

ORDINANCE NO. 24-1692

AN ORDINANCE OF THE CITY OF LYNDEN TO PROVIDE ANNEXATION OF THE SOUTHWEST URBAN GROWTH AREA KNOWN AS THE SW ANNEXATION TO THE CITY OF LYNDEN

BACKGROUND

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 shown in **Exhibit A** and depicted in **Exhibit B**; and

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 application was endorsed by more than 60% of the assessed valuation in the proposed annexation area.

PROCESS

WHEREAS, Northwest Surveying and GPS, Inc, is the agent representing the applicants, submitted an Annexation application (Annex 24-01) which was determined to be complete 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, 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 April 4, 2024; and

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; and

WHEREAS, the Lynden Planning Commission reviewed the proposed application for the annexation of 279 acres into the City of Lynden and has provided recommendation to the Lynden City Council in Planning Commission Resolution 24-02; and

WHEREAS, on June 3, 2024, the Lynden City Council held a public hearing on their intent to annex the Southwest Lynden Urban Growth Area and voted to approve as represented in Resolution 24-1096; and

WHEREAS, as part of the annexation process, the City submitted a complete Notice of Intention to the Whatcom County Boundary Review Board, which was accepted for filing on July 19, 2024 as BRB file #2024-02 with a 45 day comment period ending on September 3, 2024; and

WHEREAS, July 22, 2024, Whatcom County Planning & Development requested that the proposed annexation area include the entire adjacent rights-of-way of Flynn Road as it was impractical for the County to maintain an isolated segment of Flynn Road between the center of Section 25 line and Bay Lyn Road; and

WHEREAS, The City of Lynden Public Works Department concurred with the request of Whatcom County to include the entire adjacent rights-of-way of Flynn Road with no County maintained segment between the center of the Section 25 line and Bay Lyn Road and submitted a revised legal description to the Boundary Review Board that included the adjusted rights-of-way.

WHEREAS, On September 10, 2024, pursuant to RCW 36.93.100, the Whatcom County Boundary Review Board issued approval of the Notice of Intent for the SW Lynden Annexation; and

WHEREAS, the public interest will be served by this annexation as it allows for the accommodation of future housing stock, by providing future economic opportunities associated with industrial development, by increasing the tax base of the city, and by drawing the city-owned regional West Lynden Pond into the City limits; and

WHEREAS, the development within the annexed area will be required to make appropriate provisions for public health, safety and general welfare including the extension of utilities, frontage improvements, and the payment of impact fees; 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 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 has been slated to join the City of Lynden since it was added to the Urban Growth Area since the 1990s and is logically served by the City of Lynden and will therefore preserve logical service areas; and

WHEREAS, the proposed annexation will facilitate development near to commercial services and regional transportation corridors, and will concentrate industrial growth adjacent to the city's existing industrial district 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 February 27, 2024.

1.02 Location. The Property is located in Lynden's southwest unincorporated UGA Lynden, Whatcom Co., Washington as described above.

1.03 Applicants. John Doornbos, William Vander Hage and D&S Land Holdings.

1.04 Reason for Request. The request is for the annexation of property for future residential and industrial development. The west Lynden area represents opportunities for both residential and business growth near the commerce and transportation corridor of the Guide Meridian.

1.05 Critical Area Review. Critical area review will be done at time of development with special consideration made to floodplain, wetlands associated with floodplains, and the Duffner Creek corridor.

1.06 SEPA Determination. A formal notice of the SEPA Determination will be made for those developments required to complete this type of environmental review at the time of a property development application.

1.07 Findings from Annex 24-01 Incorporated Herein. All Findings of Fact from Annex 24-01 are incorporated herein by this reference. If there is a conflict between any of the Findings of Fact in Annex 24-01, 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 low density residential, public use, and industrial development as depicted in the City of Lynden Comprehensive Plan Figure 2.5.4 as adopted by Comprehensive Plan Amendment 22-01 in City of Lynden Ordinance 1656. Upon annexation,
 - a. The properties slated as low-density residential will be zoned as Residential Mixed Density (RMD); and
 - b. The properties slated for industrial land use south of the Birch Bay Lynden Road will be zoned Industrial Business Zone (IBZ); and
 - c. The property owned by the City of Lynden currently used for the West Lynden Regional Pond will be zoned as Public Use (PU); and
 - d. The properties slated for industrial land use north of the Birch Bay Lynden Road will be zoned Industrial District (ID).
2. The area of annexation falls within two different subareas, the West Lynden Commerce and West Lynden Gateway sub-areas. Future development will be subject to the associated sub-area plans as well as applicable development standards and associated 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, properties may 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. Conclusions regarding this review will be presented to the City Council prior to the final ordinance to annex.

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. Those sanitary sewer connections associated with Pump Station 17 will be required to contribute their fair share toward this infrastructure cost.

2.03 Public Interest. The application is consistent with the City's comprehensive plan and the Growth Management Act. It allows for the accommodation of future housing stock, will provide future economic opportunities associated with industrial development, it increases the tax base of the city, and draws the city-owned regional West Lynden Pond into the City limits.

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 24-01 Incorporated Herein. All Conclusions and Conclusions of Law from Annex 24-01 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 24-01, 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 as follows: Low density residential properties be zoned as Residential Mixed Density (RMD), Industrial property south of Birch Bay Lynden Rd be zoned Industrial Business (IBZ), Industrial property north of Birch Bay Lynden Rd be zoned as Industrial District (ID), and the city-owned parcel / West Lynden Regional

Pond be zoned as Public Use (PU), 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 24-02.

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 7 IN FAVOR, AND 0 AGAINST, AND SIGNED BY
THE MAYOR THIS 7th DAY OF October 2024.



Scott Korthuis, Mayor

ATTEST:



Pamela Brown, City Clerk

APPROVED AS TO FORM:



Robert Carmichael, City Attorney

EXHIBIT A

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.

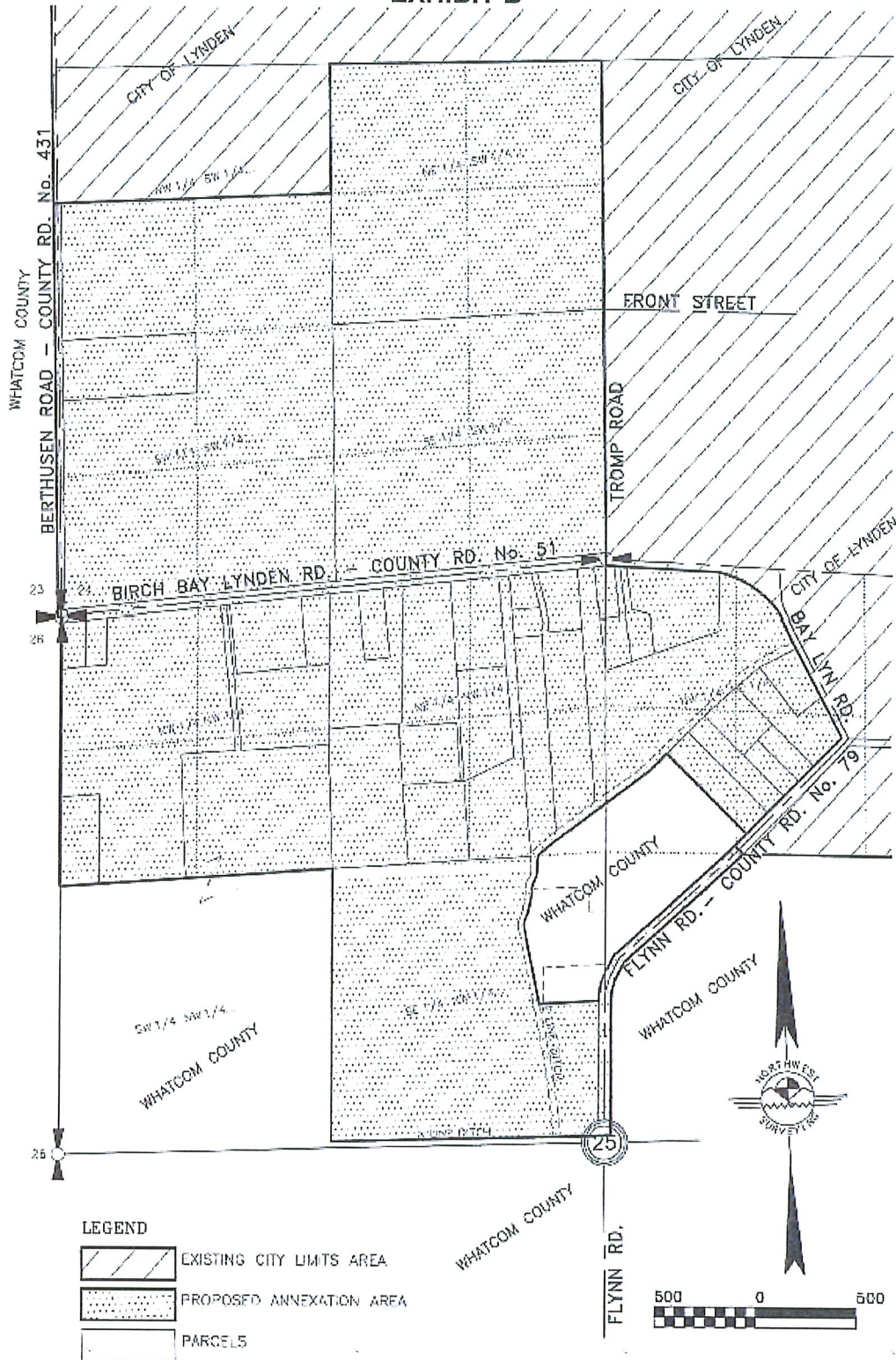
Together with the southeast quarter of the northwest quarter of section 25, township 40 north, range 2 east of W.M., except the following described tract:

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.

Together with all that portion of County Road No. 79, commonly known as Flynn Road, lying southwesterly, perpendicular to the north right-of-way line of Flynn Road from the southwest corner of lot a, Stuit Family Short Plat, recorded under Auditor's File No. 2021-0803986 and north of the center of said section 25. All situate in Whatcom County, Washington.

EXHIBIT B



This map illustrates the proposed annexation area for the City of Lynden. The annexation area is shaded with a stippled pattern and is bounded by a red line. It includes several parcels, some of which are labeled with quarter-section identifiers: NW 1/4 SW 1/4, NE 1/4 SW 1/4, SW 1/4 SW 1/4, SE 1/4 SW 1/4, NW 1/4 NW 1/4, NE 1/4 NW 1/4, NW 1/4 SE 1/4, SE 1/4 NW 1/4, and SW 1/4 NW 1/4. The map shows the following roads and features:

- Roads:** BERTHUSEN ROAD - COUNTY RD. No. 431, BIRCH BAY LYNDEN RD. - COUNTY RD. No. 51, TROMP ROAD, FRONT STREET, BAY LYNN RD., and FLYNN RD. - COUNTY RD. No. 79.
- Geographic Features:** CITY OF LYNDEN (hatched area), WHATCOM COUNTY (unshaded area), and N-LINE DITCH.
- Map Elements:** A legend in the bottom left corner defines the symbols for existing city limits, annexation area, and parcels. A north arrow and a scale bar (0 to 500 feet) are located in the bottom right corner.

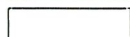
LEGEND



EXISTING CITY LIMITS AREA



ANNEXATION AREA



PARCELS

WHATCOM COUNTY

FLYNN RD.

