

CITY OF LYNDEN
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE AMENDMENT OF
PRELIMINARY PLAT APPROVAL FOR
Bob Libolt, representative for North
Prairie LLC, TO SUBDIVIDE
PROPERTY

Petitioner

LP #17-04

AMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW, CONDITIONS
and DECISION on PRELIMINARY PLAT
APPROVAL OF LONG PLAT #17-04

LOTS B, C AND D OF THE HAMSTRA-CORNERSTONE LOT LINE ADJUSTMENT, AS
PER THE MAP THEREOF RECORDED UNDER AUDITOR'S FILE NUMBER
2130504378, IN THE AUDITOR'S OFFICE OF WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 8818 Northwood Road, Lynden

North Prairie LLC applied for a subdivision of the above described parcel into 93 residential lots within the RS-72 zone. The Lynden Planning Commission held a public hearing on July 13, 2017 and August 3, 2017, and recommended approval to the City Council through Planning Commission Resolution #17-06. The application came before the Lynden City Council on September 5, 2017 and received preliminary plat approval. On December 5, 2018, the applicant requested an amendment to the preliminary plat approval to allow the plat to be finalized in two phases. Said request, having come before the Lynden City Council on December 17, 2018, and the Lynden City Council having fully and duly considered this discretionary request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Bob Libolt, on behalf of North Prairie LLC ("Property Owners"), has submitted a request to amend the preliminary plat for a subdivision which was granted preliminary plat approval by the City on September 5, 2017.

1.02 Location. The Property is located at 8818 Northwood Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. North Prairie LLC is the Property Owner.

1.04 Request. To introduce a phasing plan for the prior preliminary plat approval subdividing a parcel approximately 23 acres in size into 93 residential lots all located within the RS-72 zone. Two phases are proposed as division one and two. Division one consisting of 60 lots and division two consisting of 33 lots.

1.05 Reason for Request. To allow for final plat approval in phases due to unusual difficulties in completing the originally approved preliminary plat in light of the extensive off-site sewer infrastructure improvements associated with the preliminary plat approval and other financial issues.

1.06 Conformance with Zoning and Comprehensive Plans. The phasing amendment, proposed subsequent to preliminary plat approval, is not specifically addressed by City zoning ordinances, comprehensive plans, or other applicable City development regulations and falls within the discretionary authority of the City Council. Each phase (division) as conditioned herein, is consistent with City zoning ordinances, comprehensive plans and other applicable City development regulations

1.07 Compliance with General Requirements for Subdivision Approval. The entire long plat, complies with Chapter 18.06 LMC, General Requirements for Subdivision Approval, as applicable.

1.08 Compliance with Lot and Plat Design Standards. The entire long plat, 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 entire long plat 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 entire long plat makes appropriate provisions for public health, safety and general welfare.

1.11 Open Spaces, Streets, Roads, Sidewalks and Alleys. The entire long plat makes appropriate provisions for public open spaces, roads, streets, sidewalks and alleys.

1.12 Potable Water Supplies, Sanitary Wastes and Drainage Ways. The entire long plat makes appropriate provisions for public drainage ways, potable water supplies and sanitary wastes.

1.13 Public Interest. The entire long plat results in gradual 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 with the initial preliminary plat application and requires no further review.

1.15 SEPA Determination. Environmental review of the initial preliminary plat application has been made under the requirements of WAC 197-11 and a mitigated determination of non-significance has been made. The amendment proposes no additional impacts.

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:

CONDITIONS

Any approval of the Applicant's preliminary plat amendment shall be subject to the conditions as listed below:

Phasing Requirements:

1. Right of way dedications to the City of Lynden for the entirety of the long plat must be made prior to the final plat approval of division one. This includes dedications from property not owned by North Prairie LLC. It shall be North Prairie's responsibility to obtain said dedications in a form approved by the City of Lynden from the owners of lots A and B of the TK Williams Short Plat. Improvements to division two right-of-ways will not be accepted by the City until completed to standard.
2. Emergency access must be provided to extend Snowbush Street to the dead-end stubs of Currant Street and Brome Street. Access shall be 24 feet in width with a minimum of 20 feet hardened surface capable of supporting fire apparatus. Said emergency access shall be available for use until final plat approval for division 2. In the event an alternate emergency access is necessary, North Prairie may seek approval from the City of Lynden for an alternate emergency access. Access to the general public must be restricted by a method approved by the City of Lynden Fire Department such as fencing, blockade, or bollards. Emergency access to be noted on the face of the division one plat.
3. Fire hydrant locations must be located to provide full coverage to all lots within division one and division two. Locations to be approved by the Fire Department prior to final plat approval of division one and division two.
4. Vehicle turn around area, consistent with the dimensions of the City of Lynden Engineering Design and Development Standard for temporary hammer head (Figure 4-12) and easement to the City for said hammer head, must be provided at the end of Snowbush Street and Brome Street and noted on the division one plat drawings. Turn around areas and easements shall be removed upon completion of division two.
5. Provide additional road name for north/south portion of most easterly road. This street may not continue as Brome as noted in the original TRC Report. See also Public Works comments below.
6. Water lines required herein must be dedicated to the City prior to final plat approval for Division One.
7. Staff understands that Division One lots will be numbered 1-60. Division Two lots will be numbered 1-33.
8. Applicant must obtain signatures from all property owners for final plat approval for Division one.

Standard Requirements:

The following requirements are standard for all development projects.

9. The construction drawings for any improvements in each of the two phases will 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 (EDDS), 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.
10. There is a review deposit of \$200 per lot, \$2,000 minimum, to review the civil construction plans and a plat construction inspection deposit of \$350 per lot, \$5,000 minimum, due prior to review and construction respectively.
11. A post construction maintenance bond in the amount of 10% of the construction costs will be required prior to final plat approval of each of the two divisions.
12. A 150% performance bond is required for all work in the City's right-of-way or on city owned property, except for work in those City rights of way being dedicated to the City at the time of final plat approval for Division one for completion of Division two improvements.
13. 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.
14. 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 from September 5, 2017, 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.
15. All addressing must follow the requirements of the Lynden Municipal Code.
16. Transportation impact fees plus half of the fire and park impact fees for each phase are due prior to final plat approval of said Division. Calculation of those fees will be done at the time the applicant submits final check prints and lot closures in accordance with the municipal code. Credit may be granted for offsite roadway improvements made to Northwood Road.
17. North Prairie LLC will obtain and maintain in force at least the following minimum insurance coverages covering all construction activity taking place within the City of Lynden right of way, and as to which the City of Lynden shall be named as additional insured (with any endorsement required by the policy): Worker's Compensation: Statutory Amount; Broad Form Comprehensive General Liability: \$1,000,000 per occurrence \$2,000,000 aggregate; Automobile Liability: \$1,000,000. Said insurance shall be primary and noncontributory with any other insurance for which the City is a

named insured. All insurance coverages required under this License shall include a waiver of subrogation against the City for losses arising from work performed by or for North Prairie LLC. An insurance certificate showing the coverage required under this section will be submitted to the City for approval at least annually. Said policy shall not be cancelled or modified without 30 days written notice to City prior to any cancellations or modifications.

Specific Project Comments from the Technical Review Committee:

Planning and Development

18. *Plat Drawings:* Applicant to provide a draft of all Division 1 and Division 2 plat pages including proposed notes and restrictions prior to final plat approval for each phase.
19. *Housing Types:* The area to be developed in this application is located within a Single Family Residential zone (RS-72). As part of the RS-72 zone, only single family units are permitted on lots with a minimum of 7200 square feet and up subject to the development requirements listed under 19.15.060 and 19.15.070 of the Lynden Municipal Code.
20. *Minimum Lot Size:* The lots proposed in this subdivision meet the minimum lot size requirements with parcels that range from 7200 square feet to 20,313 square feet. Per Section 19.15.060, lot coverage shall not exceed 35% for each lot.
21. *Lot width:* Per 18.14.010, the minimum frontage of each lot must be at least 50 feet. Lots on a cul-de-sac require a minimum frontage of 40 feet but meeting a 50 width at the front setback line. Please demonstrate minimum frontage on lots at the north end of Currant Street or revise as needed.
22. *Utility Easements:* Per 18.14.075, a 5-foot utility easement is required around the interior property line of all lots.
23. *Plat Circulation System:* Per 18.14.100(C), a maximum of one lot per 25 lots, or portion thereof, can be accessed via access easement rather than public right-of-way. Four lots accessed via easements at the north end of D Street (as named in the original preliminary plat map accompanying the original application), as permitted per code. This ratio is calculated on the whole of the North Prairie Phase 7 Long Plat rather than each Division.
24. *Parking:* Per Chapter 19.51.040 of the LMC, a minimum of 2 parking stalls is required per 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.
25. *Street Trees:* Be advised, per Section 18.14.120, the developer will be required to provide street trees within the dedicated public utility easement adjacent to the street, preferably between the curb and the sidewalk.

- a. There shall be a minimum of one tree per lot with a maximum of one hundred feet between trees.
 - b. Street trees shall not be located within 35-feet of any corner / intersection.
 - c. Maintenance of street trees shall be the responsibility of the adjoining property owner.
26. *Resolution of Encroachments:* Any fence or building encroachments within proposed rights-of-way must be removed prior to dedication to the City of Lynden and final plat approval. This is especially relevant to the south end of Ninebark Street right-of-way and Brome Street right-of-way.
27. *Archaeological Resources:* Compliance with all applicable laws pertaining to archaeological resources is required. Should archaeological materials (e.g. shell midden, faunal remains, stone tools) or human remains be observed during project activities, all work in the immediate vicinity shall stop, and the area shall be secured. The contractor/owner shall contact the state Office of Archaeology and Historic Preservation (OAHP) at 360-586-3065, the Lummi Nation Tribal Historic Preservation Office (LNTHPO) at 360-384-2298, and the Nooksack Tribe at 360-592-9065 in order to help assess the situation and determine how to preserve the resource(s). In the event that the find includes human remains the Lynden Police Department shall be called immediately at 360-354-2828. Regarding human remains, the LNTHPO will contact the appropriate tribal repatriation specialists.

Public Works

- 1. All public improvements for each phase must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards prior to final plat approval. Bonding for improvements may be permitted consistent with LMC 18.18.010(G).
- 2. Proponent must obtain all necessary permits prior to construction.
- 3. All addressing must follow the requirements of the Lynden Municipal Code. This may require the existing home to change as well.
- 4. Streets
 - a. The eastern most north-south road may not continue as Brome Street. Road will need to be renamed prior to final plat of phase one.
 - b. There is no vehicular access permitted to Northwood Road from Division One lots 1, 23, and 24.

- c. Access to A (Snowbush) Street for Division One lots 1 and 23 shall be a minimum of 50-feet back from Northwood Road.
 - d. Access to Division One lot 24 onto Brome Street shall be a minimum of 50-feet from Northwood Road.
 - e. The southern end of B (Ninebark) Street may need easements from parcel to the south in order to build street. If this is necessary, easements must be transferred to the City of Lynden.
5. The property owners of Lots A and B of the TK Williams Short Plat must work with property owner of this proposed long plat to demonstrate compliance with the existing short plat conditions as filed under Whatcom County Auditors File Number 2101103668.
6. A 10-foot utility easement is required on all lots adjacent to street right-of-way.
7. Proponent shall verify and/or obtain City standard right-of-way from lots at the northeast corner of Northwood Road and Brome Street.
8. Utilities in Northwood Road must be installed along the full frontage of the property as required per City standards.
9. Stormwater
- 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.
10. 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 extended to the furthest property line of the proposed plat phase.

- b. An 8-inch water line must be looped through plat, Brome Street and A (Snowbush) Street unless pressure issues require a 12-inch line.
- c. Each house and/or unit within this plat must be individually metered. Water meters must be located within the City right-of-way.
- d. Air-vac is required per industry standard.

11. Sanitary Sewer

- a. Sanitary sewer and water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- b. 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 furthest property line of the proposed plat.
- c. Proponent will need to extend sanitary sewer from existing termination at east end of the Ridge at Lynden Long Plat. No final plat approval will be granted until this extension is completed.
- d. All city standard 20-foot sewer easements shall be obtained and transferred to the City of Lynden prior to project acceptance.
- e. Access roads must match easement width.
- f. All peat soils to be removed to support sewer and line and full access width.

Fire and Life Safety

- 12. The installation of a fire hydrants subject to Fire's review, but potentially at the following locations:
 - At the end of the cul-de-sac on the proposed D Street (as named in the original preliminary plat map accompanying the original application).
 - At the entrance of Northwood Road and the proposed A Street (Snowbush Street) on the south side.
 - At the entrance to Northwood Road and Brome Street on the south side.
 - In front of the lot at the north corner of the intersection of Snowbush Street and the most easterly north/south street.
- 13. At the conclusion of Division Two, lot 22 at the end of the most easterly north/south street, provides an easement for a hammer head to provide adequate fire truck turnaround until property north of the North Prairie Long Plat provides emergency access and turn around.

Parks and Recreation

- 14. No additional comments.

II. DECISION

Petitioner's application to amend the preliminary plat approval of the North Prairie Phase 7 long plat described herein into a 60 lot phase one and a 33 lot phase two for future development is hereby **Preliminarily Approved** and otherwise consistent with Planning Commission Resolution #17-06 and subject to the conditions set forth in this document. This Amended Findings of Fact, Conclusions of Law, Conditions and Decision on Preliminary Plat Approval of Long Plat #17-04, replaces the City's prior decision for the plat.

DATED: _____

Scott Korthuis
Mayor