

ORIGINAL

CITY OF LYNDEN  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE APPLICATION OF  
AVT Consulting on behalf of  
Mannahouse Church, TO SUBDIVIDE  
PROPERTY

Petitioner

MPRD #20-01

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, CONDITIONS and  
DECISION on the Lions Gate MPRD  
#20-01

Mannahouse Church, owners of the premises known as:

LOT 1, AS DELINEATED ON CITY BIBLE CHURCH LOT LINE ADJUSTMENT,  
ACCORDING TO THE PLAT THEREOF, RECORDED AUGUST 29, 2019 UNDER  
AUDITOR'S FILE NUMBER 2019-0803655, RECORDS OF WHATCOM COUNTY,  
WASHINGTON.

**COMMONLY DESCRIBED AS:** 1990 Main Street, Lynden

Has applied for a Master Planned Residential Development requesting to develop approximately 21.83 acres into 110 residential lots (135 units) within the RMD zone. The Lynden Planning Commission held a public hearing on August 13, 2020, and recommended approval to the City Council. Said request having come before the Lynden City Council on September 21, 2020, 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. AVT Consulting, LLC, ("Agent") filed an application for a rezone which was accepted by the City as complete and containing all information required by LMC 17.19.010 on March 10, 2020.

1.02 Location. The property is located at 1990 Main Street, Lynden.

1.03 Ownership. Mannahouse Church is the Property Owner.

1.04 Request. To allow the MPRD / subdivision of property into 135 residential units (110 lots) within the Residential Mixed Density) (RMD) 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 Planning Commission Recommendation. As outlined in Planning Commission Resolution #20-07, the Lynden Planning Commission recommended approval of the Master Planned Residential Development Concept application.

1.07 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.

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

1.09 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.

1.10 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.

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

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

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

1.14 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.

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

1.16 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:



## CONDITIONS

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

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.

The overall intent of the Lions Gate MPRD appears mostly consistent with the purpose of Planned Residential Developments as outlined in LMC 19.29.010. Provisions for critical areas should be strengthened. See staff comments below regarding this issue.

Generally, the project provides a desirable mix of housing types. This facilitates a variety not typically available under conventional zoning methods and serves to meet the housing needs of the Lynden community. This is consistent with the Lynden Municipal Code but also the goals identified in Chapter 1.6.2 of the City of Lynden Comprehensive Plan.

Unit Density: Running concurrently with the MPRD is a request for a site-specific rezone. The current zoning of the property is Residential Single Family with a minimum lot size of 10,000 square feet (RS-100) and a maximum density of 4 units per acre. RS-100 zoning allows for up to 95 units, a maximum density of 4 units per acre. In light of the City's comprehensive goals and the Properties proximity to transportation corridors, the applicant is seeking zoning categories that permit a higher density. If successful, the rezone would allow the proposed 135 units, an average gross density of 6.2 units per acre.

Generally, the proposal locates low density housing types adjacent to the single-family neighborhood that exists along 19<sup>th</sup> Street. These are single family units on lots of 7,000-8,000 square feet. Housing types become more dense, in the form of zero lot line units and duplexes, on the west side of the property adjacent to the Guide Meridian.

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 right-of-ways which are 60 feet wide and one side of right-of-ways 50 feet wide consistent with LMC 19.29.060(E). See staff comment below regarding a request for an on-street parking graphic.

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 or 4,000 square feet, whichever is greater, for active recreational uses. The proposal has indicated that area reserved for open space equals 18.3%. Be advised that to comply 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 indicates that the reserved open space will be suitable for active recreational purposed and has proposed pedestrian access points to these areas.

Specific Project Comments from the Technical Review Committee:

The application was reviewed against the applicable chapters of the LMC and the Engineering Design and Development Standards and the comments generated have been included below.

***Applicant Response Required:*** Applicant will be required to provide written responses to each staff comment below. Advisory comments should be acknowledged or confirmed.

**Planning and Development**

1. Approval Process: Be advised, if approved, the proposed concept for the Lionsgate MPRD will be required to return to the Planning Commission within the setting of a public hearing to finalize the design standards and development agreement associated with the plan. The neighborhoods CC&R's will also be reviewed during this process.
2. Critical Areas: The western property line of the development is impacted by a fish-bearing waterway that runs parallel with the Guide Meridian. The proposed neighborhood design notes the buffer associated with this waterway. Standard buffer for this time of waterway is 100 feet. However, buffer reductions and averaging are opportunities that the Lynden Municipal Code provides with appropriate mitigation under specific criteria. The revised site plan notes compliance with LMC 16.16.380. Be advised, details of the buffer and mitigation must be addressed through the phase SEPA review and associated critical areas report prior to the second public meeting with the Planning Commission on the Planned Residential Development.
3. Minimum Lot Size and Architectural Variety: Per LMC 19.29.060(I) the minimum lot size for single family homes within a PRD is 5,000 square feet. The application proposes a deviation from this standard and addresses the associated criteria in the application package. Staff acknowledges that applicant has provided exterior architectural examples of single-family homes and



duplexes / zero lot line homes. Please identify which of these could utilize lots as small as 3,000 square feet. Additionally, please address how architectural variety will be introduced on these more compact sites. Staff will subsequently recommend that the future development agreement and CC&Rs create standards which would require architectural variety within the development.

4. Garage Elevations: The residential design standards described in LMC 19.22.030(D)(2) limit the percentage of building elevation that can be occupied by garage doors to no more than 60% of the street elevation. Be advised, this standard will apply to the home proposed within the Lionsgate PRD unless an alternate design standard is a proposed and approved in the development agreement.
5. Residential Design Standards: Be advised, the homes proposed within the MPRD will be subject to the design standards of LMC 19.22. These also include articulations on building elevations that face toward public streets or shared green spaces, exterior finish details, porches and stoops, and the screening of mechanical equipment. Staff recommends these standards be reviewed in detail to ensure compliance with these standards will be achievable within the proposed MPRD.
6. Garage Forward Design: Be advised, per residential design standards of LMC 19.22, both attached and detached garages shall not extend forward of the home's living space by more than 12 feet.
7. On-Street Parking: Staff acknowledges that the applicant has provided a graphic which shows the areas of the development where on-street parking will be permitted and if parking will be available on one or both sides of the street.
8. Alley Loaded Residential Development: Staff is supportive of some alley-loaded residences as it creates a streetscape that is more pedestrian friendly (no driveway cuts, the inclusion of front porches, etc). Planning staff recommends that the proposed alleys within the development be maintained as common area under private ownership. Additionally, these items should be addressed in the development agreement and CC&R document:
  - Minimum pavement width.
  - Minimum setback of fences, structures, shrubs and trees which will facilitate the requirement for 24 feet clear as indicated by the Public Works Department.
  - A "no parking" condition and associated signs within the alleys.
  - Garbage pick-up and container storage.
9. 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 and lot line adjustments will be required to provide supporting data. Please

provide on the face of the drawing a table which breaks down the total area of the plat drawing after the lot line adjustment 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 sq ft)
Gross plat area	
Reserve tracts	
Critical areas (including buffers)	
Right of ways (ROWs)	
Other infrastructure	
Net developable	
Percent ROW and Infrastructure	%

10. Lot Design-Frontage: In the future development agreement, please address standards for minimum frontage requirements for residential lots.
11. Utility Easements: Per 18.14.075, of the LMC requires 5-foot utility easements around the interior property line of all residential lots. If a deviation to this requirement is requested, it must be included in the future development agreement.
12. 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, preferably between the curb and the sidewalk. Without blocking view triangles, there shall be a minimum of one tree per lot with a maximum of fifty feet between trees. Maintenance of street trees shall be the responsibility of the adjoining property owner.
13. Homeowners Association Required: Be advised, per LMC 19.29.130 the MPRD shall have a homeowner’s association and enforceable covenant to fund and effectively collect fund for such and organization. Associated agreements and covenants shall apply to all the property with the PRD, shall be recorded and shall run with land. Within one year of preliminary approval the final development contract and the community’s covenants, conditions and restrictions (CC&R’s) must be presented to the Planning Commission for review and City council for approval. CC&R’s must include a management plan for common open space, trails, alleys, mitigated areas, and conservations easements if utilized.



## Public Works

14. Public Improvements: Be advised, all public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards or an equivalent approved through the Planned Residential Development process.
15. Plat/Interior Street Improvements: If the applicant proposes an alternate frontage improvement plan different than City standard for approval it must provide adequate turn-around within public right-of-way and address the needs of the proposed development (ex. parking, life safety, delivery, waste collection etc.) Any proposed alley shall be private with a minimum clear width of 24-feet.
16. Off-site Street Improvements: Proponents traffic study must address all phases/impacts of the proposed project. Traffic study must meet requirements of City standards. Additional right-of-way may be needed to address west bound right turn movements.
17. Stormwater
  - 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. This must also address any impacts from seasonal high groundwater. The area experiences overland water flow from the north. The developed areas shall be raised, or other approved methods submitted for approval to prevent future drainage issues. An interception ditch along the north property line conveying flows to the Guide Meridian (SR-539) ditch is needed. 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, if approved/accepted by the City, 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.
  - e. The Guide Meridian Ditch is considered Fish Barring by WDFW and a buffer of the proposed 50 feet may not meet their standards.

- f. Proposed lot sizes may make it difficult for any form of onsite facilities to be installed on the lots.

18. Water

- a. As per 6.2 (M) of the City of Lynden Project Manual for Engineering Design and Development Standards.
- b. As per LMC 18.14.150, the main water line shall be extended to the furthest extent of all properties of this PRD unless it is determined that services, including life-safety are adequately provided elsewhere.
- c. A 20-foot utility easement is required if only water is located within it. If two public utilities are in an easement the minimum width is 30 feet equally spaced.
- d. Each house and/or unit within this plat must be individually metered. Water meters must be located within the City right-of-way or unit / access easement.
- e. Proposal has more units that was anticipated per water comprehensive plan and will need to be reviewed for impacts that may require offsite improvements.

19. Sanitary Sewer

- a. Sanitary sewer and water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- b. The sewer line must be extended to the furthest extend of all properties per City development standards of the proposed development unless it is determined that services are adequately provided elsewhere.
- c. A sewer easement of 20 feet is required for all public systems. If more than one public utility is within the easement the easement shall be 30 feet.
- d. Proposal has more units that was anticipated per sewer comprehensive plan and will need to be reviewed for impacts that may require offsite improvements.

**Fire and Life Safety**

20. Hydrant Requirements: The installation of fire hydrants will be required. Code requires that fire hydrants be installed at intervals not to exceed 500-feet in single family areas and 300-feet in multi-family areas. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.



21. Street Addressing: Addresses that cannot be seen from the city street must be posted at both the access easement and on the house.
22. Fire Code: Future Development will require full compliance with the Fire Code.
23. Fire Impact Fees: Be advised, half of fire impact fees will be due at the time of final development approval (subdivision and half of the fire impact fee will be due at the time of building permit. The current rate of this fee is \$389.00 per multi-family unit and \$517.00 per single family home.

## **Parks and Recreation**

24. 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.
25. Park Impact Fees: Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$546.00 per multi-family unit and \$936.00 for single family home.

## **Advisory Requirements**

26. 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.
27. 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.
28. Bonding Requirements: A post construction maintenance bond in the amount of 10% of the construction costs for public facilities will be required prior to final plat approval.
29. 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.
30. Expiration of Preliminary Approval: Petitioner shall record the final subdivision, PRD and Development Agreement 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.

31. 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.

## II. DECISION

Petitioner's application to subdivide the parcel described herein into 110 lots (135 units) known as the "Lions Gate MPRD", for future development is hereby **Preliminarily Approved** subject to the conditions set forth in this document.

DATED: 9/22/2020

  
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Scott Korthuis  
Mayor