

**ORDINANCE NO. 1624**

**AN ORDINANCE REZONING CERTAIN PROPERTY  
IN THE CITY OF LYNDEN, WASHINGTON**

WHEREAS, the City of Lynden fixed the 17th day of May 2021, as the date to consider the O & S Farms Site Specific Rezone for the following property from Regional Commercial Services (CSR) to Local Commercial Services (CSR).

PARCEL A: A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 2, EAST OF W.M, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINES OF THE GUIDE MERIDIAN ROAD AND COUNTY ROAD NUMBER 51, (FORMERLY KNOWN AS BIRCH BAY LYNDEN ROAD AND NOW KNOWN AS BAY LYN DRIVE); THENCE WEST A DISTANCE OF 533 FEET; THENCE SOUTH, PARALLEL WITH THE CENTERLINE OF SAID GUIDE MERIDIAN ROAD TO THE SOUTH LINE OF SAID QUARTER QUARTER; THENCE EASTERLY ALONG SAID SOUTH LINE A DISTANCE OF 533 FEET, MORE OR LESS, TO THE CENTERLINE OF SAID GUIDE MERIDIAN ROAD; THENCE NORTHERLY ALONG SAID CENTERLINE TO THE POINT OF BEGINNING. EXCEPT THE NORTH 300 FEET OF THE EAST 144 FEET THEREOF.

ALSO EXCEPT BEGINNING AT A POINT WHICH IS 422 FEET WEST OF THE INTERSECTIONS OF THE CENTERLINES OF THE GUIDE MERIDIAN ROAD AND COUNTY ROAD NUMBER 51, (FORMERLY KNOWN AS THE BIRCH BAY LYNDEN ROAD AND NOW KNOWN AS BAY LYN DRIVE); THENCE SOUTH PARALLEL WITH THE GUIDE MERIDIAN ROAD A DISTANCE OF 141 FEET; THENCE SOUTH 49° 00' 00" WEST A DISTANCE OF 83 FEET; THENCE SOUTH 77° 00' 00" WEST TO THE WEST LINE, EXTENDED SOUTHERLY OF THAT PARCEL DESCRIBED IN WHATCOM COUNTY AUDITOR'S FILE NUMBER 9004302009, THENCE NORTHERLY ALONG SAID WEST LINE AND ITS SOUTHERLY EXTENSION TO THE CENTERLINE OF COUNTY ROAD NO. 51; THENCE EASTERLY THE CENTERLINE OF SAID ROAD NUMBER 51; THENCE EASTERLY ALONG THE CENTERLINE OF SAID ROAD NUMBER 51 A DISTANCE OF 92 FEET TO THE POINT OF BEGINNING.

AND EXCEPT THE RIGHT -WAY FOR BAY-LYN DRIVE LYING ALONG THE NORTHERLY LINE THEREOF, EXCEPT ALSO THE RIGHT-OF-WAY FOR GUIDE MERIDIAN ROAD, LYING ALONG THE EASTERLY LINE THEREOF. ALSO, EXCEPT THAT PORTION DEEDED TO THE STATE OF WASHINGTON BY THAT CERTAIN INSTRUMENT RECORDED JUNE 29, 2007, UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2070605388. SITUATE IN WHATCOM COUNTY, WASHINGTON.

PARCEL B: ATRACT OF LAND IN SECTION 25, TOWNSHIP 40 NORTH, RANGE 2 EAST OF W.M, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER OF THE INTERSECTION OF THE GUIDE MERIDIAN ROAD AND COUNTY ROAD NO. 51; THENCE WEST ALONG THE CENTERLINE OF SAID ROAD NO. 51, 144 FEET THENCE SOUTH 300 FEET PARALLEL TO THE CENTER LINE OF GUIDE MERIDIAN ROAD; THENCE EAST 144 FEET PARALLEL TO ROAD NO. 51; THENCE NORTH 300 FEET TO THE POINT OF BEGINNING. EXCEPT THEREFROM THE GUIDE MERIDIAN ROAD AND BAY-LYN DRIVE LYING ALONG THE WESTERLY LINE THEREOF.

ALSO EXCEPT THAT PORTION DEEDED TO THE STATE OF WASHINGTON BY THAT CERTAIN INSTRUMENT RECORDED JUNE 29, 2007, UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2070605388. SITUATE IN WHATCOM COUNTY, WASHINGTON.

**COMMONLY DESCRIBED AS:** 8035 Guide Meridian, Lynden.

WHEREAS, the subject parcel is approximately 5.66 acres and has property zoned Regional Commercial Services (CSR) to the north, Residential Multi-Family (RM-2) to the west, State Highway (SR 539) to the east and the city limits to the south.

WHEREAS, the Proponents have provided the City with an affidavit for the posting of the notice of application and public hearing in three locations near the Property, and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the Property; and

WHEREAS, the Lynden Planning Commission held a virtual public hearing on January 28, 2021, via Microsoft Teams to accept public testimony on the proposed Rezone request, and that meeting was duly recorded;

WHEREAS, on January 28, 2021, the Lynden Planning Commission voted to recommend denial of the proposed Fishtrap Creek, LLC / O&S Farms Site Specific Rezone request.

WHEREAS, on February 5, 2021, the Lynden Planning Department received a letter from Stoel Rives, Attorney representing Fishtrap Creek LLC., noting concerns related to procedure and substance during the Planning Commission hearing held on January 28, 2021,

WHEREAS, on April 5, 2021, The Lynden City Council voted to remand the Fishtrap Creek, LLC / O&S Farms Site Specific Rezone request back to the Planning Commission to hold a new, complete open record hearing fully conforming to 17.09.040 (B).

WHEREAS, on April 22, 2021, the Lynden Planning Commission held a virtual public hearing, via Microsoft Teams to accept public testimony on the proposed Rezone request, and that meeting was duly recorded. At that hearing, the Lynden Planning Commission voted to recommend approval of the proposed Fishtrap Creek, LLC / O&S Farms Site Specific Rezone request as outlined in Planning Commission Resolution #21-05.

WHEREAS, on May 17, 2021, the Lynden City Council did convene and inquire into the proposed change of zone, and has determined to grant the rezone request as submitted; and

WHEREAS, after careful consideration of the record for the O & S Farms Site Specific Rezone request, the Lynden City Council enters the following Findings of Fact regarding the proposed rezone, provided the conditions set forth in Section 2 herein are met;

1. Notice. Proper notices of the hearing were published and posted within the vicinity of the property as required by law.
2. Location. The subject property is located at 8035 Guide Meridian, Lynden, in Whatcom County, Washington.
3. Ownership. Petitioner, Fishtrap Creek, LLC. is the owner of the subject property.
4. Request. Petitioner requests that the subject property be granted a site-specific rezone from Regional Commercial Services (CSR) to Local Commercial Services (CSL).
5. Reason for Request. The rezone will provide an opportunity for infill within the City of Lynden.
6. Change in Conditions: The shift in commercial zoning descriptions will assist with the declining need for retail spaces, and the advantage that additional residences in this location will have.
7. Comprehensive Plan and City Code. The proposed rezone is consistent with the Comprehensive Plan land use designation for the property; it is consistent with and satisfies applicable city codes, including LMC 17.09.040 (C); and it will further the goals of the Lynden Comprehensive Plan.
8. Public Health and Safety. The proposed rezone will promote the health, safety, and welfare of the community.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Lynden, Washington, as follows:

Section 1: The zoning map of the City of Lynden and Ordinance No. 1624 adopting said zoning map are hereby amended to rezone the Property to CSL (Local Commercial Services).

Section 2: This rezone is granted subject to the following condition:

Approval of the O & S Farms Site Specific Rezone is subject to the findings, conditions and recommendations of the Technical Review Committee Report dated January 25, 2021.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 4: Any ordinance or parts or ordinances in conflict herewith are hereby repealed.

Section 5: This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, if approved, and acknowledgment by the Petitioner, otherwise as provided by law, five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR on the \_\_\_\_\_ day of \_\_\_\_\_, 2021

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M A Y O R, Scott Korthuis

ATTEST:

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CITY CLERK, Pamela Brown

APPROVED AS TO FORM:

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CITY ATTORNEY, Robert Carmichael

