



### **Public Works Committee Meeting Agenda**

Microsoft Teams Virtual Meeting

City Hall - 300 Fourth Street

4:00 PM May 05, 2021

#### **Call to Order**

#### **Action Items**

**1. Approve Minutes from April 7, 2021**

**2. Access from Mural Building into 7th Street Parking Lot**

The existing 'Airspace Encroachment Easement Agreement' between the City and Porch Swing Properties, owners of the Mural Building at 606 Front Street, recorded on March 17, 2020 which limits any encroachments into City property to railings, gutters, downspouts, awning facia, window sills, cornices, and other similar ornamentation, safety measures, or stormwater control, and one air vent..." is being amended. The amendment includes access to the City's parking lot for means of securing a required emergency access to the building.

**3. Foxtail Street Extension Latecomers Agreement Draft Assessment**

Authorize City to send letters to property owners notifying them of the proposed assessment to their property.

A ribbon cutting is tentatively scheduled for May 24th.

**4. Overflow Taps Outdoor Seating Proposal**

Jesse Nelson of Overflow Taps inquired about outdoor seating along 5th Street, which would require the relocation of two bike racks just outside the tap house. Photos will be presented at the meeting.

#### **Information Items**

**5. Puget Sound Energy Road Closure on West Main Street**

Underground electrical feeder on West Main Street will result in road closure in May.

**6. Airport Tree Survey**

Current airport tree survey received. Staff will discuss with Woodfield Village HOA.

**7. Whatcom Conservation District Educational Outreach - Spring, 2021**

The Whatcom Conservation District is encouraging residents to take measures to keep waterways clean as recent water quality tests have shown high fecal bacteria in portions of

Drayton Harbor and Portage Bay shellfish growing areas. The outreach campaign offers tips for pet waste, septic systems, farms, boats, recreational vehicles and wildlife.

Additionally, a map was provided from the Whatcom Conservation District showing on-site septic systems within City limits and their inspection status.

**8. Left Turn Designator at Front & 19th Streets Intersection**

Sail Electric has ordered parts for this intersection upgrade. Once received and installed, City of Bellingham will program lights.

**9. Planned 2021 Grant Applications**

STBG (WCOG) - Benson Road (May)

EDI (Whatcom County) - West Front Street (May)

TIB Pedestrian - Bradley Road (August)

DOE Stormwater - 9th or 10th Street (September)

**10. KOA Stormwater Pond Issues**

Concerns regarding shoreline erosion due to drainage to the KOA stormwater pond.

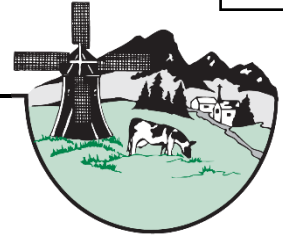
**Adjournment**

**Next Meeting:** June 9, 2021

# CITY OF LYNDEN

## PUBLIC WORKS DEPARTMENT

Main Number: (360) 354-3446



### Public Works Committee Meeting Minutes

Microsoft Teams Virtual Meeting

City Hall - 300 4<sup>th</sup> Street

4:00 PM April 07, 2021

#### Call to Order

#### Roll Call

Members Present: Councilor Gary Bode, Ron De Valois, Jerry Kuiken

Members Absent (with Notice): Mayor Scott Korthuis

Staff Present: City Administrator Mike Martin; Public Works Director Steve Banham, Programs Manager Mark Sandal, Sr. Admin. Assistant Miriam Kentner

Public Present: Gary Vis, Kevin Vander Veen

#### Action Items

##### 1. **Approve Minutes from March 3, 2021**

Kuiken motioned to approve the minutes and De Valois seconded the motion.

##### Action:

*The minutes from March 3, 2021 were approved.*

##### 2. **Six Year Transportation Improvement Plan (2022-2027) to May 3 City Council Meeting to Set a May 17, 2021 Public Hearing Date**

Banham presented the Six Year Transportation Improvement Plan (2022-2027) and noted new columns added for estimated year of construction. This is to make this tool more connected with available funding. De Valois asked if 10<sup>th</sup> Street (#10) could be updated sooner. Committee and staff agreed that 10<sup>th</sup> Street improvement are critical but also require the most complex solution. Banham discussed the timing of DOE grant funding based on annual applications in September with funding approved in the following legislative year. 8<sup>th</sup> Street is currently pending Legislative approval and DOE funds for 10<sup>th</sup> street would likely not be available until 2025. The Committee also requested that Cedar Drive (#12) construction be moved up and that South Park Street (#11) be shifted to 2023 construction.

##### Action:

*The Public Works Committee concurred to recommend forwarding the revised Six-Year Transportation Improvement Plan (2022-2027), with the changes for Cedar Drive and Park Street to the May 3 City Council Meeting to set a May 17, 2021 Public Hearing date.*

##### 3. **Request for Left Turn Designator at Front & 19th Streets Intersection**

The Committee discussed a request received for a left-turn arrow at the intersection of Front and 19<sup>th</sup> Streets citing that traffic volume can impede the ability to turn on the green light. Staff has estimated the cost of the signal modification to be \$12,000.

**Action:**

***The Public Works Committee concurred to recommend proceeding with the installation of a left signal modification with left turn arrows.***

**4. Request for 3-Way Stop at Bradley and Line Roads Intersection**

Sandal stated that he was speaking with a member of the public and a request was made to have a three-way stop installed at the intersection of Bradley Road and Line Road. The Committee discussed the need and suggested staff to work with Police to understand the traffic incident count for this area.

**Action:**

***The Public Works Committee concurred to recommend staff to continue to monitor and work with the Police Department to evaluate the need for a three-way stop and to investigate if any traffic accidents have occurred.***

**5. Request to Use Hydrant Meter for Irrigation at Ridnour Athletic Complex (1986 Main Street)**

Gary introduced Kevin Vander Veen, speaking on behalf of Luke Ridnour, who is requesting to have a temporary hydrant meter installed to irrigate the property north of the Ridnour Athletic Complex at 1986 Main Street. Vander Veen requested a temporary 1 ½" meter accessed through the church hydrant until a permanent solution gets approved.

**Action:**

***The Public Works Committee concurred to recommend proceeding with the installation of a temporary hydrant meter to irrigate the proposed new field.***

**6. Main Street Bridge at Pepin Creek**

Banham presented a map showing a proposed box culvert alternative that will reduce estimated road closure timeline from six months to four months. Banham stated this will increase the project cost from \$2.5 million to \$3 million.

**Action:**

***The Public Works Committee concurred to approve the box culvert alternative; however, they cautioned staff to be sensitive to the volume of agriculture traffic while creating the schedule for this construction project.***

**Information Items (some actions taken)**

**7. Agreement with Whatcom County for Jail Work Crew**

Staff is entering into an agreement with Whatcom County for the jail work crew to perform general yard maintenance at various City locations, including detention ponds in need of cleaning.

**8. Lynden Rec Center - Boiler, Heat Exchanger and Siding**

Staff is looking at the possibility of a Commerce grant for replacement of the boiler and heat exchanger and has asked Brian Davidson for an estimate on siding replacement. The boiler and heat exchanger were installed in 1979 and are inefficient and in poor working condition. Martin spoke about the siding and his communication with City Council and the need to aggressively respond to the siding replacement.

**Action:**

***The Public Works Committee concurred to recommend that staff work with Forge Fitness (Davidsons) to get estimates for replacing the siding and to continue to work to finding grant funding for the boiler system replacement.***

**9. Kamm Creek Culvert Replacement on East Badger Road This Summer**

WSDOT will be replacing the Kamm Creek culvert on East Badger Road (east of town) this summer after July 15th. The culvert replacement is planned to occur within a 60-hour timeframe, during which East Badger Road will be closed. Banham stated he requested construction to begin after the Northwest Washington Fair scheduled to end August 21, 2021.

**10. 7th Street Wins APWA 2021 Project of the Year Award**

The City's 7th Street project won the American Public Works Association 2021 Project of the Year Award for the category *Small Agency Transportation < \$5M*. The project would usually be showcased at the APWA Spring Conference; however, due to the Covid-19 pandemic, the project will be showcased in a future 'Project of the Year' video, via press release, social media, and by featuring the project in the APWA Chapter magazine. A plaque will also be provided to the City.

**11. PROJECT - Foxtail Street Extension**

The pre-construction meeting was held on March 26th. Construction began April 5<sup>th</sup> and is scheduled to be completed by the end of May. Sandal stated that the contractor found unsuitable soils that will need to be removed and is expecting those changed conditions could result in an estimated \$40,000 increase in cost, but still within the original construction estimate.

**12. PROJECT - Industrial Condensate - Riverview to Outfall**

Staff will be issuing a change order to Premium Services to replace a section of damaged and previously abandoned raw waterline to connect to the more recently installed industrial condensate pipe under Riverview Road.

**13. PROJECT - Guide Meridian Pump Station #17**

Staff is working on permanent and construction easement documents with the City attorney and property owners. City is also looking at pre-purchasing the emergency generator due to lengthy lead time. Staff explained the proposed location on the south side of Bay Lyn Drive on the east side of the private driveway.

**14. PROJECT - West Front Street Reconstruction**

Banham explained the economic benefits of reconstructing West Front Street to allow revenue-generating commercial development. He suggested if outside funding is not currently available, the could City install utilities and build a limited all-weather street cross section with the correct vertical and horizontal alignment to allow the full City street standard to be built over it in the future. This approach was used in the past with Line Road, which was recently improved in front of the new middle school.

**15. Request for Crosswalk Across Depot Road at Apple Valley Apartments (8611 Depot Road)**

A resident of the Apple Valley Apartments on Depot Road called and requested a crosswalk near the apartments and LTI to cross Depot Road.

**Action:**

***The Public Works Committee concurred to recommend installing a crosswalk on Depot Road at Springview Drive due to the proximity of the bus stop and because that street connects further to the east to the Kaemingk Trail.***

**16. 2021 Events (Lynden Chamber of Commerce)**

Vis presented the 2021 events for the Lynden Chamber of Commerce

**Action:**

***The Public Works Committee concurred to forward the 2021 events schedule to City Council for approval.***

**New Information****1) Left Turn Arrow on Front Street**

Bode proposed adding left-turn arrows on Front Street, eastbound, for vehicle turning south onto 1<sup>st</sup> Street/Hannegan Road. Banham stated that Public Works staff will review traffic patterns at this intersection to determine whether additional directional markers are needed.

**2) Short-Term Parking Signage for Front Street Shops**

Bode stated he has heard from numerous Front Street shops about the lack of short-term parking for pick-up customers. The Committee discussed that most parking spaces are often used by patrons of restaurants and residents of the nearby apartments and that having some short-term parking spaces near the Dutch Bakery (soon reopening) might make sense. Banham stated that Public Works staff will look at the parking code for Front Street and will review if 30-minute parking limit signs (during business hours) should be installed.

**Adjournment**

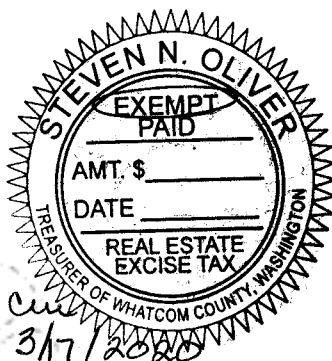
The Meeting was adjourned at 5:47 pm

**Next Meeting:** May 5, 2021



**After recording return document to:**

City of Lynden  
Planning Department  
300 4TH Street  
Lynden, WA 98264



**DOCUMENT TITLE:**

Airspace Encroachment Easement Agreement

**REFERENCE NUMBER OF RELATED DOCUMENTS:**

Restrictive Covenant: 2019-0900678

**GRANTOR:**

City of Lynden, a Washington municipal corporation

**GRANTEE:**

Porch Swing Properties, LLC., a Washington limited liability company

**ABBREVIATED LEGAL DESCRIPTION:**

Lots 1 & 2 & Ptn. Lot 3, Block 9, Supplemental and Corrected Plat of Lynden  
Full legal description on page(s) \_\_\_\_\_

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

400320 202260 0000  
400320 206263 0000

## AIRSPACE ENCROACHMENT EASEMENT AGREEMENT

THIS AIRSPACE ENCROACHMENT EASEMENT AGREEMENT ("Agreement") is made on this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between THE GRANTOR, the CITY OF LYNDEN, a Washington municipal corporation ("Grantor" or "City"), and the Grantee, PORCH SWING PROPERTIES, LLC, a Washington limited liability company (collectively, "Grantee") formerly known as TWIGA NW LLC & RAH Properties LLC ("TWIGA NW & RAH").

WHEREAS, the City owns the real property legally described at Exhibit A hereto ("City Property"); and

WHEREAS, Grantee owns the real property legally described at Exhibit B hereto ("Grantee's Property"); and

WHEREAS, on the Grantee's Property, there is an historic one-story building ("Building") that is built on the common property line between the City Property and the Grantee Property; and

WHEREAS, Grantee is in the process of remodeling the Building to add a second and third story, and in order to preserve, maintain and enhance the historical aesthetic of the building, Grantee wishes to build certain encroachments off of the west wall into the airspace above the City Property; and

WHEREAS, said encroachments shall be limited to railings, gutters, down spouts, awning facia, window sills, cornices, and other similar ornamentation, safety measures, or stormwater control, and one air vent ("Encroachments"); and

WHEREAS, the Encroachments will not interfere with the use of the City Property due to the "No Build Zone" created in the restrictive covenant recorded at Whatcom County Auditor's File No. 2019-0900678; and

WHEREAS, the City desires to grant, and Grantee desires to receive, an easement for the purpose of allowing the Encroachments from the west wall into the airspace above the City Property; and

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

NOW THEREFORE, for mutually accepted good and valuable consideration, the City hereby grants and conveys to the Grantee, a non-exclusive easement for the placement of the Encroachments in the Easement Area (defined below), pursuant to the following terms and conditions.

1. Purpose and Scope; Easement Area. The purpose of this Agreement is to allow the Grantee to place the Encroachments on the west wall of the Building, so that the Encroachments occupy the airspace above the City Property within the Easement Area. The Easement Area shall be a three-dimensional rectangular prism. The Easement Area shall be in the eastern-most one (1) foot of the City Property; and in height, shall begin five (5) feet above the ground and extend upwards to the limit of the City's airspace. Encroachments shall not be permitted to extend



outside the Easement Area. However, the Grantee may use the area of the City Property around the Easement Area to construct, operate, maintain, repair, or replace the Encroachments, so long as such use is reasonable and does not interfere with the City's use of the City Property.

2. Payment. As consideration for this Agreement, Grantee shall compensate Grantor in the amount of three hundred dollars (\$300.00) upon Grantee's execution.
3. Commencement of Term and Duration of Agreement. This Agreement shall commence upon execution by both Parties. It shall terminate in the event the Wall Easement described in the covenants recorded at Whatcom County Auditor's File No. 2019-0900678 is terminated.
4. Subordination to City's Construction and Use Needs. The City anticipates reconstructing the City Property. The City reserves the right to temporarily exclude Grantee from the Easement Area and temporarily remove Encroachments in the event it or its contractor(s) requires access to that portion of the City Property in order to redevelop it.
5. Construction, Operation, Maintenance, Repair and Replacement. The Encroachments shall be kept in good repair, at least as well as current building and engineering codes require. The Grantee shall bear all expenses for operation, maintenance, repair, and replacement of the Encroachments.
6. Early Termination. If Grantee's use of the City Property exceeds the purpose and scope of this Agreement, or if any Encroachment, in the City's sole discretion, poses a potential risk to public safety and the Grantee does not correct said risk to the City's satisfaction within thirty (30) days of written notice thereof, then this Agreement shall be terminated and Grantee shall have fifteen (15) days to remove all Encroachments from the Easement Area.
7. Emergency Repair or Removal of Encroachments. If any of the Encroachments, in the City's sole discretion, pose an immediate threat to public safety, the City may cause the Encroachment to be repaired or removed in the manner it best sees fit. The Grantee shall reimburse the City for all costs incurred. The City shall not be responsible for damages to the Building or the Grantee's Property caused during or because of its correction of an emergency situation.
8. Repair Damage. The Grantee shall repair any damage caused to Grantor's Property arising from or related to its use of the Easement Area or the City Property. Grantee shall leave the City Property in a clean and tidy condition, free of refuse of any kind, after installing and maintaining the Encroachments.
9. Run with the Land. This Agreement and all rights and obligations described herein shall be deemed to touch and concern the land, shall run with the land during its entire term, and shall be binding on all parties having or acquiring any right, title, or interest in the land described herein or any part thereof.

10. Insurance. Grantee shall procure and maintain in force, without cost or expense to the City, on or before the commencement date of this Agreement and throughout the term, a broad form comprehensive general liability policy of insurance covering bodily injury and property damage, with respect to the use and occupancy of the Grantor's Property with liability limits of not less than \$1,000,000.00 per occurrence. The City shall be named as additional insured on all such policies, which policies shall in addition provide that they may not be canceled or modified for any reason without fifteen (15) days prior written notice to the City. Grantee shall provide the City with a certificate or certificates of such insurance within ten (10) days of the execution of this Agreement.
11. Hold Harmless. Grantee shall indemnify and hold the City harmless from any and all such damages and litigation expenses resulting from any claims or causes of action for injury to persons or property arising from Grantee's own respective acts or omissions and the acts or omissions of their employees, contractors, residents, or authorized agents, to the extent and in the same proportion as employees, contractors, residents, or authorized agents are determined to be at fault.
12. Assignment. Grantee shall not assign, convey or transfer this Agreement or any interest herein, without prior written consent of the City.
13. Notice. Any notice, declaration, demand or communication to be given by a Party to this Agreement to the other shall be in writing and transmitted to the other Party by personal service or certified U.S. mail, return receipt requested, postage fully prepaid, addressed as follows:
- Grantor:  
City of Lynden  
Attn: Steve Banham  
300 Fourth Street  
Lynden, WA 98264
- Grantee:  
Porch Swing Properties, LLC  
1118 E. Front Street  
Lynden, WA 98264
14. Complete Agreement/Modification. This Agreement and the terms and conditions herein represents a complete agreement between the Parties. There are no other representations, warranties, covenants, agreements, collateral agreements, or other conditions affecting this Dumpster Easement other than those set forth herein. Modification of this Agreement or any of its terms and conditions shall be binding upon the parties only if they are in writing and fully executed by the Parties.
15. Applicable Law/Construction/Venue. This Agreement shall be governed and interpreted in accordance with the laws of the State of Washington. In the event this Agreement is in conflict with the provisions of any law or statutes governing the subject matter hereof, such law or

statute only to the extent of such conflict shall be controlling. The venue of any action brought to interpret or enforce any provision of this Agreement shall be laid in Whatcom County, Washington.

- 16. Attorney' s Fees and Costs. In the event of any litigation arising under the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing Party its reasonable costs and attorney's fees.
- 17. Nonwaiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party' s right to enforce such provision for the same or similar breach then or in the future, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- 18. Counterparts. This Agreement may consist of two or more separately ratified counterparts, each of which shall constitute a duplicate original of this Agreement and all which together will constitute a single Agreement.
- 19. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, this Agreement is executed on the date first above written.

**GRANTOR:**

**GRANTEES:**

CITY OF LYNDEN

PORCH SWING PROPERTIES, LLC

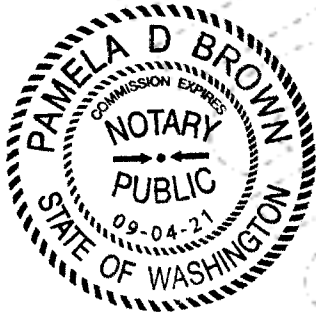
  
 \_\_\_\_\_  
 By Scott Korthuis  
 Its Mayor

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

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that SCOTT KORTHUIS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MAYOR of the CITY OF LYNDEN, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 3 day of March, 2020



Pamela D. Brown

{Notary Signature}

NOTARY PUBLIC in and for the State of Washington  
Residing at Whatcom County  
My appointment expires: 9/4/2021

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the PORCH SWING PROPERTIES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
{Notary Signature}

NOTARY PUBLIC in and for the State of Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_

**EXHIBIT A**  
Legal Description of City Property

400320 202260 0000

All of Lots 1 and 2, except, the Easterly 2 feet of Lot 2 thereof, Block 9, "Supplemental and Corrected Plat of Lynden," as per the plat thereof, recorded in Book 3 of Plats, Page 48, in the Auditor's Office of Whatcom County, Washington.

Situate in Whatcom County, Washington.

**EXHIBIT B**

Legal Description of Grantee's Property

400320 206263 0000

The Northeasterly two feet of Lot 2 and the Southwesterly thirty feet of Lot 3, in Block 9, "Supplemental and Corrected Plat of Lynden," according to the plat thereof, recorded in Volume 3 of Plats, Page 48, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

**RETURN TO:**

ROBERT A. CARMICHAEL  
CARMICHAEL CLARK, P.S.  
P.O. BOX 5226  
BELLINGHAM, WA 98227  
PHONE: (360) 647-1500

**DOCUMENT TITLE:**

AMENDED AIRSPACE ENCROACHMENT EASEMENT AGREEMENT

**REFERENCE NUMBER OF RELATED DOCUMENT:**

AIRSPACE ENCROACHMENT EASEMENT: AF No. 2020-0302083  
RESTRICTIVE COVENANT: AF No. 2019-0900678

**GRANTOR:**

CITY OF LYNDEN, a Washington municipal corporation

**GRANTEE:**

PORCH SWING PROPERTIES, LLC, a Washington limited liability company

**ABBREVIATED LEGAL DESCRIPTION:**

LOTS 1 & 2 & PTN LOT 3, BLOCK 9, SUPPLEMENTAL AND CORRECTED PLAT OF  
LYNDEN

Full legal descriptions at pages 6-9 hereto

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

400320 202260 0000  
400320 206263 0000

**AMENDED AIRSPACE ENCROACHMENT EASEMENT AGREEMENT**

THIS **AMENDED AIRSPACE ENCROACHMENT EASEMENT AGREEMENT** (“**Amended Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF LYNDEN, a Washington municipal corporation (hereinafter “Grantor” or “City”) and PORCH SWING PROPERTIES, LLC, a Washington limited liability company (hereinafter “Grantee”). Grantor and Grantee may be referred to herein individually as “Party” or collectively as “Parties.”

**RECITALS**

**WHEREAS**, Grantor is the sole owner of real property within the City of Lynden legally described in **Exhibit A** hereto and fully incorporated herein by reference (hereinafter “Parking Lot” or “Burdened Property”); and

**WHEREAS**, Grantee is the sole owner of real property within the City of Lynden legally described in **Exhibit B** hereto and fully incorporated herein by reference (hereinafter “Mural Building”); and

**WHEREAS**, the Parties previously executed an Airspace Encroachment Easement Agreement (“Encroachment Agreement”), recorded under AF No. 2020-0302083, to facilitate Grantee’s development of the Mural Building; and

**WHEREAS**, the Parties intend that Encroachment Agreement and all of its terms shall be incorporated into this Amended Agreement, without the need to restate them; and

**WHEREAS**, Grantee’s plan for developing the Mural Building requires that a second means of emergency access to and from the building be established; and

**WHEREAS**, the layout and constraints of the immediate vicinity are such that obtaining access to Grantor’s Parking Lot, which is adjacent to the Mural Building, represents Grantee’s best option for establishing the required emergency access; and

**WHEREAS**, Grantee, for the purposes of securing the required emergency access, has requested from Grantor an easement permitting construction of an emergency exit landing extending into a portion of the Parking Lot (hereinafter “Encroachments”) as well as associated pedestrian emergency ingress/egress from the Mural Building; and

**WHEREAS**, Grantor desires to grant and Grantee desires to receive the requested emergency access easement; and

**WHEREAS**, Grantor and Grantee intend that this Amended Agreement shall effectively amend the Encroachment Agreement in order to grant the requested easement; and

**WHEREAS**, these recitals are a material part of this Amended Agreement,

**NOW, THEREFORE**, in consideration of the promises and conditions herein, the Parties hereby agree as follows:



1. **Grant of Easement.** Grantor, for mutually accepted good and valuable consideration, hereby grants and conveys to Grantee a non-exclusive easement (hereinafter "Emergency Access Easement") for the placement of Encroachments upon, and emergency pedestrian ingress and egress over, a portion of the Parking Lot (hereinafter "Easement Area") as legally described in **Exhibit C** and depicted in **Exhibit D**, both attached hereto and fully incorporated herein by reference. The Encroachments shall be limited to a landing, and associated required improvements for providing emergency pedestrian ingress and egress for the Mural Building.
2. **Purpose and Scope.** This Emergency Access Easement shall be for the purposes of allowing Grantee to place the Encroachments within the Easement Area and allowing the emergency pedestrian ingress and egress to and from the Easement Area. Grantee's use of the Emergency Access Easement shall be limited to that purpose. The Encroachments shall not be permitted to extend outside the Easement Area. However, Grantee may use the areas of the Parking Lot around the Easement Area to construct, operate, maintain, repair or replace the Encroachments, so long as such use is reasonable and does not interfere with Grantor's use of the Parking Lot.
3. **Consideration.** As consideration for this Emergency Access Easement, Grantee shall compensate Grantor by installing, maintaining, and paying any annual fee required, at Grantee's sole expense, a public electric vehicle charging facility within the Parking Lot.
4. **Costs.** Grantee shall pay any recording fees related to this Amended Agreement. Each Party shall be solely responsible for its own attorney's fees related to the preparation of this Amended Agreement.
5. **Commencement of Easement.** This Amended Agreement and Emergency Access Easement shall commence upon the recording of this Amended Agreement with the Whatcom County Auditor.
6. **Binding on Successors & Run with the Land.** This Amended Agreement and all rights, restrictions, covenants, easements and obligations described in this Amended Agreement are perpetual and shall run with the land and are appurtenant to the Burdened Property and shall be binding on the heirs, successors and assigns of the Parties and on all persons or entities having or acquiring any right, title or interest in the Burdened Property or any part thereof.
7. **Compliance with Laws and Rules.** Grantee shall at all times exercise its rights herein in accordance with the requirements (as from time-to-time amended) of all applicable statutes, laws, orders, rules, and regulations of any public authority having jurisdiction.
8. **Counterparts.** This Amended Agreement may consist of two or more separately ratified counterparts, each of which shall constitute a duplicate original of this Amended Agreement and all of which together will constitute a single Amended Agreement.
9. **Severability.** In case any one or more of the provisions contained in this Amended Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such

invalidity, illegality, or unenforceability shall not affect any other provision herein, and this Amended Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**10. Number/Gender/Headings.** As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All paragraph headings and/or captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Amended Agreement.

**11. Existing Easement and Encroachment Agreement Terms.** Except as set forth herein, the remainder of the existing Encroachment Agreement shall remain in full force and effect and its terms, unless modified or contradicted herein, are hereby fully incorporated herein by reference and shall govern this Amended Agreement.

**12. Entire Agreement.** This Amended Agreement constitutes the entire agreement between the Parties as to the matters contained herein. There are no other representations, warranties, covenants, agreements, collateral agreements or other conditions affecting this Amended Agreement other than those set forth herein or expressly incorporated herein by reference. No oral or written statements made by either Party prior to or following execution of this Amended Agreement shall be considered a part of this Amended Agreement unless expressly incorporated herein in writing or by reference.

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

**GRANTOR:**

**GRANTEE:**

CITY OF LYNDEN

PORCH SWING PROPERTIES, LLC

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

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

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

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

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

\_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

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

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

\_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
**Legal Description of Parking Lot (Burdened Property)**

Parcel No. 400320 202260 0000

All of Lots 1 and 2, except, the Easterly 2 feet of Lot 2 thereof, Block 9, "Supplemental and Corrected Plat of Lynden," as per the plat thereof, recorded in Book 3 of Plats, Page 48, in the Auditor's Office of Whatcom County, Washington.

Situate in Whatcom County, Washington.

**EXHIBIT B**  
**Legal Description of Mural Building**

Parcel No. 400320 206263 0000

The Northeasterly two feet of Lot 2 and the Southwesterly thirty feet of Lot 3, Block 9, "Supplemental and Corrected Plat of Lynden," according to the plat thereof, recorded in Volume 3 of Plats, Page 48, records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

**EXHIBIT C**  
**Legal Description of Easement Area**

(To include Surveyed Legal Description of Easement Area)

**EXHIBIT D**  
**Depiction of Easement Area**

(To include Stamped Surveyed Depiction of Easement Area)





Exhibit C

Proposed sidewalk would extend 43 feet along the mural building (exhibit B) starting at the southwest corner and running north. It will protrude into the city owned parking lot (exhibit A) 5 feet. There is a shared "No Build" easement in this area.

RECEIVED

APR 28 2021

City of Lynden  
Planning Department

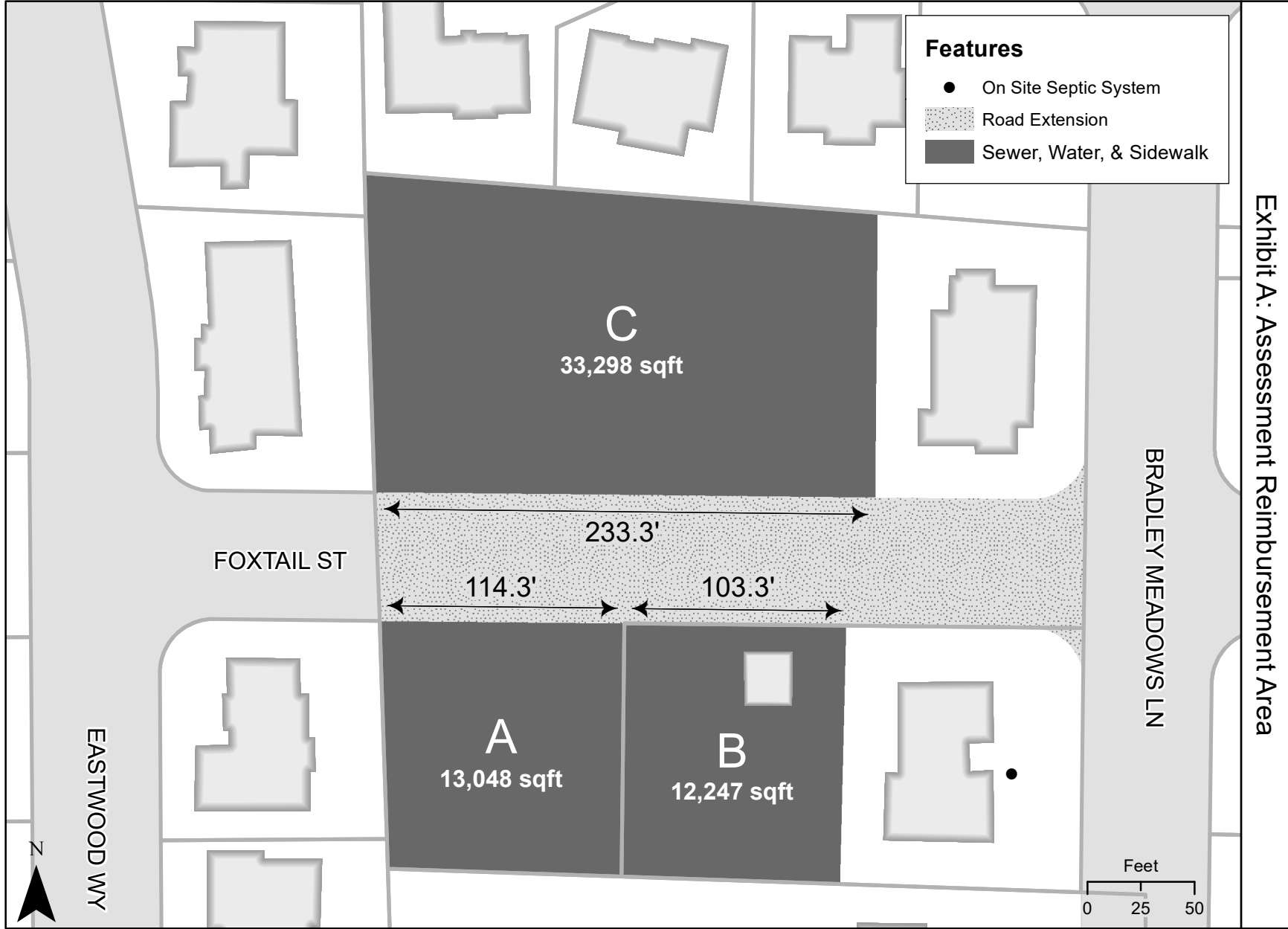


**17th Street Extension  
Preliminary Assessment Roll**

Date November 20, 2020

Item #3.

#	Tax ID No.	Owner	Address 2	Frontage (feet)	Sidewalk (per LF)	Water 50%	General Sewer 50%	TOTAL ASSESSMENT
			South Side of Foxtail Street					
1			Lynden, WA 98264	217.8	\$14,626.27	\$14,261.44	\$14,985.65	<b>\$43,873.36</b>
			North Side of Foxtail Street					
3			Lynden, WA 98264	233.3	\$15,638.93	\$14,261.44	\$14,985.65	<b>\$44,886.03</b>
								\$88,759.39
<b>Construction Costs Incurred by City - Foxtail Gap Elimination Project</b>								
			<u>Bid Item</u>	<u>Unit Price</u>	<u>Units</u>	<u>Cost per LF</u>	<u>Cost Each</u>	
			31 Sidewalk	\$57.50	SY	\$38.33		
			27 Curb & Gutter	\$25.00	LF	\$27.00		
			29 Driveways (30') (one each)	\$85.00	SY	20	\$396.67	
			<u>Bid Item</u>	<u>Water</u>	<u>Unit Price</u>	<u>Units</u>	<u>Qty</u>	<u>Cost</u>
			42	8" Water Main	\$30.00	LF	320.00	\$9,600.00
			43	Shoring or Extra Excavation	\$0.10	each	1400.00	\$140.00
			44	Air Release/Air Vaccum Valve Assy	\$2,500.00	each	1	\$2,500.00
			45	Hydrant Assembly	\$4,000.00	each	1	\$4,000.00
			46	Service - 1 inch diameter	\$1,200.00	each	4	\$4,800.00
			47	Service - 2 inch diameter	\$2,600.00	each	2	\$5,200.00
							Subtotal:	\$26,240.00
						Tax:	8.7%	\$2,282.88
								<b>\$28,522.88</b>
			<u>Bid Item</u>	<u>Sewer</u>	<u>Unit Price</u>	<u>Units</u>	<u>Qty</u>	<u>Cost</u>
			48	Shoring or Extra Excavation Class B	\$0.10	LF	4050	\$405.00
			49	Manhole 48 In. Diam. Type 3	\$4,000.00	each	1	\$4,000.00
			50	PVC Sanitary Sewer Pipe 6 In. Diam.	42.00		190	\$7,980.00
			51	PVC Sanitary Sewer Pine 8 In. Diam.	36.50		375	\$13,687.50
			52	Sewer Cleanout	500.00		3	\$1,500.00
							Subtotal:	\$27,572.50
						Tax:	8.7%	\$2,398.81
								<b>\$29,971.31</b>



# Foxtail Latecomer Aerial

Item #3.



**For Release:** April 12, 2021

**Contact:** Andrea Hood (360-306-7379) [andrea.hood@doh.wa.gov](mailto:andrea.hood@doh.wa.gov)  
Bellingham WA



## **Whatcom Clean Water Program asks for help to prevent pollution**

This spring, [Whatcom Clean Water Program](#) partners are asking local residents to re-engage in helping to keep our waterways clean and community healthy. During late 2020 and early 2021, local clean water partners measured high fecal bacteria levels in portions of Drayton Harbor and Portage Bay shellfish growing areas. Drayton Harbor supports commercial, recreational, and tribal harvesting opportunities. Portage Bay is home to one of the Lummi Nation's important commercial, ceremonial, and subsistence shellfish growing areas located on the Lummi Indian Reservation.

The recent increases in bacteria levels may have set-back hard-won efforts over the past several years to improve water quality in the areas and recover year-round shellfish harvest. Community-wide action is needed now to reverse these trends.

Fecal bacteria are present in the feces (poop) of warm-blooded animals including humans. Potential sources include livestock and other farm animals, dogs, wildlife, and septic systems. When high bacteria levels get in our waterways it increases the risk of people getting sick from contacting contaminated water. When too much bacteria are measured in the water, beaches and shellfish beds can be closed.

The good news is that community efforts in the past have succeeded in improving water quality. We know small steps by everyone can make a big positive difference. Picking up pet poop (every time), inspecting your septic systems to prevent costly and messy failures, using marina pump out stations, keeping farm animals off wet pastures, and managing manure responsibly are just some of the actions that help. There are ways for everyone to be a part of the solution. For more complete resource information, visit [spring 2021 tips](#).

Whatcom Clean Water Program agencies coordinate with citizen groups, agriculture and shellfish advisory boards, watershed improvement districts, local jurisdictions, and Canada partners to offer residents technical and financial help to fix potential pollution sources. Grants through the Environmental Protection Agency National Estuary Program have supplemented local and state support for Whatcom's pollution identification and correction program.

Everyone should be able to safely enjoy swimming, fishing, boating, crabbing, and shellfish harvesting in Whatcom County. The community has met this challenge before, and we can do it again. Working together, we can protect the health of our families and allow our community to thrive.

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*On behalf of the following [Whatcom Clean Water Program](#) partners:*

Whatcom Conservation District	Washington Department of Agriculture
Whatcom County Health Department	Washington Department of Ecology
Whatcom County Planning & Development Services	Washington Department of Health
Whatcom County Public Works	

- Spring 2021 tips: [https://whatcomcounty.us/DocumentCenter/View/47020/2021-Spring-Tips\\_final?bidId](https://whatcomcounty.us/DocumentCenter/View/47020/2021-Spring-Tips_final?bidId)
- Whatcom Clean Water Program: <https://www.whatcomcounty.us/DocumentCenter/View/41596/WhatcomCleanWaterProgram>

# Are You Ready for Spring?

Winter rains are behind us, let's get ready to be outside

Mud, ponded water, and streams flowing through our yards...winter was tough this year. With all that water, soils are soaked. Spring rains flow over wet soils, picking up and carrying pollutants on the land into ditches and creeks. This includes poop and bacteria from livestock, dogs, wildlife, and improperly functioning septic systems.

Water carries fecal bacteria through our ditches and creeks, downstream to rivers and into our bays and harbors. High bacteria levels increase the risk of people getting sick from contacting contaminated water. Our favorite beaches are closed to swimming and harvesting shellfish when there is too much bacteria.

Everyone should be able to enjoy swimming, fishing, boating, crabbing, and harvesting shellfish - safely. Working together we can reduce bacteria, protect the health of our families, and allow our community to thrive.

Many neighbors are helping to protect water quality and our community's health by responsibly managing manure and pet waste, reducing mud and soil compaction, and ensuring properly functioning septic systems. There are ways for everyone to be a part of the solution. The spring season tips below can get you started.

## Tips for Pet Waste

Like human poop, pet poop is raw sewage containing pathogens such as bacteria, viruses, and parasites that can make other animals or people sick. When people leave their pets' waste on the ground, it's not only gross to step in, the rain will wash the pathogens from pet poop into stormdrains, ditches, and creeks.

Scoop, Bag, and Trash it! Take the Scoop the Poop Pledge and make sure to follow through on the last step. Bags of poo forgotten on the ground or flung into bushes or trees, become torn and poo-llution is washed into community waterways. Bag it and throw it in the trash.

Become a Neighborhood Ambassador, receive a sign and Scoop the Poop supplies to share with others.

### Take 2 for Poo - 2 Bags, 2 Minutes, 2 Chances

- 2 Bags - Bring 2 poop bags or take 2 bags from the bag dispenser. This way you have one ready and another on hand for any surprises.
- 2 Minutes - Scooping your pet's poop will take less than 2 minutes to scoop, tie and put in the trash.
- 2 Chances - You have 2 chances to do a good deed. Still have an extra bag near the end of your walk? Use the extra bag to pick up a poo that someone missed, or use it to pick up other trash.

For more information about these pet waste programs, visit [www.whatcomcounty.us/scooppoop](http://www.whatcomcounty.us/scooppoop).



\* Note: Poop may also enter the water from direct discharging or dumping.



## Tips for Septic Systems

Regularly evaluating and maintaining your septic system can help you find and fix small problems early, before a big (costly) problem develops. Too much water and sewage going to your drainfield may cause your septic system to overload. If this occurs you may run the risk of sewage backing up into your home or surfacing in your yard. A septic system's drainfield typically fails because too much water from the house, an outside source, or both, is flushed into the system. Here are some specific tips to help keep excess water out of your septic system and protect your property.



### SEPTIC BASICS

**Repair leaking toilet flappers.** A worn out toilet flapper can allow water to leak from the toilet tank to the toilet bowl. These leaks often go unnoticed and could send hundreds of gallons of additional water each day through your septic system. Repairing a leaking toilet flapper is quick and cheap, and has the added benefit of reducing your water bill! <https://www.epa.gov/watersense/fix-leak-week>

**Spread out the timing of your laundry loads.** Try to do laundry throughout the week and avoid 'laundry catch up days'. Modern high-efficiency washing machines can use between 10 and 20 gallons of water per load. Older top loading washing machines can use up to 40 gallons per load. Washing five loads of laundry in one day could send more than 200 gallons of water through your septic system, which may be too much for your system to handle.

**Divert runoff/downspouts.** Divert excess water away from your septic tank and drainfield. Make sure that roof gutters and downspout extensions are in place to direct water away from your septic system. A drainfield that is constantly wet is unable to treat sewage properly. If you notice problems, call the health department or a licensed septic professional for advice.

**High water alarm.** If your high water alarm was going off during the wettest and rainiest months this past winter, it's a good sign to call a professional. If components of your septic system are not watertight, raw untreated sewage could be leaking into your yard.



FINANCIAL  
ASSISTANCE

For more information about septic systems, visit [www.whatcomcounty.us/septic](http://www.whatcomcounty.us/septic) or call the Whatcom County Health Department at (360) 778-6000. For rebate information, visit [www.co.whatcom.wa.us/2257/Septic-Maintenance-Rebate-Program](http://www.co.whatcom.wa.us/2257/Septic-Maintenance-Rebate-Program).

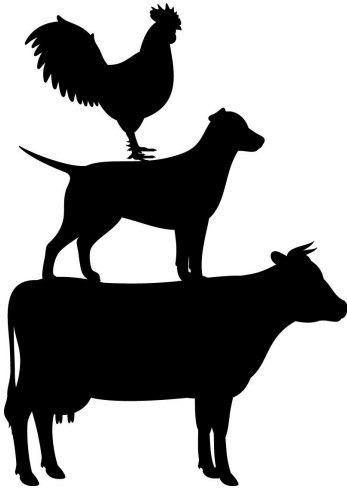
## Tips for Farms

Spring is a great time to start the projects you have been planning all winter. Whatcom Conservation District (CD) provides free and confidential farm planning advice. They can also loan you a manure spreader or poultry processing equipment and connect you with rebates and grants for your farm improvement dreams. Contacting the CD is the first step towards your \$200 rebate for barn gutters, fencing or heavy use area footing. For CD program information, visit <https://www.whatcomcd.org/landowner-tools> or call (360) 526-2381.

### Pastures

**Assess pastures before opening pasture gates.** Animals on wet fields can compact the soils and damage newly growing grass. Compaction and early damage limits your field's ability to produce forage throughout the growing season. If the field is too wet for your feet, it's also too wet for your animals.





Install fences or check existing fences to ensure animals are excluded from wet areas, including swales, ditches, streams, ponds, and wetlands. Rebates available for fencing: [www.whatcomcounty.us/2909/Small-Farm-Improvement-Rebates](http://www.whatcomcounty.us/2909/Small-Farm-Improvement-Rebates).

Avoid overgrazing. To get the most from your grass this season, move grazing animals from a pasture when the grass gets below 3 inches tall. Rotate the animals to another field and back to the original pasture when the grass is back to 6 inches or more.

Follow manure application setback guidelines for pasturing animals. Just like manure spreading equipment, animals apply manure to your fields. Check and follow the recommended or required setback distances that apply to you (e.g. [seasonal manure application setbacks](#), Critical Areas Ordinance requirements, or Department of Ecology recommendations). The Whatcom Conservation District can help you determine appropriate setbacks.

### **Manure Nutrient Applications and Storage**

Get manure on to fields at the right time. The right time to apply manure nutrients to your pastures/crops depends on some variables. Consider if your soil is dry enough, when plants need the nutrients, and if the weather is compliant. Check the Whatcom Conservation District's [Manure Spreading Advisory](#) to find the best time to apply nutrients and call to inquire about borrowing their manure spreader to get the job done.

Follow seasonal manure application setback guidelines. From March through May, the setback is **40 feet** from all waterways and swales. The recommended setback from waterways moves to **10 feet** during June through August. The setback distances apply to application of solid and liquid manure as well as to grazing animals.

Apply nutrients at agronomic rates. Match manure nutrient application (amount and timing) to what your pastures and crops need. Split applications throughout the growing season to maximize nutrient availability and uptake by plants. That includes accounting for grazing animals as "applicators."

Sign up to receive manure text alerts from Whatcom Conservation District. Text "EZManure" to 797979 to receive notices of significant weather events and manure application tips.

Cover manure storage or compost system. Cover your manure pile with a tarp or roof structure through the wet spring and into the dry summer. Covering your manure pile preserves nutrients, reduces polluted runoff in the spring, and prevents wind drift from your farm in the summer. Contact the Whatcom Conservation District for a free tarp, or share your manure with others for fertilizer with the manure link program.

<https://www.whatcomcd.org/manure-link>.

### **Cover Crops**

Plan your cover crop or relay crop. Cover and relay crops are a great way to hold soil and nutrients in place during the fall and winter months. Reducing soil and nutrient transport helps protect ground and surface water quality and improves your field's soil fertility.



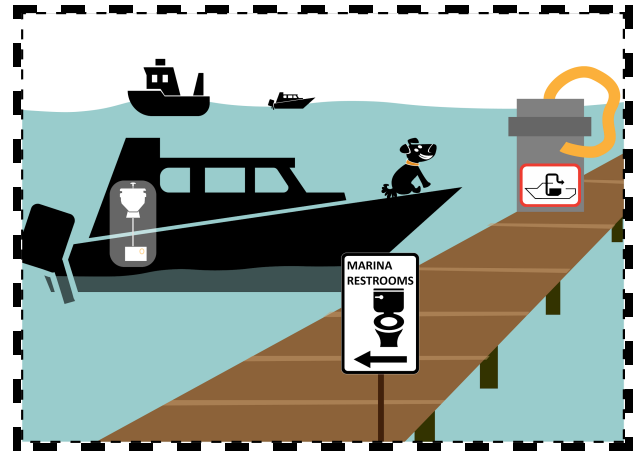
## Tips for Boats and Recreational Vehicles

**Always** use a designated pump out station to dispose of sewage from your boat or RV. Discharging black or gray water anywhere else is illegal and dangerous! Protect your family, neighbors, and waterways by following the sanitary disposal tips below:

**Boat Holding Tanks:** Puget Sound marine waters are a no-discharge zone (NDZ) for boat sewage. Find pump out stations at <https://pumpoutwashington.org/>.

**RV Holding Tanks:** RV dump stations are available at various locations across the county and state. Plan your route so you know you don't forget to dispose of your holding tank waste properly. Use this [Sanidumps map](#) or visit [WSDOT](#) for more resources.

**Note:** If you are staying in an RV for an extended amount of time, call the health department, (360)-778-6000, to talk about safe ways to connect to a septic system or other pump out options available to you. Some local septic companies may be able to provide on-site RV tank pumping.



## Tips for Wildlife

Larger than natural populations of wildlife, such as raccoons, can be a source of bacteria in creeks. When people make food and shelter easily accessible to wildlife, animals can increase their populations above natural levels.



**Do not feed wildlife.** Feeding wildlife, especially 'people food', might cause them serious health problems. Unnatural gathering of animals also makes it easier for diseases to spread among them. Secure pet food, garbage, and compost from wildlife.

**Block off** crawl spaces and attic vents from wildlife access.

For more information about wildlife, visit [www.whatcomcounty.us/2916/I-See-Urban-Wildlife](http://www.whatcomcounty.us/2916/I-See-Urban-Wildlife).

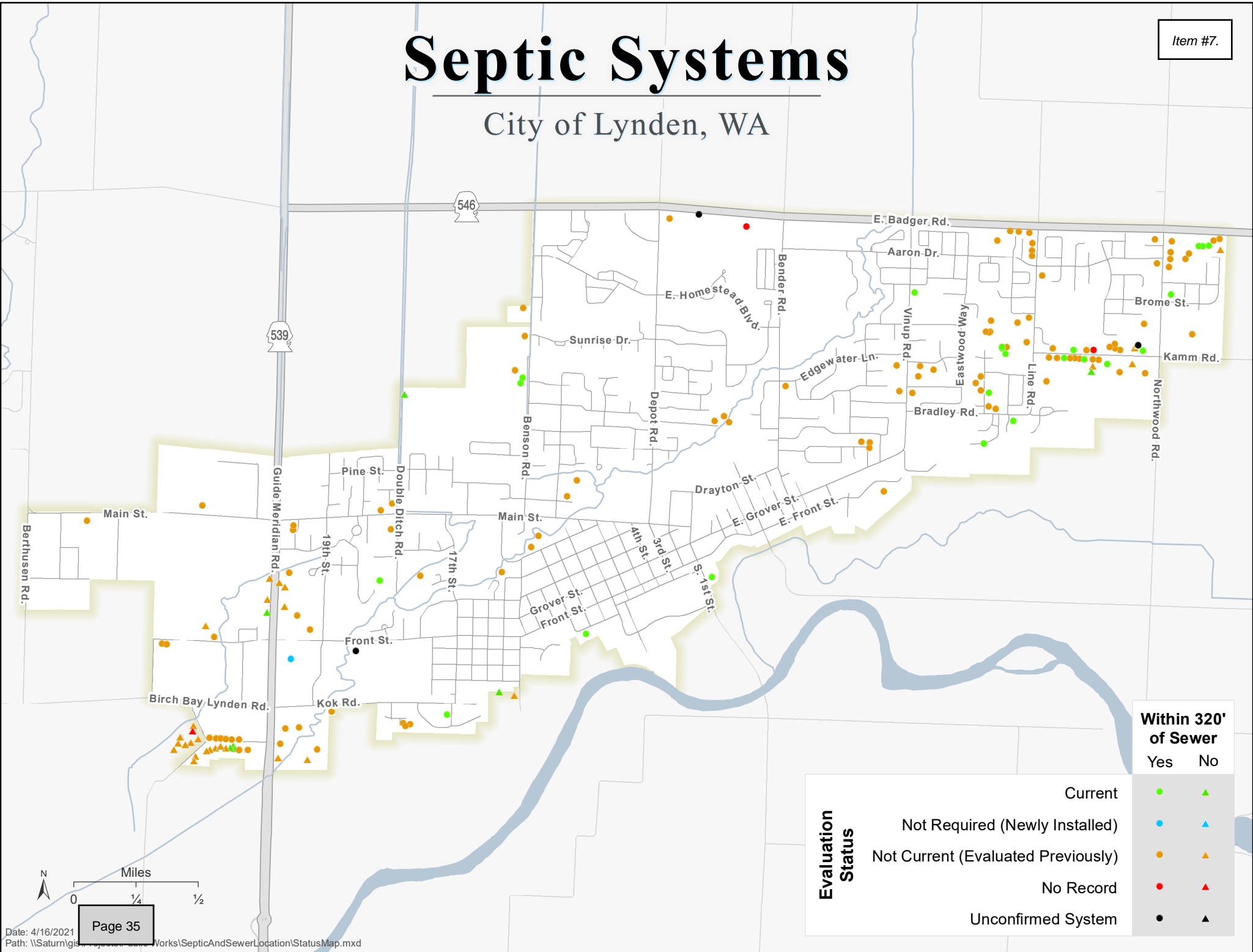


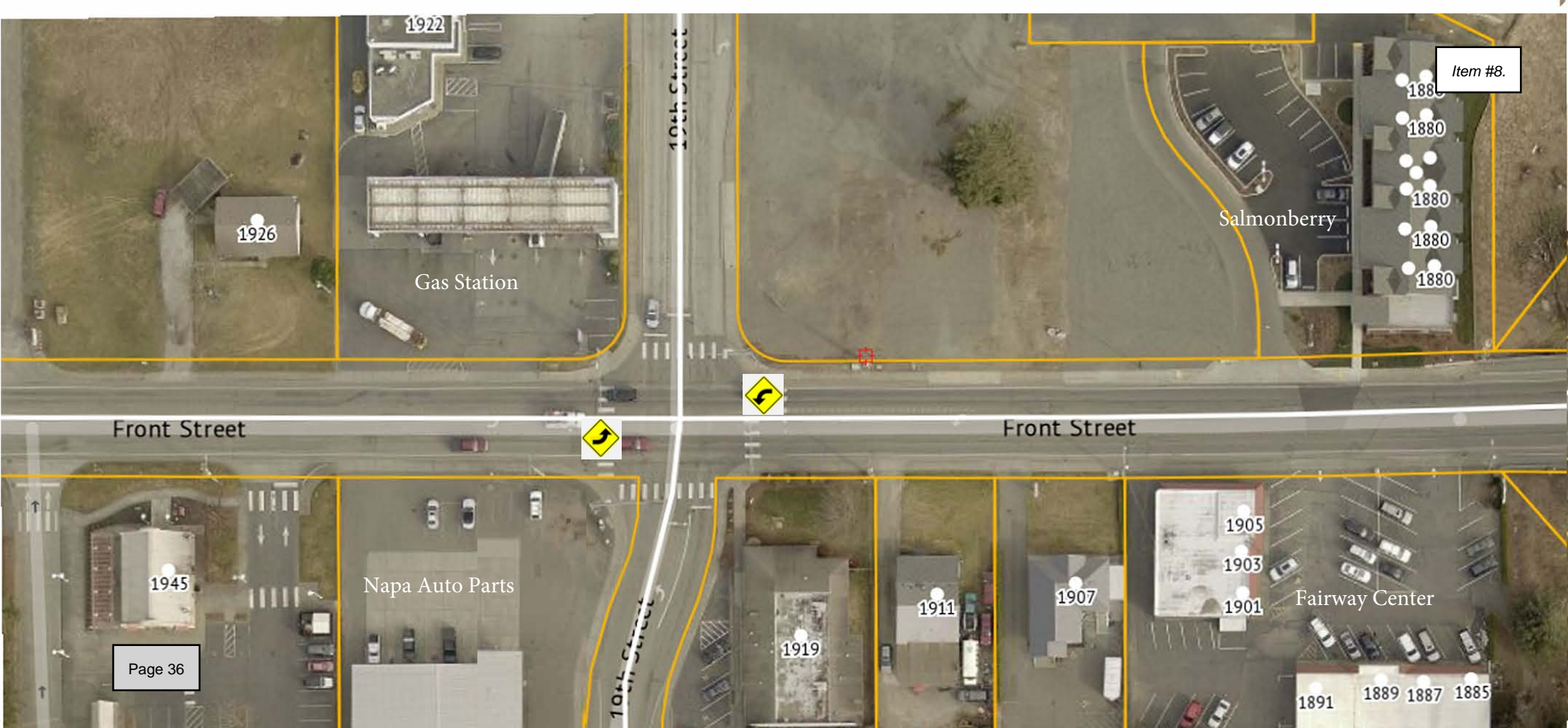
The Whatcom Clean Water Program is a partnership of local, state, tribal and federal organizations working to reduce fecal bacteria in Whatcom County surface waters and restore shellfish growing areas. Learn more about this partnership at [www.whatcomcounty.us/DocumentCenter/View/41596/](http://www.whatcomcounty.us/DocumentCenter/View/41596/).

*This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-0118001-6 to the Washington State Department of Health. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.*

# Septic Systems

## City of Lynden, WA





1926

1922

Gas Station

10th Street

Item #8.

1880

1880

1880

1880

1880

1880

Salmonberry

Front Street

Front Street



1945

Napa Auto Parts

10th Street

1919

1911

1907

1905

1903

1901

Fairway Center

1891

1889

1887

1885

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