

## ORDINANCE NO. 24-1687

### AN ORDINANCE OF THE CITY OF LYNDEN TO PROVIDE ANNEXATION TO THE CITY OF LYNDEN

#### BACKGROUND

WHEREAS, Richard and Carol Weg hereinafter called the “Proponent,” submitted a complete application to the City of Lynden, hereinafter called the “City,” for the annexation of approximately 47.57 acres (45.11 acres of property and 2.46 acres of right-of-way) into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as “the Property”; and

WHEREAS, the Property is legally described as:

*The Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 18, Township 40 North, Range 3 East of W.M.; except the East 75 feet thereof; together with the East 30 feet of the Northeast Quarter of the Southwest Quarter of said Section 18; and*

WHEREAS, the Property’s historical and primary use is agricultural; and

WHEREAS, the Property falls within the Pepin Creek Subarea and per the adopted subarea plan has been slated for future residential development within the zoning category of Residential Mixed Density (RMD); and

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

#### PROCESS

WHEREAS, Northwest Surveying and GPS, Inc, is the agent representing Richard and Carol Weg, submitted an Annexation application (Annex 23-01) which was determined to be complete on October 4, 2023, and the legal notice of application and public hearing was published by the Lynden Tribune on October 18, 2023; 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, the City's Technical Review Committee has reviewed the request for the annexation of property and has provided the following findings and recommendations in a report dated November 3, 2023; and

WHEREAS, the Lynden Planning Commission held a public hearing on November 9, 2023, at the Lynden City Hall Annex, 205 4<sup>th</sup> Street, Lynden, Washington, to accept public testimony on the proposed annexation, and that meeting was duly recorded; and

WHEREAS, the Lynden Planning Commission reviewed the proposed application for the annexation of 47.57 acres into the City of Lynden and has provided recommendation to the Lynden City Council in Planning Commission Resolution 23-06; and

WHEREAS, the public interest will be served by this annexation to allow for the accommodation of future growth in an area planned for residential use; 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 Pepin Creek 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 the associated 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 provided by the City of Lynden.

### BACKGROUND

WHEREAS, Richard and Carol Weg hereinafter called the "Proponent," submitted a complete application to the City of Lynden, hereinafter called the "City," for the annexation of approximately 47.57 acres into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as "the Property"; and

WHEREAS, the Property is legally described as:

*The Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 18, Township 40 North, Range 3 East of W.M.; except the East 75 feet thereof; together with the East 30 feet of the Northeast Quarter of the Southwest Quarter of said Section 18; and*

WHEREAS, the Property's historical and primary use is agricultural; and

WHEREAS, the Property falls within the Pepin Creek Subarea and per the adopted subarea plan has been slated for future residential development within the zoning category of Residential Mixed Density (RMD); and

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

### PROCESS

WHEREAS, Northwest Surveying and GPS, Inc, is the agent representing Richard and Carol Weg, submitted an Annexation application (Annex 23-01) which was determined to be complete on October 4, 2023, and the legal notice of application and public hearing was published by the Lynden Tribune on October 18, 2023; 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, the City's Technical Review Committee has reviewed the request for the annexation of property and has provided the following findings and recommendations in a report dated November 3, 2023; and

WHEREAS, the Lynden Planning Commission held a public hearing on November 9, 2023, at the Lynden City Hall Annex, 205 4<sup>th</sup> Street, Lynden, Washington, to accept public testimony on the proposed annexation, and that meeting was duly recorded; and

WHEREAS, the Lynden Planning Commission reviewed the proposed application to annex 45.11 acres into the City of Lynden and has provided recommendation to the Lynden City Council in Planning Commission Resolution 23-06; and

WHEREAS, the Lynden City Council held a public hearing on January 16, 2024, at the Lynden City Hall Annex, 205 4<sup>th</sup> Street, Lynden, Washington, to accept public testimony on the Weg Annexation, and that meeting was duly recorded; and

WHEREAS, the Lynden City Council reviewed the proposed application to annex and has approved Resolution 24-1090, indicating their intent to approve subject to the final determination of the Boundary Review Board per Whatcom County Contract No. 202206018.

WHEREAS, on May 28, 2024, the City received notice from the Boundary Review Board that the 45-day timeframe for taking jurisdiction expired and is deemed approved pursuant to RCW 36.93.100.

WHEREAS, the public interest will be served by this annexation to allow for the accommodation of future growth in an area planned for residential use; 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 Pepin Creek 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 the associated 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 provided by the City of Lynden.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Northwest Surveying and GPS, Inc, (“Applicant”) filed an annexation application which was accepted by the City as complete on October 4, 2023.

1.02 Location. The Property is located at 8634 Double Ditch Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Richard and Carol Weg.

1.04 Reason for Request. The request is for the annexation of property for future residential development and to help facilitate the future construction of the relocated Pepin Creek channel.

1.05 Critical Area Review. Critical area review will be done at time of development

1.06 SEPA Determination. A formal notice of the SEPA Determination will be made at the time of a property development application.

1.07 Findings from Annex 23-01 Incorporated Herein. All Findings of Fact from Annex 23-01 are incorporated herein by this reference. If there is a conflict between any of the Findings of Fact in Annex 23-01, the Findings of Fact outlined in this document shall apply.

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 multi-family residential development. Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan.
2. The area of annexation falls within the Pepin Creek Sub-area. Future development is subject to the Pepin Creek Sub-area plan as well as applicable development standards and associated impact fees.
3. The RMD zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. Current development regulations dictate a minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.
4. Critical area setbacks related to the existing and proposed Double Ditch / Pepin Creek channel will be applied as described in the City's critical area ordinance.
5. 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. Future development will be required to contribute toward the costs of any required pump stations which are needed to ensure adequate service to the area of annexation.
6. Stormwater: This area is within the City's Stormwater Comprehensive Plan. 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. 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.
7. This area is within the City's Transportation Plan. Future development will be required to develop roadway networks consistent with this plan.
8. Future development will be subject to assessed fees in order to mitigate the impact 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. This property is also located within the Pepin Creek Service Area which has an additional Transportation Impact Fee due to infrastructure needs in this section of the City.

## CONCLUSIONS OF LAW

2.01 Appropriate Provisions Made for Open Spaces, Roads, Streets, Sidewalks, and Alleys. Future development applications will make appropriate provisions for public open spaces, roads, streets, sidewalks, and alleys consistent with the City's Comprehensive Plan, the Pepin Creek Sub-area Plan, and the Transportation Element.

2.02 Potable Water Supplies, Sanitary Wastes and Drainage Ways. Future development applications will make provisions for public drainage ways, potable water supplies, and sanitary wastes.

2.03 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act as it will provide opportunities for future residential inventory accommodating expected population growth.

2.04 Appropriate Provisions for Promoting Public Health, Safety and Welfare. Future development applications will make appropriate provisions for promoting Public Health, Safety and Welfare.

2.06 Conclusions from Annex 23-01 Incorporated Herein. All Conclusions and Conclusions of Law from Annex 23-01 are incorporated herein by this reference to the extent not inconsistent with the above Conclusions of Law. If there is a conflict between any of the above Conclusions of Law and the Conclusions of Law or Conclusions in Annex 23-01, the above Conclusions of Law shall control.

Any of the foregoing Finding of Fact which should rather have been designated Conclusions of Law, and Conclusions of Law which should rather have been designated Findings of Fact, shall be validated as such and so conformed.

The foregoing recitals are a material part of this Decision.

**Section 3:** The Property shall become a part of the City of Lynden and shall be subject to all laws, ordinances and resolutions of the City including any part of the comprehensive plan of said City hereinafter to be adopted with reference to Property and shall be therein designated RMD zoning (Residential Mixed Density), as per City of Lynden Zoning Map for said area, for land purposes, until otherwise classified.

**Section 4:** IT IS FURTHER PROVIDED that the Property 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.

**Section 5:** IT IS FURTHER PROVIDED that the annexation of the Property described in SECTION 1 above, being all of the property described in said petition, is subject to the conditions outlined in the Technical Review Committee Report and Planning Commission Resolution #23-06.

**Section 6:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 7:** If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

**Section 8:** This ordinance shall take effect and be in force from and after its passage by the City Council and approval by the Mayor, if approved, otherwise as provided by law and five (5) days after the date of publication.

AFFIRMATIVE VOTE \_\_\_\_ IN FAVOR, AND \_\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS \_\_\_\_ DAY OF July 2024.

\_\_\_\_\_  
Scott Korthuis, Mayor

ATTEST:

\_\_\_\_\_  
Pamela Brown, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Carmichael, City Attorney