



Planning Department Memorandum

To: Planning Commission
From: Heidi Gudde, Planning Director
Date: October 21, 2019
Re: Development Agreement – Front Street Station Business Park

Lynden Municipal Code Section 19.23.020 notes that Business Parks are permitted in Commercial Services – Regional (CSR) zoning categories where at least 20% of the total gross floor area of the park is related to onsite retail, showroom, or office use. LMC 19.23.020(9) goes on to specify that property owners developing a business park are required to formalize a development agreement with the City Council after receiving a recommendation from the Planning Commission which:

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

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

Focused Review: Planning Commission review of the development agreement is not quasi-judicial or in the context of a public hearing. Review should focus on the aspects outlined in LMC 19.23 and listed as points a-e above. Additional revisions to aspects of the development agreement outside these five points, such as the collection of impact fees or legal clauses, may occur following legal review. In areas relevant, the Commission will be asked to make a recommendation to the City Council regarding approval, approval with conditions, or denial.



Date Issued:	September 17, 2019
Project Name:	DA #19-01, Front Street Station
Applicant:	Don Korthuis
Property Owner:	Don and Sally Korthuis
Site Address:	2111 W Front Street
Parcel Number	400224-405095
Zoning Designation:	CSR
Application Type:	Development Agreement and Conditional Use Permit
Parcel Size:	N/A
Meeting Type:	Planning Commission Review and Recommendation (no public comment)
Hearing Objective:	The objective of this application is to provide Planning Commission review of the proposed development agreement in accordance with Section 19.23.020 of the Lynden Municipal Code.
Date application determined complete:	August 26, 2019
Date of Publication:	September 18, 2019
SEPA Determination:	N/A
Project Description:	The applicant is requesting Council approval of a development agreement to facilitate the construction of a 125,210 square foot business park.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on August 26, 2019.

Background and Summary:

The CSR zoning category (Commercial Services – Regional) makes provisions for a variety of uses. The zone is defined to include “commercial establishments which require a retail contract with the public together with professional office, storage and warehousing, or light manufacturing”. In addition the specific permitted uses listed in Lynden Municipal Code (LMC) 19.23.020 includes “Business Parks where at least 20%

of the total GFA (gross floor area) of the park is related to onsite retail, showroom or office use”.

When a business park is established, the LMC requires the property owner to formalize an agreement with the City Council after receiving a recommendation from the Planning Commission concerning:

- Permitted, conditional, and prohibited uses with the business park.
- Parking and loading standards.
- Standards for screening of outdoor storage and refuse areas.
- Addressing signage requirements.
- How the building siting and architecture address the street frontages at a pedestrian scale.

As these provisions allow for uses which are more industrial in nature, the review of the Planning Commission should consider:

- Impacts to surrounding commercially or residentially zoned properties.
- The visual impacts along the street frontages.
- Pedestrian provisions.
- The screening of the industrial aspects of the business park such as outdoor storage.

Planning & Community Development Comments:

1. *Document Revisions:*

- a. Title Page - Title page to the development agreement must be added.
- b. All pages of the document including exhibits must meet the County auditor's standard for margins and legibility. Revise as needed.
- c. Article 1.1 – remove reference to Chapter 18 as it is not applicable here.
- d. Article 1.1 - revise last line to read “comments and conditions set forth in Council findings” rather than as stated.
- e. Article 2.6 has a sub-section “a.” but no “b.”. Revise to correct.
- f. Exhibits B, C, and D must be replaced with a legible versions.

2. *Signage (Article 1.5):* Staff supports the proposal to simply meet the City's sign code standards within the business park however, please indicate on the site plan the location for a multi-tenant monument sign if one will be utilized.

3. *Permitted Uses:*

- a. Floor Area Example - Exhibit C, the estimated gross floor area map, must be replaced with a legible version.
 - b. Permitted Uses - Article 1.6 concerning permitted uses should include a statement which confirms that FSS will comply with the requirements to maintain at least 20% retail, showroom, or office floor area at all times. As written, the document notes only estimated floor areas but no commitment.
 - c. Permitted uses table – staff recommends the uses which include additional restrictions related to floor area be clarified. As the gross floor area of the business park is already restricted, is the applicant proposing that individual tenant spaces also be restricted? And if so, why? Staff recommends that references to floor area restrictions be removed from the permitted uses table and applied only to the business park as a whole.
 - d. Permitted uses table – Revise the table to show warehousing and wholesaling as “C”, conditional uses, and continue to note the (anticipated) approval of these conditional uses as currently shown.
 - e. Truck, trailer, RV sales and service – although this use is permitted in CSR zoning, staff is concerned that it may not be an appropriate fit for a business park without additional mitigation measures. Please explain how this use could fit within FSS.
4. *Parking (Article 1.6):* Staff supports the proposed retail parking standard (4 per 1000 sf) applied to 20% of the gross floor area and a light industrial standard (1 per 1000 sf) applied to 80% of the gross floor area.
5. *Loading (Article 1.7):* Clarification: Article 1.7 does not specify which buildings within FSS are subject to loading requirements. Per the description it appears all of the buildings will be required to have a loading area. This is consistent with City code. Please clarify the language of Article 1.7 to confirm applicability to FSS.
6. *Loading Locations:* Please reference Exhibit B in article 1.7 related to loading areas and show proposed loading areas on the site plat. Note that loading areas cannot overlap with required parking. Staff supports the flexibility to allow for the relocation of these loading areas based on tenant needs but not the removal / conversion of loading areas.
7. *Phasing:* Please include in Article 2.1 how vacant portions (future phases) of FSS will be utilized and maintained prior to development. Staff recommends that these areas be eligible for overflow parking, equipment or product storage only if screened from view of West Front Street. Please note and include if applicable:

- a. Per the City's design standards chain link fence is not permitted without Type 1 ornamental landscape screening (LMC 19.61.070).
 - b. Be advised, a drainage report may be required even for unpaved storage areas.
 - c. Be advised, drainage and paving are required for parking lots.
 - d. Please include a maintenance commitment to keep the areas clear of refuse and vegetation mowed.
8. *Outdoor Storage and Refuse Areas:* Per LMC 19.23.020(9) the development agreement must set standards for the screening of outdoor storage and refuse areas. Please address this topic within the development agreement.
9. *Site Layout:* As noted earlier, please include a site plan which is legible and can be recorded by the County auditor as part of the development agreement document.
10. *Building Facade:* Staff acknowledges that the applicant has made a commitment to utilize architectural elements which are retail in nature, for the buildings visible from West Front Street. This includes the incorporation of awnings, sheltered entrances, and storefront windows in buildings A and E. These commitments appear in Article 1 of the development agreement document.
11. *Pedestrian Accommodations:* Staff acknowledges that the applicant has made a commitment to provide pedestrian accommodations in Article 1 of the development agreement document. This includes, but is not limited to, sidewalks servicing each building and landscape improvements including street trees and foundation plantings.
12. *Impact Fee Discount:* Article 2.6 regarding impact fees should reference Resolution 709 rather than the "December 4, 2004 letter of Mayor Lowes". Exhibit D regarding the impact fee discount will need to be replaced with a more legible version prior to recording. Contact Planning Staff for a fee estimate or options regarding construction in lieu of payment.
13. *Impact Fee Timing:* Staff does not object to a proposed fee structure which assumes a general floor area division that utilizes an assumed percentage of office and warehouse. However, staff has concerns related to the proposed structure of impact fees and specifically the two-year review. Staff maintains that impact fees which exceed those paid by the developer, under the assumed floor area, would be due at the time of building permit for tenant improvement. For example, if a tenant improvement permit requested an office build out which exceeded the assumed 20% then additional "office" impact fees would be due as these exceed those paid for the assumed "warehouse" use. Revise as needed.

Public Works

14. *Utility improvements:* The timeline commitments which appear in Article 1.4 regarding potential City improvements must be removed from the document. While it is true that the City is seeking outside funding, this funding nor the timeline for improvements has not yet been established. Utility improvements needed to service FSS are the responsibility of the property owner. Article 3.2 items: The West Front Street watermain needs to be replaced. Utilities shall be extended the full frontage of the property as part of the initial construction. Any form of phasing will require a variance from City design standards and/or approval of this development agreement. Any phased/delayed improvements shall be guaranteed in a form acceptable to the City. Bond requirements shall be recorded on the property. Bonds cannot be released without City approvals.
15. *Street Design and Property Dedication:* Article 1.4 – revise language related to street section. Code requires an 80' Industrial Right-of-Way standard. A variance is required for any reductions. However, a site-specific design variance if submitted requiring only a 70' Right-of-Way is supported by staff. This includes a 5' sidewalk, 8' planting area, 5' shoulder, 11' travel lane, 12' center lane. In addition, property owners will be required to dedicate a 10-foot utility easement along the street frontage. See subsequent comment on Right-of-Way.
16. *Right-of-way:* To accommodate the West Front Street improvements as described in the previous comment, the property/development variance must request to dedicate 20 feet of right-of-way the full Front Street frontage of the development. An additional 10 feet of utility easement is required the full frontage. Dedication must occur prior to the issuance of a building permit.
17. *Property Access:* No new / additional vehicular access points will be permitted to the lot from West Front Street except the three shown on the conceptual site plan. The current proposal of three (3) access points requires a traffic/circulation study per Development Standards 5.2(2). Such a study shall address coordinating the most westerly entrance to be planned to provide for the future alignment with a Lynden Door access point. The most easterly access shall provide as much separation from the westerly access point as possible. Staff recommends the access straddle the east property line of the project unless a reciprocal access easement cannot be secured. Please add the topic of access points and the parameters outlined here to the development agreement document.
18. *Standards for Public Improvements:* Be advised, 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. This requires improvements the full frontage of the proposed project.

19. *Bonding Requirements:* Be advised, 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 prior to any form of project acceptance. The proposed phasing of required public facilities (if approved) will require performance bonding for all work delayed. Bond requirements shall be recorded on the property. Bonds cannot be released without City approvals.

20. *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 an onsite 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. The City cannot guarantee the extent/length of plan approval due to changes in Ecology 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. Be advised, the site is located in the service area of the West Lynden Regional stormwater facility. This facility provides both quantity and quality functions. However, additional onsite facilities may be required for quantity based on proposed impervious cover for the site and quality, based on planned uses. The proponent may request City acquisition of pond rights if an onsite system is proposed. No guarantee is given that such a request will be accepted by the City.

21. *Water*

- a. All utilities shall be extended the full property frontage per Division 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards. Additional review and potential variance request(s) may be necessary depending on development phasing.
- b. The watermain must be replaced to City standard the full Front Street frontage of the development/property. Water shall be extended to the south property line as
- c. A 20-foot utility easement is required for a single public utility located on private property. Two (2) public facilities adjacent to each other requires 30 feet.
- d. Water meters and fire lines shall have appropriate backflow prevention installed that meets the Department of Health and City of Lynden standards.
- e. Fire hydrants are to be placed a maximum of 300 feet apart (clear distance).
- f. The waterlines must be looped through the project for fire protection and placed in public easement.

22. *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. Sanitary sewer must be extended the full frontage of the development/property, at time of initial permit approval per City development standards. Any phasing would require a variance. Installation depth shall be per City standards.
- c. Sewer shall be extended to the southern property line of the development/property or that distance that meets pipe cover requirements per City development standards.
- d. City approved Oil/water separator(s) may be required depending on each individual unit's use. An oil/water separator may be required for waste

Advisory Comments

23. *Legal Review*: Be advised, the legal provisions of development agreement will be subject to legal review prior to Council approval. This may affect the provisions of Article 5.

24. *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. The Applicant's Checklist and Agreement to Construct shall be submitted with the initial plan submittal.
25. *Civil Review Deposit Required:* Be advised, Non-Residential Development deposit shall be 2% of Civil construction costs or \$2000 whichever is greater for civil plan and drainage plan review is required at time of initial submittal. Deposit shall be kept at this level throughout the review process.
26. *Civil Inspection Deposit:* Be advised that an inspection deposit is required prior to any work occurring.
27. *Infrastructure Installation:* A City of Lynden Fill and Grade Permit is required prior to the commencement of site work. The site and utility work must be addressed on SEPA Checklist.
28. *Performance Bonding Requirements:* Be advised, a 150% performance bond is required for all work in the City's right-of-way or on city owned property prior to work commencing or which is deemed incomplete and accepted by City. Only items not specifically exempted from bonding under LMC 18.18.010(G) are eligible for bonding. Bond requirements shall be recorded on the property. Bonds cannot be released without City approvals. Any approved phasing variance of required public improvements shall be guaranteed at 150% of costs approved by the City.
29. *Maintenance Bonding Requirements:* A post construction maintenance bond for infrastructure in the amount of 10% of the construction costs will be required prior to final plat approval. Bond requirements shall be recorded on the property. Bonds cannot be released without City approval(s).
30. *Landscape Bonding:* Be advised, performance and maintenance bonding will be required for the plat. This relates to street trees and any required mitigation trees/plantings onsite. Bonds are due prior to final plat approval. Bonds shall be at 150% of the certified costs for the plantings and establishment. Bond requirements shall be recorded on the property. Bonds cannot be released without City approval(s).
31. *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.

32. *Property Addressing*: Be advised, all street addressing must follow the requirements of the Lynden Municipal Code. Addresses will be assigned by the Public Works Department prior to final approval.

33. *Development Agreement*: The Development agreement must be recorded prior to permit approval. This document can impose more restrictive conditions on the property but not less restrictive than City of Lynden development code or variance to the code.

Fire and Life Safety

34. *Fire Load*: Staff recommends the applicant review fire load and hydrant locations with the Fire Department prior to permit application. Hydrant locations subject to Fire Department review.

35. *Fire Code*: Be advised, the applicant shall comply with local fire and building codes.

Parks and Recreation

The Parks Department has reviewed the application and has no comment.

Development Agreement Front Street Station

Version 6
October 14, 2019

RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P. O. BOX 5226
BELLINGHAM, WASHINGTON 98227

Document Title: Development Agreement for Front Street Station (FSS) Business Park

Street Address: 2111, 2113, 2115, 2117, 2119 block of Front Street, Lynden WA

REFERENCE NO. OF RELATED DOCUMENT:

Partition by Court Order, AFN 2018-1101761

GRANTOR(S):

Front Street Station, a partnership of Don and Sally Korthuis.

GRANTEE(S):

City of Lynden, a Washington municipal corporation

LEGAL DESCRIPTION:

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

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

ASSESSOR'S TAX/PARCEL NUMBER(S):

4002244050950000

DEVELOPMENT AGREEMENT

Front Street Station

This Development Agreement, hereinafter referred to as "Agreement", is entered into by and between the City of Lynden, a Washington municipal corporation (hereinafter the "City", Don and Sally Korhuis who are the owners of the property commonly known as Front Street Station (FSS). These properties are more particularly described in the attached **Exhibit A** (hereafter "FSS" or "Property").

WHEREAS, the City's commercial zoning code, Section 19.23, allows for the approval of business park development with a mix of retail, commercial and industrial uses; and

WHEREAS, the subject property is located within the CS-R zone; and

WHEREAS, the current parcel configuration and site plan for FSS is attached as **Exhibit B**; and

WHEREAS, Section 19.23.020 of the Lynden Municipal Code requires a development contract be recorded thereby memorializing the conditions of the Development Permit approval; and

WHEREAS, the City of Lynden Planning Commission recommended approval of the proposed agreement as part of a public meeting on October 24, 2019, and

WHEREAS, the resulting resolution was approved by the Lynden City Council; and

WHEREAS, this Agreement is prepared according to RCW 36.70B.170-200; and

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

WHEREFORE, the City of Lynden and FSS to enter into this Agreement and for and in consideration of the mutual covenants, duties and obligations herein set forth, do agree as follows:

ARTICLE I

LAND USE AND SETBACK REQUIREMENTS

- 1.1 FSS is located within the CS-R zone. Any development or design requirement for FSS not specifically listed below shall be in accordance with Chapter 19 of the Lynden Municipal Code (LMC) and will conform to all requirements, comments and conditions set forth in Council findings.
- 1.2 **Design Review:** The City has multiple commercial design zones around the city. FSS will be a new commercial design zone on Front Street, between Duffner Street, and Tromp Road. FSS will be subject to the City of Lynden Design Standards for commercial development per the following specifics:
 - a. Buildings A (2119 Front St) & E (2111 Front St), will have common architectural theme. The front façade will have a general retail appearance.
 - b. The architecture and façade of Buildings A and E, which are immediately adjacent to Front Street, will meet standards common with Lynden commercial development on an arterial street. This will include pedestrian scale elements, such as awnings and /or sheltered entrances, storefronts, pedestrian scaled lighting, varied façade treatments, and landscape enhancements. The following elevation is an approximate idea of the façade.
 - c. The architecture and façade of Buildings B (2117 Front St.), C (2115 Front St), and D (2113 Front St.), which are screened by street-front buildings, may be viewed as industrial in appearance. These building will have their own simpler architectural theme, with some design elements repeated from Buildings A and E.
 - d. Per city code, the site plan will have provisions for pedestrian, vehicular, and truck movement throughout the site. Internal sidewalks will be a minimum of 5 feet in width. Wheel stops or 7 foot wide sidewalks will be provided as needed to prevent parked vehicles from encroaching into minimum walkway width. Each building will have access roads around the complete building.
 - e. Buildings A & E will incorporate screening of mechanical equipment, trash collection areas, and loading access so that they are minimally visible from the street.
 - f. Landscape improvements are required for all parking areas and will be done per LMC 19.61.100.
 - g. Landscape improvements which include street trees and foundation plantings as are required for all areas visible from Front Street.
 - h. Outdoor storage areas will be allowed for the occupants of buildings B, C and D. This will be kept clean and can be revoked with a tenant if it is deemed undesirable by FSS.
- 1.3 **Setbacks:** Minimum building setbacks and building separation will be consistent with requirements for CS-R zoning as set forth in the LMC 19.23.

- 1.4 **Dedicated street right of way:** The City is seeking outside funding to construct an updated 3-lane street as an extension from the current 3-lane street west of Duffner drive to Tromp Road. The City will need a 30' of right away on the south side of Front Street to build this. This includes a 5' sidewalk, 3' plant areas, 5' bike lanes, 11' thru lanes, and a 12' center turn lane (6 feet on both the north and south side of the center line (exhibit E). The current right of way is 40 feet (20 feet on each side of the center of Front Street. This requires the FSS to dedicate 10 additional feet each for this purpose.. In addition to this, FSS will give a 10' utility easement adjacent to the north property line.
- 1.5 **Property access:** There will be three access points off of West Front Street. The easterly access will be shared with the property owner to the East of FSS. Extending from the West edge of FSS, the west access will be a full width truck access 23'-6" wide.
- 1.6 **Signage:** All signage will meet Lynden City Municipal code 19.33 and seek Design Review Board approval as applicable. Lessee's will not place any sign upon the premises or the building complex without FSS's prior consent and City of Lynden approval.

1.7 **Permitted Uses:** Per LMC 19.23.020, Business Parks such as FSS are permitted where at least 20% of the total gross floor area (GFA) of FSS is related to onsite retail, showroom, or office use. FSS is committed to maintain a minimum of 20% retail, showroom or office floor area at all times throughout all phases. Individual tenants may be less than 20%, however the entire FSS business park will meet or exceed the above mentioned 20%.

It is estimated that buildings A & E will be approximately 30% retail showroom space, and 70% warehouse space. Buildings B, C, And D are estimated to be 20% office space, and 80% warehouse space. For illustration only, demonstration of this standard is illustrated in **Exhibit C**.

Uses permitted within the FSS are outlined below. Any use that is not listed below is not a permitted use unless it determined to be comparable to a permitted use by the City of Lynden Planning Director based on the applicant's statement of use. The applicant must bear the burden of proof to show how the use is comparable to the listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	Buildings A & E	Buildings B, C & D
Agricultural product and/or equipment parts sales. No outside display of equipment	P	P
Auction facilities for other than animals use	N	P
Banks and financial institutions	P	P
Barber shops, beauty salons	P	P
Brewery, Pub, brewpub	P	P
Business schools	P	P
Commercial recreation	P	P
Construction material sales. No outside displays	P	P
Contractors and construction services (May include a showroom: plumbing, office area,		P

lighting, etc)	P	
Convention center, including banquet facilities and/or meeting halls	P	N
Day spas	P	P
Farm implement and machinery sales and service or large machinery rentals	P	P
Fitness facilities	P	P
Government agency offices or government facilities.	P	P
Grocery store	P	P
Home furnishings stores	P	P
Home improvement and hardware stores	P	P
House of Worship	P	P
Laundry and dry cleaning facilities	P	P
Landscape plants and landscape materials for retail sales, no outside display	P	P
Liquor sales	P	P
Manufacture, fabrication, assembly, woodworking and metal working shops	N	P
Martial arts or dance schools	P	P
Medical and dental clinics (see Surgical Centers below) Walk-In Clinics	P	P
Medical services overlay	P	P

Non-retail communications services	N	P
Non-profit offices that include warehousing	P	P
On-site hazardous waste treatment (no treatment allowed in HBD) and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.	N	PA
Pet supply store and grooming (no boarding)	P	P
Pharmacy	P	N
Photography studio	P	P
Printing and duplicating shops	P	P
Professional and business offices	P	P
Public use facilities	P	P
Research and development facilities	P	P
Restaurant — with drive thru Coffee Stand	P	P
Restaurants and cafés	P	P
Retail (general retail) not otherwise defined	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P
Retail feed and seed stores	P	P
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	P	P

Retail shopping center or mall	P	P
Retail stores greater than 65,000 square feet	P(1)	P(1)
Sign design, fabrication, and installation companies	P	P
Surgical centers	P	P
Theaters and movie theaters	P	P
Truck, trailer, recreational vehicle sales and limited light, clean service	P	P
Utility facilities	P	P
Veterinary clinics, laboratories	P	P
Warehousing, including open to the public	C(2)	C(2)
Wholesaling, including open to the public	C(2)	C(2)

- (1.) See LMC 19.23.080 and 19.23.090 for special conditions for large retail uses.
- (2.) Conditional Uses permitted with conditions by City of Lynden per Resolution. These two uses, warehousing and wholesaling are being requested through a Conditional Use Permit applied for. These will change to P, when the Conditional Use Permit is permitted by City of Lynden per Resolution.

- 1.8 **Parking Requirements:** FSS will abide by the off-street parking requirements of LMC 19.51. Because FSS will provide leasable floor area for a variety of commercial and light industrial users, parking ratios specific to use cannot be calculated at the time of development.

Per LMC 19.23.020 the project is required to maintain at least 20% of the gross floor area as retail, showroom, or office use. This may include restaurants, personal or medical services. As such, 20% of the gross floor area will be parked at a general commercial ratio of a minimum of 4 stalls for every 1000 square feet of floor area. The remaining 80% of the gross floor area will be parked at a general light industrial standard of a minimum of 1 stall for every 1000 square feet. This standard is applicable to each phase of the project.

- 1.9 **Loading Requirements:** FSS Buildings are intended for manufacturing, storage, warehouse, showroom, department store, wholesale store, market, laundry, dry cleaning, retail, or other use involving the receipt or distribution of vehicles, material or merchandise, will have adequate space for standing, loading and unloading services in order to avoid undue interference with the vehicular movement through the site.

Each building will have loading space(s), which will include a minimum of one 10 foot by 25 foot loading space, with 14 foot height clearance for each building the space will be so situated that no part of a truck or van using the loading space will prevent the flow of traffic.

ARTICLE II PHASING AND IMPROVEMENT REQUIREMENTS

- 2.1 **Phasing:** There will be multiple phases in construction of FSS. The first phase will be Building A and Building B. The following phases will be determined by the fill rate of Buildings A and B. FSS anticipates 3 phases. The second phase is initially planned to be buildings C & D, with the final phase building E.

Vacant land will be maintained by mowing as needed, minimum twice per year. If overflow storage is needed on the vacant land, it will be properly screened.

- 2.2 **Frontage Improvements:** Front Street is an arterial street, and is planned for a major upgrade in the near future by the City. Therefore, minimum street improvements will be completed. As available, traffic impact fees will be used to improve some of the underground utilities and frontage area.

Landscaping of the street frontage will be completed per the landscape development plan that will be submitted per LMC 19.61.030, 19.61.100, and 19.61.150.

Frontage civil and frontage landscaping will be done in two phases. The first phase will include at minimum the west 180 feet of property frontage. When building E is completed, the remaining street frontage will be completed. Required street frontage improvements, including street tree and landscape installation will be completed prior to final occupancy of each phase.

- 2.3 **Outdoor storage and Refuse areas:** Building A and E will have a designated outdoor area, with screening, for refuse containers. Buildings B,C,D will have refuse stored either inside the building, or near the rear service doors, for example the west side of building B. Outdoor storage will be discouraged, and will be less than 30% paved area.
- 2.4 **Utility Improvements:** Sewer and water lines will be provided per the civil engineer drawings. Fire flow shall be adequate prior to final occupancy of each building.
- 2.5 **Parking and Loading Areas:** All drive aisles, parking and loading areas must be paved per phase prior to final occupancy of the associated building.
- 2.6 **Sidewalks improvements:** A sidewalk connection to Front Street will be completed prior to final occupancy of the first building of phase one. Sidewalks associated with each building shall be completed prior to final occupancy of each building.
- 2.7 **Impact Fees:** Impact fees will be paid at the time completion of each phase. All impact fees will reflect the 50% West Lynden Discount, per December 4, 2004 letter of Mayor Lowes, Exhibit D.

Shell Structures: Permits for shell structures will provide a general floor plan showing an assumed ratio of finished and unfinished floor space. Buildings B,C,and D are expected to have 12 separate rental units. Each unit is estimated to have 400 square feet of office space and 1,600 square feet of warehouse for a total of 2,000 square feet per unit. This works out to be 20% office space of the gross floor area. Buildings A and E's square footage is expected to be approximately 40 % office/retail and 60% warehouse. With this estimate FSS will pay tenant improvement impact fees.

Normally, time is of the essence when a tenant contacts FSS to rent space. A typical tenant will quickly decide to rent a space and want to immediately move in. It is FSS's intent to make a best guess estimate up front on uses, so as not to delay tenants to move in quickly, without the delays associated with a building permits and conditional use permits.

Two years after completion, if the square foot usage is significantly different than the estimate above, FSS and the City will at that time make adjustments in fees. As it is impossible to predict who will rent the spaces available, how they will use it and how long they will rent, FSS see this as a reasonable compromise.

ARTICLE III INFRASTRUCTURE DEVELOPMENT REQUIREMENTS

- 3.1 **Easements:** Utility easements must be granted to the City of Lynden and recorded prior to final occupancy of associated buildings.
- 3.2 **Utilities:** Adequate water lines are currently in place. Frontage sewer and stormwater will be done in two phases. The first phase will include at minimum the west 180 feet of property frontage. When building E is completed, the remaining street utilities will be completed. Required street utilities will be completed prior to final occupancy of each phase. Restaurant spaces may be subject to additional requirements such as grease interceptors (traps).

- 3.3 **Stormwater:** A stormwater management plan prepared by Freeland Engineering and a professional engineer will be prepared for this development and will be approved by the City of Lynden prior to final approval of the civil construction plan or building permit for any new building. This plan will be an approval for all future stormwater construction. An erosion control plan will be included in the drainage plan and construction plans as necessary. This will 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 effective at the time of a submitted building permit or fill and grade permit application whichever is first submitted.
- 3.4 **Fire Hydrant Placement:** Fire hydrants shall be spaced at 300 feet and placed at least 50 feet from any obstruction or as otherwise required by the local fire marshal.
- 3.5 **Access and Transportation:** There will be three driveway cuts into Front Street. The eastern driveway cut will be a shared entrance with the property owner adjacent to the eastern edge of FSS. Phase one will include the two westerly driveways. See site plan, Exhibit B, for details.

ARTICLE IV ASSIGNMENT AND TRANSFER

- 4.1 After its execution, the Agreement shall be recorded in the office of the Whatcom County Auditor. Each commitment and restriction on the development subject to this Agreement, 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 Agreement shall be binding on the City and owners of the Property, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Upon any sale or conveyance of the property by an owner, such owner shall be released from the obligations of this agreement and the obligations stated herein shall be enforceable solely against the successor owner of the Property

ARTICLE V MISCELLANEOUS

- 5.1 This writing including the exhibits hereto constitute the full and only agreement between the parties, there being no promises, agreements or understandings, written or oral, except as herein set forth, or as hereinafter may be amended in an acknowledged writing and in accordance with the LMC.
- 5.2 In the event the owners of FSS fail 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 Agreement, and to collect the direct costs associated with such action, including reasonable attorney's fees and costs, from the owners of FSS.

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 FSS, in addition to any other remedies which FSS may have available to it, FSS 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 Agreement, and to collect the direct costs associated with such action, including reasonable attorney's fees and costs, from the of the City.

- 5.3 In the event that a judicial dispute arises regarding the enforcement or breach of this Agreement, 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.
- 5.4 This Agreement, 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.
- 5.5 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.
- 5.6 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

Business: Don and Sally Korthuis
1610 Grover St. Suite B5
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.

- 5.7 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.
- 5.8 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.

5.9 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.

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.

Front Street Station

By: _____
Don Korthuis, Property Owner

By: _____
Sally Korthuis, Property Owner

CITY OF LYNDEN:

By: _____
Scott Korthuis, Mayor
City of Lynden

ATTEST:

By: _____
Mike Martin, Administrator
City of Lynden

STATE OF WASHINGTON)
) §
County of Whatcom)

On this _____ day of _____, 2019, before me, _____, a Notary Public in and for said State, personally appeared _____ known or identified to me, and acknowledged to me that he executed the same and is authorized to execute the foregoing instrument as Owner of Front Street Station.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: _____.

STATE OF WASHINGTON)
) §
County of Whatcom)

On this _____ day of _____, 2019, before me, _____, a Notary Public in and for said State, personally appeared _____ known or identified to me, and acknowledged to me that he executed the same and is authorized to execute the foregoing instrument as Owner of Front Street Station.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: _____.

STATE OF WASHINGTON)
) §
County of Whatcom)

On this _____ day of _____, 2019, before me, _____, a Notary Public in and for said State, personally appeared _____ known or identified to me to be the Mayor of the City of Lynden, WA, respectively, that executed the instrument or the person that executed the instrument on of behalf of said municipality.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: _____.

EXHIBIT A
FSS Development Agreement

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

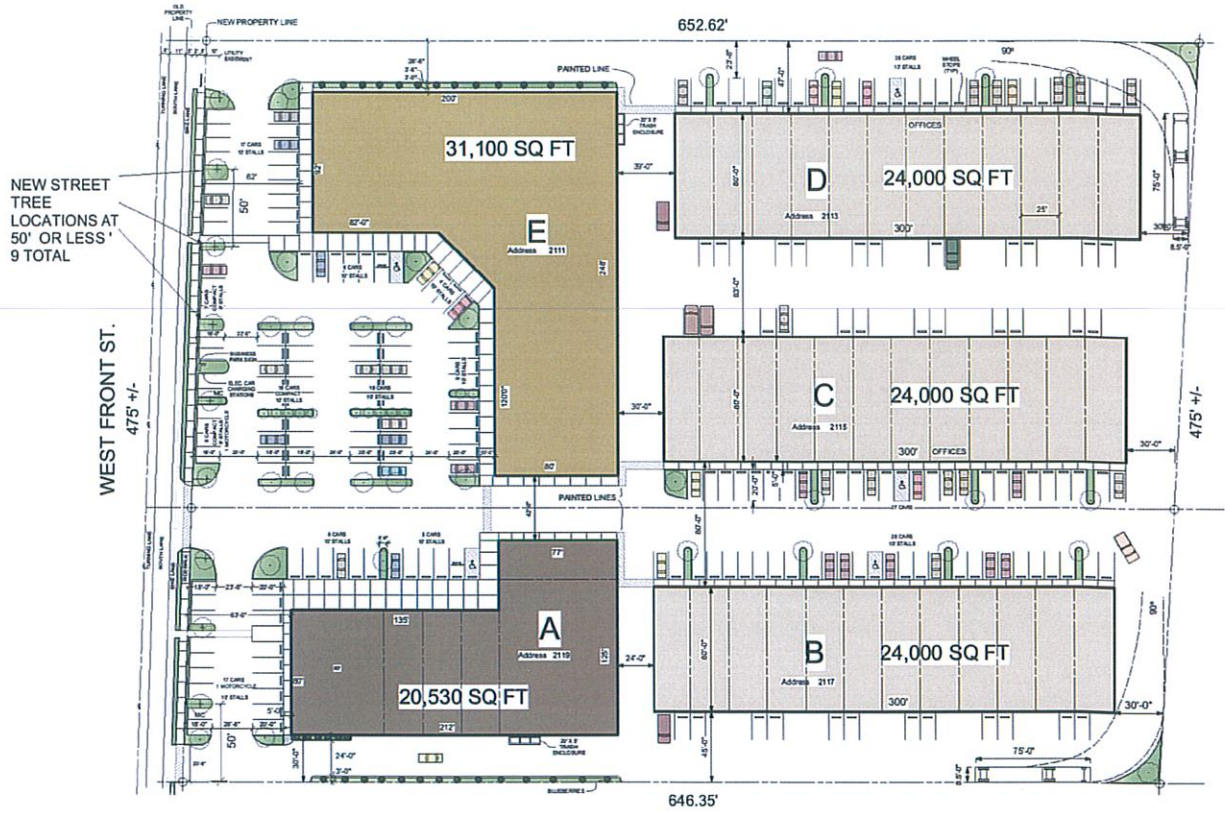
BEGINNING AT THE NORTH LINE OF SAID QUARTER QUARTER AT A POINT 364 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE SOUTH 660 FEET; THENCE EAST 282.8 FEET; THENCE SOUTH TO THE NORTH LINE OF THE TRACT OF LAND CONVEYED TO WHATCOM COUNTY, WASHINGTON, BY DEED RECORDED UNDER AUDITORS FILE NO. 637745, RECORDS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


Street Address's: 2111, 2113, 2115, 2117, 2119 Front Street, Lynden WA, 98264.

EXHIBIT B = Site Plan FSS Development Agreement

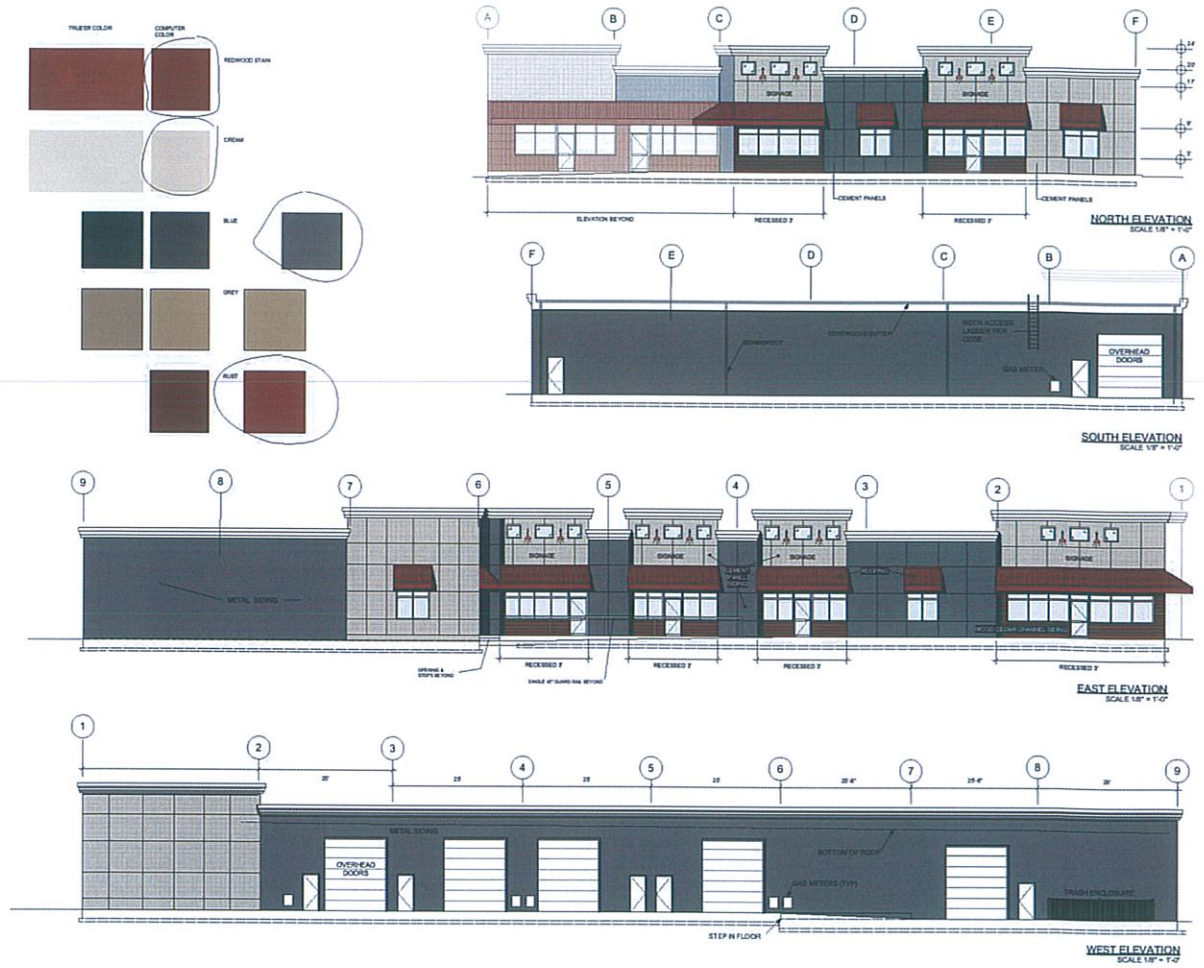
PARKING

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

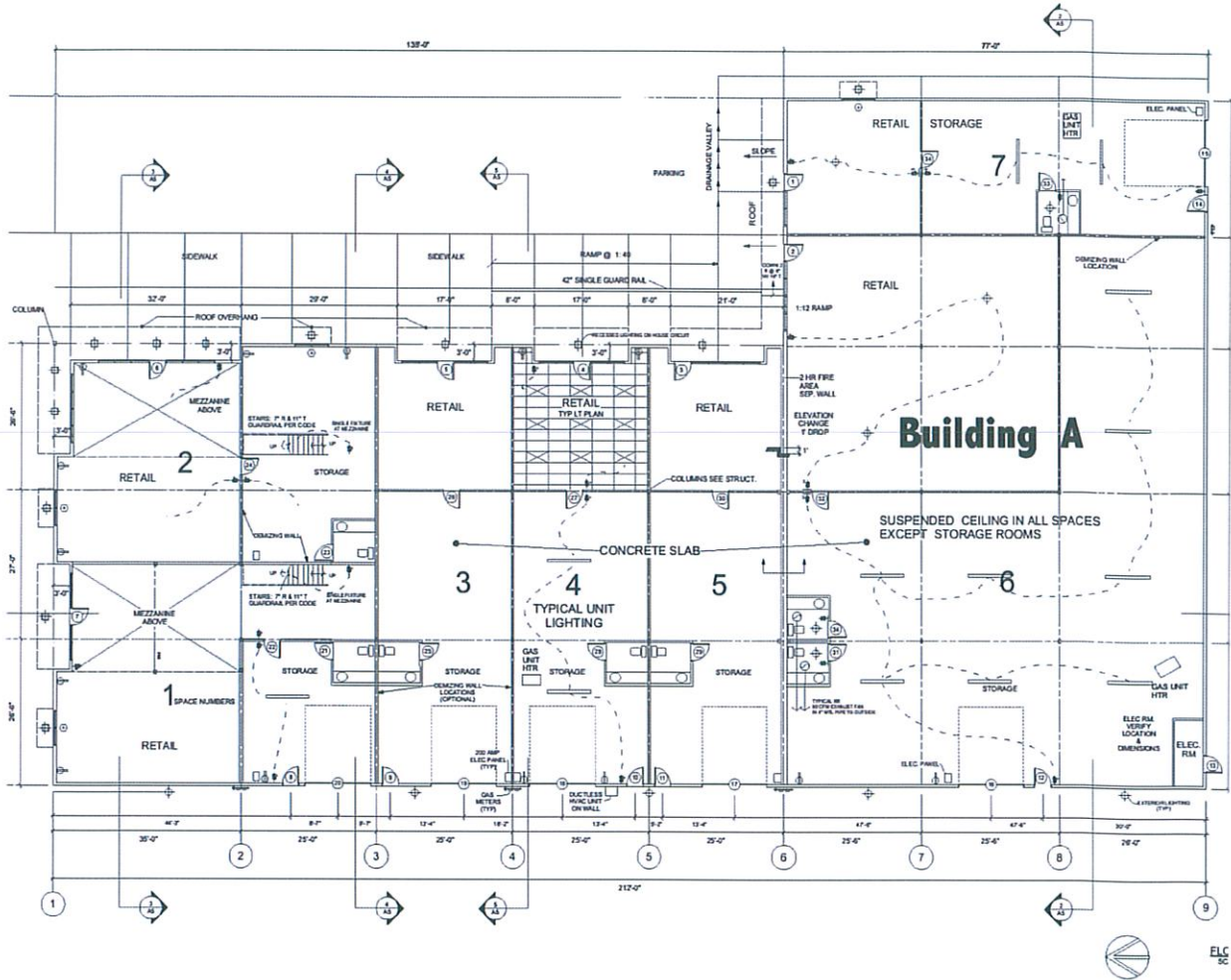



PRELIMINARY SITE PLAN
 SCALE 1" = 30'

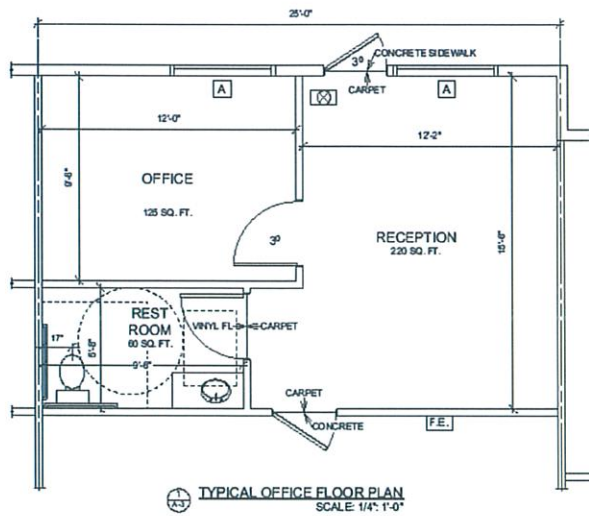
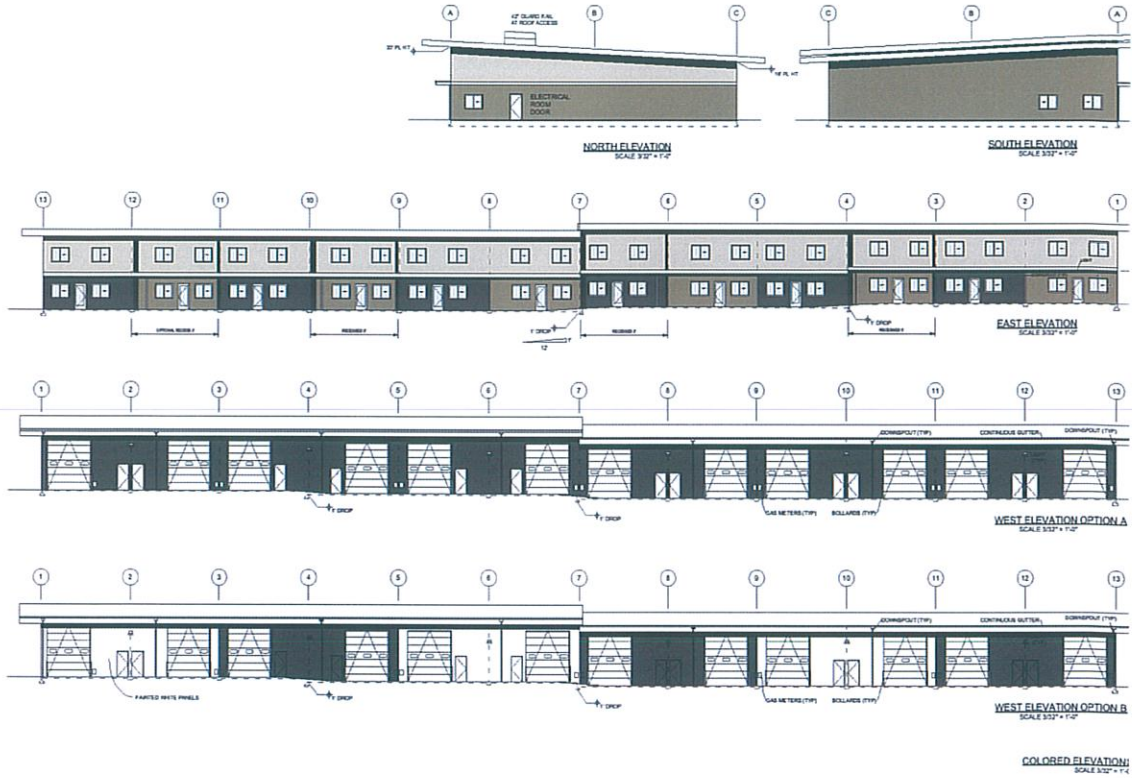
**EXHIBIT C = Estimated Gross Floor area map
FSS Development Agreement
Building A – 2119 Front St.**



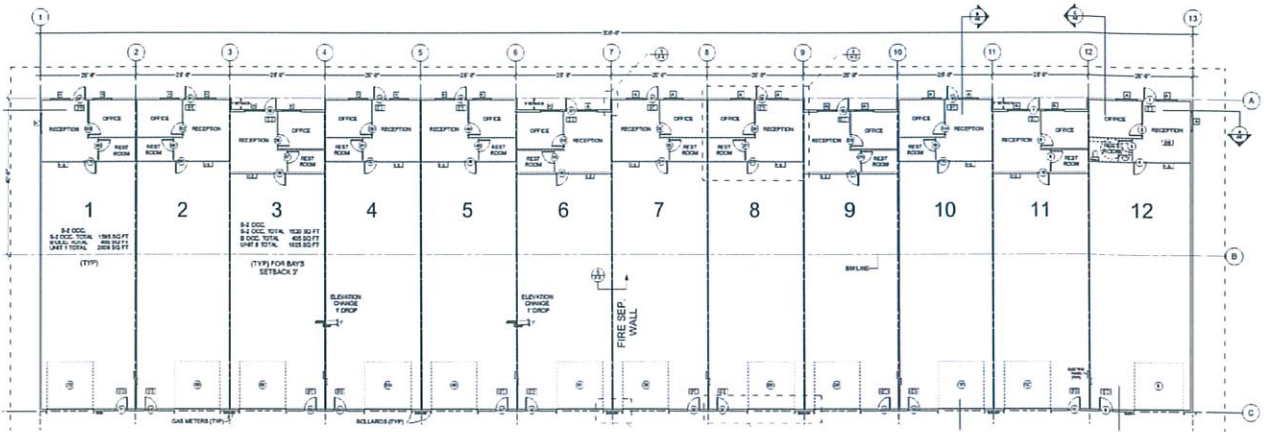
Building A – 2119 Front St. Floor plan



Building B – 2117 Front St.



Building B – 2117 Front St. Floor plan



**EXHIBIT D Impact fee discount
FSS Development Agreement**

December 27, 2004

To Honorable City Council Members Adelstein, Bode, Burns, DeValois, Kuiken, Laninga, and Vis;

RE: Economic Development and Impact Fees

In the next twenty years, Lynden is anticipating more than eight thousand new residents within the community. Each year Lynden and Lynden Christian High Schools graduate more than three hundred students from the two high schools combined. In the current update to Lynden's Comprehensive Plan, the City is considering where these new residents and students may live and work and developing a land use plan that will insure there is adequate land area to meet those needs.

In addition to planning for the residential growth, the Comprehensive Plan works to make certain that there will be sufficient land for future commercial and industrial growth. However, planning for the land area is only one step of the process. Filling that property is also essential to Lynden's balanced growth and economic future. While the policies of the Comprehensive Plan and the goals of the Economic Development Plan, all champion creating new jobs through either business retention or new business attraction, there is a lack of positive strategies to implement these goals.

To encourage balanced growth within the community and to improve the City's self-sufficiency, more must be done to make Lynden a competitive place to do business. The City's distance from I-5, limited rail service, restricted border crossing hours and the cost of land all work against the City when trying to attract new industrial business. These are factors that the City can not change.

What the City can do to make Lynden competitive is to consider the structure for certain fees that business and industry pays to the City when they apply for their permits. The table below shows what certain types of businesses might currently pay in transportation and park impact fees at the time of their building permit.

Type of Business	Park Impact Fees	Transportation Impact Fees
70,000 sq. ft. Manufacturing Facility	\$6,580	\$94,483
10,000 sq. ft. Warehouse Facility	\$940	\$8,573
5,000 sq. ft. General Office Building	\$1,170	\$13,589
5,000 sq. ft. Medical/Dental Building	\$1,170	\$33,926
50,000 sq. ft. Retail Building	\$7,000	\$155,897

Many times, these fees are in addition to other development requirements, such as utility extensions or frontage improvements. While the impact fees may be a small portion of the total project cost, they can often serve as an indicator as to how the community responds to business.

My recommendation to the City Council is that the Council considers designating the land use zones I-1, I-2 and CS-3 as economic development assistance areas by resolution and citing how development in this area will economically benefit the Lynden community. Some examples of those benefits include:

1. Increased property taxes. Most properties are currently in open space taxation and the City is receiving very minimal property taxes. (For example, one parcel in the designated area is currently paying approximately \$360 per year in property taxes - total. Taken out of open space, the same property undeveloped would contribute approximately \$8,000 per year)
2. Stronger employment base to support the growing residential population. Families would not have to leave town in order to find employment, increasing the social benefit within the City.
3. Development activity spurs other types of funding opportunities like Whatcom County's Economic Development Initiative and CERB grants/loans.
4. Financial investments in the community through job creation, vocational training, sales tax revenue (people shop where they work), as well as social investments, are important to Lynden's future.

Providing the incentive across the industrial zoning spectrum (I-1, I-2 and CS-3) ensures that regardless of where the property is located, the incentives will apply to the type of development needed most within the Lynden community: job creating, manufacturing and assembly types of growth. The City has experienced very strong residential growth, as well as strong commercial growth. Now is the time to continue to balance the growth equation with new "industrial" jobs.

I recommend that the City provide a 50% reduction in Park and Transportation impact fees for these specifies zones. The transportation mitigation fund will be reduced by approximately \$415,500 and the parks mitigation fund approximately \$22,000 by taking this action, but I contend that if we work with the County and State for Economic Development monies, we will be able to adequately provide the infrastructure needs of the community using these outside sources of potential money. The City Administration

and Staff are committed to work aggressively to find other revenues to support the proposed projects financed with mitigation funds. Partners such as the Port of Bellingham, Whatcom County (through the EDI program) and the State of Washington CURB and CERT programs are direct examples of potential revenue enhancement sources.

Attached is a draft resolution I'm asking you to consider adopting to take the first step in making this incentive for job creation possible. If the resolution is adopted, staff will then proceed in drafting potential amendments to the various ordinances and resolutions as needed. These amendments would include changes to the Park Impact Fee Ordinance and the Transportation Impact Fee ordinance as well as the Transportation Impact fee resolution.

Thanks for the opportunity to present this to you. As always, I would encourage committee review prior to adoption of a resolution, so I would suggest this be remanded to the Community Development , Parks and Public Works committees and be brought back to Council later for consideration. If you have questions, please contact Administrator Verwolf, Planning Director Harksell, or me.

Respectfully Submitted by,

Jack Louws

RESOLUTION NO. 709

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNDEN DECLARING THAT ECONOMIC DEVELOPMENT EFFORTS SERVE BROAD PUBLIC PURPOSE AND PROVIDING INCENTIVES FOR ECONOMIC GROWTH

WHEREAS, the City of Lynden desires for its citizens a quality of life that includes aesthetic quality, a strong sense of community and economic health; and

WHEREAS, the City of Lynden seeks a balance between residential growth and employment opportunities within the City; and

WHEREAS, the City of Lynden has adopted a Comprehensive Economic Development Plan that declares the public benefits of economic development and growth within the community; and

WHEREAS, the mission of the Economic Development Plan reads, *"To work with business owners and citizens throughout the City to ensure the future economic health of the City by working to maintain and attract responsible businesses and industries that are compatible with the Communities values."*

WHEREAS, the public benefits of economic growth include an increased property tax base to support municipal services, schools, and other taxing authorities, the creation of jobs to gainfully employ the citizens of the community, increased sales tax revenues, and

WHEREAS, the public benefits of economic growth within the city also include less traffic congestion on outlying roads and highways, reduction in urban sprawl, investment within a municipal area that is able to provide the services needed for business and industry; and

WHEREAS, economic development within the City is supported by the goals and objectives of the Growth Management Act; and whereas,

WHEREAS, providing incentives for economic development is consistent with the Growth Management Act and the City's own goals for encouraging infill development; and

WHEREAS, there are obstacles to Lynden's economic growth that the City can not resolve, such as the distance of the City from Interstate 5, the limited border crossing, the cost of land within the community, all of which have affected Lynden's ability to retain existing businesses and attract new industrial development; and

WHEREAS, within the City limits there is land zoned appropriately for commercial and industrial development to provide opportunity for economic growth; and

WHEREAS, the areas zoned as CS-3, I-1 and I-2 provide land area specifically targeted for agricultural business, and industrial growth: land uses which are targeted for support within the Comprehensive Economic Development Plan; and

WHEREAS, since 1998 the City of Lynden has lost several employers within the City to areas that are ready to develop, are closer to I-5 and are more economical to expand; and

WHEREAS, Lynden needs additional incentives to encourage businesses within those areas to expand and to attract new business to the city and to counter the obstacles to economic growth within the City; and

WHEREAS, mitigation fees for transportation improvements and park and open space facilities may affect a business's decision to locate in the West Lynden Industrial Area; and

WHEREAS, revenue from transportation and park mitigation fees reduced as an incentive for locating within the West Lynden Industrial Area may be recouped through grants for economic development purposes, increase real estate excise tax, removal of property from the open space taxation program and general public benefit;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Lynden to declare that economic development efforts serve a broad public interest to the citizens of Lynden by increasing the property tax base, and creating new jobs within the city; and

NOW THEREFORE BE IT ALSO RESOLVED by the Council of the City of Lynden to declare the zoning designations of I-1 (Industrial), I-2 (Light industrial), and CS-3 (Commercial Services) as economic assistance areas; and

NOW THEREFORE BE IT FURTHER RESOLVED by the Council of the City of Lynden to consider economic incentives, such as the reduction in mitigation fees for park facilities and transportation facilities, for new development in those areas declared as economic assistance areas.

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the 7th day of February, 2005 and signed and approved by the Mayor on the same date.


MAYOR
Jack Louws

ATTEST:


CITY CLERK
William Verwolf

APPROVED AS TO FORM:


CITY ATTORNEY
Robert Carmichael

EXHIBIT E Proposed right of way
FSS Development Agreement

