

RETURN TO:
LYNDEN CITY HALL
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DOCUMENT TITLE
TERMINATION OF SKYVIEW TOWNHOMES MIXED USE DEVELOPMENT
AGREEMENT

REFERENCE NUMBER OF RELATED DOCUMENT
2021-1103594

GRANTORS
CITY OF LYNDEN, a Washington Municipal Corporation
TMI HOLDINGS, LLC, a Washington Limited Liability Company
HALO HOLDINGS, LLC, a Washington Limited Liability Company

GRANTEES
CITY OF LYNDEN, a Washington Municipal Corporation
TMI HOLDINGS, LLC, a Washington Limited Liability Company
HALO HOLDINGS, LLC, a Washington Limited Liability Company

ABBV. LEGAL DESCRIPTION
LOT A, SKYVIEW LLA, AF# 2021-0703457
LOTS 1-4, SKYVIEW SP #2, AF# 2022-0103118
Ptn. NW ¼ NE ¼ T 40 N, R 03 E, S 15

ASSESSOR'S TAX PARCEL NUMBERS
400315 387555 0000
400315 367533 0000
400315 387533 0000
400315 401533 0000

**TERMINATION OF
SKYVIEW TOWNHOMES MIXED USE
DEVELOPMENT AGREEMENT**

This Termination of the Skyview Townhomes Mixed Use Development Agreement (“Termination Agreement”), entered into by the CITY OF LYNDEN, a Washington municipal corporation (“City”) and TMI HOLDINGS, LLC, a Washington limited liability company, & HALO HOLDINGS, LLC, a Washington limited liability company (hereinafter collectively “TMI & HALO”) on the date fully executed below, is intended to terminate that Development Agreement entered into on November 23, 2021 and recorded at Whatcom County Auditor’s File Number 2021-1103594, by and between the City and TMI & HALO.

RECITALS

WHEREAS, TMI & HALO are the owners of Lot A and B of the Skyview Lot Line Adjustment as recorded under Auditor File number 2021-0703457, and also known as 1546 and 1573 E Badger Road, Lynden.

WHEREAS, TMI & HALO and the City entered into a development agreement on November 23, 2021 and recorded at Whatcom County Auditor’s File Number 2021-1103594 (“Development Agreement”) regarding the Property for the reasons described below; and

WHEREAS, at the time of the Development Agreement, the Property was zoned as follows: Lot A is Commercial Services - Local (CSL), and Lot B is zoned Residential Multi-Family (RM-3); and

WHEREAS, at that time, TMI & HALO intended to develop the Property (Lot A and Lot B of the Skyview LLA), with a mix of multi-family residential and commercial development, the proposed site plan for which is attached as Exhibit A, and which will be referred to herein as “Skyview Townhomes”; and

WHEREAS, at that time, the Lynden Municipal Code (LMC) 19.23.020(5) permitted multi-family residences within the CSL zone under specific conditions; and

WHEREAS, on March 2, 2021, the City’s Design Review Board granted design approval for a feasible layout and architecture of the residential portion of Skyview Townhomes (DRB Application #21-01); and

WHEREAS, at the time the Development Agreement was executed, and as a condition of approval of residential development within the CSL zone, the Lynden Municipal Code (Title 19) required a minimum amount of commercial development to be constructed; and

WHEREAS, after a duly noticed public hearing on August 2, 2021, the Lynden City Council voted to approve the Skyview Development Agreement, which was eventually recorded on November 23, 2021, under Whatcom County Auditors File Number 2021-1103594; and

WHEREAS, as permitted by the Development Agreement, TMI & HALO then subdivided Lot A of the Property through the Skyview Short Plat #2, recorded at Whatcom County AF # 2022-0103118, into four lots, such that the residential development could occur on the portions of the Property designated as Lot B of Skyview Lot Line Adjustment and Lots 1-3 of the Skyview Short Plat #2, and commercial development was intended for Lot 4 of the Skyview Short Plat #2; and

WHEREAS, the residential portion of the Skyview project was subsequently permitted and constructed; and

WHEREAS, in June of 2022, the City of Lynden's Planning Department brought forward an application for a Comprehensive Plan Amendment requesting to update the Lynden Municipal Code associated with mixed-use provisions under which the Development Agreement was created. Consistent with the goals of the Comprehensive Plan, and in recognition of changing market conditions, the initiative also included a proposal to change the zoning designation of multiple properties within the City of Lynden from commercial to industrial or residential designations; and

WHEREAS, the proposed zoning changes seek to change unviable commercial properties, which due to scale and/or distance from an established commercial center will not be eligible for the Mixed-Use Overlay; and

FURTHERMORE, on September 22, 2022, the Planning Commission held a public hearing to accept public testimony on Comprehensive Plan Amendment #22-01 and Rezone #22-02 regarding Mixed Use Development Updates, Future Land Use Map, **Zoning Map**, Sub-Area Map and Text Amendment, and passed Planning Commission Resolution #22-05, recommending to the City Council approval of the proposed CPA and RZ.

WHEREAS, on December 19, 2022, the Lynden City Council held a public hearing on Ordinance 1656, regarding Comprehensive Plan Amendment #22-01 and Rezone #22-02, which included (among others), the rezoning of the property owned by the TMI & HALO, specifically Lots A & B of the Skyview Lot Line Adjustment from Commercial (CSL) to Residential (RM-3), and unanimously approved the request.

WHEREAS, the City of Lynden, TMI Holdings, LLC and Halo Holdings, LLC determined

that based on the approval of CPA #22-01 and RZ #22-02, there was no longer a need for the development agreement and TMI & HALO has requested that the Development Agreement be terminated, and

WHEREAS, pursuant to the terms of the Development Agreement, any major modification of the terms of the Agreement must be processed in the manner in which the Agreement was processed and approved, and

WHEREAS, on February 21, 2023, the City Council held a public hearing and approved Res-23-1062 authorizing termination of the Development Agreement,

NOW THEREFORE, the City of Lynden and TMI & HALO agree as follows:

1. The recitals set forth above are adopted and incorporated as if set forth fully herein.
2. Each by their signatures below, the City and TMI & HALO approve termination of the Development Agreement.
3. This termination of the Skyview Development Agreement is effective on the date fully executed below.
4. As of the effective date of this termination, the Development Agreement is of no further force or effect.
5. This Termination Agreement does not affect the approvals already in effect for the residential development on Lot B of Skyview Lot Line Adjustment and Lots 1-3 of the Skyview Short Plat #2. These unaffected approvals include DRB Application #21-01 and the Mitigated Determination of Nonsignificance issued March 5, 2021, all of which shall remain in full force and effect.
6. Because the Development Agreement is being terminated and the zoning has been changed, development of Lot 4 of the Skyview Short Plat #2 will require new development approvals.
7. Notwithstanding paragraph 6 above, TMI & HALO have supplied a bond for the development a public trail running along Badger Road when Lot 4 of the Skyview Short Plat #2 develops. This bond will remain in place until requested returned by TMI & HALO. The City reserves the right to require different bond terms through the development approval process.
8. This Termination Agreement may be signed in counterparts, which taken together shall constitute the complete termination. Signature by the parties transmitted via facsimile or electronic format shall be acceptable and binding.

