

CITY OF LYNDEN  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE APPLICATION OF  
Northwood Partners, LLC, TO  
SUBDIVIDE PROPERTY

LP #20-01

Petitioner

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, CONDITIONS and  
DECISION on SUBDIVISION  
APPLICATION #20-01

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THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 3 EAST, W.M. EXCEPTING THEREFROM THE NORTH HALF OF THE NORTH HALF OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER; FURTHER EXCEPTING ONE ACRE FOR CEMETERY; FURTHER EXCEPTING RIGHT-OF-WAY FOR COUNTY ROADS KNOWN AS KAMM ROAD AND NORTHWOOD ROAD ON THE SOUTHERN AND WESTERN BOUNDARIES THEREOF. SITUATE IN WHATCOM COUNTY, WASHINGTON.

**COMMONLY DESCRIBED AS:** 8744 Northwood Road, Lynden.

Has applied for a subdivision of the above described parcel into 92 residential lots within the RMD zone. The Lynden Planning Commission held a public hearing on January 28, 2021, and recommended approval to the City Council through Planning Commission Resolution #21-04. Said request having come before the Lynden City Council on March 15, 2021, 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. Northwood Partners, LLC, has filed an application (“Property Owners”) for a subdivision which was accepted by the City as complete on December 4, 2020.

1.02 Location. The Property is located at 8744 Northwood Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Northwood Partners, LLC are the Property Owners.

1.04 Request. To subdivide a parcel approximately 28.41 acres in size into 92 residential lots located within the 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 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:

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 RMD residential mixed density zone and permits the development of a mixture of single-family and duplex housing styles and types.

*Minimum Lot Size:* If the proposed rezone of the property is approved by the City Council the new zoning category, allows for detached single-family homes on lots as small as 6,000 square feet. Attached / paired homes are permitted on lots as small as 4,000 square feet. Duplexes are permitted on lots of at least 8,000 square feet. The lots proposed in this subdivision meet the RMD minimum lot size for detached dwellings (6,000 square feet). As proposed, parcels within this plat range from 6,000 square feet to about 28,700 square feet.

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

*Build-out:* Be advised, both single family and duplex homes are permitted within the RMD zone. All lots are subject to the development requirements listed under 19.16 of the Lynden Municipal Code and associated design standards.

*Parking:* Be advised, per Chapter 19.51.040 of the LMC, a minimum of 2 parking stalls is required per home and or unit. 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.

### **Specific Project Comments from the Technical Review Committee:**

#### **Planning and Development**

1. *Applicant Response Required:* Provide a written response to each of the Technical Review Committee's comments below. Advisory comments should be acknowledged. A Word version of this document will be provided to you for your convenience.

2. Agent Authorization: Please provide an agent authorization letter, formation documents, or other documentation which allows Jeff Palmer to process the long plat application on behalf of Northwood Partners LLC.
3. Plat Documents: Provide draft plat sheets include the plats signature page with plat notes.
4. Phasing Plan: Please respond indicating if the plat improvements will be phased. If phasing of the plat is planned, provide a plat map which shows phases as well as a plan indicating the interim condition which will exist following the build-out of Phase 1 but not Phase 2. Staff is particularly interested in the infrastructure improvements which will exist at this time. Show the proposed condition of the street section and existing buildings at this stage of completion. See Public Works comments related to the minimum roadway standard for emergency access.
5. 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	%

6. 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.

7. Street Name: Provide a street name for the proposed long plat. Be advised, the street name must be approved by the Whatcom County emergency dispatching agencies and avoid duplication with any other road within the County.
8. Street Tree Requirements: Be advised, street trees will be required. Submission of tree locations, species selection, and planting specifications must be included in the utilities plan (civil review) to avoid conflicts. Planting and establishment must be executed as described here:
  - a. As per Section 18.14.130, Street trees shall be provided by the sub-divider in all subdivisions within the dedicated public utility easements adjacent to the street; preferably between the curb and the sidewalk.
    1. One street tree is required for every 50 linear feet of street frontage. Distance may be averaged due to driveways and sight distance requirements.
    2. Street trees shall be a minimum caliper of 1 1/2" at the time of installation, small trees used under powerlines shall be a minimum a caliper of 1".
    3. Street trees shall be selected, installed, and maintained in accordance with the standard City of Lynden engineering specifications. Trees shall be placed on the property with consideration of potential driveway cuts and utility services.
  - b. Establishment of street trees and planting strips shall be per an approved site plan in conformance with design and bonding standards as set forth in LMC 19.61.
  - c. Maintenance of street trees and planting strips shall be the responsibility of the adjoining property owner and shall be done in accordance with the city's engineering design and development standards.
9. Topography: Due to the sloping nature of the site (a grade change of approximately 50 feet), the grading of the site will affect the buildability and drainage plans of each lot. Please provide a preliminary grading plan with the plat drawings. Civil plans must include proposed site topography at 2-foot intervals which ties into the finished grades of the right-of-way and surrounding properties. Be advised, this topography information must be confirmed on as-built drawings. Approved grades will be used to establish pre-construction elevations from which final building heights will be measured.
10. Critical Areas: The applicant has submitted a Critical Areas Assessment of the subject parcel. The report identifies wetlands and regulated streams on the

property. The civil construction plans shall clearly indicate the onsite location of these wetlands and their buffers. The proposed development avoids critical areas and their buffers. Any alterations to the proposal that results in impact to any critical areas and/or their buffers will require additional impact analysis and an approved mitigation plan.

Unobtrusive fencing (split rail) and Critical Area signage designating the location of the onsite critical areas is required consistent with LMC 16.16.210.

A conservation easement that designates ownership, liability, maintenance responsibility and enhancement opportunities for the critical areas and their buffers is required. Easement language shall be submitted for City approval. The conservation easement shall be recorded as a separate document and referenced on the final plat.

11. Existing Structures: This property was surveyed during the 2018 City of Lynden historic resources reconnaissance survey. The house and portions of the barn and other farm structures are more than 100 years old. Although the structures are likely not eligible for federal listing, they may be considered potentially eligible for listing on the Lynden Register due to their age and connection to Lynden's agricultural legacy. As such, prior to demolition, an Intensive Survey of the structures as defined by the Washington State Standards for Cultural Resource Reporting is required. Survey results shall be provided to the City and added to WISAARD, the DAHP online database for this address.
12. Cultural Resources: The applicant shall have an Inadvertent Discovery Plan onsite that identifies protocol for contacting the appropriate authorities and protecting archaeological resources if they are inadvertently found during future construction activity.

While no archaeological resources were found, there are known cultural sites in the vicinity. Additional consultation with the Nooksack Tribe and the Department of Archaeology and Historic Preservation is required to ensure these sites are protected.

13. Vehicular Access Prohibition: Be advised, no private driveways are permitted on Kamm or Northwood Roads. Access to lots must be internal to the plat. This vehicular prohibition must appear on the face of the plat.
14. Pipe Stem Lots: A long plat may utilize one pipe stem lot for every 25 lots or portion thereof (LMC 18.14.040). As such, the proposed plat may utilize up to 4 pipe stem lots. Staff has identified these lots as lots 10, 25, 42, and 87. Pipe stems shall be a minimum of 24 feet wide, shall not be longer than 150 feet, and the address must be clearly marked at the street for emergency access. It appears lot 25 and lot 42 were designed with stems only 20 feet in width. Please revise to meet the minimum standard of 24 feet.

15. Easement Access Lots: *In addition to pipestem lots, a long plat may also utilize private access easements for one lot per 25 lots or portion thereof. As such, the proposed plat may design up to 4 lots without accessible frontage on public streets and utilize an access easement instead (LMC 18.14.110(c)). Access easements shall be a minimum of 24 feet wide, shall not be longer than 150 feet, and the address must be clearly marked at the street for emergency access. The plat design currently exceeds the 4-lot maximum. Staff has identified applicable lots as lots 1, 2, 68, 69, and 70. Please revise the plat to include not more than 4 lots accessed via access easement.*
16. Frontage Requirements and Lot Access: Unless an approved pipestem or access easement lot, no lots shall be created that have less than 50-feet of frontage except that lots on cul-de-sacs may reduce frontages to no less than 40 feet as long as a 50-foot width is achieved at the point of front setback (15 feet from the property line). It appears that some lots in the proposed plat may not meet this standard. Please provide a drawing which demonstrates compliance with this section of code in each of the two cul-de-sacs. (LMC 18.14.020)
17. Housing Types: If the proposed rezone of the property is approved by the City Council the new zoning category or Residential Mixed Density, allows for attached / paired homes (each on their own lot) and duplexes (on lots at least 8,000 square feet in size). The plat must clearly address if these housing types will be permitted and if so, on which lots. Please add an applicable plat note and indicate on the face of the plat map if necessary.

## **Public Works**

18. Right-of-Way: Dedication is required along the full frontage of Northwood Road to achieve a total dimension of 30 feet to the center line of the road.
19. Street Section: Street section of Currant Street extension must match the existing roadway to the north of the proposed plat.
20. Phase 1 Emergency Access: If phasing is proposed, be advised, at the time of Phase 1 construction, Phase 2 street sections must be constructed to a minimum of a 24-foot wide, stabilized surface which is sufficient to support emergency vehicles. If the stabilized surface is gravel, or similar, a minimum of 50 linear feet must be paved adjacent to any existing public right-of-way to prevent tracking of material onto roadway surfaces.
21. Access: As proposed, no vehicular access will be permitted to/from Kamm Road. Any existing driveways must be abandoned prior to final plat approval.
22. Lot Access: Vehicular access will be prohibited from proposed lots to/from Kamm Road and Northwood Road.

23. Eastern Roadway Stub: The proposed eastern roadway stub accesses property which is not part of the City's Urban Growth Area. As such it is unlikely to be added to the City for some time (no sooner than the year 2036 unless otherwise petitioned to be added). City staff recommends the stub be dedicated as right-of-way easement but not improved beyond what is needed to access lots 68-71. A curb cut in this area will be limited to 30 feet with the balance of the stub finished with curb and sidewalk. Additionally, staff recommends the plat and, if needed, property covenants address the use of the area until such time is developed into a street.
24. Engineering Design Standards: All proposed streets must meet the minimum separation requirements as outlined in the City of Lynden Project Manual for Engineering Design and Development Standards.
25. Utility Easements: Plat must show the required 10-foot utility easement along the frontage of each lot (back of sidewalk).
26. Traffic analysis needs to be completed. All recommended items of the report shall be completed.
27. Street Lighting: Puget Sound Energy to design street lighting. Please submit a final plan.
28. 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.



29. 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 looped through the plat and extended to the east and west property lines. Show easements as appropriate on the face of the plat.
- b. Be advised, water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards
- c. 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.

30. Sanitary Sewer

- a. Be advised, sanitary sewer design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- b. Sanitary sewer services for all units and must be sized for maximum number of units.
- c. 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 property line unless other service is available. Show easements as appropriate on the face of the plat.
- d. Be advised that all parcels in this plat are within the East Lynden Sewer Special Assessment Area and will be subject to additional connection charges for the regional sanitary sewer facilities. This must be noted on the face of the plat.

**Fire and Life Safety**

31. *Fire Service Impact Fee:* Be advised, half of the required fire impact fee is due at the time of final plat approval. The balance of the fire impact fees is deferred to the time of building permit. Contact Planning staff for an estimated fee total.
32. *Street Addressing:* Be advised, address numbers must be clearly posted on each house to assist in efficient fire aid response.
33. *Hydrants:* The installation of a fire hydrant is required. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.

**Parks and Recreation**

34. *Trail Easement:* This development is located along sub-standard roadways which do not have pedestrian accommodations. It is also identified along the

proposed route of the East Lynden Loop Trail. As such, the proposal must accommodate that trail system. At a minimum this must include a separated 8-foot wide asphalt pedestrian path and public access easement (if not in ROW) parallel to Northwood Road. An equivalent amenity such as a more creative path winding through the development could also be proposed by the applicant during the long plat review process.

35. *Park Impact Fee:* Be advised, 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.

### **Long Plat Advisory Comments**

36. *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.
37. *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.
38. *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.
39. *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.
40. *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.
41. *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.
42. *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.

43. 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.
44. 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.
45. 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 Long Plat approval.
46. 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.
47. Design Review: Design Review Approval will be required for all duplex buildings.

### III. DECISION

Petitioner's application to subdivide the property described herein into ninety-two (92) parcels for future development is hereby **Preliminarily Approved** as outlined in Planning Commission Resolution #21-04 and subject to the conditions set forth in this document.

DATED: \_\_\_\_\_

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Scott Korthuis  
Mayor