

After recording return document to:

City of Lynden  
Planning Department  
300 4<sup>TH</sup> Street  
Lynden WA 98264

**DOCUMENT TITLE:**  
LICENSE AGREEMENT FOR PARKING

**REFERENCE NUMBER OF RELATED DOCUMENT:**  
N/A

**GRANTORS:**  
CITY OF LYNDEN, a municipal corporation

**GRANTEES:**  
UPPER END, LLC

**ABBREVIATED LEGAL DESCRIPTION:**  
LYNDEN NWLY 94 FT OF LOTS 1-2 BLK 11

**ASSESSOR'S TAX PARCEL NUMBER(S):**  
4003202543280000

### **LICENSE AGREEMENT FOR SHARED PARKING**

THIS LICENSE AGREEMENT FOR SHARED PARKING (“Agreement” or “License”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Lynden, a municipal corporation organized under the laws of the state of Washington (“City” or “Lynden”) and Upper End, LLC, a limited liability company organized under the laws of the state of Washington (“Upper End”) (individually, “Party,” together, “Parties”).

WHEREAS, the Vision Statement for the City Comprehensive Plan promotes cooperation between business owners, citizens and city officials to encourage economic vitality in the City; and

WHEREAS, the City Downtown Development Plan calls for economic enhancement of the Historic Business District of Lynden by encouraging diversity and mixed uses, improving

economics for business owners, encouraging joint public/private partnerships, making the Historic Business District attractive to visitors, and increasing the community's tax base; and

WHEREAS, Upper End recently acquired and is in the process of renovating the building/property at 110 5<sup>th</sup> Street, legally described at Exhibit B ("Upper End Property"), which is the benefitted property under this Agreement; and

WHEREAS, the Upper End Property is adjacent to the downtown Historic Business District; and

WHEREAS, there are five (5) existing angled parking spaces located on the north side of the building located at the Upper End Property which are partially on the City Community Center parking lot owned by the City; and

WHEREAS, the legal description of said City Community Center parking lot parcel inclusive of the parking lot is set forth at Exhibit A ("City Parking Lot"), which is the burdened property under this Agreement; and

WHEREAS, the five (5) angled parking spaces immediately north of the building on the Upper End Property and partially within the City Parking Lot have historically been used for parking by businesses located on the Upper End Property; and

WHEREAS, said five (5) angled parking spaces are depicted on Exhibit C ("Five Parking Spaces") and are accessed from the City Community Center Parking Lot by its driveway access; and

WHEREAS, the portion of the City Parking Lot burdened by this Agreement consist of the Five Parking Spaces depicted on Exhibit C; and

WHEREAS the Parties desire to provide for mutual parking for the various uses of their respective properties identified herein; and

WHEREAS, the foregoing recitals are a material part of this Agreement;

NOW THEREFORE IN CONSIDERATION of the mutual benefits to them, the Parties come now and agree as follows:

1. Grant of License. The City grants Upper End a license for purposes of ingress, egress, and nonexclusive possession for standard sized automobile parking purposes in the Five Parking Spaces at the City Parking Lot (“License”). The rights set forth in this License for non-exclusive use of the Five Parking Spaces does not guarantee such parking will be available at any given time, particularly during special events, nor does it provide Upper End the right to modify the spaces or remove or cause the removal of vehicles parked in the Five Parking Spaces. This License does allow for the Upper End to place signage on their property in front of these Five Parking Spaces that indicates that they are reserved daily from 5:00 pm to 8:00 am for use of the Upper End Property residents. The License shall be terminable or revocable only as set forth herein and shall be assignable by Upper End only as set forth herein.

2. Scope. The scope of the License is to allow Upper End patrons to park in the Five Parking Spaces as described herein.

3. This License shall automatically terminate upon the Upper End Property no longer being substantially used for business purposes. In addition, the City may terminate or revoke this License at any time in its sole discretion during the term of this License by providing not less than one hundred eighty (180) days prior written notice.

4. Indemnification. Upper End shall fully indemnify and hold the City harmless from any claims, losses, liabilities, damages, and expenses (including reasonable attorney’s fees) arising out of ingress, egress, use or occupation of one or more of the Five Parking Spaces by an owner, employee, guest, invitee of a guest, agent, contractor, or subcontractor of the owner or operator of the Upper End Property or by any person doing business with the Upper End Property or other commercial or non-profit tenant located at the Upper End Property.

5. Insurance. Upper End shall maintain, at its own expense, for the benefit of itself and the City, insurance against liability for property damage or loss and against liability for personal injury or death, arising from acts or omissions of Upper End, its owners, agents, subcontractors, employees, guests, invitees of guests or person doing business with the Upper End Property or other commercial or non-profit tenant located at the Upper End Property. Prior to the commencement of this Agreement, Upper End shall deliver to the City certificates or binders evidencing the existence of the insurance required herein. Such policy or policies shall name the City as an additional insured and shall contain a provision whereby the City must receive at least

thirty (30) days' prior written notice of any cancellation or reduction in Upper End insurance coverage. In addition, should Upper End be notified or have reason to expect a termination or cancellation action by its insurance company, Upper End will provide the City with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Agreement and cause for termination.

Upper End shall possess the following insurance with coverage amounts not less than as specified below:

<u>Type</u>	<u>Amount</u>
Worker's Compensation	Statutory
Professional Liability	\$ One Million (errors and omissions) (On a claims-made, annual aggregate basis)
General and Excess Liability	\$ One Million per occurrence/ \$ Two Million aggregate

6. Non-Waiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

7. Governing Law and Venue. Any dispute arising out of this Agreement shall be governed by the laws of the State of Washington. Venue shall be in Whatcom County Superior Court.

8. Attorney's Fee and Costs. In the event of any cause of action or litigation arising out of an alleged breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorney's fees and costs from the other Party.

9. Modification in Writing. This Agreement may not be modified or amended except by the written agreement of the Parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement at Lynden, Washington, Whatcom County.

CITY OF LYNDEN:

UPPER END

By Scott Korthuis  
Its Mayor

By Wes Herman  
Its Owner

STATE OF WASHINGTON    )  
  ) §  
COUNTY OF WHATCOM    )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Lynden to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2021.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington. My Commission expires \_\_\_\_\_.

STATE OF WASHINGTON    )  
  ) §  
COUNTY OF WHATCOM    )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of Upper End LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_, 2021.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington. My Commission expires \_\_\_\_\_.

**EXHIBIT A**  
**CITY PARKING LOT**  
**(Community/Senior Center Lot)**

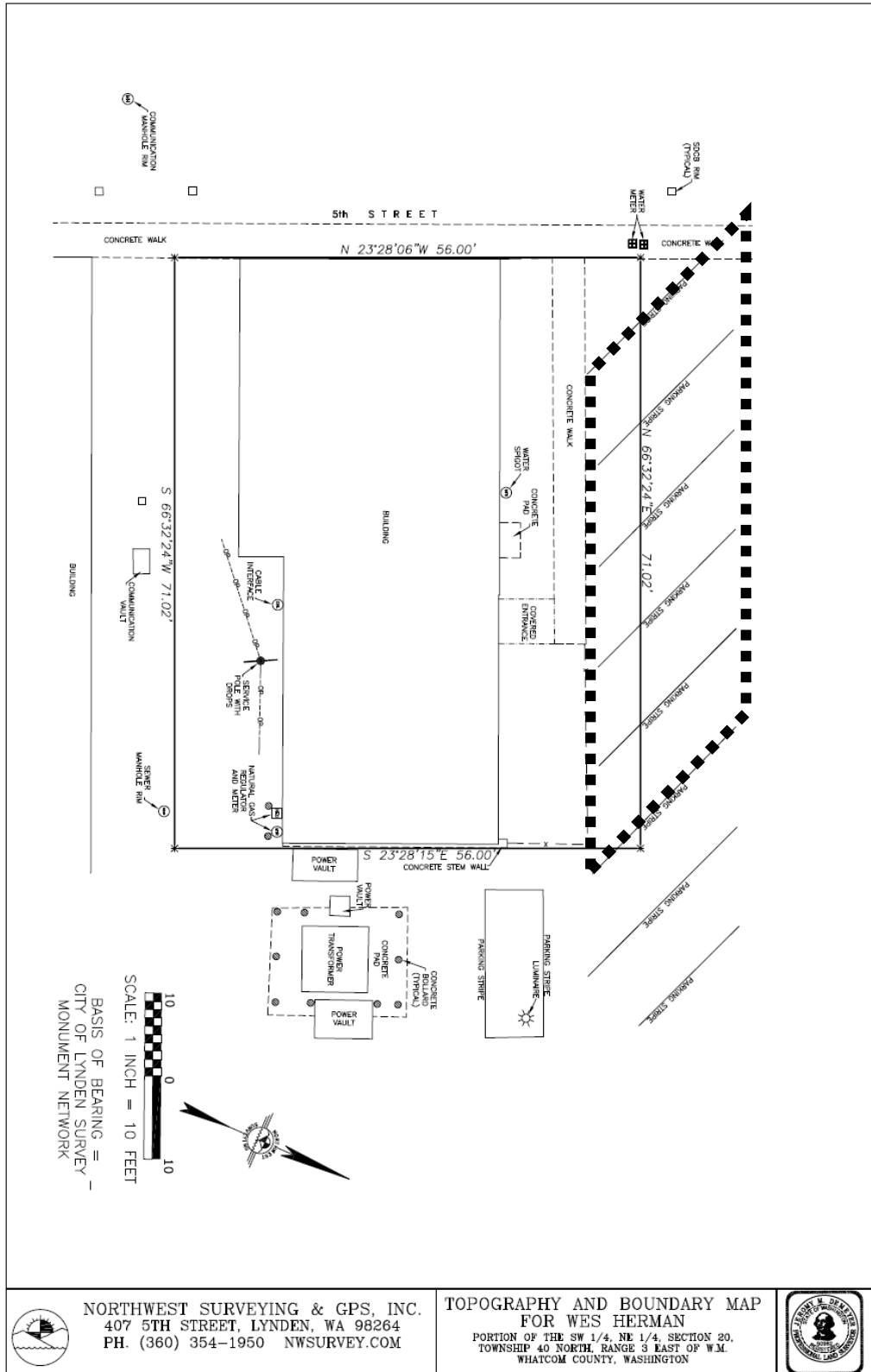
**401 Grover Street: Parcel Number 400320 254328**

The northwesterly 94 feet of lots 1 and 2; the easterly 29 feet of the southerly 56 feet of the northerly half of Lot 2; and the northerly half of lots 3, 4 and 5 all of Block 11 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

**EXHIBIT B**  
**UPPER END PROPERTY**

The south half of Lots 1 and 2 in Block 11 of the Supplemental and corrected Plat of Lynden, as per the map thereof recorded in Book 3 of Plats, Page 48, in the Auditor's office of Whatcom County, Washington. Being within Section 20, Township 40 North, Range 3 East of W.M.

**EXHIBIT C - FIVE PARKING SPACES DEPICTED**



NORTHWEST SURVEYING & GPS, INC.  
 407 5TH STREET, LYNDEN, WA 98264  
 PH. (360) 354-1950 NWSURVEY.COM

TOPOGRAPHY AND BOUNDARY MAP  
 FOR WES HERMAN  
 PORTION OF THE SW 1/4, NE 1/4, SECTION 20,  
 TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.  
 WHATCOM COUNTY, WASHINGTON





