



TECHNICAL REVIEW COMMITTEE
Development Project Report

Date Issued:	November 27, 2019
Project Name:	DSV #19-02, Badger South
Applicant:	Richard Lane – Compass Point Survey
Property Owner:	Badger South LLC
Site Address:	1583 E Badger Road, Lynden
Zoning Designation:	RM-3 Residential Multi-Family
Application Type:	Development Standards Variance
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Development Standards Variance meets the criteria found within Section 17.17.040 of the Lynden Municipal Code.
Date application determined complete:	October 18, 2019
Date of Publication:	October 30, 2019
SEPA Determination:	N/A
Project Description:	Applicant is requesting a Development Standards Variance to allow the construction of a public access street at the private street minimum standards.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on October 18, 2019. The notice of application was published on October 30, 2019.

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

Project Summary

Subdivision and / or site development of the subject property typically requires that right-of-way be dedicated consistent with City standards (LMC 18.14.030) and constructed consistent with Engineering standards of Division 4 of the Engineering Design and Development Standards.

In some instances, property owners have opted to create a private road and seek alternate standards for development. Staff does not support a private street at this location as it is the terminus of an existing public street network. However, staff recognizes that providing a standard 60-foot-wide right-of-way would significantly constrain development due to the shape and size of the subject property.

The applicant is requesting a variance to Table 4-1 (Figure 4–3A) of the Engineering Design and Development Standards to allow the construction of a public access street (Figure 4–3B) from the required 60-feet to a standard that matches the private street minimum standard but would be dedicated as a public street. This reduced standard would require a dedication that is 41-feet in width.

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.”

Variance Application Comments from the Technical Review Committee:

Planning and Development

1. *Variance Justification:* Staff acknowledges that the applicant has provided a response to each of the development standards variance criteria.

2. *Alternate Design Analysis:* Staff acknowledges that the applicant has provided a response to each of the development standards variance criteria.
3. *Application:* Applicant to revise the “Variance Request” portion of the application form submitted to the Planning Department to reference not only the engineering standard of Division 4 of the Engineering Design and Development Standards but also the section of the Lynden Municipal Code from which the applicant seeks relief. This is the section related to property dedication, LMC 18.14.030 – Right-of-Way Requirements.
4. *Parking:* Staff has concerns related to parking and the potential impact to surrounding properties.

All development on the subject property will be required to provide the minimum number of on-site parking spaces as dictated by LMC 19.51. Additional guest parking is not required per code as on-street parking accommodates this need.

However, due to the reduced street standard, only one side of the street will provide parking and it is anticipated parking capacity will be significantly reduced by driveway cuts. As such, staff support of the variance is conditioned on future development providing 20% more on-site parking than code requires to accommodate the on-street parking which will be lost. This means, for example, that 12 residential units which would typically be required to provide 24 spaces would be required to provide 29 on-site spaces.

Public Works

5. Applicant will be required to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) as part of future application requests.
6. Be advised, applicant must make provisions for access and utilities to the west end of the property in subsequent applications.
7. Be advised, in subsequent applications the proposed utility and access easement to lot 4 will need to be 30-feet in width to accommodate for both public water and sewer.
8. *Water:* At the time of development, water needs to be extended to the west property line of either lot 1 or 2, to the north and west property lines of lot 4 with the ability for future extension to the east. Easements will be needed and must be marked on the face of the plat.
9. *Sewer:* At the time of development, sewer will be required to extend west and north to meet the service area as identified in the sewer comprehensive plan and the City’s Engineering Design and Development Standards. Easements will be needed and must be marked on the face of the plat.

10. *Stormwater:* Be advised, all improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
11. *Bonding:* Be advised, a post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
12. *Review Deposit:* Be advised, there is a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.

Fire Department

13. *Turn-Around:* Be advised, a vehicular turn-around, designed to City standards, will be required at the time of plat and development. This may be located at the terminus of the new street or in another location which meets Fire Department approval. The turn-around may require an easement which could be dissolved when through access is created on the neighboring property.