



June 3, 2022

### CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE

#### STAFF REPORT

Re: The application of AVT Consulting, LLC, on Behalf of City Bible Church

MPRD #20-01, Lionsgate Master Planned Residential Development Permit Step 2 of 2  
FINDINGS, CONCLUSIONS, AND RECOMMENDATION

#### **I. APPLICATION SUMMARY AND RECOMMENDATIONS**

Proposal: For approval of Step 2 of the Lionsgate Master Planned Residential Development requesting to develop 21.83 acres into 108 lots, containing 129 residential units within the RMD zone. Neighborhood layout, lot sizes, street widths and maximum unit counts have been previously established with the approval of Step 1. **Step 2 review includes development standards such as building setbacks and height, street design within the approved layout and widths, and pedestrian movement.**

Recommendation: Staff recommends approval of the Master Planned Residential Development, subject to the conditions of approval.

#### **II. PRELIMINARY INFORMATION**

Applicant: AVT Consulting, LLC

Property Owner: Bruce Wood, Representative  
City Bible Church  
9200 NE Freemont St  
Portland, OR 97220

Property Location: 1990 Main Street, Lynden WA

Parcel Number: 400319-051539



Legal Description: Lot 1 City Bible Church Short Plat as recorded under AF # 2019-0803655

Notice Information:

Application Submitted:	March 1, 2022
Notice of Application:	April 20, 2022
Notice of SEPA determination:	March 16, 2020
Notice of Hearing:	April 20, 2022
Comment Period Ending:	May 4, 2022

SEPA Review: Phased SEPA Review per WAC 197-11-060(5) Lynden SEPA #20-04.  
Initial Review - Mitigated Determination of Non-Significance (MDNS) issued March 16, 2020  
Second Review - Mitigated Determination of Non-Significance (MDNS) issued May 13, 2022

Authorizing Codes, Policies, Plans, and Programs:

- RCW 43.21C State Environmental Policy Act
- WAC 197-11 State Environmental Policy Act Rules
- LMC 16.16 Critical Areas Ordinance
- LMC Chapter 17 Land Development
- LMC Chapter 18 Subdivisions
- LMC Chapter 19.16 Residential Mixed Density Zone (RMD)
- LMC Chapter 19.29 Planned Residential Developments
- City of Lynden Manual for Engineering Design and Development Standards

### III. PROJECT DESCRIPTION

The subject Property zoning became effective after Step 1 of the subject MPRD was approved by Lynden City Council, in September 2020. The MPRD and rezone approvals (Planning Commission Resolution #20-06, #20-07, and City Council Ordinance #1608 and Findings of Fact for MPRD #20-01) laid out the conditions of approval for Step 2 of the MPRD. These conditions of approval included compliance with Chapter 19.16 RMD zoning, and Chapter 19.29 PRD overlay within the Lynden Municipal Code, but also provided flexibility from the standard code requirements in certain areas, mostly related to lot size, housing type and road standards.

The concept approved in Step 1 of the for the Planned Residential Development (PRD) approval process included up to 134 housing units that incorporated detached and paired (zero-lot line) single-family housing types as well as the potential to include some attached housing types such as duplex, tri-plex, or four-plex structures. The approval

limited the paired housing lots to no less than 3,000 square feet, detached single family housing lots to 4,000 with the provision that detached single family lots with frontage on a shared common green space could be reduced to 3500 square feet.

The project has submitted a proposal for Step 2 PRD approval path. The proposed project was resubmitted to include 108 total lots, containing 129 residential units. 75 lots are proposed for detached single family development, with sizes ranging from 3,500 square feet to 8,000 square feet on average. Many of these lots are oriented to common open space areas. The largest detached lots are located adjacent to the existing single-family subdivision to the east, with minimum lot sizes equating to at least 80% of the average lot size of these existing neighboring lots. These large lots are situated in two rows, providing a transition area between these neighboring properties and the denser components of the proposed PRD to the west.

The remainder of the PRD includes 12 lots that are proposed for two-unit attached (paired) single family development, with 3,100 square foot lot sizes on average, located along the north property line of the project area. 8 lots are proposed for four-unit attached single family development, with 3,500 square foot lot sizes on average. These "townhouse" style lots are located along Main Street. 5 lots are proposed for duplex unit development, situated in the southwest corner of the property near the intersection of Main Street and Guide Meridian. 8 lots are proposed for triplex unit development, situated along the west side of the property, separate from Guide Meridian by the on-site stream and buffer area.

New internal public roads are proposed through-out the property consistent with the approved concept. The primary access to the new development stems from an existing curb cut on Main Street with secondary access via a public right-of-way stubbed from 19th Street. The road network is designed to direct primary traffic away from 19th Street via a primary internal divided boulevard curving to the west as it enters the site. Primary roads throughout the site will have 60' rights of way with parking on both sides. Secondary roads throughout the site will have 50' rights-of-way with parking on one side. There will be several private alleys within the project. All lots will be served by the public roads and/or alleys, allowing for rear yard garages on many lots.

New public water and sewer utilities, and storm water facilities are proposed within the property to serve all new development. Water and sewer mains will be extended in the new public rights of way, with private service connections to each lot. Storm water facilities will be located in below grade pipe systems (for detention and treatment) within rights of way, and within open space areas. These facilities will connect to existing public storm water conveyance infrastructure as they leave the site. All storm water facilities will be designed to meet applicable State Department of Ecology regulations, already adopted by the City of Lynden.

A Traffic Impact Analysis has been prepared by a qualified traffic engineer, evaluating the traffic impact from the proposed project. No off-site mitigation is proposed, as the TIA analysis concluded that off-site intersections will not operate below the City's adopted level of service standards after completion of the project. All project intersections with adjacent developed rights of way (19th and Main Street) will be improved to meet City Standards. An internal public road will terminate in the northeast corner of the property with a right of way extension to the north to allow for connectivity from the project site. Intersection upgrades are expected when the Washington Department of Transportation widens the Guide Meridian in this area. Design work on this project is expected to begin in 2023.

Coordination of access and storm water improvements with the Ridnour Activities Center property are required as easements and stormwater facilities are currently shared.

The stream that runs along the Guide Meridian ditch has a standard 100' buffer along most of the property's west boundary. The project proposes to reduce this buffer to 75' using a 25% reduction permitted through mitigation (LMC 16.16.380(H)). Mitigation will be provided for this reduction through enhancement of the remaining buffer, which is currently degraded. This buffer area will also be placed in a permanent open space tract with a conservation easement restricting it for preservation purposes. This stream enters a piped conveyance system along the southern 1/3 of the property frontage along the Guide Meridian, and in this location, there is no buffer applied. Upgrades to this culvert under Main Street are included on the City's stormwater infrastructure projects in association with the widening of the Guide Meridian.

In addition to the conservation area related to the Guide Meridian ditch, five more Open Space Tracts (six total) are proposed throughout the project. These open space areas will be improved with landscaping, trails and park facilities. They are intended to facilitate a pedestrian network through the project, connecting existing public pedestrian facilities on Main Street and 19th Street to the northeast corner of the property, and facilitating future trail connection to areas north of the property. Additional landscaping, including street trees, are proposed along all rights-of-way.

Individual house designs have not been completed for this subdivision, but the intent is to have a uniform set of design standards, administered through an HOA which will ensure that the detached single-family homes, attached single family homes, and duplex and triplex units are all developed with high quality design, modern materials and finishes. Concept drawings have been included and are intended to provide examples only.

#### **IV. PUBLIC NOTICE AND COMMENT**

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Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on April 20, 2022.

Notice of SEPA determination: Formal notice of the initial SEPA Determination (MDNS) was published in the Lynden Tribune on March 18, 2020 and mailed to neighbors within 300 ft of the property. The comment period for this SEPA determination expired on April 1, 2020.

The second SEPA Determination (MDNS) was published in the Lynden Tribune on May 18, 2022 and mailed to neighbors within 300 ft of the property. The comment period for this SEPA determination expired on June 1, 2022.

Public Comment Received:

The comments are summarized, with City response below:

- 1) Duana Adams (860 19<sup>th</sup> Street, Lynden) – Submitted a letter (included in the meeting packet) expressing concerns regarding stormwater and flooding as well as concerns related to an increase in traffic on Main Street and 19<sup>th</sup> Street.
- 2) Chris Pillar (PO Box 29207, Bellingham) – Submitted a letter (included in the meeting packet) expressed concerns regarding the process that was used to rezone the property. Recommended the property be used for “more luxurious much bigger homes with double size or even bigger lots” and called for the installation of a roundabout at 19<sup>th</sup> and Main Street. (letter referenced a rezone application that the Planning Commission recommended be denied)

*City’s response:*

**Traffic:** *The development of Lionsgate will contribute to additional traffic in this area. However, this increase has been anticipated in the design and construction of roadways in this area. Pine Street has been stubbed to the east edge of the subject property specifically to accommodate development. The neighborhood will have an additional outlet on Main Street which will be shared with the RAC facility.*

*The City’s Comprehensive Plan sets standards for level of service (LOS) provided on City streets. The project’s traffic study demonstrates that the additional trips created by the Lionsgate development will not cause the surrounding intersections or roadways to fall below the accepted level of service. Additionally, the City will be working with WSDOT in the next 5 years to design improvements to the Guide and Main Street intersection. Traffic generated by Lionsgate will be considered in this improvement. A traffic circle at the intersection of Main and 19<sup>th</sup> Street, as suggested by one comment, is not warranted based on the volume of traffic at that intersection.*

**Flooding and Stormwater:** *The City is aware that flooding and stormwater are a significant concern to residents in this area. Recent flood events, exacerbated by a downstream culvert failure at Front Street, has understandably heightened these concerns.*

*Studies have shown that flooding in this area is predominantly caused by overland flow. That is, water that is moving from the north, across farmland, contributing to flooding issues on the subject property and nearby neighborhoods. Solutions to this issue are twofold. One, the City is working with WSDOT to increase the size of multiple culverts that flow from this site so that flood water is not held up in this area. This includes the culvert under Main Street, a second culvert under the Guide Meridian flowing west, and replacement of the failing culvert that flows south under Front Street. Secondly, the stormwater plan for Lionsgate includes an intercept ditch along its northern property line. This is designed to protect the homes planned in this area by intercepting overland flow and shunting it into the drainage way along the Guide Meridian. This will likely offer a measure of protection to homes along 19<sup>th</sup> Street as well.*

*Stormwater standards required for the Lionsgate project must be compliant with the Western Washington Stormwater Manual. Construction cannot begin on the property until engineering review of the stormwater plan has been vetted and approved. To be compliant, release of stormwater from the site is limited to a flow equal to that which would flow off the site if it were covered in old-growth forest. It is likely that the existing condition of vacant property releases more stormwater than this standard required of new development. Stormwater management in this area is challenging as groundwater is relatively high. Concepts submitted by the applicant include underground containment systems known as “fat pipe”. This is used in areas where infiltration of stormwater is not a viable option.*

**Rezone Action:** *The Lionsgate property was rezoned from RS-100 to an RMD zoning category in September of 2020. The action was brought before the Planning Commission as an open public hearing. The Planning Commission recommended approval of the rezone which was subsequently confirmed by the City Council’s decision to approve the rezone. The letter from Chris Pillar mentions a rezone which received a recommendation for denial from the Planning Commission. Staff believes this may be in reference to a separate application.*

## **V. ANALYSIS AND CONSISTENCY WITH REGULATIONS**

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The application is reviewed in accordance with Chapter 17, 18 and 19 of the City of Lynden Municipal Code (LMC).

Lynden Municipal Code (LMC) 19.29 guides the development standards and criteria for approval for Master Planned Residential Developments (MPRDs). The Lions Gate proposal appears to meet the following requirements consistent with the LMC:

*Intent:* The primary purpose of a Master Planned Residential Development (MPRD) is to promote creativity in site layout and design by allowing flexibility in the application of the standard zoning requirements and development standards. As outlined in LMC 19.29.100, the applicant chose the two-step approval process which requires two separate City approvals under 17.09.

The intent of a two-step process is to ensure consistency with the City's comprehensive plan, decrease the applicant's expenditure of time and resources and promulgate a cohesive community and neighborhood aesthetic based upon the City's present and future needs.

On September 21, 2020, the Lynden City Council approved Step 1 of this process which included the review of the master plan and general project concepts. Step 2, the current application, will finalize specific site design and development requirements defined by the approval on September 21<sup>st</sup>.

*Unit Density:* Proposal is consistent with the permitted maximum density of the RMD zoning. Maximum permitted density is calculated using the gross area. This includes the property as well as half of adjacent rights-of-way which is about 23.5 acres. Maximum density in RMD allows up to 8 dwelling units per acre which equates to a maximum unit count of 188 units. Lionsgate is proposing a density of about 5.5 units per acre.

*Parking Requirements:* Proposal demonstrates compliance with minimum parking requirements per LMC 19.29.060(C) and driveway lengths. Additionally, the proposal includes on-street parking on both sides of rights-of-ways which are 60 feet wide and one side of rights-of-ways 50 feet wide consistent with LMC 19.29.060(E).

*Pedestrian Connections:* As noted in 19.29.060(6), in addition to sidewalks fronting residential lots, there must be logical pedestrian connections throughout the project including paved pathways to front doors, and trails within or adjacent to open space areas. The proposal provides these connections and shows sensitivity to the City of Lynden's long range trail plan.

*Open Space Standards:* An MPRD shall set aside a minimum of seven and one-half percent (7.5%) of the gross land area for active recreational uses. The proposal has indicated that area reserved for open space equals 22%. Be advised that to comply

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with LMC 19.29 open space shall require a recorded deed restriction or restrictive covenant which runs with the land and assures that said property will remain in open space in perpetuity, consistent with the terms of this chapter, and which shall be held and maintained for such purposes for the common benefit of residents of the development by a homeowner’s association.

A minimum of 30% of the required open space shall be suitable for active recreational purposes. The proposal demonstrates that the 62% of the reserved open space will be accessible for recreational purposed and has proposed pedestrian access points to these areas.

*Deviation from Minimum Standards:* LMC 19.29.060 describes the minimum development standards expected from a MPRD but also allows for deviation from the minimum standards per certain criteria described in 19.29.060(J). Some of these minimum standards have been resolved with the approval of the project’s maximum unit count and street layout.

Lionsgate’s MPRD Step 2 approval seeks to establish development standards – some of which require deviation from the minimum standards listed in 19.29.060. This includes building setbacks, perimeter setback, and the design of the private alleys. Staff conclusion found that each of the deviations could be found to meet at least one of the criteria listed in LMC 19.29.060(J) and can recommend approval. A summary of these deviations are provided in the table below:

	<b><i>Minimum MPRD Standard</i></b>	<b><i>Staff Supported Alternate Standard</i></b>	<b><i>Justification</i></b>
<b><i>Design of Private Alley</i></b>	24 foot total width, 20 foot wide drive lane, 2 foot gravel shoulders on each side.	24 foot total width, 15 foot wide drive lane, thickened concrete edge, fence and structure setbacks to allow for better visibility.	Homes are serviced in the front by public streets so rear alleys will be used for private access only. A reduced pavement width slows traffic. Eliminating gravel shoulders reduces maintenance, controls stormwater, and creates a tidy appearance.
<b>MPRD Perimeter Setback</b>	25 foot setback around the perimeter of the development.	20 feet on the north, the east, most of south perimeter. 75 feet along most of the west perimeter with 3 lots (96-99) using a side yard setback of 7 feet	Proposed setbacks are consistent with the underlying zoning.  Areas where the reduction is most significant – the use of a 7 foot side yard – are



		<p>along the Guide Meridian. 3 lots (1, 19, 20) on south property line reduced to a 7 foot side yard adjacent to RAC.</p>	<p>adjacent to non-residential uses.</p> <p>Perimeter setback is increased to 75 feet along critical areas.</p> <p>Most MPRDs have benefitted from a reduction in the perimeter setback.</p>
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**VI. TECHNICAL REVIEW COMMITTEE COMMENTS**

**Planning and Development Department**

1. *Proposed Phases:* Staff recognizes that the project will be developed in phases. Be advised, the Public Works Department and Fire Department will require service to be provided to each phase as they seek final plat approval.
2. *Critical Areas and SEPA Review:* A Detailed Study (with a mitigation plan) from a certified biologist has been provided to support a reduction in critical area buffer from 100 feet to 75 feet along the project’s western property line. Be advised, the City will require a maintenance bond to ensure establishment of the mitigation plan. Additionally, covenants associated with the property must address who is responsible for long term maintenance of this area.
3. *Architecture:* Staff is supportive of the architectural concepts submitted but recognizes that designs may be refined prior to building permit submittals. Be advised, all architecture will be reviewed consistent with the City’s adopted residential design standards found in Chapter 19.22 LMC. These standards include requirements regarding architectural variation among homes on the same street.
4. *Garbage Collection:* Be advised, after initial site plan review, Nooksack Valley Disposal has indicated that it will not be accessing alleys to conduct garbage collection.
5. *Architecture – Outdoor storage:* Garden sheds may not be feasible or attractive on smaller residential lots, and garbage collection will not occur on alleys but on public street frontages. As such, unless an acceptable alternative is proposed, staff recommends that the design of all homes on lots less than 5,000 square feet provide attached, covered, screened outdoor storage areas. These areas are meant to

accommodate typical household items including garbage totes, bicycles, and lawn equipment that may not be accommodated in garages. This storage area must be:

- A minimum of 3.5' x 6.5' to accommodate bicycles, garbage totes, etc.
- Exclusive of covered patio areas that are intended for outdoor living space.
- Accessible from street frontages where garbage will be collected.
- Rooflines of this covered area may encroach into side and rear setbacks a maximum of 4 feet. Fire proofing requirements per the IBC must be met at all times.

### **Public Works Department**

6. *Drainage Plan Required:* A concept for stormwater management has been provided. Be advised, prior to the start of construction, the applicant must secure City approval of a stormwater management plan prepared by a professional engineer and meeting the requirements of the Department of Ecology's Best Management Practices (including all known and reliable technologies) and the standards approved in the Manual for Engineering Design and Development Standards. Stormwater revision must include the RAC facility located at 1986 Main Street to facilitate the proposed Lionsgate site plan.
7. *Erosion Control Required:* An erosion control plan must be included in the drainage plan and construction plans as necessary. This must be designed and constructed in compliance with the Department of Ecology's Best Management Practices (including all known and reliable technologies) and the standards approved in the Manual for Engineering Design and Development Standards.
8. *Agency Review and Permitting:* The applicant will be responsible for obtaining any required State and/or Federal permits for all stormwater and construction activity. This may include a Department of Ecology CSWGP permit for stormwater management.

### **Fire Department**

9. *Hydrants:* Be advised, final hydrant spacing must be included for City review on the project's engineering plans.
10. *Dead End Access:* Be advised, the Fire Department will only support dead-end alleys that do not exceed 150 feet in length. The Lionsgate site plan is compliant.

### **Parks Department**

11. *Trail Dedication*: Be advised, dedication of a public trail easement or the granting of public access on trails through an associated restrictive covenant will be required as a condition of the final Master Planned Residential Development approval. This must be addressed in the PRD agreement and the neighborhood's CCRs.
12. *Park Impact Fees*: Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$1,755 per attached dwelling unit and \$2,925 for detached dwelling units.

## VII. RECOMMENDATION

Based on the above findings, **Staff recommends approval Step 2 of the Lionsgate Master Planned Residential Development subject to the following conditions:**

- 1) **Pedestrian Access Easements**: In addition to the planned public right-of-way dedications (streets and sidewalks), additional public pedestrian access easements will be required as needed to allow public pedestrian access movement from the northeast corner of the project to the southwest. Easements must appear on the face of the final plat and will be noted as a link within the City's public trail system.
- 2) **Side Yard Setbacks**: The final development contract must increase the side yard setbacks on lots 98-108 so as not to conflict with the 10 foot utility easement located along the public road frontage. Note that vertical encroachment of eaves into utility easements cannot occur without approval of the Public Works Director.
- 3) **Critical Area Mitigation**: Required implementation of May 9, 2022 Mitigation Plan developed by Northwest Wetlands Consulting, LLC as well as the posting of maintenance bonds in association with continued establishment of mitigation plantings along the western property line. Long term maintenance must clearly be outlined within the developments Covenants, Conditions and Restrictions (CCRs) as the responsibility of the homeowner's association.
- 4) **Alley Design**: Alley standard must utilize a thickened concrete edge along both sides to edge the drive lane on all alleys. Design and management of the unpaved areas within the easement must be addressed within the property CCRs. This must include, but is not limited to, defining the potential allowances for parking and permitted surfaces off of the alley drive aisles. Long term maintenance and the management of parking restrictions must be clearly

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outlined within the developments Covenants, Conditions and Restrictions (CCRs) as the responsibility of the homeowner's association.

- 5) Alley Setbacks: Alley setbacks of fences and garages as well as rear yard of homes must be consistently described and measured from the edge of alley pavement so as to be easily and consistently enforceable.
  
- 6) Final Contract and CCRs: A final development contract, with all exhibits, must be presented to the Planning Commission for review and the City Council for approval within one year following approval of Step 2 of the MPRD. This contract must include specific development requirements based on the MPRD approval and all special conditions and approvals applied to the property within the MPRD. This development contract, related exhibits, and any amendment approved pursuant to 19.29.120(2) shall be recorded in the Whatcom County Auditor's Office. The Covenants, Conditions, and Restrictions (CCRs) for this development must be submitted simultaneously with the development contract and is also subject to staff review and approval by the City Council.