



Date Issued:	February 1, 2021 <i>Updated February 3, 2021</i>
Project Name:	DSV #20-01, Skyview Townhomes
Applicant:	Mike Kooy
Property Owner:	Skyview Townhomes
Site Address:	1573 E Badger Road, Lynden
Zoning Designation:	RM-3 Residential Multi-Family
Application Type:	Development Standards Variance
Parcel Size:	N/A
Hearing Type:	Quasi-Judicial
Hearing Objective:	The objective of this public hearing is to determine whether the proposed Development Standards Variance meets the criteria found within Section 17.17.040 of the Lynden Municipal Code.
Date application determined complete:	January 7, 2021
Date of Publication:	January 27, 2021
SEPA Determination:	N/A
Project Description:	Applicant is requesting a Development Standards Variance to allow the construction of a public access street at a reduced standard.

Standard Requirements:

The applicant has met the minimum submittal requirements and the application was determined to be complete on January 7, 2021. The notice of application was published on January 27, 2021.

The City has received proof of certified mailing and the affidavit of posting in accordance with the City's requirements.

Project Summary

Subdivision and / or site development of the subject property requires that right-of-way be dedicated consistent with City standards (LMC 18.14.030) and constructed consistent with Engineering standards of Division 4 of the Engineering Design and Development Standards.

In some instances, property owners have requested to create private roads and seek alternate standards for development. Staff does not support an extension of Currant as a private street as it is the terminus of an existing public street network that will provide direct access to the Skyview townhome development. However, staff recognizes that providing a standard 60-foot-wide right-of-way (ROW) could significantly constrain development due to the size and shape of the property (setbacks are measured from the edge of ROW).

The requested right-of-way width variance seeks alternate design specifications to Table 4-1 and Figure 4-3 of the Engineering Design and Development Standards. The street design and requested ROW width, which is typically 60 feet, varies in this proposal.

- The north-south extension of Currant Street to a reduced right-of-way width of 41 feet with a standard 36-foot-wide roadway (curb to curb). As a result, the westerly sidewalk would fall on private property rather than within the ROW.
- The requested street width variance for the east-west connection to Brome is also 41 feet of ROW but with a 30-foot roadway (curb to curb). This east-west segment matches the variances granted to the adjoining property. The narrow street section eliminates parking on the south side of the street (a significant portion of this area is on a curve).

The resulting design includes all of the typical roadway elements except for on-street parking on the east-west segment of the project. It also means that sidewalks will, in most areas, be located on private properties. As a condition of approval staff would require public access easements on sidewalks which do not fall within public right-of-way.

LMC 17.17.040 states, where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provisions of the development standards, the City Council shall have power to grant a variance in harmony with the general purpose and intent of the provisions contained therein. Such variances may vary the rules, regulations or provisions of the development standards so that the spirit of those standards will be observed; public safety secured; and substantial justice done. However, the City Council shall not vary any of the rules, regulations or provisions of those development standards unless it shall approve findings that all of the following conditions exist in each case:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity in which the property on behalf of which the application was filed is located;

- B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity in which the subject property is located;
- C. That the granting of such a variance will not be materially detrimental to the public health, safety and general welfare; and
- D. That the granting of such a variance will not be injurious to the property or improvements in the vicinity and zone in which the subject property is located.
- E. That the variance request is based on sound engineering judgement and includes additional mitigation sufficient to offset adverse impacts to the public interest likely to result from granting the variance.”

Variance Application Comments from the Technical Review Committee:

Planning and Development

1. *Variance and Design Justification:* Staff acknowledges that the applicant has provided a response to each of the development standards variance criteria in a document dated December 10, 2020 and a revised document dated February 1, 2021.
2. *Right-of-Way and Street Requirements:* The requested right-of-way reduction to 41 feet still allows the extension of Currant to meet City standard width of 36 feet curb to curb with most of the east sidewalk located within right-of-way and within a public access easement on the other. The request for a right-of-way width of 41 feet and street width of 30 feet for the east-west connection of Currant to Brome matches the recently approved Brome extension. Staff has concluded that these street standards are able to support the anticipated traffic volumes.
3. *Sidewalks:* Coordination and/or design revision will be required to ensure that an efficient and continuous sidewalk connection is made with the property to the east on the south side of the new street.
4. *Parking:* All development on the subject property will be required to provide the minimum number of on-site parking spaces as dictated by LMC 19.51. Additionally, staff has recommended that the housing units located on the “varied” public streets provide an additional 20% parking capacity. Staff acknowledges that this additional parking has been provided.

5. *No Parking:* Developer will be required to denote that no parking is permitted on the narrowed portion of the street with signs. Painted curb within the no parking area may also be required by the Public Works Department.
6. *Mixed Use:* Be advised, a development agreement will be required for the portion of the Skyview Townhome project that will be part of a mixed-use project on a commercially zoned parcel of property. The agreement must address the ratio of commercial to residential use and the timing of build-out of these elements.

Public Works

7. *Agreement:* Applicant will be required to submit an Applicant Checklist and Agreement to Construct (Division 2 and 10 of City of Lynden Engineering Design and Development Standards) as part of future application requests.
8. *Water:* Be advised that future water system improvements shall meet City standards for extension to and through the property.
9. *Sewer:* Be advised that future sewer system improvements shall meet City standards for extension to and through the property.
10. *Stormwater:* Be advised, all improvements and development must meet the City of Lynden and current Department of Ecology requirements for stormwater/drainage management
11. *Bonding:* Be advised, a post construction maintenance bond for 10% of the public facility construction costs will be required prior to final plat approval. A 150% performance bond is required for all work in the City's right-of-way or on city owned property.
12. *Review Deposit:* Be advised, there is a review deposit of \$400 per lot, \$4,000 minimum, to review the construction plans and a plat construction inspection deposit of \$500 per lot, \$10,000 minimum, due prior to review and construction respectively.

Fire Department

13. The Fire Department has reviewed the request and supports the staff recommendation to require a 36 foot roadway on the north-south portion.