Kent Bouma, Mark Spaulding

### 2. ACTION ITEMS

#### A. **Approve Minutes from October 9, 2019**

This item was removed from the agenda as it was a Special City Council Meeting with minutes approved at the City Council meeting on October 21, 2019.

#### B. **Transportation Impact Fees Revision Chapter 3.46 – Discuss Proposed Deferrals and Credits**

Banham presented an update to Transportation Impact Fee Chapter 3.46 of the Lynden Municipal code that will be presented to City Council by the Planning Department.

The main change proposed allows developers to defer the payment of impact fees associated with the construction of a single-family home as required by RCW 82.02.050. Additionally, there would be the option to receive a refund when the developer does not proceed with the development activity for which the transportation impact fees were paid, and the developer shows that no impact has resulted. The City attorney is still reviewing the law and the appropriate application to the City since the City generally collects transportation impact fees at time of final plat, and only rarely at time of building permit.

The Committee discussed the adequacy of the current impact fee rate and requested that staff provide a comparison of Lynden's impact fees with other cities to the next Public Works Committee meeting for review.

#### **Action**

***The Public Works Committee concurred to recommend to City Council approval of Transportation Impact Fees Revision Chapter 3.46 after legal review is complete.***

**C. Easement for Bogaard Plat Properties Abutting City ROW – Recommend Approval to City Council**

Banham stated that staff met with some of the property owners in the Bogaard Plat with property abutting City right-of-way along the proposed Pepin Creek corridor. The property owners have built fences and landscaping into the corridor, but an easement is required for use of this currently undeveloped City Property. When the City is ready to construct Pepin Creek, any fences or vegetation may be required to be removed at the owners' expense. Banham stated the easement will be recorded against the property, so any future owners are aware of these restrictions.

Banham noted that the easements will provide for property owner improvements to be consistent so that the City-mowing of the remaining property can be done in a straight line. Property owners are responsible for maintenance of the areas covered by the easement, thus reducing the City cost of maintenance.

**Action**

***The Public Works Committee concurred to recommend to City Council approval of the easement for Bogaard Plat Properties abutting City right-of-way.***

**3. INFORMATION ITEMS**

**A. Outcome of Interviews for Professional Engineering Services – Design of Fairgrounds Stormwater Facility**

Banham stated that staff interviewed Osborn Consulting and Herrera Environmental Consultants for the design of the Northwest Washington fairground's stormwater improvements. After reviewing qualifications and conducting an interview with both firms, which involved the Whatcom Conservation District and Northwest Washington Fair staff, Herrera was chosen as the best qualified for this project. Staff will soon begin negotiating a price for these engineering services. A Department of Ecology grant is funding this project. The Whatcom Conservation District is contributing matching funds with their work.

**B. Final 2020 Budget – Projects Funding List and Rate Addendums**

Banham presented the final 2020 project funding list and rate addendums to the Committee which are revised to reflect the actual budget for 2020 that is currently under review by the City Council.

**C. Benson Road Speed Zone Study by School**

See "Items Added – A" Below

**D. Projects**

**1. Old Water Treatment Plant Demolition – Substantially Complete**

Banham stated that some fence installation is needed, but the project is substantially complete.

**2. Wastewater Treatment Plant Outfall – Mitigation Planting Almost Complete**

Banham stated that the mitigation planting is done.

**3. Industrial Condensate – Riverview to Outfall – Aquatic Resource Permit Sent to Property Owner for Signature (JARPA)**

Korthuis asked who is signing the JARPA. Banham stated that four property owners in the vicinity of the project will be signing these. They have been notified.

**4. Industrial Condensate – Darigold Stormwater to Fishtrap Creek**

Banham stated that this project is scheduled to start next week. Frontier Communications is scheduled to move their hardware this weekend and move things out of the construction area by Monday, November 18<sup>th</sup>.

**5. Pepin Intercept Ditch**

Banham stated this FHWA funded project is currently substantially complete. There was no groundwater, so work proceeded very quickly.

The Committee discussed future potential flooding and other weather-related events that could affect this area.

**6. Line Road Pedestrian Safety Improvements**

Banham stated that the project specifications were submitted for approval last Friday. Staff has identified up to nine contractors on the City's Small Works Roster who are eligible to bid on this project. They will be mailed bid packets soon.

**7. 7<sup>th</sup> Street Revitalization**

Bode asked what the schedule is for reconstructing the segments of 7<sup>th</sup> Street north and south of Front Street. Banham stated that DeKoster intends on paving the north side of the street and the parking lot before the lighted parade on December 7<sup>th</sup>. The section south of Front Street will be completed after Christmas.

The Committee discussed the current use of Judson Alley by large semi-trucks delivering to stores on Front Street. Bode stated that directing them to turn south on 6<sup>th</sup> Street from Judson Alley gives them enough of a turning radius that they can proceed to Riverview Road and then turn left to go back to Hannegan, or right if they need to go back into town. This would also keep them out of the construction area on 7<sup>th</sup> Street in the months ahead.

Banham stated that staff will post "Truck Route" signs at the intersection of Judson Alley to redirect trucks down 6<sup>th</sup> Street.

**8. 17<sup>th</sup> Street Design**

Banham stated that staff is continuing to work on project plans and specifications. The current plans include a larger stormwater pipe underneath 17<sup>th</sup> Street to help drain stormwater flooding in the Pepin area. Banham added that current plans call for re-paving all the way through the cul de sac to Village Drive.

Banham stated that, with respect to potential flooding in the basin to the north, these small maintenance items: upsizing stormwater pipes and ditch cleaning, should help improve drainage and reduce flooding impacts.

**9. West Front Street – Whatcom County Economic Development Investment Program (EDI) Funding**

Banham stated that this application has been submitted. Korthuis attended the meeting noting that the vote was 8 in favor and 2 against the project. This will now be presented at County Council for approval. The EDI funding program is \$1 million grant and \$2 million loan. Staff is working on completing the design so construction can start if funding is awarded.

**10. Berthusen Restrooms Scope and Budget Being Finalized**

Banham stated that this project is proceeding with restrooms scheduled to be installed in the spring. Banham stated that as soon as the permit is approved by Whatcom County, the prefab building can be ordered.

#### 4. ITEMS ADDED:

##### **A. Request for Traffic Control on Benson Road Between East Badger Road and the Airport**

Mark Spaulding introduced himself as a newer Lynden resident who lives on Emerald Way. He stated he is concerned about the high volume of fast-moving traffic on Benson Road, and would like to see traffic calming measures on this road as many people use it for walking and bike riding.

Bode presented a traffic study done recently in this area at the request of Jim Frey, the Lynden School District superintendent. Bode noted that there are high volumes and speeds at times. However, there have been no accidents or injuries reported as a result of the vehicular or pedestrian traffic on this roadway.

Spaulding stated he is specifically concerned about the area between Badger Road and the airport, noting that the speed limit is 35 but he feels people are driving much faster.

The Committee discussed the speed limit on this road and agreed that moving the "25 MPH" sign north of Sunrise Drive would help slow traffic as the area becomes more residential. The Committee recommended that the Public Safety Committee discuss this at their next meeting to see if they concur with the Public Works Committee's recommendation to move the "Reduced Speed Ahead" and "25 MPH" speed zone signs north of Sunrise Drive.

The Committee also recommended staff research relocating the speed radar signs currently located near Fisher Elementary School to Benson Road near Fisher Elementary.

##### **B. Interlocal Agreement - Pictometry**

Banham stated that this annual agreement for imaging services will be forwarded to the next City Council meeting and the Committee supported that.

##### **C. Riverview Road Speed Study**

Korthuis stated that a resident questioned the need for the stop sign at the intersection of Riverview Road and South 7th Street. Korthuis requested a speed study in this area to investigate whether the stop sign is warranted. De Valois noted that there is a park nearby and many families live in the area. Banham indicated that a study would allow staff to establish a good baseline. Then if a decision is made to remove the signs another traffic count can be done in the same area to see how it affected speeds and volume change.

##### **D. Roadway Repairs on Birch Bay Lynden Road**

Banham noted that WRS recently repaired the wheel paths on Birch Bay Lynden Road in the east-bound lane near Safeway. However, the repairs are not good quality and the roadway is very bumpy. WRS has been contacted to make roadway repairs.

The meeting was adjourned at 5:40 p.m.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	November 18, 2019	
<b>Name of Agenda Item:</b>	Calendar	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Outlook Calendar	
<b>Summary Statement:</b>	See next page.	
<b>Recommended Action:</b>	None	

**November 18, 2019**

Monday

3:00 PM - 4:00 PM

Finance Committee Meeting -- City Hall 1st Floor Large Conference Room  
Visit [WWW.LYNDENWA.ORG](http://WWW.LYNDENWA.ORG) to view the agenda

4:00 PM - 5:00 PM

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

7:00 PM - 9:00 PM

Copy: Council Meeting -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room

**November 19, 2019**

Tuesday

9:00 AM - 11:00 AM

Small Cities Caucus -- City Hall 1st Floor Large Conference Room

9:30 AM - 10:30 AM

Airport Board Meeting -- City Hall 2nd Floor Large Conference Room

4:30 PM - 5:30 PM

Civil Service Meeting -- City Hall 1st Floor Large Conference Room

**November 20, 2019**

Wednesday

9:00 AM - 5:00 PM

Court -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room

2:00 PM - 3:30 PM

Wellness Committee Meetings -- City Hall 1st Floor Large Conference Room  
Please forward as needed.  
Thanks.

Pam

4:00 PM - 6:00 PM

Community Development Committee Mtg -- City Hall 2nd Floor Large Conference Room

5:00 PM - 6:30 PM

Board of Adjustment Meeting -- Annex South East Conference Room

**November 20, 2019 Continued**

Wednesday

7:00 PM - 9:00 PM

Berthusen Advisory -- Annex South East Conference Room

7:00 PM - 8:30 PM

Board of Adjustment -- City Hall 2nd Floor Large Conference Room

**November 21, 2019**

Thursday

7:00 PM - 9:30 PM

Planning Commission Meeting -- Annex Council Chamber

**November 22, 2019**

Friday

10:00 AM - 11:00 AM

Check-In Steve/Mike -- Mike's Office

11:00 AM - 12:00 PM

Check0In Heidi/Mike -- Mike's Office

**November 25, 2019**

Monday

9:00 AM - 10:00 AM

Copy: Check-In Vern/Mike -- Mike's Office

**November 26, 2019**

Tuesday

8:30 AM - 9:30 AM

LT Meeting -- City Hall 1st Floor Large Conference Room

**November 27, 2019**

Wednesday

9:00 AM - 10:00 AM

Check-In Mark/Mike -- Mike's Office

**November 28, 2019**

Thursday

All Day

Thanksgiving Day -- United States

**November 29, 2019**

150

Friday

All Day

Day After Thanksgiving Day -- United States

**December 2, 2019**

Monday

7:00 PM - 9:00 PM

Council Meeting -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room