

CITY OF LYNDEN  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

ORIGINAL

REGARDING THE APPLICATION OF  
Marlin Arneson, representative for  
Arneson Trust, TO SUBDIVIDE  
PROPERTY

Petitioner

LP #18-01

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, CONDITIONS and  
DECISION on SUBDIVISION  
APPLICATION #18-01

LOT 1, ARNESON TRUST LINE ROAD SHORT PLAT, AS RECORDED UNDER  
AUDITOR FILE NUMBER 2140302015.

**COMMONLY DESCRIBED AS: 1331 East Badger Road, Lynden**

Has applied for a subdivision of the above described parcel into 39 residential lots within the RM-2 and RS-72 zones. The Lynden Planning Commission held a public hearing on June 14, 2018 and recommended approval to the City Council through Planning Commission Resolution #18-03. Said request having come before the Lynden City Council on July 2, 2018, and the Lynden City Council having fully and duly considered the request, hereby makes the following:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1.01 Application. Marlin Arneson, on behalf of Arneson Trust, has filed an application ("Property Owners") for a subdivision which was accepted by the City as complete on April 30, 2018.

1.02 Location. The Property is located at 1331 East Badger Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Arneson Trust is the Property Owner.

1.04 Request. To subdivide a parcel approximately 11.38 acres in size into 39 residential lots located within the RM-2 and RS-72 zones.

1.05 Reason for Request. To make effective use of land within the existing city limits where all urban services are available.

1.06 Conformance with Zoning and Comprehensive Plans. The subdivision of the Property proposed in the application is in conformity with City zoning ordinances, comprehensive plans, and all other applicable City development regulations including Chapter 17.15 LMC.

1.07 Compliance with General Requirements for Subdivision Approval. The application complies with Chapter 18.06 LMC, General Requirements for Subdivision Approval, as applicable.

1.08 Compliance with Lot and Plat Design Standards. The application complies with lot and plat design standards as required under Chapter 18.14 LMC, as applicable.

1.09 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in Title 18 LMC and with the Project Manual for Engineering Design and Development Standards.

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

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

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

1.13 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.

1.14 Critical Area Review. The Critical Area checklist for this project has been submitted and requires no further review.

1.15 SEPA Determination. Environmental review of the proposal has been made under the requirements of WAC 197-11 and a mitigated determination of non-significance has been made.

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 conditions:

## II. CONDITIONS

Any approval of the Petitioner's application shall be subject to the conditions as listed below:



## **Standard Requirements:**

The following requirements are standard for all development projects.

1. The construction drawings for any improvements will 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 (EDDS), 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.
2. There is a review deposit of \$200 per lot, \$2,000 minimum, to review the civil construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.
3. A post construction maintenance bond in the amount of 10% of the construction costs will be required prior to final plat approval.
4. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
5. 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.
6. Petitioner shall record the final subdivision with the County in conformance with LMC 18.06.010.2, 18.06.020 and 18.06.030 within five (5) years of the date this preliminary approval becomes final, after which City approval of this application shall become void; provided that, this one-year deadline may be extended for up to one (1) additional year upon application to and approval by the City Council.
7. All addressing must follow the requirements of the Lynden Municipal Code.
8. Transportation impact fees plus half of the fire and park impact fees are due prior to final plat approval. Calculation of those fees will be done at the time the applicant submits final check prints and lot closures in accordance with the municipal code.

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

### **Planning and Development**

9. *Zoning:* The area to be developed in this application is located within two different zoning categories. The north 300-feet of the property is zone Residential Multi-Family zone (RM-2) and the remainder of the property is zoned RS-72. *As part of the RM-2 zone*, single family units and multi-family units are permitted on lots with a minimum of 7200 square feet and up subject to the

development requirements listed under 19.17.060 and 19.17.070 of the Lynden Municipal Code. As *part of the RS-72 zone*, only single family homes are permitted on lots with a minimum of 7200 square feet subject to the requirements listed under 19.15.060 of the Lynden Municipal Code. Staff recommends that the plat be modified so that lots fall wholly within one zoning category or another to eliminate any potential confusion or future variance requests. Note that the location of the zoning split was established in a recent land use modification which involved feedback from the current applicant.

10. *Housing Types Noted:* In accordance with the zoning categories, lots 1-7, 18-32, and 36-39 will utilize the RS-72 standards as required in LMC 19.15.060. Lots 8-17 and 33-35 will utilize the RM-2 standards as required in LMC 19.17.060 although the plat note may restrict some of these lots to single family use. No future variance applications to the above will be accepted.
11. *Minimum Lot Size:* The lots proposed in this subdivision meet the minimum lot size requirements with parcels that range from 8,000 square feet to 17,049 square feet. Be advised, Section 19.15.060 limits lot coverage to 35% and Section 19.17.060, limits lot coverage to 40% for each lot.
12. *Lot width:* Per 18.14.010(c), the minimum frontage of each lot must be at least 50 feet.
13. *Utility Easements:* Per 18.14.075, the proposed plat identifies the required 5-foot utility easements around the interior property line of all lots.
14. *Access Easements and Pipestems:* The long plat as submitted includes one access easement and one pipestem which is permitted as per 18.14.040 and 18.14.080.
15. *Parking:* Per Chapter 19.51.040 of the LMC, a minimum of 2 parking stalls is required *per unit*. It is important to note that if an enclosed single car garage is provided per dwelling unit, a minimum of two outside spaces must be provided. If an enclosed garage for two or more vehicles is provided, a minimum of one outside parking space must be provided.
16. *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, preferably between the curb and the sidewalk. There shall be a minimum of one tree per lot with a maximum of one hundred feet between trees. Maintenance of street trees shall be the responsibility of the adjoining property owner.



## Public Works

17. All public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards.
18. A 10 foot right-of-way dedication is required along the full frontage of Line Road to allow for the 30-foot right-of-way east of center line.
19. There will be no vehicular access to/from East Badger Road or Line Road.
20. Vehicular access to/from Aaron Drive by Lots 1, 23, 24, 25, 26, 27 and 28 is prohibited. This must be noted on the face of the plat.
21. 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.
22. Water
  - a. As per 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards, the water mainline must be extended to the north side of the proposed plat.
  - b. Water line to be looped through development and connected to the east. Water line shall extend to the west and north property lines.
  - c. Each house and/or unit within this plat must be individually metered. Water meters must be located within the City right-of-way.

- d. Water services for all multi-family zoned parcels must be sized for maximum number of units.
- e. There will be a both single family and multi-family structures located within this plat. Be advised, a water meter which is adequate for a single family home will not accommodate a multi-family demand.
- f. Any legal groundwater or surface water rights within the Kamm Creek watershed that are associated with this property will be conveyed to the City or put into trust in the City's name prior to approval of the final plat.

23. 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. As per 7.2 (P) of the City of Lynden Project Manual for Engineering Design and Development Standards, sanitary sewer must be extended to the north and west sides of the proposed plat.
- c. All parcels in this plat are within the East Lynden Sewer Special Assessment Area and will be subject to additional connection charges for the regional sanitary sewer facilities. This must be noted on the face of the plat.
- d. Sanitary sewer services for all multi-family zoned parcels must be sized for maximum number of units.

**Fire and Life Safety**

- 24. Addresses that cannot be seen from the city street must be posted at both the access easement and on the house.
- 25. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.

**Parks and Recreation**

- 26. As noted in 19.29.060(6), in addition to sidewalks there must be logical pedestrian connections throughout the project including trails within or adjacent to open space areas. The applicant will be required to construct a paved (crushed lime stone okay) pedestrian trail, 10 feet in width, within a 15-foot trail easement along the northern property line with a constructed connection between lots 12 and 13. This must be noted on the face of the plat. Construction is permitted to count toward the credit of park impact fees.

27. A two-rail split rail fence shall be constructed along the entire northern property line of the proposed PRD boundary along East Badger Road to separate the pedestrian / bicycle traffic from the east bound traffic of Badger Road.

### III. DECISION

Petitioner's application to subdivide the parcel described herein into thirty-nine (39) parcels for future development is hereby **Preliminarily Approved** as outlined in Planning Commission Resolution #18-03 and subject to the conditions set forth in this document.

DATED: 7/2/18



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Scott Korthuis  
Mayor