

Development Agreement Front Street Station

Version 8
November 27, 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):
400224 405095 0000

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”), and Don and Sally Korthuis (together with their successors and assigns, “Developer”). Developer is the owner of the property legally described in the attached **Exhibit A** (hereafter “Property”), which Developer intends to develop with a project known as Front Street Station (“FSS”).

WHEREAS, the City’s commercial zoning code, Chapter 19.23 Lynden Municipal Code (“LMC”), allows for the approval of business park development with a mix of retail, commercial and industrial uses; and

WHEREAS, the Property is located within the Regional Commercial Services (“CS-R”) zone, the purpose of which is to support the development of large format retail and regional commercial development; and

WHEREAS, FSS is currently envisioned to be a five-building business park on a roughly seven-acre parcel of land, which would be occupied by business tenants and used for manufacturing, storage, showroom, department store, market, laundry, dry cleaning, retail, and warehouse and wholesale store subject to conditional use permit approval; and

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

WHEREAS, **Exhibit C** shows proposed floorplans and elevations of Buildings A and B; and

WHEREAS, LMC 19.23.020 requires a development contract be recorded 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 Resolution No. 1013 was approved by the Lynden City Council on December 2, 2019; and

WHEREAS, this Agreement is authorized by RCW 36.70B.170 through .210; and

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

NOW, THEREFORE, City and Developer enter into this Agreement 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 The Property is located within the CS-R zone. Any development or design requirement for FSS not specifically listed below shall be in accordance with Title 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 Drive and Tromp Road. FSS will be subject to the City of Lynden Design Standards for commercial development as described in the Design Review Board project approval #19-05 and in the specific detailed below. Significant alterations to the architecture, site layout, or landscape plan must seek the approval of the Design Review Board.
 - a. Buildings A (2119 Front St.) and E (2111 Front St.) will have common architectural theme. The front façade will have a general retail appearance. 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 elevation shown in Exhibit C for Building A is an approximate idea of the façade for both Buildings A and E.
 - b. 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, will have their own simpler architectural theme, with some design elements repeated from Buildings A and E. The elevation shown in Exhibit C for Building B is an approximate idea of the façade for Buildings B, C, and D.
 - c. The site plan will have provisions for pedestrian, vehicular, and truck movement throughout FSS. 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 be completely surrounded by access roads.
 - d. Buildings A and E will incorporate screening of mechanical equipment, trash collection areas, and loading access so that they are minimally visible from the street.
 - e. A landscape plan shall be submitted pursuant to Ch. 19.61 LMC. Said landscape plan shall include street trees and foundation plantings for all areas visible from Front Street and for all parking areas and shall additionally comply with all other requirements of Ch. 19.61 LMC.

- f. Outdoor storage areas will be allowed for the occupants of Buildings B, C and D; provided, however, that such authorization may be revoked for individual tenants at Developer's discretion. Outdoor storage areas shall be kept clean. Further requirements for outdoor storage are in Section 2.3 below.
- 1.3 **Setbacks:** Minimum building setbacks and building separation will be consistent with requirements for CS-R zoning as set forth in Ch. 19.23 LMC.
- 1.4 **Dedicated street right of way:** The City is seeking outside funding to improve Front Street from a two-lane street to a three-lane street from Duffner Drive to Tromp Road. Development in this area requires additional roadway dedication per LMC 18.04.030 to facilitate improvements. Specifically, to meet the design standard of Division 4, Section 4.3, Table 4.1 of the Engineering Development Standards, a dedication of 20 feet is required. FSS is currently proposing an alternate street standard which would require a dedication of 10 feet. This is described below and depicted in Exhibit E. Utilization of the alternate standard is subject to the approval of Design Standards Variance application #19-03.
- To construct the proposed alternate standard, the City will need a 30' of right away on the south side of Front Street. 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 Developer to dedicate 10 additional feet of right of way for this purpose to the City. In addition to this, the Developer will dedicate, a 10' utility easement on the Property adjacent to the north property line to the City, subject to approval by the City.
- 1.5 **Property access:** There will be three driveway cuts into Front Street: one at the eastern property line of FSS ("Eastern Access"), one at the western property line of FSS ("Western Access"), and one with a centerline approximately 180 feet east of the western property line ("Center Access"). The Eastern Access will be shared with the property owner to the east of FSS.
- 1.6 **Signage:** All signage will meet the requirements of Ch. 19.33 LMC. Design Review Board approval will be obtained as applicable. Lessees will not place any sign anywhere in FSS without Developer'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 shall maintain a minimum of 20% retail, showroom or office floor area at all times throughout all phases. Individual tenants may be less than 20% onsite retail, showroom, or office use;

however, 20% or more of the total GFA of the entire FSS business park shall be dedicated to onsite retail, showroom, or office use.

It is estimated that Buildings A and 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 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, lighting, etc)	P	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. No outside display of equipment.	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,	N	P

woodworking and metal working shops		
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	N
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. No outside display of equipment.	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 ft.	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. No overnight boarding except for medical purposes.	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 are permitted with conditions by City of Lynden if approved by the city council through a resolution. The Developer applied for Conditional Use Permit #19-01 on July 31, 2019, to permit warehousing and wholesaling in FSS. When a Conditional Use Permit is approved by the City of Lynden with a resolution, these uses will be permitted in FSS.
- 1.8 **Parking Requirements:** Because FSS will provide leasable floor area for a variety of commercial and light industrial users, it may not be possible to determine parking ratios specific to use at the time of initial development; as such, the following minimum parking requirements shall apply:

FSS will abide by the off-street parking requirements of Ch. 19.51 LMC by meeting standards consistent with the expected percentages of use. Per LMC 19.23.020, FSS is required to maintain at least 20% of GFA as retail, showroom, or office use. This may include restaurants, personal or medical services. As such, 20% of GFA 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 GFA 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, showroom, department store, market, laundry, dry cleaning, retail, and warehouse and wholesale store subject to conditional use permit approval, 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 shall have at least one loading space, which shall be a minimum of 10-feet by 25-feet, with 14-foot height clearance. The space shall be so situated that no part of a truck or van using the loading space will prevent the flow of traffic.
- 1.10 **Special Development Conditions for Building E:** Building E is planned to be greater than 25,000 square feet GFA. It will therefore be subject to the additional requirements of LMC 19.23.080.

ARTICLE II PHASING AND IMPROVEMENT REQUIREMENTS

- 2.1 **Phasing:** There will be multiple phases in construction of FSS. The Developer anticipates 3 phases. 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. The second phase is initially planned to be Buildings C and 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 screened from view from Front Street.

- 2.2 **Frontage Improvements and Landscape:** Front Street is a listed City arterial street and an impact fee funded street for any future improvements. Improvements may be completed by the City of Lynden in association with a Whatcom County Economic Development grant / loan program. However, if outside funding is not secured, the Developer will be required to complete minimum street improvements in association with the project's utility installation and / or a SEPA determination. 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 Ch. 19.61 LMC. Required street trees shall be planted within parking lot landscape islands by the Developer adjacent to the utility easement consistent with Variance 19-03. Maintenance of the street trees will be the responsibility of the Developer. Removal of the trees is not permitted without the appropriate street tree removal permit.

All other Front Street landscaping will be done in two phases. The first phase of frontage improvements shall be completed prior to final occupancy of Buildings A and B and shall include at minimum the west 180 feet of property frontage. The second phase of frontage improvements shall be completed prior to final occupancy of Building E and shall include the remaining street frontage work from the point where the first phase stopped to the eastern property line of FSS. Other than the street frontage work for Buildings A and B, no other street frontage work shall be required prior to final occupancy of Buildings C and D.

- 2.3 **Outdoor storage and Refuse areas:** Buildings A and E will have a designated outdoor area for refuse containers, which shall be screened from view. Buildings B, C, and D will have refuse stored either inside the building or near the rear service doors, for example at the west side of Building B.

Outdoor storage will be discouraged throughout Front Street Station and will be less than 30% paved area.

No product / inventory or refuse may be stored in outdoor parking areas for more than 48 hours. Additional refuse areas may be permanently added if screened with an appropriate fence or wall.

- 2.4 **Utility Improvements:** Sewer and water lines will be installed per City Standards. 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 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 Building A or Building B, whichever is

completed first. Sidewalks associated with each building subsequent shall be completed prior to final occupancy of each building.

- 2.7 **Impact Fees:** Impact fees will be paid at the time of building permit issuance consistent with the schedule outlined in this section. . All impact fees will reflect the 50% West Lynden Discount, per Resolution 709, 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. Developer will pay tenant improvement impact fees based on these estimates.

Normally, time is of the essence when a tenant contacts the Developer to rent space. A typical tenant will quickly decide to rent a space and want to immediately move in. It is the Developer'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.

If Front Street Station is developed first as shell structures without the benefit of knowing the specific needs of individual tenants and the associated interior improvements, the City agrees to assess impact fees at the time of permitting for the shell structures without additional assessments due at the time of tenant improvement. This general assessment will be done at the rates associated with the uses and ratios proposed above. That is:

Building B, C, and D - 20% general office use and 80% warehouse use.

Buildings A and E – 40% general office use and 60% warehouse use.

No more than two years after the date of issuance of the permit for the shell structures, the Developer may request a review and credit of fees. Review will consider each building separately and only when building permits for all of the interior space have been approved by the City.

If buildings within FSS are proposed not as shell structures but with specific floor plans, impact fees will be assessed based on the submitted floor plan.

ARTICLE III INFRASTRUCTURE DEVELOPMENT REQUIREMENTS

- 3.1 **Easements:** Any and all necessary utility easements acceptable to the City must be granted to the City of Lynden and recorded prior to final occupancy of associated buildings.

- 3.2 **Utilities:** Adequately sized water lines are currently in place along Front Street. Non-standard water pipe material may require the pipe to be replaced. Frontage sewer, water (if necessary) and stormwater will be done in two phases. The first phase of water, sewer and stormwater improvements shall be completed prior to final occupancy of Buildings A and B and will include at a minimum the west 180 feet of property frontage on Front Street. The second phase of sewer and stormwater improvements shall be completed prior to final occupancy of Building E and shall include the remaining sewer and stormwater frontage work from the point where the first phase stopped to the eastern property line of FSS. Additional sewer and stormwater improvements may be required within FSS. Restaurant spaces may be subject to additional requirements such as grease interceptors (traps).
- 3.3 **Stormwater:** Stormwater management plans prepared by a professional engineer will be prepared for FSS and shall be approved by the City of Lynden prior to final approval of the civil construction plan or building permit for any new building. 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 an un-obstructed 300 feet throughout the development and placed at least 50 feet from any obstruction or as otherwise required by the local fire marshal.
- 3.5 **Driveway Cut Phasing:** The Western Access and the Center Access shall be completed prior to final building occupancy of both Buildings A and B. The Eastern Access shall be completed prior to final building occupancy of Building E. The Eastern Access will be a shared entrance with the property adjacent to the eastern edge of FSS. 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 the Developer, and their respective heirs, administrators, executors, agents, legal representatives, successors and assigns. Upon any sale or conveyance of the Property by the Developer or a subsequent owner, such owner shall be released from the obligations of this Agreement and the obligations stated herein shall be

enforceable solely against the successor owner of the Property.

**ARTICLE V
MISCELLANEOUS**

- 5.1 Except where specifically varied by this Agreement, the development of FSS on the Property shall be subject to all requirements of the LMC and City of Lynden Design Standards.
- 5.2 This Agreement 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.
- 5.3 In the event the Developer fails to comply with the commitments set forth herein, within one hundred twenty (120) days of written notice of such failure from the City, in addition to any other remedies which the City may have available to it, the City shall have the right, without prejudice to any other rights or remedies, to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement, and to collect the direct costs associated with such action, including reasonable attorney's fees and costs, from the Developer.
- In the event the City fails to comply with the commitments set forth herein, within one hundred twenty (120) days of written notice of such failure from the Developer, in addition to any other remedies which the Developer may have available to it, the Developer shall have the right, without prejudice to any other rights or remedies, to cure such default or enjoin such violation and otherwise enforce the requirements contained in this Agreement, and to collect the direct costs associated with such action, including reasonable attorney's fees and costs, from the of the City.
- 5.4 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.
- 5.5 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.
- 5.6 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.

- 5.7 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

Developer: 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.

N 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.

Developers

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:

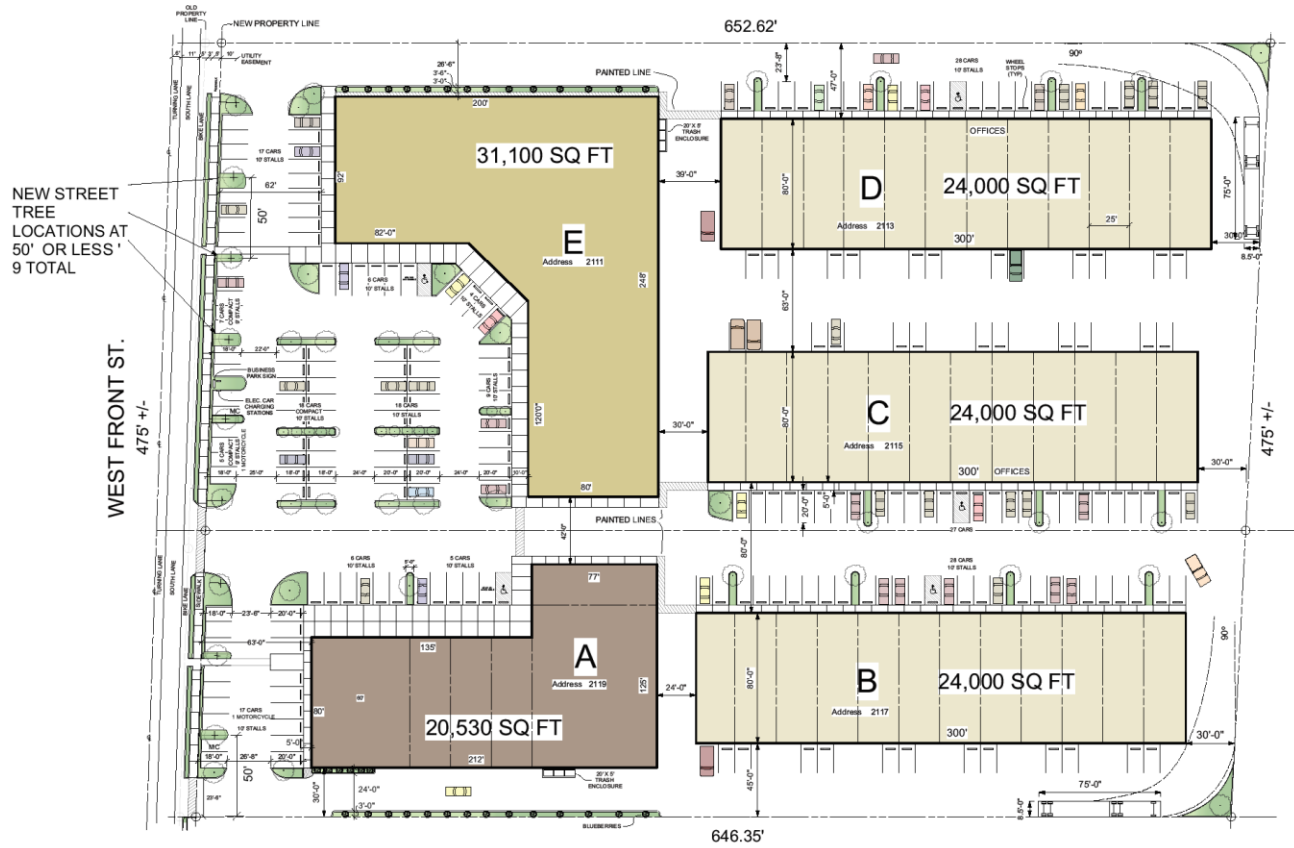
BEGINNING AT THE NORTH LINE OF SAID QUARTER QUARTER AT A POINT 364 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE SOUTH 660 FEET; THENCE EAST 282.8 FEET; THENCE SOUTH TO THE NORTH LINE OF THE TRACT OF LAND CONVEYED TO WHATCOM COUNTY, WASHINGTON, BY DEED RECORDED UNDER AUDITORS FILE NO. 637745, RECORDS 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 Addresses: 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

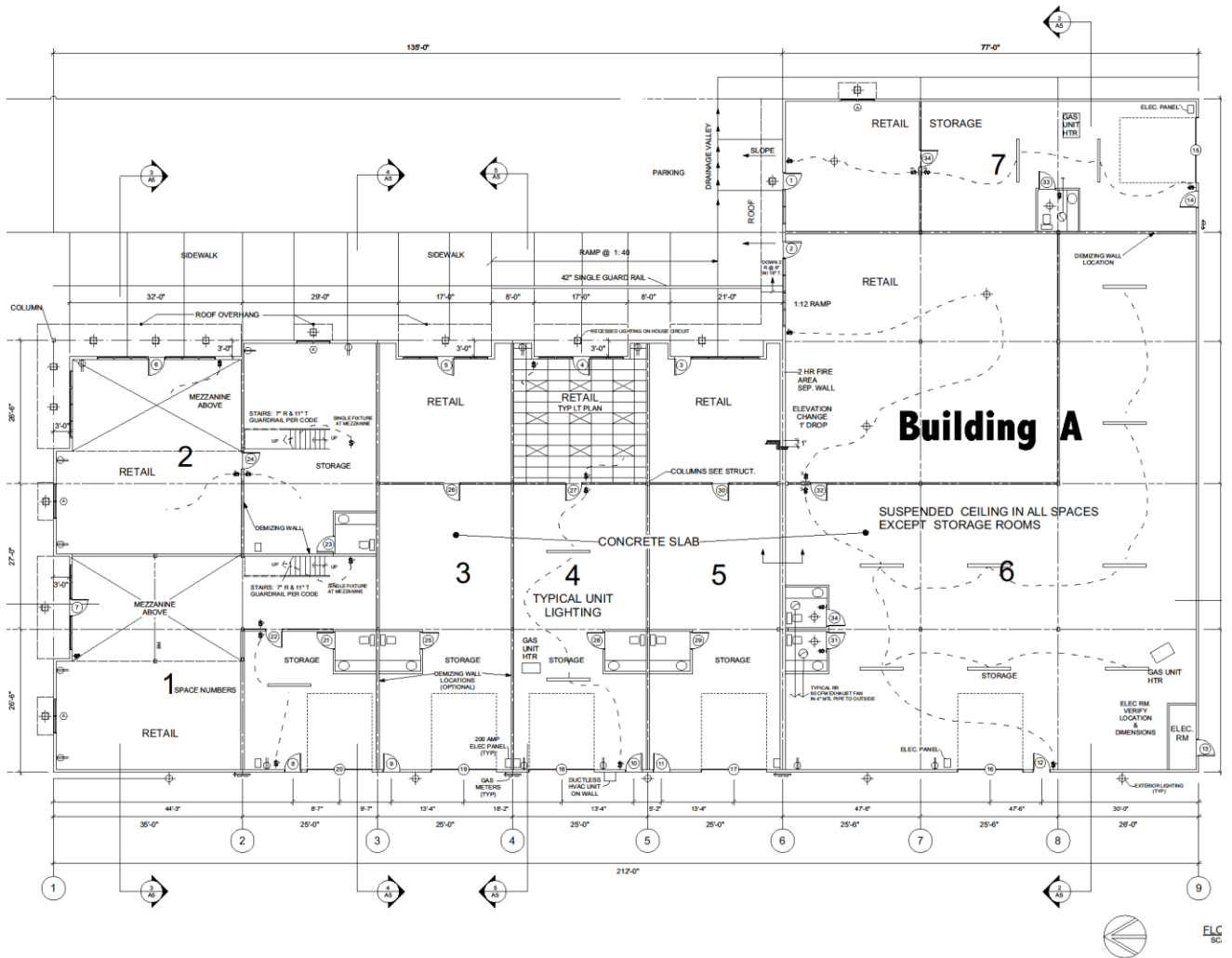


PRELIMINARY SITE PLAN
 SCALE 1" = 30'

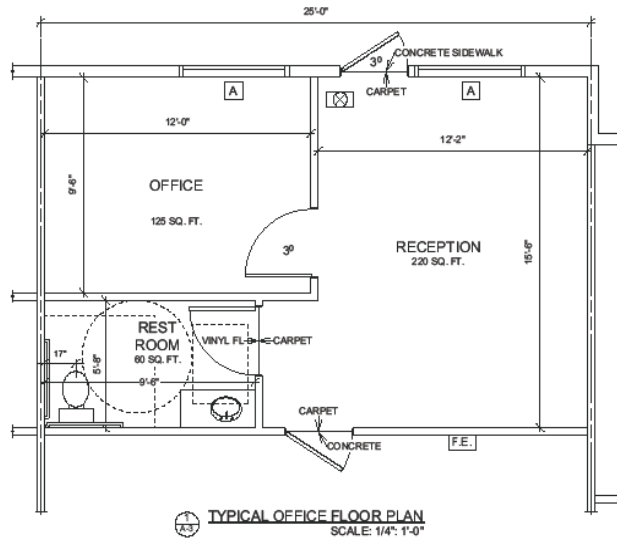
**EXHIBIT C = Estimated Gross Floor area map
FSS Development Agreement
Building A – 2119 Front St.**



Building A – 2119 Front St. Floor plan



Building B – 2117 Front St.



Building B – 2117 Front St. Floor plan

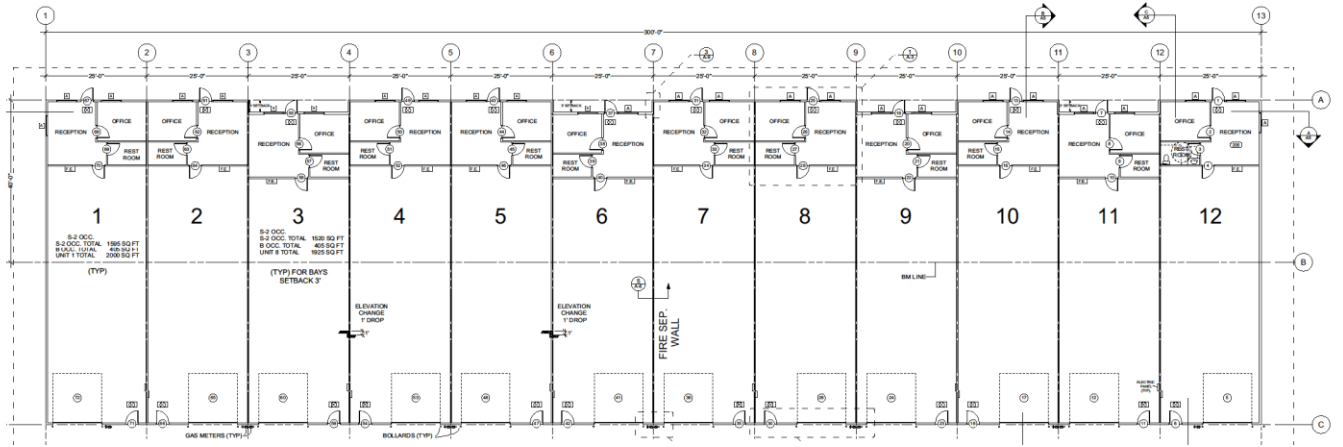


EXHIBIT D Impact fee discount

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 specific 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

