

CITY OF LYNDEN
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE APPLICATION OF
Joan Kayser on behalf of the Jack and
Josephine Young Living Trust, TO
SUBDIVIDE PROPERTY

Petitioner

LP #19-01

FINDINGS OF FACT, CONCLUSIONS OF
LAW, CONDITIONS and DECISION on
SUBDIVISION APPLICATION #19-01

LOT B, YOUNG'S DOUBLE DITCH LOT LINE ADJUSTMENT, AS PER THE MAP THEREOF RECORDED IN THE AUDITOR'S OFFICE OF WHATCOM COUNTY, WASHINGTON UNDER FILE NO. 2018-0501734. SITUATE IN WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 8323 Double Ditch Road, Lynden

Has applied for a subdivision of the above described parcel into 7 residential lots within the RS-100 zone. In addition, the applicants are also requesting a Development Standards Variance requesting that the proposed cul-de-sac serving their plat exceed the maximum length of 450-feet. The Lynden Planning Commission held a public hearing on July 11, 2019, and recommended approval to the City Council through Planning Commission Resolution #19-01. Said request having come before the Lynden City Council on August 5, 2018, and the Lynden City Council having fully and duly considered the request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Joan Kayser on behalf of the Jack and Josephine Young Living Trust, has filed an application ("Property Owners") for a subdivision which was accepted by the City as complete on May 8, 2019.

1.02 Location. The Property is located at 8323 Double Ditch Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Jack and Josephine Young Living Trust are the Property Owners.

1.04 Request. To subdivide a parcel approximately 3.35 acres in size into 7 residential lots located within the RS-100 zone.

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

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

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

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

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

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

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

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

1.13 Public Interest. The application results in additional infilling within the City consistent with the City's Comprehensive Plan and the Growth Management Act. The public interest will be served by the approval of the application.

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

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

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

II. CONDITIONS

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

Project Summary:

The proposed long plat was reviewed against the subdivision standards found in Chapter 18 of the Lynden Municipal Code (LMC) and the Engineering Design and Development Standards. The following aspects were found to be consistent with these standards:

Zoning: The area to be developed in this application is located within the RS-100 single family zone.

Minimum Lot Size: The lots proposed in this subdivision meet the RS-100 minimum lot size of 10,000 square feet. As initially proposed, parcels of the Young Long Plat range from 13,550 square feet to 17,827 square feet.

Lot width: Per 18.14.010(c), the minimum frontage of each lot must be at least 50 feet. For lots located within the cul-de-sac, the minimum frontage must be at least 40-feet.

Street Sections: Per Chapter 4 of the Engineering Design and Development Standards the minimum street width, for a publicly dedicated access street is 60 feet. This standard has been met as proposed.

Cul-de-Sac Length: Per LMC 18.14.100(C), cul-de-sac street shall not exceed 450 feet in length unless specifically varied through the process described in Chapter 17.17. Staff understands that in conjunction with the subdivision a variance has been proposed which would allow the cul-de-sac to exceed 450 feet. This application is addressed in the comments below.

Build-out: Be advised, only single-family homes and association accessory uses are permitted within the RS-100 zone. All lots are subject to the development requirements listed under 19.15 of the Lynden Municipal Code and associated design standards. This includes, but is not limited to, Section 19.15.060 which sets a maximum lot coverage of 35% for each lot.

Parking: Be advised, per Chapter 19.51.040 of the LMC, a minimum of 2 parking stalls is required *per home*. It is important to note that if an enclosed single car garage is provided per dwelling unit, a minimum of two outside spaces must be provided. If an enclosed garage for two or more vehicles is provided, a minimum of one outside parking space must be provided.

Long Plat Advisory Comments

1. *Impact Fees:* Be advised, prior to final plat (PRD) approval, the developer will be required to pay transportation mitigation fees, plus the first half of park and fire mitigation fees. Contact Planning Staff for a fee estimate.
2. *Civil Drawings:* The construction drawings for any civil and utility improvements must be submitted for review and approval prior to construction. These drawing must illustrate that the utility improvements and extensions meet the standards listed within the Project Manual for Engineering Design and Development Standards, unless they have been specifically varied by the approval of the plat. It is the project engineer's responsibility to be aware of these standards.
3. *Civil Review Deposit Required:* Be advised, a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat / PRD construction inspection deposit of \$350 per lot, \$5,000 minimum, is due prior to review and construction respectively.
4. *Infrastructure Installation:* A City of Lynden Fill and Grade Permit is required prior to the commencement of site work. The site and utility work must be addressed on SEPA Checklist.

5. *Performance Bonding Requirements:* Be advised, a 150% performance bond may be required for all work in the City's right-of-way or on city owned property which is deemed incomplete. Only items not specifically exempted from bonding under LMC 18.18.010(G) are eligible for bonding.
6. *Maintenance Bonding Requirements:* A post construction maintenance bond for infrastructure in the amount of 10% of the construction costs will be required prior to final plat approval.
7. *Landscape Bonding:* Be advised, performance and maintenance bonding will be required for the plat. This relates to street trees and any required mitigation trees. Bonds are due prior to final plat approval.
8. *Surveying:* All surveying work and engineering design must be based on the City of Lynden survey control monuments. AutoCAD files for all improvements must be provided to the City in digital format approved by the City. A copy of the City's control monuments is available to the project consultant for their use.
9. *Expiration of Preliminary Approval:* Petitioner shall record the final subdivision, with the County in conformance with LMC 18.06.010.2, 18.06.020 and 18.06.030 within five (5) years of the date this preliminary approval becomes final, after which City approval of this application shall become void; provided that, this one year deadline may be extended for up to one (1) additional year upon application to and approval by the City Council.
10. *Property Addressing:* Be advised, all street addressing must follow the requirements of the Lynden Municipal Code. Addresses will be assigned by the Public Works Department prior to final PRD approval.
11. *Covenants, Conditions and Restrictions (CC&Rs):* CC&R's for the long plat may be recorded in conjunction with the final long plat. This document can impose more restrictive conditions on the property but not less restrictive than City of Lynden development code. Be advised, enforcement of CC&R documents is the responsibility of the developer and/or neighborhood association. The City of Lynden does not monitor or enforce restrictions which appear in CC&R documents.

Specific Project Comments from the Technical Review Committee:

Planning and Development

1. *Plat Area Break-down:* Whatcom County and the City of Lynden have been mandated to participate in an annual report provided to the State which tracks achieved housing density. In an effort to track accurate data for this program all plats will be required to provide supporting data. Please provide on the face of the plat a table which breaks down the total area of the plat into the categories shown below. Note that in some instances the area may be zero and that "other infrastructure" could refer to area used for sewer pump station, stormwater ponds, etc.

	Plat Area (in square feet)
Gross plat area	
Reserve tracts	
Critical areas	
Right of ways (ROWS)	
Other infrastructure	
Net developable	
Percent ROW and Infrastructure	%

2. *Utility Easements:* Per 18.14.075, the proposed plat must identify the required 5-foot utility easements around the interior property line of all lots. Revise plat map to include this easement on the face of the plat.
3. *Tree Note:* The character of the Double Ditch neighborhood includes the presence of large trees intermingled among the residences. This character was emphasized with the requirement for a tree inventory and report placed on the previous LLA (Young's Double Ditch LLA, AF #2018-0501734).

Furthermore, Per LMC 19.16.140, all trees greater than 12" diameter at breast height (DBH) shall be identified and marked on the plat and a narrative of how those trees will be impacted or preserved shall be provided to the City. Efforts shall be made to preserve healthy large trees on this entire parcel.

Provide tree inventory showing trees greater than 12" DBH and how these relate to the proposed plat. This inventory and report shall be updated prior to preliminary plat approval. Impacts to large trees will require mitigation.

Provide a planting plan for the plat. If those boundary trees are no longer present, applicant will be required to plant additional trees (native conifers) along the boundary. Note protected planting areas for these boundary trees on the face of the plat.

4. *Street Trees:* Be advised, per Sec. 18.14.120, the developer will be required to provide street trees within the dedicated public utility easement adjacent to the street or the 4 foot planting strip. There shall be a minimum of one tree per lot with a maximum of one hundred feet between trees. The minimum size of street trees at the time of installation shall be 2 inches diameter at breast height (DBH). Species of tree to be consistent with the City of Lynden approved tree list. Installation must include root barrier and be done according to Figure 4-19A of the Engineering Design and Development Standards. General maintenance of street trees shall be the responsibility of the adjoining property owner.

Public Works

5. *Utility Easements:* Revise plat to show the required 10 foot utility easement along the frontage of each lot.
6. *Stormwater Advisory Comments*
 - a. A stormwater management plan prepared by a professional engineer will be required for this development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.
 - b. All plans must be designed and constructed in compliance with the Department of Ecology's Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
 - c. Stormwater from public streets may be infiltrated within the dedicated right-of-way, or within a separate dedicated tract, but may not be within the street prism. Infiltration areas and street trees should have adequate separation to insure the proper functioning of the drainage system and survival of the tree.
 - d. A Construction National Pollutant Discharge Elimination System (NPDES) permit may be needed.
7. *Water*
 - a. As per 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards, the water mainline must be extended to the north side of the proposed plat. Show easements as appropriate on the face of the plat.
 - b. Be advised, each house and/or unit within this plat must be individually metered. Water meters must be located within the City right-of-way.
8. *Sanitary Sewer*
 - a. Be advised, sanitary sewer and water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
 - b. As per 7.2 (P) of the City of Lynden Project Manual for Engineering Design and Development Standards, sanitary sewer must be extended to the north side of the proposed plat. Show easements as appropriate on the face of the plat.

Fire and Life Safety

9. *Fire Service Impact Fee:* Half of the required fire impact fee is due at the time of final plat approval. The balance of the fire impact fees can be deferred to the time of building permit. Contact Planning staff for an estimated fee total.
10. *Street Addressing:* Be advised, address numbers must be clearly posted on each house to assist in efficient fire aid response.

11. *Hydrants:* The installation of a fire hydrant is required within the cul-de-sac. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.

Parks and Recreation

12. *Park Impact Fee:* Half of the required park impact fee is due at the time of final plat approval. The balance of the park impact fees can be deferred to the time of building permit. Contact Planning staff for an estimated fee total.

Young Long Plat Development Standards Variance

Project Name:	Young's Long Plat and Development Standards Variance #19-01
Application Type:	Long Plat & Development Standards Variance
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed subdivision and variance meets the requirements found within the City of Lynden Subdivision Code – Title 18.
Project Description:	A Long Plat and Development Standards Variance application requesting to subdivide approximately 3.35 acres into 7 single family residential lots within the RS-100 zone. The applicant is also requesting a variance to LMC 18.14.100 regarding cul-de-sac lengths.

The applicant is requesting a variance to Section 18.14.100 (C) of the Lynden Municipal Code (LMC) which states that cul-de-sac streets shall not exceed four hundred and fifty feet in length unless specifically varied through the process outlined in LMC 17.17.

LMC 17.17.040 states, where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;
- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;
- C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.

- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.”

The applicant provided the following response to the criteria listed above:

“Because there is no other way to access this property, we are requesting a variance on the length of the cul-de-sac from 450-feet to approximately 528-feet.”

Variance Application Comments from the Technical Review Committee:

Planning and Development

1. *Variance Justification:* Please provide a response to each of the variance conditions listed above (A-E). Staff recommends that responses explore examples of this variance being granted elsewhere in the City; expound on what, if any, impacts the variance would have on surrounding properties; note the conversations with the Lynden Fire regarding the ability of the Department to provide service to the full length of the extended cul-de-sac. **Applicant provided, on June 20,2019, responses to each of the development standards variance criteria. See attached.**
2. *Alternate Design Analysis:* Although the applicant has stated that there is no other way to access the property, alternative plat designs could avoid a cul-de-sac longer than 450 feet through the use of pipe-stem lots or by creating larger lots. Provide in writing an expanded discussion on these issues which would justify the variance. **Applicant provided, on June 20,2019, responses to each of the development standards variance criteria. See attached.**

Fire Department

Variance Request: The Lynden Fire Department does not have concerns regarding the proposed development standards variance of an extended dead end if a standard turn-around (cul-de-sac) is constructed and the homes are

III. DECISION

Petitioner’s application to subdivide the property described herein into seven (7) parcels for future development and to allow the requested development standards variance is hereby **Preliminarily Approved** as outlined in Planning Commission Resolution #19-01 and subject to the conditions set forth in this document.

DATED: _____

Scott Korthuis
Mayor