

CITY OF LYNDEN
LYNDEN CITY COUNCIL

IN RE THE CONDITIONAL USE
PERMIT REQUEST OF Blake and
Jody Starkenburg, Petitioner

NO. 20-01

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Owners of the premises known as:

LOTS A-B-C OF B.D.C. LLA AS RECORDED UNDER AF NO. 2070304692 EXC TR DAF ALL THAT PTN LOTS A-B-C OF D.B.C. LLA AS RECORDED IN AUDITORS NO. 2070304692 LY SLY OF FOLL DESC LI-COM AT 5/8 INCH REBAR WI COMPASS PT LS 32430 CAP MARKING MOST NLY COR OF PARCEL F AS SHOWN IN THE RIVERVIEW LLA AS RECORDED UNDER AF NO. 2120102778 RECORDS OF WHATCOM COUNTY, WASHINGTON. SITUATE IN WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 409 Judson Street Alley, Lynden

Having made application for a Conditional Use Permit to allow the growing of produce and associated sales at the above noted address located within the CSL zone.

The Lynden Planning Commission held a public hearing on July 9, 2020 and considered the consistency of the application under LMC 19.49.020 and has determined that the application meets the criteria for granting a conditional use permit according to the findings, conditions and recommendations of the Technical Review Committee Report dated June 30, 2020.

Said request having come before the Lynden City Council on July 20, 2020, and the Lynden City Council having fully and duly considered the conditional use permit request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Blake and Jody Starkenburg, (“Applicant”) filed a conditional use application which was accepted by the City as complete on June 11, 2020.

1.02 Location. The Property is located 409 Judson Street Alley in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Blake and Jody Starkenburg are the Property Owners.

1.04 Reason for Request. To allow the growing of produce and associated sales within the CSL zoning designation.

1.05 Compliance with Criteria for Granting a Conditional Use Permit. The application as presented during the public hearing complies with the criteria listed within Section 19.49.020 of the Lynden Municipal Code.

1.06 Compliance with Project Manual for Engineering Design and Development Standards. The application complies with the development standards and requirements set forth in the Project Manual for Engineering Design and Development Standards, as applicable.

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

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

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

1.10 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act. The public interest will be served by the approval of the application.

1.12 SEPA Determination. Environmental review of the proposal is not required.

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

II. CONDITIONS

Planning Department Comments:

1. *Screening:* Landscape screening is required on all commercial zones adjacent to residential and public use zones per LMC 19.61.090. Staff recommends that constructed elements such as equipment storage sheds and mechanical areas be screened per the code, however the screening of the remaining property be reviewed and required at the time of Design Review Application in conjunction with a proposal for a primary structure on the property.

LMC 19.61.090. Adjacent to Residential Zones: This includes the eastern property line of the subject property. Per LMC 19.61 this must be a Type II planting strip, ten feet in width. A Type II planting strip consists of one row of trees spaced a maximum of ten feet on center. The remainder of the planting strip shall be planted with plantings that will result in an attractive ground cover within two years.

LMC 19.61.090. Adjacent to Public Use Zones: On portions of the western property line adjacent to Public Use zones property the property must provide a Type III planting strip, ten feet in width. TYPE III planting strips are composed of a sight screening evergreen hedge meant to provide a sight, sound and psychological barrier between zones with some degree of incompatibility. The spacing of evergreen plants shall be such that they form a dense hedge within three years. The minimum height, at the time of planting, shall be four feet, except where the hedge would interrupt the clear vision triangle

2. *Designated Parking:* Be advised that the applicant will be required to meet all on-site parking requirements for the proposed property uses. Chapter 19.51.040 requires 4.5 parking stalls per 1000 feet of gross floor area for *retail uses* and 3 stalls per 1000 square feet (minimum of 5) for *business office use*.
 - a. Be advised, minimum parking stall requirements are 9 feet wide by 21 feet deep. These dimensions must be shown on building permit plans.
 - b. *Handicapped Parking:* Handicapped parking shall be installed in accordance with the "Regulations for Barrier-Free Facilities" as adopted by the Washington State Building Code Advisory Council or 2% of the required parking stalls, whichever is greater.
 - c. All parking must be paved.
3. *Access:* Primary access to the property will be from Riverview Road. All access and parking generated by the general public must occur off of Riverview Road and not off of Judson Street Alley due to its substandard condition. Consistent with Public Works comments, staff recommends that any existing access points that exist off of Judson Alley be gated or otherwise blocked to prevent general access.
4. *Advisory Regulations:* Chapter 19.49.020 (C) states that a Conditional Use Permit will be granted only if the proposed use complies with the standards and criteria listed in that section of code. Staff acknowledges that the applicant has responded to each of the criteria. These responses will be included in the application package.

5. *South Historic Business District Sub-Area Plan:* In 2006 the City Council approved a long-range planning strategy for the South Historic Business District. The subject property is part of this sub-area. Staff has concluded that the proposed agricultural production is consistent with the agricultural theme of the Comprehensive Plan and elements of the Sub-Area plan. Also, it does not prevent future development of the area which would include additional elements of the Sub-Area plan such as a mix of commercial and residential uses and a connecting pedestrian / vehicular network. Be advised, additional development in this area is expected to meet the intent of the sub-area plan including associated infrastructure improvements.
6. *Street / Trail Construction:* Be advised, future development on this property may require the construction and dedication of public access ways consistent with the South Historic Business District Sub-Area Plan.
7. *ROW Dedication:* Be advised, future development on this property may require right-of-way dedication along Judson Street Alley.
8. *Business License Required:* Be advised, upon approval and commencement of the conditional use, the establishment must revise the existing business license from the City of Lynden to include agricultural production and seek / modify any associated State of Washington permits.

Public Works

9. *Street Access:* Only existing accesses points can be used. No new access points (curb cuts) will be permitted onto Riverview.
10. *Street Access:* Be advised, no vehicle access to Judson Street Alley.
11. *Street Access:* Although parcels may have common ownership, if access is created which crossing adjacent parcels, appropriate easements shall be granted and recorded.
12. *Parking:* Be advised, all parking areas must be paved.
13. *Drainage:* Be advised, all development must meet City and Department of Ecology standards. Location in Nooksack drainage basin allows for treatment only.
14. *Floodplain:* Be advised, no new/additional fill can occur in the floodplain.
15. *Water Infrastructure:* Be advised, depending on use, water backflow protection device(s) will be required.
16. *Sewer Infrastructure:* Be advised, depending on use, grease trap(s) may be required.

17. *Infrastructure Improvements:* Be advised, future permits may require utility extensions, easements and, corridor establishments consistent with the City's adopted Comprehensive and Sub-Area plans.

Fire and Life Safety

18. The Fire Department has reviewed the conditional use permit application and has no comment.

Parks and Recreation

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

III. DECISION

Petitioner's application to allow the growing of produce and associated sales within the CSL zoning designation, on the property described herein is hereby **Approved**.

DATED: _____

Scott Korthuis
Mayor