



February 22, 2023

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

Re: The application of Klinton and Narissa Moa for a Rezone of three Lynden parcels.

RZ #23-01 Moa Rezone

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: A Rezone application requesting to change the zoning of three parcels owned by Klinton and Narissa Moa from Single Family Residential to Multi-Family Residential. It would specifically change the zoning of the subject parcels from Residential Single Family (RS-100) to Multi-Family Residential (RM-1).

Recommendation: This application is unique in that it virtually equates to an after-the-fact rezone request. Staff recognizes that the tangible impacts of the application are relatively minor however, the principles of abiding by the City's code, setting a precedence, following a transparent rezoning process ahead of development, and delivering to the surrounding property owners the expected housing type should be weighed by the City Council when making the final decision. Staff has provided a summary of the project's history and analysis of the criteria for approval but, in this instance, has abstained from offering a specific recommendation. Staff has recommended conditions if the application is approved by Council.

II. PRELIMINARY INFORMATION

Applicant: Klinton and Narissa Moa

Property Owner: Klinton and Narissa Moa

Property Location: 1181, 1183 and 1185 E Grover Street, Lynden

Parcel Number: Lot A 400316-251063

Moa Rezone – TRC Report

Lot B 400316-256053
Lot C 400316-248050

Legal Description: Lots A, B and C of the Moa Short Plat, as recorded under Auditors File Number 2021-0200084. Situate in Whatcom County Washington.

Notice Information:

Application Submitted:	January 12, 2023
Notice of Application:	February 8, 2023
Notice of SEPA determination:	February 8, 2023
Notice of Hearing:	February 8, 2023
Comment Period Ending:	February 22, 2023

SEPA Review: Lynden SEPA #23-01. Determination of Non-Significance (DNS) issued February 3, 2023

Authorizing Codes, Policies, and Plans:

- RCW 36.70A Growth Management
 - RCW 36.70A.130 Comprehensive Plans
- LMC Chapter 19 Zoning
 - LMC 19.09 Maps and District Boundaries
 - LMC 19.17 Multi-Family Zoning
 - LMC 19.22 Residential Design Standards
- LMC Chapter 17.09.030 – Legislative Decisions
 - LMC 17.19 – Site Specific Rezones

III. PROJECT DESCRIPTION

A Rezone application requesting to change the zoning of three parcels owned by Klinton and Narissa Moa from Single Family Residential to Multi-Family Residential. It would specifically change the zoning of the subject parcels from Residential Single Family (RS-100) to Multi-Family Residential (RM-1).

The subject property was acquired by the applicant, Mr. Moa, as a single lot with an existing home. At the time Moa inquired as to a potential rezone of the property to a multi-family zoning such as RM-3. Staff expressed concerns about a rezone at this location. Primarily because such action would only affect one lot (less than an acre in size) which was surrounding by large lot single-family residential use on three sides. A zoning of RM-3 could allow as many as 13 units. The location, on the curve of East

Moa Rezone – TRC Report

Grover Street, is also a relatively dangerous intersection to introduce significantly more traffic and staff could not offer a recommendation for a shift of this nature.

Subsequently, Moa did not pursue a rezone but instead processed a short plat which divided the property into three single family lots. This short plat was finalized in early 2021. Moa has since constructed a new single-family home with an ADU. Staff also believes that Moa has improved the existing house to include a basement accessory dwelling unit (ADU).

Construction of single-family homes with accessory dwelling units is permitted, however, per LMC 19.20.020(J) the primary residence or the ADU must be owner occupied. A perpetual covenant against the property must be recorded which specifies this requirement. Although Moa was aware of the requirement, he retained ownership of both the existing and newly constructed home and made efforts to rent out both the primary homes and the ADU's as four separate units. This is in violation of the city code and the covenant he and his wife signed.

Rental housing is a need in every city, but its primary beneficiary is the investor. In contrast, the City of Lynden's ADU standards with an owner-occupying requirement has been developed with home ownership in mind. It is intended to provide opportunities for affordability as homeowners supplement their income by renting one unit or encouraging multi-generational living as frequently young buyers are priced out of the market or older family members need assistance. The owner-occupied requirement encourages a homeownership development model rather than a landlord development model.

The application being considered at this time requests a zone of RM-1 which limits the structures to duplexes and is relatively low density. The primary difference between the existing zoning of RS-100 and the requested zoning of RM-1 is that if rezoned, each of the existing structures and a potential future structure on Lot B could operate as duplexes and be rented to six different entities, under current ownership. If the property is not rezoned, Mr. Moa must treat the property as any other single-family residence. That is, he could sell the lots, or he could rent each lot, along with its ADU, to three users, and not six different users.

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on February 8, 2023

Notice of SEPA determination: Formal notice of the SEPA Determination (DNS) was published in the Lynden Tribune on February 8, 2023. The comment period for the SEPA determination expired on February 22, 2023.

Public Comment Received:

City staff has discussed this proposal with two nearby property owners who expressed concern about an after-the-fact rezone, the precedent that such an action would set, but they also recognized that there would be little to no change overall ‘unit’ count as compared to the RS-100 and RM-1 zoning categories.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

Criteria for Approval: The applicant has responded to this comment with written justifications for the proposed rezone. Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed. Written justification is include in the meeting packet.

REZONE: To grant this request, the Planning Commission and City Council **must** find that the application satisfies each of the criteria listed within Section 17.09.050 of the Lynden Municipal Code:

- a. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and
- b. The proposed site-specific rezone is consistent with the City’s comprehensive plan and applicable sub-area plan(s); and
- c. The project proposal is consistent with the City’s development codes and regulations for the zoning proposed for the project.
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and
- e. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

Staff review of Rezone Criteria is as follows:

- a. Staff does not agree that the current zoning was approved in error or that there has been a significant change in circumstances since approval of the current zoning that would warrant reclassification of the subject property as proposed. The City has consistently recognized this section of the City as single-single family zoning and market demand for single-family lots

Moa Rezone – TRC Report

remains. That said, the change in traffic volume along East Grover has significantly increased and, as multi-family housing types are more frequently located along transportation corridors, this could be noted as a change in the area, but it is debatable as to if this is a “significant change”.

- b. The proposed site-specific rezone may be consistent with the City’s comprehensive plan in that the rezone request is relatively low density however, the Comprehensive Plan also sets the goal of establishing 75% detached housing as compared to 25% multi-family (attached) housing product. Over the last year the permits issued for residential use has been 58% attached or ADU units. If the City is committed to maintaining overall ratios of detached to attached housing product then additional rezones to multi-family zoning should be avoided.
- c. The proposed rezone project proposal could potentially be consistent with the City’s development codes and regulations for the zoning proposed for the project with some modifications. Minimum lot sizes and setbacks can be achieved. However, the design standards for duplexes require that each unit have its own set of utility meters while ADUs are metered with the primary home. As the current structures were built as ADUs they do not currently have their own meters. Revisions to the utility metering would be required in order to meet the City’s design standards. If the rezone is supported by Council, staff recommends that existing structures be held to engineering design standards and metered individually. This could be enforced through the implementation of a development agreement.
- d. The proposed site-specific rezone is relatively indistinguishable from the surrounding uses as the form of the existing structures replicates that of single-family homes. Owner occupation may enhance the investment into the community, but this is antidotal. If the rezone is supported by Council, staff recommends that the development of vacant Lot B be held to a similar form through the implementation of a development agreement.
- e. Overall, the site-specific rezone, if granted, will likely neither promote or depress the health, safety, and general welfare of the community except that it promotes a landlord / investment property model rather than a home ownership model within the community.

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Planning Department Comments

1. *Proposed Uses:* Applicant has been advised that multi-family use will be subject to the provision of LMC 19.17 which include, but are not limited to, permitted uses, setbacks, lot coverage and height limits.
2. *Development Agreement:* If the City Council approves the rezone request, staff recommends that the execution of a development agreement be placed as a condition of approval. This agreement should be written to obligate the current owner and / or future property owners to construct Lot B in a way that is consistent with the scale and appearance of a single-family home and could outline expectations regarding water meter and sewer service requirements. Additionally, the costs association with the execution of a development agreement including legal review should be borne by the applicant.
3. *Design Review:* As per LMC 19.25, multi-family construction is subject to Design Review Board approval. If approved, an application filed to review layout, landscape, lighting, and architecture for future construction on Lot B would be required. This application would also consider the street frontage of the entire short plat.
4. *Parking:* Applicant is required to comply with LMC 19.51 regarding off-site parking. As of January 1, 2023, multi-family use is as follows: 2 per dwelling unit up to 2 bedrooms. 1 space per bedroom for units with more than 2 bedrooms, plus any required handicapped stalls. Be advised, if the rezone is approved, Lot A, B & C will be held to this requirement.
5. *Foundation Landscaping:* LMC Chapter 19.61 requires that buildings containing 2-4 units must provide a planting area a minimum of 4 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 2 feet. Please be advised, if the rezone is approved, Lot A, B & C will be held to this requirement.
6. *Accessory Dwelling Units (ADU):* ADU's are permitted in multi-family zones only on lots which are restricted, by lot area, to a single-family residence. ADUs are not permitted on any parcel within the Moa Short Plat and therefore any existing ADUs must be converted to duplex standards which primarily affects parking, landscape design, and utility metering.

Public Works Department Comments

7. *Public Improvements:* The applicant has been advised that all public improvements must be constructed as required in the Lynden Municipal Code.
8. *Utility Meters:* As per Chapter 6.3 (a) of the Engineering Design and Development Standards, a duplex configuration is required to have a meter for each unit. Revisions to the utilities at this site may be necessary if a rezone is approved.
9. *Sewer:* Future building permits will need to determine the adequacy of sewer service for Lot B.
10. *Utility Easements:* Be advised, private easements will be required for any new and existing water and sewer services that cross adjacent lots. Private easements must be recorded separately and must be referenced on the face of the short plat.
11. *Development Standards:* The applicant has been advised that future development 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.
12. *Stormwater Management:* The applicant has been advised at the time of development, a stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.

Fire and Life Safety Comments

13. *Fire Standards:* Future Development will require full compliance with the Fire Code.
14. *Hydrants:* Minimum spacing requirements for fire hydrants change from a 500-foot requirement to a 300-foot requirement with a multi-family zoning. It appears as if there is adequate hydrant coverage for each parcel.
15. *Addressing:* Address signs must be clearly posted. New addresses must be posted prior to issuance of the certificate of occupancy.

Parks and Recreation Comments

The Parks Department has no comments on this application.

VII. RECOMMENDATION

Staff recognizes that the tangible impacts of the application are relatively minor however, the principles of abiding by the City's code, setting a precedence, following a transparent rezoning process ahead of development, and delivering to the surrounding property owners the expected housing type should be weighed by the City Council when making the final decision.

Staff, in this instance, is abstaining from offering a specific recommendation on the rezone request. However, if the City Council approves the rezone request to RM-1 staff recommends the execution of a development agreement be placed as a condition of rezone approval. This agreement should be written to:

1. Obligate the current owner and / or future property owners to construct Lot B in a way that is consistent with the scale and appearance of a single-family home – a review conducted by the Design Review Board;
2. Outline expectations regarding water meter and sewer service requirements as determined by the Public Works Department;
3. Specify that the costs associated with the execution of a development agreement including legal review should be borne by the applicant; and
4. Delay the official effective date of the rezone, and prohibit the property owner from renting the ADUs as separate units until the obligations detailed in the development agreement are completed.

CITY OF LYNDEN

REZONE APPLICATION



City of Lynden use only:

RZ # 23-01

Staff Initials: KH

Applicant Information

Name: Klinton and Narissa Moa

Address: 5124 Ranchos Rd Bellingham, WA 98226

Telephone Number: 360.393.7345 E-mail Address: kmoa@pci-nw.com

Application is hereby made for a rezone as follows:

Type of Rezone Requested:

Current Zoning Designation: RS-100

Proposed Zoning Designation: RM-1

Attach narrative explaining the reason for the request / zoning change

Property Information

Address: 1181, 1183, 1185 E Grover St Lynden, WA 98264

Legal Description: (Attach Additional Sheets if Necessary)

LOT C MOA SHORT PLAT AS REC AF 2021-0200084

LOT B MOA SHORT PLAT AS REC AF 2021-0200084

LOT A MOA SHORT PLAT AS REC AF 2021-0200084

Property Size: _____ x _____

Total Square Footage: 30492 Total Acreage: .7

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

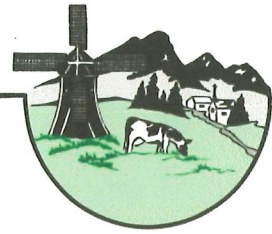
Submitted By: Klinton Moa Date: 1/9/2023

Property owner signature: [Signature] Date: 1/9/2023

Property owner printed name Klinton Moa Date: 1/9/2023

CITY OF LYNDEN

CRITICAL AREAS CHECKLIST



Section: 16 Township: T40N Range: R03E Parcel Number: 400316251063, 40031624805, 400316256053

Site Address: 1181, 1183, 1185 E Grover St Lynden, WA 98264

Proposed Uses: Residential Multifamily RM-1

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area*:

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).
☐ Yes ☐ No ☒ Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?
☐ Yes ☒ No ☐ Unknown
- c. Is there vegetation that is associated with wetlands?
☐ Yes ☒ No ☐ Unknown
- d. Have any wetlands been identified?
☐ Yes ☒ No ☐ Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?
☐ Yes ☒ No ☐ Unknown
- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?
☐ Yes ☐ No ☒ Unknown
- g. Are there slopes of 15% or greater?
☐ Yes ☒ No ☐ Unknown
- h. Is the project located within a Flood Hazard Zone?
☐ Yes ☒ No ☐ Unknown
- i. Do you know of any landslide hazard areas?
☐ Yes ☒ No ☐ Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.


Applicant's Signature

11/9/2023
Date

To whom it may concern,

This letter is in regard to the properties at 1181 E. Grover -legally described as LOT C MOA SHORT PLAT AS REC AF 2021-0200084, 1183 E Grover, legally described as LOT B MOA SHORT PLAT AS REC AF 2021-0200084, and 1185 E. Grover, legally described as LOT A MOA SHORT PLAT AS REC AF 2021-0200084 regarding the rezoning of said parcels and to address the bullet points in the application process.

Background: These properties were purchased on April 1, 2020 with the main house (1185) already being used as a separate downstairs and upstairs units. The children were caring for their sick mother in the upstairs while they lived downstairs. We saw this as a great investment for our future (it was subdividable, and we both knew it was a great option down the road when our parents need the same care). We then subdivided and built 1181 with an ADU. Our brother was going through a divorce and seemed like the house was a perfect fit for him and his kids. We did not know that family could not occupy the house under the ADU rules, and my wife stays there often to help with his kids while he is out of town on work.

Reason: We are seeking the purposed zoning so that we can legally rent out the main house and the ADU's.

Effect: Doing so will benefit the community in many ways. The community is in a housing shortage and a housing price increase. Allowing this property to be zoned to RM-1 will give the community a lower, duplex rent price with a single-family residence atmosphere with large, privately fenced yards. They are in close proximity of the high school and provide more quality rentals for young families. The neighbors will have zero impact as the units are already built. The parking/occupancy load would be the exact same whether the two houses were owner in main/tenants in ADU or tenant in main/tenant in ADU. With limiting to 2 cars per unit, there is ample existing parking without street parking.

Additionally, these units are an asset to the community and they are already constructed. It does not change the character of the neighborhood in any way, as across the street is high density housing. If anything, this blends the two contrasts in the neighborhood. Therefore, I believe this is **consistent with the City's comprehensive plan** of providing more housing but keeping the integrity of the neighborhood.

When considering, please consider the communities view as a whole. Our goal is to make the community better and be helping with the housing crisis.

Sincerely,

Klinton and Narissa Moa

Applicant's response dated 01.16.2023

LMC 17.19.050 Criteria for Approval of Site-Specific Rezone

>Site-specific rezoning requests must satisfy the requirements established for development proposals in LMC 17.09.040C. In addition, no application for a site-specific rezoning shall be approved unless the applicant demonstrates that each of the following criteria is satisfied:

A. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed;

The city is currently in housing crisis, the market conditions have increased so dramatically that it has priced out many young, starting out families from obtaining homeownership.

The change in circumstances warrants reclassification of the subject parcels as proposed.

B. The proposed site-specific rezoning is consistent with the City's comprehensive plan and applicable sub-area plan(s);

The proposed rezoning is consistent with the city's comprehensive plan by providing long term residential housing.

C. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project.

The subject parcels are consistent with the city's development codes and regulations for rezoning. All the infrastructure is already in and complete. All three lots have fire hydrant coverage within 300 feet.

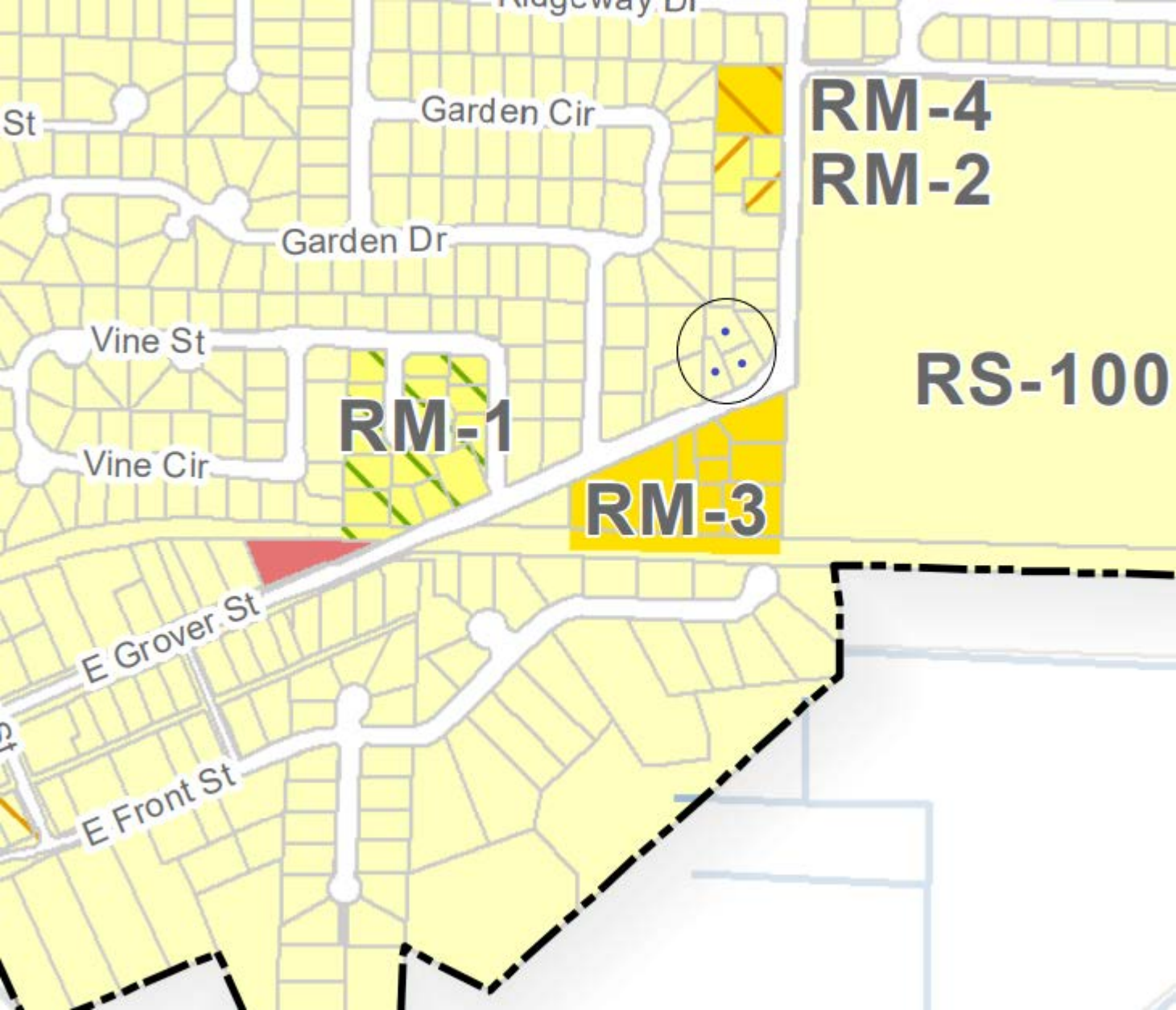
Power and cable line extensions have been completed and installed. Each new lot has a 1" water service that can be split into 2 meters. There is a 6" sewer stub for each lot. All three parcels meet minimum lot square footage for a rezoning from RS-100 to RM-1. Current homes on lots 1185 and 1181 both have homes with ADU's, and the remaining lot 1183 will be constructed to meet current codes and zoning.

D. The proposed site-specific rezoning is compatible with existing uses and zoning in the surrounding area;

The proposed rezoning is compatible with existing homes because 2 of the three lots are currently constructed as residential homes with ADU's. The occupancy loading and onsite parking will not change. Current zoning is RS-100 allowing ADU's and the proposed rezoning is Residential Multifamily RM-1 which allows for a duplex on each lot.

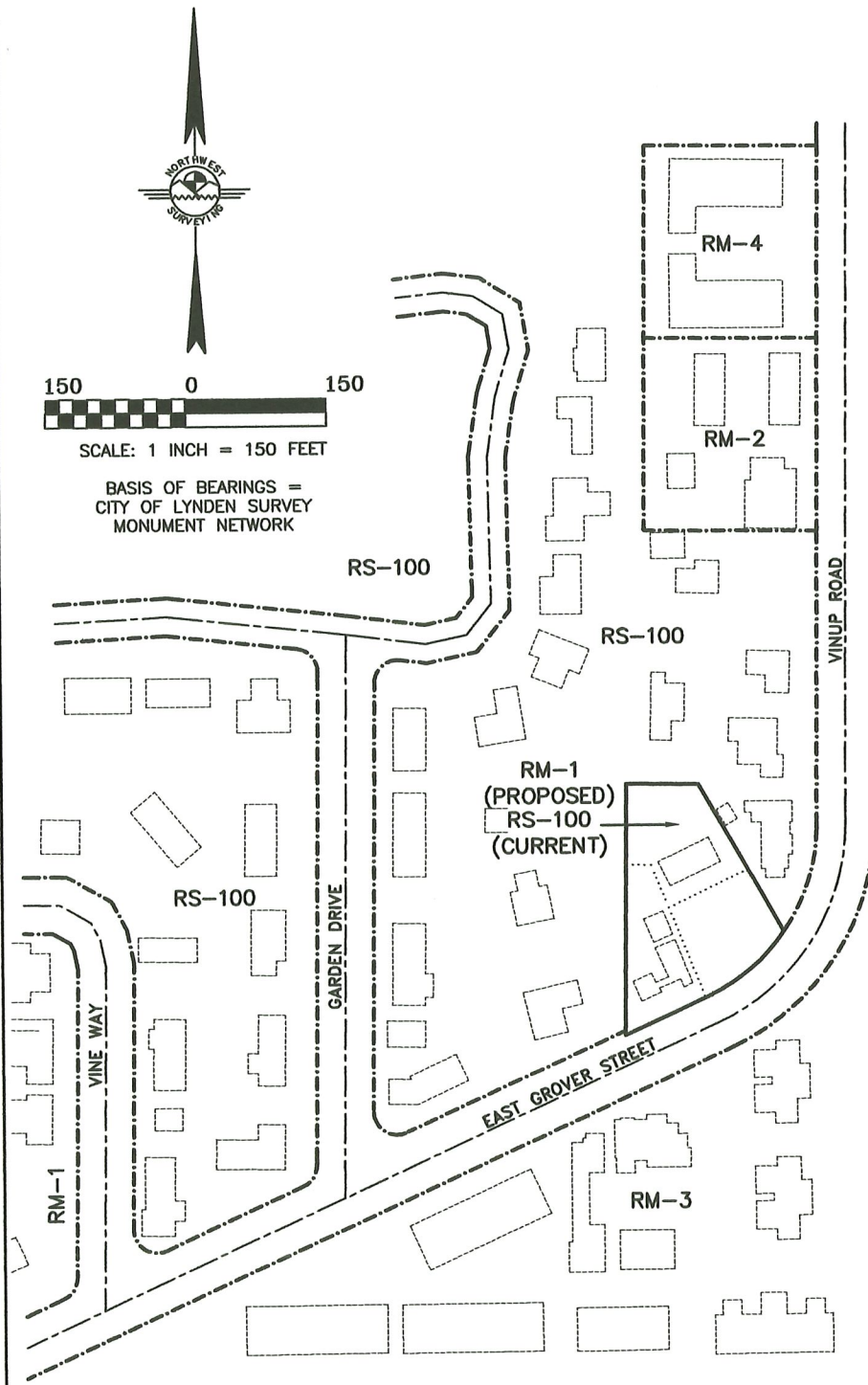
E. The proposed site-specific rezoning will promote the health, safety, and general welfare of the community.

The proposed rezoning will promote health and safety and general welfare of the community by providing more residential housing with the feel of single-family living with fully fenced yards and custom home finishes but at an affordable cost. The units will provide housing for young families within close proximity of the high school. By rezoning the subject parcels, it is allowing all units to be rented opposed to only the ADU's. It will allow young families that cannot obtain home ownership to have a better quality of life within walking distance of public schools.



MOA REZONE APPLICATION MAP

PTN: SE 1/4 OF SW QUARTER OF SECTION 16,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON



2021-0200084

MOA SHORT PLAT

PTN: SE 1/4 OF SW QUARTER OF SECTION 16,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

LAND DESCRIPTION:

LOT 3, SECOND LONE MAPLE SHORT PLAT, ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE No. 1970801218, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

DECLARATION:

KNOW ALL MEN BY THESE PRESENTS, THAT WE, THE UNDERSIGNED OWNERS HEREBY DECLARE THIS PLAT ENTITLED "MOA SHORT PLAT" IS MADE WITH OUR FREE CONSENT AND IN ACCORDANCE WITH OUR WISHES AND DO HEREBY GRANT AND RESERVE ANY EASEMENTS SHOWN HEREON FOR THE USES INDICATED HEREON.

THIS 13th DAY OF January 2021.

KLINTON MOA
LAND OWNER

NARRISSA MOA
LAND OWNER

ACKNOWLEDGMENT

STATE OF WASHINGTON
COUNTY OF WHATCOM

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE KLINTON MOA AND NARRISSA MOA ARE THE PERSONS WHO APPEARED BEFORE ME, AND SAID PERSONS ACKNOWLEDGED THAT THEY SIGNED THIS INSTRUMENT, ON OATH STATED THAT THEY ARE AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTIES FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

THIS 15th DAY OF January 2021.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON.

RESIDING AT FOENANCE WASHINGTON
MY COMMISSION EXPIRES 11-19-2024

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS SHORT PLAT WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON AN ACTUAL SURVEY MADE IN COMPLIANCE WITH STATE LAWS.

JEREMY M. DEMEYER, P.L.S. CERTIFICATE No. 50982
NORTHWEST SURVEYING & GPS INC, 407 5TH STREET, LYNDEN, WA 98264

DATE 01-12-21

CITY OF LYNDEN APPROVAL:

I HEREBY CERTIFY THAT I HAVE EXAMINED THIS SHORT PLAT FOR CONFORMANCE WITH APPLICABLE STATE STATUTES AND CITY SUBDIVISION AND ZONING ORDINANCES AND HEREBY APPROVE THE SAME.

THIS 26th DAY OF January 2021.

HEIDI GUDDE, AICP PLANNING DIRECTOR

AUDITOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS SHORT PLAT WAS FILED FOR RECORD IN THE OFFICE OF WHATCOM COUNTY, WASHINGTON, THIS 15th DAY OF February 2021 AT 10:55 A.M. IN BOOK 1 OF PLATS, PAGE 1, AT THE REQUEST

OF NORTHWEST SURVEYING & GPS, INC. AND IS RECORDED UNDER AUDITOR'S FILE NUMBER 2021-0200084.

Diana Bradick
AUDITOR OF WHATCOM COUNTY

BY: Steve Stafford
DEPUTY AUDITOR

PUBLIC WORKS DEPARTMENT APPROVAL:

EXAMINED AND APPROVED BY THE LYNDEN PUBLIC WORKS DEPARTMENT AS TO THE LAYOUT OF ROADS AND RIGHT-OF-WAY AND ACCEPTANCE OF THE DEDICATION AND/OR EASEMENTS ON BEHALF OF THE CITY OF LYNDEN IN ACCORDANCE WITH THE CITY OF LYNDEN DEVELOPMENT STANDARDS.

THIS 22nd DAY OF January 2021.

STEVE BANHAM, P.E., PUBLIC WORKS DIRECTOR

FINANCE DIRECTOR APPROVAL:

I, ANTHONY BURROWS, FINANCE DIRECTOR OF THE CITY OF LYNDEN, WASHINGTON, DO HEREBY CERTIFY THAT I AM THE OFFICER IN CHARGE OF COLLECTIONS OF SPECIAL ASSESSMENTS LEVIED BY THE CITY OF LYNDEN ON ALL LAND ENBRACED IN THIS PLAT AND THAT ALL CITY ASSESSMENTS FOR WHICH THE PROPERTY ENBRACED IN THIS PLAT MAY BE LIABLE AT THIS DATE AND THAT ALL SPECIAL CITY OF LYNDEN ASSESSMENTS ASSESSED AGAINST THE PROPERTY IN THIS PLAT, HAVE BEEN PAID.

ANTHONY BURROWS, FINANCE DIRECTOR

DATE 1/15/21

NO PROTEST AGREEMENT:

THE OWNERS OF THIS SHORT PLAT, THEIR HEIRS, EXECUTORS, ADMINISTRATORS, ASSIGNS OR SUCCESSORS IN INTEREST, AGREE TO PARTICIPATE IN ANY FUTURE LOCAL IMPROVEMENT DISTRICT AND/OR DEVELOPERS EXTENSION FOR WATER, SEWER, STORM DRAINAGE DETENTION AND QUALITY FACILITIES, STREET, CURB, CUTTER, SIDEWALK AND STREET LIGHTING IMPROVEMENTS THAT MAY TAKE PLACE ON EAST GROVER STREET ABUTTING AND/OR BENEFITTING THESE LANDS.

THIS COVENANT AND AGREEMENT SHALL BE CONSIDERED AND CONSTRUED TO BE A COVENANT RUNNING WITH THE LAND.

OCCUPATIONAL INDICATORS AND EXISTING FENCE LINE NOTE:

THIS SURVEY HAS DEPICTED EXISTING FENCE LINES AND/OR IMPROVEMENTS IN ACCORDANCE WITH W.A.C. CH. 332.130. THESE OCCUPATIONAL INDICATORS MAY INDICATE A POTENTIAL FOR CLAIMS OF UNWRITTEN TITLE OWNERSHIP. THE LEGAL RESOLUTION OF OWNERSHIP BASED UPON UNWRITTEN TITLE CLAIMS HAS NOT BEEN RESOLVED BY THIS SURVEY.

JOINT ROAD MAINTENANCE AGREEMENT:

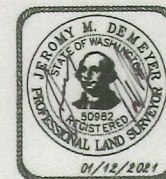
ALL COSTS OF MAINTAINING, REPAIRING, IMPROVING OR OTHERWISE CONNECTED WITH THE ACCESS AND UTILITY EASEMENT ESTABLISHED BY THIS SHORT PLAT AS SHOWN HEREON SHALL BE BORNE BY THE OWNERS OF LOTS A AND B WITHIN THIS SHORT PLAT BASED ON LENGTH OF USE. SAID COSTS SHALL THEREFORE BECOME AN ENFORCEABLE LIEN AGAINST ANY LOT WHOSE OWNERS REFUSE OR FAIL TO PARTICIPATE IN THE MAINTENANCE, REPAIRS OR IMPROVEMENTS MADE BY AGREEMENT OF THE OTHER OWNERS. THIS PROVISION SHALL BE CONSTRUED AS A COVENANT RUNNING WITH THE LAND.

PLAT NOTES:

1. A 5' UTILITY EASEMENT IN FAVOR OF THE CITY OF LYNDEN LIES AROUND THE INTERIOR PERIMETER OF ALL NEWLY CREATED LOTS WITHIN THIS SHORT PLAT, ESTABLISHED BY THIS SHORT PLAT AS SHOWN ON SHEET 2 OF 2.
2. A 10' UTILITY EASEMENT IN FAVOR OF THE CITY OF LYNDEN ADJACENT TO GROVER STREET ACROSS LOTS B AND C WITHIN THIS SHORT PLAT, ESTABLISHED BY THIS SHORT PLAT AS SHOWN ON SHEET 2 OF 2.
3. NO NEW OR EXPANDED USE OF EXISTING ACCESS POINTS WILL BE PERMITTED EXCEPT AS FOLLOWS: EXISTING DRIVEWAY CUT MAY BE RELOCATED TO WITHIN 10 FEET OF THE WESTERN LOT LINE. A NEW DRIVEWAY CUT MAY BE CREATED 10 FEET FROM THE EASTERN LOT LINE. NO VEHICULAR ACCESS POINTS PERMITTED BETWEEN THESE POINT. NO OPEN CUTTING OF EAST GROVER/VINUP PERMITTED IN THE CREATION OR RELOCATION OF DRIVEWAY POINTS.

IMPERVIOUS SURFACE CALCULATIONS:

LOT NUMBER	LOT A	LOT B	LOT C
TOTAL AREA	11,300 SF	9,801 SF	9,875 SF
EXISTING IMPERVIOUS SURFACE AREA	2,072 SF	244 SF	2,182 SF
EXISTING PERVIOUS SURFACE AREA	9,228 SF	9,557 SF	7,693 SF



NORTHWEST SURVEYING & GPS, INC.
Jerome M. DeMeyer, L.S. No. 50982
Brett W. De Vries, L.S. No. 49276
407 5TH STREET, LYNDEN WASHINGTON, 98264
PH. (360) 334-1950 NWSURVEY.COM

DRAWN BY: HEATHER	DATE: 01/12/2021	JOB NO.: 20-115
REVIEWED BY: JEROME	DIR: MOA SP ORD: 164003.CRD	SHEET: 1 OF 2

2021-0200084

MOA SHORT PLAT

PTN: SE 1/4 OF SW QUARTER
OF SECTION 16,
TOWNSHIP 40 NORTH, RANGE 3
EAST OF W.M.,
WITHIN THE CITY OF LYNDEN,
WHATCOM COUNTY, WASHINGTON

SURVEYOR'S NOTES:

1. "O" DENOTES 5/8 INCH REBAR WITH 1 INCH PLASTIC CAP MARKED "NWS & GPS 49276 & 50982" SET BY THIS SURVEY.
 2. "●" DENOTES CAPPED REBAR MARKED "L.S.9361" FOUND BY THIS SURVEY.
 3. "X" DENOTES CALCULATED POINT ONLY.
 4. THIS SURVEY WAS PERFORMED BY STANDARD FIELD TRAVERSE USING A GEOMAX ZOOMED TOTAL STATION WITH A CARLSON SURVEYOR 2 COLLECTOR/FIELD COMPUTER IN MAY OF 2020. ACCURACY EXCEEDS 1:10000.
 5. THIS SURVEY TIED INTO STREET MONUMENTATION AND LOT CORNERS AS SHOWN AND RELIED UPON THE CITY OF LYNDEN SURVEY MONUMENT NETWORK FOR BASIS OF BEARINGS.
 6. THIS SURVEY WAS COMPLETED WITH THE BENEFIT OF A SUBDIVISION GUARANTEE FROM WHATCOM LAND TITLE, W-188946, DATED JULY 15, 2020.
- ////// DENOTES VEHICULAR ACCESS PROHIBITION AREA

OCCUPATION NOTES:

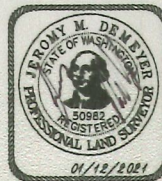
- A FENCE CORNER LIES 0.6' NORTH OF LOT LINE.
- EAST END FENCE LIES 0.5' SOUTH OF LOT LINE. SOUTH EDGE WEST END BLOCK WALL LIES 0.6' SOUTH OF LOT LINE.
- SOUTH EDGE EAST END BLOCK WALL LIES 1.4' SOUTH OF LOT LINE.
- FENCE CORNER LIES 0.5' EAST OF LOT LINE.
- FENCE CORNER LIES 0.1' EAST OF LOT LINE.

GROSS PLAT AREA	30,377 SF
RESERVE TRACTS	0 SF
CRITICAL AREA	0 SF
RIGHT-OF-WAYS	0 SF

AF No. 1415466

FOUND 1 1/4" BARE IRON PIPE AT CALCULATED POSITION

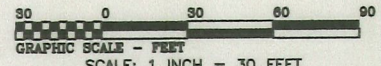
FOUND CAPPED REBAR "L.S.9361" N44°W @ 0.7'



NORTHWEST SURVEYING & GPS, INC.
 Jeremy M. DeMeyer, L.S. No. 50982
 Brett W. De Vries, L.S. No. 49276
 407 5TH STREET, LYNDEN WASHINGTON, 98264
 PH. (360) 354-1950 NWSURVEY.COM

Course	Bearing	Distance
L1	N 89°24'53" W	28.41'
L2	N 11°58'30" W	35.32'

Curve	Radius	Length	Delta
C1	200.00'	107.37'	30°45'38"
C2	200.00'	34.02'	8°44'41"
C3	200.00'	73.36'	21°00'55"



BASIS OF BEARINGS =
CITY OF LYNDEN SURVEY
MONUMENT NETWORK

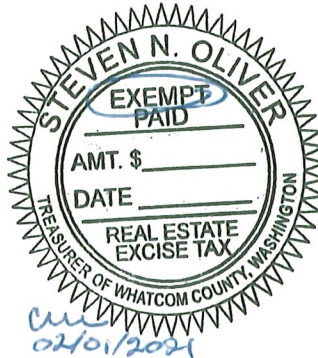
DRAWN BY:	DATE:	JOB NO.:
HEATHER	01/12/2021	20-115
REVIEWED BY:	DIR: MOA SP	SHEET:
JEROMY	CRD: 184003.CRD	2 OF 2

2021-0200083

02/01/2021 10:55 AM



Filed for Record at Request of:
CARMICHAEL CLARK, PS
P.O. Box 5226
Bellingham, Washington 98227
(360) 647-1500



DOCUMENT TITLE:
RIGHT-OF-WAY GRANT

REFERENCE NUMBER OF RELATED DOCUMENT:
Whatcom County Auditor's File No. 1970801218

GRANTOR:
KLINTON MOA AND NARISSA MOA

GRANTEE:
CITY OF LYNDEN

ABBREVIATED LEGAL DESCRIPTION:
LOT 3, SECOND LONE MAPLE SHORT PLAT, ACCORDING TO THE MAP THEREOF, RECORDED
UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1970801218, RECORDS OF WHATCOM
COUNTY, WASHINGTON.

Full legal description at page 4 hereto

ASSESSOR'S TAX PARCEL NUMBER:
400316 254056 0000

RIGHT-OF-WAY GRANT

THIS **RIGHT-OF-WAY GRANT ("Grant")** is made this 13th day of JANUARY, 2021, by **KLINTON MOA AND NARISSA MOA ("Grantor")** to the **CITY OF LYNDEN**, a Washington municipal corporation (hereinafter "Grantee" or "City").


The **GRANTOR**, for and in consideration of public interest and other good and valuable consideration, grants, dedicates and conveys to the **GRANTEE**, a perpetual and exclusive public easement over the following described real property situated in the City of Lynden, County of Whatcom, State of Washington:

See **Exhibit A** attached hereto, and fully incorporated herein by reference (the "Property").

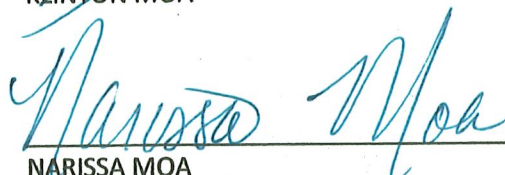
The purpose of this Right-of-Way Grant is to provide the Grantee with an exclusive, perpetual and unlimited right-of-way for public ingress, egress, utilities, curbs, gutters, sidewalks and all public right-of-way purposes for the Property described at **Exhibit B** and depicted at **Exhibit C** hereto.

The Right-of-Way Easement shall constitute covenants running with the land, and shall be binding on the undersigned and all successors, assignees, devisees, or transferees of the parties and shall in all respects attach to the individual properties legally described in this Right-of-Way Grant.

GRANTOR:



KLINTON MOA




NARISSA MOA

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

GRANTEE:

CITY OF LYNDEN, a Washington municipal




By: Scott Korthuis
Its: Mayor

I certify that I know or have satisfactory evidence that Klinton Moa and Narissa Moa are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 13th day of JANUARY, 2021.



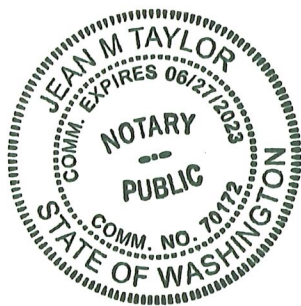


NOTARY PUBLIC in and for the State of Washington Residing
at FERNDALE
My appointment expires: 11-14-2024

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

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

DATED this 28th day of January, 2021.



Jean M. Taylor
NOTARY PUBLIC in and for the State of Washington
Residing at Lynden
My appointment expires: 6/27/2023

EXHIBIT "A"

LAND DESCRIPTION

LOT 3, SECOND LONE MAPLE SHORT PLAT, ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 1970801218, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

EXHIBIT "B"

DESCRIPTION OF RIGHT-OF-WAY GRANT

THE SOUTH 4.50 FEET OF LOT 3, SECOND LONE MAPLE SHORT PLAT, ACCORDING TO THE MAP THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE No. 1970801218, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

EXHIBIT "C"

DEPICTING RIGHT-OF-WAY GRANT
PORTION OF THE SE 1/4, SW 1/4, SECTION 16,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

SECOND LONE MAPLE

SHORT PLAT

LOT 3
30,377 SF

Curve	Radius	Length	Delta
C1	200.00'	107.37'	30°45'36"

AF No. 1970801218

VINUP ROAD



SCALE: 1 INCH = 30 FEET

BASIS OF BEARINGS =
CITY OF LYNDEN SURVEY
MONUMENT NETWORK



N 00°35'05"E 266.74'

4.79'

NORTH LINE OF THE SOUTH 4.50' ...

N 65°20'35"E 97.51'

AREA OF RIGHT-OF-WAY GRANT

N 29°54'18"W
181.14'

4.50'

25.5'



After recording return document to:

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

DOCUMENT TITLE:

Covenant for Accessory Dwelling Unit (ADU)

GRANTOR(S):

Name(s) of Property Owners:

Klinton Moa
Nurissa Moa

GRANTEE:

City of Lynden

ABBREVIATED LEGAL DESCRIPTION:

LOT C MOA SHORT PLAT AS REC AF 2021-0200084
Full legal description available at page(s) _____ hereto.

ASSESSOR'S TAX PARCEL NUMBER(S):

4003162480500000

COVENANT FOR ACCESSORY DWELLING UNIT (ADU)

WHEREAS, Klinton Moa and Nurissa Moa are the owners of the property described herein ("Owners"), and

WHEREAS, Owners now desire to incorporate an accessory dwelling unit ("ADU") within or detached from the primary residence located at 1181 E. Grover St.
Lynden, WA 98264 ("Property"); and

WHEREAS, the Property is zoned RS-100; and

WHEREAS, ADU's are permitted in all residential zones including Planned Residential Developments provided that only one ADU is allowed per lot as an accessory use to a single-family home. ADU's are permitted in multi-family zones only on lots which are restricted, by lot area, to a single-family residence.

WHEREAS, ADU's can be attached as a separate unit within the existing home or an addition to the home, or detached as a separate structure on the lot.

WHEREAS, Only one ADU is permitted per detached single-family residence. ADU's are not permitted as part of any other housing type. Accessory Dwelling Units are exempt from the density limitations of the underlying zone.

WHEREAS, An attached ADU is limited to a maximum of 1,000 square feet and 2 bedrooms. A detached ADU is limited to a maximum of 800 square feet and 1 bedroom.

WHEREAS, A detached ADU, or ADU addition, must be of the same construction type as the primary structure. The exterior finish, material, trim, and roof pitch for the ADU must be similar in type and size of the primary structure.

WHEREAS, Only one entrance for both the primary structure and ADU combined shall be visible from the primary street. A detached ADU shall not be forward to the primary unit in relation to the front yard.

WHEREAS, One parking space per ADU bedroom, in addition to those required for the single-family residence, is required for the ADU's. All parking spaces for the primary structure and the ADU must be located on site.

WHEREAS, If necessary based on building location, landscaping shall be installed to provide privacy and screening of the adjacent properties. A landscape plan must be approved by the Planning Director.

WHEREAS, All utilities servicing the site may require upgrades based on the project size. Any utilities installed on site must meet the requirements of the City of Lynden Manual for Engineering Design and Development Standards.

WHEREAS, The primary residence or the ADU must be owner-occupied. A perpetual covenant against the property, approved by the Planning Department must be signed by

the owner and recorded with the Whatcom County Assessor's Office which specifies this requirement.

WHEREAS, The ADU may not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

NOW, THEREFORE, this covenant is hereby agreed between the parties hereto as follows:

1. The City Lynden has reviewed the plans for an accessory dwelling unit located on the property described above and has found the plans to meet all conditions of Section 19.20.020, of the Lynden Municipal Code, and will issue building permit number 2021387 for the construction of said ADU.

Approved this 8th day of November, 2022.



Planning Director, City of Lynden

2. Owners, for themselves, their heirs, executors, administrators, assigns or successors in interest covenant and agree that the residence and/or accessory dwelling unit located on the property described herein will be owner occupied either in the primary residence or the ADU, and that the ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit on the Property. This covenant shall be construed as a covenant running with the land.

3. Owners further agree to comply with all additional conditions and requirements of Chapter 19.20 of the Lynden Municipal Code as amended regarding Accessory Dwelling Units.

DATED this 8 day of November, 2022.

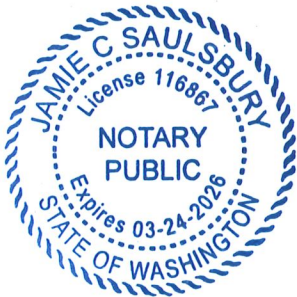

Owner



Owner

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this day personally appeared before me, Clinton and Marissa Moa, to me known to be the individuals described herein and who executed the within and foregoing instrument and acknowledged to me that he signed the same his free and voluntary act for the City for the purposes herein mentioned.

Dated this 8 day of November, 2022.




Notary Public in and for
the State of Washington
My commission expires: 03/24/2026.

LOT C



Mary Gillies
1173 E. Grover St
Lynden, WA 98264

February 21, 2023

Heidi Gudde
300 4th street
Lynden, WA 98264

Greetings Heidi,

I have a few comments regarding the Moa Short Plat. I am a direct neighbor residing at 1173 E Grover St.

I am aware that the house on Lot A is already being rented as 2 units, and has been for quite some time. I have seen several posts on social media of the Moas listing the units on Lot A for rent and recently the new unit behind the primary residence on Lot C is listed for rent. It is also to my knowledge that Klinton and Narissa Moa are not living in the primary residence on Lot C. Now they are requesting a re-zone because the use of the property does not comply with the City's ADU requirements

Is non-compliance now rewarded in the city of Lynden? Allowing the Moas to re-zone after they have failed to comply with ADU requirements portrays the wrong image to builders and developers who follow the rules.

I do not support the re-zone. The Moas should be required to sell the property if they choose not to follow the ADU requirements for Lot A and Lot C, and they should not be permitted to re-zone, after-the-fact, and build additional multi-family units on the remaining lot.

Sincerely,

Mary Gillies
Mary Gillies

RECEIVED

FEB 22 2023

City of Lynden
Planning Department