

ORDINANCE NO. 1513

ORDINANCE ESTABLISHING AN EMERGENCY MORATORIUM ON
SUBDIVISION AND PLANNED RESIDENTIAL DEVELOPMENT APPLICATIONS
AND BUILDING PERMIT APPLICATIONS FOR PROPERTY
LOCATED WITHIN THE PEPIN CREEK PROJECT AREA

WHEREAS, on August 19, 2013, the City of Lynden ("City") adopted the April 2009 Amendment to the January 1992 Stormwater Management Plan identifying the "Pepin Creek" project ("Pepin Creek Project"); and

WHEREAS, the Pepin Creek Project includes the relocation and combination of surface water flows from Double Ditch and Benson Ditch between Badger Road and Main Street into one "new" watercourse known as Pepin Creek; and

WHEREAS, the general vicinity of the Pepin Creek Project has experienced instances of extreme flooding in recent years, causing hundreds of thousands of dollars in property damage, closing and damaging public roads and infrastructure, cutting residents off from emergency access, and damaging agricultural land; and

WHEREAS, the Pepin Creek Project is designed to implement a new drainage pattern to protect public roads and public road infrastructure, substantially reduce flooding, facilitate improved storm water control, and provide the ancillary benefit of natural fish and wildlife habitat; and

WHEREAS, the City has completed acquisition of several properties necessary to accommodate the new Pepin Creek corridor; and

WHEREAS, the City must now undertake numerous complex and detailed planning, funding, design, permitting, construction and other associated issues to complete the Pepin Creek Project ("Pepin Creek Project Issues"); and

WHEREAS, Pepin Creek Project Issues include without limitation:

- corridor design and permitting for the Pepin Creek Project;
- infrastructure and utility location, including for stormwater;
- design and permitting options associated with necessary downstream bank stabilization associated with the Pepin Creek Project;
- equitable allocation of system construction costs; and

WHEREAS, that area of the city believed to be affected by Pepin Creek Issues at this time and for purposes of this Ordinance include without limitation the area shown on Exhibit A ("Pepin Creek Project Area"), which is incorporated herein; and

WHEREAS, Ordinance No. 1509, *An Ordinance of the City of Lynden to provide Annexation to the City of Lynden* adopted on June 6, 2016 ("Ordinance No. 1509"), annexed property in the Pepin Creek Project Area into the City of Lynden; and

WHEREAS, Ordinance No. 1509 included a clause stating that the “City has identified the need for the completion of the Pepin Creek project prior to development” of the property annexed into the City; and

WHEREAS, property development within the Pepin Creek Project Area will likely disrupt the City’s ability to effectively address Pepin Creek Project Issues; and

WHEREAS, to assure that Pepin Creek Project Issues are addressed consistent the objectives of the Pepin Creek Project, and with the public health, safety, and welfare of the community, a moratorium on development in the Pepin Creek Project Area is required to allow for proper planning and implementation of the Pepin Creek Project;

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN DOES ORDAIN as follows:

Section 1. Findings of Fact. The City Council adopts the above “WHEREAS” recitals as findings of fact in support of this Ordinance. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Moratorium Established. The City shall not accept applications for any new subdivisions (including both short plats and long plats) or for planned residential developments or for new building permits for property located in whole or in part in the Pepin Creek Project Area, as shown on Exhibit A, for a period of sixty (60) days, or until the City adopts a replacement interim ordinance, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Public Hearing Required. The City Council shall hold a public hearing within sixty (60) days from the date of this ordinance (on or before November 18, 2016) on this or a substitute ordinance that addresses new subdivisions, planned residential developments, building permits and/or related land use development projects in the Pepin Creek Project Area.

Section 4. Emergency Situation. Based on the findings herein, the City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190.

Section 5. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this Ordinance shall control.

Section 6. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED
BY THE MAYOR ON THE 19 DAY OF SEPTEMBER, 2016.


MAYOR

ATTEST:

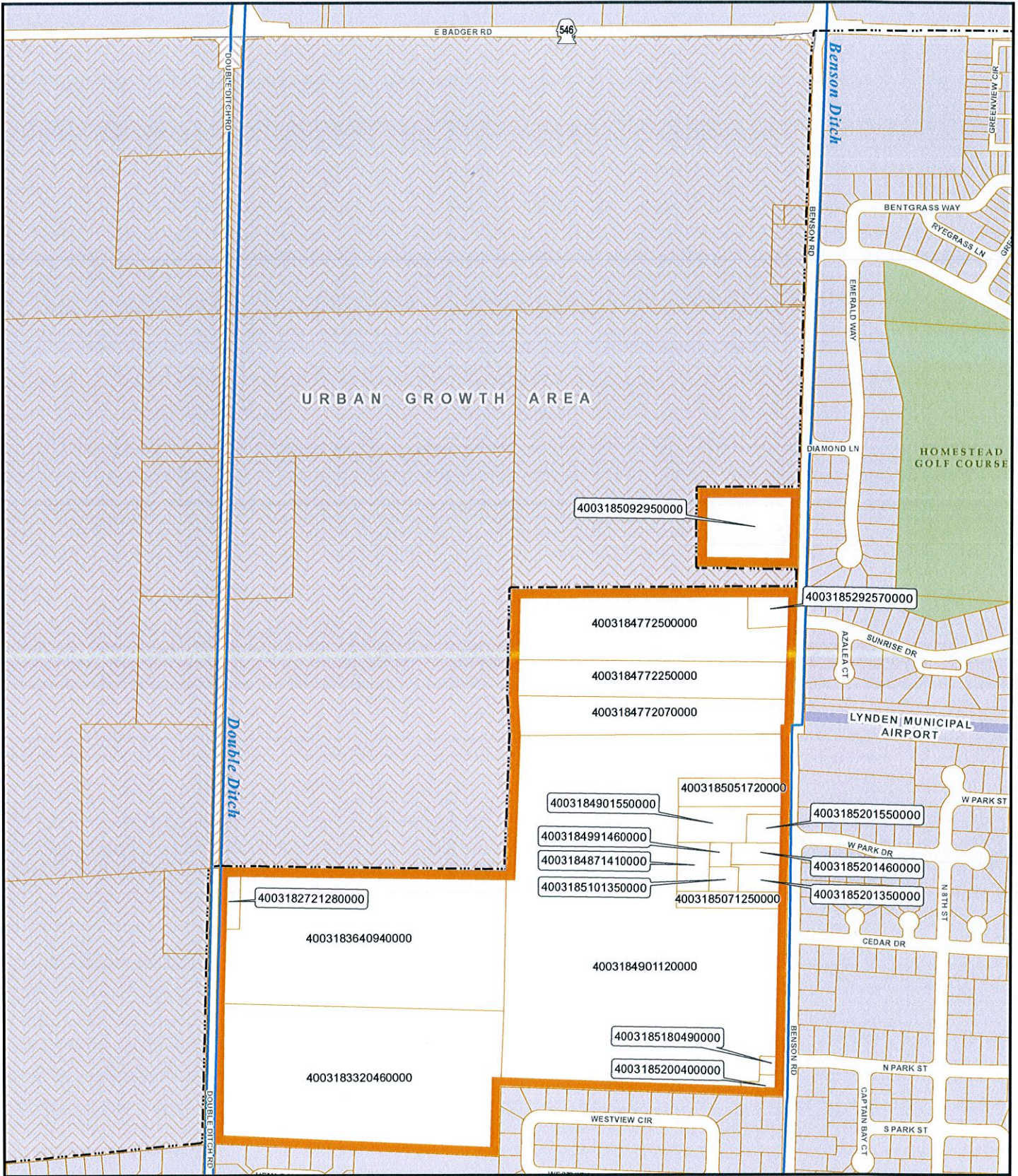

CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

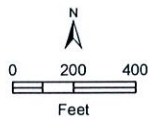
Exhibit A

Properties Located within Pepin Creek Project Area



Map Key

- Properties in Pepin Creek Project Area
- Property Boundaries
- City Limit
- Urban Growth Area (Unincorporated)
- Waterway



Updated: September 19, 2016

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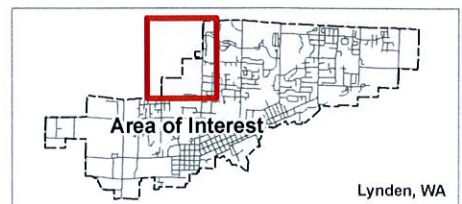
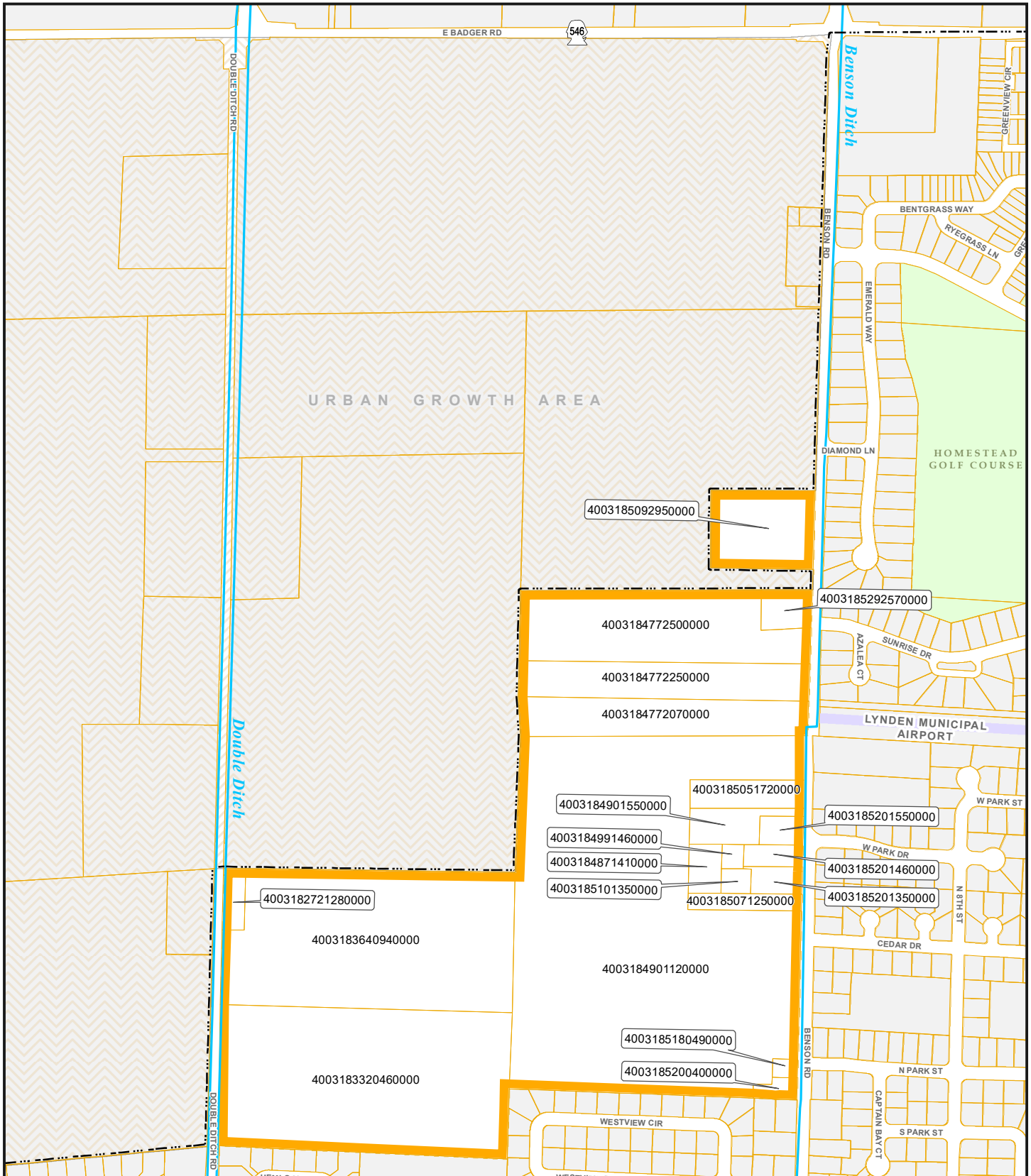


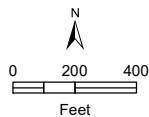
Exhibit A

Properties Located within Pepin Creek Project Area



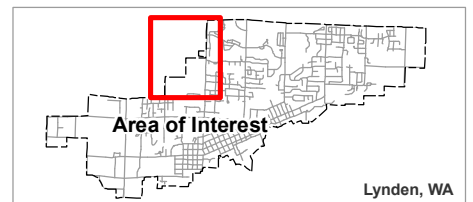
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Lynden, WA