



February 28, 2024

CITY OF LYNDEN TECHNICAL REVIEW COMMITTEE STAFF REPORT

Re: The application of Chad and Andrea Van Ry for a Vacate of a portion of Lawrence Street

Vacate #23-01 Lawrence Street
Vacation of Right-of-Way

I. APPLICATION SUMMARY AND RECOMMENDATIONS

Proposal: **Initial request indicated a vacate of 7,611 square feet which was later revised to 9,713 square feet** of the Lawrence and Pine Street rights-of-way adjacent to 210 Lawrence Street (hereinafter the Subject Property). The Subject abuts but does not include the inactive Burlington Northern Railroad (BNSF) rail corridor. The applicant intends to use the vacated area to expand the property's minimum lot area in order to allow additional multi-family residential units to be added to the Subject Property.

Recommendation: The Technical Review Committee recommends approval of the vacate as because this unused property does not serve the general public, the city's transportation network does not intend to expand the current right-of-way to include the area in question or to become a through street, and the existing lot will have the opportunity to conform to both parking and minimum lot size standards which are currently non-conforming.

II. PRELIMINARY INFORMATION

Applicant: Chad and Andrea Van Ry
Property Owner: Chad and Andrea Van Ry
Property Location: 210 Lawrence Street, Lynden
Parcel Number: 4003204504610000

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Legal Description: HAWLEY-LAWRENCES ADDITION TO LYNDEN NWLY 77 FT OF LOTS 7-8 BLK 20

Notice Information:

Application Submitted:	August 16, 2023
Resolution to set hearing:	February 5, 2024
Notice of Hearing:	February 7, 2024
Comment Period Ending:	March 4, 2024
Public Hearing:	March 4, 2024

SEPA Review: SEPA Exempt per WAC 197-11-800(2)(i)

Authorizing Codes, Policies, and Plans:

- City of Lynden Comprehensive Plan – Appendix A, Transportation Element
- LMC Chapter 17.21 – Vacations of Public Rights-of-Way
- LMC Chapter 17.09.030 – Legislative Decisions

III. PROJECT DESCRIPTION

The portion of right-of-way proposed to be vacated is approximately 9,713 square feet in size and located at the northern terminus of Lawrence Street adjacent to the BNSF Railroad Easement. The addition to would allow the lot to reach a net area of 17,413 and accommodate five residential units (currently three units in the building).

The process for considering a petition to vacate a public right-of-way is outlined in Lynden Municipal Code Chapter 17.21. The Council will set a public hearing date by resolution and hold a public hearing to consider the vacate. The Council may grant the petition per the steps described below:

- a. If the City Council, after holding the required public hearing, determines to grant the petition or any part thereof, the applicants shall complete an appraisal of said property to be vacated. The appraisal shall be conducted by a certified appraiser and provide a minimum of three comparable properties.
- b. If the appraisal is found to be acceptable by the City Council, the City Council shall adopt an ordinance to vacate the street or alley; provided however, that said ordinance shall not be effective until the owners of property abutting upon the street or alley to be vacated have compensated the City in an amount not to exceed the full appraised value of the area vacated.
- c. The ordinance shall provide that the City shall retain easements for the installation, repair and maintenance of public utilities and services.

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- d. A certified copy of said ordinance shall be recorded by the applicant in the office of the County Auditor.

IV. PUBLIC NOTICE AND COMMENT

Notice of Application: Formal legal notice for this application was published in the Lynden Tribune on February 7, 2024.

Resolution setting a public hearing per LMC 17.21.030(a): Proposed to be Considered by Council on February 5, 2024.

Public Hearing: Date to be set by Council resolution.

Public Comment Received:

No public comment received to date.

V. ANALYSIS AND CONSISTENCY WITH REGULATIONS

Criteria for Approval: The Lynden Municipal Code does not provide specific criteria by which a vacate petition is reviewed except that the city must verify if that the right-of-way is not needed for future expansion. This review is conducted by evaluation against with the City's Comprehensive Plan including the Transportation Element and determine if the right-of-way is needed for public use.

The area requested to be vacated is currently vacant and, as the application states, is somewhat overgrown with unmaintained vegetation. This area is the intersection of what was Pine Street (now the rail corridor) with Lawrence Street (previously platted as Cherry Street) and Walnut Streets. Although the 1888 plat suggested that Lawrence (Cherry) Street would cross north over Pine Street, staff does not believe this ever occurred as in 1905 the railroad contracted with the City of Lynden for rights to the Pine Street right-of-way. As this area is located at the intersection of three streets that were not fully developed into streets, a surplus of dedicated right-of-way exists.

Staff review has concluded that the subject area of the right-of-way is not currently necessary for transportation circulation or public safety access. Additionally, this area has not been slated for expansion within the city's long-range plans for the transportation network.

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It should be noted that the adjacent BNSF Rail line is not currently active. However, the City, in cooperation with regional partners, has pursued a conversion of the rail line to a regional multi-modal trail. The vacate, if granted, would not conflict with this conversion to a trail and would provide an amenity to residents in the area. Due to the intersection of Walnut and Lawrence Streets just east of the proposed vacate, this area may provide opportunities for trail-related public parking. The applicant should be aware that if these efforts were successful the proposed vacation would be adjacent to a pedestrian trail rather than a rail line and public parking may be located nearby.

VI. TECHNICAL REVIEW COMMITTEE COMMENTS

Community Development Department Comments

1. Legal Description Needed: A full legal description of the vacated right-of-way as written by a licensed surveyor must be submitted to Planning staff prior to hearing.
2. Appraisal Needed: Be advised, if the petition to vacate is granted by the City Council the applicant will be required to provide an appraisal with no less than 3 comparable properties in order to determine the value of the land to be vacated.
3. Adjacent Users: The proposed vacate shall not include the Burlington Northern Railroad (BNSF) delegations. Documentation of the area to be vacated must be provided by a licensed land surveyor.
4. Transportation and Circulation: Be advised, the requirement to improve street frontage is triggered by new development.
5. Utility Easements Required:
 - a. The proposed vacation must include the vacation of any city utility easement which may fall within the area to be vacated. Note that new construction cannot encroach into recorded easements.
 - b. The revised lot, after vacate, must be recorded with standard 10-foot utility easements to the city and the city's franchise utilities. These must be located within the interior of the lot on the west and north edges.
 - c. New 5-foot utility easement around the interior of the lot expanded by the vacate on the east and south are required.
 - d. At the time of recording the applicant may wish to secure and depict a private sewer easement if one is needed to service future development.

VII. RECOMMENDATION

The Technical Review Committee recommends the approval of the proposed vacate of the portion of Lawrence Street with the following conditions:

1. A full legal description of the vacated right-of-way is required and must be provided by a licensed surveyor prior to hearing.
2. The proposed vacation must avoid the Burlington Northern Railroad (BNSF) delegations. Documentation of the area to be vacated and its location in relation to the BNSF corridor must be provided by a licensed land surveyor.
3. A complete appraisal of said property to be vacated is required pending Council approval of the vacate petition. The appraisal shall be conducted by a certified appraiser and provide a minimum of three comparable properties. Payment of the appraised amount is required prior to final ordinance.
4. The lot, as recorded after being expanded through the vacation, must include the utility easements detailed in this staff report. This includes a 10-foot utility easement along the property's west and north frontage and a 5-foot utility easement around the interior of the lot.
5. The applicant should be advised that the adjacent rail line may be converted to a regional trail in the future. This change would alter pedestrian and vehicular activity in the area.