



PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354 - 5532

Planning Department Memorandum

To: Planning Commission

From: Heidi Gudde, Planning Director

Date: September 6, 2019

Re: Proposed Conditional Use Permit for a Short-Term Rental at 1808 Pine Circle

The City of Lynden's zoning code provides residents, who meet specific performance criteria, the opportunity to use their homes as short-term vacation rentals. These are regulated per the City's code section on Bed and Breakfast Establishments.

Prior to operation, the home owner must be granted a Conditional Use Permit (CUP) as a short-term rental may have impact on the surrounding properties. The CUP process includes notifying property owners within 300 feet and demonstrating that the property will meet the criteria outlined in LMC 19.49.020 and can meet the operational regulations of LMC 19.49.030 (attached).



CITY OF LYNDEN



PLANNING DEPARTMENT

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The pending CUP application has been submitted by the Ellis family. The residence is located at 1808 Pine Circle. As shown in the attached floor plan, their home currently includes a living area which is relatively separated from the main home. As such, the applicant is not proposing to make physical changes to the home except for the addition to the existing driveway in order to accommodate parking for the short-term rental. Consistent with code, the property owner is intending to remain onsite when the property is being used as a short-term rental.

The vicinity of the proposed establishment is the Pine Street neighborhood and specifically Pine Circle. Here there are a number of abutting neighbors. Some of these neighbors have expressed concerns related to the impacts of the short-term rental (comments are attached). As such, staff has noted some potential mitigation which the Planning Commission could consider during the review of this application.

Lynden Municipal Code
Conditional Use Permits

19.49.010 - Purpose.

The purpose of the conditional use permit (CUP) is to allow the proper integration of specific land uses which may be suitable only under certain conditions in specific locations in a zoning district, or when the site is regulated in a particular manner. It is the intent of this section to allow certain uses which, because of their usual size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses.

19.49.020 - Standards and criteria for granting a CUP.

- A. Certain uses may be allowed by a CUP granted by the city council, after it receives the recommendation of the planning commission. The planning commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.
- C. The planning commission and council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
 - 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
 - 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
 - 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.

6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

19.49.030 - Special conditions for the approval of a bed and breakfast establishment.

Bed and breakfast establishments require a CUP in all single-family zones and the RM-3 and RM-4 zones and are permitted within the RM-1, RM-2, HBD and CSL zones. All proposed bed and breakfast establishments, regardless of zone, shall be required to show compliance with the standards listed below. Bed and breakfast establishments proposed within an area requiring a CUP will be required to meet the standards and criteria listed in Section 19.49.020 as well as those conditions listed below:

- A. A bed and breakfast establishment shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding sixteen square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.
- B. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.
- C. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.
- D. Proprietors of the bed and breakfast establishment shall follow health guidelines and regulations of the Whatcom County department of health and Washington State regulations.
- E. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.
- F. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden city council, shall accompany each application and renewal. The public works director, building inspector or fire chief may require inspections.
- G. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144, WAC TRANSIENT ACCOMMODATIONS.
- H. The operator of the bed and breakfast shall reside on the premises. Owner and operator quarters and guest-rooms shall be in the same building.
- I. No other business, service or commercial activity may be conducted on the premises. Breakfast only may be served, and no meals may be served to the general public.



TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	September 4, 2019
Project Name:	CUP #19-02, Ellis Air BNB
Applicant:	Ben Ellis
Property Owner:	Benjamin and Suzanna Ellis
Site Address:	1808 Pine Circle
Parcel Number	400319-230566
Zoning Designation:	RS-100
Application Type:	Conditional Use Permit
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Conditional Use Permit meets the criteria found within Section 19.49.020 of the Lynden Municipal Code.
Date application determined complete:	August 14, 2019
Date of Publication:	August 28, 2019
SEPA Determination:	N/A
Project Description:	The applicant is requesting a conditional use permit to allow short term rentals, through an Air BNB unit, at their home located within the RS-100 zone.

Background and Notification Requirements:

In accordance with Chapter 17.15 LMC, the proposed action was reviewed for concurrency and should the conditions listed within this report be met, a finding of concurrency will be made in accordance with Section 17.15.060(C)(3).

The City of Lynden regulates short term rentals (such as Air BNB and VRBO) consistent with code provisions for bed and breakfast establishments. This is done recognizing that establishments which offer short term lodging accommodations *could* have an impact on a neighborhood if certain conditions are not met. As such, a Conditional Use Permit is required as established in LMC Chapter 19.49 - Conditional Use Permits and Bed and Breakfast Establishments.

The applicant has met the minimum submittal requirements and the application was determined to be complete on August 14, 2019. The notice of application was published on August 28, 2019.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City's requirements.

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 below. The applicant's response to the criteria have been provided and included in the application package.

Planning Department Comments:

1. *Screening:* Staff recommends that the applicant provide additional screening along the northern property line (between the applicant's home and 1810 Pine Circle) to provide a visual barrier between the existing homes and the additional activity which may be occurring in the rental unit and the rear yard. This could be done with landscape or fencing after the addition of a designated parking area.
2. *Designated Parking:* Several neighbors in the area have expressed concerns about parking needs associated with the short-term rental. Code requires that one parking space be provided for each rentable bedroom in addition to the surface parking required for the home. The applicant has indicated additional parking area will be created adjacent to the existing driveway. An expansion of the driveway appears to be consistent with other residential driveways within the Pine Circle neighborhood. Parking on the street is permitted within residential areas however staff recommends that:
 - Visitors be required to park in the designated parking area on the property rather than the street.
 - The additional parking area be paved to match the driveway (rather than gravel or an alternate surface).
3. *Advisory Regulations:* Be advised, in addition to the criteria listed in Section 19.49.020, all proposed establishments shall be required to show compliance with the standards listed under Section 19.49.030 as follows:
 - a. A bed and breakfast establishment shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.
 - b. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.

- c. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.
 - d. Proprietors of the bed and breakfast establishment shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.
 - e. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties
 - f. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each application and renewal. The Public Works Director, Building Inspector or, Fire Chief may require inspections.
 - g. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "Transient Accommodations."
 - h. The operator of the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.
 - i. No other business, service or commercial activity may be conducted on the premises. Breakfast only may be served, and no meals may be served to the general public.
4. *Business License Required:* Be advised, the establishment must obtain a business license from the City of Lynden as well as any State of Washington permits.

Fire and Life Safety

5. The Fire Department has reviewed the application and has no comment.

Parks and Recreation

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



CUP# 19-02
PLW0224

City of Lynden

Conditional Use Permit Application

General Information:

Property Owner

Name: BENJAMIN ELLIS & SUZANNA ELLIS
Address: 1808 PINE CIRCLE
Telephone Number: 864-907-3385 Fax Number: _____
E-mail Address: benjaminellis89@gmail.com

Applicant (Agent, Land Surveyor or Engineer)

Name: SAME AS ABOVE
Address: _____
Telephone Number: _____ Fax Number: _____
E-mail Address: _____

Who is the primary contact for this project? This person will receive all official correspondence for the project. Property owner Applicant

Property Information

Project Location (street address / block range): 1808 PINE CIRCLE
Legal Description (attach if necessary): LOT 23, PLAT OF PINE STREET ESTATES
Assessor's Parcel Number: 400319 230566 000 PID 132501 Zoning Designation: RS-100
Parcel Square Footage: 11,169 sq. ft. Property Dimensions: See attached sketch
Applicable Sub-Area: N/A Building/Structure Size: 1922 sq. ft. (total)
Height of Structure: 13' 3" Addition Size: N/A

Please describe request in detail: **CUP Criteria must be attached**

REQUESTING PERMISSION TO UTILIZE EXISTING ATTACHED ADU FOR NIGHTLY STAYS THROUGH AIRBNB

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.

Applicant's Signature: Ben Ellis Date: 07/15/19

Property Owner's Signature: Ben Ellis Date: 07/15/19

Pre-application meeting date: 08/01/2019 Hearing Date: _____

(Applications will not be accepted without a pre-application meeting)

Fee's (Conditional Use Permit \$350.00 Base Fee or Final Review Cost) Date Paid: _____ Receipt # _____

EXPLANATION OF CRITERIA
Reference Chapter 19.40.020 (A) and (C)

Suzanna Ellis and Benjamin Ellis propose responsible use of an attached segment of our home, located at 1808 Pine Circle, as an opportunity for visitors to Lynden and Whatcom County to be able to book through Airbnb.

OUR PROPOSED USE COMPLIES WITH THE FOLLOWING STANDARDS AND CRITERIA:

1. "The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district."
 - Within the Zoned RS-100 area, an Airbnb will not be detrimental to surrounding residences. Visiting guests will be no different than visiting family members or friends that we have had stay at our home from time to time over the last 4+ years.
2. "The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - "traffic and pedestrian circulation"
 - Our home is located on a small residential circle off of Pine Street. Traffic is minimal. We have adequate driveway parking for visiting guests to park their vehicle.
 - "noise, smoke, fumes, glare or odors generated by the proposed use"
 - There will be no noise, smoke, fumes, glare, or odors. Our House Rules set up through the Airbnb booking language will set expectations such as no smoking or loud music. Guests must agree to these House Rules prior to booking. If a guest breaks a House Rule, even after booking, we as the host have the ability to cancel their reservation. It is our intention to strictly maintain these standards out of respect for neighbors, many of whom we already have close relationships with.
 - "building and site design"
 - There will be no impact in this area as all structures involved are currently existing. No design changes will be made.
 - "the physical characteristics of the subject property"
 - No physical characteristics will be changed from the current design and as such, there will be no impact on the surrounding area.
3. "The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services"
 - The proposed Airbnb is equipped with a modern full bathroom and full kitchen.
4. "The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service."
 - Traffic generated by the proposed use will be so extremely minimal that there will be no impact on the traffic circulation system. Most guests will only be utilizing one vehicle.
5. "The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code."
 - To the best of my knowledge, all applicable sections of the Lynden Municipal Code are satisfied and not violated in the proposed use of the Airbnb.

6. "There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use."

- To the best of my knowledge, all applicable sections of the Lynden Municipal Code are satisfied and not violated in the proposed use of the Airbnb.

7. "The proposed use will not destroy or substantially damage any natural, scenic, or historic feature of major importance."

- There will be no changes that would affect any natural, scenic or historic features.

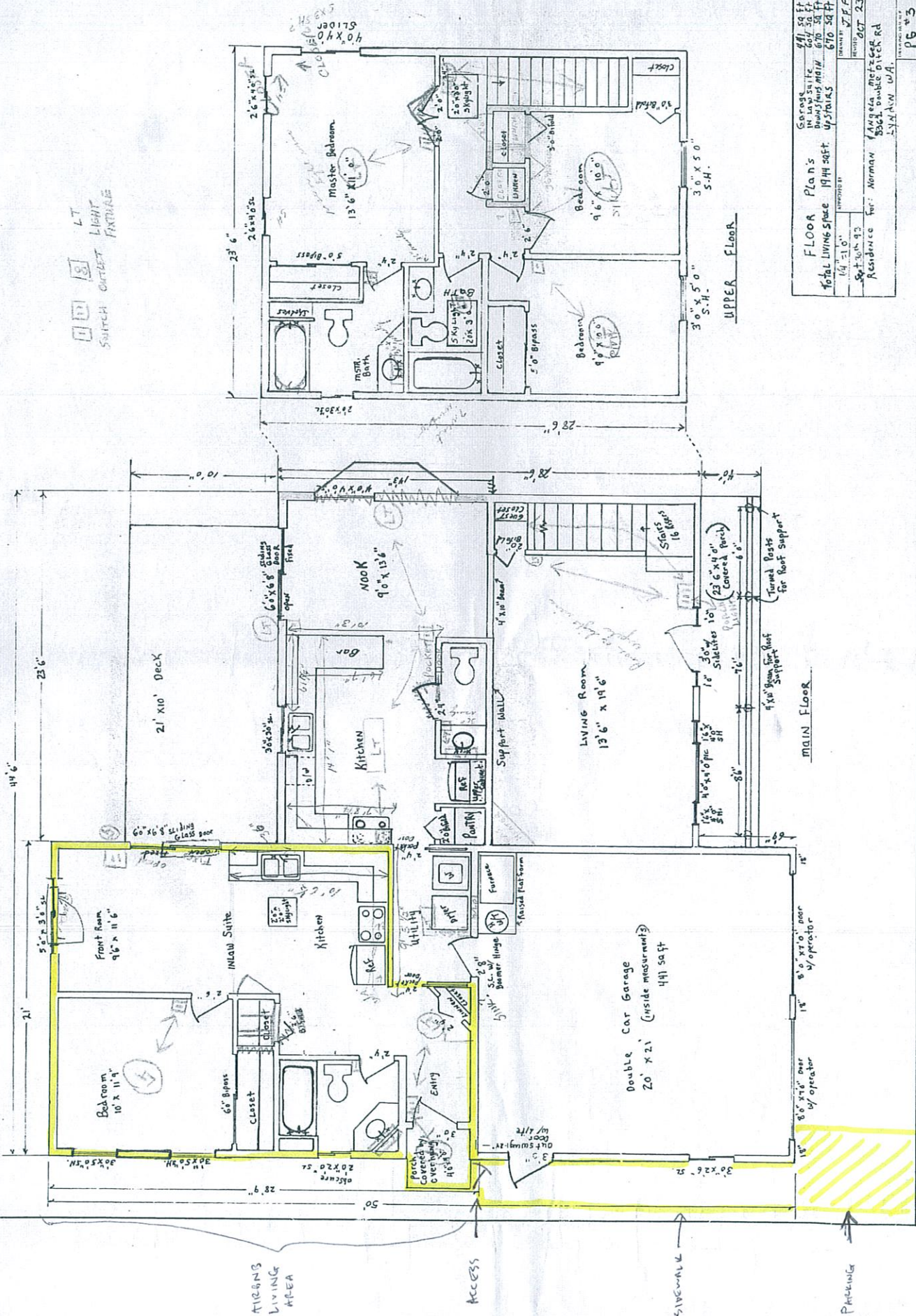
8. "The proposed use is generally consistent with the purposes and objectives of the City Comprehensive Plan and applicable Sub-Area Plan."

- The proposed use has no impact on the housing element of the City Comprehensive Plan. There would be no residents renting our Airbnb (which would detract from available rentals in the city of Lynden), but rather visitors to the area of Lynden and Whatcom County utilizing our Airbnb as a short-term option. Lynden and Whatcom County is a desirable area to visit with a plethora of attractive elements such as Mt. Baker, the Puget Sound, Mt. Baker-Snoqualmie National Forest, local restaurants, and miles of hiking trails. Our main category of guests will likely be visitors from out of the immediate geographical area on short work or vacation trips. Our intention is to offer an available option for visitors to Whatcom County and Lynden.

City of Lynden CUP #19-02



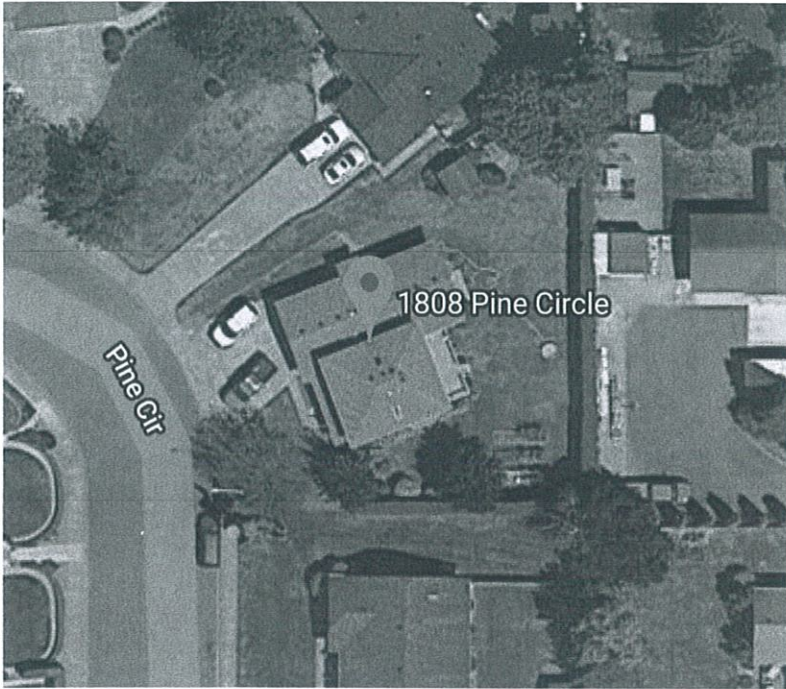
CUP Application for Short Term Rental on the Ellis Property: 1808 Pine Circle (side view of home and proposed unit) and surrounding neighborhood.



FLOOR PLANS		6/11/58
Total Living Space 1944 sqft		6/11/58
14' x 10' Deck		6/11/58
APPROVED BY		6/11/58
DRAWN BY		V.P.F.
REVISIONS		6/11/58
Residence for: Norman Angela Metzger		6/11/58
5561 BUCKLE OVERTER RD		6/11/58
SYRACUSE WA.		6/11/58



1808 Pine Cir



1808 Pine Cir

Lynden, WA 98264



DIRECTIONS



1808 Pine Cir



1808 Pine Cir

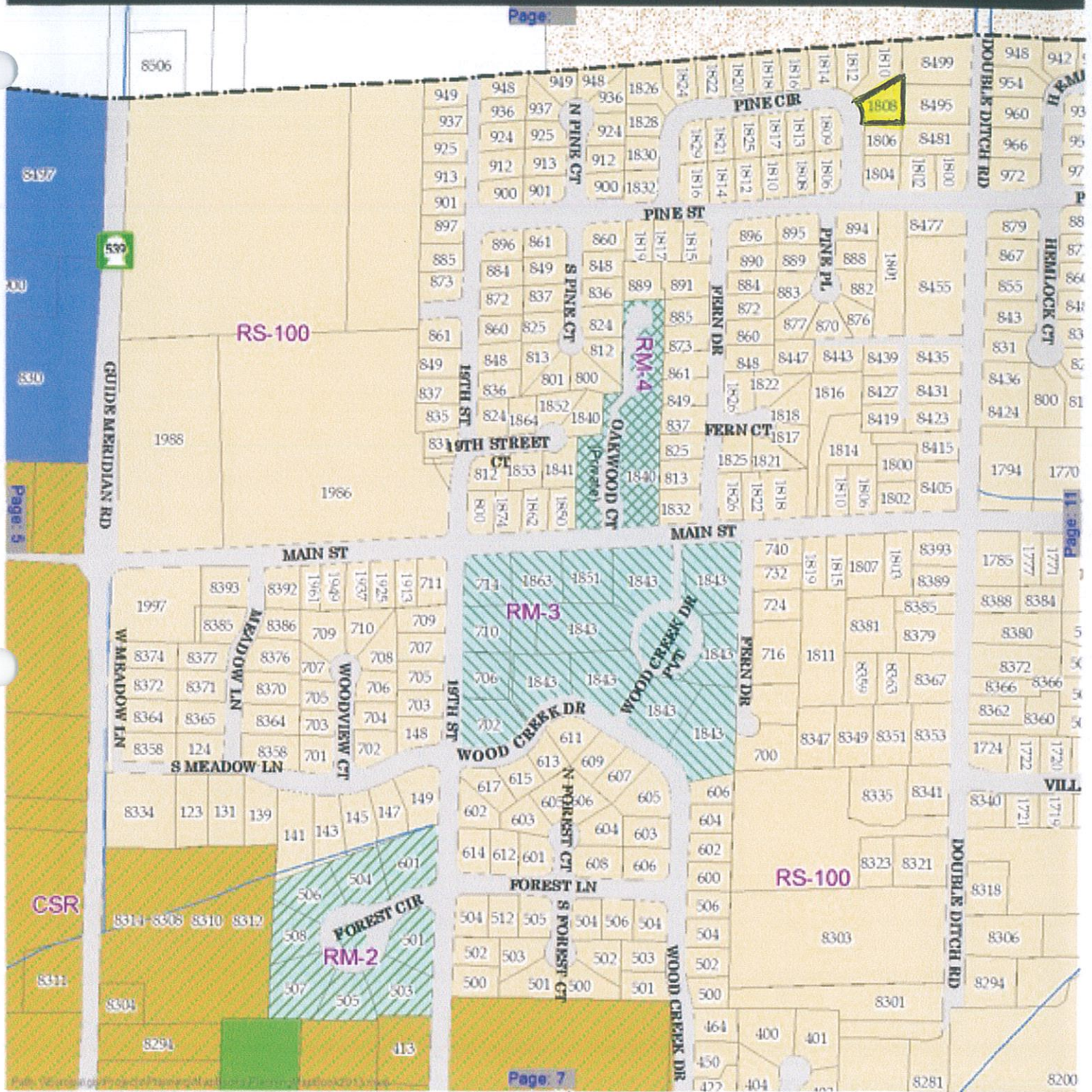
Lynden, WA 98264



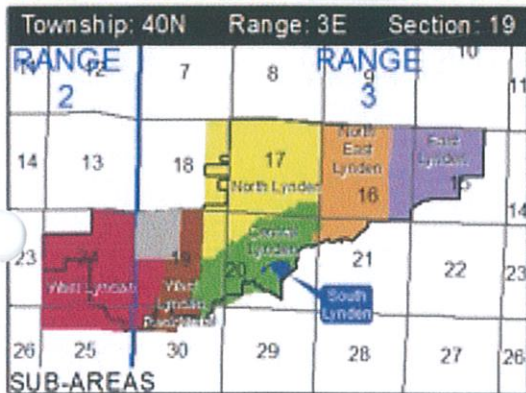
 DIRECTIONS

LYNDEN ZONING

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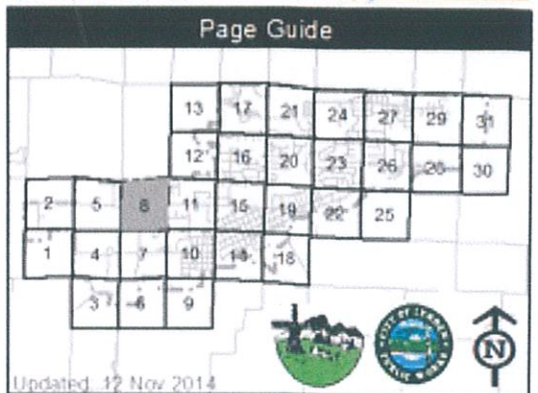


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|-----|------|--------------|
| CSL | MH | RS-100 |
| CSR | RM-1 | RS-72 |
| HBD | RM-2 | RS-84 |
| IBZ | RM-3 | TR-RW |
| IO | RM-4 | Public Lands |
| | RMD | PU |

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LEGAL DESCRIPTION OF PROPERTY

LOT 23, PLAT OF PINE STREET ESTATES, ACCORDING TO THE PLAT THEREOF,
RECORDED IN VOLUME 18 OF PLATS, PAGES 17 AND 18, RECORDS OF WHATCOM
COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

NAMES AND ADDRESSES OF ALL PERSONS HOLDING INTEREST IN THE PROPERTY

1. BENJAMIN C. ELLIS - 1808 PINE CIRCLE, LYNDEN WA 98264
2. SUZANNA P. ELLIS - 1808 PINE CIRCLE, LYNDEN WA 98264



City of Lynden

Critical Areas Checklist

Section: 19 Township: 40^{North} Range: 3^{East} Parcel Number: 400319 230566 0000 PID 132501

Site Address: 1808 PINE CIRCLE, LYNDEN, WA 98264

Proposed Uses: CONDITIONAL USE PERMIT - AIRBNB

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.

Ben Ellis
Applicant's Signature

07-15-2019
Date

August 24, 2019

City of Lynden
Heidi Gudde, Planning Director
300 4th Street
Lynden, WA 98264

RE: 1808 Pine Circle- application conditional use permit

Dear Ms. Gudde-

I am writing this letter to oppose the request for a Conditional Use Permit for an Airbnb that Benjamin and Suzanna Ellis have applied for. The majority of the neighbors are also opposed.

This is a neighborhood of five widows and numerous young children from infants to teenagers. The Ellis home is in the middle of homes that have a total of 8 young children with the yards in close proximity to the entrances of their house. I am very concerned for the safety of our neighborhood with unknown people continuously coming and going. We are a caring neighborhood that is always watching out for suspicious activity due to the many young children and single widows.

The parking and traffic is also a big concern. Currently, the Ellis's don't have enough space to park their own four cars so they are always parking in the street in front of other peoples homes and the mail boxes. They have a small frontage lot so it is very congested. Often times the sidewalk is blocked with their vehicles.

I am a concerned citizen that does not feel this neighborhood is suitable for a tourist Airbnb business and will no longer feel safe for the longtime residents here.

Thank you for your consideration.

Elizabeth A. Skudicant
1809 PINE CIRCLE

August 24, 2019

City of Lynden
Heidi Gudde, Planning Director
300 4th Street
Lynden, WA 98264



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Thank you for your consideration.

Patricia Clouse
1806 Pine St.
Lynden, WA
360-354-5480