

CITY OF LYNDEN



Mayor
Scott Korthuis

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

Online (Microsoft Teams) City Council Meeting
City Hall - 300 Fourth Street
December 06, 2021

Unscheduled public comment will not be taken at online council meetings. To schedule time to address council, contact the city clerk at 360-255-7085 before 12:00 noon on the day of the council meeting. You will be asked to provide your name, address, and a brief description of your topic for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Members of the public may choose to join the city council meeting telephonically by dialing 1-253- 948-9362. You will then be prompted to enter the Conference ID 496 827 680 # . It is necessary to enter the # symbol.

Call to Order

Pledge of Allegiance- Not at this time.

Roll Call

Oath of Office- None

Approval of Minutes

1. Draft Council Minutes- Regular Meeting

Items from the Audience

Scheduled

Unscheduled (20 Minutes)

Unscheduled public comment will not be taken at online council meetings. To schedule time to address council, contact the city clerk at 360-255-7085 before 12:00 noon on the day of the council meeting. You will be asked to provide your name, address, and a brief description of your topic for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Set the Public Hearing to Consider Comprehensive Plan Amendment (CPA) 21-02
- [4.](#) Set the Public Hearing to Consider Ord 1640 – Moratorium on Residential Development within CSL Zones
- [5.](#) Resolution No. 1042 – Real Estate Property Tax Levy Increase 2022
- [6.](#) Ordinance No. 1640 – Amendment to the 2021 Budget
- [7.](#) State Advocacy Contract with Gordon Thomas Honeywell
- [8.](#) Renew Agreement Professional Services-Lynden Municipal Judge
- [9.](#) Contract for Public Defender Services- Indigent Criminal Defense Services

Public Hearing

- [10.](#) Final Public Hearing on the 2022 Budget
- [11.](#) Public Hearing for Comments on Proposed Nooksack Valley Disposal Rate Increase
- [12.](#) Public Hearing for Revisions to the Engineering Design and Development Standards Project Manual

Unfinished Business

- [13.](#) Ordinance No. 1639 – Adoption of the 2022 Budget

New Business

- [14.](#) Lynden Automotive Conditional Use Permit 21-04
- [15.](#) PRD Amendment – RB Development-Parkview Apartments

Other Business

- [16.](#) Draft Parks Committee Minutes November 15, 2021
- [17.](#) Community Development Committee Minutes of 11-17-21
- [18.](#) Calendar

Executive Session**Adjournment**

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Draft Council Minutes- Regular Meeting	
Section of Agenda:	Approval of Minutes	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft Council Minutes- Regular Meeting	
Summary Statement:	Draft Council Minutes- Regular Meeting	
Recommended Action:	For Council review.	

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



November 15, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the November 15, 2021 regular session of the Lynden City Council at 7:00 p.m., which was held online, via Microsoft Teams.

ROLL CALL

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

Members absent: None.

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

OATH OF OFFICE- None

Gary Vis, Lynden Chamber of Commerce Director, provided Council with an update of the community response to the 2021 flood event. Residents requiring evacuation from the River House Apartments are being sheltered at North County Christ the King church. Other local churches are also participating in sheltering, clothing, and feeding people impacted by the flood. Forge Fitness has made their facility available for people to shower. The community's response is awesome, above and beyond generous.

APPROVAL OF MINUTES

Councilor Bode moved and Councilor Wohlrab seconded to approve the November 1, 2021, regular council minutes as presented. Motion approved on a 7-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled:

Calvin Den Hartog provided council with an update relative to increased costs of recycling experienced by Nooksack Valley Disposal.

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CITY COUNCIL
MINUTES OF REGULAR MEETING

Unscheduled: None

2. CONSENT AGENDA

Payroll Liability to November 1 through November 15, 2021

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$382,196.82
Check Liability	\$11,786.59
Total Non-L&I Liabilities	\$393,983.41
Quarterly Liabilities	\$11,224.62
Total EFT & Other Liabilities	\$405,208.03

Approval of Claims – November 17, 2021

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$4,569.38
				Sub Total Pre-Pays	\$4,569.38
Voucher Warrants No.	23045	through	23167		\$1,073,558.10
EFT Payments					\$0.000
				Sub Total	\$1,073,558.10
				Total Accts. Payable	\$1,078,127.48

Set Date for the Final Public Hearing on the 2022 Preliminary Budget

As published, 7:00 p.m. on December 6, 2021 is the time and date set for the Final Public Hearing on the 2022 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.

Nooksack Valley Disposal Rate Increase- The item submitted for this council meeting was pulled from the night's agenda.

Councilor Bode moved and Councilor Kuiken seconded to set December 6, 2021 as a public hearing date for Nooksack Valley Disposal's rate increase. Motion approved on a 7-0 vote.

Interlocal Agreement – Whatcom Conservation District

Staff is recommending another Interlocal Agreement with the Whatcom Conservation District (WCD) for a Stormwater and Water Conservation Community Education and Outreach Program in 2022. Some of their work scope fulfills certain City requirements under its NPDES Phase II

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CITY COUNCIL MINUTES OF REGULAR MEETING



Stormwater Permit. Their water conservation efforts fulfill certain Water Use Efficiency requirements from the State Department of Health. This year's scope of work includes supporting the construction of stormwater improvements at the Northwest Washington Fairgrounds under a Department of Ecology grant obtained by the City.

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

The term of this agreement is January 1, 2022 through December 31, 2022. The Whatcom Conservation District Board approved this Interlocal Agreement at their November meeting.

The Public Works Committee reviewed this agreement at their meeting on November 3, 2021 and concurred to recommend approval by City Council.

8200 Double Ditch Road – Olivarez Lease 2021

The house at 8200 Double Ditch Road has been vacated by the Dickinson family and is available for rent. An opportunity to rent the property was advertised to City employees. The Parks Department requests filling the vacancy with a city employee in order to provide better security, to have a physical presence at the location, and to maintain the grass areas around the house and roadways.

City of Lynden employee, Kyle Olivarez has agreed to lease the house for a period of one (1) year and has agreed to the conditions set forth in the lease. The monthly rental rate shall be \$2,000, inclusive of the leasehold excise tax required.

The Parks Committee reviewed the lease agreement and recommended council approval.

Councilor Bode moved and Councilor Kuiken seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.

3. PUBLIC HEARING

Ordinance No. 1638 Real Estate Property Tax for 2022

As published, 7:00 p.m., November 15, 2021 is the time and date set for the Public Hearing on the 2022 Property Tax Levy as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting. Upon completion of the public hearing with no items outstanding, the 2022 Property Tax Levy will be presented to the City Council for adoption.

Mayor Korthuis opened the public hearing at 7:12 p.m.

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There was no public comment.
Mayor Korthuis closed the public hearing at 7:12 p.m.

No action taken on this public hearing item.

Year 2022 Budget

Per State law this is the second of the two required hearings for public commentary on the 2022 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.

Mayor Korthuis opened the public hearing at 7:14 p.m.
There was no public comment.
Mayor Korthuis closed the public hearing at 7:14 p.m.

The Public Safety Committee requested additional funding for a half-time police officer in 2022. This would be the 19th sworn officer and would likely be a detective.

Mayor Korthuis read a statement into the record that contained crime statistics. The Mayor then requested direction from Council. The 2022 Budget presented to Council four weeks ago was a balanced budget.

In response to the request for additional funding of a half-time police officer, Mayor Korthuis asked Council to consider one of the three following options:

- 1. Fund the 19th officer using the public work position and the fire command vehicle included in the balanced budget.***
- 2. Fund the additional police officer position by spending the general fund down \$130,000, about 10% of the city's reserve.***
- 3. To not fund the position now and then take a look at this in the second quarter of 2022. If the city's income is performing better than budgeted and the crime number per 1,000 continues to rise, fund the 19th position. If things look fine, then fund the 19th position in 2023.***

Councilors Bode, De Valois, Laninga and Strengholt agreed with Option No. 3, therefore no action was taken at the meeting.

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CITY COUNCIL
MINUTES OF REGULAR MEETING



4. UNFINISHED BUSINESS- None

5. NEW BUSINESS

Ordinance No. 1638 – Real Estate Property Tax for 2022

The City of Lynden is required by State regulations to adopt the proposed 2022 property tax levy. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor's Office. When comparing preliminary 2020 levy assessment rates to 2021 levy assessment rates, the decrease is estimated at 0.154 cents per mil to a mil rate of 1.42126.

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 2022 for consideration.

At today's Finance Committee meeting the draft ordinance was discussed and approved for review by the full Council.

Councilor Strengholt moved and Councilor Kuiken seconded to adopt Ordinance No. 1638 and authorize the Mayor's signature. Motion approved on a 7-0 vote.

Alliance Freeze Dry Conditional Use Permit

Alliance Freeze Dry, Inc., through their agent, Tony Freeland, has applied for a Conditional Use Permit to allow the use of food processing to occur on property with a zoning designation of Industrial Business Zone (IBZ). The subject location is the southeast corner of Main St. and Berthusen Rd. but addressed to the eastern frontage as 675 Redwood Rd. The proposal details the construction of a 220,000 square foot facility which would receive frozen raw meat, fish, vegetables, and fruit to be processed and packaged as freeze-dried pet food.

The Conditional Use Permit also requests the ability to exceed a maximum building height of 45 feet. A warehousing section of the building, about 7.5% of the footprint, is proposed to reach up to 75 feet to allow for the mechanized stacking of product.

The application came before the Planning Commission as a virtual open public hearing on October 21st. The resulting resolution recommended approval per the following conditions:

1. Those conditions identified in the final Technical Review Report.
2. That the applicant demonstrate compliance with noise performance standard, per LMC 19.25.040 prior to issuance of the final building occupancy.

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CITY COUNCIL MINUTES OF REGULAR MEETING



3. That the Conditional Use Permit be evaluated annually as described by code, for compliance with the performance standards of LMC 19.25.040, especially as it relates to noise and smell.
4. That only 7.5% of the total building area is permitted to reach a height of 75 feet.
5. That the additional height is located in the northeast portion of the building as shown in CUP Application 21-03.

Councilor Lenssen moved and Councilor Laninga seconded to approve Conditional Use Permit 21-03 which authorizes the use of food processing on an IBZ zone and permits additional building height subject to the conditions outlined in the Planning Commission Resolution 21-08. This motion also authorizes the mayor's signature on the Findings of Fact and Conclusion of Law.

Duffner Mobile Home Park Expansion Conditional Use Permit

Conditional Use Permit 21-01 is a request to allow the addition of 14 manufactured home units to the existing non-conforming use of a manufactured home community on a Commercially zoned property. This request comes on the heels of a recent code amendment which allows units to be added if approved through a Conditional Use Permit. Although intensification of the use may be permitted through this action it should be noted that the boundaries of the community are not permitted to expand.

The application came before the Planning Commission as a virtual open public hearing on October 21st. The resulting resolution recommended approval but confirmed 19 specific conditions that were assembled by staff from all city departments during the Technical Review process. The result would be the addition of 13 housing units in association with the completion of street frontage improvements, the coordination of access points, and the cleanup of natural areas on the western property edge. The recommendations would also require additional lighting, landscaping, and addressing which are meant to improve the safety and aesthetics of the community.

Councilor Lenssen moved and Councilor Laninga seconded to approve Conditional Use Permit 21-01 which authorizes the addition of 13 housing units to the Duffner Manufactured Home Community subject to the conditions outlined in the Planning Commission Resolution 21-09. This motion also authorizes the mayor's signature on the Findings of Fact and Conclusion of Law.

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6. OTHER BUSINESS

Mayor Korthuis read the City of Lynden, Emergency Declaration, November 14, 2021 into the record and it is made a part of the official file.

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

- Need for an additional maintenance storage building
- Bid results for the Industrial Condensate Pipeline- Riverview to Outfall
- Nooksack Valley Disposal request for rate increase
- Mixed-Use Development South of Bay Lyn Drive

Councilor Wohlrab was unavailable to report for the Public Safety Committee

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

- Police and Fire OT
- Sales tax remains strong
- Preliminary budget numbers re: request for ½ time police officer
- Property value increased while mil rate decreased slightly
- Moving from bi-weekly payroll to pay day every two weeks and the need for union discussion before policy change

Councilor De Valois reporting for the Finance Committee included discussion of the following:

- Camping restrictions in city parks
- Glenning property
- Heusinkveld bard design
- Dickinson house repairs
- Trail location

7. EXECUTIVE SESSION

Council did not hold an executive session.

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CITY COUNCIL
MINUTES OF REGULAR MEETING



8. ADJOURNMENT

The November 15, 2021, regular session of the Lynden City Council adjourned at 7:48 p.m.

Pam Brown, MMC
City Clerk

Scott Korthuis
Mayor

DRAFT

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Approval of Payroll and Claims	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	None	
Summary Statement:	Approval of Payroll and Claims	
Recommended Action:	Approval of Payroll and Claims	

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EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Set the Public Hearing to Consider Comprehensive Plan Amendment (CPA) 21-02	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Planning Commission Resolution, Planning Commission Mtg Minutes, CPA Staff Report, CPA Application		
Summary Statement:		
<p>On October 10, 2021 the Planning Commission held a public hearing to consider Comprehensive Plan Amendment 21-02. The proposal is brought forward by David Vos representing Vander Giessen Nursery.</p> <p>The application details the desire to move two small parcels of property, adjacent to the existing retail nursery location, into the industrial land use category and assign a zoning category of Industrial Business Zone (IBZ). This shift would be consistent with the parcels to the north and west and would match how the northern parcel has been traditionally used. Although no immediate expansion is plan, this shift would allow for the potential future expansion of their retail nursery operation. Currently the site is occupied by a single-family home. This use would become non-conforming.</p> <p>The public hearing regarding the Comprehensive Plan Amendment is proposed to take place on December 20 and public comment on the issue will be taken at that time. The Site Specific Rezone, also to be considered on December 20th is quasi-judicial and closed for public comment.</p>		
Recommended Action:		
Motion to set a public hearing date of December 20, 2021 to consider Comprehensive Plan Amendment (CPA) 21-02.		

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #21-07

A resolution of recommendation for approval of Comprehensive Plan Amendment #21-02 and Rezone #21-01, Vander Giessen Nursery to the Lynden City Council.

WHEREAS, David Vos on behalf Vander Giessen Nursey, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for a Comprehensive Plan Amendment and Rezone requesting to change the zoning designation from Residential (RS-72) to Industrial Business Zone (IBZ) at 315 E Grover Street and 205 Hawley Street, Lynden, Washington.

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

WHEREAS, the application was determined to be complete on August 2, 2021, and the notice of application was published in the Lynden Tribune on September 8, 2021; and

WHEREAS, the subject parcels together total approximately 0.32 acres and have property zoned Residential (RS-72) to the west and south, Industrial (IBZ) to the north and east.

WHEREAS, the Lynden Planning Commission held a virtual public hearing on October 21, 2021, to accept public testimony on the proposed Comprehensive Plan Amendment and Rezone, and that meeting was duly recorded;

WHEREAS, the City's Technical Review Committee has reviewed the request for the Comprehensive Plan Amendment and Rezone and has provided findings, conditions and recommendations to the Planning Commission in a report dated October 8, 2021.

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

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 - 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the

comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.

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

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

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

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 4-0, to the City Council Comprehensive Plan Amendment #21-02 and Rezone #21-01, Vander Giessen Nursery, subject to the Technical Review Committee Report dated October 8, 2021.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 21st day of October 2021.



 Tim Faber, Chairperson,
 Lynden Planning Commission



 Heidi Gudde, AICP
 Planning Director



City of Lynden

Land Use Application

Comprehensive Plan Amendment Application

I. APPLICANT INFORMATION

Name: Vander Giessen Nursery, Inc.
Address: 401 E. Grover St, Lynden WA 98264
Telephone Number: 360-354-3097 Fax Number: _____
E-mail Address: info@vandergiessennursery.com

II. CHECK THE APPROPRIATE BOXES

Comprehensive Plan Map Amendment
Comprehensive Text Amendment

III. SUMMARIZE THE CHANGES YOU ARE PROPOSING:

Vander Giessen Nursery is proposing an amendment to the Comprehensive Plan which would change the land use designation from residential use (RS-72 zoning) to industrial commercial use (IBZ zoning) to reflect future use (315 E. Grover) and historic, current, and future use (205 Hawley).

IV. FOR MAP AMENDMENTS:

A. Tax Parcel Number(s): **4003204924590000 / 4003204904640000**

Site Address: **315 E. Grover St / 205 Hawley St**

Total Acreage: **.21 / .11 Acres** *.32 acres*

Property Owners: **Vander Giessen Nursery, Inc. / Alvin & Sherry Vos**

Mailing Address: **401. E Grover St.**

City, State & Zip Code: **Lynden, WA 98264**

Phone Number: **(360) 354-3097**

Please attach additional sheets if more than one parcel is involved

B. *Existing Comprehensive Plan Designation: **Low Density Residential***

*Existing Zoning Designation: **RS-72***

C. *Proposed Comprehensive Plan Designation:*
Industrial

D. *Proposed Zoning Designation: **IBZ***

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

315 E. Grover is currently a single-family residence. 205 Hawley is currently used for growing plants and storage of shrubs and trees for nursery use.

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

315 E. Grover will be used for future nursery expansion, specifically for storage and retail display of shrubs and trees. 205 Hawley Street will continue to be used for growing and displaying shrubs and trees.

G. *Surrounding land uses are:*

- **Single Family Residential (RS-72) to the west and south across East Grover Street**
- **Industrial Business Zoning (IBZ) to the north and east (owned and used by Vander Giessen Nursery)**

V. *For Text Amendments*

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

VI. *For All Amendments:*

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

The goals of the Comprehensive Plan include the commitment to ensure the “future economic health of the City and to create a business friendly atmosphere” as well as “maintain[ing] a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.” Rezone of this property will allow the continued health and growth of Vander Giessen Nursery on property immediately adjacent to the location where the nursery has operated for 83 years, consistent with these goals.

One of the goals of the State Growth Management Act is to “encourage economic development...consistent with adopted comprehensive plans” and “promote the retention and expansion of existing businesses.” Allowing this amendment would ensure further expansion of Lynden’s only nursery and garden center, consistent with these goals.

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

Nobody can deny that Lynden is growing rapidly, and while such was true at the time the current Comprehensive Plan was adopted in 2016, it is even more so today. Lynden’s growth—and subsequent demand for plants to meet homeowner needs and desires—necessitates additional industrial and commercial-type space for growing and retailing nursery products and plants. With a disproportionate amount of land currently in use for residential relative to commercial space, changing the use and zoning of these two parcels would add a small amount of much-needed additional commercial/light industrial land within Lynden to meet consumer needs. Additionally, Lynden’s only other nursery closed in 2013 and was redeveloped into many residential lots off Northwood Road, further justifying the need to increase land use for nursery and garden center retailing.

- C. Have the underlying assumptions found in the comprehensive plan upon which the land use designation, density or other*

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

The underlying assumptions found in the comprehensive plan have not changed significantly. However, the 2016 Whatcom County Land Capacity Analysis showed a deficit of employment growth capacity within Lynden, indicating a need for more land to be used for business purposes. Changing the Comprehensive Plan for these parcels to industrial use (IBZ zoning) would open up more land for business use (to be used by Vander Giessen Nursery) on property consistent with uses and zoning of adjacent and nearby properties.

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

Yes—the proposed amendment would promote a more desirable land use for the community. As Lynden continues to grow on the northeast side of town, East Grover Street is one of the busiest roads in Lynden, making the single-family residence on 315 E. Grover St less desirable as such with each passing year. Amending the comprehensive plan to use this property for commercial use would also be consistent with the goal to promote economic vitality.

There are no environmental constraints affecting either the current or proposed land use.

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

The proposed amendment would have limited impact on the current use of other properties in the vicinity. Being bounded on the south by busy E. Grover Street, neighbors across E. Grover would see essentially no impact.

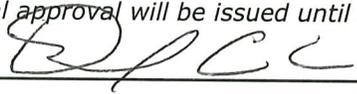
Neighboring properties to the east and north are already designated and zoned for industrial and commercial use (IBZ) and are owned and used for nursery purposes by Vander Giessen Nursery. The proposed amendment would have only positive impact on those properties.

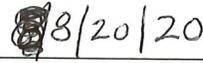
The only adjacent property the may be affected is the single-family residence immediately to the west of the proposed amendment facing E. Grover St. Any significant changes to 315 E. Grover in the future will require (per city code) proper fencing and/or landscape buffer.

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

As Lynden continues to grow, businesses that provide for the wants and needs of its residents must be encouraged to grow as well. Allowing this amendment will provide for the economic vitality and future expansion of Vander Giessen Nursery--Lynden's only nursery and garden center—to meet the needs of a growing community.

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

Applicant's Signature:  **Date:** 6/18/21

Pre-application meeting date: 

(Applications will not be accepted without a pre-application meeting)
 Fee's (CPA \$350.00 or Final Review Cost) date paid: 6-18-21 **receipt #** _____

**Rezone Application of 315 E. Grover and 205 Hawley St, Lynden
Supplemental Narratives & Statements**

9.

Background

In the 1950’s, as Vander Giessen Nursery was beginning to expand its business, the neighbor across Hawley Street at 315 E. Grover was unable to pay her property taxes and sold the back half of her double lot to the nursery (now listed as 205 Hawley). Since that time, 205 Hawley has been used for various nursery purposes, primarily for growing and storing plants. As Lynden grows and the nursery continues to see increased demand, the nursery was able to purchase 315 E. Grover in 2020 with plans to eventually expand the nursery onto that property as time, finances, and demand for plants allow.

Reason for Rezone

With Lynden’s rapid growth over the last number of years, homeowner demand for plants and garden products has increased significantly. With the only other nursery in Lynden having closed in 2013 to make way for more homes on the east side of Lynden, Vander Giessen Nursery has continued to grow in the subsequent years.

Having purchased 315 E. Grover last year, we see this property immediately adjacent to our other property as a natural future expansion of our outdoor garden center display space. To match the zoning of adjacent nursery and other properties to the north and east, we desire to use the IBZ zoning on both this property and 205 Hawley. With 205 Hawley being used for nursery purposes since the 1950s, rezone to IBZ would reflect past, current, and future use of this parcel.

Allowing the rezone of both of these parcels would ensure the continued growth and vitality of our 83-year-old family business and allow us to continue to serve the Lynden community for many years to come.

Effect on Adjacent Areas

With no immediate plans to make changes to either parcel, there would be no effect on adjacent areas. The only adjacent property not owned by the nursery currently is the residence immediately to the west of 315 E. Grover St, and proper landscape buffer would be installed at the time any changes are made in removing the house currently on site for expansion of nursery display space. We have good relationships with all our neighbors and the in the rezone process wish to continue the level of mutual respect in the neighborhood.

10.

Since the adoption of the current zoning, Lynden has seen dramatic growth in its population and the loss of the only other nursery in Lynden, which has since been redeveloped into residential property. In 2011, the original nursery property across Hawley St at 401 E. Grover was rezoned to IBZ to reflect current use. With 205 Hawley used for nursery purposes since the 1950s, rezone to IBZ would reflect current and future use and 315 E. Grover should be rezoned as well to reflect future use for the nursery.

11.

The goals of the Comprehensive Plan include the commitment to ensure the “future economic health of the City and to create a business friendly atmosphere” as well as “maintain[ing] a positive business climate that is consistent, responsive to the needs of the business community, and affordable to business owners.” Rezone of this property will allow the continued health and growth of Vander Giessen Nursery on property immediately adjacent to the location where the nursery has operated for 83 years, consistent with these goals.

Within the central Lynden subarea where Vander Giessen Nursery is located, there are a wide variety of land uses and business types, including single-family and multi-family residential, retail and professional businesses, light and heavy industrial, and city infrastructure—and in many instances, multiple land uses are located within the same block or on immediately adjacent properties. Allowing this rezone would not significantly differ from any number of instances of differing adjacent land uses throughout the central Lynden subarea.

In contributing to the public welfare, Vander Giessen Nursery is located at the northeast edge of the Central Lynden subarea, close to Lynden’s heaviest residential populations in the North Lynden, Northeast Lynden, and East Lynden subareas. Allowing the proposed rezone will ensure that Vander Giessen Nursery can continue to expand as needed to provide plants and garden products on property centrally located in Lynden and within a short drive from Lynden’s main residential areas.



City of Lynden

Critical Areas Checklist

Section: 20 Township: T40N Range: R03E Parcel Number: 4003204924590000 / 4003204904640000

Site Address: 315 E Grover St / 205 Hawley St

Proposed Uses: Rezone to IBZ to reflect historic, current, and future use for retail garden center

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

6/18/21
Date

NE STREET

N 66°33'59" E 260.00'
N 66°33'59" E 200.00'

RECORD OF SURVEY
A.F. No. 2016-1203547

BLOCK 19
HAWLEY AND LAWRENCE'S
ADDITION TO LYNDEN

315 E Grover

(FORMERLY MILL STREET)



ALLEY

RECORD OF SURVEY
A.F. No. 2091202536

(VACATED)

BLOCK 19



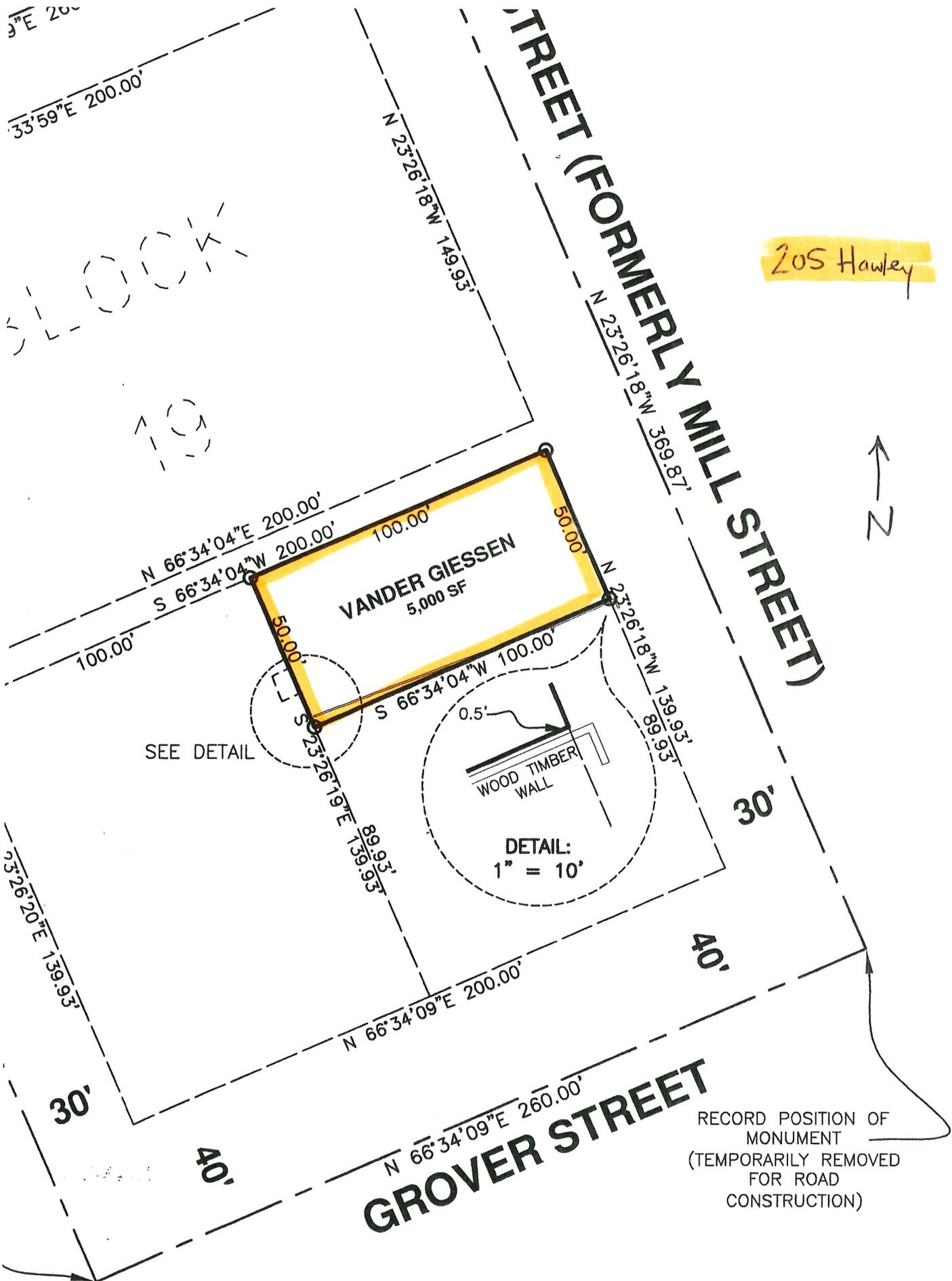
GROVER STREET
BASIS OF BEARINGS

Y, INC

W.M.



COMPASS POINT



205 Hawley

SEE DETAIL

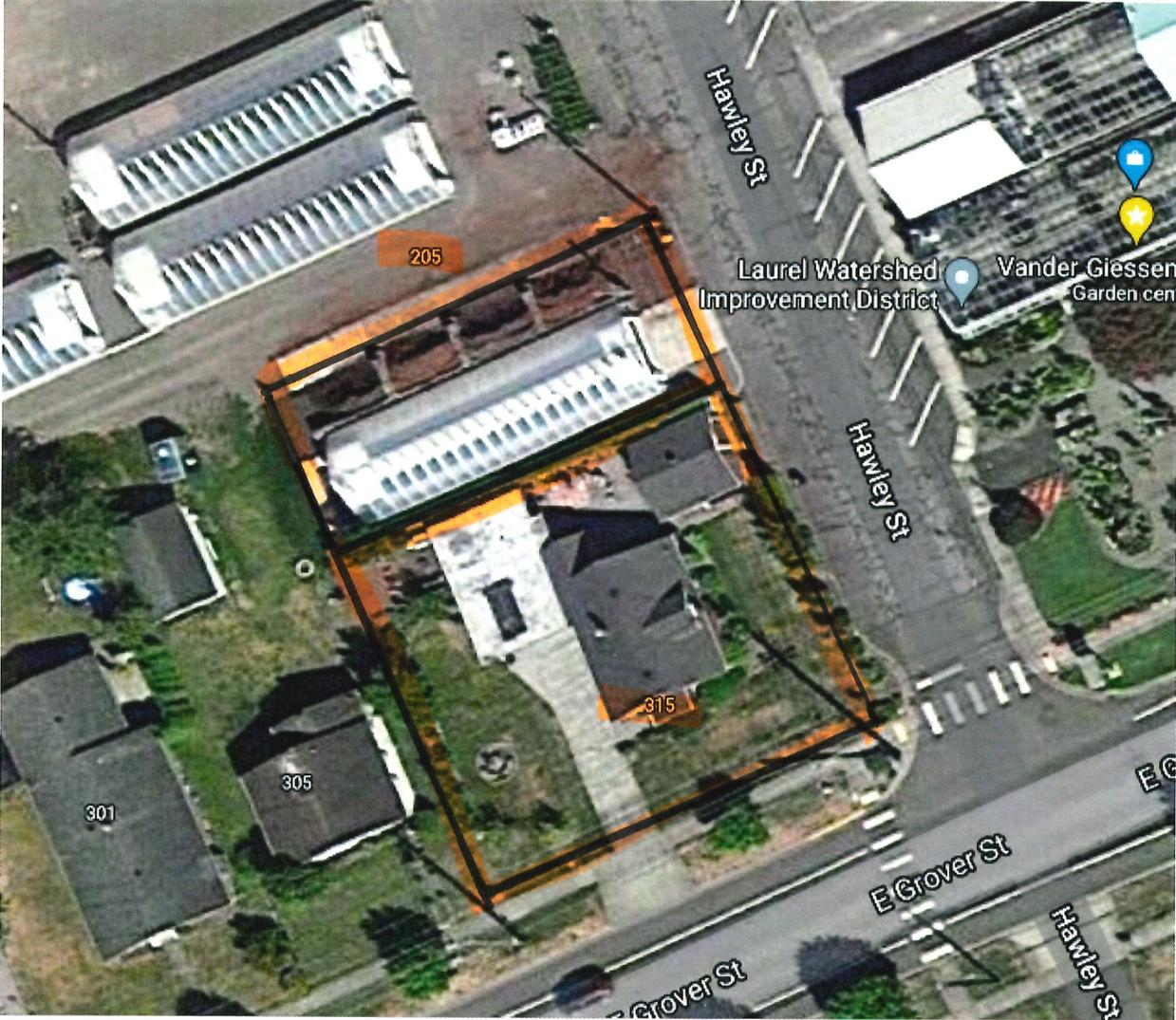


RECORD POSITION OF MONUMENT (TEMPORARILY REMOVED FOR ROAD CONSTRUCTION)

12-21-09



Scott G. Harksell, L.S. 32430
 523 Front Street Lynden WA 98264



CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 6, 2021	
Name of Agenda Item:	Set the Public Hearing to Consider Ord 1640 – Moratorium on Residential Development within CSL Zones	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Draft Ord 1640, Map Exhibit re Residential Development in CSL Zones, Spreadsheet of Mixed Use Projects Permitted To Date		
Summary Statement:		
<p>Under certain provisions, the City of Lynden’s Zoning Ordinance allows multi-family residential development within the Commercial Services- Local (CSL) Zones in conjunction with first floor commercial spaces. These projects are often referred to as “mixed-use” and are intended to facilitate a symbiotic relationship between commercial uses and the residents that live nearby. In the North Lynden Sub-Area the code makes additional provisions for residential development with a lower ratio of required commercial use.</p> <p>As the demand for commercial space wans the viability of mixed-used projects has been called into question by the Community Development Committee.</p> <p>Staff research shows that since 2013 the city has approved 276 multi-family units within CSL zones. While the corresponding commercial spaces associated with these projects is about 92,000 square feet much of that space is accounted for by one farm and garden store (Tractor Supply), is used as mini or condo storage spaces, or is currently vacant.</p> <p>The Committee has requested an interim moratorium on multi-family residential development within the city’s CSL zones while adequate review of this issue is conducted. Review will consider the affects of mixed-use development to the City’s housing goals, will review the intent and success of the mixed-use ordinance, and examine how mixed-use provisions may affect new areas of annexation.</p> <p>The public hearing is proposed to take place on December 20 and public comment on the issue will be taken at that time.</p>		
Recommended Action:		
Motion to set a public hearing date of December 20, 2021 to consider Ordinance 1640 which would enact an interim moratorium on multi-family residential development within the City’s Commercial Services – Local zones.		

ORDINANCE NO. 1640

INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON RESIDENTIAL DEVELOPMENT WITHIN THE COMMERCIAL SERVICES – LOCAL (CSL) ZONE

WHEREAS, the 2016 City of Lynden Comprehensive Plan Section 3.7 includes Housing Goal H-2 which states that the City will strive to:

“Provide a mix of single-family and multi-family homes that achieves the density necessary to accommodate projected population growth over the 20-year planning period.”

and;

WHEREAS, the policy associated with Goal H-2 states:

“Zoning should be applied to ensure that future residential development over the planning period is composed of approximately 60% single-family units and 40% multi-family units.”

and;

WHEREAS, community feedback collected in the writing of the 2016 Comprehensive Plan, appearing as Community Value Statement 4C, indicated a preference for an even higher ratio of single-family housing, calling for a ratio of 75% single-family units to 25% percent multi-family units; and

WHEREAS, the purpose of the Commercial Services – Local (CSL) zone stated in the 2016 Comprehensive Plan is “to provide a location for local scale retail development (stores less than 65,000 square feet), medical, professional and financial services;” and

WHEREAS, per the permitted uses listed in Lynden Municipal Code (LMC) 19.23.020, properties within the Commercial Services – Local (CSL) zone may construct multi-family development; and

WHEREAS, the North Lynden Sub-area made additional provisions for residential development within the CSL zone, requiring only development with 200 feet of the intersection of Badger Road and Depot Road be commercial in nature; and

WHEREAS, since 2013, the City has approved construction of 276 multi-family dwelling units within the CSL zone; and

WHEREAS, these projects have typically been at a density of 14 to 21 units per acre, consistent with the permitted densities for the Residential Multifamily 3 and 4 zones, which is where dense multifamily development was intended to be concentrated; and

WHEREAS, the residential development occurring within the CSL zone at such high densities may be frustrating the purpose of the CSL zone, Comprehensive Goal H-2, Community Value Statement 4C, and other goals and policies in the Comprehensive Plan; and

WHEREAS, because the zone was intended for community-scale commercial use, residential development within CSL zones may not be located in areas which provide adequate amenities to future residents of these developments; and

WHEREAS, tracking land uses and residential densities can be done more accurately and consistently if land use and zoning categories align with how properties are actually developed; and

WHEREAS, the City Council has granted an approval to a petition for the annexation of 277 acres within the city’s southwest Urban Growth Area; and

WHEREAS, the area of potential annex includes a number of parcels south of Birch Bay Lynden Road which are slated for commercial land use designations, possibly including CSL; and

WHEREAS, the City will shortly begin reviewing commercial land use with the City limits and its Urban Growth Areas in light of the Comprehensive Plan Goal H-2 and the existing and future impact that residential development on CSL properties; and

WHEREAS, this review and any necessary subsequent actions, which are outlined in Section 3 below, will require significant staff time, and possibly one or more public hearings; and

WHEREAS, to assure that the issue of residential development in the CSL zone is addressed consistently with the objectives of the Comprehensive Plan and zoning code, and with the public health, safety, and welfare of the community, a moratorium on residential development in the CSL zone is required; and

WHEREAS, the City duly noticed the public hearing by publicly setting the public hearing on December 6, 2021 and publishing the notice of hearing in the Lynden Tribune; and

WHEREAS, the City held a public hearing on this proposed Ordinance on the 20th day of December 2021; and

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

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

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

Section 2. Moratorium Established for Certain Building Permit Applications. The City shall not accept design review applications or building permit applications for new residential structures intended for human occupancy, or for additions to existing residential structures of more than fifty percent (50%) of the existing square footage, on any CSL zoned property, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, or unless extended, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Resolution of Issues related to Residential Development within CSL Zones. During the term of this interim ordinance the City shall work on resolving the following issues.

- A. Analysis. City staff will analyze the latest housing and permit data, including the pending 2020 Census data, to determine the existing ratio of single-family to multi-family housing units within the City of Lynden.
- B. Code Amendment. In response to data analysis, LMC 19.23 and other areas of the code may be revised as they relate to the development of residential units on commercially zoned properties.
- C. Additional Recommendations and Land Use Actions. If warranted, a Comprehensive Plan Amendment may be needed to create alignment between Land Use Designations and actual land use.

Section 4. Emergency Situation. Based on the findings herein, the City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190.

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

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

Section 7. This ordinance shall not be construed as a moratorium on repair or reconstruction of single-family homes existing prior to 1992 which are permitted per LMC 19.23.020.

Section 8. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR on the _____ day of December 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

City of Lynden - Mixed-Use Projects within CSL Zones

12/1/2021

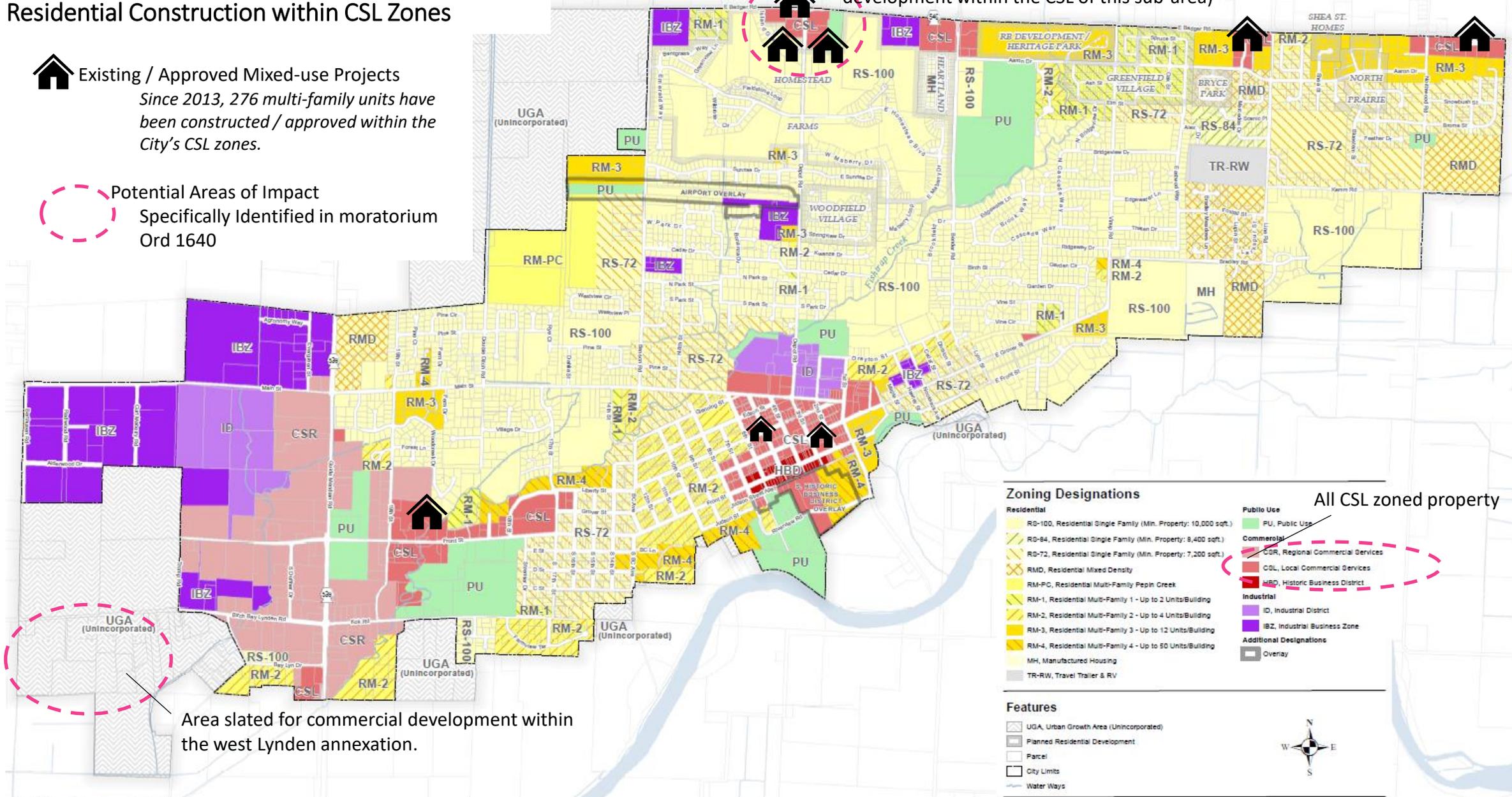
Date Approved	Project Name(s)	Res Unit Count	Constructed or Approved Comm SF	Current commercial use
2008 / 2016	Lynden Market Square (Salmonberry, Tractor Supply)	70	50730	Farm and Garden Retail (Tractor Supply), Hair Salon
2013	Strawberry Meadows (Mercedes Dr)	70	25820	Storage, Vacant (Additional 6720 storage proposed)
2016	Depot Villas (West side of Depot)	44	0	Commercial required only at Depot and Badger intersection corner (see Badger Business Park below)
2019	Bouma 4th St Mixed Use	2	1560	Vacant
2020	Depot Estates (East side of Depot)	48	3420	Commercial required only at Depot and Badger intersection corner (existing Ag related business - Terralink)
2021	Forge Townhomes	3	6600	Vacant
2020	Badger Business Park (Engels)	24	3870	Commercial storage approved but not constructed.
2021	Skyview Townhomes	15	0	Existing ag (dairy farm) buildings - largely vacant
		<u>276</u>	<u>92000</u>	

City of Lynden Residential Construction within CSL Zones

 Existing / Approved Mixed-use Projects
 Since 2013, 276 multi-family units have been constructed / approved within the City's CSL zones.

 Potential Areas of Impact
 Specifically Identified in moratorium Ord 1640

North Lynden Sub-Area (provision for additional residential development within the CSL of this sub-area)



Zoning Designations

- Residential**
- RO-100, Residential Single Family (Min. Property: 10,000 sqft.)
 - RO-84, Residential Single Family (Min. Property: 8,400 sqft.)
 - RO-72, Residential Single Family (Min. Property: 7,200 sqft.)
 - RMD, Residential Mixed Density
 - RM-PC, Residential Multi-Family Peplin Creek
 - RM-1, Residential Multi-Family 1 - Up to 2 Units/Building
 - RM-2, Residential Multi-Family 2 - Up to 4 Units/Building
 - RM-3, Residential Multi-Family 3 - Up to 12 Units/Building
 - RM-4, Residential Multi-Family 4 - Up to 50 Units/Building
 - MH, Manufactured Housing
 - TR-RW, Travel Trailer & RV

- Public Use**
- PU, Public Use
- Commercial**
- CSR, Regional Commercial Services
 - CSL, Local Commercial Services
 - HBD, Historic Business District
- Industrial**
- ID, Industrial District
 - IBZ, Industrial Business Zone
- Additional Designations**
- Overlay

Features

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



Area slated for commercial development within the west Lynden annexation.

All CSL zoned property

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 6, 2021	
Name of Agenda Item:	Resolution No. 1042 – Real Estate Property Tax Levy Increase 2022	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Resolution No. 1042 – Real Estate Property Tax Levy Increase 2022		
Summary Statement:		
<p>All taxing jurisdictions are required, due to the passage of Referendum 47 in 1997, to pass a resolution specifically indicating the increase in tax levy if any, from the previous year, excluding the increase due to new construction, improvements to property, or any increase in the value of state assessed property.</p> <p>The limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation. Given the current rate of inflation (3.86%) the City is allowed by statute RCW 84.55.005 to increase the Levy 1% or bank this capacity for future use.</p> <p>The City Council has deemed it necessary due to the City’s funding requirements to increase the regular property tax levy by the full 1% allowed.</p> <p>Resolution No. 1042 (attached) reflects the City Council's requirement to not "bank" any real property taxes in 2022 and approve the legally allowed 1% increase in the 2022 real property taxes.</p>		
Recommended Action:		
For the City Council to approve Resolution No. 1042 and authorize the Mayor’s signature.		

RESOLUTION NO. 1042

A RESOLUTION
INCREASING THE REAL PROPERTY TAX LEVY
FOR THE CITY OF LYNDEN, WASHINGTON

WHEREAS, the Lynden City Council has properly given notice of the public hearing held November 15, 2021 to consider the City of Lynden Property Tax Levy for the 2022 calendar year, pursuant to RCW 84.55.120; and

WHEREAS, the Council, after hearing, and after duly considering all relevant evidence and testimony presented, have determined that the City of Lynden requires an increase in property tax levy from the previous year, in addition to the increase resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, to discharge the expected expenses and obligations of the City of Lynden.

WHEREAS, under statute RCW 84.55.005(2) (c), the limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation; and

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent 12 month period by the Bureau of Economic Analysis of the federal Department of Commerce in September of the year before the taxes are payable; and

WHEREAS, "inflation" for September 2021 is 3.86%, meaning the taxes levied in the City of Lynden in 2021 for collection in 2022 by statute are allowed to increase 1% except for the amounts resulting from new construction and improvements to property, and any increase in the value of state assessed utility property; and

NOW THEREFORE, BE IT RESOLVED, the Lynden City Council authorizes a 1% (\$28,444.60) increase in the 2022 regular property tax levy, in addition to the increase resulting from new construction and improvements to property and any increase in the value of state-assessed property. The Lynden City Council does not wish to "bank" any additional capacity.

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

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY - FINANCE



Meeting Date:	December 6, 2021										
Name of Agenda Item:	Ordinance No. 1640 – Amendment to the 2021 Budget										
Section of Agenda:	Consent										
Department:	Finance										
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required								
Attachments:											
Ordinance No. 1640 – Amendment to the 2021 Budget											
Summary Statement:											
<p>Introduction of a 2021 Budget Amendment:</p> <p>As required by State regulations, the Finance Department is proposing an amendment to the 2021 Budget. Increased expenses at the Lynden City Airport have resulted in additional expenditures requiring an increase to the airport budget in Fund 420.</p> <p>The amendment reflects Council authorized transactions. The following funds need to be modified:</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 35%;"></th> <th style="width: 15%; text-align: center;">Adopted Budget</th> <th style="width: 15%; text-align: center;">Amended Budget</th> <th style="width: 35%; text-align: center;">Variance</th> </tr> </thead> <tbody> <tr> <td>Fund 420 Lynden City Airport</td> <td style="text-align: center;">\$123,450</td> <td style="text-align: center;">\$153,450</td> <td style="text-align: center;">\$30,000</td> </tr> </tbody> </table> <p>The Finance Committee will review this amendment in their December 20, 2021 meeting. Final approval of the amendment will be sought at the December 20th Council meeting.</p>					Adopted Budget	Amended Budget	Variance	Fund 420 Lynden City Airport	\$123,450	\$153,450	\$30,000
	Adopted Budget	Amended Budget	Variance								
Fund 420 Lynden City Airport	\$123,450	\$153,450	\$30,000								
Recommended Action:											
For information only.											

ORDINANCE NO. 1640

AN ORDINANCE FOR THE CITY OF LYNDEN, WASHINGTON
AMENDING THE 2021 BUDGET
FOR THE CITY OF LYNDEN, WASHINGTON

WHEREAS, the budget of the City of Lynden for the year 2021 has been heretofore adopted by the City Council of the City of Lynden ("City"); and

WHEREAS, certain funds have been received, and expenses incurred, which were not included when the budget was adopted; and

WHEREAS, the City Council of the City of Lynden has considered this change and has fixed and determined the separate items thereof;

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

Section A. That the final 2021 budget be and the same is hereby amended and that the appropriation totals of the 2021 Budget are changed as follows:

	Adopted Budget	Amended Budget	Variance
Fund 420 Lynden City Airport	\$123,450	\$153,450	\$30,000

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

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

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

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

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	December 6, 2021	
Name of Agenda Item:	State Advocacy Contract with Gordon Thomas Honeywell	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	Contract with Gordon Thomas Honeywell	
Summary Statement:	Briahna Murray, Vice-President of Gordon Thomas Honeywell Governmental Affairs, has been Lynden’s State advocate advocated since 2015. That advocacy has resulted in more than \$8 million worth of capital earmarks for important City projects. The attached contract is virtually identical to is predecessors and continues the relationship with Ms. Murray and her firm. Cost: \$3,000 monthly for a total of \$36,000 in 2022. The rate is unchanged from previous years and is included in the proposed 2022 budget.	
Recommended Action:	Make a motion to approve the State Advocacy contract between the City and Gordon Thomas Honeywell for state-level legislative advocacy in the 2022 legislative session.	

**CITY OF LYNDEN
CONSULTING AGREEMENT**

This Agreement is entered into by and between City of Lynden, a Washington Municipal Corporation (“City”) and Gordon Thomas Honeywell Governmental Affairs (hereinafter referred to as “Consultant”), upon the following terms and conditions:

A. Scope of Work. Consultant will advise and assist the City of Lynden in accordance with Consultant’s Scope of Work, described in Attachment “A” hereto and incorporated herein, and Consultant will do and produce such other things as are set forth in the Scope of Work (the “Services”). Consultant’s Services will be consistent with the accepted practices for other similar services and in compliance with applicable laws, regulations, rules, orders, licenses and permits, now or hereinafter in effect, and Consultant shall furnish such documents as may be required to effect or evidence such compliance. Consultant’s Services shall be performed by Briahna Murray and within a time period prescribed by the City and pursuant to the direction of the Mayor or City Administrator or his designee.

B. Compensation; Expenses. City of Lynden will pay Consultant for satisfactorily rendered Services in accordance with the specific terms set forth in Attachment “A.”

C. Invoices; Payment. Consultant will furnish City of Lynden invoices at regular intervals, as set forth in Attachment “A.”

D. Term. Consultant shall promptly begin the Services hereunder on the date set forth in Attachment “A” and shall terminate same on the date set forth in Attachment “A,” unless earlier terminated by mutual agreement. City of Lynden or Consultant may terminate Consultant Services for convenience at any time prior to the termination date set forth in Attachment A, provided that either party provides 30-days’ notice.

E. Ownership of Work Product. The product of all work performed under this Agreement, including reports, and other related materials shall be the property of City of Lynden or its nominees, and City of Lynden or its nominees shall have the sole right to use, sell, license, publish or otherwise disseminate or transfer rights in such work product.

F. Independent Contractor. Consultant is an independent contractor and nothing contained herein shall be deemed to make Consultant an employee of City of Lynden, or to empower consultant to bind or obligate City of Lynden in any way. Consultant is solely responsible for paying all of Consultant’s own tax obligations, as well as those due for any employee/subcontractor permitted to work for Consultant hereunder.

G. Release of Claims; Indemnity. Consultant hereby releases, and shall defend, indemnify and hold harmless City of Lynden from and against all claims, liabilities, damages and costs arising directly or indirectly out of, or related to, Consultant’s fault, negligence, strict liability or produce liability of Consultant, and/or that of any permitted employee or subcontract or Consultant, pertaining to the Services hereunder.

H. Assignment. Consultant’s rights and obligations hereunder shall not be assigned or transferred without City of Lynden’s prior written consent; subject thereto, this Agreement shall be binding upon and inure to the benefit of the parties’ heirs, and successors.

I. Governing Law; Severability. This Agreement shall be governed by the laws of the State of Washington, U.S.A. (excluding conflict of laws provisions). If any term or provision of this Agreement is determined to be legally invalid or unenforceable by a court with lawful jurisdiction hereover (excluding arbitrators), such term or provision shall not affect the validity or enforceability of any remaining terms or provisions of this Agreement, and the court shall, so far as possible, construe the invalid portion to implement the original intent thereof.

J. Arbitration. Should any dispute arise concerning the enforcement, breach or interpretation of this Agreement, the parties shall first meet in a good faith attempt to resolve the dispute. In the event such dispute cannot be resolved by agreement of the parties, such dispute shall be resolved by binding arbitration pursuant to RCW 7.04A, as amended, and the Mandatory Rules of Arbitration (MAR); venue shall be placed in City of Lynden, Washington, the laws of the State of Washington shall apply, and the prevailing party shall be entitled to its reasonable attorney fees and costs.

K. Entire Agreement; Etc. This Agreement, and its incorporated attachments hereto, state the entire agreement between the parties regarding the subject matter hereof and supersede any prior agreements or understandings pertaining thereto. Any modification to this Agreement must be made in writing and signed by authorized representatives of both parties. Any provision hereof which may be reasonably deemed to survive the expiration or termination of this Agreement shall so survive, and remain in continuing effect. No delay or failure in exercising any right hereunder shall be deemed to constitute a waiver of any right granted hereunder or at law by either party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year last written below which shall also be the effective date of this Agreement.

Consultant:
Gordon Thomas Honeywell
Governmental Affairs

City of Lynden:

Briahna Murray, Vice President

Scott Korthuis, Mayor

Date: _____

Date: _____

**ATTACHMENT “A” TO
CITY OF LYNDEN CONSULTING AGREEMENT**

- A. Scope of Work:** Consultant shall provide City of Lynden with the following governmental affairs services:
- Register as the City’s lobbyist with the Public Disclosure Commission
 - Work with City staff to develop a legislative agenda that advances the city’s interests, but accounts for the political climate.
 - Lobby for those items identified on the city’s legislative agenda, and additional items at the request of city leadership.
 - Engage the City’s legislative delegation and key committee members during the legislative interim to inform them on the City’s legislative requests.
 - Identify key opportunities for city staff to travel to Olympia and advance the City's interests.
 - Testify and/or sign-in on behalf of the City on legislation of interest.
 - Schedule meetings with state agencies, the Governor's Office, as necessary to best position the city's legislative agenda items for success.
 - Meet with legislative chairs and leadership to best advance the city's interests.
 - Meet with lobbyists from other interested stakeholders to garner support for the City's agenda items.
 - Monitor AWC activities and report any impact to the city.
 - Provide brief weekly reports to City staff on Olympia activities.
 - Brief City officials on legislative activity and attend City Council and City staff meetings as requested by the City Administrator or his designee.
 - Present an end-of-session report that recaps the legislative session in full.
- B. Compensation/Expenses:** City of Lynden shall pay Consultant a monthly fee of \$3,000.00 for the services listed above, including expenses.
- C. Invoices/Payments:** (a) Consultant shall furnish City of Lynden with invoices for services performed on a monthly basis, and (b) City of Lynden shall pay each of Consultant’s invoices within thirty (30) days after City’s receipt and verification of invoices.
- D. Term of Agreement:** Consultant’s services shall commence on January 1, 2022 and shall terminate on December 31, 2022. This agreement may be amended by mutual agreement to extend the contract for additional one-year terms.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Renew Agreement Professional Services-Lynden Municipal Judge	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:	Professional Services Agreement for Lynden Municipal Judge	
Summary Statement:	Judge Terrance Lewis has served as Lynden’s Municipal Court Judge for a number of years. The attached contract extends his service for another 4-year period. The terms remain the same.	
Recommended Action:	Approve the Professional Services Agreement for Lynden Municipal Court Judge Lewis.	

AGREEMENT FOR PROFESSIONAL SERVICES LYNDEN MUNICIPAL COURT JUDGE

This Agreement is made by and between the CITY OF LYNDEN, a municipal corporation hereinafter referred to as the "City", and TERRANCE G. LEWIS, Attorney at Law hereinafter referred to as the "Contractor", for the purpose of providing the services of a Municipal Court Judge for the Lynden Municipal Court. For the purposes of this Agreement, the Contractor will be considered an independent contracted employee of the City of Lynden.

1. Municipal Court Established

Pursuant to the provisions of Chapter 3.50 of the Revised Code of Washington, the City has established the Municipal Court of the City of Lynden. Such court has jurisdiction and shall exercise all powers declared by said chapter to be vested in municipal courts, together with such powers and jurisdiction as are generally conferred upon such courts in the State of Washington, either by common law or by express statute or ordinance. The Mayor, with approval and concurrence by the City Council, has appointed the Contractor to serve as Municipal Court Judge, pursuant to Section 2.20.020 of the Lynden Municipal Code and Sections 3.50.003, 3.50.040, 35A.12.020 and 35A.12.090 of the Revised Code of Washington.

2. Description of Services

Contractor agrees to serve as the Municipal Court Judge for the City, with all the powers and privileges said office confers.

3. Court Facilities

The City shall provide a suitable place for holding court, and shall pay all of the expense of maintaining it.

4. Consideration

As consideration for the services provided herein, the City agrees to reimburse the Contractor as follows, effective January 1, 2017 of the first year of his four-year term:

Minimum of seven hours per court session held every other Wednesday from 9:00 A.M. to Noon and 1:00 P.M. to 5:00 P.M. \$ 95.76 per hour

Hourly rate for court time outside of regular Court calendar days (i.e. performing administrative functions, jail visits for arraignments or jury trials) \$ 95.76 per hour

If a scheduled jury trial is cancelled at any time after 12:00 Noon on the preceding Friday, the Contractor shall be paid for two (2) hours of additional court time. \$ 95.76 per hour

Said considerations are payable in monthly paychecks

5. Annual Review of Consideration

Any changes to the consideration set forth in paragraph 4 shall be mutually agreed upon by the parties not less than sixty (60) days in advance of each year of this Agreement.

6. Expenses

The Contractor may submit requests for payment of job related expenses to the City Administrator for prior approval.

7. Nature of Agreement

The Contractor and the City hereby agree that this Agreement is for the performance of professional services. The Contractor shall be considered an independent contracted employee of the City and is entitled to only those benefits required by State of Washington Law pursuant to the rights granted therein.

8. Qualifications

Contractor declares that he is qualified to serve as a Municipal Court Judge per RCW 3.50.040 in that he is a citizen of the United States and of the State of Washington, and is an attorney admitted to practice law before the courts of record of the State of Washington.

9. Hours of Court

The City reserves the right to establish the hours of the Municipal Court. In setting the hours, the City shall consult with the Contractor and endeavor to establish a mutually convenient schedule for the Court.

10. Court Personnel

All other employees of the Lynden Municipal Court shall be employees of the City. Supervision of said employees shall be performed by the Deputy City Clerk or his/her designee, except during the hours of Court when the Contractor shall be responsible for the supervision of said employees. The City shall provide limited secretarial staff for the Contractor during Court sessions.

11. Indemnity Agreement

The City shall defend, indemnify and hold the Contractor and/or any pro tem judges selected pursuant to paragraph 12, harmless from any and all claims arising out of the good faith performance of his/her duties and functions as the Lynden Municipal Court Judge.

12. Judges Pro Tem

The Contractor shall not assign or subcontract any portion of the services provided under this Agreement except as set forth herein. In the event that the Contractor is unable to serve due to disability, disqualification, vacation or other absence, it shall be the responsibility of the Contractor to so notify the City and to make arrangements for a Judge Pro Tem as provided herein. All Judges Pro Tem shall be qualified to hold the position of

Judge of the Municipal Court as provided herein. Judges Pro Tem shall be paid by the City as follows:

For regular court 9:00 A.M. to 12:00 Noon
and 1:00 P.M. to 5:00 P.M. \$84.65 per hour

Hourly rate for court time outside of regular
Court hours (i.e. performing administrative
functions or jail visits for arraignments) \$84.65 per hour

In the event that the Judge Pro Tem is for some reason unable to serve when needed, the Deputy City Clerk or City Attorney may procure a judge or attorney in good professional standing to serve as a temporary Judge Pro Tem for a specific case or purpose, pursuant to Sections 3.50.070 and 3.50.090 of the Revised Code of Washington.

If a Judge Pro Tem is utilized during a month, the Court Clerk will prepare his/her payroll timesheet, obtain his/her signature and submit the payroll timesheet to the Finance Department by the 4th day of each succeeding month.

13. Court Administration

Following each Court Session, the Contractor will be available to review with Deputy City Clerk and Court staff any questions/concerns/suggestions resulting from the Court functions of that day. Should this review period extend beyond the minimum seven (7) hours for which the City reimburses the Contractor per Court session, said Contractor shall be reimbursed for such extra time pursuant to paragraph 4.

In order to provide continuing quality of Court administration for the City, Contractor will meet with Court administration staff one hour on a quarterly basis to discuss Court administration procedures and changing rules and regulations pertaining to Court operations. The specific time of this meeting is to be established by mutual agreement between the Contractor and the City, and payment for such meeting will be pursuant to paragraph 4. If it is mutually agreed that this meeting is not needed, no meeting will be held and the Contractor will not be paid for that meeting.

Further, in the administration of the Court, it is understood that the Contractor is legally and ethically obligated to administer justice according to law without fear or favor; and the wishes or policy of the executive or legislative branches of the City will not interfere with the administration of such justice.

14. Modification

No change or addition to this Agreement shall be valid or binding upon either unless such change or addition be in writing, executed by both parties.

15. State Law

This Agreement shall not be in derogation of the provisions of State law governing the contractor's obligations or the Contractor's four-year term of office, which commenced on January 1, 2022

16. Licensing and Education

Contractor agrees to comply with all applicable state or municipal standards for the licensing, certification, operation of facilities, and required accreditation, if any.

Effective July 1, 2002, Mandatory Continuing Judicial Education credits became required of all judicial officers. The Contractor agrees to comply with Washington Court Rules, GR 26 – Mandatory Continuing Judicial Education, which includes attendance and completion of the Washington Judicial College Program within 12 months of initial appointment to the judicial office, and a minimum of 45 credit hours of judicial education approved by the Board for Court Education (BCE) every three years, commencing January 1, 2003.

17. Administration

The office of the City Administrator will be responsible for administering this Agreement.

18. Term

Notwithstanding the date of execution of this Agreement, the term of this Agreement shall be considered commencing on January 1, 2022 and shall terminate on December 31, 2025.

EXECUTED this ____ day of _____, 20____ by the Contractor, TERRANCE G. LEWIS.

Terrance G. Lewis, Contractor

EXECUTED this ____ day of _____, 20____ for the CITY OF LYNDEN.

Scott Korthuis, Mayor

ATTEST:

John Williams, City Administrator

APPROVED AS TO FORM:

Robert A. Carmichael, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Contract for Public Defender Services- Indigent Criminal Defense Services	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Contract with Jason Smith, North County Public Defense	
Summary Statement:	<p>This Agreement creates an independent Contractor relationship between Jason Smith, North County Public Defense and the City of Lynden for Indigent Criminal Defense Services. Contract duration is two years with the option of two additional two-year terms. In consideration of the services provided the City agrees to pay \$4,000/monthly for each full month in which services are provided.</p>	
Recommended Action:	Make a motion to approve the Contract for Indigent Criminal Defense Services with Jason Smith, North County Public Defender.	

**City of Lynden
Public Defender Contract for
Indigent Criminal Defense Services**

This Agreement for Indigent Criminal Defense Services (“Agreement”) shall take effect on the ____ day of _____, _____ (“Effective Date”) by and between the City of Lynden, a municipal corporation, hereinafter referred to as the “City,” and attorney Jason Smith, North County Public Defense, hereinafter referred to as the “Contractor,” collectively referred to as “Parties,” is for the purpose of providing attorney services outlined herein.

The Parties agree as follows:

Section I – Services:

Contractor agrees to provide all professional services necessary of indigent defendants charged with misdemeanors and gross misdemeanors in the City of Lynden, Washington. Services include:

- 1) Attending regular special sessions of the Lynden Municipal Court for all assigned defendants, pursuant to the Lynden Municipal Court calendar;
- 2) Timely contacting defendants if the defendant is incarcerated;
- 3) Appearing in Whatcom County Jail for hearings in the jail when necessary and as determined by the Lynden Municipal Court;
- 4) Having available an all-hours pager or phone number to respond to calls;
- 5) Meeting with clients as appropriate;
- 6) Representing indigent defendants in appeals to the Whatcom County Superior Court except when representing the same defendant during the trial; and
- 7) Performing services consistent with the standard of practice within the Lynden community.

The Contractor agrees to provide professional legal services for all Lynden Municipal Court cases that have been determined to be within the scope of indigent defense. Cases shall be assigned to the Contractor at the discretion of the Lynden Municipal Court Judge. The maximum number of cases which the Contractor will be assigned shall be consistent with the Standards for Indigent Defense adopted by the Washington Supreme Court, and as hereafter amended, and which allows the Contractor the ability to give each client the time and effort necessary to ensure effective representation.

Contractor agrees that at least one qualified primary attorney from Contractor’s office shall be assigned to provide all the services outlined herein; provided that, nothing shall prevent additional attorneys in Contractor’s office from being assigned to assist said primary attorney. The identity of the primary attorney shall be disclosed to the City within one week of commencement of this Agreement.

Section II – Consideration

In consideration for the services described above, the City agrees to pay the Contractor four thousand dollars (\$4,000.00), paid monthly, for such services described in this Agreement. for each full month in which such

services are provided. Compensation for services provided for a partial month shall be prorated. Contractor shall send an invoice for such payment each month. The City of Lynden, Finance Department, must receive invoices by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second City Council meeting of the month (third Monday) before payment can be rendered.

Section III – Review and Supervision

The City reserves the right to assure that indigent clients referred to the Contractor hereunder receive proper representation and further reserves the right to review and investigate the quality of such representation and require the Contractor to assist in any such review or investigation. Nothing in this section shall be construed or applied in any manner that may violate the confidentiality of any privileged information.

Section IV – Maintenance of Office

The Contractor shall be responsible for (1) access to an office that accommodates confidential meetings with clients, (2) a postal address, and (3) adequate telephone services to ensure prompt responses to client contacts to provide adequate legal representation as required by this Agreement.

Section V – Licensing

The Contractor agrees to remain licensed to practice law in the State of Washington during the term of any criminal defense contract with the City, and will further, at all times pertinent thereto, abide by the code of professional responsibility.

Section VI – Standards for Indigent Defense Services

The Contractor agrees to perform services consistent with the requirements contained in the Standards for Indigent Defense Services adopted by the Washington Supreme Court and as hereafter amended.

Section VII – Malpractice Insurance

The Contractor shall furnish to the City and file with the City Clerk and at all times during the existence of this Contract, maintain in full force and effect, at its own cost and expense, a professional malpractice insurance policy, each with a minimum liability of \$1,000,000 per occurrence / \$2,000,000 aggregate. Failure to maintain coverage with the limits provided herein shall be a material breach of this Contract and cause for termination at any time. A policy naming the individual Contractor, among others named in the policy, shall be considered in compliance with this provision. A Certificate of Insurance containing the aforementioned minimum limits shall be provided to the City prior to the signing of this Contract. Written notice of cancellation or reduction in coverage shall be delivered to the City thirty (30) days in advance of the effective date thereof. Any company from which said professional malpractice insurance policy is obtained shall be approved by the state insurance commissioner pursuant to Title 48 RCW and shall have at least an A or an A+ Best Rating.

Section VIII – Assignment or Subcontracting

The Contractor shall not assign or subcontract any case provided under the terms of this Agreement to an attorney outside of Contractor's office without obtaining prior written approval from the City; except that, from time to time the Contractor may subcontract with another qualified attorney from an approved list of other attorneys to assist with the services provided under the terms of this Agreement. Should Contractor

desire to make use of this provision, Contractor shall submit a list of qualified attorneys outside of Contractor’s office to the City Administrator for approval prior to any attorney on said list attorney providing services under this Agreement. Approval by the City Administrator may be withheld in his sole discretion. If after three (3) business days no decision is made by the City Administrator on a requested approved list, said list shall be deemed accepted by the City. A qualified attorney shall mean an attorney licensed to practice law in the State of Washington who is able to certify that he or she complies with the applicable Standards for Indigent Defense Services as adopted by the Washington Supreme Court and as hereafter amended. All terms and conditions of this Agreement shall apply to any approved subcontract related to this Agreement. Contractor shall remain fully responsible for compliance with the terms and conditions of this Agreement on any case assigned to the Contractor, including cases in which services are subcontracted by the Contractor to another attorney as provided herein.

The City shall not assign any defense of indigent defendants to any Contractor or Attorney-at-Law other than the Contractor herein; except that, the City shall assign an indigent defendant with whom the Contractor has a conflict of interest, to an Attorney-at-Law of the City’s choice.

Section IX – Non-Discrimination

During the term of this Agreement, the Contractor agrees that no person shall, on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental or physical disability, be excluded from full employment rights with the Contractor or from representation by the Contractor. The Contractor shall not discriminate against any employee or applicant for employment for the above reasons, provided the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents performance of the particular work involved.

Section X – Relationship of Parties

The parties intend that this Agreement shall create an independent Contractor relationship between the Contractor and the City. The Contractor shall not be considered to be agent, employee, servant or representative of the City for any purpose whatsoever, and no employee of the Contractor will be entitled to any benefits of City employment. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants and/or sub-contractors during the term of this Agreement.

In the performance of the services herein contemplated, the Contractor shall be deemed to be an independent Contractor with the authority to control and direct the performance of the details of the work, subject however, to direction by the Lynden Municipal Court and the City’s right of inspection and review.

Section XI – Communication Between Parties

Communication between the Contractor and the City shall be addressed to the regular place of business of each party.

In the case of the Contractor, all communications to the Contractor, and referral of cases, shall be sent to:

Jason Smith
North County Public Defense
1720 Iowa Street
Bellingham, WA 98229

In the case of the City, all communications to the City shall be sent to:

City of Lynden
City Clerk
300 4th Street
Lynden, WA 98264

Section XII – Duration

This Agreement shall have a duration of two years from its Effective Date, during which time compensation for services shall remain unchanged. The Parties may by mutual written agreement renew this Agreement for up to a maximum of two additional two-year terms, at which time compensation adjustments may be considered based on changes in caseloads and cost of living. Any such Agreement renewal shall be completed not later than ninety (90) days prior to expiration of the term.

Section XIII – Termination of Parties

In the event that the City, in its sole discretion, determines that the work of the Contractor or another qualified attorney hired by the Contractor, is unsatisfactory, the City may terminate this Agreement. In such event, the City shall notify the Contractor by serving, at least thirty (30) days prior, written notice to the Contractor stating reasons why this Agreement is being terminated.

Either the City or the Contractor may terminate this Agreement without cause. To terminate this Agreement without cause, the party terminating shall notify the other party at least ninety (90) days in advance of the proposed date of termination and, during that ninety-day period, this Agreement shall remain in force unless terminated earlier by mutual agreement of the parties.

In the event the date of termination of this Agreement passes without the execution of a similar contract for a permanent public defender and if, in that event, the parties continue to perform according to the contract's terms, then the terms of this Agreement shall control the duties and obligations of the parties until they execute a new written agreement.

Following termination of this Agreement, the Contractor shall cooperate with the City to assist with transfer of all assigned pending cases to the attorney selected by the City to provide permanent indigent defense services. Pending cases shall mean cases assigned to the Contractor in accordance with this Agreement which have not been resolved.

Section XIV – Remedies for Breach and attorney's fees and costs

All remedies available in law and equity shall be available in the event of a breach of this Agreement. In the event legal action is initiated by either party against the other, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Agreement, to its reasonable attorney's fees and costs, including those incurred on appeal.

Section XV – Nonwaiver of Breach

Failure of either party to require performance of any provision of this Agreement shall not limit such party's right to enforce such provision, nor shall a waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

Section XVI – Venue Stipulation

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Jason Smith is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it for North County Public Defense to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____, 2021.

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

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Final Public Hearing on the 2022 Budget	
Section of Agenda:	Public Hearing	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
None		
Summary Statement:		
As published, 7:00PM on December 6, 2021 is the time and date set for the Final Public Hearing on the 2022 Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.		
Recommended Action:		
For the Mayor and City Council to conduct the final hearing as required to consider any public commentary on the 2022 Budget.		

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	November 15, 2021	
Name of Agenda Item:	Hold Public Hearing for Comments on Proposed Nooksack Valley Disposal Rate Increase	
Section of Agenda:	Public Hearing	
Department:	Public Works	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<u>Legal Review:</u>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Nooksack Valley Disposal Request for 2022 Rate Increase and Franchise Agreement Rate Adjustment Franchise Agreement Rate Adjustment Addendum		
Summary Statement:		
<p>Nooksack Valley Disposal (NVD) is requesting a rate increase, effective January 1, 2022, for their services due to their increasing disposal fees. NVD currently has a 20-year franchise agreement with the City of Lynden (through 2036) for curbside garbage pickup and recycling program services.</p> <p>On November 17 and December 1, 2021, the public was invited to comment on the proposed rate increases. To date, no comments have been received.</p> <p>After reviewing the proposed rate increase, the Public Works Committee concurred to recommend approval to City Council, upon hearing any comments from the public. If approved, these rates will become part of the existing Franchise Agreement.</p>		
Recommended Action:		
That City Council, after hearing public comments, approve the Franchise Agreement Rate Adjustment and authorize the Mayor’s signature on the agreement.		

NOOKSACK VALLEY

D • I • S • P • O • S • A • L

P.O. Box 267 250 Birch Bay-Lynden Rd. Lynden, WA 98264 (360) 354-3400

Mayor Scott Korthuis
Lynden City Council
Lynden, WA 98264



Dear Mayor Scott and Council Members,

Nooksack Valley Disposal has been happy to provide both garbage and recycling services to the City of Lynden for over 40 years. Because of increasing disposal fees, we are coming to the City with a rate increase request, to become effective January 1, 2022.

Recycling and Disposal Services has announced they will be increasing our garbage tip fees effective January 1 2022. Our last increase was three years ago. Our cost per ton will be increased by 11%, or \$11.45 per ton more than we are currently charged. We are requesting a 4.5% increase in our garbage rates, which will go to paying this increase in our disposal fees.

Green Earth Technology has also informed us that they will be increasing our yard waste tip fees effective January 1, 2022. Our cost per ton to compost yard and food waste will be 17% higher since our rates last changed 3 years ago. We are requesting a \$1.00 per month increase for this optional collection of yard waste, to cover the higher tip fees. Even with the increase, our rates will still be substantially lower than anywhere in Whatcom County.

As outlined in our Municipal Solid Waste Agreement with the City of Lynden, Section 7A, we are giving request to revise our rates for residential and commercial services at least 60 days prior to their implementation. We have included a schedule with the current and proposed rates. The average household set out 2.6 carts of garbage per month this past year. The proposed increase would raise the average residential bill by \$0.78 per month in total for garbage and recycling.

We continue to strive to provide excellent customer service, while maintaining our position as one of the lowest priced and most efficient providers of garbage and recycling pickup in Northwest Washington. We will continue to have some of the lowest prices of any of the comparable nearby cities. We look forward to continuing our good relationship with the City and to providing clean, safe, and dependable garbage and recycling services in the years ahead.

Sincerely,

Dan Leidecker, President

Calvin Den Hartog, General Manager

"Our business is picking up."

 Printed on Recycled Paper

NOOKSACK VALLEY D I S P O S A L

P.O. Box 267 250 Birch Bay-Lynden Rd. Lynden, WA 98264 (360) 354-3400

The following is a comparison of garbage/recycling rates from cities in the area. The rates compare what a 60-68 gallon cart emptied every-other-week or weekly would cost. Every-other-week recycling is included in all prices. Some cities do not offer carts, so an equivalent volume using a 32-gallon container is used for comparison.

<u>City</u>	<u>EOW</u>	<u>Weekly</u>	<u>2-yd Dumpster</u>
Lynden (current)	\$18.80 per month	\$31.80 per month	\$34.95 per dump
Lynden (proposed)	\$19.40 per month	\$33.00 per month	\$36.45 per dump
Anacortes	\$23.47 per month	\$34.94 per month	\$62.56 per dump
Bellingham	\$27.37 per month	\$50.13 per month	\$38.05 per dump
Duvall	\$31.32 per month	\$41.91 per month	\$43.75 per dump
Everett	\$26.03 per month	\$33.54 per month	\$33.36 per dump
Ferndale	\$20.56 per month	\$36.62 per month	\$50.30 per dump
Friday Harbor	\$36.00 per month	\$68.00 per month	\$100.00 per dump
Marysville	\$24.61 per month	\$41.07 per month	\$44.43 per dump
Monroe	\$21.99 per month	\$32.19 per month	\$43.74 per dump
Mt. Vernon	\$29.70 per month	\$45.95 per month	\$33.02 per dump
Oak Harbor	\$21.79 per month	\$36.52 per month	\$64.08 per dump
Sedro-Wooley	\$27.50 per month	\$37.76 per month	\$55.88 per dump

The typical household in Lynden sets out an average of 2.6 carts per month.

Lynden Yardwaste Rates proposed are \$8.50 for EOW cart, \$11.50 for weekly cart, compared to \$12.12 for EOW and \$24.24 for 2 carts EOW in Bellingham and \$12.25 for EOW and \$24.50 for 2 carts EOW in Ferndale.

**Nooksack Valley Disposal and Recycling
Current and Proposed Rates
2021 and 2022**

<u>Residential</u>	<u>Current</u>	<u>Proposed</u>
Base Fee	\$ 6.00	\$ 6.00 per month
Per Cart	\$ 6.40	\$ 6.70 per dump
Optional Yardwaste	\$ 10.50	\$ 11.50 per month

Commercial

Can	\$ 3.95	\$ 4.15
Cart	\$ 7.40	\$ 7.70
1-yard	\$ 20.80	\$ 21.75 per dump
1.5 yard	\$ 26.90	\$ 28.10
2-yard	\$ 34.95	\$ 36.55

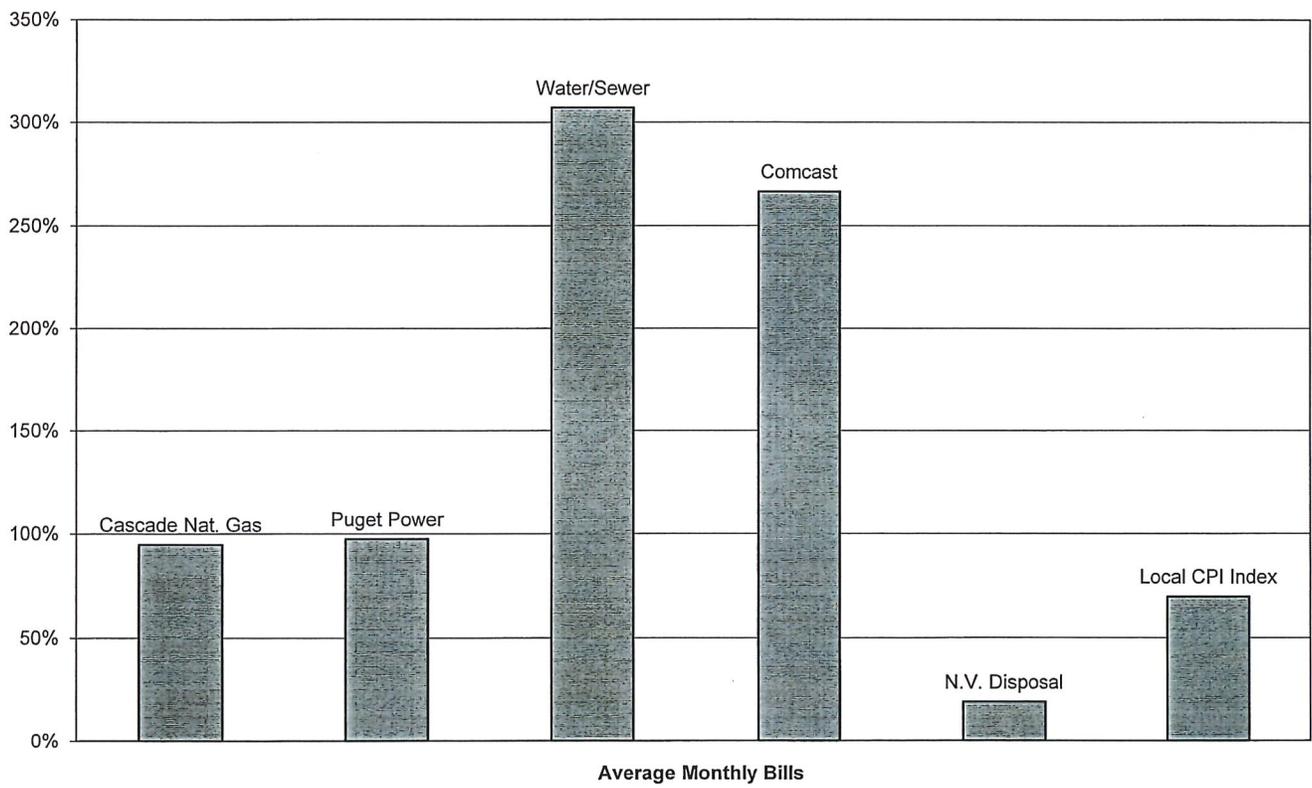
Schools and Rest Homes

1-yard	\$ 18.80	\$ 19.75 per dump
1.5 yard	\$ 24.90	\$ 26.10
2 yard	\$ 32.95	\$ 34.55

Dumpster Rental Fees

1-yard	\$ 10.00	\$ 10.00 per month
1.5 yard	\$ 11.00	\$ 11.00
2-yard	\$ 12.00	\$ 12.00

1998-2021 Rate Changes



RATE ADJUSTMENT PURSUANT TO
FRANCHISE AGREEMENT
BETWEEN NOOKSACK VALLEY DISPOSAL
AND CITY OF LYNDEN

Pursuant to Section 7 of that certain Franchise Agreement granted to Nooksack Valley Disposal in 2016, Nooksack Valley Disposal proposes a rate adjustment (see below). The City Council of the City of Lynden approved the proposed rate adjustment at their December 6, 2021 meeting.

2022 RATES

Residential

Base Fee	\$ 6.00 per month
Per Cart	\$ 6.70 per dump
Optional Yard Waste	\$11.50 per month

Commercial

Can	\$ 4.15 per dump
Cart	\$ 7.70 per dump
1.0 Yard	\$21.75 per dump
1.5 Yards	\$28.10 per dump
2.0 Yards	\$36.55 per dump

Schools and Rest Homes

1.0 Yard	\$19.75 per dump
1.5 Yards	\$26.10 per dump
2.0 Yards	\$34.55 per dump

Dumpster Rental Fees

1.0 Yard	\$10.00 per month
1.5 Yards	\$11.00 per month
2.0 Yards	\$12.00 per month

The 2022 Rates replace the rates set forth in Section 6 of the Franchise Agreement. Any rates not replaced shall remain in full force and effect. This rate adjustment will be effective January 1, 2022.

City of Lynden

Nooksack Valley Disposal

By: Scott Korthuis, Mayor

By: Dan Leidecker, President

Dated: _____

Dated: _____

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Public Hearing for Revisions to the Engineering Design and Development Standards Project Manual	
Section of Agenda:	Consent	
<u>Council Committee Review:</u>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<u>Legal Review:</u>	
	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Draft Resolution No. 1042		
Summary Statement:		
<p>The Engineering Design and Development Standards Project Manual was originally adopted by City Council on April 5, 2004 and was last updated on January 1, 2021. These standards are required by the City’s Growth Management Act and include street, water, sewer, and storm drainage standards.</p> <p>In response to inquiries, changes in technology, and the feedback from customers, additions, deletions and/or clarifications have been made to the project manual. The manual also addresses access issues, permitting processes and procedures, and includes various forms necessary in the development process. Staff is updating the Manual annually and presents Resolution No. 1042 along with a list of revisions for Council review.</p> <p>The Public Works Committee reviewed the updates at their October 6, 2021, meeting and recommended that they be forwarded to City Council for consideration.</p> <p>All comments received will be provided at the Council meeting.</p>		
Recommended Action:		
That City Council direct staff to make the necessary changes to Resolution No. 1042, Revisions to the Project Manual for Engineering Design and Development Standards, to address public comments and to bring the updated Resolution to City Council for approval.		

RESOLUTION NO. 1042

A RESOLUTION REVISING THE ENGINEERING DESIGN AND DEVELOPMENT STANDARDS PROJECT MANUAL FOR THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON AMENDING RESOLUTION NO. 1026

WHEREAS, the City of Lynden, Whatcom County, Washington last adopted the Design and Development Standards Project Manual in January 2021; and

WHEREAS, the following sections of the Design and Development Standards Project Manual have been revised and updated as follows:

LIST OF REVISED TEXT BY DIVISION

DIVISION 2 APPLICANT CHECKLIST

Section 2.3.H Added information regarding construction inspection for Business, commercial, and industrial projects.

DIVISION 3 CONSTRUCTION PLAN REQUIREMENTS

No updates.

DIVISION 4 STREET DESIGN STANDARDS

- General** Updated aggregate for road base to Gravel Borrow.
- Section 4.4.A, B** Updated aggregate for road base specification to Gravel Borrow.
- Section 4.5** Added provision for flexibility in lane widths within the Pepin Creek Subarea.
- Section 4.22.A.10** Removed information and referenced section 8 for stormwater management information.
- Section 4.22.B.2** Updated aggregate for road base to Gravel Borrow.
- Section 4.23** Added reference to table 4-4 in text section.
- Section 4.25** Added USPS website reference for mailbox installation guidance and referenced 2 figures for mailbox installation.

DIVISION 5 SITE ACCESS/DRIVEWAYS

- Section 5.2.A** Clarified access point guidance is for residential lot access.
- Section 5.3.A** Added clarification for residential lot access to adjacent streets.
- Section 5.8.A** Removed access for single lot details, and reference LMC for lot design and access.

DIVISION 6 WATER DESIGN STANDARDS

- Section 6.2.K** Added public and private hydrant paint color clarification.
- Section 6.5.B** Added clarification for private fire lines with assorted valve types.

DIVISION 7 SEWER DESIGN STANDARDS

No updates.

DIVISION 8 STORM DRAINAGE AND EROSION CONTROL

- General** Updated stormwater terminology from retention/detention to flow control and runoff treatment.
- Section 8.5.1.C** Added private stormwater facility overflow requirement.
- Section 8.5.1.K** Added reference to Lynden Municipal Code requirements for grease, oil, and sand interceptors.
- Section 8.5.7.2** Updated infiltration system requirements to reference Department of Ecology, and to have no effect on the roadway base.
- Section 8.5.7.3** Added clarification of when infiltration trenches are acceptable in City Trail shoulders.

DIVISION 9 STANDARD FORMS

No updates.

DIVISION 10 PERMIT APPLICATIONS

- Section 10.21** Updated as-built requirements.

LIST OF REVISED FIGURES BY DIVISION:

*Note: All figures have been updated to be on the most recent title blocks and using uniform font and text size. Some figures have been renumbered.

DIVISION 4 STREET DESIGN STANDARDS

Figure 4-1

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.

Figure 4-2

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.
- Updated to reference Gravel Borrow standard for base material.

Figure 4-3

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.
- Updated to reference Gravel Borrow standard for base material.

Figure 4-4

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.
- Updated to reference Gravel Borrow standard for base material.
- Corrected Roadway Width dimension.

Figure 4-5

- Added 2" crushed rock shoulder.
- Updated to reference Gravel Borrow standard for base material.

Figure 4-6

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.
- Updated to reference Gravel Borrow standard for base material.

Figure 4-7

- Added limestone trail section option.
- Updated to reference Gravel Borrow standard for base material.

Figure 4-12

- Updated to reference Gravel Borrow standard for base material.

Figure 4-18

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatch depth.

Figure 4-28

- Clarified HMA trench patch thickness requirement.
- Clarified steel plate requirements.

Figure 4-31

- Added primary and alternate street tree locations.

Figure 4-35

- Added "BOLLARD TYPE 2" figure. (WSDOT Standard plan H-60.20-01)

Figure 4-36

- Updated to reference Gravel Borrow standard for base material.

Figure 4-38

- Added "SPLIT RAIL FENCE" figure.

Figure 4-39

- Added "WOODEN PEDESTRIAN FENCE" figure.

Figure 4-40

- Added "MAILBOX SUPPORT TYPE 1" figure (1 of 2).

Figure 4-41

- Added "MAILBOX SUPPORT TYPE 1" figure (2 of 2).

Figure 4-42

- Added "PEPIN PARKWAY TYPICAL SECTION" figure.

Figure 4-43

- Added 'Traffic Impact Analysis' Figure.

DIVISION 5 SITE ACCESS/DRIVEWAYS

Figures 5-4

- Updated to reference Gravel Borrow standard for base material.

Figure 5-6

- Updated to reference Gravel Borrow standard for base material.

DIVISION 6 WATER DESIGN STANDARDS

Figure 6-1

- Updated acceptable hydrants.

Figure 6-5

- Updated drain hole for consistency with WSDOT standard plan.

Figure 6-6

- Updated drain hole for consistency with WSDOT standard plan.

Figure 6-10

- Updated to reference Gravel Borrow standard for base material.

Figure 6-18

- Clarified HMA trench patch thickness requirement.
- Clarified steel plate requirements.

DIVISION 7 SEWER DESIGN STANDARDS

Figure 7-2

- Added reference to section 7.2.J for coating and sealing requirements.

Figure 7-3

- Added reference to section 7.2.J for coating and sealing requirements.

Figure 7-4

- Added reference to section 7.2.J for coating and sealing requirements.

Figure 7-8

- Updated base material to extend 1.0' past curb and gutter.
- Corrected sidewalk base hatches to be consistent with figure 4-18.

Figure 7-14

- Clarified HMA trench patch thickness requirement.
- Clarified steel plate requirements.

DIVISION 8 STORM DRAINAGE AND EROSION CONTROL

Figure 8-12

- Clarified HMA trench patch thickness requirement.
- Clarified steel plate requirements.

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

Section 1: That the aforesaid Project Manual be adopted as revised as the official Design and Development Standards Project Manual for the City of Lynden, Whatcom County, Washington.

Section 2: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of

this resolution.

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

Section 4: This resolution shall be in full force and effect on January 1, 2022.

PASSED BY THE CITY COUNCIL of the City of Lynden, Whatcom County, Washington, on the 6th day of December, 2021 and signed and approved by the Mayor on the same date.

MAYOR SCOTT KORTHUIS

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Ordinance No. 1639 – Adoption of the 2022 Budget	
Section of Agenda:	Unfinished Business	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Ordinance No. 1639		
Summary Statement:		
<p>The Preliminary 2022 Budget was presented to the City Council by Mayor Korthuis at the October 18, 2021 City Council meeting.</p> <p>The first public hearing for the 2022 Budget was held on November 1, 2021. The final RCW required budget hearing was held earlier this evening December 6, 2021.</p> <p>Ordinance No. 1639 represents the results of the budget process.</p> <p>Passage of this ordinance will finalize and adopt the 2022 budget; and is in compliance with RCW deadlines.</p> <p>The Finance Committee has been presented with this information for their review throughout the budget process, as has Council.</p>		
Recommended Action:		
Approve Ordinance No. 1639 and authorize the Mayor’s signature adopting the 2022 Budget.		

ORDINANCE NO. 1639

AN ORDINANCE FOR THE CITY OF LYNDEN
ADOPTING THE 2022 BUDGET
FOR THE CITY OF LYNDEN, WASHINGTON

WHEREAS, the preliminary budget of the City of Lynden for the year 2022 has been heretofore filed in the office of the City Clerk of the City of Lynden; and

WHEREAS, a notice of such filing and that the City Council would, on the 6th of December, 2021 meet for the purpose of adopting the final budget, and has been duly published by law; and

WHEREAS, the City Council of the City of Lynden has considered said budget and has resolved and determined the separate items thereof,

NOW, THEREFORE, THE CITY OF LYNDEN, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section A. That the final budget including addendums A through J be and the same is hereby adopted and that the appropriation totals be allowed as follows:

GENERAL FUND

CURRENT EXPENSE \$ 18,154,712

SPECIAL REVENUE FUNDS

BERTHUSEN PARK \$ 165,850
HOTEL/MOTEL TAX 216,000
DRUG BUY IMPREST 15,800
PUBLIC FACILITIES PROTECTIVE INSPECTIONS 160,000
TRANSPORTATION BENEFIT DISTRICT 1,411,000

CAPITAL FACILITIES/IMPROVEMENT FUNDS

IMPACT FEES – TRANSPORTATION \$ 1,122,200
IMPACT FEES – FIRE 266,816
IMPACT FEE – PARK 685,500
STREETS CAPITAL CONSTRUCTION 8,899,668
CITY TRAIL 2,048,500
BENSON ROAD/PEPIN CREEK 5,750,825

RESERVE FUNDS

GENERAL GOV. CAPITAL RESERVE \$ 190,150
POLICE CAPITAL RESERVE 630
POLICE (STATE) SEIZURES/FORFEITURES 5,574
PARKS CAPITAL RESERVE 819,955
PUBLIC SAFETY RESERVE (1/10th) of 1% 783,000
FIRE/EMS CAPITAL RESERVE 179,850

DEBT FUNDS

CITY OF LYNDEN NOTE REDEMPTION, A	\$ 2,146,324
CITY OF LYNDEN NOTE REDEMPTION, B	6,210,396
PUBLIC WORK TRUST LOAN – STREETS	129,439
LTGO BOND REDEMPTION 2017 (2005)	366,830
UTGO BOND REDEMPTION 2017 (2007)	445,514
WHATCOM COUNTY EDI LOAN	145,536
PUBLIC WORKS TRUST LOAN - 17TH ST	31,843
2012 LTGO BOND REDEMPTION	820,125
COMMUNITY ECONOMIC REVITALIZATION BOARD	69,909

UTILITY FUNDS

WATER	\$ 10,543,302
SEWER	14,693,300
STORMWATER	4,444,821
AIRPORT	166,900
USDA RURAL DEV. WATER REV BOND GUARANTY	415,700
WA/SE REV REFUNDING BOND, 2017B (2008-1)	220,168
WA/SE REV REFUNDING GUARANTY, 2017B (2008-1)	73,570
2017-A GUARANTY (2003 W/S REV BOND)	145,640
WATER SOURCE	4,051,623

TOTAL 2022 BUDGET

Less anticipated cash on hand	\$ 23,657,899	
Anticipated receipts to be raised by taxes, service fees and bond issues	<u>62,339,071</u>	\$ 85,996,970

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

Section C. This ordinance 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 6 DAY OF DECEMBER, 2021.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN 2022 BUDGET

ADDENDUM A

WATER RATES

The following rates are adopted with the budget with an effective date of June 1, 2022. Rates remain unchanged from 2021 except for multiplier for volume Outside City Limits.

CUSTOMER CATEGORY	MONTHLY BASE CHARGE (Per Unit)	VOLUME CHARGE <5ccf	VOLUME CHARGE 5-18 ccf	VOLUME CHARGE >18ccf
Single Family & Duplex (w/ Separate Meters)				
3/4"	\$ 31.85	\$ 1.57	\$ 2.07	\$ 3.15
1"	48.36	1.57	2.07	3.15
1.5"	94.64	1.57	2.07	3.15
2"	150.68	1.57	2.07	3.15
Low Income Senior Discount	7.35			

CUSTOMER CATEGORY	MONTHLY BASE CHARGE² (per Unit)	VOLUME CHARGE (per ccf¹)
Multi-Family, including Duplex (w/ Single, Shared Meter)		
Business/Commercial/Industrial		
3/4"	\$ 31.85	\$ 1.95
1"	52.56	1.95
1.5"	102.67	1.95
2"	163.07	1.95
3"	325.09	1.95
4"	505.97	1.95
6"	1,009.31	1.95
8"	1,613.60	1.95
Grounds (Irrigation) Meter		
3/4"	\$ 31.85	\$ 2.62
1"	52.56	2.62
1.5"	102.67	2.62
2"	163.07	2.62
3"	325.09	2.62
4"	505.97	2.62
Hydrant Meters	\$163.07	\$ 3.15
Outside City Limits Multipliers	1.5 x base charge	1.05 x base volume
Associations (Wholesale) (multiplier already included in rate)		
1 1/2" (Twin Ditch/Meadowbrook)	\$ 154.00	\$ 2.35
2"	244.60	2.35
4" (Berthusen)	758.96	2.35

NOTES:

- The volume charge is for each hundred cubic feet (ccf) - approximately 748 gallons.
- In addition to charges levied herein, an additional charge of 6.5% shall be assessed, which shall be paid into the Water Debt Reduction Fund to be used exclusively for debt reduction for construction debt.
- In addition to charges levied herein, an additional 2% Utility Tax shall be assessed per City Ordinance.

CLASSIFICATION INFORMATION:

- Single Family shall include Mobile Homes.
- Business/Commercial/Industrial (Non-Permit) covers all non-residential uses, including: Offices and Retail Stores, Churches, Recreation Centers, Service/Gas Stations, Fairgrounds, Hotels/Motels, Nursing Homes, Assisted Living Facilities (without full kitchens, including oven and cooktop), Food and Beverage Establishments, Laundromats, Car Washes, Schools, and Industries which the City has determined do not require a NPDES Permit.
- Grounds services shall be for all non-potable uses, including irrigation.

ADDENDUM B

Water General Facility Capital Improvement (FCI) Charges

The following rates are adopted with the budget and become effective January 1, 2021. The rate table below increases the charges by 2% to reflect increases in the cost of construction.

Residential:

	<u>FCI Charge</u>	<u>Meter Installation Fee</u>
Single Family (1 ERU)	\$ 5,197	\$347
Duplex (per unit) ¹	\$ 5,197	\$347
Detached Accessory Dwelling Unit (ADU)	\$ 4,015	\$347
Multi-family (3+ units, per unit) ²	\$ 4,015	Same as Commercial below

Commercial (Non-Residential) and Industrial:

<u>Meter Size</u>	<u>FCI Charge</u>	<u>Meter Installation Fee</u>
3/4-inch	\$5,197	\$347
1-inch	\$8,673	\$485
1-1/2-inch	\$17,324	\$1,878
2-inch	\$27,762	\$2,133
3-inch	\$55,525	\$2,646
4-inch	\$86,727	time & material ³
6-inch	\$173,235	time & material ³
8-inch	\$277,175	time & material ³

Additional Information:

- A. When a service is changed from a smaller meter to a larger meter, the fee calculation shall be the difference between the two.
- B. When a service is changed from a larger meter to a smaller meter, there will be no fee credit adjustment.
- C. Water Associations identified by the Washington State Department of Health (WSDOH) as having a contaminated groundwater source and which agree to connect to the City of Lynden for wholesale water supply will not be charged a General Facilities Capital Improvement (FCI) Charge per the terms of WSDOH loans provided to the City in 2013 for the treatment facility.
- D. Water connections **outside the City Limits** will have a **1.5 multiplier** applied to the above connection charges. New connections outside the City Limits are only allowed with City Council approval.

¹ Both units must be metered unless authorized by Public Works Director

² Multifamily charges are based on 75% of Single Family ERU

³ Actual Cost. Estimate to be provide by City, upon request, prior to installation

CITY OF LYNDEN 2022 BUDGET

ADDENDUM C

SEWER RATES

The following rates are adopted with the budget with an effective date of June 1, 2022
Rates remain unchanged from 2021 except for an increase in water testing fees.

CONSUMER CATEGORY	MONTHLY BASE CHARGE	CHARGE PER UNIT
Single Family, Duplex, and/or a Multi-Family Dwelling Unit with a Separate Individual Meter	\$ 49.85	N/A
Multi-Family (Including Duplex) with a Connected Single Meter Serving All Units		
First dwelling unit	\$ 49.85	N/A
Each additional dwelling unit	\$ 37.38	N/A
Mobile Home additional unit and Accessory Dwelling Unit (ADU)	\$ 28.03	N/A
Business/Commercial/Industrial – NPDES ⁴ Not Required		
Basic Charge	\$ 49.85	
Volume Charge: per 100 cubic feet (ccf)		\$ 2.77
Industrial Users – NPDES ¹ Permitted		
Basic Charge	\$ 99.70	
Volume Charge: per 100 cubic feet (ccf)		\$ 2.16
BOD Charge: per pound (lb)		\$ 0.73
TSS Charge: per pound (lb)		\$ 0.72
BOD Testing Fee (per sample) ⁵	\$ 55.00 ea.	
TSS Testing Fee (per sample) ²	\$ 20.00 ea.	
Outside City Limits Multiplier ⁶	1.5 X	

Additional Information:

- A. Business/Commercial/Industrial (Non-NPDES Permit) covers all non-residential uses, including: Offices and Retail Stores, Churches, Recreation Centers, Service/Gas Stations, Fairgrounds, Hotels/Motels, Nursing Homes, Assisted Living Facilities (without full kitchens, including oven and cooktop), Food and Beverage Establishments, Laundromats, Car Washes, Schools, and Industries which the City has determined do not require an NPDES Permit.
- B. Multi-Family shall include apartments, duplexes, Independent Living Facilities, and multiple condominium units served by a single meter.
- C. Mixed Use (with a single meter). Consumer Category to be determined by Public Works.
- D. A non-representative sample will be billed as if 100% of the Daily Maximum Demand was delivered.
- E. If an Industrial User exceeds the permit limit for Flow, BOD or TSS; it will result in a rate 3-times the established per unit rate, for each violation over the permit or contract limit.
- F. A pH reading outside the permit limit will result in a rate 3-times the established rate for flow for the period of violation.
- G. A concentration level in mg/l over the permit or contract level will result in a rate three (3) times the established per unit rate for the permit or contract charge.

⁴ National Pollution Discharge Elimination System (NPDES)

⁵ A late payment charge 5% will be added to payments not made within 30 days of invoice

⁶ Residential Outside City Limits Multiplier applied to Base Rate; Commercial Outside City Limits Multiplier applied to Base Rate and Unit Volume; and installation of flow meter(s) will be required.

ADDENDUM D

Sewer General Facility Capital Improvement Charges (FCI)

The following rates are adopted with the budget and become effective January 1, 2022. Rates remain unchanged from 2021.

The general FCI charges applicable to all areas served by the City are shown in the table below in the “All Areas” column and those additional FCI charges only applicable to the East Lynden/ Line Road Sub-Basin, per Ordinance No. 1447, are shown in the “East Lynden” column:

Consumer Category	Unit	All Areas	East Lynden
Single Family Residential		\$ 7,126	\$ 5,300
Accessory Dwelling Unit		4,465	3,200
Duplex	Per unit	7,126	5,300
Multi-Family			
3- or 4-unit building	Per unit	5,279	3,805
5 or more-unit building	Per unit	4,465	3,200
Mobile Home Parks			
First 4 pads	Per pad	5,279	3,805
5 or more pads	Per pad	4,465	3,200
Business, Commercial and Industrial Users	Meter Size	All Areas	East Lynden
Business, Commercial and Industrial Users	¾-inch	\$ 5,279	\$ 3,805
	1-inch	\$ 8,798	\$ 6,335
	1½-inch	\$ 17,585	\$ 12,657
	2-inch	\$ 27,929	\$ 20,256
	3-inch	\$ 56,250	\$ 40,502
	4-inch	\$ 87,876	\$ 63,275
	6-inch	\$ 175,742	\$ 126,531
	8-inch	\$ 281,180	\$ 181,115

Classification Information:

1. Single Family shall include Mobile Homes.
2. Business and Commercial covers all non-residential uses, including: Offices and Retail Stores (with or without public restrooms), Industrial Users (not requiring an NPDES Permit), Churches, Recreation Centers, Service/Gas Stations, Fairgrounds, Nursing Homes, Assisted Living Facilities, without full kitchen (including oven and cooktop) Food and Beverage Establishments, Laundromats, Car Washes, and Schools.
3. Where a property owner is eliminating a septic system and connecting to the City’s sanitary sewer system, the “All Areas” FCI charges shown above may be waived, Per LMC 13.12.55.

CITY OF LYNDEN 2022 BUDGET

ADDENDUM E

STORMWATER RATES

The following stormwater rates reflect a 5% adjustment effective June 1, 2022.

<u>Customer Category</u>	<u>Monthly Base Rate Per Residential Unit</u>	<u>Monthly Increment Rate</u>
Single Family, Duplex and/or Multi-Family Dwelling Unit with Individual Meter	\$ 10.16	N/A
	<u>Monthly Base Rate</u> (up to 10,000 sf Impervious Surface Area)	<u>Monthly Increment Rate</u> (over 10,000 sf Impervious Surface Area)
Non-Single Family	\$ 15.82	\$ 7.75 per each 5,000 sf
NSF w/ Provision of Water Quality	\$ 15.82	\$ 6.35 per each 5,000 sf
NSF w/ Provision of Water Quality & Detention	\$ 15.82	\$ 3.94 per each 5,000 sf
NSF w/ Provision of Water Quality & Retention	\$ 15.82	\$ 2.07 per each 5,000 sf

ADDENDUM F

**STORMWATER MANAGEMENT GENERAL FACILITY CAPITAL
IMPROVEMENT (FCI) CHARGES**

Rates reflect a 3% increase from 2021 and a minimum charge for platted subdivisions with of the previous exception for platted subdivisions with stormwater facilities.

Customer Category	Base Fee	Increment over 10,000 SF
Single Family, Duplex and/or Multi-Family Dwelling Unit with Individual Meter in a Platted Subdivision with approved Stormwater Facilities	\$ 187.00/unit	Not Applicable
Single Family, Duplex and/or Multi-Family Dwelling Unit with Individual Meter	\$ 374.00/unit	Not Applicable
Non-Single Family (up to 10,000 sf)	\$ 745.00	Additional \$ 312.00 for each 5,000 sf over 10,000 sf
Non-Single-Family w/ Water Quality Treatment	\$ 745.00	Additional \$ 233.00 for each 5,000 sf over 10,000 sf
Non-Single-Family w/ Detention and Water Quality Treatment (up to 10,000 sf)	\$ 745.00	Additional \$ 142.00 for each 5,000 sf over 10,000 sf
Non-Single-Family w/ Retention and Water Quality Treatment (up to 10,000 sf)	\$ 745.00	Additional \$ 71.00 for each 5,000 sf over 10,000 sf

**ADDENDUM G
COMPOST FEES**

The following rates reflect a \$1.00 per yard increase effective January 1, 2022.

Category	Amount	Fee
Any customer	up to 50 cubic yards per year	\$ 14.00/cubic yard + tax
Any customer	50 to 100 cubic yards per year	\$ 11.00/cubic yard + tax
Any customer	100 to 299 cubic yards per year	\$ 8.00/cubic yard + tax
Double Screened	N/A	20% additional cost per cubic yard
Fall Clearance October 1 – December 31	N/A	20% discount per cubic yard

Notes:

1. Citizens who are utility customers may self-load one-half yard per visit at no charge, depending on availability.
2. Please call ahead for large orders.

CITY EQUIPMENT RATES

The following rates will be effective January 1, 2022:

1. The hourly rate for City equipment will be charged at 0.05% of the equipment's original purchase price.
2. The hourly labor rate for a City Equipment Operator will be \$50.00 (including wages, benefits, and overhead).

ADDENDUM I

PUBLIC WORKS DEVELOPMENT REVIEW FEES

Updated with the 2021 Engineering Design and
Development Standards Project Manual

Review Deposits

Development Type	Amount of Deposit
Residential	\$400.00 per lot, \$4,000.00 minimum
Non-Residential	2% of Civil Construction Costs \$6,000.00 Minimum

Inspection Deposits

Development Type	Amount of Deposit
Residential	\$500.00 per lot, \$10,000.00 minimum
Non-Residential	2% of Civil Construction Costs \$10,000.00 Minimum

CITY OF LYNDEN 2022 BUDGET

ADDENDUM J

LYNDEN MUNICIPAL AIRPORT FEES

The following fees reflect a 5% increase and are effective January 1, 2022:

Fuel

Current fuel price for Lynden Municipal Airport (38W) listed at www.airnav.com.

Access Fees

Residential Access from Adjacent Parcels\$ 45.00/month or \$450.00/year if paid prior to January 15th of current year

Off Premises Access Fees

Commercial (Jansen Hangers)\$ 294.00/month if 8 or more planes are stored (less than 8 planes - price will be negotiated with Public Works Director). \$2,940.00/year if paid prior to January 15th of current year

362 Piper Street.....\$ 45.00/month or \$450.00/year if paid prior January 15th of current year
Lot is adjacent to the airport and is grandfathered into the airport overlay zone.

366 Piper Street.....\$ 97.00/month or \$970.00/year if paid prior to January 15th of current year
Lot is adjacent to the airport and is grandfathered into the airport overlay zone.

Vehicle Parking Fees

Daily\$ 6.50*
Monthly\$ 33.50*
Yearly\$ 330.75*

**Plus effective leasehold excise tax rate*

Note: If Tie-Down Agreement executed, one vehicle may be parked at no charge.

Tie-down Fees

First night\$ 12.00*
Each additional night\$ 7.00*
Per Month\$ 50.00*

**Plus effective leasehold excise tax rate*

Note: First night at no charge with fuel purchase

Late Payment Penalty

Assessed Per Month on Past-Due Balance

Less than \$200.00\$ 11.00
\$200 or greater5% of the outstanding balance

**ADDENDUM K
2022 Salary Schedule
Non-Represented Positions**

3% Between Steps and Ranges	Base Annual
3.5% COLA	Base Monthly
Increase effective 1-1-2022	Base Hourly Rate
	3.50%

1.03	Position (+Step Placement)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Range 1	Parks & Public Works Seasonal (Step Varies) *This includes PW Intern	\$39,958.12	\$41,156.86	\$42,391.57	\$43,663.32	\$44,973.22	\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28
		\$3,329.84	\$3,429.74	\$3,532.63	\$3,638.61	\$3,747.77	\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69
		\$19.21	\$19.79	\$20.38	\$20.99	\$21.62	\$22.27	\$22.94	\$23.63	\$24.34	\$25.07
Range 2		\$41,156.86	\$42,391.57	\$43,663.32	\$44,973.22	\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37
		\$3,429.74	\$3,532.63	\$3,638.61	\$3,747.77	\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03
		\$19.79	\$20.38	\$20.99	\$21.62	\$22.27	\$22.94	\$23.63	\$24.34	\$25.07	\$25.82
Range 3		\$42,391.57	\$43,663.32	\$44,973.22	\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38
		\$3,532.63	\$3,638.61	\$3,747.77	\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28
		\$20.38	\$20.99	\$21.62	\$22.27	\$22.94	\$23.63	\$24.34	\$25.07	\$25.82	\$26.59
Range 4		\$43,663.32	\$44,973.22	\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73
		\$3,638.61	\$3,747.77	\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56
		\$20.99	\$21.62	\$22.27	\$22.94	\$23.63	\$24.34	\$25.07	\$25.82	\$26.59	\$27.39
Range 5		\$44,973.22	\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85
		\$3,747.77	\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99
		\$21.62	\$22.27	\$22.94	\$23.63	\$24.34	\$25.07	\$25.82	\$26.59	\$27.39	\$28.21
Range 6		\$46,322.41	\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24
		\$3,860.20	\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69
		\$22.27	\$22.94	\$23.63	\$24.34	\$25.07	\$25.82	\$26.59	\$27.39	\$28.21	\$29.06
Range 7		\$47,712.09	\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45
		\$3,976.01	\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79
		\$22.94	\$23.63	\$24.34	\$25.07	\$25.82	\$26.59	\$27.39	\$28.21	\$29.06	\$29.93
Range 8		\$49,143.45	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05
		\$4,095.29	\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42
		\$23.63	\$24.34	\$25.07	\$25.82	\$26.59	\$27.39	\$28.21	\$29.06	\$29.93	\$30.83
Range 9	Parks Admin. Assistant (S-10)	\$50,617.75	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69
		\$4,218.15	\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72
		\$24.34	\$25.07	\$25.82	\$26.59	\$27.39	\$28.21	\$29.06	\$29.93	\$30.83	\$31.75
Range 10	Computer Support Tech. (S-4)	\$52,136.28	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03
		\$4,344.69	\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84
		\$25.07	\$25.82	\$26.59	\$27.39	\$28.21	\$29.06	\$29.93	\$30.83	\$31.75	\$32.70
Range 11	Prior 2022 Parks Maintenance Worker (*See chart) **See below	\$53,700.37	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81
		\$4,475.03	\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90
		\$25.82	\$26.59	\$27.39	\$28.21	\$29.06	\$29.93	\$30.83	\$31.75	\$32.70	\$33.69
Range 12	GIS Analyst (S-10)	\$55,311.38	\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81
		\$4,609.28	\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07
		\$26.59	\$27.39	\$28.21	\$29.06	\$29.93	\$30.83	\$31.75	\$32.70	\$33.69	\$34.70
Range 13		\$56,970.73	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88
		\$4,747.56	\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49
		\$27.39	\$28.21	\$29.06	\$29.93	\$30.83	\$31.75	\$32.70	\$33.69	\$34.70	\$35.74
Range 14	Fire Support Services Manager	\$58,679.85	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89
		\$4,889.99	\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32
		\$28.21	\$29.06	\$29.93	\$30.83	\$31.75	\$32.70	\$33.69	\$34.70	\$35.74	\$36.81
Range 15	Street/Utility Technician (S-10)	\$60,440.24	\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81
		\$5,036.69	\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73
		\$29.06	\$29.93	\$30.83	\$31.75	\$32.70	\$33.69	\$34.70	\$35.74	\$36.81	\$37.91
Range 16		\$62,253.45	\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63
		\$5,187.79	\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89
		\$29.93	\$30.83	\$31.75	\$32.70	\$33.69	\$34.70	\$35.74	\$36.81	\$37.91	\$39.05
Range 17		\$64,121.05	\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43
		\$5,343.42	\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95
		\$30.83	\$31.75	\$32.70	\$33.69	\$34.70	\$35.74	\$36.81	\$37.91	\$39.05	\$40.22
Range 18		\$66,044.69	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33
		\$5,503.72	\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11
		\$31.75	\$32.70	\$33.69	\$34.70	\$35.74	\$36.81	\$37.91	\$39.05	\$40.22	\$41.43
Range 19	Maintenance Supervisor - Parks	\$68,026.03	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53
		\$5,668.84	\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54
		\$32.70	\$33.69	\$34.70	\$35.74	\$36.81	\$37.91	\$39.05	\$40.22	\$41.43	\$42.67
Range 20	Building Official (S-8)	\$70,066.81	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29
		\$5,838.90	\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44
		\$33.69	\$34.70	\$35.74	\$36.81	\$37.91	\$39.05	\$40.22	\$41.43	\$42.67	\$43.95
Range 21	City Clerk (S-6)	\$72,168.81	\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93
		\$6,014.07	\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99
		\$34.70	\$35.74	\$36.81	\$37.91	\$39.05	\$40.22	\$41.43	\$42.67	\$43.95	\$45.27

ADDENDUM K
2022 Salary Schedule
Non-Represented Positions

												3% Between Steps and Ranges	Base Annual
												3.50% COLA	Base Monthly
												Increase effective 1-1-2022	Base Hourly Rate
Position (+Step Placement)		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10		
Range 22		\$74,333.88	\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85		
		\$6,194.49	\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40		
		\$35.74	\$36.81	\$37.91	\$39.05	\$40.22	\$41.43	\$42.67	\$43.95	\$45.27	\$46.63		
Range 23		\$76,563.89	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51		
		\$6,380.32	\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88		
		\$36.81	\$37.91	\$39.05	\$40.22	\$41.43	\$42.67	\$43.95	\$45.27	\$46.63	\$48.03		
Range 24	Network Administrator (S-10), Human Resources Manager (S-10)	\$78,860.81	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47		
		\$6,571.73	\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62		
		\$37.91	\$39.05	\$40.22	\$41.43	\$42.67	\$43.95	\$45.27	\$46.63	\$48.03	\$49.47		
Range 25	PW Program Manager (S-10)	\$81,226.63	\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33		
		\$6,768.89	\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86		
		\$39.05	\$40.22	\$41.43	\$42.67	\$43.95	\$45.27	\$46.63	\$48.03	\$49.47	\$50.95		
Range 26		\$83,663.43	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80		
		\$6,971.95	\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82		
		\$40.22	\$41.43	\$42.67	\$43.95	\$45.27	\$46.63	\$48.03	\$49.47	\$50.95	\$52.48		
Range 27	Parks & Rec. Director (S-10)	\$86,173.33	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66		
		\$7,181.11	\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72		
		\$41.43	\$42.67	\$43.95	\$45.27	\$46.63	\$48.03	\$49.47	\$50.95	\$52.48	\$54.06		
Range 28	Planning & Community Dev. Dir. (S-10)	\$88,758.53	\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76		
		\$7,396.54	\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81		
		\$42.67	\$43.95	\$45.27	\$46.63	\$48.03	\$49.47	\$50.95	\$52.48	\$54.06	\$55.68		
Range 29		\$91,421.29	\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05		
		\$7,618.44	\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34		
		\$43.95	\$45.27	\$46.63	\$48.03	\$49.47	\$50.95	\$52.48	\$54.06	\$55.68	\$57.35		
Range 30		\$94,163.93	\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57		
		\$7,846.99	\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55		
		\$45.27	\$46.63	\$48.03	\$49.47	\$50.95	\$52.48	\$54.06	\$55.68	\$57.35	\$59.07		
Range 31		\$96,988.85	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45		
		\$8,082.40	\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70		
		\$46.63	\$48.03	\$49.47	\$50.95	\$52.48	\$54.06	\$55.68	\$57.35	\$59.07	\$60.84		
Range 32	Public Works Director (S-10) Finance Director(S-10)	\$99,898.51	\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90		
		\$8,324.88	\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08		
		\$48.03	\$49.47	\$50.95	\$52.48	\$54.06	\$55.68	\$57.35	\$59.07	\$60.84	\$62.67		
Range 33		\$102,895.47	\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25		
		\$8,574.62	\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94		
		\$49.47	\$50.95	\$52.48	\$54.06	\$55.68	\$57.35	\$59.07	\$60.84	\$62.67	\$64.55		
Range 34		\$105,982.33	\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90		
		\$8,831.86	\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58		
		\$50.95	\$52.48	\$54.06	\$55.68	\$57.35	\$59.07	\$60.84	\$62.67	\$64.55	\$66.48		
Range 35		\$109,161.80	\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39		
		\$9,096.82	\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28		
		\$52.48	\$54.06	\$55.68	\$57.35	\$59.07	\$60.84	\$62.67	\$64.55	\$66.48	\$68.48		
Range 36		\$112,436.66	\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33		
		\$9,369.72	\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36		
		\$54.06	\$55.68	\$57.35	\$59.07	\$60.84	\$62.67	\$64.55	\$66.48	\$68.48	\$70.53		
Range 37		\$115,809.76	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33	\$151,105.46		
		\$9,650.81	\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36	\$12,592.12		
		\$55.68	\$57.35	\$59.07	\$60.84	\$62.67	\$64.55	\$66.48	\$68.48	\$70.53	\$72.65		
Range 38	City Administrator (S-10)	\$119,284.05	\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33	\$151,105.46	\$155,638.63		
		\$9,940.34	\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36	\$12,592.12	\$12,969.89		
		\$57.35	\$59.07	\$60.84	\$62.67	\$64.55	\$66.48	\$68.48	\$70.53	\$72.65	\$74.83		
Range 39		\$122,862.57	\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33	\$151,105.46	\$155,638.63	\$160,307.79		
		\$10,238.55	\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36	\$12,592.12	\$12,969.89	\$13,358.98		
		\$59.07	\$60.84	\$62.67	\$64.55	\$66.48	\$68.48	\$70.53	\$72.65	\$74.83	\$77.07		
Range 40		\$126,548.45	\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33	\$151,105.46	\$155,638.63	\$160,307.79	\$165,117.02		
		\$10,545.70	\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36	\$12,592.12	\$12,969.89	\$13,358.98	\$13,759.75		
		\$60.84	\$62.67	\$64.55	\$66.48	\$68.48	\$70.53	\$72.65	\$74.83	\$77.07	\$79.38		
Range 41		\$130,344.90	\$134,255.25	\$138,282.90	\$142,431.39	\$146,704.33	\$151,105.46	\$155,638.63	\$160,307.79	\$165,117.02	\$170,070.53		
		\$10,862.08	\$11,187.94	\$11,523.58	\$11,869.28	\$12,225.36	\$12,592.12	\$12,969.89	\$13,358.98	\$13,759.75	\$14,172.54		
		\$62.67	\$64.55	\$66.48	\$68.48	\$70.53	\$72.65	\$74.83	\$77.07	\$79.38	\$81.76		

**ADDENDUM K
2022 Salary Schedule
Non-Represented Positions**

Non-Represented Positions with 3.5% COLA

3% Between Steps and Ranges	Base Annual
3.5% COLA	Base Monthly
Increase effective 1-1-2022	Base Hourly Rate

4%	Position (+Step Placement)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Range 31	Assistant Fire Chief (S-10) *this was changed per Mike to 33	\$97,693.36	\$100,624.16	\$103,642.89	\$106,752.17	\$109,954.74	\$113,253.38	\$116,650.98	\$120,150.51	\$123,755.03	\$127,467.68
		\$8,141.11	\$8,385.35	\$8,636.91	\$8,896.01	\$9,162.89	\$9,437.78	\$9,720.92	\$10,012.54	\$10,312.92	\$10,622.31
		\$46.97	\$48.38	\$49.83	\$51.32	\$52.86	\$54.45	\$56.08	\$57.76	\$59.50	\$61.28
Range 36	Fire Chief (S-10), Police Chief (S-8)	\$113,253.38	\$116,650.99	\$120,150.52	\$123,755.03	\$127,467.68	\$131,291.71	\$135,230.46	\$139,287.38	\$143,466.00	\$147,769.98
		\$9,437.78	\$9,720.92	\$10,012.54	\$10,312.92	\$10,622.31	\$10,940.98	\$11,269.21	\$11,607.28	\$11,955.50	\$12,314.16
		\$54.45	\$56.08	\$57.76	\$59.50	\$61.28	\$63.12	\$65.01	\$66.97	\$68.97	\$71.04

Non-Represented Positions with 7% COLA

3% Between Steps and Ranges	Base Annual
7% COLA	Base Monthly
Increase effective 1-1-2022	Base Hourly Rate

4%	Position (+Step Placement)	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Range 11	Parks Maintenance Worker (S-10) *(See chart)	\$55,516.31	\$57,181.78	\$58,897.21	\$60,664.12	\$62,484.06	\$64,358.57	\$66,289.32	\$68,278.11	\$70,326.35	\$72,436.22
		\$4,626.36	\$4,765.15	\$4,908.10	\$5,055.34	\$5,207.01	\$5,363.21	\$5,524.11	\$5,689.84	\$5,860.53	\$6,036.35
		\$26.69	\$27.49	\$28.32	\$29.17	\$30.04	\$30.94	\$31.87	\$32.83	\$33.81	\$34.83

Non-Represented Longevity Pay Policy AD-24, approved Aug. 20, 2018	
\$40.00/mo. beginning 6th year.	
Additional \$6.00/ mo. for each year after six. *	
Amount / mo.	Beginning "n" th year of employment...
\$40.00	6th year
\$46.00	7th year
\$52.00	8th year
\$58.00	9th year
\$64.00	10th year
\$70.00	11th year
\$76.00	12th year
\$82.00	13th year
\$88.00	14th year
\$94.00	15th year
\$100.00	16th year
\$106.00	17th year
\$112.00	18th year
\$118.00	19th year
\$124.00	20th year
\$130.00	21st year
\$136.00	22nd year
\$142.00	23rd year
\$148.00	24th year
\$154.00	25th year
\$160.00	26th year
\$166.00	27th year
\$172.00	28th year
\$178.00	29th year
\$184.00	30th year
\$190.00	31st year
\$196.00	32nd year
\$202.00	33rd year
\$208.00	34th year
\$214.00	35th year**
*Until end of continuous of employment with the City.	
**No current employee exceeds 35 yrs.	

Non-Represented Employees Longevity Compensation as of 11/30/2021*		
Range	Position	Amount / mo.
9	Parks Administrative Assistant	\$136.00
10	Computer Support Technician	\$0.00
11	Parks Maint. Worker [A]	\$136.00
11	Parks Maint. Worker [B]	\$100.00
11	Parks Maint. Worker [C]	\$94.00
11	Parks Maint. Worker [D]	\$70.00
12	GIS Analyst	\$40.00
15	Street/Utility Technician	\$106.00
20	Building Official	\$0.00
21	City Clerk	\$58.00
24	Network Administrator	\$82.00
24	Human Resources Manager	\$0.00
25	PW Program Manager	\$136.00
27	Parks & Recreation Director	\$0.00
28	Planning & Community Dev. Dir.	\$0.00
31	Asst Fire Chief	\$0.00
31	Finance Director	\$0.00
32	Public Works Director	\$67.00
36	Fire Chief	\$0.00
36	Police Chief**	\$0.00
38	City Administrator	\$0.00
*Longevity increases in month of employee anniversary date.		

Non-Represented Employees Other Compensation as of 1/1/2022			
Range	Position	Type	Amount / mo.
36	Fire Chief**	Deferred Comp.	\$741.24
38	City Administrator	Car Allowance	\$300.00
	Mayor	Car Allowance	\$300.00
**Fire Chief Deferred Comp. is social security replacement (6.2%).			

Non-Represented Positions Annual Clothing Allowance as of 1/1/2022		
Range	Position	Amount / year
11	Parks Maintenance Worker	\$450
15	Street Utility Technician	\$450
20	Building Official	\$450
25	PW Program Manager	\$450
32	Assistant Fire Chief	Per Quartermaster
36	Fire Chief	Per Quartermaster
36	Police Chief	\$1,200

Range	Park Employees - 2020 Steps	STEP
11	Parks Maint. Worker [A]	10
11	Parks Maint. Worker [B]	10
11	Parks Maint. Worker [C]	10
11	Parks Maint. Worker [D]	10

CITY OF LYNDEN

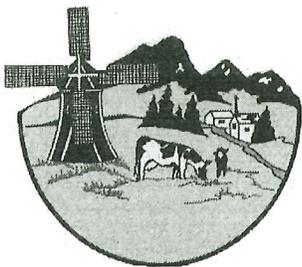


EXECUTIVE SUMMARY

Meeting Date:	December 6, 2021	
Name of Agenda Item:	Lynden Automotive Conditional Use Permit 21-04	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
Planning Commission Resolution 21-04, Final Staff Report and Recommendations, Technical Review Committee Report and Applicant Response, Conditional Use Permit Application 21-04		
Summary Statement:		
<p>Conditional Use Permit 21-04 is a request to allow</p> <p>The application came before the Planning Commission as a virtual open public hearing on November 18, 2021. The resulting resolution recommended approval but confirmed specific conditions that were assembled by staff from all city departments during the Technical Review process. The result would permit the use of auto mechanic services at the subject location but under specific conditions that designate where vehicles could be parked during the repair process, would require screening of the parking area, as well as addressing any stormwater discharge concerns.</p> <p>Due to previous code violations and the existing condition of the site, staff and the Planning Commission recommended that the Conditional Use Permit be reviewed for compliance after six months.</p> <p>The Planning Commission Resolution and staff review documents are attached for Council review.</p>		
Recommended Action:		
Motion to approve Conditional Use Permit 21-04 per the conditions listed in Planning Commission Resolution 21-10, authorizing the commercial use of auto mechanic services at Lynden Automotive located at 8894 Bender Road. This motion also authorizes the mayor's signature on the associated Findings of Fact and Conclusion of Law.		



Meeting Date:	November 18, 2021
Name of Agenda Item:	CUP #21-04 Lynden Automotive, Bender Road, Lynden
Type of Hearing:	Public Hearing: Conditional Use Permit
Attachments:	
<ul style="list-style-type: none"> • Lynden Automotive CUP Application • Parcel Map and Landscape Buffer • Technical Review Committee (TRC) Staff Report and Recommendation, dated November 12, 2021 • Memo to City Prosecutor regarding zoning violation • Lynden Automotive Violation Photos 	
Summary Statement:	
<p>Lynden Automotive Specialists, located at 8894 Bender Road, is seeking a Conditional Use Permit for a full-service auto repair shop in the CSL zone (Bender Plaza) in Lynden.</p> <p>See the attached Nov 12, 2021 Technical Review Committee Staff Report and Recommendation for a detailed overview of the proposal.</p>	
Recommended Action:	
<p>Motion to recommend to the City Council the approval of the Conditional Use Permit (CUP #21-04 Lynden Automotive) subject to specific conditions as listed in the Section VII of the November 12, 2021 TRC Staff Report.</p>	



City of Lynden RECEIVED

Conditional Use Permit Application

SEP 07 2021

City of Lynden
Planning Department

General Information:

Property Owner

Name: GERARDO MORADO
 Address: 8894 BENDER ROAD LYNDEN, WA 98264
 Telephone Number: (360) 927-1360 Fax Number: _____
 E-mail Address: gmorado@gmail.com

Applicant (Agent, Land Surveyor or Engineer)

Name: LYNDEN Automotive Specialists LLC
 Address: 8894 Bender Road Lynden, WA 98264
 Telephone Number: (360) 927-1360 Fax Number: _____
 E-mail Address: gmorado@gmail.com

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

Property Information

Project Location (street address / block range): 8894 Bender Road
 Legal Description (attach if necessary): Lot A Bender Playa SP.
 Assessor's Parcel Number: _____ Zoning Designation: CSR
 Parcel Square Footage: 54,101 Property Dimensions: -
 Applicable Sub-Area: - Building/Structure Size: _____
 Height of Structure: existing Addition Size: _____

Please describe request in detail: CUP Criteria must be attached

Facility to be used as an Auto Repair Shop.
Facility is intended to be used as full Service shop,
like previous business of 15 years. Auto Repair and more.

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

SUBMITTED BY: [Signature] DATE: 9/1/2021
 PROPERTY OWNER SIGNATURE: _____ DATE: _____
 PROPERTY OWNER PRINTED NAME: Mike Morady DATE: 9/1/2021

CUP# _____

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

FEE'S (CONDITIONAL USE PERMIT \$400.00 BASE FEE OR FINAL REVIEW COST) DATE PAID: 9/3/2021 RECEIPT # _____

SEP 07 2021

CITY OF LYNDEN

City of Lynden
Planning DepartmentCONDITIONAL USE PERMIT
CRITERIA WORKSHEET

A Conditional Use Permit (CUP) will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.

Please describe the proposed use. Relevant information may include hours of operation, parking requirements, anticipated traffic to the site, and how the site will be developed and used. Attach additional information and plans as needed.

Automotive General Auto-Repair Facility.

9-5 M-F by App^r SAT. Closed Sunday and Holidays.

Parking will be hidden by creating a natural privacy hedge around back of building. Traffic has constant flow around shell.

Respond to each of the criteria below with the specifics of the proposed use in mind. (per LMC 19.49) Identify nearby streets and the uses surrounding the site.

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

IT WILL NOT BE, will be contained to leased property.

2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:

- a. Traffic and pedestrian circulation;

The flow of traffic is fine, our vehicles are in no way blocking traffic or traffic flow.

- b. Noise, smoke, fumes, glare or odors generated by the proposed use;

Noise is consistent w/ existing approved CUP, for a Lube service center loudest equipment is stationary and same unit as last 15 years.

- c. Building and site design; and

No changes.

- d. The physical characteristics of the subject property.

No changes, all same as previous Tenant/Business

CITY OF LYNDEN

CONDITIONAL USE PERMIT CRITERIA WORKSHEET CONTINUED



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

We do not require additional public facilities or services.

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

Our building is separate from shell and surrounding areas and will not block services to other business.

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.

We are working with Planning Dept. to create a privacy area for our North Parking Lot.

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.

Yes there is.

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

No changes to be made.

8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

Yes it will be.

September 1, 2021

Dave Timmer
City of Lynden Planning Department
300 4th Street
Lynden, WA 98264

Dear Dave Timmer,

I have submitted the CUP as you requested, in your letter dated March 19th, 2021 you mentioned that a quick lube service center located previously in this building before was a permitted CSL.

We are requesting the Conditional Use Permit for the following business Lynden Automotive Specialists LLC to allow for work in General Auto Repair. We are a Full Service shop above and beyond the Quick Lube oil change shop. The Building has two bays, 1 is intended as a quick lube, but the other is intended with the lift as a full service auto repair bay. This building has been used as a full service Auto Repair Shop for over 15 years previously to us leasing it in January of 2021.

Please consider our application for this Conditional Use Permit at our location 8894 Bender Road, Lynden, WA 98264.

I would like to request a copy of that permit application and paperwork associated with that approval.

I would also like to know who I contact in order to strike that Court date on the 8th of September. If you could email me back or give me a call that would be great.

Gerardo Morado

Lynden Automotive Specialists LLC
gmorado@gmail.com
360 927 1360

CITY OF LYNDEN



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

Planning Department Memorandum

To: Greg Greenan, Prosecuting Attorney
CC: Bob Carmichael, City Attorney, Rick Johal, Code Enforcement Officer
From: Dave Timmer, City Planner
Date: July 26, 2021
Re: Zoning Code violation – 8894 Bender Rd (Lynden Automotive Specialists)

Greg,

Earlier this year, the Planning Department initiated a zone violation process with Lynden Automotive Specialists, LLC located in Bender Plaza at 8894 Bender Road. This is in the CSL zone and part of the Bender Plaza commercial center. The property is owned by McEvoy Brothers Petroleum, Inc and contains a typical Shell gas station (convenience store) and a building which previously was a typical quick lube service station.

The current business, Lynden Automotive Specialists, is a full-service auto repair shop. The permitted uses table in LMC 19.23.020 states “Automotive support services such as auto repair” requires a Conditional Use Permit in the CSL zone. Lynden Automotive Specialists does not have a Conditional Use Permit for their business in this location.

Below is a record of contact:

- January 28, 2021: Code Enforcement Officer records the presence of several vehicles being stored in the parking lot around the business. The vehicles were in various stages of disrepair (body damage, no license plates, expired tabs). The record also indicates an accumulation of miscellaneous debris on the property (garbage bags being stored in a makeshift trailer).
- March 19, 2021: The Planning Department issued an initial violation letter to the business regarding the stored vehicles on the property and operation of an auto repair business without a Conditional Use Permit (letter attached).
 - March 25, 2021: Property owner (one of the McEvoy brothers) called the Planning Department to discuss the situation. He did not indicate much interest in initiating the Conditional Use Permit process but stated they would work on removing the stored vehicles from the property.

CITY OF LYNDEN

PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532



- June 17, 2021: Planning staff visually inspected the property to see if any progress had been made on the stored vehicles. No progress had been made, two storage containers had been added in the parking area behind the building, and drainage from the shop (possibly from detailing/car washing) was observed washing into the stormwater system into the drain behind the building. Construction as-builts of the stormwater system on the property indicate this drain not being connected to the property's oil/water separator system. Public Works staff then made contact with the business to inquire about the stormwater inputs. The conversation was not well received by the business owner.
- June 18, 2021: Planning issued a second follow-up letter (attached) addressed to the property owner and cc'd to the business stating that no progress has been made. It stated that after 30 days, a follow-up inspection would occur the week of July 19 and further action will be turned over to the City Prosecutor.
 - June 24, 2021: Staff received a call from the property owner (a different McEvoy brother than the first time). He was agitated and not pleased with the City's action. Claimed the business is not an Auto Repair Shop.
 - July 1, 2021: Staff spoke with the spouse of Mr Morado (business owner) about the letters. She was also not pleased with the City's action in this case. Claimed the City is racially targeting and harassing this business owner.
 - July 15, 2021: Staff received a voicemail from Jeff Leghorn, lawyer in Blaine, representing Lynden Automotive Specialists stating he would be responding to the letters for his client.
- July 26, 2021: Code Enforcement Officer performs follow-up of property condition since the 2nd violation letter. Zero progress has been made. Junk cars being stored on property (including the same ones identified in the January 28 initial report). Two storage containers in parking spots behind the building. Drainage from vehicle washing/detailing washing into stormwater drain. Garbage bags, vehicle parts, are being stored outside around the building.

Staff understands the business is doing well at this location. Unfortunately, the level of impact associated with this business exceeds the ability of the property to handle it. The CSL zone, where the business is located, requires a Conditional Use Permit (CUP) for this type of business. A CUP would attempt to address the impacts associated with this use. The CSR zone in the city allows this use without a CUP.

CITY OF LYNDEN

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



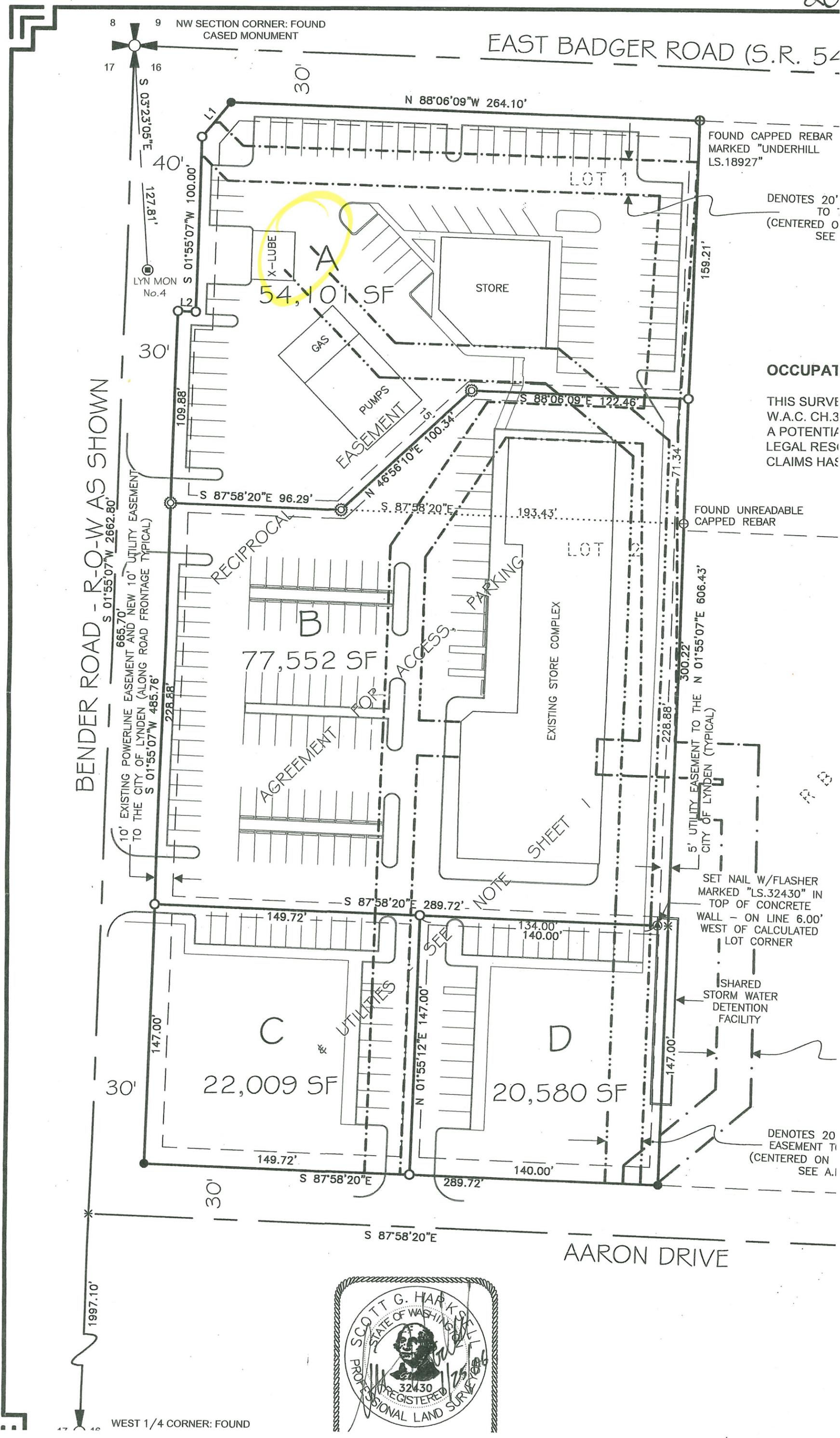
I have attached the supporting documentation. Please let me know if you have questions.

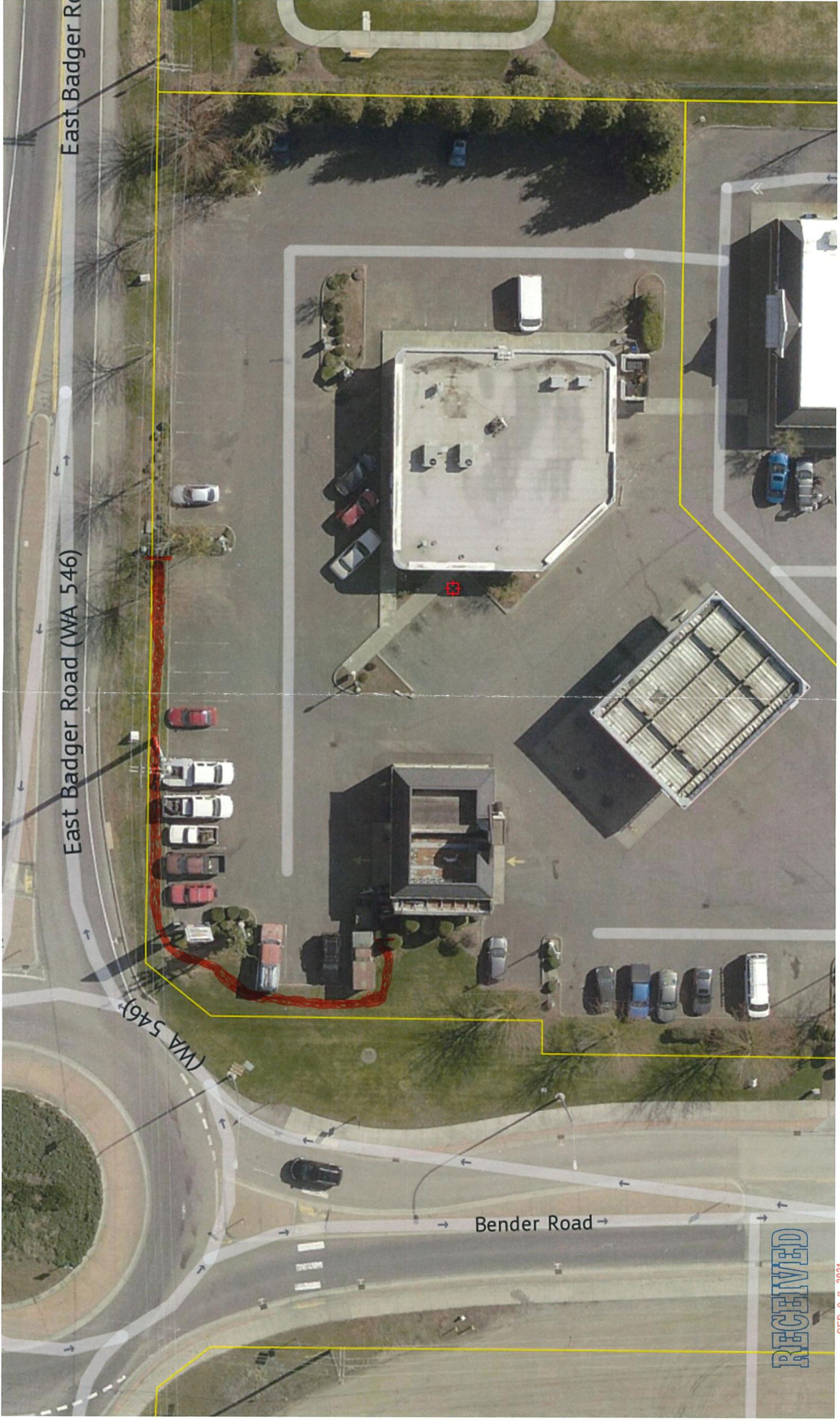
Sincerely,

A handwritten signature in black ink, appearing to read 'Dave Timmer', is written over a light yellow rectangular background.

Dave Timmer

City Planner
City of Lynden





150 Ft
Hedges

Center 2
Center
3 Ft Apart

*3-4 FT
TALL
STARTERS

LADDER
+ PLANTS
"Emerald
Greens"

+ Rental
Equipment
Aug 8 / Dingo

\$3,150
to
\$3,500
+ TAX

Grow Approx
1 Ft per year
up. can keep
trimmed
easily under
8 FT.

SEP 07 2021

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE
Conditional Use Permit Application

November 12, 2021

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

Re: The application of Gerardo Morado, Lynden Automotive Specialists LLC, for a Conditional Use Permit Application.

CUP #21-04 Lynden Automotive
FINDINGS, CONCLUSIONS, AND
RECOMMENDATION

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: The request is for a conditional use permit which would allow an automobile repair shop in an existing commercial building within the CSL zone.

Recommendation: Staff recommends the use subject to very specific conditions of approval through the Conditional Use Permit.

II. PRELIMINARY INFORMATION

Applicant: Gerardo Morado

Property Owner: Mac's Stores Inc

Property Location: 8894 Bender Road, Lynden

Parcel Number: 4003160185540000

Legal Description: LOT A BENDER PLAZA SHORT PLAT, RECORDED UNDER AUDITOR'S FILE NO. 2060801211, RECORDS OF WHATCOM COUNTY, WASHINGTON.

<u>Notice Information:</u>	Application Submitted:	September 7, 2021
	Notice of Application:	November 3, 2021
	Notice of SEPA determination:	N/A
	Notice of Hearing:	November 3, 2021
	Comment Period Ending:	November 17, 2021

SEPA Review: N/A

Lynden Automotive Conditional Use Permit – TRC Report

Authorizing Codes, Policies, and Plans:

- LMC Chapter 17 Land Development
 - LMC Chapter 17.01.030 Definitions
 - LMC Chapter 17.09, Review and Approval Process
 - LMC Chapter 17.09.040, Planning Commission Review and Recommendation
- LMC Chapter 19 Zoning Code
 - LMC Chapter 19.23.020(11) Permitted Commercial Uses
 - LMC Chapter 19.35 Nonconforming Uses
 - LMC Chapter 19.49, Conditional Use Permits
 - LMC Chapter 19.49.020, Standards and Criteria for Granting a Conditional Use Permit
 - LMC Chapter 19.51 Off-street Parking
- International Building Code
- City of Lynden Manual for Engineering Design and Development Standards

III. PROJECT DESCRIPTION

The subject property is located at 8894 Bender Road, on the north parcel of Bender Plaza. The building being used as an auto repair shop was originally designed as a quick lube oil change shop. This type of business is not explicitly listed in the City’s commercial code (LMC 19.23.020), but the use is considered permitted similarly to a fuel station where vehicles are in and out and the customer moves on. The business changed ownership since it was built and the current business is a full-service auto repair. As such, vehicles in various stages of repair are on the premise for considerable periods of time. A full-service auto repair shop requires a Conditional Use Permit in the CSL zone.

Earlier this year, the City initiated a zoning violation process with the business. This was in response to complaints about the number of inoperable vehicles being parked around the property, miscellaneous debris being stored outside of the building, and concerns about what is being poured down the storm drainage system. A compliance option listed for the owner was to submit a Conditional Use Permit application for the business. The owner has not addressed the impacts that originally warranted the violation but submitted a CUP application prior to their scheduled court appearance. For reference, the memo to the City Prosecutor that explains the violation is attached.

Lynden Automotive Conditional Use Permit – TRC Report

The current request is for a Conditional Use Permit (CUP) to allow the continued use of the site for motor vehicle services (full service automotive repair). The property use, currently, is considered to be non-compliant as there is no CUP associated with the property that allows motor vehicle services on site as required within the Local Commercial Services zone (CSL).

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on October 6, 2021.

Notice of SEPA determination: Formal notice of the SEPA Determination (MDNS) was published in the Lynden Tribune on September 22, 2021 and mailed to neighbors within 300 ft of the property. The comment period for the SEPA determination expired on August 4, 2021.

Public Comment Received:

No written public comments were submitted in response to this Conditional Use Permit application or the SEPA notice.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

The application is reviewed in accordance with the LMC 19.49.020 and the criteria listed for land use application review in LMC 17.09.040(C) “Planning Commission Review and Recommendation; Required Findings”.

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

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

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to

Lynden Automotive Conditional Use Permit – TRC Report

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.
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

Lynden Automotive Conditional Use Permit – TRC Report

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning and Development Department

- *CUP Criteria:* Staff acknowledges that the applicant has provided responses to LMC Chapter 19.49 regarding standards and criteria for granting a Conditional Use Permit. The applicant's responses are attached to the submitted application.
 - Several of the criteria will need to be further addressed through required conditions if the CUP is to be approved. Condition recommendations are included below in Section VII.
 - Several times the applicant states they are maintaining the same use as the previous owner. It is possible the previous owner was operating a full-service auto shop without a CUP. If so, they were able to do so under the radar. The current use of the property - with numerous inoperable vehicles stored in the parking lot, the miscellaneous debris stored outside around the building, and documented wastewater entering the storm drain, it is no longer under the radar. At a minimum, the current use requires a CUP to mitigate these impacts.
- *Site Plan, Vehicle storage, Parking, and Landscape Buffer:* Applicant must submit a site plan, prior to final CUP approval, that addresses:
 - *Vehicle Storage:* There is not room for a designated vehicle storage area separate from the already existing parking spots. Applicant must identify which parking spaces will be used for auto storage while they are being worked on. No overnight vehicle storage shall occur forward (south) of the building.
 - *Parking Plan:* The site plan shall ensure that code parking requirements (LMC 19.51) are met for both Lynden Automotive (minus any spots being used as vehicle storage areas) and the Shell Station and convenience store.
 - A landscape buffer shall be approved to screen and improve the aesthetic appearance of the site. Vehicle storage area must be screened. The applicant has initially provided information which indicates that a row of Excelsa Cedar will be used as a hedge along Bender Road and Badger Road.
- *Miscellaneous Debris and Storage Containers:* Storage containers are not permitted on the property, except for during temporary construction projects. There shall be no outside storage of miscellaneous debris associated with the business (engine and/or vehicle parts, garbage, tires, tools, buckets, etc).

Lynden Automotive Conditional Use Permit – TRC Report

Public Works Department

- *Stormwater Infrastructure:* Utility As-builts indicate the rear storm drain flows to the eastern detention basin and does not include an oil/water separator or appropriate filtration for vehicle washing or wastewater associated with auto repair. A full stormwater review and report is required prior to full approval. The report must include BMPs for the site that meet Dept of Ecology Standards. Upgrades may be required.

Fire Department

- Two chapters (23 & 57) from the IFC apply to an auto repair shop. Additional attention regarding parts cleaning dip tanks and flammable liquid storage and disposal should be addressed. The proposal should also address mitigation and extinguishment capabilities for these operations.

Parks Department

- No comments on this application.

VII. RECOMMENDATION

Based on the above findings, Staff recommends approval of the Conditional Use Permit subject to the following conditions:

- 1) Vehicle storage areas require screening to reduce the impacts of a full-service mechanic shop.
- 2) Install landscape buffer that includes hedging, groundcover along street frontage to provide community privacy and visual screening. Landscape material to meet applicable size and quality standards described in LMC 19.61. Streetscape plan developed with staff (attached) to be considered the minimum standard for street buffering.
- 3) Full stormwater review and report is required. The use on site generates illicit discharge and will require an oil water separator and separate containment to handle run off from the vehicles under repair. The stormwater report should be submitted within 3 months of CUP recommendation. Installation of any necessary stormwater improvements shall be completed prior to continuing use of the system for car washing and automotive repairs.

Lynden Automotive Conditional Use Permit – TRC Report

- 4) This Conditional Use Permit will be limited to a maximum of 10 vehicles under repair at any one time. Parking plan is required.
- 5) Removal of all storage containers from the site.
- 6) All trash and debris must be adequately contained and removed from site on a regular basis.
- 7) There shall be no outside storage of materials, parts or associated equipment at any time.
- 8) This Conditional Use Permit will be subject to a 6-month probationary period to ensure compliance. Non-compliance will result in legal action and fines or the revocation of the CUP.
- 9) The requirements and conditions listed by the Technical Review Committee in Section VI of this report are included in this recommendation.
- 10) Issuance of this Conditional Use Permit does not release the applicant from any other Local, State, or Federal statutes or regulations applicable to the proposed use.









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CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #21-10

**A resolution of recommendation for the approval of
Conditional Use Permit 21-04, Lynden Automotive**

WHEREAS, Gerardo Morado hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," for a conditional use permit to allow an automobile repair shop in an existing commercial building within the CSL zone.

WHEREAS, the application was determined to be complete on October 1, 2021, and the notice of application was published in the Lynden Tribune on November 3, 2021; and

WHEREAS, the Proponent has provided the City with receipts for the certified mailing of all required notices to all property owners within three hundred feet of the subject property together with the affidavits of posting said notices; and

WHEREAS, the Lynden Planning Commission held a virtual public hearing on November 18, 2021, to accept public testimony on the proposed conditional use permit request, and that meeting was duly recorded;

WHEREAS, the City's Technical Review Committee has reviewed the request for the conditional use permit and has provided comments and recommendations to the Planning Commission in a report dated November 12, 2021,

WHEREAS, the Lynden Planning Commission has reviewed the conditional use permit request and has found that the application meets the criteria for granting a conditional use permit under Chapter 19.49.020 of the Lynden Municipal Code.

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design;
 - d. The physical characteristics of the subject property
3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

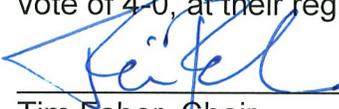
WHEREAS, the Lynden Planning Commission has reviewed the conditional use permit request and has found that the application also meets the criteria for granting a conditional use permit under Chapter 19.49.040 of the Lynden Municipal Code.

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.
3. The development adequately mitigates impacts identified under Titles 16 through 19.
4. The development is beneficial to the public health, safety and welfare and is in the public interest.
5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development, and in conformance with all requirements in Chapter 17.15 of the city code. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.
6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.

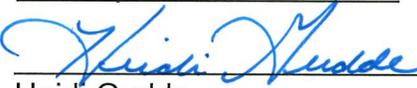
NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 4-0, to the Lynden City Council, of Conditional Use Permit #21-04, Lynden Automotive, subject to the Technical Review Report dated November 12, 2021, *with the following clarifications:*

- 1. Submission of the stormwater report must be done within 3 months but may be granted a 1-month extension if the applicant demonstrates steps toward compliance.
- 2. The proposed landscape screen, specifically, is a Type 3 landscape buffer and installed within 30 days of Council decision.
- 3. The 10 vehicles, temporary parked while under repair, must have current license and registration.
- 4. The 10 stalls used for vehicles under repair must be located in the northwest corner of the site and not south of the subject business.
- 5. Removal of storage containers from the site shall be permanent.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 4-0, at their regular meeting held on the 18th day of November 2021.



Tim Faber, Chair
Lynden Planning Commission



Heidi Gudde
Planning Director



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

COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

4:00 PM November 17, 2021

1. ROLL CALL

Council Members: Gary Bode, Brent Lenssen, Mayor Scott Korthuis

Staff: John Williams, Dave Timmer, Heidi Gudde

Chamber of Commerce: Gary Vis (joined last half of meeting)

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting Minutes of 9/22/21 approved as presented.

3. DISCUSSION ITEMS

- a. Introduction to a Prohibition of Public Camping in Public Spaces: Legal Framework and Potential Next Steps

John Williams gave an introduction to the topic. He noted that initial discussion on this issue had occurred at the Parks Committee and will be going to the Public Safety Committee at the beginning of December. Discussion was initiated because of a concern related to the potential of overnight camping / sleeping on City spaces and the City’s ability to regulate these activities.

Williams recommended that an ordinance begin with some basics such as defining camping as well as camping paraphernalia. Other cities have helpful ordinances that we can model, and case law gives us guidance as well.

The Committee and staff discussed the use of park rules as a tool to regulate activities include a provision on camping. Parks hours of operation become key in order to limit overnight use of the parks. This gives some flexibility for folks to use tents during the day for example, for sporting events, but would prevent overnight stays.

Parks closing at dusk raised the question about trail use after dusk. Williams noted that some park rules / ordinances make provisions for the actively use of the trail (as it runs through the park) for its intent can be included so that trail use and even park use of lighted areas could continue after dusk.

Noting special events – such as camping during the Tractor Club event – could include camping for a specific amount of time.

While Parks can utilize and adopted set of rules, other public spaces will also need to be addressed. And, of note, camping prohibitions have not been supported by the courts unless other sheltering options are available.

The Committee discussed the option of partnering with non-profits and the Health Department to develop a plan. This may need to include provisions which would provide transportation to those in need of sheltering and also a location for the City to store camping paraphernalia that may be collected from public spaces during the enforcement of a camping prohibition.

Mayor recommends getting an ordinance in place as soon as possible which covers the basics. Reach out to the Lighthouse Mission to be the sheltering option.

Next Steps:

- Draft an ordinance that defines camping, camping paraphernalia and prohibitions of camping.
- Potentially amend the Master Parks Plan to comprehensively define the areas considered parks (funding source for those properties are a consideration before they can be called a park).
- Policy to address homelessness should be in place. Transportation provisions or storage of personal items should be included in this policy.

b. Land Use Projects Map

General discussion of ongoing projects and especially those along the edge of the flood plain.

c. Additional Topics:

- Adjacent short plats versus long plats. Potential revision to code to clarify when a long plat might be triggered.
- Street widths, on-street parking, and cul-de-sacs discussed. Currently the Public Works Director makes the determination as to the standard required when code does not otherwise stipulate. Gudde noted that revisions related to street standards could potentially be added to the upcoming change to the Engineering Design Standards set to go before Council on December 6. The potential revision to Engineering Design Standards discussed additional clarifications / parameters to:

1. When private streets can be used and

2. When hammer heads can be used rather than a cul-de-sac.
- Lenssen raised a new issue related to the construction of multi-family housing and a potential moratorium on additional multi-family housing. Concerns related to parking and to mixed used concepts within the CSL which may not be functioning as well as hoped. Of note is the corner property located at Bay Lyn Drive and Guide Meridian as well as the potential annexation area in west Lynden. Suggested next steps:
 1. Code revision on the commercial and multi-family section of code related to the mixed-use provisions.
 2. Evaluate Census data to determine the status of multi-family ratio to the single-family ratio as set in the City's comprehensive plan.
 3. Review provisions related to CSL and the intent of the code as it relates to mixed use.
 4. Define mini-storage and storage in general where its permitted.

Next Meeting Date: December 22, 2021 unless moved to an earlier date to avoid conflicts with Christmas holiday activities.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	PRD Amendment – RB Development-Parkview Apartments	
Section of Agenda:	New Business	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Planning Commission Resolution 21-11, Proposed Development Contract with Planning Commission redlines including the Exhibit of <u>City Council Findings of Fact and Conclusions of Law</u> , Proposed CCRs.		
Summary Statement:		
<p>Lynden Municipal Code (LMC) 19.29.100, describes the approval of Planned Residential Developments (PRD). It calls for the review of the final PRD and CCR document by the City’s Planning Commission and City Council. Review is intended to ensure consistency with the approved PRD, or in this case, a PRD Amendment.</p> <p>As you may recall, the RB Development Heritage Park PRD was created in the early 1990s. In late 2019 one of the property owners within this development approached the City to request an amendment to the PRD so that additional 41 senior housing units could be added to the site of the Parkview Apartments. The additional unit count was within the previously approved maximum unit count for the overall PRD.</p> <p>The amendment to the RB Development PRD was approved by Council on April 20, 2020. The resulting Findings of Fact and Conclusions of Law as well as the Planning Commission Resolution and staff’s findings are included in the documents as exhibit B of the PRD Agreement.</p> <p>The Council has been asked to review these documents for consistency with the approval granted in April of 2020. No additional proposals or amendments are before the Council at this time.</p>		
Recommended Action:		
Motion to approve the Development Contract for the Parkview West Apartments, an amendment to the RB Development and Heritage Park PRD as well as the proposed Covenants, Conditions and Restrictions for RB Development.		

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #21-11

A resolution of recommendation for the approval of the Development Contract for the Parkview West Apartments, an amendment to the RB Development and Heritage Park PRD as well as the Covenants, Conditions and Restrictions for RB Development

WHEREAS, Pacific Surveying and Engineering, Inc. hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called "the City," Requesting to amend the RB Development / Heritage Park PRD to allow a building expansion that includes an age-restricted senior housing facility.

WHEREAS, In order to ensure consistency with the approved PRD/PRDa, Chapter 19.29 of the Lynden Municipal Code (LMC) calls for the review of the final PRD and CCR documents by the City's Planning Commission and City Council. Review.

WHEREAS, the Lynden Planning Commission held a virtual meeting on November 18, 2021, to review the final PRD documents as required by code, and that meeting was duly recorded;

WHEREAS, the Lynden Planning Commission has reviewed the Development Contract for the Parkview West Apartments, an amendment to the RB Development and Heritage Park PRD as well as the Covenants, Conditions and Restrictions for RB Development and has recommend approval to the City Council.

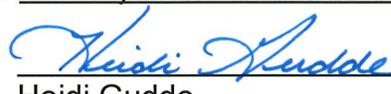
NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 4-0, to the Lynden City Council, of the Development Contract for the Parkview West Apartments, an amendment to the RB Development and Heritage Park PRD as well as the Covenants, Conditions and Restrictions for RB Development *subject to the following modifications:*

- Table 1. Original Parkview West PRD Requirements should note RB Development Apartments, not Parkview West Apartments.
- Table 2. Amended Parkview West PRD Requirements should be corrected from RB Development Apartments to Parkview West Apartments.
- Page 6 of the Development Agreement, third paragraph after the tables. The front setback along (Aaron Drive) should be 20-feet not 15-feet.
- That parking stall striping and labeling must be in place prior to building occupancy and the requirement be noted on permit plan sets.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, by a vote of 4-0, at their regular meeting held on the 18th day of November 2021.



Tim Faber, Chair
Lynden Planning Commission



Heidi Gudde
Planning Director

FILED FOR AND RECORDED AT REQUEST OF AND RETURN ORIGINAL TO:

STARKENBURG-KROONTJE

Attorney at Law, P.S.

PO Box 231

Lynden, WA 98264

(360) 354-7822

REFERENCED DOCUMENT: AF# 941227078

TITLE OF THIS DOCUMENT: Parkview West Apartments Amendment to RB Development and Heritage Park Development Contract

GRANTOR(S):

- 1. Aaron Drive Properties LLC

GRANTEE(S):

- 1. The General Public

LEGAL DESCRIPTION: Full legal description found on Exhibit A, page 13.

Abbreviated:

- 1. Lot 4, RB Development, Div. No. 1

ASSESSOR'S PARCEL NUMBER(S):

- 1. 400316 049520 0000

Parkview West Apartments Amendment to RB Development and Heritage Park Development Contract

This Amendment to RB Development and Heritage Park Development Contract, PRD Amendment #19-01, ("Amendment") is made this ____ day of _____, 20____, by AARON DRIVE PROPERTIES LLC, a Washington limited liability company (hereinafter called "Owner" or "Developer").

This Amendment shall modify the original Development Contract (PRD #94-1), dated December 22, 1994 and recorded under Whatcom County Auditor File No. 941227078, as amended, as it relates to the development of Parkview West Apartments which shall be located on the real property legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"). The original Development Contract and all amendments thereto shall continue in full force and effect to the extent they do not conflict with this Amendment. This Amendment shall be submitted to the City of Lynden (hereinafter called "Lynden" or "City") for approval.

1. PRD #94-1 History

The RB Development PRD was originally approved in 1994. It encompassed 29.1 acres of property located between Badger Road and Aaron Drive and stretched from Bender Road to Vinup Road.

The development was planned to accommodate apartments, an assisted care facility (Lynden Manor), town home units, and 4-plex condominiums for a total of up to 437 units. Since its original approval in 1994 the PRD was amended a number of times. Amendments addressed a variety of issues including the inclusion of the Christian Healthcare Center rather than apartments, fencing, street construction, setback revisions, height limit revisions, and changes to the Conditions Covenants and Restrictions (CC&R's).

A summary of the past amendments to the original PRD Contract is as follows:

- a. **Amendment A1, PRD Contract 94-1. Split Rail Fencing.** Amendment A1 called for a construction change from six-foot chain link fencing along the east side of Fishtrap Creek Riparian Zone on the property to split rail fencing for aesthetic purposes.

- b. **Amendment A2, PRD Contract 94-1. Rolled Curb Construction.** Amendment A2 requested rolled-curbs in place of standard curb construction on the James Circle cul-de-sac to avoid numerous curb cuts, as many driveways were proposed for the area. The amendment was approved with the following conditions:
 - 1. That Aaron Drive be constructed with a three-foot grass planter strip.
 - 2. That no roll-type curbs be allowed on Aaron Drive.
 - 3. The roll-type curbs be permitted only on the outside perimeter of the James Circle cul-de-sac.

- c. **Amendment B1, PRD Contract 94-1. Reduced Apartment Setbacks.** Amendment B1 asked for reduced setback requirements for the apartment complex area. The request called for a reduction in the open space requirement for the apartment area to a minimum of 30%, reflecting the need for more impervious surface space as the height of the apartment complex was reduced to two stories. This request entailed reducing setbacks between apartment lots from 45' to 25', reducing interior setbacks for rear yards to 25', and side yards to 10'.

Amendment B1 was approved on the condition that the building be no more than 30 units and not more than two stories, and subject to the following recommendations of the Technical Review Committee:

- 1. The perimeter setbacks between Lots 3, 2, 'A', and 'B' would be reduced to 25 feet on Lots 3 and 'A', and the open space requirement on Lots 3 and 'A' be reduced to 35% on the condition that the individual buildings on those lots did not exceed two stories or 30 units.
 - 2. The interior setbacks on the same lot would be reduced for Lots 3, 4, 'A', and 'B', as followed: Rear yard = 25 feet, Side yard = 10 feet, on the condition that the individual buildings on those lots did not exceed two stores or thirty units. (TRC Report, 9/3/96)
-
- d. **Amendment B2, PRD Contract 94-1. Construction of Gazebo.** RB Development's request to amend PRD Contract #94-01 to allow the construction of a gazebo in the front yard setback area for Lot C.

e. **Amendment C1, PRD Contract 94-1. *Reduced Creek Setbacks.*** Amendment C1 amended the Shoreline Permit and Contract for a reduction in the required setback to Fishtrap Creek for one eight-unit townhouse building from 100 feet to 75 feet. The reduction was approved in order to keep the design of the building the same as the other structures within the complex, which would not be possible with the 100-foot setback. For the remaining 47 units, the setbacks were to remain the same.

f. **Amendment C2, PRD Contract 94-1. *CC&R Amendments.*** Amendment C2 revised the Conditions Covenants and Restrictions (CC&Rs) for the area west of Fishtrap Creek. It altered the definition of "common area" to include private streets. The definition of "development period" was changed so that RB would relinquish control over the Association at such time they have less than an 20% interest in the property. A definition of "exclusive open space" was added to distinguish this area from common areas, open space, and private open space. The CC&R amendments were made to be consistent with the existing PRD Contract language.

g. **Letter of Understanding.** RB Development and Lynden Public Works Department, January 30, 1995. The RB Development Group and the City of Lynden Public Works Department agreed to amend the PRD Contract to reduce the apartment rear yard setbacks from 45 feet to 30 feet and side yards from 45 feet to 10 feet, perimeter setbacks remaining at 45 feet. This applied to Lots 1, 2, 3, and 4 of Area B of the original RB Development PRD.

h. **Amendment 3, PRD Contract 94-1. *Construction of a 142-Bed Skilled Nursing Facility.*** RB Development's request to amend PRD Contract #94-01 to allow the construction of a 142-bed skilled nursing facility was granted, subject to the recommendations of the Technical Review Committee Report dated June 29, 1999, one condition of which is outlined below:

1. Approval of the request as submitted would include the following:
 - a) Approval to consolidate Lots A and B for building purposes.
 - b) Setbacks to be as follows:
 - i) Side yard: 25 feet as allowed under previous amendment for perimeter setbacks
 - ii) Rear yard: 100 feet to the centerline of East Badger Road as required in contract
 - iii) Front yard: 45 feet as required in contract
 - c) Open space requirement of 40%. The previous amendment allowed 35% open space on Lot A.
 - d) Height: 45 feet as currently permitted in contract
 - e) Parking: 1 space per 4 beds, plus 1 per employee on largest shift.

2. Identification of Properties.

The original PRD Contract affects the following properties currently:

<u>LOT</u>	<u>OWNER NAME</u>	<u>Whatcom County Assessor Parcel No.</u>
------------	-------------------	---

Bender Plaza Short Plat Lot B	Canoe Street, LLC	4003160185300000
Bender Plaza Short Plat Lot C	Bender Plaza, L.L.C.	4003160075090000
Bender Plaza Short Plat Lot D	Perched Valley Property Management LLC	4003160255090000
Lot 3	Christian Health Care Center	400316049550000 0
Lot 4	Aaron Drive Properties LLC	4003160495200000
Lot 5 (Lot A of RB Development Div No 1)	Christian Health Care Center	4003160825500000
Lot 6 (Lot B of RB Development Div No 1)	Christian Health Care Center	4003160825200000

3. Identification of Authority.

The Owner submitted an Amended PRD Application to the City of Lynden on July 8, 2019. A Planning Commission hearing for the Amended PRD was held on October 10, 2019. On December 2, 2019 the City Council approved an Order of Remand which returned the application to the Planning Commission for review of a proposal that had been modified, by the applicant, from its original form. The revised application returned to a public hearing before the Planning Commission on February 27, 2020. A majority of the Planning Commission voted to recommend approval of the revised application. On March 16, 2020 the City Council voted to approve the amendment. The signature of the Mayor of the City on the associated Findings of Fact attached as Exhibit C will attest to the approval of the Amended PRD and are subsequently reflected in this Development Contract with the City of Lynden.

4. Identification of Documents.

The following documents are referred to in this plan and are incorporated in this plan as though fully set forth.

- a. Updated Covenants, Conditions, and Restrictions
- b. Updated PRD Development Map, referred to herein as Exhibit B
- c. All documents of record from all public hearings.

5. Current Development Description.

RB Development and Heritage Park is a 29.1-acre planned residential community in Lynden. A 6.7-acre parcel was dedicated to the City of Lynden when the Development was formed in 1994. The site lies between Bender Road on the west, Vinup Road on the east and East Badger Road to the north. The development plan calls for PRD applications necessary to permit the preservation of open space area along with a development mix of multi-family and condominium type housing, together with an assisted care facility and townhouse units.

The current development divides the land uses as follows:

Lot	Development	Land Use	Unit Count	Acreage
2	Bender Plaza	Commercial	0	2.76
4	Parkview West Apartments	Multi-Family Units	45	2.82
3, A & B	Christian Health Care Center	Skilled Nursing Facility	85 (148 Beds)	6.38
C	Lynden Manor	Assisted Care Facility	109	3.37
D	Lynden Manor Townhomes	Condominiums	40	3.96
Heritage Park Estates Lots 1-20	Heritage Park Estates	Condominiums	64	9.81

The Total PRD area is 29.1 acres. There are 341 total dwelling units currently in the PRD. This is less than the 437 units contemplated by the original PRD. The Parkview West Senior Housing Expansion project will add 41 units to the existing 341, resulting in a total of 382 units.

The Christian Health Care center provides skilled nursing care for memory and dementia patients, inpatient therapy care, and long-term care and rehabilitation. Consistent with Lynden Municipal Code Section 17.01.030, the residents of the Christian Health Care Center Skilled Nursing Facility were counted at a per suite basis. The Center is a 148-bed facility which is accommodated in 85 suites (57 semi-private suites and 28 private suites).

6. Parkview West Apartments

The Parkview West Apartments are a multi-family residential community located in Lot 4 of the RB Development Division No. 1 (AF #950412119) subject to the below setback requirements:

Table 1. Original Parkview West PRD Requirements

HOUSING TYPE	FRONT	SIDE	REAR	HEIGHT	PARKING
Parkview West Apartments RB Development Apartments	30 ft	10 ft	25 ft	2 stories 30 units maximum per building	2/unit ≤ 25 units 1.5/unit > 25 units

Commented [HG1]: Error identified during Planning Commission review.

The open space requirement is 30% for Lot 4 of the PRD, which is the Parkview West Apartments.

The apartment units must be provided with a minimum of 32 square feet of storage space per unit. This storage may be located either within the building or within a building elsewhere on the site.

The amended revisions to the PRD for the Parkview West Apartments are listed in Table 2.

Table 2. Amended Parkview West PRD Requirements

	FRONT	SIDE	REAR	HEIGHT	PARKING
RB Development Apts Parkview West Apartments	<u>20 ft</u>	10 ft	25 ft	<u>41 ft</u>	Existing Multifamily: 2/unit ≤ 25 units 1.5/unit > 25 units Proposed Retirement Housing: <u>1 per unit</u>

Commented [HG2]: Error identified during Planning Commission review.

This PRD Amendment revised the *front yard setback from 30 feet to 20 feet*, the *height limit of 2 stories increased to 41 feet consistent with the City's PRD code when the underlying zoning is multifamily*, the *maximum 30 unit per building stipulation was removed*, and the *parking requirement was updated to meet current COL code*. The *open space requirement was also reduced to 25% for Lot 4 of the PRD*, which is the Parkview West Apartments.

The proposed project is an age-restricted senior housing facility. There is a need for a senior housing facility within the RB Development PRD due to a housing shortage. This proposal will fit the existing function of the RB Development, which includes two Assisted Care Facilities. One service this age-restricted senior housing facility can provide is housing for spouses of the nearby tenants of the Assisted Care Facilities. Other one-bedroom apartments options in Lynden are limited, often with long wait lists, and this location is far more desirable for these spouses.

An elevator is a necessity for a senior housing facility. Based on RB Development's analysis, an elevator must service at least 41 units to be economically viable. To accommodate the 41 units, the proposed structure must be 41 feet tall and situated ~~15-20~~ feet from the property line. The unit sizes are 1 bedroom and studios between 325-420 sf, which is smaller than average. It is not feasible to decrease the size of these units. The geometry associated with fitting these units between the existing buildings with an access stairway places the front of the existing building ~~15-20~~ feet from the property line.

Commented [HG3]: Errors identified during Planning Commission review.

The additional units will increase the density of the PRD closer to the density originally proposed for this development. To accommodate the City of Lynden parking requirements, the Open Space must be

reduced to 25% to provide the necessary parking spaces. Bender Fields and a community garden are across the street, which compose nearly 40 acres of open space, so the impact of reducing the Open Space is anticipated to be minimal.

7. Christian Health Care Center

The Christian Health Care Center is a skilled nursing medical facility located on Lots 3, A & B of the 2nd Amendment of the R.B. Development Division No. 1 (AF #960523070) subject to the below setback requirements. These were not modified by PRD Amendment 19-01:

Table 3. Original Christian Health Care Center PRD Requirements

HOUSING TYPE	FRONT	SIDE	REAR	HEIGHT	PARKING
Assisted Care Facility	90	25	180	45	1 per 4 units + one per employee

There are no changes to the above proposed requirements as part of this PRD Revision.

8. Lynden Manor

The Lynden Manor is an assisted living facility located on Lot C of the 2nd Amendment of the R.B. Development Division No. 1 (AF #960523070) subject to the below setback requirements. These were not modified by PRD Amendment 19-01:

Table 4. Original Lynden Manor PRD Requirements

HOUSING TYPE	FRONT	SIDE	REAR	HEIGHT	PARKING
Assisted Care Facility	90	25	180	45	1 per 4 units + one per employee

The facility will be permitted to be built with the parking as described on the 9/9/94 site plan, with the understanding that the "Garden Pea Patch" could be converted to parking if deemed necessary by the Public works Department. No other changes to the above proposed requirements are part of this PRD Revision.

9. Lynden Manor Townhomes

The Lynden Manor Townhomes are condominiums located on Lot D of the 2nd Amendment of the R.B. Development Division No. 1 (AF #960523070) are subject to the below setback requirements. These were not modified by PRD Amendment 19-01:

Table 5. Original Lynden Manor Townhomes PRD Requirements

HOUSING TYPE	FRONT	SIDE	REAR	HEIGHT	PARKING
Townhouse Units	20	10	20	35	2 per unit

0' lot lines for interior lot lines will be allowed in the townhouse portion of the development. No other changes to the above proposed requirements are part of this PRD Revision.

10. Heritage Park Estates Condominium

The Heritage Park Estates are condominiums located on 20 lots of the Plat of Heritage Park (AF# 960711180) subject to the below setback requirements. These were not modified by PRD Amendment 19-01:

Table 6. Original Heritage Park Estates Condominiums PRD Requirements

HOUSING TYPE	FRONT	SIDE	REAR	HEIGHT	PARKING
Heritage Park Condos	20	10 ¹	15	30/35 ²	2 per unit

1. Side setbacks are for each side from the eaves of the living area to property line. Side setbacks from garage eaves to property line may be five feet, and both sides may be five feet if both sides of the unit are garages.
2. Height limit for condominium structures 1-8 is 30 feet. All other four-plex condominium units have a 35-foot height limit.

A community clubhouse was constructed and shall be open to all residents of the Heritage Park portion of the PRD. No other changes to the above proposed requirements are part of this PRD Revision.

12. Common Development Requirements

The following section discusses the common development and redevelopment requirements of the PRD. Most of the developable area of the PRD has been built out, but it is possible for additional infill projects and redevelopment to continue in the future.

a. Water and Sewer.

1. All improvements to sewer and water are subject to the City's Water and Sewer Comprehensive Plans.
2. If additional water and sewer mains are installed within the PRD and off-site, and accepted by the City, the City will receive ownership of the improvements, together with appropriate easements where such lines are located on private property.
3. The City will grant the necessary easements, to permit access for the purpose of maintaining and servicing City utility lines. In the event a water or sewer main, that crosses a private street, open space, or green belt, must be serviced, repaired, or replaced, the City will complete the repairs or replacement and back fill the area with the appropriate materials, and will attempt to restore the affected area to its original condition, provided however, that the City will not be responsible for removing or replacing any structures or trees placed in such an area.
4. The PRD is subject to the same utility fees and charges as those charged to all residents and developers within the City of Lynden in effect at the time of building permit application.
5. All utility plans must be submitted to and approved by the City of Lynden Public Works and Fire Departments. Plans for each parcel must be submitted and approved prior to construction or to the issuance of a building permit. The Parkview West Apartment site discharges sewer to Pump Station 13. The additional units associated with the senior housing component were not originally anticipated in the design of the Parkview system. The City will require that the Owner coordinate with the City to confirm pump station capacity prior to connection.

- 6. No occupancy permits will be issued until all the utilities for the buildings to be occupied are installed as per approved plans, and after all utilities and as-built drawings have been accepted by the City.
- 7. The proposed elevation of the building related to the Parkview West senior housing component may require that the Owner utilize booster systems for fire protection.

b. Storm Water Drainage.

The City of Lynden has adopted, by ordinance, the *Stormwater Management Manual for Western Washington amended in 2014*. The City has also adopted a Stormwater Management Plan that includes this area. The drainage and erosion control plan for this project will be required to meet or exceed all specifications and requirements of these documents. This plan would identify and address specific stormwater conveyance and/or flooding issues, as well as the related water quality issues.

The Parkview West site utilizes a drainage swale / vault. Other parcels in the RB Development PRD also utilize this system. As a result, at the time of design the Owner will be required to address the shared use when updating the capacity of the system. The Owner will be responsible to update the associated drainage easements as needed.

c. Transportation

When necessary, the developer will install street, curb, gutter, sidewalks, and street lighting, as per City standards outlined in the City’s Project Manual for Engineering Design and Development Standards. All private streets within the development must meet the following requirements:

- 1. All private streets must be a minimum of 33’ between curbs.
- 2. Sidewalks are to be installed on one side of the street. Sidewalks must meet the minimum requirements of the Project Manual for Engineering Design and Development Standards.
- 3. Street cleaning, maintenance, snow removal, equipment and personnel will be responsibility of the Homeowner’s Association. At no time will this responsibility be transferred to the City of Lynden. These terms should be addressed in the development’s covenants, and reviewed by the City.
- 4. Lynden Police and Fire Departments, Emergency Services, Public Works and Building Officials must be allowed full access to all private streets, and retain their enforcing powers where applicable.
- 5. All pavement markings and pedestrian crossings must be to Washington State Department of Transportation standards and maintained adequately and at all times by the Homeowner’s Association to ensure safety.
- 6. The City will be granted a perpetual ingress/egress easement to all private streets, for the maintenance and service of city owned utilities.
- 7. Maintenance of all dead-end, private streets will be subject to the Uniform Fire and Building Codes, to ensure the proper access for emergency vehicles and equipment.

- 8. Rolled-curbs may be used in place of standard curb construction on the James Circle cul-de-sac to avoid numerous curb cuts, as many driveways were proposed for the area under the following conditions:
 - a. That Aaron Drive be constructed with a three-foot grass planter strip.
 - b. That no roll-type curbs be allowed on Aaron Drive.
 - c. The roll-type curbs be permitted only on the outside perimeter of the James Circle cul-de-sac.
- 9. The creation of a curbed bump-out immediately west of the eastern entrance to the Parkview West Apartments complex is required in order to assist in providing visibility for vehicles pulling out onto Aaron Drive from both the Parkview complex as well as the west driveway of the Christian Healthcare Center. This improvement must be completed prior to issuance of the final occupancy of the senior housing addition.
- 10. The creation of an enhanced pedestrian crossing is required in association with the construction of the Parkview West Apartments senior housing addition. These improvements must be completed prior to issuance of the final occupancy of the senior housing addition. The crossing must include:
 - a. Curbed bump-outs on the north and south side of Aaron Drive in a location approved by the Public Works Department with handicap ramps leading to the crosswalk per City specification.
 - b. Painted cross walk marking to City specification.
 - c. Pedestrian controlled flashing warning lights per City specification.

d. Street Lighting

Proper and adequate street lighting will be required throughout the development. All lighting shall be in accordance with the WSDOT Traffic Manual M51-02 and the City’s Draft Project Manual for Engineering Design and Development Standards.

e. Signs

Signs within the development will be as per the signage plan to be submitted by the Developers and subject to the approval of the Director of Public Works. All street signing will be in accordance with the current edition of the Manual of Uniform Traffic Control Devices. Street signs will be installed at the Developers’ expense.

f. Open Space

- 1. The covenants of the PRD will clearly indicate the Homeowners Association’s perpetual responsibility for the maintenance and upkeep of all private open space areas.
- 2. A permanent private open space easement shall be granted over the private open space shown and approved on Exhibit B to all residents of the PRD, to ensure preservation and maintenance of the open space, and to guarantee the area remain perpetually in recreational use.

- 3. Private open space shall be maintained at or above 40 percent of the site. This figure will be calculated on the basis of gross acreage minus the park dedication. This amount is equal to 11.5 acres (40% of 29.1 acres). Parking areas do not count as open space.

g. Covenants, Conditions, and Restrictions.

The covenants, conditions, and restrictions will be submitted to the city, and after city review and approval, will be recorded, and placed in force upon the property covered by this plan and will not be altered or amended without consent of the City, through the PRD hearing process as set out in Section 19.29.050 of the Lynden Municipal Code.

h. Building and Land Use

- 1. All existing building setbacks were measured from the building extreme to the property line. Construction associated with this development contract is subject to existing development standards. Building setbacks on new construction will be measured from the building foundation to the property line. Overhanging or cantilevered architectural elements may encroach into the building setback by up to 24 inches. In the case of development on private streets, setbacks will be measured from the back of curb or sidewalk, whichever is more restrictive. All structures must be a minimum of 100 feet from the centerline of the East Badger Road.
- 2. No building variances will be allowed.
- 3. The apartment units in Area B as designated on Exhibit B must be provided with a minimum of 32 square feet of storage space per unit. This storage may be located either within the building or within a building elsewhere on the site.

i. Landscaping.

- 1. Maintenance and provision of all landscaping, open space and green space must be by the Homeowner’s Association and set forth in development covenants and restrictions. At no time will this responsibility revert to the City of Lynden.
- 2. Landscape designs must be submitted to the Public Works Department for approval, prior to the commencement of each phase. Landscaping must be completed and established for each phase before approval of the next phase. Adequate berms and split rail fencing, must be included in the landscaping plan, including, but not limited to the northern boundary along the East Badger Road.
- 3. A landscape berm on Vinup Road must be approved by the Public Works Department and installed, at the Developers’ expense, prior to the completion of Phase 1.
- 4. The current landscaping theme of Homestead Northwest on Bender Road must be extended. This includes berms, and the installation of trees and other vegetation.

j. Impact Fees.

- 1. This development will be subject to all impact fees adopted by the Lynden City Council, including both portions of Park and Fire impact fees.

k. Parking

- 1. Off street parking must be provided consistent with the standards described in the Lynden Municipal Code 19.51. The current development has more than sufficient parking for each existing apartment unit and each proposed senior living unit. Extra spaces shall be labeled as guest parking and shall be used only by guests visiting residents of the apartment or senior living buildings.

- 2. Prior to issuance of final occupancy on the senior housing addition, the Owner of Parkview West Apartments is required to establish parking assignments for residents which includes the labeling of guest spaces and the numbering of parking stalls in both the existing apartment complex and the proposed senior apartment addition.

This requirement must be noted on the permit plan set.

Commented [HG4]: Addition recommended by the Planning Commission.

Miscellaneous Items.

- 1. Parcel sizes may not be altered more than 5% from the preliminary plan.
- 2. Single family use may not change to multi-family use. However, multi-family use may be changed to single family use. No change of use will be permitted without holding a public hearing as specified in Lynden Municipal Code Chapter 19.29.050.
- 3. This development, and all buildings therein, are subject to all building and fire codes. All building permit applications and final site plan approval will be subject to review for compliance with these codes. Any building and development issues are subject to all building and fire codes and existing city ordinances, unless specified otherwise in this contract.
- 4. In the event the Developer fails to comply with the commitments set forth herein, within one hundred twenty (120) days of written notice of such failure from the City, in addition to any other remedies which the City may have available to it, the City shall have the right, without prejudice to any other rights or remedies, to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Contract, and to collect the direct costs associated with such action, including reasonable attorney's fees and costs, from the Developer.

In the event the City fails to comply with the commitments set forth herein, within one hundred twenty (120) days of written notice of such failure from the Developer, in addition to any other remedies which the Developer may have available to it, the

Developer shall have the right, without prejudice to any other rights or remedies, to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Contract, and to collect the direct costs associated with such action, including reasonable attorney’s fees and costs, from the of the City.

- 5. In the event that a judicial dispute arises regarding the enforcement or breach of this Contract, then the prevailing party in such dispute shall be entitled to recover its attorney's fees and costs reasonably incurred, including fees and costs incurred on appeal.
- 6. This Contract, and the rights of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington and the parties agree that in any such action venue shall lie exclusively in Whatcom County, Washington.
- 7. Nonwaiver of Breach. Failure of either party to require performance of any provision of this Contract shall not limit such party’s right to enforce such provision, nor shall a waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- 8. Any notice which a party may desire to give to another party must be in writing and may be given by personal delivery, by mailing the same by registered or certified mail, return receipt requested postage prepaid, or by Federal Express or other reputable overnight delivery service, to the party to whom the notice is directed at the address of such party set forth below:

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

Owner: Aaron Drive Properties LLC
119 N Commercial Street, STE 165
Bellingham WA 98225

and

Starkenburger-Kroontje Attorney at Law P.S.
PO Box 231
Lynden, WA 98264

or such other addresses and to such other persons as the parties may hereafter designate in writing to the other parties. Any such notice shall be deemed given upon delivery if by personal delivery, upon deposit in the United States mail, if sent by mail pursuant to the foregoing.

- 9. No Impairment of City Regulatory Discretion. Nothing in this Agreement shall limit the City’s exercise of its lawful regulatory discretion in approving pending or new applications in accordance with applicable ordinances, so long as such discretion is exercised consistent with the terms of this Agreement.

10. Reservation of Authority. The City reserves authority to impose new or different regulations on the Property to the extent required by a serious threat to public health and safety. This reservation is intended to comply with RCW 36.70B.170 (4). If such authority is exercised, the remaining provisions of this Agreement shall remain in full force and effect to the extent the new regulations are not inconsistent therewith and do not undermine achievement of the fundamental purposes of this Agreement.

11. Severability. If any section, subsection, sentence, clause, or phrase in this Agreement is for any reason held to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. Each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. After its execution, this Amendment shall be recorded in the office of the Whatcom County Auditor. Each commitment and restriction on the development subject to this Amendment, shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property, and shall run with the land. This Amendment shall be binding on the City and the Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Upon any sale or conveyance of the Property by the Developer or a subsequent owner, such owner shall be released from the obligations of this Amendment and the obligations stated herein shall be enforceable solely against the successor owner of the Property.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed and shall be effective on the date of its recording with the Whatcom County Auditor.

SUBMITTED THIS ____ day of _____, 20__.

Aaron Drive Properties LLC

By: _____
Its: _____

CITY OF LYNDEN:

By: _____

Scott Korthuis, Mayor
Administrator

City of Lynden

ATTEST:

By: _____

~~Mike Martin~~ John Williams,

City of Lynden

STATE OF WASHINGTON }
COUNTY OF WHATCOM } ss.

I certify that I know or have satisfactory evidence that _____ the _____ of **Aaron Drive Properties LLC**, a Washington limited liability company, is the person who appeared before me, and acknowledged that he signed this instrument on behalf of said company, on oath stated that he was authorized to execute the instrument on behalf of said company, and acknowledged this instrument to be the free and voluntary act and deed of said company for the uses and purposes herein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this ____ day of _____, 20__.

Printed Name: _____
NOTARY PUBLIC in and for the State of Washington
My Commission
Expires _____

Exhibit A

Legal Description of the Property

400316 049520 0000

Lot 4, RB Development, Div. No. 1, a planned residential development, according to the map thereof, recorded in Volume 19 of Plats, page 21, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

Exhibit B
Updated PRD Development Map

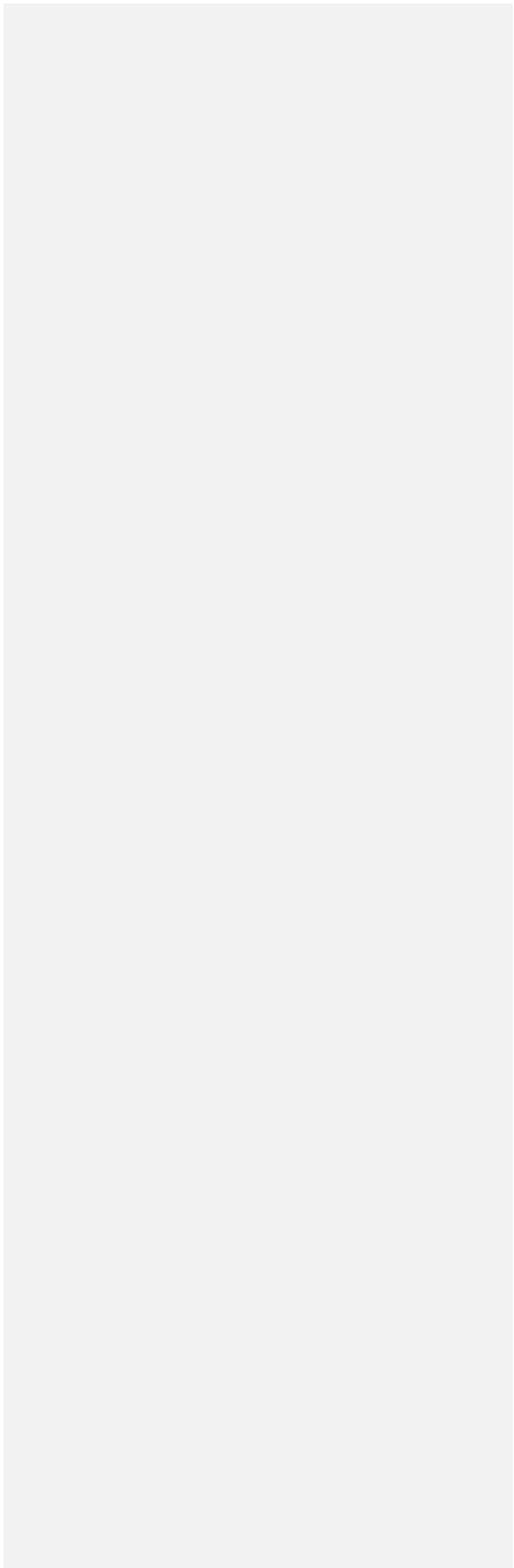


Exhibit C

Findings of Fact Approving PRD Amendment 20-01

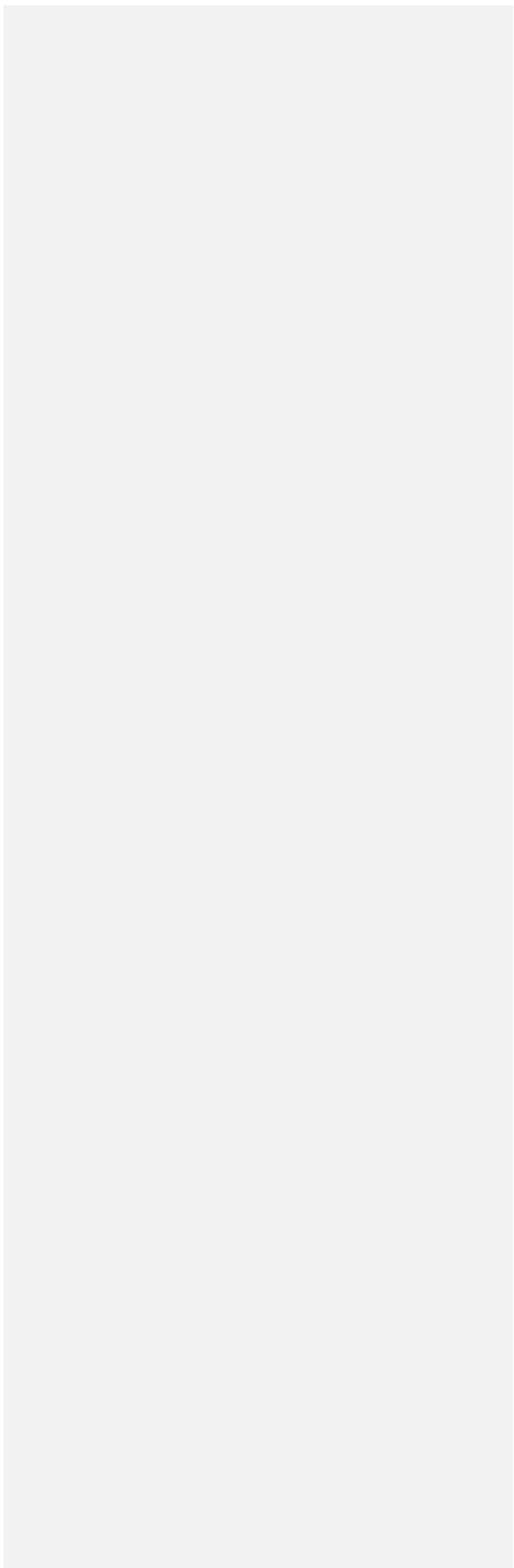


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Exhibit C

Findings of Fact Approving PRD Amendment 20-01

ORIGINAL

CITY OF LYNDEN
FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER

REGARDING the PROPOSED
AMENDMENT OF PRD #94-1 by
AARON DRIVE PROPERTIES, LLC

Petitioner

PRD Amendment #19-01

FINDINGS OF FACT, CONCLUSIONS
OF LAW, CONDITIONS and ORDER

I. SUMMARY OF DECISION

AARON DRIVE PROPERTIES, LLC ("Property Owner") is owner of the premises known as:

LOT 4, RB DEVELOPMENT, DIV. NO. 1, A PLANNED RESIDENTIAL DEVELOPMENT, ACCORDING TO THE MAP THEREOF, RECORDED IN VOLUME 19 OF PLATS, PAGE 21, RECORDS OF WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 801 Aaron Drive, Lynden, WA

(Hereafter "Property").

Pacific Surveying and Engineering has filed an application on behalf of the Owner to amend PRD #94-01, RB Development and Heritage Park PRD ("PRD #94-01"). The amendment would allow for the construction of a senior housing complex in one area of the PRD, the Property, which is already improved with apartment buildings known as Parkview West Apartments. The amendments are specific to the Parkview West Apartments parcel and do not apply to other parcels within the PRD.

Said application having come before the City Council of the City of Lynden on December 2, 2019 and again on March 16, 2020, and the Council having fully and duly considered said application, hereby find as follows:

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Pacific Surveying and Engineering filed an application on behalf of Aaron Drive Properties, LLC which was accepted by the City as complete and containing all information required by LMC 17.19.010 July 31, 2019.

1.02 Location. The property is located on Aaron Drive east of its intersection with Bender Road.

1.03 Ownership. Aaron Drive Properties, LLC is the Property Owner.

1.04 Request. To amend PRD # 94-01, RB Development and Heritage Park PRD.

1.05 Reason for Request. To allow for the construction of a 41-unit age-restricted housing building on the Property.

1.06 Planning Commission Recommendation. An open record hearing was held before the Planning Commission on October 10, 2019, at the City Hall Annex located at 205 4th Street, Lynden, WA. The Lynden Planning Commission recommended denial of the rezone application in Resolution 19-04. On December 2, 2019, the Lynden City Council remanded the request back to the Planning Commission for further proceedings to allow the Commission to consider potential conditions of approval. On February 27, 2020, the Planning Commission held the remand hearing and recommended approval of the revised RB Development and Heritage Park PRD Amendment as outlined in Planning Commission Resolution #20-02.

1.07 SEPA Threshold Determination. PRD #94-01 was issued a Mitigated Determination of Non-Significance. This application is within the scope of the original determination.

1.08 Existing PRD Development.

Density. PRD #94-01 is presently developed with a total of 341 dwelling units. Of these, 85 are in the Christian Healthcare Center (based on 57 semi-private suites and 28 private suites per LMC 17.01.030), a skilled nursing facility, 109 are in Lynden Manor, an assisted care facility, 40 are in the Lynden Manor Townhome Condominiums, 64 are in the Heritage Park Estate Condominiums, and 45 are in the Parkview West Apartments. PRD #94-1 was originally allocated 437 dwelling units, leaving the potential for up to 96 additional dwelling units for future development.

Setbacks and Bulk. Other buildings in PRD #94-1 are set back 25 feet from the right of way.

1.09 Existing Development on the Property. The Property is improved with the Parkview West Apartments. The Parkview West Apartments are in two buildings, each two stories tall. There is a total of 45 units between the two buildings, which have one, two, or three bedrooms. The one-bedroom units are over 680 square feet; two and three bedroom units are larger. Aside from the apartment buildings, the Property is developed with covered and uncovered parking, storage lockers, and green spaces. The Parkview West Apartments are not age-restricted.

1.10 Proposed Project. The applicants proposed to amend PRD #94-1 to allow development of a 41-unit, 4-story, age-restricted senior housing apartment building. Units would be a combination of one bedroom and studio apartments. The building would be constructed on the Property between the existing apartment building and the street. Amenities would include a central elevator. The building would be set back from Aaron Drive only 20-feet, but the

applicant proposed to design the building with architectural articulations that are set further back and to install landscaping with small canopy trees, evergreens, shrubs, and low ground covers. Aside from the requested amendments to PRD #94-1, the applicants proposed to fully comply with the Lynden Municipal Code, including by providing the requisite amount of parking per 19.51.040 LMC as well as guest parking stalls.

1.11 Proposed Amendments. The applicants proposed the following amendments to PRD #94-1:

1. Reduce the front setback from 30 feet as currently required to 20-feet.
2. Increase the current permissible height from two stories to 41-feet.
3. Remove the cap on the number of residential units per building allowed on the Property.
4. Remove the requirement that each unit on the Property be provided with a 32-square-foot storage space. The applicant did not propose to eliminate existing storage, but cannot provide it for the 41 new units.
5. Reduce the open space requirement on the Parkview West parcel from 30% to 25%.

1.12 History of Amendments. A number of amendments have already been made to PRD #94-1. Some elements of PRD #94-1 that the applicants seek to amend now were previously amended:

1. The front setback was originally 45 feet. City records indicate that it was subsequently reduced to 30 feet.
2. The height of buildings on the Property was originally limited to 45 feet. On October 7, 1996, the City Council approved Amendments B1 and B2, but imposed the condition that the buildings be only two stories tall.
3. Originally, 152 units were assigned to be shared among Lots 3, 4 (the Property), and 5 and 6 of PRD #94-1. A note indicates that 32-44 units were anticipated per building, but it is unclear whether that was intended to be a hard cap. Later, also in its approval of Amendments B1 and B2, the City Council limited each building on the Property to 30 units, but did not change the allocation of the number of densities for the Property or PRD #94-1 as a whole.

1.13 Applicable Code Provisions. PRDs are governed by Ch. 19.29 LMC. LMC 19.29.120 lays out when a PRD may be amended and the procedure for amendment. This application meets the criteria in LMC 19.29.120(B). The process for amending it is in LMC 19.29.100, which is the same process for approving a new PRD. An application to amend a PRD must meet the minimum development standards in LMC 19.29.060(A) through (I) or one of the exceptions listed in LMC 19.29.060(J). In addition, it must meet the approval criteria in LMC 19.29.110, specifically at least two criteria in subsection (A) and both subsections (B) and (C).

1.14 Public Interest. The application results in additional infilling within the City consistent with the City's Comprehensive Plan and the Growth

Management Act. The public interest will be served by the approval of the application.

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

IV DECISION

Petitioner's application to amend PRD #94-01, RB Development and Heritage Park Planned Residential Development described herein is approved as presented at the remand hearing and outlined in the attached Planning Commission Resolution #20-02 (Exhibit A). The amendment is also subject to the applicable conditions of the report by the Technical Review Committee issued September 17, 2019 (Exhibit B) and subject to the terms of a final development contract. This approval will be considered preliminary until the applicant finalizes the associated development contract and CC&R's. Both documents must return to the Planning Commission and Council within 12 months.

DATED: April 20, 2020



Scott Korthuis
Mayor

EXHIBIT A

ORIGINAL

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION 20-02

A resolution of recommendation for approval of the Planned Residential Development (PRD) Amendment #19-01 for RB Development, to the Lynden City Council.

WHEREAS, Pacific Surveying and Engineering, Inc, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for an amendment to the RB Development Planned Residential Development (PRD). The amendment would allow for the construction of a senior housing complex on the Property, which is already improved with multiple apartment buildings.

WHEREAS, the application was determined to be complete on July 31, 2019, and the notice of application was published in the Lynden Tribune on August 14, 2019; and

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

WHEREAS, an open record hearing was held before the Planning Commission on October 10, 2019, at the City Hall Annex located at 205 4th Street, Lynden, WA. The Planning Commission recommended denial of the PRD Amendment application as outlined in PC Resolution 19-04.

WHEREAS, on December 2, 2019, the said application went before the Lynden City Council, and the Council having fully and duly considered the amendment application, the Planning Commission recommendation, and Staff conditions.

WHEREAS, Council found that since the Planning Director did not supply a recommendation to the Planning Commission at the October 10 meeting, the Commission could not have considered staff's conditions which were proposed to the Council. Council agreed that they would benefit from the Planning Commission's review of the Directors proposed conditions, as well as the Planning Commission's recommendation on whether or not such conditions should result in approval, prior to Council making a final decision on the application.

WHEREAS, on January 7, 2020, the Lynden City Council issued a Remand Order to the Planning Commission for further proceedings as attached.

WHEREAS, on February 12, 2020, the legal notice for the remand hearing was published in the Lynden Tribune and the proponent sent certified mailings of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, the Lynden Planning Commission held a public hearing on February 27, 2020, at the City of Lynden, City Hall Annex, 205 4th Street, Lynden, Washington, to accept public testimony on the proposed PRD Amendment request, and that meeting was duly recorded;

WHEREAS, the revised request now has a unit count of 41 units rather than 50. The maximum building height has been reduced to 41 feet rather than 45 feet. The

front setback has been increased to 20 feet rather than 15 feet, Pedestrian improvements along Aaron Drive have been suggested which could include enhanced crosswalks and traffic calming measures.

WHEREAS, the Lynden Planning Commission has reviewed the staff conditions as well as the revised request for the proposed PRD Amendment as required under LMC 19.29.060(J) where code requires that the project meet one or more of the five criteria listed there. And found that a majority of Planning Commissioners agreed the request satisfies the criteria listed below:

19.29.060 (J)(3): The modification of minimum standards is necessary to permit reasonable development as a result of unique characteristics of the property or the proposed uses; and

19.29.060 (J)(4): The modification of building height (subject to 19.29.060(2)) or building setbacks where reasonably necessary due to arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection (A) herein;

WHEREAS, the Lynden Planning Commission has also reviewed the staff conditions and the design criteria under LMC 19.29.110 where code requires that the project meet two or more of the seven criteria. A majority of the Planning Commissioners found that if the proposed transfer of unused units from other areas of the PRD to the subject property is found to be legally permissible under LMC 19.29.120, the request satisfies the criteria as described below:

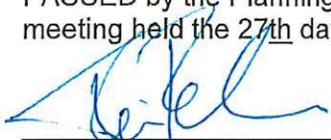
19.29.110(A)(2): Achieving the allowable density for the subject property; and

19.29.110(A)(3): Providing housing types that effectively serve the affordable housing needs of the community.

WHEREAS, the Planning Commission agreed that the motion was conditioned on a supportive legal interpretation of the transfer units within the PRD. So that if the transfer of units is determined to be prohibited, the request does not satisfy the criteria as described in LMC 19.29.110(A)(2) and should not continue as proposed.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval by a vote of 4-2 of the request to amend the RB Development Planned Residential Development on the condition stated above.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 27th day of February 2020.



~~Diane Veltkamp, Chairperson,
Lynden Planning Commission~~

TIM FABER, VICE CHAIR PERSON



Heidi Gudde, AICP
Planning Director

EXHIBIT B

CITY OF LYNDEN



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	September 17, 2019
Project Name:	PRD Amendment #19-01, RB Development / Heritage Park
Applicant:	Pacific Surveying and Engineering, Inc.
Property Owner:	Aaron Drive Properties
Site Address:	801 Aaron Drive, Lynden
Parcel Number:	400316-049520
Zoning Designation:	PRD
Application Type:	Planned Residential Development - Amendment
Parcel Size:	3.17 Acres
Hearing Type:	Quasi - Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed subdivision meets the requirements found within the development contract and the required findings listed within Section 17.09.040 and 19.29 of the Lynden Municipal Code.
Date application determined complete:	July 31, 2019
Date of Publication:	August 14, 2019
SEPA Determination:	N/A
Project Description:	The applicant is requesting to amend the RB Development / Heritage Park PRD to allow a building expansion that includes an age-restricted senior housing facility including 50 additional units in a 5-story apartment building. The proposed building is approximately 23,375 square feet excluding the exposed stair, elevator shaft and roof top deck.

Background

The RB Development PRD was originally approved in 1994. It encompassed 28.7 acres of property located between Badger Road and Aaron Drive and stretched from Bender Road to Line Road.

The development was planned to accommodate apartments, an assisted care facility (Lynden Manor), town home units, and 4-plex condominiums for a total of up to 437 units. Since its original approval in 1994 the PRD was amended a number of times. Amendments addressed a variety of issues including the inclusion of the Christian Healthcare Center rather than apartments, fencing, street construction, setback revisions, height limit revisions, and changes to the Conditions Covenants and Restrictions (CC&R's).

Application Summary

The pending amendment to the RB Development PRD seeks to establish a new front setback for the Parkview Apartments parcel, revise an existing storage requirement, and reestablish a previously approved height limitation of 45 feet.

Staff has determined that the application is technically complete but additional information is requested below so that the amendment requests and corresponding justifications are more clearly defined. In accordance with Chapter 17.15 LMC, the proposed action was reviewed for concurrency and should the conditions listed within this report be met, a finding of concurrency will be made in accordance with Section 17.15.060(C)(3).

Additionally, the application was reviewed against the applicable chapters of the LMC and the Engineering Design and Development Standards and generated the requested revisions and advisory comments found in the report.

Staff acknowledges that the RD Development PRD Amendment has addressed the following requirements according to the Lynden Municipal Code:

1. *Intent:* Planned Residential Development's (PRD's) provide opportunities to develop land with physical constraints while preserving the natural characteristics of the site and encourage infill within areas of the City which are characterized by existing development. The intent of the proposed amendment of the RB Development PRD appears consistent with the original RB Development PRD in that it does not exceed the original approved number of units and provides a service which appears consistent with adjacent uses. However, staff has concerns related to the points listed below. These are discussed in more detail later in the report.
 - a. The scale of the project. The number of new units proposed at this location is likely to have impacts to on-street parking and parking lots intended for Bender Park users.
 - b. The proposed building's physical relation to the streetscape. Specifically, having a 45 foot tall structure within 15 feet of the property line.
 - c. The proposed building's impacts to the existing site. This includes impacts to the existing residents and the site. Including, but not limited to

parking availability, garbage service, traffic interior to the site, and the literal shadow cast on the site and its recreational area.

2. Housing Types: The market study provided by the applicant states that occupancy in the existing Parkview Complex has been 100% for the last 5 years. And, that countywide the vacancy rate is less than 1% for standard housing, low-income subsidized housing, and for age-restricted senior housing. These numbers appeared to hold true of the 200 one bedroom and studio units studied within Lynden.
3. Onsite Parking Requirements: The applicant has indicated that they will meet parking standards as outlined per code. Chapter 19.51 of the LMC requires that 2 stalls per unit be provided for the first 25 units, 1.5 stalls for units over 25, and 1 stall for each of the age restricted units. The total stall count is 130. Be advised, minimum standard parking stalls dimensions are 9' wide by 21' deep and compact spaces are 8.5' wide by 18' deep. Two feet of the length (vehicle overhang) may extend into landscape or sidewalk areas but at no time may sidewalk width be compromised to less than 5 feet clear. Wheel stops may be required to prevent sidewalk encroachment.
4. Site Specific Amendments - Storage Requirement: The original Development Agreement for the RB Development PRD required that 32 square feet of storage space be provided for each apartment unit. This is not a requirement of the LMC. The applicant is requesting that the storage space requirement not placed on the proposed units. Code typically does not place specific outside storage requirements on proposed development.

Specific Project Comments from the Technical Review Committee:

Planning and Development

5. Parkview Ownership: Please provide information related to the composition of Aaron Drive Properties LLC and the signing authority of the applicant for that LLC.
6. Application Materials: Please provide a digital copy of the original application package with accurate page numbers. Currently all of the pages of the application are labeled as "Page 2".
7. Response Required: Staff will provide the applicant with a digital copy of this report. Please provide responses to each of the staff comments. Note that the applicants response may generate additional requests for information.
8. PRD Document: As discussed at a recent meeting with the agents for the applicant, staff recommends the applicant provide a complete revised PRD document which maintains relevant sections of the original document and adds

sections relevant to how the PRD was actually constructed as well as the proposed development standards specific to the Parkview Apartments.

- 9. CC & R's: Per LMC 19.29.130 the PRD shall have a homeowners association and enforceable covenant to fund and effectively collect fund for such and organization. Associated agreements and covenants shall apply to all the property with the PRD, shall be recorded and shall run with land. Note that covenants for the PRD may impose more restrictive conditions on the property but not less restrictive than City of Lynden development code. Be advised, enforcement of neighborhood covenant documents is the responsibility of the developer and/or neighborhood association.

Prior to final approval of the proposed PRD amendment, covenants, conditions, and restrictions (CC&R's) – both the existing document and any proposed amendment to the document – must be provided. Per LMC 19.29, amendments to the PRD's CC&R's require City Council review.

Initial staff review of the CC&R's indicate that at a minimum Sections 2.3, 2.4, 10.4, 12.12 and the signatures page will need to be updated. Alternatively, the applicant may choose to explore the option of providing copies of each division's CC&R's as applicable.

Be advised, the process by which the CC&R's will be updated and the stakeholders for the PRD's revised CC&R's should be carefully considered as this may require a significant effort on the applicant's part.

- 10. Development Maps / Exhibits: Staff understands that the amendments to the RB Development PRD are proposed to affect only tax parcel 400317-446116. The original PRD included this parcel, or a version of this parcel, as B1 - one of four parts of "Area B". Area B was originally intended to be developed as apartments however, various amendments to the PRD resulted in a revised build-out of these areas.

Please provide updated development maps / exhibits which document the original development plan and predicted unit counts for Areas A-F of the PRD. Additionally, also illustrate how the PRD was actually built out to date. Include revised lot lines, lot areas, housing types or property uses, and unit counts (or bed count for the skilled nursing facility).

- 11. Site Specific Standards Criteria – Perimeter Setback: The City's municipal code provides minimum standards for Planned Residential Developments. However, Planning Commission recommendation and City Council approval can be sought in areas where the applicant seeks to depart from the minimum standards (LMC 19.29.060(10)).

The proposed PRD amendment seeks an alternate standard to the required perimeter setback of 25 feet. On the Parkview Apartments application this perimeter setback has been identified as the 'front setback' (the south property

line). The application proposes the perimeter setback be reduced to 15 feet rather than 25 feet as required by code. Please provide a written response to each of these criteria and/or reference relevant sections of the application to support the request.

- a. The modification of minimum standards protects or improves the character of the surrounding neighborhood in terms of architectural scale, view corridors, the aesthetic character or provision of services;
 - b. The modification of minimum development standards protects critical areas and the environmental quality of the parcel(s) to be developed;
 - c. The modification of minimum standards is necessary to permit reasonable development as a result of unique characteristics of the property or the proposed uses;
 - d. The modification of building height (subject to Section 19.29.060(2)) or building setbacks where reasonably necessary due to arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection (a) herein;
 - e. The modification of minimum standards is adequately mitigated by reasonably related public improvements proposed in connection with the planned development.
12. Building Height: Per LMC 19.29.060(2) the maximum height of structures within a PRD, where the underlying zoning is multi-family, is 45 feet. The original 1994 RB Development PRD development agreement reflected this height limitation of 45 feet. However, a subsequent amendment, which reduced internal setbacks, was approved with the condition that apartment building heights be kept to 2 stories. The pending proposal, that the height limitation of 45 feet be reestablished, generates concerns when considered in the context of the existing site. Please respond in writing to concerns and questions related to the proposed height amendment, specifically:
- The height of the project and its physical relation to the streetscape create a relatively imposing structure so close to Aaron Drive and especially the pedestrians using these public sidewalks. How will this be mitigated?
 - Discuss how the existing apartment buildings will relate to the proposed structure. For example, what is the architecture of the north elevation? Will the existing apartment units have access to the new structure? Will tenants be displaced temporarily or permanently due to the proposed addition?
 - Indicate how the property owner will manage parking to ensure that vehicles related to Parkview will not negatively impact surrounding properties. Staff has concerns that overflow residential parking could

negatively impact the parking lot of Bender Park, on street parking opportunities, and other off-site parking lots.

13. Loading Area: Staff cannot support the proximity of the building to the street and its associated parking unless accommodations are made for loading and drop-off. If the PRD amendment is approved, a pull-off for a designated loading area at the entrance to the building to be used by delivery vehicles, resident drop-off / pick-up, and emergency response vehicles will be required as part of the building design. Coordination with the Public Works Department for the design and layout will be required. Public sidewalks may be altered but an access, a minimum of 5 feet wide and fully ADA accessible, must be maintained along Aaron Drive. This may require a public access easement on the Parkview Apartments parcel.
14. Amenities and Open Space: Open space standards have been discussed generally in the application. Please provide information regarding potential improvements and amenities to the existing green space which will serve the senior tenants of the proposed building.
15. Lot Coverage: The PRD was initially approved with an open space requirement (pervious areas) of 40% or greater. This was not to include the parcel dedicated to the City of Lynden. A subsequent amendment appears to reduce the required open space requirement to 30% while decreasing the maximum building height to 2 stories. Provide the revised lot coverage (impervious area) of the Parkview parcel which include the proposed building and parking lot additions.
16. PRD Area Break-down: Whatcom County and the City of Lynden have been mandated to participate in an annual report provided to the State which tracks achieved housing density. In an effort to track accurate data for this program all PRD's will be required to provide supporting data. Please provide on the face of the development maps a table which breaks down the total area of the PRD into the categories shown below. Note that in some instances the area may be zero and that "other infrastructure" could refer to area used for sewer pump station, stormwater ponds, etc.

	PRD Area (in square feet)
Gross PRD area	
Reserve tracts (open space dedications)	
Critical areas including buffers	
Public Right of ways (ROWS)	

Other infrastructure	
Net developable	
Percent ROW and Infrastructure	%

Public Works

- 17. Public Improvements: All public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards or an equivalent approved through the Planned Residential Development process. A plan review deposit of \$2000 or 2% of civil construction costs is required prior to any civil plan review. Any work within public right of way or involving exiting public facilities shall have a bond in place at 150% of construction costs. A maintenance bond of 10% of the certified construction costs is required for all public facilities.

- 18. Transportation Study: The traffic study provided with the application speaks to the number of added trips but does not discuss level of service (LOS). Address the effects of this proposal on the LOS on Aaron Drive and the intersection of Aaron and Bender Road. No accesses to East Badger Road (SR-546) are allowed.

- 19. Stormwater
 - a. A stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.

 - b. All plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.

 - c. Stormwater from public streets may be infiltrated within the dedicated right-of-way, or within a separate dedicated tract, but may not be within the street prism. Infiltration areas and street trees should have adequate separation to insure the proper functioning of the drainage system and survival of the tree.

 - d. A Construction National Pollutant Discharge Elimination System (NPDES) permit may be needed.

- e. All private storm systems shall be inspected yearly per approved Operation and Maintenance plans. Inspection shall be submitted to the City for review and acceptance.
- f. The storm drainage report will need to include all existing and proposed properties that utilize common drainage facilities.
- g. Site indicated to be within ¼ mile of Fishtrap Creek and will require additional stormwater requirements.

20. Water

- a. As per 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards.
- b. A 20-foot utility easement is required for all public utilities.
- c. Water meters and fire lines shall have appropriate backflow prevention installed that meets the Department of Health and City of Lynden standards.
- d. A booster pump station may be needed depending on fire system requirements.
- e. Fire hydrants are to be placed a maximum of 300 feet apart (clear distance).
- f. The proposed building will impact existing hydrant placement(s).
- g. The proposed project will impact water service to existing building.

21. Sanitary Sewer

- a. Sanitary sewer and water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- b. Existing sewer pump station and force-main that the site discharges to may not adversely impact the existing system. This must be reviewed and confirmed.
- c. The proposed sewer connection shall be tied into existing manhole.
- d. The proposed trash compactor shall be covered. Drainage from the covered compactor area shall discharge to sewer after first going through an approved oil-water separator.

Fire and Life Safety

1. Impact Fees: Fire impact fees will be due at the time of building permit. The current fee is \$389 per unit.
2. Access: Revise site layout to provide a designated loading (“no parking”) area at the entrance to the building to be used by emergency response vehicles. Coordinate with the Public Works Department for the design and applicable standards.
3. Elevator Requirements: Be advised, per the International Building Code the elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher of 24 inches by 84 inches with not less than 5-inch radius corners, in the horizontal, open position as well as the accompanying EMTs. Generally, this means an elevator that is 4 feet deep by 8 feet wide.
4. Fire Load: Be advised, the installation of an FDC within 50 feet of a hydrant is required. Total fire load will be assessed at the during the permit review process. Applicant must ensure coverage throughout the site. These requirements may result in the installation of an additional hydrant. Early analysis of the fire load is recommended.
5. Fire Suppression: Be advised, a fire suppression system will be required throughout the proposed building.
6. Structural Review Required: Be advised that the weight load for the top of building must be able to support emergency responders and equipment if necessary. Load ratings for all roof top equipment will be required at the time of building permit.

Parks and Recreation

7. Park Impact Fees: Park impact fees will be due at the time of building permit. The current rate is \$546 per senior residential unit.

Advisory Requirements

8. Design Review Board: Be advised, approval of the City’s Design Review Board is required prior to issuance of the building permit. The DRB review focuses on specifics of building architecture, exterior lighting, the screening of service areas and roof-top equipment, site circulation, and the landscape plan.
9. Architectural Standards Committee: Section 5 of the current CC&R’s indicate that approval from the developments Architectural Standards Committee is required. Applicant will be required to provide proof of Committee approval prior to review by the City’s Design Review Board.

10. Civil Drawings: The construction drawings for any civil and utility improvements must be submitted for review and approval prior to construction. These drawing must illustrate that the utility improvements and extensions meet the standards listed within the Project Manual for Engineering Design and Development Standards, unless they have been specifically varied by the approval of the plat. It is the project engineer's responsibility to be aware of these standards.
11. Transportation Impact Fee: Be advised, transportation impact fees will be due at the time of building permit. The current rate is \$570 per Senior Housing Unit.
12. Civil Review Deposit Required: Be advised, a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat / PRD construction inspection deposit of \$350 per lot, \$5,000 minimum, is due prior to review and construction respectively.
13. Maintenance Bonding Requirements: A post construction maintenance bond for public infrastructure in the amount of 10% of the construction costs will be required prior to final plat approval. Bond to be in place for 2 years from the date of project completion.
14. Landscape Bonding: Be advised, performance and maintenance bonding will be required for the plat. This relates to street trees and any required mitigation planting. Bonds are due prior to final plat approval. Performance bond shall be at 100% of installation costs and be in place through establishment period approval. Upon acceptance of establishment the maintenance bond shall be in place for 2 years at 10% of costs.
15. Surveying: All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City's control monuments is available to the project consultant for their use.
16. Document Recording: Petitioner shall record the final amended PRD Development Agreement with Whatcom County following City Council approval and provide a copy, with the auditor's file number, to Planning Staff.
17. Street Trees: Be advised, per Sec. 18.14.120, the developer will be required to provide street trees within the dedicated public utility easement adjacent to the street. Without blocking view triangles, there shall be a maximum spacing of fifty feet between trees. Maintenance of street trees shall be the responsibility of the adjoining property owner.
18. Property Addressing: Be advised, all street addressing must follow the requirements of the Lynden Municipal Code.

FILED FOR AND RECORDED AT REQUEST OF AND RETURN ORIGINAL TO:

STARKENBURG-KROONTJE

Attorney at Law, P.S.

PO Box 231

Lynden, WA 98264

(360) 354-7822

REFERENCED DOCUMENT: AF# 950505156

TITLE OF THIS DOCUMENT: Amendment to Master Declaration and Covenants, Conditions and Restrictions for RB Development

GRANTOR(S):

- 1. Aaron Drive Properties LLC

GRANTEE(S):

- 1. The General Public

LEGAL DESCRIPTION: Full legal description found on Exhibit A, page 5.

Abbreviated:

- 1. Lot 4, RB Development, Div. No. 1

ASSESSOR'S PARCEL NUMBER(S):

- 1. 400316 049520 0000

**Amendment to Master Declaration and
Covenants, Conditions and Restrictions for RB Development**

This Amendment to Master Declaration and Covenants, Conditions and Restrictions for RB Development ("Amendment") is made this ____ day of _____, 20__, by AARON DRIVE PROPERTIES LLC, a Washington limited liability company (the "Owner").

WHEREAS, a certain Master Declaration and Covenants, Conditions and Restrictions for RB Development dated March 2, 1995 was recorded under Whatcom County Auditor File No. 950505156, as amended (the "Declaration").

WHEREAS, the Owner is constructing a senior housing complex, known as the Parkview West Apartments, on a portion of the real property affected by the Declaration, which portion of real property is legally described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

WHEREAS, the Owner desires to amend the Declaration as set forth herein as it relates to the Parkview West Apartments only.

WHEREAS, this Amendment shall be submitted to the City of Lynden (hereinafter called "Lynden" or "City") for approval.

NOW THEREFORE, the Declaration is hereby amended as follows:

1. Section 2.3 of the Declaration provides that every Owner shall be a member of the Association. Each Owner of apartment units is entitled to cast one (1) vote per every two dwellings. The Parkview West Apartment Property is therefore assigned one (1) vote for every two apartment dwellings granted occupancy permits. :

A vote shall be appurtenant to and held and owned in the same manner as the beneficial fee interest in the Lot or Dwelling to which it relates. A vote shall not be separated from ownership of the Lot or Dwelling to which it relates; provided, however, that when more than one entity holds the beneficial interest in any Lot or Dwelling, the vote therefore shall be cast as the Owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or Dwelling; and if the several Owners of a Lot or Dwelling are unable to agree as to the casting of their vote, such a vote shall be deemed an abstention.

2. Section 2.4 of the Declaration is hereby amended to increase the total number of outstanding votes in the Association to include those assigned under Section 2.3 above.

3. Section 10.4 of the Declaration is hereby amended to include

the Open Space Area on the Development Map (attached?) approved by the City of Lynden. The area shall be and subject to the provisions of these covenants, conditions and restrictions must be perpetually maintained as Open Space for the common use and recreational enjoyment of the members of the Association.

4. Section 12.12 of the Declaration hereby applies to the Property as with regard to the Property shared read as follows:

Compliance with PRD Approval. In all respects, each Owner and the Association hereby assumes responsibility for performance of the terms, covenants and conditions required by the City of Lynden in connection with the approval of PRD No. 94-1 and, specifically, the Planned Residential Development Contract entered into between the Declarant and the City dated December 22, 1994 and recorded in the Whatcom County Auditor's File No. 941227078, as amended by various instruments, including but not limited to, that Amendment to RB Development and Heritage Park Development Contract dated _____ and recorded under Whatcom County Auditor's File No. _____.

5. Except as herein amended, all the terms, conditions, provisions and covenants of the Declaration are hereby ratified and confirmed and shall remain in full force and effect. All capitalized terms not otherwise defined herein shall have the meaning given to them in the Declaration.

SUBMITTED THIS ____ day of _____, 20__.

Aaron Drive Properties LLC

By: _____
Its: _____

STATE OF WASHINGTON



ss.

COUNTY OF WHATCOM

I certify that I know or have satisfactory evidence that _____ the _____ of **Aaron Drive Properties LLC**, a Washington limited liability company, is the person who appeared before me, and acknowledged that he signed this instrument on behalf of said company, on oath stated that he was authorized to execute the instrument on behalf of said company, and acknowledged this instrument to be the free and voluntary act and deed of said company for the uses and purposes herein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of _____, 20__.

Printed Name: _____

NOTARY PUBLIC in and for the State of Washington

My Commission

Expires _____

Exhibit A

Legal Description of the Property

400316 049520 0000

Lot 4, RB Development, Div. No. 1, a planned residential development, according to the map thereof, recorded in Volume 19 of Plats, page 21, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Draft Parks Committee Minutes November 15, 2021	
Section of Agenda:	Other Business	
Department:	Parks	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
ES-Draft Parks Committee Minutes November 15, 2021		
Summary Statement:		
See Next page		
Recommended Action:		
For Council Review		



PARKS DEPARTMENT
Vern Meenderinck, Parks Director
(360) 354 - 6717

PARKS COMMITTEE MINUTES

November 15, 2021

Virtual Meeting

1. ROLL CALL:

Members Present: Mayor Scott Korthuis; Councilors Ron DeValois; Mark Wohlrab; and Nick Laninga

Staff Present: City Administrator John Williams; Parks Director Vern Meenderinck; Parks Admin. Assistant Nancy Norris; and Brent DeRuyter Park Maintenance Supervisor; Planning Director Heidi Gudde; and City Planner Dave Timmer

2. ACTION ITEMS:

A. **Approval of Parks Committee Minutes- October 18, 2021**

DeValois asked for a motion to approve the minutes Wohlrab motioned to approve the October 18, 2021, minutes and Laninga approved the motion.

Action: *The Parks Committee Minutes from October 21, 2021, were approved.*

B. **Review and discuss camping restrictions**

Dave & Heidi explained and answered questions and the Parks Committee reviewed the memo from Carmichael’s office.

Action: *Parks Committee directed that the City Attorney create a no camping in public spaces, ordinance. Included in the ordinance should be provisions for special events that allow camping such as the Tractor Show at Berthusen and Sports Tournaments at Bender. It was noted that this ordinance will or should address the bulk of problems when a person/s decides to set up camp in public spaces.*

C. **Approve “Dickinson House lease to Kyle Olivarez**

Parks Committee reviewed the Dickinson Park House Lease Documents prepared by Carmichael’s Office.

Action: *Parks Committee approved to Lease the Dickinson Park house to Kyle Olivarez.*

3. INFORMATION ITEMS:

A. **Glennig property**

Notes from Glennig committee meeting on October 27, 2021. A few Park Landscapers and Architects have been contacted.

CITY OF LYNDEN



PARKS DEPARTMENT

Vern Meenderinck, Parks Director
(360) 354 - 6717

B. Updates on Parks projects:

Benson Park

Final agreement sent to SHKS

Dickinson

House repairs almost finished; basement flooring installed.

Should budget for a new roof in 2022

House rental Lease to Kyle Olivarez starting Nov. 15, 2021

Depot to 8th Trail

Possible change in location of trail to 8th St. – **No changes to the Location, the trail will stay in the original spot.**

4. ITEMS ADDED:

A. City Park Cannon

The Cemetery District donated a Canon to the City of Lynden many years ago.

It was originally stationed at City Park then moved to the Lynden Pioneer Museum. The Museum would like to move this Canon to another place. The Museum suggested Berthusen Park.

Action Parks Committee Says no to moving the Cannon to Berthusen Park instead recommends moving it to Centennial Park noting this park is a better fit, plus it keeps it with in the city limits per the agreement attached to the donation of the canon.

B. Park Maintenance Supervisor replacement hire.

This position will be advertised and hopefully filled by January 1, 2022.

Action: The Parks Committee recommends advertising the Park Maintenance Supervisor position internally first.

Meeting Adjourned at 5:00pm.

NEXT MEETING DATE

December 20, 2021

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	December 6, 2021	
Name of Agenda Item:	Community Development Committee Minutes of 11-17-21	
Section of Agenda:	Approval of Minutes	
Department:	Planning Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Meeting Minutes of Community Development Committee November 17, 2021		
Summary Statement:		
Draft CDC Minutes of 11-17-2021 attached for review.		
Recommended Action:		
Council review.		



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

COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

4:00 PM November 17, 2021

1. ROLL CALL

Council Members: Gary Bode, Brent Lenssen, Mayor Scott Korthuis

Staff: John Williams, Dave Timmer, Heidi Gudde

Chamber of Commerce: Gary Vis (joined last half of meeting)

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting Minutes of 9/22/21 approved as presented.

3. DISCUSSION ITEMS

- a. Introduction to a Prohibition of Public Camping in Public Spaces: Legal Framework and Potential Next Steps

John Williams gave an introduction to the topic. He noted that initial discussion on this issue had occurred at the Parks Committee and will be going to the Public Safety Committee at the beginning of December. Discussion was initiated because of a concern related to the potential of overnight camping / sleeping on City spaces and the City’s ability to regulate these activities.

Williams recommended that an ordinance begin with some basics such as defining camping as well as camping paraphernalia. Other cities have helpful ordinances that we can model, and case law gives us guidance as well.

The Committee and staff discussed the use of park rules as a tool to regulate activities include a provision on camping. Parks hours of operation become key in order to limit overnight use of the parks. This gives some flexibility for folks to use tents during the day for example, for sporting events, but would prevent overnight stays.

Parks closing at dusk raised the question about trail use after dusk. Williams noted that some park rules / ordinances make provisions for the actively use of the trail (as it runs through the park) for its intent can be included so that trail use and even park use of lighted areas could continue after dusk.

Noting special events – such as camping during the Tractor Club event – could include camping for a specific amount of time.

While Parks can utilize and adopted set of rules, other public spaces will also need to be addressed. And, of note, camping prohibitions have not been supported by the courts unless other sheltering options are available.

The Committee discussed the option of partnering with non-profits and the Health Department to develop a plan. This may need to include provisions which would provide transportation to those in need of sheltering and also a location for the City to store camping paraphernalia that may be collected from public spaces during the enforcement of a camping prohibition.

Mayor recommends getting an ordinance in place as soon as possible which covers the basics. Reach out to the Lighthouse Mission to be the sheltering option.

Next Steps:

- Draft an ordinance that defines camping, camping paraphernalia and prohibitions of camping.
- Potentially amend the Master Parks Plan to comprehensively define the areas considered parks (funding source for those properties are a consideration before they can be called a park).
- Policy to address homelessness should be in place. Transportation provisions or storage of personal items should be included in this policy.

b. Land Use Projects Map

General discussion of ongoing projects and especially those along the edge of the flood plain.

c. Additional Topics:

- Adjacent short plats versus long plats. Potential revision to code to clarify when a long plat might be triggered.
- Street widths, on-street parking, and cul-de-sacs discussed. Currently the Public Works Director makes the determination as to the standard required when code does not otherwise stipulate. Gudde noted that revisions related to street standards could potentially be added to the upcoming change to the Engineering Design Standards set to go before Council on December 6. The potential revision to Engineering Design Standards discussed additional clarifications / parameters to:

1. When private streets can be used and

2. When hammer heads can be used rather than a cul-de-sac.
- Lenssen raised a new issue related to the construction of multi-family housing and a potential moratorium on additional multi-family housing. Concerns related to parking and to mixed used concepts within the CSL which may not be functioning as well as hoped. Of note is the corner property located at Bay Lyn Drive and Guide Meridian as well as the potential annexation area in west Lynden. Suggested next steps:
 1. Code revision on the commercial and multi-family section of code related to the mixed-use provisions.
 2. Evaluate Census data to determine the status of multi-family ratio to the single-family ratio as set in the City's comprehensive plan.
 3. Review provisions related to CSL and the intent of the code as it relates to mixed use.
 4. Define mini-storage and storage in general where its permitted.

Next Meeting Date: December 22, 2021 unless moved to an earlier date to avoid conflicts with Christmas holiday activities.

CITY OF LYNDEN

EXECUTIVE SUMMARY



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

December 7, 2021
Tuesday

5:00 PM - 6:30 PM Design Review Board -- To be determined

December 8, 2021
Wednesday

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

7:00 PM - 9:00 PM Park and Rec. District Meeting -- Annex South East Conference Room

December 9, 2021
Thursday

7:00 PM - 10:00 PM Planning Commission Meeting -- Annex Council Chamber

December 15, 2021
Wednesday

All Day Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

December 16, 2021
Thursday

2:00 PM - 4:00 PM Technical Review Committee -- Microsoft Teams Meeting



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December 16, 2021 Continued

Thursday

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December 20, 2021

Monday

3:00 PM - 4:00 PM

Finance Committee Meeting -- Microsoft Teams Meeting
Finance Committee Meeting

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

-

UPDATE: beginning September 20th the Finance committee meetings will return online via TEAMS

Thank you!

Microsoft Teams meeting

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4:00 PM - 5:00 PM

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