

CITY OF LYNDEN
FINDINGS OF FACT AND CONCLUSIONS OF LAW

REGARDING THE APPLICATION OF
Eldon and Renae DeJong, TO
SUBDIVIDE PROPERTY

LP #19-02

FINDINGS OF FACT, CONCLUSIONS
OF LAW, CONDITIONS and
DECISION on SUBDIVISION
APPLICATION #19-02

Petitioner

PARCELS 1 AND 2, DEJONG SHORT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED AUGUST 3, 2007 UNDER WHATCOM COUNTY RECORDING NO. 2070500523, RECORDS OF WHATCOM COUNTY, WASHINGTON. SITUATE IN WHATCOM COUNTY, WASHINGTON.

COMMONLY DESCRIBED AS: 1205 E Badger Road, Lynden

Has applied for a subdivision of approximately 9.44 acres into 23 multi-family residential lots within the RM-3 zone. The Lynden Planning Commission held a public hearing on January 23, 2020, and recommended approval to the City Council through Planning Commission Resolution #19-02. Said request having come before the Lynden City Council on February 18, 2020, and the Lynden City Council having fully and duly considered the request, hereby makes the following:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Eldon and Renae DeJong, having filed an application (“Property Owners”) for a subdivision which was accepted by the City as complete on November 22, 2019.

1.02 Location. The Property is located at 1205 E Badger Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Eldon and Renae DeJong are the Property Owners.

1.04 Request. To subdivide approximately 9.44 acres in size into 23 multi-family residential lots located within the RM-3 zone.

1.05 Reason for Request. To make effective use of land within the existing city limits where all urban services are available.

1.06 Conformance with Zoning and Comprehensive Plans. The subdivision of the Property proposed in the application is in conformity with City zoning ordinances, comprehensive plans, and all other applicable City development regulations including Chapter 17.15 LMC.

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

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

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

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

1.13 Public Interest. The application results in additional 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 and requires no further review.

1.15 SEPA Determination. Environmental review of the proposal has been made under the requirements of WAC 197-11 and a mitigated determination of non-significance has been made.

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:

II. CONDITIONS

Any approval of the Petitioner's application shall be subject to the conditions as listed below:

Project Summary:

The proposed long plat was reviewed against the subdivision standards found in Chapter 18 of the Lynden Municipal Code (LMC) and the Engineering Design and Development Standards. The following aspects were found to be consistent with these standards:

Zoning: The area to be developed in this application is located within the RM-3 residential multi-family zone and permits the development of up to 12 units per building.

Minimum Lot Size: The lots proposed in this subdivision meet the RM-3 minimum lot size of 7,200 square feet. As proposed, parcels within this plat range from 11,000 square feet to 28,709 square feet.

Street Sections: Per Chapter 4 of the Engineering Design and Development Standards the minimum street width, for a publicly dedicated access street right-of-way is 60 feet. This standard has been met as proposed.

Build-out: Be advised, both single family and multi-family homes are permitted within the RM-3 zone. The applicant has indicated in the associated traffic study that there will be a mix of building types ranging from duplex, four-plex, eight-plex and nine-plex units. All lots are subject to the development requirements listed under 19.17 of the Lynden Municipal Code and associated design standards. This includes, but is not limited to, Section 19.17.060 which sets a maximum lot coverage of 40% for each lot.

Parking: Be advised, per Chapter 19.51.040 of the LMC, a minimum of 2 parking stalls is required *per home and or 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.

Specific Project Comments from the Technical Review Committee:

Planning and Development

1. *Applicant Response Required:* Provide a written response to each of the Technical Review Committee's comments below. Advisory comments should be acknowledged. A Word version of this document will be provided to you for your convenience.
2. *Existing Buildings:* There are several existing buildings on site. The applicant has indicated that the existing home on the proposed lot 18 and the existing warehouse on lot 9 will remain. And, that the existing buildings located on lots 11 (located in a utility easement) and 19 will be demolished. Please be advised that a demolition permit will be required for the removal of those buildings. All buildings to be removed must be done prior to final plat approval. This must be noted on the face of the plat.

3. Existing Commercial Warehouse Use: Lot 9 is the location of an existing commercial business. Be advised, this use may remain however it is considered an existing non-conforming use. Parking for this commercial use is subject to LMC 19.51. All parking must be contained on Lot 9.
4. Phasing Plan: Please provide a plat map which shows the interim condition which will exist following the build-out of Phase 1 but not Phase 2. Staff is particularly interested in the infrastructure improvements which will exist at this time. Show the proposed condition of the street section and existing buildings at this stage of completion. See Public Works comments related to the minimum roadway standard for emergency access.
5. Plat Area Break-down: Whatcom County and the City of Lynden have been mandated to participate in an annual report provided to the State which tracks achieved housing density. In an effort to track accurate data for this program all plats will be required to provide supporting data. Please provide on the face of the plat a table which breaks down the total area of the plat into the categories shown below. Note that in some instances the area may be zero and that "other infrastructure" could refer to area used for sewer pump station, stormwater ponds, etc.

	Plat Area (in square feet)
Gross plat area	
Reserve tracts	
Critical areas	
Right of ways (ROWs)	
Other infrastructure	
Net developable	
Percent ROW and Infrastructure	%

6. Utility Easements: Per 18.14.075, the proposed plat must identify the required 5-foot utility easements around the interior property line of all lots. Revise plat map to include this easement on the face of the plat.
7. Street Name: Provide a street name for the proposed long plat. Be advised, the street name must be approved by the Whatcom County emergency dispatching agencies and avoid duplication with any other road within the County.

8. Street Tree Requirements: Be advised, street trees will be required as described here.
- a. As per Section 18.14.130, Street trees shall be provided by the sub-divider in all subdivisions within the dedicated public utility easements adjacent to the street; preferably between the curb and the sidewalk.
 1. In RM zones one street tree is required for every 50 linear feet of street frontage. Distance may be averaged due to driveways and sight distance requirements.
 2. Street trees shall be a minimum caliper of 1 1/2" at the time of installation, small trees used under powerlines shall be a minimum a caliper of 1".
 3. Street trees shall be selected, installed, and maintained in accordance with the standard City of Lynden engineering specifications. Trees shall be placed on the property with consideration of potential driveway cuts and utility services.
 - b. Establishment of street trees and planting strips shall be per an approved site plan in conformance with design and bonding standards as set forth in LMC 19.61.
 - c. Maintenance of street trees and planting strips shall be the responsibility of the adjoining property owner and shall be done in accordance with the city's engineering design and development standards.
9. Frontage Requirements and Lot Access: LMC 18.14.020 states that no lots shall be created that have less than 50-feet of frontage. Lots 5 and 18 do not meet the minimum frontage requirements. A long plat of this size may utilize one pipe stem lot (LMC 18.14.040). In addition, a long plat of this size may also access one lot via access easement (LMC 18.14.110(c)). The current lot design exceeds these limits. Note that access easements and stems on pipe stem lots must be a minimum of 24 feet in width. Please revise.

Public Works

10. Right-of-Way: Dedication is required along the full frontage of Aaron Drive to achieve a 60-foot right-of-way.
11. Street Section: Street section must match the existing roadway to the east and west of the proposed plat.
12. Phase 1 Emergency Access: At the time of Phase 1 construction, Phase 2 street section must be constructed to a minimum of a 24-foot wide, stabilized surface which is sufficient to support emergency vehicles. If the stabilized surface is

gravel, or similar, a minimum of 50 linear feet must be paved adjacent to Aaron Drive to prevent material tracking into Aaron Drive.

13. Access: As proposed, no vehicular access will be permitted to/from Badger Road. Existing driveways must be abandoned. Note that the existing home and commercial warehouse/shop will be assigned a new address in association with the plat approval.
14. Lot Access: Vehicular access will be prohibited from proposed lots to/from Aaron Drive.
15. Engineering Design Standards: All proposed streets must meet the minimum separation requirements as outlined in the City of Lynden Project Manual for Engineering Design and Development Standards.
16. Utility Easements: Plat must show the required 10-foot utility easement along the frontage of each lot (back of sidewalk).
17. Traffic analysis needs to be completed. All recommended items of the report shall be completed.
18. Street Lighting: Puget Sound Energy to design street lighting. Please submit a final plan.
19. Mailbox Locations: Mailbox locations must be shown on the civil plans. Acknowledgement from the Postmaster must be provided.
20. Stormwater Advisory Comments
 - 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.

21. 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 looped through the plat and extended to the east and west property lines. Show easements as appropriate on the face of the plat.
- b. Be advised, water system design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- c. Be advised, each house and/or unit within this plat must be individually metered. Water services for all multi-family zoned parcels must be sized for maximum number of units. Water meters must be located within the City right-of-way.
- d. Existing house (1241 East Badger) and commercial warehouse/shop (1205 East Badger) shall connect to City water and pay applicable hookup fees. Water rights associated with the property shall be transferred to the City.
- e. If the existing commercial building remains, backflow protection will need to be investigated based on specific use of structure.

22. Sanitary Sewer

- a. Be advised, sanitary sewer design and construction must meet the requirements of the City of Lynden Engineering Design and Development Standards.
- b. Sanitary sewer services for all multi-family zoned parcels must be sized for maximum number of units.
- c. 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 north property line unless other service is available. Show easements as appropriate on the face of the plat.
- d. Be advised that all parcels in this plat are within the East Lynden Sewer Special Assessment Area and will be subject to additional connection charges for the regional sanitary sewer facilities. This must be noted on the face of the plat.
- e. The existing house (1241 East Badger) shall connect to City sewer and pay applicable hookup fees.

Fire and Life Safety

23. *Fire Service Impact Fee:* Be advised, half of the required fire impact fee is due at the time of final plat approval. The balance of the fire impact fees is deferred to the time of building permit. Contact Planning staff for an estimated fee total.
24. *Street Addressing:* Be advised, address numbers must be clearly posted on each house to assist in efficient fire aid response.
25. *Hydrants:* The installation of a fire hydrant is required. Hydrant spacing to be 300 feet for multi-family. The final hydrant location will be determined upon review of civil plans and must be approved by the Fire Department.
26. *Existing Commercial/shop building may require sprinklers depending on uses.*

Parks and Recreation

27. *Trail Easement:* Pedestrian provisions for the proposed long plat must include the establishment of a 15-foot wide public access easement for the purpose of a recreational trail at the northern edge of the property. This easement can overlap with other required easements and setbacks. Revise plat maps to include this easement.
28. *Trail Construction:* Pedestrian provisions for the proposed long plat must include the construction of a 10-foot wide recreational trail. The minimum standard is a design which utilizes compacted limestone. The specific standard is available from the Planning or Public Works Departments.
29. *Trail Access:* Provide a public access easement a minimum of 10 feet in width from the proposed loop road sidewalk to the Badger Road trail easement. This easement must include a paved walkway a minimum of 5 feet in width. The easement may straddle a lot line.
30. *Park Impact Fee:* Be advised, half of the required park impact fee is due at the time of final plat approval. The balance of the park impact fees can be deferred to the time of building permit. Contact Planning staff for an estimated fee total.

Long Plat Advisory Comments

31. *Impact Fees:* Be advised, prior to final plat (PRD) approval, the developer will be required to pay transportation mitigation fees, plus the first half of park and fire mitigation fees. Contact Planning Staff for a fee estimate.
32. *Civil Drawings:* The construction drawings for any civil and utility improvements must 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, 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.

33. Civil Review Deposit Required: Be advised, a review deposit of \$200 per lot, \$2,000 minimum, to review the construction plans and a plat / PRD construction inspection deposit of \$350 per lot, \$5,000 minimum, is due prior to review and construction respectively.
34. Infrastructure Installation: A City of Lynden Fill and Grade Permit is required prior to the commencement of site work. The site and utility work must be addressed on SEPA Checklist.
35. Performance Bonding Requirements: Be advised, a 150% performance bond may be required for all work in the City's right-of-way or on city owned property which is deemed incomplete. Only items not specifically exempted from bonding under LMC 18.18.010(G) are eligible for bonding.
36. Maintenance Bonding Requirements: A post construction maintenance bond for infrastructure in the amount of 10% of the construction costs will be required prior to final plat approval.
37. Landscape Bonding: Be advised, performance and maintenance bonding will be required for the plat. This relates to street trees and any required mitigation trees. Bonds are due prior to final plat approval.
38. Surveying: 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.
39. Expiration of Preliminary Approval: 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 of the date this preliminary approval becomes final, 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.
40. Property Addressing: Be advised, all street addressing must follow the requirements of the Lynden Municipal Code. Addresses will be assigned by the Public Works Department prior to final PRD approval.
41. Covenants, Conditions and Restrictions (CC&Rs): CC&R's for the long plat may be recorded in conjunction with the final long plat. This document can impose more restrictive conditions on the property but not less restrictive than City of Lynden development code. Be advised, enforcement of CC&R documents is the responsibility of the developer and/or neighborhood association.

42. Design Review: Design Review Approval will be required for all multi-family buildings including duplexes.

III. DECISION

Petitioner's application to subdivide the property described herein into twenty-three (23) parcels for future development is hereby Preliminarily Approved as outlined in Planning Commission Resolution #20-01 and subject to the conditions set forth in this document.

DATED: 2-18-20



Scott Korthuis
Mayor