

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #24-02

**A resolution of recommendation to the Lynden City Council for approval of the
SW Lynden Annexation #24-01**

WHEREAS, Northwest Surveying and GPS, hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for the annexation of approximately 279 acres into the City of Lynden described as the southwest unincorporated Urban Growth Area of Lynden. , hereinafter referred to as "the Property"; and

WHEREAS, the Property is legally described as:

All that portion of the north half of the northwest quarter of section 25, township 40, range 2 east of W.M, together with all that portion of the northwest quarter of the northeast quarter of said section 25, lying northwesterly of the north right-of-way line of Flynn Road and westerly of the west right-of-way line of Bay Lyn Road and southerly of the south right-of-way line of Birch Bay Lynden road; except that portion of the northeast quarter of the northwest quarter and the northwest quarter of the northwest quarter lying southerly and easterly of the easterly and southerly bank of the unnamed creek and lying southwesterly of the following described line:

Commencing at the point of intersection of the southwesterly line of Whatcom County Road No. 51 and the northwesterly line of Whatcom County Road No. 79; thence south 51° 09' west along the northwesterly line of County Road No. 79 a distance of 672.6 feet to the true point of beginning of this line description; thence north 38°51' west a distance of 568 feet more or less to the southerly bank of said unnamed creek and the terminus of this line description.

Together with the southeast quarter of the northwest quarter of section 25, township 40 north, range 2 east of W.M., except the following described tract:

Beginning at the northeast corner of said quarter quarter; thence south along the east line 726 feet; thence west 339 feet, more or less, to the east bank of Duffner Ditch; thence north and easterly along the east side of Duffner Ditch to the north line of said quarter quarter; thence east along the north line of said quarter quarter 342 feet, more or less, to the point of beginning, less roads and less ditches. Also, except County Road No. 79, commonly known as Flynn Road, along the east line of said quarter quarter.

Together with the southwest quarter of section 24, township 40 north, range 2 east of W.M.; less the north half of the northwest quarter of said southwest quarter. Together with the east 18 feet of the east half of the southeast quarter of section 23, township 40 north, range 2 east of W.M., except the north half of the north half of said southeast quarter situate in Whatcom County, Washington.

WHEREAS, the Property is within the City's Urban Growth Boundary, identified in the Lynden Comprehensive Plan, and may be annexed under RCW 35A.14.110; and

WHEREAS, the Property as per the adopted future land use map has been slated for future residential and industrial development within the zoning categories of RMD (Residential Mixed-Density), IBZ (Industrial Business Zone), ID (Industrial District), and PU (Public Use).

WHEREAS, the application was endorsed by more than 60% of the assessed valuation in the proposed annexation area; and

WHEREAS, the City notified the Proponent of the application's completeness on February 27, 2024, and the legal notice of application and public hearing was published by the Lynden Tribune on March 20, 2024; and

WHEREAS, the Proponent has provided the City with an affidavit for the posting of the notice of application and public hearing in three locations near the subject property and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, upon annexation, the property will be zoned RMD (Residential Mixed-Density), IBZ (Industrial Business Zone), ID (Industrial District), and PU (Public Use); and

WHEREAS, the public interest will be served by this annexation to allow for the accommodation of future growth and represents opportunities for both residential and industrial development; and

WHEREAS, the development within the annexed area will be required to make appropriate provisions for public health, safety and general welfare; and

WHEREAS, development within the annexed area must provide appropriate provisions for public open spaces, roads, streets, sidewalks and alleys as described in the City of Lynden Comprehensive Plan, the West Lynden Gateway Subarea Plan, the West Lynden Commercial Subarea plan, the Transportation Element, and the Lynden Municipal Code; and

WHEREAS, development within the annexed area must make appropriate provisions for public drainage ways, potable water supplies, and sanitary waste and development here will be required to provide extensions of public utilities; and

WHEREAS, development within the annexed area must make appropriate provisions for parks, recreation playgrounds, schools and school grounds; and

WHEREAS, the proposed annexation will not have an adverse effect on the finances, debt structure, or contractual obligations and rights of other governmental units, except for a small reduction in the Whatcom County tax base; and

WHEREAS, the proposed annexation shall be taxed or assessed to pay its share of any indebtedness of the City of Lynden, Washington, contracted prior to or existing at the date of this annexation, and

WHEREAS, the proposed annexation is logically served by the City of Lynden and will therefore preserve logical service areas; and

WHEREAS, the proposed annexation will concentrate urban development within the city limits and thereby reduce sprawl, consistent with objectives of the Growth Management Act; and

WHEREAS, adequate governmental services and controls in the proposed annexation area can be most efficiently be provided by the City of Lynden; and

WHEREAS, The Planning Commission understands that there are some properties within the annexation area that are used agriculturally and once brought into the City will be considered existing non-conforming. As per LMC 19.35.010, nonconforming uses which lawfully exist at the time of the final passage of this ordinance, are permitted to continue and to be maintained and operated. Additional regulation as to conformance, maintenance and vacancy can be found in LMC Chapter 19.35 – Nonconforming Uses.

WHEREAS, the proposed annexation area is protected by the Right-To-Farm Disclosure Statement as outlined in LMC 17.23.040 (B). This section of code is meant to acknowledge properties that are within or near designated agriculture lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. The city of Lynden and Whatcom County has determined that the use of real property for agricultural operations is a high priority and favored use and will not consider to be a nuisance those inconveniences or discomforts arising from farm operations, if such operations are consistent with commonly accepted good management practices and otherwise comply with local, state, and federal laws.

WHEREAS, the City's Technical Review Committee has reviewed the request for the annexation of property and has provided the following findings and recommendations to the Planning Commission in a report dated April 4, 2024, and

1. The subject property is located within the City of Lynden's Urban Growth Area (UGA) and has been determined by the City to be an appropriate location for future low density residential and industrial development. Upon annexation, the property is suggested to be zoned as Residential Mixed Density (RMD), Industrial Business Zone (IBZ), Industrial District (ID), and PU (Public Use).
2. The area of annexation falls within the West Lynden Commerce and West Lynden Gateway sub-areas. Future development will be subject to any associated sub-area plans as well as applicable development standards and impact fees.

3. Any critical area buffers and restrictions related to development will be applied as outlined in the City's critical area ordinance (LMC 16.16). Duffner Creek, a fish-bearing stream, flows through a section of the annexation area and has a 100 ft buffer associated with it. Furthermore, the Nooksack River floodplain touches the southern portion of some of the existing lots south of Birch Bay Lynden Road. Any development that impacts the floodplain would be subject to the City's floodplain management regulations (LMC 16.12).
4. Water and Sewer: The area is within the City's water and sewer comprehensive plans. All water and sewer extensions shall be made in accordance with these adopted plans. To ensure adequate sewer service to the proposed annexation area, future development may require participation in a new pump station or contributions toward the costs associated with the recently constructed Pump Station 17.
5. Water Rights: At the time of development, all properties will be required to transfer their water rights to the City of Lynden.
6. Stormwater: This area is within the City's Stormwater Comprehensive Plan. Be advised, a stormwater management plan prepared by a professional engineer will be required for new 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.
 - a. 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.
 - b. Existing businesses and farms may be subject to an inspection for stormwater source control to address potential stormwater quality concerns.
7. Transportation: This area is within the City's Transportation Plan. Future development will be required to develop roadway networks consistent with this plan including but not limited to right-of-way requirements and easements along Tromp Road, Birch Bay Lynden Road, Bay Lyn Drive, Flynn Road and Berthusen Road.
8. Impact Fees: Future development will be subject to assessed fees in order to mitigate the impact that development will have on the City's Park, Fire, and Transportation Systems. Some of these fees are due at the time of plat while others are assessed at the time of building permit.
9. Interlocal Agreement: Be advised, the City of Lynden is part of an Interlocal agreement with Whatcom County (Whatcom County Contract No. 202206018). This agreement addresses, among other things, requirements to reimburse the County for infrastructure improvements made while the area of annexation was within County jurisdiction. This may include a review of road / stormwater

reimbursements, stormwater / drainage maintenance and ownership, special assessment, and developer reimbursement agreements which may be then assessed to the property owners within the annexation area. To date the City has reached out to Whatcom County to begin this discussion.

WHEREAS, the Lynden Planning Commission held a public hearing on April 25, 2024, at the Lynden City Hall Annex, 205 4th Street, Lynden, Washington, to accept public testimony on the proposed annexation, and that meeting was duly recorded;

WHEREAS, the Lynden Planning Commission reviewed the criteria listed in LMC 17.09.040(C) and found that the application meets the requirements relevant to the proposal.

NOW THEREFORE, the Planning Commission having reviewed the recommendations of the Technical Review Committee makes the following findings of fact:

1. The requested annexation is located within the City of Lynden's Urban Growth Area and is therefore eligible for annexation; and
2. The zoning identified for the annexation is consistent with the area and the Comprehensive Plan.

BE IT RESOLVED by the Lynden Planning Commission to recommend to the City Council the approval of the *SW Lynden Annexation #24-01*, as requested, by a vote of 4-0, and further subject to the Technical Review Committee Report dated April 4, 2024, and if determined to be prudent, assess Whatcom County's infrastructure improvement costs to the benefiting properties. In addition, the following zoning assignments are recommended:

1. Low density residential properties be zoned as Residential Mixed Density (RMD).
2. Industrial property south of Birch Bay Lynden Rd be zoned Industrial Business (IBZ).
3. Industrial property north of Birch Bay Lynden Rd be zoned as Industrial District (ID).
4. The city-owned parcel / West Lynden Regional Pond be zoned as Public Use (PU).

PASSED by the Planning Commission of the City of Lynden by of vote of 4 supporting and 0 opposing at their regular meeting held the 25th day of April 2024.

Tim Faber, Chair
Lynden Planning Commission

Heidi Gudde, Director
Community Development Department