

CITY OF LYNDEN

EXECUTIVE SUMMARY - PLANNING COMMISSION



Meeting Date:	December 10, 2020
Name of Agenda Item:	Public Hearing for the KODA Site Specific Rezone, Application #20-03
Type of Hearing:	Quasi-Judicial
Attachments:	TRC Report, Vicinity Map, Rezone Application
Summary Statement:	<p>The property owner is seeking to rezone this property from Multi-Family Residential (RM-4) to Multi-Family (RM-2). The subject property has unique characteristics that have led to the owner's decision to pursue a down zone (reduction in development density). These aspects have been described in the attached Technical Review Committee (TRC) Report.</p> <p>The Planning Department is tasked with keeping up to date on Growth Management Policies and staying on task with City's Comprehensive Plan goal to seek / maintain higher density opportunities. This is especially important where those located relatively near commercial services such as shopping and the downtown core.</p> <p>It should be noted that constraints of the critical areas <u>support</u> the need for medium to higher density housing to more thoroughly utilize building areas (ie. more units are permitted in a single building with and RM-3 or RM-4 designation than the requested RM-2 designation). Additionally, higher density development would not be out of character for the neighborhood as multi-family buildings, the relatively large scale of the New Hope Center, and cluster developments are all located in close proximity to this property. Considering these factors, the request to downzone this area should be considered carefully in light of the City's growth management goals.</p> <p>While the applicant has expressed an openness to an RM-3 zoning the primary reason that RM-2 was pursued was because the smaller setbacks associated with RM-2 were a better fit for the housing types they have planned for the property. Staff also recognizes that parking requirement and building height limits within the City's development code may also restrict the actual achievable density on this property. For these reasons, and other described in the TRC report, staff supports the property owners request to rezone to an RM-2 designation.</p>
Recommended Action:	Motion to recommend to the City Council the approval of the KODA Rezone request from an RM-4 to an RM-2 designation, Application #20-03.

KODA Site Specific Rezone, Application 20-03

Vicinity Map



CITY OF LYNDEN

TECHNICAL REVIEW COMMITTEE Development Project Report



Date Issued:	December 1, 2020
Project Name:	Rezone – Koda Investments
Project Description:	The applicant is requesting a rezone from Multi-Family Residential (RM-4) to Multi-Family (RM-2)
Applicant:	Ray Kornelis, Agent for Koda Investments, LLC
Property Owner:	Koda Investments, LLC
Site Address:	295 S BC Avenue, Lynden
Parcel Number:	400320-065090
Parcel Size and Zoning Designation:	5.67 acres currently zoned single-family RM-4
Hearing Objective:	To determine whether the proposal meets the criteria listed for a site specific rezone.
Date application determined complete:	October 8, 2020
Date of Publication:	November 4, 2020
SEPA Determination:	DNS Issued October 23, 2020

Summary:

The property owner is seeking to rezone this property from Multi-Family Residential (RM-4) to Multi-Family (RM-2).

Staff recognizes the subject property has unique characteristics that have led to the owner's decision to pursue a down zone (reduction in development density). These aspects have been summarized below.

Existing Uses: One factor to request the rezone is the existing home, constructed in 1924, which the owner wishes to retain. The current zoning of RM-4 requires that minimum lot size be no less than one acre. However, the division of this home from the remainder of the property could appropriately be done on less than an acre. Division of property into a lot less than an acre is possible in any other residential zoning category including RM-2 and RM-3.

Property Access: The property is accessed via BC Avenue on a 28 foot wide stem. While this width can easily accommodate 2 drive lanes and a pedestrian sidewalk, it is only a single entry / exist point for a relatively large property. Developing at a lower

density would put less strain on this single access point and the adjoining public street, South BC Avenue.

Property Constraints and Realistic Density and Maximizing Buildable Area: Staff is aware that multiple factors affect the final realistic density on a property. Gross density calculations do not reflect constraints associated with critical areas or the realities of required parking areas and building height constraints.

However, the Planning Department reminds the applicant that Growth Management Policies and the City's Comprehensive Plan seek to maintain higher density opportunities especially those located relatively near commercial services such as shopping and the downtown core.

Constraints of the critical areas support the need for medium to higher density housing as more units are permitted in a single building with an RM-3 or RM-4 designation. Additionally, higher density development would not be out of character for the neighborhood as multi-family buildings, the relatively large scale of the New Hope Center, and cluster developments are all located in close proximity to this property. Additionally, any proposed development would benefit from the adjacent open space provided by the critical areas. Considering these factors, the request to downzone this area should be considered carefully in light of the City's growth management goals.

Staff review generated the following comments – many of which are advisory in nature.

Planning Department Comments

1. *Criteria for Approval:* **Applicant has responded to this comment with written justifications for the proposed rezone.** Care should be taken to consider potential impacts to the surrounding properties and the City as a whole and mitigate as needed.

To grant this request, the Planning Commission and City Council must find that the application satisfies each of the criteria listed within Section 17.09.050 of the Lynden Municipal Code:

- a. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and
- b. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); and
- c. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project.
- d. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

- e. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

Provide a written response to each of these criteria. Responses will be included in the application package reviewed by Planning Commissioners and the City Council.

Advisory Comments – Planning Department

2. *Zoning Designation - Permitted Uses:* Be advised, Residential Multi-Family (RM-2) allows up to 4-units per building and is subject to the permitted uses and standards as described in LMC 19.17 including a maximum building height of 32 feet. Also, be advised, RM-2 does not include the flexibility of establishing non-profit community service facilities as is currently allowed under the RM-4 designation.
3. *Maximizing Buildable Area:* Constraints of critical areas may warrant the located of more units to a single structure. This would be more likely in a zoning category such as RM-3 where 12 units are permitted per building than RM-2 where only 4 units are permitted per building. As a result the applicant may want to consider a zoning designation of RM-3 if more than 4 units per building could better utilize the buildable area on the property.
4. *Design Review:* Be advised, multi-family construction is subject to Design Review Board approval prior to permit approval.
5. *Street Trees:* Future development will require compliance with Chapter 18.14.130 regarding street trees and planting strips. These aspects of design must appear in the Design Review Board submittal package.
6. *Transportation Impact Fees:* Be advised, transportation impact fees will be due at the time of permit. The current rate of this fee is \$1309.00 per multi-family unit.
7. *Landscape Bonding:* Be advised, performance and maintenance bonding will be required for the landscape installed at the time of development. This relates to street trees and any required landscape buffer. Bonds are due prior to issuance of final building occupancy.
8. *Environmental Review:* Conditions associated with the SEPA review (SEPA 20-11) which was conducted concurrently with this application will apply to the proposed development.

Advisory Comments - Public Works Department

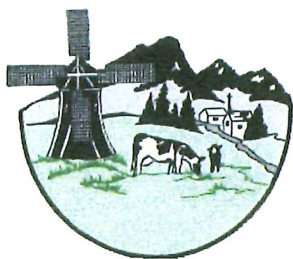
9. *Infrastructure Improvements:* Be advised, at the time of future development, all public improvements must be constructed to the current standards as noted in the City of Lynden Manual for Engineering Design and Development Standards.
10. *Stormwater Management:* At the time of future development, 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. Storm drainage report per the City of Lynden and the Department of Ecology standards required.
11. *Stormwater Management:* Be advised, at the time of future development, 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.
12. *Access:* The width of the existing access will likely not accommodate the design of a standard driveway access for most multi-family development. Applicant will need to acquire an additional 1.2 feet to meet the minimum private street standards as outlined in LMC 18.14 080 and in the City of Lynden's Engineering Design and Development Standards or secure a Engineering Design variance.
13. *Water:* If future plans include the creation of condominiums, the City recommends that each unit must be individually metered.

Advisory Comments - Fire and Life Safety

14. *Fire Code:* Future Development will require full compliance with the Fire Code.
15. *Fire Impact Fees:* Be advised, fire impact fees will be due at the time of permit. The current rate of this fee is \$389.00 per multi-family unit.

Advisory Comments - Parks and Recreation

16. *Park and Trail Amenities:* Future development may require participation and or easements for trail system and parks. Connections to trails and parks will be reviewed at the time of Design Review Board approval.
17. *Park Impact Fees:* Be advised, park impact fees will be due at the time of permit. The current rate of this fee is \$546.00 per multi-family unit.



RZ# 20-03

City of Lynden

Rezone Application

Applicant Information

Name: KODA INVESTMENTS LLC

Address: 1354 Pacific Place #102 Ferndale, WA 98248

Telephone Number: 360-303-4200 **Fax Number:** 360-671-0221

E-mail Address: roger@expresselectric.com / ncnty53@live.com

Application is hereby made for a rezone as follows:

Type of Rezone Requested:

Current Zoning Designation: RM-4 Proposed Zoning Designation: RM-2

Attach narrative explaining the reason for the request / zoning change

Property Information

**See Below*

Address: 295 South British Columbia Avenue

Legal Description: (Attach Additional Sheets if Necessary)

S 7 ACRES OF N 1/2 SW SW-EXC E 264 FT THEROF-LESS RD- SUBJ TO POWER LI ESMT REC AF
783956-EXC W 150 FT OF N 123 FT OF S 183 FT LY E OF BRITISH COLUMBIA AVE-SUBJ TO SEWER LI
ESMT TO CITY OF LYNDEN REC AF 808909-EXC N 22 FT OF W 430 FT THEROF-EXC S 60FT

Property Size: _____ **X** _____

Total Square Footage: _____ **Total Acreage:** 5.67

By signing this application, I certify that all the information submitted is true and correct. I also understand that no final approval will be issued until all final review costs are paid in full.

Applicant's Signature: Raymond Kornelin **Date:** 8-20-2020

Pre-application meeting date: 11-22-2019

(Applications will not be accepted without a pre-application meeting)

Fee's (RZ \$375.00 or Final Review Cost) date paid: _____ receipt # _____

460.00

***We wish to create a subdivision that would include a parcel of less than 1 acre, not allowed under the RM-4 Zone.**

- 6: S 7 ACRES OF N 1/2 SW SW-EXC E 264 FT THEROF-LESS RD- SUBJ TO POWER LI ESMT REC AF 783956-EXC W 150 FT OF N 123 FT OF S 183 FT LY E OF BRITISH COLUMBIA AVE-SUBJ TO SEWER LI ESMT TO CITY OF LYNDEN REC AF 808909-EXC N 22 FT OF W 430 FT THEROF-EXC S 60FT
- 7: KODA INVESTMENTS LLC: 1354 Pacific Place #102 Ferndale, WA 98248
Roger Anderson: 851 Abner Lane Lynden, WA 98264
Ray Kornelis 301 So. B.C. Avenue Lynden, WA 98264
- 8: SEPA Checklist included.
- 9: We would like to be able to divide the parcel at 295 So B. C. Ave into two lots where one of the lots would be less than 1 acre which is the minimum lot size in the current zoning of RM-4. There should be no effect on the adjacent properties with this zone change.
- 10: Changes in the area have been negligible over the past several decades. A church has been replaced by a multi unit apartment complex just west of the site the building that was used by the Christian Health Care Center has been re-purposed as the non-profit Project Hope and a small cluster housing condominium group has been built just east of the Project Hope site on Rosemary Way. None of the changes would reflect an impact either way on our request for rezoning 295 from RM-4 to RM-2.
- 11: Changes made through this rezone would be in the potential density of the site and the setbacks of future buildings from property lines. Based on the scope of this plot and the size of the buildable area and limitations of the wetlands the total impact to these concerns would be minimal.
- 12: Attached as final page.



City of Lynden

Critical Areas Checklist

Section: 20 Township: T40N Range: R03E Parcel Number: 4003200650900000

Site Address: 295 South British Columbia Ave

Proposed Uses: Rezone from RM4 to RM2

Please answer the following questions concerning Critical Area indicators *located on or within 200-feet of the project area*:

- a. Are you aware of any environmental documentation that has been prepared related to critical areas that includes the subject area? (If yes, please attach a list of document titles).
 Yes No Unknown
- b. Are there any surface waters (including year-round and seasonal streams, lakes, ponds, swamps)?
 Yes No Unknown
- c. Is there vegetation that is associated with wetlands?
 Yes No Unknown
- d. Have any wetlands been identified?
 Yes No Unknown
- e. Are there areas where the ground is consistently inundated or saturated with water?
 Yes No Unknown
- f. Are there any State or Federally listed sensitive, endangered, or threatened species and habitats?
 Yes No Unknown
- g. Are there slopes of 15% or greater?
 Yes No Unknown
- h. Is the project located within a Flood Hazard Zone?
 Yes No Unknown
- i. Do you know of any landslide hazard areas?
 Yes No Unknown

I grant permission to the field inspector to enter the building site to determine the presence or absence of critical areas.

I understand that if the information on this form is later determined to be incorrect, the project or activity may be subject to conditions or denial as necessary to meet the requirements of Chapter 16.16 of the Lynden Critical Areas Ordinance.

Raymond Fornelis
Applicant's Signature

8-20-2020
Date

KODA INVESTMENTS, L.L.C. REZONE MAP

PTN: SW 1/4, SW 1/4 OF SECTION 20,
TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.,
WITHIN THE CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON

KODA INVESTMENTS, L.L.C.:

THE SOUTH 7 ACRES OF THE FOLLOWING DESCRIBED TRACT:

THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M.

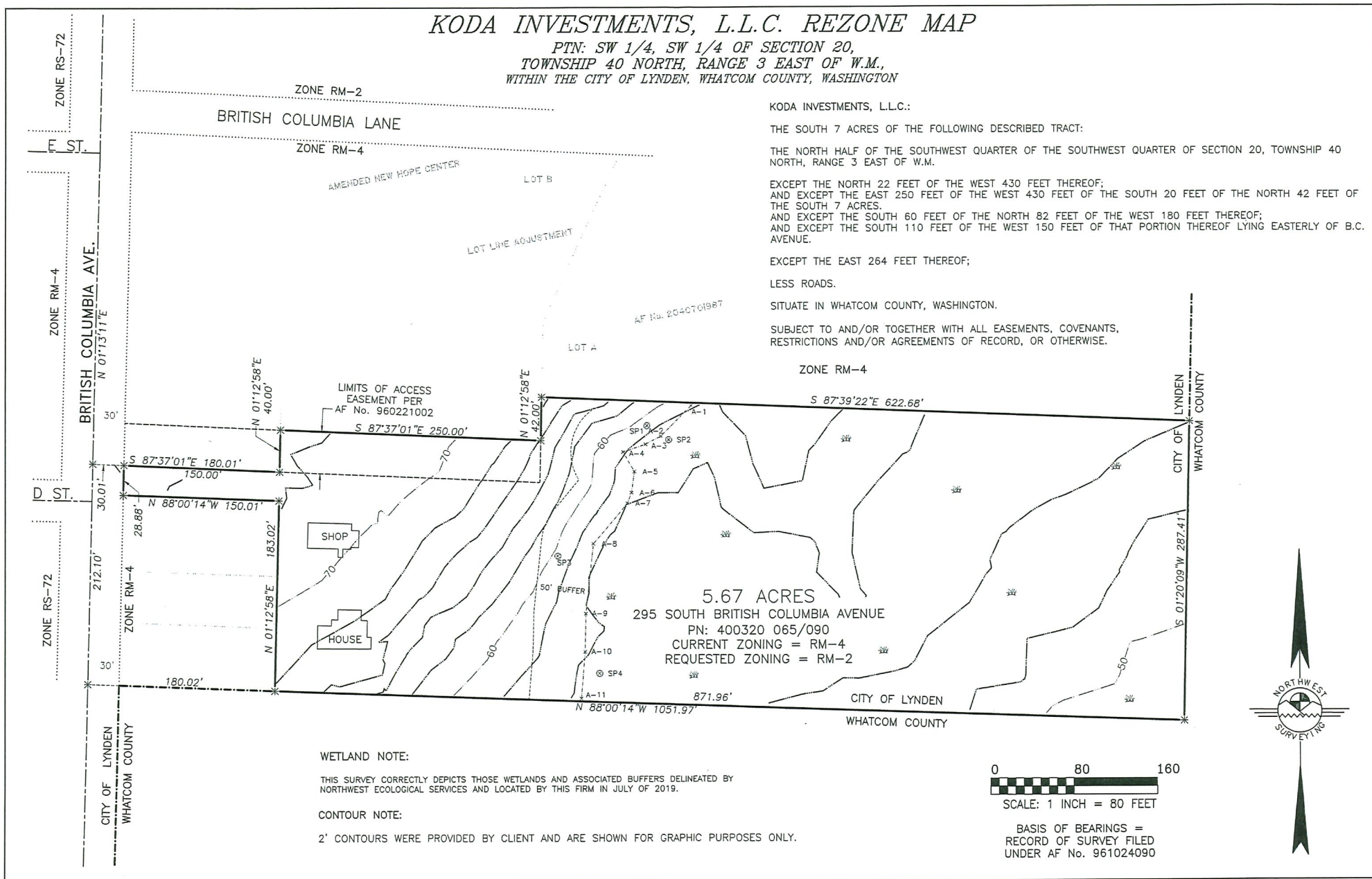
EXCEPT THE NORTH 22 FEET OF THE WEST 430 FEET THEREOF;
AND EXCEPT THE EAST 250 FEET OF THE WEST 430 FEET OF THE SOUTH 20 FEET OF THE NORTH 42 FEET OF THE SOUTH 7 ACRES.
AND EXCEPT THE SOUTH 60 FEET OF THE NORTH 82 FEET OF THE WEST 180 FEET THEREOF;
AND EXCEPT THE SOUTH 110 FEET OF THE WEST 150 FEET OF THAT PORTION THEREOF LYING EASTERLY OF B.C. AVENUE.

EXCEPT THE EAST 264 FEET THEREOF;

LESS ROADS.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND/OR TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD, OR OTHERWISE.

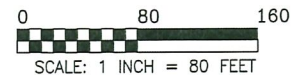


WETLAND NOTE:

THIS SURVEY CORRECTLY DEPICTS THOSE WETLANDS AND ASSOCIATED BUFFERS DELINEATED BY NORTHWEST ECOLOGICAL SERVICES AND LOCATED BY THIS FIRM IN JULY OF 2019.

CONTOUR NOTE:

2' CONTOURS WERE PROVIDED BY CLIENT AND ARE SHOWN FOR GRAPHIC PURPOSES ONLY.



BASIS OF BEARINGS =
RECORD OF SURVEY FILED
UNDER AF No. 961024090



17.19.010 Contents of Application.

A complete application for a site-specific rezone must be acknowledged by the property owner and shall include the following information:

- A. A completed application form provided by the Planning Department and all applicable fees;
- B. The legal description of the boundaries of the area proposed for rezoning;
- C. A statement regarding the background, the reason for seeking the proposed rezone, and the effect of the proposal on adjacent areas;

The current zoning for the property, RM-4, has a minimum lot size of 1 acre. We would like to be able to divide the property into lots of less than 1 acre. There should be no effect on adjacent areas as they are a developed blend of single family residence in the RS-72 zone on the west side of BC Avenue, small and large apartment lots and the New Hope building which includes a church inside of the existing RM-4 zone and the Planned Residential Community of Rosemary Way. The lot we would like to create at this time, at less than 1 acre, includes a single family residence and shop building that have been on the site as far back as 1924.

- D. A statement explaining changed circumstances in the area since adoption of the current zoning or a mistake in the current zoning;

I've not been able to determine when the current zoning was adopted but expect that it was around the time the property was annexed into the city. This may have been in the mid 1980's. At that time the designation of RM-4 would have been used to accommodate the existing Heather Square Apartments and the Christian Health Care Center. The fact that these established uses would require the RM-4 zone and the adjacent location of the newly annexed property could have been the determining factor in simply expanding that zone rather than using a different zone designation.

There are two conditions that exist that would justify a change in zone designation. First is the limiting effect of the 28' pipestem access to BC Avenue. A larger development typical of the RM-4 zone would easily surpass the Average Daily Trips element in the City of Lynden Street Design Standards. Second is the actual available space of the property for building. With the presence of wetlands and the required buffer from development taking up over 70% of the area there is less than two acres left of buildable area to develop. With the minimum lot size of 1 acre in an RM-4 zone it would not be possible to achieve more than 1 lot of buildable area.

- E. A statement explaining how the proposed rezone is consistent with the City's comprehensive plan, applicable sub-area plans, and with protecting the public health, safety, and welfare;

Changing the zone designation from RM-4 to RM-2 would not preclude future multifamily development in this location. It would however bring the potential development more in line with the current mix of residential use in the neighborhood and stay within the city's future designation of Medium Density Residential.

To the issue of protecting the public health, safety and welfare topic, there may not be opportunity for improvement in an area of this scale but there would be no reason to think that the public interest in these areas would be diminished with this change in zone designation.

- F. A reproducible vicinity map, designating the area of the proposed rezone, together with all significant geographic features, including bodies of water, major streets and highways and boundaries of all units of government in the area as they presently exist.
- G. A reproducible map showing the area of the proposed rezone together with the zoning of all adjacent parcels.
- H. A development proposal showing the following information: a) all proposed streets and right-of-ways, b) topography, and c) development concept illustrating the proposed density and type of development.
- I. An environmental checklist;

17.19.050 Criteria for Approval of Site-Specific Rezone

Site-specific rezone requests must satisfy the requirements established for development proposals in LMC 17.09.040C. In addition, no application for a site-specific rezone shall be approved unless the applicant demonstrates that each of the following criteria is satisfied:

- A. The current zoning was either approved in error or that a significant change in circumstances since approval of the current zoning warrants reclassification of the subject property as proposed; and

As pointed out in item D above, it seems the use of RM-4 for this property was more a matter of convenience than practicality. The Heather Square Apartments and the Christian Health Care Center would indicate the need for this designation but access to buildable area from the current pipestem will limit the ability to fully develop the property to the RM-4 potential.

- B. The proposed site-specific rezone is consistent with the City's comprehensive plan and applicable sub-area plan(s); and

Using the RM-2 zone designation would be consistent with the City's comprehensive plan of Medium Density Residential as indicated in the Future Land Use Map p.46 of the City of Lynden Comprehensive Plan 2016 Update.

- C. The project proposal is consistent with the City's development codes and regulations for the zoning proposed for the project.

At this time the proposal would be to retain the existing buildings, the single family residence and shop, on one lot and one other single family residence would be built on the second site. This would be consistent with the City's development codes and regulations for an RM-2 zone designation.

- D. The proposed site-specific rezone is compatible with existing uses and zoning in the surrounding area; and

The surrounding area would include the existing RM-4 zone as well as the RS-72 zone on the west side of BC Avenue. Also, to the south and east is outside of the City limits and part of Whatcom County. An RM-2 designation should not conflict with these uses and zoning.

- E. The proposed site-specific rezone will promote the health, safety, and general welfare of the community.

As stated above in item E of 17.19.010 there may not be opportunity for improvement in a proposal of this scale but there would be no reason to think that the public interest in these areas would be diminished with this change in zone designation.