

Pepin Creek Financial Mitigation Strategies Study

City of Lynden | 2021-02-11

Introduction

This study examines two different financial instruments to pay for capital improvements with the Pepin Creek Subarea. These two financial tools include State Environmental Policy Act (SEPA) mitigation fees and a Local Improvement District (LID).

The Pepin Creek Subarea Plan addresses planned growth for an area that is largely in the City's Urban Growth Area (UGA) and partially in agricultural use. The Subarea, described further under Background below, would develop with low and medium density residential uses. Planned improvements included a creek realignment and restoration and road improvements.

The cost to implement the creek realignment and restoration, together with the cost for other infrastructure to serve this subarea has been identified in the Subarea Plan adopted in 2020. A range of funding tools are considered in the plan, but at a high level. Since the time the Plan was adopted, redesign of some of the road and creek improvements has occurred. The City engaged a consulting team lead by BERK Consulting to further explore two possible financing mechanisms: mitigation fees under the State Environmental Policy Act (SEPA) and a Local Improvement District (LID) addressing the improvements as redesigned.

SEPA MITIGATION FEES

The City requested an examination of the requirements for implementing a SEPA mitigation fee program for the Pepin Creek Subarea. Specifically, this study is the results of an analysis of which properties are eligible for SEPA mitigation fees due to potential adverse environmental impacts on both the natural and built environments resulting from new development. The analysis provides a fair and defensible way to allocate fees to properties. The resulting SEPA impact fee is a formula-based fee schedule to ensure necessary improvements are implemented to mitigate impacts.

LID

As noted in the attached report by ABS valuation:

An LID is a defined geographical area with a specific improvement of a public nature which provides a special benefit to the real property within its boundaries. The increase in market value of each ownership provides for a portion of the cost of improvements to be paid by the property owners of the benefited property over a period of time, usually 10 to 20 years.

LIDs capture localized positive benefits of public investment and have property owners pay back the public for the investment such as in road improvements identified for the Pepin Creek Parkway and creek improvements. The underlying principal is that LIDs improve property values using public monies, and those increased property values are realized only by the property owner (public money used for private gain). LID formation is a complex process and must first be demonstrated to be financially feasible.

Background

In early 2020, the City of Lynden adopted a 20-year development plan for the Pepin Creek Subarea. Given flooding and stormwater concerns and the need to plan more directly for future land use and infrastructure, the City enacted a development moratorium for the incorporated portion of the property in 2016. The moratorium has been extended multiple times as the City considers development options.

The *Pepin Creek Subarea Plan* was prepared and adopted by 2020 as part of the response to the needs of Lynden and the study area, and charts the course of growth. The plan proposes low and moderate density residential development consisting of standard and small lot single family development, cottages, townhomes, and limited areas of multifamily development. Parkland, trails, and road improvements are proposed.

The subarea has substandard roads, and improvements are needed. The subarea is also the site for the restoration of Pepin Creek which involves the realignment of the creek from drainage channels along Double Ditch Road and Benson Road into a more natural channel that provides better wildlife habitat, flood control, and a recreational amenity. As part of the improvements the creek was to be realigned. Due to the cost and feasibility of the creek realignment alternative improvement designs have since been proposed resulting in Pepin Creek “lite” improvements involving a Pepin Creek Parkway and other associated improvements. The “lite” improvements focus on addressing road infrastructure needs, and to the extent needed a creek realignment to accomplish the road project.

The cost to implement the creek realignment and restoration, together with the cost for other infrastructure to serve this subarea has been identified in the adopted Subarea Plan. A range of funding tools are considered in the plan, but at a high level. The City engaged a consulting team lead by BERK Consulting, Inc. to further explore two possible financing mechanisms: mitigation fees under the State Environmental Policy Act (SEPA) and a Local Improvement District (LID).

Since adopting the Plan, the City has refined the designs and associated costs for system improvements needed to support development. Exhibit 1 is a list of the identified creek and capital investments within the subarea as refined for the “lite” improvements. The City is exploring two options, one with a vehicular bridge crossing at Pine Street and one with a pedestrian only bridge. The bridge is outside the Subarea and the determination will not affect this study.

Exhibit 1. Identified Pepin Creek Lite Capital Investments (2020\$, Rounded to the Nearest \$1,000)

Name	Pine Street Vehicular Bridge	Pine Street Pedestrian Bridge
Creek Capital Improvements		
Pepin Creek Main Stem	\$8,136,000	\$8,136,000
Pepin Creek East / West Connection	\$1,508,000	\$1,508,000
Pepin Creek Downstream of Main St.*	\$3,439,000	\$3,439,000
Double Ditch Rd. Cross Culvert	\$793,000	\$793,000
Creek Subtotal	\$13,876,000	\$13,876,000
Traffic Capital Improvements		
Benson Rd. Pedestrian Improvements – South*	\$268,000	\$268,000
Main St. Bridge* (funded)	\$3,012,000	\$3,012,000
Pine St. Bridge*	\$2,808,000	\$695,000
Double Ditch Roadway Improvements	\$5,019,000	\$5,019,000
Benson Rd. Pedestrian Improvements – North	\$356,000	\$356,000
Benson Roadway Improvements	\$4,784,000	\$4,784,000
Pepin Parkway Bridge	\$2,651,000	\$2,651,000
Pepin Parkway Roadway Improvements	\$5,882,000	\$5,882,000
Main St. / Double Ditch Rd. Intersection Improvements	\$1,344,000	\$1,344,000
Traffic Subtotal	\$26,124,000	\$24,011,000
Total	\$40,000,000	\$37,887,000
Total Excluding Projects Outside Pepin Creek Subarea	\$30,473,000	\$30,473,000
Total Projects Outside Pepin Creek Subarea	\$9,527,000	\$7,414,000

Note: Starred projects denoted those that are outside the Pepin Creek Subarea but would still be required to be implemented and may require other funding sources including public funds by the City.
Sources: BERK, 2020; Reichhardt & Ebe, 2020.

The Pepin Creek Subarea Plan describes the zoning used within the Subarea. Summaries of each are included for reference:

Residential Single Family – 72 (RS-72) zoning is the lowest density development within the Subarea, requiring a minimum lot size of 7,2000 sq. ft. (2-4 units per acre).

Residential Mixed Density (RMD) zoning allows lower density development with minimum lot sizes of 6,000 sq. ft. for detached homes and 4,000 sq. ft. for attached homes (4-8 units per acre). As built in other areas within the City, RMD promotes med single-family and duplex housing.

Residential Multi-Family Pepin Creek (RM-PC) zoning is unique to the Subarea and allows for a mix of housing and lot sizes (8-12 units per acre).

Residential Multi-Family 3 (RM-3) zoning also allows a variety of housing and lot sizes but with higher density (12-16 units per acre). RM-3 is reserved for location near park and trail features that counter the development density with openness and recreation amenities.

Exhibit 2 shows the development densities for all four residential zoning types in use within the Subarea. For each residential zoning type, Exhibit 2 includes the theoretical minimum, theoretical maximum, and the analysis maximum, and theoretical midpoint. As neither the minimum or theoretical maximum are likely to match the densities in the final developed Subarea, the analysis maximum and the theoretical midpoint

are closer to the expected densities. The theoretical midpoint was used for development scenario calculations in the rest of this study.

Exhibit 2. Subarea Zoning Residential Development Densities

Zone	Theoretical Minimum	Theoretical Maximum	Analysis Maximum	Theoretical Midpoint
RMD	0	10	7.5	5
RS-72	0	5	4	4
RM-PC	0	12	9	6
RM-3	0	16	12	8

Sources: BERK, 2020.

Over the course of this study, the Subarea development estimates were updated from what appeared in the Subarea Plan. The theoretical midrange, theoretical maximum, and analysis maximum units all increased compared to the Subarea numbers. See Exhibit 3.

Exhibit 3. Pepin Creek Subarea Development Estimates by Development Type

Development Type	Developable Acreage	Theoretical Minimum	Theoretical Maximum	Analysis Max	Theoretical Midrange
RS-72	93.4	0	467	373	373
RMD	127.1	0	1,271	953	635
RM-PC	59.1	0	710	532	355
RM-3	27.2	0	435	307	205
Commercial Overlay RM-3*	1.6	0	25	0	13
Total***	306.8	0	2,882	2,166	1,568**
Average Density (units/acre)		-	9.4	7.1	5.1

Notes: *The Commercial Overlay RM-3 does not add to the total and was excluded for calculations throughout this study.
 ** When modelled by Transportation Analysis Zone, the units were rounded to 1,570.
 *** Totals may not sum due to rounding.

Sources: BERK, 2020, using: City of Lynden, 2020; Communita, 2020.

The share of growth in the city limits portion of the study area is about one third of the total study area and is listed below in Exhibit 4.

Exhibit 4. Updated Pepin Creek Subarea Development Estimate – City Limits Only

Development Type	Developable Acreage	Theoretical Minimum	Theoretical Maximum	Analysis Max	Theoretical Midrange
RS-72	27.63	0	138	111	111
RMD	0.00	0	0	0	0
RM-PC	41.18	0	494	371	247
RM-3	12.76	0	204	153	102
Commercial Overlay RM-3	0.00	0	0	0	0
Total	81.58	0	837	634	460
Average Density (units/acre)		-	10.3	7.8	5.6

Notes: The Commercial Overlay RM-3 does not add to the total and was excluded for calculations throughout this study. Totals may not sum due to rounding.

Sources: BERK, 2020, using: City of Lynden, 2020; Communita, 2020.

Maps illustrating the location of the Subarea Plan boundaries, the zoning, and conceptual road and creek improvements are shown in Exhibit 5 and Exhibit 6.

Exhibit 5. Pepin Creek Subarea Map: Current Use, Proposed Zoning, and Conceptual Planned Improvements

Current Use: Subarea & UGA Boundaries



Subarea Proposed Zoning and Marsh



Planned Capital Improvements



Key

Boundaries and Infrastructure

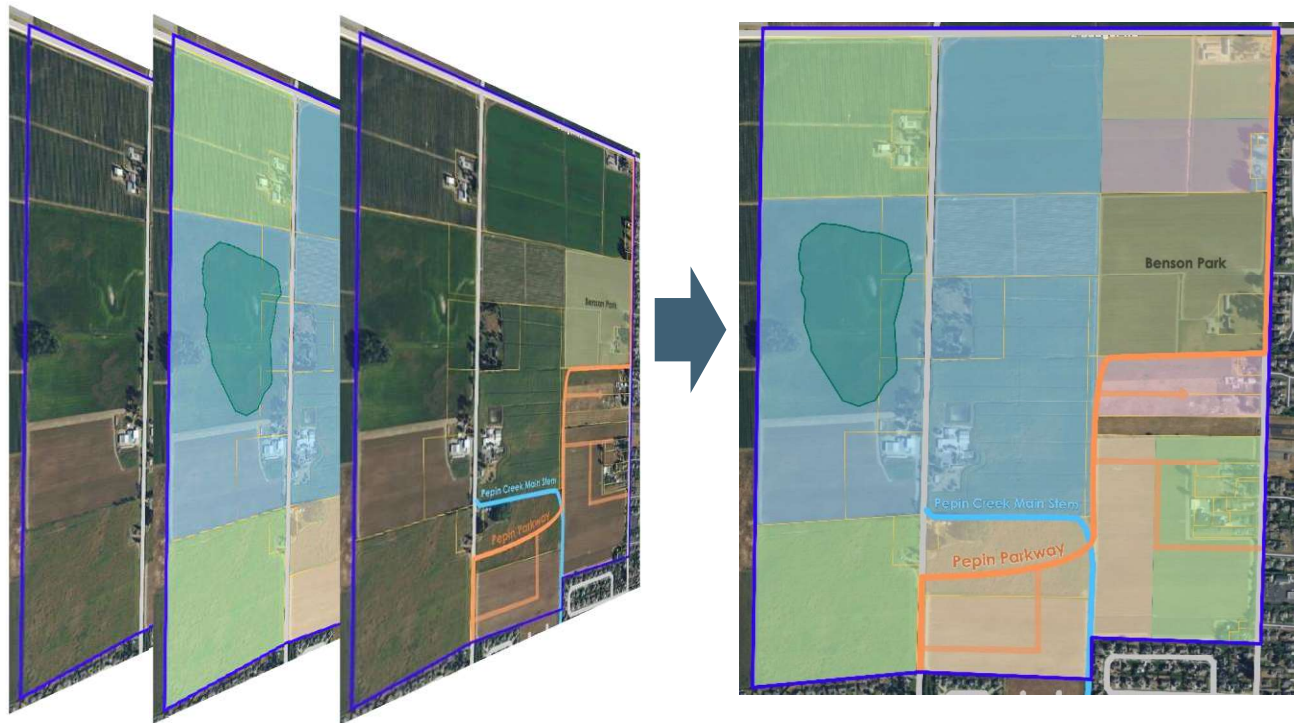
- ▶ Subarea Boundary
- ▶ Urban Growth Area Boundary
- ▶ Realigned Creek
- ▶ New Roads

Area Zoning Key

- RS-72
- RMD
- RM-3
- PM-PC
- Park
- Reserve
- Wetlands
- Developed Park

Note: For the full list of improvements, see Appendix A: Pepin Creek Light Improvements.
Sources: BERK, 2021 using: Lynden, 2020; Communita, 2020; Apple Maps, 2021.

Exhibit 6. Planned Subarea Final Development



Sources: BERK, 2021 using: Lynden, 2020; Communita, 2020; Apple Maps, 2021.

Methodology

This study examines two different financial instruments that are based on two very different ideas. SEPA mitigation fees are collected to mitigate the impacts to various aspects of the natural or built environment. LIDs are designed to capture back increased property values that are accrued by private property owners after the investment of public monies. In other words, SEPA mitigation fees are collected to pay for negative effects to the public from development whereas LIDs are meant to redistribute benefits accrued by private owners. As such, each instrument has its own methodology described with its calculation. However, for consistency, the SEPA mitigation fee analysis and the LID feasibility analysis used the same numbers and assumptions wherever possible.

Both analyses use the same project costs. These costs are a subset of the overall Pepin Creek realignment and transportation capital improvements to reflect those that are specific to the Subarea. Exhibit 7 contains the nine Subarea-specific transportation projects.

Exhibit 7. Subarea-Specific Projects (2020\$, Rounded to the Nearest \$1,000)

Project	Estimated Cost
Creek Capital Improvements	
Pepin Creek Main Stem	\$8,136,000
Pepin Creek East / West Connection	\$1,508,000
Double Ditch Rd. Cross Culvert	\$793,000
Traffic Capital Improvements	
Double Ditch Rd. Roadway Improvements	\$5,019,000
Benson Rd. Pedestrian Improvements – North	\$356,000
Benson Roadway Improvements	\$4,784,000
Pepin Parkway Bridge	\$2,651,000
Pepin Parkway Roadway Improvements	\$5,882,000
Main St. / Double Ditch Rd. Intersection Improvements	\$1,344,000
Total	\$30,471,000

Sources: BERK, 2020; City of Lynden, 2020.

Both analyses assume that the Urban Growth Area (UGA) within the Subarea and outside the current city limits is annexed into the City both in the with and without LID scenarios. This assumption is more specific to the LID analysis as it would directly affect property values; for the SEPA mitigation fee, collecting fees on unincorporated sections would require an intra-local agreement with Whatcom County.

Each analysis also assumes that development within the proposed Subarea is contingent upon the system improvements, and that in order to provide the redesigned transportation improvements and achieve the land use plan, the creek realignment is also necessary.

SEPA Mitigation Fees

SEPA MITIGATION FEE AUTHORIZATION

Passed in 1971, the Washington State Environmental Policy Act (SEPA) requires Washington governmental bodies to consider the environmental impact of actions; in 1977, SEPA was amended to allow governments to condition actions dependent on mitigating adverse environmental impacts (see also WAC 197-11-158).¹ Under SEPA, development above thresholds are subject to review. Generally, development of 4 or fewer dwelling units is exempt from SEPA review, unless a local government adopts flexible thresholds, which Lynden has in its SEPA rules, allowing developments up to 12 units to be exempt.

¹ RCW 43.21C.060; 1971 creation: Senate Bill 545 <https://leg.wa.gov/CodeReviser/documents/sessionlaw/1971ex1c109.pdf?cite=1971%20ex.s.%20c%20109%20%C2%A7%206>; 1977 amendment: Engrossed Substitute Senate Bill 2654 <https://leg.wa.gov/CodeReviser/documents/sessionlaw/1971ex1c109.pdf?cite=1971%20ex.s.%20c%20109%20%C2%A7%207> and further clarified in 1983 Engrossed Substitute Senate Bill 3006 <https://leg.wa.gov/CodeReviser/documents/sessionlaw/1983c117.pdf?cite=1983%20c%20117%20%C2%A7%203>.

SEPA considers a range of natural and built environment topics, including transportation. Where adverse impacts are identified mitigation measures are applied consistent with the City's SEPA substantive authority based on policies, plans, rules, or regulations adopted by the City such as the Comprehensive Plan, Pepin Creek Subarea Plan, and other development regulations. Fees collected to pay for mitigation measures deemed necessary to offset adverse environmental impacts cannot not also be included in GMA impact fee calculations.² The projects considered in this study were not included in the City's 2016 update to its transportation impact fees,³ but should the City decide to include these system improvements in the citywide transportation impact fee, it could no longer levy the SEPA mitigation fee within the Subarea or it would need to create a separate transportation impact fee schedule for the Subarea to assure that developers are not paying twice for the same projects. It should also be noted that under SEPA, the City would only collect fees at the time of development (e.g. plats) that is not exempt from SEPA review. The City can vary its SEPA thresholds by location and may choose to do so if implementing a SEPA mitigation fee in the Pepin Subarea.

TRANSPORTATION

To understand how development within the Subarea is expected to impact the transportation network, there are two generally accepted measurements – trip generation manual, typically the Institute of Transportation Engineers' Trip Generation Manual, or a professional transportation model. This study uses the Whatcom Council of Governments' transportation model for a comparison of expected changes in trips from the proposed mitigation measures. This is consistent with the City's evaluation of the Pepin Subarea Plan and the largely unincorporated UGA LOS standard. Site specific development may use the ITE manual or equivalent means to determine trips where consistent with City plans and codes.

Baseline Conditions

The Subarea Plan described the current road network which remains substantively the same at the time of this study. As described in the Plan, the Subarea currently has a low density of streets reflecting its rural character. The Subarea Plan did not identify public transit service; the Whatcom Transportation Authority bus route 26 has a stop near the intersection of Pine Street and Pine Circle, which comes within 0.1 mile of the lower boundary of the subarea boundary.

At the City's request, the Whatcom Council of Governments (WCOG) conducted an analysis of the baseline traffic associated with the existing transportation configuration. The WCOG estimated the 2016 level of traffic, reflecting the baseline condition used in this study. The transportation network within the Subarea is comparable to that in the 2016 model. In 2016, the City of Lynden enacted a moratorium on development within the incorporated portions of the Subarea, which helps to ensure that the 2016 results remain relevant. The WCOG transportation model estimates the expected number of trips on segments and associates these trips with their origination and end points. Local trips can be differentiated from pass-through trips. The results from this baseline analysis and the 2036 preferred alternative conducted for regional growth including within Lynden and Pepin Lite evaluation are contained in Exhibit 8.

² Use also restricted Lynden Municipal Code 3.46.120, https://library.municode.com/wa/lynden/codes/code_of_ordinances?nodet=3.46.120

³ Although a prior version of one project was included on this list, Pepin Creek New Connection – Badger Road to Main Street Connection, was included on the transportation impact fee list but found to be impact fee ineligible; see City of Lynden, Resolution 958, <https://www.lyndenwa.org/wp-content/uploads/2016/12/RES-958-Transportation-Impact-Fees-20161205.pdf>, p 4, project A-1, 2016.

Measurable Impact

Similar to the baseline condition analysis, the WCOG conducted an analysis of the expected changes to traffic associated with the proposed transportation configuration of the Pepin Lite proposal. WCOG staff tested the new traffic configuration and expected development into the County’s transportation model. The new road configuration required placement of new centroids, spatial lines that direct the model how to direct traffic to the existing road infrastructure. City staff reviewed the positioning of the new centroids and suggested changes as needed. The WCOG model then estimated expected daily flow based on this final development configuration.

Using GIS, BERK associated road segments with developable plots within the Subarea and created an indicator variable to identify segments within the Subarea. This allowed BERK to differentiate between local trips (those trips originating and/or ending in the Subarea) from all other the trips, including those pass-through trips that travel through the Subarea without stopping.

This analysis resulted in an estimated number of trips, which can be compared with current (2016) conditions and the 2016 Preferred Alternative representing the regional growth assumptions in the Whatcom County Comprehensive Plan and Lynden Comprehensive Plan growth allocations at the time. These scenarios and expected trips are shown in Exhibit 8.

Exhibit 8. 2016 Baseline, 2036 Preferred Alternative, and 2036 Pepin Parkway Modeled Transportation Trips

	Baseline: 2016	2036 Preferred Alternative	2036 Pepin Parkway	Growth from 2016 to 2036 Pepin Parkway
Study Area Trips	43,163	69,611	74,143	30,980
Local Trips in Study Area	83	3,896	6,563	6,480
Study Area Local Trips as % of All Study Area Trips	0.2%	5.6%	8.9%	20.9%
Percent of New Local Trips in Study Area	-	-	98.7%	-

Sources: BERK, 2021, using: WCOG, 2020; City of Lynden, 2020; Communita, 2020.

The model results suggest that the expected development in the subarea will result in a significant increase in local trips – from a baseline of 83 to 6,563. 98.7% of the local trips are new; this percentage represents the maximum portion of transportation infrastructure reasonably related to development.

POTENTIAL FEES

Using the estimated impact on the transportation system, BERK calculated a range of potential fees the City could charge for the transportation mitigation measures.

The City can charge up to the amount reasonably related to the development creating the traffic impacts. However, the City can also supplement funding from other sources to help defray costs. The City may elect to account for other mitigation measures implemented by developers as growth occurs within the Subarea. To demonstrate the range of possible fees, BERK applied two additional proportions. Exhibit 9 shows a range of proportional costs, from the complete project costs for reference, the maximum development share (98.7% of the costs), and two scenarios:

- Scenario 2: the City Pays for Benson and Double Ditch Roads improvements (\$9.8M)
- Scenario 3: the City Pays for \$5M of project improvements (exact distribution to be determined)

The total Pepin Creek Lite project costs are included Exhibit 9, along with comparable project costs for the maximum share that could be attributed to development, Scenario 2, and Scenario 3.

Exhibit 9. Project Costs as Potential Proportionate Shares (2020\$, Rounded to the Nearest \$1,000)

Name	Total Project Cost	Maximum Development Share of 98.7%	Scenario 2: City Pays for Benson and Double Ditch Road Improvements (\$9.8M)	Scenario 3: City Pays for \$5M of Improvements
Pepin Creek Main Stem	\$8,136,000	\$8,033,000	\$8,136,000	\$8,136,000
Pepin Creek East / West Connection	\$1,508,000	\$1,489,000	\$1,508,000	\$1,508,000
Double Ditch Rd. Cross Culvert	\$793,000	\$783,000	\$793,000	\$793,000
Double Ditch Roadway Improvements	\$5,019,000	\$4,955,000	\$0	\$5,019,000
Benson Rd. Pedestrian Improvements – North	\$356,000	\$351,000	\$356,000	\$356,000
Benson Roadway Improvements	\$4,784,000	\$4,723,000	\$0	\$4,784,000
Pepin Parkway Bridge	\$2,651,000	\$2,617,000	\$2,651,000	\$2,651,000
Pepin Parkway Roadway Improvements	\$5,882,000	\$5,807,000	\$5,882,000	\$5,882,000
Main St. / Double Ditch Rd. Intersection Improvements	\$1,344,000	\$1,327,000	\$1,344,000	\$1,344,000
Scenario 3 City Contribution				-\$5,000,000
Total	\$30,471,000	\$30,085,000	\$20,668,000	\$25,471,000

Note: Totals may not sum due to rounding.
Sources: BERK, 2021; City of Lynden, 2020.

The City’s level of service (LOS) in Lynden’s Transportation Element⁴ is to maintain a level of service E or better for City intersections and LOS D for county road segments in the UGA. The LOS is based on the Highway Classification Manual measurement for the weekday PM peak hour. The HCM criteria range from LOS A, indicating free-flow conditions with minimal vehicle delays to LOS F. County arterials and collectors within a City’s urban growth area are measured based on volume to capacity (v/c) less than or equal to 0.90.

This report uses trips during PM peak hours to calculate fair share (PM peak hours examined in the model are 3-6 p.m., the same definition used in this study). The WCOG model estimates trips by hour and the same GIS analysis that assigned trips to the subarea was applied to the PM peak trips.

For the purposes of the fee calculation, the capital costs, 24-hour and 3-hour PM Peak Hour trips, and the per trip cost are estimated in Exhibit 10.

⁴ See: Appendix A Transportation Element of the Comprehensive Plan: <https://www.lyndenwa.org/wp-content/uploads/2017/04/Appendix-A-The-Transportation-Element.pdf>

Exhibit 10. Cost Per Trip Calculations

Total Project Cost	\$30,471,000
Project Cost Related to Growth (98.7%)	\$30,085,000
Local Trips in Study Area	6,563
Estimated PM Peak Trips	1,744
Per Trip Project Cost Related to Growth	\$17,251.33

Note: Project costs are rounded to the nearest \$1,000, but the per trip calculation uses the exact project cost estimate.
Source: BERK, 2021.

Exhibit 11 shows the application of the same range of possible proportional shares to the per trip project cost related to growth from For the purposes of the fee calculation, the capital costs, 24-hour and 3-hour PM Peak Hour trips, and the per trip cost are estimated in Exhibit 10.

Exhibit 10 with the base cost per trip for reference.

Exhibit 11. Potential per Trip SEPA Mitigation Fee

Total Project Cost	\$17,472.78
Maximum Development Share of 98.7%	\$17,251.33
Scenario 2: City Pays for Benson and Double Ditch Road Improvements (\$9.8M)	\$11,701.51
Scenario 3: City Pays for \$5M of Improvements	\$14,420.56

Source: BERK, 2021.

As discussed above, the SEPA mitigation fee would be collected in addition to the City’s existing transportation impact fee. Exhibit 12 and Exhibit 13 show the GMA transportation impact fee, SEPA mitigation fee, and total transportation development fees for single family and multifamily, respectively.

Exhibit 12. Single Family Transportation Development Fees: Potential SEPA Mitigation and Existing GMA Impact Fees

	GMA Impact Fees for Single Family Detached Housing	SEPA Mitigation Fee	Total Transportation Development Fee
Maximum Development Share of 98.7%	\$2,111.00	\$17,251.33	\$19,362.33
City Pays for Benson and Double Ditch Road Improvements (\$9.8M)	\$2,111.00	\$11,701.51	\$13,812.51
City Pays for \$5M of Improvements	\$2,111.00	\$14,420.56	\$16,531.56

Sources: City of Lynden, 2016. BERK, 2021.

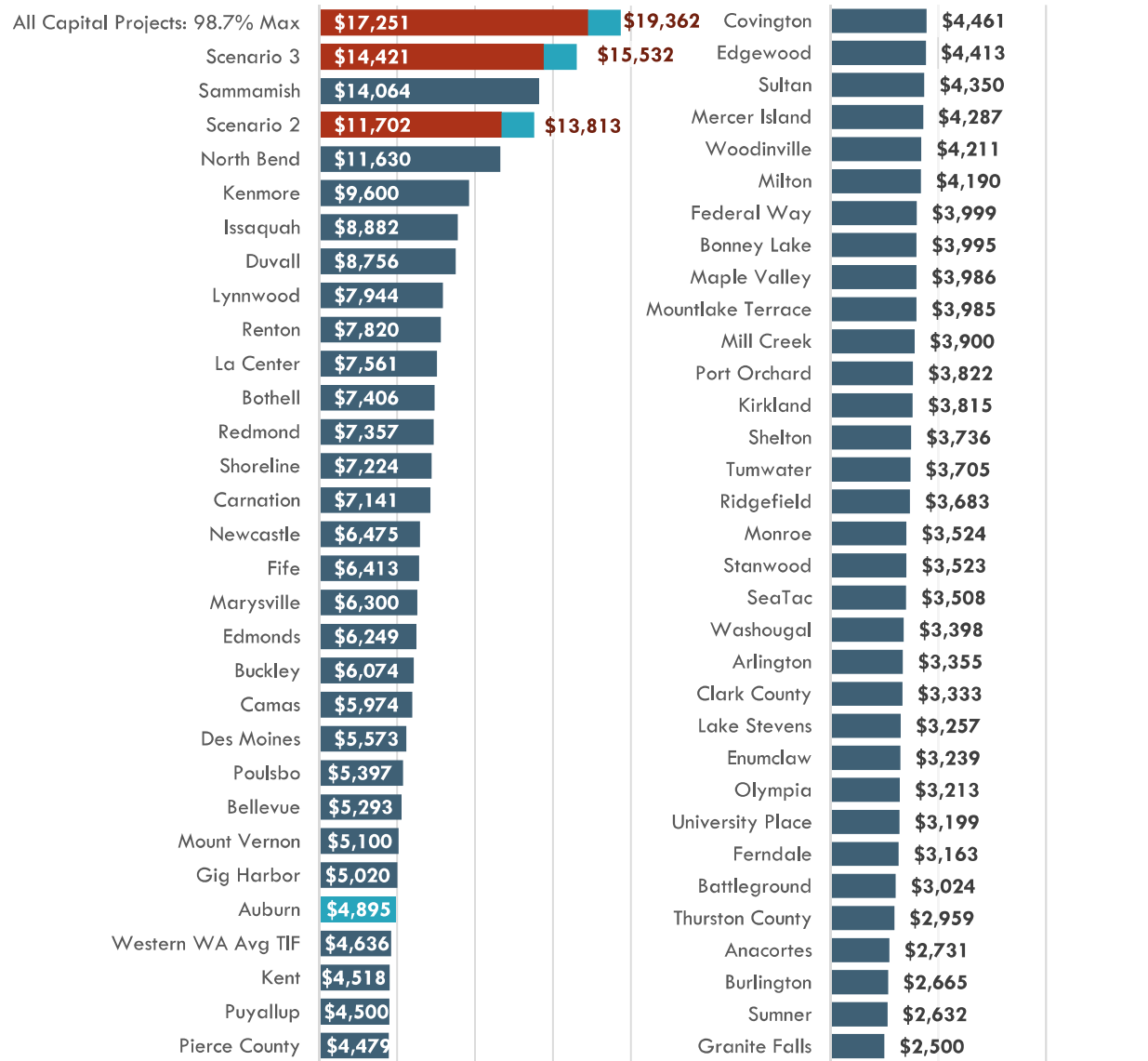
Exhibit 13. Multifamily Transportation Development Fees: Potential SEPA Mitigation and Existing GMA Impact Fees

	GMA Impact Fee for Multifamily Attached Housing	SEPA Fee	Total Transportation Development Fee
Maximum Development Share of 98.7%	\$1,309.00	\$10,695.82	\$12,004.82
City Pays for Benson and Double Ditch Road Improvements (\$9.8M)	\$1,309.00	\$7,254.94	\$8,563.94
City Pays for \$5M of Improvements	\$1,309.00	\$8,940.75	\$10,249.75

Notes: The 2016 transportation impact fee study used the ITE Trip Generation Manual's estimate of 0.62 trips per unit for multifamily; this same trip generation factor was applied to the SEPA fee in the table above.
 Sources: City of Lynden, 2016. BERK, 2021.

The City of Bellingham compiles transportation impact fees for around 80 cities and counties in Western Washington. Comparing the per trip SEPA mitigation fees with the PM peak hour transportation impact fees, Exhibit 14 shows that the maximum development fee would be the highest fee of the compiled rates, before accounting for Lynden's existing TIF of \$2,111.

Exhibit 14. Comparison of Potential SEPA Fees with Western Washington PM Peak Hour TIF (2019-2020)



Note: These are residential single-family PM peak per trip costs. Possible Subarea SEPA fees show the 2021 City of Lynden residential single-family impact fee of \$2,111 as a stacked bar in teal and the total transportation fees in dark red.
 Sources: BERK Consulting, 2021; City of Bellingham, 2019.

Expected Collections

Based on the number of developed units under the Theoretical Midrange (Exhibit 3), BERK estimated the

expected SEPA fee collections for the fully developed Subarea. These estimates are based assumptions around the number of units within each zoning type that will be single family and multifamily. As shown in Exhibit 15, BERK assumed that 35% of the units within the Subarea will be multifamily and thus collect a different per fee

In the City’s 2016 transportation impact fee update, the ITE Average PM Peak Hour Trip Rate for attached and stacked housing is listed as 0.62, less than then the base 1.0 for detached housing. The lower collection rate for multifamily units combined with variability introduced by the complexity of the WCOG transportation results in lower collections than the overall project costs. The expected collections under each of the three fee rates considered in this study along with the base project costs are shown in Exhibit 15.

Exhibit 15. Estimated Collections Based on Theoretical Midrange Unit Development

	SEPA Fees: Single Family	SEPA Fees: Multifamily	Total	Remaining Project Costs
Analysis Midpoint Units	1,008	560	1,568	NA
Collection at Total Project Cost Fee Rate	\$17,612,559	\$6,066,548	\$23,679,107	\$6,791,893
Collection at Maximum Development Share of 98.7%	\$17,389,339	\$5,989,661	\$23,379,000	\$7,092,000
City Pays for Benson and Double Ditch Road Improvements (\$9.8M)	\$11,795,123	\$4,062,765	\$15,857,887	\$14,613,113
City Pays for \$5M of Improvements	\$14,535,929	\$5,006,820	\$19,542,749	\$10,928,251

Sources: BERK, 2021.

Comparable Development Costs

To help indicate whether the planned capital projects will inhibit development, BERK analyzed comparable development costs from other housing and mixed-use developments within the region. The underlying assumption to this analysis is that the costs of existing infrastructure investments are capitalized into the land value. By comparing the fully developed land value for similar existing housing developments with the expected market value of the land within the Subarea plus necessary infrastructure and permitting development costs, some indication of the relative developer burden can be found.

The subarea is 460 acres of which we expect approximately 307 acres to be developable. The remaining acreage is undevelopable for two reasons:

- Infrastructure to support new development will consume a portion of the acreage.
- Some of the land is unsuitable for development due to critical areas (e.g. wetlands).

This undevelopable land, coupled with the variation in development allowable based on the theoretical midrange land use scenario, which assumes 1,568 new housing units for the development, means that not all the land will have the same value. However, as the developer will ultimately be responsible for all the infrastructure, it is to be expected that they will need to factor the cost of all the land into their feasibility assessment. For this reason, the currently undevelopable land is valued as if it is all created equally on a square footage basis.

The 2017 total land value per the Whatcom County Assessor is \$8,172,000. The assessor’s value for these properties is likely to be low for two reasons:

- Whatcom County Assessor’s property assessments are likely conservative, as shown by a comparison of sale values and assessed values. Coupled with the conservative assessment, Whatcom County Assessor’s assessment schedule is to inspect 1/6th of County’s properties annually, leading to a lag in assessment values.
- Both the City of Lynden’s 2016 Comprehensive Plan and the Pepin Creek Subarea Plan will signal to the market that the Pepin Creek Subarea is the next logical site for development in the City of Lynden. The subarea’s updated zoning, which will allow for more intensive development than elsewhere in the City, increases the development potential of the land and its value.

One of the parcels within the subarea, the Bovenkamp property, sold for \$3,500,000, significantly above the Whatcom County Assessor’s assessed market value. On a developable per acre basis, the Bovenkamp property sold for 199% more per acre than the per developable acre value for the Subarea as a whole. Another pending sale is 656% more per acre. To account for this potential undervaluing, BERK used these two values, 199% and 656%, as the lower and upper bounds to estimate the market value of the Subarea developable acreage.

BERK then added the estimated cost of the infrastructure investments needed to make the land developable under City plans and requirements. This infrastructure cost includes regional road improvements beyond those connected to Pepin Creek Lite; inner development roads; water and sewer improvements; stormwater improvements; and utility connection fees. Across the Subarea, these costs are estimated to be \$52,421,000. The maximum developer portion (98.7%) of the Pepin Creek Lite is \$30,085,000; after accounting for a \$3,900,000 grant, the assumed Pepin Creek Lite burden assumed in this analysis is \$26,185,000.

- **Current Infrastructure and Permitting Development Costs.** Developers can buy the land and pay their existing commitments, for a total cost of between \$68,689,000 and \$105,990,000.
- **Infrastructure and Permitting Development Costs Including Pepin Creek Lite.** Developers can buy the land and pay the total infrastructure costs less the existing city commitment, for a total cost of between \$94,874,000 and \$132,175,000.

These analytic bounds and the resulting cost per square foot of developable land are shown in Exhibit 16.

Exhibit 16. Cost per Square Foot of Developable Land for Pepin Creek Lite

	Current Infrastructure and Permitting Development Costs		Infrastructure and Permitting Development Costs Including Pepin Creek	
	Low	High	Low	High
Total Land Value	\$16,268,000	\$53,569,000	\$16,268,000	\$53,569,000
Total Infrastructure Costs	\$52,421,000	\$52,421,000	\$78,606,000	\$78,606,000
TOTAL COST	\$68,689,000	\$105,990,000	\$94,874,000	\$132,175,000
Cost per Square Foot of Developable Land	\$5.10	\$7.90	\$7.10	\$9.90

Note: Square foot costs rounded to the nearest \$0.10 and Subarea totals rounded to the nearest \$1,000.
Sources: Whatcom County Assessor’s Office, 2018; and BERK Consulting, 2021.

The values above present a range of costs for the developable land. For the Pepin Creek Lite project to be feasible under the bounds of the analysis, the value of the land must be greater than its costs, based

on the assumption that developers will not pursue a project unless it is profitable. Since the value of the developable land is not known, the analysis compares the cost of the developable land to the value of land in comparable developments. BERK used the same six comparable developments as identified in the Subarea Plan:

- Homestead – Lynden, WA
- Pacific Highlands – Ferndale, WA
- Pacific Heights – Ferndale, WA
- Skyview – Ferndale, WA
- Douglas Place – Ferndale, WA
- South Douglas – Ferndale, WA

Whatcom County Assessor’s data provides approximate land values for the land in these comparable developments. It is expected that the assessments for these properties also under values the land. However, as the land is already developed and infrastructure costs will be capitalized into the value, unlike the Subarea properties. For the reason, BERK used the Whatcom County Assessor’s market land values for these developments, shown in Exhibit 17.

Exhibit 17. Per Square Foot Land Values for Comparable Developments in Whatcom County

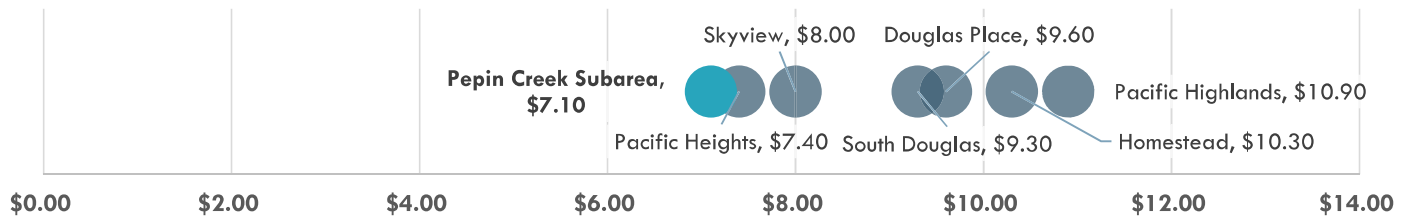
Comparable Development	City	Assessor Market per Square Foot Land Value
Pacific Highlands	Ferndale	\$10.90
Pacific Heights	Ferndale	\$7.40
Skyview	Ferndale	\$8.00
Douglas Place	Ferndale	\$9.60
South Douglas	Ferndale	\$9.30
Homestead	Lynden	\$10.30

Note: Square foot costs rounded to the nearest \$0.10 and Subarea totals rounded to the nearest \$1,000.
Sources: Whatcom County Assessor’s Office, 2018; and BERK, 2018.

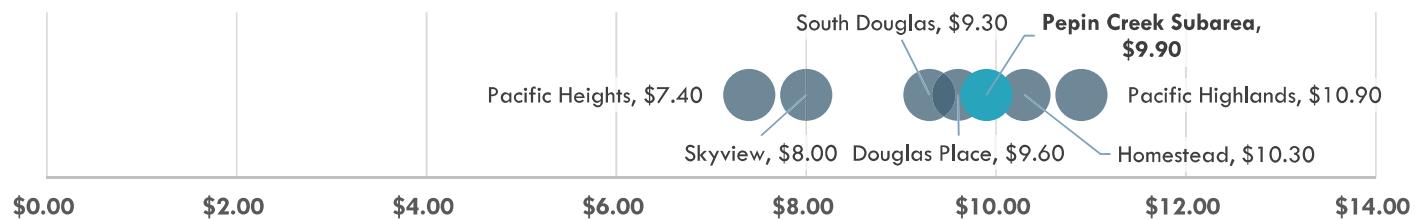
These potential values can then be compared to the per square foot values estimated for the cost of the Pepin Creek Subarea properties (Exhibit 18).

Exhibit 18. Comparison of Pepin Creek Lite Developable Costs to Land Values in Comparable Developments

Low: 199% Adjustment to Subarea Assessed Market Values



High: 656% Adjustment to Subarea Assessed Market Values



Note: Square foot costs rounded to the nearest \$0.10 and Subarea totals rounded to the nearest \$1,000.

Sources: Whatcom County Assessor's Office, 2018; City of Lynden, 2020; and BERK, 2021.

The comparison suggests that the costs of the City's proposed developments for Pepin Creek Lite will result in development costs comparable to costs that developers were willing to pay in past developments. This analysis can only provide an indication of how the costs of the known and proposed development costs compare with existing developments. Ultimately, developers' decisions will be made based on the market conditions at the time of development.

PROCESS/CODE RECOMMENDATIONS

Collecting the fees from unincorporated areas would require annexing the remainder of the Subarea or establishing an interlocal agreement with Whatcom County to enforce City development standards and collect fees. However, the urban zoning would not apply and development would not occur until annexed. Setting the fee to the City's desired level considering the overall development program in the subarea would allow the City to charge its desired fee for the portion in the city limits now and to future annexed areas at that time.

The City could use its SEPA Substantive Authority in LMC 16.05.160 to impose the SEPA mitigation fee. The fee should be rationally related to impacts identified in a threshold determination (e.g. determination of non-significance and checklist).⁵ The recommended steps include the following:

- Incorporate the updated land use estimates due to zoning and integrate the Pepin Creek "Lite" improvements into the Pepin Creek Subarea Plan, Capital Facility Plan, and Transportation Improvement Program. This would ensure internal consistency in City plans and update the capital costs included in those documents. The amendments could be done as part of the City's docket or can be accomplished outside the docket if the Capital Facility Element is amended as part of

⁵ See SEPA – The State Environmental Policy Act under: <http://mrsc.org/Home/Explore-Topics/Planning/Land-Use-Administration/Impact-Fees/Types-of-Impact-Fees-and-Other-Sources-of-Public-F.aspx>

amendments to the City's budget.⁶

- Amend the City's flexible SEPA thresholds at LMC 16.05.070 for residential development in the Pepin Creek Subarea to be 4 units rather than 12 units to ensure as much of the planned development as possible pays for its share of improvements.
- Conduct associated SEPA review with plan and code amendments proposed above, and demonstrate the project provides capacity to support planned growth and supports levels of service (e.g. include WCOG evaluation).
- Reference the amended plans and regulations as part of SEPA substantive authority in LMC 16.05.160.
- Following the legislative amendments above and completing SEPA review, adopt the Pepin Creek Lite Capital Improvements SEPA mitigation fee schedule by resolution.
- Collect fee from development in subarea on a per trip basis.

Under SEPA there are no:

- Statutory time limits on use of fees
- Expiration or refund mechanisms

However, the City could include in the resolution adopting the fees a voluntary process that:

- Identifies collection of fees at time of land use permits (e.g. plats).
- Indicates the City would hold collected fees in an interest-bearing account.
- Credits dedication of improvements that implement the capital projects.
- Allows for inflation adjustments for fees.
- Regularly reviews fees and progress towards the implementation of the Pepin Creek Parkway.

For example, the following SEPA Planned Action Ordinances include transportation mitigation fees for specific subareas and includes a process for how the fees are collected and spent:

- [Lakewood Downtown Planned Action 2018, Exhibit D](#)
- Douglas County [North End Master Site Plan Planned Action, Attachment D](#) Environmental Thresholds (also adopted by the City of East Wenatchee to apply when annexed; adopted ordinance is under amendment to add a cost inflation process)

LID Study and Recommendations

ABS Valuation provided a feasibility assessment of forming a Local Improvement District (LID) consistent with the Subarea boundaries and using the same project list as used for the SEPA mitigation analysis. The LID Study is included in full in Appendix B: Local Improvement District Feasibility. Based on the expected benefit to the affected properties, an LID is either not feasible (costs greater than benefits) or marginally feasible (83% cost/benefit ratio).

⁶ RCW 36.70A.130(2)(a).

Other Options

The Pepin Creek Subarea outlined possible financial measure to pay for the plan capital projects.

GMA TRANSPORTATION IMPACT FEES

As mentioned above, the City updated its transportation impact fees in 2016. At that time, none of the Pepin Creek Subarea projects were found to be impact fee eligible. The City could update the impact fee calculations and incorporate these projects into the impact fee basis. As currently structured, the City levies one fee across the City and unless changed, all new development in the City would be charged for these projects.

MINIMUM DENSITY

The analysis assumes a mid-point of potential growth to set a moderate expectation of growth and not assume all development will occur to the maximum density in the planning period. That means that the amount of fees collected are not overly optimistic. However, to avoid costs and built housing types that are still meeting a market need, it is possible that developers would build to lower than the mid-point density. In this case the City could under-collect fees and have to pay a greater public share inadvertently. To avoid this scenario, the City could set a minimum density to achieve the moderate level of growth anticipated.

Conclusions and Next Steps

Under current economic conditions, formation of an LID is either not feasible or marginally feasible, making it either below the threshold requirements or below advisable conditions for a successful LID. Of the two options explored in this study, SEPA mitigation fees are the more viable.

If a LID were feasible in the future, it would capture all costs of the infrastructure to all benefited property and would not “exempt” some levels of development as the SEPA mitigation fee does, and would capture all costs. However, the SEPA mitigation fee can be implemented now and allow the City to capture nearly all development and would have a straightforward evaluation and legislation process to institute it. It would be a policy choice to set the level of per trip fee in light of other City fees and example impact fees from other jurisdictions if considering development in the subarea as part of a larger marketplace.

Collecting the fees from unincorporated areas would require annexing the remainder of the Subarea or establishing an interlocal agreement with Whatcom County to enforce City development standards and collect fees. However, setting the fee to the City’s desired level considering the overall development program in the subarea would allow the City to charge its desired fee for the portion in the city limits and the annexed areas at that time.

To institute the SEPA mitigation fee, the City would need to amend its Subarea Plan to add in updated land use growth figures, incorporate the Pepin Creek “lite” infrastructure improvements, and prepare a SEPA evaluation and determination documenting the capital improvements mitigation of expected growth. The City would then amend its SEPA exemption levels and rules regarding its substantive authority to apply the mitigation fee in the subarea and adopt the fees by resolution.

Appendix A: Pepin Creek Light Improvements

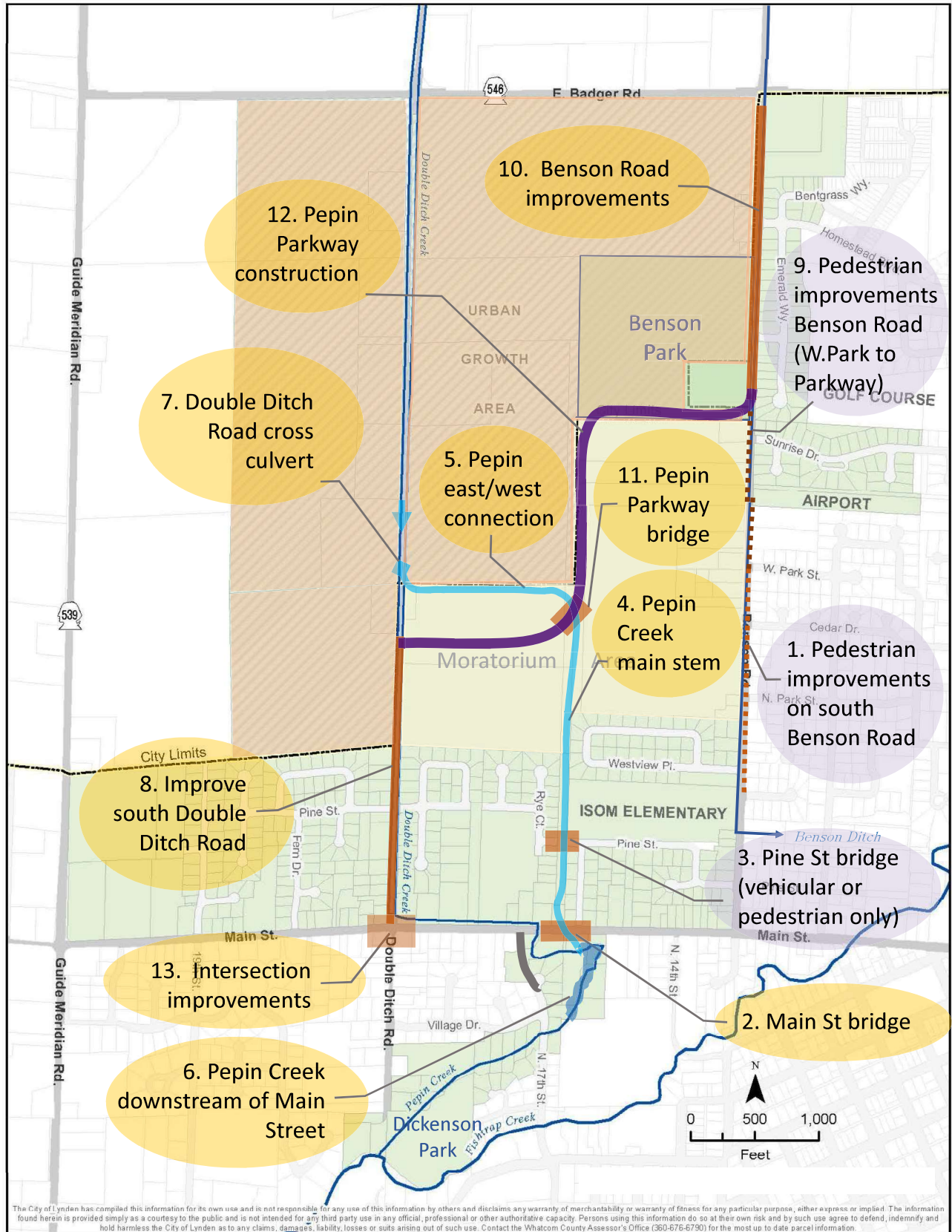
Below is a list of the planned Pepin Creek Light improvements, reproduced from Exhibit 1.

Project #	Name	Pine Street Vehicular Bridge	Pine Street Pedestrian Bridge
Creek Improvements			
4	Pepin Creek Main Stem	\$8,136,000	\$8,136,000
5	Pepin Creek East / West Connection	\$1,508,000	\$1,508,000
6	Pepin Creek Downstream of Main St.	\$3,439,000	\$3,439,000
7	Double Ditch Rd. Cross Culvert	\$793,000	\$793,000
Creek Subtotal		\$13,876,000	\$13,876,000
Traffic Improvements			
1	Benson Rd. Pedestrian Improvements – South	\$268,000	\$268,000
2	Main St. Bridge	\$3,012,000	\$3,012,000
3	Pine St. Bridge	\$2,808,000	\$695,000
8	Double Ditch Roadway Improvements	\$5,019,000	\$5,019,000
9	Benson Rd. Pedestrian Improvements – North	\$356,000	\$356,000
10	Benson Roadway Improvements	\$4,784,000	\$4,784,000
11	Pepin Parkway Bridge	\$2,651,000	\$2,651,000
12	Pepin Parkway Roadway Improvements	\$5,882,000	\$5,882,000
13	Main St. / Double Ditch Rd. Intersection Improvements	\$1,344,000	\$1,344,000
Traffic Subtotal		\$26,124,000	\$24,011,000
Project Total		\$40,000,000	\$37,887,000

Sources: BERK, 2020; Reichhardt & Ebe, 2020.

The next page includes a map created by the City of Lynden showing the location of the above projects. Project numbers in the table above correspond to the numbered improvements on the map on the following page.

Pepin Lite: Fully Improved



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Appendix B: Local Improvement District Feasibility

Attached is the *Economic Feasibility Study: Proposed Pepin Creek Lite Project LID Feasibility* as prepared and submitted by Robert J. Macaulay, MAI at ABS Valuation.